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In the Supreme Court of the United States.

OCTOBER TERM, 1922.

THE UNITED STATES OF AMERICA, Appellant, *v.* MINNIE ATKINS ET AL.	No. 45.

NANCY ATKINS, H. A. RIDGWAY, GUARDIAN of Nancy Atkins, et al., Appellants, *v.* THE UNITED STATES OF AMERICA, MINNIE Folk, née Atkins, et al.	No. 46.

APPEALS FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

BRIEF FOR THE UNITED STATES.

STATEMENT.

Pursuant to authority conferred under several acts of Congress to enroll citizens of the Five Civilized Tribes, the Dawes Commission listed the name of Thomas Atkins as representing a blood citizen of the Creek Tribe of Indians; thereafter, that name was enrolled on the final roll of Creek citizens which was approved by the Secretary of the Interior, and subsequently an allotment of land was selected for him. Patent therefor was issued in 1903 and recorded as required under the law.

Asserting that Thomas Atkins was a myth and never had any existence; that the enrollment of his name was procured through fraud and was the result of a gross mistake of law and fact, the United States brought suit to annul the allotment certificate and patent and to quiet title in the Creek Nation to the land against various claimants under instruments specified in the bill of complaint. (R. I, 10–12.)

A large number of persons were made parties defendant to this suit, and from the pleadings this remarkable situation was presented:

Defendant Minnie Atkins claimed that she was the mother and heir of Thomas Atkins, deceased.

Nancy Atkins, another defendant, claimed that she was the mother and heir of Thomas. She filed a cross bill asking a decree against the United States and all other parties except those claiming through her.

Henry Carter asserted that he was the identical Thomas Atkins, the son of Minnie Atkins, enrolled by the commission.

Upon the issues presented the District Court ruled that the fraud must be of such a character as precluded a party from introducing evidence in an adversary proceeding and not merely the presentation by a party of false evidence.

On the question of whether Atkins was a myth, it was held that as it was a necessary qualification for enrollment that one be living on April 1, 1899, Atkins's enrollment was a finding by the commission to that effect and hence could not be attacked. The result was that the United States was denied participation in the case on these questions and the court refused to annul the patent. (R. I, 130–142.)

Voluminous testimony was taken on the cross issues as between Minnie and Nancy Atkins and Henry Carter, and the court found and decreed that Minnie Atkins was the mother of Thomas and that she was the owner and entitled to the possession of the land involved as against all the defendants and complainants, subject only to the right, title, and interest of defendants Charles Page and Edward C. Hanford, who claimed through her. The title of these three persons in the property was quieted as against all the other parties to the suit. (Opinion, R. I, 143–146; Decree, R. I, 146–151.)

From this decree both the United States and Nancy Atkins appealed to the Circuit Court of Appeals, where the decree was affirmed (R. VI, 5005–06; Opinion, R. VI, 4996–5004; 268 Fed. 923). Appeals were then taken to this court.

ASSIGNMENT OF ERRORS.

The errors assigned by the United States are fifteen in number (R. VI, 5013–14), but may be summarized as alleging error in the affirmance by the Circuit Court of Appeals of the decree of the District Court, and its concurrence in the conclusions and findings of the District Court in—

1. Decreeing and finding that Thomas Atkins was a real person, the son of Minnie Folk, née Atkins, and that she and her heirs are entitled to the land in controversy subject only to the rights of Page and Hanford claiming through her.

2. Holding and deciding that the action of the Dawes Commission in enrolling the name Thomas Atkins and in alloting land in his name was conclusive upon, and not subject to attack by, the United States for fraud and mistake and that said action could operate to vest title in a fictitious person.

3. Not finding that the evidence established that the alleged Thomas Atkins never had any existence and was a fictitious person, and in not decreeing a cancellation of the patent issued in his name.

4. In making any findings of fact as against the United States after its bill had been dismissed and in considering, as between Minnie Atkins on the one side and Nancy Atkins on the other, the evidence which had been introduced theretofore by the United States to establish that Thomas Atkins was a myth.

Under this assignment of errors, we submit the following propositions:

I. The finding of the Dawes Commission was subject to impeachment at the suit of the United States for fraud or mistake.

II. The evidence establishes, and the courts below should have found, that Thomas Atkins was a myth. Hence the patent issued in his name conveyed no title.

ARGUMENT.

I.

The finding of the Dawes Commission was subject to impeachment at the suit of the United States for fraud or mistake.

Upon the point that fraud had been perpetrated on the commission the Government's bill alleged that through the connivance of Minnie Atkins the name Thomas Atkins was placed upon the 1895 roll of Creek citizens as a member of her family. (Par. V [b] of complaint; R. I, 6–9.) The materiality of this lay in the fact that the Dawes Commission, in preparing the final citizenship roll from which allotments of Creek tribal lands were made, relied upon and accepted this 1895 roll as evidence showing those who were entitled to enrollment. When the commission enrolled Thomas Atkins it had adopted a rule whereby it listed for enrollment the names of all those appearing on the 1895 roll concerning whom nothing definite was known.

The pay roll of 1895 was made up, under the supervision of the National Council, for the purpose of making per capita payments to members of the Creek Tribe from a fund of $200,000 appropriated by Congress.

Upon objection by defendants to evidence introduced by the Government to show fraud, the District Court ruled that the fraud which would subject a finding of the Dawes Commission to attack must be not fraud in the presentation of evidence but fraud which would prevent a full hearing by the commission. Reliance for this view was placed upon those cases of which *Vance* v. *Burbank,* 101 U. S. 514, is typical, which hold that, to set aside as fraudulent the finding of a tribunal made in an adversary proceeding, the fraud must be such as to have prevented the unsuccessful party from exhibiting his case fully to the tribunal. This view was concurred in by the Circuit Court of Appeals.

Now, we think the courts below were clearly in error in applying the principle of that line of cases to this case. The fundamental error was in considering the proceedings of the commission as adversary. Had there been a hearing with the United States or the Creek Tribe actively contesting the enrollment of the name Thomas Atkins, had witnesses been heard on the question of whether he ever existed, the decision of the commission would have been impervious to attack under the rule announced in *Vance* v. *Burbank,* as supplemented by the decision in *United States* v. *Wildcat,* 244 U. S. 111.

The rule of *Vance* v. *Burbank* has only been applied, in this court at least, to cases where there has been a contest proceeding where full hearing has been had and testimony introduced or the opportunity to do so given. *De Cambra* v. *Rogers,* 189 U. S. 119; *Estes* v. *Timmons,* 199 U. S. 391; *Love* v. *Flahive,* 205 U. S. 195; *Ross* v. *Stewart,* 227 U. S. 530; *Ross* v. *Day,* 232 U. S. 110, and others are examples of the application of that rule.

The District Court, however, seemed to consider the fact that the Creek Council had notice of the proceedings before the commission and hence might have made objection to the enrollment of any name rendered the proceeding an adversary one. Mark, the notice was not as to this specific individual case but general notice or knowledge that the Dawes Commission was making inquiry and determination upon which to predicate enrollments generally.

But that can not be the criterion by which a proceeding can be judged to be *ex parte.* The Government has fully as much notice of proceedings to acquire public lands as it had of the Dawes Commission proceedings, and yet the former are held to be *ex parte,* and fraud intrinsic therein is held ample basis for relief in equity. *McCaskill Co.* v. *United States,* 216 U. S. 504; *Diamond Coal & Coke Co.* v. *United States,* 233 U. S. 236; *Washington Securities Co.* v. *United States,* 234 U. S. 76.

The same is true of naturalization proceedings. *Johannessen* v. *United States,* 225 U. S. 227; *United States* v. *Ness,* 245 U. S. 319.

Certainly the proceedings before the Dawes Commission were at most of no greater dignity than those attending the acquisition of public lands, or the proceedings for a naturalization certificate.

In *United States* v. *Minor,* 114 U. S. 233, a suit to cancel a patent for fraud, this court distinguished *Vance* v. *Burbank* and definitely pointed out the scope and extent of the rule of the latter case. It explicitly held that that rule applied to cases where "a contest between individuals, for the right to a patent to public lands, has been brought before these officers, and both parties have been represented and had a fair hearing" (p. 243).

That the rule of *Vance* v. *Burbank* is limited to cases where there has been a hearing in which the issues sought to be impeached have been tried, is evidenced by a later statement in *Hilton* v. *Guyot*, 159 U. S. 113, 207:

> It has often, indeed, been declared by this court that the fraud which entitles a party to impeach the judgment of one of our own tribunals must be fraud extrinsic to the matter tried in the cause, and not merely consist in false and fraudulent documents or testimony submitted to that tribunal, *and the truth of which was contested before it and passed upon by it.* [Italics ours.]

The case of the *C. R. I. & P. Ry. Co.* v. *Callicotte* (C. C. A.), 267 Fed. 799 (certiorari denied, 255 U. S. 570), is illuminating as to the extent to which equity will go to relieve from judgments obtained by fraud, even in litigated cases. See also *Marshall* v. *Holmes*, 141 U. S. 589; *Wells Fargo & Co.* v. *Taylor*, 254 U. S. 175, 183.

The decision in *United States* v. *Wildcat* is not to the contrary, for it is plainly limited to cases other than those involving fraud or mistake. It was there said that in order to impeach the decision of the Dawes Commission for fraud or mistake, the proof must be full and convincing, sufficient within the recognized principles of equity jurisdiction in cases of this character (p. 120). The significant part on that point is that the two cases cited by the court on the latter proposition, *Maxwell Land-Grant Case*, 121 U. S. 325, and *Colorado Coal Co.* v. *United States*, 123 U. S. 307, are cases in which it was sought to set aside patents for fraud similar to *United States* v. *Minor*, and *Washington Securities Co.* v. *United States*, *supra*. It is clear, therefore, that the court did not intend to adopt the rule of *Vance* v. *Burbank* as the sole and controlling rule in cases of fraud on the commission.

The courts below considered the Creek Nation as the real party in interest so far as the allotment and patenting of the lands were concerned, and held the United States to the same rule that they thought applied to the nation. However, there can be no doubt of the capacity of the United States to bring this suit in its own right. It was supervising and making the enrollment and allotments pursuant to its solemn covenant and agreement with the Creeks and therefore executing a public policy. Its interest is not to be confined to the assertion of rights incident to the ownership of a reversion or to the holding of a technical title in trust nor because it is without pecuniary interest. *Heckman* v. *United States*, 224 U. S. 413, 437; *La Motte* v. *United States*, 254 U. S. 570, 575.

Independently of the question of fraud we contend that if no such person as Thomas Atkins ever existed, the enrollment of that name as a citizen of the Creek Nation and the allotment and patenting of a tract of land in his name was a nullity, conveyed no title, and that no rights or interest thereunder could vest in any person. In the last analysis of the case under this theory the United States is asserting, as against all these defendants, that Thomas Atkins had no heirs for the very good reason that he never existed, and that those claiming to be his heirs are not such, and consequently take nothing by the action of the Dawes Commission and can convey no interest in the land. *Cf. Iowa Land & Trust Co.* v. *United States,* 217 Fed. 11.

It is well established that a conveyance or patent to a fictitious person conveys no title and there can be no *bona fide* purchaser from such patentee or grantee. *Moffat* v. *United States,* 112 U. S. 24; *Thomas* v. *Wyatt,* 25 Mo. 24. In order to effectuate a transfer there must be one capable of receiving it.

Suppose there were a conveyance of restricted Indian lands by a stranger to the title. Would there be any doubt of the right of the United States to maintain a suit to remove the cloud cast upon the title by that conveyance? That is precisely the situation in this case: The Government asserts that all the parties defendant are strangers to the title to this land. Surely it is entitled to be heard on that issue.

Now, it will not avail to say that the United States, through the Dawes Commission, had control of the allotting of the lands of the Creek Nation and therefore had jurisdiction of the subject matter. In the *Moffat* case the United States likewise had jurisdiction of the patenting of public lands, and yet the action of the Land Department in issuing patents to fictitious persons was held to convey nothing. The Land Department had no authority to convey public land to a fictitious person; neither had the Dawes Commission authority to allot lands to mythical persons.

The principle which in our view is applicable to this case is that of *Scott* v. *McNeal,* 154 U. S. 34. There it was decided that a purchaser at a sale of property made pursuant to an order of a probate court, acting upon the estate of a person supposed to be dead but in reality alive, conveyed no title as against the latter. If, as there held, the true owner could not be divested of property by an order of a court entered upon the theory that he *was dead,* we think it equally true that the rightful owner of the land here involved—the Creek Nation—could not be deprived of its property as a result of a decision based on the assumption that Thomas Atkins was living, when he never existed. The jurisdiction of the Dawes Commission depended on the existence at some time, at least, of those enrolled by it.

The courts below, however, took the view that, as the Dawes Commission enrolled the name Thomas Atkins, that pre-supposed a finding that such a person existed, since the law provided that only those living on April 1, 1899, should be enrolled; consequently that the proof tendered by the Government as to the nonexistence of Thomas Atkins constituted an attack upon that finding, and could not be admitted under their interpretation of the decision in the *Wildcat* case.

But if it be considered an attack upon that finding, we assert that this case is one of the class excepted from the effect of that decision, and that it can be further distinguished from that case.

As has already been pointed out, the decision in the *Wildcat* case specifically excepted cases of fraud and mistake. In that case no question was raised of the existence of Thlocco, the allottee, but it was contended that he died prior to April 1, 1889. That is very different from the assertion that he never existed.

In the *Wildcat* case, one basis for the upholding of the finding of the commission was the protection of *bona fide* purchasers. Thlocco had heirs and this court took the view that those purchasing from his heirs and relying upon the action of the commission should not be disturbed. In this case the purchasers must have at their peril established the existence of heirs, and, if Atkins in fact had no heirs, their situation is as if they took from a stranger to the title.

But if we clothe the finding of the Dawes Commission with all the dignity of a judgment in an adversary proceeding, there is yet another ground upon which the Government is entitled to relief. It is on the well established principle that equity will grant relief against a judgment, the enforcement of which would be unconscionable, or which was rendered through mistake or accident, the party seeking relief not knowing of the existence of a defense or being prevented from availing himself of it by accident or mistake.

This principle was so ably discussed not long since in *Pickford* v. *Talbott*, 225 U. S. 651, 658, *et seq.*, as to make unnecessary a citation of cumulative authorities. It is proper only to apply the principle to the present situation.

When the Dawes Commission enrolled the name of Thomas Atkins, the Government had no knowledge of his nonexistence, nor was there anything to put it upon inquiry on that point. If it, or the Creek Nation knew the fact, it would have made the point before the commission. If Thomas Atkins was a myth, it surely is against conscience to give force and validity to the finding of the Dawes Commission and to permit the Creek Nation to be deprived of a part of its lands. The Government therefore was entitled to be heard upon the question whether Thomas Atkins was a myth and had no existence.

The action of the trial court in excluding evidence on that point was error, as was its action refusing to hear the Government on the question of fraud.

II.

The evidence establishes, and the courts below should have found, that Thomas Atkins was a myth; hence the patent issued in his name conveyed no title.

The situation presented in this case is unusual and arose in this wise: Practically all the testimony had been taken on the issues raised by the pleadings when the decision of this court in the *Wildcat* case was announced, whereupon the trial court ruled that the United States was not entitled to be heard on the question of fraud on the commission or on the question whether Thomas was a myth. This resulted in a dismissal of the Government's bill. (Memorandum opinion of district judge, R. I, 130 *et seq.*) Notwithstanding that ruling, the court proceeded to consider all the evidence adduced upon the issue of whether Thomas was a myth and rendered a decree as between Minnie Atkins and Nancy Atkins. This action was approved by the Circuit Court of Appeals.

Now, if we are correct in our view of the law, the findings of the courts below are divested of their force and ought not to be given the presumptive effect usual in ordinary cases. This for the very good reason that they were arrived at under an erroneous view of the law. They start with the existence and eligibility for enrollment of Thomas Atkins, established beyond gainsaying by the action of the Dawes Commission. With this false start, no question being in the minds of the court of the existence of Thomas, it became merely a matter of deciding which of two persons, Minnie or Nancy, was his mother. Thus the courts below did not pass upon the evidence without prejudice, for their mental vision was clouded and obscured by the error in holding the action of the Dawes Commission to be unimpeachable. By reason of this fundamental error, the foundation of the finding is vitally weakened and becomes an unstable support, the vice of that error permeating the entire structure.

The situation is, in principle, like that in *Vitelli & Son* v. *United States,* 250 U. S. 355. There it was sought to uphold a reliquidation of certain imports made by the collector of the port, on the ground that although under the statute the power to reliquidate rested upon the existence of fraud, yet the presumption attending his acts cast upon the importer the burden of showing that no fraud had been committed. It was further contended that although the statute had been erroneously construed below, nevertheless as the record showed fraud, the reliquidation should be sustained. This court held (p. 359) that the erroneous construction of the statute dominated the entire situation, and ordered that the case should be given consideration "disembarrassed from any mistaken construction as to the presumption created by the statute."

In addition to that, we think it wholly unwarranted for the courts below, after shutting the United States out of the case, to consider the evidence adduced by it and determine thereon an issue against it.

Again, there was no finding against the Government on the facts by the District Court. When it considered the facts the Government was already out of the case by virtue of the ruling of the court denying its right to be heard.

The Circuit Court of Appeals, after approving the action of the District Court, did proceed to consider the evidence as if the Government were in the case, but that we submit is the only court which made a finding of fact against the Government.

For these reasons the rule is inapplicable here that findings of fact concurred in by two courts below will not be disturbed by this court unless shown to be palpably erroneous. But in any event we believe the case comes within the exception and that the findings below can be shown to be palpably erroneous.

Before proceeding to a discussion of the evidence, we wish to express regret that the record in the case is so voluminous. When the record on appeal to the Circuit Court of Appeals was being perfected, the Government requested that it be printed pursuant to the act of February 13, 1911, 36 Stat. 901, in diminished form (R. VI, 4972), but the trial court on motion of counsel for the Nancy Atkins interests, ordered that it be printed in full without abridgment (R. VI, 4960–61). Our judgment is that it would have been possible to have diminished the record at least one-half and probably two-thirds.

However, in the hope that it may aid the court, we have prepared a digest of all the material evidence. We have tried to present that of the defendants as faithfully as that of the Government and have not intentionally slurred any deemed significant. This digest is printed as an appendix, and in our discussion we make reference to it and also to the record.

We think in the proper presentation of the case we should first refer to—

(*a*) Evidence relating to proceedings before the Dawes Commission.

The enrollment of the Creeks had not proceeded as rapidly as had been hoped; many Creeks were reluctant to accept allotments and did not present themselves before the Dawes Commission for allotment.

When the act of March 1, 1901, c. 676, 31 Stat. 861, the original Creek agreement, was being considered for ratification by the Creek Council at Okmulgee in May, 1901, the commission opened a temporary office there to carry on a "drive" for enrollment. Special efforts were made to get members of the tribe and heads of families to appear before it. A few days before the agreement was ratified (May 25, 1901) the established rule of the commission requiring personal appearance was lifted. This was done because of the opinion entertained by some that those not enrolled when ratification was effected could not be thereafter.

During those last few days previous to ratification the commission adopted this plan: They took the 1890 and 1895 tribal pay rolls and made a card for every name on those rolls which was unaccounted for—every name not already enrolled; personal appearance of the enrolled or any member of his family was not required; in so far as they could they secured information concerning these names from some warrior, town king, or member of the tribe; if they had information that any name was *not* entitled to enrollment, they did not put it upon a card, otherwise they did. During this "rush" about 500 names were enrolled per day.

The Thomas Atkins enrollment card, Govt. Ex. A-1 (R. VI, 4652), was made up from the 1895 tribal pay roll. (Testimony Hopkins, R. I, 182–213; Hastain, R. I, 237–253; Lieber, R. I, 253–265; Bixby, R. I, 266–280; Digest 3.)

The 1890 and 1895 rolls were made up from town rolls, submitted by the constituent towns of the Creek Nation; Thomas Atkins was enrolled on the Euchee Town roll.

Samuel W. Brown, town king of Euchee Town, states that when the 1890 roll was made up at a convention of the townspeople, the names of Minnie and Nancy Atkins were placed thereon; Thomas Holden, brother-in-law of Minnie, stated that she had two children; it was decided to place the two upon the roll; the Christian names of the two children were not given; the words "Thomas and Mary" were not written above the words "two children" at that convention, nor were they there when the council approved the roll.

The names Ed Schrimsher, Minnie Atkins, Charlie, Susan, *Thomas*, Nancy, and Mary were placed upon the 1895 roll by Brown upon information furnished him by John Davis, Minnie's uncle, of whom he inquired if he knew the "remnants" of the Atkins family; Davis said he did and gave Brown a list containing those names; he did not state what was the relationship between the ones on the list.

This roll was considered by a committee appointed by the Creek Council, which, in passing on the town rolls, asked the town king and warriors concerning them. Brown doesn't know that the Atkins family was discussed before the committee "because we never had much trouble with our rolls—always tried to get it right, and we stated that is all we could get up and they accepted it." This committee reported to the council and if the council found the rolls correct, they were approved.

Brown knew personally all the old members of Euchee Town but not all the young ones; did not know any Euchee named Thomas Atkins except Minnie's father; never knew or saw a boy named Thomas Atkins, who claimed to be Minnie's child. He recalls payment to Minnie on the 1895 roll—she received payment for four—Govt. Ex. A-2 (R. VI, 4652); Brown drew for Schrimsher and Nancy Atkins; when Minnie drew the money she did not say those she drew for were her children—Brown supposed they were. Brown was interrogated at Okmulgee by the Dawes Commission clerks about unaccounted-for names from Euchee Town, but does'nt recall giving any information regarding Thomas Atkins. (R. I, 214–232; Digest 7–9.)

Noah G. Gregory was town king of Euchee Town in 1890; he was at Okmulgee in May, 1901, when the Creek agreement was under consideration; was called to help the Dawes Commission in enrolling names and to correct the town rolls which he had; went over the Euchee roll with Hopkins of the commission; when they came to Minnie Atkins's name Gregory said the last he had heard of her she was in Colorado, didn't know whether she was living, had tried to find out but couldn't locate her; Gregory knew that Minnie had two children (Harvey and Charlie) living with Holden. Nancy Atkins was not at Okmulgee at that time, nor was Holden or any member of Minnie's immediate family. He never knew any member of Euchee Town named Thomas Atkins. (R. I, 232–237; Digest 10.)

Larry Brown, Chicken (Dixon), and George Clinton, who were in the house of warriors, representing Euchee Town, and who in addition to Sam Brown constituted the official representatives of Euchee Town, with Noah Gregory as town king, all testify to being present at Okmulgee in May, 1901, but that they were not called before the Dawes Commission for any purpose nor did they talk with any of the clerks of the commission. Chicken states that he told the clerks of the commission that Sam Brown made up the roll. None of these knew Minnie, Nancy, Lee, or Thomas Atkins.

Edward Merrick, the employe of the Dawes Commission who made out the card of Thomas Atkins on May 23, 1901, made an investigation and was unable to find any record in the office of the commission relative to that record other than the tribal roll prior to May 23, 1901. There was no old census card in this case; the name Thomas Atkins was put on a card because it was on the 1895 tribal roll; most of the cards written out in the last few days contained only the name and tribal roll. Doesn't know where information as to age, blood and parentage appearing on card came from, but must have come from sources besides 1895 roll, from what some one told him. (R. V, 3451–80; Digest 4–6.)

Minnie Folk (Minnie Atkins) in her Seattle testimony stated she had Thomas Atkins put on the 1895 roll by her uncle, John Davis; such was her testimony at Sapulpa, in a case in the state court between Nancy Atkins and herself, although she denied at the trial the Sapulpa testimony. (R. V, 3993; Digest 209.) According to the testimony of Sadie James, Minnie told her that the name Thomas Atkins represented her father who had been dead 17 years. (R. 559; Digest 26.)

It is not clear just how or by whom the information came which resulted in placing the name Thomas Atkins on the 1895 roll. While Brown positively states that he received it from John Davis when making up the roll, yet the record discloses (R. VI, 4987–88) that from 1891 to 1896 Davis was in the penitentiary. This fact would also cast doubt upon Minnie's statement that she had Davis put Thomas on the roll.

However, the District Court specifically found that Minnie had conveyed information of the birth of Thomas to relatives in the Indian Territory, which resulted in his being placed upon the 1895 roll. (R. I, 145.) If the court was correct in that finding, or if Minnie instigated Thomas's enrollment, and he was a myth, she was responsible for a fraud upon the Creek Nation and upon the Dawes Commission for which the Government was entitled to relief, regardless of who was the medium through whom the information was communicated.

If Thomas Atkins was a myth, it is an inescapable conclusion that his enrollment was the consequence of fraud and false representation.

But we wish to make clear to the court that the Government's case does not depend upon the establishment of the particular manner in which the fraud was perpetrated. We are content to rest it upon the other grounds specified. We have discussed the fraud feature because of a desire to secure a ruling as to the character of the proceedings before the Dawes Commission, and to overcome the effect of the ruling below that those proceedings are adversary, and that *fraud extrinsic* alone is a basis for attacking them.

(*b*) The evidence on the question whether Thomas Atkins was a myth.

The case on the facts presents, as against the Government, the conflicting claims of two different interests to the land, namely: (1) Minnie Atkins, claiming as the mother and heir of Thomas Atkins, deceased, whose interest has been acquired by Charles Page; (2) Nancy Atkins, also claiming as mother and heir of Thomas Atkins, deceased, who asserts title subject only to a lease executed by her under order of the county court of Nowata County, Okla., the interest in which is now held by Rutherford and Ferguson.

The trial court found against the claim of Henry Carter, decreed him not to be Thomas Atkins and to be entitled to no interest in the property in controversy. No appeal therefrom was taken and that interest is now out of the case. When referred to herein it is only in connection with the other phases of the case.

It may lead to a better understanding of the situation out of which this controversy arose to make at this time a brief general statement, the correctness of which we believe will be conceded.

One H. U. Bartlett had taken a deed to the land, purporting to have been executed by Minnie Atkins October 21, 1912. (Government Ex. A-58, R. VI, 4731.) The following month Bartlett executed an oil and gas lease to the Gypsy Oil Co. (Govt. Ex. A-59, R. VI, 4732-36); the Gypsy went upon the land and started a well December 25, 1913, in which oil was discovered January 23, 1914. (R. I, 315.)

It developed that the deed to Bartlett was a forgery (see *Bartlett* v. *Atkins*, 169 Pac. 1076). Bartlett was anxious to cure his title, and to that end employed one Betty or Sadie Mann to endeavor to locate Thomas Atkins, the allottee. In March, 1914, Betty met Sadie James and informed her of her employment; Betty put Sadie in touch with Bartlett and Sadie was also employed on the investigation. She decided to locate Minnie Atkins if she could, and in June, 1914, succeeded in doing so at Fort Lawton, Seattle, Wash. On this western trip Betty Mann accompanied Sadie, but just before leaving Sapulpa or Tulsa Betty met Long, who was working in the interest of defendant Page and agreed with him that should Minnie be found she would advise Long. (R. II, 1063–64.)

When Sadie interviewed Minnie at Seattle she made an offer on the part of Bartlett for a lease from Minnie, and it was tentatively agreed that the latter would deal with Bartlett when he arrived. In the meantime Betty, to whom Sadie had not confided her discovery of Minnie, being suspicious of her, had had Sadie shadowed and learned of Minnie's whereabouts. She communicated with Long, who arrived before Bartlett and made an offer of $4,000 for a lease to the Gem Oil Company, in which Page was the controlling factor.

Captain McNab, an officer at Fort Lawton, became interested in the matter, summoned one Hanford, an attorney at Seattle, and together they induced Minnie to execute a deed of trust to McNab, so that all dealings relating to the land would be looked after by him. McNab and Hanford would not execute the lease to the Gem Oil Co. but stated to Long that they desired to investigate. After conferring with Long, Hanford and McNab guaranteed to Minnie, who was anxious to get immediately the $4,000 offered, that she would receive $5,000 if she would wait and abide their judgment.

Hanford in company with Long went to Oklahoma to investigate the value of the property. Long furnished expense money under an agreement that he should be repaid in the event a lease was not executed to the Gem Oil Co. They arrived in Oklahoma on Sunday morning, spent most of the day with Page and one of his attorneys discussing the leasing of the property; Monday, Hanford made some investigation of the suit in the state court brought by Nancy Atkins to quiet title to the land in controversy; Tuesday, with Long, made some investigation of the Dawes Commission records, and on Tuesday evening wired McNab to execute the lease to the Gem for a consideration of $10,000, which was paid to Hanford in two checks of $5,000 each; the first he cashed, keeping $3,000 for himself to cover expenses, as he says; the $2,000 balance he turned over to McNab. The second check was made payable about a month later, for the asserted reason that Page was not satisfied of the identity of Minnie.

Long and Hanford returned to Seattle to get further data from Minnie regarding her past life. (Hanford, R. V, 3689–3702.) Thereafter Minnie gave statements and evidence so varying and conflicting in character that we treat them in detail. So far as the Minnie Atkins interests are concerned, the controversy centers about the alleged birth of Thomas to Minnie in Leavenworth, Kans., in the year 1885.

There is and can be no dispute that Minnie Atkins was a pupil in Carlisle Indian School from January, 1881, to July 8, 1884. The records of the school establish that. (R. I, 332–333; Digest 14.) When she left Carlisle it was to enter the employ, as a domestic, of George H. Hyde, a banker of Leavenworth, Kans. She arrived there on July 10, 1884, as is shown by a post card dated July 11, 1884, addressed to the superintendent of the school by Hyde, reporting her arrival on the previous day. (Govt. Ex. 15, R. VI, 4859.)

It is also established beyond all controversy that Minnie gave birth to a child, Robert Lee Peterkin, at the home of Mrs. Wood in Leavenworth on July 31, 1886; the child lived but a few weeks. Testimony of Peterkin R. I, 425; Digest 18–20; Mary K. Allen R. I, 462–463; Digest 20; baptismal records, R. I, 475–476; Digest 21; burial records, R. I, 479; Digest 21.

The contention of the Government is that this was her first child, but the *final* claim made by

Minnie was that she had a child previous to that, Thomas, whose place of birth she ultimately gave as Granny Letcher's at 217 Seneca Street, Leavenworth, in the summer of 1885. (R. V, 3911; Digest 190.) This last testimony before the court was the fifth given by Minnie in court proceedings. It was the eighth statement she had made about the matter. The first statement was made in July, 1914, to Hanford and Long, representing Page, soon after the lease had been given to the Gem Oil Company. She then stated she went to Leavenworth in 1882, worked four years (three for Grodevant, one for Stafford); left latter's and had the boy, Thomas; born at the Sisters Hospital in the summer of 1886 or 1887; she stayed in Leavenworth one year after his birth. (Long R. V, 3516–17; Digest 156; Govt. Ex. A–112, R. VI, 4832.)

The second time she told of the matter was at Sapulpa in July, 1914, in a suit pending in the state court between the Minnie Atkins interests and the Nancy Atkins interests. There she testified that she never gave birth to any child except Thomas, Harvey, Charlie, and Alice (R. V, 3946; Digest 198); she went from Carlisle School to Hydes for three months, then to Grodevants at Fort Leavenworth for one year and six months; then at Lieutenant Stafford's a year, and left there because she was with a baby by name of Tommy Atkins (R. V, 3948; Digest 199); she left Stafford's to go to the Sisters Hospital to give birth to the child (R. V, 3949, Digest

199); after she left the hospital she carried him to a lady to care for him during the day while she went out to work, returning to the baby after work (R. V, 3957; Digest 201). [Upon this computation, starting with July, 1884, as the time of her arrival in Leavenworth, this would bring the birth of Thomas in April, 1887.]

The third time she told the story was after search had been made of the records at the Sisters Hospital and it was ascertained that no maternity cases were taken there prior to 1890 and that Minnie's only stay there was in October, 1886. (R. V, 3609; Digest 162; Gov't Ex. A-81, R. VI, 4779.)

She was then brought to Kansas City, where she was interviewed by Hanford, Josey, Rice, and Long, representing Page interests. A statement dated September 29, 1914, was taken (R. V, 4044). In that she stated that she went to Leavenworth from Carlisle and worked for Hyde; Grandma Spain and Mrs. Hamilton, her daughter, were the women she knew in Leavenworth (R. V, 4049–50; Digest 212); she stayed at Hydes three months; then went "knocking around," stayed a good deal at Granny Letcher's; worked a few weeks for a rich Jew before she went to Granny's; Granny was pretty near white, but a colored woman; she lived on Seneca Street; there was a corner saloon near and a livery stable; asked if livery was Crilly's she answered, "some such name as that"; remembers a grocery store run by Rube Smith near by (R. V, 4051; Digest 212);

Granny had a one-armed boy named Sam Nash and a boy named Walter around the house; she was at Granny's about three months before her child was born; she was going with two men then but did not remember their names; Thomas, her first child, was born there in the winter of 1885; she borrowed the money from Rube Smith to pay the doctor; she would not tell the name of the father of Thomas; she stayed at Granny's (around Leavenworth) for about a year after the child was born; the child nursed at the breast and during the time he was nursing no men came to see her. (R. V, 4053–55, 4057; Digest 213.) She first worked at Fort Leavenworth for Grodevants, then for Staffords, for whom she was working when she took up with Peterkin. (R. V, 4060; Digest 213.)

After procuring this statement from Minnie she was taken by the Page interests to Tulsa where, in October, 1914, she gave a deposition at the office of Rice & Lyons, Page's attorneys, for use in the state court case.

In the Tulsa deposition she testified that she went from Carlisle to Leavenworth, worked five months for Hyde; that a child (Thomas Atkins) was born to her at Granny Letcher's; she remained a year in Leavenworth, then went to Fort Leavenworth; worked for Grodevants a year, then a few months for Staffords; Tommy was a year and a half old when she left Leavenworth to go to Fort Logan; she left him at Letcher's; she never saw him after that but heard when in Detroit that he was dead; she knew after she went to Hydes that she had Tommy and went to Granny's; the child was born two years after she came to Leavenworth; that she testified at Sapulpa that the child was born at the Sisters Hospital because Granny didn't run a very good house and not because she was a negress; while at Grodevants and Staffords she went to Granny's all the time. (R. II, 1304–1307; Digest 53.)

[According to this statement Thomas was born in 1886, July or August, since she arrived in Leavenworth in July, 1884; but the fact is she had Robert Lee Peterkin on July 31, 1886.]

On December 17, 1914, Minnie, at Seattle, Wash., made what is sometimes referred to as her confession to Montgomery, who was representing the Creek Nation. In that statement, given in the presence of Hanford, Montgomery, and McNab, she declared that no child was ever born to her by the name of Thomas Atkins, or Tommy Atkins, and that the Thomas Atkins for whom she drew the "grass money" (1895 pay roll) was her father; that she was the mother of only three children—Mabel, or Alice Peterkin, Charlie Harrison, and Harvey Harrison. (R. II, 1374; Digest 55.)

The receivership hearing in March, 1915, was the first court proceeding wherein the United States was a party. In that hearing Minnie gave the following testimony: When she left Hydes she was "with" Tommy Atkins; she was down in the city about a year after leaving Hydes before she went to Grodevants; slept at Granny's a lot during that year (R. V, 3980–81; Digest 206); nursed Tommy at Granny's for about six months (R. V, 3967; Digest 203).

In a deposition given at Seattle, Wash., before Examiner Penick in this case, Minnie gave this version:

That she had Tommy put on the 1895 roll by her uncle, John Davis, as Thomas Atkins; she hadn't named Tommy Atkins (R. V, 3997; Digest 209); at the time she drew the money on the 1895 pay roll she had had five children born to her (including Mabel or Alice, who had died, and what she called a premature birth, Robert Lee Peterkin, who lived a week or ten days and who was born after Tommy.) (R. V, 4004–05; Digest 209); went from Carlisle to Hydes at Leavenworth, where she stayed three months or a little over; didn't have Tommy when she came to Leavenworth; from Hydes went to Grodevants; was at latter's two or three months, then to Lieutenant Stafford's; got Tommy at Hydes (R. V, 4008–09; Digest 209). Was in bed about two weeks at the time she gave birth to him; doesn't know the name of the doctor who attended her; Mrs. Witt washed and dressed the child (R. V, 4013; Digest 210); stayed around Leavenworth a year or more after she had Tommy, so she could go to Granny's and nurse him; she had Tommy after she left Grodevants; worked up to two months before she had him; Tommy was about 2 years old when she left Leavenworth and went to Fort Logan; did not regard it as any humiliation to associate with Granny Letcher. (R. V, 4020–21; Digest 210.) Thinks she was carrying Thomas when she was working for Grodevants; Thomas was born between warm and cold weather; it was getting summer, but still cold. Granny lived on Seneca Street at that time. (R. V, 4034–35; Digest 210.)

On the trial of the case, Minnie gave her final story:

Became pregnant at Hydes; went from Hydes to Grodevant's; had the child at Granny Letcher's; named it Thomas Atkins after her father; a man named Lee was the father of Thomas; she couldn't remember his last name; stayed at Granny's three weeks, then returned to Grodevants; came down town every night to see the child; Thomas was about 2 or 3 years old when she left for Fort Logan; had five children in all; Thomas Atkins, the first one, then Robert Lee Peterkin, then Alice, then Charlie, and last Harvey. (R. V, 3911–12; Digest 190.) The reason she now tells for the first time the name of the father is "because they all just wanted to hang it on me that my son was a colored child." (R. V, 3917; Digest 191.) Went directly from Hydes to Grodevants and didn't stay in Leavenworth a part of the time (R. V, 3924; Digest 193); didn't know Sadie James until she came to her house at Seattle (R. V, 3929; Digest 194). Would never refer to any negro woman as a "lady" (R. V, 3957; Digest 201); Tommy born in the summer

(R. V, 3966; Digest 203); nursed Tommy at the breast for about six months (R. V, 3967; Digest 203). Doctor McCormick attended her, didn't get any pay that she knew of, doesn't know who got him; it was three weeks after the baby was born when she went back to Grodevants; came back and forth to Granny's to see baby, on the bus; would come just as soon as she could get away from Grodevants; Frank Grodevant would be late and she had to wait on him; would go back on last bus at 12.30 a. m.; bus fare was ten cents each way; would nurse the baby when she made those trips. (R. V, 3981–83; Digest 207.)

In view of these conflicting and inconsistent statements, no reliance can be placed upon Minnie's testimony as to the birth of the child Thomas. In and of themselves they constitute strong proof of the Government's claim that Thomas was a myth.

We recognize that human memory is fallible, but there are some things which are indelibly fixed upon the mind. It is incredible that any woman could fail to recall the incidents attending the time and the place of the birth of her first-born child. Yet Minnie did not place the birth of Thomas at Granny Letcher's until she told the story of Thomas the third time at Kansas City. She could tell the Christian name only but couldn't remember the surname of her acknowledged first lover, the father of Thomas. (R. V, 3920–23; Digest 193.)

We do not stop to analyze the testimony of Minnie or to consider the lame excuses which she makes for the inconsistencies. The net result is to induce the conviction that the entire case as to the birth or existence of Thomas is a fabrication.

The Government proved and accounted for Minnie's time in Leavenworth very closely. By uninterested witnesses the following was established:

She worked at Hydes for about four or five months; Mrs. Hyde observed no signs of pregnancy nor suspected Minnie of anything of the kind; Minnie had no men associates that Mrs. Hyde knew of (R. I, 343; Digest 14); Minnie went directly from Hydes to Grodevants at Fort Leavenworth; Mrs. Hamilton testified that Minnie called upon her frequently, both while at Hydes and Grodevants, and that it was a considerable time after she left Hydes (within two years) when she noticed Minnie in a family way (R. I, 362); that was the only time she knew of her being pregnant while in Leavenworth. (R. I, 366; Digest 16.)

The Grodevant expense account kept by Herbert Grodevant, deceased (which is Govt. Ex. 1, R. VI, 4840–48), shows that Minnie received pay for services from October, 1884, and up to September 15, 1885, except for a period of about two weeks in June, 1885. Frank J. Grodevant, who lived with his brother at the time Minnie worked for the latter, states that he saw Minnie around the house several times a week and that she did not have the appearance of being in a family way. (R. I, 393–394; Digest 17.)

Mrs. Stafford stated that Minnie went to work for her in September or October, 1885 (thinks it was September 15), and worked until the following June

(1886), when she discharged her because of her condition (pregnancy); (R. I, 444–445; Digest 20); the testimony of her husband is to like effect. (R. I, 450–451; Digest 20.)

Charles Peterkin, who lived with Minnie at Fort Leavenworth, testified that he first saw Minnie to know who she was in the spring of 1885 and started living with her the second day after the discharge from the army of Oliver, who had been living with Minnie. Oliver was discharged, according to War Department records, December 18, 1885. (R. I, 441; Digest 20.) Prior to living with her and after first seeing her in the spring of 1885 he saw her about five or six times a week; Minnie showed no signs of pregnancy during that period. About a month after he commenced living with her he discovered she was pregnant about three or four months along, this pregnancy resulting in the birth of Robert Lee Peterkin in July or August, 1886. (R. I, 420–424; Digest 19.)

In the face of this evidence Minnie was driven in her last testimony, which must be relied upon by the defendants, to the extreme of asserting that she left Grodevants for three weeks to coincide with the June, 1885, expense account of Grodevant, and in that time was confined, then resumed her duties with the Grodevants, nursing her child evenings, keeping her breasts soft and relieved of milk by working them with her hands, as she had no breast pump (this operation would have to be performed about five times during the day and each operation would take 15 or 20 minutes. R. VI, 4543–44; Digest 269); yet none of those who were in a position best to observe outward signs of pregnancy knew anything of it. Further comment would seem unnecessary.

But this is not all. Minnie, when she finally fixed the birthplace at Granny Letcher's, located the house at 217 Seneca Street, but the city directory for 1885 shows Lily White a resident at 217 Seneca Street. (R. III, 2086; Digest 85.) Lily White, who preceded Granny Letcher at 217 Seneca Street, ran a house of ill fame and that constituted such a nuisance that the neighbors circulated a petition to the city council to compel her to remove. That petition was dated July 5, 1885. (Govt. Ex. 59, R. VI, 4912–13). The council acted upon the petition at a meeting held August 5, 1885, and referred it to the city marshal with instructions to abate the nuisance. (Govt. Ex. 61, R. VI, 4914–15.) Feth testified that he drew the petition up on July 5, 1885, at the request of his father and mother, who lived at 223 Seneca Street. (R. II, 1441–47; Digest 61.)

Mrs. O'Day, who did hair dressing for Lily White's girls, and who lived back of 217 Seneca Street, testified that Lily White lived there during the summer of 1885; that she refused for business reasons to sign the petition against Lily White, which she remembers was circulated about the middle of the summer. (R. II, 1536–37; Digest 66.)

These were not all the witnesses for the Government on this question, but the testimony of the others established Lily White in the house when Minnie alleged she had Tommy there. (John Rohr, R. II, 1422, Digest 59; Eckert, R. II, 1583, Digest 67; Malone, R. II, 1481–82, 1516, Digest 62; Dassler, R. II, 1462, Digest 61.)

(c) The case presented by the Minnie Atkins interests is a fabrication.

The recorded testimony of Sadie James is an intensely human document; we do not attempt to give it in detail but touch only the high points.

Sadie knew Minnie Atkins in Leavenworth from July, 1884, to the fall of 1887 or spring of 1888. (R. I, 511; Digest 23.) Minnie denied this at the trial but had previously admitted it at the Sapulpa hearing. (R. V, 3929; Digest 194); the reason for the subsequent denial will later be obvious. She first became interested in the case in March, 1914, when she was employed by Bartlett, through the intervention of Betty Mann, to locate Thomas Atkins. (R. I, 512–513; Digest 23.) Betty told Sadie that she had been trying to find Thomas Atkins for three years and had come to the conclusion that there was no Thomas (a conclusion with which Sadie agreed), but that Sadie could secure employment from Bartlett by telling him that she knew Minnie, and where Thomas was born. (R. I, 515; Digest 24.) Sadie suggested that they frame up a Thomas Atkins, and then took Betty to the Office of Dennis Jones, a negro lawyer of Leavenworth, enlisted his help and that of Rube Smith, his partner, neither of whom knew Minnie, to frame up a case establishing the existence of Thomas Atkins. (R. I, 517–519; Digest 24.)

Betty returned to Kansas City and Sadie went back to Jones's office, where she conferred with him and Smith and the frame-up was outlined, namely, that they would say the child was born at Granny Letcher's in 1885; Rube Smith said he would be the father; they planned to get Mary Smith, a white woman, to pose as the midwife. A white woman was decided upon because Dennis doubted that any colored woman could be procured, since "they were all too afraid of getting arrested"; Doctor McCormick was named as the attending physician, for the reason that he was dead. (R. I, 520–521; Digest 25.)

Sadie met Bartlett the next day, told him that she knew Minnie had a child named Thomas born at Granny Letcher's, and that she had last seen him when he was 5 years old. Bartlett advanced her some expense money and told her to furnish such evidence as she procured about Tommy to Betty and two detectives whom he had hired. (R. I, 522–523; Digest 25.) Thereupon Sadie returned to Jones' office, told him and Rube that she had procured a job and for them to go ahead with the plan. Dennis said they would hunt a boy of Indian color, show him around Leavenworth, and get people to swear they remembered when he was born to this Indian woman. (R. I, 524; Digest 25.) Later, Sadie suggested to Bartlett that she be allowed to search for Minnie Atkins. Bartlett agreed. (R. I, 529; Digest 25.) Sadie had another interview with Jones, who told her that "he had got the talk started about Tommy Atkins and this Indian woman among several that he knew were all right". (R. I, 533; Digest 25.)

Sadie related how in April, 1914, after her employment by Bartlett, she interviewed several persons around Leavenworth endeavoring to secure them to agree to testify to the birth of a child to Minnie at Granny Letcher's. (R. I, 589–594; Digest 29.)

After considerable traveling about, Sadie located Minnie at Fort Lawton, Seattle, Wash., in June, 1914. She went to the home of Minnie, who recognized her. Sadie told her that she was a Government officer, engaged in enrolling, and that she wanted to know about Thomas and Alice who were enrolled as two of Minnie's children in 1895, and for whom she could not account. Minnie told her that Thomas Atkins was her father, who had been dead seventeen years when she drew that money; that she had been hiding from the Government for nineteen years because she had drawn that money. Sadie told her that the land allotted to Thomas was valuable; that she was working for Bartlett as well as the Government, that all Minnie had to do when the Government officers asked if she had the child was to say "yes"; that Bartlett would give her $2,000 for a deed to the land. Minnie asked "who is dead in Leavenworth, that if I say I had a child that was born in 1885, that I can say I gave it to." Sadie promptly said Granny Letcher, Minnie assented, and procured a piece of paper and marked down the year agreed upon, 1885. Sadie then told her that she had already started this story and had framed it up with some people in Leavenworth. (R. I, 560–561; Digest 26.)

Sadie then related how Minnie's husband was made acquainted with her earlier life and of what was planned (R. I, 563–566; Digest 26); how, through the defection of Betty Mann, who had accompanied her to Seattle, Long, the representative of Page, appeared on the scene and made an offer for a lease; and of the intervention of Capt. McNab and Hanford who took over Minnie's interests. (R. I, 571–575; Digest 28.)

She further stated that she went to see Minnie on the following Sunday when Minnie told her she had signed over her business to McNab, that "they are going to make a white case out of it and they are not going to have any negroes in it at all. * * * they want me to say that I had a baby born in the hospital and I gave him away when he was two years old". (R. I, 578; Digest 28.)

Sadie and Betty returned east with Bartlett, and Sadie, seeking to continue her employment with Bartlett, and leading him to believe that Tommy might still be alive, induced him to allow her to proceed with a search for him to the end that if found a deed might be secured from him. (R. I, 586; Digest 28.)

She then saw Dennis and asked him if he could secure a man with nerve enough to sign this deed as Thomas Atkins, suggesting, that if so, they could switch him to the Gypsy Oil Co. rather than to Bartlett. (R. I, 599.) Sadie then made a trip to the Pacific coast, but after awhile Bartlett became convinced that she was duping him and let her go.

About the middle of August Betty Mann told Sadie that one Cook, a government officer, was going to arrest her because she had been passing herself as a government officer. She went to her attorney, C. S. Walker, and told him of this, asking him to go with her to see Page, so that she might tell Page "there ain't no Tommy Atkins," and that she was going to get out of his way because "he is working with Fred Cook making a dead man." She told Walker also of what Minnie had told her of Thomas Atkins being her father. Walker told her to go to Page herself and that he would wait in his office until her return. (R. I, 615; Digest 30.)

Sadie went to Long's office, adjacent to Page's, because she knew Long, told him what she had come for, and Long said Page wanted to see her. She went with Long to Page's office; Long introduced her to Page, who said he had been looking for her. Sadie said, "Mr. Page, I came up here to tell you there is no Tommy Atkins." Page replied, "I don't give a damn if there ain't, the Government record says so and we will make one." Told Sadie he wanted the birth and death of Thomas Atkins established in Leavenworth and asked her if she could do it; she said yes. Page then said he had been informed by friends in Leavenworth that Dennis Jones was a shrewd man, had been on the police force, and a detective, was a lawyer and a politician, and that his influence in the case would help it—could Sadie get it? She told him that Dennis Jones and Rube Smith were her "coworkers," but that she feared she would have difficulty in getting Jones as he had been working with the Gypsy Oil Co. trying to make a live Tommy, and would be disinclined to turn around and make out a dead one. Page told her to tell Jones he would get arrested if he didn't stop trying to make a live man. Page directed her to meet him that evening at the Sand Springs Park—an amusement enterprise of Page's. (R. I, 616–617; Digest 30.)

At Long's suggestion Sadie then went to Mr. Rice's office on the next floor (Rice, of Rice & Lyons, attorneys for Page) and gave him the names of some who could be used as witnesses, Long telling Rice that Sadie was now working for them. (R. I, 618; Digest 30.)

Returning to Walker's office she reported to him that she had told Page, and had a job to get some witnesses. He said that she, Page, Long, and Josey were headed for the penitentiary. Sadie promised to inform him of the result of the meeting at the park. (R. I, 619; Digest 31.)

Sadie then relates the incidents connected with the meeting with Page and Long that evening, when Page agreed to give her $1,000 to establish the birth and death of Thomas Atkins in Leavenworth, and told her to come to his office for a contract the next morning. Sadie asked Page how he was to reconcile the new evidence with Minnie's Sapulpa testimony, wherein she swore that she had the child at the Sisters Hospital. Page said he would make Minnie "go back on the stand and say the reason she told that lie she didn't want her husband to know she lived with negroes." (R. I, 620–621; Digest 31.) The next day a contract between the Gem Oil Co. and Sadie was executed, whereby it was provided that Sadie should receive a check for $1,000 (check for that amount being deposited with the contract in a bank) when witnesses furnished by her had testified "in land suit wherein Minnie Folk, née Atkins, is seeking possession of allotment * * * of her son, Thomas Atkins," and when Page and Josey were in legal possession under their lease, declared valid; if they were not declared legal owners under the oil and gas lease then the check to be returned to the company. (Govt. Ex. 42, R. VI, 4902; R. I, 621–622; Digest 31.)

Long arranged to meet Sadie in Leavenworth the next day, and then asked her to meet Hanford, who was in his office. Sadie demurred because she had had an unpleasant experience with Hanford at Seattle, but was induced to talk to him. She twitted him on the result of Minnie's testimony at Sapulpa, and then asked him if he understood that she was going to make a negro case out of it. He asked in reply if she thought she could make it, and told her that he had taken Minnie to Leavenworth and that she didn't know anybody and didn't know where to take him. (R. I, 624–625; Digest 31.)

Sadie told Walker of the contract and he secured a copy of it at the bank. (R. I, 626; Digest 32.)

Went to Leavenworth, told Dennis Jones of her employment by the Gem Oil Co., and that they desired him to work. He agreed and then Sadie brought him and Long together, but Dennis insisted (as Sadie had previously advised) on seeing Page, so a trip to Tulsa was arranged, which resulted in Jones's employment. (R. I, 631–632, 636; Digest 32.)

His contract is reproduced as Govt. Ex. A-83 (R. VI, 4782–83.) It is dated September 23, 1914, and under its terms Dennis was to receive $10 per day and expenses of $5 per day, and if the Gem Oil Co. was successful in its suit in the Creek County court, and if satisfactory evidence was produced by Dennis of the death of Thomas Atkins, he was to receive an additional $500. There was a stipulation that any information obtained by Dennis was to be confidential and not disclosed without consent of the Gem.

Thereafter Sadie, fearing prosecution by the Federal authorities because of having represented herself as a government agent, made a confession of her part in the transaction and received immunity.

Sadie is corroborated by Betty Mann as to the former's employment by Bartlett and the conversation with Dennis Jones wherein it was agreed to evolve a "frame up" (R. II, 1058–59; Digest 35); as to the agreement with Long whereby Betty was to communicate with him if Minnie was located (R. II, 1063; Digest 36), Long admits this (R. V, 3500–01; Digest 155). Betty testified to a conversation with Minnie at Seattle when the latter was located wherein Minnie stated that the Thomas Atkins on the roll was not hers and must belong to her brother or sister (R. II, 1065; Digest 37), and that she had drawn money she was not entitled to, that she was afraid of the Government, and that was the reason she had not written or gone back to see her children in Oklahoma. (R. II, 1096, Digest 39.)

Harry Folk, Minnie's husband, testified for the Minnie Atkins interests but was not asked by them regarding Sadie's conversation with him in which she told him that Minnie was to assert that she had a child Thomas. (R. V, 4163; Digest 215.)

The testimony of Mrs. Kirk is proof that Sadie was thought to be a friend of Minnie, and disproves the assertion made by defendants that Minnie complained to McNab and Hanford that she was being annoyed by Sadie. (R. V, 3691; Digest 165.) Minnie asked Sadie to have her taken to Mrs. Kirk and agreed to meet Sadie there. Mrs. Kirk testified that she expected Minnie to visit her in July, and that Sadie did call at her house looking for Minnie; related how she accompanied Sadie and Bartlett to Seattle to see Minnie and how Hanford abused her and would not let Minnie talk to her. (R. II, 1129–33; Digest 42.) Also that of Mrs. McComb who stated that Minnie told her of this land matter and she understood from her that Sadie had brought her good news concerning it. (R. V, 3858; Digest 183.)

But the most striking corroboration of Sadie's story is the testimony of her attorney, C. S. Walker. He states that Sadie told him of her conversation with Page and that she was to be employed to secure witnesses to testify to the existence of Thomas Atkins, although Page knew that there wasn't a Thomas Atkins because she had told him. (R. II, 1283–90; Digest 49.)

We can not, in the space of this brief, undertake to refer to the many bits of evidence supporting Sadie's testimony. What has been set forth already is, in our judgment, amply sufficient. The Minnie Atkins interests of course assail Sadie and her testimony. Whatever her past, they knew it when they employed her, and can not now be heard to attack her reputation or character.

Further, on the question of fabrication of a case, the story told by Mrs. A. G. Wilds is very illuminating. She was employed by Betty Mann and one Kohler, a detective, to endeavor to gain access to Minnie's home and to listen to what she said. She went to Minnie's for the first time July 26, 1916, made herself agreeable to Minnie and they became very friendly. She tells that Minnie talked very frankly to her, told her that Page had made her swear to lies; how Long had wanted her to claim the "nigger kid." (R. III, 2099–2100; Digest 85.)

Mrs. Wilds also gives corroboration to the story of Sadie James, for she states that Minnie said that Sadie found her, and she, Minnie, gave her a good many facts about herself but that she could have given her a great deal more. (R. III, 2101; Digest 86.)

Mrs. Wilds later wrote the Secretary of the Interior about the matter for the reason that she felt a fraud was being perpetrated. (Govt. Ex. A–101, R. VI, 4813.)

Again, it is significant as showing that Sadie's story of the "frame-up" is true, that Hanford testified that he never heard of Granny Letcher until after Sadie had been employed by Page. (R. V, 3799–3800; Digest 178.)

The confession of Minnie given in December, 1914, to Montgomery is a further proof of the claim that the case of the defendant Page is a fabrication. That confession was given without any compulsion; McNab and Hanford were present, Hanford obstructing as much as he dared. Montgomery told Minnie that he wanted only the truth. McNab advised Minnie to sign it if it was the truth. (Montgomery's testimony, R. II, 1371–75; Digest 56; Hanford's, R. V, 3717–22; Digest 172; R. V, 3818–19; Digest 180; McNab's, R. V, 4130–34, 4152; Digest 101, 104.)

This confession was left by Montgomery with McNab to be held by him until immunity was secured by the former for Minnie and if not secured was to be destroyed (R. II, 1373). This action by Montgomery in thus trusting the confession to McNab shows his fairness in the whole transaction. The attitude of McNab and Hanford is in strong contrast. The very next day Hanford went to Minnie and induced her to retract the statement, communicated with McNab, who, without consent of Montgomery, returned the confession to Minnie. McNab's justification of his conduct is of itself a sufficient commentary on his attitude. (R. V, 4137; Digest 102.) And even Hanford on cross-examination reluctantly admitted that this confession would have accounted for all the discrepancies in Minnie's testimony and for all the suspicions raised in his mind since the suit of the Government had been instituted. (R. V, 3820; Digest 180.)

Witnesses for the Page interests testified to seeing Thomas Atkins at Granny Letcher's for varying periods from 1885 to about 1898.

The federal census for 1890 (Govt. Ex. A-98, R. VI, 4813) for the household of Granny Letcher shows William Phillips (Jim Mayo), Samuel Smith, Walter Banks, and Fannie Cavell there, the two latter as "roomers," Walter being listed as 12 years of age.

Roy Reynolds, clerk in the Census Bureau at Washington, testified that he had examined the census returns for Leavenworth for 1890 and found no name Thomas Atkins or Tommy Atkins, appearing therein. He identified the schedule of Molly Letcher's household as one of the schedules which he examined and stated that in making up those schedules the practice in 1890 was to list all persons residing in a dwelling, children as well as adults, whether members of the family or not. (R. III, 1708–11; Digest 70.)

If, as claimed, Tommy Atkins was born in 1885, he would have been 5 years of age at the time of this census, and if, as alleged, he lived with Granny Letcher all his life, it is indeed strange that his name does not appear on the schedule.

A brief reference to the testimony of a few of the witnesses for the Page interests will give a hint of the character of much of the evidence with which they sought to support their case.

Mrs. Cobb testified positively to the birth of Thomas Atkins to Minnie at Granny Letcher's on the last day of May or the first day of June, 1885. (R. IV, 3164; Digest 132.) Yet she could not recall the year of the birth of her own first child. (R. IV, 3204; Digest 133.) She also testified that just previous to the birth of her second child, April 20, 1885, Minnie, herself then in a pregnant condition, waited on her for four days but that Minnie was unable to do very much work because of her condition. (R. IV, 3164–65; Digest 132.) Yet the fact is that Minnie was able to work all during the next month—May—at Grodevants, and no one around there knew or suspected her condition. But this woman's evidence is totally discredited by testimony given by T. W. Bell, who testified that she told him at his office in Leavenworth, while depositions were being taken in this case, that Page had gone over her testimony with her and had told her that he wanted her to testify to the birth of this child at Granny Letcher's and to nothing else, and he (Page) would make her comfortable for life. Further, that later at Kansas City she told Bell that she would be willing to testify for him but must first see the big man with the money. (R. VI, 4433–34; Digest 259.) This evidence of Bell is corroborated by Martin, who was present during a part of the time the conversation took place (R. VI, 4442–43; Digest 260), and Blakeney testified that Mrs. Cobb told him in substance that she knew about this boy Thomas Atkins; that he had a birthmark; and that he was taken to the country by Henry Carter. These three witnesses were identified with the Henry Carter interests, and Mrs. Cobb was plainly out for the highest bidder.

Another instance is the testimony of Doctor Carpenter, the physician who attended Minnie at the birth of Robert Lee Peterkin in July, 1886, at Mrs. Wood's. This witness testified that he made a digital examination of Minnie while she was in the first stage of labor and could testify that she had previously had a child, because he remembered encountering in that examination notches or scar tissues, an indication of a previous childbirth. This testimony was given 30 years after the birth, without any record to refresh his recollection. Truly a marvelous memory—more so when it is remembered that Minnie was not a regular patient of his! What is also remarkable is that he took this method of ascertaining the fact instead of the usual, common-sense way of *asking* the patient. (R. IV, 2997–99; Digest 124.)

The purpose of this evidence was to refute the Government's contention that Robert Lee Peterkin was Minnie's first child. Yet this witness admitted on cross-examination that he had previously told Mr. Allen, a representative of the Creek Nation, that he thought the child was a first child, and also that he had stated to another person that he couldn't without his records tell whether it was or not. (R. IV, 3014–15; Digest 125.) The correspondence between Mr. Allen and Dr. Carpenter and the latter and Mrs. Anderson are interesting sidelights upon the doctor's attitude. (Govt. Ex. 4–14, R. VI, 4852–58.)

It is of importance to note that Minnie never mentioned the birth of Robert Lee Peterkin, in the Kansas City statement or Tulsa deposition, nor until the receivership hearings in March, 1915, although the Page interests knew of this since Hanford had learned of it in August, 1914, from Peterkin in Boston. (R. V, 3799; Digest 178.) The reason seems obvious, since it necessitated a limited period within which Tommy's birth must be established, and that period was materially narrowed by the production by the Government of the Grodevant expense account. The desire of Hanford that Peterkin conceal from others the information he had, which would disclose the birth of Robert Lee Peterkin, is of interest in this connection. (See his letter of November 23, 1914, to Peterkin, Govt. Ex. A-84, R. VI, 4783.)

Another significant matter is that although Sam Nash and Walter Banks, who resided at Granny Letcher's at the time Tommy was alleged to have been born there and while he lived there, had been used as witnesses previously, they were not produced at the trial of this case. These two, certainly, if any witnesses could, might be relied upon to sustain the case of the Page interests. Yet no explanation of their failure to testify is possible other than that they had a change of heart after Sadie James made her confession, or else the Page interests did not dare risk using them.

No person who lived at Granny Letcher's during any of the time Tommy was alleged to be there was produced as a witness by the Page interests. The Government, on the other hand, adduced the testimony of many who had lived at Granny's and none knew of Tommy being there: Hudson, R. III, 1747, Digest 72; Thomas, R. III, 1762, Digest 73; Reed, R. III, 1839, Digest 74; La Vallay, R. III, 1859, Digest 75; Paire, R. III, 1885, Digest 76; Lower, R. III, 1906, Digest 77; Carter, R. III, 1924, Digest, 77; Dale, R. III, 1931, Digest 78; Brown,

R. III, 1997, Digest 80; Tutt, R. III, 2031, Digest 81; Flint R. III, 2075, Digest 84.

We wish to call the court's attention to the fact that considerable of the Government's evidence was of documents and records, the verity of which can not be contested. They were all made long before any question of Thomas Atkins's enrollment arose; some of these are the petition to the Leavenworth city council to abate the nuisance maintained by Lily White at 217 Seneca Street; the federal census records of 1890 showing the inmates of Granny Letcher's house; the Grodevant expense account; the post card sent by Hyde to the Carlisle School reporting the arrival of Minnie at Leavenworth in 1884; the baptismal and burial records relating to Robert Lee Peterkin; and the hospital record showing when Minnie was at the Sisters Hospital.

The treatment accorded Minnie herself is a reproach to the Page interests. It will be recalled that when the lease by McNab, as trustee for Minnie, was executed to the Gem Oil Co., Hanford received the stipulated condition of $10,000 in the form of two checks of $5,000 each. He cashed one, retaining $3,000 for "services and expenses" and gave the remaining $2,000 to McNab. The second check was made payable July 30, 1914, for the reason that Page wanted to be satisfied of Minnie's identity before she was paid. (R. V, 3877; Digest 185.) Apparently, the first $5,000 to Hanford and McNab had no strings on it. Now, Long and Hanford went to Seattle immediately upon the execution of the lease, procured a statement from Minnie, and no question seemed to remain as to her identity; she testified at Sapulpa, gave her Kansas City statement, but still the money was withheld. When testimony was being taken in Leavenworth and the Page interests were endeavoring to establish that Thomas was a negro, Minnie became so upset that her testimony could not be taken. She went to a hospital and it was then that payment was made to her, and she consented to give her deposition at Tulsa. (R. V, 3779; Digest 176.)

It is plain that the purpose was to withhold the money from Minnie until she testified as Page wanted and she was paid only when she was so disgusted with the proceedings that it was feared she would desert them. The attitude of Page is evidenced by the communication of Rice, his attorney, to Hanford, setting forth why the second draft was not paid. (R. V, 3746; Digest 174.)

The Nancy Atkins claim.

Nancy's claim is that she is the mother of Thomas Atkins, who was born to her at Wagoner, Okla., about 1889 or 1890. The Government proved by three witnesses who were present that the child was a girl and was born dead—one said it died the same day. (Elnora Mayshack, R. III, 2163, Digest 89; Eliza Sterling, R. III, 2179, Digest 90; Angeline Moody, R. III, 2190, Digest 91. Henry Anderson saw it being buried, R. III, 2195–97; Digest 91.)

A number of witnesses were produced who testified to statements made to them by Nancy that she had had a child born dead. (Dora Smith, R. III, 2209–10, Digest 92; Henry Kidd, R. III, 2220–21, Digest 93; Lula Smith, R. III, 2224, Digest 93; Martha Hardridge, R. III, R. 2233–34, Digest 93; Patsy Jenkins, R. III, 2235–36, Digest 94.)

Micco Harjo, the legal guardian of Nancy, testified that Nancy first told him that the child was a girl, but after she was approached by one Hammett, who wanted a lease upon the Thomas Atkins allotment, she declared it was a boy. (R. III, 2167–71; Digest 90.)

Nancy gave testimony February 9, 1914, in the case of *Nancy Atkins, an incompetent, et al.* v. *H. U. Bartlett et al.*, in the District Court of Creek County, Okla. Then she stated that she had had but one child born to her, a girl born dead, at Wagoner, Okla.; that she never had a child around with her at Wagoner. (R. III, 2162–63, Digest 88.)

On behalf of Nancy, testimony was offered to show that a child, she declared to be her boy, named Tommy, often accompanied her around Wagoner; but the Government produced witnesses who lived in Wagoner and remembered no such boy accompanying her; nor did they know of any other than a Thomas Atkins, the son of Dick Atkins, who was in town frequently with his father.

See the testimony of the witnesses just referred to, and also: Sarah Coats, R. III, 2241–43, Digest 94;

Anderson Childers, R. VI, 4291–93, Digest 220; T. Howard Morton, R. VI, 4299–4300, Digest 105; Jim Childers, R. VI, 4301–06, Digest 105.

The several conflicting statements of Nancy are as follows:

In a deposition given in the office of attorneys McDougal & Lytle in Sapulpa, she stated that she had a girl child born to her at Wagoner, Okla.; that this was her only child and it was born dead (R. IV, 2785); that she so told Harjo, Hammett, and Robinson, who wanted her to swear that the child was a boy; that was the first time she had ever heard of Thomas Atkins. (R. IV, 2787; Digest 247.) Harjo was then endeavoring to lease the Thomas Atkins allotment. (R. IV, 2790; Digest 248.) At this deposition she was examined by her own attorney and denied that she had told Mr. White, who was negotiating for a lease, that Thomas Atkins was her child and lived to be 10 or 12 years old. (R. IV, 2792.)

Nancy was put on the stand at Sapulpa and there, to the surprise of counsel calling her as a witness, testified that she gave birth to a child "supposed to be a boy," who lived to be 10 years old. She was then cross-examined and admitted swearing as she did in the deposition at McDougal & Lytle's, explaining it by saying she had been told by Harjo there was "big money in it" for her and that Harjo had induced her to deny the child being a boy (R. IV, 2775–77; Digest 247); that she had been told that she would go to the penitentiary if she didn't change her testimony (R. IV, 2780; Digest 247); and that Betty Mann had told her she would get "big money" if she denied the child (R. IV, 2782; Digest 247).

In her testimony at the trial in the case at bar she sticks to the story that the child was a boy and died in 1900, and reiterates that she was promised money to deny the child, now fixing the sum she was to receive at $2,000, and was threatened with the penitentiary (R. IV, 2698–2702; Digest 241); she admits that after the deposition at McDougal & Lytle's office, and before testifying at Sapulpa, she made a statement at Coffeyville, Kans., similar to that given at Sapulpa in McDougal & Lytle's office (R. IV, 2707; Digest 242).

It is apparent that Nancy's testimony that Thomas Atkins was her son is worthy of no credence and her interest in maintaining that arose when she saw a chance to make some money. From her own statement her change of testimony appears to be due to the fact that she didn't get the money promised her for her first testimony. (R. IV, 2708; Digest 241). Her first statements, made long before the Thomas Atkins allotment was thought to be valuable, to her associates at Wagoner, were given under no compulsion but freely and voluntarily.

We believe it was well established that as against the Government Nancy's claim was without merit.

Error is assigned by Nancy Atkins to the ruling of the District Court rejecting proferred evidence to the effect that it was the general reputation in Wagoner that the child, said to be Thomas Atkins, seen with Nancy was her son. (R. III, 2444; assignment VII, R. VI, 5021.)

This ruling seems amply supported by the precedents in the federal courts. *Blackburn* v. *Crawfords*, 3 Wall. 175, 187; *Fulkerson* v. *Holmes*, 117 U. S. 389, 397; *Flora* v. *Anderson*, 75 Fed. 217, 233, 234; *Northern Pac. Ry. Co.* v. *King*, 181 Fed. 913, 914.

In any event, we do not think the evidence if admitted would have changed the result.

CONCLUSION.

The judgment in No. 253 should be reversed and a decree for the United States ordered.

The judgment in No. 254 should be affirmed.

JAMES M. BECK,
Solicitor General.
WILLIAM D. RITER,
Assistant Attorney General.
H. L. UNDERWOOD,
Attorney.

OCTOBER, 1922.

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In the Supreme Court of the United States.

OCTOBER TERM, 1922.

THE UNITED STATES OF AMERICA, *Appellant*,
v.
MINNIE ATKINS *et al.*
No.

NANCY ATKINS, H. A. RIDGWAY, GUARDIAN of Nancy Atkins *et al.*, *Appellants*,
v.
THE UNITED STATES OF AMERICA, MINNIE Folk, *nee* Atkins, *et al.*
No.

APPEALS FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

APPENDIX TO BRIEF FOR THE UNITED STATES.

DIGEST OF EVIDENCE.

RELATIVE TO DAWES COMMISSION.

The testimony of former Commissioner Bixby, E. Hastain, P. B. Hopkins, John G. Leiber was as to the practice of the Dawes Commission in enrolling Creek citizens. These enrollments had not progressed as rapidly as was hoped; many Creeks were reluctant to accept allotments. When the act of March 1, 1901, the original Creek agreement, was under consideration on the question of ratification by the Creek council, the Dawes Commission opened a temporary office at Okmulgee, where council was in session, to carry on a drive for enrollments. On the last few days before the treaty was ratified on May 25, 1901, about 500 names were enrolled per day.

Prior thereto the practice of the commission had been to require personal appearance of the person desiring enrollment, if adults, or if minor or incapable of enrolling himself, some member of his family.

Special efforts were made by commission to get members of the tribe and heads of families to appear before it, and the rule requiring personal appearance was lifted a few days before May 25, 1901, the ratification of the first Creek agreement. The reason for this change was the opinion held by some that those who were not enrolled when agreement was ratified would be cut off from enrollment.

The commission, during those last few days, adopted this plan: They took the 1890 and 1895 rolls and put upon cards the names of those who had not been enrolled; they did not require the personal appearance of the enrollee or any member of his family; in so far as they could, they secured information about these names from some chief of the warriors, town king, or member of the tribe; possibly they took the town roll to the town king and enrolled all names upon the tribal roll unless he had information that they were not entitled to enrollment, in which case they did not put their names on the card—otherwise they did.

The Thomas Atkins enrollment card, Govt. Ex A, was made up from 1895 tribal pay roll. Evidently no information was received from the 1890 roll concerning Thomas Atkins, because there would have been a notation on card to that effect, and further because age is given as ten years, and 1890 roll would not have contained name if he was ten years old in 1895.

One important point to which inquiry was directed was to ascertain whether the person to be enrolled was living on April 1, 1899.

There was a card called a completed card and one called an uncompleted card; no card was completed until they were satisfied that enrollee was alive on April 1, 1899; had age and sex, parentage and everything that decided whether he should be enrolled.

The incomplete card required further investigation. (R. 182–213, 237–253, 253–265, 266–280.)

J. C. KENNEDY:

Formerly chief clerk of land office division in office of Superintendent of Five Civilized Tribes; that included the enrollment division; in 1912 the practice was not to put on certified copies of census cards pencil notations appearing on the originals; in 1914 practice was changed so that pencil notations appearing on originals were put on copies; he had something to do in making order for that change. (R. 4465–66.)

Cross-examination:

Pencil notation was put on a card when matter was pending and undisposed of; when final action taken, notation thereof in ink was made on card. (R. 4466.)

Edward Merrick:

Law clerk in office of Supt. Five Civilized Tribes; connected with Indian Service at Muskogee since 1901. In April, 1901, started work in Creek enrollment division; remembers Creek Council meeting at Okmulgee to consider ratification of original Creek agreement, act of March 1, 1901; went to Okmulgee shortly after May 1st; Commissioner Bixby, Hopkins, Beaver, Leiber, Hastain, and witness worked on enrollment Creek citizens; council had been in session more than two weeks before treaty ratified on May 25, 1901; went over to Okmulgee in endeavor to ascertain whether names on rolls unaccounted for were entitled to enrollment in order to complete Creek enrollment. These unaccounted names referred to were names on tribal rolls for which no application for enrollment had been made. Had 1890 and 1895 tribal rolls, approximately 1,500 or 2,000 names unaccounted for.

Witness states he made original census card of Thomas Atkins on May 23, 1901; has made investigation and is unable to find any record in office prior to May 23, 1901, relating to that record other than the tribal roll; there was no old census card made by field parties; name Thomas Atkins was one of the unaccounted for names; every name on 1895 roll which was unaccounted for there at Okmulgee was listed on a card—this because it was thought by some that unless names were enrolled before ratification they could not be enrolled; for that reason Commissioner Bixby decided that every unaccounted for name, whether any person appeared on behalf of that person or not, should be listed on a card; accordingly, a great many cards were made during the last 3 or 4 days that contained only the name and tribal enrollment. A great many of the unaccounted for ones were completed over there because town kings and warriors and other persons there gave them other information. It was the intention to list for enrollment either on a completed card or uncompleted card the name of every unaccounted for citizen appearing on the tribal rolls, and that was done.

No independent recollection as to information received relative Thomas Atkins; the tribal roll was the basis of placing these names on roll unless commission was advised that persons represented thereby had died prior to April 1, 1899; the name was listed because it appeared on the tribal roll; about 500 to 600 names per day were listed for enrollment in the last three days before treaty was ratified. There was never a time when there were so many names listed as in those three days except prior to March 4, 1907, when they had another rush by reason of the act of 1906 closing the roll on March 4, 1907. (R. 3451–57.)

Cross-examination:

Made reference to authentic tribal roll whenever there was one; 1895 *pay* roll contained more information than authentic roll; the council acted upon the authentic roll; pay roll copied from that; the only information in reference to Thomas Atkins that was procured from either 1895 pay roll or the 1895 authenticated roll was notation under tribal enrollment (R. 3467). Other information on card must have been secured from what some one told him or member of commission, if not procured from Minnie Atkins' census card (R. 3468); information relative age, degree of blood and parentage must have come from some other source beside the 1895 rolls (R. 3469). After enrollment completed, in all cases where cards uncompleted, investigation was made by field parties; when town kings or prominent Creek citizens would come into office, they would be asked about different persons (R. 3469–70). The cards that the field parties took out were cards not completed as to descriptive data, parentage, and age; that wouldn't include the Atkins card; doesn't think anything ever done with Atkins card for several years after May, 1901 (R. 3475).

Irwin Donovan:

Was a law clerk in the Creek enrollment division of the Dawes Commission from September, 1904, to January, 1905; testifies as to practice obtaining when letters issued to withhold patent in any allotment case. In case such as Thomas Atkins, the letter directing withholding patent would be prepared in enrollment division, directed to Creek land office, and notation thereof with reason for action or reference to letter would be on the census card. (R. 4451–52.)

Government offers in evidence "hold up" record; certified copy of letter written and entries made on Dawes Commission records relating to holding up of patents on Thomas Atkins' allotment; offer rejected. (R. 4452–53.)

There is received in evidence defendant's Exhibit B–14, certified copy of census card of Thomas Atkins. (R. 4948–54.)

Also received in evidence Commissioner Needle's letter of May 9, 1905, to E. B. Miller, directing withholding of patents on Atkins' allotment (R. 4453.) Govt. A–23. (R. 4664.)

SAMUEL W. BROWN:

Creek citizen of Euchee Band; town king of Euchee; was such in 1895; there was a payment made to members of Creek Tribe in 1890 and in 1895; was clerk at convention which made up 1890 roll of Euchee Town; in 1890 Minnie Atkins was out of the Territory, Nancy was in Territory; some time at Muskogee, and also at Wagoner, which are in eastern part of Creek Nation; witness was living on Snake Creek, in western part of Creek Nation; convention held on square grounds on Snake Creek, purpose of it to take census to make up roll for payments; recalls name of Minnie or Mammie Atkins and that of Nancy Atkins being called up there; their names were placed upon 1890 roll; one of the neighbors of Thomas Holden, brother-in-law of Minnie, said that Holden knew something about Minnie having children. Thomas Holden stated that Minnie had two children, but he didn't know their names; witness said it wouldn't do to leave them out if they are not in the country and it would be better to enroll them, and if council will not accept they would have to cancel them; didn't know names of children; the words Thomas and Mary were not written above the words two children there at that convention; council ratified the roll but the words Thomas and Mary were not thereon then; doesn't know when those words got on 1890 roll.

Was town king of Euchee in 1895; held a meeting to consider census for 1895 roll; after that meeting witness had to gather names of rest of the people and put them on the census.

Minnie, Nancy, and Jim Atkins names were placed on 1895 roll by witness, who was given those names by John Davis, Minnie's uncle; took the list Davis gave him and put it down in a little memorandum book (Govt. Ex. A-32, R. 4707); Davis gave him names of Ed Schrimsher, Minnie Atkins, Charlie, Susan, Thomas, Nancy and Mary.

Didn't have much conversation with Davis that day—just asked him if he knew the remnants of the Atkins family and he said he did and gave witness the list; didn't say anything about the kinship existing between these different ones and witness did not question him.

Didn't know the children in the list, knew Ed, Minnie, and Nancy; put these names given by Davis on 1895 roll; this after convention; roll was not thereafter taken up in convention.

Roll was taken to Creek Council, which ratified it; at time of ratification committee of council was appointed to consider census rolls of each town; committee asked town king and warriors about rolls; doesn't know that Atkins family and their names on it were discussed before the committee because "we never had much trouble with our rolls—always tried to get it right and we stated that is all we could get up and they accepted it."

Committee reported to council and council, if it found the rolls correct, approved them.

Recalls payment made to Minnie—she received for four—witness collected money due Schrimsher and Nancy Atkins.

Knew personally all the old members of Euchee Town, but didn't know some of the young ones; didn't know any Euchee named Thomas Atkins except Minnie's father; never knew or saw a boy named Thomas Atkins who claimed to be Minnie's child;

Clerks of Dawes Commission at Okmulgee when Creek agreement was ratified asked him about unaccounted-for members of Euchee Town; doesn't recall giving any information about Thomas Atkins.

When Minnie drew money she didn't say those she drew for were her children, witness assumed that they were. (R. 214–222.)

Govt. Ex. A-32 (R. 4707) received in evidence; being page 76 of memorandum book of Sam W. Brown, in which he listed names of Minnie Atkins and others. (R. 4558.)

NOAH G. GREGORY:

Creek Citizen, Euchee Town; was town king of Euchee in 1890, recalls conversation in connection with making 1890 roll for Euchee Town; was in Okmulgee in May, 1901, just before ratification of original Creek agreement; called there by Dawes Commission to help enroll names and to correct the rolls he had; went over Euchee roll with Hopkins; remembers name of Minnie Atkins on 1895 roll; when they came to her name witness said that the last he had heard of her she was in Colorado, didn't know whether she was living, had tried to find out but hadn't been able to locate her; knew Minnie had two children living with Holden; didn't know Minnie personally then; Nancy was not present at Okmulgee during enrollment period in May, 1901; Holden was not there or any member of Minnie's immediate family; never knew any member of Euchee Town named Thomas Atkins. (R. 232-237.)

LARRY BROWN:

Euchee Tribe Indian; in 1901 was a warrior of Euchee Town (an officer); other officers in 1901—Chicken Dixon and George Clinton—perhaps Sam Brown. Dawes Commission had an office in Okmulgee at time of council meeting called to ratify Creek agreement; didn't know Minnie Atkins; never knew of her; nor of Nancy; doesn't mean to say Minnie never lived there nor Tommie, doesn't know much about Euchees in Sam Brown's neighborhood. (R. 1712–13.)

CHICKEN:

Member Euchee Band of Creek Indians; was officer (warrior) of Euchee Town in 1901; talked with members or clerks of Dawes Commission at Okmulgee relative members of his town and their enrollment in May, 1901, at time of Council meeting which was considering ratification of Creek agreement; he told Dawes Commission Sam Brown made up the roll; doesn't recall if they (clerks) asked about particular persons who were members of his town; doesn't know Minnie, Nancy or Lee Atkins; he didn't put any name on roll; lives in Polecat division of Euchee Town. (R. 1714–16.)

GEORGE CLINTON:

Substantially same as that of *Chicken*, except says no one of Dawes Commission talked with him or any one else (warriors) from Euchee; doesn't know Minnie, Nancy, Lee Atkins. (R. 1716–20.)

The following introduced by Minnie Atkins relative to the Dawes Commission:

EDWARD C. FUNK:

Clerk in office of Superintendent Five Civilized Tribes; identifies card given him as Creek census card of Thomas Atkins; put notation on card "E. B. Miller, chief clerk land office, letter of May 9, 1905, from Commissioner to the Five Civilized Tribes directing action to be suspended the matter of issuing deed to heirs of No. 1"; put top notation there about two years ago; that is "E. B. Miller, chief clerk"; doesn't know who put the other notation. According to practice the other part of the notation quoted must have been put on card soon after May 9, 1905 (the receipt of letter); practice for awhile was to certify cards without pencil notations, then that was changed so as to have all notations on copy. (R. 3653–57.)

J. C. KENNEDY:

Clerk in office Superintendent Five Civilized Tribes; doesn't recognize handwriting of notation on Thomas Atkins census card relative letter of May 9, 1905, etc. (R. 3658–59.)

W. H. ANGEL:

Identifies Government Ex. A–3, certified copy of pages of letterpress copy book (letter), transmitting Creek roll for approval by Secretary of the Interior. (R. 3660.)

D. N. HODGE:

Creek Indian; was a member of house of kings at one time and of house of warriors at another; was present at the making up of 1895 roll; when lists of towns were brought in they were referred to a committee and the council acted upon the committee's report; kings and warriors in council exercised very great care in fixing up the roll; Dawes Commission consulted people about making up its roll—consulted kings and warriors. (R. 3663–65.)

THOMAS HUMPHREY:

Shown defendant's Ex. B–25 (R. 4958), certified copy of Thomas Atkins' census card, made April 2, 1912; copy contains every notation that was on card when witness certified to it (R. 4458–59).

Cross-examination:

Did not himself make certified copy, merely certified it upon O. K. of some other employe; usual practice was to put in ink on certified copies notations appearing in pencil on original; remembers case called to his attention by Mr. German where certified copy did not have the lead pencil notations which appeared on the original, and that thereupon order was issued to thereafter put on copy not only typewritten and ink work on card, but also lead-pencil notations appearing on the original. (R. 4459–60.)

ROBERT L. BAUGH:

Worked in the land office of Dawes Commission October 19, 1913; shown census card and states that notation in pencil thereon is in his handwriting; must have put notation on between October, 1913, and 1915, when he quit; thinks Kennedy told him to put notation on card. (R. 4553–54.)

TAMS BIXBY:

While he was at Okmulgee enrolling Creek citizens, the Creek attorney was there; he frequently appeared before commission and had an opportunity to appear whenever he desired, representing the Creek Nation. (R. 4645.)

Cross-examination:

Tribal attorney and committeemen were in and out of the office now and then, and when they desired to take up cases with witness they did so; couldn't say that they examined every enrollment case, every card; Creek attorney did not stay with witness and go over these cards. (R. 4647.)

GOVERNMENT'S EVIDENCE RELATIVE TO CLAIM OF MINNIE ATKINS.

Alice M. Robertson:

Neighbor to Minnie's father and mother; knew Minnie; taught her at mission school and at Carlisle in 1881, 1882; saw her in 1895 at Muskogee; Minnie had two children, by Peterkin; next saw her at Fort Lawton, Wash., in July, 1914, where witness went at instigation of Gypsy Oil Co. to identify her as same Minnie; was not allowed to talk to her about Thomas because of objection by Mr. Hanford, attorney. (R. 290–300.)

Records at Carlisle Indian School show Minnie admitted there January 2, 1881, and left July 8, 1884. (Several short periods between those dates she was farmed out for a few months to different persons. Records there show Minnie 15 years old. (R. 328–340.)

Mrs. Laura J. Hyde:

Minnie came to them as servant in July, 1884; estimated her to be about 18 to 20. Had no men associates that Mrs. Hyde knew of. No indications of pregnancy; never suspected Minnie of anything of the kind; always thought Minnie a virtuous girl;

never before this case came up did she hear of Minnie's association with negroes. Worked for Mrs. Hyde about 2 or 3 or 4 or 5 months; Minnie left suddenly, possibly on account of a soldier; heard of Minnie having children; heard she was an unnatural mother, did not love the child, never heard of her leaving child with negroes to be cared for. (R. 341–347.)

CLAUDIUS A. HAMILTON:

Knew Minnie when she was working for Hyde in 1884; Minnie came to see his wife, who told witness Minnie was a Carlisle girl. Minnie went from Hyde's to Fort Leavenworth. Witness saw her frequently when she was working at Fort; Minnie would come to his house. Noticed Minnie in family way when she was working at Fort; told her not to come to his house any more; later came with Peterkin, whom Minnie introduced as her husband; her condition had then passed away. That time only time witness saw Minnie in condition of pregnancy. Also knew Minnie at Fort Logan, Colo.; she was living with Peterkin; had had three children, two boys called the Harrison boys and Mabel Peterkin, latter died when about two years of age. (R. 347–359.)

MARY SPAIN HAMILTON:

Wife of Claudius Hamilton; before her marriage, which occurred in 1883, she was superintendent of laundry at Carlisle School; there became acquainted with Minnie. After her marriage lived in Leavenworth; Minnie called upon her there in 1884. When Minnie was working for Hyde saw her two or three times. From Hyde's Minnie went to Ft. Leavenworth; saw her often after she went to Fort; about once a month Minnie would come to witness's house. While at Hyde's Minnie showed no signs of pregnancy, nor did she at Carlisle, when witness saw her there. Quite awhile after Minnie went to the Fort witness noticed signs of that condition; it was within two years after she went to the Fort. Her husband quarreled with her about Minnie coming there, and she told Minnie of it and latter stopped coming to her house; after a while, she came with Peterkin, whom Minnie introduced as her husband. Condition had disappeared; saw Minnie quite often after that; once a month, probably more. Saw Minnie later at Ft. Logan, Colo. Witness lived at Ft. Logan six or seven years. Minnie lived at Ft. Logan 3 or 4 years. Peterkin left her and Minnie lived with Harrison, a butcher, at Logan Town, near Fort. Minnie had a baby at Fort by Peterkin—Mabel; it died there; was 8 or 9 months old. Minnie had two boys, the Harrisons, born after Mabel. Witness saw Minnie often after birth of the boys. Minnie told witness she was going away from Logan but didn't say where. Minnie while in Leavenworth showed signs of pregnancy only the one time referred to.

In June, 1914, Sadie James came to see her while she was living in Denver.

Cross-examination:

First saw Minnie in Leavenworth in 1884; she noticed Minnie's condition some time before her husband did; suspected it before it began to show; didn't say anything to Minnie about it; knew Peterkin for about a year after Minnie first brought him; she then introduced him as her beau, later as her husband, probably the second time. (R. 359–382.)

Frank J. Grodevant:

Lived with brother, Herb Grodevant, at Ft. Leavenworth beginning Feb., 1884, and until Nov., 1887: Knew Minnie; she was employed at brother's house as domestic; saw her every week, probably several times a week. Minnie was employed in 1885; he was there when she came and after she left. Minnie shown by brother's expense records to have been employed Oct., 1884, until Sept. 15, 1885. (Not admitted that records show continuous employment that period.) Minnie did not give birth to child while employed there; nor did she show any signs of pregnancy; never saw anything out of the way in her conduct; later Minnie worked for Stafford, an army officer at Leavenworth; witness saw Minnie at Ft. Logan after she went there in Nov., 1887; when he first saw her at Logan she was wheeling a baby. (R. 388–406.)

Margaret Morton:

Living at Ft. Leavenworth in 1884, 1885, 1886; knew Minnie; Minnie worked for Lt. Stafford and Grodevant. Stafford's the last place she worked; left there and rented rooms at witness's mother's house, living then with Peterkin, her husband. Minnie gave birth to a boy there the latter part of July, 1886—July 31—child christened Robert Lee; lived four or six weeks, perhaps longer; Minnie lived at mother's house a month or two after death of child, then went to Hamilton's; Minnie attended funeral of child; this was about her first time out after the child was born. Child born at 815 or 816 N. 8th St., home of mother of witness; not positive that Minnie went to Hamilton's after leaving mother's house; she was back there several times after she left "our" place; knew Minnie worked in Leavenworth at Hamilton's or elsewhere before leaving for Colorado; thinks she worked for family named Hirshfield. (R. 406–419.)

CHARLES PETERKIN:

Soldier at Ft. Leavenworth in 1885. First saw Minnie in the spring of 1885 at that place; met her in January, 1886; she lived with a soldier by name of Oliver; soon after he became acquainted with her (in 1886) he discovered she was in a family way, about 3 or 4 months along; saw her 5 or 6 times a week from time he first saw her in 1885 until he commenced living with her in 1886; when he first saw her in 1885 her appearance was as a woman not in family way; she retained that appearance up to time he met her January 1, 1886; commenced living with her second day after Oliver's discharge (January, 1886); stayed with Minnie at her room at the Stafford's; continued to live with Minnie until fall of 1889; left her at Leavenworth in fall of 1887; she joined him at Ft. Logan in spring of 1888 (March). From the time he first saw Minnie in 1885 until birth of Mabel Peterkin at Ft. Logan, Minnie had one child, born at Leavenworth in summer of 1886 (July or August) at home of Mrs. Woods (mother of Margaret Morton); lived less than a month. Never married to Minnie; never talked with Minnie as to who was father of this child born at Woods'. "It was not necessary." Doesn't think Minnie associated with any man other than Oliver from time witness saw her in 1885 until he commenced living with her; not probable that she was pregnant more than the one time during period 1885 to birth of child at Woods'. She did not give birth to any child from time he first knew her in 1885 until birth of Mabel Peterkin at Ft. Logan, other than that born at Mrs. Woods'; the child born at Mrs. Woods' was Minnie's first child. (States this on general experience with women.) Next child born in summer of 1888 (Mabel Peterkin); had two other children after he left Ft. Logan. After leaving Logan, sent Minnie $45.00 to pay her fare to Ft. Clark, Texas; she didn't come to him there; went from Ft. Logan to Clark in fall of 1889. Minnie told him she first worked in Leavenworth for Hyde, then to Grodevant's; Minnie did not associate with negroes any of the time he knew her; she was not a "public character." Minnie lived with one man after witness left her, Burke; Mabel Peterkin is his daughter; Minnie didn't associate with any other man than these three during those years; she was not a drinking woman; discovered Minnie was in family way about the first month after he began living with her; never heard of Granny Letcher, nor of Minnie visiting or staying at her house nor of Minnie visiting at any negro's house at Leavenworth. (R. 419–440.)

John C. Hesse:

Chief of Division, Adj. Gen's office, Washington, D. C. Produced record of William D. Oliver, showing his discharge at Leavenworth December 18, 1885. (R. 441–442.)

Admitted that Patrick Burke, who Peterkin testified as consorting with Minnie, is dead. Oliver also shown to be dead. (R. 442–443.)

Cornelia G. Stafford:

Wife of Major Stafford. Was at Ft. Leavenworth in 1885; employed Minnie when she went to housekeeping in Sept., 1885; Minnie worked for her until June following (1886) when she discharged her because of her condition, which was very apparent; never knew of her associating with negroes: none at the post. (R. 444–450.) When Minnie first employed her condition good; no appearance of recent illnes, strong and robust.

John Stafford (major, retired):

Minnie worked for him from Sept., 1885, for about 6 or 8 months; when employed showed no signs of recent illness; Mrs. Stafford discharged Minnie because of her condition. (R. 450–462.)

Mary Katherine Allen:

Daughter of Margaret Woods. Was at mother's house in August, 1886; Minnie was there with baby about four days old; baby fully developed; christened

Robert Lee Peterkin; died about two weeks later; when witness first saw baby it was in bed with the mother, who was recovering from illness due to childbirth; child appeared to be a nine-months child. (R. 462–472.)

BERNARD STEPHEN KELLEY (priest):

Identified baptismal records showing baptism of Robert Lee Peterkin on August 15, 1886, son of Charles Peterkin and Mary Atkins, born July 31, 1886. (R. 473–476.)

J. J. O'CONNELL:

Identified record of sale as undertaker of casket to Charles Peterkin Aug. 16, 1886, for Robert Lee Peterkin, age about four weeks; buried Mt. Muncie Cemetery. (R. 476–478.)

A. L. SCHOTT:

Superintendent, sec. and treas. Mt. Muncie Cemetery. Identified and read into record certificate of interment of Robert Lee Peterkin, born July 31, 1886, died Aug. 15, 1886, buried Aug. 16, 1886; parents Charles and Minnie Peterkin. (R. 478–479.)

SISTER MARY GERTRUDE:

Secretary of St. John Hospital, Leavenworth, identified record of hospital for 1886 (Gov't Ex. A–81), showing Minnie there Oct. 7, 1886. (R. 480–482.)

ELMO D. MATHEWS:

Sergeant U. S. Army, Hospital Corps. Identified post hospital record, Ft. Logan, Colo., showing birth of Nancy Peterkin August 4, 1888; parents Charles Peterkin, Co. A, 18th Inf., and Minnie Atkins; no children by this mother, first. Also record of death of Nancy Peterkin on June 28, 1889, age 10 months, 24 days. (R. 483–486.)

EDWARD L. BATTERTON:

Q. M. Sergeant, Ft. Logan, Colo. Identified post record of interments showing interment of *Mabel* Peterkin June 28, 1889. (R. 487–493.)

MIRIAN LAND:

Knew Minnie at Ft. Logan as Minnie Peterkin; Minnie lived in witness's house winter of Cuban war; Minnie had a child in that house, second child; already had one; there were two boys and a girl; second child born at her house; Charlie was the eldest; believes one of the children died; knew man named Harrison who was good friends with Minnie; knew of no other man who was associating with Minnie before Harrison. (R. 496–499.)

JAMES O'CONNOR:

Retired soldier; was at Ft. Logan; came there March, 1889; was there until April, 1898; knew Minnie about 3 or 4 months after coming to fort; was living with either one of two men, Cunningham or Harrison; knew of her having one child, buried about 4 or 5 months after he came to fort; saw two little tots running around Harrison's butcher shop; presumed they were Minnie's (she lived with Harrison); saw Minnie leaving post; had three children with her; saw Minnie again at Ft. Wayne, Mich.; was living with a man named Rice, a member of the band. (R. 499–506.)

Mary Jensen:

Knew Minnie, who came to Ft. Logan latter part of 1887 or early 1888; Minnie lived in dugout. Mabel Peterkin born there; died about 1889, about a year old; Minnie had two boys born quite a while after Mabel; was living with Peterkin; heard that she lived later with Harrison, the butcher; the children were Harrison's. (R. 506–509.)

Sadie James:

First met Minnie in July, 1884, at Leavenworth; Minnie came there in 1884 and left about fall of 1887 or spring of 1888; didn't know of her having any children at Leavenworth; next saw Minnie in 1895 in Kansas City, Mo., at old Union Station; she had two children, Harvey and Charlie Harrison, Harvey about 1½ years, other about 3 years old; took Minnie to her house where she stayed until afternoon when she and children left; said she came from Colo. and was going to Indian Territory to draw her money; saw her in 1896; then in June, 1914, at Ft. Lawton, Seattle; knew def. H. U. Bartlett; never knew child or man named Thomas Atkins, related to Minnie; was engaged by H. U. Bartlett to endeavor to find Thomas Atkins when she was at Leavenworth in March, 1914; was engaged by Bartlett through Bettie Mann (Sadie Mann), sometimes known as Bettie Rasberry; Bettie told her there was trouble about deed Harjo and she (Bettie) got for Bartlett and that "we have got to find the Thomas Atkins to make the deed good. I have been working on the case three years and I don't believe there ever was a Thomas Atkins. "All you (Sadie) got to do is to tell them you know Minnie and that you knew when the child was born" (R. 515). "I, Sadie, said Whoever said that Minnie had a son here by the name of Thomas Atkins." That she (Minnie) had no child here by the name of Thomas Atkins. She (Bettie) said, "I said so, myself." Bettie said she would wire Bartlett and have him in Kansas City to-morrow and for witness to tell him that she knew a child was born; witness suggested they see a negro lawyer, Dennis Jones; she and he had just pulled off a deal; went to Dennis'; going down there witness framed to have Thomas Atkins (R. 516). Saw Jones and explained proposition. "I want a boy started [———] by the name of Thomas Atkins, born in 1885; said, can you do it? He said "I can get lawyers, doctors, and bankers in Leavenworth, Kansas., to swear that hell's an icebox" (R. 517). That was between 2:30 or 3 p. m.; then went with Bettie to a sporting house, where they met Rube Smith, whom Sadie introduced to Bettie as a partner of Jones. Smith was a colored man. Went at 6 p. m. to Jones' office—he and Rube Smith were there (conversation at R. 520); agreed then that they would say baby born at Granny Letcher's house in 1885, Rube Smith to be the father. Dennis Jones suggested about baby born at Letcher's (R. 521). Rube said he would be the father; we said we would get a midwife; Dennis said can't get any colored women, they were all too afraid of getting arrested; we thought we could get Mary Smith, a white woman, and Rube said he could get her to swear that she saw the baby when it was two days old; talked over doctor and decided to "lay it on Dr. McCormick, because he is dead." Witness said when she got to see Bartlett and got in the job and got this boy worked up "we will switch it over on the Gypsy (Oil Co.) because I don't think this man has got as much money as the Gypsy" (R. 521). Next day met Bettie and Bartlett, and witness told Bartlett she knew Minnie and that she had a child named Thomas Atkins, raised by Granny Letcher, and had last seen him when he was 5 years old; agreed to try to find Thomas for Bartlett; went back to Jones' office, found him and Smith there (R. 523); told them of meeting Bartlett and that all they had to do was to start working; Dennis said we will hunt up a boy of Indian color and bring him to Leavenworth, show him around and get witnesses to swear they remember when he was born. Went to see Bettie Mann at Kansas City; met a boy whom two detectives said was Thomas Atkins (R. 526); witness said he could not be Minnie's because too old; boy introduced to Bartlett; he was taken to Oklahoma to go before Dawes Commission; Bartlett came to see witness at Tulsa and she suggested a hunt for Minnie; he agreed; witness went back to Leavenworth, told Jones, and advised him and Rube to keep talking up about baby; Jones said that he had got the talk started about Tommy Atkins and this Indian woman, among several that he knew, were all right; later received a written contract with Bartlett employing her to find Minnie, she to receive $1,000 and Bettie same (R. 545); secured picture of Minnie and showed it to Jones and Smith. Tells about forgery of deed to Bartlett (R. 552); details steps of search for Minnie, resulting in finding her at Ft. Lawton, near Seattle, in early days of June, 1914; Minnie recognized her. Sadie told her she was a Government officer hunting people to enroll. Asked Minnie about Thomas Atkins. She said "Thomas Atkins was my father. He had been dead 17 years when she drew that money." Witness asked "Where is Alice?" Minnie replied, "Sadie, don't ask, she has been dead too long and [I] don't want to know." Minnie said she had been hiding from the Government for 19 years account of crime she committed in drawing that money. Witness told she was working for Bartlett; also that Thomas' allotment was very valuable and that all she had to do if questioned by Government officers was to say she had a child Thomas; that Bartlett would give her $2,000 for a deed to the land. Minnie asked, "Who is dead in Leavenworth, that if I say I had a child that was born in 1885, that I can say I gave it to?" Sadie said Granny Letcher. Minnie agreed and procured a piece of paper and marked down the year 1885. Sadie then told Minnie that she had already started this story in Leavenworth (R. 559, 560).

Witness at request of Minnie told her husband (Folk) of Minnie's having children (R. 563); Minnie told her that Charlie, her son, was Peterkin's and Harvey was Harrison's; later talked over with Minnie in presence of her husband the frame-up about the baby at Granny Letcher's (conversation, R. 566). See R. 568 for understanding that Minnie was to execute deed for land and swear to existence of Thomas Atkins. Bartlett told witness and Bettie if they found Minnie to tell her he would pay $5,000 for the land, and if she knew where the boy was would pay $5,000 for boy. Bettie and witness had planned to buy from Minnie for $2,000 and to beat Bartlett out of $3,000 (R. 569). Sadie relates how she waited next day for arrival of Bartlett and finally upon his nonarrival she began to suspect Bettie and made a trip to the fort to see Minnie; was followed by two men; saw Minnie, who told her a man had been there and left paper to be signed; found Capt. McNab and Mr. Hanford there; Capt. McNab asked witness if she knew Long, Page, and Josey (Long represented Page); said they had wired Supt. Dana Kelsey about Long. Saw paper, read a few lines of it; it said something about Minnie being the mother of Thomas Atkins, born in Leavenworth 1885, died in 1899; told Capt. not to have Minnie sign; told him baby died when 6 months old; Long said that was too early and "we would have to fix it." Minnie was to leave with Long for Spokane; witness told Capt. not to have Minnie sign papers or go with Long; went back to Bettie's and Long came in; he offered witness and Bettie $3,000 to steal Minnie and take her back to

Oklahoma; witness refused, and stated she was going to keep Minnie there until Bartlett's arrival. (She herself telegraphed for Bartlett.) Bettie said she wired Long because Bartlett offered only $1,000 apiece for finding Minnie; that Long was working for Page, who had lots of money.

Next day returned to Minnie and latter told witness she had signed over business to McNab; that "they" were going to have a white case—no negroes in it; wanted Minnie to say she had baby born in the hospital and that she gave him away when two years old. (R. 578.) Next day, found Minnie's house closed up; was told by neighbor Minnie was at McNab's; went to latter's house, asked for him, was told he was not there; found telegram in Bettie's room that Bartlett was arriving next day; met him, went to McNab's with him; Minnie came in; acknowledged she was Minnie; asked if she was mother of Thomas Atkins; McNab answered "yes, but she hasn't seen him since he was two years old" (R. 581); returned to Denver with Bartlett and Bettie. Had agreed with Minnie that latter would swear to existence of Thomas Atkins; witness to get a picture from Mrs. Hamilton (R. 586); had told Bartlett Thomas Atkins was in Los Angeles, California; went to Hamilton, got picture of friend of Mrs. Hamilton's son; friend worked on railroad; agreed to take Mrs. H. to Los Angeles.

Going back to time of frame-up with Dennis Jones, Sadie relates talks with number of negroes in Leavenworth whom she endeavored to get to agree to swear remembering Minnie as having child at Granny Letcher's. All declined to do so (R. 589–591); relates (R. 592–593) conversation with Father Shorty, supt. of orphan asylum (was endeavoring to get boy suitable to pass off as Thomas Atkins).

Witness tells of visit to Dennis Jones, where she related the result of her trip and talked over possibility of getting some one to pass as Thomas; agreed that Sadie would try to find some one in West for that purpose, and if Dennis Jones found some one better for the purpose to wire her; next day they received letter from Bartlett with deed for Thomas to sign and expense money to Los Angeles. (R. 595.) Went to Los Angeles, then to 'Frisco, Seattle, and Portland; found Bartlett at Portland; had interview with him and two detectives; detectives took picture obtained from Mrs. Hamilton and later ran down original, a railroad conductor (R. 605); went to Seattle to see Minnie; Minnie avoided her, didn't get to talk to her (R. 607–608); returned to Portland; many detectives on her trail; was offered $2,000 by one to sign papers swearing she had seen baby since it was two years old (R. 609). Returned to Tulsa, Okla., saw Bettie who told her of money received from Page (R. 611); witness went to Gypsy Co., saw Crawley, who asked if she had found anyone yet; he said Dennis Jones told them the boy had gone to Boston; asked witness if she thought the boy was in Boston; she (lying) said yes (R. 611). Had talk with Bartlett, who said he didn't believe there was a Thomas Atkins (R. 612); discharged by Bartlett. Witness later informed she was to be prosecuted for posing as government agent. Went to her attorney, C. S. Walker, told him of it and asked him to go to Page with her while she told Page there wasn't any Tommy Atkins, and that she was going to get out of his (Page's) way, she thinking that Page was instigating her prosecution. Also told him what Minnie had said to her about Thomas Atkins on 1895 roll being her father. He told Sadie to go to Page by herself. (R. 615.) Went to see him; saw Long, who said he wanted to see her and took her to Page; she told him she had come to tell him there was no Thomas Atkins (R. 617); Page said "I don't give a damn if there ain't; the Government records says so and we will make one."

Told Sadie he wanted the birth and death of Thomas Atkins established in Leavenworth, and asked witness if she could do it; she said yes.

Page then told her he had been informed by friends in Leavenworth that Dennis Jones was a shrewd man, had been on the police force, and a detective, was a lawyer and a politician, and his influence in the case would help it—could Sadie get him. She told him that Jones and Rube Smith were her coworkers, but she feared there might be difficulty in securing Jones as he was working with the Gypsy Co. to establish a live Tommy and would be disinclined to turn around and make out a dead one. Page told her to tell Jones that he would get arrested if he didn't stop trying to make a live one. (R. 617.)

At Long's suggestion, Sadie went to Rice's office on the next floor and gave him the names of some of those who could be used as witnesses, Long telling Rice that Sadie was now working for them. (R. 618.)

She returned to Walker and reported what had transpired. He said she, Page, Long, and Josey were headed for the penitentiary. (R. 619.)

At Page's direction she met him that evening at Sand Springs, a park near Tulsa owned by Page. Page agreed to give witness $1,000 if she would produce witnesses to swear to the birth and death of Thomas in Leavenworth. She accepted but insisted upon a contract. Asked Page how he would reconcile the new evidence with Minnie's Sapulpa testimony wherein she swore to the birth of Tommy at the Sister's hospital. Page said he would make Minnie "go back on the stand and say the reason she told that lie she didn't want her husband to know she lived with negroes." (R. 620–621.)

Next morning executed contract with Gem Oil Co. whereby she was to be paid $1,000 when witnesses furnished by her had testified and Page and Josey were declared in legal possession under their lease. (Gov't Ex. 42, R. 4902.) R. 622.

After executing contract Sadie, at suggestion of Long, saw Hanford in former's office. She twitted him upon the result of Minnie's testimony at Sapulpa and asked if he understood she was now to make a negro case out of it. He asked her if she thought she could do it and told her he had taken Minnie to Leavenworth and that she didn't know anybody and didn't know where to take him. (R. 624–25).

Sadie then told Walker of execution of contract and he procured a copy of it. (R. 625.)

Went to Leavenworth, arriving August 31st; saw Rube Smith, told him she was working for Gem Oil Co. (Page), agreed that Rube should get $500; talked about securing witnesses; met Long; then to Aunt Kate Logan's; Long came and took statement of Aunt Kate (R. 630). Long met Rube and latter agreed to take $5 per day and expenses and $500 when case finished (R. 631); saw Dennis Jones, who first refused to consider employment as he was working with Gypsy, but upon being threatened (suggested by Sadie) with arrest, agreed to work with Gem. Long saw Dennis and agreed to contract, but Dennis demanded a contract with "boss man" (Page); arrangements made to go to Okla.; returned to Oklahoma and reported to Page. Dennis arrived later and Sadie took him to Page's office; present, Page, Long, Ben Rice, Dennis, and Sadie; Page hired Dennis as Leavenworth representative; contract prepared; Dennis said it was too binding; drew one himself. Page told Dennis "I want the birth and death of Thomas Atkins established in Leavenworth, Kans.; I want him to be born in 1885 and die in the fall of 1898 or spring of 1899 and live long enough just for an allotment." Dennis suggested a man in Boston died when 20 years, named Thomas Atkins, another in North Platte, Neb., living. Page vetoed; wanted dead man; Dennis ought to be able to find a grave (R. 636-637). Sadie made trip to several places endeavoring to find grave, but unsuccessful; recalled by Page to Tulsa; Page told her he wanted her to handle Minnie and get deed from her, promising Sadie $1,000 for it (R. 643); deed was to be to Creekmore, because Page said it would look too bad to have it in his name (R. 645); after depositions were taken in Leavenworth saw Page, who told her Minnie had broken down and things breaking badly for Gem (R. 646); later saw Minnie in Long's office, peeped in at her. Long said to Page they (Hanford and he) were going to take Minnie to Rice's office to rehearse her for trial; then Page employed Sadie to get hold of Nancy Atkins and secure confession from her relative her baby; went to Nowato, got in touch with Mrs. Yarboro, friend of Nancy's, who agreed to help (R. 648–649); saw Nancy at Mrs. Yarboro's house; Nancy confessed that Bettie Harjo had got her to tell the lie about the baby; that she was told that Minnie was dead and all she need to do was to say her girl was a boy (R. 650); made arrangements for taking Nancy from Nowata (steal her), but Page when told of expense involved abandoned it.

On cross-examination, Sadie tells again about details of frame up (R. 706-707) and why Granny Letcher's was decided upon as place where Minnie would be said to have had Thomas.

Tells of deal whereby forged deed Atkins to Bartlett was procured. (R. 801.)

Never saw Minnie at Granny Letcher's, altho she (Sadie) was there every night or so when witness was working for Brock. (R. 814.)

States man named Bludsoe offered her $5,000 for statement to the effect that witness had been hired to tell a lie on Page. (R. 844.)

Says Page wanted testimony relative Thomas Atkins to have him born in 1885 and die in spring of 1899; changes testimony previously given that death was to be in fall of 1898 or 1899. (R. 872.)

Witness relates interview with Minnie at Seattle at Fort, when Sadie went with Robinson, Buell, and Montgomery to see Minnie. Minnie said, "I am still the mother of Tommy Atkins." Hanford took Minnie into kitchen and Minnie said, "I am still the mother of Tommy Atkins; Capt. McNab has quit; get out, you crooks." (R. 906, 907.)

After making her statement to Gov't agent, Sadie was approached by Ed Egan in January, 1915, who endeavored to get her to swear that Henry Carter was son of Minnie. Offered $5,000. Sadie refused. Egan said he represented Uncle Sam Oil Co. (R. 1026–27.)

Granny Letcher lived on Seneca Street in Leavenworth, between 2nd and 3rd, No. 217; then moved to Seneca between 3rd and 4th. This latter was a few years after she moved to 217. Moved to Seneca St. in fall of 1885; previously lived on Cherokee St.; moved off Fourth and Choctaw about spring of 1880; stayed on Cherokee about a year; moved to Delaware between 7th and Broadway; stayed there 3 or 4 months; moved to 215 Cherokee St. Granny lived on Shawnee St. about 1890 (or 1888 or 1889; R. 1037); died on Seneca St., No. 217.

Minnie worked with Sadie at Dr. Brock's Sept.–Oct., 1885; there about five weeks. (R. 1042.)

Sarah E. Mann (also known as Bettie Mann):

One-eighth Creek Indian. Knew Minnie when little girl; went to school with Minnie at Tallahassee and at Carlisle; Minnie 2 or 3 yrs. older than witness; knows Nancy Atkins; were children together; knew Harvey and Charlie Harrison; saw them when 1895 payment made; they were just small children then; after 1885 didn't see Minnie until 1914 (June) at Ft. Lawton, Wash. (R. 1053–54); first attempted to locate Thomas Atkins or Minnie in July, 1912, for John Hayden; was working for Bartlett; didn't find Minnie or Thomas (R. 1054); saw *Nancy* in Aug., 1912; said she had one child (dead, died when born), and that was all the children she had; told witness Minnie had two children, Harvey and Charlie, and that Minnie had two children dead; thought Minnie was dead (R. 1055–56,); Nancy said she didn't know anything about Thomas; thought he belonged to her brother, Lee Atkins, and a white woman he lived with; witness knows Sadie James; saw her in Leavenworth in March or April, 1914; told her of her search for Thomas and Minnie and Sadie suggested her participation; that she could help, knowing so many in Leavenworth; suggested Dennis Jones and they went to see him; told Jones didn't think there was any Thomas because couldn't get trace of him. Jones said, "If that is what you want, I could get up the evidence; I can prove that hell is an icebox, and I can use from bankers down to niggers." (R. 1059.) Jones asked when Thomas would have to be born and witness said 1884 or 1885; called up several persons and then suggested better ascertain if Minnie is dead or alive; witness got Bartlett to employ Sadie to help locate Minnie and Thomas (R. 1060); had conversation with Rube Smith; told him she was hunting Minnie and that latter had lived at Hyde's; Rube said he had lived next door to Hyde's about that time, but didn't remember an Indian girl working there (R. 1061); witness and Sadie working together on this matter; they discovered that Minnie was west with the soldiers (R. 1062); witness had conversation with Frank Long, who told her he was working for Page for the Gem Oil Co., and they would pay her more than Bartlett to turn over Minnie to them if she found her (R. 1063); offered $5,000; agreed to turn Minnie over to him for that sum; on evening they left for Seattle had conversation with Long, who told her to send telegrams signed Bill Jones in case she found Minnie; he to reply "Mrs. Bill Jones"; went to Seattle at Bartlett's expense (R. 1064); located Minnie at Ft. (Lawton?) at Seattle; had conversation with her at her home; Minnie told her about her children; witness told her about Harvey and Charlie; Minnie spoke of two that were dead; one died at Leavenworth, other at Ft. Logan; don't recall the names (R. 1065); witness told her there was a boy on the rolls named Thomas

Atkins and she (Minnie) said he is not mine; must belong to my brother or sister; said her father was named Thomas, but he had been dead too long. Witness told Minnie they were hunting Tommy and her, and there was a chance for her to make some money; Minnie said she would be very glad to make some money; told Minnie all she had to do was to keep still and not tell anyone else that Tommy was not hers and she could get some money; that a man would give her money to sign a lease (R. 1066). Minnie said she would do it, but didn't want anyone else to know, especially her husband; witness told her not to say anything of her being there; wired Long, who came to Seattle and went to see Minnie; upon return said Minnie had said she didn't have a Thomas; said he told her not to say that any more; said that is all right, we will have a Thomas before we get through. Sadie said suppose one was born at certain time; Long said Thomas has got to be living in 1900 (forget what year he said); he said the dead one we can't use him (R. 1068). Long went back to see Minnie, but McNab and Hanford wouldn't let anyone see her; saw Hanford next day with Long at the Reno Grande Hotel. Long and Hanford left Seattle the next day (Monday); Long told witness Capt. McNab wouldn't let Minnie sign lease; that they thought there was something big in it and were going to try and hold it up and make some money themselves. Long told her to get lease by any means she could and said he would give her $6,000 to get lease to Gem Oil Co.; said he was taking Hanford, Minnie's atty., and he could handle him; was taking him down there (Okla.) and we will fix this thing all up (R. 1069); left Seattle with Bartlett and Sadie returned to Tulsa; saw Page, who said he was glad she had turned the deal to him, and that he had sent her some wires and was sorry she didn't get them; was out of humor with Hanford and Long the way they had treated her; asked her what she thought, if there was a Tommy; she told him to ask Long. Page said he was responsible for Long's contracts, etc.; got her check for $50 or $100; complimented her on her work; that he wouldn't have got the lease but for her; reference to Thomas Atkins made by Page was first mention of that (R. 1071). When witness said to ask Long, Page said "that doesn't make any difference; it is all right; we will have Tommy fixed up all right" (or something to that effect; R. 1071–72); finally got a settlement from Page (Bartlett had terminated her employment); knew Sadie was employed by Page; witness settled with Page quite a while after Sadie got employed; Page wanted some one to get up proof of Tommy Atkins' birth, and said he had to have some one to do it (reference to Sadie's employment); day before Minnie testified at Sapulpa had a conversation with Page, who wanted her to go out to his house to see Minnie. He seemed to be a little worried about her making a good witness. Betty wouldn't go (R. 1073); identifies receipt executed to Gem Oil Co., Page, and

Josey for $550 cash and warranty deed for residence in Sand Springs, Okla., executed to her by Page; release by her of all claims account securing lease from Minnie and services (R. 1075). This ended her connection with the case.

Cross-examination:

After trial of case *Nancy Atkins* v. *Bartlett*, Nancy said to witness: "Why didn't we let me claim that child and make some money, and we wouldn't have hunted up Minnie; I could have been Tommy's mother just as well and we could have had a lot of money now." (R. 1094.)

Redirect:

At Seattle, Minnie told witness that she drew some money for somebody not entitled to it and she was afraid of the Government, that was the reason she had never written back and had not come back to see her children (R. 1096); witness thinks Minnie told her she drew for her sister; said she had drawn for several (R. 1100). During conversation with Page, after Minnie had been on stand first time, he told her Minnie had been swearing wrongfully and that he wanted evidence of Tommy's birth; witness declined to go. Page said he had nigger woman who would go. During these conversations it was just generally understood that there was no Tommy. (R. 1099.)

J. B. White:

Heard Minnie testify in district court at Sapulpa in July, 1914. Minnie testified she had four children;

first one, Thomas Atkins, born in Sisters Hospital, Leavenworth; had but one in Leavenworth; other three born in Ft. Logan; that she worked for Hyde, then Grodevant, then Lt. Stafford; worked 3 months for Hyde, then went to Grodevant's for year and six months, then to Stafford's for year or over; had to quit on being heavy with child; went to hospital and gave birth to Thomas; refused to give name of the second child, girl, two boys, Harvey and Charlie Harrison; said she left Thomas when about 6 months old, got a woman to take care of him; after she went to Michigan, received letter from this woman saying Thomas was dead; had never seen him since he was 6 months old. (R. 1105–6.) Witness went to Sisters Hospital in Leavenworth to investigate if Minnie had been there and found a Minnie Peterkin had been in the hospital two weeks in the eighties. (R. 1109.)

William A. Cranston:

With father in livery business at 320–322 Cherokee St., Leavenworth; identifies entry of charge, $2.00, to Long and Gem Oil Co. of rig Sept. 12/14. (Note this corroborates Sadie James as to this transaction in securing rig to go to cemetery. R. 1111.)

O. Giacomini:

Proprietor National Hotel, Leavenworth; identifies entry on hotel register; showing F. B. Long registered Aug. 23, 1914, registered from Kokomo, Ind.; also shows register of Mrs. F. E. Mann and daughter, Sapulpa, on Aug. 24/14; also shows Long registered Aug. 21/14 as from Kokomo. Atty. Hanford agrees that entry is in handwriting of Long. (R. 1113-19.)

MARTHA JONES:

Testifies that Sadie James came to her house drunk one evening in summer or fall about 2 yrs. ago (Aug., 1914); Rube Smith came there to see Sadie, as did a white man. (R. 1122.)

IRENE VINSON:

Knows Sadie James; met her in Leavenworth in Aug. or Sept., 1914; Sadie came to her house; had been drinking; went to Miss Martha's (Jones); on the way met a white man whom Sadie said was her lawyer from Tulsa; he said to Sadie "Well, I will see you later on." (R. 1124-27.)

CLARA KIRK:

Knew Minnie as Minnie Folk at Vancouver; was very good friends with her and corresponded with her. Saw Sadie James and Bartlett in July, 1914; came to her house to find Minnie; asked her to go to Seattle to see Minnie to see if they could have a talk with her; was expecting Minnie to visit her on July 8th; went to Minnie's; visited there all day with Minnie. Minnie went to the post after lunch; Folk came while Minnie was gone and visited with her; Sadie James came out, all three waiting for Minnie to return; finally Folk said he didn't think she was coming back; witness had Minnie's suit case and "as I came back out I got off the car at the station and I seen Minnie break and run towards me and she snatched the suit case out of my hand and I said, 'What does this mean, Minnie?' and she said, 'I just want to help you.' I got to the house and Hanford was there; Minnie introduced him; he started in abusing witness; told her she had better go back to Portland, where she belonged; witness went out on porch; Minnie followed her; Hanford stamped his foot and called for Minnie to come in there; she (Minnie) ran like a whipped child; never saw Minnie any more." Later that evening saw Hanford at O. R. & N. station. Hanford again abused her because of traveling with negro wench. (R. 1128–34.)

Cross-examination:

While visiting Minnie latter told her she was going to get $5,000 on the 28th or 29th of the month from some land of her father's estate (R. 1139) and that she had a son that would be awful wealthy some day.

For the purpose of showing fabrication the Government introduced the testimony of Dennis Jones, R. J. Smith, Sam Nash, and Walter Banks, given on behalf of Minnie Folk at Leavenworth, October 1914.

DENNIS JONES:

Lawyer, resides in Leavenworth—there for 50 years; knew Granny Letcher; saw Minnie 1884 and 5 at Granny Letcher's; she was in family way when at Granny Letcher's, 217 Seneca Street; gave birth to boy named Thomas Atkins there; saw Minnie at Granny's often, with child; saw child with Minnie about a year or so; Minnie left Leavenworth when child was a couple of years old; couldn't say whether Minnie lived at Granny's all the time; didn't see Minnie after she left until recently; child stayed with Granny; was there when Granny died in 1900; Granny had boy named Jim there then; she also raised Sam Nash and Walter Banks; witness raised a boy with whom Tommy played; Tommy then about 10, 11, or 12 years old. (R. 1160-66.)

Cross-examination:

First time he saw Minnie was in 1884 at Letcher's; guess Minnie must have been pregnant then; Tommy was 12 or 14 years old when witness last saw him; thinks Tommy went to school in Leavenworth; heard that Tommy died at Chicago (R. 1171-72); last saw him in 1898 or '99; first found out Minnie's name was Atkins after Tommy was born (R. 1174); Tommy was about 2-6 months old when he first saw him.

R. J. Smith:

Corroborates Dennis Jones as to birth of Tommy at Granny Letcher's at 217 Seneca St. in 1885; except last time he saw boy (R. 1179-86) the latter was about 8 years old.

Cross-examination:

Admits being employed by Long to round up witnesses; talked to Jones about case; talked with witnesses during taking of testimony (R. 1188-90); Tommy might have been born at hospital (R. 1195).

Sam Nash:

In 1884, 85, 86, lived at 217 Seneca St. with his grandmother, Granny Letcher; knew Minnie; she came to house on Seneca St. when he saw her; about that time she was in family way; gave birth to child Tommy there; Aunt Betsy was midwife; first saw Tommy when he was about 3 days old; Minnie left when Tommy was about 2 years old; she was at Granny's two months or little more after Tommy was born, then went to work and was there off and on for the two years Tommy stayed at Granny's; Tommy was sort of in witness' care; bought some clothes for Tommy when latter was 10 years old; when Tommy was about 11 years old lady came and took him away, saying his mother had sent for him (R. 1339-44); warm weather when she came (*Note:* Walter Banks said it was cool weather); said she was going to Kansas City and then to his mother's in Okla.; never saw Tommy thereafter, nor the woman (R. 1345); this was about two years before Granny's death (that was in 1900); was working for Dr. Brock when Tommy went away; then said was working for Spratley's when Tommy left (R. 1346). Tommy went to school at separate school for negroes; Miss Montgomery was teacher; Walter Banks also went same school. (R. 1348.)

Cross-examination:

Talked matter of his evidence over with Mr. Long; Granny didn't keep a bawdy house; never noticed anything wrong with Minnie's conduct; Dr. McCormick was attending physician at birth of Tommy (R. 1352); Minnie never contributed to Tommy's support so far as witness knows; never tried to locate Minnie; no communication with her; no man acknowledged Tommy as his son (R. 1353); woman who took Tommy was light mulatto (R. 1354); first talked to Rube Smith about this case (R. 1358); Minnie came to Granny's two or three months before baby was born (R. 1360).

WALTER BANKS:

In 1884–1886 lived at 217 Seneca St. with Granny Letcher, his adopted mother; Granny had a boy named Jim Mayo older than witness; Sam Nash, one-armed boy, and Tommy Atkins lived there; latter's mother called Indian Minnie or Minnie Atkins; was three years older than Tommy; remembers Tommy when a baby; Minnie nursed witness some; Minnie left Tommy at Granny's until he was 10 or 11 years; witness played with him and Sam Nash; Tommy went away with some woman whom witness had never seen before; never saw Tommy after he left, nor Minnie; Tommy left before Spanish-American War. (R. 1318–21.) Witness is a negro.

Cross-examination:

Never heard name of woman or any conversation she had with Granny or anyone else about taking Tommy. Tommy and he went to school together at North Leavenworth school; Tommy went when 6 and continued until he went away—about five years. Miss Mackey was teacher; she was colored; has seen Minnie in last few days, same one he knew (R. 1327–31). Minnie left Tommy when he was between 1 and 2 years old. (R. 1335.)

EDWARD CHARLES FRITSCHE (deposition for defendant, introduced by Government):

Druggist; worked for Adolph Lange in summer of 1885; knew girl called Indian Minnie; waited on her a number of times, and saw her at Letcher's, on lower Seneca St.; saw her there with baby nursing; baby three or four days old when first saw it; she walked streets with a fortune teller; Minnie disappeared a few weeks after baby born; saw child until he was about 6 or 7 years old; named Tommy Atkins; saw him at Ella Abbitt's place (R. 1221–25).

Cross-examination:

Witness admits talking with attorneys in case, and has memo. of names and dates (R. 1227–28); frequented Granny's place as bawdy house (R. 1240); when first saw Minnie she was pregnant about 7 or 8 months gone; she was staying there regularly (R. 1241); had no particular interest in Minnie; went to Granny's several times after Minnie left (R. 1243); first saw Minnie in July or August, 1885; first time he ever heard boy's name was from Skinney Frischman at Ella Abbitt's (R. 1248); now says Minnie didn't show signs of pregnancy when he first saw her (R. 1250).

EDWARD CHARLES FRITSCHE, as witness for Government:

Knew an Indian woman before he went to school; she was about 28 to 30 years old; went to school in 1883; remembers when petition to remove Lillie White from 217 Seneca St. was gotten up, that was in July, 1885; after her removal Granny Letcher moved in, in 1885; was there when Indian woman had a baby in early fall of 1886; was same woman he had previously seen in 1883; woman was a prostitute in 1883 and same afterward; child he saw in 1886 was a few days old; first heard child's name just before giving deposition—heard it in Mr. Bond's office; Mr. Hanford was there (R. 1256–60); was in a theater and was called out to meet Bond and Hanford (R. 1261); asked him about knowing anyone named Tommy Atkins born 1885 or '86 at Granny's; he made some memo.; from that memo. gave deposition; admitted he was mistaken about some of testimony given; saw child but didn't know it was Tommy (R. 1263). Told Bond he was looking for work and asked a letter to Page (R. 1264); Bond wrote Page; went to Okla. to see Page who told him to stick around and maybe they could find something for him to do; Page suggested that he would put up a stand for him at his park in Tulsa (R. 1265); Page said to stick around if there is anything else we can do for you. Saw Bond while en route to Okla. to testify; Bond started to talk to him and he told him he didn't care to discuss case; Bond said "You haven't got cold feet—they haven't bluffed you, have they?" The child I saw at Ella Abbitt's was too old to be the child he saw at Granny's; erred in so identifying it in deposition (R. 1266). Talked with Dennis Jones about coming to Tulsa; Jones told him about Page having helped others

(R. 1267). When he went to Bond's office, Bond paid him $10 for that day; they gave him $10 per day; says he was convinced he made errors in previous testimony (R. 1268); identifies Minnie as Indian whom he knew in Leavenworth (R. 1271); saw and identified Minnie preceding summer in office of Bond who phoned him to come there; Minnie was there; he recognized her but she did not recognize him; some one else was there [Long?] (R. 1279).

Recalled:

Endeavor made to show that his change of testimony was due to duress but this not done; testified again that the woman he saw with child was the one he had known as a prostitute in Leavenworth in 1883. If she was not in Leavenworth in 1883 she couldn't have been the same woman. (R. 1314.)

Rush Greenslade:

Attorney for Gypsy Oil Co.; his company made search for Thomas Atkins; employed Dennis Jones to assist; contract between Gypsy Oil Co. and Jones (Govt. Ex. A-88, R. 4801) offered in evidence and two letters from Jones to Crawley, V. Pres. of Gypsy Co.; went to Wash'n, D. C., and N. Y. City with Jones in search of Atkins; co. claimed under Bartlett (R. 1215-18). In the contract it was stated that Jones had reason to believe he knew the whereabouts of Atkins (date of contract, Aug. 3, 1914); letters state Jones's conviction that Thomas is alive and will be found. (Govt. Ex. A-89 & A-90, R. 4802-3.)

C. S. WALKER:

Attorney. Sadie James came to him about Bartlett in summer of 1914; told him she had been to Seattle, in employ of Bartlett, with Bettie Mann and had found Minnie; that Betty sold Minnie to Page; after Long got hold of Minnie, Bartlett wouldn't pay them; wanted witness to assist her in collecting her portion due from Bartlett; went with Sadie to Brown's office where contract was; examined it; took up with Bartlett settlement of amount due Sadie; after two weeks Sadie told him she had a deal with Page to establish birth and existence of Thomas Atkins (R. 1283–85); witness had spent considerable time in investigating Atkins case for a client; asked Sadie if she thought there was a Thomas Atkins or that he ever existed and she said *No.* (R. 1286.) Sadie said she was going to get witnesses to prove for Page that Thomas was son of Minnie and the place and time of his birth. Sadie said Page knew character of her mission; she had discussed it with him; she said "of course Mr. Page knows there never has been any such a boy as Thomas Atkins because I told him so." (R. 1286.) Later told him she had a written agreement with Page and Long; saw the contract; went to bank at Sadie's request to read it; identified Gov't Ex. 42 (R. 4902) as contract (R. 1287); Sadie told him Minnie had told her she never had any such a boy as Thomas Atkins (R. 1288); asked him what could be done with her if she went to another State and manufactured testimony;

witness told her she would be put in "pen" (R. 1288–89); three or four weeks later came to his office and told him she had been to Leavenworth and had gotten witnesses by whom she was going to prove the birth and life and existence of Thomas; called the name of two or three; remembers name of negro lawyer, Dennis Jones (R. 1289); later Sadie became uneasy about situation and asked witness what she should do; he advised her to go to Judge Allen's office and confess.

W. I. **Williams**:

Attorney. Knows Sadie James; came to see him in early fall of 1914 reference to a contract she had with Gem Oil Co., or Page and Josey; this before her confession to Government; his partner Davidson had handled business for Sadie; on this occasion partner out; she left without stating business; returned in a few days and then on a subsequent call stated she had contract with Gem Oil Co. by which she was to hunt up and produce evidence to show that Minnie had a son named Thomas Atkins; said she had complied with contract and wanted her money; Page had put her off; witness wanted to see contract (R. 1295); went to bank and saw it; identifies Govt. Ex. A 42 as contract (R. 1296); made copy of contract; saw Page for her several days after Sadie went with him; Page said Sadie had rendered capable and efficient service and had complied with contract so far as furnishing witnesses; was willing to pay her but that Josey objected; agreed to pay $250 anyway; finally Sadie got

$250; Sadie later told him Page would pay $750 if she would take it in furniture (R. 1297); Page wanted her to start rooming house in Tulsa. In latter part of November, 1914, Sadie told him she was going to quit working for Page because he wouldn't pay the $750; that she was going to work for Bartlett; said there wasn't any Tommy Atkins; told him Page and Long knew it.

Government attorney reads portion of testimony of E. C. HANFORD, given in receivership hearing March, 1915:

Attorney for Minnie Atkins. At Sapulpa hearing when Minnie testified that the child was born in the Sisters Hospital; made investigation at that hospital on return trip to Seattle with Minnie; found no record of Minnie there in 1884 or '85; Sister Superior told him they did not receive confinement cases; asked to see all records and found record Oct. 7 to 21, 1886, of Minnie Peterkin; saw Peterkin and had conversation with him relative Minnie; after that went to Leavenworth to see some old soldiers that Peterkin had named; found nothing; returned to Tulsa; heard from Long as to name of house and locality in which child born; went to Leavenworth; Long was going there with Sadie James and had arranged to go with Betty Mann; had no confidence in Betty; witness went to Leavenworth with Betty to see if what she said checked with what Long found with Sadie. (R. 1300-01.)

Minnie didn't mention birth of Robert Lee Peterkin in Leavenworth in July, 1886, or at any other time in her deposition at Rice & Lyons's office at Tulsa; doesn't think Minnie was asked in reference to the Peterkin baby. (R. 1315–16.)

"Subsequently Minnie was brought back to Leavenworth, at which time the depositions were taken; that was in 1914; depositions were in State court case. Minnie didn't testify at that hearing because in hospital; later went to Tulsa." (R. 1316–17.)

That he (Hanford) had a conversation with Minnie the morning after she made the confession to Montgomery; this was before he went to McNab to get Montgomery to bring him to Minnie's house, where she recanted. (R. 141.)

MALCOLM E. ROSSER:

Attorney for Nancy Atkins's interests. Was present in July, 1914, at Sapulpa as such attorney when Minnie Atkins testified to birth of one child in Leavenworth; she made no mention of birth July 30, 1886, or death August, 1886, of Robert Lee Peterkin; was present at taking of depositions in October, 1914, at Leavenworth for use in State court suit when Dennis Jones and Rube Smith, Walter Banks and Sam Nash testified; they are negroes and were called on behalf of Page and Minnie Atkins. (R. 1301–03.)

Government introduces portion of Minnie's testimony at Tulsa.

Went from Carlisle to Leavenworth; worked nearly five months for Hyde; child named Thomas Atkins born to her at Leavenworth at Granny Letcher's; remained in Leavenworth a year after Thomas was born, then went to Ft. Leavenworth, where she worked a year for Grodevant and for Stafford a few months; when Thomas was 1½ years old she left Leavenworth for Ft. Logan, leaving Tommy with Granny; never saw him thereafter; heard when in Detroit he was dead.

Knew after she left Hyde's that she had Tommy and went to Granny's; child born about 2 years after she came to Leavenworth; testified at Sapulpa that she had child in Sisters Hospital because Granny didn't run a very good house and not because she was a negress; while at Grodevants and Staffords went to Granny's all the time. (R. 1304–07.)

Government offered Minnie's previous testimony given at receivership hearing to show that defendants had fabricated a case regarding birth of Thomas Atkins; offer refused by court. See R. 1415–16, for explanation of sequence of testimony.

The *testimony of Minnie Atkins* (Minnie Folk) which was given in deposition in case pending in Creek County, Okla., District Court wherein Minnie et al. were plaintiffs (deposition taken October, 1914, in Rice & Lyon's office in Tulsa); this deposition taken after the depositions taken at Leavenworth, and in it she stated:

After leaving Carlisle Indian School went to Hyde's at Leavenworth; worked there nearly five months; a child was born to her there named Thomas Atkins at Granny Letcher's; remained Leavenworth about a year after his birth, then went to Army post about 3 miles from Leavenworth; worked at Grodevant's for a year, then at Stafford's for few months; left fort when Tommy about 1½ years old; went to Ft. Logan, Colorado; left Tommy at Granny Letcher's when she left Leavenworth; has never seen him since; heard that he was dead. (R. 1304-06.)

Also testimony of *Page* at receivership hearing.

Learned that Jones, Smith, and others testified that Minnie has given birth to Tommy at Granny Letcher's; Minnie took stand on his behalf and her own at Tulsa and testified to same facts; testified after she stayed at his house for two or three days; had a hard time getting her to tell the truth about certain things. (R. 1317.)

FRANK L. MONTGOMERY:

U. S. Probate Attorney. Acting in minor and restricted Indian matters coming before probate courts in Oklahoma; is under supervision of Secretary of the Interior; knows Sadie James; he signed so-called immunity paper produced by Sadie; knows Minnie; first saw her in Dec., 1914, at Ft. Lawton, Seattle, Wash.; talked with her there; Harry Folk and Capt. McNab present; discussed matter of legality of allotment to Thomas Atkins (R. 1369); Minnie claimed she was mother of Thomas. Hanford was present one day (Wed.); (he interviewed Minnie several days); Minnie said she was nervous and tired and would take up matter Friday. Saw McNab Thursday; Hanford came in and Minnie later; prior to this, witness had gone over with McNab and Minnie all the information he had upon the Atkins controversy. Witness already had information that Minnie had a child named Alice, but was unaware of where she was born; also knew of Charlie and Harvey Harrison; had no information as to Robert Lee Peterkin (R. 1370). On this Thursday morning discussed conveyance made by Minnie of royalty interest and possible fee in allotment to Page; pressed Minnie for truth relative Thomas Atkins' enrollment; Hanford warned Minnie witness was Government officer and that any statement would be used against her (R. 1371); practically same statement made to her by McNab; question of immunity for Minnie was discussed (in case she made confession). Minnie deliberated for some time and then stated she was not the mother of Thomas Atkins; that the Thomas Atkins for whom she drew the "grass money" was her father; that she had three children, Alice Peterkin and the two Harrison boys, Charlie and Harvey; no one questioned her until she finished; further discussion had between all present as to immunity; all discussed the matter of her testimony at Sapulpa in July previous of having had the child born at Sisters Hospital and also her testimony taken in Oct., 1914, at Tulsa; read from that testimony and from confession of Sadie James (R. 1372); then witness suggested that this confession be reduced to writing and left with McNab; that if he succeeded in obtaining immunity for Minnie, McNab was to deliver confession to him, otherwise to burn it; that was agreed to; confession was prepared by witness in McNab's private office, and when completed Minnie was told by McNab that she didn't have to sign unless she wanted to and that it would be taken against her; but now was the time to tell the truth; Hanford also warned her as her attorney. Minnie after some deliberation signed the statement; witness delivered it to McNab and never got it back (R. 1373), has never seen it since (R. 1374); en route on train from Seattle to Denver, about 3 or 4 days after signing of statement, witness reduced to writing substance of that statement for his private files; substantially the statement was (R. 1374–75):

> Dated Ft. Lawton, Dec. 17; I, Minnie Folk, nee Atkins, in the presence of C. E. Hanford and Frank L. Montgomery, United States probate attorney, do hereby state that no child was ever born to me by the name of Thomas Atkins, or Tommy Atkins, and that the Thomas Atkins for which I drew the grass money was my father; that I am the mother of only 3 children, Mabel or Alice Peterkin, Charlie Harrison, and Harvey Harrison.

In addition to what appears in confession, Minnie stated to witness that Sadie James made the suggestion to her that she had a child named Thomas Atkins. No one during these days of conversation there at Ft. Lawton had mentioned the name of Robert Lee Peterkin; after confession signed witness had lunch with Minnie and her husband at their house; Minnie prepared lunch and was agreeable, pleasant, and hospitable (R. 1375–76); went with Minnie to National Bank of Commerce to secure amount ($5,000) paid to Minnie by Page for lease, this money to be Minnie's regardless of whether title was good or bad (R. 1376); this was done at witness's suggestion, he fearing that Page interests hearing of confession might undertake to tie up this fund in Tulsa by legal proceedings; Minnie signed at bank some paper required by bank whereby she could draw the money from the Tusla bank. (R. 1377.) Wired Commissioner Sells of confession of Minnie and recommended effort be made to secure immunity for Minnie; succeeded in getting immunity. (R. 1378.)

Cross-examination:

First had attention directed to case by Mr. Mott, who told him of information which could be furnished by Sadie James; went to Kansas City and saw Sadie; Mr. Buell cooperated with him in matter. (R. 1380–81.) At interview with Minnie at Ft. Lawton, witness read to her testimony of witnesses taken in case; Minnie was incensed and resented the attempt made to "their" trying to make the father of child a negro (R. 1387); next day after confession was signed witness went to McNab's quarters; Hanford came in and requested them to go to see Minnie; witness went but not McNab (R. 1395–96); when they saw Minnie she repudiated the confession (R. 1397); said she had made the statement to please witness; that he had been very persistent and she had wanted to get rid of him; that she had been subjected to strenuous ordeals for months in regard to birth and existence of Thomas Atkins; that the statement was untrue; that she *was* the mother of Thomas Atkins and that the written statement had been signed purely under those circumstances; said she would rather not have any property rights in the land than be harassed so much. Witness said to her that she had made him a lot of trouble but if she was telling the truth now he hoped she would get the land and hoped to assist her in getting it. (R. 1397.)

Redirect:

Guarded against being influenced by Bartlett and Buell (R. 1401); secured authority from Washington to make Seattle trip (R. 1402). When he interviewed Minnie and was reading to her the depositions taken at Leavenworth, Minnie said no one could get her to say that she was not the mother of Thomas Atkins. She also stated that she was subjected to the influence of Page through Frank Long at the time that she was at Leavenworth, and that she knew none of the parties there except Mr. Crilly, the liveryman, and that while she knew him, much of what she testified to was not true. (Probably read to her the depositions of Rube Smith, Sam Nash, and Walter Banks.) Minnie stated that she had been framed by Long and others to say that Tommy was born at Letcher's and not at the hospital, and was emphatic that no one could get her to say that Tommy was never born to her (R. 1403); no perceptible difference in demeanor of Minnie on day of confession than other days when witness saw her. After confession Minnie expressed satisfaction that the thing was over and a hope to secure the money from Okla. before any legal proceedings could be started to withhold it (R. 1405). Either witness or Hanford suggested withdrawal of money and both concurred in that being desired. When Hanford came into McNab's quarters the day after confession signed, he told witness he had been to see Minnie (R. 1406); thinks Hanford stated that Minnie had retracted (R. 1407).

W. P. Z. GERMAN:

Testified that on receivership hearing Government introduced evidence showing that Minnie gave birth to Robert Lee Peterkin at Mrs. Woods in Leavenworth on July 31, 1886, before Minnie testified or her affidavit was filed. (R. 1412–13.)

GEORGE DOTTER:

Lived at 217 Seneca St., Leavenworth; was born there; left there July 28, 1884, when his father sold the place, was 14 at the time. (R. 1417–22.)

JOHN ROHR:

In 1883, 84, 85, 86 was clerk of district court at Leavenworth; had been at Lily White's place—a house of prostitution; first time May 16, 1885; place was on

Seneca St. between 2nd and 3rd on south side of street, adjoined Seth's place (R. 1422–25); went once after that, same place, between June 1 and Sept. 30, 1885; was within about 3 or 4 months after first time. Reason why he can not more definitely fix second date is because he gave to Malone in that year several checks, one dated July 14, another May 28, and third Aug. 18 (Malone lived with Lily White; R. 1429). Witness loaned money to Malone and went to Lily White's to collect (R. 1430); thinks it was the $500 check he went to collect (that is dated Aug. 18/85. R. 1432).

On cross-examination is asked regarding testimony given in a deposition previously in this case which varied from that now given in respect to date of second visit to White's (R. 1432–36); states he was in error and now desired to stand by last given testimony (R. 1436).

William P. Feth:

Architect. Parents lived at 223 Seneca St. (south side); house not now standing, nor is 217 Seneca St.; lumber yard there now; made drawing of that Seneca St. as it existed (approximately) in 1884–5–6; drawn from memory; drawing identified as Govt. Ex. A–91; locates various streets and places from plat (R. 1438–40); also made plat of location of fort prison and some residences (including Grodevant's) at Army post at Leavenworth (R. 1440), Govt. Ex. A–79 (R. 4779); was 15 yrs. old in 1885; was living then at 223 Seneca St.; witness was author of petition to remove Lily, petition dated July 5, 1885; drew it up at request of his mother and father (R. 1441); does not remember a family named Letcher living at 217 Seneca St.; identifies Govt. Ex. 59 (R. 4912), petition for removal of Lily White from 217 Seneca St. and Stella Forrest from 303 Seneca St. (R. 1447–48).

FRED METCHAN:

City clerk of Leavenworth; has custody of city records; identifies minutes of city council Aug. 5, 1885, relative petition for abatement bawdy house of Lily White and action thereon, which was reference to city marshal with instructions to abate the nuisance. (R. 1450–53.)

HARRY H. SECHLER:

Identifies father's signature on petition. (R. 1456.)

WILLIAM W. KREW:

Works for Abernathy Furniture Co.; employed by that company since 1884; knows property 217 Seneca St.; factory just across the street from there and a little east; knew Lily White by sight; she lived at 217 Seneca; she was white woman; doesn't know Granny Letcher; remembers name, though; doesn't remember colored family living at 217 Seneca; remembers Sam Nash; thinks he lived on Kickapoo St.; Lily was there in 1884. (R. 1457–59.)

C. S. W. DASSLER:

Attorney at law; had an interest in property known as 217 Seneca St.; Dotter resided there; they sold to Emma Serrill; witness purchased some of the notes given by Serrill in payment; notes were secured by mortgage; purchased first batch of notes Oct. 27/85, another batch Oct. 29/85, and another Nov. 7/85; fixes dates by checks given to pay for them (R. 1462–64); filed suit to foreclose mortgage Oct. 30/85; Lily White made party defendant because occupant of premises (R. 1465); suit dismissed Nov. 27/85; witness collected rent from tenants after he acquired title on Nov. 24/85; Mrs. Letcher was first tenant from whom he collected; the first money collected was on Nov. 28/85 from Letcher and others; Letcher stopped paying rent about April, 1890, and then commenced again in Sept., 1894; continued then until her death. (R. 1467–69).

Cross-examination:

Says stated dates from his books; no independent recollection; doesn't know of own knowledge who was occupying premises when suit filed. (R. 1470.)

LeBan Gardner Hopkins:

Attorney at law; lived in Leavenworth since April, 1868; he and Dassler acquired 217 Seneca St. in Nov., 1885. (R. 1477–80.)

J. A. Malone:

Lived in Leavenworth until 1889; was policeman in Leavenworth and deputy sheriff; knew Lily White; she ran a sporting house on Seneca between 2d and 3d, south side of st.; when he first met her witness was on police force; was at her house one night, stayed about an hour and a half talking with Lily; that the only time he was there; no colored people there that he saw (R. 1483). Lily after lived on Choctaw St. close to 4th St.; she went from Leavenworth to Kansas City, Mo., then to Tacoma, Wash.; saw her in Tacoma; Lily died in June, 1894. Knew Ella Abbott in Leavenworth in 1890, at brick house on Choctaw St. (R. 1485), same kind of house; in 1894 Ella was at cor. 3d and Cherokee Sts. conducting sporting house, continued there in 1894 and '95; never saw any boy there by name of Thomas Atkins or Indian Tommy; never heard Ella mention him; Ella had not conducted sporting house in Leavenworth previous to 1889 (R. 1487); identifies letter received by him from Ella in May, 1916 (Govt. Ex. 57, R. 4911); this letter askes interview with Malone and refers to Hanford as one of "our lawyers" (for oil co.) and to the other outfit as a "negro oil co. fighting us"; asks that Malone give no deposition and not to talk to this oil co. until she talks with him; Hanford was to see him about six weeks before this deposition; in conversation with Hanford related substantially what he has now testified. (R. 1488–89.)

Cross-examination:

Robinson, the detective, was to see him (R. 1490); Lily was next to the Feth house on Seneca St.; colored people lived in house after Lily; Ella Abbott was referred to as his girl (R. 1497); knew all the girls who were there; tells how he happened to see nigger child there at Ella Abbott's; doesn't recall what child was called; has no idea what Ella refers to in letter rec'd by him (R. 1501); came to give deposition with Robinson, who explained what Govt. wanted to prove (no Tommy Atkins); Robinson told him he represented Buell; Govt. subpœnaed him; Robinson told him Buell paying his (witness also) expenses from Tacoma to Leavenworth for deposition (R. 1502–03). Rec'd letter from Ella after Hanford had been to see him (R. 1507).

Redirect:

Letter also from Gem Oil Co.; destroyed that letter (R. 1508), this letter was before Robinson had been to see him. Saw colored child referred to at Ella's when she was at 3d and Cherokee in 1895; Ella had colored woman as help; child was in kitchen where colored cook was (R. 1509). Prior to 1889 Ella did not run sporting house in Leavenworth; had wide acquaintance in performance of official duties with houses of ill repute in Leavenworth, never heard of Minnie Atkins or Indian Minnie, or Indian boy or Tommy Atkins in these houses (R. 1510).

Cross-examination:

Never heard of Minnie Atkins or Indian Minnie; knew Granny Letcher but can't recall when (R. 1511); didn't know of Ella running bawdy house in 1889; didn't know her until 1890; if she did prior to that time he didn't know it (R. 1513).

W. B. Shaughnessy:

Chief of police, Leavenworth. Produced roll call book of police dept. for years 1872 to 1886; shows name of Joseph Malone under date June, 1885, as special policeman; began service 25th; agreed between counsel that record shows Malone on roll June 24, 1885, as special; continued as such until

Sept. 1, 1885, when he went on as assistant guard. In Dec., 1885, Jan., Feb., Mch., April–Aug., 1886; Sept., 1886, north beat, night; Oct., north beat, day; Nov., middle beat, night; Dec., 1886, south beat, night; continued as regular policeman until April 11, 1887. (R. 1514–17.)

JOHN T. BEECHLER:

Lived in Leavenworth in the '70's and '80's and '90's; knew Indian by name of Indian *Mary;* first knew her in 1875 in north part of town, north of Shawnee and east of 5th (R. 1518); saw her in the '80's on 2d St. in 1883; she used to buy wood from Apperson; she was a chorister in North Leavenworth; was about 5 ft. 4 in., yellow complexion, was Spanish or Indian, not white; dressed in flashy colors; never knew of her having a baby; witness knew a fortune teller in Leavenworth in the '80's; her place of business was on 2d St. between Delaware and Cherokee; fortune teller also lived on Seneca between 2d and 3d on north side of street (R. 1519); does not know whether Indian Mary was around with her; last time saw Indian Mary was about a year or so after 1883 (R. 1520); knew Lily White in early '80's; lived on Seneca St. on south side old Dotter property in first house east of Feth's (vacant lot between); Emma Moss lived in same house with Lily; all white folks; Lily conducted sporting house; Mrs. Letcher succeeded Lily in the house. (R. 1521.)

Mrs. Alice O'Day:

Was in dressmaking and hair dressing business in Leavenworth at 208 or 210 Shawnee St. between 2d and 3d on north side in the middle of the block; also had business at 610 S. 5th St. before the Shawnee St. store; Shawnee St. store across the alley from 217 Seneca St., maybe a little east (R. 1535); Shawnee St. business established in spring of 1885; became acquainted with Lily White when she (witness) moved to Shawnee St.; Lily ran house of ill fame; acquainted in business way; did dressmaking and hair dressing for some of inmates of Lily's place (R. 1536); Lily's place almost opposite witness's back gate across alley; remembers petition gotten up to dispossess Lily, about middle of summer, 1885; lived with mother who ran boarding house on Shawnee near 2d St. (R. 1537–38); witness ran her establishment for about two years; made dresses, etc., for Lily's "girls"; did a great deal of hairdressing for those girls; witness was married at this time, had two children, one born this place January 15, 1887, died Feb. 14, 1887; moved from there in Oct., 1887; Granny Letcher moved into place occupied by Lily; witness knew her before that time; Granny had lived on Cherokee St., also on Choctaw St., she worked for witness and witness's mother while living on Choctaw Street (R. 1539); after Granny moved into Seneca Street house she did work for witness, took care of her in confinement and took care of child when it died (R. 1540); was frequently to Granny's house, never went further than kitchen; Granny had a son and grandson; Jim Mayo was her son; Sammy (Nash) her grandson; Granny took care of a little boy—son of a woman who cooked for witness's sister—she died leaving this boy—named Walter Banks; never heard of any boy in Letcher family named Indian Tommy or Thomas Atkins (R. 1541); never knew of any woman being in Granny's named Indian Minnie or Minnie Atkins; moved away from Leavenworth, in Oct. 1887.

JOE A. ECKERT:

Lived in Leavenworth since three years old; knew Lily White in 1884-5-6, she was living on Seneca St. in Oct. 1884 (between 2d and 3d, south side of street); was at Lilly's quite often in the early part of 1885; thinks she moved from there fall of '85 or winter, as early part of '86 she moved to Choctaw St. (R. 1583-86).

WILLIAM JACKSON:

At Leavenworth since 1861; was living second house from Grodevant's in 1883, 4, 5, 6; working in prison corral straight in front of Grodevant, 100 yds. distant; friends with Grodevant; remembers Indian Minnie employed by Grodevant in fall of 1884 and was there in winter of '84, '85 and along in early spring; would often see Minnie in yard or on porch or in the window; she went with the two families sleigh, riding down hill; she was not in family way that he heard of; did not give birth to child when she worked at Grodevant's; was in latter's employ only the one period. (R. 1615-17.)

John M. Purcell:

Was in Army at Ft. Leavenworth; saw Minnie at Grodevant's in early summer of 1885 (R. 1621), after that saw her frequently on the street and around the Fort in company with Oliver; was not in pregnant condition, to his knowledge; nothing to indicate it (R. 1622); heard of Minnie's giving birth to child at Mrs. Woods's year after; never heard of her bearing any other child than that one (R. 1627).

Patrick Collins:

Lived diagonally across street from Grodevant's at Ft. Leavenworth; knew Minnie when she was at Grodevant's; she was there close to a year; witness and family visited back and forth with Grodevants; saw Minnie very frequently; to his knowledge Minnie was not in pregnant condition while at Grodevants; Minnie the only Indian girl who worked for Grodevants (R. 1627–31); Minnie was at latter's part of 1884 and part of 1885 (R. 1635).

Mary A. Collins:

Wife of Patrick Collins; knew Minnie Atkins when she worked at Grodevant's in 1884 and '85; Minnie worked there about a year; would see her frequently; Minnie was not in a pregnant condition to her knowledge when at Grodevant's. (R. 1643–45.)

William E. Dawes:

Was assistant foreman to Grodevant from 1883 to Dec., 1884; was away Dec., 1884, Jan. and Feb., 1885; went back Mch. 1st, 1885, and there continuously until 1887; knew Minnie when she was there;

saw her occasionally; was not in pregnant condition so far as he could see. (R. 1655–56.)

LEWIS YOUNG:

Lived on north side of Ft. Leavenworth adjoining it in 1884, 5; knew Grodevant; saw Indian Minnie at Grodevant's when he passed there; never noticed her to be in pregnant condition. (R. 1662–63.)

MRS. MARGARET JACKSON:

Knew Grodevant family; she was living at Ft. at that time two doors north; knew of Indian Minnie; saw her quite often while going back and forth in "her back door"; Minnie didn't show any signs of pregnancy. (R. 1669–71.)

MARY N. CUNNINGHAM:

Lived at Leavenworth and Ft. Leavenworth in 1884–85; knew Grodevants; passed their house frequently; knew Minnie when she worked there; saw her on the street and when passing; visited her (witness's) sister, who lived at fort, not far from Grodevant's; saw Minnie in spring or summer of 1885; remembers incident in May, 1885, when she and sister were picking wild flowers and came up back of Grodevant's house; saw Minnie in yard and was told Minnie was an Indian; nothing in Minnie's appearance would indicate that she was in a family way; was not acquainted personally with Minnie. (R. 1673–77.)

MRS. HELEN BEELER:

Was at Ft. Leavenworth in 1884 and '85; lived about five blocks from Grodevant's; was often in locality of Grodevant's in spring of 1885; saw Minnie in yard of Grodevant's one evening in May, 1885; relates same incident told by Miss Cunningham about conversation concerning Minnie; saw her a few times; Minnie did not appear to be in family way. (R. 1695–97.)

JAMES F. BIERLY:

Was at Ft. Leavenworth from 1883 to 1890, driving six-mule team at penitentiary; knew Grodevant; saw Minnie about latter's house in 1884–85; she was there about a year; thinks she came there in winter of 1884, 5 or early part of '85; would often see her at Grodevant's; frequently talked to her; she didn't appear pregnant; Minnie went to work for an Army officer later. (R. 1704–06.)

ROY REYNOLDS:

Clerk U. S. Census Office; in 1916–17 examined census of Leavenworth for 1890 for name Thomas Atkins; examined schedule sheets of each family in Leavenworth for 1890; name Thomas Atkins not there, nor Tommy Atkins; nor the name Commodore, either as a given or surname; neither was name Indian Tommy; identifies Govt. Ex. A–98 (R. 4813); original census returns for family of Molly Letcher 1890 census for street 119 north 3d; (no Thomas Atkins shown thereon); on these family or dwelling schedules were entered the names of all persons residing in that dwelling. (R. 1708–11.)

JOSEPH H. CALLAHAN:

Lived at Leavenworth from Feb. 5, 1884; knew Geo. H. Hyde, banker; used to deliver packages there; saw servant there who looked like Indian; saw her also with Mrs. Hyde when latter would drive to office where witness employed—looked like Indian, never learned her name; also knew of Indian called Indian Mary; attention attracted to her because she carried baby strapped to her back as Indians carry them out West, saw her with baby in summer of 1887—baby about year old (R. 1721–24); Indian Mary or Indian Minnie who had baby was about 24 or so (R. 1726); saw girl at Hyde's in 1883, 84, or 85; girl at Hyde's and girl with baby two different persons. (R. 1728–29.)

ELI NIRDLINGER:

Attorney at law; resided in Leavenworth since 1882; lived on N. 3d Street for some time; knew Indian Mary, aged about 26–30 (R. 1730–32); this about 1883.

KATHERINE WILLIAMS:

Lived on reservation at Ft. Leavenworth; knew Indian Mary; also later heard her called Indian Minnie; witness used to give her coffee; never knew her to work at fort; claimed to have money coming to her; told witness she had had boy who was drowned; Indian Mary found dead out at Salt Creek. (R. 1732–36.)

Cross-examination:

Never heard of Minnie Atkins until just recently (R. 1738); came to Leavenworth in 1866; war was just ending.

Joseph A. Cranston:

Was in livery business with George Crilly in 1885; was located at 220–222 Seneca Street and 319 Cherokee Street; was at Seneca St. place every day and night, that place was burned out, which was later than 1887; remembers colored family across the street at 217 Seneca; Molly Letcher was woman's name; Lily White lived there before Letcher; another family also occupied house, other folks were white folks; never knew, saw, or heard of Indian woman by name of Minnie or Indian Minnie or Minnie Atkins at Letcher place, nor of Thomas Atkins or Tommy or Indian Tommy or Commodore; never saw Indian boy around there, nor around his barn, nor on the street. (R. 1743–45.)

Cross-examination:

Put more time in at Cherokee St. place, but was at both places; knew Letcher woman had some boys, Jim Mayo and Sam Nash; was in Denver part of summer of 1885. (R. 1746–47.)

Charlie Hudson:

Also known as *Daniel Hudson*; first lived in Leavenworth in fall of 1884; knew Molly Letcher, lived at her house; was living on Cherokee St. between 2d and 3d; roomed there; thinks she moved from Cherokee to Delaware and then to Seneca Street; was rooming at her house when she moved off of Cherokee; roomed 3 or 4 years with her; thinks it was in fall that Granny Letcher moved from Cherokee; roomed not very regularly at Seneca St. place;

was married, lived with wife's father about year then back to Letcher's; Granny had some children, Jim Mayo, Sam Smith, Archie, and Walter Banks; doesn't remember any child there named Tommy or Indian Tommy, nor Indian woman called Minnie or Indian Minnie or Minnie Atkins, nor any boy named Thomas Atkins; no other boys there but those mentioned; ate at Granny's table for about 1½ years. (R. 1747–53.)

Cross-examination:

Might have been 1884 or 85 when he first went to Letcher's; fixes date as soon after Cleveland's election in 1884 (R. 1760); not sure that Granny moved first to Delaware from Cherokee; rather thinks Jim Mayo moved to Delaware and Granny to Seneca (R. 1762.)

LAURA THOMAS:

Lived in Leavenworth; knew Molly Letcher; she lived on Cherokee between 2d and 3d when witness first knew her; Molly moved from Cherokee to Seneca between 2d and 3d right across from Crilly's barn; witness lived at Molly's house on Seneca, soon after she moved there; Jim Mayo, Sam Nash, and Walter Banks were members of Molly's family; went to living at Granny's soon after her marriage to Charles Hudson; did not know of Thomas Atkins or Tommy at Granny's, nor of Minnie; only other child was witness's sister's baby—about six weeks old; next older child was Walter Banks. (R. 1762–69.)

Cross-examination:

When first married went to live at her father's; stayed a few weeks, maybe longer; went to Molly's; was there all that summer and all winter; longer than a year. (R. 1769–70.)

Elizabeth Bradford:

Lived in Leavenworth; knew Granny Letcher from 1883 to 1897; Granny living on Shawnee St. when witness first knew her; Jim Mayo, Walter Banks, and Sam Nash were members of Granny's family; never heard of any boy named Tommy living at Granny's, nor of Thomas Atkins or Indian Tommy; never saw anyone named Minnie or Indian Minnie or Minnie Atkins around Granny's. (R. 1828–30.)

Cross-examinat:ion

Sadie James came to see her about case; simply asked her about remembering things happening at Granny's; asked her to write to witness's daughter, Georgie; Sadie asked witness about Indian Minnie; witness told her she had never seen her except possibly one night on street; saw this woman in 1883; might have been 1884; in spring of year—was election night. (R. 1831–34.)

Belle Reed:

Lived in Leavenworth for two years at Granny Letcher's with Jim Mayo, commencing in 1888, Sam Nash, Walter Banks, Lucian Scott (he came with Mrs. Scott); during time she was there witness never saw or heard of any boy by name of Indian Tommy or Tommy Atkins. (R. 1839–40.)

Cross-examination:

Lived on Seneca St. between 2d and 3d. Never heard of Indian Minnie. (R. 1845.)

M. Bahler:

Chief of fire department, Leavenworth; connected with it since March 1, 1886; recalls big fire destroying Dr. Brock's house and other property on Shawnee St. between 5th and 6th, in June, 1886, night of 18–19 June. Fire at Kelly-Lyle Mill occurred Feb. 25/89; this he certified to by reference to record. (R. 1856–59.)

Eliza LaVallay:

Remembers the occasion of the Kelly-Lyle Mill burning; had to leave house in which she was living; went that night to Granny Letcher's; had known Granny then for four or five years; had been to her place quite often, nearly every day in the afternoon; from night of fire lived there about one month; thereafter saw her in morning and afternoon, Granny then on Seneca St.; doesn't know and never heard of Minnie Atkins, Thomas Atkins, Indian Minnie, or Indian Tommy being at Granny's. (R. 1859–1861.) When she first knew Granny the latter lived on Shawnee St.; there was a girl there, Mattie Clark, who had child Mabel and another named Annie; Walter Banks, Sam Nash, and Jim Mayo lived with Granny; Etta Lower lived with Granny. (R. 1861–62.)

Cross-examination:

Knows Sadie James; relates time when Sadie came to her house and stated she was looking for a boy named Tommy Atkins; later Sadie came and said there wasn't a Tommy Atkins, it was only a put-up job. (R. 1863.)

ALICE PAIRE:

Lived in Leavenworth all her life; knew Granny Letcher; lived there with her mother about two months after Kelly-Lyle's Mill burned; used to go there before that; Eliza La Vallay is her sister; Granny living then on Seneca between 2d and 3d; went after that to Granny's to see Mary Lower's baby; also there with Jim Mayo and Georgie (his wife), they ran a show there; never knew of a boy at Granny's named Tommy or Indian Tommy or Thomas Atkins—never saw him; did not know any woman there named Indian Minnie or Minnie Atkins. (R. 1885–88.)

Cross-examination:

Sadie James was at her house about a year ago (1915); talked to her about going to Father Shorty's to see if there was boy named Tommy Atkins there; next time Sadie came back and she said there wasn't such a thing as that—anyone by name of Tommy. (R. 1888.)

Redirect:

Relates conversation with Jim Hunt, who came to her and told her Dennis Jones wanted her to come to his office; that they wanted her to swear to a lie and she would get paid for it; Hunt told her "If Mr. Long is there he will tell you what to say and you will get paid for it"; told witness not to tell Dennis that he said so; "I am putting you next." (R. 1896.)

Recross:

Witness's brother-in-law made memo. of date Hunt told witness this (R. 1897); Hunt told her Dennis had sent him to see her (R. 1900); said if you go and say what they want you to say you will get some money. (R. 1901.)

MARY LOWER:

Mother of Etta Lower; Etta born at Scott's, in south Leavenworth; took Etta to home of Granny Letcher when Etta about one year old; stayed there about one year; Granny living on Seneca St.; moved out of Scott's house night Kelly-Lyle Mill burnt and went to Granny's for two months; Etta then at Granny's; had been there a year; no child at Granny's named Tommy Atkins or Indian Tommy; no woman there named Indian Minnie or Minnie Atkins; Sam Nash and a Walter, a girl named Nettie were members of Granny's family; Jim Mayo also there. (R. 1906–9.)

Cross-examination:

Would go to Granny's every evening to see child; would stay until about 5 o'clock—2 to 5 p. m. (R. 1918.)

JULIA T. CARTER:

Born in 1884; lived at Granny Letcher's for short time; went there with mother and sister (Liza LaVally and Alice Perry) night Kelly-Lyle mill burned; Etta Lower, Walter Banks, Lucian and Lyman Scott were other children there; Jim Mayo and Sam Nash grown up then; no other children; no child living there named Tommy or Indian Tommy that she knew or saw. (R. 1924–25.)

George Dale:

Lived at Granny Letcher's about two years; was there when she died; had lived there about two years then; never had been there before then; knows of no boy named Indian Tommy or Tommy Atkins living there; Walter Banks, Jim Mayo, and Sam Nash living there with Granny; no boy there younger than Walter. (R. 1931–32.)

Cross-examination:

Didn't know Minnie Atkins, nor any Indian girl there; knew Granny just the two years before she died in '98 (R. 1932); doesn't remember a boy around there called Commodore. (R. 1933.)

John Phillips:

Lived in Leavenworth; was living at Seneca St. between 2d and 3d when Granny Letcher moved on Seneca St.; was around her house very often with Sam Nash; Sam and Walter and Jim Mayo were with Granny; no boy younger than Walter Banks lived with Granny during the three to five years he lived near her; no baby born at Granny's during that time; no Indian woman there; never saw Tommy Atkins or Indian Tommie, or Indian Minnie or Minnie Atkins. (R. 1935–37.)

Cross-examination:

Knew two boys in Granny's household; they were his playmates; was about 10 then. (R. 1937–38.)

Fannie Isam:

Lived in Leavenworth about three years with Alice Woods on Seneca St., second door to Granny Letcher's; nine years old when she went to live with Alice Woods; Walter Banks, Sam Nash, and Jim Mayo were in Granny's family; neither knew or heard of any boy in Granny's family named Tommy, Indian Tommy, or Thomas Atkins (R. 1969–70), nor of a woman named Minnie or Indian Minnie. Walter and Sam and witness played together; youngest child in Granny's house was Walter Banks (R. 1970).

Emma Gatewood:

Lived in Leavenworth with parents when she was 15 years old on Seneca St. between 2d and 3d; Mrs. Feth lived in the stone part of the house that witness's family lived in; Granny Letcher lived in house just east; witness lived there four or five years; Sam and Jim and Walter were the boys in Granny's house; Walter and witness's brother played together; knew of no child named Tommy or Indian Tommy at Granny's, or around there (R. 1975–77), nor named Thomas or Tommy Atkins; didn't know any woman there named Minnie, Indian Minnie, or Minnie Atkins (R. 1978); no boy younger than Walter Banks in Letcher family.

On cross-examination relates incident of call from Hanford, who asked concerning witness's knowledge of Minnie and Tommy; at that time witness's brother arrived and Hanford questioned him and was told brother knew Thomas and played with him (R. 1982–87).

On *redirect* witness states that brother had conversation with Hanford and after his departure stated that "there was money in this case" (R. 1987); later brother rec'd a letter from some man who called and after reading it brother told witness there wasn't any money in the case (R. 1989).

NETTIE BROWN:

Lived at Leavenworth about two years with Jim Mayo at Granny Letcher's, on Seneca St. across from Crilly & Cranston's barn; Walter and Sam Nash and Jim Mayo were members of Granny's family; no boy there named Thomas Atkins, nor Indian Tommy; no Indian woman there; no person named Minnie or Minnie Atkins (R. 1997–98); married several months after she left Granny's. (Marriage certificate of witness, Govt. Ex. 55 R. 4910, shows marriage on January 31, 1889.)

RICHARD JOSEPH WINFIELD:

Knew Granny Letcher about the time she commenced living on Seneca St. between 2d and 3d; would be there two or three times a week; was carrying papers and shining shoes at time; continued going there two or three years; never saw an Indian girl there named Minnie or Indian Minnie, nor a boy named Indian Tommy or Tommy Atkins; Jim Mayo and Walter Banks lived there. (R. 2026–27.)

Cross-examination:

Born in 1868; was about Granny's when about 16; played around Granny's place, sort of gathering place boys have that play together (R. 2027); this was about 1885 (R. 2031).

MATTIE TUTT:

Knew Granny Letcher in 80's in Leavenworth; lived with her on Seneca St. in 1899; lived there 3 yrs.; was there when she died; been there 2½ years when she died; never saw anyone around the place called Tommy Atkins or Indian Tommy. (R. 2031-32.)

Cross-examination:

Went to live at Granny's when her mother died in July, 1899 (R. 2034); first knew Granny when she lived on Cherokee St.; next knew her when on Seneca St.; lived with Jim Mayo at Granny's; knew of no other boys there besides Sam Nash and Walter Banks (R. 2036).

MARTHA MILLER:

First knew Granny Letcher when latter was living on Seneca St. between 2d and 3d; Granny took care of witness's child for three weeks, witness working out; Granny was also keeping child named Etta; went to Granny's sometimes after she took child away; Granny later lived on Shawnee St. (Granny was running restaurant then at 3d and Seneca). Then Granny moved back to Seneca St.; knew Jim Mayo, Sam Nash, and Walter Banks, who were members of Granny's family; there was no child at Granny's named Indian Tommy or Tommy Atkins; never heard of him being there; never knew of any woman there by name of Minnie Atkins; never saw anyone that name. Walter looks something like an Indian. (R. 2040-42.)

Cross-examination:

Witness's child died at Granny's (R. 2043); put child at Granny's in 1890 or 1891 (R. 2047).

Redirect:

Walter Banks was about 7 or 8 when witness first knew him (R. 2048); Sadie James saw her "summer before last" (1914?); asked witness if she didn't remember about Indian Minnie; witness told Sadie she couldn't place her; Sadie asked about Tommy; witness told her she didn't know him; wanted her to swear there was a Tommy (R. 2048–49).

Tom M. McKenzie:

Age 53; came to Leavenworth when 7 or 8 yrs. old; knew Granny Letcher; became acquainted with her when he was about 16 or 17; knew her before she lived on Seneca St.; was at Granny's on Seneca street frequently, sometimes two or three times a week; began frequenting her place when he worked for Brock; Jim Mayo, Sam Nash, and Walter Banks were the members of Granny's family; when he first knew her, Granny lived on Cherokee St. between 2d and 3d, then moved to Seneca St. Granny was living on Seneca St. before witness went to work for Brock; witness knew Granny and family before he worked for Brock; and he continued to go there until Granny's death; never saw or heard or knew of an Indian boy around Granny's named Tommy Atkins or Indian Tommy; neither did he know or hear of an Indian woman there named Indian Minnie or Minnie Atkins; worked for Brock 10 or 12 yrs. (R. 2049–51.)

Cross-examination:

Quit working for Brock in 1902 or 1903, when latter died (R. 2052), it was a year or two or three after Granny died (R. 2053); believes Granny moved away from Seneca St. to Shawnee and then back again (R. 2054).

Dr. C. M. Moats:

Physician in Leavenworth since November, 1888, practicing; knew Granny Letcher first when she was on Seneca St., south side near 3d, just east of Van Tyles livery; was Granny's physician, began treating her in early part of 1889; treated her at her home; called there frequently; did not know of any child in Granny's family named Indian Tommy or Tommy Atkins; recalls seeing two little girls there at time Granny was quite low—they weren't there long. (R. 2059–62.)

Cross-examination:

Dosen't remember any people around Granny's except Sam Nash and Jim Mayo.

Mrs. Mary Nash:

Stepmother of Sam Nash; Molly Letcher raised Sam; she lived on Cherokee St. and Seneca St.; did not visit much at Granny's; Sam would visit them (her and her husband); was at Granny's funeral; died on Seneca St. about 1900; Granny raised Sam Nash, Walter Banks, and Jim Mayo; never heard Sam, Granny, or the others mention any woman named Indian Minnie living at their home; never heard them say anything about a boy named

Indian Tommy at their home, never saw such a boy there, nor such a woman (R. 2065–68). Rec'd letter from Sam Nash (Govt. Ex. 52, R. 4908); met him on street after that; Sam said he was getting along nicely; said Mr. Page was a very nice gentleman and had treated him awful nice (R. 2070).

GEORGIA FLINT:

Married Jim Mayo (Jim Phillips) in October, 1890; they lived with Jim's mother, Granny Letcher, she was then living on Choctaw St. (fall of 1890); Granny moved to Shawnee St.; Jim and witness did not stay with Granny until she moved off Shawnee St.; they moved down on Shawnee and ran a restaurant; later went back to Granny's when she was again on Seneca St.; visited Granny some while they ran the restaurant and frequently when witness was keeping house on Cherokee St.; was in Leavenworth from October, 1890, to 1895 or 1896; during this time, besides Jim and witness, Sam Nash and Walter Banks lived at Granny's; also a little girl named Maude; the latter was at Granny's on Choctaw St.; no boy at Granny's named Tommy or Indian Tommy or Thomas Atkins that witness knew of. (R. 2075–77.)

JOHN C. KETCHESON:

Lived in Leavenworth since fall of 1886; printing and binding business; printed the 1885 and 1886 directory of Leavenworth; identifies them; Government reads in evidence entries showing Lily White living at 217 Seneca St. in 1885, Granny Letcher at

215 Cherokee St., Jim Mayo at 215 Cherokee St.; also Sam Nash same as Jim and Granny. Directory of 1886 shows Granny Letcher, Jim Mayo, and Sam Nash at 217 Seneca St. and Lillie White at 326 Choctaw St. (R. 2085–87.)

Mrs. A. G. Wilds.

First met Minnie Folk in April, 1915; first went to Minnie's house in July, 1916; asked by one Kohler to ascertain when Minnie was going to leave Seattle, also talked to Betty Mann before she went to Minnie's; Betty and Kohler appeared to be associated in the matter; Betty told witness to just go over and let Minnie talk, see what she had to say and report to her; witness became very friendly with Minnie (R. 2096–98). Minnie talked very freely about her affairs; Minnie told witness that Hanford had beaten her out of money; that Page had paid out $10,000; the first $5,000 for Minnie and the other for Hanford for his services, that Hanford kept the first $5,000 himself and when she went to bank to draw some money there was not a nickel there (R. 2099); Minnie said she had called Hanford down and dropped him cold; witness asked how she came to take Hanford back and Minnie said Long talked her into it; that Long said Hanford knew so much about the case that best thing to do would be to keep him in the case because they had told so many lies at the first trial. (This was in July and August, 1915.) Minnie said Long gave her drinks at the first trial and wanted her to claim the nigger kid and she refused (R. 2099–2100). Minnie said Hanford was a crook; that Page and all of them made her swear to lies and that if she had had her way in the first place she wouldn't have gone to law about it but Page wouldn't have it any other way; that she had a different story every time, that the plans had to be changed altogether after the first trial because they had all sworn to lies; that they made her swear to lies and tried to make her claim the nigger kid; in making these statements lies were referred to frequently by Minnie; Minnie spoke of her visit to Leavenworth and said that the niggers there all swore they knew her and that she never saw any of them before in her life until she went to Leavenworth (R. 2100); she had to give Sadie James credit for finding her (that Minnie gave Sadie a good many facts about herself, but could have given her more), that Sadie had been employed by Page to help manufacture the story of the nigger kid, that Sadie had double-crossed Page and told the truth to the Government and got another $1,000 for that; Minnie told her Long "could make you lie and make you think that you were telling the truth"; said he had made her swear to lies all right, but that he couldn't make her swallow that negro dope. Kohler and Betty told witness they wanted this information in good cause, that Minnie was trying to steal some money away from her child who was going ragged in the streets—called him Tommy Atkins (R. 2101).

Minnie often referred to Tommy Atkins but never as her son or boy; that they had paid witnesses to swear that Tommy was drowned at Leavenworth; Minnie said "I get my money on a dead Tommy Atkins"; the other side still searching for a live Tommy. Page and Long told her if the boy was alive she wouldn't get a cent; that he had to be dead. She later said if other side found the live Tommy she would get half and he would get half.

Witness was instructed by Betty Mann to try to get Minnie to admit there was a live Tommy Atkins; witness asked Minnie if there really was a Tommy Atkins and Minnie hesitated and then said "Sure there was a Tommy Atkins; he is on record and they can't go back on that" Betty Mann, when she was ready to leave Seattle, gave witness the information that there was no Tommy Atkins. Witness advised Mr. Nixon of this and Mr. Talley (Nixon was the one at head of case who employed her; Talley was a lawyer at Tulsa); also advised Interior Department by letter. Reported verbally to Nixon, who had called her from Seattle to Tulsa to check up work done in Seattle by other operatives (R. 2102–03); some of the reports related conversation in which things were supposed to have been said in witness's presence which were never said in her presence (R. 2104). Dictograph had been installed at Minnie's; witness knew of it. Minnie regretted having testified falsely; said if she had her way she would have told it her way in the beginning, but Page wouldn't let her; he wanted to go to law (R. 2106).

Cross-examination:

Govt. Ex. A–101 (R. 4813) is introduced in evidence, letter of witness to Secretary of the Interior. (R. 2150.)

Redirect:

Minnie told witness that Page paid her a salary for seven months before he had any right to do so; it was done on the quiet; said she could have been receiving that salary all her life but that it was cut off after the first trial after Mr. Allen had caught them in the lies. (R. 2156.)

RELATIVE TO CLAIM OF NANCY ATKINS.

Government introduces portion of testimony of *Nancy Atkins* given Feb. 9/14 in case *Nancy Atkins et al.* v. *H. U. Bartlett et al.*, pending in District Court of Creek County, Oklahoma—

Lives at Nowata, Okla.; Micco T. Harjo is her guardian; never married; had female child born to her—born dead; never had any other child; had sister Minnie Atkins and brother Lee Atkins; last saw Minnie in 1895; living at Wagoner when child born; was working at Barnard Hotel; baby born at Mrs. Williams; never had any child with her at Wagoner; never worked at McNally's restaurant; doesn't know Thomas Atkins. (R. 2162–63.)

Robert L. Baugh:

Examined records in office register of deeds Creek County, Okla., with relation to instruments filed for record affecting title of Tommy Atkins allotment; other than the patents no instrument of record prior to deed purporting to have been executed by Minnie Atkins to H. U. Bartlett in October, 1912. First instrument of record to Gem Oil Co. was lease of Alexander McNab and Minnie E. Folk and Harry B. Folk executed June 24, 1914, recorded June 29, 1914, a trust deed by Minnie Folk to McNab dated June 13, 1914, recorded June 22, 1914. (R. 2159.)

ELNORA MAYSHACK:

Lived at Brushy Creek near Wagoner, Okla., for about ten years; was living at Wagoner at the time of payment made to the Creeks in 1890; is a freedman of the Cherokee Nation; knew Nancy Atkins in 1890 and for about a year before that; Nancy lived with witness at time of 1890 payment; had been living with her then about six months, in Wagoner; Nancy had child born in morning; died in afternoon, not at witness' house but in a tent "across the track;" witness was present at birth; Nancy had received one payment before that time and got a payment after child born; Nancy told witness she had no other child; Nancy lived with witness about two years after child was born in Wagoner; then witness went to Brushy Creek; Nancy went with her and stayed about one year; witness would see Nancy after that every two or three months; Nancy never had any other child than one mentioned; no boy lived with Nancy while witness knew her. (R. 2163–67.)

MICCO HARJO:

Citizen of Creek Nation; has known Nancy Atkins for 10 or 12 years; is her guardian; at time of his appointment as guardian Nancy lived at his house in

Nowata; Nancy first told him that child she had was a girl, then said it was a boy; first conversation about it was in 1912; first said it was a boy after Hammett had been to see her about a lease; Nancy had been told that if child was boy she could get lots of money out of it. One Hammett and one White both came up about a lease. Nancy never told witness child was a boy until after she was told if it was a boy she could get money; child was born dead; witness told White what Nancy had said about child being girl, but White said he had evidence that it was a boy. (R. 2168–72.)

ELIZA STERLING:

Was present when Nancy Atkins gave birth to child at Wagoner; child was born dead—it was a girl; child born at Elnora Williams's house; Nancy stayed around Wagoner about 6 or 7 years off and on; then went to Nowata; witness saw her frequently while in Wagoner; Nancy lived with witness part of time; knew of no other child that Nancy had. (R. 2179–82.)

Cross-examination:

Thinks child was born in 1889; witness's mother was midwife and witness went with her on this occasion (R. 2183); changes date of birth of child to 1890 (R. 2186).

Redirect:

Nancy used to lead around boy named Joe, son of Betsy Birney—about 3 or 4 years old; witness didn't know any boy in Wagoner named Thomas Atkins. Nancy took care of Minnie's children, Charlie and

Harvey Harrison, for a while. R. 2186–87. (Govt. Ex. A–104, R. 4821, certified copy of sentence of Nancy to penitentiary introduced, showing date of sentence December 23, 1890. R. 2189.)

ANGELINE MOODY:

Knows Nancy Atkins; knew her parents; was present at birth of child to Nancy at Wagoner in house of Elnora Williams; doesn't know year child born, but before Nancy went to "pen"; it was at the time the Iron Mountain Railroad was being built through Wagoner on north. Child was born dead; this was only time Nancy in family way; child born was girl. (R. 2190–91.)

HENRY ANDERSON:

Lived in Wagoner when Iron Mt. R. R. was being built; was straw boss on gang working on road; became acquainted with Nancy Atkins when he first came to Wagoner; she was then in family way; knew of child being born to Nancy; happened to go to Elnora Williams to look up one of his men, Ellis Harris, and found him digging a hole in the yard; asked him why he didn't come to work and Harris said Nancy had found a baby that night and he was going to dig a hole and put it down there; had a box lying on ground; witness picked off the top and looked at it and saw a little newborn baby in it; Harris said it was Nancy's child; saw Nancy frequently after that for about 5 or 6 years; she was not in family way after that child was born; there was a little boy belonging to Della Snow that ran around with Nancy;

it "run around there with all them women"; witness well acquainted in town; knew a Thomas Atkins who lived north of town ten miles, son of Dick Atkins. (R. 2196–99.)

Cross-examination:

Thomas Atkins he knew was son of Dick Atkins; he was there about the camp; was half negro, part Indian—half brother of Nancy's (R. 2205–06); this Thomas had a sister named Chaney Trent (R. 2208).

DORA SMITH:

Went to Wagoner in 1894 or 1895; lived there 18 or 19 years; knows Nancy Atkins; knew her at Wagoner; she had two little boys who she said were Minnie's boys; Nancy told her once or twice that she was the mother of one child; that it was dead; Nancy never told her of having a boy living. (R. 2209–10).

PATSY WILLER:

Lives in Wagoner; has lived there for 28 or 29 years; was married December 28, 1887, and next day went to Wagoner to make it his home; knew Nancy Atkins; first knew her a few years before witness went to Wagoner; Nancy came to Wagoner after witness; when she came, Nancy was in family way; Mandy Burnett was a midwife; she told witness she was worried over Nancy's condition, as the baby had died; witness understood Mandy to say child was a boy; Mandy told witness the child was buried. Nancy remained in Wagoner 6 or 7 years after this; witness never knew her to be in family way again; would see her frequently; saw Nancy with two little boys, who she told witness were her sister Minnie's; no boy named Thomas Atkins around town that witness knew of. (R. 2211–15.)

Henry Kidd:

Lived in Wagoner from 1892; knows Nancy Atkins; didn't know her when she went to the "pen". Betty Mann and Nancy met witness on street (some time ago) and Nancy told witness she never had but one child and that it was a girl and came dead; Nancy then turned to her lawyers, who were in a buggy, and said, "I told that and I told you Mr. Kidd would tell the truth." Didn't know any Indian named Thomas Atkins at Wagoner; there was a colored boy; witness saw him hauling wood; he was Dick Atkins's boy, brother to Chaney Trent; this boy died when about 13 years old. (R. 2220–22.)

Lula Smith:

Moved to Wagoner in 1891; knew Nancy Atkins; worked with her at Barnard Hotel in Wagoner; Nancy told witness she had a child but that it was dead, either born dead or died soon afterward. Nancy left Wagoner about 5 or 6 years after witness came there; saw Nancy frequently; Nancy had been in "pen" before witness came; Nancy never in family way to witness's knowledge; never knew of any boy around Wagoner named Thomas Atkins. (R. 2223–25.)

Martha Hardridge:

Lived in Wagoner since 1891; knows Nancy Atkins; first met her at Barnard Hotel, where witness and Nancy were working; Nancy was there when witness came; roomed together; worked there off and on for eleven months together. Nancy told witness she had given birth to a child born dead. Nancy didn't have any child with her during that year. Knew Joe Birney when he was a small child; he and Nancy would be around there together, and very often Joe would come to hotel where Nancy worked; witness never knew a Thomas Atkins living around Wagoner (R. 2233–34). Joe was about 5 to 7 years old in 1891 (R. 2235).

PATSY JENKINS:

Lives between Wagoner and Choteau; knows Nancy Atkins; she lived awhile at his house; later brought two boys there, Charlie and Harvey—small boys; knows no boy around Wagoner named Thomas Atkins. Nancy told him she had had a girl born dead—this was told before she brought the two boys over. (R. 2235–37.)

Cross-examination:

Nancy said the boys were her sister Minnie's children. (R. 2238.)

SARAH COATS:

Knows Nancy Atkins; first knew her in 1891, when she was working at Barnard Hotel, Wagoner; witness was working for McAnally (another hotel); saw Nancy frequently; knows no boy, Indian or colored, around Wagoner named Thomas Atkins, or Tommy. (R. 2241–43.)

STUART BREWSTER.

Lawyer; lives in Leavenworth; as a boy played with Alva Adams and boys with whom latter played in 1897–98; names number of boys with whom he played, including Tommy Owens and Tommy York; never was any boy in that crowd at that time named Indian Tommy or Tommy Atkins. (R. 3902–03.)

ALEXANDER J. MACNAB.

First learned that Minnie Atkins claimed to be mother of Thomas Atkins when Sadie James was at Fort Lawton. It was on advice of Hanford and Mrs. McCombs witness got Hanford into the case; he was employed by Minnie; had talked to Sadie and Minnie together at time he called Hanford into case. It was while Sadie was still in Seattle that deed of trust was signed by Minnie to witness; Hanford was sent to Oklahoma by witness as trustee, and witness as trustee made lease to Gem Oil Co. Consideration was $10,000 and one-fourth interest in the oil. Nothing in lease or outside of it that witness remembers that they (Gem) were to pay any attorneys fees of the trustee. Consideration paid in two checks of $5,000 each, payable to Hanford. The first $5,000 was appropriated for attorneys fees and expenses, other $5,000 to be turned over to Minnie at a later date, the reservation made of Minnie's $5,000 because Gem people wanted to get her testimony before it was paid. This was explained to Minnie and was satisfactory to her. Witness explains this did not mean testimony before court, because they had no hope of bringing case to trial within the time stipulated that money should be paid. (R. 4090–94.)

Five thousand dollars was turned over to Hanford and witness by Mrs. Folk (Minnie); of that Hanford took $3,000 for expenses to which he had been put and to carry on case; $2,000 was taken by witness, two hundred of which was used for expenses in case, the balance of $1,800 being on deposit as a fund on which to draw for any legal or other purposes. Minnie wanted witness to keep it as his commission, but he states he could accept no commission for the service; that he did not feel like accepting a commission from her, as he was an officer and she the wife of a soldier. Took the money as a means of protecting Minnie's interests in case it became necessary for him to take legal action involving expenditure of money. (R. 4095.)

Besides executing lease to Gem Oil Co., receiving the $2,000, witness counseled with Minnie and her husband a number of times prior to relinquishing the trusteeship. Nothing paid to or promised him other than $2,000 by anyone connected with this case. (R. 4096.)

Remembers Montgomery having conversation with Minnie in presence of witness and Hanford, in December, 1914, at witnesses office. Minnie signed a statement in regard to Thomas Atkins, which was turned over to witness with understanding that Montgomery was to wire Washington to secure immunity for Minnie from prosecution for previous contrary statements made to court, and when immunity granted, statement was to be turned over to Montgomery. Witness turned it back to Minnie the following day, or within two days, and has not seen it since. (R. 4096–97.)

The substance of the statement was that Minnie had never had a son named Thomas Atkins and that she had had only three children—a girl that died and two boys, Charlie and Harvey. Did not contain statement that Thomas Atkins appearing on 1895 Creek roll was placed there by Minnie and represented name of her father.

Montgomery objected to return of statement to Minnie. He showed a telegram from Washington which dodged the granting of immunity but he still felt he could obtain it.

Statement was signed by Minnie in witness's office and in his presence. (R. 4098.)

Cross-examination:

Minnie did not appear frightened by Montgomery's statement about her committing perjury in her former testimony; her main idea seemed to be to get rid of the case. (R. 4102.)

Returned statement to Minnie because Minnie told him that it was false, that Montgomery had persuaded her to sign it, and upon thinking it over she concluded it was wrong to sign it; that she did have a son named Thomas. This was day following day statement was signed. (R. 4102–04.)

Mrs. McComb first asked witness to see Minnie about this land matter; interviewed Minnie, who told him she had a son Thomas; that he had some claim on land in Oklahoma; that he was dead and she was entitled to the land and had been offered $2,000 for it and was going to take it; she knew nothing of the value of the land.

While at Minnie's, Long came in and Minnie told him that he was to talk to witness as her representative. Long stated he wished to secure deed for land (or lease, witness not sure which). Witness told him he would make investigation to ascertain value of land, title to it, and what offers others would make. Long left some papers which he had prepared for signature. Thereafter witness telephoned Hanford and brought him into the case. (R. 4105–07.)

Sadie James came to Minnie's that same morning after Long had left and told witness and Hanford, who had arrived, Long was not the man she was to bring out to make deal (Bartlett); that he had not yet arrived and urged that no deal be made with Long. (R. 4108.)

Long came again while Sadie was there that afternoon and witness talked to him on way to Post from Minnie's. Long expressed pleasure that responsible people were to handle matter and said all that his firm asked was to be given the same chance as others.

Went back to Minnie's later that afternoon and found she had made up her mind to go with Long to Spokane, where her husband was temporarily stationed, and sign deed for consideration of $4,000.

Minnie thought $4,000 was all the money she could use in her lifetime. (R. 4109.)

Hanford and witness decided it would be very foolish for her to sign deed without knowing what property was and tried to dissuade her from going, and finally did succeed in getting her to go up with them and talk it over with Mrs. McComb. As a result of this talk, it was decided that Minnie should deed over property to him as trustee, so that she wouldn't do anything such as she contemplated doing—deeding property to some one for a small sum without knowing what it was. (R. 4110.)

When witness first saw Minnie that morning before he met Sadie or Long, Minnie told him of Tommy's birth at Leavenworth when she was young and "inexperienced"; seemed embarrassed in telling it. Didn't say what particular place in Leavenworth she had had child; that she turned the boy over to somebody to raise; didn't know his present whereabouts or what had become of him, as she understood boy was dead. (R. 4111-12.)

When Sadie James came, she told witness and Hanford that detectives had followed her. He and Hanford went out and talked with them later; didn't find out who they were. (R. 4114.)

Sadie did not, so far as witness remembers, say anything about Tommy except that he was dead. (R. 4115.)

Sadie had something to do with Minnie's changing her mind about going to Spokane with Long. (R. 4116.)

Went to Mrs. McComb's to get Minnie to turn over matter to witness; Minnie didn't go with them; Hanford and witness went there to get Mrs. McComb to influence Minnie. After talking with Mrs. McComb, they sent for Minnie, and agreement to deed to witness was made and trust deed executed. (R. 4117.)

Cross-examination by HANFORD:

Remembers that Sadie told Minnie that she (Minnie) didn't know that Tommy was dead and that Minnie said she didn't know that he was dead of her own knowledge. (R. 4121.)

Was reluctant to accept trusteeship. No understanding between Minnie or any of the parties that any compensation was to be received by witness. Objected to provision in lease for percentage of profits of lease being paid trustee, but was told by Hanford this was to make it irrevocable, so that Minnie could not revoke at will. (R. 4124-25.)

Agreed to see that Minnie got $5,000 for lease, and it was understood when Hanford went to Oklahoma that Minnie must receive in cash at least as much as she would had she deeded to Long. "We raised it a thousand dollars, in order to make it so much better than a deed would have been; so the sum of five thousand dollars was to be obtained for Minnie in cash for her lease." (R. 4127.)

When Montgomery interviewed witness he stated the government had decided to take a hand in the matter, as the case seemed rather involved, and that he was there for the sole purpose of getting the facts for the benefit of the government. He gave the impression to witness that he was not interested in the case in any way; didn't state government's position in the case. (R. 4130-31.)

Just before Minnie signed the statement made to Montgomery she asked "What would happen if I sign that thing and it isn't true?" and that both Montgomery and he told her that if there ever was a time when she could get down and tell a truth, it was then and if it wasn't the truth she should not sign it. (R. 4133.)

Doesn't remember Minnie making any declaration at or just prior to signing statement that she was the mother of Tommy Atkins and that he (Montgomery) could never make her change that. (R. 4135.)

Remembers that Hanford charged Montgomery with misrepresenting his status and that he was merely an attorney for an opposing interest (the Creek Nation), and that Montgomery stated he only wanted to find out the truth. Also remembers that Minnie asked if land reverted to Creek Nation if her boys would get a share. Montgomery told her if land reverted to Creek Nation all the members of the Nation would have an equal interest in it. (R. 4135–37.)

Called up Montgomery on the telephone the next evening after statement was signed and told him he (witness) was convinced statements made therein were untrue; that he (Montgomery) had in a measure been unfair; that he had used witness's name and had gotten at Minnie through witness indirectly; that witness had told him from the start he didn't wish him to do that; that he (witness) didn't want to have anything to do in the case; that he (Montgomery) through misrepresentation in a way had gotten Minnie up to witness's quarters to sign this statement and that all the time, directly opposed to witness's wishes, he had operated on Minnie's sympathies through his apparent influence with witness and his apparent standing with witness, and witness felt that he (Montgomery) had been unfair; that he had gotten witness into the case again when he didn't wish to be; that he had used witness's influence over Minnie to get this statement signed and that witness felt thoroughly convinced that it was untrue; that he hadn't got the immunity that was promised and if he had it would have made no difference; that witness was thoroughly convinced that the statement was untrue and he was going to turn it back to her. (R. 4137.)

Didn't want to be concerned in case, because he had carried on as far as he had intended to; it was a great deal of trouble and worry and he felt that Minnie was secure and wouldn't be bilked out of the property and he gave it over and deeded back. The understanding with Minnie at time that he took the trusteeship was that it should extend only until that stage was reached. (R. 4138–39.)

Hanford told witness at that time, or a little later, that Montgomery was not a disinterested official of the Interior Department, but that he was representing a special interest that was a co-claimant for the property. Doesn't remember when he first learned of Creek Nation's interest and that Montgomery's object was to obtain from Minnie a statement against her own claim, so as to have it revert to Creek Nation. (R. 4139–40.)

Redirect:

Minnie told him she had put children on roll to get money for them; she had drawn the allotment for them while going through Oklahoma. (R. 4142-43).

Doesn't recall whether Long's first offer was $2,000, but his second, the one in the afternoon, was $4,000. Believes there was with papers Long left a statement for Minnie to sign, stating that Minnie was mother of Thomas Atkins and he was dead. (R. 4143–44.)

Doesn't know whether Sadie James had talked to Minnie before she told him about having Tommy at that time; Minnie did tell of having an offer of $2,000 for the property and that a man was coming during the day to talk over and complete the deal. (R. 4145.)

The $2,000 paid to him out of first $5,000 received for lease was paid to witness as his fee for services. He didn't see anything improper in accepting it but later felt that he should return it to be disbursed in Minnie's interest. The further disposition of the $2,000 is a matter which concerns him personally and a matter of his own desire; he is under no legal obligation to pay any part of the money in furthering the litigation. (R. 4147–49.)

Had information about interest of Creek Nation and of filing made upon this land by one Garrett and understood that action by Creek Nation was only preliminary to the filing for title by Garrett interests, before he saw Minnie the day following her confession and *thinks* he had it when Minnie signed the confession. (R. 4150.)

Hanford saw Minnie the night of the day she made the confession and thereafter saw witness. (R. 4150.)

Deeded back property to Minnie because it was desired by her, and witness felt she was distrustful of him. (R. 4151–52.)

Recalls that Montgomery showed him telegram signed by Mr. Sells, Commissioner of Indian Affairs.

Doesn't remember at time of Minnie's confession whether Hanford told Minnie that if she signed confession it would mean that she would lose right in the allotment, but he does know Minnie so understood because she asked if that was the case and was told it was. Hanford was present and advising her then taking part in the discussion. (R. 4152.)

Cross-examination:

Is quite sure but doesn't know of own knowledge, Minnie had received the $5,000 when she signed confession. (R. 4153.) Hanford said to Montgomery that talk about immunity for Minnie had nothing to do with case, or "can not be done"; Hanford took issue with Montgomery over question of whether it was necessary or could be gotten. (R. 4155.)

T. HOWARD MORTON:

Lived in Wagoner, Oklahoma, since 1891; knew Nancy Atkins about time he went there (1891); was with Davis & Jones Mercantile Co.; never knew of Nancy's having boy named Thomas Atkins or any living child; knew Thomas Atkins, son of Richard Atkins; he died when 10–12 years old; doesn't remember year; saw him frequently around store; can't recall ever seeing him with Nancy; this Thomas hauled wood for witness. (R. 4298–4300.)

JIM CHILDERS:

Citizen of Creek Nation; son of Napoleon Bonaparte Childers; brother of Ellis Childers; knew Dick Atkins; they lived about 1½ miles from father's place northwest of Wagoner; first knew Nancy Atkins in 1890 in Wagoner; knew her when she was in a family way; she was living at Birney's when in that condition; saw her two or three months after this condition disappeared; up to about 1894; witness worked in Davis & Jones' store, began in 1894, worked a year; would see Nancy often in store; knew Thomas Atkins, son of Dick Atkins; would see him at the store; would see him sometimes with Nancy for two or three days. Thomas was about four or five years old; never knew of any other Thomas Atkins in Wagoner. Nancy kept Charlie and Harvey, Minnie's children, for awhile. Witness took Harvey and kept him; Nancy asked him to take care of him as she couldn't; he was then four or five years old; kept him until 1898, then turned him over to Kate Holden; Birney children and others would be around with Nancy—would come into the store. (R. 4300–06.)

THOMAS AUGUSTUS MOZEE:

As a small boy played all over town of Leavenworth; played around Ella Abbott's place over Abele's drug store; played with Tommy Owens, Willie Owens, two boys named Dix; played around Crilly's barn on Seneca Street between 2d and 3rd with Tommy Owens; witness sometimes called Tom Doyle; Tommy York also played with witness; didn't know any boy named Tommy who lived or played up on Seneca Street other than Tommy Owens, Tommy York, and himself.

Played on the stairway leading upstairs over Abele's drug store where Ella Abbott lived; no boy that lived there played with witness; did not know of any boy living there; did not know any boy in town called Commodore or Tommodore; knew Mr. Crilly by sight; Tommy Owens called witness Tom and did so around Crilly's barn. (R. 4482–87.)

Knew Walter Banks; he was older than witness; he lived on Seneca between 2d and 3d. (R. 4490.)

MRS. ADA ARMERLY VAN DUZEE:

Testifies she lived in house on 2d Street about a block from 217 Seneca Street; knew that there was a family living across the street from Crilly's barn who were running a house of ill fame; they were white people; people in her block talked over the matter; it was very obnoxious to them. This was in 1885. (R. 4505-09.)

RICHARD NICHOLS:

Colored. Was a witness in case of Nancy Atkins et al. *v.* Minnie Atkins et al.; gave testimony by deposition at county courthouse at Leavenworth on October 7, 1914; when he came off witness stand Rube Smith gave him $5.00; asked if anybody went over his testimony with him before he went on stand, witness replied "No, sir," and made like answer to an inquiry if anybody had talked about what the other witnesses testified to before he went on stand. Government claimed surprise because this was in conflict with statement made prior to going on the witness stand (R. 3254–55). Witness then cross-examined by government counsel.

Witness admits talking to assistant United States attorney and Mr. Allen one or two weeks previous; denies that he said in conversation with them that Rube Smith and Dennis Jones went over testimony of other witnesses with him before he went on stand. Admits having conversation with Fred Cook and Mr. Allen in Codding's office in Leavenworth about a year previous, but denies saying then that he knew nothing about the case; that Rube Smith told him that he could just as well make some money out of it and that Rube went over testimony of the other witnesses with witness and that he (witness) went on stand and swore to just what the others were swearing to; states that a stenographer was there taking down "some stuff," but that witness wouldn't sign any statement. Denies that he stated that reason he wouldn't sign was because Dennis Jones wouldn't let him; admits that he testified in 1914 that he knew Minnie Atkins, but denies that he told government officials that Dennis Jones and Rube Smith had put him up to say that and that in fact he didn't know her. (R. 3256–57.)

Cross-examination:

Was threatened by government officials with prosecution for perjury if he didn't tell truth and change his statement; that "he had better get right." (R. 3258.)

Redirect:

Admits first talk with Mr. Allen; was in office when stenographer took down what was said, and that witness agreed to return and sign statement when transcribed; didn't go back.

Q. And you told Mr. German and Mr. Bagley and myself in the National Hotel that the reason that you didn't come back was because Dennis Jones told you not to come back?

A. I might have had, but then if I had Mr. Bond and Mr. Jones and them—they was on the other side; of course there wasn't no use of me going back there unless I was going to change that, and I can't change that and tell the truth, and there wasn't no reason for me to go back. Wasn't no reason to care if I could read it; I could tell, but there wasn't no use of my going back. It wasn't worth while. (R. 3259.)

Cross-examination:

States that he is deputy sheriff and janitor at courthouse and expects tip when rooms are used; asked Rube Smith what was going on and was told depositions were being taken "about Minnie Atkins"; said he knew her; this was overheard by Hanford, counsel for Minnie, who put him on stand; that was all the conversation had. (R. 3260–61.)

Re-examination:

Asked if he had not stated to government counsel that various witnesses who had testified had received money for so doing admits partially that that was true, and admits that the defendants counsel arranged or promised to take him to Oklahoma as a witness; does not directly admit promise of additional money to him or that he made statement that such promise was made. (R. 3262–63.)

After interview with government counsel at Codding's office, witness went to district judge and told him about it, and that he had testified to truth on stand. Judge told him to stick to truth. (R. 3263.)

Recross:

Admits that government counsel in Codding's office told him that all they wanted was the truth about the matter. (R. 3265.) Denies that he told government counsel that he was afraid to testify for government for fear that he would lose his job. as Rube Smith and Dennis Jones were strong in politics (R. 3268); admits that counsel for government told him that government could not and would not pay a cent for testimony (R. 3271–72).

Charlie Anderson (introduced by defendants):

Gave deposition October 7, 1915, in case Atkins *v.* Atkins; went over to courthouse to see who were to be witnesses; didn't know until called that he was to be a witness; was paid $5.00 by Rube Smith after he had testified. (R. 3273.)

Dennis Jones hired and paid him to trail or shadow Sadie James. (R. 3283.)

For Minnie Atkins.

Emily Ripley:

Went to Fort Leavenworth, Kansas, in 1878; husband was chief clerk of military prison; knew Mrs. Lettie Grodevant quite intimately; visited her frequently and Mrs. Grodevant visited her; saw Indian Minnie at Grodevants; she appeared in family way—saw her through a window—and discussed it with Mrs. Grodevant; appeared advanced; that was in 1885, before August; saw her afterwards, condition normal; Mrs. Grodevant told her Minnie had had a baby. (R. 2797–99.)

Cross-examination:

Only time she observed Minnie around fort was while she was living at Grodevants; knew Mrs. Grodevant very intimately before her marriage; lived next door to her at fort; Mrs. Grodevant, for about 2 or 3 years after marriage, lived next door to witness;

doesn't remember year Mrs. Grodevant was married; remembers birth of a stillborn child to Mrs. Grodevant the first year of her marriage, but can't tell the year it was. (R. 2801–02.) Doesn't know what became of Minnie after she left Grodevants. Reason witness gives time of seeing Minnie pregnant while latter was at Grodevants is because that is only time she ever knew Minnie at the fort (R. 2804); was in Mrs. Grodevant's house at time she noticed Minnie—latter was in the yard; had seen Minnie a few months before; can't tell how long afterwards she again saw Minnie; noticed condition of pregnancy but once; fixes year when she saw Minnie thus as 1885, because that year she gave birth to a child and buried one (R. 2805); child born in January, 1885; the one that died, died in August; had not seen Minnie until latter part of May or first of June, 1885; witness had gone frequently to Grodevants prior to birth of her child in January, 1885; Minnie was not working for Grodevant then (R. 2806); went to Mrs. Grodevant's during a period of 3 or 4 months after birth of child until time she saw Minnie first; would sometimes (not often) dine there in evening; played cards there in evening (R. 2807). Witness now says she first saw Minnie a month prior to the time she noticed the evidence of pregnancy in May or June, 1885 (R. 2808–09); saw Minnie working in kitchen about two months later; condition of pregnancy had disappeared (witness was in dining room); from first time she saw Minnie witness would see Minnie almost every day she was at

Grodevants (R. 2811); *first* time she saw Minnie at Grodevants was in May or June (R. 2812); the evidence of pregnancy which she observed was pronounced (R. 2813).

Lee Bond was first to talk to witness about this matter; in summer of 1915; Mr. Long was with Mr. Bond; Long talked to her; a man who said he was a lawyer also talked with her in Cincinnati; recently talked to Bond and Judge Stuart; now staying at hotel where Mrs. Bond is—"around there together." (R. 2815–16.)

At time witness remarked to Mrs. Grodevant that Minnie was in pregnant condition, Mrs. Grodevant expressed no surprise; said she was afraid she (Minnie) was. (R. 2816.)

Witness now says the first time she saw Minnie might have been *two* months before she noticed pregnancy. It was before witness's child was born that Mrs. Grodevant told her she was going to have an Indian girl work for her. (R. 2819.) In March or April she first saw Minnie; last and only time she saw Minnie after she had seen her in pregnant condition. Mr. Bond and witness's son married sisters. (R. 2821.) Associates seeing Minnie with death of her own child because that year was memorable to her; Mrs. Grodevant and she had been warm friends, but just before death of her child in August Mrs. Grodevant and she had a difference and "I missed her very much and she didn't come to my house." Mrs. Grodevant and witness patched up their difference prior to Grodevants leaving fort in fall of 1889 or 1890. (R. 2824–25.)

Cornelia Hyde Collins:

Daughter of Geo. H. Hyde; resided in Leavenworth during years 1884 and 1885; was 14 years old in '84; knew Minnie Atkins; she worked for Hydes a few months; Minnie left suddenly; remembers seeing "this soldier" two or three times around back door; thought he came to see Minnie; saw Minnie once after she left their employ; witness was driving down Choctaw Street, Leavenworth, and saw Minnie on that street between 3d and 4th; she was without a hat "apparently as if she were staying about there"; Choctaw St. was a disreputable part of town; Minnie was standing in front of a disreputable place; this about two months after Minnie left their employ; witness shocked at her condition—pregnant; concluded it must have happened while Minnie at their house; never saw Minnie again; heard of her having one baby. (R. 2826–30.)

Cross-examination:

Mr. Long came to witness's house once and told her of Atkins case and of the child being born at a negro's house, between the time Minnie worked for them and the time she worked at Grodevants at the Fort; witness had told him that she was unable at that time to state definitely just how long it was after Minnie left their house until she saw in pregnant condition, and witness wrote Mr. Allen (for Government) to the same effect; Mr. Long explained that Minnie's winning valuable land involved was dependent upon proving that she had child at negro's house between time she worked for witness's parents and Grodevants. (R. 2830–31.)

Mrs. John D. Sheehan:

Lived at Fort Leavenworth when a girl; knew Mrs. Grodevant, she lived next door to witness; assisted Mrs. Grodevant in household duties; witness then about 16 years old; Mrs. Grodevant didn't employ help regularly; a parole man from the prison would help around house; thinks it was about 1884 or '85 that she assisted Mrs. Grodevant; assisted her about three weeks at this time; never knew of a girl named Minnie Atkins working for Mrs. Grodevant. (R. 2835–37.)

David Atchison:

Was engaged in wood, coal, and ice business in Leavenworth in 1880 at 4th and Seneca Streets, a block and a half west of Crilly's barn; knew girl named Indian Minnie; first saw her in 1885; she used to come to order wood and coal; had a baby with her; ordered wood and coal for Mrs. Letcher; Mrs. Letcher lived on Cherokee Street, between 2d and 3d, then moved to Seneca between 2d and 3d; recalls the year he saw Minnie as 1885 because it was year before real estate boom in Leavenworth. In going to ice house from wood yard, went by Granny Letcher's house and saw Minnie in the yard a few times. (R. 2842–45.)

Cross-examination.

Witness is father-in-law of Lee Bond; son of witness Mrs. Ripley married one of witness's daughters.

Lee Bond asked witness if he knew Indian Minnie; witness said, "No; who is Indian Minnie?" Bond replied, "You ought to know Indian Minnie; she lived in your neighborhood." Witness said he would study up and then began to think about this woman coming to get coal with baby in her arms. (R. 2845.)

Minnie began buying wood from witness during winter of 1885-86. (R. 2847.) Minnie later went out to Fort to work for Grodevant when child was less than a year old (R. 2850); saw the child in Letcher's yard when it was able to walk; there were other children there—white (R. 2855); saw child when it was about 7 years old (R. 2856-57). Attention of witness called to testimony given by him preceding spring wherein he stated that he believed he saw Minnie in 1884; he now says between '83 and '86 and also that she didn't have the baby in 1884. (R. 2858-59.)

L. B. Bell:

Went to Leavenworth to live in 1884; knew Indian woman there called Indian Minnie who lived at Granny Letcher's on Seneca Street; witness was hack driving and drove Minnie to Fort on one occasion; there was an Indian boy at Granny's—two years old when witness first saw him—called Commodore, also Tommy Atkins; must have been 6 or 7 years old when witness last saw him; never saw Minnie with this boy. (R. 2859-61.)

Cross-examination.

First saw Minnie in winter of '84-'85; never saw her after he hauled her to Fort; saw the boy two years afterward; never saw Minnie at Granny Letcher's; doesn't know anything of her having any boy—the boy that played around there was called Indian Minnie's boy. (R. 2863.) Pomp Graham first talked to him about case (R. 2864); drove Minnie to Fort in spring of '84 (R. 2865); doesn't know any of the people who lived at Granny Letcher's; doesn't recall seeing Minnie until he went to hack driving in January, 1885 (R. 2867).

Mrs. Lucinda R. Riley:

Witness born and raised at 326 Choctaw St., Leavenworth; her mother owned that property; moved from there in the spring of 1885; Lily White moved there immediately after they moved out; leased property from witness's mother. (R. 2871.)

Cross-examination:

Thinks Lily White came there from place on Seneca Street; Lily lived there (Choctaw Street) about a year, possibly longer (R. 2872); witness moved back to Choctaw St. house in May, 1888—house had been vacated about three months before; thinks another party had lived there after Lilly White moved out (R. 2873); Lily White's hurry to get into house was on account of action of city council requiring her to vacate her Seneca St. place (R. 2875).

Mrs. John Welch:

Father worked at Crilly's; witness carried his meals; saw Banks boy, two other boys, and Tommy Atkins around there; Tommy was living in the Feth house when witness moved there; Tommy was 7 or

8 years old then; recalls that mother and she stopped a quarrel between older boys and Tommy; knew of Tommy being there with Granny Letcher until about 1894. (R. 2877–80.)

Cross-examination:

Tommy was small—about 2 years old—when witness first learned his name; Granny told witness this boy was a child of Indian Minnie (R. 2882); Mr. Crilly brought Long to witness's place about 2 or 3 years ago; Long asked her if she knew Tommy Atkins and Granny Letcher (R. 2884); witness born in 1876; was about six years old when she first saw Tommy around Crilly's (R. 2890).

PHILIP TUCHER:

Worked for Crilly & Cranston; Van Tyle & Geo. Waller; Crilly & Cranston were on Seneca St. between 2d and 3d, north side of street; Van Tyle's was at 3d and Seneca; worked around that block 18 years; knew Granny Letcher; she lived on Seneca between 2d and 3d—right across from Crilly's barn; knew Indian girl named Indian Minnie who lived with Granny, saw her for a year or more there; saw her in pregnant condition; saw her nursing baby afterwards on porch at Granny's; saw her carrying baby in her arms; saw baby after he grew up and got to playing around in yard—called him Tommy, nicknamed him Commodore; didn't come around the barn; was about 4 or 5½ years old then (about 1890); doesn't know positively what year Minnie had this boy. (R. 2891–93.)

Cross-examination:

About five years before fire that destroyed Crilly's barn witness commenced working on Seneca Street; Granny Letcher not on that street then; Dotter living in the house Granny later occupied; several families moved in and out after Dotter before Granny lived there (R. 2895); didn't see Indian woman before Granny moved into the house; Jim Mayo was about 30 years old when Granny moved into house; Sam Nash, about 18 or 19 (R. 2896–97); Tommy only child witness paid any attention to; Indian Minnie stayed with Granny Letcher until Tommy was about 3 years old (R. 2897); is positive Granny was living in Seneca Street house when Minnie was pregnant (R. 2899).

Crilly first mentioned case to witness winter before last. Came with Hanford to Kansas City to see witness (R. 2902); Crilly asked if he knew Indian Minnie and if he knew her when she had the child; doesn't remember Lilly White (R. 2903).

Recalled.

Saw Indian Tommy around Ella Abbott's place over Abel's drug store, 3d and Cherokee Sts.; knew boy until he was about 3 or 4 years old. (R. 2995–96.)

Mrs. Ina Massie McCormick:

Wife of Dr. John A. McCormick; husband told her of attending a childbirth of a young Indian girl in Leavenworth in 18*65* (probably means 18*85*) (R. 2905); saw this Indian girl once when she came with a woman named Letcher to see Dr. McCormick (R. 2906).

Cross-examination:

Dr. retired from active practice in early '80's—'83 or '84—but he had a great many families that he cared for and was their physician after that; Dr. asked witness if she wanted to see the Indian girl; simply went and looked at her (R. 2908); knew this colored woman with Indian girl to be a midwife; can't describe colored woman; can't describe Indian girl—just an ordinary Indian girl; has no judgment as to what her age was (R. 2910–11); husband asked her if she wanted to come in and see the Indian girl who had had the baby (R. 2912).

ALEXANDER FORD:

Came to Leavenworth in 1875 or '76; worked for Dave Atchison in 1885; was sort of foreman for him in hauling of wood from Missouri; some days would stay around wood yard working or delivering; knew an Indian woman (Indian Minnie); saw her around wood yard; first time witness saw her she came for baskets of chips "and things," from Mrs. Letchers; had a "papoose baby" with her; saw her several times; saw her once by the house; understood child's name was Tommy. (R. 2913–15.)

Cross-examination:

Heard child spoken of as Tommy at Letcher's (R. 2916); that was about 1885; talked to Hanford and Long about matter (R. 2917); child was about five or six months old when witness first saw him (never saw him but once; R. 2918); Rube Smith came to his house and asked him to come to Leavenworth to testify; "they" gave him a couple of dollars one time and $5 another time—received $10 or $12 all together; talked to Long, Hanford, and Bond (R. 2919); saw Indian woman at Letcher's during a period of two or three months; last time witness saw child he was 7 or 8 months old (R. 2920); has no way of fixing time he saw this Indian woman at wood yard except that it was in the eighties (R. 2922); Granny Letcher lived on Seneca St. between 2d and 3d at that time in the *frame* house (R. 2023); child looked to witness to be full-blood Indian (R. 2924).

WILLIAM D. FORD:

Lived in Leavenworth in 1885; worked at times for Dave Atchison at wood yard, 4th and Seneca Streets; knew Indian woman called Indian Minnie "around there"; every time she came around there she carried a baby in her arms; heard the baby called papoose; thinks this was in 1885; they lived at Letcher's on Seneca between 2d and 3d; never saw Indian Minnie at Letcher's but did see the baby. (R. 2926–27.)

Cross-examination:

Saw baby in 1895, was then 10 or 11 years old; witness was told it was the same boy; was at the wood yard only one summer—the summer he saw Indian Minnie before he went away to Missouri. (R. 2928–30.)

(Witness seems confused as to his dates; states it was summer, 1883, then 1885. R. 2930–31.)

Witness talked with Hanford and Rube Smith about the case (R. 2932–34); Mr. Bond gave him $10 when witness came over to testify; received $6 since that; Mr. Bond is to pay his board. (R. 2935.)

John F. Roderick:

Was a member of firm that ran a bus line from Leavenworth to the fort between years 1879–1885; knew Indian Minnie; first saw her on corner 5th and Shawnee Streets waiting for a bus to the fort; remembers hauling her time and again, back and forth between town and fort; on one occasion about last of June or first of July went in Mollie Peters's at 3d and Seneca (Seneca Hotel); Mollie was a fortune teller and also waited on women; Mollie told him she had just brought a baby into the world and for witness to go over and see it; witness went over and saw baby lying by the side of Indian Minnie; about 3 or 4 weeks later went there again and asked about baby, and was asked to get baby, and did so, and took it over to Aunt Mollie's; baby was in house across from Seneca House; colored people lived there. (R. 2937–41.)

Minnie was at bus stand when he first saw her; didn't see her go in bus. "How I knew this Indian Minnie; I recognized her; they told me afterwards who she was"; didn't discover that she was in family way then, but *he did* discover it; saw her 3 or 4 times a week on an average (R. 2943). It was last of October or first of November, 1884, when he first saw her; witness drove busses mostly at night; saw Minnie riding in busses; she rode in the bus he was driving (R. 2944); first time he saw Minnie at Molly Peters's was in 1882 (R. 2945); the baby was 3 or 4 days old when he first saw it (R. 2947); child was 10 or 12 days old when he took it from house across from old Seneca House to Molly Peters's; first saw Minnie on street with baby in her arms about 8th or 10th of July, 1885 (R. 2951); after he dissolved partnership with Crilly & Cranston he went to Fort Riley and stayed until November, 1885, then began running bus again; never saw Indian woman again until two years ago (R. 2953); saw this Indian woman several times with Mollie Peters; she was on her way to Lange's drug store when witness saw her with baby (R. 2954); called the baby Tommy Atkins, also called papoose; admits that papoose is all he ever heard child called. [Note: In previous testimony at Leavenworth he stated that when he took child to Aunt Mollie's it was 1½ months old. (R. 2956.)] Crilly talked with him about case, also Long (R. 2958); denies that at Leavenworth he *did not* testify that when Long first talked to him he could not remember anything about it (R. 2959).

A. L. Johnson:

Physician and surgeon; lived in Leavenworth in the eighties; remembers attending Mrs. Mattie Edwards (now Cobb) at childbirth in April, 1885, at old Seneca House on Seneca St.; second day after Mrs. Edwards' confinement he called to see her; a woman came in and after she went out Mrs. Edwards said to witness that he might have a case there; didn't learn woman's name; saw that woman about two months ago at his daughter's house; she came with Mr. Long; Long introduced her as Mrs. Folk; identified her as same woman he had seen at Mrs. Edwards's; knew Granny Letcher; was called there to see Indian baby boy in February, 1886; baby was about six months old; it was dark complexioned; didn't look like a nigger; treated baby again in June, 1886, at same place; it was about a year old. (R. 2961–65.)

Cross-examination:

Fixes time of incident regarding Mrs. Edwards' baby by fact that he was then living on the "Hastian place" just out of city limits; kept no record of obstetrical cases until 1889; can not tell any other obstetrical cases he attended that year; received letter from Mr. Bond asking if he had attended Mrs. Edwards in April, 1885; wrote Bond he had no record; was asked to go to Federal Building at San Francisco; young man there asked him about confinement of Mrs. Edwards and if he was sure it was 1884 or 1885; witness said couldn't swear to it; witness asked his daughter, who fixed it with reference to time witness and wife made trip to Chicago (R. 2966–67); letter written by witness to this man (Rathburn) March 22/16; (Def. Ex. B–2, R. 4937); states birth was in April, 1884; the statements then made were facts as he remembered them; after that letter Mr. Long came with Mrs. Folk to see him (R. 2968); another doctor assisted at confinement of Mrs. Edwards—was a stranger to witness, can not tell his name; Granny

Letcher lived across street from Mrs. Edwards at this time (R. 2969); at the time he saw this woman at Mrs. Edwards' he didn't notice that she was pregnant; she was in room about five minutes; recalled the face when he saw it 32 years later (R. 2972).

[See in connection with this testimony Def. Ex. B-3, B-4, B-5, B-6, R. 4938-40.]

Regarding Ex. B-3, Dr. Johnson says in answering that letter he made no investigation to determine whether date stated in letter was true; just took it for granted date given in Bond's letter was correct (R. 2990-91). Came to Muskogee to testify at Mr. Long's request; agreed to come for expenses and time; received check for $250 from Long (R. 2991-92). Judge Stuart (counsel for defendant) told witness not to talk to anyone (R. 2994).

C. R. Carpenter:

Physician; practiced in Leavenworth 30 years; remembers being requested in 1886 by man named Peterkin to attend woman in confinement in Leavenworth on North H. Street (R. 2997); found woman in labor; a physician can determine whether woman in labor has had a child before; details changes which take place in pregnant woman during labor (R. 2998); the substance of that is that membrane of organ is ruptured and while these tears heal the edges never come together, thus leaving a notch or scar. Made an examination of this woman to see if this was first child and found evidences of previous labors; notches are evidence of a full birth (R. 2999).

Cross-examination:

Understands house where confinement took place was Wood's house (R. 3000); recollection is that it was in daytime that he reached house (R. 3001); recollection child born during night; light (lamp) was "kinder dim"; examination to determine evidences of previous labor is important because first labor is always hardest (R. 3003); in all labors there are lacerations of the womb but not always lacerations of perineum; doesn't think that there were any lacerations of the perineum—it was perfectly normal; might have been some lacerations of perineum—wouldn't be sure (R. 3004).

Will not state that after labor has begun one can by digital examination tell positively whether woman has previously given birth to a child, but says one can in a majority of cases. (R. 3010.)

First man who talked to witness about the case was a detective; never did know his name; Mr. Anderson, a lawyer of Los Angeles, also talked with him; told Mr. Anderson that he couldn't remember whether that was her first child and that he would try to get his records and ascertain. Witness was very hazy about matter, and at that time only thing he could remember was Peterkin coming for him; wrote for records, but they were gone. (R. 3014–15.) Upon testing his memory he began to recollect that during this examination of this woman he had found evidences of previous labor. (R. 3015–16.)

Attention of witness directed to deposition taken before examiner in California wherein he stated that he had told Messrs. Allen and Cook when they had talked to him that his best recollection was that it was the first child born to her; denies that he stated on that occasion that it would be impossible for him to testify with any degree of certainty as to whether it was her first child by reason of the large number of childbirths occurring during his practice attended by him. (R. 3016–17.) Later, says that he presumes he gave the answer to the questions which the deposition shows. Admits stating on deposition that his recollection was that this was first child; that his records would probably show, but that he didn't always note that point in his records; never received any of the records sent for; had not had his memory refreshed by any record, statement, etc. (R. 3017.)

(See also R. 3020-21 for additional questions and answers of like tenor relative former testimony.)

Witness is asked about correspondence between Mr. Allen and himself relative his testimony. (R. 3022-23.) Govt. Ex. 4, 5, 6, 7, 8, 9. (R. 4852–56.)

MILTON WEBSTER:

Knew Indian Minnie at Granny Letcher's in 1885 or 1886; saw her in a family way—far gone on May 30, 1885; she had a baby boy—was about 4 or 5 weeks old when witness first saw it—this not long after he had last seen her when pregnant; Minnie told him it was her child; last time saw child it was about 11 or 12 months old; witness left Leavenworth in 1887; never saw Minnie or child thereafter. (R. 3030–32.)

Cross-examination:

Last time saw child was in fall of 1887. (R. 3032.)

Adolph Lange:

Was in drug business in Leavenworth in 1884 and 1885 on 4th and Shawnee St.; lived over store; knew Indian Minnie, saw her frequently; knew Mollie Peters as a fortune teller; saw Indian Minnie with her; they came to his store. Witness made trip to Saxony in 1884; returned from Europe in September, 1884; saw Indian Minnie after that time in pregnant condition; it was year following, in '85; it was warm weather; remembers selling Minnie a peculiar shaped pocketbook at the time. (R. 3047–50.)

Cross-examination:

His understanding that Minnie stayed with Mollie Peters; was on ship leaving for Europe June 18, 1884; knew Indian Minnie before he went to Europe; saw her around Leavenworth before July 11, 1884; she came to his store before that time, sometimes on errands for Molly Peters; first saw her the year of 1884—before he went to Europe (R. 3052-53). After his return, in September, 1884, Minnie would come to his store once or twice a week (R. 3054).

A. W. Hopkins:

Lived in Leavenworth 40 years; grand secretary of secret order of Knights and Daughters of Tabor—a beneficial order of colored people; association met in grand lodge; meeting in Memphis in 1884; acted as outside sentinel there—Indian woman, mixed breed, was inside sentinel; she asked witness if he knew of young woman in Leavenworth named Minnie Atkins; returned to Leavenworth in September or October, made some inquiries, but didn't find Minnie at that time; finally in spring located her at Granny Letcher's; saw her in summer and she had a baby in her arms; walked up to her and looked at baby—Minnie said it was hers. (R. 3067–70.)

Cross-examination:

Granny Letcher then living in Seneca Street, right across from Crilly's barn (R. 3075); denies having talked with Sadie James and told her that he didn't know Minnie or an Indian boy (R. 3079). After depositions were taken in Leavenworth, some lawyer asked witness if he understood, or did Dennis Jones and Rube Smith understand, that he (witness) was father of Minnie's child, and witness told them he didn't know what they understood (R. 3081).

W. P. Gempel:

Bookkeeper at Leavenworth Water Co. Identifies a contract for water service at 215 Cherokee St. dated Oct. 23/85 for saloon of Max Harris; also plumber's return Oct. 22/85 certifying that fixtures have been installed. (R. 3087–89.)

M. A. Harris:

Formerly in saloon business at 215 Cherokee St., Leavenworth; remembers having water installed there; doesn't remember the date he moved in; it was in 1885. (R. 3096-97.)

Lizzie Kazey:

Laundress; knew Granny Letcher; went to see her occasionally; knew her when Granny lived on

Cherokee St. and on Seneca St. between 2d and 3d; saw Indian girl called Minnie Atkins at Granny's twice; she had a child about 2 years old, named Tommy Atkins. (R. 3098-99.)

Cross-examination:

Saw child on both visits, which were about two weeks apart; doesn't know date or year it was; married in May, 1882; it was after her marriage when she saw Minnie and Tommy, perhaps it was two years after her marriage (R. 3099–3100); went to Granny for advice regarding housekeeping; when first married lived on Miami St. for a year, then to Osage St. for five years; was probably the first year she moved to Osage St. that she went to see Granny Letcher and when she saw Tommy, who was then, witness says, two years old (R. 3102–03). [Note.—This would make Tommy two years old in 1884.]

Sadie James was at witness's house in December, 1914; asked her if she knew Mary Letcher and if she remembered boys Mrs. Letcher raised; told Sadie she remembered Walter and Sammy Nash. (R. 3103–04.)

> Q. Now, did you tell Sadie James, Lizzie, that they wanted you to swear that you knew Indian Minnie and Tommy and you had agreed to do it, but when the time came God wouldn't let you swear that lie; that you were 51 years old and a Christian?
>
> A. I never told her anyone was after me because I didn't know what she wanted with me at that time.
>
> Q. Did you tell her this other?
>
> A. No, sir; I never told her nothing like that. Some gentleman was with her; I don't know

who it was—but I never told her that, though. I didn't tell her somebody was trying to get me to swear, because I didn't know what it was when she came to my house.

Q. Did you tell her anything about God wouldn't let you swear that lie?

A. If I did, Judge, I done forgotten it; I don't remember anything like that. (R. 3104.)

Some one came and got her when they had court at Leavenworth. Pomp Graham told her to be ready; that government would send her to Muskogee. Dennis Jones furnished her ticket; she came down to Muskogee; Dennis Jones, Rube Smith, and others came down on same train. (R. 3106.) Upon arrival she went with Jones; doesn't know who is to pay her for coming down; didn't ask; thinks Government has her here. (R. 3107.)

Frank Heis:

Lived in Leavenworth since 1868; in spring of 1885 endeavored to purchase certain lots on Choctaw St. owned by Mrs. Schiller; she asked too much money; she moved out that spring and Lilly White moved in. It was early in spring when Mrs. Schiller moved out and Lilly White moved in. (R. 3110–11.)

Cross-examination:

Witness left the adjoining property in summer of 1886; Lilly White was living in Schiller property then (R. 3111); didn't know about petition to get Lilly White off Seneca St. (R. 3115.)

Patrick De Laney:

Was on the police force of Leavenworth beginning 1894; then in fire department beginning 1899; was fire chief for 3 years; knew of Granny Letcher; she lived on Seneca, between 2d and 3d; knew a boy called Tommy Atkins, lived with Granny; arrested him in 1896 or 1897; appeared to be about 12 years old; never knew Indian woman named Indian Minnie. (R. 3118–19.)

W. J. COWLING:

Knew Lilly White; worked for Burdett & Heis in 1885, on Choctaw and on Cherokee streets; knew Schiller house next door to stoneyard; Lilly White moved there about April 1885, not later than May. (R. 3131–32.)

JAMES M. ALLEN:

Has been connected with Rock Island Railroad in various capacities since 1875; knew Indian Minnie during 1884, 1885, in Leavenworth; saw her several times, particularly at Granny Letcher's on Seneca Street; saw her there with baby 3 or 4 months old in her arms; it was in 1884 or 1885; it may have been earlier than that but sometime during that period; changed service with Rock Island in 1885 and wasn't on streets as before. (R. 3139–41.)

Cross examination:

Saw Minnie several times during latter part of 1884 and early part of 1885 at Granny's—always went there in daytime (in evenings, about 5 p. m., R. 3147); went there to see a man to sell him transportation (R. 3150); thinks he saw Minnie at fort, and that she was working at Grodevants; never saw her at Grodevants (R. 3154); Grodevant told him

Indian Minnie was working for him (R. 3157); doesn't remember whether this was before or after he saw Minnie at Letcher's; was talking with Grodevant and witness said, "There goes Indian Minnie"; won't say this was before or after he saw her at Letcher's. "Everybody in town knew Indian Minnie" (R. 3159).

MATTIE COBB:

Lived in the old Seneca House on Seneca St., in Leavenworth, in 1885; had a child born to her April 20, 1885, in that house, Grace Edwards; Indian Minnie waited on her four days just before baby was born; Indian Minnie was pregnant then; she had a child born at Granny Letcher's last day of May or 1st day of June following birth of witness's child; saw it many times; had it in her own house and washed its hands and face; it played with witness's children; baby was called Commodore; saw Minnie around there 5 or 6 months, then she disappeared; Minnie went back and forth to fort. (R. 3163–64.)

Cross-examination:

Minnie was not able to do very much of the work when at witness's house those 4 days; witness saw child when four days old in bed with Minnie at Granny Letcher's; witness had baby "around the house" for a year or two (R. 3165); witness would run over to Letcher's every once in a while to see baby and Granny would bring it over to witness's house; saw it for the next four years; couldn't say child was full-blood Indian, it favored the Indians (R. 3166).

An effort was made in cross-examination by Carter interests to secure admission from witness that she had stated that she had noticed a birthmark on Tommy's shoulder and also that he had been taken out to the country by an old vegetable man named Carter. Witness would not make such admission (R. 3169–71); talked to Long, Page, Bell, and Bond about case (R. 3172–73).

Cross-examination:

One Bob Martin endeavored to get her to testify that the Indian child (Tommy) had a white spot beneath its shoulder; Martin was associated with Bell and Blackney in case (R. 3184; see also R. 3192–93). Can not recall date of her first marriage nor year her first child was born (R. 3204).

Saw Minnie daily for 4 months that she saw her; she was working out at the fort and went back and forth; slept at Mrs. Letcher's; went to fort in the daytime (R. 3225); Minnie hung around the fortune teller's a great deal (R. 3228); Tommy was about 5 years old when she last saw him (R. 3229); Granny Letcher moved into the Seneca St. house in the fall of 1884; it was cool weather (R. 3232); George Crilly was first person who mentioned Minnie's name to her since 1885, about 3 months ago (R. 3234).

THERESA SWOBODA:

Employed by Leavenworth Times; identifies issue that paper for May 12, 1886, containing account of storm which passed over Kansas City and Leavenworth, also issue of May 13, 1886, containing further account of destruction caused by storm. Offered these articles in evidence. (R. 3286–88.)

Cross-examination:

Identifies Leavenworth Times of May 1, 1885, containing account storm that occurred on Tuesday before Friday, May 1, 1885; also issue of May 21, 1885, having article relative departure of 20th U. S. Inf. from Ft. Leavenworth to Ft. Assinniboine. (R. 3290–91.) Witness doesn't remember hearing of this storm of 1886. (R. 3291).

THOMAS HIGGINS:

Born in Leavenworth 1881; worked for father there for 3 years from time about twelve years old, then worked for McNally driving delivery wagon; knew Tommy Atkins to be around alleys and on Seneca and 3d Streets; Tommy about 11 or 12 years old; sometimes rode on back of wagon witness drove; never remembers seeing him after 1900 (first saw him when he first worked for McNally—worked for McNally 1897–1900); Tommy lived at Granny Letcher's on Seneca Street; looked like an Indian. (R. 3292–94.)

Cross-examination:

Last saw Tommy in 1900 (R. 3296); Pomp Graham first talked to him about case; asked him to testify; promised him transportation, wages and expenses; also furnish transportation for witness' wife. (R. 3300–01.)

ALVA ADAMS:

Knew Tommy Atkins, played with him around alleys and lumberyards near Granny Letcher's on

Seneca Street, between 2d and 3d Streets; last time saw Tommy was in 1897 or '98; Tommy would be captain of one side when boys played war; Tommy was also called Indian Tommy. (R. 3302–03.)

Cross-examination:

Witness 10 or 12 when he first saw Tommy (R. 3306); Tommy lived at Granny Letcher's (R. 3308). Pomp Graham and Higgins (witness's brother-in-law) came to him about case—first he had heard of it; Pomp asked him to be witness. (R. 3309.) Witness spent 60 days in jail in 1898; Tommy living at Letcher's when witness went to jail; didn't see him after he left jail (R. 3310); remembers Sam Nash who was about 6 or 7 years older than witness (R. 3311); witness thinks Tommy was older than he a year or so (R. 3312).

Henry Carter stands up and witness declares he is not the boy he knew as Tommy Atkins. (R. 3318).

Elof A. Crilly:

As a boy played in neighborhood of his father's barn at 220–222 Seneca Street, Leavenworth; lived in old Seneca House, and after that was burned, in the new Seneca House built on same site; knew Granny Letcher who lived on other side of street from father's barn; played around lumber yard adjoining Granny's and back of Granny's with Tommy, Walter Banks, and others; Tommy and Walter lived at Granny's; Granny would often give the boys playing around there cookies and things like that; Tommy about 6 or 7 years old when witness first knew him, about 1892; saw him for about two years, never saw him since. (R. 3319–23.)

Cross-examination:

Must have become acquainted with Tommy and Walter soon after Granny moved onto Seneca Street (R. 3324); Tommy looked like a mulatto; Tommy was the only name witness knew him by; saw Tommy but about 1½ years (R. 3325); witness was 11 or 12 when he played with Tommy, who then was 6 or 7 years old (R. 3329). Mr. Long came to see witness after witness's father had talked to him about case; talked to his father and to Mr. Long about three times about case; also talked to Mr. Hanford (R. 3330); never heard what happened to Tommy; witness's father mentioned fact that "they" were trying to put some one up as Tommy; also told him that he felt that Henry Carter was Tommy Atkins because Henry remembered incident of pointing to pear trees and being told pears would drop off if he pointed to them (R. 3330–31).

George Crilly:

Came to Leavenworth in June, 1870; went into livery business for himself in 1878; been in that business continuously since then. One time member of Crilly & Cranston, formed in 1880, and continued until 1892; also member firm Roderick, Crilly & Cranston, formed in connection with contract for bus and freight service to Ft. Leavenworth; this was dissolved some time in 1885 or beginning of 1886, won't be positive about date.

Stable located in 80's at 220–224 Seneca Street; lived at old Seneca House, adjoining the stable, between 2d and 3d Streets; knew Granny Letcher from 1877; she died in 1900, about 8th of July or August; she lived across the street from stable in Dotter property; Lily White succeeded the Dotters and Granny succeeded Lily; Granny moved in about middle of 1885; knew Indian Minnie; she was about 22–25 years old; had seen her around on streets time and time again, first one place and then another; that was a good while before she came to Granny's; first knew her *there* in latter part of 1885; would see her around Granny's often but she wasn't there constantly—would be there two or three days, then would disappear and witness wouldn't see her for a week or ten days; then she would show up, and again go away for same period or perhaps two or three weeks; saw her around Leavenworth altogether 2½ or 3 years.

Saw Minnie not later than July or August, '85; must have been latter part of year, with child 5 or 6 months old, on back porch of house occupied by Granny, across the street; saw her probably half dozen different times with child—he was called Tommy. Saw him around there continuously after that until Tommy was 6 or 7 years old. Witness called him Commodore; recalls incident at Van Tyle's stable at 3d and Seneca Streets, when Tommy picked up Van Tyle's pipe and put it in his mouth; this last time he recalls seeing him—*might* have seen him thereafter but can't say; was burned out in 1890; few weeks later started rebuilding stable and moved back to that location.

Fixes date of seeing Tommy in arms of Indian Minnie by fact that his wife was away and had been for some little time; she left in 1885; had been away about a year when she died in September, 1886. (R. 3332–38.)

Cross-examination:

Met Long early in this case; he first mentioned name Atkins to witness who knew Minnie only as Minnie; has been employed by Long to drive him around and also some of his witnesses. (R. 3339–40.)

Witness was asked about conversation with Mr. Allen (gov't counsel) as to when he saw Minnie with baby with reference to time his wife left him (R. 3341), says that he doesn't think he stated that he saw this boy with Minnie before his wife left him, "that is along about the time." Lilly White moved out of this house in summer of 1885, remembers that from "petition papers" he found; won't be positive that his wife left him before Lilly moved out (R. 3342); it was about that time (R. 3343); thinks Lilly left in June or July, 1885; Granny moved there in fall of '85 (R. 3343).

Witness has been hired to search for witnesses; thinks now Lilly White and Granny Letcher were in that house for a while at the same time (R. 3344); saw Minnie around the streets with Ida Foster long before she was at Granny's (R. 3346).

Doesn't remember petition circulated to have Lilly White removed from 217 Seneca St.; never saw petition until Gov't Ex. 51 is exhibited to him (R. 3347). Is asked about signers of the petition and states he knows a great many of them; they lived in that locality (R. 3347–50); Lilly White left that house suddenly (R. 3350).

Never saw Minnie in family way (R. 3354); saw her at Letcher's 2 or 3 years after child born (R. 3356); considered Tommy part negro, part Indian; Minnie was woman whose character was questioned (R. 3358).

Long sent witness money to pay expenses of certain other witnesses in coming to testify (R. 3360). Relates call upon him in November, 1914, of Henry Carter and how he endeavored to ascertain by tests if Carter was the same boy he knew as Commodore; was not satisfied that he was, but told Long he wouldn't be surprised if Carter didn't prove to be Commodore (R. 3362–63).

Witness's boy that played with Tommy was about same age as latter, perhaps a year younger; he was four years old when witness's wife left him (R. 3366).

Witness admits talking to Clarence Turner and saying that he could lay his hands on the Tommy involved and that he thought Henry Carter might prove to be Tommy (R. 3368). Asked if he didn't state in 1916, after receivership hearing, to R. C. Martin that in his judgment Carter was the boy "Commodore"; witness denies the positive statement but states he said that Carter *might prove* to be the boy (R. 3368–69.)

DENNIS JONES:

Lawyer, admitted to Kansas bar in 1892; from 1880 to 1885, '86, '87, was porter at Continental Hotel part of the time, part of time on police force and part of time barbering; went on force as special policeman in 1884 to collect road tax (in summer); was on again in 1885; was *regularly a special policeman* in '85; knew Granny Letcher, knew her up to time she died; knew her when she lived at 215 Cherokee St.; next lived on Seneca St. between 2d and 3d; Jim, Sam Nash and Walter Banks, and a little boy called Arch (one-eyed boy) were members of her family; Arch stayed there occasionally, also Tommy, son of Indian Minnie; knew Minnie; first saw her about winter of '84 at Letcher's on Cherokee St.; didn't know her then, but knew her when she was with Granny on Seneca St. in spring of '85; saw Minnie in a condition not normal in May '85 at Granny's; knew a child there which Minnie said was hers; it was several months old when he first saw it; child was 12, or 13, or 14 years old when he last saw it; would see him at times; kept track of him enough to know it was same boy; knew Minnie to be around Granny's or in Leavenworth from '84 to '86 or '87; doesn't know just when she left or where she went; she disappeared; child was then about 1½ years old; has seen Minnie since I have been "here"; states positively it is the same woman who is now Mrs. Folk; has known Sadie James for 33 or 34 years; remembers her coming to his office to see him about Indian Minnie or Indian

Tommy; first time was in spring of 1914; stated she was looking for Indian Minnie who stayed at Letcher's; asked if witness knew Minnie; witness stated he believed he did, and that she had a "kid" there; told her Minnie was gone and he didn't think she could find trace of her around there; told her to see number of men from whom she might find out where she was. Not many days after Sadie came with Betty Mann; wanted more information and names of some old colored women; he named them; witness did not tell Sadie that he didn't know Minnie; didn't tell witness she wanted to hire him to help manufacture a Thomas Atkins; never said to her that he could get bankers and doctors and lawyers to swear hell was an ice box; it was on Friday and she wanted to come again on Saturday, but he told her that was motion day in court and that she better come some other time; the next week she came with two white men; Swift was one. Sadie had a paper she wanted to execute—a deed transferring land in Oklahoma; heading was State of Missouri, County of Jackson; witness told her she would have to have paper fixed up in Missouri; Sadie said it wasn't her signature; wanted him to sign paper; gave her name of Mr. Calloway, a notary in Kansas City. Pretty sure she didn't say anything about Tommy and Minnie Atkins.

Betty and Sadie came back to his office and Sadie wanted witness to go to Kansas City to meet a Mr. Buell or Bartlett; told her he didn't have time; thought something was wrong but didn't let her know he had any suspicions; she never came to his office and told him that she had met Bartlett, that he had a lot of money and that she wanted him to go ahead and help her manufacture a Thomas Atkins. Received a telegram from Mr. Long at Tulsa, Okla., asking him to come there (this after he had talked with Sadie); went to work for Gypsy Oil Co. on March 4, 1914; went to work for them before he got in touch with Mr. Long; a man by name of Adair was the next one to come to see him about Indian Minnie matter after Sadie's first visits; this on 3d or 4th of August, 1914; witness was called to Mr. Bond's office and Adair talked to him, asked him if he knew about a boy an Indian woman had there in Leavenworth; witness told him what he knew and that he had heard of a boy answering that description living Washington, D. C. Witness heard this from a Mrs. Venerable; he was repairing one of his houses for her to go into; she had just returned from a visit to Washington and Maryland; he asked her if she knew of a boy named Tommy Atkins; was induced to ask her because it was fresh in his mind—looking for the boy; "they" (Sadie and somebody else) told him whoever found the boy and mother would be well paid for it; agreed to accompany Adair to Washington the next day.

Made a contract with Gypsy Oil Co. through Adair, who was representing it. Identifies def. Minnie Atkins' Ex. B-7 (R. 4940) as the contract signed by him; contract read into record (R. 3383); provides for payment to Jones of $10 per day and expenses while trying to locate Thomas Atkins, and further that if Thomas is located and his identity established, Jones is to receive an additional sum of $500. (Crawley not Adair signed for Gypsy.)

Went to Washington, found a Thomas Atkins there, but was not right party; returned to Leavenworth and was relieved under this contract.

Some little time after received telegram dated Sept. 16, 1914, from Long to come to Tulsa; telegram read "Will expect you Tuesday morning Sept. 22d sure"; met Sadie James at station. Before receiving telegram some one came to him in Leavenworth, can't say whether it was Sadie James, and talked to him about working for Gem Oil Co. Denies being visited by Sadie James and being told by her that she wanted to hire him for the Gem Oil Co. and that she would bring Long to see him, but for him to insist on seeing Page before making any arrangement.

When he met Sadie at station in Tulsa she said she would show him where Mr. Long was, and witness went to his office; saw Rice and Page; entered into a contract with Page; it was an agreement to do practically what he had been doing for Gypsy (so witness says). At that time didn't know Sadie was working for the Gem Oil Co.; she never told him she was going to get him hired by Gem nor did witness ask her to.

Sadie came to his office and told him she had been in Seattle, Tacoma, and other places; wrote him three post cards while she was away; told him she had found mother of Tommy in Seattle; did not tell witness she had framed Minnie up to claim she had a son named Tommy Atkins; witness at that time working for Gypsy Oil Co.; Sadie never had any arrangement with him whereby if boy found they would switch to Gypsy. Under contract with Gem Oil Co. witness has been paid $10 per day when there was anything to do. First time he talked with Long about employment with Gem, witness told him he was under contract with Gypsy and couldn't accept; later, when Gypsy contract expired, he thinks perhaps he wrote him and that caused Long to send telegram.

Contract between Jones and Gem Oil Co. read into record (R. 3390–91); it provides for payment to Jones of $10 per day and expenses not to exceed $5 per day (15 days being time contemplated for work); also that if Jones shall obtain satisfactory proof of death of Thomas Atkins and Gem Co. shall be successful in its litigation, Jones shall receive additional sum of $500. Contract recites that Jones represents he has valuable information relative to life, birth, and death of Thomas Atkins, and is in a position to obtain definite data thereon, and he agrees to give his time to securing that data and shall proceed to do so on his own initiative and under instructions from Co. Never at any time in conjunction with Page or Long or Sadie James or any party to this suit did witness attempt to fabricate a case; never attempted to practice any fraud. (R. 3372–94.)

Cross-examination:

Is an attorney of record for defendant Charles Page; remembers occasion of taking depositions at Leavenworth; asked if objection was not made to his presence there, states objection not made in his presence; asked if he was not then made counsel in case in order that he might remain in attendance while witnesses testified; can't tell why; doesn't know whether telegraphic communication was sent and advice returned that he had been entered as an attorney of record. (R. 3394.)

Testified as a witness in the case pending in Creek County in 1914; had not prior to that time been engaged by Sadie James nor later by Gypsy Oil Co. to look for a living Thomas Atkins (R. 3395); had not upon his own initiative looked for a Thomas Atkins previous to employment by Gypsy Oil Co.; he had made some inquiries in his own behalf because he had been told by Sadie James that if Thomas Atkins were found a reward would be paid (R. 3396).

Had some business with Sadie previously relative to property of an old soldier at the soldiers' home, who wanted to will his property to Sadie; also wanted to obtain certain papers in Odessa, Missouri, held by a bank; Sadie wanted witness to go to Odessa to seek to obtain papers; he declined but recommended another lawyer.

Denies that he suggested to Sadie that she marry the old soldier; that he got him into his office and furnished money for the marriage license and that he paid for the marriage license (R. 3397); denies that he got the old man into his office and got a power of attorney for Sadie James. Identifies Govt. Ex. A-8, R. 4839, as power of attorney he made for Sadie, in which Sadie was authorized to attend to all business for Charles Lane (the old soldier), sign his name, etc. Witness states Lane told him to put those powers into the instrument. Admits he took acknowledgment of the power; says he didn't know anything about Sadie being married to Lane then. Told Sadie that she could go and get a white lawyer to do more down there for her than he could and gave her a letter, dated Nov. 26, 1913, to Codding & Codding, of Leavenworth, in which he stated that he had known Sadie for many years, from her girlhood days, during which time he had never heard of any wrong act or deed on her part; that her maiden name was Sadie Harris *and until her marriage to Charles Lane,* her name was Sadie Johnson and as far as he knew, she was a worthy woman.

Denies that he and Sadie wanted to get the old man's property and divide it; denies also that after power was executed he and Sadie did take charge of the property and divide it (R. 3399); denies that he tried to draw old man's pension that was paid for a year and a half after that and to take it as his; denies that Lane turned the proceeds of his pension check over to him (R. 3400). Witness denies he and Sadie operated together to find a living Thomas (R. 3401); had no agreement with Sadie (R. 3402).

Denies that he testified in October 1914 that first time he had seen Minnie was when she came to church with a negro; declares that he testified that first time he saw her was at Letcher's on Cherokee Street in '84 or '85. Admits that yesterday was first time he ever claimed to have seen her at Letcher's on Cherokee St.; says that was the first time the question was ever asked him.

Q. You found out since you testified in 1914, Dennis, that she couldn't have been living on Seneca St. when she was in a family way?

A. No, I didn't find that out. I just testified what I knew.

Q. But you were asked all about your knowledge of this woman and when you first knew her.

A. Yes, sir, I told it.

Q. And you didn't tell you saw her on Cherokee St.?

A. They asked when I knew her and I said eighty-four and eighty-five. (R. 3402.)

Witness is confronted with his testimony given in October, 1914; admits that he read it before he signed it. In it he testified that Granny Letcher's was a place where men and women resorted for immoral purposes; that he lived just about four blocks from Letcher's; that Minnie stayed at Letcher's most of the time she was pregnant and afterwards when child was toddling around and pulling to chairs; that first time he saw Minnie was at Granny's in 1884; she must have been pregnant then; that the way he found out her name was Atkins she came to the colored church at 6th and Pottawatomie Sts. with a colored man and the other darkies wanted to know why he would bring a white woman there, and he among others began to inquire about her name (R. 3402–04). Admits that this was his testimony at that time, particularly the church incident (R. 3404).

Admits it is six and a half blocks from his house to Cherokee St. but *explains* that when he testified that he lived four blocks from Letcher's all the time he saw Minnie there he was thinking of when she lived on Seneca Street.

Remembers petition circulated to remove Lilly White (Govt. Ex. 59; R. 4912), was in police service at time; says Lilly moved out in April before petition was circulated (R. 3405; see also R. 3408).

It was after the birth of the child that he saw Minnie with colored man at the church (3406).

Denies that he stated in his office in presence of Betty Mann and Sadie James that he wanted them to see Henry Byrd, a negro at Leavenworth, and have him agree to be father of Tommy (R. 3409).

Q. Rube Smith wanted to be this child's father, didn't he?

A. I don't know what Rube wanted to do. (R. 3409.)

August 22, 1914, witness wrote Gypsy Oil Co. in which he expressed conviction that Thomas Atkins was living (R. 3412-13); on 26th got letter from Gypsy saying they didn't want him to go out again until he got definite information; this witness considered terminated his employment.

On *22nd of September* (next month) he declared in his contract with Gem Oil Co. that he had definite information of death of Thomas Atkins. Witness says he based that statement on information received which consisted of a letter from Washington, D. C., attorney dated *September 29, 1914*, wherein it was stated that he had furnished Mr. Greenslade with names of Chicago people who could give information relative history of Thomas Atkins, furnished by the woman witness referred to. (R. 3414.) This was in answer to one written by witness on September 27, 1914, wherein he asked who parties in Chicago were who gave information of *death* of Thomas Atkins. (R. 3414–15.) This letter was written four days *after* his contract with Page and Gem Oil Co.

Witness says he also received information of death of Thomas Atkins from Greenslade after latter had dug around in Washington, D. C. Greenslade told that in New York City before they returned to Leavenworth.

Witness admits writing letter to Gypsy after his return, wherein he stated he was convinced he would be successful in search for living Thomas. (R. 3416.)

Sam Nash now works in Page's bank at Sand Spring; Walter Banks is looking after freight coming in and going out of Page's depot at Sand Springs. (R. 3422.)

Referring to telegram received from Long asking him to come to Tulsa, witness states he now thinks that prior to that time he must have had talk with some one about employment with Gem Oil Co., but it couldn't have been Sadie James. Was rather surprised to see Sadie at station at Tulsa; she took him out that evening to Page's park. (3425.)

Recalled:

Produces two commissions appointing him to police force of Leavenworth; one bears date May 13, 1885; witness was working in his barber shop when he got that commission; Lillie White moved from Seneca Street before witness got this commission; referring to petition to remove Lillie White and Ella Forrest, witness stated that address therein given for Ella Forrest as 305 Seneca St. is incorrect, Ella lived at 230 Seneca Street. (R. 3907–08.)

Cross-examination:

Commenced working on police force in 1880; was appointed a special policeman in 1884, served part of year, and again in 1885, also in '86, '87. Lilly White never lived on Seneca Street but once. (R. 3909.)

Shown copy of decree in divorce action of Charles Lain versus Sadie Lain (Sadie James) showing that J. K. Codding was attorney. (R. 4156.)

Cross-examination:

Witness wrote a letter to Codding recommending Sadie James to him in another matter (R. 4157).

[There was read into evidence an article from the Leavenworth Times issue of about December 6, 1914, or January, 1915, wherein Jones was quoted as stating that he believed Henry Carter to be Thomas Atkins. R. 4312–13.]

Witness states that he was misquoted, and endeavored to have correction made but without success. (R. 4314–15.)

Asked about letter sent to attorney Codding relative Sadie James and admits the matter involved was the property of the old soldier Lane [Lain]. (R. 4316.)

JOHN COUCH:

Knew girl named Minnie Atkins in Muskogee in 1897; took a trip with her in 1897 to Denver, Colorado, and Fort Logan; stayed four or five weeks; borrowed money of Minnie to return to Oklahoma; didn't to his knowledge see Sadie James in Kansas City on way out to Denver; Minnie didn't leave station, so far as he knew; wasn't out of her company but about thirty minutes; that was in August, 1897. (R. 3480–82.)

Cross-examination:

Witness and Minnie were not married; lived with her at Fort Logan for four weeks. (R. 3483.)

BETTIE MANN, recalled:

States that she told Page, Long, and Josey in summer time of 1914 that there wasn't any Tommy Atkins; admits execution of instrument dated October 12, 1914, between C. H. Rogers and S. C. Mann and Kirkbride, wherein it was declared that Thomas Atkins was then living and his whereabouts known to "said brokers"; it was agreed therein that ——— dollars would be paid upon production of a deed from Thomas covering his allotment and proof of his identity. Witness states reason she signed this when she knew there wasn't any Tommy was "just because they wanted to frame up and wanted a Tommy Atkins." (R. 3495.) Kirkbride, Rogers, and she agreed to frame up a Tommy.

Cross-examination:

After she had done work for Bartlett along up to March, 1914, she had discovered that there wasn't any such boy as Thomas Atkins; knew Minnie didn't have any; she and Dennis and Rube and Sadie framed up to create one in March, 1914.

Q. You knew when you were working for Mr. Long and Mr. Page and the Gem Oil Company, when you took this trip to Seattle, you knew Minnie didn't have any such child?

A. I had never been able to find where she had one.

When she talked to Minnie in Seattle, before Long arrived, she was in employ of Long and Page, as well as Bartlett; working for both sides. (R. 3496.)

F. B. LONG:

Employed by Charles Page; been with him about one year; prior to that was employed by Page & Josey from 1912 in charge of Page's lands, leases, and rentals; secretary of Gem Oil Co.; no stock in company. Made investigations to find out owners of Atkins allotment; investigated claim of Nancy Atkins and concluded she was not mother of Thomas. Received advice from one C. B. Rogers that he had information about Thomas; agreed to give Rogers one-eighth interest in a lease if he could procure one; in May, 1914, Rogers told them he didn't believe he could locate Thomas; that he had been working with Betty Mann and he and Betty believed Thomas was dead; that Betty would be able to locate Minnie Atkins; later came to tell them Betty knew where Minnie was. Next day witness met Betty at Sapulpa. She told witness she had been working for Bartlett; that she had located Minnie and was going to see her; that Bartlett would be there also. Witness agreed to pay Betty $2,000 if she put them in touch with Minnie, and they obtained a lease from her. Betty would not tell witness where she was going, but promised to wire him; about week after received telegram signed Bill Jones, asking if he was ready to come. Wired answer that he was "if you are positive you have the right party"; received another wire telling him to come at once; went to Seattle, Washington; didn't send Betty any telegrams en route; arrived Seattle Saturday, June 13, 1914; saw Betty, who told him Minnie was at Fort Lawton; also told him that she (Betty) had Sadie James with her; witness knew of but didn't know Sadie then. Betty told him Sadie really had located Minnie and had talked to her but had refused to tell Betty where she was. Betty had found out where Minnie lived by hiring detective to follow Sadie. Betty put him in touch with their detective, Kohler, who went with witness to the fort; went alone to Minnie's house; there were three men there, one holding horses, two on the porch with Minnie; witness was introduced by Minnie to the two men, Capt. McNab and Lt. McComb; witness told them he wanted a lease on the allotment. Capt. McNab asked if witness was white man "who is supposed to be here"; witness answered "I suppose I am." McNab said there had been a negro woman around there for 4 or 5 days bothering Minnie, wanting to buy the land; witness told him she was not employed by him nor did he know anything about her; that he wanted a lease, not the fee. Told McNab he had brought lease and contract and would like to talk it over with him. He then talked alone with Minnie to satisfy himself as to her identity; she told him she was mother of Thomas Atkins; McNab and McComb then came into the house and lease proposition was discussed; they told witness the negro woman had offered $4,000; witness stated he would give more than that and one-eighth royalty for a lease; it was suggested that attorney be employed who was familiar with lease forms; McNab and McComb seemed a little suspicious of witness, and he gave them references to wire to. McNab said they would consult their attorney and for witness to return in afternoon. Returned to fort about 3 p. m.; saw some visitors on porch—"saw this negro woman on the porch"; didn't go up to house; waited around and soon McNab and Hanford came along; McNab and Hanford were to represent Minnie; discussed terms of lease and witness's proposition. Hanford stated they were having Minnie execute trust deed to McNab so she would be protected; agreed that witness would not attempt to see or talk to Minnie any more, but have dealing with McNab and Hanford; didn't see Minnie again until day he left Seattle.

Witness went back to hotel; that evening Hanford phoned him that Minnie has executed trust deed to McNab. Next day, Sunday, Hanford came to hotel and said they were ready to do business; Hanford stated they had concluded to make independent investigation and he would write friends to inspect property and report; witness suggested that would keep him in Seattle too long, and agreed to advance expenses of trip to Hanford to make investigation with understanding that he would reimburse witness if lease was not executed to them. (R. 3497–3506.)

Saw Sadie James and Betty Mann on Sunday at their hotel; Betty phoned him to come; Sadie James was there and flew into rage over fact witness was there, accusing Betty of double-crossing her. Witness told Sadie he had seen Minnie and had found that the Army officers had taken over her affairs; Sadie said "we don't want to fall down on getting Minnie" and offered to get Minnie and take her to Everett, Washington, for $6,000; witness told her there was nothing to be done with Minnie, that she had turned everything over to McNab; did not state to Sadie James there at that time that he (witness) had found a Tommy or would make a Tommy. Saw Minnie next day (Monday); she was called over to McNab's quarters, where witness and Hanford were with McNab, and witness asked her if she was satisfied to have McNab and Hanford act for her.

In conversation with Minnie on Saturday, Minnie told witness Tommy was born in Leavenworth, Kansas; didn't inquire of her where or when he died. (R. 3506–08.)

Upon arrival of Hanford and witness in Tulsa, the latter placed Hanford in touch with Page and Josey, and negotiations were had which resulted in a lease on a bonus of $10,000. (R. 3508.)

Next made investigation of Indian Office records relative Atkins family, and interviewed several persons in Oklahoma. Went to Seattle about first week in July to go over data with Minnie; discussed with Minnie for several days her history, made memo. of substance of conversations with her. (R. 3510–11.)

Witness reads from memo that Minnie stated she had Tommy right after she left Lt. Stafford's (witness deduced that this was in 1886 or 1887); Minnie stated boy born in summer; that he was born in Sisters' Hospital; she went right to hospital from Stafford's; witness states Minnie first said something about boy being born in colored place but quickly changed it, saying it was a slip. Witness did not put that in memo. (R. 3516–17); Minnie stated that she named Thomas after *her* father; that she couldn't get any wages with child on her hands, so she gave him to a woman in Leavenworth, part colored; then she went to Ft. Logan with 18th Inf.; stayed there 8 years; in 1888 or '89 received letter to send money to the boy—she did so. Had Alice and two boys there; Alice died when one year old; went to Oklahoma with Harvey and Charlie Harrison (witness figures this as 1894); Minnie thinks she was in Oklahoma two years; Kate Holden took the boys. Minnie told them about going to the payment at Okmulgee in 1895 and that Thomas was then alive; that it must have been about 1896 she went to Denver with John Couch; finally landed in Ft. Logan latter part of 1896 or early part of 1897; 7th Inf. there then; later she stated went to Ft. Logan in July or August, 1895, and made trip with Couch in July or August, 1895; after a year went to Detroit, Michigan; stayed there two years then returned to Ft. Logan; while there then she heard from Thomas who was still in Leavenworth (R. 3517–19).

Witness says Minnie also stated (this not on the memo.) that when she was at Detroit she received a letter telling of Tommy's death—received the letter after 7th Reg. came back from Cuba. (R. 3519.)

Sadie James in August, 1914, came to Gem Oil Co. office and told witness she had quit working for Bartlett, that they had been all over the United States looking for Tommy, had located five or six, but they didn't prove out; that she had lots of information that would be valuable to Gem Oil Co.; witness took her to Page, who directed him to bring Sadie out to the park at Sand Springs. Witness met Sadie and her husband at park; found Page and had talk. Sadie represented that she knew all about Tommy's life history and could get witnesses; knew he was dead. Page told her if she got the evidence he would give her $1,000. Sadie wanted a contract and one was drawn next day; check for $1,000 was deposited in escrow to be delivered when Sadie fulfilled her part of contract. (R. 3529-30.)

Sadie went to Leavenworth and witness met her there. She introduced Rube Smith to him as a man who would know all about Tommy Atkins. Had told him previously that Rube was the father of Thomas. Rube told witness he might be, didn't know, he never said he was. Witness wanted him to admit it. Told witness about Minnie, and he fixed birth of Tommy as 1885 or 1886. (R. 3531.)

Witness relates visits and interviews with Kate Logan, Sam Nash, and George Crilly (R. 3531-33); Crilly gave him some 40 or 50 names of people who might know about matter; Nash also gave him some names (R. 3533); employed Rube Smith to look up information for him, agreed to give him $5 a day, and verbally agreed to give him $500 if they won lawsuit (R. 3534).

In meantime, Sadie James had been working to discover place where Tommy died; she had also made trips to Weldon, Missouri, and Pilot Knob to visit cemeteries; witness expressed dissatisfaction and said that she was not getting anywhere; Sadie then proposed that she would fix up a burial place for $500; witness declined and then had Tulsa office call Sadie down there. Sadie went away next morning (R. 3534–35); witness never talked to Sadie after that (R. 3536); later says he is mistaken about that when he recalls date of contract with Dennis Jones (R. 3537). Sadie returned to Leavenworth and told him Dennis Jones was through with the Gypsy Oil Co. and to go to his office and see him. Witness went and had brief talk with Jones, who stated he could accept employment but would rather make arrangements with witness's employer. Witness agreed to pay Jones's expenses to Tulsa; few days later Jones came to Tulsa, Sadie met him and brought him to office of Gem Oil Co., where he executed a contract. Witness returned to Leavenworth and saw Mr. Hanford; it was agreed after another conference at Tulsa that Hanford should go to Seattle and discuss with Minnie a valuable line of evidence which witness had secured, Minnie had previously testified at Sapulpa. (R. 3537–38).

In a week or 10 days they decided to take some depositions. Mr. Hanford came back with Minnie, who "was very much surprised to learn that we had learned the truth about her" (R. 3538), the truth about the place of birth of Tommy. She had told Mr. Hanford on way from Seattle that she didn't want that known and didn't think it was anybody's business where he was born, and she had testified that she had the boy at the Sisters Hospital, and that in truth Thomas Atkins was born in Granny Letcher's house (R. 3538); that was in fall of 1914; *October*. Witness and Minnie went to Leavenworth and talked to Crilly. Crilly and Minnie recognized each other. Witness had previously phoned that Minnie was with him (R. 3539).

Witness details visits made with Minnie to different persons to see if they would recognize her. (R. 3540–41.)

The next day Rice, Page, and Josey came and talked over all the different information with Minnie and soon after that the day was set for taking depositions and all these witnesses testified in the State court case. (R. 3541.)

Cross-examination:

During employment in Indian Service became familiar with records in office of Dawes Commission.

Knew of Sadie James; she was a notorious woman; had been tried for murder a few times and ran the "Bucket of Blood." (R. 3544–45.)

Knew reputation and character of Betty Mann and knew of her conviction for forgery prior to 1914. (R. 3546.)

The $10,000 for the lease was paid in two checks, both payable to Hanford. (R. 3571.)

Explains statement made in letter written July 7, 1914, while en route to Seattle with Hanford, that "Hanford is still talking right" thus: That when witness and Hanford left Seattle, Hanford was very distant and cold; after reaching Tulsa he maintained that attitude; "we couldn't get acquainted with him personally"; this even after agreement prepared providing that McNab as trustee and Minnie were to furnish Hanford's services as attorney and they (Page et al.) to pay expenses; they were trying very hard to get close personally to him and finally before they left for Seattle witness thought he had gotten pretty close to him. Josey admonished him particularly to keep Hanford in the case, that he wanted his services on account of his connection at Seattle. Hanford had said before he left that he would stay with them; that he would continue as attorney for Minnie, provided they (Page et al.) paid his expenses; a contract was prepared and Hanford signed it and it was signed by McNab and Minnie.

Hanford had been gotten into case by McNab, and Minnie was dependent upon McNab and McComb families, consequently Page et al. wanted to keep Hanford in the case. (R. 3579.)

After interviewing Minnie and getting data about her history, etc., which was incorporated into memo., the information contained in the memo. was put into an affidavit which Minnie signed. "That affidavit has the exact facts that were in my written notes because it was written from them." (R. 3585.)

Called upon to produce affidavit, witness states unable to locate it. Hanford states he had it and that he destroyed it because it was not true. (R. 3587.)

After Minnie testified in the State Court suit at Sapulpa on July 21, 1914, wherein she stated that she carried Thomas when she was at Staffords and went to the Sisters Hospital and had the child there, and that but one child was born to her at Leavenworth; witness went to Leavenworth the next day and looked over records of Sisters Hospital, found that maternity cases were not taken there until after 1890; went through the records for 1885, 1886, 1887, 1888, and couldn't find that Minnie had been there. Then went to Cushing Hospital but couldn't find any record of Minnie being there (R. 3608–09). Minnie and Hanford went to Leavenworth a few days later and then Minnie returned to Seattle (R. 3609); Hanford went to Boston to see Peterkin; that was first time witness had heard of name.

Next step in case was when Sadie came in August. (R. 3610.) Learned from her or Rube Smith name of woman with whom Minnie had left child, Granny Letcher on Seneca Street, and that it had been born there. (R. 3614.) Minnie testified at Supulpa that the baby was born at the Sisters Hospital and she testified at Tulsa that it was born at Granny Letcher's. (R. 3633.)

Witness is unable to find statement made by Minnie to Page, Josey, Rice, and witness after they had gone over case with her. (R. 3629–35.)

Sadie proposed to them in consideration of $1,000 to produce witness who would swear Tommy was born and lived until 1899 and that his father was a negro. She was to receive the $1,000 if they won out. (R. 3635.)

THOMAS E. KIRKBRIDE:

Contract executed between him and Sadie Mann and one Rogers is referred to; witness states Betty Mann told him she knew Tommy Atkins was alive and when and how she would reach him; witness declares he did not enter into a conspiracy with Betty or Rogers to manufacture a Thomas Atkins. (R. 3661–62.)

R. A. JOSEY:

Associated with Page in Gem Oil Co. To best of his recollection first time he ever heard any claim that Thomas Atkins was a myth was when Minnie Atkins made her confession at Seattle. Page and he were sole owners of capital stock of Gem Oil Co. (R. 3666.)

Cross-examination:

Wasn't anxious that Hanford be employed or retained by them; didn't know anything of his legal attainments or ability. (R. 3667.) Can't explain what he understood from statement in letter received from Long that "Hanford is still talking right" (R. 3668–69); doesn't remember receiving affidavit of Minnie Atkins which Long stated in another letter he was sending (R. 3670). Does not remember Minnie making written statement in Kansas City, but remembers being present with others and having conversation with Minnie. (R. 3670–71.)

Must have received information regarding Sadie James prior to wire from Long July 16, 1914, because Long refers to her only as "Sadie." Doesn't remember what information he had previously unless it was her in connection with other parties trying to secure lease. (R. 3671.)

Doesn't know why assignment to lease of Gem Oil Co. was made to himself and Page; recollection is Rice & Lyons (attorneys) suggested it; witness was depending on Page and Page's attorneys.

Witness sold his interest in land involved to Page for $140,000, with an agreement that if litigation is lost witness is to pay back $20,000 (R. 3676–77); market value of property at that time was at least one and one-half million dollars (R. 3678).

Edward C. Hanford:

Remembers when Dr. Carpenter testified at San Diego; had not then seen Dr. Carpenter; had heard that his testimony would be worthless because of his senility; relates how he happened to put him on stand. (R. 3026–27.) Cross-examination on this matter. (R. 3028–29.)

Commenced practice of law in Seattle in 1898. First met Minnie Atkins on June 13, 1914. Was called to Fort Lawton near Seattle by Capt. McNab who told him of Indian woman then called Indian Minnie, from whom a negro woman was endeavoring to secure deed of oil land, offering $4,000 therefor. McComb and McNab had been called into the case; a man named Long was also there asking for a lease; he had left form of lease and contract; witness advised that matter be looked into before any papers signed—that it might be possible to develop land themselves without leasing; went with McNab to Minnie's house; witness was introduced to her as McNab's lawyer called in to look after her interests; Minnie said she didn't want her interests looked after, that she intended to accept the $4,000 offered for land. Witness and McNab tried to "jolly" her out of that idea and told her they would do everything they could to prevent her selling unless land was not worth more; she was determined; Minnie told them of Sadie James bothering her and that she (Minnie) feared her.

While they were talking Sadie James arrived at car station and started towards Minnie's; an auto with two men in it followed her; Sadie didn't come to house, and they sent Minnie to see what was the matter; Minnie brought Sadie to house and she said the men were detectives who were following her; she was told that witness was McNab's lawyer and that nothing would be done until matter was looked into. McNab told Sadie that Long was endeavoring to secure lease for Page; Sadie told Minnie she would get term in the "pen" if she signed those papers because Minnie didn't know Thomas was dead. Minnie insisted Thomas was dead. Sadie told McNab and witness she had seen Tommy when he was five years old, in 1899. Sadie represented that she had been sent out by Dawes Commission to get the land.

McNab and witness went out to see detectives, and on the way agreed that Sadie was dangerous and must be got rid of; detectives would not disclose for whom they were working; returned to Minnie; told Sadie they wanted her to keep away from Minnie, and she must leave. Sadie departed, and McNab and witness started for post; on way witness suggested that they have Minnie execute deed of trust to McNab in order to keep her from signing property away. On the way they met Long; he was waiting for them; had seen, so he said, that something was going on at the house; was told plan to have McNab made trustee, and expressed pleasure; McNab assured him of a fair chance; Long agreed not to attempt to see Minnie, and was assured the matter was in McNab and witness's hands. Deed of trust was executed by Minnie, they agreeing to see that she got $4,500 if she would wait until witness went to Oklahoma to investigate. (R. 3690–95.)

At time memo. of trusteeship executed Minnie admitted that she had five children. (R. 3696.)

As soon as trust agreement was entered into witness informed Long thereof, and that he would have to deal with witness acting for NcMab. Had talk next day with Long, as a result of which it was agreed that witness should go to Oklahoma at expense of Long to make investigation, and if lease was entered into with any other than Long's company witness would repay Long for expenses. Next day Long gave witness ticket to Oklahoma and $100 expense money. (R. 3696–97.)

Long desired to be sure Minnie's action in trust deed was voluntary, so asked Minnie about it (in presence of McNab and witness); she said it was satisfactory. Long desired Minnie's signature to compare with a photo signature of hers which he had—this he later explained was to check her signature with signature on roll. (R. 3697.)

Went with Long to Oklahoma, and on the morning of their arrival went out early to see Page, with whom they had breakfast, and discussed question of leasing. Page made several offers. Upon arrival of Rice, Page's attorney, and after further discussion, Page offered $10,000 for lease with 12½% royalty. Witness told Page he thought that would be satisfactory, and if he decided to make lease to Page that would be considered tentative agreement as to bonus price. (R. 3698.)

Next day Long and witness went to Sapulpa to look into record of suit involving Nancy Atkins's claim to land; called up judge before whom case pending and informed him Minnie was living, and he stated he would not render the judgment prepared in that case. Did so next day, however. (R. 3699.)

Went to Muskogee and looked into Indian Office records relative Minnie and Nancy Atkins and others. Witness got oil maps and explanations and opinions regarding Cushing pool and its probable extent. Had several conferences with Page and Rice and agreed upon form of lease in all respects except that witness insisted Page should bear all expense of quieting title in Minnie; they insisted that witness should cooperate; finally agreed that McNab and Minnie would furnish witness's services free of cost except that they (Page et al.) should pay witness's expenses. Contract entered into and sent to McNab and witness wired later that immediate drilling necessary and that execution and return of lease should be expedited.

McNab had wired of interest of Bartlett and Gypsy Oil Co. to secure lease, but witness found out about forged deed of Minnie, which they had taken, and felt that they were adverse claimants and he couldn't deal with people who were claiming under a forged deed, and that influenced him to give Page the lease as well as the fact that he was an individual and witness was dealing with him rather than a corporation, where he would have officers to deal with. (R. 3700.)

At his request payment was made to witness in two checks of $5,000 each; reason given was that he desired to have $5,000 to cover his expenses while litigation was going on, the other $5,000 to go to Minnie. One check was made not payable until July 30th; reason assigned by Page and Josey was that they were not satisfied of the identity of Minnie. (R. 3701.) Agreed that Long should return to Seattle to satisfy himself as to identity of Minnie. Long returned to Seattle with witness and they went to American Lake and explained matter of checks to Capt. McNab. He agreed to arrangement subject to approval of Minnie. (R. 3702.)

Long and witness interviewed Minnie who told her life history; Long took notes; Minnie said that while at Leavenworth she had given birth to Thomas Atkins at the home of an old colored woman with whom she had left him; Long asked her the name of this colored woman; Minnie asked if that was necessary, to which Long replied yes, that they could go there and trace Thomas and find if he is really dead; Minnie said "wait a minute"; got up, left the table, returned, sat down, and said she was mistaken, that he was not born there but at the Sisters Hospital. Prepared and had Minnie sign affidavit reciting details told by her. (R. 3703–04.)

Upon McNab's return to fort he talked to Minnie about the two checks and he told witness it was satisfactory. They cashed one $5,000 check; witness gave McNab $2,800, keeping $2,000 for expenses. (R. 3705.)

Received word from Rice & Lyons of a hearing to be had at Sapulpa and started for Oklahoma with Minnie, who was needed for purposes of identification. [This Sapulpa hearing was an injunction suit brought by Gem Oil Co. against the Gypsy Oil Co. to prevent interference with Gem's possession of property. R. 3706.]

After having started back with Minnie to Seattle, stopped at Leavenworth to look up records at Sisters Hospital and was told no confinement cases were taken at the time witness figured Minnie had child. (R. 3707.) Witness scolded Minnie for lying and she confessed that she had lied and that child was born at an old colored woman's in Leavenworth; witness drove her around town, but Minnie couldn't recognize house although she recalled places she had been and places she had known; wouldn't tell name of colored woman. (R. 3708.)

Interviewed Peterkin in Boston, who told of his relations with Minnie and of birth of girl child to her at Woods in 1886. (R. 3709.)

Tells of being informed of employment of Sadie James and of warning Page that she was a dangerous woman; Page was sure that Sadie would find evidence of death of Tommy. (R. 3711.)

Witness relates trip of investigation in Leavenworth and how evidence was secured relative to Granny Letcher, etc. (R. 3711–13.)

Went to Seattle and endeavored to get Minnie to tell about her past, saying to her that they had secured information about colored woman at Leavenworth, etc. Minnie wanted to return to Leavenworth and would not tell anything, although witness states he "could see that the information they had was correct."

Deposited check for $5,000 for collection (second check). Received telegram that check not paid. Wired Tulsa and received reply that Rice advised Page not to pay check. (R. 3714.)

Received word that depositions were to be taken and to bring Minnie. On way back Minnie admitted information witness had was correct; said reason she had not told was she did not want people at Seattle to know it. Upon arrival at Kansas City, Page, Rice, and Long talked to Minnie, who wouldn't tell anything. One of these men told witness Minnie was afraid he (witness) would tell McNab and that

Seattle people would know; witness assured Minnie, and she then stated she had had Tommy at Letcher's; so they decided to take the deposition; Minnie taken ill and could not give her deposition when others were taken at Leavenworth; afterwards Minnie's deposition was taken at Rice & Lyon's office. (State court case.)

Witness's next activity with this matter was after receipt of copy of complaint on behalf of Quinton Garrett suing for cancellation of Thomas Atkins's allotment and for its allotment to him. He left this to Rice & Lyons. Went out to see Minnie and found Mr. Montgomery, a representative of the government, who told him he was investigating Minnie's claim to the land, whether it was good and whether suit should be brought for cancellation of the allotment and patents. Stated he wanted the true facts, but wanted to talk to Minnie alone; Minnie insisted on Hanford staying. Minnie was very much excited about something Montgomery had read to her to effect that people at Sapulpa had had witnesses to prove father of Tommy was a negro. Witness assured her that witnesses had not so testified. Asked Montgomery to let him see what he had read to her. Mongtomery refused, but said he had shown it to McNab in confidence. Told witness he (witness) had been deceived by people down there, but witness insisted that he had facts. Montgomery said he would return next day. On that day witness went to Minnie's and found Montgomery there, who asked if he knew Minnie had executed a deed to Page; Minnie told witness she had, which was his first knowledge of it. Montgomery asked Minnie several times if she was mother of Thomas Atkins and she said she was but his father was not a negro. Montgomery told her that Government had proof the whole thing was a frame-up; Minnie asked why she was not allowed to hear depositions taken at Leavenworth; witness reminded her that she was sick. Montgomery read to Minnie deposition of George Crilly, and she corrected several statements made by Crilly, but said Crilly remembered it better than any of them. (R. 3717–19.)

Montgomery left saying he would return next day but Minnie requested him not to and he said he would wait until Friday. On Thursday witness went to see McNab, found Montgomery there; McNab said Minnie was on her way there.

Upon her arrival, McNab lectured Minnie about the deed given to Page, told her Montgomery was there to find out if she was mother of Thomas Atkins; that he claimed to have proof that she never had such a son and that Minnie should tell the truth; that Montgomery would give her immunity if she had claimed land falsely; McNab left room and Montgomery told witness he couldn't give immunity but could agree to try to get it; witness told Montgomery he had no right to talk of immunity and sending people to penitentiary and to ask her what he wanted to know; Montgomery asked if she was mother of Thomas

Atkins and she said she was—nothing could make her change that. Montgomery told her he knew she never had but those three children born at Fort Logan and had never had a child named Thomas Atkins; that if she did make a statement now he was through and she could take the consequences.

Witness and Montgomery had some altercation about talking of immunity and statements about children and nonexistence of Thomas; Montgomery then said to Minnie, "You never had any boy named Thomas Atkins, did you, Minnie?" and Minnie bobbed her head.

McNab returned to the room and Montgomery told him Minnie had made statement and he wanted it in writing. Statement written, and Montgomery asked Minnie to sign, but she wouldn't say anything and wouldn't sign. McNab had left and witness called him back. Minnie asked McNab if he wanted her to sign and he told her she should not sign if it was not t[illegible]ut if it was true she should sign it. Minnie sign[illegible] It was agreed to leave the statement with McNab to be destroyed if immunity was not secured, and if secured to be turned over to Montgomery. (R. 3720–23).

McNab returned the statement to Minnie the next day and she burned it. Witness states his recollection of contents of statement to be that Minnie was not the mother of Thomas Atkins and that the only children born to her were Alice (Mabel) and Harvey and Charlie. (R. 3724–25.)

Next day witness went to Minnie's; she wanted him to get Montgomery, who she said was a devil and had made her sign that paper—something that was not true. Witness told her he didn't want her to tell him anything; went to McNab's and found Montgomery there and told McNab and him that Minnie had told him statement was not true; McNab did not go, but Montgomery went with witness to Minnie's, who retracted her statement and declared that she was the mother of Thomas Atkins. (R. 3725–26.)

Witness tells of efforts made to collect the second $5,000, a part of the $10,000 bonus consideration for lease and of refusal of Gem Oil Co. to pay until Minnie "told the truth." $500 had previously been paid on this second $5,000. While admitting that lease was made without guarantee or warranty of title, yet Gem Oil Co. contended that they were entitled to "fair dealing" from her. This was reason advanced for not paying. Rice wrote witness to that effect and stated that when Minnie had given testimony "in conformity to the truth," he saw no objection to paying *a certain portion* of the money, but that it was not advisable to pay all until she had appeared at the trial and testified. (R. 3744–46.)

Witness represented Minnie Folk. (R. 3747.)

Cross-examination:

Doesn't think Minnie desired an attorney to represent her, for she didn't want any interference. (R. 3757.) The trust agreement defines witness's service and fixes his fee; also later gave Minnie a stipulation to do all things necessary as her attorney in quieting title to land, he to get 10 per cent; this made after he returned from Oklahoma at the time McNab was released as trustee by Minnie. Had general understanding with McNab as to what should be done before Minnie was consulted. Told Minnie in "joking" way that they would send her to Canada where "these people couldn't get at her." Admits that at receivership hearing he stated they would take steps to prevent her from selling her land and that he said nothing at that time about "jovial way." (R. 3759-60.)

First guaranteed Minnie $4,500; then, after talking to Long, guaranteed $5,000. (R. 3761.)

The agreement respecting his fees was that he should receive 10 per cent of the royalties; expenses to be paid out of that. (R. 3762.)

Page has advanced witness's expenses of a personal nature; has paid the expenses witness was put to in this case; witness made arrangement that during pendency of this suit Page should advance witness $125 per month; Page has been doing this (R. 3763); also took employment from Rice & Lyons. Tried to get McNab to advance more money out of the $3,000 balance of first $5,000, but latter declined to do so. (R. 3764.)

Later, witness states that probably he retained $3,000 out of the first $5,000 and gave McNab $2,000 (R. 3778). Minnie did not receive a cent out of the first $5,000. The first money she received was an advance of $500 to be charged against the second check when paid (R. 3779); she got the balance of $4,500 after she made her statement in Kansas City, when she was sick at the hospital This statement bears date September 25, 1914; depositions were taken first week of October (R. 3780).

On first trip from Seattle to Oklahoma when he accompanied Long to investigate, witness and Long arrived in Tulsa on Sunday morning; went to Sapulpa Monday to investigate court record in Nancy's suit; Tuesday went to Muskogee with Long to look over Dawes Commission records and returned Tuesday night to Tulsa; sent telegram to McNab to execute lease which had been left there by Long; didn't offer lease to anyone but Page; wanted to lease it to Page. (R. 3785–91.)

Page and Josey were to defray all expenses of witness incident to litigation but witness explains retention of $3,000 by him from first $5,000 as necessary to pay his living expenses and other expenses not considered necessary—treated it as an advance on his fee; when McNab relinquished trusteeship Minnie agreed that he (McNab) might keep the $2,000. (R. 3809.)

Now states real reason why second check not made payable at once was because Gem Oil Co. was not sure of Minnie's identity; the matter of Minnie's not testifying right did not come up until later. (R. 3811.)

In first conversation had with Minnie at Seattle, she admitted having five children; at Sapulpa hearing she said she had four; in the affidavit she gave which witness declares was false all through, she said she had four children; and she so declared at Tulsa in her deposition; when Montgomery took her confession she said she had three; witness on none of these occasions corrected her or called attention to discrepancy; on receivership hearing she said she had five children and that is first time she mentioned Peterkin child; at deposition before Examiner Penick she said four and a miscarriage—the latter clearly a reference to Peterkin child. (R. 3796.)

Witness shown schedule of dates in handwriting of Long (Govt. Ex. A–112, R. 4832–33) indicating birth of child in 1886 or 1887; witness says this was calculation made by Long from Minnie's narrative (R. 3797).

Q. Tell us how it happened when you went to hospital in Leavenworth you looked at the records for 1884 and 1885?

A. Mr. Pinson, we guessed up and down and all around at the time that that boy was born and at that time I suppose I thought it was 1884 and 1885; and I had stopped looking for the record of Minnie's being in the hospital, when she was so positive that she had been in the hospital that I started in again.

Minnie was still so positive that he looked further and found it in 1886; guesses he got the information to look at 1884 and 1885 from one Marshall who had some recollection as to when Minnie left Carlisle. That he supposes was first time he was advised of Carlisle dates. (R. 3798.)

In her first testimony at Sapulpa in October, 1914, Minnie stated child born immediately after leaving the Staffords (R. 3798). Witness first heard of Peterkin child before this from Peterkin in Boston in August, 1914, and had wired something about Thomas being a girl (R. 3799). The Tulsa testimony was after Sadie James had been employed (R. 3800). The first time he heard of Granny Letcher was after Sadie had been employed. Admits that finding out about Peterkin baby had something to do with Minnie's changing of date as to birth of child in her testimony at Tulsa. She has always testified that she first went to Hydes, then to Grodevants, and then to Staffords; then she put Tommy back before Staffords and at Hydes; after Tulsa, the next testimony was at receivership hearing when she mentioned Robert Lee Peterkin (R. 3800, 3801). Witness wired Stafford because Josey and Rice had been informed of this Peterkin child and wanted further effort made to secure facts. Had previously communicated with Stafford in July, 1914, warning him not to disclose any information to any one; didn't want Gypsy Oil Co. to get information (R. 3802–03); also warned Peterkin not to disclose information to Rosser (R. 3804–05).

It was necessary that child's birth be placed at least ten or eleven months prior to the Peterkin child, hence the change was made between Sapulpa and Tulsa testimony. (R. 3805.)

In Tulsa deposition taken at Rice & Lyon's office, Minnie put Thomas' birth anywhere within the 2½ years she roomed around Leavenworth and fixed it at Granny Letcher's; the next hearing was the receivership and they then had Peterkin information and Carlisle date and realized that Thomas if born before Peterkin couldn't have been born earlier than August, 1885, and that he couldn't have been born after Robert Lee Peterkin, who was born in July, 1886, because they knew of Minnie's Fort Logan history (R. 3806); therefore it was necessary to fix birth of Thomas between middle of 1884 and middle of 1886. So that Minnie testified at receivership hearing that Thomas was *not* born at Hyde's and then she went to Grodevant's for about a year and Thomas was born within that year. The Grodevant expense book was found before Minnie's deposition was taken before Mr. Penick.

Q. Did there exist in your mind at the time Minnie's deposition was taken at Seattle before Mr. Penick any reason for changing her testimony from the testimony she had given at the receivership hearing?

A. Well, we knew the facts to be different. There was no reason in my mind for changing her testimony. (R. 3807.)

Referring to Montgomery's visit, witness states that he told Minnie that Montgomery's object was to get statement adverse to her interest so that land could revert to Creek Nation. The thing that rankled most so far as Minnie was concerned was that Thomas was claimed to be a negro child. This was indicated from testimony given by Crilley which

Montgomery read to Minnie. (R. 3814–18.) Admits it was clearly understood by Minnie before signing confession that if she signed it would take land from her; Minnie was in good humor not two minutes before she signed. (R. 3818–19.)

Witness explains his visit to Minnie, the day after confession was signed; that he felt that the confession was not true and he wanted to talk it over with McNab and Minnie. Admits that confession of Minnie would have cleared up the discrepancies in her testimony and would have accounted for all the various suspicions which had been raised in his mind since the beginning of the suit. (R. 3820.)

By agreement, Hanford for defendants Page et al. reads certain questions and answers from deposition of Elizabeth Dillman given in the State case at Leavenworth in October, 1914, with understanding that she would admit, if on the stand, that she had testified as the deposition reads, as follows:

Became acquainted with Minnie Atkins 21 years ago at Fort Logan, Colorado; when witness first met her Minnie had come from Leavenworth; didn't know her there; was told she came from Leavenworth. (R. 4481–82.)

Capt. Alexander J. McNab:

Acted for a time as trustee for Minnie Atkins relative land in controversy; saw Sadie James on one occasion only when she came to Minnie's house at Fort Lawton, when detectives were following her; at that time witness persuaded Minnie not to do anything in the way of signing away land, and arranged to have Hanford act as her attorney; didn't see Sadie James after that to have any conversation with her; she never told witness that Minnie was not telling the truth; only statement she made about Thomas Atkins was that Minnie was his mother; that she had known Thomas and had seen him long after Minnie had. Minnie stated to witness that Sadie claimed to know her, but that she didn't remember her.

Betty Mann came to see him, but he did not discuss case with her. Bartlett came and asked that his company be afforded a chance to bid on the lease and that witness wire Hanford to see Gypsy Oil Co. before making lease. Witness signed a telegram to Hanford. Bartlett stated he had given lease to Gypsy and was there endeavoring to make title good.

Subsequently Miss Alice Robertson came to see him and wanted to talk to Minnie to see if she could identify her as the Minnie Atkins she had taught in Oklahoma. She identified Minnie as such. Hanford was present.

Lease of land in controversy was made by him, as trustee of Minnie, to Gem Oil Co., consideration $10,000; $5,000 was devoted to expense, incident to case, including $2,000 turned over to witness as trustee.

Minnie didn't get the other $5,000 until later, as payment on the second check was withheld because Gem Oil Co. not satisfied of Minnie's identity. (R. 3832–39.)

Cross-examination:

When Minnie first came to him regarding this matter, witness understood Sadie James had been to see her, but she wasn't under Sadie's influence; witness had no knowledge of any claim that there had never been a Thomas Atkins (R. 3839–40); only question was whether Minnie was the mother (R. 3841).

The first time he heard of the case was after Sadie had talked to Minnie; he based his conclusion that Minnie was the mother of Thomas Atkins upon statements made by Minnie and Sadie James. (R. 3846.)

Minnie was not under guard at any time; she did, however, stay at Sergeant Everlynn's house to get away from people who were annoying her—this after arrangements had been made for Hanford to go to Oklahoma with Long. (R. 3848–49.)

Denies that Miss Robertson, when she had interview with Minnie, was interfered with or that Minnie was told not to answer certain questions. (R. 3850.)

Mrs. Catherine Sisk McComb:

Wife of Lt. J. G. McComb; knows Minnie; latter came to her for advice in regard to property involved in this case. Minnie told her she had had five children; doesn't remember stating to Hanford and others that Minnie had five children; it was after Hanford was retained in case that Minnie told her of having five children. Minnie told her of Sadie James being there and she had told her of the allotment and witness understood Sadie had brought Minnie good news. (R. 3852–58.)

Eugenola Hunt:

Stenographer for Dennis Jones; was present in Jones's office in spring of 1914 when Sadie James came to see Jones; Sadie asked Jones and Rube Smith about boy named Thomas Atkins born at Granny Letcher's; asked if they knew the old residents there in Leavenworth and the location of different people who could remember when Granny lived on the street; said she wanted to get these people to prove when Tommy was born; next time she came she had Betty Mann with her; didn't say anything about Tommy Atkins case; wanted Dennis to sign some papers but he refused because they were made out in Jackson County, Missouri, and he was a notary in Leavenworth County, Kansas. (R. 3865–67.)

Cross-examination:

Is a niece of Dennis Jones. *Bettie* brought the paper for Dennis to sign as notary (R. 3868); thinks Rube Smith was in office first time Betty and Sadie came. When Sadie was in Leavenworth she would come into Dennis's office. (R. 3870.)

Grant Foreman:

Attorney at law, Muskogee, Oklahoma, in 1903, 1904, 1905; he and John R. Thomas had offices adjoining office of principal chief of Creek Nation; his firm had access to records in office of principal chief; witness's firm represented Chaney Trent in relation to her application for enrollment; shown

Govt. Ex. A-15, R. 4660 (record of delivery of deeds of allotted lands); states he doesn't know anything regarding notation "Held for investigation," etc.

Cross-examination:

Learned in connection with Trent case that Dick Atkins, father of Chaney Trent, had a son Thomas Atkins. Witness's firm endeavored to obtain enrollment for Thomas Atkins. (R. 3873.)

CHARLES PAGE:

Owned a half interest in Gem Oil Co. Remembers incident of company getting lease from Minnie Atkins of certain property; didn't give it much attention; Long and witness's lawyers looked after it almost entirely; Josey looked; after it a little; $10,000 was consideration for lease; gave two checks of $5,000 each; paid first check, but withheld second because they wanted Minnie identified a little better; didn't pay second check when due because Minnie had told them things which upon checking up they found not true, so Minnie was brought from Seattle to Kansas City in order to confront her with some of the Leavenworth people, they having learned in meantime that child (Tommy) was born at Granny Letcher's; witness and Josey went to Kansas City; took Minnie to a lawyer's office to secure statement from her and have her meet these people to see if it would bring it out of her; thought they got it at that time; after getting her statement admitting she had baby at Granny's, witness didn't pay much attention to the matter and they paid the $5,000.

Was endeavoring to establish identity of Minnie and to ascertain whether Tommy was alive or dead; first heard of claim that Tommy never existed when he heard of Minnie's confession at Seattle; neither Sadie James nor Betty Mann told witness that Thomas Atkins was a myth, so far as he can recall.

Heard that suit was to be filed, sent telegrams to Commissioner of Indian Affairs at about time Government brought suit, in which he asked opportunity to be heard before suit was filed, and expressed willingness to present any information desired. (R. 3876–80.)

Cross-examination:

Can't remember when his attention was first called to the land in controversy unless it was time when Long brought in telegram from Betty Mann (signed Bill Jones) and told him the purport of it; didn't do anything about it until second telegram came from Betty; witness then agreed to go in with them and that Gem Oil Co. should attempt to get lease from Minnie; sent Long to Seattle for that purpose; Long brought Hanford back; doesn't remember that Long and Hanford had breakfast with him at his house, but supposed they did, inasmuch as Hanford said so. (R. 3882–83.)

Witness is man that got the lease from Hanford. Doesn't know, but no doubt was with Hanford practically all day; thinks he made the deed that day; agreed what they were to pay, provided Hanford accepted; agreed on $10,000, and witness felt he had it pretty well along that day.

At this time knew of litigation pending wherein Nancy claimed to be mother of Thomas Atkins and to be his heir, and that Gypsy Oil Co. was in possession of the land and claiming the title under a forged deed. (R. 3884.)

Long had the signature of Minnie on a slip of paper and they compared it with the roll when she drew her grass money in 1895 and believed it the signature of the same person. Long told witness that he had made some inquiries of Minnie while in Seattle. (R. 3885.)

They wanted Long to keep Hanford away from others who might run up the price for the lease. Long's duty "was to keep Hanford kiting around the country" so they could get the lease. (R. 3886.)

When Betty Mann returned from Seattle, witness had a conversation with her. Betty continued around the Gem Oil Co. office for quite a while. (R. 3887–88.)

Witness kept up to date on this matter until second $5,000; was paid after that didn't pay much attention to it because he was convinced there was a Tommy. Paid that money July 29, 1914, after Minnie had made statement at Kansas City and had been seen by and talked with some Leavenworth people. Rice told witness there was no question that they were all right. (R. 3888.) He had wanted to defer payment, second $5,000, until he was positive Minnie was identified by some of the Leavenworth witnesses. Asked if he didn't testify at receivership hearing that money was paid after she had given her deposition at Tulsa, he admits that he did and that that testimony was correct. (R. 3897-98.)

Before Minnie testified at Sapulpa, witness had her at his house and had a number of persons come to identify her. (R. 3891.) He was satisfied of her identity, but when she testified at Sapulpa about the child being born at the Sisters' Hospital, and when Long hurried to hospital and found out that she had not been there, it disgusted him. Reason they had Long go to check hospital records was they didn't know whether Tommy was dead or alive—so Long went to check up her story. Asked why he didn't send to check records before, states that he doesn't think they knew about hospital before. (R. 3892.)

Doesn't recall when was the first time he heard the name Peterkin; Hanford went to Boston to interview Peterkin and reported to witness what Peterkin had told him. Witness insisted on Josey interviewing Peterkin because he wasn't satisfied with explanation he had gotten from Hanford. Remembers that he reported that Peterkin had said that Minnie had a child in Leavenworth. (R. 3894-95.)

At that time witness knew Dennis Jones was working for Bartlett and witness wanted to employ him. (R. 3894.)

About this time Sadie James came in and was brought to him by Long; made engagement to meet her at the park.

Q. Why was it that you didn't trade with her or talk with her in your office instead of waiting until that night at your park?

A. Why, because possibly I was busy, or possibly it was a better time to sit down and talk. It was in the summer time, it was warm, and there might be lots of reasons in regard to that. Maybe I wanted to say lots of things to her and didn't have time up there. I couldn't tell what was going to run through my mind at that time.

Sadie gave witness to understand that she could prove that Tommy was dead and buried, and he told her if she could do that she had a job right then. (R. 3896.)

Denies that he stated at receivership hearing that he knew Sadie's reputation at this time. Upon being confronted by testimony given on that hearing, he admits that his testimony then given is correct. In that he stated that he without questioning her knew of her character prior to time Long brought her in to him. (R. 3897.)

On the same day that Minnie testified at Tulsa, witness took a deed from her to this land. (Govt. Ex. A-63, R. 4744-48.) In this deed, dated October 22, 1914, Minnie conveyed all mineral rights in the land and also her royalty rights under the lease heretofore given by her (McNab lease); she warranted the title; in consideration of the deed Page agreed to pay $25 per month until the right of Minnie as against Nancy was established; not to exceed $10,000 to be paid; then $200 per month for five years, and then

$100 per month until death of Minnie. If Minnie died before the $10,000 is fully paid, then to her heirs shall be paid the remaining sum to make up the $10,000.

There was a condition that payments to Minnie should cease if Thomas Atkins, the son of Minnie, or the rightful heirs of Thomas should establish claim and title to the land. There was also a provision that should any suit be brought by United States, the Creek Nation, or Thomas Atkins or those claiming under him, then payments should be suspended until final judgment.

Asked why provision was put into contract relative Thomas Atkins or his heirs establishing title, witness is unable to state reason therefor. (R. 3898-99.)

MINNIE FOLK:

Born in the Creek country; father's name Thomas Atkins, mother Mary Jane Atkins; Lee Atkins is her brother, Nancy Atkins her sister; Lee older, Nancy younger, than witness; went to Carlisle Indian School; Betty Mann went with her to Carlisle; was "farmed out" for a while to family named Penrose near Philadelphia; went back to Carlisle and later went to Leavenworth as cook for George H. Hyde. (R. 3910.) While at Hyde's became pregnant; can not recall last name of father of child; first name was Lee; he was from Fort Leavenworth and was a coachman to some general; while pregnant witness went to work at Grodevants at Fort Leavenworth; Lee got her the place; worked at Grodevants as long as she could and then left Grodevants and went to a colored woman named Granny Letcher, where child was born; named it Tommy Atkins after witness's father; stayed about three weeks at Granny's after child was born, then returned to Grodevants; came back every night from work to see child. Tommy was two or three years old when she left him and went to Fort Logan; had five children all told; Tommy was first one, then Robert Lee Peterkin, then Alice, Charlie, and Harvey.

Once wrote her uncle, John Davis, asking him to send some money for Tommy; no answer received; later at Fort Logan wrote again and he sent some money. (R. 3911-12.)

Witness went to the 1895 Creek payment and drew money for herself, Charlie, Harvey, and Thomas—about $57; doesn't know who got Nancy's and Ed Schrimpsher's money; while in Oklahoma on that trip, her brother Lee was shot and witness went to Checotah and stayed with him until his death; returned to Fort Logan with John Couch; when they arrived at Kansas City she remained in station; didn't see Sadie James on that trip. (R. 3913.)

Never had any talk with Sadie about robbing the Government of some money; never told Sadie witness had put up a job on Government and was trying to get away.

Sadie James was the first person who came to her at Seattle about this claim of Thomas. On the occasion of her first visit to her there, Sadie was excited; witness told Sadie she did not know her. Invited

Sadie into the house, and "she talked and wanted to know about my children." Told her she had had Tommy, but he was dead. Sadie said "that is all right we will make a Tommy"; told witness she was working for Mr. Bartlett and the Dawes Commission, Mr. Cook, and mentioned four men to her—can't remember who. Witness told her that she (Sadie) couldn't make a Tommy because he was dead. Sadie said "we are going to make a Tommy because I am working for the government now." (R. 3914.)

Remembers woman at Seattle by name of Mrs. DeLaval; met her at a dressmaker's; when witness's husband was sick and in hospital, Mrs. DeLaval came to witness's house and latter asked her to stay with her overnight; told Mrs. McComb that same day that Mrs. DeLaval was going to stay with her that night, and Mrs. McComb told witness that Mrs. DeLaval was "up to something." Mrs. DeLaval was at witness's house three or four times; didn't know dictagraph was in her house. (R. 3914–15.)

Remembers Montgomery's coming there and of signing her confession; asserts that she was intimidated when she signed it; nobody persuaded her to retract; she took it back because "I knew I was in the wrong." (R. 3916.)

The reason she testified to having Tommy at sisters' hospital was because she didn't want anybody to know she had had him at Granny Letcher's.

She tells now for the first time who was father of Tommy, because it was charged that the father was a colored man.

Walter Banks, Sam Nash, and Jim Mayo were at Granny's when witness was there.

Witness sometimes went around with a woman—a fortune teller—used to visit Lange's drug store with her; remembers purchasing a pocketbook there; she thinks she was pregnant then. (R. 3917–18.)

When she left Granny's witness asked latter to keep Tommy because she couldn't get work with him.

After she went to Seattle, she kept secret her past life, didn't want anyone there to know of it; didn't write to anybody in Oklahoma;

Never knew there was such a thing as the Dawes Commission until this case came up. (R. 3918–19.)

Cross-examination:

Was at Hydes about two or three weeks before she became acquainted with Lee—but she had seen him on the streets (R. 3920).

This is fifth time she has told her story in court. First time was in Sapulpa in July, 1914, in District Court (state court); next gave deposition in October, 1914, in Rice & Lyons office in Tulsa, to be used in state court of Creek County at Sapulpa; then in United States District Court at receivership hearing in this case; then in deposition taken at Seattle by Examiner Penick for use in this court; finally the present testimony. (R. 3921.)

Out of court, made statements as follows:

(1) At Seattle for Long and Hanford;

(2) At Kansas City in hotel with Page, Rice, Long, and Hanford present;

(3) Confession given when Montgomery saw her.

In all these statements and each time she testified no one talked to her about case who she did not think was friendly to her interests, except Montgomery. (R. 3922.)

Had never been to Leavenworth until she left Carlisle. (R. 3922.) Went with Lee ("ran around with him") until she went out to Fort Leavenworth; knew his last name at that time, but can't recall it now; she and Lee were sweethearts—he was her "steady"—until she went to the Fort, which is about three miles from Leavenworth; would go out with him frequently; in this time she never kept company with negro men and never would go to public places with negro men as her escort; has no negro blood that she knows of; can't speak Indian language sufficiently to carry on conversation; never kept company with negro men "up there" (Leavenworth); never had any relatives of negro blood that she knows of. *Thinks* Lee was coachman for Col. Blunt at the Fort, but *knows* it was for *some* Colonel.

Worked for Hyde about three or four months; knew other young men around town, but kept company only with Lee who came to see her every night. (R. 3923–24.)

Went directly from Hyde's to Grodevant's at the Fort; didn't stay in town (Leavenworth) any part of the time; didn't have any women associates in Leavenworth; doesn't recall running errands for any woman there, if she did she doesn't remember (R. 3924–25). Quit Lee about two months after she went to Grodevants because she saw some soldiers she liked better. (R. 3926.)

Next went with soldier named Oliver; can't remember his given name; kept company with him a couple of weeks; doesn't remember who her next sweetheart was; didn't take up with Peterkin until she was working for Stafford; then says she doesn't remember just when it was, but it must have been about a year after she quit Oliver and after she quit working for Staffords. Had Robert Lee Peterkin by him. (R. 3926-27.)

It was over ten years since she left Fort Logan, Colorado, when she went to Seattle; during that period she had never heard from Fort Logan. (R. 3928.)

Denies having known Sadie James prior to latter's visit to her in Seattle; denies having known her at Leavenworth and when she worked across the street from Hydes. Denies that she testified at Sapulpa in July, 1914, that she knew Sadie when the latter lived on the corner of the street from Hydes. (R. 3928-29.)

Learned from Sadie at time of her visit at Seattle that she was working for Bartlett and that he would pay witness $4,000 for the land. Sadie said they would make a Tommy; would send to New York or some place and get a Tommy. Sadie told witness she had seen Mary Hamilton in Denver, who had told her that Tommy was buried at Fort Logan; witness told Sadie boy not buried there, but that he died in Leavenworth. Witness told Long to see Mary Hamilton. (R. 3930–31.)

Sadie told witness not to deal with anyone except Bartlett and her; witness declared she would deal with person she knew she was right with; that she had a Tommy, and that it didn't look right to her the way Sadie was going on, not wanting her to have anything to do with Long. (R. 3931.)

Sadie said that they would make a Tommy because witness told her that Tommy was dead (R. 3933); witness understood at the time that Tommy would have to be dead in order for her to get land (R. 3934).

Witness agreed to sell the land (R. 3934); Sadie returned the next day and told witness she couldn't get into communication with Bartlett (R. 3935). This was before Long came. (R. 3937.)

It was understood between witness and Sadie that former was to tell the people when they came that she had a Tommy Atkins. (R. 3936.)

Sadie first came on a Monday and was there about three days before Long came. (R. 3936.) When Long came Sadie didn't come in, she was walking up and down the sidewalk with the detectives; had not known Long before or any of the people he was representing. Capt. McNab and possibly Hanford were there (R. 3937); Long asked her if she was Minnie Atkins and witness said she was; that was all that Long asked and he didn't talk with her any more; talked with McNab. Sadie didn't come to see her after Long had been there; witness went up to where

Sadie was on the sidewalk and the latter asked who was in the house; when told it was Long she told witness not to have any dealings with him, that she wanted her to deal with Bartlett; witness said she was going to deal with man that was right with her; thought Long was that man, although he had only said to her "Are you Minnie Atkins?" (R. 3938-39.)

The Sunday after Long had been there Sadie came and stayed two hours with witness and talked about making the deal, urging her not to trade with Long but with Bartlett; told witness Betty Mann was in town helping her to locate witness, that both were working for Bartlett. (R. 3939.) Thinks Long mentioned Betty's name in reference to telling how he located witness.

Hanford and McNab saw her between time Long was there and the Sunday Sadie was there; had not met Hanford before; witness didn't have any lawyer, because at that time witness wanted to deal with Bartlett; this was after Long had been to see her. (R. 3940.)

Hanford told her he was going to Tulsa with Long to look after her land and see she wasn't robbed out of it. Upon his return he did not tell witness how much he had been offered for it, nor did she ask him. Hanford said it was pretty valuable land; doesn't remember now what Hanford told her about his trip to Tulsa. (R. 3940-41.)

Long and Hanford interviewed witness to get the details about Thomas Atkins; "didn't exactly tell him (Long) all that was the truth because I didn't want anybody to know about my business"; didn't want to tell him where child was born; wanted to conceal everything if she could; *did not* want to conceal at that time the season of the year when Tommy was born and told him Tommy was born in the summer time. (R. 3941.)

Didn't want them to know how she got him but it didn't make any difference to her at that time whether she got Tommy at Hydes or Grodevants or Staffords or where she got him, just so they didn't know where she got him. Denies that she told Long that she had to quit Staffords because she was pregnant with Tommy; didn't tell him that last time she heard from Tommy was in 1899 when he was sick. Did tell him that Tommy was born in 1886 or 1887 at the Sisters Hospital, but he wasn't, in fact, born at the hospital—"I just said that to him." (R. 3942.) Did tell him what she thought was the truth about the year when Tommy was born.

Long told her that if Tommy was dead, she would own the land.

Didn't tell Long that there was a woman in Denver who would remember Tommy's custodian and that Tommy died in 1900 or 1901—doesn't know when Tommy died. (R. 3943.)

Told Long names of people in Leavenworth she knew, but can not tell whether she told him at that time at Seattle or in Leavenworth when she went there later; also told them that she used to go to Granny's. (R. 3944–45.)

Knew Granny well; doesn't know whether she could read or write, but got a letter from her telling her Tommy was dead.

Told Long she didn't know with whom she left her child because she didn't want to tell any of them where she had left him. Told Long, however, that she gave birth to Tommy at Granny's. (R. 3945.) Asked why, if she had told that to Long, she had stated on the stand at Sapulpa that Tommy was born at Sisters Hospital, answers because she wanted to hide it. Long was mistaken if he telegraphed his company that she didn't remember name, etc., of woman with whom she had left Tommy. (R. 3946.)

Told Long and several others about all the children she had had. Is questioned regarding her testimony at Sapulpa, where she stated that she was the mother of Thomas, Alice, Harvey, and Charlie, and that she never gave birth to another child; says she doesn't remember the question and answer there given; there did not exist in her mind then any reason why she should conceal the birth of any child she had had (R. 3946); she wanted to answer truthfully. Didn't tell Long about Robert Lee Peterkin—can give no reason for not doing so; didn't tell Hanford about him either; doesn't remember month or year Robert Lee was born; was buried in Leavenworth.

Now states that she didn't tell Long that Tommy was buried at Leavenworth; now says that she did tell Hanford and Long on their second visit at

Seattle that she didn't remember name or description of woman with whom Tommy was left; told them he was left with colored woman, but didn't tell them who; was mistaken when she testified previously that she did give name.

States now she didn't leave Staffords to have Tommy. Admits that at Sapulpa she testified that she went from Carlisle School to Hydes and worked there three months; then worked at Ft. Leavenworth for Grodevant for 1½ years; then at Staffords for one year, leaving Staffords because she was with a baby by name of Tommy Atkins who was born at the Sisters Hospital in Leavenworth.

Admits that her Sapulpa testimony on this point is the same as what she told Long (R. 3948–49). Admits that she did have Robert Lee Peterkin immediately after leaving Staffords.

Reason why she stated she had given birth to Tommy at Sisters Hospital was because she had once been there as a patient. When she testified at Sapulpa about having Tommy at hospital she knew it was false, but never had told any other story (R. 3949–50).

Before giving the testimony at Sapulpa, she had never told anybody that this child Tommy was born at Granny Letcher's; she was concealing from everybody the place of his birth. (R. 3950.)

After Sapulpa testimony, went to Leavenworth with Hanford who looked up records of Sisters Hospital. Hanford told her he was going there to see if she had told the truth; doesn't remember when he told her that; asked why she didn't tell him she hadn't had child there, says "I just didn't tell him." (R. 3951.)

After she came back to Tulsa from Sapulpa, witness gave Hanford some information about Peterkin—told him about Peterkin being her sweetheart, doesn't remember what else (R. 3952). When he returned from interviewing Peterkin, Hanford asked witness why she had told him that Peterkin was Tommy's father; she told him "I just said it to be saying." Witness had told Hanford that at Tulsa; told it just to stall him off. (R. 3953.)

When she went to Leavenworth with Hanford at time he went to look at hospital records, he drove witness around so she could show where Granny lived; had told him about Granny after they had been to the hospital. (R. 3953.)

When she signed lease she didn't get her money right away, the reason she thinks was because she "didn't tell right out everything"; that was before she had told any story in court. (R. 3955.)

When Hanford returned from Oklahoma he told witness he had got $10,000 for the lease; witness asked for her money, and he said he would give it to her, but didn't say when.

Q. But he didn't give it to you at that time; you hadn't told the story, is that it?

A. I guess that is it.

Q. They were waiting for you to tell your story before they gave you any money; that is a fact, isn't it?

A. Yes. (R. 3956.)

Long never got any information from witness upon which to predicate statements that father of this boy was a negro. Witness never cohabited with negro in her life. Witness would never refer to negress as a "lady."

Attention is then called to her testimony at Sapulpa, in which she stated that after she left the Sisters hospital she took Tommy to a lady in Leavenworth to care for him by the day and she went to work, always returning to him after work, and in which she constantly referred to the person with whom she left Tommy as a "lady." (R. [illegible].)

Can't say if Granny Letcher was married in [illegible]; there were three children there, Walter Banks, Sam Nash, and Jim Mayo.

Her attention is then drawn to her testimony at Sapulpa wherein she stated that one with whom she left Tommy had a husband and did not have any children. Witness states she does not remember saying that. (R. [illegible].)

Asked if, on trip with Hanford from Seattle to Kansas City, Hanford had accused her of telling lies at Sapulpa and that she would have to straighten it up and change that story; denies any such occurrence. (R. [illegible].)

Hanford told her reason he desired her to make trip to Leavenworth was to have her tell him the exact place where she had Tommy. Long took her around and she met people there—they knew her just as soon as they saw her. Then they went to Kansas City and had witness make statement (Long, Hanford, Page, Josey, and Rice present) when they asked witness whom she remembered at Leavenworth, the only ones she could mention without suggestion was Mary Hamilton and Grandma Spain.

Q. And they would suggest to you, why, you knew Rube Smith, and then you would say, yes, is that right?

A. Yes; I knew him because he used to hang around Letcher's all the time.

Witness claimed to know Crilly, but admits that at Kansas City she said in her statement that she couldn't think of name of the livery stable near Granny's. (R. 3963.)

Witness is asked about testimony given before Examiner Penick, wherein she stated that she and Ida Foster were running around together at the time Tommy was conceived, and her statement in Kansas City wherein she said that Ida Foster was the girl Mr. Smith said she went around with; that she might have but didn't remember and didn't remember her then.

Asked if it wasn't a fact that Mary Smith didn't recognize her at Leavenworth, witness states that she (Mary) said she did. Is then confronted with her statement at Kansas City where she stated that Mary failed to recognize her. (R. 3963–65.)

Witness, in answer to question, says nothing happened between the statement in Kansas City and the testimony later that made her remember Ida better. (R. 3965.)

Referred to statement at Kansas City wherein she said that she didn't know much about Rube Smith. (R. 3965.)

Witness's attention called to fact that she had told Long that child was born in summer time, and at Kansas City said it was in winter; in deposition before Penick she stated it was getting summer but cold yet. Now says it was in the summer, towards winter but still in the summer. (R. 3966–67.)

Witness nursed Tommy at the breast when she was in Leavenworth as long as she was around there—about six months. Doesn't know whether she had relations with men while nursing Tommy; says she doesn't remember averring in the Kansas City statement that she did *not*. (R. 3967.)

Admits that at Kansas City and in deposition at Rice & Lyons office October, 1914, she stated that first child was boy, Thomas Atkins; second child, a girl, Alice, and that Alice was born at Denver, Colorado. (R. 3968.)

Witness is referred to statement made at Kansas City after Sapulpa hearing, when she was asked why she testified that she left Staffords and went to Sisters Hospital to have a baby, and at which time she said she didn't know why she made such a statement "You know how they get at you"—"I didn't want them to know right out" what kind of a place Granny's was. At that time (Kansas City) this comment was made. Q. Well, that is what you must say because it is difficult to explain that testimony, and I want you to tell the reason why you testified that way at Sapulpa. (R. 3968.)

Bought trinkets, beads, breastpins, etc., for herself when in Leavenworth in 1884 but cannot state where she bought them. (R. 3969.)

Always knew who the father of Tommy was, but this is the first time she has ever named him. Denies that at Kansas City certain stated questions were asked and answers given to the effect that after she left Hydes she got Tommy, that she was then "around town"; had no particular sweetheart, didn't want any; about two men were going with her particularly when she left Hydes but she didn't remember their names. (R. 3970.)

Witness states that she told them at Kansas City that Mary Hamilton knew nothing about Tommy, but denies she told Long at Seattle previous to that that Mary could tell him where and with whom she left him.

Doesn't remember that she stated at Kansas City that up to the time she made first trip back to Oklahoma (1895) she had not received any letter from anybody about Tommy.

Attention was called to deposition at Seattle wherein she said the letter telling her Tommy was dead was one from her sister's husband enclosing deed for her to sign. Letter was burned later. (R. 3971.)

After making that statement at Kansas City, she refreshed her recollection and then told them before that statement was finished that she received a letter in Detroit, Michigan, from a friend stating Tommy was dead. (R. 3972–73.)

Was in Oklahoma about a year when she went there in 1895; testified at Sapulpa that Tommy was about one or one and a half years old when she left Leavenworth (R. 3973); left Leavenworth in early part of 1888; stated at receivership hearing Tommy was about two years old when she left Leavenworth, and now states that he was two or three years old. Explains discrepancies by saying that she studied it out more and more. Admits that she has been talked to about it. (R. 3974.)

States that for about three weeks before baby was born she didn't work; doesn't remember that she stated at Kansas City that it was two or three months, but admits that she testified it was *two* months, at Seattle. Doesn't remember where she was staying during those two months—"down to Granny's sometimes and around." Was in bed about two weeks, when confined; nursed child for about six months. (R. 3975.)

When she wasn't there they had a bottle for him. Admits this is first time she has sworn about the bottle and that at Kansas City and at Seattle she said she nursed child at the breast.

Asked if during two months before birth of child she didn't stay at Mrs. Edwards, witness states "I didn't stay there, I was just in and out." (R. 3976.)

Relates incidents occurring at Leavenworth when attempt was made to have her identify Henry

Carter as Tommy. They wanted to frame up a colored child. She wouldn't let them bring him to see her. Had a fuss with them and was so mad and excited she became ill. Long told her somebody was trying to frame up a colored boy on her. (R. 3977.)

Went to hospital and wouldn't give her deposition at Leavenworth because they brought that nigger story upon her.

Hanford came to see her and gave her the check for $5,000 which she later put on time deposit in bank at Tulsa; left it there on deposit about four months. Long suggested that she put money in that bank. (R. 3979.)

After paying her the money, they took witness to Tulsa and later to Page's home—nurse came with her—witness paid none of the expenses of nurse. (R. 3978.)

Reference is made to testimony given before Examiner Penick at Seattle that witness was carrying Tommy when at Grodevants, and to receivership hearing where she swore she had him before she went to Grodevants. (Denies she gave that testimony in receivership hearing but admits she might have made same statement in deposition at Tulsa.) Nothing happened to refresh her recollection; "I just knew all the time." (R. 3980–81.)

Didn't sleep at Granny's for a period of a year and denies she testified to that effect in receivership hearing. (R. 3981.)

Dr. McCormick attended her at childbirth. Admits she testified at Sapulpa that she didn't know who the doctor was (R. 3981). Granny suggested him—that was first witness had heard of him—thinks he came in the evening. (R. 3982.)

It was a little over three weeks after Tommy came when she went back to Fort and to work at Grodevants; went down to see Tommy every night from Fort in a bus. Would leave Grodevants as soon as her work was done, about half past 7 or 8 o'clock, depending on time Frank Grodevant would get there, as he was always late and didn't eat with family. She had to wait on him. Would stay with Tommy until last bus left for Fort about 12.30. Can't say how long she continued going up and down that way. Would nurse baby when she made those trips. Bus fare 10 cents each way.

Denies that she stayed at Granny's a year, although she so stated in statement in Kansas City (R. 3982–83). Also admits that in Tulsa deposition she said that she stayed in Leavenworth a year after Tommy was born and *then* went to the post. (R. 3983.)

States that she doesn't know who went for doctor or that he got any pay (R. 3984), although she admits stating in Kansas City that Rube Smith went for doctor, and she got the money from him to pay doctor; says she was only guessing at that. Never went to Dr. McCormick's office on any matter. (R. 3985.)

Last time she saw Tommy was morning of the day the evening of which she left for Fort Logan; he was playing around house (Granny's). Thinks Tommy could say a few words then. (R. 3986–87.)

Gave deed to Page on day she gave her deposition in Tulsa, "because I was in the right" (R. 3987); didn't advise with anyone before signing it; can't explain why provisions were put into it regarding possibility of Thomas Atkins or his rightful heirs successfully maintaining title to land, and that upon filing of suit by United States, Creek Nation, etc., payments provided for should stop. Didn't ask anybody why they were put in there. (R. 3988.)

Didn't meet Peterkin until she was working for Staffords. Was in Leavenworth pretty near four years; worked for Hyde three months; Grodevants, 1½ years; Staffords, about a year; then for a rich Jew; doesn't know how long she worked for him; when she left him she went to Denver (Fort Logan). (R. 3988–89.)

Worked all day at Hydes and Grodevants and Staffords, except would have every afternoon off at Staffords; would get through half past one or 2 p. m. and go down town, returning at half past four or 5 p. m. to prepare supper. (R. 3990.)

While at Fort didn't have breast pump; relieved her breasts during day by pumping them with her hands. (R. 3991.)

States she does not remember testifying at Sapulpa that she hadn't named Tommy Atkins at time 1895 payment and that she had her uncle put him on the roll as Tommy Atkins; says now she doesn't know whether her uncle put him on or not; doesn't know who put him on. Admits, however, that in her Seattle testimony she testified substantially the same as in her Sapulpa testimony on this point. (R. 3993.)

(It is agreed between counsel that questions and answers read to witness as testimony taken in either Sapulpa hearing, Tulsa deposition, receivership hearing, deposition before Penick (Seattle), and in statement made in Kansas City, will be admitted in evidence as being such testimony or statement. (R. 3994–95.)

Deposition of Minnie Atkins, given at Seattle, here introduced as follows:

Had Tommy put on 1895 Creek tribal roll as Thomas Atkins—that was not my name; had not named Tommy Atkins, and her uncle, John Davis, put him on as Tommy Atkins. (R. 3997.)

At the time she drew the money on the 1895 pay roll she had had 5 children—Thomas, Harvey, Charlie, Mabel, or Alice, who had died, and Robert Lee Peterkin, who lived a week or ten days and whom she called a premature birth (R. 4004–05); went from Carlisle to Hydes at Leavenworth and stayed there 3 months or a little over; then to Grodevants at the Fort where she was for 2 or 3 months; then to Staffords; got Tommy at Hydes (R. 4008–09).

Knew lots of men at Leavenworth; sometimes went around with Crilly, who runs the livery stable; can't remember name of others; knows who father of Tommy was; won't tell who. (R. 4010-11.) Met men at a hotel (white hotel), name of which she does not recall, nor the proprietor of it; also at Granny Letcher's; never consorted with negro men. (R. 4012.)

Was in bed about two weeks at the time she gave birth to Tommy; can't tell the name of the doctor who attended her; Mrs. Witt washed and dressed child (R. 4013). Didn't run around much with Ida Foster in Leavenworth, but went with her more than with anybody else (R. 4018). When at Hydes didn't stay there all the time, sometimes would go to a hotel and to Granny's and stay all night and carouse with men (R. 4019).

Had Tommy when she was working for Hyde; quit work there to have him (R. 4020); then says she gave birth to him after she left Grodevants, where she worked up to within 2 months of his birth; after Tommy was born she staid around Leavenworth for about a year so she could go to Granny's and nurse him; Tommy was about 2 years old when she left Leavenworth for Ft. Logan; left Tommy with Granny; didn't regard it as any humiliation to associate with Granny (R. 4021); didn't send Granny any money for Tommy's support; didn't have to send (R. 4022).

Tommy was born on Seneca Street; it was between warm and cold—getting summer but still cold; knew Granny when she lived on Cherokee

Street; before she was on Seneca "we" (girls) used to go there. (R. 4035.)

Granny's house on Seneca Street was good-sized house, painted white; four rooms down stairs, two upstairs; porch in front running around the side; Thomas was born in one of the upstairs rooms. (R. 4036–37.)

Didn't work steady for Grodevant or for Stafford; doesn't remember how long a time she would be away from Grodevants or Staffords. (R. 4039.)

Letter telling that Thomas was dead and inclosing deed for her to sign was received just before she went to Fort Lawton—Seattle. (R. 4039.)

Didn't have a child named *Nancy* born at post hospital at Fort Logan, Colorado; didn't die at the hospital. It was *Alice* who died there at post but not at the hospital; buried in post cemetery. (R. 4041.)

Cross-examination:

Witness is asked concerning statement made in Kansas City, and, to shorten examination, it was agreed that Kansas City statement be admitted in evidence as what she stated then. (R. 4043.)

(The statement is in record, pages 4044–84; was taken at office of George William Snyder, at Kansas City, Missouri, September 29 and 30, 1914. Present: Messrs. Rice, Long, Hanford, and Josey.)

In that she made the following statement:

Sarah Crowell (Betty Mann) was one of the girls who went to Carlisle with her from Oklahoma. Has not seen her since. (R. 4047.) Women she knew at Leavenworth were Mary Hamilton and Grandma Spain. (R. 4050.)

Was at Hydes three months—when she went from there was "knocking around and stayed a good deal at Grandma Letcher's"; worked for a few weeks at a rich Jew's before she went to Letcher's. Granny lived on Seneca Street; there was a livery stable near the place; can't think of name. Q. Was it Crilly? A. Some such name as that. There was a grocery store in the neighborhood run by Rube Smith. (R. 4051.)

Couldn't say how many rooms in house (Granny's). (R. 4052.)

Doesn't place Ida Foster; might have gone around with her, but doesn't remember.

Remembers Bill Grape, who brought coal and wood to Granny's; doesn't know much about Rube Smith; Granny used to get groceries there; sometimes witness would go and get them (at Rube's). Granny had two boys at her house, Sam Nash, a one-armed boy, and Walter (Banks. R. 4053.)

Was at Granny's, off and on, about three months before child born; got with the child after she left Hydes; when she left Hydes she had no particular sweetheart or lover—didn't want any—was just around—two men going with her; doesn't remember their names.

Doesn't remember name of doctor who attended her at birth—Rube Smith went for him. (R. 4054.)

Borrowed the money from Rube Smith to pay the doctor. Tommy born in winter of 1885.

During time she was carrying child she would go to Letcher's, "off and on," most of her time. (R. 4055.) Will not tell name of father of Thomas. (R. 4057.)

Stayed around in Leavenworth about a year after Tommy was born. During time she was nursing Tommy no man came to see her. (R. 4057.)

Rube Smith saw Tommy around house while witness was at Granny's—he came to deliver groceries—Rube never saw witness in bed with child. (R. 4058.) Now remembers doctor's name as John McCormick. (R. 4059.) First worked for Grodevant at the fort, then for Stafford. Peterkin went with her when she worked for Stafford. Harrison was her steady company at Fort Logan; went with Peterkin from Leavenworth to Fort Logan. (R. 4060.)

Second child, Alice (Mabel), was born at Logan; lived about a year; then she went with Harrison after Peterkin was ordered to Texas. Went back to Territory (Oklahoma) because her brother wrote for her to come, he wanted to see her. She hadn't written to him. He didn't say anything in letter about Creek payment—she found out about that after she got there. (R. 4060-61.)

Met Sam Brown at the payment at Okmulgee; never saw him before that; supposed her brother told Sam who she was. (R. 4064.) Did not tell her uncle, John Davis, about Tommy. (R. 4065.)

Sam Brown had never seen her children; she just told him what children she had; he didn't ask many questions. (R. 4066.)

Never wrote any letters to anybody in Oklahoma about Tommy; got a letter while in Detroit, Michigan, saying Tommy was dead; before that, received letter asking her to send some money to take care of Tommy; doesn't know from whom letters were. (R. 4072.)

[September 30, 1914, further Interrogations.]

Didn't work at Stafford's before Tommy was born. (R. 4073.) Admits testifying at Sapulpa that she left Stafford's to have a baby, Thomas Atkins, and went to Sisters Hospital; says that wasn't true; didn't "want them to know about Granny Letcher's." (R. 4074.)

Now states that when she went to Muskogee she told her uncle John Davis about Tommy and Alice—told him she had left Tommy in Leavenworth, but didn't mention the place. (R. 4075.)

First she knew of allotment to Tommy and that land was valuable was when Sadie James told her when she was in Seattle. (R. 4080.)

First letter asking for money she got while at Detroit (Fort Wayne), and was, she thinks, from Granny Letcher. About a year later received a letter that Granny was dead. A year after the second letter she received another stating Tommy was dead. Then says first letter was from Granny and second announced death of Tommy. (R. 4081.) It was about a year before ([illegible]) she left Fort Wayne for Vancouver that she heard Tommy was dead. (R. [illegible].)

When she went to Muskogee from Fort Logan, she didn't go to Leavenworth to see Tommy because she promised herself she wouldn't go back there because of rough character of the house. (R. [illegible].)

Testimony of Minnie Atkins before court in comment.

Cross-examination:

Never told her people in Oklahoma about Tommy, because she didn't want them to know. (R. [illegible].)

Harry B. Folk:

Husband of Minnie Folk (Atkins); Minnie received a letter at Fort Harrison, Montana; she did not tell witness what it contained; looked over her shoulder saw papers which appeared to witness like a surveyor's map.

Was at Spokane on June 26, 1914, on temporary duty with 14th Inf. Band; Long and Hanford came to see him with regard to the land in controversy; had a conference with them at which Lt. Winton, Capt. Wright and Maj. Stokes were present; was satisfied with arrangement made. (R. [illegible].)

George Kinney:

Employed by Page and Posey in drilling wells on Thomas Atkins' allotment; has statement showing expenditures made prior to bringing of suit. [Court ruled that that statement may be offered when Curtis

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the bookkeeper is put on stand, he having prepared it.]

Built five steel tanks on land in winter 1914–15; cost about $14,500 apiece. (R. 4158–60.)

Cross-examination:

Witness drilled first well on that land that was drilled for Page, "spudded" in November 3, 1914, completed January 15, 1915; when first moved onto land there was a producing well on it of the Gypsy Oil Co. Mr. Page ordered him to move the rig onto the land. (R. 4160–61.)

Redirect:

Cost about $10,000 to drill each well. (R. 4161.)

Recross-examination:

Steel tanks were not put on this property. (R. 4162.)

E. O. **Curtis**:

Auditor for Page; has book which treats of Tommy Atkins lease; has statement prepared from books showing detailed account of expenditures commencing in August, 1914, and ending January, 1915.

[Statement is received in evidence (Def.) Minnie Atkins, Ex. B–22 and 23. R. 4950–58.] (R. 4169.)

Cross-examination:

This testimony is on the matter of expenditures made by Page and others (Gem Oil Co.) on the lease covering the Atkins allotment, how they were kept on the books, etc.; the purpose of this testimony and the other given by this witness is to show good faith on part of Page et al., and upon the part of the Government in its cross-examination to show that but little actual money was paid out, although contracts were entered into until production was had; that is, that liabilities were met out of proceeds of production. (R. 4170–74.)

Deposition of MIKE STANTON, a witness produced by the Government, is offered in evidence by Minnie Atkins et al.:

Has lived in Leavenworth and Ft. Leavenworth 57 years; moved from Fort last time in 1886; knew Indian Minnie while at the Fort; first saw her on corner Shawnee and Main Streets in 1867 or '68; saw her again at Fort in 1869 on one of the corners; saw her for about a year; was working on grading of Fort extension and saw her with a "baby buggy"; she was working for some officer. Last saw her in 1870.

Knew Indian Mary at the reservation; had been told to have her run off reservation if she came around there; last saw her about 1880; Indian Mary was found dead in a ditch about 1888. (R. 4175–77.)

CHENEY TRENT:

Lives ten miles west of Wagoner, Oklahoma; is Creek citizen; father's name Dick Atkins; grandfather's name Thomas Atkins; he is dead; had a brother, Thomas Atkins, who died the year the filing commenced, aged 13 years; brother lived about a mile from her with her father; saw him every day or two up till his death.

Nancy Atkins visited her father's house three or four times a year; Nancy then living in Wagoner; Thomas often in Wagoner with Nancy; he would go there driving wagon for his father, who furnished wood to town.

Judge John R. Thomas and his partner, Grant Foreman, represented witness in matter of her enrollment. (R 4179–81).

Cross-examination:

Thomas Atkins was half brother; same father as witness. (R. 4181.)

Witness often went to Wagoner on wagon with her father, would see Nancy at hotel and at Aunt Betsy Birney's; never saw any children with her at hotel; sometimes would see her on the street. (R. 4185.) Brother Thomas would be along on these trips—father ran two wagons, Thomas would drive one. Thomas was about 11 years old when witness first knew of Nancy being at Wagoner. (R. 4186.)

None of the members of her family were enrolled as Euchees; they drew their payments in Arkansas Town, a colored town. (R. 4188–89.)

Mary A. Smith, witness for Henry Carter:

Saw Minnie a couple of years ago—recognized her positively and Minnie recognized her—but not until witness had had a talk with her. (R. 4201–05.)

Cross-examination by Mr. Stuart:

Long was with Minnie when witness saw and recognized her two years ago; Granny Letcher had told her baby was dead; scar was pink at first, then turned white. (R. 4205–06.)

Cross-examination by Government:

Sadie James first called this matter to witness's attention; about a month after that Mr. Josey talked with her; then not very long until Long talked with her—these talked to her before she saw Minnie. (R. 4206–07.)

Saw Minnie but once at Granny's previous to birth of child; saw her maybe once every two weeks thereafter; supposed she was staying there; saw her there two months altogether; doesn't know where in town Minnie worked after child was born and before going to Fort. (R. 4209.)

Denies that after testifying in Leavenworth she told Mr. Allen and Mr. Cook (government representatives), when they came to her house in 1915, that the woman she saw at Granny Letcher's couldn't be the same Indian Minnie she saw later; and denies that she told them that Long suggested to her not to say anything about scar on boy's back; insists that she testified about scar at Leavenworth. (R. 4210.)

Granny lived on Seneca Street some 2 or 3 years when witness saw Minnie there, so witness testified in 1914; doesn't know how long now. (R. 4210.)

Denies that she stated in testimony at Leavenworth in 1914 that when Tommy was 4 or 5 years old he looked more like a colored boy than he did an Indian. [It is admitted by counsel that questions and answers read to witness as her testimony on point at

Leavenworth are correctly read by examining counsel. R. 4212–13.] Admits that she talked to Long shortly before she testified at Leavenworth. (R. 4213.)

Explains her Leavenworth testimony to the effect that she lived next door to Granny Letcher by saying that it was not at the time of birth of child but years later. (R. 4214.)

Admits telling Government representatives (Allen and Cook) that the boy she saw with a woman at Granny's is now called Henry Carter. (R. 4215.)

At meeting when witness and Minnie recognized each other Long introduced them; "said this is Mrs. Smith and this is Minnie." (R. 4216.)

Henry Carter stands up in rear of court room. Witness states she is positively sure he is the boy she saw at Granny's. Last saw him when he was 13 years old; knew of some one coming in from country and taking boy out. (R. 4217.)

Her boy, "Snipe" Smith, two years older than Tommy, never played with latter—lived too far away—she didn't allow her boy to play in the streets; he was too young. (R. 4217–18.)

Tommy left Granny's when four or five years old. Saw him when 13 years on street. (R. 4218.)

Cross-examination:

Is positive that she told about scar in testimony at Leavenworth. (R. 4221.)

ANDERSON CHILDERS:

Lives northwest of Wagoner, Oklahoma; a Creek citizen; lived in and around Wagoner 25 years; knows

Nancy Atkins; has seen Minnie Atkins; Nancy and Minnie are sisters; Nancy Atkins first moved to Wagoner about 1891 or 1892; witness would see her there average of once a week; knew Dick Atkins and his son Thomas Atkins, whose mother was Sallie Atkins; would see Dick and Thomas in Wagoner at frequent intervals; Thomas was five or six years old when witness first saw him in about 1890; Thomas died about 1898; saw this Thomas Atkins in Wagoner with Nancy Atkins twice at Davis & Jones store; Thomas then 7 or 8 years old; saw Nancy in Wagoner with Minnie's children, Charlie and Harvey; saw these two frequently about the same time he saw Thomas there about 1892 or '93; saw Thomas continuously in and around Wagoner with his father until his death. (R. 4291–93.)

Cross-examination:

Knew Dick Atkins' family well; there was a Mary Atkins (Wilson); Nancy Atkins (now Tabor); Susie Atkins and Thomas Atkins; Thomas was about 12 or 13 when he died (R. 4294). [Govt. Ex. A–114 (R. 4836–38) is received in evidence, being copy of letter of Acting Commissioner of Indian Affairs to Secretary of the Interior relative enrollment of certain members of Richard Atkins' family, and Secretary of Interior's letter to Commissioner to Five Civilized Tribes, approving his decision.]

Knew Richard Atkins, father of Cheney Trent; familiar with contest brought against enrollment of his family wherein it was contended that he was not the original Dick Atkins. (R. 4296.)

C. LIPSCOMB:

Had a talk few days ago with Malcolm, in which latter stated that he had a chance to make $500 as a witness in this case, but it was too risky. (R. 4612.)

Cross-examination:

Malcolm didn't say who was making that proposition to him (R. 4612); never told anything about conversation to anyone until Long called him up and asked him about it (R. 4614).

F. K. TAYLOR:

Has been connected with police force of Leavenworth in different capacities; testifies as to practice in making arrests upon request of sheriff, that if arrest were made and prisoner put in city jail, the arrest would not be docketed on the regular police court docket. (R. 4616–18.)

Cross-examination:

It might be recorded on police blotter; has not made any search through dockets for name Thomas Atkins. (R. 4618.)

WILLIAM A. DODGE:

On police force of Leavenworth since February 4, 1897; knows Pat De Laney, who went on police force for second time in February 8, 1897; prepared, as day sergeant and captain, docket sent to police court for cases to come up before that court.

If, when preparing docket, a case was presented where complaint had issued from justice court and been turned over to sheriff, and the chief of police had given order to pick up the man and he had been arrested and put in jail to be held for sheriff, he would not put that down on docket. (R. 4620.)

Knew a boy in Leavenworth known as Tommy Atkins, son of Indian Minnie, and knew Tommy York. (R. 4620-21.)

[Def. Ex. B-27, photo of Tommy York (R. 4959), admitted in evidence to rebut statement that York looked like an Indian. R. 4621.]

Knew Tommy York since he was a baby; knew Tommy Atkins about two or three years. (R. 4623.)

Cross-examination:

Doesn't know where Tommy Atkins came from or went to; understood he was Indian Minnie's boy; didn't know her personally. (R. 4623.)

Requested by Pomp Graham and Mr. Bonds to testify; is to be paid whatever is reasonable and expenses for being witness. (R. 4625.)

Looked through records at police headquarters; couldn't find anything relating to Thomas Atkins. (R. 4626.)

Knew Tommy Atkins in '96 or '97; was about 11 or 12 years old. (R. 4628.)

[Police records showing arrest and conviction of Tommy York in city court of Leavenworth is admitted in evidence. R. 4632.]

[Frank B. Long and Charles Page (For Minnie Atkins et al.) both state that they never talked with Malcolm about case or promised him money or anything in this case; nor did they offer money or make any promise to Mrs. Cobb to testify in case. R. 4633-35.]

For Nancy Atkins.

R. F. Davis:

Testified that he lived in Wagoner, Okla., in 1888 or 1889; knew Nancy Atkins; noticed her being in family way; saw her later with baby and remembers Nancy bringing him with her to witness's grocery store. (R. 1202–07.)

J. E. Newberry:

Lived in Wagoner, Okla., since March 27, 1890; boarded for first two years at Barnard Hotel; knew Nancy Atkins; she was around hotel working; in summer of 1890 he noticed her in family way; relates conversation had with Dr. Bryant about 4 or 5 months after witness first noticed Nancy in this condition. Dr. said witness ought to go and "see your kid." Witness asked, "What kid"? Dr. replied "Old Nancy's"; saw Nancy about a month after this; she showed no signs of pregnancy. Was delivering furniture at Mrs. Walker's, who asked him if he wanted to see Nancy's baby; didn't see the baby. (R. 2418–27.)

Charles Bailey:

Lived at Wagoner from 1888 to 1907; knew Nancy Atkins when latter first came to Wagoner; she worked at the section house; afterwards lived with colored woman named Birney; saw her in pregnant condition either in 1889 or '90; child was born to Nancy in a tent near Davis & Jones yards; was told of it by colored woman; later Nancy was moved to Betsey Birney's (so witness was told); saw Nancy there quite often; didn't see child until it was about one month old; saw it frequently thereafter for 4 or 5 years; missed it; afterwards was told it was dead; child was called Tommy Atkins; it was a boy; knew Minnie Atkins and two children of hers, Charlie and Harvey Harrison; first saw them in 1895 or '96; witness kept Charlie at his house until he was 22 years old; witness was appointed his guardian; he was 4 or 5 years old when he came to witness's home; had some correspondence with Minnie; saw her in 1895; Minnie never mentioned having a child named Thomas Atkins; the Tommy Atkins he knew was living at Betsey Birney's. (R. 2227–34.)

Cross-examination:

Saw the child in the yard or on the porch of Birney's house; Nancy or Betsey had it in their arms; doesn't know whether baby was Nancy's or Betsey's or Betsey's grandchild; so far as witness knew Nancy had but one child. (R. 2437–38.)

James E. Long:

Lived in Wagoner from 1896 to "last year"; knew Nancy Atkins; she had a mulatto-looking boy—six—seven years old; saw him around there for about 4 or 5 years; saw boy with Nancy and Maggie Martin, this in 1897 and '98; boy was called Tom; witness contributed to fund for his burial in 1901 or 1902. (R. 2245–47.)

Cross-examination:

No personal knowledge whether Nancy ever had a child. Nancy associated with negroes and Indians

(R. 2248); never knew of Nancy living with Betsey Birney during '97 and '98 (R. 2456); was convicted of embezzlement when sheriff; new trial ordered; dismissed; county commissioners recommended his removal; he resigned (R. 2256–57).

Richard Birney:

Lived in Wagoner along about 1894; knew Nancy Atkins; she had a child—it was a little bit of a thing when witness first saw it (witness was a little fellow then)—it was brought to his mother's house; saw child a good deal until witness went away from home; pretty good-sized child then; boy called Tommy Atkins; Nancy had him in her arms when he was brought to Birney's house. (R. 2457–59.)

Cross-examination:

Was about 12 years old when child brought to his mother's; had seen Nancy before when he was a little tad about 3 or 4; was 12 in 1890 [Nancy didn't go to Wagoner until 1890] (R. 2460–61); was sentenced to Leavenworth for larceny (R. 2461). This baby was left in his mother's care while Nancy was in the penitentiary (R. 2463).

Stated in testimony in *Bartlett* v. *Nancy Atkins* (state court) that child was born in a tent.

Is asked about affidavit executed by him making similar statement; doesn't remember signing. (R. 2464.)

Nolan Williams:

Became acquainted with Nancy Atkins along in the '90's; knows there was a child with her that she said was hers—was a year or so old when he first saw it; Nancy said its name was Tommy; saw boy for about three years, was between Indian and mulatto. (R. 2465–2468.)

Cross-examination:

Didn't get information about child from Nancy, but from old man Birney (R. 2469); won't be certain he saw Nancy but the one time with the child (R. 2471). Only recollection that witness now has is that some time in the past he was coming out of Wagoner and saw a child with Betsey and Nancy, and Nancy said it was her boy, and old man Birney told witness it was Nancy's boy. (R. 2472.)

John T. Beard:

First saw Nancy Atkins in Wagoner in latter part of 1889 or '90; she appeared to be pregnant; this was before she was sent to the "pen"; saw her later, carrying the child in her arms and saw the child when it was walking; child 2 or 3 months old when he first saw it; Nancy said it was her child, called it Tommy. Saw boy in 1897–98 when he looked like he was 7 or 8 years old; he would often come with Nancy to store where witness employed; last saw child in 1898 or '99; remembers contribution taken up to bury child in 1901 or '02; child known as Tommy—Tommy Atkins (R. 2474–78); never knew Minnie.

On cross-examination is asked about testimony given in State court case where he testified that he had seen Minnie Atkins in 1890 at Wagoner. (R. 2484.)

M. I. Sullivan.

First became acquainted with Nancy Atkins in 1892 at Wagoner; she had a child two or three years old; said it was hers; Nancy was at witness's place of business at the time; saw the child probably every week; was acquainted with child from 1890–'95. (R. 2486–88.)

Cross-examination:

Nancy associated with colored people mostly (R. 2490).

A. Grant Wasson:

First acquainted with Nancy Atkins in 1889 at Wagoner; remembers she had a child that she claimed was hers, named Tommy; was about 2 years old when witness first saw it in 1890; saw child around there afterwards until 1895 or '96; was 4 or 5 when last saw him; looked like mixed between Indian, nigger, and white. (R. 2493–95.)

Andrew Jackson:

Knew Nancy Atkins; first saw her in Wagoner in 1892; knew she had a child, boy; he was 3 or 4 years old then; was riding out of town and nearly ran over child; asked Nancy if it was her child and she said yes; told her she had better keep him out of the road; thinks he saw child around the store occasionally. (R. 2500–02.)

John Ford:

Lived at Wagoner from 1887 for about 25 years; first acquainted with Nancy Atkins in 1888 or '89; was living in Wagoner when Nancy had child born to her;

saw the child two or three days after birth at Betsey Birney's; Nancy was in bed with it; was at Betsey's gambling nearly every night; would see child frequently; was yellow color, Indian look; last time witness saw child he appeared 8 or 9 years old; that was in 1899; gave 25¢ toward defraying funeral expenses for child; told him Tommy Atkins was dead; didn't see funeral procession; didn't know where they buried him; didn't know of Nancy having any other children. (R. 2505–08.)

J. L. Dyer:

Knew Nancy Atkins first in winter of 1890; she was pregnant in '90 or '91, soon after he went to live in that vicinity; remembers seeing her on street with a child after he had missed her a few months or more off the streets; had child before she went to the "pen"; child about 3 months old when he saw it; child was called Tommy; saw it around there until it was 9 or 10 years old; heard that it died; in 1901 last time he saw it. (R. 2519–21.)

Cross-examination:

Was convicted of "being constructively present at a robbery." (R. 2521.) Got new trial and got off at that trial.

Jasper Newton Skrimpsher:

Knew Nancy Atkins, who was related to witness's wife; doesn't know of her having child only what she told him; she had boy running around there 6 or 7 years old, which she said was her's, named Tommy Atkins; witness ran butcher and merchandising store;

Nancy traded there, sometimes sent boy to shop for meat, etc.; boy 8 years old when witness last saw him; doesn't know what became of him; he looked like half-blood Indian. (R. 2523–25.)

Cross-examination:

Saw him only about a year (R. 2526); saw boy about '91 and '92; he was about 7 years old then. (R. 2527.)

Foil M. Brady:

First acquainted with Nancy Atkins along about 1890; she was employed at McNally restaurant; went there on one occasion to get his boy, he was playing there with boy about 2 or 3 years old; Nancy came out and witness asked if it was her boy and she said yes; name, Tommy Atkins; month later was in town and asked about boy and Nancy told him he had died; never saw child after that; he died before Indian payment. (R. 2527–29.)

Kirk Turnbo:

Knew Nancy Atkins in Wagoner in about 1891 or '92; came in to have horses shod and saw Nancy; she was calling for "this boy," asked, "Have you seen anything of my boy Tommy"; saw the boy once in a while after that; last time he saw him boy was about 10 or 11 years old; (about 1902) thinks he contributed to fund to bury Tommy. (R. 2529–31.)

Cross-examination:

Was deputy U. S. marshal under Judge Stuart when he first saw the boy, 1892. (R. 2535.)

WALTER POSEY:

First saw Nancy Atkins in 1891 or '92 at Wagoner; saw a child with her; she said it was hers; saw it a few times with her, mostly with old man Birney; it stayed around there with the Birney children; it was 4 or 5 years old; last saw it about 1900 or '01; appeared to be about 10 years old; was called Tommy Atkins. (R. 2537-39.)

GEORGE WILLIFORD:

First became acquainted with Nancy Atkins at McNally's Hotel about 22 years ago; saw her in condition of pregnancy about that time; it was before she went to the "pen." Saw child with her whom she called Tommy; it was about 2 or 3 years old when witness first saw it; saw it a time or two. (R. 2539-41.)

Cross-examination:

Mr. White asked him if he knew about Tommy, and then "they" prepared an affidavit and witness signed it (R. 2543); saw the boy with McNally's boy before he saw it with Nancy; saw Nancy frequently for 3 or 4 years before he saw her with boy (R. 2544); didn't have the boy with her then; it was about 1895 or '96 when he saw the boy. (R. 2545.)

THOMAS BREWER:

Acquainted with Nancy Atkins; never saw her pregnant; knew she had a child; saw him with Nancy several times; was a good, big kid; talked, went around everywhere; mixed blood, wasn't white and wasn't nigger; went by name of Tommy Atkins;

died about 1901; boy came to witness's house for milk. (R. 2545–48.)

Cross-examination:

Boy was about 6 or 7 when he died (R. 2550); Nancy was living in Wagoner then (R. 2551); didn't know boy until witness moved to Wagoner in 1899 or 1900. (R. 2553–54.)

FRANK ENGLES:

Went to Wagoner in December, 1890; knew Nancy Atkins about six months after that; she had a small kid with her; saw her carrying it in her arms and also leading it around; child about one year old; saw him for 5 or 6 years; last saw it in 1900; looked like an Indian child; never heard Nancy say whose child it was. (R. 2557–61.)

Cross-examination:

Child about 6 or 7 when witness last saw him. (R. 2562.)

W. A. MCELROY:

Lived near Wagoner 1889–1901; was about Wagoner a good deal; saw Nancy in Wagoner about 1890; she had a child behind Davis & Jones' store—a collection was taken up for her (witness doesn't know about child except that collection was taken); saw child with Nancy afterwards; witness in town every six months for several years and saw child around town nearly every time he was there; 7 or 8 years old when witness last saw it; name of child always understood to be Tommy Atkins. (R. 2567–69.)

Cross-examination:

First learned child's name in 1896, 7, or 8 (R. 2570); the child lived at Betsey Birney's; last saw child in 1899; couldn't say whether when collection was taken up child was dead; it was said Nancy had given birth to child and was in bad condition (R. 2573); child appeared to be Indian and white (R. 2574).

J. M. Preston:

First knew Nancy Atkins in 1894 or '95 at Wagoner; she had a child about 5–7 years old, light complexion, molasses hair; child called Tommy; Nancy told him it was her child; saw the child around there about a week; never saw him after that. (R. 2575–77.)

Cross-examination:

Asked about affidavit he made in 1914; looked it over a few days before; stated therein that child was 4 or 5 years old, now still says it was 4–5 years old. (R. 2580-81.)

D. W. Best:

Became acquainted with Nancy Atkins during 1895; she had a child (supposed to be hers), swarthy little fellow, not white, was between 4 and 5 years old when witness first saw him; continued to see child until in 1898 or 1900; was about 9–11 years old when witness last saw him. (R. 2582–84.)

Cross-examination:

Was at blacksmith shop when he first saw child; blacksmith said, "There comes Nancy Atkins and Tom." (R. 2585.)

T. J. Way:

Knew Tom Holden and Katie Holden; was at their place frequently; Charlie and Harvey Atkins and Tommy Atkins lived with them; Mrs. Holden was sister to Minnie and Nancy Atkins; Holdens said that Charlie and Harvey were Minnie's children; saw Nancy Atkins at Holdens at one time; had conversation with Nancy and the Holdens with reference to Tommy; they said he was Nancy's child. This was in 1899 or 1900; after Tommy had been at Holdens some time Nancy came and took him away, so Mrs. Holden told him. (R. 2591–95.)

Cross-examination:

Child appeared to be not more than a half-blood Indian. Age then 6–8 years (R. 2601); Harvey and Charlie were at Holden's continuously until he died, in 1900 (2605–06).

W. C. Smith:

Kept drug store at Wagoner; Nancy kept coming around the store, had a little yellow headed kid about 3 or 4 years old with her; asked porter who Nancy was and was told "Nancy Atkins and her kid"; saw Nancy and child off and on for about 3 years, on the streets generally; saw child last in 1901, 02, or 03; child, sallow complexioned. (R. 2607–09.)

Cross-examination:

Last time saw child he was 3 or 4 or 5 years old; was walking by himself. (R. 2609.)

Bob Delozier:

Lived in Wagoner 20 years ago; knew Nancy Atkins in Wagoner for about ten years; got acquainted with her about two years after he went to Wagoner; she had a child when she was living in a tent back of Betsey Birney's house; witness was sent there with some grub for Nancy; saw her in the tent; saw a child lying there in bed; Nancy was in a condition of pregnancy a few months before; saw child for about nine years after it was born; saw it with Nancy often; child died—buried out northeast of Wagoner where graveyard now is—helped dig grave; was there when child buried; Monday Barnett, negro preacher, conducted ceremony of burial; doesn't recall if Nancy at burial; first morning witness went to tent (when baby born) he helped move Nancy out of tent into Betsey Birney's house; Nancy was arrested about three months after birth of child; saw child from that time until it died; Betsey first took care of it and then it lived different places among colored people; boy called Tommy, Tommy Atkins. (R. 2611–15.)

Cross-examination:

Has served three penitentiary sentences for forgery. (R. 2617–18.) Went to "pen" some time after child's death, maybe a year later. (R. 2623.)

Samuel McHenry:

Has lived in Wagoner since 1898; Baptist missionary preacher; attended burial of boy "they" said was Nancy Atkins's; thinks Nancy was present; fixes date as 1901; witness officiated at the grave. (R. 2626–27.)

Cross-examination:

Never heard of Nancy having a boy by name of Tommy until time of funeral. (R. 2637.)

Ellis Childers:

Three-quarter Creek Indian; three times speaker of House of Warriors, Creek Council; treasurer Creek Nation one term; was district attorney during Creek courts; went to school at Carlisle with Minnie Atkins; known Minnie and Nancy Atkins since childhood—about 30–40 years; they belong to Euchee Town band, part of Creek Tribe; knew mother of Minnie and Nancy; knew of their father, Thomas Atkins, who was captain of the Light Horsemen several years; he was of Coweta Town, mother was a Euchee; according to Creek usages the children of the marriage followed the mother because she was Euchee and father was not. (R. 2637–39.)

Was at Carlisle January, 1880–June, 1884; spent life in Creek Nation except when at school; judges Nancy to be 41 or 42 years old, Minnie 57 (R. 2639); intermarriages between Atkins and Childers families; knew Nancy in Wagoner; at time of pasture payment in 1890 (Oct. 1st) one Sam Childers told witness Nancy had had baby and was in destitute condition; subscription was circulated and some of the women went to see Nancy and reported that they had secured Betsey Birney to care for her; shortly after, within ten days, went to see Betsey Birney and while there saw Nancy and the child (R. 2640–41); saw a child with Nancy about a year later; couldn't say if same child, learned later it went by name of Tommy Atkins; last time saw child it was 1½ to 2 years old; saw him with Nancy and the others that lived there, around Davis & Jones's store (R. 2642–43); saw Nancy in 1890 several times; she was pregnant; never saw her pregnant more than the one time; birth of child was before Nancy sent to "pen." Describes method by which 1895 roll was made up (R. 2645–47) at extraordinary session of council in May, 1895. At that time knew Nancy had a child, but can't recall whether he knew the boy's name was Tommy Atkins. (R. 2647.) Knew then that Minnie had two boys, didn't know their names then; never knew of her having other children; understanding in Atkins family in 1895 was that Minnie had two children.

Sam Brown called witness out of the house and asked him to come into committee room to verify three families of Euchees that lived in witness's section; the Atkins family was one of the three; was the reputation in Atkins family that time that Nancy had one boy. (R. 2648–49.)

The 1895 roll was made from rolls made up by Town Kings; these were examined by the council committee and, if approved, it endorsed it and passed it on to the council (R. 2652, 2653); names paragraphed and numbered separately represented families (R. 2654); identifies names of Atkins family on 1895 roll (R. 2655) and is asked concerning notation "error" on 1890 roll.

ment, and he told Hammett that he didn't believe this child entitled to enrollment, but if anybody's child it was Nancy's. Didn't know how long Nancy's child lived, but understood it died very shortly after it was born. Did not at any time know any Creek child born to Minnie or Nancy Atkins named Thomas Atkins.

Witness admits testifying thus. (R. 2668–71.)

Witness admits that he gave Government representative names of persons to be interviewed who could testify of birth and death of Nancy's child and accompanied agent to secure statements. Was in pay of Creek Nation at time. (R. 2671–74.)

Thomas Atkins, son of Richard Atkins, lived about 8 miles from Wagoner; he died about time land office opened; must have been about 12 years old when he died. Richard Atkins's family were cousins of Minnie and Nancy (R. 2674). Witness's attention first called to Thomas Atkins's name on roll by Harjo, but he paid little attention to it and didn't give a satisfactory answer (R. 2675). Nancy Atkins was taken to witness's house by Jim White; she stayed there three weeks.

Q. Then you told me, didn't you, that you believed that if you could get Nancy away from that crowd that she would tell the truth about this boy; is that a fact?

A. I may have; I don't recollect.

* * * * *

Q. Didn't you say if you could get her away from that crowd you could get her to tell the truth?

A. You said it and I sanctioned it. You asked me if I didn't think so, and I said yes." (R. 2676.)

(See R. 2692 relative to name Thomas appearing with names of Richard Atkins's family; also R. 2694.)

NANCY ATKINS:

Lived in Creek Nation all her life (45 years); doesn't remember the year she went to Wagoner; Barnard Hotel first place she worked there; was pregnant when she went to Wagoner; child born in September at Elnora Williams's house; was a boy, died spring of 1900; would have child with her often; had to have somebody care for him while she worked, would send him to Betsey Birney's; never gave birth to another child; was at burial of child; MacHenry and E. J. White were also present; child was 3 or 4 months old when she went to "pen"; served 6½ months in "pen"; upon return to Wagoner went to Betsey Birney's and found child there. (R. 2697–2700.)

Relates how prior to trial of case against H. U. Barlett and Gypsy Oil Co. brought by herself she was visited by Bartlett's son, Betty Mann, and others and taken to Sapulpa, and after being there a few days went to office of Lytle; Bartlett's son also there; they wanted her to say child was a girl; told her by claiming it to be a boy she was fixing to go to the "pen"; Betty Mann had told her Bartlett child would give her $2,000 if she would deny the (R. 2700–03); never got the $2,000. Statement she made that day in Lytle's office was false. In trial at Sapulpa she took back what she said in that statement and testified that child was a boy and lived several years; that was the truth (R. 2704).

Since trial of that case, Sadie James endeavored to get witness to go with her to see Minnie Atkins; Sadie offered Joe Byrd $50 to persuade witness to go. Sadie went so far as to say to Joe Byrd that she wanted to get witness to Kansas City and there wouldn't be any more Nancy (this last not in presence of Nancy; she was told of it R. 2704–05); Sadie arranged to take witness with her, but witness had J. B. White called on phone and when informed of attempt to take witness away he came out and took her to Ellis Childers' (R. 2706). This was latter part of September. She stayed at Childers' until December. Her guardian, Harjo, also tried to get her away; she was at Coffeyville with Harjo and his family on their way to Portland, Oregon; made a statement to some lawyers there; Harjo told witness Bartlett offered him $500 if he could get her to deny child. This was before testimony at Sapulpa. Had interview with Bartlett and made statement a few days later; after making statement in Lytle's office, *they* wanted witnesses to prove child was girl; witness told what witnesses to secure; went with Bartlett, Betty Mann, and others to see witnesses; relates how witnesses were "coached" to say child was girl (R. 2706–09); witness was doing this to get out of case entirely (R. 2709).

Now states child was boy and she named it Tommy (R. 2709); died in spring of 1900; he was 8 or 9; had Minnie's two boys for two or three months (R. 2710); Tommy was puny child; had light hair when young; grew darker as he grew older (R. 2712).

Cross-examination:

Sadie was representing Page; witness was induced to give false deposition through fear of going to "pen" (R. 2712); admits she swore at Sapulpa that child was girl and born dead (R. 2713); Betty Mann told her if she so swore she would get $2,000. Attention called to affidavit made in district court, Sapulpa, opposition to new trial when she stated that Harjo came to her at Coffeyville and informed her that Bartlett desired statement that Minnie Atkins was mother of Tommy and that Nancy wasn't; Harjo told her Bartlett was willing to give her $500 to make such a statement (R. 2714); Bartlett never offered her any money—offer made by Harjo. When she gave deposition in MacDougal & Lytle's office her two lawyers were present and cross-examined her at length (R. 2715). Ellis Childers told her that she would get into trouble if she didn't change testimony and swear child was boy (R. 2719–20); admits she stuck to story about child being girl and born dead from July, 1913, to Feb. 9, 1914 (R. 2720).

Witness filed an allotment for herself, but not for child (R. 2725); Harjo was the first one to suggest that witness was entitled to the land in controversy; witness, at Harjo's instance, signed lease to Hammett for $50 (R. 2726). Bartlett was the next to talk to her about land; wanted her to swear her child was girl and that Tommy Atkins belonged to Minnie. Witness told him she was willing—wanted to get out of case (R. 2727–28). Harjo was to get the $500 for this (R. 2728). Made same statement in Lytle's office; her lawyer was present and cross-examined her; she stuck to story that child was girl, born dead (R. 2730); witness's uncle, Wm. Robinson, looked after enrollment of witness; he agreed to get them all on the roll; didn't file for boy because wasn't sure he was entitled to it, being dead when selections made; left that to Robinson (R. 2736–37); didn't ask commissioners about that (R. 2743).

Bob Delozier did not bring her her meals when she was confined. (R. 2740. Note: Delozier testifies that he did.) Child born at Elnora Williams's and not in a tent (R. 2740); was in bed there three weeks, and it was a month before she was "stirring around" (R. 2741).

Blanche Yarboro:

Lives at Nowata, Okla.; knows Nancy Atkins; remembers Sadie James coming to her house a year or two ago; Sadie said she was there to see guardian of Nancy; said there was money to be paid to Nancy; Nancy came in while Sadie was there; Sadie phoned to Page at Tulsa; she wanted Page to meet her that night; said "the party" will be ready to go. Nancy did not leave town, for witness put her away so that no one could take her away; telephoned to Mr. White; he came that night and took Nancy away in the morning. (R. 2744–45.)

Cross-examination:

Identifies Govt. Ex. A–107 (R. 4829) as bill rendered by telephone company for call to Page by Sadie; shows call by Whitaker to Tulsa on Sept. 25, 1914; Sadie put call in under name of Whitaker. (R. 2745–46.)

J. B. White:

Lived at Coweta, Okla., since 1901; deputy clerk of county court; lived Wagoner beginning spring of 1895; knew Nancy Atkins at Wagoner; saw her frequently; she stayed a good deal at Betsey Birney's; saw boy in 1896 with Nancy and playing on the streets; Nancy said it was her boy; was about 5 or 6 years old; looked to have Indian in him; saw child up to 1900; first heard of this Tommy Atkins matter in 1913; oil development in locality was then about 5 to 7 miles from land in controversy; had many inquiries made of him regarding Tommy Atkins; then went looking into it himself. Located Nancy; saw Harjo, her guardian, and asked for lease; secured lease from Harjo and had it approved by county court; talked over lease with Nancy in presence of Harjo; after taking lease, filed suit against Bartlett and Gypsy Oil Co.; latter in possession under lease from Bartlett. Suit was in name of Nancy Atkins, by her guardian Harjo, *v.* Bartlett and others, filed July 23, 1913. After approval of lease, did not see Nancy until she gave deposition in that case on February 9, 1914, in McDougal & Lytle's office; after that he sent Ellis Childers after Nancy; had no conversation with her until after trial was over. Was phoned to by Mrs. Yarboro to come to Nowata; found Nancy there; she asked him to take her away; witness sent her to Ellis Childers; Nancy was later brought to Mr. Allen's office (representative of Government); witness went to Wagoner to look up witnesses after he took lease; Ellis Childers assisted him. (R. 2747–59.)

Cross-examination:

Knew the Birney children; probably has seen Joe Birney with Nancy; Nancy never had a white child with her; boy Tommy claimed was light colored; could tell by looking he had negro blood. (R. 2759–60); remembers Thomas Atkins in Dick Atkins's family; never saw Nancy with this Thomas—he was mulatto; this child of Nancy's was called Thomas (R. 2761).

Witness and his associates furnished the money upon which this case has been carried on (R. 2766). Sent Ellis Childers to see Nancy after she gave deposition at Lytle's office because he was convinced she had told falsehood about not having boy child (R. 2766); kept Nancy concealed and was going to spring her as a surprise at trial at Sapulpa (R. 2768); didn't know what she would testify to.

Remembers getting 25 or 26 affidavits to be attached to answer to motion for new trial in *Atkins-Bartlett* case (R. 2768); never had testified before that he knew anything about Nancy and her child (R. 2769).

Testimony of Nancy Atkins given at trial Atkins v. Bartlett in state court at Sapulpa is introduced as follows:

Gave birth to a child.

Q. "What kind of a child was it?"

A. "Supposed to be a boy, I guess."

Lived to be 10 years old; admits testifying in deposition Lytle's office previously that she had a girl child which was born dead and that this was only child born to her (R. 2775); says what she testified to then was false; now places birthplace at Birney's and not at Williams's house; testified falsely because told there was big money in it for her; thought she ought to get some of it (R. 2776); told Bartlett that child was girl because Harjo got her to do so (R. 2777); was promised pay for affidavit given at Coffeyville; had been told she would go to the penitentiary if she didn't change her testimony (R. 2780). Betty Mann also told her there was big money in it for her if she would deny the child (R. 2782).

Deposition of Nancy Atkins given at Lytle's office February 9, 1914.

Had a female child born to her; born dead; no other child born to her; living at Wagoner when child born; child born at Mrs. Williams' (R. 2785); doesn't know anything about Thomas Atkins (R. 2786); made up her mind last July to testify child was girl; told Harjo, Hammett, and Bill Robinson; they wanted her to "swear child was a boy, this Thomas Atkins that they are bringing up, and I knew that was none of mine";

that was first time she had ever heard of Thomas Atkins (R. 2787); only Thomas Atkins she knows was Billy Atkins' child, who lived at Coweta; doesn't know who enrolled Thomas Atkins. Mrs. Robinson, Robinson's wife, enrolled Nancy (R. 2788). Knew Harjo as her guardian was executing lease to Thomas Atkins' allotment; witness told him that she did not have anything to do with it because the child wasn't hers. (R. 2790.)

Denies on cross-examination that she told White, who was negotiating for lease, that she was mother of Thomas Atkins and that he lived to be 10 or 12 years old. (R. 2792.)

R. C. Allen:

Employed Ellis Childers; sent him after Nancy Atkins; she didn't come at that time; Mr. Maxey telephoned witness he would produce Nancy if witness wanted to talk to her; later Mr. Maxey, Judge Rosser, and Nancy Atkins came to witness' office; witness interrogated her and had questions and her answers taken down; after interrogation finished witness asked that Nancy be permitted to talk with Ellis Childers alone in another room; after Childers came out, witness stated that he didn't care to question her further. (R. 2794.)

Cross-examination:

Knew at time he employed Childers that he had been employed by White. (R. 2795.)

J. K. McClaren:

Lived in Wagoner from 1885 to 1891; was about 17–19 years old in '91; last two or three years before leaving there worked in Davis & Jones' store in winter time and on ranch in summer time; worked winters '89–'90 and '90–'91 at store; knew Nancy Atkins from 1887 to 1891; she lived in a tent in the back part of company's lumberyard at one time; stayed with negroes named Birney and negroes named Williams—several places; she worked at Bernard Hotel some of the time; she had a child; most distinct recollection of it was about 1890 or '91; there was a little child about 1½ years old, couldn't talk; can't say whether boy or girl; Nancy left it when she went out to work, but witness saw her at store many times with child; would see it also with Birney children and on the street; looked like a mixed-blood. (R. 4406–09.)

Cross-examination:

Was in Wagoner when child was born, but doesn't remember when he first saw it; doesn't recall seeing Nancy in a family way (R. 4412); doesn't know of Nancy's going to the "pen" in 1890 (R. 4413); doesn't know child was Nancy's except that she claimed it. (R. 4414).

J. H. ANDERSON:

Made Wagoner his home from 1883; went to Coweta in '92; knew Nancy Atkins; he hadn't been in Wagoner long before he saw her there; doesn't remember seeing her in a pregnant condition; saw her leading a child once which she said was hers; that was about 1890, child then 3 or 4 months old; saw child after that; remembers Nancy going to the "pen." Betsey Birney took the child while Nancy was gone; saw child with Nancy when she returned. Returned to Wagoner in 1903; saw Nancy, but not the child; Nancy told him it was dead; never knew name of child.

Knows Dick Atkins's family; Thomas Atkins in Dick's family is not the child he knew as Nancy's; Dick's Thomas was five or six years older than Nancy's. (R. 4414–17.)

Cross-examination:

Child 2 or 3 years old when he last saw it. (R. 4417.)

M. J. Phillipi:

Was in newspaper business in Wagoner beginning 1892; knew woman there named Nancy Atkins; she had a child; saw child occasionally; saw it there for two or three years; looked like it had negro and Indian blood—some white; last time saw child about 1894 or '95; it was about 4 years old. (R. 4419–20.)

Cross-examination:

Had been in Wagoner about a year when he first noticed child, then about three years old (R. 4420); doesn't know whose child it was of his own knowledge; saw Nancy with Dick Birney's children; child was called Tommy (R. 4421). Left Wagoner in 1906 (R. 4422).

Lizzie M. Miller:

Lived in Wagoner for fifteen years from December, 1897; knew Nancy Atkins there; got acquainted with her in 1898; she was staying at Birney's; she had a child, called him Tommy; witness rented to Birney house in which latter lived; was at Birney's frequently; Nancy and the child there; remembers when child was sick and of its death; was there the day child was buried; was 7 or 8 years old when she last saw him in 1899. (R. 4422–24.)

J. B. **White**:

Had a conversation with Henry Anderson in Wagoner when witness was investigating this case; Anderson told him that he knew Nancy had a child and it was a boy and was named Tommy; that child lived to be quite a big boy; when affidavit to this effect was prepared Anderson said he wanted one hundred dollars for himself and one hundred dollars for one Phillips, whom he had procured for witness; told witness if they gave affidavits they had to have $100 down and $300 after case decided; witness refused to pay anything except for the day's work; never told Anderson he wanted him to testify that the boy lived and that Anderson said "no." (R. 4555–56.)

AUGUSTUS A. DAVIS:

Has resided in Wagoner, Oklahoma, since 1893; until seven years ago was in secondhand business; knew a boy at Charlie Bailey's home out on the farm near Wagoner, the boy was an Indian; first saw boy there in 1895 or '96; knew Nancy Atkins at Wagoner; saw a boy with her once when a man named Snow and she came into his store, boy was with her; Nancy said "this is my boy, I want to get him a pair of shoes"; had seen boy two or three times before; boy had been in witness's store with couple of colored boys. On occasion when Nancy had him at store Nancy called boy "Tommy" and then told witness his name was Tommy Atkins; boy was sandy complexioned—witness called him "a red-headed nigger"; thinks boy was of white and Cherokee blood; couldn't see any negro about him; the boy at Charlie Bailey's and the boy with Nancy were different boys. (R. 4593–97.)

Cross-examination:

Denies he said the boy looked like a red-headed nigger; he was dark and dirty; never saw him but once with Nancy; never had seen Nancy until the time Snow brought her into store; had heard of her. (R. 4597–98.)

For Henry Carter.

T. W. Bell:

Lawyer, practicing in Leavenworth for past thirty years; one of the attorneys representing defendant Henry Carter. Knows George Crilly of Leavenworth; had a conversation with him in presence of Coody Johnson and R. E. Martin, in witness's office in Leavenworth latter part of 1915; Crilly stated that his judgment was that defendant Carter was the boy known as Commodore; that he (Crilly) had told Clarence Turner he was and that he had not made up his mind he was not the boy; that he had talked to Carter about things that happened when he was a boy and Carter seemed to have a recollection of them and convinced him more than ever that Carter was the boy he had known as Commodore.

Knows Dennis Jones; Dennis, in conversation with witness in state district court room in Leavenworth in spring of 1915, told him that he (Jones) wouldn't say that Carter was not the boy Tommy Atkins that he saw at Granny Letcher's.

Dennis Jones also stated to witness, in Federal court room in Leavenworth in spring of 1916 that if he (Jones) had been permitted to have gone ahead he would have found the real Thomas Atkins and "for you folks—speaking to witness—to go ahead as you are; you are on the right track." In that conversation Jones also said that witness had taken up Carter where he dropped off and were wise in doing so.

In 1916, shortly after depositions in this case had been taken by Examiner Penick, Dennis stated that he was unable to say that Carter was not the Thomas Atkins that was at Granny Letcher's.. (R. 4346–47.)

HENRY THOMAS CARTER:

Is the defendant Henry Thomas Carter in this case. First place he remembers living was Mrs. Letcher's, on Seneca Street, Leavenworth; she was a negro; did not know her as Granny Letcher; Sam Nash, Walter Banks, Jim Mayo, and Hattie Nash were other members of the family there; Jim was largest of the boys, Walter next, and Sam next; Sam was larger than witness; remembers Crilly's barn across the street; played around on the street and over at Crilly's barn and around the house there; Crilly had a one-armed man, Tom Dailey, around the barn. Witness was called Tommy and Commodore when at Mrs. Letcher's; when a little fellow, Henry Carter took him to his farm and he was raised there. For a short time after leaving Letcher's, came back every couple of weeks to Leavenworth with Carter; then started to school; didn't go back to Leavenworth again after starting school until he was 10 or 12 or 14 years old; went then to Mrs. Yoakum's; saw Mrs. Letcher once on those trips—at Mrs. Yoakum's; Miss Anna Davis, Miss Mamie Byron, Miss Denny, Mr. Hall, Mr. Kelsey, were his teachers while at school; didn't tell these teachers his age—he didn't know it. (R. 4348.)

First saw Adas Wright short time after he was taken to Carter's; she and her husband and a child came to visit the Carters; had seen her off and on since.

Lived in the Carter family until Carter's death. Tommy Carter, Susie Carter, and Viola Carter lived in the Carter family at this time. First saw Viola at Carter home, but doesn't remember whether she was there when he went there—she was there shortly afterwards. Asked old man Carter several times who his parents were and he told witness his mother was an Indian woman; "he says you are my boy now"; never told him more than that, nor the name of his mother. After Carter's death witness went to Leavenworth, where he stayed two weeks. Tried to enlist in Army, but was refused because looked too young—not 21; went back to Carter farm; stayed there short time and went to Indian Territory to see if he could find some trace of his mother; stayed something more than a year; married there under the name of Kessinger; used that name because his friends around Carter place told him they wouldn't go by that name, it was a nigger name—that was only reason for changing. Gave his age as 24 when he applied for marriage license, didn't really know his age.

Witness then details his movements for number of years, during which he oscillated between Indian Territory and Leavenworth; trips to Territory were usually for purpose of finding his mother or something about her.

First heard of Tommy Atkins matter three years ago. A government man from Washington, D. C., first interviewed him; next to see him was Long; gave him some information he had given Government man; Crilly was with Long; about two weeks later at Long's invitation went to see him at National Hotel, Leavenworth; Dennis Jones, Rube Smith, Sam Nash, and Mr. Josey were there; Dennis, Sam, and Rube identified him as the boy they were looking for. Sam Nash referred to birthmark and witness showed it; witness had a little boot he wore when he left Letcher's and Sam Nash told him that he had bought it for witness; Dennis Jones told Long, "You have the right boy."

Signed the lease at that time to Gem Oil Co. Dennis Jones took the acknowledgment. Govt. Ex. A. 66. (R. 4752.)

At Carter place witness was called Tommy H. and Commodore; never was recognized by the Carter family as related to them; no relation that he knew of to Viola; doesn't know where Viola came from; never heard old man Carter say where she came from; witness and Viola went to school together. (R. 4348–60.)

Cross-examination:

Doesn't remember incident of smoking Van Tyle's pipe at latter's barn; doesn't remember pointing finger at fruit on trees in Granny's yard or getting after boys for pointing at it. Crilly asked him about that recently. (R. 4360.)

When Crilly and Long first interviewed him witness was putting in a furnace in a cellar; Crilly called him out and introduced him to Long, who said "anybody could see he is part Indian" and that witness was the boy he wanted. It was some time after this that he signed lease to the Gem Oil Co.; he saw Long and Crilly several times before he signed it. (R. 4361.)

Has known Crilly nearly all his life; doesn't remember of Crilly seeing him from time he was a little boy until last two or three years. Witness had signed the papers when Crilly talked to him about fruit-tree episode. Another time when Long talked with witness, Rube Smoth was with Long, and when Long again said witness was right boy Rube agreed with him.

Long went out and made investigation in vicinity of Carter place before he took conveyances from witness. (R. 4362–63.)

Talked with Dennis Jones at his office quite a while before signing lease; Long took witness there—Rube Smith was present also; Dennis said, "Mr. Long, we have got the right boy." (R. 4364.)

Took a lease and then a deed from him. (R 4365.)

Whenever Long came to Leavenworth he would come to see witness and tell him they were working awfully hard to get everything in shape for him. (R. 4366.)

Never wrote Bagley letter dated Oct. 17, 1914, stating what his address was and that his mother was sick in the hospital. Saw Minnie Folk at a distance in fall of 1914. Never went to hotel to see her while she was there. (R. 4366.)

At the time Minnie was there witness still believed they were trying to establish his claim to this land. (R. 4367.)

Recalled:

When married the first time, in 1904, gave his age as 24; when married second time, in 1908, gave age as 28; gave age as 24 because wife was 22 and he "wanted to be a man"; gave age second time as 28 because he had given as 24 when first married; never really knew his age. (R. 4457–58.)

C. W. TURNER:

In hardware business at Muskogee; met George Crilly "here" a couple of years ago; had a conversation with Crilly at the time of the receivership hearing in this case; Crilly stated that it seemed like they didn't want him to tell all he knew; that he wanted to tell up to a certain point and that if he were in Leavenworth he could place his hands on the real Thomas Atkins, who was there, going under the name of Henry Carter. (R. 4367–68.)

Cross-examination:

After Crilly talked to him and had gone back home witness wired him and telephoned him with a view to having him secure a lease for him from Henry. (R. 4370.)

For Government in rebuttal.

T. W. BELL:

In a conversation at his office with Mrs. Mattie Cobb, who testified on behalf of Page at Leavenworth in February, 1916, before Examiner Penick, she stated to witness in substance that the child she saw and dressed at Granny Letcher's had a scar on his back and that Mr. Page had told her that if she wouldn't tell that he would make her comfortable for life. Further stated that she would be willing to testify for witness as to that scar if he would make a substantial financial arrangement with her. At the same time and place she said to witness that she had told Lee Bond in his offices about the scar; that he threw up his hands and said, "My God, I thought you were my friend." She also told witness that Mr. Page had gone over her testimony with her and told her that he wanted her to testify to the birth of the child at Granny Letcher's and nothing else and that he would make her comfortable for life. At that same time she further stated that Long had told her that if she would testify right he would pay her for it.

Two or three days thereafter, witness had a conversation with Mrs. Cobb at the Federal Hotel at Kansas City, wherein Mrs. Cobb stated in substance the same things she said at Leavenworth. This was 30 to 60 days before she testified at Leavenworth and while depositions were being taken at Kansas City. She further stated then that she would be willing to testify for witness but before doing so wanted to see the big man with the money, referring to Mr. Blakeney. Witness told her that he was not paying anything for evidence; witness's stenographer, Mr. Morton, was present at the conversation at Leavenworth, as was Mrs. Cobb's daughter. Same persons present at Kansas City, except that witness is not sure that Morton was there all the time; Morton had brought Mrs. Cobb and her daughter to Kansas City at witness's request, as he expected to take their depositions there.

Mrs. Letcher was black. (R. 4433-35.)

Cross-Examination:

Witness was present at time Mrs. Cobb was asked about these incidents; was representing Henry Carter. Witness had sent for her to come to his office when she told him these things. Told Bond that Mrs. Cobb had told him a story which he believed but didn't tell Bond about her saying child had a scar. (R. 4435–36.)

Witness, after Leavenworth conversation, had Mrs. Cobb brought over to Kansas City to testify for him, but when she came there she demanded $500 (R. 4437); he therefore didn't put her on stand as she told him she wouldn't testify (R. 4439); at Kansas City conversation Mrs. Tittle, Mrs. Cobb's daughter, was in an adjoining room in the hotel talking with Mr. Martin (R. 4440).

Redirect:

Witness knew Mrs. Cobb previously; he had represented her brother's family in cases. (R. 4441.)

R. E. MARTIN:

Witness and T. W. Bell are interested in lease on property given by Henry Carter; Mr. Bell, Mr. Blackeney, and Mr. Johnson represented the Henry Carter interests at taking of depositions before Examiner Penick at Kansas City and Leavenworth; was present in office of Mr. Bell in Leavenworth a short time before Mrs. Cobb testified at Leavenworth, at which time Mrs. Cobb had a conversation with witness, Mr. Bell and others; Mrs. Cobb stated in substance that Page had told her if she would testify to the birth of Thomas Atkins at the home of Granny Letcher, and nothing more, he would make her comfortable for life; doesn't remember her making statement that Long had told her if she would testify she would be well paid for it; nor does he remember her making statement that Page had said to her that he didn't want her to remember anything about a scar on this boy's back and if she would remember right he would take care of her for the balance of her life; witness didn't hear all of the conversation at that time; he was in and out of the hall but was in there part of the time Mrs. Cobb was doing this talking.

Was at Federal Hotel in Kansas City when Mrs. Cobb was in a room opposite, but didn't hear her statement there; was present there when Mrs. Cobb said she wanted to see the big white man that was interested in the case. She did say she was willing to testify for them but before doing so they would have to make a substantial financial arrangement with her (R. 4442–44).

Cross-examination:

George Crilly told witness about the scar (R. 4446).

Benjamin B. Blakeney:

Attorney at law, one of the attorneys representing the Henry Carter interest; had a conversation with Mrs. Cobb at Federal Hotel, Kansas City, in February, 1916, just before she testified at Leavenworth, wherein she stated that she knew about this boy (Thomas Atkins); that she dressed him when he was a little baby; that he had a birthmark on his back, and he was afterwards taken to the country by Henry Carter; that Carter would return with him frequently and permit him to visit around there. (R. 4446–48.)

Cross-examination:

Thinks Martin was in the room during conversation; Bell was not there; Bell met him as he went up to see Mrs. Cobb and her daughter and told him they wanted to see him (witness); Mrs. Cobb didn't say anything about Page or Long "buying" her. (R. 4449.)

Redirect:

Witness had avoided seeing Mrs. Cobb for awhile; he is the so-called big white man referred to. (R. 4450.)

Recross-examination:

Every time Mrs. Cobb would meet Johnson or Bell, she would tell them she didn't want to talk to them, she wanted to talk to the big white man that had the money, and "as I didn't have it I avoided her." (R. 4450.)

Frank Kersten:

City detective, Leavenworth; searched police records to ascertain whether in the '90's a person by name of Thomas Atkins was arrested or tried; found no record; looked from 1890–1901; finds record of Tommy York (R. 4455–57).

Elizabeth Dillman:

Knows Minnie Atkins; knew her well at Fort Wayne and Fort Lawton; knew Minnie by sight only when at Fort Leavenworth in 1885; Minnie was employed by Grodevant; Minnie going down town from Grodevant's would pass by where witness lived; recalls seeing Minnie at Decoration Day service at

Post in 1885; she did not show any evidence of being in a family way; would see Minnie occasionally around the Post; never saw her when she appeared in a family way; did not know of her working for Stafford; she would not pass witness's residence in going from Stafford's to town (R. 4462–64).

DR. FINIS W. EWING:

Physician; states his education and experience; details three stages of labor in childbirth.

At passage of the child there is some laceration in the cervix; sometimes lacerations are caused by abortion or early miscarriage; when these lacerations heal, a scar tissue is left; it would not be possible in making an examination of the cervix during labor to determine from a simple manual examination whether scar tissue was from a former pregnancy or from some other cause prior to present labor; after dilatation has begun it would be impossible to make such a diagnosis; purpose of digital examination at time of labor is to determine whether presentation is normal and if bony parts of mother are sufficient in size to permit transmission of the foetus. In making that examination witness never did so to ascertain whether there was evidences of previous laceration; the fact of previous birth is ascertained by questioning patient.

If called to attend a case of childbirth where woman in intense pain, a normal woman, and a normal presentation, the pains having been in progress for about an hour, and no dilatation of the cervix was found, his judgment would be that woman was a prima para (a woman giving birth to first child); to determine accurately whether lacerations are result of a previous birth, an examination by eye with a speculum is necessary, and disease could produce scar tissue which would readily deceive any examiner—might deceive the eye.

Assuming that woman is 5 ft. 6 in. tall, weighs 135–150 lbs., is not well groomed; witness' opinion is she could not successfully conceal pregnancy from a casual observer at six months; it would not be possible to conceal it during 7th, 8th, and 9th months.

During the first three or four months a baby nurses from ten to twelve times a day; where a mother was away from the baby except for one nursing during the day, it would be necessary for her to expel the milk from her breast at each period at which the baby would normally nurse; it would require about 15 minutes to empty the breast by manual manipulation without use of breast pump.

Theoretically the shortest interval that can occur between birth of one child and that of another by same woman is about ten months.

The general rule of lactation is the absence of ovalation, and absence of ovalation prevents conception. In ordinary cases (there are exceptions) during the time a woman is nursing a baby she does not become pregnant again. (R. 4469–77.)

Charles R. Warren:

Born in Leavenworth in 1890, lived there all his life; born at 202 Seneca Street, moved to 201 Shawnee, lives now at 305 Seneca; when 6 or 7 years old played with Alva Adams, Ray Adams, Conrad boys, Endres boys—Earnest is one—some colored boys named Clay; most of the boys lived around there—Seneca to Cherokee, 2d and Olive, Second and Market; remembers stealing rides on wagon driven by one Higgins; knew Tommy York; played around that community until 1903; played around Crilly's barn on Seneca between 2d and 3d Streets; played around Van Tyle's barn; never played with a boy that was or looked like an Indian; did not know any boy named Tommy Atkins, Indian Tommy, Commodore, Tommodore, or nicknamed Trailer; played war; run, sheep, run.

Remembers a stone house on opposite side of street from Crilly's barn; it was a couple of lots from Van Tyle's barn, closer to 3d than to 2nd; remembers Sam Nash lived in that neighborhood. (R. 4515–20.)

Fred S. Cook:

While in employ of government was detailed to investigate the Atkins case. Had a conversation in March, 1915, with Dr. Carpenter in San Diego, at which Mr. Allen (of counsel for Government) was present, wherein the Dr. stated he had attended Minnie Peterkin (Atkins) at the birth of Robert Lee Peterkin at the Wood home; that so far as he (Dr.) could remember, this was her first child, but his records in Leavenworth would show; no suggestion or intimation given Dr. by either Allen or witness that they wanted the doctor to testify that it was a first child or that such was their belief.

Remembers a conversation he and Allen had with Mary Smith at her home in Leavenworth during the winter of 1914–15, wherein she stated in substance that the woman she saw with a child at the home of Granny Letcher during the 80's was not the woman she afterwards saw and knew as Minnie Atkins or Minnie Folk. She also said that Henry Carter, defendant in this case, is the boy she saw there at Granny Letcher's.

Recalls conversation with Sam Nash on streets of Leavenworth same day they interviewed Mary Smith, in which Sam stated that Granny Letcher rented the house at 217 Seneca Street from Mr. Dassler—first rented it from Dassler. (R. 4522–25.)

Prior to the time Ellis Childers went to Nowata witness heard a conversation Mr. Allen had with him with reference to going to see Nancy Atkins, at which Childers said that if Mr. Allen or witness would go with him, Nancy Atkins would tell them she never had a child named Thomas Atkins.

Witness's memory is refreshed by reference to a report made by him of his work on this case, and he states that Mary Smith at the time he and Mr. Allen interviewed her said in substance that she was advised *not* to state on the witness stand at Leavenworth in 1914 in the Atkins case that the Tommy Atkins she was testifying about was Henry Carter. (R. 4535–36.)

Cross-examination:

Long, for the Page interests, complained to witness about activity of Pinkerton interest and Sadie James in the case; Mr. Long then told witness and Mr. Linnen, Chief Inspector of the Indian Service, that he would turn over everything of evidence he had and after an examination if they were satisfied he was wrong he (Long) would quit (R. 4526-27).

Redirect:

Witness was not then assigned to case when Long made proposition; witness told Mr. Allen what Long had said and Allen assigned him to case immediately. Long didn't turn over the information to him because witness wouldn't "collaborate" with him (Long).

Witness went to Leavenworth to investigate and on several occasions was followed around there by men. (R. 4527.)

CHARLES HARRISON:

Son of Minnie Atkins and brother of Harvey Harrison. Born at Fort Logan, Colorado; doesn't remember when he came to Indian Territory; mother gave him and his brother to Kate Holden, near where town of Haskell now is; they stayed there one summer and one winter, then were taken to Wagoner to Nancy Atkins, where they stayed about four weeks; no other boy at Kate Holden's while they were there—no boy named Thomas Atkins.

Knows Tom Way; when witness was a kid used to come over to Holden's and would play with witness; witness opened gates for him and Way gave him 25 cents quite a number of times for doing that.

When they were with Nancy Atkins, she was not caring for any other boy; witness knew no boy around Wagoner named Thomas Atkins;

Never knew anything of a brother named Thomas; mother never wrote to him prior to four years ago (R. 4528–30).

Cross-examination:

Was about 8 years old when mother took him to Kate Holden's (R. 4530.) Never heard of Nancy having a boy named Tommy or any boy (R. 4531).

JOHN HUTCHINGS WHITE:

Physician and surgeon. Details the three stages of labor in childbirth and explains how condition of female organs differ in a multipara and primapara. Birth of child results usually in lacerations of the cervix which when they heal form scar tissue.

The first matter for which physician makes an examination in case of childbirth is to determine position of the child and size of the pelvis; when cervix is dilated it is impossible to determine by digital examination the presence of lacerations; dilation occurs in first stage of pregnancy; dilation occurs more rapidly in multipara than in primapara; if large strong woman had been in labor for an hour and digital examination disclosed no dilation of the cervix, it would indicate a primapara; if at that stage of labor, indications of notches in the cervix were found, would not say on that one fact alone that there had been a previous pregnancy, although that is a condition that would arise from a previous birth.

In witness's experience, generally one year is shortest time between birth of one child and a succeeding child to same woman.

In a normal healthy woman it would take 15 or 20 minutes manipulation to remove milk from the breast, without breast pump. It would require three to five milkings of the breast to relieve when child nursed only once a day, during period when child three weeks on up to 4th, 5th, or 6th month. (R. 4538–44).

FRANK L. MONTGOMERY:

On the occasion when Minnie Atkins made her statement or confession to witness at the quarters of Capt. McNab at Fort Lawton, Seattle, Washington, witness did not make the direct assertion to Minnie that she was not the mother of Thomas Atkins, nor anything like it.

On the day following the signing of the confession he went to Minnie's house at request of Hanford; that was when Minnie retracted.

At the hotel that same day when Hanford came in witness introduced Hanford to Buell and Robinson, stating that Buell was representing the Quinton Garrett side of the case; that Robinson belonged to Secret Service, and that Robinson was working with Buell, and that they had no authority from the Government, but that witness was the sole representative of the Government in that meeting—this was in the afternoon.

In the evening went to Minnie's house, departing from hotel as soon as meeting was over; trip to

Minnie's was at suggestion of Buell, perhaps; had communicated with McNab after Minnie's repudiation of her confession. McNab had agreed to meet witness there at 5 o'clock; Hanford went with witness; McNab was not at Minnie's; witness made effort to get him but was not successful.

Upon going into house there was a little abuse on part of Minnie of witness for having Robinson out the previous morning; witness showed Minnie's husband copy of telegram authorizing him to grant immunity to Minnie; this was practically all that transpired at the house; there was a good deal of conversation between Sadie James, Hanford, and Minnie, but witness didn't give it any particular attention.

Witness then went to see Col. Wilson—had a letter from War Department which he desired to present. It was dark; when witness arrived at Col. Wilson's Hanford was there; he was not on porch, because he was in the house when witness got there; was not expecting to see Hanford there; met Col. Wilson formally and at suggestion of Hanford went into sitting room and talked with Mrs. Wilson and her daughter until Hanford had had an audience with Col. Wilson; then presented his compliments to Col. Wilson and told him what he had done there.

Was instructed by Washington office and by Mr. Allen that Buell and Robinson would accompany him and cooperate with him. (R. 4545–52.)

Govt. Ex. A–15 (R. 4660) is admitted in evidence, being certified copy of page 16 of Creek delivery book (index and record of delivery of deeds for allotted lands) containing entries relating to the Thomas Atkins family. (R. 4552.)

C. B. Malcolm:

Was introduced to Long in Tulsa by one Fox through instrumentality of Huck Rogers; told Long he thought he could be of some assistance in finding parties in Atkins case; Long told him to see what he could find and report back; saw Long later at office and told him he had found out nothing about Minnie or Tommy Atkins; Long told him not to mind about Tommy—that he supposed he died before the war—to go ahead and see if he could find Minnie; this conversation was about March, 1914; had conversation with Page first in April, 1914; witness went to office to see Long to tell him he couldn't find out anything about Minnie; in Long's absence saw Page, who asked him to find a child in that country who had been dead a good while and nobody knew much about; witness found one, reported, and Page not satisfied; found another named Atkins, reported to Page, who told him not to bother any more as he (Page) had a live Tommy, who was able to take care of himself.

Page had told witness that if he found a dead child that would suit, he (witness) would be taken care of; was paid $200 in all for his services and expenses. (R. 4559-69.)

Recalled:

Last talked to Long in 1914, summer or fall; had a talk a few days ago with Mr. Lipscomb, a banker;

denies that he stated to Lipscomb that he had a chance to make $500 to swear in this case, but it was too risky. (R. 4607–08.)

Redirect:

The matter of making any money out of his testimony was not spoken of at all in this conversation. (R. 4608.) Matter of getting money for testifying has not been discussed with anyone; no one has offered him any money to testify. (R. 4609.)

C. H. (Hook) Rogers:

Was associated with Betty Mann in investigation regarding Tommy Atkins allotment; made first trip to Leavenworth about matter in January, 1914, with Betty; went to city physician and ascertained that Minnie had had a child named Robert Lee Peterkin; made inquiries at fort in endeavor to locate Peterkin; they went to number of places in Leavenworth to find out about Minnie, but were unsuccessful; found out that Minnie did not give birth to a child at the hospital in Leavenworth; later, had dealings with Long who agreed to give witness a quarter interest in the allotment if he found Minnie Atkins; first conversation with Long was in March or April, 1914; witness told Long at that time what he and Betty had found about the birth of Robert Lee Peterkin and about Minnie being in hospital but not for childbirth.

Witness brought Betty Mann and Long together in this case; witness told Long he had a party (Betty) who had Minnie located—that was time Long offered the one-quarter interest; witness told Long Betty was working then for Bartlett; Long wanted to know if witness could get her to turn the deal to him if she found Minnie; witness said he could. (R. 4579–84.)

Cross-examination:

Admits signing receipt for $50 in full for services. (R. 4586.)

Redirect:

Long knew witness and Betty were very friendly; receipt was prepared by a clerk in office of Gem Oil Co. and presented to witness for signature; Long witnessed signature; up to time Long went to Seattle relations between witness and Long had been very friendly. (R. 4587.)

D. G. Elliott:

Attorney; had business transactions with Page relating to Sand Springs Machine Company from February or March, until September, 1914; had a conversation in summer of 1915 with Page at latter's office relative Thomas Atkins case; witness told Page Mr. Wrightsman was in the deal, and he asked Page if he would buy Wrightsman out or sell out to him; Page said he understood Trueman Nixon had a Tommy Atkins and that he (Page) had one of his own and could win with the Tommy he had; said "He wouldn't give a damn cent to sell out or buy out." (R. 4587–90.)

Mitchell Wadsworth:

Son of Kate Holden; Minnie and Nancy Atkins are related to him; in 1899 received a letter from Minnie Atkins from Detroit, Michigan, in which she asked witness to file for her and Harvey and Charlie (Harrison); he applied to commission and Commissioner Bixby wouldn't let him file; didn't have letter from Minnie, had hung the coat, in pocket of which letter was, in Davis & Jones's store; somebody had taken coat, and letter was lost; told his stepfather that he (witness) could not file for "them" and that he (stepfather) might have to file for them or get in touch with them.

Up to 1898 Charlie and Harvey were kept at his mother's, Kate Holden's, from the time Minnie Atkins turned them over to her; Indian boy named Edmund Bear stayed there; no Indian boy named Tommy Atkins ever stayed there.

Has known Nancy Atkins ever since they were little children; saw her off and on when she was at Wagoner; never knew of child there with her named Thomas Atkins; never heard of any Thomas Atkins in the Nancy Atkins family. (R. 4598–4600.)

Cross-examination:

In the letter Minnie did not mention Tommy Atkins. (R. 4600.)

W. P. Z. GERMAN:

Had conversation in Leavenworth in 1916, just before taking depositions there in this case, with Dick Nichols, in National Hotel, in presence of Mr. Allen and Mr. Bagley, wherein Nichols stated in substance that Rube Smith said to him, in reference to his testimony in 1914 in State case, that he (Rube) had been over testimony of several other witnesses and Rube told Nichols he might just as well make some money out of this, everybody else is making money and that he (Nichols) went on the stand and testified to what the others did; that they paid him five dollars and promised him more money and a trip to Oklahoma. Nichols repeatedly stated in that conversation that he didn't know Minnie Atkins (R. 4638); Nichols talked freely and voluntarily; no one told him he would go to the "pen" if he didn't change his testimony from that given in 1914 (R. 4639).

R. C. ALLEN:

Testified to same conversation with Nichols just related by Mr. German and corroborates German. (R. 4640–41.)

Cross-examination:

In conduct of case, Buell and Bartlett have reported to him names of witnesses whom Government representatives have subsequently investigated; information furnished voluntarily, Government representatives did not ask it. (R. 4642.)

Redirect:

McMillian and Cook made investigations; were employed by Interior Department, Bruff by Department of Justice, who has been working on case since May, 1916.

When he filed this suit witness had not heard of Quinton Garrett interest; afterwards, as soon as Garrett filed, witness went to Congress and sought and ultimately secured legislation withdrawing this land from allotment; this legislation provided payment of $800 to Garrett in lieu of allotment; was vigorously opposed by counsel for Garrett. (R. 4643-44.)

R. O. Larkin:

Lives in Platte County, Missouri; his father owned a slave, Mary Ann Larkin, who cared for him when he was a child; she married Billy Mayo, who went by name of Hunt also; afterwards, so he understands, married a Letcher; knew her when she was in Leavenworth; she moved there in 1862 or '63; witness went to Leavenworth to do marketing; saw her several times; she lived on Cherokee Street, also on Seneca Street; she was very dark complexioned—a "slick black"; was a witness for her in 1884 to prove her marriage to Mayo when she was seeking a pension; remembers her son Jim Mayo and a one-armed boy, Sammy; never knew a boy around her house named Tommy nor an Indian boy nor a boy called Indian Tommy. (R. 4376-78.)

Cross-examination:

It was in 1884 or '85 when witness saw her on Seneca Street; remembers it because after Cleveland took office in '85 woman was appointed as postmistress at Platte City. (R. 4380.)

Ernest Endres:

Was reared in Leavenworth, born at 220 Cherokee Street, 1887; moved to 215 Delaware Street, one block north, year or two after; lived there until 23 years of age; played when a boy around Seneca Street and other streets in vicinity with Alva Adams, Tommy York, Willie Warren, Robbie Conradt, Ed Baker, also Swipe Smith; did not know boy there at any time by name Tommy Atkins nor Indian Tommy or any Indian boy. (R. 4382–84.)

FLOYD HUNT:

Lived in Leavenworth; in 1897, 1898, was living there at 210 Olive Street; was about eight years old then; played with Lee and Charlie Warren, Earnest Enders, Cutter Collins, Carl Sheets, Swipe Smith, Alva Adams; boys referred to mostly lived between Seneca and Spruce, 5th and 2nd. No boy in their crowd that was an Indian, nor one that looked like one; Tommy York was only negro boy; no other boy named Tommy; never had any boy in that crowd called Indian Tommy or Commodore; never heard any boy called "Trailer"; never heard of a boy named Tommy Atkins playing with that crowd. (R. 4386–89.)

Cross-examination:

Knew another Tommy—Tommy Owens; never ran with him (R. 4391); never played in Seneca Street neighborhood.

Redirect:

No place on Seneca Street to play baseball. (R. 4391.)

[Def. Ex. B–24, R. 4958, map of Leavenworth (streets, alleys, etc.) introduced in evidence and used in witness *Hunt's* cross-examination. R. 4389–91.]

W. D. WARREN.

From 1894 to '98, when he was eight years old and up, played in vicinity of Seneca Street and around

Crilly's barn and Van Tuyl's barn; played with Alva Adams, Baker, Floyd Hunt, Earnest Endres, Tommy Owens, Tommy York, Swipe Smith, and other boys; lived at 220 Cherokee Street that time; never played with boy named Tommy Atkins, nor any colored boy named Tommy except Tommy York; never knew boy called Commodore, nor "Trailer," nor any boy that looked like an Indian; played with Crilly boys, Elof and Arthur; knew Granny Letcher; never knew or played with any boys at Granny's. (R. 4392-96.)

Cross-examination:

Boys he played with lived in the neighborhood of Main and 4th Streets and Seneca. (R. 4396.)

Ananias Atkins:

Son of Dick Atkins; had a brother Thomas Atkins; he is older than Thomas, who died in 1898 at age of 13; was living near Wagoner when he died; Thomas often went to Wagoner with his father; hauled wood; they traded at Davis & Jones's store in Wagoner; mother's name Sallie Atkins; both witness and Thomas born in Missouri, went to Indian Territory when witness about 8 or 9 years old; Thomas could walk and talk at that time; has known Nancy Atkins; is his aunt; Thomas sometimes stayed at Wagoner for two or three days at a time when some member of the family went over there. (R. 4398-01.)

Mary Wilson:

Daughter of Richard and Sallie Atkins; father dead; mother living, "in Canada, they say"; had a brother Thomas Atkins, born in Missouri; Thomas, when working out near Wagoner, hauled wood to Wagoner; he was 13 years old when he died. (R. 4401.)

It is agreed by counsel that when witnesses have been examined as to testimony previously given and have denied that they testified as the stenographic transcript records them as testifying, it will be understood that the stenographers' transcript shows that they so testified. (R. 4404–05.)

The Government agrees that the Dick Atkins family were enrolled on the 1890 and 1895 Creek rolls on the Arkansas Colored Town pay roll and not on the Euchee Town, and those surviving on April 1, 1899, have been enrolled and allotted by the commission as from Arkansas Town, and that those who died before April 1, 1899, have been so adjudged by the commission and the Secretary of the Interior. (R. 4405–06.)

F. B. Fite (sur-rebuttal.)

Physician and surgeon. Tells purpose of examination made in case of childbirth; lacerations in first childbirth are of more frequent occurrence than in subsequent labor; if called to attend young woman in labor and digital examination disclosed notches in cervix he would conclude woman had given birth before. (R. 4647–48.)

If no one else around to make inquiry of, would ask patient as to any previous labor; mere fact that finger detects certain notches upon cervix and no other symptoms, would not lead him to make positive diagnosis of a previous labor. (R. 4649–51.)

J. W. Ruble:

Moved to Wagoner in December 1896, lived there since; knows Nancy Atkins, knew her in 1896 or 1897; doesn't recall seeing her since; child five or six years old was around with her; witness was drug clerk there; child would come to store with Nancy; never heard what his name was; boy was not Charlie or Harvey Harrison, with both of whom he was acquainted; child looked like Caucasian and Indian; no indication of other blood. (R. 4427–29.)

Cross-examination:

Saw Nancy and child for period of less than a year; didn't see child after Nancy left; never saw Harvey Harrison until recent years. (R. 4430.)

Sid Johnson (rebuttal):

The effect of this testimony is that Lee Atkins (brother of Minnie Atkins) was killed in November, 1894. Witness relates circumstances under which he heard of the shooting of Lee. (R. 4430–32.)

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In the

Supreme Court of the United States

THE UNITED STATES OF AMERICA, *Appellant*,

vs.

MINNIE ATKINS, *ET. AL.*, *Appellees*.

No. 253

NANCY ATKINS, H. A. RIDGWAY, GUARDIAN OF NANCY ATKINS, *ET. AL.*, *Appellants*,

vs.

MINNIE FOLK, *NEE* ATKINS, *ET. AL.*, *Appellees*.

No. 254

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF ON BEHALF OF APPELLEES.

THE ISSUES.

Beginning on page 1 of the brief filed in behalf of Nancy Atkins, and for many pages following, there is a statement of facts which we think is not accurate, but in view of the undisputed facts in this case we deem it unnecessary to review in detail and modify the statements so made in such brief.

The Government of the United States originally instituted this suit. The purpose of the Government's bill was set to aside the patent to Thomas Atkins, No. 7913. The Government, after various allegations, finally settled upon the nonexistence of Thomas Atkins as the basis of its attack. It claimed in its bill that Thomas Atkins who was enrolled by the Dawes Commission as the son of Minnie Atkins, was a myth; that he never, in fact, lived, and that for that reason the judgment of the Dawes Commission enrolling him was void, on the theory that a patent to a fictitious person could not be permitted to stand. The Government when it brought this suit made Minnie Atkins a party defendant, among others, and made Nancy Atkins also a party defendant, asserting in its bill that Nancy was claiming some interest in some way in the property covered by the patent.

The case was tried out and the Government was defeated, both on law and facts. Judge Campbell, the trial judge took up the question as to who was the mother of Thomas Atkins enrolled. The trial judge held, after months of examination of the very voluminous record in this cause, that Minnie Atkins was the mother of Thomas Atkins enrolled, and held that it was doubtful whether Nancy Atkins ever had a son at all and decided that Nancy was not the mother of the Thomas Atkins in question and rendered judgment against Nancy.

This case went to the Circuit Court of Appeals for the Eighth Circuit. That court fully examined the record passed upon by Judge Campbell; affirmed the judgment of Judge Campbell *in toto* and held that Minnie was the mother of the Thomas Atkins in question and that Nancy had no claim, by virtue of parentage of said Thomas Atkins, to the property in controversy. So that we start out with the fixed fact that two courts of competent jurisdiction have passed upon the questions of fact which Nancy Atkins now asks this court to review. It has become, as we understand it, the settled doctrine and practice of this high court never to change or modify judgments on the facts of a case, when those judgments have been rendered by two courts passing upon the same question and reaching the same result.

The Circuit Court of Appeals is, as we understand it, in a sense, an arm of this Honorable Court, and when that Court in reviewing the judgment of a trial court on questions of fact has reached the same conclusion as the court below, it is practically conclusive of that question of fact.

Counsel for Nancy Atkins recognize the force of this rule but seek to meet it and avoid it by asserting that there was no testimony before the trial court establishing Minnie Atkins as the mother of Thomas and a vast array of testimony in favor of Nancy establishing her parentage of said Thomas Atkins. This bold and unqualified assertion for Nancy, necessarily assumes that the trial court and the Circuit Court of Appeals have reached a conclusion in favor of Minnie Atkins as the mother of Thomas Atkins without any material evidence upon which to base that conclusion. We indulge the belief that this bold statement will find little sympathy in this court because this is a case of conflicting facts covering a large area. Both the trial court and the Court of Appeals reconcile this conflict and adjudge Minnie to be the mother of Thomas Atkins.

It seems to us that this rule of decision and practice adopted by this Honorable Court is not only eminently wise, but ought to be adhered to, strictly. Primarily, this court passes upon the law of a case and seldom enters into an extended consideration of the evidence, when the result of that evidence has been foreclosed by the opinions of two courts having jurisdiction of the case. Of course, in an equity case, this court may examine the record to see if justice has been done. But we understand the rule to be that this court approaches that record, where it has been decided by two courts, with every presumption in favor of the correctness of the conclusions reached by such courts upon such evidence.

To state the case in another way, the judgment of the two courts upon the evidence in a given cause must be clearly and palpably erroneous before this Court will reverse their judgments.

We think it is unnecessary to cite the many opinions of this Court sustaining this doctrine. In the cases of *Washington Security Company* v. *The United States*, 234 U. S. 76; *Gilsom* v. *The United States*, 234 U. S. 380; *Baker* v. *Schofield*, 234 U. S. 114, and the many cases cited therein, this matter is thoroughly examined and the rule is announced positively, and without equivocation.

The record in this case covers many thousands of pages. It contains the evidence, as shown by the record, taken in many of the states of the Union. Both depositions and oral testimony were used, there being scores and scores of witnesses testifying in person before the trial judge. The conflict in the evidence really was as between the Government and Minnie Atkins as to whether her son Thomas ever lived. But we assert that there was no practical conflict in the evidence as to Nancy Atkins. The evidence is overwhelming and compulsive as against her claim.

Nancy Atkins was a sister of Minnie Atkins and was induced to set up a claim as the parent of Thomas Atkins, number 7913 on the Dawes Commission Roll. We believe if this Court goes into the evidence in this case it will conclude, without hesitation, that Nancy's claim is fraudulent and that her conduct and testimony show it to be fraudulent, and we are sure the Court will further find that she never had a son; that she never had but one child and that was a girl child, still-born.

The counsel for Nancy Atkins have undertaken to state the testimony for Nancy and against Minnie, but have not stated the testimony against Nancy. We apprehend that this Court will, at the outset, determine Nancy's case on its own strength and not on the weakness of others. In other words, Nancy Atkins appeared in the trial court claiming to be the mother of Thomas Atkins and known as a citizen of the Creek Nation. It was incumbent upon Nancy Atkins to prove this fact,—to convince the court that she was the mother of Thomas Atkins. She failed either to convince the lower court or the Circuit Court of Appeals of that fact.

We therefore beg leave to submit to the Court what we believe to be a fair and succinct statement of the testimony for and against Nancy Atkins.

The Evidence On Behalf Of Nancy Atkins.

R. F. Davis (Rec. p. 1202):

Engaged in the wholesale grocery business in Muskogee; lived in Wagoner from 1888 or 1889 until he moved to Muskogee; was connected with the Davis and Jones Mercantile Company; first became acquainted with Nancy Atkins when he went to Wagoner; testified that she was frequently around witness' store; remembers of her being in a pregnant condition; that some time afterwards he saw her around the store with a boy that was large enough to walk that he supposed was her child. On cross-examination testified that he never knew of Nancy Atkins being in a family way but once; never heard the name of the child called until recently in discussing the present litigation; didn't know whose child it was that he saw with Nancy.

J. E. **Newberry** (Rec. p. 2418):

Sixty-five years of age; resided in Wagoner, Oklahoma, since March 27, 1890; lived at Barnard hotel when he first went to Wagoner; Nancy Atkins was working in the kitchen of the hotel at that time and appeared to be in a family way; did not know anything of her having a child except what was told him.

Next saw Nancy Atkins about a month later when he was delivering some furniture to a woman by the name of Walker, and Mrs. Walker asked him, "Do you want to see Nancy's baby?" and he went in the house and saw Nancy in bed and recognized her; this was in September, 1890. On cross-examination was asked:

"Mr. Newberry, did you know a little boy around Wagoner that you saw with Nancy Atkins?" and he answered:

"I couldn't say that I ever saw him with her."

Describes a boy as some five or six years old he saw around Betsey Birney's, but never knew what the boy was called; saw Nancy Atkins around Betsey Birney's quite often.

CHARLES BAILEY (Rec. p. 2427):

Fifty-eight years old; resides in Sand Springs, Oklahoma; lived in Wagoner from 1888 to 1907. Knew Nancy Atkins when she was going to school at the old Tullahassee Mission and was afterwards acquainted with her when she moved to Wagoner in 1888; Nancy first worked at the Section house and afterwards lived with Betsey Birney; witness, at this time, was working for the Davis and Jones Mercantile Company. Testified that she was in a pregnant condition but is not positive whether it was in 1889 or 1890; knew that she had a child and in reply to the question as to when it was born answered: "It was born just back of the Davis and Jones mercantile house, over in what was the prairie; that there was no street or anything there at the time—there was just prairie up to Davis and Jones' yard and gin and this tent was just west of that a little ways." Did not see Nancy or the baby at the time of the birth, and information was conveyed to him by an Indian girl who came into the Davis and Jones store; saw Nancy about a week afterwards when she was carried from the tent to Betsey Birney's house; saw her subsequently a number of times at Betsey Birney's house; never saw the child until it was probably a month or two old when he saw it at Betsey Birney's house; don't remember whether the child was with Betsey Birney or Nancy Atkins; continued to see the child around Betsey Birney's for four or five years; heard that the child died; that the child was a boy called Tommy Atkins. Knew Minnie Atkins, a sister of Nancy Atkins, and knew her two boys, Charley Harrison and Harvey Harrison; that Charley Harrison was brought to his home in 1895 or 1896 and stayed there until he was about twenty-two years old—something like five or six years; that he had some correspondence with Minnie Atkins and that she never mentioned a child by the name of Tommy Atkins. The last time he remembered seeing the boy Tommy Atkins around Wagoner was three or four years before he filed for Charley Harrison and the boy was then living with Betsey Birney.

On cross-examination he was confronted with his testimony in the case in the state court when he stated that he only knew of Nancy Atkins having a child from what he was told, but that he saw a child with her who must have been a year or two old the first time he saw it.

Further examined, he says he didn't know whether the child he saw at Betsey Birney's was one, two or four months old; afterwards remembered seeing a boy around the streets of Wagoner called Tommy Atkins, until he was five or six years of age; admits that he never went to see the child that he heard was born to Nancy Atkins in the tent back of Betsey Birney's house and in reply to the direct question:

"You don't know whether that was Nancy's baby, or Betsey Birney's child or Betsey Birney's grandchild?" he answered: "No, I don't know."

James E. Long (Rec. p. 2445):

Fifty-four years of age, resides at Chelsea, lived in Wagoner County from 1896 until 1916; knew Nancy Atkins with whom he became acquainted about a year after moving to Wagoner; knew that she had a child that was a mulatto looking boy about five or six years of age when he first became acquainted with him; continued to see him about Wagoner with Nancy Atkins and another woman named Maggie Martin for four or five years; he was City Marshal of Wagoner from April, 1897 to 1898; heard that the child died in 1901 or 1902.

On cross-examination stated that be knew Nancy Atkins very well and she was a police character and had often been in his charge; never had any personal knowledge of Nancy Atkins having a child; knew that she was living in 1897 on Church street in the negro part of town; that there were two women lived in the house—Nancy Atkins and Maggie Martin; that Maggie Martin had two children, both girls, and witness saw the boy running around the neighborhood with these two girls; that in his opinion the boy was a mulatto; that the boy was about six or seven years of age, but he did not personally know whose child it was; continued to see Nancy around Wagoner from the time he was City Marshal in 1897 until 1901 or 1902. Asked where he heard the name "Tommy Atkins", he said he heard Nancy call the mulatto boy Tommy; never heard of Nancy ever having any other children. Admits that he was convicted for embezzlement while occupying the office of Sheriff of Wagoner County in 1913.

RICHARD BIRNEY (Rec. p. 2457):

Lived in Wagoner when a child and until about 1894 and knew Nancy Atkins; knew that she had a child at his mother's house; he was just a kid when the child was brought to his mother's house and don't know how old it was; that he saw the child every day for some time and that it was a pretty good sized child the last time he saw it. He testified specifically as follows:

"Q. Now what was this boy called?

A. Tommy Atkins was what they called him when he was there.

Q. Did you ever see him with his mother?

A. Yes, sir. I saw him when they brought him there.

Q. How did she bring him there?

A. Why, they hauled him there in a wagon when they brought him there.

Q. Well, was he large enough to walk?

A. No, sir.

Q. Did she have it in arms?

A. Yes, sir; that is the way that she brought it there."

On cross-examination testified that they brought Nancy in a wagon from up on the hill about three-quarters of a mile from his mother's house; saw Nancy carried from the wagon into the house; she was on a cot and that his mother carried the baby into the house. That at the time of this occurrence he was about twelve years of age; witness gives his present age as thirty-nine; never heard of Nancy's baby being born in a tent near his mother's nor at Elnora Williams.

Witness admits to having served a term in the penitentiary on the charge of larceny.

NOLAN WILLIAMS (Rec. p. 2465):

Lived in and around Wagoner for twenty-four years. Became acquainted with Nancy Atkins some time in the nineties when he was trading at Davis and Jones' store. Was asked the direct question:

"Do you know whether Nancy had a child or not?" and replied:

"Well, I know there was a child with her that she said was hers; I don't know whether she had any or not."

First saw the child with Nancy Atkins when the child was about a year old; continued to see him after that for a year or two; the child appeared to him to be between an Indian and mulatto; witness, during a good deal of the time he knew Nancy Atkins, lived in the country and was in Wagoner on business or to trade; he got information that it was Nancy's child from old man Birney; never heard of the child dying.

On cross-examination, witness admits that he never did live in Wagoner at the time of the occurrences referred to but lived twenty-five miles west of Wagoner in the Choska bottoms and went to Wagoner to trade and that the only definite recollection he had with reference to the child was that one time when coming out of Wagoner, he saw the boy with Betsey Birney and Nancy Atkins and that Nancy told him it was her boy and that old man Birney also told him it was Nancy's boy.

JOHN T. BEARD (Rec. p. 2475):

Fifty-eight years old, lives in Wagoner; lived there for thirty years with the exception of part of years 1915 and 1916; formerly engaged in the hardware business, but when he first went to Wagoner, August 4, 1887, was working for the Iron Mountain railroad; knew Nancy Atkins; first became acquainted with her in the latter part of 1889 or 1890; that she was on the streets of Wagoner and people were talking about her, about the way she looked and her condition; remembers her being sent to the penitentiary and never knew of her giving birth to a child; did, however, observe that she was in a pregnant condition and often saw her after that time carrying a child which was about two or three months old the first time he saw it; that Nancy told him it was her child and that she had called it Tommy; that he continued to see the child around

Wagoner until about 1897 or 1898, when he appeared to be seven or eight years old—a pretty good sized boy; that he saw him around Schrimpsher's store; remembers seeing the child in 1898 or 1899 and heard a report that he was dead. Never knew Minnie Atkins; that Nancy Atkins, at the time he saw her with the child, stayed with some negroes by the name of Birney back of the Davis and Jones' store; that the child was a mulatto and remembers contributing to the funeral expenses of the boy in 1901 or 1902.

M. I. Sullivan (Rec. p. 2486):

Fifty-three years old; lived in Wagoner since 1892; stayed there until 1895 and was gone for five years, returning in 1900. Knew Nancy Atkins, first becoming acquainted with her in 1902; knew that she had a child—when the court interrupted him and asked:

"Q. Do you know whether she had a child?

A. I know what she said; she said he was hers."

When he first saw the child it was toddling around; witness at the time was engaged in the retail mercantile business and Nancy often came in the store with the child; don't remember the name of the child or what Nancy called it; don't remember ever seeing the child after he came back to Wagoner in 1900.

On cross-examination testified that Nancy Atkins associated almost exclusively with negroes and that she was a town character. Witness had no recollection of Nancy's being arrested or sent to the penitentiary.

A. Grant Wasson (Rec. p. 2493):

Fifty-three years of age, lived in the neighborhood of Wagoner for twenty-nine years and was living in the town of Wagoner in 1889 and 1890; first became acquainted with Nancy Atkins in 1889; had no recollection of ever seeing her in a pregnant condition but remembers her being with a child that she called Tommy and that she claimed was hers; that the child was about two years old when he first saw it; the child was then playing with some negro children near the Davis and Jones' store; remembers seeing the child around Wagoner up until 1895 or 1896 when he moved away from the town; but to the best of his recollection the child was a good sized boy about four or five years old when he last saw him; had the appearance of being mixed between an Indian, a negro and a white; does not remember seeing him after 1895 or 1896 and does not know or remember hearing whether he died.

On cross-examination, fixes the time that he first saw Nancy as 1889 by reason of the fact that he came from Baker City, Oregon, in 1888 and that it was the next year that he saw Nancy, only had one conversation with her when he saw the boy playing with negro children and asked Nancy if they were her children and she said, "None of them—only Tommy, this little boy."

ANDREW JACKSON (Rec. p. 2500):

Fifty-one years of age, lived in the neighborhood of Wagoner for forty-seven years; was not living in Wagoner in 1888, 1889 or 1890; did not move into the town until 1902; knew Nancy Atkins and first remembers seeing her around Wagoner in 1892 and '93; never had any real acquaintance with her but would pass her on the streets; remembers her having a boy with her who was about three or four years old and wearing dresses the first time he saw the boy; that this was one time when he was leaving the Davis and Jones' store and after passing the blacksmith shop came across a kid out in the road playing and asked Nancy, "Is this your kid?" and she said, "Yes", and witness replied "You had better keep him out of the road or he will get run over." Witness is very vague and indefinite about ever seeing the child after this occurrence. Remembers contributing to a collection taken up in 1902 or 1903 to bury somebody, but don't remember who it was. On cross-examination fixes the time of the incident of seeing Nancy with the child as the spring of 1892 or 1893 and as occurring a little northwest of the Davis and Jones' store.

JOHN FORD (Rec. p. 2505):

Fifty years of age and came to Wagoner in 1887, when the Iron Mountain railroad was building through Wagoner; stayed there twenty or twenty-five years; knew Nancy Atkins; first became acquainted with her in 1888; saw her in a pregnant condition, to the best of his knowledge, in 1889; remembers that she had a child born to her in a tent back of the Davis and Jones' store. Saw the child two or three days after it was born at Betsey Birney's; that the child was in bed with Nancy; saw the child mighty near every day and night for a considerable time afterwards, as it was his custom to go to Betsey Birney's to gamble; supposed he must have seen the child around Birney's for a year after it was born; child had the appearance of an Indian; remembers seeing him after that around Wagoner; the child appeared to be eight or nine years old the last time he saw him about 1899; heard that he was dead and gave twenty-five cents, which he understood was to help bury Tommy Atkins.

On cross-examination, fixes the time he went to Wagoner by his marriage, which occurred November 4th, 1887, and then weakens and is unable to say whether he was married in 1886 or 1887; gives the names of George Yates, John Ross, Tom Mayberry and Anthony Mayberry as the other negroes who used to shoot craps with him at Birney's; that they usually gambled in the north front room of the house; describes the house as a "little old piece of a house—cabin—house built that way with another 'L' on it and we would be in this room there and Nancy would be in this room back this way"; that Nancy first lived in a tent and afterwards moved in to the back of the house; saw Nancy living in the tent before she moved into the house and the baby was nursing at Nancy's breast when he first saw it; that the weather was cool when Nancy was moved from the tent to the Birney house. Further cross-examined, testified that he saw the baby laying in bed with Nancy at Betsey Birney's house; that John Galley, Tom Mayberry and Anthony Mayberry were often there with him. This witness admits that he has been in jail two or three times for fighting or minor violations of law, but was never sentenced to the penitentiary.

J. L. Dyer (Rec. p. 2519):

Fifty-eight years of age; lived in the neighborhood of Wagoner since December, 1889; never lived in the town, but about three and one-half or four miles out of town; first knew Nancy Atkins in the winter of 1890 shortly after he moved to that neighborhood; saw her on the streets of Wagoner with a child and then missed her for a few months; remembers her being sent to the penitentiary and that she was gone eight or nine months; saw her with the child in Wagoner before she went to the penitentiary; that the child was about three or four months old when he first saw it; that he continued to see the child around Wagoner until it was nine or ten years old and that it was called Tommy; heard that the child was dead; would be in Wagoner two or three times a week and remembers noticing the child around Schrimpsher's butcher shop; admits, on cross-examination, that he is the Jim Dyer who was convicted for constructively being present at the Blackstone train robbery; that he was about thirty-one or thirty-two years old when he first met Nancy Atkins and at that time he was pretty wild and frequented the gambling shops of Wagoner where he would often see Nancy; that Nancy was carrying the child when he first saw it and that she was living at the Birney house.

JASPER NEWTON SCHRIMPSHER (Rec. p. 2523):

Seventy years of age and went to Wagoner in 1890 and lived there until about twelve years ago; knew Nancy Atkins who was related to witness' first wife; never remembers her being in a pregnant condition; that she had a boy running around town with her that she called Tommy Atkins and said was her boy; that the boy was six or seven years old and that at the time he was running a butcher shop and merchandise store and Nancy would come in the store with the boy and one day she said: "If I send this little boy up here, why let him have it and I will pay you"; that the boy was about eight years old the last time he saw him and he does not know what became of him; describes the boy's appearance as being about half white and half Indian. On cross-examination admits knowing the other members of the Atkins family, Minnie and Lee, and that the boy he saw in Wagoner was about six or seven years old the last time he saw him; that he was not particularly concerned with Nancy or her child—had no personal knowledge that it was Nancy's child.

FOIL M. BRADY (Rec. p. 2527):

Commonly called Bill Brady, sixty-one years of age, and lived in the neighborhood of Wagoner since 1881; knew Nancy Atkins; first became acquainted with her in 1889; fixes the time as being shortly before the $29.00 payment in 1890 when he saw her around McAnally's hotel where she was a dish-washer and there was a little boy about two or three years old crawling around the room and witness asked Nancy if it was her boy and she said, "Yes", and that his name was Tommy Atkins; that he was back in Wagoner about a month later at the Brown hotel and saw Nancy and asked her how her boy was getting along and she told him the boy died; that this conversation was before the $29.00 payment. On cross-examination fixes the $29.00 payment as 1891 or 1892; reiterates that the child was two or three years old when he first saw it and that Nancy told him it was dead about a month later and is positive that this all occurred before the $29.00 payment.

Kirk Turnbo (Rec. p. 2529):

Lived in the vicinity of Wagoner since 1892 with the exception of four years he was in Texas in 1906 to 1911; first became acquainted with Nancy Atkins shortly after he came to Wagoner; that he was employed on J. W. Gibson's ranch and one day when he was having some horses shod in Wagoner saw Nancy on the street hollering for a boy; that he heard her inquire, "Have you seen anything of my boy, Tommy?"; thinks that at the time she was living at Betsey Birney's and the boy was about ten or eleven years old when he last saw him; that he was a small, weazened looking child; remembers them taking up a collection to bury a child whom he was told was old Nancy's boy, Tommy Atkins.

On cross-examination, said that he just happened to know Nancy as a character around Wagoner; did not know the child was her boy but saw the child with her and supposed it was her child; that the matter of Nancy's child had been one of discussion around Wagoner for the last three years and that he had been asked about it a number of times; had heard different stories by different parties. Fixes the time that he first saw the boy as 1892 when he was a small, toddling child about a year old; that he was appointed Deputy U. S. Marshal in 1892 and then corrects it to 1893; he was further cross-examined with reference to his employment and discharge as a deputy marshal.

WALTER POSEY (Rec. p. 2537):

Fifty-seven years of age; lived in the neighborhood of Wagoner since 1891; first became acquainted with Nancy Atkins in 1891 or 1892; saw her in Wagoner with a child that she said was hers; the first time he saw the child was at the Davis and Jones' store; afterwards saw it playing around with the Birney children; thinks the last time he saw the child was in 1900 or 1901, when he was about ten years of age; heard that he was dead and never knew what became of him; only remembers seeing the child a few times with Nancy Atkins and that the child was called Tommy Atkins. On cross-examination, says the boy was about four or five years old the first time he saw him; that was in 1891 or 1892, but that he might be mistaken about the dates.

George Williford (Rec. p. 2539):

Fifty-five years of age, lived in Wagoner for thirty years; first became acquainted with Nancy Atkins at the McAnally hotel about twenty-two or twenty-three years ago; remembers seeing her in a pregnant condition and remembers her being sent to the penitentiary; that she was pregnant before being sent to the penitentiary; never personally knew of her having a child; saw a child with her between two or three years old that she called Tommy; saw it once or twice in town with Nancy; don't remember seeing the child after it was two or three years of age and never knew what became of it. On cross-examination cannot fix year he first met Nancy Atkins but insists it was twenty-two or twenty-three years ago; does not remember any of the Birney children; that Nancy never talked to him directly about the child; that he saw the child with her and thinks it was about two or three years old when he heard she went to the penitentiary.

Thomas Brewer (Rec. p. 2545):

Forty-five years of age; lived in Wagoner for about five years; lived there about 1899 or 1900; knew Nancy Atkins long before he moved to Wagoner; that he lived in the country but did his trading in Wagoner at the Davis and Jones' store; had been trading in Wagoner ever since there had been any settlement there; first remembers Nancy Atkins a year or two before he moved to Wagoner; never saw her in a pregnant condition; remembers a child that he was told was Nancy Atkins' kid; that he was a good-sized boy running around and talking when he first remembers him; that he played with the nigger children around Wagoner; saw him with Nancy a number of times; saw him around the Davis and Jones' store; that he appeared to be a molasses colored kid, part Indian, "wasn't white and wasn't nigger"; that the boy was known as Tommy Atkins and that he heard the boy was dead along about 1901 or 1902, but didn't pay much attention to it; that witness was feeding a number of cattle in Wagoner and the boy would come to his place to get milk. On cross-examination said he was living in Wagoner when the boy died and had been there two or three years—he never paid any attention to the boy—just remembers seeing him around Wagoner; that he often passed the Birney house where Nancy was living and would see the boy playing there with negro children; that Nancy was living at the Birney house when the boy died; just heard that Tommy Atkins was dead—didn't pay any more attention to it; don't know whether she lived in the house or not—just saw her around there; that the boy was pretty well grown when he first saw him—appeared to be about four or five years old, and that was when he first moved to Wagoner in 1900; not positive whether it was 1899 or 1900.

Frank Engles (Rec. p. 2557):

Fifty-five years of age; moved with his family to Wagoner in January, 1891; prior to that time had lived at Pryor Creek; and used to haul lumber from Wagoner to Pryor Creek; came to Wagoner himself in December, 1890, and moved his family there in January of the next year; knew Nancy Atkins; thinks he first saw her five or six months after he moved to Wagoner; never remembers seeing her in a pregnant condition; saw Nancy with a boy; saw her carrying a boy in her arms and leading it around; the boy seemed to be about a year old—just beginning to walk when he first saw the child; was a dirty looking kid, in awful shape, filthy and ragged; often did repair work around the Brown hotel and Nancy Atkins was living in a little servant's house behind the hotel a great deal of the time;

that she did laundry work and scrubbing a great deal of the time; that he would see the child there with her and that he afterwards opened a butcher shop up town and that Nancy would come in the shop and bring the kid with her; that Nancy was a pitiful character and he helped her at times; never knew what became of the child; saw it around Wagoner until it was five or six years old; left Wagoner in the latter part of 1900 or early part of 1901 and moved to Sapulpa. Upon being examined by the Court, says that the first work he did at the Brown hotel was in 1892 and that he did work there from 1892 up to 1899, and, in fact, until he left Wagoner; says that he remembers seeing Nancy around the kitchen and dining room and saw the boy around with Nancy and saw them eating together.

W. A. McElroy (Rec. p. 2567):

Forty-nine years of age; lived near Coweta, west of Wagoner from 1889 to 1901; was in the cattle business; went to Wagoner a good deal; knew Nancy Atkins; first remembers seeing her about 1890; never remembers seeing her in a pregnant condition; but heard the report that she had a child; heard this child was born back of the Davis and Jones' store and they took up a collection to take care of Nancy and the child; that this collection was taken up in the Davis and Jones store, and that he afterwards saw Nancy with the child and she said it was her child—her son; said he never talked to her about it; that he just understood it was her son; that he continued to see the child with Nancy around the Davis and Jones' store until he left that neighborhood in 1901; that the last time he saw the child he would take it to be a boy about seven or eight years of age; never heard what became of the child; generally understood the child was named Tommy Atkins, at least, that's what they called the child around Betsey Birney's; would go to Betsey Birney's to round up negroes he had working for him who would come into Wagoner. On cross-examination, witness said he never paid much attention to Nancy and don't remember whether the time he contributed at Davis and Jones' store was to bury Nancy's baby or not—just heard that she was in a destitute condition; that he would go to Betsey Birney's in 1896, '97 and '98 to round up the boys that worked on his ranch and had no recollection of seeing the child prior to the time he first saw him at Betsey Birney's house; that the child appeared to him to be part Indian and part white; had tolerable light hair and was about seven or eight years old.

J. M. **Preston** (Rec. p. 2575):

Fifty-four years old; lived in Wagoner for twenty-three years; first went there in 1893 or 1894; witness is a building contractor; knew Nancy Atkins; first became acquainted with her in 1894 or 1895; saw her with a child in the Davis and Jones' camp yard; the boy then appeared to be five or seven years old, medium height and molasses colored hair, a little wavy; Nancy called him Tommy and he talked to Nancy about the child and she said it was her child; asked her who was his daddy and she said, "Well, you might know", or something to that effect—"anyhow, he was a white man's child"; that this occurred in 1894 or 1895; that he was working in a lumber yard that used a part of the Davis and Jones' camp yard. On cross-examination says he worked in the lumber yard for about a week and never remembers seeing the boy except the time he worked there, but then saw him, he thinks, every day.

D. W. **Best** (Rec. p. 2582):

Sixty-six years of age; lived in Wagoner since 1895; became acquainted with Nancy Atkins shortly after he moved there—probably in 1895; saw her with a child that he supposed was hers—a little fellow, "don't know whether you'd call him mulatto, nigger, part Indian or what he was—anyway, he was not a white child"; judged he was about four or five years old when he first saw him and that was on Cherokee street in front of John Easton's blacksmith shop; remembers seeing the boy up until 1898 or maybe 1900; never knew what became of him, but was told that he died; thinks this was in 1899; last remembers the boy when he appeared to be nine or eleven years old. On cross-examination details incident of first time he saw Nancy Atkins at Easton's blacksmith shop.

T. J. WAY (Rec. p. 2591):

Postmaster at Haskell; lived in the neighborhood of Haskell thirty-six years; in the cattle and farming business; knew Tom Holden and his wife, Kate Holden; they lived about three-quarters of a mile from his place north of Haskell; often went to the Holden place; remembers of children being there other than the Holden children; says that the children were Charley Atkins and Harvey Atkins and Tommy Atkins; that Charley Atkins and Harvey Atkins came there first and that Tom and Kate Holden told him them were Minnie Atkins' children; that Tommy Atkins was there later; that he saw Nancy Atkins at Holden's at one time—possibly at different times—and that the Holdens said Tommy was Nancy Atkins' child; fixes the time of this occurrence as 1899 or 1900; relates the circumstances of Tommy coming to Holden's; that Tom Holden had come over and borrowed witness' buggy and said he wanted to go to Wagoner to get little Tommy and witness asked him who it was and Holden said it was Nancy Atkins' child; that it was his understanding from Holden that it was Nancy Atkins' child and that she wasn't taking care of the child and that witness let Holden have the buggy and he went over to Wagoner and brought the boy home; that witness was over at Holden's a few days later and Holden told him all about the boy; that Kate Holden told him the same thing; that he later talked to them at different times; that after the boy Tommy had been around Holden's for quite a while Nancy Atkins came to Holden's; Tom Holden introduced witness to Nancy Atkins as being "Tommy's mother"; that Nancy stayed at Holden's for a few days and then went away; that Kate Holden afterwards told witness that Nancy had come over to take the boy; that they wanted to keep him; that Nancy wouldn't take care of him, and possibly a month later Nancy came back and took the boy Tommy away with her. Witness was examined by the Court and fixed the birth of his first child in July, 1898. Said that Charley and Harvey were continuously at Holden's for a couple or three years. On cross-examination witness stated that the boy Tommy had been at Holden's two or three months before Nancy came and she stayed three or four days—might have been eight or ten; that she did not take the boy with her as the Holdens insisted on keeping him; that the boy Tommy appeared to be about the same age as Harvey—perhaps Charley was a little older; described the boy Tommy as an Indian boy, dark but not black hair, and that he appeared to him to be about a half-breed Indian. On being questioned by the Court witness said the boy must have been seven or eight years old; appeared to be intelligent but did not look anything like the other two boys, Harvey and Charley; the boy Tommy was about the some age as Harvey and that Charley was older; describes the Nancy Atkins that he saw at Holden's as being pigeon-toed and cross-eyes; never knew

Nancy until she came to Tom Holden's—never saw her before that he remembers; never heard of her and never heard of her having a child. During the cross-examination of this witness Nancy Atkins came into the court room and the witness identified her as the woman he saw at Tom Holden's.

W. C. SMITH (Rec. p. 2607):

Commonly known as Bill Smith; fifty-nine years of age; went to Wagoner in 1898 and lived there nineteen years; was engaged in the drug business; first saw Nancy Atkins one day in his store; she had a yellow headed kid, probably four or five years old with her; asked Henry Anderson, his negro porter, who the woman was and he said Nancy Atkins; Anderson told him the boy was Nancy's kid and that she associated with negroes; saw her and the child on the streets and in his store for two or three years off and on; also saw the boy with an old negro named Snow; thinks the last time he saw the boy was in 1901, 1902 or 1903—don't remember just what year; witness opened his drug store in 1899. On cross-examination says the boy was three, four or five years old the last time he saw him; said he was walking but knows that he could not have been as old as seven years; positive that he must have been about three, four or five years of age. Witness admits having been convicted of selling whiskey and also to having been arrested for fighting.

Bob DeLozier (Rec. p. 2611):

Negro, fifty-five years of age; lived in Wagoner for twenty years; went to Wagoner at the time the Iron Mountain railroad was being built from Fort Smith and became acquainted with Nancy Atkins about the second year he was there; she was living in a tent back of Betsey Birney's house and she had a child born to her while living in that tent. That he saw the child the morning after it was born; that he was living with Bob Childers at the time and Childers' wife sent him down to the tent to take some grub to Nancy, and that he went into the tent, saw Nancy laying on the bed and the child laying there with her; that he didn't talk to her—told her that he had some grub Mrs. Childers had sent her and he saw the child after that at different times around Wagoner for nine years—saw it with Nancy Atkins and that the child died when it was between nine and ten years old, and was buried northeast of Wagoner; that he helped dig the grave; that there were several men present at the time the child was buried; could not remember their names; that an old darky named Monday Barnett conducted the burial ceremony; Nancy was not at the burial; after the child was born to Nancy he helped move her into Betsey Birney's house from the tent; that she was in bed in the Birney house about two weeks; remembers Nancy being arrested and taken to Fort Smith; thinks this was about three months after the child was born; after Nancy was arrested Betsey Birney took care of the child for a while and it lived first one place and another with negroes; after Nancy came back from the penitentiary saw the child with her around the McAnally hotel when Nancy was working in the laundry; that the boy was called Tommy Atkins. On cross-examination, witness said the boy was buried in a coffin made in a lumber yard; don't remember what kind of clothes he had on when they buried him; unable to fix the time of the burial; unable to tell anything that happened in 1900, 1901 or 1902; cannot definitely fix the date of the birth of Nancy's child, but knew him from the time he was born until he died; also talked with him and saw him around town and denies that anyone talked to him about his testimony and when advised by the Court that it would be proper for him to answer such a question still denied that he had talked about his testimony. Admits that he served three penitentiary sentences, one in Oklahoma, two years for forgery; one in Ohio for a year and a day for forgery and one in Detroit for a year and a day; also admits being in the U. S. jail for four months; says he don't remember what it was he took to Nancy but thinks it was some soup and that Nancy was moved to the Birney house the next day after the child was born; that they carried her on a cot; asked about the Birney children says he knew Henry and Dick Birney; that he went to the Birney house often to shoot craps; thinks Nancy was abed a couple of weeks before she got up and was walking around; that she then went back to the McAnally's hotel to work and that the child stayed at Birney's; afterwards lived first one place and then another—at the Wilhams' and also at Mandy Barnett's; don't know at whose house child died; last time he remembers seeing the boy Nancy was working in the laundry at McAnally's and the boy was at Betsey Birney's; that he guessed that he must have been in the penitentiary part of the time the boy was living in Wagoner but knows that he was there when he died; was questioned as to his testimony in the state case at Sapulpa. (Prison records of Bob Lozier introduced in evidence; Forth Smith jail, December 20, 1893, to April 18, 1894, larceny; U. S. penitentiary, Brooklyn, N. Y., April 20, 1894, to July 29, 1896, larceny; U. S. Jail Muskogee, I. T., June 12, 1898 to December 24, 1898, for introducing and selling liquor; U. S. Jail Muskogee, I. T., May 7, 1900, to November 4, 1900, larceny; U. S. penitentiary, Columbus, Ohio, November 5, 1900, to November 25, 1904, larceny).

Samuel McHenry (Rec. p. 2626):

Seventy-eight years old, negro, missionary Baptist preacher; lived in and around Wagoner since he went there in 1898; to, to four or five years ago; in 1901 or 1902 conducted the funeral of Nancy Atkins' boy; was asked to conduct the services by Monday Barnett; funeral was held in the house—don't know whose house—and he went to the cemetery and Monday Barnett, Bob DeLozier and E. G. White were there; thinks Bob DeLozier dug the grave; is undecided as to Nancy Atkins being at the burial. Witness is positive that this burial was in 1901 or 1902 but unable to fix the date by any other event.

On cross-examination says he did not know whose child was being buried—that "they said it was Nancy's boy"; knew Nancy Atkins but is uncertain about her being at the burial; Nancy never talked to her about the child being hers; Monday Barnett told him it was Nancy's child; didn't know who was in the box that they buried; only knew it was Nancy's child from what people told him.

Ellis Childers (Rec. p. 2637, recalled, 2649; recalled, 2685):

Fifty-one years of age; Creek citizen; three times speaker of the Creek House of Warriors; served a term as treasurer of the Creek Nation; also occupied the office of Creek National Attorney before the tribal courts; educated at Carlisle Indian School; knew both Minnie Atkins and Nancy Atkins; had known them for forty years and that they were members of Euchee Town; that Euchee Town was a political subdivision of the Creek Tribe; knew the father and mother of Minnie Atkins and Nancy Atkins; that Thomas Atkins was their father and that he was prominent in the Creek Nation, being captain of the Light Horsemen for a number of years; that Thomas Atkins, the father of Minnie Atkins and Nancy

Atkins, belonged to Coweta Town; that his wife, the mother of Minnie Atkins and Nancy Atkins, was a Euchee; that witness was at Carlisle Indian school from January, 1880, to June, 1884, and has since resided in what is now Wagoner County, Oklahoma. Gave it as his best judgment that Nancy Atkins was about fifty-one years old at the time of the trial and that Minnie Atkins was quite a good sized girl when he was at Carlisle school—a good deal larger girl than witness was a boy; that he is no blood relation to either Nancy Atkins or Minnie Atkins, but has known them intimately all his life; that he knew Nancy Atkins when she was living in Wagoner, but did not personally know of her giving birth to a child, although he did hear of it; that there was a pasture payment being made near Wagoner, October 8th, 1890; that he was there and that Saus Childers came to him and said that Nancy Atkins was very sick; that she had a baby in a tent and was going to die unless she was taken care of and that he wrote out a subscription paper asking for donations to help Nancy Atkins and that he headed this subscription list with $5.00 and that Saus Childers also gave $5.00 and that Saus Childers collected about $70.00 which was turned over to witness' mother and some other Indian women to take care of Nancy; that the women came back and reported that they had gotten Nancy cleaned up and some fresh clothes and moved her into Betsey Birney's house and paid Betsey Birney to take care of her; that shortly thereafter he went to the Birney house to make settlement with Betsey Birney for some pasture land that witness was renting, and while there saw Nancy Atkins and her child; witness fixed this occurrence as not more than ten days after he contributed the $5.00 at the pasture payment; that on the occasion of his visit to the Birney house he talked with Nancy Atkins; that he saw Nancy Atkins about a year afterwards with the child—didn't ask whose child it was, but thought that it was hers—didn't pay much attention to the child at the time but afterwards learned that it was named Tommy Atkins; thought the child was about a year or a year and a half old the last time he saw it in Wagoner with Nancy; remembered seeing them both around the Davis and Jones' store; fixed the date of the pasture payment definitely as October, but was uncertain whether it was 1889 or 1890; saw Nancy Atkins before the pasture payment and noticed that she was in a pregnant condition; remembered Nancy being sent to the penitentiary after the birth of her child.

That he was a member of the Creek National Council in 1895 and was present at the session of the Council at Okmulgee in May of that year; that during that year there was approved by the council a roll of Creek citizens for the purpose of making a per capita distribution of $200,000 of the funds of the Creek Nation; that each of the several towns prepared its own roll; that these rolls were submitted to the Council and were referred to a committee for investigation; that on the report of this committee the Council acted and that the authenticated roll of 1895 was the roll of the several towns submitted by the town officers, favorably reported by the committee and approved by the Council; that there were forty-seven separate towns in the Creek Nation and there were forty-seven different rolls approved by the Council in May, 1895; that at the time the committee of the Council was considering the Euchee Town roll in May, 1895, he knew that Nancy Atkins had a boy child and that Minnie Atkins had two boys; that he did not then remember the names of the children of either Minnie Atkins or Nancy Atkins; that at the time he knew Ed Schrimpsher, a first cousin of Minnie and Nancy Atkins; also knew Kate Holden and John Davis;

that when the committee of the Council was considering the Euchee Town roll, Samuel W. Brown, Town King of Euchee Town, asked witness to come to the committee room to help him verify three families of Euchees that lived in witness' section of the Creek Nation; that these three families, concerning whom Brown made inquiry were those of Jim Childers, William Childers and the Atkins family. Witness was presented the book of Sam Brown (defendant's exhibit B-1), containing the original entries of the names of the Atkins family, purported to have been furnished Brown by John Davis, and identified Minnie Atkins as the principal defendant in this case, Charley Atkins as evidently intended for Charley Harrison, one of Minnie Atkins' children; that he did not know any person by the name of Susan Atkins, and being asked as to Thomas Atkins, replied: "Unless it was intended for this Thomas Atkins that we are talking about; that is the only one I know".

"Q. You are referring to Nancy Atkins, the--

A. Yes, sir.

* * * * * * * * *

"Q. Whom do you identify as Thomas Atkins?

A. Nancy's child" (Rec. p. 2650).

The witness was then presented the original of the Government's exhibit "A-2", being the 1895 payment roll of Euchee Town, and identified the same as the original receipt roll upon which the payment was made, at Okmulgee, in September, 1895; that he was present at the payment; that Sam Brown, Town King of Euchee Town, was also there; that Napoleon B. Moore, the National Treasurer of the Creek Nation was the paymaster; that Cornelius Carr was there in the capacity of a clerk and that Sam McCurtain was the official caller; and that witness, in company with Timmie Fife, was sitting at the paymasters' table when Minnie Atkins drew her money; that he personally saw her draw for the Atkins family, and that Mr. Moore objected to her drawing for the whole family and said that he didn't want to be responsible for paying it all to Minnie; that Minnie signed the roll, Moore paid the money to Brown and Brown turned the money over to Minnie. He identified the roll as being in the handwriting of Jim Lynch and the red ink notations as the handwriting of Mrs. Moore, the wife of the paymaster."

The witness was first cross-examined by R. C. Allen, National Attorney for the Creek Nation, and was interrogated in reference to his activity in procuring the admission to citizenship of the Richard Atkins family and testified that he knew a Thomas Atkins, the son of Dick Atkins, around Wagoner. He was then confronted with and examined in reference to a sworn statement made by him on February 26th, 1916, before Fred S. Cook, Special United States Indian agent, wherein he stated, under oath, that when he went to Betsey Birney's after he heard that Nancy had a child, he saw Nancy in bed but did not see any child and that he never heard of her having any child except the one born at Wagoner at the time of the pasture payment in 1889 or 1890; that in this statement that he made to Cook, he was asked:

> "Q. Did you ever know or hear of Nancy ever having any child or claiming any child by the name of Thomas Atkins?
>
> A. I never heard of her having a child by that name or any other name; I knew she had one child, but my understanding was that they never had named the child. It never had a name until this matter came up."

And again,

> "Q. How long did Nancy's child live?
>
> A. I really don't know, but my understanding is that the child died very shortly after it was born" (Rec. p. 2671).

Witness admitted that the questions above quoted were asked him by Fred S. Cook and that he made the answers as read to him by Allen. That subsequently he went to Wagoner with A. G. McMillan, a Government agent, and pointed out to McMillan and introduced McMillan to the witnesses in Wagoner who were able to testify that Nancy's child was born dead.

On cross-examination by Judge Stuart, counsel for Minnie Folk and Page, he was interrogated as to his statement of February 26th, 1916, and answered as follows.

"Q. Ellis, you understood and believed that the child which Nancy is alleged to have had in 1890 died shortly after its birth?

A. I couldn't say whether it died right away, I don't know.

Q. Died very shortly after its birth?

A. No, sir.

Q. Didn't you say so in this statement?

A. I must have.

Q. Well, did you tell the truth when you said it?

A. I never did know when the child died. No, I couldn't say shortly or longly.

Q. Did you tell the truth when you made this statement?

A. I never did know when the child died.

Q. You answer my question; did you tell the truth when you made this or not?

A. Well, I did, of course, try to" (Rec. p. 2677).

On further cross-examination by Judge Stuart in reference to his testifying before the citizenship committee of the Creek Council in 1895, he testified as follows:

"Q. Now, as a matter of fact, when you went before that committee you knew that Sam Brown had made up this Euchee Town roll?

A. Yes, sir.

Q. You knew that Sam Brown was a Euchee King?

A. Yes, sir.

Q. You knew that you were not a member of the Euchee Town?

A. Yes, sir.

Q. You didn't know anything about the members of the Euchee Town except those in your vicinity?

A. Didn't pretend to.

Q. So, when you came in there and they put the matter to you, you simply said 'I don't know any Tommy Atkins', didn't you?

A. I don't think I said it.

Q. Didn't even say that much?

A. I don't know whether I said that much.

Q. Ellis, did you testify at all before that committee?

A. I just made a statement.

Q. What statement?

A. I asked what families they have got and they explained and I just simply said yes.

Q. That is all they asked?

A. Yes, sir.

Q. Now, you do know that the roll of Euchee Town, as prepared by Sam Brown, was adopted by the council, don't you?

A. I couldn't say that. I knew the Sam Brown roll as approved by the committee was adopted by the council.

Q. But you knew if the Sam Brown roll was endorsed by the committee then the Sam Brown roll was adopted by the council?

A. Why, certainly" (Rec. p. 2679).

He also testified on cross-examination that he had known J. B. White quite a while; that White had brought Nancy Atkins to his house and that she had remained there three weeks.

NANCY ATKINS (Rec. p. 2697; deposition deposition 2775-2785):

Forty-five years of age and born on Elk Creek in the Creek Nation and lived in the Creek Nation all her life; went to Wagoner to live but is unable to fix the year, and got a job laundering at either the McAnally or Barnard hotel; was in a pregnant condition when she went to Wagoner and worked at the laundry until she was sick; before going to Wagoner had lived in Muskogee with her aunt Cherokee Robinson and the reason that she left her aunt's home was because she was in a family way and did not want to bring disgrace on the family. In the fall, after she went to Wagoner, she gave birth in the month of September, to a child; that the child was born at Elnora Williams' house and was a boy and that he lived until the spring of 1900 in and around Wagoner; that after the Brown hotel was built she went to work for Mrs. J. R. Brown and would often take her child to the Brown hotel; that she only had one child and that she often left this child with Betsey Birney; that she was present at the burial of the child and old man McHenry and E. J. White were there; that the child was born before she was arrested and taken to Fort Smith; that from Fort Smith she was sent to Detroit,Michigan,where she served a six and a half months and then came back to Wagoner and went to Williams' restaurant and that Mrs. Williams met her and they went to Betsey Birney's house where they found the boy; witness admits that she is the plaintiff in the suit against H. U. Bartlett and the Gypsy Oil Company, pending in the state courts, and that she testified in the state court case at Sapulpa; that prior to her testimony on the stand in open court she gave her deposition in the office of McDougal and Lytle's office with Betty Mann and Edward Bartlett, the son of H. U. Bartlett; that Betty Mann and Bartlett had come to Coody's Bluff in February for the purpose of having her go to Sapulpa; that on the way to Sapulpa they stopped at Mrs. Albright's where they met Charley Rogers and that Rogers began questioning her about Minnie Atkins; that they got to Sapulpa about eight o'clock that night, which was Thursday, and she stayed there until Monday morning, when she went to McDougal and Lytle's office with the brother of Betty Mann; that at McDougal and Lytle's office she met Bartlett's son and Lytle questioned her and said that they wanted her child to be a girl and if she said the child was a boy she would get in the penitentiary; that this conversation only occupied a few minutes and she went out and that Betty Mann told her that they were to get $2,000.00 for proving that the child was a girl and that if she said it was a boy that they had it framed for her to go to the penitentiary; that the same afternoon at two o'clock they went back to McDougal and Lytle's office; that H. U. Bartlett and his two sons were there; that Betty Mann was in an adjoining room; that Mr. Lytle was there and N. B. Maxey and Mr. Gresham, her attorneys' were present when she was examined; that she was asked why she answered the question at that time as to her child being a girl and replied, "Well, I was just taking them at their word; it was like this; I wouldn't rather have got anything that way than go to the penitentiary and I would rather do without it if I thought I was going to be put in the pen because I have been there once and I know what it is and I thought I would let them have it"; that the statement in Lytle's office at the time of the giving of her deposition was false; that it was made by reason of her intimidation; that she afterwards testified on the stand in open court at Sapulpa and contradicted what she had said in her deposition in McDougal and Lytle's office; that at the time she testified in open court she said her child was a boy and lived seven years; that the latter statement was true and that the statement made in the deposition in McDougal and Lytle's office was false; that after her testimony in the state case Sadie James came to her at Nowata and wanted her to go with her to see her sister, Minnie Atkins; that witness told her she did not want to go with her but that Sadie James offered Joe Byrd $50.00 if he would persuade her to go with Sadie James and that Mrs. Byrd's sister was offered $25.00 to go as far as Kansas City with them; that Sadie James again talked to her about going to see her sister, Minnie, but she feared they were trying to kidnap her and that she went to Mrs. Yarboro's house and told her what Sadie James was attempting to do and asked Mrs. Yarboro to ring up J. B. White at Coweta and have him come and get her. That Mrs. Yarboro locked her up until White came Saturday evening and that Sunday morning she left with White and went to the home of Ellis Childers, where she stayed until December. While she is not positive, she thinks it was Friday, September 26th, that Sadie James came to see her at Nowata and that it was Sunday, the 28th, that she left with White. That prior to that time her guardian, Micco T. Harjo, tried to get her away and that they got as far as Coffeyville, Kansas; supposed to be on their way to Portland, Oregon, and while they were in Coffeyville

Henry McGraw (representing the Gypsy Oil Company) had her make a statement about her child; that this statement was made before she gave her deposition at Sapulpa in McDougal and Lytle's office; that while she and Micco Harjo were in Coffeyville, Bartlett also came there; that Harjo brought him to the house where they were stopping; that Harjo said to her that he could get $500.00 if she would do what he wanted her to do—that is, that Bartlett had offered him $500.00, if she would deny the child and that Harjo advised that they take the $500.00 and have nothing more to do with the suit and get out of the state; that Harjo afterwards brought Bartlett in to see her and Bartlett talked to her and she said, "Oh, well, it is immaterial to me; if you all can make it that way I will turn it over to you and I will get clear out of it because I haven't got enough money to spend on it"; that Bartlett then gave Harjo $10.00 expenses and that Harjo was to take her to Tulsa the next Monday. She later corrects this to make the town Claremore instead of Tulsa. That after Bartlett was gone McGraw came back and asked her questions which she answered; that she never received $500.00 or any part of it from Bartlett; does not know whether Harjo received it or not;

that after she gave her deposition at Sapulpa in McDougal and Lytle's office, she furnished Lytle with the name of Eliza Barnett or Eliza Sterling, as a witness at Wagoner by whom they could prove that her child was a girl; that she then, in company with Harvey Harrison, her nephew; H. U. Bartlett and Betty Mann, drove to Wagoner and first went to see Eliza Sterling; that she had not seen Eliza Sterling for a number of years; that Eliza Sterling recognized her; that she asked Eliza Sterling if her baby was a boy or a girl and that Eliza Sterling said, "Nancy, your child was a boy"; that Betty Mann then turned to Eliza Sterling and said, "You know it was a girl"; that witness then said to Eliza Sterling, "They want you to swear it was a girl, now remember that"; that they next went to see Angeline Moody and practically the same conversation took place and Angeline Moody stammered around for a while and then said, "I believe it was a boy", and that Betty Mann then ran in to her (Angeline Moody) and said it was a girl, and Angeline Moody then said, "Well, I believe it was". That H. U. Bartlett then gave Eliza $10.00 as expense money to come to the trial at Sapulpa and testify and the next morning Betty Mann came on the train with her to Claremore to see that she got on the train for Nowata; that after getting these witnesses to the effect that her child was a girl, Bartlett and Betty Mann did not expect her to go to Sapulpa but that she did go to the trial and changed her testimony.

After this recital as to the Sapulpa procedure, she was asked:

"Q. Just tell the court what the truth is about this child.

A. Well, I will just tell the court.

The Court: Now, look at me and talk loud.

A. Judge, your Honor, I can't look at you, can't tell when I am looking at you on account of the cataract in my eye.

The Court: All right, look at me anyhow.

A. This child. Now, my child was a boy, sure enough.

The Court: Yes, now look at me.

A. I named it Tommy, but at the time I didn't know there was so many Tommys, so many boys in the Atkins family named Tommy I wouldn't never named him. I would much rather named him after my brother, but after Minnie had one named Lee, I just called mine Tommy, but the child really is a boy, honest. Of course, I ain't talking."

That the boy lived until the spring of 1900 and that he was about eight years of age or coming nine at the time of his death; that Minnie Atkins' two children, Charley and Harvey Harrison, were with her in Wagoner for two or three months until Charley Bailey took one of them and Jim Childers the other; that Minnie brought the children with her from Colorado and left them at Kate Holden's and that she saw the boys at Kate Holden's before they were brought into Wagoner; that her boy was not at Kate Holden's at the time but that after she went to Nowata Tom Holden took her boy Tommy out to his place; that when she came back to Wagoner she went out to Holden's and Minnie's two boys and her Tommy were there; that she did not see Tom Way at the Holden's house, but met him on the way to Coweta; that she left her boy Tommy at Tom Holden's and that Kate Holden was to bring him to Wagoner and leave him at Betsey Birney's; that she did not see her boy again for a year, when she saw him in Wagoner at Betsey Birney's; she described the boy as being about her color and that his hair was black and straight, like that of the witness, and that he was small for his age.

Witness was first cross-examined by R. C. Allen, Creek National Attorney, and said that

Sadie James, representing Charlie Page, tried to kidnap her in September, 1914; this was the time she had the conversation with Sadie James at Mrs. Yarboro's house. Admits that she testified in her deposition at Sapulpa that the only child she ever had was a girl child born dead; that she so testified because Betty Mann said she would get $2,000.00. She was also asked about the $500 to be paid by Bartlett at Coffeyville and said she didn't know whether she was to get any of the money; said that Bartlett had himself never offered her a cent but that her information that the money was to be paid came through her guardian, Micco Harjo, and Betty Mann; that she had Micco T. Harjo appointed her guardian when she sold her homestead and after he had left the state she had Ridgeway, her present guardian, a negro, appointed. Admits that her lawyers, Maxey and Gresham, were present at McDougal and Lytle's office when she testified her child was a girl, born dead; that they cross-examined her at length and she stuck to her original assertion; that after she had made the deposition at McDougal and Lytle's office she was taken back to Sapulpa by Ellis Childers who said that Judge Stanfield had sent for her to come to the court house, that when she got to Sapulpa she talked with J. B. White and afterwards went on the witness stand, in open court, and changed her testimony. Allen read from her testimony in the state case as follows:

"Q. Have you ever been married?

A. No, sir.

Q. Ever given birth to a child?

A. Yes, sir.

Q. What kind of a child was it?

By the Court: Boy or girl?

A. Supposed to be a boy, I guess."

Witness then details the sending of Charley and Harvey Harrison to her at Wagoner; that she was in Nowata when Ellis Childers came for her to go to Sapulpa to the trial; that Ellis told her they wanted her at Sapulpa; that she had told Bartlett the child was a girl and Ellis said, "You want to go and fix that because you might get into trouble" and she went with him to Sapulpa and went to the St. James hotel where she met J. B. White; that she had stuck to her story about her baby being a girl child; born dead, from July, 1913, until after February 9, 1914; that Angeline Moody hesitated quite a while before she could remember whether her baby was a boy or girl; that Betty Mann and

Bartlett and the witness, when they were in Wagoner, also tried to get Henry Kidd as a witness to go to Sapulpa but that Henry Kidd told them that he didn't know anything but that she did have a child; that Betty Mann then asked Kidd if it was a boy or a girl and Kidd said he didn't exactly know; that Betty Mann then said to Kidd that it was a girl child, born dead, and that Kidd agreed to go to Sapulpa and swear to that; she admits that she lived among negroes in and around Wagoner and that her child was born at Elnora Mayshack's (Elnora Williams'); that she knew Joe Birney and all Birney children, Charley, Dick and Coleetha, the youngest of the girls, and Joe, the youngest of the boys; that Joe Birney was about four years old to the best of her recollection when her baby was born; that at the time her child was born, Aunt Mandy, Mrs. Williams and old man Williams were in the house; Williams was running a restaurant down stairs; that she was in a room upstairs in bed; that Aunt Mandy is now dead and old Man Williams is dead, and that the only living person who was present at the birth of the child was Elnora Williams, now Elnora Mayshack, who resided in Portland, Oregon. Witness re-asserts that when she went to Kate Holden's that her boy Tommy was there in addition to Minnie's boys' Harvey and Charley.

Cross-examined by Judge Stuart of counsel for Chas. Page, says she was first talked to in reference to the land in suit by her guardian, Micco Harjo; that Micco Harjo was appointed her guardian when she sold her homestead in 1912; that the homestead was sold through the Indian Agent; she had Harjo appointed guardian so that he could draw money for her; that the first time Harjo ever talked to her about this case he said he had seen the rolls at Muskogee and that Tommy Atkins was enrolled "and he first asked me did I have any children and I told him yes, I am the mother of a child" and he asked me what it was and I told him and he said "Did you ever get his allotment?" and I said I didn't know because uncle enrolled him and if he filed some of my kinfolks, filed him because I didn't file only for myself; that is what I told him; and he said, "Well, he is down there and it must be yours" and I said "well, you have got to prove it then if it is mine". Here the Court interrupted the witness with the interrogatory: "You said what?" Witness continuing: "I told him, well if it is mine you will have to prove it; I said I am the mother of a child and his name was Tommy but whether he was enrolled or not I don't know because uncle enrolled us—was to enroll us— and I only filed for myself"; that she never told Robinson to file for her child but that she did file for her own allotment; that after this first conversation with Harjo he came again to her and said he had a chance to give a lease on the land but that Minnie Atkins was claiming it but that Harjo advised her that she could make as good a lease as Minnie and Ellis Hammett came to Nowata and gave her $50.00 for a lease that she executed; that Micco T. Harjo, her former guardian, was the first person who ever suggested to her that she might have any interest in the property in suit; that Micco T. Harjo is now in Portland, Oregon; that he left Oklahoma because he was scared of getting into trouble; that the next person talked to her about the land was Bartlett; and that Harjo brought Bartlett to her at Coffeyville and that Bartlett wanted witness to say that Tommy wasn't her child and that the child was a girl; that she was willing to go ahead with the "frameup" and that Mike told her that Bartlett would give him $500.00 but that he must be sure to take her (Nancy) out of Oklahoma and Kansas and get clean away; that it was witness' understanding that they were to go to Portland, Oregon; that at the time she made the affidavit for McGraw, Micco T. Harjo and Mrs. Renfro and Mrs. Renfro's daughter were present and that she told McGraw that her child was a girl child, born dead; that McGraw asked her if she was telling the truth and she told him "yes"; witness said she didn't care much what she said at the time because she had made up her mind that she was coming back to Oklahoma; this was in Coffeyville in July, 1913. Admits that she stuck to the statement that her child was a girl child, born dead when cross-examined by Maxey at the time her deposition was taken at McDougal and Lytle's office in Sapulpa in February, 1914; that when Ellis Childers came to her at Nowata he said that the court wanted her at Sapulpa; that when she went on the stand she didn't know what lawyer had her put on the stand; that Judge Stanfield asked her whether her child was a boy or girl; that after she answered the question and told the court that her child was a boy and lived to be about ten years old Lytle got mad and walked up and down in front of her; that she never said a word to any of her lawyers about changing her testimony before she went on the stand in Sapulpa. Admits that she was looking for a place to have her child when she went to Wagoner and knew Elnora Williams before she went there and her associates in Wagoner were all negroes; that Elnora Williams took care of her at the birth of her child; that Aunt Mandy was the mid-wife. When pinned down admits the only other persons who came to see her while she was confined were Mrs. Williams and Aunt Mandy; that Ellis Childers came to see her when the baby was about three weeks old and that the baby was in bed with her when Ellis came to see her; she specifically testifies as follows:

"Q. Now, listen, don't you know that that little child was born dead and it was taken out there and buried?

A. Oh, no, I ain't going to testify to no— I ain't going to brace those niggers' lies up that way.

Q. You think all those niggers have lied?

A. They have absolutely lied on me because they swore my liberty away from me twice right there in Wagoner. That is the reason I say I will not brace their lies up.

Q. What niggers?

A. Henry Anderson and all of them.

Q. Did Angeline Moody swear your liberty away?

A. I don't know whether Angeline was on the case.

Q. Did Elnora Williams?

A. No, she was for me.

Q. Did any other person besides Henry Anderson and some other niggers swear your liberty away?

A. All the niggers swore against me.

Q. Have you any reason to think why they should come here and swear a lie against you?

A. Well, I guess they have been offered money to swear a lie.

Q. You think they have been offered money by the Government?

A. I honestly and truly believe it."

On re-direct examination she said it was her understanding that her uncle William Robinson was going to look after the filing of her Tommy; that she filed on her own allotment June 6th, 1901, and that her boy was dead at that time, having died in the spring of 1900.

On cross-examination by Mr. Hanford, counsel for Minnie Folk, says she named her boy when he was two or three weeks old and that she learned that Minnie's boy was named Lee because Minnie had written her from Fort Logan, Colorado; that she kept Charley and Harvey Harrison at Lizzie Woodward's when they were in Wagoner and that she thinks the boys were there twelve months as near as she can get at it; that Charley Bailey took Charley Harrison away first and that Jim Childers afterward took Harvey; denies that she ever lived in a tent back of the Davis and Jones' store or that her baby was born in a tent; insists that her baby was born in Elnora Williams' house; denies that Bob DeLozier same to see her or ever brought her any meals; says that Elnora Williams brought her meals and looked after her when she gave birth to her child; denies that she ever lived at Betsey Birney's but admits going there frequently; said Betsey Birney kept her child while she was working at hotels and restaurants. On examination by the Court sticks to the story that her child was born at Elnora Williams' house and that she was in bed three weeks or a month before she was able to get up and around.

The Court asked the witness the following questions in reference to her having applied for an allotment for her dead brother Lee:

"Q. You asked about Brother Lee, did you?

A. Yes, sir.

Q. And they said he died before enrollment?

A. Been dead too long.

Q. Your boy died after enrollment, didn't he?

A. Yes, sir.

Q. And you knew he died after enrollment?

A. But brother died before enrollment.

Q. You asked about brother and they told you he died before enrollment and couldn't be enrolled?

A. Yes, sir.

Q. Did you say anything to them about your boy?

A. No, Uncle John was in there and I called on Uncle John to see if he could find out whether I could file for brother or not, and he was mad at me and wouldn't say anything in my favor."

Mrs. Blanche Yarboro (Rec. p. 2744):

Resides at Nowata; relates incident of Sadie James and Nancy Atkins coming to her house in September, 1914; of the witness locking Nancy up over night; of her telephoning to J. B. White and of White coming to Nowata the next day and taking Nancy away with him.

J. B. White (Rec. p. 2747):

Lives at Coweta, Oklahoma, and is one of the defendants in this action, being interested in an oil and gas mining lease from Nancy Atkins; became acquainted with Nancy Atkins at Wagoner in 1895 when he was employed as a collector in the Davis and Jones' store, but knew her a couple of years prior thereto when he traded in Wagoner; saw her frequently after 1895; saw her with a boy around Wagoner after 1896; that Nancy told him it was her boy; that the boy appeared to be about five or six years old; that he continued to see the boy around Wagoner until about 1900; that he first became interested in the Tommy Atkins allotment in 1913 when the oil development was approaching that locality; that he had several inquiries from parties interested in securing a lease asking if he knew Tommy Atkins; that he made some inquiries; that he went to Nowata and had a conversation with Micco T. Harjo, the guardian of Nancy Atkins; that Harjo told him other parties had been to see him about a lease; that he saw Nancy on several occasions while at Nowata and talked with her freely in the presence of her guardian; that he was present at the time of the taking of Nancy's deposition in McDougal and Lytle's office at Sapulpa, February 9, 1914; that after she left Sapulpa he had no further conversation with her until she returned to Sapulpa, three days before the trial on February 26th, 1914; that he sent Ellis Childers to Nowata to bring her to Sapulpa to have her present at the trial but that he had never attempted to influence Nancy Atkins or any witness in the case to testify except as to the facts.

On cross-examination witness admitted that he often saw Tommy Atkins, the son of Dick Atkins, around the Davis and Jones' store in Wagoner; that he was a mulatto boy; that when he first became interested in the Tommy Atkins property he procured a copy of the census card showing Minnie Atkins as the mother of Tommy Atkins and that he made inquiries with reference to Minnie Atkins and could not ascertain her whereabouts. He admitted that he put Nancy Atkins on the stand at the trial at Sapulpa in February, 1914, and that he kept her concealed in Sapulpa several days before she was put on the stand. At the conclusion of the witness' testimony (Rec. p. 1544), Nancy Atkins' testimony in full at the trial in the State Court at Sapulpa, February 26th, 1914, and her deposition given at McDougal and Lytle's office February 9, 1914, were introduced in evidence.

J. K. **McClaren** (Rec. p. 4406):

Resided in Wagoner from 1885 to 1891 and was acquainted with Nancy Atkins from about 1887 until he left there in 1891; that in the winter time he worked in the Davis and Jones' store and in the summer on a ranch; that the last two years he was in Wagoner Nancy Atkins lived in a tent back of the Davis and Jones' store and also stayed with some negroes named Birney and Williams and that a part of the time Nancy was employed as a laundress and dishwasher at the Barnard hotel; that about 1890 or 1891 Nancy had a child with her which witness was unable to identify as a boy or a girl, about one year of age; that he often saw the child with her around the Birney children. On cross-examination witness testified that he was born in 1874 and was about seventeen years old in 1891; that he never saw Nancy in a family way and never personally knew of her giving birth to any child.

J. H. **Anderson** (Rec. p. 4414):

Fifty-five years of age and lived six miles east of Wagoner; lived in the neighborhood of Wagoner since 1883; knew Nancy Atkins when he was living in Wagoner about 1890; on one occasion saw her leading a child that she said was hers; that the child appeared to witness to be about three or four months old at the time; remembered the circumstance of Nancy going to the penitentiary and that Betsey Birney took care of the child while Nancy was away; that after she returned saw Nancy and the child around Wagoner; that the child appeared to him to be mixed a little with white, Indian and colored blood; that he never heard the name of Nancy's child—never paid enough attention to it to inquire its name. On cross-examination testified that the only Tommy Atkins he ever knew in and around Wagoner was a son of Dick Atkins, an Indian who lived near Coweta who was a son of Billy Atkins, and an Indian living near Tahlequah whose father's name was Sam Atkins.

M. J. Phillipi (Rec. p. 4419):

Fifty-four years of age; white man; went to Wagoner October 1st, 1892; established the Wagoner Record; knew Nancy Atkins and saw her around town with a child who looked to be three or four years old; the child was a rather dark, peculiar looking child with stringy hair; last time witness remembered seeing the child was in 1894 or 1895 when it was about four years old. On cross-examination witness testified that he did not know whose child it was—had seen it with Nancy Atkins—seen it playing with the Birney children.

LIZZIE M. MILLER (Rec. p. 4422):

Fifty-two years of age; first became acquainted with Nancy at Wagoner in 1897 or 1898; that at that time she was living at Betsey Birney's; that Nancy had a child with her there that she claimed to be hers; that Nancy called the child Tommy; that he was a scrubby looking boy, kind of mixture of Indian and mulatto and was about seven or eight years old last time witness saw him just before he died in 1890. On cross-examination admitted that she only assumed the child was Nancy's. Asked as to whether Nancy ever had any other child with her, witness replied: "Well, I don't remember any of them but Tommy. He used to come down with Betsey's boys to bring the kindling".

J. W. RUBLE (Rec. p. 4427):

Forty-two years of age; sheriff of Wagoner County; came to Wagoner in December, 1896; knew Charley Harrison when he was living with Charley Bailey near Wagoner; also knew Harvey Harrison, his brother; knew Cheney Trent and the members of the Dick Atkins family; knew

Nancy Atkins and became acquainted with her in 1896 or 1897; did not remember of seeing her after 1897 when he thought she left Wagoner; saw her around Wagoner with a boy about five or six years old—supposed the boy to be Nancy Atkins' boy; that the boy was a sandy haired, freckled faced, dirty child who played mostly with negroes: never heard its name. On cross-examination witness testified that he came to Wagoner from Harrison, Arkansas; never heard of any of the Atkins family prior to that time and that his acquaintance with Nancy could not have extended over a year.

SID JOHNSON (Rec. p. 4430):

Forty-five years of age; special agent of the M. & G. O. railroad and a peace officer for twenty-five years; special officer for twenty-five years; special officer in the employ of the M. K. & T. in 1894; testified that he knew Lee Atkins who lived at Checotah, Indian Territory, and that he was killed by Amos McIntosh in November, 1894.

AUGUSTUS A. DAVIS (Rec. p. 4593):

Resided at Wagoner since 1893; testified as to Charley Harrison being at Charley Bailey's house in 1895 and 1896; knew Nancy Atkins; saw her at one time with a boy come into his shoe shop and that Nancy told witness that it was her boy; that at a later date the boy was playing around his shop with some negro children and picked up something on the counter and one of the negro boys said "You had better let that alone", and called him Tommy and witness asked him "Tommy how much" and the boy replied "Tommy Atkins" and that the boy he saw with Nancy Atkins and around his shop was not Charley Harrison.

The Evidence Against Nancy Atkins.

ELNORA MAYSHACK (*Elnora Williams*)

(Rec. p. 2163):

Resident of Portland, Oregon, forty-eight years old; at the time of the 1890 Creek payment was living at Wagoner; that Nancy Atkins had been living with her about six months prior to that payment at her home between the Davis and Jones' store and Kidd's blacksmith shop; that while Nancy was living with her she was sick and about to give birth to a child; that witness did not have a room at her house in which to take care of her and that a tent was rented for her located between the two railroad tracks, and that in this tent Nancy gave birth to a child; that it was born in the morning and died in the afternoon of the same day. Witness was unable to fix the exact time of the birth of the child but testified that Nancy had received one Creek payment before the baby was born and another after it was born; that there were four persons present at the birth of the child; that she knew Nancy in and around Wagoner for about four years after the birth of the child and that Nancy lived with her and followed her around during that length of time; never knew of her having but one baby and never knew of any boy living with Nancy when she knew her.

In considering the testimony given by Elnora Mayshack, formerly Williams, as above abridged, who was in attendance upon Nancy at the time of the birth of her child in Wagoner, particular attention should be given to the following portions of the testimony of Nancy Atkins in which she herself states that she lived in the Williams home; that her baby was born at the Williams home and the Williams woman was there. Nancy testified (Rec. p. 2698):

> "A. Now, I am not sure whether it was at the McAnally's or the Bernard, but I think it was the Bernard hotel the first place that I worked.

Q. Where was it (meaning the baby) born, where were you living at the time it was born?

A. Why, I wasn't just to say living; I was working at the Bernard hotel.

Q. Yes, I know, but whereabouts in the town was this child born, what house or place?

A. Elnora Williams' house."

(Rec. p. 2700) Nancy Atkins testified as follows:

"Q. How soon after that did you see— I will ask you first, did you see the child after you got back there?

A. After I went from the train I went to old man Williams' restaurant, and it had rained and the streets were muddy, and I made it over there and Mrs. Williams come to meet me half way. I got there and talked quite a while and said, 'Well, I will go on out to Betsey's'."

Nancy testified as to her return from Detroit, where she had served a term in the penitentiary. Elnora Williams testified that Nancy had come to her house after she was released from prison but that there was no child there that belonged to her. Under cross-examination by Mr. Allen, representing the Government and the Creek Nation (Rec. p. 2713), Nancy Atkins testified as follows:

"Q. Now, Nancy, did you mean to say that

that child that was born at Elnora Williams' was not born dead?

A. Why sure. I say my child was not born dead.

Q. If that Elnora Williams says that child was born dead or died the day it was born, she is mistaken?

A. Yes, she would be mistaken.

Q. You say it was born at Elnora Williams' place?

A. Yes."

Again at p. 2722 of the record, Nancy Atkins testified that she stayed at Elnora Williams' during her sickness and that the child was born there.

Again on page 2734, Nancy Atkins testified that when she was sick in childbirth Elnora Williams brought her meals to her and saw that her washing was done and took care of her. Again on p. 2741, in response to inquiries by Judge Campbell, Nancy Atkins testified:

"By the Court: Let me see if I understand you, Nancy, when I am asking you these questions I just want the truth, I am not trying to worry you at all. I understand then that you had your baby at this Mrs. Williams' house in one of those rooms?

A. Yes, sir.

By the Court: And that you stayed there

with your baby, until you got well and got up and able to go to work again?

A. Yes, until I was able to go to work again.

Q. Well, tell the Court about how long that was.

A. Well, I was down about, say, three weeks, then I got up—about a month before I got stirring around.

Q. During all that time you were at Mrs. Williams' house?

A. Yes, right where I was confined at."

MICCO HARJO (Rec. p. 2168):

Resident of Portland, Oregon; lived at Nowata, Oklahoma, prior to removing to Oregon; in 1912 Nancy Atkins was living at his house near Nowata and he was instrumental, in that year, in having her adjudged an incompetent and was appointed her guardian by the County Court of Nowata County; that he was first approached by Claude Weldon, of Wagoner, who was desirous of securing a lease from witness as Nancy's guardian, on the Thomas Atkins allotment; that after the conversation with Welden he talked with Nancy and she first told him that her child was a girl and afterwards said it was a boy; that subsequently Ellis Hammett and Ellis Childers talked to him about securing a lease and that Nancy did execute an oil and gas lease to Ellis

Hammett; and after the execution of the lease to Hammett, J. B. White came to witness and advised him the Hammett lease was no good and that he (White) wanted a lease from witness as Nancy's guardian; that White said in his conversation:

> "Now, you can make this lease and I will bear all expenses and I can absolutely prove it was Nancy's child; I want to go down and talk to Nancy again. Can't I talk to her?"

That White then had a conversation with Nancy. Witness testified that after the execution of these leases:

> "I talked to her (Nancy) and you know she was a habitual drunkard. She got drunk one day and she cussed me out about it and she told me the child was a girl and she wouldn't have anything to do with it, and then she turned around and told me it was a boy."

The witness specifically testified as follows:

"Q. When you first talked to Nancy Atkins about this child, when she told you it was a girl, did she say anything in reference to how long the child lived?

A. Yes, sir.

Q. What did she say?

A. She told me the child was born dead.

Q. Did she tell you where it was born?

A. Yes, sir.

Q. Where?

A. At Wagoner in a tent.

Q. Where, how is that? Where with reference to what place in the city?

A. Well, she said across the railroad there in some tent.

Q. Where did she say it was buried?

A. Well, she said Monday Barney (Barnett) buried the child out there some place.

Q. Did she ever undertake to tell you—did she ever tell you at any subsequent time anything about the time of the death of the child?

A. Yes, about the time of the death of the child, she couldn't remember, she said how long it had been only by the railroad coming to Wagoner.

Q. I mean this, did she always tell you that the child died in infancy?

A. Yes, sir.

Q. When did she say it died, did she say?

A. Well, she told me it was about the time that the railroad was coming to Wagoner, or something like that."

On cross-examination by Mr. Hanford, counsel for Minnie Folk, witness testified that Nancy told him that if she could find one Elnora Williams who was with her at the birth of her child, that she (Elnora Williams) would know all of the facts (witness identified Elnora Mayshack, whose deposition is given above, as Elnora Williams).

ELIZA STERLING (Rec. p. 2179):

Forty-five years of age; lived in Wagoner for twenty-nine years; came there when the Iron Mountain railroad was building to Coffeyville; daughter of Mandy Barnett, who is dead; knew Nancy Atkins before she moved to Wagoner when she lived near Clarksville, between the Arkansas and Verdigris rivers; was present at Elnora Williams' house in Wagoner when Nancy gave birth to a child; witness had been in Wagoner about a year at that time; the child was a girl, born dead; Elnora Williams' house was west of the railroad tracks some little distance from the crossing of the Katy and Iron Mountain railroads, near the Davis and Jones' store; Elnora Williams' house was a story and a half house and Nancy's baby was born upstairs; knew of her going to the penitentiary; Nancy stayed with witness part of the time she stayed in Wagoner; witness' house was south of Elnora Williams', some five or six blocks; Nancy also worked at the Barnard hotel and stayed in the servants' room back of the hotel; that she associated almost entirely with negroes; on cross-examination, testified she was eighteen or nineteen years old when Nancy's baby was born and gives the names of Betsey Birney, Maudie Vann, Patsy Overton, Henry Anderson and Grant Tucker as negroes, who were living in Wagoner at the same time; witness also testified in the State Court case at Sapulpa. On direct examination she stated that the child was born in the fall of 1889, but when confronted with her testimony at Sapulpa, corrected the year to 1890. On re-direct examination, did not know any boy in Wagoner called Thomas Atkins; knew Minnie Atkins' children, Charley and Harvey Harrison; Nancy kept these two children for a while in Wagoner; that Betsey Birney had a boy named Joe; he was about three or four years old when Nancy was sent to the penitentiary and he was often with Nancy; judged Nancy to be about her age when the child was born. Witness knows nothing of the burial of the child. (Nancy Atkins was in the court room during the examination of the witness and was identified as the Nancy Atkins who had the baby at Elnora Williams' house).

Angeline Moody (Rec. p. 2190):

Seventy-two years of age; lived in Wagoner for twenty years; was living there when the Iron

Mountain railroad was building; knew both Nancy and Minnie Atkins; knew their parents Thomas Atkins and Mary Jane Atkins; has known Nancy Atkins all of her life; was present at Elnora Williams' house when Nancy Atkins gave birth to a child; that this was before Nancy went to the penitentiary; that the day the child was born witness was passing Elnora Williams' house and Elnora Williams told her Nancy was sick; that she started in the house and Mandy Barnett met her at the door and told her to come in and help her; that Mandy Barnett acted as mid-wife at the birth of the child and that the child was born dead and was buried in the yard of Elnora Williams' house; that she saw Nancy frequently after she came back from the penitentiary until she moved to Nowata; never knew of her being in a family way except the time she gave birth to the child at Elnora Williams'; that the child was a girl child. On cross-examination details occasion of Betty Mann coming to her to testify at the State trial at Sapulpa.

HENRY ANDERSON (Rec. p. 2196):

Born in 1848; went to Wagoner to live about twenty-eight years ago; was a "straw boss" with a gang of laborers working on the construction of the Iron Mountain railroad; got acquainted with Nancy Atkins when he first went to Wagoner; that Nancy was in a family way when he first met her: that one of his helpers, Ellis Harris, had laid off one morning and was staying at Betsey Birney's; that witness went to look for Harris and found him digging a hole back of the closet near Elnora Williams' house; witness asked what he was doing and Harris replied that Nancy had a baby that night and that he was digging a whole and was going to put in down there. That there was a little box on the ground; that the top was not nailed on and that witness took of the top and looked in the box and there was a newborn dead baby in the box; that witness lived in a tent north of Williams' eating house near the Birney place and would see Nancy half a dozen times a day around that neighborhood before she gave birth to the child. That she was in a pronounced family way; saw her frequently after Ellis Harris buried the box in Elnora William's yard; never saw her in a family way after that; continued to see her for five or six years; knew of her being sent to the penitentiary and was a witness against her in that case; never knew a boy named Tommy Atkins who lived in Wagoner; knew a Tommy Atkins, the son of Dick Atkins, who lived about ten miles northwest of Wagoner; that this Tommy Atkins, as far as he knew, was no relation to Nancy Atkins. On cross-examination, thought Nancy's child was born in the spring; only saw Nancy for a few months before the child was born; never saw Nancy in anybody's house, but saw her in a tent and understood she stayed in a tent. Did not see anybody helping Harris dig the hole; when he talked to Harris about digging the hole, it was about half past seven in the morning; that the Thomas Atkins he knew northwest of Wagoner was a brother to Cheney Trent. (Nancy Atkins was in the court room during the examination of this witness and was identified by him as the Nancy Atkins he knew in Wagoner).

Dora Smith (Rec. p. 2208):

Lived in Wagoner 18 or 19 years and thinks she first went there in 1894 or 1895; knew Nancy Atkins before she went to Wagoner; knew her around Muskogee; visited with her and talked with her a great deal when they both lived in Wagoner; knew of her having two little boys with her that she stated were her sister Minnie's children; thinks one of them was called Lee; that Nancy told her she had been the mother of one child and that it was born dead; never saw any other children that Nancy kept in Wagoner with her with the exception of the two boys she said were Minnie's children. On cross-examination testified that Nancy Atkins left Wagoner before she did and thinks she went to Nowata.

PATSY MILLER (*Patsy Overton*) (Rec. p. 2211):

Lived in Wagoner about twenty-eight or twenty-nine years and moved there December 29th, 1887; fixes the date by her marriage to Overton, which occurred December 28th, 1887, and went to Wagoner the next day with her husband; knew Nancy Atkins a few years before her marriage when she was living in the bottom between the Verdigris and Arkansas rivers; Nancy Atkins was not living in Wagoner when witness first moved there, but came there later; knew Mandy Barnett and that she is dead; that Mandy Barnett was a mid-wife; knew Elnora Williams and lived with her on the west side of the railroad track; knew Betsey Birney; that when Nancy Atkins first came to Wagoner she was in a pronounced family way; that Mandy Barnett told the witness one morning that Nancy Atkins was very sick the night before and that she was afraid she was going to have bad luck with her as Nancy had had a baby that had died; that it was her understanding it was a boy baby; that Mandy Barnett told her that they had buried the baby; that she knew of Nancy Atkins going to the penitentiary after she had the baby; after coming back from the penitentiary she stayed around Wagoner for six or seven years; that she never knew of her being in a family way but the one time; that she would see her two or three times a week; knew her when she was working at the Barnard hotel; saw two children with her and asked who they were and Nancy told her that they were her sister's boys and that her sister's name was Minnie; never saw her with any other boys. On cross-examination, stated she had been in Wagoner perhaps two or three years before Nancy moved there; that she was not present at the birth of Nancy's child; that she saw Nancy in a family way around Wagoner for two or three months before she had the conversation with Mandy Barnett; witness did not associate much with the Birney and Elnora Williams people as they were rough characters and her husband objected to her associating with them.

HENRY KIDD (Rec. p. 2220):

Sixty-six years of age; lived in Wagoner twenty-two or twenty-three years; thinks he moved there in the fall of 1892; knows Nancy Atkins; did not know her when she went to the penitentiary; that Nancy Atkins and Betty Mann came to witness on the streets of Wagoner a few years ago and Nancy in the presence of witness told Betty Mann that she never had but one child and her child was born dead; knew a Thomas Atkins around Wagoner, who was the son of Dick Atkins; often saw him hauling wood; that Thomas Atkins hauled wood to witness' place; that this Thomas Atkins was a brother of Cheney Trent; that he died when he was twelve or thirteen years old. On cross-examination, stated Nancy had been to the penitentiary and had come back the year before he moved to Wagoner and that when he first knew her she was staying at old man Williams'; that witness boarded with Williams; not certain whether Nancy lived with Williams or in a tent; saw her around Williams' place.

LULA SMITH (Rec. p. 2223):

Thirty-eight years of age; went to Wagoner in 1891; knew Nancy Atkins; first knew her when she went to Wagoner; witness worked at Barnard hotel about four years and waited on table at Barnard hotel and Nancy Atkins often talked to her; said that she had one child; that it was born dead or died soon afterwards; witness did not associate with Nancy; just saw her around the hotel and after witness left the Barnard hotel she worked at the railroad eating house and would frequently see Nancy; saw her every day or two; never saw her nor knew of her being in a family way; never heard of a boy around Wagoner named Thomas Atkins. On cross-examination, stated that she was about thirteen years of age when she went to Wagoner and that Nancy Atkins was older than witness; that witness waited on table and Nancy Atkins worked in the laundry; does not know what year it was Nancy left Wagoner: that Nancy volunteered the information about her having the baby; that Nancy told her about getting into trouble and being sent to the penitentiary.

MARTHA HARDRIDGE (Rec. p. 2233):

Forty-four years of age; lived in Wagoner since 1891; knew Nancy Atkins; first knew her at the Barnard hotel; roomed with her when they worked together at the hotel for eleven months; that Nancy had told her she had given birth to one child that was born dead; knew the Birneys and Joe Birney; often saw Joe Birney with Nancy Atkins and that Joe would come to the hotel with Nancy Atkins; never knew any person by the name of Thomas Atkins. On cross-examination, described Joe Birney as a brown-skinned, little boy, but not a baby, in 1891.

PATSY JENKINS (Rec. p. 2235):

Lived north of Wagoner; never did live in the town of Wagoner; first saw Nancy Atkins in Wagoner when there was only one store there; about twenty-one years ago Nancy came to her house in the winter time and stayed with some renters a while and later stayed with witness; that she brought two children to witness' house, the oldest one was a boy named Charley and the youngest one a boy named Harvey; doesn't know where she got the boys; never saw Nancy with any boys except the two she brought to her house; Nancy told her she had been the mother of one child and that it was a girl child and born dead; that this conversation took place when Nancy was staying at witness' home; never saw much of Nancy after that. On cross-examination, stated that she was not well acquainted with Nancy Atkins and only knew her when she would see her. That it was a long time after she first saw Nancy that she came to her house and brought the two boys; that Nancy told her that the boys belonged to her sister Minnie; that both boys were old enough to walk around; that the oldest one looked to be about six years old, that witness' house is in the Cherokee Nation about thirteen miles north of Wagoner.

SARAH COATS (Rec. p. 2241):

Became acquainted with Nancy Atkins in 1891; when she was working at the Barnard hotel in Wagoner; witness was working at the McAnally hotel at the same time; that there was just a fence between the two hotels; saw Nancy Atkins every day and often talked with her; witness lived in Wagoner until 1895 or 1896; knew Nancy Atkins before she went to the penitentiary; saw her frequently until witness left Wagoner in 1896; that Nancy's associates were negroes; never knew a Thomas Atkins.

CHENEY TRENT (Rec. p. 4179):

Lives west of Wagoner in Wagoner County; a citizen of the Creek Nation; daughter of Dick Atkins; claims to be a granddaughter of old Thomas Atkins; John R. Thomas represented her in her application for enrollment; that she had a half brother named Thomas Atkins who died when he was thirteen years of age, the year the filing commenced; that he lived with her father; that she saw her brother, Thomas Atkins, at her father's until he died; that she often saw her brother, Thomas Atkins, in and around Wagoner with Nancy; that her brother made frequent trips to Wagoner. On cross-examination testified that her father and Nancy often drank together and that Nancy came to her father's house to get whiskey and that on these occasions Thomas Atkins was with them; that Nancy lived at a hotel part of the time she was in Wagoner; knew Betsey Birney; saw Nancy in Wagoner with her brother frequently.

ANDERSON CHILDERS (Rec. p. 4291):

Citizen of the Creek Nation; has lived in and around Wagoner for twenty-five years; knows Minnie Atkins and Nancy Atkins; that Nancy Atkins moved to Wagoner about 1891 or 1892; saw her on an average of once a week after she moved there; knew Dick Atkins and his son, Thomas Atkins; that Dick Atkins and Sallie Atkins were the mother and father of this Thomas; that Thomas Atkins died in 1898; that he frequently saw Thomas Atkins, the son of Dick and Sallie Atkins, in and around Wagoner with Nancy Atkins; that they were around the Davis and Jones' store;

that at the time Thomas Atkins was about seven or eight years old; that he frequently saw Nancy in and around Wagoner with Minnie Atkins' two children.

At the conclusion of the testimony of this witness the Government offered exhibits "A-113" and "A-114", the testimony of Sallie Atkins, the mother of Thomas Atkins, in reference to the application to the Dawes Commission for the enrollment of Thomas Atkins, and certified copy of departmental letter of December 8, 1905, relating to the enrollment of the Dick Atkins family.

T. HOWARD MORTON (Rec. p. 4298):

Went to Wagoner in 1891 and was employed by the Davis and Jones' Mercantile Company and continued in the employ of Davis and Jones until 1902 or 1903; became acquainted with Nancy Atkins when he first went to Wagoner; never knew of her having a boy named Thomas Atkins; did know a Thomas Atkins, a son of Richard Atkins and a half-brother of Cheney Trent, who lived about ten miles northwest of Wagoner and frequently saw him about the Davis and Jones' store; that Thomas Atkins often hauled wood to witness' house.

JIM CHILDERS (Rec. p. 4300):

Forty-three years old; left Wagoner in 1912; was raised in and around there; brother of Ellis Childers; knew the Dick Atkins family; knew Nancy Atkins first in 1890; knew Nancy Atkins about the time she was in the family way; knew Betsey Birney, Elnora Williams and Mandy Barnett; all of these people moved into Wagoner about the time the Iron Mountain railroad was built; at the time he knew Nancy Atkins to be in a family way she was living with the Birneys'; that this condition disappeared and that he saw her after that every two or three months up until along in 1894; that he talked with Nancy frequently; that during this time Thomas Atkins, the son of Dick Atkins, was around Wagoner with Nancy; that Thomas Atkins often stayed with her; that he was four or five years old; that this was the only Thomas Atkins he ever knew in Wagoner; knew the Birney children and Minnie Atkins' two boys who frequently stayed with Nancy; that witness kept Harvey Harrison at his home for a long time; that Charley Bailey took Lee Harrison to raise; that at the time witness got Harvey from Nancy, she was living at Eliza Barnett's; that at this time Harvey was four or five years old; that witness kept him until 1898 and then turned him over to Kate Holden; that the Birney children played around with Nancy.

ANANIAS ATKINS (Rec. p. 4938):

Colored; son of Dick Atkins and a brother of Thomas Atkins, son of Dick Atkins, testified that he and Thomas Atkins were born in Missouri and that he was some older than Thomas; that Thomas died in the fall of 1898 at their home ten miles northwest of Wagoner; that his brother Thomas frequently went to Wagoner and would be around the Davis and Jones' store; that Thomas Atkins worked around Wagoner and hauled wood to and from his father's farm; that when Thomas died he was thirteen years, three months and some days old; that his father always told him Nancy Atkins was his aunt. On cross-examination witness testified that his brother Thomas would stay two or three days at a time in Wagoner.

MARY WILSON (Rec. p. 4401):

Colored; daughter of Dick Atkins; testified that she had a brother named Thomas, born in Missouri, and that he come to the Indian Territory with the family; that Thomas hauled wood between Wagoner and her father's farm; that he died when he was about thirteen years old; that he died in 1898.

Charles Harrison (Rec. p. 4528):

Son of Minnie Atkins and brother of Harvey Harrison; twenty-seven years of age; testified that his mother brought him and Harvey to the Indian Territory and gave them to his aunt, Kate Holden, who lived on the Arkansas river across from Choska, near where the town of Haskell is now located; that he stayed there one summer and one winter and was then taken by his aunt Nancy to Wagoner; that at the time he and Harvey stayed with his Aunt Kate there were no other boys there and there never was a boy there by the name of Thomas Atkins; that he knew Tom Way, a cattle man, who frequently came to his aunt Kate's; that he often opened the gates for Way and Way sometimes gave him a quarter; that he did not remember having a brother named Thomas; that when his aunt took care of him and Harvey there were no other boys with her; that at the time he and his brother lived with Nancy she was staying with some negroes in Wagoner; that he went over to the Davis and Jones' store with her; that he never knew of his aunt Nancy having a boy of her own.

Analysis of the Nancy Testimony, Pro and Con.

We have endeavored to make a concise resume of all the testimony in this case in favor of Nancy Atkins and against Nancy Atkins, both in chief and in rebuttal. Now when we begin to consider this testimony and what it establishes we must keep in mind, of course, the burden which Nancy assumed in this regard. What must be the probative force of her evidence under the adjudication? Justice Van Devanter in the case of Ross v. *Stewart* (277 U. S. 530, 57 L. ed. 629), in speaking of this matter, said:

> "All reasonable presumptions must be indulged in support of the action of the officers to whom law entrusted the proceedings *resulting in the patent, and unless it clearly appears that they committed some material error of law, or that misrepresentation and fraud were practiced upon them, or that they themselves were chargeable with fraululent practices, and that, as a result, the patent was issued to the defendant when it should have been issued to the plaintiff, their action must stand.*"
>
> And cases cited.

Here is a patent issued by the United States Government and that patent was the result of certain action on the part of the Dawes Commission, which was approved by the Secretary of the Interior. This action of the Dawes Commission is sought to be impeached for mistake, although, as shown above, Nancy Atkins' pleadings do not justisfy any such attack. Inasmuch as this judgment of the Dawes Commission, as far as Nancy Atkins is concerned, is being attacked for mistake, it is an effort to set aside the proceedings which resulted in the patent to the extent that those proceedings were erroneous in that a mistake was made against Nancy Atkins as mother of the Tommy actually enrolled.

How can it be said, in the face of the testimony we have just quoted both for and against the Nancy Atkins claim, that it clearly appears from such evidence that Nancy Atkins ever had a boy by the name of Thomas Atkins? The most singular and impressive incident in Nancy's case is that when she was asserting her right to an allotment she made written application to the Dawes Commission to have her sister Minnie Atkins enrolled. It is conceded that at the very time she applied for enrollment and allotment for her absent sister, if her testimony is to be believed, that she had by her side this alleged infant boy of hers, Thomas Atkins. Nancy Atkins knew that she was entitled to an allotment; she thought Minnie was, although she was not sure whether

Minnie was alive or dead, and until informed to the contrary by the Dawes Commission, she thought her brother Lee was. She knew these things, she knew that her alleged child, Thomas, if he was living at that time, as claimed by her, was certainly entitled to an allotment. How can her silence as a mother be explained in this case? How can the Court escape the force of this undisputed fact in this case?

It further appears from the evidence above cited and briefed, that Nancy Atkins went to Wagoner about 1889 or 1890, and that she there soon afterwards gave birth to a child. As has been said before in this brief, she made her home with the colored people and it appears that she lived for months and months with Elnora Williams. Nancy Atkins in her testimony declares that she had this baby at Elnora Williams' (now Elnora Mayshack) house. The testimony of Elnora Mayshack was taken by the Government in Portland, Oregon, and we now say at the outset of this branch of the argument that it is fair to assume, in the absence of proof, that the Government endeavored to get the truth out of these witnesses and that their statements were not influenced in any way by the defendants, Page or Minnie Folk.

Elnora Mayshack, a witness for the Government, strongly testified that she knew Nancy Atkins well, that Nancy Atkins had lived with her for a long time, that she came to her place to have this baby, that she was present when the baby was born, and that it died very soon afterwards.

Right in this connection we wish to state to the Court a significant fact as appearing in the testimony of Henry Anderson. It seems that Henry Anderson was a foreman or "straw boss" of a railroad gang and had a man working for him by the name of Ellis Harris. Ellis Harris did not show up for work on a certain morning and Henry Anderson went to see why he had not come to work. He found Ellis Harris behind Elnora Williams' house. He found him digging a hole in the ground and he found him with a little box. Ellis Harris when questioned said he had a baby in that box, that it was Nancy Atkins' baby and that he was going to bury it. Henry Anderson opened the box and looked at the dead infant. Now the testimony of Anderson is to a concrete fact about which he could not be mistaken unless he was a clean-cut perjurer. The Government summoned Henry Anderson as a witness in this case. It is not shown that he had any interest, that he had any antagonism toward Nancy Atkins, or that there was any impelling motive upon him to tell other than the truth.

Now, all the witnesses swear that this child was practically born dead, that is, all the witnesses who are now living and who were present at the birth of the child, and when you supplement this with the testimony of Henry Anderson that he saw the dead child, saw it in a box and that it was being placed in a hole behind Elnora Williams' house and that the man who had the child said it was Nancy's dead child, there is no escape from the conclusion that Nancy's child was born dead, or practically dead.

It will be remembered also by the Court, and we are not going to discuss in detail every phase of this testimony, that when Nancy Atkins gave her statement or deposition at McDougal and Lytle's office in Sapulpa, February 9th, 1914, she stated that she had had but one child, that it was a girl child and born dead. She cited Attorney Lytle to Eliza Sterling as the only witness living in Wagoner who really knew all about the child and later on we will show to the Court that Ellis Childers did the same thing.

When Eliza Sterling was found, she was summoned by the Government as a witness in this case, and this Eliza Sterling the woman who was named by Nancy Atkins as the one who could give the exact truth about her child testified that she was present at its birth and that the child was born dead. Why was it, if Nancy was not telling the truth when she gave her deposition in McDougal and Lytle's office, that she should refer them to a witness who would, and who actually did upon the stand, substantiate the statement that Nancy made in her deposition at that office?

Other witnesses, one after the other, who knew Nancy Atkins, testified that Nancy said this child was born dead, that Nancy never claimed that she had but one child, that she was never seen pregnant at Wagoner but once and that was in the year 1889 or 1890, and they all, with one accord, say that she never thereafter had any child and they all agree, either from what Nancy said or from what they saw, that this child was a girl child and was born dead. Their testimony is consistent with the statement which Nancy made to Mr. McGraw at Coffeyville, Kan., on July 26th, 1913, and their testimony is consistent with the testimony which Nancy gave in her deposition at Sapulpa, Okla.

Right here we beg the Court to notice why it was that Nancy changed her testimony when she got on the stand at Sapulpa, February 26, 1914. We now go to the deposition of Micco Harjo, who was Nancy's guardian, and whose testimony was taken by the Government at Portland, Oregon. Micco Harjo admitted that he had Nancy at his house when J. B. White came to see her in 1913. Harjo said he had talked with J. B. White and that after Nancy's talk with White she, for the first time stated to him that her child was a boy child and that it was the Thomas Atkins enrolled by the Dawes Commission. He testified that White said to him, "I can absolutely prove that the boy enrolled by the Dawes Commission was Nancy's child". Harjo says that some time after that Nancy got drunk and cursed him out and told him that the child was a girl and that she wouldn't have anything to do with it.

The Government called special attention to these matters, and Harjo said that the first time he ever talked with Nancy about her child she told him it was born dead and born in Wagoner. On cross-examination by Mr. Hanford, counsel for Minnie Folk, he stated that Nancy told him about Elnora Williams, who was present at the time her baby was born and that Nancy told him and continued to tell him that if she could find Elnora Williams she could establish her claim, that she, Elnora Williams, was with her when the child was born and knew the facts.

For some reason—which the Court will find, and we apprehend it is not very difficult to discover—Nancy changed her testimony when she got upon the stand at Sapulpa, and for the first time claimed that her child was a boy. Now this case is so full of contradictions by both Nancy and Minnie that we will not burden the Court by attempting to reconcile the contradictions in favor of either, but we do say that insofar as we have presented this matter to the Court in this brief, it is perfectly clear that Nancy cited those who made inquiries both to Elnora Williams and Eliza Sterling as the people who knew all about the circumstances of her baby's birth, and these witnesses, whenever and wherever found by the Government, have testified against Nancy and have disclosed positively and unequivocally that Nancy's statement that it was a boy child or that it lived for years after its birth is false.

Certain witnesses were introduced by Nancy Atkins, some of them reputable men and some of them very disreputable. Some honest men got on the stand and swore that they had seen Nancy Atkins with a child time and again in Wagoner, and that she called it Tommy and that it was anywhere from eight or nine to eleven or twelve years of age when they saw it. We think that this matter has been clarified and made as plain as evidence can make a matter twenty-five years ago. It seems that there was a boy by the name of Thomas Atkins, who was the son of Richard Atkins, and that he lived near Wagoner. The witnesses stated that this boy hauled wood from his father's place northwest of Wagoner. Cheney Trent, an Indian woman, testified that this Thomas Atkins, of whom we have just spoken, was her half-brother, that he did frequently go to Wagoner and that Nancy Atkins was his aunt, or claimed to be his aunt, and that this brother of hers,—Thomas Atkins—was frequently with Nancy in Wagoner, that he frequently stayed with her and went about the streets with her; that Nancy would frequently come to her father's house and would go back with her folks to Wagoner. It is easy, therefore, to explain the confusion into which the case has fallen at this point and to reconcile the statements of the reputable witnesses produced by Nancy. Nancy did have a boy with her by the name of Tommy Atkins. She was frequently with him. She claimed that he was her nephew, and if any boy was seen with her whose name was Thomas Atkins this, of necessity, was the boy, because when you take into consideration the fact that the witnesses who were actually with her when she was confined testified that her child was born dead, and when you compare this with the further fact that there was a Thomas Atkins frequently with her in Wagoner who was the son of Richard Atkins, you have at one and the same time broken down her claim that she had a son by the name of Thomas Atkins who lived to be twelve or thirteen years of age, and reconciled the statements of her reputable witnesses with the actual facts in this case. Is it not reasonable to conclude that this Thomas Atkins, the son of Richard Atkins, was the boy that Tom Way saw with Charley and Harvey Harrison at Tom Holden's?

Much stress is laid by learned counsel on the testimony of T. J. Way, but in opposition to this, among other things, we call particular attention to the testimony of Mitchell Wadsworth, who is a nephew of Minnie and Nancy Atkins and the son of Kate Holden, with whom Minnie Atkins left her two children. Counsel for Nancy Atkins, in their brief, laid great stress on the assertion of T. J. Way, to the effect that he saw Nancy's son Thomas Atkins at the home of her aunt, Kate Holden. Mitchell Wadsworth was placed on the stand by the Government (Rec. p. 4599). He testified as follows:

> "Q. During the '90's, up to 1902 or 1903, did you know who lived in the home of your mother, Kate Holden?
>
> A. Why, up to 1898, Charley and Harvey was kept there from the time Minnie Atkins turned them over to my mother until 1898, and then they was taken away, but there wasn't but one Indian boy by the name of Edmund Bear that stayed there.
>
> Q. Was there any Indian boy by the name of Tommy Atkins ever stayed there?
>
> A. No, never was. I don't guess there ever was a Thomas Atkins stayed all night at that house.
>
> Q. How long did Edmund Bear stay at your mother's home?
>
> A. About six years."

Another mysterious thing in this case, and one which shows which way the wind blows, is Ellis Childers' connection with Nancy's case. The Court will remember Nancy Atkins testified that Ellis Childers came to Nowata after her in February, 1914; that he came out in a buggy, went with her to get some clothes, and that Nancy thereafter appeared at Sapulpa and that Ellis was also at Sapulpa. Ellis Childers went on this errand and brought Nancy to Sapulpa at the instance of J. B. White, and strange to say she, for the first time, changed her testimony when she got to Sapulpa and this change was made after a conversation with Ellis. Can the Court have any doubt that Ellis Childers went there for the purpose of inducing this woman to swear in behalf of White, and can the Court doubt for a moment that Elllis Childers, by words and promises, induced this woman to change her testimony and swear a lie in the court at Sapulpa?

But Ellis Childers was afterwards employed by the United States Government. Ellis made a statement to the Government through R. C. Allen and Fred S. Cook, the Government's officers, and swore to it. In this statement Ellis made the positive assertion that he understood that Nancy had one child born about 1889 or 1890, and that his information was that the child was born dead. He further stated in the affidavit to these officers that he had never heard that Nancy had a boy and had never seen her with a boy by the name of Thomas Atkins.

The Government then induced Ellis to go with A. G. McMillan, a Government officer, to Wagoner and obtain the witnesses who tell the truth about this transaction. Ellis pointed out the witnesses, Eliza Sterling, Angeline Moody and others to this officer, and their statements were taken and in each and every instance these witnesses, pointed out by Ellis to McMillan, and some of whom were introduced to McMillan by Ellis, testified unequivocally that Nancy Atkins had one child in Wagoner and that it was born dead. Now what a sad condition of perjury we meet with here.

Ellis Childers actually induced Nancy Atkins to swear in court at Sapulpa that her child was a boy and lived to be eleven or twelve years of age, and yet afterwards, when he went into the employ of the Government, he pointed out witnesses to the Government's agent and assisted in procuring testimony in behalf of the Government, and these witnesses and the testimony procured by Ellis at the instance of the Government absolutely contradicted the testimony of Nancy Atkins in the court at Sapulpa. In the one case, at Sapulpa, inducements were held out to Nancy Atkins to change her statement made to Mr. McGraw at

Coffeyville and to change her statement in her deposition taken in McDougal and Lytle's office. In the other case no inducements whatever were held out to the witnesses summoned by the Government, but they stated, both in statements to the Government officers and upon the stand in this case, facts in direct conflict with Nancy Atkins' testimony at Sapulpa which Ellis Childers undoubtedly induced her to give. Is it necessary to discuss this evidence further? Is it necessary to urge before this Honorable Court that Nancy Atkins has not only signally failed to show that she had a child by the name of Thomas, but that she has failed to show that she had a child at all who was a boy child and who lived? It seems to us that Nancy has not only failed to show *clearly* that she had a child by the name of Thomas, but that she has failed, by any reputable evidence, to show that fact at all. We, therefore, with reference to the claim of Nancy Atkins, confidently assert that she has not introduced a line of testimony showing that the Dawes Commission ever actually enrolled Thomas Atkins as her son or actually intended so to enroll him. She has failed absolutely to establish any mistakes on the part of the Dawes Commission, although her pleadings did not justify her attempt, and she has absolutely failed to show that the Dawes Commission, at any place or at any time, considered her relationship to the Thomas Atkins actually enrolled, or that the members of said Commission or any person connected with the Commission had in their minds at the time they made out the census card and pronounced judgment in favor of Thomas Atkins, any idea or suggestion from anybody that the child Thomas Atkins with whom they were dealing was in any way related to Nancy Atkins, and she has signally failed, in our judgment to establish that she had a son by the name of Thomas Atkins. She failed to convince the mind of the trial court in this last contention and, therefore, it comes to pass that she has failed to make out her claim.

That being true, we feel great hesitation in balancing the evidence between the claim of Minnie Atkins and Nancy Atkins as given in this case and attempting to find where a preponderance of the evidence lies and we should not do so and should not burden this Court with any statement of the evidence for and against Minnie Atkins were it not for the fact that the claim of Minnie Atkins being the mother of Thomas Atkins is attacked.

Some point is endeavored to be made with reference to the result of a certain case known as *Bartlett* v. *Atkins*, 169 Pac. 1076. We cannot understand how and in what way the decision in this case can have any bearing upon this cause. That suit was a controversy between Bartlett and Nancy Atkins. Minnie Atkins was not a party to it and was not in the country at the time. Page, the lessee of Minnie Atkins, was not a party to it and had no connection with, or relation to it any way. Of course the judgment in that case was not binding upon Minnie Atkins or upon Page, her lessee. The Supreme Court of Oklahoma was particular to say that the judgment which Nancy obtained against Bartlett in that case was binding as to the parties to that suit, and absolutely against no one else.

We have already demonstrated, we think, to the satisfaction of this Court, that the claim of Nancy Atkins is utterly untenable as against the claim of Minnie and her lessee. The Court below had the judgment in this case of *Bartlett* v. *Atkins* in evidence before it, had all the evidence from every source that could be garnered, and decided that Nancy's case was not made out, and found against her.

We, therefore, submit to this Honorable Court that a comparison of the evidence for Nancy and against Nancy shows a clear preponderance, to say the least of it, against her claim. We believe we are justified in stating, with all due respect to the Court, that the claim of Nancy Atkins is destroyed by her own conduct and her own testimony. Indeed the trial court seems to have had no difficulty whatever in reaching the conclusion that the claim of Nancy Atkins was fabricated, and this independent of the testimony in favor of Minnie.

We do not wish to consume further time in discussing the testimony in this record. We are content with the judgments of two courts upon this question of fact and we do not believe it possible for any trained mind to reach any other conclusion as to Nancy's claim than that reached by the United States District Court and by the Circuit Court of Appeals.

The Government has appealed in this case and is attacking the claim of Minnie Atkins to the allotment of Thomas Atkins on the ground that said Thomas Atkins named on the roll never existed. Of course, if the Tommy Atkins so named never existed, he could have been the son neither of Minnie nor Nancy.

We assume that the Government will also answer the brief of counsel for Nancy and will thoroughly elaborate the weakness of our claim. The whole record is not available to us in writing this brief and we are compelled to refer to the pages of the record referred to in our brief before the Circuit Court of Appeals, assuming that the pages of the record will be the same in this Honorable Court. But with the apprehension that we may be tedious we recapitulate:

CONCLUSION.

We think there can be but one conclusion in this cause when measured by the adjudicated cases, and that is that the rolls of the Tribe, together with the evidence in support of said rolls, are practically conclusive of this controversy. What is known as the Thlocco case reported as *U. S.* v. *Bessie Wildcat*, was the first expression by the Supreme Court of the United States as to the binding force and character of the judgments of the Dawes Commission and of the force and effect of the rolls of the Tribe as evidence. It will be remembered that in that case the Court declared that the Dawes Commission was expected to make mistakes; that the immense volume of work before it induced mistakes, but that their judgments whether perfectly correct or not, must be assumed to be correct and impervious to collateral attack. The doctrine announced in the Thlocco case was not new because the Circuit Court of Appeals, 8th Circuit, more than twenty years ago announced and continued to announce prior to the decision by the Supreme Court in the Thlocco case that the Dawes Commission was a judicial body and that its judgments were entitled to the same faith and credit as judgments of any court of competent jurisdiction. The Thlocco case approved the original opinions of the 8th Circuit and held that the proceedings of the Dawes Commission were in no sense *ex parte.* The Courts declared that the presence of the Creek council when the Dawes Commission was enrolling, the presence of the attorney for the Creek people whose duty it was to watch the rolls and help purge them, made the whole transaction a judicial trial; made the judgment after such trial a muniment of title in favor of the party who was actually enrolled by the Commission.

Let us now consider what the Dawes Commission had to do when it came to the name of Thomas Atkins on the roll. The Commission took the roll of 1890 and examined it; it took the roll of 1895 and examined it, and above all, took the corrected roll; that is, the exact roll known as the Creek payroll, and examined it. On these rolls, the Commission found the name of Thomas Atkins, and the Commission found that name accredited to the family of Minnie Atkins and found that Thomas Atkins accredited to Minnie as his mother. On the face of the rolls, the Thomas Atkins whom the Commission was examining was the son of Minnie Atkins; with these rolls before it and with the duty resting upon the Commission to determine if the rolls spoke the truth, the Commission took the evidence outside of the rolls and found that the Thomas Atkins on these rolls was, in fact, the son of Minnie Atkins. The Dawes Commission did this in order to assure itself that these rolls, as to this particular Thomas Atkins, spoke the truth, and the Commissioner found that the rolls did speak the truth because the evidence that the Commission took accorded in all things with the faces of the rolls. Now we contend that these rolls, if they showed on their faces that the Thomas Atkins on these rolls was the son of

Minnie Atkins, are at least presumptive evidence in favor of Minnie Atkins against the world, and they must be broken down by clear and substantial proof. To state the matter in another way, the first thing the Dawes Commission did when it came to this particular Thomas Atkins, was to examine the rolls of the tribe; that examination showed beyond a doubt, that the rolls of the tribe on their faces disclosed the particular Thomas Atkins which the Dawes Commission was considering, to be the son of Minnie Atkins. This being true, the Dawes Commission then followed up this examination of the rolls by taking evidence entraneous to the rolls and concluded that the rolls were correct and they denominated this particular Thomas Atkins as the son of Minnie. We say that these rolls therefore are, if not conclusive, presumptively correct and we start out, therefore, with this much in our favor.

As we have shown in the earlier part of this brief, no evidence was taken by the tribe or by the Dawes Commission as to Nancy being the mother of this particular Thomas. The Dawes Commission was seeking to find and identify the particular Thomas Atkins named on the rolls as the son of Minnie. It examined, it called witnesses, it pursued every avenue open to it, and finally determined that the Thomas Atkins named on the rolls as the son of Minnie Atkins and who was actually being considered by them, was in fact the son of Minnie.

We therefore recur to the original question, who was the Thomas Atkins No. 7913 actually enrolled and intended to be enrolled by the Dawes Commission? The rolls on their faces declare that he was the son of Minnie Atkins. These rolls were prepared and approved by the Creek people, who, of course, had a deep and abiding interest in making correct rolls. The evidence taken by the Commission absolutely corresponded with the notations on the roll. This being true, how can it be contended that one Thomas Atkins, the alleged son of Nancy Atkins, was the one enrolled by the Dawes Commission? We confess that it is beyond our comprehension to imagine a case where a tribunal, having examined the right of a certain person to certain benefits under existing law and having rendered judgment with reference to that particular person whose rights they were examining, could have made a mistake against some other person who was not in contemplation and not considered when the tribunal rendered its judgment. The Dawes Commission did exactly what it intended to do. It found Thomas Atkins on the rolls as the son of Minnie. It took evidence which sustained the roll and it therefore enrolled Thomas Atkins, the son of Minnie. Before we conclude here we desire to call attention of the Court to the specific findings of Judge Campbell, the trial judge, which can be found on pages 140, 149 and 150 of the record. The learned trial judge found that the Dawes Commission in acting in this particular case did not act arbitrarily and without evidence, but had before it substantial evidence as to the right of Thomas Atkins to enrollment and as to his being the son of Minnie Atkins. In this first finding, which we have just quoted substantially, the learned judge declared that not only did the Dawes Commission have a trial and hearing upon this matter, but had a trial and hearing as to the identity of the particular Thomas Atkins under consideration and had evidence as to his being the son of Minnie. In the next finding the trial judge found that the Thomas Atkins enrolled as No. 7913 on the final roll of the Creek Indians was the son of the defendant, Minnie Folk, *nee* Atkins. The trial judge found this separate, independent fact from an examination of all the evidence in this case and after argument of counsel. The Court further found that the Thomas Atkins appearing on the 1895 authenticated roll of Creek Indians and later on the roll of Creek Indians as compiled by the Commission to the Five Civilized Tribes opposite No. 7913 and approved by the Secretary of the Interior was in fact the illegitimate child of the said Minnie Folk, *nee* Atkins. And the Court in this particular finding said further that the said Thomas Atkins so enrolled was not the son of Nancy Atkins. Here the Court distinctly declared that from all evidence in the case, the Thomas Atkins now under consideration was the son of Minnie and not the son of Nancy. And the Court further found specially, as he did in other findings, that Minnie Fold, *nee* Atkins was the sole heir of that Thomas Atkins, and inherited the property now in controversy.

We beg to say that these findings show on their faces an exhaustive consideration of all the evidence by the trial court, and such findings carry with them great weight and cannot be easily overturned, and these findings were in all things sustained by the Circuit Court of Appeals.

On page 144 of the record we quote from the memorandum opinion of Judge Campbell which again reinforces our position as to the care with which he considered this case:

> "Time and space will not be taken to refer to nor analyze in detail, but after a most careful examination of all the evidence the Court finds that Minnie Atkins had an illegitimate male child born to her during the early part of June, 1885 at the home of a colored woman known as Granny Letcher in the City of Leavenworth, Kansas, and that she named this child Thomas Atkins."

Here ~~Nowhere~~ is a specific finding by the trial court not only that Minnie was the mother of this particular Thomas Atkins, but ~~is~~ a finding as to the date of his birth and as to the place where he was born. On page 145 the trial court said this:

> "The court further finds that prior to the compilation of the tribal roll now known as the 1895 authenticated roll of the Creek Tribe of Indians, Minnie Atkins had conveyed information to certain of her relatives in the Indian Territory of the fact of the birth of Thomas Atkins, which information was eventually imparted to the tribal authorities compiling the roll and that the name Thomas Atkins appearing at 213 of Euchee Town on the 1895 authenticated tribal roll was placed on said roll by the tribal authorities compiling the roll as the child of the defendant, Minnie Atkins, pursuant to

> such information. The Court finds that the Thomas Atkins appearing on the 1895 authenticated tribal roll and later on the Dawes Commission roll is in fact the illegitimate child of said Minnie Atkins, born, as aforesaid, in the City of Leavenworth, Kansas, in the early part of June, 1895, and is not the child of Nancy Atkins."

We do not feel it necessary to pursue this argument further. Every fact and circumstance of this case, outside of the rolls, shows that the Thomas Atkins enrolled by the Dawes Commission was the son of Minnie Atkins. The rolls show the same thing, we believe, conclusively, and these rolls are taken and considered as having the very highest probative force. Every fact and circumstance, we truly believe, of this case show that Nancy Atkins never had a son; that she had a girl child born practically dead; that her case is a pure fabrication from beginning to end, and the two courts below held it to be so, and we believe that no fair consideration of this evidence can find any ground upon which the claim of Nancy Atkins can stand in a court of equity.

The learned judge who tried this case below patiently read and considered the deposition evidence in this case; he patiently heard and considered the oral evidence given in this case. It was voluminous; it required a great amount of care and attention. He solemnly adjudged that the claim of Minnie Atkins as to the birth and parentage of Thomas Atkins enrolled by the Dawes Commission was true. He held that the claim of Nancy Atkins was untrue, and this finding was affirmed by the Circuit Court of Appeals, 8th Circuit.

We contend that there is nothing here which calls for any change or modification of the decree of the Honorable Trial Judge. We respectfully submit that this case ought to be affirmed.

The Court will keep in mind that while Nancy Atkins has appealed from the judgment of the court below, the Government has also appealed. We have filed in this court a more elaborate analysis of the evidence as to the existence of Thomas Atkins as the son of Minnie Atkins and we beg that the Court will consider this brief against the Government in connection with the brief herein filed against the claim of Nancy Atkins.

Respectfully submitted,

C. B. Stuart,
Lee Bond,
E. C. Hanford,
Solicitors for Minnie Folk, Chas. Page, et al.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1922.

THE UNITED STATES OF AMERICA, Appellant, *v.* MINNIE ATKINS ET AL.	No. 45.
NANCY ATKINS, H. A. RIDGWAY, Guardian of Nancy Atkins, et al., Appellants, *v.* THE UNITED STATES OF AMERICA, MINNIE FOLK, nee Atkins, et al.	No. 46.

APPEALS FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF ON BEHALF OF MINNIE FOLK (nee Atkins), CHAS. PAGE ET AL.

History and Statement of the Case

This litigation was commenced more than eight years ago. The Government brought suit in the U. S. Court for the Eastern District of Oklahoma, to set aside a patent to one Thomas Atkins, No. 7913. The original bill filed by the Government charged specific acts of fraud against Minnie Atkins but these allegations of fraud were all abandoned in the amended answer and the Government prosecuted the case on but two theories. First, that Thomas Atkins was a myth, second, that being a myth, the judgment of the Dawes Commission in enrolling him, should be set aside, simply and purely by reason of the allegation that he was a myth and proof of same. This appeal is prosecuted from a judgment of the Circuit Court of Appeals for the Eighth Circuit, affirming the judgment of Judge Campbell of the U. S. Court for the Eastern District of Oklahoma, which declared that Thomas Atkins was in fact the son of Minnie Atkins, was not a myth and was lawfully enrolled.

In order that we may get the exact contention of the Government here, in the Circuit Court of Appeals and in the Trial Court, we call attention to this case reported in Federal Reporter, Volume 268, Page 927. The Circuit Court of Appeals at this page, declares that the Government abandoned its contention that the Dawes Commission acted arbitrarily and without evidence and proceeded to try its case upon the naked proposition, that Thomas Atkins never existed and therefore the Judgment of the Dawes Commission should be set aside.

The learned Judge who rendered the opinion of the Circuit Court of Appeals, reviews the contention of the Government and stated in a nut shell the contention there and the contention here is, that the Government may, by making the mere allegation that a person enrolled by the Dawes Commission never existed, reopen a solemn judgment of the Dawes Commission and defeat that judgment by proof that the enrolled person never existed.

We challenge the correctness of this proposition here. We challenged it in the Trial Court and in the Circuit Court of Appeals. Both Courts held that the Judgment of the Dawes Commission could not be reopened, as to Thomas Atkins and the case retried by the U. S. Court upon a mere allegation that the Dawes Commission made a mistake. Those Courts held some ground of equity must be invoked as a basis to set aside the judgment of the Dawes Commission.

The Courts held that the finding of the Dawes Commission was in every instance a judgment and that those findings could never be set aside except for clear mistake of law, fraud or gross mistake of facts. None of these allegations were made in the Government's amended bill in this case. The Government simply took and now takes the high ground that the Dawes Commission was an Ex Parte body, that its judgments were Ex Parte and therefore open to collateral attack.

We cannot understand with what propriety the Government can now urge this contention. For more than twenty years it has been held by the Circuit Court of Appeals for the Eighth Circuit, which has had jurisdiction over Indian Controversies in the Five Civilized Tribes, that the Dawes Commission was a Judicial body, having all the functions and elements of a Court, and that its judgments could not be attacked except in the same way that judgments of courts of competent jurisdiction could be attacked.

This line of authority was started with the case of *Kimberlin* v. *Commission,* 44 C. C. A. 109 and 114 Fed. 662, and has been held continuously without modification or dissent by the Circuit Court of Appeals of the Eighth Circuit, since that hearing. The Circuit Court of Appeals in this very case on Page 928, Federal Reporter 268, passed upon this question. We quote:

> "We say this because there can no longer be reasonable insistence that the proceedings before the Dawes Commission were Ex Parte. Those proceedings were adversary in their nature and the adjudication of the Commission on who should be enrolled as citizens and freedmen of the Five Civilized Tribes, what land should be allotted each and in what way and of every issue of law and fact necessary for

> it to determine, in order to decide such questions, is conclusive and impervious to collateral attack."

The Circuit Court of Appeals cited among other cases the case of the *U. S.* v. *Wild Cat,* 244 U. S. 111. This decision of the Supreme Court of the U. S. was delivered by Justice Day and that case holds without any doubt that the proceedings of the Dawes Commission were Adversary and not Ex Parte and that the judgments of that Commission had all the force and effect of a court judgment. The effort of the distinguished Counsel for the Government is directed against this decision of this Honorable Court and many other decisions. Counsel for the Government commencing on Page 5, of brief, and for several pages thereafter, makes a broad contention that proceedings of the Dawes Commission were not Adversary but Ex Parte and boldly asks this Court to over-rule not only decisions of the Court of Appeals for the Eighth Circuit upon this very question covering a period of more than twenty years, but also to over-rule its decision in the Wild Cat case. Learned Counsel for the Government recognize that there is no possible way by which they can succeed in this cause except by the establishment of two propositions. First, that the action of the Dawes Commission was Ex Parte, and second, that such action being Ex Parte findings of the Commission are subject to collateral attack.

We feel that we should not consume the time of the Court in answering these propositions. The proposition of law so announced as we have already said, has already been foreclosed by this Court in the Wild Cat case in Volume 244, U. S. Supreme Court, Page 111, as cited above.

Judge Sanborn of the Circuit Court of Appeals for the Eighth Circuit in reviewing this very case, Federal Reporter 233, Page 177, has discussed these matters fully. He has shown in that opinion the incidents and elements which made the findings of the Dawes Commission a judgment of the Court. The proposition was thought to be settled by the Profession in this jurisdiction and forever foreclosed by the opinion of Justice Day in the Wild Cat case, *supra.*

We apprehend that this Court will hesitate long before it will over-rule this long line of decisions and hold now for the first time that the act of the Dawes Commission was Ex Parte and not Adversary.

Judge Campbell who tried the case in the Court below held that, in as much as the findings of the Dawes Commission constituted a judgment and in as much as its proceedings were Adversary and not Ex Parte, that the judgment of the Dawes Commission, could not be reopened by the Government upon the mere allegation that the person enrolled by the Dawes Commission never existed. It was the duty of the Dawes Commission to ascertain whether the said person found on the Creek Rolls was entitled to enrollment and one of the facts to be found by the Dawes Commission, was whether the Creek Indian whose enrollment was being considered, was living on April 1st, 1899. The Dawes Commission in this case held that Thomas Atkins was a living person on April 1st, 1899, that he was the son of Minnie Atkins, a Creek Indian, and therefore entitled to enrollment.

Our claim is that this judgment of the Dawes Commission which was approved by the Secretary of the Interior is not open to collateral attack, that the effort of the Government in this case is a purely collateral attack upon the judgment of the Dawes Commission.

In answer therefore to this startling proposition asserted by the Counsel for the Government, we state the following proposition, which we believe to be not only correct but in line with the decisions of this Court and the Circuit Court of Appeals.

The finding of the Dawes Commission that Thomas Atkins lived after April 1st, 1899, was a finding of fact that he was not a myth and this finding of the Dawes Commission cannot be impeached or re-examined upon the mere allegation that Thomas Atkins was actually a myth.

We have long thought that this contention has been set at rest both by the repeated decisions of

8th Circuit and by the decisions of the Supreme Court of the United States. More than twenty years ago the 8th Circuit defined the nature and character of the powers conferred upon the Dawes Commission by the Congress of the United States, and no clearer statement of it has yet been made by any court than found in the case of *Kimberlin* v. *Commission to the Five Civilized Tribes,* 114 Fed. 662. We quote briefly from this case, because it has been affirmed and reaffirmed time and again by the 8th Circuit, and the doctrines therein laid down have been expressly approved by the Supreme Court of the United States. The Court in that case said:

> "Under these acts of Congress the Commission to the Five Civilized Tribes is a special tribunal vested with judicial power to hear and determine the claims of all applicants to citizenship in the Five Tribes, and the enrollment or refusal to enroll the applicant in each particular case constitutes its judgment in that case. In the case before us the tribunal has heard and determined the case of the plaintiffs. Whether its decision was right or wrong is immaterial in this Court, and this question will not be considered. Congress saw fit to entrust to the judicial discretion of the Commission its determnation of the application of the plaintiffs in error, and of ev-

ery question of law and fact which that decision involved."

The doctrine of this case had been imbedded in the judicial decisions of the 8th Circuit for years before it was examined by the Supreme Court of the United States in what is known as the Thlocco case, *United States* v. *Wildcat et al.*, 244 U. S. 111 (61 L. Ed. 1024).

Mr. Justice Day, delivering the unanimous opinion of the Court in that case held that the action of the Dawes Commission with reference to enrolling Indians of the Five Tribes was judicial in its character; that it was in no sense an *ex parte* proceeding, but was an *adversary* proceeding; that the Creek people had a right to appear, and did appear, before that tribunal and protest the right of applicant for citizenship.

The Supreme Court held also, in the Wildcat or Thlocco case, that it was not surprising that the Dawes Commission made some mistakes, considering the vast amount of work before it, and that those mistakes either of law or of fact could never be re-examined and reconsidered by a court of equity, except upon some well known ground of equity jurisprudence, to-wit, mistakes of law, gross mistake of fact, or fraud. And this Court held that unless one of these well known grounds of equity was invoked for the purpose of attacking the judgment of the Dawes Commission, that judgment was impervious to attack.

The Dawes Commission found, as did Judge Campbell, the trial judge (and we shall quote at length from his opinion hereafter) that Thomas Atkins was actually living on and after April 1st, 1899, and therefore was entitled to enrollment. What difference can there be between an Indian who died prior to April 1st, 1899, and an Indian who never existed at all? Clearly an Indian who died prior to April 1st, 1899, was just in the same position as a person who actually had never existed, because he was cut down by that arbitrary date by virtue of the Creek Agreement and the federal statutes.

Now, the Dawes Commission, as said by Judge Campbell, who tried this case, had ample evidence before it, even outside of the rolls of the Tribe, that Thomas Atkins was the son of Minnie Atkins and therefore enrolled him as such; and held that same Thomas Atkins, the son of Minnie Atkins, was a living breathing being on and after April 1st, 1899. This was a finding by the Dawes Commission, necessarily, that Thomas Atkins was not a myth and the sole inquiry for this Court now to enter upon is whether or not there was any substantial evidence before the Dawes Commission which justified the judgment of the Dawes Commission as to Thomas Atkins. This identical proposition was announced in the Circuit Court of Appeals in what is known as the Hawkins case, *U. S.* v. *Hawkins*, found in the Federal Reporter, Vol. 217, at page 11. The Court there said:

> "We are of the opinion that as Chester Hawkins never had any existence so far as being entitled to an allotment of land is concerned, and having died before April 1st, 1899, he was, as far as being an applicant for a patent to the land in controversy is concerned a myth."

Here the Court, in an opinion which was unanimous, declared that an Indian who died prior to April 1st, 1899, was in the same position as an Indian who never existed at all. If, therefore, these proceedings of the Dawes Commission were not *ex parte*, but were strictly adversary, and binding, as Mr. Justice Day said in the Thlocco case, upon all parties in interest, then the Dawes Commission has, from reliable and substantial evidence before it, foreclosed the government and foreclosed all other parties in interest, because the Dawes Commission definitely held that Thomas Atkins was not a myth, when it held that he was living on April 1st, 1899, and therefore entitled to enrollment. To state the proposition in another way:

The action of the Dawes Commission as to the right of an applicant to enrollment on evidence taken by such Commission is a judgment, and that judgment is conclusive, as has been held time and again by the 8th Circuit Court, as to all matters which were necessary to be found by the Dawes Commission in order to give the particular Indian the right to enrollment as a citizen and member of the Tribe. So that it makes no difference in this case whether Thomas Atkins was really a myth or not, and whether upon an independent and new investigation he could be shown to be a myth; because inasmuch as the Dawes Commission has already passed upon and decided that particular question of fact, there is no way by which the finding as to that fact can now be re-examined, except upon certain equitable principles which are not invoked in this case. As we understand the brief for the government, they are now making the naked contention that by alleging that Thomas Atkins was a myth, they had the right to reopen the judgment of the Dawes Commission and re-examine that question. Our answer is that they fail at the outset, not only because the courts which have examined it have held against their contention, but because upon reason and authority, neither the trial court nor this Court can put itself in the situation of the Dawes Commission, acting as a judicial body, and redetermine questions of fact which that Commission was compelled to investigate and answer before it could admit the Indian citizen to enrollment.

We feel that this ought to end this controversy now, so far as the government is concerned. There is no allegation on the part of the government here, and no proof, that any fraud was ever practiced by Minnie Atkins or anyone for her, upon the Dawes Commission; there is no allegation here which would justify this Court in holding that one of the great principles of equity jurisprudence had been successfully invoked and alleged by the government here to justify the reopening of the judgment of the Dawes Commission.

We beg at this point to call the attention of this Court to the specific findings of the trial judge, upon the action of the Dawes Commission with reference to the enrollment of Thomas Atkins. On page 148 of the record the trial judge used this language:

"The Court further finds that the Dawes Commission, in enrolling Thomas Atkins as aforesaid, did not act arbitrarily, and without evidence, but had before it substantial evidence as to the right of Thomas Atkins to enrollment, and as to his being the son of Minnie Atkins."

Again the court said:

"We further find that the Thomas Atkins enrolled as No. 7913 on the final roll of Creek Indians is the son of the defendant, Minnie Folk, nee Atkins."

At the bottom of page 147 of the record the Court found as a matter of law that the "evidence offered by the complainant, the government, in support of the contention that Thomas Atkins was and is a mythical person, is incompetent, irrelevant and immaterial," and that "the government was precluded by the judgment of the Dawes Commission from a retrial of the question as to the existence or non-existence of Thomas Atkins."

The trial court evidently took the view which we are now asserting to the court: that the government had no right, upon the allegation that Thomas Atkins was a myth, to retry that question, because it appeared from the record and from the evidence taken by the Dawes Commission that the Dawes Commission had already tried that identical question of fact, and had found that Thomas Atkins was not a myth but a living person on April 1st, 1899. It seems clear to us, therefore, that this case, as to the government, must end here. The judgment of the Dawes Commission is found by the trial court not to have been arbitrary, but to have been based upon reliable and substantial evidence.

The court below, however, while it ruled that the government could not make the attack upon the judgment of the Dawes Commission on the mere allegation of a myth, yet permitted the government to introduce all the testimony, written and oral, which it desired to introduce on the question of myth, and when the trial court came to announce its final judgment or decree, it said, first, that the government had no right upon the mere allegation that Thomas Atkins was a myth to retry that question already tried by the Dawes Commission; but found even if the government could do so that Thomas Atkins was not a myth but was living on April 1st, 1899, and was in fact the son of Minnie Atkins.

We do not feel, however, that we ought to be compelled, nor do we feel that this Court ought to be compelled, to go through this large record to determine whether Thomas Atkins actually ever existed or not, when the decisions of the Circuit Court and of the Supreme Court of the United States are so clear and compulsive upon this question, to-wit: that no material fact necessary to be found by the Dawes Comcan be re-examined or reconsidered by another court upon a simple allegation that the Dawes Commission made a mistake in its findings. The Supreme Court of the United States in the Wildcat case, above cited, declared that the Dawes Commission was expected to make some mistakes, and naturally would make some mistakes; but also, in the same breath, declared that these mistakes were not open to inquiry, unless they were so gross as to shock the conscience of a court of equity. Judge Campbell, the trial judge, in his supplemental memorandum opinion, on page 143 of the record, declared that he had *patiently and carefully* examined every line of evidence, both written and oral, in this case, and that his judgment was convinced that the attack of the government on this patent on the ground that Thomas Atkins was a mythical person was not sustained, but was overwhelmed by the preponderance of evidence in favor of the existence of Thomas Atkins as the son of Minnie Atkins.

We, therefore, confidently assert that the government has no case here on the law, and contend that the government is shut out by repeated adjudications of the 8th Circuit and this Court, and that no proper legal attack has been made by the government upon the judgment of the Dawes Commission in this particular case, because the government is here boldly asking this Court to re-examine and determine the correctness of the judgment of the Dawes Commission as to the vital facts necessary to be found by it, on the mere allegation that the Dawes Commission was mistaken. We hold that this position of the government is untenable, and we invoke the judgment of this Court upon this preliminary question as ending and disposing of this case finally.

Both the question as to the fraud alleged in this case by the government in procuring this patent, and the question as to whether the government had the right, under the naked allegation, that

Thomas Atkins was a myth, to reopen and retry the whole case tried by the Dawes Commission, were exhaustively considered by the trial judge, in a written opinion filed in this case on the first day of December, 1917, and found on page 130 of the transcript. This opinion is so carefully considered, and the authorities so thoroughly examined, that we feel we can add nothing either to its clarity or to its reasoning. We therefore commend it to the Court, as sustaining in every way the proposition already asserted in this brief. We may add, however, in our own way, to this opinion these suggestions:

The case of *United States* v. *Throckmorton*, 98 U. S. 161, which this Court well knows, declared the rule to be that where a decree had been rendered by a judicial tribunal, and where the action of the tribunal was, in no sense *ex parte* but thoroughly adversary, no evidence could be received to set aside the judgment of the court on the ground that perjury had been committed or false documents had been used in evidence. This upon the theory that the evidence so offered touched the very question decided by the Court which rendered the decree.

We apprehend the distinction to be this: That where the action of the tribunal is *ex parte*, and all parties in interest have not had an opportunity to be heard, the action of the court or tribunal may be attacked probably for perjury and for the use of false instruments as evidence; but, where the tribunal acted, not *ex parte* but with all the parties before it, with an opportunity to be heard, then the question as to whether perjury or false instruments were used in the hearing cannot be reopened and reconsidered.

It is hardly necessary to argue this question of fraud as alleged, because the government, in i brief which it has furnished us, has abandoned the position that there is any proof of fraud, such as would justify the reopening of this case. The government is now standing simply and distinctly, upon two propositions, named in its brief:

First. That Thomas Atkins was a myth, and that this allegation alone authorizes the reopening of the case; and,

Second. That, if he was a myth, the patent is void.

With reference to the myth question, the learned trial judge, beginning on the bottom of page 141 of the transcript, uses this language:

> "It is true that if it were conceded and not an issue in this case that the Thomas Atkins who appears upon the roll, never in fact existed, it would follow that the patent made in his name is a nullity and did not divest the title from the Creek Tribe, for, of course, there must exist in every grant, the grantor and the

grantee. It is charged in this case that the grantee never existed, but far from being conceded, that charge is denied, and an issue is framed on that question. It is first involved, as we have seen, in the charge of fraud, but the fraud charged is not such as justifies this Court in retrying the questions of fact conclusively determined by the Dawes Commission. Therefore, if this issue may be tried in this case it must be because it was not a necessary issue of fact before the Commission or because nothwithstanding it may have been one of the questions of fact necessarily decided by the Commission, it is of such a nature as could not have been conclusively decided as against a retrial of the same issue between the same parties or their privies in this case. It was necessary that the Dawes Commission should find that the Thomas Atkins enrolled by it was alive April 1, 1899, before it could adjudge him entitled to enrollment, and that it did so find is conclusively presumed from the fact that it enrolled him. This finding is presumed to have been upon evidence until the contrary is clearly and convincingly established. Not only does the record fail to establish that such finding was without evidence, but on the contrary, is strongly to the effect that there was such evidence. Of course, a finding that he was living April 1, 1899, is a finding that he

> was not a fictitious or mythical being. Therefore, the question of the very existence of Thomas Atkins was necessarily considered and determined by the Commission. It is not perceived on what theory this necessary issue of fact, once determined by the Commission, is any less conclusively determined, than is the question of Creek blood or residence in the tribe. As said in the Thlocco case, a correct determination or conclusion was not necessary to the binding character of the decision, and even though now it should be most conclusively and convincingly shown that Thomas Atkins is a myth, it cannot avail the plaintiff, for that is not a question which this Court can retry."

We have been at some pains to stress the proposition which we have been discussing, because we are convinced from our examination of the decisions of this Honorable Court, and of the Eighth Circuit Court of Appeals, that it concludes the government's case, and makes it unnecessary to consider any other feature.

In conclusion, we beg to add that suggestion is made that this fact of existence of Atkins is jurisdictional, and we gather from the argument upon such suggestion, that all that is necessary to make a good bill of complaint in a case of this character, is to allege either that the applicant to whom patent issued was a myth or that he died prior to April 1, 1899. If the contention of appellant is true, all that the government needs to do in its bill of complaint, ten, twenty, thirty or fifty years after patent is issued, in order to cancel the patent, is to allege that the applicant whose case is being considered, died prior to April 1, 1899, because if its contention is true and this action is jurisdictional to the extent claimed, every judgment rendered by the Dawes Commission upon evidence is void, if it shall subsequently appear that the applicant was a myth, or, if not a myth, died prior to April 1, 1899. This statement, it appears to us, is not only extraordinary, but paradoxical. If the Dawes Commission was empowered to determine these very questions of fact, and did determine those very questions of fact, then its judgments amount to nothing, and are without effect to sustain a single Indian title, if in years after, it can be shown that the Dawes Commission was simply mistaken about the facts.

The next proposition, of course, if the Court shall not agree with the contention we have just made, is purely one of fact and may be stated as follows:

Thomas Atkins, who was enrolled by the Dawes Commission and who appears upon the Creek rolls as a citizen of said tribe, was not a myth, but actually existed and was living April 1, 1899, and was in fact the son of Minnie Atkins, and enrolled as such by the Dawes Commission.

Before we go to a brief discussion of the facts in this case, we beg to say that under decisions of this Court, the Government is foreclosed on the facts. Three courts have decided this very question of fact against the Government. This Court has repeatedly held that where two lower courts have passed in the same way upon the same question of fact, this Court will not review that question of fact.

We think it unnecessary to cite the many opinions of this Court sustaining this doctrine. The matter has been thoroughly examined and determined in the following cases:

—*Washington Security Co.* v. *U. S.*, 234 U. S. 76;

—*Gilson* v. *U. S.*, 234 U. S. 380;
—*Baker* v. *Schoffield*, ~~234~~ 243 U. S. 114,

and many cases cited therein.

The facts of this case have been determined by the Circuit Court of Appeals, as shown by the opinion of that court in this case, 233 Federal, Page 178. In that case Judge Sanborn held that the rolls of the Creek Tribe alone showed Thomas Atkins to be the son of Minnie Atkins and that he was living after April 1st, 1899.

Judge Campbell as we shall show hereafter, held specifically that Thomas Atkins was not a myth and was the son of Minnie Atkins and the

Circuit Court of Appeals in this very case reviewed that judgment of Judge Campbell and held that Judge Campbell's finding of fact, that Thomas Atkins was not a myth, was fully sustained by the record evidence.

We confidently assert, therefore, that where three courts have passed on a question of fact, this Court will not again review that question of fact, but even though this be true, we shall briefly discuss the facts in the case.

As said before, the trial court, although holding that the government could not reopen this case on the allegations of its bill, nevertheless permitted the government to introduce any and all evidence that it desired with reference to the existence or non-existence of Thomas Atkins, and after thousands of pages of testimony had been taken, and hundreds of witnesses had been examined, the Court held every question of fact in favor of the appellees in this cause. The trial court, in its memorandum opinion and its supplemental memorandum opinion, above cited, discussed this question of fact fully, and when it rendered its decree found specifically what the facts were in this case; and made a special finding as to every material question of fact. These special findings appear on pages 148, 149 and 150 of the transcript.

This Court will notice that the trial judge was careful to take up every issue of fact and dispose of it in this decree. He found that Thomas Atkins enrolled as No. 7913, on the final rolls of the Creek Indians, was the son of Minnie Atkins. He found that said Thomas Atkins appearing on the 1895 authenticated rolls and later on the roll of Indians compiled by the Dawes Cmmission, and approved by the Secretary of the Interior, was the illegitimate child of Minnie Atkins, and not the son on Nancy Atkins. He further found that Thomas Atkins had departed this life without issue and that Minnie Atkins was his sole heir; and, in the memorandum opinion, which we have just cited, he found that this same Thomas Atkins was born in Leavenworth, Kansas, at the house of Granny Letcher, an old colored woman, and was born to Minnie Atkins at that place. He further specifically found the date of his birth. So that when we begin to consider this case, we must start out with the presumption that the finding of the trial court upon these issues of fact was correct; and the only inquiry, in our judgment, which this Honorable Court can indulge as to the judgment or decree of the trial court is for the purpose of ascertaining whether there was substantial evidence in this case to support the findings of the trial curt.

The history of this case and the manner in which it has been prosecuted by the government, to our minds, shows two things:

First. That the government spares neither time nor money in its investigation of this class of cases; and,

Second. That notwithstanding it has made every effort both in fact and law, to upset the judgment of the Dawes Commission with reference to the right of Thomas Atkins, it has signally failed.

Minnie Atkins was an uneducated, wild and untamed Creek girl. She was sent by her people to Carlisle School to be educated and prepared for life. She was unruly, and seems to have inherited all of the wandering traits of the Indian. She was first farmed out by the Carlisle School to Mr. Penrose of Pennsylvania, and, after staying there for some time, was finally farmed to Banker Hyde of Leavenworth, Kansas. At that time Leavenworth was a soldier's home, and a new town, full of adventurous characters. Minnie Atkins was a comely woman, and seems to have been unusually attractive to the male sex. Without guidance, without parental protection, and without the protection of her tribe, she was left at this soldier's town, and, of course, she went astray. She was not a girl of the town in the ordinary sense, but she was a woman who liked men's society, easily flattered, and led astray, and it was not long after she went to the Hyde home before she became pregnant. And thereafter, wandering from place to place, she had one illegitimate child after another.

She was, it seems, a good cook, and much in demand at the forts by the families of soldiers. She went from one fort to another. She did not know that oil had been discovered upon the allotment of her child, Thomas, until long years after the allotment. Every man in the oil business became interested at once, when this oil was found, and became active, sedulous and fervent in finding out where Thomas Atkins was, if he was living, and if not, who were his heirs.

This woman, Minnie Atkins, was badgered and threatened and intimidated from every angle, and it is only a wonder that she kept her mind at all. The manner in which she was besieged, the advantage taken of her, will be discussed later under the facts of this case. Sufficient to say, as said by Judge Sanborn in the opinion on the receivership hearing in this cause, she was subjected to every sort of indignity and pressure. Notwithstanding all this, when she appeared before the Honorable Ralph E. Campbell, United States Judge who tried this cause, he believed her story, and believed the men who corroborated her story and entered a decree in her behalf.

We, therefore, with this preliminary statement, now go to the facts of this case. We propose to make a brief summary of the facts in favor of the claim of Minnie Atkins, and a brief summary of the facts relied upon to break down her claim; and, after making these summaries of both contentions, we shall then endeavor to analyze the testimony, and see where the truth is in this case.

However, before we take up the evidence actually taken before the trial court, we desire to consider first the rolls and their effect.

WHAT THE ROLLS SHOW AND THEIR LEGAL EFFECT

It is alleged by the Government in this case that the roll of 1890, and especially the roll of 1895 and the pay roll of the Creek Tribe for 1895, were material evidence before the Dawes Commission and were used by such Commission as evidence, so that it becomes necessary at the outset to determine what these rolls actually showed, because they are a part of the evidence upon which the Dawes Commission made and predicated its census card and its final judgment.

In order to show the Court actually what was said by the Government with reference to this pay roll, on page 6 of the printed record, near the bottom, the government in the Amended Bill of Complaint uses this language:

> "The said Commission when engaged in the work of listing for enrollment the names of citizens of said Tribe, used as material evi-

> dence on the question of citizenship or membership in the Tribe, certain roll or rolls of the citizens of said Tribe of Indians which had been made up for Tribal per capita payment purposes by the tribal officers and authorities prior to the date of the work of the enrollment which was being done by said Commission and which were treated and denominated as authenticated Tribal rolls, among which was the roll of Creek citizens made up in the year 1895, and commonly called the 1895 authenticated roll, and particularly did said Commission use and rely upon said 1895 roll, that the name of Thomas Atkins appeared upon said 1895 pay roll in the family appearing thereon, headed by the name Minnie Atkins, and thereby said roll showed upon its face that Thomas Atkins was in 1895 a living member and citizen of said Tribe."

The roll of 1890 shows Minnie Atkins as a citizen of the Creek Tribe of Indians. It also shows Eddie Schrimsher a member of the same Atkins group, or family, and Nancy Atkins, as members of the Creek Tribe of Indians, and right opposite the name of Minnie Atkins are the words, "Thos. & Mary, 2 children."

The roll of 1895 groups this particular Atkins family and shows the name of Ed Schrimsher, the name of Minnie Atkins, followed by four others, and then opposite No. 215 appears the name of Nancy Atkins, without children, and then comes No. 216, showing the name of John Davis, who is admitted to have been a member of this family.

Now, let us examine, for a moment, these two rolls, and assume, for the sake of argument, that the Dawes Commission largely relied upon these rolls in preparing and making out the census card which was the basis of its judgment. If the Dawes Commission had relied entirely upon the roll of 1890, it could have reached no other conclusion than that Thomas Atkins was the son of Minnie Atkins, because he was given on such roll by name and terms as the child of Minnie Atkins. If the Commission had relied exclusively upon the authenticated roll of 1895, the Commission would have necessarily found that Thomas Atkins was the son of Minnie Atkins.

In the opinion in the receivership branch of this case, Federal Reporter, Volume 233, page 188, Judge Sanborn uses this language:

> "The Act of March 1, 1901 (31 Stat. 869), provided that all citizens who were living on the 1st day of April, 1899, entitled to be enrolled under the Act of June 28, 1898, should be placed upon the rolls. The Act of June 28, 1898, was not simply an Act of Congress. It embodied and ratified the agreement between the Creek Nation and the United States, which was shortly after ratified by the Creek Nation, that the Dawes Commission should make the final roll of the latter's citizens; that for that purpose the Commission should have access to all its rolls and records, and that it might take a census of the nation or adopt any other means by the Commission deemed necessary to enable them to make such rolls.

> Among the rolls and records of the Creek Tribe, duly authenticated by the approval of the Creek Council, was a roll of citizens made by the tribe in 1890, another made in 1895, the pay roll of that nation for the year 1895, upon which a per capita payment was made of the citizens of the tribe. On the roll of 1890 appeared 'Minnie Atkins (Thos. and Mary, 2 children)'. On the roll of 1895 appeared the names of Minnie Atkins and Thomas Atkins for a payment to herself and also for a payment of a like amount to her as the per capita payment due to her son, Thomas Atkins."
>
> —*Folk et al.* v. *United States et al.*, 233 Fed. Rep., page 188.

It is clear from this statement that Judge Sanborn, who had just quoted from the Act of June 28, 1898, the provision that the Commission should make such rolls descriptive of the parties thereon so that they might thereby be identified, found no difficulty in determining what the Creek roll of 1890, what the roll of 1895, and what the pay roll of 1895 meant with reference to the parentage of Thomas Atkins. Judge Sanborn was clearly of the opinion that the roll of 1890 identified Thomas Atkins as the son of Minnie Atkins, and that the roll of 1895 made a like identification, and that, when this was followed by the payment by the tribe to Minnie Atkins of Thomas Atkins' money on the ground that Minnie Atkins was the mother of Thomas Atkins, it, insofar as the rolls were concerned, settled the matter as to the parentage of Thomas Atkins and as to his existence.

The learned judge in that opinion unreservedly declared that the rolls themselves were material evidence and that they were sufficient upon which to predicate a judgment. So, recurring to the suggestion above made, if the rolls themselves were relied upon and no other evidence was taken, the Dawes Commission, in making out its census card enrolling Thomas Atkins as the son of Minnie Atkins, could not have intended to enroll him as the son of any other person but Minnie Atkins. But additional evidence was taken in this case, according to the testimony of Tams Bixby, P. B. Hopkins and Edward Merrick. No judgment of the Dawes Commission was made final until full investigation was had, and no man, woman or child was ever enrolled in the Creek Tribe upon identification from the rolls alone, but in every case the rolls were backed up and supported by evidence extraneous to the rolls themselves (see testimony of Tams Bixby, Chairman of Commission, Rec., p. 266).

We now come to the evidence outside of the rolls actually taken before the Dawes Commission. The witness Merrick deliberately testifies that he did take testimony outside of the rolls as to Thomas Atkins, and that that evidence convinced him and the Commission that Thomas Atkins was the son of Minnie Atkins, and that by and through such evidence he made the notation on the census card that Thomas Atkins was the son of Minnie Atkins, and that his father was a white man.

We ask here that the Court mark the language of the witness Merrick, because, under the decision of the Supreme Court of the United States in the Thlocco case (*United States* v. *Wildcat et al.*, 244 U. S. 111, 37 Sup. Ct. Rep. 561, 61 L. Ed. 1024) it concludes this controversy. Merrick was asked the following questions and the following answers were returned:

> "Q. I understand that you put Thomas Atkins' name on there?
>
> A. Yes, sir.
>
> Q. And you put Minnie Atkins as the mother of Tommy?
>
> A. That was the information given.
>
> Q. From that information, you intended to put Thomas Atkins up to the Dawes Commission as the son of Minnie?
>
> A. That was the conclusion we arrived at from the information the Commission had, that Thomas Atkins was the son of Minnie" (Rec., p. 3479).

The Creek roll of Indians shows that there were four persons by the name of Thomas Atkins in the Creek Tribe placed on the final roll. The Dawes Commission, of course, as a matter of law, enrolled the one which it intended to enroll, and it did this upon the evidence before it. If the evidence before it failed to sustain the particular case which the Commission was considering, and it took no evidence except with reference to this particular case, then it cannot be said that the Dawes Commission actually enrolled the person not in contemplation by the Commission, not covered by the evidence before it, and not in fact intended to be enrolled by the Commission.

To state the matter in another way, and it is so clear and apparently axiomatic to us that we hesitate to prolong this branch of the discussion: The Dawes Commission had a certain duty to perform, and that duty was to find the names of those Indians who were entitled to enrollment in the Creek Tribe as citizens, and they had a substantial duty to define and describe, in every way possible, the particular citizen, so that he could, in the future, be identified and not mixed or confused with any other citizen of the same name.

When the Dawes Commission took up the roll of 1890 they found a Thomas Atkins opposite the name of Minnie Atkins, and described, as Judge Sanborn says, as her child. When the Dawes Commission took up the roll of 1895, it found Thomas Atkins, together with other names, admittedly the children of Minnie, after the name of Minnie Atkins and before the name of Nancy Atkins. When the Dawes Commission came to make out the

Thomas Atkins census card and came to consider these rolls as evidence upon which it would base the census card it was dealing, and dealing alone, with a Thomas Atkins named on the rolls as the son of Minnie Atkins and as the son of no other person; so that when it took evidence outside of the rolls to sustain the statement on the face of the rolls, it took no evidence whatever except evidence going to show that the Thomas Atkins whom it was enrolling was what he appeared to be on the rolls—the son of Minnie Atkins. This being true, it conclusively follows that the Dawes Commission, by virtue of the rolls themselves and by virtue of evidence which was entirely consistent with the face of the rolls, intended and did actually enroll this certain Thomas Atkins whose name appears upon the rolls as the son of Minnie Atkins, and in doing so, found, of course, that he was a living being on April 1, 1899.

The witness Merrick (Rec., pp. 3455 and 3479) testifies that he took evidence outside of the rolls to establish the fact that Minnie Atkins was the mother of the Thomas Atkins whom the Commission was actually enrolling, and Merrick says that the Commission intended to enroll the particular Thomas Atkins as the son of Minnie Atkins. But this is by no means all. The clinching circumstances in this case as to the intention of the Dawes Commission is found by an examination of the pay roll which Merrick says was actually before the Commission, and was the main roll upon which the Dawes Commission relied as to Creek citizenship. This pay roll of 1895, which was a copy of the authenticated roll of 1895, offers some startling suggestions which can never be met by the Government in this case. The pay roll starts out with Ed Schrimsher, and then follows the name "Minnie" written over the name "Mamie" Atkins. A little lower down, the name "Alice" is written over the name "Susan," and a little lower down the name "Harvey" is written over the name "Mary." These names, which were written over the original names, were written in red ink, and the red ink names were identfiied as being in the handwriting of Mrs. Moore, wife of Napoleon B. Moore, National Treasurer of the Creek Nation and paymaster of the 1895 payment. This roll also shows the signature of Minnie Atkins, and shows her as drawing for herself and three children, among these being Thomas Atkins. The question which naturally presents itself at once is, why were these names changed and upon what evidence or information were the changes made? They were changed and corrected by the Creek Tribe in the last authenticated roll, this pay roll. It is undisputed that Minnie Atkins was personally present at the payment under this roll, that she was there in the presence of Sam Brown, who was the Town King of Euchee Town, and Ellis Childers, one of the witnesses in this case.

Minnie Atkins testified (Rec., p. 3913) as to what occurred when she went up to draw her money. She said:

> "A. Well, when I went out there I went in where they were going to pay. There was some man sitting there, but I don't know who he was, and I says 'Well, let me see the books.' He just shoved the book over to me and I looked and there was five of us on the book to draw, and that was myself and Tommy, Charley and Harvey and Alice. 'Well,,' I say, 'Alice is dead and I could not draw for her.' Well, he gave me money for four of us, that was Charley, Harvey, myself and Thomas. It was about fifty-seven dollars, I think."

She, of course, could not draw for her dead child, and was so advised, and then it was that a bracket in red ink was placed opposite the names of Alice and Thomas and the notation made "error of one." If, as a fact, Minnie Atkins did not draw for Alice but only drew for herself and three children, then Alice was the name eliminated by the Tribal authorities, and Alice was the error intended to be indicated on the pay roll. So when the Dawes Commission with this pay roll in its possession and endeavoring to fix the citizenship and identity of this particular Thomas Atkins found that Minnie had been upon the ground, that she had actually drawn money for this particular Tommy, and Ellis Childers and Sam Brown were there, both seeing and hearing her claim this money for Thomas as her child, and there was no protest and no suggestion that any other person was the mother of this particular Thomas Atkins, or that Thomas Atkins was a myth, it was compelled to enroll the Thomas who was the son of Minnie Atkins as a living, existing Thomas Atkins.

With this pay roll before it, how could the Commission conclude otherwise than that Minnie Atkins was the mother of Thomas Atkins, No. 213, on the pay roll, and intend t o enroll any other Thomas? When you compare the notations on the pay roll, which are not disputed, with the evidence actually received by the Commission, outside of the pay roll, and which Merrick says referred only to Minnie Atkins as the mother of Thomas Atkins as a matter of identity then it follows as the night follows day, that the Dawes Commission intended to enroll the Thomas Atkins in question as the son of Minnie Atkins and intended to enroll no other Thomas Atkins and did so enroll him.

But it is said that a mistake was made on the census card by the Commission when measured by the proof of Minnie Atkins herself as to the age of Thomas Atkins, and that a mistake was made as to his blood. This may be true, and yet it can in no sense affect the question now under consideration, because, as Justice Day said, the Commission was expected to make mistakes, and did make mistakes, but that the judgment of the Commission was still binding, notwithstanding these mistakes, until it was attacked in the manner provided by law.

Justice Day in the Wildcat case used this language:

> "A correct conclusion was not necessary to the finality and binding character of its decision. It may be that the Commission in acting upon many cases before it made mistakes which are now impossible of correction. This might easily be so, for the Commission passed upon the rights of thousands claiming membership in the tribe and ascertained the rights of others who did not appear before it, upon the merits of whose standing the Commission had to pass with the best information which it could obtain. When the commission proceeded in good faith to determine the matter and to act upon information before it, not arbitrarily, but according to its best judgment, we think it was the intention of the Act that the matter, upon the approval of the Secretary, should be finally concluded and the rights of the parties forever settled, subject to such attacks as could be successfully made upon judgments of this character for fraud or mistake."
>
> *United States* v. *Wildcat et al.*, 244 U. S. 111, 37 Sup. Ct. Rep. 561, 61 L. Ed. 1024.

Again, let us take the Creek census roll of 1890 in relation to Euchee Town, Muskogee Nation. This roll is found as the second exhibit roll between pages 4706 and 4707 of the transcript of the record.

We suggest to the Court before we consider this roll, that the photostatic copy is not complete, certain entries with reference to the Atkins family being blurred and illegible. We think learned counsel, however, will agree that we make a correct statement of the blurred and illegible portions in the suggestions that we shall make with reference to this roll. Commencing near the bottom of the roll, where the number 507 appears in the center, we come to the Atkins family now under consideration. No. 1 of that family appears to be blurred and indistinct in the record copy. The name Eddie Scrimsher, blurred, is opposite No. 1. The name Fred Bowers, blurred, is opposite No. 2. These men were cousins of Minnie and Nancy, coming from the same family and blood. After these follow the name of Mamie Atkins, Nancy Atkins and Lee Atkins. Other faded spots will be noticed on record copy; right opposite the name Mamie Atkins, and in brackets, appear the words "Thomas and Mary, 2 children." Right opposite the name of Lee Atkins appear the words "Died prior to April 1st, 1899," and following this was the notation, "Gen. Porter says he died six or seven years ago." We call attention to these faded spots on the record copy, because they are necessary to a correct examination of this particular 1890 roll, and we are quite sure that counsel will agree with us that we have correctly restored the faded spots. This roll, therefore, shows that in 1890, prior to the alleged birth of the child of Nancy Atkins, Mamie Atkins (who was Minnie Atkins) and shown by later rolls to be Minnie Atkins, was credited with two children, Thomas and Mary. This census roll is also the authenticated roll of 1890 of the Creek Tribe. This roll was prepared by Noah Gregory, town king of Euchee Town, with the assistance of Sam Brown, his clerk, who afterwards himself became town king of Euchee Town (see Record, page 233).

We now come to the 1895 census roll of Euchee Town. It will be remembered by the Court that in 1890, on the roll of that date,Minnie Atkins was credited with two children. Five years afterwards, when the census roll of 1895 was made by the Creeks (to be found as the third roll in the record, between the pages 4706 and 4707), Minnie 'Atkins or Mamie Atkins is credited with four children. The authenticated Creek tribal roll of 1895, appearing as the first roll after page 4706 of the record, agrees with the census roll of the same year, and gives Minnie Atkins' four children, and her children were put between her name on the roll and Nancy, her sister, who appears as No. 5. There was evidently some mistake made as to the names of Minnie's children, so that when we come to the pay roll of 1895, which all officers testify was the main roll upon which they relied and the roll upon which money was paid out to members of the Creek tribe, the whole matter has been fully examined and certain corrections have been made. We find on this pay roll, which is the second roll after page 4652 of the record, the Atkins family given as the second family on that roll. First appears, Eddie Schrimsher, a cousin of Minnie and Nancy. At No. 2 Mamie is scratched and the word Minnie is entered. No. 4 the name of Alice is written over Susie; Thomas, as No. 5, appears as he did in the roll of 1890. Harvey is written over Mary. Here the Creek tribe ascertained the exact names of Minnie's children. Minnie had been absent from the territory and it was difficult to procure their exact names, but the pay roll was the corrected roll and the true roll, and the pay roll represents the exact truth in this case. By an examination of that roll it will be seen that a line is drawn from the name Ed Schrimsher to the right, and the word S. W. Brown is written. This means, as shown by the evidence, that S. W. Brown (better known as Sam Brown) drew Ed Schrimsher's money for him. You will see that there is a diagonal line running from $57.60 right after the name of Sam Brown, and immediately to the left of the name Minnie Atkins down to the name Harvey Atkins, which is No. 6 in the Atkins family. This means that Minnie Atkins drew pay for four people, that is, drew four times $14.40, the amount due one, which amounts in all to $57.60, and drew for three people on the roll between her name and Nancy's name, which appears as No. 7. She drew for herself, which was one; Charley, was two; Thomas, was three, and Harvey, was four. She found Alice's name on the roll when she drew this money, according to the evidence, and right opposite the names of Alice and Thomas on the roll, in brackets, are the words "Error of one." Minnie testified, as we have already shown, that when she found Alice's name there she told them that Alice was dead and asked if she could draw for Alice. They told her that she could not. It therefore clearly appears from this pay roll of 1895 that Minnie's children were correctly named, as they are now named in all the evidence in this case by all witnesses. These names cannot have been manufactured for the occasion, because in 1895 there was no reason why the true names of Minnie's children should not have been given. They were correctly given, and Thomas appears in that pay roll as No. 5, having already, as we have shown, appeared in the roll of 1890 and the authenticated roll of 1895, as the son of Minnie.

Another peculiar feature of the pay roll of 1895, and which we think is the most conclusive and impressive suggestion that can be made with reference to it, is the change of names and the substitution of the correct names of Minnie's children. Now this record shows, and the Court, we hope, will keep in mind that it is undisputed that Minnie, who is shown by the record to have recently died; has two living children, and had them at the time of this trial, named respectively Harvey and Charley.

When the pay roll of 1895 was finally corrected, and the proof shows that it was corrected to meet the exact truth, not only in this but in many other instances and many other families, we find Charley put down as one of the children of Minnie; we find the name of Mary changed and over that written the name of Harvey. We therefore find in this finished pay roll the names of Charley and Harvey as two of Minnie's children.

Now, there can be no dispute, because it is admitted, that Harvey and Charley were Minnie's children and got their allotments. If there is no dispute about the fact that Harvey and Charley were Minnie's children, and that the name Mary was changed to Harvey on the roll, then it conclusively appears that the pay roll actually contained two children of Minnie whose identities are absolutely unquestioned. This one fact demonstrates that information had came to the tribal authorities of the Creek Nation that Minnie had a son by the name of Charley which is undisputed; that she had a son by the name of Harvey which is undisputed, and that she had a son by the name of Thomas, and that she drew for these three children. It is fair to assume that when the Creek people made the final pay roll and adopted it, that they were just as particular in identifying Thomas as a son of Minnie as they were in identifying Charley and Harvey. It is admitted that they made no mistake in identifying Thomas as one of the children of Minnie. In other words, the pay roll represents the true and correct roll; it is the roll upon which the Creek people relied, and according to Merrick's testimony, the roll upon which the Dawes Commission relied. Confessedly, the two children on that roll who were found to be the children of Minnie are the children of Minnie. Therefore, it would seem to follow irresistibly that the same patience and the same caution and the same vigilance which made them hunt out and put Charley and Harvey in the place of Susan and Mary, made them identify Thomas as one of her children. We strenuously urge that no other conclusion can be drawn from this roll.

The pay roll above considered does not show specifically the blood of Minnie's children, nor their ages, but does show her parentage of Thomas Atkins.. We now come to the census card prepared by the Dawes Commission, opposite page 4652 of the record. This census card gives the name of Thomas Atkins with his correct number. It gives him as 10 years of age, sex male. As shown on the Tribal roll of 1895, Euchee Town, it gives his number as 213, which corresponds to the number on the pay roll, opposite the name of Thomas Atkins. His father is given as a white man and his mother is given as Minnie Atkins, who is shown on the 1895 Euchee roll. In the body of this census card and near the middle appear these words: "No. 1 (that is, Thomas Atkins) on 1895 authenticated roll No.

213 as Thos. Atkins." This notation on the center of the card shows that the Dawes Commission was declaring and holding that the Thomas Atkins appearing on this census card was the same Thomas Atkins called Thos. Atkins on the 1895 authenticated Creek roll, thus establishing that the Thomas Akins on the census card now considered, named as son of Minnie Atkins, was the same Thomas Atkins named as son of Minnie Atkins on the 1895 roll. It is true that the age on the census card is given as 10 years and that he is given as a half-blood. These mistakes were made time and again, both as to blood and age, and they are not substantially material in determining the identity of the person actually enrolled.

The Evidence on Behalf of Minnie Atkins.

EMILY RIPLEY (Rec., p. 2797):

Went to Leavenworth in 1878 with her husband, who was in the employ of the Government as chief clerk of the military prison; knew Mrs. Lettie Grodevant, with whom she was on intimate terms and who was a near neighbor; was a frequent visitor to Mrs. Grodevant's home; saw Minnie Atkins there when she was in a pregnant condition and spoke to Mrs. Grodevant about it; fixed the year definitely as 1885 by reason of the fact that in that year she gave birth to one child and lost another; one child was born in January, 1885, and the other child died in August, 1885; definitely fixes the time that she saw Minnie Atkins in a pregnant condition, between the date of the birth of her child and the date of the death of her child in August, 1885; never saw Minnie Atkins after the death of her child in August, 1885.

CORNELIA HYDE COLLINS (Rec., p. 2826):

Daughter of Mr. and Mrs. Geo. H. Hyde; was born in Leavenworth in 1870; left there in 1888, going to Honolulu in the Hawaiian Islands, and remained there until 1897, and has since resided at Pittsfield, Mass.; knew Minnie Atkins when she worked for her father and mother, and remembers seeing a soldier on several occasions hanging around the back door of the house with Minnie; saw Minnie after she left the employ of her father and mother on Choctaw street, in Leavenworth, and was shocked to see her in a pregnant condition, and then realized why she had left the employ of her father and mother. That the occasion when she saw Minnie on Coctaw street was about two months after she left the Hyde home.

MRS. JOHN B. SHEEHAN (Rec., p. 2835):

Resides in Washington, D. C.; her husband is employed in the General Land Office; her maiden name was Maggie or Margaret Curry; lived in Leavenworth, Kansas, in 1884 and 1885 in the suburb called Bluntville near the Government reservation; was well acquainted with Mrs. Herbert Grodevant and often assisted Mrs. Grodevant in connection with her household duties. Did not know Minnie Atkins or remember of any Indian girl ever having worked for Mrs. Grodevant.

Also testified that Mrs. Grodevant was often assisted in her home by trusties in the military prison and that she worked for Mrs. Grodevant in the summer of 1885 for about three weeks. That this employment was soon after the close of school, because she remembers a dress she was particularly proud of at that time.

David Atchison (Rec., p. 2842):

A resident of Leavenworth, Kansas, for sixty years; was 75 years of age on the 22nd day of February, 1917; was engaged in the wood, coal, ice and feed business in Leavenworth in the eighties; knew Minnie Atkins in the late fall of 1885 by the name of "Indian Minnie", when she would come to his wood and coal yard to buy coal for Granny Letcher, and that often, on those occasions, she had a baby in her arms; that Granny Letcher lived on Seneca Street, between Second and Third Street in a frame building built by a German named Dotter. Fixes the time definitely by the Leavenworth real estate boom of 1885.

L. B. Bell (Rec., p. 2859):

In the employ of the Sheffield Car & Equipment Co., Kansas City; went to Leavenworth, Kansas in

1884, and fixes the date by reason of his marriage in the fall of 1883 and going to Leavenworth in the fall of the next year to work for a transfer company; knew a woman generally called "Indian Minnie," who lived at Granny Letcher's place on Seneca Street, between Second and Third Streets; drove her in his hack from the above location to Fort Leavenworth; remembers an Indian boy at Granny Letcher's who was probably two years old when he first knew him; that he went by the nickname of "Commodore", but that he was usually called Tommy Atkins; remembers him until he was about six or seven years of age.

Mrs. Lucinda R. Riley (Rec., p. 2870):

Maiden name was Lucinda A. Schiller; was born and raised in Leavenworth, Kansas, in a house owned by her mother at 326 Choctaw Street, and they lived in the house until the spring of 1885, when a woman by the name of Lillie White took the house; thinks the month that they moved out was April, 1885.

Mrs. John Welch (Rec., p. 2877):

Has resided in Leavenworth, Kansas ever since she was a small child, and her father used to work at Crilley's barn and she carried his meals to him twice a day, and in doing so she passed Mrs. Letcher's house on Seneca Street and often saw a boy called Tommy Atkins around that house; that he was dark skinned and had dark hair and dark eyes and looked very much like an Indian.

PHILLIP TUCKER (Rec., p. 2890):

Engaged in the livery business in Kansas City, Mo., and formerly lived in Leavenworth; resided in Leavenworth for thirty years and worked at the livery barns of Crilley and Cranston, Van Tyle and Geo. Waller; was working for Crilley and Cranston when they were burned out; worked in the block where Crilley's and Tyle's barns were for about eighteen years; knew Granny Letcher, who lived on Seneca Street, between Second and Third Streets; knew an Indian girl who went by the name of Indian Minnie; remembers seeing her around Granny Letcher's for a year or more; knew of her giving birth to a child at Granny Letcher's; afterwards saw her nursing the child on Mrs. Letcher's porch; saw her subsequently carrying a child around in her arms and remembers him after he grew up and got to playing about the yard and on the sidewalk. The boy was called Tommy and had a nickname, "Commodore", and was brown skinned, black haired and chunky; remembers him as a boy of about five or five and a half years old at the time of the burning of Crilley's barn in 1890.

Ina Massie McCormick (Rec., p. 2905):

Wife of Dr. John A. McCormick, who practiced medicine in Leavenworth for a great many years; remembers her husband telling her that he had attended an Indian girl at a colored woman's house.

Alexander Ford (Rec., p. 2913): .

Born May 15, 1842; came to Leavenworth in 1875 or 1876 and worked for Dave Atchison about nine years; worked for him in 1885; was Atchison's foreman in hauling wood from the Missouri side of the river; when the weather was bad and the roads impassable, stayed around the wool yard and split wood and attended to the horses; knew an Indian girl generally called "Indian Minnie"; recollects the first time he saw her, when she came to Atchison's wood yard with a basket after chips and that she had a "papoose" baby with her that looked like an Indian; saw her two or three times around the wood yard and once at Mrs. Letcher's house.

William D. Ford (Rec., p. 2926):

Coal miner, 51 years of age; lives at Lockston, Mo.; lived in Leavenworth, Kansas, in 1885, and off and on worked at Dave Atchison's wood and coal yard; in the summer time was employed in the coal mines and worked around Atchison's in the fall and winter when the weather was cold; remembers a woman around Atchison's that they called "Indian

Minnie", and that she always had a baby in her arms. Was born in 1865, and thinks he was between twenty-one and twenty-two when he saw the woman and baby around the woodyard.

JOHN F. RODERICK (Rec., p. 2937):

Was born in 1839 and is employed in the Soldiers Home at Leavenworth; has charge of the trash wagon there; served three years and one month in the army during the civil war; came to Leavenworth in 1877 and left there in 1886; fixes the date by a cyclone that blew down the girls' school and killed seven or eight girls. Went to Kansas City, Mo., to live about July 5th or 6th, 1886; had a business arrangement with Crilley and Cranston's livery barn and organized a company under the name of Roderick, Crilley & Cranston who had a contract for hauling between the City of Leavenworth and Fort Leavenworth , which expired July 1, 1885. After the expiration of the contract went to Fort Riley in the teaming business for himself and from there moved to Kansas City; knew a girl called "Indian Minnie", and saw her for he first time at Fifth and Shawnee Streets waiting for a bus to go to Fort Leavenworth; saw her a number of times after that; knew the old fortune teller, Mollie Peters, who lived at the corner of Third and Seneca Streets; about the last of June or the first of July of the year that his contract between the city and the fort expired he went with

Mollie Peters to Granny Letcher's house and saw the woman called "Indian Minnie" lying on a bed with a new born baby by her side, and he took the baby in his arms and carried it across the street to Mollie Peters' house; corrects his statement as to the woman he saw with the baby being "Indian Minnie" instead of "Indian Mary."

A. L. Johnson (Rec., p. 2960):

Seventy-two years of age, a retired physician and surgeon residing at St. Helena, California; formerly lived at Leavenworth, Kansas, where he resided about eighteen years and lived there during the eighties. Knew a woman by the name of Mattie Edwards whom he attended at the birth of a girl; that Mrs. Edwards lived on Seneca Street, between Second and Third Streets; that on the second day after Mrs. Edward's confinement he called at the house to see her, and a woman came in and went out again; that Mrs. Edwards said, "You may have a case there." He did not learn the name of the woman and did not see her again until she came to his daughter's house in St. Helena, California, and that he identified her (Minnie Folk, nee Atkins) as the woman that he saw at the house on Seneca Street when he was attending Mrs. Edwards.

Dr. C. R. Carpenter (Rec., p. 2997):

Sixty years of age and practicing physician at San Diego, California, and practiced his profession in Leavenworth, Kansas, for thirty years; was requested by a man by the name of Peterkin to attend a woman in confinement in Leavenworth in July, 1886; that Peterkin was a soldier stationed at Leavenworth, went with him to the house where the woman was and attended her at the birth of her child; expresses the opinion that she had previously given birth to a child. The remainder of his testimony is largely of an expert nature, particlarly cross examination.

MILTON WEBSTER (Rec., p.3030):

Fifty-one years of age and in the express business in Kansas City, Kansas; lived in Leavenworth in the eighties and knew an Indian girl called "Minnie." Remembers seeing her about 1885 or 1886 at Granny Letcher's on Seneca Street, between Second and Third Streets; remembers seeing her on the 30th day of May, 1885, when she was in a family way and about ready to go to bed; afterwards saw her with a baby boy some four or five weeks old; asked her whose child it was, and she said it was hers. Remembers the child until it was eleven or twelve months old crawling around; that he left Leavenworth in 1887 and never saw the child or the woman afterwards; that the child appeared to him to be part Indian; fixes the date of May 30, 1885, by the fact of that being Decoration Day and the year as being the time that Broaddus shot Jobson.

ADOLF LANGE (Rec., p. 3047):

A druggist and pharmacist, who has resided continuously in Leavenworth, Kansas, since April, 1866; was in the Civil war and mustered out May 2, 1865; when he first came to Leavenworth in 1866 was employed in the store he now owns; that he bought the store in 1880; in 1884 and 1885 lived over his store at the corner of Fourth and Shawnee Streets in Leavenworth; knew an Indian woman called "Indian Minnie" about that time; saw her very frequently in the neighborhood; knew the old fortune teller, Mollie Peters, and that Mollie Peters and Indian Minnie often came into his store; that in June, 1884, he left Leavenworth on a visit to his former home in Saxony; that he went to New York and sailed on the steamship "Servia," and while in Europe visited a number of continental cities and kept a memorandum book of his European trip from which he testified; he also made an offer to the Court of his receipted hotel bills and the passenger list of the steamer on which he sailed; that he returned to Leavenworth in the later part of September, 1884; and remembers seeing Indian Minnie in a pregnant condition in his store in 1885, in the late spring or summer after his return from Europe; fixes the time of the year by the fact that the weather was warm and his store door was open and the woman was thinly dressed and he could plainly see her physical condition. Recites an incident of two small pocket-books, one of which he sold to Indian Minnie and the other he still retains. He also fixes the time that she was in his store by other details.

A. W. Hopkins (Rec., p. 3067):

Witness is an intelligent negro, forty years of age, and is Grand Secretary of the Knights and Daughters of Tabor; testifies that he has been connected with this organization since 1883; that at the meeting of the Grand Temple and Tabernacle in Memphis, Tennessee, in 1884, he was the delegate from Leavenworth and acted in the capacity of outside sentinel at that convention; that the inside sentinel was a large Indian woman, mixed blood, big and tall, with whom he became acquainted and who questioned him about persons living in Leavenworth; asked him if he knew an Indian woman there named Minnie Atkins and he told her he did not; said her name was Jane Anderson and asked when he returned to Leavenworth to look up Minnie Atkins; that when he returned to Leavenworth he was ill for some time but after Christmas made some inquiries and ascertained that Minnie Atkins was at Granny Letcher's and that he went there to see her in the spring of 1885 and delivered the message that Jane Anderson had given him at Memphis. That he saw her twice at Granny Letcher's and both times she was sitting down and saw her again in the summer when she had a baby in her arms; that she was on the street with Granny Letcher; that there was a veil over the baby's face, and he asked whose baby it was and she said it was hers; saw her again afterwards in the neighborhood of Fourth and Shawnee Streets when she had a baby by the hand.

W. P. GEMPEL (Rec., p. 3096):

Bookkeeper, Leavenworth Water Works Company; identifying witness of a contract for the installation of water at 215 Cherokee Street, made October 23, 1885.

MAX A. HARRIS (Rec., p. 3096):

Traveling salesman for a wholesale liquor house at Kansas City, Mo., lived in Leavenworth for a number of years and formerly ran a saloon at 215 Cherokee Street; when he leased the property it was in bad shape, no water had been installed, and he made a contract with the water works company to install the water in October, 1885.

LIZZY KAZEY (Rec., p. 3098):

Fifty-seven years of age, lived in Leavenworth since 1872; this witness is a negress and often went to the house of Granny Letcher when she lived on Cherokee Street and afterwards when she lived on Seneca Street, between Second and Third Streets; remembers seeing an Indian girl at the house on Seneca Street called Minnie Atkins—saw her there twice; unable to fix the time; that she had one child that in her opinion was two years old and it was called Tommy Atkins.

FRANK HEIS (Rec., p. 3110)

Seventy years of age; lived in Leavenworth, Kansas, continuously since 1868 and has been engaged in the marble, stone and granite business since 1873; in the early eighties was in partnership with one F. S. Burdett, and they had a five year contract for stone cutting at the Lansing prison which expired in 1884; that about the time of the expiration of the contract he and his partner began negotiations for the Schiller property on Choctaw Street; that these negotiations continued with Mrs. Schiller until the spring of 1885; that the negotiations with Mrs. Schiller failed and Mrs. Schiller moved out of the house and that Lillie White moved in and that Lillie White stayed in the house from the early spring of 1885 until some time in 1886.

PATRICK DELANEY (Rec., p. 3117):

An Irish policeman and fireman and has served in the police and fire departments of both Leavenworth and Kansas City, Missouri; fifty-three years of age, and lived in Leavenworth all of his life until twelve years ago; now employed as night watchman at the Kansas City Stock Yards; was on the police force in Leavenworth in 1894, was then off for about two years, went back in 1896, and was on the force in 1896, 1897 and 1898; went to the fire department in 1898 and was for three years Chief of the Leavenworth fire department. Knew a woman named Granny Letcher who lived on Seneca Street between Second and Third Streets, in Leavenworth, when he was on the police force in 1896 and 1897. Knew a boy around that neighborhood called Tommy Atkins who lived at Granny Letcher's and arrested him in either 1896 or 1897; that he was a tall, straight-haired boy, not fleshy, but a good sized boy, apparently about twelve years of age; very mischievous. That he arrested him on orders from the police chief and did not know what disposition was made of the charge against him; never knew a woman called "Indian Minnie," and knew nothing about the boy's parentage.

W. K. Cowling (Rec., p. 3131):

Fifty-seven years of age and resided at Leavenworth, Kansas, and a stone mason; worked for the firm of Burdett and Heis in the spring of 1885 on Choctaw Street; that next to Burdett and Heis' stone yard there was a house belonging to a Mrs. Schiller; that it was occupied as a sporting house by a woman named Lillie White, who moved into the house in the spring of 1885, about the time witness went to work for Burdett and Heis.

James M. Allen (Rec., p. 3139):

Born in Leavenworth, in 1852, and engaged most of his life in the railroad business as general agent of the Rock Island Railroad at Leavenworth; was superintendent and ticket agent at the Union Depot at Leavenworth in 1884 and 1885; knew a girl by the name of Indian Minnie in those days and saw her several times in a house run by Granny Letcher across the street from the Seneca House. Saw her with a baby in her arms two or three times at Granny Letcher's. The child, in his judgment, was about three or four months old. Does not definitely fix the year other than 1884 or 1885, but that it could not have been as late as 1886, as in that year he was not on the streets looking for passenger business as he had been in previous years and that he was on the road traveling most of the time.

Mattie E. Cobb (Rec., p. 3163):

Was a resident of Leavenworth, Kansas, for fourteen years and resided on Seneca street in the old Seneca House in 1885; her name at that time was Edwards and on April 20, 1885, she had a daughter born to her named Grace Edwards, who, at the time of her deposition, was residing in St. Louis, Mo.; knew "Indian Minnie," and she waited on her four days just before the birth of her child, Grace Edwards, and was at that time in a pregnant condition. That thereafter, about the last of May or the first of June, Indian Minnie had a child which was born at Grandmother Letcher's place; that she saw Indian Minnie and the baby several times during the five or six months after the child was born, did not know what became of Indian Minnie after that time; knew that Indian Minnie went back and forth between Leavenworth and the Fort.

Richard Nichols (Rec., p. 3254):

A negro, fifty-six years of age, and lives in Leavenworth, Kansas. This witness was called by the Government for the purpose of impeaching his deposition of October 7, 1914, in the case pending in the state court, but was offered by counsel for Minnie Atkins. The deposition contains no material evidence as to the facts in this case.

Charlie Anderson (Rec., p. 3273):

Fifty-seven years of age, resides in Leavenworth, Kansas; this witness was subpoenaed on behalf of the Government but his deposition was offered by counsel for Minnie Atkins; it was undoubtedly taken for the purpose of impeaching his testimony of October 7, 1914.

There is little in this testimony bearing upon the question at issue.

Theresa Swoboda (Rec., p. 3286):

Assistant bookkeeper and stenographer and in charge of the files of the Leavenworth Times; identifies copies of the issues of the Leavenworth Times of Wednesday, May 12, and of May 13th, 1886, introduced for the purpose of establishing the date of a cyclone and wind storm at Leavenworth in which thirty people were killed.

THOMAS HIGGINS (Rec., p. 3292):

Thirty-six years of age, a white man, born in Leavenworth, Kansas, in 1881, and lived there until he removed to Kansas City, Missouri, in 1905; went to work for McNally who ran a transfer line—went to work for him in 1896 or 1897—and worked for him off and on until about 1900; drove a one-horse delivery wagon for McNally until he was large enough to handle a team; knew a boy by the name of Thomas Atkins about eleven or twelve years of age who played in the alleys around Seneca and Third streets in Leavenworth at that time; that the boys called him "Texas Tommy" or something like that; does not remember seeing him after he left McNally's employ.

ALVA ADAMS (Rec., p. 3302):

Thirty-one years of age and resides at 2008 Bellevue Avenue, Kansas City, Mo., an intelligent well informed white man born in Leavenworth, Kansas, March 17, 1886, and resided there until 1898 or 1899; distinctly remembers Granny Letcher's place on Seneca street; between Second and

Third streets, and when a boy about ten years of age often played in that neighborhood; knew a boy with whom he often played by the name of Thomas Atkins and saw him for the last time about 1897 or 1898; witness was arrested about that time for a petty theft and served a short sentence in the county jail and then left Leavenworth. The boys in the neighborhood often played a game of war and referred to Tommy Atkins as "Indian Tommy" and he was also called "Trailer."' The Government cross examination of this witness only tended to strengthen his direct examination, as his answers to questions of detail as to his former life were direct and convincing.

ELOF A. CRILLEY (Rec., p. 3319):

Was born in Leavenworth, Kansas, March 20, 1880, and lived there until 1889; was away about one year and then returned to Leavenworth; his father was Geo. Crilley, who ran the livery barn; identifies the Letcher house, yard and surrounding; knew a boy that lived there by the name of Tommy, who was about six or seven years old when he first knew him in 1891 or 1892; also identified Walter Banks and Jim Mayo and Sam Nash as boys who lived at Granny Letcher's.

GEORGE CRILLEY (Rec., p. 3332):

Lives at Leavenworth and has lived there since June, 1870, and had engaged in the livery business most of the time. Started in business for himself July 24, 1878; March 15, 1880, went into business with Cranston and the business was conducted under the name of Crilley and Cranston for about twelve years; was also associated with a man named Roderick under the firm name of Roderick, Crilley and Cranston, who had a contract for hauling between Leavenworth and the Fort. The Crilley and Cranston barn was located during the eighties at 220-222 and 224 Seneca street, on the north side of the street; Granny Letcher lived right across the street in what was known as the Dotter property, which was a one time occupied by a woman who ran a sporting house, by the name of Lillie White. Granny Letcher moved into the house after Lillie White left. Granny Letcher moved into the house some time in 1885; witness is not positive of the exact time of the year; knew a girl named Indian Minnie about 1885 and often saw her around Granny Letchers's place; in July or August, 1885, or it may have been later in the year, saw Indian Minnie with a child, dressing and undressing it, o the back porch of Granny Letcher's house; often saw the boy as he was growing up and remembers him until he was six or seven years of age. Witness nicknamed him "Commodore"; fixed the date of the burning of the Crilley and Cranston livery barn as the morning of April 11th, 1890.

The cross examination of this witness, which occupied a great deal of time, was devoted largely to when Lillie White moved into and out of the Dotter house.

Dennis Jones (Rec., pp. 3372-3395-3434):

A negro lawyer, of Leavenworth, Kansas, sixty years of age, and has resided in Leavenworth since 1863. Was admitted to the practice of law in Kansas in 1892. From 1880 and up through the years 1885-86-87 was employed as a porter at the Continental hotel and as a special on the police force; was first employed on the police force as a special in 1884; was also employed as a special some time during the year 1885; knew Granny Letcher; knew her when she lived at 215 Cherokee street, and remembers when she moved from Cherokee street to the Dotter house on Seneca street, between Second and Third streets; knew the members of her family, her son, Jim Mayo, Sam Nash and Walter Banks; also remembers Indian Minnie and a boy called Tommy who was often around Granny Letcher's. This boy was enough Indian for a person observing to know that he was part Indian and part white; he had no characteristics or appearance of a negro; first remembers seeing Indian Minnie at Mrs. Letcher's on Cherokee street in the winter of 1884; knew her better in the spring of 1885 after Granny Letcher had moved from Cherokee street to Seneca street and saw her at Granny Letcher's in May, 1885, when she was in a family way, and afterwards heard that she gave birth to a child at Granny Letcher's; did not see the child himself for several months, but then did see Indian Minnie with a child in her arms; remembers the child as it grew up, and when he last saw the boy he was twelve or thirteen years old—may not have been quite that old but was quite a chunky boy. Saw Indian Minnie numerous times until about 1886 or 1887, when he lost track of her; identifies Minnie Folk, the defendant in this case, as the woman he knew as Indian Minnie, in Leavenworth, in 1884 and 1885.

The cross examination of this witness consumed all of the court's attention for one day and was directed to his relation, during the past few years, with the Gypsy Oil Company, Sadie James, Chas. Page, Betty Mann and Frank Long.

During the examination of this witness defendants' Exhibits "B-7", "B-8" and "B-9" were introduced, being a contract between Dennis Jones and the Gypsy Oil Company and correspondence between Dennis Jones and officers of the Gypsy Company.

JOHN COUCH (Rec., p. 3480):

Knew Minnie Atkins when she came to Muskogee some time about 1895; became intimate with her and took a trip with her from Muskogee, Indian Territory, to Denver, Colorado, in 1897; went through Kansas City, and they were in the old

Union station at Kansas City for about two hours before taking a train to Denver; was with Minnie during the time they were in Kansas City and never saw Sadie James; that Minnie remained in the station and that witness was not out of her presence to exceed thirty minutes when he went across Union avenue to a barber shop. This trip was in August, 1897, and after reaching Denver he went with Minnie to Fort Logan where she stayed for some time.

F. B. Long (Rec., p. 3497):

Agent of the defendant, Chas. Page, and instrumental in securing the oil and gas lease from Minnie Folk, nee Atkins, in June, 1914. Testified in detail as to his activity in behalf of his principal, his visit to Minnie Folk at Seattle in 1914 and his connection with Betty Mann and Sadie James, his investigation of the Henry Carter claim and his efforts to secure reliable information in connection with the identity of the enrolled and allotted Thomas Atkins.

Edward C. Funk (Rec., p. 3653):

An employee in the office of the Superintendent of the Five Civilized Tribes; was called as a witness for the purpose of identifying the handwriting of certain notations on the Thomas Atkins census card.

J. C. **Kennedy** (Rec., p. 3567):

An employee in the office of the Superintendent of the Five Civilized Tribes; called for the purpose of identifying the handwriting of certain notations on the Thomas Atkins census card.

W. H. **Angell** (Rec., p. 3659):

Employee in the office of the Superintendent to the Five Civilized Tribes; called as a witness for the purpose of identifying the letter press copy of a letter from the Commission to the Five Civilized Tribes transmitting to the Secretary of the Interior the partial roll of Creek Indians containing the name of Thomas Atkins.

(Note: It was admitted by counsel for the Government that the original letter, or judgment, of the Dawes Commission finding Thomas Atkins entitled to enróllment was signed by Tams Bixby as well as other members of the Dawes Commission.) (Rec., p. 3689.)

Thomas E. Kirkbride (Rec., p. 3661):

Introduced as a witness by the defendants Folk and Page to refute statements made by Betty Mann in reference to an alleged conspiracy.

D. M. **Hodge** (Rec., p. 3663):

Member of the Creek Council in 1895; testified as to proceedings of the Creek Council in the preparation of the 1895 pay roll; also as to the Dawes Commission proceedings at Okmulgee in May, 1901.

R. A. JOSEY (Rec., p. 3666):

Formerly stockholder and officer of the Gem Oil Company, and interested with the defendant, Chas. Page, in the oil and gas lease of June, 1914, from the defendant, Minnie Folk; testified as to his relations with the defendant, Chas. Page, and transactions with F. B. Long in reference to the oil and gas lease.

BEN COUCH (Rec., p. 3678):

Brother of the witness John Couch; first became acquainted with Minnie Atkins in 1894 or 1895; corroborative of the testimony of his brother, John Couch, as to when Minnie Atkins left Indian Territory.

SAMUEL W. BROWN (Rec., p. 3682):

Town King of Euchee Town in 1895; testified as to being present at the 1895 payment and as to Minnie Atkins drawing for herself and three children and as to witness drawing the payment for Ed. Schrimpser and Nancy Atkins. Never heard of Nancy Atkins having a boy by the name of Tommy. On cross examination was interrogated as to his testimony in the state court case at Sapulpa in 1914 and as to payment to Minnie Atkins of the 1895 payment for E. Schrimpser and Nancy Atkins.

Edward C. Hanford (Rec., p. 3026-3689-3737-3820):

One of the defendants, and counsel for the defendant, Minnie Folk nee Atkins. Had no personal knowledge of the facts in reference to the birth of a Thomas Atkins to either Minnie Atkins or Nancy Atkins; first became connected with the litigation in June, 1914, through Captain Alexander J. McNabb at Fort Lawton, Seattle; testified in detail as to incidents in connection with business transactions with the defendant, Minnie Folk, nee Atkins, and Page and Long. He was cross examined at great length, especially in connection with the visit of Frank L. Montgomery, Government agent, to Minnie Folk in December, 1914, and Minnie Folk's alleged confession.

J. H. Wendorff (Rec., p. 3734-3736):

Stance Meyers (Rec., p. 3735-3769):

O. B. Taylor, Jr. (Rec., p. 3736-3770):

These three witnesses were residents of Leavenworth, Kansas, being the District Judge of Leavenworth County, member of the State Board of Control of Kansas, and cashier of the First National Bank of Leavenworth, respectively. They testified to having been personally well acquainted with Dennis Jones, a Leavenworth attorney, for from twenty-five to thirty years, and that he bore a good reputation for truth and veracity.

Alexander J. McNabb, Jr. (Rec., p. 3832):

Captain in the United States Army, stationed at Fort Lawton, Seattle, Washington, and trustee of the defendant, Minnie Folk, nee Atkins, under the trust deed of June, 1914. The testimony of this witness is confined to his transactions with parties desiring to secure a deed or lease from Minnie Folk and to the various visits of parties to him and Mrs. Folk.

Catherine Sisk McComb (Rec., p. 3852):

Wife of Lieutenant J. G. McComb of the United States Army stationed at Fort Lawton, Seattle, Washington; testified that the defendant Minnie Folk was at various times in her employ as a domestic at Fort Lawton; that after parties first began coming to Minnie Folk to secure a deed or lease from her in 1914, she (Minnie Folk) came to witness for advice and told witness of her previous life and that Minnie Folk confided to her in these conversations that she had been the mother of five children before her marriage to her husband, Harry B. Folk, and that her first child was named Tommy and was born at Leavenworth, Kansas.

Eugenola Hunt (Rec., p. 3865):

Stenographer in the law office of Dennis Jones, at Leavenworth; testified as to conversation had between Dennis Jones, Sadie James and

Betty Mann at Dennis Jones' office in the months of March, April and May, 1914.

GRANT FOREMAN (Rec., p. 3870):

Attorney at law, Muskogee, Oklahoma; former law partner of Judge John R. Thomas in 1903, 1904 and 1905. Offered as a witness by the defendants, Folk and Page, for the purpose of identifying the Thomas Atkikns referred to by Judge John R. Thomas as being a relative of Cheney Trent, as noted upon the deed delivery record in the office of the Principal Chief of the Creek Nation.

CHAS. PAGE (Rec., pp. 3876-3897):

One of the defendants in this case and the present owner and holder of the oil and gas mining lease of June, 1914, from the defendant, Minnie Folk. Testified as to his interest in securing the lease and as to development of the property and his good faith; that he had delegated most of the details in connecction with the lease to his agent, F. B. Long; also testified as to his former joint ownership of the lease with R. A. Josey and his purchase of Mr. Josey's interest. On cross examination was interrogated as to his transaction with Sadie James and Betty Mann.

MINNIE FOLK (NEE ATKINS) (Rec., p. 3910):

Principal defendant in this action; testified that she was born on Elk Creek in the Creek Nation, Indian Territory, and that she is the daughter of Thomas Atkins and Mary Jane Atkins; that she had one brother, Lee Atkins, who is now dead, and a sister, Nancy Atkins, who is now living; that she went to school at Tallahassee mission, north of Muskogee, and that she was taken from there to the Carlisle School in Pennsylvania with Betty Crowell (now Betty Mann) and a number of other Indians; that she was sent from Carlisle to Leavenworth, Kansas, as a domestic in the household of a banker named George H. Hyde; that she was never in a pregnant condition before going to Leavenworth; that while working at Hydes' she became intimate with a man named Lee who was the coachman of one of the officers at Fort Leavenworth; that while employed at the Hydes' she became pregnant and that Lee got her a place near the Fort in the home of Herbert Grodevant; that she worked at the Grodevant's as long as she could, endeavoring to hide her condition, and went to Granny Letcher's house in order to have the child; that she was sick at Granny Letcher's house about two or three weeks; that the child was born to her there; that she named the child Tommy Atkins after her father and that as soon as she was able she went back to the Grodevant house and resumed her work as a domestic; that it was her custom to come down from the Fort to the City of Leavenworth every night and go to Granny Letcher's to look after her child; that she made an arrangement with Granny Letcher to give all she possibly could afford to the support of the child, but that Granny Letcher advised her that she would take care of it anyhow. Witness then detailed her subsequent life—the birth of Robert Lee Peterkin in Leavenworth; the birth of Alice Peterkin; the birth of Charley Harrison and the birth of Harvey Harrison; testified that these were all the children she ever had and that Tommy Atkins, born at Granny Letcher's house was the first child. She testified as to being present at the 1895 payment at Okmulgee in September of that year; that when she went to the paymaster's table and "There was some man sitting there, but I don't know who he was. I says, 'let me see the books,' and he just shoved the book over to me and I looked and there was five of us on the book to draw and that was myself and Tommy and Harvey and Charley and Alice. 'Well,' I say, 'Alice is dead. I couldn't draw for her.' Well, he give me the money for the four of us. That was Charley, Harvey, myself and Thomas. It was about $57.00 I think."

She further testified as to her return to Fort Logan after the 1895 payment and as to John Couch going with her and as to their remaining in Kansas City but a few hours.

The remainder of her direct examination was devoted to a recital of the various visits of Government officers, detectives and parties seeking to secure a deed or lease from her to the land in controversy; of her desire to withhold from her husband the history of her past life and of the indignities and humiliations to which she was subjected.

She was cross-examined at great length and particularly as to her conflicting statements made at previous times in reference to the birth of her children and, for the purpose of impeaching her testimony; counsel for the government and for the defendant Nancy Atkins examined her at length and introduced in evidence her testimony given at Sapulpa in July, 1914; her deposition at Rice and Lyons' office in Tulsa in October, 1914, a sworn statement made by her in response to interrogatories at Kansas City, Missouri, in September, 1914; her testimony at the receivership hearing at Muskogee on March 3d, 1915, and her deposition at Seattle, Washington, in January, 1916. She was also further cross-examined in connection with the alleged confession made by her to Frank L. Montgomery, the Government agent, at Seattle, Washington, December 17, 1914.

George Kinney (Rec., p. 4158):

An employe of the defendant, Chas. Page, and in charge of operations upon the property in controversy since November, 1914. Testified as to the construction of tankage and expenditures in connection with the development of the lease.

Harry B. Folk (Rec., p. 4163):

Husband of the defendant, Minnie Folk, married to her March 31st, 1907; introduced on behalf of the defendants, Folk and Page, as a witness to conversations had between Minnie Folk and various parties in his presence. Upon the complainant objecting to his testifying in behalf of his wife, he was excused.

E. O. Curtis (Rec., p.4169):

Auditor in the employ of the defendant Chas. Page; testified as to the expenditures in connection with the development of the leased property and the marketing of the oil produced therefrom. He also testified from the books and records of his employer as to detailed expenditures in connection with the lease. (During this witness' testimony, defendants' Exhibits "B-21," check for $500.00 from the Gem Oil Company to Minnie Folk. "B-22," financial statements of the Atkins lease to December 17, 1914, and to January 18, 1915, were introduced).

Mike Stanton (Rec., p. 4175):

This was a witness produced on behalf of the complainant but his deposition was offered in evidence by counsel for the defendants Folk and Page. He testified that he lived in and around Leavenworth, Kansas, for fifty-seven years and moved from town out to the fort in 1869 or 1870 and before moving there knew two women around Leavenworth, one called "Indian Mary" and the other called "Indian Minnie"; that after he moved to the reservation in 1870 he saw Indian Minnie around the Fort and understood she was employed there; that when he first became acquainted with Indian Minnie, 1868, she was 17 or 18 years old.

THOMAS HUMPHREY (Rec., p. 4458):

Formerly an employe in the office of the Superintendent to the Five Civilized Tribes; identified defendants' Exhibit "B-25" as a certified copy of the Thomas Atkins census card issued by him April 2, 1912, as a correct copy of the original then on file.

ROBERT L. BAUGH (Rec., p. 4553):

Went to work in the office of the Superintendent to the Five Civilized Tribes October 19th, 1913, and was employed there until some time in the early spring of 1914; identified the lead pencil notations up on the face of the Thomas Atkins census card in reference to the letter of May 9, 1905, as being in his handwriting and placed thereon subsequent to October 19, 1913.

C. LIPSCOMB (Rec., p. 4612):

Formerly engaged in the banking business at Bixby, Oklahoma; resident of Tulsa, Oklahoma; introduced by the defendants, Minnie Folk and

Chas. Page as a witness in rebuttal of the testimony of the Government's witness, C. B. Malcom. Testified that Malcom told him a few days before Malcom testified at Muskogee that he had a chance to make $500.00 as a witness in the Atkins case but that he (Malcom) "thought it was too risky."

F. K. TAYLOR (Rec., p. 4616):

Several terms police judge of Leavenworth, Kansas; testified as to custom of police department of Leavenworth in "picking up" parties on request of state or county officials.

WILLIAM A. DOIDGE (Rec., p. 4620):

Captain of police, Leavenworth, Kansas, and been employed on the police force since February 4, 1897; well acquainted with Patrick Delaney when he was on the police force; testified as to custom of police department in making entries for arrests made at the request of county or state officers; identified defendants' Exhibit "B-27" as a picture of Tommy York.

LEE BOND (Rec., pp. 4389, 4632):

Of counsel for the defendant Charles Page; practicing attorney and United States Commissioner, Leavenworth, Kansas; formerly police judge, Leavenworth, Kansas. Identified the witness Doidge as a member of the Leavenworth police force when witness was police judge.

Dr. F. B. Fite (Rec., p. 4647):

Practicing physician of Muskogee, Oklahoma; qualified as an expert witness and testified that condition found in the defendant, Minnie Folk, at the time of the delivery of the Peterkin baby in July, 1886, as testified to by Dr. C. R. Carpenter, could have been caused by and clearly indicated the birth of a previous child.

The Evidence Against Minnie Atkins

Richard Shanafelt (Rec., pp. 151-176):

Clerk in the Land Division in the office of the Superintendent to the Five Civilized Tribes; identified Government's Exhibits "A-1" to "A-23," records in reference to enrollment of and allotment to Thomas Atkins, Creek Indian Roll No. 7913; issuance of certificate of allotment deeds and correspondence relative to Thomas Atkins. During the testimony of this witness Government's Exhibits "A-24" to "A-30" were also introduced, consisting of correspondence between the Creek National Attorney, the Superintendent to the Five Civilized Tribes and the Commissioner of Indian Affairs relative to proceedings to cancel the enrollment and allotment of Thomas Atkins, action taken by the Department of the Interior in connection with the cancellation of the enrollment and allotment of Thomas Atkins, and copies of the 1890 and 1895 Creek Rolls in reference to the tribal enrollment of Thomas Atkins.

J. F. **Bruff** (Rec., p. 173):

Testified as to search in office of Superintendent to Five Civilized Tribes for deeds or patents to Thomas Atkins.

R. C. **Allen** (Rec., pp. 177-442-4640):

Creek National Attorney; testified in reference to discovery of deeds to Thomas Atkins and correspondence with Interior Department.

W. H. **Angell** (Rec., p. 178):

Clerk in charge of the allotment records in the office of the Superintendent of the Five Civilized Tribes; testified in reference to the withholding of delivery of deeds to Thomas Atkins and as to what constituted "hold up" records.

P. B. **Hopkins** (Rec., p. 182- -recalled p. 213):

Chief Clerk, Commission to the Five Civilized Tribes, fall of 1897 until spring 1903. Testified in reference to the procedure of the Commission to the Five Civilized Tribes, particularly concerning the enrollment work at Okmulgee in May, 1901. During the examination of this witness Government's Exhibit "A-31," census card of Charley and Harvey Harrison, the two youngest children of Minnie Folk (nee Atkins), was introduced.

Samuel W. Brown (Rec., p. 214):

Euchee Indian, Town King of Euchee Town in 1895. Testified as to manner of preparing the rolls of Euchee Town in 1890 and 1895. Knew Minnie Atkins and that John Davis, in March, 1895, gave to witness, as Town King of Euchee Town, the names of Ed. Schrimsher, Minnie Atkins, Charles Atkins, Susan Atkins, Thomas Atkins, Mary Atkins and Nancy Atkins, as members of Euchee Town entitled to participate in the 1895 payment. During the testimony of this witness the original memorandum book of the witness containing the above names was offered by the defendants Folk, et al., as Exhibit "B-1."

Noah Gregory (Rec., p. 233):

Euchee Indian, Town King of Euchee Town in 1890; testified as to the preparation of the 1890 Creek roll and as to proceedings of Dawes Commission at Okmulgee in May, 1901.

John G. Lieber (Rec., pp. 253-258):

Employe of Dawes Commission in May, 1901; testified as to procedure of enrollment of Creek citizens, and particularly in connection with sessions of the Commission at Okmulgee in May, 1901.

Tams Bixby (Rec., pp. 266-4645):

Chairman of the Dawes Commission and subsequently Commissioner to the Five Civilized

Tribes May 22, 1897, to July 1, 1907. Detailed manner of procuring tribal rolls from Creek Tribal authorities; procedure of Dawes Commission in reference to enrollment of Creek citizens and manner of enrolling "unaccounted for" Creeks at Okmulgee in May, 1901. At the conclusion of this witness' testimony-in-chief, Government's Exhibits "A-33" to "A-57," inclusive, were introduced, consisting of the records of the Dawes Commission relative to the enrollment of Charley and Harvey Harrison; power of attorney from Minnie Harrison to Thomas Holden, incomplete census card of Minnie Harris, proceedings in reference to the application for enrollment of Minnie Atkins, census card of Nancy Atkins, application of Nancy Atkins for an allotment, and correspondence between Nancy Atkins and the Dawes Commission.

EDWARD MERRICK (Rec., p. 3451):

Law clerk in the employ of the office of the Superintendent to the Five Civilized Tribes; employed by Dawes Commission March 4, 1901; been continuously in the employ of the Dawes Commission and its successors since that date with the exception of a few months in 1909 and 1910. Was enrolling clerk who listed the name of Thomas Atkins on the census card (Government's Exhibit "A-1") at Okmulgee on May 23, 1901. Testified as to the procedure of the Dawes Commission and incidents in connection with the placing of the name of

Thomas Atkins on the census card at Okmulgee and his subsequent enrollment by the Dawes Commission and approval by the Secretary of the Interior; that he procured the information and made entry on the census card that Minnie Atkins was the mother of Thomas Atkins from the testimony or information secured either by him or some member or employee of the Commission extraneous of the Creek Tribal rolls.

On cross-examination by Mr. Stuart, of counsel

for Page, this witness testified as follows:

"Q. This card lists Thomas Atkins here as the son of Minnie Atkins, don't it?

A. Yes, sir.

Q. Minnie Atkins, the census card listed him as Thomas Atkins, age, parentage, mother, Minnie Atkins?

A. Minnie Atkins, 1895, Euchee.

Q. Now, at the time you wrote out that card as Thomas Atkins and mother Minnie Atkins of the Euchee tribe, you intended to enroll Thomas Atkins the son of Minnie Atkins, didn't you?

MR. HILL: We object.

THE COURT: He may answer.

Q. You intended to enroll Tommy as the son of Minnie Atkins, didn't you, as it appears there?

A. Well, as it appears, Minnie Atkins being given as the mother, but primarily the Tommy Atkins is the one that appears on the Euchee Roll No. 213.

Q. I understand, but you put Thomas Atkins' name on there?

A. Yes, sir.

Q. And you put Minnie Atkins as the mother of Tommy?

A. That is the information given.

Q. From that information you intended to put Thomas Atkins up to the Dawes Commission as the son of Minnie?

A. That was the conclusion we arrived at from the information the Commission had, that Thomas Atkins was the son of Minnie."

Alice M. Robertson (Rec., p. 290; recalled p. 298):

Came to Tallahassee mission, an Indian school north of Muskogee, in March, 1879, and found the defendant, Minnie Folk, nee Atkins, a pupil in the school; that she was an over-grown girl who might have been anywhere from fourteen to twenty years of age; that Minnie Atkins, in company with some twenty-five other students, were transferred in January, 1881, from Tallahasssee mission to Carlisle Indian school, Carlisle, Pennsylvania; that the witness went with Minnie Atkins to Carlisle and that witness remained there until November 15, 1882, and that she was in daily contact with Minnie

Atkins at Carlisle until witness left there and that she was under strict supervision at that time; witness again saw Minnie Atkins in Muskogee in 1895; saw her again at Fort Lawton, near Seattle, Washington, in 1914. This witness identified Minnie Folk as the Minnie Atkins who was at Tallahassee mission in 1879 and 1880, at Carlisle Indian school in 1881 and 1882, who visited her in Muskogee, Indian Territory, in 1895, and as the person she interviewed in Seattle, Washington, in July, 1914, at the solicitation of the Gypsy Oil Company.

THOMAS W. GREEN (Rec., p. 313):

This witness was introduced by the Government and testified as to the physical characteristics of the land in controversy and as to the possession thereof since January 25, 1913. During this witness' testimony Government's Exhibits "A-58" to "A-77," inclusive, being certified copies of instruments of record in Creek County, Oklahoma, sought to be cancelled by the Government's bill, were offered by the complainant.

NELLIE ROBERTSON DENNY (Rec., p. 328):

Employe at Carlisle Indian school, Carlisle, Pennsylvania, identified records of that institution showing entrance of Minnie Atkins into Carlisle, January 21, 1881; her discharge from that institution, July 8, 1884. Also identified post-card from

George H. Hyde postmarked Leavenworth, Kansas, July 12, 1884, advising the Superintendent of Carlisle Indian school of the arrival of Minnie Atkins in Leavenworth, Kansas, July 11, 1884. Also identified letter of March 1, 1913, from Micco Harjo, addressed to the Superintendent at Carlisle school, in reference to Minnie Atkins.

Will H. Miller (Rec., p. 338):

Financial clerk at Carlisle Indian school, identified records from which Nellie Robertson Denny testified.

Laura E. Hyde (Rec., p. 341):

Wife of George H. Hyde, cashier of the German bank of Leavenworth, Kansas, in 1884 and 1885; witness now living at Pittsfield, Massachusetts, and sixty-eight years of age; she testified that Minnie Atkins was sent to her home in Leavenworth by her husband's sister who was a teacher in Carlisle Indian school, 1884; that Minnie Atkins came to work for her in the summer of 1884 as a domestic and was in her employ a few months; that at the time she appeared to be a well developed woman of about eighteen years; that while she was in the witness' employ witness' children had noticed a soldier coming up behind their fence and that he would dodge away when the children saw him; that at no time while Minnie Atkins was in her employ did she appear to be in a pregnant condition and that witness regarded her as a good girl. On cross-examination witness' attention was called to an item in the issue of the Leavenworth Times of July 16, 1884, in reference to her having gone to Yankton, Dakota, on a visit; that she remembered the trip and that she was in Dakota for some time, especially during the hot weather; she specifically testified:

> "Q. Did you ever hear of her having given birth to any children?
>
> A. Yes, I have heard.
>
> Q. What did you hear, Mrs. Hyde, about Minnie giving birth?
>
> A. Yes, I heard she had had a child and that she was a very unnatural mother—she did not love it."

Claudius A. Hamilton (Rec., p. 347):

A resident of Leavenworth, Kansas, from 1883 to 1889; married October 2, 1883, to Mary Spain, and resided after their marriage at 922 Kiowa street; knew there was an Indian woman around Leavenworth before his marriage whose name was Minnie Atkins; first became acquainted with her the year following his marriage, some time in 1884; that she came to see witness' wife who told him she was an Indian girl from Carlisle and that she was working for Mrs. Hyde, the banker's wife; that witness understood she worked for the Hydes about six months and that she left there and went to work at Fort Leavenworth; that Herb Gradevant told witness that Minnie Atkins was working for him; that after Minnie left the Hydes' witness saw her frequently at his home; that he noticed Minnie being in a pregnant condition and took exception to her coming to his home; that she discontinued her visits until her trouble had passed away and that she then resumed her visits and brought a man by the name of Peterkin to witness' home and introduced him as her husband and that afterwards Minnie and Peterkin visited his home; that witness understood that when Peterkin left Fort Leavenworth with the 18th Infantry, Minnie went with him and witness later saw them when they were living together at Fort Logan, Colorado; that witness never saw Minnie pregnant but once during the time that she lived in Leavenworth. On cross-examination witness testified that Minnie did not show any state of pregnancy until after she left the Hydes but was unable to state the length of time; that he learned of Minnie working for Herbert Gradevant when he and Gradevant were employed in the construction of Fort McKenzie in Wyoming in 1901. He was specifically asked:

"Q. * * * About how long was it from the first time that you saw Minnie at Leavenworth until the time that you last saw her before leaving for Fort Logan?

A. I first saw her in the fall of eighty-five—eighty-four, and I think the last time, to the best of my knowledge and belief, I seen her in eighty-seven."

Mary Spain Hamilton (Rec., p. 360):

The wife of Claudius A. Hamilton, was the superintendent of the laundry at Carlisle school before her marriage to Hamilton October 2, 1883, and knew the defendant Minnie Atkins while she was a pupil at Carlisle; that witness left Carlisle some time before her marriage in 1883. Witness saw Minnie Atkins two or three times in Leavenworth while she was working for the Hydes. That she left the Hydes and went to work at Fort Leavenworth and came to witness at that time and borrowed a dollar from her for which she left a small pin. That while she was employed at the Hydes' she showed no evidence of being in a family way but that she did notice her being pregnant after she moved to the Fort; that she is uncertain as to the time but that it was within two years after she left the Hydes; that when this condition was apparent witness' husband remonstrated about Minnie coming to the house; that Minnie stayed away for a while until she was in a normal condition and she then brought a man by the name of Peterkin to witness' house whom she introduced as her husband, that she afterward saw Minnie at Fort Logan, Colorado, and knew of her having a baby there by Peterkin, named "Mabel," that died, and two children (boys) by a butcher named Harrison. On cross-examination witness admitted she noticed

Minnie's condition some time before her husband's suspicions were aroused. That she was unable to state how long after Minnie went to work at the Fort she was in this condition, but it was in a period of about two years. Witness was unable to fix with accuracy the time she saw Minnie pregnant after she came to her house and borrowed a dollar.

During the examination of this witness the pin left by Minnie with the witness was introduced as Government's Exhibit "A-78."

JULIA GRODEVANT FOY (Rec., p. 382):

Resident of Sheridan, Wyoming, and is the daughter of Herbert D. Grodevant who died November 1, 1908. Witness lived with her parents in Leavenworth, Kansas, and personally knew of her father's methodical habits; that he kept a record of daily expenditures in small notebooks; identified entries in her father's handwriting in one of these books covering the period from October 1, 1884, to October 1, 1885.

(The Grodevant book was introduced during the witness' deposition as Government's exhibit 1 to her deposition. At the conclusion of this witness' testimony, Government's exhibit "A-79" to "A-81," inclusive, a plat of the Grodevant house and the military prison at Fort Leavenworth, a photograph of the Grodevant house at Fort Leavenworth, showing the kitchen, were introduced.)

Frank J. Grodevant (Rec., pp. 388-397):

A brother of Herbert D. Grodevant and lived with him from February 18, 1884, until November, 1887; testified that in 1884 and 1885 his brother was living back of the military prison at Fort Leavenworth; that he became acquainted with an Indian woman named Minnie Atkins who first went to work for his brother in 1884; witness fixes this date by reference to the account book of Herbert D. Grodevant which he identified and also identified the handwriting as that of his deceased brother. That Minnie Atkins was employed by his brother as a domestic, washed and did general housework; that to witness' knowledge Minnie Atkins never gave birth to any child while she was in his brother's employ and that during that time she did not have the appearance of being in a family way; that after she left the employ of his brother she went to work for the Staffords and that he never saw her in a pregnant condition while there.

On cross-examination witness admitted that he was a single man, living with his brother—worked in town and would leave early in the morning and come home late in the evening; that he never paid any particular attention to the domestics employed by his brother; that he never had any occasion to notice Minnie Atkins; that she might have been away from his brother's house two or three weeks and that witness would not have had occasion to notice it; that he remembered a white girl named Maggie Curry working for his brother at different times.

MARGARET NORTON (Rec., p. 407):

Daughter of Mrs. Margaret Diffley, or Mrs. Charles Woods; testified that she first became acquainted with Minnie Atkins when she was working at Grodevants; afterwards knew of her working for the Staffords and that Minnie came to her mother's house to live in 1886 and she gave her name as Minnie Peterkin; that there was a man living with her at that time as her husband under the name of Charles Peterkin and that in the latter part of the Month of July, 1886, Minnie Peterkin gave birth to a child named Robert Lee Peterkin; that this child was born at her mother's house, 815 North Eighth Street, Leavenworth, and only lived from four to six weeks; that she never knew of Minnie Peterkin having any former child.

CHARLES PETERKIN (Rec., p. 420):

Retired soldier, U. S. Army, fifty-six years old; was in the army from April 2, 1881, to April 21, 1908, was with Company E, of the 18th Infantry, when he went to Fort Leavenworth until the fall of 1887; first saw Minnie Atkins in 1885 when she was working at the Fort. Didn't know her intimately until she began working for Stafford;

met her and became intimate with her in January, 1886; knew that before he became intimate with her she had been living with a private of the 18th Infantry by the name of Wm. D. (Patrick) Oliver; discovered soon after he became acquainted with her that she was three or four months in a family way; continued to live in Leavenworth with Minnie Atkins until the fall of 1887 when he was transferred to Fort Logan, Colorado; that Minnie came to Fort Logan in the spring of 1888 and continued to live with him until the fall of 1889; that he never heard of Minnie having any child prior to the birth of Robert Lee Peterkin, in July or August, 1886; that her second child, Mabel Peterkin, was born at Fort Logan, Colorado, in the summer of 1888.

On cross-examination witness testified that Robert Lee Peterkin was born at Mrs. Woods' house on North Eighth Street, in Leavenworth, and that Dr. Carpenter was the attending physician at the birth of this child and that Minnie had been living at the Woods' house five or six weeks prior thereto. On redirect examination testified that he never heard of such a person as Granny Letcher nor ever knew Minnie being a visitor to the home of any negroes in Leavenworth.

JOHN P. HESSE (Rec., p. 441):

Chief of Division in Adjutant General's office, Washington, D. C.; fixes, from Government records, date of discharge of Wm. D. Oliver from Company E, 18th Infantry, Fort Leavenworth, as December 18, 1885.

J. L. **Bruff** (Rec., p 442):

Testified that a search of the records of the Pension Office, at Washington, D. C., disclosed an application for a pension by the widow of Wm. D. Oliver.

Mrs. John (Cornelia G.) **Stafford** (Rec., p. 444):

Wife of Major John Stafford, retired, U. S. Army; married to Lieut. John Stafford July 8, 1885; lived with her husband at Fort Leavenworth in 1885 and 1886; first became acquainted with Minnie Atkins in September or October, 1885, when Minnie began working for her as a domestic and was continued in her employ until the following June when she left on account of the prospective birth of a child. Never knew or heard of her (Minnie) having a child prior to her employment by witness.

On cross-examination testified that she was not interested in Minnie at the time and that Minnie was away from the house a great deal of the time

Major John Stafford (Rec., p. 450):

Retired U. S. Army officer, husband of Cornelia G. Stafford, and corroborated her testimony as to employment of Minnie Atkins in September or October, 1885.

Mary Catherine Allen (Rec., p. 462):

Forty-eight years old and a resident of Leavenworth, Kansas. Daughter of Mrs. Charles Woods; had been living in Jackson County, Kansas, some fifteen or sixteen years prior to her return to Leavenworth on August 3, 1886, when she went to her mother's home at the corner of Eighth and Kickapoo Streets, and found Minnie Atkins there with a baby about four days old; that this baby was named Robert Lee Peterkin and died about two weeks after she first saw it; that a colored woman washed, dressed and prepared the baby for burial and went with Minnie in a hack to the cemetery.

Father Bernard Stephen Kelley (Rec., p. 473):

Parish priest, Leavenworth, Kansas, fixed the date of birth of Robert Lee Peterkin as July 31, 1886, and date of baptism as August 15, 1886, from the parish records.

J. J. O'Donnell (Rec., p. 476):

Engaged in the undertaking business in Leavenworth in 1886; fixed August 16, 1886, as the date of furnishing coffin for Robert Lee Peterkin.

A. L. SCHOTT (Rec., p. 478):

Superintendent Mt. Muncie Cemetery, Leavenworth, Kansas, 1886. Fixed date of burial of Robert Lee Peterkin as August 16, 1886, from cemetery records.

SISTER MARY GERTRUDE (Rec., p. 480):

Secretary, St. John's hospital, Leavenworth, Kansas; fixed October 7, 1886, as date of entrance of Minnie Peterkin (Atkins) as a patient at St. John's hospital.

ELMO E. MATTHEWS (Rec., p. 483):

Sergeant, Hospital Corps, Fort Logan, Colorado, fixed August 4, 1888, as date of birth of Nancy Peterkin, from hospital records.

EDWARD L. BATTERSON (Rec., pp. 487-492):

Quartermaster Sergeant, U. S. Army, Fort Logan, Colorado; fixed date of death of Mabel (Nancy) Peterkin as June 28, 1889, from post records.

GEORGE F. CAIN (Rec., p. 394):

Retired soldier, U. S. Army; corroborative of Batterson's testimony as to date of death of Mabel Peterkin.

Mary Land (Rec., p. 496):

Resident of Fort Logan, Colorado; knew Minnie Peterkin (Atkins) at Fort Logan, Colorado; knew her having three children, two boys and a girl; that she lived with a butcher by the name of Harrison at Logantown; never knew of Minnie having a child named Thomas Atkins.

James O'Connor (Rec., p. 499):

Retired Commissary Sergeant, U. S. Army, stationed at Fort Logan, Colorado, March 19, 1889, to December 20, 1890; in the spring of 1889 became acquainted with an Indian woman by the name of Minnie, who was living with two men at Sheridan when he knew her; one named Cunningham and the other named Harrison; knew of her having one child at Fort Logan and saw two children running around back of Harrison's butcher shop; never heard of Thomas Atkins.

Mary Jensen (Rec., p. 506):

Fifty-seven years of age, resident of Sheridan (Logantown), Colorado; first knew Minnie Peterkin (Atkins) when she came to Fort Logan in the latter part of 1887 or early part of 1888; knew of the birth of Mabel Peterkin and her death in 1889, when she was about a year old; that Minnie Peterkin had two boys born after Mabel Peterkin when she was living with a butcher by the name of Harrison.

Sadie James (Rec., p. 510):

The deposition of this witness covers 542 pages of the record and occupied eight days of the time of the Court's examiner at Kansas City. She testified that she was forty-six years of age; became acquainted with Minnie Atkins in Leavenworth on July 14, 1884, and knew her in and around Leavenworth until she (Minnie) left there in the fall of 1886 or spring of 1887, and never knew of her having a child named Thomas Atkins. These are the only concrete facts in reference to the birth and existence of Thomas Atkins that the witness testified to. The remainder of her deposition is in reference to her various transactions with parties interested in securing title to the land in controversy. She made a so-called confession to a Government officer, on the guaranty of immunity from prosecution, that she was a party to a conspiracy to probe the birth and existence of a Thomas Atkins, the son of Minnie Atkins. She is a negress; she admits to living a life of dissolution and crime; that she has always been a crook and would do anything for money.

Sarah E. (Betty) Mann (Rec., p. 1052):

Creek Indian, about fifty years of age, and went to school with Minnie Atkins at Tallahassee, and was one of the pupils that went with Minnie Atkins to Carlisle in 1881. Had no personal knowledge of Minnie Atkins from the time Minnie left Carlisle in 1884 until witness saw her in Seattle, Washington, in June, 1914. Identified Minnie Folk, nee Atkins, the defendant in this case, as the same Minnie Atkins that she knew at Tallahassee, Indian Territory, and Carlisle, Pennsylvania.

The testimony of this witness is mainly directed to transactions in connection with the activity of the litigants in this case, and she was introduced as a witness by the Government in support of the fabrication theory. She admits to duplicity in dealings with the parties she assumed to represent and confesses to numerous criminal and shady transactions to which she had been a party.

J. B. WHITE (Rec., p. 1104):

One of the defendants in this action who was instrumental in procuring the first lease from the defendant, Nancy Atkins, offered as a witness by the Government to establish the testimony and appearance of the defendant, Minnie Folk, Sapulpa, in July, 1914.

WILLIAM A. CRANSTON (Rec., p. 1110):

Engaged in the livery business at Leavenworth, Kansas, and fixed September 12, 1914, from his books as the date F. B. Long, agent of the defendant, Chas. Page, hired a horse and buggy at his barn.

O. GIACOMINI (Rec., p. 1113):

Proprietor of National Hotel, Leavenworth, Kansas; testified from register of hotel that F. B. Long was a guest of the hotel August 21st and 23rd, 1914.

MARTHA JONES (Rec., p. 1121):

Negress, residing at 309 Cherokee Street, Leavenworth, Kansas; testified as to Sadie James coming to her house with Irene Vinson in August, 1914, and Rube Smith and F. B. Long coming to see her there.

IRENE VINSON (Rec., p. 1124):

Twenty-two years old; negress; resident of Leavenworth, Kansas; testified in reference to going to Martha Jones' house with Sadie James in August, 1914.

CLARA KIRK (Rec., pp. 1128-1136):

Resident of Portland, Oregon; has known defendant, Minnie Folk (nee Atkins), eleven years; first became acquainted with her in Vancouver, Washington; testified that between July 12th and 15th, 1914, she went to see Minnie Folk at Seattle at the solicitation of Hugh Bartlett and Sadie James; detailed occurrences on the occasion of her visit to Minnie Folk at Seattle. Witness had no personal knowledge of the defendant, Minnie Atkins, prior to meeting her in Vancouver.

Dennis Jones (Rec., p.1160):

Deposition of Dennis Jones, taken October 13, 1914, on behalf of Minnie Folk, nee Atkins, to be read in evidence in case pending in state court; and,

R. J. (Rube) Smith (Rec., p. 1179):

Deposition of R. J. (Rube) Smith taken October 26, 1914, on behalf of Minnie Folk, nee Atkins, to be read in evidence in case pending in state court.

The depositions of these two witnesses were introduced in support of the Government's fabrication theory. Witness Dennis Jones was called and testified on behalf of the defendants, Minnie Folk (nee Atkins) and Page, at the trial.

C. S. Walker (Rec., p. 1208; recalled, p. 1283):

Tulsa, Oklahoma, attorney; had no knowledge of the facts in connection with the controversy and testified in the capacity of legal adviser of Sadie James.

Rush Greenslade (Rec., p. 1215):

Employe in the legal department of the Gypsy Oil Company, Tulsa, Oklahoma, detailed investigation made by that company in 1914 in connection with lease of the Gypsy Oil Company from H. U.

Bartlett; witness had no knowledge of any facts in connection with the controversy.

Edward Charles Fritsche (Rec., p. 1221; recalled, p. 1256):

An apprentice pharmacist in Adolph Lange's drug store in Leavenworth, Kansas, in the summer of 1885. The deposition of this witness was taken on behalf of defendants, Minnie Folk and Page, at Leavenworth. The Government subsequently subpoenaed the witness and produced him in open court at the trial, evidently with the view of supporting the fabrication theory. Witness was examined in open court at length as to his knowledge of the defendant, Minnie Atkins, and as to the occupants of the house at 217 Seneca Street, Leavenworth, in the year 1885. In the Government's direct examination of this witness counsel for the defendants, Folk and Page, brought out the manner in which the witness was induced to change his testimony on the stand from that given in his deposition. The witness' testimony as given in the deposition is strangely at variance with that as given on the stand in open court, and neither is of material assistance to the Court in the determination of the facts in controversy.

W. I. Williams (Rec., p. 1294):

Tulsa, Oklahoma, attorney; testified as to professional consultations with Sadie James. Had no personal knowledge of the facts in controversy.

MALCOLM E. ROSSER (Rec., p. 1301):

One of the attorneys for the defendant, Nancy Atkins, and parties claiming under her. Had no knowledge of the facts in controversy; testified as to the giving of Minnie Folk's deposition at Tulsa, October 22, 1914.

E. C. HANFORD (Rec., pp. 1315-1411):

Counsel for the defendant, Minnie Folk, nee Atkins; called by the Government for the purpose of corroborating testimony of Minnie Folk, nee Atkins, at Rice and Lyons' office in Tulsa, Oklahoma, in October, 1914; and witness' testimony at the receivership hearing in March, 1915.

WALTER BANKS, Deposition (Rec., p. 1318):

SAMUEL NASH, Deposition (Rec., p. 1339):

The depositions of these two witnesses were offered by the Government in support of the fabrication theory, and at the time they were introduced the Government attorneys stated that they were offering only certain portions thereof for that purpose. The depositions of these witnesses were subscribed and sworn to by them on October 14 and October 20th, 1914, respectively, were taken with a view to being used in the case pending in the state courts. The defendants, Folk and Page, contended that the introduction of the depositions of these witnesses on behalf of the Government was not limited to the specific purpose for which the same were introduced, but that, if admitted, were admitted for all purposes. The record is not clear as to whether the Court directly ruled on this proposition. The depositions are a part of the record and were introduced by the Government. The weight of these depositions is to the effect that these two boys, Walter Banks and Sam Nash, resided at Granny Letcher's home at 217 Seneca Street, in Leavenworth, in 1885, and that they knew an Indian woman named Minnie Atkins, who gave birth to a boy by the name of Tommy Atkins, who lived at Granny Letcher's house for a number of years.

Frank L. Montgomery (Rec., p. 1367):

Employed as United States Probate Attorney since February, 1914, and occupied that position when he testified in this case; this witness had no actual knowledge of any of the facts in connection with the birth of any children to either of the defendants, Minnie Atkins or Nancy Atkins. His testimony is directed mainly to the confession made by Sadie James as to the alleged conspiracy to prove that Minnie Atkins had a child named Tommy Atkins, and as to the statement or alleged confession that the witness secured from Minnie

Folk, nee Atkins, at Seattle, Washington, December 17, 1914.

W. P. Z. GERMAN, (Rec. p. 1411):

Of counsel for the complainants; took the stand to testify in reference to the evidence offered at the time of the receivership hearing.

GEORGE W. DOTTER (Rec., p. 1417):

Was born at 217 Seneca Street, Leavenworth, Kansas, and lived there until July 28th, 1884, when the property was sold and his family moved out and went to live in the country.

JOHN ROHR (Rec., p. 1422):

Clerk of the District Court of Leavenworth County in 1883, 1884, 1885 and 1886; well acquainted during the year 1886 with John Malone, a deputy sheriff; also was well acquainted in 1885 and 1886 with Lilly White, who ran a sporting house in Leavenworth; first knew her in May, 1885; detailed the occasion of his first visit to Lilly White's resort on May 16, 1885; that she was then living next to the Feth house on Seneca Street, between Second and Third Streets; that he again visited the Lilly White resort between the 1st of June and 30th of September, 1885, with John Malone, and that John Malone was then living with Lilly White, and he attempted to fix this date by a business transaction between the witness and John Malone. On cross-examination the witness was unable to fix the exact date of the transaction and admitted that he had allowed himself a latitude of several months between the 1st day of June and the 30th day of September, 1885.

William P. Feth (Rec., p. 1438):

Architect, fifty years of age, formerly lived at 223 Seneca Street, Leavenworth, Kansas, and identified the Government's Exhibit "A-91" as a plat of the relative location of his former home and 217 Seneca Street in 1884, '85 and '86; that in 1885 he was fifteen years of age and prepared a petition (Government Exhibit "A-79"), directed to the city government, asking the removal of Lillie White from 217 Seneca Street, and other houses of prostitution, from that immediate neighborhood.

Fred Metscham (Rec., p. 1450):

Identified from official records of the city council action of council of August 5, 1885, upon the petition of Philip Feth et al. to have two houses of ill-fame occupied by Lilly White, 217 Seneca Street, and Stella Forest 303 Seneca Street removed and the nuisances caused thereby abated. The petition was read and referred to the city marshal with instructions to abate the nuisance. Witness testified that the original petition did not show the date of the filing with the city clerk but that he found the same among the 1885 files of petitions, etc. A. certified copy of the petition was offered in evidence at the time of the witness' deposition and was objected to by counsel for Minnie Folk, Page and Henry Carter.

HARRY H. SECKLER (Rec., p 1455):

Identified the signature of John Seckler to the original Lilly White petition as that of his deceased father.

WILLIAM W. TRUE (Rec., p. 1457):

Sixty-three years of age and has lived in Leavenworth since 1883. Had been in the employ of the Abernathy Furniture Company since the spring of 1884 with the possible exception of the years 1890 and 1891; that the Abernathy Furniture factory was located in 1884 and 1885 on Second and Seneca Streets; that the premises at 217 Seneca Street were across the street from the factory; that in 1884 he was night watchman at the Abernathy Furniture factory and that 217 Seneca Street was occupied by Lilly White, who conducted a sporting house; was unable to state when Lilly White removed from Seneca Street to Choctaw Street; had no recollection of a colored family living at 217 Seneca Street; did not know Granny Letcher or her son, Jim Mayo; knew a colored boy named Sam Nash, whom he thought lived on Kickapoo Street.

C. F. W. Dassler (Rec., pp. 1462-1468):

Prominent Kansas attorney, and resided in Leavenworth since 1873. Identified certified copy of petition filed in the District Court of Leavenworth County, October 30, 1885, by C. F. W. Dassler and L. J. Hopkins v. Charlottee Calkins et al., and testified that the same was an action to foreclose a mortgage on premises known as 217 Seneca Street, and that Lilly White was made a party defendant upon witness' supposition that she was an occupant of the property.

Witness testified that service was not had on all the defendants in the suit and that the case was dismissed November 27, 1885, when he and Hopkins became the owners of the property, and that from November 28, until the spring of 1890, he collected the rent for the premises from Granny Letcher. Witness had no personal knowledge as to when Granny Letcher moved into the house.

La Ban Gardner Hopkins (Rec., p. 1477):

An attorney at law, of Leavenworth, Kansas, and was associated with C. F. W. Dassler in 1884 and 1885. His testimony is corroborative of that of the witness Dassler in reference to the taking possession of the premises at 217 Seneca Street.

Joe Malone (Rec., p. 1480):

A resident of Tacoma, Washington, and was employed as guard at the penitentiary, as a policeman, and in the sheriff's office at Leavenworth, Kansas, from 1884 until 1889; testified that when he was on the police force he became well acquainted with Lilly White, who conducted a sporting house on the south side of Seneca Street between Second and Third Streets; that she afterwards moved to Choctaw Street; also knew a woman named Ella Abbott, who conducted a sporting house at Third and Cherokee Streets, with whom witness became acquainted in 1889 or 1890; that he was intimate with her for a considerable length of time and never saw or knew of a boy around Ella Abbott's place by the name of Thomas or Tommy Atkins.

W. B. SHAUGNESSY (Rec., p. 1514):

Chief of Police of Leavenworth, Kansas; testified from records as to witness Joe A. Malone being on the Leavenworth police force in 1885 and 1886.

JOHN T. BEECHLER (Rec., p. 1517):

Fifty-six years of age; came to Leavenworth when he was an infant in 1860, and resided there until the late nineties; knew an Indian woman by the name of Indian Mary, with whom he first became acquainted about 1875 ; remembered seeing her around Second Street about 1883; last knew of her in that year when she was living with an old fortune teller on Seneca Street, between Second and Third Streets; knew Lilly White when she ran a sporting house at 217 Seneca Street and that Mrs. Letcher occupied the house after Lilly White moved out; never knew an Indian Minnie or a boy called Tommy or Tommy Atkins. On cross examination witness admitted that he had been a professional gambler for a number of years; that he was in Seattle, Washington, in 1889, and prior thereto had lived in other western states, making his livelihood at gambling, and that the Indian Mary he knew in Leavenworth was a middle-aged woman, about forty years old, in 1876.

ALICE O'DAY (Rec., p. 1535):

White woman who lived at 208 or 210 Shawnee Street, Leavenworth, Kansas, in the spring of 1885; engaged in the dressmaking business; that across the alley from her place of business was a sporting house conducted by a woman named Lilly White; that the house occupied by Lilly White was 217 Seneca Street; that in July, 1885, she made dresses for some of the girls living at Lilly White's; remembered the circulation of the petition to have Lilly White's house abated as a nuisance; was asked to sign it and refused to do so for business reasons; remembered Granny Letcher as the Mary Letcher who did laundry work for her mother: knew her after she removed to 217 Seneca Street; knew the people who lived with her, but never heard of an

Indian boy around the house by the name of Tommy. On cross examination, admitted she never visited Granny Letcher's house nor inquired as to members of her family and that there might have been a boy by the name of Tommy or Thomas Atkins at the house, and that she would have had no knowledge of him. She attempted to fix the time that she made the dresses for the girls at Lilly White's house, by her marriage in 1880, and the birth of her first child, Frances, in 1881, and the birth of her second child in 1882, and the birth of her third child, Clara Estelle O'Day, on Shawnee Street, between Second and Third Streets, and that she left Shawnee Street place when her child died.

A. L. Schott (Rec., p. 1581):

Secretary Mt. Muncie Cemetery; testified from cemetery records as to the death of Clara Estelle O'Day, February 14, 1887.

Joseph A. Eckert (Rec., p. 1583):

Lived in Leavenworth in 1884 and 1885 and knew Lilly White and was frequently around her place at 217 Seneca Street when she conducted a sporting house in the summer of 1885. Fixed the time definitely as the summer of 1885, and that Lilly White moved to Choctaw Street either in the fall of that year or early in 1886. On cross examination admitted that he was a constant frequenter of houses of ill-fame, drank considerably at that time, and in the summer and fall of 1885 was associated with a baseball team called the "Leavenworth Reds;" that he had a distinct recollection of a photograph being taken of the ball team in 1885. The witness was required to produce the photograph, and when it was presented to the examiner, was asked:

"Q. Have you the picture of the team of 1885?

A. I have.

Q. Have you the picture now of the team of eighty-five?

A. I have the—(examining the photograph which is identified in deposition))—this is the wind-up of the eighty-five team, and they came here in eighty-six and got their picture taken; in the latter part of eighty-six there wasn't but two men of that team in the ball team of eighty-six; this is the eighty-five team and they were lined up in the spring of eighty-six (witness reads from inscription on photograph), 'Leavenworth Reds of 1886.' "

William Jackson (Rec., p. 1615):

Lived at Fort Leavenworth since 1861; employed in various capacities around the military prison; knew Herbert Grodevant and lived a few loors from him in 1884 and 1885. His family and

Grodevant's family frequently exchanged visits; knew a girl by the name of Indian Minnie, who worked at the Grodevant's in the late fall of 1884 and the winter and spring of 1885; that in the winter Minnie would join in coasting parties around the Fort; that he would see her frequently around the Grodevant yard or out on the porch; that she never appeared to witness to be in a family way and witness never heard of her having a child while she was working for the Grodevant's. On cross examination admitted he had no particular interest in the girl at Grodevant's; never paid any attenti.on to her more than he would any other servant around a neighbor's house.

At the conclusion of this witness' testimony, Government's Exhibits, "A-95", "A-96", and "A-97" were introduced, being tracings of the Grodevant residence and a photograph of Mrs. Woods' residence on North Eighth Street.

JOHN M. PURCELL (Rec., p. 1620):

Captain of the Watch, U. S. Penitentiary, Leavenworth, Kansas. Enlisted in the United States Army November 3, 1881; came to Leavenworth, December 16, 1881; was stationed at Fort Leavenworth in 1884, 1885 and 1886; knew Herbert Grodevant; knew where he lived near Fort Leavenworth; saw an Indian girl working around the Grodevant house in 1884 and 1885; saw her a number of times;

saw her back of the prison wall with a soldier named Oliver; she never appeared to witness to be in a pregnant condition. On cross examination is unable to fix the exact time that he saw Minnie around the Grodevant house; was not particularly interested in the girl.

PATRICK COLLINS (Rec., p. 1627):

Lived diagonally across the street from Herbert Grodevant in Fort Leavenworth in 1884; knew a girl named Indian Minnie who was a domestic in the Grodevant home; that she was there about a year; visited the Grodevant house several times while Minnie was there; never remembers seeing her in a pregnant condition. On cross examination did not remember of a girl named Maggie Curry ever working for the Grodevants. Did not know of Minnie being away from the Grodevant house and Maggie Curry substituting for her; unable to describe Minnie Atkins or tell anything about her appearance.

MARY A. COLLINS (Rec., p. 1643):

Wife of the witness, Patrick Collins, and corroborates her husband's testimony on direct examination. Knew all the Grodevant servants including Minnie and Mayme, Frances Roff and Julia Forkay; paid no particular attention to Minnie; that she was a slovenly sort of girl and wore loose clothes; that she might have been away from the

Grodevant house for a month or more without witness knowing it. Never knew of Maggie Curry working for the Grodevants.

William E. Dawes (Rec., p. 1654):

Went to work at Fort Leavenworth in 1882 as assistant foreman to Herbert Grodevant; assisted in the construction of the Grodevant house and was around there on several occasions doing work for Grodevant in the fall of 1884 and 1885; saw a girl around the Grodevant house by the name of Indian Minnie; she never appeared to witness to be in a pregnant condition. On cross examiation testified that he saw the girl but a few times; paid little attention to her and was never personally acquainted with her.

Lewis Young (Rec., p .1662):

Lived adjoining the Fort Leavenworth reservation in 1884 and 1885; knew Herbert Grodevant and his family; saw an Indian girl around their house; never knew her to be in a pregnant condition; never spoke to her in his life; never knew her personally, and witness' observation of her condition was casual.

Mrs. Margaret Jackson (Rec., p. 1669):

Knew a girl named Indian Minnie who was working for the Grodevants in 1884 and 1885; never paid much attention to the girl or had any particular interest in her.

Mary N. Cunningham (Rec., p. 1673):

Lived at Fort Leavenworth in 1884 and 1885; knew the Grodevants and that they had a girl working for them that was pointed out to her as Indian Minnie; that in May, 1885, witness and her sister were picking crabapple blossoms and saw the girl Minnie, hanging up dish towels in the Grodevant yard; fixed the date of the incident by reason of the movement of the Twentieth Infantry; only saw Minnie once or twice after that event; never knew her to be in a pregnant condition. On cross examination testified she didn't know Minnie personally and only saw her a few times.

Helen Beeler (Rec., p. 1695):

Sister of the witness, Mary N. Cunningham, corroborative of her sister's testimony in reference to the picking of crabapple blossoms and seeing Minnie at the Grodevants. Witness thought Minnie was a colored girl, but the Grodevants told her she was an Indian. Never noticed Minnie in a pregnant condition, but was not personally acquainted with her.

James F. Bierley (Rec., p. 1704):

Worked at Fort Leavenworth from 1883 to 1886, inclusive, driving a mule team; knew a girl named Indian Minnie, who worked at Herbert Grodevant's, but never notied her in a pregnant condition; did not talk to her very often.

Roy Reynolds (Rec., pp. 1708-1711):

Clerk Census Office, Washington, D. C.; identified Government's Exhibit "A-98," United States return for 1890 of the family of Mollie Letcher. Testified that an examination of the records of the Census Office of the 1890 census return failed to show any person by the name of Thomas Atkins, Tommy Atkins, Tommodore, Commodore or Indian Tommy listed as a resident of Leavenworth.

Larry Brown (Rec., p. 1712):

Chicken Dixon (Rec., p. 1714):

George Clinton (Rec., p. 1716):

These three witnesses, Creek Indians, were members of Euchee Town and testified to being present at the sessions of the Creek Council in May, 1901, and as to the procedure before the Dawes Commission at that time.

Joseph H. Callahan (Rec., p. 1721):

Sixty years of age and came to Leavenworth, February 5, 1884; worked on the construction of the street railway system; went to work for Wells-Fargo Express Company January 22, 1887; knew

George Hyde, banker, and that an Indian woman worked for him in 1884, but never knew her name; located Van Tyle's livery barn at Third and Seneca Streets, where he kept his team when driving for the Wells-Fargo Company; saw an Indian woman with a baby on her back in that locality that they called Indian Mary or Indian something; describes the woman; unable to identify the woman he saw at Van Tyle's barn as the same woman he saw at Hyde's house.

Eli Nirdlinger (Rec., p. 1730):

Attorney at law, Leavenworth, Kansas, and lived there since 1882; testified that in 1883 he knew an Indian woman in the neighborhood of Third and Seneca streets whose name was Mary; witness is positive that the time he knew this woman was in 1883. No cross examination.

Katherine Williams (Rec., p. 1732):

Knew a woman around Leavenworth and the reservation called "Indian Mary;" described her as dark-skinned, about thirty years of age, and that she was found dead on Salt Creek; witness never knew of her working any place or cooking for any family.

Joseph A. Cranston (Rec., p. 1743):

Partner of George Crilley in the livery business in Leavenworth, Kansas. Testified that in 1884 and

1885 he and Crilley had two barns, one on Seneca street and the other on Cherokee street; knew the Letcher house on Seneca sreet; never knew a woman there by the name of Indian Minnie nor a boy by the name of Tommy. On cross examination admitted that he spent most of his time at the Cherokee street barn and made no effort to post himself as to the inmates of the Letcher house on Seneca street.

CHARLEY HUDSON (Rec., p. 1747):

Negro, fifty-one years of age; in the fall of 1884 lived with Mollie Letcher at her house on Cherokee street; knew her when she moved to the house on Seneca street; never knew of a woman living with Mrs. Letcher by the name of Indian Minnie nor a boy who lived there by the name of Tommy.

LAURA THOMAS (Rec., p. 1763):

Negress, born in Leavenworth in 1865; knew Mollie Letcher when she lived on Cherokee street and afterwards when she moved to Seneca street; went to live with her on Seneca street soon after she moved there; never knew of a woman named Indian Minnie nor a boy named Tommy at Granny Letcher's; testified as to other persons who lived at Granny Letcher's .

On cross examination fixed the date when she went to Granny Letcher's as the day that the Scotts and Mary Anthony went there. Witness also admitted that she had refreshed her memory as to dates after consulting with Sadie James.

ELIZABETH BRADFORD (Rec., p. 1825):

Negress, fifty-seven years of age; did not know Granny Letcher until 1893; her daughter, Georgiana Payne, married Jim Mayo, Granny Letcher's son, in 1890; knew the members of Granny Letcher's household; never knew of Indian Minnie nor a boy named Tommy Atkins around Granny Letcher's On cross examination admitted that she did not know Granny Letcher or any of the persons around her house until after 1893.

BELLE REED (Rec., p. 1839):

Negress, forty-six years old; lived at Mollie Letcher's as Jim Mayo's wife for two years, beginning September, 1888; did not know Tommy Atkins.

CORRIENNE WOOLFOLK (Rec., p. 1855):

Testified that she was born in 1889, the year her sister, Nancy Frances, died.

M. BAHLER (Rec., p. 1856):

Chief of the Leavenworth fire department; testifying from fire department records fixed June 18, 1886, as the date of the burning of the Brock property, and February 25, 1889, as the date of the burning of the Kelly-Lysle mill.

ELIZA LAVALLAY (Rec., p. 1859):

Illiterate negress; moved to Granny Letcher's the night of the burning of the Kelly-Lysle mill; never knew Minnie Atkins, Tommy Atkins, Indian Minnie or Indian Tommy at Granny Letcher's. On cross examination admitted that she probably did not remain at Granny Letcher's more than a month.

ALICE PAIRE (Rec., p. 1885):

Negress, testified that on the night of the burning of the Kelly-Lysle mill she, her sister, Eliza Lavallay, her mother, Jane Scott, and her brothers and sisters moved into a room at Granny Letcher's house and lived there about a month, and that while there never knew of an Indian Minnie or a boy named Tommy.

MARY LOWER (Rec., p. 1906):

Negress, forty-three years old, moved with the witnesses, Eliza LaVallay and Alice Paire, and the other members of their family, to Granny Letcher's house the night of the Kelly-Lysle mill fire; that while at Granny Letcher's never knew an Indian woman named Minnie nor of any Indian boy being there. On cross examination admitted that she was only at the Letcher house four times; that while there she worked out and that there might have been a boy there that she knew nothing about.

Julia T. Carter (Rec., p. 1924):

Negress, thirty-one years of age; sister of the witnesses, Alice Paire and Eliza LaVallay, corroborative of their testimony in reference to moving to Granny Letcher's the night of the Kelly-Lysle mill fire; never knew of a Tommy Atkins at Granny Letcher's.

George Dale (Rec., p. 1931):

Forty-one years of age and lived at Mollie Letcher's two years before she died in 1898, and never knew of Tommy Atkins living there.

John Phillips (Rec., p. 1935):

Negro, about forty years of age; went to Leavenworth when he was about seven or eight years old; went to live in the stone house on Seneca street next to Granny Letcher's and never knew a boy named Tommy Atkins.

Fanny Isam (Rec., p. 1969):

Lived with Alice Woods on Seneca street in Leavenworth for about three years in the eighties near Granny Letcher's house; knew Walter Banks, Sam Nash and Jim Mayo, but never knew of a boy named Tommy Atkins living at Granny Letcher's.

Emma Gatewood (Rec., p. 1975):

Negress, forty-four years of age; lived on Seneca street between Second and Third streets, for four or five years in the eighties; lived in the rear of the Feth house; knew Granny Letcher, who died in the same block, and the people that lived with her; knew Jim Mayo, Walter Banks and Sam Nash; never knew a woman named Indian Minnie nor a boy named Indian Tommy around the house. This witness on cross examination testified as to a conversation between her and her deceased brother, Walter Woods, and E. C. Hanford, counsel for the defendant, Minnie Folk, at which she was present, and that her brother, Walter Woods, told Hanford that he remembered Tommy Atkins very well, played with him in the neighborhood, and described him to Hanford.

Nettie Brown (Rec., p. 1997):

Negress; at one time married to Jim Mayo and lived with him at Granny Letcher's place on Seneca street; knew Walter Banks and Sam Nash; never knew a boy named Tommy Atkins; unable to fix date when she went to live with Jim Mayo; never knew of any other children around Granny Letcher's with the exception of Walter Banks and Sam Nash; knew nothing of Jim Mayo's business and stated that Granny Letcher did not take care of babies. On cross examination this witness was unable to testify with accuracy as to any events in her life; admitted she had been frequently arrested and convicted and at the time that she gave her deposition was living in open adultery.

Richard Joseph Winfield (Rec., p. 2026):

Negro, forty-five years of age; frequenter of Granny Letcher's house on Seneca street; knew Jim Mayo and another boy who lived there whose name he did not remember; never knew of an Indian woman or boy living at Granny Letcher's.

Mattie Tutt (Rec., p. 2031):

Knew Granny Letcher in Leavenworth about two and a half years prior to her death in 1899; witness lived with Jim Mayo as his wife in 1899; never knew a boy named Tommy around the Letcher house when she lived there.

Martha Miller (Rec., p. 2039):

Negress, forty-three years of age; knew Mollie Letcher when she lived on Seneca street; never knew of a woman named Indian Minnie or a boy named Indian Tommy living with her.

Tom McKenzie (Rec., p. 2049):

Negro, fifty-two years old; knew Granny Letcher in the eighties when she was living on Cherokee street and later on Seneca street; knew certain members of her family, but did not know a woman named Indian Minnie or a boy named Tommy. Witness was unable to accurately fix dates.

C. M. MOATES (Rec., p. 2059):

Practicing physician in the City of Leavenworth; resided there since November 27, 1888; knew Granny Letcher when she lived on Seneca street between Second and Third streets; began treating her in a professional capacity in 1889 and continued to treat her at various times until her death in 1899; was often at her house; never knew or saw a boy around there by the name of Indian Tommy or Tommy Atkins. On cross examination admitted that the only other persons at Granny Letcher's he knew were Jim Mayo and Sam Nash.

MARY NASH (Rec., p. 2065):

Negress, sixty years of age; stepmother of Sam Nash; witness knew Mollie Letcher all the time that she lived in Leavenworth; never knew of a woman named Indian Minnie or a boy named Tommy around the Letcher house. On cross examination admitted that she lived a considerable distance from the Letcher house, having moved to West Leavenworth in 1879; was only at Granny Letcher's twice after that and there were many people at the Letcher house she did not know.

Georgia Flint (Rec., p. 2075):

Married Jim Mayo, whom she knew as Jim Philip, in October, 1890, at Atchinson, Kansas, and went to Leavenworth after her marriage and lived at the home of Jim Mayo's mother, Mollie Letcher, on Choctaw street, and afterwards on Shawnee street; that Sam Nash and Walter Banks were living with Mrs. Letcher while witness lived there; that there was also a little girl Mrs. Letcher was keeping by the name of Maude; that while she lived at Mrs. Letcher's she never heard of a boy by the name of Thomas, Tommy Indian Tommy or Thomas Atkins.

John C. Ketcheson (Rec., p. 2085):

Resident of Leavenworth, Kansas; engaged in the printing and binding business; publisher of Green's City Directory of Leavenworth for the years 1885 and 1886; identified copies of the city directory of Leavenworth for these two years; testified that the data for the directory was generally furnished him in February or March of the year in which the same was published; the 1885 directory showed Lilly White living at 217 Seneca street; the 1886 directory showed Mollie Letcher at 217 Seneca street.

Mrs. A. G. Wilds (Alvina D'Laval) (Rec., p. 2132):

Witness had no personal knowledge of the defendants, Minnie Folk, nee Atkins, or Nancy Atkins prior to May, 1915, when she became acquainted with the defendant, Minnie Folk, when she was employed by a man named Kohler, who was an operative of a detective agency, to establish friendly terms with Minnie Folk for the purpose of installing a dictagraph in her home with a view to having conversations between the witness and Minnie Folk reported and detailed to J. Truman Nixon, of Tulsa, Oklahoma, by whom through Kohler, she was ostensibly employed.

Witness had previously been a school teacher in Seattle, and as an amateur detective detailed the manner of her becoming acquainted with Minnie Folk; her visits to Mrs. Folk's home, the installation of the dictagraph and conversations she had with Mrs. Folk. The records of the conversations transmitted over the dictagraph were reduced to writing; the witness testified these transcribed conversations were never sworn to for the reason that the dictagraph operatives at the receiving end disagreed as to the reported conversations. Witness also detailed at length incidents of a visit to Tulsa, Oklahoma, and conversations with J. Truman Nixon and the defendant, Chas. Page.

Robert L. Baugh (Rec., p. 2159):

Testified as to an examination made by him of the records of the County Clerk of Creek County, and that there were no instruments of record affecting the title to the land in controversy, with the exception of the deeds, or patents, from the Creek Nation to Thomas Atkins, until the forged deed from Minnie Atkins to H. U. Bartlett in 1912, and that the first instrument of record from the defendant, Minnie Folk, was an oil and gas lease to the Gem Oil Company executed by Alexander McNabb, trustee, and Minnie E. Folk and Harry B. Folk, her husband, June 24, 1914, which was filed for record June 29, 1914.

Stuart Brewster (Rec., p. 3902):

Thirty years of age, resident of Leavenworth, Kansas; introduced as a witness by the Government to rebut testimony of Alva Adams and other witnesses who knew Tommy Atkins in and around Leavenworth from 1895 to 1898; testified to knowing a number of boys with whom he played around the neighborhood where Alva Adams lived and played, but never remembered hearing of a boy named Tommy Atkins or Tommy.

R. O. Larkin (Rec., p. 4376):

Seventy-three years old; testified that Mary Letcher, or Mollie Letcher, was formerly a slave who belonged to his father; she first married a man named Billy Mayo; that she removed to Leavenworth shortly after the Civil War; that he saw her in and around Leavenworth in 1884; remembered her son, Jim Mayo, and a boy named Sammy; never knew of a boy named Tommy around her house. Witness was unable to fix definitely dates of his visits to Granny Letcher's or where she was living at the time, but "thinks" it was when Cleveland was nominated and elected in 1884.

ERNEST ENDRESS (Rec., p. 4382):

Born in Leavenworth, January 4, 1887; and knew Alva Adams, Willie Warren, Ed Baker and other boys who played in the neighborhood of Third and Seneca streets about 1897 or 1898. Testimony of witness was offered by the government in rebuttal of the testimoy of Alva Adams and other boys as to knowing Thomas Atkins or Indian Tommy in the same neighborhood. Testified that he did not know any boy by the name of Tommy Atkins, or Indian Tommy, that played with the boys he knew about that time.

FLOYD HUNT (Rec., p. 4386):

Thirty-two years of age, resident of Leavenworth, and lived at 210 Olive Street in 1896, 1897 and 1898. Remembered the names of a number of boys that he played with about that time, but could recollect no boy named Tommy Atkins, Commodore, Indian Tommy or "Trailer." During the examination of this witness defendant's Exhibit "B-24," a map of the City of Leeavenworth showing the streets and alleys, was introduced in evidence. Witness made an examination thereof and testified that when he was nine or ten years old he was living on Olive street, some eight blocks from Third and Seneca streets.

W. D. Warren (Rec., p. 4392):

Resident of Leavenworth, Kansas, thirty-one years old; witness introduced by the Government to rebut testimony of Alva Adams as to his knowledge of Tommy Atkins. Witness testified that from 1894 to 1898 he played with a number of boys around Leavenworth and named a number of boys around Leavenworth and named a number of boys mentioned by Alva Adams in his testimony, but that he never knew an Indian boy that played with them that was nicknamed "Trailer," or any boy by the name of Tommy Atkins; never knew any of the persons who lived at Granny Letcher's house on Seneca street and never played around that particular house. On cross-examination testified that the boys he ran with generally played around Fifth and Second streets.

T. W. Bell (Rec., p. 4433):

Of counsel for defendant, Henry Carter, testified in reference to incidents preceding the taking of the deposition of Mrs. Mattie Cobb offered on behalf of the defendants, Folk and Page.

W. T. Hutchings (Rec., p. 4441):

Fixed April 20, 1885, as falling on Monday.

R. E. Martin (Rec., p. 4442):

A party in interest to this litigation under an oil and gas lease from Henry Carter; testified as to incidents preceding the taking of the deposition of Mrs. Mattie Cobb offered on behalf of the defendants, Folk and Page.

Benjamin B. Blakeney (Rec., p. 4446):

Of counsel for defendant, Henry Carter; testified in reference to incidents preceding the taking of Mrs. Mattie Cobb's deposition offered on behalf of the defendants, Folk and Page.

Irwin Donovan (Rec., p. 4451):

Attorney at law, Muskogee, Oklahoma; employed in the office of the Dawes Commission from September, 1904, to January, 1905; testified as to Dawes Commission procedure as to notations made on census cards.

Frank Kersten (Rec., p. 4454):

City detective, Leavenworth, Kansas; testified from the police court records of Leavenworth that records show no arrest of a Thomas Atkins from

1890 to 1891. This witness was produced by the Government to rebut the testimony of the policeman Patrick Delaney.

Elizabeth Dillman (Rec., p. 4462):

Knew the defendant, Minnie Folk (nee Atkins), at Fort Leavenworth in 1885 when she was employed as a servant at the Grodevant house and testified in reference to a Decoration Day celebration of that year and that she saw Minnie Atkins there and that she was not in a pregnant condition.

This witness was called in rebuttal by the Government for the apparent purpose of refuting the testimony she gave in a deposition in October, 1914, in the state court case; a part of this deposition was read at page 3444 of the transcript to the effect that she became acquainted with Minnie Atkins at Fort Logan, Colorado, and never knew or saw her in Leavenworth, but that her knowledge of Minnie Atkins living in Leavenworth was entirely hearsay.

J. C. Kennedy (Rec., p. 4465):

An employee of the office of the Superintendent to the Five Civilized Tribes; testified as to custom of office in preparing certified copes of census cards.

Dr. Finis W. Ewing (Rec., p. 4469):

Practicing physician, Muskogee, Oklahoma; introduced as a witness in rebuttal by the Government for the purpose of refuting the testimony of Dr. C. R. Carpenter, a witness for the defendants, Folk and Page. Admitted, on cross examination, that the condition found by Dr. Carpenter in Minnie Atkins at the time of the delivery of Robert Lee Peterkin might have been caused by the birth of a previous child.

Thomas Mozee (Rec., p. 4482):

Testified that he never knew a boy named Thomas Atkins around Ella Abbott's or Crilley's livery barn on Seneca street between Second and Third streets.

Mrs. Ada Amerly Van Duzee (Rec., p. 4505):

White woman who lived in Leavenworth in the eighties on Second street, west of 217 Seneca street; knew that the house was occupied by obnoxious white women; that there was complaint in the neighborhood as to the character of the inmates of the house; was unable to fix the time when the house was so occupied.

Joseph E. Vorhees (Rec., p. 4509):

County Clerk of Leavenworth County, Kansas; records of the sheriff's office of Leavenworth County, pertaining to deputy sheriffs for the years 1887, 1888 and 1889.

Charles R. Warren (Rec., p. 4515):

Born at 202 Shawnee street, Leavenworth, in 1890; lived at various places in the city and played with different crowds of boys; never heard of a boy named Tommy Atkins or Indian Tommy or a boy nicknamed "Trailer." On cross examination testified that he never heard of Granny Letcher or knew anything of her until he read of the present case in the newspapers.

Fred S. Cook (Rec., p. 4522; recalled, p. 4535):

Was in the employ of the United States Indian service in March, 1915; testified as to conversation he had with Dr. C. R. Carpenter, a witness for the defendants, Folk and Page, in San Diego, California, in March, 1915. Testimony of this witness was offered to rebut the expert testimony of Dr. Carpenter as to Minnie Atkins having a child prior to the birth of Robert Lee Peterkin. The witness' testimony on this particular proposition is as follows:

"Q: Did Dr. Carpenter at that time say that he attended Minnie Atkins at the birth of Robert Lee Peterkin and that that was the first child she gave birth to?

A. He didn't say Minnie Atkins. He knew her as Peterkin. He attended her at a place owned, I believe, by a woman by the name of Woods, and in the conversation the question was asked if this was her first child. He said, so far as he could remember it was, but that his records would bear him out whichever way it was and that his records were at Leavenworth, Kansas."

Dr. John Hutchings White (Rec., p. 4538):

Practicing physician at Muskogee, Oklahoma, qualified as an expert, and introduced by the Government to rebut the testimony of Dr. C. R. Carpenter that from the examination made by Dr. Carpenter at the time he attended Minnie Atkins at the birth of Robert Lee Peterkin her physical condition showed that she had previously given birth to a child. Witness was asked a number of hypothetical questions on direct examination and on cross examination admitted that a condition such as was testified to by Dr. Carpenter at the time of the birth of Robert Lee Peterkin could have been caused by the birth of a previous child.

F. L. Montgomery (Rec., p. 4545):

Mr. Montgomery was recalled by the Government for the purpose of rebutting certain testimony of the witness E. C. Hanford in reference to occurrences at Seattle in December, 1914.

C. B. Malcomb (Rec., p. 4559; recalled, p. 4601):

Introduced in rebuttal by the Government and detailed conversations had with the defendant, Chas. Page, and his agent, F. B. Long, with reference to finding a dead Indian boy who would correspond to the Thomas Atkins on the Dawes Commission records. On cross examination testified that he last time he talked with Page about the Atkins case was in March or April, 1914, and that a few days before testifying on the stand he had a conversation with C. Lipscomb, a banker of Bixby, Oklahoma. Witness was interrogated as to a memorandum that he examined prior to going on the stand and was ordered by the Court to produce the same and he admitted that he had secured it in the office of the United States Attorney.

C. H. (Hook) ROGERS (Rec., p. 4579):

Testified as to conversation had with F. B. Long in March or April, 1914, and employment by Long; introduced as a witness by the Government to rebut testimony of F. B. Long; on cross examination admitted signing a receipt for $50.00 which was settlement in full for all his services to Long and Page. Also admitted that he was under arrest for counterfeiting.

D B. ELLIOTT (Rec., p. 4587):

Attorney at law, Tulsa, Oklahoma; detailed a meeting with Chas. Page in February, 1914; and a subsequent conversation in 1915 when witness was representing J. Truman Nixon.

Mitchell Wadsworth (Rec., p. 4598):

Son of Kate Holden and cousin of Minnie Folk, nee Atkins, and Nancy Atkins; testified as to receiving a letter from Minnie Atkins, written from Detroit, Michigan, in 1898 or 1899, asking witness to file for her and her two boys, Harvey and Charley Harrison.

W. P. Z. German (Rec., p. 4637):

Of counsel for the complainant; detailed conversation with Dick Nichols in Leavenworth, Kansas, in 1916, as to what Rube Smith had told Nichols about money being paid for witnesses in the Atkins case.

Analysis of Evidence as to Minnie Atkins Pro and Con.

Before entering upon the task of examining the evidence above briefly set out both for and against Minnie Atkins, we desire to preface our remarks with a few suggestions.

We must not lose sight of the fact that the Circuit Court of Appeals, in its opinion on the receivership phase of this case, measured the strengtth of the Government's testimony and declared that on the testimony as introduced by the Government against Minnie Atkins there was no probability of a recovery against her by the Government on the allegations of the bill at a final trial.

The Court in that opinion said that in order to jutify a receivership of real estate in the possession of adverse parties the plaintiff must establlish to the satisfaction of the Court hearing his application for a receiver that a strong probability existed that the plaintiff would prevail in that case. Judge Sanborn, on page 185, Federal Reporter, Volume 233, at the bottom of the page, asks this pertinent question:

> "Did the plaintiffs (meaning the Government) establish the fact that there was a strong probability that they would prevail on final trial?"

After stating the burden which the Government was required to carry in this case the Court uses this language, and we quote at length, because it not only answers and sustains the proposition we are now asserting, but throws much light as to the showing which must be made by Nancy Atkins in this cause. Judge Sanborn, beginning on page 186, Vol. 233, Federal Reporter, says:

> "The only evidence the plaintiffs produced was the affidavit of Mr. Merrick, verified February 25, 1915, more than thirteen years after the event; that in May, 1901, he was a clerk and employe of the Dawes Commission; that on May 23, 1901, he 'listed for enrollment as a citizen by blood of the Creek Nation, the name of Thomas Atkins, who is enrolled opposite roll number 7913 of the final roll of Commission and on census card No. 2707, Field No. 2774, a true copy of which census

card is hereto attached and made a part of this affidavit; that the evidence which induced him to list Thomas Atkins was the authenticated 1895 roll of Creek citizens, which said roll was used and relied upon by said Commission and by myself as the representative of said Commission 'in enrolling the name of Thomas Atkins.' (We may here suggest to this Honorable Court that Merrick's testimony is much fuller in this case now than it was in the receivership case, he having testified here in person and simply by affidavit in the receivership case.) The census card recorded these facts: That Thomas Atkins was a Creek Indian of half-blood, 10 years of age; that he was enrolled on the authenticated Creek tribal roll of 1895 as of Euchee township, under the name of Thos. Atkins No. 213, and that on the roll Minnie Atkins was recorded as his mother, and a white man as his father. Mr. Merrick further deposed that he had searched and found in the office of the Dawes Commission, where such matters are kept, memorandum or notation indicating that evidence or information was had or received by the Commission on the question whether Thomas Atkins was living or dead on April 1, 1899, and that he had no recollection of any such evidence or information had or received by himself, although somebody—who it was he said he could not recall—gave him information as to about the time of the alleged birth and parentage of the said Thomas Atkins; that the final roll of citizens by blood of the Creek Tribe 'was made up from the said census card under my personal supervision and compared and reviewed by some member of the Commission, and the

> enrollment thus made was approved by the Secretary of the Interior on March 28, 1902.' "
>
> *Folk* v. *United States,* 233 Fed. Rep. at pages 186-187.

We call the attention of the Court to the fact that this is exactly, in substance, what Merrick testified to in this case except that Merrick added, which gives great force to his testimony, tha when he made out the census card he intended to designate Thomas Atkins as the son of Minnie Atkins, and that he did so designate him, and that the Dawes Commission so found.

The Court after discussing the various Acts of Congress applicable to the controversy, resumes:

> "The Act of March 1, 1901 (31 Stat. 869, c. 676, Section 28), provided that all citizens who were living on the 1st day of April, 1899, entitled to be enrolled under the Act of June 28, 1898, should be placed upon the rolls. The Act of June 28, 1898, was not simply an Act of Congress. It embodied and ratified the agreement between the Creek Nation and the United States. * * * Among the rolls and records of the Creek Tribe duly authenticated by the approval of the Creek Council, was a roll of citizens made by the tribe of 1890, another made in 1895, the pay roll of that nation for the year 1895, upon which a per capita payment was made to citizens of the tribe. On the roll of 1890 appeared 'Minnie Atkins (Thos. and Mary, 2 children).' On the roll of 1895 appeared the names of Minnie Atkins and Thomas Atkins and the receipt of Minnie Atkins for a

> payment to herself and also a payment of like amount to her as the per capita payment due to her son, Thomas Atkins."

Folk v. *United States,* 233 Fed. Rep. at page 188. The learned Judge then takes up the Acts of Congress making the rolls evidence, and declares that the Dawes Commission was justified in taking the rolls as evidence, and uses this language:

> "As the Commission was required by the Acts of Congress to give full force and effect to the authenticated tribal rolls, the usages and customs of each tribe and was by those acts given access to all their rolls and records, the Creek Rolls of 1890 and 1895, on each of which Minnie Atkins and Thomas Atkins as her son were enrolled as citizens of the tribe by blood, constituted not only *prima facie,* but in the absence of strong and persuative countervailing proof, conclusive evidence before the Commission, of the right of Thomas Atkins to enrollment as a citizen of the Creek Tribe."
>
> —*Folk* v. *United States,* 233 Fed. Rep. at page 189.

The Court then takes up another issue and that is whether or not Thomas Atkins, the son of Minnie, ever lived and, after reviewing the testimony, he declared it to be conflicting and, standing alone, without corroboration, would have left the issue doubtful, but that doubt no longer existed when he considered what he declares was the most reliable evidence in the case, and this is his language:

> "But this testimony is not all the evidence, nor is it the most reliable evidence, upon that issue. There is the Creek tribal roll of 1890, which records Minnie Atkins and two children, Thomas and Mary; there is the Creek tribal roll of 1895, which records Minnie Atkins and Thomas Atkins, there is the receipt of Minnie Atkins upon the pay roll of that year for the payment to her of the per capita allowance for her son Thomas; there is the testimony of the care with which these rolls were made by the town king, corrected by the town meeting, investigated and purged by the committee of the Creek Council and there is the fact that these rolls were made and approved within 11 years after the alleged birth of Thomas, among the acquaintances of Minnie Atkins, all naturally jealous of and watchful to prevent any undue payment of tribal funds to each other, and there is the fact that under the Creek Agreement the tribe had the right to appear before the Commission and by its agents and its attorney, who during all the enrollment proceedings was under retainer and salary to protect the rights of the tribe, and to prevent the enrollment by the Commission of Thomas Atkins if he was not entitled thereto, and the Creek Agreement that if this was not done the roll of the Commission should be final."
>
> —*Folk* v. *United States,* 233 Fed. Rep. at page 190.

And then the learned Judge makes this deduction from all the testimony:

> "Is it not much more probable that those rolls are right, that Thomas Atkins was living

> when they were made, and that the people of Euchee Township, at whose meetings they were corrected, knew that he was living and satisfied the officers of the tribe of that fact, than it is that the testimony of witnesses gathered by interested parties to testify to occurrences 20 years behind them tending to show that no such person existed is true? This Court will hesitate long to hold on such testimony that Thomas Atkins never existed in the face of these old and hitherto unassailed corrected rolls of the Creek Tribe, and their persuasive evidence of a living Thomas Atkins, the son of Minnie Atkins, when they were made. The proof now before the court that he never existed, that he was a myth, is not clear, unambiguous, convincing or satisfactory to this Court."
>
> —*Folk* v. *United States*, 233 Fed. Rep. 191.

From these citations in the opinion of the Court it is clear that it was the opinion of the Court, that the roll of 1890 was clear and showed Minnie Atkins to have a son named Thomas; that the roll of 1895 was unequivocal and showed Minnie Atkins to have a son by the name of Thomas; that the pay roll of 1895 was unequivocal and showed Minnie Atkins to have a son by the name of Thomas; and that the census card prepared by the Dawes Commission was unequivocal and showed Minnie Atkins to have a son by the name of Thomas. Now the Court was careful to state the force and effect of these rolls as probative evidence. It was careful to say that if no other evidence had been taken than the rolls themselves, that it required overpowering proof to set aside these rolls. This being true, it declared that the Government's position, even outside of the rolls, left the issue as to the existence or non-existence of Thomas Atkins gravely in doubt, and that, therefore, this doubt would operate to defeat the Government.

Since the receivership trial a great amount of additional evidence has been taken both by the Government and by Minnie Atkins, and we make bold to now say that the testimony in favor of Minnie Atkins is an hundredfold stronger than it was on the receivership hearing, and that the testimony of the Government, while somewhat stronger, does not compare in its additional strength with the added strength of the testimony in favor of Minnie Atkins. If this is true, then the evidence of the Government outside of the rolls, when considered in conjunction with the evidence in favor of Minnie Atkins, still leaves the claim as to the non-existence of Thomas Atkins (if that could under the law be now considered by this Court, and we challenge it strenuously), as unsustained and exactly the same condition exists as existed when the 8th Circuit Court rendered its opinion as above. No matter how favorably we may view whatever evidence the Government and Nancy offered at the trial, the rolls turn the scale, if indeed the scale needed turning, in favor of the claim of Minnie Atkins.

The history of Minnie Atkins presents a tragedy seldom met in the life of a young, wild, untrained and unprotected girl. The Creek people sent her to Carlisle school in 1881 when she was little more than a child. She was a wild girl, difficult to manage and indeed so unruly that the authorities at Carlisle concluded that they would hire her out, and consequently sent her to Leavenworth to work for a banker by the name of Hyde. She went to Mr. Hyde's in July, 1884. According to its chronology, we first take the testimony of Mrs. Cornelia Hyde Collins. This witness is the daughter of Mr. and Mrs. Geo. H. Hyde, and was born in Leavenworth in 1870; was about fourteen years of age when Minnie came to work for her parents; she (Minnie Atkins) was well grown for her age and rather forward in her development according to Mrs. Collins' testimony. The witness left Leavenworth in 1888, went to Honolulu in the Hawaiian Islands; remained there until 1897, married and has since resided at Pittsfield, Massachusetts.

And we ask the Court here and now to observe the high character of the witnesses for Minnie Atkins in this case. There are some, of course, who were disreputable and whose testimony ought to be subjected to rigid examination, but in the main her witnesses are men and women of high social standing and unimpeached and unimpeachable veracity. Such a woman is Mrs. Cornelia Hyde Collins. She testified that she knew Minnie Atkins when she worked for her father and mother in 1884 and remembers a soldier on several occasions hanging around the back door of the house with Minnie Atkins; states that Minnie left their place some time in 1884 or the beginning of 1885, and that shortly after she left the employment of her father and mother, probably some few months, she saw Minnie in a pregnant condition on the street in front of a disreputable house and was much shocked at the sight, and that she realized for the first time why she had left the employ of her father and mother. This witness places Minnie's pregnancy in 1885. It is in evidence that Minnie went from Hyde's to Grodevant's at Fort Leavenworth and there worked for Grodevant. At this time she was pregnant with this boy, Tommy.

Now we present another witness to the Court of the very highest character. This witness, Mrs. Emily Ripley, testified that she went to Leavenworth in 1878 with her husband, who was employed by the Government as chief clerk in the Leavenworth penitentiary; that she knew Mrs. Grodevant, with whom she was on intimate terms and was a near neighbor. That she made frequent visits to the Grodevant house and often saw Minnie Atkins and saw her when she was in a pregnant condition and spoke to Mrs. Grodevant about it. She fixed these visits to the Grodevants as the year 1885, because she said in that year she gave birth to one child and lost another by death; that her living child was born in January, 1885, and that her other child died in August, 1885, and was buried at Fort Leavenworth, and she fixes the time that she saw Minnie pregnant between the date of the birth of her child in January and the death of her child in August; that she never saw Minnie Atkins after the death of her child in August, 1885, but that she saw Minnie a short time after she noticed her pregnancy and she had resumed her normal shape.

In this connection the Court will keep in mind the Grodevant book which showed Minnie Atkins working for Grodevant at a certain time in 1885, her disappearance for several weeks in June of that year and the employment during the interim, of Mrs. John D. Sheehan, then Maggie, or Margaret, Curry. It will thus be seen that the Grodevant book, upon which the Government relied, but which was thoroughly explained, corroborates Mrs. Emily Ripley.

Minnie Atkins called David Atchison, a man who has lived in Leavenworth, Kansas, for sixty years, and who was engaged in the wood, coal, ice and feed business in Leavenworth in the eighties. Atchison testified that he knew Minnie Atkins in 1885 by the name of "Indian Minnie" when she would come to his wood and coal yard to buy coal for Granny Letcher, and that she frequently had a baby in her arms. That Granny Letcher lived on Seneca street between Second and Third streets in a frame building owned by a German named Dotter; that the baby carried by Minnie was called by his employes as "Minnie's papoose," and he fixes the year positively as 1885 by identifying it with a boom in Leavenworth which he declared was a well known and epochal fact in that city. This witness was before the Court. He fixed the time in 1885 when he saw Minnie Atkins as the fall of 1885 which, according to Minnie's testimony, was just a few months after the baby was born. The Court saw this witness and heard him testify and knew what manner of man he was.

L. B. Bell is employed in the Sheffield Car and Equipment Company of Kansas City. He knew Indian Minnie; he knew Indian Tommy, the boy at Granny Letcher's that went by the nickname of "Commodore," and was usually called Tommy Atkins. This witness was not impeached nor contradicted. He fixes this date by reason of his marriage in the fall of 1883 and by the fact that he went to work in the fall of 1884 for a transfer company in the city of Leavenworth.

Mrs. John Welch carried meals to her father at Grilley's barn twice a day. She knew this boy, Tommy Atkins, and saw him frequently at Granny Letcher's.

Philip Tucker is engaged in the livery business in Kansas City, Mo. He formerly lived in Leavenworth, resided there for thirty years, knew Indian Minnie, remembered seeing her there around

Granny Letcher's. He knew she gave birth to a child at Granny Letcher's; saw her nursing this child on Mrs. Letcher's porch and carrying the child in her arms; the child's name was Tommy and nicknamed "Commodore," and was an Indian boy. This man is a business man and has no interest in this case.

Alexander Ford and Wm. D. Ford, two colored witnesses, corroborated David Atchison and were working for him at the time Minnie came with her child to get wood for Granny Letcher.

The witness Roderick, whose testimony we have briefed above, is an old soldier. The trial judge saw him upon the stand and he was a bluff, straightforward, sincere, honest old man. He identifies Indian Minnie with great particularity. He fixes the date at which he left Leavenworth as being in 1886 by reference to a cyclone that blew down a girl's school building. It was about July 5, 1886. Later on in the testimony, which we have briefed above, Theresa Swoboda, assistant bookkeeper and stenographer in charge of the files of the Leavenworth Times, identifies copies of the issues of the Leavenworth Times of May 12 and May 13, 1886, establishing the date of a cyclone and windstorm at Leavenworth at which time thirty people were killed. This old soldier clinches the date at which he saw Minnie with a child at Granny Letcher's as the summer of 1885, and the Court will note that he testifies positively that he knew Mollie Peters, an old fortune teller, who lived on Third and Seneca streets, across from Letcher's, and on or about the last of June or the first day of July, 1885, at the request of this fortune teller, he went over to Granny Letcher's and saw Indian Minnie in bed with a baby; that he took the baby in his arms and carried the baby over to the fortune teller's house.

Now we beg that the Court will constantly keep in mind that the Peterkin baby which was born to Minnie was, under all the proof, by the Government and defendants alike, never at Granny Letcher's house, but was born in another house in another part of the city of Leavenworth and so, therefore, every witness who puts Minnie with a baby at Granny Letcher's house excludes all idea that it was the Peterkin baby without reference to the date at which they saw Minnie Atkins at Granny Letcher's.

We come now to Dr. C. R. Carpenter. This man testified that he delivered Minnie of her Peterkin baby in July, 1886, and that when he delivered her of this baby he discovered infallible signs in the way of lines and corrugations in her uterus which was proof positive that she had given birth to a full grown child prior to the birth of the Peterkin baby. An effort was made by the Government, in rebuttal, to discredit this witness and to show that his expert evidence as to signs of former pregnancy and childbirth were not accurate and reliable; but on cross-examination all of the Government's witnesses admitted that this might have been true and that these signs were a fact to be considered; but Dr. F. B. Fite, a distinguished physician and surgeon, testified that the signs of former pregnancy and childbirth found upon this woman, Minnie Atkins, when she had the Peterkin child were reliable, and were practically an infallible test.

We call the attention of the Court to the fact that the Government found this man Carpenter through their detectives and brought him up for examination, and for some reason, unknown to us, after they had talked with him, refused to put him upon the stand and upon such refusal he was put, at a hazard, upon the stand by Mr. Hanford, attorney for Minnie Folk (nee Atkins) and told the story against the Government which he finally told at the trial of this case.

We then come to Milton Webster, whose testimony is briefed above. Milton Webster works for an express company in Kansas City. He knew Minnie Atkins well, saw her about the 30th day of May, 1885, at Granny Letcher's in a highly pregnant condition. He saw her some time later with a little baby four or five weeks old. This man Webster evidently is a working man, so far as was known, of unimpeachable character. He testified that he fixed the date of May 30, 1885, when he saw her pregnant, because that was Decoration

Day, and the day that Broaddus shot Jobson, two significant facts calculated to remain indelible upon a man's memory.

Adolph Lange is a man of the highest intelligence and character. His identification of Minnie Atkins and of her pregnancy in 1885 is one of the most acute and impressive facts in this whole case. He said he used to sell the old fortune teller, Mollie Peters, a balsam mixture; that she suffered much dysentery and that he frequently saw Minnie Atkins with Mollie Peters in his drug store; that he remembers particularly that he saw her some time in the spring or summer of 1885, and that she was in a pregnant condition. He identifies this date with the utmost precision and particularity. He went to Europe in 1884; made a proffer to the Court of the papers which showed his passage on a certain ship, showed receipts of different hotels in Europe for bills paid in the summer and fall of 1884, and fixed his return to Leavenworth in the month of September, 1884. He knows that he saw Indian Minnie the next year after his return in that pregnant state, and one of the peculiar coincidents connected with Indian Minnie and with his testimony is the little pocketbook incident. He had two pocketbooks of the same kind in his store. They opened on the side, and he stated that when Indian Minnie came in his store in 1885 in her pregnant condition she took a fancy to one of these pocketbooks and he sold it to her. He kept the mate to this pocketbook and has it now and has carried it all these years as a receptacle for his lead sinkers, he being a great fisherman and much addicted to that character of sport. He says when he saw Minnie in the summer of 1885 the weather was warm, she was thinly clad and her pregnant condition was plainly observable. A man like Lange doesn't make any mistakes and when, under oath, seeking to tell the truth and whole truth after all these years, his testimony must be given weight in any court. He testified in person before the trial court.

We now come to A. W. Hopkins. This colored man showed great intelligence upon the stand and was unmoved and unshaken by an aggressive and searching cross-examination. He saw Minnie Atkins with this child in her arms in 1885. He fixes this date with great particularity. He is Grand Secretary of the Knights and Daughters of Tabor. He has been connected with that organization since 1883; sent to Memphis as a delegate to a meeting of the Grand Temple and Tabernacle at that place in 1884. He there met a woman who was a sentinel at that convention, whose sessions were in secret, by the name of Jane Anderson. She asked him if he knew Minnie Atkins at Leavenworth, and he said he did not. She asked him to look her up. He stayed in Memphis for some time during the fall of 1884 and returned to Leavenworth late in that fall and was taken sick and was unable to get around for some time. In 1885 he made some inquiry about Minnie Atkins and found out nothing, but later on he learned that she was staying around Granny Letcher's and in the late summer of 1885 saw her with a baby in her arms. He told Minnie what the Anderson woman had said to him at Memphis and Minnie said that the child she was carrying was her child. He saw Minnie at this time right near Granny Letcher's place. This witness was personally before the court.

The Court knows, because of the vigilance and zeal of the Government's attorneys, that all these public happenings which were pointed out by the foregoing witnesses as fixing dates had been investigated by the Government and found to be true, because the Government has neither assailed nor attempted to assail the correctness of these dates with reference to the public events.

The next witness to whom we direct the special attention of the Court is Patrick Delaney. This witness was a policeman and fireman, held office in both departments in Leavenworth for a number of years. He was on the police force in Leavenworth in 1894, laid off two years and went back in 1896, 1897 and 1898. This policeman, whose duty it was, of course, to run down unlawful and objectionable characters, testifies that he knew this Indian Tommy well and knew him around Granny Letcher's, and that he actually arrested this boy some time in 1896 or 1897. This man appeared to be a straightforward man and is now employed as night watchman at the Kansas City stock yards, a position of trust and responsibility. This witness was present at the trial.

We now come to a witness whose testimony it seems to us is very impressive and of the very highest probative force. James M. Allen was born in Leavenworth in 1852, and the proof shows that he was the first white child born in Leavenworth. He had been engaged most of his life in business as the general agent of the Rock Island railroad at Leavenworth, and was superintendent and ticket agent at the union depot at Leavenworth in 1884 and 1885. Allen's work carried him into all parts of the city of Leavenworth. He knew this girl Indian Minnie very well, and he testified that one day while in the neighborhood of Crilley's barn while out on a mission as soliciting passenger agent to build up the passenger traffic on his railroad, he went into Granny Letcher's house. It must be remembered that Jim Allen was a young man and probably knew Minnie better than he discloses. But, however this may be, he swears positively and unequivocally that he saw this Indian Minnie, the Minnie Atkins who is one of the defendants in this case, because there was no other Indian Minnie at Granny Letcher's, with a baby in her arms, and he saw her several times with this baby at Granny Letcher's, that her child was about three or four months old. He knows that this must have been either in 1884 or 1885, and that it could not have been as late as 1886 because he was at that time not on the street looking after passenger business.

We again repeat that if Minnie Atkins was at Granny Letcher's house in 1884 or 1885, as the case may be, with a baby, it could not have been the Peterkin baby, and it was necessarily this boy Thomas Atkins.

The next witness was Mattie Cobb. This woman, while the history of many members of her family is shady, is, as far as was disclosed, a woman of good character. She was a Mrs. Edwards in 1885, and she had a daughter born to her in that year by the name of Grace. This daughter was born across the street from and close to Granny Letcher's house. She knows that her daughter was born in the spring of 1885, and that Indian Minnie, who waited on her for awhile during her confinement, was pregnant with the child, and shortly afterwards she knows that Minnie Atkins had a child at Granny Letcher's and she saw this child.

We now come to the boys who played with Thomas Atkins around Granny Letcher's house. Thomas Higgins was a man thirty-six years of age, was born in Leavenworth and lived there until he moved to Kansas City in 1905. He knew Thomas Atkins, who lived at Granny Letcher's house, and played with him.

Alva Adams, another witness, knew Tommy Atkins as a boy and played with him. Saw him the last time about 1897 or 1898. The witness himself was arrested for petty theft of some brass from the railroad yards, and served a short sentence in the county jail in Leavenworth. We have already seen that Thomas Atkins was arrested about the same time. He detailed in a most convincing way the games that he and Tommy and the other boys used to play, told about the name "Trailer" which was given to Tommy, and in fact gave his testimony in a very convincing way. (This witness was before the Court.)

Elof A. Crilley knew the boy Tommy Atkins at Granny Letcher's house. He was George Crilley's son and lived just across the street from Granny Letcher's house. He knew Walter Banks, Jim Mayo and Sam Nash, who also lived at Granny Letcher's house. He appeared to be an honest man. George Crilley, whose testimony was very lengthy, knew this boy, nicknamed him "Commodore," and testifies in much detail about his knowledge of him and events in the neighborhood.

Dennis Jones, a colored lawyer of Leavenworth, Kansas, went upon the stand. He is a negro of very high character, if we judge him by the evidence and his conduct in this case. His testimony is full and complete. He identifies Tommy, remembers him at Granny Letcher's, knew Tommy when he was growing up, thinks he saw him around there until he was twelve or thirteen years old, may not have been that old—and he positively identified Minnie Folk in the court room as the woman he knew as Indian Minnie in Leavenworth in 1884 and 1885, and whom he saw at Granny Letcher's. (This witness was before the Court.) He had been savagely attacked by Sadie James, self-confessed crook and star witness for the Government. The Government claimed that Dennis Jones had helped to fabricate a case against the Government and in favor of Minnie Atkins. Under this state of facts we introduced the District Judge of Leavenworth County, Kansas (Judge Wendorff); Stance Myers, Sheriff of that county for four years and member of the State Board of Control of Kansas, and O. B. Taylor, cashier of the First National Bank of Leavenworth, Kansas, as to Jones' standing in the community (Rec., pp. 3734-3736). These men, who have known Jones for many years, vouched for his integrity and veracity. This is vastly important, for two reasons: First, because these men would not have journeyed all the way to Muskogee to testify as to the character of Dennis Jones, unless Jones was a negro of unusually high character; and, second, because the testimony of Jones is exact and convincing as to the existence of Thomas Atkins and as to Minnie being his mother.

The depositions of Walter Banks and Sam Nash were offered by the Government to show that this was a fabricated case, but when offered became evidence for all purposes and became evidenc for the defendants, Minnie Atkins and Chas. Page, as much as for the Government.

Sam Nash knew this boy and testified with exactness as to his age, color and the time he remained with his grandmother.

Walter Banks was a boy at Granny Letcher's at the same time, and he testified in detail about the boy, Tommy, and showed him at Granny's for a long period of time, and established beyond a doubt his identity.

We appeal to the Court here and now, if these witnesses, some of them of the highest intelligence and character have been broken down or discredited or impeached in any way. It is impossible that such witnesses as Mrs. Ripley, Mrs. Collins, Dave Atchison, Adolph Lange, James Allen, the old soldier Roderick, and the others whose names are not necessary to be mentioned because already considered, do not leave a fixed and lasting impression upon the mind of the Court that the testimony is true, that they have testified with care and exactness; that they are witnesses who appreciate the obligation of an oath, and were zealous to state the truth and nothing but the truth. If Minnie Atkins, by any sort of legal legerdemain in this case, were ordered here and compelled to make out a *prima facie* case showing the existence of a certain

Thomas Atkins as her son, we ask the Court if the evidence we have quoted does not and would not establish this *prima facie* case?

The other evidence in favor of Minnie Atkins we have quoted and we will not take the time to analyze in detail, but we have brought definitely before your attention this class of witnesses as to the identity and existence of Thomas Atkins as the son of Minnie Atkins at Granny Letcher's, and unless the Government has broken down these witnesses and has shown that they testified falsely or that they are mistaken, there is no escape from the conclusion that their testimony in this regard is of the greatest force and probative effect.

We shall not undertake to go into detail in discussing the evidence against Minnie Atkins. We have summarized it as faithfully as we could, endeavoring to give our adversaries the benefit of every phase of this testimony, and we hope the Court will consider this testimony against Minnie Atkins in connection with the testimony to which we have called your attention, and see and ascertain if the case of Minnie Atkins has been met by the Government, or by Nancy.

By an examination of the evidence introduced in behalf of the Government, you will find that the witnesses testifying against Minnie Atkins are, many of them, of doubtful character, and most of them testify as to one fact here and another fact there. The Government was evidently seeking by this means to tie these incidents together as to these particular circumstances and make a connecting chain of evidence. We think the Government has failed to do this. We say the GOVERNMENT HAS FAILED to do this, and if the Government failed, Nancy failed, because Nancy never introduced ANY EVIDENCE as to the non-existence of Minnie's child, but relied upon the Government's evidence. We introduced, however, much affirmative evidence against Nancy's claim.

Now, going back to the quotation from Judge Sanborn's opinion, let us see how this case stands. Judge Sanborn said—and it must be remembered that many of the witnesses testifying for the Government on the trial of this case, tesified at he receivership hearing—that the evidence of the Government, outside of the rolls, when contrasted with the evidence in favor of Minnie Atkins, left the Government without a case. The cause is infinitely more doubtful (outside of the rolls), now as to Thomas Atkins' non-existence as the son of Minnie Atkins, so far as the Government and Nancy Atkins' interests are concerned, than it was at the receivership trial, because by an examination of this record you will readily see and must conclude that the case of Minnie Atkins has been strengthened an hundred-fold by new, unimpeachable and, it seems to us, perfectly truthful witnesses.

The Circuit Court said in the former appeal herein, that if the issue is left in doubt as a naked proposition of fact as between the Government and Minnie Atkins, the rolls, including the pay roll of 1895, which are themselves original evidence and sufficient upon which to predicate a judgment by the Dawes Commission, htat Thomas Atkins was in fact the son of Minnie Atkins, turned the scale and made it conclusive, not only as against the Government, but, necessarily, as against Nancy Atkins, who seeks to use the evidence of the Government.

Sam Brown's Testimony

Some stress was laid by the Government upon the proposition that Sam Brown testified that he procured the names of Minnie's children from John Davis at a certain time and that the evidence in the case shows that he could not have procured it from John Davis, because John Davis, at the time Sam says he procured the information from him, was in the penitentiary.

We think that Sam Brown was mistaken about procuring this information from John Davis, although the Government thought and alleged in its pleadings that Sam Brown did procure this information from John Davis, and it was not discovered that he probably did not procure it from John Davis until near the end of the trial. The attorneys who represented Minnie Folk, Page and others made no objection to the introduction of the penitentiary record showing John Davis in the penitentiary, because if it was of any benefit to the Nancy case, she was entitled to it. But it seems to us that this is a "tempest in a teapot." We cannot understand how this matter can affect substantially the result reached in this case by Judge Campbell, the trial judge. It must be remembered that this proof that John Davis was in the penitentiary was before him and it must be assumed that he found that Sam Brown might be mistaken as to the source from which he acquired his information as to Minnie's children. The trial judge held that Sam Brown certainly obtained his information from same reliable source, because it appears indisputably that the pay roll of 1895 fixed and established that the information furnished by Sam Brown to the Creek Council, and upon which the roll of 1895 was predicated, was substantially correct. The Government called Sam Brown as a witness on page 214 of the printed record and examined him at length. In his testimony, commencing on page 214 of the record, he says that Noah Gregory was Town King of the Euchees in 1890, and that Sam Brown was Town King in 1895. He testified that tribal payment was made to the members of the Creek Nation or Tribe in 1890 and 1895. He testified that he had much to do with the making of the 1890 roll that was used in the 1890 payment; that he was Clerk of the convention of the Euchee people and took the census of 1890, and that Noah Gregory presided at that meeting. He testified that he knew about the names of Nancy Atkins and Mamie Atkins in connection with that roll; he testified that he was a second cousin of these two women, and that he knew them personally and knew their parents. He testified that the convention above spoken of was held on the square grounds on Snake Creek and that he was clerk of the convention in 1890; he testified that the convention was called to represent Indian families, see how many there were in the families so that they could take a true census and enable the members of the tribe to draw their money. He stated that in that convention the question of the children of Mamie (or Minnie) Atkins was discussed; he testified one of the neighbors, said he thought Thomas Holden, who was a brother-in-law of Minnie Atkins, knew something about Minnie's children. That Thomas Holden, brother-in-law of Minnie, got up in the convention and stated Minnie had two children, but did not know their names, and that Mamie (or Minnie) was placed on the 1890 roll as having two children. He testified, and Mr. German, the Government counsel, agreed with him on page 218 of the printed record, that the words Mamie and Minnie were used interchangeably, and that Mamie or Minnie on the roll meant the same person. He testified that the names of the two children of

Minnie were afterwards put on the roll as Thomas and Mary. He testified as to the care with which the rolls were made, and that the 1890 roll was formally adopted as the census roll by the Euchee people, and passed up to the Creek Council, which adopted the same. He testified on page 228 that he had lived in Euchee Town for many, many years; that the names Thomas and Mary put over Minnie's children on the roll of 1890 could not refer to Thomas Atkins, the father of Minnie, nor to Mary Atkins, the mother of Minnie, because he said that Thomas Atkins, the father had died twenty years before the 1890 roll was made; and that his wife, Mary, died long before the 1890 roll was made; that these names could not have been put there as representing the father and mother of Minnie, because everybody knew they had been dead a long, long time. On page 228 he again testified that he took the census roll of 1890 to the Creek Council, and that after they examined it they ratified it. That there were many people around the Creek Council who were Euchee Indians, and that they were as well acquainted in the community as he was. He testified further, and it was not disputed, that Thomas Atkins, the father of Minnie, was a Coweta and not a Euchee, and if he had been given as a living man on the census roll he would not have been on the Euchee roll, but on the Coweta roll. He testified in detail as to being present when Minnie drew her money in 1895. On page

232 he testifies that he had known Nancy for years; knew her well, and that he drew for Nancy and drew all the money that she was entitled to draw.

An analysis of this evidence shows, of course, that there are inaccuracies in Sam Brown's statement, as there were in nearly all the statements of every witness who testified as to these happenings more than twenty years ago. The substantial, undisputed fact remains that Sam Brown, Euchee Town King, passed his information up to the Council. The Creek Council adopted it and placed Minnie, with two children, upon the roll of 1890, and one of those children was named Thomas, the very Thomas whose number and identity was fixed in the roll of 1895 and fixed by the Dawes Commission. Brown declares that Thomas Holden, a brother-in-law of Minnie, got up in the 1890 Euchee convention and stated that he knew Minnie had two children at that time, and all the testimony in the case, together with Minnie's testimony, accounts for these two children. Suffice it to say that the roll of 1890 had Thomas Atkins upon it as son of Minnie. The roll of 1895 had the name of Thomas Atkins upon its face as the son of Minnie, and the pay roll had exactly the same thing, because the evidence shows that these people were put on the roll in family groups, and these children followed the name of Minnie on all of these rolls and no child follows the name of Nancy on any of them. So, however weak or strong the testimony of Sam Brown may be, or however weak or strong the testimony of other witnesses may be with reference to this matter, the Creek people who from 1890 to 1895, during a period of five years, were investigating and striving to make these rolls correct, and after this investigation seeking evidence, as the testimony shows, from every quarter, declared that Thomas Atkins was the son of Minnie Atkins and placed him on that corrected roll as such.

We feel certain, therefore, that these rolls have not been successfully impeached, and whatever may be the lapse of memory on the part of witnesses as to what occurred long ago, these old rolls speak with mute strength and power the truth as found by the Creek people, and these rolls, it seems to us, are conclusive as a matter of evidence in this cause, both as against Nancy and against the Government.

Conflicting Statements of Minnie

Attorneys for the Government in their brief make some reference to the conflicting statements of Minnie Atkins. We hardly deem it necessary to go at length into this matter, but in view of the labor which has been expended upon the question by the Government, we shall discuss this matter under a separate heading.

Minnie Atkins testified six times in this case; five times under oath, subject to cross examination, as follows:

First. At Sapulpa in the injunction suit hearing, in Creek County District Court, wher she was cross examined by attorneys representing Nancy and those claiming under her.

Second. In the office of George Williams Snyder at Kansas City, Mo., where she was questioned in detail by Attorney Rice. This examination being preliminary to the taking of her deposition in the Creek County District Court against Nancy Atkins et al.

Third. In the office of Rice & Lyons, in Tulsa, at which time her deposition was taken in the Creek County case.

Fourth. Before the United States District Court at Muskogee in the receivership hearing.

Fifth. Before Examiner Penick, at Seattle, Washington, when her deposition was taken for use in the final trial of the case in the Federal court.

Sixth. In the final trial.

At the time of Minnie's discovery in Seattle, in June, 1914, she told Mrs. Catherine Sisk McComb (Rec., p. 3852) that the was the mother of five children. Mrs. McComb at that time was the wife of a lieutenant in the regular army and had employed Minnie as servant in her home. Minnie's statement to Mrs. McComb that she was the mother of five children was made before she knew anything about the value of the Thomas Atkins allotment, or before she had been advised that there would be any serious litigation concerning it.

The next statement Minnie Atkins made concerning her children was in conversation with F. B. Long at Seattle in June, 1914, at which time she made the assertion that she was the mother of Thomas Atkins, and that he was dead.

The next statement was made to her attorney, Mr. Hanford, and to Mr. Long, in July, 1914, at which time the data from which her first affidavit was written was procured. At that time she asserted that she left Thomas with a colored woman at Leavenworth. She first stated that the boy was born in a private house; subsequently changed that statement and said he was born in a Sister's hospital. She did not remember the date, but it was assumed the birth occurred either in 1886 or 1887. She said she left the baby with a colored woman in Leavenworth, but refused to give the name of this woman. In this conversation, Mr. Hanford's recollection has always been that Minnie's first statement was the baby was born at the house of a colored woman, but that she quickly changed this assertion and fixed the place of birth as the hospital.

Through all the various sworn statements she made during the progress of this case, there are some inaccuracies, but in only two instances did Minnie Atkins intentionally conceal the truth. First, as to the place of birth of her son; and, second, as to the Peterkin child. She explained in the receivership hearing and in her deposition at Seattle, and in the final trial at Muskogee, her first false statement by declaring repeatedly she did not want the white people to know that her baby was born in the home of a negro. Hanford told Minnie on his second trip West that she must tell the truth; that it was useless to conceal anything. Hanford further testified that the reason she refused to tell the truth about the birth of her son was because she did not want the people back in Seattle to know it; she was afraid Captian McNabb and McCombs would find it out, but that the negro woman's name was Granny Letcher.

Frank L. Montgomery testified (Rec., pp. 1372-1391) that in his conversation with Minnie at the time she made her alleged confession, the question of immunity was discussed. He admitted (Rec., pp. 1384-1399) that Sadie James, Robinson the detective and Buhl were with him. He also stated that he used the fact of Minnie's having executed a deed to Chas. Page at the time he talked about the penitentiary and granting her immunity. In her preliminary statement, made in Kansas City, where she was examined by Attorney Rice, Minnie stated that Tommy was born soon after she left the Hydes. At this time it was very apparent that she was trying mighty hard to tell the truth and at the same time conceal the facts about the Peterkin baby. At this time none of Minnie's attorneys nor friends knew of the Peterkin baby. Hanford had been East and had seen Peterkin, but Peterkin told him that this child was a girl, and Hanford apparently confused the information Peterkin gave him with the daughter Mabel, or or Alice, born in Ft. Logan. In that preliminary statement Minnie went so far as to confess that the date of the birth was 1885 (Rec., pp. 4051-4055). She said she left Hydes when she began carrying the child and that the reason she went to Granny Letcher's to give birth to the baby was because she did not want the white people to know about it.

Again, in the deposition taken in the office of Rice & Lyons for use in the Creek County District Court, she states the baby was born soon after she left Hydes (Rec., pp. 1305, 1390), but she did not testify as to the Peterkin baby in this deposition. However, she did say she worked for the Grodevants, and that she went from the Grodevants to the Staffords.

The Government in its arguments has attached great importance to its assertions that the only witness aside from Minnie herself who even attempted to fix the date of the birth of Thmas, was Mrs. Cobb.

Mrs. Ripley, who made such a good appearance on the stand, fixed the time when she saw Minnie pregnant, at the Grodevants.

The date of the birth was fixed by John Roderick, the old soldier.

Witness John F. Roderick having testified that his contract with the Government for conveying freight from the City of Leavenworth expired on the first day of July, 1885 (Rec., p. 2938), and that soon afterward he went to Fort Riley, and from there to Kansas City, testified as follows (Rec., p. 2940):

> "A. On or about the last of June or first of July I was down at Crilley and Cranstons' barn. I went in to Aunt Mollie's. Aunt Mollie told me she just brought a baby into the world and for me to go over with her and see it. I went over there and I saw a baby lying by the side of the woman called Indian Mary, recognized her, and then went back home. In about three or four weeks afterwards I went down again and asked how the baby was getting along. She said it was get-

ting along fine; asked me to go over there and got the baby. I went over and got the baby. She was nursing at the time. I took the baby over to Aunt Mollie's.

Q. Now, you said Indian Mary, or Indian Minnie?

A. Indian Minnie.

Mrs. Cornelia Hyde Collins, daughter of Geo. H. Hyde, fixed the time when she saw Minnie pregnant as some few months after she left the Hyde home.

Claude Hamilton, Government witness, fixed the time of Minnie's pregnancy as some months after she came out to the Post for the Grodevant family.

Not only did Minnie conceal the facts as to the Peterkin baby from her own attorneys, but she also very successfully concealed the facts as to the Peterkin baby from Montgomery, who is supposed to have procured the alleged confession from her.

Testimony of Mrs. Emily Ripley (Rc., p. 2798):

"Q. Did you ever at any time see an Indian woman at Mrs. Grodevant's?

A. Yes.

Q. You know what they called her?

A. Indian Minnie.

Q. Indian Minnie. Was there anything that attracted your attention to her. I mean in her general appearance?

A. Yes, her physical development and her unusual coloring and hair.

Q. Did you see her at Mrs. Grodevant's?

A. Oh, yes.

Q. Now, I will ask you whether or not, when you were at Mrs. Grodevant's, you noticed anything peculiar about her physical condition?

A. Yes.

Q. What did you notice? State to the Court.

A. She appeared to be about to become a mother. I saw her through a window one day. Mrs. Grodevant and I were in the room and were discussing her appearance.

Q. Did she appear very far gone or little gone in pregnancy?

A. Well, it seemed to be advanced.

Q. Did you speak to Mrs. Grodevant about it?

A. Yes, I did; I just said, 'Minnie looks as if she was pregnant,' and Mrs. Grodevant said, 'I believe she is.'

Q. When was this?

A. It was in 1885.

Q. How do you know it was 1885?

A. 1885 was a memorable year for me,—

Q. Well, just compose yourself.

A. I gave birth to a child and lost a child that year.

Q. In what portion of the year?

A. In January, 1885.

Q. And one of your children died the same year?

A. In August—

Q. In August, 1885? Do you know whether that was before or after your child died?

A. That I saw Minnie?

Q. Yes.

A. It was before.

Q. Mrs. Ripley, did you see Minnie after that?

A. Oh, yes, the year after my child died.

Q. After you saw her in the yard, when you say she was pregnant?

A. Yes, sir.

Q. How did she appear then?

A. Her condition was normal.

Q. Did you speak to Mrs. Grodevant about that?

A. Yes. Mrs. Grodevant said, 'yes, Minnie has a baby;' that is what she said."

Particular notice should be taken of this first-hand intimate conversation with Mrs. Lettie Grodevant. Mrs. Ripley knew Mrs. Grodevant before she was married; knew her as Lettie West, the daughter of West, and was a frequent visitor at her home. In this whole immense record this testimony of Mrs. Ripley's is the only word from the mouth of Mrs. Grodevant with reference to Minnie's condition. Not a single Government witness, and there were many of them testified to being intimately acquainted with the Grodevant family, had recollection of any statement made by Mrs. Grodevant as to Minnie Atkins. Subsequently, the Court stated (Rec., .p 2799), in reply to objection by counsel for the Government, that he would not consider the evidence given by Mrs. Ripley with reference to her conversation with Mrs. Grodevant. On cross-examination (Rec., p. 2806), Mrs. Ripley stated that she was very positive that she saw Minnie in a pregnant condition in the spring of 1885, during the months of May or June. Further, on cross examination of this witness, the Court (Rec. p. 2820), made the following ruling, to which counsel for the Government excepted:

> "While those witnesses are coming, the record may show in view of the cross-examination of this witness, that the ruling of the court this morning, in excluding from the record the conversation between this witness and Mrs. Grodevant at the time this witness testified she noticed the pregnant condition of Minnie Atkins, will be set aside and that conversation will be permitted to remain a part of the record."

With reference to the date when Thomas Atkins was born to Minnie at Leavenworth, particular attention should be paid to the testimony of Mrs. Cordelia Hyde Collins, who fixes the date by the time Minnie left the employment of her father and mother, Geo. H. Hyde (Rec., p. 2827). Mrs. Collins testified as follows:

> "Q. State whether or not she worked for your family?
>
> A. She worked for us for months. I can't tell how many months, as general housework girl.
>
> Q. Do you remember the occasion of her leaving your employment?
>
> A. Yes, quite suddenly and unexplained at the time.

Q. Did you ever see Minnie after she left your employ?

A. I saw Minnie once after she left us, on Choctaw Street.

Q. That was in the city of Leavenworth?

A. In the city of Leavenworth.

Q. What was the occasion of your seeing her at that time?

A. I was driving back from town. I had been on an errand and was driving up with our horse and buggy, and I saw Minnie on the left hand side of the street.

Q. On the left hand side of Choctaw Street?

A. Of Choctaw Street, without hat on, apparently as if she were staying there.

Q Do you know Leavenworth? .Can you state between what cross streets that would be?

A Yes, I saw her on 4th street, so she would have been between 3rd and 4th.

Q. I will ask you, Mrs. Collins, if you can describe the nature of the place you saw her in front of?

A. Choctaw was a disreputable street and a good many rough sort of people lived down there.

Q. I will ask you, if the place you saw her in front of was one of those places?

A. Yes.

Q. Did you know Minnie's physical condition at that time?

A. Yes, I noticed immediately and was

shocked and realized that must have been why she left our house, when she was pregnant.

Q. About how long was that after she left your house?

A. I think it must have been two months possibly, enough so that I realized why she left our house."

The Grodevant book shows that Minnie went to work for Grodevants in October, 1884. She, therefore, left the Hydes during or very shortly before that month. The testimony of Mrs. Collins, therefore, absolutely fixes the time when Minnie was in a pregnant condition with her first born child.

Wih reference to the number of children and her conflicting statements to the number, attention is called to the testimony of Mrs. Catherine Sisk McComb (Rec., p. 3852). Mrs. McComb is the wife of an army officer stationed at Fort Lawton. Minnie had worked in her family, and prior to investigation in this case by the Government and before Minnie Atkins had steeled herself to conceal the facts as to the place of the birth of her son, Thomas, she told Mrs. McComb that she was the mother of five children.

In connection with the statements of Minnie and the transactions between her and others at Seattle and near there, we desire to call special attention to the testimony of Captain Alexander J. McNabb, who was a soldier of highest repute at the time, and on the staff of General Pershing during the late war. His interest in Minnie Atkins was entirely impersonal, and he intervened for the purpose of her protection. We think his testimony shows more clearly than any other the way in which this Indian woman was beset by men desiring to destroy her and to get the fruits of her inheritance.

Care with which Dawes Commission Examined the rights of citizens in the Creek Nation and the exhaustiveness with which every case was considered.

In the case of *Woodward* v. *De Graffenried*, 238 U. S. 284, this Court held that the communications to Congress by the Dawes Commission were a public matter, and public history of which the courts took notice, because that Commission was an arm of Congress, and, in the execution of its duties was the eyes and ears of the Government of the United States. In this connection, therefore, we call attention to the reports of the Dawes Commission to Congress and extracts from such reports.

On page 6 of the Annual Report of the Commission of date October 3, 1898, it is stated:

> "In addition to what was theretofore required of them, this act and these agreements, among other things, require them to take a census of all the citizenship of each nation before perfecting a final roll for allotment, and in doing so they are 'authorized and required to make correct rolls of the citizens by blood

> of all the tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto and their descendants born since such rolls were made,' etc.
>
> "*This compels the Commission to pass judicial judgment upon the right to citizenship of every name upon the citizenship roll of each of the Five Tribes. No clerk or other substitute can do this work. It must be done personally by the Commission and upon a hearing of evidence in each case where there is any question.*"

On page 36 of the Annual Report for the year 1902, the Commission said:

> "The Act of Congress of March 1, 1901 (31 Stat. L. 861), which was ratified by the Creek National Council, May 25, 1901, provides for the enrollment of all citizens of said nation entitled to be enrolled under Section 21 of the Act of Congress of June 28, 1898 (30 Stat. L. 495), who were living on the 1st day of April, 1899. * * *
>
> "It therefore became necessary to determine who of these citizens were living on April 1, 1899, and who of said children born subsequent to that date were living on July 1, 1900. * * *"

In the report of the year 1903, at page 29 thereof, is set forth the following:

> "The nearer the work approaches completion, the greater the degree of care required in determining the rights of applicants for en-

> rollment. . When it is considered that no person who died prior to April 1, 1899; no child born subsequent to April 1, 1899, etc. * * * is entitled to enrollment, it will readily be seen that in cases of this character, where the question of date arises, the evidence must be *clear and convincing.* * * *
>
> "No record of births and deaths is provided for by law in the Creek Nation, and in very few instances coming under the observation of the Commission does it appear that such record has been kept by the relatives of the persons for whom applications have been made. The testimony submitted is from memory alone. In cases where the birth or death occurred within a few days of a date vital to the case, it is apparent that the date of such birth or death must be clearly and accurately established. *In order to arrive at the truth supplemental testimony has been necessary in many cases, and extreme precaution is essential in order that injustice be not done the applicants or the Creek Nation."*

In this report, under the sub-head "Enrollment Cases," it is stated:

> "During the year ended June 30, 1903, 178 original applications, embracing 276 persons, were made to this Commission for enrollment as citizens of the Creek Nation. *Additional testimony has been taken in 54 cases.* In 107 cases, embracing 128 persons, the applicants have been listed for enrollment without formal decision, *no objections having been entered by the attorneys for the Creek Nation."*

From these official reports of the Commission rendered while it was still in session, it is manifest that enrollments of citizens on the final rolls, as certified to the Secretary of the Interior, including the name of Thomas Atkins, were made upon affirmative evidence as to every fact judicially determined and essential to enrollment; and that the proceedings had and manner of enrollment, were not *ex parte*, but that all enrollments were made with the knowledge of the Creek Nation and its officers, including the Creek National Attorneys, whose duty it was to represent and contest for the interests of the Tribe.

It seems clear, therefore, inasmuch as the Dawes Commission did purge the roll of '95, and did declare that after such purging and examination, Thomas Atkins must be enrolled as a citizen of the Creek Tribe, conclusion inevitably follows that the appellant is not permitted to go, not only behind the judgment of the Dawes Commission, but to go behind the judgment of the Creek Council which enrolled Thomas Atkins upon its roll.

PAGE AND HIS ASSOCIATES WERE PURCHASERS IN GOOD FAITH.

On the hearing of this case before the Circuit Court of Appeals for the Eighth Circuit on the receivership question, the Court, in its opinion used this language:

> "Nor is there any satisfactory or persuasive evidence that the defendants knew or had notice that Thomas Atkins never existed before they purchased their lease or title. They had the right to rely and act upon the Creek rolls of citizenship made by the tribe itself, and upon the final rolls made by the Dawes Commission until they received satisfactory evidence that these rolls were false and the evidence fails to convince that they ever had such evidence before they purchased."

The evidence now before the Court as to the good faith of Page and his associates, is the same. and, perhaps, stronger than it was when this case was heard in the receivership matter. We refer the Court to the witnesses hereinafter set out and to their testimony shown by the transcript.

The first witness introduced as to the good faih of Page was R. A. Josey. Mr. Josey was President and one of the principal stockholders of the Gem Oil Co., which originally purchased the lease, afterward assigning the same to Page & Josey, a one-half interest each. At page 3666 of the record, under direct examination by Mr. Stuart, Mr. Josey testified as follows:

> "Q. Mr. Josey, do you remember acquiring a lease on what is known as the Thomas Atkins property?
>
> A. I do.
>
> Q. Did Mr. Long work for your company?
>
> A. He did.

Q .Who were your attorneys?

A. Rice & Lyons.

Q. At that time? Now, Mr. Josey, I will ask you when was the first time, after you acquired that lease, that you ever heard anybody say or claim that Thomas Atkins was a myth, as near as you can remember?

A. Well, as near as I can remember, at the time of this confession that was made in Seattle.

Q. Sadie James' confession?

A. Of Minnie's confession.

Q. Of Minnie's confession?

A. Yes, sir.

Q. In Seattle?

A. In Seattle.

Q. And you say that is the first time you ever heard of any claim of that sort?

A. That is my best recollection."

Chas. Page at the beginning was Vice-President of the Gem Oil Company and owner of one-half the capital stock thereof. Subsequently, the Gem Oil Company, which purchased the lease originally from Minnie Atkins, assigned the same to Mr. Page and Mr. Josey, a one-half interest each. On page 7838 of the record, Mr. Page testified as follows:

"Q. When did you for the first time hear that the Government, or anybody else, claimed that Thomas Atkins never existed at all?

A. Well, the first time I ever heard that was —that confession of Minnie's, I believe."

Further, on same page, Mr. Page testified as follows:

"Q. Did you get some sort of information that suit was going to be brought to cancel this patent?

A. Yes, I heard they were going to start suit, and parties would come to us and tell us—

Q. Well, that they were going to bring suit?

A. That they were making a tentative filing and so on, and getting ready to bring suit, but we had no fear of that, because we did not think the Government would lend itself to anything of that kind with Mr. Buhl and those people."

On page 3879, during direct examination of Mr. Page, Mr. Stuart offered in evidence the following telegram:

"January 18, 1915.

"Cato Sells,
"Commissioner of Indian Affairs,
"Washington, D. C.

"We are advised Creek Attorney Allen has been authorized to bring suit to set aside Creek deed issued to Thomas Atkins. Allen is working on false statements. He is misinformed. We have not been permitted to submit facts. We are mailing you full and complete statement of facts and request action be deferred until statement reaches you. We court the fullest investigation.

(Signed) "Chas. Page.
"R. A. Josey."

On the same page, Mr. Stuart read into the record the following telegram:

"Washington, D. C., January 21, 1915.
"Chas. Page and
"R. A. Josey,
"Tulsa, Oklahoma.

"Your telegram January eighteen. Suit instituted on January eighteen against Minnie Atkins and others. Case in charge of Department of Justice and Creek Tribal attorney.
(Signed) Cato Sells,
"Commissioner."

On the same page of the record, Mr. Stuart read into the record the following letter:

"January 20, 1915.
"Hon. Cato Sells,
"Commissioner Indian Affairs,
"Washington, D. C.

"Dear Sir:

"Please refer to our telegram of January 18, 1915, with reference to proposed suit in the U. S. District Court for the Eastern District of Oklahoma by the United States for and on behalf of the Creek Nation of Indians, to cancel the deed issued to Thomas Atkins, in which telegram we stated we would submit to you complete statement of facts. Our purpose in writing you was to be given an opportunity to present our side of the case prior to the filing of the suit. Now that the suit has been filed, we feel that it would be presumptuous for us to present any statement of facts, unless requested to do so by your office or the office of Creek Attorney Allen. We are ready and willing at any time to furnish you or Mr. Allen with any information desired. As stated in our telegram we court the fullest and most complete investigation of our case.

"Yours very truly."

Again, on page 3880 of the record, Mr. Page testified as follows:

Q. Mr. Page, I will ask you this: If prior to the time Minnie Atkins made that confession you entertained any doubt of any kind that Thomas Atkins existed? Did you have any doubt about it?

A. I never thought—I always believed that Tommie existed at all times after getting the record."

E. O. Curtis was put on the stand by the defendants. He testified (page 4169) that he is auditor for Chas. Page, familiar with the books of Chas. Page and that he had prepared statements as to the expenditures on the Atkins lease (page 4171 of the record). (During the testimony of Mr. Curtis, on p. 4171, defendants, Minnie Atkins et al., Exhibits B-22 and 25, were offered in evidence.) These exhibits appear on pages 4950 to 4958 of the record. Defendants' Exhibit B-22 is a statement of the expenditures on the Atkins lease up to December 17, 1914, which was the date of the alleged confession of Minnie Atkins. This statement shows the expenditures on the lease up until December 17, 1914, to have been $51,600.81. The first expenditure on the lease being a rig purchased on August 6, 1914, at a cost of $1,165.00. Defendants' Exhibit B-23 shows the expenditures on the Atkins lease from December 17, 1914, to January 18, 1915, to have been $15,800.38, the first sum mentioned, to-wit, $51,600.81, the expenses up to December 17, 1914, was the investment on the lease prior to the alleged confession, which confession was the first notice we had that the Government was active in the case or that any one claimed that Thomas Atkins was a myth and that he never existed. Defendants' Exhibit B-23, showing the total of $15,800.38, was the amount of money we spent between Dec. 17, 1914, when the alleged confession was made, which, as above stated was the first notice of the Government's claim and the filing of the suit by the Government on January 18, 1915.

As to the statements above referred to, under direct examination by Mr. Stuart, page 4169 of the record, Mr. Curtis testified as follows:

"Q. I will ask you whether or not you have a book that treats of the Tommie Atkins lease?

A. Yes, sir.

Q. Have you drawn from those books the total amount of the expenditures, commencing in August and ending in January?

A. Yes, sir.

Q. August, 1914, and ending in January, 1915?

A. Yes, sir."

On page 4172, under cross examination by Mr. German as to the exhibits above mentioned, Mr. Curtis testified as follows:

"Q. Have you two exhibits?

A. One is to December 17th, and the other is from December 17 to January 18th."

Under cross examination, the Government attempted to show that some of the expenditures entered on the exhibits were simply book entries, and that the money had not actually been paid out.

Curtis was subsequently called for further cross examination and testified as to the expenditures and as to the office methods of doing business.

As to the Government's contention that some of the items shown had not been paid for, but were simply charged on the books, the Court, on page 4577, ruled as follows:

> "Now it is perfectly clear to me that so far as these defendants who took charge of that lease are concerned, if they incurred the liability, whether they paid it at once or paid it six months in the future, they incurred the liability,

> and it amounted to the same thing as cash. There is no question about it, and it is just as much an evidence of good faith if they incurred an indebtedness that they had to pay as if they paid cash."

Geo. Kinney, on page 4158 of the record, testified that he was superintendent during the year 1914 and 1915 for Chas. Page and R. A. Josey. He testified that they began drilling on the Atkins lease in the year 1914, some time during the month of November. Mr. Kinney further testified on page 4160 that his employers had five steel tanks constructed during the winter of '14 and 1915; that he could not give the exact dates, and that his recollection was that the tanks cost $14,500 each. On cross examination by Mr. German, page 4160, Kinney testified that the No. 2 well, which was the first one defendants drilled, was spudded in November 3, 1914, and showed the Bartlesville sand on January 3, 1915.

The Law of This Case and the Necessary Correctness of the Judgment Rendered Herein From the Application of Such Law.

We think there can be but one conclusion in this cause when measured by the adjudicated cases, and that is, that the rolls of the Tribe, together with the evidence in support of said rolls, are practically conclusive of this controversy. What is known as the Wildcat case heretofore referred to in this brief was the first expression by the Supreme Court of the United States as to the binding force and character of the judgments of the Dawes Commission and of the force and effect of the rolls of the Tribe as evidence. It will be remembered that in that case the Court declared that the Dawes Commission was expected to make mistakes; that the immense volume of work before it induced mistakes, but that their judgments whether perfectly correct or not, must be assumed to be correct and impervious to collateral attack. The doctrine announced in the Wildcat case was not new, because the Eighth Circuit Court, more than twenty years ago announced and continued to announce prior to the decision by the Supreme Court in the Wildcat case that the Dawes Commission was a judicial body and that its judgments were entitled to the same faith and credit as the judgments of any court of competent jurisdiction. The Wildcat case affirmed the opinions of the 8th Circuit and held that the proceedings of the Dawes Commission were in no sense ex parte, but concluded and settled the rights of all parties before the Commission forever. These Courts declared that the presence of the Creek Council when the Dawes Commission was enrolling, the presence of the attorney for the Creek people whose duty it was to watch the rolls and help purge them, made the the whole transaction a judicial trial; made the judgment after such a trial a muniment of title in favor of the party who was actually enrolled by the commission.

Let us now consider what the Dawes Commission had to do when it came to the name of Thomas Atkins on the roll. The Commission took the roll of 1890 and examined it; it took the roll of 1895 and examined it, and, above all, took the corrected roll; that is, the exact roll known as the Creek pay roll, and examined it. On these rolls the Commission found the name of Thomas Atkins, and the Commission found that name accredited to the family of Minnie Atkins and found that Thomas Atkins accredited to Minnie as his mother. On the face of the rolls, the Thomas Atkins whom the Commission was examining was the son of Minnie Atkins; with these rolls before it and with the duty resting upon the Commission to determine if the rolls spoke the truth, the Commission took the evidence outside of the rolls and found that the Thomas Atkins on these rolls was, in fact, the son of Minnie Atkins, and found that he was living April 1, 1889, and entitled to enrollment. The Dawes Commission did this in order to assure itself that these rolls as to this particular Thomas Atkins, spoke the truth, and the Commission found that the rolls did speak the truth, because the evidence that the Commission took accorded in all things with the face of the rolls. Now we contend that these rolls, if they showed on their face what Judge Sanborn held in this case on the first appeal, that the Thomas Atkins on these rolls was the son of Minnie Atkins, are at least presumptive evidence in favor of Minnie Atkins, against the world, and they must be broken down by clear and substantial proof. To state the matter in another way, the first thing the Dawes Commission did when it came to this particular Thomas Atkins, was to examine the rolls of the tribe; that examination showed beyond a doubt that the rolls of the tribe on their faces disclosed the particular Thomas Atkins which the Dawes Commission was considering, to be the son of Minnie Atkins. This being true, the Dawes Commission then followed up this examination of the rolls by taking evidence extraneous to the rolls and concluded that the rolls were correct and they denominated this particular Thomas Atkins as the son of Minnie. We say that these rolls, therefore, are, if not conclusive, presumptively correct, and we start out therefore with this much in our favor.

We, therefore, recur to the original question, who was the Thomas Atkins No. 7913 actually enrolled and intended to be enrolled by the Dawes Commission, and did he live after April 1, 1899? The rolls on their faces declare that he was the son of Minnie Atkins. These rolls were prepared and approved by the Creek people, who, of course, had a deep and abiding interest in making correct rolls. The evidence taken by the Commission absolutely corresponds with the notations on the roll. Before we conclude here we desire to call attention of the Court to the specific findings of Judge Campbell, the trial Judge, which can be found on pages 140, 149 and 150 of the record. The learned trial Judge found that the Dawes Commission in acting in this particular case did not act arbitrarily and without evidence, but had before it substantial evidence as to the right of Thomas Atkins to enrollment and as to his being the son of Minnie Atkins. In this first finding, which we have just quoted substantially the learned Judge declared that not only did the Dawes Commission have a trial and hearing upon this matter, but had a trial and hearing as to the identity of the particular Thomas Atkins under consideration and had evidence as to his being the son of Minnie. In the next finding the trial Judge found that the Thomas Atkins enrolled as No. 7913 on the final roll of the Creek Indians is the son of the defendant, Minnie Folk, nee Atkins. The trial Judge found this separate, independent fact from an examination of all the evidence in this case, and after argument of counsel. The Court further found that the Thomas Atkins appearing on the 1895 authenticated roll of Creek Indians and later on the roll of Creek Indians as compiled by the Commission to the Five Civilized Tribes opposite No. 7913 and approved by the Secretary of the Interior was in fact the illegitimate child of the said Minnie Folk, nee Atkins. And the Court in this particular finding said further that the said Thomas Atkins so enrolled was not the son of Nancy Atkins. Here the Court distinctly declared that from all the evidence in the case, the Thomas Atkins now under consideration was the son of Minnie and not the son of Nancy. And the Court further found specially, as he did in other findings, that Minnie Folk, nee Atkins, was the sole heir of that Thomas Atkins, and inherited the property now in controversy.

We beg to say that these findings show on their faces an exhaustive consideration of all the evidence by the trial court, and such findings carry with them great weight and cannot be easily overturned.

On page 144 of the record we quote from the memorandum opinion of Judge Campbell, which again reinforces our position as to the care with which he considered this case:

> "Time and space will not be taken to refer to nor analyze in detail, but after a most careful examination of all the evidence the Court finds that Minnie Atkins had an illegitimate male child born to her during the early part of June, 1885, at the home of a colored woman known as Granny Letcher in the City of Leavenworth, Kansas, and that she named this child Thomas Atkins."

Now here is a specific finding by the trial court not only that Minnie was the mother of this particular Thomas Atkins, but is a finding as to the date of his birth and as to the place where he was born. On page 145 the trial court said this:

> "The Court further finds that prior to the compilation of the tribal roll now known as the 1895 authenticated roll of the Creek Tribe of Indians, Minnie Atkins had conveyed information to certain of her relatives in the Indian Territry of the fact of the birth of Thomas Atkins, which information was eventually imparted to the tribal authorities compiling the roll and that the name Thomas Atkins appearing at 213 of Euchee Town on the 1895 authenticated tribal roll was placed on said roll by the tribal authorities compiling the roll as the child of the defendant, Minnie Atkins, pursuant to such information. The Court finds that the Thomas Atkins appearing on the 1895 authenticated tribal roll and later on the Dawes Commission roll is in fact the illegitimate child of said Minnie Atkins, born, as aforesaid, in the city of Leavenworth, Kansas, in the early part of June, 1885, and is not the child of Nancy Atkins."

The learned Judge who tried this case below patiently read and considered the deposiion evidence in this case; he patiently heard and considered the oral evidence given in this case. It was voluminous; it required a great amount of care and attention. He solemnly adjudged that the claim of Minnie Atkins as to the birth and parentage of Thomas Atkins enrolled by the Dawes Commission was true, and that the same Thomas Atkins was living on April 1, 1899, and entitled to enrollment. He held that the claim of Nancy Atkins was untrue.

In conclusion therefore, we beg to say respecfully, that there is no merit in the Government's case. The Government is defeated by reason of the fact that it has alleged no ground upon which a court of equity can act in reopening this case. It is defeated by reason of the circumstance that three courts have decided the questions of fact raised against the Government. It is defeated by reason of the circumstance that the finding of fact in this case by the Trial Court and by the Circuit Court of Appeals that Thomas Atkins was not a myth, was a just and correct finding of fact.

We therefore urge respectfully that this case ought to be in all things affirmed.

Respectfully submitted,

C. B. Stuart,
Lee Bond
E. C. Hanford
M. K. Cruce,

Solicitors for Appellees, Minnie Folk (nee Atkins), Chas. Page et al.

United States Circuit Court of Appeals.

EIGHTH CIRCUIT.

NO. ____________

United States of America, - - - - - - - - - *Appellant,*

vs.

Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as Guardian of Nancy Atkins, an Incompetent, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, - - - *Appellees.*

NO. ____________

Nancy Atkins, H. A. Ridgway, Guardian of said Nancy Atkins, an Incompetent, Robert L. Rutherford, and A. L. Ferguson, Administrator of the Estate of James A. Ferguson, Deceased, - - - - - - - - - - - - - - - *Appellants,*

vs.

United States of America, Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy,

Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, *Appellees.*

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

PLEAS AND PROCEEDINGS BEFORE THE HONORABLE RALPH E. CAMPBELL, JUDGE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF OKLAHOMA, PRESIDING IN THE FOLLOWING ENTITLED CAUSE:

UNITED STATES OF AMERICA,

Equity *vs.* **No. 2131**

MINNIE ATKINS, et al.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.—No. 2131 E.

United States of America, Complainant, v. *Minnie Atkins; Henry Carter, Charles M. Ball; Nancy Atkins; Micco T. Harjo, as Guardian of Nancy Atkins, an Incompetent; Charles Harrison; Thomas Harris; Kahookah Harris; Harvey Harrison, a Minor; A. J. Burchett as Guardian of Harvey Harrison, a Minor; Minnie Hall, nee Atkins; Martin Rowe; Harry Harrison; Minnie E. Folk, nee Atkins; Harry B. Folk; Edward C. Hanford; Robert L. Rutherford; James A. Ferguson; Gypsy Oil Company, a Corporation; Gem Oil Company, a Corporation; Charles Page; H. U. Bartlett; A. A. Hammer; William S. Murphy; Wilbur M. Norris; W. W. Walton; Ellis H. Hammett; Rufus B. Cobb; George C. Conrod; John R. Fields; James M. Brogan; Thomas Gilcrease; Robert Wilson; S. D. Shirk; H. E. Whitehead; T. S. Hurst; F. F. Betzler; R. A. Josey; Thomas Atkins; C. J. Wrightsman and J. Truman Nixon, Defendants.*

Amended Bill of Complaint.

Comes now the United States of America, by D. H. Linebaugh, United States Attorney for the Eastern District of Oklahoma, its solicitor of record, and with leave of court first had and obtained, files this its amended bill of complaint herein and states:

That the United States of America, by D. H. Linebaugh, United States Attorney for the Eastern District of Oklahoma, by direction of the Honorable Thomas W. Gregory, Attorney General of the United States, brings this suit in its own behalf and in behalf of the Creek Nation of Indians, against the defendants, Gypsy Oil Company and Gem Oil Company, which are corporations duly organized, existing and doing business under and by virtue of the laws of the State of Oklahoma, and having their principal offices in Tulsa, Tulsa County, State of Oklahoma; against the defendant, Charles M. Ball, who is a resident and citizen of the State of Kansas, residing in the City of Coffeyville within said state; against the defendants, Minnie Atkins and Henry Carter, who are residents and citizens of the State of Kansas; against the defendants, Minnie E. Folk, nee Atkins, Harry B. Folk, and Edward C. Hanford, who are residents and citizens of the State of Washington, residing in King County within said state; against the defendant, Robert L. Rutherford, who is a resident and citizen of the State of Arkansas, residing in the city of Pine Bluff within said state; against the defendant, James A. Ferguson, who is a resident and citizen of the State of Arkansas, residing in the City of Fayetteville within said state; and against the defendants, Charles Page, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, R. E. Whitehead, T. S. Hurst, F. F. Betzler, R. A. Josey, Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an incompetent, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a minor, A. J. Burchett as guardian of Harvey Harrison, a minor, Minnie Hall, nee Atkins, Martin Rowe, Harry Harrison, Thomas Atkins, C. J. Wrightsman and J. Truman Nixon (the full names and better description of the said defendants being to your orator unknown), who are citizens and residents of the State of Oklahoma, and who reside within the Eastern Judicial District of said state and within the jurisdiction of this court; and thereupon your complainant says:

I.

Complainant shows that at all of the times herein mentioned and for a long time prior thereto, that portion of the Territory belonging to the United States known and designated as the Indian Territory and now forming a part of the State of Oklahoma, and within the Eastern Judicial District thereof, has been occupied by the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes or Nations of Indians; that the above-named tribes of Indians formed and constituted a particular and distinct class of Indians known and designated as the Five Civilized Tribes, as distinguished from other Indians or Indian Tribes within the jurisdiction of the United States and under its care, protection and control. That in many of the laws passed by the Congress of the United States pertaining to said Five Tribes of Indians and to their property they are referred to and designated as the Five Civilized Tribes of Indians, and that wherever so designated or referred to, in any of the Acts of Congress, were and are included within the provisions of such acts in the same manner and with like force and effect as though each of said Five Tribes were particularly and separately designated and named therein. That during all of the times mentioned herein the Creek Tribe of Indians has maintained and still maintains tribal relations among themselves and toward complainant, and complainant has at all times mentioned herein, in dealing with the said tribe, recognized such tribal relations. That complainant has at all times mentioned herein and still maintains an Indian Agent or Superintendent for said Tribes of Indians, who has supervision and control over the tribal property belonging to said Creek Tribe of Indians. That the Creek Tribe of Indians still has tribal property and unallotted lands belonging to said Tribe of Indians which is still under the control and management of the complainant.

II.

Complainant further shows that under and by virtue of the existing treaties between complainant and the Creek Tribe of Indians, and by virtue of the several Acts of Congress passed in relation to the affairs and property of the Five Civilized Tribes of Indians, the United States Government has always and now does assume the relation of guardian and trustee of the property of the Creek Tribe of Indians and the members thereof; that its political department has always declared and now declares such relation to exist between complainant and said tribe of Indians, insofar as the same relates to the members and property of said tribe of Indians.

That complainant, under and by virtue of the provisions of an Act of Congress passed and approved June 28, 1898, and by virtue of the several Acts of Congress supplemental thereto and amendatory thereof, and particularly the Acts of Congress passed and approved March 1, 1901, and June 30, 1902, assumed and undertook the duty of allotting in severalty to the various members and freedmen and enrolled citizens of said Creek Tribe or Nation of Indians, the lands belonging to said Tribe of Indians; that by virtue of complainant's rights and duties as sovereign and governing power of said Tribe of Indians and for the purpose of discharging its full duty and obligation towards said Tribe of Indians and for the purpose of restoring to the public domain of the said Tribe of Indians all the lands heretofore erroneously allotted by officers of the Government, according to the true spirit, intent and purpose of said trust, complainant brings and prosecutes this action in its own behalf and in behalf of the said Creek Tribe or Nation of Indians.

III.

Complainant further alleges and shows that the following described lands, to-wit:

> The Southwest quarter of the Northeast quarter and Lot two (2) of Section five (5), and the Southwest quarter of the Northwest quarter and Lot four (4) of Section four (4), Township eighteen (18) North, Range seven (7) East of the Indian Base and Meridian,

was, on the 1st day of April, 1899, and at all the times hereinafter mentioned, and still is, a part of the lands belonging to the Creek Nation or Tribe of Indians as public and unallotted demain.

IV.

Complainant further alleges and avers that by virtue of an Act of Congress approved March 1, 1901, commonly known as the Original Creek Agreement, all citizens who were living on the first day of April, 1899, who were qualified to be enrolled under the provisions of the Act of Congress of June 28, 1898, commonly known as the Curtis Act, were entitled to be placed on the rolls to be made by the Commission to the Five Civilized Tribes under said Act of Congress of June 28, 1898, and that if any such citizen died before receiving his allotment of lands and distributive share of the funds of said Tribe or Nation, then the lands and moneys to which he would be entitled if living, should descend to his heirs according to the laws of descent and distribution of the Creek Nation, and be allotted and distributed to them accordingly.

Complainant further alleges that by virtue of the authority conferred upon the Commission to the Five Civilized Tribes under the Acts of Congress aforesaid as amended by the several Acts of Congress supplemental thereto and amendatory thereof, said Commission to the Five Civilized Tribes, acting under the directions of the Secretary of the Interior, was charged with the duty of determining who were entitled under the said Acts of Congress to be enrolled as citizens and freedmen of the Creek Nation and with the duty of surveying and allotting to the lawfully enrolled citizens and freedmen of said Nation, their respective proportions of the allottable land belonging to the said Nation, of which the land hereinbefore described was a part; and complainant further alleges that no person not a member of said tribe and that no member of said tribe who was not living on said first day of April, 1899, as provided in the said Act of Congress, was entitled to be placed on the official roll of the Creek Tribe or Nation of Indians, nor was any such person entitled to an allotment or any distributive share of the public lands of said Creek Tribe or Nation of Indians, nor was said Commission authorized to so enroll or allot lands in the name of any fictitious person.

V.

(a) Complainant further states that on the 23rd day of May, 1901, the said Commission to the Five Civilized Tribes, without any application being made therefor by any person and upon its own motion and initiative and in a proceeding strictly *ex parte*, and without a hearing being had or conducted, listed for enrollment the name Thomas Atkins as being a son of a Creek Indian woman by the name of Minnie Atkins, and as representing a citizen by blood of the said Creek Nation or Tribe of Indians, entitled to be enrolled as such and to receive an allotment, as other enrolled citizens of said tribe, of the lands of said tribe which said Commission was authorized to allot to the citizens thereof; that said listing for enrollment was made for the purpose of placing the said name upon the final roll of citizens of said tribe then being prepared by said Commission under the said Acts of Congress; that pursuant to said listing the said name Thomas Atkins was shortly thereafter placed upon and made a part of the final roll of citizens of said tribe and the enrollment thus made was by the Secretary of the Interior approved on the 2nd day of March, 1902, a true copy of said roll insofar as it shows the name Thomas Atkins is hereto attached, marked Exhibit "A" and made a part hereof; that in reliance upon the validity and regularity of said enrollment of the name Thomas Atkins and in the belief that it represented the name of a citizen entitled to receive an allotment of the lands of the Creek Nation, said Commission, acting under the Acts of Congress aforesaid, arbitrarily and without application being made therefor allotted the lands specifically above described in the name of Thomas Atkins and thereby undertook to allot to Thomas Atkins as a citizen of said nation said lands, said allotment having been so made on the 30th day of June, 1902; thereby said lands were set aside and designated as an allotment to said Thomas Atkins; that an allotment certificate evidencing the making of said allot-

ment was afterwards and under date of June 30th, 1902, issued whereby said Commission certified that said lands had been duly allotted to Thomas Atkins; a true copy of said certificate is hereto attached, marked Exhibit "B" and the same is made a part hereof; that thereafter and under date of the 14th day of April, 1903, the Principal Chief of said Creek Nation executed a patent whereby 120 acres and another patent whereby 40 acres of said land was undertaken to be conveyed to said Thomas Atkins, and said patents were afterwards and on the 8th day of May, 1903, approved by the Secretary of the Interior, and afterwards and on the 16th day of May, 1903, said patents were recorded in the office of the Commission to the Five Civilized Tribes in Book 12 at page 310 thereof and Book L at page 310 thereof, respectively; there is hereto attached and marked Exhibit "C" and made a part hereof a true copy of said patent to said 120 acres of said land, and as Exhibit "D" a true copy of said patent to said 40 acres of said land. Complainant further states that neither said certificate of allotment nor said patents have ever been delivered to any person, but still remain in the possession of said Commission.

(b) Complainant further states, as its first ground for the relief hereinafter prayed for, that said enrollment, allotment and patents are null and void, and that neither said allotment, allotment certificate nor patents conveyed any title to said lands to Thomas Atkins or any other person, for the following reasons and because of the following facts, to-wit:

Because of false and fraudulent evidence so far as the question of citizenship in the Creek Nation or Tribe of Indians was concerned, from which said enrollment resulted, in this, to-wit: said Commission when engaged in the work of listing for enrollment the names of the citizens of said tribe, used as material evidence on the question of citizenship or membership in the tribe certain roll or rolls of the citizens of the said Tribe of Indians which had been made up for tribal per capita payment purposes by the tribal officers and authorities prior to the date of the work of enrollment which was being done by said Commission, and which were treated and denominated as Authenticated Tribal Rolls, among which was a roll of Creek citizens made up in the year 1895, and commonly called the 1895 Authenticated Pay Roll, and particularly did said Commission use and rely upon said 1895 payroll; that the name Thomas Atkins appeared upon said 1895 payroll in the family appearing thereon headed by the name Minnie Atkins; and thereby said roll showed upon its face that Thomas Atkins was in 1895 a living member and citizen of said tribe and a member of Euche Town, one of the bands or clans or subdivisions of the tribe. That on the 23rd day of May, 1901, the said Commission had before it and used as evidence and relied upon the said 1895 payroll and believed that it spoke and represented the truth so far as the question of the citizenship of Thomas Atkins was concerned and without conducting any hearing upon that question and without any further or other investigation being made or evidence having been adduced to or received by said Commission on that question it finally determined the question of his citizenshp and listed for enrollment and enrolled the name Thomas Atkins opposite roll number 7913. Complainant further states that the said evidence so used and relied upon by said Commission, to-wit: Said 1895 Pay Roll, insofar as the same showed that said Thomas Atkins was a citizen and member of said tribe in the year 1895, was material evidence on that question and was false and fraudulent and induced the said Commission, which was ignorant of its falsity, to act, conclude and determine as it did. The said tribal roll was false and fraudulent in this, to-wit:

By an Act of Congress approved March 2, 1895, Congress appropriated the sum of $200,000.00 to be paid to the Creek Nation and said sum was shortly thereafter so paid by the Treasurer of the United States; on or about June 1, 1895, the National Council of the Creek Nation, its legislative body, appropriated said sum of $200,000.00 to be used in making a per capita payment to the members of said tribe; that thereafter and in the year 1895 and for the purpose of making said per capita payment, a roll was made of the members and citizens of said tribe under the supervision of the said National Council; that said Tribe of Indians was divided into forty-seven subdivisions or bands known as towns, and that each of said towns had as its chief officer one of its members as Town King; that at said time and for a long time prior thereto, Samuel W. Brown was the Town King of that sub-division or band of said tribe known as Euche Town, to which the defendants, Minnie Atkins and Nancy Atkins, belonged; that it was customary at that time for the town kings of the various towns to give in the names of the members of their respective towns for the purpose of making up rolls of the members thereof, and that the rolls of the various towns taken together, constituted the roll of the tribe; that in accordance with this custom, the said Samuel W. Brown, as town king of Euche Town, in the making of the said 1895 payroll, gave in the name of Thomas Atkins as a living member of said town and tribe and as a part of the family of Minnie Atkins, and thereby caused the same to be placed upon the said roll of members of said town and tribe; that in giving in this information to the tribal officers making said roll, the said Samuel

W. Brown acted upon the false statement of one John Davis, a relative and agent of said Minnie Atkins, duly authorized so to do by her, made to him, the said Samuel W. Brown, that Thomas Atkins was at the time a living member of said Creek Tribe of Indians and of Euche Town thereof, belonging to the family of Minnie Atkins; and complainant avers that the officers of said tribe so making up said roll were induced and persuaded to, and did so enroll the name of Thomas Atkins upon the false statements and representations so communicated to them by the said Samuel W. Brown to the effect that the said Thomas Atkins was at the time a living citizen of said nation and town thereof, and entitled to share in the distribution of said money; and complainant avers that in truth and in fact no such person as Thomas Atkins, a member of the Atkins family from Euche Town, was in being at that time, nor was there ever such a person except the father of said Minnie Atkins and Nancy Atkins, but that their said father, Thomas Atkins, died more than ten years prior to 1895, as the said Minnie Atkins and Nancy Atkins both well knew at that time; that the Thomas Atkins so enrolled upon said 1895 payroll was a myth and a fictitious person, and this the said Minnie Atkins and John Davis well knew at the time; that the said Samuel W. Brown was ignorant of that fact and believed the false and fraudulent representations made to him and acted innocently in communicating such information to the officers of the tribe aforesaid, and that the officers of the tribe aforesaid engaged in making up said roll, believed said false and fraudulent representations to be true and relied thereon, and in such belief and reliance, placed the name of Thomas Atkins on said roll; that the Treasurer of the said Creek Tribe of Indians, in the summer and fall of the year 1895, made distribution and payment of said per capita payment to the members of said tribe in accordance with the said roll, and that Minnie Atkins received and collected from said nation through said treasurer the sum of $14.40, the same being the amount paid to each citizen, as a payment belonging and due to Thomas Atkins, and at the time she concealed from the said tribe and its officers the fact that there was no such person as Thomas Atkins and so concealed the truth for the purpose of defrauding the Creek Nation out of said sum of $14.40, and that it had that effect.

Complainant further avers that at that time, the Congress of the United States, as was well and generally known throughout the Creek Nation and to the members thereof, and particularly to Minnie Atkins and Nancy Atkins, had passed various acts looking to the enrollment of the various members of the tribe with a view of allotting to said members, the lands of the tribe in fee simple, and distributing the moneys of the tribe among the members thereof, and to a dissolution of the tribal government, and that in causing the name of said Thomas Atkins to be placed upon said 1895 pay-roll and in concealing the fact that there was no such person in being, the said Minnie Atkins did so for the fraudulent purpose and with the fraudulent intent of enjoying whatever benefits might accrue to her as the alleged relative and heir at law of said Thomas Atkins in the final allotment of the lands of said tribe and distribution of the moneys thereof; that she has ever since continued to conceal from the said tribe and its officers, and from the Government of the United States and its officers, the fact that there was no such person as Thomas Atkins entitled to be enrolled upon said 1895 payroll, well knowing that said roll would be relied upon as speaking the truth with reference to the names of the members and citizens of said Tribe of Indians.

(c) Complainant further states that the defendants, Nancy Atkins, Minnie Atkins, Henry Carter, Martin Rowe, Harvey Harrison, Charles Harrison, Thomas Harris and Thomas Atkins, well knowing that said name was wrongfully enrolled as aforesaid, have each separately ratified the fraudulent practices made upon said Commission as aforesaid and adopted the same as their own, and have sought to take, receive and enjoy the fruits and benefits thereof, by each separately claiming and asserting that Thomas Atkins, enrolled opposite roll number 7913, as aforesaid, had an existence and was entitled to be enrolled as a citizen of said Creek Nation, and to have allotted to him or in his name, the lands aforesaid, and each of said defendants is separately claiming that he or she, as the case may be, is either the said enrolled Thomas Atkins or is the heir at law of said Thomas Atkins and as such inherited and thereby acquired the title to said lands, and have in divers ways asserted and exercised their said claims, and particularly by openly dealing with said lands and deeding or leasing same as is shown by the instruments hereinafter described. The said separate claims of identity as or relationship to said Thomas Atkins are, as complainant is informed and believes and upon information and belief charges the facts to be as follows, to-wit:

Said Nancy Atkins claims and asserts that she had a son by the name of Thomas Atkins and that said enrolled Thomas Atkins was her said son, and that he is dead; said Minnie Atkins claims and asserts that she had a son by the name of Thomas Atkins and that said enrolled Thomas Atkins was her said son, and that he is dead; said Harvey Harrison and

Charles Harrison, who are the sons of the said Minnie Atkins, claim and assert that they had a brother, also the child of said Minnie Atkins, by the name of Thomas Atkins, and that said enrolled Thomas Atkins is their said brother, and that he is dead; that the said Henry Carter and said Martin Rowe, each separately and for himself, claims and asserts that he is the said enrolled Thomas Atkins; the said Thomas Harris claims and asserts that he had a son by the name of Thomas Atkins and that the said enrolled Thomas Atkins was his son, and that he is dead; the defendant, Thomas Atkins, claims and asserts that he is the said enrolled Thomas Atkins; complainant states that all of said claims are false and that each and every one of said defendants well know and have well known during all the time that they have made said claims that they are false, and complainant further states that none of said claims were made or asserted until about 10 years after the recordation of the patents aforesaid, and not until the said lands were thought to be valuable for oil and gas mining purposes.

(d) Complainant further states that the other defendants herein claim some right, title or interest in and to said lands adverse to the complainant and the said Creek Nation under and by virtue of leases, deeds and other forms of conveyance from one, a part of, or all of said persons claiming either to be the said enrolled Thomas Atkins, or to be his heir, or heirs, among which leases, deeds and other form of conveyances are the following described instruments, which describe and undertake to convey or lease said lands, to-wit:

A quitclaim deed purported to have been executed by Minnie Atkins to the defendant, H. U. Bartlett, dated October 2, 1912, and recorded in Book 57 at page 404 in the office of the Register of Deeds of Creek County, Oklahoma, which said deed complainant is informed and believes and upon information and belief charges the fact to be, was not signed by Minnie Atkins, nor by her authority, but is a forgery.

An oil and gas mining lease from H. U. Bartlett to the defendant Gypsy Oil Company, dated November 27, 1912, and recorded in Book 70 at page 586 in said office.

A bargain and sale deed from the defendant, Minnie Atkins, who is now Mrs. Minnie E. Folk, in the name of Minnie E. Folk joined by her husband, Harry B. Folk, to Alexander J. Macnab, Jr., trustee, dated June 13, 1914, and recorded in Book 103 at page 85, in said office.

An oil and gas mining lease from said Alexander J. Macnab, Jr., trustee, and said Minnie E. Folk, nee Atkins, and

Harry B. Folk, her husband, to the defendant Gem Oil Company, a corporation, dated June 24, 1914, and recorded in Book 101 at page 259, in said office.

An assignment of said oil and gas mining lease from said defendant, Gem Oil Company, to the defendants, Charles Page and R. A. Josey, dated June 30, 1914, and recorded in Book 102 at page 75, in said office.

A bargain and sale deed from said Alexander J. Macnab, Jr., trustee, to the defendant, Minnie Folk (Minnie Atkins) dated July 18, 1914, and recorded in Book 102 at page 347, in said office.

A deed from defendant, Minnie Atkins, in the name of Minnie E. Folk, to defendant, Charles Page, dated October 22, 1914, and recorded in Book 107 at page 28, in said office.

An oil and gas mining lease from the defendant, Nancy Atkins, to the defendants, Wilbur M. Norris, W. W. Walton and Ellis H. Hammett, dated April 15, 1913, and recorded in Book 80 at page 311, in said office.

An oil and gas mining lease from the defendant, Micco T. Harjo, guardian of Nancy Atkins, a business incompetent, to the defendants, J. B. White, E. W. Fowler, A. E. Carter and A. Seltzer, dated May 27, 1913, and recorded in Book 88 at page 368, in said office.

An assignment of said oil and gas mining lease from the lessees therein to the defendant Robert L. Rutherford, dated May 29, 1914, and recorded in Book 102 at page 641, in said office.

An assignment of said oil and gas mining lease from the said Robert L. Rutherford to the defendant, James A. Ferguson, dated September 30, 1914, and recorded in Book 107 at page 289, in said office.

An oil and gas mining lease from the defendant, Henry Carter, to the defendant, Gem Oil Company, dated November 13, 1914, and recorded in Book 107 at page 125, in said office.

A quitclaim deed from the defendant, Harvey Harrison, to the defendant, H. E. Whitehead, dated June 20, 1914, and recorded in Book 62 at page 252, in said office.

A quitclaim deed from the defendant, Harvey Harrison, to the defendant, Minnie Atkins, in her name as Minnie Folk, dated June 29, 1914, and recorded in Book 57 at page 580, in said office.

An oil and gas mining lease from the defendant, Charles

Harrison, to the defendant, Charles M. Ball, dated November 4, 1913, and recorded in Book 92 at page 629, in said office.

An oil and gas mining lease from the defendant A. J. Burchett, as guardian of defendant, Harvey Harrison, to the defendants, Thomas Gilcrease and Robert Wilson, dated February 16, 1914, and recorded in Book 98 at page 322, in said office.

An oil and gas mining lease from the defendant, Harvey Harrison, to the defendant, S. D. Shirk, dated February 21, 1914, and recorded in Book 90 at page 284, in said office.

A warranty deed from the defendant, Thomas Harris, joined by his wife, the defendant Kahookah Harris, to the defendants, Rufus B. Cobb, George C. Conrad, John R. Fields and James M. Brogan, dated February 22, 1913, and recorded in Book 94 at page 181, in said office.

A warranty deed from the defendant, Martin Rowe, to the defendant, W. P. Root, dated August 17, 1914, and recorded in Book 100 at page 186, in said office.

A mortgage from the defendant, W. P. Root, to the defendants, Martin Rowe and one Grant Hamlin, dated August 17, 1914, and recorded in Book 72 at page 369, in said office.

A release of mortgage from said Martin Rowe, in the name of Thomas Atkins, and said Grant Hamlin, to said W. P. Root, dated August 29, 1914, and recorded in Book 39 at page 272 in said office.

A quitclaim deed from the defendant, W. P. Root, to defendant, Martin Rowe, in the name of Thomas Atkins, dated August 24, 1914, and recorded in Book 62 at page 284, in said office.

A deed from the defendant, Thomas Atkins, to the defendant, C. J. Wrightsman, dated ...., 1915, and recorded in Book ......, at page ......, in said office.

(e) Complainant further states that no such person as the Thomas Atkins enrolled by said Commission as aforesaid, ever had an existence and that said name represents a myth and fictitious person and that each of said persons claiming to be his heir or heirs, well know and have at all times well known that no such person as the alleged Thomas Atkins, enrolled as aforesaid, ever existed and that their said claims are false and fraudulent, and that each of said persons claiming to be said enrolled Thomas Atkins well know and has at all times well known that he is not, but complainant states that all said instruments so recorded as aforesaid and the

claims of right, title and interest in and to said lands by the defendants, and each of them, under said instruments and otherwise as set forth above constitute clouds upon the title to said lands and interfere with and embarrass and harass the complainant in the performance of its duties and obligations to and toward said Creek Nation and the members thereof with respect to said lands, the title thereto and the rents and profits issuing therefrom, and the proper disposition thereof for the benefit of said tribe and its members. Complainant further states that by reason of the facts set forth in this paragraph the said enrollment, allotment and issuance of said patents were the result of fraud and were based upon false and fraudulent proof and evidence so far as the question of citizenship of Thomas Atkins in said tribe was concerned, and that said Commission in so enrolling said name, allotting said lands and issuing said patents committed gross mistake of law as well as of fact, and that said enrollment, allotment, allotment certificate and patents should be declared void and cancelled for the reason that the said Creek Nation and your complainant are greatly and irreparably injured thereby. And complainant further states that had said Commission known of the fact that said 1895 payroll was false and fraudulent and that the name Thomas Atkins, appearing thereon, represented a myth and fictitious person, and that no such person as the enrolled Thomas Atkins had ever existed, it would not have enrolled said name as aforesaid, nor made said allotment, nor issued said patents.

VI.

Complainant, for its second ground for the relief hereinafter prayed for, here reiterates and makes a part hereof that part of paragraph five which is contained in the sub-division thereof marked (a), and which pertains to the fact of the enrollment by said Commission of the name Thomas Atkins opposite Roll No. 7913, and the making of said allotment and the issuance of said patents, and further states that said enrollment, allotment and patents are null and void for the reason that so far as the question as to whether or not Thomas Atkins was living or dead on the first day of April, 1899, the said Commission to the Five Civilized Tribes in listing the name Thomas Atkins for enrollment and in enrolling said name at the times aforesaid, conducted no hearing, made no investigation and did not have or receive any evidence of any character, but proceeded *ex parte* and acted arbitrarily; that there was no contest, controversy or adverse proceedings of any character or kind had by or before the said Commission with respect to the said question as to whether or not the alleged Thomas Atkins, whose name said

Commission listed for enrollment, and enrolled at the time aforesaid, was living or dead on the first day of April, 1899, and that said Commission neither gave or caused to be given to the Creek Nation, or its officers or any other person any notice that the name of the alleged Thomas Atkins was about to or would be so listed for enrollment and enrolled as aforesaid or allotted as aforesaid, or that said patents were about to be or would be issued as aforesaid; that in so causing the name of the alleged Thomas Atkins to be listed for enrollment as aforesaid and to be placed on the roll of Creek citizens by blood as aforesaid, the Commission acted, so far as the question as to whether or not Thomas Atkins was living or dead on the first day of April, 1899, was concerned, arbitrarily and summarily, and without any knowledge, information or belief that the alleged Thomas Atkins was in existence and living or was dead on the first day of April, 1899, but said Commission so placed the name of the said Thomas Atkins on the said roll on the mere arbitrary and erroneous assumption, wholly unsupported by evidence or information that the said Thomas Atkins was in existence and being and was living on the first day of April, 1899, and was entitled to be enrolled by the said Commission under the Acts of Congress aforesaid.

Complainant further states that if the alleged Thomas Atkins of Creek Indian blood enrolled as aforesaid by said Commission on the rolls of Creek citizens by blood opposite roll number 7913, had any existence and was in being at any time, that he died prior to the first day of April, 1899, and was not living on said date, and that by virtue thereof he was not entitled to be enrolled as a member and citizen of the Creek Nation of Indians, and was not entitled to receive any allotment or part or portion of the lands of the said nation, under the Acts of Congress hereinbefore referred to; and that the purported heirs of the alleged Thomas Atkins were not entitled to receive any part of the public lands of the Creek Nation or Tribe of Indians by inheritance or otherwise as such heirs, and that no person took any title whatsoever to said lands by virtue of the allotment of said lands in the name of Thomas Atkins or the issuance of said patents to and in the name of the alleged Thomas Atkins.

Complainant further states that in so acting and in so enrolling the name Thomas Atkins aforesaid, the said Commission to the Five Civilized Tribes acted upon a gross error and mistake of fact as well as of law, for complainant alleges that said Commission did not know and did not have any evidence before it at the time it caused the name of the said Thomas Atkins to be so enrolled, either showing or tending to show whether or not he was living or dead on April 1, 1899, but if it had been known to the said Commission at or before the time of the enrollment of the alleged Thomas Atkins as a citizen of the Creek Nation as aforesaid that he was dead and not living on the first day of April, 1899, or that he had never had any existence, he would not have been so enrolled by the said Commission, nor would said allotment have been made in his name, nor would said patents have been issued to him.

Complainant further avers that because of the arbitrary and erroneous acts of the Commission aforesaid, the name of the alleged Thomas Atkins appeared on the official roll of the Creek Nation or Tribe of Indians opposite roll number 7913, which was approved by the Secretary of the Interior and the allotment of said land was arbitrarily and erroneously issued as aforesaid.

Complainant further states that the defendants, Nancy Atkins, Minnie Atkins, Henry Carter, Martin Rowe, Harvey Harrison, Charles Harrison, Thomas Harris and Thomas Atkins, are each separately, and for himself or herself, as the case may be, openly and notoriously claiming and asserting, that he or she, as the case may be, is either the said enrolled Thomas Atkins or his heir at law and that by reason thereof he or she, as the case may be, acquired the title to said land under and by virtue of said patents having been issued as aforesaid; and the other defendants herein are claiming some right, title or interest in said property under and [by] virtue of deeds or leases from one or more of said defendants last above specifically named, which said leases and deeds are described in that part of paragraph five of this amended bill of complaint which is contained in and under that subdivision thereof marked (d), which said subdivision is here reiterated and made a part of this paragraph; and thereupon complainant further states that said patents and claims and assertions of title to said land and said deeds and leases constitute clouds upon the title to said lands, and embarrass, harass and interfere with complainant in the execution of its trust and performance of its duties and obligations to and toward said Creek Nation or Tribe of Indians and the members thereof with respect to said lands, the title thereto and the rents and profits issuing therefrom, and the proper disposition thereof for the benefit of said tribe and the members thereof.

VII.

Complainant, for its third ground for the relief hereinafter prayed for, states that the name Thomas Atkins was enrolled by said Commission opposite roll No. 7913 on the Creek

Indian roll, and the said allotment made and certificates and patents issued, at the times set forth in and under subdivision (a) of paragraph V of this amended bill, which said subdivision of said paragraph is here reiterated and made a part of this paragraph, and further states that the said enrollment, allotment and patents are null and void, for that the said alleged Thomas Atkins so enrolled by said Commission opposite roll number 7913 never had any existence and was and is a fictitious person and that said name represents no person who is or ever was in being; that by reason thereof said Commission in so enrolling said name and allotting and patenting said land as aforesaid, committed a gross mistake of fact as well as of law, and that neither said allotment, allotment certificates nor said patents conveyed any right, title or interest in and to said lands to any person whomsoever; but, complainant states that the defendants, Nancy Atkins, Minnie Atkins, Henry Carter, Martin Rowe, Harvey Harrison, Charles Harrison, Thomas Harris and Thomas Atkins are each separately and for himself or herself, as the case may be, openly and notoriously claiming and asserting, that he or she, as the case may be, is either the said enrolled Thomas Atkins or his heir at law, and that by reason thereof he or she, as the case may be, acquired the title to said lands under and by virtue of said allotment having been made and said patents issued as aforesaid; and the other defendants herein are claiming some right, title or interest in said property under and by virtue of deeds or leases from one or more of said defendants last above specifically named, which said leases and deeds are described in that part of paragraph five of this amended bill which is contained in and under the subdivision thereof marked (d), which said subdivision is here reiterated and made a part of this paragraph, all of which patents, claims, assertions, deeds and leases constitute clouds upon the title of said Creek Nation in and to said land and harass, embarrass and interfere with complainant in the execution of its trust and the performance of its said duties and obligations to said tribe and the members thereof.

VIII.

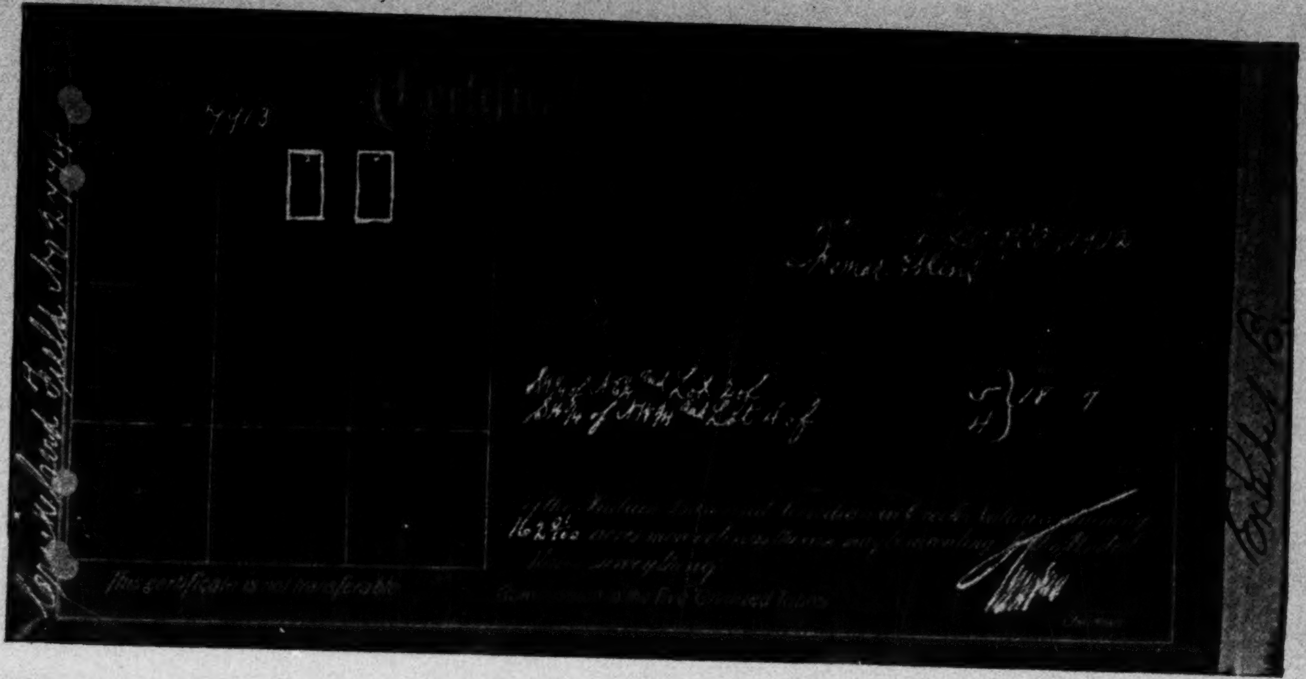
Complainant further avers that all and singular of said defendants are claiming and asserting rights and interest in and to the lands herein described by virtue of certain mesne conveyances, other than those hereinbefore described, originally made by one or more or all of the said alleged Thomas Atkins or his alleged heirs, as complainant is informed and believes, the extent of the claim of interest of each being to this complainant unknown, but this complainant alleges the truth to be that none of the said defendants have, either at law or in equity, any right, title, interest or estate in or to said lands or any part thereof.

IX.

Complainant further alleges that the above described lands are situated in the oil and gas belt of the Creek Nation and in that portion of the oil and gas field known as the Cushing Field, and that said lands are of great value principally because of the bed of oil and gas thereunder, of which the Creek Nation is, and has been, at all of the times herein referred to, the owner as aforesaid; that complainant is informed and believes, and therefore alleges the fact to be that the defendants, Gem Oil Company, Charles Page and R. A. Josey, and each of them, without authority or consent of this complainant or the Creek Nation of Indians, claiming the right so to do under some pretended lease contract or conveyance executed to them by some or all of the alleged heirs of the said Thomas Atkins, have unlawfully entered upon said lands and are proceeding to prospect and drill thereon for oil and gas, and have drilled thereon for oil and gas, and have removed therefrom and disposed of for the exclusive use and benefit of themselves and some or all of the alleged heirs of the said Thomas Atkins, great quantities of oil and gas, the value of which is not, and cannot be, known to this complainant; that said defendants have no right, title or interest in or to any part of the said lands and the oil and gas thereunder; that the said acts of the said defendants in so unlawfully and wrongfull entering upon the said lands aforesaid and prospecting and drilling thereon for oil and gas, and taking and removing oil and gas therefrom, constitute a continuous trespass upon said lands in violation of the rights of this complainant and of the Creek Nation of Indians, and said acts as aforesaid constitute waste upon the estate of the said Creek Nation in said lands, and said acts are materially, irreparably and permanently damaging said estate; that when the oil and gas deposits underlying said lands are exhausted, the value of the same will be principally, if not wholly, destroyed; that this complainant nor the Creek Nation of Indians has no means of gauging the oil and metering the gas mined and removed by defendants from under the said lands aforesaid, and are now, and will continue to be, unable to know the amount and value of the oil and gas mined and removed; that the rights and claims of complainant and the Creek Nation of Indians in and to the land aforesaid is well founded and based upon good grounds, and that unless a receiver be appointed by proper order of this court, after due notice and hearing had, to take charge of and go into possession of said lands aforesaid, and drill wells and mine and conserve the oil and gas underlying said lands, and impound the same or the proceeds thereof, for the use and benefit of this complainant and the Creek Nation of Indians, the said trespass and the waste will be continued, to the permanent, irreparable and material injury, and in violation of the right of this complainant and the Creek Nation of Indians.

Inasmuch as complainant has no adequate remedy at law and can have no adequate relief except from a court of equity, complainant prays that a writ of subpoena issue to the defendants, Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an incompetent, Charles Harrison, Thomas Harris, Kakookah Harris, Harvey Harrison, a minor, A. J. Burchett, as guardian of Harvey Harrison, a minor, Minnie Hall, nee Atkins, Martin Rowe, Harry Harrison, Minnie E. Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler, R. A. Josey, Thomas Atkins, C. J. Wrightsman and J. Truman Nixon, and that all and singular of said defendants be required to appear in this court at a day certain and under certain penalties therein named, and fully answer all matters and things alleged in said amended bill of complaint, but not under oath, answer under oath being hereby expressly waived.

Complainant further prays that this court decree that the allotment certificate and patents attached hereto as Exhibits B, C and D, are void and of no effect as instruments of conveyance, and that the same be cancelled and the records purged thereof; that each and all of said defendants be decreed to have no right, title, interest or estate in and to the said land aforesaid, and the oil and gas lying thereunder; that the title to said land be quieted in complainant and the Creek Nation of Indians, and that whatever cloud is cast on the title to the said land by reason of any of the matters aforesaid be decreed by this court to be dissolved and that said land herein be decreed to be a part of the public and unallotted tribal land of the Creek Nation, subject to disposition by this complainant in accordance with the law; that the enrollment of the said Thomas Atkins be cancelled and that he, or any person claiming by, through or under him, including these defendants, be decreed by this court to be not entitled to participate in the disposition



Consolidated Field No 2774

7413

☐ ☐

[illegible]

[illegible] Flint

SW¼ of NE¼ and Lot 2 of
SE¼ of NW¼ and Lot 4 of

5
4 } 18 7

of the Indian [illegible] and [illegible]
162 92/100 acres more or less [illegible]
[illegible]

This certificate is not transferable.

Commission to the Five Civilized Tribes

Chairman

Exhibit B

of the lands, moneys and other property of the Creek Nation, and that the defendants, all and singular, be forever enjoined from asserting any claim, right, title or interest in the tract of land hereinbefore described, adverse to this complainant and the Creek Nation of Indians, and that a receiver be appointed by proper order of this court in this cause, to go into possession pending the final determination of this suit, for the use and benefit of this complainant and the Creek Nation of Indians, and that complainant have such other relief, orders, judgments and decrees as the court may deem just and equitable in the premises.

D. H. LINEBAUGH,
United States Attorney,
W. P. Z. GERMAN,
Special Assistant to the United States Attorney,
Solicitors for Complainant.

R. C. ALLEN,
National Creek Attorney,
Associate Solicitor for Complainant.

United States of America, Eastern District of Oklahoma, ss.

Richard C. Allen states on oath that he is the Attorney for the Creek Nation or Tribe of Indians, the name of his office being National Creek Attorney; that he has read the foregoing amended bill of complaint and knows the contents thereof; that the matters and things therein set forth are true and correct, as he verily believes.

....

Subscribed and sworn to before me this .... day of ...... 1915.

....................,
Clerk of the United States District Court, Eastern District of Oklahoma.
By ....
Deputy.

Exhibit B.

(See insert herein for copy of Exhibit B.)

Exhibit C.

Allotment Deed. (40A) Creek Indian Roll No. 7913

THE MUSKOGEE (CREEK) NATION, INDIAN TERRITORY.

To All Whom These Presents Shall Come, Greeting:

Whereas, By the Act of Congress approved March 1, 1901 (31 Stats. 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, should be allotted among the citizens of said tribe by the United States Commission to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, the Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of

THOMAS ATKINS,

a citizen of said tribe, as an allotment, exclusive of a forty-acre homestead, as aforesaid,

Now, therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and authority vested in me by the aforesaid Act of the Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz:

> The South West Quarter of the North West Quarter of Section Four (4), and the South West Quarter of the North East Quarter, and Lot Two (2), of Section Five (5), Township Eighteen (18) North, and Range Seven (7) East of the Indian Base and Meridian,

in Indian Territory, containing One Hundred and Twenty and 85/100 (120.85) acres, more or less, as the case may be, according to the United States survey thereof, subject, however, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200).

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation, have hereunto set my hand and caused the Great Seal of said Nation to be affixed this 14th day of April, A. D. 1903.

(Seal)

P. PORTER,
Principal Chief of the Muskogee (Creek) Nation.

L. R. S. Department of the Interior, Approved May 8, 1903. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk.

Filed for record on the 16 day of May, 1903, at 4 o'clock P. M.

(On back:) Department of the Interior, Office of the Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma. This is to certifiy that I am the officer having custody of the records of deeds of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Nations, and that the above and foregoing is a true and correct copy of the deed issued to Thomas Atkins, as the same appears of record in Book 12, page 310, of Muskogee (Creek) Deed Record. Jan. 15, 1915. E.H.L. Gabe E. Parker, Superintendent for the Five Civilized Tribes. (Seal.)

Exhibit D.

Homestead Deed. (39A) Creek Indian Roll, No. 7913

THE MUSKOGEE (CREEK) NATION, INDIAN TERRITORY.

To All Whom These Presents Shall Come, Greeting:

Whereas, By the Act of Congress approved March 1, 1901 (31 Stats. 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, should be allotted among the citizens of said tribe by the United States Commissioner to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, the said Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of

THOMAS ATKINS,

a citizen of said tribe, as a homestead, Now, therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and authority vested in me by the aforesaid Act of the Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz:

> Lot Four (4) of Section Four (4), Township Eighteen (18) North and Range Seven (7) East of the Indian Base and Meridian,

in Indian Territory, containing Forty one and 16/100 (41.16) acres, more or less, as the case may be, according to the United States survey thereof, subject, however, to the conditions provided by said Act of Congress and which conditions are that said land shall be non-taxable and inalienable and free from any incumbrance whatever for twenty-one years; and subject, also, to the provisions of said Act of Congress relating to the use, devise and descent of said land after the death of the said Thomas Atkins; and subject, also, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200).

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation, have hereunto set my hand and caused the Great Seal of said Nation to be affixed this 14th day of April, A. D. 1903.

(Seal) P. PORTER,

Principal Chief of the Muskogee (Creek) Nation.

L. R. S. Department of the Interior, Approved May 8, 1903. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk.

Filed for record on the 16th day of May, 1903, at 4 o'clock P. M.

(On back:) Department of the Interior, Office of the Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma. This is to certify that I am the officer having custody of the records of deeds of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Nations, and that the above and foregoing is a true and correct copy of the deed issued to Thomas Atkins, as the same appears of record in Book L, page 310, of Muskogee (Creek) Deed Record. Jan. 15, 1915. E.H.L. (Seal) Gabe E. Parker, Superintendent for the Five Civilized Tribes.

Endorsed: Filed Sep. 17, 1915, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 9th day of February, A. D. 1915, the defendant T. S. Hurst filed Disclaimer herein, which is in words and figures as follows:

Answer of T. S. Hurst.

Comes now T. S. Hurst, one of the defendants in the above entitled cause, and for answer to the petition of plaintiff, disclaims any right, title or interest in and to said property involved herein.

Wherefore, defendant asks that he be henceforth discharged with his costs.

T. S. HURST, *Defendant.*

Endorsed: Filed Feb. 9, 1915, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 9th day of February, A. D. 1915, the defendant F. F. Betzer filed disclaimer herein, which is in words and figures as follows:

Disclaimer of F. F. Betzer.

Comes now F. F. Betzer, one of the defendants in the above named case and for his answer to the petition of the plaintiff, disclaims any right, title or interest in and to the property involved herein.

Wherefore said defendant asks to be hence discharged with his costs.

F. F. BETZER.

Endorsed: Filed Feb. 9, 1915, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 22nd day of February, A. D. 1915, the defendant Gypsy Oil Company filed Disclaimer herein, which is in words and figures as follows:

Disclaimer and Answer of Gypsy Oil Company.

Comes now the Gypsy Oil Company, one of the defendants in the above entitled cause, and shows to this Honorable Court that, before the bringing of this action, to-wit, on the

20th day of January, 1915, it relinquished and released to Chas. Page and R. A. Josey all the right, title, interest, claim, or demand it had or claimed to have in and to the land described in the complaint herein, and in and to the oil and gas thereunder; and the said Gypsy Oil Company here and now disclaims any right, title, interest, or estate in and to the Southwest Quarter (SW4) of the Northeast Quarter (NE4) and Lot Two (2), of Section Five (5), and the Southwest Quarter (SW4) of the Northwest Quarter (NW4) and Lot Four (4), of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, and all right, title, interest, or estate in and to the oil and gas thereunder, and in or to any oil and gas mining rights or privileges appertaining to said above described land.

Wherefore, the said Gypsy Oil Company says that it should be dismissed hence, and have and recover its reasonable cost in this behalf expended.

II.

Further answering said bill of complaint, the Gypsy Oil Company avers and says that the records of the Five Civilized Tribes show that Thomas Atkins was a duly enrolled citizen of the Creek or Muskogee Tribe or Nation of Indians, and, as such, was entitled to an allotment of the lands of said tribe; and further show that there was allotted to the said Thomas Atkins, as his distributive share of the lands of said tribe or nation of Indians, the said Southwest Quarter (SW4) of the Northeast Quarter (NE4) and Lot Two (2), of Section Five (5), and the Southwest Quarter (SW4) of the Northwest Quarter (NW4) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East, of the Indian Base and Meridian; and that said Thomas Atkins was the son of one, Minnie Atkins.

This defendant further avers and says that it relied upon the rolls and records of said tribe or nation of Indians, and on the fact that said tribe or nation of Indians issued a deed or patent to the said Thomas Atkins for the above described lands, and on said patent being duly executed by the principal chief of said nation and approved by the Secretary of the Interior, as establishing the fact that said Thomas Atkins was a citizen of the Creek or Muskogee Tribe or Nation of Indians, and was alive on and after April 1, 1899, and entitled to receive an allotment; and believed said facts, so established and evidenced by said records, to be true; and this defendant, being informed and believing that said Thomas Atkins, after being enrolled as a citizen of said tribe or nation of Indians, and after receiving an allotment of the lands of said tribe, as above set out, died possessed thereof, leaving Minnie Atkins, his mother, as his sole and only surviving heir at law, secured oil and gas mining leases on said land, through mesne conveyances relating back to Minnie Atkins, the mother of said Thomas Atkins, paying therefor a valuable consideration; that, at the time of receiving said mining rights and privileges, and at the time of paying the consideration therefor, this defendant, in good faith and in the honest and bona fide belief that it was obtaining good title to said oil and gas mining leases and privileges, received the same and paid the consideration therefor, and, in good faith and in said honest and bona fide belief that it had acquired good title thereto, entered on said above described lands and commenced to develop and operate the same for oil and gas, and drill and put down an oil well upon said premises, and has extracted from said lands 4090.74 barrels of oil therefrom, which oil was and is of the actual value of $3,556.78, including both the working interest and the royalty interest in such oil, and expended, in drilling said well and operating and producing the said oil, the sum of $15,615.82; and that said sum, so expended, was the actual and reasonable cost of developing said lands for oil and gas mining purposes and in producing oil therefrom, and, at the time of making said expenditures and producing said oil, that said expenditures were made and said oil produced by this defendant in the bona fide and honest belief that it owned the oil and gas mining leases on said lands, and had the right to enter thereon for the purpose of prospecting and developing the same for oil and gas mining purposes; and that if it is, or has been, a trespasser on said land, it has been a good faith trespasser, and should not be held to account to the complainant in this cause in any sum except a sum found on an accounting herein in excess of the actual and reasonable expenses and expenditures of this defendant in producing oil from said premises.

Wherefore, this defendant says that, before any judgment or decree be entered against it in this cause, an accounting should be ordered by this court to determine the amount of oil produced from said above described land by this defendant and the actual and reasonable costs of producing such oil; and that no judgment or decree should be rendered against it on said accounting unless it transpires, or is shown, that defendant produced oil in greater value from said above described premises than the actual and reasonable cost of developing and producing the said oil, and then, only for the excess in value of the oil over and above the reasonable, actual, and necessary expenditures of this defendant in developing said lands for oil and gas mining purposes and in producing oil therefrom.

This defendant further says that, if this court should hold that it is not entitled to offset against the oil produced by it from said premises and the actual necessary, and reasonable expenditures made and incurred by this defendant in developing said premises for oil and gas mining purposes, and in producing gas therefrom, it should be decreed to be a good faith trespasser, and, as such held liable only to the complainant for the usual and customary rights reserved to the owner of land in oil and gas mining leases.

GYPSY OIL COMPANY,
By James B. Diggs,
Henry McGraw,
Rush Greenslade,
Solicitors.

Endorsed: Filed Feb. 22, 1915, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 15th day of February, A. D. 1915, the defendant Gem Oil Company filed Answer herein, which is in words and figures as follows:

Answer of Gem Oil Company.

Comes now The Gem Oil Company and adopts answer of Charles Page and R. A. Josey, and says that The Gem Oil Company has conveyed all its right, title and interest in and to said premises to said Charles Page and R. A. Josey.

Rice & Lyons,
Attorneys for Defendants, The Gem Oil Company.

State of Oklahoma, County of Tulsa—ss.

R. A. Josey, being first duly sworn, deposes and says that he is the President of The Gem Oil Company; that he has read the foregoing answer and knows that the facts therein stated are true. R. A. Josey.

Subscribed and sworn to before me this 13th day of February, 1915. (Seal) E. F. Gaster,
My commission expires Sept 16-1915. Notary Public.

Endorsed: Filed Feb. 15, 1915, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 10th day of June, A. D. 1915, the defendant Thomas Atkins filed Answer herein, which is in words and figures as follows:

Separate Answer of Thomas Atkins.

Comes now Thomas Atkins and for his separate answer to the Bill of Complaint filed herein says:

That he has been reliably informed that the Henry Carter mentioned as one of the defendants in this cause is meant and intended for this defendant, Thomas Atkins; that he was raised part of his life and lived with Henry Carter and is known by some people as Henry Carter, but that his true name is Thomas Atkins, and as such, he files this, his answer.

This defendant adopts the allegations in the Bill of Complaint filed herein insofar as they do not conflict with his interests or his right to recover in this case.

This defendant joins in in the request that all conveyances which appears by the record on said land be cancelled, set aside and removed as a cloud.

This defendant denies each and every allegation in said complaint filed herein which in anyway alleges that Minnie Atkins is not his mother; denies each allegation which would seek to establish or prove his name was not Thomas Atkins and the son of Minnie Atkins.

Defendant alleges the truth to be that his roll is 7913 and thay he received as his proportionate part of the land held in common by the Creek citizens, the land described in the Bill of Complaint; that he is entitled to said land by virtue of his relationship to Minnie Atkins and the enrollment and allotment of said land.

The defendant joins in the request made in the Bill of Complaint that all instruments affecting the title to said land be cancelled, but that he be placed in the possession of said land and be restored to all the rights that he is entitled to by virtue of being a Creek citizen and the son of Minnie Atkins.

Premises considered, the defendant therefore prays that all instruments and conveyances affecting the title to said land be cancelled, set aside and removed as clouds upon the title to said land mentioned in the Bill of Complaint; that he be placed in the possession of same; that he have the costs of this action and for all proper and equitable relief.

J. COODY JOHNSON,

Attorneys for Defendant Thomas Atkins.

State of Oklahoma, Hughes County—ss.

Thomas Atkins being first duly sworn upon oath, states that he is the defendant named in the above answer; that he has read said answer, knows the contents thereof and that the same are true.

THOMAS ATKINS.

Subscribed and sworn to before me this the 3rd day of June, 1915. (Seal) J. S. Meyer,
My commission expires Nov 30 1918. Notary Public.

Endorsed: Filed Jun. 10. 1915. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 11th day of October, A. D. 1915, the defendant Thomas Atkins filed Answer herein, which is in words and figures as follows:

Separate Answer of the Defendant, Thomas Atkins, to the Amended Bill of Complaint.

Comes now the defendant, Thomas Atkins, by his solicitor, Haskell B. Talley, and files this his separate answer to the Amended Bill of Complaint, and for his defense herein sets forth the following:

A.

1. That said amended bill of complaint does not state facts sufficient to constitute a cause of action in favor of the complainant and against this defendant; that said complainant has no right, title or interest in, or duty to perform in reference to, the subject matter of this suit; that said complainant is not a proper party plaintiff in said bill of complaint as against this defendant.

2. That there is an improper joining of defendant and the remaining defendants in said cause of action, except the defendants, C. J. Wrightsman and J. Truman Nixon; that the complainant is barred by its own laches from bringing this suit; and that the cause of action of the Creek Nation herein, if any there was, is now barred by the statute of limitations.

B I.

That this defendant as to the material allegations contained in that part of complainant's bill numbered one in Roman numerals, admits the truth thereof, except that this defendant denies that complainant's Indian Agent or Superintendent has supervision or control over the tribal property belonging to the Creek Tribe of Indians, and denies that the tribal property and unallotted lands of said Creek Tribe of Indians are still under the control and management of the complainant as alleged.

II.

That this defendant denies the allegations contained in the first paragraph of that part of the bill of complaint designated in Roman numerals as paragraph two; admits that part of the remainder of the bill numbered two in Roman numerals, which alleges that the complainant had the right to, and did, allot in severalty to the various members and freedmen and enrolled citizens of the Creek Tribe of Indians lands in said nation belonging to said Indians; but denies that the complainant had at the time of filing this bill of complaint, or at any time subsequent thereto, the right or duty, as sovereign or as the governing power over said Indians for the purpose of restoring to the public domain of said Tribe of Indians lands alleged to have been erroneously allotted by this complainant, to bring this suit; and denies that this complainant brings, or has the right to bring, this action in its own behalf or in behalf of said Creek Tribe of Indians.

III.

That this defendant admits that on April 1, 1899, the land which is the subject matter of this suit was a part of the lands of the Creek Nation, but denies that said land was at the time of the filing of this bill of complaint, or at any time subsequent to the filing of this bill of complaint, the property of the Creek Nation and unallotted domain.

IV.

That this defendant admits the truth of the allegations contained in that part of the bill of complaint numbered four in Roman numerals.

V.

1. That this defendant answers paragraph of the amended bill of complaint numbered five in Roman numerals as follows:

(a) Denies that this defendant was listed for enrollment by the Commission to the Five Civilized Tribes without any application being made therefor, in a proceeding strictly ex parte, and without a hearing being *hand* or conducted; admits that the name of this defendant was listed for enrollment for the purpose of placing said name upon the final rolls of the citizens of the said Creek Tribe of Indians, and that said name was thereafter placed upon and made a part of the final rolls of citizens of said tribe, that said allotment was approved on March 2, 1902, and that exhibit to the amended bill marked "A" is a true copy of said final roll in so far as it shows the name of Tommie Atkins; denies that said Commission arbitrarily, and without application being made therefor, allotted the lands which are the subject matter of this suit in the name of Tommie Atkins, but admits that the allotment of said lands was made on June 30, 1902, and that said land by such allotment was set aside and designated as the allotment of this defendant, and that an allotment certificate evidencing the making of said allotment was issued on June 30, 1902, to this defendant, a copy of such allotment certificate attached to the amended bill as exhibit "B" being a correct copy of the original allotment certificate, and that the Principal Chief of said Creek Nation on the 14th day of April, 1903, executed patents as alleged in said amended bill, which patents were on May 8, 1903, duly approved by the Honorable Secretary of the Interior, and on May 16, 1903, were duly recorded in the office of the Commission to the Five Civilized Tribes, the allotment patent being recorded in Book 12 at page 310 thereof, and the homestead patent being recorded in the office of said Commission in Book "L" at page 310 thereof, exhibit "D" attached to the amended bill of complaint being a true copy of said homestead patent; and denies that said certificate of allotment and said patents have never been delivered and still remain in the possession of said Commission.

(b) Denies that the aforesaid allotment and patents are null and void; denies that any false and fraudulent, or false or fraudulent, evidence so far as the question of citizenship of this defendant in the Creek Tribe of Indians was concerned was used by this defendant, or any one having authority to act for this defendant, for the purpose of inducing said Commission to enroll this defendant or for the purpose of inducing said Commission to allot this defendant, or to induce the Creek Nation or the United States Government to issue patents for the land in question to this defendant; that this defendant is not informed to what extent, if any, said Commission used on the question of citizenship in said tribe, a certificate of enrollment or roll of citizenship of said tribe which had been, prior to the allotting of said land, made up for the purpose of making a tribal payment, particularly the authenticated pay roll of 1895, and being without information concerning such authenticated pay roll and concerning the alleged acts of said Commission based thereon this defendant demands that said complainant be required to make strict proof of such allegation, as well as of the allegation that Tommie Atkins appeared upon the 1895 pay roll as a member of the Euchee Town; that this defendant is without information as to whether or not said Commission had before it, and used as evidence on May 21, 1910, said pay roll, and whether or not said Commission believed that said pay roll spoke and represented the truth so far as the citizenship of Tommie Atkins was, and is concerned, and being without information concerning said allegation this defendant demands strict proof of the same by the complainant; denies that said Commission did not conduct any hearing upon, or did not make investigation or have any evidence before it concerning, the citizenship and right to receive allotment of this defendant, or that the said 1895 pay roll was the only evidence before said Commission at the time it received for enrollment, and did enroll, and did allot this defendant; denies that said 1895 pay roll was false or fraudulent as to this defendant, and that said Commission, ignorant of the falsity of said pay roll acted, concluded and was determined thereby; that this defendant is not informed concerning the methods by which the sum of Two Hundred Thousand Dollars was appropriated and used under the Act of Congress approved March 2, 1895, in enrolling citizens of the Creek Nation for the purpose of making a per capita payment to said members, and being without information upon such subject, this defendant demands that this complainant make strict proof of same; but this defendant denies that Samuel W. Brown wrongfully or fraudulently gave in the name of this defendant for enrollment on said roll, and that said Samuel W. Brown acted upon the false statements of one John Davis, or of any person, made to said Brown; admits that this defendant belonged at the time mentioned to the family of Minnie Atkins; denies that the name of this defendant was fraudulently or wrongfully enrolled as alleged, but this defendant asserts that this defendant was, at the time of the making of said 1895 roll, a living member of the Creek Tribe of Indians, entitled to share in the said per capita payments and in the distribution of the land and property of said Creek Tribe of Indians; denies that the officers of said Creek Tribe of Indians making, or assisting in making, said 1895 roll were induced to, and did, enroll the name of this defendant because of any false statements or representations whatsoever communicated to them by Samuel W. Brown or any other person; denies that any attempt was ever made by any person, whatsoever, to allot Thomas Atkins, grandfather of this defendant, or that the grandfather of this defendant was ever allotted upon the lands in question, and this defendant asserts that he was duly enrolled by the officers of said Creek Tribe of Indians and by the officials of the United States Government with the full knowledge of all the facts in reference to the identity and existence of this defendant on April 1, 1899; denies that Minnie Atkins, mother of this defendant, concealed any facts, whatsoever, from the officers of said Nation and the United States Government in connection with the receiving by her for this defendant of the 1895 payment, and denies that said mother of this defendant defrauded the Creek Nation at that time out of $14.40, or any other sum belonging to this defendant; denies that the mother of this defendant falsely and fraudulently enrolled and caused to be allotted this defendant for the purpose of receiving, as the heir of this defendant, tribal funds and said allotment, the mother of this defendant at the time knowing, this defendant asserts, that this defendant was living and was entitled to share in the allotment of lands of, and in the distribution of the monies of, said tribe; denies that the mother of this defendant has ever concealed or attempted to conceal from the government of the United States and its officers the facts concerning the existence and identity of this defendant.

(c) That this defendant as to such material allegations contained in that part of the amended bill of complaint designated in Roman numerals as paragraph five, subdivision (c), which attempt to state a cause of action against this defendant, denies the same; and, as to such allegations contained in said subdivision which attempt to state a cause of action against Nancy Atkins, Minnie Atkins, Henry Carter, Martin Rowe, Harvey Harrison and Thomas Harris, this defendant is without knowledge as to the truth or falsity of the same, and demands that said complainant make strict proof thereof.

(d) That this defendant answering the material allegations contained in that part of the amended bill of complaint designated in Roman numerals as five, subdivision (d), says that he has no knowledge of the truth or falsity of said allegations and he therefore demands that the complainant be required to make strict proof of the same.

(e) That this defendant answering the material allegations contained in the amended bill of complaint designated in Roman numerals as five, subdivision (e), denies the same.

VI.

That this defendant further answering said amended bill of complaint as to paragraph thereof numbered in Roman numerals six, denies that the Commission to the Five Civilized Tribes listed this defendant for enrollment without conducting any hearing, or making any investigation, or having received in connection any evidence of any character, and denies that said Commission proceeded ex parte and arbitrarily; denies that there was no contest, controversy or adverse proceedings had by and before the said Commission concerning whether this defendant was living or dead on the first day of April, 1899; denies that said Commission neither gave nor caused to be given to the Creek Nation, its officers or any other person any notice that the name of this defendant was about to be or would be, listed for enrollment and enrolled as for allotment or that patents were about, to be, or would be, issued as aforesaid; denies that said Commission in placing the name of this defendant on the roll of Creek citizens by blood, as aforesaid, and in so far as the question of whether or not this defendant was living or dead on April 1, 1899, was concerned, acted arbitrarily, without any knowledge or belie*ve* as to the existence of this defendant on April 1, 1899; denies that this defendant died prior to April 1, 1899, and was not living on said date; denies that said Commission acted upon a gross error and mistake of fact as well as of law in enrolling and passing to allotment in the Creek Nation this defendant, and says that this defendant was living on April 1, 1899, a citizen by blood of the Creek Nation entitled to allotment in said Nation, and that he was allotted as a citizen of such Nation the land described in the amended bill of complaint, patents for said land being thereafter and before the bringing of this suit duly issued to this defendant.

That this defendant has no knowledge concerning the claims asserted by the various other defendants named in complainant's bill to the subject matter of this suit as particularly set out in this paragraph numbered six, and therefore demands that complainant make strict proof of such allegations, except that this defendant does claim to be the owner of the lands allotted as aforesaid to Tommie Atkins and entitled to the possession thereof.

VII.

That this defendant in answering the material allegations in the amended bill of complaint marked in Roman numerals seven, admits that he as enrolled by said Commission opposite number 7913 on the Creek roll, and that the said allotment certificates and patents issued at the time set forth in subdivision (e) of paragraph five of this amended bill; denies that said enrollment, allotment and patent are null and void; denies that this defendant never had any existence and was and is a fictitious person; and denies that said Commission committed a gross mistake of fact as well as of law in allotting this defendant.

VIII.

That this defendant answering so much of the material allegation contained in that part of the amended bill of complaint marked eight in Roman numerals, as charges or attempts to charge a cause of action against this defendant, denies the same, and says that he is the owner both at law and in equity of all right, title and interest and estate in and to the subject matter of this suit.

IX.

That this defendant answering so much of the material allegations contained in the amended bill of complaint in paragraph numbered nine in Roman numerals, as charges or attempts to charge a cause of action against this defendant, admits that the land in question is situated in the oil and gas belt of the Creek Nation, and that it is of great value because of the oil and gas underlying the same; denies that said land belongs to the Creek Nation; admits that the defendants, Gem Oil Company, Charles Page and R. E. Josey, and each of them, without the consent of this defendant are, claiming and exercising the right of ownership over, and are in possession of, said premises without the consent of this defendant, and are taking and wasting great quantities of oil and gas from said premises, the value of which products being unknown to this defendant, but which this defendant believes to be, and therefore asserts, is very great, such taking and destroying of said property constitutes a continuous trespassing upon the lands of this defendant and a waste of said premises to the material, irreparable and permanent injury of said estate; and, unless a receiver be appointed by this court to take charge of, and go into possession of, said lands and conserve the oil and gas underlying the same for the use and benefit of this defendant, this defendant will suffer permanent, irreparable and material injury.

X.

That this defendant, as to each and every material allegation in said amended bill of complaint not hereinbefore admitted or denied, hereby enters his denial, and says that he is the owner of said premises and of all, appurtenances and improvements thereon, and is entitled to the immediate possession of the same subject to an oil and gas mining lease in favor of the Orange Oil Company on the homestead allotment, dated the 20th day of March, 1915, and an oil and gas mining lease on the surplus allotment to the same Company and of the same date, both of said leases being now owned by J. Truman Nixon and an attorney's contract with Haskell B. Talley, dated the 14th day of August, 1915.

Wherefore, this defendant having fully answered all the material allegations in the amended bill of complaint prays that the complainant take nothing by its said amended bill, and that said amended bill be dismissed at the costs of the complainant.

HASKELL B. TALLEY,
Solicitor for Defendant, Tommie Atkins.

Endorsed: Filed Oct. 11, 1915. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 11th day of October, A. D. 1915, the defendant J. Truman Nixon filed Answer herein, which is in words and figures as follows:

Separate Answer of the Defendant, J. Truman Nixon, to the Amended Bill of Complaint.

Comes now the defendant, J. Truman Nixon, by his solicitor, Haskell B. Talley, and files this his separate answer to the Amended Bill of Complaint, and for his defense herein sets forth the following:

A.

1. That said Amended Bill of Complaint does not state facts sufficient to constitute a cause of action in favor of the complainant and against this defendant; that said complainant has no right, title or interest in, or duty to perform in reference to, the subject matter of this suit; that said complainant is not a proper party plaintiff in said Bill of Complaint as against this defendant.

2. That there is an improper joining of defendants herein, and that there is a misjoinder as between this defendant and the remaining defendants in said cause of action, except the defendants, C. J. Wrightsman and Thomas Atkins.

B I.

That this defendant as to the material allegations contained in that part of complainant's bill numbered one in Roman numerals, admits the truth thereof, except that this defendant denies that complainant's Indian Agent or Superintendent has supervision or control over the tribal property belonging to the Creek Tribe of Indians, and denies that the tribal property and unallotted lands of said Creek Tribe of Indians are still under the control and management of the complainant as alleged.

II.

That this defendant denies the allegations contained in the first paragraph of that part of the Bill of Complaint designated in Roman numerals as paragraph two; admits that part of the remainder of the bill numbered two in Roman numerals, which alleges that the complainant had the right to, and did, allot in severalty to the various members and freedmen and enrolled citizens of the Creek Tribe of Indians, lands in said Nation belonging to said Indians; but denies that the complainant had at the time of filing this Bill of Complaint, or at any time subsequent thereto, the right or duty, as sovereign or as the governing power over said Indians for the purpose of restoring to the public domain of said tribe of Indians lands alleged to have been erroneously allotted by this complainant, to bring this suit; and denies that this complainant brings, or has the right to bring, this action in its own behalf or in behalf of said Creek Tribe of Indians.

III.

That this defendant admits that on April 1, 1899, the land which is the subject matter of this suit was a part of the lands of the Creek Nation but denies that said land was at the time of the filing of this Bill of Complaint, or at any time subsequent to the filing of this Bill of Complaint, the property of the Creek Nation and unallotted domain.

IV.

That this defendant admits the truth of the allegations contained in that part of the Bill of Complaint numbered four in Roman numerals.

V.

1. That this defendant answers paragraph of the Amended Bill of Complaint numbered five in Roman numerals as follows:

(a) Denies that the defendant, Thomas Atkins, was listed for enrollment by the Commission to the Five Civilized Tribes without any application being made therefor, in a proceeding strictly ex parte, and without a hearing being had or conducted; admits that the name of the defendant, Thomas Atkins, was listed for enrollment for the purpose of placing said name upon the final rolls of the citizens of the said Creek Tribe of Indians, and that said name was thereafter placed upon and made a part of the final rolls of citizens of said tribe, that said allotment was approved on March 2, 1902, and that exhibit to the amended bill marked "A" is a true copy of said final roll in so far as it shows the name of Thomas Atkins; denies that said Commission arbitrarily, and without application being made therefore, alloted the lands which are the subject matter of this suit in the name of Thomas Atkins, but admits that the allotment of said lands was made on June 30, 1902, and that said land by such allotment was set aside and designated as the allotment of the defendant, Thomas Atkins, and that an allotment certificate evidencing the making of said allotment was issued on June 30, 1902, to the defendant, Thomas Atkins, a copy of such allotment certificate attached to the amended bill as exhibit "B" being a correct copy of the original allotment patent, and that the Principal Chief of said Creek Nation on the 14th day of April, 1903, executed patents as alleged in said amended bill, which patents were on May 7, 1902, duly approved by the Honorable Secretary of the Interior, and on May 16, 1903, were duly recorded in the office of the Commission to the Five Civilized Tribes, the allotment patent being recorded in Book 12 at page 310 thereof, and the homestead patent being recorded in the office of said Commission in Book "L" at page 310 thereof, exhibits "C" and "D" attached to the amended bill of Complaint being true copies of said patents; and denies that said certificates of allotment and said patents have never been delivered and still remain in the possession of said Commission.

(b) Denies that the aforesaid allotment and patents are null and void; denies that any false and fraudulent, or false or fraudulent, evidence so far as the question of citizenship of the defendant, Thomas Atkins, in the Creek Tribe of Indians was concerned was used by said defendant, Thomas Atkins, or any one having authority to act for the defendant, Thomas Atkins, for the purpose of inducing said Commission to enroll the defendant, Thomas Atkins, or for the purpose of inducing said Commission to allot the defendant, Thomas Atkins, or to induce the Creek Nation or the United States Government to issue patents for the land in question to said Thomas Atkins; that this defendant, J. Truman Nixon, is not informed to what extent, if any, said Commission used on the question of citizenship in said Tribe, a certificate of allotment or roll of citizenship of said tribe which had been, prior to the allotting of said lands, made up for the purpose of making a tribal payment, particularly the authenticated pay roll of 1895, and being without information concerning such authenticated pay roll and concerning the alleged acts of said Commission based thereon this defendant demands that said complainant be required to make strict proof of such allegation, as well as of the allegation that Thomas Atkins appeared upon the 1895 pay roll as a member of the Euchee Town; that this defendant is without information as to whether or not said Commission had before it, and used as evidence on May 21, 1910, said pay roll, and whether or not said Commission believed that said pay roll spoke and represented the truth so far as the citizenship of Thomas Atkins was, and is, concerned, and being without information concerning said allegation this defendant demands strict proof of the same by the complainant; denies that said Commission did not conduct any hearing upon, or did not make investigation or have any evidence before it concerning, the citizenship and right to receive allotment of the defendant, Thomas Atkins, or that the said 1895 pay roll was the only evidence before said Commission at the time it received for enrollment, and did enroll, and did allot the defendant, Thomas Atkins; denies that said 1895 pay roll was false or fraudulent as to the defendant, Thomas Atkins, and that said Commission ignorant of the falsity of said pay roll acted, concluded and was determined thereby; that this defendant is not informed concerning the methods by which the sum of Two Hundred Thousand Dollars was appropriated and used under the Act of Congress approved March 2, 1895, in enrolling citizens of the Creek Nation for the purpose of making a per capita payment to said members, and, being without information upon such subject, this defendant demands that this complainant make strict proof of same; but this defendant denies that Samuel W. Brown wrongfully or fraudulently gave in the name of the defendant, Thomas Atkins, for enrollment on said roll, and that said Samuel W. Brown acted upon the false statements of one John Davis, or of any person, made to said Brown; admits that the defendant, Thomas Atkins, belonged at the time mentioned to the family of Minnie Atkins; denies that the name of the defendant, Thomas Atkins, was fraudulently or wrongfully enrolled as alleged, but this defendant asserts that the defendant, Thomas Atkins, was at the time of the making of said 1895 roll, a living member of the Creek Tribe of Indians entitled to share in the said per capita payments and in the distribution of the land and property of said Creek Tribe of Indians; denies that the officers of said Creek Tribe of Indians making, or assisting in making, said 1895 roll were induced to, and did, enroll the name of the defendant, Thomas Atkins, because of any false statements or representations whatsoever communicated to them by Samuel W. Brown or any other person; denies that any attempt was ever made by any person, whatsoever, to allot Thomas Atkins, grandfather of the defendant, Thomas Atkins, or that the grandfather of the defendant, Thomas Atkins, was ever allotted upon the lands in question, and this defendant asserts that the said Thomas Atkins was duly enrolled by the officers of said Creek Tribe of Indians and by the officials of the United States Government with the full knowledge of all the facts in reference to the identity and existence of the defendant, Thomas Atkins, on April 1, 1899; denies that Minnie Atkins, mother of the defendant, Thomas Atkins, concealed any facts, whatsoever, from the officers of said Nation and the United States Government in connection with the receiving by her for the defendant, Thomas Atkins, of the 1895 payment, and denies that said mother of the defendant, Thomas Atkins, defrauded the Creek Nation at that time out of $14.40, or any other sums belonging to the said Thomas Atkins; denies that the mother of the defendant, Thomas Atkins, falsely and fraudulently enrolled and caused to be allotted the said Thomas Atkins for the purpose of receiving, as the heir of the defendant, Thomas Atkins, tribal funds and said allotment, the mother of the defendant, Thomas Atkins, at the time knowing, this defendant asserts, that the said Thomas Atkins was living and was entitled to share in the allotment of lands of, and in the distribution of the monies of, said tribe; denies that the mother of the defendant, Thomas Atkins, has ever concealed or attempted to conceal from the Government of the United States and its officers the facts concerning the existence and identity of the said Thomas Atkins.

(c) That this defendant as to such material allegations contained in that part of the amended bill of complaint designated in Roman numerals as paragraph five, subdivision (c), which attempts to state a cause of action against this defendant, denies the same; and as to such allegations contained in said subdivision which attempt to state a cause of action against Nancy Atkins, Minnie Atkins, Henry Carter, Martin Rowe, Harvey Harrison, Thomas Harris and Thomas Atkins, this defendant is without knowledge as to the truth or falsity of the same, and demands that said complainant make strict proof thereof.

(d) That this defendant answering the material allegations contained in that part of the amended bill of complaint designated in Roman numerals as five, subdivision (d), says that he has no knowledge of the truth or falsity of said allegations and he therefore demands that the complainant be required to make strict proof of the same.

(e) That this defendant answering the material allegations contained in the amended bill of complaint, designated in Roman numerals as five, subdivision (e), denies the same.

VI.

That this defendant further answering said Amended Bill of Complaint as to paragraph thereof numbered in Roman numerals six denies that the Commission to the Five Civilized Tribes listed the defendant, Thomas Atkins, for enrollment without conducting any hearing, or making any investigation, or having received in connection any evidence of any character, and denies that said Commission proceeded *ex parte* and arbitrarily; denies that there was no contest, controversy or adverse proceedings had by and before the said Commission concerning whether the defendant, Thomas Atkins, was living or dead on the first day of April, 1899; denies that said Commission neither gave nor caused to be given to the Creek Nation, its officers or any other person any notice that the name of the said Thomas Atkins was about to be, or would be, listed for enrollment and enrolled as for allotment or that patents were about to be, or would be, issued as aforesaid; denies that said Commission in placing the name of the defendant, Thomas Atkins, on the roll of the Creek citizens by blood, as aforesaid, and insofar as the question of whether or not the said Thomas Atkins was living or dead on April 1, 1899, was concerned, acted arbitrarily, without knowledge or *believe* as to the existence of the defendant, Thomas Atkins, on April 1, 1899; denies that the defendant, Thomas Atkins, died prior to April 1, 1899, and was not living on said date; denies that said Commission acted upon a gross mistake of fact as well as of law in enrolling and passing to allotment in the Creek Nation the defendant, Thomas Atkins, and says that the said Thomas Atkins was living on April 1, 1899, a citizen by blood of the Creek Nation entitled to allotment in said Nation, and that he was allotted as a citizen of such nation the land described in the amended bill of complaint, patents for said land being thereafter and before the bringing of this suit duly issued to the defendant, Thomas Atkins.

That this defendant has no knowledge concerning the claims asserted by the various other defendants named in complainant's bill to the subject-matter of this suit as particularly set out in paragraph numbered six, and therefore demands that complainant make strict proof of such allegations, except that the defendant, Thomas Atkins, does claim to be the owner of the lands allotted as aforesaid to Thomas Atkins and entitled to the possession thereof.

VII.

That this defendant in answering the material allegations in the amended bill of complaint marked in Roman numerals seven admits that the said Thomas Atkins was enrolled by said Commission opposite number 7913 on the Creek roll, and that the said allotment certificates and patents issued at the time set forth in subdivision (a) of paragraph five of this amended bill; denies that said enrollment, allotments and patents are null and void; denies that the defendant, Thomas Atkins, never had any existence and was and is a fictitious person; and denies that said Commission committed a gross mistake of fact as well as of law in allotting the defendant, Thomas Atkins.

VIII.

That this defendant answering so much of the material allegations contained in that part of the amended bill of complaint marked eight in Roman numerals, as charges or attempts to charge a cause of action against this defendant, denies the same, and says that said Thomas Atkins is the owner both at law and in equity of all right, title and interest and estate in and to the subject-matter of this suit.

IX.

That this defendant answering so much of the material allegations contained in the amended bill of complaint in paragraph numbered nine in Roman numerals, as charges or attempts to charge a cause of action against this defendant, admits that the land in question is situated in the oil and gas belt of the Creek Nation, and that it is of great value because of the oil and gas underlying the same; denies that said land belongs to the Creek Nation; admits that the defendants, Gem Oil Company, Charles Page and R. E. Josey and each of them, without the consent of the defendant, Thomas Atkins, are claiming and exercising the right of ownership over, and are in possession of, said premises without the consent of the defendant, Thomas Atkins, and are taking and wasting great quantities of oil and gas from said premises, the value of which products being unknown to this defendant or to the defendant, Thomas Atkins, but which this defendant believes to be, and therefore asserts, is very great, such taking and destroying of said property constituting a continuous trespass upon the lands of the defendant, J. Truman Nixon, and a waste of said premises to the material, irreparable and permanent injury of said estate, and, unless a receiver be appointed by this court to take charge of, and go into possession of, said lands and conserve the oil and gas underlying the same for the use and benefit of this defendant, this defendant and said Thomas Atkins will suffer permanent, irreparable and material injury.

X.

That this defendant, as to each and every material allegation in said amended bill of complaint not hereinbefore admitted or denies, hereby enters his denial, and says that the said Thomas Atkins is the owner of said premises and of all appurtenances and improvements thereon subject to the leases and contracts hereinafter set forth, and is entitled to the immediate possession of the same, subject to an oil and gas mining lease in favor of the Orange Oil Company on the homestead allotment, dated the 20th day of March, 1915, and on oil and gas mining lease on the surplus allotment to the same Company and of the same date, both of said leases being now owned by this defendant, and subject to an attorney's contract with Haskell B. Talley dated the 14th day of August, 1915.

Wherefore this defendant having fully answered all the material allegations in the amended bill of complaint prays that the complainant take nothing by its amended bill, and that said amended bill be dismissed at the costs of the complainant; that the title of this defendant as to his interest in said premises be quieted and that he be given such other and further relief as in equity and in good conscience he is entitled to.

HASKELL B. TALLEY,
Solicitor for Defendant, J. Truman Nixon.

Endorsed: Filed Oct. 11, 1915, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 30th day of October, A. D. 1915, the defendant Thomas Atkins, sued as Henry Carter filed Answer herein, which is in words and figures as follows:

Separate Answer of Thomas Atkins to Amended Bill of Complaint.

Comes now Thomas Atkins and for his separate answer to the amended bill of complaint filed herein, says:

That he has been sued in said action as Henry Carter, but that his name, in truth and in fact, is Thomas Atkins, though he has sometimes been known as Henry Carter; that he is a son of Minnie Atkins and allottee No. 7913 appearing upon the allotment rolls of the Creek Indians.

This answering defendant alleges that he adopts the allegations of the amended bill of complaint filed herein insofar as they do not conflict with his interest or his rights to recover in said cause, and joins in the request that all conveyances which appear of record on said land, except the conveyance by the Principal Chief of the Creek Nation to himself, be cancelled, set aside and removed as a cloud.

This answering defendant, however, denies specifically all the allegations in paragraphs 5a, 5b and 5c in the amended bill of complaint and alleges the facts to be that he is a son of Minnie Atkins; that in 1895, he was living and was approximately ten years of age, and that he was entitled, under the laws, customs and usages of the Creek Nation, as a Creek citizen, to be duly and regularly enrolled as a Creek citizen upon the 1895 authrnticated pay roll and was so enrolled and was, at the time of said enrollment, a living member and citizen of the said tribe, and legally entitled to such enrollment; that thereafter, to-wit: on the 23rd day of May, 1901, he was duly allotted the Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and the Southwest Quarter of the Northwest Quarter and Lot Four (4) of Section Four (4) in Township Eighteen (18), [] of Range Seven (7) East of the Indian Base and Meridian, and the Commission to the Five Civilized Tribes did, in proper form, after a full and legal hearing, enroll this defendant as the son of the said Minnie Atkins, a Creek Indian woman, and a citizen by blood of the Creek Nation and Tribe of Indians, and did place his name upon the final rolls of citizens of said tribe being prepared by said Commission under the acts of Congress, and that his enrollment was due, legal and regular and proper, as shown by Exhibit A attached to the amended bill of complaint, and said Commission did legally and properly allot the said described tract of land to this answering defendant as a citizen of the said Creek Nation, on the 30th day of June, 1902, and did thereby, set aside and designate as an allotment to this answering defendant the said land, and did cause a certificate evidencing the said allotment in due and proper form to issue, copy of which is attached to the amended bill of complaint as Exhibit B, and thereafter, in due course, in compliance with law, in legal, regular and proper manner, to-wit, on the 14th day of April, 1903, the Principal Chief of said Creek Nation executed a patent, whereby 120 acres of said land was allotted as surplus, and did, on the same day, execute another patent, whereby 40 acres of land was allotted as the homestead of said Thomas Atkins, and said patents and conveyances were, on the 8th day of May, 1903, approved by the Secretary of the Interior and afterwards, on the 16th day of May, 1903, said patents were duly recorded in the office of the Commission to the Five Civilized Tribes, in Book 12, at page 310 and Book L, at page 310, respectively, copies of said patents being attached to the said amended bill of complaint as Exhibit C and Exhibit D, and that thereby this answering defendant became vested with the absolute legal title to said premises in fee.

This answering defendant admits each and every allegation stated in paragraph 5d of the said Amended Petition but alleges in addition thereto that the certain oil and gas mining lease signed by the defendant Henry Carter to the defendant Gem Oil Company, dated November 13, 1914, and recorded in Book 107, at page 125, in the office of the Register of Deeds of Creek County, was obtained by fraud in the following particulars, to-wit:

That at said time a certain party to this defendant unknown, represented that he was a detective and that he had found that this answering defendant was the owner of the tract of land above described, and that if this answering defendant would give him authority to represent him, that he would place him in possession of the said land and procure cancellation of all fraudulent and spurious claims and would charge him a reasonable compensation only for services performed, and late on the night of November 13, 1914, presented to this defendant an instrument, which he represented as a power of attorney, and procured defendant's signature thereto, upon representation that the same was a power of attorney, when, in truth and fact, the same appears now to be an oil and gas mining lease to the Gem Oil Company; that no consideration was paid this answering defendant and he never intended to execute the same but signed the instrument presented, upon the representation that it was a power of attorney; that this answering defendant has never seen said lease and does not know whether he executed the same or not, but alleges the fact to be that if he did execute the same, that it was by reason of his relying upon the said false representations made by the said assumed detective, whose name is, to this answering defendant, unknown, and that the same ought to be cancelled and held for naught.

This answering defendant specifically denies that no such person as Tommy Atkins enrolled by said Commission as aforesaid ever had any existence, and denies that said name represents a myth and fictitious person but admits that if any person claims to be his heir or heirs, that the said claim is false and fraudulent, but denies that the enrollment and allotment and issuance of patents to the said Thomas Atkins were the result of fraud, and were based upon false and fraudulent proof and evidence, so far as the question of citizenship of Thomas Atkins in the said tribe was concerned, and denies that said Commission, in so enrolling said name, allotting said land and issuing said patents, committed gross mistake of law, as well as of fact, and denies that said enrollment, allotment certificate and patents should be declared void and cancelled for the reason that the said Creek Nation and the complainant are greatly and irreparably injured thereby, or for any other reason.

Your complainant further denies each allegation of paragraph six, of the said amended bill of complaint, insofar as it conflicts with the allegations of this answer, and denies that the said enrollment, allotment and patents are null and void for the reason that so far as the question as to whether or not Thomas Atkins was living or dead on the 1st day of April, 1899, the said Commission to the Five Civilized Tribes in listing the name of Thomas Atkins for enrollment, and in enrolling said name at the time aforesaid, conducted no hearing, made no investigation and did not have or receive any evidence of any character, and denies that said Commission proceeded ex parte and acted arbitrarily, and denies that in so causing the name of Tommy Atkins to be enlisted for enrollment as aforesaid, and to be placed on the roll of Creek citizens by blood, as aforesaid, the Commission acted, so far as the question as to whether or not Thomas Atkins was living or dead on the first day of April, 1899, was concerned, arbitrarily and summarily and without any knowledge, information or belief that the alleged Thomas Atkins was in existence and living or was dead on the first day of April, 1899, and denies that said Commission so placed the name of said Thomas Atkins on the said roll on the mere arbitrary and erroneous assumption, wholly unsupported by evidence or information, that the said Thomas Atkins was in existence and being and was living on the first day of April, 1899, and was entitled to be enrolled by said Commission under the Acts of Congress aforesaid, and alleges that the said Commission did have and hold a due and proper hearing, did take evidence and did judicially determine that the said Thomas Atkins was living on the first of April, 1899, and was the son of Minnie Atkins, a Creek citizen, and had been properly enrolled upon the Creek Rolls of 1895, and was, in all respects, entitled to an allotment and did duly allot him as aforesaid.

This answering defendant denies that the said Thomas Atkins had died prior to the first day of April, 1899, and was not living on said date, and denies that by virtue thereof he was not entitled to be enrolled as a member and citizen of the Creek Nation and denies that he was not entitled to receive any allotment or part or portion of the land of said

Creek Nation, under the acts of Congress aforesaid, but allege that he is now living and has no heirs entitled to claim or receive any of said land from him.

This answering defendant further denies that the said Commission, in so enrolling the name of Thomas Atkins, acted upon a gross error and mistake of fact as well as of law, and denies that the Commission did not know and did not have any evidence before it at the time to cause the name of said Thomas Atkins to be enrolled, either showing or tending to show whether or not he was living or dead, on April 1, 1899.

Defendant denies that because of the arbitrary and erroneous acts of said Commission, as aforesaid, the name of the alleged Thomas Atkins appeared on the official roll of the Creek Nation or Tribe of Indians, opposite No. 7913, which was approved by the Secretary of the Interior, and denies that the allotment of said land was arbitrary and erroneously issued as aforesaid.

This answering defendant further denies that the said enrollment, allotment and patents to Thomas Atkins are null and void, for that the said alleged Thomas Atkins so enrolled by the said Commission opposite No. 7913 never had any existence and denies that said Thomas Atkins is a fictitious person and denies that said name represents no person who is or ever was in being, and denies that said enrollment, allotment and patents of said land was committed by a gross mistake of fact, as well as law, and denies that neither said allotment certificates nor said patent conveyed any right, title or interest in and to said lands to any person whomsoever.

Wherefore this answering defendant having fully answered, prays that the complainant recover nothing against him, that he be adjudged the owner in fee simple of the land above described, and that all conveyances upon the said land except the allotment patents to this answering defendant, be adjudged fraudulent, invalid and void, and that same be cancelled; that the Gem Oil Company, and each and all of his co-defendants herein, be required to render an accounting to show the amount of oil, gas and other minerals taken from said land, and that he have judgment against them and each of them for the amounts so respectively taken; for costs and for such other relief as the premises justify.

B. B. BLAKENEY and
J. H. MAXEY
By J. H. MAXEY,
Solicitors for Thomas Atkins, alias Henry Carter.

State of Oklahoma, Seminole County.

Thomas Atkins being first duly sworn on oath deposes and says that he is the defendant named in the above answer that he has carefully read the same and knows the contents thereof and that the statements and allegations contained therein are true and correct.

THOMAS ATKINS.

Subscribed and sworn to before me this 29 day of Oct., 1915. (Seal) A. Thelma Johnson,
My com. exp. Aug. 4th, 1919. Notary Public.

Endorsed: Filed Oct. 30, 1915. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 14th day of December, A. D. 1915, the defendant Charles Page filed answer herein, which is in words and figures as follows:

Answer of Defendant Charles Page.

This defendant respectfully, now, and at all times hereafter saving to himself all and all manner of benefit of exception or otherwise that can or may be had or taken to the many errors, uncertainties and imperfections in said bill contained for answer thereto, or of so much thereof as this defendant is advised it is material to answer, or necessary for him to make answer, answering says:

(A) That this defendant is a stranger to all and singular the matters and things in the said complainant's bill of complaint and, therefore, leaves the complainant to make such proof thereof as he shall be able to produce.

(B) That heretofore, on or about the 23d day of May, 1901, the Commission to the Five Civilized Tribes, caused the name of Thomas Atkins to be placed on the rolls of Creek citizens by blood opposite Roll No. 7913.

(C) That thereafter, and on the 30th day of June, 1902, certificate of allotment was issued as provided by law, to the said Thomas Atkins; and,

(D) That thereafter, on the 14th day of April, 1903, homestead and allotment patents as provided by law, were issued to the said Thomas Atkins in due form, conveying the lands described in the bill of complaint to the said Thomas Atkins, and said patents, were, as provided by law, duly approved by the Secretary of the Interior on the 8th day of

May, 1903, and filed for record in the office of the Commission to the Five Civilized Tribes, on the 16th day of May, 1903, and recorded in Book 1, at page 310, and Book 12, at page 310, respectively.

(E) That the land described in said patents comprises the land described in said bill of complaint, all of which is located in what is now Creek County, in the eastern district of the State of Oklahoma.

(F) That true and correct copies of said patents are attached to complainant's bill of complaint filed herein.

(1) Further answering, this defendant denies that the complainant brings or prosecutes this action in its own behalf or on behalf of the Creek Nation or Tribe of Indians, and denies that said action is brought for the purpose of discharging complainant's duty and obligation towards said Tribe of Indians, or for the purpose of fully executing, carrying out, or discharging its duty in relationship to the allotment severally of the lands of said Tribe of Indians to the duly enrolled members thereof, according to the spirit, intent and purpose of any trust.

(2) This defendant denies that the lands described in complainant's complaint are a part of the lands belonging to the Creek Nation or Tribe of Indians as public and unallotted domain; and,

Denies that such lands have been any part of such Nation since the said 30th day of June, 1902.

(3) Save as herein appears, this defendant denies the allegations set forth in paragraph four of said complaint;

And this defendant says that the duties of said Commission to the Five Civilized Tribes, and the rights of the citizens of the Creek Nation thereunder, are set forth in in the laws and treatise of the United States.

(4) Defendant denies that the listing of the name of Thomas Atkins for enrollment by said Commission to the Five Civilized Tribes was made without any application being made therefor by any person or upon its own motion and initiative and denies that the proceeding in which said listing was carried out, was *ex parte*.

Defendant admits that said listing for enrollment was made for the purpose of placing the said name upon the final roll of citizens of said tribe then being prepared; and,

Admits that the name of Thomas Atkins was placed upon and made a part of the final roll of citizens of said tribe, and that said enrollment was approved by the Secretary of the Interior on the 2nd day of March, 1902; and,

Admits that the copy of said roll attached to said complaint as Exhibit "A" is a true copy thereof.

Defendant admits that said Commission, under appropriate Acts of Congress, allotted the lands described in said complaint to Thomas Atkins on the 30th day of June, 1902; and that said lands were set aside and designated as an allotment to said Thomas Atkins; and admits that the allotment certificate evidencing the making of said allotment was on June 30, 1902, issued whereby said Commission certified that said lands had been allotted to Thomas Atkins; and admits that the copy of said certificate attached to said complaint and marked Exhibit "B" is a true copy thereof; but defendant denies that the allotment of said lands to Thomas Atkins, as aforesaid, was arbitrarily made or made without application therefor.

Defendant admits that on the 14th day of April, 1903, the Principal Chief of said Creek Nation executed patents conveying respectively one hundred twenty (120) acres and forty (40) acres of said land to Thomas Atkins, and that said patents were, on the 8th day of May, 1903, approved by the Secretary of the Interior, and on the 16th of May, 1903, said patents were recorded in the office of the Commission to the Five Civilized Tribes, in Book 12, at page 310 thereof, and Book L at page 310 thereof, respectively; and admits that the copies of said patents attached to said complaint and marked Exhibit "C" and Exhibit "D" respectively, are true copies thereof.

Defendant denies that said certificate of allotment and said patents have never been delivered to any person, and denies that they still remain in possession of said Commission, but defendant avers that recordation of said patents and said certificate as above set forth is constituted by law, and is, due and sufficient delivery thereof so as to completely terminate all right, title and interest in and to said land that theretofore remained in the Creek Nation of Indians or the United States of America; and that such recordation vested full and complete title to said lands in said grantee and his heirs.

(5) Defendant denies that said enrollment, allotment and patents are null and void; and denies that no title to said lands was conveyed by said allotment, allotment certificate and patents to Thomas Atkins or his heirs.

Defendant denies that said enrollment resulted from false and fraudulent evidence as to the question of citizenship in the Creek Nation or Tribe of Indians of said Thomas Atkins.

Defendant admits that said Commission, in listing for enrollment the names of the citizens of the Creek Tribe of Indians for enrollment, used as material evidence, on said question of citizenship in said tribe, certain rolls of citizens which had been prepared by the officers of said tribe, and which were denominated and treated as authenticated tribal rolls, among which was the 1895 authenticated payroll; and admits that said Commission particularly relie*f* upon said 1895 payroll.

Defendant admits that the name of Thomas Atkins appeared upon said 1895 payroll in the family headed by the name of Minnie Atkins, and admits that said roll showed on its face that Thomas Atkins was in 1895 a living member and citizen of said tribe and a member of Euchee Town thereof.

Defendants admits that on the 23d day of May, 1901, the Commission had before it and used as evidence and relied upon said 1895 payroll.

The defendant denies that said Commission finally determined the question of citizenship of said Thomas Atkins and listed for enrollment and enrolled his name without any further investigation or other evidence being adduced to or had by said Commission other than said roll.

Defendant admits that said 1895 roll was material evidence on the question of citizenship of Thomas Atkins, but denies that said 1895 payroll was false and fraudulent.

Defendant admits that Samuel W. Brown as Town King of Euchee Town, in making up the said 1895 payroll gave in the name of Thomas Atkins to the National Counsel of the Creek Nation of Indians as a living member and citizen of said town and tribe, and as a part of the family of Minnie Atkins, and, thereby, caused said name to be placed upon the roll of members of said town and tribe. And that, in so doing, said Brown acted upon information obtained from John Davis, a relative and agent of Minnie Atkins duly authorized by her, to the effect that Thomas Atkins was at that time a living member of said tribe and town, and a member of the family of Minnie Atkins;

But defendant denies that the said information so imparted to said Samuel W. Brown, by said John Davis, was false or fraudulent.

Defendant admits that the officers of said tribe did enroll the name of Thomas Atkins, acting upon the statements and representations made to them by said Samuel W. Brown, but denies that said representations were in any way false, Defendant denies that Thomas Atkins, a member of the family of Minnie Atkins, of Euchee Town, was not in being at that time, and denies that no such person ever existed other than the father of Minnie Atkins.

Defendant denies that the Thomas Atkins so enrolled upon said 1895 payroll was a *was a* myth and fictitious person; and denies that such was known to be a fact by Minnie Atkins and John Davis because defendant avers that said Thomas Atkins, enrolled as aforesaid, was a living person at that time and was well known to said Minnie Atkins and said John Davis.

Defendant admits that said Samuel W. Brown relied upon the statements and representations made to him by said John Davis, and that he communicated the same to the officers of said tribe and that they acted upon them, but denies that said representations were false.

Defendant admits that in the summer of 1895 the Treasurer of said Creek Tribe of Indians made, distribution and per capita payment to the members of said tribe in accordance with said roll, and that Minnie Atkins received and collected from said nation through said treasurer, the sum of $14.40 as a payment due to and belonging to Thomas Atkins, but denies that she defrauded said tribe thereby, and denies that she defrauded said tribe by concealing that no such person as Thomas Atkins was in existence, because plaintiff avers that said Thomas Atkins was at that time alive and in being and entitled to be paid said sum so received by Minnie Atkins.

Defendant denies that at that time it was well and generally known throughout the Creek Nation and to the members thereof, and particularly to Minnie Atkins, that the Congress of the United States had passed various acts looking to the enrollment of the members of said tribe with a view to allotting to said members the lands of the tribe in fee simple; and denies that said Minnie Atkins caused the name of Thomas Atkins to be placed upon the 1895 payroll for the purpose of enjoying whatever benefits that might accrue to her as the heir at law of said Thomas Atkins in the final enrollment of the lands of said tribe; and denies that she could have known or foreseen that said allotment of lands would take place or in what manner or by what procedure the same would be carried out; and denies that she could have foreseen that any benefit would accrue to her in that regard by said enrollment on the 1895 payroll; and denies that at that time any provision had been made by Congress whereby she could have so benefited, and denies that she could have known that said roll would have any bearing upon said allotment of lands; and denies that said Minnie Atkins has concealed from the officers of said tribe and the Government of the United States, that there was no such person as Thomas Atkins because defendant avers that said Thomas Atkins was at that time a living person and a member of said tribe and entitled to be enrolled on said 1895 payroll. This defendant says that he has no knowledge as to the claims of any of the defendants set forth in said complaint other than ,this answering defendant, and the defendants Minnie E. Folk, Harry B. Folk and Edward C. Hanford.

And defendant denies that no such person as Thomas Atkins enrolled by said Commission as aforesaid, never existed; and denies that said name represents a myth and fictitious person, and denies that this defendant and the above-named defendants know, or have any *any* time known, that no such person as the said Thomas Atkins, ever existed, and denies that their claims are false and fraudulent.

And denies the allegation in said bill that this defendant and the defendants Minnie E. Folk, *Harrby* B. Folk and Edward C. Hanford have no claim either in law or in equity to any right, title, interest or estate in and to said lands, or any part thereof; and further denies that the claims of these defendants are adverse to complainant or to the Creek Nation of Indians.

(6) This defendant does not know and can not set forth the interests or claim of interest of any of the defendants named in said complaint in subdivisions C, D and E of paragraph 5 thereof, except for this answering defendant and Minnie E. Folk, Harry B. Folk and Edward C. Hanford.

And defendant denies that the claims of these defendants, are adverse to the complainant or the Creek Nation of Indians.

And denies that the above-named defendants have no interest in said lands at law or in equity.

(7) This defendant denies that any instrument under which he holds constitute a cloud upon the title to said lands; and denies that the existence of said allotment certificate and patents or other instruments subsequent thereto, hinder or delay complainant in the performance of the duties imposed upon it by law to preserve to the Creek Nation the said land and the value thereof, and to allot and otherwise dispose of said land and to wind up the affairs of the Creek Nation.

(8) Defendant denies that said enrollment, allotment and patents are null and void. And defendant denies that the said Commission in placing the said Thomas Atkins on the roll of Creek citizens by blood acted arbitrarily, summarily or without knowledge or information or belief that the said Thomas Atkins was in existence and living on the 1st day of April, 1899, and denies that said Commission in listing the name of Thomas Atkins for enrollment and enrolling said name, conducted no hearing, or made no investigation, and denies that it did not have or receive any evidence of any character, and denies that it proceeded *ex parte* and acted arbitrarily.

Defendant denies that there was no contest, controversy or adverse proceeding had by or before the said Commission in respect to the question as to whether or not said Thomas Atkins was living or dead on the first day of April, 1899.

Defendant denies that the Commission to the Five Civilized Tribes did not give or cause to be given to the Creek Nation or its officers, or any other person, notice that the name of the said Thomas Atkins was about to be or would be enrolled.

And denies that the said Commisson placed the name of said Thomas Atkins on said roll on an arbitrary or erroneous assumption wholly unsupported by evidence or information as to whether Thomas Atkins was living on April 1, 1899, and entitled to be enrolled by said Commission under the Acts of Congress made and provided.

(9) Defendant denies that complaintant has no knowledge and does not know that Thomas Atkins was in existence and was living prior to April 1, 1899.

And denies that the said Thomas Atkins died prior to the 1st day of April, 1899.

And denies that he was not entitled to be enrolled and allotted lands of the Creek Nation.

(10) Defendant denies that the heirs of the said Thomas Atkins were not entitled to receive any part of the public lands of the Creek Nation or Tribe of Indians by virtue of being heirs of the said Thomas Atkins. And denies that they did not take title to the lands described in said complaint by virtue of the allotment thereof in the name of Thomas Atkins, and the issuance of said patents to and in the name of Thomas Atkins.

(11) Defendant denies that at the time the name of said Thomas Atkins was placed upon the official rolls aforesaid,

the said Commission placed said name thereon under an erroneous and arbitrary assumption that the said Thomas Atkins was in being and living on April 1, 1899.

And denies that said Commission acted upon a gross error or mistake of fact or mistake of law.

And denies that said Commission did not know or did not have any evidence before it at the time that they caused the name of the said Thomas Atkins to be enrolled showing, or, tending to show that the said Thomas Atkins was living on April 1, 1899.

(12) Defendant denies that the name of the said Thomas Atkins appears on the official rolls aforesaid because of the arbitrary or erroneous act of said Commission;

And denies that the allotment of said lands described in said complaint was arbitrarily or erroneously made to the said Thomas Atkins

(13) Defendant denies that the said enrollment allotment and patents are null and void and denies that Thomas Atkins so enrolled by said Commission opposite roll No. 7913 never had an existence, and denies that he was and is a fictitious person, and that said name represents no person who is or ever was in being;

And denies that by reason thereof said Commission in so enrolling said name and allotting and patenting for the land as aforesaid, committed a gross mistake of fact as well as of law, and denies that neither said allotment, allotment certificates nor said patents conveyed any right, title or interest in and to said lands to any person whomsoever.

And defendant avers that at the time said Thomas Atkins was enrolled by said Commission as aforesaid he was a living person, a member and citizen of the Creek Nation of Indians and entitled to be so enrolled and allotted.

Defendant admits that he and the defendants, Minnie E. Folk, Harry B. Folk and Edward C. Hanford, are claiming some right, title or interest in said property under and by virtue of said allotment certificates and patents or by virtue of deeds or leases subsequent thereto and in pursuance thereof, but denies that said patents, claims, assertions, deeds and leases constitute clouds upon the title of said Creek Nation in and to said lands, and harass and embarrass and interfere with complianant in the execution of any trust or the performance of its duties and obligations to said tribe and the members thereof.

(14) Defendant denies that the complainant now has any information or knowledge as to the life or death of said Thomas Atkins that it did not have at the time of the enrollment of said Thomas Atkins and the allotment of said lands to him.

(15) Defendant admits that the land described in said complaint are situated in the oil and gas belt of the State of Oklahoma, and in that portion of the oil and gas field known as the Cushing field; and admits that said lands are now of great value because of the oil and gas thereunder.

But defendant denies that the Creek Nation is now or has been at any time the owner of any of the oil or gas under said lands;

And denies that said Creek Nation has had any interest in any portion of said lands subsequent to June 30, 1902.

(16) Defendant denies that the Gem Oil Company, Charles Page and R. A. Josey or either of them have unlawfully entered upon said lands or unlawfully proceeded to prospect and drill thereon for oil and gas, or have unlawfully drilled thereon for oil or gas, or have unlawfully removed therefrom or disposed of oil and gas.

(17) Defendant denies that he or the Gem Oil Company or R. A. Josey have committed any trespass and denies that they have no right, title or interest in and to any part of said lands or the oil and gas thereunder.

And denies that this answering defendant or any of said parties have committed a trespass upon said lands in violation of the rights of complainant, or of the Creek Nation of Indians.

And denies that the acts of this defendant and said parties constitute waste upon any estate of the Creek Nation, or that said acts are materially, irreparably or permanently damaging to said estate.

(17)[18] Defendant denies that the claim or rights of the complainant and the Creek Nation in and to said lands aforesaid are well founded or based upon grounds that are good; and denies the existence of any ground, necessity or right for the appointment of a receiver of said premises;

And denies that any injury, permanent, irreparable or material will be occasioned to any alleged rights of complainant or the Creek Nation of Indians.

(19) Defendant denies that complainant and the Creek Nation of Indians have no adequate remedy at law.

(20) Defendant avers that the said Thomas Atkins was a duly enrolled citizen of the Creek Nation of Indians of one-half blood, alive and in being on April 1, 1899.

(21) That the tribal authorities of the Creek Nation duly authorized thereto by law, enrolled said Thomas Atkins on the tribal rolls of said tribe of the years 1890 and 1895.

That thereafter, said rolls and said enrollment of Thomas Atkins thereon, were duly confirmed by Act of Congress on June 10, 1896, which provided specifically that the rolls of citizenship of said Creek Nation as then existed were confirmed.

(22) That thereafter the Commission to the Five Civilized Tribes, under authority of the Act of Congress of June 28, 1898, adjudged said Thomas Atkins to have been properly enrolled and to be entitled to enrollment on said tribal rolls.

(23) That thereafter, pursuant to the Act of Congress of ...., 1901, said Commission having before it the evidence required by law to entitle the said Thomas Atkins to enrollment, including said tribal rolls, duly adjudged the said Thomas Atkins to be a citizen of said Creek Nation living on the first day of April, 1899, entitled to be enrolled under Section 21 of the Act of Congress approved June 28, 1898; and with the full knowledge and consent of the Creek tribal authorities and proper officers of the Creek Nation and complainant did place the name of the said Thomas Atkins upon the final roll made by said Commission under and by virtue of said Acts of Congress.

That said enrollment as made by said Commission to the Five Civilized Tribes was thereafter duly and regularly approved by the Secretary of the Interior pursuant to law and thereupon became and was and is final and conclusive.

(24) That thereafter pursuant to law, said allotment, certificates and patents were duly made, executed, issued, delivered and recorded, and that the entire title in and to said premises was thereby divested over and from the Creek Nation of Indians and complainant and vested in said Thomas Atkins or his proper representatives.

(25) That at the time of the selection of said lands and the issuance of patents and for many years thereafter, the value of said lands was purely nominal, being approximately $1.50 an acre

That on or about the ...... day of ...., 1912, the Gypsy Oil Company went into open notorious possession of said lands and drilled thereon a well producing oil and gas; that thereafter in July, 1914, this answering defendant and the defendants Minnie E. Folk, Harry B. Folk and Edward C. Hanford, went into possession of said lands and were on the third day of July, 1914, in peaceable, open and notorious possession thereof.

That on said day the order was made by the District Court of Creek County, Oklahoma, having jurisdiction of the res, authorizing said defendant and the defendant R. A. Josey to hazard and expend $50,000.00 in the development of said lands pursuant to said order of court, a full, true and correct copy thereof being attached hereto marked "Exhibit A" and made a part hereof;

That pursuant to the terms of the said order of court, said defendants Charles Page and R. A. Josey, entered on said premises, hazarded said sum of $50,000.00, and by the hazard of said sum of money and by their energy, skill and knowledge of the oil and gas business, have succeeded in making said premises worth whatever value the same possess at this time; that said Charles Page has succeeded to whatever rights said Gipsy Oil Company and the Gem Oil Company and R. A. Josey have heretofore had in said lands;

And the entire value of said lands over and above a nominal sum has been created by the energy, development and hazard of said Gypsy Oil Company, Gem Oil Company, R. A. Josey, and this defendant.

(26) That the complainant, its officers and agents, together with its Indian Superintendent in charge of the affairs of the Five Civilized Tribes, had, at all times, full knowledge of the possession, development and operation of said lands;

(27) That said complainant has recognized and acquiesced in the validity of said patents, and has stood behind and sustained the same as its sovereign act since their issuance up to the filing of this suit.

That no claim in law or equity has been or asserted by said complainant, its officers or agents, including its Indian Superintendent at Muskogee, or by the Creek Nation, or its officers or agents prior to the filing of this action, although the fact of said possession, and the fact of the intention of said defendants to hazard large sums of money in the testing of said premises for oil and gas, was well known to said complainant, its officers and agents, to the Creek Nation, its officers and agents, and also well and publicly known throughout the oil fields of the State of Oklahoma.

(28) That said complainant and said Creek Nation stood by and allowed these defendants to hazard said sum of $50,000.00 and more, to use their knowledge, skill and experience in the oil business in testing said premises, and said complainant, and the Creek Nation, by their silence, laches, acquiescence, and recognition of the validity of said patents, and failure to assert any claim or to give notice of any claim, are now estopped and forever barred to assert any claim adverse to the title of this defendant, and the defendants, Minnie E. Folk, Harry B. Folk, and Edward C. Hanford, who are in open, notorious and exclusive possession of said premises and of the oil and gas lying thereunder.

(29) That oil and gas was discovered in paying quantities on said lands more than three years prior to filing of this suit, of which complainant and said Creek Nation had knowledge or ample opportunity to have knowledge.

(30) That thereafter this defendant, together with the defendant R. A. Josey, proposed, and it was well and fully known to said complainant and the Creek Nation, to hazard said sum of $50,000.00 in testing said premises to the deep sand known as the Bartlesville sand, which had not yet been tested on said lands.

And that all of said drilling operations and hazard of said sums of money were made and had upon the faith in the validity of said patents, in reliance thereon, and in accordance with the judgment of the District Court of the State of Oklahoma, having jurisdiction of the res.

(31) That the cancellation of said patents or the granting of any relief as prayed for in said complaint, would be inequitable and unjust by reason of the changed conditions of the parties, the lapse of time, the great increase in value of the property and the difficulty in meeting allegations which might readily have been met had they have been made seasonably.

That this answering defendant in good faith spent a valuable and adequate cash consideration, to-wit: the sum of $10,000.00 in hand paid, for the leasehold interest for oil and gas in and to said premises, and paid said consideration at the time of taking a conveyance from the heirs of Thomas

Atkins who were in possession of said lands under claim of title, without notice of any claim on the part of the complainant or the Creek Nation of any claim of invalidity in said patents, and in reliance thereon;

And subsequent thereto, vast expenditures and liabilities in the sum of more than $200,000.00 have been made or assumed by this defendant in reliance on the validity of said title, and without notice of any defect or claim of defect in said patent by complainant or the Creek Nation.

That this answering defendant and the defendant R. A. Josey purchased the claim of the Gypsy Oil Company in and to said premises in reliance on the validity of said patents for a consideration of more than $20,000.00, without notice or knowledge of any claim on the part of complainant or the Creek Nation in and to said lands.

That this defendant and the defendant R. A. Josey, purchased the interest of the defendants Harvey Harrison and Charlie Harrison from the persons holding the same, in and to said leasehold estate for oil and gas for a valuable consideration in the sum of $1,500.00, in hand paid, prior to the assertion of any claim by complainant or the Creek Nation of any invalidity of said patent.

That this answering defendant has purchased the interest of R. A. Josey in and to said property and is now the owner and holder of all right, title and interest heretofore held by said R. A. Josey, in and to the leasehold estate to said property for oil and gas purposes.

(32) That if the claim of the claimant or of the Creek Nation had been asserted by the filing of suit or the giving of notice or otherwise, these defendants would not have hazarded the said sum of money in the testing of said lands for oil and gas and would not have paid the purchase price for the same.

That having hazarded the said sum of money and paid said purchase price without any intimation or assertion on the part of complainant or the Creek Nation of the invalidity of said patent, said complainant and the Creek Nation are barred and estopped by their delay and laches in a court of equity from asserting any such claim against this defendant, and it would be inequitable to grant the relief sought by said bill against this defendant.

(33) That the res in controversy is within the jurisdiction and under the control of the District Court of the State of Oklahoma in and for Creek County, as appears from the orders of said court attached hereto and marked "Exhibit A."

That this court has no jurisdiction to appoint a receiver or to proceed further with the hearing of this cause.

(34) Defendant further avers that the enrollment of said Thomas Atkins, and the issuance of said allotment certificate and patents constitutes an adjudication by a special tribunal constituted by law charged with the duty of making enrollment of citizens of the Creek Nation, clothed with authority, as provided by law, and are final decrees, conclusively adjudicating the right of said Thomas Atkins to enrollment and the conveyance to him of said lands described in said patent, which said decrees are impervious to act on the ground set forth in complainant's complaint, and that for said reason this Honorable Court has no jurisdiction in the premises.

(35) And defendant avers that complainant and the Creek Nation are barred and forever foreclosed and estopped by laches from asserting any claim to said lands adverse to this defendant and the defendants Minnie Folk, Harry B. Folk and Edward C. Hanford; that any claim or claim of right, title and interest that they may have had heretofore are stale and are not enforcible in a court of equity. And they are not entitled to any relief in this action. That more than thirteen years has elapsed since said allotment certificate was issued and more than twelve years since the issuance of said patents; that said lands have increased vastly in value from a nominal sum to many hundreds of thousands of dollars, by reason of the discovery of oil and gas thereunder and the improvements and developments placed thereon by said defendants.

That defendant without notice or knowledge of any defects in his title or the title of those through whom he claims has invested large sums in the development of said property for oil and gas increased the value thereof. That complainant and the Creek Nation with full knowledge have stood by and allowed defendant so to do without giving notice of any claims on their part and have failed to assert any such claim until after said lands were proven and known to be valuable for oil and gas. And that the condition of the parties, and of said property, have materially changed, by reason of that fact, the relief prayed for by complainant is without equity.

(36) Defendant avers that the complainant or the Creek Nation has not any interest in the estate described herein to entitle complainant to sustain this suit.

That it appears from the face of complainant's complaint herein, that the same does not state facts sufficient to constitute a cause of action, and that complainant is not entitled to the relief prayed for against these defendants.

(37) That it appears from said complaint that this court has no jurisdiction to hear and determine this action.

(38) That said bill of complaint is wholly without equity.

(39) Defendant further denies that said bill sets forth any equity in complainant or the Creek Nation which entitles it or either of them to any relief prayed for in said complaint, and makes this defense with like effect as if the same had been raised by motion to dismiss.

(40) Defendant further shows that, as appears affirmatively from said complaint, complainant and the Creek Nation have a plain, speedy and adequate remedy at law and are not entitled to maintain an action in equity.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by the said bill charged; there is not another matter, cause or thing in said complainant's said bill of complaint contained material or necessary for this defendant to make answer to, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided or denied, is true, to the knowledge or belief of this defendant, or which matters and things this defendant is ready and willing to aver, maintain and prove as this Honorable Court shall direct; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

C. B. STUART,
Attorney for Defendant Charles Page.

United States of America, Eastern District of Oklahoma—ss.

Charles Page, being first duly sworn on oath deposes and says: That he is one of the defendants in the foregoing cause; that he has read the foregoing answer, knows the contents thereof, and believes the same to be true.

CHAS. PAGE.

Subscribed and sworn to before me this 13 day of December, 1915. (Seal) E. M. Mousell,
Notary Public.

My commission expires on the 3 day of Feb. 1918.

Exhibit "A".

State of Oklahoma, County of Creek. In the District Court. Minnie Folk (formerly Minnie Atkins), on behalf of herself, and on behalf of Alexander Macnab, Jr., Trustee, Plaintiff, vs. The unknown heirs and devisees of Thomas

Atkins, deceased, Harvey Harrison and Charles Harrison, Defendants; Charles Page and R. A. Josey, Interveners. --No. 3719.

ORDER.

This cause came on for hearing on this ...... day of July, 1914, and the plaintiff appearing in open Court by her attorney, E. C. Hanford, and the interveners, Charles Page and R. A. Josey, appearing by their attorneys, Rice and Lyons, and it appearing that the issues between said plaintiff and interveners are made up, and both parties announcing for trial, said cause came on to be heard on the pleadings, evidence and admissions of counsel, and it appearing to the court that heretofore the lands described in the petition, to-wit:

> The Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section Four (4), and the Southwest Quarter (SW4) of the Northeast Quarter (NE4) and Lot Two (2) of Section Five (5), and Lot Four (4) of Section Four (4), all in Township Eighteen (18), North, Range Seven (7), East, containing one hundred sixty (160) acres, more or less,

were allotted to Thomas Atkins, a citizen of the Creek Nation, and that a prima facie cause has been made showing the death of Thomas Atkins, and that he left as his sole heir, Minnie Folk, formerly Minnie Atkins, the plaintiff in this cause; that heretofore, Minnie Folk conveyed the legal title to said lands to Alexander Macnab, Jr., in trust, and said trustee and the said Minnie Folk thereafter made an oil and gas lease to the Gem Oil Company, and that said company thereafter assigned said leasehold to Charles Page and R. A. Josey, who are the present owners of the same and in possession thereof.

That said lease is the ordinary form of lease, and contains the ordinary conditions and provisions customary in the oil and gas field in which said lands are located; that said lands are being drained of the oil to the great damage of the owners of said leasehold and the owner of said fee; that said lands should be developed forthwith to protect the rights of all persons interested thereon; that it is necessary to hazard approximately Fifty Thousand Dollars ($50,000.00), in the development thereof under the present conditions to properly protect said rights. That said Charles Page and R. A. Josey are able and willing to enter on said lands, hazard said money, and proceed with the development of the same, pursuant to the terms of said lease.

That under the testimony offered, the said Charles Page and R. A. Josey have acquired title to said leasehold on said lands, subject only to the rights of Thomas Atkins, whose death, without issue, is alleged. That a sufficient showing has been made to give rise to the presumption of law that the said Thomas Atkins is dead, and it further appears that said Thomas Atkins died at so early an age that the probability of his leaving a wife or issue is slight.

That the proposed development of the lands under the lease held by the said Charles Page and R. A. Josey is not only beneficial to the said Minnie Folk, the mother of said Thomas Atkins, but is beneficial to the said Thomas Atkins if he be alive.

That the interveners are willing to waive any right to reimbursement from the said Thomas Atkins for expenditures made in the development of said leasehold, and are entitled to have their leasehold estate protected, in the event said Thomas Atkins should finally appear and establish his identity. And

It further appearing that all of the allegations of interveners' petition are true,

Now Therefore, It is Ordered, Considered and Adjudged that the title of said interveners, Charles Page and R. A. Josey, in and to the leasehold estate for oil and gas, is quieted against plaintiffs.

It is further Ordered, Considered and Adjudged that by virtue of the said proposed development and waiver of claim of reimbursement from the said Thomas Atkins, and the necessity of said development to protect the rights of the owners of said premises, and the probability of the entire loss of the oil and gas thereunder, if such development is not made, the rights of said lessees in the leasehold estate are hereby confirmed, subject only to the claim of Thomas Atkins for proper royalty therefrom.

It is further Ordered, Considered and Adjudged that such proper orders shall be made as to unknown heirs and devisees of Thomas Atkins and other parties defendant, as shall hereafter be required by law.

Done in open Court this ...... day of July, 1914.

..........................,
Presiding Judge of the District
Court of Creek County, Oklahoma.

Endorsed: Filed Dec. 14, 1915, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 23rd day of December, A. D. 1915, the defendants Minnie Folk, *nee* Atkins, Harry B. Folk and Edward C. Hanford filed Answer herein, which is in words and figures as follows:

Answer of Minnie E. Folk (nee Atkins), Harry B. Folk and Edward C. Hanford.

These defendants respectfully, now, and at all times hereafter saving to themselves all and all manner of benefit of exception or otherwise that can or may be had or taken to the many errors, uncertainties and imperfections in said bill contained for answer thereto, or of so much thereof as these defendants are advised it is material to answer, or necessary for them to make answer, answering say:

(A) That these defendants are strangers to all and singular the matters and things in the said complainant's bill of complaint and, therefore, leave the complainant to make such proof thereof as he shall be able to produce.

(B) That heretofore, on or about the 23d day of May, 1901, the Commission to the Five Civilized Tribes, caused the name of Thomas Atkins to be placed on the rolls of Creek citizens by blood opposite Roll No. 7913.

(C) That thereafter, and on the 30th day of June, 1902, certificate of allotment was issued as provided by law, to the said Thomas Atkins; and,

(D) That thereafter, on the 14th day of April, 1903, homestead and allotment patents as provided by law, were issued to the said Thomas Atkins in due form, conveying the lands described in the bill of complaint to the said Thomas Atkins, and said patents, were, as provided by law, duly approved by the Secretary of the Interior on the 8th day of May, 1903, and filed for record in the office of the Commission to the Five Civilized Tribes, on the 16th day of May, 1903, and recorded in Book 1, at page 310, and Book 12, at page 310, respectively.

(E) That the land described in said patents comprises the land described in said bill of complaint, all of which is located in what is now Creek County, in the eastern district of the state of Oklahoma.

(F) That true and correct copies of said patents are attached to complainant's bill of complaint filed herein, and true and correct copy of said patents are attached to this answer (marked Exhibits A & B) and specifically made a part hereof.

(1) Further answering, these defendants deny that the complainant brings or prosecutes this action in its own behalf or on behalf of the Creek Nation or tribe of Indians, and deny that said action is brought for the purpose of discharging complainant's duty and obligation towards said tribe of Indians, or for the purpose of fully executing, carrying out, or discharging its duties in relationship to the allotment severally of the lands of said tribe of Indians to the duly enrolled members thereof, according to the spirit, intent and purpose of any trust.

(2) These defendants deny that the lands described in complainant's complaint are a part of the lands belonging to the Creek Nation or tribe of Indians as public and unallotted domain; and,

Deny that such lands have been any part of such nation since the said 30th day of June, 1902.

(3) Save as herein appears, these defendants *dny* the allegations set forth in paragraph four of said complaint;

And these defendants say that the duties of said Commission to the Five Civilized Tribes, and the rights of the citizens of the Creek Nation thereunder, are set forth in the laws and treatise of the United States.

(4) Defendants deny that the listing of the name of Thomas Atkins for enrollment by said Commission to the Five Civilized Tribes was made without any application being made therefor by any person or upon its own motion and initiative and deny that the proceeding in which said listing was carried out, was ex parte.

Defendants admit that said listing for enrollment was made for the purpose of placing the said name upon the final roll of citizens of said tribe then being prepared; and,

Admit that the name of Thomas Atkins was placed upon and made a part of the final roll of citizens of said tribe, and that said enrollment was approved by the Secretary of the Interior on the 2nd day of March, 1902; and,

Admit that the copy of said roll attached to said complaint as Exhibit "A" is a true copy thereof.

Defendants admit that said Commission, under appropriate Acts of Congress, allotted the lands described in said complaint to Thomas Atkins on the 30th day of June, 1902;

and that said lands were set aside and designated as an allotment to said Thomas Atkins; and admit that the allotment certificate evidencing the making of said allotment was on June 30, 1902, issued whereby said Commission certified that said lands had been allotted to Thomas Atkins; and admit that the copy of said certificate attached to said complaint and marked Exhibit "B" is a true copy thereof; but defendants deny that the allotment of said lands to Thomas Atkins, as aforesaid, was arbitrarily made or made without application therefor.

Defendants admit that on the 14th day of April, 1903, the Principal Chief of said Creek Nation executed patents conveying respectively one hundred twenty (120) acres and forty (40) acres of said land to Thomas Atkins, and that said patents were, on the 8th day of May, 1903, approved by the Secretary of the Interior, and on the 16th of May, 1903, said patents were recorded in the office of the Commission to the Five Civilized Tribes, in Book 12, at page 310 thereof, and Book L at page 310 thereof, respectively; and admit that the copies of said patents attached to said complaint and marked Exhibit "C" and Exhibit "D" respectively, are true copies thereof.

Defendants deny that said certificate of allotment and said patents have never been delivered to any person, and deny that they still remain in possession of said Commission, but defendants aver that recordation of said patents and said certificate as above set forth is constituted by law, and is, due and sufficient delivery thereof so as to completely terminate all right, title and interest in and to said land that theretofore remained in the Creek Nation of Indians or the United States of America; and that such recordation vested full and complete title to said lands in said grantee and his heirs.

(5) Defendants deny that said enrollment, allotment and patents are null and void; and deny that no title to said lands was conveyed by said allotment, allotment certificate and patents to Thomas Atkins or his heirs.

Defendants deny that said enrollment resulted from false and fraudulent evidence as to the question of citizenship in the Creek Nation or Tribe of Indians of said Thomas Atkins.

Defendants admit that said Commission, in listing for enrollment the names of the citizens of the Creek Tribe of Indians for enrollment, used as material evidence, on said question of citizenship in said tribe, certain rolls of citizens which had been prepared by the officers of said tribe, and which were denominated and treated as authenticated tribal rolls, among which was the 1895 authenticated pay roll; and admit that said Commission particularly relied upon said 1895 pay roll.

Defendants admit that the name of Thomas Atkins appeared upon said 1895 pay roll in the family headed by the name of Minnie Atkins, and admit that said roll showed on its face that Thomas Atkins was in 1895 a living member and citizen of said tribe and a member of Euchee Town thereof.

Defendants admit that on the 23d day of May, 1901, the Commission had before it and used as evidence and relied upon said 1895 pay roll.

The defendants deny that said Commission finally determined the question of citizenship of said Thomas Atkins and listed for enrollment and enrolled his name without any further investigation or other evidence being adduced to or had by said Commission other than said roll.

Defendants admit that said 1895 roll was material evidence on the question of citizenship of Thomas Atkins, but denies that said 1895 pay roll was false and fraudulent.

Defendants admit that Samuel W. Brown as Town King of Euchee Town, in making up the said 1895 pay roll gave in the name of Thomas Atkins to the National Council of the Creek Nation of Indians as a living member and citizen of said town and tribe, and as a part of the family of Minnie Atkins, and, thereby, caused said name to be placed upon the roll of members of said town and tribe. And that, in so doing, said Brown acted upon information obtained from John Davis, a relative and agent of Minnie Atkins duly authorized by her, to the effect that Thomas Atkins was at that time a living member of said tribe and town, and a member of the family of Minnie Atkins;

But defendants deny that the said information so imparted to said Samuel W. Brown, by said John Davis, was false or fraudulent.

Defendants admit that the officers of said tribe did enroll the name of Thomas Atkins, acting upon the statements and representations made to them by said Samuel W. Brown, but deny that said representations were in any way false.

Defendants deny that Thomas Atkins, a member of the family of Minnie Atkins, of Euchee Town, was not in being at that time, and deny that no such person ever existed other than the father of Minnie Atkins.

Defendants deny that the Thomas Atkins so enrolled upon said 1895 pay roll was a myth and fictitious person; and denies that such was known to be a fact by Minnie Atkins and John Davis because defendants aver that said Thomas Atkins, enrolled as aforesaid, was a living person at that time and was well known to said Minnie Atkins and said John Davis.

Defendants admit that said Samuel W. Brown relied upon the statements and representations made to him by said John Davis, and that he communicated the same to the officers of said tribe and that they acted upon them, but deny that said representations were false.

Defendants admit that in the summer of 1895 the Treasurer of said Creek Tribe of Indians made, distribution and per capita payment to the members of said tribe in accordance with said roll, and that Minnie Atkins received and collected from said nation through said treasurer, the sum of $14.40 as a payment due to and belonging to Thomas Atkins, but deny that she defrauded said tribe by concealing that no such person as Thomas Atkins was in existence, because plaintiff avers that said Thomas Atkins was at that time alive and in being and entitled to be paid said sum so received by Minnie Atkins.

Defendants deny that at that time it was well and generally known throughout the Creek Nation and to the members thereof, and particularly to Minnie Atkins, and that the Congress of the United States had passed various acts looking to the enrollment of the members of said tribe with a view to allotting to said members the lands of the tribe in fee simple; and deny that said Minnie Atkins caused the name of Thomas Atkins to be placed upon the 1895 pay roll for the purpose of enjoying whatever benefits that might accrue to her as the heir at law of said Thomas Atkins in the final enrollment of the lsands of said tribe; and deny that she could have known or foreseen that said allotment of lands would take place or in what manner or by what procedure the same would be carried out; and deny that she could have foreseen that any benefit would accrue to her in that regard by said enrollment on the 1895 pay roll; and deny that at that time any provision had been made by Congress whereby she could have so benefitted, and deny that she could have known that said roll would have any bearing upon said allotment of lands; and deny that said Minnie Atkins has con-cealed from the officers of said tribe and the Government of the United States, that there was no such person as Thomas Atkins because defendants aver that said Thomas Atkins was at that time a living person and a member of said tribe and entitled to be enrolled on said 1895 pay roll. These defendants say that they have no knowledge as to the claims of any of the defendants set forth in said complaint other than, these answering defendants and the defendant Charles Page.

And defendants deny that no such person as Thomas Atkins enrolled by said Commission as aforesaid, never existed; and deny that said name represents a myth and fictitious person, and deny that these defendants and the above named defendant Charles Page, know, or have at any time know-, that no such person as the said Thomas Atkins, ever existed, and deny that their claims are false and fraudulent.

And deny the allegation in said bill that these defendants and the defendant Charles Page have no claim either in law or in equity to any right, title, interest or estate in and to said lands, or any part thereof; and further deny that the claims of these defendants are adverse to complainant or to the Creek Nation of Indians.

(6) These defendants do not know and can not set forth the interests or claim of interest of any of the defendants named in said complaint in sub-divisions C, D and E of paragraph 5 thereof, except for these answering defendants and Charles Page.

And defendants deny that the claims of these defendants, are adverse to the complainant or the Creek Nation of Indians.

And deny that the above named defendants have no interest in said lands at law or in equity.

(7) These defendants deny that any instrument under which they hold constitute a cloud upon the title to said lands; and deny that the existence of said allotment certificate and patents or other instruments subsequent thereto, hinder or delay complainant in the performance of the duties imposed upon it by law to preserve to the Creek Nation the said land and the value thereof, and to allot and otherwise dispose of said land and to wind up the affairs of the Creek Nation.

(8) Defendants deny that said enrollment, allotment and patents are null and void. And defendants deny that the said Commission in placing the said Thomas Atkins on the roll of Creek citizens by blood acted arbitrarily, summarily or without knowledge or information or belief that the said Thomas Atkins was in existence and living on the 1st day

of April, 1899, and deny that said Commisison in listing the name of Thomas Atkins for enrollment and enrolling said name, conducted no hearing, or made no investigation, and deny that it did not have or receive any evidence of any character, and deny that it proceeded ex parte and acted arbitrarily.

Defendants deny that there was no contest, controversy or adverse proceeding had by or before the said Commission in respect to the question as to whether or not said Thomas Atkins was living or dead on the first day of April, 1899.

Defendants deny that the Commission to the Five Civilized Tribes did not give or cause to be given to the Creek Nation or its officers, or any other person, notice that the name of the said Thomas Atkins was about to be or would be enrolled.

And deny that the said Commission placed the name of said Thomas Atkins on said roll on an arbitrary or erroneous assumption wholly unsupported by evidence or information as to whether Thomas Atkins was living on April 1, 1899, and entitled to be enrolled by said Commission under the Acts of Congress made and provided.

(9) Defendants deny that complainant has no knowledge and does not know that Thomas Atkins was in existence and was living prior to April 1, 1899.

And deny that the said Thomas Atkins died prior to the 1st day of April, 1899.

And deny that he was not entitled to be enrolled and allotted lands of the Creek Nation.

(10) Defendants deny that the heirs of the said Thomas Atkins were not entitled to receive any part of the public lands of the Creek Nation or Tribe of Indians by virtue of being heirs of the said Thomas Atkins. And deny that they did not take title to the lands described in said complaint by virtue of the allotment thereof in the name of Thomas Atkins, and the issuance of said patents to and in the name of Thomas Atkins.

(11) Defendants deny that at the time the name of said Thomas Atkins was placed upon the official rolls aforesaid, the said Commission placed said name thereon under an erroneous and arbitrary assumption that the said Thomas Atkins was in being and living on April 1, 1899.

And deny that said Commission acted upon a gross error or mistake of fact or mistake of law.

And deny that said Commission did not know or did not have any evidence before it at the time that they caused the name of the said Thomas Atkins to be enrolled showing, or tending to show that the said Thomas Atkins was living on April 1, 1899.

(12) Defendants deny that the name of the said Thomas Atkins appears on the official rolls aforesaid because of the arbitrary or erroneous act of said commission;

And deny that the allotment of said lands described in said complaint was arbitrarily or erroneously made to the said Thomas Atkins.

(13) Defendants deny that the said enrollment allotment and patents are null and void and deny that Thomas Atkins so enrolled by said Commission opposite roll No. 7913 never had an existence, and deny that he was and is a fictitious person, and that said name represents no person who is or ever was in being;

And deny that by reason thereof said Commission in so enrolling said name and allotting and patenting for the land as aforesaid, committed a gross mistake of fact as well as of law, and deny that neither said allotment, allotment certificates nor said patents conveyed any right, title or interest in and to said lands to any person whomsoever.

And defendants aver that at the time said Thomas Atkins was enrolled by said Commission as aforesaid, he was a living person, a member and citizen of the Creek Nation of Indians and entitled to be so enrolled and allotted.

Defendants admit that they and the said defendant Charles Page are claiming some right, title or interest in said property under and by virtue of deeds of leases subsequent thereto and in pursuance thereof, but deny that said patents, claims, assertions, deeds and leases constitute clouds upon the title of said Creek Nation in and to said lands, and harass and embarrass and interfere with complainant in the execution of any trust or the performance of its duties and obligations to said tribe and the members thereof.

(14) Defendants deny that the complainant now has any information or knowledge as to the life or death of said Thomas Atkins that it did not have at the time of the enrollment of said Thomas Atkins and the allotment of said lands to him.

(15) Defendants admit that the lands described in said complaint are situated in the oil and gas belt of the state of Oklahoma, and in that portion of the oil and gas field known

as the Cushing field; and admit that said lands are now of great value because of the oil and gas thereunder.

But defendants deny that the Creek Nation is now or has been at any time the owner of any of the oil or gas under said lands;

And denies that said Creek Nation has had any interest in any portion of said lands subsequent to June 30, 1902.

(16) Defendants deny that the Gem Oil Company, Charles Page and R. A. Josey or either of them have unlawfully entered upon said lands or unlawfully proceeded to prospect and drill thereon for oil and gas, or have unlawfully drilled thereon for oil or gas, or have unlawfully removed therefrom or disposed of oil and gas.

(17) Defendants deny that they or the Gem Oil Company or Charles Page or R. A. Josey have committed any trespass and deny that they have no right, title or interest in and to any part of said lands or the oil and gas thereunder.

And deny that these answering defendants or any of said parties have committed a trespass upon said lands in violation of the rights of complainant, or of the Creek Nation of Indians.

And deny that the acts of these defendants and said parties constitute waste upon any estate of the Creek Nation, or that said acts are materially, irreparably or permanently damaging to said estate.

(18) Defendants deny that the claim or rights of the complainant and the Creek Nation in and to said lands aforesaid are well founded or based upon grounds that are good; and deny the existence of any ground, necessity or right for the appointment of a receiver of said premises;

And deny that any injury, permanent, irreparable or material will be occasioned to any alleged rights of complainant or the Creek Nation of Indians.

(19) Defendants deny that complainant and the Creek Nation of Indians have no adequate remedy at law.

(20) Defendants aver that the said Thomas Atkins was a duly enrolled citizen of the Creek Nation of Indians of one-half blood, alive and in being on April 1, 1899.

(21) That the tribal authorities of the Creek Nation duly authorized thereto by law, enrolled said Thomas Atkins on the tribal rolls of said tribe of the years 1890 and 1895.

That thereafter, said rolls and said enrollment of Thomas Atkins thereon, were duly confirmed by Act of Congress on June 10, 1896, which provided specifically that the rolls of citizenship of said Creek Nation as then existed were thereby confirmed.

(22) That thereafter the Commission to the Five Civilized Tribes, under authority of the Act of Congress of June 28, 1898, adjudged said Thomas Atkins to have been properly enrolled and to be entitled to enrollment on said tribal rolls.

(23) That thereafter, pursuant to the Act of Congress of ...., 1901, said Commission having before it the evidence required by law to entitle the said Thomas Atkins to enrollment, including said tribal rolls, duly adjudged the said Thomas Atkins to be a citizen of said Creek Nation living on the first day of April, 1899, entitled to be enrolled under Section 21 of the Act of Congress approved June 28, 1898; and with the full knowledge and consent of the Creek tribal authorities and proper officers of the Creek Nation and complainant did place the name of the said Thomas Atkins upon the final roll made by said Commission under and by virtue of said Acts of Congress.

That said enrollment as made by said Commission to the Five Civilized Tribes was thereafter duly and regularly approved by the Secretary of the Interior pursuant to law and thereupon became and was and is final and conclusive.

(24) That thereafter, pursuant to law, said allotment, certificates and patents were duly made, executed, issued, delivered and recorded, and that the entire title in and to said premises was thereby divested over and from the Creek Nation of Indians and complainant and vested in said Thomas Atkins or his proper representatives.

(25) That at the time of the selection of said lands and the issuance of patents and for many years thereafter, the value of said lands was purely nominal, being approximately $1.50 an acre.

That on or about the ...... day of ...., 1912, the Gypsy Oil Company went into open notorious possession of said lands and drilled thereon a well producing oil and gas; that thereafter in July, 1914, these answering defendants and the defendants Charles Page and R. A. Josey, went into possession of said lands and were on the third day of July, 1914, in peaceable, open and notorious possession thereof.

That on said day the order was made by the District Court of Creek County, Oklahoma, having jurisdiction of the res, authorizing said defendants and the defendants R. A. Josey and Charles Page to hazard and expend $50,000.00 in the development of said lands pursuant to said order of court.

That pursuant to the terms of the said order of court, said defendants Charles Page and R. A. Josey, entered on said premises, hazarded said sum of $50,000.00, and by the hazard of said sum of money and by their energy, skill and knowledge of the oil and gas business, have succeeded in making said premises worth whatever value the same possess at this time; that said Charles Page has succeeded to whatever rights said Gypsy Oil Company and the Gem Oil Company and R. A. Josey have heretofore had in said lands;

And the entire value of said lands over and above a nominal sum has been created by the energy, development and hazard of said Gypsy Oil Company, Gem Oil Company, R. A. Josey and Charles Page.

(26) That the complainant, its officers and agents, together with its Indian Superintendent in charge of the affairs of the Five Civilized Tribes, had, at all times, full knowledge of the possession, development and operation of said lands;

(27) That said complainant has recognized and acquiesced in the validity of said patents, and has stood behind and sustained the same as its sovereign act since their issuance up to the filing of this suit.

That no claim in law or equity has been made or asserted by said complainant, its officers or agents, including its Indian Superintendent at Muskogee, or by the Creek Nation, or its officers or agents prior to the filing of this action, although the fact of said possession, and the fact of the intention of said defendants to hazard large sums of money in the testing of said premises for oil and gas, was well known to said complainant, its officers and agents, to the Creek Nation, its officers and agents, and also well and publicly known throughout the oil fields of the State of Oklahoma.

(28) That said complainant and said Creek Nation stood by and allowed said defendants to hazard said sum of $50,000.00 and more, to use their knowledge, skill and experience in the oil business in testing said premises, and said complainant and the Creek Nation by their silence, laches, acquiescence, and recognition of the validity of said patents, and failure to assert any claim or to give notice of any claim, are now estopped and forever barred to assert any claim adverse to the title of these defendants and the defendant Charles Page, who are in open, notorious and exclusive possession of said premises and of the oil and gas lying thereunder.

(29) That oil and gas was discovered in paying quantities on said lands more than three years prior to filing of this suit, of which complainant and said Creek Nation had knowledge or ample opportunity to have knowledge.

(30) That thereafter said defendants Charles Page and R. A. Josey, proposed, and it was well and fully known to said complainant and the Creek Nation, to hazard said sum of $50,000.00 in testing said premises to the deep sand known as the Bartlesville sand, which had not yet been tested on said lands.

And that all of said drilling operations and hazard of said sums of money were made and had upon the faith in the validity of said patents, in reliance thereon, and in accordance with the judgment of the District Court of the State of Oklahoma, having jurisdiction of the res.

(31) That the cancellation of said patents or the granting of any relief as prayed for in said complaint, would be inequitable and unjust by reason of the changed conditions of the parties, the lapse of time, the great increase in value of the property and the difficulty in meeting allegations which might readily have been met had they have been made seasonably.

(32) That the res in controversy is within the jurisdiction and under the control of the District Court of the State of Oklahoma in and for Creek County.

That this court has no jurisdiction to appoint a receiver or to proceed further with the hearing of this cause.

(33) Defendants further aver that the enrollment of said Thomas Atkins, and the issuance of said allotment certificate and patents constitutes an adjudication by a special tribunal constituted by law charged with the duty of making enrollment of citizens of the Creek Nation, clothed with authority, as provided by law, and are final decrees, conclusively adjudicating the right of said Thomas Atkins to enrollment and the conveyance to him of said lands described in said patent, which said decrees are impervious to act on the ground set forth in complainant's complaint, and that for said reason this Honorable Court has no jurisdiction in the premises.

(34) And the defendants aver that complainant and the Creek Nation are barred and forever foreclosed and estopped by laches from asserting any claim to said lands adverse to these defendants and the defendant Charles Page; that any claim or claim of right, title and interest that they may have had heretofore are stale and are not enforcible in a court of

equity. And they are not entitled to any relief in this action. That more than thirteen years has elapsed since said allotment certificate was issued and more than twelve years since the issuance of said patents; that said lands have increased vastly in value from a nominal sum to many hundreds of thousands of dollars, by reason of the discovery of oil and gas thereunder and the improvements and developments placed thereon by said defendants.

That the condition of the parties, and of said property, have materially changed and by reason of that fact, the relief prayed for by complainant is without equity.

(35) That complainant is conclusively barred from maintaining this action by the provisions of Section 8 of the Act of Congress of ...., 1901; 26 Stats. at Large, 1099, Sec. 8, which is as follows:

> "That suits by the United States to vacate and annul any patent heretofore issued shall only be brought within five years from the passage of this act, and suits to vacate and annul patents hereafter issued shall only be brought within six years after the date of the issuance of such patents;"

for the reason that more than six years has elapsed since the date of the issuance of said patents conveying said lands to Thomas Atkins or his proper representative.

(36) Defendants aver that the complainant or the Creek Nation has not any interest in the estate described herein to entitle complainant to sustain this suit.

That it appears from the face of complainant's complaint herein, that the same does not state facts sufficient to constitute a cause of action, and that complainant is not entitled to the relief prayed for against these defendants.

(37) That it appears from said complaint that this court has no jurisdiction to hear and determine this action.

(38) That said bill of complaint is wholly without equity.

(39) Defendants further deny that said bill sets forth any equity in complainant or the Creek Nation which entitles it or either of them to any relief prayed for in said complaint, and makes this defense with like effect as if the same has been raised by motion to dismiss.

(40) Defendants further show that, as appears affirmatively from said complaint, complainant and the Creek Nation have a plain, speedy and adequate remedy at law and are not entitled to maintain an action in equity.

And these defendants deny all and all manner of unlawful combination and confederacy wherewith they are by the said bill charged; there is not another matter, cause or thing in said complainant's said bill of complaint contained material or necessary for these defendants to make answer to, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided or denied, is true, to the knowledge or belief of these defendants, or which matters and things these defendants are ready and willing to aver, maintain and prove as this honorable court shall direct; and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

E. C. HANFORD,
Attorney for Defendants, Minnie E. Folk,
Harry B. Folk and Edw. C. Hanford.

United States of America, Eastern District of Oklahoma, ss.

Edward C. Hanford, being first duly sworn on oath deposes and says: That he is one of the defendants in the foregoing cause; that he has read the foregoing answer, knows the contents thereof, and believes the same to be true.

Edward C. Hanford.

Subscribed and sworn to before me this 11th day of December, 1915.
Claude F. Tingley,
(Seal)
Notary Public.

My commission expires on the 9th day of Sept., 1915.

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310 Exhibit "A."

Allotment Deed. (40) Creek Nation Roll, No. 7913

THE MUSKOGEE (CREEK) NATION, INDIAN TERRITORY.

To All Whom These Presents Shall Come, Greeting:

Whereas, By the Act of Congress approved March 1, 1901 (31 Stats. 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, should be allotted among the citizens of said tribe by the United States Commission to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, the said Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of

THOMAS ATKINS,

a citizen of said tribe, as an allotment, exclusive of a forty-acre homestead, as aforesaid,

Now, therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and authority vested in me by the aforesaid Act of the Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz:

> The South West Quarter of the North West Quarter of Section Four (4), and the South West Quarter of the North East Quarter, and Lot Two (2), of Section Five (5), Township Eighteen (18) North, and Range Seven (7) East of the Indian Base and Meridian,

in Indian Territory, containing One Hundred and Twenty and 85/100 (120.85) acres, more or less, as the case may be, according to the United States survey thereof, subject, however, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200).

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation, have hereunto set my hand and caused the Great Seal of said Nation to be affixed this 14th day of April, A. D. 1903.

(Seal) P. PORTER,

Principal Chief of the Muskogee (Creek) Nation.

L. R. S. Department of the Interior, Approved May 8, 1903. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk.

Filed for record on the 16 day of May, 1903, at 4 o'clock P. M.

(On back:) Department of the Interior, Office of the Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma. This is to certify that I am the officer having custody of the records of deeds of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Nations, and that the above and foregoing is a true and correct copy of the deed issued to Thomas Atkins, as the same appears of record in Book 12, page 310, of Muskogee (Creek) Deed Record. Feb. 17, 1915. E.H.L. Gabe E. Parker, Superintendent for the Five Civilized Tribes. (Revenue Stamp cancelled. F.C.T. Feb. 17, 1915, by F.R.L.)

Exhibit "B."

310

Homestead Deed. (39) Creek Indian Roll, No. 7913

THE MUSKOGEE (CREEK) NATION, INDIAN TERRITORY.

To All Whom These Presents Shall Come, Greeting :

Whereas, By the Act of Congress approved March 1, 1901 (31 Stats. 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, should be allotted among the citizens of said tribe by the United States Commission to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, the said Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of Thomas Atkins, a citizen of said tribe, as a homestead,

Now, therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and authority vested in me by the aforesaid Act of the Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins, all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz:

> Lot Four (4) of Section Four (4), Township Eighteen (18) North and Range Seven (7) East of the Indian Base and Meridian, in Indian Territory, containing Forty-one and 16/100 (41.16) acres, more or less,

as the case may be, according to the United States survey thereof, subject, however, to the conditions provided by said

Act of Congress, and which conditions are that said land shall be non-taxable and inalienable and free from any incumbrance whatever for twenty-one years; and subject, also, to the provisions of said Act of Congress relating to the use, devise and descent of said land after the death of the said Thomas Atkins; and subject, also, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200).

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation, have hereunto set my hand and caused the Great Seal of said Nation to be affixed this 14th day of April, A. D. 1903.

(Seal) P. PORTER,
Principal Chief of the Muskogee (Creek) Nation.

Department of the Interior. L.S.R. Approved May 8, 1903. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk.

Filed for record on the 16 day of May, 1903, at 4 o'clock P. M.

(On back:) Department of the Interior, Office of the Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma. This is to certify that I am the officer having custody of the records of deeds of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Nations, and that the above and foregoing is a true and correct copy of the deed issued to Thomas Atkins, as the same appears of record in Book L, page 310, of Muskogee (Creek) Deed Record. Feb. 17, 1915. E. H. L. Gabe E. Parker, Superintendent for the Five Civilized Tribes. (Revenue Stamp cancelled: F.C.T. Feb. 17, 1915, By F.R.L.)

Endorsed: Filed Dec. 23, 1915. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 23rd day of December, A. D. 1915, the defendant R. A. Josey, filed Disclaimer herein, which is in words and figures as follows:

Answer of Defendant R. A. Josey.

Comes now R. A. Josey and adopts the answer of Charles Page on file herein, and further answering says: That he has conveyed all his right, title and interest in and to said premises to said Charles Page, and that he disclaims any right, title and interest in or to the same.

C. B. STUART,
Attorney for Defendant, R. A. Josey.

United States of America, Eastern District of Oklahoma, ss.

R. A. Josey, being first duly sworn on oath deposes and says: That he is one of the defendants in the above entitled action; that he has read the foregoing answer, knows the contents thereof, and believes the same to be true.

R. A. Josey.

Subscribed and sworn to before me this 6th day of December, 1915.
(Seal)
Claude F. Tingley,
Notary Public.

My commission expires on the 9th day of Sept., 1918.

Endorsed: Filed Dec. 23, 1915. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 29th day of December, A. D. 1915, the defendant Nancy Atkins, filed Answer herein, which is in words and figures as follows:

Separate Answer of Nancy Atkins to the Amended Bill of Complaint.

Comes now the above named defendant, Nancy Atkins, by H. A. Ridgway, her guardian, and for her separate answer to the amended bill of complaint filed herein by the complainant, admits that she is a citizen and resident of the Eastern Judicial District of the State of Oklahoma.

I.

Answering paragraph one of complainant's amended bill of complaint, she admits all the allegations thereof.

II.

Answering paragraph two of said amended bill of complaint, she admits that the United States Government assumes or attempts to assume some sort of a duty with reference to the allotted lands and other property of the Creek Trive or Nation of Indians, but she alleges that she is without knowledge or information as to the lawful rights and duty of the complainant in that respect, and she alleges that she is without information as to whether or not this action was brought in behalf of the complainant and in behalf of the Creek Tribe or Nation of Indians by virtue of complainant's right and duty as a sovereign and governing power of said tribe of Indians and for the purpose of discharging its full duty and obligation towards said tribe and for the purpose of restoring to the public domain of the said tribe of Indians all the lands heretofore erroneously allotted by the officers of the Government according to the true spirit, intent and purpose of the trust alleged in said paragraph two of said amended bill of complaint, and, therefore, this defendant denies said allegation and demands strict proof thereof.

III.

Answering paragraph three of said amended bill of complaint, this defendant admits that the lands described therein were on the 1st day of April, 1899, a part of the unallotted and public domain of the Creek Nation of Indians, but she denies that said lands are now a part of said unallotted domain of said Nation and denies that said lands now belong to the Creek Nation or Tribe of Indians.

IV.

Answering paragraph four of complainant's amended bill of complaint this defendant admits all the allegations thereof.

V.

Answering paragraph five of complainant's amended bill of complaint this defendant admits that on the 23rd day of May, 1901, the Commission to the Five Civilized Tribes listed for enrollment the name of Thomas Atkins, but she says that it is not true that the proceedings for his enrollment were strictly ex parte in the sense alleged in said amended bill of complaint, but she alleges that the proceedings on the 23rd day of May, 1901, were upon the motion and initiative of the Commission to the Five Civilized Tribes and the members of the Creek or Muskogee House of Kings and House of Warriors. She admits that the Commission listed the name of Thomas Atkins as being the son of a Creek woman by the name of Minnie Atkins, a representative and citizen by blood of the Creek Nation or Tribe of Indians, and admits that said list for enrollment was made for the purpose of placing said names upon the final roll of citizens by blood of said tribe then being prepared by said Commission under said Act of Congress and she admits that pursuant to said list the said name was thereafter placed upon and made a part of the final roll of said Tribe of Indians and the enrollment thus made was by the Secretary of the Interior approved on the 2nd day of March, 1902. She admits that the said Commission to the Five Civilized Tribes acting under the Acts of Congress set forth in said amended bill of complaint arbitrarily and without application being made therefor allotted the lands described in said amended bill of complaint in the name of Thomas Atkins as alleged in said paragraph five. This defendant admits that in placing the name of Thomas Atkins upon the rolls of the members of said Creek Nation or Muskogee Tribe of Indians used as material evidence on the question of citizenship certain roll or rolls of said tribe which had been made up for tribal per capita payment purposes by the tribal officers prior to the time of work of enrollment, which was being done by said Commission, and which were treated and denominated as authenticated tribal rolls, among which was a roll of citizens made up in the year of 1895 and commonly called the 1895 authenticated pay roll, and admits that the name of Thomas Atkins appeared upon said 1895 pay roll in the family appearing thereon headed by the name of Minnie Atkins, and admits that said roll shows upon its face that Thomas Atkins was in 1895 a living member and citizen of said tribe and a member of Euchee Town, and admits that on the 23rd day of May, 1901, the said Commission had before it and used as evidence the said 1895 pay roll, and admits that said Commission believed that the said 1895 pay roll spoke and represented the truth so far as the question of citizenship of Thomas Atkins was concerned; but she denies that said Commission finally determined the question of his citizenship and listed the name of the said Thomas Atkins for enrollment without any further or other investigation being made or evidence having been adduced to or received by said Commission on that question. She admits that said 1895 pay roll was material evidence on the question of whether or not Thomas Atkins was a citizen and member of said tribe in the year of 1895, but denies that said pay roll was false and fraudulent as alleged in said paragraph five of said amended bill of complaint. She denies that in the making of the said 1895 pay roll Samuel W. Brown, as Town King of Euchee Town, acted upon the false statement of one John Davis, a relative and agent of Minnie Atkins, duly authorized so to do by her; that Thomas Atkins was at the time a living member of said Creek Tribe of Indians and of Euche Town thereof belonging to the family of Minnie Atkins, and denies that the officers of said tribe in so making up said roll enrolled the name of Thomas Atkins upon the false statement and representations made to them by the said Samuel W. Brown to the effect that the said Thomas Atkins was at the time a living member and citizen of said Nation and town thereof. She denies that the said Thomas Atkins, so enrolled upon the said 1895 pay roll was a myth and fictitious person and denies that the said Minnie Atkins and John Davis well knew at the time said roll was made that the said Thomas Atkins was a myth and fictitious person and denies that the officers of the Tribe engaged in making up said roll acted upon any false and fraudulent representations in placing the name of Thomas Atkins on said roll. She denies that Minnie Atkins caused the name of said Thomas Atkins to be placed upon the said 1895 pay roll for the fraudulent purpose and with a fraudulent intent of enjoying whatever benefit might accrue to her as the sole relative and heir at law of the said Thomas Atkins in the final allotment of lands of said Tribe and distribution of the moneys thereof.

She denies that she is ratifying any fraudulent practice and denies that any fraudulent practices were made or had upon said Commission as alleged in said fifth paragraph of said amended bill of complaint. She admits that she claims and asserts that she had a son by the name of Thomas Atkins and that said enrolled Thomas Atkins is her said son and that he is dead; but she denies that said claim is false, and denies that she well knew or has well known during all the time that she has made said claim that it is false. She says that it is not true that she never made or asserted said claim until about ten years after the recordation of the patent referred to in said amended bill of complaint, but she admits that she did not take any steps to obtain possession and quiet her title to said lands until they were thought to be valuable for oil and gas mining purposes and she alleges that the complainant in this action did not apparently seem to and did not take any steps to cancel said patent or to remove the name of Thomas Atkins from the rolls of said Tribe of Indians until said lands were thought to be valuable for oil and gas mining purposes. She says that it is not true that no such person as the Thomas Atkins enrolled by said Commission ever had existence and that it is not true that said name represents a myth and fictitious person and that it is not true that she well knew and has at all times well known that no such person as the alleged Thomas Atkins enrolled as aforesaid ever existed and *and* her said claim is false and fraudulent. She says that it is not true that any of the statements set forth in said paragraph five of said amended bill of complant embarrassed and harassed the complainant in the performance of its duties and obligations to and towards the said Creek Nation and the members thereof with respect to said Creek lands. She says that it is not true that the said enrollment of the said Thomas Atkins and the allotment of lands to him and the issuance of said patent were the result of fraud and were based upon false and fraudulent proof and evidence, so far as the question of citizenship of Thomas Atkins in said tribe was concerned and that it was not true that said Commission in so enrolling said name, allotting said lands and issuing said patent committed gross mistake of law as well as of fact, and that it is not true that said enrollment, allotment, allotment certificate and patent should be declared void and cancelled for the reason that the said Creek Nation and the complainant are grossly and irreparably injured thereby.

Further answering said paragraph five, this defendant alleges that the allegations thereof are not sufficient in law to constitute a cause of action against this defendant or to entitle the complainant to the relief prayed for in said amended bill of complaint.

VI.

Answering paragraph six of said amended bill of complaint, this defendant reiterates and makes a part hereof her answer to paragraph five of said amended bill of complaint, and further answering said paragraph six says that it is not true that the said Commission to the Five Civilized Tribes in listing the name of Thomas Atkins for enrollment and enrolling said name at the time alleged in said amended bill of complaint conducted no hearing, made no investigation and did not have or receive any evidence of any kind, and that it is not true that said Commission to the Five Civilized Tribes proceeded ex parte. She admits that there was no contest, controversy or adverse proceedings of any character or kind had by or before the said Commission with respect to the said question as to whether or not the said Thomas Atkins was living or dead on the 1st day of April, 1899; but she alleges that no adverse proceedings were necessary, for the reason that the complainant by its duly constituted authorities was the moving party in the enrollment of Thomas Atkins, and that the Creek Nation had notice that all persons whose names were on the 1895 Creek Roll would be enrolled, unless their names were stricken from said roll by reason of fraud; that said notice was contained in the Indian Appropriation Bill, approved June 10th, 1896, by which the tribal rolls of the said Creek Tribe of Indians were confirmed, and also in the 21st section of the Act of June 28th, 1898, entitled, "An Act for the protection of the people of the Indian Territory and other purposes;" that the Creek Nation further had notice by reason of the practice of the said Commission to the Five Civilized Tribes in enrolling members of the said Creek Nation, of which the Creek Nation and its regularly constituted authorities were informed. She says that it is not true that the said Commission in causing the name of Thomas Atkins to be listed for enrollment and placing the same on the rolls of Creek citizens by blood, acted, so far as the question of whether Thomas Atkins was living or dead on the 1st day of April, 1899, was concerned, arbitrarily and summarily and says that it is not true that said Commission placed the name of Thomas Atkins on said roll on the arbitrary and erroneous assumption, wholly unsupported by evidence or information, that the said Thomas Atkins was in existence and was living on the 1st day of April, 1899. She says that it is not true that Thomas Atkins died prior to the 1st day of April, 1899, and was not living on said day, and says that it is not true that he was not entitled to be enrolled as a member and citizen of the said Creek Nation of Indians, and that it is not true that he is not entitled to receive an allotment of a part or portion of the lands of said Nation under the Acts of Congress referred to in said amended bill of complaint, and says that it is not true that she is not entitled to receive the lands described in said amended bill of complaint by inheritance as the heir of said Thomas Atkins. She says that it is not true that the said Commission to the Five Civilized Tribes acted upon a gross error and mistake of fact as well as of law, and says that it is not true that said Commission did not know and did not have any evidence before it at the time it caused the name of the said Thomas Atkins to be enrolled showing, or tending to show that he was living on April 1st, 1899. She says it is not true that because of any arbitrary or erroneous acts of the Commission as alleged in said amended bill of complaint, the name of Thomas Atkins appears on the official tribal roll of the Creek Nation or Tribe of Indians opposite roll No. 7913, which was approved by the Secretary of the Interior, and that it is not true that the allotment of said lands was arbitrarily and erroneously issued as alleged in said amended bill of complaint. She admits that she is openly and notoriously claiming and asserting that she is the heir at law of the said Thomas Atkins and that by reason thereof is entitled to the lands described in said amended bill of complaint under and by virtue of the patent therein referred to, having been issued as therein alleged. She says that it is not true that said patent, nor the lease executed by her guardian in her name to the said lands, constitute clouds upon the title to said lands and that it is not true that said patent and lease embarrassed, harassed and interfered with the complainant in the execution of its alleged trust and in the performance of its duty and obligation to and towards said Creek Nation or said Tribe of Indians with respect to said lands.

VII.

Answering paragraph seven of said amended bill of complaint this defendant reiterates and makes a part of her answer to said paragraph seven all of the allegations, statements and denials contained in her answer hereinbefore set forth to paragraphs five and six of said amended bill of complaint, and further answering says that it is not true that the said Thomas Atkins never had any existence and that it is not true that he was and is a fictitious person, and that it is not true that said name represents no person who is or ever was in being and that it is not true that said Commission in so enrolling said name and allotting and patenting said land made a gross mistake of fact as well as of law and that it is not true that neither said allotment, allotment certificate nor said patent conveyed any right, title or interest in and to said lands to any person whomsoever; but, further answering, she admits that she is claiming an interest in said lands as alleged in said paragraph seven of said amended bill of complaint.

VIII.

Answering paragraph eight of said amended bill of complaint, this defendant admits that she is claiming and asserting rights and interest in and to the lands described and she admits that the lessees to whom she has heretofore executed a lease and their assignees are claiming an interest in said lands by virtue of their said lease.

IX.

Answering paragraph nine of said amended bill of complaint, she admits that said lands are situated in the oil and gas field of the Creek Nation and in that portion of the oil and gas field known as the Cushing field and that said lands are of great value particularly because of the bed of oil and gas thereunder. She says that it is not true that the Creek Nation is now, and has been at all times referred to in said amended bill of complaint of complainant, the owner of said lands. She says that it is true that the defendants, the Gem Oil Company, Charles Page and R. A. Josey, and each of them, without authority and consent of the complainant or the Creek Nation of Indians claiming the right so to do under some pretended lease contract or conveyance executed to them by some of the alleged heirs of the said Thomas Atkins, have unlawfully entered upon said lands and are proceeding to prospect and drill thereon for oil and gas and have drilled thereon for oil and gas and have removed therefrom and disposed of, for the exclusive use and benefit of themselves great quantities of oil and gas; and she admits that said defendants, Gem Oil Company, Charles Page and R. A. Josey, have no right or title in or to any part of said lands and the oil or gas thereunder. She admits that the acts of the said defendants in prospecting and drilling upon said lands for oil and gas constitute a waste upon said lands and are materially, irreparably and permanently damaging said estate, but she says that said prospecting and waste is an injury to her and her lessees and not to the Creek Nation or complainant.

Further answering, this defendant alleges that this court is without jurisdiction to try the matters alleged in said amended bill of complaint and is without jurisdiction to cancel said allotment.

Further answering this defendant alleges that said amended bill of complaint is insufficient in law to constitute a cause of action and that it does not constitute a cause of action against this defendant.

Further answering this defendant alleges that on or about the 23rd day of May, 1901, the Commission to the Five Civilized Tribes, which then had jurisdiction to enroll all the members of the Creek Tribe and which was at that time and has been at all times since the only tribunal having jurisdiction of the enrollment of the members of the Five Civilized Tribes, subject to the supervision of the Interior Department, caused the name of Thomas Atkins to be placed on the roll of Creek citizens by blood opposite roll No. 7913; that thereafter, as alleged in said amended bill of complaint, certificates of allotment were issued as provided by law and subsequent thereto homestead and allotment patents as provided by law were issued to the said Thomas Atkins in due form conveying the lands described in the amended bill of complaint to Thomas Atkins, and that said patents were approved by the Secretary of the Interior and recorded in the office of the Commission to the Five Civilized Tribes in Book 1, at page 310, and Book 12, at page 310, respectively.

Further answering, this defendant alleges that she was the mother of Thomas Atkins, whose name was and is so enrolled opposite number 7913 of the roll of members by blood of the Creek Tribe of Indians; that said Thomas Atkins was born some time prior to the year 1895; that he was living on the 1st day of April, 1899, and that he died some time during the year 1902; that he was born, resided during his life and died in the Creek Nation.

Further answering, and by way of cross bill of complaint against the defendants, Minnie Atkins, Henry Carter, Charles M. Ball, Charles T. Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a minor, A. J. Burchett, as guardian of Harvey Harrison, a minor, Minnie Hall, nee Atkins, Martin Rowe, Harry Harrison, Minnie E. Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Gem Oil Company, a corporation, Charles Page, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrad, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler and R. A. Josey, this defendant alleges and states that she is and was at the time of his death sole heir at law of the said Thomas Atkins and that as such she is the owner of the lands described in the said amended bill of complaint herein, to-wit:

> The South-west Quarter (SW/4) of the North-east Quarter (NE/4) and Lot Two (2), of Section Five (5); and the South-west Quarter (SW/4) of the North-west Quarter (NW/4) and Lot Four (4) of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian.

She alleges that all of the above named defendants are claiming some interest in and to said lands adverse to this defendant; that a number of leases, purported deeds, and other purported conveyances have been made and recorded and filed for record affecting her title to said lands, among which are as follows:

Bargain sale deed from the defendant, Minnie Atkins, who is now Mrs. Minnie E. Folk, under the name of Minnie E. Folk, joined by her husband, Harry B. Folk, to Alexander J. McNab, Jr., trustee, dated June 13, 1914, and recorded in Book 103, page 85, in the office of the Register of Deeds of Creek County, Oklahoma;

An Oil and Gas Mining Lease from said Alexander J. McNab, Jr., trustee, and the said Minnie E. Folk, nee Atkins, and Harry B. Folk, her husband, to the defendant, Gem Oil Company, a corporation, dated June 24, 1914, and recorded in Book 101, at page 259, in said office;

An assignment of said oil and gas mining lease from said defendant, Gem Oil Company to the defendants, Charles Page and R. A. Josey, dated June 30, 1914, and recorded in Book 102, at page 75 in said office;

A bargain and sale deed from said Alexander J. McNab, Jr., trustee, to the defendant Minnie Folk (Minnie Atkins), dated July 18th, 1914, and recorded in Book 102, at page 347, in said office;

A deed from Minnie Atkins under the name of Minnie E. Folk, to defendant, Charles Page, dated October 22nd, 1914, and recorded in Book 107, at page 28, in said office;

An oil and gas mining lease from the defendant, Nancy Atkins to the defendants, Wilbur M. Norris, W. W. Walton and Ellis H. Hammett, dated April 15, 1913, and recorded in Book 80, at page 311, in said office;

An oil and gas mining lease from the defendant, Henry Carter, to the defendant, Gem Oil Company, dated November 13, 1914, and recorded in Book 107, at page 125, in said office;

A warranty deed from the defendant, Thomas Harris, joined by his wife, the defendant, Kahookah Harris, to the defendant, Rufus B. Cobb, George C. Conrad, John R. Fields and J. M. Brogan, dated February 22, 1913, and recorded in Book 94, at page 181, in said office;

A deed from a person representing himself to be Thomas Atkins to the defendant, C. J. Wrightsman, dated ......, 1915, and recorded in Book ...., at page ...., in said office;

That all of said instruments are clouds upon her title and should be cancelled as such.

Further answering and by way of cross bill of complaint against the defendants, Minnie Folk, nee Atkins, Charles Page and R. A. Josey, this defendant alleges that she is the owner of said lands, deriving her ownership as above set forth, and that on the 2nd day of October, 1912, some person claiming to be and impersonating the defendant, Minnie Atkins, executeed a quit claim deed to the defendant, H. U. Bartlett, and that afterwards on the 29th day of November, 1912, the said H. U. Bartlett executed what purported to be an oil and gas lease to the defendant, Gypsy Oil Company. She alleges that thereafter the Gypsy Oil Company entered upon and took possession of the said lands for the purpose of developing and operating the same for oil and gas mining purposes and proceeded to begin developments upon said lands; that thereafter on the 23rd day of July, 1913, this defendant by her guardian and next friend at that time, who was Micco T. Harjo, instituted a suit in the District Court of Creek County, Oklahoma, to cancel the conveyance from the purported Minnie Atkins to H. U. Bartlett and the lease from Bartlett to the Gypsy Oil Company and to quiet her title to the said lands and to recover possession thereof; that thereafter on the 24th day of March, 1914, she recovered a judgment in said District Court of Creek County, quieting her title to said lands and adjudging her to be the lawful owner thereof and entitled to the possession of the same. A copy of said judgment is hereto attached, marked Exhibit A, and made a part hereof.

She alleges that after said judgment was obtained the said defendant, Gypsy Oil Company, appealed said action to the Supreme Court of the State of Oklahoma, and perfected its appeal by filing its petition in error and case-made in the office of the Clerk of the Supreme Court of the State of Oklahoma as required by law, and also executing an undertaking for appeal in said action in the sum of Six Thousand ($6,000.00) Dollars, conditioned as required by law.

She alleges that afterwards and during the month of June, 1914, the defendants, Charles Page and R. A. Josey, with knowledge of said proceedings in the District

Court of Creek County and with knowledge of the said judgment in favor of this defendant in said action, instituted a search for the defendant Minnie Atkins for the purpose of obtaining a lease, deed, or other conveyance to said lands to them and that they, after considerable search, found said Minnie Atkins and obtained the deed from her and her trustee, hereinbefore set forth, and also obtained from her the oil and gas mining lease executed by her and the said Alexander J. McNab, Jr., trustee, to the Gem Oil Company. She alleges that the said deed and lease were obtained by the defendants, Charles Page and R. A. Josey, with full knowledge of her rights and with full knowledge that she had obtained the judgment hereinbefore set forth in the District Court of Creek County, and that the same was pending on appeal, or was about to be appealed by the Gypsy Oil Company. She alleges that the Gem Oil Company is a corporation organized under the laws of the State of Oklahoma, but that the greater part of its stock is owned by the defendants, Charles Page and R. A. Josey, and was at the time the said lease was executed to it and that it is entirely under the control of the said defendants, Page and Josey. She alleges that shortly after obtaining the said deed and lease the said defendants, Page and Josey, by their agent and servants, entered in and upon the lands described in said amended bill of complaint without her knowledge or consent and by force and against her will and against the will and without the consent of the Gypsy Oil Company broke and entered the enclosure around said lands and took possession of a portion of said lands and erected a derrick thereon. She alleges that after they had so obtained possession of a portion of said lands that they caused the defendant, Minnie Folk, to bring an action in the District Court of Creek County for the purpose of quieting their title to said lands and for the purpose of obtaining an injunction against the Gypsy Oil Company and H. U. Bartlett, restraining them from interfering with the possession of the said defendants, Page and Josey. She alleges that said action was consolidated with other actions pending in the said District Court of Creek County and that an application was made by the said defendants in the name of Minnie Folk for an injunction in said action, and an application was also made by them dissolving a temporary injunction that had been obtained against they by the defendant, H. U. Bartlett, and that this defendant also made application for the appointment of a receiver in said action pending in the District Court of Creek County, in which she had obtained judgment and that all of said matters were heard together and that the court refused to appoint a receiver in said action or dissolve the said temporary injunction so obtained by H. U.

Bartlett, and gave the defendants, Charles Page and R. A. Josey, permission and authority to drill one well upon a portion of the premises hereinbefore described, to-wit:

> Lot Two (2) of Section Five (5), Township Eighteen (18) North, Range Seven (7) East,

and that said permission was given upon the express condition and understanding that the said Charles Page and R. A. Josey, should not receive any compensation for the drilling of said well in the event it should be decided later that they were not entitled to the property in controversy. A copy of said order so giving them permission is hereto attached, marked Exhibit B, and made a part hereof.

This defendant alleges that all of the drilling upon said lands by the defendants, Page and Josey, has been at their own expense and risk, and that all the drilling and other operations they have done and had upon said lands except the first well drilled thereon by them, has been done in violation of said order of court.

This defendant alleges that thereafter, the exact date of which this defendant is unable to give, the defendants, Charles Page and R. A. Josey, entered into an agreement with the Gypsy Oil Company, by which the Gypsy Oil Company agreed to and did surrender to the said defendants the actual possession of the remainder of said lands and that they dismissed said appeal pending in the Supreme Court of the State of Oklahoma.

Further answering, the defendant says that by order of the County Court of Nowata County, she executed a lease to J. B. White, E. W. Fowler, A. E. Carder and A. Seltzer, on the 27th day of May, 1913, and that said lease was as, she is informed and believes and therefore alleges, assigned to the defendants, Robert L. Rutherford and J. A. Ferguson on the 28th day of September, 1915, and that they are now the owners and holders of the oil and gas rights in said lands.

This defendant alleges that the defendants, Gem Oil Company, Charles Page and R. A. Josey, have been operating said lands for oil and gas since their settlement with the Gypsy Oil Company, and that they operated a portion of said lands prior to said settlement. She alleges that they have produced from said lands a large amount of oil and gas, the exact amount of which is unknown to her, and she alleges that the Gypsy Oil Company, prior to its settlement with the said defendants, Page and Josey, had produced a considerable amount of oil and gas from said lands, the exact amount of which is unknown to this defendant.

Wherefore, she prays judgment that the amended bill of complaint herein filed by the United States of America be dismissed; that said complainant take nothing by said amended bill of complaint, and that her title be quieted as against all of the defendants named in said action, except the defendants, Robert L. Rutherford and James A. Ferguson as to their oil and gas interests in said lands; that an account be taken of the oil and gas produced from said lands by the defendants, Charles Page and R. A. Josey, the Gem Oil Company and the Gypsy Oil Company, and that she have judgment against said defendants for the oil and gas produced from said lands by them; that she have judgment for costs of suit and all proper relief.

N. B. Maxey,
H. E. Cunningham,
Malcolm E. Rosser,
Attorneys for the Defendant, Nancy Atkins.

Exhibit "A."

In the District Court of Creek County, State of Oklahoma. Nancy Atkins, an Incompetent, by Micco T. Harjo, Her Legal Guardian and Next Friend, Plaintiff, v. *H. U. Bartlett, A. A. Hammer, Gypsy Oil Company, a Corporation, William S. Murphy, Wilbur M. Norris, W. W. Walton and Ellis H. Hammett, Defendants.*—No. 3120.

JOURNAL ENTRY.

Now on this 26th day of February, 1914, regular judicial day of the January, 1914, term of the above named court, this cause comes regularly for trial, the plaintiff, Nancy Atkins, an incompetent, by Micco T. Harjo, her legal guardian and next friend, appearing by her attorneys, William W. Gresham and N. B. Maxey, and the defendants, H. U. Bartlett and A. A. Hammer, appearing by their attorneys, McDougal & Lytle, the Gypsy Oil Company, a corporation, appearing by its attorney, Henry McGraw, and Wilbur M. Norris, W. W. Walton and Ellis H. Hammett, appearing by their attorney, Judson J. Hughes, and the defendant, William S. Murphy, not appearing, although heretofore the said William S. Murphy has filed his answer herein.

Thereupon, all parties announce ready for trial and agree to try the case to the court without the intervention of a jury, and the trial is proceeded with. And the plaintiff introduces a part of her evidence and the court thereupon adjourns its session until the 27th day of February, 1914.

And now on the 27th day of February, 1914, the trial is proceeded with and the parties appearing as above noted, the plaintiff introduces additional evidence and rests. Thereupon the defendants introduce their evidence, and the plaintiff and defendants thereafter introduce evidence in rebuttal and rest, and the case is closed.

Thereupon, after full argument and the court being fully advised in the premises the court finds in favor of the plaintiff and against the defendants and each of them, except as to W. W. Walton, Wilbus M. Norris and Ellie H. Hammett, and as to them said cause is continued and the court finds that at the time of the commencement of this action plaintiff was entitled to the immediate possession of the following lots and lands in Creek County, State of Oklahoma, to-wit:

> The South-west Quarter of the North-west Quarter of Section Four (4), and the South-west Quarter of the North-east Quarter and Lot Two (2) of Section Five (5), Township Eighteen (18) North, Range Seven (7) East, and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East,

and that said plaintiff Nancy Atkins has been adjudged an incompetent person and that Micco T. Harjo is her duly appointed, qualified, and acting guardian; that as to the rights, title, interest and claims of the defendants, H. U. Bartlett, A. A. Hammer, the Gypsy Oil Company, a corporation, William S. Murphy, plaintiff is entitled to have her title in and to said lots and lands quieted; that the lots and lands above described compose the allotment of Thomas Atkins, who was a half blood member of the Muskogee or Creek Tribe or Nation of Indians and whose name appears on the Dawes Commission Roll of said Tribe opposite Roll No. 7913; that the said Thomas Atkins departed this life in what is now Wagoner County, Oklahoma, intestate, without having been married and without issue, leaving him surviving as his sole and only heir Nancy Atkins, whom the court finds to be the mother of him, the said Thomas Atkins.

The court further finds that at the commencement of this action the defendant, H. U. Bartlett, was in the sole and exclusive possession of said lots and lands and had been in such possession for a period of about twelve (12) months prior thereto, and that the Gypsy Oil Company was in possession of said lands by reason of its said oil and gas mining lease, executed by the said H. U. Bartlett, and was engaged in the exploration and development of said lands for oil and gas mining purposes; that the plaintiff is entitled to the judgment of this court cancelling and annulling the several deeds, leases and contracts under which the said defendants claim.

The court further finds that the rental or usable value of the premises during the time the same were occupied by the defendant, H. U. Bartlett, is Forty ($40.00) Dollars per year exclusive of the value of any oil produced therefrom. To each and all of which findings, determinations and decisions of the court the defendants and each of them then and there duly excepted and still except.

Thereafter, to-wit: On the 24th day of March, 1914, a regular judicial day of the January, 1914, term of the above-named court, came the parties to this action appearing by their respective attorneys as first hereinabove noted, and the defendants, H. U. Bartlett, A. A. Hammer and the Gypsy Oil Company, present their respective several motions and supplemental motions for a new trial herein, and the court after hearing the argument of counsel takes under advisement the determination of such motions and supplemental motions of said defendants for a new trial herein, and the rights, title and interest of the defendants, Walton, Norris and Hammett;

Thereafter, to-wit: On the 20th day of June, A. D. 1914, the courts find the above facts as against the defendants, Walton, Norris and Hammett, to which they except and the court decides said cause against them and they file in open court their motion for a new trial and the court doth overrule and deny the motions and supplemental motions for a new trial filed herein by the defendants, H. U. Bartlett, A. A. Hammer and the Gypsy Oil Company and Walton, Norris and Hammett. To which motion, order, decision and judgment of the court the defendants, Norris, Walton, Hammett, and H. U. Bartlett, A. A. Hammer, and the Gypsy Oil Company severally excepted and still except.

It Is Therefore Considered, Ordered, Adjudged and Decreed by the Court, That the plaintiff do have and recover for the immediate possession of the lots and lands above described, and that the plaintiff do have and recover of and from the defendant, H. U. Bartlett the sum of Eighty ($80.00) Dollars as the value of the rents, profits and use of the premises.

It Is Further Ordered, Adjudged and Decreed by the Court, That the title of the plaintiff to the said premises be settled and quieted in her, the said Nancy Atkins, as against the defendants and each of them and that the deed purported to have been executed by Minnie Atkins to the defendant H. U. Bartlett and dated October 2nd, 1912, and of record in the office of the Register of Deeds of Creek County, Oklahoma, in

Book 57, page 404, and the deed purported to have been executed by Thomas Atkins to the defendants, A. A. Hammer, acknowledged January 14th, 1913, and of the record in the office of the Register of Deeds of Creek County, Oklahoma, in Book 86, page 202, and the oil and gas grant, executed by the defendant H. U. Bartlett in favor of the defendant, Gypsy Oil Company, a corporation, dated November 29th, 1912, and of record in the office of the Register of Deeds of Creek County, Oklahoma, in Book 70, page 586, and the deed purported to have been executed by Thomas Atkins in favor of the defendant, William S. Murphy, dated March 20th, 1913, and of record in the office of the Register of Deeds of Creek County, Oklahoma, in Book 78, page 350, and the oil and gas mining lease purported to have been executed by Nancy Atkins in favor of the defendants, Wilbur M. Norris, W. W. Walton, and Ellis H. Hammett, acknowledged on the 15th day of April, 1913, and of record in the office of the Register of Deeds of Creek County, Oklahoma, in Book 85, at page 311; and each and all of them be and the same are hereby cancelled, annulled, set aside and held for naught, and the record thereof cancelled, to all of which each of the defendants except.

It Is Further Ordered, Adjudged, and Decreed by the Court, That the defendants and each of them, and all persons who claim by, through or under them, and all persons who have placed of record any claim or conveyance to the lands herein described since the commencement of this suit, are hereby enjoined and restrained from in any way disturbing or interfering with the plaintiff in the peaceable possession of said premises.

It Is Further Ordered and Adjudged, That the plaintiff recover from the defendants all of her costs in this suit laid out and expended and that execution issue therefor.

To which actions, orders, judgments, decision and decree of the court the defendants, and each of them, then and there duly excepted and still except. And said defendants and each of them praying an appeal to the Supreme Court and an extension of time within which to make and serve a case-made, it is ordered upon good cause shown that an extension of one hundred and twenty (120) days from and after this date be granted said defendants, and each of them in which to make and serve upon the plaintiff or her attorneys a case-made; the plaintiff to have ten days (10) thereafter to suggest amendments thereto in writing; such case-made to be settled, certified and signed upon five (5) days' notice in writing by either party.

And the defendants praying the court to fix the amount of a supersedeas, or undertaking for appeal, and to stay execution, it is ordered for good cause shown that execution be stayed pending the filing of such undertaking for appeal, on the giving of a good and sufficient bond conditioned as provided by law, in the sum of Six Thousand ($6,000.00) Dollars, within twenty (20) days from this date, such bond to be approved by the Clerk of said court.

It Is Further Ordered, That in case such bond shall be given within the time so allowed, then execution shall be stayed one hundred and sixty (160) days within which time the defendants or either of them shall commence proceedings in error; and in case such proceedings in error are filed within the time herein allowed then execution shall be stayed pending the determination of such proceedings in error by the Supreme Court.

WADE S. STANFIELD,
Judge.

Exhibit B.

Nancy Atkins, an Incompetent, by Micco T. Harjo, her legal guardian and next friend, Plaintiff, v. *H. U. Bartlett, A. A. Hammer, Gypsy Oil Company, a corporation, William S. Murphy, William M. Norris, W. W. Walton and Ellis H. Hammett, Defendants.—No. 3120.*

JOURNAL ENTRY.

Now on this 24th day of July, 1914, said cause No. 3772 came on for hearing upon the application of the plaintiffs for a Temporary Injunction, and for leave to drill an offset well upon the premises in controversy; and said cause No. 3723 came on for hearing upon the plaintiffs' application to dissolve H. U. Bartlett's Temporary Injunction, and upon the Motions of H. U. Bartlett and Gypsy Oil Company to dissolve the plaintiffs' Temporary Injunction therein; and said cause No. 3120 came on for hearing upon the application of the plaintiff for the appointment of a receiver of the property in controversy; said Minnie Folk, Alexander McNab, Jr., Trustee, Charles Page and R. A. Josey, appearing by their attorneys, Rice & Lyons; said Gypsy Oil Company appearing by its attorney, Henry McGraw; said H. U. Bartlett and A. A. Hammer, appearing by their attorneys, McDougal & Lytle, and said Nancy Atkins, Micco T. Harjo, her legal guardian and next friend, J. B. White, E. W. Wheeler, A. E. Carder and A. Seltzer, appearing by their attorneys, M. E. Rosser and William M. Gresham, Whereupon the respective parties introduce their evidence, and after hearing the argument of counsel, the cause is taken under advisement until the 3rd day of August, 1914.

And now on this 3rd day of August, 1914, came the parties to said cause, appearing by their respective attorneys as first hereinabove noted, and the court, after hearing further argument of counsel, and being fully advised in the premises, rendered its opinion in writing, and finds that said Charles Page and R. A. Josey should be given leave to drill an offset well on the premises in controversy, as in said opinion set forth.

It Is Therefore Ordered that said opinion of the court shall be filed in said causes as part of the record thereof, and it is further ordered and adjudged by the court, that until the further order in the premises, the said Charles Page and R. A. Josey be and they are hereby given and granted leave and permission on the terms and conditions hereinafter specified, to drill a well for oil and gas upon,

> Lot Two (2) of Section Five (5), Township Eighteen (18) North, Range Seven (7) East,

offsetting a certain producing oil well upon adjacent premises, upon the north side of said described tract; and that the remaining parties to said causes, and each of them, are restrained, enjoined and prohibited from in any way molesting, disturbing, obstructing or interfering with said Charles Page and R. A. Josey in the matter of drilling, equipping and operating such proposed well. To all of which actions and orders of the court the parties to said causes, represented by attorneys, Henry McGraw, McDougal & Lytle, M. E. Rosser and William M. Gresham, severally excepted and still except.

It Is Further Ordered and Adjudged that the remaining parties to said causes, or their respective representatives, shall have the right, at all reasonable times, to visit and view the premises, and to inspect, examine and investigate such proposed well, its depth, condition, the formations encountered, its operation and the production thereof, and they shall be allowed access to such well, and all accounts pertaining to the amount of oil or gas produced and the purchase price thereof, providing however, that none of said parties, or their representatives, shall obstruct, disturb, or interfere with said Charles Page and R. A. Josey in the due and orderly prosecution of the work of drilling and operating such well.

The foregoing order is made upon the condition, and shall not be operative, until and unless said Charles Page and R. A. Josey within ten (10) days from and after this date, shall give and file with the Clerk of the court an undertaking, with sufficient surety to be approved by both the Clerk and Judge of this court, in the amount of Fifty Thousand ($50,000.00) Dollars, to secure all parties to said causes the damages they may sustain, including reasonable attorneys' fees, if it be finally decided that the foregoing order should not have been made; and said undertaking shall contain the further condition that said Charles Page and R. A. Josey shall immediately commence to drill a well for oil and gas upon said Lot 2 of Section 5, Township 18 North, Range 7 East, at a point offsetting a producing well upon adjacent premises, adjoining said tract upon the North, and drill said well in good and workmanlike manner, with reasonable dispatch, to and into what is known as the Bartlesville sand, unless relieved from such obligation by an order of this court, and to equip such well with all necessary derrick, casing, tubing, pipe, tankage, and other equipment, and to operate such well in a skillful manner, and to market the production thereof at the highest available market price, and to account to the successful party or parties to said causes for the proceeds of the oil or gas produced from such well; and said undertaking shall contain the further condition that said Charles Page and R. A. Josey shall pay all bills for drilling, wages, and material used in constructing and equiping said well as aforesaid, and that they will deiver to the successful litigant, now a party to said causes such well and all such equipment thereof, unencumbered and unimpaired, and in a good and sound condition, and without any obligation or liability upon the part of such successful party or parties to said causes to reimburse the said Charles Page and R. A. Josey for the cost of said well, the equipment thereof, or the expenses of operating the same.

It Is Further Ordered and Adjudged by the court that the application of the plaintiff in said cause No. 3120, for the appointment of a receiver of the property in controversy, be and the same hereby is denied. To which action and order of the court the said plaintiff therein then and there excepted and still excepts.

It Is Further Ordered and Adjudged by the court that the several motions of said Gypsy Oil Company and H. U. Bartlett to dissolve the Temporary Injunction, granted and allowed the plaintiffs in said cause No. 3723, be and the same hereby are in all things overruled, and denied. To which action and order of the court the said Gypsy Oil Company and H. U. Bartlett, and each of them, then and there excepted and still except.

It Is Further Ordered and Adjudged by the court that the Temporary Injunction granted and allowed the defendant, H. U. Bartlett in said cause No. 3723, be and the same is vacated and dissolved, to which action and order of the court the said H. U. Bartlett, then and there excepted and still excepts.

And the said H. U. Bartlett and the Gypsy Oil Company praying an appeal to the Supreme Court from the action and order of the court allowing the said Charles Page and R. A. Josey to drill a well for oil and gas upon the premises in controversy, as hereinbefore set forth, and enjoining the said H. U. Bartlett and Gypsy Oil Company from interfering with said parties in the matter of drilling and operating said well, and the said H. U. Bartlett praying an appeal to the Supreme Court from the action and order of the court in dissolving the said Temporary Injunction against the plaintiffs in said cause No. 3723, it is ordered, upon good cause, shown that an extension of fifteen days from and after this date be granted said H. U. Bartlett and Gypsy Oil Company, and each of them, in which to make and serve upon the adverse parties, or their attorneys of record, a case-made, such adverse parties to have two days thereafter to suggest amendments thereto in writing, and such case-made to be settled, certified and signed upon five days' notice in writing by either party.

And the parties to said causes represented as aforesaid by M. E. Rosser and William M. Gresham praying an appeal to the Supreme Court from the foregoing orders, denying the appointment of a receiver in said cause No. 3120, and in granting the said Charles Page and R. A. Josey leave to drill a well upon the premises and enjoining their clients from interfering with the drilling and operation of such well, and praying an extension of time within which to make and serve a case-made, it is ordered, upon good cause shown, that an extension of fifteen days from and after this date be granted said parties, and each of them, in which to make and serve upon the adverse parties, or their attorneys of record, a case-made, the adverse parties to have two days thereafter to suggest amendments thereto in writing, and such case-made to be settled, certified and signed upon five days' notice in writing by either party.

And the parties to said causes, represented as aforesaid by said Henry McGraw, McDougal & Lytle, M. E. Rosser and William M. Gresham, and each of them, praying the court to fix the amount of a supersedeas or undertaking for appeal, and to stay said orders it is ordered, for good cause shown, that said orders allowing and granting leave to said Charles Page and R. A. Josey to drill a well as aforesaid upon the premises in controversy, and enjoining the remaining parties to said causes from interfering with the drilling and operation of such well, be stayed and suspended, pending the filing of such undertaking for appeal, on the giving of a good and sufficient bond conditioned as provided by law, in the sum of Twenty-five Thousand Dollars ($25,000.00) on or before the 11th day of August, 1914, such bond to be approved by the Clerk of this court.

It Is Further Ordered that in case such bond be given within the time so allowed, then such orders allowing the said Charles Page and R. A. Josey to drill a well upon the premises in controversy, and enjoining interference with the drilling and operation of such well, be stayed and suspended for thirty days from this date, within which time said parties praying an appeal, or either of them, shall commence proceedings in error, and in case such proceedings in error are filed within the time herein allowed, then said orders as to the drilling of said well, and enjoining interference therewith, shall be stayed pending the determination of such proceedings in error by the Supreme Court.

It is further ordered that the foregoing order dissolving the temporary injunction of H. U. Bartlett in said cause numbered 3123 be, and the same is stayed and suspended until the 11th day of August, 1914, and in the event the said H. U. Bartlett within said period shall file such supersedeas bond, then the foregoing order dissolving said temporary injunction shall be stayed and suspended for a period of thirty days from this date which time the said H. U. Bartlett shall commence proceedings in error; and in case such proceedings in error are filed within said period of thirty days, then said order dissolving said temporary injunction of H. U. Bartlett in said cause numbered 3123 shall be stayed and suspended pending the declaration of such proceedings in error by the Supreme Court.

WADE S. STANFIELD,
Judge.

Endorsed: Filed Dec. 29, 1915. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 29th day of December, A. D. 1915, the defendants Robert L. Rutherford and James A. Ferguson filed Answer herein, which is in words and figures as follows:

Separate Answer of Robert L. Rutherford and James A. Ferguson.

Come now the above named defendants, Robert L. Rutherford and James A. Ferguson, and for their separate answer to the amended bill of complaint filed by the complainant in the above entitled and numbered cause admit that they are citizens and residents of the State of Arkansas; and, further answering, they adopt as their answer, to the same effect as if specially copied into this answer, all the allegations of the separate answer of Nancy Atkins hereinbefore filed, and allege that all the allegations therein with reference to the parentage and enrollment of the said Thomas Atkins are true.

Further answering, these defendants allege that they are the owners of a certain leasehold interest in said lands by virtue of the assignment a certain lease executed to J. B. White, E. W. Fowler, A. E. Carder, and H. Seltzer, dated the 27th day of May, 1913, and transferred and assigned to these defendants on the 28th day of September, 1915; they allege that said lease is a good and valid lease and properly executed by the guardian of said Nancy Atkins, and that by virtue thereof they are the owners of a lease-hold interest in said lands.

They allege that by reason of said oil and gas mining lease and the assignment thereof they are the owners of the oil and gas in and upon said lands, and the oil and gas produced therefrom by the defendants, The Gypsy Oil Company, Gem Oil Company, Charles Page and R. A. Josey. They allege that the said defendants have produced upon said lands a large amount of oil and gas, the exact amount of which is unknown to them, of which they are the owners.

Wherefore, they pray:

First: That the amended bill of complaint of the United States of America be dismissed; that an accounting be taken of the oil and gas produced from said lands by said defendants and that they have judgment against said defendants for the oil and gas produced from said lands;

Second: That they have judgment for costs of suit and all other proper relief.

N. B. Maxey,
Malcolm E. Rosser,
Attorneys for Robert L. Rutherford and James A. Ferguson.

Endorsed: Filed Dec. 29, 1915. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 25th day of January, A. D. 1916, the defendants H. U. Bartlett, A. A. Hammer and H. E. Whitehead filed Disclaimer herein, which is in words and figures as follows:

Disclaimer of H. U. Bartlett, A. A. Hammer and H. E. Whitehead.

To the Honorable RALPH E. CAMPBELL, Judge of the Above Named Court:

Come now the defendants, H. U. Bartlett, A. A. Hammer and H. E. Whitehead, and represent to the Court that they have no interest of any kind, nature or description in and to the lands involved herein; that they disclaim any and all interest in or to the same, and pray that they go hence without judgment for costs taxed against them.

JOHN B. MESERVE,
Attorney for H. U. Bartlett, A. A. Hammer, and H. E. Whitehead.

U. S. Clerk: Please file this in the above action.

W. P. Z. GERMAN, *Sp. Ass't to U. S. Atty.*

Endorsed: Filed Jan. 25, 1916, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 25th day of January, A. D. 1916, the defendant William S. Murphy filed Disclaimer herein, which is in words and figures as follows:

Disclaimer of William S. Murphy.

Comes now said defendant William S. Murphy, and for answer to the petition of the plaintiff, disclaims any right, title or interest in and to the property involved in this action.

Wherefore said defendants asks to be hence discharged with his costs.

WILLIAM S. MURPHY,
Attorney for Defendant.

U. S. Clerk: Please file this in the above action.

W. P. Z. GERMAN, *Sp. Ass't to U. S. Atty.*

Endorsed: Filed Jan. 25, 1916. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 11th day of August, A. D. 1916, the defendants Minnie Folk, *nee* Atkins, Harry B. Folk and Edward C. Hanford filed Answer to the Cross Complaint of Nancy Atkins, which is in words and figures as follows:

Answer of Defendants Folk and Hanford to Cross-Complaint of Nancy Atkins.

Come now the defendants Minnie Folk (nee Atkins), Harry B. Folk and Edward C. Hanford and answering the first so-called cross-bill of complaint of the defendant Nancy Atkins, say:

I.

Said defendants aver that the matters and things alleged in said first so-called cross-bill of complaint are wholly immaterial and are insufficient in law and fact to constitute a cause of action against said defendants or any of them, or a cross action in this suit; that they are wholly without equity; and, further, that this Honorable Court is without jurisdiction to hear and determine the matters and things therein alleged.

II.

Said defendants deny that said Nancy Atkins is, and was at the time of his death, sole heir at law of the said Thomas Atkins and that, as such, she is the owner of the lands described in complainant's bill of complaint herein and in said so-called cross-bill of complaint.

These defendants admit that they are claiming some interest in and to said lands and that certain leases, deeds and other conveyances have been made and recorded and filed for record by them affecting the title to said lands; but they deny that any of said conveyances affect any right, title or interest of said defendant Nancy Atkins; and said defendants deny that said Nancy Atkins has any right, title or interest in or to said lands.

Said defendants deny that any of the conveyances affecting the title to said lands, as set forth in said first so-called cross-bill of complaint, are clouds upon the title of said defendant Nancy Atkins; and deny that said Nancy Atkins has any right, title or interest in or to said lands.

Answering the further and second so-called cross-bill of complaint set forth in the answer of said Nancy Atkins, these answering defendants aver:

I.

Said defendants aver that the matters and things alleged in said second so-called cross-bill of complaint are wholly immaterial, and are insufficient in law and fact to constitute a cause of action against said defendants, or any of them, or a cross action in this suit; that they are wholly without equity; and, further, that this Honorable Court is without jurisdiction to hear and determine the matters and things therein alleged.

II.

These defendants deny that said Nancy Atkins is the owner of said lands described in complainant's second amended bill of complaint and in said second so-called cross-bill of complaint and deny that she derived any ownership in the manner set forth in her separate answer herein or in said second so-called cross-bill of complaint.

Said defendants deny that, on the 24th day of March, 1914, said Nancy Atkins recovered a judgment in the District Court of Creek County, Oklahoma, quieting title in her to said lands and adjudging her to be the lawful owner thereof and entitled to the possession of the same; and deny that "Exhibit A", attached to said answer and second so-called cross-bill of complaint, is a copy of said judgment.

These answering defendants deny that said purported judgment, set forth in said "Exhibit A," constitutes a valid and subsisting judgment in said cause and aver that the same was not signed and filed until the 25th day of June, 1914; and that the same is null and void and without any force or effect whatsoever because it was attempted to be entered by said District Court of Creek County, Oklahoma, out of regular and legal term time of said court.

Said defendants aver that said purported judgment is null and void as to them, and each of them, because, neither they, nor any of them, were parties to the same or to the suit in which said purported judgment was attempted be rendered.

Said defendants further aver that said purported judgment is not a final judgment and was, and is, stayed by virtue of an appeal therefrom, now being prosecuted and pending in the Supreme Court of the State of Oklahoma, and that no hearing has been had therein and no decree rendered on said appeal.

Said defendants aver that said Minnie Folk (nee Atkins) and her lessee are in open notorious and peaceable possession of said lands and that possession thereof was taken by her and on her behalf, as the owner thereof, and by the Gem Oil Company, at that time the owner and holder of a leasehold estate to said lands under said Minnie Folk, and that said possession was taken lawfully and peaceably and by virtue of right of ownership, and that said Nancy Atkins had not, and never has had, any right or valid claim of right to possession of said lands adverse to said Minnie Folk (nee Atkins) or her lessees or assigns, nor any claim of right to possession under the Gypsy Oil Company or by virtue of said purported judgment. That no right, or claim of right, to possession of said lands, adverse to said Minnie Folk was, or is, vested in said Nancy Atkins through any defect in, or insufficiency of, title or right of possession on the part of the Gypsy Oil Company or H. U. Bartlett or any other strangers to, or adverse claimants of, title to said lands.

Said defendants deny that any drilling on said lands has been done in violation of any order of the District Court of Creek County of Oklahoma.

Said defendants deny that Robert L. Rutherford and J. A. Ferguson, or either of them, are the owners and holders of any oil and gas rights in said lands; and deny that they, or either of them, have any right, title or interest in and to said lands or the oil and gas therein lying.

Defendants admit that the Gypsy Oil Company and H. U. Bartlett have released and quit-claimed to them all of their claim of right, title and interest and right to possession in and to said lands and that the appeal mentioned in said so-called cross-bill of complaint has been dismissed.

These defendants admit that said Minnie Folk has commenced an action in the District Court of Creek County, Oklahoma, to quiet title in her to said lands and that said action is now pending therein.

These defendants deny that they have any knowledge or information as to any of the other matters or things alleged in said second so-called cross-bill of complaint, not herein specifically admitted or denied, and therefore deny the same and ask for strict proof thereof.

Wherefore, these answering defendants pray that said first and second so-called cross-bills of complaint be dismissed and that said defendant Nancy Atkins be adjudged to have no right, title or interest in or to said lands, and for their costs and disbursements herein.

E. C. HANFORD,

Solicitor for Defendants Minnie Folk (nee Atkins), Harry B. Folk and Edward C. Hanford.

State of Oklahoma, County of Tulsa—ss.

Edward C. Hanford, being first duly sworn, deposes and says: that he is one of the defendants in the above named cause; that he has read the foregoing answer, knows the contents thereof and believes the same to be true.

EDWARD C. HANFORD.

Subscribed and sworn to before me this 9th day of August, A. D. 1916. (Seal) Claude F. Tingley, Notary Public.

My commission expires—My Commission Expires Sept. 9, 1916.

Endorsed: Filed Aug. 11, 1916. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 11th day of August, A. D. 1916, the defendant Charles Page filed Answer to the Cross-bill of Nancy Atkins, which is in words and figures as follows:

Answer of Charles Page to Cross-bill of Defendant Nancy Atkins.

Comes now the defendant Charles Page and answering the first so-called cross-bill of complaint of the defendant Nancy Atkins, as set forth in her answer filed herein, says:

I.

Said defendant avers that the matters and things alleged in said first so-called cross-bill of complaint are wholly immaterial and are insufficient in law and fact to constitute a cause of action against said defendants or any of them, or a cross-action in this suit; that they are wholly without equity; and, further, that this Honorable Court is without jurisdiction to hear and determine the matters and things therein alleged.

II.

Said defendant denies that said Nancy Atkins is, and was at the time of his death, sole heir at law of the said Thomas Atkins and that, as such, she is the owner of the lands described in complainant's bill of complaint herein and in said so-called cross-bill of complaint.

This defendant admits that he is claiming some interest in and to said lands and that certain leases, deeds and other conveyances have been filed for record by him affecting the title to said lands; but he denies that any of said conveyances affect any right, title or interest of said defendant Nancy Atkins; and said defendant denies that said Nancy Atkins has any right, title or interest in or to said lands whatsoever.

Said defendant denies that any of the conveyances affecting the title to said lands, as set forth in said so-called cross-bill of complaint, are clouds upon the title of said Nancy Atkins; and denies that said Nancy Atkins has any right, title or interest in or to said lands.

Answering the further and second so-called cross-bill of complaint set forth in the answer of said Nancy Atkins, this answering defendant says:

I.

Said defendant avers that the matters and things alleged in said second so-called cross-bill of complaint are wholly immaterial, and that they are insufficient in law and fact to constitute a cause of action against said defendant, or a cross-action in this suit; that they are wholly without equity; and, further, that this Honorable Court is without jurisdiction to hear and determine the matters and things therein alleged.

II.

This defendant denies that said Nancy Atkins is the owner of said lands described in complainant's amended bill of complaint and in said second so-called cross-bill of complaint; and denies that she derived any ownership in the manner set forth in her separate answer herein or in said second so-called cross-bill of complaint.

Said defendant denies that, on the 24th day of March, 1914, said Nancy Atkins recovered a judgment in the District Court of Creek County, Oklahoma, quieting title in her to said lands and adjudging her to be the lawful owner thereof and entitled to the possession of the same; and denies that "Exhibit A," attached to said answer and second so-called cross-bill of complaint, is a copy of such judgment.

This answering defendant denies that said purported judgment, set forth in said "Exhibit A," constitutes a valid and subsisting judgment in said causes and avers that the same was not signed and filed until the 25th day of June, 1914; and that the same is null and void and without any force or affect whatsoever because it was attempted to be entered by said District Court of Creek County, Oklahoma, out of regular and legal term time of said court.

Said defendant avers that said purported judgment is null and void as to him and his grantee, and each of them, for the reason that neither they, nor either of them, were parties to the same or to the suit in which said purported judgment was attempted to be rendered.

Said defendant further avers that said purported judgment is not a final judgment and was, and is, stayed by virtue of an appeal therefrom, now being *being* prosecuted and pending in the Supreme Court of the State of Oklahoma, and that no hearing has been had therein and no decree rendered on said appeal.

Said defendant avers that he, as lessee of Minnie Folk (nee Atkins), and said Minnie Folk, are in open, notorious and peaceable possession of said lands, and that possession thereof was taken by and on behalf of said Minnie Folk, as the owner thereof, and by the Gem Oil Company, a corporation, at that time the owner and holder of a leasehold estate to said lands under said Minnie Folk, and that said possession was taken lawfully and peaceably and by right of ownership, and that said Nancy Atkins had not, and never has had, any right or valid claim of right to possession of said lands adverse to said Minnie Folk (nee Atkins), or her lessees or assigns, nor any claim of right to possession under the Gypsy Oil Company or by virtue of said purported judgment. That no right, or claim of right, to possession of said lands, adverse to said Minnie Folk was, or is, vested in said Nancy Atkins through any defect in, or insufficiency of, title or right of possession on the part of the Gypsy Oil Company or H. U. Bartlett, or any other strangers to, or adverse claimants of, title to said lands, or by virtue of said purported judgment.

Said defendant denies that any drilling on said lands has been done in violation of any order of the District Court of Creek County, Oklahoma.

Said defendant denies that Robert L. Rutherford and J. A. Ferguson, or either of them, are the owners and holders of any oil and gas rights in said lands: and denies that they, or either of them, have any right, title or interest in and to said lands or the oil and gas therein lying.

Defendant admits that the Gypsy Oil Company and H. U. Bartlett have released and quit-claimed to him, and his grantor, all of their right, title and interest and right to possession in and to said lands and that the appeal mentioned in said so-called cross-bill of complaint has been dismissed.

This defendant admits that said Minnie Folk has commenced an action in the District Court of Creek County, Oklahoma, to quiet title in her to said lands and that said action is now pending therein.

This defendant denies that he has any knowledge or information sufficient to form a belief as to any of the other matters or things alleged in said second so-called cross-bill of complaint, not herein specifically admitted or denied and which may be adjudged material or necessary to be answered, and therefore denies the same and asks for strict proof thereof.

Wherefore, this answering defendant prays that said first and second so-called cross-bills of complaint be dismissed and that said defendant Nancy Atkins be adjudged to have no right, title or interest in or to said lands, and for his costs and disbursements herein, and for such other and further relief as to the Court may seem meet and proper.

C. B. STUART,

Solicitor for defendant Charles Page.

Endorsed: Filed Aug. 11, 1916. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 12th day of September, A. D. 1916, the complainant filed Supplemental Bill of Complaint, which is in words and figures as follows:

Motion and Supplemental Bill of Complaint.

Comes now the complainant, the United States of America, by D. H. Linebaugh, United States Attorney for the Eastern District of Oklahoma, by direction of the Honorable Thomas W. Gregory, Attorney General of the United States, and respectfully shows to the court:

That heretofore and on to-wit, the ..... day of December, 1914, the Secretary of the Interior of the United States invited and requested the Attorney General of the United States to cause suit to be instituted in this court to cancel allotment and patents covering the alloment selection arbitrarily made by the Commission to the Five Civilized Tribes on the 30 day of June, 1902, for and in the name of Thomas Atkins, whose name appears upon the approved roll of citizens of the Creek Nation, or Tribe of Indians, opposite No. 7913.

That said request for the institution of suit was upon the erroneous assumption that said patents had not only been delivered but also that no action had ever been taken whereby their complete issuance had been suspended.

Complainant states that the Secretary of the Interior requested the institution of suit without knowledge of the existence of certain instrument, documents and records in the office of the Superintendent for the Five Civilized Tribes relating to and questioning the right of Thomas Atkins to enrollment and without knowledge that said patents had not only not been delivered but that their delivery had been held up in the year of 1905 by an order still unrevoked, of said Commission, which lack of knowledge upon the part of said Secretary of the Interior was brought about by reason of the unintentional and inadvertent act of some officer, agent or employee of the Interior Department of the United States in overlooking said instruments, documents and records and therefore and thereby failing to call to the attention of said Secretary of the Interior the existence of said instruments, documents and records, as well as their contents purport and effect.

Further your petitioner shows that your petitioner acting under and by direction of the Attorney General of the United States, responsive to the invitation and request of the Secretary of the Interior, as aforesaid, did on the 18th of January, 1915, cause to be filed in this court the bill of complaint herein and at said time acted upon the erroneous assumption that the patents covering the land involved herein, had been completely issued and was not informed or advised to the contrary until on or about the 11th day of July, 1916, whereupon and on said date, a special agent of the Department of Justice, assigned to assist the solicitors of your petitioner in an investigation of the facts of this case, discovered among the records and files in the office of the Superintendent for the Five Civilized Tribes, at Muskogee, the original certificate of selection and the patents herein, which had never been delivered to the allottee named therein, or to any other person and that the records in the office of the said Superintendent disclosed that the complete issuance of said patents was suspended and said patents held up by an order of the Commission to the Five Civilized Tribes made on May the 9th, 1905.

Petitioner further states that the records in the office of the Chief of the Creek Nation at Muskogee, Oklahoma, disclose that information had been received that the Thomas Atkins whose name appeared upon said Creek roll and in whose name the patents covering the land involved herein were about to issue, had died in the year 1878; and they further disclose that on May 10th, 1905, said patents were returned by the Principal Chief of the Creek Nation to the Commission to the Five Civilized Tribes and that the rights of the said Thomas Atkins to enrollment as a citizen of the Creek Nation were pending. That it further appeared from the records in the office of said Commission that in the month of May, 1905, pursuant to said order so made by said Commission, said patents were retained in the office of said Commission and withheld from delivery and proper records were made in the office of said Commission evidencing said order, and further showing that proceedings with relation to the attempted passage of the legal title to said lands out of the Creek Nation or Tribe of Indians were suspended, pending an investigation into the citizenship rights of said alleged allottee.

Further your petitioner shows that in May, 1905, said Commission to the Five Civilized Tribes did prosecute certain inquiries in relation to the enrollment rights of Thomas Atkins, but that said Commission, at said time was unable to obtain information sufficiently definite upon which to predicate further action or recommendation and it- said order so made in that month and its said action in relation to said patents have not been revoked or set aside, and said patents have ever since that time been held up pending an investigation into the right of Thomas Atkins to enrollment and allotment,

Further your petitioner shows that the entire record in the office of the Superintendent for the Five Civilized Tribes, formerly the Commission to the Five Civilized Tribes and the principal Chief of the Creek Nation, insofar as they relate to the enrollment of the name of Thomas Atkins; the allotment attempted to be made in his name; the certificate of selection and patents; and the withholding of delivery of said certificate of selection and patents and the suspension thereof pending an investigation into the right of Thomas Atkins to enrollment as well as the suspension of the issuance of patents in lieu thereof to the alleged heirs of Thomas Atkins, consists of certain instruments, documents and records described as follows:

> The so-called census card whereon, on May 23, 1901, the Commission to the Five Civilized Tribes listed for enrollment upon the final roll to be prepared by said Commission, the name Thomas Atkins, which said card was caused by said Commission at said time to show that said name appeared upon the 1895 tribal roll of the Creek Nation opposite No. 213 Euchee Town. There is hereto attached and marked Exhibit No. 1, a copy of said census card.

The page .... of Euchee Town Creek Tribal Roll for the year 1895 on which appears the name Thomas Atkins opposite No. 213. A copy of said page of said roll is hereto attached and marked Exhibit No. 2.

The schedule or roll prepared by said Commission in the year 1901, which schedule constituted a partial final roll of citizens by blood of the Creek Nation of Indians, which final roll was at that time in process of preparation by said Commission, showing the name Thomas Atkins listed opposite roll No. 7913, together with a letter from the Commission to the Secretary of the Interior dated March 1, 1902, transmitting the schedule upon which the name Thomas Atkins appeared opposite said roll number, and recommending the approval of the enrollment of all the persons whose names appeared upon said schedule or partial roll, including the name Thomas Atkins. There is hereto attached and marked Exhibit No. 3 a copy of said letter and of said schedule insofar as the same shows the name Thomas Atkins.

The final roll of citizens by blood of the Creek Nation or Tribe of Indians insofar as the same relates to the name Thomas Atkins. There is hereto attached and marked Exhibit No. 4 a copy of said roll.

A resolution passed and adopted by said Commission on May 24, 1902, with relation to the making of allotments by the Commission in cases where names appear upon the final roll, but where allotments have not been selected by or for the persons represented by said names. There is attached hereto and marked Exhibit No. 5 a copy of said resolution.

The arbitrary selection of an allotment in the name Thomas Atkins by the Commission acting by and through its Acting Chairman. There is hereto attached and marked Exhibit No. 6 a copy of said arbitrary selection made pursuant to said resolution of May 24, 1902, which said selection was made on June 30, 1902.

The certificate of selection executed by said Commission bearing date of June 30, 1902, evidencing the making of said allotment to and in the name Thomas Atkins. There is hereto attached and marked Exhibit No. 7, a copy of said certificate of selection.

The record in the office of said Commission kept in a book relating to the delivery of certificates of selection, which shows that the certificate issued in the name of Thomas Atkins was returned through the mails because uncalled for and undelivered. There is hereto attached and marked Exhibit No. 8 a copy of the page of said record relating to said certificate of selection.

The surplus allotment patent prepared by said Commission and executed on April 14, 1903, by the Principal Chief of the Muskogee (Creek) Nation to Thomas Atkins, describing that portion of the lands selected as aforesaid, which were designated as the surplus allotment for said Thomas Atkins, to-wit:

> The Southwest quarter of the Northwest quarter of Section 4, and the Southwest quarter of the Northeast quarter, and Lot 2 of Section 5, Township 18 North, Range 7 East of the Indian Base and Meridian in the Indian Territory, containing 120.85 acres, more or less,

which said patent was approved by the Secretary of the Interior on May 8, 1903, and filed for record in the office of said Commission on May 16, 1903, and recorded in said office in Book 12 at page 310. There is hereto attached and marked Exhibit No. 9 a true copy of said patent.

The so-called homestead deed, prepared by said Commission and executed on April 14, 1903, by the Principal Chief of the Muskogee (Creek) Nation to Thomas Atkins, describing the lands selected as aforesaid as a homestead allotment for Thomas Atkins, to-wit:

> Lot No. 4 of Section 4, Township 18 North, Range 7 east of the Indian Base and Meridian in the Indian Territory, containing 41.16 acres, more or less,

which patent was approved by the Secretary of the Interior on May 8, 1903, and filed for record in the office of said Commission on May 16, 1903, and recorded in said office in Book L at page 310. There is hereto attached and marked Exhibit No. 10 a true copy of said homestead deed.

Said patents or deeds after having been recorded in said office were, pursuant to law, transmitted by said Commission to the Principal Chief of the Creek Nation for delivery to Thomas Atkins, the patentee named therein.

Letter dated May 9, 1905, from T. B. Needles, Commissioner in charge of the office of the Commission to the Five Civilized Tribes, to E. B. Miller, Chief Clerk of the Creek Land Office, a subdivision and part of the said Commission to the Five Civilized Tribes, advising said Chief Clerk of said land office of the fact that a queston had arisen affecting the citizenship rights of Thomas Atkins, enrolled on Creek card, field No. 2774, Creek Indian

Roll No. 7913, and directing the suspension of action in the matter of the issuance of deeds to the heirs of Thomas Atkins, deceased, until further advised. There is hereto attached and marked Exhibit No. 11 a true copy of said letter.

That on receipt of the said letter by the said E. B. Miller, Chief Clerk of the said land office, an entry was made upon the census card of Thomas Atkins (Exhibited No. 1 hereof) in words and figures as follows, to-wit:

> "E. B. Miller, Chief Clk. Land Office Letter of May 9, 1905, from the Commissioner to the Five Civilized Tribes directing action be suspended in matter of issuing deed to heirs of No. 1."

A letter dated May 9, 1905, from T. B. Needles, Commissioner in Charge of the office of the Commission to the Five Civilized Tribes, to one Will Robison of Muskogee, then Indian Territory now Oklahoma, making inquiry as to the present address of Minnie Atkins, advising that her testimony is desired in a matter pending before said Commission, which said letter relates and refers to the case of Thomas Atkns, the same having the following identifying letters and figures thereon, to-wit: "Cr. I.—2774," the said number being the field number on the Thomas Atkins census card, the letters "Cr." standing for Creek, and the letter "I" standing for Indian; and the reply of said W. R. Robison to said letter endorsed on the face of said letter advising substantially that he did not know the address of said Minnie Atkins. There is hereto attached and marked Exhibit No. 12 a true copy of said letter and the answer thereto.

A letter dated May 9, 1905, containing the identifying marks contained on the said letter to Will Robison, addressed by said T. B. Needles, Commissioner in charge of the office of the said Commission, to one Noah Gregory (the Town King of Euchee Town of the Creek Nation in the Indian Territory) at Sapulpa, Indian Territory now Oklahoma, advising that the Commission had been informed that Thomas Atkins was dead, and among other things stating that it was desired that said Noah Gregory cause a form of death affidavit enclosed with such letter to be filled out and properly executed by some person, a near relative preferred, who knew the date of said Thomas Atkins' death, and that said death affidavit, when so executed, be returned to the Commission. There is hereto attached and marked Exhibit No. 13 a copy of said letter.

No reply, so far as can be ascertained, was made to said communication to said Noah Gregory.

A record in the office of the Principal Chief of the Muskogee (Creek) Nation appearing on page 16 of a book kept by and in the office of said Principal Chief known as the "Index and Record of Delivery of Deeds for lands allotted in Muskogee (Creek) Nation," relating to the deeds prepared, executed, approved and recorded as aforesaid in the name of Thomas Atkins, which said record shows, among other things, that said deeds were to be held for investigation because it was reported by Judge John R. Thomas that Thomas Atkins had died in the year 1878; and said record further shows that said deeds or patents were returned by the Principal Chief aforesaid to the Commission to the Five Civilized Tribes on May 10, 1905, by messenger on account of the pendency of the right of said Thomas Atkins to enrollment. There is hereto attached and marked Exhibit No. 14, a true copy of the page of said record whereon the entries relating to said patents appear.

An endorsement appeared on the back of said surplus patent (Exhibit No. 9 hereof) in the following words, to-wit: "Hold up. See index."

A letter dated May 11, 1905, from Tams Bixby, Chairman of the Commission to the Five Civilized Tribes, to H. G. Hains, Chief Clerk of the Enrollment Division of said Commission, advising that the deeds covering the allotment to Thomas Atkins, Creek Indian Roll No. 7913, were held by the Creek Allotment Division pending further instructions. There is hereto attached and marked Exhibit No. 15, a true copy of said letter.

A book known as the Index Book to a book known as the Special Creek Memorandum Book or Hold Up Book, containing, among other names, the name Thomas Atkins, and indicating that in a book known as the Hold Up Book, at page 124 there is an entry relating to patents in the name of Thomas Atkins. There is hereto attached and marked Exhibit No. 16, a copy of the page of said index book on which appears the reference to the name Thomas Atkins.

Page 124 of said Hold Up or Special Memorandum Book, where an entry is made with relation to the patents which were numbered 13662 and 13663 to Thomas Atkins showing that said patents had been ordered by the Enrollment Division to be held on account of the citizenship of Thomas Atkins and that the deeds had been returned by the Chief of the Creek Nation by messenger on May 10, 1905, and that the Enrollment Division had been notified of their return on May 11, 1905. There is hereto attached and marked Exhibit No. 17, a copy of said page 124 of said Hold Up Book.

A book known as the Index to a book or record kept by said Commission known as the "M" Journal, which said index contains the name Thomas Atkins, and indicates that at page 113 in said "M" Journal, there is an entry relating to Thomas Atkins. There is hereto attached and marked Exhibit No. 18, a copy of the page in said index book containing the name Thomas Atkins.

Page 113 of said "M" Journal showing that patents numbered 13662 and 13663 covering the lands allotted in the name of Thomas Atkins had been ordered by the Enrollment Division of the Commission, on May 9, 1905, to be held on account of a question as to said Atkins' citizenship in the Creek Nation, and that the patents had been returned by the Chief of the Creek Nation by messenger on May 10, 1905, and that the Enrollment Division had been notified on May 11, 1905. There is hereto attached and marked Exhibit No. 19, a true copy of said page 113 of said "M" Journal.

Further your petitioner shows that the above mentioned and described records are all the records in the office of the said Commission, or its successor, pertaining or relating to withholding delivery of the said patents and to the suspension of the issuance of patents to and in the name of the heirs of said Thomas Atkins, and the reasons therefor, and to the investigation pursuant thereto into the right of Thomas Atkins to enrollment and allotment, up to and until the month of August, 1916.

Further your petitioner shows that at the time of the institution of this suit, and at all times subsequent thereto, up to and including said 11th day of July, 1916, said records discovered in the office of the Superintendent for the Five Civized Tribes, who has succeded the said Commission in the actual custody thereof, were not known or called to the attention of either the Secretary of the Interior or the Attorney General of the United States or the solicitors for the complainant herein, but that on or about said 11th day of July, 1916, the existence and contents of said records in said office became known in the manner aforesaid, and it was then discovered by and became known to the solicitors for complainant for the first time that in the year 1905 said patents had been ordered held up and had been in fact held up pending an investigation into the citizenship rights of said Thomas Atkins, and that the order had never been revoked, nor said patents afterwards sent out for delivery, but that they have constantly remained since that time *in fieri* and the status of the legal title to said land has remained from that time until now unchanged, and that the jurisdiction of the Secretary of the Interior over the question as to the rights of Thomas Atkins to enrollment and allotment and to acquire the title to lands of the Creek Nation of Indians by allotment or of his heirs to acquire the same, if there ever was such a person as Thomas Atkins, has never ceased or been exhausted.

Further your petitioner shows that immediately upon the discovery of said records and undelivered patents the attention of the Secretary of the Interior was called thereto. Whereupon in the proper exercise of the jurisdiction, power and authority conferred upon him by law, the Secretary of the Interior did, on August 18th, 1916, resume the exercise of his jurisdiction and thereupon caused to be issued notices to all persons claiming any right, title or interest, so far as known to him, in and to the lands involved herein and described in said allotment certificate and purported patents. notifying them that at 10 o'clock A. M. on September 25, 1916, at the office of the Honorable Secretary of the Interior, in the City of Washington, District of Columbia, hearing would be resumed by the Department of the Interior of the United States for the purpose of determining whether the name of the said Thomas Atkins should be stricken from the approved roll of citizens by blood of the Creek Nation and delivery of the allotment certificate, and the allotment and homestead patents refused, and for the purpose of determining whether or [not] said certificate and patents should be cancelled and held for naught. There is attached hereto, made a part hereof, and for identification marked Exhibit 20, a copy of said notice so issued by the Secretary of the Interior.

Further your petitioner shows that at the time of the issuance of said notices the Secretary of the Interior advised the Attorney General of the facts, as hereinbefore set forth, and requested that the United States Attorney for the Eastern District of Oklahoma be instructed to invite the attention of this Honorable Court to the disclosures and discoveries then recently found, and request an order of the court deferring further action or hearings herein until the Secretary of the Interior could determine the matters and things concerning the enrollment, issuance, delivery or cancellation of the patents in the name of Thomas Atkins as hereinbefore fully set forth.

Further your petitioner shows that responsive to said request of the Secretary of the Interior, and by letter under date of August 22, 1916, the Attorney General directed that these matters be brought to the attention of this court and, owing to the peculiar situation of the property involved, suggestion be made of the propriety of deferring further action in this cause until the hearing before the Secretary of the Interior shall be completed and his decision announced.

Further your petitioner shows that this Honorable Court now has the property involved in this litigation in its indirect control by the execution and filing of a bond in the sum of $900,000.00, in lieu of a receivership, by the defendant Charles Page, who is in possession of and operating said property for oil and gas mining purposes, and has been and is extracting therefrom and selling large quantities of petroleum oil; also that certain of the defendants are claiming title to the property involved as against other of the defendants, there being several such conflicting claims. Petitioner therefore respectfully shows the court that, in order to protect the rights of all parties concerned, said property should continue in the custody of the court, as it has heretofore, and the rights of the successful party or parties to the proceeds heretofore and hereafter to be derived from the operation and development of said property for oil and gas mining purposes should be protected as heretofore, pending the final determination of the questions involved, and in order to preserve and protect said property against waste to the detriment of whomsoever shall ultimately be adjudged to be the owner thereof, and to that end that this case should stand as an ancillary suit or proceeding to the proceeding pending before the Secretary of the Interior, the court in the meantime continuing as it has heretofore done, to protect the interests of all concerned until the Interior Department shall have concluded its investigation and announced its decision, and until, by proper amendment of the pleadings herein by the complainant on behalf of the Creek Nation, or by any other party hereto, the result of the proceedings before the Interior Department may be shown to this court, whereupon proper proceedings may be had herein in accordance with the law and facts; and in this connection, complainant further respectfully shows to the court that there are a number of instruments of record in the office of the court clerk of Creek County, Oklahoma, describing and affecting the title to said land, said instruments being the various instruments under which many of the defendants herein claim title, all of which are described in the amended bill of complaint filed herein, which the Honorable Secretary of the Interior, if he should adjudge favorably to the Creek Nation the matters pending before him, would be without authority to cancel, and which only this court would possess jurisdiction to cancel; and that should the Secretary of the Interior determine unfavorably to said Creek Nation, it would be within the power of the court to determine the conflicting claims of the defendants, at least as respects their respective rights growing out of the extraction and sale of oil from said lands.

Wherefore complainant moves and prays that this Honorable Court make and enter its order substantially to the affect that this pending cause be not set down for trial on the merits until the Honorable Secretary of the Interior shall have concluded the investigation started by him and shall have exhausted his jurisdiction in the premises by a determination of the questions pending before him, and until by amendment of the pleadings herein this court may be advised of the determination of said Department of the Interior in said matter or until the further order of the court, and that in the meantime the court hold the property involved herein *in statu quo* and conserve the proceeds derived from the extraction and sale of oil and gas therefrom in the same manner that it has done heretofore, or that some other arrangement equally effective be substituted in lieu of the present arrangement, and that for all essential purposes this motion be treated as a supplemental bill of complaint, and for all other proper relief.

D. H. LINEBAUGH,
United States Attorney;
W. P. Z. GERMAN,
Special Assistant to the United States Attorney.
Solicitors for Complainant.

R. C. ALLEN,
National Creek Attorney, Associate Solicitor for Complainant.

VERIFICATION.

The United States of America, Eastern District of Oklahoma—ss.

W. P. Z. German states on oath, that he is one of the Special Assistants to the United States Attorney for the Eastern District of Oklahoma, and one of the solicitors for the petitioner named in the foregoing pleading; that he has read said pleading and knows the contents thereof; and that the matters and things therein stated as facts are true and correct, as he verily believes.

W. P. Z. GERMAN.

Eucha Town.

NUMBER. Last.	Present.	NAME.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1896
705	1	Naw-hee-Mungo	422	1887	60	Naw-hee Mungo his x mark	Cornelius Carr	Sept 24th	✓
6	2	Kia-la-wee	1733	1863					
7	3	Harlen		Died					
8	4	Wiley		~~Died [illegible]~~					
9	1	Ed Scrimsher	307	2414	1440	~~[illegible]~~	Cornelius Carr	Sept 24th	✓
✓710	2	~~Minnie~~ Atkins	1615	✓2055	760	Minnie Atkins	Cornelius Carr	Sept 24th	✓
11	3	Charlie Atkins	1659	2055					
12	4	~~[illegible]~~ Atkins							
13	5	Thomas Atkins ~~[illegible]~~							
14	6	[illegible] Atkins	1559	2055					
15	7	Nancy Atkins	2032	~~[illegible]~~	1440	Samuel [illegible]	Cornelius Carr	Sept 24th	✓
16	1	John Davis ~~[illegible]~~	1558	~~[illegible]~~	1440	[illegible]	Cornelius Carr	Sept 24th	✓
17	1	M. G. Gregory	714	1823	7200	M. G. Gregory	Cornelius Carr	Sept 24th	✓
18	2	Carrie Gregory	714	1823					
19	3	[illegible] Gregory ([illegible])							
720	4	[illegible] Gregory							
1	5	Ara N. Gregory	714	1823					
2	6	Jessie G. Gregory	714	1823					
3	7	Foster Gregory	714	1823	~~[illegible]~~				
4	1	Jim Crow	~~[illegible]~~	1822	~~[illegible]~~ 1440	M. H. Brown	Cornelius Carr	Sept 24th	✓
5	1	Jennie E. Yargee	917	1864	5760	M. H. Brown	Cornelius Carr	Sept 24th	✓
6	2	Minnie E. Brown	917	1864					
7	3	Betsey Brown	917	1864					
8	4	Alice Brown	917	1864	~~5760~~				
9	1	Reese Harrison	~~[illegible]~~	185[illegible]	1440	Reese Harrison [illegible]	Cornelius Carr	Sept 24th	✓
730	1	Nancy Drake	2216	1860	[illegible]	Reese Harrison [illegible]	Cornelius Carr	Sept 24th	✓
1	2	Tony H. Drake	2216	1860	~~[illegible]~~				
2	1	Rosa Warren	915	1863	2880	Reese Harrison [illegible]	Cornelius Carr	Sept 24th	✓
3	1	[illegible] Talbert	915	1863	~~[illegible]~~				

Subscribed and sworn to before me this the 12th day of September, 1916.

R. P. Harrison,
Clerk of the United States District Court for the Eastern District of the State of Oklahoma,
(Seal) By Otis Lorton, *Deputy Clerk.*

Exhibit No. 1.

(See insert for copy of Exhibit No. 1.)

Exhibit No. 2.

(See insert for copy of Exhibit No. 2.)

Exhibit No. 3.

Muskogee, Ind. Ter., March 1, 1902.

The Honorable, The Secretary of the Interior,
Washington, D. C.

Sir: The Commission transmits herewith, for your approval, partial roll of citizens by blood of the Creek Nation, numbered 7825 to 8312, inclusive, whose names have been regularly listed for enrollment on Creek Indian cards, numbered 2665 to 2877, inclusive, who were living on the first day of April, 1899, or born to citizens so entitled to enrollment, up to and including the first day of July, 1900, and then living, as provided by Act of Congress, approved March 1, 1901, and are found either upon the 1890 or 1895 authenticated Creek Rolls, or who are descendants of persons whose names are found upon said rolls, born since said rolls were made; or were admitted to citizenship by the Commission to the Five Civilized Tribes, or by the United States Court on appeal under the provisions of Act of Congress approved June 10, 1896, or who are descendants of persons so admitted, born since such admissions; or were duly and lawfully admitted to citizenship by the Creek National Council, or by the legally constituted Commissions and Courts of said Creek Nation, or who are descendants of persons so admitted, born since such admission.

Here follows, in same order as roll, table showinf tribal enrollment (if found on rolls), and such other data as will enable complete identification of all:

* * * * * * *

7913 Atkins, Thomas 1895 Euchee

* * * * * * *

The Commission, after having thoroughly examined the rolls of the Creek Nation and such evidence as has been submitted, touching the identification of the persons on roll herewith submitted, is of the opinion that all are entitled to enrollment as Creek citizens by blood, and should be so enrolled.

Respectfully submitted,

COMMISSION TO THE CIVILIZED TRIBE.

Acting Chairman.

T. B. Needles, Commissioner;

C. R. Breckenridge, Commissioner.

Through the Commissioner of Indian Affairs.

Exhibit No. 4.

CREEK ROLL, INDIANS BY BLOOD.

Number.	Name.	Age.	Sex.	Blood.	Card No.
7913	Atkins, Thomas	10	M	½	2707

Exhibit No. 5.

"Muskogee, Indian Territory, May 24, 1902.

A session of the Commission to the Five Civilized Tribes was held at its general office at Muskogee, Indian Territory, on the above date, there being present Commissioners Bixby, Needles, and Breckenridge.

* * * * * * * *

Whereas, section three of the Act of Congress approved March 1, 1901 (31 Stat. 861), known as the Creek Agreement, provides that:

"All lands of said tribe except as herein provided shall be allotted among the citizens of the tribe by said Commission so as to give to each citizen an equal share of the whole in value as nearly as may be," And that

"* * * there shall be allotted to each citizen one hundred and sixty acres of land," and

"* * * each citizen shall select from his allotment forty acres of land as a homestead," and that

"* * * if for any reason such selection shall not be made for any citizen, it shall be the duty of said Commission to make selection for him."

[illegible]

"And, whereas, numerous citizens of said nation have made no selection of land for allotment and others have made selection of only a portion of the land to which they are entitled, and

"Whereas, after due notice given, many citizens of said nation have failed to make a selection of a homestead, therefore, be it

Resolved, That the acting chairman is hereby authorized and empowered by and on behalf of the Commission to allot to each citizen out of the lands of the Creek Nation not heretofore allotted or selected such an amount of land of at least average quality as will make the total allotment of each citizen one hundred and sixty acres, and to select a homestead for such citizens in all cases where a selection of a homestead has not been made by or on behalf of said citizen:

Provided, That the allotment and selection of homestead so made for a citizen shall include improvements shown by the plats or records of the office to belong to said citizen.

On motion of Commissioner Breckenridge, duly seconded, the same was unanimously adopted.

* * * * * * * *

There being no further business before the meeting the Commission on motion was adjourned.

(Signed) Tams Bixby,
Acting Chairman.

Attest:
A. L. Aylesworth, Secretary.

Exhibit No. 6.

(See insert for copy of Exhibit No. 6.)

(Exhibit No. 7.)

Certificate of Selection.

Allottee's
Roll No. 7913.

Creek Nation

Selection
No. 16983.

Commission to the Five Civilized Tribes,
Muskogee Land Office,

June 30th, 1902.

This certifies that Thomas Atkins has this day filed his selection of the following described land, viz.:

Sub-Division of SW4 of NE4 and Lot of Section 5, SW4 of NW4 and Lot 4 of Section 4, Town. 18, Range 7, of the

Indian Base and Meridian in Creek Nation containing * * * acres more or less, as the case may be, according to the United States survey thereof.

Commission to the Five Civilized Tribes.
(Signed) Tams Bixby, Chairman.

(Plat)
Creek Card Filed No. 2774.

This certificate is not transferrable.

Exhibit No. 8.

(See insert for copy of Exhibit No. 8.)

(Exhibit No. 9.)

Allotment Deed. Creek Indian Roll No. 7913.

The Muskogee (Creek) Nation, Indian Territory.

All Whom These Presents Shall Come, Greeting:

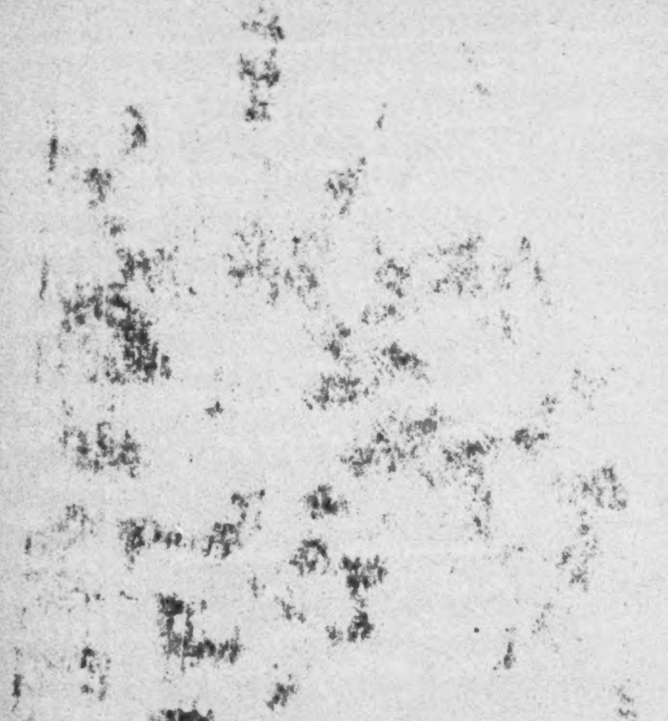
Whereas, by the Act of Congress approved March 1, 1901, (31 Stats. 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, shall be allotted among the citizens of said tribe by the United States Commission to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, the said Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of Thomas Atkins a citizen of said tribe, as an allotment, exclusive of a forty-acre homestead, as aforesaid,

Now, Therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and authority vested in me by the aforesaid Act of Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz: The Southwest Quarter of the Northwest Quarter of Section Four (4), and the Southwest Quarter of

Ret'd by P.M.	Hague Green, Wetumka	16957	5-
Returned by P.M.	Kussie Harjo, to him in person	Jan 5-6 16958	
" " "	Charley Bigpond, Bristow	16959	[illegible] 4-2
	Jeannetta Grayson, % Eufaula - No P. O. given	16960	5-
	Johnson Harjo, Holdenville	16961	5-
	David Knight, Morse	16962	"
	Johnson Sampson, Okfuskee	16963	"
	Lulu Bowlegs, Wewoka	16964	"
	Barney Marshall, Morse	16965	"
	"Sammie" Braggs	16966 H	Returned
Del'd in Person 12-27-05	to "John" "	16967 H	"
	" "	16968 H	"
	~~Delivered in person 12-27-05 to~~ "	16969 H	"
	Jimmy "	16970 H	"
Ret'd by P.M.	Mattie Sunday, Thurman	16971	"
"	Cooper Holuby, Eufaula	16972	"
	" " "	16973	"
	" " "	16974	"
	" " "	16975	"
	" " "	16976	"
	"Wiccy" " Indianola	16977 H	Returned by P.
	"Nettie" Bristow	16978	"
	Monday Bean, Eufaula	16979	"
Del in person 4-7-06	Hollie Jones, Bush Hill	16980	Ret'd by P. P. 5-7-
	Tarskegee Harjo, Senora	16981	Returned 5-8-
	Monday Harjee, Indianola	16982 H	[illegible]
	Thomas Atkins, Muskogee	16983 H	" "
	"Amy" " Thurman	16984	" "
Del in person 4-26-06	Hollie Lucas, "	16985 H	"
	Barney Thlocco, Arbeka	16986	"
4-5-06 Returned	Thomas Connor, Eufaula	16987	"



the Northeast Quarter, and Lot Two (2), of Section Five (5), Township Eighteen (18) North, and Range Seven (7) East of the Indian Base and Meridian, in Indian Territory, containing One Hundred and Twenty and 85/100 (120.85) acres, more or less, as the case may be, according to the United States survey thereof, subject, however, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200).

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation. have hereunto set my hand and caused the Great Seal of said Nation to be affixed this 14th day of April, A. D. 1903.

P. Porter,
Principal Chief of the Muskogee (Creek) Nation.

Department of the Interior, L. R. S. Approved May 8, 1903, 190.. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk. Filed for record on the 16th day of May, 1903, at 4 o'clock P. M.

Said patent is numbered No. 13663. Aside from the usual indorsements, the following notation on the back of said patent appears: "Hold up, See index."

Exhibit No. 10.

Homestead Deed. Creek Indian Roll No. 7913.

The Muskogee (Creek) Nation.
Indian Territory.

To All Whom These Presents Shall Come—Greeting:

Whereas, by Act of Congress approved March 1, 1901 (31 Stats. 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, should be allotted among the citizens of said tribe by the United States Commission to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, the said Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of Thomas Atkins, a citizen of said tribe, as a homestead.

Now, Therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and authority vested in me by the aforesaid Act of Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz.; Lot Four (4) of Section Four (4), Township Eighteen (18) North and Range Seven (7) East of the Indian Base and Meridian, in Indian Territory, containing Forty-one & 16/100 (41.16) acres, more or less, as the case may be, according to the United States survey thereof, subject, however, to the conditions provided by said Act of Congress and which conditions are that said land shall be non-taxable and inalienable and free from any incumbrance whatever for twenty-one years; and subject, also, to the provisions of said Act of Congress relating to the use, devise and descent of said land after the death of the said Thomas Atkins; and subject also, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200).

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation, have hereunto set my hand and caused the great seal of said Nation to be affixed this 14th day of April, A. D. 1903.

P. Porter,
Principal Chief of the Muskogee (Creek) Nation.

Department of the Interior, L. R. S. Approved May 8, 1903. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk.

Filed for record on the 16th day of May, 1903, at 4 o'clock P. M. (Said patent is numbered No. 13662.)

Exhibit No. 11.

M. 388.

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Commissioners:
Tams Bixby,
Thomas B. Needles,
C. R. Breckenridge.

Wm. O. Beall, Secretary.

Refer in reply
to the following
* * * *
Cr. 1-2774

Address only the Commission to the Five Civilized Tribes.

Muskogee, Indian Territory, May 9, 1905.

E. B. Miller,
Chief Clerk Creek Land Office.

Dear Sir:

A question having arisen affecting the citizenship rights of Thomas Atkins (deceased), on Creek Indian card, field No. C-7913 2774, you are hereby directed to suspend action in the matter of issuing deeds to the heirs of said Thomas Atkins (deceased) until you are further advised.

Respectfully,

T. H. Needles,
Commissioner in Charge.

Deeds 13662-3.

M - 388

5/11/05

Exhibit No. 12.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Commissioners:
Tams Bixby,
Thomas B. Needles,
C. R. Breckenridge,

Wm. O. Beall, Secretary.

Refer reply to
the following.

Address Only the Commissioners to the Five Civilized Tribes.

Muskogee, Indian Territory, May 9, 1905.

Will Robison,
Muskogee, Indian Territory.

Dear Sir:

The Commission has been informed that you know the present address of one Minnie Atkins, whose testimony is desired in a matter pending before the Commission.

You are requested to inform the Commission as to the present address of said Minnie Atkins, if the same is known to you.

Respectfully,

T. H. Needles,
Commissioner in charge.

Don't Know.
W. R. Robison
9/10/1905.

Exhibit No. 13.

Cr. I-2774

Muskogee, Indian Territory, May 9, 1905.

Noah Gregory,
Sapulpa, Indian Territory.

Dear Sir:

The Commission has been informed that Thomas Atkins is dead.

The law provides that in case of a deceased citizen, the lands and moneys to which such citizen would be entitled, if living, shall descend to his heirs and be allotted and distributed accordingly.

It is desired that you cause the enclosed form of death affidavit to be filled out and properly executed by some person, near relative preferred, who knows the date of said Thomas Atkins' death, and return it to the Commission in the enclosed envelope.

Respectfully,

Commissioner in Charge.

Exhibit No. 14.

(See insert for copy of Exhibit No. 14.)

Exhibit No. 15.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

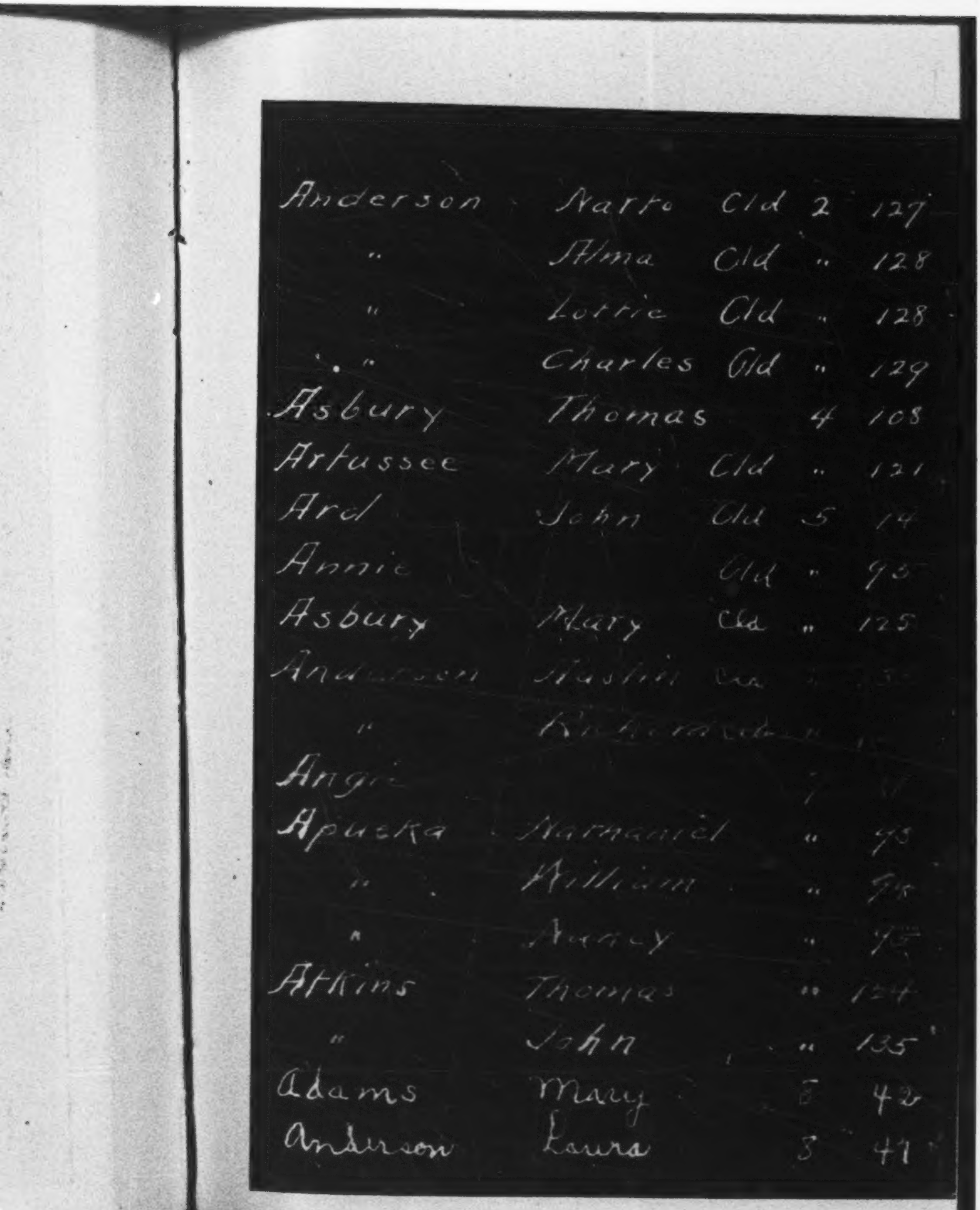
Commissioners:
Tams Bixby,
Thomas B. Needles,
C. R. Breckenridge.

Refer reply to
the following.
M.288

Wm. O. Beall, Secretary.

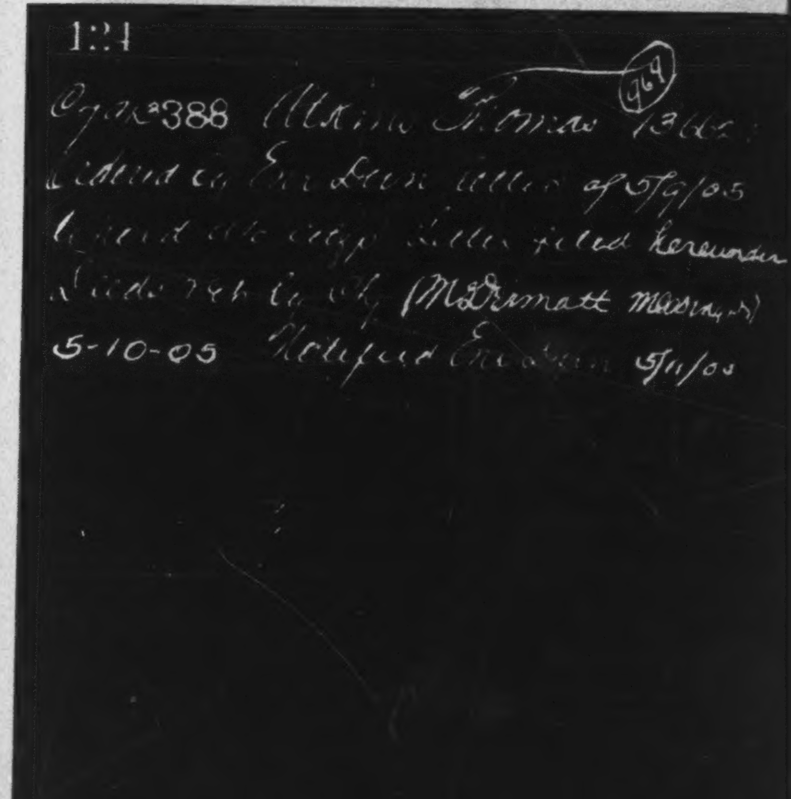
Address Only the Commission to the Five Civilized Tribes.

Atkins	Thomas	[illegible]	[illegible]	[illegible]
At	[illegible]	[illegible]	[illegible]	[illegible]
At	Norman	[illegible]	[illegible]	[illegible]
At	Alice	[illegible] Atkins Father	Sept 2 1903	[illegible]
At	Mary John	[illegible]	[illegible]	[illegible]
At	Nancy	[illegible]	Jan 28 1904	[illegible]
At	Robert	[illegible]	[illegible]	[illegible]
At	Thomas	[illegible]	Sept 1 1903	[illegible]
At	Polly	Ben Atkins [illegible]	Sept 15 1903	3540
At	Susan		" " "	3550
At	Mary		" " "	3551
At	David		" " "	3552
At	Annie		" " "	3553
At	[illegible]		" " "	3554
At	Elmira		" " "	3555
At	Jane		Sept 15 1903	3546
At	[illegible]	[illegible]	Dec 22 1903	5061
At	Anderson	[illegible] Atkins Father	" " "	5062
At	[illegible]	[illegible]	" " "	5064
At	Helen C	[illegible]	Oct 20 1904	9302
At	Charles	[illegible]	" " "	9303
At	[illegible]	Geo A Alexander	Mar 9 1904	6253
At	Louisa C	Robert [illegible] Atkins Father	Jany 24 1905	[illegible]
At	John H	101 Okmulgee I.T.	Aug 25 1904	8710
At	James A.	104 Okmulgee I.T.	Aug 20 1904	8702



Anderson	Narto	Cld	2	127
"	Alma	Cld	"	128
"	Lottie	Cld	"	128
"	Charles	Cld	"	129
Asbury	Thomas		4	108
Artussee	Mary	Cld	"	121
Ard	John	Cld	5	14
Annie		Cld	"	95
Asbury	Mary	Cld	"	125
Anderson	Austin	Cld	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
Angie			7	[illegible]
Apuska	Nathaniel		"	95
"	William		"	95
"	Nancy		"	95
Atkins	Thomas		"	134
"	John		"	135
Adams	Mary		8	42
Anderson	Laura		8	41

Exhibit No. 16.



124

Ozark 388 Atkins Thomas 1366 964

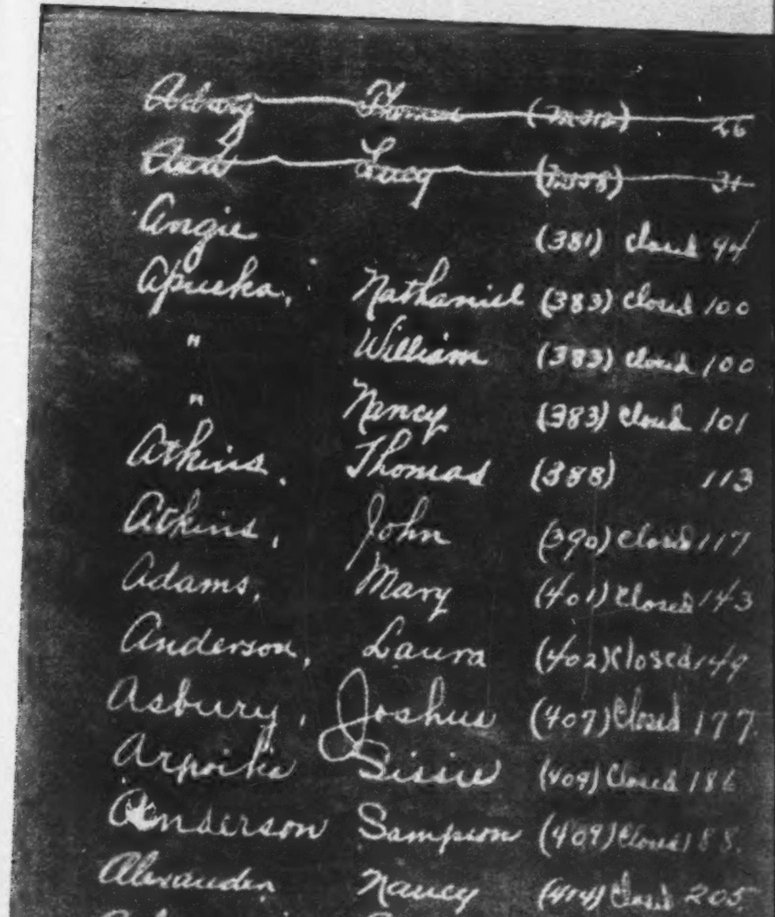
Listed by Eng Dean letter of 5/9/05

Signed the copy Letter filed hereunder

Deeds 786 by Chg (McDermott messenger)

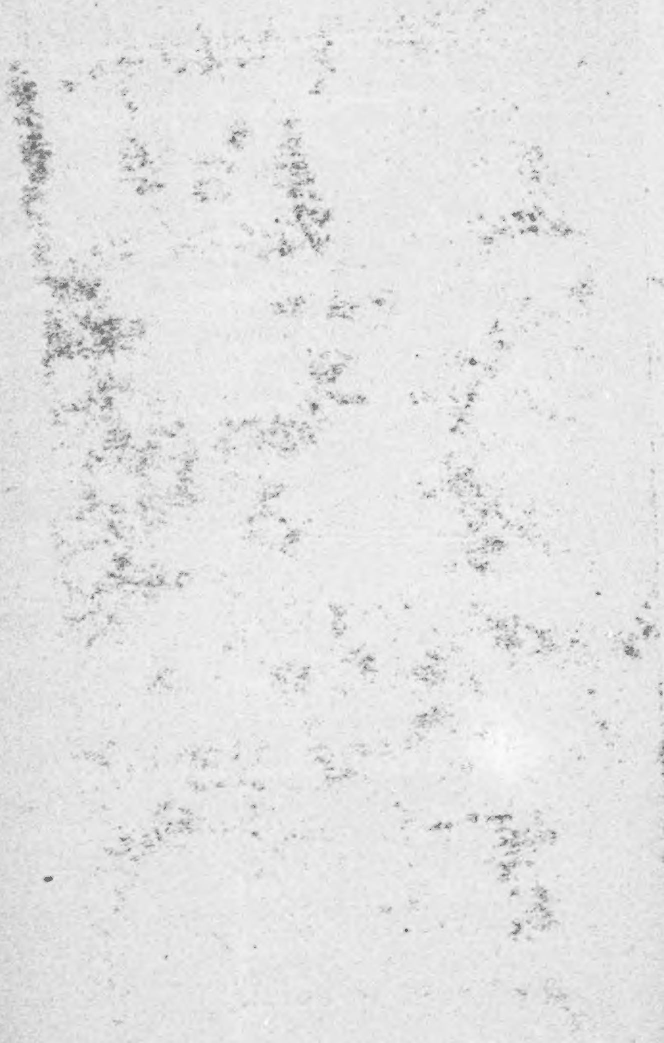
5-10-05 Notified Eng Dean 5/11/05

Exhibit No. 17.



~~[illegible]~~	~~Thomas~~	~~[illegible]~~		~~46~~
~~[illegible]~~	~~Lucy~~	~~[illegible]~~		~~34~~
Angie		(381)	closed	94
Apueka,	Nathaniel	(383)	closed	100
"	William	(383)	closed	100
"	Nancy	(383)	closed	101
Atkins.	Thomas	(388)		113
Atkins,	John	(390)	Closed	117
Adams,	Mary	(401)	Closed	143
Anderson,	Laura	(402)	Closed	149
Asbury,	Joshua	(407)	Closed	177
Arpeika	Sissie	(409)	Closed	186
Anderson	Sampson	(409)	Closed	188
Alexander	Nancy	(414)	Closed	205
Asbury.	Rosie	415	Closed	215
Anderson	Austin	447	Closed	222
"	Lucie	447	Closed	223
[illegible]	[illegible]			

Exhibit No. 18.



7-124

C.7913 388 Thomas Atkins 769 13662-3

"[illegible] by [illegible] [illegible] [illegible] [illegible] [illegible] of citizenship matter and [illegible] [illegible] [illegible] of Paul McDermott [illegible] [illegible] [illegible] Enr Div 5-11-05."

7-125

C.7205 388 Hyman Bruner 8418-19

Retd ^w Chief GOL 23966 of 5-10-05 reporting allottee deceased Deeds in delivery files closed,

Muskogee, Indian Territory, May 11, 1905.

H. G. Hains,

Chief Clerk Creek Enrollment Division,
General Office.

Dear Sir:

Your File Cr. 1. 2774. Deed covering the allotment to Thomas Atkins, Creek Indian Roll No. 7913 are held by the Creek Allotment Division pending further instructions. This office has no notification of the death of said Thomas Atkins.

Respectfully,

Tams Bixby, Chairman.

Exhibit No. 16.

(See insert for copy of Exhibit No. 16.

Exhibit No. 17.

(See insert for copy of Exhibit No. 17.)

Exhibit No. 18.

(See insert for copy of Exhibit No. 18.)

Exhibit No. 19.

(See insert for copy of Exhibit No. 19.)

Exhibit No. 20.

Copy.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

August 18, 1916.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom, and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4) Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,
(Signed) Bo Sweeney,
Assistant Secretary.

Endorsed: Filed Sep. 12, 1916. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 1st day of December, A. D. 1917, the court filed its opinion herein, which is in words and figures as follows:

Memorandum Opinion.

CAMPBELL, D. J.:

At an early stage in the taking of testimony in this case, after the plaintiff had produced the greater part of the evidence upon which it relied as to just what transpired before the Dawes Commission in May, 1901, at Okmulgee, when Thomas Atkins was listed for enrollment, and when it proposed to enter upon that branch of the case which involved the offering of proof in support of its contention that Thomas Atkins never had any existence, the objection was made by counsel for the defendants Atkins, Page and allied interests that such evidence was inadmissible as being immaterial to any proper issue in the case. It was then urged that the evidence already adduced by the plaintiff, so far from establishing the charge that the Dawes Commission had enrolled Thomas Atkins without having any evidence upon the question as to whether he was living April 1, 1899, on the contrary established that it had heard testimony upon this point. It was further urged in support of the objection that the Government's proof also showed that the hearing before the Dawes Commission as to the right of Thomas Atkins to be enrolled was not *ex parte* as contended by the Government, but that the Commission had acted as a quasi judicial body in listing for enrollment and enrolling Thomas Atkins as a member of the Creek Tribe, had heard evidence upon the things conditioning his right to enrollment, to-wit: as to his being a citizen by blood of the tribe, his residence with the tribe, and his having been living on April 1, 1899, and that his enrollment by the Commission and the issuance of patents pursuant thereto amounted to a judgment of that tribunal conclusively determining in his favor those several questions of fact as against any future collateral attack and against any direct proceeding to vacate or set aside such enrollment and patents except upon the grounds upon which the final judgment of a judicial or quasi-judicial tribunal may be attacked, that is, for such fraud or such mistake of law or fact as when established renders such judgment voidable. That the fraud charged against Minnie Atkins in relation to the procurement of the placing of the name of Thomas Atkins on the 1895 Creek Roll was not the character of fraudulent act for which the judgment of the Commission could be attacked, in that, if it was fraud, it involved a matter in issue before the Commission, and not an extrinsic or collateral matter. It was urged therefore that the question of the existence or non-existence of Thomas Atkins was necessarily involved in the question of his being alive or dead on April 1, 1899, and that question having been conclusively determined by the Commission could not be retried in this court. The matter was then orally argued quite fully and the court, largely on the authority of *Iowa Land and Trust Company v. United States*, (217 Federal Reporter, page 11), overruled the objection and permitted the plaintiff to offer proof as to whether Thomas Atkins ever existed, to which issue, as afterward developed, has been addressed the greater part of the testimony making up the enlarged record in this case. Just before the close of the taking of the testimony in the case, which consumed more than a month, the opinion of the Supreme Court of the United States in *United States v. Wildcat et al.*, commonly known as the "*Barney Thlocco*" case, was rendered, involving the question of the finality of the action of the Dawes Commission in enrolling Creek Citizens and the issuance of patents to them or in their names. In the light of this decision, counsel renewed their objections above referred to and the court decided to re-open this question of law and permit counsel to brief the same, and to further consider that question preliminary to the consideration of other features of the case. There was an effort on the part of the Government to secure a rehearing of the *Thlocco* case by the Supreme Court, but the court is now advised that this has been denied, so that the case stands as authority. Counsel for plaintiff in their brief say:

> "Even if we had proceeded with the trial of the case with the contention that the Commission acted arbitrarily, and without evidence as to the right of Thomas Atkins to be enrolled, we would now be foreclosed with respect to that contention, by reason of the decision in the *Barney Thlocco* case; but we were not unmindful of the view which this court took of the issue of fact raised in that case, and, in point of fact, we proceeded to try this case upon the following propositions, presented by our pleadings, namely:
>
> First. That the enrolled and allotted Thomas Atkins was, and is, a distinctly mythical person; consequently, that the Dawes Commission was without jurisdiction to enroll that name or allot lands to him, and the patents were, and are, utterly void. This proposition is presented in the amended bill of complaint as the third ground for the relief prayed for, and calls for no impeachment of the judgment of the Commission, save only insofar as proof of the utter non-existence of the enrollee and patentee operates absolutely to impeach and destroy that judgment and the resultant patents. (See paragraph VII of the amended bill of complaint.)
>
> Second. That the Commission, as a basis for the enrollment of the name of Thomas Atkins, used, as absolutely necessary, hence, necessarily material evidence upon the question of the citizenship of Thomas Atkins, the 1895 payroll containing his name, and that that payroll was false and fraudulent insofar as it contained that name; that the defendant, Minnie Atkins caused it to contain said name, well knowing that it had no rightful place thereon, and concealed the fact that it represented a mythical person; that her concealment of that fact has continued from that day to this, and she is now attempting to reap the benefits growing out of the Dawes Commission enrollment, which resulted from the *ex parte* proceeding wherein said false tribal roll was used as aforesaid. (See paragraph V of the amended bill of complaint.)"

In view of this admission and the evidence offered by the Government itself, we start with the established proposition that the Government has failed to discharge the burden which rested upon it to establish by the evidence that the Commission acted arbitrarily and without evidence as to the right of Thomas Atkins to be enrolled, which involved, as we have seen, the questions of his Creek blood, his residence in the tribe, and his having lived up to and including April 1, 1899. Therefore, unless the action of the Commission may be attacked in this proceeding on the theory that notwithstanding its findings Thomas Atkins was in fact a myth and never existed, and that Minnie Atkins in having him placed upon the 1895 Creek Roll as a person then in being, and permitting the Commission to consider said roll as evidence of his existence and Creek citizenship, without apprising the Commission of its falsity, practiced such fraud upon the Commission as renders its judgment voidable in this proceeding; or on the theory alone that Thomas Atkins was in fact a myth, and that therefore, notwithstanding its attempted action, the Commission was without jurisdiction to enroll his name or allot land in his name and that hence its action is a nullity, the title to the land still remaining in the Creek Nation and pretended patents being clouds thereon, the objection to the introduction of evidence was well taken and as a matter of law the plaintiff must fail in this case. Its right to make this proof the plaintiff bases upon these three propositions as appears from the brief.

I.

"The proceedings before the Commission were *ex parte.*

II.

"The particular charge of fraud in this case, if sustained, entitles the complainant to the relief prayed for.

III.

"A patent to a fictitious person is, in legal effect, no more than a declaration that the Government thereby conveys the title to no one, and the judgment on which it is based is a nullity for want of jurisdiction in the Dawes Commission to render it."

Were the proceedings before the Commission *ex parte?* That they were not it seems to me is now settled beyond controversy by the decision of the Supreme Court in the *Thlocco* case. That case also involved the enrollment of a deceased Creek citizen appearing upon the tribal roll, but unaccounted for at the time of enrollment. The question of his enrollment was before the Dawes Commission at the very time and under circumstances almost if not entirely identical with those of this case, and the proceedings of the Commission in relation to Thlocco's enrollment are strikingly similar to those here as appears from a comparison of the evidence in the two cases, in large part given by the same witnesses in both, members and employees of the Commission. In the *Thlocco* case, after reviewing the legislation vesting authority in the Dawes Commission, it was said:

> "The legislation which we have outlined indicates the purpose of Congress to make provision for the partition of the lands belonging to the Creek Nation among the members of the tribe, and to that end it authorized the Dawes Commission to make investigation and determine the names of such as were entitled to be on the rolls of citizenship and to participate in the division of the tribal lands. This purpose indicated in the Curtis Act of 1898 was emphasized by the so-called Creek Agreement of 1901, subsequently ratified by the tribe. In that Act the Commission was authorized to investigate the subject, and its action when approved by the Secretary of the Interior was declared to be final. There was thus constituted a quasi-judicial tribunal whose judgment within the limits of its jurisdiction were only subject to attack for fraud or such mistake of law or fact as would justify the holding that its judgments were voidable. Congress by this legislation evidenced an intention to put an end to controversy by providing a tribunal before which those interested could be heard and the rolls authoritatively made up of those who were entitled to participate in the partition of the tribal lands. It was to the interest of all concerned that the beneficiaries of this division should be ascertained. To this end the Commission was established and endowed with authority to hear and determine the matter.
>
> A correct conclusion was not necessary to the finality and binding character of its decisions. It may be that the Commission in acting upon the many cases before it made mistakes which are now impossible of correction. This might easily be so, for the Commission passed upon the rights of thousands claiming membership in the tribe and ascertained the rights of others who did not appear before it, upon the merits of whose standing the Commission had to pass with the best information which it could obtain.
>
> When the Commission proceeded in good faith to determine the matter and to act upon information before it, not arbitrarily, but according to its best judgment, we think it was the intention of the Act that the matter, upon the approval of the Secretary, should be finally concluded and the rights of the parties forever settled, subject to such attacks as could successfully be made upon judgments of this character for fraud or mistake. * * *

In the present case the Government had jurisdiction over these lands. It had the authority to partition them among the members of the tribe. *Shulthis* v. *McDougal,* 170 Fed. 529, 534; *McDougal* v. *McKay,* 237 U. S. 372, 383.

For this purpose it determined to divide the lands among those living on April 1, 1899, and constituted a tribunal to investigate the question of membership and consequent right to share in the division. We think the decision of such tribunal, when not impeached for fraud or mistake, conclusive of the question of membership in the tribe, when followed, as was the case here, by the action of the Interior Department confirming the allotment and ordering the patents conveying the lands, which were in fact issued. If decisions of this character may be subject to annulment in the manner in which the Government seeks to attack and set aside this one, many titles supposed to be secure would be divested many years after patents issued, upon showing that the decision was a mistaken one. The rule is that such decisions are presumably based upon proper showing, and that they must stand until overcome by full and convincing proof sufficient within the recognized principles of equity jurisdiction in cases of this character to invalidate them. *Maxwell Land-Grant Case,* 121 U. S. 325, 379, 381; *Colorado Coal Co.* v. *United States,* 123 U. S. 307."

In the *Iowa Land and Trust Company* case *supra,* which, as suggested, was the authority inclining this court to overrule the objections referred to at the trial and permit the proof on the question of Thomas Atkins being a myth, Judge CARLAND said:

"It is urged, also, in the present case, that the United States cannot cancel the patents in question because the fraud alleged was not extrinsic to the matter tried at the hearing before the Commission. To support this position the following cases are cited: *Hilton* v. *Guyot,* 159 U. S. 113, 16 Sup. Ct. 139, 40 L. ed. 95; *United States* v. *Throckmorton,* 98 U. S. 61, 65, 66, 25 L. ed. 93; *Vance* v. *Burbank,* 101 U. S. 514, 519, 25 L. ed. 929; *Steel* v. *St. Louis Smelt. & Ref. Co.,* 106 U. S. 447, 453, 1 Sup. Ct. 389, 27 L. ed. 226; *Moffatt* v. *United States,* 112 U. S. 23, 32, 5 Sup. Ct. 10, 28 L. ed. 623; *United States* v. *Minor,* 114 U. S. 233, 242, 5 Sup. Ct. 826, 29 L. ed. 110. But the Supreme Court has often held that the rule above announced is not applicable to *ex parte* proceedings in the United States Land Office, and that the finding of the land officers in such proceedings, although not open to collateral attack, is not con-

> clusive against the Government when it sues to cancel the resulting patent upon the ground that it was obtained by means of false and fraudulent proofs. *United States* v. *Minor,* 114 U. S. 233, 5 Sup. Ct. 826, 29 L. ed. 110; *McCaskill Co.* v. *United States,* 216 U. S. 504, 30 Sup. Ct. 386, 54 L. ed. 590; *Washington Securities Co.* v. *United States,* 234 U. S. 76, 34 Sup. Ct. 725, 58 L. ed. 1220."

In the case of the *United States* v. *Minor, supra,* cited by Judge CARLAND as authority for the holding that the action of the Dawes Commission in that case was *ex parte,* the Supreme Court said:

> "The learned judge whose opinion prevailed in the Circuit Court and is found in the record, has been misled by confounding the present case with that of *United States* v. *Throckmorton,* 98 U. S. 61, and *Vance* v. *Burbank,* 101 U. S. 514, and thus applying principles to this case which do not belong to it.
>
> In *Throckmorton's* case, it is true, a part of the relief sought was to set aside a patent for land issued by the United States. But the patent was issued on the confirmation of a Mexican grant after proceedings prescribed by the Act of Congress on that subject. These proceedings were judicial. They were commenced before a board of commissioners. There were pleadings and parties, and the claimant was plaintiff, and the United States was defendant. Both parties were represented by counsel, the United States having in all such cases her regular District Attorney to represent her. Witnesses were examined in the usual way, by depositions, subject to cross-examination, and not by *ex parte* affidavits. From this tribunal there was a right of appeal to the District Court, and from that court to the Supreme Court of the United States by either party. There was nothing wanting to make such a proceeding, in the highest sense, a judicial one, and to give to its final judgment or decree all the respect, the verity, the conclusiveness, which belong to such a final decree between the parties. The patent could only issue on this final decree of confirmation of the Spanish or Mexican grant, and was, in effect, but the execution of that decree. * * *
>
> It needs no other remarks than those we have already made, as to the nature of the proceeding before the land officers, to show how inappropriate this language is to such a proceeding. Here no one question was in issue. No issue at all was taken. No adversary proceeding was

> had. No contest was made. The officers, acting on such evidence as the claimant presented, were bound by it and by the law to issue a patent. They had no means of controverting its truth, and the Government had no attorney to inquire into it. Surely the doctrine applicable to the conclusive character of the solemn judgments of courts, with full jurisdiction over the parties, and the subject-matter, made after appearance, pleadings and contests by parties on both sides, cannot be properly applied to the proceedings in the land office in such cases.''

It is very clear that this case cannot be assimilated to the *Minor* case, *supra.* Here there were questions relating to the right of Thomas Atkins in issue—his Creek blood, his residence in the tribe and as to whether he was living on April 1, 1899. If in fact no adversary proceedings were had nor any contest made it was not for lack of opportunity given the Creek Tribe to contest. As appears from the testimony of plaintiff's witnesses the committee representing the Creek Tribe and the Creek attorney were in attendance and had an opportunity to question any one who gave the Commission information. Whenever the right of any person proposed for enrollment was questioned by either the Tribal Committee or attorney, then a record was made of the testimony and to that extent the hearing was more formal, no record being made where the right was not questioned, but in either case the Commission sought to secure and so far as the record shows did secure evidence outside the tribal rolls themselves as to the residence of each person enrolled and as to his being alive on April 1, 1899. The Dawes Commission was not bound by the evidence offered by any applicant for enrollment nor by the tribal rolls. It had means of controverting the truth of statements made by the applicant and was especially authorized and directed by law to purge the tribal rolls of all names placed thereon by fraud, which presupposed an investigation as to the right of any one appearing upon the tribal rolls to enrollment by the Commission, so that the tribal enrollment was not conclusive.

On the other hand, as stated in the *Thlocco* case, the matter in hand was the partition of the land belonging to the Creek Nation among the members of the tribe and to that end it authorized the Dawes Commission to make investigation and determine the names of such as were entitled to be on the rolls of citizenship and to participate in the division of the tribal land, and it was only after the Dawes Commission had determined formally the right of any person claiming citizenship, that he was entitled to an allotment and patent therefor, and the patent issued pursuant to such finding by the Dawes Commission, just as in the *Throckmorton* case the patent issued on the confirmation of the Mexican grant by the Board of Commissioners clothed by Congress with power to hear and determine the matter. As in that case, so here, the proceedings before the Dawes Commission were judicial rather than *ex parte.* As said by Judge SANBORN on the receivership phase of this case (233 Fed. Reporter 177), the patents to Thomas Atkins were adjudged valid, so far as related to defects at that time urged by the plaintiff, by the Dawes Commission:

> "A quasi-judicial tribunal, to which by the Creek Agreement the Congress and the Creek Tribe entrusted the power and upon which it imposed the duty to decide that question, a tribunal whose jurisdiction of that question and of every issue it was necessary for it to consider and determine in reaching its decision was conclusive upon all and impervious to collateral attack either by the Creek Nation, the United States, or any other party in interest."

Is the fraud charged in this case such as, when established, renders voidable the finding of the Dawes Commission as to the right of Thomas Atkins to enrollment as a Creek citizen? The charge is very tersely stated in that portion of plaintiff's brief above quoted, setting forth its second contention, that of the use of the 1895 payroll as material and necessary evidence as to the citizenship of Thomas Atkins, which roll was false insofar as it set forth his name as an existing member of the tribe when it was compiled; that defendant Minnie Atkins caused it to contain his name knowing him to be a myth and that the name had no rightful place on the tribal roll, but concealed that fact from the tribal authorities and later from the Dawes Commission and has since continued to conceal it and is now seeking to reap the benefit of such acts. The Circuit Court of Appeals for this circuit in the case of *United States v. Whitted et al.,* in an opinion filed July 30, 1917, holding a former decision of the officers of the land department as to the non-mineral character of certain lands in controversy conclusive of the issues presented and that the question could not be relitigated in that case, cited *Vance* v. *Burbank, supra,* saying:

> "In the case just cited the rule is stated thus: 'The appropriate officers of the Land Department have been constituted a special tribunal to decide such questions, and their decisions are final to the same extent that those of other judicial or quasi-judicial tribunals are.' In the same case the court further said: 'It has also been settled that the fraud in respect to which relief will be granted in this

class of cases must be such as has been practiced on the unsuccessful party, and prevented him from exhibiting his case fully to the department, so that it may properly be said that there has never been a decision in a real contest about the subject-matter of inquiry. False testimony or forged documents even are not enough, if the disputed matter has actually been presented to or considered by the appropriate tribunal. * * * The decision of the proper officers of the department is in the nature of a judicial determination of the matter in dispute'."

—*United States* v. *Throckmorton*, 98 U. S. 61;
Steel v. *Smelting Co.*, 106 U. S. 450;
United States v. *Primrose Coal Co.*, 216 Fed. 553.

Now we have seen that the three essentials to the right of Thomas Atkins to enrollment were his Creek blood, his residence in the tribe and his having been alive April 1, 1899. The record shows by testimony of plaintiff's witnesses that whatever may have been the practice of the Dawes Commission as to accepting the 1895 tribal roll as evidence of acknowledgment by the tribe of Creek blood, the matters of residence in the tribe and of being alive on April 1, 1899, were always the subject of evidence outside and independent of the tribal roll, and that on these questions the roll was never taken as conclusive. Nor under the law was the tribal roll conclusive as to the right of citizenship of Thomas Atkins when it was compiled, for we have seen that the Dawes Commission was authorized and directed to purge the rolls of any names placed thereon by fraud. Therefore, before the Dawes Commission, a tribunal (as Judge SANBORN has said in this case) entrusted with the power and upon which the duty was imposed to decide them conclusively, these several questions were presented for consideration. The Creek tribe was represented before that tribunal. Its tribal lands were being partitioned and the particular question was as to the right of Thomas Atkins to participate. As said by Judge SANBORN in this case, 233 Fed., pages 190-191, and 192:

> "And there is the fact that under the Creek Agreement the tribe had the right to appear before the Commission and by its agent and its attorney, who during all the enrollment proceedings was under retainer and salary to protect the rights of the tribe, and to prevent the enrollment by the Commission of Thomas Atkins if he was not entitled thereto, and the Creek Agreement that if this was not done, the roll should be final. * * *

> "The Creek Tribe made the Creek rolls of 1890 and 1895. By the Creek Agreement (31 Stats. 869) Section 28, which it made and ratified, the Creek Tribe contracted with the United States that the Dawes Commission should make the final roll of its citizens and allot them their lands and that it should base that enrollment upon the Creek tribal rolls of 1890 and 1895, and especially upon the latter. It had the opportunity and the privilege to correct and purge its rolls before that tribunal."

The Creek Tribe, notwithstanding the tribal roll, which only had the force of evidence in the case, might have defended against the enrollment of Thomas Atkins on the very grounds charged as constituting the fraud here. That it did not do so renders the decision of the Dawes Commission none the less conclusive as against it. *Res adjudicata.* 10 Enc. U. S. Sup. Court Reports, pages 761, 762, and cases cited. Therefore this is the class of case in which, as held in *Vance* v. *Burbank* and the *Throckmorton* cases, *supra,* the fraud charged must be such as has been practiced on the unsuccessful party and prevented him from exhibiting his case fully to the tribunal trying it, so that it may be properly said that there has never been a decision in a real controversy about the subject-matter of inquiry. False testimony or forged or fraudulent documents are not enough. There can be no contention that any act of the defendant Minnie Atkins charged or proven in this case had any such effect upon the hearing before the Dawes Commission, either as to the Creek Nation or the Commission itself. The enrollment must stand so far as the charge of fraud is concerned.

May the action of the Dawes Commission in enrolling Thomas Atkins and issuing patents to him be questioned in this case on the theory that he never had any existence and that therefore the title still remains in the Creek Tribe and the action of the Commission is a nullity for want of jurisdiction?

A case largely relied upon by the plaintiff in support of this contention is that of *Sampeyreac,* 7 Peters 222. For reasons pointed out by District Judge HOFFMAN in *United States* v. *Flint,* 25 Fed. Cases, pages 1118, 1119, the *Sampeyreac* case is not deemed decisive of this case. Judge HOFFMAN said:

> "Among the great number of claims to lands in the territories ceded to the United States by France and Spain, it is not to be supposed that many fraudulent titles may not have escaped the scrutiny of the tribunals appointed to determine their validity. It is a significant cir-

cumstance, that in no case, so far as the judicial history of the country informs us, has the United States, on discovering the fraud, attempted to cause the re-examination before the ordinary tribunals of a finally confirmed claim.

In the case of *Sampeyreac,* 7 Pet. (32 U. S.) 222, which is the only reported case where a re-examination was made, it was done by virtue of a special Act of Congress, which authorized the proceeding, not before the ordinary tribunals, but by bill of review in the special tribunal upon which the original jurisdiction over the cause had been conferred. Whether or not by virtue of that jurisdiction it might have entertained a bill of review to set aside its own decree, the Supreme Court does not decide. An Act of Congress seems to have been deemed necessary to confer the authority. But it is nowhere intimated that any court of equity powers, but upon which no authority to pass upon the validity of claims of that description had been conferred, could have entertained such a bill, or in any other form have re-examined the questions finally decided by the special tribunal.

The case was one of admitted forgery. But it was nevertheless contended by counsel, that the decree of the court being conclusive between the parties, congress had no power to authorize the review, or to disturb vested rights. The Supreme Court, without passing upon the general proposition, overruled the objection, on the ground that Sampeyreac was admitted to be a fictitious person and that, therefore, there had been no real parties before the court between whom the decrees could be conclusive.

The position taken by counsel in this case may, perhaps, be extreme and untenable. In deciding the case at bar, it is not necessary to assert that, where a fraudulent title has been confirmed, the United States is entirely without remedy, nor that the political department of the Government may not, if it sees fit, invest the courts with authority to re-examine the questions which, as the law now stands, remain finally decided in these cases. But, until Congress has so expressed its will and conferred the requisite authority, it may confidently be affirmed that the ordinary tribunals are without jurisdiction."

It is true that if it were conceded and not an issue in this case that the Thomas Atkins who appears upon the roll, never in fact existed, it would follow that the patents made in his name are nullities and did not divest the title from the Creek Tribe, for, of course there must exist in every grant, the subject of the grant, the grantor and the grantee. It is charged in this case that the grantee never existed, but far from being conceded, that charge is denied, and an issue is framed on that question. It is first involved, as we have seen, in the charge of fraud, but the fraud charged is not such as justifies this court in retrying the questions of fact conclusively determined by the Dawes Commission. Therefore, if this issue may be tried in this case it must be because it was not a necessary issue of fact before the Commission, or because, notwithstanding it may have been one of the questions of fact necessarily decided by the Commission, it is of such a nature as could not have been conclusively decided as against a retrial of the same issue between the same parties or their privies in this case. It was necessary that the Dawes Commission should find that the Thomas Atkins enrolled by it was alive April 1, 1899, before it could adjudge him entitled to enrollment, and that it did so find is conclusively presumed from the fact that it enrolled him. This finding is presumed to have been upon evidence until the contrary is clearly and convincingly established. Not only does the record fail to establish that such finding was without evidence, but on the contrary is strongly to the effect that there was such evidence. Of course a finding that he was living April 1, 1899, is a finding that he was not a fictitious or mythical being. Therefore, the question of the very existence of Thomas Atkins was necessarily considered and determined by the Commission. It is not perceived on what theory this necessary issue of fact, once determined by the Commission, is any less conclusively determined, than is the question of Creek blood or residence in the tribe. As said in the *Thlocco* case, a correct determination or conclusion was not necessary to the binding character of the decision, and even though now it should be most conclusively and convincingly shown that Thomas Atkins is a myth, it cannot avail the plaintiff, for that is not a question which this court can retry.

On that question the Creek Tribe has had its day in court and so far as it is concerned, that Thomas Atkins had existence and was alive on April 1, 1899, is conclusively determined.

RALPH E. CAMPBELL,
Judge.

December 1st, 1917.

Endorsed: Filed Dec. 1, 1917. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 13th day of May, A. D. 1918, the court filed its Supplemental Memorandum Opinion herein, which is in words and figures as follows:

Supplemental Memorandum Opinion and Findings.

Last December the court filed in this cause a memorandum opinion on the question initially submitted as to whether in view of the action of the Dawes Commission in enrolling Thomas Atkins, and in view of the evidence adduced as to the circumstances of his enrollment, the complainant, the United States, can now properly be heard on its contention that Thomas Atkins never in fact had any existence, and is purely a mythical personage. For reasons set forth in that opinion the court decided that the complainant was concluded by the action of the Dawes Commission enrolling Thomas Atkins.

But there still remained, as between the several interests represented by the defendants, the question as to which of them the evidence showed to be entitled to the property in controversy. These are divided into three groups,, viz: those claiming under the defendant Minnie Folk, nee Atkins; those claiming under the defendant Nancy Atkins; and those claiming under the defendant Henry Carter. Briefs have been submitted and the court has carefully read such of the record as consists of depositions not read at the trial and has also read and reconsidered much of the oral testimony now reduced to typewriting, which of course was heard at the trial. The questions as between the several defendants depend for solution largely upon a determination of facts which the evidence may be found to establish. In May, 1901, the Dawes Commission, for reasons disclosed by the record, had temporarily established its enrolling division for the Creek Nation at Okmulgee, Indian Territory, for the purpose of facilitating the completion of its enrollment of members of the Creek Tribe. The work of enrollment had been going on for some time and many persons had been enrolled or listed for enrollment upon application either in person or by some one authorized to act for them. But by reference to the tribal rolls which the Commission had before it, and especially the authenticated Creek payroll of 1895, it developed that many names of persons appeared thereon who had not applied for enrollment and in regard to whose right to enrollment the Commission had received no information, further than the fact of their being upon said tribal rolls. These were classed by the Commission as "unaccounted for," and, for reasons developed by the record, each such name was listed upon a census card, preliminary to inclusion later in a schedule of names of persons found entitled to enrollment, to be submitted to the Secretary of the Interior for approval, in case subsequent investigation should establish the right of such person to enrollment. Among these unaccounted for names was that of "Thos. Atkins," appearing on the 1895 authenticated roll as No. 213 Euchee Town, and this name was accordingly listed on a census card for further investigation. This card, as finally completed from such investigation as was made prior to his enrollment, contained the following data as to Thomas Atkins; that he was ten years of age; a male; of one-half Indian blood, enrolled on the 1895 approved tribal roll as No. 213, Euchee Town; his father a white man name apparently unknown, and his mother Minnie Atkins also appearing as a member of Euchee Town on the 1895 tribal roll. He was accordingly enrolled on the approved Dawes Commission roll as No. 7913, Thomas Atkins, age ten, sex male, of ½ Indian blood. Pursuant to this enrollment certificates of allotment were issued by the Commission covering the land in controversy, followed by patents therefor which have been duly recorded, the allotment having been arbitrary, that is by the Commission on its own motion without application or selection having been made by or for the allottee.

The question as between the Minnie and Nancy Atkins interests is as to whether this Thomas Atkins so enrolled is in fact a child of Minnie Atkins or a child of Nancy Atkins. It is strongly urged on the one hand by the Minnie Atkins interests that Nancy Atkins never had a son named Thomas, no, in fact any child except a girl born about 1890 or 1891 who died at or very shortly after birth. This was also the contention of the complainant. This is denied by the Nancy Atkins interests, they contending that Nancy's child was a boy, an illegitimate child named Thomas Atkins and that he lived until about the year 1900 or 1901 and is in fact the person who appears on the 1895 authenticated roll as No. 213 of Euchee Town. It is further contended by the Nancy Atkins interests that Minnie Atkins never had a child named Thomas Atkins, and they join the complainant in the contention that the Thomas Atkins claimed by Minnie is purely a myth. Of course if the evidence should be found to establish the contention that the Thomas Atkins claimed by Minnie never in fact had any existence, and it further appeared that Nancy did in fact have the child she claims to have had, the fact that Minnie had no such child might lead very strongly to the conclusion that the Thomas Atkins enrolled was Nancy's child. Hence the evidence has been carefully considered on the question as to whether or not Minnie Atkins in fact had this child Thomas as she claims. This question is greatly obscured in this voluminous record by much evidence on both sides which the court finds unworthy of belief. The time and space will not be taken to refer to or analyze it in detail. But after a most careful consideration of all the evidence the court finds that Minnie Atkins had an illegitimate male child born to her during the early part of June, 1895, at the home of a colored woman known as Granny Letcher, in the City of Leavenworth, Kansas, and that she named this child Thomas Atkins.

The court further finds that prior to the compilation of the tribal roll now known as the 1895 authenticated tribal roll of the Creek Tribe of Indians, Minnie Atkins had conveyed information to certain of her relatives in Indian Territory of the fact of the birth of Thomas Atkins, which information was eventually imparted to the tribal authorities compiling the roll, and that the name Thomas Atkins appearing as No. 253 of Euchee Town on the 1895 authenticated tribal roll was placed upon said roll by the tribal authorities compiling the roll as the child of the defendant Minnie Atkins pursuant to such information. The court finds that this Thomas Atkins appearing on the 1895 authenticated tribal roll, and later on the Dawes Commission roll, is in fact the illegitimate child of said Minnie Atkins, born as aforesaid in the City of Leavenworth, Kansas, in the early part of June, 1895, and is not the child of Nancy Atkins.

Much of the record consists of testimony on the question of fact as to whether Nancy Atkins ever had a son Thomas, as she now claims, and this question also is obscured by much testimony on both sides not considered worthy of belief. Grave doubt is cast upon Nancy's contention by her own conduct during the period when the Dawes Commission was enrolling the members of the tribe and allotting the land, when it is considered that she manifested a lively interest in her own enrollment and allotment and that of her brother Lee, who had died, as she knew, in 1894 or 1895, but in this correspondence with the Commission makes no reference to her supposed son Thomas, who, if her present contention be true, had lived until after April 1st, 1899, was clearly entitled to enrollment, and whose death was almost contemporaneous with her correspondence with the Commission. But in view of the foregoing finding as to the identity of Thomas Atkins on the roll with defendant Minnie Atkins' son Thomas, it becomes immaterial as to whether in fact Nancy Atkins also had a son Thomas.

The claim of defendant Henry Carter that he is identical with and in fact is the said Thomas Atkins, the said son of Minnie Atkins referred to in a foregoing finding, has been carefully considered. The court finds that the evidence does not support this contention. The court finds that the defendant Henry Carter is a man some five years older than he would be were he in fact identical with the said Thomas Atkins son of the said Minnie Atkins. The court finds that defendant

Henry Carter is in fact the illegitimate son of Adis Wright, formerly Adis Carter, daughter of Henry, deceased, by whom (the said Henry Carter, deceased) the defendant Henry Carter was raised from early infancy.

It follows that the defendant Minnie Atkins, and those claiming under her, must prevail, and appropriate decree accordingly may be prepared by counsel and presented for signing and entry. Before making final directions as to the apportionment or taxing of the costs in this case, the court desires to hear counsel orally as to their respective contentions as to the matter, at Muskogee on Monday, May 27th next, at ten o'clock, A. M.

RALPH E. CAMPBELL,
Judge.

Endorsed: Filed May 13, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 29th day of May, A. D. 1918, the same being one of the days of a Special Session of the United States District Court for the Eastern District of Oklahoma, held at Muskogee, Oklahoma, court met pursuant to adjournment. Present and presiding the Honorable RALPH E. CAMPBELL, Judge.

Among the proceedings had on this day is the following:

Decree.

This cause came on further to be heard on the amended bill of complaint of the complainant, filed September 17, 1915, the separate answers of the defendants Thomas Atkins and J. Truman Nixon, filed October 11, 1915, the separate answer of Charles Page, filed October 14, 1915, the separate answer of Minnie Folk (nee Atkins), Harry B. Folk and Edward C. Hanford, filed December 23, 1915, the separate answer and cross-complaint of Nancy Atkins, filed December 29 ,1915, the separate answer of Robert L. Rutherford and James A. Ferguson, filed December 29, 1915, the separate answer of Henry Carter, claiming to be Thomas Atkins, filed December 30, 1915, the separate answer of Charles Page to the cross-bill of complaint of Nancy Atkins filed August 11, 1916, and the separate answer of Minnie Folk (nee Atkins), Harry B. Folk and Edward C. Hanford to the cross-bill of complaint of Nancy Atkins filed August 11, 1916.

And it being proven to the satisfaction of the court that the defendants, Charles Harrison, Thomas Harris, Kahookah Harris, Martin Rowe, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, H. E. Whitehead, T. S. Hurst, F. F. Betzler, R. A. Josey, have heretofore been served with proper summons to answer or plead to the bill of complaint filed herein, and the said defendants Charles Harrison, Thomas Harris, Kahookah Harris, Martin Rowe, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, having failed to answer or plead to the bill of complaint herein are judged by the court to be in default and take nothing by this action:

And the defendants Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, H. U. Bartlett, H. E. Whitehead, F. F. Betzler, T. S. Hurst, R. A. Josey, having heretofore answered disclaiming any right, title or interest in and to the property in controversy in this action, it is adjudged by the court that they take nothing by this action:

And thereupon witnesses and evidence were introduced on behalf of the complainant, and the defendants, and the taking of testimony and the reception of evidence was continued from day to day in open court, and all parties having announced, they rested, the cause was taken under advisement by the court.

The court, in accordance with the memorandum opinion filed in this cause on the 3rd day of December, 1917, relative to the objection of counsel for the defendants made in the course of the trial of this action and renewed at the conclusion of the introduction of evidence herein, to the effect that evidence offered by the complainant in support of its allegation that Thomas Atkins was and is a mythical person is incompetent, irrelevant and immaterial, finds said objection well taken, and finds that as between the complainant and the defendants, the complainant is precluded by the judgment of the Dawes Commission from a retrial of the question as to the existence or non-existence of Thomas Atkins, to which the complainant excepts and its exception is allowed.

And after due consideration of the testimony of the witnesses presented in open court, the depositions of witnesses offered and read into the record and the exhibits and evidence admitted on behalf of both the complainant and the defendants, and briefs filed by the various defendants, on the questions of law and fact presented in the trial of the cause:

The court finds that the land in controversy was allotted and patented to Thomas Atkins, Creek Indian, Roll No. 7913, as his distributive share of the lands of the Creek Nation and that the patents from the Creek Nation to Thomas Atkins conveying

> The Southwest quarter (SW4) of the Northeast quarter (NE4) and Lot Two (2) of Section Five (5), and the Southwest quarter (SW4) of the Northwest quarter (NW4) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian,

should not be cancelled as prayed in complainant's bill, but are adjudged and decreed to be valid, subsisting conveyances of this land from the Creek Nation and the United States to Thomas Atkins, his heirs, and the persons claiming by, through or under him; to which finding the complainant and the defendants Nancy Atkins, and J. A. Ferguson except, and their exceptions are allowed.

The court finds further that the Dawes Commission in enrolling Thomas Atkins as aforesaid, did not act arbitrarily, and without evidence; but had before it substantial evidence as to the right of Thomas Atkins to enrollment and as to his being the son of Minnie Atkins; to which finding the complainant and the defendants, J. A. Ferguson and Nancy Atkins except, and their exceptions are allowed.

The court further finds that the Thomas Atkins enrolled as No. 7913 on the final roll of Creek Indians, is the son of the defendant, Minnie Folk (nee Atkins); to which finding the complainant and the defendants Nancy Atkins, and J. A. Ferguson except, and their exceptions are allowed.

The court further finds that the Thomas Atkins appearing on the 1895 authenticated tribal roll, and later on the roll of Creek Indians, as compiled by the Commission to the Five Civilized Tribes opposite No. 7913, and approved by the Secretary of the Interior, is, in fact, the illegitimate child of the said Minnie Folk (nee Atkins), to which finding the complainant and the defendants, Nancy Atkins and J. A. Ferguson except, and their exceptions are allowed. The court further finds that said Thomas Atkins is not the son of Nancy Atkins, to which finding the defendants Nancy Atkins and J. A. Ferguson except and their exceptions are allowed.

The court further finds that the defendant Henry Carter is not the son of the defendant, Minnie Folk (nee Atkins), as claimed by said defendant, Carter, to which finding the defendant Carter excepts and his exception is allowed.

The court further finds as a matter of law and fact that Thomas Atkins, the illegitimate son of the defendant, Minnie Folk (nee Atkins), and to whom the land in controversy was allotted, has departed this life, without issue; to which finding the complainant and the defendants Nancy Atkins, Henry Carter and J. A. Ferguson except, and their exceptions are allowed.

The court further finds that Minnie Folk (nee Atkins) is, under the law and facts disclosed by the record in this case, the sole heir at law of Thomas Atkins, her son, aforesaid, to whom patents to the land in controversy were issued, and that the said Minnie Folk (nee Atkins), as such sole heir, inherits the property of the said Thomas Atkins now in controversy; to which finding the complainant and the defendants

Nancy Atkins, Henry Carter and J. A. Ferguson except, and their exceptions are allowed.

It Is Therefore Ordered, Adjudged and Decreed, That the defendant Minnie Folk (nee Atkins) be, and she is hereby declared to be the owner of and entitled to the possession of

> The Southwest quarter (SW4) of the Northeast quarter (NE4) and Lot Two (2) of Section Five (5) and the Southwest quarter (SW4) of the Northwest quarter (NW4) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian;

as against all defendants and complainants herein, subject only to the right, title and interest of the defendants, Page and Hanford, claiming by, through or under her, and that the complainant take nothing by virtue of this action and the bill of complaint filed herein be dismissed; to which the complainant excepts and its exception is allowed.

It is further ordered and decreed that the defendant Henry Carter, take nothing by this suit, to which the defendant, Henry Carter, excepts and his exception is allowed.

It is further ordered, adjudged and decreed that the defendant Nancy Atkins take nothing by reason of her cross-complaint filed herein and that the same be dismissed; to which the defendants, Nancy Atkins and J. A. Ferguson except, and their exceptions are allowed.

The court further decrees that the interest and title of Minnie Folk (nee Atkins) and the said Charles Page and Edward C. Hanford, in the property in controversy, are forever quieted as against the complainant and all the other defendants in this case, and all those claiming under them; to which the complainant and the defendants Nancy Atkins and J. A. Ferguson and Henry Carter except and their exceptions are allowed, in open court, and in the presence of counsel of record of all the defendants and intervenors, the complainant and the defendants, Nancy Atkins, Henry Carter and J. A. Ferguson, give notice of appeal.

It is further ordered that each of the respective parties herein pay the costs incurred in this cause by him.

Done in open court, this the 29th day of May, 1918.

RALPH E. CAMPBELL,
Judge of the United States District Court
for the Eastern District of Oklahoma.

Endorsed: Filed May 29, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Statement of the Evidence.

BE IT REMEMBERED, that on this the 30th day of April, 1917, the above entitled and numbered cause came on to be heard for final trial before the Honorable RALPH E. CAMPBELL, District Judge, presiding; and thereupon there appeared on behalf of the United States, D. H. Linebaugh, Esq., and W. P. Z. German, Esq., Special Assistants to the Attorney General, W. P. McGinnis, Esq., United States Attorney, Paul Pinson, Esq., Special Assistant to the United States Attorney, and R. C. Allen, Esq., Creek National Attorney; and on behalf of the various defendants, Judge C. B. Stuart, A. C. Cruce, Esq., E. C. Hanford, Esq., Judge Joseph M. Hill, Judge Malcolm E. Rosser, B. B. Blakeney, Esq., E. S. Cobb, Esq., and T. W. Bell, Esq.

And thereupon the following proceedings were had, to-wit:

Afternoon session.

And thereupon, RICHARD SHANEFELT, produced, sworn, and examined as a witness for and on behalf of the Government, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Richard Shanefelt.
Q. What age are you, Mr. Shanefelt? A. Thirty-eight.
Q. You live at Muskogee? A. I do.
Q. What connection have you with the office of the Superintendent for the Five Civilized Tribes?
A. Clerk in the Land Division of that office.
Q. Is that the office and the Land Division, the depart-

ment where are kept all of the records relating to the enrollment and allotment of citizens of the Creek Nation? A. It is.

Q. Mr. Shanefelt, I wish you would listen to the—to the description of these exhibits which I am going to offer in evidence as they are offered.

Mr. German: Your Honor, at the taking of the depositions, we introduced a large number of exhibits, and to avoid confusion the new exhibits will need to begin with the number following the last number there.

The Court: Can't you give them a number now for the record? Did you use numerals before?

Mr. German: Yes, sir. We might use letters now. Judge Allen calls my attention to the fact that we have more exhibits than there are letters in the alphabet, and suggests that we commence with the old numbers.

The Court: Well, call this Exhibit A-1, A-2 and A-3.

Mr. German: As Exhibit A1, we offer certified copy of the census card of Thomas Atkins.

The Court: A certified copy of the census card of Thomas Atkins is offered. It may be admitted.

Mr. Cruce: If Your Honor please, we have intended to ask the rules in this case.

The Court: The witnesses in this case may come to the bar of the Court. All of the witnesses in the Court room may come to the bar of the Court. Come forward, all who are witnesses in this case.

Mr. German: Your Honor, may I suggest that counsel don't mean that to include Mr. Lieber and Mr. Hastings, the Dawes Commission clerks.

The Court: Not to apply to them?

Mr. Cruce: No, sir.

The Court: Are these all the witnesses that are in the Court room? You who are called as witnesses in this case will be required to stay out of the room, the Court room except when giving your testimony; you are not to talk to anyone about what your testimony has been or will be while on the witness stand. Provide a room for the witnesses outside. You may retire. You will remain in the witness room until you are excused.

Mr. Stuart: Your Honor, Mr. Montgomery is an attorney, we exclude him from the rule.

The Court: Mr. Montgomery is excluded from the rule. You may proceed, gentlemen.

Q. Mr. Shanefelt, this census card has on it down at the bottom right hand corner the date, May 23, 1901. Right above that appears the words "Date of application for enrollment." I will ask you to state if you know approximately when those words which I quoted were placed on that census card?

A. The stamp bearing the words "Date of application for enrollment," as near as I can remember, was put on approximately three years ago; that was an explanatory note or stamp placed on there for the purpose of explaining what that date was.

Q. That was true of all census cards in the office of the Commission?

A. Of all where that was considered the date of application. In some instances that date does not represent the date of application; the census card shows where that is not in such a case.

Mr. German: I call Your Honor's attention to the fact that it refers to the 1895 roll No. 213 on that roll. We now offer in evidence a certified copy of the 1895 Creek Pay Roll of Euchee Town, covering Nos. 205 to 233 included, as Exhibit A-2.

The Court: Let it be examined. A good deal of time would be saved if these exhibits could be examined by counsel during the recess I think probably. See if you can't do that, gentlemen, to a greater or less extent to save time. Only those which are objected to them will necessarily be considered.

Mr. Rosser: I am just examining these for curiosity. I have no objection.

The Court: Well, it may be admitted then.

Mr. German: We offer as Exhibit A-3, a certified copy of the letter of the Commission, dated March 1, 1902, to the Secretary of the Interior, transmitting the schedule or roll made by the Dawes Commission, in so far as it shows the name of Thomas Atkins, opposite No. 7913.

The Court: It may be admitted. I will assume, unless you gentlemen announce an objection, that there is no objection to these certified copies of the Commission's papers.

Mr. German: As Government's Exhibit A-4, we offer a certified copy of the final roll in so far as it relates to Thomas Atkins opposite No. 7913.

The Court: Admitted.

Mr. German: As Exhibit A-5, we offer a certified copy of a Creek Citizenship Certificate, issued for Thomas Atkins, enrolled opposite No. 7913. I will ask the witness a question about this one.

Q. Mr. Shanefelt, what use was made of such a certificate as that in the office of the Commission?

A. It was issued from the Citizenship Division and sent to the Allotment Division, for the purpose of showing that the party had been identified on the approved roll, or rather to identify the person to whom the allotment was made. It was virtually made up from the census card.

Mr. German: I suppose that may be admitted.

The Court: It is admitted.

Mr. German: We offer a certified copy of the resolution of the Commission, dated May 24, 1902, relating to the making of allotment by the Commission, persons who did not come in and make application for allotment.

Mr. Hanford: Objected to as immaterial.

The Court: Overruled. It may be admitted.

Mr. German: We offer as Government's Exhibit A-7 certified copy of a plat, designating the land arbitrarily allotted to Thomas Atkins.

Mr. Hanford: The witness testified that that was arbitrarily allotted?

Mr. German: No.

Mr. Hanford: Objected to on the ground——

The Court: The Court will not take statement of counsel as to it being arbitrarily allotted as part of the testimony in this case. It is merely admitted as a plat of the land which was allotted in this person's name.

Mr. Hanford: I just thought Mr. German might qualify his statement.

Mr. German: I was merely reading from the certificate of Mr. Parker.

We now offer as Government's A-8, a copy of the designation of this land in allotment to Thomas Atkins by Tams Bixby, acting Chairman, pursuant to the resolution of May 24, 1902. That is the selection of the land in allotment made by Mr. Bixby for the Commission. In other words, this is the arbitrary selection as we contend.

Q. Shanefelt, is there any record in the files of the Commission, showing the selection of this land for Thomas Atkins other than this Exhibit A-8, which I have just identified?

A. There is not in the form of an application.

Q. I don't understand the meaning?

A. Well, we have record books, tract books, to show the allotment of lands, description of lands, but in the form of an application, that is the only one.

Q. These lands were arbitrarily allotted? A. Yes, sir.

> Mr. German: I now offer in evidence, as Government's Exhibit A-9, the certificate of selection issued by the Commission to Thomas Atkins, relating to the selection of this land in allotment for him.
>
> The Court: It may be admitted.
>
> Mr. German: And in that connection, as Exhibit A-10, the stub of the certificate just referred to.

Q. Mr. Shanefelt, in issuing those certificates, was there a stub kept with reference to each one?

A. In each instance, yes, sir.

Q. Was there any book kept by the Commission relating to the delivery of allotment certificates or certificates of selection? A. Yes, sir.

> Mr. German: I neglected to state to Your Honor that the allotment was made June 30, 1902.

Q. Mr. Shanefelt, what kind of a record was that? I mean in what sort of book or pamphlet, or what?

A. It was in book form, what was termed the mailing book of allotment certificate.

> Mr. German: We offer now in evidence, Government's Exhibit A-11, being a certified copy of page 193 of the mailing book of Creek Allotment certificate. I call Your Honor's attention to the fact that this shows —contains the name Thomas Atkins, Muskogee, and gives the certificate number which corresponds with the certificate number, with the number on the certificate and has this entry: "Mailed"—— Well, that isn't clear; I had better have the witness explain that.

Q. Mr. Shanefelt, here are the figures 5-8-0-3 opposite the name of Thomas Atkins, what does that mean?

A. That would indicate the date that allotment certificate was mailed out. The date of mailing the certificate.

> Mr. German: Now, I call Your Honor's attention to the fact that the entry there is "Returned by postmaster," right over those figures that I had the witness testify about.
>
> The Court: Addressed Thomas Atkins, Muskogee?

Mr. German: Yes, sir.

Q. Mr. Shanefelt, there appears to the right of the certificate number on this exhibit, the number being 6983, the letter H. What does that letter stand for?

A. That would stand for "Hold." That was the letter used for that word.

The Court: Let's see. What was it that was sent out now, the allotment certificate?

Mr. German: Yes, sir.

The Court: That is the book recording the mailing out of allotment certificates?

Mr. German: Yes, sir. Shows that it was returned and then has the letter "H."

Mr. Hanford: We wish to object and strike from the testimony what we meant by the letter "H." Object to the certificate as to that part.

The Court: Overruled.

Q. Mr. Shanefelt, where is the original allotment certificate, or I should say Certificate of Selection?

A. I have it with me.

Q. You have it with you. Produce it please. I*f* that it?

A. That is it, yes, sir.

Mr. German: I would like to have this marked as Government's Exhibit A-12.

Q. Where did you get this certificate, which is Government's Exhibit A-12, Mr. Shanefelt, certificate of selection?

A. Got it from a clerk in charge of the land office, Judge Angel.

Q. When? A. Today.

Q. Had you seen it in the office of the Superintendent before that? A. Yes, sir.

Q. About when?

A. About two months ago as near as I can remember.

Q. Where?

A. In the land division, in the allotment jacket.

Q. Of whom? A. Thomas Atkins.

Q. Thomas Atkins. How did it get there?

A. Placed in there, I couldn't say.

Q. Why wasn't it delivered, what was it doing there?

A. Well, it wasn't delivered and some *employ* of the office evidently had placed it in the allotment jacket. A great many certificates in these are filed.

Q. Is there any record in the office showing that this certificate was ever delivered? A. There was not.

Mr. German: We now offer this exhibit.

Mr. Hanford: Object to the question and move to strike the answer, if the Court please, on the ground it is immaterial as to delivery.

The Court: Overruled.

Q. Where are the patents that were issued?

The Court: What is offered now as the original allotment certificate to Thomas Atkins—what counsel states to be the original certificate is now offered. I take it there is no objections to that?

Mr. Hanford: No, Your Honor please, we object to the evidence showing that it was not delivered, on the ground that delivery is immaterial.

The Court: Then, this certificate may be admitted as the allotment certificate. There is no objection to that.

Q. Where are the patents, if you know, Mr. Shanefelt?
A. I have the original patent right here.
Q. In your hand? A. Yes, sir.
Q. Let's have them identified, please. Where did you get these patents, Mr. Shanefelt?
A. From the same source I did the allotment certificate.
Q. Also from Judge Angel today? A. Yes, sir.
Q. Had you seen them before? A. I had.
Q. Where? A. In the undelivered deed file.
Q. Is there any record showing these deeds wherever delivered?
A. Not in the office of the Superintendent of the Five Civilized Tribes.
Q. Yes, sir?
A. The Creek Chief's office had the delivery at one time of the patents to the Creek Nation, and then later they were all returned to the Dawes Commission or Superintendent to the Five Civilized Tribes, and that office continued the delivery.
Q. Now, what office was it continued the delivery?
A. The Superintendent to the Five Civilized Tribes.
Q. So, there was a time when the Creek Chief made delivery of the patents? A. Yes, sir.
Q. Do you know about when that was discontinued?
A. I am not sure, but I think about 1910 or 1911.

Mr. German: We offer in evidence the Homestead Deed, which is Government's Exhibit A-13, and *dated* 13662, from the Muskogee Nation to Thomas Atkins.

The Court: It may be admitted.

Mr. German: And the allotment deed, or deed to the surplus allotment, which is Government's Exhibit A-14, which is numbered 13663, from the Muskogee Nation to Thomas Atkins.

The Court: It may be admitted.

Mr. Cobb: Do those deeds show to have been recorded?

Mr. German: Yes, sir. Your Honor, those are the original deeds, and after we are through with them we would ask leave to withdraw them, that is after the trial.

The Court: After the trial is finished, no doubt such of the originals as should be kept on file with the Commission may be withdrawn, except as to such as it is deemed should remain in the files, and any withdrawal will be substituted by copies. I will take care of that after the case is completed here.

Q. Mr. Shanefelt, on the back of the allotment deed, which is Deed No. 13663, right under the name Thomas Atkins appear the words "Hold up, see index." Do you know when those words were put there?

Mr. Hanford: I object to that as immaterial.

A. No, sir.

The Court: He says he doesn't know.

Q. I will ask you whether or not they were there the first time you ever saw these patents? A. Yes, sir.

Mr. German: We offer in evidence a certified copy of what is known as page 16—of what is known as the index and record book of the delivery of deeds for lands allotted in Muskogee (Creek) Nation, as Government's Exhibit A-15.

Mr. Hanford: We object on the ground that the question of delivery is immaterial; and therefore, the record is immaterial that delivery was not essential, and not necessary to establish the question of title.

The Court: The authenticity of this, or the fact that such records were made by the Commission is not questioned I take it; just the materiality.

Mr. Hanford: Yes, sir, and the witness is testifying evidently——

The Court: It may be admitted, your exception will be noted.

Mr. German: Now, Your Honor, I would like to read the entry appearing on there with reference to Thomas Atkins' patents.

Mr. Hanford: We object to that on the same ground.

The Court: You may read that part of the instrument.

Mr. German: (Reading from exhibit:) Name, Atkins, Thomas. Deceased C I—— Those words are apparently inserted after this record was originally made. No. 7913, Homestead Deed No. 13662. Acreage——I don't know what that column is——Volume C, page 160. Underneath that is allotment deed No. 13663, recorded in Volume C, pages 160 and 161. To whom deed was delivered, and running across the column made for date of delivery and remarks, appear these words: "Hold for investigation, said to have died in 1878, is relative of Chaney Trent. Reported by Judge J. R. Thomas. Return to (Initials) D. Tom, 5-10-05. Investigation to rights for enrollment pending."

Mr. Hanford: Mr. German, may I ask you what the purpose of that evidence, that exhibit?

Mr. German: Well, it has two purposes; one is to show that the deed never was delivered. That being competent evidence relating to our contention that Thomas Atkins was a mythical person. No person claiming the patent. Another proposition is that the patents were ordered held up in the year 1905. This question, Your Honor, is the question we had in the Thlocco case, in so far as this evidence relates to the question as to whether or not Thomas Atkins existed. I think it would be clearly competent evidence in this case, being a circumstance in other words. I don't know whether Your Honor will receive it for the other purpose, we expect to follow this proof with the evidence that the Commission ordered it held up, and that they made some sort of an investigation in 1905, but found nothing; and that the matter remained in that status past 1906, and continued to remain in that status until last year, when the matter of the right of Thomas Atkins to enrollment—and incidentally to the right to the issuance of this patent—was taken up by the Secretary of the Interior, presuming the proceedings started in 1905, to question the right to enrollment; and that notice was issued to all those claiming this land; served on them in 1916, and that a hearing was conducted by the Secretary of the Interior, resulting——

The Court: Well, it is probably a little premature now. I have admitted this record now for the purpose of showing the data entered by the Commission at the time of the issuance of this patent. As to whether the data just read there will be competent on that other line, which you say you have evidence to address later, I will determine at the time.

Mr. Hanford: If the Court please, on that point, there remains the rule which has been firmly established and universally adhered to, established by the Thornton case, and adhered to by long lines of decisions since that. That the judgment of a special tribunal which had power to determine cannot be impeached on account of false or fraudulent document. If the Dawes Commission can be impeached, its judgment can be impeached.

The Court: Well, I think I have determined that question on your demurrer heretofore. I may be wrong. You have your exception on that.

Mr. Hanford: Then there is the other proposition that fraud, in order to impeach the judgment of the Dawes Commission, must be fraud which was perpetrated upon the Commission itself and in the proceeding which the Dawes Commission considered, anterior to that judgment.

The Court: I have considered those matters in your demurrer heretofore. It has been overruled and your exceptions have been taken.

Mr. Hanford: I wish to be heard further on that.

The Court: All right.

Mr. German: May I understand the Court, we differ on one proposition. Does Your Honor rule that before we can introduce evidence in support of our contention, that we must make proof that the tribal roll was fraudulently made and was used by the Commission?

The Court: That is a point of that allegation that he was a myth and never existed.

Mr. German: Well, we have a third and independent allegation.

The Court: How is that established by the evidence that you are now offering.

Mr. German: I agree with Your Honor that this doesn't especially bear upon it. I was trying to get at Your Honor's ruling with a view of proceeding accordingly. As I understand it, Your Honor's view and your holding that before we can introduce evidence directly upon the question as to whether Atkins existed, we must support our charge that Minnie Atkins placed his name upon the Tribal Roll, or was responsible for it, and that that tribal roll was used by the Dawes Commission.

The Court: No, I don't hold that, because I judge that any evidence which is competent to establish your contention that he never had any existence——

Mr. German: Is admissible?

The Court: Is admissible in connection with the other evidence that that being true, he was placed upon the roll by Minnie Atkins, and the roll used accordingly. Of course the very foundation of the thing must be the establishment of the fact that he never had any existence, because if he ever had any existence, then there is positive evidence of his death.

Mr. German: Now, Your Honor, in view of your inquiry as to whether the evidence which we now offer bears upon that question, the last exhibit which we offered was the index record in the office of the Creek Chief relating to the delivery of the deed. Now, I take it Your Honor will admit evidence of the fact that the deed wasn't delivered has been established.

The Court: That is already established.

Mr. German: Now, I don't believe Your Honor has ruled on the objection to the introduction of a copy of the Creek Deed delivery book. That has been admitted, yes.

The Court: That was admitted. It will stand subject to counsel's objection, but that line of testimony will not be proceeded with further on the point of the nonexistence of Atkins.

Mr. German: Then, may I make a little record; we have some further evidence along that line.

Mr. Allen: May I say, Your Honor, in connection with this record, it seems to me that upon the question of whether or not the Dawes Commission had any information before it, when it enrolled Tommy Atkins, that it is competent to receive the document now being offered. We expect to show by this witness——

The Court: I have ruled on that. I don't care to hear you any further on that.

Mr. Allen: Upon the other question, the Supreme Court of the District of Columbia did not hold that the Secretary of the Interior cannot cancel this enrollment, but did deny that relief and the Secretary proceeded to cancel the enrollment.

Mr. Stuart: But it distinctly said that it couldn't cancel the patent, Your Honor.

The Court: I have nothing before me from that Court except as you gentlemen remember it.

Mr. Stuart: Your Honor knows, as a matter of history, that he was enjoined.

The Court: You may make your profert and get it in the record.

Mr. German: We offer as Government's Exhibit A-16, a letter, dated May 11, 1905, to H. G. Hains, Chief Clerk in the enrollment division of the Creek Nation, and signed by the Chairman of the Commission, advising that the deeds to this allotment of Thomas Atkins were held up pending further instructions. I will just offer all of these, Your Honor, and then one objection can refer to them all.

Then as Exhibit A-17, a certified copy of one page of the index book to the M. Journal, showing the name of Thomas Atkins, and referring to page 113 in said M. Journal.

Then a certified copy of, as Government's Exhibit A-18, page 113 of M. Journal, which is a record to the effect that the patents to Thomas Atkins, giving their numbers, have been ordered by the enrollment division on May 9, 1905, to be held account of his citizenship.

Then, as Government's Exhibit A-19, we offer a certified copy of one page of the index to Special Creek Memorandum Book. This shows the name of Thomas Atkins and refers to page 124 of said book.

Then, a certified copy, as Government's Exhibit A-20, of page 124 of the Special Creek Memorandum book, which shows that these patents were ordered held on account of the citizenship of Thomas Atkins.

Then a certified copy of a letter, dated May 9, 1905, addressed by the Commissioner in charge to Will Robinson, Muskogee, Oklahoma, making inquiry as to the address of Minnie Atkins, whose testimony is desired, and giving the census card number of Thomas Atkins up in the corner of the letter.

A letter, dated May 9, 1905, from the Commission to Noah Gregory, requesting him to furnish a proof of death of Thomas Atkins, giving his census card No. 2774, stating that advice had been received that he is dead.

A letter dated May 9, 1905, as Government's Exhibit A-23, from the Commissioner in charge to E. B. Miller, advising that a question has arisen affecting the citizenship of Thomas Atkins and directing a suspension of the issuance of deeds to his heirs.

All of these exhibits coming from the office of the Commission, the Dawes Commission.

Q. Mr. Shanefelt, in connection with the offer of these exhibits, I will ask you whether the records in the office show any response to the letter addressed to Noah Gregory?

Mr. Hanford: Objected to as immaterial.

The Court: Sustained.

Mr. German: We offer to show in this connection by the witness that the records in the office of the Commission fail to show a response to said letter.

Q. In connection with the offer of Exhibit A-21, which is the letter to Will Robinson, we offer his answer there to, which is written at the bottom of the letter in these words "Don't know," signed W. R. Robinson.

Mr. Hanford: Is that all the offer?

Mr. German: No, sir, we are not quite through. As Government's Exhibit A-24, we offer in evidence a certified copy of a communication to the Commissioner of Indian Affairs, dated August 4, 1916, from R. C. Allen. Creek National Attorney, requesting that the matter of the alleged citizenship rights of Thomas Atkins, as commenced in 1905, be resumed. And as a part thereof, Judge Allen's supplemental communication dated October 23, 1916, on the subject, setting forth the reasons why the name should be cancelled from the roll.

As Government's Exhibit A-25, we offer in evidence a certified copy of a communication dated August 12, 1916, addressed to the Commissioner of Indian Affairs, signed by Gabe E. Parker, Superintendent of the Five Civilized Tribes, relating to the matter of the proceedings pending before the Secretary of the Interior for determination of the citizenship rights of Thomas Atkins.

As Government's Exhibit A-26, we offer in evidence a certified copy of the notices issued to all the defendants in this lawsuit, and all other persons who have come forth asserting any claim of right, title, or interest in the land in controversy, advising them that the Secretary would conduct a hearing on a certain date in the case involving the right of citizenship of Tommy Atkins. Furthermore, said exhibit contains the order setting said case for hearing before him in Washington, D. C., and continuing the hearing from time to time. And we offer in this connection to prove actual service of all such notice by registered mail.

As Government's Exhibit A-27, we offer in evidence the determination of the Secretary of the Interior, dated April 28, 1917, cancelling the enrollment of the name of Thomas Atkins on the final roll of Creek Citizen, and directing that a notice be entered.

The Court: Does that cover all the offers in that connection?

Mr. German: Yes, sir.

The Court: I understand the same objection is offered as to all of them. Objection sustained and exception noted.

Q. Now, Mr. Shanefelt, have you the original 1895 authenticated pay roll with you? A. Yes, sir.

Mr. German: Your Honor, for the inspection of the Court, we would like to offer that in evidence. We have offered a certified copy.

Q. You can leave that with us, pending the trial?

The Court: Yes, the Court will be responsible for it. The original of the tribal roll is offered, a copy of which has already been offered. It may be admitted.

Mr. Allen: Your Honor, this roll is in constant daily use. I was wondering if Your Honor wouldn't allow it to be returned.

The Court: Is there any feature of it you want to call to the attention of the Court and counsel?

Mr. German: No, sir, we offered it because Mr. Shanefelt was on the stand.

The Court: Well, if it is offered and becomes a part of the record it will have to stay here.

Mr. German: Then I will withdraw it.

Q. Mr. Shanefelt, are there any other records or files in the office of the Commission relating to the name of Thomas Atkins, who was enrolled opposite No. 7913?

A. Further than these you have offered here?

Q. Yes, sir? A. Yes, sir.

Q. What are they?

A. We have a census roll prepared by the Town King of Euchee Town.

Q. What year?

A. The year 1895, which was submitted for the use of the Creek National Counsel, or their census committee.

Q. Is this a copy of the document you refer to, or one of these? A. This is it right here.

> Mr. German: We offer this in evidence as Government's Exhibit A-28. It will be shown in this connection that in making the 1895 pay roll, there were two or three rolls made before they finally got to the drafting of the pay roll itself, the roll which they used in making the pay roll, and this is one of those. It will be connected up with the 1895 pay roll.
>
> The Court: All right.

Q. Now, what else, if anything?

A. The authenticated roll as evidently made up by the Creek Census Committee or Creek National Counsel in 1895.

Q. Is that it? A. Yes, sir.

> The Court: Where does that authenticated roll differ from the 1895 roll which has already been offered?
>
> Mr. German: Well, there are slight differences, Your Honor. In other words, Government's Exhibit A-28 and the one the witness is now talking about are two of the rolls. Upon inspection you will observe *that* were evidently used by the Creek Nation as they were making their 1895 pay roll. I am not offering these for any other purpose except that. I think the law requires of the Government in this case the production of everything which may be in the office of the Commission, at least prior to the patent, which may relate in any way to the name of Thomas Atkins. And we expect to follow this with the evidence of witnesses as to how this 1895 roll was made up, and that these rolls evidently, obviously, will be material in the case.
>
> The Court: All right, proceed.
>
> Mr. Hanford: Your Honor, we object to the evidence showing that they were rolls used before the Commission.
>
> Mr. German: If there is objection we don't offer them.
>
> The Court: All right.

Q. Now, there was an 1890 roll wasn't there, Mr. Shanefelt? A. Yes, sir.

> Mr. German: We offer as evidence, Government's Exhibit A-29, a certified copy of the 1890 authenticated Creek Roll.
>
> The Court: It will be admitted.

Q. That roll, Mr. Shanefelt, has been in the possession of the Commission? A. Yes, sir.

Q. That 1890 roll is in typewritten form? A. Yes, sir.

Q. The one which has been in the possession of the Commission? A. Yes, sir.

Q. And this Exhibit A-29 is merely a copy of the page of that roll which contains the name of Minnie Atkins, and purports to contain the names of others by the name of Atkins. Now, in what way did the Commission—I will ask that of Mr. Hopkins. Are there any other records in the office of the Commission relating to Thomas Atkins?

A. There are two copies of the 1890 census roll, and then there is another copy of the tribal roll dated 1896, prepared by a committee of whom—I have forgotten the initials—Colbert was chairman, 1896 Roll. Colbert 1896 Roll.

Q. Now, are there any others?

A. One other. It is evidently a copy of the 1895 census roll in book form. Long narrow record in book form.

Q. Now, are there any others?

A. I can't think of any others.

Q. Is there any memorandum or record in connection with the enrollment by the Commission of the name Thomas Atkins showing that they received this evidence in the matter of his enrollment?

A. There is none that we have been able to find.

Q. Have you made any search? A. I have.

> The Court: With reference to this original 1895 roll, a page of which you offered a little while ago, it might be well to read the record of that that is material and counsel may examine it as to points you desire to call the Court's attention to, and then it may be taken by the Commissioner, and as the case proceeds it may be later brought in.
>
> Mr. German: Yes, sir.

Q. Mr. Shanefelt, on the 1890 roll, opposite the name Mamie Atkins, beneath whose name appears the name Nancy Atkins and appears the word in parenthesis "two children," and right above those two words appear the words "Tommy" and "Mary." Are the names Tommy and Mary as entered there enrolled on that roll or not? A. I would say no.

Q. Was the census card made up in 1901, and which has been introduced here, the census card of Thomas Atkins, does it identify or refer to his name upon any tribal roll?

A. Yes, sir.

Q. Which one? A. The 1895.

Q. Do the census cards refer to more than one tribal roll when the Commission has found the name upon more than one tribal roll?

A. As a rule it does. It was the custom.

Q. Yes, sir? A. Where they had been identified.

Q. Is there any such thing in the files of the Commission as old census cards, documents called old census cards?

A. Yes, sir.

Q. What are they?

A. We have two kinds of old census cards or census cards under field numbers. There is a card similar to the approved card upon which Thomas Atkins is enrolled. Then we have an old Creek Card as we term it, in the form of a yellow, short card upon which names were enrolled. Later that enrollment was dropped.

Q. Did you make any search to see whether there was any old field card or old Creek Card, as I understand it to be called, old census card of Thomas Atkins? A. I have.

Q. Was there any such?

A. I couldn't find any record of his name being enrolled upon such.

Mr. Cruce: If the Court please, we move to exclude from the jury now a statement of this witness, we haven't *see* the——

The Court: You mean exclude from the record?

Mr. Cruce: Yes, sir, the statement of this certified copy, Government's Exhibit A-29, does not show the enrollment of Tommy and Mary Atkins.

The Court: He stated that as a matter of his judgment.

Mr. Cruce: Yes, sir, it is not competent.

The Court: It may be stricken from the record as a conclusion of the witness, and not to be considered by the Court.

Mr. German: We except.

The Court: Exception noted. The record may show, if you desire to do so, that the original roll is admitted and I will make the examination of it, to which you wanted to call my attention now, if you care to do so.

Mr. German: Yes, Your Honor, we would like to do that, but before doing that, I would like to ask this witness a question which I overlooked.

Q. Mr. Shanefelt, with reference to the names on the 1890 roll, Exhibit A-29, how can one determine from looking at that roll whether a name appearing on it is an enrolled citizen or one whose name is enrolled as a citizen of the tribe in 1890 if you know?

Mr. Hanford: We object as incompetent testimony and calls necessarily for a conclusion of the witness. This is not a roll made by the Dawes Commission but by the tribe.

The Court: That is the 1895 roll of the tribe?

Mr. German: Purports to be, yes, sir.

The Court: Let me see the exhibit. Now, your question was with relation to what, the names of Thomas and Mary?

Mr. German: Yes, sir.

The Court: Two children?

Mr. German: Yes, sir. Now, Your Honor understands that the contention is that Thomas Atkins was enrolled on the 1890 roll, and that it was used with considerable force, as Your Honor will recall, before the Circuit Court of Appeals, as evidence of the existence of Thomas Atkins; consequently, there is a question here whether that name was enrolled on that roll.

The Court: He may answer.

Mr. Hanford: Note our exception.

A. On the authenticated Creek Tribal Roll in each instance I have had occasion to examine, they are arranged in family groups and as such are given numbers one, two, three and running to the end of the family, both the 1893 and 1895 rolls, those names which are enrolled there are given numbers.

Mr. German: That is all.

The Court: Now, did you desire to call my attention to any feature of that original 1895 roll?

Mr. German: Yes, sir.

The Court: The copy of which has been admitted.

Mr. Hanford: I withdraw my objections to those two exhibits if you want to offer them while he is on the stand.

Mr. German: They are now offered—A-27 and A-30.

The Court: They may be admitted. Any cross-examination of this witness at this time?

Cross Examination by Mr. Hanford.

Q. How long have you held your present position in the office of the Superintendent of the Five Civilized Tribes?

A. In what capacity? In the employment of the——

Q. I understand you are in the Creek land department?

A. Yes, sir.

Q. How long have you been in that department?

A. Been in the Creek office—I think I was assigned to that in 1908.

Q. And you have been there ever since? A. Yes, sir.

Q. Were you employed by the Dawes Commission at the time that it was in session? A. While it was in session?

Q. Yes. A. Yes, sir.

Q. In what capacity? A. As clerk.

Q. Clerk in which department?

A. Well, part of the time I was in the Choctaw Land Office at Atoka; it was finally entitled then, I think, the Commission to the Five Civilized Tribes.

Q. At what time did you become connected with the Commission? A. In—I think it was December of 1903.

Q. December of 1903? A. Yes, sir.

Q. Then you have no personal knowledge yourself as to the matters relating to the enrollment of Thomas Atkins about which you have testified?

A. Other than what I ascertained through examination and search of the record and hearsay.

Q. And anything that you attempt to testify to is what is shown by the records?

A. And what is considered as common knowledge of the office and what I have been told by parties who have had close connections with it; who were connected with it.

Q. And you include in your testimony what you have been told by others and what are matters of just current knowledge?

A. Not current knowledge; office knowledge which I have been told by the officers in charge was true.

Q. For instance, you testified that there was no record in the office of the Superintendent of the Five Civilized Tribes showing any application was made for the enrollment of Thomas Atkins; you have no personal knowledge as to whether or not any application was made, have you?

A. I stated that could [] be found—further than shown by the records.

Q. That is all?

A. Yes, sir. I have a very good knowledge of the office records.

Q. You identified a Creek—a mailing record—a Creek mailing book showing the mailing of the allotment certificate?

A. Yes, sir.

Q. And I believe that you testified that showed that the allotment certificate was in fact mailed on a certain date which was shown by the numerals on it? A. Yes, sir.

Q. And you testified that there was no record in the office of the Five Civilized Tribes showing the delivery of this allotment certificate or these patents to any one? A. Yes, sir.

Q. And stated that that record was to be found in the office of the Creek National Attorney?

A. The mailing book of Creek deeds?

Q. No, not the mailing book; the delivery book?

A. Well, the delivery book of Creek deeds only?

Q. Yes. A. Yes, sir.

Q. And do you know what that record shows?

A. Only from an examination.

Q. Do you know that in the office to the Superintendent to the Five Civilized Tribes appears a letter from R. C. Allen, Creek National Attorney, dated October 17th, 1914, to the Commissioner of Indian Affairs at Washington, D. C., stating that he had recently made delivery of an allotment certificate and patent to Thomas Atkins?

A. No, sir, I don't know of that.

Q. You have not found that record?

A. I have heard there was such a copy of a letter there but it is not an office record—regular office mailing record.

Cross Examination by Mr. Maxey.

Q. You stated that the allotment certificate and the allotment deeds were found in the files of the office in the undelivered certificates and deeds, I believe?

A. I stated the deeds were found in the undelivered deed file; that is the way I put it.

Q. Are those the only deeds that have never been delivered? A. They are not.

Q. Approximately how many are there that never were delivered?

A. I don't believe I could give you accurate estimate, or a good estimate.

Q. As many as a hundred? A. More than that, I expect.

Q. Five hundred?

A. I expect there is two hundred and fifty deeds.

Q. Is that the only allotment certificate that you found was never delivered? A. It was not.

Q. How many allotment certificates do you find were not delivered? A. Possibly four hundred.

Q. Four hundred?

A. Three to four hundred—just estimating.

Recross Examination by Mr. Hanford.

Q. You testified that the deeds to Thomas Atkins and the allotment certificate were found by you in the—for the first time in the office of the Superintendent, or were seen by you for the office of the Superintendent, about two months ago?

A. I beg pardon, I didn't——

Q. Do you mean to say that those deeds appeared there for the first time about two months ago?

A. You evidently misunderstood my answer to any question because I never made any such statement.

Q. What was your testimony in that regard?

A. I was asked when I saw them and I remember of having seen them and guessed the date to have been about that time. I said I had seen them there. The question was, I think, when was the last time I had seen them.

Q. Prior to this time?

A. Prior to this time, yes, sir. I didn't say that I—I never said that I was the first one to find those deeds in the record.

Q. You didn't intend to testify to your own personal knowledge that those deeds had reposed in that office all the time that they were issued until the present time?

A. I mean to state by my answer that those deeds when attention was first called to them, were found in the files of the undelivered deed files.

Q. And do you know whether those deeds have been there all the time from the time that they were issued until the present time? A. No one could testify to that.

Q. They might have been?

A. The supposition is that they were.

Q. They might have been out and might have been returned?

A. If so, there should have been a receipt on file. It is the custom of the office to take a receipt for any record that goes out of the Land Office.

Q. But it is possible for them to have been out?

A. Possible for anybody to have a latch key, or a proper key, and take any record, yes, sir.

Cross Examination by Mr. Cobb.

Q. You testified as to a certain notation on some of the records, the letter "H" on some of the records which indicated to hold the patent, or hold up the delivery of it. Do you know where these notations were made on the Dawes Commission records?

A. I can cite you to several cases. The Land Office had what they called "hold" files—"H" files—indicated on the record the letter "H", as to whether they were held.

Q. You misunderstood my question. I asked you if you knew when that notation was made in this particular case?

A. No, sir, I can't say other than what the record shows.

Q. Where?

A. I can't state other than what the record shows.

Q. Do you know in whose handwriting this notation was in? A. Those "H's"?

Q. Yes. A. They are printed; I can't tell you.

Q. Printed? A. Yes, sir, printed.

Q. Typewritten?

A. No, sir, with ink and pencil—hard to identify.

Q. In this 1895 original Dawes roll, there is a notation "error of 1" in red ink? A. The 1895 pay roll?

Q. Pay roll, yes, sir. Now, do you know when that notation was made? A. I can't tell you.

Q. I wish you would examine the handwriting there and see if you know the handwriting.

A. I do not; I have already examined it.

Q. Examined it and don't know the handwriting?

A. Yes, sir.

Redirect Examination by Mr. German.

Q. Mr. Shann*a*felt, judging from—taking the practice of the Dawes Commission under consideration, or rather what was the practice of the Commission relating to making records to holding up patents? A. What was the practice?

Q. Yes, sir, when a patent was ordered held up, what was the practice? How did the Commission proceed?

A. Well, they had a record book in which they noted the proceeding had in the case and indexes to those.

Q. Was any established system in reference to making the record relating to the holding up of the patent?

Mr. Hanford: Objected to; I believe he said that he was not there at the time.

The Court: Yes, he testified, if I remember his testimony, that he was in this Creek division since 1908?

A. Yes, sir.

The Court: And these matters in which you are interrogating him about were something about—in any event, must have taken place before that?

Mr. German: In connection with this examination of this witness, we desire now, to reoffer exhibits relating to holding up of these patents. The letters and book entries relating to holding up of these patents, for the reason, Your Honor, the additional reason, it relates to a question as to whether the patents have been in the office of the Commission since 1905 when they were ordered held up. That additional purpose, not waiving the other ground.

The Court: The same ruling. The objection to the exhibits is sustained and exceptions noted.

Q. Mr. Shan*na*felt, Mr. Hanford asked you about a letter dated October, 1914, purporting to have been written by Judge Allen, Creek National Attorney. He suggested this might be in the office of the Commission. I will ask you if it is in—if that letter does not state specifically this——

The Court: Now, if the letter is at all material here, the original or copy of it would be, I think, the best evidence. Let's not take up time.

Q. Will you get the copy?
A. I don't know which you refer to.
Q. Tomorrow, and bring it in? A. Yes, sir.

And thereupon Court recesses until 9:30 o'clock A. M.

And thereafter, at 9:30 o'clock, May 1, 1917, court having convened pursuant to adjournment, further proceedings herein are had as follows:

J. L. BRUFF, being called on behalf the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. Mr. Bruff, what are your initials? A. J. L.
Q. What official position if any, do you hold?
A. I am special agent of the Department of Justice.
Q. As special agent of the Department of Justice, have you had anything to do with working in this case that is now on trial? A. Yes, sir.

Q. The allotment deed and homestead deed which were introduced in evidence yesterday, have you seen them before?

A. Yes, sir.

Q. When was the first time you saw them?

A. It was early in July of last year.

Q. Where?

A. In the Land Office of the Superintendent of the Five Civilized Tribes.

Q. Here at Muskogee? A. Yes, sir.

Q. In this building on the fourth floor? A. Yes, sir.

Q. How did you happen to see them there on that occasion?

A. Well, after I was assigned to the case along in July I made a search of every record that I could find in the office of the Superintendent to see what——

> The Court: Now, is this along the line of evidence that was excluded yesterday?
>
> Mr. German: No, Your Honor; this is accounting for the patents. This relates simply to the subject of the non-delivery of the patents; that is all it relates to.
>
> The Court: Well, that was involved in the matters ruled on yesterday.
>
> Mr. German: No, I was not leading up to any matters excluded by Your Honor yesterday.
>
> The Court: It is deemed by you that this evidence tends to prove the non-existence of Atkins?
>
> Mr. German: A circumstance. The fact that the patents were not delivered is a circumstance. Counsel passed some reflection yesterday, on the evidence given by Mr. Shan*na*felt.
>
> The Court: Well, I will not interfere; I wanted to know where it was drifting.

Q. Where did you find those patents?

A. I found them in the Land Office in the allotment jacket of Nancy Atkins.

Q. What did you do with them, then? Call Mr. Shan*na*felt, or any person's attention to them in the office?

A. Yes, sir, Mr. Shan*na*felt was right behind me when I found them and I called his attention to them.

Q. Do you know where he put them?

A. I think he put them back in the Tommy Atkins file; I am not certain of that, though.

Q. They were in the Nancy Atkins file? A. Yes, sir.

Q. That is where you found them? A. Yes, sir.

Q. Do you remember the words "hold up, see index" on one of those? A. Yes, sir.

Mr. Stuart: Oh, we object to that, Your Honor. It is not the best evidence.

The Court: He just asked if he remembered those. The question of whether or not they were on this instrument. Of course the instrument is the best evidence.

Mr. German: Now, I want to ask a question, relating to a question, Your Honor excluded, simply to make the record.

The Court: Alright.

Q. Mr. Bruff, did those words "hold up, see index" lead to the finding of any other records in the office? A. They did.

Q. What records?

A. They lead to my finding of the record of the non-delivery of the deed; the record of it in the delivery book of the Principal Chief.

Q. Then, were those so-called hold-up records which were offered in evidence yesterday discovered in connection with that matter?

A. Yes, sir. After the finding of that record, I found those other records pertaining to the same matter.

Q. How were those patents folded? That is, were they folded together, or were they folded separately?

A. They were separate.

Q. Separate?

A. No, I beg your pardon. One was in the other; folded together.

Q. One was in the other? A. Yes, sir.

Q. Which was on the outside? The one having this pencil endorsement on it or the other? A. I don't recall.

Cross Examination by Mr. Stuart.

Q. When you first saw these papers, Mr. Bruff, those deeds was not there, were they?

A. That was the first general search I had ever made of those records.

Q. Did you not look in the Atkins papers before this and didn't you fail to find those deeds?

A. I didn't make a general search of all the Atkins files.

Q. Did you make any search?

A. Yes, sir; I searched all the jackets and those pertaining to the records of Tommy Atkins.

Q. And you did not find the deeds? A. No, sir.

Q. How long was it after that before you found these deeds? A. Well, I first made a search——

Q. You are not answering my question now?

A. Well, it was probably five or six weeks.

Redirect Examination by Mr. German.

Q. Had you searched in the Nancy Atkins files for them?

A. No, sir.

Witness dismissed.

And thereupon RICHARD SHANEFELT was recalled for further examination and testified as follows:

Redirect Examination by Mr. German.

Q. Mr. Shanefelt, yesterday evening Mr. Hanford asked you about a letter in the office—copy of a letter in the office of the Commission, dated October 17, 1914, from Judge Allen to the Commissioner of Indian Affairs, Judge Allen being the National Attorney for the Creek Nation. I will ask you to state whether this is a copy of the letter which you refer to?

A. In the testimony of yesterday, I will state I did not remember of having seen this, but having made a further search I located it. I found it in the files.

Q. This is the letter? A. Yes, sir.

Q. You hold it in your hands? A. Yes, sir.

Q. I will ask you to state when you made the suggestion to Mr. Hanford that there was a letter there containing some such statements as this: "I recently delivered the patent"; I will ask you to state if this is not the letter, and if the statement is not as follows: "The deed executed by Chief of the Tribe, Porter, Principal Chief of the Creek Nation, conveying this land was issued to Thomas Atkins on the 14th of April, and delivered only recently"?

A. I think it was Mr. Hanford made the statement, was it not, asked me if there was not a letter there, and I stated I did not know of it.

Q. I understood your to say it was?

A. I believe I said I did not know.

Mr. German: I believe that is all.

The Court: Any questions? Stand aside.

(Witness dismissed.)

R. C. ALLEN, called and sworn as a witness on behalf of the Government, testified as follows:

Direct Examination by Mr. German.

Q. Judge Allen, your initials are R. C.? A. Yes, sir.

Q. You are the Creek National Attorney, or the National Attorney for the Creek Nation? A. Yes, sir.

Q. You held that position in October, 1914?

A. Yes, sir.

Q. Did you have occasion to communicate with the Commissioner of Indian Affairs in that month, with relation to this, Atkins, allotment? A. Yes, sir.

Q. State whether or not that was your first communication with him on the subject? A. It was.

Q. Is this letter which Mr. Shanefelt has just testified about, is that the letter that you refer to? A. Yes, sir.

Q. The communication you referred to?

A. A carbon copy of my letter.

Q. In that letter you stated that the patent has been recently delivered. What information had you on that subject at that time?

A. I was advised by Judge Angel that the original patents could not be found in the office of the Superintendent where they belong, and I assumed that they had been delivered, and so reported in my letter of October 17.

Mr. German: That is all.

Cross Examination by Mr. Stuart.

Q. Judge, on the 17th day of October, 1914, did you write a letter to the Commissioner of Indian Affairs about the patent? A. I did.

Q. And in that letter you said that the patent had been recently delivered. To whom were they delivered?

A. I had no information further than the information I have just given you.

Q. Well, what do you mean by that in your letter?

A. That was my letter recommending the institution of this suit.

Q. I know it was, but you said the patent had been recently delivered?

A. I was unable to find the patents and assumed that they had been delivered.

Q. And if you assumed that they had been delivered, why did you qualify that and say that they had been recently delivered? A. I don't know.

Redirect Examination by Mr. German.

Q. You didn't know whether they had been or not?
A. No.
Q. You had no personal knowledge relating to their delivery? A. None whatever.

Mr. German: That is all.

Cross Examination by Mr. Cobb.

Q. The patents were not in their proper place in the Dawes Commission, is that correct?
A. That is my information.
Q. The proper place where these patents should have been was in the Thomas Atkins jacket?
A. Well, either in the Thomas Atkins jacket or among the undelivered deeds. There was no record in the office of the Commission or the Chief's showing they had been delivered——
Q. My question relates to whether the patents were in their proper files in the Dawes Commission?
A. They were not. In answer to Judge Stuart's question, I may have been prompted to write that letter by an old letter that was in the office of the Chief, transferred in 1914, just before the institution of this suit, by some one claiming to be Thomas Atkins and living in Texas and who wrote for the deed.
Q. You didn't believe he was Thomas Atkins, did you? That man down in Texas?

Mr. German: I object to that as not proper cross examination.

The Court: Objection overruled.

Mr. German: Exception.

A. No, sir.
Q. So, you wouldn't have delivered them to him?
A. He was writing for his deeds is all.

(Witness dismissed.)

And thereupon, W. H. ANGEL, was called and sworn as a witness on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. State your name? A. W. H. Angel.
Q. What official position do you hold?

A. I have charge of all the allotments and enrollment records of all the nations constituting the Five Civilized Tribes.

Q. What relationship does Mr. Shanefelt occupy to that office that you are in charge of?

A. He looks after the work in furnishing information to the general public in regard to enrollment and allotment.

Q. He works immediately then with the enrollment and allotment records? A. Yes, sir.

Q. Judge, have you recently had the Thomas Atkins patent enrolled opposite number 7913? A. Yes, sir.

Q. Did you have them yesterday? A. Yes, sir.

Q. You gave them to Mr. Shanefelt? A. Yes, sir.

Q. In October, 1914, did you make any effort to find those patents?

A. Judge Allen came to me and asked me to ascertain whether or not the patents were in the office, and I then caused —I don't know whether it was on that date or not, exactly that date, but at least about that time—I caused a search to be made among the records of the office and advised him that the patents were not there.

Q. Now, where would they have been looked for in the office, Judge?

A. We looked for them in the allotment jacket of Thomas Atkins, and we kept a file of undelivered patents, either in the allotment jacket or in that file of undelivered patents.

Q. Yes, sir. Those are the places then where they would have been looked for? A. Yes, sir.

Q. Upon that kind of a search this report would have been made? A. Yes, sir.

Q. Now, the Nancy Atkins jacket would not be looked in?

A. No, sir, wouldn't think of looking there.

Q. Judge, are there any undelivered patents there now?

A. Yes, sir.

Q. In the office? A. Yes, sir.

Q. Why are there patents in the office of the Commission undelivered?

A. Well, a considerable number have been returned by the postmasters unclaimed, and by the postmasters with the endorsement that the addressee refuses to receive same. It is presumed that they are mostly patents that were issued to Indians that belonged to the Snake Band, as we call it.

Q. The Snake Ban*k*, so called Snake Band? A. Yes, sir.

Q. What is the so-called Snake Ban*k*, Judge?

A. Well, they are Indians who held out against the Govern*ments* in accepting their allotments.

Q. Refusing to participate in allotment? A. Yes, sir.

Q. Where do they reside, what part of the country?

A. Well, they mostly reside in the western and southwestern part of the Creek Nation.

Q. That is west and southwest of Muskogee about how far?

A. Well, I should judge there are a good many in the vicinity between Okmulgee and Eufaula and Holdenville, in that section of the country; probably forty to forty-five miles south and west of Muskogee, and some west of Okmulgee.

Q. Are those Snake Indians included in the class who did not write in to the Commission and attempt to prosecute efforts to procure enrollment and allotment?

A. I didn't understand.

Q. Does not include that class, I say, who wrote in to the Commission, communicating with the Commission with a view to obtaining allotment? A. Oh, no, sir.

Q. Judge, when the Commissioner ordered a patent held up for any reason what kind of a record was made on that? How did they keep a record, or did they keep a record?

Mr. Hanford: Objected to as immaterial.

The Court: Overruled.

A. Why, they kept what they called a "hold-up" record.

Q. Describe it. A. What is that?

Q. Describe it.

A. A hold-up record was—if there was any reason why a patent should not be delivered, why it was noted in this "hold-up" book and the reason given why it was held-up.

Q. Now, what was that "hold-up" book called? What was the special name given to it?

A. Some of them called it—they had different names for it—some called it the "hold-up" book and some called it the "M" book.

Q. Letter "M"? A. Letter "M".

Q. "M" book or journal?

A. "M" journal; different names for the convenience of the Commission.

Q. Now, was there one called "Special Memorandum" book? A. I can't recall any book under that name.

Q. Was there an index to the book you refer to?

A. Yes, sir.

Mr. German: Now, Your Honor, in connection with this witness' testimony——

The Court: Any cross examination of this witness? I submitted evidence yesterday with regard—going to show—related to the question as to whether the patent had been delivered or not. I doubt whether in the view

I have taken in other similar cases the view I shall take of this case, I shall consider that material, but I permitted the evidence to go in to that extent.

Mr. Stuart: I want to make this suggestion, Your Honor. They are evidently leading up to some new exhibit. Are you not?

Mr. German: No, we have offered all, Judge—all of the exhibits that we could possibly offer.

Mr. Stuart: Well, that is all, Your Honor. That has all been thoroughly *trashed* out and ought not to be contested at all.

The Court: I had that in mind but in as much as these records were offered yesterday and practically all of them went in without objection, to the point whether or not the patent had been delivered, I permitted these to go in the record for what it is worth. I am not prepared to say that I will consider it.

Mr. German: Now, Your Honor, in view of the testimony of Judge Angell we again offer the letters and records as to the so-called "hold-up" record.

The Court: The records that were excluded yesterday?

Mr. German: Yes, sir.

The Court: I suppose the same objections will be introduced?

Mr. Stuart: Yes, sir.

The Court: The objections are sustained and exceptions noted.

Mr. German: Exceptions.

Cross Examination by Mr. Hanford.

Q. Judge Angell, did I understand you to say that in the search for those patents the records had not been examined——

A. Not at the time Judge Allen asked me to search for them in 1914.

Q. That was in October, 1914?

A. I think it was in October, yes, sir.

Q. Judge Angell, if a certified copy of the files contained in any jacket were requested and were furnished by your office, that would necessitate the going to those jackets and examining them and securing those files to furnish the certified copy, would it not? A. Yes, sir.

Q. Do you remember, Judge Angell, in the latter part of June or about the first part of July, when myself and maybe Mr. Frank Long, came to your office and asked to see those files, and filed a request for certain certified copies which were furnished? A. I can't recall it, no, sir.

Q. You don't remember of transmitting under date of July 6th, 1914, to Mr. Frank Long in Tulsa, certified copies of the Nancy Atkins files? A. No, sir, the records would show.

Q. Then, if the records so show, they also showed the fact that those files were examined, would they not?

A. Yes, sir.

Q. You know, Judge Angell, that as a matter of fact, that all the files of this case about that time were gone through by a great many people, do you not? A. Yes, sir.

Q. And you know that requests had been made on the part of certain persons, claiming to represent Thomas Atkins, to have these patents delivered to them, do you not?

A. Yes, sir.

Q. Then, you don't testify as a fact, Judge Angell, that the Nancy Atkins files were not examined prior to October 17th, 1914?

A. No, sir, I testified that they were not examined by our office force in the search for the patent, at the request of Judge Allen.

Witness dismissed.

And thereupon, P. B. HOPKINS, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. Your name is P. B. Hopkins? A. Yes, sir.

Q. You reside at Muskogee? A. Yes, sir.

Q. What age are you, Mr. Hopkins? A. 54.

Q. What is your business?

A. I am in the oil business; have been for some time.

Q. Were you ever connected with the Commission to the Five Civilized Tribes, known as the Dawes Commission?

A. Yes, sir.

Q. Covering what period of time?

A. The fall of 1897 until the spring of 1903, with the exception of a period of six months that I was out.

A. In what year about?

A. In 1900, I believe, from February to August, 1900, I was out.

Q. What was your position in the office of the Commission?

A. Well, I was designated Chief Clerk and later Chief Law Clerk; had charge of the enrollment and contest charge of the Commission.

Q. Were you actively connected with the Creek enrollment work? A. Yes, sir.

Q. Which of the Five Tribes did the Commission devote its attention to first in the matter of enrollment, at least after you became connected with the Commission?

A. The Creek—the Creek tribe.

Q. Were you in charge of the Creek enrollment work from the beginning of your connection with the Commission in 1897?

A. Well, in the fall of 1897, I wouldn't say that I was; I think they had two or three parties out in the field that year, each one of them in charge of a commissioner. I think Captain McKennon was in charge of one and Mr. Bixby was in charge of another during that time; but with the beginning of the year 1898, from that time on I was practically in charge of the work.

Q. What Act of Congress were you enrolling—proceeding with the enrollment work under at the beginning?

A. Well, we were attempting to proceed under the Act of 1897.

Q. 1897? A. Yes, sir.

Q. Then after the Curtis Act of June 28th, 1898?

A. We proceeded under the Act of June 28th, 1898.

Q. And the Creek enrollment work until the Original Creek Treaty of 1901—— A. Yes, sir.

Q. Mr. Hopkins, did you encounter any difficulty in obtaining possession of the Creek Tribal Rolls?

[A.] Yes, sir, we met with some opposition from the Chief and a number of the House of Kings in the instructions. In fact we were unable to obtain any of the rolls from the officials of the tribe until after the message of the Curtis Act, June 28th, 1898, or thereabouts.

Q. Had you made any efforts then to obtain them, any special efforts to obtain them prior to the Curtis Act?

A. Yes, sir, there were efforts made at different times to obtain them. I cannot detail those just to the times and what official action was taken in reference to them but I know the Commission had talked the matter over with the Chiefs and with members of the House of Kings and others, trying to get possession of them, and trying to locate them, trying to ascertain where they were and in whose possession they were, etc., but without success.

Q. Did they assign any reasons why they would not give you those rolls?

A. If they did, I can't state what they were now, except the general opposition to enrollment and allotment that existed with a number of those same officials.

Q. You say there *a* general opposition on the part of those same officials? A. Yes, sir, those certain officials.

Q. Was the Creek Chief a part of that opposition—Isparhecher?

A. Yes, sir, we felt as though Isparhecher was opposed to the work of allotment principally and believed that the work of enrollment was simply preliminary to forcing the members of the tribe to take their lands in severalty.

Q. Mr. Hopkins, after the Curtis Act, I will ask you this: do you know how it happened the provision was inserted in the Curtis Act whereby the Commission might apply to the Court—the United States Court in the Indian Territory, for a process to obtain possession from the tribal authorities of documents, papers and rolls? Do you know how that proposition happened to be inserted in that act?

Mr. Cruce: Objected to, if the Court please, an- incompetent.

The Court: I can't see how that could have any bearing on this case.

Mr. German: Only in this way, Your Honor: in the opinion of the Circuit Court of Appeals, the Court, without having evidence in that line relating to this matter, stated that the Creeks held their rolls out to the Commission and to the world as authentic and correct, I am attempting here to show——

The Court: Well, that I clearly think had reference to a time after laws—after Acts of Congress were passed which provided for the—in the Act of 1898, for the use of the rolls, and pursuant to that law, the rolls, I take it were delivered to the Commission.

Mr. German: Then, I will withdraw my last question and ask another question.

Q. Mr. Hopkins, when did you obtain possession of the Creek tribal rolls?

A. I can't give you the exact date with reference to that. I think that we probably first procured the rolls of the Freedman Town—Arkansas Canadian and North Fork, with possibly the exception of the Arkansas, over which there was some correspondence with the officials, but my recollection is that it was sometime along the latter part of 1898, or even the early part of 1899. The correspondence with Chief Isparhecher with reference to those rolls and requests for them and his letter transmitting them to the Commission, I presume are on file yet.

Q. Did you have to obtain any court process to get that?

Mr. Stuart: Now, Your Honor, we object to this.

The Court: Objections sustained. They were finally procured and were, I take it, given when they were given, as the rolls of the tribe, the various rolls.

Mr. German: Yes, they were finally procured, Your Honor, but they were not given to the Commission voluntarily and that is the point I desire to show; that the Commission had to obtain a court order from Judge Clayton, a writ of mandamus, I assume you call it, or mandatory injunction, to be served upon Chief Isparhecher and this was done and served on him before the rolls were obtained.

The Court: Well, now, let's see. By the agreement and by the Act of 1898, to which the Creek Nation assented was this provision——

Mr. German: Here are the facts on that legislation. The Creeks were not parties to the 1898 Act. They rejected the so-called Creek Agreement which [] a part of the Curtis Act, instead of ratifying it and then they rejected another agreement, in between that and the Original Creek Agreement, and then the Original Creek Agreemnt, ratified by the Creeks on May 1st, 1901, is the first treaty ever entered into relating to the enrollment and the allotment.

The Court: Now, what do you propose to show? That the rolls involved in this case were procured for the use of the tribe——

Mr. German: In the summer, late summer of 1898.

Mr. Stuart: If Your Honor please, it is an undisputed fact that the Dawes Commission did have the rolls and is an undisputed fact that the Dawes Commission acted upon the rolls, Judge Sanborn's statement was simply a mixed question of law and fact; he simply said the Creek Nation by virtue of this enrollment held it out to the world as a correct enrollment.

The Court: I don't think it is material as to the manner in which the rolls were procured. It is conceded that they were procured and after they were procured, they were resorted to by the Commission for the purpose of enrollment and when the agreement came along it was agreed that these rolls might have certain force and effect and they were used. I don't think it is material.

Mr. German: I don't desire to insist, Your Honor, except for the statement in the opinion of the Circuit Court of Appeals that the Commission—that the tribal officers of the tribe held—furnished these rolls to the Commission and aided the Commission, gladly gave them to the Commission. I am not using his language but that is the idea.

The Court: I think, Mr. German, that it is going into a collateral matter and [] material in the case.

Mr. German: We save an exception and in this connection we offer to prove by the witness that in the latter part of the summer of 1898, the Commission obtained a court order from the Judge of the United States Court in the Indian Territory, directed to the Chief of Creek Nation, commanding him to deliver to the Commission all of the Creek tribal rolls and record, and it was then for the first time that the rolls and records were obtained. In addition to proving this by this witness, we offer also to prove it by record. I presume we don't need to tender the Court record?

The Court: The record may show that offer and that it is overruled by the court on objection of counsel for defendant, and your exceptions noted.

Q. Mr. Hopkins, prior to the time you obtained these rolls from the Commission, did you take any census of the Creek Nation?

A. We undertook to take a census of the Creek in the fall of 1897; fall and early winter of 1897.

Q. How long did you prosecute that work, what period of time about?

A. The best of my recollection is it extended from somewhere from the latter part of September or first of October up until about Christmas.

Q. Yes, sir. Did you attempt to take a census of all the citizens of the tribe?

A. The Commission made appointments at different places in the nation and advertised the fact that they would be there, for the purpose of taking a census, expecting the citizens would come in and make application for enrollment; but only a small portion of them did so, and they found that the information that they obtained from relatives and officials of the tribe was incomplete and unsatisfactory, and discontinued the work until such time as they could procure the rolls.

Q. Now, did you make any record in taking that census?

A. Yes, sir, there was a record made, what they call census cards, at that time.

Q. I hand you Government's Exhibit A-31, showing the names of Charles Harris, Harvey Harris, Minnie Harris nee Atkins. State whether or not that is one of the old census cards and whether that is the character of record you made in taking that census?

A. Yes, sir, this is a copy of one of the old census cards.

Q. How did you distinguish those cards from the cards made up by the Commission used in making the final roll?

A. Well, the character of information that is provided for here by the heading of the various columns.

Q. How did you distinguish them in describing them by name, what is this one called you hold in your hand, Exhibit A-31? A. We used to call them census cards.

Q. Yes, sir; then what is the census card on which the name is finally listed for enrollment and which is used by the Commission in making the final roll, such as Government's Exhibit A-31, which I show you?

A. Well, I don't know that we had any distinctive name for it. At the time the cards were made we called them field cards.

Q. Isn't Government's Exhibit A-1 called now the Census Card of Thomas Atkins? A. I couldn't tell you.

Q. You don't know what it is called? A. No, sir.

Q. At any rate, this one is called a census card, Government's Exhibit A-31? A. Yes, sir.

Q. Now, Mr. Hopkins, you obtained possession of the tribal rolls after the Curtis Bill, and then you proceeded with the work of enrollment in the Creek Nation? A. Yes, sir.

Q. How did you use the tribal rolls in that work?

A. For the purpose of determining whether or not the application for enrollment, or party for whom application was made for enrollment, was a recognized citizen of the nation.

Q. It constituted then evidence on the question of citizenship? A. Yes, sir.

Q. Do you recall how far you had progressed with the enrollment of Creek Citizenship in the early part of the year 1901, about the time the so-called Original Creek Agreement was approved, it having been approved March 1, 1901?

A. No, sir, I couldn't tell you to what extent. I would presume though that we were somewhere between eighty-five and ninety per cent of a completed work.

Q. Now, did you make use of the tribal roll in any other way than that you have just suggested when you reached the point that we are now talking about in the enrollment work?

A. Well, we used it for the purpose of inquiring into those who hadn't appeared for enrollment, to determine whether or not they were living, and whether there were such persons and why application had not been made for them. In other words, for the purpose of accounting for all those who were on the roll.

Q. Yes, you were attempting to account for all persons whose names appeared on the tribal roll? A. Yes, sir.

Q. Account for them in what way, what did you mean by that word, account for them?

A. That they were enrolled or that they were not entitled to enrollment by reason of having, prior to April 1, 1899, or for any other reason such as duplication of any name, such as padding of the roll by fraud or anything of that kind. We took it that our direction was to enroll all those upon the roll who were there by authority of law, and we went through those rolls very carefully to see that nobody was enrolled who wasn't entitled to enrollment.

Q. I didn't understand your answer about enrolling all of those who were on the tribal roll. Will you state that again.

A. I think possibly the stenographer had better repeat my answer.

Q. Yes. A. Unless the question is repeated to me.

Thereupon, record was read by the stenographer.

Q. I see. Then, as I understand that answer, you were attempting to enroll all whose names appeared on the tribal roll, who appeared otherwise to be entitled to be enrolled, and who appeared to be authenticatively on the tribal roll?

A. Yes, sir, all of those who came within the provision of the Act of Congress directing us to make the roll.

Q. Yes, sir, now you refer to section 21 of the Curtis Act do you not? A. Yes, sir.

Q. Now, Mr. Hopkins, what kind of a record did you keep when you listed a person for enrollment, say in the year 1899 and in 1900, along there prior to the original treaty, prior to the meeting at Okmulgee that took place just before the original treaty was ratified by the Creek Nation; how did you proceed in enrolling a person or listing them for enrollment? A. Do you mean as to the record we made of it?

Q. Yes, sir, and the entire procedure, what was your practice? I am speaking now prior to your meeting in Okmulgee in May, 1901, which occurred just before the Original Creek Treaty was ratified?

A. Well, briefly as I can state it, after the passage of the Curtis Act, we proceeded with the enrollment of Freedmen, identifying them with the Dunn Roll as far as possible.

We carried that work up until the first part of the year 1899. The Commissioners returned from Washington, reported that the Secretary was very anxious that there should be a land office opened somewhere in the Indian Territory and the allotments proceeded with. That there seemed to be some dissatisfaction with the progress of the work. That members of Congress, and especially the Committee, thought there should be more expeditious work in getting the division of the land in severalty. There was no approved roll, or roll approved by the Secretary of the Interior, and none had been submitted to him. So, it was decided by the Commission to carry on the work of making the roll along with the matter of making the allotment; and an enrollment and land office was opened in Muskogee, Oklahoma, for the enrollment and allotment of land, particularly for the enrollment of Creeks, whose enrollments had not been completed, and for the allotment both to the Indians and freedmen. The practice was to——

Q. When did you open this land office?

A. First of April, 1899.

Q. Where?

A. At Muskogee. The practice was to take the application of adults for themselves and for their minor children, or for any minors that were in their care. The clerk in charge of the enrollment division conducting the examination as to their right to enrollment, in the presence of the Creek Tribal Commission or Creek Attorney, satisfying himself that the applicant came within the purview of the Curtis Act; that they were on tribal rolls which had been admitted by Act of *Counsel;* entered their names, or caused their names to be entered by a clerk, on an enrollment card; and where they desired them to make their application for an allotment, filled out what was called a citizenship certificate to be presented to the person in charge of the allotment office, as his authority for receiving an application for an allotment. Now, the work proceeded in that manner practically throughout the entire time of enrollment and allotment.

Q. Now, would the witness, or the applicant who appeared for himself, or himself and minor children, be sworn?

A. Yes, sir.

Q. Would the testimony be recorded?

A. Not unless there was objection to his enrollment made by some official of the tribe, or somebody who claimed to be conversant with his citizenship right. We followed the practice at that time as it is followed in a court where it is agreed by the party that no appeal is to be taken. Where there was objections though to the enrollment by anybody or for any reason the case was either heard then or set down for hearing, and a stenographer called, witnesses sworn, and the testimony reduced to writing.

Q. That would be denominated then an enrollment case, wouldn't it, to distinguish it from an ordinary case of enrollment?

A. Why, I think that they were called enrollment cases more particularly to distinguish them from allotment contest cases perhaps.

Q. Now, where would the data that would be gathered by the clerk, in listening to the statements of the applicants, be recorded, on a card I believe you stated? A. Yes, sir.

Q. And is that this so-called final census card, such as Government's Exhibit A-1?

A. Yes, sir, or a card similar to that.

Q. Now, Mr. Hopkins, when you came along about the first of April and May, 1901, did you have any unaccounted for name on the tribal roll?

A. Yes, sir, there were a large number of names appearing on the tribal roll for whom no application for enrollment to the Commission had been made, no application made up to that time.

Q. Let me ask you one other question on the other matter. Would you, prior to the time you have just mentioned, enroll as a citizen an adult who did not personally appear?

A. It would be an exceptional case. We would do so in cases where it was satisfactorily shown to the Commission that the parties were ill, and I might say chronically so, so that there was slight chance of them appearing before the Commission at a convenient point, or where the parties were old, crippled, or blind and unable to travel and some relative appeared, and the relative's statements were vouched for by a representative of the tribe, the Principal Chief or members of the Creek Commission that was in session with the Dawes Commission.

Q. From whom would you entertain an application for the enrollment of a minor?

A. Well, from the parents or from a relative with whom the minor lived, and in whose custody the minor was, or legally appointed guardian.

Q. When a minor was enrolled on a final census card other than the one on which the minor's parents or custodian or relative, or those you have just enumerated who might apply for him, what was the practice of the Commission in the matter of entering on the card of that minor any reference to the card of the other person?

A. Well, that was frequently done where a minor was enrolled by himself, an entry of that kind was very often made on the card showing that the minor's parents were enrolled on a certain other card. It has been done.

Q. Being identified by number?

A. By the card number possibly.

Q. And the name? A. Yes, sir.

Q. You say that has been done. Was that the practice to do that or not?

A. I presume in the majority of cases where a minor would be entered on a card that that would be done because as I recollect it there would be some reason why the name was entered separately on that card, and the reference would be made to the other card so that the name might be transferred to the other card. But I have known of instances too where children were practically without anybody to care for them, such as being in an orphan asylum, or the relatives were in dispute who should have the right to enroll the child, thinking that that carried the right to allotment. But as a general proposition an attempt was made to make a notation on the card of the child, showing the card of one or both of the parents.

Q. You say that along with the matter of enlisting for enrollment, prior to the Original Agreement of 1901, frequently applications for enrollment would be made? A. Yes, sir.

Q. That was always done if it was desired? A. Yes, sir.

Q. By the applicant for enrollment. State whether testimony would be taken in the matter of the application for the allotment?

A. There was a form of questions prepared by the Commission for use by the clerks in charge of the allotment office, to be asked of the applicants when they presented their citizenship certificate and desired to make an application for enrollment.

Q. Was the testimony of the applicant then taken and recorded or not?

A. Yes, sir, the questions and answers were taken down by a stenographer is my recollection, and transcribed afterwards and put in the allotment jacket.

Q. What was the reason for taking down the testimony in the matter of an application for an allotment when you considered it not necessary to take it except in questioned cases of enrollment?

A. Well, I presume, frankly, that by the first of April. 1899, when we were commencing the work of allotment, that we had a little bit more money to spend for clerks and stenographers than we did in starting in the enrollment. And it having been started in the enrollment work without taking written testimony in each case, at that particular time we didn't think it practical to have part written and part not, and we followed the same course, and in allotment cases took the testimony.

Q. What was the object of having a personal application of persons for enrollment?

A. Well, so that the Commission could have the best information possible as to the family and family connections, and so that the cards might be made descriptive of the persons thereon and thereby be better identified.

Q. Why did you not accept the placing of the name on the tribal roll as sufficient, or did you do that?

A. If sufficient——

Q. To entitle*d* you to enroll the name. Did you accept the placing of the name on the tribal roll as sufficient evidence to entitle you to enroll a name all by itself?

A. Well, I wouldn't say that we did in the absence of the information that the party was dead, or had left the country and had given up their residence in the nation, and for other reasons had forfeited or lost their right to enrollment and allotment.

Q. Did you accept the tribal roll alone in the absence of any other information of any sort, and enroll the name in any case, finally enroll the name?

A. No, sir, I don't think there was ever a case before the Dawes Commission during my time where a name was put down on a card without some information having been obtained.

Q. From some source? A. From some source, yes, sir.

Q. Why wouldn't you accept an enrollment from the tribal roll?

A. Because we couldn't make such a roll as the law directed us to make. We wouldn't have sufficient evidence to identify the parties so that an officer making a payment in the future, or transacting business with them, could be satisfied that he was dealing with the right parties.

Q. What did you accept the tribal roll as evidence of?

A. A recognition of citizenship by the tribe.

Q. Yes, sir. Did you know of any cases of fraudulent enrollment on the tribal roll?

Mr. Hanford: Well, we object, if the Court please, on the ground that it is immaterial.

The Court: How would that throw any light on this case?

Mr. German: Well, I will withdraw the question.

Q. Did the Commission—— Was the Commission possessed of information on the subject of the reliability and dependability of the tribal roll by correctness?

Mr. Stuart: I wish you would repeat that question.

(Question read by stenographer.)

Mr. Stuart: Your Honor, that calls for a conclusion; I don't see how that can have any force and effect here.

The Court: I think that would be a conclusion.

Mr. German: We except.

Q. You say, Mr. Hopkins, that you were attempting to account for citizens, persons whose names appeared on the tribal rolls, and attempting not to enroll persons who were not on the tribal rolls without authority of law? What information did you have relating to the subject generally such as to the reliability of the tribal roll?

A. Well, we had evidence of the approval of the tribal rolls by the Creek Council, or by the authorized Commission of the Creek Council. We had a number of rolls furnished us of other years, which by the investigation of the records of the Creek Council and the judgment of their Supreme Court we had found had never been officially passed upon by the tribe. Had been prepared in some instances by Town Kings, and other instances by Commissions whose work failed of ratification by the Council. But with reference to the 1890 and 1895 roll, particularly in the 1895 roll, we had the definite information. My recollection now is—I couldn't swear to the exact document—that those rules were officially approved by the Creek Council.

Q. Did you have information as to whether there were any names placed upon that roll by fraud?

Mr. Hanford: We object, Your Honor, as immaterial relating to Thomas Atkins.

The Court: I don't think that is material.

Mr. German: We save an exception. We offer to prove by the witness that the Commission was advised that the 1895 tribal roll, and the other tribal rolls, contained many names that had been placed there by fraud and without authority of law, and for a monetary consideration many names had obtained a place on those rolls.

The Court: Now, that was advice which they had. The question is what did the Commissioners do for the purpose of making these rolls in relying upon the tribal rolls, if they did anything.

Q. Mr. Hopkins, approximately how many names were on these tribal rolls and unaccounted for by the Commission about the first of May, 1901?

A. I have no actual knowledge of that except as I gather from the report of the Commission as to about the number of names that were enrolled in May, 1901; that report stated that there were something like twenty-five hundred names listed for enrollment during that month.

Q. You didn't quite get my question, I don't think. Approximately, how many were unaccounted for the first of May, 1901?

A. Well, sir, I couldn't tell you that either. I don't recollect as to that, but in March, 1901, the Commission prepared a list of the names of those unaccounted for for each town and sent a copy of that list to each one of the Town Kings, and many of the Town Warriors, advising them that those names were unaccounted for, and asking them for information with reference to them and their assistance in accounting for those people. I presume the records of the Commission would contain those lists.

Q. How many town- were there?

A. There were forty-seven towns on the 1895 roll; there were forty-eight towns, in my recollection, on the 1890 roll; and on the 1867 roll forty-six.

Q. Now, you remember the approval of the so-called Original Creek Agreement on March 1, 1901, the Act of Congress known as the so-called Original Creek Agreement?

A. The Act of Congress approving it?

Q. No, sir, the Act of Congress known as the Original so-called Creek Agreement?

A. Yes, sir, I have some recollection of that.

Q. Now, that treaty, that so-called treaty, was to be ratified by the Creek National Council before it became effective. Did the Commission have anything to do with the ratification of that agreement? A. Well, not officially at least.

Q. Where was the capital of the Creek Nation?

A. At Okmulgee.

Q. Did the Creek Council convene for the purpose of taking action on that agreement?

A. Yes, sir, the Creek Council convened somewhere along probably the 4th or 5th of May, 1901, I presume.

Q. Did the Commission open any office at Okmulgee at that time?

A. Yes, sir, the Commission opened and office I think on the 6th of May, 1901.

Q. Where were the headquarters of the Commission?

A. They were in the Capitol Building my recollection is on the ground floor of the Capitol Building.

Q. And in Okmulgee? A. In Okmulgee, yes, sir.

Q. Where was the Commission's main office?

A. In Muskogee.

Q. At Muskogee? A. Yes, sir.

Q. This office at Okmulgee on this occasion was a temporary office was it not? Temporarily there?

A. Yes, sir. The same as we had made other appointments for enrollment purposes.

Q. What was the Commission there for, what was the occasion of your being there?

A. That we might be more conveniently located to those who had not already appeared for enrollment and allotment, and whom we believed would appear in greater numbers at Okmulgee while the Council was in session than they could get them, or they could conveniently come to Muskogee.

Q. Did you have occasion to take up the matter of these unaccounted for names that you have spoken of while there and consider them?

A. Yes, sir, that work was going on during all of that period I believe. In fact, I think that the the efforts of the Commission' were strongly put forth along in March, 1901, up to and including that time.

Q. Were you having any trouble with the Indians to obtain their assistance in the matter of that enrollment, or finding out the facts with reference to those unaccounted for names?

A. I would say that we were not having any willful opposition on the part of any Indian or official, but it was more of a failure on their part to find it convenient come to Muskogee or visit the Commission at Okmulgee, or more in the nature of that kind.

Q. You were trying to get to them. They didn't freely come in to report the matters, the facts, is that what you mean?

A. Do you have reference to the Creek officials or the citizens?

Q. Both—— Well, take the citizens first?

A. There were a large number of citizens who did not come in, and I presume had made up their minds that they would not. The class of Indians that were afterwards known as Snakes.

Q. Had you taken any action, any special steps, to obtain their attendance in May, 1901?

A. Yes, sir, notices were sent to all of the Town Kings and Town Officers and Principal Chiefs of the Creek Nation, notifying all the kings and warriors to see that the people came in for enrollment. We had a large number of appraisers, as we called them, out classifying the land for appraisement, and they were all directed to notify the people to appear for enrollment. And in addition to that we assembled at Okmulgee all of the teams and wagons that we had for the purpose of sending out for those who were unable to come, who were physically unable to make the journey or had no means of transportation by which they could come to Muskogee.

Q. Did you have any assistance from the United States Marshal?

A. Well, my recollection is that we did in some instances; had some case—something of that kind.

Q. Were not the United States Marshal and his deputies present at Okmulgee assisting you on this occasion to bring in some of those Indians?

A. I think they were present at Okmulgee and did assist us towards bringing in one or two of those Indians but it is not my recollection that that was their purpose of being at Okmulgee. I think it was for the purpose of being on the ground for the session of the Creek Council and preserving order generally.

Q. Mr. Hopkins, what date was the Creek Treaty ratified? A. My recollection is May 25th, 1901, by the Creeks.

Q. Now, prior to that, the *counsel* was in session from about May 6th, I believe you stated?

A. Some where the early part of May, yes, sir.

Q. They were in session, now, during the entire time, were they, from the date—from May 6th to May 25th?

A. Well, I can't tell you whether they recessed over weekends or not during that time. The session had not adjourned, however, during that time.

Q. Well, was there any matter relating to the enrollment that affected in any way the time when they acted on the treaty?

A. Well, I will tell you the facts. I don't [] that [] could say definitely that it affected the time that they acted on the treaty. During the consideration of the treaty, members of the House of Kings and House of Warriors, and I think also, the Principal Chief, either on his own behalf or on behalf of members of his council said to the Commission that there was a fear among certain member- of the council, probably in both houses that unless everybody was enrolled or enlisted for enrollment prior to the ratification of the treaty, that the treaty would act to cut them off of the final roll. It was a view the Commission did not take, however, because the direction was to enroll all those who were on the rolls but the Creeks themselves—as I say, a certain number of them, so it was reported to the Commission, were inclined to believe that that would be the effect of the ratification of the treaty.

Q. On account of a certain provision in the treaty?

A. Yes, sir.

Q. Is the provision the one which reads substantially like this: No person shall be enrolled after the ratification of this treaty—no, that is not exactly it. I will read it to you, Mr. Hopkins, from the act. "No person except as herein provided shall be added to the rolls of citizenship of said tribe after the date of this agreement and no person whomsoever shall be added to said rolls after the ratification of this agreement." The portion read appearing as the first sentence of section 28; is that the provision you referred to?

A. Yes, sir.

Q. Now, Mr. Hopkins, what did they say to you or the Commissioners, with relation to placing those names—those unaccounted for names on the roll before they would act on the treaty, if anything?

> Mr. Cruce: We object to that, if the Court please, because it is immaterial.
>
> The Court: What did who say?
>
> Mr. German: The members of the council and the Chiefs.
>
> The Court: Overruled.
>
> Mr. Cruce: Exceptions.

A. I can't quote them as to what they said. It was in effect an inquiry or a request to know whether a roll could be completed or those people who were unaccounted for could not be listed for enrollment before they ratified the treaty, so as to avoid any question coming up afterwards that they would be eliminated from the roll had they not appeared prior to the ratification of the agreement. The practice of the Commission had been, as I have previously stated, the personal application of the adult for himself or the minor children. It was simply a rull of the Commission and was not obligatory by any Act of Congress of any kind, and the Creeks evidently desired to have some manner provided in which those names could be enlisted or enrolled before they passed on the treaty.

Q. Did the Commission comply with that request?

A. The Commission changed their rule.

Q. Or that desire?

A. Of personal appearance to the extent of permitting the appearance for the purpose of making application to be made by the Town King, or Town officers, or some official of the tribe.

Q. Now, how many days prior to the date on which the treaty was ratified did the Commission confirm or adopt the rule you have just suggested complying with the desire of those Indians?

A. I cannot state the number of days prior to ratification of the treaty that that passage was permitted. We were receiving applications personally from individuals through all of that time. In other words, the time was not devoted exclusively to the applications made by officials of tribe and I wouldn't be able to tell you.

Q. Was that practice indulged in May 22nd, 23rd and 24th?

A. I presume it covered those three days; possibly more for all that I know now.

Q. Now, state to the Court all—first state how many were engaged in listing names for enrollment at that time over at Okmulgee.

A. Well, sir, I can't tell you that, I don't believe from my recollection of it. I presume there was two or three, maybe three.

Q. Who were they as you remember?

A. Well, that I can't tell you, except that I believe Mr. Edward Merrick was one of them, and I wouldn't be certain as to the others; possibly Mr. Hastin was one. He was connected with the office for a time.

Q. Now, explain to the Court by what process and just what proceeding or procedure was indulged in and conducted there in obtaining the information from the Town King, or other Tribal officers, to dispose of those unaccounted for names?

A. Well, to the best of my recollection, the enrollment clerk would have before him the roll of some particular town, the 1895 roll of some particular town; he would follow down the names there and where there was no notation on the roll indicating that the party had applied for enrollment or had enlisted for enrollment on one of the enrollment cards, the inquiry would be made as to who this *part* was and who knew them; whether they were living and whether they were in the country and what became of them and so forth, and so on. If there was no information to the effect that the party was dead or had left the country, why the name would be entered on the *car* with some additional information as could be obtained at that time.

Q. The information would be furnished by a town officer as a rule on those particular dates, now, that we are talking about?

A. As a general rule, I would say so, yes, sir. Possibly there might have been some distant relative who was there or something of that kind. We would take the information from anybody that we deemed was reliable.

Q. Were there many names listed on the several days immediately before May 25th, 1901?

A. Quite a number of names but I can't tell you the number of them.

Q. Was it an unusual number compared with number that had been enrolled previous to that time?

A. Well, there was a great many days that the enrollment was so light that Mr. Bixby complained that we were not paying our expenses; on those dates, I expect we had quite a profit in the business.

Q. Now, let me ask you this. Take as an illustration, suppose that the clerk found on the tribal roll the name Smith, and there was a note or some figures opposite his name which indicated that he had been listed for enrollment; that underneath his name appeared the name William Smith, and there was no note or other evidence on that tribal roll that he had been listed for enrollment or otherwise disposing of him; the name William Smith would be regarded as an unaccounted for name, would it not? A. Yes, sir.

Q. Then, the Town King, or other officer present, would be asked about that name, would he not? A. Yes, sir.

Q. If the Town King's attention was called to the fact that John Smith's name appeared above and then say, yes, I know John Smith; he had a child, I suppose that is the name of the child; that child is about 10 years old, and that child's mother was a non-citizen, would the clerk have listed that name for enrollment on that information at that time, under the circumstances existing? A. He would.

Q. Mr. Hopkins, did the tribal rolls, they speak for themselves in failing to show the relation between the parties, but they were grouped in family groups, were they not as a rule?

A. Yes, sir.

Q. And was there anything in the relative position of those names on the tribal rolls which constituted information as to the relationship existing in any particular family?

A. No, sir.

Q. You take a census card, Mr. Hopkins, on a minor on which there is no notation indicating—notation consisting *a* cross-reference to the card or number of the father or mother of that person, what would that indicate to you as to who probably applied for the enrollment of that person, when you consider the fact that that listing took place on May 23rd, 1901?

A. I don't think that I could form an opinion from a mere statement of that kind.

Q. If that child's parents—if the parent of that child—if the name of the parent of that child appeared in the family group from which the name of that child was taken off of the tribal roll, and if that parent's name had been listed there for enrollment by the Commission prior to May 23rd, 1901, or had been listed on a card for consideration for enrollment by the Commission prior to May 23rd, 1901, would according to the practice of the Commission, if that child had made an an application, would there have been a cross-reference on the census card of the child, to the parent's card?

A. There would as a general rule. There might be exceptions to it.

Q. But that was the practice, was it?

A. Yes, sir; as a general rule, that was a general rule, yes, sir. There might be exceptions for reasons.

Q. I will ask you, Mr. Hopkins, when you went to Okmulgee and took up the matter of this long list of unaccounted for names in May, 1901, was it the plan of the Commission to list these names prior to the ratification of that treaty before the Town—the tribal officers made the suggestions that you related awhile ago? A. No, I think not.

Cross Examination by Mr. Stuart.

Q. Mr. Hopkins, you served how long with the Commission? About 6 years, you say?

A. Yes, sir, just about 6 years.

Q. And you were familiar with its customs and practices all that time? A. Yes, sir.

Q. You were constantly in communication with Mr. Bixby, the chairman, were you not? A. Yes, sir.

Q. And Mr. Bixby, the chairman of the Commission, was in constant attendance at Okmulgee at this enrollment that you speak of? A. I believe so.

Q. Now, as a matter of fact, when you people sought to enroll the Indians you gathered your information from every point of the compass that you could get, didn't you? You got all the information that you could? A. Yes, sir.

Q. Your purpose was not to enroll anybody except upon evidence, wasn't it? A. Yes, sir.

Q. And your purpose was to have evidence outside, even, of the rolls to satisfy your judgment that the Indian that you were enrolling was entitled to enrollment? That was your purpose?

A. Yes, sir; where there any questions that could arise at all as to his rights to enrollment, that led us to suspect that there might be any reason, we went outside for information.

Q. As a matter of fact, can you recall a single instance where you enrolled an Indian as a member of the Creek Tribe without some evidence?

A. No, sir, I don't believe there ever was one.

Q. You don't believe there was one? A. No, sir.

Q. Would you have enrolled any man as a citizen of the Creek Tribe without some evidence? A. No, sir.

Q. You would not? A. No, sir.

Q. Now, these Indians who were out there in the country, some of them were Euchees and some were Snakes, weren't they? A. Well, some were both.

Q. I say some were Euchees and some were Snakes?

A. Yes, sir.

Q. Is there a difference between a Euchee and a Snake Indian?

A. Well, there is no official title of Snake Indians; the Indians who took concerted action to oppose allotment or to the placing of them on their land were designated as Snakes as a general term but that has no reference whatever to any particular band in the Creek Nation.

Q. Now, let me ask you this. When you made out a census card at Okmulgee, if you completed a card you always had some evidence before you completed a card? You always had some evidence before you completed a card, didn't you?

A. Yes, sir.

Q. As a general rule before you completed a card. And isn't it true that after you had enrolled these people, or put them down for enrollment at Okmulgee—listed them for enrollment at Okmulgee, that after that the Commission through its officers made subsequent investigation of those very things?

A. Yes, sir.

Q. And isn't it a fact that Mr. Bixby, the chairman, in practically every instance went over with the clerk that listed the particular Indian for enrollment before he finally sent it to Washington?

A. I don't think there was ever a name that was sent to Washington that Mr. Bixby did not pass upon especially if the report had his signature to it.

Q. Well, now, Mr. Hopkins, would you just tell the Court, what methods you pursued from the time of the census card, until the time of final enrollment by the Dawes Commission, what was the first thing that you did? You listed him for enrollment, didn't you? A. Yes, sir.

Q. And than what did you do after you listed him? What was the next thing?

The Court: What do you mean by listing him for enrollment? The actual placing him on the census card?

A. Yes, sir.

Q. Then you completed that card, didn't you? A. Yes, sir.

Q. That census card? A. Yes, sir.

Q. And after you completed that card, you made further investigation and put him on a final roll and that final roll went to Washington?

A. Yes, sir, the name was transferred from that census card to the final roll that went to Washington accompanied by a letter of a Commissioner finding in reference to the names that were placed thereon. But I don't think I can answer your question affirmatively that after the card was fully completed that we still made a further investigation before it was put on. The card was taken up with the evidence that was on it and passed on by the Commission, as to his right to go on the final roll.

Q. And in each and every case, Mr. Bixby, the chairman, did that thing?

A. If Mr. Bixby's name appears attached to the roll or to the schedule that it accompanied that went to Washington, or the letter accompanying the schedule, then he passed on every name, because I never knew him to pass anything to Washington that he did not pass on himself.

Cross Examination by Mr. Hanford.

Q. Mr. Hopkins, in making this enrollment, the first steps that were taken was the placing of the name upon the list, that is the list made for enrollment and putting him on the card, preliminary card that was made out, was it not?

A. That was the first record that made.

Q. And after the name and the *toen* were placed upon the card, then a certificate of enrollment was made up, including all the data relating to the applicant that the Commission had before it, was it not? A. I don't——

Q. I am trying to draw out more distinctly the distinction between the listing for enrollment—listing of name and the actual enrollment. As I understand you, the first step was to list the name for enrollment and the town to which the applicant belonged could be secured from the tribal roll, but that in addition to that there appeared upon the census card certain other facts as to age, degree of blood, parentage, etc.?

A. Well, I think that our tactics were this. A party appeared for enrollment and they were sworn; their name was ascertained, and the town that they belonged to. The matter of identification by the members of the Creek Council there —were asked if he were the party and if satisfied that he was the party that he represented himself to be, and we found his name on the tribal roll, then we took a card and put his name down; but the mere appearance of a person for enrollment did not justify us in writing his name down and starting a card which might afterwards have to be destroyed because he might be a party—not a citizen whatever, and it might be a mixing up of the records that might be unaccounted for in some way.

Q. Exactly. Let me ask you this question, Mr. Hopkins. When the census card was finally made up and contained in addition to the name and the town of the applicant, also the age, the parentage and the degree of blood, the town that the parent belonged to, etc., that that information, that other information could not have been secured from the tribal rolls, could it?

A. I don't think so; I never saw a tribal roll that had it on.

Q. Then, when a census card did contain those other facts, is that any evidence that some other evidence must have been had besides the tribal roll by the Commission before they put down those facts? A. Yes, sir.

Cross Examination by Mr. Rosser.

Q. Mr. Hopkins, have you a copy here of the 1895 pay roll? Was one handed to you a while ago? A. No, sir.

Q. I will show you another copy of it. It seems that on this 1895 pay roll which has been introduced in evidence, there are groups of names with a little space between, indicating that certain persons are grouped together? A. Yes, sir.

Q. And in the group in which Thomas Atkins' name appears the first name in that group appears to be Ed Schrimsher? A. Yes, sir.

Q. Now, to the extreme left of his name, appears the figure 9 and opposite Minnie Atkins appears 10 and 11, and so on down?

A. I would say that opposite Schrimsher's name appears 209 and Minnie Atkins 210.

Q. That is right. The two hundred part does not appear back of the nine but it is understood; we know it ought to be there. Now then, immediately to the left of Ed. Schrimsher appears the figure 1, and following the, two, three, four. I wish you would explain the meaning of those two sets of figures.

A. The first column of figures there goes to the total of names that are on the roll and are carried through so that the last name on the roll would have a number indicating the total number of names on the roll. The numerals in the second column indicate the number of people that are in the family. Now, it is a matter of history that the citizenship in the Creek Nation as far as the tribe of Vann was concerned, followed the mother and that the children enrolled, her descendants were enrolled in the same town of which she was originally a member; so that we sometimes had the name of parent—most generally where there is only one belongs—where the parents belong to different towns, the father's name would appear separately in his own town, probably with his mother's family or his relatives descended from her, and in the wife's town the children would follow her; so that in answering Mr. German awhile ago that it did not indicate family relationship, they would very frequently take the oldest member, male or female, descendant, who still belonged to that town and put that first and put down different names of that town. Now that rule had an exception also, insomuch that a dependant parent or grandparent, or we might say, as we might say an incompetent, might be listed last, because they would put down as the head of the family the one who would represent them in drawing the money, to whom they would look to see that they would draw the money, or the adult as a general thing.

Q. Well, this group in general indicated a descendant from a common mother? A. Yes, sir.

Q. There is not anything in this roll which shows relationship of these different parties to each other, is there?

A. No, sir, I wouldn't say that there was.

Q. I will ask you to state the meaning of the purpose of these figures immediately to the left of the name and in the same column with the word name.

A. Did you state that correctly?

Q. To the right, I should have said.

A. I would say that that is the number entered upon the enrollment card known as "field" number of the Dawes Commission enrollment card on which their name was entered as an applicant for enrollment.

Q. Then, these numbers to the right were put there by the Commission or by some one connected with the Commission? A. Yes, sir.

Q. And they were not on the rolls when the rolls were received by the Commission? A. No, sir.

Q. Those figures, the*m*, immediately to the right, were not on the Creek roll as such but were placed there later?

A. That is correct.

Cross Examination by Mr. Maxey.

Q. Mr. Hopkins, in the 1890 roll, which is plaintiff's Exhibit A-29, under the group of names to which your attention was just called, commencing with Ed. Schrimsher, will you take this? You will notice a bracket out to the right and the words Thomas and Mary—two children; will you explain what that means?

A. I have no explanation to it whatever. Personally, I would have thought that they were members of that family, but what it does mean or actually mean, I don't know because I didn't have anything to do with the making of the 1890 roll.

Q. Well, do you find on that roll the name Thomas and Mary as enrolled citizens anywhere in that family group?

A. No, sir, I find no notation made to the enrollment of either of those two on this sheet.

Q. Now, if it is a fact that the father and mother of Minnie and Nancy and Lee Atkins was named Thomas and Mary, would you say that referred to their father and mother?

Mr. Cruce: We object, if the Court please, because it calls for a conclusion.

The Court: Overruled.

Mr. Cruce: Exceptions.

A. Judge, I would hate to testify to anything in connection with what that was unless I saw the original roll and know—this being a photographic copy, to know whether the ink would indicate whether it was placed on there at the same time; it looks here as though it was put on in this way: parenthesis, two children and either a comma or period, I can't determine from this, and then parenthesis and then just above it Thomas and Mary. Now, whether Thomas and Mary were put on as an explanation as to who the children were, or whether Thomas and Mary had two children, I cannot tell you. I think the original copy might indicate as to whether Thomas and Mary were subsequently added as an explanation as to what it was. But that would simply be an opinion of mine, is all.

Mr. Maxey: I would like to have that original roll.

The Court: I understand it is being sent for; could you proceed with something else?

Mr. Maxey: That is all I wanted to ask him, Your Honor.

The Court: Any further interrogation of this witness? Cross examination or direct?

Mr. German: Yes, Your Honor, redirect. I would like to ask a question or two.

Redirect Examination by Mr. German.

Q. Mr. Hopkins, in getting the parentage in one listed for enrollment or about to be was there more pains taken in the matter of age and blood?

A. Yes, sir, fully as much though; in a great many instances, I say fully as much so. In fact in a great many instances there might have been twenty witnesses examined in a case as to parentage.

Q. That would be where some question was raised against the enrollment where you would have so many witnesses?

A. Yes, sir, where there was a doubt existed by reason of something that had arisen as to what the parentage was.

Q. Now, I am speaking of the ordinary case of application for enrollment where the right is not questioned by anybody? A. Yes, sir.

Q. You tried to get the names of the parents? A. Yes, sir.

Q. Because your card, as designed, called for answering that data? A. In every instance.

Q. Yes, sir?

A. Yes, sir, in every instance we attempted to get it.

Q. And you got that from the same source as a rule that you got the other data relating to that person aside from the tribal roll?

A. Well, it could be obtained; in a great many instances we went outside and even held cards under consideration until we could make further inquiry to one or the other of the parents.

Q. Now, I have reference to the May, 1901, situation?

A. No, not particularly as referred to where the parties making application for the enrollment of children who stated one of the parents.

Q. If the applicant appeared in person, as a rule you would have no difficulty in getting that information from him?

A. If the father appeared in person and made application for the minor?

Q. No, I say if the applicant appeared in person you would have no difficulty in getting the information from him?

A. I say often in hundreds of cases, we would have difficulty in getting the names of parents.

Q. Frequently wouldn't know the father?

A. Frequently wouldn't know the father and frequently wouldn't know the mother.

Q. Due to the illegitimacy, or what was the trouble?

A. Probably illegitimacy.

Q. They would know their mother even if they were illegitimate wouldn't they?

A. Very often not. Very often the mother might be listed as a white woman and they would say the child had been taken and raised by the Indians. A number of cases where there was no question of legitimacy a party couldn't remember the name of the mother because they were infants at the time the parents died.

Q. Were the Creeks, as a rule, of high mental qualifications? A. Yes, sir, as a rule.

Q. There were hundreds of cases though where they were not?

A. A great many cases, about the usual average of citizenship I expect.

Q. You mean among Indians? A. Yes, sir.

Q. Did you say Mr. Bixby was at Okmulgee in May, 1901?

A. My recollection he was.

Q. Were there any of the other Commissioners there?

A. Well, I couldn't say definitely as to that, but my recollection is that there were. I have an idea that Mr. Needles was there, and I don't know but what Colonel Breckenridge was, but I am not positive as to that.

Q. How many Commissioners were there?

A. Three, I believe, at that time.

Q. Were they all there at that time?

A. I couldn't say as to that. There was business that called them to Muskogee at times, and they had their conveyances and they drove over.

Q. Were these Commissioners actively assisting the clerks in making inquiry, or what were they doing?

A. The Commissioners?

Q. Yes, sir.

A. They were there assisting by passing upon any questions that were submitted to them, directing the work where direction was required, or anything of that kind. You might say they were on the job, that is about all I can say.

Q. A great deal of work was being done? A. Yes, sir.

Q. You spoke a while ago of a committee from the tribe sitting with the enrollment clerks? A. Yes, sir.

Q. That committee from the tribe sat with the enrollment clerks during the work in 1899 and 1900 did they not?

A. All the way through.

Q. Yes, sir, all the way through? A. Yes, sir.

Q. Now, just what did that committee do?

A. Well, the committee listened to the applications made by the people for enrollment, and the testimony that was given with reference to them, and made objections where they thought that the applicant was not entitled to enrollment by reason of having lived out of the state for a period of years. In some instances on the ground that the Act of Council admitting them to citizenship had been passed through fraud, and things of that kind. But they were there generally representing the tribes to see that nobody went on the roll that was not entitled to go on there and get a share of the land.

Q. And it was in those cases where the committee raised an objection to an enrollment for any reason, or raised a question about it, that you took the testimony down?

A. Yes, sir, where the Commission or the attorney for the Creek Nation, who was generally present, or anybody who seemed to be reputable and reliable made any representation to the Commission that the party was not entitled to enrollment, the case was set for hearing.

Q. And the testimony taken down and preserved?

A. Yes, sir.

Q. Now, you spoke of Mr. Bixby considering cases before the names went on the final roll? A. Yes, sir.

Q. The clerk who made the census card, or some clerk in the enrollment division would bring to Mr. Bixby the census card, is that right, the enrollment card?

A. Or he would go to the division where the cards were.

Q. And then he would pass upon the case upon the data set forth on the enrollment or census card, and the tribal roll, I mean in a case where it wasn't a contested or questioned case, where they didn't have the record and preserved testimony?

A. Well, the card, as you are representing to me now, if passing upon what appeared on the card and a tribal roll was not all that was referred to in a very large proportion of the cases. We gathered information and data from these people at various times and places by correspondence, we had birth affidavits and affidavits of relatives and those were in an envelope on the back of the card. A large envelope pasted on the back of the card containing all the notations gathered by clerks or anybody else with reference to that case or anything relating to it. If the general office had occasion to write an officer with reference to the case a copy was filed in the enrollment office and kept there. Mr. Bixby would take everything in connection with that case before he would pass the name.

Q. Now, take the case where there was no correspondence and no testimony and no affidavits, and he had before him merely the census card with the data on it and the tribal roll, he would determine the case from that, would he not?

A. Yes, sir, I presume he would if there was on the card there which would indicate that it came within the terms of the law requiring their enrollment, I expect he probably would.

Q. And then that name, if the evidence appearing upon the face of the card was sufficient, or rather the data taken with the tribal roll, that name would then be placed on the schedule? A. Yes, sir.

Q. Now, a schedule, what was a schedule?

A. A schedule is simply a section or part of the final roll, and they were sent up in that manner more for convenience and to expedite the work.

Q. Send to the Secretary for action?

A. For his approval, yes, sir.

Q. And then if approved by the Secretary returned and filed with the Commission as to the final approved roll?

A. One of the copies was. I expect it was sent in three copies or four. One to be retained in the office of the Secretary and one to be filed in the office of the Principal Chief, and one with the Dawes Commission. It may have been two that were retained in Washington, but I can't tell you as to that.

Q. How many citizens were enrolled in all in the Five Tribes?

A. I couldn't tell you, Mr. German, in the neighborhood of one hundred thousand of them.

Q. Do you know how many Creeks?

A. I do not recollect to this day, in the neighborhood of fifteen thousand.

Q. Do you know who the tribal attorneys were, or attorney in 1900 and 1901?

A. Well, I don't know of my own knowledge, my recollection is that Albert McKellop was the attorney at that time.

Q. Well, he was a Creek Indian?

A. He was a Creek citizen by blood, yes, sir.

Q. Do you know about his having been licensed to practice law?

A. I think that he was licensed both by the Tribal Court and the United States District Court as a practicing attorney.

Q. Do you know who the attorney was before him?

A. No, sir, I don't recall. I had occasion to look it up once before and possibly knew, but I don't now. There is a record to that effect.

Q. Was it Mr. Reed?

A. Well, sir, I don't believe that Judge Reed appeared before the Dawes Commission with reference to any work.

Cross Examination by Mr. Cruce.

Q. Mr. Hopkins, I understood you to state a while ago, in illustration, that when you were over at Okmulgee, if you found a name on the tribal roll with no annotations and the party wasn't there to make application himself, you then gathered such information as you could from the Town Kings and the Committee which was there? A. Yes, sir.

Q. You invariably did that? A. Yes, sir.

Q. Now, you would try to find out whether the party was living? A. Yes, sir.

Q. Whether the party was living on the first day of April, 1899? A. Yes, sir.

Q. You would try to find out also whether the party had left the state so as to abandon citizenship? A. Yes, sir.

Q. All of that information you got outside of the tribal roll necessarily? A. Yes, sir.

Q. How many members were there of that Commission representing the tribe there?

A. My recollection is that there were five, may have been cut down to three before the work was finished, but I am not positive about that.

Q. And that committee sat with you constantly?

A. Yes, sir, the personnel of the committee changed.

Q. I understand?

A. The letters of the Chief to the Commission, designating the members of that committee on the Commission, and the changes in personnel would all be shown from the records, I don't remember those things.

Q. Now, the attorney representing the tribe was there?

A. Yes, sir.

Q. He was permitted to question parties who gave information? A. Yes, sir.

Q. To ascertain whether the parties who were present on that listing was entitled to enrollment? A. Yes, sir.

Q. Now, for instance, take this exhibit, Government's Exhibit A-1, it shows—— It is the enrollment of Thomas Atkins and shows his age ten, you didn't get that age from the tribal roll?

A. I don't suppose the clerk who made the card could get it from that. I did not make that card.

Q. I understand, but you understand from inspection of that roll that it didn't give the ages? A. Yes, sir.

Q. Did it give the name of father, white man. Did the roll give that information?

A. That would have to be procured outside.

Mr. Cruce: That is all.

Cross Examination by Mr. Hanford.

Q. Mr. Hopkins, you are familiar with section 21 of the Act of April 28th, 1898, which provides that the Commission would be required to make the rolls descriptive of the persons thereon? A. The Act of June 28th, you mean?

Q. Let me read you that section, it is short?

A. Well, it is not necessary.

Q. You remember that. Mr. Hopkins, the provisions of that section required the rolls to be made descriptive of the members thereon so that they may be identified is the reason is it not that the census card contained those other facts that were required to be gotten from witnesses; in other words, the allottee identified, was described and identified by his census card?

A. Yes, sir. If you will permit me to go outside the record though, I will say though you might say it was the other way. Because I prepared the cards so that we could have that information and that we might be within the law we embodied that provision in the Curtis Bill so as to fit the cards.

Q. That was what that provision in the act referred to?

A. Yes, sir.

Q. Was because of the descriptive matters that were placed on the census card? A. Yes, sir.

Mr. Maxey: If the Court please, I called for the original roll to further examine Mr. Hopkins, but I am informed that the original can't be found and that the photographs that have been introduced in evidence here is a photograph of a copy of the original roll made by the Commission. And I am informed by parties who have seen the original roll that this is not a copy of the original roll. There has been something added to it —there have been some things added to it that are not on that copy.

The Court: Is the original roll available?

Mr. Maxey: It was in the hands of the Commission.

Mr. Allen: One of the rolls, Your Honor, that the Commission never was able to get from the tribe. But they did get what they always considered the authenticated roll.

The Court: Let me ask this: I have gathered as we went along here that there was an 1890 roll of the tribe to which the Commission resorted when it was gathering up the rolls.

Mr. Maxey: Yes, sir.

The Court: Was that the copy which they now have?

Mr. Allen: Yes, sir.

The Court: That is the roll to which the Commission referred so far as they referred to any 1890 roll?

Mr. Allen: Yes, sir.

Mr. Maxey: Yes, sir, but the original roll and the copy they made they added notations in the copy that are not in the original roll.

The Court: The page of the original roll relating to Thomas Atkins was offered and received in evidence yesterday, I think?

Mr. Maxey: Yes, sir.

The Court: It is now stated that you will find that that is a page from the copy which the Dawes Commission used?

Mr. Maxey: Yes, sir.

The Court: There is no question about that. You may show anything you may desire to show with regard to those notations, qualify it in any way that the facts warrant.

Mr. Hanford: Your Honor please, the copy which was introduced was a photographic copy of the carbon of the original roll. Mr. Maxey evidently refers to some memorandum roll, but the official roll of the Creek Tribe is the typewritten roll which is here. The photographic copy was not taken from the original itself, but was taken from a carbon of that original roll and this is the roll which the Dawes Commission used.

Mr. Allen: The carbon happens to be the original roll and has always been so regarded.

The Court: It seems to me the thing that is material here so far as the 1890 roll is concerned is the copy of the roll, or the roll which the Commission recognizes as the approved 1890 roll, and to which they referred in making the enrollment.

Mr. German: And that is the reason we introduce a photographic copy of this so called carbon copy.

Mr. Maxey: The original Creek roll is written in long hand. This is a typewritten copy from that. On the original roll, written in long-hand by the Creek officers, the name of Minnie Atkins appears, two children, without giving any names. And in this they say Thomas and Mary.

The Court: You say that is the state of the original roll that you say you can't find?

Mr. Maxey: Yes, sir.

The Court: If that roll differs from this roll, it might be competent on some phase of this case if the roll was here. If it isn't here we can't have it, that is all.

And thereupon, Court took a recess until two o'clock P. M.

And thereafter, Court reconvened at two o'clock, P. M., pursuant to adjournment and the following proceedings were had:

PHILLIP *E.* HOPKINS, recalled for further examination, testified as follows:

Redirect Examination by Mr. German.

Q. Mr. Hopkins, did you in Okmulgee, in 1901, in May, learn anything about Thomas Atkins?

A. No, sir, not that I recall of personally.

Q. Did you at that time have any knowledge of this Atkins family, or Thomas Atkins?

A. No, sir, no special knowledge at any time.

Q. Do you have any recollection of the reception of any evidence, any personal and independent recollection of the reception of any evidence there as to Thomas Atkins at that time? A. No, sir.

Q. With reference to what members of the Commission was over there, what is your best recollection as to which ones of them were there?

A. Well, my best recollection with reference to Mr. Bixby being there; and I rather believe that Colonel Needles was there at least a good part of the time, but I might be mistaken, he might have been there in March prior to that; I wouldn't be able to testify without refreshing my recollection from files of the Commission.

Q. Is Col. Needles living? A. He is not.

Q. Is Mr. Breckenridge living?

A. Yes, sir, the last that I heard of him a few months ago.

Q. You don't remember that he was there?

A. I couldn't state definitely, positively, no, sir.

Mr. German: That's all.

Cross Examination by Mr. Stuart.

Q. Mr. Hopkins, you don't have any particular personal recollection about any of these pages do you, except some unusual case? A. No, sir.

Q. All you know is what the practice and invariable custom of your department was with reference to this enrollment? A. That's all.

Mr. Stuart: And you have stated that. That is all.

(Witness dismissed.)

And thereupon, SAMUEL W. BROWN, was called, sworn and examined as a witness on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Samuel W. Brown.

Q. Mr. Brown, what is your citizenship?

A. Citizen of the Creek Nation.

Q. What band or town? A. Euchee.

Q. Are you an officer of that town? A. Yes, sir.

Q. What office do you hold? A. Town King.

Q. How long have you been Town King?

A. I have been, let's see—I missed eight years—from 1867.

Q. Were you Town King in 1890? A. 1890? No, sir.

Q. Who was? A. Noah Gregory.

Q. What degree of Indian blood are you? A. I am half.

Q. The other half is white? A. The other half is white.

Q. Mr. Brown, you were Town King after Mr. Gregory though, were you not? A. Yes, sir.

Q. Were you Town King in 1895? A. Yes, sir.

Q. And was a tribal payment made to the members of the Creek Nation or Tribe? A. Yes, sir.

Q. In 1890 was there not? A. 1890, yes, sir.

Q. What was the amount of that payment per capita?

A. Twenty-nine dollars.

Q. Then, there was a tribal payment made in 1895 was there not? A. Yes, sir.

Q. What was the amount of that payment?

A. Fourteen dollars forty cents ($14.40).

Q. Was there a roll made in 1890 of the members in each town? A. Yes, sir.

Q. How many different Creek Towns were there?

A. You mean in the Creek Nation?

Q. Yes, sir.

A. There is forty-four Creek Towns and three colored.

Q. Making forty-seven in all?

A. Yes, sir, forty-seven towns.

Q. Now, Euchee Town was one of the Creek Towns?

A. Yes, sir.

Q. When this 1890 payment of twenty-nine dollars was made, was it made on some tribal roll? A. Yes, sir.

Q. Was there a roll of Euchee Town made up?

A. Yes, sir.

Q. When you speak of the Town, Euchee Town, what do you mean by that? A. Well, different tribes I suppose.

Q. It is a descriptive word to designate the band?

A. Yes, sir.

Q. And consists of the Euchees? A. Yes, sir.

Q. Did you have anything to do with the making of the 1890 roll that was used in making the payment in 1890?

A. Yes, sir.

Q. What did you have to do with that?

A. I was the clerk of that convention, mass meeting of the Euchee people, and we took the census of 1890.

Q. Who presided at that meeting?

A. Mr. Gregory, he was the Town King at that time.

Q. Town King? A. Yes, sir.

Q. Do you remember of anything about the name of Nancy Atkins and Mammie Atkins in connection with that roll?

A. Yes, sir.

Q. Tell the Court—— First let me ask you this: Were you related to them? A. Yes, sir.

Q. What relationship? A. About second cousin.

Q. Second cousins? A. Yes, sir.

Q. Did you know Minnie Atkins personally? A. Yes, sir.

Q. Did you know Nancy? A. Yes, sir.

Q. Who were their parents? A. Sir?

Q. What was the name of their parents if you know, their father and mother?

A. Oh, their father and mother. Thomas Atkins is the father of the children and Mary Jane Atkins was the mother. Davis was her maiden name.

Q. What did you say about Davis?

A. Her name was Mary Jane Davis before she married Atkins.

Q. Were they living in 1890, Thomas Atkins and Mary Jane Atkins? A. Yes, sir.

Q. When did they die?

A. Seventy-six or seventy-seven it seems to me.

Q. Somewhere along in there? A. Yes, sir.

Q. Had they lived in the Indian Territory? A. Yes, sir.

Q. In the Creek Nation? A. Yes, sir.

Q. In 1890 where was Minnie Atkins if you know?

A. In 1890 I don't think she was here.

Q. Had she been here?

A. No, sir, I don't think she was, she was out in the states.

Q. In the states somewhere; did you know where?

A. No, I didn't know at that time.

Q. Where was Nancy Atkins in 1890 if you know?

A. She was here.

Q. Do you know where she was living at that time?

A. Well, I couldn't tell you that very much, but sometime she was living here and at Wagoner.

Q. Now, tell the Court where you lived at that time?

A. I was living on Snake Creek.

Q. Where is that? A. That is west of here.

Q. About how far? A. About forty miles.

Q. Is that where you have been—— Is that where you are living now?

A. Yes, sir, I was living right close to Weolocka Mission. I have a store there.

Q. Did you say Nancy was living near Wagoner?

A. She used to be at Muskogee, and sometimes I could hear of her at Wagoner.

Q. What direction is Wagoner from Muskogee?

A. I believe it is north.

Q. Where did you people as a rule live, your Euchee people?

A. Well, some was living on Snake Creek, a place they called Snake Creek, it is a creek running from the river; and some on Pole Cat; some lived on the place they called Big Pond; and some living at Deep Fork.

Q. Where was Pole Cat? A. That is near Red Fork.

Q. West of where you live?

A. Yes, sir. I am living on that creek now.

Q. I thought you said you lived on Snake Creek?

A. I did when I was doing business.

Q. They are not very far apart are they?

A. They are not far, directly sixteen or seventeen.

Q. Where is Big Pond?

A. That is good ways, that is on the line almost.

Q. On further west than Pole Cat and Snake Creek?

A. Yes, sir.

Q. In the western portion of this state? A. Yes, sir.

Q. Where is North Fork? A. You mean Deep Fork?

Q. Deep Fork? A. Well, that is this side.

Q. This side of where?

A. This side of Big Pond, no the other side.

Q. So, it too, is over in the western part of the Creek Nation? A. Yes, sir.

Q. And Muskogee and Wagoner are in the eastern part of the Creek Nation? A. Yes, sir.

Q. Now, in 1890, when you held this convention of your people, at which Noah Gregory presided, where was that held? A. It was held—— You mean 1890?

Q. Yes, sir?

A. It was held on the Square Grounds, well right on Snake Creek.

Q. And you were clerk of that convention?

A. Yes, sir, in 1890.

Q. Now, what was that convention held for?

A. It was held—— The people was called together to represent their families, see how many was in the families so they could take true census and enable them to draw that money.

Q. Was that the twenty-nine-dollar payment?

A. Yes, sir.

Q. Do you recall the name of Mammie or Minnie Atkins and Nancy Atkins having been called up at that convention?

A. Yes, sir.

Q. Do you recall their names having been placed on that 1890 roll, were their names placed on the 1890 roll?

A. Yes, sir.

Q. Mammie Atkins and Nancy? A. Yes, sir.

Q. Now, was there anything said about Mammie Atkins having any children? A. Yes, sir.

Q. Tell the Court what it was?

A. Well, Minnie's brother-in-law, he didn't state at first, but one of the neighbors said Thomas knowed something about Minnie having children.

Q. Thomas, who? A. Thomas Holden.

Q. That was her brother?

A. Brother-in-law. And he said that she had two children.

Q. Who said that?

A. Jackson Barnett. And Thomas got up and stated that she had two children but he didn't know their names. I said it won't do to leave them out if they are not in the country, and better enroll them, and if the Council will not accept them of course we will have to cancel them. But we will not do that, we will put them on the roll two children. So, that was enrolled that way, Minnie and two children.

Q. But you didn't know their names?

A. Didn't know their names.

Q. Did anybody attempt to call their names? A. No, sir.

Q. Did anybody make any statement as to what their names were? A. No, they never did.

Q. So, the name was put down the Mamie and two children? A. That was in 1890.

> The Court: Will there be any controversy as to whether Mamie and Minnie are interchangeable names of the same persons?
>
> Mr. German: I don't think so. I will ask the witness about that.
>
> The Court: I notice sometimes it is Mamie.

A. Minnie is her proper name.

Q. When you used the name Mamie on that roll——

A. Might have been spelled that way, the intention was Minnie.

Q. This daughter of Thomas and Mary? A. Yes, sir.

Q. Now, I will ask you this: State whether or not the words Thomas and Mary were written above the words two children there at that convention. Tell me whether or not the words Mary and Thomas were written above the words children there at that convention? A. No, sir.

Q. Now, was that roll, as made up by your convention, taken before the Creek National Council? A. Yes, sir.

Q. Was that roll ratified by the Creek National Council?

A. Yes, sir.

Q. Were you there? A. Yes, sir.

Q. State what your connection was at that time?

A. I was in the House of Warriors.

Q. You were a Warrior? A. Yes, sir.

Q. The legislative bodies of the Creek Nation were known as the House of Warriors and House of Kings? A. Yes, sir.

Q. The House of Kings being composed of Town Kings and the House of Warriors being composed of Warriors?

A. Yes, sir.

Q. The two bodies taken together constituted the legislative body of the nation? A. Yes, sir.

Q. Now, at the time the council ratified that roll, state whether or not the words Thomas and Mary were written above the words two children? A. They were not.

Q. Mr. Brown, I call your attention to the fact, I have already done it off the stand, by showing you the roll, that on the typewritten copy of that roll in the possession of the Commission the words and Thomas and Mary appear to be typewritten above the words children. Do you know when those words got on there or anything about it?

A. No, sir, I don't.

Q. Mr. Brown, in 1895 you state that you were the Town King of Euchee Town? A. Yes, sir.

Q. In making the 1895 payment state whether you had anything to do with making the roll for Euchee Town?

A. Yes, sir.

Q. For the purpose of that payment? A. Yes, sir.

Q. You did. What did you have to do with making that roll?

A. Well, that is the request from the Council that the roll should be made.

Q. Did you have anything—— Did you make that census roll up or not? A. Yes, sir.

Q. Did you have a meeting of your people to act on it?

A. Well, they didn't act much on it, they just gave in the family, the head of the family and a list of their children, and of course there was no objection made, but they were satisfied. There was some Euchees that was left out because we couldn't tell—— I couldn't tell whether they had any children or not. I had to get out and hunt the others.

Q. Now, then, you had held a meeting of your people?

A. Yes, sir.

Q. And considered the roll? A. Yes, sir.

Q. Census?

A. Yes, sir, held the meeting and called the people together. We had no council but it was a meeting and all that had families that was not able to come to that meeting, of course the head of the *head of the* family was there representing the family at the census.

Q. Now, after that meeting was held were you authorized to gather the names of any of the rest of your people and put them on the census? A. No, sir, I wasn't authorized but I had the right.

Q. You had the right? A. Yes, sir.

Q. State whether or not the names of these Atkins—Minnie and *M*ancy, and Jim were placed on the '95 roll by you? A. You mean in 1895?

Q. Yes, sir. A. Yes, sir.

Q. By you? A. By me.

Q. Where did you get the names of the Atkins family that you put on that roll?

A. I got the Atkins family right in this Muskogee.

Q. Who from?

A. A man by the name of John Davis, Minnie's uncle.

Q. Minnie's uncle? A. Yes, sir.

Q. Did you make any record of the names that he gave you at that time? A. I took the list, yes, sir.

Q. What did you take the list down in?

A. I had a little book.

Q. I will ask you whether this is the book?

A. That is the book.

Q. To help you a little bit I put a little slip of paper there at the page. A. Yes, sir.

Q. What names did John Davis give you?

A. Ed Schrimsher, Minnie Atkins, and Charlie, and I can't hardly see but it is all here—Susan and Thomas and Mary and Nancy.

Q. Tell the Court what the conversation was between you and John Davis at that time.

A. Well, we didn't have very much; we didn't have very much to say about it to each other that day. It was a very cold day and I just asked him did he know the remnants of the Atkins family and he said he did, and that is the list he gave me.

Q. Did he tell you about what kin one of the- was to the other? A. No, sir, he didn't say a word about that.

Q. Did you ask him anything about that?

A. No, sir, I did not.

Q. Did you know—you have stated already that you knew Minnie? A. Yes, sir.

Q. I will ask you whether or not she was in the Indian Territory in 1895? A. She was here in 1895 at the payment.

Q. At the payment. Did you know she was here prior to the date of the payment?

A. No, sir, I don't believe I did at that time.

Q. And you learned it on that day? A. Yes, sir.

Q. Did you know personally the names of all the people John Davis gave you that day? I mean did you know personally the people whose names John Davis gave you that day?

A. Not the children—in the list.

Q. What people on that list did you know?

A. I knew Ed Schrimsher, and I knew Minnie Atkins, and I knew Nancy.

Q. But you didn't know the others? A. No, I didn't.

Q. After you got that list of names from John Davis, did you put them on the '95 roll or not? A. Yes, sir.

Q. As he had given them to you?

A. Yes, sir, his name is also on that list; he had a Cherokee family and of course his children couldn't go on Euchee roll. I got his name and it is on there.

Q. When did you put these names that John Davis gave you on that Euchee Town census? Before or after the convention of your people? A. After.

Q. Then was that census roll taken up with your people after you put these names on there? A. You mean '95?

Q. Yes. A. Yes, sir.

Q. Were those names—was your census rolls of your people after you put those names on it—of these Atkins—this Atkins family—was it taken up with your people in convention assembled? A. Oh, no.

Q. It was not. Did the roll which you have prepared in the manner related, was it taken up with the Creek Council —Council of the Creek Nation? A. Yes, sir.

Q. Was it acted on by the Council? A. Yes, sir.

Q. What action did they take on it? Did they ratify it or not? A. Ratified it.

Q. At the time the Council ratified that roll, how did they proceed in acting upon it? Did they have a committee or how was it taken up? A. They had a committee appointed.

Q. Committee. What was the name of that committee?

A. I have forgotten now but the Enrollment; something like that, I guess.

Q. Census roll committee?

A. Yes, census roll committee. It has been so long.

Q. Now, that committee would consider the census rolls of each of the towns? A. Yes, sir.

Q. Is that right? How would that committee find out about whether those census rolls were correct or not?

A. Well, they would not pass on them unless they were correct.

Q. I know but where did they get their——

A. By the Council members.

Q. Well, take Euchee Town—who did they ask about the Euchees?

A. Asked me and Mr. Gregory, and Mr. John Buck; those were members.

Q. Members of the Euchee Town? A. Yes, sir.

Q. The Town King and Town Warriors? A. Yes, sir.

Q. Was this Atkins family and these names that appear on it discussed before that committee?

A. I don't know whether they discussed this much or not because we never had much trouble with our rolls before the Council. We always tried to get it right and we stated that is all we could get up and I think they passed on it.

Q. Just accepted your representations on it?

A. Yes, sir; yes, sir.

Q. Well, how would the Council come to act on the roll?

A. Well, they adopted them and they would go through.

Q. The committee would make a report or not?

A. The committee makes a report to the Council.

Q. To the Council? A. Yes, sir.

Q. Then what would the Council do with the report?

A. The council, of course, if they found the rolls correct according to the committee's report, why, they passed on it.

Q. And approved them? A. Approved them.

Q. Now, after that roll was made up and ratified by the Council, you had this tribal payment of '95, did you?

A. Yes, sir.

Q. Were you present at that payment? A. I was there.

Q. I will ask you if you recall anything about the payment that was made on account of these Atkins names appearing upon that roll?

A. No, I did not, but at the pay table, Judge Moore was the treasurer.

Q. You were there? A. I was there.

Q. Alright, sir; go ahead.

A. And there was the Euchee payment; there was some omitted—some that wasn't there, and those, Judge Moore says, I will just turn you over what is left—I can't be hanging around here for just a few, and you can pay them off yourself. He just turned that over to me. By that time, Minnie Atkins had come up before we left our chairs.

Q. Before you left your chairs?

A. Yes, we were there yet. She said, Uncle Sam, I want my money. That is the very words she said. I said to Judge, what about this, she is right here? Do I have to pay this money to her, and he said, Oh, pay it to her. So, I just paid the money to her.

Q. Do you remember just how much she received?

A. $57.60, I think that is correct. She received for four.

Q. For four? A. Yes.

Q. Now, that would be four times $15.40? A. Yes, sir.

Q. Now, who signed up for that money that she got?

A. I did.

Q. You think you did? A. Yes, sir, and Cornelius Carr.

Q. Cornelius Carr was the witness to the signatures?

A. Yes, sir, he was.

Q. I wish you would look at this original pay roll and look at the Atkins family here and the receipt of the money.

A. Well, there she is, right there. She got this and I got this here—I got this.

Q. Then Minnie signed for herself and three others?

A. Well, he witnesses it down here—Cornelius Carr—somewhere.

Q. Over here in this column?

A. Any way, she got the money, because I had the money in my hands and I paid it to her.

By the Court.

Q. Well, who wrote this right there?

A. I expect the clerk wrote that; that is her name.

By Mr. German.

Q. Either the clerk or Minnie wrote that?

A. Yes, sir. She drew the money because the money was turned over to me and I hadn't left the room yet.

Q. You hadn't left the room yet?

A. Yes, the Judge was still in his chair—hadn't left it—and I drew the other two, too.

Q. Did you give Minnie any of the money that you collected there for Nancy and Ed Schrimsher?

A. No, sir, she didn't get it.

By the Court.

Q. What relation is Schrimsher to Minnie Atkins?

A. They are two sister's children.

Q. Sister's children? A. Yes, sir.

Q. He was a cousin of hers then?

A. Yes, sir.

By Mr. German.

Q. Now, Mr. Brown, in 1895, did you have any personal knowledge of Minnie Atkins' children? A. I did not.

Q. What became of Minnie after the payment? Did she continue to live in the Indian Territory or not?

A. I don't think she did.

Q. At the time of this payment, what conversation was had with Minnie and you, or Minnie and Mr. Moore, if anything? A. At the time of the payment?

Q. Yes, sir.

A. Well, she requested—she wanted her payment because I was her Town King—and she came to me—she thought Judge Moore still had the money in his possession. She said she wanted her money, was all she said.

Q. She thought Judge Moore still had her money?

A. Yes, sir.

Q. Was there any thing said about her family on that occasion?

A. I said how about these other two, and I said how about this—the list—why, just pay her what she contends for and hold the other; pay it yourself.

Q. So you held Nancy's and Ed's? A. Yes, sir.

Q. Mr. Brown, did you have the knowledge of all the members of all the Euchee's band, or what was the extent of your acquaintanceship with your town?

A. You mean the Euchee Town?

Q. Yes, sir.

A. Euchee tribe. I knew all the old ones but some of the young ones I didn't.

Q. You personally knew all the old ones?

A. All the old ones.

Q. Had there been any Thomas Atkins living among your people that you knew of after the death of old Thomas who was the father of Minnie? A. Thomas Atkins?

Q. Yes, sir, Thomas Atkins—after Thomas Atkins, the father of Minnie died. Was there any member of your Euchee people by the name of Thomas that you knew? A. No, sir.

Q. Was there any child by that name that you knew?

A. No, sir, except what the '95 showed.

Q. Except what the 1895 roll showed? A. Yes, sir.

Q. And you got your information about that as you stated? A. Yes, sir.

Q. That was your sole information about any Thomas Atkins, a member of your town? A. Yes, sir.

The Court.

Q. What kin was Nancy Atkins to Minnie? A. Sister.

The Court.

Q. Who was Lee Atkins?

A. That is Minnie's brother—full brother.

Q. Is he living or dead? A. He is dead.

[*Mr. German.*]

Q. Do you personally know of any member of that old Atkins family who is living except Nancy?

A. Thomas Atkins' family, you mean?

Q. Yes, sir. A. Nancy and Minnie.

Q. Nancy and Minnie? A. Yes, sir.

Q. Are they the only ones you know of living?

A. The only two living.

Q. Do you know Charlie and Harvey Harrison?

A. Charlie and Harvey—I knew them—I seen Charlie in 1897 and Katy Holden—Thomas Holden's wife.

Q. Who was Katy Holden? A. Minnie's half sister.

Q. Is she living or dead? A. She is dead.

Q. Is Tom Holden living or dead? A. He is dead.

Q. You say you saw Harvey at that time, or Charlie?

A. I said both of them.

Q. What sized or aged children? A. Oh, they were small.

Q. Have you ever seen any other person who it is claimed was the child of Minnie besides Harvey and Charlie?

A. No, I don't believe I ever saw any others.

Q. Did you ever know of a child, did you ever see a child who—a boy who claimed to be named Thomas Atkins, who claimed to be Minnie's child? A. No, I never did.

Q. None ever lived among your children that you ever knew of?

A. Just them two boys that I seen after that payment, you know.

Q. Mr. Brown, were you in Okmulgee, in May, 1901, when the Creek Council was considering the Original Creek Agreement? A. I was there.

Q. The Creek Agreement that was ratified? A. Yes, sir.

Q. On May 25, 1901? A. Yes, sir.

Q. You were there? A. Yes, sir.

Q. Do you remember about some of the clerks of the Dawes Commission being there?

A. They was there all the time mostly; I can't say much about it but it——

Q. Did they ask you about the members of the—unaccounted for members of the Euchee Town? A. Yes, sir.

Q. The members that they found on the tribal roll that they had not been able to find out about? A. 1901?

Q. In 1901. A. Yes, sir.

Q. Did you give them the information about this name Thomas Atkins on the tribal roll—did you give the Dawes Commission any information about that name?

A. I don't know whether it was 1901, or afterwards. I can't remember exactly now.

Q. Did you ever talk with any clerk of the Dawes Commission about it? [A.] No, sir, I don't believe I did.

Q. How is that? A. I don't hardly think so.

Q. You don't hardly think so? A. No, sir.

Q. Well, over there in Okmulgee in May, 1901, do you now recall where the Dawes Commission met that was there doing the work—in what part of the Capitol Building they were? A. In the Capitol Building?

Q. Yes, sir, or were they in the Capitol Building?

A. Well, there was a tent there, on one side of the creek there.

Q. It was March that they were camped on the creek.

A. Some time in the fall.

Q. Then, when considering the Creek Agreement which you ratified May 21st, 1901, did the Dawes Commission have any clerks there in the Capitol Building? A. I think so.

Q. Did you appear before those clerks and talk before them about the members of the Euchee Town that they had not gotten any information about? A. Yes, sir.

Q. Did you give them any information about Thomas Atkins?

A. I don't know whether I did or not; I might have and I might have not.

Q. Did you know any more about that name Thomas Atkins about that time than you do now?

A. I don't know as much.

Q. You don't know as much. So that if you gave them any information, you simply told them what you told here on the stand?

A. That is all I know about it—the list I had. Yes, sir.

Q. Is John Davis living or dead? [A.] He is dead.

The Court: You say he is dead?

A. Yes, sir.

Q. That little book that you had in which you wrote the names of this Atkins family in 1895 that John Davis gave you—— A. Yes, sir.

Q. Where has that been recently?

A. Why, it has been right in my trunk; I have a lot of them there, just like that. Not the Atkins on it but I keep my books.

Q. But that book, Mr. Long, has had it for some or four months, hasn't he?

A. I don't know what they done with it there; I got it a while ago.

Cross Examnation by Mr. Stuart.

Q. Mr. Brown? A. Yes, sir.

Q. You knew Ed. Schrimsher well, didn't you?

A. Yes, sir.

Q. And you knew Minnie Atkins well, didn't you?

A. Yes, sir.

Q. And you knew Nancy? A. Yes, sir.

Q. And you knew John Davis? A. Yes, sir.

Q. John Davis was Minnie's uncle? A. Yes, sir.

Q. And you are some kin to Minnie yourself? A. Yes, sir.

Q. Now, in 1895, John Davis gave you certain names, didn't he? A. Yes, sir.

Q. You were anxious to see that each Indian entitled to it got the payment? A. Yes, sir.

Q. That was your business? A. That was my business.

Q. And you kept this book for that purpose? A. Yes, sir.

Q. Now, did you keep this book correctly? A. Yes, sir.

Q. You kept it correctly? A. Yes, sir.

Q. Alright, now? A. Tried to.

Q. Now, this book—what do you call this book——

A. This book, some of it is the Euchee list—most of it.

Q. Made out by you?

A. Yes, sir, that is some accounts on there, I guess.

Q. Made out by you at the time? A. Yes, sir.

Q. Now, did you note on this book each time that an Indian claimant got his money? Did you mark it paid?

A. Well, this account here is accounts.

Q. Well, yes, but this here, for instance. Did you put that Pd. here? A. Yes, sir.

Q. Paid; what does that mean?

A. That means paid, been paid.

Q. Meant that was paid?

A. That means the Creek Nation.

Q. Had paid those people? A. Yes, sir.

Q. Now, when John Davis came in there, was Ed. Schrimsher with him? A. I believe not.

Q. Don't you remember that Ed was with him?

A. I believe not.

Q. Well, you and John Davis went over the Atkins family together, didn't you? He told you there names.

A. We never did go over the Atkins family.

Q. Well, but he gave you the names on here?

A. Yes, sir, that is alright.

Q. The first name is Ed Schrimsher, you knew him?

A. Yes.

Q. And you knew him? A. Yes, sir.

Q. The next is Mamie Atkins, or Minnie Atkins?

A. Yes, sir.

Q. The next one is Charlie? A. Yes, sir.

Q. The next one Susan? A. Yes, sir.

Q. The next one Thomas? A. Yes, sir.

Q. Now, you wrote that Minnie Atkins, right there, didn't you, Mr. Brown? A. Yes, sir.

Q. That was to indicate that this was Minnie Atkins' family, wasn't it? A. Yes, she drew that money.

Q. Now, then, when John Davis gave you these names —John Davis told you—he called over Minnie Atkins, and you knew Minnie, of course, and Charlie, and Sue, and Thomas and Mary, and told you those were Minnie's children, didn't he?

A. Didn't say whether they were Minnie's children or not but said that is the family.

Q. This is the family; said this is the name. And the last name on there is Nancy? A. Yes, sir.

Q. And that is Minnie's sister? A. Yes, sir, her sister.

Q. Now, we will talk about this roll a little. You are a Euchee, are you? A. Yes, sir.

Q. And you have lived in that Euchee town for many, many years? A. Yes, sir.

Q. You knew all the older people, you say?

[A.] I knew pretty near all of them.

Q. Now, we will take this '90 roll; of course the 1890 roll was made out in 1890, wasn't it, and the '95 roll in 1895?

A. Yes, sir.

Q. Now, Thomas Atkins, the old Thomas as you call him was a Light-horse man, wasn't he? A. Used to be.

Q. Used to be a Light-horse man? A. Yes, sir.

Q. And he died about 20 years before the '90 roll, didn't he? How long before that?

A. He died along in 1877 or '76.

Q. And his wife Mary died long before the '90 roll?

A. Yes, sir.

Q. And you knew it, didn't you? A. Yes, sir.

Q. And you knew you weren't putting any dead men on that roll, didn't you? A. Couldn't.

Q. You didn't intend to put anybody dead on there, did you? A. No, sir.

Q. And you knew that that Thomas and that Mary were dead, didn't you, Mr. Brown? A. Yes, sir.

Q. You knew that. Now, the way that you gathered this information, Mr. Brown, was by inquiring from members of the family, wasn't it? A. Yes, sir.

Q. And kept in touch with them as Town King the best you could? A. Yes, sir.

Q. But as the younger generation came on that information would have to be furnished you by members of the family? A. Yes, sir.

Q. You relied upon this information that John Davis gave you? A. Yes, sir.

Q. Believing that it was correct? A. Yes, sir.

Q. And true? A. No one disputed it.

Q. Wouldn't dispute it. And you took that before the Creek Council, didn't you, Mr. Brown? A. Yes, sir.

Q. And the matter was examined by the Creek Council, wasn't it? A. Yes, sir.

Q. And after they examined it, they ratified it?

A. Yes, sir.

Q. And there were a good many people around the Creek Council that were Euchee Indians, weren't they?

A. Well, sometimes.

Q. And very well acquainted in the community just like you were? A. Yes, sir.

Q. And with those facts in mind, the Creek Council took that roll and examined it and ratified those names as members of the Creek Nation? A. Yes, sir.

Q. Now, this money that you said you paid was $67.50 —who did you pay that to? A. Minnie.

Q. How many did she draw for? A. Drawed for four.

Q. Drew for four. That would be herself and three more, would it? A. Yes, sir.

Q. Drew four? A. Yes, sir.

Q. Now, you do know that Lee Atkins was a brother of Minnie? A. Full brother.

Q. And a brother of Nancy? A. Yes, sir.

Q. And Minnie was claiming simply to draw for herself and her children, wasn't she? That is what she told you?

A. That is what she claimed.

Q. Now, Mr. Brown, the names on this book are all Euchees, aren't they? A. All Euchees.

Q. This is a Euchee list? A. Yes, sir.

Q. And a Coweta Indian wouldn't be on a Euchee list, would he? A. Hardly.

Q. And old man Thomas Atkins was a Coweta?

A. Coweta.

Q. And he wouldn't have been put on this Euchee list on any circumstances? A. No, sir, not his family.

Cross Examination by Mr. Rosser.

Q. Now, Mr. Brown? A. Yes, sir.

Q. You say this is a list of the Euchees? A. Yes, sir.

Q. And this list here is a list of the Atkins family, the relationship? A. Yes, sir.

Q. E. A. Skrimpsher is a brother of Nancy Atkins and Minnie Atkins' mother? A. Yes, sir.

Q. Now, that, then, made Nancy and Minnie and Ed Skrimpsher cousins. Now, in this list seven names appear altogether? A. Yes, sir.

Q. That is Ed Skrimpsher, Minnie Atkins, Thomas Atkins, Susie Atkins, Mary and Nancy? A. Yes, sir.

Q. And you paid Minnie the money for four people?

A. Yes, sir.

Q. You kept the money of Ed Skrimpsher and Nancy, or at least you drew that? A. I drew that.

Q. What was done with the other, the fifth, the extra one? You drew for two? A. She drew for four.

Q. She drew for four and you got two, what do you remember what was done about that? A. No, I don't.

Q. You don't remember that? A. No, sir.

Q. You stated a while ago that when this list was given you by Mr. Davis that he made no statement to you as to what relation these different persons were except that they were the Atkins connection? A. Yes, sir.

Q. Did he state to you which one was the child of the other? A. No, sir, he didn't. I knew the others.

Q. You knew Ed Skrimpsher and Minnie and Nancy?

A. Yes, sir.

Q. But you didn't know the other names? A. No, sir.

Q. And he didn't tell you what kin they were to the others? A. No, sir.

Q. Now, Judge Stuart asked you if Minnie didn't say they were her children, but as I understood you to say a while ago when Mr. German was examining you, that she didn't say they were her children, but she just wanted money for four. A. Yes, she wanted money for four.

Q. What did she say about the relationship?

A. She didn't say anything, but my thought struck me it was her children.

Q. In other words she wanted money for four and you just supposed they were her children and paid it to her under that supposition? A. Yes, sir.

Q. But she didn't actually state to you that they were her children?

A. No, sir, the thought, I was convinced in thinking over it that they were her children because I knew the others.

Q. You were living about forty miles west of here then?

A. Yes, sir.

Q. And Nancy was living here or at Wagoner?

A. Somewhere.

Q. How long had it been up to the time the 1890 roll was made that you had seen Nancy? A. Not for some time.

Q. Just what do you mean by that? A. Year or two.

Q. You hadn't seen her for quite a while?

A. No, sir, I could hear where they were.

Q. But you hadn't seen her for a long time? A. No, sir.

Q. How long prior to the making of that roll had it been since you saw Minnie? A. Some time.

Q. Several years? A. Several years.

Q. You didn't see her at all about the time you made the 1890 roll? A. No, sir, not at that payment.

Q. Judge, there is one other question I want to ask you; I notice you have this name Mamie Atkins?

A. It is the same person.

Q. I know it is the same person but I want to know why you wrote it that way?

A. Just naturally sometimes a person in a hurry. I know that is Minnie Atkins.

Mr. Stuart: Your Honor, we would like to offer this book in evidence as Defendant's Exhibit B-1.

Cross Examination by Mr. Cruce.

Q. Mr. Brown, you don't remember of course the exact words of all the conversation between you and Mr. Davis in 1895? A. Couldn't.

Mr. German: Your Honor, I don't want to be captious, but Judge Stuart and Mr. Cruce represent the same client.

The Court: Well, so far as you can, gentlemen, confine yourselves to one for each side. I would rather have you do that than to have one counsel interrupt the other by making suggestions because I think we would get along faster.

Q. You knew Nancy Atkins? A. Yes, sir.

Q. You knew she was at Muskogee sometimes and sometimes at Wagoner? A. Yes, sir.

Q. You never heard of her having any children?

A. Well, I heard something about that, but I heard her children was dead.

Q. So, when Minnie came there in 1895 and drew the money for three children and herself, you just had the thought in your mind that the children were her children?

A. Well, let me state that over. The Creek Council had passed an act that anyone outside the limits of the Creek Nation could not get the money, and I just supposed that she wasn't getting anything but only getting the four on the list.

Q. You supposed she was not drawing for herself but was drawing for four children?

A. That is the way I had it in my mind.

Redirect Examination by Mr. German.

Q. That was just a mere supposition on your part?

A. Yes, sir, I forgot that because that is the way I felt.

Q. You stated you knew old Tommy Atkins and old Mary Atkins, if I may express it that way, who died. Had you known a member of that family by the name of Susan?

A. No, sir. Mary Atkins and Minnie Atkins.

Q. In the olden days, away back after the war, did you know a Susan Atkins?

A. No, sir, I did not. That is where I got the information, from old Uncle John Davis.

Q. John Davis gave you the information and that is all you know about it? A. Yes, sir.

Judge Stuart: This is page 8. (Defendant's Exhibit B-1.)

The Court: It may be admitted.

Cross Examination by Mr. Cobb.

Q. After these pay rolls, 1890 and 1895, had been accepted by the Creek Council, in case there were any errors upon them, were they subject to correct at that time?

A. Please repeat. (Question read by the reporter.) It was.

Q. Anybody questioning the right of a party upon any one of those rolls could have the matter adjusted even up to the time of the payment, couldn't they?

A. Well, I never questioned it. They had a perfect right.

Q. They could have done it? A. Yes, but never did.

Q. This payment was made to Minnie at the time without any question being made?

A. Wasn't any question. Because the treasurer of the Creek Nation requested me to pay her.

Q. At this payment in 1895 Minnie drew what she was entitled to at that payment? A. That is what I said.

Q. And you drew what Nancy was entitled to?

A. Yes, she didn't draw it.

Q. And you drew all that she was entitled to there at that payment? A. Yes, sir.

Q. You knew Nancy well and had known her for years?

A. Yes, sir.

Q. Knew all her family? A. Yes, sir.

Cross Examination by Mr. Rosser.

Q. Judge, how long had it been at the time this money was paid since you had seen or talked with Nancy Atkins?

A. Which one?

Q. At the 1890 payment how long since you had seen Nancy and talked to her? A. I didn't see her.

Q. Hadn't seen her for a long time?

A. No, they are kind of straglers.

Redirect Examination by Mr. German.

Q. You stated that you had heard that Nancy Atkins had a child and that it was dead? A. Yes, sir, I heard that.

Q. When had you heard that, Major?

A. Oh, might have been in 1887 or 1886.

Q. You mean 1887 or 1897? A. 1886 or '87.

(Witness dismissed.)

And thereupon, NOAH G. GREGORY, was called sworn as a witness on behalf of the Government, and testified as follows:

Direct Examination by Mr. Pinson.

Q. You may state your name? A. Noah Gregory.

Q. Where do you live, Mr. Gregory?

A. I live near Jenks, Oklahoma.

Q. Where is Jenks?

A. It is about ten miles this side of Tulsa in Tulsa County.

Q. How far is it from Muskogee? A. About forty miles.

Q. What direction is it from Muskogee?

A. West, a little northwest.

Q. Are you a Creek Citizen? A. Yes, sir.

Q. Of what band or town of the Creek Nation are you a member? A. Euchee.

Q. Have you ever occupied any official position with regard to that town?

A. Yes, sir, I used to be a member of Council, member of the House of Kings and also House of Warriors.

Q. Do you recall now at what period you were Town King and what period you were a Warrior?

A. No, sir, I can't state the period.

Q. You do remember what your official position was in 1890?

A. I think it must have been in that year I was a—belonged to the House of Kings, during all the time Perryman was Chief.

Q. Mr. Gregory, do you recall a convention over which you presided in connection with the making of the 1890 roll for Euchee Town, for the twenty-nine-dollar payment?

A. Yes, sir. We had a convention near Kellyville, about a mile south of town, south of Kellyville, at the Euchee Busk Ground.

Q. What creek is that near?

A. Pole Cat, right on Pole Cat.

Q. Do you know Samuel W. Brown?

A. Yes, sir, known him all my life.

Q. Were you in Okmulgee in May, 1901, during the time that the Dawes Commission was holding an enrollment office there with the Creek Council just before the Original Creek Agreement was ratified?

A. Yes, sir, I remember I was called there by the Dawes Commission to help them to enroll the names and to correct the roll that I had, and in comparing them with the rolls that they had.

Q. Do you recall any of the persons there as employees of the Dawes Commission there at that time?

A. I remember Mr. Hopkins and Mr. Hastings more distinctly than any of them.

Q. There were several employees of the Dawes Commission there? A. Oh, yes, sir.

Q. Do you recall the occasion of certain of the employees going over the Euchee Roll with you, or portions of the Euchee Roll at about that time?

A. Yes, sir, I remember well that Mr. Hopkins and I sat there all day, and he complained about taking so much cold and how many handkerchiefs he used that day by speaking to another lady, and that is why I remember Mr. Hopkins so well; and more particularly there was one lady we had by the name of Sina Jack, and she had married two persons by the name of Jack, and we had quite a laugh about one woman having lived with two Jacks.

Q. On that occasion—— On that occasion there in connection with some employee of the Dawes Commission, did you have occasion to refer to the name of Minnie Atkins as appearing on the 1895 Tribal Roll?

A. I remember that Minnie Atkins very distinctly when we come to that name. Every name we come to he would ask me if that person was living and where they were. And I told him that the last I heard of her was that she had went to Colorado; I didn't know where she was living, we had tried to find out if she was living but we hadn't been able to locate her.

Q. Did you at that time or about that time have any information as to certain children of Minnie Atkins who were then residents of the Indian Territory?

A. Yes, sir, I remember on one occasion I went to Muskogee and went back from Muskogee with Tom Holden; I think he said he had two of Minnie Atkins' children there with him, that he wanted to make a selection for them, to file for them; but he hadn't yet. And I heard by others too that they were there at his house.

Q. How many?

A. Two of them, that was my recollection.

Q. Did you know anything about their names then?

A. No, sir, [I] didn't, I don't remember.

Q. You simply learned that she had two children living with Thomas Holden? A. Yes, sir.

Q. Did you know either one of them personally?

A. No, sir.

Q. Have you ever known either of them personally?

A. No, sir. S*mme*s to me I met one of them four or five years ago, but I don't know which one.

Q. Did you have any personal knowledge, or did you know any of the persons of the immediate family of Minnie Atkins?

A. No, sir, I knew Lee Atkins and I knew Nancy but didn't know Minnie personally.

Q. Didn't know Minnie personally?

A. At that time, no, sir.

Q. Did you know Minnie's father or mother?

A. No, sir.

Q. Did you know what the names of Minnie's father and mother were?

A. I have heard that her father's name was Thomas Atkins, that is all.

Q. Simply hearsay? A. Yes, sir.

Q. Now, did you ever know the members of the Euchee Town in a general way, all of them?

A. Yes, sir, I knew most of the Euchees, only those that lived off and scattered distances away from the main settlement.

Q. Did you know where Lee lived?

A. Yes, sir, he was around Eufaula and Checotah mostly.

Q. Do you know when he died?

A. No, sir, I can't recall the time.

Q. Do you know whether he was dead in 1901?

A. I think he was. He wasn't living then.

Q. Where did Nancy live?

A. She used to live here in Muskogee most of the time when I first knew her she used to be at Eufaula.

Q. When was that? A. That was along in 1879.

Q. Now, was Nancy present at Okmulgee in May, 1901?

A. No, sir.

Q. At that enrollment period? A. I didn't meet her.

Q. Was Thomas Holden present over there?

A. No, sir, not at that time.

Q. Was any member of Minnie's immediate family that you know of present at that time?

A. No, sir, wasn't any of them.

Q. Sam Brown was present, wasn't he?

A. Yes, he was there I think.

Q. Was Muskogee or Wagoner or Eufaula a Euchee settlement, either one of those three places, were there any Euchees living in those places?

A. No, sir, just a few that were scattered.

Q. Where were the Euchees mostly grouped, where did they live?

A. They lived mostly along on Snake Creek and Pole Cat, and some above Bristow.

Q. That is what part of the Creek Nation?

A. That is west.

Q. Muskogee and Eufaula and Wagoner are in the eastern part?

A. Yes, sir, they went by Snake Creek settlement, and Big Pond settlement, and Pole Cat settlement of Euchees.

Q. Do you now recall what was the name of the child of Minnie whom you afterwards met personally?

A. Name of the child?

Q. Yes?

A. No, sir, I don't know even today. I heard some of them say she had two boys, one of them named Harvey and Charlie.

Q. I mean from your personal knowledge you don't know to this day? A. No, sir.

Q. You suggested a while ago that you might have met one of them four or five years ago, do you remember that one?

A. No, sir.

Q. Was it Charlie Harrison or Harvey Harrison, do you recall? A. No, sir.

Q. And in 1901 you were not acquainted with any of Minnie's immediate family outside of Nancy and Lee?

A. Well, I knew John Davis, her Uncle, and then old lady Robinson, William Robinson's wife that was an aunt of hers, I knew her well.

Q. You knew no closer relatives?

A. I knew them personally.

Q. Do you know, or did you ever know during your residence among the Euchee, officially and privately know of any members of Euchee Town—know personally any members of the Euchee Town being Thomas Atkins? A. No, sir.

Mr. Pinson: That is all.

Cross Examination by Mr. Cruce.

Q. Mr. Gregory, when you were down there at Okmulgee, there was a committee down there representing the Creek Tribe, wasn't there? A. Yes, sir.

Q. You don't know what information they gave the Dawes Commission with reference to Tommy Atkins?

A. I don't know, but there was not any committee that had any higher authority than we did to give in that particular town.

Q. I say you don't know what information they gave that commission? A. No, I don't.

Q. There were some of the kings there, were there?

A. There might have been but it wasn't acceptable.

Q. I say there were some of the kings there?

A. Yes, other kings from different towns.

Q. You don't know what information Mr. Bixby got down there? A. No, I don't.

Q. You don't know what information Col. Needles got down there? A. No, sir.

Q. Now, you do remember distinctly, you say, about you and Mr. Hopkins discussing Minnie's name? A. Yes, sir.

Q. And you told him that you knew Minnie Atkins?

A. No, sir, I couldn't have told him so because I don't tell things I don't know.

Q. Well, you didn't know her then?

A. No, sir, I didn't know her.

Q. You told him she had gone off to Colorado?

A. I had heard that.

Q. From whom? A. From different ones.

Q. Did you tell Mr. Hopkins also that you had also heard that she had certain children?

A. Yes, I think she had some children.

Q. Well, what did you tell him about Tommy there at that time when you had the roll of 1895 which had Thomas' name on it? A. I don't remember what I did tell him.

Q. You gave him all the information you knew?

A. Yes, sir, all I knew.

Q. You don't remember what information you did give him, but all the information you had at that time and the best you had you gave him? A. Yes, sir.

Q. That was your purpose? A. Yes, sir.

(Witness dismissed.)

And thereupon E. HASTAIN, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name, age and residence.

A. E. Hastain; age, 47; residence, Muskogee.

Q. You were formerly engaged in the work of enrolling citizens of the Creek Nation? A. Yes, sir.

Q. During what period of time were you in that work?

A. I don't remember just exactly but in 1900 and 1901.

Q. Do you remember of going to Okmulgee with a party for the purpose of enrolling what is know- as unaccounted for citizens of the Creek Nation? A. Yes, sir.

Q. Prior to that time had you been engaged in the work of enrolling Creeks? A. Yes, sir.

Q. What had been the plan of the Commission adopted prior to that time with reference to getting information concerning the right to enrollment of members of the tribe?

A. Members of the tribe—that is head of families and where they were single and of age, appeared in person.

Q. You required the personal appearance of the allottee —of the enrollee, or some member of his family in the event he was a minor or incapable of enrolling himself? A. Yes, sir.

Q. When you went to Okmulgee with that party what was the purpose of going there?

A. Well, there might have been more reasons than one for going but perhaps the special reason was the council was in session and the Commission went out there because there was a large number of citizens attending council, and they could be enrolled and receive their allotment at that place.

Q. Had you before that time held out an invitation to the Creeks to come in and be enrolled and gone into the field and enrolled all of those that you could find?

A. The Commission had had field parties and also the office at Muskogee was kept open at all the time.

Q. Do you remember what effort was made, if any, to get the members of the tribe and heads of the family to appear at Okmulgee to get enrolled? A. Yes, sir.

Q. Was the United States Marshal and his deputies there at that time and assisting in any way?

A. They were there, yes, sir.

Q. Had an order by the United States Court been issued to bring in citizens for the purpose of enrolling them?

A. I don't remember just that order.

Q. Did you know when you went to Okmulgee and commence- that work that you would change the plan that you had formerly adopted for the enrollment of these people, requiring their personal appearance?

A. We didn't know it at the time we went out.

Q. Did you adopt any different method after you got to —after you reached Okmulgee? A. Yes, sir.

Q. With reference to the date of the ratification of the Original Creek Agreement on May 25th, 1901, when was that change of policy made?

A. I don't remember exactly but a few days before that; before the 25th.

Q. What was the reason for the change?

A. There seemed to be an opinion among members of the Creek Council that if they should ratify the treaty, some members of the tribe would not be enrolled and their names would be left off and that the Commission would be without authority to place their names upon the roll.

Q. The Commission desired that the Creeks ratify that agreement? A. Yes, sir.

Q. When that opinion—that information was conveyed to the Commission, what instruction, if any, was given the people there engaged to enrolling these citizens with reference to their enrollment?

A. We did this: we took the 1890 and the 1895 rolls and we put the names of those who had not been enrolled upon cards; every name that had not already been enrolled was placed upon a card.

Q. During the last two or three days you were engaged in the work of enrolling all of the citizens, all of the names appearing upon the tribal rolls where they had not formerly been enrolled, about how many names per day did you enroll?

A. I couldn't give the information as to the number each day.

Q. Did you, during those few days, require the personal appearance of th*ese* enroll*l*ee, or any member of his family?

A. No, sir.

Q. What means did you adopt to get information concerning these unaccounted for names?

A. Well, in so far as we could, we got information about them—there were a large number, however, and we could not get information about all of them at that particular time.

Q. Who did you seek information from?

A. From some Chief of the Warriors or some kind of a member of the tribe.

Q. Did you during those days, take the town roll to the Town King and enroll all names appearing upon the tribal roll unless he had information that they were not entitled to enrollment?

A. Possibly; if we had information that they were not entitled to enrollment we did not put their names on the card —otherwise we did.

Q. That was, you mean, during these last two or three days? A. Yes, sir.

Q. In making up the roll or census card of Creek Indians, where a*n* minor was enrolled, did you by cross-reference or otherwise, give the name and card of his child?

A. That was generally the practice those few days we might have enrolled some and not have done that.

Q. Was that the practice in all cases where the friend of the family gave you the information? A. Yes, sir.

Q. I hand you the Government's Exhibit A-1, Mr. Hastain, and will ask you if you know who prepared that card?

A. Yes, sir, Mr. Edward Merrick.

Q. Do you know whether that name represents one of the unaccounted for names enrolled at Okmulgee?

A. That was a card made on May 23rd, when we were placing all those names on cards.

Q. Was that card prepared during the last period—the last two or *thee* days before—— A. Yes, sir.

Q. The ratification of the agreement? A. Yes, sir.

Q. Is there anything on that card, any marks indicating who applied for the enrollment or whether any one did or not for the enrollment of this party? A. No, sir.

Q. I hand you the original of Government's Exhibit A-30, the tribal roll of 1895 and ask you to examine that in connection with the census card of Thomas Atkin-, Government's Exhibit A-1, and state whether or not that roll was before this enrollment party at Okmulgee when that car- was made.

A. Yes, sir, this was taken from the 1895 pay roll at Euchee Town.

Q. How can you tell?

A. From the information on the card. It says 1895 Euchee, No. 213, *ans* it says No. 1, on 1895, authenticated roll No. 213, Thomas Atkins.

Q. And field number, is there any——

A. Then following the names on the pay roll, in pencil 2774; that means that that name appears on field number census card *no* 2774.

Q. Does the fact that Thomas Atkins' name appears below the name of Minnie Atkins indicates whether or not he is a child of Minnie Atkins, or would it have indicated that to you at Okmulgee, in the enrollment of this party?

A. It might have, yes, sir.

Q. In the answer of other information than disclosed by the roll would you have put him on the roll as a son of Minnie Atkins from his appearance in the list of Minnie Atkins in the '95 roll?

> Mr. Cruce: If the Court please, we don't think that question is competent. If there is nothing on the roll that itself indicated—on the card that itself indicates the relationship—the Court, I think, is as competent to judge it as the witness.
>
> The Court: Well, unless there was a well defined practice with relation to this roll in making those census cards, and it was treated in a certain [] in regard to those lists of families; this man was there assisting; he did not make this card. We have not before us, now, the man who made this card.

Mr. Allen: That is true, but he was with other member- of the party at Okmulgee in making the census cards at this particular time.

The Court: Well, he may answer.

Mr. Cruce: Exceptions.

A. I might have in the absence of any other information.

Q. Mr. Hastain, in making this roll, this census card at Okmulgee, did the party, enrollment party, have before it the tribal roll of 1800? A. Yes, sir.

Q. Was any information received from that roll concerning Thomas Atkins?

A. Evidently not, because his age was given as 10 years and the party who wrote this card evidently didn't look on the '90 roll, because his name would not appear there if he was 10 years of age.

Q. Is there any other information that that card discloses that shows that the 1890 roll was not used?

Mr. Cruce: Just a moment. If the court please, we move to exclude the answer to the former question, because that is clearly a conclusion that the witness is drawing, that the court might make or not make, as the facts authorized.

The Court: Well, the court probably would make it or not, could make it for himself anyway, regardless of this witness—of course it is evident to anyone that this made in 1901, enrolling a child whose age was given as 10 years, enrolled a person who could not in any event have been on an 1890 roll.

Mr. Allen: Here is the question; I will ask the witness the question——

Q. Would the tribal enrollment of this party have shown the rolls of 1895 and 1900, if they had reviewed the 1890 roll in making—strike that question, please.

The Court: I understand now you are seeking to ask him whether or not the practice was such in regard to these cards that if the person making this census card had had before him information at the time, of the making of the 1890, as well as the '95 roll, would there have been a notation on there that the 1890 roll was reviewed as well as the 1895.

A. There would have been a notation on here if he had been identified on the 1890 roll.

Q. You find no such notation on the card?

A. No such notation on the card.

Q. Are you familiar with the practice of the party at *Muskogee* in the enrollment of these unaccounted for Creeks during the last two or three days of that work? A. Yes, sir.

Q. If they had had any information at that time as to where Thomas Atkins was living—rather, as to with whom he was living, would it have been noted upon this card?

A. Yes, sir, it would have been noted there.

Q. If at that time a member of the House of Kings sitting at the table with the party enrolling this name had given the information that Minnie Atkins was the mother of two boys, the names of whom he did not know, and that one of those boys was about 10 years old, would that have afforded the information contained upon that card?

A. It would have.

Q. In connection with the tribal roll of 1895?

A. It would have, yes, sir.

Q. Is or is not that—is that true or not with reference to the work of enrolling the Creeks which was done prior to this rush period at Okmulgee? A. No, sir.

> Mr. Allen: Where I have referred to exhibit 30—A-30 in the examination of this witness, I should have referred to Government's Exhibit A-2, the exhibit that I handed the witness was Government's Exhibit A-2, instead of Government's Exhibit A-30.

Q. How many people were engaged in the work of enrolling these citizens, these unaccounted for names at Okmulgee during the last few days of this work?

A. I can't give the exact number; Mr. Bixby, Mr. Hopkins, Mr. Merrick, Mr. Leiber, Mr. Beavers, and some others also assisted.

Q. But those were the only people who were authorized to place the names upon these census cards?

A. Just those I have mentioned, yes, sir.

Q. Mr. Beavers, do you know where he is now?

A. I don't think that he is living.

Q. You think he is dead. Mr. Bixby is living?

A. Yes, sir.

Q. Mr. Hopkins has testified and Mr. Leiber is here.

A. Yes, sir.

Q. And yourself, are the only ones whom were engaged in the work of putting those names upon the census cards——

A. Mr. Merrick.

Q. Mr. Merrick? A. Yes, sir.

Q. And you say approximately how many cards were made each day during the last two or three days of this work?

A. That would just be a guess. There was something like 2500 enrolled during that particular month and most of them were enrolled in those few days.

Q. Was that an unusual number? A. Yes, sir.

Q. Did you exercise the same care in the enrollment of those people as you did at other times? A. Yes, sir.

Q. Do you have any personal recollection of Thomas Atkins? A. No, sir.

Q. Or ever having heard of him? A. No, sir.

Q. Was Mr. Bixby with you during the last few days at Okmulgee? A. Yes, sir.

Q. Was any other member of the Commission there?

A. I can not say positively about that; I don't remember.

Q. Mr. Bixby was the only one that you have any recollection? A. Yes, sir.

Q. Mr. Hopkins was overseeing the work, was he?

A. Yes, sir, he was the chief clerk.

Q. And you and Mr. Merrick and Mr. Lieber were doing the actual work of enrolling these people?

A. Yes, sir; all worked, I think—each one did as much as he could.

Cross Examination by Mr. Stuart.

Q. Mr. Hastain, at Okmulgee, very naturally a large number of witnesses appeared before the Commission, didn't they?

A. Yes, sir.

Q. Many hundreds of them? A. Yes, sir.

Q. And you were taking the evidence all the time?

A. Yes, sir.

Q. And the main point toward which you were directing your attention and Mr. Bixby, and Mr. Hopkins, and Mr. Beavers, and Mr. Leiber was to find out first whether that Indian had died prior to April 1st, 1899, didn't you?

A. We did that in every instance.

Q. Every case, didn't you?

A. As a rule we did, yes, sir.

Q. Your inquiry was to determine whether that particular Indian had died prior to April 1st, '99, or after April 1st, wasn't it? If you found out that he died prior to that time, you didn't list him, did you? A. No, sir.

Q. If you found out he died after that time you did?

A. Yes, sir.

Q. And the main inquiry to which you directed you- attention there at that time and your associates was to find out that one fact when he died? Wasn't it?

A. I think perhaps that is true. I think the rolls were perhaps gone over with the Town King, and if he knew of any one who was dead, the notation was made in pencil and that name was not transferred to a card.

Q. Now, then, you had two distinct kinds of census card at Okmulgee, didn't you? One was a completed and one an incomplete card?

A. We had all the card with us, yes, sir.

Q. Well, I mean this: you had one card that you called a completed card, didn't you? A. Yes, sir.

Q. And then, you had one card that you called an incomplete card, didn't you? A. Yes, sir.

Q. If you had a card completed, you never did that until you satisfied yourself with evidence that the man was living at April 1st, '99, did you?

A. Not if it was what we called a completed card.

Q. A completed card? A. No, sir.

Q. If your card was complete now, you had as a member of the Commission and all your men determined the question as to when he died? A. Yes, sir.

Q. And then you had the age and the sex? A. Yes, sir.

Q. And his parentage and everything that decides that man you put on that completed card, didn't you? A. Yes, sir.

Q. And when you had finished the completed card, you had satisfied yourself by evidence that your card was right, hadn't you? A. Yes, sir.

Q. Now, when you had the incomplete card, you would wait until further investigation could be had? A. Yes, sir.

Q. And when you made that subsequent investigation, you completed that card, didn't you? A. Yes, sir.

Q. Now, in the meantime, Mr. Bixby would frequently come into your room and confer with you about the man who was entitled to enrollment, wouldn't he?

A. Well, he was there all the time; I imagine that is true.

Q. Going in and out and you talked with him about some of these Indians, didn't you? A. Yes, sir.

Q. He was actively in the work, wasn't he, Mr. Hastain?
A. Yes, sir.

Q. Actively in the work? A. Yes, sir.

Q. Giving it his personal attention as far as he could?
A. Yes, sir.

Q. And when you went out to get evidence upon which this enrollment must have been made, you consulted those that you thought were most familiar with the transaction, didn't you? A. Yes, sir.

Q. You would go, for instance, to Euchee Town, to one of the Kings—you would send for him and get him in there, and talk with him about his family, wouldn't you, and talk about the members of that community?

A. I never was out with a field party.

Q. I mean come into your place. The Kings would do it and the Warriors would do it, and individuals—all ginving you what information they could with reference to the particular town in which they lived? A. Yes, sir.

Q. And your purpose all the time was to exhaust every source of evidence that you could find, wasn't it?

A. Satisfy ourselves, yes, sir.

Q. And your purpose was to make a correct roll, wasn't it? A. Yes, sir.

Q. And you thought you were making a correct roll, didn't you? A. Yes, sir.

Q. And you never enrolled a single person that you didn't think was entitled to enrollment, did you? A. I never did.

Q. Never did? A. No, sir.

Q. Did you ever know anybody else to do it out there? A. No, sir.

Q. Now, you were assisted there by the officers of the Court; the Marshal was out there helping you round them up, wasn't he? To get the people in—as far as you remember that—or do you remember that?

A. I remember their being there.

Q. You remember it? A. Yes, sir.

Q. You remember also field parties were out investigating it; looking up these citizens?

A. At different times; I don't know about this particular time.

Q. At different times? A. Yes, sir.

Q. And as a matter of fact, Mr. Hastain, do you know of a single case where the Commission through Mr. Bixby or Mr. Needles, or any other member of the Commission, a single case where they sent the official roll to Washington with their approval, to the Secretary—do you know of a single case where they did not make an investigation?

A. I don't know of a case.

Cross Examination by Mr. Hanford.

Q. Mr. Hastain, I call your attention to Government's Exhibit A-1. There is a notation in the bottom of the right hand—lower right hand there, and I will ask you to state what that shows.

A. It says the date of application for enrollment May 23rd, 1901. That was the date that this card was made.

Q. That was the date that this census card was made out by the enrolling clerk, or member of the Commission, or whoever it was that made it out? You didn't make out this card, did you? A. No, sir.

Q. What was the custom in regard to indicating on the card what application was made for enrollment?

A. Well, that was the custom to put down in the right hand corner the date on which the card was at least started. There might have been information obtained later—on a later date but that was the date on which the card was begun.

Q. Then, this card is made out in the usual form so far as it indicates, whatever was done in the way of an application being made for enrollment? A. Yes, sir.

Q. This conforms to the customary census card, in that regard? A. Yes, sir.

Q. And that is all that would be shown on a card as to any question for application for enrollment?

A. Well, unless it was a contested case; then, the information would be there, see enrollment case number so and so—giving the number.

Q. Mr. Hastain, you stated or I understood you to state, that because this Exhibit No. 1 showed that the applicant was upon the 1895 roll, that the name was taken from the 1895 roll for enrollment on the census card—for listing on the census card. Is it not a fact, Mr. Hastain, that when a name was presented for enrollment, the enrolling clerk or officer would check that name as to the roll and indicate what roll it was upon?

A. Yes, sir, he would show if they were on the 1890 roll up there at the, *tip* would show that he was on the 1890 roll and the page. Then, down below, we would indicate that No. 1, appeared upon the 1895 roll.

Q. That would not indicate however that he was listed for enrollment necessarily by taking his name from the roll, without any other application being made. In other words, the reference to the tribal roll was put on each card where their names were found to be on that card? A. That is true.

Q. So that there is no indication here as to whether the name was merely taken from the roll and subsequently investigated, or whether application was formerly made by some person, by some individual in his behalf, or by him?

A. It shows what the card shows.

Q. You stated that you might have taken the name of the other from the authenticated tribal roll of 1895 where the applicants' name appears on that roll underneath her. You didn't make out this card? A. No, sir.

Q. You couldn't have obtained the parentage as to the father from the 1895 roll could you? A. No, sir.

Q. Therefore, where the card contained an indication as to the father, that would indicate that evidence from some other source was received as to that part, as to that entry on the census card, would it not? A. Yes, sir.

Q. Mr. Hastings, was it customary to refer in every case to both the 1890 and 1895 rolls? A. Yes, sir.

Q. Then, if an allottee who was enrolled upon one of these census cards as ten years of age at the date of enrollment, was that at the date of enrollment? A. Yes, sir.

Q. And his name appeared upon the 1890 roll, but the census card did not show that he was enrolled upon the 1890 roll, that would be a mistake as to his age, would it not?

A. If his name was on the 1890 roll, that would be a mistake as to his age, yes, sir.

Q. Then, because the enrolling officer had his age at ten years, whereas, if he had taken his name from the roll, the 1890 roll, he had found him on the 1890 roll, he would know that he wasn't ten years of age; that would indicate also that he had gotten his name from some source besides the roll, would it not? A. Yes, sir.

Mr. Hanford: That is all.

Redirect Examination by Mr. Allen.

Q. I *had* you Government's Exhibit A-29, which is a certified copy of the census roll of Euchee Town, 1890, and ask you whether or not Thomas Atkins was enrolled upon that roll?

A. Thomas and Mary, two children, in the same list with Minnie Atkins.

Q. Where do they appear in that list?

A. They are in parenthesis just to the right of the name Minnie Atkins.

Q. Do their names appear upon the roll as enrolled citizens? A. You mean upon the 1890 roll?

Q. Yes?

A. Yes, sir, I would say so. I could tell better if I had the original, but I don't see any indication that those names had been placed on the census card.

Q. Is there a number opposite the name of the other enrolled citizens upon that roll? A. Yes, sir, but not these.

Q. If the Commission had determined that they were enrolled upon that roll, would not they have so stated on the census card identified as Government's Exhibit A-1?

A. Yes, sir, there would have been a census card made out for Thomas and Mary.

Q. You say you are familiar with the custom of enrolling—of the Commission in enrollment of these people during the last few days at Okmulgee? A. Yes, sir.

Q. If the Commission had observed, had have known that the mother of this ten-year-old Thomas Atkins was a non-citizen, or rather was a non-resident of the Creek Nation, and hadn't had any information as to who this party was living with, would they have sent this card up for approval?

A. No, sir.

Q. If they had had that information, would it be contained upon the card? A. Yes, sir.

Q. How then do you account for this name being contained in the schedule sent up for approval?

A. I don't know, I don't understand just how that was sent up.

Q. If they had had any information as to who he was living with, it would have been contained on the card?

A. Yes, sir.

Q. Judge Stuart has asked you about the care exercised by Mr. Bixby in the enrollment of these people. That had reference to the names that he passed upon when he signed the schedule transmitting them to the Secretary?

A. I had reference to the general practices, the usual way of enrolling citizens.

Q. And you had reference to the care exercised by him when he transmitted the schedule to the Secretary?

A. Yes, sir. Mr. Bixby was very careful about those things.

Q. Was he more careful or not than the other members of the Commission?

A. I think Mr. Bixby was the only member of the Commission that really understood the Creek enrollment work.

Q. The others paid little attention to the work of enrolling the Creeks? A. Yes, sir.

Q. These words: "Date of application for enrollment," printed or stamped above "May 23, 1901," can you tell when that was stamped on that card?

The Court: I guess there will be no controversy but what that was put upon the card just two or three years ago. That is the evidence in the case.

Mr. German: If there isn't any controversy that question should be withdrawn.

Mr. Rosser: There isn't any controversy as far as we are concerned.

The Court: That it was placed there long after the cards were made up, and within the last two or three years.

Mr. Allen: Then, of course, that doesn't indicate——

The Court: Clearly it wasn't put on there at the time the card was made.

Mr. Allen: It therefore does not indicate that an application was made for this enrollment. I think that is all.

Cross Examination by Mr. Hanford.

Q. Mr. Hastings, I hand you the original of the census roll of Euchee Town of the Muskogee Nation, known as the 1890 roll.

Mr. Hanford: Was this introduced in evidence?

Mr. Allen: A certified copy of it was.

Q. That is the same roll as Government's Exhibit A-29 which you have just examined and testified to in regard to, is it not? You may compare them. I don't think there is any controversy but what this is the same roll?
A. This doesn't look like——

The Court: This exhibit here is evidently not a photographic copy of this page that the witness has before him.

Mr. Hanford: This is the photographic copy of this, Your Honor. And this is the original which I hand him.

Mr. Allen: This is treated as the copy of the original and the copy has always been treated by them as the authenticated 1890 roll.

Mr. Hanford: I mean the other which is treated as the authenticated roll is a carbon of this. I am using this in connection with this exhibit because it is plainer, Your Honor.

The Court: They must be identical then if one is a carbon of the other.

Mr. Allen: It is a fact that this was just found recently.

Q. I used it to indicate here. Will you please read this in the order in which it is written? A. Card No. 2?
Q. Yes, here is what I want: That on the original it is plainer, it shows the name of Mamie Atkins, the symbol and *and* the parenthesis; inside the parenthesis two children, and then in the space above Tommy the symbol & Mary and parenthesis. Is that right? A. That is correct.
Q. The parenthesis mark is outside the whole.

Mr. Allen: The parenthesis mark appears after the word children. Two children in parenthesis.

Mr. Hanford: Well, the copy will show.

Q. Mr. Hasting, I will ask you if that doesn't indicate that the words Tommy and Mary following the comma and written above in that way would indicate that that was the names of two children?

Mr. Allen: We object to that as calling for the opinion of the witness.

The Court: Well, he is a man who is familiar with these rolls and has worked with them in enrolling these citizens. If it has any significance to him as a man in the nature of an expert he may answer.

Mr. Allen: We except.

A. I would take that to mean that Tommy and Mary were two children.

Redirect Examination by Mr. Allen.

Q. If you had had at that time information that the father and mother of Minnie Atkins were named Thomas Atkins and Mary Atkins, and that Tommy and Mary Atkins died in 1877 and '78, and that Minnie did not have any child named Mary, and did not have any child named Tommy, would you then say that they intended these two people to represent her children or that they were identifying Minnie by giving the names of her parents?

Mr. Stuart: We object to that question, the witness is deciding the very thing the Court is to decide.

The Court: Well, he has stated the hypothetical question, that is not in evidence. I suppose you propose to introduce evidence to that effect. That is the only theory upon which it would be admissible.

Mr. Allen: We propose to show that she did not have children by the name of Thomas and Mary.

Q. And you had also had the information that Nancy who is on that same roll below Minnie was a child of this Thomas and Mary Atkins, what would you say as to whether or not that was descriptive of the person of Minnie rather than the intention of the party making that roll to designate two children of hers.

Mr. Hanford: We object to that as incompetent.

The Court: He may answer.

Q. Descriptive of the persons of Minnie and Nancy Atkins?

A. In that event, I would take it to mean that Thomas and Mary had two children, Minnie and Nancy.

Q. The Dawes Commission found that they—that Thomas was not on the 1890 roll when they made this census card?

The Court: Well, that appears from the census card itself.

Mr. Allen: And also in the letter transmitting it to the secretary. I will withdraw that question.

Cross Examination by Mr. Rosser.

Q. These rolls that have been introduced, Mr. Hasting, are not the original Creek Rolls are they? A. No, sir.

Q. The one that they referred to here as the original and the carbon copy are both copies of some Creek Roll?

A. Yes, sir.

Q. And it was testified by Mr. Brown, Judge Brown, that on the original roll that was acted upon by the Creek Council that these words Thomas and Mary did not appear. Do you remember yourself about that?

A. No, sir, I couldn't say about that. I wouldn't have any recollection.

Q. Do you know where the original Creek Roll is now?

A. No, sir.

Q. How long has it been since you saw it?

A. I don't know just what you mean by the original Creek Roll?

The Court: He means the 1890 roll. You had an 1890 Creek Roll before you at Okmulgee in this enrollment?

A. Yes, sir.

The Court: Was that a typewritten roll or a roll in long hand?

A. Typewritten.

The Court: Then, that wasn't I take it, the original roll to which you refer?

Mr. Rosser: No, sir, it is not.

Q. These rolls that you have been testifying to today show on their face, do they not, that they are copies from something else? The 1890 rolls?

A. Yes, sir, they are copies.

Q. One or the other of these is what you acted upon is it?

A. Yes, sir.

Q. By the 1895 roll that has been introduced, is the original Creek Roll made by the Creeks themselves?

A. That is the pay roll?

Q. Yes, sir? A. Yes, sir.

Q. So you don't remember whether this Thomas and Mary appears on the 1890 Creek Roll or not?

A. I couldn't say.

Q. Except that they appear here on this copy?

A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. Mr. Hasting, I will ask you in regard to Mr. Allen's hypothetical question that he put to you, that if the name of Minnie Atkins was followed not only by Nancy Atkins, but by Lee Atkins, who was her brother, which would make three children of the same father and mother, would you still say that that two children referred to the two children of Thomas and Mary?

A. Well, Mamie and Nancy are together as belonging to the same family and Lee is number one separate:

Q. Is there anything there to—— Now, the figures—— The names opposite the figures one and two above Nancy Atkins would be there as a part of the same family that she belongs to would it not? A. Yes, sir.

Q. Then, is there anything here to indicate that that wouldn't take in the entire family?

A. Except that it is opposite Nancy Atkins.

Q. Is there anything there to connect that "and two children" the symbol "&" with Nancy Atkins, which is below Mamie Atkins?

A. Nothing except as I stated with those facts in my mind I would take it to mean that.

Q. If you were referring to this roll, Mr. Hastings, with such information as you have of your own knowledge, personally, regardless of any questions that had been put to you by Mr. Allen, what would you say that that indicated, that wording following Mamie Atkins?

> The Court: I think he has already testified that it would indicate to his mind that they were the names of the two children.

Q. Then, let me ask you this, Mr. Hastings: In any case upon that roll would there be entered the father and mother of an enrolled citizen where the father and mother had died some ten or twelve years prior to their entry upon that roll?

A. Ought not to be.

Q. Did you ever encounter a case where a child was enrolled as a citizen and appearing opposite their names the name of their father and mother?

A. I don't just recall any other case like this.

Q. So, your original conclusion would go that that indicated "and two children," whose names were Thomas and Mary figured the way it stands by itself.

Mr. Allen: We object to that. He has stated that time and time again.

A. Well, this would indicate that.

The Court: Oh, yes, that is clearly in the record.

Mr. Hanford: I just wanted to conclude with that repetition. If he can answer yes or no.

Q. What would be your answer, yes, or no?

Mr. Allen: We object.

The Court: We will not take any more time to that. The Court has his answer.

Redirect Examination by Mr. Allen.

Q. I will ask you this question, if the names of Ed Shrimpsher No. 1, to Nancy Atkins No. 4, are not listed together and does not the comma appear after the name of each one, except Nancy Atkins, the last one in that group? A. Yes, sir.

Mr. Allen: That is all.

(Witness dismissed.)

And thereupon, JOHN G. LIEBER, was called, sworn, and examined as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. Allen.

Q. State your name, age, and residence?

A. John G. Lieber, age forty-four, residence Muskogee.

Q. Judge Lieber, were you engaged in the work of enrolling the Creeks in 1901?

A. I assisted in enrolling Creeks, yes, sir.

Q. When did you commence that work?

A. On May 31, 1899.

Q. Up to the time you went—— Did you go with a party of others to Okmulgee in May, 1901? A. Yes, sir.

Q. For the purpose of enrolling unaccounted for names appearing on the tribal rolls? A. Yes, sir.

Q. Up to the time you went to Okmulgee, what was the practice of the Commission with reference to the enrollment of these people, with particular reference to the requirement for the appearance of the enrollee, or some member of the family?

A. Well, from the time I became connected with the land office, which was May 31, 1899, the practice was to have the two rolls of the Creek Nation, the 1890 and the 1895, the Creeks had a commission that represented them in the land office and in the enrollment of citizens. An applicant would come in to be enrolled either for himself or his family. If the Creek Commissioners knew that the party was entitled to enrollment and their names appeared on the 1895 or 1890 roll of the tribe, they were enrolled without any question if there was no objection from some source to their enrollment.

Q. Then, you did require the personal appearance of the person to be enrolled?

A. If they were adults, and if they were minors then somebody must appear for them.

Q. Did you abandon that practice and custom while at Okmulgee?

A. Yes, sir, that is the last two or three days before the treaty was ratified.

Q. Up to the last two or three days you pursued the same policy? A. Yes, sir.

Q. Why did you abandon that and adopt another policy?

A. Because the members of the Council were afraid if there were any names left off the roll at the time the treaty was ratified there would be no way of putting them on the roll after that, and they wanted the Commission to put everybody on the roll that was on the Creek Tribal Rolls and was not accounted for. We knew that it was impossible to do that and take evidence in the cases in the time we had to do it, because it was known that the treaty would be ratified—or that was the supposition—in a few days, so we abandoned all rules and enrolled the names of all persons on the rolls who had not been accounted for.

Q. Was it believed at that time that the Dawes Commission would have the right to strike the names that were not entitled to be enrolled? A. That was the theory.

Q. And upon that theory the Dawes Commission changed the former rule requiring personal appearance and *doing* that enrollment period you enrolled all people whose names appeared upon the tribal roll?

A. And had not been accounted for, yes, sir.

Q. About how many each day during the last two or three days of this enrollment did you enroll at Okmulgee?

A. I judge there was at least five hundred a day for the last three days. We worked on into the night too.

Q. And did you exercise that same degree of care with the enrollment of those people that you had formerly exercised in the enrollment of citizens? A. No, sir.

Q. Who gave you the information such as you did obtain to the rights of these people to be enrolled?

A. We would get the members of the House of Warriors and House of Kings who were there at the Council Meeting, and get what information we could from them, and if we couldn't get the information we thought we ought to have, if the name appeared upon that roll and hadn't been accounted for, we would put them on a card anyhow.

Q. Did a member of the tribe sit with the party enrolling these people and assist them in the enrollment of the citizens, give them information?

A. Not all the time. Not those last three days.

Q. Such information as you did obtain was obtained largely from the members of the House of Kings from the Town, the tribal town of the party whose name appeared on the tribal roll?

A. We would gather the information from the member of the Town, that is the Tribal King or Warrior, if we could. If we couldn't, we got it from whatever source we could; and if we couldn't get it from any source, we put the name on the card if it had not been accounted for.

Q. I will hand you Government's Exhibit A-1, and ask you if that is one of the unaccounted names you listed during the last two or three days?

A. Yes, sir, this is one of the cards made out.

Q. Does that card indicate whether any member of that family appeared for his enrollment?

A. No, sir, it indicates that he did not.

Q. Does the fact that he is a member ten years of age, without any cross reference to any member of his family, indicate anything to you?

A. It indicates that he was one of those unaccounted for ones about which we had no information, or little information, and was placed upon this card because we did not know whether he was or was not entitled to membership.

Q. You will observe there that reference is made to the father of this enrollee as a white man and his age as ten years of age. During your rush period under the custom that you adopted there at that time, if the member of the House of Kings sitting by had given information that Minnie Atkins brought two boys to this country in 1895 and that he didn't know their names, would that have afforded sufficient information to have made up the card in its present form under those circumstances at Okmulgee?

A. It is very likely that the clerk would have put white man as his father from that information.

Q. And would there be ten years of age if he had been advised that Minnie brought a small boy here in 1895?

A. Oh, yes, if anybody had advised him he would have put that information upon the card.

Q. Taking the name from the 1895 roll? A. Yes, sir.

Q. Was any member of the Commission present at Okmulgee, with the exception of Mr. Bixby, during the time that you people were engaged in this work?

A. I don't remember that any of the other members were there except Mr. Bixby.

Q. You have no recollection of any of the other members of the Commission being there? A. Not on that trip.

Q. Was Mr. Bixby always careful of the people's names he transmitted on the *checdule*? A. Yes, sir.

Q. Was that true of the other two commissioners?

A. In the work in which the other two commissioners were directly engaged it was true, but they were never engaged directly in the Creek enrollment work.

Q. And they paid very little attention to the enrollment work in the Creek Nation?

A. That was in a sense turned over to Mr. Bixby.

Q. If any information had been obtained, either at Okmulgee or elsewhere, before this name went up for approval, that Thomas Atkins was a minor ten years of age, was living with some non-citizen, would that fact have been noted upon that card under the practice of the Commission?

A. Under the practice it would except for during those three days before that treaty out there at Okmulgee.

Q. And you were doing rush enrollment work?

A. Yes, sir.

Q. If the Commission had had information that Minnie Atkins was a non-resident of the Creek Nation, and there was nothing in the records to show with whom this party was living, and that he was a minor ten years of age, do you think that they would have transmitted that card to Washington for approval if they had observed that condition?

Mr. Cruce: If the Court please, that is purely a conclusion and we object to it.

The Court: Objection sustained.

Q. Now, is there anything upon that card to indicate whether or not the Dawes Commission refused the 1890 roll in the enrollment of this party at Okmulgee or subsequently refused that roll? A. There is not.

Q. Does it indicate whether they did or not?

A. It indicates that they did not consult the 1890 roll.

Q. That they took his name from the 1890 roll only—1895 roll, only? A. Yes, sir.

Q. Now, I hand you the original of Government's Exhibit A-2, being the pay roll of Euchee—1893—1895 pay roll of Euchee Town and ask you to examine it and state whether or not under the circumstances at Okmulgee they would have listed the name of Thomas Atkins from no other information than the roll, as the child of Minnie Atkins?

A. They would on those last three days.

Q. Did you obtain or have any personal information as to the existence of Thomas Atkins? A. No, sir.

Q. Did you know any person by that name? A. No, sir.

Q. Did you hear of any person by that name?

A. Not that I——

Q. At Okmulgee, or thereafter before the preparation of this enrollment? A. Not that I remember of, Judge.

Q. Merrick was the clerk who prepared this census card, was he*r* not? A. Yes, sir, it is in his handwriting.

Q. How many of you were engaged in that work at Okmulgee?

A. Well, Mr. Merrick, Mr. Hopkins, Mr. Bixby, Mr. Hastain and myself. I think Mr. Beaver was out there a little.

Q. Do you know where Mr. Beaver is now? Know whether or not he is dead?

A. If he is living, he is at Denton, Arkansas. I think it is near Hot Springs.

Q. Do you know whether he is living? A. I do not.

Q. Did Mr. Bixby or Mr. Hopkins do any work of listing these people for enrollment or enrolling the people?

A. Mr. Bixby did little of it himself. Mr. Hopkins, however, did a great deal of it and Mr. Merrick was at the work constantly.

Q. The bulk of the work was done by Mr. Hopkins?

A. Yes.

Q. And Mr. Hastain and Mr. Merrick?

A. These last three days, yes, sir.

Cross Examination by Mr. Stuart.

Q. Mr. Leiber, the 1895 roll was really started—was really considered a more perfect roll than the '90 roll, wasn't it? Correct roll—of 1895? A. I think so, Judge.

Q. Had been gotten up with greater care?

A. That was the original roll that we had.

Q. Now, you say that there was an impression that if the Indian did not get on by a certain time that they would be *bared* out? A. Yes, sir.

Q. By virtue of the statute of limitation? A. Yes, sir.

Q. And your purpose was to see that no Indian entitled to get on there escaped—put everybody on? A. Yes, sir.

Q. Also, your purpose was to not put anybody on there that was not entitled to go on?

A. No, not to get anybody on there that was not.

Q. To have a clean straight, clear roll and to the best of your ability you performed that?

A. Exactly, except on these last three days when we took a chance, you know.

A. Well, when you took a chance, I understand; if you completed a card, your completed card represented that you had some information, didn't it?

A. Completed card?

Q. Yes, sir. Now, if you gave a completed card to an Indian applicant no matter who he was, and that card was complete, as you understood it, that meant that you had investigation as to him, didn't it?

A. That meant that we had got information that satisfied us that he should be on that roll.

Q. That is it. That you had got information that satisfied you that he should be on that roll.

A. That is on this last three days.

Q. Those that you took a chance with, you didn't give a completed card, did you? Couldn't do it?

A. We made a card such as is shown here in Exhibit A, only, except that it wouldn't have been a citizenship certificate on it.

Q. Mr. Leiber, now, if you made a completed card that is evidence—is evidence to you now whether you remember the exact case or not, that you got information that satisfied your judgment that that Indian was entitled to enrollment. Isn't that it?

A. If we made a completed card that is true.

Q. That is what I say—completed card. So if you gave a completed card and it was a completed card, then that satisfied your mind; now, although you don't remember the particular case on which that card was predicated and which justified you in putting that Indian on the roll. That is correct, isn't it?

A. Well, Judge, the cards that we made at that time were not completed cards, or at least we didn't consider it so. Excuse me, I don't get your distinction between a completed and an incompleted card.

Q. You heard these other witnesses testify here, didn't you? A. Yes, sir.

Q. And they all testified that when the card was completed that satisfied them that they had information. Does that satisfy you or not?

A. Yes, sir, when it is complete.

Q. Well, that is all I want to know. If it was incomplete, you are satisfied there was something yet to be finished?

A. Yes, sir.

Q. And those that you left incomplete as to these people, you made subsequent investigation?

A. The Commission did, yes, sir.

Q. And sent field parties into the field to verify those parties identity?

A. Yes, they had parties in the field practically all the time.

Q. And this relieves the Creek Tribe of any danger that there might come from the hazard that you spoke of?

A. Yes, sir.

Q. They wanted it completed by evidence, didn't they?

A. Yes, sir.

Q. And they did do it, didn't they?

A. Yes, sir; the best they could.

And thereupon Court takes a recess until 9:30 o'clock A. M.

And thereafter, and on May 2nd, 1917, at 9:30 o'clock A. M., court convened pursuant to adjournment, and further proceedings herein were had as follows:

JOHN E. LEIBER being recalled, further testified as follows:

Redirect Examination by Mr. Allen.

Q. Your name is John E. Leiber? A. Yes, sir.

Q. Were you on the stand yesterday when court adjourned? A. Yes, sir.

Q. Judge Leiber, prior to the work of enrolling citizens of the Creek Tribe of Indians in contemplation of the approval of the Act of March 1st, 1901, known as the Original Creek Agreement, you only enrolled living citizens of the tribe?

A. I think that was the rule, yes, sir.

Q. Then, the work you did at Okmulgee on May 22nd, 23rd and 24th, at which time Thomas Atkins was enrolled, was in contemplation of the ratification of the Original Creek Agreement? A. Yes, sir.

Q. Did you know A. G. McKellop? A. Yes, sir.

Q. Do you know whether or not he was present at Okmulgee during these last few days?

A. No, I can't say positively that he was.

Q. You were one of the three men most actively engaged *of* the work of enrolling these Creeks at that time?

A. During those three days, yes, sir.

Q. You have no recollection of his assisting you at that time?

A. No; he may have assisted us, but I don't remember it now.

Q. Is he living or dead? A. He is dead.

Q. I hand you Government's Exhibit A-1, and ask *to* you to carefully examine that exhibit which is the census card of Thomas Atkins. Mr. Leiber, is that census card in its present form what would under the practice of the Commission have been denominated a completed census card?

> Mr. Hanford: If Your Honor please, we object on the ground that it calls for a conclusion of the witness. The Court—it is in evidence before the Court and that is for the Court to determine. The entries are there.
>
> The Court: There has been a good deal said about a completed card here, but there has been no evidence as to what a completed card contains, or whether there was any difference between an uncompleted card and a completed card, or what that difference was.
>
> Mr. Allen: We will follow that up.
>
> The Court: Well, you may show what a completed card contained and probably the Court can best determine whether this complies with the requirements for a completed card or not.
>
> Mr. Allen: I will be glad to follow Your Honor's suggestion but I think*ing* in as much as we have this particular case before us, the witness might say what was necessary for this particular [ ] to contain in order for it to be considered a completed card under the statutes of the Commission.
>
> The Court: We don't know whether this is a completed card or not. This witness was asked to state if that was a completed card; that probably is a conclusion for him to arrive at from an examination of the card. If he knows what constituted a completed card, probably he can state.

Q. How long were you engaged in the work of enrolling these Creeks, Judge Leiber?

A. I was not directly engaged in the enrollment division, except during—from May 31, 1899, until some time in 1901, in the middle of 1901, I was only incidentally engaged in the enrolling work. I was in the Creek Land Office and all the work was done right there in the Land Office. I was used in that department frequently.

Q. How long were you in the service of the Commission?
A. From May 31, 1899, until some time in 1904.

Q. During all of that time did you have occasion to examine the census cards of Creek citizens? A. Yes, sir.

Q. And a part of that time you engaged in the work of actually making up the census cards?

A. Assisting in that work, yes, sir.

Q. Do you know what under the practice of the Commission was regarded as a completed census card?

A. I never knew the term completed census card to be used, or heard it except in this case, and I don't believe I would be in the position to say what a completed card would mean, or what it meant.

Q. Would such a card as you considered——

Mr. Stuart: We object to that.

The Court: Let's get the question.

Q. ——sufficient information thereon, such a card as contained thereon sufficient information to transmit it to the Secretary of the Interior for approval——

The Court: Let me have that question. Perhaps you had better frame that question again.

Q. By a completed card I mean such a card that enabled the Commission to determine whether or not the party whose name was listed thereon was entitled to enrollment and to transmit the same to the Secretary of the Interior for his approval. Under that definition do you understand what was considered under the practice of the Commission as a completed card? A. Yes, under that theory.

Q. Is that what was considered by you as a completed card? A. This one I hold in my hand?

Q. No, the card that contained the information that satisfied the Commission that the party was entitled to enrollment.

A. Well, it would have necessarily have been considered complete, or it would not have been passed on at that time and put on the schedule and sent to the Department for approval. If it was considered incomplete they would not have put it on a schedule.

Q. Well, is the card that you hold in your hand, Government's Exhibit A-1, under the practice of the Commission, a completed card? A. I wouldn't consider it so.

Mr. Cruce: We object, if the Court please.

The Court: Objections sustained, because it is the same question as asked before. This witness stated before that he never heard of a completed card until he came into this case; that he didn't know that term as a term used during the time of enrollment; he has stated that he would consider any card which had been passed upon by the Commission, a name from which was included in the schedule, as a completed card. That is the way I understand his testimony.

Mr. Allen: I think Your Honor misunderstood him. He was speculating on a hypothetical question.

The Court: I don't think this witness can state now on his own conclusion, whether this is a completed card in view of his past testimony. The objection is sustained. That term completed card has been coined in this case. He may be wrong about that; there may be some other evidence but so far as he knows that term, completed card, is coined in this case. You are seeking, I apprehend, to show that this card was not just an ordinary card as would be used in making up the schedule for final roll.

Mr. Allen: If such had been used——

The Court: You have interrogated him along this line but it cannot be shown by this witness from a conclusion whether this was a completed card or not.

Q. Under the practice of the Commission at that time which you say you are familiar, would this card have been forwarded by the Commission for approval if it had been observed at the time it was being sent out?

Mr. Cruce: We object, if the Court please, as being incompetent, and as asking for a conclusion of the witness.

The Court: He may answer.

Mr. Cruce: Exception.

A. It would not.

Q. Would the clerk have sent this card to the Commissioners for this name to be contained on a schedule to be sent to the Secretary for approval?

Mr. Cruce: I object to that if the Court please, as asking for a conclusion of the witness, and as incompetent testimony.

Q. If it had been noticed that this party, a minor, was enrolled without any further information than *it* contained on the card?

The Court: He may answer.

Mr. Cruce: Exception.

A. It would not.

Cross Examination by Mr. Stuart.

Q. Mr. Leiber, you never had a thing to do with this enrollment except that last few days, did you? You were a contest lawyer?

A. Well, the first work I did, Judge, was in that department.

Q. That was during those last days at Okmulgee?

A. Oh, no.

Q. Now, just tell me how long you served as an enrolling clerk, pure and simple. Let's get at it.

A. When the Land Office was first opened in 1899, the different clerks in the office worked in the different departments as they were needed. First here, and then there. I was one of the clerks in the office after May 31, 1899, and I was used part of the time in the enrolling work, part of the time in the allotment work, and at various things that there were to do there in that office, and that continued until up in sometime I think in 1901—the summer, probably, when the allotment contest work was made a special department and I was put in that department.

Q. Now, when you commenced as contest lawyer, about what month was it?

A. Well, I was working at the contest work at this time, that is in the—— Well, January, February and March, 1901, April, May and June.

Q. That is this, you were especially deputed to look after the contest work?

A. At that particular time, yes, sir.

Q. Now, when was that?

A. That was along I judge in 1901, early in 1901.

Q. And that continued how long?

A. Well, the Department continued up until the land office——

Q. I am talking about how long you worked?

A. As long as I worked for the Commission.

Q. And this special designation of yours was contest lawyer, wasn't it?

A. Yes, sir, when the contest department was established.

Q. Yes, you testified in the Thlocco case that you were the contest lawyer? A. Yes, sir, at that time.

Q. Now, then, they did have special enrolling clerks; Mr. Merrick did that kind of work?

A. No, Mr. Merrick was in the contest division later on, but in May, 1901, he was working in the enrollment division only.

Q. What was Mr. Hasting doing?

A. I think he worked only in the enrolling department at that time.

Q. And Mr. Hopkins was General Superintendent of the whole thing? A. Yes, sir.

Q. Now, this card here shows the number of 7913, don't it? A. Yes, sir.

Q. It shows the name Thomas Atkins don't it?

A. Yes, sir.

Q. It shows his age don't it? A. Yes, sir.

Q. It shows that he was a male? A. Yes, sir.

Q. It shows that he was a half blood? A. Yes, sir.

Q. He—— It shows he was on the roll of 1895?

A. Yes, sir.

Q. It shows he was a Euchee Indian? A. Yes, sir.

Q. And shows his father a white man? A. Yes, sir.

Q. And shows Minnie Atkins was his mother?

A. Yes, sir.

Q. And that she was on the 1895 roll and that she was a Euchee? A. Yes, sir.

Q. Now, will you tell me what more you could put on that card?

A. Under the statute, Judge, the card would have shown with whom this child was living.

Q. Did it show it in the Thlocco case that you testified in? A. I don't remember about that.

Q. Now, you say the only thing that keeps that card from becoming a complete card is that it don't show with whom that child was living, shows everything else, and that is the only defect?

A. Yes, from the fact that a minor is on a card by himself.

Q. That is the only defect, isn't it?

A. Well, I won't say that, Judge.

Q. Well, show me another—well, is there any defect in that now that you can find, Mr. Lieber?

A. Well, I can't think of any right now, Judge.

Q. All right. Now, if the mother of this child—— If the mother, Minnie Atkins, was the natural guardian of Tommy Atkins at the time, and Minnie Atkins wasn't enrolled, you couldn't have made any cross reference here could you?

A. If she wasn't enrolled at that time, but I understood she was.

Q. I am asking you my question?

A. That is one of the defects of the card, Judge, the fact that his mother was enrolled at that time.

Q. I am asking you the other question. Suppose that as a matter of fact she was not enrolled citizen, what would be the objection then?

A. The objection then would be that if she was on the 1890 roll it would have been noted on that card.

Q. Well, that is all right. Now, Mr. Lieber, let's come right down to the proposition again. You stated yesterday, didn't you, that when this kind of a card was made that it was never finally passed by the Commission to the Secretary of the Interior, unless a full investigation was made, didn't you?

A. I think that I said, Judge, that was the practice.

Q. Yes, that was the practice; you say so now, don't you?

A. That was the practice, yes, sir.

Mr. Stuart: That is all.

Redirect Examination by Mr. Allen.

Q. Judge Lieber, you stated that you understood that Minnie Atkins was enrolled. Is it not a fact that her name was merely listed on the census card?

A. That is what I meant, that her name had been placed on a census card prior to the time this census card was made.

Q. The name was placed there for investigation and later stricken? A. My information is that that is a fact.

The Court: Never mind what you- information is. It is merely hearsay, immaterial.

Q. Assuming that to be true, would this card—— The Commission had required this card to show with whom this child was living?

A. In the general rule it would, yes, sir.

Cross Examination by Mr. Cruce.

Q. Now, Minnie Atkins as I understood you in your last statement was listed just like Tommy over there at Okmulgee? A. I think Minnie was listed here at Muskogee.

Q. Well, here at Muskogee then, just as Tommy was at Okmulgee? A. Yes, went through the same——

Q. And the further investigation of the Commission struck her name from the roll and left Tommy on?

Mr. Allen: I object to that.

The Court: He stated that his information was that Minnie was listed and stricken from the roll. That is what I understood from his testimony, but that is all hearsay. Now, we know Tommy Atkins was left on the roll. He was enrolled. Now, if this witness is giving hearsay information as to Minnie, then that is the difference of the action of the Commission between Minnie and Tommy.

Mr. Cruce: Does the Government admit that Minnie Atkins was not enrolled by the Dawes Commission?

Mr. German: Why, yes, the fact is she was put on an old census card, and then in pursuance of their custom she was listed from an old census card to a so called regular census card for investigation, and later investigated and not enrolled.

Q. Now, another question: You say that that card that was exhibited to you, I believe A-1, Government's Exhibit, is complete in everything except that it doesn't show with whom Tommy Atkins was listed. Now, what would have been the action of the Commission in the event you had been unable to ascertain with whom he was living; would you have stricken him from the roll or let the card go on as it is?

A. Under the practice the name never would have been sent up unless they was satisfied that the child was living and entitled to citizenship.

Q. I understand that, but suppose the Commission was satisfied he was living and entitled to citizenship, but couldn't get the information as to whom he was living with, then what would the action have been?

A. They would have left him on the roll of course.

Mr. Cruce: Yes, that is what I thought.

(Witness dismissed.)

And thereupon, TAMS BIXBY, produced, examined, sworn and examined as a witness for and on behalf of the Government, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Tams Bixby.

Q. You live here at Muskogee, do you Mr. Bixby?

A. Yes, sir.

Q. Did you ever have any connection with the Dawes Commission, Mr. Bixby? A. Yes, sir.

Q. When did it begin?

A. May 22, I believe, May, 1897.

Q. What was your connection, what relationship, what was title of your position?

A. Well, I was first—— I was appointed Commissioner and then selected acting commissioner soon after I arrived in the Indian Territory. Then I was afterwards—I mean acting chairman, and then I was afterwards chairman and afterwards commissioner, sole commissioner.

Q. So your first connection was that of one of the commissioners? A. Yes, sir.

Q. And as long as the Commission was composed of more than one commissioner, you were one of the commissioners?

A. Yes, sir.

Q. Beginning in 1897? A. Yes, sir.

Q. And then after the Commission was abolished, about along in 1905, or '06, you were appointed commissioner?

A. Yes, sir.

Q. The officer which succeeded the Commission?

A. Yes, sir.

Q. How long were you Commissioner, about?

A. Ten years altogether on the Commission and as commissioner.

Q. Commissioner altogether ten years? A. Yes, sir.

Q. Mr. Bixby, which one of the commissioners, if either as against the other, took special notice of Creek enrollment work? A. Myself.

Q. Yes, sir. Where did the other commissioners work, in the matter of enrollment or otherwise; did the commissioners give their especial attention to?

A. Well, if it might be said that they gave their especial attention to any particular tribe, it was perhaps more to the Cherokees than any other.

Q. Than that of Choctaws and Chickasaws and Seminoles, you all worked about the same in the matter of the Choctaws, Chickasaws, and Seminole enrollment work?

A. Yes, sir.

Q. Which was the first tribe to be enrolled, that is, which tribe did you devote your attention to first? A. Creeks.

Q. To the Creeks. Did you have any difficulty of obtaining possession of the tribal rolls? A. Yes, sir.

Q. What was the nature of it?

A. Well, Isparhecher seemed to be unwilling so far as he was concerned to do anything for us; and we had to get the rolls as best we could from various sources.

Q. Who was Isparhecher?

A. He was a Chief of the Creek Nation for some time.

Q. Did you obtain possession of any of these rolls at the Capitol Building of the Creek Nation?

A. Yes, sir.

Q. How?

Judge Stuart: Your Honor, we object to that. It doesn't make a particle of difference whether Isparhecher did give them up or not, he did give them up.

The Court: This matter came up yesterday. It seems to me immaterial to go into the question of litigation that was necessary to get these rolls. That, in my judgment, is purely a collateral matter, and in my judgment it is immaterial.

Mr. German: We save an exception. We offer to prove that the Commission encountered difficulties; that finally the Commission obtained a Court order to be served on Chief Isparhecher by which the rolls were obtained after service of the order. That many of the rolls were found at Okmulgee at the Capitol House by the Commissioners or their clerks without the assistance of tribal officers and without the tribal officers having voluntarily delivered them. These things occurred about 1898, after this Curtis Act.

The Court: Let the record show your offer to prove.

Mr. German: And we except to the exclusion of the evidence.

Q. Mr. Bixby, you endeavored to identify, find all of the citizens of the Creek Nation who represented the names appearing on the tribal rolls, did you not? A. Yes, sir.

Q. You had the 1890 and 1895 tribal rolls of the Creek Nation that you used in that work? A. Yes, sir.

Q. Now, when you came to about the first of May, 1901, approximately what percentage of the names appearing on the Creek Tribal Roll had you listed for enrollment as having been identified?

A. I don't remember, I know there were a good many names that had not been cleared up or identified.

Q. How did you denominate or designate those names; did you use the words "unaccounted for citizen" in connection with them, or what term?

A. I don't remember any particular term, but——

Q. But they were unaccounted for?

A. They were unaccounted for, yes, sir.

Q. Now, you remember the occasion of the approval of the so-called original agreement treaty by the President on March 1, 1901? A. Yes, sir.

Q. State whether or not prior to that date the Creeks had ratified any enrollment and allotment treaty? A. No.

Q. They hadn't? A. No.

Q. State whether they had rejected the 1897 treaty?

A. Yes, sir.

Q. Had they rejected any proposed treaty between the 1897 treaty and the 1901 treaty? A. I can't remember.

Q. Well, they had not ratified it?

A. No, they had not ratified it.

Q. The so-called Creek Treaty that was a part of the Curtis Bill, there was one part of the Curtis Bill, wasn't there? A. Yes, sir.

Q. Was that accepted or rejected? A. Rejected.

Q. Rejected? A. Yes, sir.

Q. Now, we come to the time when Congress passed the so-called Creek Treaty and the President approved it in March, 1901. I will ask you to state whether the Creek National Council held a session for the purpose of acting on that treaty?

A. They held a session and that matter was up before them.

Q. Was up before them? A. Yes, sir.

Q. When was that session held?

A. Well, it was in session in the spring of 1901, in May.

Q. In May? A. Yes, sir.

Q. Were you there? A. Yes, sir.

Q. Did you have any of your enrollment force there?

A. Yes, sir.

Q. For what purpose were they there?

A. We were there for the purpose of assisting the passage of that Agreement, in that; and in enrolling the Creek citizens, so far as possible, that had not been enrolled.

Q. Of course your Commission wanted that Agreement ratified? A. Yes, sir, very much.

Q. And Congress did? A. Yes, sir, very much.

Q. And the Departmental officials? A. Yes, sir.

Q. Also you say you was there for the purpose of enrolling citizens? A. Yes, sir.

Q. Did you devote your own attention while there to these unaccounted for names that we have spoken of?

A. We certainly did.

Q. Explain to the Court what attention you did devote to them there.

A. I can't just tell everything that we did, but we did everything that we could think of to get the citizens in there, to get their enrollment, and also to ascertain by any possible means such information as would permit us to list the people for enrollment who were on those rolls.

Q. Now, did you get any citizens in there? A. Yes, sir.

Q. And you adopted various methods to get them in?

A. Yes, sir. We sent for them and we invited them and did every thing that we could possibly think of to get them before us.

Q. And you even had a part of the force of the United States Marshal to assist you to some extent, didn't you?

A. Yes, sir.

Q. Now, Mr. Bixby, on about May 22nd—21 or 22nd, and some two or three days before the day on which the treaty was actually ratified, I will ask you to state whether there was still some unaccounted for names? A. Yes, sir, there were.

Q. Was there any person or officer there in the Commission, or with the Commission, or among the tribal officials who desired those unaccounted for names listed before the treaty would be ratified?

A. Just state that over again, please.

Q. Was there anybody who wanted those remaining unaccounted names listed for enrollment before the treaty was ratified? A. Yes, sir, we did.

Q. You did? A. Yes, sir.

Q. The Commission? A. Yes, sir.

Q. For what reason?

A. Well, we knew that some people thought that under the provisions of the Act of Congress that it was necessary for everybody to be enrolled before that treaty should be ratified. I had a different view of it myself, but of course I wanted to be safe and made every possible endeavor to get every citizen's name upon the list.

Q. Before the treaty was ratified?

A. Before the treaty was ratified.

Q. Now, is the provision you referred to the first sentence of twenty-eight of that treaty?

A. I can't say for certain; if I saw it I could tell you very quick.

Q. At any rate, it is the provision that says that no person, no name, shall be added to the roll of citizens of the Creek Nation after the ratification of this treaty, or something to that effect? A. Yes, sir.

Q. Yes? A. Yes, sir.

Q. Now, in order to get those names on the cards before the treaty was ratified, what did you do?

A. Well, we notified every Town King, and every Warrior and everybody that we knew that we thought had any information in regard to these people as well as the people themselves, to come before us, and we had a great many citizens who were perhaps not members of the tribe assisting us, and we had a force of clerks there.

Q. You got the best you could and listed it? A. Yes, sir.

Q. I will ask you to state if prior to that particular occasion we are talking about, it was not the rule of the Commission that personal appearance was required, for a person who desired to be enrolled, or whose case was under consideration, except in the case of infants and incompetents?

A. That was the general rule, yes, sir.

Q. And in the case of infants or incompetents, what was the rule?

A. Well, the rule was to take information from the parent, or Town Kings, or Warriors, or from the relative, or from anybody that knew anything about it.

Q. Now, in case a name under consideration, speaking now of the general practice of the Commission; I am not talking about now those days that you had been consentrating on, but speaking of the general practice. When a name under consideration was questioned, the citizenship was questioned, the right to enrollment was questioned, what did you do?

A. Well, we would make an investigation.

Q. Would you record—take down evidence in those cases?

A. Not always in the Creek tribe.

Q. You would make a more thorough investigation?

A. Yes, sir.

Q. Than you otherwise would?

A. Yes, sir. Much of the Creek enrollment was done without taking any testimony down in writing.

Q. Now, on the last two or three days there before the treaty was ratified in May, 1901, you would take such information as a Town King, say, would give you about a name that you found on the roll? A. Yes, sir.

Q. And you would list the name for enrollment? If his information was favorable to his enrollment? A. Yes, sir.

Q. Whether he claimed to have personal knowledge or not? A. Well, I won't say as to that.

Q. I will ask you this: would, to illustrate, suppose a Town King was sitting across the table from an enrolling clerk on that occasion and the enrolling clerk was, say for illustration, take the Tuckabachee Town; here is the Tuckabachee Town, Mr. Jacobs, Town King, sitting across the table; Mr. Jacobs says the name John Smith on this Tuckabachee roll; he is unaccounted for; we have a blue pencil mark, showing that we have made a census card for him, but underneath his name, and a part of the group of that family, appears the name William Smith, unaccounted for; we have got no remarks there to show that he is dead or enlisted for enrollment, or otherwise accounted for, and the clerk would say, Mr. Jacobs, do you know about that William; suppose Mr. Jacobs would say, I know John Smith, and I know that he had a child and that child is about 10 years old.

A. That he had a child or has a child?

Q. No; I know of his having a child about 10 years old; I don't know its name, and I expect that is it. Would the name have been listed under that statement under the circumstances? A. I would have listed it myself, yes.

Q. You say you would? A. Yes, sir.

Q. Now, Mr. Bixby, after you made up the census cards, you didn't make your roll, the roll the Commission was required to make, that is the tabulating of the name?

A. Schedule.

Q. Schedule, that is what you called it? A. Yes, sir.

Q. After your census cards were made, you made a schedule? A. Yes, sir.

Q. The clerk did for you? A. Yes, sir.

Q. Of the names of—that is, a list of the names showing the tribal enrollment, and then the Commission would, or you, for instance, would take those names and consider them together with the census cards, would you not? Explain to the *jury* the process.

A. I would consider the census card and only consider the schedule as to whether it was an accurate representation of the census card.

Q. Of the census card? A. Yes, sir.

Q. Now, you—would you, in considering that schedule and the census card, determine whether the name should remain on the schedule?

A. Why, if it was—looked alright on the census card it would go on the schedule.

Q. On the schedule? A. Yes, sir.

Q. Then what would you do as to the schedule then?

A. Well, we had four copies, as I remember, which were signed by the Commissioners, or at least two of them, and transmitted, one to the Secretary of the Interior, one to the Commissioner of Indian Affairs, one to the Chief of the Tribe, and one kept in our office.

Q. Mr. Bixby, then you would transmit the schedule to the Secretary of the Interior for appropriate action?

A. Yes, sir.

Q. And you would do that with a letter, would you not?

A. Yes, sir, a letter of transmittal.

Q. When you passed on the names in any particular schedule, would you sign the letter?

A. Yes, I signed the letters—most of them—not all of them.

Q. When you didn't pass on the names in a particular schedule, did you sign the letter? A. No, sir.

Q. Now, were any of the other Commissioners at Okmulgee besides you in May, 1901, on the occasion of——

A. They were not there engaged in the work; they might have come out for a visit, I don't remember; but they were not there looking after the work.

Q. Speaking of this schedule matter, would the Commissioners sit in a body and consider those schedules or would you sit separately and take them up?

A. I took them up generally alone but I think Mr. Breckenridge and Mr. Needles possibly sat together; I am not absolutely certain about that but that is my recollection.

Q. Now, there is one other question I want to ask you: when a minor was listed on a census card alone, listed alone on a census card, that is not listed with parents, his parents not listed, with his custodian or guardian, what was the general practice of the Commission with relation to making any reference either in a note on the census card relating to who was his custodian, or, in lieu of that, or instead of that, a cross-reference to the card of his parent or relative with whom he was living, etc.?

A. The custom was to make that reference if we had it and knew it and could get it.

Q. And you usually got it, did you not?

A. Yes, sir, usually got it.

Cross Examination by Mr. Stuart.

Q. Mr. Bixby, when were you appointed chairman of the Commission?

A. I don't know the exact date. I just drifted in from —of course, so far as the field work was concerned, I was chairman all the time; I don't remember.

Q. You don't remember the exact date? A. No, sir.

Q. But you were chairman so far as the field work was concerned? A. Yes, sir.

Q. Your associates were Mr. Needles and Colonel Breckenridge? A. And Captain McKennon.

Q. And who else? A. Frank Armstrong.

Q. Frank Armstrong?

A. And a man named Montgomery, I don't remember his name.

Q. Who represented the successive member of the Commission as they would die? A. Yes, sir.

Q. Well, Mr. Bixby, you knew of course that no man was entitled to be put on this roll as a Creek citizen who had died prior to April 1st, '99, didn't you? A. Yes, sir.

Q. As a matter of fact, did you keep that constantly in your mind? A. Absolutely.

Q. Was that the main and essential fact that you were investigating from day to day?

A. That was one of them, yes, sir.

Q. One of them? A. Yes, sir.

Q. If you found out that a man died prior to April 1st, '99, you didn't put him on the roll? A. No, sir.

Q. If you found out he died after April 1st, you put him on the roll? A. Yes, sir.

Q. Provided you found he was a Creek citizen by blood and entitled to go there? A. And a resident.

Q. Now, did you ever at any time, Mr. Bixby, that you recall, put any man on the roll about whose rights you did not take some evidence outside of the roll itself? Can you recall a single case? A. No, sir.

Q. You may state whether or not you satisfied your mind that the Indian had lived after April 1st, '99, before you put him on the roll? A. Absolutely.

Q. Now, Mr. Bixby, while you were in Okmulgee, did you send out any field parties?

A. We sent out—not field parties as I remember, but we sent out people to bring citizens in.

Q. To bring citizens in? A. Yes, sir.

Q. Did you consult with the Town Kings of each particular town as near as you could?

A. I did personally and I threshed it constantly.

Q. You may state whether or not you endeavored by every means accessible to you to find out the truth or falsity of each man's claim to citizenship? A. Yes, sir.

Q. Did you make that investigation carelessly, or as fully as you could? What was your practice about it? Tell the Court how far you went to discover the truth.

A. Why, I devoted every possible energy and every possible thought, waking thought, to the effort to get that roll correct as far as it was possible for humanity to do it under the circumstances.

Q. You may state to the Court whether or not you were absent a good deal of the time, or whether you were on the job all the time.

A. I was on the job about 15 or 16 hours a day generally.

Q. All the time? A. Yes, sir.

Q. And you say your entire efforts at that time were directed to the making of a correct roll of Creek citizens?

A. Sure was.

Q. That is what you were there for? A. Yes, sir.

Q. Now, when these cards were made out, did you ever release a card finally until you had satisfied yourself either by further investigation or by a conference with your clerk, that that card was correct?

A. We always did the best we could.

Q. Did you ever release one until you were satisfied?

A. No, sir.

Q. Mr. Bixby, I will ask you whether it was your practice to confer with the clerks that made up a card before you would finally release it? A. We conferred constantly.

Q. Constantly?

A. Yes, sir. We had some of the best clerks I ever knew, too.

Q. Were your clerks competent men?

A. Some of the best I ever knew.

Q. Were they diligent? A. Yes, they were.

Q. And careful? A. Yes, sir.

Q. Now, Mr. Bixby, another question: will you state to the Court whether or not in your judgment you examined personally every Creek card before it was finally released?

A. I expect I examined every card time and again.

Q. Time and again. Well, just explain why you did it and how you did it.

Q. Well, you know this covered several years and we were constantly going over the cards; there was constantly something coming up and it was my intention, at least, to examine every card. Of course it is possible that some cards may have escaped my notice, but that was not by intention that they should.

Q. Your practice was to examine them all?

A. Every one.

Q. And you did it more than once, you say?

A. Yes, sir.

Q. And when you finally sent up the judgment of the Dawes Commission, of which you was chairman, on a particular Indian's right to enroll there, do you say that you had satisfied your mind with evidence outside of the rolls that he was entitled to be there?

A. That was certainly my intention.

Q. And do you think you did it? A. Yes, I think so.

Q. Mr. Bixby, Mr. German, asked you about a certain roll that was signed by Needles and Breckenridge, they seem to have signed it jointly.

A. I don't think he asked me.

Mr. German: The fact is that that schedule containing this name was not signed by Mr. Bixby, but was signed by the other two; that is according to the evidence.

The Court: Mr. Bixby was questioned by Mr. German as to who signed the schedules from time to time, and it was developed in the evidence that if Mr. Bixby was sitting and considering the matter, he signed the schedule, and if the others were sitting, they signed it.

Q. Yes, sir. And signed it jointly?
A. Yes, sir; that is my recollection.
Q. And they did sign it jointly in this case?
A. The other two.
Q. Yes, sir? A. Yes, sir.

The Court: Well, it had not appeared in this evidence.

Mr. German: I hadn't introduced it, Your Honor; I had not called your attention to it.

Q. Now, Mr. Bixby, those two men as far as you know, do you know whether they exercised the same kind of care as you did in these matters?

The Stenographer: Did you answer that?

Mr. German: He answered, I can't answer that.

Q. I will ask you whether or not you supervised everything that went out of the Creek Nation before it went on the card?
A. I examined every card, but there was some schedules that I did not sign.
Q. But you examined every single card that went out?
A. Yes, sir.
Q. Whether you signed the report or they signed it?
A. Yes, sir, I examined every card in the Creek Nation more than once.
Q. More than once? A. Yes, sir.

The Court: What was your answer as to whether or not the other Commissioners exercised the same care that you did?

A. I didn't answer it.
Q. Now, Mr. Bixby, just one other question: These rolls that were made, or these cards that were made the last few days at Okmulgee, there was some hurry there because your idea was not to permit any Indian who was entitled to be enrolled to be left off of the roll? A. Yes, sir.
Q. And as far as you could there you made this card complete if you could by evidence, didn't you? A. Yes, sir.

Q. And if a card was incomplete, you afterwards backed that up by subsequent evidence?

A. There was some incomplete cards, yes, sir.

Q. And you reinvestigated that afterwards? A. Yes, sir.

Q. And as a matter of fact then looked at both cards through a subsequent investigation before you sent them to Washington? A. Yes, sir.

Redirect Examination by Mr. German.

Q. Mr. Bixby, you say you examined every Creek card? A. Yes, sir.

Q. You didn't always examine them—— I mean to ask you this: Did you pass final judgment on each Creek card or those that Mr. Breckenridge or Mr. Needles examined without your participating?

A. I couldn't say that I passed final judgment on each card, no, sir.

Q. You were constantly and diligently at work attempting to avoid enrolling anybody who wasn't entitled to enrollment? A. That was my idea, yes, sir.

Q. You were constantly working with the Creek matters? A. Yes, sir.

Q. Now, you spoke of the date April 1, 1899, constantly keeping it in mind, I will ask you whether you considered the question of the life of a person prior to the time when the Original Creek Treaty became a law; under the Curtis Bill, was the question of life prior to April 1, 1899, a vital question? A. Not before that.

Q. Under the Curtis Bill what was the question as to life or death?

A. Well, the party needed to be living at the time of enrollment.

Q. The party needed to be living? A. Yes, sir.

Q. Now, the Original Creek Treaty of May 25, 1901, was the treaty and the first law that provided for the enrollment of the deceased citizens in the Creek Nation, wasn't it?

A. As I recollect, yes, sir.

Q. So, from and after that enactment, you did consider also the question of life on April 1, 1899?

A. Well, we had it in mind during the pending of that.

Q. At Okmulgee? A. Yes, sir.

Q. You mean the treaty was pending before the Council for ratification? A. Yes, sir.

Q. You contemplated its ratification by the Council? A. Yes, sir.

Q. Prior to the occasion that you have just mentioned, what questions did you consider in the matter of enrollment, what were the essentials as considered by the Commission to entitle one to enrollment?

A. Tribal enrollment, residence, and being alive.

Q. Did you take the fact that a man was on the tribal roll as evidence of life in 1899 and 1900?

A. No, not necessarily.

Q. Now, Mr. Bixby, the enrollment clerks were the persons who gathered the data with reference to the right to enrollment, excepting cases where there was serious contest, when you would sit in the trial?

A. That was the general practice, yes, sir.

Q. Then the information that would come to you or the other Commissioners as a rule for consideration, would be the information that would come from the clerk, was it not?

A. Would be the general practice, although in the Creek Nation, of course, I was present at a great many enrollments, personally present.

Q. Personally present? A. Yes, sir.

Q. At a great many enrollments? A. Yes, sir.

Q. It was a physical impossibility for you to be present at all the listings? A. Absolutely.

Q. And the way you would pass, when you would pass finally on the questions whether the listing was right or wrong would be from the listing shown on the census card and what the clerks would tell you? A. Yes, sir.

Q. Mr. Bixby, do you recall the—— You stated that you constantly were working with these census cards and in the matter of these Creek enrollments—— Do you recall that in 1905, some question having arisen to the question of the rightfully enrollment of Tommy Atkins' name?

A. No, I don't recall it.

Q. You don't recall it? A. No, sir.

Q. Was a record made when a question was raised?

A. I presume so, I don't know.

Q. Well, what was the practice, I mean?

A. Why, if it was raised by anybody in authority, there would be a record made.

Q. A record made? A. Yes, sir.

Q. And the patent, if the patent was not delivered at the time, what would be done about the patent?

A. The patent would be held up.

Q. Would be held up? A. Yes, sir.

Q. Pending an investigation? A. Yes, sir.

Mr. German: That is all.

Cross Examination by Mr. Maxey.

Q. Mr. Bixby, you say that you had charge of the enrollment, especially in the Creek Nation? A. Yes, sir.

Q. Now, you usually signed the letters of transmittal of the schedule to the Secretary of the Interior?

A. I think that is true, yes, sir.

Q. Now, why was it that Mr. Needles or Mr. Breckenridge signed some, because you were away from the office?

A. I might have been out of the office.

Q. But you had supervised the schedule before it was made up?

A. Not necessarily any particular schedule, I might not have seen it at all.

Q. But you had, as I understand you, examined the cards? A. Yes, sir.

Q. And passed on the cards that were entitled to go on the schedule? A. I did pass on the cards, yes, sir.

Q. And Mr. Needles and Mr. Breckenridge would sign the schedule when they got it ready if you were not there?

A. I couldn't say in this particular case whether they signed it without examination, but I expect they examined the card the same as I did.

Q. That was the practice was it? A. Yes, sir.

Examination by the Court.

Q. Do I understand you, Mr. Bixby, that you examined not only the cards which were placed on the schedule which you signed, but you had examined the cards with reference to the scheduling upon those schedules signed by the other members too?

A. I said I examined the cards in the Creek Nation time and again. I didn't mean to convey the idea that I had examined this particular schedule just before it was scheduled, because I presumed the same practice was followed that was followed when I made up the schedule; that the cards were all brought in the schedule was held by two or three different clerks and the Commissioners examined the cards, and one clerk read the schedule and the other followed the schedule to see that they were accurate in every particular.

Q. Well, now, at those examinations, do I understand that the chief essentials stand as between the clerks and commissioners was to see that the schedule properly stated what the card showed?

A. Yes, sir, when the schedule was made up, yes, sir.

Q. At that time there was as a rule no examination with regard to the correctness of the card itself? A. No, sir.

Q. But as to whether the schedule correctly stated the card? A. Yes, sir.

Examination by Mr. German.

Q. Let me ask you in that connection, how would a clerk know whether to put a name on a schedule?

A. The card was approved.

Q. How was the approval indicated?

A. It is my recollection it was stamped after being passed by the Commission.

Q. Stamped in what way, do you recall the stamp?

A. No, sir.

Q. Take Exhibit A-1 and let's see if you can indicate to us what you mean?

A. I don't know which one of these stamps indicate the final approval, but certainly one of them did, I think.

Q. The ones that we find here, Mr. Bixby—— Here is one stamp indicating that the enrollment of this name opposite No. 7913 was approved by the Secretary of the Interior on March 28, 1902. Of course, that is not the one?

A. That is not the one.

Q. And here is another stamp which says, "Date of Application for Enrollment, May 23, 1901." Of course that is not the one? A. No.

Q. Then here is a notation here that No. 1, which is the name of Thomas Atkins, isn't found on the 1895 authenticated roll. That is not the one? A. No, sir.

Q. Then, the only one left I see is "Citizenship Certificate issued for No. 1, June 27, 1902." Now, that appears to be after the date of approval by the Secretary of the Interior, so that couldn't be the one. So, do you find on there anything along that line? A. No, I don't find any.

Q. Do you recall whether—— Do you now recall the exact practice in that regard, how it was that the clerk knew when to put a name on the schedule?

A. I expect it was just approved by the Commissioner.

Q. Just a verbal designation?

A. Yes, it looks so from that.

Q. Now, you stated that you examined all the Creek cards. You would examine Creek cards that were half finished, Creek cards that were just started, didn't you? A. Yes, sir.

Q. Examined them in their unfinished state and finished state? A. Yes, sir, certainly.

Q. Constant attention? A. Yes, sir.

Examination by the Court.

Q. Well, now, Mr. Bixby, then as I understand you, before these cards were ready for scheduling they had to pass for approval before the Commission or some member of the Commission? A. Yes, sir.

Q. That they were not taken by the clerk for scheduling until they were approved? A. No, sir.

Q. And that every card, prior to the time the clerk took it, received approval, either by evidence of stamp or not, by some member of the Commission? A. Yes, sir.

Q. How was this final approving done?

A. Why, there was no particular formality about it. They were just selected out when they were ready, when they were supposed to be completed and prepared for enrollment or scheduling.

Q. Well, then, what I am trying to get at, they would be brought before a member of the Commission sitting at that time and presented to the member of the Commission, and what investigation would take place as a matter of practice if you remember?

A. No particular investigation unless some question came up. Of course, these cards you know were constantly—especially in the Creek Nation, under the observation of myself and the chief law clerk.

Q. That is, as they were being perfected?

A. As they were being perfected, yes, sir. Some of the cards almost got worn out by constant use and handling.

(Witness dismissed.)

Mr. German: As Government's Exhibits A-34 and A-35 and A-36, we desire to offer in evidence the records, certified copies of records in the office of the Commission, relating to Harvey and Charlie Harris, whose census card, enrollment census card we have already introduced. Counsel is acquainted with these.

The Court: How does this bear upon the case as you conceive it?

Mr. German: It relates, Your Honor, to the question—one question that it relates to is the circumstantial evidence on the subject of the enrollment by the Commission of Thomas Atkins. Here are members of this family who appearing before the Commission testified in relation to the family and mentioning the members of the family, and omitting invariably to mention Thomas Atkins; circumstantial evidence on that subject. Furthermore, the testimony, the records which we offer, coupled with the other records relating to these same two persons, show that Minnie Atkins is the mother of these boys, and deal with Minnie Atkins' presence in those various—that is, her whereabouts, and show her absence from the Indian Territory, and they constitute official records relating to the family history of the Atkins; so that it is circumstantial evidence, and possibly more in some instances, relating not only to the enrollment by the Commission of this family but also to the question as to whether the child——

The Court: Are those objected to?

Mr. Hanford: They are objected to on the ground that they are immaterial.

Mr. German: Now, Your Honor understands that we expect to offer also, the record of the Commission in toto, relating to Minnie Atkins. It seems her name was listed on the old census card with Harvey and Charlie.

The Court: Now, let's see, this does not go to the point or question as to whether there was evidence or not before the Commission, as to the existence or life of Tommy Atkins on April 1, '99?

Mr. German: No, sir.

The Court: Does not go to that point at all?

Mr. German: No; that point we concede as not in the case. It does, however, bear upon the proposition as to who may have given whatever information the Commission had at Okmulgee. It relates to that.

Mr. Cruce: What point is not in the case?

Mr. German: The question as to whether the Commission had anything before it as to Atkins' life April 1st, '99.

The Court: That is in this case. The question I had in mind is as to whether these papers now offered throw any light on that question.

Mr. German: Except in this way, Your Honor: you remember that witnesses about the enrollment at Okmulgee, in testifying in relation to the enrollment work, testified that parents would appear, and according to the rule, had to appear, or in the absence of the parent, persons having the children in their custody had to appear, and it developed that at Okmulgee, that Town Kings and others may have given information. Now, this is circumstantial evidence, tending to show no member of this family gave whatever information that the Commission may have had relating to Thomas Atkins. It is also admissible for that reason.

The Court: That no member of his family gave—how does this say that?

Mr. German: Circumstantial evidence on the question, for instance when Your Honor has before you all these enrollment records relating to this Atkins family, you will see that the Commission has actually taken recorded testimony relating to every name in this family group, on the '95 roll, at one time or another; that in all of that testimony these is no mention of this Thomas Atkins; that whereas as to Thomas there is an absence of any record of any evidence; furthermore that this will show that the only member of that Atkins family who was in the Creek Nation at the time was Nancy. Then, when we come to Nancy, to her communications and testimony before the Commission, they would show that she was making an effort to have placed upon the roll her brother Lee and her sister Minnie, who she stated was living out of the Indian Territory, but made no mention of Thomas. So that, taking the records together we think they constitute forceful evidence relating to the question of the enrollment by the Commission of the name of Thomas Atkins, coupled with the evidence that we have in the office of the Commission of the records relating to Thomas.

The Court: A-34 seems to be in the matter of the application of Thomas Holden, for Harvey Harrison for allotment as a citizen of the Muskogee Nation; that refers to the allotment. I suppose that prior to this time, Harvey Harrison had been admitted—enrolled?

Mr. German: There is a card showing that he was enrolled, yes, sir.

The Court: And this application for allotment was made after the enrollment was complete and their status as citizens established?

Mr. German: Yes, sir, but the date of that record in your hand——

The Court: This is dated May 5th, 1900.

Mr. German: Yes, sir, which is prior to the listing of the name of Thomas.

The Court: Well, this is before the Court; I will permit them to go in the record, over your objections and exceptions, gentlemen.

Mr. German: Now, we offer certified copy of the power of attorney filed with the Commission, dated April 2nd, 1900, signed by Mrs. Minnie Harrison, in Wayne County, Michigan, purporting and attempting to empower Thomas E. Holden, to file for herself and minor children, Charlie and Harvey Harrison, as Exhibit A-37.

The Court: That is objected?

Mr. Stuart: Yes, sir.

The Court: The same objection; overruled and exception noted. I assume there is no question about the identity of Minnie Harrison as Minnie Atkins?

Mr. German: If there is, we will establish the identity.

The Court: I am assuming Minnie Harrison is Minnie Atkins in this case.

Mr. German: Now, we offer Exhibit A-39, the testimony of Fred Bowers, taken August 25, 1904, relating to the application for enrollment of Minnie Atkins. Before offering A-37, I desire to offer A-38—withdraw the present offer of A-37; A-38 is an unfinished and incomplete census card, made April 24, 1901, relating to the enrollment of Minnie Harris, who is identified on the 1890 Euchee Town tribal roll, which has been introduced here, her name being Minnie Atkins and on the 1895 tribal roll, opposite 210 thereon, which is Minnie Atkins.

The Court: That is objected to?

Mr. Stuart: We have got this one first, Your Honor, to be passed on.

The Court: That is withdrawn for the present. There is now offered what is stated to be an unfinished card with relations to Minnie Harris, which it is stated Minnie Atkins as appeared from the unfinished card.

Mr. German: By the use of the word unfinished, I mean the card was not completely filled out. It is a finished card. It shows she was not enrolled.

Mr. Stuart: Your Honor, we have to look after the records some. Here it is admitted in this case that Minnie Atkins was a Creek citizen by blood. Nobody ever denied it or ever will deny it——

The Court: Now, I take it there is no question made in this case that if Tommy Atkins had existence, as is claimed at the time of this 1890 or 1895 roll, and then lived to April 1, 1899, there is no claim made that Minnie's condition as a Creek citizen, or of being a Creek Indian, was such as to entitle him to enrollment is there?

Mr. German: Oh, no, sir; not bearing on that.

The Court: Absolutely no question about that.

Tommy Atkins was entitled to enrollment if he ever existed and if the Commission had evidence of his existing April 1, 1899, substantial evidence.

Mr. Stuart: Now, Your Honor, these documents here—this one shows that Minnie Harris was not enrolled; we admit that she was not enrolled. There is no doubt that she was not enrolled, and the evidence here that they offered that she was not enrolled—what bearing has that in this case?

The Court: It is suggested that in the process of the taking of that testimony in regard to Minnie, as well as the other members of the family, there was no reference in any event made to Thomas Atkins, and that is the point to which this evidence is directed as I understand, the only point.

Mr. German: Yes, sir, except as additional evidence showing who may or may not have appeared before the Commission in 1901, whether any member of the family appeared.

Mr. Stuart: Now, Your Honor, before—the objection we make is of course, as to the volume of the record; Government's Exhibit A-38, this is an exhibit showing that Minnie was stricken from the rolls because there was no proof that she was alive April 1st, '99.

Mr. German: Rather, was not enrolled.

Mr. Stuart: We don't object to that.

The Court: Well, that may be admitted.

Mr. Stuart: This one here that to prove that she was not alive, that she was out of the country and they could not find her, that simply increases the volume of the record.

The Court: Now, what bearing has this?

Mr. Stuart: This is 39. This is evidence here by a man named Fred Bowers and they ask him where Minnie was——

The Court: Now, Mr. German, as to A-39, if this is just a part of the examination pursuant to which Minnie was refused enrollment, then what place has that in this record?

Mr. German: Here is another place that it has in the record. Your Honor will remember that the witnesses testified that when the census card was made, the practice was to note the address of the parent—I mean to make a note with relation to who had the custody——

The Court: Who was the custodian of the child?

Mr. German: Yes. And now, the census card of Tommy is silent on that subject and he was listed alone and this evidence taking it together, beginning with the old census card, which by the way, has some notes on it as to Minnie Atkins, and this one which has just been introduced, showing that she was denied enrollment, bringing it on down including all of the records relating to Minnie, shows her whereabouts, and tends to looseness relating to the enrollment of Thomas by the Commission, because there would have been a cross-reference to these records, and they would have furnished information as to her whereabouts which would have brought about a conclusion on the subject of that.

The Court: Well, we are consuming a good deal of valuable time. I will give you gentlemen your objections. There is not such a volume of this as to make it serious. Save your exceptions, and I will consider it when you come to present the case. I am not prepared to say that I will say then that there is any very great light thrown on the case by these.

Mr. German: Your Honor, I think I made a mistake; I said I offered the final census card of Harvey and Charlie Harrison—I was mistaken. We offer it as Exhibit A-33.

The Court: Admitted over the same objection and exception of counsel.

Mr. German: As Exhibit A-41, I offer the testimony of Sam Brown taken October 25, 1904, relating to the application to enroll Minnie Harris. As A-42, a certified copy of the order of the Commission denying Minnie Atkins enrollment—application for enrollment. And as A-43, the action of the Commission to the Five Civilized Tribes——

The Court: Now, it is admitted that Minnie Atkins was not enrolled. Why put in the record the formal decision of the Commission?

Mr. German: I think that is correct. I withdraw A-43, and A-44. We offer certified copy of the enrollment—rather the census card, of Nancy Atkins.

Mr. Rosser: With reference to that, we make the same objection as was made by counsel representing Minnie Atkins; objected to as incompetent, irrelevant and immaterial.

The Court: The record may show the objection interposed by Nancy Atkins' interest in the same that has already been interposed by the Page interests in this case; the objection is overruled and exceptions noted as to them. Now, there is offered the Nancy Atkins card?

Mr. Rosser: It is admitted that she was enrolled and that she got an allotment, so why encumber the record with all those things?

The Court: What is the point in regard to the Nancy Atkins card now?

Mr. German: The census card?

The Court: Yes?

Mr. German: Merely shows the fact of her enrollment, she being a defendant in this case and claiming an heirship here, her card is offered. Her name is on it alone.

The Court: Oh, it may go in, save your exceptions.

Mr. Rosser: Exceptions.

Mr. German: We offer in evidence as Exhibit A-45, certified copy of a letter to the Commission from Nancy Atkins, dated June 25, 1901, relating to her filing papers.

The Court: That objected to?

Mr. Rosser: All this entire record in relation to Nancy Atkins is objected to. I don't want to repeat it every time. I know what he is offering and we object to all the record now being offered.

Mr. Stuart: Your Honor, I would like to ask one question. I didn't get the number one exhibit—introduced one exhibit, showing that somebody made an application for Minnie Harrison for citizenship——

Mr. German: No, it was testimony of the witness relating to the application.

Mr. Stuart: And on that testimony the application was rejected?

Mr. German: On that and other testimony. As Exhibit A-46, I offer a letter from Nancy Atkins to the Commission, dated July 29th, 1901, which relates to her brother Lee Atkins and her sister Minnie. She is attempting to obtain their enrollment.

Mr. Rosser: Our objection is to the entire record and we don't [] to repeat but we object to this.

The Court: If I except this in toto, without hearing your objection, I am blindly letting it go into the record.

I am disposed to be very liberal with regard to exhibits in this case, but unless there is some reason for putting these exhibits in, these will not go into the record.

Mr. German: We will not offer them unless we have reason, Your Honor.

Mr. Rosser: The objection to this letter, my recollection is, this was after.

The Court: Just state briefly what each one is that you are offering.

Mr. German: This is a letter dated July 29, 1901, from Nancy to the Commission, and it is a letter wherein she asks to be informed as to the steps to be taken in the matter of filing for her brother Lee, and then she takes up the matter of her sister Minnie, who went to Colorado, and states that she received a letter from Minnie and hasn't heard from her for some time and wants her own filing papers sent to her; that is the filing papers of the author of the letter, sent to her. This letter is offer—one reason is it was written prior to the date of the designation of any relation to Tommy Atkins, and she is interested in the allotment of herself and her brother, talking about Minnie and her brother Lee, and is silent on the subject of Thomas.

The Court: It may be admitted; exceptions noted.

Mr. German: And letter addressed to Nancy Atkins by the Commissioner in charge—T. B. Needles, dated August 9th, 1901, replying to the letter that has just been offered.

The Court: This is hardly necessary; that has nothing that Nancy said or did. Is there anything there in that letter that will throw any light on this case—it may be admitted.

Mr. German: As Exhibit A-48, we offer Nancy Atkins' letter to the Commission dated August 15, 1901, in reply to the letter which has just been offered.

The Court: What is the substance of that?

Mr. German: (Reading) Your favor of the 9th instance in reply to mine of the 29th ultimo at hand and contents noted. Many thanks for information. I failed to state to you that my sister, Minnie Atkins, of whom I wrote you, was born in the Indian Territory, and has lived here all her life until a little less than three years ago, when she left temporarily for her health, going to Colorada, and she wrote me from that place on the 12th of last November. Of course she has been a citizen of the Indian Territory and enrolled all her life and has drawn Creek money as myself—she belonged to the same town as myself. I write this as I failed to state in my last that she was born in the Territory and as I see from yours, which I enclose, that you thought she had not moved to the Indian Territory. Please write at once as it is getting late and I am anxious that she has her rights as she is entitled to and needs them.

The Court: That may be admitted over the same objection and exception.

Mr. German: Exhibit A-49 is a letter from the Commission to Nancy, dated August 19, 1901, in reply to the same letter.

The Court: Part of that same line of correspondence.

Mr. German: Yes, sir.

The Court: Admitted over the same objection and exception.

Mr. German: Exhibit A-50 is a letter from Nancy Atkins to the Commission, dated March 7, 1903, making some inquiry about her deed.

A-51 is a letter from Nancy to the Commission dated April 6th, 1905, making some further inquiry about her deed.

The Court: They may be admitted.

Mr. German: A-52 is a letter to Nancy Atkins by the Commission, dated April 14, 1903, acknowledging receipt of her recent letter relating to her deeds. I don't know that that is very important.

The Court: It may be admitted.

Mr. German: A-53 is the testimony of Nancy Atkins, given on January 23, 1901, in the matter of her application for an allotment.

The Court: Are there any statements there which throw any light on her contention in this case as to here relation to Tommy Atkins?

Mr. German: Just circumstantially, because she makes no reference of Tommy, but is seeking an allotment for herself.

Mr. Maxey: What is the date of that?

Mr. German: March 27, 1901. The allegation in the answer of Nancy Atkins, of the Nancy Atkins group defendants, is that Thomas died in 1902, at any rate after this date.

The Court: It may be admitted over the same objection and exception.

Mr. German: A-54 is Nancy Atkins personal application for an allotment for himself.

The Court: It may be admitted.

Mr. German: A-55 is Nancy Atkins' testimony given June 11, 1901, before the Commission in the matter of her application for an allotment.

Mr. Maxey: Same objection.

The Court: It may be admitted, exception noted.

Mr. German: A-56 is Nancy Atkins' personal application for additional land in allotment, and is dated June 11, 1901.

Mr. Maxey: Same objection.

The Court: It may be admitted, exception noted.

Mr. German: A-57 is Nancy Atkins' personal application for additional land in allotment—her homestead selection, designated her homestead out of her allotted land, dated May 3, 1902.

The Court: It may be admitted, over the same objection and exception.

Mr. German: If there is any question—— Some say there is—about my having introduced Exhibit A-37. I offered it and some think I inadvertedly withdrew it.

The Court: What is that?

Mr. German: Exhibit A-37. It is the Power of Attorney of Minnie, dated April 2, 1900.

The Court: The record may show that that is admitted over the objection and exception of counsel for the Page interests.

And thereupon, ALICE M. ROBERTSON was called, sworn and examined as a witness for and on behalf of the Government, and testified as follows:

Direct Examination by Mr. Pinson.

Q. What is your name? A. Alice M. Robertson.
Q. Where do you live, Miss Robertson? A. Muskogee.
Q. How long have you lived in Muskogee?
A. Since September 5, 1885.

Q. What was your business or profession in the latter part of the seventies, and where did you live at that time?

A. In 1873 I went to the Indian office in Washington as a clerk. From 1873 to 1879 I was a clerk in the Indian office in Washington.

Q. From that point where did you go?

A. In March, 1879, I came to Tullahassee Mission to help my father and mother in their Mission work.

Q. What was the Tullahassee Mission?

A. The Tullehassee Mission was an Indian school established under the joint auspices of the Presbyterian Board of Foreign Missions and the Muskogee or Creek Nation in 1849.

Q. At what point? A. At Tullahassee.

Q. Is that in the Indian Territory?

A. In the Creek Nation.

Q. What direction and distance from the town and City of Muskogee?

A. It is on the Tulsa division of the M., K. & T. about three miles north of the Clarksville bridge, or Spaulding bridge.

Q. That is quite near to Muskogee is it?

A. Within ten miles of Muskogee.

Q. Do you know Minnie Atkins, or did you at that time know Minnie Atkins?

A. I found her a pupil in the school the last of March, 1879.

Q. At Tullehassee? A. At Tullehassee.

Q. What age person was she at that time?

A. She was one of those overgrown girls who might be anywhere from fourteen to twenty from her appearance.

Q. You do not now remember her age from information received at the time? A. I do not.

Q. How long was she at the school to your knowledge there?

A. I don't know how long she had been in the school at the time I came there. She left there in the latter part of January, 1881.

Q. Where were you——

A. I beg your pardon, yes, January, 1881.

Q. Were you acquainted with the family of this girl, Minnie Atkins?

A. Yes, her father was our nearest neighbor east. Tom Atkins, before the war, lived down in Dogwood Thicket we called it two miles east. Her grandmother, Sallie Davis, was our nearest neighor to the south, about a half a mile from the Mission.

Q. What was the name of her mother?

A. Mary Jane Davis.

Q. Did you know her?

A. As a child, as an older student in the school.

Q. Miss Robertson, prior to going to Washington as a clerk, where had you lived?

A. I had been before that two years at college at Elmira, New York; I went to Elmira from Tullehassee Mission.

Q. Then you lived in the Indian Territory prior to the time you speak of going to Washington?

A. I was born at Tullehassee.

Q. And have always lived in Indian Territory?

A. It has always been the only home. I have staid at other places.

Q. Your knowledge of the family of Minnie Atkins or your acquaintance with them was during your early youth, was it, in the Indian Territory?

A. I was seven years old when the war broke out, and those who were in school necessarily left the school. There was a break. We came back after peace was made and the school was resumed at Tullehassee in the early spring I think in March 1868.

Q. From your acquaintance with the family, and your acquaintance of the family of Minnie you had a personal interest in her as one of your pupils? A. I had.

Q. You say that Minnie left the Indian Territory in January, 1881? A. She did.

Q. What was the occasion of her leaving if you know?

A. The Tullehassee Mission was destroyed by fire during December 20, 1880, and the children were disbursed to their homes. I was at the Carlisle Indian School and Captain Pratt said that it was a pity that there was no other place for the children to go; that they should not come to Carlisle where there was room; but the Government recognized no duty towards the Civilized Tribes, and he couldn't take them. And as I had served six years in the Indian Offices I asked permission from him to go to Washington and see if I couldn't get an exception made by which some of those children should come to Carlisle. In two hours after hearing of the burning of the Mission, I was on the train going to Washington——

Mr. Stuart: Your Honor, I believe we will object. Just let her say she went to Carlisle.

Mr. Pinson: The ultimate purpose of the question was to ascertain where Minnie went from the Mission.

The Court: Now, Miss Robertson, it will not be necessary to go through that history.

Q. Just state?

A. She came from Tullehassee to the Carlisle Indian School in a party of twenty-five students the latter part of January, 1881.

Q. Now, did you know her during her stay at Carlisle, or during part of it?

A. During the part from January, 1881, to November 15, 1882, when I left Carlisle.

Q. At that time you left Carlisle, Minnie was still there, was she? A. She was still there.

Q. In 1882?

A. Those students had come there for a period of three years.

Q. That was the understanding?

A. They were not accepted unless they promised to stay three years.

Q. During the time of your stay at Carlisle, were you frequently in company with Minnie, associated with her, thrown with her? A. Very frequently.

Q. During the time when she was at the Tullehassee Mission, you were her teacher?

A. Teaching in domestic science.

Q. Did you have occasion to teach Minnie? A. I had.

Q. As one of your pupils? A. Yes, sir.

Q. Do you recall having had your picture taken with her on occasion? A. At Carlisle.

Q. At Carlisle?

A. Photographers were not common at Tullehassee.

Q. State, Miss Robertson, if you know whether Minnie was a good girl during the time you knew her at Tullehassee and during the time up to the time you left her at Carlisle?

A. She had a very good standing.

Q. Are you aware whether any children were born to her during that period, can you state? A. Positively not.

Q. When was the next time that you saw Minnie Atkins after 1882 when you left Carlisle?

A. It was in Muskogee, Oklahoma, in the late summer of 1895.

Q. In Muskogee in 1895? A. Yes, sir.

Q. Now, in 1882, when you left her at Carlisle, give us a description of her appearance at that time, her general appearance.

A. Oh, she probably weighed I should think about a hundred and fifty pounds. The students in Carlisle were not allowed to wear corsets and she was rather stocky.

Q. What was her height approximately?

A. Her height was probably, I should think, just guessing at it, about five feet six inches.

Q. What was her color?

A. She had not a clear complexion.

Q. Was she dark or light skinned as Indians go, Creek Indians go?

A. Well, she showed that she was a half blood, she had a good deal of color in her cheeks, but was not especially fair.

Q. What you would call a dusky complexion?

A. No not exactly dusky, something like an ordinary tanned country girl.

Q. She was not a dark skinned Indian? A. Not at all.

Q. What was the color of her hair?

A. Well, it was brown with a sort of tawny shade to it.

Q. Was it straight or curly?

A. It had a little tendency to curl.

Q. You next saw her in the year 1895, you stated?

A. Yes, sir.

Q. Where was that? A. At Muskogee.

Q. Had you had any information as to her whereabouts or known anything about her in the meanwhile?

A. I had heard of her going out under the placing in home system——

Q. I say you had learned something?

A. I knew nothing of her personally.

Q. Had no personal knowledge? A. No, sir.

Q. Where was it that you saw her in 1895?

A. In my own house.

Q. In Muskogee? A. In Muskogee.

Q. Do you remember what the occasion was, do you have now an independent recollection of what her occasion was in coming back to the Indian Territory at that time?

A. I only know what she told me.

Q. What was it?

Mr. Stuart: Your Honor, I assume that this testimony is going to prove some statement about this child?

Mr. Pinson: Yes, sir, beginning with Minnie's life's history.

Mr. Stuart: Well, I don't know, Your Honor, what that life's history has to do with it.

The Court: Well, I am going to hear this testimony with reference to what Minnie said at that time, the record already showing that she had been here to collect certain monies on the 1895 pay roll.

Mr. Stuart: Now, Your Honor, we have no objection to that, but we do object to any evidence with reference to the existence or non-existence of that child. We want to be heard.

The Court: I appreciate that, and I will permit you to be heard on that before this case is disposed of, but I will permit the witness to answer. And you may object now and then I will hear you upon that particular phase of the case very shortly.

Mr. Stuart: All right, then we object now. Save our exception.

Q. What was the occasion if she stated?
A. She had quarreled with her husband.
Q. What did she advise you at that time that her name was, that her husband's name was?
A. Peterkin, Sergeant Peterkin.
Q. Do you recall whether any one was with her when she came to your house? A. Two children.

The Court: The record will show that you are objecting to each one of these questions and answers.
Mr. Stuart: Yes, sir.
The Court: Exceptions noted.

Q. What was the size of the children?
A. The children were small.
Q. Do you know whether they were boys or whether one was a boy and one a girl? A. I do not remember.

The Court: Now, what was the answer with regard to the children, whether the children were with her?

A. Yes, sir.

The Court: And her husband's name at that time was what?

A. Peterkin.

The Court: The two children were two boys?

A. I do not remember the sex; they were two small children and their names was Peterkin. I have forgotten the different given names.
Q. Was her husband with her or any other person?
A. No one but the two children.
Q. Now, can you give us just an idea about the size of those two children at that time?
A. Simply that she carried one in her arms and one was walking. She came all stained and dusty from the train to my house.
Q. And carried one child. Was it such an age that it necessitated her carrying it for any distance?

A. I don't remember, it was small.

Q. You don't remember whether it was such a child that could have walked four or five blocks by itself?

A. I do not remember, I know my feeling is that the youngest was rather young.

Q. What approximately do you recall as to the difference between their ages?

A. Oh, the natural difference in families.

Q. They were not twins? A. No, sir.

Q. Would you say there was as much as two years' difference between them?

A. Why, I should think, I have not had time to straighten it out in my mind.

Q. Simply your recollection at the time? A. Yes, sir.

Q. How long did Minnie remain with you at that time?

A. A few days.

Q. Do you know what became of her when she left your home?

A. She went to Eufaula, whether directly or not I do not remember.

Q. What was the next occasion when you saw Minnie Atkins—pardon me just a moment. I would like to ask you this question: What was her appearance in 1895 when you saw her?

A. She was older and stouter than she had been as a school girl.

Q. Had she grown any taller? A. No.

Q. How much stouter would you judge?

Mr. Stuart: Your Honor, we have got to object to some of these.

Mr. Pinson: I will withdraw it.

Q. What was the occasion of your next seeing Minnie?

A. I was hired to go to Seattle and see whether some one there was really Minnie Atkins or not.

Q. Did you go to Seattle? A. I did.

Q. Whom was the first person you saw in Seattle at the Post? A. The Orderly in the Commandant's Office.

Q. At the Commandant's Office? A. Yes, sir.

Q. Now, I referred to the Post unconsciously. Where did you go in Seattle?

A. I went to the New Washington Hotel.

Q. From there to what point? A. To Fort Lawton.

Q. What is Fort Lawton? A. A Military Post.

Q. Do you remember the month and the year when this occurred? A. It was the latter part of July, 1914.

Q. I understood you to say that you were hired to go there, by whom?

A. Arrangement was made by Mr. Greenslade on behalf of the Gypsy Oil Company.

Q. And your purpose as I understand it, was to identify Minnie Atkins if she was there, is that correct?

A. That is what I was employed to do.

Q. Now, at the Post you met first the Commandant's Orderly, did you meet the Commandant? A. I did.

Q. Did you state your mission to him? A. I did.

Q. What occurred in connection with your statement to the Commandant?

A. There was a little conversation. I asked him to send and have this woman brought to his office, because I desired that any identification or lack of identification should be done in the presence of competent witnesses.

Q. Was she brought to the office? A. She was not.

Q. Were you permitted to remain in the office?

A. I was not.

Q. What was done after you left the office, or where were you sent?

A. The Orderly was directed to take me to Captain McNabb's office. Captain McNabb was officer of the day.

Q. Did you remain in his office some little time?

A. I did.

Q. What occurred there?

A. Minnie was brought in—at least after several hours' writing at the Post. Mr. Hanford and a man said to be Minnie's husband, and Minnie herself came in an automobile and were brought in to the place where I was eating luncheon with Captain McNabb at his bachelor quarters, I think, there were one or two other bachelor officers there.

Q. Did you have any conversation with Minnie alone at that time? A. Not one word.

Q. Did you attempt to discuss with her the matter of Tommy Atkins? A. I did.

Q. In the presence of these persons? A. I did.

Q. Were you permitted to? A. I was not.

Q. Now, this person whom you saw there in Fort Lawton in July, 1914, with Mr. Hanford and Captain McNabb, was that or not the same Minnie who went to school to you at Tullehassee? A. It was the same Minnie.

Q. And at Carlisle? A. It was.

Q. Who was it at that time who prevented you from holding a conversation with Minnie in regard to Tommy Atkins?

A. The lawyer, Mr. Hanford.

And thereupon, the noon hour having arrived, the Court took a recess until two o'clock P. M.

And thereafter, Court reconvened at two o'clock P. M. pursuant to adjournment.

> The Court: You may proceed, gentlemen; Miss Robertson was on the stand. You hadn't concluded with her. You may take the stand, Miss Robertson.

And thereupon, ALICE M. ROBERTSON was recalled for cross examination.

Cross Examination by Mr. Stuart.

Q. Miss Robertson, Minnie Atkins, when she was at Carlisle school was *found* out two or three times wasn't she?

A. Not during the period that I was there.

Q. Now, when did you go there?

A. I was——. She came to the school in January, 1881, I left the school in November, 1882.

Q. Now, how long did she stay at that school?

A. She was there when I left.

Q. You don't know what occurred to her after you left; you don't know whether she was farmed out or not?

A. I understood——

> Mr. Stuart: Never mind, if you know. Just anything that you know of your own knowledge. You don't know anything of your own knowledge with reference to her after you left the Carlisle School, do you?

A. Only reports from other people, not personally.

Q. Now, then, what you meant to say was that Minnie wasn't *found* out while you was there?

A. Not while I was there.

Q. But you don't pretend to say that she was not *found* out many times after you left there, do you?

> Mr. German: We object to that question, Your Honor.
>
> The Court: It is very evident that any information she has is not her own; now, that would be entirely hearsay.

A. Only what I got from the regulation.

> The Court: I don't suppose that you would consider—or the Court would consider her testimony competent with regard to what she read in the school regulation.

Mr. Stuart: Of course not.

The Court: Let's not take it up.

Q. Now, Miss Robertson, you say you went to Seattle to identify Minnie Atkins?

A. To identify a person that was supposed to be Minnie Atkins.

Q. That is what you went for? A. It is.

Q. And you did identify her? A. I did.

Q. And she was the same Minnie Atkins you knew up at Carlisle? A. It was.

Q. And the same Indian girl that used to live down here in this Indian Territory? A. It was.

Q. The same woman exactly? A. Yes, sir.

Q. And while you were there, you had some little talk with Minnie Atkins? A. I had.

Q. And you had that talk in the presence of Mr. Hanford and Captain McNabb of the United States Army?

A. And several others.

Q. Do you remember while you talked with Minnie you were trying to identify her, she had grown larger had she?

A. Yes,

Q. You asked her if she remembered any of the old school songs, didn't you? A. I did.

Q. And asked her to sing a verse of one? A. I did.

Q. And she did sing a verse and you joined in and sang?

A. I did.

Q. And that was one way of identifying her? A. It was.

Q. And then you asked her when the school burned down if there was anything on the ground, and she said there was snow on the ground; do you remember that? A. I remember.

Q. And that was another way of identifying her?

A. I did.

Q. And then you said, then you surely are Minnie Atkins?

A. I said undoubtedly you are Minnie Atkins. I asked many other questions.

Q. But you asked her those questions?

A. I asked her those questions.

Q. And then you asked her something about Tommy Atkins, didn't you? A. It was cut off very short.

Q. Well, but you asked her something about it, didn't you? A. Tried to.

Q. And she answered you one of the questions, didn't she?

A. She did not.

Q. And then Mr. Hanford told you to please not discuss the evidence with her about that child, didn't he?

A. He did. He said he would not have her disturbed by such questions.

Q. How many people had been around there to see her, do you?

A. Haven't any more idea than you have of the number of times she was farmed out.

Q. You state that you *staid* there at the place and had dinner with the officers? A. Luncheon.

Q. Luncheon. Did you get pretty well acquainted with Captain McNabb while you were there?

A. Captain McNabb treated me as a gentleman should.

Q. Very courteously? A. Very courteously.

Judge Stuart: That is all.

Redirect Examination by Mr. Pinson.

Q. Do you know what the custom was with regard to farming out those inmates at Carlisle?

A. They went under great care after application had been received.

Q. As to the length of time that they *staid* before they were farmed out?

A. They were never allowed to go until they had been a length of time in the school.

Q. What was that length of time?

A. It varied according to the individual.

Q. There was no regular time which prescribed the time they should remain? A. No.

(Witness dismissed.)

Mr. German: We contemplate now, Your Honor, to prove what we concede to be the facts with relation to Minnie's children, what children she had, and that she had no child named Thomas, and an admission she has made.

The Court: You are now then going into that part of the case which has relation to the existence or non-existence of Tommy Atkins.

Mr. German: Yes, sir, but I don't mean to suggest that we may not have a little more evidence relating to the Dawes Commission evidence, but we haven't any more now at hand.

The Court: You will not be cut off on that line.

Mr. German: I especially mention Mr. Merrick.

Mr. Stuart: Well, we want his testimony too.

The Court: I am not going to cut you off as to what occurred before the Commission. Now, of course we have no witness on the stand. There is no formal objection that can be made except as you may state it in the record in a general way as to what you object.

Mr. German: Then, Your Honor, we can make a record here. They objected to Miss Robertson's testimony, and her testimony relating to the two children which Minnie had with her in 1895, evidence which we offered in support of our contention.

Mr. Stuart: Well, we formally objected to that. That is not the material thing we object to. We understood you were coming down to the definite offer to prove that Thomas Atkins never existed.

Mr. German: We are.

The Court: Well, now, I might hear you on that proposition, gentlemen, because when the evidence is offered, if I conclude, after argument, that it is competent, I will have heard the argument and you may make your exceptions so that your record may be made in that way; so I will hear you now.

And thereupon, extended argument was presented to the Court.

The Court: I will determine this matter in the morning. I want to give it some consideration in connection with some authorities that have been called to my attention. We will take a recess until ten o'clock tomorrow morning.

And thereupon court took a recess until ten o'clock A. M. Thursday, May 3, 1917.

And thereafter, on May 3, 1917, at 11 o'clock A. M. Court reconvened, pursuant to adjournment, and the following proceedings were had as follows:

The Court: The case, as now before this Court, may be treated fundamentally as a case in which the United States for the Creek Nation is the plaintiff, and Minnie Atkins is the defendant; and for the present consideration, in the determining whether or not the objection to the evidence proposed to be offered by the Government is well taken, must in my judgment be determined as if the Government were here for the Creek Nation on one side, and Minnie Atkins were here alone on the other side. There are other defendants who claim under Minnie Atkins who must stand or fall with her, unless for some reason of lack of notice or fraud charged on her part, that that fraud be held to exclude her, they take the position of innocent purchasers and escape by reason of their lack of knowledge of the fraud charged to her.

It is charged among other things in this bill that Minnie Atkins, through her agent Davis, a relative of hers, secured the name of Thomas Atkins to be placed on the 1895 Creek roll. It is alleged—and secured him to be placed on the roll as her child. It is alleged that Thomas Atkins—or the so-called Thomas Atkins—never in fact existed. That Minnie Atkins never had such a child, and that therefore the name, Thomas Atkins, placed on the roll, as charged by her fraud, represents a myth. It is charged that the purpose of Minnie Atkins in placing, or causing to be placed, the name Thomas Atkins was twofold. First, to secure the immediate benefit of the payment of a certain per capita sum which was to be distributed among the enrolled members of the Creek Tribe, the 1895 payment, for the purpose of which the roll in controversy was made up. And second, that in view of the Act of Congress passed prior to that time looking to the allotment of these lands, and with relation to the enrollment of the Indians, she knew that the roll of 1895, which was being made, would be an important item of evidence in procuring final enrollment and allotment of land, and so forth; and that then, in 1895 when his name was caused to be placed on the roll, she contemplated that it should not only have the effect of procuring the payment for her, but have the effect of procuring a place for Thomas Atkins, her alleged son, on the final rolls, and procure for her as his heir a benefit in the distribution of the lands and moneys of the tribe.

It is further alleged that not only did she enroll him with that in view, but that she concealed from the Dawes Commission and the agent of the Government, during all the process of enrollment, the fact that Thomas Atkins was a myth; that he had no place on the Creek roll, while the Commission under provision of law was considering that roll as evidence with regard to the right of Thomas Atkins for enrollment.

Now, the history of the enrollment, of the enrollment of the Indians, beginning with 1893, when the Dawes Commission was first established by Congress, and running down through the legislation to and including the Act of April 28th, 1898, and the Creek Agreement, which provided that the rolls should be made up pursuant to the

Act of 1898, is necessary of consideration. I find nothing in the Act of 1893 wrich specifically refers to the enrollment, to any act of enrollment by the Dawes Commission of the several members of the tribe. It does contemplate the ultimate allotment of the land among the Indians, with a view to ultimate statehood here in the Indian Territory. But not until the Act of 1896 is there any specific reference made to the enrollment of these Indians by the Dawes Commission. In 1896, the Act of June 10, 1896, it is provided:

> "That said Commission is further authorized and directed to proceed at once to hear and determine the application of all persons who may apply to them for citizenship in any of said nations, and after such hearing they shall determine the right of such applicant to be so admitted and enrolled:
>
> "Provided, however, that such application shall be made to such Commissioner within three months after the passage of this act.
>
> "The said Commission shall decide all such applications within ninety days after the same shall be made.
>
> "That in determining all such applications said Commission shall respect all laws of the several nations or tribes, not inconsistent with the laws of the United States, and all treaties with either of said nations or tribes, and shall give due force and effect to the rolls, usages, and customs of each of said nations or tribes:
>
> "And provided, further, that the rolls of citizenship of the several tribes as now existing are hereby confirmed, and any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months from and after the passage of this Act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such applications within thirty days from the date thereof."

It further provides: "That the said Commission, after the expiration of six months, shall cause a complete roll of citizenship of each of said nations to be made up from their records," that is from the records of the nations, "and add thereto the names of citizens whose rights may be conferred under this act, and said rolls shall be, and are hereby, made rolls of citizenship of said nations."

In this Act of 1896, wherein the tribal rolls are confirmed by Congress, Congress seems to have intended that to those confirmed rolls shall be added such persons as may be admitted to citizenship, either by the Dawes Commission or the tribunal of the tribes, within the specified limited time, and that when those applications for citizenship have been made and determined, by the Commission or by the tribunal of the tribes, then the Dawes Commission should take those names and add to the existing confirmed rolls from the tribal records, making up a roll of the several tribes. That was the law as it stood in 1896. In 1897 Congress construed the Act of 1896, to the extent of providing that the rolls confirmed should be the last authenticated rolls of the tribes, which in the case of the Creek Nation would be the roll of 1895. Then April 28, 1898, further legislation was had with reference to the enrollment of these Indians. After providing for the enrollment of the Cherokees, especially for that tribe, Congress provided further:

> "Said Commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes," (which included the Creeks,) "eliminating from the tribal roll such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful rights thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaty and laws of said tribes."
>
> Providing further: "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

And further the rolls are to be made descriptive. By this legislation in 1898, it appears to me, that notwithstanding the confirmation of the rolls by the Act of 1896, and as construed by the Act of 1897, by this legislation the matter of the enrollment of these Indians was exclusively turned over to the Dawes Commission. They were not required to place upon the tribal rolls a name of a citizen because that name appeared upon a roll which had theretofore been confirmed by Act of Congress. The effect of that confirmation, so far as making the names on the confirmed rolls established citizens of the tribe was set aside in my judgment by the Act of 1898, and the whole matter opened up, and Congress gave the Dawes Commission access, not only to the rolls which had theretofore been confirmed, but to all the rolls and records of the tribes, for the purpose of determining who, under the laws, customs, and usages of the tribes under the previous acts, were entitled to enrollment in 1898. Now, that was the law which was in force and under which the Dawes Commission was proceeding to act in 1901 when Thomas Atkins was placed on what is now the final Creek roll. The 1895 roll, as Judge Sanborn says in the receivership phase of this case, was a very important item of evidence before the Dawes Commission in determining the right of Thomas Atkins, and all other confirmed citizens of the nations to enrollment upon this side of the Creek law. It was an item of evidence, a matter of evidence, to which it was directed by Congress to refer. If Minnie Atkins had applied herself for enrollment, and had presented the 1895 roll, assuming that the charge is true that Thomas Atkins had no existence, and that she had caused him to be placed upon that roll, and thereafter had herself appeared before the Dawes Commission seeking enrollment for him presenting the enrollment of Thomas Atkins on the 1895 roll as an item of evidence in support of her contention that Thomas Atkins should be enrolled by the Commission as her child, then she would have been in the attitude of presenting to that Commission this false and fraudulent evidence with regard to Thomas Atkins' rights of enrollment; in my judgment if she had made her application and had permitted the Commission to refer to the 1895 roll when her application, she personally being present, applying for the enrollment of Thomas, had permitted the Commission to refer to the 1895 roll to determine whether or not Thomas Atkins had ever been enrolled or not, she would have been in the attitude *of* of one before the Commission presenting false and perjured testimony, evidence which she had made herself with regard to the right of Atkins to be enrolled, and the question would then arise whether in a case of that kind, the Government, on behalf of the Creek Nation, might now be heard to contend—might now be heard to have the patent issued pursuant to such enrollment set aside. I cannot see any material difference between what her attitude would be under those circumstances, and the attitude of Hawkins in the Iowa Land and Trust Company case, who appeared before the Commission in that case, representing to the Commission that his son, who had at one time lived, was living April 1, 1899, when in fact he was not. In that case the Government was permitted to file its bill to set aside that patent because of the fraud perpetrated on the Commission by this representation by Hawkins, the father of the dead child, as to his having lived after April 1, 1899; whereas, the proof in the case to set aside the patent conclusively showed that he was not so living. The patent was set aside and the action of this court affirmed by the Circuit Court of Appeals. But Minnie Atkins was not personally before the Commission. After she procured this name to be placed on the roll, if she did so, she left Indian Territory. It is not charged that she appeared before the Commission at all. It is charged that the Commission arbitrarily made this enrollment and allotment. That they did so without evidence except this enrollment which it is charged Minnie had so fraudulently procured to be made. Now, after Minnie had procured this name to be enrolled as we have seen, Congress passed a law which made that roll an item of evidence in the case, a very important item of evidence in determining whether the enrolled Thomas Atkins as a Creek on the 1895 roll, was entitled to enrollment on the Dawes Commission roll. Minnie Atkins is presumed to have had knowledge of the law which made that an item of evidence. It is charged that she concealed from the Commission the fact that Thomas Atkins had had no existence and that he had no right upon the tribal roll. She may not have done that by any affirmative act on her part, but is she in any better position here now, not having made any application, but having permitted the Dawes Commission to proceed to enroll Thomas on their own initiative, no application having been made, and relying upon the roll which was made by her procurement in 1895; is she in any better position now because she didn't appear before the Commission and actively seek enrollment of Thomas, than she would be if she had? I cannot see any material difference between the two situations. It seems to me that she is in the same position as if she had been before the Commission presenting that roll as establishing the fact that Thomas Atkins had in 1895 had existence as her son entitled to enrollment in the tribe. Judge Sanborn here held that the fact that Thomas was enrolled on the 1895 roll is very strong evidence that at that time he existed, and that in the absence of countervailing proof to the contrary he may be presumed to have existed up to and including April 1, 1899.

Now, it is contended that this question may not now be raised because, as was urged in the Iowa Land and

Trust Company case, it is urged also in the present case, that the United States cannot cancel the patent in question because the fraud alleged was not extrinsic to the matter tried before the Commission, but the Court denied that contention saying "But the Supreme Court has often held that the rule above announced is not applicable to ex parte proceeding in the United States Land Office, and that the finding of the land officers in such proceedings, although not open to collateral attack, is not conclusive against the Government when it sues to cancel the resulting patent upon the ground that it was obtained by means of false and fraudulent proof." Citing United States vs. Minor, 114 U. S. 233; McCaskill Company vs. United States, 216 U. S. 504; Washington Security Company vs. The United States.

Now, it is true that those cases which the Court cites were public land cases in which, as is stated in its decisions, it is held that the hearing before the public land officers are ex parte, but the Circuit Court of Appeals goes on to say in this case:

> "In the case at bar the hearing before the Commission to the Five Civilized Tribes was purely ex parte. The United States for the Creek Nation was not represented and no issue was framed or tried."

Now, it will be remembered that in the Iowa Land and Trust Company case was involved the enrollment of this Chester Hawkins by the Dawes Commission, proceeding under the same law and provision and practice that they proceeded under in the case at bar, except in that case there was an affirmative application on the part of the dead child's father for his enrollment, whereas, in this case in the absence of application the Commission proceeded to act upon its own initiative in determining the question of the right of enrollment.

I have studied, read, and re-read Judge SANBORN's decision on the Receivership phase of this case. In reading that, and considering it together with the Iowa Land and Trust Company decision, and the other authorities controling, it is necessary to bear in mind that what Judge SANBORN said there, he said with relation to the question as to whether or not this court had properly appointed a receiver for the property and taken it out of the hands of the defendants, Page and Josey, who were claiming under Minnie Atkins. That case was presented on the original bill. That bill merely charged the entire absence of any substantial evidence before the Commission on the question of whether or not Thomas Atkins was living April 1, 1899. Judge SANBORN first takes up that phase of the case and finds that there is not sufficient strong evidence indicating that the Government will ultimately prevail on that issue as to warrant the appointment of a Receiver. He next takes up the question injected into the case by evidence which was really not within the original bill, to the effect that Thomas Atkins was a myth. He treats that as another contention, tangible contention in the case, if established, but finds from a review of the evidence that in view of the force which must be given to what the roll—the 1890 and 1896 rolls themselves show, and in view of other evidence that was presented to this Court at the hearing, it cannot be said that there is a strong possibility that the Government would prevail in establishing that theory that Thomas Atkins was a myth. He further finds that, however that may be, the defendants Page and Josey, the evidence fails to show that the defendants Page and Josey who were in possession of the property had any notice of this non-existence of Thomas Atkins prior to the time that they purchased the property; and seems to hold that in that case there could be no recovery as to them, and that therefore the Court improperly took the property away from them and sought to put it in the hands of a Receiver. Then, third, he takes up the question as to the fraud charge, in what we now have before us as the amended bill, and finds first that that is prepermitted, because the matter was not before this Court when the Receivership hearing was had, and finds further that the evidence does not establish that phase of the case, having found that Page and Josey had no notice of this fraudulent act, or of the fact that Thomas Atkins was a myth, of course even in that case of fraud, he holds that the tribe and the United States merely acting for the tribe, is estopped after the long lapse of time, after the large amount of money which the defendants in possession placed on the property, without such notice, that fact, that after that long lapse of time, without notice, the Creek Tribe is estopped from asserting as against Page and Josey, the persons in possession, their action to cancel the patent and strike down their right.

The objection will be overruled and exceptions noted. It is a question not without difficulty, but I have given it my best thought, and have to, for the purpose of this case, determined it as I have, and let another Court determine it otherwise, if they so find.

Mr. Cobb: If the Court please, I don't remember whether we made the objection also to this evidence offered; if we did not, we desire to make the objection now.

The Court: Well, when the evidence is offered you may make your objections and the Court, the Court's ruling will be the same and your exception will be noted. It is now only ten minutes to twelve and we will not proceed to put on any more proof now. If any other phase of the case may be disposed of, I will hear it.

Mr. Crane: I would like to ask counsel for the Government, in view of the statement of the Court, assuming that Minnie Atkins had practiced fraud, I would like to inquire if they are in position to present their testimony on that question as to Page's knowledge, as a preliminary, to show that he——.

Mr. German: Your Honor, we expect to be able to prove that before Mr. Page dealt with Minnie Atkins, that he had notice of the non-existence of Thomas Atkins.

The Court: Well, the question is whether you are in position to place that proof first.

Mr. German: No, we are not, for the reason that it would not follow in line with orderly proof.

The Court: I have thought about that some, gentlemen, since it was suggested yesterday. It seems to me the question of the existence or non-existence of Thomas Atkins, now that the Court has permitted that phase of the case to be gone into, is so inextricably mixed up with all the other matters, it will be pretty hard to divorce one from the other.

Mr. Stuart: You don't understand the suggestion. The proposition is, Your Honor, they have set up here as to the fraud or myth. If these people purchased without knowledge of it, they are innocent purchasers. * * *

The Court: I will try this case in the regular way. I will sit through it; some court will have to hear it and I will hear it.

Mr. German: I want to make this suggestion, Your Honor, in view of counsel's suggestion, we may have occasion as the case proceeds, to present some argument, or call the Court's attention to some additional authorities upon the question of notice.

The Court: I am not determining that question now. You charge that these parties had notice, I assume you are going to attempt to prove the charge?

Mr. German: Our idea in charging that was merely this, if I may be permitted to explain at this time * * *

The Court: I will tell you Mr. German, unless I, I misconstrued Judge SANBORN's opinion, he holds there, a holding which must apply to this case unless it was—is entirely different from what it was on the application for the appointment of the Receiver, the Court holds that even though Thomas Atkins was a myth, because of the long lapse of time that the Creek Nation, and the Government stands here in the shoes of the Creek Nation—because of the long lapse of time they permit it to go by, holding out the records of the Dawes Commission and the patents to the purchasers, in view of the fact that he in the opinion had already held that they had notice, that therefore as to them, the Government and the Creek Tribe was estopped.

Mr. German: I see. I merely wanted to explain our position to Your Honor, that we were not agreeing to that construction of the opinion.

The Court: Oh, no, or am I now deciding that phase of the case more than giving notice of the trend of my mind on that proposition.

And thereupon, court takes a recess until 2 o'clock P. M.

And thereafter and at 2 o'clock P. M., court convened pursuant to adjournment and further proceedings herein are had as follows:

Mr. Stuart: Your Honor, so that we may understand, I understand the Court holds now, the question as to whether there was any evidence before the Dawes Commission, and the question of fraud, and the question of myth, three propositions in this case. There is no question here as to whether or not he dies prior to April 1st, 1899, I understand?

The Court: Of course if he is a myth, then there never was any death.

Mr. Stuart: But the question of fraud; the name was put on the Creek roll as a living person. Of course the question as to the date of April 1st, 1899, didn't cut any figure there——

The Court: I think that is what this case is now. Evidently the Government is standing on the myth proposition now; that interwoven with the fraud.

Mr. German: As Government's Exhibit A-58, we offer in evidence the certified copy of a purported quit claim deed, purporting to have been executed by Minnie Atkins to H. U. Bartlett, describing the land in controversy, dated October 2nd, 1912.

The Court: I shall consider that objections—— exhibits which are offered, to which you gentlemen do not offer objections, are admitted without my asking you. H. U. Bartlett quit claim deed is offered.

Mr. Stuart: Your Honor, I object to that as incompetent, irrelevant, and immaterial. Don't tend to prove any issue in this case. We have no connection with Bartlett, and the quit claim deed doesn't prove any issue in this case.

The Court: Mr. German, let me hear from you.

Mr. German: We are about to offer, Your Honor, deviate a little bit from the question as to the existence of Atkins, in order to make that question appear more clear to the Court as we proceed. We want now to offer evidence relating to the time when the defendant placed of record their first claim of title, and these deeds are admissible for the further reason that they constitute what we call clouds on the title to the land in controversy, and we desire to prove the existence of those clouds.

The Court: The exhibit will be admitted and exceptions noted—exceptions of the defendant Page.

Mr. German: We would like to ask counsel if they will admit that that deed was a forgery. We can prove it, of course.

Mr. Hanford: The deed from Minnie Atkins?

Mr. German: Purporting to be to Mr. Bartlett in 1912.

Mr. Stuart: If that is the same deed, there are two of them.

The Court: It may shorten the matter if you gentlemen will examine that.

Mr. Hanford: We admit it.

The Court: Now, the record might show then, for the purpose of shortening the case to that extent, that it is admitted by the defendant Page and that interest in the case that this Bartlett deed which is offered is a forgery.

Mr. Rosser: Our interests also admits that, Your Honor.

The Court: It is admitted also by the Nancy Atkin's interest—by all of the defendants in the case, it is admitted?

Mr. Hanford: At this time, if Your Honor please, we could probably save interruptions, if it may be admitted by the Court, that the objections made by Judge Stuart, or Mr. Cruce, in behalf of the Page interests, and the exceptions noted, are also objections on the part of defendants Folk and Hanford, to save my joining in the objections and exceptions, and I might have the benefit of their's.

The Court: The record may show that. Now, so far as the interests of you other gentlemen, are the same as that of the Page interests, if you desire that the record may show that their objections are your objections and exceptions—do you desire that?

Mr. Cobb: Yes, sir.

The Court: Alright.

Mr. Stuart: He is just speaking for one.

Mr. Maxey: There is some of it that we might not object to and other parts that we would object to.

The Court: Perhaps you had better go along then.

Mr. Cobb: If the Court please, with this understanding, in case we don't join in an objection, we will make it known at the time; if we don't make it known to the Court at the time, we join in the objection.

The Court: That applies to the Henry Carter interest. The Nancy Atkins interest will take care of themselves as they go along. Here is another suggestion that might be made in so far as the evidence in relation to the myth and to the fraud and those things, to which objection was made yesterday and argument had, the record at proper time may show that objections to each question of that character is offered and overruled and exception noted. Why may not the record be safely made on that without the interposing of objections?

Mr. Stuart: The only difficulty to that, while objections may be understood as made to that class of testimony, the testimony itself may not be of the character which the Court admits; it may be collateral to the inquiry or it may be hearsay.

The Court: I know, but as to the testimony of the same feature of that kind, as to which you want to interpose the objection.

Mr. Stuart: Otherwise the objection will stand.

The Court: Then you will be considered as having objected for that reason.

Mr. Stuart: Yes, sir.

And thereupon, THOMAS W. GREEN, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Thomas W. Green.

Q. Where do you live, Mr. Green?

A. I live in the neighborhood of Oilton, Oklahoma.

Q. Oilton? A. Oilton, yes, sir.

Q. Do you know the land known as the Thomas Atkins allotment? A. Yes, sir.

Q. Consisting of 160 acre, or approximately that?

A. Yes, sir.

Q. Is that land in one body or two?

A. It is in two tracts.

Q. In two tracts. And what acreage? A. 80 acres each.

Q. Where is that land located? I mean is it located in any oil field? A. Yes, sir, it is located in the oil field.

Q. In what field?

A. In what is called the north Cushing field.

Q. Where is that with reference to Tulsa?

A. From Tulsa?

Q. Yes, sir. A. East of Tulsa.

Q. You mean west, do you not?

A. Yes, sir, west—yes, sir, west.

Q. How far?

A. Somewhere in the neighborhood of about 35 miles.

Q. What County is it in? A. Creek County.

Q. Where do you live with reference to that land?

A. I live upon that land.

Q. You live upon this land? A. Yes, sir.

Q. Which 80? A. I live on the west 80.

Q. How far apart are those two 80's?

A. A quarter of a mile between them.

Q. And the west 80 is composed of two 40's, one lying north of the other? A. Yes, sir.

Q. And the east 80 is the same way? A. Yes, sir.

Q. With an 80 between them?

A. There is—— yes, sir, there is an 80 between the two.

Q. It is composed of two 40's; one lying north of the other? A. Yes, sir.

Q. Which one of those two 80's of the Atkins allotment do you live on? A. I live on the west 80.

Q. How long have you lived there?

A. I have lived there since 1913.

Q. What time in the year?

A. About the 25th of January.

Q. How came you to enter on this land at that time?

A. I had taken an agricultural lease or a contract from H. U. Bartlett.

Q. You are his agricultural lessee then? A. Yes, sir.

Q. At the time you went on this land, were there any improvements on it? A. No, sir.

Q. Was there any cultivation on it? A. No, sir.

Mr. Hanford: If Your Honor please, we object to this line of testimony on the ground that it is immaterial. The question, I suppose, that the witness is produced for the purpose of testifying is as to fact of production by defendants at a certain time but under Your Honor's ruling in the Thlocco case when the witness Kirkbride was produced, you held that question of production was incompetent.

The Court: What is your object?

Mr. German: We want to show that the very first occupant of this land was——

The Court: What bearing has that as you conceive upon the question before the Court now?

Mr. German: We are making the contention that Thomas was a mythical person and that no claim was ever made to the land at the time the witness is relating; that it had never been occupied, and in connection with that we expect to show that there never was any assertion of ownership so far as the deeds and records of Creek County are concerned, as a circumstance relating to the question of the existence of Atkins. Now there is the contention in the case, too, I may suggest incidentally, of estoppel, and I wanted to prove that no assertion of ownership was ever made by any individual to the title to this land as a circumstance.

The Court: Overruled, exceptions noted.

Q. Was there any fencing on it? A. No, sir.

Q. No houses? A. No houses.

Q. Did thr land have the appearance of ever having been cultivated? A. No, sir.

Q. Was there any person on the land when you went and took possession? A. No, sir.

Q. Did you make any improvements on the land?

A. Mr. H. U. Bartlett built a house there and paid me for fencing and breaking the land.

Q. That was after you went into possession of course?

A. Yes, sir.

Q. How long after you went into possession was it until you built the house, about?

A. Well, we began building on the house as soon as he gave me the lease.

Q. When was the fence built?

A. The fence was built sometime in March.

Q. Of 19—— A. '13.

Mr. German: Now, Your Honor, as Government's Exhibit A-59, we offer in evidence a certified copy on an oil and gas lease for grant from H. U. Bartlett to the Gem Oil Company, dated November 20, 1912.

The Court: It may be admitted.

Q. Mr. Green, was this land ever operated for oil and gas purposes?

A. Not when I went on the land, no, sir.

Q. It hadn't been then, was it after you went upon the land? A. Yes, sir.

Q. By whom? A. Gypsy.

Mr. Stuart: Your Honor, we want to introduce a formal objection to that. This evidence is utterly incompetent at this time. They can't negative the good faith of Page and Josey.

The Court: Well, that relates to the order of proof. Your objection will be overruled and exception noted.

Q. When was it that the Gypsy put a well on it?

A. The Gypsy started putting down a well about the 25th of December, 1913.

Q. Did they strike oil? A. Yes, sir.

Q. About when? A. About the 23rd of January, 1914.

Q. And did they save the oil? A. Yes, sir.

Q. Did you have anything to do with the handling of that well?

A. Yes, sir, the Gypsy Oil Company hired me to switch and take care of the oil.

Q. Where was that well located?

A. That well was located on the west eighty, in the southwest corner.

Q. You say that you fenced this land, did you fence both eighties?

A. No, I just had a verbal contract on the west eight-.

Q. What kind of fence was this?

A. It was a two wire, barb wire fence.

Q. All around that west eighty? A. Yes, sir.

Q. Were there any gates in that fence? A. Yes, sir.

Q. Where were they?

A. On the southeast corner and on the southwest corner, and a gate in the northeast corner.

Q. One in the northeast corner?

A. Northeast corner, southeast and southwest corners.

Q. Was there any opening in the fence at the northwest corner? A. No, sir.

Q. Is there a public road along either line of that land?

A. There is a public road on the north side.

Q. In July, 1914, were you still having to do with the well? A. Yes, sir.

Q. Was there anyone occupying the land with you except the Gypsy Oil Company any time after they entered and started that well up to July? A. In the oil business that is—

Q. You don't understand my question. You were in possession as an agricultural lessee? A. Yes, sir.

Q. And the Gypsy Oil Company had a well on it?

A. Yes, sir.

Q. Now, was there anybody else that was occupying the land in any way up to July, prior to July, 1914? A. No, sir.

Q. Did anyone else enter on that land that summer?

A. Yes, sir.

Q. Who? A. The Gem Oil Company.

Q. Whose company was that? A. Mr. Charles Page's.

Q. When did that company enter into possession of the land? A. About the 5th of July I noticed them.

Q. You noticed them about the 5th of July?

A. Yes, sir.

Q. 1914? A. Yes, sir, 1914.

Mr. German: We now offer in evidence as Government's Exhibit A-60, certified copy of so called bargain and sales deed, dated June 13, 1914, from Minnie E. Folk (Atkins) and Harry B. Folk, her husband, to Alexander J. McNabb, jr. Trustee.

The Court: It may be admitted.

Mr. German: And a certified copy of an oil and gas mining lease, dated June 24, 1914, from Alexander J. McNab, jr. Trustee of Minnie E. Fol*d*, formerly Minnie E. Atkins, and Harry B. Fol*d*, her husband, to the Gem

Oil Company covering the land in controversy, as Government's Exhibit A-61.

The Court: It may be admitted.

Mr. German: And as Government's Exhibit A-62 a certified copy of an assignment of the deed last described, the assignment being from the Gem Oil Company to Charles Page and R. A. Josey, dated June 24, 1914.

The Court: It may be admitted.

Q. Mr. Green, when did you first discover the Gem Oil Company on the land?

A. I first discovered them on Sunday Morning, July 5, 1914.

Q. In what way were they on the land?

A. The rig timber was on the land at that time.

Mr. German: Your Honor, I want to correct the date of the last instrument introduced; it is June 30, instead of June 24, 1914.

Q. What was your answer?

A. On July 5th the rig timber was on the land.

Q. Rig timbers? A. Yes, sir.

Q. At what point on the land?

A. On the northwest corner of the west eighty.

Q. Of the eighty you were on? A. Yes, sir.

Q. What was the condition of the fence near where the rig timbers were on the land?

Mr. Hanford: We object as incompetent.

The Court: Why all that detail?

Mr. German: It will appear further on, this evidence is a little out of order, it will appear later on and we make the contention in this case that Mr. Page after getting this lease forcibly took possession of the land that was openly and notoriously occupied by others under claim of title.

Mr. Stuart: Your Honor, that goes to the controversy as to the title between H. W. Bartlett under that forced deed which they have introduced and the question of title between Page and Josey under their lease from Minnie Folk, formerly Minnie Atkins. I think your Honor, will see that the——

The Court: Objection overruled. Take your exception. Proceed.

A. What was the question?

Q. It was this: What was the condition of the fence near the rig timbers?

The Court: I have this to suggest: You can save a lot of details if you will just go into those matters which are essential as quickly and rapidly as possible. This is going to be a long case.

Mr. German: I will try to do that.

A. The fence was in good condition.
Q. Was the fence up or down? A. The fence was up.
Q. Near the rig timbers? A. All around that side.
Q. Well, I mean after the rig timbers were brought in?
A. No, sir, the fence was down.
Q. The fence was down? A. Yes, sir.
Q. Were the posts intact, posts up?
A. The posts was up, yes, sir.
Q. What about the wires? A. The wires was down.
Q. Down off of how many posts?
A. The wire was cut at one post and laid back.
Q. Laid back? A. Yes, sir.
Q. State whether or not you were consulted about the possession that was taken there before they entered?
A. No, sir, I did not know anything about it.
Q. Until you found it on Sunday morning? A. Yes, sir.
Q. On July 5th? A. Yes, sir.
Q. Was there any wagon tracks there? A. Yes, sir.
Q. That was next to the road, I believe you stated?
A. Yes, sir, that was on the north side.
Q. What was done then about proceeding—was there a rig put up of those timbers?
A. Yes, sir, the rig started along about a couple of days after that, the rig builders started to building the rig.
Q. Now, later on did they drill a well there? A. Yes, sir.
Q. Immediately or not?
A. No, sir, not immediately.
Q. Did you know about any litigation pending in the District Court of Creek County at Sapulpa with reference to this possession?
A. Before they moved the rig on this land?
Q. No, sir, afterwards? A. Afterwards?
Q. Yes? A. I was called to Sapulpa when they had the trial there.
Q. Was that before or after the rig timbers were placed there?
A. That was after the rig timbers were put there.

Q. Did you know of any litigation at Sapulpa before they were placed there? A. No, sir.

Q. You don't know whether there was or not?

A. No, sir.

Q. Now, did you after that have anything to do with that well? A. No, sir.

Q. Were you ever in the employ of the Gem Oil Company with relation to that land after that? A. Yes, sir.

Q. About how long after they drilled their well, or was it during the time they drilled their well?

A. About November, 1915, I began working for the Gem Oil Company my first work.

Q. November, 1914? or 1915? A. 1915.

Q. Did the Gypsy Oil Company abandon its possession after that or not? A. I don't understand.

Q. Well, who was in possession now?

A. The Gem Oil Company.

Q. How long have they been in possession, since the time you have mentioned.

A. Yes, sir, since the time I mentioned.

Q. And have they been continuously in possession since then? A. To my knowledge they have, yes, sir.

Q. Drilled very many wells or not? A. Yes, sir.

Q. At the time that the Gypsy—— No, at the time that the Gem Oil Company entered in possession of that land, about what was the Gypsy well producing?

A. At that time it was producing about twenty five barrels.

Q. A day? A. A day, yes, sir.

Q. Did it later ever produce more than that?

A. No, sir, it decreased later.

Q. Twenty five barrels a day? A. Yes, sir.

Q. Was there any other production of oil close to that land at that time the Gem Oil Company entered in possession? A. Yes, sir.

Q. How far away?

A. Well, there was oil wells or offsets for Number 1 well that the Gypsy was operating, and there was a well north of the one where the Gem Oil Company set their rig.

Q. Now, in the early part of 1913 when you went into possession of the land, were there any oil wells close to this land? A. No, sir.

Mr. German: Now, your Honor, we offer a certified copy of deed dated October 22, 1914, from Minnie E. Folk, formerly Minnie Atkins, to Charles Page, as Government's Exhibit A-63.

The Court: It may be admitted.

Mr. German: As Government's Exhibit A-64, a certified copy of a so called conveyance date- October 30, 1914, from Minnie Folk, nee Atkins, to Edward C. Hanford, conveyed a portion of the eighth royalty interest provided for under the lease.

The Court: It may be admitted.

Mr. German: As Government's Exhibit A-65, a certified copy of a bargain and sale deed from Alexander J. McNab, Trustee for Minnie E. Folk, dated July, 18, 1914.

The Court: It may be admitted.

Mr. German: As Government's Exhibit A-66 a certified copy of oil and gas lease, dated November 13, 1914, from Thomas Atkins, known as Henry Carter, to the Gem Oil Company.

The Court: It may be admitted.

Mr. German: As Government's Exhibit A-67, a quit claim deed from Harvey Harrison to H. E. Whitehead.

The Court: It may be admitted.

Mr. German: As Government's Exhibit A-68, a quit claim deed from Harvey Harrison to Minnie Folk, formerly Minnie Atkins.

The Court: It may be admitted.

Mr. German: As Government's Exhibit A-69, an oil and gas lease, dated November 4, 1913, from Charles Harrison to Charles M. Ball.

The Court: It may be admitted.

Mr. German: As Government's Exhibit A-70, a certified copy of oil and gas lease dated February 16, 1914, from A. J. Burkett, Guardian of the estate of Harvey Harrison to Thomas Gillcrease and Robert Wilson.

The Court: Admitted.

Mr. German: As Government's Exhibit A-71, certified copy of oil and gas lease from Harvey Harrison to Ed D. Shirk.

The Court: Admitted.

Mr. German: As Government's Exhibit A-72, a certified copy of a purported warranty deed from Thomas Harris and Kahookah Harrison to Rufus B. Cobb.

The Court: Admitted.

Mr. German: As Government's Exhibit A-73, certified copy of warranty deed from Thomas Atkins a single person, to W. P. Root, that is dated August 17, 191——.

The Court: Admitted.

Mr. German: As Government's Exhibit A-74, certified copy of a real estate mortgage dated August 17, 1914, from W. P. Root to Thomas Atkins, formerly known as Martin Rowe.

The Court: Admitted.

Mr. German: As Government's Exhibit A-75, certified copy of release of mortgage, the mortgage last described, the release being dated in August.

The Court: Admitted.

Mr. German: As Government's Exhibit A-76, certified copy of quit claim deed from W. P. Root to Atkins dated August 24, 1914.

Mr. German: We now offer as Government's exhibit A-77, certified copy of a petition filed in the District Court of Creek County, in Case 3723, on July 7th, 1914, the case being entitled Charles Page and R. A. Josey vs. Nancy Atkins *at* al., including H. U. Bartlett and The Gypsy Oil Company. The petition is verified by Charles Page. I may state that it is a suit for injunction—injunctive release, to prevent the defendant from interfering with his possession.

The Court: A suit by Page and Josey against Bartlett and others?

Mr. German: Against Nancy Atkins and others.

The Court: It may be admitted.

Q. Mr. Green, did you communicate to the Gypsy Oil Company, or Mr. Bartlett, the presence of this rig that you found on this land on July 5th, 1914?

Mr. Hanford: Objected to as immaterial.

The Court: Overruled.

A. The Gypsy in some way or another had learned of this rig being put on there. I had started to inform Mr. Wise, the District Superintendent at Drumright, when I met him coming out.

Q. When, about what day was that?

A. About the 7th or 8th of July.

Q. 7th or 8th of July. A. Yes, sir.

Q. Was there anybody at that time making any effort to put Mr. Page off? A. At that time?

Q. Yes. A. No, sir.

Q. That was the first advise you had when you met Mr. Wise, that they knew of the presence of the rig on the land?

A. Yes, sir, that was the first.

Cross Examination by Mr. Hanford.

Q. Mr. Green, you moved on that property on January, 1913? A. Yes, sir.

Q. Just at the beginning of the year?

A. At the beginning of the year, yes, sir.

Q. And you moved on there under an agricultural lease from H. *B.* Bartlett, did you?

A. I moved on there on an agricultural lease from H. U. Bartlett.

Q. Did you procure that lease for the purpose of farming or did he come and get you to take that lease so as to move on to the property?

A. No, sir, Mr. H. U. Bartlett, made me a lease on it for the purpose of farming. I didn't know anything about any other stuff at that time.

Q. And had you looked up Mr. Bartlett's title to see who held the title to the land at that time? A. No, sir, no sir.

Q. How did you happen to go to Mr. Bartlett?

A. Well, I disremember now, just exactly how I came to ask him but I went to Mr. Bartlett, and asked him about this land.

Q. And you knew that he claimed the property through Minnie Atkins, didn't you?

A. Not at that time; I didn't know how he came in possession of it.

Q. You don't know how he had the property?

A. How he had the property, no sir.

> Mr. Hanford: I think you will admit, Mr. German, that Mr. Bartlett at this time was claiming the property under that deed that you introduced, admitted to be a forgery?
>
> Mr. German: Yes, sir; Mr. Bartlett didn't know of the forgery.
>
> Mr. Hanford: So that they were claiming title through Minnie Atkins, though the title was a forgery.
>
> The Court: The record may show that is the case.
>
> Mr. German: Yes, sir.

Q. Was there a well on that property at the time you moved on to it? A. No, sir.

Q. Had a well been commenced? A. No, sir.

Q. When did they commence to drill a well?

A. Commenced to drill a well about the 25th day of December, 1913.

Q. 1913? A. Yes, sir.

Q. And that was the Gypsy Oil Company?
A. The Gypsy Oil Company, yes, sir.
Q. Do you know how deep that well was?
A. Not exactly, no, sir.
Q. It only went to the Layton sand, I believe?
A. Wheeler sand.
Q. Wheeler sand?
A. Yes, sir; something like twenty-two hundred feet.

Q. That went to the Wheeler sand and you was a twenty-five barrel well at its inception?

A. When it was first drilled?
Q. When it first came in, yes.
A. No, sir, it was 35 barrels when it first came in.

Q. And it went on down and down so that it was a small well? A. Yes, sir.

Q. And not a good well at that depth? A. No, sir.
Q. And they did not drill any more? A. No, sir.

Q. The Cushing pool—that is the Bartlesville sand, had, up to that time, not come up so as to take in that property?

A. No, sir; hadn't developed that far yet.

Q. And when they drilled it to the Wheeler sand and got a well that was not a paying well, then they just quit?

A. As far as any of the sand was drilled, at that present time, it was the Wheeler sand. Gumbinsky & Freeman had a well——

Q. Here is what I want to get at Mr. Green; the first drilling of that property to the Bartlesville sand was drilled in early in July—was started in July or August—in July, I believe you stated 1914, when the Corn Oil Company moved their rig on and commenced drilling down to the Bartlesville sand?

A. Yes, sir, that was the first well, that was the first one to drill to the Bartlesville.

Q. Before they started that drilling there was no other drilling on the property except that well that the Gypsy Oil Company drilled? A. That is all.

Cross Examination by Mr. Stuart.

Q. Mr. Green, your name is Green? A. Yes, sir.

Q. Mr. Green, who do you hold under now? Who do you claim under?

The Court: Are you living on the land?

A. Living on the land, yes, sir, at the present time.
Q. Who do you claim under?
A. Who do I claim under? I hold possession under now?
Q. Yes.

The Court: Yes, that is the question.

A. I haven't had a lease this last year.

Q. Well, who did you claim lease under last year?

A. Last year I had a lease that I claimed under Mr. Garrett.

Q. Quinton Garrett? A. Yes, sir.

Q. He is the negro in whose name this land has been allotted since this suit commenced, isn't it? A. Yes, sir.

Q. And who filed on it for him? A. I can't say.

Q. Did Mr. Bartlett have anything to *have* with your going in under Quinton Garrett?

A. Mr. Bartlett came out there with Mr. Garrett when they came.

Q. Did Mr. Buell, the one-armed gentleman come also?

A. No, I don't believe, Mr. Buell was out there that time.

Q. He has been out there several times since with you, on the land? A. Well, I didn't see him if he was.

Q. But Mr. Bartlett did come?

A. Yes, sir, Mr. Bartlett has been there.

Q. And you still claim under *W*uinton Garrett?

A. I just had one year under Mr. Garrett.

Q. Well, you are holding over under a lease from Quinton Garrett, aren't you? A. Not at the present time.

Q. Well, who do you hold under?

A. I haven't got any lease.

Q. Well, what are you doing there? If you are not holding under anybody, what claim have you got there?

A. Roust-about, there in the oil field.

Q. What? A. Working in the oil field at the present time?

Q. Well, don't you assert any right there at all—right of occupation? Don't assert any right to it?

A. Not at the present time.

Q. Well, you are on that land there, trying to find oil, aren't you? A. No, sir.

Q. What are you doing there?

A. Working for the Gem Oil Company at the present time.

Q. Is the Gem Oil Company claiming the land?

A. Yes, sir.

Q. Well, do you hold under them now?

Mr. German: I submit Your Honor, that the witness said that he doesn't hold under anybody.

The Court: Well, I think I understand his situation; the last holding was under this Quinton Garrett and he is holding over; if he has any holding, it is under that last lease.

Mr. Stuart: Yes, sir, that is what I want him to confess.

The Court: Well, he confessed it to my satisfaction.

Mr. Stuart: Alright, Your Honor.

Cross Examination by Mr. Cobb.

Q. Mr. Green, you say that the Gem Oil Company put the timbers on the land about July 5th, 1914? A. Yes, sir.

Q. And how long was it before they drilled on this land?

A. Something like three and three and a half, or four months before they commenced to drill.

Q. Along about November or December?

A. Somewhere along in the fall; I disremember.

Q. How long was it after they began to drill before they actually drilled the wells? Before they brought in a well there? A. I can't say.

Re-Direct Examination by Mr. German.

Q. Mr. Green, you say held the land as Mr. Bartlett's tenant in 1914? A. '13 and '14.

Q. '13 and '14? A. Yes, sir.

Q. You farmed the land? A. Yes, sir.

Q. Now, did you farm it in 1915? A. No, sir.

Q. Why?

A. Well, because the wells was operating, teams was coming through there, oil and pipe lines was every place and you couldn't farm it.

Q. Couldn't farm it as it had so many oil wells on it?

A. Yes, sir.

Q. So much working on it?

A. Yes, sir; so much work—so much oil wells and stuff and stock, loose, going through—couldn't do anything.

Q. In 1916, did you farm it? A. No, sir.

Q. You farmed it since 1914?

A. No, sir, have*N*'t farmed it since 1914.

Q. You say you are on it—how are you on the land? Living on it? A. Yes, sir.

Q. In a house?

A. Yes, sir, living on the land, in this house that was built on this land when Mr. H. U. Bartlett put me in possession of it.

Q. You have been living there ever since? A. Yes, sir.

Q. That is the only way you occupy the land?

A. Yes, sir.

Q. Working as a roust-about in the oil field?

A. Yes, sir, at the present time.

Q. For the Gem Oil Company as you understand it?

A. Yes, sir.

Q. Mr. Page's company? A. Yes, sir.

Q. You are drawing your pay from Mr. Page for how long? A. I have been drawing since along in November 1915.

Q. 1915, monthly? A. Yes, sir.

(Witness dismissed)

Mr. German: Your Honor, I want to ask counsel if they will agree that there was no instrument of record in the office of the Register of Deeds of Creek County prior to the placing of record of this deed; the exhibit that we have introduced.

The Court: Are you in position to admit that, gentlemen, or do you desire them to prove it?

Mr. Hanford: I am not in position to admit that. There is another forged deed there—purported deed from Thomas Atkins; I am not prepared to admit that, Your Honor.

Mr. German: If we will furnish you with an abstract, possibly then you may? I just want to save bringing the witness?

Mr. Maxey: I think it is true.

The Court: I presume if there is an abstract to that effect, you gentlemen can agree upon that.

Mr. German: Yes, sir. Now, Your Honor, we offer the deposition of Miss Nellie Robertson Denny, appearing in the transcription of the depositions taken by Giles A. Penick, Examiner, beginning at page 516. I might state that deposition relates to what the records show at Carlisle Indian School, with relation to Minnie Atkins being there from January, 1881, to July 8th, 1884, giving her description, and those things; a complete copy of the record.

The Court: You are just offering the deposition now?

Mr. German: Yes, sir.

The Court: You are not going to read the depositions now?

Mr. German: I thought, Your Honor desired that we not do that.

The Court: Let's see; you have a number of oral witnesses here as to points covered by the depositions?

Mr. German: Yes, relates to points covered by the depositions but it wouldn't be a complete case at all.

The Court: Now, can you put on your oral witnesses in such way as I can get an intelligible idea of the case by hearing these oral witnesses and then hearing the depositions?

Mr. German: Not alone. I make the suggestion to you, Your Honor, that we make an *extemely* brief statement of what the deposition covers so that you may more clearly appreciate the connection of the oral witnesses.

The Court: If you can do that, it will save reading it in its entirety, and enable me to pass upon objections as to the case proceeds, that may arise.

Mr. German: I think we can do that with regard to the deposition just offered. I think I substantially stated it.

Mr. Stuart: We don't deny, Your Honor, that the girl was at Carlisle School.

The Court: The deposition may be admitted as a part of the record.

Mr. German: That shows that she was 15 years old when she entered the School in January 1881; that she gave her parentage as Thomas Atkins and Mary Jane Atkins.

The Court: I suppose there will be no question about the identity of this Minnie Atkins and as to the time she was there. It may be admitted.

Mr. Cruce: When was that?

Mr. German: January, '81, to July 8th, '84. As a part of that we offered an exhibit there, described as complainant's exhibit 15, which is a postal card from Mrs. George H. Hyde of Leavenworth, Kansas, to Captain Pratt, who was then in charge of that school, dated July 11th, 1884, in which it is stated that Minnie arrived at the Hyde home on July 11th, '84, at Leavenworth. Then, in addition to that, letter from Mr. Hyde to Mr. Pratt, which is government's exhibit No. 60, which relates to the coming of Minnie to the Hyde home.

Appearances: For the United States, R. C. Allen, Esquire.

For the Defendants, Page, Josey, and Hanford: E. C. Hanford, Esquire.

NELLIE ROBERTSON DENNY, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name?
A. Mrs. Nellie Robertson Denny.
Q. Your place of residence?
A. Carlisle Indian School, Carlisle, Pennsylvania.
Q. What is your official position?
A. A Clerk in charge of the outing.
Q. Of Carlisle? A. Of the Carlisle Indian School.
Q. At this place, Carlisle, Pa.?
A. Carlisle, Pennsylvania.
Q. How long have you held this position?
A. Since 1908, but prior to that I was an assistant here beginning in 1900.

Q. Since 1900, have you either been Clerk in charge or assistant?

A. I have been since 1900, I have been assistant clerk in the Outing Office.

Q. Up to 1908 and since then Clerk in charge?

A. Yes, with the exception of two years when I was keeping house—that is from 1912 to 1914.

Q. As Clerk in charge of the Outing, do you have custody of the records showing when students entered Carlisle and when they left, and of all correspondence in regard to students of Carlisle?

A. I have some of the records, I have all of the correspondence relating to students who are here, and most of the correspondence relating to students who have left the institution. I don't have all of the record books in this office.

Q. Who else has charge of record books?

A. Mr. DeHuff, the Principal Teacher, has charge of what we call the daily records of the students here.

Q. I am speaking now of the closed records, that is the records pertaining to the entrance and time of leaving of students who went to school in the eighty's, do you have charge of those records? A. All but two books.

Q. Who has those?

A. They are in Mr. Miller's office, but I borrowed them this morning, the ones that referred to Minnie.

Q. And you the proper custodian of that book?

A. Well, he has always kept it in his office, kept those two books, I am referring particularly to the first original books.

Q. Under the rules of the school though, are you made responsible for the proper custody of those two books as well as the other records of this office?

A. I don't know how to answer that. I don't think there has ever been any deffin*a*te instructions given me about that—that is, about keeping those old books, I don't recall any. I had to use them in getting the data.

By Mr. Allen: I will ask you to mark this for identification as Government's Exhibit 15.

Q. I hand you Government's Exhibit 15, which purports to be a postal card mailed at Leavenworth, Kansas, July 12th, 1884, and addressed to Captain R. H. Pratt, signed by George H. Hyde, and ask you if that post card has been in your possession since you came into the office that you now hold?

A. It has been in my possession since Mr. Long was here.

Q. Where did you get that post card?

A. We found it in the records down at the warehouse—that is in the—— among the letters down there.

Q. What letters were they that you found that among?

A. They were letters that we called the old letters that were written to General Pratt about all sorts of matters when he was here.

Q. Were you present when it was discovered, when it was found? A. Yes, Mr. Long and I found it.

Q. Did you find it among the old letters that were stored in the warehouse for safe keeping? A. Yes.

Q. Is that postal card in the exact condition, with the exception of the mark of the exhibit, that it was in when you found it? A. Yes, sir, exactly.

By Mr. Allen: I offer the exhibit—offer this card in evidence and ask to have it marked as Government's Exhibit.

Q. I hand you Government's Exhibit 16, which purports to be a letter addressed to Captain Pratt, dated June 18th, 1884, signed Mary R. Hyde. *Hve* you seen seen this letter before? A. Yes, sir.

Q. Where did you first see this letter?

A. I saw it first at the warehouse when Mr. Long was here.

Q. Was it also found among the old files of Carlisle School? A. Yes, sir.

Q. It was among the old letters that were placed in the warehouse for safe keeping? A. Yes, sir.

Q. Is it in the same condition that it was in when you found it?

A. Yes, sir, except these figures, I don't know when they got on there.

Q. Except the figures appearing in lead pencil on the back of it? A. Yes.

Q. Below the name of Mary Hyde?

A. Yes, I don't know whether they were on when we found the letter, I think those are General Pratt's figures.

> By Mr. Allen: We offer this letter in evidence as Government's Exhibit 16.

Q. I hand you what purports to be a daily morning report, beginning with July 1884, and ending with June 1887. I will ask you if that is one of the books of original entry pertaining to students at Carlisle, which is now in your custody?

A. Yes, sir.

Q. What does that book purport—what does it show, I will ask you?

A. It shows the total number of pupils, both boys and girls, present and absent.

Q. Is that the book of original entries in which those entries occur?

A. That is the original book of that record—of that information.

> By Mr. Allen: We offer in evidence *pgge*—the book identified by the witness, and particularly Page 3 of this book. By agreement of counsel, the witness will be permitted to read into the record the entry of this book identified by her, pertaining to Minnie Atkins, found on Page 3, thereof. You will please read that entry, everything relating to Minnie.

A. On July 8th, 1884, the names of those discharged from the school are Elwood Dorian, Harry Harmon, Minnie Atkins, Lena Carr. They are marked "Sent home."

Cross Examination by Mr. Hanford.

Q. Mrs. Denny, do you know which of those students were sent home on July 8th, 1884, were students from Oklahoma? A. Just one.

Q. Which one, Minnie Atkins? A. Yes.

Q. And there is no connection between Minnie Atkins being discharged on that date and the others?

A. No, sir, not that I know of.

Q. The records show in your office—show that Minnie Atkins was one of the number that came to Carlisle together?

A. Yes.

Q. From Oklahoma? A. Yes, sir.

Q. There are no others of that party on July 8th in that list? A. No, sir.

Q. Now, I hand you Government's Exhibit 15, which is the post card identified by you, and ask you the date of the manuscript appearing on that post card? A. July 11th, 1884.

Q. Do you know the signature of George H. Hyde?

A. No, sir.

Q. Which appears there, you can't identify that?

A. No, sir.

Q. As his signature? A. No, sir.

Q. The postoffice mark appears on the face of that post card, can you make that out and read that into the record?

A. Leavenworth, Kansas, July 12, 3 P. M., it looks like, or 8.

Q. But that is the post card that you found in the files?

A. Yes, sir.

Q. And identified? A. Yes, sir.

Q. Do you have charge of the records relating to all of those students that came from Oklahoma, Mrs. Denny?

A. Well, that is a pretty hard question for me to answer, because they are rather scattered.

Q. Mrs. Denny, have you made further search for correspondence and records relating to Minnie Atkins since the time that Mr. Long was here?

A. Not for letters, but for records, I have hunted for any old books that I could find around the office.

Q. And have you succeeded in finding any?

A. Nothing in addition to what we had already found.

Q. Those records show that Minnie Atkins arrived here on what date?

A. It was in '81, I believe, but I don't know the exact date, but I think it was in January. Minnie Atkins arrived in January 21, 1881.

Q. And on what date did she leave?

A. July 8th, 1884, according to the records.

Q. Then, she was here approximately three years?

A. Yes.

Q. Do the records show to what place she went when she left? A. No, nothing except the post card.

Re-Direct Examination by Mr. Allen.

Q. Have you now in your custody a record of Carlisle, showing the description and historical record of students admitted to Carlisle? A. Yes, sir.

Q. What is the name of that book?

A. Record of Students, Carlisle Indian School.

Q. I notice that book is a very large book, containing nearly six hundred pages. Have you searched through that book for the name of Minnie Atkins and are you now able to give us the numbers of the pages upon which her name appears? A. Yes, sir.

Q. Will you please turn to each entry in that book concerning the name of Minnie Atkins and read the entire entry.

> By Mr. Allen: We now offer in evidence the book identified by the witness, and particularly the pages referring to the name of Minnie Atkins. It is agreed that the witness may read into the record the entries concerning the name of Minnie Atkins, found on pages forty-one, Eighty, Eighty-one, Ninety-four, and 205.
>
> By Mr. Hanford: We agree with the understanding with Mr. Allen that Mrs. Denny may read any other entries other than those relating to Minnie Atkins that she may be interrogated about?
>
> By Mr. Allen: Yes, sir, that is agreed.

Cross Examination by Mr. Hanford.

Q. Mrs. Denny, this is the book which you have in your hand, which you have just referred to, is it not?

A. Yes, sir.

Q. Regarding the initial record of this institution of matters set forth therein? A. Yes, sir.

Re-Direct Examination by Mr. Allen.

A. Do you want me to read this now?

Q. Yes.

A. English name, Minnie Atkins; Agency, Tullehassee; Nation, Creek Band, Euchee; Father's name, Thomas Atkins; rank, none; father dead; parents living, dead; father dead; mother dead; blood, mixed; age, fifteen; height, five feet five—I suppose that means five feet and five inches—weight, 130; forced inspiration, thirty-six; forced expiration, thirty-four; arrived at school, January 2nd, 1881; for what period entered, three years; discharged July 8th, 1884—that comes under remarks. On page eighty, under "Sent to Country Homes", she is numbered eighty; name, Minnie Atkins; Nation, Creek; Name of Patron, George N. LeFebre; Town, Scrasburg; County, Lancaster; State, Pennsylvania; Placed out, April 16, 1883. The first record I omitted. She appears twice on this page. I will finish this other one. She was placed out April 16th, 1883, and was returned September 8th, 1883. Now, previous to the other entry she is Numbered Sixty-three, Minnie Atkins.

Q. Previous— You mean previously, is that on Page Eighty?

A. Yes, Page Eighty. Creek Nation; Name of Patron, George N. LeFebre; Town, Scrasberg; County, Lancaster; State, Pennsylvania; Placed out, December 30, 1882, and returned February 10, 1883. On Page Eighty-one, Minnie Atkins is numbered one-two-four, Creek Nation; Name of Patron, William Penrose; Town, Neshaminy; County, Botts; State, Pennsylvania; Placed out, October 29th, 1883, and returned June 13th, 1884. The next page is ninety four. This is the page "Discharged from School". She is Number 367; Minnie Atkins; Father's name, Thomas Atkins; Nation, Creek; Date of Leaving, July 8th, 1884. On Page 205 under "Historical Record," we find Minnie Atkins Number 267, Creek, both parents dead, fifteen years old, half-breed, at school two years. Arrived at school January 22nd, 1881, from Tullehassee Mission; December 30th, 1882, went to George H. LeFebre, Scrasberg, Pa., and April 16th, 1883, went to the same place; returned to school September 8th, 1883; October 20th, 1883, went to William Penrose, Nesharminy, Pa. Good. June 13th, 1884, returned to school; and July 18th, 7884, went out west.

Q. Those are all of the entries appearing in that book or in any other record that you have so far as you have been able to find concerning the name of Minnie Atkins? A. Yes, sir.

By Mr. Allen: I ask you to mark this letter and the carbon attached, as Government's Exhibit 17.

Q. I hand you Government's Exhibit 17 and ask you what it is? A. You want me to read it?

Q. No, just tell what it is?

A. It is a letter post marked Nowata, Oklahoma, dated March 1st, 1913, from Micco Harjo, 204 North Sycamore street, Nowata, Oklahoma, relative to——

Q. To whom addressed?

A. Addressed to the Superintendent Carlisle Institute.

Q. Now, tell what the bottom one is?

A. The third sheet is a letter to Micco Harjo from the Superintendent.

Q. Is it a carbon copy?

A. It is a carbon copy of a letter to Micco Harjo from the Superintendent, and was written the 8th of March, 1913, in answer to his letter.

Q. Was that letter signed by the Superintendent and mailed out in the due course of mail on that date?

A. Well, now, I presume it was. Of course, now, I didn't read the letter.

Q. I hand you Government's Exhibit 18 and ask you what it is?

A. That is a letter written February 20th, 1915, to the Gem Oil Company, Box 597, Tulsa, Oklahoma, by the Supervisor in charge.

Q. What is the third sheet?

A. The third sheet is a letter to the Honorable Superintendent of the Carlisle Indian School, dated February 7th, 1915, and signed by the Gem Oil Company, by R. O. Josey.

Q. R. A.? A. R. O., it looks O, doesn't it?

By Mr. Allen: We offer Government's Eighteen in evidence.

Q. Before that offer— Have you been in the custody of that letter since it was received in this office?

A. It has been in the Minnie Atkins files.

Q. Has that file been in your custody?

A. It has been in this office, yes, sir.

Q. Was that letter received by you in the due course of mail—that letter from the Gem Oil Company signed by R. A. Josey? A. It came to me for filing.

By Mr. Allen: We now offer it in evidence.

Cross Examination by Mr. Hanford.

Q. This letter is dated—from Mr. Josey to the Indian School—is dated February 17th, 1915? A. Yes, sir.

Q. From Oklahoma? A. Yes, sir.

Q. And the reply is dated February 20th, 1915?

A. Yes, sir.

By Mr. Hanford: No objection.

Re-Direct Examination by Mr. Allen.

Q. Can you give the names of the students who came—your record shows came to Carlisle School with Minnie Atkins? A. Yes, sir.

Q. Are you now reading from the record identified by you as the Record of Students at Carlisle? A. Yes, sir.

Q. From what page? A. Page 41.

Q. Is that the first page upon which the name of Minnie Atkins appears? A. Yes, sir.

Q. Please give the names of the students, beginning where that record shows entered Carlisle with Minnie Atkins?

A. You want just the names?

Q. Yes.

A. Minnie Atkins, Millie Brown, Sarah Elizabeth Prowell, Nancy McIntosh, Millie McIntosh, Eliza Dell, Elizabeth McNat, Elizabeth McIntosh, Ella Moore, Martha Elizabeth

Moore, Rachel Checote, Jessie West, Eliza Chisoe, James Freeman, Rosa Ross, all Creeks but the last. Now, the record shows some boys, do you want the boys?

Q. Where does the record show they came to Carlisle from?

A. Tullehassee Mission, Muskogee, Indian Territory, written in pencil. On page seven in this same book we find the names of the boys who came in that party.

Q. Please read those names?

A. Benjamin Marshall, Robert Stuart, Alexander McKnight, Alec Childers, Silas Childers, James Bell, Cornelius Carr, Samuel Scott, and Samuel Checote, Almarine McKellop.

Q. Is that all of the names?

A. All came on the 22nd of January, 1881, yes, sir.

Cross Examination by Mr. Hanford.

Q. On page 41 of the same record book, Mrs. Denny, do the dates when the pupils returned home from school appear —that is, the girls? A. It shows that date.

Q. I will ask you to give the names of those who appear to have returned home in July, 1883?

A. Elizabeth McNat, she went home June 11th, 1883; and Jane Freeman went home May 24th, 1883; and the next one is Rosa Ross, she went home July 30, 1883; Robert Stewart went home November 1st, 1883.

Q. That last entry appears on page seven, that is a boy?
A. Yes.

Q. Now, I will ask you to name the students who went home in the year 1884, that is the year following. The girls first from page forty-one. Is that it?

A. Yes, on page forty-one: Sarah Elizabeth Crowell went home June 17th, 1884; Millie McIntosh went home June 17th, 1884; Elizabeth McIntosh went home June 17th, 1884; Jessie West went home June 17th, 1884; Eliza Phissoe went home the same date, June 17th, 1884.

Q. And now from page seven, the boys on that same date are who?

A. Benjamin Marshall, who went home on June 17th, 1884; Ellis Childress who went home June 17th, 1884; Cornelius Carr who went home June 17th, 1884; Samuel Scott who went home June 17th, 1884; and Almarine McKellop went home in 1887 according to this.

Q. What day in 1887 did Almarine McKellop leave?
A. March 28th.

Q. Then you gave a list of five girls and four boys who left on the same day, June 17th, 1884, is that right?

A. Yes, sir.

Q. And only named Almarine McKellop who remained for several years later and left March 28th, 1887?

A. Yes, sir.

Q. Now, turning again to page forty-one and taking the names of the girls who left in 1884, but not with that party, who do you find?

A. I find Millie Brown, who left August 27th, 1884, Nancy McIntosh——

Q. No, I want those who left in 1884. Nancy McIntosh is not one? A. She left in 1886.

Q. But those who left in 1884. The first one is Millie Brown, and the next one? A. Ella Moore.

Q. Who left on what date?

A. January 29th, 1884; and Martha Moore, who left the same date.

Q. That is June 29th?

A. June 29th. Rachel Checote, who left *June 3rd*, 1884. Minnie Atkins, who left *July 8th*, 1884.

Q. Now, any boys who left in 1884, but not with that party of June 17th, from page seven you are reading now?

A. Yes, sir. Alexander McNac left March 11th, 1884; and Samuel Checote left June 3rd, 1884.

Q. Now that—— Now, in 1885, the boys first from page seven, give the dates that any of them left in that year?

A. Silas Childers left May 6th, 1885. James Bell left August 20th, 1885.

Q. And turning to page forty-one, girls that left in that year? A. Eliza Bell left August 30th, 1885.

Q. Now, in 1886 from page forty-one?

A. Nancy McIntosh left June 22nd, 1886.

Q. So that completes the list and shows the dates of the different members of that party left the school? A. Yes, sir.

Q. Then, Mrs. Denny, the records show that in 1884, two of that party were held back at the school for some reason, that is, Billy Brown who left in August, and Minnie Atkins, who left in July. The others left June 17th, or prior to that date? A. The dates given were all right.

Q. Well, Mrs. Denny, all of those students, who were discharged in the year 1884, that is the same year that Minnie Atkins was discharged, left the school prior to her leaving with the exception of Millie Brown, who remained about a month longer? A. Yes, sir.

Q. And most of them left in a party *July 17th*, 1884. Is that right?

A. Yes, sir, I went home in that same party, *June 17th*.

Redirect Examination by Mr. Allen.

Q. At that time, during the time that Minnie was here, students were enrolled at Carlisle for a term of three years, were they not? A. Yes, sir.

Q. Counting the time that the records show that Minnie Atkins was out of school had her three years term expired when she left here in July, 1894?

A. Yes, sir. The outing was just considered a part of her school term.

Q. Did you know Minnie in June, 1894?

A. Why, I knew her. I don't remember that I—I don't remember seeing her at that time.

Q. You had known here during the three years previous to that time? A. Yes, sir, I was here when she came.

Q. And was very intimately acquainted with her?

A. Well, I knew her very well, yes.

Q. About what was her age?

A. I should think she was anywhere from sixteen to eighteen as I recall.

Q. Was she in—— A. That is just my recollection.

Q. Was she in good physical condition when you last saw her?

A. Yes, sir, she was always a strong looking girl.

> By Mr. Hanford: I want to move to strike the previous answer as to the age of Minnie Atkins, the witness not disclosing that she knows her age or is able to state.

Recross Examination by Mr. Hanford.

Q. I hand you Defendant's Exhibit 4, for identification, which is a file of correspondence attached together, and ask you to state what the separate items are, Mrs. Denny?

> By Mr. Allen: We agree to the admission of that letter in evidence.

Q. The first is a carbon copy of a letter written to Fred S. Cook, Special Agent United States Indian Service, Muskogee, Oklahoma, on May 3rd, 1911, signed by the Supervisor in charge—my writing. The second letter is the original made of a letter written April 3rd, 1911, from Muskogee, Oklahoma, to Oscar H. Lipps, Supervisor of Carlisle Indian School, Carlisle, Pa., signed by Fred S. Cook, Special Agent.

Q. That letter is in your files and has been since its receipt at this office? A. Yes, sir.

Q. It arrived in the due course of mail? A. Yes, sir.

Q. And the carbon copy is an exact copy of the letter that was sent in due course of mail in reply to the letter from Mr. Cook? A. Yes, sir.

By Mr. Allen: We agree to that, Mr. Hanford.

By Mr. Hanford: There being no objection to this being offered in evidence, I offer it. (Defendant's Exhibit 4.)

(Witness dismissed.)

Mr. German: Now, we offer the deposition of Will H. Miller, connected with the School of Carlisle, taken before Mr. Penick, which appears in the transcript beginning at page 529, and relates to the same subject.

And thereupon, WILL H. MILLER, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Will H. Miller.

Q. What is your official connection with the Carlisle Indian School? A. Financial Clerk.

Q. The testimony of the witness just examined shows that she procured a book, from which she read by agreement certain pages, entitled "Record of Students of Carlisle." Were you present when she examined—when she read from pages of this record? A. I was.

Q. You heard her testimony concerning all entries in that book? A. I did.

Q. Were the entries contained in that book, as recited by her, correct? A. Yes, sir.

Q. How long have you been in possession of this book?

A. The book has been kept in my office since my connection with the school, April, 1900.

Q. 1900, it has been in your custody since that time?

A. With the exception of a short time that I was away from the school about a year.

Q. It has been in your custody, in the custody of your office since you assumed the duties of that office? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. Mr. Miller, that book, as I understand it, is simply kept in your office, it is simply placed there, is that right?

A. The records were always kept in that office prior to this new filing system and Mrs. Denny has.

Q. But you don't make the records, do you? A. Not now.

Q. Do you make the entries in the book? A. Not now.

Q. But you have a place for the book in your office, and therefore it is kept there, is that right?

A. Well, it is kept—yes, sir, it is kept there.

Q. What is your position in connection with the Institution? A. Financial Clerk.

Q. Financial Clerk? A. Yes.

Q. And that is virtually the banker? A. Yes, sir.

Q. Your office is called the bank, is it not? A. Yes, sir.

Q. Mrs. Denny has charge of the files and records of the Institution, has she not, in her office? A. Yes, sir.

Q. And she keeps those records and is the proper person to testify as to their contents, is she not? A. Yes, sir.

Q. Then your identification of those records is simply a check upon her reading from the records, is that true?

A. That is true, yes, sir. You understand, though, that these records of the school were formerly kept in that office up until the time that this new filing system was established, since which time it has been kept in Mrs. Denny's office.

(Witness dismissed.)

Mr. German: Likewise, the deposition of O. H. Lipps, of that school, which appears in Mr. Penick's transcription, beginning on page 531, and which relates to the same.

The Court: They may be admitted.

And thereupon, OSCAR H. LIPPS, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Mr. Lipps, please state your name?

A. Oscar H. Lipps.

Q. Age and residence?

A. Age forty-four, present residence Carlisle, Pa.

Q. Are you the present Superintendent of Carlisle Indian School? A. Yes, sir.

Q. Is that the name of this school?

A. Carlisle Indian School, yes, sir.

Q. Mr. Lipps, I hand you Government's Exhibit 17, and ask you what that is?

A. This is a letter from Micco Harjo and my reply thereto.

Q. Was your reply, of which this purports to be a carbon copy, mailed upon the date shown upon the carbon, in the due course of mail to the address of Mr. Micco Harjo?

A. Yes, sir.

By Mr. Allen: We offer Exhibit 17 in evidence.

Q. I ask you to examine Government's Exhibit 17, is that a carbon copy—sheets one and two, of a letter mailed to the Gem Oil Company by you in due course of mail in reply to their letter attached to the carbon copy? A. Yes, sir.

By Mr. Allen: We offer that.

Q. Mr. Lipps, under the arrangement of the designation letter of the duties of the various officers of Carlisle, who is the legal custodian of the records pertaining to the students of Carlisle?

A. These records are kept in this office, by Mrs. Denny.

Q. Are books entitled "Records of Students," "Daily Morning Report," and Correspondence concerning the students at this school, a part of the records that she is required to keep? A. Yes, sir.

(Witness dismissed.)

And thereupon, the taking of testimony herein is adjourned to the Raleigh Hotel, Washington, D. C., for nine o'clock A. M., January 26th.

And thereafter, the above last mentioned time and place and on January 26th, 1916, the taking of testimony herein was adjourned to Pittsfield, Massachusetts, for nine o'clock A. M., January 27th, 1916.

Mr. German: Now we offer the deposition of Mrs. LAURA E. HYDE, taken before Mr. Penick, which appears in his transcription, beginning at page 533. Mrs. Hyde was the wife of George H. Hyde, of Leavenworth, Kansas; she is now living at Pittsfield, Mass. She testified that George H. Hyde is dead; that Minnie Atkins came to their home in—upon July 11th, 1884, and remained there for three months, in their home in Leavenworth, and worked for them as a servant girl, and while there she demeaned herself properly, according to her observations, and gave birth to no child, and showed no evidences of pregnancy.

Mr. Hanford: That does not cover the cross examination, though, Mr. German.

Mr. German: Well, the cross examination, as I remember it——

Mr. Stuart: Your Honor, it will be impossible to try this case this way.

The Court: No, I see it now; it will be the statement of something in the record detailing something at another place. I see that; the only question is whether I shall hear these depositions read now and get this case in its entirety and proper order, or whether in the interest of disposing of these oral witnesses, hear them and go ahead, and merely let these depositions be passed into the record and hear them later.

The Court: The record may show now that this case will proceed in the order, that the oral witnesses will be placed on the stand and the depositions, which have been taken heretofore will merely be offered and admitted into the record without reading, merely stating the page of the examiner's transcript where the deposition offered is found. The Court will take the depositions together with all of the objections which appear in the examiner's transcript, and will rule on the objections without argument of counsel, after oral testimony is taken and transcribed for examination.

Mr. Cruce: There are some depositions, Your Honor, where the witnesses will be present in person.

The Court: Well, I assume that wherever a witness is present that the witness will be put on the stand, rather than the deposition read, unless it is agreed by counsel that the deposition may be used instead of the witness.

And thereafter and on January 27th, 1916, at 9:30 o'clock, A. M., at the Wendell Hotel, Pittsfield, Mass., further testimony herein was taken as follows:

Mrs. LAURA E. HYDE, being called on behalf of the Government, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name, age and place of residence.

A. Mrs. Laura G. Hyde; Pittsfield, Mass.; 71 Wendell Avenue; age 68.

Q. Mrs. Hyde, did you formerly live at Leavenworth, Kansas? A. Yes.

Q. During what years did you live at Leavenworth?

A. '55.

Q. Did you live there during all of the '80?

A. Yes—let me see—with a little while in Sedalia, Mo. I don't know whether we lived in the '80's in Sedalia, Mo.

Q. Did you live in Leavenworth during the years 1884 and '85? A. Yes.

Q. In what business was you- husband engaged at that time? A. Banking business.

Q. With what bank was he connected? A. First?

Q. In 1884 and '85?

A. I think the German Bank of Leavenworth.

Q. What position did he hold with the bank at that time?

A. He was the cashier.

Q. His name was George H. Hyde? A. Yes.

A. Did Mr. Hyde, your husband, have a sister, who during the year 1884, was a teacher at Carlisle Indian School?

A. Yes.

Q. Do you know Minnie Atkins, commonly known as Indian Minnie? A. Well, I did know her.

Q. Did she ever work for you? A. Yes, she did.

Q. During what time did she work for you, Mrs. Hyde?

A. Well, now if we had that postal card, I could tell you exactly, but I cannot.

Q. Do you have reference to the postal card that was written by—— A. By my husband.

Q. By your husband to his sister at Carlisle?

A. Well, it was written but I don't know whether it was to his sister or to Captain Pratt; it was to either one of them, but that told just when Minnie came to us. He just said, Minnie had arrived.

Q. I hand you Government's Exhibit 15, which is the postal card about which you have testified and ask you if after refreshing your memory by this card, you can tell what time Minnie came to you—Minnie Atkins came to you.

A. This is in '84, Leavenworth, July, '84, and it is my husband's signature—my husband's writing.

Q. At what time?

A. July 11th, I think; that is '84, isn't it?

Q. Yes, '84; that would be 1884.

Q. Without reference to the card and independent of the postal card which has been admitted in evidence and marked

Government's Exhibit 15, are you able to say about what time Minnie Atkins commenced working for you?

A. No, I think my memory would fail me. I don't know anything just exactly to place it by, but I feel quite sure that that is the time—about that time.

Q. Do you remember that during the '80's that she did work for you?

A. Yes, I remember she work for me—for us.

Q. About how long did she work for you, and in what capacity?

A. Well, she worked as—well, as a maid of all work.

Q. Madam? A. A maid of all work, she was.

Q. About how long did she work for you?

A. I can't say definitely; I think between not more than four or five months.

Q. About how old was she when she commenced working for you—when she worked for you?

A. Well, she was a full grown woman; I should think she might have been between 18 and 20—of course I can't tell exactly; I never remember hearing her age—she might have been younger or older.

Q. She might have been younger or older? A. Yes.

Q. What were her associations while with you? Did she associate with the white or colored race?

A. I really—my memory fails me. It is a long time ago, and I don't know as to that.

Q. Did she have any men associates while she worked for you?

A. Well, I remember the children saying that they had seen a soldier coming up behind our fence—behind our board fence. We had a close, board fence—and that when he saw them, if he thought that he was seen, he dodged away. That is all I know about her ever having anybody coming to see her—all that I can remember.

Q. Did you ever know of anyone ever coming to see her, or her associating with anyone, either men or women, while there?

A. No, I can't remember; I don't remember that I did.

Q. Did you ever have any trouble with her about her associating with men while she was there?

A. None at all; I didn't think she ever did—I never thought of such a thing.

Q. Mrs. Hyde, state whether or not there was anything in her appearance, or conduct, at any time that she was with you, that indicated that she might be in a pregnant condition.

A. Such a thought never entered my head; I never suspected her at all of anything of the kind.

Q. Did she appear in the same physical condition when she left you as she did when she came to you?

A. I think she did.

Q. Did you regard her—state whether or not you regarded her as a good and virtuous girl while she was with you.

A. That is what I thought she was, though she might have been otherwise and I might not have known it as I was not looking out for anything of that kind.

Q. Have you ever seen her since she left you? A. No.

Q. State the circumstances under which she left your employ.

A. Well, I can't remember exactly; I don't remember seeing—well, it seems to me I do remember seeing her going away in a cab. It is very hazy as to how she went.

Q. Who with?

A. Well, I am not sure; it might have been that she went with a soldier but I am not sure as to that.

Q. Is that the best recollection as to how she went away?

A. Well, I believe it is.

Q. At that time, Mrs. Hyde, you frequently—state whether or not you frequently went down town and around town driving, around from one place to another in the City of Leavenworth. A. That I did.

Q. Yes? A. Yes, we went almost every day.

Q. Down and around through town?

A. Yes, sir; I used to go for my husband every day almost—drive down myself for him.

Q. Did you ever see Minnie any time after she left you?

A. I never did.

Q. Did you frequently go to the Fort—Fort Leavenworth?

A. Yes, not frequently but occasionally we used to go up there.

Q. Were your visits to the Fort as frequently as they were down town and around the City of Leavenworth? A. Oh no.

Q. During the time that Minnie was at Leavenworth, or subsequent to that time, did you ever hear of her associating with negroes? A. No.

Q. You did not? A. Oh, well, I heard——

Q. I mean before this case came up.

A. Well, no, I guess not; no, I did not.

Cross Examination by Mr. Hanford.

Q. Mrs. Hyde, your recollection of how long Minnie worked for you is not accurate—simply an impression?

A. Yes, that is it.

Q. But you remember that it was a comparatively short time? A. Yes.

Q. You cannot state definitely the number of weeks or months? A. No, I cannot.

Q. It might have two or three months, or four or five months?

A. Yes; I think more likely the first, though, but I can't say.

Q. When Minnie worked for you, did you place any restrictions upon her except in regard to her work and duties in the house? I mean, did she have liberty at times to go out? A. Yes, I think so.

Q. And after her work was completed, she was allowed her liberty?

A. Yes, I think so. That was the custom with all of our girls, so I suppose it was with her.

Q. She had the usual duties of any household servant?

A. Yes.

Q. So, so far as Minnie was concerned, the only thing that you were interested in were just her doing her household duties?

A. Yes, I didn't think of her being otherwise—that she needed any special care. I never thought of that because she had come from Carlisle.

Q. What is your recollection of Minnie's appearance at that time? Did she show that she was an Indian—didn't she?

A. Yes.

Q. Could you remember well enough, just to describe her slightly, Mrs. Hyde?

A. Yes; she was rather a large woman, and held herself well. She was right good-looking, but I think her hair was not perfectly straight as an Indian.

Q. Sort of an athletic type?

A. Well, we didn't think much about athletics in those days.

Q. Well, I mean——

A. Yes, she was a vigorous, nice looking girl.

Q. Do you remember another servant that you had in your employ about that time, that did the laundering, named Kate—a colored girl?

A. We did have a Kate that worked for us a little while.

Q. Kate Logan?

A. But I wouldn't know her last name—Kate.

Q. Mrs. Hyde, do you remember of a visit that you made about this time to Yankton, Dakota—that would be South Dakota—Yankton, South Dakota?

A. Well, I remember going to South Dakota but I can't tell what year that was in. Tom was about two years old—no, he wasn't quite two years old, was he? How old is Tom? (Witness speaks to lady in the room.) That was about '80 then, that I went to Yankton.

Q. The Leavenworth Times of July 19th, 1884, has an item to this affect: Mrs. Geo. Hyde left for Yankton, Dakota, yesterday. Do you think that that would be about the date?

A. What date?

Q. July 19th, 1884.

A. Well, I don't know. I remember taking my little—I took my little boy up there because we were having—he was not very well there in Leavenworth, to get out of the warm weather, so I took the baby up to Yankton. Well, it could have been in July—well, maybe it was in 1884.

Q. What was your boy's name, Mrs. Hyde?

A. Charles Thomas.

Q. In what year was he born? A. '82.

Q. And he was about two years old?

A. Well, he would have been about two years old the next March.

Q. So 1884 would have been about the right time?

A. I think so.

Q. Do you recall how long you remained in Dakota? How long a visit you made? A. No, I do not.

Q. It was during the hot weather though? A. Yes.

Q. Mrs. Hyde, when Minnie left your employ, did she leave suddenly? A. Yes, she did.

Q. And cause you to wonder why she had left?

A. Yes, I didn't know why she had gone; I didn't know that she was dissatisfied—she didn't give me any warning.

Q. It was a curious occurrence at any rate?

A. Yes, I suppose it was this soldier but——

Q. She didn't confide in you any reason that she might have for wanting to leave your employ? A. No.

Q. After she left, did you ever hear of her spending any time with a negro family, or being connected with negroes?

A. No.

Q. Did you ever hear of her having given birth to any children? A. Yes, I have heard.

Q. What did you hear, Mrs. Hyde?

> Mr. Allen: We object to that as improper cross examination, incompetent, irrelevant and immaterial, and hearsay.

Q. What did you hear, Mrs. Hyde, about Minnie's giving birth?

A. Yes, I heard she had had a child and that she was a very unnatural mother—she did not love it.

Q. Did you ever hear that she had left it with colored people to be cared for? A. No.

Mr. Allen: We object to that for the same reason.

A. That is all I ever heard about her child.

Q. Simply that she was an unnatural mother and didn't love it? A. Yes.

Q. Do you recall an incident connecting Minnie about the sale of a cow?

Mr. Allen: We object to that for the same reason.

Mr. Hanford: Purely a reminisence—I won't go into that.

Redirect Examination by Mr. Allen.

Q. Did you hear that she had had a child, and was a very unnatural mother after this law suit came up, Mrs. Hyde?

A. After this lawsuit?

Q. Yes. A. No, a long while ago.

Q. Who told you about it? A. I can't remember.

Q. You don't know how long the child lived or what became of it? A. No, I do not.

Q. If she had a child and it lived two weeks and died, that might have been the child about which you heard?

Mr. Hanford: We object to the question as incompetent, irrelevant and immaterial.

A. It might have *have* been; I don't know whether it lived or died—I never heard that.

Recross Examination by Mr. Hanford.

Q. You don't recall about how long after Minnie had left your home that you heard that? A. No, I do not.

Q. You can't fix the time within a year or——

A. No, I think not.

Witness dismissed.

Mr. German: Yes. We now offer the deposition of CLAUDIUS A. HAMILTON, beginning at page 464:

And thereupon, CLAUDIUS A. HAMILTON, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What age are you, Mr. Hamilton?

A. Sixty-five nearest birthday.

Q. Where do you live?

A. At the present time 4347 South Grand Avenue, Los Angeles.

Q. You are the husband of Mrs. Mary Hamilton?

A. Yes, sir.

Q. Did you ever live in Leavenworth, Kansas?

A. Yes, sir, lived there from '83 to '89.

Q. When were you and Mrs. Hamilton married?

A. On the 2nd of October, '83.

Q. Where?

A. In the Cathedral at Leavenworth, Kansas.

Q. Where did you live after you marriage first?

A. I think the number of the house is 522 Kiowa Street, between Fifth and Sixth, right across from the Cathedral.

Q. In Leavenworth? A. In Leavenworth.

Q. How long did you live in that house?

A. Three houses there, I moved out of one into the other—the only place I lived in Leavenworth as man and wife.

Q. The two houses? A. Yes, sir.

Q. First in one and then in the other? A. Yes, sir.

Q. What is your occupation? A. Painter.

Q. Have you ever been connected with the United States Army? A. Yes, sir, I was for ten years.

Q. What ten years?

A. From '73 to the—the 6th day of January, '73, to the 5th day of January, '83.

Q. Were you ever in the contracting business?

A. Yes, sir, contracted most of the time since '83.

Q. You said you were a painter, how did you pursue your occupation as painter, taking jobs? A. Taking jobs, yes, sir.

Q. Under contract? A. Under contract, yes, sir.

Q. Hiring men? A. Hiring men.

Q. And doing the labor yourself too? A. Yes, sir.

Q. Do you know an Indian woman by the name of—whose name was Minnie Atkins before your marriage?

A. Yes, sir.

Q. Where did you first know her?

A. Leavenworth, Kansas.

Q. When was it that you first got acquainted with her with reference to the date of your marriage?

A. It was the following year, sometime in eighty-four.

Q. How came you to know her?

A. She came up to see my wife and I got acquainted with her in that way, my wife told me that she was an Indian girl from Carlisle.

By Mr. Blakeney: We object to what his wife told him.

Q. Your wife told you who she was in the presence of Minnie? A. Oh, yes, in the presence of Minnie.

Q. What was it that your wife told you?

A. Told me that she was an Indian girl, Minnie Atkins, from the Carlisle Training School, when my wife had been there, and she was working for Mrs. Hyde, the banker's wife.

Q. The banker there in Leavenworth?

A. A banker there in Leavenworth, yes, sir.

Q. Did you see Minnie very often after your acquaintance with her? A. Yes, sir, quite often.

Q. Where did you see her?

A. At my own house, my house that my wife and I were occupying.

Q. Do you know about how long she worked for the Hyde's?

A. Somewhere in the neighborhood, I understood about six months.

Q. Where did she go to from the Hyde's?

A. She told me she was going up to Fort Leavenworth.

Q. Did you see her afterward—did she go to Fort Leavenworth? A. That is what I understood her.

Q. Did you see her after she went to the Fort?

A. Yes, sir, very often.

Q. Where did you see her?

A. She would come down to my place to see my wife visiting.

Q. Did you learn for whom she worked at the Fort at first?

A. From my personal knowledge, Minnie said she was going to work for the Officer's Mess.

Q. Did she tell you the names of any people that she worked for out at the Fort?

A. No, I knew she was working for other people at the Fort from the individuals themselves, but not from Minnie.

Q. All right, who did you find out from?

A. Herb Grodevant.

By Mr. Blakeney: We object as hearsay and incompetent.

Q. What is the name—Herbert Grodevant?—— Do you know whether he is living or dead? A. He is dead now.

Q. You say he told you she was working for them?

A. Yes, sir, he told me.

By Mr. Blakeney: We object as hearsay, irrelevant, incompetent, and immaterial. If the answer came in before the objection, I move that the answer be stricken because it is hearsay and incompetent.

Q. About how often did you see her while she was working for the Grodevant's?

A. I can't answer that question.

Q. Did you or not see her while she was working for the Grodevant's?

By Mr. Blakeney: We object as assuming that she worked for the Grodevant's, incompetent, irrelevant, and immaterial.

A. I can't say whether—— When she was working for the Grodevant's she was down at our place and I saw Minnie and from her own conversations that she was working for the Officer's Mess, and it was afterwards that I found out she was working for the Grodevant's.

Q. Now, you say you left Leavenworth in '89?

A. Yes, sir.

Q. What time of the year?

A. In January—nine, I landed in Fort Logan on the 13th day of January, '89, and it took about three days to go.

Q. Fort Logan, Colorado?

A. Fort Logan, Colorado. I had a contract there to go to work.

Q. After Minnie left the Hyde's there in Leavenworth and went out to the Fort, did you see her very often?

A. Quite frequently.

Q. Where would you see her? A. At our place.

Q. At your own home?

A. At my own home, down to visit my wife's.

Q. State whether or not you saw her frequently—for what length of time did you see her frequently?

A. Oh, I didn't pay any attention to it, it was quite a considerable time.

Q. During the time of your acquaintance with Minnie while she lived in Leavenworth, was she or not—did she or not have the appearance of being in a family way while she was at Leavenworth or Fort Leavenworth? A. Yes, sir.

Q. Where was she working at the time she had this appearance of being in a family way?

A. I understood at the Officer's Mess.

Q. At the Fort?

A. She was working at the Fort, yes, sir.

Q. About how long was it after she had left the Hyde's until you noticed her having the appearance of being pregnant?

A. I am unable to answer that question because I paid no particular attention at all at the time I noticed her in that way. She came down very frequently to the house and it was only when I noticed that that I took exceptions to her coming to the house and told her I didn't want her there.

Q. Did she discontinue visiting your home when you told her that?

A. Yes, sir, until her trouble had passed away, whatever it was, the indications had passed away.

Q. Then after the indications had passed away did she visit your home?

A. Yes, sir, and brought a man by the name of Peterkin and introduced him as her husband, and I was awful glad to think that she did.

> By Mr. Blakeney: We move to strike out "was awful glad" and so forth as not responsive and incompetent.

Q. Did you make any statement to Minnie in reference to her husband after her having married him?

A. No, sir, only received him friendly, in a friendly manner.

Q. Did you see him after that introduction?

A. Yes, sir, many times.

Q. Where?

A. He has been down to our place with Minnie.

Q. With Minnie? A. Yes, sir.

Q. Did you work any out at the Fort? A. Yes, sir.

Q. While you were living there? A. Yes, sir.

Q. What kind of work did you do?

A. Contract work, I worked day work for the Government also.

Q. State whether or not you saw Mr. Peterkin at the Fort? A. Yes, sir.

Q. Do you remember about how many times you saw him at the Fort?

A. Oh, I never paid any particular attention to the times.

Q. About how long after you met Peterkin was it—— Well, I will ask you this: What became of Minnie?

A. She went on with Peterkin with the 18th Infantry, as I understood, to Fort Logan, Colorado.

Q. Do you know about when that 18th Infantry was transferred to Fort Logan, Colorado? A. Not exactly, no, sir.

Q. When was it with reference to the time that you moved to Fort Logan?

A. It was previous to me going to Fort Logan.

Q. Do you know about how long? A. No.

Q. Could you estimate the length of time?

A. I would only be guessing at it.

Q. About how long did Minnie live in Leavenworth and Fort Leavenworth, according to your best judgment?

A. About three years, in that neighborhood.

Q. About how long was it after you met Peterkin until Minnie left and went to Fort Logan?

A. That, I can't tell, they went as I understand together to Fort Logan as man and wife.

Q. When you got to Fort Logan, did you see them?

A. Yes, sir.

Q. Were they living together at that time? A. Yes, sir.

Q. After you met Peterkin, did you or not see Minnie frequently?

A. I seen—— In Leavenworth or in Fort Logan?

Q. That is in Leavenworth before she went to Fort Logan? A. I seen her quite frequently, yes, sir.

Q. Did you ever see Minnie in an impregnated condition more than the one time that she was pregnant? A. Yes.

Q. I don't mean—— I am not speaking now of the number of times that you saw her in that pregnant condition?

A. Yes.

Q. Did you ever see her in an impregnated condition more than once? A. Not in Leavenworth, no.

Q. Not in Leavenworth? A. No.

Q. How about Fort Leavenworth? A. Neither one.

Q. How long was it after you manifested your displeasure of her visiting your home in the impregnated condition was it until you saw Minnie again?

A. Oh, it was several months.

Q. About how many?

A. That is a question I can't truthfully answer.

Q. Was it as much as a year? A. Oh, no.

Q. It was not? A. No.

Q. You are unable to estimate then how long it was after Minnie left Leavenworth and went out to the Fort until you saw her in this impregnated condition? A. No, I can't.

Q. You are unable—— How long would you say it was according to your best recollection?

A. Now, I will tell you, I will have to answer that in another way, you will have to let me explain to you. I paid no attention to the time she was at the Fort, you understand, until this thing came up and then I took notice of it and spoke of it, and I paid no attention to the time; it was quite a time, she had been coming to our house a number of times before that.

Q. After she had gone to the Fort?

A. After she had gone to the Fort, and for that reason I couldn't give you—it would only be guess work on my part.

Q. Are you able to estimate how long it was between the time this situation disappeared and you first saw her after its disappearance and the time that she went to Fort Logan?

A. Possibly it might have been a year, or a year and a half.

Q. You say you knew her at Fort Logan? A. Yes, sir.

Q. Did you know of her giving birth to any children there? A. Yes, sir.

Q. How many?

A. I know two positive, and I am in doubt in regard to one.

Q. Do you know the names of the two you know of?

A. Well——

Q. Positively?

A. Two boys, we called them the Harrison boys, and Mable Peterkin, she was buried there in Fort Logan, it was about two years of age when she died, I think that is about her age now.

Q. You knew of Mabel?

A. I knew of her and I was at her funeral.

Q. You were at her funeral? A. Yes.

Q. Why do you say you knew positive about two children and were in doubt as to one of them, I didn't understand you?

A. I can't say whether Mabel was born after she had left Fort Leavenworth and went to Logan, because I lost track of Minnie after she had left, you understand, Fort Leavenworth.

Q. You lost track of her?

A. I lost track of her until I met her again in Fort Logan.

Q. You can't say positively that Mabel was born when—— I didn't get you?

A. I can't say positively whether Mabel was born in Fort Leavenworth or whether she was born after she went to Leavenworth.

Q. When was it you lost track of Minnie?

A. Well, I lost track of her when she went away from Fort Leavenworth to Fort Logan.

Q. Then you knew of Minnie and saw her up to the time that she left Fort Leavenworth?

A. Well, I perhaps—not perhaps the last few months, because she didn't continue coming down to the house.

Q. About how long would you say it was that she discontinued—— You mean she discontinued coming down to the house?

A. In the latter part of their stay, yes.

Q. How did you know they were still there then?

A. I knew the 18th Infantry were still there because I was working up to the Fort at different times.

Q. How long was this prior to the time that the 18th Infantry left Fort Leavenworth that you lost track of Minnie?

A. A certain coolness sprung up between us. Minnie, of course, would come down to our house and I wouldn't be there. She never was the same as she had been previous to that time.

Q. Previous to what time?

A. Previous to the time that I corrected her for her condition or spoke to her in regard to it.

Q. As I understand you, you did see her? A. Sir?

Q. I understand that you nevertheless saw her frequently? A. I never saw her frequently.

Q. I say you saw her frequently regardless of the fact of the coolness that had arisen? A. Oh, yes.

Q. But she was not as friendly and you were not as friendly with her? A. No, sir.

Cross Examination by Mr. Hanford.

Q. Mr. Hamilton, Minnie first started coming to your house while she was working at the Hyde's? A. Yes, sir.

Q. And that was when you first got to know her?

A. Yes, that is when I first got to be acquainted with her.

Q. You didn't know her in Carlisle? A. No, sir.

By Mr. German: Have you or not any objection to Mr. Allen redirecting this witness.

By Mr. Blakeney: No, sir.

By Mr. German: It is agreed that Judge Allen may redirect this witness.

By Mr. Hanford: I thought Judge Allen was present when the direct examination was made and knows that examination.

By Mr. German: Yes.

Q. Then, so you got acquainted with Minnie when she first started coming to your house from Hyde's?

A. Yes, sir.

Q. And she continued to come until this situation appeared? A. Yes, sir.

Q. Then, when you approached her on account of it, Minnie took a dislike to your reproaching her for it and stopped coming?

A. I told my wife about it and told her I couldn't have her coming to the house. My wife tried to excuse her and I felt sorry for her when she explained that she was an Indian and one thing and another and I felt sorry for her and still she remained away until her trouble was over whatever it was.

Q. You wasn't yourself as well acquainted with Minnie as you afterwards became, were you? A. No, sir.

Q. So it was on account of that fact, that she was more or less of a stranger and her being in that condition that you felt called upon to object to *t*her coming to the house?

A. Yes, sir.

Q. Later on when you got better acquainted with her, you probably wouldn't have objected so much, would you?

A. I wouldn't have her come to the house when she was not married and come in that condition because it left a bad impression, that was the only objection I had in the whole case.

Q. Did you see her in that condition while she was still working for the Hyde's, did it show? A. No, sir.

Q. It showed after she left there?

A. It was after she left there but how long, I wouldn't say.

Q. When you did notice it after she went out to the Fort, didn't it occur to you that Minnie might have been looked after better when she was at the Hyde's?

A. Well, my impression was that I thought when she left the Hyde's that she ought to have been sent back to the school. That is what I thought ought to be done with the girl, I thought the Fort was no place to send a girl.

Q. Did it occur to you that that might have been the reason for Minnie leaving the Hyde's, that is, after you noticed it, didn't you get the idea that that was perhaps why she wanted to get away from the Hyde's, because she knew that was coming on?

A. No, I can't say that I thought of the Hyde's at all, sir, in regard to the case. If you want my impression on that, I always considered it was some officer at the Fort——

By Mr. Blakeney: We object to his impression as incompetent, and not responsive.

Q. How long did you say she *staid* away after you first noticed that condition?

A. After I told her to keep away, she kept away several months until this condition was apparently normal.

Q. Several months?

A. Several months, I should say.

Q. Then, about how long after she first arrived at your house or first started to going to your house, when you say that this all took place, in a nine months' period?

A. I can't answer that question, sir, because I paid no attention to it or her coming to the house. She has been to the house numberless times.

Q. It was during her first year in that section of the country?

A. No, I wouldn't say it was the first year.

Q. You can't fix the time? A. No, I can't.

Q. Do you know whether she went to Fort Logan ahead of you or after you?

A. She was there when I got there, sir.

Q. And during that time she was still—she was living with—— A. Peterkin.

Q. This man Peterkin? A. Yes, sir.

Q. But the first time that you knew him was when she brought him to your house in Leavenworth?

A. In Leavenworth and introduced him as her husband.

Q. Did she introduce him as her husband or the man that she was going to marry? A. No, sir, as her husband.

Q. So you got the impression that she was married?

A. All I could learn from them, Chaplain Perry married them at the Fort. I knew Chaplain Perry while at the Fort.

Q. You never heard of him before?

A. I never heard of Peterkin before, no, sir.

Q. Did she come to your house so often after that time?

A. Yes, she came quite often for a while.

Q. Did Peterkin ever come again to the house?

A. Yes, sir, I seen him at the house many times.

Cross Examination by Mr. Blakeney.

Q. How long did you say you lived at Leavenworth after you met her husband, Peterkin?

A. How long I lived at Leavenworth?

Q. How long did Minnie live at Leavenworth after you met her husband Peterkin?

A. Well, sir, that I can't answer. It would cause work on my part to give a reply to that.

Q. You are just testifying from memory?

A. Yes, sir, that is all I am doing, to the best of my memory.

Q. There is nothing in your mind to fix the time that elapsed between any of these transactions?

A. That is all, yes, sir.

Redirect Examination by Mr. Allen.

Q. One question I am not sure whether was asked on redirect I want to ask, Mr. German asked you. Mr. Hamilton, you stated on your direct examination that you understood from Grodevant that Minnie was working for him?

A. Yes, sir.

By Mr. Blakeney: We object as a repetition referring to hearsay evidence, incompetent, irrelevant, and immaterial.

By Mr. Hanford: I want to object to the question on the ground that it is incompetent, irrelevant, and immaterial, and hearsay.

Q. State whether or not it was before or after that that you noticed Minnie's condition?

A. One minute please, from the time Grodevant spoke to me about this?

Q. Yes?

A. No, I was up in Wyoming when we were talking about Minnie. It was long after.

Q. What was long after?

A. Grodevant was speaking to me in regard that Minnie had worked for him, you understand, that Minnie worked for him at the Fort. Him and I were at Wyoming at the time. He constructed Fort McKenzie, I was painting it, it was then that he told me Minnie worked for him so long.

By Mr. Blakeney: We move to strike out all of the testimony of this witness about Grodevant telling him that Minnie worked for him, as narrative, incompetent, hearsay, and immaterial.

Q. Mr. Hamilton, about how long——

A. I was working up there in 1901.

Q. Wait a minute. Was there any period of time of more than thirty days from the time you first met Minnie while she was working for Hyde and the time that you saw her last before she left Leavenworth, excepting the few months that you had nothing to do with her on account of her condition, that you didn't see her?

By Mr. Blakeney: We object as leading, suggestive, incompetent, irrelevant, and immaterial.

A. I am just trying to place things, gentlemen, the best way I know how to and consider the question. I can answer yes or no*t* to that question, I hardly think there was.

Q. About how long was it from the time that you first saw Minnie while she was working for Hyde's until you last saw her while she was at the Fort?

A. Do you mean the length of time that——

Q. Yes, sir?

A. I had first seen her to the last time I had seen her?

Q. Yes, sir?

A. Oh, it might have been two years, perhaps, something like that. I can't get down to dates, because I didn't take interest enough in it.

Q. You say you saw her during the time she worked at Hyde's? A. Yes, sir.

Q. And that you knew when she went to the Fort?

A. Yes, sir.

Q. And that she later was in a pregnant condition?

By Mr. Blakeney: We object as leading and suggestive and not redirect.

Q. And that later you saw her with Peterkin?

By Mr. Blakeney: We object as leading and suggestive and not redirect.

Q. Now, about how long a period of time elapsed between the time that you first saw her and the time that you last saw her?

By Mr. Blakeney: We object now as being a repetition of the question asked within the last five minutes.

Q. I wish you would think about that, Mr. Hamilton, and answer it to the best of your——

A. Let me get that question again, please?

Q. Read the question.

By Mr. Allen: I will withdraw that and ask him this question:

Q. I wish you would think about this question, Mr. Hamilton, and answer it to the best of your memory, to the best of your knowledge: About how long was it from the first time that you saw Minnie at Leavenworth until the time that you last saw her before leaving for Fort Logan?

A. I first saw her in the fall of eighty-five—eighty-four, and I think the last time, to the best of my knowledge and belief, I seen her in eighty-seven.

Q. During all of that time, how frequently did you see her? A. Quite frequently I seen her, sir.

Q. During all of that time, can you say whether or not she was in a pregnant condition more than once?

A. No, sir, that was all that I ever seen her.

Q. What do you mean by that?

A. I only seen her in that condition once in Leavenworth, and I wouldn't swear she was in that condition, apparently she was. That is the way I will put that, because I can't tell, I never seen the fruits of it.

Q. Was she ever apparently in that condition more than the one time that you saw her? A. No, sir.

Recross Examination by Mr. Blakeney.

Q. After she married Peterkin, they kept house, did they?

A. I understood they did, they both lived at the Fort.

Q. Lived at the Fort? A. Yes, sir.

Q. You don't mean to say that you saw her with him frequently there for the month or more during that time that you didn't see her?

A. I can't answer that positively, because I wasn't interested enough you understand, sir.

Q. You had no interest in it at all? A. No, none at all.

Q. And after a lapse of some thirty years, you are just giving your recollection about seeing this woman during that period of time?

A. Yes, sir, I am just giving the best knowledge I know.

Redirect Examination by Mr. Allen.

Q. You have no interest in this case in the world?

A. Not a particle, sir.

Q. Have you ever been employed by any one to assist them in getting up evidence in this case?

By Mr. Blakeney: We object as not redirect.

By Mr. Allen: We ask it on direct.

By Mr. Blakeney: We object now to this counsel commencing a direct examination of the witness.

Q. Answer.

A. Was I ever employed by anybody? I received my services for giving testimony, and the time that I was occupied in getting affidavits and one thing and another that I had given in the case for Mr. Buell. That is the only time that I ever—— If you call that being hired, I was.

Q. For Mr. Buell?

A. No, but they wanted affidavits which I had given for Mr. Buell.

Q. Who was it employed you?

A. A fellow named Noble, he never let me know who he represented.

Q. You were never employed by Mr. Buell?

A. No, no.

(Witness dismissed.)

And thereupon, MARY SPAIN HAMILTON, produced, sworn, and examined as a witness for and on behalf of the Government, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Mary Spain Hamilton.

Q. What is your age?

A. I was born in 1859, in August, 1859.

Q. Where do you live? A. In Los Angeles, California.

Q. What is your husband's name?

A. Claudius A. Hamilton.

Q. What was your name before your marriage?

A. Mary Spain.

Q. Were you ever connected with the Carlisle Indian School at Carlisle, Pa.? A. I was.

Q. In what capacity? A. In superintending the laundry.

Q. Superintending the laundry? A. Yes, sir.

Q. Was that before or after your marriage?

A. That was before.

Q. When were you married? A. In '83.

Q. In eighty-three? A. Yes, sir.

Q. Where were you married?

A. In Leavenworth, Kansas.

Q. To Claudius A. Hamilton? A. Yes, sir.

Q. About how long before your marriage was it that you left the school?

A. I left the school—— I wasn't married when I left the school, I got married afterwards.

Q. About how long after you left the school until you were married?

A. Well, I left the school about eighty-two and I was married in eighty-three.

Q. When you were connected with the school, did you know an Indian girl named Minnie Atkins there?

A. Yes, sir.

Q. Did you know her very well? A. Yes, I did.

Q. Did she have anything to do with your work in the school?

A. Yes, sir, well, once or twice a week I had her to come to the place and work. The girls all had to learn industrial work. So, Minnie every day was sent to me to teach. Once a week about she would come.

Q. While she was there state whether or not she was a good girl? A. Yes, sir, she was.

Q. Did you or not take any special interest in her?

A. Well, I didn't take any special interest any more than she was obedient and a good worker, good worker and I liked her for that, and everybody in the school liked her, she was agreeable.

Q. Now, Mrs. Hamilton, after your marriage, where did you live? A. In Leavenworth, Kansas.

Q. What street? A. On Kiowa.

Q. In your own home? A. No, I rented a place.

Q. Rented a place? A. Yes, sir.

Q. What number on Kiowa?

A. Well, I can't hardly remember that now, I just forget the number but it was near the cathedral.

Q. Did you ever see Minnie Atkins in Leavenworth?

A. Yes, sir.

Q. About when with reference to the time of your marriage?

A. Well, I was married in '93.

Q. Eighty-three, you mean?

A. Eighty-three, and I don't think she left the school until eighty-four, around that time, to the best of my recollection.

Q. How did you happen to see her there?

A. Well, she called on me, come to see me.

Q. Where was she working at that time?

A. At Mr. Hyde's, the banker.

Q. What was Mr. Hyde's initial or given name, do you know?

A. Well, I don't know, just knew he was Mr. Hyde and a banker; and I knew his sister, Mary Hyde, in the school.

Q. You knew her personally?

A. Yes, sir, but she is dead now.

Q. Mr. Hyde's sister Mary was in the school was she?

A. Yes, sir.

Q. What did she do? A. She was matron.

Q. Matron? A. Yes, sir.

Q. Did you see Minnie very often there at Leavenworth?

A. Yes, sir.

Q. About how frequently after you first saw her there at Leavenworth, did you see her while she was at the Hyde's?

A. Well, I didn't see her but two or three times while she was at the Hyde's, she didn't stay there very long.

Q. Where did she go from Mr. Hyde's?

A. She went to Fort Leavenworth.

Q. How far is that from Leavenworth?

A. Well, I don't know I never paid any attention.

Q. Well, it is not a part of the City of Leavenworth, is it?

A. Out at Fort Logan is a soldier's Post.

Q. You mean at Fort Leavenworth? A. Yes.

Q. She went out to the Fort from the Hyde's?

A. Yes, sir.

Q. On the occasion of her going to the Fort did you see her?

A. Oh, yes, she seen me the evening she went up to the Fort.

Q. How do you know she went to the Fort?

A. Well, she came and talked to me and got a little money to go.

Q. How much? A. A dollar.

Q. D*u*d she leave anything with you? A. Yes, sir.

Q. What was it?

A. A little pin, a little *breat*-pin.

Q. Why did she leave the breast-pin with you?

A. Well, she thought she ought to give me something in place of the money, but I told her I didn't want the pin, but she left it anyway.

Q. Have you that pin yet?

A. No, sir, some of those people here got it.

Q. When we were out at Los Angeles? A. Yes, sir.

Mr. German: We offer the pin in evidence, your Honor. It is in the possession of Mr. Penick or the Clerk, I don't know which. It is among the exhibits which were introduced at the taking of this witness' testimony at Los Angeles.

The Court: It will be admitted.

Q. Now, Mrs. Hamilton, after Minnie went out to the Fort, did you see her very often? A. Yes, sir.

Q. Where did you see her?

A. She would come down to the house.

Q. Come to your house? A. Yes, sir.

Q. From the Fort? A. Yes, sir.

Q. About how often would she come to your house?

A. Well, about once a month or so.

Q. Well, while she was at the Hyde's, so far as she would come to your house during the time that she was at the Hyde's did she show any evidence of being in a family way?

A. No, sir.

Q. At Carlisle, when you knew her there, did she show any evidence? A. No, sir.

Q. After she went out to the Fort, did she ever show any evidence of being in a family way?

A. After she went there, no not for quite a while.

Q. Not for quite a while, she finally did? A. Yes, sir.

Q. Did you take any particular notice of that condition of hers? A. Yes, I did.

Q. About how long after she went to the Fort was it that you noticed this condition?

A. Well, that puzzles me, it was within two years. I really can't tell you, it is so long ago I would have to be truthful about that, and it is within that period that I noticed it.

The Court: Within two years?

A. Yes, sir.

Q. Did she come to your house very often after this condition showed up? A. Yes, sir, she came quite often.

Q. Did your husband talk to you about it?

A. Yes, sir, he quarreled with me over it and didn't want me to have her coming there.

Q. What did you do about it?

A. I told him I knew Minnie at school, and I took her part. He didn't want me to have her coming there though.

Q. What did you finally do about it?

A. Well, I told Minnie about it, and finally after a little bit she stopped coming.

Q. Then, did you see her after that?

A. No, I didn't see her for quite a little while.

Q. But did you afterwards see her? A. Yes, sir.

Q. Was she then in this same condition? A. No, sir.

Q. It had disappeared? A. Yes, sir.

Q. Did she bring anyone with her to your house?

A. Mr. Peterkin.

Q. When was it she brought him, before or after this condition disappeared? A. After.

Q. Did you meet Mr. Peterkin?

A. She fetched him to my house.

Q. Did she introduce him to you?

A. She introduced him to me as her husband.

Q. As her husband? A. Yes, sir.

Q. Did you say anything to her about it?

A. No, I didn't say anything to her about it.

Q. Did you see her very often after that?

A. Well, quite often after that.

Q. About how often?

A. Well, once a month or so, probably more than that.

Q. Where was she still living? A. At the Fort.

Q. Where would you see her?

A. She come to my house, always come to my house.

Q. That is where you would always see her?

A. Always see her at my house.

Q. Did she continue to live at the Fort, or did she ever leave there and leave Leavenworth?

A. She continued to live there, as long as I knew her, I always knew of her living at the Fort.

Q. Did she ever leave there? A. Not that I know of.

Q. Did she quit coming to your house?

A. Yes, and disappeared and went to Fort Logan and never told me.

Q. She went away without your knowing it?

A. Yes, sir, with this soldier that belonged to this regiment, he was ordered there.

Q. Peterkin? A. Yes, sir, she went with him.

Q. You just understood that she had gone with him, I suppose?

A. Well, that is what I heard afterwards, I heard that.

Q. Did you see Minnie after that? A. Yes, sir.

Q. Where? A. At Fort Logan.

Q. Where is Fort Logan? A. In Colorado.

Q. Near what city? A. Denver.

Q. Near Denver? A. Yes, sir.

Q. How did you happen to see her?

A. Well, my husband got the contract of painting Fort Logan, and he went there with Mr. McNeil, and when we got there we found that Minnie was there and I was surprised.

Q. Do you know about what year you went to Fort Logan?

A. No, but it is down in my statement, my husband has the year.

Q. Do you remember the years very well?

A. No, I don't remember the years very well.

Q. Now, at Fort Logan, how long did you stay there?

A. Well, I lived at Fort Logan about six or seven years.

Q. During the time that you lived there, did Minnie live there? A. No.

Q. How long did she live there?

A. Well, she lived there, to the best of my knowledge, three or four years, I guess.

Q. While there who did she associate with?

A. Well, her husband was there, Peterkin— She said he was her husband. He was with her for a long time and then he went away.

Q. Then, who did she live with after her husband left?

A. Well, then she had Harrison.

Q. Did you know Harrison? A. Yes, sir.

Q. What was his business? A. Butcher.

Q. Where did he live?

A. He lived right in the little town.

Q. What was the name of the little town?

A. Logan Town.

Q. Where was that with reference to Fort Logan?

A. That was right down from the Fort.

Q. Right up against the Fort?

A. Right close to the Fort ground, yes, sir.

Q. Did Minnie have any children out at Fort Logan?

A. Yes, sir.

Q. How many?

A. Well, she had one baby that died there, Peterkin's.

Q. What was its name?

A. Mabel. It died and was buried in the soldier's cemetery, the name was Mabel Peterkin.

The Court: What was the name?

A. Mabel Peterkin.

Q. How old was that child when it died?

A. It couldn't have been more than eight or nine months old.

Q. Was it a boy or girl? A. It was a girl.

Q. Did you see the child?

A. Yes, sir, I was there the night it died.

Q. You were there the night it died? A. Yes, sir.

Q. Did she have any other children there?

A. Well, she had two little boys.

Q. Two boys? A. Yes, sir.

Q. What were their names?

A. The Harrisons, I guess that was their names.

Q. Do you know what their given names were?

A. Well, I don't remember.

Q. Don't remember? A. No, sir.

Q. Were they born before or after this little Mabel?

A. They were born after.

Q. After? A. Yes, sir.

Q. Do you know which one was born first of those two boys——Well, you don't know their names, you couldn't tell?

A. No, sir.

Q. After the two boys were born did you see Minnie very often? A. Yes, sir, seen her quite often.

Q. Where did you go from Fort Logan?

A. I moved down to the city, down at Denver.

Q. About how far is Fort Logan from Denver?

A. Must be about eighteen miles or so.

Q. What railroad connects Fort Logan with Denver?

A. Well, there was Uncle Sammy, they called it, it was a suburban train.

Q. They called the train "Uncle Sam"? A. Yes, sir.

Q. Did you know about Minnie leaving Fort Logan and going off anywhere?

A. Yes, I knew she left but I didn't know where. She told me she was going away.

Q. Do you know of her returning to Fort Logan after that? A. No, sir, I do not.

Q. Did she tell you where she was going?

A. No, she told me she was going away, but she didn't tell me where she was going.

Q. Do you know what became of those two boys?

A. No, I don't.

Q. Now, that is the last you ever saw of Minnie?

A. That is the last I seen of Minnie.

Q. Now, Mrs. Hamilton, do you know how long you lived in Leavenworth?

A. I lived there about seven years I think.

Q. Beginning in what year?

A. Well, I went there in about eighty two I think.

Q. Lived there until about eighty nine or something like that? A. Yes, sir.

Q. Mrs. Hamilton, while at Leavenworth, you have related about seeing Minnie possibly once a month except this period of time when this pregnancy showed up, and then afterwards disappeared. Was Minnie in a pregnant condition so far as you could tell at any other time while at Leavenworth, except the time that you stated?

A. Just the once that I knew of.

Q. Just the once that you saw? A. Yes, sir.

Q. Mrs. Hamilton, in recent years, did anybody come to you wanting to locate Minnie, or inquire about Minnie?

A. Yes, sir.

Q. About how long ago? A. About 1914.

Q. Where? A. At Denver.

Q. Where were you living at that time?

A. I was living on South Logan.

Q. South what? A. South Logan.

Q. On South Logan Street, in Denver? A. Yes, sir.

Q. You have since then moved to Los Angeles?

A. Yes, sir. Since then I have moved to Los Angeles.

Q. Who was this person who came to see you?

A. Sadie James.

Q. Do you remember what month or what time of the year? A. Well, it was about June, June 1914.

Q. Did she have a conversation with you about Minnie?

A. Yes, sir.

Q. Relate the conversation?

Mr. Stuart: Well, we object. We were not present.

The Court: I hardly think that the conversation of Sadie James with this woman at this stage is competent.

Mr. German: As far as the evidence appears that is true. We possibly had better hold the witness until later on that. You may have the witness.

Cross Examination by Mr. Hanford.

Q. Mrs. Hamilton, the first time that you saw Minnie, after you had previously seen her at Carlisle, was in Leavenworth, Kansas? A. Yes, sir.

Q. In what year was that?

A. The first time I seen her?

Q. After leaving Carlisle?

A. Well, that would be about——well, it was after eighty four.

Q. It was in eighty four, you say?

A. Well, because I got married in eighty three and I didn't see Minnie until after that.

Q. You rather think it was the year following the year you were married? A. Yes, sir.

Q. So it was 1884? A. About that time.

Q. Where did you see her at that time?

A. At my house, it was in Leavenworth, Kansas.

Q. She came to your house?

A. Yes, she come to my house.

Q. Did she tell you what she was doing? A. Yes, sir.

Q. What was she doing?

A. She was working for Mr. Hyde.

Q. Mr. Hyde, the banker? A. Yes, sir.

Q. And while she worked for Mr. Hyde she continued to come to your house pretty often? A. Yes, sir.

Q. She told you a good deal about Mrs. Hyde?

A. Yes, she told me she couldn't get along with Mrs. Hyde.

Q. And she used to come to you and tell you her troubles?

A. Yes, sir.

Q. So, she was coming quite often? A. Yes, sir.

Q. How long did she work for the Hydes after she first came to your house? A. Not very long.

Q. Well, about how long?

A. Well, I just couldn't state that. I really don't remember, but I know it wasn't a very long time.

Q. Well, was it about a month?

A. Oh, yes, it was longer than that.

Q. Possibly two or three months? A. Yes, sir.

Q. Now, after she left the Hyde's you say she went out to Fort Leavenworth? A. Yes, sir.

Q. And when she went out to Fort Leavenworth, she continues to come to your house? A. Yes, sir.

Q. And you kept in touch with her in that way?

A. Yes, sir.

Q. And she used to come and visit with you as old friends? A. Yes, sir.

Q. And she kept coming and came pretty often, didn't she? A. Yes, sir.

Q. Now, Mrs. Hamilton, your husband had not known Minnie prior to the time he saw he in Leavenworth, had he?

A. No, sir, he didn't know her.

Q. And he didn't know her as well as you did, did he?

A. No, he didn't.

Q. In fact, he objected to Minnie's coming to the house, didn't he? A. Yes, sir.

Q. And he told you about it? A. Yes, sir.

Q. And you told Minnie of his objections, didn't you?

A. Yes, sir.

Q. And told her to stay away?

A. Well, I just didn't tell her to stay away.

Q. You told her that he didn't like it?

A. That he didn't like it, yes sir.

Q. And Minnie cried and just didn't come any more?

A. Yes, sir.

Q. Did she tell you that her condition was as suspected?

A. No, sir, she didn't talk on it at all.

Q. Because you didn't ask her about it?

A. No, I didn't ask her any questions.

Q. And you noticed it for sometime before, yourself?

A. Yes, sir, sure.

Q. You noticed it before your husband did?

A. Yes, sir.

Q. You didn't tell *you*, did you? A. No, I didn't.

Q. You felt sorry for Minnie and knew she was an Indian girl? A. Yes, sir.

Q. And irresponsible and not *abot* to look out for herself? A. Yes, sir.

Q. And so you protected her? A. Yes, sir.

Mr. German: I object to that as argument.

The Court: This is proper cross.

Q. Now, Mrs. Hamilton, you noticed this condition some two or three months before your husband mentioned it, hadn't you? A. Well, I just hardly chance to remember.

Q. Well, you noticed it before she began to get large, didn't you? A. Yes.

Q. Began to suspect it before it began to show, didn't you? A. Well, yes.

Q. But didn't speak to Minnie and she kept on coming to your house before it began to show? A. Yes.

Q. And then your husband told you of his suspicions?

A. Yes.

Q. And you told him of your suspicions; that you knew it was a fact? A. Yes.

Q. He objected to her coming to the house and you asked him to be easy on her, and he would not.

Q. So you told her? A. Yes, sir.

Q. And she didn't come back any more, did she? A. No.

Q. Now, Mrs. Hamilton, how long after Minnie had gone out to the Post and began coming back to your house was it that you began to suspect this condition?

A. How long she had been out there to the Post?

Q. Yes, how many weeks had she been out to the Post?

A. Well, I can't tell that; in a period of about two years, I couldn't state that.

Q. But Mrs. Hamilton, you do know, however, that it was not very long after she went to the Post and kep- coming back to your house that it began to look suspicious?

A. No, I couldn't tell that because I couldn't be sure of that.

Q. Mrs. Hamilton, how long after this appearance disappeared, did Minnie come back and bring this fellow Peterkin with her? A. Quite a long while.

Q. And she brought him to your house and introduced him to you as her beau?

A. First said her beau, and afterwards said she married him.

Q. You saw Peterkin just that once, didn't you?

A. Yes.

Q. And never did see him after that?

A. Yes, he came to my house after that.

Q. After that? A. Yes.

Q. How many times? A. Quite often.

Q. Quite often? A. Yes, sir.

Q. Sure of that? A. Sure.

Q. Came with Minnie? A. Came with Minnie.

Q. He came all the while she was telling you he was her beau?

A. She told me she got married to him, and she fetched him down as her husband.

Q. But that was quite a long time after this condition had disappeared? A. Yes, sir.

Q. That she brought him first to your house?

A. Yes, sir.

Q. And that you met him. A. Yes, sir.

Q. Now, covering how long a period of time did he come to your house—you say he came to your house quite often?

A. Yes, but I don't just know the period of time.

Q. Did you know him for possibly a year after he first came to your house? When Minnie first brought him?

A. Probably about that time, I don't just know.

Q. Then you think during that time that you were in Leavenworth and knew Peterkin for about a year?

A. Well, for about that time.

Q. Now, you say they came to your house quite often?

A. Quite often; I don't just know the times. Never paid much attention to it.

Q. Then, how long was it, after she brought him to your house and introduced him as her beau, did you hear that she got married to him?

A. Well, it was her that told me she got married to him; I didn't hear it.

Q. How long after, was that?

A. Not very long; about the first time it was her beau and the next time it was her husband.

Q. The next time it was her husband? A. Yes.

Q. Now, Mrs. Hamilton, you say that Minnie didn't tell you about this condition and you noticed it for two or three months until it began to show up?

A. No, she never told me about that. I noticed it myself.

Q. And you noticed it that long?

A. I noticed it myself, yes.

Q. Now, will you also fix about the length of time after that condition disappeared that she came with Peterkin?

A. Well, no, I can't, because I don't remember.

Q. Mrs. Hamilton, isn't it a fact that you began to suspect Minnie of being in that condition shortly after she went out to the Fort?

A. I can't say that; I can't remember that, hardly.

Q. And didn't you suspect that it was some soldier out at the Fort? That she was running around with the soldiers out at the Fort? A. Well, I had an idea in that way.

Q. Mrs. Hamilton, didn't you suspect somebody in Leavenworth? A. Well, I don't know.

Q. Did not you and your husband talk it over and discuss somebody in Leavenworth, as being the party that you suspected? Don't you remember that you testified that you suspected Mr. Hyde's brother?

A. Oh, my, no; I don't remember that at all.

Q. You didn't tell me that? A. No; not to [] knowledge.

Q. Didn't you and your husband talk it over and decide that he was the party that was responsible?

A. No, I don't remember that.

Q. At any event, Mrs. Hamilton, you noticed this condition after she went out to the Fort soon enough so that it might have been somebody at Hyde's?

A. Well, it was within the period of the two years; I just can't tell that hardly.

Q. Then when you saw Minnie in that condition, Mrs. Hamilton, you remember about her crying and she told you she was in trouble, didn't she, when she wanted to [] the Fort, came to you and cried and wanted to borrow a dollar?

A. She didn't tell me anything about that. Said she had trouble with Mrs. Hyde.

Q. I am not asking you about that. But she came to you and told you she wanted to go out to the Fort and that she was in trouble and wanted to borrow a dollar?

A. Yes, sir, because she didn't have the money.

Q. You remember about that condition and remember her coming and telling you she was in trouble and right away you suspected something, didn't you?

A. Well, I don't know; I never thought that part of it.

Q. You didn't think that part of it? A. No, I didn't.

Q. Now, Mrs. Hamilton, you state that your husband didn't know Minnie so well at the time that he told her that he didn't want her to come to the house any more?

A. No, he didn't know Minnie very well.

Q. But after that he got better acquainted with her, didn't he? A. He got better acquainted with her.

Q. And then he didn't object to her coming to the house any more did he?

A. After he knoew her condition, he didn't want her to the house any more.

Q. Didn't want her to the house?

A. No, he didn't want her there.

Q. He didn't know her very well, and you explained to him that you had known her at Carlisle? A. Yes.

Q. So, Mrs. Hamilton, it was early in her relation with you at Leavenworth that this condition began to show up, wasn't it? A. No.—

Q. Because your husband hadn't gotten acquainted with her yet had he? A. Not very well but he was always at work.

Q. But he knew she was coming to the house, didn't he?

A. He knew, yes.

Q. He knoew that from you, and he afterwards did get better acquainted with her, and while Minnie never liked him because he hadn't let her come to the house, still he stood for her, didn't he?

A. Yes, he let her come but he didn't want her there.

Q. So, Mrs. Hamilton, it must have been done at least within the first year that you knoew Minnie at Leavenworth;

it was while you had just discovered her, and your relations had not gotten very far along?

A. You see, I would want to be correct on that and I can't say.

Q. You can fix it within the first year, can't you?

A. I can't do that; I would have to make it within the period of two years. I can't do that.

Q. You testified before, you remember, when your deposition was taken at Los Angel*us*, don't you? A. Yes.

Q. And you did testify there that it was in the first year, in fact it was within few weeks after she went out to the Fort, didn't you? A. Yes, but I can't do it.

Q. You testified to it then, didn't you?

A. Well, I just don't—I didn't see my statement then.

Q. Mrs. Hamilton, let me ask you this question. Your testimony was taken down out in Los Angel*us*, in January 1915, I believe you say? A. Yes, sir.

Q. And when did you next hear of this case, or when did anybody next come to see you about this case after your depositions were taken? A. I don't believe there was anybody.

Q. Nobody came to see you at all? A. No, not after that.

Q. Not after that? A. No.

Q. When did you get word to come here to testify at this hearing? A. I got a subpoena from here—to come here.

Q. And that was mailed to you? A. Yes, sir.

Q. Did anybody come to see you and arrange—

A. Yes, there was a gentleman came to see me.

Q. And di- he talk to you about that case?

A. United States agent came.

Q. Did he talk to you about the case at that time? Did he go over it with you?

A. Well, no; he didn't go over it with me.

Q. He didn't go over your testimony with you?

A. No.

Q. Who have you discussed it with since you arrived here, Mrs. Hamilton? A. Not anybody.

Q. Haven't talked about it with anybody at all? A. No.

Q. Where have you been staying?

A. At Miss Robinson's.

Q. You have not talked to anybody at all about it since you arrived? A. No, sir.

Q. Who was it came out to Los Angel*us* and arranged for you to come here? Who talked with you at that time?

A. I just forgot the name. United States—

Q. Mr. Bruff? A. Is that the name?

Q. Was it Mr. Bruff? A little man with a mustache?

A. Yes.

Q. Was anybody with him? A. Nobody was with him.

Q. Now, how long did Minnie come to your house—how often did Minnie come to your house while she was working for the Hyde's? You say she came often—how often?

A. I just can't tell.

Q. Two or three time- a week?

A. Oh, no; not that often.

Q. I will ask you, Mrs. Hamilton, if at the time your deposition was taken as a witness on behalf of the Government, at Los Angel*us*, California, January 11th, 1916, at room 517 Federal Building, in the city of Los Angel*us*, the following question was not asked you and the following answer made by you: Did you see her very frequently there in Leavenworth? Answer. Yes, sir. Question. After that time? Answer. Yes, sir. Question, About how often? Answer. Oh, well, she would come probably two or three times a week. Did you *you* testify that? Isn't that your testimony, Mrs. Hamilton?

A. Yes, I guess it is.

Q. That is your testimony. Then you were asked, then, when did she come and you answered—cut that out—I will put that in another way. The following question was asked you: Question. Then where did she go? To which you answered—Answer. She went to Fort Leavenworth. That was your testimony, was it not? A. Yes.

Q. And then the following question was asked you during the time you were at Leavenworth, did Minnie show any evidence of being in the family way, to which you answered as follows: Answer. Yes, sir. Question. How did you come to know about that? Answer. Because she showed; showed up in that condition. Question. Where did you see her? Answer. Why she came down from the Fort and used to come to my house and she kept coming and she kept getting larger all the time. Is that your testimony? A. Yes, sir.

Q. Then the following. Where was it you noticed Minnie was in this condition—in the family way? Answer. In my house—in my own house. Question. How long did you continue to see her in that condition? Answer. Well, right about the beginning she wasn't so large, and she kept getting larger and I kept looking and watching her, and I suspected something, and then she got up pretty good size and my husband—he objected to her coming to my house. Isn't that your testimony? A. Yes, sir.

Mr. German: If it please the Court, it strikes this is not different from what she has testified here.

The Court: It hasn't struck me that it is materially different. I assume the purpose is for examining her as to some difference.

Mr. Hanford: It leads up, Your Honor.

The Court: Alright.

Q. Then the question was asked you did she ever come to see you any more after that. The answer, no, not after he objected. Question, Did you see her again, then? Answer. Afterwards? Yes, sir. After everything was all over. Question, Do you know about how long it was from the time you told her of your husband's objection until she again visited you in the house; did you see her there? Answer. Well, it was quite a while but I can't just recall how long it was—how long. It was quite a while. Is that you- testimony?

A. Yes, sir.

Q. Then, Question. How did you let her come to your house? Answer. She came back and fetched a soldier with her, and told me it was her beau, Peterkin. Question. About how long did you see her after this, after this condition of pregnancy disappeared and prior to the time she left Leavenworth, or left for Fort Logan? Answer. You mean after she got through pregnancy, you mean? Question. Yes, and had gotten alright. Answer. Three or four days about. Is that your testimony? A. Yes.

Q. And then the following was asked you: Question, Mrs. Hamilton, state whether at or before the date at which you let Minnie have a dollar and she that pin with you, state whether or not she was in a pregnant condition at that time apparently? Answer. No, she was not; she didn't show; she might have been but she didn't show, you know. She might have been in that way.

A. Yes, but she was not; she might. I don't know anything about that.

Q. She might at the time she gave you that pin?

A. I don't know anything about that.

Q. And then the following was asked you, page 430, question, how many weeks afterwards, was it, that you noticed that condition?

Mr. Hanford: I am going to go back to page 429.

Question, from page 429, How did she act when she told you she wanted to go out to the Fort? Answer. Well, she was in awful trouble; she cried and and she just seemed to be like she was broken hearted. Question. And she continued to come to your house quite often? Answer. Yes, sir. Question. Until you noticed this condition? Answer. Yes, sir. Question. You say that she might not have been in a pregnant condition at tha- time but it didn't show? Answer. No, sir. Well, I don't know, You know, I never noticed it. It was quite a while afterwards that I noticed it—that she was getting large; quite a while after she went up to the Fort. Question, But she kept coming to your house all that time? Answer, Yes, sir; kept coming to my house. Question, About how many weeks, was it, that you noticed that condition? Answer. Well, right at the beginning, she kept coming until I noticed it, you know; long before my husband did, but I didn't let on; but I never let on until he noticed it himself. She got pretty large and he couldn't help it. It was quite a while because he didn't pay much attention. Is that your answer? A. Yes, sir.

Q. Then the following was asked you. Question. Do you remember about how long it was after you gave her the dollar that the condition had disappeared? Answer. Oh yes, it was quite a while. I don't just recall how long. Question. Less than a year, thoug-? Answer, Oh, yes. Question. From the time that you gave her the dollar until you noticed this condition of pregnancy? It couldn't have been more than several weeks—that is a number of weeks, any way? Answer. Oh, it was more than that; more than several weeks. Question. A couple of months? Answer. About three months, I think. Is that your testimony?

A. Well, I know, but I forget.

Q. I am asking you if that is your testimony? Answer, Yes, that is. Question. About three. Answer. Yes, that is I first started to notice it just about three and a half months that I noticed, but I didn't pay much attention to it then. You can't always know, you know. You form different opinions, and you can't tell. She was getting large, I know that. Is that youe testimony? A. Yes.

Q. And on Page 443 the following: "Q. Did you notice her being big the first time you saw her after she came down from the mess? A. Not the first time, no. Q. About how long? A. She afterwards, about the second or third time I started noticing her." Is that your testimony?

A. Well, I don't know——

Q. Is that your testimony, Mrs. Hamilton, I am asking you?

The Court: You are asked, Mrs. Hamilton, whether or not you so testified?

A. Well, I don't remember that. I can't understand how it is I got it in in that way.

Q. If the transcript of your testimony showed——

A. Just shortly after she went to the Post you say I testified that way?

Q. You were asked questions continuously there all of that time, were you not? They went over the whole matter with you, didn't they?

A. I don't like the way that answer is there.

Q. I am not asking whether you like it or not.

The Court: We will not have any controversy. You are asked Mrs. Hamilton whether you gave that testimony out at Los Angeles?

A. Well, I can't remember about that one thing that I said two or three months.

The Court: All right, proceed.

Q. And then the following took place, the following questions and answers were had, Page 444: "Q. And you told Minnie that your husband objected? A. Yes. Q. About how long was that after Minnie had come up to Fort Leavenworth, up to the mess? A. About three or four months I think it would be." Is that your testimony? A. I can't understand why I testified—

Q. I am asking you, Mrs. Hamilton if that is your testimony?

The Court: Did you so testify?

A. I don't know whether I did, that short period I can't remember.

Q. Will you state yes or no, Mrs. Hamilton, whether you did so testify at that time and place. A. Well, I forget, because I don't remember that I stated it in that manner.

The Court: Is this the Examiner's transcript?

Mr. Hanford: This is the Examiner's transcript.

The Court: Well, all right. If she says she don't remember, you may introduce any portion that conflicts with her testimony here. You may cross examine this witness, but don't ask her questions for admissions that are the same that she has given here. Get to the point of conflict.

Mr. Hanford: I am trying to, your Honor. I have lined this up and it is hard to do.

The Court: Is there not a way so you can give these gentlemen a list so they will know in advance whom they will expect on the stand? That is, the witnesses who are here whose depositions have already been taken. Here is a witness whose deposition you have taken.

Mr. German: I believe, your Honor, we only have two or three such witnesses and we will be glad to do that.

Mr. Stuart: You mean two or three witnesses whose depositions have been taken?

Mr. German: That is correct. I mean to say we have only two or three witnesses whose depositions have been taken that have been brought here.

Q. And then, Mrs. Hamilton, I will ask you if at that time and place you did not testify as follows, reading from Page 444: "And you think that when she had been at the Fort about four or five months when your husband noticed it? A. Well, I think so about that time. Q. About four or five months. About how long was it after your husband noticed it and you complained to him was it that he saw Minnie again? A. It must have been about five months, I guess, it was quite a while I know." Did you so testify at that time and place? A. I kind of forget now, I will have to think about it.

Q. Reading from page 445, I will ask you: "Q and sometime after that you met Peterkin? A. Yes, sir, and she fetched him to my house and introduced him. Q. Introduced him as her beau? A. Yes, sir." And on Page 449: "Q. Would you estimate the number of months or estimate it in your own way, the length of time about from the time you met Peterkin and the last time you saw Minnie at Fort Leavenworth? A. Why, she just fetched him down there and introduced him and I never saw him any more until I seen him at Fort Logan." Did you testify that at that time and place?

A. I forget that; I did see him, I did see Peterkin.

Q. Following that I will read: "Q. That is Peterkin? A. Peterkin. Q. And you saw Minnie at Leavenworth again? A. Two or three times, I guess." Was that your testimony?

A. I seen Minnie more than two or three times after.

Q. Will you state whether or not you so testified at this time and place as I have read to you?

A. I can't testify that.

Q. At Los Angeles?

A. I seen her more than that, I can't testify that, no I forget.

Q. And on Page 449: "Q. Now, will you estimate about how long it was between the times that Minnie left Hyde's and went out to the Fort until you saw Minnie in this pregnant condition? A. It seemed about three months or so, three or four months." Did you so testify at Los Angeles?

A. I can't remember.

Q. At the time and place I have mentioned before?

A. I can't remember that about how I testified.

The Court: You will have her testimony on the stand before you.

Mr. Hanford: I am going to ask to have the whole deposition considered.

The Court: Unless it is absolutely necessary I am not going to consider the deposition where it doesn't conflict with her testimony here.

Mr. German: We will state this: That we are willing to agree that he is reading correctly her testimony given out at Los Angeles in January, 1916, to save any trouble.

The Court: We will have no trouble about that. She probably should be interrogated about the differences, conceived differences. Cross examine.

Q. And on Page 450, I will ask you if the following was not testified by you at that time and place: "Q. Where did you get the idea?" First let me ask you, Mrs. Hamilton, at the time Minnie was working for the Hyde's and used to come to your house, did she ever tell you about any old negro woman that was a friend to her? A. No, she never did.

Q. Never told you. A. No, sir.

Q. You never heard her mention any old colored woman?

A. Never heard her mention.

Q. Now, I will ask you if at Los Angeles, at the time and place I have before mentioned, if you did not testify as follows (Page 450): "Q. Where did you get the idea that you may have heard of some negro woman being a friend to Minnie? A. Well, on account of her having these disputes with Mrs. Hyde, and I think this old colored lady lived there near, and I can't recall now but I think. Q. Did she bring that in the conversation about her troubles with Mrs. Hyde? A. Yes, she said Mrs. Hyde was mean to her, and I think this old colored woman knew it or something, I just can't recall that part of it very well. I didn't pay much attention." Did you testify as I have read?

A. Yes, I remember that, yes.

Q. Well, now, you recall?

A. She did tell me about the old colored lady.

Q. And that was in connection with this trouble?

A. Well, she told me that she was good to her when she was coming away, but she didn't tell me she *staid* with this old colored lady. She just said she was a friend to her.

Q. Mrs. Hamilton, You remember that a day or so before your deposition was taken in Los Angeles, I came out to your house and brought a couple of gentlemen with me in the evening? A. What place was I living then?

Q. Well, I can't remember the address. But you do remember that before your testimony was taken in Los Angeles, that I came out there and brought a couple of men with me and talked to you in your house, didn't I? A. Yes.

Q. And one of them wrote down what you said, and everything that was said and done there, didn't he?

A. At least I thought he did.

Q. You just thought he did, you couldn't tell what he was doing, could you? A. No.

Q. Didn't you tell me at that time, Mrs. Hamilton, that this condition of pregnancy that you noticed in Minnie, you noticed within the first two or three months that she began coming to your house? A. I don't recollect that.

Mr. Hanford: That is all.

The Court: Any further cross examination?

Cross Examination by Mr. Stuart.

Q. Mrs. Hamilton, how old are you?

A. I was born in '59.

Q. Fifty nine? A. In August, fifty nine.

Q. Have you been in good health the last few years?

A. Well, yes, I have been pretty well except for asthma.

Q. You suffer from that a good deal?

A. Yes, I suffer for the last two years pretty bad.

Q. Lost a good deal of sleep, haven't you? A. Sir?

Q. You have lost a good deal of sleep during that time, haven't you? A. Well, the last year.

Q. The last year? A. Yes, sir.

Mr. Stuart: That is all.

Cross Examination by Mr. Cobb.

Q. Do you remember the name of this old colored woman that was a friend of Minnie there at Leavenworth that you referred to in your testimony?

A. No, sir, I don't remember any names, she never mentioned any name.

Q. She never mentioned any name? A. No, sir.

Q. You didn't know at that time who the old colored woman was? A. No, sir, I didn't.

Q. Therefore, you wouldn't know now who she was?

A. No, sir.

Cross Examination by Mr. Stuart.

Q. How long was Minnie at the Carlisle Institute while you were there, how many years?

A. Well, she came about eighty-one and I left about eighty two, a little after eighty two.

Q. Are you certain that she came to Carlisle in 1881?

A. Oh, sure, Miss Robertson was there.

Q. Well, I don't care about Miss Robertson, she can tell it herself? A. After eighty two.

Q. Was it in eighty two you left? A. Yes, sir.

Q. In the year 1882 you left there? A. Yes, sir.

Judge Stuart: That is all.

Re-Direct Examination by Mr. German.

Q. Mrs. Hamilton, when Minnie would come to your house while she was working at the Hyde's and cry———

A. Sir?

Q. While she would come to your house and cry, what was it she would tell you?

A. Well, Miss Hyde, you know, didn't like her and used to scold her, tell her she don't do her work right. She said she couldn't please Mrs. Hyde didn't make any difference what she done, she couldn't please her.

Q. That is what she cried about? A. Yes, sir.

Q. Now, you stated that—Mr. Hanford, rather, asked you about possibly suspecting some person of being too intimate with Minnie? A. You mean my husband?

Q. Oh, no, Mr. Hanford, the gentleman who questioned you a while ago asked you about who and your husband discussed there talking about who may have been too intimate with Minnie. State whether or not she had been to the Fort so long that you and your husband discussed the question as to whether it was some soldier or not?

A. Well, we did talk over that.

Q. Did you and your husband ever discuss the question as to whether she had gotten in a family way while at the Hyde's? A. Oh, no, she never did.

Q. Now, you spoke of this man right here, Mr. Bruff—Stand up Mr. Bruff please?

A. Yes, sir, he was the one came to Los Angeles.

Q. About a couple of months ago? A. Yes, sir.

Q. Did he call your attention to what this record showed you had testified to in January, 1916?

A. Yes, he called my attention to the three months time and I was surprised because, that is, the time, I can't understand why it would say that because I forgot and I don't think it was that length of time.

Q. He read the questions and answers?

A. He just mentioned, he never read anything to me.

Q. What did you say to him about it?

A. I was really surprised that I made that statement; I couldn't understand how it was.

Q. Did you say anything about wanting to correct it?

A. Yes, I did, because it is just a short period, I know that is really not so; it was longer time than that.

Q. Now, Mrs. Hamilton, did Mr. Bruff, this man who came to see you about two months ago, did he make any suggestions to you about how long a time that was, did he tell you how long it was? A. No.

Q. Or how long he wanted you to say it was?

A. No, sir, he didn't say anything.

Q. In fact, didn't you say when he got through, you are the only man that has ever talked to me——

Mr. Cruce: We object to that as leading.

The Court: Sustained.

Q. What did you say to him about the way he had talked to you and about suggesting and anything of that kind?

A. He didn't seem to say very much.

Q. What did he say—what did you say to him?

A. Well, I told him that part of it, it was over the year about in a year, that I didn't say that.

Q. Did you intend when you testified at Los Angeles to say it was three or four months? A. No.

Mr. Stuart: We object.

Mr. German: That is all.

Cross Examination by Mr. Stuart.

Q. You said Mr. Bruff read your testimony over to you that you had given in Los Angeles?

A. No, he didn't, he just called my attention to that one place.

Q. To that one place? A. Yes, sir.

Q. What did he say about that at that time?

A. He just said that is what I stated.

Q. What else did he say?

A. Just that period, two or three months, was all that was said.

Q. What else did he say?

A. I said that there was a mistake and that I made a mistake, that it was longer than that.

Q. What did he say?

A. He asked me about what the time was did I think, and I said about a year.

Q. Did he have a paper when he called your attention to the mistake you had made? A. He had a paper.

Q. And called your attention to the mistake you had made? A. Yes, sir.

Q. And then you said you wanted to correct that mistake? A. Yes, sir.

Mr. Stuart: That is all.

Mr. German: That is all.

Mr. Hanford: If the Court please, if they are going to excuse Mrs. Hamilton as a witness for the Government, we would like to have her remain here.

The Court: None of the witnesses will be excused during the course of the trial unless it is by agreement of counsel of all sides, calling attention of the matter to the Court.

Q. Didn't you also testify at Los Angeles, that your recollection of the lapse of time was not good?

Mr. Stuart: We object to that because it is leading. She is his own witness.

(Witness dismissed)

Mr. German: We now offer the deposition of the witness Julia Foy, taken at Sheridan, Wyoming, in January, 1916, before Giles A. Penick, Examiner, which appears in his transcript of deposition shown on page 66.

JULIA GRODEVANT FOY being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. Where do you live, Mrs. Foy?
A. 425 West Works street, Sheridan, Wyoming.
Q. How long have you been living in Sheridan?
A. Since October 14th, 1900.
Q. What is your husband's name? A. Milo W. Foy.
Q. Does he hold any official position?
A. Well, he is going out of office today.
Q. What office is that?
A. City Treasurer, city Commissioner.
Q. Of Sheridan? A. Yes, sir.
Q. How long have you been married Mrs. Foy?
A. Since October 14th, 1914.
Q. What was your father's name?

A. Herbert D. Grodavant.

Q. What was your mother's name?

A. Lattie West Grodavant.

Q. Are your parents living? A. No, both are dead.

Q. When did your father die? A. November 1st, 1908.

Q. When did your mother die? A. December 29th, 1912.

Q. How old are you, Mrs. Foy?? A. I am 25.

Q. You were born then in 1890? A. 1890, April 13th.

Q. Where were you born? A. Denver, Colorado.

Q. Did you live with your parents up to the time of your father's death and then with your mother up to the time of her death? A. Yes, sir.

Q. Did you understand whether they had lived in Leavenworth, Kansas, prior to your birth?

A. Yes, I knew they had.

Q. Was your father connected with the United States Army?

A. He was a civil employe as Superintendent of Instructions.

Q. While he was living in Denver, his work was at Fort Logan?

A. Part of the time and part of the time he had an architectual office.

Q. Did your father keep any memorandum or records of expenses of his personal and family's expenses?

A. He kept an account, yes, sir.

Q. Did you ever see him making any of these records?

A. Often.

Q. What period of his life, so far as your knowledge extends, did he practice doing that?—keeping a record of his expenses and expenditures?

A. Well, from the time he was 14, until a few days before his death. I have the records.

Q. Not from your personal knowledge?

A. No, but he usually did it at home; I would see him doing it in the evening.

Q. What did he keep a record of those expenditures in?

A. Small note books.

Q. At the time of your father's death, was there left by him, any of those note books?

A. Yes, all of them.

Q. And then, what was done with them after his death?

A. Mother and I kept them.

Q. After your mother's death, what became of them?

A. I took them; I was the only child.

Q. You have them now? A. Yes, sir.

Q. Will you please see whether there is one covering the years 1884 and 1885? A. Yes, sir, there is.

Q. Is that it you hold in your hand? A. Yes, sir.

Q. I wish you would look at that and state if you know, whose handwriting appearing therein, is.

A. It is my father's handwriting.

Q. Is that one of the books that you referred to as having come from your father at his death and been preserved by your mother and yourself up to the time of her death, and by yourself since then? A. Yes, sir.

Mr. German: We offer that—the book now held by the witness, as Exhibit No. 1 to this witness' testimony, and particularly that portion of it covering the period of time beginning with the 1st of October, 1884, and ending with the 1st of October, 1885.

Mr. Hanford: The defendants Minnie E. Folk, Harry B. Folk, Edward C. Hanford object to the introduction of this book in evidence on the ground that it is incompetent, irrelevant and immaterial and not properly identified, and on the ground that it is hearsay.

Mr. Blakeney: Counsel has made two offers. I want to object to his general offer for the reason that it is incompetent, irrelevant and immaterial, and hearsay, and not properly identified; and I want to object to the special offer of the items which he says he particularly and especially offers, for the reason that the same are incompetent, irrelevant and immaterial and hearsay and not properly identified.

Mr. Hanford: The defendants Folk and Hanford also object on the ground that the offer is indefinite and double.

Q. I ask you please to refer to the book that you—that has been just referred to, to the date October—

A. To the 22nd?

Q. Yes, October 22nd, 1884. A. Yes, sir.

Q. There appears to be only one entry dated October 22nd? A. Yes, sir.

Q. In whose handwriting is that entry?

A. That is my father's handwriting.

Q. Please refer to item dated October 31, 1884.

A. Yes, sir.

Q. The first item in the list of items under that date, whose handwriting is that in?

A. It is my father's handwriting.

Q. Refer to, please, to the item bearing date of November 15th, 1884. A. Yes, sir.

Q. The first in the list of items under that date, whose handwriting is that in?

A. That is my father's handwriting.

Q. In whose handwriting is the item bearing—the 5th item bearing date of November 29th, 1884?

A. That is my father's handwriting.

Q. In whose handwriting is the third item under date December 12th, 1884? A. My father's handwriting.

Q. In whose handwriting is the 5th item under date December 5th, 1884? A. In my father's handwriting.

Q. In whose handwriting is the second item under date of January 31st, 1885? A. My father's handwriting.

Q. Now, in whose handwriting is the 2nd item under date of February 28th, 1885?

A. My father's handwriting.

Q. In whose handwriting is the 3rd item under date April 1, 1885? A. My father's handwriting.

Q. In whose handwriting is the 8th item under date April 30th, 1885? A. My father's handwriting.

Q. In whose handwriting is the last item under date of May 30th, 1885? A. My father's handwriting.

Q. The first item under date January 2nd, 1885?

A. My father's handwriting.

Q. And the 4th item under date of July 1, 1885?

A. My father's handwriting.

Q. The 3rd item under date of July 1, 1885?

A. My father's handwriting.

Q. The 2nd item under date August 31, 1885?

A. It is my father's handwriting.

Q. The 2nd item under date of September 15, 1885?

A. My father's handwriting.

Q. I wish you would look at the intervening items; the items appearing between the years and dates that I have mentioned, and state in whose handwriting they are.

A. They are all in my father's handwriting.

Q. Mrs. Foy, in the line of the 1st item, the one date October 22nd, 1884, appears in parentheses the letters "C C T" and the figures "14"—whose handwriting are those in?

A. My father's.

Q. State whether the figures appearing, giving the dates and the figures, appearing after the years and items indicating the amount, are in your father's handwriting.

A. Yes, sir.

Q. And all of the writing? A. Yes, sir.

Q. Now, where were those books found upon the death of your father? A. They were in his tool chest.

Q. Where did he usually keep them during his life time?

A. The ones that he was not using were always in the tool chest.

Q. What do you mean by the ones he was not using?

A. The current year book.

Q. Now, have you with you here, all of the book- of his, pertaining to his records—expenditures—that were carried over by you—that have been preserved by you?

> Mr. Hanford: We object on the part of the defendants Folk and Hanford on the ground that the testimony calls for a conclusion of the witness; and the further ground that it is incompetent, irrelevant and immaterial.

A. I have all but one of the books with me.

Q. Where is it? A. At home.

Q. What year does it cover? A. It is the first book.

Q. It is before any of those you have? A. Yes, sir.

Q. How many have you here with you?

A. 12, I think—12, yes, sir.

Q. What is the earliest year appearing in any of the books you have with you?

A. My father was born in '50 and he started in when he was 14, and that would be in '64, his birthday.

Q. Well, at any rate, the books you have here, you cannot readily find what is the earliest year there without looking through—the earliest year is long prior to the '80's, is it not? A. Yes, sir.

Q. In any of the books you have with you here?

A. Yes, sir, 1885 I think is the one.

Q. Now, did your father keep such records as that up to the time of his death?

A. Up to two days before he died.

Q. Were all of those books together in his tool chest when he died, except the last year?

A. Yes, sir, except the one that was in his pocket of the suit that he had been wearing.

Q. And he died in 1908? A. Yes, sir.

A. Have it with you? A. Yes, sir.

Q. State whether these books have been in your possession—your and your mother's possession up to the time of your mother's death, since your father died.

A. Yes, sir.

Q. And in your possession since your mother died?

A. Yes, sir, we have never been without them.

Q. May the court take this to Muskogee and then return it, Mrs. Foy? A. I would rather have them together—

Mr. Allen: If you will let us have that one, I will personally guarantee we will return it to you in just the same shape it is in.

Mr. Hanford: There won't be any trouble over that because I think all the parties will agree to that.

Mr. Allen: It is stipulated and agreed by and between all of the parties that a photographic copy of the pages of the book offered in evidence by the Government may be made and caused to be made by the Examiner and may be substituted by him in lieu of the original book and subject to the objections made to the introduction of the original book, and that then the original book may be returned to Mrs. Foy by the Examiner.

Mr. Hanford: I only agree to the photographic copy for the reason that the matters ought to be put in evidence are all letters and figures that can be readily copied and it does not cover very many items. In the making up of the record on appeal, a copy of that kind can be inserted in the record very easily and very handily, and show everything that is necessary to be shown. The photographic copy is to be made, each one separate and individual for all of the copies of the printed records that is gotten out. Those defendants have just been required to pay $150 and more for the insertion of small photographs of records in the printed transcript of the appeal from the Receivership, and it is for that reason that we prefer the copy of the items and the amount.

Mr. Allen: Let the record show that counsel has not agreed.

Mr. Hanford: I will agree to the stipulation just dictated. It occurs to me now that the printing of the record on appeal will not require photographic copies because the words and figures can be printed; copies that I referred to, were those that cannot be copied and disagreement is with the understanding that the complainant only wishes to have copied the small portion of the book; that is, from October, 1884, to October, 1885.

Mr. Blakeney: I will not agree to anything except a delivery of the book as evidence in the case.

Mr. Allen: Mr. Blakeney says that he will agree to have the pages of the book photographed and now agrees to the stipulation that I have dictated, from October 1st, 1884 to October 1st, 1885.

Mr. Blakeney: My objection is that there will be these pages of exhibits in this case and it is essential that we have the original, but in this particular instance, now, I will consent to the stipulation made by Judge Allen.

The Examiner: At this time the witness surrenders to the custody of the Examiner, the book referred to and identified as Government's Exhibit 1.

Q. I see the name Lottie appearing through there sometime; do you know who bore that name?

A. That is my mother's name.

Mr. Blakeney: Judge Allen, your offer here was the pages of this book commencing with the first entry in October in which it appears Minnie was paid?

Mr. Hanford: There is no testimony there; the book is the evidence.

Mr. Blakeney: You have offered the book—showing the Minnie item, sometime in October, down to and including the last item in which Minnie appears—you have offered all intervening items as well as those that relate to Minnie?

Mr. Allen: Yes, sir.

Mr. German: We offered the book.

Mr. Blakeney: From page to page first, and then you offered especially those items between those dates?

Witness dismissed.

Mr. German: Now, your Honor, there is an important exhibit which we offered in connection with her testimony. It is here and I would like to inquire about those offers.

The Court: It goes with the deposition. If it was offered as an exhibit it is a part of the deposition.

And thereupon, FRANK J. GRODEVANT, was called, sworn and examined as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Frank J. Grodevant.

Q. What age are you, Mr. Grodevant?

A. Sixty four next January.

Q. What do you do, Mr. Grodevant?

A. I am superintendent of construction in the Quartermaster's corps U. S. Army.

Q. In the United States Army? A. Yes, sir.

Q. Where is your residence?

A. At present I am stationed at El Paso, Texas.

Q. Stationed at El Paso at the present time?

A. Yes, sir.

Q. You were living at Fort Sheridan, Wyoming—You were stationed at Fort Sheridan, Wyoming, a while?

A. No, sir, I never was stationed there.

Q. What is the Fort near Cheyenne?

A. Fort D. A. Russell.

Q. How long have you been in the United States Army?

A. Well, if I am with the Government until November 12th, it will be thirty years.

Q. What was the first year of your connection with the army? A. At Fort Logan, Colorado.

Q. Fort Logan, Colorado, what year?

A. That was in 1887.

Q. Were you ever at Fort Leavenworth in Kansas?

A. Yes, sir.

Q. Did you have a brother there named Herbert Grodevant? A. I did.

Q. Where did he live in the eighties?

A. He lived back of the Prison.

Q. At Fort Leavenworth? A. At. Fort Leavenworth.

Q. Back of the military prison?

A. Yes. sir, back of the military prison.

Q. At Fort Leavenworth. Was he married? A. He was.

Q. Were you married? A. No, sir.

Q. What family did he have in the eighties there at Fort Leavenworth? A. Himself and his wife.

Q. Did you or not live with him? A. Yes, sir, I did.

Q. When did you come to Fort Leavenworth?

A. Well, I can't give the exact date, but it was I think in February, 1884, after my father's death.

Q. How long did you live with your brother there at Fort Leavenworth?

A. I was there until I went in the employ of the Government in November, 1887.

Q. Were you there then during the years 1884 and 1885?

A. I was.

Q. Did you know an Indian woman by the name of Minnie Atkins? A. Yes, sir.

Q. Who was she?

A. She was a domestic in my brother's family.

Q. When?

A. Well, I can tell pretty positive from my brother's record which I received. When I first was appraoched on this subject I said it was about 1885.

Q. Yes?

A. But I have since been—I come to the conclusion that it was partially in 1884; my brother's record so states.

Q. What kind of a record do you refer to?

A. His books, books of expense.

Q. Is your brother living or dead?

A. No, sir, he died some years ago.

Q. Is his wife living? A. No, sir, she is also dead.

Q. He has a daughter living? A. Yes, sir.

Q. What is her name? A. Foy.

Q. Julia Foy? A. Yes, sir.

Q. Where did she live? A. Sheridan, Wyoming.

Q. What did your brother keep in this book that you refer to? A. He kept an expense account.

Q. What do you mean by that?

A. Well, any monies he spent he kept an expense account. Any disbursements of his money, purchases.

Q. How long did he do that?

A. He had been doing that for years, before he was married in fact.

Q. And how long after he married did he continue to do that? A. Why, I saw him years after right along.

Q. I show you a book, which has been marked Government's Exhibit 1, which was introduced in connection with the testimony of Mrs. Julia Foy, and will ask you to examine it. Look at the entries in that book in a general way and look at the handwriting. Mr. Grodevant, whose handwriting are those entries in? A. That is my brother's handwriting.

Q. Your brother Herbert? A. Yes, sir.

Q. The brother about whom you have testified?

A. Yes, sir.

Q. State whether you have a personal knowledge of his entering items of expense incurred by him?

A. Yes, sir, I saw him do it at Leavenworth after I came there.

Q. Fort Leavenworth? A. Yes, sir.

Q. When would he make the entry with reference to when he would make the expenditures?

A. Well, I have seen him making them most of them in the evening.

Q. Did he make entries every evening or not?

A. Well, I couldn't say as to that.

Q. State whether that book that you hold in your hand was one of the books used by him in the way you refer to?

A. Yes, sir, he had narrower books than that, smaller books.

Q. Is that one of the books that he was using?

A. I saw him using this style of book, yes, sir.

Q. About how many of these books did you know of his ever having used or put together?

A. Different ones that I seen?

Q. Yes.

A. Well, you know, I didn't live with him always. I know him to keep accounts whenever I was with him because he and I both started them there.

Q. Did you do that way, too? A. Yes, sir.

Q. Have you kept that up?

A. No, sir, after I went to the Philippines, I couldn't keep it up. They had so many variations of money.

Q. But I say, you did do it up to the time you went to the Philippines? A. Yes, sir.

Q. A daily record? A. Yes, sir, of my expenses.

Q. Did you include*d* every item of expense?

A. Yes, sir, everything.

Q. Street car fare?

A. Yes, sir; everything—even newspapers.

Q. I will ask you if your brother's statement and your's was the same in practice—or to the same effect?

A. Well, the general result was the same about recording expenses.

Q. Now, Mr. Grodevant, was there any servant in your brother's family prior to the time Minnie Atkins was a servant? A. Oh, yes, sir.

Q. There were others? A. Yes, sir.

Q. Was there any servant in the family afterwards?

A. Yes, sir.

Q. Mr. Grodevant, during the time that Minnie was in the family, state whether your brother kept a record of the payment of wages to her?

A. Well, I can't state just how he kept the payments or what they were.

Q. I will show you this book which has been introduced in connection with the testimony of Mrs. Foy and call your attention to the item appearing under the date October 22nd, 1884, which reads October 22, Minnie Atkins——

Mr. Cruce: We object to the introduction of that statement, if Your Honor please. It is hearsay, and incompetent, testimony.

The Court: Well, he is incorporating it in a question, now.

Q. Parenthesis October 14, end of parenthesis, two dollars: state whose handwriting that is in.

> Mr. Cruce: Associate counsel tells me we are not objecting, so I will withdraw the objection.
>
> The Court: Alright.

A. That is my brother's handwriting.
Q. That is your brother's handwriting?
A. That is my brother's handwriting.
Q. Now, look at the item of October 31, 1884, and state whose handwriting that is in. A. That is his writing.

> Mr. German: I will not go further with this witness on that line until we prove that by Mrs. Foy.

Q. Mr. Grodevant, by reference to that book, can you now refresh your memory as to the time when Minnie Atkins was in your brother's family as a servant?
A. I can't as to the exact date; only by the reference here.
Q. About how long was she in your brother's family?
A. Well, I stated in my deposition, I could only recollect in 1885.
Q. Yourself, personally?
A. Yes, sir, as near as I could recollect.
Q. Independent of any record?
A. Yes, sir, independent of any record. That was impressed in my mind when the question came up without reference to this book or any record.
Q. Do you have an independent recollection of that?
A. Yes, sir, of the year.
Q. About how long did she stay there, according to your independent recollection?
A. Well, I can't fix any date. To the best of my recollection as to the length of time, I should say.
Q. How?
A. I couldn't fix any length of time for her being in the employ of my brother's people—a mere recollection.
Q. Was you living there when she came? A. Yes, sir.
Q. Were you living there when she left? A. Yes, sir.
Q. You had been there a while before she came?
A. Yès, sir.
Q. And you stayed there a while after she left?
A. Yes, sir.
Q. What did she do around the home?
A. Well, she was a domestic; she washed; was not much of a cooker—did the general housework.
Q. Did she wait upon the table in the dining room?

A. Well, there wasn't any general waiting on the table. The things were placed on the table and we ate.

Q. Did you see her very frequently or not?

A. Well, I didn't see her every day.

Q. About how often would you see her around the home?

A. I might state I was at the Prison, or the Fort, you know, during the day.

Q. Yes; were you at this home during the day?

A. Only in the morning and evening.

Q. Morning and evening? A. Yes, sir.

Q. For breakfast and the evening meal? A. Yes, sir.

Q. And then were you at home at night? A. Yes, sir.

Q. Now, about how often would you see Minnie?

A. Probably several times during the week. Some evenings I wouldn't see her when I came home late.

Q. Now, at the period of time that she worked for your brother's family considering the time when she begun the work there, and running through until the time when she was discharged or discontinued working there, state whether you say her every week in the manner you just suggested.

A. Yes, sir, I saw her every week when she was there.

Q. She was in your brother's employ continuously from the time she begun when you first saw until she finally quit?

A. Yes, sir, as far as I know, yes, sir.

Q. Well, you know, do you not? A. Yes, I think I do.

Mr. German: Now, I desire to invite Your Honor's attention to the fact that this expense account—record—shows a payment to her, beginning—the first payment to her was in October, 1884, and the last one was on September 15th, 1885.

Mr. Stuart: Yes, sir, but we don't agree with him that it shows a continuous payment during that time.

Mr. German: I know you don't.

Mr. Stuart: We don't agree that the book shows, Your Honor——

Mr. German: That is a question for the Court.

The Court: His statement is that the book shows the first payment in October, 1884, and the last payment of date, September, 1885, but you don't admit that it shows her continuous service there between those dates.

Mr. Stuart: Yes, sir, the book don't show it.

Mr. Hanford: If Your Honor please, we have a stipulation in regard to that book.

The Court: Alright.

Q. Mr. Grodevant, during this time, was Minnie Atkins —did she give birth to any child while she was working there for your brother? A. Not to my knowledge.

Q. Did she have the appearance of being in the family way? A. No, sir, not to my——

Q. She didn't to you?

A. No, sir, I never saw her for any very great length of time but she never gave any appearance of that kind to me.

Q. You are not a married man? A. No, sir.

Q. But you do know the appearance of a woman who is pregnant? A. Yes, sir. I do.

Q. That is when it is developed to show outwardly?

A. Yes, sir.

Q. Now, what was her demeanor while there with relation to her conduct toward men so far as you observed?

A. I never saw anything out of the way with Minnie?

Q. Was she or not on duty regularly?

A. So far as I know.

Q. Did you see her after she left the employ of your brother?

A. Yes, sir, I think I saw her a couple of times afterwards there.

Q. Around the Fort? A. Around the Fort, yes, sir.

Q. Do you know for whom she was employed?

A. Well, I know now, I couldn't recall the names, but I have heard it. The Stafford's—an officer in the army.

Q. You remember the fact that she worked for Staffords but you didn't recall his name until recently?

A. Yes, sir, I remember the fact.

Q. Do you know when she worked for the Staffords with relation to when she worked for your brother's family?

A. No, I don't; I can't tell the interval between.

Q. Was it before or after she was employed in your brother's family? A. It was afterwards.

Q. Where did Lieutenant Stafford live?

A. I can't tell you; I never did know.

Q. Well, was he in the Fort?

A. He was at Fort Leavenworth, as I understand.

Q. You mean you don't know what particular quarters he had? A. Particular house, no, sir.

Q. What was your brother's business there?

A. He was the foreman in the Prison of the wood-working department; carpenter's job.

Q. Who was Mr. Stafford?

A. Mr. Stafford was an officer in the army as I understood.

Q. A lieutenant?

A. I can't say whether he was a lieutenant or a captain.

Q. At those time- you saw Minnie, was she or not in a family way after she left your brother's?

A. At no time did I perceive her in that condition.

Q. Did you ever see her after that except when she was working for the Staffords? A. Yes, sir.

Q. Where? A. I saw her at Fort Logan.

Q. At Fort Logan? A. Yes, sir.

Q. When did you go to Fort Logan?

A. I went in November, '87.

Q. What company did you go with, if any?

A. I didn't go with any, I was ordered there by the Government. It was my first employment in the Government service.

Q. That was your first employment? A. Yes, sir.

Q. Did you know of Company E of the 18th Infantry being transferred from Fort Leavenworth to Fort Logan?

A. I don't recall it, no, sir.

Q. When was Fort Leavenworth established — I mean Fort Logan, established?

A. Well, there wasn't anything done on it until these plans—there were temporary buildings there when I first went to Fort Logan.

Q. Just temporary?

A. It was called the Post near Denver; it hadn't been named.

Q. How long did you remain stationed at Fort Logan?

A. About three years and a half.

Q. And you knew Minnie there?

A. I saw her there, yes, sir, occasionally; not very often.

Q. Did you know much of her there? A. No, sir.

Q. Mr. Grodevant, would you be able to identify or to state whether this plat represents a correct plat of the location of your brother's home with relation to the Military prison at Fort Leavenworth as it existed in 1884-5?

A. I think I would if it were correctly drawn. That is about the way it was when I lived there.

The Court: Fort Leavenworth or Fort Logan?

A. Fort Leavenworth.

The Court: What bearing has that on the case?

Mr. German: None, right now, Your Honor. I will offer it for the future.

The Court: You do not introduce it now?

Mr. German: We do not.

Q. The court reporter has marked this Exhibit A-79, state whether it represents approximately the relative location of the buildings as located there?

A. Yes, sir, when I lived there.

Q. Who lived near your brother?

A. Collins, and Southman, and the Clarks.

A. Did you know William Jackson? A. Yes, sir.

Q. Did he live near there? A. Yes, sir.

Q. And Henry Jackson? A. Yes sir.

Q. Are their residences correctly set forth on this plat?

A. Yes sir.

Q. The location of them?

A. As I remember them, yes sir.

Q. Mr. Grodevant, I show you a photograph of resident; do you recognize that? A. I do.

Q. Whose residence is that?

A. That is the front porch of my brother's residence.

Mr. Hanford: The way it was then or the way it is now?

A. I don't know how it is now; I haven't been there in 20 years.

Mr. German: I ask that that be marked as exhibit A-80.

Mr. Hanford: Does this purport to be a photograph of the residence the way it is now, or the way it was then?

Mr. German: I don't know; now, I guess.

Mr. Hanford: Was it the same way then?

A. Yes sir, that dorman was put on while I was there.

Q. Now, I show you another photograph which has been marked A 81, I will ask you to examine that and state if you recognize the buildings in that.

A. I recognize portion of it but it has been altered since I saw it.

Q. Altered? A. Yes sir.

Q. From the portions which you recognize, state what building it is.

A. That is a part of my brother's residence, or one similar to it.

Q. This is which part?

A. The kitchen portion; had one window in the back.

Q. You recognize that? A. That portion.

Q. And the porch?

A. No, sir, the porch is different from what it eas when my brother lived there.

Q. What is the difference, Mr. Grodevant, in that respect?

A. This porch was not covered at the left; when I lived there it was just a stairs and platform.

Q. What we call the steps? A. That is all.

Q. And the platform—the floor, in other words?

A. Yes, sir; that dormant window was not on.

Q. The one on the left hand side of the picture?

A. No, sir, and this porch is different.

Q. On the right hand side of the picture? A. Yes sir.

Q. Was there a porch on there?

A. Yes sir, I should say by memory, about eight steps of this incline down here.

Q. In the rear of the house? A. Yes sir.

Q. There was a porch on both the right hand side and the left hand side of the rear?

A. Of the original house, yes sir.

Q. But it was not covered like those porches were?

A. No sir.

The Court; I assume this will become material.

Mr. German: It will become material.

And thereupon cour- takes a recess until 9:30 o'clock A. M.

And thereafter, on May 4, 1917, the Court reconvened at ten o'clock, A. M., pursuant to adjournment, and the following proceedings were had.

And thereupon, FRANK J. GRODEVANT was recalled for further direct examination and testified as follows:

Redirect Examination by Mr. German.

Q. Mr. Grodevant, you spoke of some repairs being made on the residence of your brother while Minnie was with him there? A. Yes sir.

Q. Do you know what time, during the time she was working there that occurred?

A. I think it was in the spring of 1885.

Q. You think it was in the spring? A. Yes sir.

Q. Where did Minnie, what part of the house was she permitted to use as her private room?

A. She lived in the second story of the house.

Q. Second story?

A. Yes, sir, it was a half story, it was not as high as the main part, the part she lived in.

Q. How is that?

A. The part she had her room in was not as high as the main part of the house.

Q. Was it in the rear? A. On the south side.

Q. Which way did this house face?

A. This house faced west.

Q. Was it a two story house? A. Just one portion.

Q. One portion? A. Yes sir.

Q. The room she occupied was the part of the second story? A. It was the attic of the lower part.

Q. A portion of the house was two story and a portion was a story and a half?

A Yes, sir, it was unfinished at the time she first occupied it.

Q. Was it finished during the period of her working there?

A. I think it was in the second summer, 1885.

Q. Did you know a banker there known as George H. Hyde living in Leavenworth?

A. Yes, *sri*, I had one transaction with him.

Q. What bank was he connected with?

A. Well, I don't recollect.

Q. Was it the German National Bank?

A. I think it was, yes, sir.

Q. Did you know where Minnie worked before she came to work for your brother? A. Well, I always understood——

Mr. Stuart: Well, we object to that.

The Court: Yes, what you understood you are not permitted to state.

A. It is only hearsay.

Q. Where did you get the information you had on the subject of where she worked before she came to your brother's? A. My sister-in-law said——

The Court: It don't make any difference where he got the information, he couldn't state now.

Mr. German: We offer to prove by the witness that within a week before Minnie came to work for the Grodevant's, Mrs. Grodevant stated to the witness that she was in the employ of George H. Hyle.

The Court: That is, Mrs. Grodevant stated to him?

Mr. Stuart: Yes, sir.

The Court: Clearly hearsay absolutely.

Mr. German: We except.

The Court: Exception noted.

Q. Mr. Grodevant, you stated that you knew Minnie at Fort Logan? A. I saw her there, yes, sir.

Q. After you had left Leavenworth? A. Yes, sir.

Q. Did you know of her having any children there?

A. When I first saw her she was wheeling a baby.

Q. Wheeling a baby? A. Yes, sir.

Q. Do you know what became of that child?

A. I don't know what became of that particular child.

Q. Do you know of her having—of a child of hers having died there? A. Yes, sir, I always understood so.

Mr. Stuart: Your Honor, we object.

The Court: Well, this man's understanding isn't competent. We are now going back a good many years, and if we add to the lapse of time the matter of hearsay.

Q. Who was the first person buried in the Post Cemetery at Fort Logan—— Do you know who was the first person buried at Fort Logan Cemetery?

A. I don't know definitely, it is only hearsay.

Q. Were you there at the time?

A. I was at Fort Logan at the time, yes, sir.

Q. Was there any particular comment growing out of the fact of that burial? A. No, sir, not that I know of, no, sir.

Q. Have you seen this Minnie Atkins recently?

A. Yes, sir.

Q. Where? A. I saw her at the Severs Hotel.

Q. When? A. Saw her Monday morning.

Q. Did you have any conversation with her? A. I did.

Q. State whether or not she, in the conversation, said anything about your brother and his wife?

A. She asked how they were.

Q. Did she call their names?

A. Well, she called them by Mr. and Mrs. Grodevant.

Mr. German: That is all.

Cross Examination by Mr. Stuart.

Q. Did you go up to her at any time here to find out what she knew about this case? A. No, sir, Judge.

Q. Did you say, what you said was a mere social conversation amounting to only a few seconds, wasn't it?

A. Yes, sir.

Q. Mr. Grodevant, where did your mother live during the year 1885? A. Well, I don't know——

Q. Can't you tell where your mother lived in 1885?

A. She didn't have any definite residence.

Q. Well, where was she staying then?

A. She came there and visited me some.

Q. Didn't she stay in Topeka during 1885?

A. My mother?

Q. Yes? A. Step-mother?

Q. Yes? A. Not to my knowledge.

Q. Where did she stay?

A. I don't believe she was ever in Topeka.

Q. What was your step-mother's name.

A. Mary C. Grodevant.

Q. Mary J. Grodevant? A. No, sir, Mary C.

Q. She was left a widow when your father died in 1885?

A. Yes, sir, in Syracuse, New York.

Q. And during the year 1886 and 1885, didn't she live in Topeka with a son by a former marriage?

A. Not to my knowledge, no, sir.

Q. Well, do you know? A. No, sir.

Q. You don't know. Don't you know that your brother, Frank, visited her frequently during the year 1885?

A. My name is Frank.

Q. That you frequently visited her during the year 1885 in Topeka for two or three days at a time? A. No, sir.

Q. Just recall that now, didn't you visit your mother during the summer of 1885? A. May I make a remark?

Q. Yes, certainly, make any explanation you choose?

A. Before my father died I recall my father and mother were in Topeka before my father died; father and mother came west and they went to Topeka.

Q. This house that you spoke of there had a living room, bed room, dining room, and kitchen down stairs? A. Yes, sir.

Q. And two bed rooms and an unfinished room in the attic? A. Yes, sir.

Q. And Minnie lived in the unfinished room? A. Yes, sir.

Q. Now, as a matter of fact, that unfinished room wasn't completed until after the fiscal year in 1885, was it now then, that is after July? A. Yes, after July.

Q. After July when it was completed? A. After July.

Q. So, that the room had the gable end of it unfinished until July, didn't it, it wasn't a complete room until July?

A. They only put dormers in, Judge.

Q. I say it wasn't a complete room until July?

A. I think not.

Q. Now, Minnie lived in that room for a little while during the winter of 1885? A. Yes, sir.

Q. There wasn't any fire there? A. No, sir.

Q. Cold winter? A. Yes, sir.

Q. And she left there frequently at night and *staaid* away on account of the cold, didn't she?

A. Well, I don't know as to her going away, Judge.

Q. Now, do you know whether she went away or not?

A. No, sir.

Q. You do know that there was no fire there?

A. I know that Judge.

Q. And you know that that room was exposed to the weather? A. Yes, sir.

Q. You can't say to the Court whether she was away during the night time or not? A. No, sir, I cannot, Judge.

Q. The truth is, Mr. Grodevant, that you were away during all of the day, wasn't you? A. Yes, sir.

Q. You got your breakfast at eight o'clock in the morning and went away and *staid* the whole day?

A. I had my breakfast before eight o'clock.

Q. And you went out and did your days work and came back at night and went to bed to sleep? A. Yes, sir.

Q. You had no particular knowledge of this girl at all, did you? A. No sir, I didn't, Judge.

Q. You just saw her about the house occasionally, didn't you? A. Yes, sir.

Q. Paid no particular attention to her? A. No sir.

Q. You weren't looking to see whether she was pregnant or not, were you? A. No sir.

Q. It didn't enter your head, did it? A. No sir, did not.

Q. And therefore, when you state that she didn't appear, you mean that you didn't see anything at the infrequent times that you saw her that suggested it to you?

A. No sir, I did not.

Q. That is what you mean exactly? A. Yes sir.

Q. Now, as a matter of fact, you heard Mrs. Grodevant complaining at her frequently about staying out late at night, didn't you? A. Yes, sir, I heard that.

Q. Staying out late at night? A. Yes sir.

Mr. German: I object to that as hearsay.

The Court: The question was whether he heard Mrs. Grodevant complaining to Minnie about her staying out late at night. I think that is proper cross examination of this witness, with relation to Minnie staying there, her conduct, and all that sort of thing; I think that is competent, I don't think that is hearsay. That is a circumstance in regard to Minnie's living there.

Mr. German: If I didn't misunderstand the witness, he stated Mrs. Grodevant said she *staid* out late at night.

The Court: Did you ever hear Mrs. Grodevant complaining to Minnie about staying out late at night?

A. No, not to Minnie. I heard her complaining in my presence.

The Court: The answer will be stricken.

A. I never heard her upbraiding Minnie for anything.

Q. Minnie used to wear a red dress, didn't she?

A. Yes sir, a polka-dot dress.

Q. And Minnie had her hair braided down her back? You remember that, don't you? A. Yes sir, I do.

Q. Mr. Grodevant, she was a simple, childish girl, wasn't she? A. Yes, she was.

Q. You *just* her to have the mind of a child, didn't you?

A. It wasn't a very *braod* mind?

Q. And you had noticed her with that polka-dot dress on and black hair down her back? A. Yes sir.

Q. Did you ever hear Mrs. Grodevant ever speak to her about being too intimate with soldiers? A. No sir.

Q. Now, you don't know, Mr. Grodevant, whether Minnie was away a week or ten days, or two weeks at a time, di you?

A. I don't recall it at all.

Q. She might have been away two weeks, and you not know it—or three weeks and you not know it?

A. Yes, sir. Only one thing that led me to think that she might have been.

Q. What is that? A. That book.

Q. That is what we want to talk about now.

A. I hadn't seen that book until yesterday.

Q. Now, you say this is your brother's handwriting?

A. Yes sir.

Q. This is the book they introduced? A. Yes sir.

Q. Now, that book shows, Mr. Grodevant, that on June 2nd, Minnie Atkins was paid one doller, doesn't it?

A. I can't remember that.

Q. I will have to identify it. June 2nd shows Minnie Atkins was paid a dollar, doesn't it? A. Yes sir.

Q. June 2nd. Now, we will turn over here further, on July 14th, we find that Maggie was paid five dollars, and a dollar and a half, and it is carried out to five dollars; he evidently made a mistake about the five or a mistake about carrying out; it would either be six and a half or a dollar and a half remitted?

A. Something was wrong there.

Q. Something was wrong there. Who was that Maggie?

A. Maggie Curry.

Q. Maggie Curry? A. Yes sir.

Q. Now, Maggie Curry did work for your brother? About that time, didn't she? A. Yes sir, Maggie worked there.

Q. Now, this book shows that Maggie got five dollars, don't it? A. Yes sir.

Q. During the month of June? A. During June.

Q. From June 2nd to June 14th, don't it? A. Yes, sir.

Q. Now, there is no other entry there for Minnie until July 1st, is there? A. No sir.

Q. And on July 1st Minnie got ten dollars, didn't she? A. Yes sir.

Q. Now, if she got two dollars and a half a week, that made ten dollars a month, don't it? A. Yes sir.

Q. The book shows, however, that five dollars was paid in July? A. Yes sir.

Q. That means in your judgment that he advanced her five dollars in July? A. Yes sir.

Q. Advanced her five dollars for July? A. Yes sir.

Q. So that meant that she didn't get any pay until between the 2nd and the middle of June, didn't it?

Mr. German: I object to that.

Mr. Stuart: Well, Your Honor——

The Court: The book itself probably will speak as to what is there, with such explanations as he may properly give as to the manner in which it was kept.

Mr. Stuart: I thought Your Honor preferred that I explain the book as I went on.

The Court: That is alright for you to explain it, but if you are arguing now what the book shows, we will have the—we will leave the witness out of it.

Mr. Stuart: I am not trying to explain it myself but asking if the book shows that.

The Court: If that is on the book, the book will show it.

Q. This book shows that Minnie didn't get any money in June except on June 2nd, don't it?

Mr. German: Well, we——

Mr. Stuart: Read the book, then.

The Court: Let him answer.

Q. Have you studied this book?

A. My niece sent me a copy of the payments that were made in this book after I discovered it.

The Court: Read the question.

(Question read)

The Court: Do you know whether the book shows that or not? ,

A. I don't; I said I don't recall.

The Court: Well, frame your question again; so far as what the book shows, of course the book itself is the best evidence.

Mr. Stuart: I was trying to explain it for the benefit of the Court.

Q. Now, the book does show, does it, that Minnie received a dollar on the 2nd day of June? The book shows that? A. Yes sir, the book shows it.

Q. And the book shows that she received ten dollars on the first of July—I believe in July, early in July—ten dollars? A. Yes sir.

Q. And the book shows that five dollars of that was for July? A. I so understood it.

Q. So, the only entries on the book, then, are June 2nd, a payment to Minnie, and the next entry on the book is a July payment? A. Yes sir.

Mr. German: You mean to say so far as that month is concerned?

Mr. Stuart: I mean so far as this book is concerned.

The Court: Well, the book will show for itself as to later payments. I understand, now, he is interrogating in regard to that particular payment in June and early July?

Mr. Stuart: That is it, Your Honor.

Q. Now, Mr. Grodevant, you *knoew* Maggie Curry about like you knew Minnie Atkins?

A. About like the same, yes sir.

Q. Knew a girl was there? A. She lived next door.

Q. You don't know how long she worked there?

A. No, I don't.

Q. You know that she did work there in the summer of '85? A. Yes sir.

Q. Now, Minnie's duties about the house were simply to *do* help do the washing and housecleaning?

A. Yes, sir, and general work.

Q. She was not much of a cook? A. No sir.

Q. And Mrs. Grodevant had to do most of the cooking? A. Yes sir.

Q. There were only three of you in the family, weren't there? A. Yes sir, that is all.

Q. Yourself and brother and his wife? A. Yes sir.

Q. And your brother's wife was a very domestic woman? A. Yes, sir.

Q. She baked her own bread, didn't she? A. Yes sir.

Q. And Minnie's work was generally outside of the dining room? A. Yes sir.

Q. It was only occasionally that you would see her in the dining room? A. Only occasionally, yes sir.

Q. Maggie Curry did exactly the same kind of work that she did, didn't she?

A. Yes, sir. I don't think Maggie Curry did any washing.

Q. But the other work was about the same. A. Yes sir.

Q. Now, during that time, your brother frequently got parole men to come to the house to work, didn't he?

A. Yes sir.

Q. And off and on, he had them do what work they could do around the house? Helping around there? A. Yes sir.

Q. That is true, isn't it? A. Yes sir.

Cross Examination by Mr. Hanford.

Q. Mr. Grodevant, in this book, under October 31, 1885, I call your attention to the entry to which I point. That shows that Maggie Curry was paid six dollars on that date?

A. Yes, sir, the 31st of October.

Q. That was in your brother's handwriting?

A. It is, yes sir.

Q. And reads, Maggie Curry, six dollars; and on December 7th, 1885, there is an entry Maggie Curry, two dollars and a half? A. Yes sir.

Q. That is in your brother's handwriting? A. Yes sir.

Q. You so identify it? A. I do.

Q. And it shows that she was paid two dollars and a half on that date? A. Yes sir.

Redirect Examination by Mr. German.

Q. Mr. Grodevant, you say Maggie Curry worked there some? A. Yes sir.

Q. Was she a white girl? A. Yes sir.

Q. And where did she live? A. She lived next door.

Q. Next door? A. Yes sir, in the next house.

Q. In the next house? A. Yes sir.

Q. Can you tell—could you tell, you say you don't know just how much she worked there, could you tell by reference to that book, to refresh your memory, as to payments made to her, and how much she did work there? How often and when?

A. I can't from that book, but as I recollect, she came there at different times.

Q. Yes sir?

A. You see, she lived next door, and when Mrs. Grodevant was ill, or anything, she would get Maggie to come and assist in doing the work about the house. But at one time, I don't recollect when, she was there for a number of weeks.

Q. Outside of that one time, did she ever work there regularly? A. I don't think so.

Q. Do you recall her and Minnie being in the house at the same time? A. No, I don't.

Q. You don't remember whether they were or not?

A. No sir.

Q. You spoke a moment ago of parole men doing the work around the house, under Judge Stuart's cross examination. What sort of work would they do?

A. Oh, they would cut wood, or bring in coal and sweep the walks.

Q. That book of your brother's shows a payment to Lettie, now and then. Who was Lettie?

A. That was Mrs. Grodevant.

Q. Mrs. Grodevant? A. Yes sir.

Q. Can you refer to that book, look through the different items of expense as recorded there by your brother and tell the name of every person who was a servant who appears on there? A. I don't think I could.

Q. You knew Maggie Curry. A. Yes sir.

Q. And knew the work she did in the home was that of a servant? A. Yes sir.

Q. As to Minnie, the work she did was as a servant?

A. Yes sir.

Witness dismissed.

Mr. German: We offer the deposition taken before Mr. Penick, of Margaret Mortion, appearing in the transcript, beginning at page 599.

And thereupon **MARGARET MORTON**, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name, age and place of residence.

A. Margaret Morton; age 41; 901 East 12th street, Kansas City, Missouri.

Q. What was your maiden name.

A. Margaret Diffley.

Q. After the death of your father, was your mother married to any one else? A. Yes sir.

Q. Whom? A. Charles Woods.

Q. Where were you living in 1884 and 1885?

A. Fort Leavenworth.

Q. And 1886? A. Leavenworth, Kansas.

Q. Did you know Minnie Atkins, or Indian Minnie, or Minnie Peterkin? A. Yes.

Q. In 1880? A. Yes, I knew her in 1885.

Q. Where was she when you first became acquainted with her? A. Fort Leavenworth.

Q. For whom was she working if you know, when you first saw her?

A. She worked for Lieut. Stafford at Fort Leavenworth, and she worked at Grodevant's.

Q. Did you know her when she worked for the Grodevant's? A. Yes, sir.

Q. How long did you know her before she went to work for Stafford's?

A. Well, I don't know just exactly how long it was but I know Stafford's was the last place she worked; she left there and came to my mother's house—rented some rooms there.

Q. What name did she go by when she came to your home?

A. Minnie Peterkins.

Q. Was anybody living with her as her husband at that time? A. Her husband, Charles Peterkins.

Q. What year was that? A. That was in '86.

Q. How long did she live at your—did they live at your home?

A. Well, she lived there, I think, three months—two or three months, something like that.

Q. State if you know whether or not during the time that she lived at your home, and at your home she gave birth to a child?

A. Yes, sir, she gave birth to a baby boy there, the latter part of July of 1886.

Q. Was that child born at your home? A. Yes, sir.

Q. Were you at home when the child was born?

A. Yes, sir.

Q. What became of that child? A. It died.

Q. Did you know how long it lived?

A. No, I am not positive, but I think it lived to be about four or six weeks old, something like that—probably longer but I am not positive.

Q. Do you know the name of the child?

A. No, not exactly; I think it was Robert Lee, if I am not mistaken.

Q. Where was this child buried, if you know?

A. It was buried in Mt. Muncie.

Q. Do you know whether or not this child was christened?

A. Yes, it was christened just a few hours before it died.

Q. By whom? A. By Father Kelley.

Q. How long did Minnie live at your home after the death of this child?

A. Well, I am not positive but I think it was just a month or two; I know it was no longer than two months, if it was that long.

Q. Do you know where she then went to?

A. Why then, she was getting ready to go to a Fort in Colorado but she just didn't leave our house and go there. I think she went from our house and stayed with a family on 7th street and Kiowa, or Dakota.

Q. Do you know the names of those people?

A. I think it was Hamilton—some friends of her's.

Q. Where was this child christened?

A. Right at the house.

Q. Were you at home at the time? A. Yes, sir.

Q. I believe you stated that was just a little while before the death of the child? A. Yes.

Q. Who else was there besides you at the time that the child was born?

A. Well, of course my mother was with her; I was in the other room when the child was born, of course. They came and woke my mother up and she went in there, and took care of her in the night.

Q. Do you know whether any one else was there?

A. Just my mother and the Doctor was all.

Q. What Doctor? A. Dr. Carpenter.

Q. Who was present besides you when the child was christened?

A. Why, my mother, and Minnie—the mother of the child, and my sister and myself, and the lady who stood for her, Mrs. Walker.

Q. Is Mrs. Walker living now? A. No, sir.

Q. Is your mother living now? A. No, sir.

Q. Was Mr. Woods living at that time? A. No, sir.

Q. Your sister's name? A. At that time was Mary Diffly.

Q. What is her name now? A. Mary Allen.

Q. Where does she live? A. Leavenworth, Kansas.

Q. Did you ever know of Minnie giving birth to any other child during the time—or at any time?

A. No, sir, I do not.

Cross Examination by Mr. Hanford.

Q. Mrs. Morton, when were you born?

A. In 1874, at Leavenworth, Kansas.

Q. In Leavenworth? A. Yes, sir.

Q. Then in 1886, you were 12 years old, is that right?

A. Well, I was 12 years old.

Q. What month in 1874 were you born?

A. 24th of January.

Q. January '74? A. Yes, sir.

Q. You said that you worked at Fort Leavenworth?

A. No, sir, I didn't work there. I lived there with my parents.

Q. Where did you live in the Fort?

A. Well, right back of the Prison—the building *os* torn down now.

Q. Was that prior to your mother's marriage to Mr. Woods?

A. Yes, sir, she was married when she moved there.

Q. And you didn't work out at that time? A. No, sir.

Q. A child of 11 years old? A. No, sir.

Q. Did you know Minnie Atkins at that time, or did you just see her about?

A. No, I knew her.

Q. You knew her? A. Yes, sir.

Q. Talk with her? A. Yes.

Q. Did you go with her? A. No.

Q. You said that child lived four or six weeks?

A. I say I should judge it was about four or six weeks old when it died—it might have been older or it might have been younger—that is the best of my knowledge.

Q. You saw the child about the house? A. Yes, sir.

Q. Did Minnie nurse it? A. Yes, sir.

Q. The child was a good deal of care was it not?

A. Why, it was sick, I think, almost from the start; I am not positive but I think it was.

Q. That is, it wasn't a healthy child? A. No.

Q. It was sickly and troublesome?

A. Yes, I remember hearing it cry a lot.

Q. It gave Minnie a good deal of care, and your mother, perhaps too, did it not? A. Yes, sir.

Q. You said that Dr. Carpenter—. A. Yes, sir.

Q. Was the Doctor? A. Yes, sir.

Q. You have testified before in this matter—that is on the Receivership hearing? A. Yes, sir.

Q. At Muskogee? A. Yes, sir.

Q. At that time you stated that Dr. Griffith was the Dr. that attended Minnie? A. No, Dr. Carpenter.

Q. Isn't it a fact, Mrs. Morton, that you were asked was there a Doctor, and you answered yes, sir, and then you were asked what Doctor, and you answered, if I am not mistaken his name was Dr. Griffith?

A. No, sir, I didn't.

Q. Then if the record of that hearing shows those questions and answers, the record is wrong, is that so?

A. Why yes, because it must have been a misunderstanding. I never knew any one in Leavenworth by the name of Dr. Griffith. I remember they asked my mother about a Doctor, and she referred them to Dr. Carpenter.

Q. And you remembered that at that time? A. Yes, sir.

Q. Isn't it a fact, Mrs. Morton, that your recollection has been refreshed? A. No, sir, I don't think so.

Q. Since that time? A. No, sir.

Q. After the child was born at your house, Minnie herself was sick for some time, was she not?

A. Why, no, I don't know that she was — outside of the confinement of the child.

Q. How long was Minnie in bed?

A. Well, I can't say that I know; she was up and around when the child died.

Q. She went to the funeral when the child was buried?

A. Yes, sir.

Q. She was attended by another woman, was she not?

A. Yes, sir.

Q. That was a woman that lived next door to you?

A. No.

Q. By who?

A. She lived about a block and a half, I guess, from our place.

Q. Who was that?

A. Mrs. Harter, I think they pronounced it; I don't know whether it was Harder, or Harter.

Q. She assisted Minnie to get ready to attend that funeral, did she not?

A. Well, I don't know about that; she took care of her and the child at the confinement. She wanted my mother and my mother told her she was going away, and she would have to get somebody else. Of course, my mother would have taken care of her in the meantime, if it happened before, but my mother had the day set to go away and she told her she would have to get somebody else, and she didn't, and she had taken sick in the night, and they came in for my mother and she went in and she had taken care of her that night and the next day, and she got this Mrs. Harter.

Q. They went to the funeral in a carriage? A. Yes.

Q. That was Minnie's first attempt to get out after the child was born, was it not?

A. Well, I am not positive about that but I rather think it was. Of course, she might have been next door to the grocery store, something like that.

Q. But you don't recall?

A. I don't remember her going anywhere, no.

Q. She spent her time in the house, recovering from the affects of the child birth? A. Yes, sir.

Q. And taking care of the child herself? A. Yes, sir.

Q. Did this woman that you speak of, assist in nursing the child through its illness? A. That is Mrs. Harter?

Q. Yes.

A. Well, she was back and forth there; I don't think she paid much attention to the child, but she was back and forth there but she took -are of Minnie and stayed until she got up.

Q. They made no attempt to take the child about? A. No.

Q. Until it died? A. No.

Q. Where did you first live, Mrs. Morton, after you came to Leavenworth from the Fort?

A. I lived on North Eighth street; I think the house address was 816, or 815, I am not sure now.

Q. You went to live at the same house where this child was born? A. Yes, sir, it was at my mother's house.

Q. Is that in the locality called a suburb of Fort Leavenworth—called Cincinnati District?

A. In Fort Leavenworth, but I think that place that we lived——

Q. I mean where you lived. A. Yes, I think so.

Q. You state that after Minnie left your house, she went to a family called Hamilton?

A. She either went there and stayed after she left our place, or either went to Fort Leavenworth and stayed; it seems as though she wasn't well.

Q. Then you don't know that she went to the Hamilton's?

A. No, I am not positive of it.

Q. Why, do you state then, that she did go to the Hamilton's?

A. Why, I thought she did, but I am not positive she went to the Hamilton's first after she left our place.

Q. Isn't it a fact, Mrs. Morton, that she found employment in the city of Leavenworth, in the town of Leavenworth?

A. I know she worked some place, as I said, after she left our place.

Q. Then you didn't keep any track of her after she left?

A. No, I know she came to our house; she was back there several times after she left our place.

Q. Was your sister at hom- at the time this child was born?

A. No, sir, she was not in Leavenworth.

Q. She was not in Leavenworth? A. No, sir.

Q. And she didn't know about it?

A. No, she didn't know about the birth of the child.

Q. Where was she? A. At Muscotah, Kansas.

Q. Muscotah? A. Yes, sir.

Q. That is Mrs. Allen that you speak of? A. Yes, sir.

Q. She is older than yourself? A. Yes, sir.

Q. Were you told by anyone Mrs. Morton, since this matter came up, that Minnie went to the Hamilton's? A. No, sir.

Q. That was, then, sort of a case of conjecture on your part?

A. Well, as to my recollection, she knew the Hamiltons; I say she went there after she left our place or after she went to work, and couldn't stand the work—or something—but I know she stopped there before she went to Colorado.

Q. Isn't it your recollection, Mrs. Morton, that Minnie left your house and attempted to work out in Leavenworth, and did work for a family in Leavenworth for a while and then found that she couldn't stand the work, and then went to the Hamilton's?

Mr. German: I object to that question unless he names the family.

A. Why, I knew she went to work but I don't know whether it was before she went to the Hamilton's, or after she went to the Hamilton's, but I know she did work there in Leavenworth before she went to Colorado, and that it seems to me to the best of my knowledge, she was sick and went there and stayed until she went away; of course, she might have went to the Hamilton's.

Q. Did you ever hear of Minnie working for a Jew family in Leavenworth?

Mr. Allen: We object to that unless he names the family.

A. It was a Jew family, I think, that she went to work for.

Q. Did you ever hear of the name Hirshfield?

A. Yes, sir.

Q. Isn't that the family that she worked for?

A. I think so.

Q. And she did work there for a while until she found she couldn't work? A. Yes, sir.

Cross Examination by Mr. Blakeney.

Q. Mrs. Morton, what was your maiden name?

A. Margaret Diffly.

Q. Spell the last. A. D-i-f-f-l-e-y .

Q. What is your husband's name? A. John R. Morton.

Q. When were you married to him? A. In 1888.

Q. In 1888? A. Yes, sir.

Q. In Leavenworth? A. Yes, sir.

Q. Are you living with him now? A. Yes, sir.

Q. What are you doing, what business or occupation, if any, do you— A. We are in the hotel business.

Q. You are in the hotel business? A. Yes.

Q. What hotel? A. We have the Eastman hotel.

Q. Eastman Hotel? A. East 12th street.

Q. Eastman hotel, on East 12th? A. Yes, sir.

Q. What number on East 12th? A. 901.

Q. You are now 44 years old? A. No, sir.

Q. How old are you? A. 41.

Q. 41? A. Yes, sir.

Q. You were born in 1872? A. '74.

Q. In January, 1874? A. Yes, sir.

Q. And this is February, 1916? A. Yes.

Q. And you are 41? A. Yes, sir.

Q. Then in 1884, you were 11 years of age, or in 1885, or '86—1886 you were 11 years of age, is that right? A. No, sir.

Q. You were 12, then? A. I was 10, wasn't I?

Q. You were 10? A. Yes, sir.

Q. You were 10 years of age when this child was born at your place? A. Yes, sir.

Q. How do you know what year it was born there?

A. Well, because I remember what year we moved down town, and I remember what year my step-father died in.

Q. It was the year you moved down town and the year step-father died?

A. No, sir, my step-father died in '85.

Q. What time in '85? A. November 22nd.

Q. Where were you living then? A. Fort Leavenworth.

Q. Now, the fact that your step-father died when you were living at Fort Leavenworth, enables you to fix the date that this child was born in '86?

A. Well, it was born, and we moved down to Leavenworth the next May—the following May.

Q. How long did you live down town?

A. Before the child was born, you mean?

Q. No, how long did you live there before you moved some where else?

A. Well, that was my mother's home; I don't know how long before we went to the Fort—I lived there until I was married.

Q. Lived there until you were married after moving from the Fort? A. Yes, sir.

Q. But the fact that you did move there in May, 1886——

A. Yes, sir.

Q. Fixes in your mind that the child was born in that year?

A. Why, I know it was.

Q. And that is the way you know it?

A. Yes, sir; we moved down in May and the child was born in July.

Q. Do you know what day in July?

A. Well, not exactly; it was the latter part of July.

Q. Don't you know it was the 31st day of July?

A. I am not positive about it.

Q. That is your best recollection? A. Yes.

Q. Your best recollection is the 31st, isn't it? A. Yes.

Q. What hour of the day?

A. Well, I can't say that—between mid-night and morning sometime.

Q. Between mid-night and morning, the 31st day of July?

A. Yes, sir.

Q. Or between mid-night and morning the 30th day of July? A. No, it was the 31st.

Q. And if it was after mid-night, it may have been the 1st of August, is that right?

A. No, the child was born—yes, between mid-night and morning of the 30th.

Q. Now, you remember that?

Mr. Allen: We object to that—the witness has stated.

Q. Is that right—do you remember that? A. Yes, sir.

Q. It has been some 30 years ago, hasn't it? A. Yes, sir.

Q. Who first notified you that Minnie was going to move to your house?

A. My mother; I was there when she came down and wanted the rooms.

Q. When Minnie came down? A. Yes, sir.

Q. Minnie came down and spoke to your mother in your presence? A. Yes, sir.

Q. What did she say?

A. Well, she just said that she wanted to rent the rooms, and my mother told her she didn't have any rooms to rent; she said they were ordered away and she didn't want to buy and furniture and she would like to come down and rent those rooms and stay there—I don't know what she said about it—but for a while, and she said my sister and mother were going home, and she wanted to rent the rooms, and she claims she didn't want to buy any furniture because they were going away.

Q. What else did she say?

A. I suppose she talked my mother into letting her have them.

Q. Your mother finally let her have them?

A. Yes, my mother let her have the rooms.

Q. Did she say anything about why she wanted the rooms —why she wanted—

A. I guess she was working at Fort Leavenworth and she couldn't stay there in her condition.

Q. I asked you what she said?

A. She said she wanted a place to stay?

Q. During confinement? A. Yes, sir.

Q. She said that? A. Yes, sir.

Q. And your mother finally consented to let her stay there? A. Yes, sir.

Q. Was Mr. Peterkin with her?

A. No, sir, he wasn't with her that time at all.

Q. When did the conversation take place?

A. Just a few days before she came down to the house?

Q. You don't remember the date? A. No.

Q. That they had that conversation?

A. No, it must have been along in June sometime.

Q. June? A. Yes, sir.

Q. She stayed at your place then—

A. She was there a month about—three or four weeks before the child was born.

Q. Three or four weeks before the child was born?

A. Yes, sir.

Q. You say you had known Minnie at that time for several months? A. Yes, sir.

Q. How long had you known her?

A. I knew Minnie since '85.

Q. What time in '85?

A. Well, I think it was in the fall.

Q. What date in the fall, or month?

A. I can't tell you that?

Q. Don't you remember the day and month? A. No.

Q. Where was she living when you first got acquainted with her?

A. Why, she came up there in the building where we were living, that is where I first seen her.

Q. Came up to rent the building, you say?

A. Why no; she had a position and was working, but she knew some folks up there—or something—and she came up there to see those folks.

Q. Just to visit? A. Yes.

Q. Do you remember who it was she came to visit?

A. No, I don't; several families were living there—she might have come to look at the rooms, for all I know.

Q. What was that building that you were living in?

A. Just a big building where the employes of the Fort lived.

Q. Sort of a boarding-house?

A. Yes, boarding-house underneath and rooms up stairs.

Q. What do you say it was named by at that time—what was it called?

A. I think it was called the Murphy Mess.

Q. Whose? A. Murphy.

Q. The Murphy Mess? A. Yes.

Q. And civilians working at the Fort would stay there?

A. Yes.

Q. What was your mother staying there for?

A. They lived there; my father was employed at the Fort, and they had rooms there.

Q. Your step-father? A. Yes.

Q. Employed at the Fort? A. Yes.

Q. And as a civilian, he was living in this boarding-house?

A. Yes.

Q. How long had you been living there, when you first met Minnie?

A. Well, we lived there from May until—course, as I say, I don't know what month I met her in at all; we moved up there in May.

Q. May of '85? A. May of '84.

Q. And you think you lived there a year before you met her? A. Yes, sir.

Q. Now, why do you say it was in the fall of '85?

A. Because I remember it was.

Q. You have a distinct remembrance? A. Yes, sir.

Q. That it was in the fall of '85? A. Yes, sir.

Q. What do you mean by fall—what months do you include in the fall?

A. Well, it was after my father died—he died in November—and I guess this was along in December when I first met Minnie, or either the latter part of November.

Q. You met her after your father's death? A. Yes, sir.

Q. The latter part of November, or December, you think now? A. Yes, I think so.

Q. How did you happen to meet her? Did she come in and ask any of your family for rooms?

A. Well, I can't say that; I don't know. She was in the building—I don't know how.

Q. You actually met her, or merely saw her?

A. It was a kind of curiosity among us children, to tell you the truth, because she was an Indian.

Q. You saw her—were you introduced to her?

A. My mother was.

Q. At that time? A. Yes, sir.

Q. Did she show Indian? A. Yes, sir.

Q. Very marked, wasn't it?

A. Yes, sir, we could tell she was Indian.

Q. Very black? A. No, she wasn't so black.

Q. But she showed that she was an Indian?

A. Oh, yes, sir.

Q. Now, from that time on, did you see her up until she came to your house, as you say, in June or July? A. Yes, sir.

Q. You saw her at occasional intervals?

A. I would see her occasionally, yes sir.

Q. When she came up there, did she say anything about she and her husband wanting to move over there?

A. Not at that time.

Mr. Allen: We object to that as repetition of the former question.

Q. What was the answer?

A. Not at that time, I don't think she did; didn't come to see about the rooms until we went down town.

Q. I am not talking about down town, I am talking about when she came to the Mess room.

A. No.

Q. Say anything about she and her husband wanting rooms? A. No.

Q. What did she say, then, about her husband, if anything? A. Nothing that I know of.

Q. She introduced herself as Minnie Peterkin?

A. I don't know how they met.

Q. Did you learn her name was Peterkin? A. Yes, sir.

Q. Did you learn that she was married and living with a man when you first met her?

A. No, not when I first met her.

Q. When you first met her in November or December, she was Minnie Atkins? A. Yes, sir.

Q. When did you first find that she was Minnie Peterkin?

A. When she came down to our house, that was the first time I knew about her.

Q. The first time? A. Yes.

Q. Did anybody tell you she was Minnie Atkins, or know that she was just going by that name around the Fort?

A. That was the name she went by—Minnie Atkins.

Q. Minnie Atkins? A. Yes, sir.

Q. Did you ever hear her called by any other name until she came to your residence to inquire about the room?

A. No, sir.

Q. She came down and told your mother her name was Minnie Peterkin? A. Yes, sir.

Q. And your mother knew less than nine months previous to that her name was Minnie Atkins, didn't she?

A. Well, I don't know when she married, or anything about her, or when she'd taken up this name.

Q. You met her frequently after you first met her?

A. Yes, sir.

Q. And she was always known as Minnie Atkins?

A. Yes, sir.

Q. And your mother knew her as Minnie Atkins?

A. Yes, sir.

Q. And your mother let her come in in July under the name of Peterkin? A. Yes, sir.

Q. And have the child? A. Yes, sir.

Q. In your mother's house? A. Yes, sir.

Q. What day was it baptized?

A. It was baptized the same day it died.

Q. Well, what day did it die then?

A. In August, sometime, I can't tell you the day.

Q. Don't you know the day? A. No, sir, I don't.

Q. Only one day that you know, is that the child was born the 31st day of July, 1896? A. Yes, sir.

Q. That is the only one? A. Yes, sir.

Q. When did your father die—step-father?

A. Step-father?

Q. Step-father?

A. November, 1885—22nd of November.

Q. Where were you living at that time?

A. Fort Leavenworth.

Q. And you stayed there until the following May?

A. Yes, sir.

Q. And it was after your father died that you met Minnie?

A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. Mrs. Morton, you stated a while ago in answer to Mr.—you answered yes, to the question of Mr. Blakeney, in which he asked you if it was July 31st, 1896 that this child was born.

Mr. Blakeney: 1886—let my question be changed.

A. 1886.

Q. When did your mother move from the Fort to the town of Leavenworth? A. In May of 1886.

Q. Was Dr. Carpenter your family physician?

A. No, he was not, but it seems as though my mother wanted him to doctor—my mother's doctor was Dr. Brock, and as far as I remember, Brock was Carpenter's partner, and they couldn't get Brock and got Carpenter.

Q. Was Mrs. Allen at the christening and death of the baby? A. Yes, sir.

Q. What year did you say you were born in? A. 1874.

Q. What month?

A. January 24th—the 24th day of January.

Q. Then you 42 the 24th of January this year.

A. 41, I think; maybe I am more than what I think.

Q. Mrs. Morton, this deposition has to be read to the court at Muskogee, and they will not be able to see the witness to ascertain the color, so I will ask you, are you a white woman?

A. Yes, sir.

Witness dismissed

Mr. German: I move to exclude from the room, Mr. Long, and Dennis Jones, if they are going to be used as witnesses in this, and I request the Examiner to exclude them. Mr. Frank Long, is the man I referred to.

Mr. Hanford: I would like to have the record show that no subpoena has been issued for Mr. Long—he is not under process to testify as a witness.

Mr. Stuart: Dennis Jones is an attorney at law, practicing in the court.

Mr. Blakeney: I would like to make the suggestion that counsel for the United States, has had the constant advice and assistance during the proceedings without objection of the representatives of Garfield Buell and others, and at least by agreement of parties, there has been no objection interposed to anybody that could render any material assistance to the attorneys examining the witnesses.

Mr. German: I desire to question the statement of counsel in reference to counsel for—

Mr. German: We offer the deposition of CHARLES PETERKIN, taken before Mr. Penick, appearing in his transcript, beginning at page 555.

CHARLES PETERKIN being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Mr. Peterkin, please state your name, age, and place of residence.

A. Charles Peterkin, age 56; residence 413 Highland Avenue, West Somerville.

Q. Have you any occupation at this time, Mr. Peterkin?

A. Yes, sir—waitin fo- pay-day.

Q. Are you a—

A. Retired soldier, United States Army.

Q. You are a retired soldier in the United States Army and draw pay as such? A. I do.

Q. How long did you serve in the United States Army and in what capacity?

A. From the 2nd day of April, 1881, to the 21st of April, 1908. Now, it may save you gentlemen a little trouble, we have an Army officer here—ex-Army officer—that may after a while spring this on me about my saying I had 30 years in the American Army but I have three years and four months double time coming to me. I am just doing this to save this to save trouble, like Mrs. Mohr when she her mother died six years before. I just say that for general information to save trouble.

Q. Mr. Peterkin, in 1885-'06, where were you stationed?

A. In Fort Assinboine, Montana, and Fort Leavenworth, Kansas.

Q. When did you go to Fort Leavenworth, Kansas?

A. I think in March '85.

Q. Were you at that time a private soldier? A. I was.

Q. With what company associated?

A. Company E, 18th, United States Infantry.

Q. When did you leave Fort Leavenworth?

A. In the fall of '87.

Q. During the time that you lived at Leavenworth, did you become acquainted with an Indian woman named Minnie Atkins? A. I did.

Q. Have you seen her recently?

A. Yes. What was it—February—February, last year.

Q. Where? A. Muskogee, Indian Territory.

Q. Was that at the time of the receivership hearing of this case? A. It was.

Q. Was that the same woman that you knew at Fort Leavenworth? A. It was.

Q. When did you first see Minnie Atkins to know who she was?

A. Well, in the Spring of '85, when I first saw her, she was working for Lieut. Stafford at Fort Leavenworth.

Q. How long after that was it when you met her formerly?

A. In the early part of '86.

Q. What month?

A. I am not sure but I think it was somewhere in January.

Q. From the time that you first saw her in 1885 until you met her formerly in 1886, do you know whether she was keeping company with any man?

A. Yes, she lived with a private of my Company by the name of Oliver.

Q. What was her physical appearance when you first saw her in 1885, as to being pregnant, or otherwise?

A. Well, soon after I became acquainted with her, I soon discovered that she was, I presume, about three or four months in the family way.

Q. That was when? A. In '86.

Q. I am speaking of the time when you first saw her in 1885.

A. Well, she was not in the family way then, as it was afterwards proved, because she had no children then. She was all the time living with Lieut. Stafford and working for him.

> Mr. Hanford: I move to strike the answer of the witness as not responsive to the question and based upon—and because it is hearsay and states a conclusion and opinion of the witness.

Q. What do you mean by afterwards proved, Mr. Peterkin?

> Mr. Hanford: I object to the question as incompetent, irrelevant, and immaterial, and as leading.

Q. That you may understand me, I mean this. Did you base that answer upon was shown in the trial in this case, or by your personal knowledge of Minnie Atjins from that time on?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and leading.

A. My knowledge of her condition was by experience—living with her.

Q. About how frequently did you see her from the time——

> Mr. Hanford: I move to strike the answer on the ground that it is incompetent, irrelevant, and immaterial, and based upon hearsay, and states a conclusion of the witness.

Q. About how frequently did you see her from the time that you first saw her in 1885, until you commenced living with her in 1886?

A. Well, I should say five or six times a week.

Q. During any of thay time, did she have the appearance of being in the family way or of having given birth to a child?

Mr. Hanford: I object to the question on the ground that it is incompetent, irrelevant, and immaterial.

Q. I am speaking now of 1885.

A. You want to know if I had any chance of knowing or thinking that she was in the family way?

Q. I am asking you as to her appearance in 1885.

A. Her appeaarance was the same as any woman when I first met her, or at least saw her, as a woman not in the family way.

Q. State whether or not she retained that appearance up to the time that you met her in January 1886.

A. She certainly did.

Q. Yo- spoke awhile ago of living with her. When did you commence to live with her?

A. The second day after Oliver's discharge.

Q. When and where was he discharged?

A. Fort Leavenworth, Kansas.

Q. About when?

A. I think it was in January 1886; of course I am certain about 1886, but the month I am not sure about.

Q. Had Oliver been going with her. A. Certainly.

Q. From the time you first saw her, to know who she was, until the time he left?

Mr. Hanford: I object to the question on the ground that it is incompetent, irrelevant, and immaterial, and states a conclusion of the witness and is leading.

A. He was.

Mr. Hanford: I move to strike the answer on the ground that it is incompetent, irrelevant and immaterial and states a conclusion of the witness, and hearsay.

Q. Do you know the given name of this man Oliver?

A. Patrick.

Q. Was that his name or his nick-name?

A. Well, I think it was Patrick; I am sure that was his official name.

Q. Did he serve in the same Company that you served in?

A. He did. He served 15 years in the Company of the 18th Infantry.

Q. To refresh your memory, was the man about whom you are testifying, William D. Oliver?

A. That is the name, yes sir,—Oliver—O-l-i-v-e-r.

Q. Oleo? A. Oliver—O-l-i-v-e-r—is his name.

Q. And was he not assigned to Company E, 18th Infantry?

A. He was.

Q. And you with Company E; [A.] I belonged to the same Company.

Q. Do you know where he was enlisted from?

A. No, at first?

Q. Yes. A. No, I can't tell.

Q. To refresh your memory, was he enlisted at Buffalo, N. Y.?

A. He might have been; he often talked about Buffalo, and he acted as though he was from Buffalo.

Q. What was his nationality? A. An American.

Q. When did he leave Fort Leavenworth with reference to his discharge?

> Mr. Hanford: I object to the question on the ground that it is imcompetent, irrelevant, and immaterial.

Q. If you know. A. After his discharge?

Q. Yes. A. He left Fort Leavenworth that very day.

Q. If the records of the War Department show that he was discharged on December 18th, 1885, at Fort Leavenworth, Kansas, then you say that on the following day is the day that you commenced living with Minnie?

A. I do.

> Mr. Hanford: I object to the question on the ground that it is incompetent, irrelevant, and immaterial, leading and suggestive, and I move to strike the answer, the witness having answered before I had an opportunity to interpose my objection.

Q. What was the nationality of Oliver, if you know?

A. I think, American.

Q. Did you know him very well at Fort Leavenworth?

A. Certainly; I served from September '81 until the time of his discharge.

Q. How intimate were your associations?

A. Not very intimate.

Q. To refresh your memory, was he not an Englishman?

A. He might have been; that is, I think I can remember hearing him say that his parents were English.

Q. Do you know who Minnie worked for before she worked for Stafford?

A. Well, Minnie told me that she worked for the Post carpenter over at the Prison—what is his name?

Q. Was his name Grodevant?

A. Yes; I think for a short time she worked for the Commanding Officer of the Prison.

> Mr. Hanford: I move to strike the answer on the ground that it is hearsay.

Q. Do you know what his name was. A. Blunt, I think.

Q. Where did you and Minnie stay when you first commenced living with her?

A. At Staffords.

Q. Where with reference to the Stafford's house?

A. In her room.

Q. Was that in a servant's house?

A. No, it was in their kitchen.

Q. Kitchen?

A. Yes; she used it as a bed-room, also.

Q. What time would you go there and leave?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant and immaterial.

A. As a rule, immediately after Retreat, roll-call.

Q. What time would that be? A. Sunset.

Q. Would that be before or after the evening meal was served at the Stafford home?

> Mr. Hanford: I object as incompetent, irrelevant, and immaterial.

A. After, as a rule. I got mine, I know that—that isn't for you.

Q. How long did you continue to live with Minnie Atkins?

A. From, a*w* I told you before, the day after he was discharged until the Fall of '89.

Q. Where? A. At Fort Logan, Colorado.

Q. All of that time?

A. Except three months, I think, she was—I left her in Fort Leavenworth, but she joined me in Fort Logan, Colorado, in the Spring of '88.

Q. How long did you continue to live with her at Fort Leavenworth?

A. From the time, as I have said before, the day after Oliver was discharged until the Fall of '87, when I moved to Fort Logan, Colorado.

Q. How long was it after you had left Minnie Atkins and had gone to Fort Logan, was it that Minnie joined you at Fort Logan?

A. Now, I think I went to Fort Logan in November, and I think she joined me, maybe in the early part of March of '88.

Q. During all of the time that Minnie lived at Leavenworth, after you first saw her in 1885 until she joined you at Fort Logan, did she have any children?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant and immaterial.

A. If I understood the question, did she have any children before she joined me?

Q. Yes sir.

A. At least between the interval of the time I left her at Fort Leavenworth and when she joined me?

Q. No sir; I am directing your attention to the time, now, when you first saw her in 1885. From that time until the birth of Mabel Peterkin, at Fort Logan, had she had any other children?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial; that it is leading and suggestive, and calls for hearsay testimony.

A. She had one child.

> Mr. Hanford: I move to strike the answer of the witness for the same reason.

Q. When and where was that child born?

A. Leavenworth, Kansas.

Q. *Whn?* A. In the summer of '86.

> Mr. Hanford: The same objection and motion to strike.

Q. About what month, Mr. Peterkin?

A. Either——

> Mr. Hanford: The same objections.

A. In July or August of '86.

Q. At whose home was that child born?

> Mr. Hanford: Same objection.

A. Mrs. Woods.

Q. Did it live or die. A. It died.

Q. At about what age? A. Less than a month, I think.

Q. Do you know where it was buried?

A. In Leavenworth, but I can't exactly say; can't mention the name of the cemetery.

Q. To refresh your memory, was it Mt. Muncie Cemetery. A. I think so.

> Mr. Hanford: I object to the question as incompetent, irrelevant, and immaterial, and leading and move to strike the answer of the witness which was made before the objection was fully stated.

Q. Are you a married man. A. Am I?

Q. Yes sir. A. Yes sir.

Q. How long have you been married?

A. Since September of 1901.

Q. Were either of you, or Patrick—or Oliver—married to Minnie Atkins?

Mr. Hanford: Objected on the ground that it is incompetent, irrelevant, and immaterial.

A. Neither one.

Mr. Hanford: And based upon hearsay.

Q. Did you ever talk to Minnie Atkins with reference to the father—with reference to who was the father of this child?

Mr. Hanford: Object on the ground that it is incompetent.

Q. That she had at the home of Mrs. Woods?

Mr. Hanford: Objected to because it is irrelevant and immaterial?

A. It was not necessary.

Mr. Hanford: I move to strike the answer of the witness as not responsive to the question.

Q. Had she associated with any other man besides this man Oliver, from the time that you first saw her in 1885 until you commenced living with her, after the discharge of Oliver?

Mr. Hanford: I object to the question on the ground that it is incompetent, irrelevant, and immaterial; leading and suggestive, and calls for a hearsay testimony.

A. I don't think so.

Q. Would it have been possible for Minnie Atkins to have been pregnant during any of the time, beginning with the time when you first saw her in 1885, until you commenced living with her, without you knowing it or having observed it?

Mr. Hanford: I object to the question on the ground that it is incompetent, irrelevant, and immaterial; calls for a conclusion and opinion of the witness; is leading and suggestive, and hearsay.

Q. I mean the pregnancy nearing childbirth.

A. It was possible because it was so.

Mr. Hanford: I move to strike.

Q. What do you mean by the last—by the answer, Mr. Peterkin?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and not proper direct examination.

A. I mean it proved for itself that she was in a family way.

Q. Did the birth of a child result from the pregnancy about which you are now testifying?

A. It did.

Q. Was that the child born at Mrs. Woods' home?

A. It was.

Q. In order that you may understand me, would it have[] possible for her to have been pregnant more than the one time about which you testify, at any time commencing with the time that you first saw her in 1885, and ending with the birth of the child at the home of Mrs. Woods, and you not have known of it?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, calls for a conclusion of the witness, and opinion of th*w* witness, and is hearsay testimony, and *a*s suggestive.

A. Not very probable.

Q. Was she pregnant at any of those times except the time you have testified about?

> Mr. Hanford: Object on the ground that it is incompetent, irrelevant, and immaterial, calls for a conclusion and opinion of the witness and is hearsay testimony.

A. Not very likely for many reasons.

Q. Did she give birth to any child from the time you first knew her in 1885 until the birth of Mabel Peterkin at Fort Logan, other than the child born at Mrs. Woods?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial; calls for heresay testimony, and a conclusion of the witness.

A. None other.

> Mr. Hanford: Move to strike the answer of the witness for the same reason.

Q. Did you ever talk to Minnie about whether or not she had ever given birth to any other child before the birth of Robert Lee Peterkin, at the Woods' home?

A. No.

> Mr. Hanford: I object on the ground that it is incompetent—strike the objection, I withdraw it.

Q. Did she show any signs when you first saw her in 1885, of ever having had any child?

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial.

A. No.

Q. Are you able to say from your experience with women whether or not this Robert Lee Peterkin, the child born at the home of Mrs. Woods, was her first child?

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial.

A. Yes, for many reasons.

Mr. Hanford: I move to strike the answer as not responsive to the question.

Q. Was it or not her first child?

Mr. Hanford: I object to the question on the ground that it is incompetent, irrelevant, and immaterial, the witness being shown not qualified to testify in that regard.

A. I thought it was her first child for many reasons.

Mr. Hanford: I move to strike the answer as not responsive to the question.

Q. When was her next child born?

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial.

A. In the summer of '88.

Q. The summer of '88; what was the name of that child?

A. Mabel.

Q. Where was she born? A. Fort Logan, Colorado.

Q. Was that Mabel Peterkin. A. Yes.

Q. Did she have any other children before the time you left her at Fort Logan, Colorado?

A. The time that I left her at Fort Logan?

Q. After the birth or Mabel, did she have any other child before you left Fort Logan?

A. Two, I understand.

Mr. Hanford: I object to the question as incompetent, irrelevant, and immaterial, and hearsay.

Q. Were they born before or after you left Fort Logan?

A. After.

Q. All you know about that is what you have heard?

A. Yes.

Q. Did you send any money to Minnie Atkins after you left Fort Logan, for any purpose?

Mr. Hanford: Object on the ground that it is incompetent, irrelevant, and immaterial.

A. I am sorry to say, yes.
Q. How much did you send her and for what purpose?
A. Forty-five dollars.

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and move to strike the answer which was stated before I had completed my objection.

Q. For what purpose?
A. To pay her fare to Fort Clark, Texas.
Q. Did she come to you—did she come to you to Fort——
A. She did not.
Q. At Fort Clark, Texas, then you went from Fort Logan to Fort Clark, Texas. A. Yes.
Q. When was that—about when? A. In the fall of'89.
Q. With what Company?
A. Company E, of the 18th Inganthy.
Q. Did Minnie Atkins ever tell you prior to the time of the birth of this child a. Mrs. Woods where she had worked before coming to the Fort?

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial.

A. Yes.

Q. With whom did she tell you she had worked?

Mr. Hanford: Object on the ground that it is incompetent, irrelevant, and immaterial, leading and suggestive.

A. Don't remember.
Q. Did she tell you for whom she first worked in Leavenworth.
A. I can't remember the name of the family but the man, I think, was a man employed in a bank at Leavenworth.
Q. Would you know the name if you would hear it?
A. Certainly would.
Q. To refresh your memory, was that name Hyde.
A. It was.
Q. Did she tell you where she went to from Hyde's?

Mr. Hanford: Object to on the ground that it is irrelevant, incompetent, and immaterial, and hearsay.

A. Yes sir, I understood her to say that she went from Hyde's to this carpenter's at the Military Prison at Fort Leavenworth.

Q. The man Grodevant about whom you testified a while ago? A. Yes.

Q. About when was it that she told you of this?

> Mr. Hanford: Object on the ground that it is incompetent, irrelevant, and immaterial.

A. I presume the first week that I lived with her.

Q. In your first statement given in connection with this case, did you tell about Minnie having worked for Hyde?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant and immaterial.

Q. And having left Hyde and gone to this carpenter at the Military Prison? A. Yes.

Q. *With* Minnie Atkins associate with members of the negro race during any of the time that you knew her?

> Mr. Hanford: Object on the ground that it is incompetent, irrelevant, and immaterial, and calls for hearsay testimony.

A. No.

Q. Was she what is commonly known as a public character when you knew her?

A. Not by any means.

Q. When you knew her prior to the time you went to Fort Clark, Texas?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial; calling for hearsay testimony and a conclusion of the witness, and an improper question, and move to strike the *naswer* for the same reason.

Q. Other than this man Oliver and yourself, did you know of Minnie Atkins associating with any other man up to the time that you left Fort Logan?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and calles for hearsay testimony, and conclusion, and opinion of the witness.

A. Yes, she lived with one man after I left her.

Q. I am speaking of up to the time that you left her at Fort Logan.

A. Yes, this girl that she named Mabel Peterkin, is a daughter of a man by the name Burke.

> Mr. Hanford: I move to strike the answer as incompetent, irrelevant, and immaterial; not responsive to the question, and is hearsay.

Q. Who was Burke?

A. A private of M Troop, 6th United States Cavalry.

Q. Up to the time that you finally left her at Fort Logan, did you know of her association with any other man other than the three you have mentioned? A. No.

> Mr. Hanford: I object to the question as incompetent, irrelevant, and immaterial, and move to strike the answer for the same reason.

Q. Did she associate with any other men besides you three during those years?

> Mr. Hanford: Same objection.

A. I don't think so.

Q. Was Minnie Atkins a drinking woman during any the time that you knew her?

> Mr. Hanford: I object to the question on the ground that it is incompetent, irrelevant, and immaterial; calls for a conclusion of the witness, and hearsay testimony, and is an improper question.

A. She was not.

Q. Did you know the Hamiltons at Leavenworth, Kansas? A. I did.

Q. When did you meet them with reference to the time that you commenced living with Minnie?

A. Minnie took me to their house.

Q. Was that before or after Robert Lee was born?

A. Before.

Q. Are you sure of that date?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and not proper direct examination.

A. Date?

Q. As to whether it was before or after?

A. That I visited there as a caller—friend?

Q. Yes. A. It was before the child's birth.

Q. Did you know of any differences that Minnie and the Hamiltons had?

A. None, they were friends at Fort Logan.

Q. And they were friend- at—were they friends at Leavenworth from the time you got acquainted with them until Minnie left there? A. Yes.

Cross Examination by Mr. Hanford.

Q. Mr. Peterkin, what were your duties while you were stationed at Leavenworth—you were assigned to the Company and had the usual routine duties?

A. Of a private soldier.

Q. Of a private soldier. You had your drills and routine the same as other soldiers in the Company? A. Yes.

Q. And you attended their formations?

A. All—strictly considered a first class duty soldier.

Q. You had your guard duty, fatigues, and drills, etc?

A. That includes first class duty.

Q. You lived in barracks? A. Certainly.

Q. At Company quarters? A. Yes.

Q. Those were the old frame barracks, were they not?

A. No, the new ones in the West End.

Q. Well, they are what they call the old ones now; they were the new ones then? A. Yes.

Q. Was that the regimental station, or what your regiment divided?

A. Divided; we had two Companies of my regiment there.

Q. What was Lieut. Stafford? Was he on duty with the troops? A. He was a student officer.

Q. He was at the Line School. A. Yes sir.

Q. And he lived—had quarters in what is known as the Bachelor quarters? A. Yes sir, kindergarten.

Q. The kindergarten, they called it. A. Yes sir.

Q. And he had no rooms for servants, and so Minnie——

A. Had to occupy the kitchen.

Q. It was there that you used to go and see her. A. Yes.

Q. And prior to this, I suppose it was your knowledge that this other man went to see her there?

A. Oliver?

Q. Did you know of his going with her prior to that time?

A. Sure.

Q. Is it your testimony that he was going with her all of the time prior to your taking up with her? A. Yes.

Q. Then did you go to see Minnie at Stafford's with the knowledge and consent of Lieut. Stafford, or with the knowledge of Lieut. Stafford, I will say?

A. Well, I presume indirectly.

Q. You had never discussed with him——

A. Not by any means.

Q. Now, you had no consent or authority of your Company Commander to absent yourself and occupy quarters in Lieut. Stafford's house, did you?

A. No sir, he wanted to attend to all that kind of business himself—that is my Captain. In those days, an enlisted man was not considered human.

Q. Now, if you had had authority, it would have been with authority of the Company Commander; you would have been relieved of the duty of occupying barracks and living out, and had no such authority? A. Oh no.

Q. They had the canteens in those days, did they not?

A. No sir.

Q. Where did the soldiers assemble for recreation?

A. In the settler's store?

Q. Settler's store it was then? A. Yes.

Q. Now you used to congregate with the soldiers at the settler's store and other places? A. Very little.

Q. I believe you told me at one time that you were fond of card playing and used to play cards a good deal?

A. I am a pretty good seven-up player, now.

Q. How about poker? A. Fairly good.

Q. And you used to play a good deal of cards at that time? A. I did.

Q. At the settler's store or barracks. A. Barracks.

Q. Do you recall how you first got to see Minnie? Did you just notice her working in the kitchen and around the quarters?

A. I noticed her but had never spoken to her until the morning after Oliver was discharged.

Q. But you had seen her at Stafford's? A. Oh, sure.

Q. And knew that she was there?

A. And walking around with Oliver, evenings.

Q. And that, you say, was in the spring of '85? A. Yes.

Q. Did you go to town with Minnie, and go other places than the Hamilton's? A. As a visitor, no.

Q. You didn't go to town with her very much?

A. As a rule I went with her; went to the circus once in a while—never shopping.

Q. The Post was at that time quite separated from the town, wasn't it? A. Yes.

Q. You had to take the bus going back and forth?

A. Yes.

Q. There was no street car or railroad? A. No.

Q. Mr. Peterkin, you remember when I came to see you in Boston—let's see, it will be August 1914, about—and talked [] you about Minnie—you remember my coming to see you?

A. Yes, sir.

Q. And you remember telling me about the Hamiltons being friends of Minnie's? A. Yes.

Q. I will ask you if you don't recall telling me that Minnie and Mr. Hamilton did not—were not good friends, but that Mrs. Hamilton and her brother, John Stain, were Minnie's friends but that she didn't like Mrs. Hamilton's husband?

A. Well, I——

Q. Well, I want to ask you if you remember telling me that? I will ask you if that was not your recollection that that was the fact—that Minnie and Mr. Hamilton were not such good friends?

A. Well, I can't say that I told you that because I don't know anything of it now, because whenever we were in their house, whoch was mostly at Fort Logan, Colorado, he was quite agreeable.

Q. Then, you didn't go to their home very much at Leavenworth? A. Not very much; I don't think more than once.

Q. It was shortly after you met with Minnie that she wanted you to go there and took you to the Hamilton's house?

A. I think so.

Q. Who attended Minnie at the time of the birth of this child that you speak of that was born at Mrs. Woods' house?

A. Dr. Carpenter.

Q. Did you go and get Dr. Carpenter? A. I did.

Q. Do you remember where the Woods lived?

A. Certainly.

Q. Where about? A. I was there not very long ago.

Q. Where was it?

A. At the house in Leavenworth. May I ask him if he can remind me of the name of the street?

Q. I will ask you, was it North Eighth street?

A. Eighth street, I think it was, but the North part of it, I don't remember, but I remember it was in the northern part of the city.

Q. Eighth street? A. Yes, Eighth street.

Q. Minnie was sick some time after the birth of that child? A. She was.

Q. In fact, Minnie got up from her sickness to attend the burial of her child, is that not so?

A. No, she wasn't sick when the child died.

Q. She wasn't sick? A. No.

Q. It died suddenly after birth, though?

A. Yes, I think two weeks—I don't know.

Q. But was she about the house?

A. Sure, excuse the word sure—that is the eastern answer, you know—"bringing up Father."

Q. Do you recall about how she was sick after the birth of the child? A. Off and on.

Q. I mean until the child was buried.

A. You mean what we call child-birth?

Q. Yes. A. I think she stayed in bed ten days.

Q. But she didn't go back to the Post; stayed there at the Woods' house?

A. Yes; that is, for a time. She worked in the Post after that.

Q. Sometime after it? A. Yes.

Q. But what I am trying to get at is this—that the death and burial of the child followed soon after its birth? A. Yes.

Q. And that Minnie up to the time of its death and burial had not *goteen* about any, she was there at the house?

A. Yes, yes.

Q. And the effects of the child-birth were not fully over?

A. Like all women.

Q. Yes? A. Naturally.

Q. Do you recall the child was healthy or whether it was sickly from the time that it was born?

A. It seemed healthy to me, alright.

Q. Do you know how long it was sick?

A. About 48 hours, I think.

Q. Do you know what it died from?

A. Yes, sir, cholera infantum.

Q. Cholera infantum?

A. Yes, sir—heat. It was very warm there in July and August.

Q. You had nothing to do with the Prison at the Post?

A. Not at all; that is an independent establishment.

Q. That was at the upper end of the Garrison?

A. Garrison.

Q. And the employes of the Prison and their quarters were all located adjacent to the Prison? A. Yes.

Q. So that you were separated from that part? A. Yes.

Q. Do you recall how long before the birth of that child in 1886 it was that Minnie left Stafford's, about?

A. Before the birth?

Q. Yes. A. It might have been two months.

Q. Did she work any place in the Post prior to going to the Woods' after leaving the Stafford's? A. She did.

Q. For whom?

A. A Cavalry officer whose name I can't remember, a short time.

Q. And then went to the Woods', in time to give birth to this child? A. She did.

Q. Do you know how long she was at the Woods' before the child was born?

A. It might have been 5 or 6 weeks.

Q. You stated that you saw Minnie as often as five or six times a week prior to the time that you became associated with her—how would you see her, Mr. Peterkin?

A. Wel-, as a rule, every evening in those days all soldiers and their girls went walking in the evening and that is the way that I saw her—walking with Oliver.

Q. And you would see her at the Stafford's house, or their kitchen? A. Working.

Q. And about there? A. Yes.

Q. Did you see her go from there and go there? Go to there and go from there?

A. Well, I can't remember having seen her going and coming because my quarters were considerable distance from Stafford's quarters.

Q. How do you know, Mr. Peterkins, that Minnie was living [ ] Oliver and not merely going with him?

A. We all knew that he slept in bed with her.

Q. How did you know that?

A. Hundreds of times, for I seen him open the door and come out in the morning while I was on sentry duty, and all of the sertries.

Q. That is the back door?

A. Yes; that kind of looked suspicious.

Q. On sentry duty you would be stationed where you could see this from your post? A. Certainly.

Q. Around officer's quarters?

A. The Post was back of the officer's quarters—lots of knot holes in the fence, you know.

Q. And you knew that Minnie was there at the house? A. Certainly.

Q. Because you had seen her there?

A. And have often seen her come to the door and talk to him before he would leave the house.

Q. Then from the time that you first knew Minnie—saw her—you knew that Oliver was going to the Stafford's house to see her? A. Yes.

Q. How long after you began living with Minnie was it—about—that you discovered that she was in a family way?

A. Well, about the first month.

Q. About the first month. You testified that it was November, you think, that you went to Fort Logan. I will ask you, Mr. Peterkin, if it was not October 1887, that you went to Fort Logan from Leavenworth? A. Fort Logan?

Q. Fort Leavenworth to Logan? A. I think it was.

Q. October? A. I think so; I am pretty sure.

Redirect Examination by Mr. Allen.

Q. Mr. Peterkin, did you ever heard of, or know of Minnie Atkins ever visiting—staying at the home of Granny Letcher?

A. Never heard of such a person.

Mr. Hanford: I object to the question on the ground that it is incompetent, irrelevant, and immaterial; calls for hearsay testimony and move to strike the answer of the witness as given before I had the opportunity to object.

Q. Did you ever know of Minnie Atkins visiting or staying at the home of Granny Letcher?

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial; calls for a conclusion and hearsay testimony.

A. As I said before, I never heard of such a person until I had been in court at Muskogee.

Q. Did you ever know of her visiting at the home of any negro? A. Never.

Q. Family in Leavenworth?

Mr. Hanford: Same objection and motion to strike.

Q. Did you ever hear of her ever visiting at the home of any negro family in Leavenworth? prior to the time that you were at Muskogee in this case? A. Never.

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and move to strike.

Q. You say that you don't ever think you were at the Hamilton home but about once, in Leavenworth?

A. Once, I think; that is as a visitor.

Q. Do you know—have you given any thought to the time with reference to the birth of Robert Lee Peterkin, when you were there? A. Any other time?

Q. Yes. A. Except as a visitor?

Q. Yes, sir.

A. I was there about two o'clock in the morning that this child was born at night—P. M.—at least, in the morning it would be A. M., but it was during the *m*ight.

Q. At Hamilton's home? A. Yes, Hamilton's home.

Q. What were you doing there?

A. I went there to ascertain if Mrs. Hamilton had received money from Minnie Atkins that I had given her to help with her confinement expenses.

Q. When was that, you say, with reference to the birth of this Robert Lee Peterkin?

A. It was, I presume, during the birth of the child, that I started for their house at that time of night, which was not over—well, ten minutes walk from the house in which Minnie was confined in.

Q. Did you find out anything?

A. I had not up *i*ntil today, yet.

Q. Did you see any of them?

A. I did, and Mrs. Hamilton said that she had—nothing like that had taken place. I asked Minnie if she had any money to pay the Doctor, or give him some, as they expect in a case like that with strangers and she has yet to explain to me what become of that money.

Q. Did you make it known to the Hamilton's who you were, at that time? A. Sure, certainly; we had quite a talk.

Q. Now, to refresh your memory, didn't you and Minnie Atkins go to the Hamilton home after Robert Lee was born, and there Minnie introduced you as her husband, or her sweetheart? A. I don't think so.

Q. You think it before? A. I think it was before.

Q. Mr. Peterkin, Mr. Hanford asked you awhile ago, if you made certain statement to him. State what you did state to him when he came to see you in Boston.

A. Well, it would simply be a repetition of what I have already recited to you people because when I first started to talk to Mr. Hanford, I told him that I was dealing with a delicate case; that I would tell nothing but the truth, and I remarked to him and cautioned him—not knowing exactly what he was or was not—that he was dealing with the most inconsistent, damnedest liar that ever walked on the face of the earth, and that was Minnie Atkins.

Mr. Hanford: I move to strike the answer as not responsive to the question.

Q. Did you then recite to him substantially the same facts you have recited here in your testimony? A. I did.

Q. Mr. Peterkin, there was offered in evidence as Government's Exhibit 23, a letter that Mr. Hanford wrote to you on November 23rd, 1914; I will ask you to read this exhibit in the record in case No. 4464, pending the United States Circuit Court of Appeals, beginning just above the middly of page 457, with the words, Government Exhibit, and ending at the bottom of page—and ending on page 459, and ask you if that is a copy of the letter received.

Mr. Allen: May not it be agreed that it is?

Mr. Hanford: Is that an attempt to put in the record on the Receivership hearing or—

Mr. Allen: German took that original letter, I suppose, but I haven't got it.

Mr. Hanford: I will admit that the substance is correct, except that it appears from the printing that there are errors which are typographical and are indicated as such in the print.

Mr. Allen: We offer that letter in evidence.

Mr. Hanford: I admit that this is a copy and you can offer the original.

Re-Cross Examination by Mr. Hanford.

Q. Mr. Peterkin, that letter was written to you in answer to a letter from you to me? A. Yes.

Q. You wrote me at Seattle and sent me a copy of a letter that you had received from Judge Rosser, is that not true?

A. Yes.

Q. You had my card with my Seattle address?

A. Got it yet.

Q. Some time after that you received this reply to your letter? A. Yes.

Q. At the time that you came to see me in Boston, I told you that I wanted to find out about this boy Tommy Atkins, is that not so?

A. No, sir, excuse me; not to my memory now, because your visit when you left, was quite a mystery to me. I didn't quite understand.

Q. Isn't it a fact, Mr. Peterkin, that I told you that I wanted to find out about this boy, and you told me that she didn't have the boy—that it was a girl? A. Where?

Q. Here in Boston.

A. Oh no, no, no; no, sir, because I—

Q. You recall, Mr. Peterkin, my making notes of what you told me? A. Yes, but there are all kinds of notes.

Q. And you recall my making notes as you talked to me?

A. Yes, sir, you know they asked me that question in court and I didn't remember but it afterwards came to my mind that you did.

Q. And isn't it a fact that I told you that what you told me was, I wasn't interested in, because I was trying to find out about this boy, and you told me that you knew nothing about any such a boy?

A. Well, I couldn't have told you that because I have a pretty good memory and I always made*d* up my mind if ever I had to go into court that I would have to tell the truth, and then I wouldn't get into any trouble, because I am a little bit hot-headed, in or out of court, and it wouldn't do for me to tell anything but the truth, and I couldn't have told you that.

Q. Well, what did you tell me?

A. In regard to the child, I certainly must have told you that the child I knew of, was a boy because I had so much to do with it, and of course, that is pretty well proven that it was a boy. That old priest in Leavenworth church pretty well proves that to you fellows.

Q. I admit, Mr. Peterkin, that it was a boy and it was proven to be a boy, but don't you think that you might have had a lapse of memory at that time and stated to me that it was a girl?

Mr. Allen: We object.

A. All kind of things are liable to happen.

Q. I will ask you this—you recall that when you came into the room, I told you what that I was really wanting to see you about was this boy, and the first thing that you said to me was, this boy born in Leavenworth—and the first thing you said to me was, she didn't have a boy in Leavenworth, it was a girl?

A. No.

Q. And I told you what I wanted to find out about was a boy born to her prior to her going out to the Fort and prior to the time that she left you but that I had taken a chance in coming to see you in the hopes that you might have known something about it?

A. Well, I will tell you—I am sorry that you understood it that way, Mr. Hanford, because it wasn't that way, and of course if I had said that I say now that it was a grand mistake.

Q. Admitting, though, that it was a mistake, Mr. Peterkin, don't you think that that is what you told me?

Mr. Allen: We object to the argument.

A. No, no, Mr. Hanford, I don't think so; I don't think so, and if I did, I hope that I will be allowed to change it because if I told that it wasn't the truth and I ought to have the same privilege as Sadie James to change her testimony.

Q. Mr. Peterkin, Minnie, the time that you referred to her, was of a secretive disposition, is that not true?

Mr. Allen: We object to that as argument and calling for a conclusion of the witness and not proper cross examination.

A. Well, she was in a way, but for her to exercise those qualities either with Oliver or myself, she had very few chances.

Cross Examination by Mr. Allen.

Q. Mr. Peterkin, what time during the night was it, that Carpenter came to deliver this child?

A. As near twelve as it could possibly be.

Q. How long before the child was born?

A. Think that was—she wasn't sick, I think, over two hours. I think the Doctor had just got there, if he did, in time. I don't remember that because I didn't remain in the house; I was blowing smoke up in the air in the back yard.

Witness dismissed.

Mr. German: We offer the deposition of JOHN P. HESSE, taken before Mr. Penick, and beginning in his transcript at page 596.

JOHN C. HESSE, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Will you please state your age, name and place of residence?

A. John C. Hesse; my age is 80 years; my residence, Washington.

Q. What official position do you hold at this time?

A. I am Chief of Division in the Adjutant General's Office.

Q. As Chief of Division in the Adjutant General's office, do you have charge of the original records showing the enlistment and discharge of persons serving in the United States Army?

A. No, I haven't exactly charge of them but I can get them when I ask for them because the Adjutant General is the only party who has charge of them.

Q. Are the records showing the enlistment and discharge of William D. Oliver now in your custody?

A. Yes, sir, in my hands now—the original enlistment contract of William D. *Oloer,* that is, his first enlistment.

Q. Have you the record in your custody now showing the discharge of this man *Oloer?*

A. Yes, the muster roll of Company E, 18th Infantry, for the month of November and December, 1885, shows *shows* William D. *Oloeo,* a corporal of that Company was discharged in Fort Leavenworth on the 18th of December 1885, by reason of expiration of term of service.

Mr. Allen: We offer the record identified by the witness in evidence, and by agreement of parties, the witness is permitted to read the record, in so far as it contains any entry to William D. *Oloeo.*

A. The spelling is—here it is—it makes it there read O-l-i-v-e-r-, and it is not clear.

Q. Will you please read th- entire record showing any entry in reference to the discharge of this man William D. Oliver?

A. Why, it is spelled O-l-v-e-r-; there is no "i" there, as far as I can see.

Q. Just read the entire record so far as he is concerned.

A. Corporal, day, enlistment—December 19, 1880, enlisted at Fort Assiniboine, Montana Territory, by Lieut. Bates for the period of 5 years; and that he was discharged at Fort Leavenworth, Kansas, December 18th, 1885, by reason of expiration of term of service. Do you want the date of the last payment by the Paymaster?

Q. Yes.

A. That he was last paid by Lieut. Col. Rucker, to October 31, 1885—due the soldier for continued service, ten years and three months. Discharge and final settlement given. Due soldier for retained pay, sixty dollars, clothing not allowed. I think that refers to the other—I think it is, due soldier retained pay sixty dollars, and clothing not drawn. Sixteen dollars and twenty-eight cents—character good.

Q. Does that record to what Company he belonged at the time of his discharge?

A. Yes; Company E, 18th Infantry.

Q. Stationed at Leavenworth, Kansas?

A. Stationed at Leavenworth, Kansas.

Cross Examination by Mr. Hanford.

Q. Mr. Hesse, the Adjutant General is the legal custodian of these records, is he not? A. Yes.

Q. And you have before you the subpoena that was served on the Adjutant General, or his representatives, have you not?

A. Yes.

Q. General McCain designated you to secure this record?

A. Yes.

Q. And testify for his benefit? A. Yes.

Q. To facilitate the gaining of this testimony? A. Yes, sir.

Q. You are familiar with the records of this office?

A. I am; I have been her- 54 years and I should be familiar with it.

Q. I will ask you if this is the original and only record of the matters about which you have testified?

A. The only record and that is the original signed by officers and I recognize their signature.

Witness dismissed.

Thereupon, J. L. BRUFF was recalled for further redirect examination and testified as follows:

Redirect Examination by Mr. German.

Q. Mr. Bruff, you are a special agent of the Department of Justice? A. Yes, sir.

Q. Bureau of Investigation? A. Yes, sir.

Q. Mr. Bruff, it appears in the testimony of Mr. Peterkin that one William Oliver, a soldier in Company E, Eighteenth Infantry, Stationed at Leavenworth, 1884, was an associate of Minnie's. Have you made any effort to find Mr. Oliver?

A. Yes, sir.

Q. Were you successful? A. No, sir, I was not.

Q. What effort did you make to find him?

A. In the War Department and the Pension Office in Washington.

Q. Did you find a record relating to him in the War Department? A. There was a record of his military service.

Q. Of his Military service? A. Yes, sir.

Q. Did they have his address?

A. They did not at the War Department.

Q. Did you go elsewhere with a view of finding out where he was? A. I did.

Q. Where? A. Pension office.

Q. Did you find any record there relating to him?

A. Yes.

Q. Did you get a supposed address of his there?

A. There is a record there of an application made by his wife for a pension, and on investigation it was found that he was dead; she had applied for a pension.

Q. Mr. Bruff, the testimony of Mr. Peterkin shows a man by the name of Patrick Burk was with Minnie some, possibly in 1887 and 1888 for two or three months, maybe more. Have you made any effort to find Mr. Burk? A. Yes, sir.

Q. What effort did you make?

A. At the War Department.

Q. What was the result?

A. I got his military record.

Q. What does it show—I will ask you this: Could you find him? A. No, sir.

Q. Why?

Mr. Stuart: I would like to inquire as to the purpose of this testimony.

The Court: I apprehend the purpose is to show this man is either dead or isn't available.

Mr. German: That is correct, your Honor.

Mr. Stuart: I don't think there is any dispute about that.

Mr. German: Well, if they admit it, that is all right.

The Court: Well, if they admit it, that is all right.

The Court: Very well, we will not go into that any further.

Witness dismissed.

Mr. German: We offer the deposition of Mrs. John Stafford, appearing in Penick's transcript of depositions, beginning at Page 356.

CORNELIA G. STAFFORD being called on behalf of the United States, sworn and under oath testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Cornelia G. Stafford.
Q. Where do you live? A. San Diego, California.
Q. How long have you lived in San Diego?
A. We came here in September of '96—ten years.
Q. Where did you live in 1885 and 1886?
A. Fort Leavenworth, Kansas.
Q. Were you married at that time? A. I was.
Q. To your present husband—Major John Stafford?
A. Yes.

Q. Did you know a girl named Indian Minnie, or Minnie Atkins? A. I did.

Q. At Fort Leavenworth in 1884- '05- '06 and '07?
A. Yes.
Q. When did you first get acquainted with her?
A. In September, or October, 1885.

Q. State the circumstances under which you become acquainted with her. A. When did I?

Q. Yes; did she work for you?
A. She worked for me, yes.
Q. When did she commence working for you?

A. Well, as near as I can remember it was either September, or October, in 1885; I think it was September, but I am not sure—either in September or October.

Q. How do you happen to remember the time that she commenced working for you, Mrs. Stafford?

A. Because Major Stafford was ordered to the School at Fort Leavenworth, and I took her as soon as we went to house-keeping—as soon as we got our quarters. I don't remember whether that was September or October; I think it was about September 15th as well as I can remember.

Q. She commenced working for you at the time you commenced house-keeping?

A. At the time that we commenced house-keeping at Fort Leavenworth—as soon as we got our quarters.

Q. Where did you commence house-keeping—what house?

A. I don't know what—they used to call it the old canteen; it was assigned to the School—I don't know what they call it now—some Hall—but it was what we used to call the old School [illegible].

Q. You say that your best recollection is that you commenced house-keeping there about the 15th of September?

A. As I remember, yes.

Q. And Minnie commenced working for you when you commenced house-keeping? A. Yes.

Q. How long did she work for you?

A. She worked for me until about the following June.

Q. When she came to work for you what was her physical condition or appearance? A. Normal, good.

Q. Did she appear then, or show any indications of having suffered from any recent sickness?

A. Not at all, she was the picture of health—strong and robust, and well.

Q. Where did she live during the time that she was working for you?

A. She had a—in our kitchen; we had two rooms and a kitchen. She had her cot in the kitchen.

Q. Did she associate with any men during the early part of her employment by you? A. Not that I know of.

Q. Was she at your house constantly?

A. She was there all during the day, of course, as to the evening, I don't know where she was, but she was with me constantly from the time she came until I dismissed her.

Q. Did she sleep at your house every night during that time? A. So far as I know, she did.

Q. What was the occasion of her leaving you?

A. Well, I dismissed her because her condition indicated her condition and I didn't want her on my hands. She denied it but her appearance indicated that that was her condition.

Q. Do you know who she was going with during that time?
A. I do not.

Q. Do you ever know a Charles Peterkin? A. Never.

Q. Did she associate*d* during any of the time that she stayed with you with negroes?

A. There were no negroes at the Post that I know of—I never saw her with one.

Q. Do you know where she came from to your house?
A. I don't know at all; I have no idea.

Q. Had you heard? A. Not a w*a*rd, I just took her.

Q. Had you heard whether or not she formerly lived at the—worked at the Post?

A. No, I didn't know—I didn't know anything about her when I took her.

Q. What causes you to remember that—what fact creates the impression in your mind that it was about the 15th of Septimber that she commenced working for you, Mr. Stafford?

A. Because Major Stafford was detailed to the School, and the School year commenced in September and we went to house-keeping as soon as we got the quarters. Whether they were assigned to us in September, or October, I don't remember. He was detailed there for the School from 1885 to 1887.

Q. To refresh your memory, how long had you lived at the Post before you commenced house-keeping.

A. About a month.

Q. And when did you go [ ] the *the* Post, Mrs. Stafford?

A. The end of August.

Q. During what part of August?

A. Well, about the 25th, I think.

Q. Was it a full month before you commenced keeping house? A. Well, I don't remember.

Mr. Blakeney: We object as leading and suggestive.

A. Are you able to say about when you commenced house-keeping with reference to the time that you went to the Fort?

Mr. Blakeney: We object as repetition.

A. Well, I would say about the middle of September, as well as I can remember.

Q. When were you married, Mrs. Stafford?

A. In July 1885—the 8th of July.

Q. Your husband is a retired Major now in the United States Army? A. Yes.

Cross Examination by Mr. Blakeney.

Q. Mrs. Stafford, you are testifying to transactions that occurred some thirty-five or thirty-six years ago, and you are able to fix the date only by the circumstance that you went to Leavenworth some time during the latter part of August, of first of September, 1885? A. Yes.

Q. You recall that you stayed some little while in Bachelors Quarters before you went to house-keeping?

A. No, those were our quarters assigned—we stayed there—never moved; we were assigned to the School quarters. When the class went there, those were the quarters assigned by the officers of the School.

Q. You stayed there some little while before you went to house-keeping?

A. No, we went to house-keeping the day we went there; we stayed at the hotel possibly some two weeks before we went to house-keeping.

Q. Before you went to those quarters, you stayed at the hotel two weeks?

A. About two weeks at the Post headquarters.

Q. Did you go to house-keeping right there?

A. Yes, right there.

Q. What hotel? A. The Post hotel.

Q. You had no way of fixing the date that you stayed at the Post hotel?

A. No, I have no statement of it at all; we went there about the 25th of August and stayed there until we went to house-keeping.

Q. You say sometime between the 15th of September and first of October, you went to house-keeping?

A. Yes, I say as well as I remembered—we went about the 15th of September; that is my recollection.

Q. Then your recollection is that you stayed some three or four weeks at the hotel?

A. As I say it was thirty-five years ago and it is kind of hazy.

Q. When was your attention first called to the transaction?

A. Well, when Major got this letter asking about Minnie.

Q. You got a letter about a year ago inquiring about Minnie?

A. Well, I don't remember when the letter came; Major got this letter.

Q. Had your attention been called to it about a year ago?

A. I think about a year ago.

Q. And from the time that the incidents closed at Leavenworth until you received this inquiry, you never thought about it?

A. Never thought about it. I didn't remember that I had had the girl—I knew her name was Minnie. When I dismissed her service, that ended it.

Q. You were living at Sandiego when you received this inquiry? A. Yes.

Q. So you had no way of refreshing your recollection?

A. Not the slightest.

Q. And after getting that, that is the conclusion you reached?

A. Yes. I know the facts—I know when we commenced house-keeping.

Q. You married in July of that year.

A. Yes, married in July of that year.

Q. Where were you married? A. San Francisco.

Q. And where did you go to from San Francisco?

A. We went East—St. Louis and Chicago, and had a tour of the East.

Q. How long were you on that tour?

A. Well, until we went to Leavenworth—the end of August.

Q. Did you go back to San Francisco?

A. No, we didn't go back.

Q. You went on around the East?

A. And ended up at the Fort.

Q. You ended at Fort Leavenworth? A. Yes.

Q. Where was the last place that you stopped before you came to Leavenworth? A. Detroit.

Q. Stopped at a hotel in Detroit?

A. No, I was with an aunt there.

Q. Visited and aunt at Detroit? A. Yes.

A. How long did you visit there? A. Two weeks.

Q. And where was your stop just preceeding that?

A. St. Louis.

Q. Where did you stop in St. Louis?

A. I don't know—some hotel.

Q. And you can't give the name of the hotel?

A. I don't remember the name of the hotel, no.

Q. You can't, by thinking a minute, think of the name of the hotel?

A. No, I can't remember the name of the hotel if I thought all night.

Q. You stopped at a hotel in St. Louis? A. Yes.

Q. And that would have been in the late summer of 1885? A. Yes.

Q. And then you went to Detroit and visited your aunt?

A. Yes. Now, that is as near as I can remember; of course, thirty-five years ago—we went to Detroit and St. Louis, and Detroit was the last place, and from there we went to Ill. We might have gone to Chicago before we went there, I can't remember thirty-five years ago of the places that we went to.

Q. You would be as certain about that as you would be the number of weeks that you boarded before you went to house-keeping at Leavenworth?

A. Yes, of course, I wouldn't say how many weeks I boarded.

Cross Examination by Mr. Hanford.

Q. Mrs. Stafford, you testified, I believe, that Minnie slept in the kitchen of the quarters? A. Yes.

Q. What did she have for a bed?

A. She had a cot—an army bed—an army cot.

Q. A hospital cot, or a camp cot.

A. Just a camp cot, a small cot

Q. Then it didn't remain there all the time during the day, did it?

A. Yes, she had a cover for it—a canvas cover that she put over it during the day.

Q. And that was the only accomodation that she ever had?

A. That was the only accomodation that she ever had at our house; that was the only accomodation we could give her —we didn't have anything else.

Q. You stated, I believe, that you didn't know of any associates—of Minnie's associates? A. No.

Q. Did any one occupy the quarters with her or was she alone?

A. She was supposed to be alone; I don't know that anybody was there.

Q. Then, when her work was ended in the daytime, you lost track of her?

A. I lost track of her when she finished with the dinner —she was through, and she could do what she chose until the next morning. I didn't bother with her.

Q. Did she have days of leisure that were allowed her? A. No.

Q. No days off?

A. No, no days off, except Sunday afternoon after she finished her noon dinner.

Q. Do you know where Minnie went after you discharged her? A. No.

Q. You don't know whether she worked for anybody in the Post?

A. No, and I know she didn't work in the Post when I discharged her; she got out of the Post, but where, I don't know.

Q. You are sure that she went out of the Post, however?

A. I don't know but I think she did. As far as I know, she was not int the Post; I never saw her again.

Q. Do you remember whether or not there was a young Cavalry officer who lived in either the adjoining building or the same quarters? [A.] No.

Q. That you were in—that employed her? A. No.

Q. Did you ever hear Minnie refer to any soldier by the name of Peterkin? A. No.

Q. Did you ever hear Minnie called by the name of Peterkin? A. No.

Q. You don't remember anybody by that name? A. No.

Q. Mrs. Stafford, did you know of Minnie's condition for very long before you discharged her? A. No.

Q. Then you let her go as soon as—as soon after you discovered her condition——

A. Well, she was pretty close when I discharged her; it was very, very evident.

Recross Examination by Mr. Blakeney.

Q. Mrs. Stafford, do you remember what wages were paid Minnie?

A. I think I paid her twelve dollars a month but I am not sure. I am pretty sure it was twelve dollars a month.

Redirect Examination by Mr. Allen.

Q. Did you say, Mrs. Stafford, that the first house-keeping you ever did after you were married, was when Minnie commenced working for you? A. Yes.

Q. Minnie commenced working for you at the time you commenced house-keeping? A. Yes.

Q. Did Minnie show any signs while she was at your house of nursed a child or——

Mr. Hanford: I object to the question as incompetent, irrelevant and immaterial.

Mr. Allen: I believe I will withdraw the question: she testified in regard to it, I think, sufficiently.

Witness dismissed.

Mr. German: We offer the deposition of Major John Stafford, appearing in Mr. Penick's transcript of Depositions, beginning at Page 365.

And thereupon JOHN STAFFORD being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name, age and residence.

A. John Stafford, San Diego, California; age 61 years of age.

Q. What is your official title, or rank?

A. Major, United States Army, retired.

Q. How long have you been retired?

A. Since August 1906.

Q. Major, where did you live in 1885-'06?

A. Fort Leavenworth, Kansas.

Q. When were you married to Mrs. Stafford?

A. July 8th, 1885.

Q. When did you go to Leavenworth with reference to the date of your marriage?

A. Last week o*g* August, 19885.

Q. Have you a copy of the order assigning you to Fort Leavenworth? A. No, not that order.

Q. What order have you?

A. I have the order assigning me to the organization at Fort Leavenworth—I didn't bring that, but I may have it at home.

Q. What is the date of that order?

A. September 3rd, 1885.

Q. When, with reference to the date of that order, did you go to Fort Leavenworth?

A. Well, at least a week previous to that order.

Q. When did you commence housekeeping with reference to the time that you went to Leavenworth?

A. The exact date?

Q. Yes. A. Well, I can't give the exact date.

Q. Can you give it approximately?

A. Well, between the 10th and 30th of September, I will say.

Q. Are you able to say, now, definitely, whether it was later than the 30th of September?

A. Oh, it wasn't later than *then* September 30th.

Q. When you commenced house-keeping, who, if anybody, was employed by you as a servant in your home?

A. An Indian girl by the name of Minnie Atkins, or Minnie.

Q. When did she commence working for you with reference to the date that you commenced house-keeping?

A. Well, it was the same date.

Q. How long did she work for you, Major?

A. Well, between six or eight months at least.

Q. Why did she leave?

A. Well, I don't remember why exactly she left—I didn't discharge her.

Q. Do you know whether or not Mrs. Stafford discharged her?

A. Yes, she discharged her.

Q. Do you know why she discharged her?

A. Well, she was undoubtedly in a family condition.

Q. At the time that she came to work for you, what was her physical condition?

A. Apparently normal, good.

Q. Did she show any signs of any recent illness?

A. Not at all, no.

Q. During the time that she worked for you, was she there all of the time? A. So far as I know, yes.

Q. With reference to the time that your quarters were assigned to you by the quartermaster, when did you commence house-keeping?

A. Well, probably the following day; at least, a few days after they were assigned to me.

Q. Why were you staying at the hotel the several weeks that you say that you stayed there?

A. Waiting for the assignment of the quarters.

Q. Did you move into the quarters immediately when they were assigned to you?

A. Immediately, yes.

Q. Do you know where Minnie came from when she came to work for you? A. I do not.

Q. Had you heard where she had previously worked?

A. No, not to my recollection.

Q. Did you know of her associates while she was with you? A. No, no.

Q. With other people? A. No.

Cross Examination by Mr. Blakeney.

Q. Mayor, you were married in July of 1885? A. Yes.

Q. You took a trip East and returned to Fort Leavenworth, is that correct? A. That is correct.

Q. Where were you married?

A. In San Francisco, California.

Q. Had you been transferred before you started on your wedding tour? A. Yes.

Q. You had been ordered to Fort Leavenworth? A. Yes.

Q. You were off of duty—you were given—what do you call it? A. Was given two months leave.

Q. Do you remember about when you were given that?

A. The order was probably issued about a week—the first of July, I would say.

Q. You would say about the 1st? A. Yes.

Q. By whom are those orders issued?

A. By the Division Commander of the Pacific.

Q. Are they made a matter of record? A. Oh, yes.

Q. Copies of the order could be secured from the War Department?

A. Yes, I think I have a copy myself.

Q. On this leave of absence you were married and took your trip, did you? A. Yes.

Q. Before the leave of absence was granted, do you recall whether or not you had been transferred to Fort Leavenworth, or were you transferred during the time that you had your leave?

A. The transfer, or the order of transfer was issued, and then I applied for my leave—two months leave; that is my recollection of it.

Q. Where was the last place that you made a stop prior to going to Fort Leavenworth? A. You mean over night?

Q. Yes.

A. I think it was the Leland hotel in St. Louis.

Q. Do you recall that you did stop at the Leland Hotel when you were in St. Louis?

Q. Yes, I am pretty sure that it was the Leland hotel.

Q. You visited some of your wife's people in Detroit? A. Yes.

Q. Did you go from St. Louis to Detroit?

A. No, I went from Albion, Ill., two weeks.

Q. Where did you stop at Albion? A. At my home.

Q. You visited your parents there? A. Yes.

Q. At Albion, Ill.? A. Yes.

Q. And went from there where?

A. From there I attended Mrs. Stafford en route from Detroit to St. Louis—Galesburg, I think—Ill., some place.

Q. You joined her en route and went to St. Louis?

A. St. Louis.

Q. How long did you stay at St. Louis?

A. Probably a week or ten days.

Q. And your recollection is that you stopped at the Leland hotel? A. That is my recollection.

Q. You were a regular guest there? A. Yes.

Q. You registered? A. Yes.

Q. And then you *wetn* from there to Fort Leavenworth? A. Yes.

Q. When you reached Fort Leavenworth you didn't find apartments signed you? A. No.

Q. And you stopped at the Post hotel?

A. Yes, it was known as the Keeling, or Post hotel; either one is correct.

Q. You think that you stayed there a few weeks at the hotel before you were able to obtain your quarters?

A. I think so, yes.

Q. You have no way of fixing with entire certainty the length of time?

A. No, not without reference to the record orders.

Q. What records, Major, could you suggest to us that might fix the time with definiteness?

Q. Well, the order of assignment to quarters of the Student Officers would fix it as to date.

Q. You think that within a few days after that assignment you did get your quarters?

A. I moved in as soon as I could; moved my trunk.

Q. What quarters did you move into?

A. It was an old barracks, converted into a section of rooms. I think it is now called the Sherman Hall.

Q. Major, who would issue the order of assignment to rooms?

A. Why, the Commanding Officer directed the Post Quartermaster to make the assignment, or the commanding officer may do it himself, I am not sure which.

Q. Orders were issued in regular Army orders?

A. I think so, oh, yes.

Q. And copies could be secured from the War Department, or army Post? A. Yes, I think so.

Q. If they were issued, it could be procured, you say——

A. Oh, yes.

Q. You are not certain whether it was done by order or by verbal direction?

A. Verbal direction of the Commanding Officer it might have been, you see.

Q. When you were so assigned, you had an apartment of three rooms? A. Yes.

Q. Two you occupied, and the other you used as the kitchen? A. Yes.

Q. In this kitchen you had a cot for your servant?

A. Yes.

Q. Do you know whether or not that cot was occupied regularly or not? A. No, I can't state that.

Q. After the dinner hour, you kept no further trace of your servant? A. No.

Q. She was supposed to retire after you leaving the kitchen and was up before you returned to the kitchen in the morning? A. Well, I don't know anything about her.

Q. You don't recall ever going into the kitchen while she was occupying the cot?

A. No, I never did, as I remember.

Q. To say whether the cot had been occupied any single night you had no way of stating? A. Oh, no.

Q. You did notice later that she showed evidence of being pregnant? A. Oh, yes, yes.

Q. And to your recollection, was discharged for that?

A. Yes.

Q. Now, you put the length of time that she was employed from six to eight months; your recollection is that she was discharged about July, wasn't it?

A. I can't fix whether it was June, July or when it was; she was with us a long time.

Q. She stayed there a number of months? A. Yes.

Q. If she was at that time claiming to be the wife—common law wife of a private, named Peterkin, you had no information or don't now recall the fact?

A. No, I didn't know anything about it.

Q. Have you any method of fixing these facts in your mind, *more* by the searching of your memory as to how long she was employed, etc.?

A. No, there is no data that I know of.

Q. Do you remember the wages that you paid her?

A. No, I don't remember.

Redirect Examination by Mr. Allen.

Q. I overlooked one matter that I wanted to inquire about and I will now do it before the cross-examination of Mr. Hanford. Major, have you received any letters or telegrams from any of the counsel representing the defendant in this case, in reference to your knowledge in the case?

A. Yes.

Q. Have you them with you?

A. I have two telegrams with me.

Q. Let me see them, will you?

Mr. Allen: I ask to have marked for identification, the telegram which is handed me by the witness (Government's Exhibit 2). We wish to mark the other telegram handed me by the witness as Government No. 3. (Offer so marked).

A. There is one answer incorrect that I gave.

Q. Just in a minute, Major, they will let you correct it. I hand you for identification the Government's Exhibit No. 2, is that the original telegram received by you from the Western Union Telegraph Company? A. It is.

Mr. Allen: We offer it in evidence.

Mr. Blakeney: We object to Exhibit 2 as incompetent, irrelevant and immaterial, and not properly identified and not being primary evidence.

Mr. Hanford: Defendants Folk and Hanford object on the ground that it is incompetent, irrelevant, and immaterial; has no bearing upon the issues in controversy, and is not properly identified.

Q. I hand you Government's Exhibit 3, and ask you if that is the original telegram received by you from the Postal Telegraph Cable Company? A. It is.

Q. When was this received by you? A. July 15th, 1914.
Q. Where? A. San Diego, California.
Q. Is your present address 3592 Front Street? A. It is.
Q. Was that your address on July 15, 1914? A. It was.

Mr. Allen: We offer this telegram in evidence.

Mr. Blakeney. We object to Government's Exhibit No. 3, as incompetent, irrelevant, and nor material, and not properly identified and not the primary evidence.

Q. Major Stafford, when did you receive Government's Exhibit No. 2, and where?

Q. February 24th, 1915, at San Diego, California.

Mr. Allen: We re-offer Government's Exhibit No. 2.

Mr. Blakeney: To which we object to as incompetent, irrelevant and immaterial and not properly identified, and not the best evidence.

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and not properly identified and not the best evidence.

Q. Referring to the matters written with a lead pencil on the front and back of this telegram, were those figures and this writing on the telegram when you received it?

Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial.

A. The writing on the back is in my handwriting; I don't recall the figures in front.

Mr. Blakeney: The question was, was it on there when you received it.

Q. Were those figures on there when you received it?
A. Oh, no, no, I don't remember them.

Recross Examination by Mr. Blakeney.

Q. This lead pencil writing on the back of Exhibit No. 2, you say is in your handwriting, Major? A. It is.

Q. Do know what, and why, and when, that handwriting was placed there? A. What and why?

Q. Yes. When was it placed there, and why?

A. As a memorandum of the original in reply to the inquiry of the telegram of February 25th.

Q. You made that memorandum ther- for the answer which you returned to that telegram?

A. I believe this memorandum is the correct answer as I recall it.

Q. Ther- purports to be two memorandums. Do you recall whether or not it was also the answer to some second telegram? A. No, that is all one answer.

Q. You think that is all one answer? A. I think so.

Redirect Examination by Mr. Allen.

Q. You said you wanted to make a correction, Major, in your testimony?

A. It is immaterial, I suppose, but I stated that my order for detail, or transfer to Leavenworth, was issued prior to the granting of my leave. It should be the first; leave was granted first, and order for my transfer to Fort Leavenworth was dated July 31, or August 5th, 1885. My leave was granted about July 1st.

Recross Examination by Mr. Blakeney.

Q. Do you remember where you received the order?

A. For my transfer.

Q. Yes. A. I think Detroit, Michigan.

Mr. Hanford: I object to the whole of the testi—witness, on the ground that it is incompetent, irrelevant, and immaterial, and move to suppress the deposition.

Redirection Examination by Mr. Allen.

Q. Major, have you a copy of the order assigning you to—what was the order you have there?

A. Just detailing me to the different organizations.

Q. By whom is that order signed?

A. That is the Commandant, Fort Leavenworth, Kansas.

Q. That order was the order detailing you to the different offices? A. Yes.

Q. You were at that time, I believe you said, already in Fort Leavenworth? A. Yes.

Q. And what is the date of that order?

A. September 3rd, 1885.

Mr. Allen: It is agreed that the original order about which Major Stafford has just testified be read into the record.

Mr. Blakeney: We reserving our objection to its competency, relevancy, and materiality.

Mr. Hanford: I wish to preserve the same objection but I join in the stipulation.

Mr. Allen: Fort Leavenworth, Kansas, September 3rd, 1885, order No. 216. Extract * * * * Roman figure two followed by a period. The following named officers having reported at this Post, in compliance with special orders numbers ——, figures —— 174 and 178, Headquarters of the Army, dated Washington, D. C., July 31, and August 5th, 1885 respectively, are hereby assigned to troops and commands at Posts as follows, and will report to their respective troop and company commanders on the 5th, inst. * * * * Company A, 4th Infantry; Second Lieut. John Stafford, 8th Infantry * * * * by order of Col. Thomas H. Ruger, signed Robert F. Bates, 1st Lieut. and Adj., 18th Infantry, Post Adjutant.

Mr. Hanford: I wish to restate my objection to the testimony of this witness—all of the testimony—on the ground that it is incompetent, irrelevant, and immaterial and move to suppress the deposition. It is understood that my cross-examination is to the testimony adduced by them in behalf of the Government and the defendant, Henry Carter.

Mr. German: What are the grounds, Mr. Hanford?

Mr. Hanford: On the ground that I stated in *my* my objection that the testimony is incompetent, irrelevant, and immaterial.

Cross Examination by Mr. Hanford.

Q. Major Stafford, the first telegram that you received from me which I now show you as marked Government's Exhibit No. 3, was dated July 15th, 1914—that was the date you received it? A. I think so, yes.

Q. This telegram is dated in typewriting as July 15th, 1915, and the 15 is changed to 14, in lead pencil. Do you recall who made that alteration?

A. It was done before I received it; I don't know.

Q. The telegram was received in 1914, then?

A. Exactly.

Q. You made no reply to that telegram?

A. Well, I think I did; I always replied to everything I received; I must have replied, although I don't remember.

Q. Do you remember what your reply was?

A. No, I don't; not now.

Q. The telegram calls for no reply, does it?

Mr. German: I object to that as calling for a conclusion of the witness, and an opinion.

Q. Examine the telegram, Major, and then answer the question, please.

A. I didn't make a reply to that telegram, I am sure; I answered the queries by letter.

Q. Have you a copy of the letter that you wrote in answer to that telegram? A. No.

Mr. Hanford: I will ask to have this letter marked as exhibit 2 on behalf of the defendants Folk and Hanford, for identification.

Q. I will hand you this letter, Major, and ask you to state what that is.

A. A letter written by myself.

Mr. Hanford: I will offer this letter in evidence.

Q. That is the letter you spoke of as being your answer to that inquiry?

A. I think so, yes; I have no better recollection of it.

Q. Subsequent to that inquiry you received that telegram which I now show you, marked Government's Exhibit 2?

A. Yes.

Q. W*as* is the date of that telegram?

A. February 24th, 1915.

Q. And this is dated from Paola, Kansas, is it not?

A. Yes.

Q. Did you reply to that telegram? A. I did.

Q. Do you remember what your reply was? A. Well——

Q. I will ask you first, have you a copy of your reply to that-

A. Memorandum data, on the back of the original telegram.

Q. Is it not a fact that your reply was in substance as follows: E. C. Hanford, care Severs Hotel, Muskogee, Oklahoma. When Minnie Atkins left my employment in 1886, her physical condition indicated pregnancy. Cannot recall other inquiries—and that was sent by telegram and signed Major Stafford. Is that or not, in substance your answer?

A. It is undoubtedly part of it; whether it is all, I can not say.

Q. Isn't it a fact, Major Stafford, that you received a second telegraphic inquiry from Mr. Hanford about the time you received the telegram from Paola, Kansas, asking as to the conditions of Minnie Atkins, as to pregnancy about the time she left your employ? A. I may have.

Q. Have you in your possession the copy, or the original, of any such telegram?

A. No, not that I can recall.

Q. Do you recall sending a telegram to Mr. Hanford, dated February 25th, 1915, in substance as follows: San Diego, California, February 25th, 1915, E. C. Hanford, Severs Hotel, Muskogee, Oklahoma—Cannot state positively, employed Minnie Atkins about nine months from October 1st, 1885, J. Stafford, Major, United States Army—did you send such a telegram to Mr. Hanford? A. I believe I did.

Q. At any rate, there were two telegrams sent the same date according to your recollection?

A. Well, there may have been, I didn't pay much attention to it—there may have been.

Q. Those telegrams were sent with some interval—that is, with some several hours between, were they not?

A. Yes, I remember it now—I remember they were.

Q. And the second one, in answer to a second inquiry?

A. Undoubtedly.

Q. Well, you haven't a copy of that with you? A. No.

Q. The first telegram was sent by you about 2:45 P. M., is that correct?

A. I don't remember the hour; I think I telephoned it down from home.

Q. Your first answer was to the affect that Minnie Atkins had worked for you about nine months from October 1st, 1885, that was the first telegram, is it not?

A. The first telegram was "Couldn't state positively. Employed Minnie Atkins about nine months, October 1st, 1885." I think that is correct.

Q. And that was in reply to the telegram that you hold in your hand, marked Government's Exhibit 2?

A. Well, I don't know what it was in reply to, but that was my telegram.

Q. And your second telegram as to her condition of pregnancy was in answer to a second inquiry, a copy of which you have not at this time? A. No, I haven't.

Q. Do you recollect what that second inquiry was, in substance?

A. When Minnie Atkinson left my employment in 1886 her physical condition indicated pregnancy. I can't recall other inquiries.

Q. That was the second answer?

A. That was my telegram, whether it was first or second, I don't remember.

Q. On the back of that telegram, marked "Government's Exhibit 2," there is a notation with a line drawn between the two separate parts of it; does that indicate anything to you at this time with regard to that notation, as to whether or not those are separate notations, or were made at the same time? A. The notations erased——

Q. I refer to the line?

A. Yes, that is one, that was the end of the telegram.

Q. That was the end of the first telegram? A. Yes, sir.

Q. And what follows under that line is an answer to the second one? A. Undoubtedly, yes.

Q. Major, in the quarters where you lived when Minnie Atkins worked for you, there was just three rooms? A. Yes.

Q. Do you know whether or not any one was in the habit of occupying the kitchen besides Minnie?

A. No, I can't state that.

Q. The kitchen adjoined your quarters, did it not?

A. Yes.

Q. Wouldn't it have been possible for you to have known whether or not there were other occupants in addition to Minnie herself. A. Yes, it would have been possible.

Q. Don't you think that you would have become cognizent of that fact if it were a fact?

A. From sound or seeing, or what do you mean?

Q. From any source by general observation?

A. Well, I could have become cognizant of it but——

Q. But you did not? A. No, I paid no attention.

Q. If a soldier belonging to any of the troops regularly stationed at Leavenworth had had any authority to live outside of his barracks and occupy quarters that were assigned to you, it would have been with your permission and knowledge, would it not?

A. Why, certainly, she couldn't occupy——

Q. Did Minnie Atkins ever hold out any soldier or any one as being her husband while she lived there and worked for you? A. Not that I know of.

Q. Not that you know of? Did you ever know a soldier named Peterkin? A. No, not by name, no.

Q. Did you ever know of any of Minnie Atkin's associates amongst men while *w*he worked for you? A. No.

Q. Private soldiers are required to occupy quarters in Barracks with their company, are they not? A. Yes.

Q. In Army Posts? A. Yes.

Q. And to do otherwise is by special authority? A. Yes.

Q. The barracks are inspected when occupied by troops?

A. Yes.

Q. Are they not? A. Yes.

Q. And soldiers are allowed to be absent only by permission? A. Yes.

Q. And if they are absent without permission that fact is sure to become known, is it not? A. Yes.

Q. Did you keep a personal record of accounts at that time showing your expenditures for household purposes?

A. No.

Q. There is nothing that you can refer to showing the payments that you made to Minnie Atkins while she was in your employ?

A. Not unless I had my old check book, which I destroyed.

Witness dismissed.

Mr. German: We offer the deposition of Mary Catherine Allen, taken before Mr. Penick, appearing in the transcript of depositions, beginning at Page 730:

And thereupon, MARY KATHERINE ALLEN being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name, age and place of residence.

A. Mary Katherine Allen; I am 48 in this year, and my residence is 14th and Metropolitan Avenue, Leavenworth, Kansas.

Q. Where were you living in 1886?

A. Well, in the spring of 1886, I was in Jackson County, Kas.

Q. Did you come back to Leavenworth during that year?

A. Yes, I came to Leavenworth the 3rd day of August, '86.

Q. Had you formerly lived in Leavenworth?

A. I was born at Fort Leavenworth.

Q. How long had you been here at that time?

A. Well, I think I had been away about fifteen years, or sixteen; I think I was four years old when I left here.

Q. Who was your mother?

A. My mother was married twice after my father died. Her name was Woods—Margaret Woods.

Q. Was Mr. Woods your step-father?

A. My step-father.

Q. Where did you stay upon your return the 3rd day of August, 1886?

A. At my mother's residence.

Q. Where was that, Mrs. Allen?

A. On 8th street, second house from the corner of Kickapoo and 8th; I don't just remember the number.

Q. Did you know in 1886, an Indian woman named Minnie Atkins, or Minnie Peterkin? A. Yes, sir.

Q. Did you know Charles Peterkin? A. Yes, sir.

Q. Where did you get acquainted with them?

A. I got acquainted with her on the 3rd day of August at my mother's house.

Q. Were they at your mother's home when you returned?

A. Yes, I met both of them at the same time.

Q. Did this Minnie Atkins, or Minnie Peterkin, have a baby at that time? A. Yes, sir.

Q. About how old was that baby when you returned?

A. Well, I think it was about four days old.

Mr. Blakeney: We want to object to all this examination as not pertinent to any issue in the case; incompetent, irrelevant, and immaterial.

Q. Did you know the name of that baby?

A. I heard the name given to it the day it was baptized.

Mr. Hanford: We object to all this testimony in regard to this child, on the ground that it is incompetent, irrelevant, and immaterial.

Q. Where did you live during the fifteen or sixteen years that you were away from Leavenworth, just before the 3rd of August, 1886?

A. I was at my uncle's, in Jackson County, Kansas.

Q. Were there any babies born in that family during the time you were there. A. Yes, sir, about seven.

Q. Had you seen those babies when they were very young? A. Yes, sir.

Q. Immediately after the were born? A. Yes, sir.

Q. Have you since then given birth to any children?

A. Yes, sir.

Q. How many children have you?

A. Well, I have had six living—six that have lived.

Q. Do you know whether or not this baby that you saw when you returned to your home, was a fully developed baby? A. Yes, sir.

Mr. Blakeney: We object to the competency of the witness, and also that the evidence is incompetent, irrelevant, and immaterial.

Mr. Hanford: The same objection.

Q. State whether or not it was a fully developed baby.

A. Yes, is was fully developed.

Mr. Blakeney: We object as incompetent, irrelevane, and immaterial, and like to have the record to show that I was stating the objection while she answered, which objection was that the witness is incompetent, and the evidence is incompetent, irrelevant, and immaterial.

Mr. Hanford. We make the same objection, and also object on the ground that it states—calls for a conclusion of the witness, and that she has not been properly qualified to testify in regard to that matter.

Mr. Stuart: We move to strike it out because we had no time to make the objection before the answer, on the ground that the witness is not an expert as to childbirth, or development.

Q. You say that prior to this time you had seen about seven babies just after they were born?

A. Yes, sir.

Mr. Blakeney: We object as immaterial; that the Witness is not an expert and cannot be competent.

Q. Since that time, you say you have given birth to six children?

Mr. Blakeney: We object as a repetition, and also, incompetent.

A. Yes, I gave birth to six children; I am the mother of six living children.

Q. From your observation, knowledge and experience with children, are you able to say whether or not—are you able to tell whether or not a baby, soon after its birth, is a fully developed baby or not?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and object to the competency of the witness.

Mr. Hanford: The same objection.

Mr. Stuart: The same objection.

A. Why, yes, from what I have seen of children since, it looked like it was a fully developed baby.

Mr. Blakeney: I move to strike out the answer as not responsive, and particularly the last statement—we move to strike out particularly it looked like a fully developed baby.

Mr. Hanford: We join in the motion to strike.

Q. State whether or not this child was in your opinion, a fully developed baby.

Mr. Blakeney: We object to the competency of the witness, and to the testimony as incompetent, irrelevant, and immaterial.

Mr. Stuart: The same objection.

Mr. Hanford: The same objection.

A. It was.

Q. Is this child that you saw there with Minnie Atkins upon your return, living or dead?

A. It was living when I first saw it.

Q. Is it living or dead now?

A. That baby that I saw at my mother's house?

Q. Yes. A. It is dead.

Q. When did it die with reference to the time you returned? A. When did it die?

Q. Yes.

Mr. Blakeney: We still object as incompetent, irrelevant, and immaterial.

Mr. Hanford: The same objection.

A. Why, when it was about two weeks old.

Q. Was this child christened? A. No, sir.

Q. Baptized? A. It was baptized.

Mr. Stuart: We object to that because the record that you offered is the best evidence unless she saw it.

Mr. Hanford: The same objection.

Mr. Blakeney: The same objection.

Q. Were you present when the child was baptized?

A. Yes, sir.

Q. Who baptized the child? A. Father Hill.

Q. Do you know whether anybody went for him and if so, who? A. My sister and I went for him.

Q. At whose request?

A. Well, I think it was the mother.

Q. Were you present when the child died? A. Yes, sir.

Q. When did he die with reference to the time that he was baptized?

A. Just soon after; I don't think he lived over an hour, or something like that—maybe a couple.

Q. Where was he buried?

A. Well, I can't say what cemetery because I wasn't acquainted with the cemeterys at that time, and I just can't say.

Q. Do you know what name was given this baby? A. Yes.

Q. What was the name? A. Robert Lee.

Q. Robert Lee Peterkin? A. Yes, sir.

Q. How long did Minnie stay at your home after the child was born, and after the child died?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Mr. Blakeney: The same objection.

A. Why, I think she left about the latter part of August, or the first of September—somewhere along there.

Q. Have you lived in Leavenworth since that time?

A. Ever since that time.

Q. When were you married?

A. I was married February 13th, 1888.

Q. Is your husband living now? A. Yes, sir.

Q. What business has he been engaged in or is he engaged in at this time?

Mr. Hanford: We object as incompetent, irrelevant, and immaterial.

Mr. Blakeney: The same objection.

Mr. Stuart: The same objection.

A. He is a Guard at the Federal Prison at the present time.

Q. Mrs. Allen, the Court can't see you—I will ask you this question—you are a white woman? A. Sure.

Mr. Blakeney: We object as immaterial.

Mr. Stuart: We object as immaterial, and an attempt to bolster his own witness by proving color.

Cross Examination by Mr. Hanford.

Q. Mrs. Allen, you were not present when the child was born? A. No, I wasn't at home.

Q. And this is the first time that you saw it—was when you arrived? A. Yes.

Q. Where was it when you saw it?

A. In bed with its mother.

Q. The mother was ill from the affects of child-birth?

A. Yes.

Q. In bed? A. Yes.

Q. Now you state that the child was a fully developed child; by that you mean, the bodily development—that it was formed and——

A. Well, he looked like a fully grown child to me. I had saw several children before that and taken care of them.

Q. But you couldn't observe or know anything about its general health? What I am trying to ask you about—what you observed was its bodily condition?

A. It looked healthy and was healthy, until just a few days before it died.

Q. Do you know what it died from?

A. Well, they said it was brain fever. I know it kept twisting and turning its head all the time on the pillow—throwing its head from one side to the other all the time.

Q. And that caused some worry, or apprehension, by its doing that—attracted attention to its actions, did it not?

A. Yes, I knew at the time—said its head must have hurt ir on account of the way it twisted its head.

Q. Did it give evidence—did you know that it suffered from it?

A. Oh, yes, you could see that it was suffering.

Q. And finally it became evident that the child was not going to live?

A. Yes, the Doctor stated that he wouldn't live, and somebody spoke about having it christened.

> Mr. Blakeney: We object to this cross-examination of Mr. Hanford, as incompetent, irrelevant, and immaterial.

Q. Minnie, its mother, went to the funeral, did she not?

A. Yes, she went to the funeral.

Q. And I believe that she went with the child in a hack?

A. Yes, her and a colored woman went in a hack.

Q. Her and a colored woman? A. Yes.

Q. Is that the colored woman who helped her to get ready to go to the funeral?

A. Yes, that is the colored woman who washed and dressed the baby, and she held it while it died.

Q. The mother herself was ill from the affects of the child-birth, was she not?

A. Well, I don't know; she seemed to be ill at that time.

Q. Well, she was in bed, wasn't she, for some time after giving birth to this child? A. Oh, yes, the ordinary time.

Q. About how long?

A. Well, she might have laid in bed twelve days but I don't think it was any longer than that. I don't think it was because I know my mother said she was—she got up quite soon for being as sick as she was at that time.

> Mr. Blakeney: I move to strike out what her mother said as incompetent, irrelevant, and immaterial.

Q. Who nursed the baby and took care of it, up to the time that it died, do you remember?

A. Well, my mother took care of it, I think, for a day or two days; then she left, and came out after me in the country. Then there was another lady come in and had taken care of it that I wasn't acquainted with—I had seen her but I didn't know her; that is, I wasn't personally acquainted with her.

Q. And she was taking care of it when you arrived at the house.

A. Well, the evening that I went in—the afternoon that I went in—I got to Leavenworth about noon, and I guess I saw it about one o'clock, and there were nobody in the room except the husband and mother.

Q. And you saw this woman about the house, thought, afterwards?

A. Oh, yes, I saw her, I think, once; I think she came in the next day, and there was some trouble or something—she didn't want to take care of it longer.

Q. It gave a good deal of trouble, did it not?

A. No, the baby wasn't sick, or anything; it seemed she didn't have the time to take care of it any longer.

Q. What date did you say that you arrived there at the house, Mrs. Allen? A. The 3rd of August.

Q. And you stayed at the house from then on, did you?

A. Yes, I was there for, oh, maybe a month—maybe two; I don't think that I went to work that I can remember of until October.

Q. What time of day, was it, that you arrived at the house?

A. Oh, we got into Leavenworth, I think, about noon.

Q. About noon?

A. I think so; along about the noon hour.

Cross Examination by Mr. Stuart.

Q. How old were you when you first saw Minnie there with that baby. A. I was 18 in the March before.

Q. Eighteen; you were not married at that time?

A. No, I was not married.

Q. When was your first child born?

A. My first child was born November 19th, in '88.

Q. '88? A. Yes.

Q. A little more than two years after this child was born? A. Yes, sir.

Q. How long ago has that been? About thirty years, hasn't it? A. No.

Q. How long has it been?

A. It was about—let me see—about 28 years.

Q. Well, it was in '86, you say?

A. When I first saw this baby was in '86.

Q. That is what I am talking about; that is what I mean. It has been about thirty years since you saw the baby that time? A. About twenty-nine years.

Q. You have no distinct recollection about how that baby looked twenty-nine years ago, have you? A. What is that?

Q. You haven't got an- distinct recollection about how that baby looked twenty-nine years ago, have you?

A. I would know it again if I seen it; if I seen it laying dead or as I seen it first.

Q. You would know that baby now, anywhere?

A. If it looked just like it did then, I would.

Q. You are quite sure you would know it if you were to see it now after thirty years? A. Well——

Q. Well now, your judgment as to whether that baby was developed is based on your subsequent knowledge of babies, isn't it, and not knowledge of babies that you had prior to that time?

A. Well, I had seen and taken care of maybe six or seven little children after they were a few hours old.

Q. Had you been a nurse?

A. No, m*u* uncle ~~raised~~ me and I had taken care of the children.

Q. How old were you when you were taking care of children for your uncle?

A. Twelve or thirteen, somewhere along there.

Q. You are basing your judgment on babies on what you knew at twelve or thirteen, or after you had your babies?

A. When I left my uncle, they had a baby three or four months old, and I had taken care of it until I left.

Q. You had six since 1888 that lived?

A. Yes, one lived just about two years and four or five months old.

Q. That was the first time that you ever saw Minnie Atkins? A. August 6th.

Q. That is the first time that you ever saw her? A. Yes.

Cross Examination by Mr. Blakeney.

Q. Were those babies that you had seen prior to the time that you saw Minnie, were they fully developed babies at the time of their birth? A. Yes, they were.

Q. Then you never had seen an undeveloped child born?

A. Never until I had a couple of my own.

Q. Up until that time you had never seen any?

A. Never did.

Q. And all you know as to undeveloped babies was on- that you had of your own?

A. Never undeveloped baby until one of my own.

Q. How many did you have?

A. I lost two that were small.

Q. And the only undeveloped babies that you ever saw were two of your own? A. Yes.

Q. Was the old that you say helped dress the baby a colored woman? A. Yes, she was a colored woman.

Q. What was her name? A. I can't say.

Q. Was the baby that you saw there—was it a white baby?

A. Oh, you could tell it was not a full white child.

Q. What could you tell from seeing the baby, was its color?

A. Oh, I don't think it was as white as a right white child would be; I couldn't say that it was dark, and I know it was not really white.

Q. Well, did it show Indian, or negro characteristics?

A. Well, is showed it had a little Indian.

Q. Little Indian.

A. It favored its mother, I know that much.

Q. What Doctor attended it?

A. Well, I didn't know the Doctor at that time; I can't say.

Q. Well, did you ever know him afterwards?

A. Yes, I learned afterwards what Doctor it was.

Q. Well, did you know the name of the man that you saw at that time—that you afterwards learned his name?

A. Yes.

Q. What was his name? A. Carpenter.

Redirect Examination by Mr. Allen.

Q. Mrs. Allen, what do you mean by a fully developed child?

> Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and as to the competency of the witness.
>
> Mr. Stuart: The same objection.

A. Well, the reason I thought it was fully developed, the children I had seen——

Q. I mean what do you mean by a fully developed child? Do you mean a nine months child?

A. Yes.

> Mr. Blakeney: I move to strike that out.
>
> Mr. Stuart: Objected to as leading, suggestive, incompetent, immaterial, and irrelevant.
>
> Mr. Hanford: The same objections.
>
> Mr. Blakeney: The same objection and I move to strike the preceeding answer.
>
> Mr. Stuart: The same objection.

Q. State whether or not from your knowledge before and after the occurrance of which you have testified, are you able to say whether this was or was not a nine months baby?

Mr. Blakeney: We object; the competency, relevancy as to the knowledge of the child is not proper, and is incompetent, irrelevant, and immaterial.

Q. From your knowledge of children before the birth of this child? A. You mean do I?

Q. What do you say as to whether or not this was a nine months baby?

Mr. Blakeney. We object to the competency of the witness, incompetent, irrelevant, and immaterial; we object to this being gone over on redirect.

Mr. Stuart: Let her answer the question.

A. I think it was a nine months child.

Recross Examination by Mr. Stuart.

Q. Did you ever see a seven months child?

A. I saw one.

Q. Will you please tell me the difference in looks between a seven months child and a nine months child?

A. The one I seen was——

Q. Well, what is the difference?

Mr. Blakeney: We object to her telling the difference about the one she saw. She shows that she is incompetent as a witness in this matter—incompetent, irrelevant, and immaterial.

Q. Can you tell the difference between a seven months child and a nine months child, Mrs. Allen?

A. I could.

Q. Mrs. Allen, don't you know there are lots of seven months children living, in good health today?

A. I know that.

Q. Don't you know there are lots of eight month children living, in good health today?

A. I do not.

Q. You don't? A. Don't think so.

Q. Can you tell me the peculiar difference between a seven months and a nine months child—some ear-marks that indicate the difference between them?

Mr. Blakeney: We object; the witness has shown that she is incompetent.

Mr. Allen: I object to the remark of counsel, repeated over aand over again.

Q. You cannot give any difference, can you?

Mr. Blakeney: I still object to the incompetency of the witness.

A. Shall I answer?

Q. Yes. I want you to tell me, if you can, what tje difference in looks is, between a seven and nine months child.

A. Well, a nine months child looks plump—you can tell it is fully developed; another baby isn't—a seven months baby is kind of withered.

Mr. Allen: We object to the laughing of counsel.

Mr. Blakeney: Who is laughing?

Mr. Hanford: On whose part, Judge Allen?

Mr. Allen: The part of the Government.

Mr. Hanford: Laughing on whose part?

Mr. Allen: T. W. Bell.

Mr. Blakeney: I want the record to show that objection—that nobody laughed; there was some smiling about the matter.

Q. Did you ever have a seven months child? A. No.

Q. Never did? A. I never did.

Recross Examination by Mr. Hanford.

Q. Was this seven months that you saw born in a normal way, or was it an exception by surgery?

A. Well, I can't that; I don't know how it happened—anything like that, but I just saw it.

Recross Examination by Mr. Blakeney.

Q. How do you know it was a seven months child?

A. Well, I heard the Doctor say so.

Q. That is the only information that you have?

A. The mother of it and the Doctor said so.

Mr. Blakeney: We move to strike out all this witness's evidence that pretends to be of an expert nature for the reason that she is incompetent to give expert testimony.

Recross Examination by Mr. Stuart.

Q. Was this seven months child of which you speak born exactly seven months after marriage?

A. I can't say how that was.

Witness dismissed.

Mr. German: We offer the deposition of Father Kelley, taken before Mr. Penick, appearing in his transcript of depositions, beginning at Page 725:

And thereupon BERNARD STEPHEN KELLEY being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Bernard Stephen Kelley.
Q. Are you a Minister of the Gospel?
A. I am the Priest of the Cathedral.
Q. At Leavenworth? A. Leavenworth Kansas.
Q. Have you in your custody, the register—
A. Register of the baptism.
Q. Register of baptism?
A. I have; I will read that if you want me.
Q. Just a moment please; I want to identify that. Where is that kept?
A. This is kept in the archives of the Cathedral, on 5th and Kiowa.
Q. This is in a bound volume?
A. Bound volume, yes, sir, including all the baptisms from '75 to '95.
Q. And then the book was filled and re-placed?
A. Re-placed by a new one, yes.
Q. Have you any personal knowledge with reference to the baptism of one Robert Lee? A. I have not.
Q. In 1886?
A. No other than this record gives me.
Q. How long have you been at Leavenworth?
A. Nearly seven years.
Q. You had not been here before? A. No, sir.
Q. This record you found when you came here?
A. In the archives, yes, sir.
Q. Did you know M. J. Hill?
A. I did not; he died when I was ordained.
Q. You knew of him?
A. I knew of him from hearsay, that he was a Priest at the time all of these records show—they are all signed by him. He baptized all of these children.
Q. Have you a record there of the baptism by Father Hill, of Robert Lee, the child of Charles Peterkin?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. I have.
Q. What page of the book does that entry appear?
A. Page 337.

Mr. German: We offer that record in evidence.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and not properly identified.

Mr. Hanford: The same objection.

Mr. Stuart: We object to it but let me ask a question.

By Mr. Stuart.

Q. Father Kelley, did you make any of those entries yourself? A. I did not, sir.

Q. You don't know whether they are correct or not, personally?

A. From the natural condition of things, I know they are correct.

Q. I don't care about your argument, Father; you don't know whether they are correct or not, except from information—personally, you don't know that they are correct?

A. Personally, I didn't see the entry.

Mr. Stuart: We object to it because it is not properly identified, and not shown to be correctly kept.

By Mr. German.

Q. Let me ask you one further question. What is the practice with reference to who makes the entries of baptism?

A. The one who baptized the child; the priest who baptized the child makes the entries.

Q. In that book? A. In this book.

Q. Is that the book of original entry with reference to the baptism?

A. It is; this is the original book in which Father Hill entered this on the 15th of August, 1886—the date he baptized the child.

Mr. Blakeney: I move to strike out the last answer as incompetent, irrelevant, and immaterial, and not the best evidence.

Mr. Hanford: The same objection.

Q. You stated that Father Hill is dead?
A. As far as I knew.
Q. You understand him to be dead?
A. Yes, as far as I know.

Q. I understood you to say that your understanding was that he died before you when ordained? A. I think so.

Mr. German: I want to re-offer it.

Mr. Blakeney: I interpose the same objection—incompetent, irrelevant, and immaterial, and not properly identified.

Mr. Hanford: The same objections.

Q. Who is the custodian of that record? A. I am.

Q. In whose custody has it been ever since you came here?

A. In my custody.

Q. Is the record there made, and similar records made pursuant to any rule, or canon of a church?

A. Every priest is commanded to make this record and keep a book of baptism in his parish.

Mr. German: Now, we can have the same understanding about having this read into the record?

Mr. Blakeney: Yes.

Mr. Hanford: We agree.

Mr. German: With the understanding that your objection goes to it as if the original was in.

Mr. Stuart: Yes.

Q. Father Kelley, will you please read that, in so far as it pertains to Robert Lee, from the beginning to the end?

A. Register——

Mr. Blakeney: I want to interpose the objection to anything being introduced that is not in the English language.

Mr. German: I will ask that it be copied in the Latin.

A. Registrum Baptizatorium in Ecclesia, Cath. Immac. Concep. In Civitate Leavenworthensis, Dioecesis Leavenworthensis. Nomen familiae. A. D. 1886, Die Mensis. Registrum Baptismorium. Observanda. Ego infrascriptus baptizavi, Robertum Lee, natum Die 31st Julie, 1886, ex Charles Petegin (a-Cath) ex loco West Indies et Marie Atkins, ex loco Texas, conjugibus. Patrina furit Lottie Wager. (Sg.) M. J. Hill. Petegin Aug. 15, 1886. Baptized privately at home.

Q. Father Kelly, will you please translate that into the English language?

Mr. Blakeney: We object for the same reason—incompetent, irrelevant, and immaterial, and not the best evidence.

A. Register of the Baptism in the Church of the Catholic of the Immaculate Conception in the City of Leavenworth, and Diocese of Leavenworth. The name of the family, the year and the day of the month. Register of the Baptism and the Observation. And the undersigned baptized Robert Lee, born on the 31st day of July, 1886, from the union of Charles Peterkin, a non-Catholic from West Indies and Mary Atkins, from Texas, the God-mother was Lottie Wager. M. J. Hill, signed. Baptized on the 15th day of August, 1886. Baptized privately at home. That is all.

Q. I didn't qualify you to make that translation. You understand the Latin language?

A. A little bit, yes, sir.

Q. The Court didn't see the smile; you really understand it very well indeed, do you not, Father? A. Why——

Q. You are capable of translating the Latin into the English? A. Yes, sir.

Witness dismissed.

Mr. German: We offer the deposition of J. J. O'Donnell, taken before Mr. Penick, appearing in his transcript of depositions, beginning at page 722:

And thereupon, J. J. O'DONNELL being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. Mr. O'Donnell, where do you live?

A. Here in the city, 518 Shawnee street.

Q. How long have you been residing at Leavenworth?

A. I was born here October 1st, 1862.

Q. You have lived here all your life?

A. It has always been my home, yes, sir.

Q. What business are you engaged in?

A. Undertaking business at the present time.

Q. Were you engaged in the undertaking business in 1886?

A. I was working for my father who was running an undertaking and furniture business.

Q. Where was your father's business located at that time?

A. 509 Delaware street.

Q. Did you have anything to do with the keeping of the books of accounts of records of your father's business at that time? A. Yes, sir.

Q. Did you keep them?

A. Yes, sir, what was kept, I kept them.

Q. Have you with you this morn, the book of account showing sales of coffins and interment materials for the month*s* of August, 1896? A. Yes, sir.

Q. Is that it before you? A. Yes, sir.

Q. Do you remember of the sale of a casket for the burial of a child by the name of Robert Lee Peterkin?

A. My records show*s* that.

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

A. The record shows on that date, there was a coffin sold for burial of that child; the record shows——

Q. Have you any independent recollection about that?

A. No, not particularly; that has been quite a while ago.

Q. Is that the record before you there? A. Yes, sir.

Q. What is the date? A. August 16th, 1886.

Q. Who made the entries pertaining to that sale?

A. Who made the entry?

Q. Yes. A. I did; that is my handwriting.

Q. Is the entire entry in your handwriting?

A. Yes, sir, as far as I can see.

Q. What did you make that up from?

A. That is the report of the sale; when the goods went out, they were charged up to this gentleman. An order was received for a coffin to be turned over to him to be used for whatever purpose he wanted it.

Q. Is that the only record that has been kept of that sale?

A. Yes, sir.

Q. Was the entry made in the book at, or near the time of the transaction?

A. Why, the customary procedure is to enter it the same as——

Mr. Stuart: We object to that; answer the question yes, or no.

A. Why, sure; made on the same date as it went out.

Mr. German: We offer that entry in evidence.

Mr. Hanford: We object to it on the ground that it is incompetent, irrelevant, and immaterial.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

Mr. Stuart: We object because it is incompetent, irrelevant, and immaterial, and not properly identified.

Mr. Blakeney: What part of it do you offer?

Mr. German: What I want to know, is there any objection to its being read out of the book instead of——

Mr. Blakeney: I have no objection.

Mr. Stuart: Oh, no.

Q. Mr. O'Donnell, will you please read the entry in its entirety?

Mr. Blakeney: I have no objections to its being read but we object to the evidence.

Mr. German: I understand.

A. August 16th, 1886, Charles Peterkin, Company E, 18th Regulars, One three foot, plain, walnut coffin, no glass or coffin box, three dollars and seventy-five cents. The name is Robert Lee Peterkin, age about 4 weeks, buried in Mr. Muncie. That is all the record. There was no public records kept and that is all we keep for our own information.

Q. Now, there is a little further entry with reference to the payment.

A. Well, August 16th, credited by cash, three dollars. Balance due, seventy-five cents, which never [] collected.

Witness dismissed.

Mr. German: We offer the deposition of A. S. Schott, taken before Mr. Penick, appearing in his transcript of depositions, beginning at page 719.

A. L. SCHOTT, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Will you please state your name, age and place of residence?

A. A. L. Schoot, age 45—nearest birthday—and residence is 1311 South Broadway.

Q. What official position do you hold at this time with Mt. Muncie cemetery?

A. Superintendent, Secretary, Treasurer.

Q. Is Mt. Muncie Cemetery incorporated?

A. I think it is, although I can't find the charter. It was established in 1886, before the time that corporation charters were issued, I think; established in 1886, under the law in Kansas prevailing at that time.

Q. Under the present name of Mt. Muncie Cemetery?

A. Yes, sir, Mt. Muncie Cemetery Association.

Q. Has it been since that time a burial ground?

A. Yes, sir.

Q. As Superintendent, Secretary, Treasurer, Mt. Muncie Cemetery, have you the custody—in your custody—the records showing interment in that cemetery? A. Yes, sir.

Q. What is the book I am now handing you?

A. That is a volume of interment certificates.

Q. Are those the original certificates of interment in your possession? A. Yes, sir.

Q. About which you have testified? A. Yes, sir.

Q. Those certificates are not numbered in the book, are they? A. They are; each certificate carries a number.

Q. I call your attention now to number 4239 and ask you what it is?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and not the best evidence.

A. The certificate shows that the name of the deceased is given as Robert Lee; place of nativity, Leavenworth; late residence 615 8th street; date of birth July 31, 1886; date of death August 15, 1886; date of interment August 16th, 1886, 5 o'clock, P. M.; Disease, brain fever; parents names, Charles and Minnie Peterkin; in whose lot interred, county; section 12, row 18, grave 64; name *on* undertaker, O'Donnell; permit obtained by Minnie Peterkin as certified that the person above named died of the disease named on the date named; signed, John Hannon, Chairman of Committee on Poor. Here is a note here.

Q. That is alright.

A. It says, no interment allowed unless signed by certificate of physician or undertaker. The caption is, certificate from Mt. Muncie Cemetery.

Q. Have you read everything that is contained in that certificate?

A. This is a cancelling stamp on it—Auditor's office, Cancelled Leavenworth, Kansas, which shows it went through the county officer's office, as some others, for payment by the county.

Mr. Allen: We offer the certificate, identified by the witness in evidence.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

Mr. Hanford: We object as incompetent, irrelevant and immaterial; it not being pertinent to any of the issues in this controversy.

Mr. Allen: It has been read into the record. There will be no objection on account of the original not being offered, will there?

Mr. Blakeney: No.

Mr. Hanford: The original is offered.

Witness dismissed.

And thereupon, Sister MARY GERTRUDE was called as a witness for and on behalf of the Government, and having been first duly sworn, testified as follows:

Direct Examination by Mr. Pinson.

Q. Will you state your name?

A. Sister Mary Gertrude.

Q. What is your calling in life, Sister Mary Gertrude?

A. I am a Sister of Charity.

Q. With what institution if any are you connected?

A. With St. John Hospital, Leavenworth, Kansas.

Q. How long have you been connected with that institution? A. Nearly five years.

Q. You went there in 1912?

A. Yes, sir—— No, I went in 1911 and staid until 1915, then I was away, and I have been back since August, 1916.

Q. Is your connection with the Hospital such as to place you at the head of the institution?

A. No, sir, I am secretary.

Q. As secretary of the institution, do you have custody of the records? A. Yes, sir.

Q. For the institution? A. Yes, sir.

Q. Have you a record, have you always had a record there pertaining to the things of the inmates and the dates upon which they were in your hospital? A. Yes, sir.

Q. I hand you a book, which I will ask the Stenographer to identify as Government's Exhibit A-81. I ask you to state what the volume is, I hand you Government's Exhibit A-81. What do you call that volume?

A. I don't know what you mean.

The Court: What book do you call that?

A. We call that the Hospital Register.

Q. Is that the book that contains a portion of your record to which you referred a few moments ago? A. Yes, sir.

Q. At the time you came to St. John Hospital and during your connection with that institution, is that the register which you have used? A. Yes, sir.

Q. Is that the register now in use?

A. No, sir, I have one three years, a new one of three years, going on three years.

Q. Then, I understand you, up to three years ago, this particular book was used by you and the hospital?

A. Yes, sir.

Q. I call your attention to an entry appearing on page 5 of this record, referring to the name of Minnie Pedikin, appearing as Patient No. 44. Are you familiar with the handwriting of the person who made that entry? A. No, sir.

Q. What is the date opposite that name, which purports to be the date at which that person was in the Hospital?

A. October 7th, 1886.

Q. Are you familiar with the circumstances surrounding the making of that entry?

A. No, sir, I don't know the one who made it, I wasn't there then.

Q. Was that entry upon the books there and is the book in the same condition as when it was delivered to you in 1912?

A. Yes, sir.

Q. I call your attention——

> The Court: Is there any question about the authenticity of this book?
>
> Mr. Stuart: No, sir.
>
> The Court: Then, I take it that it will be agreed that this party named there appeared in October, 1886, as appears?
>
> Mr. Pinson: Just one other question, if Your Honor please.

Q. I call your attention further to a notation appearing in the index, which reads as follows: "Atkins, Minnie, Pedikin five." In whose handwriting is that?

A. That is my handwriting.

Q. What was the occasion of your making that entry?

A. Well, so many called asking about her that I thought I would find it easier, because they asked for Atkinson and there isn't in the book any Atkins or Atkinson.

Q. That record was made for your convenience since this matter came up? A. Yes, sir.

Q. Do you know what date it was that you made that entry in the index? A. No.

Q. Approximately?

A. Well, I don't remember, it might have been two years ago, something like that, when they were around asking questions about her.

Mr. Pinson: Now, if Your Honor please, it might be admitted that the entry is in the handwriting of a sister who is now dead, and that that can be testified to by another sister.

The Court: Will there be any question about that?

Mr. Stuart: I don't think so, Your Honor, not a bit in the world.

The Court: Let the record show that this entry—that it is admitted that this entry is in the handwriting of a sister who is now dead.

Mr. Pinson: We now offer the book in so far as it pertains to the entry just referred to, the entry appearing at page five, and if I may read that into the record.

The Court: Let it be examined first.

Mr. Pinson: One other question.

Q. Do you know the period of time covered by this record, can you tell from an examination of the volume?

A. I can tell from looking at it, yes, sir. That is 1885.

Q. Well, just what date in 1885 does the volume begin?

A. March 12th.

Q. And I believe you have already said that it extended up until about three years ago?

A. Yes, December 31, 1913.

Q. Now, have you made an examination of this record to ascertain whether the name Minnie Atkins or Minnie Peterkin is upon that record as at any other time being a patient in your institution?

A. No, I have never found it in the world.

Q. You have made an examination? A. Yes, sir.

Q. You never found it except the one time? A. No, sir.

Q. Have you any other record in your institution on which a patient from 1884 to 1888 would be contained?

A. No, I don't think so.

Q. No such record has come into your possession?

A. No, sir.

Mr. Pinson: We now offer in evidence the notation referring to—— May I read it into the record?

The Court: Yes, I would like to have the Stenographer show the lines and the headings. Have you concluded your direct examination?

Mr. Pinson: Yes, sir.

The Court: Any cross?

Mr. Stuart: No, sir.

Mr. German: We now offer the deposition of Elmo E. Matthews, taken before Mr. Penick, appearing in his transcript of depositions, beginning on page 19.

And thereupon ELMO D. MATHEWS, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name?
A. Sergeant, first class, Elmo D. Mathews, hospital.
Q. What are your duties as first class Sergeant?
A. Sergeant, first class.
Q. Sergeant, first class, hospital corps?
A. Why, preparation of reports and supervising the hospital in general.
Q. Do you have charge of the records of the hospital?
A. I have.
Q. Have you a record of the births in the hospital in 1888?
A. Yes.
Q. What record is that?
A. It is the record of the Medical Department and it shows under the——
Q. You needn't show that now. It is the report of——
A. The Medical Department.
Q. Is that record required by law to be kept in your charge by the hospital department?
A. Yes, by the Medical Department.
Q. Is this the book—that you have in your hand—the original record of the births and deaths occurring at the hospital?
A. It is.
Q. During the time it shows? A. It is.
Q. Was this record made under Regulations of the War Department? A. It was.
Q. How long have you been in the custody of these records? A. Over a year.
Q. Whom did you receive them from?
A. From my predecessor, Sergeant Fontaine.
Q. You were relieved by him at that time?
A. I relieved him at that time.
Q. I mean you relieved him at that time? A. Yes, sir.
Q. I will ask you to examine the record and see whether or not you have any record of the birth of any child in August 1888.

Mr. Hanford: I object—go ahead.

A. There is a record of a child in August 1888.
Q. In what place in the record is this birth shown?

Mr. Hanford: I object on the ground that it is irrelevant, incompetent and immaterial and not pertaining to the issues of the case.

Q. You may answer. What place in the record?
A. Page 70; page 70 consolidated report of the Medical Department.
Q. What is the name of the child this record shows was born at that time?

Mr. Hanford: I object as incompetent, irrelevant and immaterial.

A. Nancy Peterkin.

Mr. Allen: We now offer in evidence page 70 of the record identified by the witness.

Mr. Hanford: I object as incompetent, irrelevant and immaterial and not tending to prove or disprove any issue —any fact or issue involved in this case.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and not a record required by law or any proper authority to be kept, and it is incompetent and not properly identified and immaterial. I do not object to the form of putting it in, if it is admissible.

Mr. Allen: May the witness read into the record the page of the record identified?

Mr. Blakeney: We have no objection—that is, subject to our exception; we have no objection to it if it is admitted, to his reading it into the record as evidence.

Q. You may read the page of the record referred to.
A. Register of birth during the month—day—August 4th, 1888; sex, female; name of child, Nancy Peterkin; father, name, rank and regiment, or corps of father, and if civilian, his occupation, Charles Peterkin, Company A, 18th Infantry; maiden name of mother, Minnie Atkins; race or nationality of parents, father West Indian—mother, American; age of parents, father 29, mother 24; number of child by this mother, first.
Q. What is that?
A. Signed by Charles Richards, Captain and Assistant Surgeon, U. S. Army.
Q. For what year is this? For what period is this—for what period of time does this record cover—the hook from which you read this entry?

A. From November 1887 to June 30th, 1889.

Q. Does this record cover—include all the births and deaths occurring at the—what do you call this—the Post Hospital? A. The Military Reservation.

Q. At the hospital for the Military Reservation, is that what it is?

A. I wasn't here at that time and can't say.

Q. Does this record include all of the births or deaths occurring at the Post hospital during the period of time that you have mentioned?

A. I wasn't at the Post at that time and can't say but the directions of the Surgeon-General are that all deaths and births and marriages occurring on the Military Reservation be recorded.

Q. Is it so considered and recognized? A. It is.

Q. Is this the official record in your custody? A. It is.

Q. Of the births and deaths occurring at the—on the Military Reservation? A. It is.

Mr. Hanford: Just a minute; I want the record to show on my statement, the participation of Mr. Meserve in the examination of this witness, suggestion questions, and interrogation of the witness, and my objection to the same.

Mr. German: Mr. Meserve was not appearing.

Mr. Blakeney: I want to withdraw my objection to the introduction of this record.

Q. Does the record identified by you show the death of Nancy Peterkin? A. It does.

Q. Where does this entry appear?

A. During the report for the month of June, 1889?

Q. Will you read—

Mr. Allen: Is there any objection to the witness reading the page of this record showing the report of the—

Mr. Hanford: Put your question so that we can tell when you are through—

Mr. Allen: We now offer in evidence, sheet No. 1, opposite page 98, in so far as it shows anything concerning the death of Nancy Peterkin.

Mr. Hanford: Let the record state what it shows.

Mr. Allen: I will state what I want to prove and you may object to it.

Mr. Hanford: I object on the ground that it is incompetent, irrelevant and immaterial, and has no bearing upon the issues of the case.

Mr. Allen: Is there any objection to the witness reading the page of the record identified?

Mr. Blakeney: There is no objection to the form in which it is offered, is it?

Mr. Hanford: No objection to the form; I object to the testimony.

Q. Alright; you may read.

A. Register of death among civilians with the command, during the month; name, Nancy Peterkin, age 10 months and 24 days; sex, female; race, white father, Indian Mother; cause, cholera infantum; date, June 28th, 1889.

Mr. German: Give the name of the surgeon, please.

A. Charles Richard, Assistant Surgeon, U. S. Army.

Q. Signed? A. Signed, Charles Richard.

Q. This page of the record—state whether or not this page of the record is a part of the same record identified by you as showing the birth of Nancy Peterkin.

A. It is except a different month.

Q. It is in the same book? A. Same book, yes, sir.

Q. Is there any other record in your possession showing the dates of births and deaths during the period that you have testified a while ago, this record covers?

A. This is the only official record that we have.

Cross Examination by Mr. Blakeney.

Q. You say that this is a book kept in the hospital?

A. Yes, sir.

Q. What hospital do you refer to?

A. The Post hospital, Fort Logan, Colorado.

Q. By whom is the book kept? By who was the entries made and when made—when made?

A. I was not present at the time; they are authenticated by the signature of Charles Richard, Captain, Assistant Surgeon.

Q. Do you keep this record up to this time? A. Yes, sir.

Q. When are the records made in this book in reference to——

A. They are made at the end of each month; the records are posted.

Q. These are the monthly reports?

A. Monthly reports, yes, sir. These reports are made at the end of each and every month to the Surgeon-General of the Army.

Q. How is it transmitted to the Surgeon-General of the Army?

A. By mail; a copy of this report is forwarded to the Surgeon-General of the Army.

Q. Do you make this report in duplicate?

A. Duplicate, yes, sir.

Q. One copy is kept in the hospital?

A. Yes, sir, and one on file in Washington, D. C.

Q. Who is Mr. Charles Richard? Was he Assistant Surgeon of the Army at that time? A. He was.

Q. At this Post? A. Yes, sir.

Witness dismissed.

Mr. German: We offer the deposition of EDWARD L. BATTERTON, taken before Mr. Penick, appearing in his transcript, beginning at page 2.

At Fort Logan, Colorado, on December 30th, 1915, at the office of the Quartermaster, at 10:35 A. M., testimony herein was taken as follows, on behalf of the United States:

EDWARD L. BATTERTON being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Edward L. Batterman.

Q. What relationship do you bear to the United States Army?

A. Quartermaster-Sergeant, Quartermaster Corps is my rank.

Q. Where are you stationed? A. Fort Logan, Colorado.

Q. What age are you? A. 45.

Q. How long have you been stationed at Fort Logan?

A. Since March 14th, 1915.

Q. Were you ever stationed at Fort Logan prior to that?

A. No, sir.

Q. Have you any duties pertaining to the keeping of records at the Post? A. Yes, sir.

Q. Do those records include the records pertaining to the Post cemetery?

A. Yes, sir, the record of interment at the Post cemetery; that is a part of my duties under the Post Quartermaster—under the Quartermaster of the Post, rather.

Q. Have you the record book of interment at Fort Logan?

A. Yes, sir.

Q. You have it with you now? A. Yes, sir.

Q. Does it contain any entries with reference to one Mabel Peterkin?

Mr. Blakeney: Henry Carter objects as incompetent, irrelevant and immaterial; not tending in any manner to enlighten or affect the issues involved in this case.

Mr. Hanford: The defendants Minnie Folk, Harry B. Folk, Edward C. Hanford, object on the ground that it is incompetent, irrelevant and immaterial to any of the issues involved in this case.

Q. I am not asking now for the entry.
A. I understand. Yes, sir, it does.
Q. Where in the record does that entry appear?
A. Under No.—running number 66, page 2, record book of interment of Post Cemetery, *Post* Logan, Colorado.
Q. Is that the only page in the book where——
A. The only page in this book.
Q. How does it happen that that interment record is kept?
A. Do you mean the authority for keeping it?
Q. Yes. A. Army Regulations 497, I believe it was.
Q. Provide for it?
A. In accordance with Army Regulations 497, of 1915.
Q. Do you know how long that has been any Army Regulation? A. No, I am unable to say.
Q. That is a part of what Article, Mr. Batterton?
A. Article 48.
Q. Do you know what was the number of the Regulation in force in 1889? A. I am unable to say.
Q. That can be obtained at the War Department, at the office of the War Department?
A. Yes, it can be obtained there; they have copies of all the Regulations. That is not part of the record in this question, is it?
Q. Yes.
A. Well, it may be obtained at the War Department if they feel free to give it.
Q. Have you that Regulation here? A. I have not.
Q. The entry that you referred to in this book—will you read it into the record, please sir, the Regulation that you have just referred to? A. You mean that 497?
Q. 497, yes, sir.

Mr. Blakeney: Henry Carter objects as incompetent, irrelevant and immaterial.

Mr. Hanford: The same objection on the part of the defendants Minnie Folk, Harry B. Folk and Edward C. Hanford.

Q. Paragraph 497 of Army Regulations, 1915; record of interment will be kept by Quartermaster which will be turned over by him when relieved to his successor, or transmitted to the Quartermaster-General if the Post be discontinued.
Q. There are some changes in the verbiage there, I notice Mr. Batterton; what are those changes?

A. Changing the designation from chief of the Quartermaster Corps to Quartermaster General.

Q. Do you know when that change was made?

A. I can find out if it is necessary.

Q. You don't recall? A. I don't recall.

Q. It is since the promulgation—I mean it is since the publication of the bound volume from which you have read that Regulation?

A. Yes; it is a change in the designation and does not affect the book as printed any more than the name of the head of the Department.

Q. Where did you get the interment record which you have? I don't mean this morning but when you assumed charge of the records.

A. From Quartermaster-Sergeant A. W. Stanley, who turned them over to me by order of the Quartermaster in March 1915 when I took charge of the office—that ought not to be when I took charge of the office, but when I took charge of the property grounds.

Q. What is the entry contained in that book with reference to Mabel Peterkin?

Mr. Blakeney: I object to that as incompetent, irrelevant and immaterial.

Mr. Hanford: I object on the grounds that it is incompetent, irrelevant and immaterial and I further object on the ground that the witness is not competent as his testimony and the Army Regulations disclose that he is not the proper custodian of this record qualified to testify as to its contents.

Mr. Blakeney: Also the further objection that the record is not properly identified.

Mr. German: I will withdraw that question.

Q. Who is the custodian of this record?

A. Who is the custodian?

Q. Yes, sir.

A. The Quartermaster or his agent if he should delegate them to take care of them.

Q. Has he made any delegation? A. Yes, sir.

Q. Who has he delegated? A. Delegated myself.

Q. So you are the custodian?

A. Yes, sir, through his orders.

Q. Was that a verbal or written delegation? A. Verbal.

Q. Will you please——

Mr. Hanford: I withdraw my objection as to the competency of the witness.

Mr. Blakeney: I withdraw my objection and object to this evidence on the ground that it is irrelevant, incompetent and immaterial.

Mr. German: Not that the witness is not qualified to testify with reference to the record?

Mr. Blakeney: I withdraw all that objection and interposed a new objection.

Mr. German: You withdraw also you- objection sofar as it reaches the question of the competency of the witness to testify concerning the record?

Mr. Hanford: Yes; all I want to do is to go ahead and get through. He has the book but I stand on my objection as to this testimony, that it is not competent in this case.

Mr. German: That it is immaterial evidence in this law suit, is that your contention?

Mr. Hanford: Yes.

Q. Now Sergeant, will you please—are you at liberty to allow this record to be introduced into evidence and carried by the Examiner to the court at Muskogee, Oklahoma?

A. The provisions of the Army Regulations does not prohibit me from giving this evidence.

Q. You didn't quite answer my question. Are you at liberty to allow this record itself to be taken by the Examiner, Mr. Penick, to the court at Muskogee? A. No, sir.

Mr. German: I now offer in evidence the book referred to, in so fas as it contains entries pertaining to Mabel Peterkin.

Mr. Hanford: I object on the part of Minnie E. Folk, Harry E. Folk, and Edward C. Hanford on the grounds that it is incompetent, irrelevant and immaterial and not pertaining to any of the issues in this case.

Mr. Blakeney: I object to this evidence offered because it is incompetent, irrelevant and immaterial and not tending to prove or disprove any issue in this case.

Mr. German: Now gentlemen, not waiving your objections, may not the Examiner copy that entry so far as that is concerned and that be satisfactory evidence to the Court if the Court admits it, to what the book shows?

Mr. Blakeney: I agree.

Mr. Hanford: I agree to that.

A. Record book of interment, Post Cemetery at Fort Logan, Colo.; running number 66; name, Mabel Peterkin; rank, daughter of Private Peterkin; Regiment E, 18th Infantry; date of death, Month June; day, 28th; year 1889; grave marks, section E, No. 100; original place of burial locality, section E79.

Q. Now, is there another entry pertaining to Mabel Peterkin? A. No, sir.

Cross Examination by Mr. Hanford.

Q. Sergeant, this book contains the entries showing interment—all interments at the Post Cemetery, does it not?
A. I can't positively say.
Q. I will call your attention to No. 32 on the opposite page; what does that show?
A. Wallace, infant son of Lieut. Wallace.
Q. Date of death?
A. Date of death May 10th, 1896; grave mark, Section D, No. 56; original place of burial, section E82.

> Mr. German: I desire to enter an objection. I move to strike the last question and answer on the ground that it is incompetent, irrelevant and immaterial and improper cross examination.

> Mr. Blakeney: I move to strike the last question and answer by Mr. Hanford as incompetent, irrelevant and immaterial.

Cross Examination by Mr. Blakeney.

Q. That book, you say, was turned over to you with all of the entries on the 1st and 2nd pages that have been referred to, entered as they now appear?
A. I don't quite get all of that question. (Question read.)
A. Yes, sir.
Q. Do you know in whose handwriting they are made?
A. I would like to say something here that is not in the record. I am not sure that I *do* that it is this gentleman right here, Mr. Kane.
Q. Do you know when they were made? A. No, sir.
Q. Isn't this record, a copy of some former record kept in the Post? A. Yes, sir.
Q. And you think that was copied by Mr. Kane?
A. Yes.

> Mr. Blakeney: We now move to strike all of the evidence as to this record as secondary, incompetent and immaterial.

Redirect Examination by Mr. German.

Q. Do you know when Mr. Kane may have copied that into the book you hold? A. No, sir.

Q. Do you know what he may have copied it from?

A. No. sir.

Q. Is this the only record that you have pertaining to the record of interments at this Post, at the Cemetery at this Post?

A. I can't positively say but I believe that the former record is on file some place in this Post, in the Department, I mean; in the Quartermaster's Department of this Post.

Q. Which is the official record, this one or the other one?

A. They are both accepted as such.

Q. How did this one happen to be made?

A. I can't say.

Q. Who is Mr. Kane?

A. Mr. Kane, is the retired First Sergeant, now *i*mployed by the Quartermaster.

Q. In what capacity, clerk or what?

A. I don't know just how he is borne on the rolls—teamster.

Q. Teamster? A. Yes, borne on the rolls as teamster.

Q. Has he any duties with reference to the making up of records? A. He did have at the time this record was made.

Q. Was it made before or after you were assigned to this Post? A. Before.

Q. You recognize it as his from the handwriting.

A. Yes, sir.

Witness dismissed.

And thereupon, EDWARD L. BATTERTON, being recalled on behalf of the defendants, Minnie E. Folk and others, further testified as follows:

Direct Examination by Mr. Hanford.

Q. You may state your name. A. Edward L. Batterton.

Q. Your rank?

A. Quartermaster-Sergeant, Quartermaster Corps.

Q. Stationed at Fort Logan, Colorado? A. Yes, sir.

Q. You have in your possession at the present time, a record known as the record book of interment, Post Cemetery, at Fort Logan, Colorado? A. Yes, sir.

Q. That record is particularly in your custody?

A. Yes, sir.

Q. And required to be kept by you as a part of your official duties? A. Yes, sir.

Q. That record is required to be kept by Articles of War?

A. Yes, sir. No, not by Articles of War.

Q. By Army Regulations? A. Yes, sir.

Q. I call your attention to entry No. 32, page 1 of that record book and ask you what that shows?

Mr. German: I object to that on the ground that it is incompetent, irrelevant and immaterial. I do not object to the witness reading from the book into the record in the event that the information given by the record is material evidence in this case.

Mr. Blakeney: I object to the evidence as incompetent, irrelevant and immaterial and I ask here to offer the examination of the witness on my cross-examination on voir dire in this matter which shows that the record is incompetent as evidence.

Q. Read the entry, Sergeant.

A. Running number, 32; name, Wallace; rank, infant son of Lieut. Wallace; date of death, month May; day, 10th; year, 1896; grave mark, section D, No. 56; original place of burial, section E82.

Q. You were previously sworn in this case, were you not?

A. Yes, sir.

Q. At the first opening today? A. Yes, sir.

Cross Examination by Mr. Blakeney.

Q. Are you acquainted with Lieut. Wallace—is that it?

A. Yes, sir, Wallace—Lieut. Wallace.

Q. Lieut. Wallace? A. No, sir.

Q. He is not living at the Post at this time? A. No, sir.

Q. I notice that this entry No. 32, is found on page 1 of your record; is that correct? A. Yes, sir.

Q. And No. 66 that you formerly read is found on page 2?

A. Yes, sir.

Q. That is correct, is it? A. Yes, sir.

Q. Explain why deaths that occurred in—I call your attention to 28 which I notice, that the death is recorded to have taken place in 1908. I will ask you if this record does not show that it does not appear to be a record made in the order which the deaths seem to have occurred?

A. I didn't get all of that question.

Mr. Blakeney: I will withdraw the question.

Witness dismissed.

Mr. German: We offer the deposition of George F. Cain, taken before Mr. Penick, appearing in his transcription, beginning at page 12.

And thereupon GEORGE F. KANE, being called on behalf of the United States, sworn and under oath testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. George F. Kane.

Q. You live at Fort Logan, Colorado? A. Yes, sir.

Q. What relationship do you bear to the United States Army? What is your rank? A. I am a retired soldier.

Q. What is your age? A. About 60.

Q. What is your rank—what office did you hold in the Army? A. First Sergeant.

Q. And you have been retired for about how long?

A. Fifteen years.

Q. You have served your full term of 30 years?

A. Yes, sir.

Q. You are now in the office of the Quartermaster-Sergeant at Fort Logan?

A. Yes, sir, the Quartermaster's Department.

Q. What are your duties?

A. Labor in the Quartermaster's Department.

Q. Do you keep any records? A. Yes, sir.

Q. Do you keep any of the records? A. Yes, sir.

Q. Do you have anything to do with making up the records in the Quartermaster's office?

A. Yes, I am in charge of the property branch and records.

Q. You hold book in your hands, known as the record book of interment at Post Cemetery at Fort Logan, Colorado?

A. Yes, sir.

Q. Who made the entries in that book?

A. These entries or the original ones?

Q. Those entries in that book? A. I did it.

Q. When did you do that?

A. I ain't sure but I think it was in 1899. I think that was the time when they interred a lot of these people who were buried up there.

Q. What do you mean by that? Re-interred?

A. Yes, re-interred them.

Q. Did they rearrange the cemetery at that time?

A. Yes, sir.

Q. And the place of burial of those who were buried there? A. Yes, sir.

Q. Was that the occasion of making up a new interment record?

A. Yes, sir; they would take them out of one grave and place in others.

Q. Do you mean 1909? A. Yes.

Q. Instead of 1899? A. Yes; I wasn't here in 1899.

Q. About 7 or 8 years ago? A. Yes, sir.

Q. About six years ago, I should say. A. Yes.

Q. That is when you made this book which you are holding in your hand? A. Yes, sir.

Q. Was it at that time in 1909 that this rearrangement of the cemetery—— A. To the best of my belief, it was.

Q. Under whose—how come you to make that book? Who had you do it?

A. Some officer of the 21st Infantry; he had charge of the changing of the graves—the rearranging of them.

Q. Where was the information contained on this book—in this book, obtained from?

A. I guess it must have been obtained from the original book; whether it is here or not; I guess it is, I ain't sure.

Q. Have you looked for it this morning? A. Not yet.

Q. I notice in this record that the first twenty-two running numbers seem to run in regular order so far as the date of death of these interred are concerned; that after that, they are not in regular order so far as the dates are concerned. How does that occur?

A. I don't know; they ain't in rotation.

Q. For instance, number 32 appears to have died in 1896, whereas number 29 appears to have died in 1908 and number 47 appears to have died in 1904 but number 48 appears to have died ten years prior to that and in 1893. How comes—how does that happen that they now come in that order?

A. Well, I guess they come in that order from the other book; that is all that I can explain.

Q. But I notice—what is the order so far as they are interred on this book is concerned—what relationship does it bear to the location of the graves in the cemetery?

A. I don't know. I guess we will have to get that other book; get it out and hunt it out.

Q. At any rate you gathered the information that [] have placed on this record that you have in your hand, in your lap, and that you placed on there in 1909 from the other book?

> Mr. Blakeney: It is my objection that this is secondary evidence, causing all of this later evidence—I withdraw my objection that the first entries made were not in original evidence—the first evidence offered was not the original evidence and don't object because it is secondary.

Mr. German: Alright.

Mr. Allen: Alright.

Witness dismissed.

Mr. German: We now offer Sections 558 to 593, both inclusive, of the Regulations for the Army of the United States, in force in 1889, relating to the Post cemetery; we have here a certified copy of them.

Mr. Cruce: What is the materiality of that testimony?

Mr. German: The evidence which has just been offered by depositions shows the burial of Alice, or Mabel Peterkin, at Fort Logan in 1889, at the Post cemetery, at Fort Logan, Colorado, and it was proved by certain records in the custody of the Quartermaster Sergeant at Fort Logan, and I simply am proving that these records are kept pursuant to certain regulations as was testified to by the witness.

The Court: What is the purport of those regulations?

Mr. German: The first Section I referred to, relates * * *

The Court: It may be admitted.

Mr. German: I would like permission of the Court for the court reporter to copy these sections, that this book may be returned, and make copy of these regulations and insert same at this point. That record is Exhibit A-82.

The Court: It may be admitted.

Mr. German: We offer the deposition of Mary Land, taken before Mr. Penick, appearing in his transcription of said depositions, beginning on page 15.

MIRIAN LAND being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. Your name is Mrs. Marian Land? A. Yes, sir.
Q. Where do you live Mrs. Land?
A. I live in Logantown.
Q. Colorado?
A. Yes; Fort Logan, Colorado, is my address.
Q. How long have you lived here?
A. About 23 years, I *h*uess.

Q. Do you remember what year you came in?

A. No, I can't remember positively. If I had of knowed what questions I had to answer—I have got my marriage certificate there—but it is about 23 years as near as I can remember. My husband went to the Cuban war and he never came back and he died of malarial fever and we had been married six years when he left here.

Q. What was his name?

A. G. W. Land—George Washington Land; he was a soldier for six years.

Q. Did you know an Indian woman by the name of Minnie Atkins? A. An Indian woman?

Q. Yes. A. I never knowed her by Atkins.

Q. Did you know an Indian woman here at Logantown?

A. At the same time, at that time?

A. Yes, when you came here. A. No.

Q. Did you ever know an Indian woman that lived at Logantown?

A. Only Minnie—Minnie Peterkins; I never knowed the other. I didn't go round much. I was here quite awhile before I went around much. I never remember another Indian woman around here myself.

Q. Except Minnie Peterkin? A. Except Minnie Peterkin.

Q. Was she living here when you came here?

A. I can't swear to that, as I told you.

Q. Do you remember how long it was after you first came here before you first knew Minnie Peterkin?

A. How is that?

Q. Do you remember how long it was after you first came here before you first knew Minnie Peterkin?

Q. Oh, I was here about a couple of years, I guess, as near as I can remember.

Q. You don't remember her well, do you?

A. No, awful poor. That is the reason that I hate to have anything to do with anything like this. I was here and I must have been here about two years because when I knowed her, of course that was after I bought the little place. I built another one, so I must have been here two years any how.

Q. Did Minnie ever live in any of your property?

A. She lived in the little house where those two men found me. I lived in the Fort and she lived in the little house over there. That was the winter of the Cuban war, that she lived there; I know, because it was while they were down to the war. Of course you fellows remember our Cuban war—I have lost tract of it—is it 17 years, or 18?

Q. 17. A. 17—that is what I thought.

Q. Now did you know Minnie before she lived in your little house?

A. No, I didn't know her; I just knowed her around. I just knowed her around but I didn't know of her any more than to just know of her just like anybody you see back and forth.

Q. How old are you Mrs. Lamb?

A. I was 67 last May—the last day of May.

Q. Did Minnie have any children so far as you know?

A. She had one but whether—it seems to me that she had the second one when in that little house of mine but that I can't swear to.

Q. Do you know the names of those children?

A. No, I do not. I knew the name of Charlie—that was the oldest one—but the other, I don't remember the name and I can't remember to swear to whether the second boy, or the girl was the oldest.

Q. Were there two boys and one girl that you knew of?

A. Two boys and one girl; if I remember right, the second child was born in that little house of mine, but as I told you, I can't remember it well enough to swear to it.

Q. Did you learn of either of those three children dying?

A. I can't remember, as I tell you, sir; it seems to me that one of them did.

> Mr. Hanford: I object to the question and move that that portion of the answer that was gotten in before my objection, be stricken on the ground that it is incompetent, irrelevant and immaterial, and does not pertain to any of the issues in this case.
>
> Mr. Blakeney; I also object for the reason that it is incompetent, irrelevant and immaterial and move that the answer of the witness be stricken that was given before the objection could be interposed.

A. That little man that was in here just a little while ago—

> Mr. Hanford: I object.

Q. Was your husband a member of the Infantry?

A. Yes, he belonged to the 7th Infantry but he was not a soldier when he left here.

Q. Did you ever learn of Minnie having any children besides those three?

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant and immaterial.
>
> Mr. Blakeney: We object as incompetent, irrelevant and immaterial and seeking hearsay.

A. No, I didn't.

Q. Did you ever know of Minnie having any other children besides those three? A. No, sir.

Q. Did you know of a man named Harrison? A. Yes.

Q. Having lived with Minnie?

A. I knowed she was always good friends with him; of course, the rest is none of my business.

Q. Do you remember his given name?

A. No; he run a little butcher shop down there

Q. Did you know of Charles Peterkin and Minnie—

A. No, he was about that high when I knowed him.

Q. That is the child that you refer to?

A. Yes; it was Minnie's boy—I never knowed any other.

Q. Did you know the name of the man—of any man that associated with Minnie before this man Harrison did?

A. No.

Q. At the time that you knew Minnie, was this man Harrison associating with her or not?

> Mr. Hanford: I object as incompetent, irrelevant and immaterial.

Q. I want to change the question; I will ask the question over. Consider the objections to it in its new form. Did you know of any man living with Minnie before this man Harrison lived with her?

> Mr. Hanford: I object as incompetent, irrelevant and immaterial.

A. No.

Witness dismissed.

> Mr. German: We offer the deposition of James O'Conner, taken before Mr. Penick, appearing in his transcription of depositions, beginning at page 27.

And thereupon, JAMES O'CONNER being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. Your name is James O'Conner? A. Yes, sir.

Q. Are you at this time in the United States Army, Mr. O'Conner? A. Retired, yes, sir.

Q. What was your rank? A. Post Commissary Sergeant.

Q. When did you enter the service of the United States?

A. In 1883—that is, in the service of the United States—I mean the Navy.

Q. You were in the Navy at that time? A. Yes, sir.

Q. When did you enter the Army? A. In 1885.

Q. Were you ever stationed at Fort Logan, Colorado?

A. I was, sir.

Q. Where do you live now?

A. I live in Littleton, Colorado.

Q. How far is that from Fort Logan?

A. It is three and seven-tenths miles.

Q. When did you first come to Fort Logan?

A. In March—March 19th, '89.

Q. How long were you stationed at Fort Logan?

A. From that time until December 20th, 1890 and again—this, however, was my station all the time but we was up after the Indians in the Sioux campaign.

Q. How long were you up there? A. Three months.

Q. Then how long did you continue at Fort Logan?

A. Until April 7th, '98.

Q. Where did you go then?

A. Went to Tampa, Florida, on our way to Cuba.

Q. And you went to Cuba and then returned to the mainland? A. Then returned to New York.

Q. Were you ever located in Indiana? A. No, sir.

Q. Were you ever at Fort Wayne? A. I was, sir.

Q. What state is that in? A. Michigan.

Q. When were you transferred to Fort Wayne, approximately? A. I went to Fort Wayne in November 1899.

Q. How long were you there? A. About 7 months.

Q. Now, when you first came to Fort Logan in the spring of 1899, did you know an Indian woman named "Minnie"—whose given name was "Minnie"—or did you know her, and if so, when?

A. I knew her about three or four months after coming here; that is, I knew her by name but didn't know her personally.

Q. Who was she living with when you first knew her?

Mr. Hanford: I object on the ground that it is incompetent, irrelevant and immaterial.

A. Who was she living with?

Q. Yes.

A. Well, she was living with either one of two men; which, I don't know.

Q. What was their name?

A. One's name was Cunningham and the other man's name was Harrison.

Q. Did you know of her having any children?

A. I knew of——

Mr. Hanford: I object as incompetent, irrelevant and immaterial.

A. I know of her having one child, at least; that is, when I came to know her personally, and that child was to be buried the next day.

Q. How long was that after you came here, approximately?

A. Approximately four or five months; maybe longer.

Q. Did you know the name of that child? A. No, sir.

Q. Did you know of her having any other children?

Mr. Hanford: We object to that as incompetent, irrelevant and immaterial.

A. I know of seeing her; whether it was before this child died or afterwards—I seen two little tots running around Harrison's butcher shop, back of there, you know—the man she lived with—which I presumed was hers.

Q. Did you know whether they were boys or girls?

A. No, sir.

Q. Did you know of Minnie living—where, with reference to Fort Logan, was it that Minnie was living?

A. She was living, not in Fort Logan—she was living at the town of Sheridan—the town outside of Fort Logan.

Q. How close is that to the Fort?

A. Well, about 40 feet across the railroad track.

Q. Just across the railroad track? A. Yes, sir.

Q. There is a little town there?

A. A little town; this is called Logantown—it properly belongs to the town of Sheridan.

Q. Did you know of Minnie leaving here between the time that you first knew her and the time that you left here in [illegible]?

A. Yes, sir, I remember her leaving on the train; where she was going to, I don't know.

Q. Did you have any conversation with her at that time?

A. Not any, except to say, goodbye Minnie—where are you going?

Q. What did she say?

A. She said, I am going to get some money. I said, good luck to you; in fact there was a half a dozen of us there—we just went down for a walk at the time.

Q. Did she or not have these two children with her at that time?

A. If my memory serves me right, she had these children with her at that time but they might have belonged to some one else because there were two or three women with her. It was on this Uncle Sam, you know.

Q. You referred to the Uncle Sam—what do you refer to?

A. That is the train between here and Denver—that is the official name of it, you know.

Q. Did you ever see these children after that?

A. No, sir.

Q. Did you ever see Minnie after that? A. Once.

Q. Where? A. Fort Wayne, Michigan.

Q. After you had been to the Cuban war? A. Yes.

Q. Did you have any conversation with her at Fort Wayne, Mich.?

A. No, sir, just simply to say, how-do-you-do, Minnie? I passed her on the side-walk; I knew of her being there but I didn't meet her until that time. She had been over to my house.

Q. Who was she living with up there—what man?

Mr. Hanford: I object as irrelevant, incompetent and immaterial.

A. I can't speak his name now; he belonged to the band, however—a tall man.

Q. To refresh your memory, was it Price or Rice?

Mr. Hanford: We object to that on the ground——

A. Rice—now I can see the man very plainly.

Mr. Hanford: Objected to because it is leading.

Q. That was in 1900—I have forgotten what year you said you were in Fort Wayne? A. In 1899.

Q. You have never seen her since?

A. I have never seen her since.

Cross Examination by Mr. Hanford.

Q. Sergeant, the Uncle Sam train is the one that carries the Post people now into town—that is, into Denver when they want to go?

A. Yes, it is the local train that flies between Denver and Fort Logan.

Q. People who live out here travel backward and fourth a good deal, do they not? A. They do, sir.

Q. Seeing a person going aboard the Uncle Sam, is nothing unusual, is it?

A. No, nothing unusual without these people going aboard says goodbye—they are going away—and then of course, it would be kind of——

Q. I understand you saw Minnie going aboard the train and you said goodbye to her?

A. Well, I said goodbye to her, yes, sir, but others—several—said goodbye to her at the same time.

Q. How did you know she was going away?

A. Well, she said she was——

Q. That was after you said goodbye?

A. Yes; no, it was just before I said goodbye.

Q. But she told you where she was going? A. No, sir.

Q. Is that the only time that you knew of her leaving here? A. That is the only time, sir.

Q. Did she remain away?

A. Well, so far as I know of, she remained away; I never saw her afterwards until I saw her at Fort Wayne, Michigan.

Q. That is the next time you saw her?

A. That is the next time I saw her. Of course she could have come back and been there without my knowing it.

Q. How often did you see her around here prior to the time that she went away?

A. Oh, I would see her probably once a day—sometimes twice a week; I used to see her pretty often.

Q. You said that you were at Fort Wayne 7 months?

A. About 7 months; I think I was up there in November and went to New York—November, December, January, February, March—well, from 5 to 7 months. I wouldn't say exactly but just about that time.

Q. How did you come to leave Fort Wayne?

A. By orders. My company was sent from Fort Wayne, Michigan, to Madison Barracks, New York.

Q. That was the only company of the 7th?

A. The only company of the 7th Infantry.

Q. The rest of the regiment remained at Fort Wayne?

A. Yes, sir, the rest of them that were there at Fort Wayne; some of them were at Wauka Lake.

Cross Examination by Mr. Blakeney.

Q. You were acquainted with Lieut. Wallace?

A. Lieut. Wallace—yes, sir, I was.

Q. When did you know him—during what period of time?

A. I knew him in 1892, I believe it was that he first joined us here.

Q. And where did you know him?

A. I knew him as a 2nd Lieut. of Company A, 7th Infantry.

Q. I said where.

A. Oh, where; why, at Fort Logan.

Q. How long did you know him at Fort Logan?

A. About 7 or 9 months; he was here about 9 months I take it. He belonged to my company at the time he left here.

Q. And did he ever come back? A. He did, sir.

Q. And do you know how long it was before he came back?

A. I can't be sure but I believe it was something over two years.

Q. And then how long did he stay?

A. Now, I don't know; he was with the regiment when he went to Cuba.

Q. Several years? A. Several years, yes, sir.

Q. Now was he a married man?

A. When he came back here the second time he had a wife with him.

Q. And what year did you say he came back the second time—about the year?

A. Let's see—'92-3-4—he must have been back about '95.

Q. '95? A. To the best of my recollection.

Recross Examination by Mr. Hanford.

Q. You have been interviewed by a number of people at different times in regard to these matters that you have just testified to, haven't you, Sergeant?

A. I have been interviewed by two gentlemen; the gentleman right there and Mr.——

Q. His name? A. This gentleman right here.

Mr. German: Indicating Judge Allen.

A. Judge Allen and one other.

Q. Mr. Robinson? A. Mr. Robinson, that is the man.

Q. And you told them the facts that you just testified to here?

Q. Yes, just about the same; yes, just about the same.

Q. You told them about Minnie going away?

A. No, I don't believe that question was ever asked me before until today—I don't believe that was ever asked me.

Q. Didn't you talk to me this morning at the Post Exchange? A. Yes.

Q. And didn't I ask you about Minnie going away and didn't you tell me that she couldn't go away because she didn't have the money?

A. Sir, I believe you asked me something if Minnie was away several times, and I told you that at the time, that there was one time she couldn't very well go away; that she had nothing to go away on.

Q. Isn't it a fact that you told me that you never knew of her going away because she didn't have money to go away on? A. I might have made that statement but if I did——

Q. Then your recollection as to Minnie's going away and saying goodbye to her and her statement to you at that time is a recollection that has come to you since you talked to me this morning?

A. Well, yes, it is a recollection that comes to me and I can picture the day she went; the evening—or afternoon that she went.

Q. But that occurrence must have been suggested to you in some way, or by some one since you talked to me?

A. No, sir, it was not; it was just my getting right down to thinking about Minnie and thinking about the case all the way through. There is nobody spoke to me since I spoke to you; the only man I spoke to since then was Mr. Robinson when he came in. Well, I spoke to him over the 'phone this morning and he asked Judge Allen——

Q. That is Mr. Robinson the Pinkerton Detective man?

A. I don't know who he is; I know him as Mr. Robinson. He asked me how he could get Judge Allen on the 'phone; wanted to know if he could get him over there and I told him, no, but hold the 'phone and I would connect him.

Redirect Examination by Mr. German.

Q. Was that the extent of your conversation with Mr. Robinson this morning? A. Yes, sir.

Q. Just before—shortly before you came on the witness stand this afternoon, I inquired of you out there what you knew of the case, did I not? A. Yes, sir.

Q. Now, who was the first man that you ever told before you testified here about the conversation Minnie—the statement Minnie made when she was leaving here before you came on the witness stand and told it?

A. About her leaving, when she was leaving with the children?

Q. Yes. A. That is when I seen her at the depot.

Q. Yes. A. This is the first time.

Q. Did you make any statement to me about it out there in the hall, before you came in here?

A. I don't remember—I don't think so.

Q. You spoke of Judge Allen—this gentleman here (indicating Judge Allen) having talked with you; do you remember who was with you on the occasion when he talked with you?

A. There was nobody in the office at the time except I and Judge Allen.

Q. When was that?

A. Oh, some time—I don't know how many months ago.

Q. To refresh your memory, was there a man by the name of Cook with him—Fred Cook?

A. I don't remember, sir; I don't know, sir.

Q. What are you doing now?

A. I am steward of the Post Exchange.

Q. What is the Post Exchange?

A. The Post Exchange is a co-operative store, run by the different organizations of the Post.

Q. Here at Fort Logan? A. At Fort Logan.

Q. And that is your place of business?

A. That is my place of business.

Q. And that is where Mr. Robinson called you on the telephone for Judge Allen?

A. For Judge Allen, yes, sir; he wanted Judge Allen on the 'phone.

Witness dismissed.

Mr. German: We offer the deposition of Mary Jenson, appearing in the transcription of depositions, beginning on page 37.

And thereupon MARY JENSEN being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name and residence.

A. Mary Jensen; 57 years old; I live at the town of Sheridan, called Logantown.

Q. Are Sheridan and Logantown the same place?

A. Yes, sir.

Q. Is that just outside of the Fort?

A. Just outside of the Fort, yes, sir.

Q. Mrs. Jensen, do you remember Minnie Peterkin having lived out here during the '80's or early in the '90's?

A. Yes, sir.

Q. Do you remember about the time that she came here?

A. She came here, I think, about the latter part of '87. or the beginning of '88.

Q. Were you at that time married? A. Yes, sir.

Q. Who was your husband?

A. Julius Frederick Jensen, Commissary Sergeant.

Q. Where? A. At Fort Logan.

Q. At that time, did you live in the Fort?

A. No, sir, I lived down in Logantown—they called it—no quarters were built in the Fort.

Q. Where did Minnie Peterkins live with reference with your home at that time?

A. She lived in the little dug-out, down at the other end of the town.

Q. How far from your house?

A. Well, I would say it would be about two blocks at that time.

Q. How long did she live there?

A. Well, she lived there over a year to my knowledge.

Q. Then where did she move to?

A. Well, after my husband's death in 1890, I had to move into another house and she—— I was on the front of the lot and she was on the back of the lot.

Q. Do you know where Mabel Peterkin was born?

A. She was born in the dug-out.

Q. Do you know about when? Do you know what became of Mabel Peterkin?

A. Yes, Mabel Peterkin——

Mr. Hanford: I object as incompetent, irrelevant and immaterial.

Mr. Blakeney: I object as incompetent, irrelevant and immaterial.

A. She died.

Q. About when, do you remember about when she died? If so, please state.

A. Well, she died about '89.

Q. About how old was Mabel Peterkin when she died?

A. I think she would be near a year old, I think.

Q. Do you know of Minnie having any other children?

A. Yes.

Mr. Hanford: I object as incompetent, irrelevant and immaterial.

Q. What were the names of the other children?

Mr. Hanford: I object as incompetent, irrelevant and immaterial.

Q. You may answer.

A. I don't really know the children's names.

Q. Were they boys or girls?

A. Two boys; she had two boys.

Q. Were they born before or after Mabel Peterkin?

A. Quite a while after.

Q. With whom, if anybody, was Minnie living when Mabel Peterkin was born?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.

A. Well, I don't know—she was working for Dr. Richards previous to her little child taking sick.

Q. I mean was she married?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.

A. She went by the name of Minnie Peterkin and that is all that I do know.

Mr. Hanford: I object to that and move to strike the answer on the ground that it is hearsay.

Q. Do you know whether or not she was living with any man at that time?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.

A. Well, she was living with this man Peterkin.
Q. Who did you say she was living with?
A. Peterkin, at the time of the child's death.
Q. Who was Peterkin?
A. He was a soldier in the 18th Infantry.
Q. Did she live with any—later live with any other man that you know of?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.

A. Yes, I heard she did.
Q. With whom did she later live?
A. A man by the name of Harrison.

Mr. Hanford: I move to strike that as hearsay.

Q. Did you say Harrison?
A. Harrison, the butcher, yes, sir.
Q. What is his occupation, *t*ou say? A. Butcher.
Q. Where does he live?
A. He lives in Logantown—as they called it.
Q. Was he living with her at the time of the birth of these boys?
A. I don't know whether they were really living together or not but the children was his—every body said *do*.

Mr. Hanford: We object to that as incompetent, irrelevant and immaterial and move to strike the evidence on the ground that it is hearsay.

Q. When did you last see these boys?
A. Let's see—that has been about—1902 or '03.
Q. 1902 or '03? A. Yes, either of these years.
Q. Where did you see them?
A. They were in Logantown at the time.
Q. How old were they at that time?
A. Well, I haven't any idea; they were quite small and

there seemed not to be very much difference between the two children's ages.

Q. How long after the date of death of Mabel Peterkin was that?

A. Oh, that was—let me see—about five or six years.

Q. You said 1902 or '03. [A.] In 1902 or '03.

Q. You stated a *ehilw* ago that Minnie—that Mabel Peterkin was born in 1907 or '08.

A. '87 or '08.

Q. '87 or '08? A. Yes, sir.

Q. And died in '89?

A. Yes, sir; born in '88, died in '89 and my sister died in the following October, so I can't very well forget it.

Q. Then it would have been thirteen or fourteen years after that that you saw these children?

A. Did I say that?

Q. Yes. What do you mean?

A. Well, 1992 or '93.

Q. You mean 1892 or '93? A. Yes.

Q. Do you know about what year Minnie left here?

A. No, I haven't any idea; she went away on different occasions and came back again.

Q. When did she finally leave? A. I haven't any idea.

Q. Do you know anything about the year?

A. No, I don't know anything about the year she left in.

Cross Examination by Mr. Hanford.

Q. You say Minnie left on different occasions and came back again? A. Yes, sir.

Q. How long would she be gone during those times?

A. Well, a matter of a couple of months or so.

Witness dismissed.

Mr. German: Now, Your Honor, we took the deposition of Sadie James; she was two days under direct examination, and five and a half days on cross-examination, and she has been brought here pursuant to a subpoena issued by the defendant, and it is immaterial to us whether we offer her deposition or put her on the witness stand. I merely suggest that is all.

The Court: What have you to say about Sadie James going on the stand?

Mr. Stuart: Your Honor, to save time, we will put in her deposition.

The Court: That will be very agreeable to the Court.

Mr. German: Let the record show that we all consent.

The Court: Now, she is here; she may be used for some purposes possibly?

Mr. German: Yes, I suspect.

The Court: Now, Judge, Sadie James is here, and will probably be used for some purpose; I assume that you will not use her on all matters covered by this deposition, at any rate you don't want to double up this record?

Mr. Stuart: Your Honor, we are willing to excuse her entirely.

The Court: I don't ask you to do that.

Mr. German: We will determine whether we are willing or not.

The Court: Sadie James' deposition will be admitted, then.

Mr. German: It appears in the transcript of record, the first statement beginning on page 621; the next on page 927; the next on page 1422, and the last beginning on page 1567 of the transcription of the evidence.

And thereupon **SADIE JAMES**, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. State your name? A. Sadie James.

Q. What age are you? A. I am 46.

Q. Where do you now live? A. Where do I live?

Q. Yes. A. Well, you mean just where I am stopping at?

Q. Yes.

A. I am stopping at 1707 East 11th Street, Kansas City, Mo.; I don't live there, I am stopping there.

Q. Did you ever live in Leavenworth, Kansas?

A. Yes, sir.

Q. Did you ever live in Tulsa, Oklahoma?

A. Yes, sir; that is my home now.

Q. What is your husband's name? A. William James.

Q. How long have you and he been married?

A. Three years in March—this coming March.

Q. What was your name before that A. Before James?

Q. Yes. A. Johnson.

Q. What was your name when you lived in Leavenworth, Kansas, at first. A. Sadie Harris, my maiden name.

Q. Do you know an Indian woman named Mrs. Minnie Folk? A. Yes, sir.

Q. Did you know her as Minnie Atkins? A. Yes, sir.

Q. When did you first know her?

A. I met her in July of '84, in Leavenworth, Kansas.

Q. About how long did she live in Leavenworth?

A. Minnie?

Q. Yes.

A. She came there in 1884 and left as near as I can remember about the fall of '87, or spring of '88, I am not positive which time that was that she left.

Q. Did you know of her having any children at Leavenworth? A. I did not.

Q. After she left Leavenworth, when did you next see her?

A. I saw her in 1895, in Kansas City, Mo.

Q. Where were you living at that time?

A. I were living at 5175 Campbell street.

Q. Kansas City? A. Kansas City.

Q. Where in Kansas City, about, was it that you saw her on that occasion? A. The first part of the day I saw her?

Q. Yes, where was it?

A. I saw her on 5th and Bluff, at the old Union Depot—I was going down that way.

Q. How did you happen to see her?

A. I was walking down the Avenue and saw her coming over toward the depot; she had two children.

Q. You say she had two children with her?

A. Yes, sir, and a bundle on her arm.

Q. Did you learn the names of those two children?

A. Yes, sir.

Q. At that time? A. I did.

Q. What were their names?

A. Harvey and Charlie Harrison.

Q. Harvey and Charlie Harrison? A. Yes, sir.

Q. What age were they?

A. Well, Harvey, the baby one, was about a year and a half old; she was carrying him and leading the other one—he seemed to be about three years old. I had taken them to my house and *keep* them there.

Q. Took them to your house? A. Yes, sir.

Q. And how long did they stay at your house?

A. We got out the *the* house about half past eleven, I guess, and it was about four o'clock in the evening when they left.

Q. So she left the same day she came?

A. She left my house, yes, sir, the same day she came.

Q. Did she say anything about where she was going?

A. Yes, sir.

Q. What did she say?

A. I asked her—I hadn't seen her since she left Leavenworth—I said Minnie, where did you come from, and she said, I came from Colorado.

Mr. Blakeney: I move to strike out that part of the answer as not responsive.

Q. I will ask you another question, Sadie. Did she say any thing about where she had come from?

Mr. Blakeney: We object as leading and suggestive.

A. Yes, sir, from Colorado.
Q. Did she [] anything about where she was going?
A. Yes, sir, to Indian Territory.
Q. Did she say anything about what she was going to the Indian Territory for? A. Yes, sir.

Mr. Blakeney: We object to the question as leading.

Q. What did she say?
A. She told me—I asked her where she was going, and she said she was going down to the Indian Territory to draw her money.
Q. Draw what?
A. Her money; they were going to be paid off.
Q. Did you see her again that year, or the next?
A. I saw her about eight or nine months in the next year, '96.
Q. Sometime in '96?
A. It was about eight or nine months after I first saw her until I saw her again.
Q. Then, when did you next see her?
A. You mean after '96?
Q. Yes. A. I saw her in June, 1914.
Q. Where? A. In Fort Lawton, out in Seattle.
Q. State of Washington? A. Yes, sir.
Q. Do you know the defendant, H. U. Bartlett, who lives at Tulsa? A. Yes, sir, lives at Sapulpa.
Q. Lives at Sapulpa, does he? A. Yes, sir.
Q. Did you ever know a child, or a man, named Thomas Atkins who was related to Minnie Atkins? A. No, sir.
Q. Were you ever engaged by anybody—anybody connected with this law suit, to endeavor to find Thomas Atkins?
A. Yes, sir.
Q. The allottee of—you know about the land that is [] controversy? A. Yes, sir.
Q. The allottee of the land in controversy? A. Yes, sir.
Q. That was in connection with some litigation then pending in the District Court of Creek County, at Sapulpa, was it not? A. Yes, sir.

Q. Who first engaged you in connection with the finding of Thomas Atkins? A. H. U. Bartlett.

Q. H. U. Bartlett; when? A. March, 1914.

Q. Where were you living at that time?

A. I was stopping in Leavenworth, Kansas.

Q. Was anyone else, so far as you know, working for Mr. Bartlett? A. Yes, sir.

Q. In the same direction? Who?

A. Bettie Mann.

Q. Sometimes known as Sarah Mann? A. Yes, sir.

Q. And sometimes known as Sarah Asbery?

A. Bettie Rasberry.

Q. Bettie Rasberry? A. Yes, sir.

Q. Where did you say you were living at the time you were engaged? A. Leavenworth, Kansas, in 1914.

Q. Where was Bettie living?

A. Living at Sapulpa, Oklahoma.

Q. Through whom were you engaged at that time to help Mr. Bartlett? A. Who got me to see Mr. Bartlett?

Q. Yes. A. Bettie Rasberry—Bettie Mann.

Q. What were you engaged for—what were you to do? Tell what was said on that subject.

Mr. Hanford: We object as incompetent, irrelevant, and immaterial as to what she was engaged for by Mr. Bartlett.

Mr. Blakeney: We object to all of that question except the last clause of it.

Mr. German: I withdraw all of it except the last clause.

A. Bettie came to me in March—she was up to Leavenworth—I didn't know she was in town—

Mr. Blakeney: We object to what Bettie said as incompetent, irrelevant, and immaterial.

A. Bettie got me the job——

Mr. Hanford: I want my *object* to rest on the ground as hearsay as to what Bettie Mann said to her, or she said to Bettie Mann.

Mr. Stuart: I want to make the objection, Your Honor, please on the ground that it is irrelevant, incompetent, and immaterial, and because it refers to a transaction between this witness and parties who have no connection of any kind with Page, or the interests that he is asserting in this case.

A. Between Bettie and I?

Q. Yes, about your employment to work for Mr. Bartlett?

Mr. Blakeney: We object as hearsay and calling for hearsay statements.

Mr. German: I concede the objections made to the preceding question which may go to this all.

Mr. Blakeney: Alright.

A. She wanted—she asked me; I will have to explain, I suppose, what she wanted me to do before I got to Mr. Bartlett?

Q. Yes.

Mr. Blakeney: We object for the reason that it is hearsay and incompetent.

Q. Tell what Bettie said.

A. Bettie came to my house and said; Sadie, you know that deed that Harjo and I got for H. U. Bartlett, and I said yes, and she said, J. B. White is about to make him some trouble about it.

Q. Sadie, let me interrupt you a little.

Mr. Blakeney: We move to strike out all this statement of the witness to case, as incompetent, hearsay, and has no connection with any of the parties to this controversy, and not material to any question before the court.

Mr. Hanford: Same objection, and the further ground that it is not responsive to the question.

Q. Prior to the time that Bettie came to you in March 1914, had you made any efforts to find Thomas Atkins?

A. No, sir.

Q. Now, proceed to tell what Bettie said to you on the occasion that you were referring to.

A. She said J. B. White is about to make him some trouble about that deed.

Mr. Blakeney: We still object for the same reason, that this is hearsay and incompetent.

A. And we have got to find the Thomas Atkins to make this deed good. She said, I have been working on this case three years and I don't believe there ever was a Thomas Atkins.

Mr. Blakeney: We move to strike out what she said about there never being a Thomas Atkins as hearsay, incompetent, irrelevant, and immaterial.

Mr. Stuart: The same objection for Page.

Mr. Hanford: The same objection for the defendants, Folk and Hanford, and the same motion to strike, also.

A. I have been working two years for H. C. Bartlett and J. B. White, and they have got so much confidence in me now, that it would not do to let them know no better. I said to this White man, that you work for, got any money, and she said, yes; and I said, well, can you get me a job, and she said, yes—all you got to do is to tell him you know Minnie—which I did—and that you know when the child was born. I said who ever said that Minnie had a son born by the name of Thomas Atkins?

Mr. Mahoney: We move to strike out what she said about the son being born, referring to what the witness says as incompetent, irrelevant, and immaterial.

Mr. Hanford: We object to the witness testifying by way of narrative, and move to strike the foregoing part of her testimony as not responsive to any question, and as incompetent, irrelevant, and immaterial.

Mr. Mahoney: I want to interpose now, the further objection to allowing this conversation. *It* now appears that it is irrelevant, and immaterial and wholly hearsay, and not connected with any of the parties to this controversy.

Mr. Stuart: The same objection for Page.

A. May I speak and say why she told me about the deed?
Q. You go ahead and just answer my questions.

Mr. Hanford: Will you ask the questions, Mr. German?

Mr. German: She hasn't finished answering; you fellows interrupted her.

Mr. Mahoney: You are merely asking that she answer the questions formerly asked.

Q. Just go ahead and state all the conversation that I asked you about between you and Bettie in March, 1912.

A. That she had no children born by the name of Thomas Atkins. She said, I said so, myself; she said, I will wire to Mr. Bartlett tonight and have him in Kansas City by tomorrow morning, and you go down there and meet him at the Stafford hotel, and all you got to do is to tell him that you know a child was born and you will get a job. I said to her—Bettie, I said, come go down here with me, I said, to a negro lawyer's; him and I have just pulled off a deal—Dennis Jones—and we can get anything fixed that we want. I had taken her down.

Q. Now, was that—is that about all of the conversation before you left this place?

A. Before I had taken her down there?

Q. Yes? A. Yes, sir.
Q. Then what did Bettie do?
A. We went down to Dennis's.

Mr. Hanford: Now, I object on the ground that it is incompetent, irrelevant, and immaterial; not relating to any questions involved in this litigation.

Mr. Stuart: Same objection for Page.

Q. What did you go down to Dennis Jones' for?

Mr. Hanford: I move to strike then, if the answer was answered prior to my objection.

Mr. Blakeney: I want to object to this question, as asking for a conclusion and incompetent.

Mr. Hanford: The same objection.

Mr. German: I will withdraw that question.

Q. What was said between you and Bettie with reference to going down to see Dennis Jones? A. I told him——

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and hearsay, and asking for a conversation among others not interested in this suit.

Mr. Hanford: The same objection.

Mr. Stuart: The same objection.

A. I had taken her down there, and going down there I framed to have Thomas Atkins—I told her I could get anything done with Dennis I wanted to because I just pulled off a deal with him.

Mr. Blakeney: I move to strike out about framing up as not responsive and merely an expression of an opinion that she could frame up.

Mr. Hanford: I move to strike on the grounds that it is incompetent, irrelevant, and immaterial, and states a conclusion of the witness, and is not responsive to the question.

Q. Did you find Dennis Jones in? A. Yes, sir.
Q. Did you and Bettie have any conversation with him about Thomas Atkins? A. Yes, sir.
Q. Tell what was said.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and calling for hearsay, and a statement of parties not connected with this litigation.

Mr. Hanford: The same objection, and on the further ground that it does not relate to any matters in litigation, or concerning any parties to the litigation.

A. I had taken her down there and introduced her to Dennis. She said, Mr. Jones, you know the woman that worked here, Indian woman by the name of Minnie Atkins? He said, no; she said, why she used to work for banker Hyde. He said, I know banker Hyde but I don't know no Indian Minnie that ever worked for them but I will write a letter to his brother, Albert Hyde, Wichita, Kansas, and ask him where his brother is and *saw that* he knows where Minnie went. Bettie said, I don't care anything about Minnie because she is dead; I want a boy started [] her by the name of Thomas Atkins, born in 1885—said, can you do it? He said, I can get lawyers, doctors, and bankers, in Leavenworth, Kansas, to swear that Hell's an ice-box.

Q. Go ahead.

A. She said, well, I want you to work with us on the job. By that time somebody come in, Jim Swift and Ben Porter, two Indian- who were working with Bettie. We stopped the conversation and Bettie told him she was going to catch that car—interurban car—and go back to Kansas City, and that he could work with me, and I said, Dennis, I will be back up here about six o'clock this evening. That was then *so,e* time after two or three—between half past two, or three, I guess, in the afternoon. I had taken her over to an old sporting place——

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and not responsive to any question, and move to strike that part of her testimony.

Mr. Blakeney: I insist that she be permitted to tell about going to a sporting house.

Q. Did you and Bettie leave Dennis'*s* office then?
A. Yes, sir.
Q. Where did you go to?
A. Went to this sporting place.
Q. Did you do, or say anything, with reference to this Thomas Atkins at this sporting place? A. Yes, sir.
Q. Who did you see there? A. Rubert Smith.

Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial.

Mr. Blakeney: We move to strike out the answer. The witness answered instantly upon the question being completed by counsel for the reason that the question seeks to draw out so much incompetent testimony and the *and the* answer is incompetent, hearsay and immaterial.

Mr. Hanford: I move to strike for the same reasons stated by Mr. Blakeney.

Q. Who did you see?

Mr. Stuart: Your Honor, I would like to state for Page, that the objections heretofore interposed, go to all this narrative of this witness as representing Bartlett or in the service of Bettie Mann, in connection with Bartlett, because it is hearsay, incompetent, irrelevant, and immaterial, and Mr. German, you will consider my objection to that?

Mr. German: You mean all the way through Mr. Stuart?

Mr. Stuart: Yes, this matter, just to save time.

Mr. German: Well, let me see, Judge. I, sometimes I might ask another question that might correct what might seem to me to be a well taken objection.

Mr. Stuart: Well, we will run it along and unless you change the character of the testimony, of the questions, the objection goes.

Mr. German: Alright.

Mr. Hanford: I want to interpose the same objection and the further objection to the witness testifying in narrative form until—on the further ground that matters to which the witness is testifying are in no way related to the questions in issue, or to the parties to the suit and are wholly incompetent, irrelevant, and immaterial.

Q. You referred to Dennis Jones as the lawyer. Is he a white or colored lawyer? A. A colored lawyer.

Q. How long had he lived at Leavenworth, so far as you know about?

A. Since '76, when we came there, he was there; Jones was at Leavenworth then, 1876.

Q. You spoke of meeting Rube Smith? A. Yes, sir.

Q. Is he a white or colored man? A. A colored man.

Q. Where did he live? A. He lived in Leavenworth.

Q. What town? A. Live in Leavenworth.

Q. Had he been living there very long at that time?

A. Yes, sir, he was there when we came to Leavenworth.

Q. When did you come to Leavenworth? A. 1876.

Q. Now, tell what was said by you, Bettie, or Rube, at the sporting house on the occasion that you have just mentioned, with reference to Minnie or Thomas Atkins.

Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial, and hearsay.

Mr. Blakeney: We object for the same reason as incompetent, hearsay, irrelevant, and immaterial, and is not an effort to *ilicit* a conversation with any of the parties to this action or in the presence of any of the parties.

Mr. Stuart: Or any person representing any of the parties.

Mr. Blakeney: Or any person representing any of the parties.

Mr. Hanford: I want my objection to be based upon the same ground as stated by both of counsel.

A. You asked me what we said?

Q. About Minnie or Thomas Atkins.

A. I introduced Bettie to Rube Smith, and told her he was a partner of Dennis*'s*, and was equally as str*i*ng as Dennis Jones in fixing the things we wanted.

Q. Do you mean a partner in the law practice?

A. Yes, sir, they do at times; they run together, ever since I have known them.

Q. Work together? A. Yes, sir.

Mr. Hanford: I object on the ground that it is leading and move to strike the answer.

Q. Go ahead and tell the rest of the conversation if there was any more.

A. She asked him after I introduced him, if he knew Minnie Atkins, an*d* Indian girl who used to work for banker Hyde.

Mr. Blakeney: Mr. German, you asked her to go ahead. You are not asking a new question.

Mr. German: No, sir.

Mr. Blakeney: The old question?

A. He told her no, that he knew banker Hyde though, but he didn't know Minnie; so, at that time, the woman of the house, she came down stairs and we stopped talking on that subject, and started for the car line. I told Rube Smith to meet me and Dennis at six o'clock that evening; I said I have just come from there and I will be up there. He said he would.

Q. Now, is that all the conversation on that occasion with reference to Tommy, or Minnie Atkins?

A. With Bettie, yes, sir—until six o'clock that evening

Q. Until six o'clock? A. Yes, sir.

Q. What became of *Sadie* then?

A. She caught the car and started back to Kansas City.

Q. Did you learn who Jim Swift—what is that other boy's name? A. Ben Porter.

Q. W-ere?

A. I knew them—had always known then in Oklahoma.

Q. They didn't live in Leavenworth?

A. No, sir, they lived in Oklahoma.

Q. Well, did you have a talk with any of these parties before six o'clock that evening. A. Not before six.

Q. Or anybody else?

A. No before six. I had taken Bettie—another trip but not this time.

Q. Did you fill the six o'clock engagement? A. Yes, sir.

Q. Where? A. Down to Dennis Jones' office.

Q. Was Rube there?

A. He and Rube were there, yes, sir, when I got there.

Q. What, if anything, was said on that occasion by either one of you three with reference to Thomas or Minnie Atkins?

> Mr. Blakeney: We object as incompetent, irrelevant, and immaterial; seeking to *illicit* conversation not had in the presence of any of the parties, or their agents, or by any of the parties or their agents, to this controversy.
>
> Mr. Hanford: The same objection and the further ground that it is incompetent, irrelevant, and immaterial, and not pertinent to any of the issues in this controversy.

A. Well, Dennis [ ] me was Bettie alright, and I told him yes; and I said, I will show you just how strong she is. I said she is a land grafter and she has got a term of seven years—is now on bond—and she is still working on cases and you know she is strong, and everything you do with her will be alright, and I explained to them about how Minnie Atkins looked. They didn't know how she looked. I told then when she came there and all, and they said that night—Dennis said—well, we will say the baby was born in Granny Letcher's house in 1885, and Rube Smith was to be the father, and we suggested about who we would get for a mid-wife, and Dennis said we couldn't get no colored woman there in town because they were all too afraid of getting arrested. We suggested then——

Q. Sadie? A. Yes, sir.

Q. I wish you would tell who said these different things and what they said, as nearly as you can remember.

A. It was Dennis talking now.

Q. Well, commence over again and tell who said what they did, and as near as they said as you can, and if you don't remember their words, state the substance of it. A. Yes, sir.

> Mr. Blakeney: We object. She said every time, Dennis said so-and-so; then Rube said——

Mr. German: Judge Stuart's objection to the narrative statement is what I am calling for it for.

Q. Well, who first mentioned the matter? A. Dennis.

Q. You have already told what he said and what you said about Bettie Mann? A. Yes.

Q. As to who Bettie was? A. Yes, sir.

Q. Now, tell what each one of you said, with reference to Thomas, or Minnie Atkins? A. Tell it over again?

Q. Yes.

A. Dennis said, *er* will say the baby was born at Granny Letcher's in 1885, and Rube said he would be the father, and Dennis said—we suggested then, we would get a mid-wife and Dennis said, we can't get any colored woman there because they were all too afraid of getting arrested, and we thought we would get Mary Smith, a white woman; and Rube said he could get her to swear that she saw the baby when it was two days old, and I said what about a doctor? We will have to have a doctor. We first suggested about Dr. Moaks, and when Dennis thought it over he said that was before Dr. Moaks came there and we would not say anything about it. Rube said, we will lay it on Dr. McCormick, because he is dead. I told him when I went down the next day, tomorrow to meet this white man, and I had never seen Mr. Bartlett—the man I was to meet the next day; and I said, now when I get down to see him and get in the job and get this boy worked up like we want it, we will switch it over on the Gypsy because I don't think this man has got as much money as the Gypsy.

Q. What is the Gypsy? A. The Gypsy Oil Company.

Q. Oh, yes.

A. They had a lease at that time. We separated that evening and I was to meet them the next day after I came from Kansas City.

Q. Now, is that all you now recall as to the conversation?

A. Yes, sir.

Q. When did you next see either of these parties whose names you have been calling? A. Bettie?

Q. Yes; Bettie, or any of them.

A. I came to Kansas City the next morning. She had wired to Mr. Bartlett that night to come to Kansas City—she had found some one who knew all about it. I got down——

Mr. Blakeney: I object to any wiring as not the best evidence, irrelevant, incompetent, and immaterial.

Q. Did you see the telegram?

A. No, sir, I didn't see the telegram.

Mr. Hanford: I restate my prior objections to this line of testimony.

Q. You say you saw Bettie the next day in Kansas City?

A. Yes, sir, I came down on the car to the Stafford hotel the next day.

Q. Was Mr. Bartlett there? A. Yes, sir, he was there.

Q. Did you have any conversation with either of them on that occasion?

A. Yes, sir, she introduced Mr. Bartlett to me.

Q. State the conversation, will you?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

Mr. German: Let me complete the question.

Q. State the conversation so far as it relates to your employment by Mr. Bartlett or with reference to Indian Minnie, or Thomas.

Mr. Blakeney: We object now, as incompetent, irrelevant, and immaterial; seeking to *illicit* conversation with parties not parties to this controversy, and not asserting any claim to the property in controversy, and hearsay.

Mr. Hanford: I make the same objection and on the further ground that it does not relate to any of the matters and issues in this controversy.

Q. Alright Sadie, tell what was said.

Q. She introduced Mr. Bartlett to me, and he said you know Minnie, do you; and I told him yes, sir, and he asked me hoe long I had been knowing her; and I told him I had been knowing her since '84 when she first came, and he said, did you know the child that she had by the name of Tommy Atkins? I told him a lie—I said yes.

Mr. Blakeney: I move to strike out that I told him a lie.

Mr. German: We object to argument on the part of counsel.

Mr. Hanford: We object on the ground that it state a conclusion of the witness.

Mr. Stuart: We object to it because the witness has already admitted in the beginning of her conversation that she was trying to put up a job.

Q. Go ahead, Sadie.

A. Tell what I said to Mr. Bartlett? Repeat it?

Q. No, don't tell it over; go on and finish the conversation.

A. He said how big was the child when you last saw it; I said about five years old; he said do you know who raised it, and I told him, yes, sir—told him Granny Letcher; he said, well, I have got two detectives here—Mr. Harrison and Mr. Kelsey—I have got hired here in Kansas City working with Bettie and all the evidence you get, you give it to them and Bettie—to these detectives and Bettie; he asked me when had I heard the last of Thomas, and I told him I would have to go [] Omaha, that I knew some people there and find out where he was—and I told him I would have to have some expense money. He asked me how much I needed and I told him fifty dollars and I got it.

Q. Did you make any agreement with him with reference to working for him?

> Mr. Blakeney: We object as incompetent, irrelevant and immaterial; asking for hearsay evidence, and seeking to *illicit* an agreement or conversation between the parties not interested in this controversy, and also seeking a conclusion of the witness.
>
> Mr. Hanford: The same objection and the further ground that it is not relating to any matters in issue.
>
> Mr. Stuart: Page makes the same objection as heretofore.

Q. Go ahead, Sadie.

A. Not at that time; no, sir, not any agreement at that time.

Q. Was there anything else that you recall said on that occasion that you have not told?

A. No, sir, he said that he was going away that night; that if anything occurred and we needed him, to wire him. I caught the car and came back to Leavenworth, and went up to Dennis and Rube's office and told them about my meeting.

Q. Wait a minute now; is Leavenworth and Kansas City connected by interurban car? A. Yes, sir.

Q. And was at that time in 1914? A. Yes, sir.

Q. About how far is it?

A. Leavenworth is about 26, or 27 miles, I guess, I don't know about that—you can go over every hour on the car.

Q. When you got back to Leavenworth—— A. Yes, sir.

Q. Did you see Dennis Jones and Rube Smith?

A. I did; I went right to their office.

Q. When—that same day?

A. That same day; they were looking for me to come back up there.

Q. And you found them in his office?

A. Found them in his office, yes, sir.

Q. Did you have any conversation with them in reference to this matter then? A. Yes, sir.

Q. Tell what was said.

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial.

Mr. Blakeney: We object.

Mr. Hanford: And on the further ground that it has been previously stated.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and hearsay, and seeking to *illicit* a conversation had between parties not interested in the controversy in the case.

Mr. Hanford: And not in the presence of any——

Mr. Blakeney: And not in the presence of such parties, or the agents, or representatives.

Q. Go ahead.

A. I told him I had met the white man and I said he has got plenty of money, and I got a job, and all you have got to do now is to start working; Dennis said, we will hunt a boy of Indian color and bring him to Leavenworth, Kansas, and show him around, and get witnesses to swear that they remember when he was born to this Indian woman, and we will switch him over on these people that you are speaking of—the Gypsy; at that time, I said, well, I will go home and you all start to getting people up to testify to that. In about four days from that——

Q. Now, were you living in Leavenworth at that time?

A. Yes, sir, at 2nd and Cherokee, Leavenworth, Kansas. I had been there three or four months.

Q. Where had you lived just before that?

A. Tulsa, in my home.

Q. How long had you lived at Tulsa at that time?

A. Oh, about five or six years, I guess—about five years, I guess, since 1908—1907 or '08 when I came to Tulsa.

Q. Did you do anything with reference to this Thomas Atkins after you left Dennis and Rube, on the occasion that you have just referred to? A. No, sir.

Mr. Hanford: Object on the ground—move to strike the answer.

Mr. German: She said no.

Q. Who did you next see to talk with about this matter?

A. In about four days, Dennis—I met Dennis on the street.

Q. There in Leavenworth?

A. Yes, in Leavenworth, Kansas.

Q. Did you have any conversation with him about this matter? A. He was looking for me—going to my house.

Q. Did you have any conversation about this matter?

A. It was a message that he had for me.

Q. He had a message for you? A. Yes, sir, for me.

Q. With reference to this matter? A. Yes, sir.

Q. Did he deliver the message? A. Yes, sir.

Q. What was it?

Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial, and not the best evidence.

Mr. Blakeney: And not the best evidence.

Q. What did he say?

Mr. Blakeney: The other question is withdrawn?

Mr. German: I substitute this for the other one.

[Mr.] Blakeney: I object to it as hearsay, incompetent, irrelevant, and immaterial.

Q. Was it oral, or written—the message?

A. Speaking of what someone called him up to tell him.

Q. What was the message? Tell what he said.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and hearsay.

Mr. Hanford: The same objection.

Mr. Stuart: The same objection.

Q. Go on and tell what the message was.

A. He said that Mrs. Mann had called him up and told him to tell me to come down to Kansas City as soon as I could—Bettie Mann. I went home and fixed myself——

Q. What did you do then, after receiving that message?

Mr. Blakeney: We object as immaterial.

Mr. Hanford: We object as incompetent, irrelevant and immaterial.

Q. Go ahead.

A. I went home and got myself ready to go to 3rd and Delaware, and caught the car.

Q. And where did you go?

A. Came down to the Stratford hotel.

Q. In Kansas City?

A. Here in Kansas City, Mo., yes, sir.

Q. Who did you see?

A. Well, I got there, I met a boy that called himself Tommy Atkins.

Q. Who was with him?

A. Bettie Mann and two detectives.

Q. Describe that boy.

A. This boy—I don't know as I could describe this boy they had there.

Q. White or colored?

A. He looked like a white boy; had no Indian blood, or colored, either. A dirty looking white boy, about 35 years old.

Q. Who were the two detectives, if you know?

A. Mr. Kelsey, and Mr. Harrison, here in Kansas City; white detectives.

Q. Now, what was said in reference to this boy by Bettie, or either of the two detectives, or by the boy?

> Mr. Hanford: We object as incompetent, irrelevant and immaterial.
>
> Mr. Blakeney: I have got to be excused—let Mr. Hanford make objections for me.
>
> Mr. Hanford: The same objection for Mr. Blakeney.
>
> Mr. Stuart: My objections go to all this testimony as heretofore presented.

A. Bettie said, Sadie, these detectives have found this boy; he is an orphan boy and he don't know who his parents are, and I believe we could work him alright. That was in the hall—she was talking with me. The boy and the two detectives were setting in the parlor, and she said, come on in and meet him. I went in and met him and asked him where he was born at and he said he was born in Kansas, he didn't know where about; he said when he was about 4 years old, some people had taken him and kept him until he was about 9, and that one day, he heard them phoning the woman and her husband, and he heard the man say that this boy can't stay here any longer. So after this man went out—this woman's husband—he thought they were his parents at first, he said he went to the woman—his mother—and she was crying, and he asked her what was the matter, although he had heard the conversation himself. She told him he would have to leave; and she said, I am not your mother; and said, she gave him a note that had Mae Atkins on it. I said you are not no son of Minnie's because you are too old, and because if she [] any son at all, she had him after she left Leavenworth, Kansas, and she didn't leave there until about '88, and you are 35 years old. Mr. Kelsey—he got mad—that was one of the detectives—and told me he had wired for Mr. Bartlett any how, and when Mr. Bartlett came, he was going to tell him that it was Thomas Atkins, the son of Minnie—the lost boy—because they knew what they were doing, and I told him alright. Well, they had wired for Mr. Bartlett before I got down there.

Q. How do you know?

> Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial, hearsay, and stated a conclusion of the witness.

Q. Did they say anything about having wired?

> Mr. Blakeney: We object now, as incompetent, hearsay, irrelevant, and immaterial.

A. They had wired to him, they said.

Q. Did they say that?

A. Yes, sir, and that he would be there—they were looking for him then; and I said, well, I will stay until he comes. Mr. Bartlett came that same evening.

Q. Came that same evening?

A. The same evening, yes, sir.

Q. Have you found out, or did you then learn, the name of that boy they had there?

A. He claimed his name was Tommy Atkins.

Q. Have you ever found out? A. No, sir.

Q. Any other name that he bore?

A. No, sir, I did not—not that one.

Q. Well, when Mr. Bartlett came, what occurred?

A. The two detectives had taken Mr. Bartlett and introduced him to Tommy—this boy—and of course Mr. Bartlett thought it was Tommy Atkins.

> Mr. Blakeney: I want to object to this as hearsay, incompetent, irrelevant, and immaterial.

> Mr. Hanford: I want to restate my objection made to this testimony, and move to strike as incompetent, irrelevant, and immaterial.

A. Bartlett was glad to meet him and told him—and thought it was Minnie's son—and he said, well—he told these detectives—you get this boy ready in the morning and take him to Muskogee, and take him before the Dawes Commission. He said, Sadie, we want you to go, too; I told him that I couldn't go the next day so he suggested that we go that night. So, we suggested that we would go that night. I told Mr. Bartlett that I would have to go back up to Leavenworth, Kansas, first, and tell my people—my husband and daughter were there—that I were going to be gone for a few days, and that I would come back to Kansas City that night and catch a train and meet them in Muskogee. He gave me fifteen dollars and I went home, and I came back to Kansas City that same night on the interurban car and taken the train and went to Tulsa, instead of *Oklahoma.* They had taken this boy to Muskogee, I suppose.

Q. Did you go to Muskogee?
A. No, sir, I didn't; I knew better than to go.
Q. You didn't know what they were doing then?
A. No, sir.

Mr. Hanford: I move to strike as not responsive to any question.

A. When they got through at Muskogee, I called up to Sapulpa——

Q. Who called up?
A. I did; called up Mr. Bartlett, at Sapulpa.
Q. At Sapulpa?
A. At Sapulpa. I was in Tulsa at my home.
Q. When was this?
A. That was about a couple of days after they came down here.
Q. What was said? A. I told him to come to my house.
Q. Where? A. In Tulsa; he was in Sapulpa.
Q. Did you have a house in Tulsa?
A. Yes, sir, that is where I live at now. I can't stay there——

Mr. Blakeney: I want to move to strike out "that is where I live now but can't stay there" as responsive to no question; impertinent, incompetent, irrelevant, and immaterial.

Q. I thought you testified that at that time you were living in Leavenworth?
A. I went up there for a short stay, yes, sir.
Q. But you were temporarily in Leavenworth?
A. Temporarily, for a business matter, yes, sir; my house and furniture is in Tulsa.
Q. Is yet? A. Is yet, yes, sir.
Q. Alright. Did Mr. Bartlett come to Tulsa?
A. He came to Tulsa, yes, sir, on that—let me see—that is in the fore-noon I called him over the 'phone, and he came, I think that train gets in there, I think at thirty—twenty-five, of two-twenty-five—or something. That has been a couple of years ago. He came.
Q. Did you see him? A. Yes, sir, he came to my house.

Q. Did you have any conversation with him? A. Yes, sir.
Q. About this boy? A. Yes, sir, about this boy.
Q. What was said?
A. I said, Mr. Bartlett——

Mr. Blakeney: We object to the conversation as hearsay, incompetent, irrelevant, and immaterial; not in the presence of any of the parties, or the representatives, or with any parties, or their representatives, in this suit.

Mr. Hanford: The same objection.

Q. Go ahead.
A. I said, Mr. Bartlett, I would rather you would let Bettie and those two detectives prove up on this Thomas Atkins, and let me find Winnie. He said, Sadie, Bettie found out in Kansas City that Winnie had been dead 12 years; she died in the City Hospital there and it looks like foolishness for you to hunt for someone that is dead. I said, Mr. Bartlett, if you will furnish the money, I would go and if Winnie Atkins is dead I will find her body and if she is alive, why, I will find her, for I don't believe from things that I know that she is dead.
Q. What did he say? A. He said——

Mr. Blakeney: We object for the same reason.

Mr. Hanford: I restate my former objection.

Q. Alright?
A. He said alright. I said, now, I don't want you to tell Bettie——

Mr. Blakeney: We now object at her giving this statement as not responsive to any question.

Q. What else, if anything, did he say, in reference to this matter? A. This Tommy?
Q. Yes.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and hearsay.

Mr. Hanford: The same objection.

A. He said, well, how much money will you want, Sadie, and I told him I wanted fifty dollars. I told him every town I got to——

Mr. Blakeney: I move to strike out what she said as not responsive to the question.

Q. What did you say when he asked you how much you wanted? A. Told him fifty dollars.

Mr. Blakeney: Object as incompetent, irrelevant, and immaterial, and hearsay.

Q. Go ahead. Tell all the rest of the conversation that you had on that subject.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and hearsay; seeking to draw out conversations had among other parties not interested in this suit—not in their presence, or in the presence of their representatives.

Mr. Hanford: I make the same objections stated by Mr. Blakeney.

Q. I mean in reference to Thomas or Minnie Atkins.

Mr. Stuart: You understand, Mr. German, that the Page objection runs to this whole narrative?

Mr. German: Yes, sir.

A. I had quit hunting Tommy then, and was going to start hunting Minnie.

Q. I asked the rest of the conversation.

A. I told him I wanted fifty dollars and he wrote me out a check for it, and I told him every town I would go to, and hear any news, I would send him a night letter, but for him not to let Bettie know what I was doing, and he said, alright.

Q. Well, what did you do then, in reference to that matter?

A. That night I caught the 8:10 on the Santa Fe, and come back to Kansas City and caught the interurban car to Leavenworth, Kansas. Went home and the next day, I went up to Dennis'*s* office.

Q. Dennis Jones? A. To Dennis Jones' office, yes, sir.

Q. Did you have any conversation with him on that occasion with reference to this matter? A. Yes, sir, I did.

Q. What was said by each of you?

Mr. Blakeney: Object as incompetent, irrelevant and immaterial, and hearsay; seeking to *illicit* a conversation not in the presence of parties or their representatives.

Mr. Hanford: The same objection.

A. I told him I had been down to Kansas City; about finding the boy—these detectives had the boy down there—told him how the boy looked and about them carrying him to Muskogee, and meeting Mr. Bartlett, and telling them that I was going to find Minnie. Dennis said, I thought that Mann woman—talking about Bettie—said, Minnie was dead. And I told him, well, I don't believe she is dead; and I said, in the meantime, you and Rube keep working with the people here, starting up this talk about this baby.

Q. What did Dennis say to that? A. Said, alright.

Mr. Blakeney: We move to strike out the answer to the last question which was given before we could object for the reason that question seeks to *illicit* incompetent, hearsay, irrelevant, and immaterial evidence.

Q. You say you had a conversation with Dennis Jones at his office—was that in his office?
A. That was in his office, yes, sir.
Q. There in Leavenworth? A. Leavenworth.
Q. In reference to the matter of—talking of the birth of this Thomas Atkins at Granny Letcher's? A. Yes, sir.
Q. What was it he said to you, and you said to him, with reference to that?

Mr. Blakeney: We object to that as repetition.

Mr. German: I am afraid your last objection will be sustained; that is the reason I am asking.

Mr. Blakeney: Incompetent, irrelevant, immaterial; not in the presence of the parties or either of their representatives.

Mr. Hanford: Let the record show my objection on the same ground—the same objection.

Q. Now go ahead, Sadie.

Mr. Blakeney: And leading.

A. The next day I went to St. Joe——
Q. Wait. That is not responsive to my question.

Mr. Blakeney: I move to strike out that answer.

Q. I asked you to state what——

Mr. Blakeney: Wait a minute. Read the question to her.

Mr. German: I will ask the question. I don't care to have it repeated.

Mr. Blakeney: Well, I will have to repeat the same objection.

Mr. German: I am willing for the record to show that you make the same objection.

Mr. Hanford: And I, also.

Mr. German: Yes, sir.

Q. When you returned from Tulsa on the occasion that you just testified about, you say you saw Dennis Jones?
A. Yes, sir.
Q. What, if any conversation, did you have with him with

reference to matter of proving the birth of a Thomas Atkins at Granny Letcher's?

Mr. Hanford: We object on the further ground that it is leading.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and hearsay; leading; and the question seeks to *illicit* a conversation among the parties in the absence of any of the parties to the suit, or their representatives.

A. We didn't talk about nothing but that boy when we got back. I described him to Dennis; not Rube.

Mr. Blakeney: We move to strike out all after the word *no,* as not responsive to any question.

A. Dennis said that they had started the talk.

Mr. Blakeney: We object as not responsive now to. any question.

Q. Go on.
Q. About Tommy Atkins and this Indian woman among—

Mr. Blakeney: We object also.

Mr. German: I object to counsel objecting before the witness answers.

Mr. Blakeney: I want to object to her making a statement here in answer to no question.

Mr. German: I mean, before the witness completes the answer that she started.

Mr. Blakeney: I will get my objection as hearsay, incompetent, and not responsive to the entire question.

A. Said they had got the talk started about the Thomas Atkins and this Indian woman among several people that they knew was alright. I told him I was going on the hunt [ ] Minnie.

Mr. Blakeney: I move now to strike out all this part of the answer, subsequent to my objection as responsive to no question, incompetent, hearsay, irrelevant and immaterial.

Q. Did Dennis on that occasion make any statement with reference to evidence bearing upon the subject of the birth of Thomas Atkins in Leavenworth?

[?]: We object on the ground that it is incompetent, irrelevant, immaterial, and leading.

Mr. Blakeney: We object on the same ground as stated by Mr. Hanford.

A. He said that he had got the talk started about Tommy Atkins and this Indian woman among several that he knew were alright; he didn't tell me who they were—who the people were.

Q. Did you leave there after that conversation?

A. Yes, sir.

Q. Where did you go to? A. I went to my home.

Q. What did you next do with reference to Minnie Atkins, or Thomas Atkins?

Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial, and leading.

A. I went to Omaha.

Q. Did you find Minnie or Thomas? A. No, sir.

Q. You were searching for Minnie then?

A. I was searching for Minnie but was not hunting Thomas.

Q. Did you get any line on her? A. Yes, sir.

Mr. Blakeney: I object as asking for a conclusion.

Q. Was anybody there that knew her?

A. Yes, sir, who knew her in Leavenworth; a woman that used to know her in Leavenworth, a white woman.

Q. What was her name? A. Her name was Bertha Black.

Q. Did you find out anything from her as to where Minnie was?

A. No; she told me Minnie was in the West—said Minnie had never been around up here—you want to go to the West. When the soldiers left, they all went West.

Q. Where did you next go? A. Came back to St. Joe.

Q. Did you find anybody there that had known Minnie?

A. No, sir; and went on home.

Q. And where did you go next?

A. Came on back home.

Q. Did you have any conversation on that occasion with Dennis or Rube?

Mr. Blakeney: We object. I don't care for that question.

Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial, and not pertinent to the issue.

Q. Did you answer yes or no? A. Yes, sir.

Q. Which one of them? A. Both.

Q. Both? Where?

A. In his office; they were there together nearly all the time.

Q. In Dennis' office? [A.] Yes, sir.

Q. What was said by each of you in reference to Thomas or Minnie Atkins?

> Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial; relating to a conversation between parties not involved in the suit, and relates to a conversation not in the presence of any of the parties in the suit, or their representatives, and the further ground that it is hearsay.
>
> Mr. Blakeney: We join in the objection.

A. Dennis said that he had Nat Burns for one witness—Nat Burns who lives in Leavenworth, Kansas.

Q. As one witness?

A. Yes, as one witness. And that Mary Smith, the white woman on 7th Street, she was willing to work and oh, aunt Katie Logan. I said, do you think you can get aunt Kate Logan, and he said, yes, I have already got her; and I said, what is she going to swear to, and he said, she is going to swear that she saw the baby when it was a week old.

Q. Go ahead. Was Kate Logan a white woman?

A. No, sir, a colored woman.

Q. Where did she live?

A. She lived on 7th street, near the corner of Shawnee, back of a Jew place there—Jew pawn shop.

Q. Leavenworth? A. Leavenworth, Kansas, yes, sir.

Q. What else was said in that conversation? State the substance of it.

A. I told them that I was going to take a trip; that this man was going to furnish me the money and I was not going to stop until I found Minnie, and for them to keep working, and on my trip I would also hunt for a boy that was born in Kansas, and if I found one that would do, I would bring him to Leavenworth, Kansas, and he and Rube could take him and show him to the people, and he said, alright.

Q. When was this conversation as best you remember?

A. That conversation—I guess I had been in the case about a month or more—yes, I had been in the case a good month.

Q. Then that must have been in April?

A. Yes, that must have been in April, I guess.

Q. 1914? A. 1914, yes, sir.

> Mr. Hanford: We move to strike the answer made before the objection could be stated. We object to the question on the ground that it is leading.

Q. Have you stated all of the conversation on that occasion? A. On that occasion, yes, sir.

Q. What did you next do with reference to the matter of finding Minnie, or with reference to Tommy?

Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial.

A. I went to Denver.
Q. How? A. I went to Denver.
Q. Did you see anybody there that had known Minnie?
A. Yes, sir.

Mr. Blakeney: We object as immaterial as to what this witness did. She didn't represent anybody in this action.

Mr. Hanford: The same objection.

Q. Did anybody go with you on that occasion?
A. Not a soul.
Q. Who did you find there who had known Minnie?
A. I went to Fort Lawton and found——
Q. What? A. I mean Fort Logan.
Q. Where is that from Denver?
A. About 12 miles from Denver.
Q. Alright. A. I saw James O'Connor.
Q. And who else? A. Mary Jenson.
Q. Who else?
A. Frank Barron, and Mrs. Watkins, the Postmistress, Mrs. Lamb.
Q. Did you or not see Mrs. Hamilton? A. Well——
Q. On that occasion?
A. Yes, sir, on that occasion—I was at the Fort now.
Q. You were out at the Fort then?
A. Yes, sir; I hadn't found Mrs. Hamilton then.
Q. You hadn't found her then? A. Mrs. Lamb——
Q. Well I don't care for you to name all of those.
A. Alright.
Q. Did you find Mrs. Hamilton? A. Yes, sir.
Q. Where was she? A. I found her in town.
Q. In Denver? A. In Denver, yes, sir.
Q. Did you have a talk with her about where Minnie was?
A. I did. She said she didn't know. I said, well, Mrs. Hamilton's haven't you got a picture of Minnie's——

Mr. Blakeney: We object to what the witness now stated to Mrs. Hamilton as hearsay, incompetent, irrelevant, and immaterial, or what Mrs. Hamilton said to her for the same reason.

Mr. Hanford: I make the same objection.

Mr. German: You don't object on the ground that it is not responsive?

Mr. Blakeney: I have been engaged here, and I suppose it was.

Mr. German: I will make it so.

Q. What if anything, did Mrs. Hamilton, say, with reference to Minnie Atkins, and what did you say to her? Give the conversation.

Mr. Blakeney: You will allow the part of the answer given to be striken?

Mr. German: Yes, I abandon it.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and hearsay, and seeking to *illicit* a conversation between parties not interested in this litigation.

Mr. Hanford: The same objection.

A. I asked her if she knew where Minnie was and she said no; Minnie left there in 1898.

Q. Had left where? A. Had left Fort Logan.

Q. Alright.

A. I said to her. I am a Government officer and I am hunting some children of Minnie that she——

Mr. Blakeney: I want especially to object to the conversation with Mrs. Hamilton and this witness—it is so obviously hearsay, it must be for the purpose only of encumbering the record.

Q. Go ahead.

A. I was hunting for some children of Minnie's that she drew money for and I couldn't find them; I said, she had a son born in Leavenworth, Kansas—born at some colored people's house. Mrs. Hamilton said, why when, and where, could Minnie have ever had a baby born in Leavenworth, Kansas, and lived to any age without me knowing it? I said, she had it at a colored woman's house named Granny Letcher. She said, well, she said, she has got one here that is dead. And I said, well, she brought two, I said, in '95 to Kansas City, and they are down in Oklahoma, and they were grown; and I said, do you know where they were born? And she said, yes, they were born here—out here at Fort Logan; she said, I could tell you who could give you some information—Mrs. Roach—she gave me Mrs. Roach's address—1622, or 1722, something, Washington street, I think it is—I am not positive now, the number of the street—but I found Mrs. Roach and asked her did she know Minnie. She said, yes. Well, that time, her husband and another man by the name of Captain White walked up and she said, they can tell you more than I can about Minnie. Captain White said, did you mean Indian Minnie?

Q. Are you telling what Captain White said?

Mr. Blakeney: I would like to have the witness always give name of each party she is talking about.

Mr. German: I think the witness is.

Q. I asked him when was the last time he saw——

Q. Who was that? A. Captain White.

Q. Did you finish the conversation with Mrs. Hamilton?

A. No, sir.

Q. Go ahead.

Mr. Stuart: She has gone to Mrs. Roach now, and found White and Roach there.

A. Yes, sir.

Q. Was Mrs. Hamilton with you? A. No, sir.

Q. You had a conversation then, with Mrs. Roach?

A. Mrs. Roach, Mr. Roach and Mr. White—Captain White.

Q. All at her house?

A. At Mrs. Roach's house, on the porch.

Mr. Hanford: We move to strike the testimony relating to the conversation with Mrs. Roach as not responsive to any question, and on the further ground that it is incompetent, irrelevant, and immaterial, and hearsay.

Q. Tell the conversation that you had with Mrs. Roach concerning Minnie Atkins.

Mr. Stuart: She has already stated that—we object to it.

Mr. German: You objected on the ground that it was not responsive and your objection is well taken.

Mr. Stuart: Mr. German, you didn't catch it—she already stated.

Mr. German: He objected because it was not responsive, and that objection was well taken.

Mr. Hanford: I move to strike.

Mr. Blakeney: My objection was merely that she name the party who she talked to.

Mr. Hanford: I withdraw my motion to strike then.

Mr. Blakeney: So far as it not being responsive, you mean?

Mr. German: Yes.

Mr. Hanford: Yes, but my objection as to its being incompetent, irrelevant, and immaterial, stands.

Q. Now, did you finish the conversation that you had with Mrs. White? A. No, sir.
Q. Go ahead and tell that now.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and hearsay.

Mr. Hanford: The same objection.

Q. Well, I will ask you this question. Did you find out anything from any of them as to where Minnie was?
Q. Yes, sir.
Q. Did you find out there at Fort Logan or at Denver the names of the children that Minnie had there? A. I did.
Q. Give the names of the children that you learned she had had there?

By Mr. Hanford: We object on the ground that it is irrelevant, incompetent, and immaterial.

By Mr. Blakeney: Yes, and as asking for a conclusion and the same grounds.

A. Harvey and Charlie Harrison, and Mabel Peterkin was dead—Mabel was dead there.
Q. Did you learn whether she was living or dead?
A. Dead.
Q. Did you learn at what age she had died? A. No.

By Mr. Blakeney: We object as being immaterial and hearsay.

Q. Go ahead.
A. Mr. Roach said she was about a year or two years old, I think, I am not exactly positive of the age, I don't think.
Q. Well, did you have any further conversation with Mrs. Hamilton on that occasion?
A. Not that day. I *staid* there two or three days—No, sir.
Q. Did you the next day?
A. Yes, sir, but I hadn't finished telling about Mr. White yet.
Q. Well, I don't care for the rest of the conversation with Mr. White. What was the conversation you had with Mrs. Hamilton the next day? A. The next day?
Q. Yes?

By Mr. Blakeney: We object as irrelevant, incompetent, and immaterial, and hearsay, speaking again to elicit conversation she had with the witness and a party not interested and not in the presence of the parties of our representatives.

By Mr. German: She was representing Mr. Bartlett.

By Mr. Hanford: The same objection. We object to counsel stating argument in the record, and move to strike the statement of counsel.

By Mr. Blakeney: We are not claiming under Bartlett or any of this interest Bartlett has, so it wouldn't bind us if it binds him.

Q. Go ahead?

A. I went out there to Mrs. Hamilton's the next day. Speaking of Minnie's children she said: "Well, Mrs. James, I can't see when Minnie had those children, the ones that you are looking for". I said: "Her girl Alice is in Leavenworth now".

Q. Her girl who? A. Alice.

Q. You said that?

A. Yes, I said that, is in Leavenworth now, and I said: "The reason that Minnie never did tell you all about Thomas was because his father was a colored man and she was trying to shield it", and she said: "Well, when you find Minnie, you send for me, because I am a good friend of Minnie's and I will beg her to tell where this son is if she knows, and not to be ashamed of him". Well, I *staid* in Denver several days and wired Mr. Bartlett and told him that I was getting good news and that I was on the trail of Minnie, and that I would soon be home—be down there rather, in two or three days. I did go, I called Mr. Bartlett——

Q. Wait a minute, I want to go back to Denver again. Did Mrs. Roach claim to know anything about Minnie's living in Leavenworth?

A. Not in Leavenworth, nobody but Mrs. Hamilton.

Q. Mr. Hamilton? A. Mrs. Hamilton and Claude Hamilton was the only ones.

By Mr. Hanford: We object and move to strike the answer on the ground that the question is leading and the answer is hearsay and incompetent, irrelevant and immaterial.

Q. Do you know--Did you know Mrs. Hamilton to have ever lived in Leavenworth, did you know that she ever lived there? A. Yes, sir.

Q. You had seen her when she lived there?

A. I didn't know her so well, I knew when she lived there, knew right where she lived.

Q. Did you know whether she lived there at the time Minnie had lived there? A. When she lived in Leavenworth?

Q. Yes? A. Yes, sir, she was there when Minnie come.

Q. Now, you say you came back to Tulsa from Denver?

A. Yes.

Q. Did you see Mr. Bartlett?

A. Yes, sir, called him up and he came.

Q. Did you have any conversation with him about Minnie or Thomas?

A. Yes, sir, told him I had found her.

Q. Tell what was said.

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and hearsay.

By Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial, and hearsay, and not a conversation between parties to this controversy, or in the presence of any of those parties; and not relative to matters involved in the controversy.

A. I told him about what I had found out in Denver, and I had got on the trail of Minnie.

By Mr. Hanford: I move to strike the answer as stating a conclusion of the witness.

By Mr. Blakeney: We move to strike it as stating a conclusion and as incompetent.

By Mr. German: I don't think the witness has finished the answer.

By Mr. Blakeney: So far as stating it is a conclusion.

Q. Had you finished answering?

A. What is the question?

Q. Finished the conversation with Mr. Bartlett?

A. No, sir.

Q. Go ahead and tell the rest of it?

A. I told him what I had found out in Denver as to Minnie, and that I had got the whereabouts of her, where she was last seen twelve years before that.

Q. That is that she had been seen at Fort Logan?

A. No, sir.

Q. Where?

A. I was going to tell where, how come me to go out——

By Mr. Blakeney: Answer the question. Tell what the conversation was. That is what we are objecting to.

Q. I want to ask you another question first and then we will go back to the Bartlett conversation. Did any one in Denver put you on the track of where Minnie was?

A. Yes, sir.

Q. Who? A. Captain White and Mr. Roach.

Q. And Mr. Roach? A. Yes, sir.

Q. Where did they tell you you might find her?

A. Told me they left Minnie in Van Couver in 1902, and I told him I heard she was dead.

Q. Who? A. Captain White.

By Mr. Blakeney: We object now, that is not responsive to the question, what she said, and is hearsay.

Q. Well, did Mr. White tell you anything else as to where Minnie may be?

By Mr. Blakeney: We object as incompetent, hearsay and immaterial.

A. Mr. White told me he left her in Van Couver in 1902, and I said I heard she was dead, and he said no, he said: "Oh, no as stou*d* as Minnie looked when I saw her, she is living yet, and if you will go to Van Couver Barracks, you will find out from somebody if she is there, if she aint there herself, where she is gone.

Q. Now, was that the extent of the information you obtained in Denver as to where Minnie may be or where she was last seen? A. Yes, sir.

By Mr. Hanford: We object on the ground that it calls for a conclusion of the witness, and move to strike the answer as made prior to the objection and before the objection could be interposed.

By Mr. Blakeney: We join in the objection.

By Mr. Stuart: We object to this testimony with reference to the excursion for the lost Minnie because it was not authorized by any party to this suit, and because it is incompetent, irrelevant, and immaterial and hearsay.

By Mr. Hanford: The same objection.

Q. At the time of the occurrence of all the things that you have been relating while you were on these trips, you were in the employ*ee* of Mr. Bartlett?

By Mr. Blakeney: Now, we object as asking for a conclusion of the witness, incompetent, irrelevant, and immaterial.

By Mr. Stuart: And because it is leading and suggestive.

Q. For whom were you working at all the times that you have told about since your meeting with Mr. Bartlett in Kansas City, the first time? A. Up until——

By Mr. Blakeney: We still insist that it is a conclusion.

Q. Yes, up until the time you have just testified about? A. Mr. Bartlett.

And thereupon, an adjournment is taken until nine o'clock A. M.

And thereafter, and on February 3, 1916, at nine o'clock, A. M., further proceedings and testimony herein were as follows:

SADIE JAMES, being recalled further testified as follows:

By Mr. Allen: Might let the record show that in the absence of Mr. Blakeney: It is agreed that the objections made by Mr. Hanford as requested by Mr. Blakeney may be adopted by the defendants he represents.

By Mr. Stuart: Now, Mr. German, in order to save time, your interrogatories will be directed until you strike the Page part of it to the conduct of this woman under Bartlett's employment? That is true isn't it?

By Mr. German: Yes, and the conduct of others *of* whom she claims to know.

By Mr. Stuart: I understand? Under Bartlett's employment?

By Mr. German: Some of them are not.

By Mr. Stuart: What I want to do is to make an objection for Page to all of this testimony relating to her search for Mrs. Atkins—Minnie Atkins, and everything that was said and done with reference to that under and by virtue of her employment by Bartlett. It saves me making an objection every time you ask a question.

By Mr. German: I am willing for that to be understood.

By Mr. Stuart: That an objection is made so far as Page is concerned to everything that she says with reference to this portion of the case just now being investigated prior to any claim of conversation and employment between her and any Page interest.

By Mr. German: Yes.

By Mr. Hanford: I will state the same general objection, and ask if it is agreeable to Mr. German that at the hearing when the deposition is read, if I can point out specific objections that will save these interruptions.

By Mr. German: I will—I am willing that you may, except objections which go to the form of the question.

By Mr. Stuart: Whether leading that is?

By Mr. German: Yes, as to things like that.

By Mr. Hanford: But as to the relevancy and materiality of the testimony, my general objections may go. I want to cut out objections so as to allow more continuity.

By Mr. German: That is a good thing to do.

By Mr. Stuart: Good thing for both of us.

Redirect Examination by Mr. German.

Q. Sadie, on the occasion that you were testifying about before we adjourned yesterday afternoon, when you were talking with Mrs. Hamilton at Denver, or rather when you were in Denver, you saw Mrs. Hamilton two or three times I believe you said? A. Yes, sir.

Q. Have you told all that was said by you or her with reference to what was said by you or her with reference to Thomas Atkins, and all that was done? A. No, sir.

Q. I wish you would now tell everything that was said by either of you, and everything that was done by either of you on the occasion of that trip of yourself to Denver with reference to Minnie or Thomas Atkins?

A. Do you mean the first trip?

Q. Yes?

By Mr. Hanford: I want to make an objection there that it is leading.

A. You mean the first trip to Denver?

Q. Yes?

A. When I went to Denver the first trip and got to Mrs. Hamilton's, I asked her if she didn't have a picture of Minnie's, and she said yes, and I told her the one that Minnie had given me I had lost it.

Q. Let me interrupt you, you say the first trip?

A. Yes, sir.

Q. So far as your testimony now shows you had not taken but one trip to Denver?

A. I went there after that, that is my first trip.

Q. So you are referring to the trip that you referred to yesterday evening?

A. Yes, my first trip. She said she did and I asked her to let me see it, and when she showed it to me it was just like the one Minnie gave me when she first came from Colorado. I asked her——

Q. Had Minnie given you a picture?

A. Yes, sir, Minnie gave me a picture when she first came to Leavenworth.

Q. Oh, when she first came to Leavenworth?

A. Yes, sir, when she first came to Leavenworth, she brought it from the College. I asked her if she would let me have it and when I got through with the picture I would return it to her, I was talking to Mrs. Hamilton. She gave me the picture and I told her at the same time I would take that picture and take it back to the man I was working for and tell him I had got on the trail of Minnie and I would arrange it so that Mrs. Hamilton could get to go with me on the search for Minnie. I asked her if she would go and she said yes; so I went to Tulsa and taken the picture.

Q. Now, have you, so far as you now recall, told all that occurred between you and Mrs. Hamilton?

A. On the first trip, yes, sir.

Q. On that first trip? A. On the first trip, yes, sir.

Q. Now, you went to Tulsa, you say? A. Yes, sir.

Q. And saw Mr. Bartlett? A. Called him up, yes, sir.

Q. And talked to him on the 'phone?

A. No, sir, I had him come to my house.

Q. And he came to your house?

A. He came to my house, yes, sir.

Q. And you had a talk with him?

A. Yes, sir, there is where I made a contract with Mr. Bartlett on that trip.

Q. Was that contract verbal or in writing?

A. No, sir, that is in writing.

Q. A written contract?

A. That is a written contract, yes, sir, in Tulsa now. Mr. Brown has it.

Q. Who has it?

A. Mr. Brown, my attorney, and C. S. Walker, the contract with Bettie Mann and I.

Q. What is the name of Brown?

A. I forgot, I believe his name is George Brown.

Q. George T., isn't it?

A. Yes, sir, I think it is, in that same building, the Reeder Building.

Q. Now, then, did you make any report to Mr. Bartlett as to what you had found out at Denver?

A. Yes, sir, and to show him further that I had gotten some news, I showed him Minnie's picture; it was the first time he had ever seen it or seen anything that she looked like, and I told him I said: "Now, Mr. Bartlett I want you to make a contract with me now for so much money if I find Minnie." You see I wasn't looking for Tommy. He said: "What do you want?" and I told him I wanted two thousand ($2,000.00) dollars for myself and he said: "Sadie you will have to let Bettie come in on this, she has been working for me so long I will have to let her have part of it" and I said: "Mr. Bartlett, I have never said anything to you before about it, but Bettie is going to double cross you", because at that time she was talking about letting Mr. Haskell have the deal—Judge Haskell. Mr. Bartlett said he would have to have Bettie in on it. Mr. Bartlett went up town and found Bettie and came back to my house in an automobile and taken me and Bettie Mann and went up to Mr. Brown's office, we had a contract drawn up for two thousand ($2,000.00) dollars, a thousand dollars to me and a thousand dollars to Bettie Mann when we were to find Minnie. Mr. Bartlett asked me when did I think I could go, I told him it would take me about a week or two to go back up to Leavenworth and get some things closed up there, because I knew that trip would take me quite a while from my home, but I didn't want Bettie to go with me, and he promised me he wouldn't send her on the trip with me and just let her be in on the contract. I was talking to him by himself then. Mr. Bartlett went to Sapulpa, I suppose to his home, and the next day I went to Sapulpa myself and to Bettie Mann's house the next day; they went away that evening.

Q. Bettie then, lived at Sapulpa?

A. Lived at Sapulpa, yes, sir, that was on a Sunday.

Q. Yes, I see. When was that—what time in the year was it? A. That was in May.

Q. 1914?

A. 1914, yes, sir. Bettie sent up to her daughter's house and got Minnie's son Harvey to tell Harvey that I had a picture of his mother and to come down there.

Q. You say Bettie sent?

A. Up to Bettie's daughter's house Hazel, who lived just two blocks from her.

Q. I thought you spoke of Harvey?

A. Well, Harvey was up there, that was Minnie's son, he was up there.

Q. Harvey Harrison?

A. Harvey Harrison, yes, sir; Minnie's son.

Q. He was there in Sapulpa?

A. Yes, sir, he was staying out in the country a good piece, but he was in town at Hazel's; so Harvey came and I showed him the picture and told him I had got on the trail of his mother, Harvey Harrison, but hadn't found her yet, and I asked him if he wanted to see his mother, and he said: "No, any woman that would go away and leave them as she had done, he didn't want to see her."

By Mr. Blakeney: Will our objection go to this?

By Mr. German: Yes.

A. He said if I found his father he wouldn't mind seeing him. So that was on a Sunday. I sent for Mr. Bartlett, called him on the 'phone rather and had him come down there, and told him I wanted money enough to go back to Leavenworth on. He gave me twenty-five ($25.00) dollars, and I *staid* there all night at Bettie Mann's house, and the next morning I went to Tulsa where I lived at my mother's, and that night, Monday night, I came back to Leavenworth, Kansas. I left going to Leavenworth, Kansas *a* Tuesday, I arrived in Leavenworth and taken this picture——

Q. When did you leave Bettie?

A. I left Bettie in Sapulpa. I wasn't to go on searching for a week or so. I taken the picture to Dennis Jones office——

Q. Was Dennis there? A. Yes, sir, Dennis was there.

Q. Did he call anybody up?

A. Dennis called Rube and had him come.

Q. He came over did he?

A. Yes, sir, he came to Dennis's office.

Q. What happened then?

A. I showed Rube and Dennis Minnie's picture the first time they ever saw anything that looked like Minnie, although I had described her before to them.

Q. What was said?

A. I told them that I had made a contract with Mr. Bartlett to go and find Minnie, and the reason I wanted to find her was because I knew her so well I could get her to do anything I wanted to and that the deal we were fixing there in Leavenworth would be all right with her, and if she was dead we would just go ahead with it anyhow, because nobody else in Leavenworth would know any better, but what it was so. I *staid* there about a week or more in town. Bettie came.

Q. Is that all of the conversation?

A. Yes, sir, at that time. In about a week, Bettie came with a hundred ($100.00) dollars for me and a hundred ($100.00) dollars for herself, and told me that Mr. Bartlett said for her and I—that was on a Thursday. She said that Mr. Bartlett said for her and I to leave and go and find Minnie. I said: "Well, I am not going", I said: "I didn't tell Mr. Bartlett to send you up here and I wont be ready for quite a while anyway to go and I can't go," but she gave me the hundred dollars,—check for one hundred ($100.00) dollars, I got it cashed, it was a check, and she went back home that night, back to Kansas City to the Stafford Hotel.

Q. So far as you knew Bettie was representing Mr. Bartlett and he alone, no one else at that time?

A. I knew she was working for Mr. Bartlett, yes, sir, I knew she was working for other people at that time. She had several promises, several other promises to give them who she found.

By Mr. Stuart: Of course we have to object to that. Let me ask a question—You got that from her, Bettie?

A. Some of it, yes, sir.

By Mr. Stuart: That is hearsay and I suppose you wont insist on that.

By Mr. German: No, I wont insist on that question she gave about the matter.

Q. Sadie, how did [] find out that she had made promises to anybody else besides Bartlett?

A. Why, when I went to the Hotel Stafford here, Jim Swift—Ben Porter——

Q. Was that before?

A. That was the first trip when they first got me—had called up Judge Haskell and he was to meet us there at the hotel.

Q. Who is he? A. C. S. Haskell, from Oklahoma.

Q. Governor Haskell?

A. Yes, Governor Haskell, I am talking about Governor Haskell—Sure, *Gogernor* Haskell.

By Mr. Stuart: C. S. Haskell?

A. Yes, sure.

By Mr. Stuart: Yes, I know him.

A. C. S. Haskell.

Q. You mean C. N. Haskell, don't you?

A. Yes, C. N. Haskell and Mr. Nixon. He had been talking to her and Frank Long in Sapulpa, Frank Long was talking to her.

Q. How did you find that out?

A. Saw him at the depot there in Sapulpa, on my trip down there to Sapulpa, Frank Long had Bettie and Rogers talking to them.

Q. You don't know what she said?

A. Only what she told me, she wasn't talking to me that time.

Q. All right, now, going back to the occasion when Bettie came to you at Leavenworth, that you mentioned just a while ago?

By Mr. Allen: In view of the disconnectedness of that answer just read, I want the record to show that at the time the witness was giving the answer and several answers before the preceding, that people around the table were indulging in talking and laughing to such an extent that neither the witness or counsel could understand the questions and answers.

By Mr. Blakeney: I want to object to counsel's statement, I was one of the parties who enjoyed the situation, and it might have annoyed counsel some, but it certainly didn't the witness as she detailed it all with her usual rapidity.

By Mr. Hanford: We except to the statement of counsel as stating a conclusion on his part, that we don't concede in so far as it annoyed the witness or interrupted her testimony. The remarks made were all subsequent to her answers.

Q. What was your information at that time with reference to C. N. Haskell's connection with this matter?

A. Where did I get it from?

By Mr. Blakeney: I would like to have her state where she gets the information?

A. I got this from Bettie and Swift.

Q. What did Bettie say about it?

A. That she and Jim Swift and Ben Porter had made arrangements with Haskell in Tulsa.

Q. You are telling what Bettie told you?

A. Yes, sir, that they told me, not that I know. Had made arrangements with Judge Haskell and Mr. Nixon and Frank Long, those three men in Tulsa.

Q. What kind of an arrangement did they tell you?

A. Just to get Minnie for them, to get Minnie for them if they found her.

Q. I see. Did Governor Haskell have any further connection in the matter? A. I didn't see Judge Haskell.

Q. Well, so far as they told you, I mean?

A. They called him up, I didn't hear them call him up, from the hotel in Tulsa.

Q. Did he come here?

A. They said he came, I didn't see him.

Q. What else did they say?

A. They went and talked to Judge Haskell and after Judge Haskell found out I was in the case, a negro woman, Bettie said he told her he didn't want anything to do with the deal, because he had been burnt by enough educated negroes in Oklahoma, and he went back.

Q. So far as you know that was his only connection with the matter? A. Yes, sir.

Q. Now, Sadie, going back to when Bettie came to see you the last time you have told about there in Leavenworth, you say you and she had some conference?

A. When she brought the money for us to go?

Q. Yes? A. Yes, sir.

Q. What was that conversation?

A. She came and she had two hundred ($200.00) dollars, a hundred dollars for herself and one for me.

Q. What did she say?

A. She said Mr. Bartlett told her to tell me that we must leave out of there right away and be on the search for Minnie, and I told her I wasn't ready to go and I didn't tell Mr. Bartlett to send her, and I wasn't going.

Q. Well?

A. So, she and I then went up to Henry Byrd's, I think, I forgot the name of the street—to a colored man who was sick there, I told her I thought I could get Mr. Byrd probably in the case. We went up there and talked the matter over with Mr. Byrd, and he said: "No, he didn't remember of Minnie, didn't remember about no child or nothing else", and we told him we would like for him to remember it, because if he did there would be some money in it for him—a party to the suit. And Bettie told him we would take him to Claremore—he had been sick about two years. We promised to come to see him again but we didn't go back—Henry Byrd, a citizen there.

Q. When was that?

A. A Thursday night—That must have been in May, along about the 27th or 28th of May, she came back to the Stafford Hotel, I told her I would go down the next night—the next day, that would be Friday. I came down to Kansas City to the Stafford Hotel about four o'clock I guess when I got there.

Q. On Friday?

A. On a Friday, June—May, I think it was, May 29th or 28th, we left Friday.

Q. Did you see her?

A. I saw her at the Stafford Hotel, yes, sir.

Q. Did you have any conversation?

A. Had conversation with here, yes, sir.

Q. What was it?

A. She told me that Frank Long was there, had come from Tulsa, if I had wanted to see him. It was Bettie Mann talking to me. I told her, no. She said: "Sadie, we can get more money out of long than we can out of Bartlett for finding Minnie." I said: "Long aint got no money," "and at that time I didn't know he was in the employment of Mr. Page. I thought he was in the Government employment, I didn't know. That is why I said that he didn't have no money. I refused to see him, I was hunting a man with money. We *staid* there in the hotel until about five o'clock and caught a car and came to the Union Depot, at six-twenty we left for Denver. Can I recall back some things?

Q. Yes?

A. After Bettie left that night for Leavenworth, I went to the telephone and called Mr. Bartlett up at Sapulpa and told him that I wasn't going with Bettie Mann. He told me to tell Bettie to give me that hundred dollars she had and for her to come on back. I told him my reasons for not taking her; that she was going to double cross him.

Q. Well? A. When I got down to Kansas City——

Q. What did he say?

A. He told me to tell her to give me that hundred dollars she had and to come back.

Q. Did you report that?

A. Yes, sir, she told me she wasn't going to do it.

Q. When did you report that to her?

A. When I went down the next morning to Kansas City I told her at the Stafford Hotel. I said: "Bettie, Mr. Bartlett said for you to give me that hundred dollars he gave you and for you to come back to Sapulpa," and she said: "I am not going to do it, I am going." And I said: "Two hundred dollars won't be enough for us both to go on this trip, because you don't know where we have got to go to and we have got to have more money;" and she called up Mr. Bartlett, went out to call him, and when she came back she said: "Mr. Bartlett told her when we got to Denver he would have us some more money wired there, and for us to get Mary Hamilton and take her on the trip." I told her I wasn't going to take Mary Hamilton and wasn't going to show her or anybody else where Mary Hamilton or anybody else lived in Denver. We left Kansas City at six-twenty on Friday evening in May.

Q. Where did you go to?

A. Went to Denver Friday evening about May 29th, I guess, and we arrived there Saturday, I guess about eleven-thirty, and we got there on Decoration Day and the banks were closed and we couldn't get our money and we had to lay there until Monday.

Q. Mr. Bartlett had wired the money there?

A. He had wired the money, yes, sir, and we couldn't get it because the banks were closed.

Q. Did you get it Monday?

A. We got the money Monday, and Bettie wanted me to go there and find Mary Hamilton. You see she didn't know where Mary Hamilton lived. I told her I had been to see Mary Hamilton, but Mary Hamilton refused to go with her.

By Mr. German: Let me ask counsel a question. My understanding about your objections didn't cover the objection on the ground that her answer was not responsive to the question, as I understand it. I want to make sure that we understand.

By Mr. Stuart: I think we had better make specific objection as to leading or not responsive, as to all others the objection goes.

By Mr. Blakeney: The objection is against any evidence as to Page.

By Mr. German: O, yes.

By Mr. Stuart: The same objections you had before and we agreed that they might be applied all the way through. The solemn agreement is in the record.

By Mr. Hanford: And it also agrees that we may urge—point out our objections when it comes to the trial.

By Mr. German: Sure.

By Mr. Hanford: In other words, leave the interruptions until the time the depositions are read.

Q. All right?

A. On a Monday, Bettie and I both went to the bank, the First National Bank in Denver, the check was for fifty ($50.00) dollars.

Q. Did you get that fifty ($50.00) dollars?

A. We got the fifty dollars at the bank, yes, sir. We caught the twelve-fifteen leaving for Seattle. On the way going——

Q. You didn't get Mary Hamilton then?

A. No, I didn't show Bettie where Mary Hamilton lived.

Q. Did you see Mary Hamilton then?

A. Yes, sir, I saw her, I went to see her myself.

Q. Did you have any conversation with her?

A. Yes, sir, I told her I had a——

Q. What was it?

A. Indian woman with me that I didn't want her to see because she wasn't right in this deal, and told her who Bettie Mann was, and if Bettie came to her not to talk to her, that she might trail me and find out where Mrs. Hamilton lived. She promised me she wouldn't talk to her if she came. When we got our tickets in Denver, Bettie had a stopover for Portland, and I asked her why she done it and she said Mr. Bartlett told her to tell me for us to stop in Portland to see Harjo —Micco Harjo.

Q. He had formerly lived in Indian Territory?

A. Yes, sir, Micco Harjo, and she said Mr. Bartlett told her to do the wiring back to him herself of everything we found out. Well, I believed that part. When we got to Portland, Bettie put up at the Hotel Foster, and I went to a colored hotel, the Golden West, and she put out to hunt Harjo, and about two o'clock that same day she came to the hotel where I was stopping.

Q. That was two o'clock in the afternoon?

A. Yes, sir, in Portland, and said she had found Harjo and Harjo wanted to meet me at six o'clock that evening. I said: "I didn't work with you and Harjo on that deed that you all got," because I had refused to do so, "and I am not going to see Micco."

Q. Now, let's stop here and go back and find out about that deed. About what deed are you talking?

A. I am speaking about the deed that Mr. Bartlett first had the one that Bettie and Harjo had got him for this land.

Q. For this land?

A. For this land, yes, sir, a couple of years, or a year or two before that.

Q. And made in 1912? A. Yes, sir.

Q. Purported to be signed by Minnie Atkins?

A. Yes, sir, by Minnie Atkins.

Q. What did you know about the procurement of that deed, the execution of it and the acknowledgment and getting it? A. Shall I tell it?

Q. Yes?

By Mr. Blakeney: You mean what she knows others told her, or personally.

Q. Personally herself, go ahead.

A. In 1912, I were living out on the hill in Tulsa, a place that I run out there—— Of course, I had been working with Bettie for ten or twelve years in different things, and she came out there to see me. She asked me if I wanted to make some money and I told her yes, and she said: "Well, Harjo and I have told Hugh Bartlett that we know where Minnie is, and that we can get a deed from her." She said, "We don't, and we want to get you or somebody to go and sign the deed." I said: "I will do it for a thousand ($1,000.00) dollars," she said: "Well, that is more than what is going to be in the deal. There ain't going to be over three or four hundred dollars in it" and I said: "I won't do it for that." I said: "I will tell you where you can go." I was talking to— I didn't see Harjo. You can go to Kansas City and there is a Minnie *Adkints*— not Atkins but Adkins there, and you can hunt for her and she will sign it, and she left. That was in 1912. I didn't see her any more until about a week or so from that time, and she came back and told me about Minnie had signed it, and they brought it back and gave it to Mr. Bartlett. So, that is what Harjo wanted to see me that night for at six o'clock in Portland.

Q. The deed you refer to is the deed which purports to have been executed at Lawrence, Kansas.

A. Lawrence, Kansas, signed by Minnie Atkins.

Q. In 1912? A. In 1912, yes, sir.

Q. Well, to go back to your Portland, Oregon, conversation?

A. Bettie left my place at the hotel where I was, after I told her, I said: "I am going to leave here tonight at nine-thirty." She wanted to stay until the next day in Portland. I said: "I am going to leave here at nine-thirty tonight and get in Seattle tomorrow," so that forced her to have to go too. She came back to my place that night about ten o'clock, and said she had saw Harjo and had told Harjo that I was sure that I was going to find Minnie. Harjo told her "Well, if she does find Minnie, it will make trouble for you and I"—that is, Bettie and Harjo.

Q. She came back about ten o'clock that night?

A. About ten o'clock that night.

Q. I thought you were going to leave at nine-thirty?

A. It wasn't that late, it couldn't have been that late——

By Mr. Hanford: I object to counsel leading.

A. It couldn't have been that late, it was that same night she came back.

Q. Before the train left? A. Yes, before the train left.

Q. All right, go ahead?

By Mr. Hanford: Did you get my objection?

A. She said Harjo told me if I didn't find Minnie to let him know, that he was going to leave Portland right away, that he didn't think Minnie was living, because he had been living in Portland more than a year and if Minnie was living out that way he would have heard of it. I didn't see Harjo on that trip at all. That night, we left and we got to Seattle the next morning at six-fifteen I think the train came, got in a taxicab—Bettie said: "Sadie, we will both stop at the same hotel." I got afraid of her then. I said: "No, I tell you what you do, you stop at a white hotel and I will stop at a colored one, and you ask among the white people about Minnie and I will ask about the colored—all the colered people about her." She got in a cab and went on to see where I was going to put up at anyway, and she went to the Hotel Wright.

Q. What hotel did you go to?

A. I stopped at Mrs. Jackson's, at 1110, I think, North—1110 Jackson Avenue, in Seattle. Bettie stopped at the Hotel Wright. I didn't stay in that hotel but about an hour, I had a sister-in-law that lived in that town and I went out to hunt her; found a colored fellow and he knew right where she lived; I had never seen her and he taken me down there and I went to questioning her about Minnie, and she told me that she thought that she knew—had heard of a person in Vancouver of that name, and that there was one Indian woman that fit that description that she had saw in Portland, and I could go to a colored saloon there and ask Mr. Bissville and he would tell me, and I said: "Where is Vancouver?" You see I thought when Mr. Roach and them told me about Vancouver that it was Vancouver, B. C., that is what I thought it was. She said: "Why, it is right across the river from Portland," and I said: "I have just come out of Portland last night," and I said: "How can I get to the next place from here?" Told her I was dodging the woman I was with. And she told me I could catch the electric car and go to Tacoma and go to a colored woman named Mrs. Qunny there that she knew and she could tell me maybe something about her. I went down and got an electric car and went on to Tacoma and got in Tacoma about two or three o'clock I guess, I think it was.

Q. Did you find out anything there?

A. No, she told me of one Indian woman Mrs. Sanders and I went to her and knew when I got to her that she wasn't Minnie.

Q. The conversations you had there, I don't care much about, except those that led to locate Minnie.

A. No, but they thought they would.

Q. What did you do then?

A. She told me about some Indian woman being at Portland.

Q. Did you go back to Portland?

A. No, I didn't go to Portland, but caught the four o'clock train that evening and went to Van Couver.

Q. Did you get a line on Minnie there? A. Yes, sir.

Q. Who from? A. A colored man there.

Q. Didn't have any conversations there about Minnie or Tommy, except——

A. No, sir, I spoke about her having some children there to Mr. Bivens, a colored man ex-soldier who runs a coal yard—

Q. Did he say he knew Minnie?

A. He said: "Well here is a picture of Minnie," he had one taken about 1902; he said "Minnie worked here for several years in the barracks, was quite a friend of my wife's," and he said: "We never knew she ever had a child at all," and I went on telling him about the children that she had down in Oklahoma and he had never heard of it. He said: "I don't know where she is, but I will go up here to the saloon and get a soldier who has just come from up there, and he can tell you because he is the same regiment of Minnie's husband," said "I know Harry and her both."

Q. Harry who?

A. Folk. Mr. Bivens told me. I said: "If you find out, I have got to leave here and I might as well leave tonight as to stay here all night." So, I went up the street with him and stopped on the corner and he went in the saloon and came out with a man talking to him by himself, he was a soldier, a white soldier. Mr. Bivens walked back with him and told me that this soldier said that Minnie was in Fort Wright.

Q. Where?

A. He didn't say where Fort Wright was. Mr. Bivens taken me down to the car. The train left going through there I think at ten something, ten-twenty-five I think, going over to Portland.

Q. Going to Seattle?

A. Yes, sir, going back to Seattle. I got to my hotel and the woman told me that the woman that I came there with, white woman she called her, had been there a dozen times.

Q. You went back to Seattle did you?

A. Yes, sir, went back to Seattle. Had been there a dozen times that day that I got in and for me to call her up when I got back. I went to the 'phone and called up the Wright Hotel and got Bettie.

Q. What hotel?

A. The Wright Hotel in Seattle, where Bettie was, and she came over and she said: "Sadie, where did you go yesterday?"

Mr. Hanford: I object and I want to interpose the objection, and move to strike the last part of the witness' answer on the ground that it is not responsive to the question.

Mr. German: The part with reference to the conversation with Bettie?

Mr. Hanford: Yes, as not responsive to the question.

By Mr. Blakeney: Just a minute. Some of this, while we are objecting as hearsay here, there is some of this in different degrees, some of it I suppose you expect ultimately to try to show came from some representative of some of these parties; some of this conversation I don't apprehend there will ever be any pretence—for instance, where this colored man at Van Couver told her that he knew Minnie and didn't know she had any children; so we have the hearsay to the thirty-third degree here, and we want *out* objections.

By Mr. German: Your objections reach all of it now regardless of the degree.

By Mr. Hanford: I also want my objections to be to the witness testifying in the narrative form and not in answer to interrogatory.

By Mr. German: From now on?

By Mr. Hanford: Yes.

By Mr. German: All right.

Q. Sadie, did you when you called Bettie on the telephone at the Wright Hotel, she responded, did she?

A. Yes, sir.

Q. And you talked with her on the 'phone?

A. No, sir, I had her come over, told her I had got back.

Q. That is what I mean, did she come to your hotel?

A. She came, yes, sir.

Q. What was your hotel?

A. I was on Jackson, I think the number was——

Q. She came to the place where you were?

A. Yes, sir, where I was. We didn't stop at the same hotel, she came over.

Q. It was not a hotel?

A. No, it was a rooming place, colored place where I was at.

Q. And she came over there? A. She came over there.

Q. And did you have a conversation with her?

A. Yes, sir, I did.

Q. Relative to Minnie Atkins?

A. I didn't tell her where I had been at, no, sir.

Q. You talked with her about Minnie? A. Yes, sir.

Q. And about what you and she were engaged in doing?

A. Yes, sir.

Q. Give the conversation?

A. I told her I had been to see a white man that used to live in Leavenworth—Jack Keenan. That is what I told Bettie and that he knew where Minnie was and wouldn't *and wouldn't* work with anybody but just me. She said: "Well, Sadie, if you find Minnie, you are going to let me know about it, aint you, so we can send for Bartlett?" and I said: "Why, sure, but it will take several days before I find her yet, because he is going to take me down in the country to see some people that know just exactly where she is."

Q. What did she say?

A. She said all right—that night—that evening.

Q. So you separated then, did you?

A. No, sir, we went down to a moving picture show and went all around town, but that evening about four o'clock, I went up to the hotel and told her that I was going to leave, going in the taxi-cab. I called just fifteen or twenty minutes before I left. She said: "All right. I will go on back to my hotel." So, that night about seven o'clock I went down to the depot and bought a ticket to Spokane, Washington, and I found out where Fort Wright was.

Q. That it was at Spokane?

A. That it was at Spokane, yes, sir, just about ten minutes till train time, I called Bettie up at the Hotel Wright and told her that I would be back in two or three days, that I was going to the country; that I was fixing to leave on the train; that was on Saturday evening. I taken the train at the station at seven-ten that night.

Q. And you went to where?

A. Went to Spokane, Washington, got in there on Sunday morning about seven-forty five.

Q. What occurred then?

A. I caught a street car and went to Fort Wright.

Q. Did you find out anything out there about Minnie?

A. Yes, sir.

Q. Who did you see there that knew anything about it?

A. Found Mrs. Richardson, a white woman, a soldier's wife.

Q. Had you ever seen her before?

A. Never had seen her before, no, sir.

Q. Did she claim to know anything about Minnie?

A. She knew all about them. Minnie and them hadn't gone very long.

Q. She reported to you?

A. She told me exactly where to find her.

Q. All right.

A. I said: "I am looking for a woman that was Mrs. Richardson", I said: "I am looking for a woman whose husband——

Q. Now, did she tell you anything about Minnie having any children or not having any children?

A. We didn't talk about that at all, no, sir.

Q. She did tell you just where she lived

A. Just where she lived, yes, sir.

Q. Where did she tell you about where Minnie lived?

A. I told her I was looking for a woman there whose husband's name was Harry Folk, he was in the band. She said: "Well, we have got no band here now, the band is in Fort Logan, and Minnie's husband Harry is in it." She said: "What are you hunting Minnie for?", and I told her I was a Government officer and I was going out there to find Minnie so that I could enroll her.

Q. Enroll her?

A. Yes, sir, and get the money for Minnie, and she said:

"Well, I am fixing to go to Alaska, I was to go through and see Minnie, and when you get to Fort Lawton, you tell Minnie I will be there."

Q. Where was Fort Lawton?

A. And I said: "Where is Fort Lawton?", and she said: "It is in Seattle," and I said: "My goodness, I have just come from Seattle", and she said: "It is seven miles out of town". I caught the car that evening——

By Mr. Blakeney: The conversation occurred in Spokane?

A. At Fort Wright at Spokane about six miles from town.

Q. Was anybody—Did you see anybody out at Spokane or Fort Wright about this matter? A. No, sir.

Q. You came back to Seattle? A. Yes, sir.

Q. When?

A. Got to Seattle the next morning, left there at night.

Q. What happened at Seattle?

A. I went back there and I caught a street car and went straight to the Fort.

Q. Did you see Bettie before?

A. No, sir, I didn't, I didn't want to see her.

Q. You talked to her before you went to the Fort?

A. No, sir, I just got in town, caught the street car as soon as I got off the railroad train there in Seattle.

Q. And went out to Fort Lawton?

A. Went out to Fort Lawton, I think it was the headquarters out at the Fort, and I asked for Harry Folk. I had his name, I got his name in Van Couver—Harry Folk.

Q. Did you locate Minnie out there?

A. I found her husband first.

Q. Did you have a talk with her husband?

A. Yes, they told me to go down to the band house, showed me where the band house was, and that I would find Harry Folk down there.

Q. That was inside of the reservation?

A. Yes, I was up in the Fort—Fort Lawton. I went down there and some one came to the door, and I asked for Harry Folk, and he just about *about* half closed the door I think, and I heard him say: "Harry, your colored girl is out here". Never had seen me before, and Harry came to the door and he said: "What will you have?", and I said: "Are you Harry Folk", and he said—and I said: "I am hunting for your wife, Minnie Atkins", and he said: "She don't live here", and he told me the number of the house, the place where I could find her, and he said: "What do you want with her?", and I said: "I want to see her on a matter of very important business", and he said: "You had better catch the street car back, and when you get down to the gate there is a little store there, and they can show you up the hill where my wife lives."

Q. What gate? A. The home gate.

Q. The gate to the Post?

A. Yes, sir, the gate to the Post, about three quarters of a mile, I guess.

Q. Is that what you call the gate to the Post?

A. Yes, sir.

Q. All right?

A. I got on the street car and came on back to town where he told me, and I got to the little store, and a big fat Dago, I guess it was—she was in there, and I asked her if she knew where Minnie Folk lived, and she said — and she took me back on the other side and she said: "You see that little house up there?", and I said yes, and she said: "Minnie lives right there."

Q. Out side of the Post?

A. Yes, sir, she said: "Minnie lives right there.

Q. You got to see Minnie?

A. Yes, sir, I went up and knocked on the door.

Q. Well, what occurred there?

A. Well, I knocked on the door, the screen door was hooked, I knocked on the outside—it must have been about ten o'clock.

Q. What day was this?

A. That was on Monday, Monday, June—I can't say what —we had been out there about a week.

Q. In the early days of June?

A. Yes, sir.

Q. 1914? A. 1914.

Q. All right?

A. I knocked on the door, on the side of the door because the screen was hooked and the next door inside was shut. Some one came to the door and I looked at her and I said "Is this Mrs. Folk?", and she said yes, and I said: "Well, can I speak to you?", and she said: "What do you want?", and I said: "Open this door, Minnie", and she unhooked the screen then, she had the other door opened and she said "come in", I said: "Minnie Atkins—That is what I said to her, and she opened the door then and let me in. She said: "Who is this?", and I said: "Don't you know?", and she said: "No". She told me to come around on this side of the table that she had a little square table in the front room, and she came around and took my hat off and in a minute I laughed and she said: "This is Sadie", and I said: "Yes—shall I say what she said.

Q. Yes?

A. She said: "How in the hell did you find me?" I told her then all the rounds that I had been the different places hunting her. She said: "Well, what do you want with me?' I hadn't seen her since '96. I said: "Minnie, I am a Government Officer working for the Government, and I am hunting people to enroll". I said: "You know in 1905 when you went to get your money, you enrolled Minnie Atkins, Thomas Atkins, Alice Atkins, Charlie and Harvey Harrison.

Q. 1905? A. No, sir, 1895.

Q. All right. A. 1895.

Q. All right?

A. I said: "I have found three of your children, the two principal ones that I am hunting for I can't find", I said, Thomas and Alice. She had sat down by that time. She said, Sadie, she said: "Thomas Atkins was my father. He had been dead seventeen years when I drew that money", and I said: Well, where is Alice?", and she looked up and she said: "Sadie, don't ask, she has been dead too long and [ ]don't want to know", and she looked so bad when she said that, I said to her, I said: "Well, it don't make any difference about Alice because she wasn't allotted, but Thomas was and his land is valuable." She said: "Sadie, I have been hiding from the Government for nineteen years for the crime that I committed for drawing that money and now you have found me to make me trouble", and I said: "No, Minnie, I have been your friend for thirty years and I can shield you from the Government", and I told her that I was working for the Government and that I was working for a man named Hugh Bartlett, and that all she had to do was to tell the Government—they would come along the Government officers and ask her if she had a child, for her to say yes—this man Hugh Bartlett would come along and give her two thousand ($2,000.00) dollars for a deed. She said: "Sadie, who is dead in Leavenworth, that if I say I had a child that was born in 1885, that I can say I give it to?" and I said: "My grandmother, Granny Letcher", she said: "Well, All right," she said: "Good, let me put that down", and she went and got a piece of paper", and she said: "When must I say, 1885". Minnie isn't a very good scholar, she got a paper and put down one, eight, and a five and said to her—shall I tell what I said?

Q. Yes?

A. I said: "Hell, that aint no way to put down 1885," and I put it down for her myself. She wanted that so as to tell what to say. I showed her the picture and she said: "Is that the one that I gave you?", and I said: "No, I got this from an old friend of yours", and she said: "Who?", and I said: "Mary Hamilton" and I said: "Minnie, I have already got this started because they thought you was dead", I says: "I have got it framed up with some people in Leavenworth", and I didn't tell her it was negroes. She said: "What did Mary Hamilton say about it?", and I told a lie on Mary Hamilton, I said: "Mary and Claude both are going to swear to the same thing"—Mary and Claude, Mary's husband, swear to the same thing, and she said good, alright—when she seen that they were going to do it. She said, Sadie, it is pretty near time for my husband to come; what did you say to him when you met him—did you say anything about any children? I said no; she said, for God's sake, don't mention it. I have been married to him seven years, and he don't know that I had a child. She said, if you had come when my husband was here, you never would have got in. So, she said, you come to-morrow. I went Monday when I found her, until Sunday night, every day.

Q. In that conversation when you first went to Minnie's house, did either one of you say anything about Harvey and Charlie? A. Yes.

Q. Except the mention you made of their being on the '95 roll?

A. '95, yes, sir, but I had to go. We talked it over a whole week; I had a whole week, every day with her.

Q. You saw her every day?

A. Every day, and spent until the Sunday night following. That was before Mr. Long got there.

Q. On the occasion of this first visit, you left her home?

A. Left her home and went back to town, where I stopped at, and called Bettie—she didn't know I was in the town.

Q. What was said?

A. After I called up she came over to the hotel. She said, Sadie, have you got any right dope on Minnie yet, and I said, yes. She said, Bartlett has wired and wants to know what is keeping us so long—we didn't send him some wire—and I hate to wire him unless I do know positively. I said, I will tell you—wire and tell him to send us $150.00, so we can have some more money—our money was getting short then; and she said, Mr. Bartlett told me to wire in the name—let me see what that name was now.

Q. Was it Smith, or Jones, or Brown?

A. Jones—Bill Jones—Bill Jones. I said, what in the devil does Bartlett want you to wire in the name of Bill Jones for, and she said, so the people in Oklahoma can't get on his trail when we find Minnie. She said, now, I want to know—must I wire and tell him? I said, you wire and get the money and tell him the next telegram will be for him to come. I wasn't ready for him to come yet. I went to my sister-in-law's and told her about my finding Minnie—the good luck I had had—told her I was expecting in a few days to have the man that I was working for, to come. The next day, as Minnie had asked me to come out the next day, I went to her house again. She asked me about her sister, Kate, but before she got to that——

Q. Let me hear about the talk—about your conversation with Bettie on the same day that you first found Minnie. Did you tell Bettie where Minnie was?

A. No sir, I did not; I didn't tell her.

Q. Did you tell her how to find Minnie? A. No, sir.

Q. Alright now; go on to this conversation on Sunday. You say——

A. No, on Monday I found her.

Q. On Tuesday, now.

A. On Tuesday, I went back, and went out to the Fort; got up early in the morning and went.

Q. Who did you see out there?

A. Nobody there but Minnie.

Q. Did you talk with Minnie? A. Yes.

Q. Tell what you said and what she said.

A. I said, Minnie, in thinking over this thing last night, I find out that Harry will have to know about these children, Minnie, on account of you having signed this deed, for you to get this money when the white man I am working for comes to pay you the money. She said, my God, Sadie, I can't tell him. I said, let me tell him; and she said, alright. She stepped out up on the hill to go to 'phone, she said.

Q. Minnie's house—

A. On the side of the hill—further on the hill is another house.

Q. Alright.

A. She came back there, and about twenty minutes, I guess, or a half an hour, Harry came.

Q. Alright. Did you see him?

A. The table was just about this size.

Q. About three feet square?

A. Yes, just a square table in the front room. Minnie sat here, and I was sitting here.

Q. The Court can't see those signs. Minnie set on your left? A. Yes, this hand—yes sir.

Q. The side of the table on the left of you?

A. Yes, I am sitting like I am, and Harry walked in and was standing about where Mr. Hanford is standing.

Q. Besides you?

A. In front of me, yes. I said, Mr. Folk, do you know your wife well, and he said, I think not; that is what he said—I think not. I said, well, I have come to tell you a secret about her, this morning, but before that—can I put this in about what I said to her about Harry?

Q. Yes.

A. Well, waiting for him to come, she said, my God, Sadie, Harry will about quit me; I said, no he won't—you know how a white man is about money—as soon as he finds out you are going to get some money he won't care how many children you had; that is what I said to her. Then, when Harry came, I asked him if he knew his wife, and I said, Mr. Folk, do you know your wife, and he said, I think not. I said, well, I have come to tell you a secret about her this morning; I said, she has got some children—she has got two sons living in Oklahoma. He just stood there. And I said, she has got a child that I am hunting, that she is going to make some money off of; I said, a boy that she had in Leavenworth, I told him. Minnie looked up at him and said, my God; she said, Harry, will you forgive me for deceiving you all this time? He never opened his mouth. I just kept talking to Mr. Folk. Minnie was asking him those questions. He said, well, Minnie, why didn't you tell me about those children? She said, well, you never have asked me did I have any. Mr. Folk was only there for a short time that trip, and he went back to the Post and I still stayed there. She said, Sadie, she said, where is my sister Nancy? I said she lives in Nowata; I said, Nancy, every time I see her, speaks about money that you drew of her's. She said, well, when I get this money, you tell Nancy that I am going to pay her. She said, and how is my sister Kate? I said, Kate Ward is dead and has been for three years.

Q. What was Kate Ward's name before?

A. Kate—

Q. Logan? A. No, sir.

Q. Holden?

A. Yes, Holden; we called her Ward all the time—Kate Ward. I said, she is dead—has been dead three years.

Q. She had lived where?

A. Before she died, she always lived in Oklahoma; she was an older sister.

Q. Indian Territory?

A. Yes, sir. She asked me, then, about the looks of the children—these two boys in Oklahoma—and I told her. I said, Minnie, there is so much difference between the color of these children. I said, one looks like a white man, and the other looks like an Indian. She said, I will tell you why that is. I am going to tell you but you don't ever tell those boys, and I told her, I wouldn't. She said Charlie is Peterkin's son; Harvey is Harrison's son—he was a dark complected man—I think he had Mexican in him—and that is why Harvey is so dark; but she said, don't tell them, and I said, I won't. I said, it won't make any difference anyhow if I did because they don't go together; they are paying no attention to one another; that Charlie thinks he is a white man. I left to go to town; on the way, after I got on the street car in town, two men were shadowing me—the first time I had known I was commencing to be shadowed. I went up to the hotel where [ ] and Bettie was and she showed me a telegram.

Q. Was Bettie at the hotel on that Tuesday?

A. The hotel Wright. She got an answer back—I forget where the first telegram come from—the first wire that we got. It seems to me that it was at Muskogee—I am not positive about the first one; I know where the other three came from.

Q. She showed you that telegram?

A. I seen the telegram; supposed to be from Bartlett.

Q. What did it say?

A. Said, I am on my way—coming; said, I will leave here tonight.

Q. Who was it addressed to?

A. Addressed to Mrs. Bill Jones, from Mr. Bill Jones.

Q. Signed Bill Jones?

A. Signed Bill Jones; that is the name she said Mr. Bartlett had given her to wire to him. And I went up to my place as I had promised, and the next day, I went to Minnie's. Harry came in, not very long after I got there.

Q. On Wednesday? A. On a Wednesday.

Q. Did you have a conversation with Minnie?

A. Had a conversation with Minnie and Harry.

Q. Tell what you each said.

A. Minnie said, you know one thing, you know when I was in Missoula, Montana, some years ago, some one wrote me a letter with a deed in it, telling me to sign this deed and they would be alright. Said they didn't sign any name to the letter. I said, who do you think sent it? She said, I think it was from Kate. I said, I told you Kate was dead; I said where is it?, and he said, go and find it in the bed-room some place, and she went and got that letter and a deed.

Q. You saw the letter?

A. Yes, sir, I saw the letter—enough of it to see that it was from Muskogee—a long letter.

Q. Do you recall what the letter said?

A. No, sir, I don't believe I can; no sir, I don't think I can read that letter there.

Q. Do you remember the substance of it?

A. It said, Minnie, it has been a long time since I heard from you; I just located you. I really wouldn't like to describe it because I can't—the letter.

Q. Did it say anything about Thomas Atkins?

A. No, sir, didn't even show that but the deed—seems it had his name on it but not the letter.

Mr. Blakeney: The deed has his name on it?

A. Tommy Atkins.

Q. Do you remember in what connection the name Thomas Atkins was in the deed?

A. Yes, that she was his mother.

Q. Did it say anything about whether he was living or dead? A. That he was dead.

Q. What? A. He was dead.

Q. It recited that he was dead?

A. Recited that he was dead; for her to sign that.

Q. Do you know what land it purported to cover?

A. No, sir, I don't. I suppose this but I don't know—I can't say that.

Q. Alright. Did it recite where the land was?

A. In Oklahoma.

Q. Alright.

A. She said, well, since I have found out that my sister Kate—no, she said, after I got that, and I found out somebody had located me out here, I left. We left Missoula, Montana. Harry Folk had taken that letter and burned it up while I was staying there, and the deed, too.

Q. What letter is that?

A. The letter and deed that she got at Missoula, Montana, two years before.

Q. When was that? A. That was on Wednesday.

Q. She yold you the letter had been burned up?

A. No, they burned it up while I was there; after I read that letter, and she found out Kate was dead, she put that letter in the stove; she never even wrote that to anybody—she got scared—she burned both of them. Then we talked about what Minnie—Minnie and I both were talking about what we had said, how that we had framed up about this baby at Granny Letcher's.

Q. Was Harry Folk still there?

A. Yes, sir; sat right at the table.

Q. Give the conversation.

A. I said, you know Harry, Minnie drawed some money in '95 for those children of her's—I named the children—shall I name them now?

Q. Yes, tell all the conversation.

A. I said, she drawed for Tommy Atkins, Alice Atkins, Charlie and Harvey Harrison. I said, now she didn't have no Tommy and Alice. We have framed up a way that we can get her loose from the Government because that was Government money, and Minnie said, she spoke in, she said, that is what I have been running from. She said, Harry, that was my father. Then I told him about the white man that I was expecting to sell this land to; I said unbeknowst to the Government—the Government don't know I am working for another man, I told Harry. And he said, when will this man come? And I said, he is on the way and is coming now, so the telegram read. It was alright with him and Minnie told me to come back the next day—that would be Thursday. When I left and got down to the car house, I saw a couple of men.

Q. The car house at the Post?

A. Yes, at the Post. I saw a couple of men.

Q. The station where you get on the street cars?

A. Yes, sir. But it wasn't the two I had seen the day before that—it was some more. I went down to the hotel Wright—I had never told Bettie yet where Minnie was.

Q. Those two men pay any attention to you?

A. They caught the same street car that I did going back into town; I went back—*foinf* to the hotel Wright, where Bettie was.

Q. You did?

A. I did. She got another wire and I really can't tell where that one came from.

Q. Did she show that to you?

A. She showed that to me, yes, sir.

Q. What did it say?

A. Will be there; have everything ready.

Q. Do you know where that telegram is?

A. I don't know where that one is, no sir. I don't know where any of those telegrams are, no sir. She was getting those wires.

Q. Did she show them to you?

A. She showed them to me—three of them; I will tell you who they were from.

Q. What did that wire say?

A. Will be there; have everything ready—Bill Jones.

Q. Addressed to? A. To Bill Jones.

Q. Signed who?

A. Signed Bill Jones; addressed Bill Jones, and signed

Bill Jones. I said, Bettie, there are two men who have been trailing me for the last two days, and I said, I wonder what on earth they want with me; do you reckon that they have found out that I have passed as a Government officer, and she said, oh no. I didn't stay there so awful long; I went up to my place.

Q. What happened at your place?

A. I caught a street car and went up stairs and looked behind me down stairs, and there were the same two men standing beside the door.

Q. The same that you saw at the Post when you got on the car?

A. Yes, sir. I called Mrs. Jackson—I was rooming with—and I said, do you see those two men? They are trailing me for some purpose—I don't know what—but myself, I was scared, I thought I was going to get arrested. They stayed there all that evening, and every day after that two other men were trailing me. Well now, on Friday, a telegram came from Portland.

Q. Portland? A. Yes, sir, Portland.

Q. How do you know?

A. Portland, I read that. I carried this one to the Fort.

Q. Where did you get it?

A. I got it from Bettie; got this telegram from Bettie—Portland, Oregon—I will be there in the morning.

Q. What did the telegram say?

A. This telegram? I will be there in the morning—have everything ready—Bill Jones to Bill Jones.

Q. Who was it addressed to?

A. To Bill Jones. I said, Bettie, give me this telegram; I will carry it out to the Fort.

Q. Do you know where this telegram is now?

A. No, sir, Bettie had all the telegrams; I had taken this telegram.

Q. What became of the telegram when you got through with it? A. I took it and give it back to Bettie.

Q. You say you had taken that to the Fort?

A. Had taken it to the Fort and caught the car.

Mr. Blakeney: I object to the contents of the telegram as not the best evidence.

A. Tell what I did?

Q. Yes.

A. I had taken the telegram out to the Fort—that was on Friday; Harry was at the house. I thought it was from Mr. Bartlett—the telegram. I said, my men will be here in the morning, and you will have to have everything ready, I said, because the banks will—we will have to take Minnie down town to get the money. He said, my God, Sadie, I can't be here because I am hired to go to Fort Wright to play for the Pot Black Indians. I said, you will have to get somebody I said, to be here to see that Minnie gets her money. He said, I will tell you what I will do; give me the telegram and I will go to the Fort and ask the Colonel if I can get leave and stay here, it is a business matter. I gave him the telegram, and he was gone quite a little bit—quite a while and when he come back, Harry said, Sadie, they won't let me stay here, I have got to go, but I have saw Captain McComb, and he will look after Minnie. I said, alright, you can trust to him; and he said, alright, I know Captain McComb, and if he don't do it, he will get Captain MacNab. I said, now, I will be here in the morning by 10:30—that would have been on Saturday morning. I left and went back. Now, when I got up to the hotel—I went up to the hotel where Bettie was—Bettie said, now Sadie, Bartlett will be here in the morning—

Q. Had you had any understanding with Minnie as to the making of a deed?

A. Yes, sir, she was going to sell this land.

Q. Tell about that conversation.

A. You mean the deed she was going to sign?

Q. Yes.

A. I didn't have no deed; I told her when the man came —her and Harry both—when this man came that they were going to buy the land and she would get two thousand dollars for that, and when the Government officers came behind me, and asked her if she had a child by that name, say yes, and that was all there would be to it.

Q. You went back to the hotel?

A. On Friday evening.

Mr. Hanford: I want to strike that previous answer as not responsive to the question.

A. I went back to the hotel that evening.

Q. Alright now; what occurred at the hotel?

A. I saw; I said, Bettie are you sure Bartlett will be here? She said, oh yes, he certainly will be here, and I have got to go up town. I said, Bettie, you know the banks close at 12 o'clock Saturday, and I said, what are we going to do about seeing about the money? Now, in the meantime, after I had found Minnie, they was to offer her $5000.00 that she would get for the land.

Q. Who was?

A. Bettie and I was to tell her—if we found her—she would get $5000.00.

Q. You and Bettie have any conversation about that?

A. Yes, sir. All along, Mr. Bartlett told us to tell her if we found her, to tell her he would pay her $5000.00 for the deed, and if she knew where her son was, he would pay her $5000.00 for the boy; if the son was dead, to buy it from Minnie. Bettie and I planned between ourselves to offer her $2000.00, and she and I were going to beat Bartlett out of the $3000.00.

Q. You and Bettie were going to beat Bartlett out of the three thousand?

A. Yes, sir, me and Bettie were going to get that three thousand dollars.

Q. What did Bettie say?

A. Bettie said that she had to go up town and get some business fixed; I went on home. Said, now Sadie, Bartlett will be here sure in the morning. I said, I won't go over, Bettie, until eight or nine o'clock, and she said, alright. That last telegram, I gave it to her. Harry brought it back and handed that to me and I gave it to Bettie.

Q. Harry had given you the telegram back before you came back to town?

A. Yes, sir, and I had taken and given the telegram to Bettie. The next morning——

Q. What occurred?

A. I went over to the hotel. I got up early; I knew I was going over there soon, but I told Bettie I would come about eight or nine o'clock—and I went over to the hotel, I guess about half past seven, anyhow.

Q. That was Saturday morning?

A. Saturday morning, yes, sir.

Q. Do you remember what day of June?

A. Yes, sir, I can count—that must have been about the 14th or 15th, along in there some place, yes, sir. I went in the room and was sitting down talking to Bettie, and I said, ain't Bartlett come yet? And she said, no, he hasn't come yet; and I said, my goodness, the train gets in——

Q. What time in the morning?

A. At a quarter of eight—half past seven, maybe. She said, that train is late, and I said, how do you know, and she said, I called up and found it was late; Bettie said, if he didn't come on this one, she said, there will be a twelve o'clock train, then, and maybe he will come. By that time, some one rung the 'phone and she went to it, and she said, Sadie, I have got a beau that will be up here pretty soon, and she said, you go and come back, and I said, alright.

Q. Did you go?

A. I did; I went outside the door, and got about as far as from Bettie's room—along a dark hallway, you know, and got about as far from Bettie's room as that door.

Q. About 25 or 30 feet?

A. The hall is a great long hall. I meets at that time, but didn't know who it was, Frank Long in the hall.

Q. Who did you think it was?

A. I thought it was Mr. Cook.

Q. Fred Cook?

A. Yes, sir. I said, good morning, Mr. Cook, and he said, hello; and he just kept passing me, and I looked and he went right on in Bettie's room.

Q. You looked what?

A. I looked back, and he went on in Bettie's room. I told Bettie I would be back latter on. I went home—back to where I lived at the hotel, at the rooming house—and in about an hour Bettie called me over the 'phone and asked me to come over. I went back over to the Wright hotel.

Q. Did you see Bettie?

A. I saw Bettie; she said, I guess Bartlett will be here pretty soon—shortly; the train will be in. I set there and talked to her for about an hour. No train come yet. Well, I had arrangement with Minnie for 10:30 but didn't tell Bettie of the hour—I told her.

Q. You didn't tell Bettie?

A. Didn't tell Bettie, no, sir. I said, well, I have got to go—it was about half past nine. Bettie said, no, wait; Bartlett will be here pretty soon—the train will come in. She kept me there until about half past eleven and no train came. I was over my time then of meeting Minnie. I said, I am going on back to my hotel, and Bettie put her coat on. Will you let me tell about this?

Q. Alright, tell about that.

A. Two other men got on my trail.

Q. Got on your trail?

A. They followed me clear to my house. I went down stairs, one was a little one, and the other, a big, tall man; I will know them if I ever see them, for I said, what are you men trailing me for?

Q. Where was that?

A. Seattle, where I was staying. The big one walked off, and the little one said, we ain't going to do you any harm; and I said, how long are you trailing me; and he said, had you picked up four or five days. And I said, who put you on my trail, and he said, the woman you are with, with that plaid coat on, she came up to our office and had us hired, and I said, what for, and they said, I don't know—just to keep tab on you. I knew what it was. I went over to Bettie's and stayed.

Q. Where?

A. I came back to where I was in the hotel at Bettie's. I said, I am going back up to my hotel, and she said, I will go on, Sadie, over there with you. We got *got* down to a kind of a little park, like, from the hotel where you sit, and wait for the street cars.

Q. Who was with you?

A. Bettie—she followed me. I was trying to switch her, but she followed me. I said, Bettie, I tell you what I am going to do—catch the street car and go out to Raner Beach. I looked, and those two men—the same two detectives—I found out later they were—were standing just about as far as from where we are sitting as Mr. Long is standing.

Q. About 12 feet away?

A. Yes, sir. Bettie said, alright I just had noticed those men because before that she kept on my trail herself. As soon as she seen those two men, she said, alright. I caught the street car, and when I got to the rooming house where I was, these two men were there too; I don't know how they got there.

Q. Bettie didn't go on?

A. No, she went back to the hotel but those two men did. I slipped down the back way—I aimed to get out to the Fort—and it was past the time for my meeting Minnie. I went down the back stairway and went over on the next street and caught a street car and went out to Fort Lawton—I thought I had got away from these two men. When the car stopped at the little car house where I was to get off and go to Minnie's, there was the machine right ahead of me, next to the porch.

Q. And automobile?

A. An automobile, and they were looking back just as I got off the street car—those two men—and stopped the machine—three men and the chauffeur—and the other man was in the back of the car. They stopped this car, and as I got off the street car, they turned and came back.

Q. In their car?

A. In their car. After the street car pulled off and I started towards Minnie's, I looked and these men got out of the car and started walking behind me. I started walking up the hill—didn't start to walk to Minnie's house at all because I didn't want them to know where Minnie's house was.

Q. About how far was Minnie's house from where you got off at the depot?

A. You can see it from the depot but it must be I guess, a block and a half, I guess—but you can see it. I started up the side walk, but there is a path that leads off to Minnie's house, and you can go the walk way that leads off below on that street; when I got up to Minnie's house, I saw the two men sitting on Minnie's porch and heard—she was dressed in white—I passed her house.

Q. Her house was down the hill?

A. Yes, down the hill; I simply glanced at her house and walked on. I had got about a block past her house and stopped.

Q. You came in front of her house?

A. No, her house is on the the side of the hill. I stopped and came about a block up the walk, and I wanted to see where these men were going and when I commenced to slow up, one passed me.

Q. One who?

A. One of the men passed me, and the other walked up to me and said, how far is it to the Fort—shall I tell?

Q. Yes.

A. I said, God damn you, I saw him then; if you keep in that machine the way you are going, you would have found the way to the Fort—you are trailing me. And the other one walked back and said, what do you think, this woman thinks we are trailing her; and he said, oh no, we are not. I turned then, to go back down toward Minnie's, and Minnie was coming up. I turned around and the way she came, and she was coming walking—Minnie was coming up the street this way—and I was walking along, going down toward her—I kept doing this way—I meant for—

Q. What way?

A. Why, to get her to stop—motioning for her.

Q. With your hand in front of your chest?

A. Yes. Minnie couldn't see me but when she got to me, this is what she said. She said, oh Sadie, the man you have been working for has been here and gone, and he said he had paid you and you had gone back to Oklahoma; and I said, the man I am working for? And she said, yes; and I said, Minnie, the man I was working for, hasn't come here yet. She said, well, he left some papers for me to sign and I am going to leave and go to Spokane tonight with him, and I said, oh God, Minnie, have you signed any papers, and she said, not yet; and I said, who is down at your house, and she said, Captain MacNab and another man; said, they are waiting for you, and she said, why don't you come, and I said, I will talk to you when I get down to the house. And when we got to Minnie's house, these two men were still up there on the side walk.

Q. These men that you thought were detectives?

A. Yes, sir, and one came down to Minnie's house and Captain MacNab and Mr. Hanford was in there.

Q. Did you meet either one before?

A. No, sir, never before. Minnie introduced me to them and Minnie said, Captain, this is the woman we were waiting for. Captain MacNab said, Sadie, this in Mr. Hanford. my lawyer, and as I am not well equipped in the law and Harry had to leave the business in Captain McComb's hands to come down here, Captain McCombs left me to come, and I met Mr. Hanford and thought best to bring him down.

Q. Now, what else was said?

A. Minnie said, Sadie, she says, the man that you are working for said that he had done paid you. I said, I haven't been paid by nobody and didn't know anyone was here; and Captain MacNab said, Sadie, do you know Frank Long? And I said, I do; and he said, do you know Charles Page? And I said, I do. Do you know C. Josey? And I said, I do. He said, well, Frank Long—he didn't say Frank Long—said Mr. Long—is here representing Mr. Page, and he is the man that has been here; he said, now, I wouldn't do much talking to him—he came in a machine, and I wouldn't do much talking to him as you didn't come. When we asked him what had become of you, he said, you had gone back to Oklahoma. I said, he is a liar; I didn't know Frank Long was in town.

Q. You told that you didn't know Frank Long?

A. I told him that I didn't know Frank Long was in town, and I didn't. And he said, Well, Sadie, here is the papers that is left for Minnie to sign, and I said, why Captain, has she signed them, and he said, no, we wouldn't let her; and he said, do you know Dana Kelsey? And I said, I do; and he said, well, Mr. Long has told us to wire to Dana Kelsey, asking Mr. Kelsey who Frank Long was—after Mr. Hanford and him refused to talk to Mr. Long much—and we are expecting an answer, anyway by five o'clock this evening, and we have got an arrangement with Mr. Long.

Q. With Mr. Long?

A. With Mr. Long, this evening; he will be back.

Q. Did he say at what time Long would be back?

A. Would be back at six o'clock—expecting an answer not later than five o'clock to this telegram that he was to send to Dana Kelsey.

Q. Who was Dana Kelsey?

A. The Indian Agent at Muskogee. He said, here is the papers that he wants Minnie to sign. About the size of this paper—the paper was laying there.

Q. About the size of this?

Mr. Blakeney: Well, we will agree that it is about the size of an ordinary typewriting sheet.

Mr. German: Alright.

A. It was something about this only it was typewritten.

Q. Was it typewritten or printed?

A. It was not wrote with a pen, no sir. He said, this is the paper they left for her to sign.

Q. Did you look at it?

A. I read just a few lines of it—I am the mother of Thomas Atkins born in Leavenworth, Kansas, in 1885, and died in 1899; that is as far down as I read. I said, Captain MacNab, don't let Minnie sign these papers; whatever you do —before that though, Minnie said, I told him that the baby died when it was 6 months old.

Q. Who said that?

A. Minnie. I told Mr. Long the baby died when 6 months old, and he said that was too early and we would have to fix it, and Captain MacNab spoke up and said, Sadie, don't you think Minnie ought to turn her business over to me and Mr. Hanford because she don't know how to talk. I said, yes, Captain MacNab, don't let Minnie sign these papers, and don't let her leave with Mr. Long for Spokane tonight. And he promised me he would not.

Q. What did he say?

A. He said, I will not. I said, my man, Mr. MacNab, hasn't come here. I said, this is another man. Then I seen I had been trapped. I leaves, and told them I would come back after they had arrangement with Mr. Long that night. I went and got on a car and went to hotel Wright, and opened the door and Bettie was there.

Q. You went to Bettie's room?

A. Yes, sir, I was mad. I said, Bettie, you sure pulled a nice trick on me; you had Frank Long to come here and go out there, and she said, oh no, I didn't; and I said, yes, you did. By that time, the door opened.

Q. You had closed the door as you went in?

A. As I went in; the door opened, and in walked Frank Long. May I say what I said to him?

Q. Yes.

A. He said, hello, Sadie; and I said, God damn you, what did you go out there and tell that lie on me; you told Minnie that you had paid me and that I had gone back to Oklahoma, and I didn't know that you were in town. He said. I didn't tell her; I said, you did. He said, well, Sadie, it is only a business matter now, and she has told me the baby died at 6 months old, and that won't do any good and I will give you and Bettie three thousand dollars to steal her and take her back to Oklahoma. And I said, I won't do it. I am going to keep her here until Mr. Bartlett comes; and I said, those papers that you left out there for her to sign, she is not going to sign them, and you are not going to take her off this evening either. I said, where you made your mistake at, was in not talking to Captain MacNab; and he said, I see my handwriting on the wall—throwed his hand up—this way—said, I see my handwriting on the wall and I am going. What I understood him to say—what he meant was, that he had made a mistake in not talking to Captain MacNab instead of Minnie. He said, Sadie, I will take care of you in this deal, anyhow, and there is no reason for you and Bettie falling out over it because it is a money matter. He left while I was there and Bettie and I went to talking and she said, Sadie, I will tell you how come me to wire for Long, and I said, Bettie, how come you to do such a dirty trick as that; she said, I will tell you how come me to wire Long. She said, Bartlett hasn't offered us but a thousand dollars a piece to find Minnie.

Q. Who said that?

A. Bettie was talking to me. And Long is working for Page and has got plenty of money, and Rodgers had an agreement with them—that is Bettie's man—

Q. Bettie's man?

A. Hook Rodgers—Charlie Rodgers.

Q. Where does he live?

A. I guess he is living in Tulsa with Bettie where she lives—that they would pay us six thousand dollars, me and Rodgers; and I said, so you are going to leave me out here broke. And I said. now I am going to stay here until Mr. Bartlett comes; I didn't have the money to leave there anyhow—I was broke; so, after I sit there a few minutes, I thought the matter over and thought there was no use of Bettie and me falling out. I said to her, you wire to Mr. Bartlett —she never wired to him at all—I said, you wire to him. And I left there, and I went on down to the depot myself—she said she was going to wire—I guess she did. I went down to the depot and wired to Mr. Bartlett myself.

Q. What did you wire?

A. I told him to send me a hundred dollars. I wanted to get detectives to take care of Minnie because Bettie had sold her and I was afraid they was going to take her away from town.

Q. You wired that to Bartlett?

A. I wired that to Bartlett. I didn't get any answer though.

And thereupon, recess is taken for the noon hour, to reconvene at 1:30.

And thereafter, having reconvened, further testimony is taken as follows:

SADIE JAMES being recalled further testified on direct examination by Mr. German, as follows:

Q. What time, was it, that you sent in the telegram to Mr. Bartlett—what day of the week?

A. You mean that I had been out there that morning and came back?

Q. Yes. A. It was on Sunday.

Q. That is the telegram—that is the first telegram that you set?

A. That I sent him at all, yes, sir.

Q. After sending that, did you have a reply to that telegram? A. I did not.

Q. Did you send that before or after you went out to see Minnie? A. Afterwards.

Q. After you had been out there? A. Afterwards.

Q. Now, did anyone go out there with you on Sunday—that Sunday to see Minnie?

A. I went back that Saturday night.

Q. Oh, you had been out Saturday night before?

A. I told Minnie when I went out there, Mr. Long was to be back there at 6 o'clock. Captain MacNab and Mr. Hanford, after this telegram was to come so they could find out who he was—I told Minnie I would be back after them. I went out to the Fort that night—the same Saturday night.

And thereupon, on account of the inability of the witness Sadie James to talk, an adjournment of the taking of testimony herein is had until tomorrow morning, February 4th, at 9 o'clock.

SADIE JAMES being recalled, further testified as follows:

Direct Examination by Mr. German.

Q. Sadie, when was it you sent the telegram to Mr. Bartlett?

A. The first telegram was on Saturday—Saturday evening.

Q. Did you send him one on Sunday?

A. Yes, sir, I sent him one on Sunday, but I sent one Saturdat evening.

Q. About what time on Saturday was it?

A. About four o'clock in the evening.

Q. Did you go out to Minnie's after you sent that telegram on Saturday?

A. I went there Saturday night about 8 o'clock.

Q. Between the time that you sent the telegram and 8 o'clock, did you see Bettie Mann, or Mr. Long? A. No, sir.

Q. Did you get any reply to that Saturday's telegram?

A. I went out to the Fort first. No, sir, I didn't get no answer to that telegram.

Q. Who did you see at the Fort?

A. When I got out to the Fort, Minnie was there by herself, in the house. I said to her—she was walking the floor when I got there—I said, Minnie, is Mr. Long coming back? And I said, where are they? She said, they have gone to the Post.

Q. Gone where?

A. Had gone up in the Post. That was about 8 o'clock at night. She said, Sadie, you go to town and get detectives and have them take me to where you stay and keep me until my husband comes;Captain MacNab wants me to do something I don't want to do. I said to her, haven't you got sense enough to protect yourself; and she said, yes, but I am afraid of him. She said, if you don't get me to-night, you come back and stay with me tomorrow anyhow, it will be Sunday. I didn't stay in the house but about fifteen minutes and I rushed right on back to town, and went to my place where I stayed—up on Jackson street—to see if I had a telegram.

Q. Did you find any?

A. No, sir, none at all. I didn't go over to Bettie's. I got up the next morning—I guess it was about half past five—and went down to the Great Northern, I think—or the Northern Pacific—and sent another one.

Q. To Mr. Bartlett?

A. No, to Mrs. Bartlett. I told her to wire me a hundred dollars to hire detectives to guard Minnie.

Q. Did you get any reply to that?

A. Well, I didn't stay there long enough. I had taken the street car about six o'clock, I guess it was near about that time, and went back out to the Fort.

Q. Did you see Minnie?

A. When I got there, there was a soldier sitting on the porch, there was a horse in the yard, and a man standing in the door.

Q. Who was that soldier?

A. She introduced me to him but I don't know what his name was. I walked up and she introduced me to him and said come on in, and take off your things, Sadie. We walked back to the bed-room and I said, Minnie, who is that? And she said, don't talk in front of him; Captain MacNab put him here to watch me. I hadn't had my breakfast, and we came out of the bedroom and while we were talking in the kitchen I said, what did you do last night? And she said, Sadie, I signed my business over to Captain MacNab. She said, I can't sign no papers, or talk to nobody; if they want to see me, they will have to talk to Captain MacNab. She said, they are going to make white case out of it and they are not going to have any negroes in it at all. She said, they want me to say that I had a baby born in the hospital and I gave him away when he was two years old. She said, you know that letter and deed that I showed you; I said, yes. Well, she said, they want me to say those were letters——

Q. Did she say who?

A. Want me to say that the first that I got was in 1898 from the people that kept my boy, that he was sick and wanted me to send them money to take care of him on, and say that the other one that I got was six months later, stating that my boy was dead; and she said, Sadie, they have found out that you are not a Government officer and you are going to get arrested, and don't come back to my house any more, because I don't want to see you get in no trouble, but I will tell you what to do. She said, next month, Harry, who is off on a 12 day hike, and I are going to Portland, Oregon, to visit a friend of mine, Clara Kirk, a white woman, who has been a friend of mine for 12 years, and you meet me there. I ask her where Clara lived and she told me 445 East Market.

Q. Where?

A. Portland, Oregon, and she said, now, if you go to Portland before I go, you go to Clara Kirk and tell her who you are; tell her that you are a friend of mine, and she will let you stay there until I come. By that time, there was a white woman came in there by the name of Bertha, had been Captain MacNab's servant, she came there and stayed right in the house with us from then until six o'clock that day, and where we would go, she would follow us, and the soldier stayed out-doors until dinner time. That was about eight o'clock that night; I stayed out there all day that Sunday.

Q. Just a minute, I want to ask you a question. You say Minnie said they wanted her to do and say so-and-so—who was that?

A. I suppose she was talking about Captain MacNab; I thought she was telling me what they wanted her to do. Said that she signed her business over to Captain MacNab. She was talking about Mr. Bartlett coming and what she couldn't do.

Q. Alright.

A. About half past seven, I guess, I started down to the car line and she started with me, and this soldier went close—right with us. And when the car came along, I couldn't tell that he was right there. The white woman didn't leave until about six, and I went back to town and there was no telegram yet. She had told me not to come out there because I was going to get arrested but I got up and went back out there the next morning about ten o'clock, I guess I got out there. When I caught a car, Bettie Mann was in front of the car, and I saw that she didn't see me, and I sat down in the back.

Q. On the same car?

A. On the same car, yes. When we got to Minnie's place, I got off; she stayed on the car—Bettie did. I went to Minnie's house and there was nobody there. The curtains were pulled down and the house was all dark and I looked in, and there was no key on the inside. I walked down to the street—Minnie told me the woman was a friend of her's—and she was in the yard, and I said to her,——

Mr. Stuart: We object to all this as hearsay.

Mr. Hanford: The same objection.

Q. Did this woman with whom you talked there, claim to know where Minnie was? A. Yes, sir.

Q. Did you find out from her? A. Yes, sir.

Q. Well, did she say anything about—had Minnie said anything to her? A. No, sir.

Q. You located Minnie through her?

A. Through her, yes, sir.

Q. And did you go to Minnie?

A. I went to where she told me Minnie was at, yes, sir.

Q. Alright; where was that?

A. Up to Captain MacNab's house.

Q. Did you see any one else—any of those persons before you saw Minnie? A. I didn't go to see Minnie.

Q. When you went to the house, who did you see at the house?

A. The hall door was open and I rang the bell and no one came, and after a while I went around, and there was a soldier and a woman—an*d* officer and woman, I guess, coming across the grounds, and when they got on the steps he said, who are you looking for, and I said, I am looking for Captain MacNab; and he said, I guess you are a little late. A woman walked out and stood in the door, and I said, I am looking for Captain MacNab, and she said, you can't see him; he won't be here until two o'clock. He walked by me and got in the door, and I don't know what the woman said to him but he said, I ought to throw her in the guard-house. That is what I heard him say. I went back to catch a car and I saw Bettie going to the back of Captain MacNab's house—Bettie Mann. She wasn't close enough for me to speak to her. I caught the car and went back to town.

Q. What did you do there?

A. I hadn't got no telegram, nor anything else. That was on Monday. On Monday evening, I guess it was, about four or five o'clock, Bettie came over to my house, and I said, Bettie, have you got an answer from Mr. Bartlett, yet and' she said, no. Now, I didn't tell her that I had been sending telegrams, at all.

Mr. Hanford: Objected to as hearsay.

Mr. Allen: I suggest in the absence of Mr. Blakeney—I told him at Leavenworth, that should he not get here before we began taking—further taking of this deposition, all of the objections made by Judge Stuart and Mr. Hanford, would be preserved for him.

Mr. Stuart: Just let that appear in the record, all objections made by other defendants should enure to the benefit of Mr. Blakeney.

Q. About what time in the day on Monday was it, that you saw Bettie down town?

A. That was about four or five o'clock, I guess, in the evening.

Q. Now, what conversation did you have with her?

A. I asked her had she got a telegram from Mr. Bartlett yet, and she said no. I didn't tell her that I had been sending any at all. I didn't go back to the Fort anymore, and her and I stayed around in town, going to moving picture shows and all, until Saturday evening.

Q. Then what—

A. No, it was Friday. Yes, we stayed in town there, monkeying around—she thought he was coming. On Friday evening I went to the hotel where she was.

Q. What became of Mr. Long at that time?

A. Why, he and Mr. Hanford had gone to Spokane, Washington, to see Minnie's husband; they didn't take her. Friday evening about five o'clock—of that week—I went to Bettie's room and there was a telegram on her table, and I picked it up to look at it, and said, I will be there in the morning, six fifteen—was the way the telegram read. That was from Bartlett. I said, Bettie, you didn't tell me you got an answer from him, and she said, well, I forgot to—I intended to though.

Q. Did you notice the date of that telegram?

A. No, sir, it must have been on Friday; she must have just got it that day. She wasn't expecting me over there and she hadn't tore it up. She had been getting answers from him all the time.

Q. Alright.

A. The next morning I went down to the depot about half past five.

Q. Went where?

A. Down to the depot. I was going to meet him. About a quarter of six, Bettie came, and I said, Mr. Bartlett answered your telegram; I sure am going to give him the devil. I sent him a telegram and he never did answer it. And she said, he won't do anything but tell a lie anyhow—say he didn't get it; don't say nothing about the telegram.

Mr. Hanford: Object to that as hearsay. Move to strike.

A. About the time for the train to come in, we went down the steps, and went out to meet him, and he got off the train and spoke to us.

Q. What day of the week was that?

A. Saturday morning. He didn't get there until June 20th; he got there a week later after Mr. Long had gone.

Q. What did he say?

A. He got off the train and said, hello girls, and spoke to me. He said to Bettie—didn't speak to me—he said, Bettie, where is Minnie, and she said, I don't know; Sadie does. And he said, Sadie, have you seen Minnie? And I said, yes, I have seen her, and I told him a story; I said, she wants to see you right away. They have got her locked up, but I have seen her since then. We went on up-stairs in the depot, and Bettie wanted me to go over to the hotel and get some coffee and wanted to talk to me and I said, no, Mr. Bartlett, you won't have time to get the coffee, let's go out to where Minnie is. Bettie had taken his grip and went on and we had taken the street car and started.

Q. Who is we?

A. Mr. Bartlett and I. He paid the fares and sat down, and I said, Mr. Bartlett—he said, Sadie, where is Minnie? I said, she is out here in the Fort, and she is locked up. I said, if you had answered my telegrams like I told you, I would have had her here in town; and he said you wired and told me not to; and I said, I didn't; an he said, how many telegrams did you send? I said, I sent two; and he said, I got five, what did you send in the first telegram—what was on it? I said, I told you to send some money and come at once to find Minnie. And to show you I am not telling any story, he said, he opened his coat and took out five telegrams. He said, the first one I sent told him to send more money.

Mr. Hanford: I object as incompetent, and hearsay, and not responsive to any interrogatory, and I move to strike it for that reason.

Q. Who was present when you and Mr. Bartlett were having this conversation?
A. This was on the street car going to the Fort.
Q. Just you and he?
A. Just him and I, sitting in the seat together when I had taken him to the Fort where Minnie was.
Q. What was said about telegrams?
A. He pulled five telegrams out of his pocket and said, this here, I didn't get. The first I had sent telling him to wire me money and come at once, that I had found Minnie but Bettie had sold her to Frank Long; and another one came in a few minutes and he showed me this. He said, this one came in a few minutes later.

Mr. Stuart: Was that your telegram?

A. Yes, sir, that was my telegram. He had four others with my name signed to them. This next one said—

Mr. Stuart: Which was the next one?

A. Supposed to be mine—my name was on it.

Mr. Stuart: I object to it because it is hearsay and not the best evidence.

Mr. Hanford: The same objection.

Q. Now, did that telegram have your name on it?
A. On it, yes sir. It has got my name on there until today; he has got that.
Q. Who has got that?
A. Mr. Bartlett has got those telegrams.
Q. What did that telegram say?
A. The next one he got?
Q. Yes.
A. Said, don't pay no attention to the first telegram—mistake—Sadie James.
Q. Did you send that one?
A. No, sir, I didn't. The next one I sent was to send me a hundred dollars so I could hire detectives. He got one a little while later saying, don't pay anny attention to any telegrams until you hear from me, Sadie James.
Q. Did you send that? A. I did not.
Q. Was it from Seattle, to him at Muskogee?

A. No, sir, that was Sapulpa; the first one of the telegrams Saturday evening.

Q. Where was it sent from?

A. Sent from Seattle. He said, I didn't come until I got this one—he showed me the last one; that said, come at once, we have found Minnie—the girls—that was the name on the telegram—the girls; I didn't start until I found this.

Q. Did you send that one?

A. No sir, I guess Bettie sent it; I didn't send it.

Q. Did you know she sent it at the time she sent it?

A. No, sir, I didn't know she sent any.

Q. You didn't know any had gone to Mr. Bartlett besides those you sent?

A. No sir, she just told me she send it.

Q. When did she tell you?

A. I told her on Saturday to send a telegram to Mr. Bartlett and I slipped over to the office and sent one, too.

Q. Did she tell you what she had wired him?

A. No, sir.

Q. You didn't know what she wired him?

A. No, sir.

Q. Until you saw those messages Mr. Bartlett showed you?

A. Yes, sir, until I saw those messages he showed me. On the going out there he said to me, Sadie, have you seen Minnie and talked to her before they locked her up? I said, I seen her for seven days; he said, what did she say about the boy; and I told him.

Mr. Hanford: We object to all this as hearsay.

Mr. Stuart: Object to it as hearsay.

Q. What did you tell him?

A. I told him a lie. I said she told me that the boy was in Los Angeles and for me to go to Mary Stain—Mary Hamilton in Denver to get his picture, and I would find him. He said, I don't see no use for me going out to Captain MacNab's and he said, the best thing for you to do, is to rush right back to Denver and get that picture and go and find the boy, and if Long sold Minnie, they are liable to find the boy first, and I said, no, she has never told them where the boy is. When we got out to the Fort, we went to Captain MacNab's house.

O. You and Mr. Bartlett?

A. Mr. Bartlett and I together, about eight o'clock, I guess, or better, when we got there. Captain MacNab came down and I introduced Mr. Bartlett to him, and he asked us in the house, and taken us in a little parlor and sat us down, and

Mr. Bartlett said to him, Captain, I would like to talk to Minnie, and he said, alright, I will have her here.

Mr. Stuart: The same objection as before.

A. And he walked out this way some place, but he came back in the room and in about five minutes, Minnie walked in.

Q. Did the Captain stay while they were in there?

A. Mr. Bartlett was sitting about here and Captain MacNab told Minnie to sit down there. Captain MacNab sat where he could see Minnie and she never spoke to me—she never looked up. Mr. Bartlett said to her, are you Minnie Atkins, and she said, yes; and he said, are you the mother of Tommy Atkins? And Captain MacNab said yes, but she hasn't seen him since he was two years old. Mr. Bartlett asked her if she went to Carlisle, and she said, yes. And he asked her who she went to in Oklahoma before she went to Carlisle. She tried to tell him but she couldn't, and he asked her if she knew Miss Alice Robertson, and she told him that she did not. And Captain MacNab said, you know how these Indians are sulky and won't talk, and when Minnie gets on them spells, you can't do anything with her. Mr. Bartlett seen he couldn't talk to Minnie for Captain MacNab, Captain MacNab said, Sadie only offered Minnie two thousand dollars for the land, and Mr. Long said that the land is valuable and I have sent my lawyer down to Tulsa to investigate it. Mr. Bartlett said, well, Captain MacNab, I bought a deed to the land two years ago and sold the lease to the Gypsy, and I afterwards found out that it was a forged deed put up on me. He said, I am out here now, not in the interest of myself, but to protect the interests of the Gypsy, as I sold them the lease, and he said, I hope while your man is down there, you will have him go by and see the Gypsy, for they are able and will give you as much money for the land as anybody else will. And Captain MacNab told him he would; told him he would have his man go down there. And he said, Mr. Bartlett, you come out here about two o'clock this afternoon. So, we left; we went on back to town, and Mr. Bartlett told me, now Sadie, you go back to the hotel where Bettie is; said, you needn't tell her anything that went on out there, about what I found out about her selling Minnie to Long, but he said, we will leave here tonight.

Q. Had you told Mr. Bartlett about Mr. Long being there? A. I had told him; he was surprised.

Q. When was it you told him?

A. On the way—on the car going out to the Fort.

Q. What did you tell him? A. I told him I——

Mr. Hanford: I object to it as incompetent, irrelevant, and immaterial; not in the presence of any of the parties to the suit.

A. I told him that Frank Long had been out there and told Captain MacNab a lie on me. Mr. Long had been out there and told Captain MacNab a lie on me; told Captain MacNab I was working for him; that he had paid me and I had gone home. I said, I didn't know Frank Long was in town, Mr. Bartlett; and he said, I see Sadie, how it has been put up on you. That is what Mr. Bartlett said going out.

Q. Now, getting to the point when you and Mr. Bartlett returned from Captain MacNab's back to town, go ahead and tell what was said between you.

A. He told me not to say anything to Bettie about it, but he said, we will get ready and leave here this evening. He said, I bought my ticket routed back around by Spokane; will have to go that way; so you girls get a round trip ticket, and I said, no, we don't. He said, I will buy you all tickets—I ought to leave Bettie out here. I said, don't leave her out here; she will raise a lot of sand if you do. I said, she has got no money, hasn't got a cent, and she owes a hotel bill, and wash bill; Frank Long never give her a cent, and she will have to have money enough to pay it. He got off down in town some place, I don't know where; left me on the car and I rode on to the hotel where Bettie was. She asked me if we seen Minnie and I told her no; and she said Oh God, did you take him out to Captain MacNab's house? And I told her, yes. And I told her Mr. Bartlett said he was going to leave here this evening and if we had got no money, we had better let him take us home with him. She said I have got to get some money for my washing and hotel bill here. Mr. Bartlett told me to be back at Bettie's place at five o'clock, so I went over to my hotel and got my things ready, and sent them down to the depot and went back over there, and stayed with Bettie. Mr. Bartlett didn't come, I don't think—well, it was a little after five when he came. We went up town and bought our tickets —berths for us as far as Denver. We got into Denver, I forget what night it was—went around by way of Spokane.

Q. Now, Sadie, you didn't see Minnie any more then, did you? A. Not then, no, sir.

Q. Referring back to the visit that you had with Minnie on Sunday when you stayed all day there, did you have any conversation with Minnie about Thomas being alive?

A. Being alive?

Q. Yes. A. She told me about Thomas being alive?

Q. Yes, about Thomas being alive.

A. Wasn't none to be alive; no sir. That is what I said to her; I said, Minnie, being they have sold you from me, I haven't made no money and you are going to make a lot of money—I said—if I go to Mary Hamilton's and get a picture of the man, will you help me swear he is your son, and she said, yes; and I said that you always say that you had a son by the name of Tommy Atkins, I said, because if the Government finds out that you didn't, they will prosecute you; and as long as you live, I will shield you because I will keep the secret, and she said, she would.

Q. Now, what time in the day on Sunday was that conversation?

A. That was in the same morning. We didn't get to do any talking; the woman came there about ten o'clock.

Q. Was that before or after the woman came?

A. That was just a while after she did come; when Minnie told me not to come back any more, about the time she finished the conversation, this woman came. Later on, she had to go out in the yard—this woman did—out in the back yard, and that was when I got a chance to say that to Minnie. I didn't get a chance to talk in secret to her.

Q. Well, did you all leave Seattle?

A. We left Seattle, and on the way going on the train, sometimes Bettie would be in the same coach——

> Mr. Stuart: Your Honor, we object to that; not responsive to the question, and narrative, and not called for in the question.

Q. Did you have any conversation with Bettie and Mr. Bartlett on the train with reference to this matter?

A. Yes, sir, I did.

Q. Which one? A. Mr. Bartlett.

Q. What was said about it?

> Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and hearsay, and not in the presence of the parties.

Q. Was Bettie present? A. No, sir.

Q. Well, tell what was said.

A. I said to Mr. Bartlett, I said, Mr. Bartlett, I will have to go along back to Leavenworth before I can go to Los Angeles to find this boy. I said, but I will go to Denver and get the picture from Mary Hamilton, and I will go to Leavenworth, and he said, Well, Sadie, I will stop at Pueblo, and go out to Rye; he said, when you get to Leavenworth, I will have you a deed there for the boy—for Tommy—and a hundred dollars for him, if you find him, to pay him, to pay him that much, and a check for money enough to take you and Mary

Hamilton to Los Angeles, so that Mary Hamilton can identify the boy. I had told him a story on Mary Hamilton; told him that she could identify the boy. He said, we won't let Bettie know when we are going to leave. And we got to Denver; stayed there all night, and he said, you go get the picture in the morning, and I will come down and see you. About ten o'clock at night, I think the night we arrived in Denver——

Q. You arrived in Denver about ten o'clock at night?

A. I think about ten o'clock at night, yes sir.

Q. Who got off there? A. Bettie and I, and Mr. Bartlett.

Q. What did you do?

Q. I gave him the number where I was going to stay, and Bettie had known already where I was going to stay at because we had stopped there before when we came through Denver, and Bettie said, I will see you about twelve o'clock; said, I am going to stop at the hotel where Mr. Bartlett is—I want to have a talk with him. And Mr. Bartlett told me he would see me the next morning early. I got up the next morning about half past five and went out to Mary Hamilton's.

Q. Did you find Mary Hamilton at home?

A. Found Mary Hamilton at home, and two of the girls and Mr. Hamilton.

Q. Did you have any conversation with her?

A. She said, did you find Minnie, and I said, yes, I found her. And she said, what did she say about that boy; and I said, well, she told me where he was at, and I said, Mrs. Hamilton, I want you to look in your album and get some pictures out. She got me the album and I picked out two pictures and she said, what are you going to do with these, Mrs. James; and I said, this one looks more like an Indian and I am going to tell the man I am working for——

Mr. Stuart: Objected to because it is hearsay, incompetent, irrelevant, and immaterial.

Mr. Hanford: The same objections.

A. I am going to tell the man that I am working for that this is Tommy and that you know it is him. He said, this is a friend of my son's; he runs on the railroad; and I said, he won't know the difference, I just want to show it to him, I said, so I can get money enough to take you away. I said, do you want to go on a trip? And she said, Mrs. James, my daughter is to be confined in Los Angeles, and wrote me a letter for me to come to her and I haven't got the money to go; and I said, I would take you out there, and she said, do you think you can do it? And I said, yes. I will get the money and take you to Los Angeles; I am going to Leavenworth and it won't take me very long to get things straight there, and I will be back here in about a week, but I will wire you just when I will be here, and you commence getting yourself straight because I know I will be back. I left and went back to the place where I was stopping at and hadn't been there very long before Mr. Bartlett came.

Q. Did you have a conversation with him? A. Yes, sir.

Q. What was that?

A. He said Sadie, is Mary Hamilton willing to go, and I said, yes; and he said, did you get a picture of the boy, and I said, yes.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and hearsay.

Mr. Stuart: The same objection.

A. I said, yes, sir. I pulled it out of my pocketbook and showed him the picture. He said, is that Tommy; I said, yes, that is him. I said, Mrs. Hamilton got the picture; I got this right from her and she knows—I was telling a lie to him, —she hadn't said nothing to me about the picture. He said, well, we will leave on the 12:15, don't let Bettie see us. I will give her money enough to go on to Sapulpa and we will catch the train and go to Pueblo, and my son will meet me there with a car, and this evening when the train goes through there, you can go on to Leavenworth. So we did go to the depot. I never saw Bettie at all while she was in Denver that trip. We run off from her—run off from her in Denver.

Q. Well, did you have any further conversation about this matter with Mr. Bartlett before you left town, or he left town?

A. We left town together. We had taken the train about twelve—well, it was near twelve, or one, or two—I don't know what time—but that got in Pueblo about four o'clock in the evening and that throwed me to stay there until about seven to catch the train out.

Q. Where did you go to?

A. I went to a cousin of mine, 1015 Ash; I've got some cousins from Oklahoma out there.

Q. Did you do anything with reference to this matter there?

A. I was there that evening until about seven o'clock and had taken the train and come back to Leavenworth.

Q. Come back to Leavenworth?

A. Came back to Leavenworth, Kansas, yes, sir. I got there, I think, on Thursday night.

Q. What did you do with reference to this matter in Leavenworth?

A. On a Friday morning, I went up to Dennis' office.

Q. Now, referring to that, I want to take you back for a little to the time when you first had this matter up with Dennis and Rube Smith, about the time you were employed by Mr. Bartlett, in the spring of 1914. You related when you were on the stand before about having started this case, as you put it; did you know a man in that town at that time named Louis Brown? A. Yes, I knew Louis Brown.

Q. Did you know another man named Will Harker?

A. Yes, sir, raised with him.

Q. And another one named Henry Price? A. Yes, sir.

Q. Did you know another named Sam Nash?

A. Yes, sir, Sam Nash is supposed to be my brother but he isn't.

Q. Did you have any conversation with them, or either of them, with reference to——

A. Along in April, about the middle of April, I went out on Vine street where my brother was working—I say brother, but I want you to know he is not my brother.

Q. Who are you referring to?

A. Sam Nash; we passed as brothers and sisters all my life. He was working out there for Mrs. Davis.

Q. When was that?

A. Along in May, after we got the case started.

Q. After you were employed by Mr. Bartlett?

A. After I was employed by Mr. Bartlett, yes, sir. He was washing woodwork in the house, and Mrs. Davis, she was back in the dining room and there were double doors between them. I went in there and I said to him, Sam, do you want to make some money and he said, how; I said, you know there used to be an Indian girl who worked here for the Hyde's, and Dennis and I and Rube Smith have said she had a baby at Granny's. I said, we said it because Granny is dead, and I want you to say, I said—to swear to it. He said, Sadie, he said, now, I remember when Granny had Eva——

Q. Had what?

A. Had Eva, yes, sir. She kept Mary Anthony's baby Edna, and if we say she had a baby in her house, the old settlers——

Q. Who said that, now?

A. Sam; I was talking to my brother.

Q. Now, tell what Sam said.

A. Sam said, if we say——

Mr. Hanford: That is objected to as hearsay, incompetent, irrelevant, and immaterial.

A. That this woman had a baby in Granny's house, the old settlers here in Leavenworth, Kansas, will know better and we will get into trouble; and when he said that, he was speaking rather loud, and I looked and Mrs. Davis had stopped cleaning silver—or what she was doing—and I was afraid she heard us talking, and I said, well, if you don't remember, all right, but I will see you again. The next day I met Louis—Louis Brown—he worked at the Foundry—office of the Foundry near where I lived.

Q. Did you have a conversation with him?

A. I had a conversation with Louis.

Q. About this matter? A. Yes.

Q. What was that conversation?

A. I said, Louis, do you want to make some money, and he said how?

Q. Who said how?

A. Louis said how. And I said, there used to be an Indian girl that worked for Hyde's named Minnie Atkins, and we were saying that she had a baby here at Granny's. I said, you know you have been living here a long time, and I want you to help us say so; and he said, Sade, I don't know that woman; I don't remember any Indian woman ever came here, and he said, I have been working at this Foundry too long to lose my job or get in any trouble over it.

Q. Who was that you were talking to?

A. I was talking to Louis Brown. That afternoon, I met Will Parker.

Q. Did you have a conversation with Will Parker.

A. I had a conversation with Will Parker.

Q. Tell what that was.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and hearsay; not in the presence of any of the parties.

Mr. Stuart: The same thing.

Q. I said, Will do you want to make some money, and he said, yes. I said, well, we have started about to say that there was a baby born at Granny's by an Indian woman. I said Granny is dead and the woman is dead. He said what is her name, and I said her name was Indian Minnie Atkins, and she worked at banker Hyde's; and I said, we are saying the baby was born in 1885. This was way before I found Minnie.

Q. I understand.

A. And he said, Sadie, at that time, I was working at the Planters Hotel and I don't remember any Indian woman ever being here. I said, yes, there was; he said, no, I don't want to have anything to do with it, and he just laughed it off. He never said anything more about it and I never tackled him any more about that. That night I went over to Henry Price's——

Q. Did you have a talk with him? A. Yes, sir.

Q. Tell what was said.

A. I said, Mr. Price, do you know your boy Arty, and he said, yes; and I said, I want to use Arty, and say that he belongs to a woman by the name of Minnie Atkins, because you and your wife separated when he was small and he was adopted to Ida Foster. I said, now Ida is dead, and of course that will keep her out of it; and he said, no, I can't do that because my wife is living in Kansas City, and her name is Minnie Atkins and it is right here on the Courthouse records when Arty was adopted to Ida—I can't do that; every body knows that I am his father and I can't do it. I left then, and went down to Mary Smith's, a white woman. Dennis had told me before that that he had got Mary Smith.

Q. Alright; did you have a conversation with her?

A. I had a conversation with Mary Smith.

Q. Where was that?

A. That was in her house, in the front room.

Q. Do you know the number?

A. Why, it must be—yes, sir—I don't believe I know the number; it is on 7th street, between Delaware and Shawnee, on the left side of the street, in a little brick, on the corner of the alley.

Q. Did you have a conversation about this matter?

A. I did.

Q. What was said?

A. I said to her—I said, you know, Mary, you know that little boy Ida used to have, and she said, yes; and I said, we have started the case, and Dennis said that you were going to swear that you washed him and dressed him when he was two days old. I said, we are going to use Arty, I said, as him, and you can swear to that, and she said, no. I said, Ida is dead and you know that will keep her out of it and nobody will know. And she said, no, you know Ida was my sister but she was negro. Her sister was a negro girl. This was a white woman that I was talking to.

Q. A white woman who had a negro sister?

A. Yes, sir, a mulatto. I was raised with her in Leavenworth. She said, my sister was a negro and that is all done away with, and my children, now, are all grown; if I get into it and say Ida had him, that will bring up a disgrace to my children on account of his aunt being a negro.

Mr. Hanford: I move to strike all this as hearsay conversation, not in the presence of any of the parties.

A. So I left her place. I couldn't find nobody else there in town. Yes, sir, I tried a good many but they wouldn't do it.

Q. Do you remember, now, some of them whom you tried?

A. Yes, sir, I tried Eliza Scott. I didn't tell her this was a story. I asked her if she knew of anybody in the orphan home by the name of Tommy. She said, yes, I know Tommy Pad—they are colored people but they are Catholics. She said, I don't know who Tommy's people is but I will tell you what you can do. She said, you go up to Father Shorty's, the Catholic priest there—a white man—see him and he could tell you all about Tommy. I had taken a street car and went up to Father Shorty's.

> Mr. Stuart: All this is objected to and covered by our objection at the previous hearing that it is narrative, and hearsay.

Q. Who is this that you were just talking to?

A. I am talking to Eliza Scott—Eliza Lavally—that is her name now.

Q. What was it she told you about Father Scott?

A. About Father Shorty.

Q. Father Shorty?

A. I could go there and he would tell me all about Tommy because he was raised in this Orphan Home. I could go up there——

Q. Did you find Father Shorty?

A. Yes, sir, at his office—his place up there.

Q. Did you have any talk with him?

A. Yes, sir, I did.

Q. With reference to a Tommy?

A. Yes, sir. He said, I know who Tommy's parents were. I couldn't get him to tell me who his parents were. He said his name wasn't Tommy Atkins at all; I was going to fool Father Shorty——

> Mr. Stuart: Your Honor, we object to the question because it is not responsive, is narrative on the part of the witness, and facts not inquired into by the Government.
>
> Mr. Hanford: The same objection.

Q. What was the name of that Tommy?

A. Tommy Pad. He told me of two other boys named Tommy.

> Mr. German: As I understand it, if any of the counsel have any objections upon the ground that the statement of the witness is not responsive to a question, you will so indicate it?
>
> Mr. Stuart: I am objecting to all of it, Mr. German, because two-thirds of it is not responsive. The witness, when you ask a question, will answer the question and then proceed in narrative form to discuss other matters not asked about by the Government.

Mr. German: As I understand you, you were going to make the specific objection if you objected upon the ground that the answer was not responsive.

Mr. Stuart: Well, from now on, we will do that. We will let this go, but without attempting to be patronizing at all, I do suggest that you let her answer questions that you ask. I know it is your intention to do it.

Mr. German: As far as possible, I will, Judge.

Mr. Stuart: Just make her answer the questions.

Q. Did you have any further conversation with the Father? A. Father Shorty?
Q. Father Shorty. A. Yes, sir.
Q. State what it was.
A. I said, well Father——

Mr. Hanford: Objected to as hearsay.

A. Have you got any other boys here on your records here, I said, of about 1885, whose name was Tommy? He said, yes, I got a Tommy Martin; I kept him until he was about eight or nine years old. I forget what the other name was. I said where are they at; he said, their parents, I think, lives in Montana—and the other parents, I don't remember that. I said are you sure that is his parents; he said, yes, but I am not supposed to tell you who they are. When we take children in here, we are not supposed to tell who their parents are but none of them were named Tommy Atkins and no Indian woman ever brought either one of them here.
Q. Who told you that?
A. He told me that, so I left. I knew nobody brought one there but I was trying to get someone named Tommy.
Q. Where was that conversation that you had with Father Shorty?
A. That was on—I think it was on Pottawatomie, I believe between 6th and 7th, on Pottawatomie; at the place where he stayed at the Catholic church—white Catholic church.
Q. You were relating now, an occurrence in April, 1914?
A. Yes, sir.
Q. Did you report the various conversations that you had with these persons to Dennis Jones? A. I did.
Q. At that time?
A. At that time. I went back and told Dennis who all I had been to.
Q. Did you tell them what was said?
A. I told Dennis; I didn't tell Rube—I didn't see him—I told Dennis.

Q. You told them what these parties told you and the conversations that you had?

A. Yes, sir, and when I got to Mary Smith's part——

Q. Alright; what was said?

Mr. Hanford: Objected to as hearsay.

A. When I got to Mary Smith's name, telling the conversation was between Mary Smith and I was about Arty, he said, well, that is right; those children are grown, and I don't blame her for that; and he said, she is going to do what I told her, anyhow. So, I didn't bother Mary Smith any more at that time—not at that time.

Q. Did you have a talk with Rube Smith with reference to these persons?

A. No, sir, I didn't say nothing to Rube.

Q. Now, going again to the time when you reached Leavenworth from Pueblo in June, 1914, after you had been to Seattle, and after you had passed through Denver, and had come from Pueblo to Leavenworth, you say you saw Dennis Jones?

A. I got there on a Thursday night, I think it was June 25th I got back to Leavenworth.

Q. Did you have a conversation with Dennis that night?

A. No, sir, not that night; it was too late. I saw him Friday morning.

Q. Did you have a conversation with him about this matter? A. I went to his office.

Q. Tell what the conversation was.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and hearsay, and as not in the presence of any of the parties to the suit.

A. He said when did you get back, and I said, last night. He said, did you find the woman; and I said, yes; said, you know the woman I had up here—Bettie Mann—Sarah Mann? He said, yes; I said, well she double-crossed me and sold the woman to the Secretary of the Gem Oil Company, and they are going to make a white case out of this thing, and they ain't going to have no negroes in it.

Q. Who was the Secretary to the Gem Oil Company?

A. That was Frank Long.

Q. Alright. Mr. Page's man?

A. Mr. Page's man, yes, sir. I told Dennis about him. I said, I came by Denver to get this picture. I showed him this picture. By that time, as I was showing him the picture, Rube came in. I said, I got a picture Dennis; if I can find somebody who looks as near like this as we can, he will answer. Rube was in there then, and Rube said, I will tell you what we can do——

Q. Tell the conversation, now, between you and Dennis and Rube; what each of you said.

A. Rube Smith said—Rube said, Sadie——

Mr. Hanford: Objected to as hearsay.

A. Said, Sadie, I know what we can do. You know my son Lucien; he hasn't been around here for years and he is in New York, and Lucien has got a lot of sense and we can work Lucien. And Dennis said, No, Rube, everybody here knows Tiny is Lucien's mother and we won't work him?

Q. Won't what?

A. Try to work him. But the best thing for us to do, is to try to hunt somebody and bring them back here, and let them get acquainted in town, and do as Sadie said—switch them on to the Gypsy; and he said, that white man that sold her, he can't do no good here because we have already got it started. Mr. Long had never been to Leavenworth, yet, then. I said, now, I am going to stay here. I showed him the deed, and I took it out of my pocket and showed him. I said, I am going to stay here until the deed comes—that was on Friday morning—and as soon as the deed comes, I am going out West, and try to run down somebody that is strong enough to sign this deed and Dennis said, well, supposing I find somebody; and I said, well, if you do, you wire me, because I will let you know where I am; if you find somebody stronger than the one I have got, I will let him sign it. Well, I left there, and Saturday morning the deed came; letter and deed from Mr. Bartlett in Pueblo.

Q. Left where?

A. I left Dennis' office and went to where I was staying.

Q. At that time you were residing in Leavenworth, or just there temporarily?

A. Just temporarily, on the deal that Dennis and I had pulled off—other purposes.

Q. What purposes?

A. The deal Dennis and I pulled off before Bettie came—that referred to another case, not this—before Bettie came.

Q. You received a letter from Mr. Bartlett?

A. On Saturday morning the letter from Mr. Bartlett—Saturday morning—and a deed.

Q. What was in that letter?

A. The letter and the deed both came from Rye, Colorado, out to his place, and the letter said, Sadie, you will find a hundred dollar check for Tommy, a two hundred dollar check for yourself—that will be money enough to take you and Mrs. Hamilton out to Los Angeles.

Q. Now, just a minute, Sadie. The check for Thomas Atkins that was in the envelope, was for how much money?

A. It was for a hundred dollars.

Q. You say there was a deed in there?

A. There was a deed in there.

Q. How much was the check?

A. A hundred check for Tommy.

Q. And then, there was a check for you?

A. A check for me for two hundred dollars.

And thereupon an adjournment of the taking of testimony herein is had until 1:30 o'clock P. M.

And thereafter and at 1:30 o'clock, further testimony herein is taken as follows:

SADIE JAMES, being recalled to the witness stand, further testified as follows:

Direct Examination by Mr. German.

Q. Sadie, the check that you referred to which came in the letter from Mr. Bartlett, and the deed that you referred to, were introduced in evidence in the trial in February, or March, 1915, at Muskogee, when you testified, were they not?

A. Yes, sir.

Mr. Stuart: Object to that because it is leading.

Q. Did you testify in that case at Muskogee—in this case at Muskogee, in February—in February or March, 1915, before Judge Campbell, before the court there? A. Yes, sir.

Q. In that testimony, did you or not refer to this letter which you had received from Mr. Bartlett? A. I did.

Q. Did you have with you on that occasion, the envelope and check payable to Thomas Atkins, and the deed for Thomas Atkins to execute? A. Yes, sir.

Q. What was done with the envelope and the check on the occasion when you testified?

A. Judge Allen got me to give it to him, there in the courtroom, and I guess they have it.

Q. Was it or not, introduced in evidence? A. Yes, sir.

Mr. Stuart: Let us assume that it is introduced, and save time.

Mr. German: We offer the documents referred to as Government's Exhibits 39, 40 and 41.

Mr. Hanford: I object on the ground that they are incompetent, irrelevant, and immaterial, and relate to transactions between the witness and Mr. Bartlett, and in no way are pertinent to the issues in this controversy.

Mr. Stuart: The same objection for the other defendants.

Mr. Gorman: You don't question the identification of them?

Mr. Stuart: No, I think they are alright.

Mr. Hanford: No.

Q. Did you have any conversation with Dennis Jones and Rube Smith after the receipt of the check and the deed referred to? A. Yes, sir; not to Rube, but to Dennis.

Q. Dennis? A. Yes, sir.

Q. Where was that conversation?

A. I got the check on Friday—the letter came on Saturday; the postman brought it about 9:30 Saturday morning, and Dennis was in the office.

Q. Did you have conversation with Dennis here?

A. About the check, but the day before that, I had a conversation about the check coming with the deed.

Q. What was that conversation?

A. In that conversation, I told him that I was expecting the deed and check with some money, to take Mary Hamilton on back West; I had told this man, I had to go out there and identify this picture, and as we got through talking, Rube stepped in.

Q. You have already related that conversation.

A. Yes, sir, but this is Saturday morning after the deed came in.

Q. Tell us the conversation Saturday morning after the deed came in.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and hearsay, and not in the presence of any of the parties.

A. I had taken the check and the deed up to Dennis'—that was about half past nine, I guess Saturday morning—and showed it to him; showed him the check and the two hundred dollars for myself.

Q. For yourself?

A. For yourself—that was expenses to take Mary Hamilton on to Los Angeles, and the hundred dollar check for Tommy and the deed.

Q. What conversation did you have with him?

A. That is all. He was to go and get a man while I was gone; I was going back West, you know, to hunt a man to see if he was stout enough to stand up for a deed, and Dennis was to hunt a man——

> Mr. Hanford: Objected to as not responsive to any question, incompetent, irrelevant, and immaterial, and stating a conclusion of the witness, and I move to strike for the same reason.

Q. Was anything said on that Saturday morning with reference to what Dennis was to do in the matter of finding a boy?

> Mr. Hanford: The same objection.

A. Yes, sir.

Q. What was it?

A. I told Dennis, now, I am going back out West to try to find somebody stout enough to stand up with the deed. What we wanted was a Kansas man—Dennis said he didn't care who it was, except a Kansas man.

> Mr. Stuart: Objected to because it is narrative, and not called for by questions of the Government, to the witness; and I ask, that the witness be asked to answer the questions and not go off on excursions.
>
> Mr. Hanford: The same objection.
>
> Mr. Stuart: We ask the Examiner, now, to instruct the witness, if not peremptorily, in an advisory capacity, simply to answer the questions propounded by the Government, and not to narrate matters not *germain* to the questions asked, or we will never get through in the world, unless some limitation is put upon the witness. It will be a month.
>
> Mr. Hanford: I want to make the same request for reason that it is impossible to anticipate what the witness' narrations or answers are going to be, or are going to relate to, and it is therefore impossible to make the record by interposing timely objections, and it necessitates the resorting to motions to strike after the statements have been made.
>
> The Examiner: I don't consider that I have the authority to direct the method of the examination of this witness, but I suggest to counsel that it may be in the interests of time if the winess is directed to answer the questions without proceeding on a long narrative.

Q. Sadie, just as far as possible, you answer only the questions that I ask you. A. Yes, sir.

Q. And don't add anything else.

The Examiner: Since counsel for the Government has directed you, I will add that you will be required to answer the questions, and then stop until another question is asked you.

Q. Tell all of the conversation that you and Dennis had on the occasion that you have just referred to with reference to this finding a Thomas Atkins—a boy, with reference to his finding a boy.

Mr. Hanford: I reiterate my objections to the same questions.

Mr. German: Judge, we will never get through in the world, if we proceed as you suggested.

Mr. Stuart: Alright; take the bridle off and let her go.

Q. Go ahead and answer that question.

A. I had taken the deed up there and I spoke about this; Dennis was to get a man——

Q. Tell, now, what he said.

A. He said, well, I will go and try to find a man and see if he will be stout enough, and I will bring him back here to Leavenworth, and we will take him around here in town, and get him identified, and he can sign the deed, and we will switch him over on the Gypsy. I had told him before that the Gypsy had more money than Mr. Bartlett, because I didn't think Mr. Bartlett had any money—not as much as the Gypsy—and that is the reason we were going to double-cross him on it.

Mr. Hanford: I move to strike the reason as hearsay, incompetent, irrelevant, and immaterial.

Q. What did Dennis say with reference to the Gypsy Company? A. At that time?

Q. Yes.

A. Well, not so much at that time; we had been talking about the Gypsy all the time since we had started the case. He didn't know the Gypsy; he hadn't seen nobody, then.

Q. Is that all of the conversation that morning?

A. That Saturday morning, yes, sir.

Q. Who did you next see with reference to this?

A. No one.

Q. Before you left Leavenworth?

A. No one that night.

Q. When you left Leavenworth——

A. Saturday night.

Q. Where did you go? A. I went to Lawrence, Kansas.

Q. Did you see any one there on this subject?

A. I met my husband at Lawrence, Kansas; I was going to take him with me to talk on this proposition—he didn't know anything about it.

Q. Did you meet Dennis, or Rube, or Mr. Bartlett, or Bettie there?

A. No, sir, I wired from Lawrence, Kansas, on a Saturday——

> Mr. Stuart: Objected to because it is not responsive to the question, and still in narrative form.

Q. Did you send any telegrams from Lawrence?

A. I did.

Q. To whom? A. To Mary Hamilton, in Denver.

Q. When?

A. That Saturday night, after I got to Lawrence, telling her——

Q. What did you tell her in that message?

A. I told her to be ready; I would be there by Monday anyway, and we would leave.

Q. When did you leave Lawrence?

A. I left Lawrence at 1 o'clock, or two, that same night—went away from Lawrence that same night.

Q. When did you reach Denver?

A. I got to Denver about 11:30, or 12:00 the next day.

Q. Who did you see there of these various people you mentioned?

A. Well, after I got my room, I went out to Mrs. Hamilton's on Sunday.

Q. Did you have a talk with her? A. I did.

Q. What was the conversation.

A. I told her I had taken the picture back and showed it to [] white men. I had cashed the check in Leavenworth, and I said here is this money I have got; I have enough now, to take you to Los Angeles, and she said, Lord, Mrs. James, I can't get ready by to-morrow, I don't think—it will take me a day or two.

Q. Did she finally get ready? A. Yes, sir.

Q. You left there with her?

A. Yes, sir, and carried her to Los Angeles.

Q. Before you left and while you were in Denver, did you see any of these people—Bettie Mann, or Mr. Bartlett, or any of them? A. No, sir; Bettie was down home.

Q. You and your husband and Mrs. Hamilton——

A. Mrs. Hamilton.

Q. Went to Los Angeles? A. Los Angeles, yes, sir.

Q. On the train going out there, did you and Mrs. Hamilton ride in the same coach, *Minnie*?

A. We did, and ate together.

Q. What relationship did you bear to her ostensibly on that trip?

> Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. I asked her on the way going out, I said, now Mrs. Hamilton——

> Mr. Stuart: We object to that because it is not responsive to the question, and the question can be answered without any explanation. Were you a valet, maid, or associate, or what—she can answer that.

Q. Were you either one of them?

A. That he is speaking of?

Q. Yes. A. I was the boss of the trip, yes, sir.

Q. Boss of the trip?

A. Yes, sir, I was the boss of the trip.

Q. Mrs. Hamilton is a white woman, isn't she?

A. Mrs. Hamilton is a white woman, yes, sir. She had known Minnie at Carlisle; she ran a laundry there while Minnie was at school.

Q. On the train going out there, did you have any conversation with reference to the boy that you were to find?

A. Yes, sir.

Q. Tell what it was.

> Mr. Hanford: I object as to that as incompetent, irrelevant, and immaterial; calling for hearsay testimony, and conversations not in the presence of any of the parties to the suit.
>
> Mr. Stuart: The same objections for the other defendants.

A. I said, Mrs. Hamilton, now if I find Minnie, or find the boy, will you help me identify him as Minnie's son; and she said, no. I said well you won't have to, because she said, Mrs. James, I know who that picture belongs to and I can't see where Minnie had a son in Leavenworth——

> Mr. Hanford: Objected to as not responsive to the question, and move to strike.

A. Because as well as I knew Minnie, if she had had one there to live to be two or three years old even, I would have known him because there wasn't any two or three weeks in the month that I didn't see her. And I said, well, I told you when I got to Denver, the first trip, that it was a boy she had by a negro and she was keeping it a secret. She said, it might be that but, she said, if you find Minnie, as I know her so well, you send for me, and I will beg her to tell who this son is. That was on the way going.

Q. To Los Angeles?

A. To Los Angeles. I was telling Mrs. Hamilton a lie. I knew she didn't have a negro son.

Q. What, if anything, did Mrs. Hamilton say to you that she would do with reference to the boy and picture?

A. That she knew who the picture was and she wouldn't have anything to do with a boy; she knew Minnie didn't have no son that she knew of.

Q. Did you say anything to her about finding a boy that looks like that picture?

A. No, I asked her if I found a boy that looks like that picture would she swear that it looked like Minnie's son, she said no she couldn't.

Q. Did she say anything about whether she would say the boy looked like the picture, the boy that you might produce looked like the picture? A. No, she didn't.

Q. You arrived in Los Angeles? A. Yes, sir.

Q. What did you do then in reference to the boy?

A. After I got into Los Angeles, I taken Mrs. Hamilton in a taxi cab and carried her to her daughter's.

Q. What is her daughter's name?

A. Pearl, or something, 406—400 East Forty-sixth Street. I never saw her any more until last winter.

Q. You have never seen her any more?

A. Until last winter.

Q. About how long after you left her there until you saw her again? A. I saw her in December, 1915.

Q. This last December? A. Not this last December.

Q. You mean December, 1914?

A. December, 1914, yes, sir.

Q. You didn't see her from the time that you left her there until December, 1914?

A. No, sir, that was in July I carried her there, and I didn't see her until December.

Q. Where did you go to from Los Angeles?

A. I *staid* there about three days and I wired Mr. Bartlett a big lie—he has got the telegram.

Q. What?

By Mr. Stuart: Let her tell about the big lie.

A. I wired him a lie and told him to send me two hundred ($200) dollars, that I had hired some detectives in the case and I had found that Minnie had lived there in Los Angeles and had left there about five years ago and had gone to

San Francisco, and while I was waiting for the telegram then for the answer to it, I was running around Los Angeles trying to get me a man that I could work. I found five or six but they weren't strong enough for me to work.

Q. Did you get an answer to the message?

A. Yes, sir, I got a telegram, I told him in the telegram I sent him to waive identification, as I was a stranger there and I could get no one to identify me, and he did so. I went to the First National Bank with the telegram and letter that Mr. Bartlett sent me to Leavenworh, Kansas, and I had to give that telegram and that letter to that banker, and he has got them now.

Q. Did you get the money? A. Yes, sir.

By Mr. Stuart: We object to the narrative part. She has lots of sense and should answer the questions and not relate into the record things not germane to the case.

Q. How much money did you get?

A. I got two hundred ($200.00) dollars.

Q. What did you do then?

A. I left the same evening I got this two hundred dollars and went to San Francisco.

Q. Did you see any of those people there?

A. Yes, sir, I run down two or three but they couldn't stand up.

Q. You couldn't get them to stand up?

A. No, sir, wasn't strong enough for me to get them to sign that deed.

Q. Did you communicate to Mr. Bartlett or any of them?

A. I wired to Mr. Bartlett, *staid* at San Francisco I think three days and wired a lie to him and told him in the telegram——

Q. What did you tell him?

A. I wired him and told him I was going to leave there that night, I found out Tommy was gone from there three years and was in Portland; I said I am leaving tonight, that is in the telegram, I did catch the train.

Q. Where did you go?

A. Went to Portland, Oregon, went to Seattle first, through Portland to Seattle.

Q. Did you see anybody in connection with this matter?

A. I saw my sister-in-law.

Q. You didn't see Minnie?

A. I didn't go out to where she was

Q. On that occasion?

A. No, sir, I was going to Portland to meet Minnie as she told me to meet her there in July. I went because my sister-in-law was there and I went to see her.

By Mr. Stuart: Objected to because it is narrative.

By Mr. Hanford: The same objection on the ground that it is incompetent, irrelevant, and immaterial.

Q. July had come by that time?

A. That was in July then, yes, sir, July.

Q. How long did you stay in Seattle?

A. I got in there in the morning, Sunday morning on the first train and *staid* until Monday morning, July the——

Q. Did you do any work on this case while you were there on that occasion? A. In Seattle, no, sir.

Q. Where did you go to from there?

A. Came right back to Portland, Oregon.

Q. Who did you see when you got to Portland?

A. I run down two or three men there and they wouldn't do, and I wired Tuesday after I got back to Seattle——

Q. Who did you wire?

A. Mr. Bartlett, wired him another lie.

Q. What lie was that?

A. I said send me a hundred and fifty ($150.00) dollars, I have heard—find that Tommy has left here and has gone—I forget the name of the town I told him.

Q. You don't remember now the name of the place?

A. No, sir, but I can tell you in a second, the telegrams he has got them all—Butte, Montana; the races were going on, that was on Tuesday morning.

Q. Did he answer that message?

A. I got the telegram from his brother, his brother-in-law.

Q. Was it in reference to Mr. Bartlett? A. Yes, sir.

Q. What did it say?

A. The telegram came that evening, I sent one in the morning, it came about three o'clock or four and said you will find Hugh Bartlett at the Oregon Hotel in Portland, he was there I didn't know it.

Q. Did you find Mr. Bartlett?

A. I called him up and I was scared and had him come to the hotel where I was; he had Mr. Crawley with him, the Gypsy man, and Mrs. Robertson—didn't bring Mrs. Robertson.

Q. Did you have a conversation with him? A. Yes, sir.

Q. What did he say?

A. I told Mr. Bartlett that I hired detectives and he said, Sadie, have you heard any trail of him for sure, and I said he is gone to Montana, and he said I will be back after a while and he goes up town and brings two detectives down there—

Burns men, one named Mr. Wright and I think the other named Mr. Edwards.

> By Mr. Stuart: This is covered I suppose, Mr. German, by our objections, no party to the record was present and there is no connection shown, and it is purely a narrative form; I think that is objected to.
>
> By Mr. German: I think so.

A. About six o'clock that evening, he brought the two detectives down.

Q. Who did?

A. Mr. Bartlett came with two detectives and they taken me in a room and talked to me and these detectives wanted to know all I found out, and I told them the same lies I told Mr. Bartlett, and they said have you got a picture of the boy aint you Sadie? and I said yes, and they said let us see it, and I handed it to Mr. Edwards and as soon as he taken it he said Sadie you can't do very much hunting this boy let me have it, and I said no I don't want you to have the picture because I got it from a friend of mine and I told her as soon as I found out where the boy is I will return it to her, and Mr. Bartlett spoke up and said Sadie give them the picture and I gave that to them and they trailed him down—the railroad conductor, Mrs. Hamilton's friend.

Q. Found out who he was?

A. Yes, sir, she told me who it was in the first place.

Q. Who did she tell you it was?

A. A railroad conductor, a friend of her son, and I got the picture.

Q. Do you remember his name? A. No, I don't.

Q. He was a boy who had lived in Denver, I believe?

A. He had lived in Denver and she had got a picture.

Q. Well, you separated there? A. Well, that night?

Q. Yes? A. I *staid* in Portland a week.

Q. Where did Mr. Bartlett go, did he stay there too?

A. Mr. Bartlett *staid* in Portland, and Mr. Crawley very near a week. He said to me the next morning—he came down and he said Sadie have you been out to Minnie's friend's yet? and I said no I am going out in the morning.

Q. What was the name of that——

A. Clara Kirk. I never had been there yet; this was about the middle of July.

Q. Clara Kirk was a white woman?

A. Yes, sir, the place where Minnie told me to meet her at. I said, no, sir, I haven't been out there yet but I will go in the morning, and he *sais* maybe I had better go with you and I said maybe you had better let me go first, and I can talk to her and you can come over and I will take you, so he left that evening and as soon as he left I caught a street car and went myself out to Clara Kirk's; I had never met her, I asked her if Minnie had come and she said no.

Q. You had a conversation with her about Minnie?

A. Yes, I——

Q. What was that?

A. I told her who I was and I says, Minnie told me to meet her here in July, Harry was going on a twelve days' hike, and she said Minnie was to come, I hadn't had a letter from her for about two weeks and I explained to her then about this money Minnie was going to get, and I said Minnie was going to get about fifty thousand ($50,000.00) dollars, and she said what for, and I said Minnie has had some children, and she said she has, and I said yes, and she said I have known Minnie for twelve years——

By Mr. Hanford: That is objected to as hearsay and a conversation not in the presence of the parties.

Q. I will ask you this Sadie: Did you and Clara go to Seattle? A. Yes, sir.

Q. How long after this conversation you are speaking of?

A. The next day.

Q. The next day? A. Yes, sir.

Q. Did Mr. Bartlett come to see her?

A. Not that trip, we went the next night.

Q. Did anyone else go with you and Clara to Seattle?

A. Yes, sir.

Q. Who?

A. Just a little girl four years old—an adopted girl she is.

Q. Clara is a white woman?

A. White woman—where Minnie used to be at.

Q. When you got to Seattle what happened?

A. I said Clara I tell you what you do, you go out there and see if you can get Minnie to come in town and see me, because Hanford has had me run away from there, I told Clara, and I said if you can get her you come right on back to town and let me know.

Q. Then what occurred?

A. She taken a street car and I told her how to get out to Fort Lawton, and she went out there.

Q. Did you go?

A. I didn't go then, but she called me over the 'phone where I was going to stop up on Jackson and she said Sadie everything is all right you come on out.

Q. Did you go?

A. Yes, sir, and I taken a street car and when I got there Clara and Harry was in the house but not Minnie; I said where is Minnie?

Q. Who is Harry? A. Minnie's husband, Harry Folk.

Q. Then what was said?

A. I said, where is Minnie? and Clara said she has gone up in the Fort to get some preserves and things for Mrs. McCombs, Harry walked in the other room and I said what did she say about me, and she said——

Q. You needn't tell that conversation, it would be inadmissible. Did you see Minnie? A. No, sir.

Q. You left there?

A. I taken Clara Kirk and brought her back to town, got her suitcase where she left it, and I said: Now, Clara, when you go back out to Minnie's, I said Hanford is likely to be there——

Q. Tell that?

A. I said Hanford is likely to be there and just as soon as he knows you are in town and you came with me he won't let you stay there, I said you get back out there and if they say anything that you don't like you come back to the depot, I am going to leave as soon as I find I couldn't see Minnie. When we got back to the car station, Harry was standing on that side of the station and seen Minnie on the street car and he beckoned for her to come back, and she had a little basket on her arm and she jumped off that car and flew back into the Fort.

Q. When was that?

A. That was after we went out there, they barred her from seeing me.

Q. Who did that?

A. Harry Folk, her husband, and she broke and ran back up to the Fort.

Q. You didn't get to talk with her at all on that occasion? A. I haven't never talked to her any more.

Q. Did you see any more of Minnie on that occasion, on the occasion of that trip to Seattle? A. No, sir.

Q. Well, how long were you there at all?

A. I went in there that morning and left there that night.

Q. Did Clara Kirk go back that night too?

A. Yes, sir, oh I guess it must have been about seven o'clock in the evening, I went down to the station where I had told her where I was going to leave that night.

By Mr. Stuart: Objected to because it is narrative, consumption of time, and merely a waste of money.

By Mr. German: You needn't relate that.

Q. Did you see Clara at the train that evening? A. I did.

Q. Did you see Mr. Hanford there?

A. I didn't see him, no, sir.

Q. You didn't see him?

A. I walked in the depot and she was crying and the little girl was crying, sitting in the depot when I got down there.

Q. How long was that before the train left?

A. Oh, I guess it must have been a half an hour or a little more before the train left, the train left at nine; she was crying, her and the little girl both standing by her crying. I said Clara——

Q. Well, you needn't tell the conversation. Did you leave for Portland? A. Yes, sir.

Q. And when you got to Portland who did you see, Mr. Bartlett? A. I saw Mr. Bartlett and Mr. Crawley.

Q. Now, you say that was in July?

A. That was still in July, that must have been——

Q. 1914?

A. That must have been then about, let me see, I got there on the 13th and I *staid* there about a week, that must have been about the 15th I suppose right around there I guess, about the 14th or 15th, along there.

Q. Now, when you were in Seattle, you saw Minnie, you say Mr. Folk, as Minnie was approaching the house, went to her and made motions to her with his hand?

> By Mr. Hanford: I object as incompetent, irrelevant, and immaterial, and leading.

Q. What was it that you said about that, I will not require——

A. I said Minnie was on the street car, it was in the summer time, and Minnie was looking up that way and she seen Harry, he was beckoning for her to get off, and she jumped off that car and ran back in the Fort.

Q. Which way was that car going?

A. Toward the house, the one that I was going to take, the car was about a block and a half away from me then.

Q. She got off before it reached the place to get off to go to her house, did she? A. Yes, sir.

Q. Which way did she go then?

A. Run straight back up into the Fort, Clara and I were standing in the station house waiting for the car.

Q. Where did you go to from Portland then, after you got back to Portland?

A. Well, I *staid* in Portland two or three days waiting for Mr. Bartlett and Mr. Crawley.

> By Mr. Stuart: Objected to as not responsive to the question.

Q. You say you *staid* in Portland two or three days?

A. I *staid* two or three days after that in Portland, got there on Monday and *staid* until the next Monday, almost a week.

Q. Did you talk with anybody there besides Mr. Bartlett?

A. And Mr. Crawley.

Q. And Mr. Crawley? A. No one outside.

Q. With reference to this case?

A. No one outside of them, I went to hunt me a man, I found two or three names—not named Tommy Atkins, but they wouldn't stand up anyhow.

Q. You didn't find any? A. Wasn't any to find, no, sir.

Q. Where did you go to from Portland?

A. Well, they had about eight detectives on us by that time.

Q. Who did?

A. I don't know what side. Mr. Crawley had to have some put in jail while we were there for trailing him; I had a meeting in the park and they had so many detectives on us; had to take two of them to take me back to my hotel, me and my husband, and had to take us sixteen miles from the station.

Q. Did any of these detectives say anything to you?

A. Not one of them, but one man, I don't know who he is, came to the hotel during the time—while Mr. Crawley had gone to Seattle to see me before I left Portland—he offered me two thousand ($2,000.00) dollars to swear I hadn't seen the baby since it was two years old.

Q. Who was that?

A. I don't know who it was, he had papers for me to sign, he introduced himself to me and said, Sadie all you got to do is swear you never seen the baby since it was two years old and you will get two thousand ($2,000.00) dollars and keep out of it.

Q. Who did he say he represented?

A. He didn't say, never did say.

Q. Say he had some papers for you to sign?

A. Yes, sir, had them all typewritten and everything, and all I had to do was to sign my name, and I said: No, aint nobody on earth going to get me to swear Minnie Atkins ever had a son named Tommy Atkins when I know she didn't, but I said I am going to make some money out of the case anyhow.

Q. Where did you go from Portland?

A. Medford, Oregon, and *staid* there a couple of days.

Q. Who went with you there?

A. Mr. Bartlett. They had sent to Spokane, Washington, after some big detective*s* there, name is Dunlap, supposed to be an awful shrewd man.

Q. You finally found your way home?

A. Yes, sir, came on back home.

Q. Where was that then?

A. Leavenworth, I was stopping.

Q. On your way to Leavenworth did you talk with anybody about this case except Mr. Bartlett? A. No, sir.

Q. When you got to Leavenworth, did you see Dennis Jones or Rube Smith?

A. I saw Rube, I didn't see Dennis. I think I got to Leavenworth on August 1st, I think.

Q. What did you do when you saw Rube?

A. I saw Rube but I didn't see Dennis.

Q. Did you have any conversation with him about this case?

A. No, sir. Only he was standing on the corner and I told him——

Q. Tell what that conversation was.

By Mr. Hanford: Objected to as irrelevant, incompetent, and immaterial, hearsay and calling for hearsay.

By Mr. Stuart: The same objection.

A. I said, Rube have you all found anybody? and he said, have you found anybody—and he said, Dennis has gone on a lying trip down to Vera Cruz, New Mexico, and wouldn't let me know anything about it; and he said, Sade I don't think you are all doing me well at all, I aint made no money out of this trip, and he said, Have you found anybody, and I said no. That is all the conversation I had with him, that was the same day that I got in there.

Q. How long did you stay there on that occasion?

A. No, I didn't stay there, I got in there in the morning and left that night.

Q. Where did you go to? A. Left that night for Tulsa.

Q. Did you see anybody else that day with reference to this case? A. Nobody, no, sir.

Q. You got into Tulsa? A. Yes, sir.

Q. That was about what time?

A. Well, I say about August 2nd, I suppose, August the third or fourth, along in there some place.

Q. Who did you see in reference to Tommy and Minnie and your work in this case at Tulsa?

A. Bettie was the first one I met, Bettie Mann.

Q. Did you have any conversation with her about the case?

A. About the case but not about Tommy.

Q. Who was it about? A. About Mr. Page.

Q. Tell the conversation you had with her.

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and hearsay and not in the presence of Mr. Page or any other party to this suit.

By Mr. Stuart: The same objection for all of the defendants.

A. She said when I got back here, I said I went up to Page's to get my money and he said, he told me he didn't make any contract with me, and Rogers said Long had made the contract with us, said Long had made it and she said I told him if he didn't pay me I would blow that case up, and she said, you bet I made him come across; said I got a house out here in Sand Springs and they owe me some more money, said they gave me four hundred ($400.00) dollars for paying Maudie's tuition fees—Maudie is Bettie's daughter. I said, well Bettie I have got back here and I am going to see Mr. Bartlett because—and I am going to see that Mr. Bartlett gives me my money, he hasn't paid me all of it and I didn't double cross him and I think he has got a right to pay me, I went up to the *Gypsy* then.

Q. You left Bettie?

A. I left Bettie and went up to the Gypsy.

Q. Where was that conversation? A. In Tulsa.

Q. At what place?

A. In my house, down at my house there, I guess it was—went down to the *Junction* about a block and a half from my house near the *Junk Yard*; I was going up to Mr. *Page's* office, a *Jew ran it*, the *Junk Yard* place.

Q. It was near that? A. Near that, yes, sir.

Q. You then went up to the office of the Gypsy Oil Company? A. Yes, sir, the Gypsy Oil Company.

Q. Who did you see up there? A. I saw Mr. Crowley.

Q. You had a conversation with Mr. Crowley?

A. With Mr. Crowley, yes, sir.

Q. Did it purport to be a message from any one?

By Mr. Hosford: Objected to as leading.

By Mr. Gorman: I don't want to have her tell it if not on the subject of this case, and I don't know— This story is too doggone long for me to keep it in mind.

Q. Was it a conversation about this *Atkins* matter?

A. Yes, sir.

Q. Tell what it was?

A. He said, Sadie did you find any one yet? And I said, no, sir.

By Mr. Hosford: Object to that as incompetent, irrelevant, and immaterial, and hearsay.

A. I said, no, sir. He said, well *Jessie Jones* told us that this boy had gone to Boston, Massachusetts, and he has gone on a trip there right now. He said, do you think he is in Boston and I said yes, sir—lying.

By Mr. Stuart: You were lying, you say?

A. I was lying, yes, sir, and Dennis, too; and he said, we had Minnie down here at Sapulpa taking her testimony since you have been gone, and McGraw and Josey had a fight, said McGraw knocked him down, and I said I would like to have been there and seen it, and he said Sadie when you do find this boy you be very careful because Page and them have got detectives on you and if they find you have found anybody they will take them away from you; the Gypsy was believing me and Dennis there was a Tommy Atkins and they had us out too; I think it must have been about August 12th before I saw Mr. Bartlett.

Q. Is he the next one you saw?

A. He is the next one, yes, sir.

Q. In reference to this case?

A. In reference to that case.

Q. Where was it you saw him?

A. Sapulpa, I went down to Sapulpa at his house.

Q. He lived in Sapulpa?

A. Sapulpa and I heard that he had just came back from Rye.

Q. Rye, Colorado? A. Colorado.

Q. Did you have a conversation with him about the case?

A. After I got home the postmistress at Fort Logan sent me a letter about the sign at the grave of Mabel Peterkin; I didn't have time for her to go out there with me when I was in Fort Logan and she told me—Mrs. Watkins did, she would go out and find out exactly when Mabel died.

Q. Told you of the death of Mabel?

A. The time she died and was born, yes, sir.

Q. You had a conversation with Mr. Bartlett?

A. Yes, sir, I did.

Q. What was that conversation?

A. I said Mr. Bartlett here is a letter I got from the postmistress at Denver, Fort Logan, and he looked at it, and I said I think I can find Tommy. Mr. Bartlett said, Sadie, Dennis—as smart man as he was—went on a trip and fell down and didn't know anything about Thomas Atkins, I don't believe there was a Thomas Atkins, and I wouldn't give five cents for all the Tommy's you can find, and I asked him for some money and he said he didn't have any, said I haven't got much money Sadie, and he handed me a ten dollar bill and said as soon as I can get a start I will give you some money; I was talking to him about the contract, I left that evening.

Q. Where did you go to? A. Went back to Tulsa.

Q. Who did you see there? A. I went to my lawyers.

Q. What is his name? A. C. S. Walker.

Q. Did you have a conversation with him?

A. Well, not about this trip, not about Tommy—about the trip.

Q. What is that?

A. About the trip and what I wanted him to do, yes, sir, but not about this boy.

By Mr. Stuart: Let me ask a question: Was that firm Carroll & Walker?

A. Yes, sir, C. S. Walker, I think that is it, was my attorney, yes, sir.

Q. You told him what you wanted? A. Yes, sir.

Q. What did you tell him?

A. I said, Mr. Walker I went on a trip for Mr. Bartlett to find Minnie and I said I found her and I only got about four——

By Mr. Hanford: Object to that as incompetent, irrelevant, and immaterial.

A. I said I got about four hundred dollars out of him and he owes me six hundred ($600.00) yet; he said well have you got a contract—did you have a contract, you and Bettie with him, and I said yes, sir; he said where is it at, and I said it is up in Mr. George Barnes' office.

Q. Who was Mr. George Barnes?

A. The man who wrote up the contract for us before we were going to find Minnie.

Q. A lawyer?

A. I suppose he is, yes, sir, up the next floor from Mr. Walker's. And he said you go back up there with me to George Barnes and I don't know him up stairs, and Mr. Walker told Mr. Barnes he wanted to get a copy of that contract and he taken a copy of it.

By Mr. Hanford: I am still objecting, I want to object to this original conversation and narrative.

Q. Did you get your money out of Bartlett?

A. Why, he made a settlement with Mr. Walker, yes, sir. Not for the six hundred ($600.00) dollars, not for the amount of six hundred dollars.

Q. Were you discharged then by Mr. Bartlett?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. Mr. Bartlett put me down out there when he was on the trip coming back; he found out that I didn't know after he got this Mr. Dunlap—Dunlap told him that woman is just lying to you, Bartlett.

Q. Who is Dunlap?

A. A big detective from Spokane, Washington, and he sent and got him and put him with me; had these two detectives already that were working for me and got Mr. Dunlap; he was in a big case at Spokane and we had to wait until he came.

Q. And Dunlap found out there wasn't anything?

A. He trailed it down and found out there was nothing to it.

Q. And Bartlett discharged you then?

A. No, sir, he treated me nice until we got back to Sapulpa, and he never did tell me he found out I was lying.

Q. But he took you off the case?

A. He didn't bother me any more with the case, no, sir.

Q. Well, where did you go to from Tulsa, how long did you stay in Tulsa on that occasion?

A. I *staid* in Tulsa for about—I *staid* in Tulsa about three months, but about August 19th——

Q. What happened about August 19th?

A. Between that time Bettie and Rogers came to me.

Q. Who is Rogers? A. Bettie and Rogers.

Q. Who is Rogers?

A. Rogers is the man she lived with, his name is Charlie Rogers.

Q. An Indian or white man?

A. He is an Indian, Cherokee Indian.

Q. A Cherokee Indian? A. Yes, sir.

Q. Did you have a conversation with them? A. I did.

Q. About when was this?

A. That was about August 15th or 16th, I guess.

Q. Somewhere along there?

A. Along in there some place, I don't know the date.

Q. Where was the conversation? A. At my house.

Q. Tell what was said?

A. Bettie and Rogers came there, said, Sade, you are going to get arrested——

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and hearsay.

Q. Which one said that you were going to get arrested?

A. Bettie Mann.

Q. What else was said by either of them or you?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

By Mr. Stuart: The same objection, are all objected to.

By Mr. *German*: On the ground that it is incompetent, irrelevant, and immaterial, and hearsay.

A. They told me that Fred Cook was going to arrest me for passing for a Government officer, the best thing that you can do is stop making a live man.

Q. Who was Fred Cook?

A. One of the Indian agents down in there.

Q. A Government man? A. A Government man, yes, sir.

Q. Special agent? A. Yes, sir.

Q. All right.

A. And Bettie said you know you can do anything with the Gem that you want to——

Q. With whom?

A. The Gem Oil Company, they were working for the Gem because Fred Cook is working for them, they didn't stay very long, they left and on August 19th, on Wednesday it was about a quarter of three I went to my attorney's office, Mr. Walker.

Q. Went to Mr. Walker's?

A. C. S. Walker's office, yes, sir.

Q. What did you see him about?

A. I said: Mr. Walker—shall I tell?

Q. Yes, tell what was said by you and him.

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial as to the conversation.

A. I said, Mr. Walker, I am going to get arrested and he said what for? I said you know I have been running around here making a live man of Tommy, I said Fred Cook is on my trail for passing as a Government officer; he said, well, you told me, Sadie, after I went down and had that settlement with Bartlett, there ain't no Tommy Atkins, and I said yes, sir, and he said who in the devil is Tommy Atkins? I told him what Minnie said, I said Minnie told me when I went out there she drawed the money for her father and I said I want you to go up with me to Mr. Page's and I am going to tell Mr. Page there ain't no Tommy Atkins, and I am going to get out of his way because he is working with Fred Cook making a dead man. Mr. Walker pulled out his watch and it was five minutes till four, he said I won't go with you up there, you go up there and tell Page yourself and I will wait right here in my office until you come back, and you tell me what he said.

Q. And you left Mr. Walker's office?

A. I left at five minutes till four.

Q. Where did you go to?

A. I went to Frank Long's office.

Q. Is that the same as Mr. Page's office?

A. Well, it is on the same floor but not in the same room, Page's office is first as you get off the elevator and Long's next.

Q. You didn't go to Mr. Page's office?

A. No, sir, I didn't know Mr. Page but I knew Mr. Long.

Q. Did you find Mr. Long there?

A. He was in the room there by himself.

Q. Did you have a conversation with him?

A. He said, Hello, Sadie, what are you doing now?

Q. Did you say you had a conversation with him?

A. Yes, sir.

Q. I didn't ask you to relate it. What was the conversation, tell us all that was said by either one of you?

A. He said hello, Sadie, what are you doing now? I said I ain't doing nothin'——

By Mr. Hanford: That is objected to as hearsay.

A. I said I ain't doing nothin', I said I came up here to tell Mr. Page that there ain't no Tommy Atkins, and I am going to get out of the way. He said, well, Mr. Page wants to see you, he said go on and I will take you in there; we came out of the door and walked a few steps and Mr. Long opened Mr. Page's door.

Q. Did you go in there?

A. No, we sat right there by a little railing, there was somebody talking with Mr. Page at his desk; Mr. Long called Mr. Page to us.

Q. Were you in the room?

A. Just inside the room, just inside the door, the door was about half closed.

Q. Is there any railing in there?

A. There was at that time, seemed like a kind of a railing gate you had to go through.

Q. I see, and it was outside of that you and Mr. Long sat? A. Yes, sir, not over inside of the gate at all.

Q. Is that a very large room?

A. I can't describe it now, just what size the room is, and I have been in that room twenty times and I can't describe it.

Q. What was it Mr. Long did?

A. He called Mr. Page to him.

Q. And did Mr. Page come over? A. He did.

Q. What if anything was said by either of them or by you?

A. I had never met Mr. Page, Long said Mr. Page this is that Sadie James, that is the way he spoke it, that Sadie James.

Q. Who spoke next? A. Mr. Page.

Q. What did he say?

A. He said, why hello Sadie, I have been looking for you.

Q. Who spoke next? A. Me.

Q. What did you say?

A. I said, Mr. Page, I came up here to tell you there is no Tommy Atkins.

Q. Who spoke next? A. Mr. Page.

Q. What did he say?

A. He said, I don't give a damn if there ain't, the Government record says so and we will make one. He said, Sadie, you know what we want—I did. They wanted to make a dead boy; I said yes; he said I want the birth and death of Thomas Atkins established in Leavenworth, Kansas. Can you do it? I said yes. He said I have been informed from friends of mine in Leavenworth, Kansas, that Dennis Jones is a shrewd man, he has been on the police force, and has been a detective, he is a lawyer and is a politician, and his influence in this case will help it, can't you get it? I said, Mr. Page, Dennis Jones and Rube Smith are my co-workers, they have been working for me all the time, but I can't get Dennis as easily as I can Rube because Dennis has just come back from a long trip with the Gypsy making a live man and he will hate to start now—turn around and make a dead one for him. He said, you tell Dennis Jones if he don't stop making a live man he will get arrested. By that time Mr. Long and I walked out of the office, got outside in the hall and Long said, Sadie——

Q. You say you and Long went out in the hall?

A. Yes, sir, down in the hall, Mr. Page went on back.

Q. Did you have a conversation there?

A. Yes, sir, in the hall way.

Q. What was said by both of you?

A. He said, Sadie, come go up stairs to Ben Rice's office and give him the name of the witnesses you have been working with. Now, before that—can I call myself back?

Q. Yes, where to? A. In the office.

Q. All right, was something else said in the office?

A. Yes, sir.

Q. Who said it? A. Mr. Page.

Q. What was it?

A. He said, Sadie, you meet me in my park tonight at eight o'clock.

Q. Was that said by Mr. Page? A. By Mr. Page himself.

Q. As a part of the conversation that took place before you and Mr. Long walked down the hall? A. Yes, sir.

Q. What did you say to him?

A. I told him all right, because I knew where the park was.

Q. Well, did he tell you what hour to meet him there?

A. Eight o'clock.

Q. Eight o'clock? A. Yes, sir.

Q. Did you know where his park was?

A. I had never been in it, but I knew where it was.

Q. Where was it? A. Out at Sand Springs.

Q. How far from Tulsa? A. Six or seven miles I guess.

Q. What direction?

A. Now, I have been to that park, I think it is south, yes, I guess it is south.

Q. Where with reference to the Arkansas River?

A. I don't know that. That park. I have been going to a colored park all the time, and lots of times take the car and go clear around to Mr. Page's park.

Q. The park is near Sand Springs?

A. Right in Sand Springs. before you get to Sand Springs —that is, Page's park for colored people——

Q. It is connected with Tulsa by interurban? A. Yes, sir.

Q. Now, what was said out in the hall by you and Mr. Long in addition to what you have already stated?

A. I want you to go up stairs and give Ben Rice the names of the witnesses you are going to give us that you have been working with. We went on the elevator and went up stairs to Mr. Rice's office.

Q. Who is he?

A. He is their attorney. I hadn't never seen him before.

Q. Of the firm of Rice & Lyons?

A. Yes, sir, the first time I had ever seen him.

Q. What did you do up stairs?

A. Walked in his office, he was in there alone, and Mr. *Lond* said Ben this is that Sadie James, said she has come up stairs to give you the names of the witnesses that has been working with her, but we have hired her and she is going to work for us. Mr. Rice said what are the names? I said Dennis Jones; Mr. Rice said, can you get Dennis? I said yes. I said Rube Smith and Kate Logan, Mary and Claude Hamilton. Frank Long spoke up and said we don't need the Hamilton's, because we can't handle them. I said well I can handle them. Mr. Long and I came on back down stairs and he said: Now, Sadie——

Q. Where did you go to when you went down stairs?

A. On the elevator, I was going on home. He said, Sadie, don't forget tonight.

Q. Where did you go to then?

A. I went from there on back down to my lawyer's, he was waiting for me.

Q. Was that all the conversation you had with Mr. Long that afternoon? A. That day, I had another one that night.

Q. I understand. So you went back to see your lawyer?

A. Went back to Mr. Walker's, yes, sir.

Q. Mr. Walker? A. Yes, sir.

Q. Did you have a conversation with him? A. Yes, sir.

Q. State the conversation?

A. Mr. Walker said, did you go up there and tell Page, and I said, yes, sir, and I said I got a job, and he said a job, and I said, yes, sir, and he said to do what? And I said to hire some witnesses for him. He said you and Charles Page and Frank Long and Josey are going to the penitentiary. I said, I don't care if I do I am going to make me some money. I said he told me you come out in the park tonight about eight o'clock, and I said whatever is done out there or said, I will come to your office tomorrow and tell you, and he said all right. That was then about half past five or near six, near that time; I went home and told my husband that I had to meet Mr. Page in the park that night at eight o'clock, and he said, well, you can't go out there by yourself, and I said, well, you can go.

Q. Well, did you go? A. I did go, yes, sir.

Q. At what hour?

A. I left home about seven, I think it was about seven o'clock when we left town.

Q. Who went with you?

A. Will James, my husband, and when we got near the park, that was in the summer time and the car was open, I looked out at the station and Frank Long was standing there. Well, my husband had never seen Frank Long and I said, there is Long now.

Q. Did you get off the car at the park?

A. Got off the car right at the park station, yes, sir.

Q. How far is it from the park station to the park?

A. Well, it is a good ways up there, the park station is right at the park.

Q. Mr. Long was at the station?

A. Yes, sir, I introduced Mr. Long to my husband, he didn't know him and he said, come on now we will go up here in the park and I will set you down here until I go and find Mr. Page.

Q. Well, did you do that?

A. Yes, sir, sat us down—the park was full of white people, we were the only negroes out there. He sat me down there and went to look for Mr. Page.

Q. Where did he set you down in the park with reference to where the white people were?

A. Oh, it was a kind of a *shoot* the *shutes* out there, and he sat us about as far from that as from here to that door.

Q. About thirty or forty feet?

A. Yes, sir, I guess that is about it, just the way I judge of the distance.

Q. Were there any white people around close to where he sat you?

A. No, not about that particular spot, they were all down close to another place. They saw us though.

Q. Did anybody talk with you there in the park besides Mr. Long and Mr. Page and your husband that night?

A. No, sir.

Q. Well, what occurred after Mr. Long sat you down there?

A. He went and got Mr. Page from some where and brought him to us and introduced Mr. Page to my husband, Mr. Page had never seen him; Mr. Page said, Sadie——

Q. Did you have a conversation with Mr. Page?

A. Yes, sir.

Q. Who was present when the conversation took place?

A. My husband and Mr. Page and Mr. Long and myself, just us four, wasn't nobody around us.

Q. Relate the conversation?

A. Mr. Page said, Sadie, you know what I want. I want the birth and death of Thomas Atkins established in Leavenworth, Kansas, and what will you charge to get witnesses to swear it? Well, I sat there a few minutes trying to think about what I should say to him, and he said I know what I will give you, I will give you a thousand ($1000.00) dollars; I said I will take it. The minute I said I will take it we were standing close together, Mr. Long, Mr. Page, my husband, and myself, the minute I said that Mr. Page said Long pull Fred Cook off of Sadie and tell him to let her alone she is working for me; at that time there was a little shower of rain started and Mr. Page and all three of us walked over in the drinking pavilion out of the rain, Mr. Page and I sat down together and my husband and Mr. Long right close to us; I said to him, Mr. Page, I want a contract. He said, Why, Sadie, you know me, I pay everybody; I said, yes, but I am having some trouble with a man now about a contract and he said why don't you sue. He said he sent his boy up in Kansas and got a forged deed and he ought to be put in the pen, and I wouldn't want to see a yellow dog in there, and I says, No, he didn't, I know something about that deed.

Q. That was the Bartlett deed?

A. Yes, sir. I said I know something about that deed, I said I want to get my lawyers to come up to your office and make out a contract. He said who are your lawyers? And I said Judge Williams, Judge Denison, and C. S. Walker. He said Williams & Dennison is all right, but don't get Walker, he has got a yellow streak up his back and he will holler, you meet me at my office in the morning at ten o'clock. While sitting there talking, I said, Mr. Page, if we are going to make a negro case out of this, what are you going to do with that testimony that Minnie gave at Sapulpa, I said there is where you made a mistake, in letting her go on the stand and swear that lie, saying she had a baby in the hospital, don't you know you can't get the Sisters or Charity to tell a lie?

Q. What did he say to that?

A. He said, well, I will make her go back on the stand and say the reason she told that lie she didn't want her husband to know she lived with negroes.

Q. What else was said up there to you on that occasion?

A. Nothing right there, he told me to meet him.

Q. What did he say if anything when you told him you wanted a written contract?

A. He told me to come up the next morning at ten o'clock to his office.

Q. Did you leave the park?

A. Yes, sir, left the park; we had been out there I guess an hour, it was raining and we couldn't go.

Q. Did you see him the next morning?

A. Saw him the next morning.

Q. Where? A. In his office.

Q. Did you have any conversation with him? A. I did.

Q. Had you seen Frank Long before you saw Mr. Page?

A. No, sir, they were both there when I got there.

Q. In the office? A. In the office.

Q. Did you have a conversation with him? A. Yes, sir.

Q. Relate it.

A. Mr. Page said, Sadie, you don't need no contract, said Long can draw you up one and if it don't suit you you can change it. I told him that is all right, and he said how do you want it made out? I said, I want my contract made out with a thousand ($1000.00) dollar check for myself.

Q. For youself?

A. For myself, yes, sir, and five hundred ($500.00) dollars for expenses. I didn't know—I said I want on it to say for producing witnesses. He said, Long you make Sadie out a contract, and Mr. Long went somewhere and after a while he came back and I looked at it and it was satisfactory to me; and Mr. Page said, Now Long, you and Sadie go over and put that in the Exchange National Bank, and I said no I want it in the First National. He said, Sadie, this is our bank over there and we do all our business there and I said, yes, but I have been dealing with the First National Bank ever since I have been in Tulsa; and he told Mr. Long to go down there, and he said after you get through down there you come back up stairs.

Q. Sadie, was there a check written out for the thousand dollars?

A. Right there, yes, sir. Mr. Long went in the other room and brought the check out, and Mr. Page looked at it and signed it and put it in the envelope in front of me, I was sitting there and I wanted to see him put it in there.

Q. Was the envelope sealed or not?

A. Yes, sir, we put it in another one and carried it down to the bank, the check was in an envelope.

Q. On what was this contract written?

A. For me to get those witnesses.

Q. But what was it written on?

A. I don't know, that is all, but I don't know—that is all there was to it with a check inside.

Q. I show you Government's Exhibit No. 2, I wish you would look at it? A. That is my contract, yes, sir.

Q. That is the contract, is it?

A. That is my contract, yes, sir.

Q. It is your signature at the bottom? A. That is my signature right there.

Q. Near the bottom? A. Yes, sir, that is my signature.

Q. That, Sadie, is an envelope and it is sealed, is there anything in that?

A. A thousand dollar check in there, a check for a thousand dollars ($1,000.00) in that contract.

Q. Is that the check you referred to?

A. Yes, sir, a thousand dollars.

Q. And signed there in Page's office?

A. In Page's office.

Q. Who is it payable to? A. To me, to Sadie James.

By Mr. German: We offer this Exhibit No. 42.

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, not bearing upon the issues in controversy.

Q. Who drafted that contract, who wrote it out on the back of this envelope? A. Mr. Long.

Q. Mr. Long? A. Yes, sir.

Q. Who worded it if you know?

A. I told him what I wanted it to read, for producing witnesses, and Mr. Long taken it in to the other room.

By Mr. Stuart: Mr. Long says there is a check in there for a thousand ($1,000.00) dollars, and we assume that to be true; if it turns out not to be true, I don't want to be bound by that admission, but I think it is there.

By Mr. German: I am satisfied it is there.

By Mr. Stuart: I say this, Your Honor. Mr. German asked that it be opened——

By Mr. German: No, I did not.

By Mr. Allen: I suggested that to Mr. German, not for the record. I was just discussing it with Mr. German.

By Mr. German: I don't object personally to it being opened.

By Mr. Stuart: Then, I understand that the Government is not asking for this document to be opened?

By Mr. German: At this time?

By Mr. Stuart: At this time. Then, of course, I make no admissions in reference to the document.

Q. Sadie, was anything else said at the time of the execution of the contract? A. Yes, sir.

Q. What was it?

A. Mr. Page, after I went and put it in the Exchange National, he said, You and Long go down to the First National and then come back up here. We went down there and Mr. Long read the contract—showed Mr. Bradshaw the contract; and he said, Ben, you understand this, and Bradshaw, he said he did, and we went back up stairs.

Q. What did you do with the contract?

A. Left it there with the bank, left it there with him.

Q. For safe keeping? A. Yes, sir.

Q. What instructions, if any, were given to him?

A. None at that trip.

Q. None on that trip? A. No, sir, none at that minute.

Q. Then you and Mr. Long went back up stairs?

A. Went back up stairs.

Q. Who did you see?

A. Saw Mr. Page. Nobody in the room but Mr. Page.

Q. What was said?

A. Mr. Page said, Sadie, whatever you do in this case don't bring it to me because I don't want to know it, you work with Long, Frank Long. Frank Long throwed up his hands this way and said: Sadie, you are working single handed, you go along and arrange the witnesses and I will come after them and lead them. Mr. Page said, will you go thi*d* afternoon? And I told him yes. Go tonight? And I said yes.

Long said you leave on the Santa Fe and that will throw you in Leavenworth about eighty-thirty, and I will leave on the Frisco and that will leave me get in there an hour behind you and you can be seeing some of them and talk to them and I will page you at the National Hotel—— He will page himself there where he would be at—the National.

Q. He would page himself?

A. Page himself at the National Hotel, and when I got to Leavenworth that is where I would find him, call him up. Mr. Long and I walked down the hall and when we got in the hall, he said, Sadie, Hanford is in my office and I want you to meet him; and I said, I don't want to meet Hanford, because I told him when I was in Seattle if ever I caught him in Oklahoma I was going to smash his mouth and I don't want to see him; and Long said, this is a money matter now, and let by-gone's be by-gone's; and I said well in a case like this I will; he said, you needn't tell Hanford nothing I told you; he taken me in his room—Mr. Long's room——

Q. Now, let's go back a minute, had you and Mr. Hanford had any quarrel at Seattle?

A. No, he had run me down to the depot to arrest me that night, the last night I was there, brought officers down there to run me out of Seattle.

Q. On the occasion that you had Clara Kirk there?

A. Yes, sir.

Q. Did you see him that night?

A. No, sir, I didn't see him, I sent him word back—I didn't see him.

Q. Who did you send him word by?

A. I sent him word by Mr. Bartlett, for Mr. Bartlett to tell him, I don't know whether he told him or not.

Q. What was it you told him?

A. I told Mr. Bartlett, you tell that Hanford if ever I catch him in Oklahoma I will smash his mouth; I said, he came down to the depot with two officers to run me out of town, said my sister-in-law was notorious and I was too, and I don't know whether he told him or no.

Q. That was on the occasion of your and Clara Kirk's leaving Seattle? A. Yes, sir.

Q. In July? A. In July, yes, sir.

Q. Now, going back to the time that you and Mr. Long went up to his and Mr. Page's office and he spoke of Mr. Hanford being there, relate the conversation there?

A. Well, I just said that much; he taken me into his office, Mr. Long did, and said, I will be back in a minute; when he came back he brought Mr. Hanford with him and Hanford walked in and said, Hello Sadie, I suppose you are mad, and before I could say a word, Mr. Long spoke up and said: No, Sadie is one of those kind, she lets by-gones be by-gones, and he said, I will be back in a minute—that was Mr. Long. That left nobody in there but me and Mr. Stanford.

Q. Did you and he have a conversation there? A. Yes, sir.

Q. What was said in that conversation?

A. He and I were sitting down at the same table together and I said, where is Minnie, and he said she is back out in Seattle; and I said you fell down on that little trip didn't you, and he said yes; and I said where you made a mistake was letting Minnie go on the stand in Sapulpa and say a lie and say that the baby was born in the hospital and she hadn't seen it since it was two years old; and I said, don't you know you can't get Sisters of Charity to tell a lie?

By Mr. Stuart: We object to that because it is repetition, it's been told three times.

By Mr. Cornman: No, this is a conversation with Stanford.

A. I said, you understand I am going to make a negro case out of it now; and he said, do you think you can make it? Long told me not to say anything to him, but I told him, I said: Where you made a mistake was letting Minnie go on the stand in Sapulpa and tell that lie on the stand, saying the child was born in a hospital, and she gave it away when it was two years old. I said, don't you know you can't get Sisters of Charity to tell a lie; I said, you understand now I am going to make a negro case out of it; he said, you think you can work it? I said yes; he said, I took old Minnie to Leavenworth and she didn't know anybody, she didn't know where to take me. I said, Minnie wasn't acquainted in the town she worked in the Fort. By this time Mr. Long came back in the office and I went back into Mr. Page's office.

Q. Who did you see there? A. Nobody but Mr. Page still.

Q. Did you have a conversation with him? A. Yes, sir.

Q. Relate the conversation.

A. He said, Sadie when you get to Leavenworth if you get Dennis Jones you bring him to me, I want to see him and talk to him. I went right on up town to my lawyer's office, right away from that place to C. S. Walker's office.

Q. Did you have a conversation with him? A. Yes, sir.

Q. Relate the conversation?

A. I said, Mr. Walker, I told him what was going on in the park that night, I got a contract placed in the First National Bank and I want him to draw a copy of that contract and notify Mr. Bradshaw in front of me not to let anybody take it out, because I am afraid they will steal it, because they

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tried to get me to put it in the Exchange National; that was about half past twelve that same day. Walker and I went up to the bank——

Q. What occurred at the bank?

A. Mr. Walker asked Mr. Bradshaw to let him see the contract.

Q. Did he agree to do so?

A. Yes, he did, and he said then I want a copy of it, and Mr. Walker took a copy off of that and came back out on the street, and I goes up town and gets Judge Williams, another one of my attorneys, and brings him back down to the bank and he got a copy of it, I told him the same thing: I was afraid they would steal it out of the bank, because they wanted to put it in the Exchange National too bad; and I went home then; and I was to come back there at three o'clock to go to Leavenworth.

Q. Come back where?

A. To Mr. Page's office to get a check to leave that night to go to Leavenworth; I came back about two o'clock that afternoon.

Q. Whom did you see? A. Mr. Page and Frank Long.

Q. What was said, if anything?

A. Mr. Page said, Sadie you are going to leave tonight? and I said, yes, sir; and he said how much do you want, and I said one hundred ($100.00) dollars; and Long said no we will give you a check for fifty and when I get to Leavenworth I will give you some more, and I said all right. Mr. Long went out and pretty soon he came back with a fifty dollar check and I cashed it.

Q. Did you get the cash on that check? A. Yes, sir.

Q. The same day your contract was entered into?

A. The same day, yes, sir; I left that night, that night I left on the eight-ten on the Santa Fe.

Q. Where did you leave for?

A. I left for Leavenworth, and I got in Leavenworth on Friday morning at eight-thirty about August 21st.

Q. Where did you go after you got to Leavenworth?

A. As I got off the electric car I saw Rube Smith on the corner—I don't know what is in the place now—the northwest corner.

Q. Right where you stop and get off the car?

A. Yes, he was on the other corner and he looked and saw me and I beckoned him to come over.

Q. Did you have a conversation with him?

A. Yes, sir, I did.

Q. Relate the conversation?

A. He said when did you come, and I said I just come from Kansas City this morning, I started from Tulsa last night and I got in Kansas City, I said, Rube you know I have been working, I said, for Hugh Bartlett, and he said yes, and I said I quit for him now and gone to working for the Gem, because they are working for the Government. I said you can do anything in this case you want and won't get arrested and I said, will you work? and Rube said yes, and he asked me where I was going to stop at and I said stop down at Miss Patty's down in the alley—Miss Martha Smith, down the alley and he taken my handbag.

Q. Who was Miss Martha Smith?

A. Miss Martha Smith lives in the rear of Cherokee between Third and Fourth in the alley.

Q. White or colored?

A. Colored woman, one of Rube's clients.

Q. What age is she about?

A. She is about fifty-nine I guess. She and my mother used to run together years ago when I was small.

Q. What was done then? A. Rube and I finished talking.

Q. Tell the rest of the conversation?

A. When I got down there he said how much do you think I ought to make out of it, and I said about five or six hundred dollars.

Q. Where was that? A. At Miss Martha's.

Q. At the house?

A. Yes, sir, and I said about five or six hundred dollars.

Q. Who was this talk in the presence of if anyone?

A. No, sir, Miss Martha had gone up stairs.

Q. Go ahead with the conversation?

A. He said how much do you think I could make out of it, and I said about six or seven Hundred dollars, and he said who will I see, and I said Frank Long will be up here pretty soon and I came up here to see if I can hire you all for them; it will be about an hour before he gets up here; and Rube says I got to go to the Court House, I've got a case over there, and when he comes you call me up so I can meet him. Rube left and about the time I thought Mr. Long had come—got in town you know—I guess he had been there about an hour and pretty near a half in town, I went up to Third and Cherokee.

Q. You didn't talk with Martha Smith on that occasion?

A. Oh, no, sir.

Q. Is that the same woman Dennis referred to in the conversation you had in the spring?

A. Oh, that was Mary Smith a white woman; Mary Smith is a white woman, Martha Smith is a colored woman, Mary is a white one—the one that had a negro sister.

Q. Why did you go there?

A. You can get anything you want down there, she runs a kind of a boarding place in the alley.

Q. A convenient place for you to go?

A. To do anything you want to, yes, sir.

Q. You went to the hotel?

A. No, sir, I went to Third and Cherokee Street, the drug store there, I called the National Hotel and asked them.

Q. Where was the National Hotel, what street is it on?

A. It is on the corner of Fourth and Cherokee.

Q. You say you were one block from the National?

A. One block in the alley; I went to Third and Cherokee in the drug store and got Mr. Long.

Q. On the 'phone?

A. On the 'phone and told him how to get where I was, told him to come down the street from the National and only come to the alley and to turn and go on down I would be looking for him.

Q. Did he come?

A. Yes, sir, in a few minutes, wasn't no time, about the time I got back to the alley I turned and he came into the alley from the other end.

Q. He came to meet you?

A. He came in the house, yes, sir.

Q. He came up the alley?

A. Yes, sir, that's the only way you can get in there that is in the alley way; and he caught me in the house.

Q. Did you have any conversation then? A. Yes, sir.

Q. Relate it.

A. He said, have you seen Dennis, and I said no sir not yet, but I have seen Rube. And he said, will he work? And I said, yes, Rube will work. He said is that all you have seen, and I said yes, and he said I am going down to Aunt Kate Logan's now—another name I had given him.

Q. Who was Aunt Kate Logan?

A. Witness Dennis had.

Q. Colored or white?

A. Colored woman—she at that time——

Q. What had been her business?

A. Aunt Kate's business?

Q. Yes?

A. She had been selling clothes—second hand clothes around town, but she had been sick for quite a bit, very sick; I said I will go on down to Aunt Kate Logan's and he said which way does she live, and I said Seventh and Shawnee. I said you go down Shawnee and I will be standing out there waiting for you.

Q. Where was Shawnee Street with reference to Cherokee Street? A. Shawnee is north of Cherokee Street.

Q. How many blocks? A. Two blocks from Cherokee.

Q. Delaware is between Cherokee and Shawnee, is it?

A. Yes, sir, between Cherokee and Shawnee.

Q. And Seventh Street is west of Third Street, isn't it?

A. Yes, sir.

Q. Three blocks?

A. Three blocks—four blocks it would be.

Q. Four blocks from Third and Cherokee?

A. Yes, sir.

Q. That is Seventh and Shawnee would be?

A. Seventh and Shawnee, that is where we were to meet at.

Q. What did you do after that arrangement to meet there? A. I went on down to Aunt Kate's.

Q. Alone? A Yes, sir, by myself.

Q. Who did you find there?

A. No one in there but Aunt Kate sick in the bed, Aunt Kate Logan.

Q. Did you have a conversation with her before Mr. Long came? A. I did, I said——

Q. Tell the conversation.

A. I said, Aunt Kate you know the case Dennis was talking to you about, and she said yes about the Indian Woman's case, and I said yes, and I said well a white man is here now and wants you to work for him and wants to get a statement out of you, and she said I am so sick now I don't know whether I can give it or not, when will he come? And I said he will be here pretty quick, I was there probably a half hour before he came.

Q. He finally came?

A. Yes, he came down Shawnee as I walked out on the porch, old Aunt Kate's porch to see if I could see Mr. Long, I saw him coming down Shawnee near Seventh looking in the direction that I told him, and as soon as he saw me I walked right back in Aunt Kate's house.

Q. He came in?

A. Yes, sir, and I introduced him to Aunt Kate.

Q. Relate the conversation that took place?

A. He said Aunt Kate, I suppose you have been talking to Sadie; and Aunt Kate said yes, and he said Aunt Kate, I would like to get a statement out of you what you are going to say, and she said I am awful sick now, and she started in to a coughing spell—very sick, and that left Mr. Long and myself to talk; and he said, Sadie, I met George Crilly and he said you know he run the stable across from where Granny lived, and I hired him in the case. Mr. Long said in talking to George Crilly he found out George Crilly was a school mate of Mr. Long's mother, and I hired him in the case. By that time

Dr. Jackson, a colored doctor there at Leavenworth, he came in—that was Aunt Kate's doctor, and I introduced him to Mr. Long. Long said to me, you reckon we can get him, and I said, no, I said, because he wasn't nothing but a boy at that time.

Q. Did he say that in the hearing of Dr. Jackson?

A. I don't know whether Dr. Jackson heard him or not, he was standing about as close to us as Judge Allen.

Q. Yes?

A. He said, Dr. Jackson, I want to get a statement out of Aunt Kate, do you think she is able to talk? and Dr. Jackson said well I don't know, she is pretty sick, but if she don't have to talk long, he said, all right. Dr. Jackson he doctored on Kate whatever he was going to do. By that time Rube Smith's boy Albert he came in, he was living with Aunt Kate. I introduced him to Mr. Long and I said, Albert, you go and telephone for your father and tell him to come down to Aunt Kate Logan's, I want to see him. I didn't know where Rube was but he wasn't over twenty minutes coming.

Q. Rube finally came?

A. He came, yes, sir; and by that time Dr. Jackson was gone; he was writing now what Aunt Kate was telling him.

Q. He was talking to Aunt Kate?

A. Yes, sir, and writing it down. He had a paper about the size of that writing on the table what Aunt Kate was going to tell; you see Dennis had got Aunt Kate a long ways back before he was working for Mr. Long.

Q. What did she tell him?

A. Aunt Kate told him, yes, I seen the baby when it was two weeks old. He said when was the last time you seen him, and Aunt Kate said he was about nine or ten years old playing around the street; and he told Aunt Kate that was good, didn't ask her what she was going to tell, he told me to talk to my witnesses as I went; Long said Aunt Kate there is going to be a lot of money in this case and what you need after you get it is a trip to Claremore, because you are in awful bad shape. He gave Aunt Kate a paper dollar and said I am going up to the drug store and I will send you down some medicine, Aunt Kate for that cough you have got. By that time Rube came, Rube Smith.

Q. Had Mr. Long gone before Rube came?

A. No, Rube was to meet us right there, I sent his son to call him up, Rube walked in and I introduced him to Frank Long.

Q. Did you have any conversation? A. Yes, sir.

Q. Relate the conversation?

A. Frank Long said to Rube I suppose you have been talking to Sadie, and Rube told him yes, and he said what do you want to work for?

Q. Who said that?

A. Mr. Long asked Rube what do you want to work for, and Rube said I want five dollars a day and expenses, and five hundred dollars when the case is completed and Mr. Long said all right. By that time Aunt Kate wanted to get up out of bed and they had to go out on the porch until I assisted her up. After I got her in bed I walked out on the porch and Mr. Long looked at his watch and said, Sadie, it is past my dinner time, you go on now and meet Dennis; and Rube said when will we meet again, and Mr. Long said we will meet again down at Miss Martha's about four o'clock.

Q. That is the same place you first went to that morning?

A. Yes, sir, he said, Now Sadie when you go down the street—down to Dennis', if you get Dennis to work, you call me at the National and I am going on down there. By the time I got down to Dennis' office about half past twelve, or near one o'clock, Dennis was in his office.

Q. You saw Dennis? A. Yes, sir.

Q. Did you have a talk with him? A. Yes, sir.

Q. Relate the conversation?

A. I said Dennis I have made money off of Hugh Bartlett and you got money off the Gipsy; I said, well I have quit working for Bartlett and gone to working for the Gem, and I said will you work, and he said no, he said I have met the head man of the Gipsy through Lee Bond, and the Gipsy gave me a job and I have just come back from a trip making a live man for them, and I am not going to stop making a live man now and go to making a dead boy for the Gem; and I said Mr. Page told me to tell you if you didn't quit making a live man you will get arrested, and they are working with the Government; and at that time I did think so. Dennis said all right, I will work, what do you think I ought to make out of it Sadie? and I said eight or nine hundred dollars and he said who am I going to meet, and I said Frank Long is here, the Secretary, and he wants to meet you, and I said when he comes Dennis, don't you make no contract with him, he is nothing but the Secretary; I says, you tell him that you want to see the boss, because I had my contract made out with him, but don't you tell him what I said—not tell Long what I said; and I said when can you meet him, and he said two o'clock; and I stepped to the 'phone and called Mr. Long up, he was at the National.

Q. What did you tell Mr. Long?

A. Over the 'phone I says Dennis says to meet him in his office at Two o'clock, and he said where are you at now? and

I said down at Dennis' office, about one o'clock then, little past one because we had been talking quite a bit, about two Dennis and I were talking about other matters of our own, we had some business at that time and we were talking about our other business. About two o'clock, here come Frank Long up the stairs and I introduced him to Dennis and he says——

Q. About two, you say? A. About two o'clock, yes, sir.

Q. In the afternoon? A. In the afternoon, yes, sir.

Q. Then, you had a conversation about this matter?

A. Yes, sir.

Q. Relate the conversation?

A. I introduced him to Mr. Long, and Mr. Long said, Well, Dennis, you have been talking to Sadie, Dennis said yes, he said, well what will you work for and Dennis said, I want a contract, and he said well I can make you out one, and Dennis said no I want to see the boss man, and Long said can you get ready and leave here tonight? And Dennis said no. He either said Saturday or Monday was Motion day, I wouldn't say which day but Saturday or Monday either one was Motion day and the attorneys were cited to be there. That was in the Leavenworth Court. And Dennis said I will tell you what I will do, I will leave here Monday night provided Sadie meets me at the depot, because I haven't been used to going down in those Jim Crow towns—can I call myself black?

Q. Yes, where to?

A. In the same room before Mr. Long came down there.

Q. Something else said that you didn't relate?

A. Yes, sir.

Q. State what it was?

A. I told Dennis Mr. Page told me if I got you to work for me to bring you to him, he wanted to talk to you, that is all. The agreement was made then for Dennis to go down; he said, Mr. Jones, are you working for the Gipsy yet, and he said I don't know, he says here is a letter I got from them, and he asked Dennis to let him see it.

Q. Have you related all the conversation that was had between Dennis and Mr. Long?

A. Yes, sir, only except about the letter.

Q. Except about the letter? A. Yes, sir.

Q. Well, tell that?

A. He said, are you working for the Gipsy yet, and Dennis said I don't know, I just got a letter from them.

Q. That is before or after Mr. Long got to the office?

A. We were talking to Mr. Long about Mr. Long's hiring him.

Q. Go ahead.

A. Mr. Long said let him see it, and Dennis let him see it. The letter read like this: We have investigated your statements and they have been verified. That is the way the letter read. And Dennis said then they gave me a check for three hundred ($300.00) dollars, sent me three hundred dollars, and Frank Long said let me take that down to my lawyer and Dennis said no I will bring it when I come. We left out of his office and when we got down to the bottom of the steps Frank Long said to me, Now Sadie don't forget the appointment with Rube at Four o'clock at Miss Martha's, and I said all right. That was maybe a quarter of three, if that late, when we came down. I didn't meet him, I went up town and got drunk—big drunk, yes, sir; and about half past seven in the evening a girl was bringing me down the street and I met Frank Long at Fourth and Delaware, and this girl had hold of me and Frank Long said where did Sadie get this jag.

Q. Who said that?

A. Frank Long; and she said she went up to one of the girl's and got drunk, and he said let's get off the street before she gets arrested; and Frank Long taken hold of one of my arms and this girl to the other.

Q. Where did they take you to?

A. Down the alley to Miss Martha's, and we got down there——

Q. What happened?

A. Frank Long told Miss Martha, now you put Sadie to bed and see that she don't get nothing more to drink that night and I will be back later on?

Q. Did she do it?

A. Yes, sir, some one did it, I was drunk but had good sense but I couldn't handle myself, I had been drunk quite a while that evening. In the morning about eight-thirty Frank Long came.

Q. Did you talk with him? A. Yes, sir.

Q. Was you sober?

A. I was sober but I was sick, and he says Sadie I was here last night and you were lying up there dead drunk and asleep and I didn't try to disturb you but let you alone, and he said you had your breakfast yet? and I said no, and he said do you want some whiskey, and he handed Miss Martha a dollar and said you get some whiskey and brace yourself up Sadie and catch the twelve-thirty car, because Hanford and Bettie are down in Kansas City and they are going to come up here and meet these witnesses and there is no use of you and old Bettie running together because we wont let her know what we are doing in the case, and he left. Well, at twelve-thirty I did catch a car——

Q. Where did you go to?

A. I went home, went to Kansas City and *staid* until that evening, I forget the time the train pulled out that night, but I left here and went to Tulsa, I got to Tulsa Sunday morning.

Q. Who did you see?

A. Not right that minute I didn't see anybody but I called up Mr. Page.

Q. What did you tell him?

A. I told him I just got back, I said, Mr. Page, I just got back, and he said did you get Dennis, and I told him yes, and he said I tell you what you do Sadie, you meet me at Archer and Main at two o'clock at my station, and I told him all right; about a quarter of two me and my husband went down there.

Q. Did you see Mr. Page?

A. Yes, sir, sitting on the bench waiting for us.

Q. Where is that? A. At Main and Archer.

Q. Did you have a conversation with him?

A. Yes, sir, he taken us on the inside and we were sitting on the bench.

Q. Relate the conversation?

A. He said Sadie did you get Dennis, talking about Dennis, and he said when is he going to come and I said Tuesday morning, Mr. Page; and he said don't you fail now in meeting him Sadie, and I said all right. We didn't stay there very long, because Rogers at that time—Bettie's man—was passing and Mr. Page seen him out there, and he said I don't want Rogers to see you all with me.

Q. Bettie's man Rogers?

A. Yes, sir, passed along and we went out the side way on Archer and started home.

Q. What was it Mr. Page said about him?

A. We were sitting so we could look out on Archer, and before we got to the corner Mr. Page thought he was coming around the front and come in on Main Street in the place to see him, and he told us he didn't want Rogers to see us with him, because Rogers and Bettie were working for him at that time; so Will and I got up then and went on out on Archer toward home; well, I didn't go up there any more until Tuesday morning.

Q. Where did you go Tuesday morning?

A. Tuesday morning I met Dennis at the train; it was raining like sixty and Will said to me you can't meet Dennis—

Q. Never mind what he said?

A. I went up there before the train come in and I said to the cab man, I said I got a man coming down here——

Q. You needn't to tell what you said to him.

A. And when Dennis got off of the train he said I had a pretty ride in a car by myself last night all the way down here, and I said come on in Dennis I got a cab out here for you.

Q. What did you and he do then? A. Got in this cab.

Q. Where did you go?

A. Went to a restaurant and got breakfast and I told the cab man to wait until we got through.

Q. And then where did you go?

A. I told the cab man to take us to the First National Bank Building, and he said shall I wait for you Sadie?—The cab man—and I said no I don't know how long I will be up in here, and I taken Dennis on up stairs.

Q. To what office? A. To Mr. Page's office.

Q. His office in the First National Bank Building?

A. Up stairs in the First National Bank Building.

Q. Sadie, what have you told, if anything, Mr. Page when —on the occasion when you contracted with him with reference to Dennis Jones and Rube Smith and their ability in the matter of proof? A. In the matter of proof?

Q. Producing proof? A. Producing proof?

Q. Yes? A. How was I going to do it?

Q. Did you tell him anything about them?

A. I had told Mr. Page there wasn't no Tommy Atkins, and he said he didn't give a damn if there wasn't, would make one.

Q. What did you say to Page about Rube Smith and Dennis Jones?

A. I told him Dennis had just got back from a lying trip for the Gipsy, that is all. He said he heard from friends in Leavenworth that Dennis Jones was a shrewd man. Mr. Page didn't tell us to bring anybody to him but Dennis.

Q. Go back now to the occasion——

A. We walked in to Mr. Page's office, I taken Dennis, and Mr. Page was in there alone.

Q. Did you have a conversation with him?

A. Introduced Mr. Page to Dennis.

Q. Tell the conversation?

A. He said, hello Dennis, I heard a lot of talk about you and I have been wanting to see you, and he said let's go in Long's room. We walked into Mr. Long's room and about the time we got into Mr. Long's room, Ben Rice and Mr. Long walked in. I don't think the table is quite as long as this in Mr. Long's room, and Ben Rice was at the head of the table and Dennis on that side and Mr. Long stood up between me and Dennis, and I sat at the end of the table.

Q. Dennis sat at your left?

A. Yes, Mr. Page was standing between Dennis and I, Ben Rice at the head of the table that way facing me, and Frank Long sat over on this side.

Q. The other side of the table from Dennis?

A. Yes, sir, the other side in front of Dennis.

Q. What was the conversation on that occasion?

A. When they walked in Frank Long introduced Mr. Rice to Dennis, Mr. Page said Denny how long have you lived in Leavenworth, Kansas? and Dennis said fifty years, and he said you are a lawyer aint you Denny, and Dennis said yes I have been practicing law for eighteen years. Mr. Page turned to Frank Long, he was standing by Mr. Page, and he said Long we need an attorney at Leavenworth and I will hire Denny as our attorney up there, and I want you to talk to Mr. Long, and I want you to look upon him as though you would any other lawyer. Dennis said, Mr. Page I want a contract, then Ben Rice spoke up and said well what do you want to work for, and Dennis said I want ten ($10.00) dollars a day and expenses, and five hundred ($500.00) dollars when the case is completed. Ben Rice said can you get it fixed within seventeen days and Dennis said I don't know. Mr. Page said to Frank Long: Long, you draw Denny up a contract and Long went out of the room and after a while came back with a paper and handed it to Mr. Rice and Mr. Rice looked at it and he passed it to Dennis. Dennis pulled his glasses out and looked at it—I don't know what was in that contract—and Dennis said that is too binding. Mr. Page said let Dennis write out his own contract; so they give Dennis a piece of paper and he wrote out his own and passed it to Ben Rice and he looked at it and give it to Mr. Long and handed it to Mr. Page; Long went out of the room and came back with it and Dennis filled it out and put it in his pocket. Then Mr. Page said Dennis, he said, you ought to be able to do anything in Leavenworth that you want, and Dennis said I can, and Mr. Page said I want the birth and death of Thomas Atkins established in Leavenworth, Kansas. He said I want him to be born in 1885 and die in the fall of 1898 or in the spring of '99, and live long enough just for an allotment; Dennis said, Mr. Page when I went to Boston making a live man for the Gipsy I run across a dead one, he is married to a white woman and his name is Thomas Atkins and he is a Kansas man, he died when he was twenty years old. Mr. Page said well if he died when twenty years old, he said to Dennis, under the laws of Kansas that would make him a minor and Dennis said I think so, and Mr. Page said is his widow living? And Dennis said I don't know, that the Gipsy called me in before I found out. Mr. Page said you let that dead man alone, he said his widow might be living and that would make her a party to the suit.

Dennis said I got another one at North Platt, Nebraska, he is a railroad porter and he is a Kansas man and he will do. Mr. Page said I don't want no live man I want a dead boy, I want him to be born in Leavenworth and die there, and you ought to be able to find a grave up there, and Dennis said I can. Mr. Page said Dennis I don't want the Gipsy to know you are working for me, work quietly on the case and when we get things ready we will notify the Gipsy we are ready for trial. He said have you seen the testimony Minnie gave at Sapulpa? and Dennis told him no. Mr. Page said to Frank Long, Long get that book.

Q. Who all was present?

A. Just us, the same five, Mr. Rice and Dennis——

Q. The same parties?

A. The same parties nobody else. Frank Long went somewhere and got a book and came back with it—a paper book, and he give it to Dennis. He said, Dennis—Mr. Page talking still—nobody talking but him—He said, Dennis look in that book and get out of it what you want for Leavenworth. Dennis just took the book and kind of looked through it and said it will take me a week to get out of this book what I want. Frank Long looked at his watch, ten minutes to twelve, and he said Sadie you take Dennis to dinner and be back here at one o'clock, and I did so. Dennis and I walked down town and bought him a hat, he was trading to a hat from a cap, but Mr. Crawley saw him, I didn't know it.

Q. How did you know Mr. Crawley saw you?

A. He told me afterwards, after Dennis had gone.

Q. What did you do after lunch?

A. At one o'clock we came back.

Q. Where to? A. To Mr. Long's office.

Q. Who was there?

A. Mr. Josey and Mr. Long were in there when we got back.

Q. What did you do then?

A. Frank Long said to me, Sadie now you can go and come back here at four o'clock and get Denny meet him up there. They didn't want me up there. Well, at four o'clock I went back and got Dennis, I don't know how much the check was for, but Dennis pulled it out of his pocket and said Sadie I got a check, I ought to get that check cashed here, and I said that check is good on the Gem up in Leavenworth or anywhere. It was four o'clock, but I didn't know what the check was for; I taken Dennis then, I said to Dennis, Mr. Page has got a Park——

Q. Told him what?

A. I told Dennis Mr. Page has got a park out here in the town and I said it is too late—too early to walk around until train time and I will take you out there.

Q. What park was that? A. Mr. Page's park?

Q. For colored folks?

A. No, white park. I was going to take Dennis out there in the day time and show it to him.

Q. The colored folks park?

A. About three miles this side of Sand Springs, but his park was right in Sand Springs. I wanted to show Dennis the white park. We taken the street car and went out there, I told Dennis on the way going out, I said this car line is his own, I told Dennis at Leavenworth he was working for the Government; Dennis said he must be working for the Government, he talked about this case like there is no secrets. We got back in town and I taken him and showed him the park—didn't get off the car though—got back to town and went down to a restaurant and got his supper and I taken him out to my house and kept him there until I think it was about half past —well I guess it was about a quarter of eight when we left my house and taken him back to the depot and he left.

Q. Where did he leave for?

A. Leavenworth, got him a ticket.

Q. You didn't go with him?

A. No, sir, I didn't go with him I *staid* there.

Q. What did you next do in this case?

A. Well, in about must have been about three or four days I will say before I went back up there again to the Gip—up to the Gem.

Q. Who did you see then?

A. Mr. Page had company in his office and he said Sadie you go in Long's office I will be in there directly.

Q. Did you do that? A. I did.

Q. Did he come in?

A. When I got in there Frank Long and Mr. Hanford were in there.

Q. Did you have a conversation with them?

A. No, sir, I walked in and said I am waiting for Mr. Page, and in about ten minutes Mr. Page come in.

Q. Did you have a conversation with him then?

A. As soon as he came in there he looked and saw Mr. Hanford sitting there and he said Hello Hanford did you get what you wanted at Leavenworth? and Mr. Hanford said yes; and Mr. Page said, you take that to Minnie and tell her, and just before we get ready to take depositions you switch her right back and take it at Leavenworth so she can meet them witnesses; and Hanford said, Mr. Page suppose Minnie don't want to come over this Leavenworth dope, and Mr. Page said you tell her if she don't she don't get another cent, and he flew out of the room and I followed him.

Q. Who went out?

A. Mr. Page did and I followed him. When he got to his door, just about to open his door, somebody stepped off the elevator and I didn't go in there because I knew he wanted to talk to him, and I left.

Q. Where did you go to? A. I went home.

Q. What did you next do in this case?

A. Well, it went on about a couple of weeks. I would go up there, but wasn't talking about this case. I had some other business with Mr. Page. In about two weeks, I think in September about the 7th or 8th, about two weeks after that, Frank Long and Mr. Page was in the office.

Q. What happened then?

A. I spoke to him just as I went in there.

Q. Did you have any conversation with him? A. Yes, sir.

Q. Relate it.

A. Mr. Page said, Sadie, Dennis is a little slow up there at Leavenworth about finding a grave.

Q. Finding what?

A. Finding a grave. He said it looks like you ought to be able to go up there and find one, and I said I can, but I said I can find one maybe in Coffeyville, Kansas, just so it is in Kansas is all that we wanted. He said when will you go, and I said I will leave here tonight; and Long said if you will leave here tonight I will meet you in Leavenworth, Kansas, about Wednesday or Thursday, and I told him all right. Long wrote a check for fifty ($50.00) dollars and I went down to the First National Bank and cashed it, and I left there that night for Leavenworth, but I stopped at Coffeyville.

Q. You stopped at Coffeyville?

A. Stopped at Coffeyville and went out to the grave-yard.

Q. What did you do at Coffeyville?

A. I went out to the grave-yard, the grave-yard was right in town, I went out there to see if I could find any graves that didn't have any names on them.

Q. Did you find any?

A. No, sir, I *staid* all night there at my cousin's and left and went to Leavenworth.

Q. When was it that you got there?

A. I got to Leavenworth Thursday night, Thursday evening, because I came over on the Trolley car from—

Q. Do you remember when that was?

A. Yes, about Thursday night, September 10th, I guess it was about September 10th.

Q. In 1914?

A. Yes, sir, that is 1914, I got my husband, I roomed up on Shawnee and the next morning I had told Frank Long where I would be at.

Q. Where were you going to be?

A. At Miss Martha's, this colored woman's on the alley.

Q. Did you go to Miss Martha's?

A. I didn't go that night, he and Rube went.

Q. Who went?

A. Frank Long and Rube went, *bet* me to Leavenworth, and I called him up over the 'phone from where I stopped and told him I would be down there, and when I got to Miss Martha's Long and Rube both were there.

Q. Did you have a conversation with them? A. I did.

Q. Repeat it?

A. Rube said Sadie you ought to got in last night, we had all the whiskey and everything we wanted and were looking for you; and Frank Long said Sadie did you do any good—on my Coffeyville trip—and I said no, but I am going out on Pilot Knob—an old graveyard out there—and see if I can find any graves that will do, I will have to have a horse and buggy; and Long said, you go up to Joe Cranston's Livery Stable and tell him I say let you have a horse and buggy on Frank Long at the National.

Q. And then where did you go? A. To Dennis' office.

Q. Did you have a conversation with him? A. Yes, sir.

Q. Relate that?

A. Dennis said when did you come and I said I came last night, and I said have you found anything, and he said I have tapped the mortuary records here in Leavenworth, searched them, and I can't find any unknown dead there that will do us any good; and I said I am going out here to Pilot Knob, I said you know my Uncle and cousin and some more used to be out there and they buried their dead out there, it is an old grave yard—maybe I can find something, and I left his office.

Q. Where did you go to?

A. My house on Shawnee Street. About two o'clock, I guess, I went down to Mr. Cranston's Barn, it was raining.

Q. What did you do down there?

A. I said, Mr. Cranston, I want to get a horse and buggy, I said what will it be, and he said two dollars, it is a bad day for a horse to be out. It was raining awfully hard and I said, Frank Long told me to tell you to let me have a horse and buggy, and he said Long the Secretary of the Gem, and I said yes, sir, and he said all right, and he let me have a horse and buggy.

Q. What did you do then?

A. I drove near about the Pilot Knob, I didn't know how to get there, it was long years since I had been there and I turned to Mount Munsey Cemetery and walked around in the grave yard and didn't find anything and I came back to town and put the buggy up and went to my room and called Frank Long up.

Q. How long were you gone on that trip?

A. All the afternoon, I didn't come back to the stable until about half past seven that night, I called Mr. Long over the 'phone.

Q. Where did you call him?

A. Called him at the National, told him to come up to 221 Shawnee at Ben Samuel's place, that is where I had my room.

Q. You had a room at Ben Samuels?

A. Yes, sir. I just put up there what time I was going to stay in town, I was just there a week.

Q. You roomed there during that week at Ben Samuels?

A. Yes, sir, I was, I and my husband rooming there. Long came about half an hour after I called him up.

Q. Came to Ben Samuel's?

A. Yes, sir, came to where I had my room.

Q. And you had a conversation? A. Yes, sir.

Q. Relate it?

A. He said, Sadie, did you find anything? And I said no, but I will have to go across the river to my Aunt's, in Waldron, Missouri, and see what I can do over there; and he said Rube wants me to go to Kansas City with him, I don't know whether I will be here when you get back, but if you find anything you come on home to Tulsa and let me know, and I told him all right. I didn't leave I don't think until about a day or two to go to my aunt's, I went to Waldron, and got a horse and buggy, it was muddy as could be and I couldn't find nothing, even where the graves had been—it was an old graveyard. I cane back Friday night to Leavenworth, and when I got back there there was a telegram for me.

Q. Who from?

A. From the Gem telling me to be there in the morning.

Q. To be at Tulsa? A. To be at Tulsa in the morning.

Q. What did you do?

A. I couldn't go that night, I had just got there; the next morning about eight o'clock I went down——

A. I couldn't go that night, I had just gotten there. The next morning about eight o'clock, I went down—that came over the Postal Telegraph Company—the telegram did—I went right down back there and sent another one to the Gem Oil Company, that I would be there in the morning—Sunday morning. I left there; I started down to Dennis'. It was the soldier's pay day, and me and Dennis had a job of business of our own up there. So, when I gets about the middle of the alley, I met my brother.

Q. What is his name?

A. Sam Nash—he is not my brother.

Q. You speak of him as your brother?

A. Yes, sir.

Q. Why do you speak of him as your brother?

A. We have been passing for brother and sister since '79 or '80; people knew we were not relatives.

Q. Did you have any conversation with him about the Atkins matter?

A. I did. I had had him way before that, but when I first come to Leavenworth the first part of the week, Martha Miller told me about my brother being drunk around there; she said, Sade, Sam ain't doing a thing but getting drunk around here in town. But I happened to meet him that morning going to Dennis' about eight o'clock, and my brother was drunk then.

Q. Did you have any conversation with him?

A. I did.

Q. Relate it.

Q. I said, Sam, you are running around here telling a lot of lies for this white man, and ain't getting a thing out of it but whiskey, and he said, no, he promised me a thousand dollars. He said he went down to the Jefferson hotel, here in Kansas City, and made me and Wall both drunk.

Q. Walter who?

A. Walter Banks—that is the boy my grandmother raised—Granny Letcher—and I said, this is a money case.

Q. Just wait a minute before you do that. What relationship was Sam Nash to Granny Letcher?

A. Her grandson—her daughter's son.

Q. Had she raised him?

A. Yes, Granny raised him from a small boy; his mother married another man and that forced her as his grandmother——

Q. What relationship was Walter Banks to Granny Letcher?

A. Walter's mother, on her deathbed—Fanny—that is his mother—gave Walter to my grandmother—and told her to raise him.

Q. And did she raise him?

A. She raised him until she died. I left Sam and went on to Dennis' office but we didn't talk nothing about that case. I was talking about this pay day business. That night, I left Leavenworth——

Q. Where did you go to?

A. Tulsa; Saturday night, September 19th; I left as soon as I got the money. I saw Dennis again that afternoon, after I drawed the money and went back and give him some of it, and I left.

Q. Well, did you go to Tulsa?

A. Yes, sir, got there Sunday morning.

Q. Who did you see?

A. I didn't see anybody but I called up Mr. Page.

Q. Did you talk with him on the telephone?

A. Yes, sir; told him I was back.

Q. What was the conversation?

A. They sent me a telegram and I said, Mr. Page, I am in town, and he said, you meet me down at my station at the end of Third Street—he has got a station there—about two o'clock; and I told him, alright. About two o'clock, I went out there by myself.

Q. You met Mr. Page? A. I met Mr. Page.

Q. Did you have a conversation with him?

A. Yes, sir, I did.

Q. About your work?

A. About my work.

Q. And what was that conversation?

A. I said, Mr. Page, I can't find nothing; and he said, well, you just let that go, Dennis will have to do that; he guaranteed to do it. That is what he said to me. I didn't stay there very long; I came back to town. That was, now, in September. Just about a week before they went to take depositions at Leavenworth, I went up to Mr. Page's office. Remember, I was running back and forth to Mr. Page's office every two or three days, but not on this case—something else.

Q. Alright. A. But, in about two weeks after that——

Q. After what?

A. After I got back from Leavenworth, they was getting ready to take depositions at Leavenworth in the case, and Mr. Page said, Sadie——

Q. You went to Mr. Page's office in this matter?

A. Yes, sir.

Q. What was said?

A. He said, Sadie, we are getting ready to take depositions at Leavenworth; I want you to go, because you can handle Minnie, and while you are up there, I want you to get a deed from her, unbeknown to Hanford, and you tell her that the money that has been paid to her, she is not getting it; Hanford and MacNab are using it for themselves. He said, if you get Minnie to sign that deed, I will give you a thousand dollars. I said, alright. I left Mr. Page's office——

Q. Where did you go?

A. I went to my attorney's office—C. S. Walker's.

Q. Did you have a conversation with him about this matter? A. I did.

Q. At his office? A. At his office.

Q. Relate that conversation.

A. I said, Mr. Walker, we are fixing to take depositions up at Leavenworth, and I am going, and he said, you going to testify? And I said, no, nobody got money enough for me to testify that Minnie Atkins ever had a son name of Thomas Atkins; and he said, Judge Allen, is going to be up there to set in that case, and you stay away from there; and I said, I am going up there and get a deed—get her to sign a deed.

Q. Did you tell him who you were going to get to sign a deed? A. I did—told him, yes sir.

Q. Who did you tell him?

A. Well, I haven't mentioned his name and of course I would like not to say who I told him I was going to get a deed for, because that man has never been mentioned in the case, and I rather not say who. He has been a very good friend of mine and I will answer it if you so so, though——

Q. I thought you were referring to the deed that you were going to get for Mr. Page?

A. Yes, sir, but before that time, if you want me to tell who it was for, I will tell it.

Q. Go on, and tell what you are getting this deed for.

Mr. Stuart: We will get that on cross examination, Sadie.

A. I will tell it.

Q. Did Mr. Page have anything to do with it?

A. Yes, sir.

Q. The other deed you are referring to?

A. The same deed, I am talking about him and another man; talking to me about their deed.

Q. Who and another man?

A. Mr. Page and another man talking about their deed.

Q. Had they talked about it before you talked to your lawyer? A. Yes, sir.

Q. Well, who was the other man? A. Shall I tell it?

Q. Yes. A. Bill Creekmore.

Q. Where was that conversation?

A. The conversation was right in Mr. Page's office.

Q. When was that? A. The same day.

Q. The same day Mr. Page told you?

A. To go up there and get it, yes, sir.

Q. Was Mr. Creekmore present at the conversation you referred to when they desired you to get a deed?

A. I had been up there—Mr. Creekmore had been up there several times before that with Mr. Page, yes sir.

Q. I see.

A. Yes, sir, but I didn't care anything about saying anything about Mr. Creekmore because he——

Q. Had been a friend of yours?

A. A friend of mine when I was running the road-house for him, and I didn't care to mention it.

> Mr. Hanford: I move to strike the answer as not responsive to the question. I would like to have that question answered.

Q. Now, Sadie, relate the conversation when they desired you to obtain the deed from Minnie.

A. Between Mr. Creekmore and Mr. Page, now, and myself?

Q. That is right; that conversation.

A. Mr. Creekmore was in the office that day; we had been there two or three times before that, talking—not on that case, though; Mr. Creekmore, and Mr. Page, and I, lots of times, on a business matter of our own—not this.

Q. Alright.

A. Mr. Creekmore was in there, and Mr. Page says, when you get Minnie to sign this deed, it will be for your friend here, Bill; and you will get a thousand dollars if she sign it. Mr. Creekmore said, well, Charlie, why don't you get it; let the deed be signed in your name? He said, no, that will look too bad; he said, I have got a lease and I don't want the deed, but Bill, you take it. So, when I goes down to my lawyer's office, I told *told* Charlie Walker——

Q. You told Charlie Walker this conversation?

A. I told my lawyer that it was Mr. Creekmore that I was going to get the deed for.

Q. I see. A. Yes, sir.

Q. Well, have you told all of the conversation that you had with your lawyer about obtaining that deed?

A. Yes, sir, about staying away from there; he told me not to go up there; that Judge Allen was going to set in that, because he was——

Q. You told him about your plan of obtaining the deed?

A. Yes, sir, that I wasn't going to testify.

Q. Did you go to Leavenworth?

A. No, I didn't go to Leavenworth.

Q. Where did you go to?

A. I came here to my daughter's; here in Kansas City, and the rest went on to Leavenworth.

Q. Who is the rest? A. The rest?

Q. Yes.

A. Mr. Page, and Mr. Josey, and Mr. Frank Long.

Q. Was Mr. Hanford along?

A. I didn't see none of them; he told me that was who was going.

Q. But you didn't come up here with them, then?

A. No, sir.

Q. You don't know whether Mr. Page came or not, of your own personal knowledge?

A. I know when he got back, what he said; I don't know that he came but he was supposed to be and I was supposed to meet them in Leavenworth.

Q. You came to Kansas City?

A. I came as far as Kansas City, yes, sir; I was going to try to get a deed here.

Q. Did you see anyone with reference to this case, when you got to Kansas City?

A. I saw a white man here, yes, but I refuse to call his name. He was interested in the case.

Q. Was he representing the Page interests?

A. No, sir, he just wanted to see what they were going to swear to up there, is all; he was going up in the day on the Electric car and coming down here in the night, telling me what was going on up there.

Q. Keeping you advised as to what they were swearing to at Leavenworth? A. Yes, sir.

Q. Did you see Mr. Page, or Mr. Long, in Kansas City?

A. I didn't see none of them.

Q. What next occurred as far as you were concerned with reference to the case?

A. I went home and I stayed here a couple of days, I guess—maybe more—and I went back to Tulsa, and about two days after I got back to Tulsa,—yes, two days—I went up to Mr. Page's office.

Q. Who did you see there?

A. Mr. Page sitting there in his office.

Q. Did you have a conversation with him? A. I did.

Q. Relate it.

A. He was sitting up there, looking pretty bad. He spoke to me first and I said, hello, Mr. Page; and he said, hello, and I said, how is everything coming off at Leavenworth; and he said, Sadie, Minnie broke down and she can't stand it, and we can't get her to testify. He said, Long tried to pacify her, and we got her some whiskey and she blowed up. And I said, where is Minnie, and he said, I left her there, and as soon as we get her under control, we are going to bring her back here and let her testify; and I said, has Dennis found a grave up there, and he said no; and I said, what did the witnesses say about the boy? And he said they swore the boy up in the air until he was 14 years old and left him there; and I said, my, that is bad, I said, that testimony helps the Gipsy; and he said, yes, the Gipsy, strong; he said, they are swearing he is living and we are swearing he is dead, and the Gypsy is going to make us prove where he died, and we got to find a grave. The Gypsy was crowding us awfully close; put detectives on Dennis and he couldn't find no grave—couldn't do nothing. And I left.

Q. Left his office?

A. Yes, he was looking bad. I didn't say nothing more to him; I got out of there.

Q. Where did you go to? A. To my home.

Q. When did anything else occur as far as you are concerned with reference to the case?

A. About a week, I guess, that long—maybe a little longer——

Q. What occurred then?

A. I went to Mr. Page's office—I was going in there but to talk about this matter.

Q. Did you find Mr. Page?

A. Found Mr. Page by himself.

Q. Did a conversation take place between you and him?

A. Yes, sir.

Q. Relate it.

A. He said, Sadie, Minnie and Hanford are in Long's room, they had brought her back from Leavenworth, and he said, you can handle Minnie. I want you to go in there and talk to her; and I said, Mr. Page, I don't want to see Minnie. By the time I got through speaking, Frank Long walked in and he said, Mr. Page, we are ready now, Hanford and I, going to take Minnie up to Ben Rice's office, and rehearse her, because we notified the Gypsy that to-morrow we will be ready for trial. Mr. Page said, I will be up there after a while. Frank Long walked out of the room and left the door open. I goes up and peeps through the door; he left a crack like this, and I said to Mr. Page, I said, I want to see Minnie, I haven't seen her——

Q. Alright.

A. Since in June. I peeped at the door. Frank Long and Hanford and Minnie got on the elevator and started up stairs; I supposed to Mr. Rice's office—started up stairs, and I came back and sat down and Mr. Page said, Sadie, I wish Minnie had as much sense as you've got, we wouldn't have the trouble with her that we are having now; and I said, I wish I did have the chance to make that money. That time somebody came in and I went out.

Q. Where did you go to?

A. Home; and about three days I came back to Mr. Page's office.

Q. What occurred then?

A. I said, Mr. Page, how did Minnie do; and he said, done well. And I said, she did; and he said yes, it won't be but a few days now and we will have everything alright.

Q. That was with reference to the manner in which she testified?

A. Yes, sir, that was after they rehearsed her.

Q. She hadn't yet given her deposition?

A. Yes, sir, she had given it at Tulsa and I waited two or three days after when she testified before the Gypsy, and I asked how she done before the Gypsy.

Q. Prior to the time that she gave that deposition, did you talk to her there?

A. I hadn't seen Minnie until I peeped through that door since she run in the Fort, I hadn't seen her.

Q. What else did Mr. Page say with reference to Minnie?

A. Not at that time. A week, about two weeks, I guess, I was back up there again on this matter I am speaking of. I don't mean that I stayed away from there that long—I mean on this matter. Mr. Page and Frank Long was in the office.

Q. Did you have a conversation with them? A. I did.

Q. Relate the conversation.

A. Mr. Page, he said, Sadie, you ought to handle Nancy.

Q. Handle who?

A. Nancy, that is Minnie's sister; and I said I can, and he said, I want you to go to Nowata and see if you can get the truth out *out* of Nancy about her baby.

Q. Nancy Atkins?

A. At Nowata, yes, sir. And if you can get a confession out of Nancy. I want you to take her to Kansas City, steal her from her guardian and take her to Kansas City. and in Kansas City, Long will be at the Baltimore hotel and he will meet you there, and I want you to take her and Harjo in the Courthouse, and get them to testify about the truth about the baby.

Q. About what baby? A. About Nancy's baby.

Q. Alright.

A. And take them from there to Seattle to live with Minnie and you tell Nancy that if she will do that, I will give her a thousand dollars, and I will give you a thousand dollars. I said, Mr. Page, it will take a lot of money for me to go to Nowata, and get people to get Nancy out of Nowata to Kansas City, because that is a dangerous job, and he said, I know it; he said, you make arrangements with the people to get Nancy out of Nowata, and I will furnish the money. You pay them because I don't want to see them; I am only dealing with you. He said, when do you want to go? That was on Wednesday. I said, I will go this afternoon. Long said, where are you going to stop at; and I said, I am going to stop at a cousin's of mine in Nowata, and he asked me the name of my cousin and I told him. I said Nelson Grubbs. He asked me what the name was, and he said, I will tell you what you do; when you get to Nowata, he said, you go to Jefferies—do you know him; and I said, why I have heard about him—seen lots about him in the paper. He said, you go to Jefferies and tell him you are working for me, because he is a friend of mine, and tell him where you are stopping at, so that if I want to send you word, or you want to send me word, Jefferies will know where to get you at, and I said, alright. I left that night.

Q. Where did you go? A. Nowata.

Q. What did you do?

A. I found my cousin at his house.

Q. What is his name?

A. Nelson Grubbs. I went out to Nelson's house and I said, Nelse, I've got a job and I want you to help me handle it; and he said, what is it? And I said, I came up here to steal Nancy, and I said, you got much control over Nancy; and he said, no, I ain't; I know a white woman here that has, Mrs. Yarboro, and that she is a dressmaker; she can get Nancy to do anything. And he said, on my way back to town, I will stop and see her, and tell her who you are. That evening about four o'clock, my cousin came home, and I was supposed to be hid. I didn't go up in Nowata; he lives way out from Nowata, in the edge of town. He said, about four o'clock, when he got back, Mrs. Yarboro wanted to meet me, so he and I went down about eight o'clock Thursday night.

Q. Did you have a conversation with her? A. I did.

Q. Tell what it was.

A. I said, Mrs. Yarboro, I came up here to steal Nancy; I want to get a confession from Nancy about her baby and get her away from here; and she said, I will tell you, I can handle Nancy, but people are beating her out of her money, and not giving her nothing, and she said how much are you going to give her; and I said, about a thousand dollars. She said, I will do this: I will go with you to Nancy if you will let me be her guardian over this thousand dollars, so I can buy Nancy a home out of this thousand dollars; and I said, I will be satisfied with that. I said, what will you do that for, Mrs. Yarboro? And she said, I don't know; I never was in a case like that before; and I said, I will give you a hundred dollars if you get Nancy to do it—get her over here to your house. We left that night at Mrs. Yarboro, and went to my cousin's and the next morning about nine o'clock, she sent her little girl after me.

Q. To come back to Mrs. Yarboro's?

A. I went back to Mrs. Yarboro's, and Nancy was in the house when I got there.

Q. Did you have a talk with her?

A. I talked with Nancy.

Q. Relate the conversation.

A. I said, hello, Nancy—it had been a good while since I had seen her—I said, Nancy I came up here after you; and I said, I came up here to make some money for you.

And thereupon a recess is taken until 7:30 o'clock P. M.

And thereafter and at 7:30 o'clock P. M., further testimony herein was taken as follows:

SADIE JAMES being recalled further testified as follows:

Direct Eaxmination by Mr. German.

Q. Sadie, what is the name of the dressmaker at Nowata?

A. Mrs. Yarboro, a white woman.

Q. Before we adjourned, you were relating a conversation that you had with her, or with Nancy, I mean, at her home on the second day that you were at Nowata?

A. Yes, sir.

Q. Now, will you proceed to relate that conversation?

A. Mrs. Yarboro sent over the next morning to my house —that is, after I had been down to her house that night— about half past nine when the little girl came; had a note, saying for me to come right away over there to Mrs. Yarboro's house. And I got over there and found Nancy in the house and Mrs. Yarboro. I said, Nancy, I have come, I said, to see you to make some money. She said, what's doing. Well, I said, Nancy, I want you to tell me the truth about your baby, and she looked up at Mrs. Yarboro when I said that, and she wouldn't answer. I beckoned Mrs. Yarboro to go out of the room; we were in the kitchen. I said, Nancy, who got you to tell that lie, I said, about your baby. She said, Bettie Harjo —Bettie Ann Harjo—she said, they told me my sister Minnie was dead and that all I had to do was to say that my little girl was a boy, and I would make the money, and after I went in the courthouse and swore, I didn't get the money. They put a guardian over me, and she said, just look here—I have got no shoes on my feet, and I ain't had no money since. I said, well, Nancy, I want to tell you, I want you to go to Kansas City, and from there to Portland, Oregon, and see Harjo. By that time, Mrs. Yarboro had got back in the room—she same in there—

Q. What was Harjo's given name—Micco?

A. Micco Harjo. Mrs. Yarboro walked in then and she said, oh, I am afraid of Harjo.

Q. Who said that?

A. Nancy. She said, if I see him coming now, I would just run myself to death, and I said, you used to be crazy about Harjo, and she said, yes, but after Harjo took my money away from me and spent it on Millie—that was his wife—he got mean to me. And I said, Nancy, why didn't you recognize Minnie when she was down to court? She said, Mr. White told me if I recognized Minnie, that I wouldn't get no more money; Minnie would get it, and told me to stay away from Minnie—Minnie would poison me. I said, oh, no, Nancy she wouldn't do that; I said, will you go, Nancy, if I come and take you away; and she said why yes. The- she jumped up; Nancy is very hard to handle, and Nancy got up then and left. So I stayed at Mrs. Yarboro's from about half past nine in the morning until four o'clock in the evening before I went out of the house. Mrs. Yarboro said to me after Nancy was gone, Mrs. James, how will I know that Nancy is going to get this money, and who are you working for? I said, I am working for Charles Page, and as socn as I got arrangements fixed, I was to call Mr. Page right up; and she said, you can call him right up in this house, and let me know if you are working for him and not fooling Nancy.

Q. Did you call him up? A. I did, yes, sir.

Q. What name did you give him?

A. *I* name was Mrs. Whittaker; I gave my name as Whittaker, calling over her 'phone.

Q. Where did you call Mr. Page?

A. Here is the 'phone and she was standing right here trying to listen to the coversation, because she didn't believe I was working for Mr. Page.

Q. You called him at Tulsa?

A. At Tulsa, yes, sir. Wasn't very long before I got him. I said, hello, Mr. Page.

Q. Relate the conversation you had with him on the telephone.

A. I said, hello, Mr. Page, do you know who this is? He said, it is Sadie, and I said, yes; and he said, Sadie, how have you got things up there at Nowata? And I said, I have got all the arrangements made; I said, you have the money for me to night because I will be back on the train and I will have to get right out of there before day, and I won't want anyone to see me. Now, can I call myself back to Tulsa before I left?

Q. Before you left Tulsa? A. Yes.

Q. In a conversation with whom?

A. In a conversation I had with a man about helping to steal Nancy.

Q. Where was it, and who was it?

A. That was Piano Bill there in Tulsa, a white man.

Q. A white man? A. Yes, sir.

Q. What does he do?

A. Piano player and gambler, around there.

Q. Did you have a conversation with him?

A. Yes, sir, before I went to Nowata.

Q. Relate it.

A. I went down to the Oliver hotel, and he was standing down there and I called him off to the side, and I said, Bill, do you want to make some money; and he said, yes—what doing? And I said, I am going up the road and try to steal somebody from a guardian, and I will need an automobile to get her out of the town. He said, just wait a minute. There were two or three machines standing in front of the Oliver, and he called one man off a little piece and talked to him, and came back to me and said, Sadie, that man is alright and will do the job for three hundred dollars, and I said, alright, it might be two or three nights, though, before I will need you, and he said, alright, and you will find me right here when you get ready. He always stayed around there at the Oliver place. Now, I will go back to my telephone.

Q. Alright; go back to the telephone conversation with Mr. Page.

A. Alright. I said, Mr. Page, I have got everything alright now. and you get the money and have it for me because —so I will get into Tulsa tonight on that train and have to get right out; and he says, alright, I will get it and I will have Long meet you at that depot tonight, Sadie. That was the end of that conversation. That was about four o'clock in the evening.

Q. What did you do next?

A. I went out to Mrs. Yarboro's house then. Nancy stayed with some people that claimed to be cousins of mine—Josie Fair and Julia Patterson—I went over there and Nancy was there.

Q. Did they live together, Josie and Julia?

A. Yes, sir.

Q. Alright; what happened?

A. Nancy was there. I said, Julia do you want to make some money, and she said, yes. I said, well, I want you to help me to get Nancy out of here, and I will be back tomorrow night about seven o'clock—that is Friday—and I will have a machine, and you and Mrs. Yarboro, and I and Nancy will leave, I said; Mrs. Yarboro will get off at Coffeyville, but we will go right on to Kansas City, because we want to meet Frank Long there. Then I told Josie, her sister, I said, Josie, if I get Nancy away from here, I will give you $25—she wasn't going to be in the deal at all—and I said, you keep Nancy right here until I come back here to-morrow evening. Nancy's guardian's wife had died and he was down in Alabama. Mr. Long had found out before I had ever left Tulsa. He said, Sadie, the guardian is down in Alabama and you have got a good chance.

Q. You say Mr. Long told you before you went to Claremore?

A. I mean before I went to Nowata; found out that Nancy's guardian was gone.

Q. Was that before or after Mr. Page had had his conference with you?

A. That was right in there while Mr. Page and I were talking.

Q. That Mr. Long told you that?

A. Yes, sir, that Nancy's guardian had died—that is a colored man there in Nowata and he was out of town and told me I would have to be careful and watch Mrs. Looney.

Q. Was she the—who was she?

A. I don't know who Mrs. Looney was; I didn't know her.

Q. But that is what Mr. Long told you?

A. Yes, that is what he told me.

Q. Alright; go back to the——

A. That evening, about six o'clock——

Q. You are back to Nowata, are you?

A. I am in Nowata yet.

Q. After the conversation with Nancy and Josie?

A. With Josie, yes, sir. Nancy was in the house when I got over there, and I asked Nancy, will you leave, and she said, yes, I am going over to—I forget the guardian's name now—and get my clothes now. And she got a suit case and packed it and brought it back to Josie's—back to Josie Pierce's; the suit case with the clothes in it.

Q. Then what occurred?

A. I left that evening; I think the train left at 6:38 coming back to Tulsa.

Q. Now, what did she pack her suit case?

A. Stealing her clothes out of her guardian's house and bringing them over to Josie's so she would have them.

Q. Had she agreed to go with you?

A. Yes, sir, she agreed to go.

Q. Where? A. In Mrs. Yarboro's house.

Q. What had she said about going?

A. Mrs. Yarboro said, Nancy I will go with you, provided you will let me be guardian, and take that money and buy you a house next to me, and Nancy had consented for Mrs. Yarboro to be guardian.

Q. Had she consented to go?

A. Yes, and Mrs. Yarboro was going too.

Q. What did Nancy say when she consented to go with you? A. What did Nancy say?

Q. Yes. A. She said she would go.

Q. You say you left?

A. I left Nowata about 6:28 that evening.

Q. Where did you go to?

A. Went to Claremore; had to change trains there, and wait for the train.

Q. You went from Nowata to Claremore on the Missouri Pacific? A. On the Missouri Pacific.

Q. And there you caught the Frisco for where?

A. Tulsa.

Q. What did you do when you got to Tulsa?

A. Well, when I got to Tulsa, Frank Long and my husband were at the depot.

Q. Did you talk with them?

A. Frank Long said——

Q. Tell what the conversation was.

A. We didn't have the conversation on the street.

Q. You did not?

A. No, a lot of people were at the depot and Frank Long told me, Sadie, you and Will follow me—that is my husband.

Q. What did you do?

Q. We followed him and went up to the First National Bank Building.

Q. What time was this?

A. It must have been half past ten or eleven at night.

Q. You went up in the First National Bank Building?

A. Went up there, and the elevator wasn't running, so we walked up to the office.

Q. What occurred then?

A. Frank Long said, did you make the deal; and I said, yes; and he said, you got to watch Looneys awful careful now, Did Nancy say she would go? And I said, yes; and he said, I have got some money but I don't know whether I have got enough—how much do you want? I said, I want $740; he said, that is enough to buy Nowata; and I said, if you can go up there and get the deals done any cheaper, said, you do it. He said, no, I don't give a damn if you drag Nancy out of there by the hair of the head, just so you get her out of there. I said, I didn't tell you to send me up there no how, about that deal, and he said, I will call Mr. Page. He went to the telephone—right in the room where we were, and called Mr. Page, and this is what he said to Mr. Page;—Mr. Page, Sadie is here and I haven't got enough money for her, what will I do? Mr. Page must have told him because Long told me Mr. Page wants to talk to you, Sadie, and I went to the 'phone, then.

Q. Did you have a conversation with Mr. Page over the 'phone? A. Yes, sir.

Q. What was that conversation?

A. I said, Mr. Page, Mr. Long hasn't got enough money for me to make that trip.

Q. Now finish that conversation, if you haven't, on the telephone.

A. He said, Sadie, I am with Bill tonight, old friend Bill, and he said——

Q. Bill who? A. Talking about Bill Creekmore.

Q. Go ahead.

A. And he said you meet me in the office in the morning and I will have money enough. We went home that night and the next morning about ten o'clock, I went back up to Mr. Page's office.

Q. Did you have a conversation with him?

A. Yes, sir.

Q. Relate it.

A. He asked me what Nancy said and I told him, and I said, now, I have made the deal, I said, and I want $740 and Long wouldn't give it to me, and he said, Sadie, that is a lot of money; you take five hundred dollars and go back up there. And I said, no, I ain't going to deal with no cheap people and help steal Nancy out; I said, it will take three hundred dollars to get an automobile to go up to Kansas City. And he said, well, we will just drop that for a while; so I didn't go.

Q. You didn't go?

A. I didn't go back, no sir. That was on a Saturday morning; on a Sunday, I don't but that was—someone called me over the 'phone—sent word out that I had a 'phone—and when I got up to the telephone office, wouldn't tell me who the name was.

Q. Did they talk with you? A. Yes, sir.

Q. On the telephone? A. Yes, sir.

Q. What did they say?

A. Said, don't come back up here, Sadie, because you are going to get arrested for trying to kidnap Nancy.

Q. Where was the call from? A. From Nowata.

Q. I understand.

A. And I haven't been back up to Nowata.

Q. Since then?

A. Since then, no, sir. So then, I guess about near a week after that, Judge Williams——

Q. Mr. Williams, your lawyer?

A. Yes, sir, one of my attorneys, had found out that the Gypsy——

Q. How did you know that he had?

A. That is what he told me.

Q. You had a conversation with him, did you?

A. Yes, sir, after I was up in the office; I didn't go up there to see him about that.

Q. Well, you needn't state. A. Yes, sir.

Q. What did he tell you?

A. He said, Sadie, I see where the Gypsy and the Gem are to get together and if course if they do, that it will end the law suit between the two, and your contract will be fulfilled, and he said, I would go down and ask them for some money, if I was you. I hadn't heard anything about it but I had been going in the office every day.

Q. You were still working for Page under that contract for him?

A. Sure, I never quit working for him until about November 12th.

Q. When was this conversation with your attorney?

A. Along between the last of October, or the first of November, and I went right out of Judge William's office and went up to Mr. Josey's.

Q. Did you talk with Mr. Josey?

A. Talked with Mr. Josey, yes sir.

Q. Let me ask you, now; when was it you talked with Mr. Josey?

A. When I got to his office.

Q. About the last of October, you say?

A. I say about the last, or first of November.

Q. 1914?

A. '14, yes, sir; went right down to Mr. Josey's.

Q. Did you have a conversation with him? A. Yes, sir.

Q. What was said by both you and him?

A. Mr. Josey and I went throught the room that Mr. Eberle worked in all the time.

Q. Who is Mr. Eberle?

A. The private secretary, or something, to the Gem Oil Company, and went in Mr. Josey's office, and I said, Mr. Josey, I see where you and the Gypsy are about to get together, and he said, yes, you know the reason we done that, he said, we got Minnie but the Gypsy has got the land, and the laws of Oklahoma are so funny that the Gypsy could keep it in court five or six years and we wouldn't make any money, and by getting together, the Gypsy has got good lawyers and we got good lawyers, and we would soon have the Nancy whipped out and they will have nothing. I said, Mr. Josey, I want some money; and he said, of course you can have some spending money, and he said, Eberle, write Sadie out a check for a hundred dollars. When he said that, he went out of his office, and when he returned, he had another man with him—something we had never done—talked with strangers before—he brought the stranger in and said, Sadie, this is Mr. Kinnye, a friend of mine. By that time, Mr. Eberle had the check wrote out, and he said, Sadie bring the contract here and let Mr. Eberle put the hundred dollars on it; and I said, no, I wouldn't do that. He said, bring the contract here and put the money on it, and I said, it is down in the bank; and he said, how in Hell are we going to pay you any money on your contract when it is down in the bank. And he said, you and Eberle go down and bring it up here and let him put that hundred dollars on it; and I said, No, I won't do that; I will tell you what I will do. I will go up town and get my lawyer and bring him down here, and him and Mr. Eberle will do it; and he said, you don't need no lawyer for that. I said, I will be back; and I walked out of the door, and wouldn't take the check, and the next morning, I went to Judge Williams and told him what was said, and wanted him to go down there. I had taken him down to Mr. Josey's office about eleven o'clock.

Q. Did you see Mr. Josey when you got there?

A. Yes, sir.

Q. Did you have a conversation with him?

A. Yes, sir.

Q. What was said by either of you, or by all of you, I should say.

A. In the office when we got back down there?

Q. Yes.

A. Mr. Josey was in the office, and Judge Williams said, Mr. Josey, I came up here to see about Sadie's contract, and he said, I didn't make no contract with Sadie, you will have to go and see Page. And he jumped up and went out of the room, and Mr. Williams came back and talked to Mr. Eberle about ten minutes and Judge Williams and I walked into Mr. Page's room.

Q. Mr. Page in, then? A. Yes, sir.

Q. Did you talk with him?

A. Judge Williams did, I didn't.

Q. Did you overhear the conversation?

A. I was right there; standing listening to my lawyer.

Q. What was said?

A. Judge Williams, said, Mr. Page, I came up here to see about Sadie's money, and I went to see Mr. Josey and Mr. Josey said come to you. And Mr. Page said, Josey is mad; he is one of these men that come from Texas and tell negroes to stand back and they have to stand back. I don't care nothing about Josey's madness, Sadie's contract has been filled and she deserves the money. That was Mr. Page talking. Why then, he says, I will pay her what I owe her; he said, who will I pay it to? Judge Williams said, I don't care nothing about Josey's madness; her contract has been filled, and she deserves the money.

Q. Relate that over.

A. Judge Williams said, I don't care nothing about Josey's madness; Sadie's contract has been filled and she deserves the money; and Mr. Page, said, yes, Sadie has done all she can do and she deserves the money, and just as soon as I and the Gypsy get the papers signed, I will see that she gets every cent of it, and Mr. Page said, who will I pay it to; and Judge Williams said, that is left to Sadie. Judge Williams turned to me—we were standing close to Mr. Page—and said, Sadie, who do you want that money paid to; and I said, I want it paid to you, Judge. Mr. Page said, well, Judge, I will call you up in four or five days because I know we will have the papers signed by that time. So we went on down stairs and I went home, and in about four days—well, I guess it was—well, three days, about, after that—one morning about eight o'clock Bettie Mann came to my house.

Q. Did you have a conversation with her?

A. Yes, sir, after I let her in.

Q. What was said before she got in?

A. When she knocked on the door, I got up and let her in.

Q. Alright.

A. I said, what are you doing over here this soon in the morning?

Q. Tell all you and she said.

A. I said, what are you doing over here this soon in the morning? She said, I am as mad as the devil; and I said, what are you mad about? And she said, oh, Page owes me three thousand dollars and he won't pay me; said, I went up there yesterday after some money and he sent me to Long, and Long sent me to Josey. She said, I am going to blow this damn case up. I said, Bettie, you don't know so much about that case; and she said, yes, I do. Do you know when I was working for Hanford and Long, before you got Dennis to go into it? I ran around with them in Kansas City, trying to start a lie, and up to Leavenworth. And she said, I was with you, and you had taken me down to Dennis', and got Dennis to start that lie. I said, well, you can't do nothing with it alright; and she said, I know what I will do——

Q. What was it you said?

A. You can't do nothing with it, I said to her; she said I know what I will do—I will get on the train and go to Muskogee and tell Judge Allen that you framed up the case and he will throw you in jail. Well, that talk sounded too loud to me and I had to get her quiet. She stayed there about a half an hour longer—she had been there quite a bit; she left to go up on Greenwood. I had my clothes on by that time and I went up to Mr. Page's office and he wasn't in, and I went to Mr. Josey.

Q. Did you see him? A. Yes, sir, I did.

Q. Talk to him? A. Yes, sir.

Q. What was said?

A. I said, Mr. Josey, Bettie is raising a lot of sand around here in this case, and she is talking about blowing it up. He said, oh, Bettie is a crook and nobody will believe her; and I said, yes, but she told me she was going over to Muskogee and tell Judge Allen that I framed it up; and he said, why Sadie, Judge Allen is a personal friend of mine and should Bettie do any showing up, I will see that she serves that seven years. That wasn't no satisfaction to me. I came out and came up to Mr. Page's office, and he had come.

Q. He had come? A. Yes, sir, in his office.

Q. Did you talk with him? A. Yes, sir.

Q. What was said?

A. He said, hello, Sadie; and I said, Mr. Page, Bettie is raising a lot of sand around here in town, and she is talking about blowing this case up; and he said, everybody knows old Bettie. I will call up Judge Breckenridge and her bondsmen, and have her throwed in jail. And I said, yes, but she says she is going to go to Muskogee and tell Judge Allen that I framed up the case, and have me put in jail. And I said, I am afraid; and when I told him I was afraid, he looked up at me then, and he said, Sadie, I will tell you what I will do—I was scared, too—he said, I will tell you what I will do; I will give you two hundred dollars and you go to Leavenworth, Kansas, and stay there until I get Bettie quiet. I said, Mr. Page, two hundred dollars ain't enough for me to leave home;

and he said, Well, Sadie, next month, I will give you two hundred dollars more, and from that on, I will give you fifty dollars a month until I get things settled. He said, when do you want to leave, and I said, I want to get out of town as soon as I can. He called over the 'phone——

Q. Who did he call? A. He called Mr. Eberle.

Q. Where was this conversation?

A. In Mr. Page's office; no one there but Mr. Page and I. Mr. Eberle came in there.

Q. He has a private 'phone system in there?

A. Yes, a private system.

Q. What was said after he came?

A. After he came, Mr. Page said, Eberle, write Sadie out a check for two hundred dollars; and he said, you know, Sadie, I let you have two hundred dollars of my own money not long ago.

Q. Who said that?

A. Mr. Page. And I said, yes; and when Mr. Eberle went back and came back with the check, signed it up, he said, I tell you what you do, Sadie—you and Eberle go down stairs and get that contract and bring it up here and we will put it on your contract as part payment. I said, no, I got to go down stairs to get my check cashed and Mr. Eberle can go with me down there and put that on my contract, and still leave it in the bank.

Q. How much was that check?

A. That check was for two hundred dollars, and the one the week before that. was for fifty, and he gave me that money at the Central, but the two hundred check was the Exchange National. Mr. Eberle and I started down stairs and Mr. Page, said, Sadie, when you get through, you come back up here.

Q. Who said that? A. Mr. Page.

Q. Did you go to the bank? A. Yes, sir.

Q. Did you get any cash on the check?

A. No, I asked Mr. Bradshaw for the contract, and I said, let Mr. Eberle have the contract—he wants to put the money on it, so he got the contract and Mr. Eberle put the amount two hundred and fifty dollars on it.

Q. Sadie, I show you Government's Exhibit No. 42, and will ask you to state whether or not the notation appearing there, dated November 10th, 1914, is the memorandum made at the time you referred to? A. Yes, sir.

Mr. German: We offer the memorandum appearing in writing at the bottom of the contract which is Government's Exhibit No. 42.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Q. Then did you get the cash on that check, Sadie?

A. I went to the bank down stairs, and when they looked at it, they said, well, this is on the Exchange National; and I said, well, you have been cashing checks down here for me; and they said, well, they have been small, and we are not going to cash that check. And I went over to the Exchange National, and signed it and put it up there to be cashed, and the banker said, you will have to get some one to identify you; don't you know any one here?

Q. Did you get anyone to identify you? A. Yes, sir.

Q. Who did you get?

A. I looked around and Mr. Gilmore, the janitor at the bank—at the Exchange National——

Q. A colored man?

A. A colored man—I have known him four or five years before that—I said, here, your janitor here knows me; so they called Mr. Gilmore up there, and I called him Brother Gilmore because he used to belong to the church long ago. I said, Brother Gilmore, will you identify me; and he said, yes, sir. Brother Gilmore came up there and said—the man said to him do you know this woman, and he said, yes, that is Sadie James, I know her. He said, this check is for two hundred dollars, and Brother Gilmore said, that is alright; so the banker gives me the money, and I goes back across the street then.

Q. Who did you see? A. Mr. Page's office——

Q. Who did you see at his office?

A. Nobody but Mr. Page.

Q. Did you have a conversation with him?

A. Just a short one.

Q. Relate it.

A. He said, now Sadie, when you get to Leavenworth, you write me so that I will know where you are, and if everything goes alright, you can come on back home.

Q. Let me ask if the deposition had been taken in Leavenworth before this? A. Oh, long ago; this was way in November.

Q. The depositions had been taken in October.

A. About the—I guess about the middle of October some place, the depositions had been taken.

Q. Alright; go ahead. Was there anything else said?

A. No, sir.

Q. In that conversation?

A. No, sir, but I pulled out of there and left for Leavenworth that night, getting out of Bettie's way and Judge Allen's.

Q. Sadie, in the course of your testimony this afternoon, you stated that Mr. Crawley, of the Gypsy Oil Company, had seen you and Dennis Jones on the street, when on the occasion of Dennis' first visit to Tulsa—— A. Yes, sir.

Q. How did you know—how did you learn that he had seen you?

A. Well, about three days after Mr. Page came home, I had been up to the office.

Q. Home from where?

A. From up at Leavenworth, and said that Minnie broke down.

Q. After the depositions?

A. After the depositions taken at Leavenworth, I went to the Gypsy to see what they thought about the case. I was running backward and forward up in there, too, and Mr. Crawley was in the office.

Q. Did you have a conversation with him? A. I did.

Q. Relate that conversation.

A. He said, Sadie, he said, that was rotten testimony up there at Leavenworth; they got that boy up to 14 years old and couldn't get him no further; and he said old Dennis Jones had a string of negroes lined up and you could tell that they had been framed and he said, I am going to throw old Dennis in the Pen; he said that he got on the witness stand and swore that he never had been in Tulsa, and he said, I saw you and him at 3rd and Main, myself, and he said, didn't I; and I said, yes, sir. And he said, I thought Dennis Jones was too shrewd a man for that. He said, what became of that—he said, something is wrong about this case; and I said, no, there ain't—I told him a lie—I said no, there ain't—I said, a man took the boy away, and they don't just know where they was. I seen Mr. Crawly was pretty sore and didn't believe it, and I walked on out of there.

Q. When you got to Leavenworth after getting that two hundred dollars, did you see Dennis or Rube?

A. I didn't see Rube right away bit I hadn't drawed no money up there for about two or three months on that deal of Dennis' and I, and I went to Dennis' the next morning after I got there.

Q. The next morning, did you have a conversation with him? A. Yes, sir.

Q. Relate what was said.

A. You mean on this case?

Q. On this case, yes, sir.

A. On this case. I said Dennie, there is going to be some trouble on that case down there; I said, you better come on clean because the Government is after me, and I said, we can get out of it easy now. Dennis said, I quit working for the Gypsy for you and went to working for the Gem, and I have been in the court house and swore and I ain't going to take it back. He said, I don't know what the laws of Oklahoma are, but they don't reach Kansas. I said, alright; you are going to get in some trouble. Now, that was the next day after I got there. About five or six days after that, I met Dennis on the corner of Fourth and Delaware, there at the bank—German bank——

Q. Did you have a conversation with him there?

A. Yes, sir.

Q. What was said there?

A. I am trying to think what that conversation was that Dennis and I had. I told him I was going to see Rube.

Q. Did you tell him you were going to see Rube?

A. Yes, sir. He told me not to tell Rube nothing about it because Rube would give it up. Well, I didn't see him no more, because I had been there, then, about a week and a half in Leavenworth.

Q. Well, what next occurred with reference to this case? Who did you next see, or talk with, with reference to this case?

A. I saw Mr. Buell, and Mr. Robinson. I had been there about a week and a half, I guess; I went—to come back to my story there before I got through——

Q. Back to where?

A. Back to Dennis; later in the afternoon, to Dennis.

Q. After you went back to Leavenworth?

A. Yes, sir, after I went back to Leavenworth.

Q. Yes. go ahead and tell it.

A. Well, in the conversation there with Dennis——

Q. Tell when this was.

A. That was at Fourth and Delaware.

Q. The conversation that you already referred to?

A. Already to about my telling him I was going to see Rube.

Q. After you got to Leavenworth the last time?

A. Yes, sir, after I done run off from Tulsa.

Q. Alright; tell the rest of that conversation.

A. I said to Dennis—Dennis said to me, said Sadie, he said, you know we say those boys got drowned—can say one of those was Tommy Atkins; said, nobody will ever know who those boys were. I said, no, we can't do that Dennis, because those were my dead aunt's boys, and my mother and the father of those boys are living, and the people will know better. My aunt had had two boys drown there, and they never have been found until today.

Q. Not even today?
A. Not even until today, no, sir, not even a day.
Q. Was that all? A. Yes, sir.

And thereupon an adjournment is taken until 9:30 tomorrow morning.

And thereafter, and on February 15th, 1916, at 9:30 o'clock A. M., further testimony herein was taken as follows:

SADIE JAMES being recalled, further testified as follows:

Cross Examination by Mr. Hanford.

Q. Sadie, you left some things in your direct examination, evidently for cross examination, so we will just get them out of the way.

Mr. German: I object to that remark, and move to strike it; I think it is very improper.

Q. The first is the name of the man that you say was passing back and forth between Leavenworth and you, when depositions were being taken; who was that man?

A. I refused to answer that a while ago when I was telling it.

Mr. Stuart: Did what?

The Examiner: Answer the question.

A. I refused to state then, who he was.
Q. Answer the question.
A. White man here.
Q. What was his name?

Mr. German: What do you refer to—the man when the depositions were taken in October, 1914; I don't think your question was clear.

A. Jim Redman.

Q. The next is, you spoke of a deal between you and Dennis Jones over in Leavenworth, what was that?

Mr. German: I object to that question on the ground that it is incompetent, irrelevant, and immaterial, and improper cross examination.

Mr. Blakeney: I would like to make an inquiry in the record; are you still enforcing the rule that only the interested parties, or their attorneys, are allowed in the court?

Mr. Allen: This is the District Attorney of Kansas.

Mr. Blakeney: Well, he can not be here for any other purpose except to intimidate somebody—no other purpose.

Mr. Allen: Judge Stuart said yesterday, there would be no objection.

Mr. Blakeney. He doesn't represent me; I don't want to interpose any particular objection, but I want it to be understood that I protest against the United States bringing unnecessary officers here, for he sole and only purpose of trying to intimidate parties and the witnesses in the case.

Mr. German: I object to the remark of counsel going into the record, and strenuously protest against his asserting that the United States Attorney for the District of Kansas is here for the purpose that he stated.

Mr. Blakeney: And I insist that he could have no other purpose.

The Examiner: Mr. Blakeney, do you make objection to the presence of the gentleman mentioned?

Mr. Blakeney: I want to enter a protest against the method—I just want the record to show that they are here over my objections.

Mr. German: I am willing that the record may show that but not in the shape in which you put it.

Mr. Blakeney: I am wanting it there in that shape.

The Examiner: Mr. Blakeney, do you ask me to take any action in connection with the presence of this gentleman

Mr. Blakeney: I am making it for the record.

Mr. Hanford: Strike that question for the time, please; I withdraw that question for the time being.

Q. Sadie, who is John Redman—Jim Redman?
A. A white fellow who used to live in this town.
Q. Does he live here now? A. I don't know.
Q. How long since you have seen him?
A. About a year I guess since I met him.
Q. What is his business?
A. I don't know that; I don't know that.
Q. What was his business then? A. I didn't know then.
Q. How long had you known him?

A. About three or four years.
Q. And never what his business was?
A. Never knew what his business was.

Mr. German: We object to this as improper cross examination, and ask that all the inquiries concerning this man be excluded.

Q. What kind of a looking man was he?

Mr. German: Our objection we desire to go to all the questions concerning this man.

Mr. Stuart: Let your objections go to the whole thing.

Q. What kind of a looking man was he?
A. Well, I am not a very good hand to describe white people; I don't know just about how he looked.
Q. Well, was he a big man or small man?
A. No, he was a small man.
Q. A small man?
A. Yes, I think about the size of Jim Swift—you know him—about Jim Swift's size; a small man.
Q. You say he was interested in this case?
A. In a way, yes.
Q. What was his interest in the case?

Mr. German: I object as improper cross examination; incompetent, irrelevant, and immaterial.

A. He was going to be a witness.
Q. Who for? A. For Mr. Page.
Q. Did he ever talk to Mr. Page? A. No, sir
Q. Who did he talk to? A. Me.
Q. You, only? A. Yes, sir; me, only.
Q. You say that he attended the hearings at Leavenworth? A. Yes, sir, in October.
Q. Then he would come and tell you what the witnesses said? A. Tell me what they said?
Q. Yes. A. No, he didn't tell me what they said.
Q. What did he tell you?
A. He was watching Minnie; he was just telling me about Minnie. He didn't tell me about what they said. He was watching and telling me what Minnie said. I wanted him to go up there and see how Minnie was going to stand that stuff.
Q. Then, why did you say he came to you every day and told you what took place at those depositions?
A. They hadn't testified; he was just telling me about Minnie. He didn't tell me about who testified; he didn't——
Q. Then, how did you know what was going on?

A. Up there?

Q. Yes.

A. I didn't know then until I got back to Tulsa and Mr. Page told me.

Q. Did you testify on direct examination, that this man was keeping you informed of what the witnesses said?

A. Of what the witnesses said?

Q. Yes. A. He was watching Minnie.

Q. Didn't you testify on direct examination that that was what he was doing, and you knew through him, all that these witnesses were testifying?

A. I didn't say that I knew what the witnesses were testifying because I didn't—I didn't know.

Q. You didn't say that on direct examination?

A. I don't remember of saying it, if I said that he was telling me what the witnesses said.

Q. That you knew what those witnesses were testifying?

A. No, I didn't know what the witnesses were testifying then.

Q. Didn't you say that on direct examination—answer the question.

A. I will answer it in a moment, when I think.

Q. Well, you have thought it over, now; answer the question.

A. Well, I can't answer that, just as I said it, because I don't think I did say it, that he was making——

Q. Then if you did say it, it was not true, is that a fact?

> Mr. German: I object to that as argument, and a very improper question.

A. If I said that he told me what the witnesses said?

Q. Yes, if he said——

A. Not him—no, he didn't tell me that—what the witnesses were saying now.

Q. Then, if you testified to it, it was not a fact?

A. Well, I think it must have not been a fact, if I said that he told me what the witnesses were saying.

Q. What did he tell you about Minnie?

A. He was just watching Minnie to see——

Q. Just answer the question; what was he telling you about Minnie?

A. He told me they couldn't do nothing about Minnie; she has been in the hotel—she hasn't testified yet—that is all he told me.

Q. That is all he told you? A. Yes, sir.

Q. Was he at the hotel? A. I guess so, I don't know.

Q. Well, what did he tell you? A. What did he tell me?

Q. Yes.

A. Watching Minnie and told me she hadn't testified yet; they couldn't get her to testify.

Q. Did he tell you that he saw her?

A. Yes, he told me that he saw her.

Q. Saw her up in the hotel?

A. Told me that he saw Minnie, yes.

Q. Did he say that she was in bed?

A. He didn't tell me that she was in bed, no; just told me that she was in the hotel. No, he didn't tell me that she was in the bed.

Q. How did he know that Minnie couldn't testify; how did he know that Minnie was going to testify?

A. Why, I had told him that I was going to stay here in Kansas City and when Minnie got back down here, I was going to get the deed from her down here. Mr. Page got me to go to Leavenworth.

Q. That doesn't answer my question.

> Mr. German: I submit that she is explaining preliminary to answering, so that she may intelligently answer.

Q. Go on and answer the question.

A. Ask it over, please.

Q. How did he know that Minnie was intending to testify? A. I told him myself.

Q. You knew it, did you?

A. Why, I came on that intention myself, of going to Leavenworth with the depositions; sure, I knew that.

Q. And because the depositions were to be taken there, you assumed that Minnie was going to testify, is that true?

A. No, sir, Mr. Page got me to come over and get this deed unbeknownst to you.

Q. I am asking you, Sadie, if you didn't just assume that Minnie was going to testify? A. Did I assume that?

Q. Yes.

A. No, I knew she was taken there for that purpose; I knew that—I didn't think it. I knew she was taken to Leavenworth for that purpose.

Q. But did you know that in your own mind, or was you informed?

A. I was informed by Mr. Page, yes, sir; that is why he asked me to come.

Q. Where? A. He asked me in Tulsa.

Q. In Tulsa? A. Yes, sir, in Tulsa.

Q. He told you that Minnie was there for the purpose of having her deposition taken?

A. Her deposition taken there with the bunch, yes, sir.

Q. Where did you get hold of this man Redman?

A. I met him around here in town; I used to live here in Kansas City.

Q. I asked you the question, where did you find him?

A. Picked him up on the street.

Q. Just picked him up on the street here?

A. Yes, I had known him; picked him up on the street, right here.

Q. When he came back from Leavenworth, did he come to see you?

A. I told him where to meet me at; he didn't know where I was stopping at, no.

Q. Then, when he came back, did he call you up?

A. No, I knew how to meet those trains—the interurban cars from Leavenworth. He was coming down on the interurban car.

Q. You have known him here for three or four years?

A. About three or four years, yes; about three or four years, right here. I first met him here; right here in Kansas City.

Q. How long ago was that?

A. That has been—now, I guess that has been about five years, I guess; five years I guess now—five years I suppose.

Q. You don't know what his business was?

A. I guess he was a crook. Sure, he couldn't have been nothing else—he wouldn't have been with me.

Q. I guess that is right? A. Yes, that is right.

Q. Now, Sadie, what was that deal that you spoke of in connection with Dennis Jones?

> Mr. German: I object to that as improper cross examination; as incompetent, irrelevant, and immaterial, and call counsel's specific attention to the fact that the witness did not relate anything about the transaction referred to on her direct examination, nor was she inquired of about it, and unless he makes her his own witness, I think he should not now ask her to relate it.

Q. Go on and answer the question.

> Mr. Blakeney: You are making her your witness?
>
> Mr. Hanford: No, indeed.
>
> Mr. Stuart: Your Honor, I would like to make this statement in the record so that the Court may have it before him at the time he rules on the objection. That is, that Mr. German, in his examination asks this witness about her relations with Dennis Jones, and that she an-

swered that she had already pulled off a deal with Dennis Jones; that is correct?

A. Yes, sir, it is.

Mr. Stuart: But did not state the deal.

Q. Go on, Sadie, and answer the question.

A. Well, I rather not answer that question about my and Dennis' deal because that wasn't connected with this case. That was a case of my business.

Q. Answer the question.

Mr. German: Just a minute, please.

Mr. Blakeney: I want to show that the prosecuting attorneys—United States attorneys, are consulting these Kansas attorneys, and agents of the Government. I mean the Kansas District Attorney who can have no interest in this controversy, and I object and I want to object to it.

Mr. German: In this connection I desire the record to show that at the request of the United States Attorney for the Eastern District of Oklahoma, the United States Attorney for the District of Kansas is present here this morning, aiding counsel of record and the Government in this case.

Mr. Hanford: I want to state an objection to having the examination of this witness suspended pending a consultation between counsel in this case and outside persons. My examination of this witness is not dependent upon any advice or consultation between those parties and she should be required to answer my questions.

Mr. German: Mr. Examiner, I ask permission to withdraw the witness from the stand to advise her what her rights are in connection with the matter inquired about.

Mr. Blakeney: We object.

Mr. Hanford: Yes, sir, I object.

The Examiner: The witness is on cross examination by the attorneys for the defendants. I suppose you can state anything which you desire in this record. I see no reason why she should be withdrawn from the witness stand for that purpose.

Mr. German: Then let me state in the record, I want to say to the witness that she has the constitutional rights to decline to testify concerning a matter that incriminate her if it be a matter other than that which relates to the case here now on trial.

Mr. Blakeney: We object to any such statements. It is not a statement of the law. The witness has not the right to determine whether it will relate to the controversy or not, and when she has taken the stand and testified voluntarily regarding the transactions, she is not at liberty to avoid cross examination upon the suggestion that if she deems the question not relevant to the matters before the court, leaving it entirely in her judgment whether she will be cross examined or not.

Mr. Allen: Whether it is relevant or not relevant, she would not be required to answer the question if it would incriminate her.

Mr. Blakeney: Unless she had voluntarily taken the stand and testified in the matter.

Mr. Allen: She took the stand as a witness for the Government under process from the Government, in this case.

Mr. Blakeney: She has been a very willing—I don't mean on the stand, but off the stand, a very earnest, persistent, witness, and while she may have been served with process, it was wholly unnecessary so far as getting her presence here.

Mr. Allen: Of course we protest against any such statement in the record.

Mr. Hanford: I understood that this matter was brought out on direct examination, and that any incrimination that attaches to the witness was testified to by herself at that time, and she stated that she herself was instrumental in this deal—in pulling off this deal that she refers to.

Mr. Stuart: I am now going to make an open protest against the withdrawal of this witness at any time during the cross examination for the purpose of advising her of her legal rights, such advise being——

Mr. German: It has already been made, Judge, already been given.

Q. Now, we can have the question answered, Sadie.

A. Well, I will say that I don't want to answer that question; I refuse to answer it—I refuse to tell you what deals that was. They incriminate me and I am not going to tell it.

Mr. Hanford: I insist that the question be answered, Mr. Examiner.

Mr. German: Mr. Hanford, is not there a warrant out for her over that matter at Leavenworth?

Mr. Hanford: There is a warrant out for her for criminal libel sworn to by Dennis Jones for statements that she has made about him regarding some matter. What it is, I do not know.

Mr. German: Doesn't it pertain to the very matters that you are inquiring about?

Mr. Hanford: I think it does.

Mr. German: And it doesn't pertain to this law suit—either matter——

Mr. Hanford: That will be determined when the witness answers the question.

Mr. German: You know it does not.

Mr. Hanford: I know it pertains to a matter brought out on cross examination, and I insist upon my right to cross examine.

Mr. Blakeney: I would like to know when the District Attorney for the Eastern District of Oklahoma, or his assistants, got to representing Sadie in a state prosecution that may now be pending in Kansas, if any such be pending.

Mr. German: I will protect any witness that takes the stand for the Government just as you would protect one that takes the stand for the defendants, for that matter. I will protect just as you would protect one who takes the stand for the defendants; for that matter, I will protect one who takes the stand for the defendants, when we are before the Examiner who has no power to sustain the objection.

Mr. Stuart: In other words, Mr. German, if you were in our fix, you wouldn't ask her to answer the question?

Mr. German: No, I wouldn't ask.

Mr. *German*: You have very much higher ethics than I have.

Mr. Allen: We are not going to make her answer this question here.

The Examiner: I will not require the witness to answer the question, under her statement that it will be in the nature of an incrimination.

Mr. Hanford: We except.

Mr. Blakeney: Without waiving any of our rights to have that question answered, we will proceed with the examination. It is obvious that I am interested with Mr.

Hanford, with the discrediting of this witness. We can reserve the right.

Mr. Hanford: I reserve the right to apply to the court to have her answer this question——

Mr. Stuart: Predicated upon her testimony given upon direct examination, voluntarily, and without objection, and without claim for immunity, and without any advise to that effect. Go ahead now.

Q. Now, Sadie, you said that you were going to the offices of the Gem Oil Company, every few days but on another matter, did you? A. On another matter.
Q. Is that what you said?
A. I was not working for—for the Gem Oil Company?
Q. Yes.
A. Yes, I said I was going up there every day or two.
Q. On another mission? A. Yes, sir.
Q. Not relating to this case?
A. Not relating to this case, no, sir.
Q. What was that other matter?

Mr. German: I object to that as improper cross examination.

A. I don't think you want it answered.
Q. Answer the question, Sadie.
A. I was an intimate friend of Mr. Page's.
Q. What do you mean by that?
A. I mean, seeing him for myself; him and I just alone, yes, sir. Now, you want that out—yes, sir, I will have to tell it if you want it.
Q. Where did you go to see Mr. Page—to the offices of the Gem Oil Company—you stated, didn't you?
A. I was up in the offices of the Gem Oil Company, yes, sir.

Mr. German: You understand we are objecting to all of this?

Mr. Hanford: Yes, sir, I understand.

A. You pulled it out of me, I will tell it. I didn't want to tell it but I told it.
Q. You are familiar with those offices, are you not?
A. Yes, sir, been in there lots of times.
Q. How many offices, how many room-, are there in connection with those offices?
A. Well, there are four that I have been in.
Q. Four?

A. Yes, sir. No—yes, there is, four that I have been in on that floor.

Q. Can you describe them?

A. No, sir, I don't think I can; I wouldn't attempt to describe them, no, sir.

Q. Can't describe?

A. I can't describe them, no, sir, and I have been in there lots of times.

Q. Can you name the four offices that you were in?

A. Yes, sir, I think I can.

Q. Name them.

A. I have been in the little office this way from Mr. Page's office, where Clarence is.

Q. Who?

A. Clarence, little secretary in that office; him and the lady sits in there.

Q. You mean the office right adjoining Mr. Page's?

A. Yes, sir, I have been in there, yes, sir.

Q. Then another one? A. Mr. Page's office.

Q That is——

A. Right next to—before you get into Clarence's office.

Q. That is the entrance?

A. That is the entrance, yes, sir. Mr. Page had his desk —right back to the window in—right as you go in there.

Q. He has his desk in that room? A. Yes, sir.

Q. The next office? A. Mr. Long's.

Q. That is separated? A. By a door.

Q. From Mr. Page? A. From Mr. Page.

Q. No passage between there?

A. No passage, no, sir; you have to go out to the hall and go into the next office.

Q. And then the next office? A. Mr. Josey's.

Q. Josey's?

A. Yes, that is five. Mr. Eberle's is the first one. I would never go in through Mr. Page's office *bu* always go in where Mr. Eberle is and through that door to Mr. Page's room.

Q. The offices of the Gem Oil Company and Mr. Page's are on the same floor but they do not adjoin? A. Open——

Q. That is, do not open between?

A. No, sir, except as you go to Clarence's, right here.

Q. Mr. Page's and this person that you speak of as Clarence?

A. Yes, sir, I guess that is the name, Clarence—just those two.

Q. Then, you have been in the entrance of the Gem Oil Company; you say that is where Mr. Eberle was?

A. No, that is Mr. Josey's room where you go in where Mr. Eberle is—that is Mr. Josey's office.

Q. Then is Mr. Long's office? A. Yes, sir.

Q. Then Mr. Page's? A. Yes.

Q. And that is the room where you say Clarence is?

A. Yes, that little room right there; that is a small place.

Q. Now, when you went up there Sadie, where would you see Mr. Page? A. Talking to him in his office.

Q. In his office?

A. Yes, talking to him in his office. Do you want to know where else I seen him?

Q. Yes. Then I want to know where else you seen him.

A. I seen him at night; yes, seen him at night. You want me to tell it, do you?

Q. Yes. A. Yes, I seen him at night.

Q. Where?

A. Up in that office; in his office, at night.

Q. At night?

A. Yes, about ten o'clock at night; nobody there but him and I—Mr. Page and I.

> Mr. German: You understand that we are objecting to all of this as improper cross examination, and as being incompetent, irrelevant, and immaterial.

Q. This was three or four times a week?

A. No, sir, I didn't say that.

Q. That is what you said, isn't it?

A. I did not; I said I would be going there two or three times a week talking to him—I didn't say two or three times in the night.

Q. That is what I want to get at. What did you go there in the day for?

A. Just talking between him and I, about our nightly matters and other matters. I was Mr. Page's friend, if you want me to tell it.

Q. You came up there and would visit with him in the day?

A. Yes, sir, sitting there just as I am here. If anybody came in, I would go out.

Q. You had long conversations?

A. No, not so long; you mean in the daytime?

Q. Yes.

A. No, no long conversations in the day time.

Q. You would go in and sit down and talk with him in a friendly way?

A. Yes, sir, sure. Why shouldn't I talk to him in a friendly way—I came to get money from him. Sure.

Q. All the doors closed? A. In the day time?

Q. Yes.

A. Not closed in the day time, no; the doors would be open and people going back and forth, attending to business; sure. Mr. Page would sit on this side, in that big chair and I would talk to Mr. Page.

Q. Laughing and talking with Mr. Page?

A. Yes, sir, I am his friend—talking.

Q. Just visit with him there in the office?

A. No, talking of our secrets; we were not doing anything in the day time, you understand that?

Q. Yes, I understand. And you talked about it openly; you visited before other people?

A. You mean before other people?

Q. Right there in the office where they were passing back and forth?

A. Oh, yes. You would have to go out that door; that was a good little piece from Mr. Page's table where we were sitting. We would be sitting there and talking. I didn't want to tell that and you brought that out.

Q. Now, just wait for me to ask you a question. How often did you say that you were up there at ten o'clock at night?

A. Why, I don't know; really I can't tell how many times I have met Mr. Page in that three month-.

Q. A good many times?

A. Yes, I met a good many times. Just I——

Q. And always at night?

A. Now, what could we do in the daytime?

Q. Answer my question. Always at night?

A. Always at night, when I met him, yes; late at night.

Q. Anybody else there?

A. Nobody else there, no, sir; nights when I would meet him, no, sir.

Q. The lights out?

A. Why wouldn't they be out? The lights would be out and you would think the offices were closed—locked up; nobody up there, yes, sir. I am sorry to say this though—sure am. I don't care so much about myself but I wouldn't tell it on him, because he did nothing to me—not a thing has he did to me.

Q. Are you sure that you never saw anybody else up there at night? A. I never have.

Mr. German: I want the record to show that it is over our protest that counsel is developing these matters.

A. I am sure sorry that I had to tell it, too. I certainly don't like to be pulled out with a secret.

Q. Now, Sadie, you say that you went up there always at ten o'clock?

A. No, it wouldn't always be at ten.

Q. Sometimes earlier and sometimes later?

A. Oh, no, I wouldn't be there no earlier than that.

Q. Never any earlier? A. Never any earlier.

Q. Sometimes later, though?

A. Yes, sometimes later and sometimes it would be maybe twelve o'clock at night before I go out of that office.

Q. Now, Sadie, can you name any day that you were up there? A. No.

Q. Specific day? A. I wouldn't attempt to, no, sir.

Q. You got a pretty good memory of days and dates.

A. I am not going to do that because I can't; I went up there too often—I will not do that.

Q. Can you name any day of the week that you were up there? A. No, I can't do that.

Q. Were you there on a Sunday? A. No.

Q. Never up there on a Sunday?

A. Never in his office on Sunday, no.

Q. Never at night?

A. No, never on Sunday night because Mr. Page would go to the Park on Sunday, and Sunday night.

Q. Oh, that is why you were not up there Sundays; you had to think that over to answer it. Now, let me ask you something else.

A. Well, I am going to take my time, Mr. Hanford, before I speak.

Q. Were you ever up there on a Wednesday night?

A. I can't say that; I am not going to say what night it was.

Q. Well, now, Sadie, when you were up there in the daytime, you would make appointments, wouldn't you?

A. Well, he would say, meet me tonight.

Q. Or some other night, or something like that?

A. Something like that, yes.

Q. Well, can you remember whether he ever asked you to meet him on a Wednesday night?

A. No, I can't remember ever of being there on a Wednesday night, I don't think now. I am not going to say whether I was there——

Q. I want you to be sure.

A. Because, I don't know what nights in the week I was there. Sometimes it would be a week before Mr. Page and I would meet. At night, I mean. Now, do you want to know where else I met him?

Q. Yes.

A. I met him at [] house, 504 East Archer, in my house at night.

Q. He would go out there at night, would he?

A. At 504 East Archer, in my house.

Q. Now, why didn't you tell me that before when I asked you where?

A. You asked me at the office—that is where. But being you brought this out of mr, I didn't want to tell it—but I am telling it now.

Q. Now, where else did you meet him?

A. I never met him outside of those two places; not outside of those two places, have I met him. You mean on the night I am talking about—my own and his business, ain't you?

Q. Yes.

> Mr. Allen: Understand that our objection to this line of testimony is going to each and every question for the reason that it is incompetent, irrelevant, and immaterial, and improper cross examination of this witness.

Q. Now, the only time that you ever met Mr. Page at night, was during those three months?

A. I never had met him before because—I didn't know Mr. Page.

Q. Answer my question. You say that the only time during those three months—— A. Just met him once——

Q. No, the only times you saw him at night was during those three months?

A. In between those three months, you mean?

Q. Yes; answer that question.

A. I got started in those three months; I can't tell you the nights.

Q. What were those months; name them.

A. I started in August to work for him, and didn't quit——

Q. I am asking you to name the months.

A. There is August and November, I worked with him from then until I——

Q. What is the other month?

A. There is August, September, October, November—those three months after I started working for him in August; then I worked with him—*whe* to meet him at the first part of November. The last time I met Mr. Page must have been between the first and fifth of November.

Q. And you never saw him after that?

A. In November? No, I haven't been there; didn't he send me up here to Leavenworth? That is the reason he told me to write to him, so he would know where I was.

Q. You never saw him since the fourth or fifth of November? A. Yes, I have seen him since then at court.

Q. That is all?

A. That is all I have seen Mr. Page, yes.

Q. Now, when did you start to see him in August?

A. In August—well, that must have been right along about the last part of August—along about the 25th or 26th —along there; I don't know—it was the last part of August.

Q. The last of August.

A. Yes, the last part of August I started in being his friend; from that first night, we would have other meetings—from that along up in November. Did he tell you to ask me those questions? I didn't want to tell it; I didn't want it known either. You are bringing it out on me and disgracing him yourself.

Q. Now, Mr. Page gave you money? A. Yes.

Q. He is a pretty rich man, isn't he?

A. Yes, I guess so; he handles money like he is.

Q. What do you mean by that—he gave you a lot?

A. No, not a whole lot; ten, fifteen, twenty, sometimes when I needed it. One time he wrote a check and give me fifty dollars and I cashed that down in the Central National Bank and that was shoes and things of mine—I went and asked him for it and he gave me fifty dollars. I cashed it at the Central National because it was on his bank; he told me where to go and get it cashed.

Q. Fifty dollars?

A. Fifty dollars, the latter part of October or November. I will tell you what was on the check. You will find in his office——

Q. What do you say that he put on that check?

A. He put on the back of that check like this—like a loan; he said, Sadie, I will just put this on there, and I went down to the bank and cashed it.

Q. And the check was in the month of what?

A. The latter part of October, or the first part of November, I forget what part. I guess it was maybe about two weeks before I left, I suppose, or maybe a little later.

Q. Now, then, how many other checks did he give you?

A. I haven't got no more check from him on my business, and that is the only check; he didn't have no money in his pocket that day.

Q. He gave you a check for fifty dollars? A. Yes, sir.

Q. And the other times he gave you money?

A. Yes, sir; when I asked him for it, he would give it to me.

Q. He always had money in his pocket?

A. No, but he would always give me what I asked him for.

Q. He did that a good many times?

A. A good many times, yes, sir, he did.

Q. So, altogether, you had a good deal of money from Mr. Page?

A. Out of Mr. Page, by himself, I don't mean the Gem Company, now—by Mr. Page, out of his own pocket to me.

Q. That is what I am asking you.

A. Yes, sir, out of his own pocket to me.

Q. About several hundred dollars?

A. No, you never did see a white man give a negro woman that much money, did you?

Q. Several hundred?

A. No, he didn't give me no several hundred dollars. I didn't get that much out of him, no, sir; but I got enough money to live on.

Q. He kept you pretty well, didn't he?

A. No, I knew what a colored woman could get out of a white man, and I didn't ask him for no big amount of money, you see. I didn't do that. You are pulling this out of me; I certainly hate it, though.

Q. Now, Sadie—— A. Yes, sir.

Q. When did you first see Minnie?

A. Saw Minnie on a Monday in June. You mean the first time ever I saw her in my life?

Q. Yes.

A. Oh, it was about—I will say this, between about the middle part of July, 1884. You mean the first time I ever saw her?

Q. That is when she first came to Leavenworth, isn't it?

A. Yes, sir.

Q. Then you got to know her very well in Leavenworth?

A. Yes, I knew her good there.

Q. Very well? A. Yes, sir.

Q. You used to visit with her? A. Yes, we worked——

Q. I am not asking where you worked, you visited with her? A. Yes, visited with her and she with me.

Q. You ran together?

A. Didn't go up in town any place because we didn't live around there.

Q. Just visited back and forth? A. Yes, sir.

Q. She came to Hyde's house?

A. Yes, and she would go down to the block north and meet me.

Q. Did you go to the house and visit her? A. Yes, sir.

Q. And go up in her room? A. Yes, sir.

Q. Where was her room?

A. Her room then was right down off the kitchen out in the yard.

Q. That is all?

A. That is all I have seen Mr. Page, yes.

Q. Now, when did you start to see him in August?

A. In August—well, that must have been right along about the last part of August—along about the 25th or 26th—along there; I don't know—it was the last part of August.

Q. The last of August.

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Q. That is when she first came to Leavenworth, isn't it?

A. Yes, sir.

Q. Then you got to know her very well in Leavenworth?

A. Yes, I knew her good there.

Q. Very well? A. Yes, sir.

Q. You used to visit with her? A. Yes, we worked——

Q. I am not asking where you worked, you visited with her? A. Yes, visited with her and she with me.

Q. You ran together?

A. Didn't go up in town any place because we didn't live around there.

Q. Just visited back and forth? A. Yes, sir.

Q. She came to Hyde's house?

A. Yes, and she would go down to the block north and meet me.

Q. Did you go to the house and visit her? A. Yes, sir.

Q. And go up in her room? A. Yes, sir.

Q. Where was her room?

A. Her room then was right down off the kitchen out in the yard.

Q. Out in the yard? A. Yes, sir, out in the yard.

Q. That is the only room you ever was in?

A. I didn't go in the other part of the Hyde house, no, sir.

Q. You visited Minnie at her room?

A. Yes, sir, and she would come to mine.

Q. Out in the yard?

A. The kitchen at the Hyde house is built—the kitchen runs back out this way, the kitchen faces the north I think — won't swear that but I think it does. You could go into the Hyde house off of Archer.

Q. Was Minnie's room attached to the house?

A. Attached to the house.

Q. But separate of the house?

A. Yes, sir, all off of the kitchen.

Q. All off the kitchen?

A. All off the kitchen, yes, sir.

Q. And you continued to know her intimately until she went to the Fort?

A. Oh, I continued to know her until she left town, she left long about—well, she left there—well, at least the last time I saw her was about January, 1888, I think that is the last time I saw anything of her.

Q. She used to tell you all about herself?

A. Well, yes, no, I suppose she kept some things, no.

Q. But she told you a good many things?

A. She told me a good many things, yes.

Q. Told you who she was going with?

A. Not at that time. She did after I got back from the west, told me then; that was along about October, 1885, September, 1885, then she commenced talking about men but not before that time; she hadn't mentioned any men to me.

By Mr. Blakeney: When was that she said she got back from the west?

A. I didn't say when I got back from the west.

By Mr. German: Correct your statement now.

A. I got back about the first week in March, 1885, I left Leavenworth the 22nd, along about the 22nd day of November, 1884.

By Mr. Hanford: I move to strike all of this as not responsive to any interrogatory.

Q. How did Minnie dress when she was around the Hyde's?

A. Well, you know about how all Indians dress, wore nothing but plain dresses and aprons, she was a servant, she was not any associate of the Hyde's, she was their servant.

Q. Did you ever see Mrs. Hyde about the house?

A. Oh, yes, they would pass in and out, yes.

Q. Did you ever hear her speak to Minnie?

A. No; she might come out into the kitchen, Mrs. Hyde —Minnie didn't like Mrs. Hyde; she didn't want to stay there when she first came.

Q. Now, wait for me to ask you questions, don't fill this record up. Mrs. Hyde would come out in the kitchen and talk to Minnie?

A. Yes, come out in the kitchen, no I don't know that so much talking was going on.

Q. But she would be about?

A. Would be about sometimes, yes.

Q. And that was all the time that Minnie was there that you would occasionally see Mrs. Hyde?

A. I didn't go over there every day, no.

Q. You would go there a good deal while she was there?

A. At different times.

Q. Several days apart or a week apart?

A. Oh, maybe more than that I had a better house for her to come to at Haven's. I had a better way for her to come to my place, because my place had a big yard and a big porch and we could talk there all we wanted to, it wasn't so convenient at the Hyde's.

Q. I see. Minnie would come very often to the Haven's?

A. Yes, sir, pretty often. My folks never come out in the yard, I was away off from the house, you see.

Q. You did go at different times to the Hyde house to see Minnie? A. I did go at different times, yes.

Q. About how long was she there?

A. Well, to my knowing from July to November, right at the Hyde's.

Q. You would go there sometimes in July and sometimes in August? A. Sometimes in July.

Q. Clear up to September?

A. Until she left. I left her with the Hyde's and I went west; I still left her at the Hyde's.

Q. And you went there enough to see Minnie and saw Mrs. Hyde too?

A. I didn't see Mrs. Hyde no whole lots of times; Mrs. Hyde had a lot of little children in the house, you know how people are who are wealthy, they don't come in the kitchen very often, my folks didn't come in my kitchen.

Q. All right, Sadie, all right. Now, you say that Minnie gave you a photograph of herself? A She did.

Q. And that it was taken while she was there?

A. At Carlisle.

Q. Out in the yard? A. Yes, sir, out in the yard.

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Q. And that it was taken while she was there?

A. At Carlisle.

Q. Taken at Carlisle?

A. She brought that from Carlisle with her.

Q. And while she was at Hyde's you say she gave you that picture of herself?

A. Yes, she gave me a picture of herself.

Q. Now, when did you next see Minnie at Leavenworth?

A. After Leavenworth?

Q. Yes?

A. I saw Minnie about after she left there about '89, I left around here but not—I left to come down here but not——

Q. You know when Minnie left Leavenworth, do you?

A. I don't know exactly when she left, no.

Q. Did you know she had gone?

A. Yes, I did know that, heard it after she had gone, that was in '88 sometime.

Q. Did you know where she went to?

A. No, I didn't know where she went to, I wasn't working in the Fort.

Q. You saw her next when?

A. In 1895 when I was living down here.

Q. She told you where she came from?

A. No, she didn't. She told me she came from Colorado, but she didn't tell me where, what town she come from she didn't tell me.

Q. Now, what month was that?

A. It was either in—I guess it must have been about the first of September or the last of August, I wont say; most sure it wasn't any later than that when she came.

By Mr. German: That was in Kansas City?

A. Yes, sir, down here in Kansas City in 1895, either the latter part of August or the first of September.

Q. It was in the fall?

A. It might have been the first part of September, it wasn't later than that.

Q. Not later than the first of September?

A. Not any later than that I am positive, I mean—not the first, the first part or September, I don't mean the first day of September.

Q. But the latter part of August.

A. No, I ain't going to say, I know it was the latter part of August.

Q. I see?

A. Oh, yes, I thought you said September. Yes, the latter part of August or the first part of September.

Q. Where were you living then?

A. I were living on *H*ampbell Street between Pacific and Independence Avenue.

Q. What number? A. 575.

Q. Campbell Street? A. Yes, Campbell Street.

Q. What was your name then?

A. I don't want to tell it. I had somebody else there in the house with me and I don't want to tell it.

Q. Answer the question?

A. I will have to give you three or four names if I did.

By Mr. German: Well, go ahead and give them Sadie.

Q. That is what I want? A. Carney.

Q. How do you spell that? A. C-a-r-n-e-y.

Q. Another one? A. Curtis.

Q. Another one?

A. I am trying to think of them, I can't think of the other names that I went by.

Q. Well, what was your name, your actual name at that time? A. Why, my real name?

Q. Yes, at that time? A. Sadie Harris.

Q. You were not married at that time? A. Sadie Harris.

Q. You were not married at that time? A. No.

Q. That is your mother's name, Harris?

A. That is my father's name.

Q. Father's name?

A. Yes, my maiden name was Harris; I had been married though, I had been married.

Q. I am asking what your name was?

A. My name was Harris.

Q. Well, what was your name when you had been married? A. I had been married two or three times.

Q. Before that? A. Yes. My name was Harris.

Q. What else? A. Curtis and Carney.

Q. Now, what time of day was it that you saw Minnie?

A. I met Minnie, it was about half past nine—You mean when I saw her the day she came from the west?

Q. Yes, that is what I mean?

A. That must have been about half past nine or ten in the morning.

Q. Where did you see her?

A. Saw her down on Bluff Street, used to be a big frame and I had some friends up there.

Q. One of the streets of Kansas City, is it?

A. Yes, but the house is torn down where I used to go.

Q. And she had her children with her?

A. She had two and a couple were on her farm.

Q. How big were the children?

A. The first one was about a year and a half old, I think, a little girl about this high, I should judge, I never asked her the age of those children.

Q. That is what you figure it up?

A. Yes, sir, I figured that.

Q. You took her to your house?

A. Took her to my house, yes sir.

Q. And she *staid* there?

A. She *staid* there I think until about four.

Q. And then you took her down town?

A. No, I didn't take her down town.

Q. You let her go?

A. Yes, sir, I let her go I didn't go back down town with her.

Q. She had the babies—she took the babies and went to the depot?

A. Yes, sir, told me what she was going down there after.

Q. What did she say she was going for?

A. She told me she was going to the Indian Territory to draw her money, but she didn't tell me how much she was going to draw then.

Q. And then you saw her many months afterwards?

A. Well, I can't exactly say now, say the exact number, but I will say eight or nine, and maybe a little bit longer, it wasn't much longer than that, she came back in '96.

Q. In 1896?

A. In 1896, yes, sir. I figured she had been gone, well I will say eight or nine or ten months, I can't say just exactly, I don't know; it wasn't very soon though after she left before she came back, it was a good while.

Q. And she told you about drawing the money?

A. Yes, I asked her about the children first.

Q. Did she say—Was she alone at this time?

A. She was alone, didn't have no babies with her, didn't bring the children to my house at all—by her lone self.

Q. She came out by herself?

A. Yes, sir, when she came that time.

Q. How long did she stay that time?

A. She *staid* at my house about three or four days, and I could hear of her up at the White's Saloon I didn't see her.

Q. She *staid* around town then?

A. *Staid* around town there from what I heard, I didn't see her but two days.

Q. How long did she stay here?

A. I can't tell you that, I didn't see her but the first two days.

Q. She stayed with you two days?

A. No, she didn't stay with me at all, she came to my house two straight days, I don't know where she was staying here in Kansas City.

Q. After those two days you saw her around three or four days?

A. No, I never seen her, I heard of her.

Q. Heard of her three or four days?

A. I heard of her three or four days after that, I don't know when she left though.

Q. You knew she was in town for that length of time?

A. What time?

Q. Three or four days?

A. I was positive of her being there two days.

Q. And you heard of her being here?

A. I heard of her being here.

Q. After that? A. After that, yes.

Q. Did she ever come to your house any more?

A. No, I never did see Minnie any more after that until 1914.

Q. Sadie, how long did you live in Leavenworth?

A. How long did I live in Leavenworth?

Q. Yes? A. Let me see; thirteen years.

Q. You were there in 1884?

A. I got there in 18—about the middle of January, 1876.

Q. Answer my question, you were there in 1884?

A. Yes.

Q. And you were there in 1885? A. Yes.

Q. When did you go away from there?

A. I went away in November.

Q. 1885? A. No, no, November 1884.

Q. November 1884? A. Yes.

Q. And came back in 1885? A. Yes.

Q. In the month of March?

A. In the month of March.

Q. You were there all the rest of the year 1885?

A. I was there clear on up until 1889.

Q. Continuously until 1889?

A. About the fall, I think the fall of '89.

Q. And you knew Minnie all this time from 1885?

A. 1884.

Q. From 1884 until 1889?

A. No, she wasn't in town in 1889 that I knew of, she wasn't there that I knew of in 1889, I never seen her.

Q. Well, then, you saw her all the time that she was there?

A. Yes, I saw her all the time pretty near that she was there.

Q. How long was that?

A. Minnie was there from the summer of 1884 until, as I say, about the spring of 1888, I guess, I never saw her at all—

Q. Well, you knew her in 1884? A. '84?

Q. And you knew her from March 1885 until the spring of 1888? A. From March—yes, yes.

Q. You knew her all that time? A. Yes.

Q. You knew her well?

A. Yes, I knew her pretty good.

Q. You would see her often?

A. No, not so very often because she was at the Fort and I never did go to the Fort.

Q. You would see her as often as three or four times a week?

A. No, not after she went to the Fort I didn't see her that often.

Q. Well, how often would you see her? Three or four times a month?

A. Well, I expect about that, she came down in the *hertige,* they had the *hertig* then at the Fort.

Q. Where would you see her?

A. Sometimes I would see her where I worked and sometimes I would see her on the street, run across her.

Q. Did you see her in the daytime or the night time?

A. No, it would be in the day time.

Q. Always in the daytime?

A. Always in the daytime except a short while.

Q. You are sure you didn't see her oftener than three or four times a month?

A. I might have seen her oftener than that, yes, I might have seen her oftener than that, I can't tell how often I would see Minnie, but now I saw her at night several times, three or four weeks I saw her at night.

Q. Three or four weeks?

A. Yes, sir, I think I saw her at night.

Q. When was that? A. That was in 1885.

Q. 1885? A. Yes.

Q. Where did you see Minnie then?

A. Saw her at Leavenworth, saw her where I worked at.

Q. Did she stay there? A. She did.

Q. At your house?

A. It wasn't no house of mine, it was where I worked.

Q. *Staid* where you worked? A. *Staid* where I worked.

Q. Where was that?

A. Brock's, Seventh and Shawnee. They are dead, but a sister of Mrs. Brock is living, a sister is living on the same place.

Q. What are their names?

A. The oldest on- is Mrs. McFarland and the other one is Mrs. Rhody Taylor, a banker's wife up there, they live at the same place.

Q. Minnie stayed there at that house?

A. She stayed there at that house, yes.

Q. Did she work? A. Yes, sir, she worked.

Q. Work with you?

A. No, working for Doctor Brock. She wasn't working for me.

Q. Who were you working for?

A. Doctor Brock and she was too.

Q. You worked in the house together?

A. Well, I was Mrs. Brock's maid, we had a cook name of Maggie Turner, she had been there eight or ten years at that time; Minnie was the house girl.

Q. Now, that was three or four weeks in about 1885?

A. Yes, that was about four weeks or near five, not much more than four weeks she stayed there.

Q. What time of the year was that?

A. She started to work there about the middle of September and worked to about the middle of October, and left there and went to the Stafford's in the Fort again, Major Staord's. Went right out of the house where I was working out to Stafford's.

Q. That was from September until October?

A. Until October about the middle, I will say about the middle of September I suppose, it wasn't any earlier than that and it was about the middle of October that she quit and went right back up into the Fort again, left out of our house and went to Major Stafford's; she had worked for this man—Rudivant, Rudiman or something, I forget the name. She quit them to come to us; my people were friends that I worked for, they didn't visit no people in Leavenworth, they visited the officers and their friends—Mrs. Brock.

Q. Who was Major Stafford?

A. I don't know, officer in the Fort.

Q. Was he an army officer? A. He was an army officer.

Q. Lived out in the Fort?

A. Lived out at the Fort, yes, sir.

Q. Did you ever see her out there at the Fort?

A. Never saw her in the Fort, no. I had been in the Fort long before Minnie went up there, just as a girl but I never did go to see Minnie in the Fort.

Q. How did you know when she left? A. When?

Q. When she left Dr. Brock's?

A. She told us she was going to Major Stafford's, going to get a job of cooking at Major Stafford's, I didn't know

Stafford, I supposed Minnie knew them, she had been working in the Fort before.

Q. But that is all you know about Major Stafford is what Minnie told you?

A. Yes, I don't know Major Stafford, never was in the Fort to get acquainted with Major Stafford; I had been in the Fort a hundred times but never was up there while Minnie was up there, the whole time she worked in the Fort I never was up there, I don't know who she worked for.

Q. How do you know he was an army officer?

A. Because he must have been because he wouldn't be working in the Fort.

Q. Well, you assumed he was an army officer because he had a title?

A. I did, yes, sir, and because he was in the Fort, I knew he wasn't a common soldier hiring nobody, yes, sir.

Q. If you had not heard them call him Major would you know he was an officer?

A. Yes, I knew he was Stafford, but I didn't know him myself, no, sir.

Q. Now, how long did Minnie work for Major Stafford?

A. Well, now, I can't tell you that, I don't know how long she worked for Major Stafford.

Q. Well, you saw her in town three or four times a month?

A. Yes, I did, but I don't know how long she worked for Major Stafford, she was working in the Fort from the time, I will say, up until the time she left there as far as I know of.

Q. Then she worked in the Fort until she left there?

A. I suppose she did, I never asked her, you remember, when she would come to see me or I would meet her, every time she would say who was in the Fort.

Q. How did she come to go to work for Dr. Brock?

A. I can't tell you that, who sent her there—brought her there?

Q. Yes, sir?

A. I can't tell you. She knew I was there.

Q. She knew you were there?

A. Yes, sir, she knew I was there.

Q. So she came to work where you were?

A. Yes, she had been coming there before, I went to work for the Brock's in May and Minnie was in the Fort, I went to work there in May and I met her and told her where I was working at; when I got back I met her first in March on the streets, I thought she was at Hyde's yet and she said, No I am working up in the Fort, and when I seen her after that, maybe a dozen times before that I got a place to work at Brock's and I told her where I was working and she came there.

Q. Now, she came to work at Brock's because she knew you were there?

A. She didn't come there to follow me, she didn't have no work.

Q. Now, she was out of work and she came there and got a place?

A. Yes, sir, she came and got a place and cooked, she didn't work there over four or five weeks, I don't think she did.

Q. Did you know Minnie in 1886?

A. I knew her until she left I tell you.

Q. Well, did you know her in 1886?

A. Yes, sir, sure I knew her.

Q. Where was she working then? A. In the Fort.

Q. Who for?

A. Major Stafford, the Staffords I suppose, yes.

Q. Did she work for him all that year?

A. Well, now, I don't know, all of that year, I can't say whether she did or not. Now, listen: From January, 1886—from February, 1886, I never saw Minnie until about the latter part of July or first of August, 1886. There was about five or six months maybe that I didn't see her, she quit coming there to where we were, where I worked at.

Q. When was that, from when?

A. That was from about February, I think, 1885—No, 1886, I have got that wrong Judge, 1886 until about the first part of August 1886, now I didn't see her, I think.

Q. Now, you fix the time do you? A. Do I?

Q. You fix it now? A. I have fixed it now.

Q. From February?

A. I think it was from February along right about that.

Q. Why did you say February?

A. Well, it was in the early part of the spring, it might have been late, might have been March, I don't say positively it was February, but the early part of the spring.

Q. And you remember of stopping seeing Minnie?

A. Yes, for four or five months, I guess that long, I didn't see her.

Q. Well, then where did you see her?

A. I saw her at the Continental Hotel, right across from where the National is now, the Continental, the place I was working at and burned down, burned down in June, I lost my job. In June I went to work for the Continental as Chambermaid on Fourth and Cherokee right across from the National.

Q. How long did you work there?

A. I worked there, let's see, I went to work, I went to work and worked all of August, Oh, I worked until pretty near the middle of September, I went to work there in the first part of August and worked there until about the middle of September.

Q. So you fix the first of August when you saw Minnie by the fact that that was when you went to work at the Continental Hotel?

A. I figured that up, yes, I figured that up, it must have been in August.

Q. Well, did Minnie work there?

A. No, Minnie was in the Fort, I suppose.

Q. Well, did she come there to get work?

A. At the Continental?

Q. Yes?

A. No, she knew I was down there, she found out through the cook, Maggie Turner, cooking for Brock's. Maggie Turner still had a place there yet although the house burned down, but she and the Doctor stayed there some place on the ground and she went there to find out where I was an- Maggie told her she would find me down at the Continental.

Q. And she came down there?

A. And she came down there.

Q. What did she go there for, just to visit?

A. To see me, I don't know how many times she was down town during that time I worked at the Continental, she was there about three times, because I would be busy and I told her I was going to work at the St. James Hotel on Shawnee Street, and she went down there and I wasn't there and she came up there.

Q. Up to——

A. At Blankenship's, the old St. James Hotel. I went there to cook about the last part of September, went there about the latter part of September 1886 and worked there until I think December, yes.

Q. Of that same year?

A. Of that same year, yes, sir.

Q. Then Minnie came there to the St. James Hotel?

A. Yes, to the St. James Hotel, yes, sir.

Q. How often did she come there?

A. Oh, whenever she come to town, I can't tell you, she would come there to the kitchen, I cooked for Blankenship's at the Hotel, wasn't very large when I was cooking.

Q. Before you went to the Continental Hotel you were at Brock's? A. At Brock's.

Q. The place that burned? A. Burned down, yes.

Q. Minnie used to come there?

A. Minnie stayed there, Minnie worked there.

Q. But after she went to the Fort?

A. She still would come until the early part of the spring, she didn't come so often when she left and went to the Stafford's, she hadn't been there very long, she came down there and told me about this man Oliver, I knew he was a soldier because I never had heard her speak of no other man before that. That was in the fall of '85.

Q. Then that was when you learned that she was going with Oliver?

A. Through herself, I didn't see her at all, I never did see him.

Q. How long did she continue to go with him?

A. Now, I don't know, because a great while after——

Q. You only know what she told you?

A. A great while after that she started about this Peterkin, I never did see him.

Q. The only one she ever did tell you about was this man Oliver? A. Yes, sir.

Q. How many times did she tell you about him?

A. Oh, after that whenever she would come down she would speak of him all the time.

Q. Talk about him?

A. Yes, talk about him but I never saw Mr. Oliver.

Q. Was that what she came to see you about, to tell you about this fellow?

A. No, just came down to do a little trading in town and stopped up to see me, she didn't stay long.

Q. Tell you anything about this fellow when she came down there at the Hotel? A. About who?

Q. About Oliver?

A. No, I don't know who she was talking about then. She started talking about Peterkin sometime before she left town, I don't know about the times, this is the only two men I ever heard her speak about but I never did see either one until last winter, I saw Mr. Peterkin.

Q. Now, Sadie, did you know Mr. Micco Harjo?

A. Yes, Micco?

Q. Yes? A. Yes, sir, I know Micco.

Q. How long have you known him?

A. I have known Micco about six years I guess, maybe a little bit longer, not any longer than that, I have heard of him a long time though.

Q. In what connection did you get acquainted with him?

A. Just met him.

Q. I am referring now to your testimony on direct examination where you mentioned that you and Harjo had been connected with the Nancy case?

A. Oh, no, I didn't say I had been connected with Harjo.

Q. You didn't?

A. No, I never worked with Harjo, Bettie worked with Harjo, not me.

Q. You didn't have any connection with him?

A. No, I never worked with Harjo, no.

Q. Then the first you ever knew about this land or case, was when Bettie came to you?

A. That was in 1912, and she came up to Kansas City and got the deed, but I didn't see Harjo. Bettie would come out there to the Road House where I was and was talking to me, I didn't see Harjo at all.

Q. Then the first time you knew anything about this was when they came to get you to sign a deed?

A. You mean about the land?

Q. Yes? A. Yes, yes.

Q. They told you what the land was?

A. No, here is what she told me—can I explain what she said?

Q. Just answer my questions, I will get into it all. Did they tell what the deed related to, what particular land?

A. Yes, what particular land, yes.

Q. Did they mention the name Atkins in connection with it? A. Yes, Minnie Atkins.

Q. And you wouldn't sign that deed?

A. Wasn't enough money, no I wouldn't sign it.

Q. They only wanted to give you three hundred ($300.00) dollars?

A. Yes, they wanted to give somebody three hundred ($300.00) dollars and I didn't take it, I told them I wanted a thousand ($1,000.00) dollars to sign it; if I had got it I would have signed it.

Q. So they went off and got somebody else to sign it?

A. I told Bettie where she could go up here to Kansas City, I told her about the Minnie Adkins—not Atkins but Adkins.

Q. They did go up and got somebody else to sign it?

A. Yes, sir .

Q. And you lost track of it until you heard of it later on?

A. Yes, later on when they came back.

Q. Then the next thing you heard about the case was when Bettie came to you?

A. When Bettie came to me, yes.

Q. At Leavenworth?

A. Yes, Bettie had been up there once before, and she didn't know I lived there, Bettie had been up there about the month of February.

Q. You didn't know about that?

A. Yes, sir, she didn't know I was in town there.

By Mr. German: What year was that?

A. 1914.

Q. She came in March or April?

A. That was in March.

Q. What time of the month?

A. That was the 30th day of March on a Monday in March.

Q. And she came to your house?

A. To my house, yes, my husband saw her on the street and I sent him and told him to tell her; he seen her in town and he couldn't call her name, he called her that seven year woman; he had seen us around in Tulsa together, that is all he could call her to make me know who she was.

Q. So, when she came to your house you asked her what she was doing there?

A. Yes, I asked her, but I knew what she was doing there.

Q. How did you know?

A. I didn't know on that deal, but I knew Bettie was after some fraud up there, because that is all Bettie does do and you know it.

Q. Well she told you then the principal thing she was working on when you asked her?

A. She was working on two things, yes, working on two, but she told me the principal thing she wanted to pull off was that one, but she was working on two.

Q. What was the two?

A. Well, it was another one——

By Mr. German: Other than the Atkins matter?

A. Yes, sir.

By Mr. Blakeney: We object to the question of counsel.

Q. What were they Sadie?

A. I refuse to tell the other one, but I will say that that one wasn't connected with this case at all, another one, a deal of somebody else's but not in this case.

Q. State your grounds?

A. On the grounds that I would make it hard for Bettie and some more people that is all.

By Mr. Stuart: That is not sufficient.

By Mr. German: I object to her stating that it is incompetent, irrelevant, and immaterial, and improper cross examination.

By Mr. Blakeney: We think she ought to be required to answer, because it is a mere assumption to say that it is incompetent, irrelevant, and immaterial, and the witness might not know exactly what is pertinent in this case.

Q. But Bettie did tell you that she was working in regard to this land? A. Which land?

Q. This land in controversy?

A. That you are talking about now?

Q. Yes? A. Yes, she told me that.

Q. And what did she say she was doing?

A. What did she say she was doing?

Q. Yes? A. She wanted to go up there and make a boy.

Q. A boy? A. Yes, wanted a boy started for on there.

Q. Did she say anything about Minnie Atkins?

A. She knew Minnie was living there in Leavenworth at one time, because they came from Carlisle together.

Q. Did she say anything about Minnie? A. Yes.

Q. What did she say?

A. I asked her how come her to know Minnie had ever been in Leavenworth, and she said Mrs. Mary Hyde brought them from School and she came there to work for banker Hyde's, and that they separated at St. Louis, and that is the way that Bettie knew that Minnie had ever lived in Leavenworth.

Q. Well, you told her that Minnie had lived in Leavenworth? A. Yes, I told her about it, sure.

Q. Did she ask you about a boy?

A. Ask me about a boy?

Q. Yes? A. No.

Q. Ask you about Thomas Atkins

A. Ask me about Thomas Atkins?

Q. Yes?

A. No, she didn't ask me about no Thomas Atkins.

Q. Say anything about Thomas Atkins? A. Yes.

Q. What did she say?

A. Said she would have to start—she was up there looking for a boy, to start one of Minnie's because J. B. White would make Mr. Bartlett trouble, so they would have to get a boy.

Q. Did she ask you if Minnie ever had a boy there?

A. I asked her, who ever said Minnie ever had a boy, Minnie had no children here, no boy by the name of Thomas Atkins; and she said she started it.

Q. She started it?

A. Yes, and I will tell you what else she said. She said she told Mr. Bartlett that because she knew Minnie had been in Leavenworth, because she didn't know what Minnie drawed that money for, she told him a lie.

Q. Told him a lie? A. Yes, sir, she knew it was.

Q. She came up and said she had come to make a boy?

A. Yes, had come to make a boy; and I taken her down where she could get one.

Q. And you told her, you asked her what she had come there for to look for a boy? A. Yes.

Q. And told her Minnie had never had a boy there?

A. I told her Minnie never had a boy here named Tommy.

Q. Sadie, what did you tell her that for if she already knew it? A. That she had none?

Q. Yes?

A. I wanted her to know she never had one there, she didn't know what Minnie had there, after she told Mr. Bartlett that she had been there a whole month, February, running around there and nobody in Leavenworth knew it.

By Mr. Blakeney: I move to strike out the statement about running all around in Leavenworth as hearsay, incompetent, and immaterial.

Q. What did you say to Bettie?

A. What did I say to Bettie?

Q. Yes, when she told you she came there to make a boy?

A. I told her I had been working with a negro and I had just pulled off a deal and you can get anything you want.

Q. What did you say first?

A. I asked her if the white man had any money she was working for, and she said yes, and I said well I can get a job, and she told me yes, and said all you got to do is to tell him —I will wire him.

Q. Now, Sadie, did you ask her, what are you going up to look for a boy for? A. Did I ask her that?

Q. Yes?

A. Yes, I asked her that, I said whoever said Minnie had a boy named Tommy, and she said I did.

Q. You asked her what she came there to look for a boy for, because Minnie hadn't had any boys there, is that what you told her?

A. Yes, sir, and you know why she came up there.

Q. Now Sadie, why did you tell her that if she already knew it?

A. Because she wanted to start there, she knew Minnie had lived there, they separated in St. Louis, and she told Mr.

Bartlett a lie, that Minnie had a baby up there named Tommy Atkins, she told him that lie, yes, sir.

Q. Answer my question, why did you tell Bettie Mann that Minnie never had a boy up there, if she told you she came to make one? A. To make one?

Q. Yes?

A. And I told her if she had one there by the name of Tommy Atkins I knew I would have seen him. She said she was going to have him raised there, I knew I would have seen him, I was there.

Q. Sadie, why was it necessary to tell her that she never had a boy there if she already knew it?

By Mr. German: I object to this as argument, calling for a conclusion and opinion of the witness. Let him find out what was said and done.

Q. Do you remember the question?

A. Yes, sir, no I don't.

Q. Why was it necessary to tell her that Minnie never had a boy there if she already knew it?

By Mr. German: Same objection.

A. Shall I answer?

Q. Yes?

A. Do you know why it was necessary to tell her?

Q. I am asking you why?

A. I wanted to tell Bettie that I knew there wasn't, because I could get me a job, and that I knew it was nothing but a frame up, and let her know that I knew the facts, she was up there and knew that I did.

Q. Well, then, what did you say to her?

A. I asked her if the white man she was working for had any money.

Q. What white man was that?

A. She was working for Bartlett, that was the forged deed that she had to make good, her and Harjo together.

Q. What did she say about Mr. White?

A. Said she had been working for J. B. White too, working for two men and it wont do now for me to let them know no better; she was out lying.

Q. You asked *is* Bartlett and White had any money?

A. I didn't ask about Mr. White, she was talking about Mr. Bartlett.

Q. You remember you didn't mention Mr. White?

A. She mentioned Mr. White.

Q When you asked her about the money, didn't you mention Mr. White's name?

A. Did I mention Mr. White's name?

Q. Yes?

A. Only Mr. Bartlett's. Can I tell why I asked about Mr. Bartlett?

Q. Yes? A. Because she says——

Q Hold on, tell me just exactly what you did ask her when she mentioned the money.

By Mr. German: I object because counsel asked the witness to tell why she inquired about Mr. Bartlett and declined to let her conclude her answer.

By Mr. Hanford: No, I didn't, I want her to answer the question.

By Mr. German: Let her answer it then.

A. Tell why I asked about Mr. Bartlett?

By Mr. German: Yes

Q. No, Sadie, what did you say to Bettie when you asked her about the money?

A. I asked her, Bettie has the white man got any job—any money, what I was speaking about—I knew two years ago her and Harjo had got this deed and I wanted to know if he had any money.

Q. Didn't you say, has this white man Bartlett got any money?

A. No, I knew who she was pulling for, trying to save herself and Harjo on the deed.

Q. Answer my question?

A. I didn't say Mr. Bartlett, I asked her if the white man she was working for—trying to protect that fraudulent deed that she got——

Q. Sure you didn't mention any names?

A. No, I didn't know Mr. White.

Q. Didn't you mention Mr Bartlett's name, didn't you say this white man Mr. Bartlett?

A. No, I didn't say that, I knew.

Q. What did you say after this conversation?

A. I said, Bettie I am working for a negro lawyer here and him and I just pulled off a big deal and I will take you down there and you can get anything here in Leavenworth that you want.

Q. Now, that is the deal that you refused to answer the question as to what it was?

A. Yes, sir, that had been four months before that she came up there, four months past.

Q. And you and Dennis, you say had pulled off that deal?

A. Yes, sir, me and Dennis and an old soldier, yes, sir, pulled off that deal.

Q. Now, then, where did you go?

A. Went down to Dennis's.

Q. Went down to Dennis's? A. Yes, sir.

Q. Did you see him?

A. Yes, sir, saw him in his office, yes, sir.

Q. You and Bettie? A. Me and Bettie.

Q. Who else was there?

A. Well, his niece, you have been in Dennis' office I know, you have been in there hundreds of times, Dennis has got a double office, one in there for his niece or typewriter, this one in here where his couch is at, little sofa in there, a private place. We went in there.

Q. How many offices has he got? A. Two.

Q. Two? A. Yes.

Q. They adjoin? A. Yes, with the other.

Q. Where are they?

A. In front of that building on Choctaw Street, in front of that—they face the west.

Q. You went into—— A. His private office.

Q. His private office? A. Yes.

Q. And Dennis was there? A. He was there.

Q. Tell what took place?

A. The door was open when we went in there. You have been in there——

Q. What took place?

A. He closed the door to when we got in his private place.

Q. Did you tell him what Bettie was there for?

A. I introduced him to Bettie.

Q. Yes? A. Yes, sir.

Q. Now, then that was after Bettie came to your house-

A. After she came to my house.

Q. Where did you live?

A. Lived at the corner of Second and Cherokee temporarily, I moved there to pull off this deal in Leavenworth.

Q. You went direct from your house to Dennis' office?

A. Dennis's office on Fourth and Choctaw.

Q. What time in the day?

A. That must have been maybe two in the afternoon, maybe a little earlier, I don't know, it was in the afternoon.

Q. What time was it that Bettie came to your house?

A. Well, Bettie had been to my house quite a bit.

Q. Before noon or afternoon?

A. Well, I don't remember, we were talking about a lot of things that happened in Tulsa.

Q. You went straight from your house to Dennis's office?

A. Right straight from my house to Dennis's office, yes, sir.

Q. Did you stop at any place on your way down?

A. No, sir.

Q. How long were you at Dennis's office?

A. At Dennis's office maybe three quarters of an hour, that long.

Q. Where did you go from Dennis's office?

A. Went from Dennis' office and carried her then up in the alley to Mrs. Smith's, you know where Martha Smith lives in that alley, I carried her up there.

Q. And how long were you there?

A. Well, we wasn't there over twenty minutes, I don't expect.

Q. Who did you see there?

A. Saw Rube Smith; Miss Martha is his client.

Q. Who did you see next? A. After seeing Rube?

Q. Yes? A. Didn't see anybody.

Q. Not anybody that day? A. Not anybody that day.

Q. You say Dennis is the first one you saw?

A. Yes, the only one I carried it to.

Q. Rather Bettie was the first one you saw?

A. Yes, and then Dennis.

Q. And then Rube? A. And then Rube.

Q. And then the next day?

A. She didn't stay there that day, she went back to Kansas City to where Mr. Bartlett was, and come back, she found a woman that knowed something.

Q. Who did you see after Rube? A. That day?

Q. Any time?

A. I don't know who in regard to that case, not anybody that day.

Q. How long was it before you did anything more in the case, a couple of days?

A. No, I went to Kansas City. Bettie said Sadie I will go to Kansas City tonight and wire for Bartlett to come, I was to tell him this lie when he came.

Q. You went to Kansas City when Mr. Bartlett got there?

A. The next morning. I met Rube and Dennis in the office and—you want the next?

Q. The next person you saw was Mr. Bartlett?

A. No, I saw Rube and Dennis that night about six o'clock in Dennis's office.

Q. The next person in addition to Dennis and Rube was Mr. Bartlett, was it?

A. No, two white men come up there with Bettie, Jim Swift and Ben Porter, Indian boys, Cherokee.

Q. Where did you see them, in Leavenworth?

A. Saw them in Leavenworth, they were in my house.

Q. That day? A. Yes, in my house.

Q. And the next day? A. I went to Kansas City.

Q. Who did you see there?

A. In the room when I got down here was Jim Swift, Bettie, and Ben Porter, and Bettie had Mr. Bartlett there but the boys went out.

Q. Did you see Mr. Bartlett?

A. I did see Mr. Bartlett, she wired for him and had him to come, yes.

And thereupon a recess is taken until 1:30 o'clock. And thereafter, and at 1:30 o'clock P. M., the testimony herein is taken as follows:

SADIE JAMES, being recalled further testified as follows:

Cross Examination by Mr. Hanford.

Q. Now, Sadie, did you say that you saw me at Dennis Jones' office?

A. No, I didn't. I didn't say I saw you there.

Q. What did you say?

A. I said you knew where it was, I said you knew where it was.

Q. How do you know that?

A. I don't know it, but I am just betting you do, I never did see you there.

Q. Well, you said I had been there?

A. I said you knew where it was, and you do.

Q. You are just making that as a statement you don't know it?

A. Yes, not that I saw you there, I didn't see you there.

Q. You say that I know where this other place is where you say you met Rube Smith? A. Who, you?

Q. Yes, is that what you said?

A. I didn't say I saw you there, I said you knew.

Q. You know that I have been there, do you?

A. No, not myself, no, sir.

Q. Did anybody ever tell you that I have been there?

A. No, they didn't.

Q. Now, Sadie, you went to Kansas City and saw Mr. Bartlett there and then you came back to Leavenworth?

A. The same evening.

Q. Yes, the same evening? A. The same evening.

Q. And who did you see when you got back to Leavenworth? A. Well, I went to Dennis's office.

Q. Did you see him there? A. Yes, at Dennis's office.

Q. What time was that?

A. Oh, it must have been about—that was in the evening, late in the evening, I don't know about what hour that was.

Q. After supper time? A. Yes, after supper time.

Q. Who else was there?

A. Rube, they were waiting for me.

Q. Rube Smith?

A. Yes, they were waiting for me to come back.

Q. Now, the next day did you do anything, the next day?

A. The next day?

Q. Yes?

A. Just went around there in town, I didn't do anything more than try to get people to swear this——

Q. Who did you go to see?

A. I went to Louis Brown—I went to a good many people, but I went to Louis Brown.

Q. Went to him first?

A. Yes, not the next day. That was a space of—I don't know how many days before I went to see Louis.

Q. Who did you go to see the next time?

A. I don't know who I went to see the very next day.

Q. Do you know if you went to see anybody?

A. I wont say I saw anybody the next day, no. There was a space of about two weeks there that I was working.

Q. Who did you go to see first?

A. Approached first?

Q. Yes? A. Louis Brown.

Q. Louis?

A. Yes, that was the first person that I had asked——

Q. And then whom did you see after Louis?

A. I saw Will Parker.

Q. Will Parker? A. Yes.

Q. Then after Will Parker who did you see?

A. Did I see? I saw later on I saw my brother first, I saw Sam first.

Q. Before?

A. Before, yes, before I had seen Louis Brown, yes, I saw him first.

Q. And then Sam comes first?

A. Yes, Sam is the first person.

Q. And then? A. Louis Brown.

Q. Louis Brown? A. Yes.

Q. And Will Parker? A. Will Parker.

Q. Next?

A. The next is now this aint just every day.

Q. Well, give the order that you saw them?

A. Yes, Eliza LaValley.

Q. After Eliza?

A. I went to see Father Shorty then, up at the Catholic place, Pottowatom*y* between Sixth and Seventh.

Q. Father Shorty?

A. Yes, Father Shorty the Catholic Priest.

Q. And after him?

A. Well, I don't know—Yes, I then went to see—but not that trip while I was there. Later on I saw Henry Price.

Q. Henry Price?

A. Yes, Henry Price. That is the father of the boy that I wanted to work.

Q. And after Henry Price?

A. I saw Mary Smith, the white woman there on Seventh Street between Shawnee and Delaware.

Q. And after Mary?

A. You understand me, this aint every day.

Q. I understand, I want to get the names of the people and in the order that you saw them?

A. Let me see, who else I saw there. I don't know just what day I saw the people on, but I saw about a dozen more people, I don't know whether they came first after this or not.

Q. Give their names then?

A. Ben Samuels, Martha Miller, a man out at the Soldier's Home named Britton, that is about all I can think of right now. I know I saw more than that.

Q. Well, think it over, I want to get the people that you saw.

A. Well, let me see, I saw—what is that name, I forget the woman's name, she lives on Stroupe I think between Third and Fourth; I went there to find out where her boy lived in Omaha, but I forget what her name was.

Q. Well, that about completes the list then, don't it?

A. No, I don't think that completes the list, no. I saw so many people that I talked to about this case.

Q. Well, now you have apparently a good memory for names, just take a moment and think it over.

A. Well, I saw so many until I don't know, I don't recall any more right now.

Q. Well then, the people that you saw are Dennis Jones, Rube Smith—well first is Bettie Mann?

A. Bettie Mann is first.

Q. And next is Dennis Jones? A. Dennis Jones.

Q. Next is Rube Smith? A. Rube Smith in the alley.

Q. Next Mr. Bartlett? A. And the next day.

Q. Yes, the next day?

A. No, not the next that I saw, and that same day, and I saw Jim Swift and Ben Porter there with Bettie.

Q. But they came with Bettie? A. Yes.

Q. And then you came back and saw Dennis and Rube?

A. Yes.

Q. And then you next saw Sam Nash?

A. Not that next day now.

Q. No, but he was next?

A. He was next, my brother was next.

Q. And then Will Parker? A. Yes.

Q. Louis Brown and Will Parker?

A. And then Will Parker.

Q. And then you saw a number of others?

A. A number of others, yes, after that.

Q. Now, these first names you are sure that you saw in that order?

A. Oh, I don't—— Now, I don't know whether I saw them right the next trip or not, but I saw them during that stay.

Q. Yes, and in that way?

A. No, I wont say in that order, no, I wont say them is the first ones, the first people that I saw there.

Q. Well, you did say they were the first, now if they are not I want to know it?

A. I think they are the first. I think I—I know I saw them now, but the order I saw them in I don't know it exactly, but I did see them and talk to them.

Q. Well, you are sure that you saw Bettie Mann first?

A. Yes, I know——

Q. You are sure of that? A. Yes, I am sure of that.

Q. And you are sure that you saw Dennis Jones because you went to his office? A. Yes.

Q. You are sure of that?

A. Yes, I am sure of that—Mr. Bartlett.

Q. Then, you are sure you saw Rube Smith? A. Yes.

Q. Because you went over to Dennis's office? A. Yes.

Q. And then you are sure you saw Mr. Bartlett? A. Yes.

Q. Because you went over to Kansas City? A. Yes.

Q. You are sure of all that?

A. That was just two days.

Q. Yes? A. Yes, sir.

Q. And then when you came back from Kansas City you saw Dennis and Rube?

A. That same night, that same one day trip.

Q. And then you are sure the first one you saw next was the boy you call your brother, Sam Nash?

A. Yes, but there was a long space in there before I went to see them.

Q. I don't mean everybody you met on the street, but the next one you saw in connection with this case?

A. Well, listen: There was a space in there before I saw anybody, about a week and a half, I don't know what days I saw those people on.

Q. I am not asking you the days but the names of the people and——

A. Well, I saw them, but I can't say whether I saw them the second, third, and fourth or not, I can't do that.

Q. You saw Bettie Mann, Dennis, Rube Smith, and Mr. Bartlett? A. Yes, I saw them.

Q. Those you are sure?

A. I am positive of that, yes, sir.

Q. Now, Sadie, when you saw these people what did you ask them? A. What did I ask these people?

Q. When you first would go to see them?

A. I went out to Mrs. Davis's on Vine where she did chores.

Q. I will ask you this, did you ask them if they knew Minni Atkins? A. Yes, asked them.

Q. And did you ask them if they knew anything about a boy? A. No, I didn't have to ask them that.

Q. You came right out and told them?

A. Told them plain, I knowed they didn't know the boy, there was none there for them to know.

Q. You told them she didn't have a boy and you were framing one up?

A. Yes, she had none there; what did I wont to tell them did they remember the boy, because she didn't have one.

Q. You told them that?

A. They didn't even know Minnie, didn't even know her.

Q. You told them you wanted them to know her?

A. Yes, sir, what I wanted them to do. Dennis and I and Rube had started and wanted them to help.

Q. You couldn't find anybody that knew Minnie?

A. I never did find anybody there in Leavenworth, not a nigger there in Leavenworth that knowed her. I was about the only nigger there that she knowed, and I was in the neighborhood there about three months I guess where she was.

Q. You knew her very well when she was in Leavenworth?

A. Oh, after that, I was trying to fix up this thing, lying about eighty-five.

Q. You couldn't find anybody who knew her in eighty-five?

A. I couldn't find a soul I went to at all, in eighty-five or at all until she left, never found a nigger who knew her.

Q. Sadie, why did you fix eighty-five?

A. You know why.

Q. That is what I am asking you?

A. Because I knew that if I said eighty-four, I would be lying on Carlisle, because she left there in eighty-four, that is why I said eighty-five.

Q. So you just fixed the date eighty-five?

A. Date of the year, yes. I stated that that night to Dennis and Rube.

Q. Did Bettie tell you eighty-five?

A. No, Bettie didn't say that, Bettie just knew she came there in eighty-four.

Q. You just fixed that date yourself?

A. Myself, because I knew I would be into it sure enough if I said Carlisle eighty-four, because she didn't come there until then.

Q. Then you told Bettie eighty-five?

A. I told Bettie eighty-five, when I came down to Dennis's; that is when I first suggested eighty-five, Bettie didn't say no year at all.

Q. You said eighty-five because you knew Minnie was there in eighty-five? A. In Leavenworth?

Q. Yes?

A. Yes, sir, I knew when she came, and I knew in eighty-four when she came there there was nothing the matter with her.

Q. Rube Smith didn't know when she came?

A. Rube Smith didn't see her until about a year ago.

Q. Rube didn't say anything about eighty five?

A. No, Rube didn't say anything about eighty-five until I told him.

Q. And you told Rube and Dennis the year?

A. I told Rube and Dennis the year, yes, sir.

Q. Now, that was up in Dennis's Office?

A. Yes, sir, up in Dennis's office.

Q. When you first took Bettie there?

A. No, no, that night when we met, we never said what year when Bettie and I was up there at Dennis's at all.

Q. That was later on?

A. Yes, that night after Bettie had gone to Kansas City.

Q. You did your framing up with Dennis and Rube that night?

A. That night about six o'clock, I told them to meet me and I would be back to Dennis's office at Six, and I told Rube the same, to meet me at Dennis's office, not Bettie.

Q. So that wasn't gone into that afternoon?

Q. No, not no year, Bettie just said she wanted a boy started there, she didn't name no year.

Q. Dennis said to have the boy born at Granny Letcher's?

A. No, I am the one that suggested that, I said that Granny was dead.

Q. You suggested that? A. Yes.

Q. That was that night?

A. That was that same night that we met up there, me and him and Rube.

Q. Why did you name Granny Letcher's?

A. Well, sir, I will tell you why, Granny was dead and I knew her but she was dead. Do you know why we didn't say on Cherokee Street? We started to say on Cherokee Street, and we figured Granny lived on Cherokee Street—too many saloons there, three saloons right opposite us and if we said that, we would find Granny didn't live on Cherokee Street in eighty-five. I figured the time that she would be living on Cherokee Street—I mean on Seneca Street, she wasn't living on Seneca Street in eighty-five at that time.

Q. Used to live on Cherokee?

A. Yes, clean up into the fall.

Q. And moved up to Seneca Street?

A. On Seneca Street.

Q. Now, when did she move?

A. Moved the last part. She must have moved in November I spect, along in the holidays in eighty-five on Cherokee Street.

Q. Do you remember that, when she moved?

A. I don't know exactly the date, but she moved.

Q. Do you remember her moving?

A. I remember her moving.

Q. In the fall?

A. I am most positive it was in the fall late, yes, sir.

Q. So you and Dennis and Rube figured out that Granny didn't live on Cherokee Street at that time?

A. We knew she didn't and my brother did too.

Q. So you decided to put it later and make it when she lived up on Seneca Street?

A. Yes, just say that, lived on Seneca Street. I had to stop my brother from saying Cherokee Street, he was running around the first time with the lies and said Cherokee Street, and we had to stop him, me and Dennis did, he was saying Seneca Street.

Q. That was the fall of eighty-five?

A. That was in the fall of eighty-five, my grandmother moved up there along in there. I don't think she is blood relation but I had been raised to call her grandmother, she is not a relative of mine, I lived with her five years right in the house.

Q. I understand you simply called her that? A. Yes.

Q. Now, Dennis Jones told you when you had Bettie up there that he didn't know Minnie?

A. Yes, right in front of Bettie, he told the truth, he didn't know, he told the truth then.

Q. And you told him that she used to work for banker Hyde?

A. No, I didn't give him so much talk until that night. Bettie told him she used to work for banker Hyde; he told her he knew Hyde but didn't know of no Indian girl being there, didn't know no Minnie, he told the truth then.

Q. Then, after you—How long did you stay in Leavenworth after you got back from Kansas City?

A. Oh, I stayed there quite a bit, quite a few days, I stayed there working around there in the town, and of course sometimes I would be at home and sometimes I would be there on the street.

Q. Do you remember how long it was?

A. It must have been two weeks I guess.

Q. Then where did you go?

A. I met Dennis one morning going down to my house, that was in April, I started to work. Bettie came up there Monday, March 10th.

Q. Answer my question. Where did you go after you stayed around Leavenworth? A. Two weeks?

Q. Yes? A. I met Dennis going to my house——

Q. Just tell me?

A. I came back down here to Kansas City to see my boy.

Q. You went to Kansas? A. Yes.

Q. You stayed in Kansas City one day?

A. One day and came back that night, and came straight back to Kansas City again and taken the train to Tulsa. I was to go to Muskogee but didn't go there.

Q. When you got to Tulsa did you call Mr. Bartlett?

A. I didn't see him for about four days after I got down there I guess, because they were all in Muskogee having this boy up there before the Dawes Commission or something.

Q. You stayed in Tulsa? A. At my house in Tulsa.

Q. Then you called Mr. Bartlett up?

A. About the time I thought he got to his home in Sapulpa, I called him over the 'phone and told him to come to my house.

Q. And he came to see you?

A. Yes, sir, he came to see me.

Q. You told him you knew Thomas Atkins?

A. Oh, I told him that lie in Kansas City here.

Q. Did you tell him that in Tulsa?

A. Still sticking to that lie, yes, I was lying.

Q. Well, where did you see Mr. Bartlett when you told him that you last knew the boy when he was five years old?

A. When Bettie had me to come down the very next morning after she came, I met him at the Stafford Hotel and I told him that lie to get the job right here.

Q. You first told him you knew the boy?

A. Yes, right, here, told him that lie right here.

Q. And you didn't have to tell him that in Tulsa?

A. No, because he believed me, no.

Q. Now, where did you see Mr. Bartlett when he asked you who raised the boy? A. Raised him?

Q. Yes?

A. I saw him in the Stafford Hotel, March 31st, the very next day.

Q. He asked you then who raised the boy?

A. No, that is what he said, Bettie told me what to tell him, so I could get my job, what kind of lie to tell him. And he said, do you know Minnie? and I said yes, I did, and he said, do you know when she had the boy? and I said yes I know Tommy, and he said when did you last see him, and I said when he was five years old my grandmother had him. I told him that lie to get the job. I knew I was telling him a lie then.

Q. When you first saw Mr. Bartlett didn't he ask you who raised the boy?

A. Oh, he asked me who had the boy.

Q. Who had him?

A. Yes, who had him. I told him, and he said when did you last see the boy, and I said when he was five years old.

Q. Then he never did ask you who raised the boy?

A. I don't think so, I told him my grandmother had him when he was five years old when I last seen him. I knew I was lying because my grandmother never did see him. She is dead and she never did see him before she died, because there was none.

Q. Now, when you saw Dennis at six that night Rube was there and you framed up to find this boy? A. What boy?

Q. A boy?

A. Well, we will say that, didn't tell me Tommy, a boy. Wasn't no Tommy.

Q. You were going to frame up one? A. Frame up, yes.

Q. Now, that boy you were going to frame up——

A Yes.

Q. You and Dennis and Rube planned you would find the—— A. Find somebody.

Q And then turn him over?—— A. To the Gipsy.

Q. That was the Gipsy that Dennis was working for?

A. Dennis wasn't working for the Gipsy then, Dennis never told that lie until July.

Q. Who was working for the Gipsy at that time?

A. Gypsy?

Q. Yes?

A. Wasn't nobody working for the Gipsy at that time, nobody working for the Gipsy.

Q. Well, where did you hear about the Gypsy?

A. Listen, haven't I been living in Oklahoma. I knew when Bettie and Harjo got that deed for Bartlett, and I knew it was a forged one and I knew they sold it to the Gipsy.

Q. And you said to Dennis, did you, we will find a boy?

A. Yes, sir.

Q. And then we will switch him on to the Gypsy Company that you spoke of?

A. To the Gipsy was what we were trying to do.

Q. That Dennis spoke of?

A. Dennis didn't speak of the Gipsy, he knew no Gipsy at that time.

Q. Didn't you tell him that?

A. I told him we would switch him off on the Gipsy.

Q. You didn't use those words "switch him on the Gipsy" that he spoke of?

A. Dennis was working for nobody then, he told that lie in July and got sent off on that trip.

Q. The first time he knew about the Gipsy was later on?

A. Way before when we started the lie back here in April.

Q. Now, after that meeting, that six o'clock meeting, how many days was it before you met Dennis on the street?

A. Oh, that was very near two weeks I expect, yes.

Q. That is as near as you can fix it?

A. Yes, that is as near as I can fix it, yes, sir.

Q. You were around Leavenworth?

A. All that time? No, I wasn't in there all that time, you know what I was doing, I was going down to Kansas City to the Stafford Hotel with Bettie and Ben Porter and Jim Swift; they was doing something else in the Stafford Hotel.

Q. Then you went to Kansas City? A. Yes.

Q. And saw this boy? A. Yes, the detectives had.

Q. And came back to Leavenworth? A. That evening.

Q. The same evening? A. Yes.

Q And got ready?——

A. Yes, didn't have but a short time.

Q. And went down——

A. Got ready and came back to Kansas City.

Q. And caught the train and went to Tulsa?

A. And went to Tulsa.

Q. Now Sadie, I meant to ask you before we started this cross examination. You say you live in Tulsa?

A. Yes, that is where I live.

Q. That is your home? A. That is my home.

Q. And you can't go back there? A. Can't go back?

Q. Yes? A. Can't go back?

Q. Didn't you say that?

A. Yes, sir, I did say that. I can't stay there, that is what I said, said I can't stay there.

Q. Well, why?

A. I haven't been staying anywhere for the last year, since I have been with the Government, because detectives on the other side or some place are running me around that is why I haven't been staying there, that is my home though.

Q. Down at Tulsa, you arranged with Mr. Bartlett to go and find Minnie?

A. That is what I told him, yes, sir, to go and find Minnie.

Q. You told him that you didn't want to have anything to do with this boy they had down there in Muskogee?

A. I told him I rather him let the detectives and Bettie prove up that boy. They had taken him before the Dawes Commission or somebody and let me go and find Minnie, yes, sir.

Q. You got fifty ($50.00) dollars from Mr. Bartlett?

A. From Mr. Bartlett, yes, sir.

Q. To go to——

A. I stayed down there about four or five days in Tulsa.

Q. And then came back to Leavenworth?

A. Leavenworth.

Q. Who did you go to see when you got back?

A. I went to see Dennis and Rube to tell them about the boy, how he looked, and to go to find Minnie.

Q. Where did you see them? A. In the office.

Q. How long did you stay in Leavenworth that time?

A. In Leavenworth that time? I stayed there almost—I must have stayed there two days.

Q. Then, where did you go? A. Went to Omaha.

Q. Who did you see up there?

A. I saw Bertha Black, a white woman.

Q. Bertha Black used to live in Leavenworth?

A. Used to run in and out there, yes, sir. She was a sporting woman and she run in and out of there, and she knew when the soldiers left.

Q. You went to find her?

A. I went up there to see somebody else and I ran across Bertha, I didn't know she was up there.

Q. Whom did you go to see in Omaha?

A. I went to see Al Walker.

Q. Why did you go to see Al?

A. Well, I went up there for something else, to see him to ask him if he knew who she was and where she was.

Q. Did he know Minnie at Leavenworth?

A. I thought he did, because he used to work in the Fort, but he didn't. He didn't work in there until later on, about eighty-eight he said.

Q. You say you didn't find out anything at Omaha?

A. Only thing I found out there, Bertha told me the soldiers went west, how come me to go to Denver; said the soldiers when they left they went to Fort Logan.

Q. How did she know that?

A. Well, I suppose she was running up there making hay days with them, I guess.

Q. She was there then?

A. Yes, sir, running back and forth and she must have stayed down here.

Q. What soldiers were these?

A. The white soldiers, I don't know who they was, I wasn't up there with them.

Q. She didn't know Minnie though?

A. No, she just said that the soldiers, I was telling her about Minnie—Well, now, she did know Minnie.

Q. I see?

A. Yes, she did. She knew Minnie, yes, she did.

Q. So you asked her what soldiers these were?

A. I told her I wanted this man—I called this man Peterkin's name to her.

Q. She knew Peterkin?

A. She knew all the regiments he belonged to, yes.

Q. And you knew Minnie was going with this man Peterkin?

A. Yes, that was the last man I heard her talking of, yes, I don't know who she went away with.

Q. Now, how did you know Minnie went with the soldiers?

A. I didn't know whether she went with the soldiers or not, that was the last man I heard Minnie speaking of and I figured up she must have went away with them, I didn't see her when she went, and I figured she went with these soldiers.

Q. You remembered the name of Peterkin?

A. And Oliver.

Q. And Oliver?

A. Yes, sir, the only two names I had ever heard.

Q. You didn't know when Minnie left? A. No, I didn't.

Q. And then you went to Omaha? A. Yes.

Q. And asked? A. Bertha Black.

Q. If she knew when Peterkin left Leavenworth?

A. Yes.

Q. And she told you that they went to——

A. Went to Fort Logan.

Q. Went to Fort Logan?

A. Yes, sir, that the soldiers went up there.

Q. And that is where you got the idea of going to Fort Logan? A. Yes, of going there—St. Joe.

Q. And you came back to Leavenworth?

A. No, came back to St. Joe and stayed about four or five days, I don't know which it was, in there somewhere, four or five days.

Q. You got some more money there?

A. Got some money in Omaha, telegraphed for money, yes and got it cashed at the First National Bank.

Q. Then from St. Joe you went to Fort Logan?

A. Fort Logan.

Q. Yes?

A. Oh, no, I stayed in St. Joe about four or five days and came right straight back to Leavenworth.

Q. How did you come—You did come back to Leavenworth? A. Yes, and stayed there.

Q. How long did you stay in Leavenworth?

A. I stayed there in Leavenworth I suppose three days on that trip, two or three days, along in there.

Q. What were you doing then?

A. Not anything in particular, I had a house there.

Q. Did you go and see anybody about this case?

A. I went to see Dennis, yes, and Rube, and told them that I was going to Denver.

Q. And that you were on the trail?

A. That I was on the trail, I thought. Bettie had told them that *Bettie* was dead when she first went there that day and they believed it.

Q. You didn't know for sure Minnie was alive, did you?

A. I didn't. I hadn't seen her for a number of years I didn't know she was not alive.

Q. After you *staid* in Leavenworth and saw Dennis and Rube—— A. About three days I guess.

Q. You went to Fort Logan?

A. No, I came back and went to Denver and then we had to go out——

Q. You went to Denver? A. Yes.

Q. When you got to Denver, did you go to see anybody before going to Logan?

A. No, I went to Fort Logan first. I found out that the Fort was about twelve miles from town.

Q. And when you got to Fort Logan, you saw those people that you have named—James O'Conner?

A. Yes, James O'Conner.

Q. Saw him first?

A. No, I didn't see him first. Let's see, who was the first person I found. Some one I met and I asked about Minnie and they told me to go down to Mrs. Jenson's, because she was one of the oldest people out there and she could tell me of anybody that I wanted to know. I went to Mrs. Jenson's first—Mary Jenson.

Q. Then, who did you see after Mrs. Jenson.

A. Mrs. Jenson sent up and got her nephew.

Q. What is his name?

A. Frank Barron—or Niece's husband, her nephew I think, Frank Barron.

Q. And then you saw Mrs. Watkins?

A. I didn't see Mrs. Watkins nest. I went down then to Mrs. Lamb's, an old woman Minnie rented from.

Q. Mrs. Lamb? A. Yes.

Q. Now, how many days did you put in out at Fort Logan?

A. Well, I came back in town and would go out again, I think I went out to Fort Logan about twice while I was there in Denver.

Q. You went to see Mrs. Hamilton? A. Yes.

Q. You knew Mrs. Hamilton in Leavenworth?

A. I knew Mrs. Hamilton in Leavenworth.

Q. You knew she was a friend of Minnie's? A. Yes, sir.

Q. You just went to see her to find out what she knew?

A. I found out in the Fort, I didn't know Mrs. Hamilton was out there. Mrs. Jenson told me Mary Hamilton was in town. That is how come me to find Mrs. Hamilton, I didn't know they were out there.

Q. Now, wasn't it Sargeant O'Conner who told you about Mrs. Hamilton? A. Mrs. Jenson, no, it was Mrs. Jenson.

Q. Are you sure of that?

A. I am sure it was Mrs. Jenson, yes, it was Mrs Jenson.

Q. You found Mrs. Hamilton in town?

A. Found her in town, yes, sir.

Q. You went to her house? A. Went to her house.

Q. How many days did you see Mrs. Hamilton?

A. It must have been that I saw her about twice, I *staid* a good long while when I went, I was in Denver though four or five days, I was out at Mrs. Hamilton's house two days, once I was out there at night.

Q. What was this man's name that told you where to find Minnie? A. Where to find Minnie?

Q. Yes?

A. Captain White, I think that is his name, lived next door to Mrs. Roach in town. He didn't tell me where to find her, he said that is where he left her in 1902, and was positive that if I would go there and if she wasn't there somebody there could tell me where she left for.

Q. And that was what sent you on to hunt for Minnie?

A. Yes, but I didn't go from there, I got a picture from Mary Hamilton and came back and went to Tulsa again.

Q. Well, now, wasn't it Mary Hamilton that told you where to find Minnie? A. No, it was Mr. White.

Q. Captain White?

A. Captain White and Mr. Roach, they had left Minnie there in Van Couver in 1902. Mrs. Hamilton didn't know where Minnie was.

Q. The only thing that Mrs. Hamilton knew was that Minnie left Fort Logan in 1898?

A. I guess yes, and had a picture of Minnie.

Q. Yes. A. Yes, not in eighty—ninety-eight.

Q. 1898? A. 1898, yes.

Q. I said 1898. So Captain White is the one that put you on to Minnie? A. Put me on the track, yes.

Q. The only help that Mrs. Hamilton gave you was the picture?

A. Well, yes, she knew she had lived there, she had been visiting Minnie while Minnie was there, and I asked her for a picture, I told her the one Minnie gave me I lost.

Q. Did you tell her what you wanted the picture for?

A. Yes, yes.

Q. What did you tell her?

A. I told her I wanted that picture to keep and use it, because I was going to show it to the white man I was working for when I went back, so he would know I was on the trail of Minnie, that is why I got the picture from Mrs. Hamilton for.

Q. Didn't you tell Mrs. Hamilton you wanted the picture so you could identify Minnie if you found her?

A. Why, no. Why would I have to have a picture to identify Minnie.

Q. Now, Mrs. Hamilton didn't know where, said she didn't know where Minnie was?

A. No, she didn't say she knowed where Minnie was, no.

Q. But she said she didn't know where Minnie was?

A. Yes, she said she didn't know where Minnie was, she didn't either.

Q. Then, Mrs. Hamilton didn't tell you that Minnie was married to a soldier in the band and was out near Seattle?

A. Oh, no.

Q. Well, out in the State of Washington?

A. No, a nigger told me when I got to Van Couver, because Minnie married right there in Van Couver.

Q. I said Seattle, I mean the State of Washington?

A. Van Couver.

Q. Mrs. Hamilton didn't tell you she was married to a soldier in the band?

A. No, she didn't, she couldn't tell me because Minnie wasn't married to Harry Folk when she left there.

Q. She didn't tell you she had been told by some soldier that Minnie was out there? A. No, not Mrs. Hamilton, no, no.

Q. Now, who told you where Mrs. Hamilton was?

A. Mrs. Jenson, Mrs. Jenson, because she thought that Mrs. Hamilton and Minnie had been school mates.

Q. Who told you to go to Mrs. Roach?

A. When I got to Mrs. Lamb's she told me about Mrs. Roach.

Q. Now, Sadie, you found out about Minnie's three children out there at Denver, didn't you?

A. Well, the post-mistress, when I saw Mrs. Watkins, she told me about Minnie having that baby and it dying—Mabel Peterkin.

Q. And Harvey and Charlie?

A. Mrs. Hamilton told me about this and Mrs. Jenson, they knew about these children. Captain O'Conner too told me about these children she had had there.

Q. They knew their names?

A. They knew th*eir* names of those children, yes, sir.

Q. Did you talk to Mrs. Hamilton about this boy?

A. This nigger that I lied about?

Q. Yes?

A. Yes, sir, the nigger that I lied about, I told her about that.

Q. But she didn't know about Minnie having a boy?

A. Yes, she only knew of Minnie having one baby there in Leavenworth, but I didn't know that, and she said, when and where could Minnie have a boy there that I didn't know, and I said she had it by a nigger, told her a lie. I told her she had it by a nigger man, and that is why you didn't know it.

Q. She told you Minnie had one baby there in Leavenworth?

A. No, she didn't tell me that. She knew about that but she didn't tell me she had any.

Q. But she knew that this boy she knew about was not Tommy, did she know the name of that boy in Leavenworth?

A. That dead boy up there?

Q. Any boy?

A. She never told me about Minnie having no baby at all, but I later found out Mrs. Hamilton did know it, but it was after that a year after that, a year from then; she didn't tell me no secrets at all on Minnie about this baby, about this dead baby.

Q. But she told you that Minnie couldn't have had a boy there without her knowing it?

A. I told her how big the boy was, and she said when and where?

Q. What did you tell her?

A. I said the reason you didn't know it, Mrs. Hamilton —I told her a lie—the reason you didn't know it was because she had it by a negro there, Rube claimed to be the father and the boy would have to be a nigger.

Q. That was while you were in Denver?

A. In Denver, yes, on the way going and at Denver, told it both, because Mrs. Hamilton was so struck to know that Minnie had a son there and she didn't know nothing about it.

Q. Did you tell Mrs. Hamilton that Minnie had any children at Leavenworth? A. Did I tell her that?

Q. Yes?

A. No, how could I told her that, I didn't know it. I just told her the lie you see that she did have one by a nigger man there, told Mrs. Hamilton a lie, but Mrs. Hamilton couldn't hardly believe me, because she said where and when could Minnie have had a boy that she didn't know it; because Mrs. Hamilton was the only place Minnie visited. None of those niggers up there didn't know her because they didn't see her until about a year ago.

Q. But she told you about these three children born in Denver?

A. And when Mabel died. Mrs. Hamilton knowed that.

Q. And these other people told you about them?

A. Yes, they told me about it too.

Q. You were surprised to learn about them?

A. About them children?

Q. Yes, these other children?

A. Oh, no. How was I surprised to know about them children when I had seen them. This was 1914 when I was out there hunting Minnie, and I seen them children here in '95, why was I surprised when Mrs. Hamilton told me about those children. Surprised about the one that was dead out in the grave-yard.

Q. That is the first time you heard that?

A. Yes, because Minnie never told me when she came through here.

Q. So the only ones you knew——

A. Were Harvey and Charlie. I knew them myself.

Q. Did you tell Mrs. Hamilton Minnie had some children in Leavenworth? A. In Leavenworth?

Q. Yes?

A. I told her about this nigger I was lying about, nigger baby.

Q. I mean, now, didn't you tell her Minnie had a child living in Leavenworth now?

A. Oh, no. I told her she had the nigger boy and I was hunting him. She never had one how come I told her that. Minnie didn't have no Thomas Atkins, if she did she raised him off the floor like me and Dennis told a lie to raise him off the bare ground.

Q. What did you tell Mrs. Hamilton about Alice?

A. I told Mrs. Hamilton she had Alice, and Alice was living—told a lie, told her a lie.

Q. In Leavenworth?

A. Yes, about Alice, but I told Mrs. Hamilton a lie. I was lying to Mrs. Hamilton all the time.

Q. Then, you did tell Mrs. Hamilton that Minnie had a child living in Leavenworth, didn't you?

A. I told her I knew where Alice was, yes, lying.

Q. Didn't you tell her it was in Leavenworth?

A. Yes, told her I knew where Alice was, yes—lying.

Q. Now, before the recess, we were talking about Minnie's other children, Sadie. You already knew about those two children, Charlie and Harvey?

A. Yes, sir, I already knew them.

Q. So the child you found out about at Fort Logan was Mabel? A. The child I found out about at Fort Logan?

Q. Yes? A. Yes.

Q. That was the first time you had heard about that child?

A. Yes, I wasn't hunting no child when I went to Denver, I was hunting Minnie.

Q. Yes, and you found out about that child? A. Yes.

Q. You didn't make any inquiries about any children?

A. About any children out there? No, people just voluntarily told me about the children she had out there, I didn't talk to anybody about the children.

Q. They told you about Mabel?

A. They were telling me about Minnie's life out there, and bringing up this baby.

Q. And you told them about Harvey and Charlie?

A. I told them she had two sons down there, and they told me about her taking some away, and they said yes we knowed when she taken them away, but we thought those boys were dead.

Q. Did you ever tell anybody else about those two children? A. What two children?

Q. Those two boys, Harvey and Charlie?

A. Did I ever tell anybody else?

Q. Yes?

A. Yes, I told Dennis about her running off and leaving them, I told people in Leavenworth about her running off and leaving them, yes.

Q. Told Dennis about Harvey and Charlie?

A. Yes, told them about those boys. You see Denny had said Minnie was dead when we were framing it up.

Q. You told them about her running off and leaving them?

A. Yes, told them about her drawing the money, I told them all about——

Q. What makes you say about her running off and leaving them? A. You know why?

Q. I am asking you?

A. Because her coming back like she did and saying nothing about the boys I knew she was running off because she said so.

Q. Did she say she was going off and leaving them?

A. No, wasn't going off and leave them, but she came back here without them children, she was running off, she was going to the Philippines, leaving the country.

Q. You testified at the Receivership here, didn't you?

A. I did.

Q. Down at the Court? A. I did.

Q. And didn't you testify down there that you found out about Harvey and Charlie at Fort Logan?

A. I found out that they was born there, I didn't know where those children was born at no.

Q. You testified that you found out that they were born there?

A. Born there, and I testified that I saw them, I know what I testified to, yes, sir.

Q. And you are sure that you already knew about those children? A. Yes, sir.

Q. And when you got out to Seattle, did you talk to Minnie about her visit and seeing you in Kansas City? A. I did.

Q. You did? A. No, no, I didn't.

Q. You didn't? A. No, no.

Q. You didn't mention that?

A. No, we didn't talk over that, I don't think we did, we were talking a lot more things about how we were going to get this thing, I am not sure.

Q. Did you talk about Harvey and Charlie?

A. Yes, I told her about them being grown and everything, yes.

Q. Didn't you tell her that you had found out about those children at Denver?

A. Oh, no, I said I have found Mabel Peterkin dead in the grave-yard, and I said Harvey and Charlie are home in Oklahoma. She thought the boys were dead, that is the two boys she had left.

Q. What I mean is this: Didn't you tell Minnie that you had found out about her two children at Logan while you were in Denver that you had learned about them there?

A. No, I didn't tell her that.

Q. Because she already knew? A. That I knew it, yes.

Q. So you didn't have to tell her?

A. Didn't have to tell her that, I didn't have to tell her that no, but I told her about the dead one that I fount out about out there at Fort Logan.

Q. So you told her about these two boys being grown and living down in Oklahoma?

A. And about the color of them and all, she hadn't seen them since they were small.

Q. You knew that?

A. Yes, I knew that. They were grown you know, and I had been down where they was thirteen or fourteen years, you know.

Q. Know them personally?

A. No, not to associate with them, no.

Q. Now, when you got to Seattle, you found Minnie's husband first and then you went down to the house?

A. I found Harry up in the band house.

Q. You went down to Minnie's house?

A. He told me how ho get there, Mulberry *on* some kind of street, he told me how to go.

Q. You went up to the door? A. To the door.

Q. Knocked? A. Yes.

Q. And Minnie came to the door? A. Yes.

Q. What did you say?

A. When she opened the door the screen was fastened, the inside door was shut, I knocked on the door and she opened the screen which was fastened and I wanted to see if she knew me and I said, Is this Mrs. Folk? And she said yes, and I said can I see you—I seen she didn't know me, and I said can I see you. I was out doors and she said what do you want with me, and I said open that door Minnie. I called her Minnie Atkins, and I said open that door Minnie Atkins and she unhooked the screen and she said who is this? I walked in, she said who is this, I had a hat on, it was a wide hat about the shape of that, and she said who is this? And I said, don't you know? She was on that side of the table and she walked around and taken my hat off and I just smiled this way and she said it is Sadie, it is Sadie, and I said yes, and she said how in the world did you find me? That is just what she said, she knew it was me the minute I smiled, it is Sadie, I said yes. That is what she said. She was scared.

By Mr. Blakeney: I move to strike out that "she was scared," as a conclusion.

Q. Then, what did you say, Sadie?

A. I told her then the rounds that I had taken to find her.

Q. What did you tell her, that is what I want to know.

A. I said, Minnie I have run all over the country hunting for you, and she said, good God, if you went to Leavenworth to Mrs. Captain Ferguson's, I believe she said, she could have told me right where she was; and I said I didn't know Mrs. Ferguson, and I never did go up in the Fort to hunt you; and she said what do you want with me, Sadie, and I said I am a Government officer, I am working for the Government and I am hunting children to enroll; I said, I find—— You know, Minnie, when you went and drawed that money in 1895, you drew for Minnie Atkins, Thomas Atkins, Alice Atkins, Harvey and Charlie Harrison. I said, I find Charlie and Harvey at home, I find Mabel Peterkin dead in the graveyard in Fort Logan, but the two principal ones I am hunting I can't find I said, and that is Thomas and Alice. She said, Sadie, Thomas Atkins was my father, he had been dead seventeen years when I drew his money; she was sitting just about like you are, and I said well where is Alice? She just drooped all down and said Sadie, don't ask me, she has been dead too long, don't want to know—told me not to want to know where she was. I didn't know where she was; I said well it don't make any difference about Alice because she wasn't enrolled anyhow, but Thomas was and his land is very valuable.

Q. Did you tell her of the places you had been?

A. Yes, sir, I told her all around the world I had been hunting her.

Q. Now, Sadie, what I want to get at is exactly what was said?

A. Well, I don't know all I could have said that day, because I *staid* there about three hours in the house with her.

Q. When you first arrived?

A. After I got to talking to her, she said, my God, did you say anything to Harry about my children?

A. I said, no, I just told him I wanted to see you on important business.

Q. Well, now, I want to know what was said when you came into the door, what you have told her, is that what took place and what was said? A. While I was in the house?

Q. Yes? A. While I was in the house?

Q. When you first arrived?

A. I don't know what was said when I first arrived—asking about Harry—about the children?

Q. Well, when you first mentioned to her Harvey and Charlie?

A. That is when I told her I was hunting the children to enroll, I mentioned them then to her.

Q. Right away?

A. Yes, right away about them, because I knew they was down there.

Q. And you told her right away that they were living?

A. Yes, she thought they were dead.

Q. Now, you remember that very clearly, do you, when you first arrived there at Minnie's house?

A. When I went out there?

Q. Yes?

A. We sat down at the table and went to talking.

Q. You remember arriving at the door and having the conversation with Minnie and what was said?

A. After I got in the house, yes.

Q. What you just told us? A. Yes, I remember that.

Q. As to what was said?

A. Yes, but I said a whole lot more.

Q. Did you tell Minnie that you had just found out about Harvey and Charlie in Denver?

A. No, I didn't tell her that I had just found out, I told her that I found out where they was born.

Q. Now, she said that her father—that Thomas Atkins was her father?

A. Said Thomas Atkins was my father and he had been dead seventeen years when I drew this money.

Q. She said seventeen years?

A. She said seventeen years, what she said to me.

Q. She didn't say fifteen?

A. No, she didn't, I understood her to say seventeen years.

Q. And she didn't say he had been dead fifteen years now?

A. Oh——

Q. Said he was dead seventeen years when I drew the money?

A. When I drew the money. She said Sadie I have been hiding——

Q. She said she had been hiding?

A. From the Government.

Q. Hiding from the Government? A. Yes, sir.

Q. For this crime? A. Yes, sir.

Q. Drawing the money? A Drawing the money.

Q. How long did she say?

A. She said, Sadie I have been hiding nineteen years from the Government for the crime of drawing that money, and now you have found me to make me trouble.

Q. Nineteen years, she said? A. Yes, sir.

Q. Now, Sadie, when did Minnie's father die?

A. I don't know, I didn't know she ever had a father.

Q. Now, this money was drawn in 1895?

A. Yes, that is when she went there for.

Q. And you found her in 1914? A. Yes.

Q. So 1895 from 1914 is nineteen years, isn't it?

A. I don't know, I have never figured it up. Now, I don't know, I can't tell you, I am telling you what she told me, I didn't figure it up I didn't care when he died. Nothing to me I just wanted to get her to tell that lie.

Q. And you are sure she said seventeen years?

A. I am sure what she said to me. I am not going to tell no lie on Minnie.

Q. I am asking you.

A. Told me—— We were sitting talking good then; I told her I was working for the Government and she wasn't afraid of me.

Q. Now, when you went on that trip to find Minnie, Bettie went with you, didn't she? A. No. Oh, when I first left?

Q. When you went from Tulsa after you came back from Denver?

A. After I got Minnie's picture and came back from Denver and made a contract with Mr. Bartlett?

Q. Yes?

A. Later on, about a week or so Bettie joined me.

Q. And went on that trip?

A. Yes, she went on that trip.

Q. That is all I want to know, just answer my questions. She went on that trip? A. Yes.

Q. Now, you met her at the Stafford Hotel at Kansas City?

A. When I came down that afternoon to go on the train?

Q. Yes. A. Yes, she was up at Stafford's.

Q. Did she tell you then anything about Frank Long?

A. Yes, told me Frank Long was there and did I want to see him, and I told her no.

Q. Did she tell you Mr. Long was right there?

A. Yes, I didn't see Mr. Long myself. She said, Sadie, Mr. Long is here, do you want to see him? and I said no, I never did see Mr. Long.

Q. But she told you the name, Frank Long?

A. She told me the name.

Q. So, when you got out to Seattle and you learned from Minnie that Frank Long had been there, why you knew who she was talking about right away? A. When?

Q. Out in Seattle?

A. Minnie didn't tell me nothing about Frank Long. When she met me to keep me from going to her house and Long went out there and stole her.

Q. Yes?

A. She told me this: They had detectives right behind her, she told me to go back.

Q. Who did tell you about Frank Long, Captain McNab?

A. You and Captain McNab——

Q. Well, who?

A. Captain McNab and you went up on the hill to see who those detectives were, I told you I was afraid.

Q. Who mentioned the name of Frank Long?

A. Captain McNab.

Q. You knew who he was talking about?

A. Yes, you were sitting there.

Q. I am asking you to answer my questions. Captain McNab mentioned the name of Frank Long, did he?

A. Yes, and then——

Q. Did you know who he was talking about?

A. When he mentioned Frank Long's name?

Q. Yes?

A. Yes, I knew it was Frank Long back from home.

Q. Bettie had told you about him?

A. He didn't leave us.

Q. Bettie had told you about him in Kansas City?

A. Yes, in Kansas City, yes.

Q. So, when Captain McNab, out in Seattle, told you Frank Long was there, you knew who he was talking about?

A. Yes, he told a lie on me and said——

Q. Well, you knew who he was talking about?

A. Yes, I knew who he was talking about.

Q. Now, going back, Sadie, to when you were in the house there with Minnie, you say she told you she didn't have a son Tommy Atkins?

A. Told me that was her father herself, what she told me.

Q. But she told you she didn't have a son, didn't she?

A. Oh, yes.

Q. How did she say it?

A. Here is what she said: Sadie, I have been hiding from the Government nineteen years for the crime I committed in drawing that money, and if I say I had a baby in Leavenworth—— You see she had that dead baby there then and I didn't know it. She said if I say I had a baby there in Leavenworth, who is dead there that I can say I give it to, and I said my grandmother, Granny Letcher.

Q. Sadie, didn't she tell you she never [] a son named Thomas Atkins? A. Yes, said that was her father.

Q. Did she say that in so many words?

A. Told me that is who she drawed the money for.

Q. Well, did she say that?

A. Yes, in conversation she said she had no son named Thomas Atkins, she didn't tell me what his name was, that dead baby at Leavenworth, she didn't tell me what his name was.

Q. You say she asked you who was dead in Leavenworth?

A. Yes.

Q. So she could say that was her son?

A. So she could say that was who she give it to.

Q. But, Sadie, how did she tell you that she was not the mother of Thomas Atkins?

A. Late- on she said, during this conversation, she said I had no son named Thomas Atkins.

Q. That is what she said?

A. Yes, she didn't tell me about that dead baby up there though, just told me she didn't have no son named Thomas Atkins.

Q. That is what she said? A. Yes.

Q. That was later on in the day?

A. Yes, we talked a good deal, talked with her seven days before Frank Long got there and stole her, or six days.

Q. How long were you out at the house that Monday morning?

A. That Monday morning, I must have been there about —got out there about—I don't know just about what time it was in the morning that I got there, I say I got in on that train from Spokane.

Q. Was it early?

A. Yes, it was early and I *staid* until after dinner because she didn't want me to be there when Harry came, so he will know about these children; said he is all excited now, he has got to come now and see what you are hunting me for.

Q. You *staid* there until after dinner?

A. Sometime after twelve o'clock I think, I didn't eat dinner there.

Q. Did her husband—— Her husband didn't come in while you were there?

A. No, he didn't come in that day. I didn't see him until the next day.

Q. He didn't come down to get his lunch?

A. Not while I was in the house, he might have come after I left. That was the next day, she wanted me to go before he did come.

Q. What did you tell Minnie you were doing?

A. I told Minnie I was working for the Government, I said I am working for a white man, Minnie, and I am selling land to people too, and I said when this white man comes up, all you got to do is to sign a deed and I will get you two thousand ($2,000.00) dollars, and when the Government comes along you just tell the Government that you had that child.

Q. Well, when you told Minnie that this land was very valuable? A. Yes.

Q. Then, right away she said, well, who is dead so I can say I gave the child to, did she?

A. When I said the land is valuable?

Q. Yes.

A. No, here is what she said: I said Thomas' land is valuable, she sat right behind this, and she said, Sadie, I have been hiding from the Government for nineteen years for the crime I committed, and now you have found me to make me trouble, and I said no, Minnie, I have been your friend for thirty years and I will shield you.

Q. That is what she said? A. Yes.

Q. That is what she said when you told her the land was valuable? A. Yes.

Q. Well, then, what did you say?

A. I said I have been your friend for thirty years and I will shield you. When I said that to her, she said if I say I had a baby who is dead in Leavenworth that I could say I gave it to.

Q. Well, that was when you first got in the house?

A. Yes, this same conversation, yes.

Q. So Minnie got right into your scheme right at the start? A. Right at the start?

Q. Yes?

A. She thought I was a Government officer, I told her a lie, sure; and I told her about my work selling to white men, I was selling land to white men unbeknown to the Government she knew.

Q. You didn't tell her you were trying to frame up the boy? A. Told her that right there.

Q. After you told her you were a Government officer?

A. Yes, sir. She said suppose I say I had a baby in Leavenworth, who is there I can say I give it to. Dennis and I had framed up the lie back here in March. She just had my story like I wanted, I said my grandmother. We had started the lie in Leavenworth saying my grandmother.

Q. She believed you when you told her you were a Government officer? A. Yes, she did.

Q. So you told her that you were hunting for this boy, so she said—— A. Hunting for what boy?

Q. Didn't you tell her you were hunting for a boy?

A. I said the two principal ones I am hunting for—I thought she could have had a baby, I didn't know what she had there in Denver, or some place else. I didn't know who Thomas Atkins was——

Q. Oh, so you thought she might have had Thomas?

A. I didn't know who Thomas Atkins was on the roll, you see. When I went out there I found the baby dead in the grave-yard, I didn't know she had one in Leavenworth, I didn't know nothing about Alice; I told her the two principal ones I am hunting I can't find, that is the way I wrung it out of her, and I said that is Thomas and Alice—she drew for them too. She said, Sadie, Thomas Atkins is my father, I didn't have no son, I never had a son named Thomas Atkins; she said he had been dead seventeen years when I drew his money, and I said where is Alice, and she just drooped right down and said, Sadie don't ask me, she has been dead too long, don't want to know, and she looked so bad when she said that, I said well it don't make any difference about Alice no way, she wasn't enrolled no way.

Q. You found out out there about this Peterkin baby?

A. In Fort Logan.

Q. In Fort Logan? A. Yes.

Q. And did you find out about the one in Leavenworth?

A. No, I didn't know nothing about that dead baby.

Q. You didn't find out anything about that?

A. No. About six months there in Leavenworth I didn't see her at all. I didn't know she had had one.

Q. When you told her this land was valuable, she asked you, if I say I had a boy who can I say I gave it to?

A. She didn't say that right then. She said, Sadie, I have been hiding from the Government for nineteen years for the crime I committed in drawing that money and now you have found me to make me trouble; and I said, no, Minnie, I have been your friend thirty years and I will shield you. I wanted to let her know this was a frame up about selling the land, I wanted to give her a hunch there was some land she could make money out of.

Q. She caught on?

A. Yes, Minnie has got some sense, fifty years old of course. My being a Government officer and coming to sell this land—that I was a crook, she knew what I would do.

Q. Right away, believing that you were a Government officer she dropped right in?

A. Dropped right in, yes, I told her I was going to sell the land to a white man, she seen a scheme to get two thousand ($2,000.00) dollars.

Q. Now, when did you tell her you were going to sell this land to the white man?

A. I told her the white man was coming, I told her he is coming—he is coming and as soon as he gets here——

Q. Was that before she asked you who she would say she had given the boy to?

A. Oh, no, that was after that. I went on and told her then about this white man coming and she would be getting two thousand ($2,000.00) dollars for signing a deed to him; and I told her the Government officers would come along after a while, they would follow me, and all you got to do was to say you had that baby.

Q. That was after she said who shall I say I gave it to?

A. Yes, yes.

Q. Now, did you see Minnie's husband that day?

A. Saw him that day at the Fort—— No.

Q. After you saw Minnie?

A. I never saw Harry that day, didn't see him until the next day. Harry didn't come down there while I was there that morning.

Q. What time the next day?

A. You see after I got home I went back——

Q. When did you see her husband the next day?

A. I saw Harry the next morning.

Q. At Minnie's house?

A. No, he wasn't there, she went and 'phoned for him.

Q. Where did he come? A. Come from?

Q. Come to? A. He came to Minnie's house.

Q. Then, you saw him at Minnie's house?

A. Yes, after I got there he came, after she called him over the 'phone

Q. Now, what did you send for him for?

A. I will tell you what I sent for him for: I said, Minnie, since that night I went back after Mr. Bartlett came, now, if Minnie signs the deed her husband she married would have to sign it——

Q. You sent for him to tell him about Minnie's children?

A. Yes, she didn't want me to tell Harry about this frame up.

Q. Is that right, that what you sent for him for, to tell him about Minnie's children?

A. Yes, about Minnie's children.

Q. So he came to the house?

A. He came to the house.

Q. What did you say to him? A. When he got in?

Q. Yes?

A. He came in and stood right along there and Minnie would be setting at the end of the table like this, she had told me, I said Minnie don't you know——

Q. What did you tell Minnie's husband?

A. When he came in?

Q. Yes?

A. I said, Mr. Folk—he stood right there and Minnie was sitting here and me here.

Q. Sadie, go on and tell—make your answer to the question?

A. I said, Mr. Folk, do you know your wife? He said, I think not. I didn't know what had been going on that night. He said I think not. I said, well I have come to tell you a secret about her this morning—she had told me I could tell him about the children, she wouldn't do it. He said, I think not; I said, well I have come to tell you a secret about your wife. I said in 1895, I said, she came down to the Territory and drawed some mone-, I said she drawed for Alice Atkins and Thomas Atkins, Charlie and Harvey Harrison and herself, and Minnie looked up and I said, did you know she had any children, and he said no. Minnie looked up by that time an said, Harry, will you forgive me, sitting right here, he told me she was married to him seven years and he didn't know she had a child; by that time he sat down facing me and Minnie over here.

Q. You had told him about Minnie's drawing this money?

A. Yes.

Q. In 1895? A. In 1895, yes.

Q. You had told him about Minnie's visiting you in Kansas City?

A. No, I didn't tell him about Minnie visiting me, not Harry.

Q. Didn't tell him about that?

A. No, I told him about Minnie and me being in Leavenworth, just telling about the children now.

Q. Sadie, who did you ever tell about Minnie visiting you in Kansas City?

A. I didn't even tell Bettie. When Bettie came up here and told me it was dead in Leavenworth, because I want to show you why, it run in my mind that she said in ninety-six when I seen her.

Q. Who did you first tell about that? A. About what?

Q. About Minnie visiting you in Kansas City?

A. I told a good many people, I guess ten thousand.

Q. The first time you ever told that then was after the Receivership hearing down in Muskogee *down in Muskogee,* wasn't it?

A. Oh, listen, I had never told anybody up here at Leavenworth about it only Dennis and them.

Q. Who did you tell about it?

A. Dennis and them unless I was talking to somebody in the neighborhood in Kansas City where I was living, but I told them that night that we were framing up about what she had done about running off, but I didn't tell about her drawing for the children then because I didn't know then, I hadn't found her.

Q. Did you tell Mr. Buell and Mr. Robertson about that, about Minnie's visiting you in Kansas City?

A. Oh, that was away behind that, yes, I told them that.

Q. You told them that when they first found you?

A. When they first found me?

Q. Yes?

A. Yes, I told them when they first found me.

Q. You told Mr. Montgomery?

A. Yes, sir, I told Mr. Montgomery and I told Mr. Bartlett.

Q. When they first found you?

A. When they first came to me.

Q. Do you remember that?

A. Yes, I remember that; that was near back when Mr. Bartlett got me in Kansas City.

Q. And they took your statement, didn't they?

A. They took my statement.

Q. Yes, and affidavit? A. Who did?

Q. Didn't they? A. Who did?

Q. Mr. Robertson and Mr. Buell.

A. Mr. Buell ain't had no statement of mine Mr. Montgomery had a statement what I had done.

Q. He put that in that statement? A. Yes.

Q. Now, then what did Minnie's husband say after you told him about these children?

A. After I told him a white man was coming to give her some money he was satisfied about it.

Q. What did he say at first before you told him that?

A. I said Minnie, I said, is going to get some money. I hadn't told him then about this being a frame up, Minnie and I hadn't. I said Minnie is going to get some money, I said one of her boys, I said, she is going to sell that land and a white man will be up here and will give her two thousand ($2,000.00) dollars, will be up here—and I even told Harry I was a Government officer and was going to protect Minnie.

Q. So you told him that it was a frame up?

A. No, not that day, I didn't tell him nothing about that frame up until Wednesday, the third day I seen him.

Q. What did he say then?

A. I told him then what we had done, that Minnie didn't have no boy and that that was her father that she had drew the money for, and he said he thought that was all right if she could make the money, that was Harry.

Q. You told him that she did have children named Harvey and Charlie? A. Yes, about Harvey and Charlie.

Q. And Mabel?

A. I didn't tell him about Mabel, didn't tell him about the dead girl, no.

Q. You didn't tell him anything about Alice?

A. I told him about Harvey and Charlie being down home and he said right away when I said she was going to get some money, Minnie ought to have Harvey and Charlie come out here to see her, he got satisfied.

Q. What did Minnie's husband say when you asked him if he knew his wife?

A. He said I think not. I don't know what she had said to him that night, but he said I think not. I said, Mr. Folk, do you know your wife, and he said I think not, and I said I have come to tell you a secret about her this morning.

Q. So you went on and told him about the three children?

A. About her drawing this money and about the children, told him she had some children, named them over, even named Alice and Thomas, but the next day on Wednesday we showed him where there was no Thomas.

Q. But you named them all? A. That day.

Q. In the order? A. Yes.

Q. Named Thomas? A. Yes.

Q. And Harvey? A. Yes, sir.

Q. And Charlie? A. Yes, sir.

Q. And Mabel? A. Yes.

Q. And Alice?

A. No, didn't talk about that dead one, no.

Q. Mabel?

A. Didn't talk about no dead ones, Mabel, never have talked about a dead one to him.

Q. How many times have you seen Nancy, Minnie's sister? A. How many times have I seen Nancy?

Q. Yes?

A. I don't know how many times I have seen Nancy.

Q. Where have you seen her?

A. Over at Nowata and at Wagoner.

Q. You have been in Nowata?

A. Oh, my goodness! I know people that lives all around it and around Wagoner too.

Q. Did you talk to her? A. To Nancy?

Q. Yes? A. Yes, I have known Nancy.

Q. Known her to talk to her? A. Yes, to talk to Nancy.

Q. Now, what did Minnie tell you about that letter she had received?

A. She didn't tell me about it, she showed it to me. The letter and the deed, showed it to me.

Q. Where was that from?

A. Mazoola, Montana, she got it in Mazoola, Montana, but it was from Muskogee, dated from Muskogee and sent to her at Mazoola, Montana.

Q. She let you read it?

A. I read just a part of it, just looked at it.

Q. Why didn't you read it? A. Read it?

Q. Yes?

A. I looked at part of that letter, she had done told me who it was from, she didn't know who it was from, didn't have no name signed on the letter.

Q. Was it signed? A. No, it wasn't signed.

Q. Why didn't you read it?

A. I read it enough to know what was in it, just looked it over.

Q. Enough to excite your suspicion wasn't it?

A. Oh, no.

Q. What did it say?

A. It just said that Minnie—I think it said, dear Minnie, something like that, it has been a long time since I—no, I have been trying to locate you for a long time, or something like that.

Q. That is all?

A. No, said more than that. I can't read that letter because it was nothing but just a——

Q. Well, what did you think was in it?

A. That letter was just one sheet of paper.

By Mr. German: I object to what she thinks.

Q. You said that you saw enough to know what was in it?

A. There was nothing important in it, just said sign this and I will be all right, didn't say who they were, just said sign this and I will be all right. That meant this deed.

Q. Is that what it referred to?

A. Yes, sign this and I will be all right, but didn't have no name down at the bottom at all.

Q. Nothing important in the letter?

A. That was the most important thing there was in it.

Q. And there was a deed in it? A. Deed in the letter.

Q. A deed for this land? A. A deed for the land.

Q. And you were working on this case then, weren't you? A. Yes.

Q. And you saw a deed there for Minnie to sign?

A. A letter, and in that letter was a deed she said.

Q. To this land?

A. I guess it was to that same land, yes. She said she had gotten that two years ago, that letter, and she thought—— She said I thought it was from my sister Kate, and I said, no, Kate Ward had been dead for three years.

Q. What did she do with that letter?

A. She didn't do nothing with that letter, Harry took that letter and that deed and put that in the stove, Harry Folk himself, burned it up.

Q. What did he do that for? A. I don't know.

Q. Did you see him do it?

A. Yes, I was sitting right here, he went on in the kitchen tore it up right at the table, he tore that up, that letter and deed he tore it up, and he went on in the kitchen where the stove was.

Q. That all took place right while you were there?

A. Me right in there. You know how [] white man is when he is going to make some money and negroes in it, he was just as loving to me as Minnie was, he thought he was going to make some money.

Q. This took place with you there?

A. Right with me present there in the house.

Q. Harry you say was showing you a little attention?

A. Treating me more so than the white men ought to treat me you know if there wasn't something to me, just good to me you know, treating me nice, he thought Minnie was going to make some money, he didn't care if Minnie had a thousand children.

Q. Now, who did you tell Harry that Minnie drew that money for in 1895?

A. I didn't have to tell him, she told him herself.

Q. Herself?

A. Yes, you see she told him about this frame up and didn't have no baby in Leavenworth, she tells him about that was a frame up, the whole scheme.

Q. Well, how many children did she tell Harry she had drawn money for in 1895?

A. She didn't tell Harry about how many children she had drawn for, but she tells him she draws this money *to* Thomas Atkins, who was her father.

Q. Did you tell that to Harry, or did Minnie?

A. Minnie told him herself, said, Harry, that money I drawed for Thomas Atkins was my father's, laughing and excited, we were in there framing a lot of stuff.

Q. So Harry didn't find out how many children she had drawn the money for?

A. No, he didn't find out, she just told him that Thomas Atkins was her father.

Q. Now, did Minnie tell Harry that she had been hiding from the Government for nineteen years? A. Told all of that.

Q. She told him that? A. Yes, she told him that.

Q. She came right out and said, Harry, I have been hiding from the Government for nineteen years?

A. Told Harry that?

Q. Yes?

A. Yes, she told him about when she drawed this money, she said, Harry, that is the reason I have been hiding. I said, Minnie, I was going clean to the Philippines and hunt you.

Q. Did she say where she had been hiding?

A. No, didn't say where she was hiding. Harry found out after she told him about the children how dark her life had been when I explained to him about the children—fast life because he was living with her as his wife seven years and he didn't know it.

Q. She didn't tell where she was hiding?

A. No, she said Harry when I left the Territory I was running off.

Q. Did she say she had changed her name?

A. No, she didn't say that but she had never been called Atkins after she left Leavenworth.

Q. You are sure of that?

A. Not after she left Leavenworth, I am not so positive, but after she left——

Q. How did Captain White know who you were inquiring about?

A. I was asking for an Indian Minnie—Indian Minnie. He didn't know her by no Atkins, never nothing else only Indian Minnie, they all called her that long before.

Q. She was never called anything else except Indian Minnie? A. Indian Minnie.

Q. That is the name she gave to people?

A. I don't know whether she gave that or not.

Q. But you know she didn't give the name Atkins?

A. Yes.

Q. How do you know that?

A. I don't know, I would ask for Indian Minnie, they didn't tell me her name was Atkins.

Q. Now, after she left Oklahoma in 1896 when she visited you, then she never went back, did she? A. Back where?

Q. To Oklahoma?

A. I don't know, I didn't know where Minnie went to, I couldn't tell you where she went shen she left this town, I don't know where she went.

Q. She ran off and left those children, didn't she?

A. She didn't have them when she came back there.

Q. And she was hiding for the crime of drawing this money, wasn't she? A. I guess she was.

Q. So, you know she didn't go back? A. No, I didn't.

Q. You didn't know that?

A. No, I didn't know whether she ever did go back there or not, I didn't know, I couldn't say that, I don't know.

Q. Well, did she tell you she never went back?

A. No, she didn't tell me she never went back.

Q. When she told you she had been hiding nineteen years, didn't she say she never went back?

A. No, she didn't tell me that, didn't tell me she never went.

Q. Didn't tell him that?

A. ——Back, no, she didn't tell me that.

Q. Now, Harry said it was all right with him, this frame up?

A. All were sitting around the table talking, it was all right, we explained it to him.

Q. Did he say he would help you? A. Help us?

Q. Yes?

A. Nothing for him to help about, nothing for him to do. All that Minnie had to do was to do as I told her to do.

Q. Well, then Harry had to go away didn't he while you were out there? A. Harry left, yes.

Q. You were waiting for this man to come with the money? A. Bartlett?

Q. Yes, and you asked Harry to be there, didn't you?

A. That was on Saturday morning.

Q. Yes, Friday? A. Yes, Friday.

Q. And he said he had to go away?

A. Yes, I brought him out a telegram, I brought him a telegram out there Friday morning and showed it to him that the man would be there in the morning.

Q. So he couldn't get permission to stay over there from Spokane, he had to go?

A. No everybody else heard about him going to get this money and they wouldn't let him stay. He went up there and came back and said, Sadie, I think they ought to let me stay, they don't need me in the band, I guess Captain McNab seen how he could get some money and he wouldn't let him stay.

Q. Well, that was the reason they wouldn't let him stay?

A. No, I don't know that, I ain't going to swear that, I ain't saying that, I don't know it.

Q. Well, they wouldn't give him permission to stay over?

A. No.

Q. He told them about the money at this time?

A. Oh, no, I don't know what he told them, I hadn't seen him talking to them, I hadn't seen Captain McNab or you either then.

Q. Do you know who he went to?

A. No, he went to see some captain, I don't know who, and went to see the Colonel.

Q. He told them about this money?

A. I don't know what he told them, he showed the telegram I gave him, that Frank Long would be there in the morning—Bartlett, and I taken it up to the Fort so they would know the man was coming, I thought it was Mr. Bartlett coming.

Q. Well, now, who was the first officers that you saw at the Fort? A. Captain McNab and you.

Q. That was Saturday?

A. That was Saturday morning, six days after I had found Minnie, I saw you and Captain McNab, met you too.

Q. Captain McNab came down to the house there?

A. You both were down there when I got there.

Q. What did you say to Captain McNab down at Minnie's house there that Saturday morning?

A. Minnie—I came down there with Minnie, you know, she came up on the hill and got me.

Q. Yes, I know she came up the hill and got you and went up on the porch and went in the house?

A. And I came in behind her and you two were sitting in there.

Q. Were sitting in the house?

A. You two were in the house.

Q. And you came in and saw us sitting inside?

A. Inside.

Q. Then what was said there?

A. I said, Captain, I said, there are two men trailing me. I thought they were detectives, and he told you to go see who they were, and you went and said something to the men and came back and said they ain't going to bother her, and Captain McNab said Sadie they ain't going to bother you, they are just trying to bluff you. You said right there——

Q. Now, then, what else was said?

A. Captain McNab said, why Sadie the man you have been working for has been here and gone; he spoke the same thing to me Minnie had spoke- up on the hill; I said no, Captain, I said, the man I am working for hasn't come yet. He said, well, do you know Frank Long, and I said yes, sir; he said, do you know C. Josey, and I said yes, sir; he said, do you know Charles Page, and I said yes; he said, well Frank Long is representing them and said he paid you and you had gone home and you were working for him; and I said, Captain, I didn't know Frank Long was in town; he said do you know Dana Kelsey, and I said yes, sir.

Q. Didn't you ask him who Frank Long was?

A. As long as I have been knowing Long and been with him, how could I ask him who Frank Long was, what is the matter with you?

Q. You knew who Frank Long was all the time?

A. Oh, great Scott! Do I know who Frank Long was, I guess so, shucks!

Q. You knew Frank Long all right?

A. Awfully well, awfully well.

Q. And you knew he was working for Page because he told you so in Kansas City?

A. Knew he was working for Page?

Q. And Bettie was working for him?

A. No, I didn't know she was working for him.

Q. You didn't?

A. No, I didn't know she was working for Frank Long, she had suggested Frank Long and Mr. Nixon and Governor Haskell while we were there.

Q. So you didn't know at that time that she was working for him? A. Oh, no, no.

Q. She didn't tell you about him in Kansas City?

A. No, not in Kansas City, that she was working for him, she didn't say that.

Q. She told you that he was there in the hotel?

A. Said Frank Long is here in the hotel, do you want to see him, she didn't tell me she was working for him no.

Q. So, when she told you Frank Long had been out there, you said you didn't know he was in town?

A. I didn't know he was in town, but——

Q. But you knew who he was?

A. I knew who he was but I didn't know he was in town.

Q. And you told Captain McNab who he was?

A. Yes, I told Captain McNab who Frank Long was.

Q. Did you tell him who Mr. Page was?

A. No, I didn't tell him who Mr. Page was, I didn't tell him who any of them was, I told him I knew them, he called over the names and asked if I knew them and I said yes, I didn't tell him who they were because I supposed Long had told him who they were before I came.

Q. Well, did you tell him who this man was that you were waiting for?

A. Mr. Bartlett, yes, I said the man I am working for, I said I am not working for Frank Long, I said I am working for Bartlett, you were sitting there.

Q. Did you tell him? A. You were in there.

Q. Sadie, after you were out at the house there that Saturday morning, you went back to the hotel where Bettie was?

A. That was in the morning when I came up to where you were?

Q. In the afternoon?

A. Between twelve and one when I got out there.

Q. Then after you left there you went back to the hotel?

A. Where Bettie was?

Q. Where Bettie was? A. Yes.

Q. And what did you tell Bettie?

A. I said Bettie you have done a nice trick, I said, selling Minnie to Frank Long unbeknowns to me. She said, Sadie, the reason I done that—shall I finish?

Q. Yes?

A. She said the reason I done that, Bartlett hadn't offered us enough money, she said, for Minnie, and Rogers and I had made a contract, that is what she tells me, had made a contract with Mr. Page with Long—— No, Mr. Page, she said, for six thousand ($6,000.00) dollars to get Minnie.

Q. Now, how long were you up in Bettie's room that day?

A. I was there, I don't know, about an hour or more, I guess. Mr. Long, he came in while I was there.

Q. You were up there in the morning, that same Saturday morning, weren't you?

A. I thought you meant after I got back?

Q. Well, I did. Well, you were up there in the morning?

A. About a quarter of eight.

Q. How long were you up there that time?

A. I was up there I guess about twenty minutes if that long, because Bettie said the train hadn't come, Bartlett hadn't come, and pretty soon the 'phone rang and she said Sadie I have got a beau, she had been running there with different men, she didn't have but one room and I was going to get out of the way and let whoever it was come in.

Q. Did you do that?

A. I did do that, I went and told her I would be back about half past nine, thought the train would be in then.

Q. Where did you go?

A. I started out and got as far as that door and met a man in the hall, I thought it was Fred Cook, and I said hello Mr. Cook, he had his collar up, pulled up like that, and his cap down over his face and he said hello and passed on by me; I turned around and looked and he went right on in the room where I came from.

Q. That was Bettie's room?

A. Bettie's room, 25, right in that room.

Q. Now, that afternoon when you were up there with Bettie, Frank Long came up?

A. He came in the room about the time I got to bawling Bettie out, and Frank Long walked in.

Q. What did you say to him then?

A. He said hello Sadie, and I said God damn you what did you go out there and tell that lie on me and say that you had paid me and I was working for you and I had gone home, and I didn't know you were in town; and he said I didn't; I said you did; he said, Well Sadie, Minnie told me the baby died when it was six months old and that is too early, and I will give you three thousand ($3,000.00) dollars to steal her and take her to Oklahoma.

Q. He said before that, didn't he, say that he was through? A. Through with what?

Q. Through with the case?

A. No. Through with what case?

Q. Through with this case?

A. No, he didn't say he was through with no case. I will tell you if you will let me.

Q. Didn't he throw up his hands and say that he was through? A. No, I will tell you what he said.

Q. What did he say?

A. When he told me he would give us three thousand dollars to steal her and take her to Oklahoma, I said no I am going to leave her right here until Hugh Bartlett comes, I said, she aint going to sign those papers that you left nor you aint going to take her to Spokane, Washington, tonight; I said where you made your mistake was by not talking to Captain MacNab; he throwed his hands——

Q. Did Mr. Long say that he had quit, that he was through with it? A. No, he didn't.

By Mr. German: I submit the witness hadn't completed the previous answer before counsel asked another question, and ask that she be allowed to do so.

By Mr. Hanford: Her answer is not responsive to the question and I interrupted her.

By Mr. German: I ask the Examiner to allow her to complete that answer.

The Examiner: You gentlemen will have to control the taking of this testimony so far as the questions and answers are concerned.

Q. Did he say that he would give you three thousand ($3,000.00) dollars apiece or three hundred ($300.00) dollars apiece? A. Oh, no, three thousand ($3,000.00) dollars.

Q. Didn't you testify down at Muskogee at the Receivership's hearing that he said he would give you three hundred ($300.00) dollars apiece?

A. They misunderstood me if they got it down there. No.

Q. I will ask you if you didn't testify as follows at Muskogee:——I am reading from, beginning with the 10th line from the bottom of page 137 of the printed record of that hearing: "She told me the baby died when it was six months old. He says I will give you and Bettie three hundred ($300.00) dollars apiece to steal Minnie and bring her to Oklahoma?"

A. Frank Long didn't offer me no three hundred dollars.

Q. Did you testify that way at Muskogee?

A. I don't know as I did, if it is down there that way it is wrong, three hundred dollars apiece, three thousand ($3,000.00) dollars.

Q. Three thousand dollars apiece?

A. He didn't say apiece, I will give you three thousand dollars, he was talking to both of us, to steal Minnie and take her to Oklahoma, three thousand dollars.

Q. Now, did Frank Long tell you that Minnie said the child died when it was six months old. A. Yes.

Q. Or did you tell him that Minnie had told you that?

A. No, Minnie never told me nothing about anybody dying.

Q. Never did?

A. No, only about this Mabel, no. She told me when I got back out there in front of you and Captain *Mcnab* what she told Mr. Long, in front of you and Captain *Mcnab.*

Q. What was that?

A. She said Sadie I told the man the baby died when it was six months old, and she said that was too early, we will have to fix it. Captain *Mcnab* said, Sadie don't you think Minnie ought to turn her business over to us, she don't know how to talk? And I said yes.

Q. Did you tell her that the baby wasn't dead?

A. What baby, what baby?

Q. Tommy? A. What Tommy?

Q. Thomas Atkins. A. Where did he come from?

Q. Answer the question. Did you tell her that?

A. No, I didn't never know no Thomas Atkins.

Q. You didn't tell Minnie that Thomas was dead?

A. No, sir, I didn't tell her that.

Q. Did you tell Minnie that the boy might be dead?

A. Might be dead?

Q. But that you (Minnie) don't know that he is dead?

A. Oh, no, I didn't have that conversation, I didn't have no business to have that conversation with her.

Q. Did you tell her that? A. No, no sir.

Q. Did you tell her you knew more about the baby than she did herself and that you had seen it when it was five years old? A. Mr. Hanford, no.

Q. Did you?

A. No, no, I couldn't have told her that, I aint seen nothing but the ground, dirt in Leavenworth, I couldn't have told her that.

Q. And didn't she keep telling you that it was dead?

A. Oh, no we never spoke of nobody about being dead at all, about no dead boy of hers, she never told me that.

> By Mr. Blakeney: I would like to have the Examiner ask the witness when she is cringing around in her chair, whether or not she is suffering from any physical condition.

Q. Did you tell Captain *Mcnab* that Mr. Page held that forged deed to this land?

A. Didn't speak about any deed.

Q. Didn't speak about the deed?

A. Didn't speak about the deed, no, sir.

Q. Didn't you describe to Captain *Mcnab* how Mr. Page had gone into court and held that deed up and claimed the property before the Commission?

A. Oh, no, you wasn't there, we didn't discuss that.

Q. Well, I am asking you to state it?

A. No, I did not, my; I didn't know what Mr. Page had.

Q. Well, did you tell him who Mr. Page was?

A. No, I just told him I knew him.

Q. You told him who Mr. Josey was?

A. I did not, he asked me if I knew him and I said yes.

Q. But you did tell him who Mr. Long was?

A. I did not. He asked me if I knew those men and I said yes.

Q. You didn't ask him, who is this Frank Long?

A. No, I didn't.

Q. Where did he come from? A. Did I ask?

Q. Captain *Mcnab?*

A. And I had been knowing Frank Long as long as I have, no.

Q. Nothing was said like that?

A. Oh, no, nothing like that was said.

Q. Now, you say that you saw some papers that Mr. Long had there—had left there?

A. Yes, there was two laying on the table, they was printed, they was printed ones.

Q. They were about this size?

A. They were about that size.

Q. That is legal cap size?

A. I guess so, about that size laying on the table. Captain *Mcnab* said here is the papers that he left for her to sign, I looked at one of those.

Q. What did that say?

A That paper had on there that she was the mother of Thomas Atkins, and that he was born in 1885 and died in 1898; like that, that is the way that paper read. Now, I didn't look at that bottom paper, as you remember, you were sitting there.

Q. There were two papers were there?

A. There was two there one on top of the other.

Q. You only read the first one?

A. Yes, sir, just the first paper there, I don't know what was on the other one, I couldn't see.

Q. Did you discuss that paper with Captain *Mcnab?*

A. Yes, you were there. I said Captain *Mcnab,* don't let Minnie sign those papers and don't let Mr. Long take her to Spokane tonight.

Q. He told you what it was? A. No.

Q. Read it out loud?

A. No, you were sitting there, you remember Captain *Mcnab* showing me the papers?

Q. Answer my question, Sadie, you didn't read it out loud?

A. No, he just said Sadie here are the papers that Mr. Long left for her to sign.

Q. Now, where was this about Thomas Atkins being born in 1885 and dying in 1898, where was that?

A. Where was that at?

Q. Yes?

A. It was in Leavenworth but it didn't say whose name.

Q. Where abouts on the paper, at the top?

A. I don't know, I just looked over there and glanced at that paper, and I said oh, Captain *Mcnab* don't you let Minnie sign that paper, don't let Minnie sign those papers, and don't you let him take her to Spokane tonight, and he said I wont.

Q. You didn't read all the papers yourself?

A. I didn't, just glanced over them there, you know how excited I was when I got in there and found Long had stolen her.

Q. You just saw that on that paper?

A. I just saw that on that one, there was two.

Q. What did you tell Minnie about these papers?

A. Who?

Q. Minnie?

A. You and Captain *Mcnab* were talking, I wasn't talking to Minnie.

Q. What did you tell her?

A. I said nothing to her. Minnie told me, the man has been here, Sadie, that you are working for, and said he paid you and you had gone home, said he had left some papers here for me to sign; and I said Minnie you signed those papers, and she said no, Minnie didn't know what they were, and she brought me down there. When she brought me down to the house and introduced me, told Captain *Mcnab* who I was and he introduced me to you, said you were his lawyer.

Q. Now, Sadie, that is not responsive to my question. You didn't tell, you say, Minnie anything about those papers?

A. No, I told Captain *Mcnab*.

Q. Now, going back Sadie, on your way out there, you had in mind a scheme to find Minnie?

A. Yes, I had in mind a scheme to find her.

Q. And get a deed from her to Mr. Bartlett, and then after you had sold the deed from Minnie to Mr. Bartlett?

A. Yes.

Q. You were going to find a boy and sell him to somebody else? A. Yes.

Q. That was your plan then?

A. That was our plan then to get Minnie to say she had a boy.

Q. Yes?

A. That is what that was.

Q. And then to find a boy and say he was Tommy Atkins? A. Say he was Thomas Atkins.

Q. You were working a double thing?

A. A double thing to make Minnie say——I knew she had none in Leavenworth—to get her to sign, and we were still working that end in Leavenworth.

Q. You didn't want her to say the boy was dead, then you couldn't do it? A. Yes, couldn't she said he was dead.

Q. You wanted her to say that the boy was dead?

A. At that time, Mr. Hanford, I didn't have no deed with me, on the trip that we found her, no, sir.

Q. So you wanted her to say that the boy was dead?

A. No, I didn't, I just wanted her to say this much; that she had a boy, that she had a boy, that was all I wanted her to do, to say so, to fool Mr. Bartlett when he come.

Q. Now, after you saw Mr. Long in town that Saturday afternoon, when did you next see Minnie?

A. I saw Minnie that night, you know.

Q. That night?

A. Yes, that night about half past seven or eight, that night.

Q. Saw her at her house? A. Yes, went out there.

Q. And she was there all by herself?

A. All by herself scared to death.

Q. Now, when did Mr. Bartlett get there?

A. Frank Long got there on a Saturday, June 13th, and Mr. Bartlett didn't get there until a week later, Saturday the 20th.

Q. And when Mr. Bartlett got there, you told him they had Minnie in the Guard house, didn't you?

A. I told him that lie in front of Bettie to get him away from Bettie.

Q. And you told him you hadn't seen Minnie since that Saturday afternoon, didn't you?

A. Didn't I stay out there all that Sunday, no I didn't tell him.

Q. You saw her Sunday too?

A. I stayed all day Sunday with her, from eight o'clock Sunday to that night.

Q. You are sure you saw her Saturday night?

A. Saturday night?

Q. How long were you there?

A. About thirty minutes, I suppose until she got to explaining to me, I was going back to town to get detectives like she said and get her away from there.

Q. So you saw her at eight o'clock? A. Yes, sir.

Q. And saw her about twenty minutes?

A. About that length of time, yes, only when she got through telling me that stuff.

Q. All of that?

A. Might have been longer than twenty minutes, but not very long.

Q. Could have been an hour?

A. No, I wasn't there no hour.

Q. This was up at her house? A. Her house.

Q. Her husband wasn't there?

A. Harry couldn't have been, he left Saturday morning for Spokane.

Q. Anybody else?

A. Nobody else, she was walking the floor.

Q. Did you see Minnie at anybody else's house?

A. No, just her own, I never been in anybody else's house.

Q. So about half past eight you left her house and went back to town that night?

A. Yes, I went right back to town to where I stayed at, at a rooming house, and I thought there was a telegram there for me and there wasn't none there.

Q. Did you ever see Minnie at Sargeant Everman's house?

A. I never been in that Fort to see nobody's house except Captain *Mcnab*.

Q. Are you sure you didn't see Minnie—— A. No.

By Mr. Blakeney: I would like to repeat my inquiry that the witness is rising and making grimaces ask the examiner to ask if she is suffering.

By Mr. German: I ask the Examiner to certify in the record the witness' movements in the chair. I think they are discolored in counsel's statements.

The Examiner: I can't see the witness. Are you suffering?

A. No, sir, I am tired.

Q. Now, if Minnie was at Sargeant Everman's house that night at eight o'clock, you couldn't have seen her could you?

A. I couldn't if she was there.

Q. And if she was up at Captain *Mcnab's* house signing that trust deed, then you couldn't have seen her at eight o'clock that night? A. At eight o'clock that night?

Q. Yes?

A. No, I couldn't have seen her because I wasn't in the Fort.

Q. You are sure you saw her there at her house?

A. Yes, sir.

Q. At eight o'clock that night?

A. Yes, sir, along in there, it might have not been eight, between seven and eight anyhow, I couldn't state the exact hour.

Q. After five o'clock though?

A. Yes, after five o'clock.

Q. And after supper?

A. Yes, it was after supper.

Q. Now, at that meeting, Minnie told you that Frank Long had come back and that they had all gone up in the Post, didn't she?

A. She didn't name nobody, didn't even name him. I said, Minnie did Frank Long come back, and she said yes and they are up in the Fort, she didn't say who.

Q. She told you to go down and get detectives to protect her?

A. No, she said, Sadie you go to town, she was walking the floor, and get detectives and take me to where you stay and keep me until my husband comes, because Captain *Mcnab* wants me to do something I don't want to do.

Q. Did she tell you what that was?

A. No, I said aint you got sense enough to not do anything you don't want to do, and she said yes but I am afraid of him, said I am afraid of him, didn't call his name, said I am afraid of him.

Q. Captain *Mcnab* knew this was a frame up, didn't he?

A. He said right there in front of me, you were sitting there in front Captain *Mcnab* and Mr. Hanford, said I told the man the baby died when it was six months old and he said that was too early we would have to fix it.

Q. So we both knew that was too early, did we?

A. You both knew that, yes, both of you.

Q. Then, we both knew this was a frame up?

A. At that rate, you didn't know that me and her had framed up I suppose, but I am telling what she said in front of you and Captain *Mcnab*.

Q. Said the boy died at six months old?

A. Said the baby died at six months old and that was too early and would have to fix it. Captain *Mcnab* said, Sadie don't you think Minnie ought to turn her business over to us; I don't know who was us.

Q. Captain *Mcnab* asked your advice about turning her business over to him?

A. Yes, sir, I said yes Captain and don't let Minnie sign those papers, and don't let him take her to Spokane tonight. Frank Long was taking her to Spokane where he was.

Q. What did she say that Captain *Mcnab* wanted her to do? A. Something I don't want to do.

Q. Something she was afraid to do?

A. Something she didn't want to do. Said he wants me to do something I don't want to do; and I said haven't you got sense enough not to do something you don't want to do? and she said yes, but I am afraid of him.

Q. Did you ask her what that something was?

A. No, I didn't have time, because I was uneasy too. She said if you don't get me tonight you come and stay with me tomorrow anyhow; that is the reason I went out there soon Sunday morning, she told me that same thing, said Sadie if you don't get me tonight come back tomorrow and stay with me tomorrow anyhow. I told her I would. I was figuring on going to town and get detectives and coming back to her but nobody wired me any money.

Q. Was it in the afternoon or night that she told you to come back Sunday?

A. That night. Said if I didn't get her that night, you come and stay with me tomorrow anyhow. She was pacing the floor.

Q. You didn't even ask her what this something was?

A. I did not, I didn't ask her.

Q. And she didn't tell you?

A. And she didn't tell me, no sir.

Q. So you didn't know what it was?

A. No, sir, I didn't know until the next day, the next morning, she told me the next morning, Sunday.

Q. What was it?

A. She said Sadie I have signed my papers over to Captain *Mcnab* and I can't sign no papers or talk to nobody that comes, if they want to see me they have to go to Captain *Mcnab*. That is what she told me the next morning.

Q. Did she tell you when she signed it over?

A. No, only just what she said. I said, Minnie what did you do last? And she said, Sadie I turned my business over to Captain *Mcnab*. Didn't say whether she done it last night, this morning, or when, that was the answer she gave me.

Q. So she did turn it over to Captain *Mcnab* that night?

A. I don't know what she done, I am telling you what she said she did.

Q. What she had said she had done?

A. She didn't say when she had done it.

Q. Did she say whether Captain *Mcnab* was at the house?

A. Didn't say whether it was at the Fort or whether he came down there, or what.

Q. Didn't say what time? A. She did not.

Q. So you knew she was up in the Post seeing Captain *Mcnab* the night before, didn't you? A. Did I know it?

Q. Yes? A. I didn't know it.

Q. You found it out the next morning?

A. I didn't know she was in the Fort, she didn't tell me where she was, no.

Q. Now, that night when you got out there, you say nobody else was there? A. Nobody in that house.

Q. And you found her there all by herself?

A. By herself in the house.

Q. Are you sure of that?

A. I am positive of it, yes, I know there wasn't nobody in there, if they was they was hid in there.

Q. You couldn't see them any place?

A. Nobody was around there that I saw.

Q. You couldn't see anybody on the porch?

A. Nobody that I saw.

Q. How about that soldier that you said was out on the porch?

A. That was Sunday morning. I got there about a quarter to eight and a soldier was there with his horse in the yard, and stayed all day long.

Q. He was out there Sunday?

A. Sunday morning when I got there about a quarter of eight, and didn't leave until I left and I left about eight o'clock that night.

Q. Did he say what he was there for?

A. He didn't, Minnie told me what he was there for, but he didn't.

Q. Didn't you say on direct examination that there was a soldier there on Saturday night?

A. Oh, no, not Saturday night.

By Mr. Blakeney: I would like to repeat my statement into the record that I find the witness making grimaces and nervously twitching around in the chair as though suffering from something.

By Mr. German: If counsel is serious in his remarks, I would suggest a recess, because this witness has been on the stand yesterday morning, yesterday afternoon, and last night, and this morning and this afternoon, and it is now twenty minutes after four.

The Examiner: We will take a recess until tomorrow at nine-thirty o'clock.

By Mr. German: I would like to have the Examiner certify to what the witness—I would like for the Examiner to certify to the witness' statement.

The Examiner: The witness stated that she was tired.

By Mr. Blakeney: I would like to make a statement that every time the cross examination seemed to be vigorous I noticed this situation and I join with counsel who made the statement that he would like to have her taken to Muskogee and let the Court see her. I join in that request.

By Mr. German: I challenge counsel's statement in reference to the conduct of the witness on cross examination.

And thereupon an adjournment of the taking of testimony is had until tomorrow morning at nine-thirty o'clock, and thereafter, and on February 16th, 1916, at 9:30 o'clock A. M., further testimony herein is taken as follows:

SADIE JAMES, being recalled, further testified as follows:

Cross Examination by Mr. Hanford.

Q. Sadie, you never did go to Butte, did you? A. Sir?
Q. You never did go to Butte? A. Butte?
Q. Yes? A. No, I never did go there.
Q. You met Mr. Bartlett at Portland?
A. Portland, Oregon.
Q. Then went on back with him?
A. Came on back to Oklahoma as far as Denver.
Q. As far as Pueblo? A. That is as far as Pueblo.
Q. Then you came on back to Leavenworth as far as Pueblo? A. Yes, I came back to Leavenworth.
Q. And left him out there?
A. Left him out at Rye or somewhere.
Q. That is when he sent you the deed for Thomas Atkins to sign, and the check? A. If I found him.
Q. Yes? A. Yes, sir.
Q. Mr. Bartlett joined you at Seattle on what date?
A. Saturday, June 20th, a week after Mr. Long had been there.
Q. Mr. Long left on a Monday?
A. I didn't see Mr. Long any more after that Saturday.
Q. That was a week after you saw Mr. Long that Mr. Bartlett came? A. Yes, on that Saturday, June 20th.
Q. And you met him at the train when he came?

A. Yes, Bettie and I both, Bettie Mann and I met him at the train.

Q. And you went out to the Fort with him by yourself?

A. By myself, yes, sir.

Q. On the street car, and where did you go from the street car? A. To Captain *Mcnab's* house.

Q. And you went in?

A. Yes, Captain *Mcnab* let us in yes, sir.

Q. Captain *Mcnab* let you in himself?

A. No, I think somebody else. We rang the bell and I think somebody else came to the door—a lady I think, and he came down.

Q. Where did you go when you went in the house?

A. Mr. Hanford I can't describe to you, the hall runs this way; we went right in the side door to Captain *Mcnab's* parlor, went through the hall door and turned to go back through another door here into the parlor room.

Q. Into a front room? A. Yes, into a front room.

Q. You didn't go to his office?

A. No, we went to that front room.

Q. What kind of a hall did you pass through?

A. The hall is quite long but we didn't go clear through the hall, we were going probably the length of this table if that long.

Q. Only about ten feet?

A. I think so, and went in, we were right in the front, because I could look out doors.

Q. Now, where did you sit in that room?

A. I sat—well I don't know just the way that house runs, it faces this way, but I don't know which way that is.

Q. The house faces north.

A. North? Well, I sat on the west side, and Mr. Bartlett sat on the window side right in the big arm chair, and Minnie came in, Captain *Mcnab* brought Minnie and he told her to sit down here, said sit down here Minnie, Captain said right here,—Like Mr. Bartlett was sitting there, so he could look at Minnie if she looked up, but she didn't look up though.

Q. Captain *Mcnab* stood up? A. Yes, sir.

Q. You sat on the west? A. I sat on the west.

Q. And Minnie sat on the south?

A. South facing Mr. Bartlett.

Q. Facing Mr. Bartlett? A. Yes.

Q. Now, where was Minnie's chair, against the wall?

A. Well, I can't tell you that, I don't know whether that chair was against the wall or not, but quite a space between her and Mr. Bartlett.

Q. Now, is that a large room or a small room?

A. Well, it is not a very small room. I am not very good on describing. I wouldn't like to describe the size of that room because we were not in there long enough.

Q. Did you notice anything particular about the room?

A. What was in there?

Q. As to what was in there?

A. No, I was watching Minnie to see if she would look up at me, no.

Q. Did you notice what rooms opened off of this room?

A. I don't think there is a thing there but the hall, that is the way he went out, the hall and stairway goes right up, and I think the hall and stairway goes right up and I think the hallway comes further back.

Q. Did you notice any other rooms that opened or connected with this room?

A. I did not, I didn't pay any attention to them.

Q. You didn't notice anything on the wall that attracted your attention?

A. I did not. Minnie attracted my atention, see how bad she looked, no, sir.

Q. Didn't you see any sheep's heads?

A. I did not. I keep telling you I didn't notice those, I was watching her.

Q. No hides or furs? A. I was watching Minnie.

Q. Did you see a case of rifles?

A. I was watching Minnie all the time after she came in, she was looking down, and I wanted to see if she would look up at me.

Q. You didn't see that case of rifles?

A. No, sir, I never noticed a thing but her.

Q. What did Mr. Bartlett sit on? A. In a chair.

Q. Chair? A. Yes, sir.

Q. Could you see up the stairs from where you sat?

A. I don't know as I did, I wont say I did, because Mr. Hanford, I was too busy watching Minnie.

Q. Well, how did you know Captain *Mcnab* came down from up stairs?

A. Well, I saw him—out doors, I saw him coming down stairs to let us in.

Q. You looked through the door?

A. No, the maid went up there and called him, I think it was a white woman, and she left the door open and Captain *Mcnab* came down stairs and I noticed him, and Mr. Bartlett——

Q. That is how you know he was up stairs because you saw him come from up there? A. Yes, sir.

Q. Saw him come down stairs? A. Saw him come down.

Q. Now, what was said when you first went in?

A. I introduced Captain *Mcnab* to Mr. Bartlett.

Q. To Mr. Bartlett?

A. Yes, and Mr. Bartlett said Mr. *Mcnab*—Captain *Mcnab,* may I see Minnie? He said, yes I will get her. By that time he took us in the room and he told Mr. Bartlett to sit down and I went and found me a chair.

Q. Captain *Mcnab* said he would get her?

A. Yes, he would get her.

Q. Then how long before Minnie came?

A. I couldn't say how many minutes but it wasn't very long, because he went out and came back and stood in the door until she got to him.

Q. So she must have been right there?

A. She was somewhere very close, I didn't know whether she was in the house or not, but she was somewhere very close.

Q. Do you know how he got her, did he just go and tell her to come?

A. Oh, I didn't see her, you know Mr. Bartlett and I were in the room.

Q. Did he telephone?

A. Captain *Mcnab* went out and turned this way, I suppose in the hall, I don't know where he went because we couldn't see him, we were sitting down in there.

Q. Captain *Mcnab* came back and waited for Minnie to come there?

A. He came back, but he didn't come in, he stood in the door where he could see her when she came.

Q. Did he say anything?

A. No, he didn't say anything, just said I will have her.

Q. So you and Mr. Bartlett just sat there waiting?

A. And Captain *Mcnab* was standing in the door waiting for Minnie to come, this way from where she would come from, Mr. Bartlett and I were just sitting there waiting for Minnie to come in.

Q. Now, what is the shape of that hall?

A. Well, now, I can't describe that hall. I wasn't in it only to come from the front door into the room.

Q. Well, it is about ten feet long—long as this table, didn't you say?

A. No, I don't know whether it is that long or not, I wouldn't care to describe that hall, I wouldn't try to.

Q. Well, is it wide as it is long?

A. Well, I wouldn't say that because I don't know, I didn't pay that much attention to that hall.

Q. Who spoke first when Minnie came in?

A. Mr. *Mcnab* spoke first.

Q. Captain *Mcnab* spoke first? A. Yes.

Q. What did he say?

A. He said sit down here Minnie, the chair facing Mr. Bartlett, he said sit down here Minnie.

Q. He pointed to the chair?

A. Yes, the chair he had there, yes, sir.

Q. Then, who spoke? A. Mr. Bartlett.

Q. What did he say?

A. He said are you Minnie Atkins? She was sitting down this way, never did look up at me or him either when she came in. Mr. Bartlett said are you the mother of Thomas Atkins? Minnie never answered, but Captain *Mcnab* said yes, but she hasn't seen him since he was two years old. Minnie didn't get to answer the question.

Q. Captain *Mcnab* answered the question?

A. Answered the question for Minnie.

Q. Did Minnie speak while she was in there, in the room?

A. Yes, just answered that her name was Minnie Atkins.

Q. That was all? A. Yes.

Q. So that all the time Mr. Bartlett was there, that is all the thing that she said?

A. No that is not all she said.

Q. What did she say?

A. Mr. Bartlett said, Minnie did you ever go to Carlisle? and she said yes, and he said what schools did you go to in Oklahoma, and she couldn't tell him.

Q. She didn't say anything then?

A. She didn't answer that and he asked her if she knew Miss Alice Robertson, and she said no, and Captain *Mcnab* then spoke up and said you know how Indians are, sulky, and Minnie is one of those kind. Mr. Bartlett couldn't say anything further to Minnie, Captain *Mcnab* was talking, and he turned and said, Sadie only offered Minnie two thousand ($2,000.00) dollars for her land.

Q. Did Minnie say anything more than that?

A. No, sir, not a word.

Q. How long were you there?

A. We were in there I suppose a half an hour from the time we came in.

Q. That was all Minnie said?

Q. Yes, that was all that Minnie said, Mr. Bartlett didn't ask Minnie another question. Captain *Mcnab* was *undering* the questions too much for Minnie, she couldn't talk.

Q. He wouldn't let her talk?

A. No, he was doing the talking.

Q. Well, he answered the questions and wouldn't let her say anything?

A. I don't know whether he would let her or not, but before she could say anything he answered them.

Q. Did he answer as to what school she went to in Oklahoma?

A. No, he just knew that Minnie was down there, he didn't know the school down there.

Q. So he was just talking for the money?

A. I didn't see what else.

Q. Now, what else was said by Mr. Bartlett after he stopped talking to Minnie?

A. Before Mr. Bartlett could say anything else, Captain *Mcnab* said, Why Sadie only offered Minnie two thousand ($2,000.00) dollars for the land, Mr. Long said the land is valuable; and Captain *Mcnab* said I have sent my lawyer down to Oklahoma to investigate it—didn't say Minnie's, but his. Mr. Bartlett spoke then and said, Captain *Mcnab* I bought a deed to the land two years ago and sold out to the Gipsy and I afterwards found out it was a forged deed put off on me and I hope while your lawyer is down there you will have him call to see the Gipsy, because they are people who will give you as much money as anybody else will. Captain *Mcnab* said he would have whoever it was he had down there—said he would, and he said, Now Mr. Bartlett you come back here at two o'clock.

Q. Did Mr. Bartlett go back?

A. I guess he did, but I didn't go back out there with Mr. Bartlett at all.

Q. Then, did you leave? A. We left them.

Q. That was all that was said?

A. That was all that was said at the house, yes, that I know.

Q. Did it take you thirty minutes?

A. Took me thirty minutes?

Q. To say that much?

A. Listen, we had to wait for Minnie to come.

Q. You didn't have to wait very long for Minnie, did you?

A. No, but during that length of time waiting for Minnie until the conversation was over, I guess it was about that length of time.

Q. Might have been less?

A. Might have been less or longer.

Q. About thirty minutes? A. I will say that.

Q. Nothing else was said?

A. That I paid any attention to if it was.

Q. Did Mr. Bartlett tell Captain *Mcnab* that you were working for him? A. I don't remember, I don't remember.

Q. Did he tell Captain *Mcnab* that Bettie Mann had been working for him?

A. Why, I don't remember; I don't remember now. I am just telling you what I know, I think he told him that probably if he went back, but he didn't that morning while I was in the house.

Q. Did they talk about Bettie Mann?

A. Not that morning, no.

Q. Not that morning?

A. No. I don't know what they talked about after he went back.

Q. You are sure he went back then?

A. Well, I don't know whether he went back or not, because I didn't see Mr. Bartlett any more until about five o'clock in the evening; he said he was going back, as Captain *Mcnab* had asked him back.

Q. What I want to find out is this, why you say if he went back that afternoon, they talked about certain things?

A. You asked me if they stated them.

Q. That is all I am asking you about, not anything that took place after that.

A. Well, I don't know anything more than that, what I have told you.

Q. Now, did Captain *Mcnab* say anything about Minnie?

A. He said that Indians were sulky, he said you know how Indians are, they are sulky, and Minnie is one of that disposition. That satisfied us and Mr. Bartlett that she couldn't talk any more, wouldn't talk any more.

Q. Did you talk about Thomas Atkins?

A. Mr. Bartlett simply asked Minnie if she was the mother of Thomas Atkins and Captain *Mcnab* answered it.

Q. What did he say?

By Mr. German: I object to that as *repretition* that has been over two or three times on cross examination.

Q. What did she say? What did Minnie say?

A. She said yes, No she didn't say nothing when he asked her that.

Q. Well, what did she say?

A. Before she could answer Captain *Mcnab* answered that.

Q. For her?

A. When Minnie came, Mr. Bartlett asked her: Are you Minnie Atkins, and Minnie said yes.

Q. I am not asking about when she came in there, I am asking what Captain *Mcnab* said when Mr. Bartlett asked him that?

By Mr. German: The same objection.

A. Asked who?

Q. Asked Minnie?

A. Was she the mother of Thomas Atkins?

Q. Yes?

A. Captain *Mcnab* said, yes, but she hasn't seen him since he was six months old.

By Mr. Hanford: Do you withdraw your objection?

By Mr. German: No, that is still repetition.

Q. Did Mr. Bartlett ask Minnie where the boy was born?

A. No.

Q. Anything like that? A. Not then.

Q. Did Captain *Mcnab* say anything about Minnie's self?

A. No, sir.

Q. Didn't say anything?

A. No, sir, not before me, he didn't.

Q. Did you tell Captain *Mcnab* anything?

A. Captain *Mcnab* wasn't talking to me at all, he never paid a bit of attention to me at all.

Q. You didn't say anything to him?

A. No, he wasn't paying a bit of attention to me, he was talking to Mr. Bartlett and watching Minnie.

Q. But, Sadie, what I want to know is, did you say anything while you were in there?

A. Not to Captain *Mcnab*, nor to anyone else.

Q. You simply introduced Mr. Bartlett to Captain *Mcnab*?

A. To Captain *Mcnab* at the door.

Q. And then you just stopped——

A. I just went in there and sat down because it wasn't none of my conversation. Captain *Mcnab* never paid no more attention to me.

Q. So, you didn't say anything until you got up and left after you introduced them? A. Yes, that is it.

Q. So that the first time that you ever saw Captain *Mcnab*, was that the only time that you ever saw Captain *Mcnab*, with the exception of that Saturday when you were down there at Minnie's house? A. No.

Q. You had seen him before that?

A. Had I ever seen him before that?

Q. Had you ever seen him at any time either before or after? A. No.

Q. Just those two times? A. Just those two times.

Q. Now Sadie, after you got back from Seattle, you went to Leavenworth, how long were you there?

A. Back from Seattle when, the first time?

Q. Yes?

A. The first time I had been out there and went back to get the deed?

Q. Yes?

A. I got in on Thursday night and left Saturday, there just two days, all day Friday and I left Saturday evening.

Q. Saturday evening?

A. Saturday evening, got the deed and the check in the morning.

Q. Who did you go to see?

A. I went to see Dennis Jones and Rube Smith.

Q. And where did you see them?

A. I saw them up in the office Saturday morning.

Q. What did you tell them?

A. I showed them, I had been up there before, I showed them, I told them—I didn't show them the deed because I didn't have it. I showed them this picture I had gotten from Mary Hamilton, and I said now we want to get a man that looks something like this, and Rube said I will tell you what we can do, we can work my son Lucian, he is in New York.

Q. What I want to know is did you tell them you had been to Seattle? A. Yes, sir.

Q. What did you tell them about that?

A. I told them about Bettie Mann double crossing me and about Frank Long stealing her and they were going to make a white case out of it.

Q. What did you mean by that?

A. Why, we had got a negro case started in Leavenworth, and when I got out there, Minnie said they are going to start a white case out of it; and Dennis said you all can't start nothing like that here.

Q. Minnie told you they were going to start a white case?

A. Yes, wasn't going to have no negroes in it at all.

Q. Minnie told you we were framing up with her?

A. Didn't say framing up, said Sadie they are going to make a white case out of it, they want me to say the baby was born in a hospital and I give him away at two years old, aint going to have any negroes in it at all. They found out you were no Government officer and you will get arrested.

Q. She told you that we were going to have the baby born in the hospital?

A. Wanted her to say so, yes, that is what she said.

Q. Did she say who wanted her to say that?

A. No, but I had in my own mind who she was talking about.

Q. Who did you have in mind?

A. In my mind that you and Captain *Mcnab,* for she had turned the business over to Captain *Mcnab* that night.

Q. She said they were going to have the baby born——

A. Wanted her to say so.

Q. Did she say what hospital?

A. No, she didn't say what hospital.

Q. Just said a hospital? A. A hospital.

Q. Did she say where the hospital was?

A. No, you found that out when you went to Leavenworth.

Q. I am asking you? A. Oh, no.

Q. Didn't say where the hospital was?

A. Oh, no. Didn't name the hospital.

Q. And didn't name the hospital but just wanted it to be a hospital?

A. Be born in a hospital and say I gave it away when it was two years old.

Q. Didn't she tell you the Sister's Hospital in Leavenworth? A. No.

Q. When you got back to Leavenworth, did you tell that to Dennis Jones?

A. Sure I told that to them, didn't tell them the Sister's Hospital, because I didn't know where you were going to start that lie at all.

Q. Didn't tell them that?

A. No, I didn't say Sister's Hospital.

Q. Didn't tell them a hospital in Leavenworth?

A. I didn't know what Hospital, because I didn't know where you were going to have her say that, I didn't know.

Q. Is your memory clear on that?

A. Sure, Minnie was talking to me and I took the news to Dennis.

Q. No, Sadie, you sent some telegrams to Mr. Bartlett out there in Seattle, didn't you? A. In Seattle?

Q. Yes?

A. Oh, yes, two. Two telegrams, one on——

Q. One on Saturday? A. One on Saturday evening.

Q. And one on Sunday? A. One on Sunday morning.

Q. Where did you go to to send those telegrams?

A. I went to the Western Union, first went Saturday evening to the Western Union right around from——

Q. From Bettie's hotel?

A. From Bettie's hotel, yes.

Q. Now, did you see Bettie after—did you see Bettie any more after Mr. Bartlett arrived there?

A. Did I see her?

Q. In Seattle?

A. Oh, yes, I came back to the hotel where she was that evening.

Q. How long did she stay? A. Did Bettie stay there?

Q. Yes?

A. Frank Long hadn't given Bettie no money to go on, Mr. Bartlett——

Q. How long did she stay?

A. She stayed as long as we did and left when we did.

Q. So, you saw——

A. Mr. Bartlett paid her board bill.

Q. You saw her a number of times?

A. I went up and got my things ready and went to the depot and Mr. Bartlett went to Bettie's and met us up at the depot that evening, left I guess between six and seven o'clock.

Q. Between six and seven o'clock?

A. I guess, I don't know, I know we left that evening early.

Q. Probably seven o'clock?

A. Well, maybe so; we went around by way of Spokane.

Q. Then, you went over the Northern Pacific?

A. Well, that is the road.

Q. And then you left at Seven o'clock?

A. Well, maybe so, that is the road we went over.

Q. Did you see Bettie in the afternoon?

A. Yes, after I went to the hotel and sent my things, my trunk, I went back.

Q. Where did you go after you left Captain *Mcnab's* house that morning?

A. That morning? Oh, I went back to Bettie's house.

Q. Did you tell her what had taken place?

A. No, I didn't tell her what had taken place.

Q. Didn't want her to know?

A. Just told her Mr. Bartlett was to go back to Captain *Mcnab's* that afternoon and he said we would leave that night. I didn't tell Bettie what Captain *Mcnab* had said, no.

Q. You didn't tell her what he had said to Mr. Bartlett?

A. No, I didn't tell her anything.

Q. Didn't tell her anything about that visit at all?

A. No, I told her that we were out there, but I didn't tell her what went on.

Q. Did you tell her you went there when this conversation took place?

A. Yes, but I didn't tell her the conversation?

Q. Did she ask it?

A. No, Bettie had done enough, she knowed I wouldn't have told her nohow.

Q. Now, Sadie that Sunday that you say you were out at Minnie's who else was there?

A. I got there in the morning near eight o'clock, it was a soldier sitting down on the front porch and his horse out in the yard, and Minnie standing in the door.

Q. So the soldier was there?

A. The soldier was there when I got there, yes, sir.

Q. And he stayed?

A. Until I left, and that was near eight o'clock that night, he stayed all that day.

Q. Anybody else there?

A. Yes, a woman named Bertha came about an hour and a half after I got there and she stayed in the house with Minnie and I.

Q. And she left about six? A. Yes, I think about six.

Q. And you left near eight? A. Near eight.

Q. Was anybody else there?

A. Nobody else came that day.

Q. Nobody else? A. Nobody else, no.

Q. And Minnie was there all the time that you were?

A. Minnie was there all the time, she never left that day.

Q. Up until eight o'clock?

A. Yes, and she went down to the car station wth me, a soldier tagged us to the car station.

Q. She went to the car station with you?

A. Yes, she went to the car station with us and this soldier tagged right behind us.

Q. Now, Sadie, why did you go back to Leavenworth before going to Los Angeles? A. Going to Los Angeles?

Q. Yes?

A. I wanted to tell Rube and Dennis what had happened.

Q. So you came back there and stayed how many days?

A. I got back on a Thursday night and left Saturday evening.

Q. Did you see anybody else while you were there?

A. Yes, I seen other people but I wasn't talking to them about that.

Q. Not about the case?

A. No, just Dennis and Rube—Dennis and Rube, who I was working with then.

Q. You didn't inquire of anybody else?

A. No, Dennis had got all the negroes so strung up, I didn't have anything to do with it then, he had done that while I was out west.

Q. Did you ever go to see anybody else at Leavenworth from that time on?

A. Not, after I found the picture, no. I went away and was gone about a month. It was about the first of August when I got back to Leavenworth again.

Q. Sadie, when you went up to Seattle with Mrs. Kirk, what did you do first when you arrived in Seattle?

A. I went and got Clara Kirk a room at the Wright Hotel.

Q. The Wright Hotel? A. Yes.

Q. Took her from the train?

A. Taken her from the train, yes, sir.

Q. How did you travel between the train and the hotel?

A. Well, I don't know whether we walked or I don't remember now whether I walked or whether I taken her in a car, in a taxi-car, I don't know whether or not.

Q. And after you got her a room? A. Yes.

Q. You signed for her at the hotel?

A. No, I didn't sign for her, she signed for herself, I didn't get no room there.

Q. How long did she stay at the hotel?

A. She didn't stay there so very long, we went up stairs in the room, she and I.

Q. Then she went out?

A. Yes, I gave her my 'phone number so when she got out there, if everything was all right I would go out.

Q. Did she 'phone you? A. She did.

Q. You went out? A. I did.

Q. What time did you go out?

A. Oh, I got out there, I guess, I didn't get out there—Minnie had gone away from the house and Clara had gone some place to 'phone, she didn't call me right away.

Q. What time did you get out there?

A. It must have been two o'clock in the afternoon before I got out there.

Q. How long did you stay? A. Stay out there?

Q. Yes?

A. I didn't stay out in the house thirty minutes if I stayed that long.

Q. Who did you see there?

A. Harry Folk and Clara Kirk.

Q. Minnie's husband? A. Yes, sir.

Q. At the house? A. He came while I was there.

Q. What did you tell him?

A. He asked me what do you want Sadie, and I said well I would like to see Minnie. I said I am just passing through here, and he quit talking to me and called Clara Kirk in the kitchen. I don't know what he said to her at all. And they came back in and Clara said I got to go and get my suit case, she left it in town, she didn't let on like she knew me, and she said I got to go and get my suit case, and I said where are you stopping at? and she said I am stopping at the Hotel Wright; and I said I am going back that way and I will show you where the place is.

Q. You told Minnie's husband you were just passing through? A. Told who?

Q. Told Minnie's husband?

A. Yes, Minnie wasn't there.

Q. Did you tell him where you were going?

A. No, I didn't tell him that I had come on that special business to see Minnie, I didn't tell him that, but that is what I was there for.

Q. Didn't you tell him you were just passing through there and you were going to Van Couver?

A. No, I had no business at Van Couver, no.

Q. Of course you had no business, but didn't you say you were going to Van Couver? A. No.

Q. You didn't say that?

A. No, I know I didn't tell Harry that.

Q. Positive of that?

A. Positive I didn't tell Harry I was going to Van Couver, I didn't tell him where I was going.

Q. Did you have any other conversation with her husband?

A. No, Harry didn't talk to me at all; he got too much money, he wasn't going to talk to me.

Q. He left?

A. He ignored me entirely, yes. I had found Minnie for him and made him some money and he was through with me.

Q. And then you went on back to town?

A. Yes, Clara and I went on back down to wait for a car and Harry he was standing there near by, and as soon as the street car came out of the post—it was in the summer you know, and it was an open car—Harry looked and saw Minnie on it with a basket on her arm, and he waved this way for her to get off, waved his arm this way, and she jumped off of that car and run as fast as she could back to that Fort.

Q. Did she run to where Harry was or did she run towards the Fort?

A. No, she didn't run towards him because she would have run to us, she was running going into the Fort.

Q. Back into the Fort? A. Back into the gate, yes.

Q. What did he do that for, did he do that to keep her from seeing you?

A. To keep her from seeing me, that is what I figured out, yes, from seeing me.

Q. He didn't want her to see you?

A. That is the only way—the only thing I could figure because she had been there with Clara.

Q. Who paid Clara Kirk's fare? A. I did.

Q. Both coming and going?

A. Both coming and going, yes.

Q. What was she to do when she got out there to the house? A. What was she to do?

Q. Yes?

A. Nothing only talk to Minnie and see if Minnie would have me to come out there if nobody was around, Minnie would have me to come if nobody was around there she knew, Clara knew that.

Q. That was all? A. That was all.

Q. You went up to the office of the Gipsy Company how many times Sadie?

A. Oh, my goodness; When Dennis and I first started that lie, I told him when I was going to Oklahoma that I would go and tell the Gipsy that I knew all about the boy, and I told Dennis and Rube the interest the Gipsy had in this land.

Q. You went up there a number of times?

A. Told a lie to them, yes.

Q. Who all did you see up at the Gipsy?

A. Mr. Crawley——

By Mr. German: I ask that counsel designate the time.

By Mr. Blakeney: The witness seems to know the times she has answered.

Q. Who all did you see up at the Gipsy Company?

A. I saw Mr. Crawley that time.

Q. At different times, any time?

A. Oh, way after that, I would see Mr. Crawley and Mr. McGraw.

Q. Just those two?

A. Just two, the only ones that I talked to at the Gipsy. They believed I was telling the truth and thought there was a Thomas Atkins.

Q. When you saw Dennis in Leavenworth after the deed and the check came from Mr. Bartlett, what did you tell him?

A. I told him that I was going back out west and if I could find a man that was stout enough to hold up for me, I would let him sign it and bring him back to Leavenworth and let them switch him back—Let the negroes tell a lie and say it was Thomas Atkins and let them take him to the Gipsy.

Q. That is what you told Dennis? A. What I told Dennis.

Q. That was when you got the deed and check?

A. Oh, I went up there and showed him the deed and check that I was to get, Saturday morning; I saw him Friday morning and Saturday.

Q. Did any conversation take place?

A. No not special. When I brought the picture back was the only conversation about that, when I told them where I was going.

Q. Sadie, after you got back from Portland the last time, you were out there with Mr. Bartlett, you went back to Tulsa, didn't you? A. Came back to Leavenworth first.

Q. Then came to Tulsa?

A. Yes, came to Leavenworth, went along about August 1st.

Q. And you went up there to see who?—To see Mr. Walker—Mr. C. A. Walker?

A. Oh, no, not when I came back. When I left Leavenworth then I went back to Oklahoma.

Q. And went to see Mr. Walker?

A. Didn't go to see Mr. Walker right away, no. Didn't go to see Mr. Walker for quite a bit.

Q. How long? A. A couple of weeks maybe.

Q. Do you remember about the date?

A. That I saw Mr. Walker?

Q. Yes?

A. It must have been about a couple of weeks before I saw Mr. Walker, no I think it was—Let's see: It was about a week I guess before I saw Mr. Walker, I guess.

Q. Can you approximate the date? A. No, I can't.

Q. You don't know the date?

A. No, not that time. I can the next trip that I saw him.

Q. Is that the time you told him you were going to see Mr. Page?

A. Oh, no, I didn't tell him that until later on. I was talking then about my money from Mr. Bartlett.

Q. When was that that you saw Mr. Walker?

A. About Mr. Page?

Q. Yes?

A. Wednesday, August 19th—Wednesday, on the 19th, about a quarter of three.

Q. What did you tell him?

A. I went in there and told Mr. Walker, I said: Mr. Walker I am going to get arrested, Fred Cook is going to arrest me, and he said what for? And I said you know I have been telling there is a Tommy Atkins, and there is none, and Mr. Cook is going to arrest me for passing as a Government Officer, and I want you to go over there with me and tell Mr. Page there aint no Tommy Atkins.

Q. Aint no Tommy Atkins?

A. Wasn't none, And I was going to get out of his way making a live one. You all were making a dead one at that time.

Q. Yes, and you told him you were going to get out of the way?

A. The way of Mr. Page, Frank Long and Fred Cook were running together and I was going to get out of Frank Long and Fred Cook's way was what I was running from.

Q. Were these the words that you used?

A. Something like that; and told him the whole details of it; and he said Sadie, have you, after having to go to Mr. Bartlett——

Q. Now, what do you mean by getting out of his way?

A. Mr. Page's way, the same as you—I wont say you because you haven't got money enough.

Q. What did you mean?

A. Mr. Page had detectives on me from the time you all sold Minnie up until that time, and he was afraid Dennis and I would make our live man first before you all can get a dead one.

Q. So you went to Mr. Walker and told him there aint no Tommy Atkins?

A. Yes, I knew there wasn't, I knew that.

Q. And I am going up and tell Mr. Page?

A. I told Mr. Walker; Mr. Walker, I want you to go up with me and tell Mr. Page.

Q. There aint no Tommy Atkins?

A. Yes, tell Mr. Page that there wasn't none.

Q. And I am going to get out of his way?

A. Yes, and I told him about their making a dead man, and the crew up there with me making a dead one when there wasn't none.

Q. And you went from there up to Frank Long's office?

A. Mr. Walker looked at his watch, he said it is five minutes till four.

Q. Did you go up to Frank Long's office from there?

A. Yes, he sent me away, and said he wouldn't go.

Q. Where did you find Frank Long?

A. Found Frank Long at his office by himself sitting in there.

Q. Did you walk into where he was?

A. Yes, I opened the door, I knew where his office was and opened the door.

Q. So, when you got in there was just Mr. Long?

A. And myself.

Q. And yourself? A. And myself.

Q. Now, there are two offices there of the Gem Oil Company? A. Yes.

Q. Which office was he in?

A. I opened that big office—in the little place. You can go right in here there is a little room. I am talking about the one right next to Mr. Page. Frank Long, I think his is the next one to that.

Q. Where there is a big table and safe?

A. Yes, and that is where he was.

Q. What was he doing?

A. I can't tell just what he was doing, he was in there by himself.

Q. Standing up or sitting down?

A. I can't remember that.

Q. Who spoke first? A. He did.

Q. What did he say?

A. He said hello Sadie, what are you doing now?

Q. What did you say?

A. I said aint doing nothin. I said I came up here to tell you there aint no Tommy Atkins, and he said, Well, Mr. Page wants to see you the minute I said that.

Q. Were those the words that were used?

A. The words that were used, yes.

Q. Do you remember them?

A. Yes, I remember the words of what I told him.

Q. You remember exactly?

A. I remember exactly what I told him.

Q. Then, after all this time you remember the exact words that you used?

A. I went up there to tell him. Frank Long knew there wasn't any and I did too, and I wanted——

Q. Did you use those exact words?

A. I used those exact words.

Q. Absolutely? A. Absolutely.

Q. Told him there aint no Tommy Atkins?

A. Told him there aint none. He knew it and I knew it.

Q. Did you tell him you were going to get out of his way?

A. Told him I came to tell him there aint no Tommy Atkins.

Q. Did you tell him you were going to get out of his way?

A. Yes, told him I was going to get out of his way. He said, Mr. Page wants to see you. He wanted Mr. Page to see me before I went to talking too much about town you know.

Q. How long did you talk to Mr. Long?

A. He got right up and taken me to Mr. Page's office, said Mr. Page wants to see you, and at that time started right out with me to Mr. Page's office.

Q. And you stepped into the next room to Mr. Page's?

A. To Mr. Page's yes.

Q. Now, who did you see when you got in there?

A. I think there were one or two men sitting over there at the table with Mr. Page, I don't know who it was now. Frank Long called him, we didn't go in the office, there is a little railing or gate there and we stopped right there and Mr. Page came up to us.

Q. Mr. Page came across the room?

A. Across the room to us.

Q. What did Mr. Long say when he went in there?

A. When we went in there, Mr. Long said, Mr. Page, this is that Sadie James. I don't know what he meant by saying that like he did: This is that Sadie James.

Q. Did he say that to Mr. Page before Mr. Page came up to the railing or after he got there?

A. No, after he got there, he wasn't talking loud there, because there was some men sitting there.

Q. He wasn't talking loud? A. No.

Q. How many men were in there?

A. I don't know, one or two I guess, I don't know because they were talking with themselves when Mr. Page walked up to us.

Q. The door was open into—what do you call that man's name? A. Lawrence's or——

Q. Lawrence's office? A. Yes.

Q. Was that office open? A. No, we went in that door.

Q. When you say Clarence don't you mean Claude?

A. Yes, maybe it is, I don't know that fellow's name in there.

Q. Did you look in there?

A. No, I didn't look in there. Never seen anybody except these men there with Mr. Page.

Q. Those men were seated over there?

A. Talking with themselves.

Q. Talking in the same office?

A. Yes. We were talking low over here; where we were was quite a distance from where that table was where they were sitting at.

Q. What did Mr. Page say then?

A. Mr. Page said, why hello Sadie I have been looking for you. Just what Mr. Page said.

Q. What else did he say?

A. That is all he said, but I said——

Q. Frank Long talk any while you were in there?

A. That is what I said. Nobody spoke until I talked then.

Q. Frank Long talk any while you were in there?

A. No not then.

Q. He didn't talk any after he introduced you to Mr. Page? A. He said Mr. Page this is that Sadie James.

Q. At any other time that he was in the room did he say anything?

A. I don't know until I got to that—had to get to this other first.

Q. You were there?

A. Yes, Frank Long said nothing else while we were in that room, not that I can speak of at this minute.

Q. Weren't you present, you know what was said and done, don't you? A. Sure.

Q. You remember well, don't you? A. Sure.

Q. Now, I am asking you about Frank Long. Tell me about him.

A. Well, I don't know what Frank Long said right then.

Q. Well, at any time that he was in the room, that is what I want to know. A. I don't——

By Mr. Allen: I think the witness ought to be permitted to answer your questions.

By Mr. Hanford: I want the witness to answer my questions.

Q. I want you to say what he said at any time while you were in that room?

A. He didn't say anything until we got in the hall—Do you want me to say what Mr. Page said?

By Mr. German: We insist.

By Mr. Hanford: I insist upon conducting this examination. Don't tell me how to conduct this examination.

By Mr. Allen: For the record, I objected. I hoped you would be benefitted by it. I state my objection into the record to state now that we object and protest against the argument in the cross examination of counsel.

By Mr. German: I want the record to show that about four or five times during the course of the last half dozen questions I have undertaken to make an objection and counsel persistently asked questions so that I could not have an opportunity.

By Mr. Hanford: I will agree that you may state your objections into the record right now at the proper places.

By Mr. Blakeney: I want the record to show that counsel has not been trying to interpose objections, but has been trying to interpose an apology for the witness.

By Mr. Allen: We except to the remark of counsel.

By Mr. German: The objection that I was undertaking to make was substantially that counsel should give the witness an opportunity to answer the questions that he was propounding.

By Mr. Hanford: Is that the objection, Mr. German?

By Mr. German: Yes, sir, that is what I call an objection. I don't know what you call it.

By Mr. Blakeney: It was merely an apology for the witness, conveying it in that very way, and counsel was merely trying to assist the witness in his usual general manner to answer the questions.

By Mr. Allen: We challenge the statement of counsel and object to it.

By Mr. Blakeney: Well I will withdraw "in a general manner" if you object to that.

By Mr. German: We would like to ask Mr. Blakeney a question into the record: Do you intend to keep up injecting into the record exaggerated conclusions as to the conduct of the witness on the stand?

By Mr. Blakeney: No, sir, I haven't commenced anything of that kind, I don't think I will, don't think I could exaggerate the conduct of this witness.

By Mr. German: I challenge the correctness of counsel's statement.

Q. Now, Sadie, when you went up to Omaha, who did you say you went to see?

A. I went to see Al Walker and I ran across Bertha Black, a white woman.

Q. Do you know Miss Alice Robertson?

A. Did I know Miss Alice Robertson?

Q. Yes?

A. No, not personally. I have saw her lots when she was postmistress at Muskogee, but not to speak to her.

Q. You have seen her in Oklahoma.

A. Numbers and numbers of times.

Q. In Oklahoma? A. Yes.

Q. Did you see her when you were in Portland?

A. No, I didn't get to see her.

Q. How did you know she was there?

A. Because Mrs. Crawley said she was there after they had taken her to see Minnie and Captain *Mcnab* wouldn't let her.

Q. She was there at the same time?

A. At the same time, but I didn't know it at that minute.

Q. How long did you stay in Portland at that time?

A. Just a week exactly. Got there on a Monday and stayed until the following Monday.

Q. You were waiting for a Mr. Dunlap?

A. No, the detectives had come there and taken that picture away from me then, I didn't want them to have it because I knew there wasn't no Tommy Atkins, and they had gone on a trip hunting him, and Mr. Crawley and Mr. Bartlett and Miss Alice Robertson had gone up there to see if they could see Minnie at Captain *Mcnab's*.

Q. What did they want to see Minnie about?

A. I don't know, I can't tell you, I don't know. They didn't tell me what they were going up there for.

Q. Then, did you leave Portland first with Mr. Bartlett, or did Mr. Crawley and Miss Robertson leave first?

A. I don't know who left first, I didn't see Mr. Crawley and them when they left, I don't know, I just left with Mr. Bartlett you know and the detectives.

Q. Mr. Bartlett and one of the detectives?

A. Mr. Bartlett. One detective was out of town and another traveled with us to Bedford, Oregon, and waited there until this chief detective came from Spokane, Washington, Mr. Dunlap.

Q. Well, you didn't go straight back to Oklahoma then?

A. No, I didn't, I don't know how long, it was the first of August before I got back in there.

Q. Where did you go from Portland?

A. Straight on back home. You must remember that was about the 17th of July then, you know.

Q. Where did you go, how did you go from Portland back home?

A. Went around by way of San Francisco, that way.

Q. Clear around?

A. Yes, clear around by San Francisco, going to see Mary Hamilton.

Q. You went to see Mary Hamilton?

A. I didn't go to see them, I didn't know exactly where she was, I told them a story, they went to see her and Miss Robertson.

Q. You went back to show them?

A. I didn't go back to show them, they found out through telegrams though we had sent, I wouldn't tell them.

Q. Did you see her when you were on that trip?

A. No, I didn't see her until last winter.

Q. Do you know who did see her?

A. No, I don't know who did see her. They might have saw her, I didn't see her.

Q. Then, from Los Angeles, you come back?

A. Stayed in Los Angeles a short time, four days I was there.

Q. From Los Angeles you came back to Leavenworth?

A. Came back to Denver.

Q. Came back to Denver?

A. Yes, went back to Denver. No, wait a minute. Yes, came back to Denver, Mr. Bartlett went on to Rye.

Q. And then from Denver you came back to Leavenworth?

A. Came back to Leavenworth, and was there just one day.

Q. Was your home in Leavenworth at that time, or was it in Tulsa? A. In both places.

Q. In both places?

A. In both places, I had a great big house there in Leavenworth.

Q. And you stayed there?

A. No, I had given up that house before I started on my trips hunting this boy, making this man.

Q. You did stop there at Leavenworth?

A. When I got back there to Leavenworth then I had no house when I got back.

Q. But you went there?

A. I went there on business, yes, to Leavenworth.

Q. How long did you stay?

A. I stayed one day, got there in the morning, went out to the soldier's home and right back and left there that evening.

Q. Left that night? A. Yes.

Q. Didn't see anybody that day?

A. Didn't talk to anybody about this suit.

Q. And then you went on to Tulsa?

A. Went on to Tulsa.

Q. When you got to Tulsa you went to your mother's house? A. Yes, sir.

Q. And stayed there?

A. Yes, that is where I stayed at, that is where I lived.

Q. Did you go to Judge Williams while you were in Tulsa?

A. No, not then. Oh, yes, I went to see Judge Williams later on, after I got to working for Mr. Page.

Q. You say after you went to work for Mr. Page?

A. Yes, working for Mr. Page, I saw Judge Williams.

Q. When did you first see Mr. Rice? A. Mr. Rice?

Q. Yes?

A. The first time ever I saw him, Frank Long called me up in his office.

Q. Up in his office?

A. That same evening, yes, sir. Frank Long taken me up there.

Q. That was——

A. August 19th, about Wednesday, August 19th, I think it was that day.

Q. What time in the day was that?

A. That must have been about half past four, half past four or maybe five—No it wasn't five, it wasn't that late.

Q. That was when you gave Mr. Rice the list of names?

A. Yes.

Q. That is all you did up there?

A. That is all I did in Mr. Rice's office when Frank Long carried me up there.

Q. Now, Sadie, going back to when Mr. Long took you to Mr. Page? A. Yes.

Q. You say there was no one there except those two men, Frank Long, Mr. Page, and yourself?

A. I don't know whether there was more than two, I am sure there was two men, they sat as far from us as to that wall over there.

Q. Let me ask you, where was this man Claude?

A. I don't know, I never seen Claude.

Q. You didn't see him at all?

A. If he had been there, he would have been in the other room, I didn't see him. Mr. Page and I were standing right here in a bunch, and Frank Long.

Q. Did you see anybody go in that room from the next room? A. I don't know. No. I didn't.

Q. Was Mr. Page interrupted while he was talking to you? A. No.

Q. Well, what did he say to you first?

A. To me first?

Q. Yes?

A. Why, he said hello Sadie I have been looking for you, after Mr. Long introduced him to me.

Q. What did you say to him?

A. I said, Mr. Page I came up here to tell you there is no Tommy Atkins, what I said to Mr. Page.

Q. Told him you were going to get out of his way?

A. Mr. Page I came up here to tell you there is no Tommy Atkins, and before I could tell him I was going to get out of his way he spoke to me.

Q. He spoke to you? A. Spoke to me, yes, sir.

Q. Then, he told you that the Dawes Commission records said there was a Thomas Atkins?

A. Will you permit me to say what he said?

Q. Yes, I want to know?

A. He said, I don't give a damn if there aint, the Government records said so and we will make one.

Q. The Government records say so?

A. The Government Record says so.

Q. Didn't say the Dawes Commission Record?

A. No, he said I don't give a damn if there aint, the Government record say so.

Q. Did he say the Government Records say there is a Thomas Atkins now?

A. Yes, said the Government Records says so and we will make one.

Q. Said the Government records say there is a Tommy Atkins now?

A. He didn't say now, he said that. He said, Sadie, you know what I want. I said I do. He said I want the birth and death of Thomas Atkins showed in Leavenworth, Kansas, can you do it? And I said yes, sir. I said I can get witnesses to swear that hell's an ice box.

Q. Now, did he say anything about the Gipsy?

A. No not——

Q. Not a word? A. Nothing about no Gipsy then.

Q. He didn't say anything about the Gipsy trying to prove that the Thomas Atkins was dead?

A. Not until you all fell down up here in the depositions, that is when he told me that.

Q. Didn't say anything about it then?

A. No, not then. I will finish telling you what he said.

Q. Now, did he say anything about the case down at Sapulpa? A. No, not then? That is later.

Q. Late- on? A. Later on.

Q. He didn't say anything at this time?

A. No, that night in the park we talked a whole lot. I am telling now about the time in the office.

Q. Go ahead and tell everything he did tell you, don't leave out anything?

A. I aint going to leave out nothing. Before he got to that, I said I could get witnesses to swear that hell is an ice box. He said I have been informed through friends of mine in Leavenworth, Kansas, that Dennis Jones is a shrewd man, he has been on the police force, has been a detective, he is a lawyer, a politician and has influence in this case that will help us, can you get him?

Q. Did——

By Mr. German: I object to counsel asking her a question until she has concluded that conversation.

By Mr. Blakeney: The record ought to show that the witness finished it.

By Mr. German: The witness merely paused so that the Examiner could get her exact statement at my request.

By Mr. Blakeney: After counsel made his request, the witness continued the answer and reached apparently the end of it and paused.

By Mr. German: I insist that the question is not finished.

By Mr. Hanford: Let me make a statement in there. This cross examination has been very difficult for the reason that the witness will not answer direct questions with direct answers. She insists upon repeating by rote from beginning to end to bring her to answer a question as to a specific thing. I did ask her to start at the beginning, and when she got to that point I interrupted her and interrogated her further. If she has not finished answering the question, I certainly intend that she shall do so before the examination is finished.

Q. Now, Sadie, then you said to Mr. Page, to show you how I am I can get witnesses to swear that hell is an ice box—that hell is in an ice box? A. No.

By Mr. Allen: We object to that until the witness is given an opportunity to answer the former question?

Q. Well, repeat then that part?

A. What I said—Do you want me to go back to the story or just where I left?

Q. I want you to go back and repeat what you said to Mr. Page about hell is an ice box?

By Mr. German: I object now to that as repetition, and insist now that she be given an opportunity to finish the answer and to complete the statement she made as to what she said in Mr. Page's office.

Q. Tell what you said about that?

A. When Mr. Page asked me?

Q. What you said about that?

A. What he said to me?

Q. What you said to Mr. Page about hell being an ice box?

A. Mr. Page said, Sadie you know what we want, and I said I do.

Q. I don't want that, I want you to tell me what you said to Mr. Page?

A. I said I can get you witnesses that will swear hell is an ice box. He said I have been informed through friends of mine in Leavenworth that Dennis Jones is a shrewd man——

By Mr. Hanford: I will have to give in to you and let her start in at the beginning.

Q. Start at the beginning and tell me what was said?

A. Start at the beginning?

Q. No, no. Sadie, start at the time Mr. Page said hello, Sadie, I have been looking for you?

A. All right, Frank Long said to him, Mr. Page this is that Sadie James. Mr. Page said hello Sadie I have been looking for you; I said, Mr. Page I have come up here to tell you that there aint no Tommy Atkins, and he said I don't give a damn if there aint, the Government records say so, and we will make one. He said Sadie, you know what I want, and I said I do. And he said I want the death and birth of Thomas Atkins there in Leavenworth, Kansas, can you do it? I said I can get you witnesses to swear that hell is an ice box.

Q. Now, Sadie, why can't you tell me that when I ask you about in direct questions?

By Mr. German: I object to counsel interrupting the witness before she had concluded the answer. She had *no* concluded when he interrupted her. I insist that the Examiner——

By Mr. Hanford: I am asking this witness what I want and not what you want, Mr. German.

By Mr. Allen: We are not talking to you. We insist that the Examiner permit her to answer.

By Mr. Hanford: Why don't you ask the Examiner to rule on your objection.

By Mr. Allen: We have a right to insist upon the Examiner letting the witness answer the question.

The Examiner: Mr. Allen, the Examiner has not at any time refused to permit the witness to answer the question. I simply stated that Mr. Hanford is examining the witness, and it would be saving time it would be better to allow him to examine the witness without interruptions except for objections.

By Mr. Allen: We are insisting now that the witness be permitted to complete the answer that she is giving to counsel's question before he is permitted to ask her another question.

By Mr. Blakeney: I protest to the Commissioner. I just want to say if this rule is adopted, of course you are precluding us from cross examining this witness. If we have got to start her at the first and let her go in a groove and go on down in a groove, of course we could not cross examine.

By Mr. Allen: We challenge the statement of counsel that such has been the conduct of this witness.

By Mr. Blakeney: The—— It is not the conduct of the witness I am complaining about, it is the conduct—it would be the conduct of the Commissioner if he follows your suggestion.

Q. Now, Sadie, the first day that *Sadie* came to you in Leavenworth, how did she happen to come to you?

A. My husband was up town and some boys was telling him about her, about some Indian woman up there—— They had been telling him about some Indian woman up there two or three times. Bettie had been up in Leavenworth all the month of February.

Q. He saw her on the street?

A. He saw her on the street, he came home and told me he thought—said I saw that seven-year woman here that you and her used to run together, he couldn't call her name, and I said Bettie Mann? And he said yes, and I told him to go and tell Bettie to come down here, I bet she is here on some deal, she didn't know I lived there, so he went up town and she came back with him.

Q. And brought her back? A. Yes.

Q. Then you saw her at your house?

A. At my house, yes, he brought her down.

Q. Then you went with her? A. Yes.

Q. To Dennis Jones'? A. Went to Dennis Jones' office.

Q. Now, what did you tell Dennis when you brought Bettie Mann down there?

A. I introduced him to Bettie and told him that she was a friend of mine and that she was all right.

Q. That she was all right?

A. That she was all right, yes.

Q. What else?

A. That is all. And Bettie said, Mr. Jones, did you ever know an Indian woman here, a woman by the name of Minnie Atkins that worked for the Hyde's? And he said no I didn't know any Indian woman by that name, but I know Banker Hyde, but I don't remember any Indian woman ever working for Hyde by that name; and he said I will tell you what I will do, I will write to Albert Hyde, that is Banker

Hyde's brother in Wichita, and ask him where Banker Hyde is, and I can find out maybe through him. Bettie says——

Q. Now, what did he want to find out from him?

A. Banker Hyde?

Q. Yes? Did he want to find——

A. Where Minnie was. Dennis didn't know her.

Q. He didn't know her?

A. No, he didn't know Minnie, he hadn't ever seen her.

Q. If he didn't know her, why did he want to find out where she was?

A. He thought Bettie was hunting Minnie, that is what he spoke before Bettie finished the conversation, he thought if he found out where Banker Hyde was, Banker Hyde could tell him where Minnie was, that is what he was banking on.

Q. Then, what did Bettie say?

A. Bettie said, I don't care anything about Minnie, she is dead. I want a boy started.

Q. Then, what did Dennis say?

A. Dennis said—— Didn't speak up until Bettie got through.

Q. Then, what did Dennis say?

A. Dennis said, yes, we can do it.

Q. Said we can do it? A. Said we can do it, yes.

Q. Did she tell him to go ahead and do it?

A. By that time Jim Swift and Ben Porter came in and we cut that conversation off.

Q. So you didn't have much conversation then?

A. Not then, I told him, Dennis, I will be back here this afternoon at six o'clock. Bettie was going to have to go.

Q. Do you remember Dennis' words when he told Bettie he could do it?

A. Yes, he said—— Dennis said, I can do it, I can get lawyers and doctors and bankers in Leavenworth to swear that hell's an ice box.

Q. Now, Sadie, going back to Mr. Page's office when he told you that the Government records said there was a Thomas, what did he say then?

A. He said, I don't give a damn if there ain't, the Government records say so and we will make one.

Q. Then, what did you say?

A. Oh, I didn't speak at first. He said, Sadie, you know what we want.

Q. I mean what did you say when he got through?

A. Got through with his conversation?

Q. Yes?

A. He asked me if I knowed what he wanted and I said yes.

Q. No, I am not asking you what he said, but what you said?

A. I told him I could do it, I could get witnesses to swear that hell is an ice box.

Q. Then, what did you say?

A. He said I have been informed by friends in Leavenworth, Kansas, that Dennis Jones is a shrewd man, that he has been on the police force——

Q. He told you——

By Mr. German: I object to counsel asking another question until witness completes——

By Mr. Hanford: Go ahead.

A. Been informed that by friends of *min* in Leavenworth, Kansas, that Dennis Jones is a shrewd man, that he has been on the police force, he is a lawyer, he has been a detective, a lawyer and a politician, and his influence in this case will help it, and he said can you get him? And I said, Mr. Page, Dennis Jones and Rube Smith——

Q. Just wait a minute, I am just asking you that question. Now, Sadie, did Mr. Page mention the name of Dennis Jones himself? A. Yes, he did.

Q. You didn't say anything about him?

A. No, I didn't tell him, because I didn't think I could get Dennis.

Q. Did he tell you where he heard of Dennis Jones?

A. He didn't say, through friends in Leavenworth, Kansas, I didn't know who the friends were up there.

Q. Friends? A. Friends in Leavenworth, Kansas.

Q. Did he say they told him about Dennis Jones?

A. No, he didn't say that.

Q. Now, what did he say after you told him that you could get Dennis Jones?

A. I didn't finish telling, I didn't get to say what I told him—— I told him I could get Dennis before he said this. I didn't get through with that when he asked me if I could get Dennis.

Q. Before he asked you if you could get Dennis? A. Yes.

Q. Now, after you told him that you could get Dennis, what did Mr. Page say?

A. He told me then, I will have to tell the whole conversation to tell you what he said, because I——

Q. He told you to get him?

A. No, he didn't tell me that evening. He said, tell Dennis to stop making a live man or he will get arrested; and he told me to meet him in the park that night.

Q. Well, didn't he tell you to get Dennis? A. Not then.

Q. Not then? A. No.

Q. Then, he told you to go out to the park?

A. At eight o'clock that night in his park, yes.

Q. In his park? A. Yes.

Q. Then, what else was said after he told you that?

A. He walked out at the door, Mr. Page turned around to go back to the people he was talking to, and Frank Long and I came out in the hall and he said, Sadie, I want you to go up to Ben Rice's office and give him the name of the witnesses you are going to get for us. He taken me up stairs to Mr. Rice's office and Mr. Rice was in there by himself, and he said to Mr. Rice: Ben, this is that Sadie James.

Q. The result of that is that you gave Mr. Rice those names? A. Yes, sir.

Q. And that is all? A. Yes, sir.

Q. Now, then, when was the next time that you saw Mr. Rice? A. Rice?

Q. Yes?

A. Never saw Mr. Rice any more until I brought Dennis down from Leavenworth, and that was all in the same room.

Q. That was? A. August 23rd, I believe.

Q. What room was that?

A. That was Mr. Long's room, that one there where the long table is, Mr. Page taken us in there that morning.

Q. Who was in there? A. When I first came?

Q. Yes?

A. We went to Mr. Page's office when I first came and I taken Dennis up stairs.

Q. Who was in this office?

A. Just as we got in, Ben Rice and Frank Long walked in. He taken us in Mr. Long's office, he was in there when we first got there.

Q. Ben Rice and Frank Long were in there?

A. No, they came in behind us, I don't know where they came from.

Q. I am asking you who all were there?

A. In the room with us?

Q. Yes?

A. Mr. Page, Ben Rice, Frank Long, Dennis, and myself, just five of us.

Q. How long were you there?

A. Oh, we were there quite a while before I—we were there an hour I guess or more before dinner time, I guess. I know it must have been before dinner time, I won't say positively it was an hour, it may have been a little longer and it may not have been that long, I won't say the exact time we were in that room.

Q. Was that before or after you went to Leavenworth when you were working for Mr. Page?

A. Oh, I made the bargain with Mr. Page that night in the park, and the next day I made a contract with him and I left that night, Frank Long and I did to go to Leavenworth to get Dennis.

Q. Now, how many times did you see me at that office?

A. How many times did I see you?

Q. Yes? A. I saw you twice.

Q. Twice? A. Yes, twice.

Q. Now, was this meeting there with Dennis Jones before or after you saw me the second time?

A. Well, listen, the second time I saw you up there was after they had hired Dennis, when you and Bettie came up to Leavenworth, Frank Long had you all to come up there.

Q. So they hired Dennis at this meeting when Mr. Page and Mr. Rice, and Frank Long and you all were there?

A. Yes.

Q. So that was the second time that you were at the office of the Gem Oil Company? A. Second time?

Q. Yes?

A. Yes, that was the second time, I had been up there the evening before that.

Q. And it was after this meeting with Dennis Jones that you saw me there?

A. After I had brought Dennis down from Leavenworth?

Q. Yes? •

A. Sometime, must have been over one week after you came back down.

Q. Now, do you know what the day was that you were there in the office with Dennis Jones?

A. That must have been about the 23rd, I think.

Q. The 23rd?

A. On Tuesday morning, because he said he would leave Monday night and I met him at the depot Tuesday.

Q. That was Tuesday, August 23rd?

A. Yes, Tuesday, August 23rd.

Q. Then, about a week after that you were up there again you say?

A. I was up there before that time, but I wasn't—are you talking about on this business?

Q. Yes?

A. Yes, I was up there about a week after that and met you.

Q. That was when you met me there? Now, then where did you see me? A. Where did I see you?

Q. Yes?

A. In that little office of Mr. Long's when he had you and I to meet.

Q. In the office? A. Yes, sir.

Q. You say Mr. Page came in there? A. Not at that trip.

Q. I am talking about the time, the second time you saw me?

A. The second time I saw you was after Dennis had been hired.

Q. Where did you see me the second time?

A. Saw you in Mr. Long's office again, saw you both times in there.

Q. Saw me in Mr. Long's office?

A. Both times in there.

Q. Who was in there that time? A. Which time?

Q. The second time you saw me?

A. I walked in there and you and Frank Long were in there by yourself.

Q. You walked in? A. Yes.

Q. Frank Long was there? A. Yes.

Q. I was there? A. Yes.

Q. And you walked in there? A. Yes.

Q. Who else was in there?

A. Not a soul until Mr. Page came in there.

Q. What did Mr. Page say?

A. You were sitting over here, he looked around and said, hello, Hanford, did you get things fixed up at Leavenworth like you wanted to?

Q. What did I say? A. You said yes.

Q. Was that all he said?

A. He said, did you get things fixed up in Leavenworth like you wanted it and you said yes, and he said, you take that to Minnie and tell her—I don't know what it was he meant—and just before you get ready to take depositions at Leavenworth you switch her right back here and take her up to Leavenworth to meet these witnesses, and you spoke up——

Q. Well, he just gave orders to do that? A. Yes.

Q. Just told me what to do? A. Yes, sir.

Q. Now, did he say depositions? A. No.

Q. What did he say?

A. Take that—he asked if you got what you wanted in Leavenworth and you said yes.

Q. He said just before you take depositions?

A. Yes just before you take depositions—before this, telling you what to do with Minnie. Said before you take depositions in Leavenworth, you switch Minnie right back and take her to Leavenworth and let her see these witnesses in Leavenworth. You said, Mr. Page, suppose Minnie don't want to come over with this Leavenworth dope? and he said if she don't you tell her she won't get another cent.

Q. Then, what did I say?

A. You didn't say another word because Mr. Page switched out. He was about half sore and went out of the door and I followed him, and going out somebody was getting off the elevator and I just let Mr. Page go on in his office and I went on down stairs. That was after I made my contract and I went on to my lawyer's.

> By Mr. Hanford: I move to strike the latter part of that answer, commencing with the words "that Mr. Page went out of the room and he was half sore" as not responsive to the question.
>
> By Mr. German: I will be glad if you will record the fact that you asked her to stop.

Q. Now, Sadie, you say that that was about a week later than August 23rd?

A. I think so if that long, I don't think it was any shorter anyway.

Q. Now about—— That would be about September 1st, then? A. August 20th.

Q. August 23rd, and a week, seven days, would be September 1st?

A. Well, I don't know, I am not saying positive it was that long. I say I think so, I am not swearing the time, I don't know.

Q. Well, Sadie, are you sure that it was not somewhat longer?

A. Well, I am not sure it wasn't longer, and I am not sure it wasn't shorter than that before I met you in that room again. I met you in there on August 20th the first time.

Q. On August 20th the first time?

A. The first time, it was on Thursday, yes, sir, Thursday morning.

Q. Then, the next time you met me was after they hired Dennis Jones?

A. Yes, sir, after they hired Dennis, yes.

Q. About a week?

A. I will say about a week, I don't know whether it was that long or not, but that was the next time I saw you there.

Q. You are sure it was no longer?

A. I don't know, I don't know the time, I don't know. I know I met you in there, but I am not going to say the exact time I met you; I won't say that because I don't know, I haven't figured up the time about when it was when you came, no.

Q. But you recall, your recollection is that it was no longer?

A. No, I am not going to swear it was no longer or no shorter I am not going to swear to that; I said I didn't know when I met you in there but that was after Dennis had been hired.

Q. Well, now, after that day when Dennis was hired, where did you go? A. Where did I go?

Q. Yes?

A. *Staid* right in there until twelve o'clock, *staid* right in there until they got through, possibly at twelve o'clock.

Q. How long did you stay in Tulsa after that?

A. Oh, I don't know, I *staid* in Tulsa for from—very near two weeks until I—— Let's see. After we had hired Dennis until September 10th I think when Frank Long and I went back to Leavenworth; about two weeks after that Frank Long and I made another trip to Leavenworth.

Q. Now, that day you saw me the second time, what were you up there for?

A. The day I saw you in Mr. Page's office?

Q. Yes?

A. I went up there to see Mr. Page and some one was in the room, and he said, Sadie, go in Long's office—he didn't know anybody was in there because——

Q. You went in Mr. Long's office?

A. I went in there and Mr. Long and you were sitting in there.

Q. How long did you stay then?

A. Didn't stay any longer than you got through that conversation. He was sore. You didn't know whether Minnie would do it or not and he flew out at that door and I followed him.

Q. I made him mad?

A. I don't know whether you made him mad. I don't know what he got sore over.

Q. You just *staid* there long enough to see that and then where did you go? A. I went on home.

Q. Went on home? A. Yes, I came up there to see him.

Q. So then you didn't have anything to say to anybody?

A. I spoke to you and Mr. Long.

Q. Just came in and sat down?

A. I told you I was waiting for Mr. Page, told you Mr. Page told me to come in here and he would be in here directly. I didn't think at that time that he thought you and Mr. Long were in there.

Q. Then Mr. Page came in and talked to me and went out? A. Yes, that was what he said to you.

Q. Did you see anybody in the other office of the Gem Company when you were up there that time?

A. I didn't go in at that time.

Q. In the other office of the Gem Company, Mr. Long's office? A. No, I never saw anybody else there, no.

Q. How long were you in there?

A. I wasn't there but a very few minutes before he came in, not over twenty minutes.

Q. What time of day was it?

A. I don't know, that was before noon, sometime after ten o'clock. You know Mr. Page don't get to his office until late.

Q. Sometime between ten and twelve?

A. Yes, that was between ten and twelve in the forenoon.

Q. Did you see who was in Mr. Page's office?

A. No, some one was talking to him, I didn't know who it was. He said Sadie you go in Mr. Long's room I will be in there directly.

Q. Was it a man or a woman talking to him?

A. I don't know, a man I guess, some one was in there talking to him. I just opened the door, cracked it, and seen him, and he said, Sadie, you go in the other room, Long's room, I will be in there.

Q. You didn't go clear in the office?

A. No, I didn't get clear in there, I just opened the door and he saw me and told me to go in Long's office and he would be in there.

Q. Mr. Page's office, you said was the main entrance to the—to these offices? A. Yes, sir.

Q. The Oil Company's offices? A. Yes.

Q. And he had a desk there over against the window?

A. Yes.

Q. And sat there, and the railing divided off the front part of the office? A. Yes.

Q. And his desk was behind the railing?

A. Yes, a good distance behind that railing.

Q. Now, you went out to the park that night, you say, at eight o'clock?

A. Yes, I got there at eight o'clock, I was to be there at eight o'clock that night?

Q. You got there at eight o'clock? A. Yes.

Q. And Mr. Long took you in the park?

A. Yes, Mr. Frank Long met my husband and I and taken us into the park.

Q. Why was that? A. Why did he meet me there?

Q. Yes?

A. So we wouldn't have to be blundering around through the white people, I guess. He got us a place to sit down, the park was full.

Q. And he took you up in the park?

A. Yes, the park was full of white people and he taken us up to a place where there wasn't many white people passing.

Q. He took you up by the chutes, the roller coaster?

A. Yes, I guess that is what it is. I had never been in there before.

Q. On the right hand side of the roller coaster?

A. No, the chutes was on the left hand side.

Q. So you went to the right hand side?

A. He taken us about as far from the chutes as back there and sat us down here.

Q. The chutes off that way? A. That side, yes, sir.

Q. Then, as you go toward the chutes you leave them on your left—toward the roller-coaster, you leave them on your left and you sat out here?

A. Yes, kind of in front of it, wasn't anyone swinging on it.

Q. Then you sat there on the bench?

A. Yes, I think it was a little bench, chairs or benches one we were sitting on until Mr. Long went off.

Q. Did you see any chairs there?

A. I don't know what we were sitting on, chairs or bench one, I don't know what we sat on.

Q. And Mr. Long went and found Mr. Page?

A. Yes, told us to stay there and he would go and find Mr. Page.

Q. And brought Mr. Page to you? A. To us.

Q. Now, how long did you talk to Mr. Page?

A. Oh, my goodness! Why, we got out there to the park at eight o'clock and I don't guess we left there until half past nine that night because it got to raining and we couldn't get away from there.

Q. Well, how long did you talk with Mr. Page?

A. Talked with Mr. Page from the time I got out there until we left.

Q. About an hour and a half?

A. Yes, sir, about lots of things not pertaining to this trial.

Q. Then it came up the rain and where did you go?

A. Up to that dancing place and we went under that cover and we sat under that.

Q. The pavilion?

A. Well, that is where we sat. Mr. Page taken us over there.

Q. Were there any other people there?

A. No, not under that. They weren't using that that night, the white people were all down there at a kind of—something going on—nobody where we were at all.

Q. Did the white people stay out in the rain?

A. They didn't come up where we were, they were all there under—— Lots of those sheds down there, and they didn't come up there where we were.

Q. All went some place else?

A. Yes, they didn't come up there where we were. The rain didn't last so awful long.

Q. Didn't it last an hour and a half?

A. No, I don't think it rained that long, I don't know how long it did rain, I don't remember whether we left in the rain or whether we *staid* there until the rain was over, I don't know how long it rained that night, the rain came up while we were there.

Q. You say it thundered and lightninged?

A. No, I don't think it did. It was in the summer, August, just a shower of rain continuously.

Q. Now, in answer to my former question you say it came up thundering and lightning, now you say it didn't; which did it do?

A. I didn't tell you it came up thundering and lightning, I won't swear it was thundering and lightning, I know it was raining.

Q. It rained? A. It rained.

Q. It rained hard?

A. Yes rained pretty hard for a while.

Q. Quite a pour down?

A. I think it was, enough so that we couldn't stay out in the open there, and Mr. Page taken us down and set us up there.

Q. So you say you were there about an hour and a half?

A. Yes, sir, maybe so, I won't swear now that we were there an hour and a half. I ain't going to say no certain length of time we were there, but we were there quite a while.

Q. A long time or a short time?

A. It was quite a long time.

And thereupon, an adjournment is had until 1:30 o'clock, P. M.

And thereafter, and at one-thirty o'clock P. M., further testimony herein was taken as follows:

SADIE JAMES, being recalled, further testified as follows:

Cross Examination by Mr. Hanford.

Q. Well, Sadie, you finally wound up, you made the contract, put the contract on the envelope and took it down and put it in the First National Bank, and you went up to Mr. Long—met you up there the next morning?

A. Frank Long? Saturday morning?

Q. Yes? A. Yes.

Q. He went to the National Hotel and you called him up there? A. After he got in, yes, I called him up.

Q. Then where did you see him?

A. Down in the alley where I was staying at Miss Martha's.

Q. About what time?

A. I don't know about what time in the morning that was. I saw Rube first.

Q. Was there anybody there when you saw Frank Long?

A. Where at?

Q. Down at this place? A. At Miss Martha's?

Q. Yes? A. Miss Martha was there.

Q. Rube wasn't there?

A. No, he had been there and had gone.

Q. Then, who did you see next?

A. I saw Aunt Kate Logan.

Q. Kate Logan?

A. Yes, sir. I told Mr. Long I was going down there and get her, and he said that he would follow along after he thought I had been there long enough.

Q. Did you see Dennis then? A. No, later on.

Q. You went to see Kate Logan? A. Yes.

Q. Then, did Mr. Long follow?

A. No, he came on, I told him where the place was.

Q. And he followed you down there and met you down there?

A. After I had been there quite a little bit, I walked out on the porch, I told him which way to come and he saw me and he was going down Shawnee, and I walked back in the house and I knew he had seen me.

Q. This was in the morning?

A. That was in the morning, yes.

Q. Who was there besides Kate Logan?

A. No one, just Mr. Long and Aunt Kate and I.

Q. No one there? A. No one but——

Q. She was very sick? A. She was very sick.

Q. Was there any one attending her?

A. Yes, Dr. Jackson called, the doctor.

Q. Was anybody in the house besides Aunt Kate Logan?

A. No, after a while Albert came in, Rube Smith's son, he came in later on.

Q. I mean——

A. No, no one there when we first got there.

Q. Did anyone else live in the house with her?

A. Well, I can't tell you that, we were in Aunt Kate's front room, I don't know.

Q. How long were you there before Frank Long got there?

A. Oh, I must have been there a half an hour I expect, I won't say a half an hour, I guess a half an hour.

Q. You told Kate Logan what?

A. I said, Aunt Kate, you know that case Dennis and you are working in—Dennis had told me before that he got Aunt Kate, I hadn't seen Aunt Kate—I said, the man is here now and he will want to talk to you, so she said all right.

Q. So you went to see Aunt Kate the first one?

A. No, Dennis saw Aunt Kate, I hadn't talked with her.

Q. You told her this man was in town? A. Yes.

Q. And he was coming out? A. Yes.

Q. And Frank Long came? A. Yes, he came.

Q. Now, when Frank Long got there was the doctor there?

A. The doctor didn't come until—— You see Mr. Long came first and he went to talk to Aunt Kate and she had one of those coughing spells of hers and we had to let Kate alone and during that time the doctor came.

Q. What did the doctor say?

A. I introduced the doctor to Mr. Long.

Q. What did the doctor say?

A. Mr. Long said to her doctor: I want to get a statement from her, do you think she is able to talk? And the doctor said if she don't have to talk very long it will be all right.

Q. So he talked to her?

A. Not then. Dr. Johnson went on to wait on Aunt Kate, that left Mr. Long and I sitting and talking to ourselves. Mr. Long said, Sadie, coming up I met George Crilly, and in talking to him I found out he was a school mate of my mother and I have hired him.

Q. Then, after the doctor got through attending Kate Logan, then Mr. Long talked to her?

A. About that time Rube Smith's son came in. I said, Albert you go and 'phone to your father and have him come down here and tell him I want to see him. I had made arrangements with Rube that morning when Frank Long got in town, that he was to meet Frank Long.

Q. So Rube Smith came in?

A. Yes, sir, Rube Smith came in.

Q. So you had a conversation with Rube Smith?

A. No, I had had a conversation with Rube that morning when I first got in town, told him about Frank Long.

Q. But Frank Long had a conversation with him at Kate Logan's? A. Yes, sir.

Q. He did talk to Kate Logan?

A. Talked to Aunt Kate, yes.

Q. Did he write down what Kate Logan said?

A. Wrote down what Aunt Kate said.

Q. Did he have her sign it?

A. Aunt Kate couldn't sign it. Albert Smith signed it later for Aunt Kate, Rube Smith's son.

Q. Did she put her mark, did Aunt Kate put her mark on it?

A. I think she did. She was too sick to write, so *Alber* just took the pen this way and held it up to her and Aunt Kate put her hand on it.

Q. *Out* her mark? A. Yes, Albert did.

Q. Do you know the name of the notary that took her acknowledgment?

A. I do not. I wasn't there. He went up town and had that done after I left. I left him and Rube Smith there.

Q. He went up town and got a notary?

A. I suppose he did, didn't do it while I was there though.

Q. Kate Logan died a little bit later?

A. She died about three weeks after that—— Let's see. Some time later.

Q. A couple of weeks?

A. No, it wasn't a week, I don't think that Aunt Kate died, because Mr. Long was up there on our second trip.

Q. Was Kate Logan a good woman?

A. She was selling beer down there where she lived, I guess she was.

Q. She was a Catholic? A. Yes, she was a Catholic.

Q. And devout, very earnest? A. Very earnest, yes.

Q. Yes?

A. I don't know, she was selling beer—selling beer there, she and Albert. I guess she was earnest in a way. With Rube Smith's son, they were selling beer there.

Q. At her house?

A. Brought beer out there in a case.

Q. Did you know her before there in Leavenworth?

A. I knew her from a little girl, myself from a little girl, she used to sell clothes around there in town, that was her business.

Q. That was her. business going from house to house selling old clothes?

A. Selling old clothes, second hand clothes. In later years she quit that though and went to running that little place on Shawnee.

Q. But when you knew her in eighty-four and eighty-five she was selling old clothes?

A. Yes, sir, and washing. Her husband he was working.

Q. Did you know Kate Logan in eighty-five?

A. Did I know her in eighty-five?

Q. Or in eighty-four? A. Yes, I knew Aunt Kate then.

Q. Did you know her when Minnie first came to Leavenworth?

Q. Did I know her when—did I know Aunt Kate when Minnie first came there?

Q. Yes?

A. No, I knew Aunt Kate before Minnie came there, know her, yes, I knew Aunt Kate before Minnie ever got there.

Q. Did you know what Kate Logan was doing that year?

A. Oh, no, I wasn't keeping track of her, what she was doing, no.

Q. But she was—— What did you say she used to do besides sell old clothes?

A. Used to do washing and sell second hand clothes, what she would get from the white people she worked out and would sell them to the colored people.

Q. She worked out by the day for people?

A. Yes, she would go to people's house to wash and they would give her clothes and she would sell them, what she couldn't use for her children I think.

Q. Did she ever wash at the house where you were working, what is it? A. Haven's, where I worked?

Q. Yes?

A. No, she didn't wash there, my mother washed there.

Q. What was the name of that house? A. Hyde's.

Q. Yes?

A. I don't know that she ever did wash for the Hyde's.

Q. What was the name of that house just a block from the Hyde's where you worked?

A. Haven's. This side of where Minnie first worked is Haven's. I quit working for Haven's, Minnie was a block this way, and I went down on Third and Arch at Gyan's and worked.

Q. Now, after you saw Kate Logan in Leavenworth, where did you see Dennis Jones?

A. Well, I saw Dennis, went to his office about half past twelve when I got to his office.

Q. Was Frank Long there?

A. No, Frank Long never had met Dennis then. I had—— You know the arrangement was to come and meet Dennis.

Q. Frank Long came to his office?

A. I had 'phoned to him. He told me to call him up when I got this arranged with Dennis.

Q. What time did he come down there?

A. About two o'clock.

Q. You saw Dennis first at his office about half past twelve? A. Yes.

Q. And Frank Long came?

A. About two. That left Dennis and I a long time talking.

Q. You didn't meet Dennis on the street?

A. Oh, no, I met Dennis in his office.

Q. And Frank Long came to his office?

A. From the National, I called him up and he came down there to the office, Dennis' office.

Q. Was that all the conversation that took place between Frank Long and Dennis Jones—at the office that afternoon?

A. At the office, yes, about two o'clock when he came down.

Q. Now, what did you tell Dennis when you went there at half past twelve?

A. When Dennis and I was there by himself?

Q. Yes?

A. I said, Dennis, you know you have made money off of the Gipsy and I have made money off of Hugh Bartlett, well, I have quit working for Hugh Bartlett and gone to working for the Gem, and will you work? Dennis said no I met the head man of the Gipsy through Lee Bond and I got a job—— He didn't call the man's name—and I got a job, and I have just come back from a trip making a live man and I am not going to stop now making a live man for the Gipsy and go to making a dead boy for the Gem.

Q. He said he wouldn't work?

A. When I first went in there he said he wouldn't work. He had never worked for you all then.

Q. When Frank Long got there, did he say he would work for the Gem?

A. I told him my conversation before Frank Long came. That is how come him to work, yes.

Q. When Frank Long came he said he would work—he changed and said he would work?

A. We were there an hour and a half before Frank Long ever came there, and I told Dennis what Mr. Page had told me to tell him before Frank Long got there. I said, Dennis, Mr. Page told me to tell you that if you didn't quit making a live man you will get arrested; and they are working for the Government. And I thought they were.

Q. Then, Dennis did tell you at that time that he would work for them?

A. Yes, when I told him they were working for the Government, he said all right I will work.

Q. Now, you told him Frank Long was coming to see him in the afternoon?

A. Later on when I got to the conversation, I told him Frank Long was in town.

Q. What did you tell him about Frank Long?

A. He said, yes, I will work, what do you think I ought to make out of it, Sadie, and I said, oh, eight or nine hundred dollars, and he said who will I see? and I said Frank Long is here, the secretary of the Gem Oil Company. Frank Long had been there when you all were working up the white case.

Q. That is the first time you had told him?

A. That is the first time they met.

Q. You told him Long was coming to get him to work?

A. Was coming to meet him. I said, Mr. Page told me if I could get you, to tell you he wanted to see you, for me to bring you down there, which Mr. Page did.

Q. And not to make arrangements with Frank Long?

A. I told him not to.

Q. You told him not to? A. I told him not to.

Q. Mr. Page told you to tell him that?

A. Mr. Page said, Sadie, if you get Dennis, you bring him to me, I want to see him and want to talk to him. That is how come me to bring Dennis to Tulsa.

Q. Did Mr. Page tell you that if you got Dennis to work, he would come up to Leavenworth to see him? A. No.

Q. Did you tell Dennis that Mr. Page would come up to Leavenworth to see him? A. No, sir, I didn't tell him that.

Q. You didn't tell him that?

A. No, Mr.—— Dennis wouldn't have had to go down there if Mr. Page would have come up there to see him.

Q. Now, how long were you in Leavenworth at that time?

A. That was on Friday, I left the next day on that twelve-thirty. I got on a big drunk that night you know.

Q. Did you see any other people besides Kate Logan?

A. Aunt Kate, and Rube and Dennis.

Q. And Dennis?

A. Yes, and Frank Long. Hooked up with those three that day.

Q. Did you see any others?

A. No, I didn't talk with any others.

Q. Didn't see any? A. No.

Q. Now, how long after that was it that Dennis went to Tulsa?

A. That was on a Friday I was talking to Dennis. Dennis told Mr. Long he would leave Leavenworth Monday night for Tulsa, provided I met him at the depot. That would throw him in town on Tuesday morning, and I did meet him. It was raining when I met him, raining very hard.

Q. Do you know the day?

A. I guess it must have been Tuesday in August, maybe the 23rd, I don't know, I don't know what day Tuesday would be, but the very following Tuesday coming that I met Dennis at the depot in Tulsa.

Q. Then, you went back to Leavenworth how long after this trip?

A. About two weeks Frank Long and I made the second trip. That must have been about September 10th, I think. I got in there Thursday night, I think it was September 10th.

Q. That was the time that you went to Pilot Knob?

A. Hunting graves, yes. Frank Long and I started on that trip.

Q. And did you get to Pilot Knob?

A. Did I get out to Pilot Knob?

Q. Yes?

A. It was too rainy that day and I couldn't find where the graveyard was, it was an old place there and I couldn't find it.

Q. You came back and went to Mount Munsey?

A. Mount Munsey.

Q. And searched there? A. And couldn't find anything.

Q. And then you went over to Waldron?

A. But not that day.

Q. But you did go over there?

A. Later on the week—— Later on the following week I did go over to Waldron and searched the graveyard there.

Q. That was an old graveyard?

A. An old graveyard where my people used to live.

Q. And then you came back to Leavenworth?

A. Yes, Friday night.

Q. Did you see Frank Long that time?

A. No, I didn't see him any more until I got back to Tulsa. That was on the second trip now, the second trip that is.

Q. Now, did you see any of these other people that you have named on that trip when you were up there?

A. I saw Frank Long and Rube Smith Friday morning when I got in there at Aunt Martha's.

Q. But, did you see any of the other people that you named, witnesses, any of these people?

A. No, nobody but Dennis and Rube and Frank Long on that trip, that graveyard trip.

Q. You put in your time hunting the graveyards searching for them? A. Yes.

Q. And didn't see anybody else? A. No.

Q. And then when you went back to Tulsa did you see Mr. Page?

A. I saw Mr. Page on the first trip in Tulsa and on the second trip too, I called him up over the 'phone.

Q. Well, on the second trip when you went back to Tulsa you saw Mr. Page?

A. Yes, I called him up over the 'phone.

Q. And that is when he told you not to go up there any more?

A. Yes, he said, Sadie, you needn't do that. That is Dennis' job to find the graves up there.

Q. And for you not to go back up there?

A. Yes, he said you needn't to go back that is Dennis' job.

Q. He telegraphed you first?

A. Telegraphed for me to come home—come to Tulsa that he had another job for me, and he did give me another job in this case to go up there for Nancy.

Cross Examination by Mr. Stuart.

Q. What is your name now? A. Sadie James.

Q. What name did you start out in life with?

A. My maiden name was Sadie Harris.

Q. What was your next name?

A. My name was Sadie Carris.

By Mr. Allen: Mr. Examiner, I desire to suggest for the benefit of the record, that this witness has been on the stand constantly since Monday morning, and that there was a night session Monday night. She was on cross examination by Mr. Hanford all day Tuesday and all day Wednesday up until the present hour, at 2:25.

By Mr. Blakeney: I want to move to strike out Mr. Allen's objection as not being under the equity rules and not being in form provided by the equity rules, and does not state, as I understand it, the facts to be.

Q. What did you say your name was?

A. Before I married, you mean my maiden name first, do you?

Q. Yes, you told that, you needn't to go back and repeat after me. Answer my questions and we will get along better.

A. Carris.

Q. Was that your husband? A. That was my husband.

Q. That was the young fellow you married about thirty years ago, wasn't it?

A. Yes, about thirty years ago.

Q. And how much younger was he than you?

A. He was three years older than I was.

Q. Three years older? A. Yes, sir.

Q. How long was it before you divorced him?

A. I heard lawyer Bell saying that he got the divorce.

Q. Do you know how long it was before you divorced him?

A. I didn't get any and I don't know anything about it.

Q. A divorce was granted? A. Not that I know of.

Q. You married a third time?

A. I moved away, lawyer Bell told me.

Q. You thought you had one?

A. I thought I had one, yes, sir, I didn't know it.

Q. You married again, didn't you? A. I married again.

Q. Did you marry again without knowing you had a divorce?

A. I don't know as I did, Lawyer Bell told me that he had got a divorce.

Q. And you married again then?

A. Yes, sir, I married, I didn't care.

Q. Didn't care did you?

A. No, sir, didn't make any difference to me.

Q. Married the second time? A. Yes, sir.

Q. What was his name? A. His name was Walter Curtis.

Q. Where is Walter now?

A. I don't know, I didn't keep up with him, Judge.

Q. How long did you live with him, Sadie?

A. Just a very short while, I couldn't tell.

Q. How did you get rid of him? By divorce, or did you run him off?

A. Well, he got it. I got too fast for him and he got it.

Q. You were playing it too strong for him?

A. Playing it too strong for him and he couldn't stand it.

Q. And he got a divorce? A. Yes, sir.

Q. Well, when was the next time you coupled up, how long after that? A. Oh, a long time after that.

Q. Well, about how long?

A. Oh, let's see. Well, some years afterwards.

Q. Well, some years afterwards, will that do?

A. A great many years afterwards.

Q. What was the next man? A. James Green.

Q. Where is Jim?

A. I suppose he is away off. I got a divorce from that one myself. He was too rough for me.

Q. He was playing it too fast for you? A. Yes.

Q. Who was the next man you tied up with?

A. John Johnson.

Q. Where is John?

A. Well, I can't tell you to save my life.

Q. When did you get rid of him, Sadie?

A. I quit him a good many years ago.

Q. How long ago, Sadie, did you quit him?

A. Oh, that has been about six years ago.

Q. After you left John Johnson then, who was the next man? A. I married Will James.

Q. Will James? A. Yes, sir.

Q. And he has been your good and lawful husband ever since?

A. No, he has been my husband ever since, but I had another one.

Q. What is his name?

A. He is up at the old soldiers' home. His name is Lane.

Q. Lane? A. Yes, sir.

Q. How many in all, Sadie, have you had in the last few years? A. About seven.

Q. Seven; the Biblical number; Sacred Seven?

A. Yes, sir.

Q. Now, Sadie, when did you first become a crook?

A. Crook?

Q. Yes? A. Judge, I think I was born one.

Q. Born a crook? A. I think so.

Q. You think you are naturally perverted, don't you?

A. I don't see any other thing.

Q. You can't see straight to save your life, Sadie, can you?

By Mr. German: I object to that as argumentative, calling for a conclusion, and an opinion of the witness, and improper cross examination.

Q. Answer the question.

A. I didn't understand it, Judge.

Q You can't be straight to save your life, can you?

A. Oh, yes, at times. Those straight places come in between the crooks.

Q. The crook is usually with you, isn't it?

A. Yes, if there is any money to it, Judge; if I hadn't have been a crook, I couldn't have got in these deals.

Q. Sadie, you will sell out to anybody for money, won't you?

A. No, I can't do that, the law would come to make me quit.

Q. I know, but have you ever been true to anybody in your life at any time?

A. Oh, I think so, I can't exactly call back when I was true, but I think so.

Q. It is away back yonder, isn't it?

A. Well, not so far back.

Q. It is very seldom that you are true?

A. Very seldom. I make a living being a crook.

Q. Being a crook? A. Yes, sir.

Q. When did you start out being a professional crook?

A. Well, I guess——

By Mr. German: I object to this question on the ground that it is incompetent, irrelevant, and immaterial, calls for a conclusion and opinion of the witness, this is argumentative and too general, and improper cross examination.

Q. When did you start out to be a crook, Sadie?

A. Crook right?

Q. Yes, a professional crook. Crook right, that is it. When did you start out to be a crook right?

By Mr. German: The same objection.

A. I don't know as I can call that back.

Q. Well, as near as you can, I want to treat you kindly and don't want to be rough.

A. When I started out to be a professional crook?

Q. Yes?

A. Well, I guess right after I first struck Kansas City in ninety-one, I first started out; and I would stop a while and start again, along while ago.

Q. You made up your mind you would live against the law, didn't you? A. I did do it.

By Mr. German: I object to that as too general, argumentative, incompetent, irrelevant, and immaterial, and improper cross examination.

Q. Sadie, when did you first go into a house of prostitution? A. I never have been in one.

Q. Not in your life? A. No, sir.

Q. Never have? A. No, sir.

Q. Did you run in Tulsa what is known as the "Bucket of Blood"? A. That was a road house, Judge.

Q. Well?

A. That wasn't a house; only one living room in that house, and the rest was a gambling house where we sold beer and danced at; that was a road house.

Q. All right? A. I run it.

Q. Did any women come there?

A. Came there to buy beer at night with men, but no place for them to sleep.

Q. When did you start to run what is known as "The Bucket of Blood" in Tulsa?

A. That is the one that you are speaking about?

Q. Yes, when did you start to run that?

A. Well, I commenced selling whiskey in town before I went out there, Judge.

Q. Commenced selling whiskey in town?

A. In town, yes, sir.

Q. You commenced boot-legging in Tulsa before you went out there?

A. I wasn't boot-legging, Creekmore was behind me and I didn't have to boot-leg.

Q. He is a boot-legger, isn't he?

A. Yes, sir, he had the town, I didn't have to——

Q. I know that, but you were selling whiskey against the law?

A. Yes, sir, against the law, but I did it openly, I had the protection of the law.

Q. You did that before you commenced the Bucket of Blood? A. About a year before that, yes, sir.

Q. Now, when did you open the Bucket of Blood?

A. I think about 1910, I believe in 1910.

Q. In 1910? A. No—— Yes, I believe so.

Q. In 1915? A. I believe so, yes, sir.

Q. And you had of course a great many visitors out there?

A. A hundred and fifty to two hundred every night and day.

Q. You were bought?

A. It was my own place, I bought it, bought the property and all, yes, sir.

Q. Well, you—— While you were running that, you had to be armed most of the time, didn't you?

A. I didn't have to be armed most of the time, I carried two pistols some of the time.

Q. Where did you carry them, in your stocking or waist?

A. No, sir, that is too slow, I *callired* them in a belt, Judge.

Q. You had a six shooter on each side?

A. I had a six shooter on each side; it was a rough crowd I had.

Q. I understand. What kind of pistols, Colts?

A. Too large for me; thirty-eight and forty-one.

Q. You had a pistol on each side all the time?

A. All the time and the house man I had hired there did the same.

Q. How far is that from the center of town?

A. That was outside the city limits, I bought out there. You know where Greenwood is?

Q. I don't know Tulsa very well, how far is that from the center of town?

A. Do you know where Campbell's place is?

Q. No.

A. I bought out there, I bought out their institution.

Q. How far from the Tulsa?

A. A long distance from the Tulsa Hotel.

Q. A long distance out in the country?

A. Three blocks outside of the City Limits, about, yes, sir.

Q. Now, Sadie, you started out in this Atkins case to make money, didn't you?

A. Yes, sir, up in Leavenworth they got money.

Q. And you started out to graft as much as you could, didn't you?

A. Yes, sir, to make as much as I could out of it.

Q. Didn't make much difference who you were serving just so you got the money?

A. Yes, it made lots of difference as to that.

By Mr. German: We object to that question as calling for a conclusion and opinion of the witness, argumentative, and as improper cross examination.

Q. Is that right, Sadie? A. Sir?

Q. It didn't make any difference who the man was you were serving, you were working for the money?

By Mr. German: Same objection.

A. When I started out in the Minnie Atkins case?

Q. Yes? A. No, sir, I wasn't.

Q. You were not playing any favorites, were you Sadie?

A. Oh, yes, I was.

Q. Who was your favorite in the case?

A. I wasn't working for the Gipsy, but the Gipsy was my favorite. I was going to switch it off and make the most money off the Gipsy.

By Mr. German: I object to the question and move to strike the answer on the ground that it is argumentative, too general, and a conclusion of the witness.

Q. You thought you could make the most money out of the Gipsy? A. Yes, sir, but I wasn't working for the Gipsy.

Q. I understand, and when you say that the Gipsy was your favorite—— A. Yes, sir.

Q. You mean that was your favorite goose to pluck?

A. After I got me a man started up I was going to switch him over there, didn't think anybody else had as much money.

Q. You thought they had the most money, a big oil company had the most money? A. Yes, sir.

Q. Now, Sadie, in all your travels, commencing with the first employment and down to this hour, did you strike an honest man on your travels? A. Yes, sir.

Q. Name one? A. Did I find an honest one?

Q. Yes? A. I found Mr. Buell.

Q. He was honest? A. Yes, sir.

Q. And who else? A. I found Mr. Bartlett.

Q. Who else?

A. Found Mr. Montgomery after I confessed.

Q. That is three? A. Yes, sir.

Q. Is that all? A. All in the deal that I know of.

Q. Every other man you found in your travels in this deal were crooks?

A. I will take that back. The Gipsy, I told them a lie and I suppose they believed me.

Q. Answer my questions yes or no now. Everybody but Mr. Buell, and Mr. Bartlett, and Mr. Montgomery, that you talked with or had any dealings with, was a crook wasn't he?

By Mr. German: I object to the question as calling for a conclusion of the witness and calling for an opinion of the witness, and argumentative.

Q. Answer the question.

A. Well, I don't know how many more I met; I wouldn't like to say people was crooks that I didn't know.

Q. Everybody connected with this transaction in any way?

By Mr. German: The same objection.

A. You will have to give me time to think over who I met, Judge.

Q. I will give you plenty of time, see if you can find an honest man? A. Another one?

Q. Yes.

By Mr. German: The same objection.

A. You mean connected with the case or just——

Q. Yes, connected with it in any way that you talked to or had any dealings with?

By Mr. German: The same objection.

A. About selling the land?

Q. Yes, in every way else?

A. Of course the Government officers——

Q. Of course they are honest, the Government presumes them to be honest. A. Robinson.

Q. Who is Robinson? A. The detective sitting there.

Q. This gentleman here? A. Yes.

Q. Now, Sadie, was anybody else that you struck that was honest?

By Mr. German: The same objection.

Q. Search your memory and let us know some honest people. A. I can't think of them, Judge.

Q. You left out Mr. Meserve?

A. Mr. Meserve, I didn't know that he was in the land, Mr. Meserve and Judge Holland and Mr. German.

Q. Of course they are lawyers and presume- to be honest; they are rather presumptious but still it is all right;Iam going to presume that. That is all?

By Mr. German: I object to counsel's statement as being argumentative and stating conclusion of counsel—— Well, I will withdraw that objection.

Q. Sadie, tell me who first employed you?

A. In this case?

Q. Yes, in the case, answer that? A. Mr. Bartlett.

Q. Mr. Bartlett? A. Yes, sir.

Q. Bettie Mann came to see you in 1912, didn't she, about the deed? A. Yes, sir.

Q. Yes, she came to you up at the Bucket of Blood?

A. Yes, sir, at the Bucket of Blood.

Q. And there she accosted you? A. Yes, sir.

Q. And she said to you that she wanted to put a deed over, didn't she?

A. Yes, sir, her and Harjo wanted to put a deed over.

Q. And they offered you three hundred ($300.00) dollars? A. Yes, sir.

Q. And you told them that it was too cheap, didn't you?

A. Too small money for me.

Q. You said you would do it for a thousand?

A. Yes, sir, and I would have done it.

Q. Now, Sadie, the reason that you wanted a thousand, was it because there was a greater risk than you could afford to take for three hundred?

A. Yes, sir, I knew if I got arrested three hundred dollars wouldn't do me no good for a lawyer, yes, sir.

Q. Then, you wanted a thousand because you had in consideration that not only the crime, but the risk you were running? A. Yes, sir, I wanted to be paid in that.

Q. So, when you said you wouldn't do it for three hundred and you would do it for a thousand, you had already got your consent to commit the crime provided the money was sufficient?

A. Oh, I would have did it in a minute if she offered me a thousand, that was my price.

Q. That was the fee on her part to get you to forge the deed to this land, was it? A. Yes, sir.

Q. And you were perfectly willing to do it if the price had been big enough?

A. If the price had been big enough I would have done it.

Q. You and Bettie talked about that in the Bucket of Blood and you turned down three hundred ($300.00) dollar proposition, where did Bettie go?

A. She came here to Kansas City and got a woman by the name of Minnie Adkins and she signed it.

Q. How did you know she signed it?

A. I told them to come here and they got back——

Q. You know, as a fact, Sadie, don't you, that Bartlett got the forged deed?

A. I didn't know Mr. Bartlett then.

Q. You know that Bettie Mann got a forged deed?

A. Yes, sir, they had told him they knew where Minnie was, but they didn't.

Q. You knew they came to Kansas City?

A. I certainly did.

Q. And got a deed from a said Minnie Adkins?

A. Right here, yes, sir.

Q. You knew that was not the right Minnie, didn't you?

A. I knew it, yes, sir.

Q. And you knew that they had procured and forged it, didn't you? A. I did, yes, sir.

Q. How long after that was it before you saw Bettie again? A. After she came up and got a deed?

Q. Yes?

A. I saw her right soon after she came back with the deed.

Q. In 1912? A. In 1912, yes, sir.

Q. You told her that deed would never stick, didn't you?

A. No, I didn't know whether it would stick or not.

Q. You knew it was a forgery? A. Yes.

Q. You didn't tell anybody about it? A. No, I didn't.

Q. Just kept that to yourself?

A. Bettie and I had been working about fourteen years.

Q. Companions in crime together, is that so?

A. Yes, sir.

Q. How long had you been companions in crime?

A. About twelve years, I guess, off and on.

Q. Pulled off a great many criminal stunts?

A. I think so. We have done a great many things.

Q. A great many criminal stunts? A. I think so.

Q. After that, you say you were employed by Bartlett?

A. Two years later.

Q. Two years later? A. Two years later.

Q. Now, where and at what place did Bartlett employ you, name the place? A. Why, at the Stafford Hotel.

Q. The Stafford Hotel? A. Yes, sir.

Q. About what time was that, Sadie?

A. That was about March 31, 1914.

Q. March 31, 1914?

A. Yes, sir, because Bettie was there on a Monday and I came down the next morning.

Q. And Bettie came up to see you here in Kansas City?

A. I was living in Leavenworth.

Q. Bettie came to you in Leavenworth, did she?

A. Yes, sir.

Q. She told you she wanted you to help her?

A. No, she didn't tell me, I asked for the job. Bettie didn't ask me.

Q. How did you know Bettie had a job?

A. I asked her, has the white man got any money you are working for, and she said yes.

Q. How did you know Bettie had a job?

A. She was up there trying to make that deed good.

Q. And you assumed in as much as two years before she had a job, that she still had one?

A. I knew she had one when she left down there.

Q. So you said, Bettie has that white man got any money?

A. Yes, sir.

Q. Bettie made the proposition there, did she?

A. Yes, sir.

Q. What was that?

A. She told me all I had to do was to tell him—— I said, how can I get a job, and she said you tell him when you go down there that you know Thomas Atkins and you can get a job, because he would believe me.

Q. Now, was Bettie hiring you at that time to find Tommy or Minnie? A. She wanted to make a Tommy.

Q. Now, let's understand now?

A. Bettie and Harjo both thought years ago that Minnie was dead—searching for Minnie seventeen or eighteen years and thought Minnie was dead, and they were making a boy.

Q. Answer my questions. They were trying to make Tommy? A. Yes, sir, trying to make a boy, yes, sir.

Q. Tommy? A. Yes, sir.

Q. You came then over to the Stafford Hotel in Kansas City? A. Yes, sir.

Q. Mr. Bartlett came up here? A. Yes, sir.

Q. What room were you in, do you know?

A. In the hotel there, in the sitting room, I think the second floor in the parlor.

Q. Second floor? A. Yes, sir.

Q. Did you go straight to the Stafford Hotel when you came here?

A. Yes, sir, I had Bettie's card you know.

Q. And Bettie told you to meet her at the Stafford?

A. Yes, sir.

Q. Who else was there besides Mr. Bartlett?

A. Nobody in that room but Jim Swift and Ben Porter were up there with Bettie.

Q. I understand. Where did Jim Swift come from?

A. Where did he come from?

Q. Yes?

A. They came from Oklahoma, came up to get another deed.

Q. I understand. Oklahoma boy?

A. Both Oklahoma boys, belonged there.

Q. Darkies? A. No, sir, not negroes, Indians.

Q. Crooks?

A. Indians and whites. Frank Swift's brother and Ben Porter—cousins to Ples Porter. Ben Porter.

Q. They were up at the Stafford when you got there that morning?

A. I didn't see them when I got there that morning.

Q. Who was there when you got there and found Bartlett? A. Nobody but Bettie.

Q. Bettie and Bartlett? A. Yes, sir.

Q. I want you to tell exactly what occurred at that meeting between you and Bettie and Bartlett giving the substance——

A. Bettie introduced me to Mr. Bartlett, I had never saw him before.

Q. Never mind, tell what occurred.

A. He said, did you know Tommy? and I said yes, sir. And he said when did you last see him; and I said I saw him when he was five years old; and I said I used to work close to where Minnie did, and he said I have hired two detectives here Kansas City with Bettie in hunting Tommy; and he asked me what did I want to help find him and I told him fifty ($50.00) dollars. I told him to see where Tommy was. I told him a big lie and I told him I could get on the trail of Tommy; and he told me all the evidence that I got to give it to these detectives and Bettie. He gave me fifty dollars and I went back.

Q. What did he tell you to do with that fifty dollars?

A. I told him I had to go down to some little town in Missouri to find that boy. I was lying.

Q. What did he tell you?

A. He told me all the evidence I could find out in trailing this boy to give it to the detectives and Bettie.

Q. How long did he expect you to go with that fifty ($50.00) dollars?

A. He told me when I needed any more money to let him know.

Q. Did he give you his address, Sadie?

A. Yes, he gave me his address.

Q. What was it?

A. His 'phone number was 619, I think, Sapulpa.

Q. Sapulpa? A. Yes, sir.

Q. Who was Bartlett, did you know?

A. No, sir, I never saw him before in my life.

Q. Do you know now who he was?

A. I know he is the same man I met.

Q. You worked for him a long time, didn't you, some months? In this deal? A. Yes.

Q. What did he turn out to be?

A. What did he turn out to be?

By Mr. German: I object to that question as calling for an opinion and conclusion of the witness, and as being argumentative.

Q. Don't you know what he turned out to be?

A. No, sir, I don't.

Q. Did he turn out to be a preacher?

A. No, sir, I know he turned me loose.

Q. Did he turn out to be a preacher?

A. I don't know what he turned out to be.

Q. He turned out to be an oil man, didn't he?

A. I guess so, he was one then.

Q. In the oil business? A. Yes, sir.

Q. Living in Sapulpa?

A. Yes, sir, living in Sapulpa.

Q. After he gave you this fifty ($50.00) dollars, he told you to go and find Tommy?

A. He told me to go and find Tommy; I told him I knew where he was.

Q. Did Bettie know you were lying to Bartlett at that time?

A. Bettie knowed, yes, sir. She told me in Leavenworth what to say to get my job.

Q. Answer my questions. You know it. A. Yes, sir.

Q. You knew when you accepted that fifty dollars and started out to find Tommy, that you were lying to Bartlett and deceiving him, didn't you?

A. I had started in with that intention and started in to rob him.

Q. You meant to rob him? A. Yes, sir.

Q. You never had heard of Tommy Atkins up to that date, had you? A. Heard of him?

Q. Yes? A. No, and ain't to yet.

Q. Ain't to yet? A. No, sir.

Q. Haven't heard his name mentioned much in the last four months, have you Sadie?

A. The last few months?

Q. Yes?

A. Oh, he is—— Just the last year I heard a lot about him.

Q. But up to that hour now, when you told Bartlett that lie and told him that you would go out and find Tommy Atkins, you had never heard of a Tommy Atkins, had you?

A. No, no, sir.

Q. That is all right? A. No, sir.

Q. Now, after you got that fifty dollars and started out to hunt Tommy, where did you go first?

A. I went back to Leavenworth and saw my workers.

Q. I didn't ask you who you saw, I will ask you that directly.

A. I went home back to Leavenworth.

Q. Wait until I ask you questions? A. All right.

Q. You went back to Leavenworth? A. Yes, sir.

Q. When you got to Leavenworth, who was the first man you saw?

A. Dennis and Rube—went to the office.

Q. Who was that?

A. Dennis Jones and Rube Smith, they were waiting for me.

Q. How do you know they were waiting for you?

A. Hadn't I told them I was coming down. I had a meeting with them the night before and I told them I was coming down to see the white man and if I got a job I would come back and let them know.

Q. You met Dennis then?

A. Yes, sir, they were there.

Q. Where was Dennis when you met him?

A. In the office?

Q. Whose office? A. Dennis Jones' office.

Q. Was Little Eugie there?

A. No, sir, that was in the night.

Q. Do you know Eugie? A. Dennis's friend, yes, sir.

Q. Just his friend? A. Yes, sir.

Q. Not his niece? A. No, sir, his wife's niece.

Q. Some family relation?

A. Not so much family relation, no.

Q. A sort of a left handed niece? A. Yes, sir.

Q. You knew Eugie? A. Yes, sir.

Q. A West Indian girl?

A. No, sir, her father is up there.

Q. You knew that?

A. No, sir I seen him lots of times. You are breaking that news to me Judge.

Q. I am glad I found something new for you?

A. Yes, sir.

Q. You saw Dennis and Rube at his office?

A. Dennis and Rube Smith.

Q. Was Eugie there?

A. No, sir, just Rube, and Dennis and myself.

Q. Now, you tell me what was the first words you said to Dennis, Sadie?

A. I don't know what the first words were.

Q. Search your memory, you have got a beautiful memory?

A. I can't tell you the first one I said to him, I can tell you some of them, can't tell you the first I said to him?

Q. Did you say, good morning Dennis?

A. No, it was night, couldn't have said good morning.

Q. Did you say good evening Dennis?

A. Hello, Dennis.

Q. Hello Dennis, what the hell makes you so late?

A. No, he was there him and Rube both.

Q. What did you say now? A. I can't tell you.

Q. Well, tell me as near as you can now. You said something to him I know?

A. Sure I talked to both of them, that is what I told him. That I went down and met the white man and got a job. I said he has got plenty of money.

Q. You told that to Dennis?

A. Yes, sir, I told that to Dennis.

Q. Now, did you tell Dennis—listen to me and answer my question—did you tell Dennis, that white man has got plenty of money and you and I and Rube will make a Thomas?

A. No, we had done that the night before, Judge.

Q. Well, didn't you tell him again? A. That night?

Q. Yes?

A. No. Dennis told me they got the talk started.

Q. Did you tell him when you got back that night, did you say "I am ready to make Tommy"?

A. No, they got that started the night before.

Q. Answer me. Did you tell him I am ready to make the Tommy? A. No, sir, before that.

Q. Did you ask Dennis if he had any further information? A. No, sir.

Q. What did you say to him, Sadie?

A. I said, Dennis I met the white man and he gave me a job, and Dennis said we got the talk started. We had framed up the night before that.

Q. Leave that out. I will get to that. You said to him, "I met the white man and he has got plenty of money"?

A. No, sir, I said I met the white man and he has got plenty of money.

Q. What did Dennis say?

A. I have got the talk started.

Q. What else did he say? Let's have that whole conversation?

A. What else, I don't know what else was said up there.

Q. Now, Sadie, how long did you stay up there?

A. I stayed up at Dennis's office to eleven or twelve o'clock at night, just him and I. Didn't stay that long when--

Q. I know you had lots of conferences, but how long did you stay that night?

A. I don't know, but in the conversation, Dennis said I have got the talk with the people I know.

Q. What was that conversation?

A. I don't know it all.

Q. Give it to me the best you know how. You were just starting out then on your crusade to find Tommy?

A. Yes, sir.

Q. And that was the first blow struck right then, wasn't it? A. Right then, yes, sir.

Q. Tell me what was said?

A. That was all that was said that night.

Q. How long did you stay up there?

A. About two weeks.

Q. How long did you stay at Dennis's office that night?

A. I don't know how long I stayed that night.

Q. Rube was there? A. Rube Smith was right in there.

Q. Did Rube Smith say anything?

A. Not that night, he didn't do any talking; might have been talking, but not about that.

Q. You weren't talking about anything else but Tommy, were you?

A. Oh, yes, Dennis and Rube and I talked about lots of things.

Q. Why Sadie, with that fifty dollars in your pocket and with a good prospect ahead of going out there to find Tommy, and that being the opening wedge, you say that you drifted over that and entered into personal conversation about other things?

A. Listen, Judge, that fifty dollars I had, Dennis and them didn't know I had it, they didn't know what I had.

Q. I didn't ask you about what Dennis said, but is that all that occurred that night?

A. About Tommy that night.

Q. Search your memory, because you don't forget things?

A. Not very good.

Q. Tell me what occurred there besides Dennis saying—

A. I got the talk started with people I know.

Q. Well, tell me what else was said, Sadie, put your mind on it? A. No, not that night.

Q. That is all?

A. That is all about that case, yes, sir.

Q. What time did you leave his office that night?

A. I left there, I guess we stayed there about an hour, I hadn't been home, I think about an hour.

Q. What time did you go up there?

A. To Dennis's office?

Q. Yes?

A. Must have been about, I guess it must have been between half past eight and nine, I guess.

Q. And you left there about half past nine or ten?

A. Along in there some place.

Q. Where did you go then?

A. Went to my home. That was at night.

Q. Leavenworth? A. Yes, sir.

Q. Where was your home in Leavenworth?

A. At the corner of Second and Cherokee, two blocks and a half from Dennis's.

Q. Two blocks and a half from Dennis's? A. Yes.

Q. Who lived in your place with you? A. My husband.

Q. Who else? A. My daughter and her husband.

Q. Who else? A. A girl named Bettie Smith.

Q. Did you stay there that night?

A. Oh, I stayed there two weeks after that.

Q. Did you stay there that night? A. Yes, at my home.

Q. I am not pursuing your peregrinations; did you stay there that night? A. Yes, sir.

Q. After you got up in the morning then where did you go?

A. Didn't go anywhere except around in town to see people.

Q. Tell me the first person you saw?

A. I don't know the first person I saw the next morning.

Q. Who was the second person you talked to the next morning about it?

A. The next day, I didn't talk to anybody the next day about it?

Q. Not a soul?

A. But in that two weeks' time I talked to dozens of people.

Q. Let that two weeks alone, Sadie. I am trying to treat you fairly, answer my questions. To whom did you talk the next day about Tommy Atkins? A. No one the next day.

Q. Why didn't you? A. Why didn't I?

Q. Yes?

A. There wasn't no Tommy and Dennis and Rube had started the talk.

Q. But you were making one?

A. Yes, I was going to make one but it was Rube's business to do that.

Q. I understand, but you were making a Tommy?

A. Yes, but we didn't start to making one the next day.

Q. You started two nights before that?

A. Yes, but had to get that talked——

Q. You started two nights before, didn't you?

A. Yes, sir.

Q. And the second day you never said a word about Tommy, did you?

A. To nobody, Dennis had got the talk started.

Q. Did you see anybody the third day?

A. I don't know as I did. It was about——

Q. Answer that. A. No.

Q. Did you see anybody the fourth day?

A. I don't think so.

Q. Did you see anybody the fifth day?

A. Well, I guess so. Along about—after I had been home about four or five days.

Q. Now, who was that?

A. That was my brother. Do you know what my brother was named?

Q. What is his name? A. Sam Nash?

Q. Were you talking about being a granddaughter of Granny Letcher? A. Who did I tell?

Q. Didn't you call her grandmother?

A. Called her Granny, not my grandmother.

Q. Is that Sam's grandmother?

A. Yes, Sam's, but not mine, he is not my brother.

Q. Half brother? A. No relation at all of mine.

Q. What do you call him brother for?

A. We were raised from children as brother and sister.

Q. Sam Nash is no relation in the world then?

A. Not a bit.

Q. Granny Letcher was no kin?

A. Not a bit in the world.

Q. You called Sam brother, and Granny, Granny?

A. Yes, sir.

Q. You talked to Sam the the next day?

A. Not the next day.

Q. About the fifth or sixth day?

A. Along in there some place.

Q. You talked to Sam. Who was present when you tackled Sam?

A. A white woman in the house where he was working.

Q. What was her name?

A. He was working for Mrs. Davis, and I guess it was Mrs. Davis.

Q. You testified it was Mrs. Davis? A. Mrs. Davis?

Q. Who was Mrs. Davis?

A. Mrs. Davis, the white woman he was working for.

Q. Where was that?

A. The south part of town on Vine Street I think, between Second and Third.

Q. What was it, a one story or a two story house, Sadie?

A. I think it was a two story house.

Q. A two story? A. Yes, sir.

Q. Where did you see Sam, up stairs or down stairs?

A. No, sir, down stairs in the parlor. He was washing windows.

Q. Did you go up stairs where Sam was?

A. He saw me coming in and had to come out. They had a pit dug and I didn't know it, and he came out to get me.

Q. Took you in the parlor?

A. Yes, sir, it was all torn up.

Q. I understand. All I asked you was if he took you in the house? A. In the front of the house, yes, sir.

Q. Where did he take you, in the parlor? A. Yes, sir.

Q. Over next to one of the windows?

A. Next to where he was washing windows at.

Q. The parlor was here, we will say; where was Mrs. Davis at that time?

A. The house runs this way and Mrs. Davis was in another room with folding doors.

Q. What was she doing?

A. Might have been washing silverware at the table.

Q. She was busy? A. Yes, sir.

Q. You went up to Sam, close to him? A. Yes, sir.

Q. Nobody heard you?

A. I tried not to. My brother talked so loud I thought Mrs. Davis did, and I left out of there.

Q. What did you say to your brother, in the start, what did you say to your brother?

A. I said, Sam, we have started to tell about a baby being born in Granny's house by an Indian woman that used to work for the Hyde's and there is money in it; and he said, Sadie, I remember Granny keeping Eva and Mary Anthony's baby, and if we start that talk the old people will start to talk and we will get in trouble.

Q. And he talked so loud? A. Yes, sir.

Q. Now, Sadie, I want you to tell me this: You didn't know Minnie Atkins at all, did you? A. Didn't know her?

Q. At all, did you? A. I did, yes, I did.

Q. Where did you know her? A. I knew her at Hyde's.

Q. You knew her at Hyde's? A. Knew her at Hyde's.

Q. And—— But you never knew she had a baby in Leavenworth, did you?

A. No, I didn't. If she had had one at the negro house I would have knowed it though.

Q. Hold on, you didn't know that Minnie had ever had a baby in the City of Leavenworth, did you?

A. No, sir, because she had it at the white people's house.

Q. You were very familiar with her, weren't you, until about three months before you left? A. Yes, sir.

Q. Intimate with her? A. Yes, sir.

Q. Got her picture? A. Yes, sir.

Q. Running with her every day? A. Oh, no.

Q. Seeing her every day? A. Not every day, Judge.

Q. Every other day? A. Not every other day.

Q. Every few days? A. Several days apart.

Q. But you didn't know, or never heard that she had a baby until this hearing commenced, did you?

A. Known that she had that baby sure.

Q. Any baby at Leavenworth?

A. No, not at Leavenworth.
Q. Any at Leavenworth?
A. That she had at Leavenworth?
Q. In the City of Leavenworth? A. No, I didn't know.

By Mr. German: Do you mean at this particular hearing?

By Mr. Stuart: Since this suit commenced.

A. You mean had any baby at all?
Q. At Leavenworth? A. Born in Leavenworth?
Q. Yes? A. No, I didn't know that.
Q. Did you miss Minnie at any time? A. Miss her?
Q. Yes, did she disappear at any time that you knew her?
A. Not while she was at Hyde's that I knew of.
Q. Well, you know her, did she disappear for any length of time?
A. I left Leavenworth about November and didn't go back until March.
Q. November what? A. 1884.
Q. And came back about March, eighty five?
A. Yes, sir.
Q. And you resumed your acquaintance with Minnie again, didn't you? A. Yes, sir, again.
Q. And you and her were good friends?
A. When she came in town, she didn't come often.
Q. Where was she working then? A. In the Fort.
Q. Going back and forth to town? A. In the——
Q. Did you know Granny Letcher? A. Did I know her?
Q. Yes, did you know her? Don't swell up and get excited, did you know her? A. Sure I knew her.
Q. How long did you know Granny Letcher?
A. From 1879 until she died.
Q. Did you ever visit Granny Letcher's house?
A. I lived there.
Q. You lived there? A. I lived there.
Q. Did you know her when she lived on Cherokee Street?
A. Yes, sir, before ever she moved there.
Q. I mean when she lived on Cherokee? A. Yes, sir.
Q. She left Cherokee and went to Seneca; did you know her at Seneca? A. Oh, yes, Judge.
Q. And she lived right across from Crilly's barn, didn't she? A. Yes, sir.
Q. And Crilly had a house right next to it called the Seneca or old Chadwick House?
A. I don't know what it was called.
Q. Well, you know there was an old house right next to Crilly's Barn, don't you? A. Yes, I know that.

Q. You know that Brock had a barn in that neighborhood too? A. I think so, I was working for him.

Q. And you were out in that barn sometimes?

A. No, sir, only one colored place down there.

Q. You run with white people then? A. Yes.

Q. You hadn't started with colored people then?

A. No, sir, quit them.

Q. You had the play with white men altogether?

A. Altogether, yes, sir.

Q. You quit—— After you quit around Brock's, you didn't go by the barn? A. No, I never did go there.

Q. But you know where Brock's barn was?

A. Next to George Crilly's down there somewhere.

Q. Where was it, right up against Crilly's?

A. I don't know.

Q. Sadie, how long did you work for Brock?

A. I worked for Brock about a year and one month.

Q. He was in the Livery Businesss? A. Doctor Brock?

Q. Yes? A. He was a doctor.

Q. He had a barn?

A. Had a barn with their coachman down there. He had a wife and his wife's sister and his daughter.

Q. I don't care how many uncle's and aunt's were there, he had a barn? A. Had a barn.

Q. Do you know where that barn was?

A. Six blocks from us about, I never did go down there.

Q. You never did go down there?

A. Never did go down there. .

Q. How often did you visit Granny Letcher's from March eighty-five, when you came back, during the year eighty-five?

A. Visited Granny Letcher's clear up until I left in eighty-nine; in there every night or so. I was working and had business in Granny Letcher's.

Q. In there frequently? A. Yes, sir.

Q. Minnie was in there a good deal, wasn't she?

A. Oh, no.

Q. You never saw Minnie there?

A. In my life. Never been in Granny's house that I know of.

Q. Never was there? A. That I know of.

Q. Did you know old Aunt Mollie, the fortune teller?

A. Old Aunt Mollie.

Q. The celebrated Fortune Teller there whose name was Aunt Mollie A. I don't think I did.

Q. Did you ever have your fortune told there, Sadie?

Q. White women paid five dollars in hotels, I didn't let negroes tell my fortune.

Q. This was a large raw-boned negro by Crilly's?

A. I don't know Aunt Mollie.

Q. The fact is, Sadie, you didn't know many people in the town? A. Everybody in the town.

Q. Everybody? A. Everybody that lived there, every one.

Q. You tell the Examiner that you never heard Aunt Mollie, the Fortune Teller? A. I never knowed Aunt Mollie.

Q. Did you ever hear of her? A. I don't know as I have.

Q. Did you ever go in George Crilly's barn?

A. No, never in George Crilly's barn.

Q. Did you ever go in Vantyles Barn?

A. No, never in Vantyle's barn.

Q. Never there? A. No, sir.

Q. Did you know where Mr. Seth lived, a dutchman—Seth? A. Seth?

Q. Yes? Did you know where old man Seth lived?

A. I don't think I knew Seth.

Q. Did you know a man there by the name of Dorlen?

A. Yes, sir, white people that you are talking about now?

Q. Yes, white people? A. I never heard of them.

Q. Did you ever hear of them? A. I don't know.

Q. Did you know who Granny Letcher's neighbors were?

A. Had a white woman on this side.

Q. Who was it?

A. I don't know what that old German Lady's name was.

Q. Who was her neighbors there on the other side of Letcher's? A. I don't know.

Q. Don't know? A. No.

Q. Yet you say you knew everybody in town?

A. I didn't say all the white people.

Q. All the darkies?

A. Yes, sir, I didn't say all the white people.

Q. I thought you quit negroes and was running with white people? A. No, I didn't mean that way.

Q. Not that way? A. Oh, no.

Q. Did you know who lived in the house next to George Crilly's barn?

A. No, I didn't, it must have been white people.

Q. Did you ever hear of a lady by the name of Mrs. Cobb?

A. Mrs. Cobb?

Q. Yes, Mrs. Cobb? A. Mrs. Cobb, no, I don't think so.

Q. You didn't hear of her? A. I don't think so.

Q. Did you ever hear of a lady by the name of Mrs. Edwards?

A. I heard of Mrs. Edwards, because Mr. Edwards lived there by the barn, by George Crilly's, didn't he?

Q. Don't ask me. You tell me.

A. I think she did, I think she lived in the house by George Crilly's, I think she did.

Q. You think she did? A. I think she did.

Q. Do you know whether a negro house of prostitution was right close to George Crilly's?

A. On the corner, yes, sir.

Q. Who ran that? A. Eva Bell.

Q. Who was in there with Eva running it?

A. She had a white man in there with her running it, married to a white man.

Q. Run a regular house of prostitution? A. Yes, sir.

Q. Right on the corner?

A. Right on the corner in the Brick.

Q. Did you know Mary Smith? A. White woman?

Q. No, I don't care whether white or black, a woman named Mary Smith?

A. There are two or three Mary Smith's in Leavenworth. I know two of them.

Q. Name them.

A. One colored woman and one white woman.

Q. Tell us about the white woman?

A. Lived at Sixth Street near Shawnee at that time she lived up on the corner of Miama and Third at that time, Mary Smith; I ran with her sister.

Q. Lived where? A. Corner of third and Miama.

Q. That is a dark woman, Mary Smith, the colored woman? A. No, sir, the white woman, with a negro sister.

Q. White woman with a negro sister? A. Yes, sir.

Q. She lived there? A. She lived there, yes, sir.

Q. Now when you had this little talk with Sam Nash, Sam said to you, Oh I never did know anybody but little Eva— little Edna, or whoever it was, did you tell Sam: Sam we have got to make a Tommy? A. Oh, no, I didn't tell him that.

Q. Did you tell Sam, "I am hunting for a Tommy"?

A. No, I didn't, I told him what I was trying to start and he got to talking too loud for me.

Q. What you were trying to start?

A. Start, saying that this Indian woman had a baby in his grandmother's house, and he refused to do for me what I wanted done.

Q. Then, you did let Sam know that you were going to practice fraud, did you? A. Yes, I did.

Q. And you were trying to get him to help?

A. Trying to get my brother to help me.

Q. Your brother? A. I will say Sam.

Q. Sam said he wouldn't stand for it?

A. He said if we did, the old settlers in Leavenworth would know about it.

Q. I ask you Sadie, wasn't that a put up job too?

A. What a put up job?

Q. What you are telling me now? Is that the truth that you are telling me, that Sam told you he never heard of Tommy Atkins? A. Yes, the truth I am telling now.

Q. Sam told you that?

A. He did. My brother said to me, "I don't know no Minnie Atkins."

Q. Never knew Minnie?

A. Yes, he would have been lying if he said so.

Q. Why didn't he know Minnie if you knew Minnie?

A. Do you know where my brother lived?

Q. Never mind where he lived?

A. I worked with Minnie.

Q. But Sam lived in the town, didn't he?

A. Lived in the town.

Q. How old was he? A. He was about eighteen.

Q. About eighteen? A. Yes, sir.

Q. He was a pretty lively one for a one armed boy, wasn't he? A. Yes, sir.

Q. He was staying around right smart among the ladies?

A. Among the negro ladies, yes, sir.

Q. Somewhat of a lady's man? A. Yes, sir.

A. Moving around town? A. Yes, sir.

Q. But you say Sam told you that he never heard of Indian Minnie?

A. He did, because she never run with any negroes, she didn't. Aint a negro in town that knows her.

Q. Aint a negro in town that knows her?

A. Knows her now since she has been swigged. She is fifty years old now.

Q. She is over fifty years old now. Will you tell the Examiner and these witnesses here that there is not a negro in Leavenworth that ever knew Minnie?

A. I don't believe they ever knowed her until she went to the Fort.

Q. You claim to be the only dark one of the negroes that knew Minnie? A. The only nigger.

Q. The only negro in Leavenworth that ever knew Indian Minnie in Leavenworth? A. The only negro right there.

Q. You will make that statement?

A. Yes, sir, I will make that statement.

Q. And stick to it?

A. And state there is not a negro in Leavenworth. They are lying if any negro in town ever said they had ever seen Minnie Atkins until a year ago, and I will tell him he is lying.

Q. Man or woman?

A. Yes, sir, I don't care who they are.

Q. Drop the negroes and go to the white men?

A. All right.

Q. Was any white man that ever knew Indian Minnis there besides Hyde? A. I won't say that.

Q. Do you know of any white man that knew her besides Hyde?

A. No, sir, not myself. Only heard her speak of two but she might have known a lot of them.

Q. Didn't Dennis tell you the very first time that you located him in the office, Sadie, look me in the face?

A. All right, Judge, but I am sick. This talk about Dennis, about him knowing her.

Q. That talk about Dennis making you sick?

A. Yes, sir, that makes me sick.

Q. When I mention Dennis you get sick?

A. It made me sick.

Q. Is it because Dennis is a crook?

A. Well, Judge, I have been working with him, I know him a whole lot.

Q. You and he put up a whole lot of things?

A. A lot of things from the time he was on the Police Force until I left Leavenworth.

Q. What was the first thing you put up with Dennis?

A. I refuse to tell that.

Q. You are not answering because you would incriminate yourself and be prosecuted? A. I am not going to tell it.

Q. That is barred anyway? A. No, I will never tell it.

Q. You and Dennis put up a job? A. Yes.

Q. In 1889?

Q. Didn't put up no job, lots of things that he broke me in.

Q. You and he were getting the best of somebody in 1889? How many years ago is that?

A. 1889, about twenty seven years, wouldn't it be?

Q. Yes, you are good figurer?

A. Yes, I am a good figurer, I can figure with anybody about when and where it was.

Q. Keep your eye on the coin all the time?

A. All the time on the coin.

Q. Looking for something? A. Looking for something.

Q. All the time got your eye open for the dollar?

A. For the dollar, yes, sir.

Q. That is what you are hunting for all the time?

A. Yes, sir, all the time.

And thereupon, a short recess is taken.

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IN THE
SUPREME COURT OF THE UNITED STATES.
OCTOBER TERM, 1921.

No. 253.

THE UNITED STATES OF AMERICA, *Appellant,*
vs.
MINNIE ATKINS, *ET AL., Appellees.*

No. 254.

NANCY ATKINS, H. A. RIDGWAY, GUARDIAN
OF NANCY ATKINS, *ET AL., Appellants,*
vs.
MINNIE FOLK, *NEE* ATKINS, *ET AL., Appellees.*

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF
APPEALS FOR THE EIGHTH CIRCUIT.

ABSTRACT AND BRIEF ON BEHALF OF NANCY ATKINS INTERESTS.

The Issues.

The United States of America filed its bill of complaint in the United States District Court for the Eastern District of Oklahoma against Minnie Atkins and her lessees, Gem Oil Company, Charles Page and R. A. Josey, and against Nancy Atkins, an incompetent, and her then guardian, Micco T. Harjo (now H. A. Ridgway, substituted), and her lessees, Robert L. Rutherford and James A. Ferguson, and various other parties whose interests or claims have been eliminated. Subsequently, an amended bill of complaint was filed, which appears, beginning page 1 of the record, and in substance it charges:

That this bill is brought by the United States by the District Attorney for the Eastern District of Oklahoma, by direction of the Attorney General of the United States in its own behalf and in behalf of the Creek Nation of Indians; and it alleges the residence and citizenship of the various parties and the location of the land in controversy. It alleges the history of the allotment of the lands in the Indian Territory, particularly in the Creek Nation; that among others is the 160 acres of land described therein which is the subject matter of this litigation. It was alleged that on the 1st of April, 1899, and prior thereto, said land was a part of the lands belonging to the Creek Nation as public and unalotted domain.

It sets forth the Acts of Congress creating the Commission to the Five Civilized Tribes, commonly called the Dawes Commission, and the duty devolving upon it to make rolls of the tribes and to allot lands respectively to those entitled thereto; and alleges that, under the Act of Congress, no person not a member of one of the civilized tribes, and no member of said tribes who was not living on the 1st day of April, 1899, in the Indian Territory, was entitled to be placed on the official roll of the particular tribe, in this instance the Creek tribe, nor was such person entitled to an allotment or distributive share of the public lands of the Creek tribe, nor was the Commission authorized to enroll or allot lands in the name of any fictitious person.

Then the bill alleges that on the 23rd of May, 1901, the said Dawes Commission, without any application being made by any person and upon its own motion and in an *ex parte* proceeding, without hearing, listed for enrollment the name of Thomas Atkins, as being a son of a Creek Indian woman by the name of Minnie Atkins, and as representing a citizen by blood of the Creek Nation entitled to be enrolled as such and receive an allotment as other enrolled citizens of the tribe, of the lands of which the Commission was authorized to allot to citizens thereof.

It further alleges that pursuant to said enrollment, subsequently the lands described in the bill of complaint were arbitrarily allotted to Thomas Atkins, as the Commission was authorized to do. Allotment certificate was made and, subsequently, patents were executed thereto by the Principal Chief of the Creek Nation, which were subsequently approved by the Secretary of the Interior and recorded in the office of the Commission.

The bill alleges that the enrollment, allotment and patents were null and void because of false and fraudulent evidence relating to the citizenship in the Creek Nation of the said Thomas Atkins, growing out of the Authenticated Pay Roll of the Creek Nation of 1895, which was used as evidence by the Commission. And it alleges that the name, Thomas Atkins, appears upon said Pay Roll in the family headed by the name of Minnie Atkins, as evidence that Thomas Atkins, in 1895, was a living member and citizen of said tribe and a member of Euchee Town, one of the bands of the Creek tribe; that on the 23rd of May, 1901, the Commission had before it and used as evidence and relied upon said 1895 Pay Roll and believed it spoke the truth; and, without any hearing or further investigation listed for enrollment the name of Thomas Atkins opposite Roll No. 7913; and alleges that said Pay Roll thus furnished false evidence to the Commission upon which it relied in ignorance of its falsity in this, to-wit:

That in June, 1895, the National Council of the Creek Nation, its legislative body, appropriated the sum of $200,000.00, which had been appropriated to the Nation by an Act of Congress of March 2, 1895, for the purpose of making a per capita payment of said sum to the members of said tribe, and for the purpose of making said per capita payment, a Roll, of the tribe was ordered prepared; that the tribe was divided into forty-seven bands, known as towns, and each of said towns had as its chief officer one of its members called the Town King; that at that time and prior thereto, Samuel W. Brown was the

Town King of Euchee Town, to which the defendants, Minnie Atkins and Nancy Atkins, belonged; that it was customary for the Town Kings to give in the names of the members of their respective towns, for the purpose of making up Rolls of the members thereof, and that the Rolls of the various towns, taken together, constituted the Roll of the tribe; that, in accordance with this custom, the said Samuel W. Brown, as Town King of Euchee Town, in making up the 1895 Pay Roll, gave in the name of Thomas Atkins as a living member of said town and tribe, and as a member of the family of Minnie Atkins and, thereby, caused the same to be placed upon the Roll of the members of said town and of said tribe; that in giving this information Samuel W. Brown acted upon false statements of one John Davis, a relative and agent of Minnie Atkins, made to him, the said Brown, that the said Thomas Atkins was at that time a living member of the said Creek Tribe of Indians and of Euchee Town thereof, belonging to the family of Minnie Atkins; that the officers of the tribe, in making up the Pay Roll, were induced and persuaded to and did enroll the name of Thomas Atkins upon the false statements and representations so communicated to them by the said Samuel W. Brown to the effect that the said Thomas Atkins was at the time a living citizen of said nation and town thereof, and entitled to share in the distribution of said money; and the bill averred that in truth and fact no such person as Thomas Atkins, a member of the Atkins family of

Euchee Town, was in being at that time, nor was there ever such a person except the father of Minnie Atkins and Nancy Atkins, and that their said father, Thomas Atkins, died more than ten years prior to 1895, as the said Minnie Atkins and Nancy Atkins both well knew; and that the Thomas Atkins, so enrolled upon the 1895 Pay Roll, was a myth and fictitious person, and this the said Minnie Atkins and John Davis well knew at the time, and that the said Samuel W. Brown was ignorant of that fact and believed the false and fraudulent representations made to him, and acted innocently in communicating such information to the officers of the tribe, and that the officers of the tribe engaged in making up the Roll believed said false and fraudulent representation to be true and relied thereon and in such belief and reliance placed the name of Thomas Atkins on said Roll.

That the Treasurer of the Creek Tribe, in the fall of 1895, made distribution in payment of said per capita payment to the members of the tribe in accordance with the Roll, and that Minnie Atkins received and collected from said nation, through the said Treasurer, the sum of $14.40, the same being the amount paid to each citizen, as a payment belonging to Thomas Atkins, and at the time concealed from the tribe and its officers the fact that there was no such person as Thomas Atkins, and did so for the purpose of defrauding the Creek Nation out of the said sum of $14.40, and that said concealment had that effect.

The bill alleged that Nancy Atkins, well knowing that the said name, Thomas Atkins, was wrongfully enrolled, has ratified the fraudulent practice made upon the Commission, as aforesaid, and adopted it as her own, and has sought to take, receive and enjoy the fruits and benefits thereof by asserting and claiming that Thomas Atkins, enrolled opposite No. 7913, had an existence and was entitled to be enrolled as a citizen of the Creek Nation and to have allotted in his name the lands described in complaint.

The bill alleges that Nancy Atkins claims and asserts that she had a son by the name of Thomas Atkins, and that said enrolled Thomas Atkins was her son, and that he died; and it alleges that Minnie Atkins claims and asserts that she had a son by the name of Thomas Atkins and that said enrolled Thomas Atkins was her son, and that he died. Complainant alleges that these and other claims set forth therein are false and then sets forth various and divers conveyances, which affect the land in question. A cancellation of all of them is prayed.

Then other allegations are set forth as a second ground of relief. Briefly stated they are, that the proceedings for the enrollment of Thomas Atkins were *ex parte,* but as the evidence is so at variance with that allegation, and these same facts in the record have been passed upon by this court in *United States* v. *Wildcat,* 244 U. S. 111, commonly known as the *Barney Thlocco* case, where it was held that the proceeding was not *ex parte,* we omit from further consideration those allegations.

The complainant further alleges that the land is situated in the oil and gas belt of the Creek Nation, and in a portion thereof known as the Cushing Field, and that the lands are of great value, because of the body of oil and gas thereunder; and alleges that the Gem Oil Company, Charles Page and R. A. Josey, without authority or consent of the Creek Nation, claiming to do so under pretended lease contract, or conveyance, executed to them by some or all of the alleged heirs of Thomas Atkins, have entered upon the lands and are proceeding to prospect and drill therein for oil and gas, and have drilled and removed therefrom, and disposed of for the exclusive use of themselves and of some of the alleged heirs of Thomas Atkins, great quantities of oil and gas, the value of which is not and cannot be known to the plaintiff; and that said defendants have no right, title or interest in and to said lands and oil and gas thereunder, and that the acts of the defendants in so unlawfully entering upon the said lands aforesaid, and prospecting and drilling and taking and removing oil and gas therefrom, constitute a continuous trespass on the lands in violation of the rights of the plaintiff and of the Creek Nation, and the acts constitute a waste upon the estate of the Creek Nation.

The prayer is for a receiver to take possession of the property and to have the various instruments affecting the title set forth therein cancelled, and to quiet the title in the complainant and the Creek Nation (Rec., pp. 1-19).

We omit from reference the many pleadings filed by other parties than those now before the court.

Nancy Atkins, by H. A. Ridgway, her guardian, filed her separate answer. The historical part of the bill is admitted in the main to be correct. She denies that the enrollment on May 23, 1901, by the Dawes Commission, of Thomas Atkins, was an *ex parte* proceeding, but alleges that the proceedings thereupon on said date was upon the motion and initiative of the Commission, and the members of the Creek House of Kings and House of Warriors. She admits the Commission listed the name of Thomas Atkins, a representative and citizen by blood of the Creek Nation, and admits that said list for enrollment was for the purpose of placing the names upon the Final Roll of citizens by blood of said tribe, then being prepared by the Commission under the Act of Congress. She admits that the Commission arbitrarily and without application being made therefor allotted the lands described in said bill of complaint in the name of Thomas Atkins, as alleged therein, and as the said Commission had a right to do. She admits that the Rolls of the Creek Nation were used as evidence by the Commission, and that among those Rolls was the Authenticated Tribal Roll of 1895, and she admits the name of Thomas Atkins appeared upon said Pay Roll in the family headed by the name of Minnie Atkins; and admits that said Roll shows upon its face that Thomas Atkins was, in 1895, a living member and citizen of the tribe and a member of Euchee Town; and admits that on the 23rd of May, 1901, the Commission had before it and used as evidence said 1895 Pay Roll, and admits that the Commission believed the said 1895 Pay Roll spoke and represented the truth, so far as the question of citizenship of Thomas Atkins was concerned; but she denies that the Commission finally determined the question of his citizenship and listed the name of Thomas Atkins without any further evidence or other investigation being made. She admits the 1895 Pay Roll was material evidence on the question of whether Thomas Atkins was a citizen and member of the tribe in the year 1895; and denies that the Pay Roll was false and fraudulent, as alleged in the bill of complaint. She denies that in the making of the 1895 Pay Roll Samuel W. Brown, as Town King of Euchee Town, acted upon the false statements of John Davis, a relative and agent of Minnie Davis. She denies that the officers of the tribe, in so making up said Roll, enrolled the name of Thomas Atkins upon the false statement and representations made to them by Samuel W. Brown, to the effect that Thomas Atkins was at that time a living member and citizen of the nation. She denies that the said Thomas Atkins, so enrolled on the 1895 Pay Roll, was a myth and fictitious person. She denies that Minnie Atkins caused the name of Thomas Atkins to be placed upon the 1895 Pay Roll for the fraudulent purpose and with the fraudulent intent of enjoying whatever benefit might accrue to her as the sole relative and heir of Thomas Atkins. She denies ratifying any fraudulent acts and practices, as alleged. She admits that she claims and asserts that she had a son by the name of Thomas Atkins and that said enrolled Thomas Atkins is her son, and that he is dead. She denies that said claim is false. Other allegations of the bill are appropriately denied wherein any fraud is charged against her. And she reiterates that she is the mother of the Thomas Atkins enrolled, and that he is dead and that she is his sole heir. She admits that the lands are valuable, and are situated in the Cushing Field; but she says that it is not true that the Creek Nation is the owner of the lands. She says that it is true that the Gem Oil Company, Charles Page and R. A. Josey, without authority and consent of the Creek Nation, etc., have unlawfully entered upon said lands and are proceeding to prospect and drill them. She alleges the due conveyance of these lands to her son, Thomas Atkins; that he died sometime in the year 1902; that he was born and resided during his life in the Creek Nation.

Then she makes her answer a cross-bill against Minnie Atkins, Gem Oil Company, Charles Page, R. A. Josey and the other parties who are made defendants herein, who have been eliminated heretofore. She sets up the various conveyances affecting this land, which she alleges are clouds upon her title, and prays for their cancellation.

Then she alleges that on the 2nd of October, 1912, some person claiming to be or representing to be Minnie Atkins, executed a quitclaim deed to the defendant, H. U. Bartlett, and that afterwards, on the 29th of November, 1912, said H. U. Bartlett executed an oil and gas lease to the defendant, Gypsy Oil Company. She alleges that thereafter the Gypsy Oil Company entered upon and took possession of the lands for the purpose of developing and operating the same for oil and gas, and that thereafter, on the 23rd of July, 1913, she, through her guardian and next friend, who at that time was Micco T. Harjo, instituted a suit in the District Court of Creek County, Oklahoma, to cancel the conveyances from the purported Minnie Atkins to H. U. Bartlett and the lease from Bartlett to the Gypsy Oil Company and to quiet her title to said lands and recover possession thereof; that thereafter, on the 24th of March, 1914, she recovered a judgment in said court, quieting her title to said lands and adjudging her to be the lawful owner thereof, and entitled to the possession. A copy of the judgment was attached, as Exhibit "A" to her cross complaint. She alleges that after the judgment was obtained, the Gypsy Oil Company appealed said action to the Supreme Court of the State of Oklahoma, and perfected its appeal, and executed an undertaking for appeal in the sum of $6,000.00.

She alleges that afterwards, during the month of June, 1914, the defendants, Charles Page and R. A. Josey, with knowledge of the judgment in favor of this defendant, instituted a search for the defendant, Minnie Atkins, for the purpose of obtaining a lease, deed or other conveyance to said lands, and that after considerable search they found Minnie Atkins, and obtained the deed from her and her trustee, heretofore set out in the Government's bill, and so obtained an oil and gas lease, which is set out in the Government's bill. She alleges that the deed and lease were obtained by the defendants, Page and Josey, with full knowledge of her rights, and with full knowledge that she had obtained the judgment set out in the District Court, and that same was pending on appeal, or was about to be appealed. She alleges that the Gem Oil Company is a corporation, but that its stock is owned and it is controlled by the defendants, Page and Josey. She alleges that shortly after Page and Josey obtained said lease, they entered upon the lands in controversy, without her knowledge and consent, and by force and against her will, and against the will and consent of the Gypsy Oil Company, broke and entered the enclosure around said lands and took possession of a portion of them and erected a derrick thereon. She alleges that after they had obtained possession of a portion of said lands, they caused Minnie Folk to bring an action in the District Court of Creek County for the purpose of quieting their title to said lands and for the purpose of obtaining an injunction against the Gypsy Oil Company and Bartlett, restraining them from interfering with the possession of Page and Josey. She alleges that said action was consolidated with other actions pending in said District Court, and alleges the proceedings therein, whereby Page and Josey were given permission to drill a well upon said land upon the express condition and understanding that they should not receive any compensation for the drilling of the well in the event it should be decided later that they were not entitled to the property in controversy. Copy of the order was attached, as Exhibit "B." She alleges that all the drilling upon said land by the defendants, Page and Josey, had been at their own risk and expense, and that all the drilling and other operations upon said land except the first well drilled therein by them, has been done in violation of the order of court.

She alleges further that an agreement had been reached between Page and Josey and the Gypsy Oil Company, by which the Gypsy Oil Company surrendered to Page and Josey the possession of the remainder of the lands, and that they dismissed their appeal pending in the Supreme Court of Oklahoma.

She further alleges that, by order of the County Court of Nowata County, she executed a lease to J. B. White and others therein mentioned, which said lease was assigned to the defendants, Robert L. Rutherford and J. A. Ferguson, on the 28th of September, 1915, and that they are now the owners and holders of the oil and gas rights in the land. She prays for a dismissal of the bill filed by the United States, and that her title be quieted as to all of the defendants except as to Rutherford and Ferguson, her lessees, and that an account be taken of the oil and gas produced from said lands by the defendants, Charles Page, R. A. Josey, the Gem Oil Company and Gypsy Oil Company, and that she have judgment therefor (Rec., pp. 81-93). The record of the proceedings in the Creek District Court, Exhibits "A" and "B" to her complaint, are found at pages 93 to 101.

Robert L. Rutherford and J. A. Ferguson filed separate answer, in which they adopted the answer of Nancy Atkins, and set forth that, as assignees of her lease executed to White and others, they are the owners of the oil and gas in said land (Rec., pp. 101-102).

The answer of Minnie Folk is found beginning at page 64. It is a denial of all the charges against her, that she falsely caused the enrollement of Thomas Atkins. She admits that Brown, as Town King of Euchee Town, in making up the 1895 Pay Roll, gave in the name of Thomas Atkins to the National Council of the Creek Nation, as a living member and citizen of the town and tribe, and part of the family of Minnie Atkins, and thereby caused said name to be placed upon the roll of members of said tribe, "and that, in so doing, said Brown acted upon information obtained from John Davis, a relative and agent of Minnie Atkins, duly authorized by her, to the effect that Thomas Atkins was at that time a living member of the family of Minnie Atkins." She denies that the information so imparted to said Samuel W. Brown by said John Davis was false or fraudulent. She admits that the officers enrolled the name of Thomas Atkins, upon the statements made by said Brown, but denies their falsity (Rec., p. 67).

Charles Page filed separate answer, beginning at page 47, which is, in substance, the same as that of Minnie Folk.

R. A. Josey filed answers stating that he had conveyed all his right, title and interest in the premises to Charles Page, and he disclaimed any right, title or interest in or to the same (Rec., p. 90).

Charles Page filed answer to the cross bill of Nancy Atkins, in which he denied her material allegations. He admits that the Gypsy Oil Company and H. U. Bartlett have released and quitclaimed to him all their right, title and interest (Rec., pp. 107-110).

The Gem Oil Company filed answer that it has conveyed all its right, title and interest to Charles Page and R. A. Josey (Rec., p. 26).

The Gypsy Oil Company filed answer that on the 20th of January, 1915, it relinquished and released to Charles Page and R. A. Josey all its right, title and interest in the land in controversy.

In answering the complaint of the Government, it further alleges that the records of the Dawes Commission showed that Thomas Atkins was a duly enrolled citizen and the owner of this land, and that he was the son of Minnie Atkins, and that a patent had been duly issued to him; and the defendant, being informed and believing that Thomas Atkins had died after allotment, leaving Minnie Atkins as his sole heir, procured an oil and gas lease on said land, their mesne conveyance relating back to Minnie Atkins, paying a valuable consideration, and that they had taken therefrom 4090.74 barrels of oil of the value of $3,556.78, and had expended in producing the same, $15,615.08, and they ask that in an accounting, their expenditures be offset against any charge for their receipts (Rec., p. 23).

In the proceedings in court upon the issues joined many thousand pages of deposition and many thousand pages of oral testimony were introduced.

Judge CAMPBELL, the district judge, filed an opinion, reviewing the case, as presented, and held that the Creek tribe had had its day in court and that the enrollment by the Dawes Commission conclusively determined that Thomas Atkins had an existence and was living on April 1, 1899 (Rec., pp. 130-131). Thereafter, he filed a supplemental opinion and findings, determining the several interests represented by the various defendants. As he stated, these were divided into three groups: those claiming under the defendant, Minnie Folk, *nee* Atkins; those claiming under the defendant, Nancy Atkins; and those claiming under the defendant, Henry Carter. The court stated the conflicting contentions between Minnie and Nancy, Minnie to the effect that this was her child, and Nancy never had a son named Thomas, and on the other hand that Nancy claimed that this enrolled Thomas was her son and that Minnie Atkins never had a son named Thomas.

The court said the evidence had been carefully considered on the question as to whether or not Minnie Atkins, in fact, had this child Thomas, as she claims, and stated that this question is generally obscured in this voluminous record by much evidence on both sides, which the court finds unworthy of belief, and that the time and space would not be taken to refer to and analyze it, but that after careful consideration, he found that Minnie Atkins had an illegitimate male child, born to her during the early part of June, 1885, at the home of a colored woman, known as Granny Letcher, in the city of Leavenworth, Kansas, and that she named this child Thomas Atkins. The court further found that prior to the compilation of the Tribal Roll of 1895, Minnie Atkins had conveyed information to certain of her relatives in the Indian Territory of the fact of the birth of Thomas Atkins, which information was eventually imparted to the tribal authorities compiling the Roll, and that the name, Thomas Atkins, appearing at No. 213 of Euchee Town on the 1895 Authenticated Tribal Roll, was placed upon said Roll by the tribal authorities compiling the Roll as the child of Minnie Atkins. The court found that this Thomas Atkins, appearing on the 1895 Authenticated Tribal Roll and later on the Dawes Commission Roll is, in fact, the illegitimate child of said Minnie Atkins, born as aforesaid, in the city of Leavenworth, Kansas, in the early part of June, 1885, and is not the child of Nancy Atkins.

The court said that much of the record consists of testimony on the question of fact as to whether Nancy Atkins ever had a son Thomas, as she now claims, and this question is also obscured by much testimony on both sides not considered worthy of belief. That grave doubt is cast upon Nancy's contention by her own conduct during the period when the Dawes Commission was enrolling the members of the tribe and allotting the land, when she manifested a lively interest in her own enrollment and allotment and that of her brother Lee, who died, as she knew, in 1894 or 1895, but in this correspondence with the Commission makes no reference to her supposed son, Thomas, who, if her present contentions are true, had lived until April 1, 1895, and was clearly entitled to an allotment, and whose death was almost contemporaneous with her correspondence with the Commission. He further held, that in view of the foregoing finding as to the identity of Thomas Atkins with Minnie's son Thomas, it became immaterial as to whether, in fact, Nancy Atkins ever had a son, Thomas (Rec., p. 145).

He then determined the issue of fact as to Henry Carter, that he was the son of a negro woman named Adis Carter (Rec., p. 146).

The Government and Nancy Atkins interests appealed to the Circuit Court of Appeals and the case was there determined before Circuit Judges Hook and Carland, and District Judge Van Valkenburg, the opinion being written by Judge Van

VALKENBURG, and is found on pages 4996-5004 of the record. The opinion of the court considers primarily the contentions of the Government and decides against them for the reasons therein set forth.

The last paragraph of the opinion, on page 5004. deals with the issue of fact. The court states that, independent of the conclusion reached, as to the law preventing the Government's proceeding further, upon the merits, it could fare no better, and this consideration involved the Nancy Atkins appeal. The court said the record of approximately 5000 pages presents an "irrepressible conflict," and "if any appellate court is ever concluded by the findings of a chancellor upon facts sufficiently substantial to support them, and such is and should be the uniform rule of decision, this case falls peculiarly within that rule." Then the court says that mistakes may have been made and proceeds to point out that, considering the environment, subject-matter and personnel of the witnesses and parties involved, it may be that in these classes of cases exact justice is difficult of attainment, but it was apprehended Congress was fully aware of this situation, as affecting these Indian titles, when it conferred such complete authority upon the Dawes Commission and clothed its decisions with such presumption of verity.

The learned judge discussed the issues that were presented to the court as if they were issues determined by the Dawes Commission, as between the claimants under Minnie and the claimants under

Nancy. The opinion evidently leads to the conclusion that the court thought that this was a review of the decision of the Dawes Commission on findings of fact between Nancy and Minnie. Then the court passes to a compliment to the resident judge and the weight which they should attach to his opinion. It is stated that his findings are amply sustained by the record and should not be set aside by the court, and to attempt a comprehensive review of the evidence would be impractical and serve no useful purpose, and that it was sufficient to say the court had reached the same conclusion as did the trial judge upon the issues of fact (Rec., p. 5004).

The Government and the Nancy Atkins interests appealed to this court.

Assignment of Errors.

The appellant, Nancy Atkins, assigns errors as follows:

I.

The Circuit Court of Appeals erred in not reversing this finding of the opinion of the district judge, to-wit:

> "The court finds that Minnie Atkins had an illegitimate male child born to her during the early part of June, 1885, at the home of a colored woman, known as Granny Letcher, in the City of Leavenworth, Kansas, and that she named this child Thomas Atkins,"

which said finding is against the weight of the evidence, and supported only by evidence fabricated to fit the description of Thomas Atkins, as a son of Minnie Atkins, in census card #2707.

II.

The Circuit Court of Appeals erred in not finding that Nancy Atkins had an illegitimate male child born to her at Wagoner, Indian Territory, about September, 1890, and named Thomas Atkins, and in reaching the same conclusion as did the trial judge upon the issue of facts in that the trial judge did not determine this issue, deciding that the same was immaterial, whereas the said issue was material and the fact above stated sustained by the weight of the evidence.

III.

The Circuit Court of Appeals erred in not reversing the findings in the opinion of the district judge that Minnie Atkins conveyed information to certain of her relatives in the Indian Territory of the fact of the birth of Thomas Atkins, her son, which information was eventually imparted to the tribal authorities compiling the Roll and that the name of Thomas Atkins appearing at #213 of Euchee Town on the 1895 Authenticated Tribal Roll was placed upon the Roll by the tribal authorities compiling the Roll as the child of Minnie Atkins pursuant to such information, in that said finding concurred in by the Circuit Court of Appeals is wholly without any substantial evidence to support it.

IV.

The Circuit Court of Appeals erred in not finding that the son of Nancy Atkins named Thomas Atkins born at Wagoner, Indian Territory, about September, 1890, was the Thomas Atkins on the Euchee Town list as #213 of the Authenticated Creek Tribal Roll of 1895, in that all the testimony in the record upon the identity of the Thomas Atkins on said roll is to the effect that it represented the son of Nancy Atkins, who was intended to be enrolled by the tribal authorities.

V.

The Circuit Court of Appeals erred in not reversing the finding in the opinion of the district judge and in concurring therein that the Thomas Atkins enrolled by the Dawes Commission was in fact the illegitimate child of Minnie Atkins born in the City of Leavenworth, Kansas, in the early part of June, 1885, and is not the child of Nancy Atkins, in that there is no substantial evidence whatever in the record to support said finding of either the District Court or the Circuit Court of Appeals.

VI.

The Circuit Court of Appeals erred in not finding that the Thomas Atkins enrolled by the Dawes Commission on May 23, 1901, as #7913 on the Creek Roll and described in census card #2707, was the son of Nancy Atkins, in that all the testimony in the record is to the effect that such person was the son of Nancy Atkins and there is no substantial evidence whatsoever that such person was the son of Minnie Atkins.

VII.

The District Court erred and the Circuit Court of Appeals erred in affirming its decree without passing upon the admissibility of the evidence offered on behalf of these appellants by the following witnesses, to-wit: J. E. Newberry, James E. Long, Nolan Williams, Jasper N. Skrimpsher, Thomas Brewer, W. A. McElroy, Walter Posey, Frank Ingles, D. W. Best, R. F. Davis, J. D. McLaren, J. W. Ruble, to this effect:

> "The defendant, Nancy Atkins, offered to prove by each of said witnesses that they lived in the town of Wagoner, Indian Territory, during various years from 1890 to 1900 and that they were personally acquainted with Nancy Atkins, and that they were personally acquainted with a certain boy in said town described by each, called Tommy Atkins; and that it was the general reputation in the town of Wagoner as to who was the mother of said Tommy Atkins; and that it was the general reputation in that community and generally understood in that community that said boy, Tommy Atkins, was the son of Nancy Atkins."

VIII.

The Circuit Court of Appeals erred in not directing that a decree be entered that the land in controversy was the property of Nancy Atkin as the sole heir of her son, the allottee, Thomas Atkins, and that she and her lessees were entitled to a decree quieting their title thereto.

IX.

The Circuit Court of Appeals erred in affirming the decree of the District Court herein.

X.

The Circuit Court of Appeals erred in not deciding that the judgment of the Creek County District Court affirmed by the Supreme Court of Oklahoma finding that Nancy Atkins was the mother of Thomas Atkins, the allottee, and the owner of the land in controversy, and in not finding that said decree was binding upon the defendants in the cross-bill herein.

XI.

The Circuit Court of Appeals erred in not finding and decreeing that the Gem Oil Company, a corporation, and Charles Page and all others claiming by and through the said Gem Oil Company and Charles Page, were trespassers in taking possession of the land in controversy.

XII.

The Circuit Court of Appeals erred in not sustaining the cross complaint of Nancy Atkins and her lessees and directing the District Court to so decree.

Napoleon B. Maxey,
Malcolm E. Rosser,
Joseph M. Hill,
Henry L. Fitzhugh,
Attys. for Nancy Atkins and Her Lessees.

(Rec., pp. 5019-5022.)

As to the Government's Side of the Case.

We are little concerned with the presumptions invoked against the Government, as to the conclusiveness of the findings of the Dawes Commission, which presumptions were sustained by the District Court and by the Circuit Court of Appeals. We contend that on the merits, the facts we present as established, defeat alike the Government's contentions and the claims of Minnie and Page. If we cannot satisfy the court from this record that Nancy Atkins, an enrolled Creek Indian, was the mother of Thomas Atkins, born September, 1890, and a mistake in the descriptive recitals on the card made his mother appear as Minnie instead of Nancy, and that the name Thomas Atkins, as No. 213 on the Euchee Roll of the Creek Tribes in 1895, represented the son of Nancy Atkins, and that with this name as a basic fact, the Dawes Commission on May 23, 1901, found that he was living and a resident of the Indian Territory on April 1, 1899, and enrolled this person, giving him card No. 2707 and issuing census card, Government's Exhibit A-1, which action entitled him to the allotment thereafter awarded to Thomas Atkins, consisting of the tract of land in controversy, we care not whether these presumptions are indulged against the Government's recovery, or whether it is entitled to recover the land for the benefit of the Creek Nation. Should we fail to satisfy the court, as outlined in the above statement, and these presumptions are indulged against the Government, it would result in leaving Page in possession of land obtained by force and fraud, and if they were not indulged, would leave the Creek Nation to recover land which it had allotted to one of its own blood, who was entitled to receive it as his pro rata of the public domain. If we do convince the court of the facts as we herein allege them to be, then these facts defeat the Government on its merits, hence we enter into no discussion of the law of the case as laid down by the District Court and the Circuit Court of Appeals. It is immaterial to the issue we present. There is one phase of it, however, which may make it important, and that one is indicated by Judge CAMPBELL, in his opinion wherein he states:

> "If the evidence should be found to establish the contention that the Thomas Atkins claimed by Minnie never, in fact, had any existence, and it further appeared that Nancy did, in fact, have the child she claims to have had, the fact that Minnie had no such child might lead very strongly to the conclusion that the Thomas Atkins enrolled was Nancy's child." (Rec., p. 144.)

We apprehend that the Government in its brief will present very fully its case so strongly proving that Minnie had no such child, a subject that we are not presenting in this brief, because the establishment of his existence, as claimed by her and as found by Judge CAMPBELL, does not materially affect our case. On the other hand, should the court be convinced that the alleged son Thomas, of Minnie, only existed to fit the census card describing her as his mother, then, as indicated by Judge Campbell, our case will be strengthened by such finding, and in that negative way, we would obtain some benefit from the Government's proving its contention that there is no substantial evidence that Minnie had a son named Thomas. The evidence on this issue takes fully 3000 pages of this record and it is such a collateral issue to our case that we are not reviewing it in an effort to overturn the findings of the two courts which have accepted Minnie's story as true that she did have a son named Thomas, born at Granny Letcher's at Leavenworth, Kansas, in June, 1885; but we are, for the argument's sake, taking this fact as established for the purpose of our contentions, and seeking to demonstrate to the court that neither the name of Thomas Atkins on the Creek Rolls of 1895, nor the name of Thomas Atkins on the Dawes Commission Roll of 1901, represented such a son of Minnie, but, in fact, represented the son of Nancy. If we demonstrate that fact to your satisfaction, it is wholly immaterial whether Minnie, in fact, was the mother of another Thomas Atkins, who was born at Granny Letcher's in Leavenworth, Kansas, early in June, 1885, and who lived his life, if he had one, at Leavenworth, Kansas. And it is likewise wholly immaterial to our contentions whether on this record it is open to the Government to question the findings of fact of the Dawes Commission, on the theory that Minnie Atkins, through her uncle, John Davis, imposed upon Sam W. Brown, and that Sam W. Brown, in turn imposed upon the Creek authorities by having them place upon the 1895 Roll the name of Thomas Atkins; it being contended that in that way knowledge of the existence of her alleged son, Thomas, was conveyed to the Creek authorities and reflected by that name upon their 1895 Roll. If, in fact, we satisfy the court from this record that it was Nancy's son Thomas whose name was upon that Roll and later was enrolled by the Dawes Commission on information as to his residence in the Territory, his existence on April 1, 1899, and as to parentage, age and blood, everything else is irrelevant, especially the error of writing down its description of his mother as Minnie Atkins instead of Nancy Atkins.

The Burden Assumed by Appellants on the Principles Involved.

We are well aware that a heavy burden rests upon the appellants to reverse the concurrent findings of fact of two courts, but appellants have the right to invoke the consideration of this question of fact by this court. The rules governing this court on the consideration of such cases are that the burden is upon the appellant to convince the court that clear and manifest error has occurred.

In a case where the procedure was not unlike the instant one, where the United States brought a bill alleging that a patent was fraudulently procured and sought a cancellation thereof, and on a hearing the trial court found the charges were true, and the Circuit Court of Appeals took a like view of the evidence and affirmed the decree, this court said:

> "The rule is well settled that findings of fact concurred in by two lower courts will not be disturbed by this court, unless shown to be clearly erroneous." (Citing many decisions of this court.)
>
> —*Washington Security Co.* v. *United States*, 234 U. S. 76.

Another case in equity brought by the United States to cancel a patent was *Gilson* v. *United States*, 234 U. S. 380. The Circuit Court made a finding which was concurred in by the Circuit Court of Appeals and this court stated:

> "Which according to the settled rule will not be disturbed by this court, unless clearly shown to be erroneous." (Citing many decisions.)

In *Baker* v. *Schofield*, 243 U. S. 114, this court said:

> "Our consideration of the evidence must be governed by the well settled rule in this court, that when two courts have reached the same conclusions on a question of fact, their findings will not be disturbed, unless it is clear that their conclusion was erroneous." (Citing many cases.)

Page v. *Rogers*, 211 U. S. 575, is another case in equity where there was a finding of fact by two lower courts and this court said:

> "But the rule is well established that where two courts have concurred in a finding of fact in a suit in equity, this court will accept those findings, unless clear error is shown."

These cases which lay down the rule when concurrent findings will not be reversed conversely state that they will be reversed—where shown to be "clearly erroneous," or where "it is clear their conclusion is erroneous."

We contend there is no substantial evidence whatever that the name Thomas Atkins on the 1895 Tribal Rolls stood for a son of Minnie and that all the evidence tending to prove that fact is demonstrated to be against physical facts and established facts proved by documentary evidence, so that such finding is not only clear error, but wholly without substantial basis.

On the even more vital question of the identity of the person enrolled by the Dawes Commission on May 23, 1901, we contend that there is not even a scintilla that the information conveyed to it related to this supposititious son of Minnie born in Leavenworth, Kansas, June, 1885, and that the finding of the lower court was based on the mistaken theory that the name on the Tribal Roll of Thomas, son of Minnie, effectuated an enrollment of him by the Dawes Commission.

Returning to the question of fact as to the name on the Tribal Roll of 1895:

Our contention is that oral evidence demonstrated to be false or contrary to physical facts is not substantial evidence upon which even a verdict of a jury may rest. At the "Turf Exchange" in Hot Springs, Arkansas, there was an explosion in which many people who were there "playing the races" were killed.

Many damage suits resulted against the Waters Pierce Oil Company, which furnished gasoline to the place and it was alleged that negligence in its delivery occasioned the explosion.

One of these cases went to the Circuit Court of Appeals of the Eighth Circuit and the others went to the Supreme Court of Arkansas. A negro porter named Arthur Harris played the part in those cases which Sam W. Brown and his memoranda book played in this case. If the evidence of Arthur Harris was credited (and it was by a jury in the state court and a jury in the federal court), a case of negligence was made out against the oil company. In this case, if the story of Minnie that she told her uncle John Davis of her son Thomas, and that John Davis listed his name on the strength of her statement to Sam Brown, who was obtaining names of this family for the purpose of being put on the 1895 Creek Tribal Roll, then there would be some evidence that the name of Thomas Atkins on the 1895 Tribal Roll represented Thomas as the son of Minnie.

Notwithstanding that Minnie made many statements and testified frequently, as hereinafter reviewed, absolutely contradicting this story, yet a court might hold it was sufficient to sustain a finding of a jury placed upon it, but when the material part of that story—the connecting link—that John Davis gave the names to Sam Brown in March, 1895, at

Muskogee, and that Sam Brown made a memoranda of it and that memoranda became the basis of listing those names upon the Tribal Roll, is proved to be against the established facts, then such evidence is not substantial evidence which would sustain even a verdict of a jury.

This memoranda book which is Govt. Ex. 32 (Rec., p. 4707), recites it was made in 1895 at Muskogee, and the list was given by John Davis, and the documentary evidence shows that John Davis was at that time and had been for four years theretofore, and was for nearly a year thereafter, in the penitentiary at Detroit, Michigan (Rec., pp. 4986-4990). It cannot be said that this is substantial evidence of the connecting link. Moreover, even aside from this destruction of this story, the King's Roll of the Euchees of 1895 shows from its composition itself that it was not based upon Sam Brown's memoranda, and gives inherent evidence of the falsity of this testimony, which subject is fully discussed in the chapter on the 1895 Roll.

Therefore a much stronger case is made out here than there was in the Hot Springs case that the material evidence was against the established facts. In that case many facts were proved to the satisfaction of the court convincing it that the story of Arthur Harris was against the physical facts and established facts, and his testimony was held not sufficient evidence to sustain a verdict, although it had been credited by the jury.

In the Supreme Court of Arkansas one of the judges was disqualified and a distinguished lawyer of that state, a practitioner for many years in this court, the Honorable JOSEPH W. HOUSE, was appointed special judge, and he wrote a most convincing opinion on the subject of the duty of appellate courts to reverse judgments rendered—on verdicts sustained by evidence demonstrated to be false or demonstrated to be contrary to the physical facts or the established facts.

—*Waters Pierce Oil Co.* v. *Knisel,* 79 Ark. 604.

The case in the federal court was determined before Circuit Judges SANBORN and VANDEVANTER, and District Judge PHILLIPS, and the opinion written by Judge PHILLIPS. It was one of the able opinions of that strong jurist, concurred in by the two distinguished circuit judges, refusing to accept evidence of a witness when it was contrary to the facts established to the satisfaction of the court.

—*Waters Pierce Oil Co.* v. *Van Elderen,* 137 Fed. Rep. 558.

Certainly no stronger rule can be invoked in this case to sustain the finding of Judge CAMPBELL (adopted without discussion by the Circuit Court of Appeals), than if that finding had been made by a jury. The only allegation which was made by Minnie in her pleadings, and the only evidence which she offered whatsoever in this record seeking to establish that the name of Thomas as a son of hers went upon the Tribal Rolls of 1895, was through her testimony stating that she had told her uncle, John Davis, of his existence, and that of Sam W. Brown testifying that he obtained this name with others from John Davis on a cold day at Muskogee, in the winter of 1895, and wrote it down at that time in his memoranda book; page 76, which constitutes Govt. Ex. 32 here. This memoranda book purports to show it was at Muskogee and in March that a list was given by John Davis of this Atkins family, including Thomas, and when that is demonstrated to be false, certainly Judge CAMPBELL's finding, based upon it, cannot be sustained as based upon substantial evidence; it must necessarily be reversed as clearly and manifestly an error.

If there was any other possible source of information to the tribal authorities than the John Davis-Sam Brown route, this might not be so clear, but when Minnie so often testifies that John Davis and Lee Atkins were the only relatives she told of the existence of her son Thomas, and Lee was proved to have died six months before Sam Brown claims to have obtained the information of this family which he was seeking, and which it was his duty to obtain, the error of it is patent.

The Pay Roll (Govt. Ex. A-2) shows that on September 24, 1895, six months after he claimed to have gotten these names at Muskogee, Sam Brown drew the money due John Davis, and in red ink opposite John Davis' name is written "Detroit," followed by the amount, $14.40, followed by Brown's signature receipting for it; thereby showing that Brown took advantage of Davis' absence to get his money as his town king and relative, and showing that he must have known of Davis' incarceration at Detroit, thereby establishing full knowledge on his part of the falsity of his testimony that on a cold day in the winter of 1895, at Muskogee, Davis gave him this list.

The Contentions of the Appellants.

It is not without an appreciation of the difficulty, especially upon such an extremely voluminous record, that we undertake to show to the court that the finding of fact by the District Court, adopted without discussion by the Circuit Court of Appeals, was clearly and manifestly erroneous. Through it a grievous wrong has been done, and property which the record shows is worth several millions of dollars has been delivered to parties whose possession was obtained surreptitiously, in the night time, through force, by breaking into the possession of the property in controversy. The only testimony of the source of their title, that is, considering the tribal enrollment as the primary source of the title, was established by evidence proved to be purjury; and, moreover, the claims of these parties as heir, and lessees of the heir of Thomas Atkins, as a son of Minnie Atkins, to this allotment as made to him as a son of Minnie Atkins by the Dawes Commission, is demonstrably an impossibility. To put these general statements concretely, we will state them thus:

(a). Betty Mann, a woman crook, whose figures conspicuously in this record, in company with another unsavory character, Micco Harjo (at one time the guardian of Nancy Atkins) obtained a quitclaim deed from some one pretending to be named Minnie Atkins, to H. U. Bartlett to the land in controversy. It is dated the 2nd of October, 1912, and was executed in Douglas County, Kansas (Rec., p. 4731). In the trial of this case it was admitted by both the Government and the Page interests that this deed was a forgery (Rec., p. 322). It was also so alleged by Nancy in her suit against Bartlett and the Gypsy Oil Company in the Creek District Court, and so found by that court. It must be taken as established.

On the 29th of November, 1912, Bartlett executed an oil and gas lease to the Gypsy Oil Company (Rec., pp. 4732-4736).

On the 25th of January, 1913, Thomas W. Green, went on said property, then vacant and unoccupied, under an agricultural lease from Bartlett. Up to that time it had never been improved, tilled or occupied by anyone for agricultural purposes, and had never been developed for oil or gas. Bartlett had a house built upon it in which Green resided, and Green fenced it in the spring of 1913, and broke up the land for tillage, and he lived upon it and farmed it in the years 1913 and 1914, as the tenant of Bartlett. The Gypsy Oil Company started a well thereon on December 25, 1913, and brought it in January 23, 1914, as a 55-barrel well, which in July, 1914, was producing 25 barrels per day. This well was in the Wheeler sand, the Bartlesville sand (the sand of the Cushing Pool) had not, up to this time, been discovered as being upon this property (Rec., pp. 313-325). This well was being operated in July, 1914, in charge of the Gypsy Oil Company, and there was situated upon the land also two 250-barrel tanks to receive the oil being produced. Kinney, an employee of Page, under Page's order, knowing that the Gypsy Oil Company had this well and was producing oil therefrom, and had these tanks thereon, and was in possession of the property, moved a rig of Page's onto the property. He did not consult anyone, merely obeyed Page's orders in doing so (Rec., p. 4161). Green testified (this testimony is undisputed and unexplained), that during the night time of July 4, 1914, when this land was under fence and in his possession and control, as heretofore stated, someone cut the fences and, by daylight of Sunday morning of July 5th, had placed rig timbers on the ground (Rec., pp. 313-326). And within two days were erecting a rig thereon. Two days thereafter, on July 7, 1914, Page and Josey, claiming as lessees under Minnie Atkins, filed a suit against Nancy Atkins, H. U. Bartlett, Gypsy Oil Company and others, and alleged that they "are in peaceful possession under said lease and that Bartlett and Gypsy Oil Company are threatening to dispossess them." (Rec., pp. 4775-4779). The statement that Bartlett and Gypsy Oil Company were threatening to dispossess them was equally as false as the peaceful possession allegations, because they did not learn of the trespass until either the 7th or 8th (Rec., p. 321). Whereas, Page swore to this complaint on the 6th (Rec., p. 4779), which was on Monday following the forcible entry on the place before daylight Sunday morning. Therefore it is apparent that Page's possession of the property began in force and fraud. On the other hand, Nancy Atkins was proceeding through the process of the court to obtain possession of this property. The record of her suit against Bartlett and the Gypsy Oil Company is set forth in this record at pages 93 and 97. It is found, therefrom, that on the 27th of February, 1914, after full hearing the court found that Nancy was the sole heir of Thomas Atkins and the owner of the property in controversy, and that Bartlett and the Gypsy Oil Company were in un*law*ful possession thereof. The case was then continued as to claims of certain other defendants. On the 24th of March came on to be heard the claims of these other defendants and also motions and supplementary motions of Bartlett and the Gypsy Oil Company for a new trial. These matters were then after hearing taken under advisement. This was the status of the case when Hanford, the attorney for Minnie, and Long, the representative and agent of Page in procuring this lease, investigated the entire proceedings of this case and Hanford talked with the judge about it and claims the judge promised him not to enter final decree in it until Minnie could be heard therein, but he says that he thinks it was the next day that the final decree was entered (Rec., p. 3699). And this final decree is shown to have been entered (Rec., p. 95) on the 20th of June, 1914, when the court overruled the motions for new trial of Bartlett and the Gypsy Oil Company, and decided the issues of the other defendants against them, and entered final judgment decreeing that Nancy Atkins was the mother of the enrolled Thomas Atkins, was owner of this property and quieted her title thereto against all of these parties. With full knowledge of all these facts, Hanford wired McNab, Minnie's trustee, then in Seattle, Washington, to execute the lease to Page, which had been drawn before he and Long left Seattle, and which was changed in some particulars by wire thereafter (Rec., pp. 3700 and 3571). McNab promptly responded and, as Minnie's trustee, executed the lease which is the basis of Page's claim herein, on June 24, 1914, in Seattle, Washington, and it was recorded in Oklahoma on the 29th of June, 1914 (Rec., pp. 4738 and 4742). The terms agreed upon were a bonus of $10,000.00 and one-eighth of the production (Rec., p. 3698). Hanford asked for this sum in two checks of $5000.00 each. He wanted one for Minnie and the other for the expenses of the litigation to get possession of the property, including his fees (Rec., pp. 3700-3701). When the two checks were made out, Hanford discovered that one was payable then and the other not payable until July 30th (Rec., p. 3701). A disagreement arose over this, and finally Page and Josey told him the trouble was that they were not satisfied with the identity of Minnie, and Page and Josey wanted Long to go back to Seattle with him and question Minnie further. Finally an agreement was made that he would take this deferred check to McNab, and, if he did not approve that arrangement, Page would pay the other $5000.00 on demand (Rec., p. 3702). While the lease was recorded June 29th and the checks so dated, this disagreement prevented the consummation until July 3rd, because the $5000.00 check was not presented and cashed until that day. (Rec., p. 4950). Long and Hanford left Tulsa for Seattle to get more facts from Minnie (Rec., p. 3577). Long says the purpose of this trip was to go over thoroughly and painstakingly with Minnie her history and further proof of her identity. Mr. Josey was skeptical and was not convinced that she was Minnie Atkins, and wanted more identification (Rec., p. 3577). This was the state of the situation on July 3, when this check was cashed for one-half of the bonus, and Long and Hanford went back to Seattle to satisfy Page and Josey that they had a lease from the right party. But, without waiting to be convinced, they take forcible possession of this property on the night of July 4th, as heretofore stated; and then claim that they are in peaceful possession and seek injunctive relief to protect their trespass against interference from those in possession and against the woman who had established her rights to it in court and not by force in the night time.

(b). The Government alleged in its Bill the name of Thomas Atkins was placed upon the Creek Tribal Roll of 1895 by Sam W. Brown, acting upon information of John Davis, a relative of Minnie Atkins, and in the answer of Minnie Atkins she alleges that the name was placed upon the Tribal Roll through John Davis, acting for her. The Government claims that this was a fraud, in that there was no such person as Thomas Atkins. Minnie claimed it was the truth and that her uncle, John Davis was acting for her in causing Thomas Atkins to be enrolled in the tribe to which he belonged. As will be shown in an analysis of the testimony hereafter made, Minnie Atkins has testified several times that she told her brother, Lee Atkins, and her uncle, John Davis, of the existence of her son Thomas, and that she did not tell her sister Kate Holden nor her sister Nancy nor anyone else in the Indian Territory of the existence of this child. The undisputed evidence is that her brother, Lee Atkins, was killed at Checotah in November, 1894, and therefore he is excluded as a source of information to Sam Brown or any other officers of the Creek Nation, of the existence of this son, as this Roll was not made up until the spring of 1895. Sam W. Brown, then the Town King of Euchee Town, testified that on a cold day of the winter of 1895, at Muskogee, he met John Davis and asked him for the names of this Atkins family, and that John Davis gave him a list of them and that Thomas was included thereon. Brown testified that he entered this list on a memoranda book, which

he produced in court, and which is Government Exhibit A 32, found at page 4707. This memoranda begins with the name Ed Schremcher, who was a cousin of Minnie and Nancy Atkins. It is followed by the names of Minnie, Charlie, Susan, Thomas, Mary and Nancy Atkins. Opposite thereto, in the handwriting of Sam Brown is this:

"The list given by John Davis."

Samuel Brown testified that he gave this list of members of the Atkins family to the authorities making up the Creek Roll of 1895; that it was his duty to furnish these names to those authorities and that he did so and that while he knew the adult members of the Atkins family, he did not know the children, and he presented this list as the names of all the living members of the Atkins family (Rec., pp. 214-232). After this case was closed, the District Court permitted it to be reopened for the purpose of receiving evidence that this John Davis, the uncle of Minnie and Nancy, was confined in the Federal penitentiary at Detroit, Michigan, from December 26, 1891, to February 4, 1896, and that he served that full time there at Detroit and was not released therefrom on parole (Rec., pp. 4988-4989). This record evidence is corroborated, if corroboration were needed, by the notation made in red ink upon the 1895 Pay Roll, found in this record following pages 4652, opposite the name of John Davis, the word "Detroit;" John Davis' name appearing on said Pay Roll immediately following that of Nancy Atkins. It is also a significant fact that Samuel W.

Brown receipted for $14.40 due him in that payment (Gov't Ex. A-2). Therefore, this record evidence completely destroys the testimony of Sam Brown and of his memorandum book, that he obtained the name of Thomas Atkins with other members of the Atkins family from John Davis on that cold day of the winter of 1895, at Muskogee, and this is the only connecting link between the supposititious son of Minnie Atkins, Thomas, and the Creek Pay Roll of 1895. This indisputable evidence destroys the whole force of the claim of Minnie Atkins that, through her uncle, John Davis, then the only living depository in the Indian Territory of the fact that she had a son named Thomas, the name of Thomas was placed on the Roll. Therefore, the Thomas Atkins, appearing upon that Tribal Roll must be accounted for in some other way than in the way Minnie Atkins and those claiming under her have accounted for it in this record. On the other hand, is the direct and positive testimony of Ellis Childers. Childers was in 1895 Speaker of the Creek House of Warriors, one of their legislative bodies. He testified that he was called from the House into the Committee Room when the Census Committee was preparing the Roll, by Sam W. Brown, who asked him to aid in identifying three Euchee families. Childers was connected by marriage with the Atkins family and had been a schoolmate of Minnie at Carlisle. He went over the list with the Committee in the presence of Brown and identified two children as the sons of Minnie and stated that Minnie only had two children. They were Charlie and Harvey Harrison. He identified the Thomas on the Roll as the son of Nancy, whom he had known since his birth. Elsewhere in his testimony Childers tells of learning of the birth of a child to Nancy at Wagoner in the fall of 1890, and of subscription being taken to relieve her necessities and of seeing that child about three weeks afterwards and seeing it numerous times for the next four or five years

Samuel Brown testified again in this case, at the instance of Page, after Childers had testified, and did not deny these statements. The Rolls of the Euchee band of 1895 (and there are three of them, which we will hereafter set out and analyze) demonstrate that these Rolls recognized Minnie Atkins as a member of the tribe, and that she had two children. The fact that she had children was evidently unknown when her name was written thereon. Later the words "and 2 children," names of Charlie and Susie were added, and later still, the name of Mary was turned into Harvey, through a red ink change. The notations made upon this Roll by the Dawes Commission, show that this Charlie and Harvey were duly enrolled by the Dawes Commission; and the Rolls further show that Minnie's name was carried forward on a card, and, on investigation, her citizenship was rejected on the ground of nonresidence. Therefore, it is plain that the Rolls establish record evidence that the Creek Nation recognized that Minnie Atkins was, in 1895, a member of the Euchee tribe, and that she had two children;

and they further inferentially but irresistibly lead to the conclusion that those two children were Charlie and Harvey, who were duly enrolled.

Therefore, these Rolls prove that the Thomas thereon was not there in right of Minnie, but his name was there contemporaneously with her name and subsequently there was added opposite her name "and two children," and the names of these two children were added to the Roll and, in consequence thereof, properly reached enrollment by the Dawes Commission, as they had in the meantime begun enrollments of the Creek Nation. The identity of Thomas Atkins upon the Tribal Roll depends upon oral testimony as to his identity or circumstantial evidence of it, as the Rolls themselves do not supply it; and it is established by the oral testimony of Ellis Childers, and his testimony on this point is not denied by the numerous persons that he named as present at the time that he caused this name to be placed upon the Tribal Roll as a son of Nancy Atkins, although Childers' testimony is weakened by a discreditable transaction participated in by him and the attorney of the Creek Nation, to which attention will be called in its appropriate place. It is also established circumstantially, but no less certainly, that it was the resident son of Nancy and not the non-resident son of Minnie whom the Tribe recognized as Thomas Atkins.

(c). The undisputed evidence shows that the Thomas Atkins enrolled by the Commission on May

23, 1901, was thought by the enrolling officers of the Commission to be the Thomas Atkins opposite No. 213 on the Euchee Roll of 1895, and the evidence establishes undisputedly that it was an impossibility that the Dawes Commission, or rather their enrollment officers, intended to enroll the supposititious son of Minnie Atkins, the evidence of whose existence was credited by the trial court, as having been born at Leavenworth, Kansas, about June 1, 1885, and who lived his life, if he ever had a life, without the boundaries of the Indian Territory. The undisputed evidence is that John Davis and Lee Atkins, the alleged sole confidants of Minnie in the Indian Territory that she had a son named Thomas, were both dead long before this enrollment.

The record evidence shows that Minnie's two sons, Charlie and Harvey, had, prior to this date, to-wit: on February 19, 1900, been enrolled, and on the census card issued to them, they are described as sons of Minnie Harris, who appeared on the Euchee Roll of 1890 as Mamie Atkins, and this card then stated that she was living in Michigan in 1900 (Gov't Ex. A-33, preceeding Rec., p. 4707). This card described Minnie's undisputed children as quarter-bloods and their father as a non-citizen. There are two census cards of Minnie: one called the old Creek card, made out in 1897 for Minnie and her two sons. This is Government's Exhibit A-31, following page 4706, and lists Minnie Harris, *nee* Atkins, as a half-blood. The other is her *uncompleted* card which was finally rejected on account of her non-residence, which is Government's Exhibit A-38, following page 4712, and also shows her to be a half-blood.

The census card of Thomas Atkins, the enrolled person now in question, which is Government's Exhibit A-1, Rec., p. 4652, recites that his father is a white man and his mother is Minnie Atkins, and puts him down as a half-blood, thereby assuming, necessarily, that Minnie Atkins was a full-blood.

Therefore, the records of the Dawes Commission show that, so far as its information went, Minnie was a half-blood. (When we come to analyze the testimony, it will be seen that she so regarded herself and was universally so regarded by her friends and acquaintances.) Therefore the record shows that when the Dawes Commission was enrolling her undisputed children, who had a white father, they properly enrolled them as quarter-bloods; and it seems impossible that when they enrolled another child of hers, also by a white father, that they would enroll him a half-blood. Hence the conclusion is irresistible that the enrollment officers did not intend, in describing the mother of Thomas Atkins to be describing the same woman whom they described as Minnie Harris, *nee* Atkins, the mother of Charlie and Harvey Harrison. On the other hand, while the testimony indicates that Minnie and Nancy were full sisters, yet they regarded their own blood differently. Thus the census card of Nancy (Government's Exhibit A-44, Rec., p. 4718) describes her as a full-blood.

The undisputed testimony shows that on May 23, 1901, the enrollment officers of the Dawes Commission were at Okmulgee, where the Creek Council was in session, and that they were then diligently seeking to obtain information of all persons who were upon the Tribal Rolls, who had not at that time been enrolled by the Dawes Commission, or their claims positively rejected. These were called "unaccounted for names." The Commission sent for the Town King of each of the forty-seven towns of the Nation, and other prominent and reliable Creeks to give them information. The Town Kings were called before the enrollment officers, and the Rolls of their respective bands were gone over with each King, seeking information of the unaccounted for names. On the Euchee Roll in the Atkins family all had been accounted for except Minnie and Thomas. As seen from Minnie's uncompleted card, her case was under consideration, and they were seeking information as to her whereabounts. Later she was rejected as a non-resident. Thomas was unaccounted for; all the other members of the family were enrolled.

Noah Gregory was then King of the Euchees, and Sam W. Brown was formerly King of the Euchees; and these two men were called before the enrollment officers to give information of the unaccounted for names in the band of Euchees.

Sam Brown was a relative and well acquainted with the adult members of the Atkins family but not with the children. As heretofore stated, Ellis Childers testified that Sam Brown called him before the committee of the tribe in 1895 to verify the names of the Atkins family, and, in Brown's presence, he had Charlie and Harvey identified as Minnie's only children, and Thomas as Nancy's; and Brown went upon the witness stand thereafter, and did not deny the statement.

Therefore, at that time he had had information that Thomas Atkins was Nancy's son.

Noah Gregory testified that he did not personally know Minnie, but had made many inquiries of her and had learned she was a non-resident. He testified that he had known Lee Atkins in his lifetime, and knew Nancy Atkins. He was a neighbor and friend of Colonel and Mrs. Robinson, who had raised Nancy. He tells of making a trip with Thos. E. Holden, who then had Minnie's two children, and Holden told him he wanted to select land for them, but had not done so yet. Evidently this was about the time that Holden was getting the power of attorney from Minnie to select and file for her and her two children, dated April 2, 1900 (Rec., p. 4716). Holden was a neighbor and friend of Thos. J. Way. Mr. Way testified that in 1899 Thos. Holden went to Wagoner and got Thomas, the son of Nancy, brought him to his house and kept him there for some time, and tried to persuade Nancy to leave him there for him and Mrs. Holden to care for him.

He testified that Nancy visited him there, and finally came and took him away from Holden's house.

Mr. Way also testified about Charlie and Harvey Harrison living with Holden, and his intimate acquaintance with these boys; and he gives a definite description of all three of them.

Therefore, it is inconceivable that Mr. Holden, in an intimate conversation with Noah Gregory did not tell him of Thomas Atkins, Nancy's son, as well as tell him about Charlie and Harvey Harrison, Minnie's sons.

As stated, Mr. Gregory was a friend and neighbor of the Robinsons. These were the people who raised Nancy. She left their home when she found herself in a pregnant condition, in 1890. She has testified that when one of the field parties was at Coweta (this was evidently when the field parties were out in 1897) that her uncle, Col. Robinson, and his son came to see her at Wagoner and had a talk with her about enrolling her and her son, and promised to do so. Therefore we have knowledge to the Robinsons as late as the fall of 1897 that Nancy's boy was still living.

While Mr. Gregory, after this lapse of years, cannot recollect what information he gave Mr. Hopkins, the chief of the enrollment officers in regard to the unaccounted for names, he does recall that he discussed with him Minnie and he told Mr. Hopkins that Minnie was a non-resident and that they had been unable to locate her.

Unquestionably from this recent talk with Mr. Holden, who at one time had possession of Nancy's son Thomas, and his relations with the Robinsons, he knew of Thomas Atkins, the son of Nancy; and that he imparted this information to Mr. Hopkins, cannot be doubted for a moment, as it was his duty to do it. As he has stated, he gave him all the information which he possessed at that time. After the lapse of 18 years, it could not be expected that an honest man would remember all of these details. That Mr. Gregory was intimately connected with the enrollment of Thomas Atkins is also indicated by another record in the files of the Dawes Commission. On May 9, 1905, the Commissioner in charge wrote a letter to Noah Gregory stating the Commission had recent information that Thomas Atkins was dead, and that if this was true, that the lands and moneys belonging to the deceased citizen would descend to his heirs, and they enclosed a form of affidavit to be filled out and properly executed by someone, a near-relative preferred, who knew of the date of Thomas Atkins' death, and asked that he obtain it, and return the affidavit to the Commission (Rec., p. 4663).

Undoubtedly this letter was prompted either from memoranda then existing as to Noah Gregory's connection with the enrollment of Thomas Atkins or the memory of the enrollment officers that Mr. Gregory was a proper source of information relating to Thomas Atkins. Moreover, there is another potent fact on the census card of Thomas Atkins, indicating that Sam Brown and Noah Gregory gave the information upon which the enrollment was had.

and that is that his post office address is given as Muskogee. As a matter of fact, this was a mistake, as the evidence shows that the child lived all of his life at Wagoner, except the year he spent at Tom Holden's and the half-year he spent on the Verdigris with Betsy Birney. But Mr. Gregory has testified that when he first knew Nancy she lived in Eufaula, and he afterwards knew her as living at Muskogee.

Sam Brown testified that he knew her sometimes at Wagoner and sometimes at Muskogee. Therefore, it is the natural conclusion that these two Euchee officials, having Nancy associated in their minds with Muskogee, gave that as the postoffice address of her son when they caused him to be enrolled.

The Dawes Commission made inquiry always as to whether the person where enrollment was sought was living in the Creek Nation on April 1, 1899. No person who had died before that date, or non-resident of that date, could be enrolled. They also secured information as to the age, sex, and quantum of blood and parentage, outside of the information given by the Tribal Rolls.

The contention of the Minnie and Page interests is that her son was born of a white father in June, 1885, at Leavenworth, Kansas, and lived there until his death in 1899.

Therefore to sustain that he was the enrolled person, convicts the Dawes Commission of violating the primary duty to only enroll residents. If his mother had been a resident her status might have drawn his citizenship, but she was confessedly a non-resident after 1896, and her claim was rejected on that account. She appears as a half-blood, and her son of a white father would be enrolled as a quarter-blood. This enrolled person is a half-blood, and Nancy appears on the records as a full-blood and her son would properly be enrolled as a half-blood, as Thomas Atkins was enrolled. Minnie's son was 16 years, whereas the person enrolled was 10. Nancy's son was born the last of September, 1890, and was 10 years and 8 months as the date of this enrollment.

Nancy always went under the name of Atkins, while Minnie, in all the numerous records before the Dawes Commission, appears as Minnie Harris or Minnie Harrison; she is so recorded on her old Creek card, on her rejected card and on her sons', Charlie and Harvey's card, and on her power of attorney to Holden to select lands for Charlie and Harvey.

Had the Dawes Commission intended to describe her as the mother, she would have been Minnie Harris, as upon the other cards—not Atkins. This card has but two mistakes upon it: the first name of the mother, Minnie, instead of Nancy, and the post-office. If Minnie's son had been intended, it would have been Leavenworth, Kansas; for Nancy's son it should have been Wagoner; but as Gregory and Brown associated her with Muskogee, it is an explainable error if Nancy's son was intended. If Minnie's son was intended to be enrolled, the card is mistaken as to his age, his blood, the last name of his mother and his postoffice, as well as the fundamental mistake of enrolling a non-resident son of a non-citizen father and non-resident mother.

We have, as briefly as the volumious record will permit, outlined in general the contentions of the appellants, Nancy Atkins and her lessees, and purpose to develop fully the facts sustaining the general statements we have made in paragraphs B and C. We have given the substance of all of the evidence with the appropriate page references for all of the statements made under paragraph A. Before proceeding to take up an analysis of the testimony to support our contentions, we think it would be helpful to the court and illuminating in considering the evidence, to consider the procedure before the Dawes Commission, resulting in the enrollment here in question.

Procedure of the Dawes Commission.

The work of the Dawes Commission culminated in a Roll of citizens by blood of the Creek Nation. This Roll, after being approved by the Commission, was sent to the Secretary of the Interior for final confirmation, and his approval of it fixed the status of the members. The Commission would, from time to time, send forward so much of the roll as was completed for approval. So much of it as pertains to the Thomas Atkins enrollment is found in Government Exhibit A-3, pages 4652-4653.

The roll, so far as this case is concerned, reads as follows:

> Number, 7913; Name, Atkins, Thomas; Age, 10; Roll, 1895; Sex, M.; Blood, ½; Card, 2707. (Rec., p. 4654.)

The Commission was also authorized to make a census of the tribe and performed that function, while preparing the Roll, a card being made out which was called a census card, which contained descriptive matter of the person. The census card in this case is Government's Exhibit A-1, found opposite page 4652. Notations on that card which were recently made after this litigation began, appear in the photographic copy.

We insert herewith a copy of the card as it originally appeared before these later notations were made upon it, and even it contains a stamped statement that was not there as originally made. Mr. Shanafelt, in whose custody the card was, and who produced it into evidence, testified (Rec., p. 153) that the stamped statement: "Date of application for enrollment," was put on the card about three years ago, over the date which therein appears to be written, May 23, 1901.

Residence____________________

Post Office Muskogee, Ind. Ter.

Creek Nation Creek Roll

Card No. 2707

Field No. 2774

Dawes' Roll No.	Name	Relationship to Person First Named	Age	Sex	Blood	Tribal Enrollment			Tribal Enrollment of Parents					
						Year	Town	No	Name of Father	Year		Name of Mother	Year	Town
7913	1 Atkins, Thomas		10	M	½	1895	Euchee	213	White Man			Minnie Atkins	1895	Euchee
	2													
	3													
	4													
	5													
	6													
	7													
	8								No. 1 on 1895 Auth. Roll No.	213 as	"Thos. Atkins"			
	9													
	10													
	11													
	12													
	13													
	14													
	15											Date of Application		
	16											for enrollment		
	17											May 23, 1901		
	18													

There were 47 distinct bands composing the Creek Nation. They were called "Towns." Two of them were negro towns, composed of freedmen, and the others of subdivisions of the Tribe, recognized as such, some of which had a distinct language, such as the Euchees. The legislative department of the Creek Nation, The Creek Council, was composed of two houses, the House of Kings, and the House of Warriors, respectively, similar to the Senate and House of Representatives of other legislative bodies. Each of these bands was represented in the House of Kings by a member, called "Town King," and each band was represented by two or more members of the House of Warriors. From time to time the Creek Nation made up Rolls of its membership. They were made by compilation of the Rolls of these bands, and all of those together, constituted the Roll of the Creek Nation.

Mr. Hopkins, the Chief Clerk of the Dawes Commission, has explained very intelligently and fully the work of the Commission in undertaking to prepare the Creek Rolls and to make a census of the Creek Tribe.

The Creek people, led by Chief Isparhecher, were opposed to the allotment of the lands in severalty and naturally did not facilitate the work of the Dawes Commission, whose duty it was to make a Roll of the Tribe and a census of the people. In the fall and early winter of 1897, the Commission undertook to make a census and made appointments at different places in the Nation, and advertised that they would be there for the purpose of taking the census, expecting the people to come in and make application for enrollment, but only a small portion of them did, and they found that the information that they obtained from the relatives and officials of the Tribe was incomplete and unsatisfactory, and the enrollment was discontinued about Christmas, 1897, until such time as they could procure the Rolls of the Creek Nation. In the latter part of 1898, or early in 1899, the Commission was enabled to obtain the Rolls of the Creek Nation, and then began making the census and Rolls (Rec., pp. 182-187).

When the Commission had out its field parties in 1897, they made out census cards, which were called in this record, "Old Creek" cards. The information was less than that called for in the later form of the card, but they were retained and much used for information afterwards. The Government's Exhibit A-31 is one of these. This is the old Creek card of Charlie and Harvey Harris and Minnie Harris, *nee* Atkins.

The Dawes Commission opened a Land Office at Muskogee on the 1st of April, 1899, and, at its office there, conducted the work of enrollment and of makin the census. The practice was to take applications for adults and for their minor children or children in their care, and the application was not considered for an adult unless it was personally made, or reasons given such as sickness, old age and blindness, preventing personal appearance of the applicant. There were numerous Creeks who went under the name of "Snakes," who were opposed to the allotment and would have nothing to do with the census or with being enrolled. Their attitude and the general difficulty of obtaining accurate information from the people, rendered the work slow and difficult. This condition continued until the spring of 1901. After they obtained the Rolls, their effort was to enroll for allotment all names appearing thereon, who would otherwise be entitled to enrollment. They did not enroll anyone simply because his name was on the Tribal Roll, but they accepted the Tribal Roll as a recognition of citizenship by the Tribe.

In addition to that they would have to have information that the party was living up to the 1st of April, 1899, and a resident of the Creek Nation, and had not, for any other reason, forfeited or lost his right to enrollment. They could not make, from the Tribal Roll, such a Roll as the law directed them to make and only used the Tribal Roll as a recognition of citizenship in the Tribe.

In March the Commission prepared a list of those who were upon the Tribal Rolls and were, up to that time, unaccounted for; that is, had not been ascertained to be dead or enrolled or finally rejected. They sent to each Town King and to many of the Town Warriors the list of unaccounted for names belonging to his town, and asked them to give information in regard thereto. The Creek Council met at Okmulgee in the Capitol there on the 3rd or

4th of May, 1901, for the purpose of considering and ratifying the treaty, which it was thought would carry with it an approval of the Roll then in process of making by the Dawes Commission.

In order to facilitate its work, the Dawes Commission, or rather Commissioner Bixby, in charge of a clerical force, opened an office in the Capitol at Okmulgee on May 6th, for the purpose of completing the rolls and being on the ground where they could be in touch with the members of the House of Kings and House of Warriors, and other officers of the Creek Nation and obtain as much information as possible concerning the Creeks entitled to enrollment. Mr. Hopkins went there as the Chief Clerk in charge of the work under Commissioner Bixby. With him were Mr. Merrick and Mr. Hastain, who did most of the enrollment work. Mr. Leiber also did some of it, and at times they were assisted by Mr. Beall and Mr. Beavers, who wrote some of the cards. Mr. Bixby, Mr. Hopkins, Mr. Merrick and Mr. Hastain have all testified fully as to this procedure.

The treaty was ratified on the 25th of May. The work of enrollment was then supposed to be completed. There were 2500 Creeks enrolled during that month. During the last three days there were four or five hundred enrolled each day, so Mr. Merrick testified (Rec., p. 3456).

After the Commission opened its office at Okmulgee, it changed its practice of requiring personal applications. In addition to getting what information they could, they sent out teams and wagons to bring in people who were unable to come, or who had no other means of transportation. The United States Marshal also assisted in bringing them in. While this was going on, they were also receiving personal applications, as well as applications through officials of the tribe. The procedure would be about as follows: A Town King or other tribal officer would come in and sit down with the enrollment clerk. They would take the Roll of his particular town and follow down the names there and where there was no notation on the roll that the party had applied for enrollment or been enlisted for enrollment, the inquiry would be made as to who this party was and who knew him, whether he was living, whether he was in the country, and what had become of him. If there was no information that the party was dead, or had left the country, the name would be entered on a card with additional information as could be obtained at that time. In many instances friends and relatives would be sent for to complete the information (Rec., pp. 186-195). To facilitate this work at Okmulgee the clerical force took the Tribal Rolls and wrote down on a separate card each name which had not been disposed of. These cards contained the tribal enrollment and number on the particular town roll of the tribe (Rec., pp. 3458-3459 and Rec., pp. 239-243).

There is a difference in recollection between Mr. Hopkins and Mr. Merrick as to whether the cards on which these names were written were in the form of the census card. Mr. Merrick says they were, and contained the name and number of the unaccounted for person and his tribal enrollment and this would be completed upon obtaining full information regarding it, or left blank, if no information was obtained, and notations made as to rejection, where the evidence called for that course (Rec., pp. 3459, 3463, 3464). Mr. Hopkins stated that a census card was not started even on personal application until the person was found on the Tribal Roll and identified by some Creek official as the person described on that card. This is immaterial as to the issues here, because Mr. Merrick, who wrote this card, testifies that, from its appearance, it was completed at one writing (Rec., p. 3454). All data relating to a person was kept together until final consideration and there was much difficulty in getting the names of parents. This was due in some cases to illegitimacy and other cases to insufficient knowledge or memory of the party giving the information (Rec., pp. 202-206). These old Creek cards were referred to for information but not used as a basis for final enrollment. Two boxes of them were carried to Okmulgee to facilitate the work there (Rec., pp. 3459-3476). In all of these proceedings and at the final session at Okmulgee, the Creek Nation was represented by Mr. McKellop, its attorney, and a Committee from the Council delegated to see that only persons entitled to enrollment were enrolled, and to aid the Commission in making a complete Roll (Mr. Bixby, Rec., pp. 4645-4646). Most of the information given to the Commission during May was in the form of verbal statements to the enrollment officers by the Creek Kings, Warriors and officers, and reliable people (Rec., pp. 198-199 and 3461-3462).

At the date of this enrollment, May 23, 1901, two days before the treaty was ratified, all of the members of the Atkins family had been enrolled except Minnie and Thomas. Charlie and Harvey Harrison, Minnie's sons, had been enrolled on February 19, 1900, (See their card, Government's Exhibit A-33.) Nancy had been enrolled on December 21, 1900. (See her card, Government's Exhibit A-44.) An examination of these census cards shows that they contain two numbers. Thus, Nancy's card No. is 2022 and her field card No. is 2032. Charlie and Harvey have card No. 1655 and field No. 1659. Thomas Atkins' card (Government's Exhibit A-1) has card No. 2707 and field No. 2774. The explanation and application of these numbers is interesting and important. The lower number is the number entered upon the enrollment card known as a field number of the Dawes Commission's, and entered upon a card when an application was made for enrollment. (Mr. Hopkins, Rec., p. 204.) Mr. Merrick states that these cards all contain two numbers, and when they went to Okmulgee they had several hundred of them numbered in advance, that is, so far as the lower number, or field number, is concerned, it being the number which ran consecutively. The card number was given at the time the schedule was prepared, and the applicant given an enrollment number, the enrollment number and the card number being the two numbers that appeared on the approved Roll. Thus in the Roll heretofore copied in this brief, it shows that Thomas Atkins' Roll number is 7913 and his card number 2703, but his field number, which was the Dawes Commission number, was 2774.

There was issued to the Clerk of the Land Office a certificate that the name of Thomas Atkins (Roll No. 7913), age 10, appears on the Creek census card of the Creek Nation, field number 2774 (Rec., p. 4655). Thereby the three numbers are brought together in the Dawes Commission records, and through them, the complete identification of the party may be found. The field number, in this case, 2774, is the one that runs throughout the records of the Dawes Commission, and these later numbers only appear at the time of the final enrollment. Mr. Merrick testified that he wrote the 2707 on this card also, but he did it when he was making a final schedule sometime after the enrollment (Rec., p. 3470).

Now turning to the Creek Pay Roll and the Creek Authenticated Roll, it will be seen that there are many numerals written opposite each name. This is explained as follows:

Mr. Hopkins says that this is the field number of the Dawes Commission, which is entered on the records when application was made for enrollment, and it is this number that is written down opposite these names on the Tribal Rolls by the enrollment officer of the Dawes Commission, when he gives a field number to a name (Rec., p. 204).

Now turning to the Pay Roll and the Authenticated Roll, Govt. Ex. A-1 and A-30. Thus opposite Nancy is her field number 2032; opposite Thomas is his field number 2774. Opposite Charlie and Mary, changed in blank to Harvey, is 1659, the field number of the joint card of Charlie and Harvey. It will be noticed that Minnie Atkins has a field number opposite her name, 3718 on the Pay Roll Card, Govt. Ex. A-37, page 4712. It has no card number, as it was not completed by her enrollment.

All data gathered about a person was kept together and finally passed up to Mr. Bixby, with the card, for final consideration (Rec., pp. 201-208).

Neither Mr. Hopkins nor Mr. Merrick have any personal recollection of the information received in regard to Thomas Atkins or the Atkins family. Mr. Hopkins states that he has now no recollection of any of the cases considered by him, excepting the unusual ones (Rec., pp. 213-214). Neither Mr. Hopkins nor Mr. Bixby did any of the clerical work. They received information, prepared the data, and Mr. Merrick and Mr. Hastain, sometimes assisted by the other gentlemen named, wrote it up; and at the time this enrollment was made, no personal applications were required and hundreds of Creeks who never appeared, were enrolled on data furnished to Mr. Bixby and Mr. Hopkins, or some of the enrollment clerks (Rec., pp. 3459-3460). But this was done in the presence of the Attorney of the Creek Nation and the Committee representing it. The testimony was not taken down except in cases where the

Creek Attorney objected and contests arose (Rec., p. 3462). Whenever a name, under consideration, was questioned, then a thorough investigation was had (Mr. Bixby, Rec., p. 261. Mr. Hopkins, Rec., p. 708). Mr. Merrick states, from an examination of the card and his knowledge of the procedure at the time, that both the Authenticated Roll and the Pay Roll of Euchee Town were consulted and used, and that the data as to parentage, blood and age, and possibly sex of Thomas Atkins, was made from information received verbally at the time (Rec., pp. 3465-3471). The card gives the post office address as Muskogee, and he says that this could have been obtained in either of two ways: One, from the person who gave the information as to parentage, age and degree of blood, and the other by reference to the old Creek card of his mother, Minnie Atkins, which gave his address as Muskogee (Rec., p. 3468). Mr. Merrick's attention was then called to the old Creek card of Minnie's (Govt. Exhibit A-31) and he was shown that on it Minnie appeared as a half-blood and Thomas' father as a white man, and the enrolled Thomas, now under consideration, was described as a half-blood; and then Mr. Merrick stated that, evidently, the data covering Thomas Atkins' mother, who was enrolled by him, was obtained from some other source than this old Creek card of Minnie's (Rec., p. 3476). Mr. Merrick stated: "Evidently, the informant so told either me or Mr. Bixby, or someone that the mother was a full-blood." (Rec., p. 3478.) But he says that, undoubtedly, this card, Exhibit A-31, was referred to; and that someone examined it at the time this enrollment was made (Rec., pp. 3874-3879).

Turning to the testimony of Noah Gregory, page 234, and he tells of talking with Mr. Hopkins about the unaccounted for names in Euchee Town, and that he told him the last he had heard of Minnie was that she had gone to Colorado, and he did not know whether she was living; said that he had tried to find out if she was living, but had not been able to locate her. He also said that he had information that two of Minnie's children were living with Tom Holden. He testified to talking with Holden about them. These children had been enrolled long before Mr. Gregory was having this conference with Mr. Hopkins and hence they were subjects of inquiry as were Minnie and Thomas.

This old Creek card also contains that same information Mr. Gregory possessed, as it states the children were children of Minnie Harris, *nee* Atkins, who had abandoned them; and they were living with Thos. E. Holden of Muskogee District. If this card was examined by Mr. Merrick, or whoever passed upon this enrollment, the mother of this boy would have been written down Minnie Harris, *nee* Atkins, as it was upon that card if the same woman was intended as appears upon it—the mother of Charlie and Harvey.

Mr. Merrick says the fact that the census card of Thomas was in his handwriting is not conclusive evidence that any person appeared before him personally because persons appeared before Mr. Bixby and Mr. Hopkins and gave information sufficient to enroll parties and a memoranda of that information was made by them, with the necessary data to fill out a card and that memoranda given to him or Mr. Hastain to fill out the card (Rec., p. 3468). Mr. Merrick was asked if they intended to enroll Thomas Atkins as the son of Minnie Atkins, and his answer was this:

> "Well, as it appears, Minnie Atkins being given as the mother, but, primarily, the Tommy Atkins is the one that appears on the Euchee Roll No. 213." (Rec., p. 3479.)

All that they put on the Roll itself was the name, age, sex and blood (Rec., p. 3479).

We desire to emphasize the statements of Mr. Merrick that the data on this card as to parentage, blood, age, postoffice of Thomas Atkins was not obtained from information given by parties whom they regarded as reliable, on the 23rd of May, 1901, to either Mr. Bixby, Mr. Hopkins, or himself; and that in the consideration of the case, before enrollment was made, all of the cards on file in this family could be examined, as well as the Tribal Rolls. Furthermore, the Pay Roll was then before them, upon which appears the field numbers of the cards of the other members of this family, so that there was no difficulty in ascertaining from the Pay Roll itself the cards to look to for the information, and it was the procedure of the Commission to obtain this information. It is true that Mr. Merrick says that in these last few days it was enrolling from four to five hundred people a day, and it is not possible that they could have given extended investigation at that time, and in the haste of such work, naturally, mistakes occurred, and it was an easy mistake to write down the mother of this boy as one sister, when the other sister was intended. If this theory of a mistake is accepted, then there was only one error in this census card and that was describing the first name of the mother as Minnie; whereas, these mistakes occurred if the alleged son of Minnie was intended to be enrolled: *First,* as to the last name of the mother. While technically she was Minnie Atkins, as she had never been married yet, as seen, she appeared upon these records in four different records before them as Minnie Harris, the mother of Charles and Harvey Harris, and hence, if her son was intended, he would have been described as the son of Minnie Harris. *Second,* if her son was intended and he was born at the time and place found by Judge CAMPBELL, he would have been described as 16 years old instead of 10, whereas, if Nancy's son was intended, 10 was the correct age, as he was born September, 1890. *Third,* if the son of Minnie was intended, having a white father, he would have been enrolled as a quarter-blood, whereas, Nancy was enrolled as a full-blood and her son, born of a white father, would properly be enrolled as a half-blood, as this one was. *Fourth,* if a son of Minnie was intended, his postoffice address would have been

Leavenworth, Kansas, whereas, the real postoffice address of Nancy's son was Wagoner, but as she had been reared near Muskogee and Sam Brown and Noah Gregory, representatives of the Euchees, both associated her with Muskogee, in locating her son there, they fell into a natural error.

Wherefore, we submit that the procedure of the Dawes Commission indicates that it was the son of Nancy and not the son of Minnie who was enrolled. They were proceeding systematically and in a proper way with both record and oral evidence before them to enroll these parties, and, according to that procedure, they could not have enrolled the son of Minnie as ten years of age, a half-blood, postoffice Muskogee, and Atkins as the surname of the mother; and to enroll him fundamentally violated their primary duty to enroll only living residents of the Creek Nation.

The 1890 Roll.

In order that the court may properly grasp the facts in the discussion, we copy so much of it as includes this family, taken from Government's Exhibit A-29, second page after record page 4706:

1 ✓ Eddie Schremehers, 507

2 ✓ Fred Bowers, -107 Thos. & Mary

3 Mamie Atkins, 3718 (2 children.)

4 ✓ Nancy Atkins, 2032

✓ 1 ✓ Lee Atkins, DIED PRYOR TO APRIL 1, 1899. 643

✓ John Davis. (19)

The Dawes Commission, on May 23rd, 1901, enrolled the Thomas Atkins in question as a 10-year-old boy. They had information at that time which convinced them that the person whom they were enrolling was of the age of 10 years, and hence it is incomprehensible to think that they would go back to the 1890 Roll to find upon it a child who was not born at that time. Mr. Hastain testified that as the Census Card showed that the person being enrolled was of the age of 10 years, that it proved that the enrollment officer had gotten the name from some other source than the 1890 Roll (Rec., p. 247). In ruling on questions put to Mr. Hastain in this connection, Judge CAMPBELL said: "Of course, it is evident to anyone that this (was) made in 1901, enrolling a child whose age was given as 10 years, enrolled a person who could not in any event have been on the 1890 Roll" (Rec., p. 241). It is therefore evident that in finding that the name of Minnie's son got on the Tribal Rolls, Judge CAMPBELL was not finding that he was upon the 1890 Roll, but, on the contrary, that the Commission was not enrolling a person who was upon that Roll. This ruling of itself is sufficient to limit the inquiry to the 1895 Roll. It would seem that this was a sufficient answer to the proposition that the 1890 Roll is not a question in this case; but in the Circuit Court of Appeals, the learned counsel for Page devoted many pages to argue that Minnie's son Thomas was on the 1890 Roll and that he had obtained his tribal status thereby. The Page interests, in their argument in the Circuit Court of Appeals, at page 254, stated that the Roll of 1890 was clear and showed Minnie Atkins to have a son named Thomas. At page 281 of that brief, they quoted Sam Brown as testifying that the "Thos. and Mary," appearing over the words "2 children," could not have referred to the father and mother of Minnie and Nancy, who were named Thomas and Mary, but they did not quote his statement made in the same connection that the "Thos. and Mary" appearing upon the typewritten copy of this Roll in evidence was added after the Roll was made up and adopted by the Council (see his testimony, Rec., p. 218). Not only were misleading arguments made, but the facts were not correctly stated in that brief. We call attention to page 27 of their brief, "and right opposite the name of Minnie Atkins are the words 'Thos. & Mary, 2 children'." An examination of the record printed above makes a very different reading: "2 children" are inserted right after the word Minnie Atkins, and written above these words are the names "Thos. & Mary." The only testimony on the subject is that of the Government witness and the Page witness, Sam Brown, that the "Thos. & Mary" now shown on that Roll were not upon it when the Roll was adopted in the Euchee Convention, and not upon it when the roll was adopted by the Creek Council. Having made these arguments in the court below, it is fair to assume that the same arguments will be made in this court and we are therefore inviting the attention of this court to the exact bearing of the 1890 Roll on the issues of this case.

The first name is Eddie Schremcher, the son of Newt Schremcher and the son of a sister of the mother of Minnie and Nancy.

The second name is Fred Bowers. He is not explained in the evidence, but the explanation of his right to be on this Roll is found in the examination of Government's Exhibits relating to the rejection of Minnie on the ground of her non-residence. The testimony of Fred Bowers was taken in that hearing, and he testified that he was a first cousin of hers (Rec., p. 4714). Under the rule, as explained by Mr. Hopkins (Rec., p. 204), of listing descendants of a common female ancestor, he was properly in this group. Next to him follows Mamie and next, Nancy. These names complete this family group. The next name is that of Lee Atkins, their brother, who is given No. 1, as if another family group, whereas he should have been in this family group. Opposite the name of Minnie is this addition: "& (2 children)" and written over this parenthesis are the names, "Thos & Mary." No numbers appear to those names Thos. & Mary, as they do to all other names on the Roll.

Mr. Shanafelt, the clerk in charge of these Rolls, testified that in every instance the Creek Rolls, which he had examined, showed that the names are arranged in groups and given a number from 1 on to the end of the family group (Rec., p. 168). The truth of this is illustrated in the King's Roll of Euchee Town (Gov. Exh. A-28, p. 4706). On it the family group was originally written with five names and a number given to each. Afterwards, opposite the name of Minnie was written "2 children," and to the right-hand side under these words was added, "6. Charlie Atkins. 7. Sussie Atkins." Thus these names being added to the Roll, they were given numbers. The "Thos. & Mary" on this 1890 Roll, having no group numbers, prove that they were not part of the group on the Roll; but this is not a subject left to deduction.

We have heretofore referred to the testimony of Sam W. Brown, and invite your consideration to it in full. He said that there was a mass meeting of the Euchee people in 1890 at which they took the census and that Noah Gregory was Town King then and he presided over it, and he (Brown) was the clerk of it (Rec., p. 215). The convention was held on the Square Ground on Snake Creek, and the purpose was to make a true census and enable them to draw their money (Rec., p. 217). He recalled that Minnie Atkins and Nancy were placed on the roll. He was asked if anything was said of Minnie having children. He stated that Tom Holden, the husband of Minnie's half-sister, Kate Holden, was present, but that Holden did not say anything at first. Then Jackson Barnett, a neighbor, said: "Thomas knowed something about Minnie having children" (Rec., p. 217). Then Holden got up and said she had two children. He (Brown) then said it wouldn't do to leave them out. If they were not in the country, they had better enroll them and if the Council wouldn't accept them, they would have to cancel them, and so they were enrolled: "Mamie & 2 children" (Rec., p. 217). No one made any statement of their names. He says it was error to have her name Mamie on this Roll; that her right name was Minnie, and it should have been so written. He says that the names "Thos. & Mary" were not written above the word "2 children" at the convention. He was a member of the House of Warriors and in the Council when this Euchee Roll was ratified as prepared by the Euchee people. He says the "Thos. & Mary" were not on the Roll ratified by the Council, and he does not know how their names got there (Rec., p. 218). This is every syllable of evidence, so far as we know, in this record bearing on the subject of these names on the 1890 Roll. This was not the Original Roll which the Dawes Commission had before it, but a typewritten copy of it, and a carbon copy of that typewritten copy, the latter being used as the original (see Rec., pp. 212 & 251, 252).

It is quite important to bear in mind that Tom Holden gave the information that Minnie had two children, because the record shows from Minnie's own statements that his wife, her sister Kate, did not know of the existence of her son Thomas.

In her statements at Kansas City, she was questioned about correspondence with her sister over her children Charlie and Harvey, who were living with her sister when she left Muskogee in 1895. She was asked if Kate ever wrote her about these children and was then asked if they wrote her about Tommy, and she said: "They didn't know nothing about Tommy. I didn't tell them anything about Tommy" (Rec., p. 4069).

On the copy of the 1890 Roll also appears numbers on the right-hand side, made with blue pencil, following each name, except the names of "Thos. & Mary." It is explained at some length elsewhere that these numbers represented the field numbers of the Dawes Commission. Turning to the 1890 Roll is found opposite the name of Eddie Schrimcher, 507, and opposite Fred Bowers, 107, which are, doubtless, the field numbers on their census cards. Opposite Mamie is 3718, which is the field number of her rejected card (Gov. Exh. A-37, Rec., p. 4712). Her case did not progress to the point of getting a card number, as she was denied enrollment. Opposite Nancy's name is the number 2032. Turning to Government's Exhibit A-45, page 4718, and it is seen that this is the field number on her census card. The next name is that of their brother, Lee Atkins. There is no field number for him, because there is notation showing that he was dead. There are no field numbers for "Thos. & Mary," which were evidently interlined and no part of the roll itself. Turning to the census card of the enrolled Thomas Atkins, Government Exhibit A-1, page 4652, and it is seen that the field number is 2774. If his name had been on the 1890 Roll, opposite "Thos." would have been written 2774. Turning to the 1895 Rolls, and it is seen that on the Pay Roll opposite Thomas Atkins' number 213, Government's Exhibit A-2, second page after 4652, is the number 2774, and on the Authenticated Roll of 1895, Government's Exhibit A-29, second page after 4706, opposite Thos. Atkins is 2774.

Mr. Hopkins testified that he found no notations made on this sheet of the enrollment of either the "Thos. & Mary," whose names are written above this parenthesis (Rec., p. 205). There are other reasons that the name of Thomas as Minnie's son was not on this roll. In her Kansas City statement in conference with her counsel and lessees, Minnie told about getting a letter from her brother Lee, which was evidently about 1894, saying that he had found out where she was and asking her to visit him. She was asked this question: "Had you written to any of the folks at (in) the Territory? A. No, I didn't want them to know." (Rec., p. 4061.) In further corroboration of this, we call attention to a letter of Mr. Hanford's. He was Minnie's attorney from the beginning of her lease transaction with Mr. Page. He subjected her, in company with Mr. Long, to a most searching inquisition of her past. He took her to Leavenworth to refresh her memory in meeting old acquaintances and visiting old scenes. In further search of information, he went to Boston to see Charles Peterkin, with whom Minnie had lived several years, and who was, presumably the father of her children, Robert Lee and Alice. She admitted in her Kansas City statement that she lived openly with him at Fort Logan (Rec., p. 4060). After Hanford's visit to Peterkin, he wrote Peterkin a letter, dated March 2, 1915 (Gov. Exh. A-84, Rec., p. 4784), and we quote therefrom the following:

> "Minnie was very much amused when she learned that I had gone to you for information regarding the birth of this child. She had previously told me that you had no knowledge of the matter and that she had scrupulously kept the matter from you and from everyone else that she was connected with after the child's birth. The child was born in the town of Leavenworth before she ever got acquainted with the Army post. She was quite a character about Leavenworth for a couple of years, and after she got away from there she stayed away, in so far as she allowed other people to find out.
>
> "It was at that time that she started her system of keeping her past a complete mystery to all who knew her." (Rec., p. 4784.)

Thus it is seen that after months of indefatigable questioning of Minnie, Mr. Hanford stated that she kept her previous life at Leavenworth and the existence of Tommy a profound mystery to her family and all who had known her.

Then how is it possible that his name could have appeared upon the 1890 Roll, or the 1895 Roll? The evidence shows that both Robert Lee, who was born and died at Leavenworth, and Alice, who was born and died at Fort Logan, went under the name of Peterkin, were baptised and buried under that name, and, as Minnie was openly living with Peterkin at Fort Logan, Colorado, it is quite possible that the rumors of these two children reached her relatives in the Indian Territory and that her brother-in-law, Tom Holden, evidently with some reluctance, stated in the Euchee Convention in 1890 that Minnie had two children. That he did not hear it from her, we have her repeated statements. And that the existence of her son Thomas was not known to his wife or any of her relatives we have her repeated statements. These children could have referred to no other than Robert Lee and Alice, because if Tommy existed, the knowledge of his existence was kept from all of her relatives, and her son Charlie was not born until May, 1891, according to her statement (See record page 3997), which is confirmed by the census card (Gov. Exh. A-33), dated February, 1900, wherein he is listed as nine years of age.

There is another undisputed line of evidence in the record that established that the Dawes Commission did not enroll the "Thos" whose name, as we have shown, was written upon the 1890 Roll after it had been adopted. If it should be conceded, for the sake of argument, that Minnie had a son Thomas, and, if it should be conceded, also, for the sake of argument, that that Thomas' name was written upon the 1890 Roll, yet her condition is not bettered in this case, because all the evidence on the subject is in accord, proving these facts; that all of these rolls were before the enrollment officers of the Dawes Commission whenever a name was under consideration for enrollment, and that upon the census card of the enrolled person notations were made of the rolls upon which his name appeared. Thus, take Nancy's card, Government's Exhibit A-45, page 4718, under the head of "Tribal Enrollment," is the 1890 Euchee Roll and a note thereunder, "also on the 1895 Roll." The same is true of Minnie's rejected card, Government's Exhibit A-37, page 4712; it shows in tribal enrollment the 1890 Euchee Roll, also a notation that she was on the 1895 Roll. Take Government's Exhibit A-33, preceding page 4707, census card of Charlie and Harvey Harrison, under tribal enrollment is given the 1895 Euchee Roll and a notation that they are on the Euchee Pay Roll of 1895. Take the census card in question, Government's Exhibit A-1, record, page 4652, and it shows that Thomas Atkins was on the Euchee Roll of 1895 and also on the Authenticated Roll. These references are not incidents, but followed a settled rule of the Commission, which was to place upon the census card the notations of all of the tribal enrollments of the enrolled person.

Mr. Merrick, the enrollment clerk, who wrote the Thomas Atkins card, testifies that the evidence of tribal enrollment in this case was taken from the 1895 Pay Roll, and that they also went back to the Authenticated Roll of 1895 for identification; and he calls attention to the fact that the field number of this card, 2774, was written down on both of these rolls opposite the name of Thomas Atkins, and that upon the Authenticated Roll his name appears Thos (Rec., pp. 3465-3466).

Mr. Shanafelt, the custodian of these rolls and cards, testifies that the custom in making these census cards, was to place on them references to each roll upon which the person's name was found, when it was identified on more than one roll (Rec., p. 167).

It is evident that Mr. Merrick and Mr. Hastain wrote most of these census cards at the session of the Commission in Okmulgee, in May, 1901. And Mr. Hastain testifies that, if the person enrolled was on both the 1890 and 1895 Roll, the 1890 Roll would appear at the top under Tribal Enrollment, and down below, it would be indicated that his name was also on the 1895 Roll (Rec., p. 246). This card of Nancy's and the others heretofore referred to, were in strict accord with this rule, as stated by Mr. Hastain. He said it was customary to refer in every case to both the 1890 and 1895 Roll, where the party was on both (Rec., p. 247).

Mr. Hastain also stated that the enrollment in May, 1901, of a person as of the age of ten years would indicate that the enrollment officer had gotten the name from some other source than the 1890 Roll (Rec., p. 247).

Mr. Hastain again stated that, irrespective of age, had the person enrolled been on both the 1890 and 1895 Roll, the notation of such would have been on the card and it was not on this card of Thomas Atkins.

According to all of the gentlemen engaged in the work, these rolls were there for their information and whenever a name was identified upon both, it appeared upon the census card and the fact that the 1890 Roll is not noted on the Thomas Atkins card, is proof positive that the Commission did not enroll a person whom it identified as being upon the 1890 Roll. On the contrary, their action amounted to a declaration that this person whom they enrolled was not on the 1890 Roll, or else a notation of that roll would have appeared upon the card, and the field number would also have appeared upon the Rolls themselves.

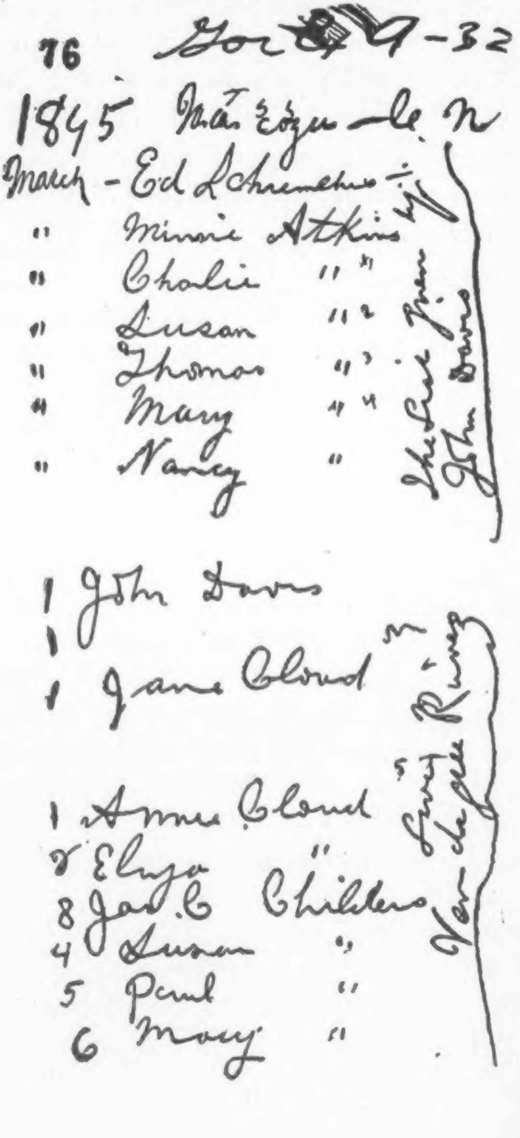
Therefore it is submitted that there is no evidence, whatsoever, that the Thomas Atkins enrolled, whether the son of Minnie, or whether the son of Nancy, had a tribal enrollment in 1890. If he had such, that tribal enrollment was not identified by the Dawes Commission, and it did not intend to enroll, when it did enroll Thomas Atkins, any person who was upon the 1890 Roll. Their action affirmatively shows that they were enrolling a person who was only upon the 1895 Pay Roll and the 1895 Authentic Roll. Hence all the speculation as to what the "Thos. & Mary" on the 1890 Roll meant is of no moment in determining the issues here.

The Tribal Rolls of 1895.

D. M. Hodge served as King or Warrior continuously since 1868. He remembers the making up of the 1895 Roll. The list of each town was made up by its King, or Warrior, and submitted to a committee of the counsel to investigate, and the committee reported to the council, which acted upon the report and adopted the final roll. Very great care was exercised by kings and warriors in the council in making up the Roll. The Roll was confined to members by blood alone, adopted citizens being cut out (Rec., pp. 3663-3665). George Clinton, a full-blood Euchee, a warrior of that town, referring to the 1895 Roll, said that Sam Brown, the Town King, went out and talked to all the families he could find to get the names to go on that roll and then took the list to the House of Warriors (Rec., p. 1719). Sam Brown testified he was King of the Euchees in 1895, and had the making up of the Roll (Rec., p. 219) He testified that before the 1895 Roll was made up the Creek Council passed an act that any one outside the limits of the Creek Nation could not get the payment for which the roll was being made (Rec., p. 231). This 1895 Roll was for a payment shortly to be made. The council requested that it be made, and there was a meeting of the people, that is of the heads of the families, and they would give him the names of themselves and their families. Some Euchees were left out for lack of information, and he had to go out and hunt up others (Rec., p. 219). After the convention of his people, in 1895, on a cold day in Muskogee, he met John Davis and asked him for a list of the remnant of the Atkins family, and Davis gave it to him, and he put down the names given him by Davis in a book (Rec., pp. 219-221).

He presented in open court his memoranda book, and the Government introduced page 76, which is as follows (Rec., p. 4707):

Government's Exhibit A-32.



76 Gov A-32

1845 Mar [illegible]

March - Ed Schremehue by

" Minnie Atkins

" Chalie " 1

" Susan " 2

" Thomas " 3

" Mary " 4

" Nancy "

The List from John Davis

1 John Davis

1

1 Jane Cloud

1 Annie Cloud

2 Eliza "

8 Jas. C Childers

4 Susan "

5 Paul "

6 Mary "

Lucy 5

Van [illegible] Rivers

He says that he gave these names to the census committee; and the committee asked him and Noah Gregory and John Buck about the Euchee list, and that the committee reported to the council and the council adopted the report of the committee (Rec., p. 221). Referring to the list claimed to have been given him by John Davis, he says that he knew Ed Schremsher, Minnie and Nancy Atkins, but did not know the other names on that list which Davis gave him. He knew of no Thomas Atkins in the Euchees. The father of Minnie and Nancy was named Thomas Atkins, and he had been dead long before this roll was made, and he was a Coweta, not a Euchee. His only information about the Thomas Atkins on the list which he says Davis furnished him was that he was a part of this Atkins family. Davis did not go over the names with him, and made no statement to him as to what kin any of those parties were to the others (Rec., pp. 224, 225, 227, 228, 230). In her deposition at Seattle, Minnie stated that she had her uncle, John Davis, put Tommy on the Tribal Roll (Rec., p. 3997), but the probative value of this statement is weakened by her testimony given on this trial when she stated that she knew nothing of her own name or that of Tommy, Harvey or Charlie being on the Roll when she went to Okmulgee, when she collected for four (Rec., pp. 3912, 3913, 4088). It is further destroyed as at war with the physical facts, that John Davis was in the Detroit penitentiary from 1891 to 1896. This roll was made between the meetings of the council, the regular meeting being in October, 1894, and a special meeting to act on the roll being in May, 1895 (Rec., p. 2646). According to the testimony of Brown, the name of Thomas Atkins got on the roll through him, and he obtained it from John Davis, at Muskogee, on that cold day in the winter of 1895, as he says it was after the meeting of his people to make up this roll which was approved in May, 1895. If his testimony was true, then the name might have stood for the son of either Minnie or Nancy, if either or both had a son, as Davis gave him no information of the relationship of any of the persons on the list furnished him, and he did not know for whom that name stood. But his story is not true. It is a fact, proved by record evidence, that John Davis was in the penitentiary at Detroit, Michigan, from December, 1891, to January, 1896 (Rec., pp. 4988-4990). Therefore, this name on the roll must be accounted for from some other source than John Davis and Sam Brown's book purporting to contain information from John Davis, at Muskogee in 1895. As John Davis was the only possible source of information that Minnie had such a son, if she had such, necessarily that information did not get to the Creek authorities. Minnie testified that John Davis and her brother, Lee, were the only persons in the Indian Territory to whom she confided the existence of Tommy (Rec., p. 3973). And also see her Kansas City statement (Rec., pp. 4056, 4069, 4075). Ellis Childers testified that Lee Atkins died before 1895 (Rec., p. 2648). The testimony of Sid Johnson (former chief of police of Fort Smith, at one time a special officer of the Express Company) is that Lee Atkins was killed at Checotah in November, 1894 (Rec., pp. 4430-4432). Mr. Johnson gives the circumstances by which he fixes the date, and they unquestionably establish the fact. The name of Lee Atkins is not on this 1895 Roll (Rec., pp. 4706-4707). There can only be one explanation of that, and that is that he was dead. He was a well known man in the nation. The proof of his death prior to the making of the roll necessarily excluded him as a source of information. That leaves the other source of information to have been John Davis, the only other person whom she claims to have told of the existence of her son. Both the Government and Page, in their pleadings and evidence, commit themselves to the Sam Brown-John Davis route for Minnie's son, Thomas, to have gotten on the Euchee Roll. After the case was closed, evidence was introduced by permission of the court which established the fact that John Davis was in the penitentiary continuously at Detroit, Michigan, from 1891 until 1896 (Rec., pp. 4987-4990), thereby absolutely destroying the testimony of Sam Brown and his memoranda book, stating these names of the Atkins family were given by John Davis, and that he passed those names thus obtained from John Davis on to the Creek Council. The Pay Roll shows John Davis' name on it and opposite it "Detroit" and the receipt of his $14.40 by Sam W. Brown on September 24, 1895 (Rec., pp. 4706-4707).

In view of these facts established by the records, the mantle of charity cannot be thrown around Sam Brown and his testimony ascribed to a mistake of memory. His memoranda book (Gov. Exhibit 30, p. 4707) is manufactured evidence for this case.

On behalf of Nancy was introduced Ellis Childers, who was closely in touch with this roll, being Speaker of the House of Warriors at the time the 1895 Roll was made up. Childers says there was $200,000 to be paid out to the Creeks, and this Roll was made up for the purpose of distributing it among them. It was the custom for each town to make up its own Roll. Some of the towns held meetings for this purpose and some did not, but left the Roll to the kings and warriors to prepare. After being prepared by the town, or the king and warriors, it was submitted to a committee of the council for investigation, and on the report of the committee the Rolls were authenticated. The regular session of the council was held in October of each year, but an extra session was held in May, 1895, to consider the roll in process of making. A committee of six from the House of Kings and twelve from the House of Warriors was appointed to take these various town Rolls and pass on them. Childers appointed a committee of twelve from his body. The committee called the Town Kings before them, and sometimes the warriors, and if they did not get satisfactory information as to the various names, they called in other people who would have information of the persons inquired of. The kings or warriors would tell the committee to call such and such a person who lived near the person inquired of, and who might have the information, and that person would be brought in to obtain the information from him (Rec., pp. 2645-2647). Sam Brown called him out of the House to go before the committee to help him verify three families of Euchees who lived near his section of country. They were two of the Childers families and this Atkins family, into which some of his relations had married (Rec., pp. 2647, 2648). Childers was well acquainted with this family; in fact, had known them all of his life, and went to school at Carlisle with Minnie. He was also acquainted with their relatives, knowing John Davis, Mr. and Mrs. Robinson, and Sauce Childers, with all of whom he had frequently talked regarding the family. He knew of the adults, but not the children, and did not know the names of the children. He knew that Minnie had two sons, and he knew from reputation in the family that she had these sons and no other child, and knew from family reputation as well as from his own knowledge (which will be hereinafter referred to), that Nancy had a child (Rec., pp. 2648, 2649). When he went before the committee the chairman asked him if he knew this Atkins family and he told him that he did. The chairman then called off the names of this family on the list which he had and explained who each name was intended for. Childers recognized the names, at least some of them, on the Authentic Roll, of this family, as the names which were read to him by the chairman of the census committee. He identified Ed Schremsher as the son of Newt Schremsher. Childers next identified Minnie as the daughter of Thomas Atkins. He knew her well and had gone to school with her. He did not know the names of Minnie's children, but he knew she had two, and he identified Charlie and Harvey as her children. He does not remember the name of Alice. The name of Thomas was explained to him as that of Nancy's child, and he had that on his mind at the time, and identified him as such, and he identified Nancy as a daughter of Thomas Atkins and sister of Minnie (Rec., pp. 2649-2652).

Here is the direct and positive statement of this witness that he appeared before the census committee of the Creek Council while the Roll was in process of making, and that he identified the Thomas Atkins No. 213 thereon as the son of Nancy Atkins. He based this identification on the general reputation in the family and on his knowledge of the fact that she had a child whom he supposed to be this child when he was told by the committee this name represented her child. Childers stated that the members of the committee were present when he was before them and also recalled that John Phillips, the committee clerk, was present; and he stated in his cross examination that Mrs. Brison, formerly Mrs. McKellop, whose husband had been the clerk of the House of Warriors, had in her possession in Muskogee the minutes of the proceedings of the council, which he had that day examined (Rec., pp. 2663, 2664, 2685). If his testimony was not true he furnished the names of persons present, calling those of two, Brown and Phillips, and giving the source where the Government or the Page interests could obtain the names of the committee. He afforded the opposing sides every opportunity to contradict his testimony, if it was not true, and the hearing of this case continued for weeks after Childers testified, and no one was put on the stand to contradict this testimony, but on the contrary, the Page interests placed Sam Brown on the stand again, he having theretofore testified as a witness for the Government. Both the Page interests and the Government questioned Sam Brown as to matters occurring at the payment in September, 1895, and as to other matters, but did not question him as to Ellis Childers' statement that he had called Childers before the census committee, and that in his presence Childers had identified Thomas Atkins as the son of Nancy, and had identified these other members of the Atkins family, as well as two other families of Euchees.

It is true that Childers' testimony is weakened by a statement which he made to Mr. Allen, attorney for the Creek Nation, while he was employed by Mr. Allen, ostensibly as an interpreter. It is evident that the real purpose of his employment was to work up the case against Nancy Atkins, and to bring her before the Creek authorities, and to obtain this statement from him. We refer to Mr. Childers' testimony, pages 2686-2693 and 2673, and Mr. Allen's at pages 2793-2796, to establish this conclusion. This statement was submitted to Mr. Childers, he admitted having made it. The first part of the statement is practically a repetition of his testimony given at Sapulpa about the birth of Nancy's baby at Wagoner in September, 1890, and her being in a destitute condition, and a collection being made for her and of his visiting her later and seeing the child in bed with her; and then he made the statement that his understanding was that it died very shortly after its birth (Rec., pp. 2669-2671). He was asked if that was true, and he said: "They got that out of me." "Q. But it was the truth, wasn't it? A. They prepared it and I signed it. Q. It was truth? A. I guess I'll have to stay with it." (Rec., p. 2678.) He testified here that he saw the child with Nancy for a year or two, and learned he was named Tommy, and the last time he saw him he was 2 or 3 years old (Rec., p. 2642), and at Sapulpa prior to this statement, he had testified substantially the same. The only real difference—and, of course, it is a material difference—from his testimony theretofore given, is that the child died shortly after birth.

Then Judge Stuart asked him how with this fact in his mind he had an idea in 1895 that this Tommy on the roll was Nancy's Tommy, and he replied that he didn't know of any of the children except the two of Minnie's; that he knew Nancy had a child, and he did not give it much consideration, and verified Tommy as Nancy's child (Rec., p. 2678).

On cross examination by Mr. Allen, he stated, as he had several times before, that in 1895 he did not know the name of Nancy's child, but knew she had a child, and when the committee told him that the name of Thomas was meant for her child he approved it (Rec., p. 2665).

Childers stated in redirect examination that he had told numerous parties that he did not think Tommy Atkins, the son of Nancy, was entitled to be enrolled, and that that statement was based on his belief that he had died before the land office opened on April 1, 1899, but he had not stated to anyone that he was not entitled to be on the Tribal Roll of 1895, as he was entitled to be there, or he would not have been there (Rec., p. 2688).

Childers had known Nancy all her life. He was a schoolmate of her sister's. He was an educated Creek and was the Speaker of the House of Warriors for years and treasurer of the nation. Mr. White had sent him to bring Nancy to Sapulpa when she testified before Judge Stanfield, when she repudiated her testimony given in the office of Bartlett's attorneys, where she had testified that her child was a girl and died at its birth. He at that same time testified of the birth of Nancy's boy and of knowing him for several years, and gave in his testimony a description of his personal appearance (Rec., p. 2689). At one time, when it was thought that Page was trying to take Nancy out of the state, Mr. White had her to go to Ellis Childers' home, and she lived in his home for about a month. His association with her was therefore intimate, and he was in a position to influence her.

The Creek authorities, knowing these facts, employed Childers, ostensibly as an interpreter, and put him to working up evidence against Nancy (Rec., pp. 2673-2682), then have him to try to bring Nancy before them privately (Rec., pp. 2793-2796), and when that failed and her attorneys produced her before them, secured a private interview between Childers and Nancy, seeking to have him influence her, then take this statement from him, then dismiss him as interpreter. This transaction is thoroughly discreditable to the Creek attorney and certainly not creditable to Ellis Childers.

The first time he stated his knowledge of this child and of its living several years was in open court, where he was vigorously cross examined by opposing counsel on this subject. The next time he made it was an *ex parte* statement to his employer where he stated in effect to the contrary of what he had sworn. The next time that he made a statement on the subject was again in open court where he was subjected to a severe cross examination by Judge Stuart, Mr. German and Mr. Allen, and he stuck to his story, notwithstanding the contradiction of it in the statement made to his employer. On the Sapulpa testimony being put before him as to the fact of the boy's existence for several years after his visit, he stated that was true (Rec., pp. 2689-2691).

So much of his testimony which reached to the identification of Thomas, as a son of Nancy, as the person enrolled by the Creek Council, is wholly without contradiction after the fullest opportunity to do so.

The learned counsel for Minnie and the Page interests will doubtless argue here as they did in the Circuit Court of Appeals that Sam Brown was simply mistaken in saying that he got this information from John Davis, but that he did get this information from some reliable source. It was the duty of Sam Brown, as King of Euchee Town, to obtain the names of all of these Atkins people, but if he got the name through any other source than that of John Davis, it could not have been intended to have been the son of Minnie, because John Davis was the only possible source of information of the existence of Minnie's son Thomas, according to her testimony. We have the right to anticipate here that the learned counsel for the Minnie and Page interests will be consistent and argue here, as they did in the Circuit Court of Appeals, the force of this testimony. And, in order that we may accurately state their position and properly answer it, we quote from their brief in the Circuit Court of Appeals, on pages 278 and 279:

> "Much stress has been laid by learned counsel upon the proposition that Sam Brown testified that he procured the names of Minnie's children from John Davis at a certain time and that the evidence in the case shows that he could

> not have procured it from John Davis because John Davis, at the time Sam says he procured the information from him, was in the penitentiary.
>
> "We think that Sam Brown was mistaken about procuring this information from John Davis, although the Government thought and alleged in its pleadings that Sam Brown did procure this information from John Davis and it was not discovered that he probably did not procure it from John Davis, until near the end of the trial. The attorneys who represented Minnie Folk, Page and others made no objection to the introduction of the penitentiary record showing John Davis in the penitentiary, because if it was of any benefit to the Nancy case, she was entitled to it. But it seems to us that this is a 'tempest in the teapot.' We cannot understand how this matter can affect substantially the result reached in this case by Judge CAMPBELL, the trial judge. It must be remembered that this proof that John Davis was in the penitentiary was before him and it must be assumed that he found that Sam Brown might be mistaken as to the source from which he acquired his information as to Minnie's children."

But this theory to rehabilitate Sam Brown as a source of information outside of John Davis is not sustained by any evidence whatsoever, and we invite consideration of the composition of the rolls themselves. These rolls in and of themselves prove that after Minnie was listed, the tribal authorities learned of her having two children and that they entered them on the roll and then added, apparently, what they thought were their names, Charlie Atkins and

Sussie Atkins; the latter was carried forward as Susie, then changed to Susan, then converted by red ink change on the Pay Roll to Harvey; Charlie's name being carried forward as Chartie. Finally these two names, representing Minnie's two sons, are enrolled on the census card No. 1655, field No. 1659, Government Exhibit A-33, and this field number appears on both the Authentic Roll (Gov. Exh. A-30, Gov. Exh. A-2) opposite their names, or on the Authentic Roll opposite Mary, which was on the Pay Roll turned to Harvey. We contend that these rolls demonstrate that Sam Brown's story is false in the whole and not merely false in the one point, which is admitted, that he got the names from John Davis.

Three Rolls were made in 1895, the primary one, the Tribal or band Roll was made by the people in convention, or the Town King assisted by the Warriors. For convenience of designation we will call it the King's Roll. This Roll was submitted to the council after passing the Census Committee, and the Roll, as adopted by the council is called the Authentic Roll. The Pay Roll was drawn from the Authentic Roll, supposed to be a literal copy, with arrangement for receipts of payees, witnesses to signatures, etc. It is upon the Pay Roll that the red ink changes were made in names, presumably from information derived during the payment, correcting errors upon it. These Rolls were introduced by Mr. Shanafelt, the Clerk of the Land Office, in charge of them (Rec., p. 153). What is herein called the King's Roll was introduced as "1895 Tribal Roll, Euchee Band Creek Nation." (Gov. Exh. A-28, opposite page 4706 of this record.) The Authentic Roll was introduced as "Census Roll Euchee Town," Government's Exhibit A-30, third page from record page 4706. The Pay Roll is Government's Exhibit A-2, second page after record page 4652.

The King's, or Tribal Roll, of 1895.

(For King's, or Tribal Roll, of 1895 (Rec., p. 4706) see insert herewith.)

An examination of this photostatic copy clearly shows that as written originally it reads as follows:

1. Ed Schremcher
2. Mamie Atkins
3. Thomas
4. Mary
5. Nancy Atkins

And then was added after the name of Mamie, "2 children" and a bracket opposite Thomas and Mary:

"6. Charlie Atkins
7. Sussie Atkins."

Some of Minnie's history as developed in this testimony accounts for these additions and unquestionably proves that the added names represented what was thought to be her whole family, and through these additions her two sons Charlie and Harvey trace their enrollment.

206 × 204 ×

15
219

1 [illegible]
2 [illegible]
3 [illegible]
4 [illegible]

1 [illegible] [illegible] 4

1 [illegible]
2 [illegible] [illegible]
3 [illegible] [illegible]
4 [illegible]
5 [illegible]

1 [illegible]

1 [illegible]
2 [illegible]
3 [illegible]
1 [illegible]
2 [illegible]
3 [illegible] [illegible]
4 [illegible]
5 [illegible]
6 [illegible]
7 [illegible]
8 [illegible]

223 × 219

Minnie came to the Indian Territory sometime prior to the payment which was made on the Roll in September, 1895. Her own testimony leaves it quite uncertain when she did come to the Indian Territory. She says that she was here at that time about one year. She stated twice that she was in the Indian Territory when her brother, Lee Atkins, was killed. The date of that is elsewhere fixed as November, 1894. At other times she says that she came in 1895 (Rec., pp. 3913, 3987, 4064, 4087, 4088).

She testified in answer to questions by Judge CAMPBELL, that she heard that there was a payment going on at Okmulgee, and she and a girl friend rode out from Muskogee to Okmulgee, just for fun, she said. When there, she decided to go in and see who were getting money, and there was a man there with a book, and he shoved the book over to her and she saw where Harvey and Charlie and Thomas and herself were on the book, and she said: "I am down here for some money, and you will have to pay me," and they did (Rec., p. 4088). *This is important in showing that the changes made upon the roll were made before Minnie went to the payment. In other words, none of the changes that were made in the original roll from the way the names finally appear on the Pay Roll were made at her instance or with her knowledge.* She testified that when she came to Muskogee, that her brother Lee Atkins did not meet her at the train as she expected, and she inquired for Miss Alice Robertson and went out to her house with her children Charlie and Harvey and spent that night and the next day with Miss Robertson. Then she stated that the payment was not long after her arrival there (Rec., p. 4064). As the date of that payment is fixed at September 24, 1895, it is improbable that her statement that her brother, Lee, was still living when she came there, was true.

Miss Alice Robertson was a well known citizen of the Indian Territory and of Oklahoma when a witness in this case; and since that time she has attained deserved eminence as a member of the National House of Representatives. Miss Robertson had known Minnie all her life and was instrumental in having her sent to Carlisle School, and was a teacher there while Minnie was a pupil. She was employed by the Gypsy Oil Company to go to Seattle and meet Minnie and ascertain if she was really Minnie Atkins of this Atkins family, and she did so, and in Seattle identified her as the woman whom she had known from childhood. Miss Robertson said that she did not see Minnie from the time she left Carlisle until the late summer of 1895, in Muskogee, Oklahoma. She came to her house in Muskogee with two children, and told her that she had quarrelled with her husband, whose name was Sergeant Peterkin. The children were small, one carried in arms, and the other about two years older, and their names were Peterkin. She didn't remember the sex of the children. Minnie stayed at her house for a few days (Rec., pp. 293-296). As Miss Alice Robertson is quite certain of the date and as it conforms to Minnie's statement that she came to Muskogee a short time before this payment in September, it is quite clear that it must have been sometime in the year 1895 when she came to the Indian Territory from Colorado, and that fact throws light on the 1895 rolls.

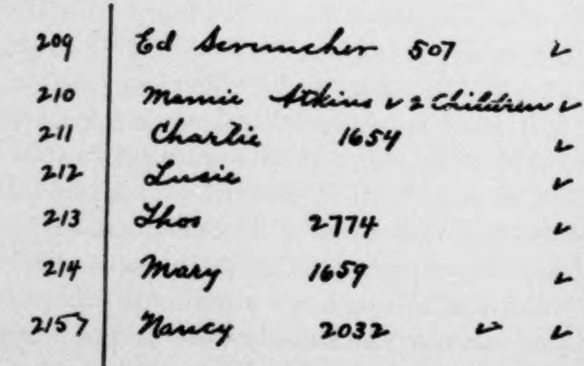
An examination of the picture of the King's Tribal Roll, the one which Sam Brown was required to prepare for the Creek Council, shows in its original form it had but five names upon it. It shows that after the name of Mamie Atkins is written, probably in a different handwriting, certainly with a different pen and at a different time than when the original was written, the words: "& 2 children." The spacing between these families shows that the space for the Atkins family was no more than was occupied by the five names first placed there. Evidently after this list was made up, the two names appearing to the right hand side, separated by a line from the first list, and numbered following the original numeration, which ended at 5, 6 and 7, are the names Charlie Atkins and Sussie Atkins, which were added. Whether they were added at the time the words "& 2 children" were written after the name of Mamie Atkins, or at a later date, is a matter of surmise and of no importance. The important fact is that it was ascertained by those in charge of the Roll that Mamie Atkins had two children, when they did not know that fact when the original Roll was made out. These are clearly additions, and doubtless were superinduced by the fact that Minnie had recently come to the Indian Territory accompanied by two small children, as testified to by Miss Robertson.

The next step in making the Creek Roll was the adoption of the King's Roll by the tribe, and it then became the Census Roll. It is called in this record, the Authentic Roll. The photostatic copy of it is found on the third page following page 4706.

There are two sets of numbers to this list. The first, the consecutive tribal number, and the second, the inner or family number. In the copy these inner numbers are dim, except the last one, which is 7, shows quite plainly.

The Census, or Authentic Roll.

So far as it refers to this family, it is here copied:



209	Ed Schremcher	507		✓
210	Mamie Atkins ✓ 2 Children			✓
211	Charlie	1654		✓
212	Lucie			✓
213	Thos	2774		✓
214	Mary	1659		✓
215 7	Nancy	2032	✓	✓

Govt. Exh. A-30, Rec., p. 4706 (third)

This list is the same as the King's Roll in every particular, except the order of the names, which begins with the name of Ed Schremcher, their cousin, who was the head of this family group. The next follows, Mamie Atkins, and opposite her name is "& 2 children." A line seems to be drawn through that, and immediately following her name are the names of Chartie and Susie, the two names which were evidently intended to be the two names added to the King's Roll, which appear there as Charlie Atkins and Sussie Atkins, numbered 6 and 7. They are now placed next under Mamie's name and precede Thomas, and are 3 and 4, whereas, in the King's Roll, Tommy's name followed Mamie. Thomas here is Thos. Following his name is Mary and following her is Nancy, this ending that particular family; and the next family beginning as in the King's Roll, with John Davis. The next step in the compilation of the rolls was the copying of this Authentic Roll, which became the Pay Roll. It was supposed to be an exact copy of the Authentic Roll, with the proper places following the names for the signatures of the payees and of witnesses and dates of receipt, etc. This Pay Roll is Gov. Exh. A-2 and is the second sheet following page 4652. A comparison of it with the King's Roll is a little difficult, owing to the fact that many changes have been made on the roll in red ink. They, however, have been explained by witnesses in a great many instances, who have deciphered them with a glass before the court, and there is no dispute over these facts, as we understand it. So far as relates to this family, it is as follows:

The Pay Roll.

(For Government's Exhibit A-2 (Rec., p. 4652 [second]), see insert herewith.)

This Roll has the consecutive numbers and the family numbers as the Authentic Roll, and on it they are plain. The family numbers begin with Ed Schremcher and run to 7, as in the Authentic Roll. There is no change in Ed Schremcher's name.

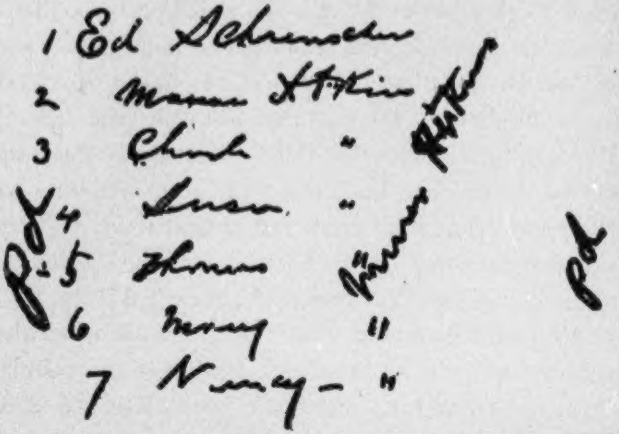
The next name is Mamie Atkins, which by red ink has been changed into Minnie. The next name is Chartie. The next is Susie. This was changed to Susan by red ink and later by another red ink change, into Alice. The next is Thomas, which is spelled out here, but abbreviated on the Authentic Roll as Thos. The next one is Mary. A red ink change converted that to Harvey. The next is Nancy (Rec., p. 2654).

Sam W. Brown testified, as heretofore noted, that John Davis, on a cold day in Muskogee, in the winter of '95, gave him a list of the remnants of the Atkins family. He was asked by the Government attorney if he made any record of the names that Davis gave him at that time. He said that he took a list. He was asked what he put the list down in. He answered, "I had a little book." "Q. I will ask you whether this is the book? A. That is the book." (Rec., pp. 219-220.) Then he proceeds to give the names, as shown there. The Government put page 76 of that book into evidence, which is Government's Exhibit A-32, record page 4707, hereinbefore printed.

Brown was questioned by Page's counsel in regard to this book. He was asked if he was anxious to see that each Indian was entitled to payment, got it, and he said that that was his business, and that he kept this book for that purpose, and that he kept it correctly. He says that this book is mostly made up of the Euchee list, but there were some accounts on it, he says that were made out at that time. He was asked if he noted on the book each time that an Indian claimant got his money, if he marked it "paid," and he said he put a "Pd" on the book when the money was paid by the Creek Nation to the people, there shown on his memoranda book (Rec., pp. 226-227).

Then later, but evidently in this connection, the defendant, Page, put into the record page 8 of this book, which was Defendant's Exhibit B-1, record, pages 231-232. A photographic copy of this is found preceding page 4937. This page is evidently a copy of the Pay Roll as originally made, before the red ink changes were made upon it. The order of the names is the same as the Pay Roll and the arrangement is the same.

Part of Page 8, Sam Brown Mem. Book.



1 Ed Schremcher
2 Mama Atkins
3 Charlie "
4 Susan "
5 Thomas "
6 Mary "
7 Nancy - "

Pd

Minnie Atkins

Pd

Attention is called to the fact that the third name appears here as Charlie and there is no cross to the "l," which apparently converted the Charlie of the King's Roll into "Chartie" on the Authentic Roll and the Pay Roll. Thomas is spelled out here, as it is in the Pay Roll, and not abbreviated into Thos., as it is on the Authentic Roll.

An examination of the preceding family, as well as this family, on page 8 shows it is an exact copy of the Pay Roll. Now, the truth is that this is evidently a memoranda book in which Sam Brown copied the Pay Roll and had it at the payment, which he attended, where he collected money and made these notations of "Pd," as the various citizens collected their money, and by whom paid. He has written across this Atkins family "Minnie Atkins," as if she got all of the money of the seven members of it, including Ed Schremcher and Nancy.

Now, he brings in another page of that book, page 76, which he claims is the list given him by John Davis, and which he swears became the basis of the King's Roll of this Atkins family, and finally the Authentic Roll. In this list, which we assert is a manufactured list, for the purpose of this case, page 76 of his book, gives the name Minnie Atkins, written plainly. Charlie is written plainly. Susan is written plainly. This name first appeared on the King's Roll as Sussie and on the Authentic Roll as Susie and on this it is Susan.

Now, it is impossible that, with this book written so plainly before them, that Minnie would have been copied into Mamie, Charlie into Chartie and Susan into Susie. The arrangement and order of names is also different from what appeared on the King's Roll. As heretofore shown, that originally had only five names and Charlie and Sussie were added as 6 and 7; this memoranda book's order of names has Charlie and Susan following Minnie, and that transportation pushed the other three names farther down the list. The space on the King's Roll was for only five in this family, as originally entered. Sam Brown's page 76 list has seven. If it was the basis of the King's Roll, space would have been made for all seven to have appeared consecutively. Clearly the King's Roll was not made from this page 76 of his book, as he swears it was.

While these changes are immaterial, so far as the enrollment of the individuals were concerned, they are material in showing how the Rolls were constructed and showing that the story that Minnie got her alleged son Thomas on the Roll through this memoranda given to Sam Brown in March, 1895, by John Davis or anyone else, is not the truth. It is inherently false on its face. And the record evidence, showing the impossibility of obtaining this information at that particular time and place from John Davis, demonstrates that this evidence is made for the purpose of manufacturing a case which does not in truth exist, in favor of Minnie. It is absolutely clear that these seven names, arranged differently on his memoranda book, than on the King's Roll, could not be the basis of this family group, spaced for five only, and when three of the names are spelled differently.

While upon the subject of the changes in the Roll, attention may now be called to the red ink change on the Pay Roll opposite the Susie which was finally turned into Alice. A bracket is drawn to the right of that name and the following one of Thomas Atkins, and opposite that bracket is written "error of 1." This matter was examined carefully before the court, and Judge CAMPBELL stated the way the original record was written, as it appeared to him, after these changes, upon minute examination of it in open court (see Rec., p. 2655). It seems that the word "error" was written over the words "of 1." Whether any importance can be attached to these later day unexplained changes, or not, we cannot tell, we are merely stating the facts to the court. The presumption, however, it that the error referred to the enrollment of the name of Alice in this list, as her name is not enrolled. There was no Sussie, no Susie nor Susan in this family, and the only Alice was the daughter of Minnie, who died in Colorado in 1889, and who was called Mabel.

Unquestionably the Creek authorities recognized a Thomas Atkins in 1895 as a member of this Atkins family. He is on the King's Roll, the Authentic Roll and the Pay Roll, without change or correction.

The King's Roll as first written consists of five members of this family group, 1, Ed Schremcher, 2, Mamie Atkins, 3, Thomas Atkins, 4, Mary Atkins, 5, Nancy Atkins. There is no signification to be attached to the relative positions of the names. The Page interests argued to the contrary in the Circuit Court of Appeals, but such argument is without any basis to support it.

Mr. Hopkins, Chief Clerk of the Dawes Commission, whose intimate knowledge of these Rolls makes his statement authoritative, says that the relative position of names in a family group gave no indication of the relationship of the parties (Rec., p. 199). He explained the composition of these Rolls. The family was listed on the mother's side; very frequently they took the oldest member, male or female descendant of the common mother of the particular family and put that name first as the head of the family and followed it with the different descendants of the common ancestor, but there was an exception, a dependent parent or grand-parent, or an incompetent, was listed last so that the head of the family would draw the money for him (Rec., p. 204).

This family was properly listed in that way.

Ellis Childers testified that Ed Schremcher (this name is usually spelled in the printed record, Skrimsher) was a son of Newt Schremcher and a cousin of Minnie and Nancy (Rec., p. 2657). His father, Newt Schremsher, was one of the witnesses on behalf of Nancy. He testified that his first wife, who has long been dead, was a Euchee and an aunt of Nancy (Rec., pp. 2523-2525). She was a sister of the mother of Minnie and Nancy. Their father, Thomas Atkins, was a Coweta. Hence, Ed Schremcher as the oldest male, or descendant of the oldest line, was preporly at the head of this list and Nancy, an incompetent, was properly last.

Hence there is no significance to be attached to the fact that Thomas' name followed Mamie and preceded Nancy's on the King's Roll as originally made. If there were anything to this argument of the relative position of a name, it would work out an absurdity under the facts in this case. To the King's Roll was added the names of Charlie and Sussie, as 6 and 7, following Nancy, who was 5. According to this argument then Charlie and Sussie would be children of Nancy. Mr. Hopkins' explanation of the construction of the Rolls shows that no information is given by the position of the names, other than as to the first and as to the last.

Returning then to the consideration of the King's Roll as first written with the five members of this family, it will be noted that those five names occupied the space for the family group and when they were entered it was evidently thought that this was the entire family, as the spacing indicates this, and when the additional two names were made they had to be written on the right-hand side thereof. Of the five original names, Ed Schremcher is accounted for; Mary is disposed of as erroneous and the space occupied by her name was eventually taken by that of Harvey, and that name was by red ink changed, after the Pay Roll was adopted, into Harvey. That leaves Minnie, Thomas and Nancy for consideration. The father of these women was named Thomas. He died about 1877 (Rec., p. 228). He was a Coweta, and Sam Brown, who was the King, and supposed to have made this Roll, so testified, and that under no circumstances would his name have been on a Euchee Roll (Rec., p. 229).

That narrows for consideration whether Thomas was the son of Minnie or the son of Nancy, and at the expense of tediousness we will review the testimony bearing on this enrollment.

Minnie stated that after she left Leavenworth about 1886 that she never wrote to inquire about Tommie and that she never heard anything of him until she was at Fort Wayne, near Detroit, Michigan, which was in 1899 or 1900, when she got a letter from there stating he was dead (Rec., pp. 4025, 4083, 4084).

In the trial of this case Minnie testified that she told her brother, Lee, and her uncle, John Davis, and no other relative about Tommie (Rec., p. 3973). As her uncle was sojourning in Detroit during the preparation of this Roll and for several years prior, and her brother dead some time prior to it, they could not have communicated his existence if he had one, to the Tribal authorities.

More significant however than any of her sworn statements is her statement made to the conference in Kansas City, participated in by her attorney, Mr. Hanford, Mr. Page and Mr. Josey, her lessees, and their attorney, Mr. Rice, and a history of it is important.

Mr. Page testified in his direct examination that when he and Mr. Josey obtained her lease, they agreed to pay her $10,000.00 as a bonus, but they put Mr. Hanford off with $5,000.00 until she was better identified and the second check was made due and payable July 29, 1914, and the second check for $5,000.00 was not paid when it was due, because in the meantime Minnie had come on to Tulsa and had "Told us some stuff that on checking it up we found that it was not true, and we was considering very seriously of throwing it up and not going any further with it." (Rec., p. 3877.)

The occurrence which so dissatisfied Mr. Page, appeared later in his testimony. All questions of doubt had been removed as to Minnie's identity on her arrival in Oklahoma, by her relatives, Sam W.

Brown, Mitchell Wadsworth and Bill Robinson, who identified her (Rec., p. 3891). On July 26th or 27th, a few days before her $5,000.00 was due and after this identification, she testified at Sapulpa that Thomas was born to her at the Sisters' Hospital in Leavenworth, Kansas (Rec., pp. 3890-3893). This testimony Mr. Page found was false, and this is what Mr. Page said: "It kind of rattled us a bit," and made him want to quit (Rec., p. 3890).

What reconciled Mr. Page to going on according to his story, was this: they took Minnie to Leavenworth and then to Kansas City and had people meet her and refresh her memory and then took her to a lawyer's office and got her statement admitting that she had a baby at Granny Letcher's. After he got this admission he said he did not pay any more attention to it and paid her the $5,000.00. He says they thought they got the facts there, although Mr. Rice, his attorney, said: "There is something yet I believe she is holding back." (Rec., p. 3877.)

Mr. Page fixes this as September 29th, when this money is paid (Rec., p. 3888).

Minnie's account of the statement is interesting. She said Mr. Hanford, her attorney, had her go to Leavenworth to show him where Tommy was born and Mr. Long took her over to Leavenworth and they met people and people knew her as soon as they saw her and then they went back to Kansas City. In Kansas City she met with her attorney, Mr. Hanford, and Mr. Page and Mr. Josey and their attorney, Mr. Rice, and Mr. Long, Mr. Page's representative, in a lawyer's office, where she made the Statement (Rec., p. 3962).

In answer to questions from Nancy's counsel, she said that before she made this statement she had been to Leavenworth twice. That she had talked to a great many people there with her counsel and that she was doing the best she could to remember the facts.

She said that in the conference in making this statement she was trying to answer all she could remember and answer truthfully (Rec., p. 4042). After putting some questions to her as to whether she had made the statements then read to her, it was suggested by her counsel that the whole statement go into the record on the admission of her counsel that those statements were made by her at that time (Rec., p. 4043). This Statement is called the Court's Exhibit A, and is found in the record at pages 4044-4084. It commenced on September 29, 1914, the day she was paid the $5,000, and not being completed, was adjourned to 1:30 on September 30th, when it was then finished.

Considering her environment, the object of the meeting and the suggestive questions put to her and the statements made by her, we submit that it is convincing that Minnie never had a son Thomas born at Granny Letcher's, or elsewhere, but for reasons heretofore stated we are not, for the purpose of this argument, combatting that alleged fact, but are combatting the theory that the name Thomas Atkins on the Tribal Roll or the Dawes Commission Roll was a son of hers, and hence we particularly call your attention to so much of this statement as bears on those issues. The first part of the statement gives her life history in the Territory and then tells of going to school at Carlisle and then going to Leavenworth and her life there. It indicates she was leading a loose life at Leavenworth, running around and frequenting the resort of Granny Letcher, a negro woman, and then going to Granny Letcher's to give birth to her child, which she says was born in the winter of 1885 at that place (Rec., p. 4055). She said she stayed in Leavenworth until Tommy was a year old, then went to Colorado (Rec., 4056). She tells of the birth of her daughter Alice, who was called Mabel, and her death at Fort Logan, Colorado, and of her taking up with Harrison and having two children by him, Charlie and Harvey (Rec., p. 4061).

She was asked how she came to go back to the Territory and she said that her brother Lee found out where she was and wrote to her he would like to see her and wanted her to come and visit him. She was asked if she had written to her folks in the Territory and said: "No, I did not want them to know." (Rec., p. 4061.) She says Harrison gave her the money for the trip.

She says she had not heard from Granny Letcher about Tommy after she left and never heard anything from him until she heard of his death at Fort Wayne, Michigan.

It is later established that she was living then with the 7th Infantry after it returned from the Spanish-American War in 1899; she says when she went to Muskogee she went to the home of Miss Alice Robertson (Rec., p. 4064). She tells of later leaving her children, Charlie and Harvey with her half-sister, Mrs. Holden; she was questioned about letters about her children from her relatives and was asked: "Did they write to you about Tommy?" Ans. "They did not know nothing about Tommy; I did not tell them anything about Tommy." (Rec., p. 4069.) She said: "Nancy did not know nothing about me having Tommy." (Rec., p. 4070.) While she was at Fort Wayne, near Detroit, she got letters from someone asking for money for Tommy, and shortly afterwards this same person, whose name she did not recall, wrote to her that he was dead, and that Granny Letcher was dead; later in the statement she said the first letter was from Granny Letcher. She says these are the only letters she received from Leavenworth after she left there and she did not answer them (Rec., p. 4073). She said that while she was at Ft. Wayne she received a letter from Tom Holden about Charlie and Harvey. This is the letter which evidently produced her power of attorney to Tom Holden to select and file for lands for herself, and Charlie and Harvey; it is dated April 2, 1900 (Rec., p. 4712), which is referred to in her Statement (Rec., p. 4069).

When she left Detroit she went to Vancouver Barracks; then to the Philippines; then back to Vancouver Barracks (Rec., p. 4073).

The next day the inquisition was resumed and this occurs:

Q. "Can you remember now who it was that wrote you for some money for Thomas?
A. No, I never can remember the name.
Q. Did you know the person that wrote to you?
A. She just wrote as a friend would be writing to a friend, but I can't remember.
Q. Well, was she somebody you knew?
A. I must have known them, or they couldn't have known my name, you know.
Q. Well, do you remember now that the letter was from someone you knew?
A. Well, it was from someone I knew, and someone that knew about Tommy, or they couldn't have wrote to me.
Q. Who knew about Tommy besides your uncle? Have you any idea of anybody that knew about Tommy of your folks besides your uncle?
A. No, I didn't tell them much about them.
Q. Did you tell Nancy?
A. No, Nancy don't know anything, and Nancy can't say she does, because she don't." (Rec., p. 4076.)

Referring to getting lands for Charlie and Harvey, this occurs:

Q. "Did some of the letters that you got from your relatives tell you that or did you write and ask them?
A. I wrote and asked them to put them on for land.
Q. Did you tell them to put Tommy on, too?
A. No, I didn't speak of Tommy.

Q. Why didn't you?

A. Well, I will tell you why I didn't speak of Tommy. You see after I spoke about Harvey and Charlie, I think that's after I got the letter about Tommy being dead. See?

Q. That's all right, and you thought that Tommy wouldn't be entitled to an allotment, and because Alice didn't get any money, you figured that Tommy wouldn't be entitled to anything, he being dead?

A. Yes, that's the way I figured it for myself, you know." (Rec., p. 4079.)

This significant statement occurs at record page 4082:

"Mr. Page: Did you ever get Tommy's deed for his land?

A. No, I don't think so.

Mr. Page: Did you write a letter to anybody telling them to be sure and enroll Tommy and the other two boys?

A. No.

Q. Now, she wrote a letter telling them about Harvey and Charlie, but because Alice didn't get any money, she figured that Tommy wasn't entitled to any land, because he was dead. How old was Harvey and Charlie when you took them down to Muskogee from Fort Logan?

Then follows at page 4083, a patent, but unsuccessful effort to make her say she wrote to put Tommy on the Rolls.

Pages 4083 and 4084 show a persistent effort to make Minnie fix dates which she said she could not do, and to make her say that she got the letter about Tommy's death before she wrote about putting Charlie and Harvey on the Rolls. They finally by such suggestions, get a statement or rather she adopts their statement that she left Fort Wayne in the summer of 1900, and that about a year before that she got the letter about Tommy's death, but right in the middle of these statements is this statment of hers:

> "Well, I just can't say whether it was before or after; but I know I got the letter that Tommy was dead; but I can't say whether I got this letter afterwards about Harvey and Charlie, or not." (Rec., p. 4084.)

If the court accepts Judge CAMPBELL's finding of fact that Minnie had a son named Thomas born to her at Granny Letcher's early in June, 1885, as we doubt very much if this statement is read in its entirety, unquestionably it establishes these facts, which are material facts to the issue that we are presenting:

1st. She left Leavenworth when the child was a year old, which would be 1886, and never heard from him or about him until 1899 when she heard he was dead.

2nd. Undoubtedly this statement established the fact that she told none of her relatives in the Indian Territory of Thomas' existence, unless it was her uncle, John Davis, and he was in the penitentiary during the preparation of these Rolls, and unless it be her brother Lee, and he was killed in November, 1894, before the preparation of the 1895 Roll was begun. At the time this was prepared in 1895, according to her own testimony she had not heard anything of this supposed son of hers for a period of nine years. It is inconceivable that she would be having him placed upon the Roll, even if there was any possible source for this information to have been conveyed to the Tribal authorities.

In these various statements she referred to talks with her uncle, John Davis; but the record shows that he was continuously at Detroit from December 26, 1891, to February 4, 1896 (Rec., p. 4988). Hence those statements are necessarily false.

Therefore the demonstrated facts in this record are that Minnie told no person whatsoever who could have communicated to the Tribal authorities the fact of the existence of this son Thomas of hers and therefore Judge CAMPBELL's finding of fact that prior to the compilation of the Tribal Roll of 1895, Minnie Atkins had conveyed information to certain of her relatives in Indian Territory of the fact of the birth of Thomas Atkins, which information was eventually imparted to the Tribal authorities compiling the Roll (Rec., p. 145), is totally without any evidence whatsoever to support it.

This is not a mere case of being against the preponderance of the testimony; it is not a case of some evidence to support it, but it is a finding totally without any evidence of any fact whatsoever to support it, in view of the demonstrated facts in this record.

On the other hand, there are 35 witnesses testifying to the existence and the continued life for a period of 10 or 11 years of a half-blood Creek boy at Wagoner, Oklahoma, who by general reputation in that community was known as the illegitimate son of Nancy Atkins and was called Thomas Atkins. Some of these witnesses saw him as a nursing baby at her breast before she was sent to the penitentiary in December, 1890. Others contributed to her necessities when he was born; others knew him at various periods of his life. All described him with more or less definiteness; some knew him up to his death; several contributed to a public subscription taken by the Mayor Hall of Wagoner, for his burial. The negro preacher who officiated at his funeral has testified. The venerable Newt Schremcher, whose first wife was an aunt of Nancy, knew him well; he traded at his store and he knew him until he was 8 years of age, and described him as a person apparently half white and half Creek. Some of these witnesses were prominent men; two of them had been sheriffs; one of them a postmaster; one an editor and one a wholesale merchant. Several merchants and farmers, and several peace officers, some of them white people, some Indians, and some negroes. Some were illiterate and had criminal records. Others were men and women of the highest standing in their community, and with the exception of Mary and J. B. White, they were all disinterested witnesses. If there was no testimony in this record directly connecting Nancy's son Thomas with his enrollment on the Creek Roll in 1895, the evidence of these 35 witnesses would of itself be sufficient to satisfy the court that this boy was enrolled in the family where he should have been enrolled.

It is in evidence that every effort was made by the Creek authorities to get upon this Roll every resident Indian of Creek blood living in the Indian Territory at the time of its compilation, and also in evidence that it was against their rules to allow anyone to be upon that Roll who did not reside in the Indian Territory; this is testified to by Sam Brown, King of Euchee Town, whose duty it was to compile this Roll (Rec., p. 231).

It is a far cry to assume that Minnie's son Thomas, whom neither she nor anyone else related to her had heard of for nine years, who was living, if at all, at Leavenworth, Kansas, and had never been in the Indian Territory in his life, was upon the 1895 Roll, instead of assuming as the court should, that Nancy's boy whose existence and right to be upon that Roll was so thoroughly established was the one enrolled. In addition to this is the positive testimony of Ellis Childers, that he was called upon to appear before the Census Committee when this Roll was in compilation to identify, or as he expressed it, to verify, the names thereupon as properly being thereupon and he verified and identified Thomas thereupon as the son of Nancy.

While his testimony is weakened by a contradiction upon another material statement, yet it is not contradicted on this point, although he named the parties and witnesses who were present at the time, and neither the Government nor the Page interests saw fit to contradict it, notwithstanding the fact that they put Sam Brown on the stand after Childers testified, and Brown did not dispute the part that Ellis Childers said he had played in this at the instance of and in the presence of, Sam Brown.

We respectfully submit that it is thoroughly proved by all the evidence that the only person Thomas Atkins upon the 1895 Roll could have represented was Thomas, the son of Nancy, who was then living at Wagoner in the Creek Nation and could not by any possibility have been this suppositifious son of Minnie, whom it is now claimed was living at Leavenworth, Kansas, at that time.

The Identity of the Thomas Atkins Enrollment by the Dawes Commission.

Disregard all the evidence the Government adduced to the effect that Minnie had no child named Thomas Atkins, and disregard the almost irresistible conclusion that her son, Thomas, was fabricated to fit the census card recital that Minnie was the mother of Thomas Atkins, and consider the facts contended for by her to be established, which are, that she came to Leavenworth from Carlisle on July 11, 1884, and worked for the Hydes until October. Then she went to the Grodevants and worked there until September, 1885, except an interval in June, 1885, when she went to Granny Letcher's, at which place and at which time she gave birth to Thomas Atkins. This is the testimony credited by Judge CAMPBELL, that this son was there born in June, 1885.

The Grodevant expense accounts establish the fact that she worked for them from October, 1884, to September, 1885, and the Staffords testified that she worked for them from September, 1885, until the summer of 1886, when she was then discharged on account of her pregnant condition. The records and undisputed testimony in regard to Robert Lee Peterkin establish that he was born July 31, 1886, and died August 10, 1886. She left Leavenworth, according to Peterkin (and her testimony in the main agrees with his) in March, 1888, and joined him at Fort Logan, Colorado, and the records obtained at Fort Logan establish that her child, Alice or Mabel, was born there on August 4, 1888. Therefore, by the rule of exclusion, any son born to her at Leavenworth other than Robert Lee Peterkin, must have been born in 1885. Mrs. Mattie Cobb, who comes nearer fixing the exact date of the birth of this supposititious child than anybody else, states that he was born on either the last day of May or the first day of June, 1885 (Rec., p. 3164). According to Minnie's present testimony, she left Leavenworth when Tommy was about two years old (Rec., p. 3912), in charge of Granny Letcher, and that she never heard of him any more until some time probably a year before she left Fort Wayne, which would place it in the summer of 1899, when she got a letter from some one whom she does not remember stating that he was sick, and later a letter stating that he was dead, and these letters were from Leavenworth (Rec., pp. 3945, 3972, 3975).

According to Henry Carter, he was the son of Minnie, born at Granny Letcher's; lived there several years, and was taken to the country by old man Carter, and there lived until he was a grown man, and he then went to the Indian Territory, looking for his mother.

According to Sam Nash and Walter Banks, this child was born to Minnie at Granny Letcher's, as near as they fix the date, in corroboration with Minnie's present history, and he lived there with Granny Letcher until he was eleven years old, when an unknown mulatto woman came there, representing that she came from his mother, to take him to his mother, and carried him away, and that he was never heard of again by them. Many witnesses on behalf of Minnie have Thomas Atkins living at Granny Letcher's at various times in various years from 1885 to 1900. Of course, these witnesses are in conflict with witnesses on behalf of Carter, and with Sam Nash and Walter Banks, and we are not at this time discussing that conflict, but certainly in any view of this testimony, it must be taken as established that if Minnie had such a son, he was born about the first of June, 1885, and lived his life in Kansas, unless Sam Nash and Walter Banks' story is true, that he spent the remainder of his life after 1896 in some unkonwn place, or may yet be living.

He certainly did not live in the Indian Territory, as no one ever heard of him there.

In her numerous appearances upon the witness stand, Minnie always declined to give the name of the father of her son, Tommy, until her last appearance in this court, when she stated that his father was a white man, and his first name was Lee, and his other name she did not remember (Rec., p. 3911). She testified that she told her uncle, John Davis, and her brother, Lee, of his existence, and no one else in the Indian Territory (Rec., p. 3973). They were both long dead before the Dawes Commission enrolled Thomas Atkins on May 23, 1901.

Miss Alice Robertson tells of her visit to her when she came to Muskogee. She represented herself as the wife of Sergeant Peterkin and that her two boys with her were named Peterkin (Rec., p. 295).

Minnie went under the name of Peterkin in Leavenworth, after she took up with Peterkin. She introduced Peterkin to her friends, the Hamiltons, as her husband (Rec., pp. 356, 365). She was received as a patient in the Sisters' Hospital under that name (Rec., p. 481), and two of her children were buried under that name (Rec., pp. 483-491). She was called Minnie Peterkin after she went to Fort Logan (Rec., p. 352), and she admitted on cross examination that she went under the name of Peterkin (Rec., p. 3927). After she and Peterkin went their separate ways, she took up with Bev Harrison, a beef contractor, and went under his name thereafter until she married Folk in 1907. The records of Dawes Commission heretofore referred to, give her name sometimes as Harris, and sometimes as Harrison. Sadie James, who searched the country over for her, testified that she never went under the name of Atkins after she left Leavenworth (Rec., pp. 734-735).

Minnie testified that she is of mixed white and Indian blood (Rec., p. 3923). In her Kansas City statement she said her mother was a white woman and her father a Creek. (Court's Ex. A, Rec., p. 4045.) Her record at Carlisle school describes her as a half-breed (Rec., p. 333). Her incomplete census card describes her as a half-blood; the census cards of her sons, Charley and Harvey, show that their father was a white man, and that she, their mother, was a half-blood, and they were quarter-bloods. Miss Alice Robertson, who knew her from infancy, describes her personal appearance while at Carlisle as that of a half-blood (Rec., p. 294).

In her testimony at Sapulpa, Nancy testified that she was an Indian; that her father was a full-blood, and her mother mixed Creek and Euchee, and that she, Nancy, was enrolled as a full-blood (Rec., p. 2783). Her census card, Government's Exhibit 44, shows that she was enrolled as a full-blood (Rec., p. 4718). The evidence indicates that Minnie and Nancy were full sisters (although Charley Bailey testified he understood they were half-sisters). It is not important which was correct as to quantum of blood, but it is important that these women regarded their own blood differently, one regarding herself as a half-blood and the other regarded herself as a full-blood. Their father and mother died within a year of each other when Minnie was about twelve and Nancy five or six years younger. Minnie was raised by her uncle, John Davis, until she went to Tullahassee Mission, where she spent about two years and then went to Carlisle and spent about two and a half years. Then she went to Leavenworth, and since that time followed the army.

She has always lived with white people, unless it be that for a year or two she was an inhabitant of Granny Letcher's negro resort in Leavenworth. Nancy was raised by her aunt, Mrs. Robinson, at Muskogee, and resided with her until she discovered herself in a pregnant condition in 1890, and then, to save disgrace of her family, she left the Robinsons and went to Wagoner and took up her abode with negroes. She has almost continuously lived with negroes since that time, and her present guardian is a negro, but there is no evidence to show that she associated with negroes before she left the Robinsons. She stated that the father of her child was a white man (Rec., p. 2576). Sheriff Ruble, who knew Tommy in the later years of his life, described his appearance as Caucasian and Indian, and nothing else (Rec., p. 4429). J. N. Schrimpsher (whose first wife was Nancy's aunt), who knew the boy well when he was about five or six years of age, testified that from appearance he was half Indian and half white (Rec., p. 2525). Mr. Way, a very intelligent gentleman, who has lived among the Indians for many years, and who was an intimate friend and neighbor of the Holdens, and who knew Tommy when he was six or seven years old when he was at Holden's and remembers him distinctly, describes his appearance as that of a half-blood Indian. He was questioned by counsel and the court as to his recollection of his appearance, and his testimony is certain and positive that this boy had the appearance of a half-blood (Rec., pp. 2599, 2607). M. McElroy, an intelligent business man who knew Tommy all his life, thus describes him: "He always appeared to me to be an Indian and white child. Had tolerable light hair" (Rec., p. 2574).

Many of the other witnesses testified to the same effect. Some of them thought that he had some negro blood in him, but all of them said that his hair was straight and most of them described his hair as being quite peculiar in color, unusually light for an Indian; Nancy testified that his hair grew darker as he grew older. This light hair and an Indian mother could spell only one thing, and that was, white father. Therefore, the information that would be conveyed to the Dawes Commission concerning this boy based on his appearance, on Nancy's statement, and her early associations, would prove that he had a white father, and her own opinion of her blood and that of the records before the Dawes Commission would call for the Commission writing her down as a full-blood, and this would mean that her son would be enrolled as a half-blood, which was the case. The evidence of all of the witnesses who testified to personal knowledge of the birth, life and death of Nancy's son, located him as living at Wagoner, in the Creek Nation, for the whole period of his life, except two intervals, one, when he spent a year or less with the Holdens, and the other when Betsy Burnie moved to the Verdigris for six months, and all of these places were in the Creek Nation, and he was therefore a resident of the Creek Nation all of his life.

The date of the death of Minnie's supposed son Thomas, if it ever occurred, is based solely upon Minnie's recollection of a letter that she received while she was at Fort Wayne, from some one whom she does not remember, telling of his sickness, and later from the same person, telling of his death. An examination of her Kansas City statement will show that she was very vague and uncertain as to when these letters were received, but by much help from counsel and parties then present, she was persuaded to fix those letters as having been received in the summer of 1899. Mr. Long and Mr. Hanford, who were then keenly alive to fixing him as living on April 1, 1899, and dead after that date, interrogated Minnie closely and frequently on this point in their conference with her when they went to Seattle for the purpose of gathering information from her after Page took her lease. Her first statement to Long was that it was 1900 or 1901 (Rec., p. 3923). In this record there are three theories about the son's existence; one that he turned into Henry Carter; another that he left Leavenworth in 1896, with an unknown mulatto woman, and has not been heard from since, and the other that he lived in Leavenworth—some of the Page witnesses say, as late as 1900 (Rec., p. 3292). Delaney and Doidge knew him there last in 1897 and Alva Adams and Dennis Jones in 1898.

We are for the present not in the least concerned over which, if any, of these theories be the truth, for the point that we are now making is that if any of these theories were true, the Dawes Commission did not enroll Thomas Atkins No. 7913, as the son of Minnie, and the person described on the census card of Thomas Atkins was not a son of Minnie.

The establishment of any one of these theories as the truth regarding Minnie's son, Thomas, would by the same token establish that he was not the person enrolled by the Dawes Commission as No. 7913, as the facts thus established would be at war with the facts found by the Commission, for they had to find that he was a living resident of the Creek Nation on April 1st, 1899.

The testimony of the many witnesses who testified as to the death of Thomas, son of Nancy, fix that event as occurring not earlier than the spring of 1899, and not later than the spring of 1902. Nancy fixes his death in the spring of 1900. None of these witnesses had any fixed data from which to connect their recollection of this event other than Thomas Brewer, and he fixes it from circumstances connecting his death in his mind with fixed events, but he was uncertain whether the fixed events were 1899 or 1900 (Rec., p. 2557). Some of the witnesses refer to it as occurring in what was known as the "dry year," but there is a difference of opinion as to whether that was 1899 or 1900. So many witnesses fix his birth as occurring a few months before Nancy went to the penitentiary, which is established by the records to have been December, 1890, that there can be no serious question but what her son was born in 1890, and no serious question of the accuracy of her statement that it was in September, as Ellis Childers fixes the date of seeing her and her new-born babe from a pasture payment which carried him to Wagoner on the 1st day of October, 1890 (Rec., p. 2640).

Nancy never went by any other name than Atkins, whereas Minnie was for years known as Minnie Peterkin, and thereafter as Minnie Harris or Minnie Harrison, and apparently abandoned the name of Atkins except once when she drew $57.60 from the Creek Nation in September, 1895, when she signed her name as Minnie Atkins; as her name was on the roll then as Minnie Atkins, she was taking no chances in signing it otherwise. Sam Brown and Noah Gregory, Euchee Kings, were before the Dawes Commission at Okmulgee in May, 1901, and they both knew that Minnie had abandoned the Creek Nation and moved out of the country, and both of them unquestionably told Mr. Hopkins or Mr. Merrick this fact, and Gregory remembers specifically of so telling Mr. Hopkins (Rec., p. 234). They both knew that Nancy was living in the Creek Nation, Brown saying that he sometimes heard of her at Muskogee and sometimes at Wagoner, and Noah Gregory saying that he thought she lived at Muskogee.

In the cross examination of Nancy it developed that W. M. Robinson, her uncle by marriage, and her cousin, Ed Robinson, called on her where she was working at the Barnard Hotel at Wagoner and asked her if she wanted them to attend to the business of enrolling her or did she intend to do it herself, and she told them she didn't understand it and would rather for him, her uncle, to attend to it for her, and he said all right, and all that he needed was authority from her for him to do so. Then she told him: "Here is me," and said, "Is that all?" "And I hesitated a while, and he said to me pretty soon, 'Where is that boy you had down there with you to aunt's?' and I laughed and said, 'Well, he is around here somewhere.' He said, 'Didn't you tell us that was Minnie's boy?' And I said, 'Yes, but I was just joking with you; that is mine.' That is what I told him." Then he told her that he would get them all on the roll. He was supposed to look after her allotment, too, but did not do it. She said this referred to the enrollment being had at Coweta and tells of going there to see if the Robinsons had enrolled her (Rec., p. 2736).

This proves that this was one of those enrollments before the field parties in 1897 which enrollments were abandoned as testified to by Mr. Hopkins (Rec., p. 186).

Doubtless Mr. Robinson did as he promised, but these enrollments being ineffective, there had to be subsequent proceedings to obtain enrollment.

She also tells of filing for herself in June, 1901. This referred to filing for allotment of land and not for enrollment. She had been enrolled since December, 1900, and when she went before the Commission on June 11, 1901, according to the weight of the testimony, her boy had been dead for more than a year. She says since spring of 1900. Whether she could select for him after his death, or whether he was entitled to an allotment, dying before allotment time, she did not understand (Rec., p. 2737).

In her deposition given in the office of the attorneys for Bartlett she stated that her aunt, Mrs. Robinson, told her that she had enrolled her (inserted at page 2788 of this record).

This indicates that the Robinsons fulfilled their promise to Nancy, but these field enrollments were dropped and the process started anew after the Commission obtained the Tribal Rolls, hence this enrollment was futile.

She testified in this trial also that her uncle, Robinson, promised to enroll both her and her son (Rec., p. 2736). If Robinson had not done so, doubtless the Government would have here produced the files of the Coweta enrollment to contradict this statement.

The knowledge of Colonel and Mrs. Robinson of Nancy's son, Thomas, is an important factor in considering the enrollment before the Dawes Commission in another connection. Noah Gregory testified that he knew them well (Rec., p. 236), and as Town King of the Euchees it was his duty to ascertain the members of his clan and furnish information of them to the Commission, which he did. Mr. Hopkins stated that in a majority of cases of enrollment of minors that the minor's name would be entered on the card with the parent, or where a separate card was made for the minor there would be a reference by number to the parent's card so that the name could be transferred to the other card.

Mr. Lieber testified in the rush work at Okmulgee in the last three days this procedure was not followed (Rec., p. 256). But Mr. Hopkins says that under this usual practice where the children were practically without anyone to care for them, no such notation would appear (Rec., p. 191). Certainly this was the case with Nancy's son. The fact that he was without anyone to care for him induced the Holdens to go to Wagoner and bring him to their place in 1899 (Rec., p. 2594). Sheriff Ruble testified that Nancy left Wagoner about 1897 (Rec., p. 4428), and other witnesses said that she was thereafter sometimes in Wagoner and sometimes in Nowata (McElroy, Rec., p. 2572). White said that she moved away about 1898 or 1899 (Rec., p. 2748).

It was also about this time that Bettie Burnie, with whom the child lived, moved from Wagoner to Verdigris and stayed there six months (J. B. White, Rec., p. 2744).

Mr. Lieber says that under the statute the card was required to show with whom a minor was living, and that the only defect in the census card in this case is that it fails to show with whom Tommie was living, which should have appeared upon it (R., p. 266). But he says that if the Commission had been satisfied that the boy was entitled to enrollment, and could not get information as to whom he was living with, they would have enrolled him (Rec., p. 266). The history of this boy, spending his life with Bettie Burnie, a negro woman not related to him with whom Nancy lived most of the time, but wandered backwards and forwards from Nowata to Wagoner in his later years, and Bettie herself moving away from Wagoner for a time, and she not being the legal guardian, and the boy not having a fixed abode with his mother, would leave his case just such a case where the residence would be left blank, and no custodian be put down for him, and no cross reference to the parent, according to the practice of the Dawes Commission. Therefore, the census card, in this case applied to the son of Nancy, is made out exactly as it should have been made out by the Dawes Commission following its practice in enrolling similar cases, had they known all the facts relating to Nancy's son.

It is noteworthy that his residence is left blank but the postoffice address given as Muskogee—as elsewhere discussed this was doubtless due to information given by Noah Gregory or Sam Brown who associated Nancy with Muskogee, but as she was irresponsible, the boy's status was not fixed with her, but left, on his own responsibility, the supposed postoffice of his mother given as indicative of where he could be located.

In considering the practice and usage of the Dawes Commission, this fact incidentally developed, is worth considering.

According to the system of the Commission in handling deeds the two deeds to Thomas Atkins, one for the homestead and the other for the allotment, should have been in the jacket marked "Thomas Atkins," or in the files of undelivered deeds, but they were not found in either place. When this land attracted attention, search was made for the deeds, and not being found, it was assmed by the Creek attorneys and authorities that as they were not in the land office that they had been delivered. Mr. Bruff, a special agent of the Department of Justice, was put to work on this case, and he made a general search of the records of the land office, and found these deeds in the Nancy Atkins jacket (Rec., p. 174).

It may well be inferred that the officers of the Dawes Commission in their earlier work on this enrollment and allotment, when the facts were fresh in their minds, placed the Thomas Atkins deed with the papers of Nancy Atkins, evidently believing that he was her son and they properly belonged there.

Govt. Ex. A-42 (Rec., p. 4717) and also her card (Rec., p. 4712) shows that the name of Minnie Harris was listed for enrollment on April 24, 1901, on Creek Card, Field No. 3718; the name of said person appearing on the 1890 Roll of Euchee Town. The session of the Dawes Commission especially devoted to finding the unaccounted for names began at Okmulgee May 6, 1904, and continues there until the treaty was ratified, May 25, 1901.

Therefore Minnie was listed for inquiry prior to that meeting at Okmulgee, and long before Thomas was listed, because his field number is 2774, nearly 1000 numbers intervening before hers was made out.

Therefore the inquiry as to him was not dependent on any relationship to Minnie as his enlistment for inquiry was independent of her and long prior thereto.

Unquestionably both names were under inquiry at Okmulgee, in May, 1901. The card itself made out before this meeting gives her name as Minnie Harris, her tribal enrollment, Euchee 1890, and also No. 210 on the 1895 Roll (when it appears first Mamie, then Minnie Atkins), and it referred to her old Creek Card which stated that she was in Ft. Logan, Colorado, in 1894. Her rejected card also notes "Thos. E. Holden of ......, Indian Territory, may identify" her (Govt. Ex. A-38, Rec., p. 4712).

Thus we have her connected up for inquiry to the man whom she had given power of attorney to select lands for herself and two sons, Charlie and Harvey, without mentioning Thomas; and concerning him and his wife, Minnie positively stated that they knew nothing of Tommy (Rec., p. 4069).

Mr. Gregory, the Town King who was before Mr. Hopkins in May, 1901, discussing Minnie, had gotten information of her and her two sons, Charlie and Harvey, from Tom Holden (Rec., p. 234).

Again this evidence connected up to the Dawes Commission at the time of this enrollment leads to no other conclusion than that it was not intended to enroll Thomas as the son of this woman. There was no possible source of information it then had that she had a son in Leavenworth, Kansas, named Thomas. If they had information of the non-resident son and enrolled him, why did they not enroll his non-resident mother?

Her application was there equally with Thomas and equally under consideration. There was more reason for enrolling her because she was born and reared in the Territory and had been back for a year or two about 1895 and had drawn money from the tribe then, but as Minnie was rejected for non-residence, why should not non-residence have defeated her son who was never in the Territory in his life, if he ever had a life?

Mr. Hastain said that if the Commission had information that the mother of this 10-year-old boy was a non-resident of the Creek Nation and had no information as to whom he was living with, his name would not have been sent up for approval (Rec., p. 248). Certainly they had information that Minnie was a non-resident of the Creek Nation and she repeatedly stated she had heard nothing of her son Thomas from the time she left Leavenworth in 1886 or 1887, until she got a letter from an unknown person while she was in Detroit, from Leavenworth, that he was dead. Clearly there was no source of information open to the Commission to determine with whom this son of hers was living, and this is but another reason to show that they did not intend to enroll her son. Every one born prior to April 1, 1899, had to be shown to be living on that date to obtain enrollment; children born after that date of enrolled persons could come in (Rec., p. 3471).

The Commission enrolling a ten-year-old child was required to know he was living on April 1, 1899. They could not have gotten that information from Tom Holden who was referred to as source of information on her card, as to Minnie, because his step-son said he got a letter from Minnie in 1898 or 1899, from Detroit, asking him to enroll her and her two sons, Charlie and Harvey, and did not mention Thomas, and he tried to do so but lost the letter and told his step-father Holden about it (Rec., p. 4598).

Hence Holden would have told them that this woman was living at Detroit, Michigan, and had two sons who had already been enrolled and he held a power of attorney to select their lands and it is impossible to assume that the Commission intended this woman as the mother of the enrolled person.

We ask a review of the different pieces of evidence received by the Dawes Commission outside of the tribal rolls, which they received as shown by recitals on the Census Card, and a seriatim consideration of each as applied to the evidence supporting Nancy, contrasted with the evidence supporting Minnie:

1. That Thomas Atkins was living April 1, 1899, Mrs. Miller fixes his death as occurring in the spring of 1899, according to her best recollection (Rec., p. 4424). This is the earliest date fixed by any of them. Thomas Brewer, a responsible business man, engaged in the cattle business near Wagoner for many years, moved into Wagoner either in the year 1899 or 1900, he could not recall which, but he remembers that the year he moved there was the "dry year," and that Thomas Atkins and some other boys had been getting milk from his cows, but owing to the drouth he had disposed of his cows except some for family use, and he remembered Tommy from this circumstance as living at that time. He knew him well, and had known him for some years (Rec., p. 2557). Sheriff Long remembers circumstances which places his death in the year which he thought was 1901 (Rec., p. 2447).

Frank Engles, a building contractor, living at Wagoner from 1890 to November, 1901, said he knew Tommy from the time he was about a year old, toddling around with Nancy until about a year and a half before he left Wagoner (Rec., pp. 2558-2560). This would make his death about the spring of 1900, as testified to by Nancy (Rec., p. 2699).

John T. Beard, a merchant in Wagoner, knew Nancy and her boy from the time the boy was two or three months old until his death, which he recalls as 1901 or 1902 (Rec., p. 2478). John Ford, an intelligent negro, who lived in or about Wagoner for many years, was well acquainted with Nancy and the Burnies and knew Tommy from his infancy, and remembers his death, which he fixes as about 1899. He contributed twenty-five cents for his burial (Rec., p. 2506). J. L. Dyer lived near Wagoner and was well acquainted with Nancy and Tommy, and knew Tommy from the time he was a few months old, prior to Nancy's going to the penitentiary, and he saw him frequently up until about 1901, when he died, and his impression is that he was nine or ten years old when he died (Rec., p. 2520). Kirk Turnbo knew Nancy and Tommy, and remembers that W. U. Hall, mayor of Wagoner, took a collection for Tommy's burial. The boy was about ten or eleven years old at his death (Rec., p. 2531). W. A. McElroy, formerly in the cattle business near Wagoner, and who was in Wagoner a great deal, said he knew of Nancy's having a child born back of Davis & Jones' store, and a collection being taken for her benefit at that time, about 1890, and he saw the child off and on from that time until he, McElroy, left Wagoner in 1901. The last that he remembers seeing Tommy was about 1899, and he was apparently 7 or 8 years old (Rec., pp. 2572-2573).

J. B. White, one of the lessees of Nancy, lived at Wagoner for five years from 1895, and worked in Davis & Jones' store. He knew Nancy and Tommy well all the time he lived there, and he saw Tommy until about 1900 (Rec., p. 2748).

We have somewhat tediously reviewed some of the material evidence proving that Tommy Atkins was living April 1, 1899, as this testimony is important, not only to prove this fact, but that his existence was well known in that community, and as his death occurred certainly, according to all the testimony, not earlier than April 1, 1899, and probably a year or two years later, it is reasonable to assume that this information possessed by a whole community, could have been and doubtless would have been conveyed to the Dawes Commission. The testimony shows it was extremely diligent in gathering the information of all of these unaccounted-for Creeks, and it is not possible that such well known information as this could have escaped their searching investigation. Contrast this state of the evidence regarding Nancy's son with it regarding Minnie's supposititious son. His existence on April 1, 1899, resting on Minnie receiving at Fort Wayne, two letters from an unremembered friend, one telling of his sickness and one of his death, at a date sought to be fixed as the summer of 1899. No contention has been or can be made that the information possessed by Minnie's witnesses, who testified to Tommy living at Leavenworth until 1900, was conveyed to the Dawes Commission, but if it had been conveyed, it would have destroyed his right to enrollment on account of his non-residence.

2. That Thomas Atkins was a resident of the Indian Territory. The same witnesses who proved Nancy's son's birth, life and death, all testified to his residence in the Creek Nation. Any information concerning him conveyed to the Dawes Commission would necessarily carry with it this fact and fulfill one of the essential requirements to his enrollment just as certainly as any information concerning Minnie's supposititious son, Thomas, would have carried information of his continued non-residence in the Creek Nation and would have destroyed any right to enrollment.

3. Minnie Atkins was put down as the mother on the Census Card. We have elsewhere argued that the Commission could not have intended putting down as the mother of Thomas the same woman whom they put down as the mother of Charlie and Harvey Harrison, because: *(a)* She went under the name of Minnie Harris or Minnie Harrison; *(b)* she was a half-blood, while the mother of Thomas was a full-blood; *(c)* she was a non-resident of the Indian Territory, and minor childen of non-residents were not enrolled without their location in the Territory being definitely known, such as the cases of Charlie and Harvey Harrison. The reference to Number 213 on the Euchee Roll of 1895, clearly shows that the Commission was intending to enroll a son of one of this Atkins group, and they could not, for the reasons given, have intended to enroll a non-resident son of non-resident Minnie and of a non-citizen father. It must be assumed that they intended to enroll the son of one in this group, and Nancy was the only other one who could answer the description. And as they wrote "Atkins" instead of "Harris," evidently it was Nancy that they had in mind, and merely made a mistake as to the first name. The surname "Atkins" was the more controlling thought, for it was the family to which they were looking. When 500 or 600 names a day were being enrolled, it was easy to commit such an error. It was a slight error to confuse the first names of these two sisters, but it would have been a grievous error had they enrolled a non-resident of the Indian Territory whose mother was also a non-resident and whose father was a white man. Furthermore, had they been intending to enroll this supposititious son of Minnie, they made further errors as to age, blood and postoffice address.

4. Thomas Atkins was a male. This was based on information, or inference from the name.

5. Thomas Atkins was ten years old. The testimony of Nancy (Rec., p. 2698), is that he was born September, 1890. The testimony of the following witnesses, which may be found at the following pages, corroborates her:

R. F. Davis, 1204; J. K. McClaren, 4408; J. H. Anderson, 4415; J. E. Newberry, 2419; John T. Beard, 2475; Charles Bailey, 2428; J. L. Dyer, 2519; Frank Engles, 2558; W. A. McElroy, 2568; Ellis Childers, 2640.

Taken in connection with the record of Nancy's conviction in federal court, December 23, 1890 (Rec,. p. 4821), there can be no doubt whatever of the approximate date of Tommy's birth. This is corroborated also by the testimony of many witnesses who describe Tommy as they knew him in later years, and from his appearance, and age given from his appearance, at the time that they knew him, which shows that this date was correct. We refer especially to Sheriff Long, Sheriff Ruble, Thomas Brewer, Mrs. Miller, J. N. Schrimpsher, M. J. Phillips, W. C. Smith, D. W. Best, J. M. Preston, M. I. Sullivan and J. B. White. Therefore, when the Dawes Commission described Thomas Atkins as a ten-year-old boy on May 23, 1901, they correctly described Nancy's boy, who would have been ten years and eight months of age.

In striking contrast to this accuracy of description of Nancy's son, is the inaccuracy of it if it was intended to apply to Minnie's supposed son who Judge CAMPBELL found was born in June, 1885, which would make him at the date of this enrollment a few weeks of sixteen years. Certainly if the Commission ascertained the facts, and we must assume that they did, the court must know that they intended to enroll the ten-year-old son of Nancy, and not the sixteen-year-old supposed son of Minnie.

6. The father of Thomas Atkins was a white man. Nancy told J. M. Preston that her son, Tommy, was a white man's child (Rec., p. 2576). Several of the witnesses described the appearance of the child as of mixed-blood, and some of them thought he had negro as well as white and Indian blood in him. Engles described him as always dirty, ill-kept and ragged (Rec., pp. 2558-2561). This fact, and the further fact that he lived with negroes, doubtless gave rise in the minds of some that there was negro blood mixed with the white and Indian. All of them described him as straight-haired and said that his hair was light. Engles described his hair as brownish yellow, dirty color (Rec., p. 2561). Brewer described his hair as molasses color (Rec., p. 2547), and so did a number of other witnesses. Mrs. Miller said he was Indian and white, with some appearance of negro, and that his hair was a yellow molasses color, "kind of sandy." "We call them dishwater blondes." (Rec., p. 4426). Nancy says that his hair was quite light in his early years, but grew darker as he grew older. So did some of the other witnesses. Almost every witness who describes him calls something noticeable about his hair. It was unquestionably much lighter than would be expected of one with an Indian mother, and could mean but one thing, and that was, that he had a white father.

The unqualified opinions of such men as Sheriff Ruble, Mr. McElroy, Mr. Way and Mr. Schrimpsher that he was half white and half Indian would be such information as would call for the Dawes Commission to enroll him as a half-blood, his mother appearing as a full-blood, which they did. On the other hand, it was impossible to have enrolled Minnie's son of a white father as a half-blood, as she appears as a half-blood herself on her cards and that of her sons, Charlie and Harvey.

7. That the mother of Thomas Atkins was a full-blood. As heretofore stated, Nancy regarded herself as a full-blood, and Minnie regarded herself as a half-blood, and the records of the Dawes Commission carry each of them respectively according to their respective claims. As heretofore seen, Mr. Merrick was emphatic in stating that Minnie's old Creek card was consulted when this enrollment was made. With that card before their eyes containing the statement that Minnie was a half-blood, and the information then before them that Tommy's father was a white man, it is impossible to assume for a moment that the Commission was intending to write down a white father and a half-blood mother and produce a half-blood son. Therefore they were not intending this woman when they wrote "Minnie Atkins." Nancy's enrollment record and her census card and her own claim of full-blood answers the description of the mother of Thomas being a full-blood.

8. That the postoffice address of Thomas Atkins was Muskogee, Indian Territory. Sam Brown knows that he gave what information he had of the unaccounted Euchees to the enrollment clerks at Okmulgee in May, 1901, but does not remember whether he was asked about Thomas Atkins, or not, but says if he was, he told them all that he knew (Rec., pp. 225-226). He knew that Minnie did not continue to live in the Indian Territory after the 1895 payment (Rec., p. 223). He knew that Nancy did live in the Indian Territory, sometimes knowing of her at Wagoner and sometimes at Muskogee (Rec., p. 231). If he had been called upon to give her address he was as likely to have given Muskogee as Wagoner.

So far as this record shows, the last word spoken to the Dawes Commission at Okmulgee regarding the Atkins family is when Noah Gregory told Mr. Hopkins that Minnie had gone to Colorado, and he did not know whether she was living, and that they had tried to find out if she was living, but had not been able to locate her (Rec., p. 234). Her sons, Charlie and Harvey, had been enrolled in February, 1900 (Gov. Exh. 33), and they were, therefore, not on the list of unaccounted for Creeks. Mr. Gregory was well acquainted with the Robinsons, and Nancy's testimony shows that they knew of her son Tommy (Rec., p. 3735), and Gregory was well acquainted with Tom Holden.

Right here is unquestionably the explanation of the postoffice address of the census card of Thomas

Atkins, as Muskogee. Mr. Gregory was at that time King of Euchee Town (see testimony of Larry Brown, Rec., p. 1712, and George Clinton, Rec., p. 1718). Mr. Hopkins testified that in March the Commission sent to each Town King (also to many Warriors) a list of the unaccounted for names on their respective town Rolls (Rec., p. 194). He further testified that at the session at Okmulgee when this enrollment was made, these Town Kings were all sent for and he describes in full the procedure of getting information from them and on the information obtained from them, the Warriors and other reliable parties, large numbers were added to the roll in those last few days (Rec., pp. 198-210). This list sent out by the Commission was evidently the one referred to by Mr. Gregory when he was summoned to Okmulgee to give information (Rec., pp. 233-234). He testifies to being before Mr. Hopkins with his list of Euchees and that he gave all the information that he possessed of the unaccounted-for ones of his tribe. He was there to supply this information and testified that he gave all which he then possessed. He says he was called to Okmulgee by the Dawes Commission in May, 1901, "To help them enroll the names and to correct the roll and compare them with the roll I had" (Rec., p. 233). He relates an anecdote which Mr. Hopkins told him at this time, and remembered that Mr. Hopkins was suffering with a severe cold (Rec. p.234). He remembers distinctly that Minnie Atkins was discussed when her name was reached, and he told Mr. Hopkins when he last heard of her she had gone to

Colorado, and that they had tried to find her (Rec., p. 234). He told of a trip he made to Muskogee in company with Tom Holden, Minnie's brother-in-law, and Holden had told him of Minnie's sons, Charlie and Harvey, living with him and his desire to file for them, but had not done so yet (Rec., p. 234). This was evidently before he secured the power of attorney of Minnie to file for them (Rec., pp. 4712-4715).

Minnie stated to her attorneys and associates in Kansas City that she never told her half-sister, Kate (Mrs. Holden), anything about Tommy (Rec., p. 4069).

It must be remembered that this man, Tom Holden, is the same man whom Mr. Way testified went to Wagoner and there got Nancy's son, Thomas, and brought him to his home and kept him there for some time until Nancy came and took him back (Rec., p. 2591). No one can read Mr. Way's testimony and fail to be convinced that Tom Holden had Nancy's boy, Thomas, there at his home for some time. Mr. Way described this boy as half-blood in appearance; is positive that his name was Thomas; gives his apparent age and a personal description of him which fits in entirely with that of the many Wagoner witnesses. Here we have this man who had charge of this boy for a while, and who sought to lift him from the low level in which his mother had left him, telling of caring for Minnie's boys, Charlie and Harvey, and his intention to select and file for them, to Mr. Gregory. It was Mr. Gregory's duty, as King of the Euchee tribe to know these people, and he evidently did so, for he appeared before Mr. Hopkins with a Roll of the unaccounted-for ones and compared it with the Tribal Rolls. There could be no doubt but what Mr. Holden, in discussing this family, told him of Nancy's boy, whom he had sought to rear and care for. Mr. Gregory knew both Lee Atkins and Nancy Atkins personally, but had no personal acquaintance with Minnie, but knew of her and knew her boys, Charlie and Harvey (Rec., pp. 235-236). He had made inquiries of her, and unquestionably had made inquiries of Nancy and what children, if any, she had. He knew Lee Atkins was dead long before the enrollment, and was asked where Nancy lived, and replied: "She used to live here in Muskogee, when I first knew her she was in Eufaula" (Rec., p. 235). He was asked if he was acquainted with Minnie's immediate family outside of Nancy and Lee, and he said that he knew John Davis, Minnie's uncle, and "old lady Robinson, William Robinson's wife; that she was an aunt of hers. I knew her well" (Rec., p. 236). She was the aunt who raised Nancy, and the uncle who offered to enroll her and her son. As these people were well known to Mr. Gregory, doubtless they imparted this information to him, whose duty it was to put these names on the Tribal Roll and on the Dawes Commission Roll. Mr. Gregory, naturally, after a lapse of sixteen years, did not remember what information he gave the Dawes Commission as to the individual members of his tribe.

He was there for the purpose of giving information and gave all he possessed (Rec., p. 237).

It must be remembered that this name, Thomas Atkins, No. 213, was one of the names discussed by Gregory and Hopkins at the very time of this enrollment, and unquestionably Mr. Gregory was, at least, one source, if not the sole source, of information to the Dawes Commission of the Thomas Atkins on the Euchee Roll. The Government put on the stand Larry Brown (Rec., p. 1712). Chicken (Rec., p. 1714), and George Clinton (Rec., p. 1716), Euchee Warriors, who were also at Okmulgee during this session of the Commission there. None of these men knew this Atkins family. They and Gregory and Brown were the only Euchees at Okmulgee so far as this record shows. Sam Brown was there at the same time Gregory was before the Dawes Commission and for the same purpose; he disclaims any knowledge or information of Thomas Atkins' parentage. He knew that he was one of the children of the Atkins family, but did not know which one was his mother (Rec., p. 230).

From Mr. Gregory's intimate touch with the Robinsons and with Tom Holden, it is properly deducible that he told Mr. Hopkins that this Thomas Atkins was a son of Nancy, and as he remembered Nancy's last residence was Muskogee, therefore, the postoffice on this census card of Nancy's boy is put down as Muskogee. Nancy had been raised by the Robinsons near Muskogee, and lived there until 1890, and Mr. Gregory associated Nancy with it and in that way Muskogee, instead of Wagoner, appears as the postoffice on this card. Charlie and Harvey, Minnie's sons, had been enrolled long prior to this and the postoffice of one is put down as Tulsa and the other as Wagoner; Charlie was living near there with Charlie Bailey. Therefore, there is no chance of a confusion in the records with one of these boys. Mr. Gregory is positive that he never heard of Minnie having any children other than Charlie and Harvey. Therefore, the conclusion is irresistible that this unheard-of sixteen-year-old quarter-blood non-resident son of Minnie could not have been intended by the Commission as the person enrolled on information given by Mr. Gregory or Sam Brown or any of these other Euchees. Every reasonable presumption is that the information given by Mr. Gregory was intended for Nancy's son. Such information as Mr. Holden imparted would have fitted exactly with the description of Nancy's son, as shown in the census card, except the first name of the mother. Considering the fact that the Commission was enrolling five or six hundred names a day, it is quite easy to see how the name of Minnie, instead of Nancy, was written before the surname of Atkins, in describing the mother of the person intended to be enrolled.

Read Mr. Way's testimony (commencing at page 2591), describing the boy at Tom Holden's house, who was Nancy's son, and read the description on the census card of Thomas Atkins, and excepting the given name of the mother, it is an accurate description of this boy. Undoubtedly, Mr. Holden gave information of this boy to Mr. Gregory on the trip which they took together to Muskogee, when they were discussing this family, it is unreasonable to believe to the contrary and it must not be forgotten that Minnie stated positively that she never told Mrs. Holden of the existence of her son Thomas (Rec., p. 4065). Therefore, Mr. Gregory could not have had information of Minnie's son through the Holdens and as the Holdens were shown to know Nancy's son, Thomas, and the Robinsons shown to know of him, there cannot be much, if any, doubt that Mr. Gregory was informed of him through them, and he put him on his list as Nancy's son and gave that information to the Commission, and that was the basis of the enrollment.

In confirmation of our deduction that Noah Gregory was the informant of the Dawes Commission of the existence of Thomas Atkins, the son of Nancy, there is found a letter in the records of the Dawes Commission to him. This letter is dated May 9, 1905, and states that the Commission was informed that Thomas Atkins was dead and sent him a form of affidavit of death and stated it was desired that he cause it to be filled out and properly executed by some person knowing the facts, a near relative preferred (Rec., p. 4663). So far as the record showed, this letter, written four years after the enrollment of Thomas Atkins, was the first attention which the Commission gave to this allotment. Information came to the Commission that Thomas Atkins was dead, and, in pursuance of its duty to locate the heirs of Thomas Atkins, the Commission writes to Noah Gregory. Evidently some member of the Commission handling this matter remembered that Noah Gregory was the informant, or else there was some record showing that Noah Gregory was in touch with the enrolled person. This matter was much fresher in the minds of those who handled this enrollment at that time than it was at the time when they testified, and most likely Mr. Hopkins, or Mr. Merrick, or Mr. Bixby, may have had personal recollections then that it was on information conveyed by Noah Gregory that this enrollment was made, and therefore, this letter went to him seeking needed information as to the heirs of the person enrolled on Mr. Gregory's statement.

When this matter was fresher in the mind of Sam Brown than when he testified in this trial, he was before the Commission on October 25, 1904, on the still pending investigation of Minnie Harris' citizenship. While this citizenship proceeding was under the name of Minnie Harris, it refers to Minnie Atkins. This is evident because it was under her field number, 3718, which appears opposite her name on both the 1890 Roll and the 1895 Pay Roll.

Brown testified then that he was Minnie's second cousin and that he did not know whether she was living or dead; she was out of the country, but was back here and drew money at a payment, which he thinks was the payment made by Judge Moore; he is somewhat hazy as to whether it was the $14 payment or the $29 payment, but thinks it was the latter, which would be the 1890 payment, but he is mistaken about that, as Judge Moore was the paymaster of the 1895 payment, when Minnie drew money on September 24, 1895, as shown by the Pay Roll, and when Brown was present. He said that she drew her money and some of her brother's money, and left the country and did not return. While somewhat hazy in his recollection, the outstanding facts in his mind were that Minnie got money, which did not belong to her in 1895 and left the country and had not been back here since (Rec., pp. 4716-4717).

Brown testified in this trial that he was before the Dawes Commission in May, 1901; he told them whatever he then knew about Thomas Atkins (Rec., p. 225). Brown asserted in his testimony several times that he did not know who the Thomas in this family was, only that he was a member of the Atkins family, but he let go unchallenged the testimony of Ellis Childers to the effect that in 1895 when the Creek Roll was being compiled that he (Brown) called Childers before the Census Committee to assist in making up the Roll of this Atkins family, and that in Brown's presence he identified, or as he expressed it, "verified" the Thomas Atkins on that list as the son of Nancy.

It is quite probable that Brown told these enrollment clerks in May, 1901, of this statement of

Childers made in his presence when this Thomas Atkins went upon the Creek Roll.

The fact that he associated Nancy with Muskogee as much or more than he did Wagoner, could also account for the fact that Muskogee appears as the postoffice of Thomas Atkins, which would be a natural mistake if they were intending to enroll Nancy's son. It is quite certain he could have given them no information which would enroll a non-resident son of Minnie.

It is a patent fact that the Commission intended to enroll Thomas Atkins on the Euchee Roll of 1895, on information obtained on May 23, 1901. Mr. Merrick, the enrollment officer who wrote this Census Card, says that this outside information obtained at the time the enrollment was made, consisted of information given to him or Mr. Bixby or Mr. Hopkins by some Creek King, Warrior or other reliable person, to the effect that this child was a son of Minnie Atkins, as it appears upon the card, and that his father was a white man and that his mother was a full-blood, or else he would not have been written down as a half-blood; and that he was a male, although that may have been inferred from the name, Thomas; and that he was 10 years of age; and that his postoffice address was Muskogee; and that the other information contained in the Census Card was obtained from the 1895 Pay Roll and the 1895 Authentic Roll (Rec., pp. 3465-3480). Therefore, the question for consideration is, from what source was this information obtained upon which this enrollment was based? Most of the enrollments at that time were being made upon the information from the Town Kings, checking up the list of the unaccounted for names, and from such other persons, Creek Warriors, officers or anyone else who had knowledge of any of these unaccounted for names upon the Tribal Rolls.

This review of the testimony of the information of the then Town King, Noah Gregory, and the former Town King, Sam W. Brown, shows that this information could not have been obtained from them, if this was a son of Minnie who was enrolled; but, most likely would have been obtained from them, if it was the son of Nancy who was enrolled.

We now invite your attention to the consideration of whether any of the relatives of Minnie could have conveyed this information, or misinformation, to the Dawes Commission on May 23, 1901. John Davis was released from the Detroit penitentiary in February, 1896 (Rec., p. 4988). In her Kansas City conference an effort was made to "refresh" Minnie's mind to the effect that she saw her Uncle John before she went to the payment at Okmulgee in September, 1895, but this effort was not successful. Her statement leaves John Davis entirely out of the payment (Rec., pp. 4064-4065). She did not indicate, as she might have done, that he had an excellent reason for not being there, but she does say that he was not there and that he was not killed until after the payment (Rec., p. 4064). Mr. C. W. Turner, a merchant of Muskogee, knew the Euchee, John Davis, and says he was killed after 1895. He could not fix definitely the date, but he was certain that it was before 1900 (Rec., p. 4369). This fixes the fact that he was dead before this enrollment on May 23, 1901; and hence he could not have been a source of information to the Dawes Commission of Minnie's son, Thomas. Mrs. Robinson, the wife of Col. William Robinson, was the aunt of Minnie and Nancy, and raised Nancy. Nancy left their house the summer of 1890, because she was in a pregnant condition and did not want to bring disgrace to this family (Rec., p. 2698). She testifies to Col. Robinson's visiting her at Wagoner, and he asked her if she wanted him to enroll her and her child, which she admitted to him was there with her, and she asked him to do it, and he promised to do it. She says that the enrollment that she was speaking of was being held at Coweta (Rec., p. 2736). This enrollment at Coweta was unquestionably by one of the field parties that Mr. Hopkins spoke of being sent out into the Creek Nation in the fall of 1897, and that their efforts to make a Roll, being unsuccessful, that these Rolls thus started were abandoned. This is only important in showing that the Robinsons had knowledge of Nancy and her child. And there is no evidence that they had knowledge of Minnie and her alleged child, but on the contrary, it is the testimony of Ellis Childers that he was well acquainted with the Robinsons and spent nights at their house, as he was with other members of this family; and that he knew there was a family reputation that Minnie had only two children, Charlie and Harvey, and that Nancy had a boy (Rec., pp. 2647, 2648, 2662). Therefore, the Robinsons could not have been a source of information to the Dawes Commission either directly or indirectly that Minnie had a son named Thomas.

Mrs. Kate Holden was a half-sister of Minnie. Her husband was Thos. E. Holden, and she had a son by a former marriage, named Mitchell Wordsworth. In her Kansas City conference Minnie stated repeatedly that she had not written to her relatives in the Indian Territory of the existence of Tommy, and specifically stated that Mrs. Holden and Nancy knew nothing of his existence (Rec., pp. 4061, 4069, 4070, 4076). Mitchell Wordsworth testified that his Aunt Minnie wrote to him from Detroit in 1898 or 1899 to enroll her and her sons, Charlie and Harvey, and did not mention Thomas (Rec., pp. 4598-4601). On April 2, 1900, Minnie executed a power of attorney to Thos. E. Holden to select lands and file for herself and her sons, Charlie and Harvey, and did not mention Thomas (Rec., p. 4712). Therefore, if any of the Holden family were before the Commission on May 23, 1901, necessarily, there would have been no information to the Commission from this family that Minnie had a son named Thomas, or any other child than these two who had lived with them and concerning whom she wrote to her nephew.

Fred Bowers appeared on August 25, 1904, before the Commission on the still pending investigation of Minnie's citizenship, and he testified that she had not been in the Territory for something like four or five years before the Land Office opened (which was April 1, 1899); that she had been in the Territory at that time about two years and prior to that period had been out of the Territory seven or eight years. He thought she lived in California (Rec., p. 4714). Therefore, this cousin could not have given information to the Commission of the existence of her son Thomas, because he knew that she was a non-resident and there is no indication that he knew of the existence of this child; and if he had, his non-residence, coupled with that of his mother, would necessarily exclude him from enrollment.

Sam Brown also appeared in this same investigation, which is heretofore referred to, and he there mentioned Ed Schremcher, her first cousin, and Tom Bowles, as possible sources of information (Rec., p. 4716). Bowles' name is not otherwise mentioned in the record as a relative or in any other connection. Ed Schremcher's name appears on the head of the house, according to the Tribal Rolls. In her Kansas City statement, she was asked if she knew Ed Schremcher, when she was being questioned in regard to the payment in 1895, and she answered: "Well, they spoke a whole lot about him and I suppose I do." But she said he was not at the payment (Rec., p. 4066). Clearly, he was not sufficiently in her confidence to have informed the Commission of the existence of her son Thomas.

There is no question that her brother Lee died in 1894.

We have set down here in this review every relative shown on the Tribal Rolls who would likely have had information of her, and everyone whom the evidence has disclosed, and the state of the record concerning these relatives unquestionably precludes the possibility that any of them could have given the Dawes Commission information which Mr. Merrick says that this Commission possessed on May 23, 1901, that the person then enrolled was a son of Minnie and the other qualifying facts which would have produced this enrollment. It is submitted that this evidence conclusively establishes the fact that no possible information or misinformation could have been conveyed to the Dawes Commission that the Thomas Atkins enrolled on May 23, 1901, was her son; nor that he was a resident, nor that he was living April 1, 1899, and therefore the deduction is irresistible that it was a mere error of the first name of the mother in writing upon the census card as Minnie Atkins instead of writing Nancy Atkins.

The opinion of Judge VAN VALKENBUGH, writing the opinion of the court below (Rec., p. 5004), leaves the inference that the writer of the opinion was under the impression that the census card recital that Minnie was the mother amounted to a finding of the Dawes Commission to that effect, and he referred to the fact that Congress had invested that

Commission with complete authority and clothed its decisions with presumptions of verity. If we are right in our surmise that this is the meaning of the opinion, this may account for the error of the court below in affirming the decree on a mistaken theory that this census card recital was a judgment of the Dawes Commission. The recitals of this census card are nothing but hearsay evidence between adverse claimants. They are not judgments or findings of fact in any respect so far as rights of parties claiming title to the land held under an enrolled person. This court held that recitals on an Indian census roll, which was made pursuant to an Act of Congress and directions of the Secretary of the Interior were mere hearsay and not even admissible as evidence.

—*Hegler* v. *Faulkner,* 153 U. S. 109;

to the same effect:

Dickson v. *Luck Land Company,* 242 U. S. 371.

The courts of Oklahoma have, necessarily, had before them many times the probative value of recitals on census cards such as the one now at bar. The Act of Congress of May 27, 1908, made the enrollment records conclusive of age and quantum of blood for the purpose of determining right of alienation, but confined its own operation to questions arising under the Act and not to independent or related questions.

—*Cornelius* v. *Yarbrough* 44 Okla. 375;
Charles v. *Thornburgh,* 44 Okla. 379.

This Act, which made enrollment records conclusive as to age and quantum of blood did not establish those records as rules of evidence.

—*Phillips* v. *Byrd,* (Okla.) 143 Pac. 684.

These enrollment records, including the census card, are purely hearsay evidence outside of their one province.

—*Grayson* v. *Durant,* 43 Okla. 799;
Scott v. *Brakel,* 43 Okla. 655;
Charles v. *Thornburgh,* 44 Okla. 379;
Phillips v. *Byrd,* (Okla.) 143 Pac. 684;
Jackson v. *Lair,* (Okla.) 150 Pac. 162.

Elsewhere in this brief we have discussed the case of *Nancy Atkins against Bartlett and the Gypsy Oil Company,* which resulted in a judgment finding that Nancy was the mother of the Thomas Atkins enrolled May 23, 1901, and he was dead, and that she had inherited the land in controversy from him, and that Bartlett and the Gypsy Oil Company were holding under a forged deed. This decree is set out in this record at pages 93 to 97. Bartlett and the Gypsy Oil Company appealed to the Supreme Court of Oklahoma. Nancy's counsel moved to dismiss the appeal on the ground that it presented a moot question, as the forgery had been admitted, and Bartlett and the Gypsy Oil Company could claim nothing. And the court sustained them and said:

> "The fact that she recovered upon the theory that she and not her sister Minnie is the

> the mother and sole heir-at-law of the original owner of the same establishes her relation and right as such as against such other parties to this case, and as against no one else."
>
> —*Bartlett* v. *Atkins,* (Okla.) 169 Pac. 1076.

Mullen v. *Short,* 38 Okla. 388, was an earlier case between contesting claimants under an enrolled person. The party recovered on the evidence against the recital of the census card.

Therefore, it is unquestionably the law in Oklahoma that these recitals in a census card have no sanctity as a finding of the Dawes Commission or of anything else. They are mere hearsay evidence, except for the purpose for which Congress makes them efficacious, which is to fix the age and quantum of blood for the purpose of alienation. The Circuit Court of Appeals of the Eighth Circuit has had this subject before it in *Malone* v. *Alderdice,* 212 Fed. Rep. 688.

That case was decided prior to the Act of 1908, making the enrollment records conclusive as to age and blood for the purpose of alienation; it is a consideration of the force and effect of recitals in a census card, in that particular instance the recital of the age, made under the Act of 1898, requiring the Dawes Commission to make a census of the Creek Nation. Judge SANBORN for the court said:

> "As well might it be claimed that the Commission's description on its rolls of a male as a female would conclusively adjudge that he was without right to marry a woman, or that

> the recital of the ages of minor heirs as a matter of description in the record in a probate court of the administration and distribution to them of the estate of their ancestors would conclusively adjudge the time when their respective minorities would cease. This was not the purpose or the effect of this provision of the Act of 1898.
>
> "It was limited in object and in result to the making of a description of the persons enrolled for the purpose of their identification and not for the purpose of the final adjudication of the extent and limits of their disqualifications by reason of their respective ages or otherwise."
>
> —*Malone* v. *Aldridge,* 212 Fed. Rep. 668.

If the Dawes Commission made an adjudication, and that is really the substance of the whole claim of the Minnie and Page interests, that Minnie was the mother of Thomas Atkins, it likewise made an adjudication that he was 10 years of age, and that he was a half-blood. If he was Minnie's son, these adjudications were wrong. If he was Nancy's son, the so-called adjudication that he was Minnie's son was evidently wrong. In fact, none of these matters are adjudications. They are mere descriptive matter of the person enrolled. They contain the information or misinformation gathered by the Dawes Commission at the time that they made the enrollment which they wrote out upon the card to identify the enrolled person. While it appears that they had information that he was a half-blood; that he was 10 years old; that he was a son of Minnie; yet, as expressed by Mr. Merrick, the enrollment was "primarily intended for the Tommy Atkins that appears on the Euchee Roll No. 213" (Rec., p. 3479). His tribal status being fixed by that Roll, if the other qualifying facts were found by the Commission, that is, that he still was in existence until April 1, 1899, and resided in the Indian Territory on that date, he was entitled to enrollment, irrespective of his age, sex, blood or parentage. His tribal enrollment gave him his tribal citizenship, and the other qualifying facts appearing, he was entitled to enrollment and his description is only useful in identifying the person whom they intended to enroll as No. 213.

Attention is called to the fact that Judge CAMPBELL's opinion finds, with some particularity, that Minnie was the mother of Thomas Atkins, born at Granny Letcher's in the early part of June, 1885, in the city of Leavenworth, Kansas, and then finds that prior to the compilation of the Tribal Roll of 1895, Minnie had conveyed the information to certain of her relatives of the fact of the birth of Thomas Atkins, which information was eventually imparted to the tribal authorities, and that the name of Thomas Atkins, appearing No. 213 of the Euchee Band on the 1895 Roll was placed upon said Roll as the child of Minnie pursuant to such information. But the court made no finding whatever explaining how this Thomas Atkins, which he finds was the son of Minnie on the Tribal Roll, got upon the Dawes Commission Roll, other than that he was upon the Tribal Roll. The testimony of Mr. Merrick, who made out the enrollment card, as well as that of Mr. Bixby, the Commissioner in charge, Mr. Hopkins, the Chief Clerk, Mr. Hastain and Mr. Leiber, the other enrollment clerks, are positive that no one was enrolled merely because his name was upon the Tribal Roll, and that in addition to that fact there must have been independent information conveyed to the enrollment officers, outside of the fact that the name was upon the Tribal Roll, of the continued existence of the person and his residence in the Indian Territory. And, moreover, they all testified that age, sex, blood and residence and post office address was always obtained from information outside of the Tribal Roll; and yet Judge CAMPBELL'S opinion, at page 145, after finding that Minnie's son got on the Tribal Roll, makes no further finding as to how Thomas Atkins got upon the Dawes Commission Roll, other than that he was on the Tribal Roll. In other words, Judge CAMPBELL wholly missed the force of the testimony of Commissioner Bixby and these other gentlemen named, as his opinion indicates that he was under the belief that when he found the fact that Minnie's son was the one on the Tribal Roll, that that fact, necessarily included the fact that the same person was enrolled by the Dawes Commission because he was on the Tribal Roll; whereas the undisputed testimony of all these gentlemen is that the fact which he has found was alone wholly insufficient to put any name upon the Dawes Commission Roll, and that no person was ever enrolled merely because he was on a Tribal Roll, that in addition to that fact the other qualifying facts were found before anyone was ever enrolled.

It is confidently submitted that any finding of fact that the Dawes Commission intended by this enrollment to enroll the person now claimed to be Minnie's son, born in Leavenworth, Kansas, in June, 1885, and living there, and his death in 1899, is clear and manifest error.

A History of the Land and Litigation.

In order to grasp the full significance of the testimony in this case, particularly the testimony against Nancy, it is necessary to obtain its bearing in relation of the prior litigation as well as this litigation.

The time this allotment was made was prior to the development of oil in Oklahoma and the land was considered of little value and the allotment was an arbitrary one and not selected by the allottee or any one in his behalf. So far as this record informs us, the first person to become attracted to this land as oil land was H. U. Bartlett. His connection with it is very remarkable, to put it mildly.

In stating the facts regarding the history of this land in the litigation it is necessary to quote from Sadie James and Betty Mann as they were important factors in it, but we do not quote their testimony as furnishing the truth upon any proposition. It is probable that each of them can, upon occasion, tell the truth, but we are not quoting them as telling the truth, but merely as affording connecting links in the chain of events otherwise established. Sadie James says that Betty Mann and Micco Harjo procured the forged deed of a Minnie Atkins to Bartlett and said that Betty told her that J. B. White was going to make some trouble about it (Rec., p. 514).

Sadie's account of the forged deed is found at Rec., pages 552-553.

It must be remembered that this Micco Harjo was Nancy's guardian and was the central figure in the conspiracy of Bartlett to obtain the forged deed to this property and later to intimidate and bribe Nancy into supporting it.

Betty Mann says that she was in the bank at Lawrence, Kansas, when the forged deed of a Minnie Atkins was executed to Bartlett and that the woman named Minnie Atkins who signed it was found by Micco Harjo and two negroes (Rec., p. 1076).

She says she got $100 for her part in it (Rec., p. 1077).

We call attention to this deed in the record, dated October 2, 1912 (Rec., p. 4731) with Micco Harjo's name upon it as a witness.

To show the absolute corruption of Micco Harjo and that he necessarily knew that the woman who signed that deed was not Minnie Atkins there is found in the record a letter from him dated March 1, 1913, to the superintendent of the Carlisle Institute seeking trace of Minnie Atkins after she left Carlisle (Rec., p. 4864).

Betty Mann says that her first employment by Bartlett was to get the deed at Lawrence, Kansas, and his next employment of her was sending for her at Kansas City and directing her to go to Nowata and bring Nancy to Sapulpa, which she did at the time Nancy gave her deposition in the office of Bartlett's attorneys (Rec., p. 1090).

Bartlett took possession of this land under his forged deed on the 23rd day of January, 1913, and began improving the property, fencing it and having houses built upon it. See the testimony of Green (Rec., pp. 314 and 315).

Bartlett executed an oil and gas lease to the Gypsy Oil & Gas Company on the 27th of November, 1912 (Rec., pp. 10, 11).

The Gypsy Oil Company started a well on December 25, 1913, and struck oil January 23, 1914. They continued development until Page took forcible possession on the night of July 4, 1914 (Rec., pp. 314, 315).

The next in sequence of events to Bartlett's interest in this land was that of J. B. White. He was employed by Davis & Jones as a collector. He was well acquainted with Nancy Atkins and well acquainted with her boy Tommy and described him when he first knew him as apparently five or six years old, very dirty, and looked like a mixed Indian and white. He missed Nancy from Wagoner about 1898 or 1899.

He usually saw the boy in company with Betty Burney's children, who were negroes. He knew Betty Burney well. Betty Burney moved to the Verdigris and spent about a year there.

In 1913 the oil development in the Cushing field was going north from the developed wells, which would bring it towards this Atkins land. Several times when he was on trips away from home he would be asked if he knew Tommy Atkins. He was an old-timer in that country, and people would make inquiries of him. When he first heard these inquiries the development was from five to seven miles from the Atkins land (Rec., pp. 2747-2749).

He mentioned several parties who made inquiries of him, among others Bartlett, who asked him and several others who were together if they knew Thomas Atkins or his heirs. It was a common occurrence at that time for inquiries to be made of Thomas Atkins. He did not tell parties inquiring what he knew of Thomas Atkins but went to investigating on his own hook to ascertain if the Thomas Atkins he knew at Wagoner was the one inquired of and whether he had died before allotment. He went to Muskogee and investigated the census cards of this family (Rec., p. 2765).

He wrote to Jones, a friend of his at Wagoner, about him, and not getting a reply, looked up Charlie Bailey, who had formerly worked for Davis & Jones, and went to see Charlie Bailey, who was then living at Sand Springs. His object was to see if he was right about Tommy Atkins and what became of him, and Charlie Bailey told him that he had died. He then went to see Nancy at Nowata and had a conference with her and her guardian, Micco Harjo. He desired to obtain a lease from Harjo as her guardian. He was told that Nancy had already made a lease to Ellis Hammett and associates, but he was told that it was a commercial lease and probably would not be approved and if it was not approved Harjo told him that he would let him have a lease. This lease was dated April 15, 1913 (Rec., pp. 10 and 11), and there is disclaimer of Hammett and his associates in this record of any interest therein. This lease was not approved and Harjo notified White of it and White went to Nowata and applied for a lease to the County Court and after due advertisement he bought the lease and it was approved. This lease is dated May 27, 1913 (Rec., pp. 10, 11), and is the lease under which White, Ferguson and Rutherford are claiming under Nancy.

White's first step was to bring suit in the name of Micco Harjo, as guardian of Nancy, against Bartlett and the Gypsy Oil Company. This suit was filed July 23, 1913.

White discovered on a trip to Lawrence, Kansas, that the Bartlett deed was a forgery (Rec., p. 2754). This suit was set for trial February 26, 1914.

White was notified to appear at the office of McDougal & Lytle, Bartlett's attorneys at Sapulpa, on February 9, for the taking of depositions. He had not seen Nancy from the time her lease was approved until she appeared there (Rec., p. 2755).

In order to connect events it is necessary to turn back in the order of events to get light upon this appearance of Nancy in McDougal & Lytle's office. Prior to her appearance there she made a statement at Coffeyville, Kansas, to a lawyer representing Bartlett. This is brought out fully in her testimony before Judge Stanfield. Mr. McGraw, Bartlett's attorney, read from that statement, the purport of which was that she denied that she was the mother of Thomas Atkins (Rec., p. 2777).

She explains in her testimony that statement. She says that Micco Harjo was offered money to take her out of Oklahoma and that he was moving to Portland and was to take her along with him. Harjo told her that he could get hold of $500 if she would do what he wanted her to do, and she asked what it was for, and he told her that Bartlett was there and offered him $500 if he could get her to deny the child, and said that they would not have anything to do but to get clean out of it, and it would be better for her and better for him. And he told her that this is getting to be a big lawsuit and there will be more lies sworn about this, and she would be liable to get into the penitentiary and she had better take his advice. She told him that the penitentiary was a place she did not want to go if she could keep out of it. He told her Bartlett was here and wanting to see her and he came there and talked to her and she told him that she would get clean out of it because she hadn't any money to spend on it. Bartlett gave Harjo $10 for expenses to meet him in Coffeyville. He made the appointment to meet them the next Monday. When they got to Coffeyville, Kansas, she was met by McGraw, Bartlett's lawyer, and made a statement there about the child, denying Thomas Atkins as her child. The statement was to the same effect as her testimony later at Sapulpa (Rec., pp. 2706, 2708, 2714, 2727).

She says that Bartlett never offered her a cent; that the offers came through Micco Harjo. That she had had him appointed as her guardian when she sold her homestead (Rec., pp. 2714-2715).

The Coffeyville episode was in August after the suit of Harjo in her behalf had been filed on the 26th day of July, 1913 (Rec., p. 2714).

Turning again to Betty Mann, it is seen that she testified that Bartlett sent for her when she was in Kansas City to go to Nowata to get Nancy and take her to Sapulpa, and that she did so and took her to her own home there (Rec., p. 1090).

Nancy states that she was not at Nowata, but at Coody's Bluff when a big automobile came up, sometime in February. In the automobile were Betty Mann and Bartlett's son, Elward, and a colored man named Vass Grissom and his bull dog. Vass sought her out and told her that Betty Mann was there wanting to see her and that there was big money in this if she would tell the truth about it. He said he was offering $2,000 and that would be her part of it if she got out of it. Soon Betty came, but she did not pay much attention to her as she knew her record. Nancy told her that she did not have sufficient clothes to go to Sapulpa and Betty told her that she would get clothes; that H. U. Bartlett was at Sapulpa and wanted to see her, and Nancy said, all right, and got into the car and went with them. When they got to Nowata they picked up Harvey, Minnie's son, also Mr. Whitehead, Bartlett's brother-in-law. She met Charles Rogers there. (It is elsewhere shown that he was Betty's paramour.) Charles Rogers commenced talking to her about Minnie and she told him that she didn't know whether Minnie was living or not; that she was under the impression that Minnie was dead. They went on to Sapulpa and went to Betty Mann's house. That was Thursday night, and they did not go to the office until the following Monday. Bartlett came to see her Friday morning after she got to Betty Mann's. He asked if she needed money. She told him no, but he gave her $5 for spending money (Rec., pp. 2700-2701).

On Monday she went to Mr. Lytle's office with Betty Mann's brother. Bartlett's son was there. Mr. Lytle wanted her to say that her child was a girl because they had framed up that way, and that if she said her child was a boy that she would go to the penitentiary and the best thing she could do was to claim that her child was a girl. They talked with her a few minutes and Bartlett's son gave her $4 more and Betty Mann told her that Bartlett was to give her $2,000 for her to deny the child, and that if she didn't she would go to the penitentiary. It was said that Bartlett was claiming that the boy was Minnie's and the best thing she could do was to admit that her child was a girl if she did not want to go to the penitentiary.

Then her deposition was taken. Mr. Maxey was there representing Mr. White, and she testified to the effect desired by Betty. She says that that testimony was false (Rec., pp. 2700-2705, 2723).

She says that she has never gotten anything out of it (Rec., p. 2714).

After she gave this deposition they wanted witnesses to support her statement, to prove that her child was a girl. She said she could pick up the witnesses if they would go over to Wagoner with her, and Harvey Harrison and Bartlett's son and Betty Mann went with her to Wagoner. The first place they went was to see Eliza Barnett, who appeared as a witness under the name of Eliza Sterling.

Eliza had not seen her for many years, but recognized her. "I says, 'Eliza, I come down here to ask you one question to see if you know,' I says, 'You remember my baby and your mother waiting on me, don't you?' She says, 'Yes.' I says, 'Listen good what I ask you, so you won't make no mistake if you ever have to testify in this case. Now do you remember that this child was it a girl or boy?' was the very question I asked her. And she looked up and looked around and Mr. Bartlett was standing there and Betty was standing there. And she says, 'Nancy, your child was a boy.' 'Now,' I says, 'are you right sure it was a boy?' and before I could say anything else to Eliza, Betty Mann says, 'You know good and well it was a girl.' I says, 'Well, now, that is what they want you to swear it was a girl,' I says, 'remember'."

Mr. Bartlett asked her then to get one more witness and I says, "I have found Angeline Moody" (Rec., pp. 2708-2709).

Then she tells about a similar visit and conference with Angeline Moody, Henry Kidd and others (Rec., p. 2709).

It was arranged that these parties that she saw there were to be at Sapulpa February 26.

Turning back in the order of events to the testimony of Mr. White. He says as soon as she testified in McDougal & Lytle's office that she was put in a car and left town. He was satisfied from her manner of testifying and her refusal to answer Judge Maxey's questions that she was telling a falsehood and he sent Ellis Childers to bring her to the trial (Rec., pp. 2756-2766).

He saw Ellis Childers bring her to the hotel where they kept her concealed until the trial, but he did not talk to her and did not know what she would testify. "I had taken a shot on it." (Rec., p. 2766.)

Mr. Gresham, one of his attorneys, talked to her before she went on the stand (Rec., p. 2767). In the trial his lawyers and Bartlett's got into a squabble and Bartlett's attorneys sought to introduce her deposition. His attorney, Judge Maxey, objected, as they did not show any reason why Nancy was not present, and Bartlett went on the stand and swore that they had used all energy they had to get Nancy, that she was out of the county and would not come. Then Judge Maxey told the court that she was there. The judge asked him if he could produce her and he sent Mr. White to the hotel for her and he brought her into court (Rec., pp. 2767-68-69-70).

It is interesting to turn to her testimony given under these circumstances. It is found beginning at pages 2774-2784.

When she was produced, Mr. Gresham asked that the defendant produce her testimony, which the court required (Rec., p. 2774). She was then examined by Mr. Lytle. She stated that she had given birth to a child, and in answer to the question, what kind of a child, boy or girl, said, "Supposed to be a boy, I guess."

Mr. Lytle asked how long it lived and she said, "Ten years," and Mr. Lytle then announced that they were entirely taken by surprise by this evidence, as the court could see from the evidence heretofore given in the deposition, and asked leave to cross examine, which was permitted (Rec., p. 2775). Then she was questioned about her appearance in the office of McDougal & Lytle on February 9 and that she there testified her child was a girl, and she admitted she had given such testimony. She says her testimony then given was false. She was asked if the next day she did not see Eliza Sterling and Angeline Moody. She said she did, but that they did not remember that her child was a girl. Then she told about the birth of her son. She admitted that she made the statement to McGraw at Coffeyville, Kansas, to the same effect as her deposition. She said she had given these statements and given her deposition because she was told there was good big money in it for her and that Harjo had got her to deny the child and to assert that it belonged to Minnie Atkins. That Harjo was the cause of it. She supposed that Bartlett paid him for it; that that was what he was out for. She does not know that Bartlett paid him (Rec., pp. 2766-2777).

She tells about Harjo going West because he got money on her land and also on some other matters that made it necessary for him to leave (Rec., p. 2782).

Then the court asked her to tell the truth about it and she said in reply to a question of Mr. Gresham that Thomas Atkins was supposed to be her son. The court told her she must answer and she said he was (Rec., p. 2783).

Then when Mr. McGraw questioned her about the answer that Thomas was supposed to be her son, she said that he was her son, and gave the names of Bob Delozier and Harry Burney, who knew that Thomas Atkins was her son (Rec., p. 2783).

Her deposition, which was set forth in this record, follows, beginning at page 2785:

On cross examination Nancy was asked about what Ellis Childers told her when he came to carry her to Sapulpa. Ellis told her that she was wanted in Sapulpa for this same case (Rec., pp. 2730-31), and he said, "You want to go and fix that because you might get into trouble." And Ellis did not say anything more about it, took her to the St. James Hotel, and the next thing came the test and she went on the stand.

Mr. White did not talk to her about it, no one discussed with her the effect of swearing one time that she had a girl and the other time that it was a boy (Rec., pp. 2719-2720).

The record shows that Eliza Sterling and Angeline Moody had already testified what Nancy and Betty Mann had suggested, that her child was a girl and born dead, and notwithstanding Nancy's repudiation of this, the Government has used them as witnesses again in this case to the same story that they testified at Sapulpa. It has put no testimony upon the stand in contradiction of Nancy's story of her procurement of their testimony. Bettie Mann does not deny it, and even if she did, it would carry no weight. Bartlett's son was not placed upon the stand; Vass Grissom was not placed upon the stand; Harvey Harrison was not placed upon the stand. The absence of these parties who could have contradicted Nancy if she was not telling the truth is a confession that she could not be successfully contradicted by them.

The next thing in sequence of attention to this land is that of Mr. Page. Mr. Long, his representative, testified that in February or March, 1914, this land was looking good as prospective oil land, and he looked up a Thomas Atkins in the army and Nancy's claims and dismissed both of them.

In May, 1914, Charles Rogers put him in touch with Betty Mann and he employed her to find Minnie Atkins, and he knew that she was already employed by Bartlett to find her and he offered her more than Bartlett did to have her turned over to him if Betty found her. In response to her summons from Seattle in June, he went there, found that she and Sadie James, either or both, had discovered Minnie and he began negotiations with Minnie and Captain McNab for her, and Mr. Hanford was employed by Captain McNab as his attorney to represent Minnie's interest. The result was that he brought Hanford back with him to Oklahoma, and he, acting for Minnie, made the lease for Captain McNab, as Minnie's trustee, with Page (Rec., pp. 3497-3510).

It is significant that early in his dealings he got in touch with Micco Harjo at Portland. And he gave him information about Bartlett and the Gypsy Oil Company's activities (Rec., pp. 3525, 3576).

The deed of trust of Minnie to McNab was made June 13, 1914. And the McNab lease of Minnie's interest to the Gem Oil Company (Page and Josey) was made June 24, 1914 (Rec., pp. 10-11).

It appears in the testimony of Mr. Hanford that before he made this lease that he went to Sapulpa and examined the record of Nancy's case against Bartlett and the Gypsy Oil Company, talked with the judge about intervening for Minnie and learned that the judgment was rendered in favor of Nancy the day after the date of the conference with the judge.

And he also went to Muskogee with Mr. Long and examined all the census cards of this family (Rec., p. 3699).

Two days before Page took forcible possession of the land, to-wit, on July 3, 1914, Minnie brought suit in the Creek District Court against her own sons, Charlie and Harvey Harrison, and the unknown heirs of Thomas Atkins. It is significant that in this suit she did not name Nancy, who had just won a suit against the parties in possession as the known heir of Thomas Atkins. This complaint was sworn to by Mr. Hanford. It contains the allegations that Minnie's alleged son, Thomas, died in the year 1901 or 1902 (Rec., pp. 4786-4789).

On July 7, Page brought suit against Nancy to quiet his possession which he had taken forcibly two nights before. His complaint contains the same allegations, sworn to by Mr. Page that Minnie's son died in 1901 or 1902 (Rec., pp. 4775-4779).

Mitchell Wadsworth, her nephew, testified that she wrote him in 1898 or 1899 to enroll Charlie and Harvey, but did not mention Tommy. She made a power of attorney to her brother-in-law, Tom Holden, on April 2, 1900 (Rec., p. 4468), empowering him to secure the rights of her sons, Charlie and Harvey Harrison, and did not mention Tommy. In the face of these facts it is rather difficult to explain these allegations in her complaint and Page's complaint that her son Thomas lived until 1901 or 1902.

Another episode in regard to Nancy is the appearance of Sadie James at Nowata in September, 1914. She tells of Page employing her to handle Nancy, and offered her a thousand dollars to get a confession from her and steal her from her guardian (a negro named Ridgeway had in the meantime been appointed her guardian), to take her to Kansas City and deliver her to Long, where her deposition would be taken, and then they were to take her to Seattle to live with Minnie (Rec., pp. 648-649).

She went to Nowata and learned that Mrs. Yarboro, a dressmaker, was a friend of Nancy's and could get her to do anything. She tells of a conference with Mrs. Yarboro in which Mrs. Yarboro wanted to be appointed a guardian for Nancy and would buy Nancy a home next to hers. Mrs. Yarboro wanted assurance of Sadie's story, and Sadie called up Page from Mrs. Yarboro's house under the name of Whittaker. The Government made an exhibit of the telephone bill showing the call of Whittaker to Page, September 25, 1914. (Government's Exhibit "A" 107, Rec., p. 4289.)

Mrs. Yarboro heard Sadie's end of the conversation with Page. She told Page that the party was ready to go and that he must meet her that night at Tulsa. (See Mrs. Yarboro's testimony, page 2748.)

Sadie tells a long story about meeting Page when she went back that night and he was not willing to pay her the amount of money that she wanted and the matter was dropped. And the next day she got a message from some unknown person at Nowata not to go back there, that she would be arrested for trying to kidnap Nancy (Rec., p. 669).

Mrs. Yarboro had become alarmed and asked Nancy who would protect her and Nancy told her to call Mr. White and to call him at Coweta. She did so, and put Nancy in a back room at her house until White came and took her away (Rec., p. 2744).

This telephone bill also shows her call on the same day to White (Rec., p. 4289).

White testified to getting the message and going in the night time to Nowata and finding Nancy in a back room at Mrs. Yarboro's and taking her to Ellis Childers (Rec., pp. 2756-2757). She stayed with Childers for three weeks (Rec., p. 2775).

Nancy's testimony as to what she terms the "frame up" of Bartlett to defeat her suit against him, by employing her guardian to corrupt her and cause her to swear falsely, is corroborated at every possible angle. Not a witness was called to contradict it in any particular. With painful detail and particularity she went into every circumstance relating to it; named the persons connected with it, and not a single one of them was placed upon the witness stand in contradiction of her. Her story is entirely consistent with the conduct of Bartlett and the conduct of Page in this case. Bartlett was holding under a forged deed from another Minnie Atkins, which his employee, Betty Mann, had procured, in conjunction with Micco Harjo. Finding himself defeated in his litigation to hold the land under that, he employed Betty Mann to find the real Minnie Atkins, and Page bought her up and got her to find Minnie for him; thereby, in the language of this class of people, "double-crossing" Bartlett. When Page admitted on the witness stand that he had employed Sadie James and Betty Mann to work up evidence for him in this case, and that he was fully aware of their characters before he employed them, he had invited suspicion to be cast upon every act which he has done, and when Bartlett, acting through the same instrumentalities, corrupted the guardian of this incompetent woman, the story Nancy tells needs no corroboration to prove the utter rottenness of those holding the titles against her, regarding the methods through which they procured them and sought to protect themselves. It is a black chapter in the oil history of Oklahoma.

Nancy Atkins Was the Mother of Thomas Atkins.

The Government alleged that there was no such person as Thomas Atkins, or if such a person, that he was not the son of Nancy Atkins. Minnie Atkins and the Page interests allege that Nancy Atkins had no son named Thomas Atkins and that the enrolled Thomas was Minnie's son, a subject elsewhere discussed.

Nancy Atkins asserts that she was the mother of Thomas Atkins, born at Wagoner in September, 1890, and died there about 1900, and that he was the Thomas Atkins enrolled by the Dawes Commission on May 23, 1901.

Upon the issue joined as to the existence of a son of Nancy named Thomas there were sixteen witnesses produced by the Government and three by the Page interests to sustain their contention, and thirty-five introduced by Nancy to sustain her contention.

Of the witnesses introduced by the Government one was a white man and fifteen were negroes; of those introduced by the Page interest two were Indians and one negro; of those introduced by Nancy on this issue there was one white woman, twenty-four white men, five negroes and five Indians. Two of the negro witnesses supporting her, Richard Burney and Bob Delozier, each had bad criminal records. They, however, were brought in intimate contact with Nancy at her home and that of her son, the residence of Betsy Burney, the mother of Richard Burney, and Bob Delozier was an associate of that family. One of the other negroes was the minister who conducted the funeral of Thomas Atkins. Two others were men of respectability and of responsible positions. The white woman, Mrs. Miller, was a woman of standing and owned the property where the Burneys lived, and in that way came in touch with the Burney family and with Nancy and her son Thomas. Of the twenty-five white men, most of them were men of standing and prominence in the community. Two of them had been sheriff of the county; one of them a newspaper editor, quite a number of farmers, a building contractor, a large number of merchants, one postmaster, several stock dealers, the president of a wholesale grocery company, and one of the Indians, Ellis Childers, had been Speaker of the House of Warriors and Treasurer of the Cherokee Nation. Some of the witnesses on behalf of Nancy were ignorant, some old and forgetful of dates, but most of them were men of intelligence and of affairs, and evidently from their occupations were leaders in the community where they lived. On the other hand, practically all the testimony against Nancy came from ignorant negroes and showed upon its face unreliability and inconsistencies, and part of it evidently testimony framed up to meet the occasion through the machinations of Bartlett and Page.

Much of the testimony against Nancy consisted of inconsequential statements made or claimed to have been made by her to the effect that she had no child such as she now claims, and when it is remembered that the child was an illegitimate and that Nancy sought to deceive her own family regarding his existence it is not strange that she made such statements as some of these witnesses claim that she did.

A careful analysis of all of this testimony is considered necessary, and to aid the court in doing so, it is herewith abstracted, making it as brief as the importance of the testimony will permit.

Testimony Against Nancy:

1. The deposition of Elnora Mayshack, formerly Elnora Williams, was taken by the Government (Rec., p. 2163).

It will be noted that Nancy Atkins was not represented at the taking of this testimony and the Government and the Page interests were represented and both were interested in bringing out the testimony against Nancy. Elnora was living in Portland, Oregon, when this deposition was taken. She said that the was forty-eight years old, a former citizen of the Cherokee Nation and knew Nancy Atkins at Wagoner in 1890. She said Nancy had been living with her mother and her for about six months before the 1890 payment. She said that Nancy had a child, not in her house, in a tent, and that she was with her when the child was born; it was born in the morning and died in the afternoon. She said she knew Nancy four years after that and that Nancy had no other child. To the best of her recollection the child was buried in the grave yard and Monday Barnett officiated. She says that this child was born not over two years before the last payment that the Creeks got money (Rec., p. 2167). This evidently referred to the 1895 payment, and, therefore, the child to which she refers, if Nancy had such a child, was born not earlier than 1893, and could not have been the Thomas Atkins that thirty-five witnesses identified and whom it was proved was born in 1890.

Some attention should be given to the fact that the next witness taken at the same time and at the same place was Micco Harjo, the unfaithful guardian of Nancy, who absconded from Oklahoma for frauds against Nancy and other people.

In this connection we call attention to the telegram of Mr. Long to the Gem Oil Company, dated July 17, 1914, sent from Portland, Oregon, telling his company to take the deposition of Mrs. A. M. Mayshack of Portland. who was with Nancy when her baby was born, who said it was a boy but died after birth and was buried in Wagoner (Rec., p. 3526).

It will be seen by reading this deposition that it was carefully concealed that this child was a boy. As touching both this witness and the next one, Micco Harjo, attention is called to the telegram of Mr. Long to the Gem Oil Company, dated July 13 from Seattle, in which he said he went to Portland to see a man and that man was Micco Harjo whom he sought there (Rec., p. 3525).

The next telegram from Mr. Long to his company of July 16, 1914, is from Portland, in which he stated that Bartlett was there and Sadie James was there (Rec., p. 3525).

Thus it is seen that the contaminating influences of Sadie James and Micco Harjo were at work in Portland at the instance of Mr. Long, and the testimony of this negro woman is easily accounted for.

2. The deposition of Micco Harjo (Rec., pp. 2167-2178), like the preceding deposition of Elnora Mayshack, was taken without Nancy being represented there, and the direct and cross examinations were conducted by those inimical to her interest. He had known Nancy ten or twelve years and was appointed her guardian as an incompetent, and had lived in Nowata. He stated that Nancy was first visited by Claude Weldon seeking a lease from her, and she told him that her child was a girl, but after White came to see her that White told her that he had all evidence to show that the child was a boy, and after that Nancy said that her child was a boy. He said that she said that the child was a boy because she wanted to get money out of it. He says that she got drunk frequently and made some of these statements to him while she was drunk.

The substance of his testimony is that she first claimed that her child was a girl and afterwards claimed that it was a boy named Tommy Atkins (Rec., p. 2173).

He admits that he saw Long in Portland but didn't see Sadie James, but heard that she was there (Rec., pp. 2175-2176).

He admits that while at Tulsa one time Bartlett gave him $25 because he needed some money (Rec., p. 2176). It must be remembered that this is the Bartlett that Nancy was suing for holding the land under a forged deed that Micco Harjo procured for him.

He admits that he was afraid of prosecution for his conduct in this matter, and that he left Nancy at Coffeyville when he came West. This confirms Nancy's testimony elsewhere considered in this connection wherein she told of the attempted bribery of her by Bartlett and Micco Harjo and the procuring of her statement at Coffeyville, and the plan to carry her to Portland with Harjo, but she refused to go and returned home from Coffeyville.

3. Eliza Sterling (Rec., pp. 2979-2989) was the next witness produced by the Government. She says she lived at Wagoner twenty-nine years. She was a daughter of Mandy Barnett, a midwife. She knew Nancy Atkins at Wagoner, and says that she gave birth to a child at Elnora Williams' house (this is Elnora Mayshack). She says that her mother was with Nancy when the child was born. She says Elnora Williams was a colored woman. She says the child was a girl and was born dead and that Elnora Williams was there and is positive that Nancy gave birth to a child in Elnora Williams' house. She says it was a story and a half house and the child was born downstairs. She tells of Nancy being sent to the penitentiary while she was at Wagoner. She says that Nancy lived with her part of the time. She says Nancy had no other child than this one. She says this baby was born in the fall of 1889. This is a four-years' difference between her testimony and that of Elnora Mayshack on the same subject. Then she changed her testimony when attention was called to her testimony given at Sapulpa in which she stated the child was born in 1890 (Rec., p. 2185).

In another chapter we have presented the facts regarding this woman whose testimony Nancy procured to sustain the "frame-up," as she expressed it, that was being conducted by Bartlett and Micco Harjo.

John Ford, a negro well acquainted with Nancy and the Burney family and all these other negroes at Wagoner, testified that Eliza Sterling did not live in Wagoner at the time this child was born. That she was living between the Verdigris and Arkansas river about ten or twelve miles from Wagoner (Rec., p. 2511).

4. Angeline Moody (Rec., pp. 2190-2195) was seventy-two years old; had lived in Wagoner twenty years; knew Nancy Atkins and knew her parents; she stated that Nancy was the mother of one child; that it was born in Elnora Williams' house; that she was present at the birth. She says Mandy Barnett, a midwife, was the mother of Eliza Sterling. She says that Nancy's child was a girl, and it was born dead and was buried at the corner of the house. She admits that Nancy and Betty Mann came to see her

and says that Nancy told her that she came for her to go and say that she knew that she had one child and that it was born dead, and they wanted her to tell the court that it was not her child they were trying to make her claim (Rec., p. 2192).

This admission strongly confirms Nancy's account of the procurement of this witness at the instance of Bartlett and Betty Mann. She admits she got $15 for going to Sapulpa and testifying.

She testified that she had lived at Choska and had a place there and her husband sold it in 1892 to Lipscomb and after that they moved to Wagoner and this child was born after she moved to Wagoner (Rec., pp. 2194-2195).

John Ford testified that Angeline Moody was not living in Wagoner at this time and he did not know where she lived at that time. There were very few negroes there and he knew them all (Rec., p. 2507).

This statement of Angeline Moody fixes definitely from a known event and date that she was not in Wagoner until two years after the birth of Nancy's boy Thomas, and absolutely destroys the force of her testimony, and this fact is confirmed by the testimony of John Ford. It is possible that Nancy may have had another child under circumstances described by these women and the Mayshack woman, about 1893, which their testimony indicates, but it is more probable that it is manufactured testimony, as claimed by Nancy.

5. Henry Anderson (Rec., pp. 2195-2208), another of the negroes that Nancy claims was in the "frame-up" and whom she also claims was one of the witnesses against her when she was sent to the penitentiary. He knew Nancy and saw her in a family way and afterwards was told that she had a baby and it was born dead. That this occurred at Elnora Williams' house, and he learned it and found Ellis Harris digging a hole to bury the child, and this man told him it was Nancy's baby. He saw Nancy for five or six years after that and she had no other child. He admits that he was a witness against her in the case where she was sent to the penitentiary for taking a letter of Neosho Burney instead of Betsy Burney (Rec., p. 2198). He says the only boy about town named Thomas Atkins was a negro boy, a son of Dick Atkins, who lived about ten miles from town. He says Dick Atkins was Nancy's half-brother.

This negro is thoroughly discredited by two responsible witnesses as well as by the testimony of Nancy that he was part of the "frame-up" at Sapulpa.

W. C. Smith (Rec., p. 2607), a druggist at Wagoner, testified that he moved to Wagoner and went in the drug business there in 1898 and Henry Anderson was the porter in his drug store. A woman poorly clothed, with a little yellow-headed kid running around with her, probably three to five years of age was frequently in his store, and he asked his porter, this Henry Anderson, who she was and he told him that it was Nancy Atkins and her kid (Rec., p. 2608).

Mr. J. B. White, one of the defendants, testified that he knew Henry Anderson, and when he was investigating this case and procuring witnesses that he had a conversation with Anderson and Anderson told him that he knew Nancy had a child and that it was a boy and it was named Tommy. He prepared an affidavit for him to sign, setting forth the facts that he had told him. Anderson refused to sign it unless he gave him $100 then and $300 when the case was over (Rec., p. 4506).

6. Dora Smith (Rec., pp. 2208-2211): She testified that she lived in Wagoner from 1894 till 1895, and she was well acquainted with Nancy Atkins while she was there. They were good friends. She was taking care of her sister Minnie's two little boys. Nancy told her once or twice that she was the mother of a child but that it was dead. She never told her that she had a boy living.

7. Patsy Willer (formerly Overton) (Rec., pp. 2211-2220): She went to Wagoner in 1887. She was well acquainted with Nancy Atkins. She tells of Nancy having a baby and Mandy Barnett attending her. She seemed to have derived all her information from what Mandy Barnett told her to the effect that the child was a boy and had died at the time of its birth (Rec., p. 2213). She says the child was born at Barnett's and not at Elnora Williams'.

John Ford testified that Patsy Overton did not live at Wagoner at this time (Rec., pp. 2511-2512).

John was cross examined very vigorously as to his knowledge of these negroes in Wagoner, and showed an intimate acquaintance with them and with their affairs.

8. Henry Kidd (Rec., pp. 2220-2223): The only thing in his testimony is that Nancy and Betty Mann came to him on the street with their lawyer and said she had never had but one child and it was a girl and born dead; turned to her lawyer and said that Mr. Kidd would tell the truth. This is exactly the way Nancy tells the occurrence and Kidd's testimony amounts to nothing. He tells about a negro Thomas Atkins, son of Dick Atkins, living near Wagoner.

9. Lula Smith testified (Rec., pp. 2223-2229), that when she was twelve or thirteen years old, she worked in the hotel with Nancy Atkins, and says that Nancy once told her that she had a child but it was dead, either that it was born dead or died shortly afterwards. She never knew any boy around there by the name of Thomas Atkins. She never heard of Charlie and Harvey Harrison, Nancy's nephews, being there with her, and never saw any child or children with her. She had a remarkable memory, to say the least of it, to recall a casual conversation had more than a quarter of a century before, when she was twelve or thirteen years of age.

10. Martha Hardridge (Rec., pp. 2233-2235): She is forty-four years old. Lived in Wagoner since 1891, and worked with Nancy in the Bernard Hotel in 1891, and run together for about eleven months.

Nancy told her that she had given birth to a child that was born dead. She said that Nancy stayed at the Burneys a good deal of her time and that Joe Burney was around with Nancy a good deal. She says that Joe Burney was five or six, or seven years of age in 1891 (Rec., p. 2235). It will be seen in the examination of a good many witnesses that the Government and Page interests sought to confuse the Thomas Atkins described by the witnesses as being constantly with Nancy with this Joe Burney, a son of Betsy Burney, in whose family Thomas lived. The testimony of Martha Hardridge, and there is considerable more besides hers to the same effect, that Joe Burney was from five to seven years of age in 1891 effectually disposes of that theory. He must have been at least five years older than Nancy's son, and there is no possibility of his being confused with the infant that many of these witnesses saw Nancy carrying around with her some before she went to the penitentiary in 1890, and some when he was a very small child after she came back from the penitentiary.

11. Patsy Jenkins (Rec., pp. 2235-2241): She lives at Choteau; she does not know how far it is from Wagoner. She testified she was living on Brushy Creek about thirteen miles from Wagoner and Nancy came to live with her there. She is well acquainted with Nancy Atkins. Nancy came and stayed with her about twenty years ago when she was living in the country on Brushy Creek. She brought two boys with her, the oldest named Charlie, the youngest Harvey. While Nancy was living with her at one time she told her that she had a girl baby and it was born dead. Nancy told her that these boys were her sister Minnie's children; said her sister had gone away and left these children. She says that Nancy and these boys stayed with her from one fall until the next spring, as near as we can understand her very confused testimony.

Charlie Harrison, the eldest of Minnie's children, testified (Rec., pp. 4532-4534) that he had never heard of a negro woman named Patsy Jenkins or Patsy Overton and that he never lived a while with his Aunt Nancy at this woman's house about thirteen miles from Wagoner. That he and his brother did not live at any such place from one fall until the next spring. He lived with his Aunt Nancy in Wagoner about one month when he was seven years old and Harvey was five, and after that Charlie Bailey took him and he lived with him.

12. Sarah Coats (Rec., pp. 2241-2244) says she has known Nancy about twenty-three or four years; got acquainted with her in 1891 or 1892 when she was working at the Bernard Hotel, at Wagoner, and she was working at McNally's in the same town. They saw each other frequently. She lived in Wagoner until 1895. She knew of Nancy going to the penitentiary. She says she knew her before she went to the pen and knew her after she came back. She knew the Burneys and the other negroes in town. She says Nancy mostly associated with the colored race. She did not know any colored boy or Indian boy around Wagoner called Thomas Atkins. She did not know Nancy before she went to Wagoner. She fixes her time of going to Wagoner as 1891.

The record shows that Nancy was sent to the penitentiary December, 1890, and was confined there until July, 1891. This witness did not come to Wagoner, in her repeated statements, until 1891, yet she says she knew Nancy before she went to the penitentiary and knew her after she came back from the penitentiary, yet never knew her before she went to Wagoner.

13. Charlie Harrison (Rec., pp. 4528-4535): He stated that he was twenty-seven years old. That after his mother brought him and his brother to Oklahoma he stayed one summer and one winter with his Aunt Kate Holden and was then taken to Wagoner with his Aunt Nancy and stayed there four weeks. While he was at his Aunt Kate's there was no boy there named Thomas Atkins. He says he knows Mr. Way, the postmaster at Haskell, and he knew him when he was a kid. He had a ranch about three miles from Uncle Tom Holden and was well acquainted with Mr. Way while he was at his aunt's. He says there was no other child there when he and his brother were there and his Aunt Nancy did not come there while he was there. That he never had a brother named Thomas that he ever knew of. (This, of course, is very applicable to the other chapters in this discussion, but it may not be amiss to repeat it here.)

He says that when he was at his Aunt Nancy's she did not take care of any other boy; that he and his brother Harvey were the only ones she was taking care of when he was there. His mother had not written to him until four years ago. She did not write to him when he was staying at his Aunt Kate's or at Wagoner. He did not see his Aunt Nancy from the time he left her home. Before he was taken to Charlie Bailey's, Jim Childers got his brother Harvey away from Nancy and took him to raise.

There is no value to his testimony other than the negative value that he had no recollection of Nancy caring for any other child than he and his brother when he lived with her four weeks in his early boyhood. It is worth commenting upon in connection with the testimony of Jim Childers to which reference will next be made.

14. Jim Childers (Rec., pp. 4300-4312): He is a three-quarters Creek and the brother of Ellis Childers. He was married in 1895 and then moved a mile and a half south where his father lived in the country northwest of Wagoner. He knew Nancy Atkins from 1890 when he moved to Wagoner. When he first knew Nancy she was in a family way and she was living with the Burney family. He never knew of her having a baby other than her condition disappeared. He worked in Davis & Jones' store at Wagoner in 1894. He knew of no boy around Wagoner named Thomas Atkins except Dick Atkins' son, who often came into Wagoner. He saw this boy with Nancy two or three times. Dick Atkins and Nancy claimed to be half-brother and sister. He says this negro Thomas was four or five years old when he knew him, which was in 1894, but the brothers and sisters of this boy were placed upon the stand and their testimony showed that the boy was five years older than Jim Childers states. He knew of Nancy having Charlie and Harvey Harrison and he took Harvey and kept him. At that time he didn't appear to be taken care of at all; did not have hardly any clothes. Nancy sent for him and when he went to her she told him that she had a couple of boys that belonged to her sister; that she was not able to take care of them and make a living for them and wanted him to take Harvey and a gentleman in the country was going to take Charlie, sometimes called Lee, and the other man was Charlie Bailey, who was going to take Charlie Harrison. He took Harvey home with him, he was then four or five years old, and kept him until 1898, and turned him over to his Aunt Kate Holden. It was after he was married, 1895, that he took Harvey to his home. Nancy was living at Eliza Barnett's house and he took Harvey from that place. Nancy was sick in bed at the time. There wasn't any other child in the room than this little boy, and he saw no other child there (Rec., p. 4310).

Childers' testimony plainly shows that he did not think that Nancy had any other child, either Charlie or any one else that she was caring for at the time that he took Harvey from her, and Charlie testifies that he was there at that time. The fact that Nancy was then living with the Barnetts may readily account for the fact that Charlie did not remember or probably did not know of her son Tommy, who always lived with the Burneys.

15. T. Howard Morton (Rec., pp. 4298-4300): This is the only white man used as a witness against Nancy. He moved to Wagoner in 1891 as an employee of Davis & Jones Mercantile Company. He knew Nancy Atkins, but did not know of her having any boy by the name of Thomas Atkins, or any other child. He knew the negro Thomas Atkins, son of Richard Atkins, who lived about ten miles northwest of Wagoner. He was ten or twelve years of age when he died. His father hauled wood into town and this boy came with him a few times. He never saw the boy with Nancy Atkins. He knew Charlie and Harvey Harrison. Does not know whether they ever lived with Nancy or not. Certainly there is no probative value to be given to anything which he has testified to.

16. Ananias Atkins (Rec., pp. 4398-4401): He is a son of Dick Atkins and had a brother named Thomas Atkins. His brother Thomas died in the fall of

1898, ten miles northwest of Wagoner. His brother Thomas went frequently to Wagoner during the time they lived ten miles from there, as the family traded there. He knew Nancy Atkins. His father claims she was his half-sister. His brother was thirteen years, three months and some days old when he died. His brother Thomas lived at his father's house all of his life. He would go to Wagoner and he knew him to stay as much as three days at a time with some other member of the family. His brother was buried a mile and a half from his home, ten miles from Wagoner. His father was a well-to-do man. He and his brother Thomas were full brothers and they were one-eighth Indian and seven-eighths negro. He admits that his hair and general appearance is that of the African race.

17. Mary Atkins Wilson (Rec., pp. 4401-4404): She is another member of the Dick Atkins family, being a sister of Ananias and the deceased Thomas. She admits that she was African and that her brother Thomas was of the negro race. Her testimony is substantially that of her brother. The testimony of these two members of the left-handed Atkins family proves conclusively that the effort to confuse the negro Thomas with the Thomas enrolled is unavailing. The negro Thomas was a typical negro in appearance; was dead before April 1, 1899; was thirteen years old when he died in the fall of 1898, and was, therefore, born in the summer of 1885, and was five years older than Nancy's son Thomas.

And hence the impossibility of confusing this negro with her son when many witnesses testify to seeing her nurse him in 1890 and carrying him around in '91 and '92 when he was hardly able to walk, with this husky negro who was then six or seven years old.

The Page interests called two witnesses against Nancy.

18. Cheney Trent (Rec., pp. 4179-4189): She is another one of Dick Atkins' children. She had seen her brother Thomas in Wagoner with Nancy. Her father hauled wood to Wagoner, and the boy would frequently go with him. She said that her father was a drinking man and that Nancy drank with him, and Nancy sometimes came to their house to get whiskey. He would bring her in the wagon from Wagoner. She only knew Nancy two years before her brother Thomas died, which would make it 1896. This family of Atkins were enrolled in Arkansas Town, which is one of the negro towns of the Creek Nation. None of them were ever enrolled as Euchees (Rec., p. 4189).

19. Anderson Childers (Rec., pp. 4292-4298): He was acquainted with Nancy and Minnie; understood they were sisters, but did not know whether they were full sisters. He was acquainted with Dick Atkins and his son Thomas. They lived two miles of his place northwest of Wagoner. He first knew this negro Thomas Atkins about 1890 when he was five or six years old and was in Wagoner with his father. He died in 1898. He saw this negro boy with Nancy twice in Wagoner at Davis & Jones' store when this boy was seven or eight years old. He saw Nancy with Lee and Harvey (Lee is the one called Charlie in the record). He said he saw these boys around Wagoner with Nancy very often about '92 or '93. This shows how thoroughly unreliable this testimony is. There is some confusion in the record as to whether Minnie came to Oklahoma in 1894 or 1895. There is no question, however, that it was not earlier than the summer of '94. Miss Alice Robertson tells of her arrival as later in the summer of 1895.

There is no dispute over the fact that Charlie and Harvey were with Nancy only a short time and that was after Minnie had left them with her sister, Kate Holden, and they had remained there a year or more and Mrs. Holden brought them to Nancy. There is some controversy as to when Minnie left this country. Most probably is was in '95, although there is some testimony on her part that it was later. It is impossible for these boys to have been at Wagoner with Nancy earlier than '97 or '98, and yet here is a witness testifying that he saw them with Nancy very often in '92 or '93. And he can't be excused on the ground of ignorance like most of these negro witnesses whose ideas of dates are very vague unless there is some fixed event to determine it. He appears to be a man of intelligence and education from his testimony and gives definite facts from which he fixes his dates. Therefore, the most probable explanation of his testimony is that it is manufactured, and the fact that it is produced by the Page interests instead of the Government lends color to that theory. It is really unimportant, and it is strange to say why it is produced as it has but little bearing upon any issues in the case.

This is all of the testimony against Nancy except a few stray statements by Sadie James and Betty Mann which we have not taken the trouble to abstract as they have no corroboration, and, of course, are unworthy of belief coming solely from such sources. Mitchell Wadsworth, son of Mrs. Holden, testified that he did not know of a Thomas Atkins, Nancy's son, being at his mother's house for a time, and he is corroborated in this by Mr. Way, who said Mitchell was in the penitentiary during that time (Rec., pp. 2591-2601).

Evidence Supporting Nancy:

1. Nancy Atkins (Rec., pp. 2697-2743): Nancy testified she was forty-five years old, a Creek citizen; lived all her life in the Creek Nation. Her aunt, Mrs. Robinson, raised her at Muskogee. She found herself in a family way and, not wanting to bring disgrace on her family, she went to Wagoner and her child was born in September of that year. She worked at different hotels and restaurants in Wagoner. The child was born at Elnora Williams' house and was a boy and lived until 1900. She had worked at the Brown Hotel part of the time and knew Frank Engles while she was working there. Frequently had her child with her there. She kept the child mostly at Betsy Burney's. She was at the burial of this child. Old man McHenry officiated at the graveyard. When her child was three or four months old she was taken to Fort Smith and from there sent to the penitentiary at Detroit, Michigan, for eight months, and served six and one-half months and got back to Wagoner on the 2nd of July.

Government's Exhibit "A" 104 (Rec., p. 4821), is the judgment of conviction of Nancy Atkins for taking letters from the mail in the Indian Territory. It is dated December 23, 1890, and contains a sentence of eight months in the House of Correction, Detroit, Michigan.

She had left her child with Betsy Burney when taken off and found him there when she returned.

We have heretofore summarized her deposition in the office of Bartlett's attorney and her testimony before Judge Stanfield in the trial at Sapulpa. Both the deposition and that evidence is inserted in this record and found at pages 2775-2792. We have also set forth her testimony regarding the procurement of the evidence of Eliza Sterling, Angeline Moody, and Henry Kidd, and will not repeat it here. We have also referred to the attempted kidnapping by Sadie James and her protection by Mrs. Yarboro and Mr. White. Mrs. Yarboro's testimony corroborating hers is found at pages 2744-2746, and Mr. White's, pages 2747-2772. She says that she named her child Tommy. She did not know there were so many Tommy Atkins. Had she known there were so many boys in the Atkins family named Tommy, she would not have named him that. In answer to a question from the court who told her to look directly at him, she stated he died in the spring of 1900. She thinks he was about nine years old when he died. When she talked to these darkies with Betty Mann, Betty wanted them to say it was a girl and she fell in with that action. Her sister Minnie left her children with their half-sister, Kate Holden, when she went to Colorado. Her sister Kate brought them to her and she kept them for a few months, then Charlie Bailey took one and Jim Childers took the other one. At one time when she was at Nowata the Holdens got her son Tommy and took him out there. They said he was running around. She heard he was out there and went there. She saw Tom Way when she was out there. She left him there at Kate's and he stayed there probably a year, then went back to Betsy Burney's. She said that he was about her color; that he was small and had light hair, but as he grew older his hair got darker. His hair was straight and became black. He was a puny child and small for his age. This is the substance of her direct examination.

She was put through a severe cross examination by Mr. Allen, Judge Stuart, Mr. Hanford, and was questioned frequently by the court, but her testimony was in no wise weakened by this cross examination, and many corroborating facts were given by her. She says she was at Kate Holden's more than once when Charlie and Harvey were there (Rec., p. 2716).

She did not go to her sister's for Charlie and Harvey. Kate came to her and told her that Minnie had left these children with her and went away and Tom didn't want them and she could not take care of them and promised to send money for their support. Kate's son, Mitchell Wadsworth, was in trouble and had been scouting, and she wanted money to go to Fort Smith; she thinks he was in jail there and she let her have some money. She did not want the children.

She says that Joe Burney was about four years old when her baby was born (Rec., p. 2722). She said when her boy Tom was at Kate Holden's Charlie and Harvey were there, and there was no boy there named Edmund Bear. We have heretofore set out her testimony relating to the visit of her Uncle Robinson and his son to her, and her conversation with them about enrolling her and her son Tommy. This evidently referred to enrollment before the field parties, as she told of going to Coweta afterwards, where the enrollments were being held. She gives a rather amusing account of the way she was brought into court at Sapulpa after Bartlett's side had represented that she was not in the State of Oklahoma, and the lawyers being surprised at her testimony when she repudiated her deposition and testified in answer to Judge Standfield's questions that she had a child named Tommy Atkins who lived to be about ten years of age (Rec., pp. 2731, 2732).

She says that Eliza Sterling did not come to her during her confinement. She said that Dora

Smith and Betty Overton were two colored women that she hardly ever went with. She says that Ellis Childers came to see her when her baby was about three weeks old and it was in the bed with her. She says that Aunt Angeline Moody never saw her baby. She says that Henry Anderson and the other negroes swore her liberty away in the trial charging her with purloining a letter. Her homestead was sold for $333.20 and Micco Harjo, her guardian, got all of it except $75. He used it for his family and himself and left on account of this and other crooked things he did (Rec., p. 2737).

Her sister Minnie had a boy whose middle name was Lee. He was named Charlie Lee and she wrote her before she had her child of having a son named Lee (Rec., p. 2738). Evidently this refers to Minnie's child, Robert Lee Peterkin, who was born in 1886 and not Charlie Lee Harrison, unless Nancy had her dates mixed. In Minnie's Kansas City statement she said after she left Leavenworth she wrote none of her friends (Rec., p. 4061—see also Hanford's letter, Rec., p. 4738), and as Robert Lee was born there and died there, it is quite likely she wrote her sister of him before she left Leavenworth. It may be remarked here that Minnie had no hesitancy in telling her family about her other illegitimate children. She wrote Nancy of Robert Lee and brought Charlie and Henry back to the Territory in 1895, but not a word of Thomas. Even her son Charlie testified that he never heard of having a brother Thomas (Rec., p. 4528-4535).

2. Ellis Childers (Rec., pp. 2637-2696): We have abstracted Mr. Childers' testimony upon other points and now call attention to his testimony relating to his knowledge of the existence of Nancy's son Tommy. There was a pasture payment at Wagoner on the first of October, 1890. He said that we (evidently referring to his father and other members of his family and himself) had considerable pastures for which they received money and paid out money to people who lived among or near the pastures. While at that payment Saus Childers stated that Nancy Atkins was sick; she had a baby and she lived in a tent and if she was not taken care of she was going to die. Saus' wife told the same story and he (Ellis) suggested getting up a subscription to help her. Saus got him to write out the subscription paper and he did so at the table where they were making this payment. Saus gave $5 and his father gave $5, and all together they raised seventy odd dollars, and it was brought to him and he told Saus and Mary they could attend to it. His mother and some other woman were there and looked after it and reported they had taken care of her, and got clothes and cleaned her up and paid Betsy Burney to take care of her and moved her into Betsy's house. Betsy was an old colored woman who lived in Wagoner. A short time after this he owed some money to Betsy for her pasture, and went to her house to pay her. This was about ten days after the subscription. He saw Nancy at Betsy Burney's and talked to her. He saw her baby in the bed with her, which was a boy

they afterwards claimed was her child but he did not know it was the same child. After this time, a year or such a matter, he saw Nancy with the child, and he heard that it was named Tommy Atkins, and the last time he saw Tommy he was a good sized kid running around, a year or two old. Saw him with Nancy, and that frequently as he grew older. Saw him around Davis & Jones' store when he was two or three years old. He did not recall him sufficiently to give an accurate description of him. Knew that he was an Indian. He naturally thought he looked like one. He had seen Nancy in a pregnant condition before the first of October when he was at the pasture payment. He never saw her in that condition but once. He knew that she was sent to the penitentiary for violation of postal laws and this child was born before she was sent to the penitentiary. She was convicted of taking a letter ostensibly for Betsy Burney when it was addressed to Neosho Burney.

We have heretofore referred to Mr. Childers' statement made to the Creek attorney conflicting with the testimony here given and the testimony which he gave at Sapulpa, but he reiterated upon the stand the truth of the testimony here given.

3. R. F. Davis (Rec., pp. 1202-1208): He is president of Muskogee Wholesale Grocery Company. He is the son of Mr. Davis of Davis & Jones' Mercantile Company. They did business in Wagoner and he worked in his father's store about two years. He was there from, as near as he can remember it, from '89 to '91. He knew Nancy Atkins well. She was around the store frequently. He saw her in a pregnant condition. He afterwards saw her child when it was large enough to walk. The child was a light yellow color. He does not remember the name of the child, but is quite positive it was a boy. Said she was in the store every day and don't remember whether he saw her carrying it in arms or not; probably he did. He thinks the boy was old enough to walk around when he saw him last. He never heard that the boy of Nancy was anybody else's child. He remembers of Nancy being convicted and sent to the penitentiary, but does not recall whether it was before or after the birth of the child.

4. J. B. Newberry (Rec., pp. 2418-2427): He is 65 years old and lived at Wagoner since the 27th of March, 1890. When he first went to Wagoner he boarded at the Barnard Hotel. Nancy Atkins worked at the hotel after he went there. In the summer of that year he noticed that she was in a pregnant condition. Afterwards he learned that she had a baby; was so told by Dr. Bryant, who attended her. He saw her about a month after that. He knew her boy around Wagoner who lived at Betsy Burney's. He was very dark; rather yellow, and ragged and dirty. Nancy sometimes lived at Betsy Burney's, sometimes at other places. He saw her at Betsy Burney's very frequently but doesn't remember what this boy was called.

5. Charles Bailey (Rec., pp. 2421-2443): He resides at Sand Springs. He went to Wagoner in 1888 and lived there till '97. He became acquainted with Nancy Atkins at Wagoner but had known her at Tullahassee Mission and at Col. Robinson's place prior to that. She worked around at different places at Wagoner and afterwards lived with a colored woman by the name of Betsy Burney. He was working at Davis & Jones' Mercantile Company. He recalls seeing her in a pregnant condition but does not recall when it was. It was in 1888 or 1890 she had a child born back of the Davis & Jones store in a tent. A colored woman came in the store and asked for some groceries for her, telling him that she was sick, had a child and did not have any money and he let her have what she wanted. She was moved from this tent into Betsy Burney's house. He saw the child when it was a month or two old. He saw the child frequently for several years. He afterwards learned of it being dead. And the child was a boy called Tommy Atkins. He knew Charlie and Harvey Harrison, Minnie's sons. He took Charlie Harrison and raised him, became his guardian.

He would judge that Nancy's boy Tommy was five or six years old when he last saw him. He would not call this boy a negro but he ran around with negro children. Betsy Burney moved away from that place for a while.

He did not know Eliza Sterling at Wagoner. He knew these other negroes who figured in the case. He knew of Nancy being sent to the penitentiary after she had this baby. He only knew of her having this one child. He did not know Charlie and Harvey stayed with Nancy. Mrs. Holden brought Charlie to him. He describes the personal appearance of both Charlie and Harvey.

6. James E. Long (Rec., pp. 2445-2457): He lived near Wagoner from 1896 until the year before he testified. He met Nancy about a year after he went to Wagoner. She had a child that looked like a mulatto. He was then six or seven years old he judged from his size. He saw him for four or five years. He would see him with Nancy and with another woman by the name of Maggie Martin. Nancy lived in the negro town of Wagoner. He saw Nancy and the child together in the summer of 1897, 1898. He was city marshal in 1897. He recalls it was in the very dry year that he was called upon to contribute to the burial of Nancy Atkins' little boy. He gave fifty cents for it. This boy was called Tommy.

He had Nancy in charge in the police court several times. She was well known in the community. She was a police court character. She associated with negroes and Indians. The boy was rather brown with chocolate colored hair and brown eyes. Resembled white and Indian more than he did negro, but had a mulatto color. His hair was straight. They called him mulatto on account of his color. He heard Nancy and the other people call the boy Tommy Atkins. He heard Nancy refer to him as her boy. In addition to being marshal he was the

Deputy United States Constable working for the commissioner in 1900 and was elected sheriff of Wagoner county and served in the city council. He was convicted of embezzlement in office but afterwards a new trial was granted and the case was dismissed.

7. Richard Burney (Rec., pp. 2457-2465): This witness is the son of Betsy Burney. He remembers Nancy being brought to his mother's house when she had a baby and does not remember how old the baby was as he was a kid himself. He saw the child constantly until he left there and it was a good sized child then. He was pretty badly mixed white and yellow. The boy was called Tommy Atkins. He was hauled in a wagon to his mother's house when he was a baby with his mother. Doesn't know that the baby was a month old. Old man Saus Childers brought Nancy and the baby to his mother's house. He carried Nancy on a cot. He was then about twelve years old. He knows that Nancy was sent to the penitentiary at Fort Smith and the baby was left in his mother's care while she was in the penitentiary. He does not know how long she was gone. His mother moved from Wagoner to Verdigris for a time. This witness is ignorant, has hazy idea of dates, and had a criminal record, but no one can read his testimony without being convinced of its truth and it fits in with the testimony of so many reputable witnesses that it cannot be doubted.

8. Nolan Williams (Rec., pp. 2465-2473): He is a negro employed in herding cattle for Winfield Scott, a large cattle man, and was foreman of his ranch. He lived in the vicinity of Wagoner and did his trading at Davis & Jones' store and got acquainted with Nancy Atkins. He knows that she had a child with her that she said was hers. When he first saw the child it was a year or two old. When he first saw it she was looking for the child and he had a conversation with her in which he said it looked like a little girl but she said it was a boy and called him Tommy. He saw the child frequently for about three years after that time. It looked like Indian and mulatto. His hair was a little bit light. She was called "Crazy Nancy." He said that both Nancy and old man Burney told him that this child was Nancy's child.

9. John T. Beard (Rec., pp. 2475-2486): With the exception of two years he has lived in Wagoner for twenty years. He was a hardware salesman and worked with Dunlap and Taylor, and Davis & Jones Mercantile Company. He was in business for himself awhile. He went to Wagoner August 4, 1887. He was an engineer on the railroad and got acquainted with Nancy Atkins the latter part of 1889 or 1890. Wagoner was then a small place; had only 150 or 175 inhabitants. In 1890 or 1891 he noticed she was in a pregnant condition. He knew of her giving birth to a child as town talk, and he knew of her being sent to the penitentiary. He did not recollect which event occurred first. He saw the child when it was two or three years old. She was carrying it in her arms. He talked to her of the child and she said it was her's and she called him Tommy. In 1897 and 1898 he worked for Mr. Schrimscher. Mr. Schrimscher extended Nancy credit during the week from $1.50 to $2. She washed and would pay on Saturday nights and during the week she would send this little boy to make purchases. He then appeared to be seven or eight years old. This continued for a year or two. Nancy came with the boy a great many times. He remembers that W. U. Hall, mayor of Wagoner, took up a collection for the burial of Tommy Atkins. He says that Nancy lived with a negro named Bet Burney most of the time. He would call the boy kind of bright mulatto looking boy. His hair was light but later on as he grew older his hair grew darker. At the time of his death he remembers seeing a funeral procession and it was about 1901 or 1902. He said that no one was buried back of Betsy Burney's house. He never heard of such a thing. Nancy's boy was the only Tommy Atkins he ever heard of around Wagoner. There was one event that he recalled that fixed the matter in his memory and that was that when Nancy was pregnant the boys accused Uncle John Newbuerry being the father of the child. He was working for the Iron Mountain Railroad at the time and she lived right across the track from where he was working. His testimony at Sapulpa was read to him and some minor matters he stated that he had not testified as the testimony read; none of these are material. On the whole his testimony bears out his testimony as given there.

10. M. I. Sullivan (Rec., pp. 2486-2493): He has lived in Wagoner since 1892 except five years from 1895 to 1900. He was acquainted with Nancy Atkins. She was living on the west side of town and had a child who was two or three years old when he first saw him. The child was large enough to be toddling around, and he saw him in his place of business with his mother. He talked to her about him and asked her if he was her kid and she said yes. She was in his place of business most every week, sometimes two or three times. He was in the retail mercantile business. He was there for two or three years and saw her and the child constantly, probably every week. He doesn't remember what the child looked like and doesn't recall his name. In 1892 Wagoner had a population of two or three hundred. His association with Nancy was from 1892 to 1895. Nancy was a peculiar woman. She was slat-sided, half cock-eyed and scrawny; she was a by-word in the town with the boys. She was a peculiar woman that would make anybody remember her. She had this kid with her, claimed it, and told him that it was hers; carried it around with her. She was not married. The only time he ever saw her boy was when she was carrying him along with her.

11. A. Grant Wasson (Rec., pp. 2493-2499): He lived five miles from Wagoner and lived in that neighborhood twenty-nine years. In 1889 and 1890 he was living in Wagoner. First got acquainted with Nancy Atkins in '89. He remembers that she had a child that she claimed was hers and his name was Tommy. He was probably two years old when he first saw him. The first time he saw him he was with some negroes, and one of them was the worst that he had ever seen and used some very bad language and he asked Nancy if those were her children and she said none of them only Tommy, this little boy there, and she pointed him out. He saw him often from then until '95 or '96 and he moved out of town. He was four or five years old when he last saw him. He looked like he was mixed between Indian, negro and white and had kind of white looking hair. They called him a white-headed negro. He was mostly dressed in rags. She said the child was a boy.

12. Andrew Jackson (Rec., pp. 2500-2505): He lives five miles southeast of Wagoner and lived in neighborhood forty-seven years. He lived in Wagoner at different times. He knew Nancy Atkins; knew she had a boy. He was light-headed and had kind of mulatto looking hair. When he first saw him he was three or four years old. The first time his attention was called to him he came near running over him and stopped his horse and asked Nancy if this was her kid, and she said, yes, and he told her she had better keep him out of the road. After that he saw the child about Davis & Jones' store. He was in the town probably once a week. He remembers the contribution being taken up to bury him; not certain in what year, probably 1902 or 1903.

13. John Ford (Rec., pp. 2505-2519): He is a negro and lived at Wagoner from 1887 for about 20 or 25 years. He got acquainted with Nancy Atkins; knew of her being in a pregnant condition, he thinks about 1889. She was living in a tent back of Davis & Jones' store when her child was born, and he saw it two or three days later at Betsy Burney's in bed with her. He gambled at the Burney place and saw the child frequently there when he was shooting craps. He saw her there for about a year and then he moved twenty-five miles away and would be back to town and saw her for a number of years. The boy had an Indian look; kind of yellow hair, looked sandy. He was not a white child. Last time he saw him he appeared to be eight or nine years old; that was about 1899. He was in town at one time and heard that he was dead and they were taking a contribution for his burial; he gave twenty-five cents. The boy was called Tommy Atkins. He did not know of Nancy having any other child.

We have heretofore referred to his telling of some of these negro witnesses living in Wagoner and others not living there at this time.

He had seen this baby nurse at Nancy's breast. He learned that it was afterwards a bottle baby (Rec., p. 2511).

14. J. L. Dyer (Rec., pp. 2519-2523): He lives three and one-half miles from Wagoner; lived there since December, 1889. He first met Nancy in the winter of '90. He remembers that she was in a pregnant condition but does not recall whether it was in '90 or '91. He remembers she was sent to the penitentiary but does not recall what year and that she was gone seven or eight months and that she had a child before she went to the penitentiary. It was about three months old when she was convicted. He saw her carrying the child when it was two or three months old. It looked like a white child; it had right white hair, or bluish looking streaks, was not black. It was called Tommy. He saw the child around for nine or ten years. He heard that it was dead. He never saw him after he was nine or ten years old. He saw the boy in Schrimscher's butcher shop when he was five or six years old or older. He was convicted of being an accessory to a train robbery and got a new trial and was acquitted. He saw Nancy with the child when he came into town lots of times. He was in town very frequently. She lived with a woman named Burney, but he does not know how long she lived there.

15. Joseph Newton Schrimscher (Rec., pp. 2523-2527): He was seventy years old, a Creek Indian. Lived at Wagoner from 1890 for twelve years. Nancy Atkins was a niece of his first wife. It is elsewhere shown that Ed Schrimscher, whose name appears first on the Euchee Roll of the Atkins family was his son, and was a first cousin of Nancy. Nancy had a boy with her that she told him was her son and his name was Tommy Atkins. He was in the butcher and merchandise business and she traded at his store. Sometimes the boy would be with her and sometimes he would not. Sometimes she would pay for what she got and she made an arrangement to send her boy to get what she needed, meat or something of that kind, and she frequently sent him for her supplies and this continued for a year or two. The last time he saw the boy he was about eight years old. He doesn't know what became of him. He knows that Nancy was a Creek and Euchee and her boy looked like a half-blood Indian. His first wife was Nancy's aunt and he knew all the family. The first time Tommy came to his store he looked to be about seven years old, and he saw him until he was eight, but not afterwards. The boy's hair was black. This confirms the testimony of Nancy and many other witnesses that the boy's hair was first light but grew black as he grew older.

16. Foil M. Brady (Rec., pp. 2527-2529): His mother was a Creek and his father a Cherokee. He lives four miles west of Wagoner. He first met Nancy Atkins about 1889. About 1890 or 1891, the date of the Indian payment of $29, he saw her with a boy crawling around at the McNally Hotel, where she was dishwasher. Nancy told him that it was her boy and that his name was Tommy Atkins. He told her that she should have named him Shawnee; that her father's right name was Shawnee Atkins. He knew her father. He was back there about a month later and saw Nancy at the Brown Hotel and asked her how her boy was getting along and she said he was dead. According to his story the boy was three or four years old when Nancy said he had died. This old Indian probably got his dates mixed. It is not strange that Nancy told him about her boy being dead as she told all sorts of stories to her family. The fact remains that she had a boy about four years old which she claimed, to this old acquaintance of her father, to be her son, named Tommy.

17. Kirk Turnbo (Rec., pp. 2529-2737): He lived in Wagoner or in that vicinity since 1899. He met Nancy Atkins shortly after he went to Wagoner. She was quite a peculiar woman. The first time he saw her she was hollering for this boy that he learned was Tommy Atkins. She was inquiring, "have you seen anything of my boy Tommy?" They lived with old Betsy Burney. He remembers when they made up money to bury him. He did not know just what time it was, but it was about 1902. The boy was small, kind of weasened looking. He judged him to be ten or twelve years old when he died. He remembered W. U. Hall was the mayor or marshal at the time he was raising contributions for his burial. He told him he was making up the money to bury Tommy Atkins, old Nancy's boy. He saw the boy very often. Sometimes he would be with Nancy, his mother, sometimes he would not. He saw her with a lot of other children. She was taking care of him. His hair was inclined to be sandy when he first knew him. He has served as Deputy United States Marshal.

18. Walter Posey (Rec., pp. 2537-2539): He has lived in the neighborhood of Wagoner since 1891. He knew Nancy Atkins since then. He has seen the child with her that she said was hers. The first time he saw her was at Davis & Jones' store. He saw the child with her a few times, but mostly at the Burney's. When he first saw the child he was four or five years old. He remembered him because he was white headed. His hair was like a baby's, and he was called Tommy Atkins. He asked Dick Burney whose it was. The last time he saw him was 1900 or 1901. He was apparently about ten years old. He saw him with Nancy many times. He thinks he had blue eyes. He would call him a mixed-blood. It looked like he had Indian in him. His hair was kind of sandy.

19. George Williford (Rec., pp. 2539-2545): Lived at Wagoner about thirty years; got acquainted with Nancy Atkins at the McNally Hotel twenty-two or twenty-three years ago. He saw her in a pregnant condition. Afterwards he saw her with a child called Tommy. He was two or three years old before he saw him.

20. Thomas Brewer (Rec., pp. 2545-2557): He is a Cherokee and first cousin of Mr. Brewer, the postmaster of Muskogee, and has lived most of his life half way between Wagoner and Muskogee. He lived at Wagoner for five years beginning either 1889 or 1890. He got acquainted with Nancy when he was trading at Davis & Jones' store and knew her a year or two before he moved there. She had a child and the boy told him that he was Nancy's boy. He does not remember whether Nancy ever told him that he was her child only he knew that the kid told him that he was Nancy Atkins' kid. He was a good large kid going around with the negroes when he first knew him. He looked like a mulatto; he was a sort of molasses kid, he wasn't white and he wasn't negro. He went by the name of Tommy Atkins. He died in the dry year which he believes was in 1901. He would not be positive of the date. He passed by his house every day going to town. He was buying cattle and trading around. He remembers the boy came to his house for milk as he had quite a lot of cattle. He must have been six or seven years old, but he could not say what his age was. He was not noticing Nancy and does not know whether she was living there when he died or not. He did not attend the funeral and just knows the people said Tommy Atkins was dead and he never saw him again. They said he was dead there in the house but he did not go to see him. He doesn't remember whether this was the Burney house or not.

21. Frank Engles (Rec., pp. 2557-2566): He is a building contractor. Lives at Sapulpa and lived at Wagoner from December, 1890, until 1900 or 1901 when he went to Sapulpa. He met Nancy some five or six months after he went to Wagoner. She had a small boy with her when he first saw her; that he saw her carrying him in her arms and afterwards leading him around. Probably a year old when he first saw him. Just beginning to walk. He was a dirty looking kid; was kept in awful shape; could hardly describe him. He had worked at the Brown Hotel; hardly a month out of six years that he was not doing work there, doing some repair work and building additions to it. Nancy lived in a little servant's house and did work there and had the kid with her. She did laundry work and scrubbing the kitchen and dining room. Then he put in a butcher shop across the street from Schrimsher's and she used to come up there quite often and bring the kid with her and he would give her meat and things to help out; she was a pitiful character and he helped her in such ways as he could.

He knows that he saw the child for five or six years and the last that he remembers of seeing the child was about a year and a half before he left Wagoner. The child was a boy. He was dark; as he remembered him he was always dirty. His hair was kind of brownish yellow, dirty color. He had the appearance of an Indian. He did not know who his father was. He does not recall his name. He remembers Nancy call him son, honey and loving names.

22. W. A. McElroy (Rec., pp. 2567-2575): He was in the cattle and pasture business and had been in Wagoner a great deal. He knew Nancy Atkins before she went to Wagoner.

About 1890 he was at Davis & Jones' store and a collection was taken up for her benefit and it was stated that she had a child born back of the store, but he didn't see her or the child then. Afterwards he saw the child with her which he understood was hers. He saw the child off and on until he left there about 1901. He would take it to be seven or eight years old the last time he saw it. He understood the child's name was Tommy Atkins. That he was called that around Betsy Burney's, who lived back of Davis & Jones' store and he was around there frequently. He saw the child around there before he learned his name. He was known among the boys as Tommy Atkins. That was in 1896, 1897 and 1898 and that was the first time that he knew his name. Doesn't know whether Nancy was living there or not, but he saw her at Burney's frequently and it was his understanding that the boy lived at Betsy Burney's. He has seen Nancy at Wagoner, Coweta, and Muskogee. The last time he saw Nancy was about 1899. The boy's hair was tolerably light; doesn't recall about his eyes. He thinks he was seven or eight years old in 1899. He saw the child on the streets with Nancy. One of the Childers took up a collection for Nancy in 1890 when it was stated that she had given birth to a child and it was reported she was in a destitute condition. His recollection of the appearance of the child is hazy. The child appeared to be an Indian and white with tolerable light hair.

23. J. M. Preston (Rec., pp. 2575-2582): He lived in Wagoner twenty-three years. Went there in 1893 or 1894. He was a building contractor, at that time and was working in the lumber yard. First saw Nancy Atkins about 1894 or 1895; she had a child appeared to be from five to seven years old, light complected; had what he would call molasses hair a little bit wavy. Saw him in the yard back of Davis & Jones' store. His mother called him Tommy. He talked to Nancy about him. She said that he was her child. He asked her who his daddy was and she said, "Well, you might know, that he was a white man's child." He saw him around for about a week. He was not a healthy child; might have been small for his age.

24. D. W. Best (Rec., pp. 2582-2587): He lived in Wagoner since 1895. Knew Nancy Atkins since she was there. She had a child supposed to be hers. He was a swarthy little fellow, did not know whether he should be called mulatto, negro, or Indian, but would say he was a white child. He was four or five years old when he first saw him, possibly older. His mother was with him. He saw him frequently from time to time about 1896 up to 1900. He was told that he was dead to the best of his recollection in 1899. Appeared to be between nine and eleven years old.

On cross examination he tells the incident of first meeting Nancy and her boy Tommy, as he was called (Rec., p. 2585). He says the boy was mulatto colored. His hair was light.

25. T. J. Way (Rec., pp. 2591-2596): Mr. Way lives at Haskell, Muskogee county, and is postmaster there. He is a farmer and in the cattle business. He has lived in the Indian Territory thirty-six years and has lived in the neighborhood of Haskell twenty-one years in the cattle business there. He knew Tom Holden and Kate Holden, his wife, who lived about three-quarters of a mile from his place. He knows that they had Charlie and Harvey Atkins and Tommy Atkins at their place. First there was Charlie and Harvey and later Tommy. The Holdens told him that Charlie and Harvey were Minnie Atkins' children and they were there eight or ten months or longer before he saw Tommy there. He saw Nancy Atkins there only a short time. He had a conversation with Tom and Kate Holden with reference to the child Tommy who they told him was the child of Nancy. About 1899, as he remembers it, Tom Holden came and borrowed his buggy from him and said he wanted to go to Wagoner to get little Tommy and he asked him who it was and he said it was Nancy Atkins' child. He understood she was not taking any care of him and he took his buggy and went over there and brought the boy to his home. He was over there a few days afterwards and asked who the boy was and was told that this was Nancy's boy. He talked with Tom and Kate about it at different times. After Tommy had been there quite a little while Nancy came there and he was at the Holden's and Tom Holden told him who she was, that she was Thomas' mother and introduced him in the Indian way to Nancy, and he deviled with her and told her that he wanted to buy the boy; that he wanted an Indian boy, his oldest boy was about a year old and named Tommy and deviled with her about the boy being named Tommy, and joked with her. She stayed there a few days and then went away. Kate Holden told him that she was there to take the boy away; they wanted to keep him there, she would not take any care of the boy. After that he does not recall how long, she came and got him. His child Tom was born on the 5th of July, 1898, and he thinks he was about a year old when this incident occurred (Rec., pp. 2594-2595). He says that Charlie and Harvey had been there for two or three years. They had been there possibly a year before Tommy came.

Kate and Tom Holden had no children. They talked about these boys a good deal. He did not know that Nancy had ever taken care of these boys at Wagoner. He had never heard of this negro family of Atkins, but he knew Lee Atkins, a brother of Nancy. He thinks that Nancy stayed at the Holdens eight or ten days and that Tommy had been there two or three months when she came. She did not take the boy with her when she left. He thinks Tommy and Harvey were about the same age and Charlie a little older than Tommy. He said that when Tommy was brought there he had on a long shirt and Tom Holden said nobody was paying any attention to him. He was asked if it was not a fact that the child he brought from Wagoner was in fact Charlie and said it was not, and asked if it was not Harvey and he said it was not. Then he was asked what kind of a looking boy Tommy was and he said he was an Indian boy, but his hair was not very dark. His hair was not as dark as an Indian's. He was not a full-blood Indian. He would take him to be a half-breed Indian, taking into consideration his skin, eyes and hair. Charlie's hair was not as black as a full-blood. He did not think either of the boys were full-bloods. Then he draws a comparison, at the instance of the counsel, between the color of the hair of these three boys and the men in the court room which could not be followed here.

In answer to questions from the court he said the boy looked like a half-blood Indian. That he was familiar with the Indian features and characteristics; had lived among them for many years. The boy had the appearance of being six to eight years of age at this time; seemed to be an Indian boy. The three boys did not look much alike. Charlie and Harvey did not resemble each other as much at brothers usually do. He was asked to describe Nancy Atkins and he gave a description of her. He described her as pigeon-toed and cross-eyed. The court asked him if he could recognize her in the court room. In the court room at the time were two white ladies and Nancy, and Mr. Way recognizes her as Nancy, although he had not seen her for many years. He thinks that Tom and Kate Holden gave him a family history of the child, but does not recall it now. He knows that he is not confused about these boys.

Kate Holden had been married to a man named Wadsworth before she married Tom Holden and had a son named Mitchell Wadsworth and he knows him very well. At the time referred to when Tommy was there he was not at home, as he was in the penitentiary.

Mr. Way states that he heard talk about this case and he told the parties to whom he talked that the Government was making a mistake in trying to prove that there was no Tommy Atkins, because he knew that there was. He knew that he lived in this community, but knew nothing of his enrollment (Rec., p. 2601).

Mr. Way was cross examined by all of the adverse counsel in detail; in every way they tried to break the force of his testimony but of no avail. It absolutely destroys all theories that there could have been a confusion in the minds of the people in Wagoner with Nancy's son Tommy and Charlie and Harvey Harrison as he knew all three of the boys and saw them all together at Mr. Holden's residence and gave minute descriptions of all of them. He was an intimate friend of the Holdens and with them constantly, being their near neighbor and they talked to him freely about these boys and their family history. We want to emphasize in this connection this fact, that Noah Gregory, Euchee King, was before the Dawes Commission in May, 1901, when this enrollment was made with the list of the Euchees and talked with Mr. Hopkins, the chief clerk, over all of the unaccounted for Euchees and Thomas Atkins was one of these. Mr. Gregory tells about havng made a trip previously to this time with Tom Holden, and Tom Holden was telling him about having Charlie and Harvey Harrison with him and his desire to file for them. Through Mr. Way we have a picture of Tom Holden and his interest in these boys and it is inconceivable that at the time that he talked to Mr. Gregory about Charlie and Harvey, that he did not likewise, inform him of the condition of Nancy's boy Tommy then living in destitution without anyone to care for him. It was Mr. Gregory's business as head of the Euchee clan to keep informed as to all the members of his tribe and make lists of them, and doubtless he did so on the information received from Mr. Holden and the other members of his family.

26. W. C. Smith (Rec., pp. 2607-2609): He was a druggist at Wagoner; moved there in 1898. We have heretofore called attention to his testimony wherein he stated that Henry Anderson his porter in his drug store told him that the woman and child that he saw in the drug store was Nancy Atkins and her kid. He saw them for two or three years, off and on from that time. She was in his store frequently; sometimes had this boy with her. He heard that the boy was dead two or three years after he first saw him, and never saw him after he heard that report. The boy's hair was kind of yellow. It was not kinky, was kind of curly. He had a sallow complexion. He was probably four or five years old when he first saw him.

He knew Charlie Lee Harrison. He was not the boy that he saw with Nancy. He does not know Harvey; he understood there was another one of these boys, but the only one he knew was Charlie, the one who was raised by Charlie Bailey.

27. Bob Delozier (Rec., pp. 2616-2625): This is one of the negro witnesses who has a bad criminal record, but he lived in the negro community and was brought in intimate contact with Nancy. He said that she was living in a tent back of Betsy Burney's house when her child was born. He saw it the next morning when he was sent there by Childers to carry her something to eat. He saw the child there with her. He had seen her in a pregnant condition before this time. He saw the child for about nine years after its birth. The child died when it was about nine or ten years old. He was buried northwest of Wagoner where the graveyard is now. He helped dig the grave. An old darky named Monday Barnett conducted the ceremony; he doesn't remember whether Sam McHenry was there or not. (It appears from McHenry's testimony that Barnett conducted the services at the house and he at the grave.) He doesn't remember whether Nancy was at the grave or not. Knows that Nancy was arrested and taken to Fort Smith when the child was about three months old. Betsy Burney took care of it while she was away. Then it just lived first one place and then another with the colored people. He has seen it with Nancy.

28. Samuel McHenry (Rec., pp. 2636-2637): He is a negro preacher seventy-eight years old. In about 1901, although he is hazy at to the date, he was asked to attend the funeral of a boy that was said to be Nancy Atkins' boy. Monday Barnett was his pastor and he notified him. He was working at the depot, but he attended the funeral at the graveyard. There was there Monday Barnett, Bob Delozier, E. G. White. He doesn't remember whether Nancy was present or not. Rather thinks she was, but is not certain. He officiated at the grave. He is a Baptist preacher. Monday Barnett told him that it was Nancy's child, but he had no conversation with Nancy.

29. J. B. White (Rec., pp. 2747-2752): Mr. White is one of the defendants here and his testimony regarding his connection with this case has already been referred to. He moved to Wagoner in the spring of 1895. He left there about 1902. He was collecting for Davis & Jones. He got acquainted with Nancy Atkins as she was frequently at Davis & Jones' store, and lived a good deal of the time at Betty Burney's. He did not remember of seeing her boy until he commenced working for Davis in 1896. He saw him with Nancy and saw him playing around the streets with the Burney boys and they often got in his buggy. Nancy told him it was her boy. He was scolding the boy for getting in the buggy and Nancy told him to get out of there and go away. He asked whose boy it was and she told him it was hers. He was then five or six years old and was ragged and dirty. He was so dirty that it was hard to tell what he was, but he looked to be both Indian and white. His hair was light, but as he grew older it grew darker. He saw the boy up until 1900. He missed Nancy from Wagoner about 1898 or 1899. Betsy Burney moved out to the Verdigris one spring and stayed there untill fall and moved back to Wagoner.

30. J. K. McClaren (Rec., 4406-4414): He is a farmer and stock raiser. He lived at Wagoner from 1885 to 1891. He worked in Davis & Jones' store in the winter time and on the ranch in the summer. He was just a boy then. He knew Nancy Atkins when he left Wagoner in 1891. He was then seventeen or eighteen years old. She lived back of the store with some darkies named Burney. She stayed with some darkies by th name of Williams, but she didn't seem to stay at any one place very long. She worked at various hotels. She had a child and it was right little when he first saw it, which was about 1890 or 1891. It was too young to talk. It was in dresses and he could not say whether it was a boy or a girl, but he saw it on numbers of occasions, he was living right close by his place and was in and out of the store. It was constantly with her except when she was at work. He has seen her many times coming to the store with the little fellow. They lived not over a couple of hundred yards from the store and he would see it with the Burney children. It looked like it was pretty badly mixed blood; not kinky hair, but stringy; looked like a mixed Indian and white. He supposes he knew at one time whether it was a boy or a girl, but he doesn't now remember. He doesn't know about Nancy being sent to the penitentiary. He left there in the spring of 1891 and might have seen her there after that time. His last distinct recollection of the child it was probably a year and a half old, not to exceed two years old.

He described the Burney children and their different ages. He left Wagoner in the spring of 1891, but he was back there during the summer of 1891 and worked on a ranch ten miles from town. He was back at different times until fall when he went to Pine Bluff, Arkansas, and was not there much after that, but was there off and on later.

31. J. H. Anderson (Rec., pp. 4414-4417): Lived six miles east of Wagoner. Had lived there since 1883. He left Wagoner to go to Coweta in 1892. He knew Nancy Atkins a year or two before then. He saw her with a small child that she said was hers about 1890. It was probably two or four months old. It was nursing at the breast. He remembers Nancy going to the penitentiary and saw her after she got back. While she was gone the child was left with Betsy Burney. After she came back he saw the child with her. He came back from Coweta in 1903. He never saw the child any more. He has seen Nancy since. She told him the child was dead. He said he knew Dick Atkins and his boy, Thomas Atkins, and that the child he was talking about, Nancy's boy

Thomas Atkins, was a different child altogether. He doesn't remember the name of Nancy's child. He says it was a kind of mixed-breed looking child. Might have been white, Indian and colored from its appearance. It was a brownish yellow, hair was light. Dick Atkins' Tommy was dark skinned and kinky headed and was a negro child. He was a different child from the one he has described as Nancy's child. Dick Atkins' child must have been five or six years older. He knew Charlie and Harvey Harrison, one that lived with Charlie Bailey, the other with Jim Childers. Neither of these was the child that he had seen with Nancy. They were different boys altogether.

On cross examination he goes into the description of these different boys.

32. M. J. Phillips (Rec., pp. 4419-4420): A newspaper editor, he lived at Wagoner in October, 1892. Until 1894 he lived on the west side close to Davis & Jones' store. He knew Nancy Atkins. She had a child then that looked like it was three or four years old. He tells of first meeting Nancy and a child which Nancy claimed was hers and after that time he saw them frequently until he moved in the other part of town two or three years later; then he would meet them occasionally. The child was rather dark and had rather light hair. It was a peculiar looking child; its hair was stringy. It looked like an Indian, negro and white. The last he remembers of seeing the child was in 1894 or 1895. He was apparently about four years old. This boy was called Tommy.

33. Mrs Lizzie M. Miller (Rec., pp. 4422-4426): She is fifty-seven years old. She moved to Wagoner in 1897 and lived there about sixteen years. She knew Nancy Atkins there; she was staying with a family named Burney; she had a child there with her called Tommy. She bought the house where the Burneys lived and some lots and rented the house to the Burneys. They would be frequently behind with the rent and she would give them washing to help on the rent and in that way would frequently be there. She was running the McNally Rooming House. She saw Nancy and this child around there. The child died. She went there to get her rent and found that the child was dead and they had taken him to bury him. She knew the child had been sick there for some time before he died. He was a scraggy looking boy. Could not say how old he was because he was so skinny. She thought he was Indian and white. She would judge him to be about seven and a half or eight years old, but he might have been older. She thinks it was the spring of 1899 that he died. He was nearly white. She knows that he was Indian and knows his name was Tommy Atkins. She knew the boy out at Charlie Bailey's that was claimed to be his brother or something, but she did not know of the relationship. She says that the boy's hair was kind of light and kind of molasses color. She would call it yellow molasses hair. It was kind of sandy. "We call them dishwater blondes."

34. J. W. Ruble (Rec., pp. 4427-4429): He is sheriff of Wagoner county and had lived in Wagoner since December, 1896. He was engaged in the drug business. He is acquainted with Charlie Harrison, or Lee, as he is sometimes called. Known him most of his life; been living with Charlie Bailey at Wagoner. He is slightly acquainted with Harvey Harrison, his brother. He knows Cheney Trent, but no other members of the Atkins family. He knows Nancy Atkins and has known her since 1896 or 1897. He has not seen her at Wagoner since 1897. He was acquainted with the boy that was with her in Wagoner. He was a little chap, five or six years old, going around with her. This boy would come with Nancy to the store, he could not say how many times, but a number of times, for a period of one to seven months. He would see them together every two or three days. Saw the boy when he was not with her and got acquainted with him. He was five or six years old, and was a sandy-headed boy, a few freckles, very dirty child playing with negro boys, and never heard his name. This boy who associated with Nancy and whom he describes was neither Charlie nor Harvey Harrison. From his appearance it would have been impossible for him to have been a brother of Cheney Trent. This boy was Caucasian and Indian; Cheney Trent was a negro. He saw no indication of any other blood in this boy than Indian and white.

35. Augustus Davis (Rec., pp. 4593-4598): He has lived at Wagoner since 1893, in the second-hand business. He knows Charlie Harrison and saw him in the court room as a witness in this case. He has known him since he was seven or eight years old. He is an Indian boy in appearance. He knew Nancy Atkins when she lived at Wagoner. He saw a boy with her once; had seen the boy several times before playing around with negro children. He was called Tommy Atkins. This was a year or two after he had first seen him he was in the store with Nancy. He was a sandy complected boy; his hair was sandy or red. He was very dirty. His opinion is that he was white and Cherokee, Indian anyhow. He could not see any negro in him.

He learned through Mayor Hall that he was dead and he did not see him any after he learned that. The boy that he saw in his place of business and elsewhere was not Charlie Harrison. The boy that he saw at Charlie Bailey's was a different boy.

Judge Campbell's Mistake as to Nancy's Testimony.

In Judge Campbell's opinion, page 145 of the record, he stated:

> "Grave doubt is cast upon Nancy's contention by her own conduct during the period when the Dawes Commission was enrolling the members of the tribe and allotting the land, when it is considered that she manifested a lively interest in her own enrollment and allotment and that of her brother Lee who had died as she knew in 1894 or 1895, but in this correspondence with the Commission makes no reference to her supposed son Thomas, who, if

her present contentions be true, had lived until after April 1, 1899, was clearly entitled to enrollment and whose death was almost contemporaneous with her correspondence with the Commission."

However, he decided that it was immaterial as to whether, in fact, Nancy also had a son Thomas, and made no finding of fact upon it, other than to cast doubt upon her testimony, as quoted, for the reason stated.

The learned judge was not only mistaken as to the facts testified to, but wholly so as to the effect of the correspondence. The correspondence referred to is found at record, pages 4718-4725. The first letter is dated June 25, 1901 (Rec., p. 4718).

The birth of Nancy's child is fixed by several circumstances aside from the memory of parties, as occurring some months before she was sent to the penitentiary in December, 1898, and is fixed from memory of Nancy and several other witnesses, as born in September of that year (Rec., p. 2698). Nancy testified that he died in the spring of 1900 (Rec., pp. 2696-2699). There is considerable difference in the recollection of the many witnesses who testified on this subject, as to the exact date of the death of Nancy's son Thomas. They had no fixed event to fix it by, and were dependent upon memory, and it varies according to their recollection, from 1899 to 1901; but the weight of the testimony sustains Nancy's recollection that it occurred in 1900. Many of them have no recollection of the year and spoke of him as being 9 or 10 years old when he died. Mrs. Miller places it earlier than any others, and her recollection of it was that it was the spring of 1899 (Rec., p. 4424). Mr. Engle's recollection would fix it as the spring of 1900 (Rec., p. 2699). Sheriff Long thinks it was in 1901 (Rec., p. 4447). John Ford thinks it was in 1899 (Rec., p. 2606). Mr. McElroy left Wagoner in 1901 and the last he remembers of seeing him was in about 1899 (Rec., p. 2572). Mr. White saw him until 1900 (Rec., p. 2748). Mr. Dyer thought that he was 9 or 10 years old when he died (Rec., p. 2520). Mr. Turnbro thought he was 10 or 11 when he died (Rec., p. 2531). An event which probably fixes it more definitely than anything else in the record is what is known as the "dry year." Quite a number of witnesses said that Tommy died in the dry year. A few of these, as stated, thought that was as late as 1901 or possibly 1902, but Mr. Brewer fixes it definitely as either 1899 or 1900, because he moved to Wagoner in one or the other of those years and he knows it was not later than 1900, and he knows it was the "dry year" in which he moved there, and he knows that that was the year that Thomas Atkins died, and he tells the circumstances of Tommy and other boys getting milk from his cows, but, owing to the drought, he disposed of his cows except some for family use (Rec., p. 2557). This fixing of his death in the dry year fixes it as not later than 1900 and thus sustains Nancy's own recollection and of Mr. White and of several other witnesses. Therefore, we can take it as established that the great weight of the evidence, considering the weight as that which has the most reason for it, is that this child died in the spring of 1900 at the very latest. Therefore, Judge CAMPBELL's first error was in saying that his death was almost contemporaneous with her correspondence with the Commission.

Before considering the correspondence, we invite your attention to the fact that every time Nancy appeared presonally before the Commission, that she signed her name by a mark (Rec., pp. 4726, 4728, 4729, 4730). Therefore, it is apparent that the correspondence to which your attention is now invited was written by someone other than Nancy herself, as she was evidently an illiterate. Her first correspondence is a letter dated June 25, 1901, directed to the Dawes Commission, requesting them to send her by return mail a statement of her filing papers, as it would be some time before she received her filing certificate, and added that she desired the numbers of her land (Rec., p. 4718). She testified that she filed June 6, 1901 (Rec., p. 2737). She missed the date but a little, as her application (Rec., p. 4727) is dated June 11, 1901. This was making application for a given tract of land of 161.34 acres which she desired as a home, and which she offers to accept as her final allotment. Therefore, this letter is merely requesting the Commission to send her a statement of her filing papers and the numbers of her land.

The next letter, and this is evidently the letter which Judge CAMPBELL had in mind, is dated July 29, 1901 (Rec., p. 4719). It is directed to the Dawes Commission and asks them to inform her as to the necessary steps to take in filing for her brother Lee, who was about 37 years old when he was killed at Checotah in November, 1898. (She was wrong as to the date. It is established that he was killed at Checotah in November, 1894.) The letter also stated that she had a sister Minnie Atkins, who went to Colorado two years ago last June and that she had received a letter from her, but that she had heard nothing from her since. She asked if she could file for her before it was too late. She again asks that they send her filing papers by return mail, as she was anxious to receive them and stated she filed on the 11th of June.

We see nothing inconsistent whatever in her attitude in seeking to get her brother and sister on the Roll, if it were possible, with the fact that she did not in this letter mention her son Thomas. He had then been enrolled since May 23, 1901. While Nancy says in this letter that she wanted to "file" for her brother and "file" for Minnie, evidently, what she meant was to get the name of her dead brother on the Roll and get the name of her absent sister on the Roll. She certainly stretched the "long bow" in saying that Minnie had only left two years before, which would have been in 1899, and no one claims that she was in the Indian Territory long after the payment in 1895. Mr. Needles replied to this letter, August 9, 1901, in which he told her that her brother, having died prior to April 1, 1899, would not be entitled to enrollment. Thus it is seen that he construed her question as relating to enrollment, not to filing on lands. In reference to her sister's enrollment, Mr. Needles used the term "enrollment," not the term "filing," which Nancy had used, as he clearly understood that she was inquiring as to the enrollment of her sister, not filing for lands. He quoted the Act of Congress, requiring the enrollment to be confined to those who had removed to and in good faith had settled in the Nation in which they claimed citizenship (Rec., p. 4720). Then he stated that her certificate of selection would be mailed to her ninety days from the date of her application. Nancy did not understand the language of the Act of Congress and she wrote to the Commission on August 15th in reply to Mr. Needles' letter, and explained to him that Minnie was born in the Indian Territory and had lived there all her life until a little less than three years ago when she left temporarily for her health. Nancy was certainly stretching the blanket for the benefit of Minnie, as to her residence in the Territory. She thought that from the quotation from the Act of Congress, she must have moved into the Indian Territory, when she was explaining that she was born there. Certainly there is nothing inconsistent in this regard to her position with reference to her own son. He had been enrolled three months prior to this effort to get her sister upon the Roll. Mr. Needles replied to this letter by quoting another section of an Act of Congress (Rec., p. 4722), and this seems to have closed the incident. Her next letter is written April 6, 1903, evidently by a different person from the one who wrote some of the others. The Dawes Commission had theretofore been spelled "Daws" and now is is spelled "Does," whereas the letter of August 15th was evidently written by a different person than the others, as it is not nearly so illiterate. This letter asks what is going on down there for the Creeks? Are the deeds to be sent out, or not? She had evidently heard some disquieting rumors and said it might be from a "crazy Snake" and wanted information. Mr. Needles construed it as a question as to the delivery of deeds covering her allotment and replied that they would be ready within the next eight weeks (Rec., p. 4724).

We have tediously gone through these letters, because Judge Campbell attached importance to them. There is only one which could have weight, the one of July 29th. It was an effort to get recognition for her brother Lee Atkins, who had been dead for some years. There was no question then of the recognition of her son Thomas, as he was already enrolled, and when she wrote this letter it was after she had been before the Commission to obtain her own allotment on June 11th, and, presumably, would know that he had been enrolled. Or, it may have been that she did not know he was enrolled and was trying to ascertain the status of Creeks who were dead and, instead of asking about her illegitimate child, she asked the question about her brother. Her reference to Minnie simply shows that she was trying to get her non-resident sister on the Roll and believed that because her sister was a Creek by blood and had been recognized by the tribe, she ought to be on the Roll. There was no question of non-residence of her son and this was a totally different question from the one concerning the dead Creeks.

Judge CAMPBELL in the quoted excerpt from his opinion, confused the enrollment and the allotment. The enrollment was one thing and the allotment was another. The enrollment was an act performed by the Dawes Commission. The allotment was the awarding of the land to the enrolled person, either on his own selection or a selection made arbitrarily by the Commission itself.

Now, Judge CAMPBELL stated in his opinion that Nancy manifested a lively interest in her own enrollment and allotment. There is absolutely no evidence of her interest in her own enrollment at all. She was enrolled on December 21, 1900. (See her card, record, page 4718.) This was more than a year and a half before this first letter was written. The only evidence in the record of her enrollment is her own testimony wherein she told of her uncle, Mr. Robinson, coming to Wagoner and asking her if she wanted him to enroll her and her son, and that the enrollment was then going on at Coweta (Rec.,

p. 2736). As we have heretofore pointed out, this was evidently one of the field parties that was going through the country in the fall of 1897. She went to Coweta and found that she had been enrolled after her uncle had left. In her deposition given in the office of Bartlett's attorneys, inserted in this record (Rec., p. 2788), she stated that her aunt, Mrs. Robinson, told her that she had enrolled her. This is every word, so far as we know, in the record in regard to her enrollment. The Robinsons had promised to attend to it for her and she knew that they had gone to Coweta for that purpose and she learned that they had done so at that place, but, doubtless, she did not know, as explained by Mr. Hopkins, in his testimony, that these enrollments by field parties in 1897 had been abandoned by the Commission and new Rolls started after the Commission got the Tribal Rolls in 1899 (Rec., p. 186). She stated in the trial here that she filed on June 6, 1901, for her allotment and that Thomas had then been dead since the spring of 1900 (Rec., p. 2737). She was asked if she understood then whether she could select for him or whether his being head prevented him getting an allotment, and she said she didn't understand these matters (Rec., p. 2737). The "lively interest" which Judge CAMPBELL thought that she showed in her own enrollment and allotment and that of her brother Lee, was confined to writing one letter to the Commission as to the status of her bother Lee, and in going before the Commission in June, 1901, to select the land which she desired for her home; and she stated that she did not understand whether she could select for her dead son or whether he, being dead, got any allotment.

When it is considered that this woman is an incompetent and illiterate, signing her name by mark, we feel that the learned judge measured her conduct in this respect by too rigid a yard stick. The question of rights of dead Indians has been the source of much litigation in the state and federal courts in Oklahoma. Learned lawyers have differed on this subject. Courts have differed; dissenting opinions have been filed where these questions have been involved; and to impute knowledge of them to this woman and require her to draw nice distinctions between allotments and enrollments, between a brother dead before enrollment and a son dead after enrollment, is something which could not be expected of her. But as we see this correspondence, it only means that she was desiring to get upon the Roll the name of her dead brother, if he was entitled to be there, and the name of her non-resident sister, if she was entitled to be there; and as her son was already upon the Roll, and as she had been upon the Roll for a year and a half before this correspondence occurred, there is nothing inconsistent with her inquiries regarding her dead brother and absent sister with the position which she has assumed throughout this litigation.

She has consistently claimed that she was the mother of Thomas Atkins, that he was born at Wagoner in September, 1890, and died there in the spring of 1900. If there is any fact which can be weighed against her in this correspondence or her dealings with the Dawes Commission at all, it is the fact that in June, 1901, she filed for her own homestead and did not at that time file for her son. We doubt if there were many lawyers in the Indian Territory at that time who would have known whether they would have had a right to have filed for a dead son under the same circumstances, at the time when Nancy filed for her own homestead.

General Reputation in Wagoner.

We ask consideration of the rejected testimony of the general reputation in Wagoner that Tommie Atkins, a boy who was born, lived and died there, was a son of Nancy Atkins. The subject is so fully presented by Professor Wigmore that we copy at length his discussion of it:

> "May not neighborhood-reputation be often sufficiently trustworthy to be received in evidence of certain other facts of family history likely to be notoriously canvassed and hence to become known with a sufficient degree of accuracy? In communities of more primitive conditions, where social life continues stable amid constant and fixed surroundings, the neighborhood-reputation is unquestionably of some value. Such was formerly the almost universal state of things in England, on the Continent, and in the United States. Such is still the state of things in rural communities almost everywhere (except in our newly-settled regions) and notably in the

small towns of New England and the South. That it has ceased to exist in the metropolitan communities does not indicate that neighborhood-reputation, where it arises, is less trustworthy; it merely indicates that amid the isolated individualism and kaleidoscopic changes of the metropolitan horde no neighborhood-reputation is likely to exist. Moreover, the frequent migrations of American life have in one respect made reputation-evidence even more necessary than in stable communities as a source of knowledge; for in countless families the only means of knowledge for them of the career of the migrated members is the reports brought back, at times, of the fate or fortune reputed to have overtaken them in the distant community where they took up a new home. * * *

"Such evidence was once in England considered orthodox enough; and its use has been vindicated, on grounds of policy and of principle, by many American courts, as admissible in certain classes of cases:

"1821, Mills, J., in *Birney* v. *Hann,* 3 A. K. March. 326: 'From the sayings of the parents or members of the family, courts progressed at last to the admission of the general recognition or reputation of the heirship by others. It is admitted that it is difficult to lay down any precise rule on this subject. The kinds of evidence which are calculated to prove the consanguinity or affinity of one person to another are various, and all may be proper after a lapse of time.* * * '

"1834, Catron, C. J., in *Flowers* v. *Haralson,* 6 Yerger 496: 'Reputation of pedigree is the result of the public mind, founded upon actual knowledge of the whole community; and experience and knowledge in the nature and habits of man teach the unerring certainty of the public knowledge and conclusion in relation to family history. Individuals may fail in their investigations of particular facts; but where marriages, births, and deaths are the facts to be learned, human curiosity saves us the trouble and expense of proving the occurrences by witnesses present or by the hearsay of those who were, or of the family connection. No individual investigations or testimony can generally be equal in certainty to the curious' scrutiny; and if secrecy be attempted, public curiosity sets on foot an anxious search for the truth. General reputation of such facts is not only competent, but highly credible.'

* * * * * * *

"1875, Cooper, C., in *Carter* v. *Montgomery,* 2 Tenn. Ch. 227: ' * * * This sanction of neighborhood-reputation has not been universal. It is illustrated in many rulings; but there is still in many other courts an entire refusal to accept it. There are certain classes of facts for which it is entirely appropriate; there are others for which it may not be. The matter is one in which it should be left to the discretion of the trial court to admit such a reputation wherever the meagreness of other evidence, or the difficulty of obtaining it, renders it desirable to accept that which is offered. On no one point is there a general agreement in the rulings. They may be grouped according as they deal with the admissibility of reputation as evidence of legitimacy or the opposite; of relationship, to a family or to an individual, or of birth, or of death or its place or time, or of race-ancestry *(i. e.,* whether slave or free, whether white, negro, or Indian), or of sundry facts of family history'."

—2 Wigmore on Evidence, section 1605.

In *Secrist* v. *Green,* 3 Wallace, p. 744, this court said:

> "It is competent to prove death and heirship by reputation.

In *Ewell* v. *State,* 6 Yerger (Tenn.) 364, the court said:

> "The rule that the best evidence the nature of the case admits of shall be had, and that hearsay is not equal to knowledge of the fact and generally incompetent, has its exceptions, grounded partly in necessity, and partly on the probability that common repute is true in certain cases. The exception has become a general rule of evidence where the fact of marriage, the state and condition of the family, or the relationship of its various members is sought to be established."

In the case of *Fuller* v. *Saxton,* 20 New Jersey Law Rep., p. 61, the court said:

> "The tract was known as far back as the memory of witnesses could reach as the Kemp tract, and I think the evidence of Mr. Armstrong, one of the commissioners, that Grace Kemp was reputed to be the daughter of Daniel Coxe, was competent and legal and entitled to weight, though he could not trace such reputation to the family."

While the cases differ on this subject yet the reasoning of Professor Wigmore and the courts supporting his view of it is so cogent that it should prevail in the interest of truth. No better illustration of the necessity and value of it could be found than in the instant case. Tommie Atkins was born in 1890 and died about ten years later, and lived his life in the little town of Wagoner. This trial was had about twenty-seven years after his birth and seventeen years after his death; Wagoner was then only a small town of a few hundred inhabitants. A neighborhood-reputation in such a community would be as near verity as family reputation in older and more densely populated communities. Family reputation of relationship is always admitted, even by the most technical courts.

Mr. Engles said that Nancy was a well known character in the community; she was sent from that community to the penitentiary for purloining some one else's mail and left a nursing baby and returned about seven months later and took up the care of it, and the child from that time for several years was constantly seen in her company. She worked in hotels and restaurants and she and the child lived with a negro family, who had cared for it in her absence, and the child was constantly with her except in the later years of his life, when Nancy was backwards and forwards from Wagoner to Nowata. When the child was born a subscription of clothes, food and money was taken for Nancy and when the child died the mayor of the town took a public subscription to pay for his burial. Though these parties lived a lowly life in the community, yet these events made their lives well known to that community.

A general reputation of their relationship established in such community certainly is as reliable as such reputation in a family connection. Those courts which reject this evidence, accept similar evidence based on general reputation in a family connection. No one under the facts in this case can doubt the reliability of the reputation in Wagoner of this relationship between Nancy and Tommie. The basis of general reputation is that the consensus of opinion is the truth. Another reason in this case which makes this testimony admissible, irrespective of the rule announced by Professor Wigmore and sustained by the courts in the cases cited: It is thoroughly established that the Dawes Commission accepted information of the status of the Creeks from reliable parties who gave them information. Mr. Bixby, Mr. Hopkins, Mr. Merrick and other officials of the Commission have testified that the Commission sought this information from Kings, Warriors, prominent Creeks and other reliable citizens, and even sent out and brought in people who had information of unenrolled-for Creeks. They were enrolling these unenrolled-for Creeks on information derived from any source which the Commission considered truthful and reliable.

Suppose that Sheriff [illegible], or former Sheriff Long, or Mr. Hughes, Mr. Brewer, Mr. McKinney, or any of a dozen other prominent citizens of Wagoner had been before the Commission and gave this information regarding Tommie Atkins. Can any one doubt the result? Assume that one of these gentlemen appeared before Mr. Hopkins on May 25, 1901, and told him that he knew a boy in Wagoner named Tommie Atkins, apparently a half-blood Indian, and that the general reputation in that community was that Nancy Atkins was his mother, and he was an illegitimate child. Mr. Hopkins would at once turn to the Nancy Atkins record and find that she was duly enrolled as a full-blood Creek, a member of Euchee Town, listed as No. 216 on the Euchee Town Roll of 1895. He would find on that same Roll and in that same family group Thomas Atkins, No. 213, and that Thomas Atkins was not enrolled and all of the other members of that family were enrolled except Minnie and the notation showed that she was a non-resident; unquestionably on this showing Mr. Hopkins would make a memorandum for the enrollment of Tommie Atkins and Mr. Merrick would have written it up. We have elsewhere argued that most likely this enrollment was made on information given by Noah Gregory and Sam Brown, who were before Mr. Hopkins on that date, but assuming that he did not get the information from them, but from some one of the many dozen citizens of Wagoner who would have testified to the relationship of the boy Tommie Atkins and Nancy Atkins based on general reputation in that community. Certainly this would have been sufficient to have enrolled him, with the other connecting facts presented. If this information was sufficient to the purpose of enrolling him before the Dawes Commission, certainly it was competent evidence in this hearing as a possible and probable basis for the enrollment under inquiry. We insist that under the sounder and better rule of the law the testimony is essentially competent and tends to prove the truth of the matter under inquiry, but should the court not care to commit itself to the rule so forcibly presented by Professor Wigmore and adheres to the more technical rule of confining such testimony to reputation in the family, yet under the facts here this testimony should be admitted because the enrollment of hundreds of Creek Indians rested on information given by third parties and the existence of a general reputation that Thomas Atkins was the son of Nancy Atkins was a sufficient basis for enrollment, and therefore the fact that such reputation existed should have been received.

Nancy offered to prove by the following witnesses, to-wit: Charlie Bailey, Nolan Williams, J. E. Newberry, James E. Long, Jasper N. Schrimsher, Thomas Brewer, W. A. McElroy, Walter Posey, Frank Engles, R. F. Davis, J. K. McClaren and J. W. Ruble, in substance the following: That each of these witnesses was well acquainted with Nancy Atkins and well acquainted with a child, in Wagoner, which each witness described, and each of these witnesses testified there was a general reputation and general understanding in the community of Wagoner as to the relationship between Nancy and this child called Tommie Atkins, and each testified he was well acquainted with that reputation. Then with each witness the proof was offered that the general reputation and understanding in that community was that

Nancy Atkins was the mother of said child, Tommie Atkins.

This testimony was excluded, the court rendering an opinion declining to follow Professor Wigmore (Rec., p. 2444).

After Mr. Merrick had testified to the effect that the Dawes Commission in enrolling Creeks at Okmulgee in May, 1901, had taken information conveyed to the Commission by Kings, Warriors and any other reliable persons, then we again offered to introduce this testimony. Mr. J. K. McClaren was then upon the witness stand. Attention was called to the latitude indulged by the Commission in making its enrollment and the argument then made that in view of the basis of enrollment that this testimony should be admitted. The court again declined to admit this testimony (Rec., p. 4409).

These rulings are assigned as errors.

Respectfully submitted,

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In the Supreme Court of the United States.

October Term, 1922

THE UNITED STATES OF AMERICA, *Appellant,*

v.

MINNIE ATKINS, ET AL.

No. 45

NANCY ATKINS, H. A. RIDGWAY, Guardian of Nancy Atkins, Et Al, *Appellants,*

v

THE UNITED STATES OF AMERICA, MINNIE FOLK, nee-Atkins, Et Al.

No. 46

Appeals from the United States Circuit Court of Appeals for the Eighth Circuit

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Brief of Nancy Atkins' Interests in Reply to the Government Brief

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ERROR AS TO PROCEEDING OF THE DAWES COMMISSION

The learned counsel for the Government fell into an error as to the procedure of the Dawes Commission in the enrollment at Okmulgee. At page 5 they say that when the Commission enrolled Thomas Atkins it had adopted a rule whereby it listed for enrollment the names appearing on the 1895 tribal roll concerning whom nothing definite was known. This is true, but for inquiry. For convenience in getting information, in March, these lists were sent to the Town Kings for an investigation and to be reported on at the final session at Okmulgee.

At page 17, they say the Commission took the 1890 and 1895 payrolls and made a card for the unaccounted for names and that personal appearance of the member or of his family was not required, and at page 18 state: "If they had information that any name was *not* entitled to enrollment, they did not put it upon a card, otherwise they did." The exact converse of this was the case. These cards were never closed until reliable information outside of the rolls that the person lived until April 1st, 1899, and was a resident of the Creek Nation on that date, was received. In our first brief is a chapter entitled: "Procedure of the Dawes Commission." Therein we fully abstracted the evidence on this subject with proper page references and on this exact question beginning at page 60. So that there may be no question of the accuracy of our statement we refer you to the testimony of Chairman Bixby, Volume 1, Pages 274-275. He stated that the main and essential thing was ascertaining that the person was living on April 1st, 1899, and was a resident, and that the rolls were not accepted as evidence of these facts. He is quite certain that no one was ever enrolled without satisfactory information derived from reliable sources given to him or some of the enrolling officers and he further stated he had a splendid staff of officers for this work and that they worked intelligently and diligently and that he conferred constantly with them over the information received, and that no card was released until he approved it. Upon practically the same state of record in U. S. *vs.* Wildcat 144 U. S. 11, Mr. Justice Day speaking for the court said: "That the Commission never arbitrarily listed any name; that no name was listed solely because it was on the tribal roll of 1895, but some particular evidence was required outside of that roll." We have in our first brief abstracted the evidence fully showing that no one living in the Indian Territory in 1901 had ever heard of Minnie's son. Therefore, it was impossible that reliable information of his existence on April 1, 1899, and residence in the Indian Territory on that date could have been conveyed to Chairman Bixby or to any of the enrolling officers. If the claim which Minnie now presents had been presented to the Dawes Commission it would have defeated the enrollment of *her son* on the ground of non-residence, as her own enrollment was defeated on that ground, and on the further ground that there is not even now any evidence that he was living on April 1st, 1899, at Leavenworth, or anywhere else. All of the testimony on that subject rests in a letter from an unremembered friend at an unremembered date that he died at Leavenworth, Kansas. If Judge Campbell's theory that his name got on the tribal roll from information of his existence from Minnie's relatives, this would not have been sufficient for his enrollment and would have had to be supplemented by further reliable information that he lived in the Creek Nation on April 1st, 1899. Furthermore, had a child existed such as is now claimed and had the information of his existence been imparted to the Commission he would not have been described in the census card as a half-blood, age ten years, post office at Muskogee, Indian Territory. He would have been described as quarter-blood, age sixteen, post office at Leavenworth, Kansas. On the other hand in the chapter entitled "The Identity of the Thomas Atkins Enrolled" beginning at page 125 we have set out in much detail the evidence, demonstrating, as we believe, that the information conveyed to the Dawes Commission which caused this enrollment was of Nancy's son, Thomas, who met the requirements of residence in the Creek Nation, and of being alive on April 1st, 1899; and filled the description in the census card as to blood, age, surname of mother, and post office address.

AS TO THE TESTIMONY AGAINST NANCY

At page 54 and 55, the Government brief sets out the evidence against Nancy, mainly relying upon Elnora Mayshack, Eliza Sterling, Angeline Moody, Henry Anderson and Micco Harjo. The Page interests in their brief likewise stress the testimony of these disreputable negroes and of the unfaithful guardian, Harjo. In our reply brief at page 21 we have a chapter entitled "Analysis of some of the testimony against Nancy." In it we have shown by apt record references contradiction of these witnesses by reputable witnesses and the inconsistencies of their testimony with each other and with admittedly established facts; so that we do not believe that any court would attach much, or any importance to it, if standing alone; but when this testimony is contradicted in every essential by thirty-five witnesses, most of them the foremost citizens of the community, such as sheriffs, town marshals, postmasters, editors, wholesale and retail merchants, building contractors, farmers, and cattlemen, we cannot believe it amounts to "dust on the scales."

Both the Government and the Page briefs quote largely from Micco Harjo. He was Nancy's guardian, appointed to sell her homestead and stole the proceeds from her except seventy-five dollars which he graciously gave her. He admitted that while conducting a lawsuit for her against Bartlett he received twenty-five dollars from Bartlett. It is established and not denied that he and Bettie Mann procured for Bartlett a deed from a woman falsely impersonating Minnie Atkins. His name actually appears on the forged deed. Nancy's testimony is not contradicted that he, through offer of bribes on the one side, and through threat of the penitentiary on the other, induced her to make false statements and to swear falsely in the suit brought by him in her behalf against Bartlett, by denying that she was the mother of Thomas Atkins. In this suit it was alleged by Harjo, the plaintiff as her guardian, that she was the mother of Thomas Atkins deceased, and that Bartlett was claiming the land under a lease from Minnie and it was alleged that Minnie was not the mother of Thomas. During the pendancy of that suit the forgery of Bartlett's lease procured by

Bettie Mann and Harjo was discovered and proved. Shortly before this trial, Bartlett, working through these two crooks, Harjo and Bettie Mann, induced Nancy to go to Sapulpa and to stay in hiding in Bettie Mann's house there until notice was served on her lessee, White, to take her deposition. They then had her carried by Bettie Mann to Bartlett's lawyer's office and her deposition there taken, wherein she repudiated her son and was then whisked out of town. When the case in Creek County came on in order to admit this deposition, Bartlett took the stand and swore that he had made diligent search for Nancy and that she had left the country. Mr. White decided as he expressed it: "To take a chance on her," and had her brought into open court, and before Judge Stanfield she told the whole story, and won her case against Bartlett on the ground that she was the mother of Thomas Atkins, notwithstanding Eliza Sterling, Angeline Moody, Henry Anderson, and the other procured negro witnesses, told their stories like they told them here. It is surprising that the Government in the trial of this case should have used these witnesses procured by Bartlett to defeat Nancy when he was seeking to sustain his forged deed; but the Government did so. In view of the great number and high grade of nearly all of the witnesses introduced by Nancy establishing the birth, life and death of her son, Thomas, it is surprising that the Government would now seek to present the evidence of these discredited witnesses as worthy of a moment's consideration.

CONFUSION WITH THE NEGRO THOMAS

At page 55, the Government seeks to account for the testimony of these reputable witnesses who knew Nancy's son on the theory that they saw a negro, Thomas Atkins, with her and it is this negro, Thomas, to whom they are referring in their testimony. The record establishes that this negro, Thomas Atkins, presumably a left-handed cousin of Nancy was five years older than her son; was typically negro in appearance; was seven-eighths negro and one-eighth Indian and he died in the fall of 1898. He was the son of Dick Atkins and lived eleven miles from Wagoner, and sometimes accompanied his father there and two or three witnesses on a few occasions saw him with Nancy. This is the substance of the evidence on this subject. The Page interests likewise sought to escape the force of the testimony on behalf of Nancy in the same way. In our brief in reply to the Page brief, we devoted a chapter to this subject beginning at Page 13, wherein we abstracted the evidence which thoroughly and conclusively refuted this possibility. The testimony of Mr. Way alone would be sufficient. He was a neighbor and friend of Thomas and Kate Holden, and Thomas borrowed his buggy to bring Thomas Atkins, the son of Nancy and nephew of Mrs. Holden to Holden's house where he stayed several months. Mr. Way fixed positively the time he met this boy and Nancy at Mr. Holden's house as the summer of 1899, nearly [illegible] year after the death of the negro, Thomas. (R. page 2594-2595.) It will be seen from the examination of this chapter that some of the witnesses saw Nancy's son nursing at her breast at a time when the negro, Thomas would have been five years old. Others saw him continuously from his birth for periods of from one to ten years thereafter. Others saw him for the first time after the date of the death of the negro, Thomas, and knew him off and on, over various periods until his own death.

A review of this testimony absolutely destroys the theory which has been advanced in the effort to escape the undoubtedly established fact that Nancy Atkins had a son born at Wagoner, in the Creek Nation, in 1890, who lived there until his death the date of which is variously stated by the witnesses from the summer of 1899 to the summer of 1901.

Respectfully submitted,

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No. 253.

In the United States Supreme Court

October Term, 1921.

THE UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEES.
No. 254.
NANCY ATKINS, H. A. RIDGWAY, GUARDIAN OF NANCY ATKINS ET AL., APPELLANTS,
vs.
MINNIE FOLK, NEE ATKINS, ET AL., APPELLEES.

REPLY TO BRIEF IN BEHALF OF THE MINNIE ATKINS INTERESTS

BRIEF RESUME OF NANCY'S CONTENTIONS

In view of the fact that the position of Nancy Atkins' interests is so misunderstood and misstated in the brief filed on behalf of the interests of Minnie Atkins, we feel that it may be helpful to have a brief resume of Nancy Atkins' contentions.

Judge Campbell's decision has three errors in it, as we contend:

First, the finding that Minnie had a son Thomas, born at Granny Letcher's, June 1, 1885, in Leavenworth, Kansas. On this point there is a great conflict in the evidence. It is so voluminous and the question is so incidental to the controversy that we have not presented it at all, have not even reviewed it, and, for the sake of the argument, we are trying this case as if this were the truth. We apprehend that the Government's brief will vigorously combat the correctness of this finding, and certainly there is a vast mass of testimony which will sustain the Government in its contention; but we are not presenting that and are little interested in it other than candor compels us to state that we do not believe her story for a moment. She told so many conflicting stories in regard to it, and her Kansas City Statement is so convincing that it was not the truth, but wholly fabricated, that we are reluctant to admit it even for the sake of arugment, but we are thus presenting our case.

Second, we contend that a fundamental error of Judge Campbell was in finding that Minnie Atkins had conveyed information to certain of her relatives in the Indian Territory of the birth of Thomas Atkins and that this information was imparted to the tribal authorities compiling the Roll, and that the name Thomas Atkins, appearing at 213 of Euchee Town on the 1895 Roll, represented her child, pursuant to such information (R. p. 145).

We think the evidence demonstrates:

(a) That the only testimony, connecting such son of hers with this Roll, has been destroyed, as in conflict with physical facts and established records, and can have no probative value whatsoever. In brief, these facts were as follows:

Minnie testified that she told her uncle, John Davis, and her brother Lee of the existence of this child, and no one else in the Indian Territory, and Lee Atkins died in 1894.

Sam Brown testified that he obtained from John Davis at Muskogee a list of the remnant of the Atkins family and used this list, given to him, to compile the Euchee Roll, and exhibited a book containing the list, as given him, which is copied in our brief at page 86. Brown testified he did not know Thomas Atkins, whose name was on that list. After the case was thus made, record evidence was introduced showing that John Davis was in the Detroit penitentiary from 1891 to 1896 (R. pp. 4988-4990).

Therefore, this concocted story is demonstrated to be perjury.

(b) The Rolls, themselves, prove that the Thomas thereon was not a child of Minnie. The facts thereon are briefly these:

Ordinarily, the Roll shows no relationship within the family. It is made up of different families grouped together, but does not show the relationship of one to the other within the group. The Tribal or King's Roll of 1895 was thus made up of five members of this Atkins family; the Roll properly spaced to hold these five and no others. They were Ed Schremcher, Mamie Atkins, Thomas Atkins, Mary Atkins and Nancy Atkins. Thereafter was added opposite the name of Mamie Atkins "& 2 Children" and either then or subsequently was added to the side of the family group two others, numbered 6 and 7, Charlie Atkins and Sussie Atkins. This Roll is copied opposite page 100 of our brief, and shows for itself.

The conclusion is irresistible that Thomas was not placed thereon as a son of Mamie Atkins, but was placed were independent of her and as a member of this family; and that later information, acquired by the compilers of this Roll, caused them to add, opposite her name, that she had two children. Thomas could not have been one of these, and, presumably, they were Charlie and Sussie, added after the original draft, thereby demonstrating on the face of the Roll that the Thomas thereon was not intended to be one of her children, who were added, evidently, on later information obtained, that she had two children.

Third, Judge Campbell's further fundamental error was in finding that the Thomas Atkins, appearing on the Dawes Commission Roll, was the illegitimate son of Minnie Atkins, born in June, 1885, at Leavenworth, Kansas (R. p. 145). The undisputed and uncontradicted testimony of Commissioner Bixby, Chief Clerk Hopkins, and Enrolling Clerks Merrick, Hastain and Lieber is to the effect that no one was ever placed on the Dawes Commission Roll merely because his name was on the Tribal Roll, but that independent information was always obtained outside of the Tribal Roll as to the existence on April 1, 1899, of that person and of his residence in the Indian Territory. There is absolutely not a scintilla of proof in this record, offered on behalf of Minnie Atkins, that such information as this could have been conveyed to the Dawes Commission, or was conveyed to it, but, on the contrary, all the testimony shows that whatever information was before the Dawes Commission was to the effect that Minnie was a non-resident, was not entitled to enrollment and was not enrolled; and that none of the parties who were before the Commission ever heard of her alleged son Thomas; therefore, there could neither have been information or misinformation given to the Commission on this subject justifying a finding that the Dawes Commission wittingly enrolled such son of hers; on the other hand in our brief beginning at p. 125 it is shown that the Dawes Commission unquestionably considered the person they were enrolling was this son of Nancy's and a mere clerical error occured in writing down the given name of the mother.

In the original brief in this case, we have not presented to the court the question as to whether or not Minnie Atkins had a child named Thomas at Leavenworth. The trial court made a finding to the effect that she had such a child.

On page 6 of their brief in this case, appellees say they believe that if this court goes into the evidence it will conclude that Nancy's claim is fraudulent and that her conduct and testimony show it to be fraudulent, and that the court will find that she never had a son, and that her only child was a girl, which was stillborn.

We can make a counter-assertion in all sincerity.

If the court will read the testimony of Minnie Folk, nee Atkins, beginning in Volume 5 of the record, page 3910, and her testimony taken in the form of a deposition, Volume 2, page 1304, and will then read the testimony of the following persons, to-wit: Mr. C. S. W. Dassler, a lawyer of Leavenworth, Kansas, whose compilation of the Kansas Code is well known in the southwest, which testimony begins in Volume 2 of the record, page 1462; Charles Peterkin, a soldier, and the father of one of Minnie's children, in Volume 1 of the record, page 420; Mrs. Laura E. Hyde, the lady for whom Minnie worked when she first went to Fort Leavenworth, Volume 1, page 341; of Cornelia G. Stafford, wife of Major Stafford, for whom Minnie worked just before one of her children was born, Volume 1, page 444; Major John Stafford, Volume 1, page 450; Julia Grodevant Foy, Volume 1, page 482; Frank J. Grodevant, Volume 1, page 388 and 397, and Miss Alice Robertson, now Congresswoman from this district, Volume 1, page 290, and Volume 2, page 1102, the court will be convinced without reading the huge mass of testimony in the case, that Minnie Atkins never had any such child, and this conviction will be strengthened rather than weakened by reading the testimony of F. B. Long, who was Page's agent throughout all this affair, Volume 5, page 3497. He corroborates Sadie James in too many particulars for his conduct to be sustained with honesty of purpose. Sadie James' testimony begins at page 510 of Volume 1. We would like for the court to read the testimony of this admitted criminal negro woman and then compare it with the testimony of F. B. Long.

But it is not at all necessary to a decision in our favor that the court should make any finding as to whether Minnie Atkins had a child at Leavenworth, Kansas, named Thomas Atkins.

As pointed out in our original brief in this case, Minnie Atkins stated positively that nobody in the Indian Territory ever knew of or heard of her son Thomas, except her brother Lee, and John Davis, and no witness was produced who claimed to have heard of her child except through John Davis.

S. W. Brown, who claims to have put Thomas on the Roll, stated that he got his information from John Davis and made a list of the names given by Davis. He had never heard of the alleged child from any other source. It is hown from the records of the penitentiary at Detroit that John Davis was there at the time of the enrollment, and at the time that Sam W. Brown claims that Davis told him gave him the list, so Brown's statement is untrue beyond peradventure, and with his testimony out, there is not a scintilla of proof showing that anybody in the Indian Territory could have put the name of the alleged child of Minnie on the Rolls. For Lee Atkins was dead long before the Rolls were made and it is not claimed that he ever told anyone of the existence of the alleged child of Minnie's.

DECISIONS OF TWO COURTS ON THE FACTS

It is stated at brief page 3, that it is a settled doctrine and practice of this court never to change or modify judgments on the facts of a case when those judgments have been rendered by two courts passing upon the same question and reaching the same result. If this were true, then the Act of Congress authorizing appeals in such cases is "Keeping the promise to the ear and breaking it to the hope," but this is not the rule. The rule is thus stated by this court: That the decision on facts twice passed upon by the lower courts in chancery cases will not be disturbed, "Unless shown to be clearly erroneous," or "Unless clearly shown to be erroneous," or "Unless it is clear that their conclusion is erroneous." (Washington Security Co. v. U. S., 234 U. S. 76; Gilson v. U. S., 234 U. S. 380; Baker v. Schofield, 243 U. S. 114.)

We have assumed the burden of demonstrating that clear error was committed by Judge Campbell in the District Court, (the Circuit Court of Appeals merely accepted his opinion without discussion of the facts), that a son of Minnie, named Thomas, and not a son of Nancy named Thomas, was on the Creek Tribal Roll of 1895, and subsequently was enrolled by the Dawes Commission, and further was wholly without any substantial evidence whatever to sustain it.

We are little concerned in this discussion whether Minnie ever had a son Thomas or not; the points that we are stressing before this court are that even if it be conceded that she did have, that it was not her son that was on the Tribal Roll and it was not her son who was enrolled by the Dawes Commission, and upon these points we insist there is absolutely no evidence which can be accepted in any court to sustain the decision.

EFFECT OF THE DECISION OF THE DAWES COMMISSION

In the discussion of the testimony concerning Nancy, page 97, of the brief, the counsel contend that there was a burden upon Nancy to overcome the findings of the Dawes Commission; they argue the question as if the interests of Nancy were seeking to impeach for mistake or fraud the patent issued as a result of the act of the Dawes Commission in enrolling Thomas Atkins. In this connection they quote from the opinion written by Mr. Justice Van Devanter in the case of Ross v. Stewart, 227 U. S. 530, which aptly sums up the presumptions indulged in support of the action of officers to whom the law entrusted proceedings resulting in a patent. In that instance Townsite Commissioners were authorized to issue patents under given facts. How such an argument can be made in this case is incomprehensible, but it is apparent that such argument must have been made in the court below, because the opinion of the Circuit Court of Appeals indicates (at Record page 5004) that the writer of it considered that the case of Nancy was an attack on the decision of the Dawes Commission; whereas Nancy's whole case is claiming under the decision of the Dawes Commission in enrolling Thomas as a member of the Creek Tribe. That decision is her muniment of title. To the Dawes Commission was committed the power of determining membership in the Creek Tribe of Indians as a basis of partition of the lands of that Tribe, and was constituted a quasi judicial tribunal for this purpose, and no other.

As this court stated in the case of U. S. v. Wildcat, 244 U. S. 111: "For this purpose it (Congress) determined to divide the lands among those living on April 1, 1899. and constituted a tribunal to investigate the question of membership and consequent right to share in the division. We think the decision of such tribunal, when not impeached for fraud or mistake, conclusive of the question of membership in the tribe, when followed, as was the case here, by the action of the Interior Department confirming the allotment and ordering the patents conveying the lands, which were in fact issued."

For these purposes the decision of this tribunal is conclusive, except for fraud or mistake, but the argument is here made, and seems to have been accepted by the Circuit Court of Appeals, that statements on the census card are also decisions of the Dawes Commission and impervious to attack, except for fraud and mistake. The same opinion (the Wildcat case) in reviewing the Acts of Congress on this subject stated: "It was provided that the Commission should make such rolls descriptive of the persons thereon, so that they might be identified thereby, and the Commission was authorized to take a census of each of said tribes, or to adopt any other means by them deemed necessary to enable them to make such rolls," (p. 117).

The Roll itself gives only the number, name, age, and tribal roll from which the name is taken, the sex, the blood and card number (R. p. 4654) and (quoted in our brief at p.56).

A subsequent Act of Congress made the age and quantum of blood fixed on the Roll as conclusive. This court has construed this Act in each of these instances: U. S. v. Ferguson, 247 U. S. 175, and in Gilcrease v. McCullough, 249 U. S. 178. In each instance the purpose and effect of this provision of the Act of Congress is defined by this court. In the preparation of the census and in compliance with the provision of the Act that the Commission should make the Roll descriptive of the persons thereon so that the enrollee be identified, the Commission adopted a form of census card containing the descriptive matter which the Commission thought to be the proper means of identification.

The census card in this case is found at page 57 of our brief. It calls for the name of the enrolled person and his age, sex, blood and tribal enrollment. These are the matters which constitute the Roll and are identical thus far with the Roll. The tribal enrollment calls for the year, town and number. In this instance it was the 1895 Roll of Euchee Town and his number thereon 213. It is also in evidence that whenever the name appeared on more than one roll it was written on the census card, as in this case he appeared on the Authentic Roll of 1895 and is so noted on the card.

Next follows the tribal enrollment of parents, and under that head is a sub-head for the father and sub-head for the mother and the respective tribal enrollments of each. In this instance the father had no name and no tribal enrollment and was written down "White man."

The name of the mother was written down as "Minnie Atkins" and the tribal enrollment "1895 Euchee Town."

An examination of the card shows this is purely descriptive matter seeking to identify the person enrolled. It cannot be a judgment that his father was a white man, nor that his mother was Minnie Atkins. Yet such is the purport of the argument found at page 97 and throughout the brief, and such seems to be the thought of the writer of the decision of this case in the Circuit Court of Appeals.

Therefore, it seems that both the argument of the counsel and the decision of the Court of Appeals are based on the proposition that the Dawes Commission had made a finding of fact that Minnie Atkins was the mother of Thomas Atkins, and that such decision cannot be impeached except for fraud and mistake. Nothing is so far from the law of the case. To illustrate the absurdity to which this argument would lead, if the contentions of Minnie are true and the statements of fact on the census card are accepted, then her son cannot be the person enrolled, because the adjudicated (?) facts do not fit him. There would be an error in the age of the enrolled person. Judge Campbell finds that Minnie's son was born at Granny Letcher's in Leavenworth, Kansas, on June 1, 1885. Therefore he was 16 years of age when the enrollment was made in May, 1901, by the Dawes Commission, yet they write down the enrolled person as 10 years of age.

Minnie appears on the card of her sons Charlie and Harvey and on her own rejected card as a half-blood. Therefore her children of a white father would necessarily be quarter-bloods. Yet in this enrollment the Thomas Atkins enrolled is put down as a half-blood. Certainly under the Act of Congress, quantum of blood and age are more important matters than the name of the father or the mother, because they are made conclusive. Yet these mistakes occurred, if Minnie's claim is to be sustained, whereas if Nancy's claim is sustained, these statements are accurate: Nancy regarded herself as a full-blood and was enrolled as a full-blood. Her evidence and that of more than thirty supporting witnesses established the fact that her child, Thomas Atkins, was born in September, 1890, and was therefore a 10-year-old child entitled to enrollment at the time it was made. Moreover, another descriptive matter called for in the census card is the residence and Post Office address. The Post Office is put down as Muskogee, Indian Territory, whereas if the son of Minnie was intended, it would have been Leavenworth, Kansas.

Moreover Minnie was going under the name of Harris and her children were enrolled as the children of Minnie Harris, nee Atkins. Therefore if these descriptive matters on the census card are to be regarded as judgments, the judgments are against them identifying the child now claimed to be Minnie's. But none of these matters are judgments.

The only judgment is that Thomas Atkins was a member of the Creek Tribe entitled to be upon the final roll and participate in the partition of lands of that tribe. Our brief at page 166-168 refers to the leading cases on this subject.

Really this principle is controlled by the two decisions therein referred to of this court: Hegler v. Faulkner, 153 U. S. 109; Dickson v. Luck Land Co., 242 U. S. 371. The former case holds such recitals to be hearsay evidence. In the latter case the court had before it an allotment to a mixed blood Chippewa Indian; the allotment had been made to him and both parties claimed under his allotment, and a patent was issued thereon. The Act under which the allotment was made only permitted a patent to be made to adults, and it was held that when this patent was issued that it amounted to a decision that the allottee was an adult. The question for decision was whether the patent was to be taken as determining the allottee's age for any purpose other than that of fixing his right to receive the full title free from the restrictions imposed by Congress.

The patent did not mention the age of the allottee, but the court construed it as amounting to a finding that he was then an adult and treated it as if it was thus written in the face of the patent, as his majority was a prerequisite to the issuance of the patent.

The court held that it would indulge the presumption that there was a finding that he had reached his majority, but that such presumption while indulged in support of titles was not regarded as otherwise having any conclusive or controlling force. "They are not judgments in the sense of the rules restricting estoppel by judgment, and we perceive no reason for giving them any greater force or influence than has been sanctioned by prior decisions."

The court concludes that this administrative finding was not to be taken as a decision of the allottee's age for any purpose other than that of fixing his right to receive the full title, freed from restrictions, and when those restrictions were removed and the patent issued, then the situation was one in which all questions pertaining to the disposal of the land naturally would fall in the scope and operation of the law of the state.

This is in harmony with the decisions of the Oklahoma Court which holds that the enrollment records including the census card are purely hearsay evidence outside of their province, which is prescribed by the Act of Congress. See authorities cited, pages 166, 167 of our brief.

In Malone v. Alderdice, 212 Fed. Rep. 688, the Circuit Court of Appeals of the Eighth Circuit, considered the effect of recitals on a census card. In this case the rights accrued prior to the Act of 1908 which made the Roll conclusive evidence of age and quantum of blood, and therefore had the question as to the effect of recitals on the card without the force of said Act. The Court said:

> "The Commission to the Five Civilized Tribes which made the enrollment of their citizens and freedmen was a quasi judicial tribunal empowered to determine who should be enrolled and what lands should be allotted and in what way it should be allotted to every citizen and freedman, and its adjudication of these questions and of every issue of law and fact that it was necessary for it to determine in order to decide these questions is conclusive and impervious to collateral attack. But its determination, recital, or report regarding issues not material to its answers to the questions who should be enrolled and what lands should be allotted to them and how, is, in the absence of special legislation such as the Act of May 27, 1908, without judicial or other conclusive effect. Kimberlin v. Commission to Five Civilized Tribes, 104 Fed. 653, 662, 44 C. C. A., 109, 118."

Judge Sanborn for that court further made this statement:

> "The provision of the Act of June 28, 1898, that the Commission should make the rolls descriptive of the persons thereon so that they might be identified falls far short of granting jurisdiction to that Commission to adjudge conclusively on what day each minor on those rolls would attain his majority and thus to determine when he could buy, sell and convey property free from the disqualifications of his minority. As well might it be claimed that the Commission's description on its roll of a male as a female would conclusively adjudge that he was without right to marry a woman, or that the recital of the ages of minor heirs as a matter of description in the record in a probate court of the administration and distribution to them of the estate of their ancestor would conclusively adjudge the time when their respective minorities would cease. This was not the purpose or the effect of this provision of the Act of 1898. It was limited in object and in result to the making of a description of the persons enrolled for the purpose of their identification and not for the purpose of the final adjudication of the extent and limits of their disqualifications by reason of their respective ages or otherwise."

So far as a contest between Minnie Atkins and Nancy Atkins is concerned the recitals in this census card are but mere hearsay evidence. They are important and very important as indicating the person whom the Commission thought it was enrolling as Thomas Atkins, who was No. 213 on the Euchee Town Roll of 1895, but its importance is only indicating the identity of the person that they were assuming to enroll. It is true that one mark of identification was the name of the mother and her tribal enrollment which in this instance was Minnie, but of more importance was the age and blood of the person and their findings in these respects fitted the child of Nancy and not the child of Minnie. But more fundamentally important than any of these questions is this fact: The testimony of the chairman of the Dawes Commission and of all of the officers engaged in the enrollment is to the effect that no one was enrolled unless they had before them information which they deemed reliable that the person was living on the first of April, 1899, and a resident of the Creek Nation. The testimony on this subject in this record is practically the same that it was in U. S. v. Wildcat, 244 U. S. 111, which is summarized by Mr. Justice Day in the opinion at pages 120-127, except that it is more detailed and full in this case, than in that.

As stated by Mr. Justice Day of the evidence there, as can be said of the evidence here: "That the Commission never arbitrarily listed any name; that no name was listed solely because it was on the roll of 1895, but some particular individual evidence was required outside of that roll," and further, quoting from the Chairman of the Commission, "That the purpose was to find out whether a man was entitled to enrollment."

The facts adduced by Page and Minnie to sustain their contentions were that her son was born in Leavenworth, Kansas, in 1885, and spent his life there, and that he died at that place in 1899. Therefore he was a non-resident throughout his life, if he had a life, of the Indian Territory, and of the Creek Nation. His mother was rejected for enrollment on account of her non-residence and his census card showed his father was a white man without tribal enrollment, and therefore to sustain their theory the Dawes Commission must be convicted of having violated their first duty; that they did not intend to do so is shown by writing down on the census card the Post Office of the enrolled person as Muskogee, Indian Territory, whereas if they had been enrolling Minnie's son, it would have been written down Leavenworth, Kansas. Therefore this census card is of great importance in determining whom the Dawes Commission considered it was enrolling, but none of these recitals have the effect of judgments and hence an argument to this effect in the brief and the indications to this effect in the opinion of the Circuit Court of Appeals are mistakes of law.

THE FACE OF THE TRIBAL ROLLS

Mr. Hopkins, Chief Clerk of the Dawes Commission, testified that the relative position of names in a family group on the Tribal Rolls gave no indication of the relationship of the parties. He explained the composition of these rolls in that the family was listed on the mother's side; frequently taking the oldest member, male or female descendant of the common mother's particular family, and that name was placed first as the head of the family and was followed with the names of the different descendants of the common ancestor, but there was an exception; a dependent parent or grand-parent or incompetent was listed last, so the head of the family could draw money for him (R. p. 199-204).

Commissioner Bixby and Messrs. Hopkins, Merrick, Hastain and Leiber, the enrollment clerks, all testified that no name was placed upon the Dawes Commission Roll merely because that name was found on the Tribal Roll. That the Tribal Roll was accepted merely as evidence that on the date thereof the Tribe recognized that person as then a member of the Tribe, but that before even a card was started the Commission obtained information from sources it considered reliable to the effect that this person was living on April 1, 1899, and a resident of the Indian Territory. This procedure is fully abstracted in our brief at pages 55-71 and will not be repeated here.

The brief of the Minnie Atkins interests, notwithstanding this undisputed testimony, at page 116 states:

"On the face of the rolls, the Thomas Atkins whom the Commission was examining was the son of Minnie Atkins; with these rolls before it and with the duty resting upon the Commission to determine if the rolls spoke the truth, the Commission took the evidence outside of the rolls and found that the Thomas Atkins on these rolls was, in fact, the son of Minnie Atkins."

This same argument is repeated in the following pages: On the next page it states the examination shows beyond a doubt that the rolls on their face disclose the particular Thomas Atkins, which the Dawes Commission was considering to be the son of Minnie Atkins. We have copied in our brief the four Tribal Rolls of the Creek Nation that were before the Commission. The 1890 Roll is copied at page 71. The original Roll contains no Thomas Atkins; there is added "Thos. and Mary," but the testimony is undisputed that this was added after the roll was made up and no part of it. This is shown at pages 71-76 of our brief.

Moreover Judge Campbell stated, and the evidence of all the enrolling officers stated, that the person enrolled was not considered to be upon the 1890 roll; this is reviewed at page 72, but even if he was upon it there is nothing there to show a relationship of Thomas to Minnie any more than there is to Fred Bowers, opposite to whom these names appeared. The rolls which appeared upon his census card was the Authentic Roll which is copied at page 104, and the Payroll, which is copied at page 106. In addition to these rolls was what was called the King's Roll, or the original roll, which was merged into the Authentic Roll when adopted; this is found at page 100 of our brief.

On the face of them none of these rolls show the relationship of any of the parties in the family group, other than the addition which is made to the King's Roll after it was compiled of "& 2 children" following the name of Mamie Atkins. This roll clearly shows that it was originally made up without this addition and doubtless information came to the Tribal authorities that Minnie had two children and this was added after the original compilation, and either then, or later there was added on the margin of this family group two additional numbers and names, 6 and 7, Charlie and Sussie Atkins, and in this shape with the transposition of the order of names, the original roll became the Authentic Roll. On the Authentic Roll the words "2 children" is apparently erased, thereby indicating that Charlie and Sussie that had been added from the original draft of the King's Roll had taken the place of the "two children" added after Mamie's name; in other words, the Creek authorities learned when Minnie came to Muskogee in 1895 that she had with her two children who were afterwards enrolled as Charlie and Harvey, and evidently these were the persons who were added to it with a mistake in the name of one. Later both of these children were duly enrolled as Charlie and Harvey Harrison, sons of Minnie Harris, nee Atkins.

Therefore the face of the Tribal Rolls on account of these additions do force an irresistible conclusion that Thomas was not intended as the son of Minnie, on account of the way these amendments to the Roll were made, otherwise the rolls on the face as stated by Mr. Hopkins, do not indicate the relationship within the family group. Therefore there was no basis for such an argument as they made on behalf of Minnie Atkins to which attention is here called.

CONFUSION WITH THE NEGRO THOMAS

The brief of counsel of Minnie, at page 105, seeks to explain the testimony of the many reputable witnesses on behalf of Nancy to the effect that she had a child with her at Wagoner called Thomas Atkins, on the theory that this child was not her son but was a negro, Thomas Atkins, a son of Dick Atkins, supposed to be left handed kin of Nancy's. This boy was the son of Dick Atkins and lived near Wagoner, and his father hauled wood into Wagoner and the boy frequently accompanied him; and several witnesses testified that they saw him occasionally with Nancy in Wagoner.

The strongest of this testimony was that of Cheney Trent, a half-sister of this Thomas Atkins. She testified that Thomas went with his father frequently into Wagoner when he was hauling wood and was frequently with Nancy there. She places the time when these occurrences happened as when the boy was eleven to thirteen years of age. He died at the latter age (R. pp. 4179-4189).

There is absolutely no foundation whatsoever to assume for a moment that the witnesses who testified on behalf of Nancy were confusing the boy whom they described as her son, with this negro boy.

While somewhat tedious, yet it is absolutely necessary to refute this charge, and the record absolutely refutes it.

This was not the first effort to try to explain the presence of this son of Nancy's by confusing him with other persons. The questioning of many witnesses showed that the Government and Page interests were trying to confuse this boy with Charlie and Harvey Harrison, Minnie's sons, whom Nancy cared for a short time at Wagoner. But they fell down completely, as all of the witnesses showed that they were not confusing Thomas with either of those boys. But this question was finally put to rest by Mr. Way. He was an intimate friend and neighbor of Tom Holden, a brother-in-law of Minnie, with whom Minnie had left these boys when she left the Indian Territory in 1896. Mr. Way knew them intimately and also Nancy's son Thomas when he was brought to Holden's house by Mr. Holden in 1899 and lived there several months. Mr. Way gave a detailed description of each of the three boys. Much of this, in reply to questions from the Court. After this testimony of Mr. Way's, further effort along this line was futile.

The other theory is even less tenable than this, because Charlie and Harvey were not much different in age from Thomas and, being cousins, it would have been much easier to confuse Thomas with one of them than with this negro.

The testimony of Ananias Atkins, his brother (R. pp. 4398-4401) and of his sister, Mary Atkins Wilson (R pp. 4401-4404) and of his half-sister, Cheney Trent (R. pp. 4179-4189) established these facts: that this boy was seven-eighths negro and one-eighth Indian, and a typical negro in appearance, and that he died in the fall of 1898, aged thirteen years, three months and some days, and was buried ten miles from Wagoner. Therefore, he was born in the summer of 1885 and was five years older than Nancy's son Thomas, who was born September, 1890.

Mr. Way testified that Mr. Holden brought Nancy's son from Wagoner to his place in the summer of 1899 (R. pp. 2594-2595). This was the first time that he ever saw Nancy's son Thomas, and this occurred almost a year after the death of the negro Thomas. Therefore, this theory of confusion is destroyed by his testimony alone. But that is but the beginning.

J. H. Anderson lived six miles east Wagoner and knew the negro, Dick Atkins, and his son Thomas well; and testified he was a different child altogether from Nancy's child, whom he knew as a small child about 1890; and testified that Nancy told him that this was her child, and he saw the child nursing at her breast. He knew that Nancy went to the penitentiary and left this child with Betsy Birney while she was gone (R. pp. 4414-4417).

In 1890 this negro Thomas was five years old, and could hardly have been nursing at Nancy's breast.

Mr. Ruble, sheriff of Wagoner county, testified that he knew Nancy's Thomas well in the latter years of his life, and that he was well acquainted with Cheney Trent, half-sister of negro Thomas, and that it was impossible for this boy, associated with Nancy, to have been Cheney's brother, that Cheney was a negro and this boy with Nancy was white and Indian (R. pp. 4427-4429).

J. K. McLaren knew Nancy and her child in 1891, when he last saw him. He was probably a year and a half old (R. pp. 4406-4414). The negro Thomas was then six or seven years old and not in that country at that time.

W. C. Smith moved to Wagoner in 1898 and saw Nancy and her child for two or three years (R. pp. 2607-

2609). The negro Thomas died before or shortly after he went to Wagoner.

D. W. Best knew Nancy's Thomas from 1895 to 1900 (R. pp. 2582-2587). This knowledge carried him two years after the death of the negro Thomas.

W. A. McElroy was in Davis & Jones' store in 1890, when a collection was taken up for Nancy on account of her necessities, she just having a child born to her, and was reported in destitute condition. Afterwards he saw the child which he understood was hers, and he appeared to be Indian and white, and saw this child off and on until he left there in 1901. He thinks the last time in 1899 (R. pp. 2567-2575).

Frank Engles went to Wagoner in 1891, got acquainted with Nancy, who was working in a hotel, where he boarded, and saw her child, then an infant in arms, and saw this child continuously for six years (R. pp. 2557-2566).

Thomas Brewer, who lived at Wagoner for five years, beginning either 1889 or 1890, knew the child from infancy until he died in the dry year, which he places at either 1900 or 1901 (R. pp. 2545-2557).

Walter Posey saw the child when he was four or five years old and continued to know him until 1900 or 1901, when he was apparently ten years of age (R. pp. 2537-2539).

Kirk Turnbo went to Wagoner in 1899, got acquainted with the boy, and remembers his death, which he thinks was as late as 1902; but he judges he was ten or twelve years old when he died, and remembers W. U. Hall, mayor of the town, raising a contribution for the burial (R. pp. 2529-2537). Certainly, he could not have confused him with this negro, as he did not move there until after the negro's death.

J. L. Dyer remembers Nancy being in a pregnant condition about 1890, and that she was sent to the penitentiary and was gone seven or eight months, and she had a child before she went to the penitentiary and it was three months old when she was convicted and looked like a white child, and was called Thomas. He saw it around for nine or ten years (R. pp. 2519-2523).

John Ford was a negro, and got acquainted with Nancy Atkins about the time she was in a pregnant conditio.n He saw her a few days after her baby was born and saw the baby with her in bed. He was Indian and white. The last time he saw him he was about eight or nine years old, and that was in 1899. He contributed twenty-five cents to his burial (R. pp. 2505-2519).

M. I. Sullivan. He knew Nancy from 1892 to 1895. She was in his place of business frequently. She had a child with her, and when he first saw him he was two or three years old (R. pp. 2486-2493). Certainly there could be no confusion with a two-or-three-year-old child in 1892 with a seven-year-old negro boy.

John T. Beard got acquainted with Nancy in 1889 or 1890. He saw her when she was in a pregnant condition and knew of her giving birth to a child, as town talk, and knew of her being sent to the penitentiary. He saw the child when it was two or three years old and she was carrying it in her arms. She said it was hers, and called him Tommy. He saw the child frequently during the next few years. He remembers Mr. Hall, the mayor, taking up the collection for his burial, and saw his funeral procession about 1901 or 1902 (R. pp. 2475-2486).

Ex-Sheriff Long got acquainted with Nancy in 1897, when he was city marshal. She then had a child six or seven years old, to judge from his size, and saw him for four or five years. And he remembers that it was the dry year that he was called upon to contribute to the burial of this child called Tommy (R. pp. 2445-2457). It is impossible that he could have confused this child with the negro, who died in 1898 aged thirteen years and three months.

R. F. Davis, president of the Muskogee Wholesale Grocery Company, is the son of the Davis of Davis & Jones Mercantile Company, and he worked in his father's store from 1889 to 1891, and knew Nancy Atkins well, and saw her in a pregnant condition and afterwards saw her child when it was large enough to walk. The child was light yellow. Doesn't remember the name of the child, but was positive that it was a boy. Saw her carrying him around in her arms (R. pp. 1202-1208). At this time the negro Thomas was six years old, and would have been a rather heavy weight for Nancy to have been carrying in her arms.

These are merely some of the leading witnesses whose characters are not questioned, and who have no interest in the subject matter. A consideration of their testimony leaves it impossible to believe for a moment that there was any confusion between Nancy's son and the negro Thomas, which seems to be the last hope to destroy the testimony on behalf of Nancy Atkins, which establishes his birth in 1890 and his death at approximately ten years later, and that he was half Indian and half white, and was known to the whole community as her son.

MISTAKES OF FACT

(1) At page 4 of the brief it is said that the counsel for Nancy Atkins realized the force of the finding of two courts but seek to avoid it "By asserting that there was no testimony before the trial court establishing Minnie Atkins as the mother of Thomas, and a vast array of testimony in favor of Nancy Atkins establishing her parentage of the said Thomas Atkins." This is a total misconception of our position, as we tried to make it clear at page 27 of our brief. We stated that the evidence in the issue of whether or not Minnie had a son named Thomas took 3,000 pages of this record and that it was such a collateral issue for our case that we are not reviewing it in an effort to overturn the findings of the two courts which have accepted Minnie's story as true that she did have a son Thomas born at Granny Letcher's at Leavenworth, Kansas, in June, 1885. "But we are, for the argument's sake, taking this fact as established for the purpose of our contentions, and seeking to demonstrate to the court that neither the name of Thomas Atkins on the Creek Roll of 1895, nor the name of Thomas Atkins on the Dawes Commission Roll of 1901, represented such a son of Minnie, but in fact represented the son of Nancy. If we demonstrate that fact to your satisfaction it is wholly immaterial whether Minnie, in fact, was the mother of another Thomas Atkins, who was born at Granny Letcher's in Leavenworth, Kansas, early in June, 1885, and who lived his life, if he had one, at Leavenworth, Kansas."

The brief ignores wholly this position which we have assumed and seeks to put us in the attitude of relying solely upon a reversal on the issue of whether or not Minnie did have this child as found by the court, and with that issue we have but little concern. The brief does not attempt to answer our arguments whatever on the proposition stated in the above quoted excerpt from our first brief.

Mr. Merrick, the officer of the Dawes Commission who wrote the enrollment card in this case, testified as follows:

Q. "You intended to enroll Tommy as the son of Minnie Atkins, didn't you, as it appears there?

A. "Well, as it appears, Minnie Atkins being given as the mother, but primarily the Tommy Atkins is the one that appears on the Euchee Roll No. 213." (R. p. 3479.)

Thus it is seen that while the descriptive matter put Minnie down as the mother, yet the primary purpose was to enroll this Thomas Atkins of the Euchee Roll and there is no testimony in this record whatever introduced by Minnie Atkins that her son was on that Roll other than through the Sam Brown and John Davis route heretofore discussed fully, and when that route was destroyed it left her wholly without any testimony whatever on this subject. On the other hand we have the positive testimony that the person intended on that Roll as Thomas Atkins was the son of Nancy, which evidence was given by Ellis Childers. Minnie's whole case was predicated on having told John Davis, her uncle, of the existence of her son Thomas, and John Davis having on a cold day in Muskogee given a list of the Atkins family, including Thomas, to Sam Brown, who made it the basis of the Atkins list on the Euchee Roll. He even introduced his book showing that he had obtained this list from John Davis at Muskogee in March, 1895. We have copied it at page 36 of our brief.

Then after her case was thus made it was destroyed by the introduction of the record showing that for four years prior thereto and for nearly a year subsequent thereto that John Davis was in the penitentiary at Detroit, Michigan (R. pp. 4988-4990).

Moreover the original 1895 Roll itself shows that Thomas was one of the five members of the Atkins family placed thereon and that thereafter opposite the name Mamie Atkins was added "& two children" thereby showing that her children were some other than Thomas, who were added to this Roll and were presumably the added names, 6 and 7, Charlie and Sussie. See our brief at page 100 and the Roll there copied.

Therefore the established facts and the record facts destroyed all surmises which might have been based on Minnie's testimony and Sam Brown's testimony and absolutely prove that Minnie's son could not have been thus placed on the 1895 Tribal Roll; but beyond that his enrollment was made on May 23, 1901 by the Dawes Commission; Minnie has repeatedly testified her uncle, John Davis, and her brother, Lee Atkins, were the only persons in the Indian Territory to whom she gave information of the existence of her son Thomas.

Lee Atkins was killed in November, 1894 (R. p. 4430), and John Davis was killed after 1896, certainly before 1900 (R. p. 6369). Therefore they could not have imparted this information or misinformation to the Dawes Commission.

The testimony shows that Noah Gregory and Sam Brown, each prominent Euchees, were before the Dawes Commission at this time and both of these men have testified positively that they did not remember Thomas Atkins and both testified positively that they reported to the Dawes Commission that Minnie was a non-resident of the Indian Territory.

Therefore there was absolutely no possible information or misinformation before the Dawes Commission entitling her non-resident son of a non-citizen father to have been placed upon this Roll. Therefore our position is that upon these two vital propositions in the case, first, that the Thomas Atkins on the Tribal Roll was not Minnie's son, but was the son of Nancy Atkins, and that the Thomas Atkins on the Dawes Commission Roll was not Minnie's son, but Nancy's son, there is no evidence to sustain Minnie, and much evidence heretofore reviewed to sustain Nancy; yet none of these matters are discussed in this brief on behalf of Minnie, and the discussion sought to turn on whether or not Minnie had this child born in Leavenworth and alleged to have lived his life there, and whether or not Nancy had the child as she and her 30-odd witnesses claimed was born to her and had his life in the Creek Nation.

(2) At page 6 it is stated by counsel that they are sure the Court will find that Nancy never had a son; that she never had but one child and it was a girl child still-born. There are some negro witnesses who have testified to this statement and their testimony is hereinafter analyzed, but against it is the testimony of more than thirty witnesses, a few of them are negroes of the same low grade of intelligence and character of those produced by the Government and Page against her, but in addition to them is the testimony of more than twenty reputable white men and women of the highest standing in the community, occupying positions of trust and confidence, who testified to facts that cannot be accounted for other than that they are the truth, establishing unquestionably that Nancy had a child named Thomas, who lived for ten years and was known to the entire community as "Tommie Atkins."

(3) At page 6 it is stated that the counsel for Nancy Atkins have undertaken to state the testimony for Nancy and against Minnie, but have not stated the testimony

against Nancy. We hope this is a typographical error. In the first place we have not stated the testimony against Minnie, in so far as it relates to whether or not she had a child; we have left that to the Government and are not concerned with it, but we have stated the testimony against Nancy. We abstracted fully and completely, witness by witness, beginning at page 192, headed "Testimony against Nancy," and have fully summarized what each of the twenty witnesses called against her testified to, concluding the review of it at page 210. At page 98 it is stated in the Minnie Atkins brief, "It is conceded that the very time she applied for enrollment and allotment for her absent sister if her testimony is to be believed that she had by her side this alleged infant of hers, Thomas Atkins." It may be conceded by Minnie Atkins and Page that this is the case, but it was not conceded by Nancy Atkins, and those claiming under her. Her testimony was to the effect that her boy died in the spring of 1900. Nine reputable witnesses have sworn as to their recollection of the date of his death and while they differ somewhat, their testimony corroborates and establishes by its great weight that her son died in the "Dry Year," which was 1900. This is reviewed in our first brief at pages 247, 248.

ANALYSIS OF SOME OF THE TESTIMONY AGAINST NANCY

At page 97 of the brief of the Minnie interests begins an analysis of the testimony for and against Nancy, and we invite your attention to a brief analysis of the leading testimony against her. While twenty witnesses were introduced against her, yet much of this was purely negative testimony, and of little, if any, probative value. The real case against her consists of the testimony of three negro women and of one negro man. These are Elnora Mayshack, Eliza Sterling, Angeline Moody, and Henry Anderson.

The first introduction to this case of Elnora Mayshack is a telegram sent by Mr. Long, Page's representative, from Portland, Oregon, to his company, reading as follows:

"If you are giving notice of taking depositions, include as witness Mrs. A. M. Mayshack of Portland; she was with Nancy when her baby was born; says it was a boy, but died after birth and was buried in Wagoner." (R. p. 3526.)

Mr. Long also telegraphed at the same time that Mr. Bartlett and Sadie James were there (R. p. 3526). With Mr. Bartlett and Sadie James on hand to look after these witnesses any testimony could be expected from them.

Elnora Mayshack testified and was examined by the Government and the Page interests. Nancy was not represented. It nowhere appears in her testimony that Nancy's child was a boy, in fact it seems studiously concealed.

Angeline Moody and Eliza Sterling, who testified to being present at the birth of this child, testified it was a girl.

Elnora Mayshack said that Nancy was living with her at the time of the birth of the child, but there was no room in the house and she was taken out and placed in a tent, and the child was born there. That it was born in the morning and died in the afternoon and was buried by Monday Barnett, and she thinks in the graveyard (R. pp. 2163, 2167).

Eliza Sterling testified that she lived in Wagoner about a year before Nancy's child was born, and her mother, Amanda Barnett, and Elnora Williams were present when Nancy's child was born; she said it was born in the south room in the Elnora Williams house in the nighttime; was a girl and was born dead. She said the child was born a year before Nancy was sent to the penitentiary. The Government introduced a copy of Nancy's sentence as Govt. Exhibit A-104 and shows it began December 23, 1890 (R. pp. 2179-2189).

John Ford testified that this woman was not living at Wagoner at this time, but was living ten or twelve miles away (R. p. 2511).

Angeline Moody's testimony begins at R. p. 2190. She said that she was present when Nancy's baby was born, which was in Elnora Williams' house; the child was a girl and was born dead. She admits that she did not move to Wagoner until after she sold her farm to a man named Lipscomb (R. p. 1892) and moved to Wagoner the next year and this child was born a year after she moved there (R. pp. 2194, 2195).

John Ford testified he knew all the negroes in Wagoner at this time and that Angeline Moody was not living in Wagoner then (R. p. 2507). Thus it is seen that these star witnesses differ five years in the date of the birth of this child, and not from a lack of memory of date or confusion of dates, but each puts her recollection of the event from some fixed fact, the first being a year before Nancy went to the penitentiary, and the last a period of a year after she moved to Wagoner, which she fixes positively as a year after she sold her farm to Lipscomb in 1892. Manifestly this testimony is unreliable, to say the least of it. They do not agree as to the place of the child's birth, time of its birth, its burial, and differ five years as to when it occurred, and two say it was a girl and one says it was a boy.

Angeline Moody and Eliza Sterling both admitted the visit of Nancy, Betty Mann and Bartlett to them to secure them as witnesses to sustain Bartlett in his suit with Nancy, which Nancy described as a "frame-up" to prove that her child was a girl born dead, for which Micco Hargo was being paid to have her testify and procure witnesses. Their story of the occurrence differs but little from hers.

Henry Anderson's testimony is found at R. pp. 2196-2208. He testified that he had a man named Ellis Harris working for him and early one morning he found him digging a grave near a tent close to Betsy Burnie's house and he told him he was digging it for Nancy's baby; and he had a new-born baby there, which Henry looked at. Henry said this was in the spring and was about a year before Nancy was convicted in the Federal Court. He testified he was one of the witnesses against Nancy when she was convicted for taking a letter belonging to Neosho Burnie to Betsie Burnie; this conviction was in December, 1890.

W. C. Smith moved to Wagoner in 1898 and opened a drug store and had this negro, Henry Anderson, as his porter. He noticed a poorly dressed woman with a yellow headed child following her in his drug store and asked Henry Anderson who she was and he said "It was old Nancy Atkins and her kid." (R. p. 2608.)

J. B. White, one of the defendants here, when searching for witnesses had a conversation with Henry Anderson and Henry told him he knew Nancy and knew her boy, Tommie, and gave him fully the facts about them and he (White) prepared an affidavit for him to sign, stating the facts as related by him. He would not sign it unless Mr. White would pay him $100 down and $300 when the case was over, which Mr. White declined (R. p. 4606).

These are the principal witnesses in conjunction with Micco Hargo, Nancy's former guardian, to make out the case against her. This Micco Hargo got an order of the county court leasing this land to White, brought suit against Bartlett, who had taken possession of the lease under a forged deed procured by Betty Mann and himself from an alleged Minnie Atkins, under which Bartlett took possession of the property; he admitted taking Bartlett's money while litigating against him as Nancy's guardian. Nancy's testimoney is undisputed that Micco Hargo had promises from Bartlett for money for her and for him if she would claim that her child was a girl and born dead, and threats on the other hand to be sent to the penitentiary if she did not.

Her testimony on this subject is contradicted by no witness and corroborated at many points by many witnesses. Against these ignorant and venal negroes is the testimony of more than twenty as reputable citizens as that country affords. There were men holding the highest positions in business and official life of the community. Take such men as Thomas J. Way, Thomas Brewer, the editor, Mr. Phillipi, Sheriff Ruble, W. A. McIlroy, J. D. McLaren, J. H. Anderson, Mrs. Miller, R. F. Davis, president of the Muskogee Wholesale Grocery Company, and any one of them should carry more weight than this whole bunch of negroes. They are men of position and standing, wholly disinterested, and their testimony is without the least contradiction in any particular. In addition to them are many other witnesses, some of less standing and intelligence, two of them with criminal records, yet, these latter are of the same grade as the witnesses against Nancy and their testimony is corroborated by these people of the highest standing—the men of affairs in their community. There can be no question under the facts, of the birth, life and death of Nancy's son Thomas as stated by them.

In analyzing the testimony, the counsel, at pages 106 and 107, puts up in opposition to Mr. Way's testimony that of Mitchell Wardsworth, the son of Mrs. Holden, and quotes his testimony to the effect that Charlie and Harvey and a boy named Edmond Bear were the only persons that stayed in his mother's house from 1898 up to 1902.

There is a good reason for Mitchell Wardsworth's not knowing who was at his mother's house in these years. Nancy Atkins testified in regard to the time when her sister, Mrs. Holden brought Minnie's children, Charlie and Harvey to her house to take care of them. She stated that Mrs. Holden told her that her son Mitchell was scouting or was in trouble, and she wanted money to go to Fort Smith, that she thinks he was in jail, and she let her have money (R. p. 2217).

The counsel for Minnie Atkins in the trial cross-examined Mr. Way about seeing Nancy's son Thomas at Mrs. Holden's place, and asked him if she had a son Mitchell, and he said that she did and he knew him well; and he was asked if Mitchell was at the Holden house at the time Nancy's son was there, and he said that he was not, that he was in the penitentiary then (R. p. 2603).

MINNIE AND THE DAWES COMMISSION

Judge Campbell, while not deciding that Nancy did not have this child, cast doubt on her story on account of her correspondence with the Dawes Commission; and we have in our brief, at page 246, reviewed the evidence showing his error. Now we ask you to consider in this connection the conduct of Minnie towards the Dawes Commission and her relation to it in contrast with Nancy's.

Mitchell Wardsworth, the son of her half-sister, Mrs. Holden, testified that his aunt, Minnie, wrote to him from Detroit in 1898 or 1899 to enroll her and her sons, Charlie and Harvey, and did not mention her son Thomas. He attempted to do so but lost the letter and the Commission would not act upon his verbal statements and he told his step-father of it (R. pp. 4598-4601).

On April 2, 1900, Minnie executed a power of attorney to Thomas E. Holden to select lands and file for herself and her sons, Charlie and Harvey, and did not mention Thomas (R. p. 4712).

Here was affirmative conduct on the part of Minnie in 1899 and in 1900 asserting rights for herself and her two sons Charlie and Harvey, and asserting none for her supposed son, Thomas. In Minnie's Kansas City Statement heretofore referred to it is shown that they attempted to escape this situation by claiming that her son Thomas was dead at the time these letters were written and this power of attorney was made; but suppose that that was true, then she would be in the exact situation that counsel seek to put Nancy in, of seeking to file for herself and making no effort to file for her dead son.

Nancy's letters were merely seeking information as to whether her dead brother and asbsent sister could be placed on the Roll, whereas Minnie was seeking affirmative action in behalf of herself and her two undisputed sons, and making no mention of the disputed son, and her first action in this regard was taken before her sons were enrolled, which was in February, 1900—Government Exhibit 33.

All the argument that is made against Nancy for not filing for her son when she made her own filing can be used in double force against Minnie, and it was doubtless an oversight on Judge Campbell's part that he did not grasp these facts that cast more doubt on Minnie's story than the letters to which he referred cast on Nancy's story.

UNFAIR ABSTRACTING

The appellee's brief states at page 7 that they submit a fair and succinct statement of the evidence for and in behalf of Nancy Atkins. At page 105 the brief argues, after setting out this testimony, that the evidence clarifies and makes plain that the witnesses who testified that Nancy had a son were confusing the child they described with the negro Thomas Atkins, son of Dick Atkins, and this is the subject matter of a separate chapter. Your attention is called to that in this connection, because the abstract is so drawn that many of the salient facts confuting this theory are omitted therefrom.

Thus: Their abstract of the testimony of J. H. Anderson, pages 70 and 71 of the brief, sets out his statement in regard to Nancy's child and states that on cross-examination he stated that the only Tommy Atkins he ever knew in and around Wagoner was the son of Dick Atkins. Mr. Anderson stated he did not remember the name of Nancy's child, but he testified that he saw it nursing at her breast about 1890. He stated that he knew Dick Atkins' son Thomas, that he was a negro child, an altogether different child from the one he described as Nancy's, and that he must have been five or six years older than Nancy's child (R. pp. 4414-4417). None of this appears in the abstract, and with such omissions as that, they may well clarify the situation as they hope to.

In abstracting the testimony of Sheriff Ruble, pages 72 and 73, they omit to say: that he stated that he knew Cheney Trent and he knew it was impossible for this boy of Nancy's to be her brother; that Cheney was a negro and this boy was Caucasian and Indian and showed no indication of any other blood than Indian and white (R. pp. 4427-4429).

They omit from the testimony of Mrs. Miller (R. pp. 4422-4426) that she said that the boy was Indian and white and that he died, as she thinks, in the spring of 1899, which was six months after the death of the negro Thomas.

Another element of unfairness: In the testimony of Dyer, abstracted at page 22, they state that he was convicted for constructively being present at the Blackstone robbery, but omit to state that he got a new trial and was acquitted (R. p. 2521).

In abstracting the testimony of Ex-Sheriff Long, at page 12, it is stated that he admitted that he was convicted for embezzlement while occupying the office of sheriff of Wagoner county in 1913, but omitted to state that a new trial was granted and the case against him was dismissed (R. p. 2457). In abstracting his testimony, they also state (brief page 11) that he stated that Nancy's child was a mulatto looking boy, but omit to state that he was asked what he meant by "mulatto looking" and he stated that the boy was leather colored, with chocolate colored hair and brown eyes, and that he resembled white and Indian more than negro, and that he used the term mulatto in reference to his color, but said that the boy did not look like a negro to him (R. pp. 2448-2449).

With such abstracting it is easy to draw any conclusion that counsel see proper to do. We could go through the abstract and point out, with almost every witness, how misleading it is, but we submit that we have pointed to enough to show that it is thoroughly unreliable to give a true picture of the actual evidence.

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United States Circuit Court of Appeals.

EIGHTH CIRCUIT.

NO. __________

United States of America, - - - - - - - - - - *Appellant,*

vs.

Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as Guardian of Nancy Atkins, an Incompetent, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, - - - *Appellees.*

NO. __________

Nancy Atkins, H. A. Ridgway, Guardian of said Nancy Atkins, an Incompetent, Robert L. Rutherford, and A. L. Ferguson, Administrator of the Estate of James A. Ferguson, Deceased, - - - - - - - - - - - - - - - *Appellants,*

vs.

United States of America, Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Bro-

gan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, ***Appellees.***

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

PLEAS AND PROCEEDINGS BEFORE THE HONORABLE RALPH E. CAMPBELL, JUDGE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF OKLAHOMA, PRESIDING IN THE FOLLOWING ENTITLED CAUSE:

UNITED STATES OF AMERICA,

Equity *vs.* **No. 2131**

MINNIE ATKINS, *et al.*

VOLUME II.

Statement of the Evidence *(Continued).*

And thereafter further testimony herein is taken as follows:

[SADIE JAMES (Deposition of—Continued).

Cross Examination by Mr. Stuart—Continued.]

Q. Sadie, are you getting any money monthly from anybody? A. Yes, sir.

Q. How much, Sadie? A. Fifty Dollars ($50.00).

Q. Who is paying you that fifty dollars, Sadie?

A. I made an agreement with Mr. Buell.

Q. Mr. Buell? A. Yes, sir.

Q. Where is he, this gentleman here? A. Yes, sir.

Q. The one armed gentleman? A. Yes, sir.

Q. What is he paying you fifty ($50.00) dollars a month for Sadie?

A. In assisting the Pinkertons in digging up the truth.

Q. To assist the Pinkertons to dig up the truth?

A. In digging up no Tommy Atkins, Judge.

Q. Now, are you Mr. Robbins's assistant, the Pinkerton .over here. A. I give him all the assistance I can Judge.

Q. Does he recognize you as an assistant in the case?

A. I don't know as he does that, I told him——

Q. Mr. Robinson is a regularly credited detective, isn't he? A. Yes, sir, so to be around with negroes.

Q. Too much so to be running with negroes? A. Yes, sir.

Q. Has he told you so?

A. No, sir, he didn't tell me that.

Q. When did Mr. Buell agree to give you this fifty ($50.00) dollars a month?

A. I think that was—— What month is this, let me see— a few days after I had got my immunity; I don't know exactly what day it was, a few days after I got that.

Q. Sadie, where did you get your immunity?

A. Right here in Kansas City, Judge.

Q. Who gave it to you? A. Frank L. Montgomery.

Q. Who? A. F. L. Montgomery.

Q. Who is Frank L. Montgomery?

A. He is the United States Probate Attorney for the Creek Nation.

Q. He is not a United States Attorney, though, is he?

A. No, but he wired Judge Allen, and Judge Allen told him to give it to me.

Q. Did you see the wire? A. Yes, sir.

Q. What did it say?

A. Said give Sadie James, of Leavenworth, immunity.

Q. Immunity?

A. Yes, sir. That wire came from Washington and I saw it, yes, sir.

Q. What did Mr. Montgomery say to you about this immunity? A. When he gave it to me?

Q. Yes?

A. He told me who he was and that he was seeking evidence in the Tommy Atkins case; said he heard I had been passing as a Government officer and came to see if I would make a confession to him about what I had done; and I told him I was deep in the case and if I talk I would condemn myself, and if he would grant me immunity I would; he said he would see. He left my house that morning and didn't come back until late that afternoon.

Q. Sadie, who was the very first man that ever talked to you about turning State's evidence in this case?

A. About turning State's evidence in it?

Q. Yes? A. After I had run off from Oklahoma.

Q. Don't make any difference when; who was the first man?

A. Mr. Buell and Mr. Robinson was the first men that found me in Leavenworth.

Q. Now, wait a minute. You met Buell and Robinson just as you finished the trip over there?

A. I run up to Leavenworth and they found me in Leavenworth.

Q. Mr. Buell and Mr. Robinson? A. Yes, sir.

Q. Now, what did they say to you when they came?

A. I didn't know either one of them.

Q. It don't make any difference, what did they say?

A. Mr. Robinson didn't say anything. Mr. Buell told me he didn't believe there ever was a Tommy Atkins, that he had filed some Indians on the land; that he and the Government were seeking the same thing to cancel the allotment, that he had hired—that he had employed the Pinkerton Agency in digging up the truth, and if I knew there wasn't no Tommy Atkins he wanted to hire me to assist them, assist the Pinkertons. I told him when he said that, I told him I was sick of the case and tired of running from the law; that I was running from Judge Allen and that I wanted to get out of it, get out of the case; and he said that he would send some of the Government officers to me, and I told him I wouldn't be in Leavenworth, told him I would be gone from there to Kansas City, so I didn't see him any more that day. The next man I seen was Mr. Montgomery.

Q. Now, how long after that before you made a contract with Buell and Bartlett?

A. I never made no contract with Buell and Bartlett.

Q. You make a contract with either one of them?

A. No contract, no contract, it was an agreement with——

Q. Did you have a written agreement? A. No, sir.

Q. Did you have it later? A. No, sir——

Q. Just answer my question. A. No, sir, I haven't got one.

Q. Sadie, didn't you have a written contract with these people, and haven't you turned it over to somebody in this case? A. No, my goodness! No, you bet I haven't.

Q. Didn't they agree to pay you three thousand ($3,000.00) dollars? A. I never seen Mr. Bartlett.

Q. Didn't Buell agree to do it?

A. Fifty ($50.00) dollars a month, not until Mr. Montgomery came to me.

Q. Answer that?

A. Yes, sir, a few days afterwards, yes, sir.

Q. Where is that agreement?

A. I haven't got no agreement with Bartlett.

Q. Where is the Buell agreement?

A. I haven't got it. I told Mr. Buell I didn't know anything about him and he would have to get somebody I did know, and he wired and got Mr. Bartlett.

Q. Mr. Bartlett told you he would give you three thousand ($3,000.00) dollars?

A. He said make an agreement——

Q. Answer my question. He agreed to give you three thousand ($3,000.00) dollars?

A. Yes, sir, at fifty ($50.00) dollars a month.

Q. And he agreed to give you that to help him beat Minnie Atkins in this case, didn't he? A. No, sir.

Q. Well, then, tell me what he gave it to you for?

A. He said, Sadie, I will make an agreement with you, for three thousand ($3,000.00) dollars, draw it at fifty ($50.00) dollars a month, and I told him if the Government would give me immunity I knew I would be safe as to prosecution and running from these detectives on the other side; and he said I will give you three thousand dollars at fifty dollars a month while this case is pending. I told him it would be three years when this case is settled——

Q. Never mind about that. Don't run off for your protection and mine. A. All right.

Q. You told him you would have to have three thousand dollars didn't you? A. Oh, no, I didn't, Judge, I didn't.

Q. Just answer that? A. No, sir.

Q. He volunteered then to give you three thousand dollars, didn't he?

A. Yes, sir, draw it at fifty dollars a month.

Q. Never mind about drawing it, just answer my question, I will let you explain. He volunteered to give you three thousand dollars? A. Yes, sir.

Q. And that three thousand dollars was to help him destroy Tommy Atkins, wasn't it?

A. To prove there wasn't none, digging up the facts, nothing but the truth, no Tommy Atkins.

Q. Sadie, you had a written agreement on that, didn't you? A. You say I did have one?

Q. Yes? A. No, sir, I haven't got none.

Q. Did you take his word for it?

A. Took Hugh Bartlett's word; Mr. Buell, I didn't know him, and he had to wire and have Mr. Bartlett come here to Kansas City.

Q. And you saw Mr. Bartlett then?

A. Yes, sir, Mr. Bartlett said he knew Mr. Buell would do whatever he said he would do he would.

Q. Bartlett said I will back Buell for the three thousand didn't he?

A. He didn't say back him. He said I know Mr. Buell, and whatever he says he will do he will.

Q. Buell wired him to come to Kansas City and see that the deal went through?

A. I told him I didn't know nothing about him.

Q. And he wired him to come up here? A. Yes, sir.

Q. And when Bartlett came up, who was present when you had that three-thousand-dollar deal?

A. Mr. Bartlett and Mr. Roninson, and Mr. Buell.

Q. What was said in that conversation?

A. There wasn't no conversation, Judge, Mr. Bartlett didn't stay in my house ten minutes.

Q. But you said to him——

A. No, not about that case.

Q. About that three thousand ($3,000.00) dollars?

A. He didn't talk about the three thousand ($3,000.00) dollars, he didn't know what Mr. Buell offered me.

Q. What did you talk about?

A. Mr. Buell had him come and Mr. Bartlett came out to my place, an he said: Sadie, I know Mr. Buell and whatever he says, he will do. I didn't tell Mr. Bartlett what Mr. Buell promised me.

Q. He told you whatever Buell promised, he would do?

A. That is what he said, yes, sir.

Q. What else did you say there?

A. I didn't say anything, I told him I would take his word.

Q. Take his word and not Mr. Buell's? A. Yes, sir.

Q. Relied on what Mr. Bartlett said?

A. Yes, sir, if Mr. Buell didn't pay me I was looking for it, yes, sir.

Q. Looking for Mr. Bartlett to stand good for the three thousand ($3,000.00) dollars? A. Yes, sir.

Q. That is right. Now, you had been working for this man Bartlett before that, hadn't you? A. Yes, sir.

Q. And you have thrown him down two or three times, haven't you Sadie? A. No, he has thrown me down.

Q. You had thrown him first, hadn't you? A. No, I didn't.

Q. Didn't you testify that you told him three or four lies at Seattle? A. That is what he put me down for.

Q. You didn't regard then that you were throwing a man down if you lied to him?

A. I didn't think he is throwing me down if——

Q. You did lie to him? A. Yes, sir.

Q. Time and again? A. Yes, sir.

Q. And he quit you because you had lied to him?

A. Yes, sir.

Q. Yet he came up to Kansas City and stood for that three thousand dollars, didn't he? A. Yes, sir.

Q. Said whatever Mr. Buell said he would do, he would do it.

Q. You knew that same Mr. Bartlett was the one that had Bettie to get that forged deed?

A. I knew that was the same Mr. Bartlett.

Q. That took the forged deed? A. Yes, sir I knew that.

Q. Getting back, you have been drawing that fifty dollars every month. A. Yes, sir.

Q. Paid pretty regularly?

A. No, sir, sometimes get behind with me, no, sir.

Q. How is it paid, by check or cash?

A. No, sir, sometimes I get money from Mr. Buell and sometimes from the Pinkertons, and sometimes from Mr. Bartlett.

Q. The Pinkertons detectives are not paying you now?

A. No, sir. I go there when I am out of money and get it.

Q. You don't claim that the Pinkertons are paying you anything? A. No, sir, but I get it.

Q. You get it through the Agency?

A. No, sir, but I go there and get it.

Q. Mr. Buell is reimbursing the Agency?

A. Yes, sir, when I get it.

Q. How often did you expect to draw that fifty dollars?

A. As long as this case goes on I guess.

Q. Until it gets up to three thousand?

A. No, sir, if the Government loses the case I don't get another cent.

Q. But as long as the case is going on you get fifty dollars? A. Yes, sir. And if the——

Q. And if the Government wins the case——

A. I get the balance of the three thousand ($3,000.00) dollars that I haven't drawed.

Q. Now, does any other officer, either private officer or Government officer, ever pay you any money? A. No, sir.

Q. Did Mr. Montgomery pay you fifty dollars once?

A. Oh, no, Mr. Montgomery, he gave me immunity, he explained what he said——

Q. Yes?

A. When I asked him to grant me immunity, he said he would see and he went and came back with a wire later on in the evening, and he said: "Sadie, I will grant you immunity for passing as a Government officer and what you done in this case only"—for nothing but the truth that I was going to tell him, that is all he gave me immunity for.

Q. Now, Sadie, I understand that. When did you first make up your mind—now, answer this as near as you can—

to tell the Government what you knew about this case? When did you make up your mind to do it? A. To do so?

Q. Yes?

A. Judge, I have been running and getting out of the way a long time from Judge Allen and Mr. Cook too, and after I had run off from Tulsa and come up to Leavenworth, when Mr. Buell come there and told me what he did, I told him I was sick of that case and wanted to get out of it, but I didn't know how without hurting myself, I didn't want to be in the case any longer.

Q. Now, Sadie, did you ever talk with Mr. Allen about it until you——

A. I never saw Judge Allen until last winter, the first time.

Q. Did you ever talk to any other Government officer about it? A. No, sir.

Q. Mr. Robinson and Mr. Buell? A. Mr. Buell.

Q. Were the first people you ever intimated——

A. Ever intimated.

Q. That you wanted to turn state's evidence?

A. That I wanted to get out of the case, yes, sir.

Q. And when you did turn, you made your contract right there didn't you? A. No, I didn't.

Q. How long before you made it?

A. Mr. Montgomery found me about a week after that, and after my immunity papers were granted, a few days Mr. Buell came to make an agreement about what he would give me.

Q. What do you mean by immunity?

A. About framing up this case.

Q. What you mean by immunity?

A. I was framing Tommy Atkins when there wasn't none, and passing as a Government officer and I wasn't any, and that is what I got immunity for.

Q. Did Mr. Montgomery agree positively that you would never be prosecuted in the United States Court for what you had done? A. In this case.

Q. Yes?

A. He said he would grant me immunity for what I had done in this case only. Whatever I did in any other case——

Q. He has got a lot of power, but he did agree not to prosecute you and see that you were not prosecuted for anything you ever have done in the Minnie Atkins case?

A. In the Minnie Atkins, yes, sir, Minnie Atkins case.

Q. You are testifying now, knowing that whatever you might say here, you will not be prosecuted?

A. Oh, no. Judge Allen and Mr. German have cautioned me and told me if they catch me in a lie, if I tell a lie and they know it, they will prosecute me.

Q. Is that so? A. Both told me that.

Q. When did they tell you that?

A. Told me that last winter down at court and all the time while the case is going on.

Q. Told you if you perjure yourself at all, which one of them would prosecute you?

A. Told me they would prosecute me, yes, sir, they did.

Q. And that is the reason alone that you are telling the truth?

A. I told the truth when I came clean with Mr. Montgomery. I had been framing up enough and I wanted to get out of it.

Q. Now, Sadie, didn't you come clean largely for three thousand dollars?

A. No, sir, it wasn't. I had left my home.

Q. Sadie, why was it necessary, if you wanted to come clean, to have three thousand ($3,000.00) dollars to come clean on? A. I didn't have no three thousand dollars then.

Q. Now, Sadie, if you had had a change of heart and wanted to relieve yourself of what you had done and tell the truth, why did you want the three thousand ($3,000.00) dollars?

A. I didn't want the three thousand dollars to come clean, but I wanted to get out of the case.

Q. You took it, didn't you? A. Afterwards, yes, sir.

Q. After you took it?

A. Yes, sir, after I was turned loose from the law, yes, sir.

Q. Now, Sadie, see if we can come to some dates now. When did Mr. Montgomery see you?

A. Well, now, I can't fix the dates.

Q. Well, now, let's fix it as near as we can?

A. Now, I can't fix that date, Judge.

Q. Now, Sadie, search your memory. You have had a remarkable memory here for days?

A. Yes, sir, pretty good memory for days.

Q. You not only remember the date, but the day of the month and hour of the day a year ago, and the dates. Tell me now when you saw Mr. Montgomery?

A. I think I saw Mr. Montgomery in December, about the second or third of December, or along in there, I think.

Q. The second or third of December?

A. 1915. December, let me see if that is——

Q. Sadie, haven't you——

A. Let me see——No, sir, in December, 1914, wouldn't that be——

Q. Well, I don't know, Sadie, I would help you if I could.

I am not trying to trap you at all, I just want your dates, that is all? A. I think it is 1914.

Q. December, 1914?

A. Yes, sir, I think the first part of December.

Q. Last December a year ago?

A. This past December, yes, sir, a year ago.

Q. Sadie, didn't you make a written confession in this case? A. To Mr. Montgomery.

Q. That written confession is in the hands of the Government, isn't it?

A. I guess so, I gave it to Mr. Montgomery.

Q. And you swore to it, didn't you? A. Yes, sir.

Q. Now, when was that confession turned over to Montgomery?

A. It was given him that very day, after he came back with my immunity papers, he came back with——

Q. What month was it? A. That was in December.

Q. December, 1914? A. Yes, sir.

Q. You are sure of that? A. Yes, sir.

Q. Just as sure of that as anything else you have sworn to? A. Yes, sir, December.

Q. Now, whatever date it was—Listen to me—Whatever date it was, you had seen Buell before that, hadn't you?

A. I had up at Leavenworth, yes, sir.

Q. And he agreed to give you three thousand ($3,000.00) dollars? A. No, Judge.

Q. Let's be certain about it?

A. I will be certain. No, Judge, not then, no, sir.

Q. How soon after did you see Buell?

A. In a day or two, or three, one or two days behind that.

Q. Had he agreed to give you anything before that?

A. No, sir, Judge.

Q. Now, Sadie?

A. I am telling the truth. He hadn't agreed to give me nothing. I told him I [] sick of the law and tired of running from the law, and he said he would send some Government officer to me.

Q. Told you he would get you immunity?

A. No, sir, he would just send an officer to me.

Q. To do what?

A. So I could make my confession to him.

Q. And get immunity?

A. Yes, sir, I guess that was what it was for.

Q. You saw Mr. Buell before Mr. Montgomery come up there and said I will have the Government officer come to you, didn't he?

A. Yes, sir, said he would send some Government officer.

Q. So you could make your confession?

A. So I could make my confession, yes, sir.

Q. That is it? A. Yes, sir, he did that.

Q. Now, Sadie, why was it you made a confidant of Mr. Buell about it?

A. I didn't make a confidant of Mr. Buell, I told him I wanted to get out of the case and he said he would send somebody to me.

Q. Why did you pick Mr. Buell? Why not go straight to some Government officer, Mr. German or Mr. Allen or some other officer?

A. I went straight to Tulsa and Page told me to get out until this was tried.

Q. Told you to jump the country?

A. Told me to go to Leavenworth and stay there until he got it tried.

Q. I would like to know what date Page told you that?

A. The 10th day of November, 1914.

Q. Sadie, as a matter of fact, when you had these talks did you ever have anybody else present besides the man you was talking to? A. With whom?

Q. Page? A. No, sir.

Q. Nobody but Page was present?

A. No, sir. Judge, Mr. Page and I are friends.

Q. I understand that, and you claim to be very intimate friends.

A. I have been I guess I won't be any more.

Q. Yes. Now, talking about friendship, you went in there and tried to get a thousand dollars on that contract with Page, didn't you? A. Oh, no.

Q. Now, hold on, Sadie?

A. My lawyer, before that, Judge, they had agreed as soon as the Gypsy signed papers——

Q. Hold on Sadie, wait a minute. Did you try to get them to pay you the thousand dollars due you on that contract? A. That was two weeks before I run off, Judge.

Q. Did you try to do it two weeks before you run off?

A. Yes, sir, before they gave me any money at all.

Q. Did you try to get a thousand dollars before you run?

A. I was to have had more than that.

Q. Did you try to get the thousand dollars, Sadie?

A. Yes, sir, I did. My lawyer——

Q. That is it? A. My lawyer.

Q. You got two hundred? A. Not on that.

Q. Page and you were great friends? A. We are yet.

Q. Yet you had to take your lawyer over there to force him to a settlement, didn't you?

A. No, I went to see Mr. Josey.

Q. Why didn't you go to see Mr. Page and get that thousand dollars? A. Mr. Page wasn't there.

Q. He was there the next day, wasn't he, and the day before?

A. There the next day and him and my lawyer came to an agreement.

Q. Why didn't you see Mr. Page and get that thousand dollars?

A. I went in Mr. Josey's office and he didn't give me the money, and wanted to give me a hundred dollars and keep it on the contract or something like that; and I went to get my attorney. Mr. Page and I never had a falling out.

Q. Your relations were very friendly and you had to get your lawyer to get that two hundred dollars?

A. I didn't get the two hundred dollars on that.

Q. Sadie, going back, you went there and got that contract from Page? A. Got it from him?

Q. Yes, to produce certain witnesses?

A. Yes, that is what I got it for.

Q. And have them there. Sadie, did either Page or Long —Now listen to me—Did either Page or Long ever intimate to you that they expected you to buy witnesses?

A. Expected me to buy for——

Q. Yes?

A. No, didn't tell me to buy them. Dennis was the one that he wanted to see.

Q. Sadie, they didn't get you to go to anybody to tell lies? Answer my question.

A. Couldn't tell anything but lies, Judge.

Q. Answer my question. Did they tell you to bring witnesses there to tell lies?

A. If I answer my own way I will have to say yes.

Q. Then, they did tell you to bring lying witnesses?

A. Yes, Dennis and them lying witnesses, and Mr. Page knew it.

Q. How did he know?

A. Knew Dennis had come back from the lying trip, Mr. Page knew then and knows now that there is no Tommy Atkins; and knows of course if I brought him any witnesses he would be telling lie.

Q. Now, Sadie, I insist that you answer my question. You are making an argument for the Government, aren't you?

A. No, sir, I am not doing that.

Q. Well, don't argue, because I am not going to argue with you? A. All right.

Q. As a matter of fact, they never intimated to you that they wanted you to go out and buy witnesses?

A. Not to buy witnesses. I only give them five names.

Q. You were not told to buy any witnesses?

A. Not to buy them I didn't say Mr. Page told me to buy witnesses. He didn't give me money to buy witnesses.

Q. He didn't tell you to buy them? A. No, sir.

Q. You understood him that he wanted you—for you to find them, and to bring the witnesses there to swear that Tommy Atkins lived? A. No, Judge.

Q. Didn't you? A. No, Judge.

Q. Did you understand from him that he wanted you to manufacture witnesses?

A. Yes, I did, Judge. I will be honest.

Q. Where did you get that word produce, from the contract?

A. No, I said produce myself, had Frank Long put it in there.

Q. Put that in there?

A. Mr. Page said for Long to make out a contract, and if you don't like it we will change it.

Q. Sadie, did you dictate it to Frank Long?

A. Yes, sir, sitting right there, and Frank Long went in the other room and brought it back and I was satisfied with it.

Q. Sadie, did Frank Long take it down in shorthand when you dictated it?

A. No, I said that is what I want the contract to say.

Q. Now, Sadie, I will give you a chance and you can explain it. Did you tell it to Frank Long and the stenographer take it down?

A. The stenographer wasn't in there.

Q. Frank didn't take it down?

A. Frank Long was listening to what I said.

Q. He didn't take it down?

A. He went out and came back with it.

Q. He didn't put it down?

A. He went out and brought it in and showed it to me, and let me see the thousand dollars. I said I wanted the thousand dollars ($1,000.00) check put in this envelope and the contract, and taken down and put in the bank; and he brought it back and Mr. Page signed it and I seen it put in there.

Q. Let's go back to this again? A. All right.

Q. Frank went in and brought the contract in there?

A. After I got through talking Mr. Long did.

Q. I don't care whether it was after, or before, or in the middle. He went in there and brought the contract back?

A. Went in the office and brought the contract back.

Q. Brought the contract back? A. I looked at it.

Q. You signed—You says put in the word produce?

A. I says: Mr. Page, I want in my contract produce witnesses. I already gave five names. I wasn't to get any more people for them. Frank Long took me up stairs in Mr. Rice's office and I gave them five people I was to hire.

Q. What was the reason for putting the word produce in there if you had already produced them? Hadn't you?

A. No, I hadn't never seen them.

Q. Listen Sadie. Page knew at the time he made that contract with you, the very witnesses you were going to produce, didn't he? A. Yes, sir.

Q. And you had given him the names, hadn't you?

A. Had given them to Ben Rice up stairs, yes, sir.

Q. And he knew the very people you expected to testify for him that you were going to get?

A. He didn't know whether I could get them or not.

Q. He knew the names? A. Mr. Long didn't know them.

Q. What were the names—It don't make any difference about Mr. Long?

A. The names I was giving Mr. Long was Dennis Jones and Rube Smith, and I said Mary Hamilton and Claude and Long said I can't handle them and don't want them.

Q. Leave those out then?

A. I was to go along and get my witnesses.

Q. But you haven't told me all the witnesses yet?

A. That is all, five.

Q. Rube? A. Yes.

Q. And Mary Smith? A. Mary Hamilton and her husband.

Q. Her husband? A. And Dennis Jones. Five.

Q. Now, two of them were cut out, wasn't they?

A. Two of them were cut out, I don't know as Mr. Page knew that.

Q. Mr. Long cut them out?

A. Up stairs. Mr. Rice, I guess, already had them.

Q. Didn't leave but three, did it?

A. Didn't leave but three as I know.

Q. And those three lived over at Leavenworth?

A. I had been working with them before I ever went with Page.

Q. They had been living there all their lives, hadn't they?

A. Living there all their lives.

Q. And they have families, haven't they, Sadie?

A. Yes, sir.

Q. They have raised children there themselves?

A. Yes.

Q. That is all? A. Yes.

Q. And those are the witnesses covered by your contract. ain't it Sadie?

A. Yes, sir, those are the ones I was working with in the fraud.

Q. Yes, that is it exactly? A. Yes, sir.

Q. Now, Sadie, we will have to commence on this journey? A. All right.

Q. And I will go with you in as short a time as I can. Sadie, the first bogus Tommy that you encountered was in Kansas City, wasn't he? A. Bogus Tommy?

Q. Bogus Thomas? A. In Leavenworth.

Q. Didn't they say they had him here in Kansas City?

A. Oh, yes, the detectives had him.

Q. The first bogus Tommy? A. Yes, sir.

Q. Did you come down here and look at that individual?

A. Yes, sir, Bettie told me a lie.

Q. No, Sadie, I am the lawyer and you are the witness. I am not going to let you run off like that. Answer my questions. I am going to treat you courteously and politely, and more so because you are a darkey, and you answer my questions. The first bogus Tommy, you say, was in Kansas City?

A. In Kansas City, yes, sir.

Q. What sort of looking individual was he, Sadie?

A. A dark complected looking boy, I don't know whether he was pure white or not.

Q. Indian looking? A. I think he was.

Q. Now, Bartlett took him under his wing, didn't he?

A. The detectives had him to come back.

Q. For Bartlett? A. For Bartlett.

Q. And Bartlett took him on down to Oklahoma, didn't he?

A. Had the detectives to get him ready and took him down there.

Q. And you told Bartlett that that wasn't Tommy, didn't you Sadie? A. No, I didn't.

Q. You told the detectives it wasn't Tommy?

A. I told them so, but they said Mr. Bartlett took their word because they were white men.

Q. They were trying to put it over you and you didn't intend for them to do it? Who were these detectives?

A. Mr. Kelsey and Mr. Harrison.

Q. Where are they?

A. City detectives, I think, on the force.

Q. Good men?

A. I suppose so, I don't know anything about them.

Q. They honestly believed that was Tommy?

A. I don't know, sir.

By Mr. German: I object to that as a conclusion.

Q. Said they did? A. From the story the boy told.

Q. They said they thought it was Tommy? A. Yes, sir.

Q. And Bartlett came up and got him?

A. Yes, sir, Bartlett got him.

Q. Buell with him at that time?

A. No, sir, it was a year after that.

Q. Do you know whether Buell was operating in the field at that time?

A. I don't know anything about Mr. Buell and Mr. Bartlett.

Q. Do you know whether he was attached at that time by the Tommy Atkins controversy?

A. I don't know nothing about it, I never seen Mr. Buell until a year ago.

Q. But you do know that they took him to Oklahoma?

A. Taken him to Muskogee; Bartlett and Bettie.

Q. What became of him?

A. I never seen him any more after that.

Q. Do you know whether Bartlett tried to put him off on anybody down there? A. I don't know.

Q. Did you hear him say, Sadie? A. No, sir.

Q. Did you hear Mr. Buell say they tried to put him off?

A. I never knew Mr. Buell until a year after that.

Q. Did you hear Mr. Bartlett say so? A. No, sir.

Q. What did Bartlett say he was going to do with that boy?

A. Take him down to the Dawes Commission, I think.

Q. What year was that? A. 1914, March.

Q. The Dawes Commission was rather a dead and defunct Commission in 1914, wasn't it?

By Mr. German: I object to that as a conclusion.

By Mr. Stuart: Calling for a statement of facts if the witness knows.

A. I think that they were going to take him down there before the Government Commission.

Q. Did they do that? A. I think they did.

Q. Did they enroll him?

A. I don't know what you call it, they were going to take him down to Muskogee, I don't know what you call it.

Q. Now, Sadie, we will start— You told them that that fellow here in Kansas City didn't look like, didn't you, he was too old?

A. I told the detectives that. That was before Mr. Bartlett came.

Q. Then, you started out on your own hook, didn't you?

A. No, sir, they had me go with them, but I didn't do it that day; went on home and went to Tulsa.

Q. I am talking about shortly after that, you started out to hunting a Tommy? A. Oh, no.

Q. How long before you started?

A. I started hunting Minnie after that.

Q. Now, Sadie, that is exactly right?

A. I wanted to find Minnie and see if she was dead, and if she was not, I could get her to do anything I wanted her to do.

Q. You started out to hunt Minnie? A. Yes, sir.

Q. Before you found Minnie, you went to Denver?

A. Went to where those soldiers were.

Q. You went to Denver and came back before ever you found Minnie, didn't you? A. That was to get me a contract.

Q. Hold on. Did you go out there and come back before you ever found Minnie? A. Yes, sir.

Q. What did you go out there for? A. To Denver?

Q. Yes? A. To see if Minnie was at Fort Logan.

Q. You didn't find her? A. No, sir.

Q. Then you came back? A. I got on the trail of her.

Q. And came back here?

A. I didn't know whether I could find her or not when I made the contract.

Q. Then, you made up your mind to go on and hunt for her, didn't you? A. Went for another hunt, yes, sir.

Q. You went out there and found Minnie?

A. Yes, sir, I found Minnie.

Q. Did you take Bettie Mann with you the second trip?

A. Bettie wasn't with me the first trip.

Q. The second trip? A. Yes, sir.

Q. With you all the time after you left here until you got to Seattle? A. Yes, sir.

Q. With you all the time? A. Yes, sir.

Q. And you double crossing Bettie all the time, wasn't you?

A. No, I wasn't double crossing Bettie. Bettie was double crossing me.

Q. And you was double crossing her right back, weren't you Sadie?

A. No, I was hunting her for the man that gave us the money to go and find her; Mr. Bartlett, working for him; and Bettie double crossed me. She made a contract before we left home.

Q. Now, you kept everything that you knew religiously away from Bettie, didn't you?

A. Yes, I did, because I had an idea Bettie was going to sell Minnie to somebody else if she knew where Minnie was.

Q. And you made up your mind to beat her to it?

A. I made up my mind to send for Mr. Bartlett, the man that gave us the four hundred ($400.00) dollars, yes, sir.

Q. You got there and found Minnie? A. Yes, sir.

Q. Walk up to the house?

A. Went to the Fort first and came back to the house.

Q. Walked up to the house and the screen door was latched? A. An inside door was shut too.

Q. But you could see in there?

A. No, the door was shut and the screen too.

Q. How did you see Minnie in there?

A. I didn't see her until she opened the door.

Q. And that left the screen door hooked? A. Yes, sir.

Q. Latched on the inside? A. Yes, sir.

Q. She asked you what you wanted?

A. No, sir, didn't ask what I wanted first.

Q. You said something and then she said what do you want? A. Not until I got in the house.

Q. You said open this door, Minnie Atkins?

A. I seen she didn't know me.

Q. Answer my questions. You said, open this door Minnie Atkins? A. Yes, sir, I said that.

Q. And she opened it?

A. She opened it yes, sir, and I got in.

Q. You knew she was living with Harry Folk at that time, didn't you, you found that out?

A. Yes, sir, I found that out.

Q. You found out she had been married seven years?

A. Not until I got in the house.

Q. But you knew she was married?

A. Yes, sir, I heard she was.

Q. Heard she was? A. Yes, sir.

Q. You got in there and she told you she had been married seven years?

A. Yes, sir, and Harry didn't know she had any children.

Q. And told she was happily married, didn't she?

A. No, she didn't say that. I wouldn't tell you what she did say, Judge, about her husband.

Q. You judged from her conversation that she was happily married, didn't you, Sadie? A. Well, I can't say that.

Q. Sadie, she showed a great disinclination to have people up there know her past life, didn't she?

By Mr. German: Object to that as calling for a conclusion and opinion of the witness.

A. I don't know whether she did or not. Keeping it a secret.

Q. Sadie, she seemed to want to conceal her past life, didn't she?

By Mr. German: The same objection for the same reason.

Q. Answer the question?

A. Nobody, didn't know it there in the Fort.

Q. I know, Sadie, but if you will answer my question now, didn't she tell you she wanted to conceal her past life?

A. No, she didn't tell me she wanted to conceal her past life, didn't tell me that.

Q. Sadie, didn't she tell you she didn't want her husband to know she had ever had any children? A. Oh, her husband?

Q. Yes? A. Yes, she didn't want him to know.

Q. You knew she didn't want him to know she had any—told you she didn't want him to know she ever had any children? A. Yes, she was afraid he would leave her.

Q. She told you those children were illegitimate, and you knew it, didn't you? A. No, sir.

Q. Didn't you know they were illegitimate children?

A. No, sir.

Q. Did you know she had ever been married before?

A. I thought she could have been married.

Q. Did you know it, whether she had ever married or not?

A. No, I didn't. I thought she was married to Peterkin when she left.

Q. You knew this boy Harvey and the other one?

A. Charlie?

Q. And Charlie Harrison, down there, were her children?

A. Yes, sir.

Q. You knew that she hadn't seen them for a long time, didn't you? A. Yes, I knew that.

Q. You knew she had practically forgotten them, didn't you Sadie? A. I thought so until I got to where she was.

Q. I understand, and when she talked to you she said little Alice had been dead so long— A. No.

Q. Mabel then? A. When I asked about Alice——

Q. Didn't she say dead so long, not to talk about it?

A. Told me not to want to know; been dead too long, don't want to know.

Q. Now, Sadie, Minnie tried very hard to keep from her husband the existence of those children, didn't she?

> By Mr. German: I object to that as calling for a conclusion and opinion of the witness.

A. Oh, I don't know.

Q. You understand that?

A. No, she—she told me that day she didn't want Harry to know she had them.

Q. Didn't she weep and ask you, Sadie, not to tell it?

A. No, Judge.

Q. Just answer that. There is no use——

A. Well, I will say no.

Q. Didn't she beg you not to tell it? A. No, Judge.

Q. Now, Sadie? A. No, Judge, I can't say that, no.

Q. Well, didn't she ask you not to tell him?

A. No, Judge, told me to tell him.

Q. Didn't you beg her to let you tell him? A. No, Judge.

Q. Didn't she say, no, not to tell him? A. No, I told him.

Q. Sadie, didn't you swear here when you were examined right in the beginning of this case—Now, listen to me—and isn't it in the record that Minnie asked you not to tell her husband?

A. I told her she would have to and she said that she couldn't. She was afraid he would leave her, and I told her to let me tell him.

Q. You begged her to let you tell him?

A. I didn't beg her, I asked her, and she said all right and she went and 'phoned to him.

Q. When he came in, did he come in in a happy frame of mind? A. The next day——

Q. When you next saw him with his wife—It don't make any difference if it was a week—he was in a happy frame of mind? A. Yes, seemed to be all right.

Q. Seemed to be on splendid terms with, didn't he, Sadie?

A. With her?

Q. With her? A. Yes, with her.

Q. And the very first thing you said, Sadie, was Harry—

A. No, I didn't say Harry.

Q. Mr. Folk? A. Yes.

Q. Do you know your wife real well? A. Real good.

Q. Real good? A. Yes.

Q. That is the first thing you said? A. Yes, because——

Q. Not your causes. You will get a chance to tell everything that was said. Now, Sadie, you said that in a deep whisper, didn't you? A. A deep whisper?

Q. Tolerably low? A. When.

Q. When you told Harry that?

A. No, wasn't nobody in there but us three.

Q. Well, you said, Mr. Folk do you know your wife real good?

A. No, I said Mr. Folk do you know your wife?

Q. Real good? A. No, I didn't say real good.

Q. Good?

A. Good. I said, Mr. Folk do you know your and he said——

Q. I didn't ask what he said. Stop. And then he said, I think not?

A. Yes, sir, I think not. He said he thought——

Q. And then you got up close to him, didn't you Sadie?

A. No, I was sitting down where I was sitting still.

Q. And you said, I have got a secret to tell you?

A. Sitting where I was, I didn't have to whisper to him.

Q. Got a secret to tell you?

A. Said I came to tell you a secret about her. She was sitting with her head down.

Q. Close enough to hear it? A. Yes, sir.

Q. I have come to tell you a secret? A. Yes, sir.

Q. And you said, your wife has got a lot of living children?

A. I told him about Minnie's children. I didn't say about leaving Harvey and Charlie.

Q. Did he say, My God? A. No, he didn't.

Q. Say Good Lord? A. No, he didn't.

Q. Did he say, Oh my? A. No.

Q. Say how do you know? A. No.

Q. Just sat still and looked at you?

A. Sat still and looked at me.

Q. Did he look*ed* surprised? A. Yes, sir.

Q. Very much surprised? A. Yes, sir.

Q. And then Minnie turned to him and began to weep?

A. No, sir, she didn't.

Q. Didn't weep? A. No, sir, she said, Harry——

Q. I didn't ask you what she said. She didn't weep?

A. No, sir, wasn't crying.

Q. She leaned her head on her hands? A. Yes.

Q. She leaned her head on her hand and said, Harry will you ever forgive me? A. No, Harry can you forgive——

Q. What did Harry say when she said that?

A. Didn't say nothing.

Q. Didn't say a word? A. Not a word then, no, sir.

Q. Did he go out of the house?

A. No, sir, he sat there; he was just paralyzed; he sat there.

Q. And looked at you? A. Yes, sir, looking.

Q. And then you looked at him and told him, said: "Well, there is money in it" isn't there? A. Not then.

Q. But in that conversation? A. In the conversation.

Q. And you said Harry there is big money in it?

A. No, not big money, I told him two thousand ($2,000.00) dollars in it.

Q. And then he smiled, didn't he?

A. No, sir, he didn't commence to smile right there.

Q. When did he commence—when did a smile come on his face? A. After I got through telling him.

Q. After you got through telling him? A. Yes, sir.

Q. You told him there was two thousand dollars in it?

A. Yes, sir, two thousand dollars.

Q. Then, the children were forgotten, wasn't they?

A. Yes, sir, as a white man will do when money has come up.

Q. You think that is peculiar to a white man?

A. Negroes haven't got the sense.

Q. Peculiar to white men? A. Yes, sir.

Q. Now, then, Sadie, when did he begin to show that delight? A. When I spoke about the money.

Q. Just as soon as you got through your story?

A. Yes, sir.

Q. You and Harry got to be great friends after that, didn't you? A. He treated me nicely, yes, sir.

Q. You could go to his home whenever you wanted to?

A. I went there every day.

Q. Every day? A. Yes, sir, inside.

Q. You and Minnie talked this thing over from time to time? A. About seven days, yes, sir.

Q. But this Indian woman Minnie said to you there solemnly, Sadie how in the hell did you find me?

A. She said when I walked in there——

Q. I don't care whether it was when you walked in there, sat in, or jumped in. She said how in the hell did you find me?

A. She didn't say it solemnly.

Q. Not solemnly?

A. No, laughingly. She said who is that, and I took my hat off, and after I smiled, she said this is Sadie, and I said yes, and she said how in the hell did you find me, she smiled—anything to find out I will find it.

Q. Then she looked at you and said solemnly, nineteen years ago—— A. Oh, no.

Q. I stole fourteen dollars and forty cents from the Creek Nation and I have been hiding out from that fourteen dollars ever since? A. No, she didn't.

Q. Sadie, she said: Sadie, I committed a crime down in the Creek Nation? A. Not right then.

Q. When did she say that?

A. She spoke about that later.

Q. In the same conversation?

A. She didn't say fourteen dollars ($14.00).

Q. You knew it was fourteen dollars and forty cents ($14.40) a head, didn't you?

A. No, I wasn't down there at the payment.

Q. But you knew it? A. No, I didn't.

Q. You heard it before you went there?

A. I heard Nancy said that she had drawn hers.

Q. Fourteen dollars and forty cents ($14.40)?

A. That Minnie had off Nancy.

Q. You knew she only got fourteen dollars and forty cents ($14.40)? A. I knew it was fourteen dollars.

Q. And she said, Sadie nineteen years ago? A. No.

Q. Hold on. In that conversation—I committed a crime and I have been fleeing from it ever since—hiding from it; I entered Tommy Atkins when I didn't have any Tommy Atkins? A. Oh, no, sir. No, Judge, she didn't.

Q. What did she say, Sadie? A. Oh, my God!

Q. Sadie, what did she say?

A. Oh, Lord, no! No, Judge, she didn't say that. Putting that down too, Judge.

Q. Well, now, Sadie, I will give you a chance to tell me. What she did say about that fourteen dollars and forty ($14.40) cents? A. She didn't say fourteen dollars.

Q. Well, about that money? The money that she stole?

A. She said: Sadie, Thomas Atkins was my father and he had been dead seventeen years when I drew the money. She didn't say how much she drawed.

Q. Well, I know that. A. No, sir.

Q. Sadie, let's not quibble about technicalities, she did say, Sadie, she had been hiding out seventeen years for entering a boy that never did exist? A. No, she didn't say a boy.

Q. Somebody that was her father?

A. No, said hiding from the Government for a crime committed against them for drawing that money.

Q. You knew she meant drawing for somebody that didn't exist? A. Yes, sir, her dead father.

Q. Now, let's see if we can agree. She said, Sadie, nineteen years I have been hiding out from the Government for a crime I committed nineteen years ago?

A. For drawing that money.

Q. Drawing money in the name of Thomas Atkins, my dead father?

A. No. She didn't say any name of Thomas Atkins.

Q. Well, for my dead father?

A. That ain't the way she spoke it.

Q. Tell me how she spoke it?

A. Said hiding from the Government nineteen years for the crime I committed in drawing that money. She didn't say Thomas Atkins was her father—but running from that.

Q. Didn't you tell me a moment ago that the crime she committed was drawing the money in the name of Thomas Atkins, and it was her father and he had been dead——

A. Yes, sir, that is what she said.

Q. And that is the crime she committed?

A. Yes, sir, that is the crime which she committed, drawing that money.

And thereupon, an adjournment is taken until tomorrow morning at nine o'clock.

And thereafter, and on the 17th day of February, 1916, at nine-thirty o'clock A. M. further testimony herein is taken as follows:

SADIE JAMES, being recalled, further testified as follows:

Cross Examination by Mr. Stuart.

Q. Sadie, where is the town of Rye? A. Rye?

Q. Rye. Now, the place by the name of Rye, where is that? A. It is about fifty miles from Pueblo, I think.

Q. How do you get there from Pueblo?

A. You have to go in a machine.

Q. Go in a machine? A. Yes, sir.

Q. When did you go to the town of Rye, Sadie?

A. I went there in September, just this last September past.

Q. This last September? A. This September, yes, sir.

Q. September? A. 1915.

Q. 1915? A. Yes, sir.

Q. I believe you said you made your confession in December? A. Of 1914.

Q. Of 1914? A. Yes, sir.

Q. And the September afterwards, you went to Rye?

A. Yes, sir, I went to Rye.

Q. Did you go by automobile? A. Yes, sir.

Q. Who took you out there, Sadie?

A. Mr. Bartlett's son and a man that runs the garage.

Q. Were you taken by automobile out there?

A. Yes, sir.

Q. What was Mr. Bartlett's son named?

A. His name is Ellsworth Bartlett.

Q. Where did he meet you Sadie?

A. Met me where I was staying out at Pueblo.

Q. What place were you staying at in Pueblo?

A. I was stopping at—I forget the number of the place, but it is on——

Q. Never mind about the number. Do you remember the people you stopped with out there?

A. No, I had a little two-room house rented there from a Dago.

Q. Who told you to rent that house, Sadie?

A. I did myself.

Q. I know, but who sent you to Pueblo?

A. Mr. Robinson taken me out to Pueblo.

Q. What for?

A. Because people were all bad in Kansas City I was afraid to stay here.

Q. You went to Pueblo for protection?

A. Yes, sir, getting out of the way of these men here.

Q. Who were they?

A. I don't know. One man gave me the name of Graves.

Q. Let's go slow.

A. That first man wasn't named Graves.

Q. It don't make any difference whether it was the first or the second; Graves came to you? A. Yes, sir.

Q. What did he claim to be?

A. He claimed to be, told me was a United States Marshal from down in Oklahoma and wanted to arrest me in this case.

Q. Wanted to arrest you? A. Yes, sir.

Q. Did he have a warrant? A. No, he didn't.

Q. Did he claim to have a warrant?

A. Yes, he didn't show me none.

Q. Didn't show you none? A. No, sir.

Q. And he didn't arrest you? A. Yes, I run off.

Q. Could have arrested you right there, couldn't he?

A. Yes, I told him what he wanted me to say. I will tell you what he wanted me to do.

Q. What was it he said?

A. He said that he wanted me to make a statement that I had told a lie on Hugh Bartlett.

Q. Did he promise you anything if you would make the statement, Sadie? A. Did he?

Q. Yes? A. Five thousand ($5,000.00) dollars.

Q. Five thousand ($5,000.00) dollars? Promised you five thousand dollars? A. Yes, sir, five thousand dollars.

Q. If you would make a statement exonerating Mr. Page —what I mean by exonerating, you admit that you told a lie on him?

A. To say so, that I had told a lie on Mr. Page.

Q. On Mr. Page?

A. Yes, said Mr. Bartlett was paying me to tell a lie on Mr. Page.

Q. Now, what kind of looking man was this man Graves, give me a description?

A. I don't know that I could give a description.

Q. Sadie, was he six foot or four?

A. No, he might have been more than four, but wasn't six. This first man wasn't Graves.

Q. I am not asking about the first man, I am talking about Graves.

A. Graves was out in Trinidad.

Q. I don't care where he was, tell me what kind of looking man he was? A. I don't know.

Q. Was Graves out at Trinidad? A. Yes, sir.

Q. What kind of looking man was Graves?

A. I don't know what kind of looking man Graves was.

Q. Now, Sadie, you can give me some idea?

A. I don't think I can.

Q. Now, Sadie, you will have it to do?

A. If I can't, I can't.

Q. Was he a man with black eyes or blue eyes?

A. I think Mr. Graves was light complected, I think. There was two——

Q. Leave out the two. I am talking about Mr. Graves.

A. I think Mr. Graves was a light complected man with blue eyes, I think.

Q. And how tall?

A. Well, I can't tell how tall he was, because I am not any judge of the height of people.

Q. Well, you have a pretty good idea about things, don't you Sadie? A. I don't know how tall he was.

Q. What color are my eyes, Sadie?

A. Blue. Seen you enough to know they are blue.

Q. What color are Judge Allen's eyes there?

A. Hazel I think.

Q. Yes, that is what they call tission brown, isn't it?

A. I don't know.

Q. What color eyes did this man have?

A. I think his eyes were blue; I was scared; I think his eyes were blue.

Q. About how tall was he? A. I don't know about that.

Q. Was he heavy set or thin?

A. Oh, he might have been about the size of——

Q. About the size of Mr. Long? A. I think so.

Q. Look anything like Long? A. No.

Q. It wasn't Long, was it?

A. No, I would have known if it had have been him.

Q. Sadie, is that all you can tell about this man Graves?

A. That is all I can tell, because——

Q. Well, he told you he would give you five thousand ($5,000) dollars?

A. No, that was Graves. This Bludsoe here in Kansas.

Q. Leave out Graves; what was the name of the man here in Kansas City? A. Bludsaw.

Q. Bludsoe? What did Bludsoe represent himself to be?

A. He represented himself to be the same thing. What I am saying, that is what Bludsoe wanted me to do.

Q. Now, wait. We will work to get to Graves.

A. You have got what Mr. Bludsoe said in here with Mr. Graves.

Q. What did Bludsoe say to you?

A. Bludsoe is the man that promised me the five thousand ($5,000.00) dollars.

Q. He did? A. Yes, sir.

Q. Who did he say he represented? A. He didn't say.

Q. What kind of looking man was Bludsoe?

A. He was a kind of man—— I don't know.

Q. Say his name was Jim Bludsoe? A. No, he didn't.

Q. Didn't say his name was Jim? A. No, he didn't.

Q. Say he was any kin to Jim Bludsoe?

A. No, he didn't say who he was related to.

Q. What office did he say he held? A. He didn't say.

Q. Where did he see you, Sadie?

A. 1615 Waldron Avenue.

Q. Did he make an appointment with you before he met you?

A. No, sir, I never saw him until he walked up to where I was setting?

Q. Walked up to your house? A. Yes, sir.

Q. Did he say, I will give you five thousand dollars to do what?

A. He had some papers, to sign these papers, he wanted me to—to say you were hired to tell a lie on Mr. Page.

Q. Did he say who sent him there?

A. No, he didn't say anyone had ever told me.

Q. Did he say where he came from? A. No.

Q. He didn't say where he came from? A. No.

Q. He just walked up to you and said—— Called you Sadie? A. Yes, called me Sadie.

Q. Said, Sadie, I have got some documents here which provide that they will pay you five thousand ($5,000.00) dollars? A. If I will say——

Q. That you were hired to swear a lie against Page?

A. No, hired to swear a lie against him.

Q. Yes? A. Yes, hired to swear a lie against Page.

Q. By Bartlett? A. By Bartlett.

Q. Now, what did you tell him?

A. I told him I wouldn't do it. I went by the Pinkertons then——

Q. Wouldn't do it? A. Yes, sir.

Q. Now, you were in for the money, weren't you?

A. Yes, sir.

Q. Looking for money all the time?

A. Yes, sir, all the time.

Q. Why didn't you take that five thousand ($5,000.00) dollars?

A. Because I had been down to the Court House and told the truth, and think I am going to tell a lie and get in the pen?

Q. You are afraid of the pen are you? A. Yes, sir.

Q. I say you are afraid of that? A. Yes, sir.

Q. That is on your mind all the time?

A. The penitentiary?

Q. Yes, afraid of the pen?

A. Afraid of the jails and the pen.

Q. That is constantly with you, isn't it? A. Well, yes.

Q. Night and every—— A. Not every day and night.

Q. Well, we will leave that for a minute, what were you doing in Trinidad?

A. I ran off from Pueblo and staid up at Rye. I didn't want to stay in Rye and I went to Trinidad to stay? That is where Graves came to me.

Q. Let's go back a little. Somebody had you taken in an automobile to Rye?

A. Yes, sir, I sent for him to do so.

Q. You say it was Mr. Bartlett's son? A. Yes, sir.

Q. What was his name? A. Ellsworth.

Q. Who else was in the automobile besides you and Ellsworth?

A. I was in the automobile with Ellsworth and Mr. Fairbanks, chauffeur in their automobile with my husband.

Q. Who was in the automobile with Ellsworth?

A. Ellsworth Bartlett, only a one—little one seated car.

Q. You in with him? A. Yes, sir.

Q. How did he know you were in Pueblo?

A. As soon as I got out there, Mr. Robinson put me in care of a city detective, Mr. Green.

Q. Where? A. Out in Pueblo, Mr. Green.

Q. Had you notified him you were going to Pueblo?

A. Notified Mr. Green?

Q. Notified Mr. Bartlett?

A. No, sir, I hadn't notified him, no, sir.

Q. Notified Mr. Buell? A. No, sir.

Q. Had you notified anybody? A. No, sir.

Q. Well, how did this young man know you were at Pueblo? A. How did he know it?

Q. Yes?

A. As soon as I got to Pueblo, Mr. Robinson put me in the hands of a detective, Mr. Green, I guess.

Q. Mr. Robinson, the Pinkerton man? A. Yes, sir.

Q. What was the name of that detective?

A. Green, the city detective there.

Q. Have you seen him since?

A. I saw him the day that I run off that I had to leave there.

Q. What did you run off from Pueblo for?

A. A man came to me, this Bludsoe that caught me here in Kansas City caught me at Pueblo.

Q. You were still fleeing?

A. Still flying from that man, yes, sir.

Q. Ellsworth told you to come then and find a place of refuge at Rye? A. I sent for him.

Q. He told you it would be perfectly safe at Rye?

A. Yes, sir.

Q. When you got out there, who was there at Rye?

A. Ellsworth and the hired hands and his wife.

Q. What time did you get to Rye?

A. Got to Rye at about two o'clock at night.

Q. Two o'clock at night?

A. It must have been, yes, sir.

Q. Did you drive right in, did you? A. Yes, sir.

Q. Did they have a room provided for you?

A. No, their house is a little house up on the hill, about a mile from where they live.

Q. Did they have a residence there? A. Rye?

Q. Have a big residence there? What was that Rye, a summer resort?

A. No, that is where Mr. Bartlett's son lives.

Q. That is Mr. Bartlett's farm in Colorado?

A. His son's farm.

Q. His son's farm in Colorado? A. His son's farm.

Q. When you got there, they took you out to a house?

A. Yes, sir.

Q. It was already prepared for you?

A. No, that house belonged to another woman.

Q. It was all prepared for you when you went in?

A. No, the woman was there, a little one room house.

Q. The house was prepared for you and you walked right in? A. I didn't stay very long, she wanted me out.

Q. I will ask you that directly. How long did you stay at the town of Rye?

A. Stayed there three weeks I believe.

Q. You went to the Bartlett's house, of course?

A. I would go there, yes.

Q. From time to time?

A. Yes, I went there quite a number of times.

Q. And you had several conversations with Ellsworth at his house, at Bartlett's house?

A. Yes, I had a conversation with Ellsworth.

Q. And Mr. Bartlett came out, didn't he, the old man?

A. No, not out there at Rye.

Q. Did Mr. Buell come out? A. No.

Q. Nobody but you and Ellsworth? A. Out at Rye.

Q. Did Mr. Robinson come out there?

A. No, Mr. Robinson didn't know I was out there.

Q. You stayed there three weeks?

A. Stayed there three weeks.

Q. Now, I want you to tell me what you and Ellsworth talked about?

A. I didn't talk to Ellsworth about this case.

Q. Well, now, what did you talk about?

A. Lots of other things, wasn't about this case.

Q. Ellsworth had taken Bettie up to Lawrence, hadn't he, you knew that? A. I knowed that.

Q. And you knew that Ellsworth was the one that came up here and got this forged deed, didn't you?

A. Yes, sir, I did.

Q. You knew that boy of Bartlett's came up and got that forged deed didn't you?

A. Yes, I knew Bettie and then——

Q. You knew this Ellsworth Bartlett was the one that got that forged deed?

A. No, I didn't. I would like to take that back, because I didn't know Ellsworth came with Bettie, or which one of the boys came.

Q. But you had known Ellsworth?

A. I never had seen Ellsworth before.

Q. You had heard that Ellsworth came up here and got that deed? A. I didn't know which one it was that came.

Q. Why did you tell me a while ago that you knew Ellsworth got the deed?

A. I didn't know that then, I learned it afterwards.

Q. Who did you hear that from? A. From Ellsworth.

Q. Out at Rye? A. Yes, sir, at Rye.

Q. He told you that he was the one that got the forged deed? A. Yes, sir, at Rye with Bettie.

Q. He told you he knew it was forged too didn't he?

A. No, he didn't.

Q. Didn't tell you that? A. No, he didn't.

Q. I thought you told me a few minutes ago that you and Ellsworth didn't talk any about this case?

A. About this case?

Q. Talked about that deed? A. Yes, the forged deed.

Q. Hasn't it got something to do with the case?

A. I thought you meant about this other.

Q. Well, you and he did talk about the deed?

A. About the deed, yes.

Q. Then you say you were down there at Rye three weeks? A. Yes.

Q. Who paid your expenses while you were there?

A. Myself.

Q. Who fed you? A. Myself.

Q. Where did you get the money from?

A. I had it when I got there.

Q. Sadie, how much were you getting a month at that time? A. I was getting fifty ($50.00) dollars.

Q. From whom? A. From Mr. Buell.

Q. Did any of it help pay for your food? A. No, sir.

Q. What did you do?

A. I sent to town—— Out there at those country places, it don't take very much to live on. I didn't have any rent to pay; live for one dollar or two dollars a week.

Q. With this chunk of money you bought a lot of things out there? A. I didn't need nothing.

Q. Just lived on air? A. No, not so much air.

Q. But you did buy stuff, didn't you?

A. But the store was nine miles from there.

Q. Assuming it is eighteen, you did buy stuff?

A. I didn't buy over four dollars' worth of stuff.

Q. You paid for that stuff?

A. No, I didn't; Ellsworth brought it up there to me.

Q. Charged it to Bartlett?

A. I would tell him what I wanted.

Q. And Ellsworth would just furnish the stuff?

A. He bought me some stuff when I first got out there, and I gave him two dollars to get some salt meat in town.

Q. He fed you pretty well, didn't he Sadie?

A. No, he did not.

Q. Did you live hard? A. No, but not as I do in town.

Q. You didn't live quite as well as you did when you were at Seattle, and San Francisco and Los Angeles and Portland, did you, Sadie?

A. No, I had lots of money then; I was putting up at the hotel.

Q. The best that the country afforded out there?

A. Yes—and salt meat and potatoes——

Q. How often did Ellsworth take you out in the automobile? A. Not a time while I was there.

Q. How often did he come down to the house after you?

A. Ellsworth never come to my house.

Q. That is your house? A. My husband was with me.

Q. How often did he come there?

A. He taken us there that night and come back the next morning to tell me a man was coming to bring me something to eat.

Q. You told me a few minutes ago that you were there frequently at Ellsworth's residence? A. Going to his house?

Q. At his residence? A. I would go.

Q. I want you to tell me, through that three weeks, what you and Ellsworth talked about?

A. Didn't talk about anything only that deed.

Q. What else did you talk about?

A. I don't know what else we talked about.

Q. Well, he told you to be of good cheer, he would protect you? A. No, he didn't tell me that.

Q. Did he say, Sadie, you will be all right, you stay with me?

A. He told me, you stay out here and I will be all right; nobody will come out there after——

Q. Nobody? A. Nobody would come out there after me.

Q. That was sort of a summer resort?

A. No, they have got about twenty thousand acres out there.

Q. You just went at will?

A. Some colored people lived right next, I went there.

Q. I understand that you still stayed with Will?

A. Sure, out there fifty miles from town.

Q. Just as you wished, you did?

A. No, I didn't want to stay, I never had no good time.

Q. Where did you want to go?

A. I don't know, they run me around so.

Q. Where did you want to go?

A. I had rather been in Oklahoma where I lived.

Q. What time was this that you went to Rye?

A. About the middle of September.

Q. What year? A. 1915.

Q. Wait a minute, 1915? This contract that you spoke of with Bartlett, you made when? A. December.

Q. What year? A. 1914.

Q. Then, about ten months after you made this contract with them—— A. Didn't make no contract.

Q. This agreement? A. Yes, sir, didn't make no contract.

Q. Well, call it an agreement? A. Well, all right.

Q. It was an agreement made upon good consideration, wasn't it? A. Yes, sir, I would do it.

Q. It was valid in every way as you understood it?

A. I understood it, yes, sir.

Q. And binding? A. Yes, sir.

Q. And you expected to get the money; now, ten months after that, you turned up at Rye, didn't you, in Bartlett's country residence—ten months from December, the 17th—— I believe I am wrong; about nine months?

A. Yes, sir. I was trying to see.

Q. After nine months though, I understand that you turned up at Rye? A. Yes, I went to Rye.

Q. When did you leave Rye?

A. I left Rye about the first part of October I guess, October, let's see——

Q. Sadie, now you see—— Give me the date?

A. I think it was in October.

Q. Of what year? A. 1915.

Q. You went there in September?

A. I went out to Rye in—yes, sir.

Q. You left Rye when? A. I left Rye in October.

Q. 1915? A. 1915.

Q. Now, Sadie, in February, 1915, you signed a written confession to the Government, didn't you? A. February?

Q. Yes? A. No, I didn't.

Q. Are you certain of that? A. Yes, sir.

Q. You swear your confession is not dated in February? Remember, I have got that in my possession?

A. I don't care what you got, I made it in December.

Q. Didn't make it in February?

A. No, I didn't, I made it in December.

Q. You didn't sign one in February?

A. Sign one in February?

Q. A confession? A. I got my immunity papers.

Q. Did you sign one in February, 1915?

A. No, that I know of.

Q. You say you didn't do it, did you do it?

A. No, that was in December.

Q. You didn't do it? A. No, that was in December.

Q. I want to ask you how many statements you have made to Judge Allen in this case?

A. I haven't made none to him.

Q. How many have you made in his presence?

A. I made my confession to Frank L. Montgomery.

Q. When? A. In Decmeber, 19——

Q. Haven't you signed a half dozen statements since that? A. No, I haven't.

Q. Have you signed a single statement since that?

A. No, I haven't.

Q. Certain of that?

A. Since I signed that one to Mr. Montgomery in December?

Q. In December? A. Yes, sir, I know.

Q. Put your head on it now, I don't want to trick you now?

A. No, I haven't signed nothing since I signed that one.

Q. How many times since you made—— Now listen—that confession to Montgomery in December have you talked to Judge Allen in this case about your confession?

A. I have never talked with Judge Allen about my confession.

Q. Never have? A. No, sir.

Q. Never have talked with him at all? A. No, sir.

Q. Never have had any conversation with him?

A. No, sir, about my confession, no, sir.

Q. Haven't you had conversations with him about what you said in your confession? A. No, no, sir.

Q. As a matter of fact, Judge Allen has never questioned you about this case since you made your confession, has he?

A. No, sir, only when we went down to Muskogee last winter; that was the first time I ever saw Judge Allen.

Q. And since then he has had no conversation with you about your confession?

A. No, sir, not about my confession.

Q. Anywhere or at any time?

A. No, sir, nowhere at any time.

Q. Who has? Name somebody that has?

A. I don't know of anyone that has.

Q. Do you know of any person that talked to you about that December confession? A. No, sir.

Q. Have you talked to Mr. Meserve about it? You know him? A. Yes, I know Mr. Meserve.

Q. What relation does Mr. Meserve bear to this case, do you know?

A. I can't tell you to save my life; that is honest; I don't know.

Q. He is representing Mr. Bartlett?

A. I can't say that.

Q. Did he ever tell you so? A. No, sir.

Q. Mr. Meserve paid your doctor bill since you have been here? A. Did pay it twice, four dollars.

Q. What did he do that for?

A. I didn't have the money.

Q. He furnished the money?

A. He took me up there, he ought to pay it.

Q. Did he tell you it was Mr. Bartlett's money?

A. Didn't tell me.

Q. Who found the doctor?

A. You all told him to take me out.

Q. He just paid the doctor?

A. Two dollars the first trip and two dollars the second trip.

Q. How long has Mr. Meserve been connected with the case, as far as you know? A. I don't know that.

Q. Haven't you talked with Col. Meserve time and time again about this law suit? A. No, I haven't.

Q. Didn't talk at all?

A. No, I have not, I am not going to say I did when I haven't.

Q. That is what I want you to tell, the truth?

A. Yes, sir.

Q. You swear to me that you haven't talked to Meserve about what you were going to swear in this case?

A. Yes, sir, I will swear it.

Q. Not at any time? A. I will swear it.

Q. Under any circumstances?

A. Under any circumstances that I have not ever talked to him about my confession.

Q. About what you are going to swear in this case?

A. No, I haven't.

Q. Have you talked with my friend, Mr. Robinson over here? A. No sir.

Q. Have you told him what you are going to swear?

A. No, sir, and he didn't know what I told Mr. Montgomery either.

Q. He didn't know either? A. No.

Q. You kept that secret?

A. I did from him. I didn't think it was Mr. Robinson's business.

Q. Now, Sadie, who has talked to you about this case?

A. Not no one.

Q. Not a single soul?

A. No, sir, I made my confession to Mr. Montgomery and I haven't talked to any one about it.

Q. Since then? A. Since then.

Q. Since you made that confession in December, 1914, nobody has talked to you about this case?

A. About my confession, no, sir.

Q. And about what you would swear in this case?

A. No, sir, nobody.

Q. Nobody has conferred with you?

A. No, sir, they haven't.

Q. You tell that to this Examiner to be true?

A. I am telling it to him.

Q. To be true?

A. To be true. No one talked to me about my confession.

Q. About what you would swear in this case?

A. In this case.

Q. What your testimony was going to be?

A. Nobody has, I am telling it to this man because I wouldn't talk to them.

Q. Although you had confessed it?

A. I had confessed it to one man only.

Q. Now, Sadie, have you ever been up at the United States Attorney's office at Muskogee? A. No, sir.

Q. Never have?

A. I don't know where that is at; up at the Court House where I was swearing last winter?

Q. Yes?

A. Yes, sir, I have been up in there where I was swearing.

Q. Did you make any other statement up there?

A. No, sir.

Q. You know what a supplemental statement, an additional statement—— Have you made any statement, any supplemental statement since your confession in December?

A. Yes, sir, I haven't done that.

Q. Haven't done that?

A. No, sir, I haven't seen nobody in Muskogee, I don't think.

Q. So that if a statement purported to be made by you in February is presented, it is not right?

A. I made a confession in December and I signed that.

Q. That is the only one you know of or have heard of?

A. Yes, sir, that is the only one I know of.

Q. Yes, or have heard of? A. Yes, sir.

Q. Now, Sadie, you have been promised immunity in December, 1914? Hadn't you? A. Yes, sir.

Q. Judge Allen wired up here?

A. Yes, sir, that my immunity was given me.

Q. And you knew from that hour that you were under protection of the Government, didn't you?

A. For what I had done in this case?

Q. Yes, you were under the Government's protection?

A. Yes, sir, the minute I signed.

Q. Now, will you tell me, if you were under the Government's protection in 1914, what you were afraid of in December, 1915? A. December?

Q. September, 1915?

A. Running from detectives that would come and find me. That is what I was afraid of. I had five or six men on me.

Q. Sadie, weren't you running from men that was trying to interview you as to the truth?

A. As to the truth? No, sir, I had told the truth.

Q. Didn't they tell you, didn't Bartlett and Buell tell you not to talk with anybody?

A. No, they didn't; no, they didn't tell me not to talk with anybody.

Q. Didn't somebody tell you not to talk to anybody?

A. Who has give me advice not to talk to anybody, Judge? My! Nobody has to give me advice.

Q. Sadie, if you don't need advice, why were you running to Rye for protection?

A. To keep this man, Judge Stuart, from getting me; I was afraid they would kill me.

Q. What men? Detectives were trying to kill you?

A. Yes, sir, in a big case, and turning up fraud like this I was afraid I might be killed.

Q. You were afraid of getting assassinated?

A. Yes, sir.

Q. You have killed a man haven't you?

A. Yes, sir, and I would kill another one if I had to.

Q. You are afraid of getting killed? A. Yes, sir.

Q. Wasn't you carrying a gun at that time?

A. No, sir, I didn't need no gun. I wasn't running a road house.

Q. You knew that you had protection all the time, didn't you, Sadie? A. There was no one around me if I did.

Q. You said you would kill another one? What other one do you want to kill?

A. If some one tried to take my life like the negro I killed, I would kill another.

Q. You aren't craving to kill another one now?

A. No, sir, I am talking about if some one was to try to kill me.

Q. *Dod* you think anybody in this case is afraid of you?

A. No, sir, I know they are not.

Q. You get that out of your mind if you think so.

A. No, sir, I am speaking about this man like I had killed——

By Mr. German: I object to the question of counsel as being argumentative and improper.

Q. You have often said, Sadie, that you wasn't afraid of anything that wore hair, haven't you?

A. That depends, Judge.

Q. Now, tell me; haven't you said that?

A. Once on a time, yes, sir, when I was running the Road House.

Q. Once in a time that you were running the Road House you—— A. Nothing that rolled on top of the earth.

Q. Now, when did you get so that you were afraid of people? A. After I had made my confession.

Q. After you made your confession?

A. Yes, sir, I got afraid.

Q. Were these white men or negroes that came to you?

A. They were white men.

Q. White men? A. Yes, sir, white men.

Q. And you were afraid that these white men were going to assassinate you?

A. The ones that came to me, I didn't know what they were hired somebody to do. They didn't look like desperate men that came to me.

Q. They didn't threaten to kill you, did they?

A. No, they didn't say they would do so.

Q. Sadie, did any human being threaten you with violence? A. No, they didn't threaten me, I was afraid.

Q. You took up the idea that some of these people questioning you might kill you?

A. I didn't think they would; they might hire somebody else, I didn't think they would.

Q. And in view of that fact, you went to Rye, Colorado, and there found your peace, didn't you?

A. I run away from Kansas City first and went to Pueblo.

Q. To Rye, and from there to Trinidad and to Rye?

A. Yes, sir.

Q. And in Rye you found peace?

A. No, sir, I stayed there three weeks and I left.

Q. You wanted to get out of there?

A. It was too lonesome there for me; five thousand dollars——

Q. Magnificent snow-clad mountains? A. Yes, sir.

Q. Plenty to eat? A. No, sir, didn't have plenty to eat.

Q. Lots safer and to know? A. No.

Q. How came you——

A. I got lonesome and wanted to get back in town.

Q. Back into company?

A. No, sir, there was no company out there for me to get in there.

Q. You were a stranger?

A. I wanted to get back in Trinidad, I wanted to see town.

Q. You wanted to get back to the bright lights?

A. I am not a country woman and I wanted to get back to town.

Q. To the white lights? A. Yes, sir.

Q. While you had lights, you didn't feel any apprehension about anybody killing you, did you? A. Yes, sir, I did.

Q. Did you feel any fear about anybody killing you?

A. Rye was a mile from where I lived.

Q. Didn't you believe Ellsworth?

A. There was thousands of miles around there. How did I know who would come out and kill me at night.

Q. Ellsworth had five thousand acres there?

A. A big farm. He has got a large ranch there.

Q. He furnished you that house?

A. It wasn't his house.

Q. He hired it?

A. I don't know whether he bought it or not, I stayed in it.

Q. You didn't pay for it? A. I didn't pay for it.

Q. Somebody paid for it? A. Somebody paid for it.

Q. And Ellsworth put you in there that night?

A. He put me in there.

Q. Took you in his automobile, didn't he?

A. He came in there and took me and my trunks out, I 'phoned for him.

Q. You began to long for the "Flesh pots of Egypt," didn't you? A. Yes, sir.

Q. Wanted to get back to town? A. Yes, sir.

Q. Did you notify him of that?

A. No, sir, he kept putting me off and said he would take me, and I just run off.

Q. Take you where? A. To town where I wanted to go.

Q. He still wanted to hold you?

A. I was out there scared.

Q. He didn't want you to go, did he, Sadie?

A. No, sir, I came out there for protection and he told me to stay there.

Q. During that three weeks, did you go to Ellsworth's house? Have any meals at his house?

A. No, sir, never ate at his house.

Q. Who lives at his house?

A. His wife and a hired girl and about fifteen ranchmen, I guess.

Q. Tell me who you knew at that house?

A. Didn't know a soul but Ellsworth, never seen a soul.

Q. You were trusting him?

A. Trusting him and those cow-boys.

Q. To the extent of their ability?

A. I knew what they would do if they saw anybody coming to me.

Q. You knew they would do them up?

A. Yes, sir, I knew they would do them up.

Q. You got a feeling of solitude and couldn't stand it?

A. No, I didn't want to stay there any longer.

Q. What place did you go to?

A. I made for Trinidad.

Q. How long did you stay there?

A. I stayed in Trinidad about four weeks.

Q. Four weeks, I believe you say for—— How big is Trinidad? A. Trinidad is a big place.

Q. About how many thousand people?

A. I don't know how many people. I didn't go around much.

Q. What place did you first go to?

A. I first went to Daniel's Place on 305 on Bluff Street and I stayed there a week and left, and then went to 432 West Main, another colored place.

Q. You wrote Ellsworth your address, didn't you?

A. After I got over there.

Q. At Trinidad? A. Trinidad, yes, sir.

Q. What did you say in that letter to Ellsworth?

A. I don't know what I did say.

Q. Tell us, Sadie? A. I couldn't read it.

Q. You wrote him didn't you?

A. I called him over the 'phone.

Q. Did you give him your street number?

A. I told him where I was.

Q. What did you say to him besides telling him where you were?

A. I told him to call up Bartlett or Mr. Buell or somebody and let them know where I was.

Q. And let them keep on tab of you? A. Yes, sir.

Q. You wanted them to know where you were all the time?

A. Yes, sir, I wanted them to know where I was all the time.

Q. All the time? A. Yes, sir.

Q. You were not scared in Trinidad, were you?

A. I run off I guess I was.

Q. Who scared you out of Trinidad?

A. This man Graves came to me in Trinidad.

Q. Bluffed you out of Trinidad?

A. Yes, sir, he bluffed me out.

Q. Where did you go?

A. I went to Rye. I went first to Walsenburg and sat up in the court house all night; stayed up in the court house from eleven o'clock at night until four in the morning; and set out in the morning to get me a room at a Dago place until seven o'clock in the morning.

Q. Were you sober? A. Sure I was sober.

Q. Dead sober? A. Dead sober.

Q. Where did you go from there?

A. Taken a machine and went back to Rye.

Q. Who furnished the machine? A. Hired one.

Q. Who paid for that machine?

A. Mrs. Bartlett when I got out there.

Q. Mrs. Bartlett had come out to Rye?

A. Mrs. Bartlett was already there.

Q. Came out there since you left Ellsworth?

A. She was out there all the time, I didn't stay at their home.

Q. Oh, you didn't tell me that?

A. They have quite a fine ten thousand dollar home there.

Q. That is what I thought. Bartlett's wife was out there in the summer home? A. Young Bartlett's.

Q. What Bartlett? A. Ellsworth.

Q. Lived in a fine ten thousand ($10,000.00) dollar home?

A. They had the house built like that.

Q. That place where you went to?

A. Down there, that place wasn't built then.

Q. That ten thousand dollar home, the one that you went to? Rye, that's where you went to?

A. Yes, sir, stayed there.

Q. What did you go back to Rye for?

A. To tell them what happened in Trinidad.

Q. You went back to tell Ellsworth what happened?

A. Yes, sir.

Q. Thought you would find protection in Rye again?

A. Yes, sir, I went out there for protection.

Q. You thought you would find it?

A. I didn't take my husband with me, left him in Trinidad, running off from him, and everybody else.

Q. You quit the whole thing?

A. Yes, sir, a lot was after me, United States Marshal, Graves. Graves said he was to carry me back to Muskogee.

Q. Hadn't the Government here, Mr. German and these people here, promised you protection?

Q. Yes, but he told a lie; said when I made the confession down there I hadn't implicated anybody else but myself and a warrant was out for me, he was a United States Detective and would take me back the next morning at seven o'clock on the seven o'clock train; and I left that night on the ten o'clock instead of waiting until seven.

Q. He didn't take you did he?

A. No, sir, he didn't take me.

Q. Did he take you?

A. He told me he would take me back in the morning at seven.

Q. Did he take you to Rye?

A. I left that night about ten o'clock; he left about seven in the evening and was to be back in the morning for me at seven, and I left that night.

Q. Tell me how you gave him the slip?

A. My husband got a machine and circled me around in town first, I taken a train and got into Trinidad about eleven o'clock, and then the next morning I taken an automobile.

Q. And you left your husband then?

A. Yes, sir, and I went to Rye.

Q. What did you leave him for?

A. I couldn't take him over there with me as fast as I was getting out of the way.

Q. He could ride in the automobile as well as you could?

A. I didn't leave in an automobile. When I left Trinidad I left on the car forty miles of Walsenburg.

Q. Gone on the car as well as you could?

A. Who would pay for him. I had nothing to carry him with.

Q. What became of your money?

A. Didn't I have to live in Trinidad?

Q. What had become of your money? A. I had spent it.

Q. Hadn't you wired for more money?

A. What can I do on fifty dollars a month running around?

Q. That is what I want to know. Did you wire for any more money?

A. No, sir, I got some money I didn't wire for it.

Q. Who from? A. Ellsworth.

Q. How much did Ellsworth give you? A. Fifty dollars.

Q. The last time? A. Yes, sir, the last time.

Q. The second trip?

A. Yes, sir, and I stayed there four days and I left; went back to Walsenburg.

Q. Were you still afraid to stay in the light?

A. I didn't go there to Rye to stay that trip.

Q. I didn't ask you that?

A. Because Ellsworth wasn't there when I got there; I had to wait.

Q. You would be more uneasy with Ellsworth not there?

A. But his wife and the Rangers were there.

Q. Weren't you more uneasy during that four days?

A. I didn't intend to stay there.

Q. You were uneasy during that four days?

A. Their house, I wasn't in that little house then.

Q. You stayed in their house? A. In their house.

Q. What part of their house was it you stayed in?

A. They didn't have but two rooms, the new house wasn't done.

Q. You stayed in one room and they in another?

A. No, they had a tent waiting for the house to be built.

Q. You stayed in the new house? A. No, I didn't.

Q. I thought you said they had two rooms in that house?

A. In that little house.

Q. Did you say they had two rooms in that little house?

A. A little two-room house. They cooked in one, and then their front room, and then they had a tent out there they slept in; and lots more tents around there.

Q. Who stayed in the front room?

A. That is where I slept.

Q. Where did Ellsworth stay?

A. Ellsworth and his wife slept right back of their house in a tent, and the big house they were building was in front.

Q. Sadie, the truth is, from December, 1914, to this hour, you knew that Bartlett and Buell expected you to swear for them, didn't you? A. Why sure.

Q. Sure you did?

A. Sure, I had made a confession to the Government and what I said to the Government I was telling the truth there they knew would help them, I suppose, sure.

Q. Sadie, did you think you could kidnap anybody?

A. No, I went there to try it.

Q. Well, I know, but before you entered on this kidnapping business, had you ever kidnapped anybody?

A. No, I don't think I have.

Q. How many people have you kidnapped in your life?

A. I don't think I kidnapped anybody.

Q. You kidnapped a baby away back yonder, didn't you, Sadie? A. No.

Q. Sure? A. Sure, I am honest.

Q. Honest?

A. Sure, I am honest, I had a baby of my own, I didn't want to kidnap any more.

Q. Sometimes they want more than one?

A. No, I didn't, couldn't keep it.

Q. Didn't pay you enough? A. No, sir.

Q. Now, Sadie, when did you go into the kidnapping business?

A. After I went with Mr. Page, October 7th, he hired me to go and get Nancy.

Q. Didn't you testify that Mr. Long wanted you to kidnap Minnie? A. Wanted me to——

Q. Kidnap?

A. Steal Minnie and bring her to Oklahoma, three thousand dollars and bring her to Oklahoma, he didn't say kidnap, steal her.

Q. Steal her? A. Steal her.

Q. Sadie, how did you intend to steal her?

A. I had control over Minnie; she had no baby and I had control over her and had been a friend of hers, and Frank Long knew I did, knew he couldn't do anything with her as Captain McNab had her, and he knew I could get her away from there.

Q. How did you get that control over her? A. That is it.

Q. That is it? A. That is it, I will keep that.

Q. I demand that you tell it? A. I won't do it.

Q. You refuse to tell it? A. Yes, I do.

Q. Would it incriminate you? A. It would.

Q. Subject you to prosecution?

A. Yes, sir, and Minnie and myself both.

Q. Yourself and Minnie both?

A. Yes, sir, and I refuse to tell it.

Q. And in that way you got control over Minnie?

A. Yes, sir, in that way.

Q. She became your willing servant after that and she would do whatever you told her to do?

A. No, I hadn't seen her for a number of years.

Q. All right, you got this control? A. Many years ago.

Q. Away back yonder? A. Away back.

Q. What year? A. Away back.

Q. What year was it, name the year?

A. I won't tell that.

Q. That won't incriminate you?

A. It would incriminate me.

Q. I demand that she tell it.

A. I won't tell it, I won't tell it.

Q. Sadie, tell me the year? A. I won't, Judge.

Q. Sadie, tell me the year?

A. I would like to Judge, I can't.

Q. You want to be honest in this thing?

A. I want to be honest but I can't tell you.

Q. What year was it, Sadie?

A. Judge, I can't tell you. I refuse to tell you what place it was. No, Judge, I can't tell you.

Q. What place was it? A. I can't tell you.

Q. You got a grit one on her then?

A. She got one on me and I got one on her.

Q. Still got it on her?

A. Yes, sir, and she has got one on me.

Q. Exercising it now? A. No, sir.

Q. When did you turn it loose? A. I am keeping that.

Q. When are you going to play it, Sadie?

A. I expect my God will make me pay it.

Q. When? A. When I get ready to die.

Q. When you come to your death bed, you will plank up the truth, won't you? A. Between me and Minnie.

Q. But you are not going to do it until you get there?

A. Between me and her and she is not going to do it. If she did it will hurt somebody else.

Q. You have not figured on what that time will be?

A. When she dies.

Q. And when you die?

A. No, me or her either, but she will die in that secret, me and her both will.

Q. I would like to know what place it was that you put that hypnotic period on her? A. That is a secret, Judge.

Q. Did you ever pose a conjurer? A. No, sir, Judge.

Q. As a hoodo? A. No, sir, I don't know what that is.

Q. Passed hands before people? A. No, Judge.

Q. Can you look them in the eye and control them?

A. I don't think so.

Q. Now, Sadie, haven't you said several times if a person would look you in the eye long enough, especially a woman, you would control them? A. I can't control you, Judge.

Q. That is your misfortune, you can't control some people. A. Not all of them, Judge. They can control me too.

Q. Minnie exercises power over you?

A. Power over me, if she talks I have got one over her, if she talks.

Q. What is that power? A. No, Judge.

Q. Got a cord that binds you to the——

A. Between me and her.

Q. To the dead, a mystic cord that binds both of you to the dead? A. To the dead.

Q. And through the dead you have got that same?

A. I wouldn't say what that is through, I couldn't afford to tell anybody Judge, wouldn't do it.

Q. I am willing for you to tell it?

A. You wouldn't be if I would.

Q. Minnie is willing for you to tell it?

A. I know she wouldn't be.

Q. I am here to say that she is?

A. I am here to say that she wouldn't, I know more about her than you do.

Q. Now, then, when you told Bartlett that you were going to hunt Minnie, you knew that the moment that you laid your eyes on Minnie, you could throw a spell on her?

A. Throw a spell, she had one throwed on herself before I got there, and the sight of me brought it back to her.

Q. You could recall that to her? A. She hasn't forgot it.

Q. You could recall it?

A. I can never forget, I never can forget.

Q. You could recall it?

A. I can never forget, never on earth.

Q. You could recall it to her, and on that you could wake that memory and control her?

A. I didn't have to wake it; it hasn't never died in her.

Q. Sadie, you have got to answer my question, just make up your mind; I will stay here two months.

A. Judge, you will have to do it if you think I could tell that secret.

Q. I don't want you to tell a secret, I asked you if you knew when you went there, knew you could control Minnie still? Didn't you? A. No, I couldn't.

Q. Didn't you say that you had a grip on her?

A. I knew I had that on her, but I didn't think I could control her.

Q. Didn't you say the grip would put her under your control?

A. I said I could get her to do anything I wanted her to do, told Dennis and Rube.

Q. Under that grip?

A. I supposed so, I told Dennis and Rube.

Q. When you left this country to find Minnie, you knew when you found her that you could control her?

A. I knew she would do whatever I wanted her to do.

Q. Ain't that the same thing?

A. Yes, sir, the same thing.

Q. Then, when you said "Open the door, Minnie Atkins"——

A. She knew somebody knowed her a great many years ago, Judge.

Q. Did she understand that whisper? Come up, come up. A. I am not asleep, Judge.

Q. Don't hide your head, look at me.

A. What did you say?

Q. Open this door, Minnie Atkins? A. Yes, sir.

Q. Did you whisper anything to her? A. No, sir.

Q. She knew it was somebody from the olden days, didn't she Sadie? A. She did that, Judge.

Q. Yet, she had to take off your hat and hear your voice a minute before she knew you?

A. So many years since she seen me she did.

Q. But she knew when you spoke, it was a voice from the dead? A. Voice from the past.

Q. Voice from the deep and silent past?

A. From the deep and grim past, she knew it was somebody.

Q. A crime that you and she committed?

A. She and I committed.

Q. Now, you admit you and she committed a crime?

A. Yes, sir.

Q. You will admit that? A. I will admit that.

Q. You don't claim any privilege?

A. I will admit that; incriminate myself to tell you what it was, that something.

Q. You admit that you have committed a crime with her?

A. I said it will incriminate me and I will say no more than that now, incriminate myself and her.

Q. Did you at any time mention that crime to her in Seattle? A. I did.

Q. Why haven't you told it before in this case?

A. I never have told it.

Q. Why didn't you tell here?

A. You are bringing it out of me right now, you are bringing it out of me.

Q. Sadie, when you were before the Government, when you testified before her officers, and you were making this confession, when you testified at the Receivership hearing, and when you gave your affidavit, why didn't you tell them privately——

A. I couldn't afford to Judge, that is why.

Q. They had offered you protection, hadn't they, Sadie?

A. The only thing that goes was what I had done then.

Q. Sadie, you knew you would be protected, didn't you?

A. No, I didn't, Judge.

Q. Sadie, this is the first time that you have ever intimated to any human soul that you had a shadow hanging over Minnie that you could control her will and her judgment?

A. Yes, sir, this is the first time that I ever mentioned it, you are pulling it out of me now but I won't tell the rest of it.

Q. I don't want any more? A. I refuse to tell it.

Q. You refuse? A. Yes, I refuse to tell it.

Q. Why was it, if that was so, when you came back—when you got back there, Minnie pulled you people out and told you to get out of there, you tried to make her tell a lie?

By Mr. German: I object to that as argument.

Q. Tell me that?

A. She taken me by the hand as soon as I got to the door and started to run in the kitchen; Hanford went there and throwed us apart, this man here; he said, Minnie, you must not talk to Sadie, yes.

Q. When you all went out there. Now tell me this now:

Sadie, you answered my questions very well yesterday, now make up your mind to answer my questions?

A. I will do that as far as I can.

Q. That is all I want. When you went up there afterwards to Minnie's house, she balled you out, didn't she?

A. After Mr. Hanford told Minnie——

Q. Don't make any difference who told her, you answer my questions? A. No, she didn't ball me out.

Q. What did she say?

A. Talking to Mr. Robertson and them.

Q. I don't care who she was talking to?

A. Didn't ball me out.

Q. Didn't tell you you couldn't come in there?

A. She wasn't talking to me.

Q. Did she tell you you had been there trying to make her swear a lie?

A. She might have been talking to them white men, Hanford was there.

Q. What did she say?

A. She said I am still the mother of Thomas Atkins, hadn't told me nothing.

Q. If I had a court here I would have you fined?

A. I can pay it if you did Judge.

Q. I am trying to treat you politely, I want you to answer my questions, you are a woman, if you were a man I would treat you differently.

A. Judge, I can stand about as much as a man can when it comes to fighting.

Q. I understand, I want you to answer my questions.

A. When it comes to fighting, I can do pretty much as you can.

Q. Now, Sadie, answer my questions?

A. Yes, sir, I will do that.

Q. When those people went in that house didn't Minnie ball them out? A. She did.

Q. What did she say to them?

A. I can't say to you all she did say.

Q. Tell me as near as you can what she said?

A. I can't tell you all she did say.

Q. Give me the substance of it, Sadie, as near as you can.

A. She said, Captain McNab has done quit and I am still the mother of Thomas Atkins, and the papers you left here have been torn up. There had been immunity papers left out there for her; I didn't see Minnie for four days.

Q. I know, what did she say there?

A. She didn't say nothing to me.

Q. What did she say to them?

A. Talking to Mr. Buell and Mr. Robinson.

Q. I understand, what did she say to them?

A. Telling them she was still the mother of Thomas Atkins.

Q. Didn't she say, Sadie you are a bunch of crooks?

A. Yes, she did, she knew who she was talking to, yes, she did.

Q. She said you are a bunch of crooks and I am still the mother of Thomas Atkins?

A. I am still the mother. If she had ever been the one she wouldn't have said——

Q. You are a pretty good argurer after all?

A. Yes, you will have to give it to me.

Q. Yes, I will pass it up to you. You say she did say that you are a bunch of crooks?

A. Yes, when Judge Montgomery came back, she didn't know that he was a Government officer, called him a crook.

Q. When you told her he was a Government officer?

A. I said this man is a Government officer.

Q. What did she say then?

A. I said this man, Mr. Hanford has got a power over you and don't let him put you in the penitentiary.

Q. Now, are you through your statement?

A. Through mine.

Q. Your statement?

A. No, sir, I said see Minnie, I told you I was working for the Government, this a Government officer and I will meet you at the court house in Oklahoma, and what I say, Minnie, don't blame me; and she said no, Sadie.

Q. And you and she parted friends?

A. We sat there and talked while Mr. Bartlett, Mr. Hanford and Mr. Robinson talked and Minnie and I sat over at the table, as Mr. Hanford will remember, and talked about Mrs. Richardson.

Q. Did anybody take you out of there?

A. No, nobody taken me out; Mr. Montgomery said, Well——

Q. Mr. Robinson took your arm and led you out, didn't he?

A. No, sir, Mr. Montgomery or nobody led me out. Mr. Montgomery, when he got up to go over to the Fort, said Minnie, this is Sadie James you are talking about, and said is this the woman—and she said, your lawyer——

Q. Sadie, Mr. Long had told you that Minnie was in the hands of the soldiers, hadn't he? A. Mr. Long?

Q. Yes? A. No.

Q. When you were talking about kidnapping her?

A. No, she was not in the hands of soldiers then.

Q. You knew that soldiers were guarding her, didn't you? A. Not then.

Q. When Long talked to you?

A. No, I didn't see Mr. Long any more after that Saturday.

Q. How much did Long offer you to steal Minnie?

A. Three thousand ($3,000.00) dollars to steal her and take her to Oklahoma.

Q. Three cold thousands. A. Three cold thousands.

Q. How were you going to steal her and get her?

A. Going out there and get her and persuade her to go to Oklahoma with me, I knew she would do it.

Q. You didn't call that stealing?

A. Mr. Hanford and Captain McNab got her papers, I would have to get her——

Q. You knew at that time that she was under the protection of Captain McNab, a Captain in the United States Army, didn't you?

A. Yes, sir, that is what he took her under his protection for, to rob her.

Q. Do you want to put that in there?

A. Yes, sir, I want to put that in there.

Q. You now state during the process of this investigation that Captain McNab, a Captain of the United States Army——

A. Yes, sir, the Captain.

Q. Intended to rob Minnie?

A. Yes, sir, I want to say nothing else but that; and Mr. Hanford.

Q. And Mr. Hanford?

A. Yes, sir, and Mr. Hanford thrown in.

Q. Mr. Hanford? A. Yes, and Captain McNab.

Q. Were bound together? A. When I got there——

Q. Bound together to rob this woman?

A. That is the only thing could have been; they knowed she had no baby; to get some money.

Q. You knew that Captain McNab was a Captain in the United States Army, didn't you?

A. That didn't make no difference.

Q. Didn't spell a thing to you?

A. Not a thing but money.

Q. You believe that officers in the United States Army would steal like anybody else?

A. Like anybody else, and lawyers too, they will do the same, Judge, to make some money; I have seen it too often.

Q. You feel that way by all humanity?

A. Not all lawyers, Judge, not all.

Q. Where are some exceptions?

A. Not all, Judge, I can't say some.

Q. Can you point out some exceptions to the rule, who wouldn't steal? A. I can't afford to do that.

Q. Yes, you can? A. I don't know that.

Q. I would like to know one?

A. I believe they are all in this case outside of Hanford and Frank Long are honest.

Q. You think so, do you?

A. Yes, sir, I know they are crooks.

Q. The balance of them you can in a sense vouch for?

A. No, sir, I believe you gentlemen are straight, but I believe Frank Long—I don't believe it, I know it, and know Hanford is a crook.

Q. Sadie, you look at me, don't you really believe I am trying to get you to tell the truth in this case?

A. Answer it any way I want to, Judge?

Q. Yes, I want you to tell me?

A. Yes, I believe, Judge, you think there is a Thomas Atkins, and you think I am lying, I believe you are honest in what you are trying to do.

Q. Sadie, you admitted about a dozen times that you were lying? A. Lying about there was a Tommy?

Q. You admitted that?

A. Yes, I admit that, lying all the way through. I believe you think there is.

Q. Now, Sadie, you went up to kidnap Nancy didn't you?

A. That was about October 9th, I think.

Q. Nancy is Judge Rosser's client, isn't she?

A. Yes, I did, Judge, and I believe the Judge here——

Q. Sadie? A. Yes, sir.

Q. When you went into Minnie's house one day—Now, I don't care what day it was, you understand—? A. Yes, sir.

Q. Well, we will assume one day, you found a paper lying on the table?

A. Yes, found it, that they wanted her to sign.

Q. A paper there? A. Yes, I think there was two.

Q. Two papers there? A. Yes, sir.

Q. And you say that that paper had some dates on it?

A. Yes, sir.

Q. Now, tell me again what dates that paper had on it?

A. What dates it was?

Q. Yes?

A. I don't remember whether it had that day—you mean about the year?

Q. Yes?

A. 1885, and born in 1885 and died in 1899.

Q. Now, Sadie? A. Yes, sir.

Q. Have you talked to anybody about your testimony since you first testified here in this case?

A. Have I talked with anybody about my testimony?

Q. Yes?

A. Yes, sir, I have talked with them about what I have already said.

Q. Yes?

A. No, sir, not talked about the past testimony.

Q. About what you had already given? A. No, sir.

Q. Have you talked with anybody about the testimony that you are going to give?

A. Yes, sir, I have talked to them.

Q. Tell us with whom you have talked?

A. I have talked to—I have talked to, let me see, I have talked to Mr. Meserve.

Q. To Mr. Meserve? A. Yes, sir.

Q. Now, when did you talk with him first about what you were going to swear in this case?

A. The facts that I was going to talk about in this case?

Q. Yes.

A. I think I talked to Mr. Meserve last winter, I believe.

Q. Last winter? A. I think so, yes, sir.

Q. Did Mr. Meserve tell you who he was representing?

A. No, he didn't, but I thought I knew.

Q. Well, who did you think he was representing?

A. I seen him with Mr. Buell a good deal and I thought that he was——

Q. You thought that? A. I thought so.

Q. You understand now that he was representing Mr. Bartlett and Mr. Buell?

A. I think so, I never seen him with Mr. Bartlett, I have seen him with Mr. Buell.

Q. Your understanding is that he represents Mr. Buell?

A. Yes, sir.

Q. You talked with him last winter? A. Yes, sir.

Q. Talked with him since you have been here about the trial?

A. No, sir, not about what I am going to testify to.

Q. You have talked to him about the facts in the case since you have been here? A. Yes, sir, I did that.

Q. When?

A. I think that was the first few days they used me a week before last.

Q. Week before last when you first testified? A. Yes, sir.

Q. Have you talked with him since then about the case?

A. Yes, sir, three times.

Q. When? Did you talk with him night before last about the case? A. Night before last?

Q. Yes?

A. No, not about the case, no, sir. Night before last?

Q. Did you talk to him at all night before last? Did you talk to him last night about the case? A. I never seen him.

Q. Talk to him any time this week about the case?

A. I don't know whether I have or not.

Q. Sadie, you know; I don't. A. I know you don't, Judge.

Q. Well, I can't tell, you tell me?

A. I am trying to do that the best I know, sir.

Q. Well, think as long as you please, but tell me just exactly what it is?

A. No, sir, I haven't talked to him about what I am going to testify to.

Q. I didn't ask you about that, I ask you if you talked to him about this case?

A. Yes, sir, I talked with him about the case, yes, sir.

Q. When was the last time?

A. About this case, I believe yesterday I talked to him about the case, the last time, I think it was yesterday.

Q. What place, where was it?

A. Up here in the hall, yes, sir.

Q. You talked to him today any about it?

A. Today about the case, no, sir, not about the case, no, sir.

Q. Have you talked to Judge Allen about the case since you have been here? A. Today?

Q. About this case?

A. Yes, sir, I talked to Judge Allen about the case.

Q. When did you first talk with the Judge about it?

A. I talked to Judge Allen when I first talked to him I talked to Judge Allen and Mr. German last winter.

Q. I mean since you have been here?

A. I talked to them several times about this case, Judge.

Q. Now, when and where?

A. Well, let me see where it was.

Q. Now, figure it out and where did you talk to them about it? A. I think I talked to them Sunday, I believe.

Q. Last Sunday?

A. I think so, yes, sir.

Q. Last Sunday, let me see?

A. No, wait until I get it straight now whether it was last Sunday or not. No, I didn't talk to them last Sunday about it.

Q. You remember what date you talked to them?

A. Well, I don't.

Q. Understand, I am not objecting to your talking to Mr. German, he has got a right to talk to you when he wants to, so has Judge Allen. A. Yes, sir.

Q. I only want to know when you did it?

A. I don't remember when the last time was when I talked to them about it.

Q. Well, can you fix some date, some time?

A. I am trying to think about the last time I talked to them.

Q. Does it take you that long. How long has it been since you talked to these representatives of the Government, can't you fix that in your mind?

A. No, sir.

Q. You have talked to them since they have been here?

A. Yes, sir, but not about the case; talked to them several times.

Q. Well, I am asking you about the case, can't you fix it, can't you fix the time and place that you talked to them about the case?

A. I think I talked to them Monday about this case.

Q. Monday? A. Yes, sir, I think so.

Q. Where, in this house? A. Yes, sir.

Q. Once, twice, or how many times?

A. I think about once.

Q. You think it is not more than that?

A. No, I don't think it is more than that over the case.

Q. Sadie? A. Yes, sir.

Q. How did you get these dates, 1885, into your head?

A. How did I ever get it?

Q. Yes, tell me. A. How came me to first start it?

Q. Yes?

A. I had a reason, Judge, but I can't tell you; it will incriminate myself if I tell you.

Q. That will incriminate you too?

A. That will incriminate me too if I tell how come me to start that date.

Q. You claim your privilege on that?

A. Yes, sir, I had to fix it at that date; I told Dennis——

Q. Had to fix it at that date? A. Yes, sir.

Q. You now refuse to tell me why you fixed that date?

A. Yes, sir, I will say that.

Q. Had you ever been down in the Creek Country?

A. No, sir.

Q. Didn't know anything about that? A. No, sir.

Q. Where did you get your information about the Roll. or 1895, down in the Creek Nation?

A. 1895 and the Roll?

Q. Yes? A. Where did I get it?

Q. Yes?

A. No, I didn't know—I didn't get that roll.

Q. Didn't you know the roll down there was called the Roll of 1895?

A. I didn't see it, I know Minnie went down there and drawed money.

Q. You didn't know anything about that roll?

A. No, I didn't know anything about it.

Q. Sadie, when you testified in this case last week, you said that *Sallie* Page told you to find the baby, Thomas Atkins, that was born in 1885? A. To find one?

Q. Yes? A. No, she didn't tell me to find one.

Q. To prove that?

A. He wanted me to prove it, say it was up in Leavenworth.

Q. *Sally* Page told you he wanted you to establish a birth in 1885? A. In 1885, yes, sir.

Q. To establish a death? A. Yes, sir.

Q. In the fall of '98 or the spring of '99?

A. In the spring of '99.

Q. Didn't you testify that, Sadie?

A. I did, Judge, but he said '99.

Q. Why did you say, when you testified before in the fall of '98 or the spring of '99, why did you do it?

A. Well, I don't know.

Q. You just guessing at it?

A. I was just guessing at it.

Q. Just guessing at it?

A. I know when he said he wanted him to die, in the spring of ninety-nine would be about age fourteen when he died.

Q. Why did you say on your direct examination that he wanted to find somebody that died in the fall of ninety-eight or the spring of ninety-nine?

A. I thought of a good many things since I testified.

Q. How did you think of it then?

A. It came in my mind, I suppose.

Q. The truth about it was your memory about it was hazy? A. I know he said ninety-nine, I know now.

Q. You are satisfied now he said ninety-eight?

A. I am not satisfied about it, he said to be born in eighty-five and to die in ninety-nine.

Q. You now change that? A. I am changing it now.

Q. You want it changed? A. Yes, I want it changed.

Q. So you didn't mean ninety-eight, but the spring of ninety-nine? A. Ninety-nine.

Q. What time in the spring?

A. Didn't say about the time, about the age of fourteen when he died; he and Dennis in there——

Q. Did he tell you what date he wanted him born? A. No, he didn't.

Q. You didn't know what date Tommy was to be born, did you Sadie? A. No, because——

Q. Wait. You didn't know? A. No, I didn't.

Q. Wanted it to be about a year—when he was born—— A. Who was born?

Q. Tommy? A. What Tommy?

Q. Wanted it to be a certain time from the time he was born but you didn't know the time, didn't know of his birth date, did you? A. He hadn't none.

Q. Page didn't tell you of a birth date, did he?

A. No, sir, because he knew we negroes had gotten one started.

Q. Never mind about you negroes, I will cover that directly. You didn't know the date Page claimed Tommy was born, did you? A. No, I didn't.

Q. So, you didn't know what time in ninety-nine he wanted him to die?

A. No, I didn't he didn't say what time.

Q. If you established he died the first day of March, ninety-nine that would have satisfied Page, wouldn't it?

A. To live long enough for an allotment.

Q. That would have satisfied Page, wouldn't it?

A. I don't know when the allotment was.

Q. Didn't you testify that he set the time in the spring of ninety nine? A. Yes, sir.

Q. Didn't tell you what time in the spring of ninety nine?

A. Just long enough for an allotment.

Q. When did you put that on, today?

A. I put that on it all the time, I put that on.

Q. Put that on when you testified before?

A. Yes, sir, I think I did. We had this case started before ever Mr. Page got hold of it.

Q. I am not talking about when you started it, I am talking about what Page said; when you saw that paper lying on the table you saw the dates on it?

A. Saw eighty-five on there.

Q. What else did you see on there?

A. 1899 on the paper.

Q. What part of ninety-nine?

A. Didn't say what part that I remember; I don't know that I remember what part it said.

Q. Do you know now the date that they had to die in 1899? A. No, I don't.

Q. You don't know that?

A. No, sir, I don't; I remember eighty-five on the paper and ninety nine, but I don't know what date.

Q. Don't know what date they had to die?

A. No, sir, I don't know what date was on the paper.

Q. Don't know what date they had to die?

A. No, sir, I don't know that, we didn't start no dates up there.

Q. You didn't care about the date?

A. When we first told that lie in Leavenworth, no, sir. We didn't.

Q. You were just going to find a baby there that was born and died? A. Wasn't going to find one?

Q. Make one? A. Yes, sir, build it up.

Q. Who was that boy in North Platte, Nebraska?

A. Railroad porter, I never seen him, that was a railroad man.

Q. What kind of looking man was that?

A. I never saw him. Dennis was telling Mr. Page about making him.

Q. You never saw him? A. No, sir.

Q. Now, Sadie, I want to travel with you a little?

A. All right.

Q. We will travel together a while? A. All right.

Q. You went to Los Angeles, didn't you, Sadie?

A. Yes, sir.

Q. And there you tried your hand on a Tommy?

A. Tried it strong there because it was a big town.

Q. How many folks did you pick up there?

A. Picked up two or three men.

Q. What kind of looking fellows were they?

A. I don't know, I didn't care how they looked, just so they would lie.

Q. How did you want them to look?

A. Like a yellow man; we didn't want a white—we had said it was a nigger baby.

Q. You didn't want it to have straight hair?

A. No, sir.

Q. Kinky hair? A. No, sir.

Q. What kind of hair?

A. Pretty good hair and good fellow?

Q. Like yourself or my friend Coody's?

A. No, straight hair.

Q. I thought you didn't care about straight?

A. I wanted them to have good hair.

Q. What do you mean, you darkies in that country about Leavenworth, by good hair? Straight hair?

A. Straight hair.

Q. Every hair that aint straight is bad hair?
A. Bad hair.
Q. There aint no good hair but straight hair?
A. Straight hair.
Q. You wanted this boy to have straight hair?
A. Yes, look something like an Indian.
Q. Why didn't you tell me that just now?
A. That is what I wanted him to look like, an Indian.
Q. Was there anything else you wanted him to look like?
A. No, I don't think I wanted him to look like anything else.
Q. I thought you wanted him to look like a yellow man?
A. Lots of yellow negroes that looks like Indians, you know. My father looked like one; he was a half breed, but a negro just the same.
Q. Had darkey blood in him?
A. Didn't claim to have any negro blood at all, but he did.
Q. He couldn't get on the roll? A. No, sir.
Q. You couldn't either?
A. I didn't, I tried to but I couldn't, my mother's case is still pending.
Q. Rejected you? A. Rejected me.
Q. You tried to work yourself off as a Cherokee?
A. I am a Cherokee Freedman, I am.
Q. You tried to work yourself off, didn't you? And it didn't work? A. No, it didn't.
Q. They turned you down?
A. Turned me down but my mother's is still pending, her case is still pending.
Q. Still being contested?
A. Still contested, yes, sir.
Q. If she is an Indian, you are an Indian, aren't you?
A. Freedman.
Q. If she were a freedman you are a freedman?
A. Yes, sir, the reason they turned me down, I got too smart, I got sassy and they naturally cut me out.
Q. That is a mean fellow, Hastings?
A. Yes, sir, you got that.
Q. A mean fellow, isn't he?
A. Yes, sir, I got too smart.
Q. If you had kept your mouth and been reasonable, he would have let you in?
A. Yes, sir, I will get in some day anyway. That is what I got out of it for being so selfish.
Q. Now, when you called these men up in Los Angeles,—now, mark you—— A. Yes, sir.
Q. What would you say to them?

A. I had somebody there, and I would go around to saloons and different places, and in the hotels where I stopped, and ask people who was there if they knew of a man by the name of Tommy Atkins and would describe some kind of fellow to them, and they would say, I know a boy here by the name of Tommy Atkins, and I said I guess that is the boy I want. They thought it was the truth and would bring him to me.

Q. You found by the name of Thomas Atkins, two or three in Los Angeles? A. Yes, sir, several of them.

Q. And several of them in San Francisco?

A. Yes, sir.

Q. Named Tommy Atkins? A. Yes, sir.

Q. So you went to saloons and found out these names?

A. Yes, sir, in saloons.

Q. And in boarding houses?

A. Yes, sir, and boarding houses and would ask them if they knew of anybody named Tommy Atkins.

Q. White boarding houses or colored?

A. No, sir, we had a negro case started.

Q. Now, I understand you, if you would go to a white place, you would see if there were any porter there?

A. I didn't care whether there was a porter or not.

Q. Try to get him at a white place?

A. No, I knowed better as to try to find him at white places.

Q. You confined yourself to the saloons and the colored boarding places? A. Yes, sir.

Q. In the City of Los Angeles? A. Yes, sir.

Q. Los Angeles, is a place of half a million people, isn't it? A. Yes, sir.

Q. How many people there did you go to—how many saloons did you go to there? A. Two or three.

Q. Did each one have a Tommy Atkins?

A. No, sir, they would tell me somebody they knew, they thought I was telling the truth; said I know a boy named Tommy Atkins, maybe it might be him; I described him.

Q. I want you to tell me one man in Los Angeles who told you he knew a Tommy Atkins?

A. I don't know that I could do it.

Q. Why didn't you get his name?

A. I didn't care about his name, all I wanted was to get a boy.

Q. Tell me where the saloon was and the street number?

A. No, I can't; the place I stopped at was Waldron.

Q. Give us the place? A. They had a Tommy Atkins.

Q. You haven't given the number yet?

A. I don't know the number of it.

Q. Do you know where you stayed?

A. I don't. If I had my cards I could tell you every place I stopped.

Q. Sadie, tell me why it is when you got to Seattle and Portland, you can remember not only the names and places, but the date, the day of the week and the hour of the day, and yet you can't tell me in Los Angeles a single man that you talked to?

A. Some of them dates I got down pretty good, got some of them down in my book.

Q. In your book, where is your book?

A. At home I reckon.

Q. Why didn't you bring it with you?

A. I didn't want it.

Q. Afraid it would incriminate you?

A. No, I am not, I am past making a Tommy Atkins?

Q. Now, Sadie, you can't name a single man that you talked to in Los Angeles, can you? A. No.

Q. Not a single being? A. No.

Q. Can you give me the number of a single saloon?

A. No, I don't think I can.

Q. Can you give me the name of a single boarding house that you stopped at in Los Angeles?

A. I haven't done it.

Q. You can do it?

A. No, I just run the streets around there.

Q. You wired Bartlett that you were still on the trail?

A. Yes, sir, I wired him a lie.

Q. Wired him a lie? A. Yes, sir.

Q. Told him to send you some money?

A. Yes, sir, and he sent it.

Q. How much did you call for then?

A. Two hundred.

Q. Two hundred? A. Yes, two hundred.

Q. Did he send it? A. He did.

Q. You got it before you left Los Angeles? A. Yes, sir.

Q. Did you go to San Francisco? A. I did.

Q. Who went with you to San Francisco?

A. My husband.

Q. Was your husband with you in Los Angeles?

A. Yes, sir.

Q. Was he helping you to run down Tommy?

A. No, he thought I was telling the truth, he didn't know until last winter that I was lying.

Q. You kept it from him? A. Yes.

Q. You deceived your own husband?

A. Sure, that wasn't nothing, me and Dennis pulled a trick and married on him and he didn't know it.

Q. Didn't know it, your husband?

A. He didn't know that.

Q. You and Dennis pulled a marriage right under his nose and he didn't know it? A. He didn't know it.

Q. Is that so? A. That is so.

Q. Your husband was your companion but he was simply a looker on in Dennis?

A. He thought there was a real Tommy, and sometimes he would ask——

Q. Would he go to these saloons?

A. I don't know where he went.

Q. You told him to go out and search for him?

A. No, he didn't search, he just asked for me.

Q. You were first Lieutenant or Captain? A. Boss.

Q. Captain and manager? A. I was boss.

Q. You were running the whole ship?

A. Because he wasn't in the play, it was me.

Q. You took that two hundred and went to Frisco?

A. Yes, sir.

Q. What did you do in Frisco?

A. I stayed there about four days running around town.

Q. How many Tommy's did you find there?

A. I found two I think.

Q. In Frisco? A. Two I think.

Q. Name the places?

A. I couldn't name them places, but where I lived at and where I stopped I know where I stopped at in Frisco.

Q. Where did you stop?

A. I stopped at 322 Downing, at a white place.

Q. What is the name of the people?

A. I don't know, I will give you the number and you can find them.

Q. Sadie, do you know the people that you stopped with at Seattle? A. Yes.

Q. What was their name?

A. I think the proprietor of one of them name was Brown, and I think the other girl's name was—he had a partner with him.

Q. Will Brown, did you get acquainted with any of the employers in Seattle?

A. No, I stopped at another place, The Golden West.

Q. Where? A. In Seattle.

Q. I am talking about Frisco now. That was in Portland, The Golden West?

A. No, the Golden West is in Los Angeles, a man named Brown runs the Golden West there.

Q. I am in Frisco now.

A. I stopped at a white place in Frisco, 322 Townsend.

Q. What kind of white place was it in Frisco?

A. Right across from the Southern Pacific Depot.

Q. What kind of a house was it? A. Brick.

Q. What did they call it? A. Rooming house.

Q. White people stopping there?

A. All white people were there.

Q. How did you get in there?

A. Went up there and there was a place where anybody could get a room, and there was a white restaurant where I would eat.

Q. You got a place at a white hotel?

A. Right there at Frisco.

Q. And you were the only colored person that you saw at that hotel?

A. Only colored face that I saw in that hotel.

Q. They gave you a room? A. Yes, sir.

Q. What place was that?

A. 322 Townsend. Right across the street from the Southern Pacific Depot.

Q. You stayed there about four days?

A. I stayed there about four days.

Q. You would go to saloons there?

A. I went on other streets there.

Q. You would go to saloons?

A. No, I didn't go to saloons.

Q. Why didn't you do that like you did in Seattle?

Q. Just would go up and down the streets, didn't see very many to ask; I think I run across two there.

Q. What saloons did you go to?

A. I don't know, no nigger saloons there.

Q. You would go in a white boarding house, why didn't you go in a white saloon?

A. No, I knew I couldn't start nothing in a white saloon, no colored men run saloons out there.

Q. Was that a colored saloon you went into in Los Angeles?

A. Yes, colored saloons. They called them cafe's, didn't call them saloons.

Q. Colored cafe's? A. Yes, sir.

Q. Did they have colored waiter in the white cafe?

A. No, in the colored cafe.

Q. Did you go into any saloon at all in Frisco?

A. No, I didn't go into any saloon.

Q. Did you go into any sporting house in Frisco?

A. No, no colored sporting house.

Q. Did you go into a white one?

A. No, I went around a little there.

Q. What sporting house?

A. No sporting house; the rooming houses.

Q. An assignation house, you call it?

A. I don't know what you call it.

Q. How did you come to go around there?

A. I found a woman who was running a house in that alley.

Q. Who told you to go around there?

A. A fellow I knew from Oklahoma.

Q. What was his name?

A. His name was Cutneck, George, a gambler.

Q. How long had Cutneck been out there?

A. Five or six years, he had been quite a gambler here in Oklahoma.

Q. Where did you find Cutneck?

A. I found him in a wine room.

Q. What you call him Cutneck for, had he a cut on the neck? A. Yes, sir.

Q. Wounded? A. Yes, sir, Cutneck George.

Q. He told you to go up that alley and find out something there?

A. No, sir, he told me I could get meals up there.

Q. You are talking about where you went to inquire?

A. About a Tommy. I just seen people on the street and was inquiring about Tommy.

Q. You would meet people at random?

A. I would just walk up to people, like I was hunting a real Tommy Atkins and describe him. I had a picture with me.

Q. In San Francisco, if you would see a fellow going down the street who looked pretty amiable, you would pull out that picture and say have you seen this boy before?

A. Yes, sir, I got that nervy Judge.

Q. You would say, have you ever seen this picture before?

A. Yes, sir, if it looked like a crook, I would do that.

Q. How many times did you do that?

A. I don't know how many times I did that.

Q. Sadie, don't you know that is a mighty slow way to find people?

A. No. All you got to do is to say, do you know Tommy Atkins; there is lots of Tommy Atkins in a town; did you ever see a boy like this, and he would say, I believe I have.

Q. How many men did you tackle?

A. I didn't count them, a lot.

Q. A lot of them? A. Yes, sir.

Q. You couldn't find a man in San Francisco that would fit the bill? A. No, sir, none there strong enough.

Q. You wired Bartlett, you were still on his track?

A. Still on the track, wired back another lie.

Q. Another lie? A. Yes, sir.

Q. You wanted more money?

A. No, not then; told him I getting on to the trail.

Q. Tracing him? A. Running him down.

Q. When you got to Portland, where did you go?

A. Got to Portland, went on to Seattle, and went right back down to Portland, started a lie in the hotel.

Q. What sort of a lie did you start in Portland?

A. The Golden West there in Portland, I asked them about Thomas.

Q. What did they say?

A. The saloon keeper in Portland, he knew about Tommy, and another fellow running a rooming house knew of Tommy; and a fellow they called Bow-legs, he run down two or three.

Q. Billy Bow-legs?

A. I don't know what his name was Judge.

Q. Where did you find this fellow Bow-legs?

A. He run a kind of a sporting place around there; [Q.] used to be a fellow that was in Tulsa?

A. No, I don't know no Bow-legs in Tulsa.

Q. Is that Bow-legs you saw?

A. Yes, sir, when I got acquainted with him.

Q. Well, what did Bow-legs have to say?

A. He made out like he knowed of a man; he thought I was telling him the truth, and he tried to give a description and he would go and talk to him.

Q. Sadie, how much money did you offer Bow-legs?

A. I didn't offer him nothing, I told him there was money in it if he could get the boy.

Q. A boy to fit the picture?

A. A boy to fit the picture.

Q. You carried the picture with you all the time?

A. Yes, sir, I carried the picture all the time.

Q. Where did you get that picture?

A. From Mary Hamilton.

Q. Whose picture was that really?

A. A railroad conductor, a white man. You have seen dark complected white men.

Q. A white man with a dark complexion?

A. That was him.

Q. Where is that picture?

A. The detectives got it and I think they gave it back to Mrs. Hamilton.

Q. Sadie, could you get it for me, I would like to see it.

A. The detectives took it away from me to go and run down Tommy; they thought it was Tommy; I told them a lie and told Mr. Bartlett a lie and they taken the picture to run him down.

Q. You met the detectives up there, and they told you, Sadie you are all blowed up this is a lie?

A. No, Mr. Bartlett sent for him, he didn't meet me.

Q. That detective told you you were blowed up?

A. No, sir, I didn't know it until I got back to Tulsa.

Q. You knew he told Bartlett?

A. I didn't know it until I got back to Tulsa. I thought he was believing me still he treated me so nice; he brought me clear back home to Tulsa.

Q. Well, while you were in Portland, did you get any money from Bartlett?

A. When I run around with the picture, yes, sir.

Q. How much money did you get there?

A. Fifty dollars or a hundred dollars.

Q. How much money did you skin Bartlett out of?

A. In Portland?

Q. No, on that trip, these trips?

A. I don't know, I got six or seven hundred dollars out of Bartlett, I don't know.

Q. Didn't you get more than that?

A. I beat him out of that much I know.

Q. And when Bartlett told you he would stand for Buell's contract, he told you he would forgive you for that six or seven hundred, ($600. or $700.) dollars, didn't he?

A. No, sir, he owed it to me on that contract.

Q. Sadie, you were lying to him all the time?

A. Yes, I was.

Q. You didn't think the man owed you money if you were lying to him all the time?

A. Yes, I did, he hadn't paid me for finding Minnie, and he owed me.

Q. He found out that you were lying to him all the time?

A. Yes, sir.

Q. And in the face of that, he stood for this three thousand dollar contract?

A. Yes, I took his word for it; he knew there wasn't none and he found out that I was lying.

Q. Well, you had Bartlett—did you find Tommy there—did you try? A. I tried, yes, sir.

Q. How many men did you find?

A. I didn't tackle, Bow-legs was doing the tackling.

Q. Did you go with him? A. No, sir.

Q. Bow-legs would go to the saloons?

A. He was running a place there himself.

Q. Did you go with him to saloons?

A. I don't know where he went, my husband would be with me and he would go to the hotel.

Q. About what time in the morning did Bow-legs show up? A. I don't know, sometime during the day.

Q. Do you know that he would show up in the morning?

A. Yes, sometimes at night.

Q. And report to you every morning?

A. No, not in the morning.

Q. Report to you at night? A. Sometimes.

Q. How did you find out what progress Bow-Legs was making? A. He would come and tell me.

Q. When would he come and tell you?

A. Sometimes in the morning and sometimes in the evenings, I guess.

Q. At your hotel? A. At my hotel.

Q. What hotel? A. The Golden West.

Q. Colored or white? A. Colored; five story hotel.

Q. You and your husband there together?

A. Paying nine dollars a week just for a room.

Q. Pretty stiff price, wasn't it?

A. I was living high.

Q. Living high? A. Yes, living high.

Q. Who was putting up the money, Bartlett?

A. I was skinning him then.

Q. Skinning him as you went?

A. Yes, skinning him as I went.

Q. Bow-legs finally reported that the thing wouldn't go?

A. No, the detectives came there before Bow-legs could get anybody started.

Q. What detectives?

A. Mr. Edwards. Mr. Bartlett brought them and took the picture away from me in Portland.

Q. Where were you when they took that picture away from you?

A. In the Golden West Hotel, took it away from me there.

Q. Bartlett and the two detectives came together?

A. Came together; Mr. Bartlett brought them down there; he told me two or three times, Sadie give me the picture, and I wouldn't do it.

Q. Were you in your room when they came?

A. The porter rang the bell and I would go in the reception room.

Q. Did you go to the reception room? A. Yes, sir.

Q. Was anybody there then?

A. Mr. Bartlett and the two detectives.

Q. Sadie, what did Bartlett say—what was the first thing Bartlett said to you when you went down to the reception room? A. With the two detectives?

Q. He wasn't there except with the two dectectives, was he? A. Yes, he came first by himself.

Q. Let's find out that, did you see him when he first came?

A. I didn't know he was in town yes, I wired to Oklahoma for him.

Q. Sadie, did you see him before you saw him with the detectives? A. Yes, saw him once.

Q. At that same hotel? A. At that same hotel.

Q. At what time?

A. It must have been in the evening about four o'clock.

Q. What did you and Bartlett say then?

A. Mr. Bartlett said Sadie have you got trace of the boy, and I said yes he has gone to Butte, Montana.

Q. What did he say?

A. He said, well I will have to get somebody to run him down.

Q. Tell the whole conversation?

A. That is all he said about that then.

Q. That all that was said? A. About that then.

Q. Did he say good morning, Sadie?

A. He spoke to me.

Q. After he said he would have to get somebody to run him down, did he say good-bye?

A. He said he would be back.

Q. What did he say he was going to do?

A. Said he would have to get somebody to run him down.

Q. And the next morning you were called down to the reception room again? A. Again.

Q. And he had the two detectives with him then?

A. Two detectives with him, yes.

Q. Tell what occurred?

A. When I got in they were down stairs waiting for me and he introduced Mr. Edwards and Mr. Wright to me, and he introduced them to me, and he said Sadie I hired these two men, he said, you let them see that picture. I didn't want to do it, because I knew whose picture it was. Didn't know whose picture it was, but Mrs. Hamilton told me when I took the picture. I had to go back up stairs to get the picture and I started to tear it up, but I didn't, because I didn't want them to see it; and I brought it back and showed it to Mr. Edwards and he looked at it, and he passed it to Mr. Wright, and Mr. Wright said, Sadie let us have this picture, we can do more with it than you can, we can run this boy down; and I said no I rather you wouldn't take this picture, I got it from a friend of mine, it is hers and I told her I would send it back; and they said, we will see that they get it back all right, and they just took the picture.

Q. You showed it to them?

A. Yes, sir, I showed it to them.

Q. They wouldn't give it back to you?

A. Showed it to Mr. Edwards first and he passed it to Mr. Wright.

Q. He passed it to Mr. Bartlett?

A. No, he seen it before.

Q. After they passed it around did you ask them to give it back to you?

A. No, they said Sadie you had better let us have this picture, and I said no it is a friend of mine and I told her when I got through with it I would send it back; they said they could do more with the picture than you can and we will see that she gets it, they wouldn't give it back to me at all, I wanted it.

Q. They took it?

A. They kept that picture to run it down.

Q. Did they tell you right then that your story had blowed up?

A. No, not then; taken that picture the detectives; they ran that man down them two.

Q. Did Bartlett tell you to keep on and keep hunting?

A. No, not then.

Q. You were standing right there? A. No, I wasn't.

Q. Did you sever your relations from Bartlett right then? A. No, no.

Q. What did you do?

A. Stayed there until Crawley came, sent this Clara Kirk up there to see if I could see Minnie.

Q. How long did you stay with Bartlett after that?

A. He brought me clear back in the month of April after that. In July that was when he brought me back to Denver.

Q. Now, you still remained in Bartlett's employ did you Sadie?

A. Yes, sir, he carried me back, clear back to where—clear down to Denver.

Q. What day was that?

A. That was in July, about—I guess that must have been about July 22nd, maybe.

Q. Where was the next place that you got any more money from Bartlett?

A. I didn't get any more money from Bartlett, when he carried me back up to San Francisco, they were hunting for Mary Sapin, I wouldn't tell them where Mary Hamilton lived.

Q. Answer my question?

A. I got money from Mr. Bartlett in Los Angeles, fifty dollars there.

Q. Where was that?

A. When they left with the detectives taking me back home.

Q. Who did you go with? A. With him.

Q. What did you go back with Bartiett for?

A. He was going back to Rye, Colorado.

Q. Why did you go back with Bartlett?

A. Wasn't I going home.

Q. You had your husband with you didn't you?

A. Yes, sir, all three were on the same train, but he quit us at Pueblo.

Q. Why did you go back with Bartlett?

A. Because he was going on that train; I didn't know he found out I was lying, he had the big detective with him.

Q. When he gave you money at Los Angeles——

A. He had the big detective with him; this big detective run down Mary Spain.

Q. He found out you were lying before you got to Los Angeles, didn't he? A. No, he didn't.

Q. Did he find out in Los Angeles?

A. Must have found it out after we got to Los Angeles, after the big detective came.

Q. Why did he buy you a ticket to go home?

A. He didn't leave me out there broke, give me money.

Q. He wasn't that kind of man?

A. No, sir, after me doing like I had.

Q. He still wanted to take care of you?

A. See that I got back home.

Q. How much money did he give you?

A. I think it was fifty ($50.00) dollars.

Q. Did he tell you to come down Sadie I have bought you a ticket? A. No, he didn't tell me.

Q. Told you he wanted you to go home?

A. No, he asked me when I was going home and I told him.

Q. Told you that he was going on the same train?

A. He told me when he was going.

Q. And you took the same train? A. Yes, I did.

Q. Do you remember how much he paid for your ticket?

A. I had money, I wasn't broke.

Q. How much did you pay for that ticket?

A. I don't know whether it was forty dollars or how much, I don't know, bought my ticket back to Denver.

Q. Buy a sleeper too?

A. Yes, sir, think I was going to sit up in a chair car?

Q. Is there any Jim Crow law out there?

A. No, long as I could get a berth.

Q. Bought your ticket?

A. I had about three hundred ($300.00) dollars on me then.

Q. When did you get that three hundred from?

A. Saving it; I wasn't spending that money when I wired.

Q. Did you have three hundred on you that time?

A. Yes, sir.

Q. Where did you carry that money?

A. You don't mind where I carried that, I had it.

Q. You had it in a secret place? A. Yes, sir.

Q. Did your husband know you had it?

A. No, he didn't, I wired Bartlett and he didn't know how much I wired for either.

Q. You had three hundred dollars in your pocket, didn't you? A. Yes, sir.

Q. Yet, Mr. Bartlett give you more money to buy——

A. Yes, sir, all the time I was making him give me more money, yes, sir.

Q. You bought your ticket? A. Yes, sir.

Q. You and Bartlett got on the train together, didn't you? A. Yes, sir, we three.

Q. And you and he talked for how long, about two hundred miles?

A. Mr. Bartlett didn't pay so much attention to us coming back.

Q. You testified on your direct examination that he came and sat down by you? A. That was Betty.

Q. Didn't he sit down by you when you were coming from Los Angeles? A. Me and Betty.

Q. No, you think about yourself?

A. I will think about myself.

Q. I want you to do that, but didn't you sit down by Bartlett? A. No, I don't think I did.

Q. Well, then you have got another think coming, try it?

A. I expect I have got a lot of thinks coming.

Q. Well, try it?

A. I don't know whether he did or not.

Q. Sadie, didn't you and Bartlett talk together on that trip? A. No—— Yes, we did.

Q. Yes, you did. A. Yes, on that trip.

Q. You came to go in your sleeper——

A. I was right on the same car he was, in the tourist car.

Q. Where did you get your meals?

A. In the dining car, I did.

Q. Diner on that train? A. Diner on that train.

Q. That must have been a special train?

A. All them fast trains you know have diners on them.

Q. What road was it? A. Santa Fe.

Q. Golden State Limited? A. I don't know.

Q. Lightning Express?

A. I can't name them—the train.

Q. The California Meteor?

A. I am not going to name no train, because I don't know.

Q. A fast one, wasn't it?

A. Yes, fast train, leave out there about seven o'clock.

Q. You and he had a berth in the tourist car?

A. Not him and I alone, there is another——

Q. Any other sleeper on there besides the tourist sleeper? A. Pullman, sure, of course.

Q. The Pullman and the Tourist?

A. We rode in the tourist car.

Q. Bartlett rode in the tourist car, didn't he?

A. Yes, but——

Q. But there were nice sleepers on there?

A. Yes, but Hugh Bartlett don't try to live like a heap of people, he takes the cheapest thing.

Q. The cheapest thing he could get?

A. He did it out there.

Q. Not a high flyer? A. No.

Q. He don't fly at all?

A. I guess he don't, he dresses like a very common man.

Q. But he put up the money whenever you called for it?

A. Yes, sir, he was honest when he did that.

Q. You and he got on that sleeper, one of these willow seats? A. Yes, sir.

Q. Old fashioned sleeper? A. Yes, sir.

Q. Bartlett was in there, served meals in that car?

A. No, back in the diner.

Q. You went back there? A. Sure.

Q. How many meals did you take with Mr. Bartlett?

A. I never took meals with him.

Q. Now, Sadie? A. I never ate with him.

Q. Who did you eat with? A. My husband.

Q. Mr. Bartlett go in at meals with you?

A. No, he just took coffee or something like that; don't think Bartlett is going to spend fifty or seventy-five cents.

Q. Is he a skin flint?

A. No, I was spending it though.

Q. He lived on coffee and sandwiches and things?

A. You, bet you. That is all I seen him do.

Q. You were taking a good square meal every time?

A. I was putting it on in the diner.

Q. Eating beef steak? A. I was past that.

Q. What did you eat, I would like to know?

A. Eat chicken and everything else. My meals would cost me a dollar and a half sometimes.

Q. Sure enough?

A. Mine and my husband's together.

Q. Did you order a chicken for breakfast?

A. No, I don't know what I had for breakfast, pick up the bill of fare,—nothing costing me nothing, I ordered it, the first time I was living so high I thought I would call for it.

Q. And poor old Bartlett was back there eating cheap stuff and drinking coffee?

A. That is what I was doing, I was living on his money.

Q. Didn't you invite him to take a single meal with you, Sadie? A. Oh, no.

Q. He looked hungry?

A. I thought he could buy his own stuff.

Q. He looked like a man half starved?

A. He looked like he was all right, he looked like he was satisfied.

Q. Didn't you tell Mr Bartlett, Mr. Bartlett you ought not to be living on sandwiches and coffee?

A. No, he knew how he ought to spend his money and I couldn't tell him that.

Q. You couldn't remonstrate with him at all?

A. I didn't care how he did.

Q. Now, Sadie, you had a seat in that tourist car, didn't you?

By Mr. German: I object as repetition.

A. I got my sleeper all the way through.

Q. You had a seat? A. Yes.

Q. You and your husband had a seat?

A. We had seats together.

Q. When Mr. Bartlett would come out and sit down and talk to you?

A. He didn't have to come, he was in the car with me.

Q. When did he come to your seat?

A. I don't know, he was talking to Will a good deal, we had two seats.

Q. Do you know whether he came there to talk to you the first day?

A. I wouldn't say, the day, I don't know.

Q. Did he come over and talk to you in the evening or morning? A. Oh, I don't know.

Q. He did come? A. He did come.

Q. Your husband there when he talked to you? A. Yes.

Q. Did you get your husband to get out of the way?

A. What did he want to do that for?

Q. You were talking about Tommy?

A. Certainly, what did I want to make my husband get out of the way for?

Q. Anything else but Tommy? A. Nothing but Tommy?

Q. He knew at that time that you had bitten him?

A. Yes, but he had another thought coming. He knew there wasn't no Tommy, but thought I knew a whole lot about there wasn't none, and he thought he would treat me good and bring me back home.

Q. He figured you had something that you hadn't coughed up yet?

A. That wasn't known, and he treated me nice.

Q. Anyhow, after he had found out you had swindled him out of this money? A. Yes.

Q. And lied to him? A. Lied to him.

Q. And had this junketing trip all at his expense, he still stuck to you?

A. I don't know for sure that Mr. Bartlett ever believed them detectives, I don't know how he believed.

Q. Now, Sadie, don't let's quibble; You told me he found out in Los Angeles that you had bit him?

A. But he never told me nothing about it until we got back to Muskogee, here in August.

Q. When did you find out and look Bartlett in the face and say, Mr. Bartlett I have been a liar from beginning to end? A. I don't know; I ain't never told him.

Q. Sadie, haven't you ever admitted it to him?

A. No, when I made my confession to Mr. Montgomery, I never told anybody but him; Mr. Bartlett, I never told him that.

Q. You told Mr. Buell? A. What?

Q. That you lied to Bartlett?

A. Yes, but I never told him in what way.

Q. You told him you were lying all the time?

A. I told him that I was telling them stories, but I didn't tell him in that way, I didn't think that was their business.

Q. How far did you go? A. Where?

Q. On this trip from Los Angeles, where did you get off?

A. I came to Denver.

Q. To Denver? A. Yes.

Q. Where did you go when you got to Denver?

A. Went to Claude Hamilton's I think.

Q. What did you go back to Hamilton's for?

A. To tell him had he heard from his wife. I had carried her to Los Angeles on the first trip going out.

Q. Mrs. Hamilton agreed to stand for these lies of yours?

A. She didn't know they were lies?

Q. Didn't she?

A. No, she said she knew that dead one, but I didn't, but she said when and where could Minnie had a son in Leavenworth?

Q. She told you that Minnie never had a son?

A. No, she knew that dead baby.

Q. Didn't you testify that she said Minnie never had a son except that dead baby?

A. She didn't say about the dead baby, she said when and where; wouldn't even tell me the secret about the dead baby; said when and where could Minnie have had a baby.

Q. Did Mrs. Hamilton tell you that she wouldn't swear for you? A. Did she tell me that?

Q. Yes?

A. I asked her would she help me identify that picture.

Q. Sadie, now you told me didn't you that you got that picture of Minnie from Mrs. Hamilton? A. I did.

Q. That is it? A. I did.

Q. You never got any picture from Minnie away back yonder, did you? A. Why didn't I in Leavenworth?

Q. Where abouts? A. When she worked at Hyde's.

Q. Tell me the time and place that she gave you that picture? A. I worked three months in that neighborhood.

Q. Where is it?

A. If I hadn't had it, I wouldn't have got it from Hamilton's.

Q. Where is that picture? A. I don't know.

Q. Did you throw it away? A. I don't know.

Q. Burn it up? A. I can't tell you.

Q. Did you look for it? A. Yes, sir.

Q. You had the picture? A. Years ago? Yes, sir.

Q. Years ago? A. Years ago.

Q. Taken at Carlisle? A. Taken at Carlisle.

Q. You don't know what you did with it? A. No.

Q. Whether or not you burned it up? A. No.

Q. Or lost it? A. No.

Q. And you never searched for it? A. No.

Q. Didn't care anything about it?

A. No, she gave it to me, I didn't care nothing about it. I did then.

Q. You can't account for that picture at all now, can you?

A. I didn't account for it then, and I don't account for it now.

Q. I would like to know—— You remember with such distinctness about things—I want you to tell me right where she gave you that picture, what place in Leavenworth?

A. She gave me that picture at Hyde's when she worked there.

Q. What place in Hyde's house did she give you that picture? A. In my house when she was working at Hyde's.

Q. Came over to your house and gave it to you?

A. I was working at this corner with Haven's, and worked there about a month after Minnie came, and I quit working there October 4th, and didn't leave town until November 22nd, and when I quit working close to where Minnie was about the 4th of October, I didn't see her any more until I came back, had been gone about five months.

And thereupon, the noon recess is taken until two o'clock, P. M.

And thereafter, and at two o'clock, P. M., further testimony is taken, the witness SADIE JAMES, being recalled, as follows:

Further Cross Examination by Mr. Stuart.

Q. Sadie, who was it that gave you the two hundred dollar check? A. When?

Q. At Tulsa, when you went up to get the money on the Page contract?

A. I think, I won't swear, but I think it was Mr. Eberle.

Q. Mr. Eberle? A. I think so.

Q. Do you know who signed the check? Did Mr. Page sign it? A. I thing he did, I am not sure.

Q. You think he did?

A. I think he did. Yes. I believe he did.

Q. Mr. Page?

A. I think so, I can't say whether he did or not.

Q. That is your best judgment?

A. Yes, that is my best judgment.

Q. Mr. Page came in and told Mr. Eberle to make out the check?

A. He called some one, I ain't sure, but I think he was the one.

Q. Who do you think it was if it wasn't Eberle, who was it? A. It might have been Mr. Long, I don't know.

Q. One of the clerks in there?

A. Some one that belonged in the office.

Q. Told him to come in, and then you think Mr. Page signed that check for two hundred ($200.00) dollars?

A. Somebody signed it, because I went over to the Exchange National Bank and got that cashed.

Q. Is this the check right here? A. No.

Q. That ain't it?

A. This is two hundred ($200.00) dollars right here.

Q. That it?

A. I guess so. That looks like the check, Sadie James.

Q. Is it the check?

A. Well, I can't swear whether it is the check or not.

Q. Does it look like it, does it look like it, Sadie?

A. Yes, this looks like it.

Q. Looks like it? A. Looks like it.

Q. Mr. Josey's name is signed there, isn't it?

A. He must have—well, I don't know who signed it.

Q. His name is signed to that check isn't it?

A. His name is signed to this.

Q. Well, when you say you think Mr. Page signed it, you made a mistake, didn't you?

A. If this is the check, yes, sir.

Q. Then, you have certainly failed in your memory, haven't you?

A. Yes, about who signed that check; he called, I thought, Mr. Eberle, I am not sure; I said Mr. Josey could have signed it, because Mr. Page called somebody over the 'phone and he came in, I think it was Mr. Eberle, I think.

Q. You said a few moments ago it was either Eberle or Long? A. I said I didn't know who it was too.

Q. That is your signature on there, isn't it, Sadie?

A. Yes, that is my signature there, that is it.

By Mr. Stuart: You may mark that now, Defendant's Exhibit.

Q. Sadie, after you made your confession in December, 1914, you went west, didn't you?

A. Yes, afterwards, yes, sir.

Q. After you made your confession you went West?

A. Yes, sir.

Q. Now, tell us who went with you on that trip West?

A. Mr. Buell and Mr. Robinson.

Q. Who else now?

A. When I got to Portland, I met Mr. Montgomery.

Q. Mr. Montgomery? A. Yes, sir.

Q. Now, then, when you got to Portland, Mr. Buell, Mr. Robinson, and Mr., who else? A. Mr. Montgomery.

Q. And Mr. Montgomery was with you? A. Yes, sir.

Q. When you started out on that trip, how did you come to go on that trip with these men?

A. Why, Mr. Buell and Mr. Robinson asked me to go.

Q. Asked you to go? A. Yes, sir.

Q. What for, Sadie?

A. What for? To get Minnie to tell the truth; I told them that she would confess that she had no Tommy Atkins.

Q. That she would confess?

A. That she didn't have none, and that she would confess it, yes, sir.

Q. And they all went along with you to hear her make the confession, is that right?

A. That is what Mr. Buell and Mr. Robinson went along for.

Q. To hear Minnie? A. Yes, sir.

Q. What was Mr. Montgomery doing there?

A. I suppose he was going out to hear her tell the truth and he would give her immunity.

Q. Had you made arrangements for immunity to be given Minnie? A. How could I?

Q. Had you heard anybody agree to give her immunity?

A. No.

Q. What made you think that Mr. Montgomery was going along to give her immunity?

A. He couldn't be going for anything else, I thought she was going to tell the truth and quit sticking to that lie which she did.

Q. And you took Buell and Robinson along to hear her tell the truth?

A. Yes, sir to stop telling a lie and tell the truth.

Q. A lie that you asked her to tell?

A. No, Captain McNab and Mr. Hanford had got her to tell.

Q. And you asked her to tell one too?

A. I asked her to always say she had one but the Government found out she wouldn't do it.

Q. Sadie, didn't you say the last thing when you left Minnie there, in 1914, on that first trip, didn't you say Minnie you keep on swearing and don't ever take it back that you had a boy named Tommy Atkins?

A. I said you always say it and I will keep the secret.

Q. Always say it and I will keep the secret?

A. Always say it and I will keep the secret.

Q. Now, you got it into your head after you made a confession, that you could go out and make Minnie take that back? A. I couldn't make her take it back.

Q. But you could persuade her to take it back?

A. I didn't see her until after the confession.

Q. You got it into your head that you could get a confession? A. No, I couldn't make her take it back.

Q. Who was going to make her take it back? Any person with you and Robinson?

A. I expected her there on that occasion to quit lying.

Q. You expected you could make her make that confession?

A. Why she will later on; the truth will out, yes, sir, it will out.

Q. The truth will out? A. Yes, sir.

Q. You mean the "Truth crushed to earth will rise again?"

A. Yes, sir, McNab and Hanford can lie on top of the truth, but it will come out.

Q. Now, you went up there with the understanding—now, listen—— A. Yes, sir.

Q. With Robinson and Buell? A. Yes, sir.

Q. That you could persuade Minnie to tell the God's truth? A. No, I didn't tell them that, no, sir.

Q. Stop right there, who was going to persuade her?

A. I guess they was; they taken me to her.

Q. What did you go for?

A. I only went with them and I knowed she would do it, couldn't help but do it.

Q. How did you know?

A. I knew Minnie couldn't stand up with that lie.

Q. You told her to tell the lie?

A. Yes, sir, I had told her to tell the lie.

Q. Stick to it as long as you live?

A. As long as I lived and I wouldn't tell it and I am telling it.

Q. You told her to stick to that lie?

A. I told her to stick to that lie, and she took it back when they got there.

Q. Wait a minute, I will let you tell that directly.

Q. You told her to stick to the lie, didn't you?

A. Yes, sir, I did.

Q. Stop right there. And you expected her to stick to the lie, didn't you? A. I did.

Q. You made your confession?

A. Told the truth about it.

Q. And after you were promising three thousand dollars, you thought you could make her take it back, didn't you, Sadie? A. No, I didn't.

Q. You didn't? A. I didn't.

Q. What made that change come over your soul?

A. I didn't want, after I had made a confession and told the secret on her for her to be prosecuted for sticking to a lie; I wanted her to know that I had told it.

Q. You had felt this way; you had a change of heart, didn't you? A. Felt sorry for her, yes, sir.

Q. And had a change of heart in December, 1914?

A. After I got free, yes, sir.

Q. I say you had a change of heart? A. Yes, sir.

Q. And it took three thousand dollars and a promise of immunity to bring about that change of heart?

A. The promise of immunity wasn't it, I was running from the law for telling that lie.

Q. And three thousand dollars?

A. Not the three thousand dollars I got from them.

Q. Did your conscience hurt you?

A. Yes, sir, if you got to lying now you would feel the conscience.

Q. When did that conscience first strike?

A. In Leavenworth with Dennis and Rube. I knew that all along.

Q. But the conscience didn't take on you until December, 1914, did it? A. Oh, yes, Judge.

Q. If didn't take, did it? A. Yes, Judge.

Q. Sadie, you didn't think anything until December, 1914?

A. Yes, Judge; but, Judge, after I first started to lying and Fred Cook commenced to run around, and Mr. Page cooked up his lie, I thought I was safe, but when Bettie was hooked up with Judge Allen, I had to run again and leave my home.

Q. Sadie, it was not conscience that made you cough up. was it?

A. No, sir, it was the conscience of that lie down in here.

Q. How far down?

A. So deep down that after that immunity raised——

Q. Deep as you could get it? A. Deep as I could get it.

Q. Away down there you heard the conscience talking?

A. Some more lies yet, some others.

Q. You haven't coughed them up?

A. You will make them tell it.

Q. You said some other lies? A. Some others.

Q. You told all you knew?

A. I am holding some of them; another secret.

Q. You are going to keep that until judgment?

A. Until judgment, holding another secret.

Q. Now, Sadie, when that conscience struck and you coughed up this thing in December, 1914, just after you did that you took the train with Robinson and Buell and started West? A. I did, a few days, maybe a week.

Q. Yes, you went? A. Yes, sir, I done that.

Q. And your sole object in going out there was to see that Minnie would take back what she said?

A. I didn't go to her.

Q. That was your object though?

A. I told them to go to her.

Q. That was their object?

A. To get her to tell the truth, yes, sir.

Q. And to take back what she said?

A. And to tell the truth; the lie that I told her to stick to, to take it back.

Q. To take back the lie that you put in her mouth?

A. Yes, sir, and the lie that she was telling.

Q. The lie that you put into her mouth? A. Yes, sir.

Q. You put that lie in her mouth?

A. That she had Tommy Atkins?

Q. Yes, sir?

A. She and me both: Minnie and I both, I did it.

Q. Now, when you and Buell and Robinson went out there, did you make her take back that lie?

A. I didn't see her at all.

Q. I don't care whether you saw her at all, that is what you went out there for?

A. Yes, sir, that is what I went out there for.

Q. That is the point. Now, when you started on that journey, to justify your conscience, where did you stop the first time? A. Stop where?

Q. Stop on that trip the first time?

A. Stopped at Mary Hamilton's in Los Angeles.

Q. Who was with you then?

A. Mr. Buell and Mr. Robinson.

Q. Did you go out and see Mary?

A. Yes, later on after she made a confession to them.

Q. Well? A. Yes, sir, I saw her the day I left.

Q. You all went out to see her, didn't you?

A. I didn't go out there first no, sir.

Q. Did they go out first?

A. Yes, and saw her the day before I saw her.

Q. Did you tell her that they were coming?

A. No, sir, I didn't see her, I didn't know they were going to take me there; I didn't know they were going to take me to Los Angeles at all.

Q. That was the first place you stopped?

A. The first place we stopped.

Q. They went out first to see Mary? A. Yes, sir.

Q. What did Mary do?

A. They told her what I had said, they wanted to see if I was telling the truth, if that picture I had was a friend of hers, and she told them yes, and they asked if she ever knew of Minnie having Thomas Atkins and she told them no.

Q. What picture are you talking about?

A. About the last picture I got from Mary Hamilton, the boy's picture, a man about twenty five years.

Q. They wanted to see Mary, and did Mary make a confession? A. She didn't have any confession to make.

Q. You said a moment ago she made a confession?

A. She didn't have any confession because she wasn't in the case.

Q. Why did you say she made a confession?

A. I don't know why, she didn't have none to make.

Q. You take that back?

A. She didn't have none to make.

Q. If you said she made a confession, you made a mistake?

A. Sure, I did, because she didn't have none to make.

Q. Why did you take these men to her?

A. She knew Minnie at Carlisle, and knew her before she left the town and they wanted to know if she knew Minnie ever had a son named Tommy Atkins.

Q. You went out to see her after they went out?

A. Mrs. Hamilton asked where I was——

Q. You did see her? A. After they saw her.

Q. What occurred between you and Mrs. Hamilton? Tell that.

A. They taken me out there and left me there.

Q. I want to know now what was said there, tell it all to us.

A. I said to her, I said, Mrs. Hamilton, I said, I have told you a lie, I said, I told you that Minnie had a negro baby in Leavenworth, named Tommy Atkins, and I said it was all a lie, Mrs. Hamilton, and she said Mrs. James I thought you were telling me the truth, and I said no I wasn't. That is all. I told her I was telling a lie.

Q. Did you tell her, Sadie—now listen—— A. Yes, sir.

Q. That you had confessed? A. No, sir.

Q. Tht you had lied?

A. I told her I lied, I didn't tell her I had made a confession and got immunity, I didn't want her to know it.

Q. You said you had some immunity papers, didn't you?

A. Yes, sir.

Q. Where are they? A. At my house.

Q. What sort of papers are they, I want to know.

A. Judge if you will give me time I will bring them down in the morning.

Q. Will you do that? A. Yes, sir, I will do that.

Q. How many have you? A. I aint got but one.

Q. You have kept them all the time? A. Yes, sir.

Q. You didn't tell her that you confessed?

A. No, sir, I just told her I told her a lie.

Q. Did you tell her you had been offered three thousand dollars to find the truth?

A. No, sir, I didn't tell her, I didn't want her to know that.

Q. After you left there, where did you go?

A. Went to Portland.

Q. Went to Portland? A. Yes, sir.

Q. What did you do there?

A. Didn't do anything only met Mr. Montgomery there.

Q. That is where Montgomery joined you?

A. Met us, yes, sir.

Q. Did you have a talk with Mr. Montgomery there?

A. No, sir, I don't think I staid there long enough.

Q. Well did you ride on the train with him?

A. Yes, sir, they were out of the car with me though.

Q. Did you talk to anybody in Portland

A. Yes, sir.

Q. Did you go out to see anybody in Portland?

A. No, sir, we got there Tuesday, I think we went Tuesday night.

Q. Tuesday night? A. I think so.

Q. Didn't do anything there? A. No, sir, nobody to hunt up in Portland.

Q. Then where did you go? A. Went to Seattle.

Q. Where did you all stop at Seattle?

A. I can't tell you where all they stopped, I told you where I stopped.

Q. At the same place? A. No, my goodness!

Q. In the same old place?

A. No, sir I stopped at the Rex, Chinaman running the place.

Q. Where is that? A. Have you been out there?

Q. I haven't been out there.

A. Professor Johnson perhaps can tell you.

Q. Well, Coody isn't under oath, you tell me yourself?

A. I don't know, it is a big hotel there.

Q. Called the Rex?

A. Called the Rex. Now, Judge, in the morning I am going to bring you a card everywhere I stopped, I taken a house card of those places.

Q. I will be glad if you will do that, but at the present writing, confine ourselves to our memories.

A. I understand.

Q. You stopped at the Rex? A. At the Rex.

Q. Did you take a little souvenir from everywhere you stopped?

A. Took a card, that wasn't the same place that Bettie stopped.

Q. You stopped at the Rex? A. Yes, sir.

Q. Do you know where that was?

A. No, sir, I don't know the street; a little hotel, a Chinaman they run it, about five stories high; colored and whites *staid* in it.

Q. You stopped there? A. Yes, sir, I stopped there.

Q. Where did Mr. Robinson and Mr. Montgomery and Mr. Buell stop?

A. I don't know the hotel, Mr. Hanford knows it, I don't.

Q. You don't know it?

A. No, sir, I don't know the name of it.

Q. Did Judge Allen show up out there? A. No, sir.

Q. Never did? A. No, sir.

Q. Any representative of the Government show up out there? A. Nobody but Mr. Montgomery.

Q. You knew Mr. Montgomery was from Judge Allen's office, didn't you? A. I didn't know whose office.

Q. Didn't he tell you that he represented the Government?

A. Yes, sir, but I didn't know whose office he was out of out there.

Q. Had you ever been down to a hearing down there?

A. Not then.

Q. Not then? A. No, sir.

Q. You knew Mr. Montgomery was a government officer?

A. He said he was.

Q. Claimed that he was?

A. If he didn't, I wouldn't have talked to him.

Q. Did you go down and register at the Rex? A. Yes, sir.

Q. By your self this time? A. By myself this time.

Q. Your husband wasn't with you?

A. No, sir, wasn't with me.

Q. You *staid* at the Rex? A. *Staid* at the Rex.

Q. When did you communicate, after that for the first time, with Buell, Montgomery, and Robinson?

A. After they got me a hotel, after I got my hotel?

Q. Yes?

A. I think we got in there in the night—no, early in the morning, I believe, and I don't think I saw them until that night. I am not positive now, but I know I didn't see them any earlier than that. I think that night.

Q. What did you have to say to them that night?

A. That night?

Q. Yes, what did you all talk about?

A. Talking about the case; I think they had been to see Minnie then, I think.

Q. You think they had? A. I believe they had.

Q. Did they say they had? A. I can't say for sure.

Q. Your best recollection is that they told you they had been to see Minnie that day?

A. I don't know whether it was the first day or the second day; I was there four days, and I am not going to say the first day.

Q. Anyhow, when you saw them, they told you they had seen Minnie?

A. Yes, sir, I think they had seen Minnie; I think they had been out.

Q. Now, then, did you see Minnie?

A. I didn't see Minnie until the day I left; I was there four days before I saw her.

Q. What was the reason you didn't see her?

A. What did they want me to see Minnie for?

Q. Sadie, you went out there to make Minnie take back that lie? A. I didn't do no such thing.

Q. You went there?

A. I went out there but not to make her take it back.

Q. You went out there to persuade——

A. You know how come me to go out there?

Q. You already told me.

A. Mr. Hanford stated that we came out to Captain McNab's.

Q. After you got to Seattle? A. Yes, sir.

Q. And you left there to go to Seattle and make her take it back?

A. Not to make her, because I couldn't make her do it, Judge.

Q. Persuade her?

A. I didn't see Minnie, Mr. Hanford asked us to come out there.

Q. To ask her to take it back? A. I didn't see her.

Q. What did you go for?

A. Just to be honest, to have me right with them, I expect.

Q. Honor to have you right with them?

A. I rode with them and I expect——

Q. That is just what I thought. Just the honor to have you right with them? A. Yes, sir, it was an honor.

Q. Well, I am not prepared to say it wasn't A. No, sir.

Q. But still, Sadie, they took you along, didn't they?

A. After they got the honor to take me, yes, sir.

Q. After they got the honor to take you?

A. Yes, sir, they took me.

Q. Who put up the money?

A. I didn't, I don't know who put it up; Mr. Robinson had my ticket.

Q. Mr. Robinson got your ticket?

A. He had my ticket bought.

Q. Who paid your hotel bill?

A. I had about forty dollars when I left.

Q. What became of that three hundred?

A. My goodness, man, I had done made a lot more money since then; gone to Leavenworth and drawn on Dennis and my money; we had money up there on this old——

Q. How much more money?

A. You remember I got about a hundred dollars on that old soldier.

Q. You had a pull up there?

A. Yes, sir, got a pull until it run out.

Q. You had about forty dollars when you went out there, when you started?

A. Yes, sir, I had more than that I guess.

Q. You could have had and you didn't?

A. No, sir, I had spent some of that money; I don't think I had over forty dollars when I started.

Q. What did you do with that forty dollars on that trip?

A. Spent it.

Q. What for? A. To eat and get me a room.

Q. Well, you got the money back?

A. No, I didn't get a penny in that.

Q. Didn't somebody pay?

A. On the train they paid my railroad fare and bought me something to eat on the train, I didn't pay that.

Q. Didn't they pay for your hotel?

A. No, sir, I paid that after I got out there. They paid for my trip on the train and meals on the train.

Q. You never got the money back?

A. I never got it back then; I guess I got it back; I wasn't getting none then.

Q. You had a sort of an idea that you would get it back sometime and you did get it back?

A. Sometime, yes, sir. I thought I would get it back.

Q. And you did get it back. So when you got out there, you just sat still and let them work it?

A. I sat still in that hotel, never went on the street.

Q. Let them work it? A. Yes, sir.

Q. You didn't see Minnie at all?

A. I didn't want to see her.

Q. You didn't want to see her?

A. Didn't want to see her.

Q. You let them try it? A. Let them try it, yes, sir.

Q. Is that your handwriting, Sadie? A. That is.

Q. That is your handwriting?

A. That is mine. This isn't; this is mine; no, that isn't mine.

By Mr. Stuart: Mark that. (Marked Defendant's Exhibit 6).

Q. I will read you this one, Sadie, which you admit is yours? A. Yes, sir.

Q. Seattle, Washington, Saturday, December 19th, 1914. Mrs. Minnie Folk: I want to see you. You meet me at the post-office——

A. Yes, I sent that note, I sure sent it.

Q. I thought you said you didn't want to see her?

A. She was to be at the bank the next morning at ten o'clock, and I did send that note.

Q. You said a few minutes ago that you didn't try to see Minnie?

A. Yes, I did, but I did send that note, and the boy said her husband snatched it away from her.

Q. You did try to see her?

A. Yes, and the boy said that he snatched it away from her.

By Mr. Blakeney: I move to strike out what she said as not responsive.

Q. You expected to see her the next morning at the bank?

A. She was coming to the bank with Mr. Montgomery the next morning.

Q. What is the date of that, Saturday?

A. Yes, she was going to be there the next morning.

Q. The next morning is Sunday?

A. She was to be at the bank.

Q. The next morning, Sunday, at the bank?

A. She was to be at the bank with Mr. Montgomery.

Q. Didn't you say the next morning?

A. She was to be at the bank that morning; she was to come in and get that money, it couldn't have been the next morning.

Q. You take that back, do you?

A. She was to be at the bank that morning or some morning.

Q. Sunday morning, is that it?

A. No, to be at the bank that morning; that note, I think that note was sent about eight o'clock that morning; about eight o'clock that Saturday morning.

Q. So, now, Sadie you realize that you are mistaken when you say that you didn't try to see Minnie, don't you?

A. I had seen her then.

Q. Why, you told me you hadn't seen her?

A. I think I had seen Minnie before I sent that note—no.

Q. Had you seen her?

A. I never seen her until after she made the confession, no,sir.

Q. When did you see her, Sadie?

A. I seen her after—when Mr. Montgomery went back after the paper.

Q. Did you see her before you wrote that note, look at that and see?

A. I was trying to think whether I had seen her before.

Q. Let's take time?

A. No, I didn't see her before I wrote this note, no. I seen her that night—no, we all went out there that night.

Q. What night? A. It was that Saturday night.

Q. The same day that you wrote this note?

A. Yes, sir.

Q. December the 19th? You are sure of that?

A. Yes, sir, I am sure that is right.

Q. Sure. Who was with you that night, Mr. Buell and Mr.——

A. Robinson, Mr. Hanford and Mr. Montgomery.

Q. That was on Saturday night?

A. I think that was on Saturday night.

Q. You state it was? A. I am sure it was, yes, sir.

Q. Where did you see Minnie the next time?

A. I never seen her any more, Hanford had me run out of town.

Q. When was it that she balled you out?

A. Who was it said she balled me out?

Q. When she balled these other people out?

A. That same Saturday night, she didn't ball me out.

Q. I know, because she was afraid to ball you out?

A. No, she wasn't afraid. She didn't do it.

Q. She didn't do it? A. Balled out the others.

Q. Balled out the others? A. Yes, sir.

Q. She told them they were a lot of crooks?

A. Yes, sir, she said——

Q. Didn't she say this: You have been here trying to make me tell a lie and I am not going to do it?

A. Who said that?

Q. These people?

A. No, sir, nobody said that; Hanford said that; who told you that? Hanford told you that.

By Mr. Stuart: I move to strike that out because it is impertinent and insulting.

By Mr. Blakeney: Let the record show that I asked you to put in a statement and you refused to do it.

The Examiner: I state to Mr. Blakeney that I will put into the record all objections and the grounds for objections, but not the speeches of counsel.

By Mr. Blakeney: What I wanted to put——

The Examiner: I will put in here what you want—

By Mr. Blakeney: I just wanted the Examiner to describe the conduct and appearance of the witness at this particular time.

By the Examiner: That is what you first desired to put in, is it?

By Mr. Blakeney: Yes, sir.

The Examiner: I will state that I cannot describe the appearance of witnesses and write down the testimony at the same time.

By Mr. Blakeney: I am satisfied with that.

Q. Now, Sadie, can you forget Hanford for a minute in this case in order to testify? A. Well, I can.

Q. It is hard to do, I know?

A. It is awfully hard to do after the racket him and I had that night, it is hard.

Q. I know, but let's forget him and see if we can understand each other? A. All right.

Q. You went up there and Minnie told those people that they were crooks, didn't she? A. Yes, sir.

Q. Didn't tell you?

A. No, sir, I was sitting over there, no she didn't.

Q. Didn't she say I am the mother of Thomas Atkins?

A. No, she said, I am still the mother of him; she didn't take the lie back and was telling it again; still the mother of Thomas Atkins.

Q. Now, I wish—— I can't get your tone in the record. Did she throw her head back? A. Yes, sir.

Q. Threw her head back?

A. Yes, sir, said I am still the mother of Thomas Atkins.

Q. Wait a minute now. You and I will be here a week if you don't answer my questions?

A. Judge, I am willing to stay here all the summer.

Q. I know you are, you have plenty of money to spend and I haven't.

A. No, I haven't, I aint Judge, I got plenty of time.

By Mr. German: I object to the argument of counsel with the witness.

Q. Now, Sadie, she said, I am still the mother of Tommy Atkins you dirty crooks? A. No, she didn't.

Q. When did the crooks come in?

A. I don't know when it came in.

Q. In the conversation?

A. I will tell it over again.

Q. Tell it over again, I like to hear you talk?

A. She said, I am still the mother of Tommy Atkins and Captain McNab aint in it any more; he has backed out.

By Mr. Blakeney: I move to strike out "but he has backed out" as not responsive.

Q. Now, tell me what she said?

A. She said Captain McNab aint in it any more, he has done quit; and said, I want you crooks, looking right at Mr. Robinson and Mr. Buell—Mr. Montgomery had gone up in the Fort to get Captain McNab—looking at Mr. Robinson, said I want you crooks to get out of here.

Q. What else?

A. That is all, said I want you crooks to get out of here, and Montgomery came in by that time.

Q. That is all she said?

A. That is all that I remember she said.

Q. Didn't you say a minute ago that she said I want you crooks to get out of here, I am still the mother of Thomas Atkins?

A. No, she didn't say that; said I am still the mother of Tommy Atkins, and as soon as Hanford took her in the kitchen and said something to her, she came back.

Q. Well, at the same time she did say Sadie, this: You get out of here, you crooks? A. Yes, sir.

Q. I am still the mother of Thomas Atkins?

A. No, sir, she didn't have the crooks first.

Q. Well, I am still the mother of Thomas Atkins?

A. Yes, sir, Captain McNab had quit.

Q. Get out of here you crooks?

A. Captain McNab has quit.

Q. Captain McNab had quit? A. Yes, sir.

Q. Get out of here you crooks?

A. And by that time I had walked over to the table and was talking about Mrs. Richardson.

Q. I hadn't asked you about that?

A. I wanted to tell you she wasn't balling me out.

Q. I didn't ask about that. Let's see if we got it straight. She says, I am still the mother of Tommy Atkins?

A. Yes, sir.

Q. Get out of here you crooks? A. Yes, sir.

Q. Captain McNab has quit?

A. Yes, sir, still the mother of Thomas Atkins, Captain McNab has done quit, get out of here you crooks.

Q. Yes? A. Yes, sir, and she sat down and got to talking.

Q. Who was there? A. Professor Hanford was there.

Q. Who else besides the professor?

A. Professor had brought another man, a friend of his out there with him.

Q. What was his name? A. I don't know.

Q. What kind of looking man?

A. I don't know, I can't describe him.

Q. Did he have *apileps* on his shoulder?

A. Did he, you couldn't pull Captain McNab in there, no, sir.

Q. I didn't ask you anything about pulling Captain McNab in there? A. Hiding out.

Q. Why couldn't you pull him in there?

A. Done stole that money and getting away from the—

Q. Where was he?

A. He was up in the Fort and Mr. Montgomery had gone after him.

Q. And he was hiding out?

A. Yes, sir, that money had done got hot and he was turning it loose.

Q. Is it possible? A. Yes, sir.

Q. You say he was in the Fort?

A. Yes, sir, he was up there out of that disgrace and he throwed up his hands and hollered murder.

Q. Hollered murder?

A. Yes, sir, he done quit and they couldn't get him down there.

Q. You said he hollered murder—put it down.

A. Put it down if you want to.

Q. Montgomery couldn't get him out, could he?

A. He wouldn't come out.

Q. Afraid to come out?

A. No, Judge, he was afraid to come.

Q. Did Montgomery have a warrant for him?

A. No, sir, but that money Captain McNab was dealing with was too hot.

Q. I understand, but did he have a warrant for him?

A. No, sir, I didn't see any warrant.

Q. If Minnie—now you listen to me—if not the rightful heir, what did Montgomery have to do with her money?

A. Montgomery?

Q. Yes?

A. He didn't have nothing to do with the money, Captain McNab and Hanford had it.

Q. But if Minnie was not the rightful heir, what did Montgomery have to do with prosecuting McNab?

A. He wasn't going to prosecute McNab.

Q. Well, what was McNab scared of then?

A. McNab had done got tired, him and Mr. Hanford, and he turned himself out.

Q. Who was going after McNab?

A. He was a nice army officer to get the Fort mixed up in that stuff.

Q. Who was going after him?

A. Mr. Montgomery went up to see him about the papers that day.

Q. You told me he was hiding out?

A. He didn't come down there.

Q. You said hiding out? A. Yes, sir I did.

Q. You told me he was afraid to come out of that Fort? A. I did.

Q. And the Government was after him?

A. I didn't say the Government was after him.

Q. Didn't you say that?

A. I said Mr. Montgomery had to go to the Fort after him and bring him down to the house.

Q. Didn't you say the Government was after him?

A. Mr. Hanford told Mr. Montgomery to go and get him.

Q. Didn't you say the Government was after him?

A. No, I didn't say that.

Q. Didn't you say that he threw up his hands and said murder?

A. I didn't see him, that was an expression of mine.

Q. You have volunteered that expression to enliven the case? A. Volunteered it?

Q. Yes, about oh murder?

A. That is my expression, not Captain McNab's I didn't see him say it.

Q. Now, Sadie, when you went up there, in your conversation from time to time with Minnie, you told her that you had to prove that she had a negro child, didn't you?

A. Oh, no, she didn't have no kind, I didn't have to tell her that.

Q. Didn't you tell her you had to make one?

A. She suggested that, I told her I had it started.

Q. Sadie, do you say here now that Minnie suggested the making of a Tommy Atkins?

A. I had made one back here, started one before I went out there, me and these negroes at Leavenworth started one before she was found, four months before she was found. When I got out there and talked to Minnie, then she told me, said who is dead if I had a baby there I could say I gave it to her.

Q. Didn't you understand that you were to build up a child for Minnie?

A. I had already built one, Judge, she wasn't found when I built that one.

Q. You made her agree to it?

A. That is just what I wanted her to say.

Q. You persuaded her to agree?

A. The minute she spoke up and said that, that is what I wanted her to say.

Q. Minnie jumped at your suggestion?

A. When she said, I drawed that money for her father, she said who is dead in Leavenworth, Sadie, if I had a baby I could give it to, that is just what I wanted her to say, Judge. That fit me in this nigger case in Leavenworth.

Q. That fit everything together? A. Yes, sir.

Q. She meant what darkey was dead in Leavenworth?

A. She didn't say who.

Q. That is what you understood? A. No, I didn't.

Q. What white person is dead?

A. Anybody who is dead.

Q. Did you tell her who is dead?

A. Yes, I said my grandmother, Granny Letcher.

Q. Tell me who you told her was dead?

A. My grandmother, Granny Letcher.

Q. Who else? A. That is all I told her.

Q. Did that satisfy her?

A. Why, it just fit like clock work.

Q. Fit like clock work? A. It did.

Q. The moment you called up Granny it satisfied Minnie?

A. That satisfied Minnie. Dennis and I had started the lie.

Q. She knew didn't she that Dennis Jones was still living? A. She had never seen Dennis.

Q. Never seen him? A. No.

Q. She knew Rube Smith was still alive?

A. She never had seen them niggers, before in her life until she switched to Leavenworth; them niggers is a liar because I started that lie with them, Dennis Jones and Rube Smith, and I started that lie, Judge, off the bare ground.

Q. Did she know Ida Foster was alive?

A. She didn't know nothing about Ida Foster.

Q. Did she know Ida Foster was alive?

A. She never did know Ida Foster at all.

Q. Do you know where Ida Foster stayed in Leavenworth?

A. I run with her, she wasn't nothing but a nigger.

Q. In the poor house?

A. On Choctaw Street, when she run that hoar house; Minnie Atkins had been gone from Leavenworth too long, she wasn't nothing but a girl, Ida was.

Q. You quite a strip of a girl?

A. Ida was younger than me.

Q. Ida did have a house of that kind?

A. Now when she did about 1889, when she started the house.

By Mr. Blakeney: I would like to put into the record that the witness is arguing every question and we never will get through.

By Mr. Stuart: We never will get through.

By Mr. German: I wish you would try to just answer his questions.

Q. When did you take up with Ida Foster?

A. From a girl, school girl in the town.

Q. Stop right there now. How old was you?

A. I was about eleven years old.

Q. How old was Ida? A. About—Ida was about nine.

Q. Nine, when did Ida start this house of prostitution?

A. About 1889—no, later than that. I was in Leavenworth before she—

Q. Answer the question?

A. It must have been about 1890 when she started.

Q. Did you know Ida then?

A. Knowed her until she died, yes, sir.

Q. Did you know her when she ran this house of prostituton? A. Yes, sir.

Q. Did you go there frequently, Sadie?
A. No, sir, not so frequently, not until after she——
Q. You went there sometimes? A. Sometimes, yes, sir.
Q. She was then on Choctaw? A. On Choctaw.
Q. She moved from Choctaw? A. On Delaware, yes, sir.
Q. To where? A. Deleware Street.
Q. Did you go there frequently, then? A. Yes, sir.
Q. Ida didn't know Minnie, did she? A. No, sir.
Q. She didn't know Minnie? A. No, sir, she didn't.
Q. Did you know Mary Smith? A. Her sister, yes, sir.
Q. What was her name? A. Mary Smith.
Q. That was Ida's sister? A. Ida's sister.
Q. Did Mary know Minnie? A. No, sir.
Q. Didn't know Minnie at all? A. Didn't know Minnie.
Q. Never had seen Minnie?

A. No, sir, she had never seen her, she was a white woman.

Q. Did you know a man there named George Crilly?

A. Well, I think I do; drove down in the hack with him when I was a little bit of a girl.

Q. He lived right opposite Granny's didn't he?
A. Yes, sir.
Q. He didn't know Minnie either?

A. He had a chance to know her; he didn't know her at Granny's.

Q. You know that to be a fact?
A. I know that to be a fact.
Q. If he says he did he is a liar?
A. Yes, sir, and I would tell him so.
Q. I know you would. A. Yes, sir.

Q. Did you know anybody else that lived around there besides George Crilly, right close in there?

A. No, because all of them were white, about all the neighbors around in there.

Q. Did you ever work at the Fort? A. No, sir.
Q. You never worked at the Fort?
A. No, I never worked at the Fort.
Q. Sure of that? A. No, I never worked up in the Fort.
Q. Sure that you didn't work at the Fort?
A. If I did—I don't think I ever did work at the Fort.
Q. Did you ever go out there?
A. Yes, been in the Fort.
Q. Ever go out there with Minnie? A. No.
Q. Minnie worked at the Fort a good deal?
A. Yes, but I did't go with her.
Q. Who did she work for out there?
A. I don't know who she worked for until Staffords.

Q. Who else did she work for?

A. I don't know until she worked for Brocks.

Q. Sadie, Minnie gave you this picture sometime in eighty-four, didn't she? A. Right after she first came.

Q. After she came, along in August? A. About that.

Q. In Eighty-four? A. Yes, sir.

Q. Now, you testified—I will ask you if you testified at the Receivership hearing at Muskogee? A. Did I?

Q. Yes? A. Yes, sir.

Q. I will ask you if this question was asked you: You knew Minnie pretty well at Leavenworth? And if you didn't make this answer: A. Yes, sir, I knew her better after I came back?

A. After I came back from the west?

Q. Yes? A. Yes, sir, I said that.

Q. I will ask you this question: How did you happen to know her so well? and if you didn't answer: I was working and she was with the white soldiers and I would meet her, I was the first person she met. Is that right?

A. I said she would come down in the town with the soldiers.

Q. Did you make that answer, just answer that yes or no?

A. I think I did that she came down *down* with the soldiers, yes, sir.

Q. Now, then, you didn't know Minnie well until eighty-five, did you?

A. I didn't know her but about three months in eighty-four, because I left.

Q. You didn't know her well until eighty-five?

A. After I came back.

Q. Yet she gave you the picture in eighty-four?

A. Just after I knew her, yes, sir.

Q. Just after you knew her?

A. She didn't give it to me until she came, you know.

Q. Where did Granny Letcher live in December, 1884?

A. December, 1884, on Cherokee Street between Second and Third.

Q. And she lived there until when?

A. Until about the fall of eighty-five.

Q. Until about the fall of 1885?

A. Yes, sir, along about the holidays in eighty-five.

Q. And then she moved up on Seneca?

A. Yes, sir, moved up on Seneca.

Q. You testified in this case before on the Receivership hearing, didn't you? A. Yes, sir, I did.

Q. On page 147, I will ask you if this question wasn't asked you, speaking of Granny Letcher, where did she live in January eighty-four? A. In January eighty-four?

Q. Where did she live in January eighty-four?

A. Living on Cherokee Street.

Q. That is your answer: Where did she live in January, 1885, and didn't you answer, she moved up there, lived on Seneca? A. January eighty-five?

Q. Yes, didn't you say that?

A. If I did, Judge, I certainly made a mistake, because she didn't live up there.

Q. Then, you did make a mistake when you testified at the Receivership hearing that she lived on Seneca in January, eighty-five? A. Yes, sir, because she didn't.

Q. But you said she lived opposite Crilly's barn?

A. Yes, sir.

Q. And then you said she moved on the corner of Third and Seneca, is that right?

A. She moved on Seneca and Third along about eighteen eighty—about eighteen ninety and moved right back then.

Q. Now, Sadie, why was it that you made that mistake?

A. I don't know if they got that down, Granny didn't live on Seneca Street.

Q. You take that back now? A. Yes, sir.

By Mr. German: Pardon me, Judge, I want to object on the ground that you didn't read to the witness the exact question and answer on the matter you last inquired about; in your effort to state the substance of it, I think you fell into error.

By Mr. Stuart: You mean this opposite George blank?

Q. The question right in here, is that it opposite George Barnes, do you mean George Crilly?

A. George Crilly, yes, sir.

Q. The answer is then that she moved on the corner of Third and Seneca? A. Yes, sir, but she didn't.

Q. That is a mistake?

A. Yes, sir, if they got that down that way, she didn't live up there in January.

Q. Sadie, how far—— You say you worked for Brock, didn't you?

A. Yes, sir, I worked for Brock, yes, sir.

Q. How far was Brock's house from Hyde's house?

A. Oh, I wasn't working for Brock when—— I was working for Bryan's and Haven's.

Q. I didn't ask you that.

A. Brock's house was—my goodness——

Q. Fifteen blocks, wasn't it?

A. I expect, or twenty blocks, I didn't work for Brock until I came back from the west.

Q. I didn't ask when you worked for him?

A. That was about fifteen blocks.

Q. That is where you worked when you came back from the west in the spring of eighty-five?

A. Yes, sir, I went to work there in May.

Q. In the spring of eighty-five you were working twenty blocks from Hyde's?

A. Minnie wasn't there at Hyde's.

Q. I didn't ask you that?

A. Yes, sir, I was working in May, eighty-five, at Brocks.

Q. Where was Minnie working then? A. Up in the Fort.

Q. When was that? A. The spring of eighty-five.

Q. The spring of eighty-five?

A. I came back in March and she was working—I met her——

Q. She was working—— A. In the Fort.

Q. How late in eighty-five, did you see her, Sadie?

A. I had only been home about, oh, two or three weeks in March.

Q. Did you see her off and on in 1885?

A. No, sir, I didn't come back until March.

Q. Did you see her off and on after March in 1885?

A. Oh, from that on? Yes, I saw her from then until, oh, let's see, in September, from September until the middle of October, she worked for Brocks about four weeks.

Q. Where?

A. Right out there where I did about four weeks.

Q. What place that you did?

A. Corner of 6th and Shawnee, Brocks.

Q. In September?

A. September until the middle of October.

Q. Who was she working for then?

A. Dr. Brock, she was house-maid there.

Q. You and she worked there?

A. Yes, sir, I was Mrs. Brock's maid.

Q. And she was what?

A. House girl, and we had a colored cook there.

Q. That was in September?

A. September, didn't work there until——

Q. Never mind, this was in September?

A. Yes, sir, September.

Q. September, 1885? A. Yes, sir.

Q. What other cook can you name that worked there?

A. Mag Turner.

Q. Do you know what become of her? A. No, I don't.

Q. Anybody else but you and Minnie work there that you could give the name of? A. The Sparks are dead.

Q. Let me know somebody that you knew was there?

A. Dr. Brock's wife's sister and Mrs. Taylor, they lived there at the same place.

Q. Where is Mrs. Taylor?

A. Same place, 6th and Shawnee.

Q. Do you know where they are?

A. They live at 6th and Shawnee I guess.

Q. She knew you and Minnie worked there?

A. She ought to remember it, yes, sir, Mrs. McFarland.

Q. Do you know who Minnie worked for at the Fort?

A. Not until after she left there.

Q. Left where?

A. She left Brocks, she went to Major Staffords.

Q. Didn't you tell me that after you got back in 1885 that Minnie was working up at the Fort?

A. Yes, sir, but not for Stafford's.

Q. Who was she working for? A. I don't know.

Q. She told you, didn't she? A. Yes, sir.

Q. Who was she working for at the Fort?

A. She was working in the Fort.

Q. When did she quit, in September?

A. It must have been in September, I guess, I can't swear it was in September, but she came there in September.

Q. Now, you never saw her after you came back until after she got to working at the Fort, did you?

A. Oh, yes, sir, I did. Saw her, but not to be with her; met her on the street——

Q. How came, Sadie—— The fact is, Sadie, that you and Minnie were just bare acquaintances?

A. She would come from the Fort and come there where I was.

Q. You claim to have been her intimate friend, Sadie?

A. No intimate friends, not enough to be sleeping together all the time.

Q. Just good friends?

A. Just good acquaintances, and good at that.

Q. Good acquaintances? A. Yes, good ones too.

Q. You didn't run together much?

A. She stayed in the Fort I couldn't run with her all the time.

Q. You didn't run with her a whole lot?

A. Not a whole lot.

Q. She was working wasn't she?

A. Not to amount to anything.

Q. This crime that you and she committed, that was away back yonder? A. No, not way back.

Q. I thought you would tell me the year?

A. No, I wouldn't do it, you wouldn't want me to do it, you will know it later on; it will help your case.

Q. When are you going to tell it? A. I don't know.

Q. It will help your case?

A. It will help hers and you.

Q. I would like to know it?

A. You are trying to get the truth, ain't you?

Q. Yes?

A. You are going to get it too; I am going to show it to you too.

Q. Who is going to give it to me, Sadie?

By Mr. German: I object to counsel and this witness arguing the case.

By Mr. Stuart: I am not arguing the case.

Q. Sadie, are you holding anything back on me?

A. No, I don't know a thing on you.

Q. I mean in this case?

A. I will tell you what I think about you.

Q. You have told me what you think——

A. I think you are a gentleman, and I think Mr. Blakeney is a gentleman, I think you are fooled in the case; wrong man and you can't afford—that is Ben Rice, the man that came up here.

Q. Are you sure? A. Yes, sir.

Q. Is there any other didactic and Christian remark that you desire to address to me?

By Mr. German: I object to the question as improper cross examination.

By Mr. Blakeney: I admit it, I want to run in that objection.

Q. Now, Sadie, tell me? A. What is the answer, Judge.

Q. Look at me and tell me; don't let's have any more levity about it. Judge Allen objects to my levity.

A. Well, go along, all right.

Q. I want to ask you this.

By Mr. Allen: I want to say that I made no objections.

By Mr. Stuart: I was observing your objections heretofore, gentlemen.

Q. Now, Sadie, are you holding anything back on this case? Tell me now? A. I can't say that.

Q. Have you got a bomb that you are going to explode later?

By Mr. German: I object to the question on the ground that it is argument, calls for a conclusion, and is improper cross examination.

Q. Have you, Sadie? A. I refuse to answer that.

Q. You refuse to answer that? A. Yes, sir.

Q. Then, you have got something locked up that I can't find out? A. I have, yes, sir.

Q. And you are going to tell it when you get ready?

A. No, it incriminates me, I will tell it when I get ready.

Q. When you get ready? A. Yes, sir.

Q. You don't want to take any advantage of me, do you Sadie? A. No, sir, I am going to protect myself though.

Q. Sadie, when you testified before the Receivership hearing, I asked you if this question wasn't asked you: Working for Dr. Brock, worked there until his place burned down. Is that your answer? A. My answer was yes.

Q. The question was: "Where were you in the summer of eighty-six?"

By Mr. Stuart: 134, Mr. German.

A. Summer of eighty-six?

Q. Yes?

A. The house burned down about the middle of June I think.

Q. Eighty-six? A. Eighty-six, yes, sir.

Q. This question asked you, you were working for Dr. Brock in the summer of eighty-six, and if you didn't answer, I went to work for Dr. Brock along in the winter of eighty-five, and worked for Dr. Brock until September, eighty-six. You said that, didn't you?

A. Well, Judge, if I did I couldn't have worked there until September, I started to work for Brock in 1885 in May, and stayed there until June, 1886, when it was in the fire.

Q. Then, if this answer is—— Listen: "I went to work for Dr. Brock along about the winter of eighty-five, and worked for Dr. Brock until about September, eighty-six," that answer is wrong?

A. That answer is wrong, I worked there about thirteen months.

Q. The next question: "Then, you were working for Dr. Brock in the summer of eighty-six? A. Yes, sir"?

A. Yes, sir. That is correct.

Q. That is correct. "Did you know Minnie during the summer of eighty-six? A. Yes, sir"?

A. Yes, sir, I said yes, sir.

Q. Was she at the Fort then?

A. Yes, sir, at Fort Leavenworth.

Q. That is all right? A. Yes, sir, that is all right.

Q. Everything is right, except the answer that you commenced working for Brock in the winter of eighty-five?

A. Yes, sir, I commenced working in the spring of eighty-five, in the spring.

Q. Now, Sadie, when you testified before the Receivership hearing, you didn't say that Minnie ever worked at Brock's did you?

A. I don't think I did, I don't know, sir.

Q. Why didn't you tell that? A. They didn't ask me.

Q. You were telling all you knew about Minnie, weren't you? A. They didn't ask me.

Q. You were telling all you knew about her, weren't you?
A. No, I——

Q. You was not? A. No.

Q. You were telling all you knew about where she worked, wasn't you?

A. No, I don't know as I did. I didn't do that.

Q. As a matter of fact you didn't tell on the hearing that she was working for Brock's before the Receivership?

A. No, sir, I didn't.

Q. Do you know this Quinton Garrett?

A. Mr. Buell's man?

Q. No, sir. You don't know him? A. No, sir.

Q. Don't you know there is a man named Quinton Garrett, claiming this land?

A. No, I don't know Quinton Garrett.

Q. A minor boy? A. No, sir, I don't know him.

Q. You never heard of him?

A. No, sir, I don't know Quinton Garrett.

Q. Didn't Mr. Buell tell you if the Government won this case, this man would get the land?

A. No sir, he said it was a matter of law between him and the Government.

Q. A matter of law between him and the Government?
A. Yes, sir.

Q. And he told you he had a man who would law the Government for it?

A. He told me he had filed some Indians on the land didn't say who it was.

Q. Then if the Government won it, it would be between him and the Government?

A. Fight between him and the Government, that is what he said.

Q. Now, Sadie, what have you been doing to earn this fifty dollars a month since December, 1914?

A. I have been taking Mr. Robinson around and telling him where the people are that know the truth; that is what I have been doing.

Q. Ever since December, 1914?

A. No, sir, not ever since that but at times.

Q. And lots of times you didn't work at all?

A. Didn't work at all because I was at some place else.

Q. Lots of times you were idle?

A. Lots of times I was idle, yes, sir.

Q. But your fifty dollars came regularly?

A. Yes, sir, three thousand dollars I was promised, was to draw that by the month.

Q. And all you have done is to take Robinson around and show him certain witnesses?

A. Or give him the names and let him go to them.

Q. You and Robinson have been working together?

A. Yes, sir, have been working together.

Q. And you know, Sadie, that Mr. Buell and Mr. Bartlett are relying upon your testimony to win this case, don't you? A. No, I don't.

> By Mr. German: I object to that as incompetent, irrelevant, and immaterial, argumentative, and calling for a statement of conclusions and opinion by the witness.

Q. You know it? A. No, sir.

Q. Answer it? A. No, sir.

Q. Did they ever tell you that you testimony was very important in this case? A. No, sir, they never have.

Q. They never told you that you would make them a good witness? A. No, sir.

Q. Never told you that they wanted you for a witness?

A. No, the Government, no, sir, they never did tell me.

Q. Never did? A. No, sir.

Q. Never did? A. No, sir.

Q. You are not getting anything from the Government of the United States, are you?

A. Oh, no. I got immunity from them, what I wanted, Judge, if I hadn't got a cent from Mr. Buell, no.

Q. Now, will you be kind enough in the morning to bring these immunity papers?

A. I will. I will sure bring them and the names of the hotels I stopped at in the west.

Q. Bring me those things and the hotel papers?

A. I will certainly bring them to you, yes, sir.

Q. Bring them to me? A. I will. All right.

Cross Examination by Mr. Blakeney.

Q. *Minnie*, please answer the question?

A. Yes, sir, I will do that.

By Mr. Allen: I desire to suggest in the record that this witness has been on the witness stand all day Monday, Monday evening, Tuesday, and that Tuesday morning she—the cross examination of Mr. Hanford began and that he cross examined her until in the afternoon of yesterday; Judge Stuart has been cross examining since that time and until the present hour, 3:28.

By Mr. Blakeney: I would like to ask counsel the purpose of this statement before I commence the examination.

By Mr. Allen: I think it is obvious.

By Mr. Blakeney: If this objection is being made because of the witness being tired, I would ask that the examiner ascertain the facts and take an adjournment at this time.

The Examiner: Sadie, are you tired?

A. Yes, sir, I wouldn't mind waiting until in the morning, and he can keep me from now until next week if he wants to go home.

The Examiner: I don't think we ought to lose the time; I think we ought to go ahead.

The Witness: I am willing.

Q. Sadie, you have used the word crook in your examination and cross examination. What do you mean by that word?

A. I mean people getting money falsely, Mr. Blakeney. Do anything like I will do.

Q. You mean by that term, a person that will get money in an unlawful way?

A. That is what I mean, in an unlawful way, yes, sir.

Q. You mean a person who will take advantage of a man being drunk and roll him and take money off of him?

A. Well, I don't know that I mean that—Steal it off of him. That would be a big chance.

Q. That would be a crook? A. Yes, sir, that is a crook.

Q. A person that will commit any species of fraud to obtain money? A. Yes, sir.

Q. And that is what you say you have been all your life?

A. Me?

Q. Yes?

A. I couldn't say nothing else what I have been, could you?

Q. Now, Sadie, just answer the questions, because I can't testify and I don't know the facts either? A. I think I have.

Q. Your judgment is that you have been a crook as we have defined it here all your life?

A. The principal part of my life, yes, sir.

Q. All of your adult life?

A. Not all of it, but the principal part of it.

Q. When did you commence a life of that kind?

A. What kind?

Q. Being a crook?

A. Oh, I don't know. I can't tell you, Mr. Blakeney.

Q. How old are you now?

A. I will be forty-seven in April.

Q. That will make you born in 1869?

A. Yes, sir, April 29th, 1869.

Q. April 29th, 1869? A. Yes, sir.

Q. Now, about what age were you when you commenced living an irregular life?

A. Well, I will have to think that up; I was about nineteen, I guess.

A. About nineteen years of age? A. I think so.

Q. That will be about eighty-seven or eighty-eight?

A. Well, about the fall of eighty-eight.

Q. About the fall of eighty-eight you will say that you commenced being a crook?

A. Well, I don't know, I think it was about eighty-nine, eighty-eight or eighty-nine.

Q. You didn't—How did you commence it, what did you do, that you say started you to living a life of a crook?

A. Well, just making money that wasn't right.

Q. Well, what was your business or occupation at that time?

A. Working and making money too, other ways.

Q. Working how? A. Working for people and families.

Q. Doing domestic work? A. Yes, sir.

Q. Did this being a crook include stealing things around the house wherever you worked?

A. No, I never was accused of stealing anything, I didn't want anything like that.

Q. You never did commit petty larcenies of that kind?

A. No, sir, I never did steal nothing from anybody.

Q. Were you a girl of lude virtue?

A. Yes, sir, and working too at the same time.

Q. When did you commence that kind of a life?

A. Well, about the fall of eighty-eight, I guess.

Q. The fall of eighty-eight you commenced living a life of easy virtue? A. Yes, sir.

Q. And have continued to live that kind of life up to the present time? A. Oh, not at all times, no.

Q. Off and on at times? A. Off and on at times, yes.

Q. Now, you have said you have spoken about Mr. Page being a crook, Mr. Hanford and Mr. Long? A. Yes, sir.

Q. You said, if I remember, that they were crooks because they had hired you, is that it?

A. Well, they—Listen, if I hadn't been a crook they wouldn't have hired me.

Q. Wouldn't have hired you?

A. No, wouldn't have hired me in that case.

Q. But they hired you for the same reason that you were a crook?

A. They didn't know a thing about me until Bettie took me to them.

Q. Page had never known you?

A. No, but I had been working six months in this fraud case, and Mr. Page did hire me.

Q. You were pretending to work in good faith?

A. No, not after that.

Q. When you commenced working for Long and Page, you had been, so far as the public knew, working in good faith to find Minnie and Tommy Atkins?

A. Yes, before I went up there, yes, sir, just the day before I went to Mr. Long's, the people thought I was telling the truth, yes, sir.

Q. Now, Long tried to hire you at Seattle when he came into the room there and you were with Bettie? A. He did.

Q. He tried to hire you? A. He did.

Q. When he was trying to hire you then, he thought so far as you knew, that you were going in good faith and trying to locate Minnie and trying to find Minnie's child?

A. Mr. Long?

Q. Yes? A. Do you want me to answer that?

Q. I certainly want you to answer it.

A. No, Frank Long knew better.

Q. When he spoke to you in Seattle? A. To steal Minnie?

Q. To steal Minnie? A. No, Mr. Long knew better——

Q. Knew better than what?

A. That there wasn't no Tommy Atkins and knew I was a crook.

Q. Knew you was a crook? A. Yes, sir.

Q. How did he know there wasn't any Tommy Atkins?

A. Frank Long knew before ever he came out there, there wasn't no Tommy Atkins.

Q. Frank Long knew it by intuition?

A. Rogers and Bettie Mann had already told him before ever he came out there.

Q. In your presence?

A. No, sir, but they told me they told him.

Q. Bettie Mann didn't know it, did she? A. Yes, she——

Q. Bettie Mann didn't know Minnie until twenty years after she left school?

A. That is right, she didn't know anything about Minnie.

Q. She didn't know anything about Minnie except that she left school and went to Leavenworth? A. Yes, that is all.

Q. She didn't know whether she had two children or a dozen children? A. She brought two children down there.

Q. Bettie Mann had seen those two children?

A. Yes, helped to raise those two.

Q. Did Bettie know anything about whether Minnie had three children or not? A. No.

Q. Knew nothing about it?

A. No, I don't think she knew that.

Q. Now, up to that time then, so far as you knew, Long had no information that you were not acting in good faith in trying to find the child? A. He knew it when he came——

By Mr. German: I object to asking the questions unless the witness has knowledge on the subject; object to counsel eliciting conclusions from the witness.

A. He knew it when he wanted me to steal Minnie, yes, sir.

Q. Did he say he knew it?

A. He said she told him the baby died when it was six months old and that was too early and he would give me three thousand ($3,000.00) dollars—I believe it was to me and Bettie both, to steal Minnie and take her to Oklahoma.

Q. Didn't want anybody but Minnie?

A. They never wanted no boy.

Q. Now, *Minnie*, you called Bettie Mann the "seven year woman?"

A. I don't call her that. My husband calls her that; he didn't know what her name is.

Q. What does your husband do?

A. Don't do anything; used to be in a rock quarry.

Q. Is he a crook? A. No.

Q. He is one man who associated with you who wasn't a crook?

A. Yes, I guess he used to be, I don't know what he did, but he isn't none now.

Q. Now, I notice in your examination that you bragged about being a crook——

By Mr. German: I object to the question on the ground that it is without justification, and the mere conclusion of counsel.

A. No use of hiding it, they knew it, and what did I want to try to keep on hiding it for from these men if they knew it.

Q. You have bragged about it in your examination?

A. No, I haven't bragged about it; I have said I was.

Q. You have stated when counsel had not asked you about it? A. I just acknowledged it, sure I acknowledged it.

Q. Every place you switched it in; you switched it in, I am a liar, I was a liar, and I told lies and I was a crook?

A. I told it, yes, sir.

Q. Switched it in when it wasn't responsive to questions, didn't you?

A. I don't know whether I did that or not.

Q. You have never changed that life?

A. Oh, yes, I change it sometimes.

Q. Are you a crook now? A. No, not now.

Q. When did you change?

A. I changed quite a little bit ago.

Q. Give us the date and day, will you?

A. No, I can't mention that.

Q. Well, about when? A. I don't know, sir, when.

Q. Well? A. About a year or so ago, or more.

Q. Was it the December morning when you talked to Frank Montgomery when you changed? A. Yes, I changed I guess.

Q. That was the date? A. I guess so.

Q. From that date you changed and decided that you would do the right thing?

A. Do the right thing, that is the best.

Q. You decided that?

A. I decided that if I could get out of that crooked deal, yes, sir.

Q. You said here you had—to use your expression—You had beat Bartlett out of seven or eight hundred ($700.00 or $800.00) dollars on this trip west.

A. Yes, sir, I did.

Q. You did? A. Yes, sir.

Q. How did you beat him out of it? A. Just lying to him.

Q. Tell us how?

A. Telling him I was hunting a boy and wasn't hunting none; trying to get people to stand up, and there wasn't none to hunt.

Q. You wired Bartlett you were hunting a boy when you knew there wasn't no boy to hunt? A. Yes, sir.

Q. And that was the fraud that you perpetrated on him?

Q. Yes, sir. That was a fraud.

Q. And you were paying your expense account?

A. Yes, sir.

Q. Stealing, grand larceny and petty larceny too?

A. Yes, sir, doing it all.

Q. Doing it all? A. Yes, sir.

Q. When you reached this change, this period and had a change of heart, did you feel that you ought to pay that money back to him?

A. I don't know where I would be going to get it at.

Q. Did you feel that you ought to pay it back?

A. Yes, sir, I felt sorry that I had lied.

Q. And if you had it, you felt that you ought to pay it back? A. Yes, sir, but I didn't have it.

Q. Felt that you ought to do that?

A. Yes, sir, that I ought to pay it back.

Q. Sadie, who do I represent in this case?

A. I don't know.

Q. You don't know who I represent in this case?

A. No, I don't know who you are.

Q. Who does Judge Stuart represent?

A. I guess Mr. Page.

Q. You guess Mr. Page? A. Yes.

Q. Don't you know it?

A. No, I don't; I thought Mr. Hanford was representing Mr. Page until he stepped in, and now I think you are in my thoughts.

Q. In your thoughts? A. Yes, sir.

Q. Didn't you know that Judge Stuart represented Mr. Page when you said I have something that will benefit your client and I will tell you some day? I ask you what you meant when you said you expected it to benefit him?

A. I didn't expect it to benefit anybody of his, I was going to get the truth out of him so he would know what he was doing.

Q. When you said some day you would tell the truth and benefit his client——

A. I meant benefit Mr. Page, so he could show Page where he is wrong.

Q. You wanted to benefit Page?

A. Yes, sir, so he would stop.

Q. Answer the question? A. Yes, sir.

Q. Then you knew Stuart was representing Page?

A. Yes, sir, he was talking.

Q. Who does this gentleman, Mr. Meserve, represent here?

A. I suppose he represents Mr. Buell, I guess.

Q. Mr. Buell? A. I think so.

Q. You know Mr. Buell hasn't got any money?

A. I don't know what he has got.

Q. You know he is associated with Bartlett in this transaction? A. He might be.

Q. And he is representing Bartlett in this matter?

A. You say don't I know; that is what I don't know, I can't say.

Q. You believe that, don't you?

A. No, sir, I don't. I believe he was representing himself; I believe he had a man his own self.

Q. Don't you know that the Buell Company, composed of himself and Bartlett, have taken a lease of this Quinton Garrett? A. No, sir, I don't know that?

Q. You heard it?

A. No, sir, I don't know anything about Quinton Garrett.

Q. Don't you know now that this gentleman is representing, directly or indirectly, Mr. Bartlett?

A. No, I don't. I can't say that when I don't know it.

Q. Are you willing to ask them?

A. Yes, sir, I am willing to ask them.

Q. Now, if you find out they are representing Bartlett, then will you decline to take that three thousand ($3,000.00) dollars from them?

A. No, sir, I wouldn't decline it even then, although Mr. Bartlett owes me, but I don't think Mr. Buell was in with Mr. Bartlett.

By Mr. German: I object to that as not proper.

Q. If you find out that Bartlett is paying this money in, are you willing for Bartlett to take out this seven hundred dollars that you say you skinned him out of, out of that three thousand dollars? A. Willing for him to do that?

Q. Yes?

A. No, I am not working for Mr. Bartlett, I am working for Mr. Buell.

Q. Isn't this a fact that you are still doing just what you have always done, just working for whoever will pay you the money? A. No, sir, no, sir.

Q. Sadie, when you first talked to Bettie Mann was it in Leavenworth,or Kansas City? A. In Leavenworth.

Q. You had been running a road house near Tulsa for a few years? A. Yes, sir.

Q. How long did you run it?

A. I run that road house three or four years I guess, two or three years, something like that.

Q. Minnie had come out there? A. Do you mean Bettie?

Q. Bettie had come out there and tried to get you to forge a deed? A. Yes, sir.

Q. Did she tell you what deed?

A. She told me that she had told a man, she didn't tell me what deed, no.

Q. What did she say about the deed?

A. She told me: Sade, do you want to make some money?

And I said yes, and I said how? She said Osey and I have told Bartlett that we know where Minnie is, but we don't, but we want somebody to go and sign a deed and give it to him, we want somebody; and I said well I will do it for a thousand dollars, and she said that is more than is what is in the deed, ain't but three hundred ($300.00) dollars for the party who is going to sign the deed, and wasn't over five or six hundred dollars in the deal I don't guess.

Q. You guess from what she told you that there was three hundred?

A. Yes, sir, three hundred for her to get somebody that would do it.

Q. You knew she did go up to Kansas City and got a forged deed? A. Yes, I knew that.

Q. Did you know what land it was on?

A. No, I never seen that land, no.

Q. Not the identical piece, but did you know that it was the land of one of Minnie's sons?

A. Not none of Minnie's sons, but I knew it was land that belonged down there somewhere.

Q. You knew why Minnie was supposed to have an interest in it, didn't you? Supposed to be one of her dead son's?

A. No, one of her dead children's.

Q. Supposed to be one of her dead children's?

A. I thought it was Minnie's land they were going to get a deed for. She didn't say enough for me to know about the boy then.

Q. You finally learned, however, that they were trying to get the boy's land?

A. That was away later, in 1914 I found that out.

Q. That is the first time you learned it?

A. That is the first.

Q. Didn't you learn of the prosecution of Bettie Mann?

A. That was for another crime done eight—that is seven years ago.

Q. Didn't you learn of the prosecution and Bettie—this seven year Bettie—— A. That wasn't for that crime.

Q. Your understanding that it wasn't for that crime.

A. No, another affair, yes, sir.

Q. Another forgery? A. Yes, sir.

Q. You never learned during the time that this matter was being discussed with you when you were running this road house that Bettie was attempting to get a forged deed that was on land that was supposed to have been allotted to Minnie's son?

A. I did not, didn't know that until she came up to Leavenworth.

Q. When she got to Leavenworth and you had a talk with her, what did she say?

A. She said: Sade, do you know Minnie that used to work here at Hyde's; first said, Sade you know that deed Harjo and I got Bartlett? and I said yes, and she said: J. B. White is making me trouble about it now and we have got to make it good; and she said, we will say it is the son of Minnie Atkins, and I said whoever said Minnie ever had a son here named Tommy Atkins; and she said I did, but she said, I have been working on the case three years and I don't believe there ever was a Thomas Atkins, but I have been working for two men, J. B. White and H. U. Bartlett, for two years, and it won't do now to let them know any better and, I asked her if these white men had any money and she said yes.

Q. I would like to interrupt, I will get back to it. Now, you learned there then that this seven-year woman had been working for two or three years trying to get a deed from one of Minnie's sons?

A. No, sir, no she had been working for them, wasn't trying to get no deed for them, already got a deed for Mr. Bartlett and she was up there trying to make it good; Mr. White was pushing her..

Q. Said she had been working two or three years?

A. Yes, that is what she told me.

Q. But she had never been to Leavenworth?

A. Bettie had been to Leavenworth the month of February before she found me.

Q. Never talked to you? A. Didn't know I lived there.

Q. When you were talking to Bettie at the road house in Tulsa, you told Bettie that you knew Minnie?

A. We never talked it over; she wanted the deed.

Q. She was hunting Minnie Atkins?

A. Not then she wasn't; she thought Minnie was dead, she wasn't hunting Minnie; just wanted somebody to get a forged deed, that is all she wanted.

Q. She wanted somebody to go and sign Minnie Atkins' name to a deed? A. To a deed, that is all she wanted.

Q. Did you tell her you had known Minnie?

A. Yes, sir, I told her.

Q. You told her all about it? A. No, I didn't.

Q. What did you tell her?

A. I told her I knew Minnie, but she said she was dead; that is what Bettie said.

Q. You told her that she was not?

A. No, it had been seventeen or eighteen, or nineteen years since I had seen her.

Q. You had known her seventeen or nineteen years and you didn't know——

A. I hadn't seen her in that time, I didn't know but what she was dead.

Q. Have you told us now all that you learned from Bettie Mann at Leavenworth now? A. At that time.

Q. I don't care of the circumstances that she told you, but of the knowledge that you learned from the transaction of Bettie; you learned that Bettie was working two or three years there getting or trying to make a deed that she had gotten to stand up?

A. Yes, she had been lying trying to make it stand up.

Q. And she had worked two or three years?

A. She said that.

Q. Did you learn whose land it was that had been allotted? A. No.

Q. Didn't learn to whom it had been allotted? A. No.

Q. Didn't learn it had oil then?

A. No, I didn't learn it had oil on it.

Q. Didn't learn any of the details?

A. No, sir, didn't know where the land was.

Q. What did Bettie want you to do?

A. She wanted to get a boy started there.

Q. Did she tell you why?

A. Yes, to make the deed good, yes. She said Minnie was dead, and I want to get a boy started.

Q. The deed was signed by Minnie, wasn't it?

A. Yes, but a forged one.

Q. And then she wasn't hunting Minnie? A. No.

Q. Hunting somebody else to get a deed to make it stand up that she had signed?

A. No, hunting a boy to make——

Q. Instead of trying to make that deed stand up she was trying to get a real owner of it, the boy?

A. The real owner.

Q. The one that claimed to be the owner?

A. The one that claimed, yes.

Q. She was not hunting Minnie? A. No.

Q. Wasn't trying to find Minnie's son?

A. No, she wasn't trying to find Minnie's son.

Q. She didn't know Minnie didn't have no son?

A. She knew Minnie didn't have no Thomas Atkins.

Q. She hadn't seen Minnie for twenty-five years, had she? A. For thirty years.

Q. Thirty years? Hadn't seen Minnie now for thirty years? A. For thirty years hadn't seen her.

Q. And didn't know whether she had any children or not except the two living in Oklahoma in her own knowledge?

A. In her own knowledge that is all she knew.

Q. She wasn't hunting Minnie because she thought Minnie was dead? A. That is what she said.

Q. Bettie Mann didn't want to find whether Minnie had a son or not, she simply wanted to find some one that she could hand to Bartlett and say this is the boy?

A. That is what she wanted; she told Mr. Bartlett that she knew Minnie had a son, and after Mr. White got after her so, she tells another lie, that she knew Minnie did have a son.

Q. All right, let's keep close. I think you answered directly but I want to be sure. Bettie Mann was not trying to find Minnie or Minnie's son, because Bettie thought Minnie was dead already? A. Yes, sir.

Q. She was trying to find some Indian or negro that she could palm off on Bartlett as this boy? A. Yes, sir.

Q. That was the theory?

A. Yes, sir, wasn't hunting Minnie's son.

Q. That is what she wanted you for, to help her?

A. Told me to tell the white men that and I could get a job.

Q. Wanted you to get a job so you could help her?

A. Help her; didn't ask me to get a job, I asked her for it.

Q. She consented? A. Yes, she knew I could do it.

Q. After you had this conversation and you both agreed that you would try to get a job from this white man, she wanted you to get that job to try to help her to make the Tommy Atkins? A. Yes, she did.

Q. Didn't want you to help her find the real Tommy Atkins? A. She couldn't have wanted me to do that.

Q. Answer the question? A. No, that wasn't done, no.

Q. How did you know——

A. I know there was none and I will show you there ain't none.

Q. How did you know it?

A. I know it. She didn't have it there.

Q. You didn't know but what she had it somewhere else?

A. I did know it.

Q. How did you know it? A. I did know it.

Q. Know she didn't have one some other place?

A. Yes, I do know it.

Q. You know that then as well as you know the other things you have testified to in this case?

A. I will always know it.

Q. Did you know then as well that there was no Tommy Atkins as you know the other things that you have testified to in this case? A. Yes, she has got none.

By Mr. German: I object to the question and move to strike the answer on the ground that it is argument, and calls for a conclusion and an opinion of the witness.

The Witness: I am getting tired and would like to quit.

By Mr. Blakeney: Well, if she is getting tired. Let the record show that she is tired.

And thereupon, the witness is excused until 9:30 o'clock, A. M., February 18th, 1916.

SADIE JAMES, being recalled, further testified as follows:

Cross Examination by Mr. Blakeney.

Q. Sadie, did you bring the papers that Judge Stuart asked you to?

A. I couldn't find my hotel papers, but I brought my immunity paper, yes, sir; and I told you I had a copy of the note I sent Minnie that I would bring to you; yes, sir, I brought that one.

Q. Sadie, in your long life and experience in the underworld, you had framed up and put over a good many schemes and frauds, haven't you? A. No.

Q. You had not? A. No.

Q. What did you mean when you told Judge Stuart that you were an expert?

A. I don't know as I said an expert

Q. In matters of that kind?

A. I mean in doing other things. No, I never was in any land deals before.

Q. You have had a good deal of experience in advancing different frame-ups of different kinds and types? A. Yes.

Q. In preparing these frame-ups, you always adopted a plan that appeared to you the most probable, didn't you?

A. Yes.

Q. You did that because it would avoid detection and if it is detected it appears to be the most natural anyhow?

A. Well, I don't know as I did all the time; not all the time did I prepare them, sometimes other folks would prepare them.

Q. When you did prepare them, you would prepare them in a way most natural, in a way that it would have occurred if it occurred at all? A. I didn't this one.

Q. You usually did?

A. No, I didn't do any framing up.

Q. Why didn't you do that?

A. I knew how this one just how this one ought to be done, this case.

Q. And you framed it up according to the knowledge you had? A. Yes, sir, this one.

Q. Dennis Jones told you when you first spoke to him that he could prove hell was an ice box by lawyers, bankers, and merchants? A. And doctors.

Q. And doctors? A. Yes, sir.

Q. Did he say he could prove it by white or black?

A. There ain't a nigger banker in Leavenworth, never have been.

Q. Then, you knew he was thinking of proving it by white bankers? A. White.

Q. And white lawyers and bankers?

A. Yes, sir, and doctors I suppose. He said doctors, lawyers, and bankers.

Q. You understood anyhow that he could prove it by a number of supposed white people?

A. I didn't understand it, I knew what he and I had just done; I knew it.

Q. Then you knew that he could prove it by what was supposed to be reputable white people?

A. I knew what he had done and I thought that he——

Q. Just answer the question.

A. I didn't know that he could do that, what he said he could do, but I——

Q. I asked if you supposed and you said you knew it——

A. I didn't know whether he could get them bankers and lawyers, but I believe it now since, because that has gone so far.

Q. You believe it yet?

A. He has got a lot of strong witnesses in it. Yes, sir, I believe what he has said.

Q. Your experience in the under-world has rather turned you to believe all men are dishonest? A. No, oh no.

By Mr. German: I object to the question as argumentative.

A. If it had been, I wouldn't have said that you were honest.

Q. Didn't you adopt that your rule of life that the virtue of every woman and integrity of every man can be bought?

A. No, I would be a fool to think so.

Q. Why was it that you didn't spring this up naturally if you say you didn't?

A. This case, Tommy Atkins case?

Q. Yes?

A. Didn't Dennis and I and Rube frame it up?

Q. I asked if you framed it up naturally and you said you usually did, but didn't this one?

A. I didn't say I did this one.

Q. Well, did you this one? A. I did this one.

By Mr. German: Object to it on the ground that it is argumentative.

Q. Then, you and Dennis Jones in a conversation of but a few minutes framed this whole case up?

A. In a few minutes?

Q. Yes?

A. Rube Smith, Dennis Jones, and myself were together that night until nearly ten o'clock, from about six o'clock until about ten, something like that.

Q. Something about four hours? A. Yes, sir.

Q. You and them framed this case up? A. Yes, sir.

Q. You did it or Dennis?

A. I laid out the plan and Dennis did the work.

Q. And Dennis was to get the work?

A. He did do it, I didn't get a witness.

Q. You laid out the plan and he was to get the witnesses?

A. Which he did.

Q. You laid out the plan in the most natural way, in your judgment, that it could be laid out?

A. Yes, sir, laid it out.

Q. Laid it out to put the child born in the colored poor house?

A. Yes, sir, in my grandmother's poor house, yes, sir, because she was dead, couldn't be made anywhere else.

Q. You knew at the time that Minnie had never been associated with colored people?

A. Yes, sir, and they knew it.

Q. You knew that? A. I knew that.

Q. Then, you wasn't laying it out the natural way?

A. Why wasn't it?

Q. Were you?

A. Didn't I, they didn't know her; they never seen her until a year ago until they switched her up there so they could see her. Mr. Hanford took her up there the first time and wouldn't let a nigger in the town see her until he fell down on his first proposition and had to take it up with our negroes.

Q. You said Minnie never knew Ida?

A. Ida Foster, Minnie Atkins never did know Ida Foster.

Q. You know that?

A. I know that, she never did know her. Ida Foster is dead and couldn't speak for herself. When Ida Foster commenced running around town, Minnie Atkins had gone.

Q. But as a matter of fact, you don't know whether she knew Ida or not? A. I know she didn't know her.

Q. Ida and Minnie had gone up to the hotel or up to some rooming house with a couple of men at different times, you don't know anything about it? A. No, it never happened.

Q. You wouldn't have known it if it had have happened, would you?

A. Ida Foster lived with me and Lawyer Bell knows it. When I lived at Third and Shawnee in 1889 and Minnie Atkins had left town, and Lawyer Bell knows exactly where I lived.

Q. Don't you know that Lawyer Bell defended Minnie and Ida for disorderly conduct in about 1884? A. No, Oh God!

By Mr. German: Wait until I make an objection. I object to the question unless the witness knows and on the ground that it is improper cross examination.

Q. Did you ever know or hear that Lawyer Bell had defended Minnie and Ida Foster for disorderly conduct at nights on the streets of Leavenworth?

By Mr. German: I object to the question unless counsel fixes the time and place, and object to it on the ground that it is improper cross examination.

A. Oh, no. I am at the first of that now.

Q. That is the first you ever heard of that?

A. This Lawyer Bell?

Q. This identical Lawyer Bell.

A. That Lawyer Bell never seen Minnie in his life, I am here to tell him so.

By Mr. German: Now, Sadie, don't argue the case, just testify to what you know and don't argue the case.

Q. You say this Lawyer Bell never saw Minnie Atkins in his life?

A. Never in his life, and I am talking to Lawyer Bell now.

Q. You are sure of that? A. Yes, sir.

Q. Didn't he see her a year ago when she came to Leavenworth? A. Oh, yes, when they took her around.

Q. As a matter of fact, you don't care whether you know it or not?

A. I am telling what I believe; I almost know it.

Q. When you believe a thing you will testify it is true, is that a fact? A. I know it.

Q. You will testify that you know it? A. Yes, I will.

Q. Do you know Mat Burns?

A. Yes, sir, one of the other witnesses; sure, I know Mat Burns.

Q. What did you say about one of the other witnesses?

A. Yes, one of Mr. Page's witnesses, yes, sir, I know.

Q. Why did you say one of the other witnesses, Page's witnesses?

A. Because Dennis — told me on my trip that he had gotten Mat Burns and Kate Logan and Mary Smith.

Q. That was the reason now that you said—you mentioned one of those witnesses?

A. Yes, sir, because afterwards I found that he went to the court house and swore to a certain statement.

Q. You did it because you wanted to discredit his evidence too, didn't you? A. Discredit it?

By Mr. German: I object to it as argument.

Q. Answer it. You did it because you wanted to discredit his evidence?

A. Why, I knew he was in the frame up, certainly, I am saying just what I know now.

Q. I asked you the question, did you know whether Mat Burns had paid Judge Bell here, back in eighty-seven or eighty-eight, or during the eighties, a fee for defending Minnie and Ida for disorderly conduct on the streets of Leavenworth?

A. No, Mr. Blakeney.

Q. Did you ever hear of it?

A. Oh, no, not until this minute, Mr. Blakeney.

Q. Now, when you got out to Minnie's, that Minnie said to you, who is dead in Leavenworth, did she ask you that?

A. Yes, sir.

Q. And you said, oh my grandmother? A. Yes, sir.

Q. Granny Letcher? A. Yes, sir.

Q. You knew when you framed up at Leavenworth with Dennis Jones that night that Minnie was going to ask you that, didn't you? A. No, I didn't.

Q. And you had selected Granny Letcher because she was dead?

A. No, I didn't know it. It was the first time she ever heard my grandmother's name when I said that to her in Seattle.

Q. The first time that Minnie ever heard?

A. The first time. If my Granny was alive today you would have to tell her who she was.

Q. The first time? A. The first time.

Q. Let me finish the question. The first time that Minnie ever heard of Granny Letcher was when you named her in Seattle? A. Yes, sir.

Q. That you are sure of?

A. Yes, sir, I am positive of that.

Q. Just as sure as you are of anything else?
A. Certainly am.

By Mr. German: I object to that as argumentative, and calling for a conclusion of the witness.

A. Lawyer Bell, my God!

Q. Sadie, you just said Lawyer Bell, my God! threw up your head and threw yourself back in the chair, what was that for?

A. Listen! I am surprised, Lawyer Bell being an honorable man like he ever was to sit up here and tell you any such tale. I have always known Lawyer Bell to be a respectable man, but now I am surprised at him.

Q. Anybody who had ever seen Minnie at Leavenworth would not be respectable, would he?

A. Yes, but Lawyer Bell——

Q. You say Minnie never had any child at Leavenworth?

A. I said she didn't have any children there that any negroes ever knew about there.

Q. How would you have known about it?

A. If she had ever had one in my grandmother's house wouldn't I have known it; my goodness! Lawyer Bell, the very idea!

Q. You never heard that she ever had a baby named Robert Peterkin at all? A. No, I am honest, no.

Q. You never heard that? A. No.

Q. Yet you never heard that an old nigger woman assisted her a week or ten days after the birth of that child?

A. No, I don't know that; I am telling you I don't know that.

Q. You do say that no nigger woman knew anything about her having a child in Leavenworth?

A. I don't say no nigger woman, but not in my grandmother's house, I know that.

Q. You were here at Kansas City watching the taking of depositions in Leavenworth, weren't you?

A. No, I was watching the actions of Minnie.

Q. What were you watching Minnie's actions for?

A. To see how she was going to stand up under those lies.

Q. What lies? A. Lies Mr. Page had her to tell.

Q. Is that what was making you so nervous to see whether Minnie would stand up under the frame up?

A. She didn't stand up under it.

Q. She swore the child was born in the hospital in Leavenworth?

A. No, not that lie. That was a lie when they took her down to Tulsa. That was the lie in Leavenworth that she was going to tell. My stars!

Q. Are you suffering Sadie?

A. I have got shocked by Lawyer Bell. Never get over that as long as I live.

Q. What shocked you?

A. I will get over that but I may never look the same.

Q. Always be shocked will you? A. Always.

Q. Sadie, after hearing that you will have to get yourself three six shooters after that and carry them, won't you, that you have lost confidence in Lawyer Bell you will have to get three six shooters? A. I have lost it.

Q. Sadie, you remember about Lawyer Bell—You was arrested for disorderly conduct in about eighty-seven or eight on the streets, weren't you?

A. No, about eighty-three—no, eighty-seven or eighty-eight? Me and a white man and another girl, yes, got arrested; I was living on Fifth Street; Lawyer Bell knows that. He does know that but he doesn't know the other; I am surprised at him.

Q. Now, when you started this frame up you thought Minnie was dead, didn't you?

A. Bettie had said she was dead, and I hadn't seen her for seventeen or eighteen years, I thought she could be dead.

Q. She told you here that she thought she was dead?

A. Bettie said she found out about eleven years ago that Minnie had died up in Kansas City in a hospital.

Q. Told you she had found it out? A. No.

Q. Told you Minnie wasn't allotted, didn't she?

A. No, we never talked over that. Bettie was just telling a story then.

Q. When did Bettie tell you that?

A. When she came up there in March.

Q. Bettie was rather like you, couldn't tell the truth, could she? A. It makes no difference——

By Mr. German: Object to that as argument and calling for a conclusion, and an opinion of the witness.

A. Shall I answer that?

Q. Yes?

A. In this case we were lying all of us, yes, sir. I told the truth in some things, but in this case we were lying.

Q. You never told the truth when a lie would serve your interest better did you?

A. Oh, yes, the truth serves me better now.

Q. I say you never told the truth when a lie would serve you better, did you?

By Mr. German: I object to that as argument and calling for a conclusion of the witness and an opinion of the witness.

By Mr. Blakeney: I will say to counsel that I am willing for him to dictate an objection for conclusion and improper examination for every question in the record so as not to have the examination stopped.

By Mr. German: I am willing to that.

By Mr. Blakeney: That objection may be interposed both to the form and substance, improper cross examination, and that the question is calling for a conclusion and leading.

By Mr. German: And any other known ground of objection.

By Mr. Blakeney: Every other known ground.

By Mr. German: To all the questions that you may put to the witness.

By Mr. Blakeney: Yes.

Q. The question is, you will never tell the truth when a lie will serve your interest better?

A. I am telling the truth now, I told lies a lot.

Q. The truth will serve your interest better now, doesn't it? A. Yes, that is why I am telling it.

Q. It is serving your interest better?

A. Serves my soul better and the truth has to come out.

Q. If a lie would be more profitable or more advantage to you, you would tell a lie now, wouldn't you?

A. No, I couldn't Judge, not now. Tell another lie in this case, couldn't.

Q. You would have to start a new case then?

A. I couldn't do it at all.

Q. You would have to start a new frame up?

A. No, Judge, I wouldn't have a thing to do with that crooked case any more.

Q. Now, you didn't learn from Dennis or Bettie or Bartlett anything about the fact that Minnie had placed her children on the Indian Roll? A. Minnie had?

Q. In 1895, yes?

A. I didn't know who she placed on there Judge, listen, when she came back—

Q. I asked you if you knew. You didn't find out anything from them about it?

A. I didn't find out anything from them about it.

Q. How was it that you told Minnie at Seattle, when you were talking to her, why Minnie you enrolled Thomas, Alice, and Charlie and Harvey? A. Yes, sir.

Q. And you said Alice was dead? A. Yes, sir.

Q. How did you know that? A. How did I know that?

Q. How did you know that? A. Want me to tell that?

Q. I want you to tell.

A. I didn't find that out from them.

Q. Where did you find that out? A. From the Gypsy.

Q. When did you find that out?

A. I found that out later on.

Q. You found that out before you told Minnie?

A. Oh, before I told Minnie.

Q. Yes? A. Sure before I told Minnie.

Q. You told Minnie that second day that you were at Seattle, didn't you?

A. No, I didn't, I told Minnie that the first day I found her, didn't tell her where I got it at; I knew she had three children when she came to my house.

Q. You knew that? A. Yes, sir.

Q. You didn't know Alice was dead?

A. Only that she had those two, was all that I knew.

Q. And you didn't know whether Alice was enrolled or not? A. I heard that.

Q. How?

A. I heard that Alice was born, I think I did, I wasn't hunting for nobody but one.

Q. No, but I am trying to find out how you learned it?

A. I don't know how I found that out.

Q. Didn't Bettie show you a copy of the roll?

A. No, no, Bettie Mann never showed me nothing. Bettie never showed me, I didn't get that from Bettie, I never have seen it.

Q. Didn't Bettie show you?

A. No, I never have seen that.

Q. A paper in which it showed, "Belonging to the Euchee Tribe was enrolled—That Minnie Atkins, Charlie Atkins, Alice Atkins and Thomas Atkins, Harvey Atkins and Nancy Atkins were enrolled."

A. Oh, no, Bettie never had nothing up there with her, never had a thing up there.

Q. Whether she had or not, she told you the facts?

A. No, she didn't.

Q. How did you learn it to tell to Minnie?

A. I learned that from a copy when I went down to tell the Gipsy lies.

Q. To tell the Gipsy a lie?

A. When Dennis and I started the lie up here, I went down to the Gipsy in April and told them a lie, told Mr. Brayley and Mr. McGraw.

Q. Wait a minute, Bettie spoke to you about it in Leavenworth? A. Yes, sir.

Q. That night that you saw Dennis and Rube, you had an engagement with Dennis and Rube? A. Yes, sir.

Q. The next morning you came to Kansas City?
A. Yes, sir.
Q. You found Bartlett here? A. Yes, sir.
Q. You talked to Bartlett?
A. Talked to him about that lie that I knowed, yes, sir.
Q. Why did you say that you talked to him about the lie that you knowed?
A. Bettie told me to tell him a lie.
Q. Why do you say that, I didn't ask you that?
A. Because I wanted you to know what I told him.
Q. You sort of glory in the fact that you told it?
A. I wanted you to know that I told him a lie.
Q. Don't you know that I know it when you repeated it in this record?
A. I thought you might forget it, I didn't want you to forget that I was lying.
Q. You made a contract with Bartlett then didn't you?
A. I didn't make a contract with him then.
Q. You made a contract that he was to pay your expenses while you searched for Tommy?
A. To get him a Tommy, yes.
Q. You told him that you would go and get Tommy?
A. I told him I knew a boy, I hadn't seen him since he was five years old. I told him a lie.
Q. Why did you tell me again that you told him a lie?
A. Well, because I——
Q. I asked you what you told Bartlett. Now, Sadie, after you talked to Bartlett—— A. Yes, sir.
Q. You went back to Leavenworth? A. Yes, sir.
Q. And you stayed there how long?
A. I stayed there two weeks.
Q. Then what did you do?
A. I went then back to Kansas City where they had detectives, where detectives had this boy.
Q. You came over to Kansas City to see this Tommy Atkins the detectives had?
A. Yes, and Bettie had sent for them.
Q. And instead of going to Muskogee, you went to Tulsa?
Q. My home, Tulsa, yes, sir.
Q. What were you doing at Leavenworth? A. When?
Q. When Bettie found you there?
A. Me and Dennis had done pulled off a job—went there for me and him to pull off this job on this old soldier; we robbed him of a thousand dollars that white people had of his, and his house down here at Odessa, and we had his house and lot all tied up and we couldn't get it sold; Dennis and I.
Q. You just cleaned the old fellow?

A. Cleaned him fair, me and Dennis; had to marry him to do it.

Q. Did you marry him?

A. Yes, I married him; Dennis had me marry him.

Q. White or black?

A. I wouldn't care what he was, but this happened to be a colored man. I had to marry him so we could get this thing untied.

Q. So you did marry the old fellow?

A. Yes, sir, never lived with him a day.

Q. Just to pull off the scheme?

A. Yes, sir, Dennis got it tied up so I had to marry him and pull the scheme off, Dennis has my papers—Will papers a notary gave me.

Q. Where is the old soldier now?

A. He is up there in the Fort now.

Q. That is the fraud you have been refusing to tell about isn't it?

A. Yes, that is the one between me and Dennis.

Q. That is the one when Judge Stuart was asking you that you refused to tell about? A. I did then.

Q. You had been up there pulling that off, how long had you been there?

A. I had been there several months when Bettie found me.

Q. Been there seven months?

A. Yes, sir, seven months.

Q. Now, after this two weeks that you came over to Kansas City and went down to Tulsa, how long did you stay at Tulsa?

A. I think I stayed at Tulsa some four or five days, I think.

Q. You saw Bartlett there?

A. I called him over the 'phone and had him come.

Q. He came over and you saw him and talked to him?

A. Yes, sir.

Q. You didn't learn from him how Minnie had the children enrolled, did you?

A. No, I didn't learn nothing from him; all he wanted was Thomas Atkins, he was crazy about Tommy.

Q. Crazy about a Tommy?

A. A Tommy, yes, sir. He thought there was a Tommy and I told him there was one and he was crazy about getting a Tommy.

Q. He knew the deed that he had taken from Minnie was then a forgery? A. He knew that then, yes, sir.

Q. He knew that Bettie had forged it? A. Yes, sir.

Q. He had Bettie hired to help you?

A. Yes, sir, had me hired to help Bettie; I was a Leavenworth woman.

Q. Bettie was boss, she was master of the situation and you was merely assisting?

A. At that time she was the boss, at that time only.

Q. You finally undermined her?

A. Finally undermined her and got to be boss myself; I could boss that job.

Q. Then you kicked Bettie out?

A. I didn't kick her out then; she came with me again down there and I——

Q. After you talked with Bartlett, did you talk with anybody else except Bettie about the enrollment?

A. No, not down there except the Gipsy.

Q. What did the Gipsy tell you?

A. I went up there to the Gipsy and told them that I knew that I was a Leavenworth woman, and I knew Tommy Atkins and they said, you do? and they said, who raised him, Sadie? and I said, she had him in my grandmother's house. I told Mr. McGraw that; and they told me then about Minnie enrolling, said did you know when she enrolled the children; and I told him yes, sir.

Q. Tell all that you said? A. I don't know all.

Q. I said all that you can remember?

A. I don't know all that I did say. I stayed in the office quite a little bit talking.

Q. How long did you stay?

A. I don't know how long I did stay.

Q. They told you that Minnie had enrolled herself, Tommy, Alice, and Harvey and Charlie?

A. Yes, sir, they told me that.

Q. *You* told you that in the enrollment it had shown that Alice was dead?

A. No, sir. They didn't tell me they showed that Alice was dead; didn't say anything about her showing anybody dead.

Q. Didn't say anything about anybody being dead?

A. Didn't say that, no, sir.

Q. They told you that this showed Tommy was the oldest?

A. No, I didn't say that, just told me about she enrolled when she came down there, didn't say anybody was dead.

Q. Didn't tell you about the ages?

A. No, didn't tell me a thing about that.

Q. You had never known anything about the ag[illegible] until that time?

A. No, I didn't know anything about the ages, only them two that she had here.

Q. Those two that you had seen? A. Yes.

Q. And you didn't know anything about the ages?

A. No, I didn't know anything about the ages.

Q. When did you first learn about the supposed ages?

A. I never did know anything about the supposed ages.

Q. When you were talking to Minnie, at Seattle, you didn't know anything about what was supposed to be the ages?

A. No, I didn't know about the supposed ages, so I just told her to say 1885, I didn't know.

Q. You didn't know what the supposed ages were?

A. No, not until I was talking to Mr. Page.

Q. As a matter of fact, when you were talking to Minnie there, you didn't know whether she had a Tommy or not?

A. Yes, I knew when I left Leavenworth that she didn't have one.

Q. You didn't know she had one at Denver?

A. I knew she had that one at Denver.

Q. You didn't know that she didn't have any at Denver?

A. I learned that she had three children at Denver.

Q. You knew that she didn't have any at Fort Wayne?

A. I didn't go to Fort Wayne.

Q. Did you find out whether she ever lived at Fort Wayne? A. Yes, I know it.

Q. Did you find out whether she had any child there?

A. I knew she didn't have one there.

Q. Did you find out whether she did?

A. No, I found out she left Fort Logan in ninety-eight, but I didn't know she had any children in Fort Wayne, but I found out that she didn't have but three children in Fort Logan.

Q. But when you were talking to Minnie, you didn't know whether she had, in the twenty-five or seven years that you hadn't seen her, whether she had had a child named Tommy or not? A. The twenty-five years?

Q. Yes?

A. I knew she didn't have any Tommy, I knew she didn't have any in Leavenworth, I didn't know what else she had.

Q. You had no information she ever claimed it was born in Leavenworth when you went to see her? A. No.

Q. When you and Dennis were working up your scheme, you didn't know whether Minnie claimed this Tommy was born in Leavenworth now or Fort Logan or any other place where she had been? A. What Tommy?

Q. This Tommy that she enrolled?

A. Good God! She ain't never enrolled no Thomas as her boy?

Q. She has not? A. No.

Q. How did it get enrolled?

A. She told me that she drew that money for her father, her own self.

Q. Oh, she didn't tell you that she put Thomas' name as a son on the roll?

A. She told me that Thomas Atkins was my father and was dead seventeen years when I drew this money.

Q. When you got to Seattle? A. Yes, sir.

Q. And you framed that up? A. Yes, sir, back here.

Q. Sadie, just tell the truth, isn't it a fact that after you found out that Minnie had a child at Leavenworth, that you then were trying to develop that fact, and when you turned against her you just merely claimed that was your frame up?

A. Had what child at Leavenworth?

Q. Didn't you know that she had the child at Leavenworth yourself, and when this three thousand dollar arrangement was made, then you just framed up with Buell to say that you framed this other up as a frame up?

A. Had Tommy Atkins at Leavenworth?

Q. Yes?

A. Oh, my God! Judge, I hope you will live until you find Tommy Atkins, you will live forever.

Q. You say when you got to Los Angeles and other places, that you would inquire for Tommy Atkins?

A. I knowed there wasn't none, I was trying to get somebody named Tommy Atkins and bring him there and put him around. The negroes will tell a lie a minute in Leavenworth, I found that out here this morning.

Q. They would tell it in Kansas City too, wouldn't they?

A. No, sir, I will never get a nigger in a suit anywhere.

Q. Niggers will tell a lie anywhere?

A. Yes, anywhere. I will never get a nigger in a law suit.

Q. Sadie, away back in 1895, Minnie told you that she had drawn money for her dead father? A. No, she didn't.

Q. She didn't tell you that?

A. In '96 when she came back?

Q. Yes? A. No, she didn't tell me that.

Q. You didn't know who she drawed for then?

A. No, she told me that she drawed money that belonged to her and that she was leaving to go to the Philippines, didn't tell me that until I got to Seattle.

Q. Didn't tell you about her father until you got to Seattle?

A. No, she didn't tell me who she drew that money for, didn't tell me until I got to Seattle. Told me that she was going to the Phillipines.

Q. You learned before you got to Seattle that Minnie had drawn Nancy's money, her sister?

A. Yes, I learned that from Nancy, I didn't know whether she had drawn it or not.

Q. I know, but you had learned it?

A. Nancy told me she had, I didn't know.

Q. When you were talking to her in Seattle, you assumed what she referred to in Kansas City in '96 was drawing Nancy's money? A. I told her what Nancy said.

Q. Well, Minnie had told you she had drawn money that didn't belong to her? A. Didn't belong to her, yes.

Q. Nancy told you that she had drawn her money?

A. Yes, sir.

Q. And you put the two together and understood that Minnie had drawn Nancy's money and that was what Minnie referred to?

A. When she asked me where her sister Nancy was.

Q. She asked you that at Seattle?

A. Yes, she asked me that at Seattle. She thought Nancy was dead. I said, if dead I seen Nancy, she was talking about that fourteen dollars, and she said, you tell Nancy when I make some money I am going to pay her back.

Q. That is all she claimed she owed Nancy, that fourteen dollars? A. That fourteen dollars, yes, sir.

Q. Well, Minnie was talking there to you about drawing money for her dead father some nineteen years previous, who had been dead some seventeen years, I believe you said?

A. That is what she said, I didn't say that.

Q. I understand, some seventeen years previous before that, did she explain to you how she could have drawn money for her dead father?

A. She told me—never asked me how many children I had, that was during the same week.

Q. When she drew the money you never asked her how many children she had?

A. No, when she drew the money I never asked her how many children she had.

Q. She told you that and you figured up how many children she had?

A. No, I didn't know she had drawn for Nancy until she told me herself.

Q. She told you she had three brothers and sisters didn't she? A. I knew she had a sister and brother.

Q. You knew that? A. Yes, I knew that.

Q. And you know then that she couldn't have drawn money for her father?

A. I didn't know that until she told me.

Q. You knew that she couldn't? A. How did I know it.

Q. You thought that one child could draw money that was due for all the children, did you?

A. I didn't know what they could do, I know what she told me that she did do.

Q. How long did she tell you that her father had been dead when she drew that money?

A. Told me he had been dead seventeen years, Sadie he has been dead seventeen years, when I drew that money.

Q. And she had drawn the money nineteen years before she was talking to you? A. Nineteen years?

Q. Yes? A. Yes, I guess so.

Q. She told you that, didn't she?

A. I was telling you what she had said to me.

Q. I am asking you that? A. Yes, sir.

Q. Told you that her father had died, when you were talking, had been dead twenty-six years?

A. She didn't say how long.

Q. Had been dead seventeen years when she drew it?

A. She didn't say thirty-six years, didn't count up the time then at all.

Q. Didn't count it up and add it together?

A. No, sir, I am just telling what she said.

Q. Did she mention any other brothers and sisters besides Nancy?

A. No, sir, she said she thought she was dead from a letter that she got at Mazula, Montana, said it was from Kate; she said Kate had it, and I said no Kate Ward is dead, been dead three years.

Q. Then she mentioned Nancy and Kate both to you as sisters? A. Yes, she knew I knew those were sisters.

Q. Did she mention her brother to you?

A. Yes, she mentioned Lee. The reason she mentioned Lee, I told her about my having Bettie there in town and told her who Bettie was, and the reason I didn't want her to see Bettie, I said you know Bettie's cousin is the one who killed your brother, the only brother she had, because I knew the minute I mentioned Bettie to her, and Lee, she would hate Bettie.

Q. This is not pertinent to what I am asking about, I am asking about did she mention her brothers and sisters to you in that conversation?

A. She didn't mention Lee at that time, she mentioned Nancy and Kate but not her brother.

Q. During the time that you were there, she mentioned her brother, Lee? A. During the week, yes, sir.

Q. She didn't explain to you why she could draw any money for her father, two sisters and a brother?

A. We didn't discuss it, no, sir.

Q. She told you these two sisters and brothers were down living in Indian Territory?

A. She didn't know where they were.

Q. You knew they continued to live there?

A. Yes, sir, I knew that they were down there.

Q. And the girl that had come back from Denver in 1895 and stayed a few months, had drawn money for her father, when there were brothers and sisters living in Indian Territory who didn't get a part of it?

A. I knew they didn't get any part of it, because Minnie left there; I can't tell you any more than what Minnie said to me.

Q. Now, getting back again just a minute, I will not take long. Did you know Mary Gillisp?

A. No, sir, G-i-l-l-i-s, ain't it?

Q. Yes? A. Yes, sir, I know Mary Gillis.

Q. Who is she?

A. A colored woman there married to a white soldier, she's dead now I guess.

Q. Didn't you run with her when you were a girl?

A. Yes, sir, run with her when I was on Fifth Street, Lawyer Bell knows that.

Q. Was she a lady of easy virtue?

A. Yes, sir. White men only.

Q. You colored girls have two classes, don't you, one that run with white men only and one that run with colored men?

A. Well, at that time, we were running with white men, meeting down at Granny's every night with white men; that is the truth of it, you want the truth of it don't you?

Q. Yes?

A. Yes, sir, my grandmother raised me from a little girl and when I got to be grown I would go down there with white men.

Q. Well, others could do the same, couldn't they?

A. Yes, sir, any girl.

Q. Was Leavenworth a dry town then?

A. In eighty-eight, I think it was, yes, sir, I think Leavenworth was.

Q. Well, the law never was enforced in Leavenworth until here along after nineteen hundred was it?

A. Saloons wasn't wide open then. Maybe—— I don't think, because I used to go to a white place on Fifth Street, Johnny Farns, and I don't think he sold any; I used to go there and buy hard cider and I am not positive about the saloons.

Q. Johnny Farns was killed in 1887, wasn't he?

A. No, Johnny Farns must have been killed after I moved down to Kansas City, I was in Johnny Farns' place—what time?

Q. You are sure that he was not killed in eighty-seven?

A. No, I am positive; you could go up there and find out.

Q. When was he killed?

A. I don't know when he was killed, I think after I moved.

Q. When did you move?

A. I moved away from Leavenworth in 1889; I am sure Johnny didn't get killed when I was there; I didn't stay away from Leavenworth, I was back there every three weeks.

Q. When did you move, what time of the year?

A. I left there about the first of October, I think; coming down here getting ready for the Priest of Palace parade.

Q. Do you know Oregon Henderson?

A. Yes, sir, I knew her.

Q. Who is she?

A. A colored woman, she went with a fellow named Babe Jackson and she lived with him—lived then——

Q. She married Babe finally, didn't she?

A. And killed him, yes, sir. Married him and killed him, yes, sir.

Q. Is she alive now?

A. I don't know whether she is alive or not.

Q. Was she a girl of easy virtue? A. Well, yes, she was.

Q. White men or colored?

A. I never seen Oregon around with any white men because this fellow was a miner and he made her a pretty good living.

Q. Did Minnie know Mary Gillis? A. Mary Gillis?

Q. Yes?

A. Didn't know Mary Gillis anything that I know about.

Q. Do you know whether she could have known her or not, don't you? A. I don't know whether she could.

By Mr. German: I object to the question on the ground that—— Well, the objection is already in the record.

A. I said not that I know, Mary Gillis was at my house all the time on Fifth Street, because her husband then was out of the Post, Street Car Conductor in town.

Q. Do you remember that Mary Gillis gave an entertainment or reception that a lot of white soldiers came down?

A. I wasn't there.

Q. And that the police raided them?

A. No, I don't remember that.

Q. In 1888? A. No, I don't remember that.

Q. You know it did happen, don't you?

A. No, I don't know it did happen, I don't know that; I don't say it didn't happen because I don't know.

Q. You don't know whether they was there, whether Minnie was there when the raid was made or not?

A. Minnie Atkins?

Q. One Minnie Atkins?

A. I don't know that she wasn't there, but I say I believe she wasn't, I know she wasn't.

Q. Are you going now to say you believe?

A. No, I will say—I don't know, but she wasn't there.

Q. You say that you know she wasn't there?

A. No, I don't say I know she wasn't there, but I believe she wasn't there, I know enough to know she wasn't.

By Mr. German: Sadie, don't argue the case.

Q. Do you remember a soldied, a big white soldier with burnsides down the sides of his face?

A. I don't know no soldiers at all.

Q. Named McDonald?

A. No, I didn't know no soldiers at all, I never did run with no soldiers.

Q. Did you ever see any soldier running around of that description and by that name?

A. No, I didn't know none of their names.

Q. Did Minnie know Oregon Henderson?

A. Not that I know of; not in my life.

Q. In 1884, did you run around at nights with Minnie?

A. Minnie didn't go anywhere at nights and I didn't either.

Q. Ho- do you know she didn't go anywhere at nights?

A. I never seen her away nights from Hyde's.

Q. Yet, do you know it?

A. I knowed her there about three months, she came there in July and I worked at Haven's from July up until about the latter part of August and I left there and went just a block west of Minnie's—to Third and Arch, and worked there until about the 4th of October.

Q. 1884?

A. 1884, and I went home; my parents lived in town, and stayed there about two months, until about October 22nd, and then I left town.

Q. You left about August 22nd and went down home?

A. Left in the middle of August, where I was working out at Havens, down this side of Minnie's, and went then to Guyons and worked there.

Q. Is that Frank Guyons?

A. Yes, had a daughter named Lily and a boy named Will; I used to work for their sister years ago; and I worked there until October 4th, about October 4th I quit Guyon's and went over to my mother's house in the town and stayed there.

Q. About two months? A. Yes.

Q. Let's stop now? A. All right.

Q. During the time that you were working now at all these places that you named, you saw Minnie frequently?

A. Saw Minnie frequently, yes, sir.

Q. How frequently did you see her?

A. Well, I would say that I seen Minnie every day or two.

Q. You were straight then, were you?

A. Yes, I wasn't but fifteen, and she just came from school.

Q. You didn't know what Minnie was doing during the nights?

A. I can't swear what Minnie was doing during the night.

Q. So far as you knew she was behaving herself?

A. Behaving herself.

Q. You were young? A. And she was too.

Q. And you were younger than she was?

A. I was younger than she was about four or five years.

Q. When you were fifteen then, she was nineteen?

A. Yes, sir.

Q. When you were fifteen you wouldn't have understood the sexual relations between men and women?

A. Oh, I was old enough, I was quite a kid.

Q. You didn't understand those matters?

A. I guess I could understood them; I knew she was nice all right.

Q. You didn't know she was bad? A. No, sir, I didn't.

Q. And you didn't know what she was doing at nights?

A. Not every night, no, sir.

Q. And you didn't know but what some nights she might have slipped off and met Ida Foster, did you?

A. She couldn't have met Ida Foster then, because Ida Foster then was about thirteen. and what could Ida have done?

Q. I didn't ask you what Ida could have done, but I asked if she could have met her?

A. No, sir, she was about thirteen; I am so much older than Ida.

Q. Just couldn't have met a thirteen year old girl, could she? A. No, not Ida then, no, sir.

Q. In 1884, she was thirteen, you say?

A. Ida was about thirteen, I am two or three years older than Ida is.

Q. When did Ida commence going around, about what age?

A. I guess about when she was about sixteen I guess.

Q. About sixteen? A. Yes, I guess.

Q. When she commenced, she went pretty fast then, didn't she? A. Yes, she and I was going together then.

Q. Both were going awful fast?

A. Both were going awful fast.

Q. In police court every few days?

A. No, the white men were keeping us out of police court.

Q. You started her down her decline, didn't you?

A. No, sir, she had three sisters older than I was, and they started her I guess.

Q. They may have started her out before you knew her then?

A. I don't know, I know she had two awful bad sisters in the town.

Q. Did you know Emma Wilson? A. Emma Wilson, yes.

Q. Yes? A. Annie Wilson?

Q. Annie? A. Annie or Emma?

Q. I said Emma?

A. I knew Annie Wilson; I don't think I know Emma Wilson: I know Annie Wilson.

Q. Do you remember Captain Matthews' girl, Emma Wilson?

A. No, I don't believe I knew Captain Matthews and John, I don't know whether I knew his daughter.

Q. No, not his daughter, a woman that he was keeping, Emma Wilson?

A. I don't recall whether I knew her or not; I knew Captain and his boy.

Q. When did you get acquainted with this old crook, Dennis Jones?

A. Dennis used to go with my father when I was a little girl about eight years old.

Q. Dennis is older than you?

A. Dennis is about—— I guess Dennis now about sixty, yes, sir.

Q. How much older is he than you?

A. Fourteen or fifteen years, I will soon be forty-seven.

Q. Now, when do you say that you got first acquainted with him? A. About eight years old.

Q. About as far back as you remember you have known Dennis Jones?

A. We had been there about two years when I first met Dennis Jones.

Q. What was Dennis doing when you first met him?

A. When I first met him he was Porter there at the old Continental Hotel.

Q. The old Continental Hotel? A. Yes, sir.

Q. How long did he work there as Porter of the old Continental Hotel?

A. I can't tell you that, I don't remember; when I left Leavenworth, he was on the police force.

Q. You left Leavenworth in 1889, and Dennis was then on the police force?

A. On the police force, him and Rube Smith too.

Q. You say that Ed Murphy was on the police force?

A. Ed Murphy was on the police force too, and I am positive that he was on the police force.

Q. When did Ed Murphy go on the police force?

A. I don't know; first he was a guard at the jail; I won't swear that he was on the police force.

Q. You knew everybody that was on the police force?

A. Yes, I was old enough, and I was doing enough; a lot was up there with me.

Q. You was trying to stand in with the police all the time? A. I was standing in with them.

Q. You stood in with Dennis?

A. Dennis was a nigger, but I stood in with him; I never —I think he was on the police force, I am not sure.

Q. You think Murphy was on the police force?

A. I think he was.

Q. But Ed Murphy got on the police—— When did Ed Murphy get on the police force?

A. I can't tell you. I had a lot of other men to keep account of besides Ed Murphy.

Q. But you do know when you left Leavenworth, that he was on the police force? A. I am most sure.

Q. How long do you think he was on it?

A. I can't tell you.

Q. What is your judgment?

A. I won't pass that, I don't know.

Q. You never did hear about him arresting Minnie down there in Granny Letcher's place?

A. About Ed Murphy arresting her?

Q. Yes or no?

A. No. Because when I left Leavenworth, I was living within a block of Granny's.

Q. You heard about Granny's place being raided?

A. You want the truth, don't you?

Q. Yes, if you can tell me I would like to have it.

A. I never heard of Granny's place, Mr. Blakeney, being raided after she moved off of Cherokee Street.

Q. Never did hear about it?

A. Never did hear about a raid being up to her house the whole time I was there.

Q. Well, I asked you if you knew of Minnie's being arrested down at Granny Letcher's by Ed Murphy?

A. No, sir.

Q. You didn't know that? A. No, I didn't.

Q. Did you ever hear of anybody being arrested at Granny Letcher's on Seneca? A. No, sir, never heard of it.

Q. She was still doing the same old business?

A. The same old business, but the law had let Granny alone because she was old.

Q. She had sort of a stand in?

A. No, but she had been knowing Ed Murphy around there and all of the old ones.

Q. Knowing him when she lived on Cherokee Street too?

A. Yes, but not so well acquainted with him, he was a guard at the jail then.

Q. He sometimes arrested people at Granny's without arresting—— A. Down on Cherokee Street?

Q. But not on Seneca Street? A. No, I don't.

Q. It wouldn't do for you to admit of Granny being arrested on Seneca Street? A. Admit it if I knew it.

Q. You would admit it if she was raided on Cherokee Street, because that was before Minnie came to Leavenworth?

A. No, it wasn't, Minnie came to Leavenworth in eighty-four, Granny lived on Cherokee Street——

Q. Did you ever hear of Murphy arresting Minnie on Cherokee Street? A. No, I never did.

Q. Never heard of it? A. No.

Q. Who did you hear of being arrested at Granny's place on Cherokee Street?

A. No, no one; I knew they did arrest people down there, but no one that I could call their names.

Q. Are you feeling all right, Sadie?

A. Oh, yes, I am feeling all right. Mr. Blakeney, I think we are getting along just fine.

Q. You say you don't just know when Ed Murphy went on the police force?

A. No, I don't; I know he was on there, but I can't tell you just when.

Q. When did Dennis Jones first go on the police force?

A. I don't know that I know he was on there before I left, because they came to my house, Ed Murphy and Dennis and Rube all came to my house when I was running this place on Shawnee.

Q. What day of the week did they come to your house?

A. Any day they wanted to come there.

Q. Name the day of the week?

A. Night, they didn't come up there in the day time.

Q. Did they come frequently?

A. Very frequently, yes, sir.

Q. You had your husband there with you?

A. I didn't have no husband then; I was living with a white man.

Q. Living with a white man? A. I had one.

Q. About how long now—search your memory—about how long had Dennis Jones been on the police force before you left in 1889?

A. He hadn't been on there very long before I left, he hadn't been on there very long; maybe a year or something like that, I don't know right now when, I can't tell, but I know that he hadn't been on so very long; I would be afraid to say when he did go on. I wasn't bothered with the law then; I wasn't keeping house until 1888.

Q. Before you started keeping house you wasn't bothered with the law? A. No, I was living with my mother.

Q. Before you went to keeping house, you did run around with the boys sometimes?

A. I run around with white men before I went to keeping house, up at my grandmothers, I was working but I went up to Granny's.

Q. About how long before you went to keeping house before you went to going up to Granny's?

A. Do you mean with men?

Q. Yes?

A. Oh, some—about a year or more before that.

Q. About a year or more A. About a year.

Q. Then, that was about 1887 that you began to run up to Granny's with men?

A. About the summer of eighty-seven with men, but between that I had always been around her place before that.

Q. I am not talking about being around her place, I am talking about you from the summer of 1887 to the summer of 1888, you didn't pay much attention to the police force?

A. No.

Q. You don't know whether Dennis was on the police force or not?

A. No, I can't remember; he might have been, I can't remember now.

Q. Before Dennis went on the police force what did he do? A. Now, I don't know what Dennis done.

Q. He had been a porter at the old hotel?

A. The old Continental Hotel.

Q. The Continental was the leading hotel at Leavenworth? A. At that time, yes.

Q. Do you remember what Dennis did between the times—— A. I don't know.

Q. In either of these places, now, he would have learned the loose girls of the town, couldn't he?

A. He could have learned them, yes, the loose girls of the town.

Q. As the porter of a hotel or as a policeman?

A. Yes, he would have learned the loose girls.

Q. The loose girls of the town?

A. He would have learned the loose girls.

Q. You don't know whether or who Minnie would associate with after she commenced going with the soldiers?

A. I never knew of a single soul, no, sir, outside of the Hamilton's that ever I knew of her going with.

Q. Did you ever see her with the Hamilton's, or just see her going down to the Hamilton's house?

A. I have walked with her; not into the Hamilton's house, but lots of times going to the Hamilton's house; not a whole lot of times, but a number of times.

Q. Going to Hamilton's house in the evenings?

A. Not always in the evenings when she worked at Hyde's and going down from the Fort, I worked at Brocks, in going up there I would see her going there, I don't know where she went, I couldn't swear that, in the fall of eighty-five and the spring of eighty-six.

Q. You never saw her with other girls?

A. Not a soul in my life.

Q. You never saw her with any girl except yourself?

A. I never did, and she wasn't what you call an associate of mine, what you would call running partners, she treated me nice.

Q. You don't know whether she had a partner or not?

A. Not that I seen.

Q. You never seen her with any partner?

A. I never seen her with none, no, sir.

Q. I understood you to say that Ida Foster was a sister of Mrs. Smith? A. Half sister.

Q. Do you know that? A. Ida Foster and Mary sisters?

Q. Yes?

A. Yes, sir, they had the same mother, yes, sir.

Q. You know that?

A. I know they had the same mother.

Q. You knew her mother?

A. I knew old lady Foster, yes, sir.

Q. Do you know Francis Findley? A. Francis Findley?

Q. And Travis Findley?

A. I know him, he was a barber there.

Q. When did you first get acquainted with him?

A. When I was a little girl Mr. Findley used to go to dances with my mother.

Q. Older than you?

A. Yes, he went with my mother; older than I was.

Q. Did you ever see Minnie go with him?

A. No, sir, Mr. Blakeney.

Q. About how old was he in eighty-five?

A. Travis Findley?

Q. Yes?

A. I think then about—I suppose that Mr. Findley was about—well, I don't know how old he was in eighty-five. Mr. Findley if he was living, of course he is dead, if he was living he would be somewhere about sixty-three or four years old, about the age of my mother.

Q. Then he was about thirty-two or thirty-three at that time? A. Yes, sir, about the age of Dennis.

Q. A colored man?

A. Yes, a colored barber at that time.

Q. He was a pretty gay fellow?

A. Yes, sir, he had a family there. He had a wife.

Q. Is that what made him gay?

A. No, he couldn't have been too gay with his wife; his wife lived in the barber shop, you know.

Q. Do you know Lee Porter?

A. Yes, he is dead too, Levi Porter, all those people are dead.

Q. Who was he?

A. A fellow around town. He would be about the same age if he was living, sixty some years.

Q. He was a pretty gay sport, wasn't he?

A. Pretty gay sport.

Q. Why do you say he is dead, Sadie?

A. Why, I am almost sure he is dead; everybody there that you have named to me is dead.

Q. All dead? A. Not all of them.

Q. You didn't accuse Page or Dennis Jones of killing any of them?

A. No, they have been dead too long ago. Some of those people have been dead twenty years.

Q. Did you know George Harrison?

A. George Harrison, I don't recall that name now.

Q. George W. Harrison, a colored barber?

A. I don't recall that name.

Q. Do you remember the old barber shop, The Star of the West? A. I can't recall that right now?

Q. You remember the old barber shop, the Star of the West?

A. I can't recall that right now, where that Star of the West could be.

Q. Do you know William Gray? A. Will Gray?

Q. Yes. A. Yes, sir.

Q. He is dead now? A. No. Will Gray isn't dead.

Q. When did you know him?

A. I don't know whether he is dead or not, I haven't seen him.

Q. When did you know him? A. Will Gray?

Q. Yes.

A. I went to school with his brother—Will and Lewis; of course, Will Gray was quite old—older than I was. He went along with Dennis, of course. I thought he was living.

Q. Did you ever see him at Granny Letcher's?

A. No, I never seen Will Gray there.

Q. John Bland? A. Oh, yes, I knew him well.

Q. He was a pretty good sport, wasn't he?

A. No. John Bland wasn't a game man. I knew John Bland from the time that I was about eight years old.

Q. Charlie Quinn?

A. Yes, I knew Charlie Quinn; worked for Doctor Brock. Those three I named were Doctor Brock's coachmen—he had three.

Q. All colored men? A. Yes, sir.

Q. Did you ever see Minnie, now, with any one of those men that I named?

A. Those men that you named?

Q. Yes. A. No, sir, oh, no.

Q. You never saw them with her?

A. And I have saw John Bland often. They were coachmen at the place I worked.

Q. In the daytime? A. Yes, sir.

Q. Did Minnie ever work at that place where John Bland lived? A. She worked——

Q. Worked there at the same time that John Bland worked there? A. She didn't work at the barn.

Q. Worked at Brock's? A. Yes, sir.

Q. You knew John Bland well because you worked at Brock's? A. Yes, sir; of course I knew——

Q. You said in answer to a question, of course I knew John Bland—he worked at Brock's. He did work there, did he?

A. Yes, sir.

Q. Minnie would have known John Bland?

A. After she came up there in the fall of '85.

Q. And whether she had known him before that, you don't know?

A. I don't know whether she knew him before that or not; I can't swear to that.

Q. Now, Sadie, when you was working for Bartlett, out at Seattle, you met Frank Long, you- first time, did you, at the hotel in Seattle?

A. The first time ever I had seen Frank Long?

Q. Not seen him, met him; the first time you had met him—had a conversation with him?

A. The first time I had seen Mr. Long?

Q. I asked you——

A. Oh, no, sir, I had met Frank Long in Tulsa—Frank Long in Tulsa—before ever I went to Seattle, when he was Indian agent there.

Q. Why didn't you know him when you met him in the hall-way?

A. He had his collar turned up this way, and his cap pulled down over his face when he passed me in the hall.

Q. So disguised that you didn't recognize him?

A. I thought it was Mr. Cook—the way he had his coat up.

Q. What kind of coat did he have on?

A. I don't know; it was dark in the hall.

Q. What kind of hat? A. He had on a cap.

Q. Cap? A. Yes, sir.

Q. Fur cap? A. No, it wasn't a fur cap.

Q. When you saw him with Bettie there the next day——

A. That same day.

Q. You saw him with Bettie, did you see what kind of an overcoat he had on then?

A. He didn't have on an overcoat then; that was in June.

Q. June? A. Yes, sir.

Q. Didn't he have on an overcoat when you saw him in the hall? A. I said his coat.

Q. Had his coat collar up? A. Yes, sir.

Q. Did you see what kind of coat he had on that night in Bettie's room?

A. I saw him about two o'clock in the day.

Q. Did you notice what kind of coat he had on?

A. No, I didn't notice what kind of clothes he had on.

Q. At that time you weren't working for Long there in the hotel? A. No, I wasn't.

Q. You were working for Bartlett? A. Yes, sir.

Q. You had made up your mind that whenever you got any information that you would throw it to the Gypsy?

A. Yes, sir, to the Gypsy.

Q. And double-cross Bartlett?

A. That was my intention to do that.

Q. You had agreed with somebody to do that?

A. Had agreed with Dennis and Rube before ever I started out on this boy.

Q. Before you started out you agreed with Dennis and Rube to make Bartlett pay the expense there but if you got anything, to throw it to the Gypsy?

A. Yes, sir, I didn't know who Bartlett was and I knew the Gypsy had money.

Q. You wanted to throw it [] somebody that had money?

A. Yes, sir, that is what I was to do.

Q. You kept your eye on the money?

A. On the money—on the money, yes, sir.

Q. Now, you talked there with Long? I believe you said you cussed him? A. I did.

Q. Did you have a conversation after you got through cussing him? A. Yes, sir, a very short one.

Q. A short one? A. Yes, sir.

Q. He offered you three thousand dollars to steal Minnie?

A. To steal Minnie. She told him that the baby died when it was six months old, and that was too early.

Q. Sadie, why did you say that?

A. You said did we have a conversation—you asked me, and I told you what it was.

Q. Did you understand that I was asking you if you had a conversation?

A. That is what I thought you asked.

Q. Didn't you understand that I asked you if he had asked you to steal Minnie for three thousand dollars?

A. I didn't understand you that way.

Q. He did ask you to steal Minnie for him?

A. Yes, sir.

Q. And offered you three thousand dollars? A. Yes, sir.

Q. And you refused to do that? A. I refused to do it.

Q. You waited for about a week after that for Bartlett?

A. Yes, sir, it took him a week to get there; yes, sir.

Q. Where did you stay during the week?

A. Up where I lived at; I think the number is——

Q. I don't care for the number.

A. At the hotel on Jackson street—a rooming house where I stopped. The name of the hotel was the Comfort rooming house, I think, but it was on Jackson street and the people's name was Jackson that run it.

Q. What did you do during that week—just in a general way?

A. Bettie and I just bummed around, taking in the moving picture shows.

Q. Was Minnie there then?

A. I couldn't see her, she was fastened up and I couldn't get to see her. She didn't stay at her house any more after that.

Q. Did you go to her?

A. Didn't I tell you the other day?

Q. I want you to tell me again.

A. I went out to the house and the house was locked up and Minnie was up to Captain MacNab's.

Q. What do you mean up at Captain MacNab's?

A. Captain MacNab had taken Minnie and moved her up in the Fort.

Q. Moved her to a house in the Fort? A. I suppose.

Q. You didn't know where Minnie was?

A. I didn't know.

Q. You knew that Captain MacNab lived at the mess house?

A. And had stolen her and carried her there.

Q. You knew that Captain MacNab lived at the mess house? A. I knew where his house was.

Q. You knew all the unmarried officers lived at the mess house?

A. I don't know who was there; Captain MacNab was there.

Q. And don't you know that women were not allowed in that place?

A. I don't know who was living there; I don't know. A woman came there and let Mr. Bartlett and I in—opened the door—and Captain MacNab came down the step.

Q. A white woman or a colored woman?

A. No negroes were out in that Fort, no.

Q. Negroes didn't have very good standing out in that Fort? A. Minnie is about the only negro out there.

Q. Is Minnie a negro?

A. She ain't pure white; some white, but not all white. Doctor Brock used to tell her about that, too; he examined her hands—I seen him do it lots of times.

Q. Now when you—during that week, you went out to the house that Minnie was in out there?

A. On the following Monday, yes, sir; the next day after Sunday.

Q. Saturday you saw Long? A. Yes, sir.

Q. What did you do Sunday?

A. Sunday I stayed all day with Minnie.

Q. All day with Minnie? A. Yes, all day.

Q. Sunday they had a soldier guarding?

A. Yes, sir. A soldier stayed on the porch all day long watching Minnie.

Q. And on Monday you went out again?

A. Yes, sir. She had done told me not to come back out there; that I was going to be arrested. And I came in Seattle, but I went anyhow.

Q. What did she say that you were going to get arrested for?

A. They found out that I wasn't no Government officer and Hanford and MacNab seen there was some money in it, and they was going to have me arrested then.

Q. Sadie, why do you say that Hanford and Captain MacNab seen where there was going to be some money in it?

A. Oh, Frank Long had done told me how much money there was to the land, and they didn't want any more negroes mixed up in it.

Q. You are just assuming all that?

A. I assume it from what I know afterwards.

Q. Anything that you assume you know is true?

A. From the action, yes, sir, I will say I know it; yes, sir.

Q. On Monday you went out and she wasn't there?

A. She wasn't there about ten o'clock in the morning.

Q. How long did you stay?

A. I got off of the car——

Q. Just answer, now, direct.

A. Out in the Fort altogether?

Q. Yes.

A. Well, I walked up in the Fort quite a distance there—

Q. Did you see Minnie? A. No, I didn't see her.

Q. Did you see any house where Minnie was?

A. I went to Captain MacNab's house, where the white women had the grocery store outside the Fort—she told me that Captain MacNab had taken Minnie into the Fort.

Q. The Fort you understand by that as a collection of houses? A. Up in the quarters.

Q. Where the officers and privates have their quarters?

A. Yes, sir, up in there.

Q. A good many buildings?

A. Quite a number of dwellings up there.

Q. You never found Minnie and you don't know where Minnie was? A. Not at that time.

Q. When did you go back there? The next day?

A. On that coming Saturday with Mr. Bartlett.

Q. Did you stay away all the week?

A. All the week, yes, sir.

Q. And went back on the coming Saturday with Mr. Bartlett? A. Went back on Saturday with Mr. Bartlett.

Q. Did you see Minnie there?

A. I saw her there Saturday morning, June 20th?

Q. Where did you see her?

A. Captain MacNab sent and got her, I reckon.

Q. I asked you where you saw her?

A. In Captain MacNab's house.

Q. Bartlett had a talk with her?

A. A very short talk, yes, sir.

Q. What was the talk Bartlett had?

A. After Captain MacNab went and got her and told her to sit down, she sit about—further than that from there—in a chair, and Mr. Bartlett sat in front of her, and Captain stood off to this side, standing up.

Q. Close to her?

A. No, sir, closer to Mr. Bartlett, but where Mr. Bartlett couldn't look at Minnie without seeing Captain MacNab the way he was standing, but she didn't never look up at anybody when she came in. Mr. Bartlett asked her, are you Minnie Atkins, and she was sitting this way, looking down, and she said, yes.

Q. Had her hands folded?

A. Minnie always has her hands in her lap, most of the time, if you have seen her.

Q. Had her hands folded?

A. Always had her arms crossed.

Q. And her shoulders sagged down?

A. Didn't have her shoulders down but cowed down.

Q. Always an expression of cowardice?

A. Yes, sir. Tell you how she looked when she came in, Mr. Bartlett asked her that question, are you Minnie Atkins.

Q. What did she say? A. She said yes.

Q. What did Mr. Bartlett say?

A. Mr. Bartlett said are you the mother Thomas Atkins? Minnie never answered.

Q. Wait a minute; what was the next thing said?

A. Captain MacNab said, yes, but she has not seen him since he was two years old; Captain MacNab—Minnie didn't answer that. Mr. Bartlett said then, Minnie, did you ever go to Carlisle? and she said, yes. She answered that. And he said what school did you go to in Oklahoma before you went to Carlisle? She didn't answer that—I guess it had been too long—she tried to.

Q. Minnie really tried to tell him what school?

A. To tell him what school in Oklahoma. And she said—

Q. Wait a minute; how do you know she tried?

A. She was trying to think it up; I don't know whether she called Tullahasse or not.

Q. She did say that she went to some Indian school that got burned down?

A. She didn't say burned down; she tried to get the name of some school but didn't say it—she couldn't answer that question.

Q. She showed that she couldn't answer it?

A. Yes, sir.

Q. And showed it by what she was saying?

A. Yes, sir, by what she was saying.

Q. But you can't remember what it was?

A. No, sir, I can't remember what it was.

Q. You can't recall anything that Minnie said there about the school now?

A. No, sir. And then he asked her if she remembered Miss Alice Robertson and he tried to tell her, and did tell her, who Miss Robertson was—Mr. Bartlett did, but Minnie didn't remember; didn't even remember Miss Robertson. I think Mr. Bartlett tried to tell her about her being at the——

Q. And told her that Alice Robertson was the daughter of an old Commissioner, didn't he? A. I think so.

Q. And that she taught in that school that was burned down? A. Something to that effect; I don't remember.

Q. But Minnie couldn't remember Miss Robertson?

A. Minnie couldn't remember Miss Robertson——

Q. Just a minute; couldn't remember the school and couldn't remember Miss Robertson. And then what was said?

A. Captain McNab said, you know how Indians are; they are sulky and Minnie is one of that disposition.

Q. Apologizing for Minnie not being able to remember those things?

A. He just wanted to let Mr. Bartlett know that Minnie was the mother of Thomas Atkins, that is all; he was afraid Minnie would say no. He managed it—Captain McNab did that morning.

Q. Now, these vicious expressions you have given us here on the witness stand, and all this intonation of your voice, you are trying to emphasize the idea that Captain McNab knew there wasn't any Tommy but wanted to let Bartlett think there was a Tommy?

A. Captain McNab knew there wasn't no——

Q. That is what you are doing? Answering the question.

A. But what I know, he knew.

Q. How did you know?

A. Hadn't Minnie told me in front of Mr. Hanford and

Mr. McNab that the baby died when he was six months old? Died when he was six months old.

Q. Minnie told them that? A. Minnie told them that.

Q. Now, what then, next occurred there after Captain McNab said something about the sulking Indian?

A. Captain MacNab said Sadie only offered Minnie two thousand for the land, and Mr. Long said the land is valuable, and I have sent my lawyer down—didn't say Minnie's lawyer —my lawyer—to investigate it. Mr. Bartlett then spoke up—

Q. Why did you notice that he said my lawyer instead of Minnie's lawyer?

A. He told me that day when I met him and Mr. Hanford and he introduced us, he said this is my lawyer, and then Mr. Bartlett spoke up and said, Captain MacNab, I bought a deed for that land three years ago and I sold a lease to the Gypsy and I afterwards found out that a forged deed had been put off on me and I am out here now, not in the interests of myself but to protect the interests of the Gypsy and I hope while your lawyer is down there you will have him call and see the Gypsy because they are able and will give you as much money for the land as anybody else will. Captain MacNab agreed to do so; said, I will. Captain MacNab said, Mr. Bartlett, you come back here at two o'clock this afternoon, I want to talk to you; then we left.

Q. During this whole conversation, you hadn't said a word after you introduced them?

A. I hadn't spoke because Captain MacNab hadn't paid any attention to me at all.

Q. You hadn't spoken?

A. I hadn't said anything; only introduced them at the door—said who Mr. Bartlett was when Captain MacNab first came down stairs.

Q. Mr. Bartlett came back that afternoon?

A. He was to come back and I guess he did.

Q. You don't know?

A. No, I couldn't swear that he went back.

Q. Now, how long were you out there when you were there with Mr. Bartlett?

A. Well, I don't know now; don't believe I can tell just how long—wasn't there very long.

Q. A little short visit? A. Yes sir, I think.

Q. It took just about the time that it required to have the conversations that you detail?

A. Well, maybe a little longer time than that?

Q. A little longer time. When you first went in, you spoke to each other and introduced each other?

A. I didn't say nothing to nobody; just told him who Mr. Bartlett was.

Q. Mr. Bartlett shook hands and talked with Captain—

A. Yes, he talked with Captain.

Q. Did you say anything to Minnie?

A. I didn't get to speak to Minnie, she never looked at me.

Q. You never got to her at all?

A. No, I never got to talk to her at all.

Q. You testified in the—at the trial of the case at which the application was pending for the appointment of a receiver in this case, at Muskogee, didn't you? A. I did.

Q. And matters were just as fresh in your memory then as they are now? A. No, they weren't.

Q. Just as fresh now—

A. Not as fresh now, no, sir, not as fresh now.

Q. You say now, that you never talked to Minnie at all, and you don't believe that you never talked to Captain MacNab at all?

A. Well, not that I remember; not right this minute.

Q. Can you remember that you said a word to Captain MacNab more than an introduction?

A. I can't recall it right now?

Q. Did you say anything to Bartlett in the presence of these two at that time?

A. I don't remember a conversation that I had.

Q. You don't remember a word that you said?

A. No, sir, I don't think I did.

Q. Why any doubt about that when you remember everything else? A. I can't remember just this minute.

Q. But you do remember that you testified in the United States District Court at Muskogee?

A. Yes, I know that I testified.

Q. And in that examination, you testified just about like you have here, only when a question was asked you, you would go on and tell the whole story as you best remember it?

A. They didn't cut you off.

Q. When they didn't cut you off? A. Yes, I think so.

Q. Referring to page 120 and up to 122 of the record, I will ask you if in answer to the question who was Mr. Hanford, if you didn't answer, Minnie's lawyer—they were waiting for me. Question, he was living in Seattle? Yes, sir. Then you continued your answer with the following, I had taken Mr. Bartlett out there near Minnie's house and she wasn't home, and we went to the Fort to Captain MacNab's house. He seen where he could make a lot of money and he said, oh yes, this is Minnie alright; I sent and got her and he said that she left home because Minnie felt nervous, and I hired a lawyer—that was Mr. Hanford—and he would be out later on. Minnie couldn't talk for Captain MacNab. Every time I asked Minnie where she got the baby, he said Leavenworth, and you must look over—Minnie is going to have an operation. Did you give any such testimony as that?

A. Part of that testimony I gave but I didn't ask Minnie nothing about no baby. I believe I do remember of Captain MacNab telling that; I believe I do, about an operation, I believe I do.

Q. You do rememer now, that Minnie told that she left home because she felt so nervous?

A. No, sir. She wasn't talking to me; she wasn't talking to me, either.

Q. Well, she talked in your presence.

A. That conversation, I believe was in that house. I think that conversation was brought up; I think was talked, I am not sure; but not me—they wasn't talking to me. I never did get to talk.

Q. You do recall now, after your memory being refreshed, you do recall that Minnie did say something to the crowd there about leaving because she was so nervous?

A. No, I think Captain MacNab spoke that.

Q. Your recollection is then, that Captain MacNab spoke that?

A. I think so, yes; to the best of my recollection, I think so.

Q. You do recall Minnie's saying that she had had to hire a lawyer?

A. No, sir, I don't remember that; I don't remember of Minnie saying that she had to hire a lawyer. She had nothing to hire a lawyer on.

Q. You say now that Minnie said that she was the Minnie Atkins, don't you?

A. Yes, she answered that question; said, I am Minnie—

Q. When you testified at the Receivership hearing, you said that Captain MacNab after he had seen where he could make a lot of money, said, yes, this is Minnie, alright?

A. That could have been.

Q. Captain MacNab said, that was Minnie?

A. Captain MacNab done all the talking—that was it.

Q. Also said, that he wouldn't let Minnie talk?

A. That is true, he didn't.

Q. You do say that Minnie did say that she was Minnie Atkins, and she did have a conversation trying to show what school she had gone to?

A. Yes, that conversation Minnie had.

Q. Captain MacNab did let her tell that?

A. About that school, yes.

Q. You are meaning to say that Captain MacNab let her say anything about herself except, when it came to Thomas Atkins?

A. Yes, sir, to the baby business; he wanted to have that.

Q. Up to that time, you wasn't hunting for any—you wasn't hunting for this Tommy Atkins, or any Tommy Atkins, that Minnie had? A. Minnie had none.

Q. I say, you weren't hunting for any that she did have; you were merely trying to find Minnie and to frame a Tommy? A. That is all I could do.

Q. All you intended to do?

A. The only way I could get a Tommy was to frame one.

Q. You never intended to find any little Tommy?

A. I couldn't find no real Tommy.

Q. Didn't you tell me that you didn't know when you started out with Dennis Jones, whether Minnie had a child in Fort Logan, or not? A. Yes.

Q. Or whether she had one in Fort Wayne, or Carlisle?

A. I knew that she had those children that she brought to Kansas City, I didn't know what else she had——

Q. You didn't know whether she had another one named Tommy? A. I didn't know it.

Q. Regardless of finding out whether she had one, you had framed one up? A. Framed one.

Q. And you were still carrying out that?

A. I knew I could get her to do anything I wanted to.

Q. You knew that?

A. I knew that, yes, sir, before I left Leavenworth; I knew it, and after I got to Fort Logan and found she had none there, just then I knew when I got to her, that I could get her to do anything that I wanted her to.

Q. You tried to get her to go—you wanted her to Spokane, or Long?

A. Frank Long wanted her to go there and I told Captain MacNab not to let her do it.

Q. You wanted her to sign a deed for you?

A. I didn't have no deed.

Q. You wanted her to sign one for Bartlett to get?

A. Yes, Captain——

Q. When Captain MacNab came in, you got lost in it, didn't you?

A. Captain MacNab didn't want her to sign a paper for nobody; only sign it over to him.

Q. When Captain MacNab got into the field, you some way lost your control?

A. Captain MacNab and Hanford seen where they could steal a lot of money and they took her away from me, I will say that.

Q. Why do you say that?

A. I say it because they did do it; took her under control and stole the money and she didn't get it.

Q. You know that? A. Yes, sir, I know that.

Q. She didn't get anything?

A. She got, maybe, two or three dollars; Hanford and them got it. I am telling about what Charles Page told me to tell Minnie when I went to get the deed—tell her that Hanford and MacNab were using it for themselves; that they were stealing it.

Q. Let's get that, now; that is something new.

A. I told that way back here; you wasn't here, I guess.

Q. What was that Charlie Page told you?

A. Charlie Page told me, just a day or two before they were to take depositions at Leavenworth, Sadie, we are going to Leavenworth to take depositions. I want you to go, and while you are up there, you can handle Minnie, and I want you to get a deed from her unbeknownst to Hanford and you tell her that the money was paid to her and she isn't getting it. Captain MacNab and Hanford are using it—they had done stole it.

Q. Did he say they had done stole it?

A. He said used it for themselves. I am saying that. He told me to tell her that Captain MacNab and Hanford——

Q. You needn't repeat it again. I am asking why you gave your opinion when I asked for the conversation.

A. That is my opinion; if they used it for themselves, they were stealing it from her. Page didn't say that.

Q. You lost your control?

A. Captain MacNab and Hanford had beaten me.

Q. How did you have any control?

A. I had done framed up with her.

Q. You said when you left to go out there, that you knew that whenever you got to her that you would have her under your control?

A. Yes, I refuse to tell you what it was.

Q. I am not asking you that but asking you how you got her under your control?

A. Never mind, I refuse to tell you. I refused to tell Judge Stuart and I refuse again today.

Q. When did you get her under your control?

A. I will not tell that.

Q. When did you lose the control?

A. When Captain MacNab and Hanford stole her and locked her up in the Fort.

Q. When did they lock her up?

A. I don't know when but they took her away from home.

Q. The day that you went out there and she wasn't there and you didn't find her, is the day that you lost your control?

A. The day they beat me to her—that is what I am talking about.

Q. How long had your control lasted?

A. Lasted every minute until Frank Long got there and told Captain MacNab the land was valuable, and Hanford and them took Minnie away from everybody.

Q. You got control of Minnie the minute you found her?

A. Yes.

Q. And you lost control on the morning that you went out and found the house vacant?

A. No, I lost my control that Saturday night when they had her sign over those papers to Captain MacNab.

Q. Sadie, you knew why she signed those papers over?

A. Because she didn't have sense enough to keep that lie down, and that is why she signed those papers that night.

Q. Now, that is the reason? A. That is the reason.

Q. Alright, let's figure it out. A. Alright.

Q. You had asked Minnie to wait and see Bartlett?

A. Told her he was coming, yes sir.

Q. And that Bartlett would buy the land?

A. Pay her two thousand dollars.

Q. She didn't know anything about the value of the land?

A. Didn't know anything about where it was at all.

Q. She called Captain MacNab down to consult about it?

A. She didn't have it done, no sir.

Q. Who did?

A. When I had taken the telegram out to Harry on Friday, and showed him where it said I will be there to-morrow, have everything fixed, Bill Jones—I thought that was from Mr. Bartlett—I carried that and showed it to Harry. He had to leave the next morning to go to Spokane, and he takes that telegram and carried it up in the Fort to his Colonel and his Captain to see if they wouldn't let him stay over until Saturday. When he came back down from the Fort with the telegram, he said, Sadie, I have told Captain and the Colonel about it, and they won't let me stay, and I said, Harry, you have got to have somebody; he said, Captain McComb——

Q. Lieutenant? A. I thought he said Captain McComb.

Q. Alright.

A. Saturday night when I went back out there, Captain

MacNab and Mr. Hanford were there on the porch. I walked in the house and Captain MacNab told me—he said, Sadie, Captain McComb can't come, and Captain McComb got Captain MacNab.

Q. Your understanding of it, then, was that he was going to ask Lieut. McComb, or Captain MacNab?

A. That is what he told me.

Q. And you expected to find Lieut. McComb out there?

A. When I went out there the next morning for the meeting, I expected to find him, although I had never met him.

Q. And instead of finding Lieut. McComb, you found Captain MacNab, and Captain MacNab said to you——

A. And Mr. Hanford was there.

Q. And Captain MacNab said to you, Lieut. McComb couldn't come and I came?

A. And brought my lawyer with me and introduced——

Q. Wait a minute. Who was present when he said that?

A. Minnie, and Mr. Hanford and myself were present; in the house then.

Q. Now he also told you in that conversation that he thought Minnie had better turn it over to him didn't he?

A. During that conversation, not then.

Q. But during that conversation?

A. He asked me that.

Q. What did you say?

A. He said, Sadie, Minnie don't know how to talk, don't you think Minnie had better turn her business over into my and Hanford's hands, and I told him yes.

Q. Now Sadie, in the early part of that conversation, they told you about Minnie getting ready the evening before to go over to Spokane, didn't they? A. No, sir.

Q. You heard about that?

A. No, she was to go that evening. Frank Long was there to take her that evening on the six o'clock train.

Q. What evening?

A. The same Saturday evening. Frank Long came and made arrangements if she signed papers that he brought with him—Minnie's husband was in Spokane.

Q. When did you learn that? A. That very morning.

Q. That very morning you learned from Minnie, McNab and Hanford, that Minnie had agreed with Long that she would go over to Spokane and sign a deed for four thousand ($4000.00) dollars? A. I don't know what the deed was for.

Q. You didn't hear the amount of money? A. No.

Q. But she was going over that night to sign it?

A. That night to sign it.

Q. And Captain McNab said that he thought that he had better get some papers drawn up so that Minnie couldn't do that?

A. No, he didn't say it that way. Can I tell what Minnie said.

Q. Yes?

A. Minnie said, I told the man that the baby died when the baby was six months old.

Q. Minnie said that in every conversation?

A. In my presence and Captain McNab's and Mr. Hanford's.

Q. She said that in every conversation that she had with you, didn't she?

A. No, she didn't. Minnie said that was too early and it would have to be fixed.

Q. Who said that?

A. Minnie said that Frank Long said that,: that was too early, the baby died too early, it would have to be fixed, and then Captain McNab spoke up and said: Sadie, don't you think Minnie ought to turn her business over into our hands, because she don't know how to talk, and I said yes, Captain, and whatever you do, don't let Minnie sign those papers and don't let Frank Long take her to Spokane tonight. And he said I won't.

Q. Now, you are sure that Captain McNab wanted to take this business out of Minnie's hands because Minnie didn't know how to talk?

A. She had done told the man about the dead baby and it had to be fixed up, Frank Long said that is too early we will have to fix that now.

Q. Sadie, we can't get your gestures in the record?

A. I wish you would let me go like I want to though, I could tell you so much better.

Q. Captain McNab didn't say that he wanted to put Minnie under a Trusteeship or under a contract because he was afraid she would sell this piece of land, of which she had no knowledge of its value for any consideration that she could get? A. No, sir, he didn't say that.

Q. Didn't he intimate that to you?

A. No, sir, he didn't intimate that to me, he didn't say that.

Q. He didn't intimate to you that he thought this piece of land ought to be handled as any other business proposition? A. No, he didn't say that to me.

Q. And Minnie didn't treat it in that way?

A. No, sir, he didn't say that.

Q. Anything in substance to that effect? A. No, sir.

Q. Didn't talk right?

A. Minnie had done said too much to me about that baby.

Q. She didn't talk right?

A. He made her talk right.

Q. The idea was that Captain McNab got to be trustee that Minnie would talk right?

A. No, but he got to be trustee he would make Minnie keep her mouth shut and tell about this baby.

Q. Which mouth did you want to put your hand over?

A. No, they would train her.

Q. When did you make your contract with Long?

A. Contract with Long?

Q. Page, yes? A. About August, in August.

Q. This was in June that you were up in Seattle?

A. In Seattle, yes, sir.

Q. And you continued working with Bartlett until you got home?

A. I thought I was working for anybody, I was loose.

Q. You continued to plunder him until you got home?

A. Yes, until I made my way back home, yes.

Q. Were you discharged by Bartlett?

A. No, he didn't tell me he would let me go; he treated me nice in a way, but I didn't get any money out of him, talking to him all the time but I wasn't getting nothing out of him.

Q. He wasn't footing up any?

A. No, sir, he treated me nice, never did tell me that he knew I was lying.

Q. He quit putting the long green into your hand?

A. He hasn't told me at all that he knew I was lying, he didn't know about my confession, and I hope he never will know that.

Q. You really have some sympathy for Bartlett?

A. I have yes, sir, for what I have done; for what I have done against him.

Q. You really feel like you would like for Bartlett to get this land, don't you?

A. No, sir, I don't care who gets it. It is no interest——

Q. Between Bartlett and Page and some other claimants you would rather for Bartlett to get it, wouldn't you?

A. No, I wouldn't I know——

Q. Rather have the man who you feel treated you so nice than old crook like Page?

A. No, Mr. Page has been just as good friend of mine as Bartlett has. You think so don't you, I know so.

Q. You feel that way?

A. I feel in one way that he has been a better friend than Bartlett.

Q. Do you feel kind towards Page?

A. I feel just as nice today as I did the day I left down there.

Q. You feel just as kind towards Page as you do against Page? A. He never done a thing to me in my life.

Q. You feel just as kind? A. Yes, I do.

Q. Yet you come here and tell that you had clandestine feelings with him in his office and in his park?

A. Yes, I do.

Q. In which you claim that he had sexual intercourse with you?

A. Yes, sir, I do because Mr. Hanford pulled it out of me, I didn't want to tell it.

Q. Why didn't you want to tell it?

A. Why didn't I want to tell it? I knew the position of a good man as Mr. Page is and everybody thinks he is, and I hated to tell it. He is a married man and a wealthy man and I hated for anybody outside of him and me to know he ever was with me.

Q. Sadie, it is a matter of principle even with prostitutes not to disclose the names of men who have sexual intercourse with them?

A. No, sir, and I don't. Mr. Hanford kept insisting on me telling it, I didn't want to tell it and he kept saying what was that meeting up there.

Q. You needn't repeat what the record shows, it shows whether he insisted or not? A. Well.

Q. Yet, now, after doing that you say you think just as much of him as you do of Bartlett?

A. Why shouldn't I?

Q. Sadie, you have declined to tell what you and Minnie did?

A. Yes, that incriminates myself and Minnie.

Q. Sexual relations—The sexual relation with married men would incriminate you and Page, wouldn't it?

A. No, it don't, it shows Mr. Page up to be an awful funny man with me a nigger.

Q. Shows him to be a criminal, don't it?

A. I don't know what it shows him to be, I know it is a disgrace on him.

Q. You knew it was a criminal offense for a married man to have sexual intercourse with a married woman?

A. No, I don't. I was trying to protect him.

Q. Trying to protect him, yourself and Page?

A. Not me.

Q. You are trying to protect you and Minnie from one crime? A. Yes, and I am going to do it.

Q. And you are willing to tell the crime on Page?

A. No, I wasn't willing to do that.

Q. You finally did it? A. Yes, I had to tell it.

Q. Will you tell us the crime that you and Minnie committed? A. No, I wont until death comes to me.

Q. The one that you and Minnie committed is barred by the statute of limitations, isn't it?

A. Well, if it is barred never until judgment day will I tell it.

Q. The one that you and Page committed is not barred, is it? A. On my part it would have been forever.

Q. Not barred by law?

A. I don't care whether there is any law in it or not, I never would have told it.

Q. You and Page committed your crime in the last three years?

A. You can take it to his wife and tell her if you want to, I never would tell her.

Q. Why do you say it?

A. You keep on asking me about it.

Q. You would like to have his wife now to quit him for that?

A. No, on account of a nigger, no, and Mrs. Page an invalid.

Q. That is because you loved Page so, isn't it?

A. No. I got respect for Page and Mrs. Page too, and you want all this stuff, I am telling it.

Q. I am asking you why it is you claim an offense you committed twenty five or thirty years ago would incriminate you? A. Yes.

Q. When you tell one that was committed within three years.

A. Yes, in three years, less time than three years.

Q. You understand that the statute of limitations is three years, don't you?

A. I don't care anything about the statute, I don't know anything about it.

Q. And you understand that the crime you are referring to of you and Minnie is barred by the statute, but yet the one you are telling on Page is not barred?

A. I am telling this much, I am not going to tell it.

And thereupon, a recess is taken until one-thirty o'clock P. M., and thereafter and at 1:30 o'clock P. M., further testimony herein is taken as follows:

SADIE JAMES, being recalled, further testified as follows:

Cross Examination by Mr. Blakeney.

Q. Sadie, after the adjournment just before noon, you left the stand and immediately walked and talked to Mr. Buell and Mr. Robinson, didn't you?

A. Give me time now. Yes, I did, yes, sir.

Q. You did that yesterday?

A. Not to Mr. Buell, but to Mr. Robinson——

Q. To Robinson and Mr. Meserve here after the adjournment? A. Yes, sir.

Q. Every time that you would get off of the stand you would walk up to them and see if they were approving of your testimony so they would continue this fifty dollars, didn't you? A. No, sir, wasn't talking about that.

Q. You were trying to see if they were satisfied so they would continue this fifty dollars?

A. I didn't care whether they were satisfied or not, I am not telling about anything to their interest that I know of.

Q. You know that if they—that if the Government wins, Quinton Garrett will?

A. I don't know Quinton Garrett.

Q. That Quinton Garrett will be entitled to file on this piece of land, and you know that they have a lease under this Quinton Garrett?

A. I don't know who they have got a lease under.

Q. Why do you think they are paying you three thousand ($3000.00) dollars?

A. To get the facts out of this case.

Q. Just for the love of the Lord? A. Of the Lord?

Q. Yes. A. And get the truth, yes.

Q. They are so interested in getting the truth?

A. And they are going to get it.

Q. They will pay three thousand dollars?

A. Not in a bunch, that is going to last while this case is going on, maybe take a year or two to get the truth out of this case, and the facts.

Q. You never inquired about their interests?

A. No, I don't have to.

Q. You knew, did you?

A. No, they just filed some Indians on the land, she didn't tell me who.

Q. Well, they have not disapproved your testimony at all, have they?

A. I haven't talked over my testimony; they don't know what my testimony is going to be.

Q. They have been sitting here listening to it?

A. They have been here listening, nothing to keep them from listening.

Q. Sadie, when you started in this matter, you decided to pass yourself off for a Government Officer?

A. Did do it right from the jump.

Q. When did you make that decision in your mind?

A. To pass off as a Government officer?

Q. Yes? A. Just as soon as I took the job.

Q. Immediately after talking with Mr. Bartlett?

A. No, I had that in mind before ever I seen Mr. Bartlett when Bettie talked to me.

Q. As soon as Bettie talked to you, you made up your mind to play a Government officer? A. Yes, sir.

Q. What did you want to do that for?

A. I knew if I found her, I would have to find her in some of the Forts, and I couldn't get up there being a common woman, and I would have to be some kind of an officer, and I would have to be a Government officer to find her in the Fort.

Q. Sadie, you had no idea of finding her in any Fort when you started to Omaha to look for her?

A. I didn't think she was in Omaha. I went up there to see Al Walker and didn't find him and run across Bertha Black.

Q. Did you have any expectation of finding Minnie in a Government Fort?

A. I didn't know where I would find her, I thought I might.

Q. Didn't think it strong enough to go right up to the Government Forts there did you?

A. She hadn't been there for years and she didn't——

Q. Minnie lived in Oklahoma for a good many years?

A. Fifteen years.

Q. And you had also been engaged in unlawful occupations nearly all your life?

A. Running places of mine, yes.

Q. And you knew that the type of people that you had associated with were a class of people that felt safe if they got with Government officers—on the Government side?

A. I knew that there were certain classes that did?

Q. Yes? A. No, I didn't believe that.

Q. You knew that in the tenderloin districts and among the crooks that they always felt safe if they were on the Government side? A. No, I didn't.

Q. That they could get immunity? A. No, I didn't.

Q. You knew that, didn't you?

A. No, I was selling whiskey and had to run from the

Government until Bill Creekmore pulled them off of me. Bill Creekmore got behind me in Tulsa.

Q. You weren't with the officers then?

A. Bill Creekmore was with me.

Q. And when he got with the officers they quit bothering you? A. He pulled the officers off of me.

Q. Your whole life experience was that if you could get the officers with you, you were safe?

A. I knew by passing myself off as a Government Officer, they would tell me more freely.

Q. You knew that the Indians in the Indian Territory could be induced to swear to anything that the officers wanted them to? A. No, I didn't.

Q. You feel that way yet, don't you? If you have got the Government behind you, you can swear to anything?

A. No, I don't.

Q. You can swear to a truth or falsely with impunity if the Government officers are behind you?

A. No, sir, I know of niggers at Leavenworth for swearing a lie and they wasn't behind them in it.

Q. Is that some other case or this case?

A. No, this is your case.

Q. Oh, my case? A. Yes, your case, lying.

Q. What is my case?

A. Why, I understand the way you are representing—Mr. Page, I suppose you are representing Tommy Atkins, ain't you? That is the way I think from the way you are acting now.

Q. Representing Tommy Atkins?

A. Yes, Tommy, the one that fell in the river, I guess, I don't know where he fell at.

Q. Why are you telling that you think I have got any witnesses lying for me in Leavenworth, behind me, you are just guessing again aren't you?

A. You ain't got them behind you; they got the town behind them, you ain't in it, I think you are right, I think you are—think you are right.

Q. You don't know who I am for? A. I don't care.

Q. So far as you know I may show that there aint no Tommy Atkins connected with it?

A. You are going to show that by your witnesses lying.

Q. Let's get along and not suggest any more?

A. That is left with you.

Q. Sadie, you made your contract with Page when?

A. August, sometime in August.

Q. Do you know what day of the week it was?

A. No, I think it was Thursday August 20th, I think, I will not be positive about that.

Q. Thursday, August 20th? A. Yes, sir, 1914.

Q. You made it in writing?

A. Yes, sir, I think that is the date.

Q. Had you done any work for Page before you made this contract? A. Not for him.

Q. Have you done any for Long?

A. No, I had known Frank Long three years before that.

Q. Sadie, just answer the questions. I asked if you had done any work for Frank Long?

A. No, sir, not any work for him.

Q. The first work you undertook was when you signed this written contract?

A. That written contract up there, yes sir.

Q. I believe you said that you told Page that there was no Tommy Atkins before you made this contract?

A. Before I made the contract, the day before that.

Q. The day before that you told him? A. Yes.

Q. You went with him out to his Park?

A. That night.

Q. And talked with him there? A. That night.

Q. Who was present?

A. My husband, Frank Long, and myself.

Q. Which husband?

A. Well, I got so many, but this time it was Will James.

Q. Will James? A. Yes, this time.

Q. Did you talk over the case there with Page?

A. Oh, yes.

Q. Now, up to that time, you was trying to create a Tommy?

A. No, I had quit, wasn't doing it for anybody.

Q. What you had done up to that time was the creation of Tommy? A. Yes, the creation of Tommy.

Q. Now, that night when you had a talk with Page, what did you say to him? Don't give all the language unless you feel it necessary, but the substance.

A. I had talked with him in the evening before in his office.

Q. How long was you talking in the office?

A. Not so long, no.

Q. Give me the substance of that now?

A. In the office?

Q. Yes?

A. Well, when Frank Long taken me to him, when he opened the door Mr. Page was sitting there talking to two men, I think it was two and Frank Long called him; we were on the outside of the railing and I think Mr. Page came to the railing. Mr. Long said Mr. Page this is that Sadie James.

Q. Didn't he say that notorious Sadie?

A. He knew how notorious I was, he had been in my road house enough, he knew how notorious I was.

By Mr. Blakeney: I move to strike out that "he had been in my road house enough" as not responsive.

Q. I was not asking you for any opinions?

A. You asked if he knew I was notorious.

Q. I asked if he said that?

A. He didn't have to say that he knew it.

Q. Just answer the questions and leave out all your feelings.

By Mr. German: Just answer as to what you know.

Q. Just give now the conversation?

A. He said, Mr. Page this is that Sadie James. Mr. Page said hello Sadie I have been looking for you. I said Mr. Page I came up here to tell you there is no Tommy Atkins, and he said I don't give a damn if there ain't, the Government records say so and will make one.

Q. Now, Sadie you were standing outside with Long?

A. Standing right in the door just as you step in the door.

Q. Outside of the railing?

A. Outside of the railing that bars the office.

Q. And Page was standing on the inside?

A. Leaning on the railing.

Q. Anybody with him? A. No.

Q. And you just broke out without saying good morning or anything? A. I broke out to tell him.

Q. Broke right out? A. Broke right on out.

Q. Saying I came to tell you there aint no Tommy Atkins?

A. I told Mr. Long in his room before I went——

Q. Answer what you said. A. Yes, sir.

Q. The rest of the conversation you told?

A. I will have to say what Mr. Page said?

Q. You told that?

A. There is some more behind that.

Q. All right, repeat that.

A. He said, Sadie, you know what we want, which I did. They wanted a baby boy and I was making a live one.

Q. I say tell just what he said, not what you knew.

A. I said I do. He said I want the birth of Thomas Atkins, the birth and death of Thomas Atkins in Leavenworth, Kansas, can you do it; and I said I can, I can get you witnesses to swear that hell's an ice box. He said I have been informed through friends of mine in Leavenworth, Kansas, that Dennis Jones is a shrewd man, he has been a policeman, a detective, a lawyer, a politician, and his influence in this case will help it, can you get it? I said, Mr. Page, Dennis Jones and Rube Smith are my co-workers, they have been working with me in this case anyhow, but I don't think I can get Dennis as easy as I can Rube, because he has just got back from a lying trip with the Gipsy making a live man, and he will hate now to stop making a live man and go to making a dead one; he said, you tell Dennis Jones if he don't stop making a live man he will get arrested; he said Sadie meet me in my park tonight at eight o'clock. Mr. Long and I then walked out into the hall, left Mr. Page and walked into the hall; and Mr. Long then taken me up stairs to Ben Rice's office. You want me to tell you what I did up there?

Q. Up there you gave him the names of two witnesses?

A. I gave him the name of five.

Q. Five, one dead, Aunt Kate Logan?

A. She wasn't dead then. When she told that lie she died, yes, sir.

Q. It killed her did it?

A. I think it did, Aunt Kate died with that lie in her mouth that very lie, that is the lie she died with.

Q. You seem to have fattened up under it, don't you?

A. No.

Q. I believe you say you ate fricassee of chicken on it?

A. Oh that was before that, I had everything.

Q. Now, Minnie—— A. Sadie.

Q. Sadie, after you had this talk with Long, you went on up to Ben Rice's office, you there gave him the five witnesses whose names you have given us? A. Yes, sir.

Q. And then you left? A. Yes, sir.

Q. Did you make the contract before you went up to Rice's office?

A. No, sir, didn't make the contract until the next morning at ten o'clock.

Q. You went on to the park that night?

A. That day was the 19th.

Q. But you went on to the park that night?

A. Like he told me to come at eight o'clock.

Q. And there you saw Page?

A. Mr. Long met us at the gate and carried us up in the park and set us down.

Q. There wasn't anything unusual, as you understood it, about Page being at his park in the evening, did you?

A. I didn't know anything about it, he told me to meet him there; lot of white people there in the park but no negroes.

Q. You knew Page spent every evening at that park didn't you?

A. No, that was the first time I ever knew Mr. Page, I had seen him but didn't know him, I knew Frank Long.

Q. You talked it over with Mr. Page, didn't you?

A. As soon as we got there.

Q. Page—— Did Page give you any details about the kind of Tommy he wanted?

A. I will tell you what he said.

Q. All right?

A. When Mr. Long got Mr. Page and brought him up to where we were and introduced him to my husband, Mr. Page had never seen him, and Mr. Page turned to me and said, Sadie, you know what I want—speaking this all over again—know what I want, I want Sadie the death of Tommy Atkins established in Leavenworth, Kansas, and what will you charge to get witnesses to swear it. Before I could think what I wanted, he said I know what I will give you, I will give you a thousand dollars, and I said all right I will take it. The minute I said I will take it, we were all four standing in a bunch, he turned to Frank Long and said, Frank pull Fred Cook off of Sadie and tell him to let her alone, she is working for me; just as though he had power over Mr. Cook, or had Cook on me or something. That is what he said to Frank Long, pull him off of me.

Q. Let's leave out the suppose.

A. All right. I said, Mr. Page, I want a contract and he said Sadie you don't need a contract, you know me, I pay everybody. I said yes, sir, but I am having a lot of trouble about my money now, and he said why don't you sue the—— He said he sent his son up in Kansas to get a forged deed, he ought to be put in the pen and I don't want to see a yellow dog in there. I said, no he didn't I know something about that deed, and I turned around and said Mr. Page I want my lawyers to come up to the office with me and make out a contract, and he said who are your lawyers, and I said Bob Davidson and Judge Williams and C. S. Walker. He said Davidson and Williams are all right but don't get Walker he has got a yellow streak up his back and he will holler. By that time it started raining, we were sitting under that little shed, shoot the chute, or some place when the rain started up. I said Mr. Page we are now going to make a nigger case out of this, I was talking to Mr. Page. We are going to make a nigger case out of this, what are we going to do with that testimony you let Minnie give at Sapulpa. I said there is where you made a mistake in letting her go on and swear that lie, saying the baby was born in the hospital. I said don't you know that you can't get sisters of the Charity to tell a lie? He said, well I will just put her back on the stand and say the reason she told that lie was because she didn't want her husband to know she was living with negroes. That is about all the conversation him and I had out there in the park when he said, you meet me in my office tomorrow at ten o'clock in the morning.

Q. I understand now that you left there with the understanding that you was going to go and establish that Tommy Atkins was a negro?

A. Yes, sir, negro. We negroes had started it up there, but knew there wasn't none.

Q. Please answer. You left Page there in the park with the understanding that you were to go and establish and prove that Tommy Atkins was a negro?

A. Yes, sir, they done started to swearing one was white and we negroes had to hook on Mr. Page's case then and pull him out of the hole where he got stalled.

Q. What did you then do? A. We left.

Q. You signed your contract next—— A. Not that night.

Q. The next morning?

A. The next morning at the office.

Q. You didn't have any talk the next morning?

A. Not about the case, about the contract.

Q. You signed the contract and that is the contract you produced?

A. Yes, that is the contract that I produced.

Q. You had already performed it before you signed?

A. Yes, sir, I made the agreement and that contract——

Q. You didn't understand my question, so I will ask you again.

Q. You had already given the witnesses that you referred to in the contract to Rice?

A. The ones I was working with, yes, sir, that I could get them.

Q. The only thing now that you had to do to complete your duties under that contract was to see that those parties you had in mind and had given Ben Rice would testify?

A. To get them for Mr. Page.

Q. Yes? A. I knew I could, I agreed to do that.

Q. You had already given him the names? A. Yes.

Q. All you had to do now was to get them to swear for Page?

A. Yes, sir, get them to swear for Page. I guess that was going to be the language of it, that is all I did get that trip.

Q. You left Page and came up to Leavenworth?

A. Yes, sir, I came up to Leavenworth and got there on Friday, yes, sir.

Q. And when had you signed the contract?

A. I signed my contract on a Thursday.

Q. And came up the next day?

A. Left Thursday night and came up to Leavenworth on Friday.

Q. Who came with you?

A. I came by myself, and Frank Long he came on the Frisco and I came on the Santa Fe, and I got in town about eight thirty, got to Leavenworth about eight-thirty in the morning.

Q. What time did he get in?

A. I don't know, but I got hold of him, I guess it was about near ten when I got hold of him, got hold of Frank.

Q. What did you do? A. I told him I had seen Rube.

Q. Had you seen Rube?

A. Yes, I had seen Rube and made a proposition about Long, yes.

Q. What kind of a proposition did you make to Rube?

A. Want me to tell it?

Q. No, but in detail.

A. Well, Rube had said he would work for him.

Q. Had you seen Dennis?

A. No, he asked me if I had seen Dennis and I told him no.

Q. What did you do with Long?

A. I told Mr. Long then I was going down to Aunt Kate's, told him how to get down there and he said that he would follow; after I had been down there a while he would come on down there.

Q. He came on down there? A. Came on down there.

Q. Who did you go to after Aunt Kate?

A. Well, I went down to Dennis' office and Dennis wasn't there; Eugie was there and I said to her——

Q. Never mind about talking.

A. I had Frank Long to come up the alley to Aunt Martha's to where I stopped, and told him Dennis wasn't there; and I went off, we were to have another meeting with Rube Smith about three or four o'clock that evening, and I didn't meet them. I went up to town and got drunk and didn't meet them that night at all. About seventy-thirty that night when I came back up there drunk with the woman carrying me off the street.

Q. And you worked the next day around Leavenworth?

A. No, Long told me to get ready, Bettie and Hanford would be down here, and he didn't want Bettie and Hanford to see me, they were coming up to Leavenworth.

By Mr. German: Mr. Blakeney, Sadie has told me she desires to correct one part of her testimony, and it is along in where you are now and we thought you would want to cover it in your cross examination, and I suggest that she give that now. If you prefer not to do it now, all right.

Q. All right, all changes now.

A. I didn't get Dennis, I stayed there a day and I got Dennis the first time; I didn't get Dennis the first trip when I went up there; I didn't get Dennis until two weeks and a half after this first trip; that was in September that I got Dennis, about a month before Dennis came down there; I never thought of it.

Q. When you were there working with Long on this trip—the first trip? A. Yes, sir.

Q. You was still trying to establish that it was a negro baby?

A. I was hooking up him then with my witnesses that I had already started with, that is all I was doing then.

Q. You were just transferring your witnesses from Bartlett to Long?

A. I was handing over my negroes that I had been working with to Mr. Long; they wasn't working for anybody, Dennis and Rube wasn't, they wasn't working for Mr. Bartlett.

Q. You were just selling your negroes out then to Long?

A. Selling my negroes out to Long.

Q. Selling—selling out these three negroes of yours?

A. Selling——

Q. These three negroes of yours for a thousand ($1000.00) dollars?

A. They had a bunch of negroes up there too, Rube and them did, I didn't know anything about.

Q. You were just going over those negroes, Rube's negroes wasn't you?

A. I didn't know, I guess Rube was going to turn them over to him. I was just going to turn over a few principal negroes and Dennis and Rube.

Q. What negroes did you know Rube had at that time?

A. I knew Rube had Will Parker, Will refused to work for me but Rube had got him, and Mat Burns and Dennis had got Aunt Kate to tell a lie, say she seen the baby when it was two weeks old.

Q. You need not tell what was said?

A. And got Mary Smith, Dennis got them. That is all that I know that they had got, I didn't get them.

Q. Then you say you left and it was about two weeks before you went back?

A. About a week and a half before Frank Long and I both came back together.

Q. Frank Long told you that he wanted you to leave because he didn't want Hanford and Bettie to see you?

A. Told me to, didn't want them to meet me because no need to let Bettie and Hanford—Bettie know anything about the case. He wasn't afraid of Hanford, he was afraid of Bettie.

Q. Did you go back to Tulsa?

A. I went right back to Tulsa.

Q. Then about two and a half weeks you came back?

A. On this trip Frank Long hired George Crilly, so he told me, told me that down at Aunt Kate's.

Q. On the first trip?

A. On the first trip, yes, sir, Frank Long told me that on the first trip.

Q. He told you that George Crilly was going to swear that he had known of——

A. Didn't tell me what he was going to swear, he told me, said Sadie I met George Crilly and in talking to him I found out he was a school mate of my mother's and he lived right across the street from Granny's and I am going to hire him in the case; didn't tell me what he was going to pay him or nothing.

Q. That is all he said about George Crilly?

A. Yes, sir, about George Crilly.

Q. He didn't tell you whether he was going to work for him?

A. He said I have hired him in the case, was all.

Q. Now, you come back in about two and a half weeks?

A. We got back there about September, I got back there Thursday night and I think that was about the 10th I guess I reckon along in there somewhere, Frank Long was there before I came.

Q. What did you do then?

A. What did I do then? I stayed in town about a week, very near a week before we found Dennis, before I got him to meet Dennis. I went out to the grave-yard Long got me a pont, he told me to go to Joe Cranstons and get a horse and buggy on him; I told him I had to go out there and see if I could find the grave, you know; and then about four or five days after that I got hold of Dennis, about Wednesday of the next week.

Q. Now, Sadie, that was the first time now?

A. No, this was the second.

Q. That you had commenced doing any active working trying to prove that Tommy Atkins was dead when you went out to the grave-yard?

A. No, I went out to the grave-yard—— You see when I left Tulsa I was to go up to the grave-yard at Coffeyville, I told Mr. Long and Mr. Page that I would go. That is the reason that Mr. Long didn't go the night I did, because I was going to Coffeyville to search the grave-yard there, and Long figured up how many days it would take me to get to Leavenworth. When I got to Coffeyville I couldn't find me anything there that would do in the grave-yard and that pulled me on to Leavenworth.

Q. And when you started on this trip that was the first time you tried to do any active work to find a dead Tommy?

A. No, something that never had lived, I was going to find him dead now.

Q. Then you went out to Leavenworth?

A. Went to the grave-yard.

Q. Went out to the grave-yard?

A. I didn't find anything there and I came back and told Frank Long I would have to go over to Waldron then.

Q. You did find something there at the grave-yard?

A. I didn't find nothing but the other dead there, but nothing to suit anything that we wanted.

Q. You didn't make a list of any?

A. No, I didn't make a list of any; couldn't tell what grave-yard had been there at Pilot Knob; at Mount Munsey I could.

Q. What were you expecting to find at the grave-yard?

A. To find an unknown grave where people had buried at; find an unknown grave and description maybe of some boy; I wasn't going to try to find anybody that had a name on the tombstone.

Q. You didn't find any tomb stone there with the words "Unknown boy"? A. Like I wanted, no, sir.

Q. You came back and told Mr. Long?

A. I told Mr. Long there was nothing there and I then told him I would have to go over to Waldron to my aunt's, but before I went to Waldron, I got him and Dennis hooked up together.

Q. When did you hook them?

A. I hooked them two—we went to Dennis' office about Wednesday; that was September about the 16th or 17th, some place in there, I took him up to Dennis' office.

Q. How long did you stay up there?

A. Dennis's office? Oh, about, I went up there about half past twelve and stayed there until about two o'clock, until Mr. Long came and didn't stay very long after he came.

Q. Did he make a contract there at Dennis's?

A. No, he told Dennis to consider himself hired and Dennis wouldn't make a contract with him because I told him not to. Mr. Page told me if I got him to bring him to him.

Q. But you wanted him to——

A. That the man that told me to bring him.

Q. Told you not to let Long make a contract with him?

A. No, he didn't tell me that, he said Sadie if you get Dennis you bring him to me, I want to see him and talk to him.

Q. Well, did Dennis go to work then?

A. I don't know whether Dennis went to work on the case right there or not, I told Dennis I had been to the Pilot Knob and hadn't found nothing and he said: Sadie, I will look the death records over while I was gone over to my Aunt's.

Q. Well, that is good enough for an answer anyhow. Now, did you go anywhere else then to look at any other graves?

A. Not right then, I did later on, I did a couple of days after I went to Waldron, but before that I—Mr. Long and I went to work then; I went down Delaware street to Ben Samuel's Restaurant and saw Louis Brown in there, a boy that refused to work for me in April. I stayed there and told Louis, I said Louis a white man is here in this case, and Louis said I don't want to see him. Frank Long then was around in my room at 221 Cheyenne Street with my husband Will James. I left there and went back around where Frank was up in my room and told him about Louis Brown being down there, and he went down there I guess and got Louis. Well—

Q. You said—Louis didn't work in the case?

A. Louis did work in the case.

Q. Louis Brown did go to work?

A. He did, not that I know, but I heard afterwards that he was a witness.

Q. You and Long went to work from that time on did you and worked together? A. Yes, sir.

Q. Then you said that after a couple of days you went to Waldron? A. Yes, sir, but before that——

Q. Well, what before that now?

A. I taken Frank Long out to Walker's home, he and I both went out to Walker's home to get a colored man out there by the name of Britton, and Britton wouldn't work.

Q. Well, you didn't get Britton?

A. We didn't get Britton, no, sir.

Q. Then, you and——

A. Came back to town and Mr. Long told me him and Rube Smith were going to come down here to Kansas City, had some witnesses down here, and Mr. Long said Sadie if you find what you are going over to Waldron to look for—I was going there to my aunt's—you come on home.

Q. Where was your home then? A. Tulsa.

Q. Come back to Tulsa? A. Come back to Tulsa.

Q. He told you what to do if you didn't find any?

A. No, sir I went to Waldron and hunted around the country grave-yards, several of them, country grave-yards to find out anything that would suit me.

Q. You just were going to the grave-yards looking at the epitaphs?

A. Looking to see if I could see anything to do any good; tell a lie on that dead man.

Q. Did your conscience hurt you a little walking there among the resting place of the dead?

A. No, sir, I am not afraid of them.

Q. Afraid the devil was going to get you?

A. No, I was just as bad about as he was then, I was about as bad as the devil was then, no, sir, I wasn't afraid of him.

Q. What did you do then, come back to Tulsa?

A. Came back to Leavenworth and a telegram was there for me from the Gem Oil Company telling me to come home, be there tomorrow, this is what the telegram said; that was on Friday. Saturday morning I went down and sent another telegram that I would be there in the morning which meant Sunday. I went straight on from the Telegraph Office to Dennis's office and said, Dennis I didn't find nothing over at Waldron; and he said Sadie I have tapped the mortuary records.

Q. Tapped them?

A. Looked them over, is what he meant, and I couldn't find no unknown dead there that will do any good. I told him where I was going, I had some papers of mine out at the soldiers home, and I came back and gave Dennis some money and told him I would meet him at the depot at Tulsa Tuesday morning. That was Monday night, September the 22nd, he was going to leave Monday night the 22nd from Leavenworth and that would have throwed him in Tulsa the 22nd of September, Tuesday.

Q. Did you go down?

A. Yes, sir, after I drawed the money and paid Dennis I went on.

Q. What did you owe Dennis for?

A. The deal we had on that old soldier, he was getting a pension every three months of forty five ($45.00) dollars, and we were getting twenty dollars a month out of—all of his money down in Odessa.

Q. You had already drawn a thousand dollars?

A. No, we got his thousand dollars, we didn't get it all at once, had to draw it by the month, only two hundred and fifty dollars down, a month.

Q. Paid you the money as a wife of a surviving soldier?

A. No, I had to get a white lawyer to fix that up so I could draw twenty dollars a month out of it.

Q. It was being paid to you as a surviving widow of an old soldier?

A. The man was living, the old soldier was living.

By Mr. German: That is not material in any way is it? Of course I would object but it wouldn't do any good to keep——

By Mr. Blakeney: I am not caring to show your interest to any great length.

Q. You did get some money there and divided it and went to Tulsa? A. And went to Tulsa.

Q. Did you report to the Gem Oil Company?

A. Reported to the boss man, Mr. Page.

Q. What report did you make to him?

A. I told him that Dennis would be down Tuesday morning and I hadn't found anything up there, and he said let Dennis do that.

Q. Well, did you claim then that your contract had been performed?

A Oh, no, Mr. Page told me he had another job for me, give me another job after that. That was October 2nd—to steal Nancy, you see. That was two weeks and a half after that when I got this job.

Q. Of going to steal Nancy? A. Yes, sir.

By Mr. German: I will withdraw my statement in regard to that matter.

By Mr. Blakeney: I don't need it any way.

Q. During all this time now, Page and Long both were insisting that you should find a dead negro?

A. Insisting on me doing it?

Q. Yes?

A. Until I couldn't find none up there, and they put it in Dennis's hands and Dennis came down.

Q. During the whole time you were working with him, you were trying to find a dead negro, weren't you?

A. No, the first trip up there I was to get them witnesses.

Q. After you got the witnesses?

A. Two weeks and a half after that Page told me, and Long you see was there, that I ought to be able to go up there and find a grave but I didn't do it.

Q. Why did they want him dead, did they tell you that?

A. Yes, wanted him to be alive long enough just to be for an allotment.

Q. And to die right after it?

A. Didn't care if he died the next minute after it was over.

Q. He told you why he wanted him dead?

A. He didn't say.

Q. Well, you knew he had taken a lease from Minnie, didn't you? A. Yes, I knowed it.

Q. And he wanted to kill him or wanted him dead so his lease would be good? A. Wasn't nobody to die.

Q. Well, that is what he told you, if you found a live one he wouldn't have any lease anyhow?

A. Mr. Page knew that we were making live men that time with Dennis and the negroes up there.

Q. But Mr. Page did inform you that the reason he didn't want a live one was because he had a lease with Minnie?

A. No, he knew the Gipsy would beat him, that the Gipsy would get the live man.

Q. He didn't explain to you if you found a live one it wouldn't do him any good because he had a lease from Minnie and he took it on the theory that Minnie had inherited it from her dead son? Did Mr. Page give you that idea?

A. No, he knew I knew she had nothing.

Q. Did he tell you why a live one wouldn't suit him as well as a dead one?

A. No, he didn't. He wanted him dead, and the Gipsy was swearing that she had a son living.

Q. If he found a live one and got a lease from a live one? Wouldn't that give him as much title?

A. I don't know as it would if he would find one that stood up; he didn't ask us to find a live one.

Q. He told you he had a lease from Minnie?

A. I knew it.

Q. He wanted a boy to be dead?

A. He wanted him to be born in 1885 and dead in 1899, just live long enough for an allotment; didn't want him to live a bit longer than that or die a bit younger than that.

Q. Did he care whether he did die in 1890?

A. Did he care?

Q. Yes. A. I just told you the years he said.

Q. Said the child would have to be born in 1885?

A. To be born.

Q. And have to die after April 1st, 1899?

A. He didn't tell me April 1st, he didn't say which month; I didn't know when the allotment was, how long they had to be living and when dead, I wasn't a Creek, I didn't know.

Q. Now then you were hired to steal Nancy?

A. That was September 22nd, when Dennis came down.

Q. Don't give the dates, yes or no?

A. Yes, sir, hired to steal Nancy.

Q. Did you steal her?

A. No, sir, I got her all framed up to steal her but didn't steal her.

Q. Then what was the next thing you did—not in detail?

A. Well, I was to go then after I came back from there, about a week after that, I was to go and get ready and go up to Leavenworth and steal this deed from Minnie, unbeknowns to Hanford, but I didn't get any further than Kansas City.

Q. About a week after that? A. Yes, sir.

Q. You were sent by Page up to Leavenworth, Kansas, to get Minnie to make a deed?

A. To be there when they took the depositions; they went up a few days I think before the depositions were taken, I didn't leave until Tuesday night.

Q. You stayed right here in Kansas City?

A. Yes, sir, I stayed right their.

Q. You got you some crook? A. Jim Redmond.

Q. He is a crook too? A. He ain't nothing but a crook.

Q. Is he a red man in fact or a black man?

A. He was a white man.

Q. Redmond would go over to Leavenworth and stay all day?

A. He wasn't to the Court House, he was watching Minnie at the hotel or some place.

Q. What was he watching Minnie for you say?

A. Minnie had just came from telling one lie down at Tulsa and they took her up there to tell this lie, and I just wanted to see how she was going to stand this ordeal, I wanted to see if she was going to go on the stand and swear that.

Q. What kind of lie was Minnie going up there to swear up there?

A. Swearing still that she was the mother of Thomas Atkins with those negroes.

Q. She was going to swear to the same lie, except that she was going to put the place that the baby was born in the negro place? A. In the negro place yes.

Q. You learned they took her evidence and she did do that?

A. She didn't do that, she broke down and couldn't.

Q. She broke down, how do you know that?

A. He told me about it, and Mr. Page told me about her breaking down himself.

Q. Was Page up there?

A. Yes, sir, Mr. Page was up there, at least he told me he was.

Q. Now, what was it she broke down in, what did he tell you?

A. He said, Sadie, Minnie broke down. I said Mr. Page how did everything go off, and he said, Sadie, Minnie broke down she couldn't stand it, couldn't come here to testify, and I said where is she? And he said up at Leavenworth, as soon as we get her under control we are going to bring her back here to testify.

Q. Did he say Minnie had broken down, or got sick and was taken out to the hospital?

A. Didn't tell me nothing about her getting sick.

Q. This man Redmond, told you she was sick?

A. No, he didn't tell me that, just told me they couldn't get Minnie to testify or something.

Q. Were you paying this man Redmond?

A. Paying his train fare or something.

Q. Was that all you were paying him?

A. I think it was, I am telling you that I paid his train fare now.

Q. Is that all?

A. I will say that I paid his train fare.

Q. I want you to say what all that you paid him?

A. That is all that I paid him, his train fare.

Q. Were you down when they took Minnie's evidence at Tulsa?

A. No, sir, I was in the room the day before she did testify though, in Mr. Page's office.

Q. In Mr. Page's office the day before?

A. The day before that, yes, sir.

Q. And the day before was when you talked to Page about it? A. I talked about then in his room, yes, sir.

Q. And he told you that they were going to take Minnie's evidence the next day?

A. She was in the office and wanted me to go in there and talk to her, she was in Mr. Long's room. He said, Sadie, Minnie is in Mr. Long's room and I want you to go in there and talk to her. I said, I don't want to see Minnie, Mr. Page.

Q. And you didn't go? A. I wouldn't go, no, sir.

Q. And you heard that she gave her evidence?

A. I heard it afterwards. I went up there three or four days afterwards and Mr. Page told me that Minnie had done well.

Q. Told you also what she had sworn to?

A. No, he didn't.

Q. Did he tell you that she had sworn that she had the baby at Granny Letcher's?

A. No, he didn't. I said, Mr. Page, how did Minnie do, and he said, Sadie Minnie done well.

Q. Sadie, up to this time, you never had heard of Robert Lee Peterkin, had you?

A. No, I never had heard of him.

Q. Never heard of him at all? A. No.

Q. Now, what did you next do? A. Next do?

Q. Yes?

A. Well in about—in about, I don't—I didn't do anything after Minnie's depositions were taken.

Q. Never worked any more for Page?

A. Just staying in the case until—He told me it wouldn't be long before him and the Gipsy—I seen where they were going to get together and everything would be all right.

Q. Him and the Gipsy would get together——

A. Him and the Gipsy were about to get together, they agreed to combine with one another; and Mr. Josey told me—I said, Mr. Josey, I see where you and the Gipsy are about to get together, and he said, yes, you know the reason we done that; he said we got Minnie but the Gipsy has got the land; he said the courts are so funny that the Gipsy can keep it in Court five or six years and we will be making no money and the Gipsy has got good lawyers and we got good lawyers and we will soon have Nancy, because we will soon have the Nancy case sideswitched and there will be nothing in the way. That is what Mr. Josey told me.

Q. Now, Sadie, is that the last work you did for Long and Page? A. That is all the work I did, yes, sir.

Q. That is all the work you did? A. Yes, sir.

Q. Now, then, up to that time, as you understood it, they were trying to claim that Minnie had a negro kid and it was dead? A. Did I understand that?

Q. Yes? You never heard anything about a white kid before had you? A. Of Minnie's?

Q. Yes? A. No, sir.

Q. Long hadn't mentioned any white kid to you? A. No.

Q. Page hadn't mentioned any? A. No.

Q. Now, do you remember about that time that they found a colored boy named Henry Carter?

A. Do I know about that time?

Q. Yes? A. You talking about A. D. Henry up there?

Q. Did you hear something about them finding a boy named Henry Carter?

A. No, I didn't know nothing about that.

Q. You never heard anything about that?

A. I aint never heard nothing about a Henry Carter.

Q. Didn't Long or Page tell you that when they took a picture of a nigger boy to Minnie, that Minnie said she wouldn't stand hitched, that she would quitclaim the land or abandon it before she would admit her child was a negro?

A. No, you are telling me that now. Never heard of that.

Q. Never heard of that from Long or Page?

A. Mr. Blakeney, can I ask you a question?

Q. Wait until you get off the stand to ask it.

A. Right here.

Q. You never heard from Long or Page or Hanford that they had to change from a negro boy to a white one because Minnie wouldn't stand hitched?

A. No, you are telling me that, Mr. Blakeney. Can I ask you a question?

Q. You never heard either Page or Long or Hanford——

A. No.

Q. Say that Minnie wouldn't stand hitched to a negro kid? A. No.

Q. And that she would rather abandon the land than to admit that her kid was by a negro man?

A. No, sir, No sir, Judge, I am honest.

Q. I am talking about Page and Long telling you that?

A. No, sir, they never told me that.

Q. At the time that you quit them, they were trying to show it was a negro boy?

A. I don't know what after they got Dennie——

Q. Up to the time that you quit? A. Yes, sir.

Q. As far as you knew?

A. I knew they weren't working with Henry.

Q. When they were working with you they were trying to find some negro boy that had died?

A. I was trying to find where anyone had died so they looked like an Indian. Surely you aint got Henry Carter in this case, sure enough?

By Mr. Blakeney: I move to strike out "sure enough."

(Brief recess.)

Q. Sadie, didn't you say in your direct examination that you had a conversation with Hanford? A. With Hanford?

Q. Mr. Hanford at Tulsa, in which you said to Mr. Hanford you are making a mistake trying to make the kid white, or in substance to that effect?

A. That aint the exact statement.

Q. What is that statement, just tell the statement now?

A. I asked him where Minnie is and he said she is at home. I don't know whereabout the home was, and I said, you understand they are going to try to make a negro case out of it, and he said do you think you can do it, and I said yes; and I said, here is where you made your mistake by letting Minnie go on the stand down at Sapulpa and swear that lie, saying that the baby was born at the hospital. I said, don't you know you can't get the Sisters of Charity to tell a lie. That was the conversation between Mr. Hanford and I.

Q. Did you say anything about letting her swear that the kid was a white child, did you mention that?

A. No, I didn't mention a white child; no, sir, I didn't mention that.

Q. Now, Sadie, after you had made this agreement with one Garfield Buell? A. Yes, sir.

Q. I believe you said you weren't to do anything for that —that was just a donation that he was giving you of fifty dollars a month?

A. When I was working in it. If I was traveling I would get my traveling expenses, if I had to go to get people or something.

Q. Well, you went with him to see every witness you had seen while you had been working for Bartlett, didn't you?

A. No, not every one.

Q. Well, you went over with them to see Mary Smith?

A. No, I didn't, I never did go with them to see Mary Smith, I went to see Mary Smith by myself after I had run off, I went up to Mary Smith's by my own self, I wasn't working for Mr. Buell there.

Q. After you commenced working for Buell, did you go with Robinson and Buell to see Mary Smith?

A. No, sir, I never did, no, sir.

Q. Didn't you go along about the middle of December, 1914, to Mary Smith house, with Robinson and Buell?

A. No, sir, no, sir.

Q. Didn't you at that time and place have a conversation with Mary Smith in which you in substance stated: Mary I am now working for a white man that has got plenty of money and I am claiming that I framed up this Tommy Atkins and you had better get in line with us and help us do that, and you can get some money? A. You want me to answer that?

Q. Yes? A. No, sir, no, sir.

Q. Nothing in substance to that effect?

A. By myself, Judge.

Q. By yourself you had that—— A. By myself.

Q. Wasn't a one armed man and another man the size of Mr. Robinson sitting either on the porch or at the gate when you had that conversation?

A. No, sir, she has no gate, she lives on the street, and I wasn't working for Mr. Buell either then, no, sir.

Q. Didn't you then finally say to them, that man the one armed man you see has got the money and if you don't do that they will send you to the penitentiary?

A. No, Judge, did she tell you that lie?

Q. Did you have a conversation in substance to that effect now? A. Can I tell you the conversation?

Q. Did you have that? A. No, sir.

Q. Didn't she then order you out of the house?

A. No, sir, my goodness! Judge, please allow me to tell you what I said to her.

Q. Now, you remember that Garfield Buell or Robinson took a deposition or an affidavit, a long affidavit from——

A. Whose deposition?

Q. From Mrs. Hamilton out at Los Angeles, don't you?

A. I knowed that, yes.

Q. Just before they commenced taking that evidence, you called Mrs. Hamilton off in another room and had a talk with her?

A. I called Mrs. Hamilton off in another room and had a talk with her?

Q. Yes?

A. Let's see. Let's see if I did. Yes, I belive I did.

Q. You testified in the examination here that you hadn't seen Mrs. Hamilton only the day before—that you went out there the day before Robinson and Buell went?

A. Mrs. Hamilton, I told you I didn't see Mrs. Hamilton when Mr. Bartlett was with me, but when I saw Mrs. Hamilton though, before they taken her down to take depositions, and explained my lie to her before they taken her statement, Mrs. Hamilton's.

Q. Why, Sadie, part of your employment out there was to go and get witnesses to swear to the Buell theory of the case, wasn't it?

A. They believed that that picture I had——

Q. Don't answer that. Wasn't it a part of your duty, under your employment, to go and get witnesses to swear as Buell wanted them to swear?

A. No, not as he wanted them to swear, but to swear to the truth.

Q. To swear that there wasn't any Tommy Atkins?

A. No, if there wasn't one. If there wasn't one to say no.

Q. But if any of them say there was one, you then threatened them with the penitentiary?

A. No, I never knowed of no one that said so; I never carried them to any that said that lie.

Q. Who all was it that you went to?

A. A number of them.

Q. Just tell all that you went to with Buell and Robinson?

A. I went to Mrs. Hamilton's twice, only went when Mr. Buell was along.

Q. You went out to Seattle?

A. I didn't see nobody there except Minnie, I didn't do no talking to her.

Q. Where did—What did you keep a copy of the note that you wrote to Minnie for?

A. What did I keep a copy for?

Q. Yes? A. I was afraid you might change it.

Q. Change your note? A. Yes.

Q. You are very acute, aren't you?

A. I got plenty of sense. You got to say that.

Q. You merely writing a little note saying that you wanted to see her? A. Yes.

Q. And kept a copy of that note for fear it would be changed?

A. For fear—For fear the copy, maybe Mr. Hanford might tell a lie, so I kept a copy of it.

Q. That is the reason? A. That is the reason.

Q. Did you keep copies of all the notes and letters that you made?

A. That is the only one I sent and I kept a copy of that one because it was——

Q. You sent telegrams?

A. I didn't have to keep copy of the telegrams because they kept them in the office.

Q. You were very much disappointed here when they introduced a copy of that here unchanged, wasn't you?

A. Yes, I was because they are such liars, I was.

Recross Examination by Mr. Stuart.

Q. Sadie, the date of your immunity paper, I believe is December 4th, 1914? A. Yes, sir.

Q. December 4th, 1914? A. Yes, sir.

Q. On that date was a telegram received from Judge Allen? A. Yes, sir, that very date.

Q. Where did that telegram come from?

A. Well, I guess it came from Washington, I don't know.

Q. Washington State, that is your recollection?

A. That is my recollection, I think it was the same date, yes, sir.

Q. That telegram from Judge Allen was from Washington City? A. I think it was from Washington, yes, sir.

Q. Let me have these immunity papers?

A. I didn't bring them back, Judge. I can bring them back in the morning.

By Mr. Stuart: I want them copied into the record.

Q. Now, on the same December 4th that Judge Allen telegraphed from Washington, Mr. Buell—— Now, listen, I will read it to you. I will ask you if Mr. Buell didn't send this telegram: Now, listen: "Kansas City, Mo., 12/4/14. M. L. Mott, National Hotel, Washington, D. C. After consideration we believe it very advisable for Department to file suit in behalf of Creek Nation in Atkins matter at once so depositions can be taken on western trip and testimony preserved. Can you get immediate action. Wire. Signed J. Garfield Buell."

A. Do I know whether he sent it?

Q. Yes? A. I can't tell you Judge.

Q. Do you know whether he sent any telegram to Mr. Mott?

A. No, I don't know, no sir. You want me to answer to what I know?

Q. Yes? A. No, sir, I don't know.

Q. Did you hear him say whether he sent that or not?

A. No, sir, I didn't, Judge, I didn't.

Q. Mr. Montgomery didn't write out this paper which you call immunity, and still he got that telegram from Judge Allen at Washington?

A. No, sir, you see Mr. Montgomery came in the morning and he said he would have to see; Mr. Robinson left Mr. Montgomery at my house and I had a talk with Mr. Montgomery, I didn't make no confession——

Q. But you didn't get these papers written up by Mr. Montgomery until you—until he got the telegram from Judge Allen, did you?

A. I didn't make no confession until he came back out there with the telegram, and he brought this man taking down what I am talking, like this man, and he had to go back down town and get it written out, typewritten and he brought a

Notary that night and I signed it, and he handed me over the papers.

Q. When you told him unless he brought that out you wouldn't confess? A. My immunity?

Q. Yes?

A. I wasn't going to talk to him, I asked him——

Q. You wasn't going to talk until you got it?

A. I wasn't going to talk myself, no, sir, until he gave me the papers.

Q. He brought Judge Allen's telegram to you in the afternoon with the immunity papers?

A. No, sir, he didn't bring the immunity papers.

Q. When did he bring the immunity papers?

A. When he came back with the telegram, you see, I didn't make no confession to Judge Montgomery that morning; he didn't know whether he could get immunity or not, he said he would see; he went up town and was gone three or four hours and maybe more.

Q. Will you tell me when you got the immunity papers?

A. That same day. I made my confession about two o'clock that afternoon and then Mr. Montgomery didn't come back until about seven o'clock that night with a Notary Public and they read it over to me what I have said and I signed it, and the minute I signed the statement I had made, then Mr. Montgomery gave me the immunity papers.

Q. He passed you the immunity papers?

A. The minute I signed that.

Q. The minute you signed that?

A. Yes, sir, the minute I signed that.

By Mr. German: Judge Stuart, I wish you would have this telegram that you read, purported telegram identified.

By Mr. Blakeney: I object to that until it has been properly identified.

By Mr. German: I mean identified by the Examiner.

By Mr. Hanford: Do you admit it?

By Mr. German: No, sir, I object to it. I mean identified by the Examiner. I object to it being admitted in evidence, but I desire that counsel have the document from which he read identified and filed.

By Mr. Blakeney: I object to any marking or filing of a document that is not properly identified here. It may be, so far as I know, or might be merely a note written.

By Mr. Stuart: I just asked you if she saw that kind of a telegram sent.

By Mr. German: You are unwilling to do that?

By Mr. Stuart: I am unwilling, because I haven't got the original telegram. I asked if that kind of telegram was sent.

By Mr. German: Now, I move to strike the question and the answer thereto pertaining to the purported telegram and all inquiries concerning the same on the ground that they are incompetent, irrelevant, and immaterial, and improper cross examination; and for the reason that counsel is not willing to file the document from which he read as a part of the examination.

Redirect Examination by Mr. German.

Q. Sadie, you have been on the witness stand now all this week, haven't you? A. Yes, sir.

Q. And at one night session? A. At one night session.

Q. It is now four o'clock in the afternoon or about?

A. Yes, sir.

Q. We started with your testimony the second or third day of this month? A. Two days.

Q. And had you on the stand a part of two days and your voice gave down? A. Yes, sir.

Q. You were sick—had you been sick?

A. They served a subpoena on me in the bed. Yes, sir, I had been in the bed pretty near two weeks.

Q. Up to that time?

A. Yes, sir, up to that time.

Q. Do you remember how long before you came to testify that that subpoena had been served on you?

By Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial.

By Mr. Blakeney: We object for the same reason.

By Mr. German: We object for the same reason.

Q. You say you were sick in bed when it was served on you? A. I was sick in bed.

By Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, improper redirect examination, and move to strike the answer which was given before I could interpose my objection.

Q. When did you get out of bed with reference to the time that you began to testify on the second or third days?

By Mr. Hanford: The same objection.

A. Wednesday morning, the morning I was to be here in Court, yes, sir, I got out of bed.

Q. We had a recess for quite a while after you had testified on Wednesday, and then on Thursday until you could recover your voice?

By Mr. Hanford: The same objection.

A. Yes, sir.

Q. Referring to Mr. Blakeney's questions to you referring to your conversation with Mary Smith, at Leavenworth, I wish you would relate that conversation and when it was?

By Mr. Blakeney: We object as hearsay, irrelevant, incompetent, and immaterial, no time and place laid.

Q. When was it?

By Mr. Hanford: We object on the ground that it is hearsay, not made in the presence of any of the parties to this suit.

A. That was the latter part of, about the middle I guess of November, 1914—1914.

Q. That was before your contract with Buell?

A. That was before my contract, before I had made a contract, before I had made a confession to the Government, yes, sir.

Q. All right, I don't care for your relation of it then. What year is that you said you began to pursue a bad life?

A. About eighty-eight, the fall of eighty-eight.

Q. About the fall of '88? A. Yes, sir.

Q. How old were you then?

A. Oh, about nineteen, I guess, I think I was nineteen.

Q. When did you quit going to school?

A. I quit going to school when I was sixteen. You see I never did go to school regularly, I go to be about thirteen years old, would just go at intervals.

Q. Are your parents living?

A. My mother is living but my father is dead.

Q. Where does your mother live?

A. My mother lives in Tulsa, Oklahoma.

Q. When did you first commence to—when did you first know Granny Letcher? A. 1879 we moved with her 1879.

Q. Who is we? A. My mother and myself.

Q. Where was Granny living at that time?

A. Living on the corner of Fourth and Choctaw.

Q. How long did you and your mother continue to live with Granny? A. Until the spring of eighty-three.

Q. Was your father living at that time?

A. No, sir, my—— Yes, sir, my father was living but not with us.

Q. He wasn't living with your mother?

A. With my mother, no, sir.

Q. Did you make your home after that with your mother or with Granny?

A. Well, my mother married and I stayed around Granny's and worked.

Q. Except when you were working——

A. Working, and I stayed back and forth with Granny. Hardly ever at my mother's house because I had a step father.

Q. So outside of the time that you were out of Leavenworth in the winter of eighty-four, the time that you mentioned when you went west somewhere—— A. Yes, sir.

Q. You made your home, when you were not working, with Granny?

A. Around Granny's, yes, sir, around Granny's house.

Q. And when you were working, would you or not visit at Granny's? A. I did.

Q. Very frequently?

A. Yes, sir, I taken her to be my grandmother, she wasn't but then I would go there.

Q. Is your step-father living? A. Yes, sir.

Q. When was it you started up a house there in Leavenworth of your own? A. 1888, in the fall of 1888.

Q. At that time you had discontinued living with Granny? A. Yes, sir.

Q. Or making Granny's your home?

A. Yes, sir, but I would go there and eat at Granny's; she fed people you know and I would go down there and eat.

Q. You spoke of Granny having lived at one time at the corner of Third and Seneca, did you not? A. Yes, sir.

Q. Where had she lived at just prior to the time that she lived at Third and Seneca?

A. Right on Seneca where she died at. She lived there and moved away, down on Third, between Third and Fourth on Seneca.

Q. Then, as I understand you, she lived at two different places on Seneca Street in the course of her life?

A. Yes, sir, and then she moved back to where she had moved out of.

Q. What was the street number of the first place on Seneca Street that she lived?

A. 217, the first place that she moved, yes, sir.

Q. Where had she come from to that place?

A. Off of Cherokee Street.

Q. What part os Cherokee Street?

A. 215 Cherokee was her number.

Q. Do you know about when it was that she moved from 217 Seneca to the corner of Third and Seneca?

A. No, I don't know now. I don't know.

Q. That was after you quit living with her?

A. Yes, sir, that was after I quit living with her, she didn't live down there so very long, outside of three or four months.

Q. Lived where?

A. Down on Seneca between Third and Fourth, and she moved right back then to 217.

Q. You spoke of down—you said down from 217 Seneca to the corner of Third and Seneca?

A. No, it is west, pretty near a block west.

Q. Well is it down hill? A. No, sir, I just said down.

Q. You just call it that? A. Yes, sir.

Q. Judge Stuart inquired of you about your testimony in Muskogee, as to what you had testified with reference to Granny living or moving to Third and Seneca, and I wanted to ask you a little about that.

By Mr. Hanford: I would like to ask the witness what the papers are that you referred to.

By Mr. Blakeney: We have a right to object to the witness using apparently memoranda without making them on exhibit or identifying them or explaining the nature and character of the same.

By Mr. German: In connection with that, I want to make this record. That after the last statement that I made to the witness, I begun to look through my notes and have been engaged in that for a short while when the witness examined some papers she had, and thereupon Mr. Hanford asked her the question just put to her or made the statement.

By Mr. Blakeney: Counsel's statement is correct, but we would like to have the memorandum she examined identified and made a part of the record.

By Mr. Hanford: Let the record show that it was three pieces of note paper she took from her book and read over and then returned to her book after my interrogation.

By Mr. Blakeney: I asked here for permission to examine the witness before counsel examines her to see what the character and nature of memoranda and papers which she took from her grip and examined them, the same looking like that they were notes from which she was testifying, being at the time on the witness stand and under examination by counsel.

By Mr. Hanford: I join in that request.

The Examiner: The witness is now under examination by the attorneys for the complainants. I ask the attorneys for the complainant if they will accede to the above request?

By Mr. German: No, I am unwilling to do so for the simple reason that during the cessation of my examination, and not until after I had commenced to examine my notes, the witness even looked at any paper that she had, and couldn't have looked at that for the purpose of answering any question, because I had not stated a question.

Q. Sadie, did you have any child in Leavenworth?

A. Yes, sir.

By Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and move to strike the answer for the reason that it was made before I could make an objection.

By Mr. German: I will withdraw the question.

Q. When did you go to——

By Mr. Hanford: I want my objection to show that the answer was made before I could interpose my objection, the witness answering so quickly.

Q. When did you move to the Indian Territory or Oklahoma? A. About the fall of ninety-nine—1899.

Q. 1899? A. Let's see, 1899. Yes, sir, 1899.

Q. Have you lived there continuously since then until you came to Kansas City this last time?

A. Yes, lived there—— Yes, sir, lived right there.

Q. How long have you been living in Tulsa?

A. I have been living in Tulsa about—I moved there in 1908.

Q. And then did you live there for some time after that?

A. I lived there until now, when I can stay home I am there now, there is where I live.

Q. What business are you engaged in at Tulsa?

A. Well, when I first went there I run a rooming house until about 1910.

Q. Then what business were you engaged in?

A. Running a road house.

Q. Where was this road house located?

A. The road house was located about—let's see, on North Greenwood, but about three blocks or four blocks outside of the city limits.

Q. In what direction from the main part of town?

A. Well, it would be north of Main Street, north—— No, north of Second Street, the north part of town.

Q. What kind of business was carried on at that road house?

A. Well, it was a little longer than this I guess.

Q. This room?

A. Yes, sir, thirty feet front and forty feet long, and I had a gambling house in there, two bed rooms and a place —a dance hall.

Q. Did you sell any intoxicants there?

A. Yes, from a hundred to two hundred and fifty dollars of beer and stuff at night.

Q. Was anybody interested with you in that business?

A. They wasn't interested with me, I run it myself, but Mr. Creekmore was back of me with the law there. I was buying my stuff from him.

Q. Bought your stuff from Bill Creekmore?

A. Bill Creekmore, yes, sir.

Q. Did you do a big business or not?

A. I guess so, I had from a hundred to two hundred people a night.

By Mr. Hanford: I object to that as improper redirect examination, improper, incompetent, irrelevant, and immaterial.

A. I would have from a hundred to two hundred people every night and part of the day.

Q. People from Tulsa?

A. People from Tulsa and out of town too.

A. Well patronized place?

A. Yes, sir, especially at nights.

Q. Was it very well known in the city?

A. Yes, sir, I was busy all the time, yes.

Q. Were you ever arrested over that house, for running that road house?

A. Never got arrested for running the road house. Got arrested in town first and Mr. Creekmore had me move out on the hill.

Q. Got arrested in town before you moved out there?

A. Yes, sir, raided a good many times and he had me move out there.

Q. Was there any publication of your arrest in the news papers? A. A good many times, yes.

Q. What name were you going under at that time.

By Mr. Hanford: I object to all this line of interrogation on the ground that it is incompetent, irrelevant, and immaterial, and improper redirect examination and can serve no other purpose than to encumber the record.

By Mr. Blakeney: We object especially as it doesn't even show that Henry Carter read the papers of Tulsa or had access to them.

Q. Sadie, you found out since Mr. Blakeney—since you were answering his questions as to whom he represented, you have found out whom he does represent? A. I have.

By Mr. Blakeney: We object now.

By Mr. Hanford: Do we need to make special exception, or do we agree to my general objection?

By Mr. German: Unless you object to the form of the question.

By Mr. Blakeney: I object to the last question that counsel must have told her, she couldn't have found out from anything I did.

Q. I will ask you this: How long did you continue to run the Road House?

A. Until the spring of 1913, along about March when I married.

Q. You got married? A. Yes, sir.

Q. What did you do then?

A. I didn't do anything after 1913, but I ran the road house from 1910 to 1913.

Q. Were you tried for murder at Tulsa? A. Yes, sir.

Q. Where did the killing take place?

A. In the road house in 1911, July 3rd, 1911, the first one.

Q. What was your name at that time? A. Sadie Johnson.

Q. You say the first one?

A. There was two killed there, yes, sir.

Q. Two killings there? A. Yes, sir.

Q. Who was connected with the other killing?

A. My son-in-law and a house man out there killed a notorious fellow called "Five-dollar Red."

Q. Were you tried on both those charges?

A. No, sir, they found out I didn't have anything to do with that killing.

Q. What was the outcome of the trial on the first killing?

A. Both of them were acquitted. Both boys were acquitted for theirs and me too.

Q. You were acquitted for the one that you were charged with? A. I was acquitted too.

Q. Were you charged by complaint and indictment for the last murder too? A. No, sir.

Q. Were you arrested on account of it?

A. Yes, sir, I was arrested because the boys were working for me.

Q. Was anything in the news papers about those arrests and those homicides?

By Mr. Blakeney: We object now, too indefinite and remote, nothing to indicate that they were read by Henry Carter.

Q. What news papers contained articles about the homicides? A. The Tulsa World, the front page was full of it.

Q. Did your name appear in those articles?

A. My name appeared yes, sir, and at my trial too.

Q. The papers were full of it?

A. The front page was full of that too. About the Bucket of Blood and who I was.

Q. At the time of your trial——

A. When I did the killing.

Q. Now, at the time that you ran this road house, was Frank Long ever there?

A. Yes, sir, Frank Long that is in here?

Q. Yes.

A. Yes, sir, Frank Long has been at my road house lots of times; he had been in my road house before ever I done the killing.

Q. Did you know him at that time?

A. Yes, sir, I knowed Mr. Long.

Q. Did he know you? A. Yes, sir, Mr. Long knowed me.

Q. That was prior to the time that you were employed by Mr. Page? A. Three years before that.

Q. Why was that place called "The Bucket of Blood"?

A. Because of those two killings and it was so awful rough out there. Three had got killed and I don't know how many of them there had been beat up awful bad out there, and rough too, and robbed too.

Q. Now, after you were employed by Mr. Page, you say you saw Bill Creekmore in there in his office?

A. Had I seen him?

Q. Yes?

A. A number of times have I been in there when Mr. Creekmore was in there, yes, sir.

Q. What was Bill Creekmore doing in Mr. Page's office?

By Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial—not shown that she knows.

By Mr. German: Your objections go to all of this as I understand it.

By Mr. Hanford: All right.

A. My understanding, you mean, what was he doing in there?

Q. Yes?

A. They were friends, and then I have seen Claude bring out the monthly receipts of the railroad and show them, exhibit them to Mr. Creekmore, for Mr. Page would tell Claude to get those papers.

By Mr. Blakeney: I had to wait for the answer to see the connection, and the answer shows no connection with the case. I move now to strike the answer as incompetent, irrelevant, and immaterial, has no connection or bearing on the case in any form.

By Mr. Hanford: Will Mr. German state the purpose of the examination.

By Mr. Blakeney: I don't think he could state anything to show that.

By Mr. German: The purpose of this——

By Mr. Blakeney: I object as encumbering the record as to any purposes.

Q. Had you ever heard Mr. Creekmore ask Mr. Page anything about those papers?

A. About the road house, about the railroad papers?

Q. The railroad business, yes?

A. No, sir, I didn't hear but when Mr. Creekmore——

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

Q. Did you hear Mr. Page discussing the railroad matters? A. Yes, sir, I have.

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

Q. What railroad was that?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. My understanding it was the street car road there in town, interurban part of the railroad business.

Q. That ran from Tulsa to Sand Springs?

A. To Sand Springs, yes, sir.

Q. Did you ever hear Mr. Creekmore say anything to Mr. Page about how—or Mr. Page say anything to Mr. Creekmore about you?

By Mr. Hanford: Now, I move to strike all these questions and answers covered by my objection on the ground that they are all incompetent, irrelevant and immaterial, improper redirect and impertinent, and purely slanderous.

By Mr. Blakeney: I object to it all because it is not in any sense competent, relevant, or material.

Q. Answer that yes, or no? A. Yes, sir.
Q. Which one was it? A. Mr. Creekmore.
Q. Who did he speak to? A. Talking to Mr. Page.
Q. What did he say?
A. Telling Mr. Page how game I was.
Q. Well, tell just what he said?
A. He said, well Charlie, Sadie is all right——

By Mr. Blakeney: We object to any statement.

A. She ran the road house out there for two or three years, anything you want Sadie to do she will do it.
Q. Now, when was that conversation?
A. That was after I had been hired to Mr. Page.
Q. How long after?
A. Oh, in about a week if that long.
Q. In about a week? A. Yes, sir.

By Mr. Blakeney: We move now to strike it out for the reason that it is obviously irrelevant and immaterial.

Q. What, if anything, did Mr. Page say to that in answer to that?

A. He said well he knew it because I had been so game making this live man, you see, and the nerve I had in it.

By Mr. Blakeney: I move to strike out all after the word "because," as incompetent, irrelevant, and immaterial.

By Mr. Hanford: I join in the motion to strike.

Q. Was that Mr. Page's statement, or is that your conclusion as to why he said that?

By Mr. Blakeney: We object to the form of the question; let the witness tell what Page said.

A. That is the answer he gave Mr. Creekmore.

Q. Sadie, you were asked something on your cross examination about whether you had discussed your confession with anybody and you stated that you had not; and as to whether you had talked with anybody as to what you were going to swear in this case and you said you had not. I will ask you to state whether you ever talked to anybody as to what you knew about the facts? A. In this case?

Q. Yes? A. Yes, sir.

Q. Who to?

A. I have talked to you in the presence of Judge Allen and Mr. Meserve, and I have talked to Judge Allen and Mr. Cook with the two of them about the facts what I knew and about what I had found out, but not about my confession.

Q. Have you ever talked with Judge Allen about this case except in the presence of me and Mr. Cook? A. No, sir.

By Mr. Blakeney: We object to that as immaterial; we are not trying Judge Allen now.

Q. Judge Stuart inquired of you about some statement you are supposed to have made in February, 1915, which he stated or indicated that he understood you had made in Judge Allen's office, stating as I remember it at the time that he had it or was in possession of it or a copy of it. Did you make a statement in February, 1915?

A. Yes, sir, but not in Judge Allen's office.

Q. Where did you make it?

A. I made that in my room down on South Second Street.

Q. In whose presence?

A. In the presence of Mr. Montgomery and some shorthand writer there that they had, I sent for them.

Q. Sadie, when in your testimony you made some reference to the fact that before you and Bettie Mann went to Seattle you had heard Bettie say something about Frank Long, as I remember it——

A. Before we went?

Q. Yes, before you and Bettie went to Seattle?

A. Yes, sir.

Q. Had she said something to you about Frank Long?

A. That day or way before that——

By Mr. Blakeney: I object all the way through the record and the examination in chief to conversations between Bettie and this witness as being hearsay, incompetent, immaterial, and I would like to make that objection now to go to any questions——

By Mr. German: We are not eliciting the conversation.

By Mr. Blakeney: Oh, then, I beg your pardon.

Q. When and where before you went to Seattle that Bettie did say something to you about Frank Long?

A. The first time was in Sapulpa, her and Rogers both said something to me; they had been talking to him up at the depot in Sapulpa the second time.

Q. Where was the second time? A. In the Tulsa Hotel.

Q. Where? A. The Stafford Hotel the second time.

Q. In Kansas City? A. Yes, sir, Kansas City.

Q. Was that before you had gone to Seattle.

A. Yes, sir, that was before we had gone to Seattle.

Q. And the third day that you were in Seattle— Oh, yes, I believe it was the third day after you had first seen Minnie there or at least on the day that you say you told Harry Folk about Minnie's children; I wish you would relate what was said to Harry about Alice, Minnie's child Alice? A. Alice?

Q. Yes, if anything?

A. Yes, sir, I told him that the children were living.

Q. You told him that Alice was living?

A. Yes, sir, I told him that Alice was living.

Q. What, if anything, did you say about Mabel?

A. We never spoke about the dead one, about Mabel.

Q. About Mabel?

A. No, sir, didn't tell him anything about that.

Q. Now, after Mr. Long came to Seattle while you were there on your first trip there, in Bettie's room when you and Bettie and Mr. Long were in there, you started to tell while Judge Stuart was cross examining you about what Frank Long said when he threw his hands up, I wish you now would tell what that was? A. I told Frank Long——

Q. When he threw his hands up?

A. I said where you made your mistake was by not talking to Captain McNab, and he said I see my handwriting on the wall and I am going back.

Q. Now, when was that statement made with reference to the time that he threw his hands up?

A. You mean what had been going on before he threw his hands up?

Q. When he threw his hands up?

A. I told him he made a mistake by not talking to Captain McNab.

Q. Then, did he throw his hands up?

A. Yes, he said I see where I made my mistake, I see my handwriting on the wall.

Q. And it was when he said that that he threw his hands up, while he was saying it? A. Yes, sir.

Q. Sadie, when Mr. Hanford had you on cross examination, he read to you some testimony given on the witness stand in Muskogee when the application for appointment of Receiver was being heard, the following: "I said that is just my matter, she told me the baby died when it was six months old." He, referring to Frank Long, said I will give you and Bettie three hundred dollars apiece to steal Minnie and bring her to Oklahoma. And you answered that it was three thousand dollars.

A. Yes, sir, I never did say three hundred.

Q. Now, I want to ask you about the first part of this statement that he read to you?

By Mr. Hanford: Now, I want to interpose an objection on the ground that the question is a statement of the record. I don't believe that I read the first part of that. The extract which you read, and the question is therefore improper redirect.

By Mr. German: Though you did read it, you withdraw it?

By Mr. Hanford? If I did read it, I withdraw it, yes.

By Mr. German: And will not hold her to having said that she said that.

By Mr. Hanford: Oh, no.

By Mr. German: The word "she" appears here where it should be the word "he."

By Mr. Hanford: I won't consent to any correction of the record or admissions as to what the witness said at that hearing or now.

By Mr. Blakeney: I want to object to this discussion. This discussion is just enlightning the witness on what that answer should be.

Q. Sadie, didn't you state down at Muskogee that Minnie told you that the baby died when it was six months old?

A. Did I state down at Muskogee?

Q. Yes.

A. I stated she told me that in front of Captain McNab and Mr. Hanford, yes, sir.

Q. She told you that in front of Captain McNab and Mr. Hanford? A. Yes, sir, she did.

Q. But did you state there at Muskogee that you had said on the occasion when you first talked with Frank Long in Bettie Mann's room there in Seattle, that you told Mr. Long that Minnie had told you that the baby died when it was six months old? A. No, Frank Long said she told him.

Q. Is that what you testified to in Muskogee? A. Yes, sir.

By Mr. Hanford: I object and move to strike the answer, which was made before my objection could be interposed, on the ground that the question is improper redirect examination, incompetent, irrelevant, and immaterial, and the record speaks for itself as to what was said at Muskogee at the Receivership hearing.

By Mr. Blakeney: Sadie, I want you to bring the three sheets that you had examining here and put into your handbag in when you come for redirect in the morning or leave them with the examiner this evening.

A. Some of them don't belong to this case. I will see what I will do.

By Mr. Hanford: Sadie, will you leave those papers with Mr. Penick?

A. No, I won't.

And thereupon the witness is excused until nine-thirty o'clock A. M.

By Mr. Allen: It is stipulated and agreed that the certified transcript of the record now in possession of the attorney for the Government and which was certified to be a true copy of the same by the Clerk of the Supreme Court of Oklahoma on February 20th, 1915, is a true and complete case-made, and contains all pleadings, proceedings, and evidence in the case of H. U. Bartlett, A. A. Hammer, and the Gypsy Oil Company, a corporation, plaintiff in error, against Nancy Atkins, an incompetent person, by Micco P. Harjo, the legal guardian and next friend, M. S. Murphy, Milbur M. Norris, W. W. Walker, and Ellis H. Hammett, defendants in error; in case No. 6970, filed in the Supreme Court, November 14, 1914; and that further identification of any pleadings, proceedings, or the testimony of any witness will not be required, and that any part of same may be hereafter offered subject to such objections as counsel may desire to make other than the objection that same is not properly identified.

By Mr. Blakeney: Now, I understand that this evidence does not in any sense refer to Henry Carter.

By Mr. Allen: We can make any objection in the hearing that we want to to any paper in that case, made under this stipulation, except an objection as not being properly identified.

By Mr. Blakeney: I admit that that is a correct transcript, and I waive any further identification, but I certainly object to any testimony in that case-made being used against me as I was not a party to the suit.

And thereupon an adjournment was taken until nine-thirty o'clock A. M.

And thereafter, and on February 19, 1916, at nine-thirty o'clock A. M., further testimony is taken herein as follows:

SADIE JAMES, being recalled, further testified as follows:

Redirect Examination by Mr. German.

Q. Sadie, you say you didn't know about it if Mr. Buell sent a telegram to Mr. Mott, such as Judge Stuart read to you yesterday afternoon?

A. No, sir, that was the first time I had heard of it.

Q. I will ask you if you knew that Judge Allen had recommended to the Secretary of the Interior that this suit be brought a month and a half before you made your confession to Mr. Montgomery?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. No, sir, I never heard of it.

Q. Did you know that Judge Allen had made that recommendation to the Secretary of the Interior before Garfield Buell's Indian attempted to file on this land? A. I did not.

Q. Did you know that M. L. Mott, the man to whom Mr. Buell is supposed to have sent that supposed telegram, was then and is now a law partner of John B. Meserve?

A. I don't know Mr. Mott.

Q. You don't know him? A. No, sir.

Q. Did you know, Sadie, that Judge Allen sought to get the Congress which convened in December, 1914, to withdraw this Atkins allotment and all other unallotted Creek lands and the Barney Thlocco allotment from allotment, and that he spent about six months before the Indian Committees in Congress trying to bring about that result?

By Mr. Hanford: Objected to as irrelevant, incompetent and immaterial, and to the competency of the witness.

A. No, sir, you know I didn't know Judge Allen, no, I didn't know anything about it.

Q. Did you know that having failed to get Congress to pass legislation to that effect, he procured the President of the United States to issue an order withdrawing the land from allotment in the Creek Nation until Congress could act in the matter?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and object to the competency of the witness.

A. No, sir.

Q. Sadie, did you know that Judge Allen prepared a bill that has been introduced at this session of Congress for the purpose of withdrawing all Creek lands from allotment in order to prevent the Garrett allotment and the Thlocco allotment from being allotted by any Indian citizens? Did you know that?

By Mr. Hanford: Objected to as irrelevant, incompetent and immaterial and the competency of the witness.

By Mr. Bell: The same objection on behalf of Henry Carter.

A. No, sir, I didn't know it.

Q. Did you know that during the last session of Congress when Judge Allen was seeking to get the bill that he had then introduced passed, that he not only made oral arguments, but submitted written briefs in which he referred not only to the Quinton Garrett allotment, but to the Thlocco and other allotments and urged Congress to withdraw them; and in the course of his argument he pressed upon Congress the great injustice growing out of permitting Quinton Garrett or any other Indian to take Thomas Atkins' allotment?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and to the competency of the witness, and because the question is argument and can only be asked for the purpose of arguing the case, counsel well knowing that the defendant is capable of answering the question and can have no knowledge of the facts.

By Mr. Bell: The same objection on behalf of Tommy Atkins, known as Henry Carter.

A. No, sir.

Q. Sadie, how long had you known Bettie Mann when you went to Tulsa to live?

A. When I went to Tulsa to live?

Q. Yes?

A. I had known here about six or seven years before I went there. I guess five or six or seven years before I went there.

Q. You knew her while you were living in Tulsa?

A. Yes, sir.

Q. Before you came to Kansas City the last time?

A. Yes, sir.

Q. Before you went to Leavenworth the last time, when Mr. Page sent you away? A. Yes, sir.

Q. Do you know what her reputation was in the Tulsa community? Answer yes or no.

By Mr. Hanford: Objected to as irrelevant, incompetent, and immaterial.

A. Yes, sir.

Q. Now, I speak of her reputation for morality and honesty. Do you know her reputation for morality and honesty?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and for the further ground that if Bettie Mann is to be a witness in this case called in the future, her reputation cannot be involved in the case at her own instance at this time.

Q. Answer yes or no? A. Yes, sir.

Q. Was it good or bad?

A. It was bad. Bad in Muskogee when I first knew her.

By Mr. Hanford: I want to object to that question and move to strike the answer, made before I——

Q. Was she very well known around Tulsa at that time?

By Mr. Hanford: Objected to as irrelevant, incompetent, and immaterial.

A. Yes, sir, and all over Oklahoma.

Q. Her general reputation that you speak of, was it well known around Tulsa? A. Yes, sir.

By Mr. Hanford: I object to all this line of questioning relating to Bettie Mann at this time.

Q. You referred to—in connection with Bettie Mann—to some seven year matter. What did you mean by that?

A. Why she was tried in Tulsa on a land fraud deal and that seven years she and Don McDonald and three of the other boys went to the pen on it, but Bettie is out on bond.

Q. Do you know who bonded her out?

A. I didn't at first, no, I don't know, I can't say who bonded her out.

Q. Was she out on bond at the time you were first brought in this case up here in 1914?

A. I will change this. I think at first Mr. Bartlett and somebody else was on her bond; then that Mr. Bartlett withdrew from the bond, and not knowing myself I think Mr. Page was instrumental in someone else going on it; I think so.

Q. Have you so heard?

By Mr. Hanford: I want to interpose a specific objection to that question, and move to strike the answer on the ground that it is incompetent, irrelevant, immaterial, and hearsay, and object to the competency of the witness. I think it was covered by my general objection, but I want to [] the specific objection notwithstanding.

A. Yes, sir.

Q. Did you ever hear of Bettie saying anything about it? A. Yes, sir.

By Mr. Hanford: Objected to as hearsay.

Q. When was it she told you anything about it?

A. That was after I came back from the west along in August, 1914, I guess.

Q. What did she tell you about it?

By Mr. Hanford: Objected to as hearsay.

A. She told me that Mr. Bartlett had got off of her bond and Mr. Page said that he would see that she didn't get placed in jail anyhow; she didn't say he was on the bond though.

Q. Referring to Ida Foster. You say she is older than you? A. Oh, no, I am lots older than Ida.

Q. You are older than Ida? A. Yes, sir.

Q. About how much?

A. Well, I am three or four years anyhow older than Ida Foster, I know I am that much older.

Q. You say that you and Ida ran together about the time that she began to go bad?

A. Eighty-nine, yes, sir, about the fall of eighty-eight, or spring of eighty-nine.

Q. That was about the time that you commenced to pursue an immoral life, was it? A. Yes, sir.

Q. How much did you and Dennis Jones rob that soldier out of?

A. Well, he had a thousand dollars, we thought he had about a thousand dollars, he had seven hundred and fifty dollars down in the Odessa Bank in Missouri, and a house and two lots. He had a hundred and eighty-five dollars in the bank there at Leavenworth, in the First National Bank; he had ninety-two dollars in the Soldier's Home Office out there, and then his pension money, we drew that for a year and this other money for a month, drawing twenty dollars a month for a year, we drew it.

By Mr. Hanford: I want it to appear that my general objection does not go to this line of questioning as to this matter between Sadie and Dennis Jones.

Q. You say Dennis got into that with you before you married that soldier?

A. Dennis put me up to marrying him, he got his money tied up so that I couldn't do anything but marry him. Married him like this morning, and in about twenty minutes after that we came right back to Dennis' office and Dennis drew up a will and made the old man sign over the stuff to me, and then he gave me—to make me power of attorney over his stuff to sell out at once. I was going to sell it right away, and I went right to the Court House, County Court there in Leavenworth and had it recorded. Dennis was the executor of the will; it is recorded right there in Leavenworth; brought the papers back, the receipt for the will and the notary papers, power of attorney, and gave them to Dennis and he has them yet without he has destroyed them.

Q. Did Dennis know you were a married woman when you married that soldier?

A. Sure Dennis knowed it, my husband was right there in town, I told him I was married.

Q. What is his name? A. William James.

Q. And in what capacity was Dennis connected with that, as your lawyer or how? A. Was he my lawyer?

Q. Yes?

A. No, sir, he wasn't representing me as a lawyer; he was until we got the money tied up. He put me on this old soldier, I didn't know him until I got there. Dennis told me about old man Lane.

Q. Did you have occasion to employ a lawyer after you married the old fellow?

A. Yes, sir, the old soldier's name was Lane, about eighty-five years old.

Q. Who was the attorney that you engaged?

A. I got—— Codding is my attorney. Dennis sent me to Mr. Codding after we got the money tied up.

Q. He is a white man, isn't he?

A. Yes, sir, he is a white man there running a law office, they are law partners there.

Q. Did Mr. Codding accept employment from you?

A. Yes, sir. He didn't know me and I went up and told him about the old man. The old man was notified to be in Court December 4th, the white people down at Odessa had control over his money and were going to place a guardian over him, and notified him to be there December 4th to see whether or not he should be adjudged of unsound mind, and Dennis was afraid to go down there because it was a little white Missouri town and he was afraid to go down there; so he sent me to Mr. Codding.

Q. He sent you to Mr. Codding?

A. Yes, sir, he sent me to Mr. Codding.

Q. When you went to Mr. Codding, did you have any trouble getting Mr. Codding [] accept employment?

A. Yes, sir, I did.

By Mr. Stuart: We object to that because it is leading and suggestive.

By Mr. Hanford: The same objection.

A. I did.

Q. Well, what did you have to do? A. Mr. Codding——

Q. What did he say to you about that?

A. He told me he didn't know me, asked if I was known in Leavenworth, and I told him I was raised there, and he said do you know——

By Mr. Hanford: I move to strike the answer of the witness this far, on the ground that it is hearsay and a conversation not in the presence of the parties to this suit, and I object to the question.

A. Any reputable person there in Leavenworth that would say that I was all right.

Q. What did you tell him? A. I told him yes, sir.

Q. Well, what did he say?

A. He asked me who it was, and I told him Dennis Jones.

By Mr. Stuart: We object to this because it is hearsay, has no relation to the issue, and they were statements made not in the presence of the parties to the case.

By Mr. Hanford: The same objection.

Q. Did you do anything then in reference to getting any recommendations?

A. Mr. Codding asked me if I could get a letter of recommendation, and I told him yes Dennis would do it.

By Mr. Stuart: The same objection.

A. Mr. Codding called up Dennis and asked Dennis if he would write a letter recommending me, and Dennis told him yes, and I went down to Dennis' office.

Q. You say Dennis had known you all your life?

A. Dennis has known me ever since—— I guess he knew me in 1877, the next year after I came there, knew me when I run the place on Shawnee Street, a kind of a sporty place.

Q. Did Dennis know you were a crook? A. Why, yes, sir.

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

By Mr. German: I wish you would identify that please as Government's Exhibit No. 43.

Q. Now, Sadie, I show you Government's Exhibit No. 43, did you ever see that before?

A. That is the letter that I went to Dennis and carried back to Lawyer Codding that I was all right. Yes, sir.

By Mr. German: We offer this in evidence as Government's Exhibit No. 43.

By Mr. Stuart: No objection.

Q. Sadie, you say you have quit your meanness and are trying to live a straight life now, are you?

A. I have throwed up my hands at this crooked stuff, it is too rough.

Q. When you testified when you were on the witness stand in Muskogee in the Receivership case, how long were you on the witness stand, do you remember about how long?

A. No, sir, I don't.

Q. Were you on the witness stand more than one day?

A. Oh, I wasn't on there no one day.

Q. You wasn't on there any one day, were you?

A. No, sir, not a whole day, I don't think so.

Q. Weren't you on the witness stand one day or the part of one day, and two or three days after that you were recalled for a further short examination?

A. The next day or so, I think so.

By Mr. Hanford: Objected to as irrelevant, incompetent, and immaterial, and leading.

Q. At the time that you testified there you—did you get to relate all the facts and circumstances that you knew about this—about your work for Page and Bartlett?

A. No, sir, not all of it, some things I am telling now——

Q. A great deal of it you were not asked about?

A. Weren't asked about, no, sir.

By Mr. Stuart: We object to that as leading, and move to strike the answer.

Q. Were you asked about all the things that you knew?

By Mr. Hanford: The same objection.

A. All that I knew?

Q. Yes, at Muskogee, when you testified there?

A. No, sir, not all that I knew.

Q. Judge Stuart in his cross examination of you read to you from a portion of your testimony taken at Muskogee, page 147 of the printed transcript, and among other questions he asked you this referring to Granny Letcher: "Q. Where did she live in January, 1885," and you answered that she moved up there, lived on Seneca. Then he read to you this question: "Q. That is opposite George .... Barn," and ask you if you didn't answer that by making this statement: "A. Yes, then she moved on the corner of Third and Seneca." Is that what you testified in Muskogee?

A. That is what I testified yes, sir.

Q. Well, is it or is it not a fact that after Granny had lived on 217 Seneca Street a while, that she did move to the corner of Third and Seneca?

A. She did move there and she did move from there on Shawnee Street again.

Q. Then back to 217 Seneca?

A. Yes, sir, then back to Seneca Street.

Q. Sadie, you stated that you didn't know old man Seth?

A. A white man?

Q. You say that you didn't know him?

A. I didn't know him.

Q. I will ask you if you knew of a family living west of Granny Letcher's there on Seneca in the adjacent house, did you know that family? A. I didn't.

Q. How? A. I didn't as they were white people.

Q. And what was their nationality?

A. I think they were Germans, I think pretty near all the white people in that neighborhood were Germans.

Q. What kind of a building was that west of Granny's house?

A. I don't believe I can describe that building west of Granny's house.

Q. You don't know whether it was stone or frame?

A. No, I can describe the one that she lived in and the one east.

Q. That was an old German man?

A. They were all German people in that neighborhood there.

Q. But when you were out at Denver on first trip, trip out there to Fort Logan and Denver, you say you came in touch with Mr. Roach and with Captain White inquiring as to where Minnie was? A. Yes, sir.

Q. How did you happen to go to Mr. Roach?

A. Why, Mrs.—— Old lady Lamb told me about them out at the Fort.

Q. Is that where you got in touch with Captain White?

A. Yes, sir.

Q. You had gone to Mrs. Roach?

A. Yes, sir, he was stoping the next door.

Q. Did Mrs. Hamilton know the Roaches and the Whites?

A. Yes, sir, she knew them.

Q. Had she said anything to you about them?

A. No, sir.

Q. What had Mrs. Hamilton done out there on your first trip to Denver and Fort Logan, which aided you in locating Minnie?

By Mr. Stuart: We object to that because it assumes that Mrs. Hamilton had done something.

A. What had she done? She told me that they left there in ninety-eight, but she didn't know where Minnie went to; no, she didn't know.

By Mr. Stuart: We object to that because it is not responsive.

Q. Mrs. Hamilton, you say, told you when Minnie had left Fort Logan? A. She told me that, yes.

Q. What year did she tell you that Minnie left there?

A. Told me that Minnie left there in ninety-eight.

Q. In ninety-eight? A. Yes, sir.

Q. You stated, Sadie, that after you heard from Mr. Bartlett and sometime—well, it was after you had been to Seattle and had found Minnie and after you had gone on your western tour trying to find the Tommies, and had gotten back to Tulsa and had quit your work for Mr. Bartlett, that you went to your lawyer here in Tulsa, C. S. Walker, and told him about Fred Cook watching you?

A. Yes, sir, that was quite a *bi* though after that, after I got back.

Q. That was, I believe you say, the time that you went to Mr. Walker, was on the day that you first went to Mr. Page.

A. Before I went to Mr. Page, that same day though, I went to Mr. Walker first.

Q. On that same day you went to Mr. Page? A. Yes, sir.

Q. Then, you saw Mr. Walker. Now, then, did you tell Mr. Walker substantially all the facts with reference to what you had done up to that time in connection with this matter. this Atkins matter.

By Mr. Hanford: Objected to as irrelevant, incompetent, and immaterial, hearsay, and calls for a statement not made in the presence of any of the parties of this litigation, and is self-serving.

A. I did.

Q. Later on you saw Mr. Walker again, I believe?

A. That was the next day—— No, that same evening about half past—it must have been about I guess a quarter to five, I guess, when I came back down there I guess.

Q. You told him what had occurred?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and leading.

A. Told him I got a job.

Q. Then, you saw Mr. Walker, you say, again after you had been working for Mr. Page quite a while and along about the first of November?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial and leading.

A. I saw Mr. Walker the next morning after I had—the morning I made the contract, carried him down to the bank to make a copy of it.

Q. Now, I want to get to the time that you went away to Leavenworth at Mr. Page's suggestion as you call it getting you out of Tulsa, about the time that you got the two hundred dollar check?

A. The two hundred dollar check to——

Q. I didn't hear you?

A. The time I seen him about the two hundred dollar check that I was to leave on?

Q. Yes? A. It was Judge Williams.

Q. Did you talk to Mr. Walker along about that time about what you had done?

By Mr. Stuart: We object to that as a repetition and not proper redirect examination.

A. I had talked to Mr. Walker, you know, about going up to steal Minnie and Nancy, but when I got the two hundred dollar check, I didn't talk to Mr. Walker, I talked to Judge Williams about that.

Q. I see. When, in reference to the time that you went to Nowata, in your efforts to steal Nancy, was it that you had a talk with Mr. Walker?

By Mr. Stuart: The same objection.

A. When I got back from Nowata, I had a talk with Mr. Walker, but before that——

Q. You had talked with him?

A. I had talked with him September—about September 10th, when Frank Long and I was to go up and find this grave and get Dennis.

Q. Did you have a talk with Mr. Walker then?

A. I had a talk with Mr. Walker then, yes, sir.

Q. Did you tell him what you were going to do?

A. Not exactly what I was going to do. In October I saw him again.

Q. Did you tell him then what you were going to do?

A. Yes, sir, I told him I was going to get a deed from Minnie unbeknowns to Hanford, and he asked me was I going to testify in the case, and I told him no. I told him—— He asked me who the deed was to be signed to and I told him Bill Creekmore, and he said Judge Allen was going to be there and sit in the case and I never went.

Q. You came over to Kansas City?

A. I came to Kansas City, no I never went to Leavenworth.

Q. Did you tell him then so far as the facts were concerned substantially the same things that you have related here on the witness stand about that? A. I did.

> By Mr. Hanford: I can't get objections in before the answer comes. I object to that question and move to strike the answer on the ground that the question is incompetent, irrelevant, and immaterial and calls for a statement not made in the presence of any parties to the suit, is leading and improper redirect examination.

Q. Sadie, when you were at Aunt Kate Logan's on the first trip you made to Leavenworth after you had been employed by Mr. Page, on the occasion when you say that you—that Kate signed a statement for Mr. Long, how did Kate sign that statement?

A. Well, Albert had to sign it for her, he put her hand on the pen, but Albert, I think, signed the name.

Q. You think she held the pen while Albert signed the name?

A. Yes, sir. She couldn't write, she was too sick, and Albert Smith signed the name.

Q. You say you saw Mr. Hanford in Mr. Page's office after your contract with Mr. Page?

A. Yes, sir, saw him the first morning.

Q. The first morning?

A. Yes, sir, that was June 20th, the first time I saw him there.

Q. What day was that?

A. That was June 20th, the first morning, Thursday morning, June 20th.

Q. Do you mean August 20th?

A. Yes, sir, August 20th, when I made the contract, I saw him that day.

Q. Did you see him after that time?

A. I saw him about a month or better, after Dennis was hired. Dennis was hired Tuesday, September 22nd, I think, and I saw Mr. Hanford about five [] or a week later than that in the office.

Q. Do you get any other checks from Mr. Page or Mr Josey, or the Gem Oil Company other than the two hundred dollar check and the fifty dollar check that you told about?

A. Yes, sir, oh yes, sir.

Q. What other checks did you get?

A. The first check that I got was August 20th, fifty dollar check on the First National Bank.

Q. August 20th? A. About August 20th, yes, sir.

Q. 1914?

A. 1914. The second I got from Mr. Page was about September 9th, between the 7th and 8th of September, I got another check from Mr. Page, fifty dollars, that is cashed at the First National Bank, along in there some place about the first part of September when Mr. Long and I was to go to the grave—go to get Dennis. Then I got a check, I think it was Wednesday October 7th, from Mr. Page, when I was to go to steal Nancy, that was for thirty-five dollars. I got that from the Central National, I think that is in the Central National.

Q. That you think you cashed that in the Central National?

A. At the Exchange National I mean, thirty-five dollars, I got a check from Mr. Page between the last week in October and the first four or five days in November, fifty dollars and cashed it at the Central National Bank, Mr. Page's bank; then I got the two hundred dollar check and cashed it at the Exchange National.

Q. Those checks were all on account of expenses or payments to you on your contract?

A. Yes, sir, but you didn't ask me about the witnesses.

Q. What was said, if anything, about paying the witnesses?

A. Why, Mr. Page said that Frank Long was to pay the witnesses not me, Frank Long would do the paying.

Q. And referring to the time that you were in Seattle in December, 1914, you say you didn't see Minnie before she made her confession to Mr. Montgomery?

A. No, sir, I didn't see her before, no, sir.

Q. When was it, with reference to her confession, that you wrote the little note which Judge Stuart offered in evidence here?

A. She made the confession on Friday, I think, and I wrote that note on a Saturday morning, Saturday morning about seven-thirty, I think it was.

Q. You sent it to her by a messenger boy?

A. Yes, sir, messenger boy.

Q. What did that messenger boy say to you when he came back?

> By Mr. Stuart: I object to that because it is hearsay.
>
> By Mr. Hanford: The same objection, and on the further ground that it is a self serving declaration and relates to a conversation not in the presence of the parties, and as incompetent, irrelevant, and immaterial.

A. The boy said when he came back that he gave it to Minnie ahd Minnie's husband taken it away from her before she could read it.

Q. Sadie, after you had made your confession to the government, where did you first live or stay?

A. Before I made it or afterwards?

Q. After you made it? A. I stayed here at 1615 Waldron.

Q. Here in Kansas City? A. Here in Kansas City.

Q. You stated on cross examination about being bothered with some detectives here in Kansas City, did you know any of those detectives?

A. No, sir, I didn't, not a one of them. They called my name but I never had seen any of them before.

Q. What did they claim their names was?

A. One of them was named Bloosse, and the other one was Steele.

Q. Do you know Ed Eagan?

A. Yes, sir, I know him, I know Ed Egan.

Q. Who is he?

A. Ed Egan is a little private detective in Tulsa.

Q. Did he ever come to see you after your confession to the government? A. Yes, sir, Ed Egan came to me.

Q. Was that in Kansas City or in Leavenworth?

A. That was in Leavenworth.

Q. When was that?

A. Ed Egan came to me January 2nd, 1915, in Leavenworth, Kansas.

Q. Where there?

A. At Mrs. Yokum's, 705 Shawnee, Leavenworth.

Q. When did he talk to you about it?

A. He talked to me about—— Told me he had an angel oil man on his string a ten thousand dollar deal.

Q. Did he give you the name of that angel?

A. No, sir, he said angel oil man, and he said I have told him that you know that Henry Carter is the son of Minnie. I said, well he ain't. I said Adis Carter is Henry's mother. He said, I know it but I told the man that you know it that Henry is Minnie's son and I will give you $5,000.00 to swear that he is, not next week will you get it, not tomorrow but today. I said, Ed I have talked. He said, you ain't made a damned thing but your statement.

Q. He said what?

A. Ed said, you ain't made a damned thing but a statement. I hadn't been to court then. And I told him I had somebody calling to see me and I would talk to him later. That was in the morning when he first came about eight o'clock. At noon he came back again and that was about the same conversation again at noon, and I had an appointment with him for four o'clock in the evening.

Q. What if anything did he say about Mr. Page?

A. He asked me about what was the trouble——

> Mr. Hanford: Objected to as incompetent, irrelevant and immaterial and hearsay; calls for a statement not made in the presence of Mr. Page.

A. He didn't tell me he was working for Mr. Page but he said here Sadie—he told me the Uncle Sam Company, oil company, he said what do you care about who wins the case so you get the money? He said Mr. Page is all right. I said, yes I know it but I am not going to the penitentiary for Charles Page and I have talked and I am going to still stick to it. So I didn't go to meet him any more because we run out of town under him. Mr. Robinson had taken me and Ed Egan had six detectives on me there. Can I make this further statement?

Q. Yes.

A. Now, I didn't run off because I was afraid Ed could buy me but I was afraid I would get killed, too many detectives following me.

Q. Did you go to Colorado? A. Colorado?

Q. Yes, after your confession to the government?

A. No, sir, I never been to Colorado any more. I never did go there.

Q. I thought after your confession to the government when these detectives were trailing you that you went to Colorado.

A. Oh yes, sir, when I was running off I went to Colorado.

Q. About when was it you went there?

A. I must have went in August, I know I went there in August.

Q. 1915?

A. 1915, and stayed till the middle part of September.

Q. Now you say these detectives whose names you have given here who visited you here in Kansas City did they follow you out to Colorado?

A. They followed me there and found me in Pueblo.

Q. What did you leave Kansas City for?

A. You see I got scared here.

Q. What were you scared of?

A. I was afraid they would kill me, too much money offered for me to turn up this deal: anybody would kill you for it.

Q. Did you make any complaint when you were in Leavenworth after you had made your confession, did you make any complaint when you were in Leavenworth to the city authorities about detectives following you?

A. I did. I went to the city hall.

Q. What was done as a result of that?

A. That was a colored fellow——

Mr. Stuart: We object to that as incompetent, irrelevant and immaterial.

Mr. Hanford: The same objection. And hearsay.

A. I went to them and told them.

Q. I don't care what you told them, was anybody arrested over it?

A. No, sir, they told me to get a warrant out for the fellow, his name was Charlie Anderson, he was in there too. I had them bring him in there. And I told him if he followed me any more—he had been following me about three days and I made complaint about Egan——

Mr. Stuart: I made a motion to strike that as incompetent, irrelevant and immaterial and not binding upon any of the parties in the suit.

Mr. Hanford: The same objection.

Q. When did you first learn that Mr. Bartlett had a ranch out in Colorado?

A. When I was in Pueblo, no I learned that when we were coming back from Denver because he said he was going out to his son's place. I didn't know it was his place. He said his son's place and sent me a deed to Leavenworth from there.

Q. Sadie, in your testimony yesterday you told Mr. Blakeney, as I remember it, or Judge Stuart I am not sure which, that that—that the secret between you and Minnie which you were not going to tell if it was ever told would benefit Mr. Page. A. Benefit him?

Q. Yes, what did you mean by that statement?

A. I meant by that statement, I meant it would benefit him in a way so he would stay out of this case forever. That is the way I meant it would benefit him if I would tell him. I didn't mean that it would do him any good.

(Brief recess.)

Recross Examination by Mr. Bell (appearing by agreement of counsel for Mr. Blakeney):

Q. Sadie, I want to ask you this question: You said that if you told a *secred* that Mr. Page would be out of this case forever? A. If I told the secret?

Q. Yes? A. Yes, sir.

Q. Will you tell that secret? A. No, I won't.

Q. Why won't you tell it?

A. It incriminates myself and Minnie Atkins and I am not going to tell that secret to anybody.

Q. You are immune from any prosecution in this case, are you not?

A. Yes, sir, but not that. That is not any of the Government's business and it ain't none of Mr. Page's business; that is mine, you won't pull that out of me.

Q. How does Mr. Page become connected with it if it is none of the business of Mr. Page?

A. Well, I say I won't tell it.

Q. And you refuse to tell it? A. I refuse to tell it.

Q. The reason that you refuse to tell it is because that you are afraid of being prosecuted?

A. All I am going to say I have said.

Q. You can answer that yes or no.

A. It will incriminate myself—nothing more.

Q. That is the reason that you refuse to tell it?

A. I am not going to tell it.

By Mr. Stuart: Make her answer the question.

A. Yes.

Recross Examination by Mr. Hanford.

Q. Sadie, will you please let me see those immunity papers that Judge Stuart requested you to bring back this morning, and which the Examiner instructed you to bring with you this morning? A. Want me to answer, Mr. Hanford?

Q. Yes?

A. I didn't find them, and when I came this morning I told the Examiner that they were not lost, I would bring them at noon.

Q. Answer the question, will you?

A. I haven't got them, but I will sure positively see that you get them, I will look for them and sure bring them to you, they are not destroyed, I know they are not, they can't be because I just had them here you know.

Q. Where did you take them to, Sadie? A. To my home.

Q. Did you leave them there?

A. Yes, sir, at home, and I got a lot of papers and writing——

Q. Who did you give them to?

A. I put them away myself, I don't give my papers to anybody and I will bring you my papers, they are not lost, they are there some place, I looked for them last night and this morning.

Q. Sadie, where did you put the papers?

A. Well, I put them in my room somewhere, do you want to go out there?

Q. Where did you put the papers, Sadie?

A. You just give me five minutes until I get myself together again and I will answer you nicely, Mr. Hanford.

Q. Sadie, that doesn't require five minutes ~~for you~~ to tell me where you put the papers?

A. I don't take five minutes for me to think of that, but it will require five minutes for me to get myself together.

> By Mr. German: I would like for the record to show that about three or four questions back, when Mr. Hanford asked the witness a question with reference to where she put the papers, that Judge Stuart stated in the hearing of the witness, "Make her answer," and that the witness—— That it angered the witness, and that the witness looked at Judge Stuart and said: "You can't make me."

Q. Let me ask you this question. What is the matter, Sadie?

A. I don't feel right good right now, Mr. Hanford, not toward you. I will answer you like a woman ought to.

(Brief recess.)

Q. Now, Sadie, where did you put the papers?

A. They are in my room, Mr. Hanford.

Q. In your room at your house?

A. They are not out of my room.

Q. You are sure of that?

A. I am sure of that, and to show you I will take you back to my house at noon and let you see me until I find them.

Q. You are willing to have somebody to go with you?

A. Somebody, you or Judge Stuart, or Mr. Long or somebody can go with me out to my house, 707 East 11th Street, right from this room here and go with me direct to where I stop at until I search and find those papers, I am willing to do that; any three of you gentlemen may go with me.

Q. Sadie, how long did you hunt for them?

A. Well, I didn't hunt for them a great long while, Mr. Hanford, I looked in places where they should have been; I got papers strewed around several places in my trunk, which you will see if you go out there; I will treat you as a gentleman if you go with me and I will let you see me hunt thoroughly for them and they will be found.

> By Mr. Hanford: Then, with the consent of the witness, I will ask the Examiner to designate some person to go with the witness and search for the immunity paper as she calls it and have them brought into Court as soon as they are found if the Examiner will designate one of the deputy marshal's of this district, we will agree to stand the expenses for his services.

Q. Sadie, are you sure that you took your papers home?

A. Oh, yes, sir, I didn't leave them anywhere.

Q. Did you give them to anybody else?

A. No, you didn't ask me to leave them here and I carried them back. They are out there, nobody here has got them and I rather you with the marshal would go and could see and know for yourself. You go with the marshal too.

Recross Examination by Mr. Stuart.

Q. Sadie, you took that book home with you, didn't you?

A. Yes, sir, I left them there.

Q. What time was that, Sadie?

A. That was at dinner, forenoon, wasn't it, when I showed them?

Q. I don't remember?

A. I carried them back at dinner time and when you asked me for them after dinner and I told you I had left them home——

Q. Now, Sadie, you had them in your little——

A. Pocket book.

Q. When you came in? A. When I came in.

Q. And when you went back, didn't you take them in your little portmanteau? A. Yes, sir, took them out.

Q. When you took them out where did you place them?

A. The same place, Judge, I may have placed them in my trunk; I got a lot of little papers tied up.

Q. Now, Sadie, after you left the stand, did anybody ask you to lend them these papers?

A. No, sir, Judge, not a soul had their hands on my papers except as you had them here.

Q. Not a soul?

A. Not a soul, Judge. They are in my house, Judge, not outside.

Q. Now, listen, you remember I asked you to produce them this morning, didn't I?

A. You did, Judge, and I told you that I would bring them.

Q. Did you look for them?

A. I looked for them last night.

Q. And you couldn't find them?

A. I won't say that I made a thorough look for them last night, but this morning.

Q. You knew, Sadie, that I expected them this morning too?

A. Yes, Judge, and I knew this too, that I didn't find them, you would give me a chance, they are not lost.

Q. But Sadie, how do I know that you lost them?

A. They are not lost, Judge.

Q. I understand that, but why was it now that you couldn't put your hands on them and bring them to us?

A. Judge, they are not lost, I can go there and hunt for this immunity paper in my trunk and I think I can find it.

Q. What I wanted to ask you is this: You knew that I wanted them, didn't you? A. Yes, sir, I did.

Q. And didn't you search for them this morning?

A. I searched for them this morning.

Q. You made a thorough search?

A. I won't swear that I made a thorough, a positive thorough search.

Q. A pretty good search? A. A good search.

Q. And you couldn't find those papers?

> By Mr. German: I object to this question on the ground that it is incompetent, irrelevant, and immaterial, and unnecessarily encumbering the record. If, upon going to the home, the paper is not found, then this examination would be proper.

A. Will you go and stay with me until I find them, Judge? I am willing for you to stay with me in the house, I don't mean until I run out doors but in the house.

Q. Sadie, all I ask you is to tell me this, if we can get this down we won't have any trouble about it. You went down home with the papers?

A. I went home with the papers in the street car.

Q. And you put them somewhere?

A. In the trunk or some place.

Q. You knew I wanted them this morning?

A. You asked me for them and I told you I would bring them this morning.

Q. I ask for them?

A. And Mr. *Oenick* asked for them.

Q. And you haven't found them yet?

A. I didn't find them yet, no, sir.

By Mr. German: In view of the insinuations of this examination, I suggest to the Examiner that we suspent further taking of this testimony until the Deputy United States Marshal can go with the witness, and one of counsel for the defendants and one of counsel for the Government, to the home of the witness until she searches for that paper.

Recross Examination by Mr. Hanford.

Q. Just one more question, Sadie. Who was at your house when you got home?

A. Nobody but Will James, my husband. That ain't my house, but my daughter's. My daughter Eva Homes, my son-in-law, Jesse Homes, that is where they live, and my husband, Will James.

Q. Was anybody else there?

A. Nobody else has been to my house.

By Mr. Stuart: Now, your honor, I want to make this suggestion: The United States Marshal for this District is Mr. William Sheldon. I would be glad for your honor to call him in and let him designate a deputy.

And thereupon, at the request of counsel and by agreement of the witness, Sadie James, a Deputy United States Marshal is directed to go with the witness Sadie James to locate the paper in question, and to report at one-thirty o'clock.

A*dh* thereupon, SADIE JAMES being recalled, and further testified as follows:

Cross Examination by Mr. Hanford.

Q. Sadie, did you bring—did you bring the immunity paper that you went home to find? A. Yes, sir.

Q. Is that the paper that you have in front of you?

A. Yes, sir.

Q. Let me see it?

A. That is it with the exception of this note that was in it.

Redirect Examination by Mr. German.

Q. You don't mean to state that the note is a part of the immunity paper?

A. No, sir, this note was wrapped up in that, the note that I wrote to Minnie.

Q. Sadie, where did you find this so called immunity paper at your home?

A. I found it in the next room under the dresser on the floor, I have got a stack of tablets, three or four tablets about this long and this wide, just cheap writing tablets that I keep for writing purposes, and I found it in one of those books.

Q. Was the note which you referred to a copy of the note or the note that you wrote to Minnie Atkins when you were in Seattle, December, 1914, and which copy of the note you had before the Examiner yesterday morning at the same time that you brought the so called immunity paper here, with you then, was it with the immunity paper?

A. Yes, sir.

Q. When you found it at your home a while ago?

A. Yes, sir, wrapped up together.

Recross Examination by Mr. Hanford.

Q. Sadie, you keep those tablets with a book with one of these records?

A. I haven't got no record book, I got no papers with a record book.

> By Mr. German: I would like for the record to show that counsel pointed to and referred to a copy of the printed transcript of record in this case that was filed in the Circuit Court of Appeals on appeal from an order appointing the Receiver.

Q. You have read that part of that printed record, have you not? A. I have never seen no record.

Q. Never seen one?

A. Never have, no, haven't even looked at it since you all have been in here.

Q. You have copies of the statements that you have given at different times?

A. No, I haven't copies of the different statements I have given, I don't keep no copies, I don't need no copies of statements that I give.

Q. Now, Sadie, on redirect examination, you said that Mr. Buell and Mr. Robinson found you in Leavenworth?

A. Yes, sir.

Q. When was that?

A. That was about three or four days before Thanksgiving, I think, in 1914. Three or four days I think before Thanksgiving.

Q. You recall that distinctly?

A. Yes, three or four days before Thanksgiving.

Q. And where did they find you then?

A. They found me at 705 Shawnee Street, at Mrs. Yokum's.

Q. You were staying there at that time?

A. Yes, that is where I was stopping.

Q. And you stopped there for some time after that?

A. After that, yes, sir.

Q. After they found you there, when did you go to Kansas City?

A. Oh, it must have been pretty near a week or more, a little better than a week I guess before I came down here after that.

Q. Wasn't it December 4th? A. Oh, no, no.

Q. You saw Mr. Montgomery the first time in Kansas City, didn't you?

A. The day that he issued this paper was the first time I ever saw him.

Q. And that was December 4th?

A. Yes, whatever date it is, the first day, and the first time I had ever saw Mr. Montgomery was that day, that morning.

Q. Did you go to Kansas City with Mr. Buell and Mr. Robinson?

A. No, when they came back to look for me at Leavenworth I wasn't there, they might have come back to look for me, I don't know whether they did or not, but I left Leavenworth and came to Kansas City, and they found me down here. Mr. Montgomery and Mr. Robinson found me down here.

Q. Then after they found you in Leavenworth, did they tell you that they were going to bring Mr. Montgomery?

A. No, they didn't tell me they were going to bring him, but Mr. Buell told me—I told Mr. Buell, I am sick of the case and tired of running from the law, and I want to get out of it;

he said he would send some Government officer to me but he didn't tell me who.

Q. Didn't say who?

A. No, sir, he never told me who.

Q. Now, you said that Granny Letcher lived on Seneca Street between third and fourth?

A. Yes, at one time she did. She moved over on Seneca first between Second and Third, 217, and then moved to—on right down a block west on Seneca between Third and Fourth and stayed there a while.

Q. How long was that after she moved to 217?

A. Well, that was a few years after that, that must have been—she moved up on Seneca in the fall of eighty-five, and I think that must have been about——

Q. Sadie, how do you fix that date?

A. The fall of eighty-five?

Q. Yes?

A. Because I was still working for Dr. Brock and I taken Granny something to eat down on Cherokee Street where she was living at; that was my home.

Q. You were still working for Dr. Brock?

A. Still working for Dr. Brock and my people lived pretty near a mile from town and I stayed down at Granny's when I wasn't working you know.

Q. Then, when did you go to work for the Doctor?

A. In May 1885.

Q. Didn't you go to work for Dr. Brock in the winter of eighty-five?

A. No, I had been working for Dr. Brock—In the winter of eighty-five, I had been working for him from May on up until June 20th, in there sometime when the house burned, and I was still there a year and a month before that.

Q. And then you went to work for Dr. Brock from the—

A. Yes, sir.

Q. From—— A. Out in West Los Animos, Colorado.

Q. Now, Sadie, when you came back from the west, how long after that did you get a job with Dr. Brock?

A. I came back in March.

Q. In March?

A. Yes, sir, I didn't go to work until about May, that would have been about two months, I guess.

Q. What did you do between March and May?

A. Just working around in town, washing and helping my parents; my parents lived there too and I stayed there a part of the time and with Granny, I didn't have any job.

Q. You stayed part of the time with your parents?

A. Not very much, I had a step-father and him and I didn't get along good, no, sir.

Q. Now, Sadie, you stated that you testified at the Receivership hearing in Feburary; I want to ask you if you didn't testify there according to the testimony as recorded on Page 134 of the record in that case, you were asked this question on cross examination: "Q. Where were you in the Summer of eighty-six? and your answer was: Working for Dr. Brock until his place burned down"; is that right?

A. That was until June, yes, sir, until June.

Q. Just answer if you didn't—— A. Yes, sir.

Q. And then you were asked "You were working for Dr. Brock in the summer of eighty-six," and answered, "I went to work for Dr. Brock along about the winter of 1885 and worked for Dr. Brock until about September 1886". Didn't you answer that?

A. Well, if I said that it is wrong, because the house burned down in June, Mr. Hanford.

Q. And then you were asked "Didn't you state that you went to work for Dr. Brock in the winter of 1885"?

A. I didn't. If I said so, I didn't, because I went to work in May.

Q. Now, when did Granny Letcher live on Delaware Street?

A. Lived on Delaware—— We moved off of Fourth and Choctaw about the spring 1880, we stayed on Cherokee about a year I guess. We moved from there down on Delaware Street between Seventh and Broadway, stayed there just about three or four months, the house was not very large; we moved right back from there down to 215 Cherokee Street again, right in the same yard to our old place that we just had moved from.

Q. Now when did Granny live on Shawnee Street?

A. Granny lived on Shawnee Street along about—it must have been about ninety, she didn't move all of her things off of Seneca Street; she moved right back right across an alley and run a restaurant there, run a restaurant on Shawnee between Second and Third on Shawnee.

A. Between Second and Third I think on the south side, I am not positive now; they had a restaurant there about the winter of 1889 and three or four months I guess they ran that restaurant; or was it that late? I don't know whether it was that late or not, I think it was a little earlier than that that Granny had that restaurant there; I think it was the winter of eighty-eight or eighty-nine, one or the other that she moved there on Shawnee and had that restaurant.

Q. What part of the block?

A. Between Second and Third.

Q. About the middle of the block?

A. Yes, sir, in there somewhere, but I don't remember because I didn't go there but a very few times; I don't think I ever went there but once or twice while they had that restaurant.

Q. Now, how long did she live there on Shawnee Street?

By Mr. Allen: Now, we object to that as having been gone over fully in the cross examination of this witness. Of course, we have no way to keep counsel from asking all of these questions but I want to suggest that I think the matter was fully gone into on cross examination of this witness by both him and Judge Stuart and Mr. Blakeney.

By Mr. Hanford: You are thinking about the redirect examination.

Q. How long did she live there?

A. She didn't move all her things; she was at the restaurant herself, her and Uncle Jim.

Q. Now, Sadie when was you married?

A. In eighty-seven—No, I will take that back, in eighty-six.

Q. In eighty-six? A. Yes, in eighty-six.

Q. When did you leave Leavenworth after you were married?

A. I left there in the fall of 1889, not to stay away though. I came here and went back once a week and sometimes twice a week, and sometimes maybe it would be a month before I could go back.

Q. Then, you were married just after you quit Dr. Brock's? A. Married in September.

Q. 1886? A. 1886.

Q. And you had a house where?

A. Oh, I never had no house then, I never went to housekeeping until along in October, 1888.

Q. You stated you lived some place? A. Who?

Q. Roomed, did you say?

A. Yes, when I went to the Planters Hotel, after Brock's burned down I didn't have no home.

Q. You stated that after you married, you lived some place? A. With whom?

Q. With your husband, I suppose?

A. Oh, no, I never did live with that nigger a day, and there is a man sitting there that knows it, never did live with him a day.

Q. When were you married next?

A. Married in about five or six years after that.

Q. Five or six years? A. Yes.

Q. And you left Leavenworth about 1889?

A. Eighty-nine, but not to stay, I went back to Granny's again and stayed after I came down here.

Q. Then were you at Granny's along in ninety-one and nintey-two?

A. Backwards and forward, yes, up to Granny's, yes from this town. I was only running around here and I ran backward and forward. I had business at Granny's you see.

Q. Granny was then living on Seneca Street?

A. On Seneca Street, yes.

Q. After you moved back from Shawnee Street, was she on Seneca Street all the time? A. All the time, yes.

Q. All the time? A. Yes.

Q. How long did you say you were away from Leavenworth after you left in 1889?

A. How long was I away from there?

Q. Yes?

A. I came down in September—about the first of October and stayed down here about three or four weeks and I went back up there and from that time up until—for the first four or five months I was down here, I was up there every week or two weeks you know.

Q. While she was living on Seneca Street?

A. Yes, from the time I went back up there.

Q. When did you go back up there? A. To Leavenworth?

Q. Yes?

A. I didn't just leave there, I went there and stayed about two months at the house, that was in the spring of ninety, 1890, I went there and stayed two months in the house.

Q. Then, where did you go?

A. I came back down here, I didn't have no house, I went to house-keeping.

Q. How long did you stay down here?

A. I lived here until 1899 and then I went to Oklahoma.

Q. Then, when you lived down here from ninety until 1899, did you go back to Leavenworth any more?

A. Oh, yes, my mother lived there, Mr. Hanford, sure?

Q. Did you go back to see Granny any more?

A. Oh, yes, she was sick two or three years before she died and I went to see her near up to the time she did die.

Q. Did you see her in 1899? A. Yes, I saw her then.

Q. Where was she living then?

A. Still living on Seneca.

Q. Then she never did move away from Seneca until 1899 until she died?

A. No, not to stay away from Seneca, no; she died on Seneca at 217.

Q. So she lived on Seneca Street in 1890? A. Yes.

Q. Ninety-one? A. Clear up until she died.

Q. Ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, and ninety-eight?

A. As far as I know. Of course, when I would go back up there, there is where she would be.

Q. Didn't you go back to see her?

A. Yes, but sometimes it would be some little time before I would go back.

Q. How long?

A. Well, the longest I would be away from there would be about three months, not any longer than three months, I don't think. I want to correct myself in one place. In May, 1897, I left and went down to the Cherokee payment and was gone until November; there is a few months in ninety-seven there that I didn't see her because I was in Oklahoma from May ninety seven until November ninety-seven I didn't see her.

Q. Now, Sadie, you testified in Muskogee that Minnie visited you in 1895 and 1896? A. Yes.

Q. When did you first tell the parties with whom you talked about this case that fact?

A. When did I first tell them?

Q. Yes?

A. I don't know as I ever talked to them people there, these people, but I guess I told Mr. Montgomery.

Q. You didn't tell Mr. Montgomery when you told him—

A. Yes, I must have told Judge Montgomery that when I made my confession.

Q. Well, he didn't put it in that first confession?

A. Well, I don't see why he didn't.

Q. You told him that, did you?

A. Yes, sir, I told him that very evening.

Q. About Minnie having visited you in 1896 and 1896?

A. Yes, sir, I told him about those little children, yes, sir.

Q. He had a short hand reporter to take down what you said? A. What I said? Yes.

Q. Now, Sadie, you stated that while you were on the stand at Muskogee that you didn't testify to everything that you have testified to here? A. No, sir, I didn't.

Q. But what you did testify to was what you recollected at that time?

A. I say, I didn't, because if I said Granny lived on Cherokee Street in 1885, she certainly didn't do that.

Q. In 1885?

A. No, she didn't. I mean she did live on Cherokee Street in 1885.

Q. You want that changed at this time?

A. Why, it will have to be changed, because she didn't; lived on Seneca Street in 1885. Lived on Cherokee Street in 1885.

Q. Well, answer my question. You want that changed?

A. That is what I am saying now.

Q. Well, now, otherwise, your testimony as to the facts were what you recalled at that time?

A. You read them over to me and then I will know, because like this is a mistake there might be others there, because she didn't live there.

Q. Otherwise, what you testified to then is correct?

A. You read them over to me and I will know.

Q. You know what you testified to. don't you Sadie?

A. Yes, some things, but if you got that there——

Q. Well, now, let's see. Sadie, what time did you send that telegram for Mr. Bartlett at Seattle, on Saturday night after you saw Captain McNab and I at Minnie's house?

A. It was not no night, it was afternoon.

Q. In the afternoon?

A. I guess that must have been; I wouldn't say the hour, about four o'clock, maybe, it was early in the afternoon I think.

Q. But you are sure you saw Minnie at her house that night? A. Yes, I saw her.

Q. That same night? A. Yes, I saw her that night.

Q. You said you didn't go to Sargeant Everman's house?

A. Who is Sargeant Everman, I didn't even know him.

Q. And you didn't go to Captain McNab's house that night?

A. Oh, no, I didn't even go in the Fort that night, I was afraid, I went on back to town, no.

Q. How many soldiers did you say that you knew Minnie went with?

A. I didn't say that I knew she went with any; I am telling—never did see her, but she called two names, a man named Oliver, I never did see him and a man named Peterkin, I never did see him until last winter; I never did see her with soldiers that I knew who they were.

Q. Did Minnie stay with you in 1896, I believe you say that she went to the house?

A. I did, she came there two days.

Q. Did she stay with you?

A. No, I said she came there two days with me straight, but she didn't sleep there not a night, not in ninety-six.

Q. I will ask you if on the Receivership hearing you were not asked this question, reading from Page 139, it was on account of your having been so friendly with her in Leavenworth that she wanted you to visit her, and that you answered, hadn't she stayed with me in Kansas City in 1895 and 1896?

A. Now, stayed with me, she came to see me them two days.

Q. Didn't you answer that?

A. I expect I did answer that but she didn't stay there, no, what you call live with me; she was running off, you know she wasn't going to stay no length of time no place.

Q. That is why she didn't stay with you?

A. Yes, she was getting out of the way of the money she had stole.

Q. You say now that Minnie didn't stay with you?

A. Not in ninety-six, no; she came there two days, I heard of her around here for a few days after that.

Q. When was it you said Minnie worked with you at Dr. Brock's?

By Mr. German: I object to this as repetition and unnecessarily encumbering the record.

A. About the middle of September she came there and stayed I guess until about the middle of October. She wasn't there five weeks I know.

Q. Of what year? A. Sir?

Q. What year? A. 1885.

Q. Sadie, when Mr. Robinson took you out to Colorado, did you tell him about these people that were following you?

A. About what people following me?

Q. Those people that you said were following you?

A. Yes, I told him here in Kansas City.

Q. And that is the reason he took you out?

A. You mean when I went out to Pueblo?

Q. Yes?

A. Yes, you mean just here in this last summer?

Q. I mean when you went out to Pueblo to Bartlett's ranch? A. Yes, yes.

Q. He knew about the men following you out there?

A. I told him about them before that, just what he was taking me out there for.

By Mr. Hanford: I ask to have this so called immunity paper marked for identification as Defendant's Exhibit 7.

Q. I will show you defendant's Exhibit No. 7, Sadie, and ask you if that is the paper that Mr. Montgomery brought to you?

A. When I signed the confession that I had made?

Q. Yes?

A. Yes, sir, he gave me that that night, that evening.

By Mr. Hanford: I offer that in evidence. I want to read this into the record: State of Missouri, County of Jackson, ss. Be it known that I, Frank L. Montgomery, United States Probate Attorney, by and with the authority of R. C. Allen, National Attorney of the Creek Nation, have this day granted immunity to Sadie James for the commission of the crime of falsely and fraudulently representing herself as an agent and officer of the United States Government, in that certain transaction or transactions wherein she attempted and did discover one Mary Folk nee Atkins, giving and granting to her full immunity from prosecution for such crime in the representations so made. Done at Kansas City, Missouri, this 4th day of December, 1914, and signed Frank L. Montgomery, United States Attorney. Witness R. C. Adams.

Q. Is that the paper that he gave to you?

A. I have had that ever since, yes; he gave it to me that evening and I have kept that paper hid ever since in my trunk.

Q. You read it, didn't you?

A. Yes, I read it with the understanding for what I did in this case and as passing as a Government officer, that that was what I got the immunity for.

Q. And the way I have read it is the way it was written when it was given to you?

A. When it was given to me, yes, sir. It has not been changed a bit.

Recross Examination by Mr. Stuart.

Q. Sadie, this is the document that you had in your hand, and when you saw certain people afterwards, you told them that the Government had given you immunity, is that it?

A. Yes, sir.

Q. That is the one? A. Yes, sir.

Q. That is the paper that you showed them?

A. That is the one I showed Rube Smith, yes, sir.

Q. Did you show it to Dennis Jones?

A. Never showed it to Dennis?

Q. Who else?

A. I showed it to Rube Smith, never did show it to anybody else.

Q. Did you know at the time that this paper was given to you Sadie, that if this was an immunity you understand now, if this was an immunity, you could still be prosecuted for perjury in this case?

A. Yes, sir that is what he told me.

Q. He told you that? A. I still understood that.

Q. Did you know that you could still be prosecuted for conspiracy in this case—the crime of conspiracy?

A. What do you mean by that?

Q. Conspiracy to defraud the Government of the United States or an Indian under the protection of the United States, did you know it protected you from that?

A. All that I had done, I expected this paper to protect me from all that I had done then.

Q. That is it, you expected this paper to protect you from any crime that might be started with reference to what you had done in the Tommy Atkins case, didn't you, in the Tommy Atkins?

A. That might be started after I got this paper?

Q. Yes?

A. No, sir, not after I had started it, what I had done already.

Q. Prior to the paper? A. When I got that paper.

Q. Didn't you expect this paper to protect you against every and any kind of prosecution that might be started for what you had done prior to the time that you got this paper?

A. No, sir, only in this case.

Q. I understand, in the Tommy Atkins case?

A. Anything that I had done in the Tommy Atkins case.

Q. Prior to the time that you got this paper?

A. Prior to the time that I got that paper.

Q. You were to be protected in?

A. Yes, sir, but not afterwards.

Recross Examination by Mr. Bell (Appearing on behalf of Mr. Blakeney by agreement of counsel):

Q. Sadie, when did Granny Letcher, or mother Letcher die?

A. Well, lawyer Bell, I can't tell you just exactly when Granny Letcher died, because I wasn't in Leavenworth when she died.

Q. Do you know what year it was that she died?

A. No, sir, I figure up that Granny died in the summer of ninety-nine or summer of ninety; the summer of ninety-nine or the summer of nineteen hundred is what I mean, because I wasn't there.

Q. Where did your mother and your step-father live?

A. I am not going to tell you that, you will see them later on.

Q. I will ask you the question, where did your mother and step-father live in the summer of 1888 and '89?

A. I refuse to tell you that, Lawyer Bell.

Q. Did they live in Leavenworth?

A. I will refuse to answer that, where my parents lived.

Q. Did you live with them?

A. Did I live with my parents?

Q. Yes? A. In the summer of when?

Q. 1888 and '89.

A. I will not tell you that Lawyer Bell, I have been sitting here for a week telling you where I lived.

Q. I just asked you the question Sadie?

A. You knew me in eighty-eight, and you knew me in eighty nine.

Q. Now, Sadie, I am going to ask you again, where did your mother and step-father live in 1889 in Leavenworth?

A. I will refuse to tell you.

Q. Why do you refuse? A. Well, because I do.

By Lawyer Bell: I think the court should order her to answer that question.

By the Examiner: You will probably have to answer it.

A. I will not tell him where they did live, but what town they did live in.

Q. Where did they live in 1888 and '89?

A. I will tell what town they lived in, they lived in Leavenworth, Kansas.

Q. Leavenworth, Kansas?

A. Yes, sir, in Leavenworth, Kansas.

Q. Where abouts in Leavenworth, Kansas?

A. Now, I will not tell you.

By Mr. Stuart: We want that question certified to the United States Judge, here.

By Mr. German: Go on and answer it, Sadie.

A. Answer it?

By Mr. German: Yes.

A. My folks lived at, in eighty-nine, my mother lived at —on Fifth Street, out on South Fifth in a house they called the rag man's house. You know where that is, right over

Fred Luche's Grocery Store. They have got a grocery store there now; you know where it is, don't you?

Q. When did they move from that place, if you know?

A. My mother moved to Kansas City about ninety-two, I think, or three. I think now, as near as I—I think now it was ninety-two or three, 1892 or '3.

Q. When did your mother die, Sadie?

A. That is it, she is not dead.

Q. If your mother is not dead, Sadie, where is she living at this time? A. Is living in Tulsa, Oklahoma.

Q. In Tulsa, Oklahoma?

A. She is not dead, that is it.

Q. What name does your mother go by now Sadie?

A. I don't know, got two or three names, goes by the name of Bell and two or three other names.

Q. What is her first name? A. Her name is Caroline.

Q. What name did she go by when she lived in Leavenworth in eighty-eight and eighty-nine?

A. She went by two or three names, Lawyer Bell.

Q. Well, tell what they were? A. Some of them?

Q. Tell all you know?

A. Went by the name of Carry Chase, and Carry Harris.

Q. Carry Harris? A. That is all.

Q. What name did your step-father go by?

A. He went by two or three names.

Q. Well, name them? A. He went by the name of Hunt.

Q. What was his first name? A. Charles.

Q. Charles Hunt? A. Yes, sir, and Charles Hopkins.

Q. Where did he work, Sadie, in eighty-eight and eighty-nine?

A. I can't tell you because I didn't stay around my mother's home; I been telling you I was around Granny's.

Q. What is your mother's street number in Tulsa?

A. 504 East Archer.

Q. 504 East Archer? A. Yes, sir.

By Mr. German: I move to strike all the questions and answers pertaining to Sadie's mother and her whereabouts since 1889, on the ground that they are incompetent, irrelevant, and immaterial and improper cross examination.

Recross Examination by Mr. Hanford.

Q. Sadie, when did you work for Dave Atchison?

A. I worked for Dave Atchison in the fall of eighty-three and the spring of eighty-four, I think until about the—was it February—I think until February eighty-four.

Q. When did you work for King's?

A. I don't know no Kings. I don't know no family of King's in Leavenworth. You must mean Guyon, don't you?

Q. When did you work at Taggart's?

A. Oh, I was small then, I don't know how old I was, I was small, that was Mrs. Guyon's sister.

Q. Did you ever work for Atwood, an attorney?

A. Yes, I worked for Atwood two or three months I think.

Q. When was that?

A. I think I was between thirteen and fourteen that I worked for Mr. Atwood, I think.

By Mr. Bell: Was that John Atwood or Sam Atwood's wife? Sam Atwood was an old abstracter and had a daughter by the name of Mira.

A. I guess that was the one on Fifth Street; that was in the Rayborn house.

By Mr. Bell: That was Johnny then.

Q. You don't remember any King's?

A. No, I don't remember no Kings.

Q. Did you work for those people in 1885 or 1885?

A. Oh, I worked for them all in between those times. Listen, I didn't work no place long, Mr. Hanford; I didn't have to work long anywhere. Would work two or three months and come over here two or three months. Breck's was the longest that I worked anywhere in the town.

Q. Did you work for any of those in eighty-four or eighty-five? A. Wait a moment now. No, I was sixteen then.

Q. Did you work for Taggarts in eighty-four or eighty-five? A. No.

Q. Did you work for Dave Atchison in eighty-four or five?

A. I worked for Mr. Atchison the early part of eighty-four, I think from the fall of eighty-four.

Q. Did you work for Atwood's in eighty-four or eighty-five?

A. I worked for Mr. Atwood, now, I can't remember whether I worked for Mr. Atwood long in there or not; I wasn't nothing but a girl when I worked for Mr. Atwood.

Q. Did you work for him before or after Atchison?

A. I don't know whether I went there first or not, I think I was about fourteen when I worked for them.

Recross Examination by Mr. Bell (appearing by consent of counsel for Mr. Blakeney):

Q. Did you know Cora Van Tyle? A. Cripple Cora?

Q. No, that is a younger man on Third.

A. Sure, I know Mr. Van Tyle, he run a stable on Delaware.

Q. How is that? A. Van Tyle that run the stable?

Q. Yes, did you know him? A. Yes, sir.

Q. Real*ly* well? A. Yes, sir.

Q. I will ask you if he visited your grandmother's quite often during the year eighty-eight and eighty-nine?

A. See, I don't know that. He had the stable then right on the corner of Third and Seneca from Granny's.

Q. Did you ever see him over there? A. No.

Q. Were you real*ly* well acquainted with him?

A. I knew him well when he run the stable on Third Street.

Q. If he had kept company with Minnie Atkins, would you have known it?

A. No, I wouldn't have known it, but he—Mr. Van Tyle?

Q. Yes, Mr. Van Tyle, would you have known it?

By Mr. German: I object to that question on the ground that it is argumentative.

Q. Or did you know it?

A. No, I didn't know it. Couldn't swear that he did, but I would swear that he didn't—won't swear he didn't, I am not going to tell that lie either.

Q. Did you ever see him at Granny Letcher's?

A. No, never in my lifetime, never.

Q. Did you know a woman that stayed at your grandmother's that they called Fainting Mollie?

A. Fainting Mollie?

Q. Yes? A. No, white woman or colored woman?

Q. Well, she had some colored blood in her, but you couldn't tell that she had it. You don't recall that?

A. No, I don't remember anybody—no fainting Mollie, that is somebody they found I reckon. I reckon they have found a lot of fainting Mollie's and things since then.

Q. Did you know Jim Mayo?

A. Called him Uncle all my life, sure.

Q. I believe you said yesterday, after Granny Letcher moved to 217 Seneca Street she never was arrested?

A. She never was raided not to my knowing, Lawyer Bell, no, sir.

Q. Do you recall when you lived on the alley between Miami and Seneca Street? A. Yes, sir.

Q. What year was that?

A. Eighty-eight, the fall of eighty-eight and the spring of eighty-nine.

Q. Was there a basement to the house in which Granny Letcher lived in?

A. There was a cellar there, yes, sir, where Granny kept her coal.

Q. You go around the back side and you could go right in?

A. The cellar was in the front part of it and you would go around the back part of the cellar and Uncle Jim used to keep a horse in there.

Q. You were there quite often? A. Yes, sir.

Q. You knew Jim Mayo quite well?

A. When a girl nothing but nine years old, yes, sir.

Q. Captain of the baseball team, wasn't he?

A. Yes, sir, he done everything else.

Q. He run a crap game and gambling house in the basement? A. Of my Granny's house?

Q. Yes? A. No, sir, who said so?

Q. He was arrested there and the whole house pulled there on one Saturday night, was he not?

> By Mr. German: I object to that as incompetent, irrelevant, and immaterial.

Q. What did you say?

A. Raided Uncle Jim for running a crap game there?

Q. I asked you if Jim Mayo was arrested there for running a crap game in the basement of that house?

A. I am at the first of it, Lawyer Bell, right this minute.

Q. When you lived on Fifth Street there?

A. I eat there, Lawyer Bell.

Q. Didn't you know that your grandmother, Jim Mayo, and Fainting Mollie, and Minnie Atkins and several others were arrested there one Saturday night?

A. I will faint if you keep asking me that lie.

Q. I don't want you to faint?

A. I will faint if you keep asking that lie and you know it is one.

Q. Didn't you know at the time they arrested Minnie Atkins she had a child there about a year and a half or two years old? A. A child where?

Q. At your grandmothers'.

A. Lawyer Bell, if Minnie told me that I would knock her down, not been a child in my grandmother's house. Minnie had a child?

By Mr. German: Just answer.

By Mr. Stuart: I ask the Examiner that when she doesn't answer the question categorically to put into the record every word she says.

Q. You knew Mollie Miller?

A. May Miller, a girl that lived with me and Martha Foster?

Q. Martha Miller, yes. A. Yes.

Q. And you and she were chums?

A. Sure we ate our meals at Granny's when she run that place there.

Q. Did you run together?

A. Three years before I left it.

Q. You received company, didn't you?

A. Yes, I received company there and I had most of my men down to Granny's.

By Mr. German: I object to all this line of questioning on the ground that it is irrelevant, incompetent, and immaterial.

Q. Did you know Hiram Lightfoot, a barber down on Fifth Street?

A. Yes, he is dead. Everybody you are speaking of is dead.

Q. I know he is dead. Did you know his wife, Mary Lightfoot? A. No, I don't think I did.

Q. Do you recall, Sadie, in 1888 and '9 Hiram Lightfoot's wife whipping Minnie Atkins about her husband at the corner of John Evans' wood yard at the corner of Seneca and Fourth?

The Witness: Judge, may I walk about two minutes to get myself reconciled to Lawyer Bell's lies.

The Examiner: Sadie, you may walk out a minute. You must answer the questions.

By Mr. German: I want to object to Lawyer Bell examining the witness concerning any matters except such are in—as constitute a cross examination of the matters which I inquired of the witness about that were new matters, if there were any, on redirect examination this morning, for the reason that B. B. Blakeney together with Mr. Bell are representing H. Carter, has been conducting the cross examination on behalf of H. Carter, and I therefore move to strike the cross examination of Lawyer Bell so far conducted this afternoon, and object to his conducting it any further.

By the Examiner: I want to say that Mr. Bell appears now in this case by agreement of counsel had this morning at the request of Mr. Blakeney who is not at this time present at the taking of this testimony.

Q. Did you know Jim Gordon? A. White Jim Gordon?
Q. No, a colored man, a mulatto. A. No.
Q. Did you know a man that run a restaurant on the alley between Seneca and Shawnee Street, at the alley going up to the police station?

By Mr. German: I want to object to this, and will you consider that this objection goes to all your other questions?

By Mr. Bell: Yes, sir.

By Mr. German: The objection being upon the grounds stated just before you asked this question and just before the Examiner's statement.

By Mr. Bell: All right.

A. May I take this back, Jim Gordon? Yes.
Q. You knew him? A. Oh, well.
Q. Did you know John Kellum?
A. Sure I knew John Kellum, had a white wife there, knew him for years, he is dead too. All these you are speaking of is dead.
Q. How long has John Kellum been dead?
A. Been dead quite a while.
Q. Where did he die? A. I don't know where he died?
Q. How did you know he is dead?
A. I heard he is dead, I haven't seen him, I know his widow is living there.
Q. Now, was John Kellum and Frank Foster at the home of yourself and Martha Miller in 1888? A. Oh no.
Q. Was George L. Harrison, who lives now in Tulsa, and H. and Foster at your home? A. Is he a negro?
Q. Yes, ma'am.
A. You know we didn't have a nigger in our house, Lawyer Bell, and you know that.

By Mr. German: Sadie, don't argue.

A. We never had a nigger there, you know that.
Q. You didn't have a nigger there?
A. You was there, you know that.
Q. You know Mr. Bell was in your house, wasn't he?
A. Who?
Q. Mr. T. W. Bell? A. You?
Q. Yes? A. In my house on Fifth Street.

Q. On Fifth Street? A. You never was in my house.

Q. Do you recall when Martha Miller's father was sane and in jail? A. Was I there at the time?

Q. Do you recall that?

A. Of course I know, yes, sir.

Q. Don't you know that he was in jail at the time Martha was living up on Fifth Street there? A. Yes, sir; yes, sir.

Q. Don't you know that Mr. Bell appeared in the probate court—— A. I don't know who appeared.

Q. In the interest of his grandmother and aunt?

A. Her mother?

Q. At the time of this trial?

A. I don't know who was for him; I don't knew you was, you could have been.

Q. You didn't know it? A. No.

Q. Didn't you know that I came to the house there and consulted her while you was living with her?

A. No, sir, I don't remember; no, sir. Her mother was *living* her, no, sir, I don't remember it, no, sir. My goodness!

Witness dismissed.

Mr. German: Your Honor, this is taken up to a point where we are hardly ready to proceed further just now, and we have been agreeable surprised at the progress that we have made. In fact, I want to explain to the Court that when we were planning our order of proof last week, we didn't do so upon the theory that the depositions would not be read, and we have made such progress that we have reached a point where we are not in shape to progress with dispatch unless Your Honor gives us a little time for the consideration * * *

The Court: We will take a recess until 1:30 o'clock P. M.

And thereupon, Court recesses until 1:30 o'clock P. M.

And thereafter, and at 1:30 o'clock P. M., court convened pursuant to adjournment and further proceedings herein were had as follows:

SARAH E. MANN, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Sarah E. Mann.

Q. Are you frequently called Betty Mann? A. Yes, sir.
Q. Are you commonly known by the name of Betty Mann?
A. Yes, sir, that is what they call me.
Q. Are you married? A. No, sir.
Q. That is not your maiden name, is it? A. No, sir.
Q. Mrs. Mann, what age are you?
A. I am about 50, or 48.
Q. Where do you live? A. Sand Springs, Oklahoma.
Q. Where is Sand Springs from Tulsa?
A. It is about 7 miles northwest, I think; up the river.
Q. How long have you been living there?
A. Two years and a half.
Q. Do you know an Indian by the name of Minnie Atkins? A. Yes, sir.
Q. When did you first know her?
A. Well, I knew her when we were little girls; I don't remember what our ages were.
Q. Are you a citizen of either of the Five Tribes?
A. Yes, sir, I am a Creek.
Q. How much Indian blood about?
A. I am an eighth on the roll.
Q. The rest white? A. Yes, sir.
Q. How does Minnie's age and your's compare?
A. Well, I think Minnie was about 2 or 3 years older than I was; she was larger than I was when we were at school. I don't remember about our ages.
Q. Where were you at school together?
A. At Tullahassee, eight miles from Muskogee for two years or a year and a half, and then we went to Carlisle, Pa., together.
Q. Went to Carlisle together? A. Yes, sir.
Q. After the Tullahassee school burned? A. Yes, sir.
Q. You knew Miss Alice Robertson? A. Yes, sir.
Q. Did you know Miss Mary Steele? A. Yes, sir.
Q. Knew Mrs. Hamilton? A. Yes, sir.
Q. Did you know Mary Hyde? A. Yes, sir.
Q. What kin was she, if any, to George H. Hyde of Leavenworth? A. Brother and sister.
Q. Do you know when Minnie left Carlisle Indian School?
A. Well, I don't remember the date, no, sir.
Q. You remember the occasion of her leaving?
A. Yes, sir.
Q. Did you know where she was going to? A. Yes, sir.
Q. Where?
A. She went to Leavenworth to work for George Hyde.
Q. When did you leave that school with reference to when she left? A. Well, I don't just remember.

Q. It was afterwards? A. Yes, sir.

Q. Where did you go to from there?

A. Came home to Tulsa, Oklahoma—Indian Territory.

Q. Do you know Nancy Atkins? A. Yes, sir.

Q. About how long have you known her?

A. Oh, ever since we was little girls; little children.

Q. Did you ever live in Leavenworth? A. Never did.

Q. Do you know Harvey and Charlie Harrison?

A. Yes, sir.

Q. Whose children are they? A. Minnie's.

Q. When was the first time you ever saw them?

A. About July, 1912, I think.

Q. Had you seen them as little children?

A. Yes, I saw them when we had our '95 payment, when Minnie first came back here.

Q. Where was it you saw them then?

A. Here in Muskogee.

Q. What sized children were they at that time?

A. Oh, just little small children; Harvey might have been two or three years old and Charlie might have been five.

Q. Had you seen Minnie prior to 1895, since she left Carlisle Indian School? A. No, sir, I had not.

Q. After 1895, how long was it until you saw Minnie again?

A. I didn't see her until I saw her at Fort Lawton, Washington.

Q. When? A. That was in June, 1914.

Q. Prior to June, 1914, had you been attempting to find Thomas Atkins or Minnie Atkins for anybody? A. Yes, sir.

Q. When did you first begin your efforts to do that?

A. Well, I think it was about July, 1912.

Q. Who for? A. I first made a trip for John Hayden.

Q. Did you find Minnie or Thomas? A. No, did not.

Q. Who else did you attempt to find her for?

A. Then a little while after that I started to work for H. U. Bartlett.

Q. In the course of your work did you come in contact with Nancy Atkins?

A. Yes, sir, I did, found Nancy about fifteen miles of Nowata.

Q. When?

A. Well, that, I think was in August, 1912.

Q. Did you have a conversation with her? A. Yes, sir.

Q. About herself? A. Yes, sir.

Q. About Minnie? A. Yes, sir.

Q. State to the Court what she said about herself and about Minnie? A. Well, of course I asked her about——

Mr. Cruce: If the Court please, I don't know what the witness is going to state, but any statement she made would not be competent.

The Court: Yes, I appreciate that as to Minnie and her interests.

Q. Tell the Court what she said about herself, any children she may have had?

A. She said she had had one child, and that it was dead, died when it was born, and that that was all the children she had had.

The Court: Who was she talking about then?

A. Nancy herself.

Q. State to the Court what she stated about Minnie?

Mr. German: Now, Your Honor, I desire that the witness be permitted to give this answer, for the reason that it will appear that she proceeded in her work to find Minnie and to find out about the boy, if there was one named Thomas. And it shows a source of information to this witness which she gained in prosecuting her efforts to find a Thomas or find Minnie, and I think for that reason it is competent.

The Court: Well, so far as what Nancy stated about Minnie, so far as against Minnie's case in this case, it appears to me it would be clearly hearsay.

Mr. German: It would be hearsay as to Minnie, yet, Your Honor, we are charging that Thomas Atkins didn't exist. It occurs to me that any evidence which we may produce from any source, or efforts to find her, and conversations with members of the family in the prosecution of the efforts would be competent evidence.

The Court: I don't see how the effect of this greater or less amount of efforts to find them could cut any figure at all. Now, we have Nancy a part of this case. Anything she said with regard to her interest is competent.

Mr. German: Well, we save an exception. I suppose you rule out the question I just asked.

The Court: Well, I am going to try you out on this proposition, it is before the Court. You have my view.

Q. What did she say about Minnie and her family?

Mr. Hanford: Same objection.

The Court: Objection noted.

Mr. Hanford: If the Court please, I would like to be heard before Your Honor rules.

The Court: Well, I will hear the answer.

A. You mean—— Well, she told me that Minnie had two children living, and told me where they were, one was at Wagoner and one at Coweta.

Q. Did she tell you their names?

A. She told me their names were Charlie and Harvey; she said she had taken care of them quite a time after Minnie had left them.

Q. Did she tell you anything else about Minnie or her off-spring?

A. Told me that Minnie said she had two children dead.

Q. Now, did she tell you anything about Minnie's whereabouts?

A. Said she didn't know where Minnie was, that she thought she was dead.

Q. Did she say where she thought she had died?

A. Thought she had died in a hospital in Kansas City or some place up there.

Q. What was the occasion of your going to see Nancy?

A. Just to see if she knew where Minnie was or knew anything of Thomas Atkins.

Q. What did she say about knowing anything about Thomas Atkins?

A. She said that she didn't know anything about Tommy only that she thought Tommy belonged to her brother and a white woman that he had lived with; she gave me the name of the woman but I don't remember her name.

Q. What was the brother's name?

A. Lee Atkins. She said the mother had died in Buffalo, New York.

Q. Now, do you know Sadie James? A. I do.

Q. Did you have occasion to go to Leavenworth, in your work in an effort to find Minnie or Thomas?

A. Yes, sir, I was there.

Q. Did you ever meet Sadie James there in connection with that work? A. Yes, I met Sadie.

Q. Prior to the time you met Sadie, had you made any investigation in Leavenworth with relation to Minnie?

A. Yes, sir, I had been working there about three or four months.

Q. Why had you been working in Leavenworth?

A. Because I knew Minnie had lived there first, knew where she had gone to.

Q. From school?

A. From school, and I knew that she was there and I was trying to get a trace from there to find her and to find Thomas.

Q. State whether or not you had gone to the Sister's Hospital there and found out anything. A. I did.

Q. What did you find out at the Sister's Hospital?

A. I found that Minnie had been sick there two weeks.

Q. Did you know of Charles Peterkin at that time?

A. Yes.

Q. From whom had you learned of him?

A. From Nancy—Nancy told me that Minnie was living with a man by that name and he was a soldier.

Q. She told you that when?

A. The first time I saw her.

Q. On the occasion that you have told the Court about?

A. Yes, sir.

Q. Now, did you come in contact with Sadie James there in Leavenworth? A. Yes, sir.

Q. About when?

A. Well, I think it was in March or April, 1914.

Q. Up to that time had you been able to find Minnie?

A. I had not.

Q. Or to find as to where she probably was?

A. Well, no; I had some trace of her being at some Fort out in the west.

Q. But you didn't know where it was? A. Not exactly.

Q. Had you the name of any Fort where she probably might be?

A. Yes, sir, I had the name of Fort Wright, Washington, that time.

Q. Did you have Fort Lawton at that time?

A. And Van Couver and Fort Wright, Washington, I think are the names she was at last.

Q. Had you been able to find a boy by the name of Thomas Atkins as the son of Minnie? A. I had not.

Q. When you found Sadie James did you and she have any conversation about this matter?

Q. Tell the Court the conversation.

Mr. Cruce: We object to that.

Mr. Stuart: I hardly think that is admissible, Your Honor, unless it is [ ] corroborate Sadie's statement in the deposition that she did have a conversation with her.

Mr. German: That is one reason, Judge.

Mr. Cruce: Well, would it be competent even then?

Mr. German: *Not* is not the sole reason.

The Court: So far as the Court knows, Sadie James has no connection yet with this case. I don't know yet what was in her deposition; I don't know what her mission was to Leavenworth, or who employed her, or who she represented, or who she was authorized to seek for if she was authorized to seek for anyone.

Mr. German: Theoretically, Your Honor, it is because the deposition has been introduced. Your Honor probably recalls in a general way the story that she related at the Receivership trial?

The Court: Well, no, rather hazy.

Mr. German: At any rate. Sadie told about Betty coming there and about the conversations in relation to this matter, and who they saw, and what was said, and what was done with relation to Minnie and Thomas.

The Court: Well, now, what is the nature of the fact that you seek to establish by what Sadie said at that time?

Mr. German: That was Sadie's induction into the case. It relates to her being brought in employment in the case, and it is the date of her active work in the case. The point where she starts in her testimony to relate——

The Court: Oh, I will hear what she has to say. Overruled.

Mr. Cruce: We object to that, if the Court please, because it is hearsay testimony.

The Court: Exception noted.

Mr. Cobb: If the Court please, none of the parties will assume to represent in this matter the clients that we represent, and we wish to especially object to this testimony as to what was said as being incompetent, irrelevant, and immaterial, and also hearsay.

Mr. Hanford: Name your clients, please.

Mr. Cobb: We represent Thomas Atkins, known as H. Carter in this case.

The Court: Objection is overruled and exception noted; I don't know what place if any, I will give this in the case but I will hear it.

Q. Alright Betty. What did you and Sadie say?

A. Well, Sadie wanted to know what I was doing up there and of course I told her I was working to find Minnie Atkins and Tommy Atkins—lost Indians that had an allotment down here, and she of course wanted to get in and work an the case.

Said she could find out a lot of things; she had lived there at Leavenworth a long time and knew everyone and thought she would be of great help, and besides she said that she knew a man down there, a negro, a very smart man, who knew a great part of Leavenworth, and we just would go down and talk with him, so she dressed and we went down to Dennis Jones' office and went in and she told Dennis Jones.

Q. Now, who is Dennis Jones?

A. He is a lawyer there—a colored lawyer.

Q. At Leavenworth? A. Yes, sir.

Q. Alright. Now relate that conversation.

A. And I explained to Dennis that Minnie Atkins had lived there with George Hyde, and came from our school and that she had a child allotted with her and had the allotment here, but we couldn't find it and that I had been hunting quite a long while and I couldn't find the party, and then Sadie spoke up and said, we don't think there is any Tommy. I said no, I don't think there is because I can't get any trace of him. And he said if that is what [] want, I could get up the evidence; I can prove that Hell is an ice-box right here; and I can use from bankers down to niggers, anybody. He turned around and called up an old doctor—commenced thinking of the old-timers and he said, what year would he have to be born in, and I said I think he would have to be born in '84 or '85—'84 was when Minnie came from Carlisle. I don't remember the name he called up, but an old doctor, and the doctor was out of town, and he said that is an old doctor that I can prove by him that the boy was born; he called up a druggist and three or four parties and he said before you go any further you had better find out whether or not Minnie is dead, and see whether she is dead or alive; she might come up and confront us and say it is all a lie. And first you had better find Minnie and see whether she is dead or alive.

Q. Did Dennis say anything about knowing Minnie?

A. He didn't know Minnie at all; he knew a Mary Atkins but he didn't know Minnie.

Q. Did he say he didn't know Minnie?

A. Said he didn't know Minnie.

Q. Did you have any discussion there about producing a boy who should be Thomas? A. No, I don't think so, no.

Q. While you were there, did anybody else come in?

A. Yes.

Q. Who? A. Ben Porter and Jim Swift.

Q. Who are they?

A. Ben Porter is a Creek Indian; belongs here in Muskogee—old Chief Porter's nephew; and Jim Swift is a Cherokee who lives here at Muskogee.

Q. Did they live here at Muskogee or in this part of the country at that time?

A. No, I think they were both living in Kansas City at the time.

Q. How did they come to be at Leavenworth?

A. I met them up there and they were well acquainted with parties over at the Fort, and I got them to go over there with me to find them.

Q. You say they came to the office? A. Yes, sir.

Q. Of Dennis at that time? A. Yes, sir.

Q. Did they come in where you were?

A. They were in the next room and the door was open, and when Dennis Jones seen the boys in there he was a little worried about it; and Sadie told him that it was all right, that they were both Indians, and that they were with me, and that they were perfectly safe, and they came in and talked to me.

Q. Was H. U. Bartlett mentioned when Sadie got into the case?

A. She wanted to work and I thought she would be good help, and I went home and called up Mr. Bartlett and told him I wanted him to come up and employ her and he did.

Q. Where? A. Kansas City.

Q. Where did Sadie meet him?

A. She met him at the Stratford Hotel.

Q. At Kansas City? A. Kansas City.

Q. What was she doing?

A. Well, she was to help me locate Minnie and Thomas Atkins.

Q. Now, did you talk to Rube Smith there in Leavenworth? A. I saw Rube Smith one time.

Q. Where? A. Down at Martha Jones'.

Q. When did you first meet him?

A. That afternoon about four or five o'clock.

Q. Who was with you? A. Sadie.

Q. State whether or not Dennis had talked to Rube Smith up in the office?

A. Well, I don't know, I am not sure that he did. He called up some one but I don't know for sure.

Q. Did you have any conversation with Rube Smith when you met him? A. He talked some.

Q. In relation to Minnie and Thomas Atkins? A. Yes.

Q. Relate the conversation.

Mr. Cruce: If the Court please, on behalf of Minnie Atkins and Mr. Page, defendants in this case, I object.

The Court: Well, now, you are getting a lot of conversations in here now, that appear to me are very questionable indeed as to its competency.

Mr. German: Doubtless it would appear so under the circumstances. However, it is extremely material. Here we have really the beginning of what we conceive to be the fabrication of the existence of the Thomas Atkins, and we are starting out where it was conceived.

The Court: Well, note your objection and exception. I will hear it a little while longer.

Mr. Cobb: I join in that objection and exception.

Mr. Stuart: I understood if anybody made any objection it went to everybody.

The Court: Yes, it goes to the three interests, the three, the Page and the Minnie Atkins interests and the Henry Carter interest. The objection is noted and overruled and exception noted.

Mr. Cruce: I understand that there is no contention at this time that Mr. Page or Minnie Atkins had any connection with this.

The Court: Nothing has appeared to that effect so far as the Court knows.

Q. Did Sadie claim to know Minnie?
A. I don't remember that she did.
Q. You say you had a conversation with Rube, there relating to Minnie and Thomas? A. Yes.
Q. Relate it.

Mr. Hanford: Objection.

A. Well, I told him I was hunting Minnie Atkins and told him she had lived at George Hyde's. He said he had worked next door to George Hyde about the time, during those years, but that he didn't remember an Indian girl that was working there. He didn't remember anything but a colored girl that was working there.

The Court: Who was this with? Rube Smith?

Mr. German: Yes, sir.

Q. What did he say about knowing Minnie?
A. He didn't know Minnie.
Q. Did he say he didn't? A. He said he didn't.
Q. What further conversation was had with Rube?
A. That is all I remember. We only had just a short conversation.
Q. Now, did you meet Rube and Dennis after that there?
A. No, sir.
Q. That, you say, was in the spring of *1814*? A. Yes, sir.
Q. After that, were you in Tulsa?

A. I came to Tulsa, I went back and forward several different times.

Q. Were you working on this matter between the time you came in contact with Dennis and Rube there at that time and the time that you took a trip to Seattle?

A. Yes, sir, all the time.

Q. During that—— Did you talk with Dennis or Rube?

A. No.

Q. Did you talk with Sadie? A. Oh, quite a lot.

Q. State whether or not you and Sadie were working together on the matter? A. We were.

Q. Had you taken any trips prior to the time you took a trip to Seattle in search of Minnie after you found Dennis and Rube?

A. Yes, I was in Leavenworth a number of times and at Kansas City, and I was over at St. Joe, here in Muskogee and several different places.

Q. Had you been able to find Thomas or Minnie?

A. I hadn't.

Q. Did you get any definite information of Minnie as to her probable whereabouts?

A. Well, nothing only that she was west with the soldiers at some Fort and had married a soldier, we discovered that.

Q. Now, state whether or not, and at whose instance, if so, you planned to go west and search at the Army Post?

A. I was going for Mr. Bartlett.

Q. About when?

A. Well, it was the last of May, 1914.

Q. Where did Mr. Bartlett live at the time?

A. Sapulpa.

Q. Where did you live at that time? A. Sapulpa.

Q. Was Sadie going with you or not? A. Yes, sir.

Q. Just before you went, state whether or not you had any conversation with Frank Long?

A. The evening that I left.

Q. Well, prior to that? A. No, I hadn't.

Q. You didn't have any prior to the evening you left?

A. No, sir.

Q. All right, had you known Frank Long very long before that?

A. Yes, I knew Frank Long, he was with the Government as Field Agent or something of that kind.

Q. At this particular time though, he was not with the Government.

Mr. Cruce: We object. That is a leading question.

A. No, I don't think he was.

Q. Now, what conversation did you have with him, if any, about Minnie? A. Well, Frank Long——

The Court: I didn't get that connection, where was this and when was it?

Mr. German: I will fix that. It isn't clear.

Q. Where was it you had the conversation?

A. At Sapulpa at the Frisco Depot.

Q. When was it?

A. Well, it was the evening that I started toward Seattle, the last of May, 1914.

Q. In 1914? A. 1914.

Q. Now, relate the conversation?

A. And Frank said that he had been talking to Mr. Rogers and he thought that I was going to find Minnie.

Q. Let me interrupt you to find out who Mr. Rogers is?

A. Mr. Rogers is a Cherokee Indian.

Q. Was he or not working with you?

A. Yes, we had been working before that for Mr. Bartlett.

Q. All right, go ahead.

A. And he said that Mr. Long—that he would give me so much more than Mr. Bartlett to find Minnie and turn her to him, so he wanted me to see Long.

Q. Oh, Mr. Rogers is telling you that. I am not asking you about Mr. Rogers' conversation. Get to the conversation with Mr. Long.

A. Then, Mr. Long told me he was working for Mr. Page, for the Gem Oil Company, and that they would pay me more than Mr. Bartlett would to turn Minnie over to them if I found her; and he asked me what Mr. Bartlett had promised me and I told him.

Q. How much? A. A thousand ($1,000.00) dollars.

Q. All right? [A.] And he said I will give you five thousand ($5,000.00) dollars, he says, if you will find Minnie, turn her to me well identified. He says, how does that sound? He says that is much better. Well, I said, well I hated to turn Mr. Bartlett down like that. Then he says you have some trouble and I will help you out of that. And I finally agreed that I would turn Minnie to him well identified for five thousand dollars.

Q. Now, did you have another conversation with him before you left for Seattle?

A. That night at the Frisco Depot in Tulsa.

Q. Relate that conversation.

A. Well, that was just to tell me how to send the telegrams. I was to send the telegrams signed Bill Jones.

Q. In case you found Minnie? A. In case I found Minnie.

Q. Did he tell you how he would reply to you? A. Yes.

Q. How? A. Send them Mrs. Bill Jones.

Q. So, you went to Seattle? A. Yes, sir.

Q. At whose expense? A. Mr. Bartlett's.

Q. Who went with you? A. Sadie.

Q. Did you locate Minnie? A. Yes, sir.

Q. Where? A. At Fort Logan, Washington.

Q. As you were enroute to the northwest, did you search for her at other points? A. Yes, sir.

Q. Before you reached Seattle? A. Yes, sir.

Q. Where? A. Yes, sir, we stopped at Denver.

Q. All right?

A. And looked up some parties, I don't remember their names.

Q. Well, you needn't relate the details.

A. Then we stopped at Portland, and went over to——

Q. What army post is there?

A. Van Couver across there, went over there. I took Harjo with me over there.

Q. Micco Harjo? A. Yes, sir.

Q. He lived at Portland at the time?

A. Yes, sir, Sadie didn't go with me. Then that night we took a train and went to Seattle.

Q. Now, how did you come to find Minnie there?

A. I talked to a soldier in front of the First National Bank in Seattle on First Avenue.

Q. Did he give you any information which lead to her?

A. Yes, sir.

Q. Where did you go to then? A. Out to the Fort.

Q. Where is the Fort from Seattle?

A. I think it is several miles up the sound.

Q. Fort Logan? A. Fort Logan, yes, sir.

Q. Did you see Minnie? A. I did.

Q. Now, where was Sadie James at this particular time?

A. I think she had gone up to Fort Wright.

Q. At Spokane? A. Yes, sir.

Q. Fort Wright is at Spokane? A. Yes, sir.

Q. Had Sadie found Minnie before you went out to Fort Logan on this occasion you are speaking of?

A. I don't think so.

Q. If she had you didn't know it? A. No, sir.

Q. Did you see Minnie out there? A. I did.

Q. Did you speak to her? A. I did.

Q. Did you have a conversation with her? A. Yes, sir.

Q. Where? A. At her house,

Q. Relate that conversation. Tell the conversation you had with her.

Q. Well, I went in and spoke to her, finally told her who I was, and I talked to her and asked her about her family. We talked about our families and all our relation——

Q. Did you talk about the Carlisle School?

A. About Carlisle and Tullehassee and all those things from our girlhood on up.

Q. Did you tell her what you were there for?

A. Not then for a while.

Q. Did you talk with her about her own family?

A. I did.

Q. Her own children? A. I did.

Q. Tell what she said.

A. She told me about her children, about how many was living, and was very anxious to find out what had become of Harvey and Charlie.

Q. Did you tell her about Harvey and Charlie?

A. I did.

Q. What did you tell her?

A. I told her that I saw them about four weeks before; some time before. And that they were well grown boys.

Q. Tell her where they were? A. Yes, sir.

Q. What did you tell her?

A. That one was at Wagoner, and that one was living at Aunt Rachel Perryman's.

Q. Did she speak of any other children?

A. Two that was dead.

Q. What did she say?

A. Said two were dead; one was dead in Leavenworth, and I think the other one died in Fort Logan, I am not sure.

Q. Did she call any other names? A. She did.

Q. Do you recollect what names she called?

A. No, I don't.

Q. State whether or not she said either one was named Thomas. A. She did not.

Q. Did you ask her about Thomas on the roll?

A. I finally did, yes.

Q. Tell the Court the conversation about that.

A. I finally asked her who Tom was and she said she didn't——

Q. Well, did you tell her about the roll?

A. I told her there was a boy on the rolls with her by the name of Tommy Atkins and she said he is not mine; said he must belong to my brother or my sister, I don't know.

Q. Did she speak of her father Thomas?

A. She said her father was named Thomas but he had been dead too long.

Q. Now, did you tell her what you were there for?

A. I finally told her.

Q. What did you tell her?

A. I told her that we were hunting this Tommy, and hunting her and that there was a chance for her to make some money. And she said that she had been a servant all her life for white people and was still scrubbing the floors for them and would be very glad to make some money.

Mr. Hanford: I object to what she said unless she states what the conversation was.

The Court: I understand that she was proceeding to do that.

Mr. Hanford: She was stating her own conclusion, what was drawn from the conversation.

Q. Go ahead, Betty. A. I forgot where I was.

Q. You were telling about what——

The Court: The last she said was that Minnie said she had been a servant for white [] all her life and working hard, and would like to make some money.

A. Yes. And I told her that all she had to do was to keep still and not tell anyone else that Tommy was not here and she could get some money; that there would be a man there who would give her money to sign a lease on this land.

Q. What did she say?

A. She said she would be glad to do it but didn't want anyone else to know it, especially her husband. She was anxious that he or anyone else should not find it out. And I said don't say anything about my being out there; that she needn't to tell anyone.

Q. Did you communicate with Frank Long? A. Yes, sir.

Q. What name did you use? A. Bill Jones.

Q. In substance, what did you wire him or how did you communicate with him, by telegraph or letter?

A. Telegraphed to him, but I can't remember the words that I used. I just wired him that I had signed Minnie someway. I don't know how I put it.

Q. Did you ask him to come or not?

A. Well, I think I did; I think I wired him to come.

Q. Did you hear from him?

A. I did, I got a telegram right back. He said unless I was sure that he couldn't or wouldn't come, or something, that it was a long way, and that he was a very busy man, and then I wired to him that I had found her and that she was well identified, and to come at once. He wired me that he was coming; would start a certain day; told me what day he was starting.

Q. What name was used—Bill Jones——

A. Bill *Jones* and Mrs. Bill *Jones*, was the way I think it was.

Q. Now, did you hear from him after that by wire before he reached Seattle?

A. Well, I think he wired me on the road, I am not sure.

Q. Well, now, did he finally come to Seattle?

A. He came to Seattle.

Q. How long after you had found Minnie?

A. About a week or a little over—a little over a week.

Q. Where was Sadie? A. She was around.

Q. During that time? A. Sadie was around there.

Q. Now, where did you see Mr. Long, if at all, when he got to Seattle?

A. He came to my room at the Wright hotel.

Q. Betty, what were you doing at this time in the matter—state whether it was pursuant to your employment by Mr. Long for Mr. Page?

A. Well, I was telegraphing to Long, was all.

Q. You were carrying out your agreement? A. Yes, sir.

Q. Now, what conversation did you and Mr. Long have when he came into the Wright hotel?

A. Well, I told him that I had found Minnie, and for him to go out and satisfy himself that it really was Minnie.

Q. Alright. Go on.

A. I called up Kohler—that is the detective there that I had watching Minnie all the time to keep anyone else from going out and getting her——

[Q.] Kohler?

A. Mr. Kohler—I forget his other name; he was with the Burns people at that time, and told him to take Mr. Long out where Minnie lived.

Q. Now, let me ask you. Did you tell Mr. Long what Minnie had said or not? A. I did. I think I did.

Q. Before he went? A. Yes.

Q. But did Mr. Long leave?

A. He left, went with Kohler, and a taxi driver by the name of Ed. Bush.

Q. Did you go with him? A. No, sir.

Q. Did he come back?

A. He came back and came to my room. Sadie and he were there right together.

Q. Well, what did he say?

A. Well, he said something about old Minnie had said that she didn't have a Thomas.

Q. Alright. Tell the conversation.

A. And then he said, but I told her to not say that any more, but he says that is alright, we will have Thomas before we get through; not to worry that this is going to be alright. And Sadie suggested—no, he said, I saw the handwriting on the wall and left. And Sadie says, suppose one was born at a certain time—he said Thomas has got to be living, I think he said, in 1900. I forget what year he said one had to be living in. He said the one dead, we can't use him; and he said, now, girls, that will be alright; just keep *quite* and don't worry any, that is alright.

Q. Well, did you and Mr. Long do anything, then, in reference to this matter?

A. Well, Mr. Long went back out there and tried to see Minnie and by that time, I think Mr. Hanford, and Captain MacNab and some of them wouldn't let Minnie see anybody —he hadn't got the lease.

Q. When did you first come in contact with Mr. Hanford?

A. Well, this was on Saturday and I think I saw Mr. Hanford on Sunday.

Q. The next day? A. The next day.

Q. After Frank Long came? A. Yes, sir.

Q. Where was it that you met him?

A. I met Mr. Hanford at the Reno Grand.

Q. The Reno Grand what? A. Hotel.

Q. Who with? A. Mr. Long.

Q. Was anybody else with them? A. No.

Q. When did you see Minnie again then?

A. I didn't see Minnie anymore, then, until she came down here to Court, I think.

Q. You didn't go out to her house any more, then?

A. No.

Q. Was there any conveyance or lease from Minnie to the Gem Oil Company that you learned of?

A. Not at that time.

Q. Not at that time? A. No, sir.

Q. Did Mr. Long and Mr. Hanford leave Seattle while you were there at that time?

A. They left Monday evening following, I think.

Q. Monday evening. Had Captain MacNab come into this matter in any way?

A. I think he had from what Mr. Long told me.

Q. What did Mr. Long tell you?

A. He told me that Captain MacNab wouldn't let Minnie sign this lease for him and that Mr. Hanford was her attorney; that they thought there was something big in the matter and that they were going to try and hold it up and try and make some money themselves out of it.

Q. Now, do you know what Mr. Hanford and Mr. Long left—why they left Seattle? A. No, I really don't.

Q. Where did they go?

A. They were supposed to go to Oklahoma—Tulsa, Oklahoma.

Q. Did you hear them say where they were going?

A. Well, Mr. Long said that he was going back home.

Q. Did he tell you what for? A. No, he didn't.

Q. Well, did you stay? A. I stayed.

Q. Why did you stay?

A. Because Mr. Long told me down at the depot that he wanted me to go back up there and it was up to me to get that lease by any means that I could get it; that he had made the trip—that he could not possibly fall down—that he was working for the Gem Oil Company, and he was out a lot of expense; that I must go out there and get that lease; that he had *feell* down, and he said by all means, he said, I will give you six thousand dollars, and he said I will get a deed to the land for you if you will get that lease signed up to the Gem Oil Company, and he said it is up to you. And he turned around to Mr. Kohler, and he said, help her, because I can't lose this lease, and he said I am taking Mr. Hanford, Minnie's attorney, and I can handle him, and I am taking him down there and we will fix this thing all up, and he said you go out there to get that lease.

Q. Did he mention anybody especially for you to see?

A. Well, Captain MacNab.

Q. What had Captain MacNab—how had he to do with it—how had he to do with it?

A. Well, I don't know that, only that he was just a captain there at the Fort.

Q. Do you know whether he had a deed or conveyance—trust deed from Minnie? A. I don't know.

Q. You didn't know about that?

A. No, sir, I didn't know.

Q. They left. Did you see Minnie or Captain MacNab?

A. I saw Captain MacNab, I didn't see Minnie; they had Minnie up at the Fort and no one could see her.

Q. Did you have any conversation with him?

A. I certainly did. I talked to Captain MacNab all one afternoon and went back the next morning and talked with him and he said I had convinced him that Mr. Page was the man——

Mr. Cruce: We object, if the Court please.

The Court: Sustained; I don't care to hear what MacNab said at this particular point.

Q. Now, Betty, did you leave Seattle shortly after that or not? A. I left there on the next Saturday night.

Q. Had Mr. Hanford or Mr. Long returned to Seattle before you left? A. They had not.

Q. Had you heard from either of them? A. I had not.

Q. You say you left there the next Saturday night?

A. No, Friday night.

Q. The next Friday night?

A. The next Friday night, I think; I wouldn't be sure.

Q. You left there about a week after Mr. Long had reached Seattle and about three or four days after he had left and gone back to Tulsa? A. I think so.

Q. He had already gone away from there?

A. I think so.

Q. Where did you go to? A. I came back to Tulsa.

Q. Did anyone come with you?

A. Sadie came as far as, I think, Denver.

Q. At whose expense did you come back?

A. Mr. Bartlett.

Q. Was Mr. Bartlett there? A. He came, yes, sir.

Q. When had he come to Seattle?

A. I think Mr. Bartlett came there Friday morning, I think, and we left that Friday night.

Q. Do you know how Mr. Bartlett came to come there?

A. Sadie wired for him to come.

Q. Do you know whether he saw Minnie of your own personal knowledge while he was there?

A. No, I don't know that.

Q. Did you go out to the Fort with him? A. I did not.

Q. Tell me this: did Minnie live inside the Post, or outside? A. Outside.

Q. Nearby? A. Yes, sir.

Q. Who was her husband? A. Harry Folk.

Q. What relationship did he bear to the Army?

A. I don't know; I don't know.

Q. Was he in the Army or not?

A. Yes, they told me but I don't remember now.

Q. Now, where did you go to from Seattle?

A. I came back to Tulsa.

Q. Where did you go—who did you see first of all after reaching Tulsa, about this case?

A. I talked to Mr. Page's stenographer, Eberle.

Q. Where?

A. In the Gem Oil Company's office in the First National Bank Building.

Q. Did you see Mr. Page on that occasion?

A. I saw Mr. Page directly after I arrived.

Q. Did you have a conversation with him about the matter? A. I did.

Q. Relate the conversation.

A. Well, Mr. Page came in and was glad to see me and was glad that I had turned the deal to him and things of that kind; and then he said that he had sent me some wires and was sorry that I didn't get them and was a little out of humor that Hanford and Long—the way they had treated me, leaving me out there without any money, and then he asked me what I thought about it—it there was a Tommy, and I told him that he could ask Frank Long.

Q. Alright; go ahead. You told him that he could ask Frank Long? A. Yes.

Q. You didn't answer him as to what you thought?

A. No, because I had had no dealing with Mr. Page. I had not talked with anyone except Frank Long.

Q. And you told him that he could ask Frank Long?

A. I told him that Frank Long was—he said he was responsible for any of Frank Long's contracts, and so on, like that.

Q. He told you that? A. Yes, sir.

Q. Well, did he say anything about the work you had done in Seattle?

A. He said I did awful good work, complimented me on it.

Q. Did he pay you anything there that day?

A. He gave me a check, I think, for $50.00, or a hundred, I don't remember.

Q. At that time where was the lease? Did he say anything about the lease that he was to get?

A. Yes, he told me that day—he complimented me on that lease; said that he had a wire from Captain MacNab, I think, and he said that I had been very convincing, and that he wouldn't have got the lease if it hadn't of been for me, is what he said, I think, as well as I remember.

Q. Betty, you say, that Mr. Page asked you what you thought of whether there was any Tommy Atkins?

A. Yes, sir.

Q. State whether that was the first mention made of the name Thomas Atkins when you entered the office in the conversation? A. That was the first.

Q. And what did you say?

A. I said that he could ask Frank Long.

Q. Then what did he say?

A. He said, well, that doesn't make any difference; it is alright. We will have Tommy fixed up alright. Something like that—I don't remember the words he said.

Q. But that was the substance?

A. That was the substance—that it would be alright. He gave me to understand that we would have no trouble about the lease; it would be alright. I supposed I would get my money; I didn't know.

Q. Now, did you know where Frank Long was at that time? A. No, I didn't.

Q. When did you reach Tulsa? Tell me when you reached Tulsa on that occasion.

A. Well, I think I reached Tulsa—can't be sure about those dates.

Q. About how long after you left Seattle?

A. Well, it was about a week. I think I got there the next Thursday morning. I think it took most a week because I stayed in Denver one day.

Q. Did you know where Mr. Hanford was at that time?

A. I do not.

Q. What did you do in connection with this matter after that conversation?

A. I didn't do anything much. Oh, I did too; not very much, though.

Q. Were you still working for Mr. Page?

A. Well, no, I wasn't doing any work; I was just around the office, trying to get my pay for what I had done.

Q. What about Mr. Bartlett?

A. I didn't have anything to do with Mr. Bartlett any more after I left him, in Denver, I think.

Q. Oh, you left him in Denver when you and Sadie and him were enroute for Tulsa?

A. I left him and Sadie in Denver. I didn't see him any more.

Q. You came on to Tulsa?

A. I came on home. I didn't see Sadie any more for several weeks, quite a while.

Q. State whether or not Mr. Bartlett had terminated your employment with him? A. He had.

Q. And you were around Tulsa doing work on this case?

A. Well, yes; I wasn't really working either.

Mr. Stuart: Now, she didn't say that. I object to that because it is leading.

Mr. German: All right, I will withdraw the question.

Mr. Stuart: She was trying to get her money.

Q. Trying to get her money out of Bartlett?

A. Charlie Page.

Q. Did you finally get a settlement?

A. Finally got a settlement.

Q. Now, do you remember the fact of Sadie James having been employed by Page?

A. Well, no, I don't remember how Sadie did really get in.

Q. I am not asking you that. Do you remember the fact that she did get in? A. Yes, I knew that.

Q. Did you settle with Mr. Page before or after she got in?

A. I settled with Mr. Page quite a while after Sadie got in.

Q. Had Mr. Page said anything to you about Sadie, before Sadie was employed by Mr. Page?

A. Well, I think that he did, I am not sure; He was wanting some one to get up this evidence—to get up proof of Tommy Atkins birth, and he said he had to have some one to do it.

Q. Do you remember the fact of Minnie Atkins coming to Sapulpa and testifying? A. I remember that she did, yes.

Q. You were there when she testified? A. I was not.

Q. Where were you? A. I was at home.

Q. Where? A. In Sapulpa.

Q. So, you were in the City of Sapulpa?

A. I was in the city.

Q. Did you see Minnie? A. I did not.

Q. Did you have any conversation with Mr. Page about Minnie on that occasion? A. Not that day, no.

Q. Did you the day before?

A. I think I did—— Yes, the day before she was a witness at Sapulpa.

Q. Relate that conversation?

A. I talked to him in Tulsa.

Q. Oh, it was in Tulsa you talked to him? A. Yes, sir.

Q. Did you talk to him about Minnie?

A. Yes, he wanted me to go out to his house and see Minnie.

Q. All right, what else did he say about it?

A. Well, he wanted me to go out there and talk to her. Seemed to be a little worried about her making a good witness. And Mr. Rogers told him that I wasn't going; and he told me to go down there and wait at the Main Street Station and he would call me, and he wanted me to come out there and see Minnie; but I didn't go.

Q. You didn't go? A. No.

Q. After she had testified at Sapulpa in July, did you learn what she had testified to about Tommy from anybody?

A. I did from Mr. Rogers.

Q. Did you learn it from Mr. Long or Mr. Page?

A. Well, no.

Q. Did you talk to them about what she had testified to?

A. Well, I talked to Mr. Josey and Mr. Long; they stopped by the house the evening after the trial.

Q. Did they talk to you about Minnie and what she had testified to? A. Yes.

Q. What did they say about it?

A. Well, I don't remember just what they said; but Mr. Rogers told them she had swore a lie on the stand and that she would get caught, something about the Hospital; he says, we have been to the hospital and know what that record shows up there; and he says, why didn't you tell us? And he says we wasn't telling you. I don't remember what the conversation was, it was something about that but Mr. Rogers had heard her conversation—heard her evidence.

Q. Now, did you after that talk with Mr. Page or Mr. Long about Sadie James? A. Yes, I think I did.

Q. Relate the conversation?

A. I don't remember what the conversation was.

Q. Did you talk with them about the production of evidence of the birth of Thomas Atkins?

A. I think that I told them that Sadie could get up the evidence, I am not sure about that.

Q. Did you tell them about Dennis Jones?

A. No, I did not.

Q. Or Rube Smith? A. No.

Q. But you did tell them about Sadie?

A. I think I did, I wouldn't be sure that I did.

Q. Now, do you remember of Sadie having a conversation with you a day or so before she was employed by Mr. Page?

A. Yes, she came to see me and wanted me to try to get her in to help get up this evidence; wanted me to speak to Mr. Charlie Page for her.

Q. Now, what had Mr. Page said to you about getting Sadie?

A. Well, I don't remember that he said anything about getting Sadie, only that he wanted some one to get up this evidence.

Q. Had you had anything to do with the Sisters Hospital story?

A. He made some remark about the day he heard from Mr. Hanford, said that Hanford sent him a wire, and made the remark that Thomas Atkins was a girl, something about the Hospital being a fake, I don't remember the conversation. I just remember there was something about it, but I don't remember what it was.

Q. Now, was that before he had employed Sadie?

A. I don't know, I don't know just when he employed Sadie.

Q. Well, you remember the fact of his employing her?

A. Yes.

Q. Do you know what date it was? A. No.

Q. But you know about him having employed her?

A. Yes.

Mr. German: We would like to have Exhibit No. 14 from the Receivership files.

Q. Bettie, did you finally have a settlement with Mr. Page? A. I did.

Q. At the time was there any written paper, any paper signed? A. Yes, sir.

Q. By you? A. There was.

Q. I will ask you if this is it, which I will now read: "Tulsa, Oklahoma, October 21, 1914. Receipt is hereby acknowledged of Gem Oil Company of the sum of two thousand dollars, being the amount which C. H. Rogers and myself were to receive from Gem Oil Company for services rendered as hereinafter set forth; of which amount I acknowlege receipt of five hundred fifty dollars in cash, the remaining portion of the said two thousand dollars being paid me by delivery of warranty deed executed by Chas. Page, conveying to me certain residence property in Sand Springs, Oklahoma, receipt of which warranty deed is hereby acknowledged; said two thousand dollars being payment in full for all claims, interests, or demands whatsoever nature I have in oil and gas mine leases executed in favor of Gem Oil Company by Minnie Folk, et al, covering the southwest quarter of northwest quarter of Section Four; the southwest quarter of northeast quarter, and Lot two of Section five, and Lot Four of Section Four, all in Township Eighteen north, Range Seven east, and also payment in full for all services rendered Gem Oil Company and Chas. Page and R. A. Josey, and for work done and for information furnished in connection with said lease; and in consideration of the above sum of money and in consideration of the delivery to me of the real estate covered in the above mentioned deed, I hereby release Gem Oil Company, Chas. Page and R. A. Josey from any and all obligations in said lease, and from the payment of any further sum of money." That is the instrument, is it? A. I think so.

Q. Now, where was that prepared?
A. In the Gem Oil Company's office.
Q. Did that end your connection with the case?
A. Yes, sir.
Q. For Mr. Page? A. Certainly did.

Cross Examination by Mr. Stuart.

Q. Your name is Betty Mann? A. Yes, sir.
Q. Betty Mann.

Mr. Stuart: Your Honor, before I commence, in order that the record may be kept perfectly safe, the Court will understand that we are objecting to all this evidence on the ground that the proof has not yet been made, that no evidence was taken before the Dawes Commission.

The Court: That objection may be noted as going to this witness or all the evidence?

Mr. Stuart: To all the evidence.

The Court: The objection may go to all this evidence.

Q. How old are you, Mrs. Mann? A. About forty nine.
Q. About forty nine. Have you ever been convicted of a crime? A. Yes, sir.
Q. What were you convicted of? A. Forgery.
Q. Forgery. In what court, Mrs. Mann?
A. Tulsa County.
Q. Tulsa County. How long ago since you were convicted? A. Oh, 1912, I think.
Q. 1912? A. I am not sure.
Q. Now, Mrs. Mann, you were originally employed by Mr. Bartlett in this Atkins matter, wasn't you? A. Yes.
Q. Now, you were present when a deed was forged from Minnie Atkins to Bartlett, wasn't you?
A. I was present in the bank when there was a deed signed.
Q. Well, you were present in the room, in the next room, wasn't you? A. No, I was in the bank.
Q. I can't understand you? A. In the bank.
Q. You were in the bank? A. Yes, sir.
Q. Was it signed in the bank? A. Yes, sir.
Q. Who signed Minnie Atkins name to that deed?
A. A woman by the name of Minnie Atkins.
Q. A woman by the name of Minnie Atkins?
A. Yes, sir.
Q. Who found her?
A. Micco Harjo and a couple of negroes up at Kansas City.

Q. How much did you get for getting that deed?

A. I got a hundred dollars and my expenses.

Q. To get that deed? A. To make that trip.

Q. Yes, you knew and Harjo knew, you all knew that you were putting up a forgery at that time, didn't you?

A. No, sir.

Q. When did you first find out that that was a forgery?

A. I don't know. A woman by the name of Minnie Atkins signed it.

Q. You knew that wasn't the Minnie in this case, didn't you? A. Yes, sir, I certainly did.

Q. You knew that wasn't the girl you went to school with at Carlisle? A. Yes, sir, I did.

Q. What did this Minnie Atkins claim; did she claim she ever lived down here?

A. I don't remember, I didn't talk to her very much.

Q. Did you ask her whether she was an Indian or not?

A. I didn't have much talk with her.

Q. Well, you had some talk?

A. Yes, Harjo and Bartlett's son brought her up and asked if that was the Minnie Atkins that I knew; and I said that she wasn't the Minnie Atkins I went to school with.

Q. Then, what did Mr. Bartlett's son do?

A. He telephoned his father and said I wouldn't identify her as the woman I went to school with.

Q. Then, what did they do?

A. His father told him to take a deed from that woman and not to pay out too much money.

Q. When did you first find out that that deed was a forgery? A. Well, I don't know for certain.

Q. She claimed to be the Minnie Atkins, the mother of Thomas Atkins?

A. Why, I don't know about that, she said she was Minnie Atkins, and they had some proof there that she was.

Q. You didn't know that that deed had been admitted to be a forgery? A. Why, I think they proved that since.

Q. Now, did you have anything to do with forging that deed from Thomas Atkins to Mr. Bartlett? A. I did not.

Q. You knew that had been done too, did you know?

A. I heard of it.

Q. Where was that done?

A. Well, I don't know. Mr. Bartlett brought one down here at Muskogee.

Q. Brought Tommy? A. I think so.

Q. What kind of a looking Tommy was he?

A. I couldn't describe him.

Q. Describe him to the Court as well as you can?

A. I don't remember as much what he looked like; he was a medium sized boy.

Q. Looked like an Indian?

A. Yes, sir, looked like an Indian.

Q. Showed up pretty well? A. Yes, sir.

Q. Well, he got that deed from Tommy Atkins?

A. Yes, sir.

Q. And that one has also turned out to be a forgery?

A. I don't know about that.

Q. Now, when you started on this mission up north, Mrs. Mann, you started up there to find Minnie Atkins, didn't you?

A. I did.

Q. This land down here had been found to be valuable?

A. Well, no it wasn't very valuable at the time.

Q. But they thought it was good property for oil?

A. I don't know, Mr. Bartlett said it wasn't worth over five thousand dollars.

Q. Well, how much did he pay you to hunt up Minnie Atkins?

A. Oh, he didn't pay much. My expenses wasn't very much.

Q. But what, in money, did he pay you?

A. Oh, I couldn't tell that.

Q. Well, as near as you can, you know about what you got? A. I don't know what he paid me.

Q. Well, let's get at it in some way, did he pay you as much as five thousand dollars? A. I should say not.

Q. Did he pay you as much as two thousand dollars?

A. Mr. Bartlett never gave anyone two thousand dollars in his life.

Q. He aint that kind of a man? A. I should say not.

Q. Well, anyhow, he paid you?

A. Mr. Bartlett paid my expenses.

Q. He started you on this mission?

A. He did and he would count up and give me twenty five cents for a meal and twenty five cents for a bed; when I had to send the little girl to school I could get fifteen or twenty dollars out of him to pay the tuition sometimes.

Q. How much did he pay this woman who signed that deed? A. I don't know.

Q. You started out to find Minnie, didn't you?

A. Yes, sir.

Q. Started out for Mr. Bartlett to find Minnie?

A. Yes, sir.

Q. And on the road, did you take Sadie? A. Yes, sir.

Q. You and Sadie joined hands, didn't you, to find her?

A. Yes, sir.

Q. Did Mr. Bartlett agree to pay Sadie anything?

A. Well, I don't remember about that.

Q. Was Mr. Bartlett along? A. No.

Q. He came pretty soon afterwards?

A. Oh, I think we was there two weeks.

Q. Well, he did come? A. Yes, he did come.

Q. You know that he had employed Sadie? A. Yes.

Q. To go with you? A. Yes.

Q. So, you and Sadie went out representing Mr. Bartlett to find Minnie Atkins? A. Yes.

Q. Wasn't hunting Tommy at all, didn't have any concern of Tommy at the time you left?

A. Why, we had been trying to find him if there was any Tommy.

Q. But you had failed? A. Yes.

Q. And you had started out to find Minnie? A. Yes.

Q. Now, you had known Minnie as a girl, hadn't you? A. Yes.

Q. You had known her down in this country? A. Yes.

Q. You had known her at Carlisle? A. Yes.

Q. You had seen her sister Nancy? A. Yes.

Q. You had seen others of her kin? A. Yes, sir.

Q. And Minnie, so far as you knew, had absolutely disappeared from the earth? A. Yes, Minnie was gone.

Q. None of her kin had trace of her? A. No, sir.

Q. You couldn't find from any of them where that Indian girl had gone? A. No, sir.

Q. She had been gone all of these years and none of them knew anything about her? A. They sure didn't.

Q. Now, then, you started up there with Sadie and you and Sadie double crossed Mr. Bartlett after you got up there?

A. Well, I rather think we did.

Q. In other words when you got up there you and Sadie made up your minds that Bartlett wasn't paying enough for Minnie and there wasn't enough money in it for you, and you would go to somebody else? A. That is a fact.

Q. Now, Betty you was in this case for money?

A. Well, I was trying to get it.

Q. And you were in it for the dollars and cents?

A. That is what I was trying to get.

Q. And when you got up there and saw Minnie Atkins you recognized her? A. Yes, sir.

Q. Did she recognize you? A. No, sir, she didn't.

Q. Now, you had been to school with her how long?

A. Oh, I don't remember, I think we was a year and a half at Tullehassee.

Q. How long did she know you down in this country?

A. Well, we saw one another off and on once and a while when we were little folks.

Q. For years? A. Yes, sir.

Q. You knew her as soon as you saw her? A. Yes, sir.

Q. But she didn't know you? A. She didn't know me.

Q. You made yourself known? A. Yes.

Q. And you talked a little about Tullehassee? A. Yes.

Q. You talked about your Carlisle days and your school days together, and you talked over old acquaintances, didn't you, while you were there? A. Yes.

Q. And you asked her about Tullehassee, didn't you?

A. Yes, sir.

Q. And she said to you, I haven't any Tommy, and you said to her, Minnie, keep quiet on that, didn't you?

A. Yes, I said that.

Q. You said, Minnie, don't you tell that; didn't you, because there is money in it? A. Yes, sir.

Q. Then, the first thing you did after you met this girl you had known was to persuade her to practice a fraud, wasn't it? A. Well, kind of, yes.

Q. And you went up there and persuaded her to tell a falsehood for money, didn't you?

A. She didn't need much persuading, very much.

Q. Well, I understand that is your position in it, and I have no doubt you think that; but as a matter of fact the first thing you did was to offer her money to tell a lie?

A. No, I didn't tell her that. I just told her to keep still.

Q. You told her not to say there wasn't a Tommy?

A. Yes, I said that.

Q. And you told her if she would suppress the truth, she would get money, didn't you? A. Yes.

Q. You and Sadie traveled around then through the country considerable, didn't you; you and Sadie went around from place to place? A. Where was that?

Q. After you got out there? A. Seattle?

Q. Yes? A. No.

Q. Did you just put up at the Hotel and stay there?

A. Yes, sir.

Q. And Sadie became the first lieutenant?

A. I guess she did.

Q. The general manager?

A. She was kind of managing.

Q. And you were sitting back in the hotel and receiving reports from her from time to time, wasn't you?

A. Well, I don't know.

Q. Well, she did come to see you?

A. Oh, yes, she was there every day trying to find out if my man from Oklahoma was there yet. That is what was worrying Sadie.

Q. Sadie said she could make a Tommy? A. Yes.

Q. Yes, she could build up one at that time? A. Yes.

Q. Wouldn't be any trouble for her to make a Tommy and if you stayed out there and went through the matters— You saw Captain MacNab? A. Yes, sir.

Q. And Captain MacNab wouldn't let Minnie sign this Page Lease, would he? A. No.

Q. And the reason he wouldn't do it was that he was trying to protect Minnie's interest? A. I think so.

Q. He thought that the Page interests, or the Long interests, hadn't offered enough money for it, and his idea was that it was a large thing and he was going to get the most money for Minnie; isn't that true?

Mr. German: May it please the Court, I object on the ground that we were precluded from having the conversation with Captain MacNab on counsels objection.

The Court: That testimony was admitted. There was certain conversations of Captain MacNab that were inquired about that the Court excluded.

Mr. German: Yes, sir, and that concerned the negotiations, or rather the conversations between the witness and Captain MacNab relating to the very matter that counsel is asking about as I remember.

The Court: Well, if counsel wants to open that up, that opens the field for you.

Mr. Stuart: No, your Honor, I don't care anything about it, except this: To permit this witness to state that Captain MacNab stated to her that Minnie shouldn't sign that deed. Now, I have a right to state what Captain MacNab said in relation to that statement.

The Court: You may ask her.

Mr. German: We except.

Q. Now, didn't Captain MacNab say the reason he wouldn't let Minnie sign that deed, that he thought it was worth more, and he was going to investigate?

A. Yes, Captain MacNab said this after I had talked to him a long time, he says: "I see a chance that we can make some more money out of this", and he said "I am not going to let Minnie sign this." He told me he had been down to Fort Reno and he knew something of the oil country, and he says: "I think we can get some money out of it and I want to get some myself."

Q. Do you mean to say he said he wanted to make something himself? A. He certainly said that.

Q. Did you know he was trustee at the time?

A. I did not. I knew he was a Captain.

Q. You knew he was a captain of the Army?

A. Yes, sir.

Q. Now, Betty, after you left there, you came on down to Tulsa didn't you? A. Yes, sir.

Q. You came on down to Tulsa. Did Sadie stay?

A. I left Sadie at Denver.

Q. Going which way, coming back or going?

A. I don't know, I quit her at the depot.

Q. Were you going out? A. I was coming this way.

Q. Was Sadie coming too?

A. She and H. U. Bartlett and me made the trip from Seattle to Denver and at the depot I left.

Q. When you and Sadie and Mr. Bartlett got to Denver, did Mr. Bartlett know then that you and Sadie had double crossed him? A. Why, I think he did.

Q. Did he still want to retain Sadie's services?

A. He seemed to.

Q. Did you then quit Mr. Bartlett? A. Yes, sir.

Q. And came on home? A. Yes, sir.

Q. Now, when you went up to Leavenworth, you say you saw Dennis Jones? A. I did.

Q. Dennis said that he had never known a Minnie Atkins?

A. Yes, sir.

Q. And Rube Smith said he had never known a Minnie Atkins? A. Yes, sir.

Q. Now, I want to ask you this: Didn't Sadie James tell you time and again that she never knew Minnie Atkins?

A. Well, I don't think she did.

Q. Didn't she tell you she didn't know her?

A. Well, no, I can't tell you that she did.

Q. What did she say about that?

A. She said she had lived in Leavenworth and knew everybody there, and I don't remember whether she said she didn't or did.

Q. She didn't claim to you that she had ever known Minnie Atkins? A. I don't think she did.

Q. She told you——

A. The fact of it is, I can't remember of but one person in Leavenworth or around there that told me they ever knew the Minnie Atkins or Indian Minnie. There was a Mary Atkins, but not the girl that worked for George Hyde.

Q. As a matter of fact, when you went to Leavenworth, the best information you could get was that there never was an Indian Minnie there? A. Yes, that is about what I got.

Q. And you reported that no Indian Minnie ever lived in Leavenworth? A. That I knew she had lived there.

Q. But you couldn't get any information?

A. Not at the time.

Q. Everybody said she had never lived there? A. Yes.

Q. Who else did you go to see—— Who else told you she never lived there? A. I can't recall the names.

Q. You can't recall? A. No, I saw too many people.

Q. You saw a good many people. And you say that Dennis said he could prove that hell was on ice?

A. No, that hell was an ice box.

Q. And you say Dennis said that he could prove that—what was it, that Hell was on ice, or something?

A. No, that Hell was an ice-box.

Q. That was Hell was an ice-box? A. Yes, sir.

Q. And he said that he could prove that all the way from bankers down to niggers? A. Yes, sir.

Q. That is the sort of reputation he gave his town, did he? Did Rube Smith make any remark of that kind?

A. No, I don't remember; Rube didn't have much to say.

Q. Rube didn't have much to say? A. No, sir.

Q. Well, you fell down on your information there; you didn't get any information there satisfactory?

A. I did afterwards.

Q. Well, on that trip? A. No, I didn't then.

Q. And you came on back home?

A. No, I came on over to Kansas City.

Q. Now, Mrs. Mann, I will ask you—Mr. Long, when he employed you, and Mr. Page, when he employed you and paid you, they never told you at any time to get anybody to swear a lie, did they, Mrs. Mann?

A. Well, they tried to get me to go to Fort Worth—I mean Leavenworth, to establish Tommy's birth; they didn't come out and say they wanted me to get someone to swear lies or anything of that kind.

Q. They tried to get you to establish his birth? A. Yes.

Q. But they didn't try to get you to go and get any perjured testimony, did they? A. No, they didn't do that.

Q. When you went to find Minnie, they asked you to find a real Minnie? A. Yes, sir, well identified.

Q. And told you not to bring any Minnie at all unless you knew it was the real Minnie?

Q. That was what Frank Long said; said to find Minnie Atkins well identified. He never said get anybody else or anything of that kind.

Q. But he never at any time tried to get you to get anybody to do any false swearing in the case, did he Betty?

A. No, I won't say that.

Q. You wouldn't say that. And they paid you for your services and you compromised, I know that.

A. Yes, I compromised.

Q. But they paid you for your services and that service you did for them was to go to Seattle and find the real Minnie Atkins, wasn't it? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. Betty, when you were out at Seattle, you say you saw Minnie? A. I did.

Q. Where did you see her? A. Seen her at her house.

Q. Seen her at her house? A. Yes, sir.

Q. Did you see her more than once?

A. No, I only had one conversation with her. Well, I saw her twice but I only had one conversation with her.

Q. You saw her twice? A. Yes, sir.

Q. When did you see her the first time?

A. Sitting on her porch.

Q. You had no conversation with her at that time?

A. No, sir.

Q. You just walked up the walk above her house and saw her sitting there and you identified her as Minnie Atkins, did you?

A. Yes, sir, I thought she was—I am pretty positive that she was the right one.

Q. That is about a half or three quarters of a block from the sidewalk, is it not, from her house?

A. Oh, I don't remember how far it is.

Q. It is down the hill, below the sidewalk, away, isn't it?

A. Yes, sir.

Q. And after you saw her sitting there, you went back to town, didn't you? A. Yes, sir.

Q. How did you know where she lived?

A. There was one of the soldier boys that told me; showed me the house.

Q. Showed you house? A. Yes, sir.

Q. Betty, the next day you say saw her again?

A. The next morning I think it was.

Q. The next morning? What day was it you saw her sitting on the porch? A. Well, I don't know what day it was.

Q. What day did you arrive out there?

A. I don't know the date of the month but I think it was on about Thursday, I am not sure.

Q. You think you arrived in Seattle?

A. Yes, sir, I wouldn't be sure; I don't remember.

Q. You arrived the same day that Sadie did, didn't you?

A. Yes, sir.

Q. Do you remember how many days after you arrived there that you saw her sitting on the porch?

A. It was the same evening.

Q. The same evening. Where was Sadie?

A. I don't know; Sadie had gone away.

Q. Sadie had gone away. Then the next day, you went out there and saw her again, did you? A. Yes, sir.

Q. Where was Sadie that day?

A. Well, I think Sadie had gone to Spokane, or Fort Wright, they called it.

Q. You know where she had gone?

A. Only what she told me.

Q. Only what she told you?

A. I know that she was away, that is all.

Q. So you saw Minnie before Sadie ever did see her, is that right? A. I think so.

Q. Before she ever found her, is that a fact?

A. Well, if she had found her, I didn't know it; not to my knowledge.

Q. Then you talked to Minnie before Sadie ever did talk to her, didn't you?

A. I don't know; I suppose so. I didn't know when Sadie talked to her.

Q. Didn't Minnie tell you that she had seen Sadie?

A. She did not.

Q. But you saw her in her own house?

A. Yes, sir, in her own house.

Q. How long were you there? A. About an hour.

Q. Have a long conversation?

A. Oh, I don't know; it might have been two hours—I don't remember.

Q. Well, it was an hour or two—you had a visit?

A. Quite a little while.

Q. You sat right down and visited with her?

A. Yes, sir.

Q. In her own house? A. Yes, sir.

Q. Betty, will you describe that house?

The Court: Why is that material to go into that description? Let's not get any detail in here that is unnecessary.

Mr. Hanford: If Your Honor please, we contend and will show that Betty Mann had no conversation with Minnie Atkins.

The Court: Alright.

Mr. Hanford: And for that purpose it is cross examination.

The Court: Alright.

Q. Will you describe that house, Betty?

The Court: It is your contention that she never visited the house at all?

Mr. Hanford: Absolutely.

A. Well, I can't describe the house.

Q. Do you remember anything about the house?

A. Well, no, I remember only that there was a big porch on it—quite a porch.

Q. Quite a porch on the outside?

A. Yes, I don't know what way it faced because I was turned around up there and I don't know whether it was north or east.

Q. Do you remember how far you had to go down the hall before you got in the house?

A. You don't have to go down no hall to get in the house.

Q. Well, do you remember how long it was?

A. No, I don't.

Q. How large a room were you in when you visited Minnie?

A. Well, I didn't go in the room to visit Minnie.

Q. Where did you talk to her? In the hall?

A. On the porch.

Q. On the porch? A. Yes, sir.

Q. What do you mean when you said you went into the house, then? A. Well, I didn't go into the house.

Q. You went to see Captain MacNab while you were out there, did you? A. Yes, sir.

Q. You testified before on cross examination on the Receivership hearing in this case, did you not?

A. I testified before in something, I don't remember what it was.

Q. Betty, when you saw Frank Long out there, did you tell him about your conversation with Minnie?

A. Yes, I think—why sure I did.

Q. You told him what she said?

A. Yes, I told him what she said; I think I did, I am not sure that I did. I wouldn't be sure about that; I don't know whether I talked to him before he went out there or afterwards.

Q. But you did tell him that you had seen Minnie and talked to her? A. I sure did.

Q. And that was at the hotel where you stayed?

A. Yes, sir.

Q. And you told him what she had told you?

A. Yes, sir, and he told me not to tell—to tell everybody that I hadn't seen Minnie Atkins because he said that they would claim that I had framed her up, and for me to not tell anyone else, deny ever having seen Minnie while I was there, and I did so afterwards.

Q. When you returned to Tulsa did you tell Mr. Josey that you had talked with Minnie?

A. I don't think—think that I told him that I did not.

Q. You told him that you did not?

A. I think that is what I told him because I had——

Q. Did you tell Captain MacNab that you had talked with Minnie? A. I don't remember that I did.

Q. Did you tell him that you had not talked wth Minnie?

A. I don't know that I told him anything about it.

Q. Betty, isn't it a fact that you told Frank Long when you saw him out there that you had not talked with Minnie because you were afraid to talk with her, that you didn't try to see her and talk to her because you were afraid that Mr. Bartlett would then suspect you of being the one of double-crossing him? A. I should say I did not.

Q. You didn't tell him that? A. No, indeed, I didn't.

Q. Didn't you tell Mr. Josey that same thing when you came back to Tulsa? A. No, I didn't.

Q. When you saw Captain MacNab at his house, didn't you tell him that you didn't see Minnie and talk to Minnie, and that you had come to ask him if she was the Minnie Atkins?

A. Well, I should say I didn't.

Q. Didn't you tell him that you had come out there to identify her but that you had not been able to see her and talk to her, and that you wanted to see him to make sure that she was Minnie Atkins? A. No, sir, I didn't.

Q. Before you went back to Tulsa?

A. No, sir, I didn't. I went out there to see Captain MacNab but to persuade him to let Minnie sign the lease for Frank Long.

Q. I will ask you, Betty, if on re-cross examination, at the Receivership hearing in this case here and in this Court, on the 27th day of February, 1915, when you were recalled for further cross examination, if you didn't testify as follows —reading from the transcript of the record of that proceeding at page 231—just one preliminary question. What time of the day, was it that you went to Minnie's house as you say?

A. Along in the morning, I don't remember what hour.

Q. I will ask you, following my previous question, if you didn't testify as follows: "Question: I will ask you if you didn't state to Mr. Page in his office at Tulsa when you returned from Seattle, in substance, that you saw Minnie Atkins sitting on her porch, that you recognized her and knew it was her. That you didn't go and talk to her because you were afraid that Mr. Bartlett, or somebody, would think that you had turned him and that you never spoke to her while you were out in Seattle." To which you answered, "No, sir, I didn't tell him that I hadn't talked to her." Is that your testimony?

A. I don't remember what my testimony was, now.

Q. And further, "Question. I will ask you if you didn't make the same statement to Mr. Josey at approximately the same time." "Answer". "Yes sir, I did." Did you so testify at that time and that place?

A. I don't remember what my testimony was before.

Q. And further, "Question. I will now ask you further if you didn't make the same statement to Mr. Long at some time during those first few days? Answer. I think I did." Did you so testify at that time and place?

A. I can't remember what my testimony was at that time.

Q. Which is right? Did you tell Mr. Long of your conversation or did you tell him that you had not talked to Minnie Atkins?

A. I did tell—I told Mr. Long on the start that I had not talked to Minnie but I afterward told him that I had, and he told me not to tell anyone else that I had talked to Minnie; just to deny that because they would say that I had framed her up, and not to tell anyone else that I had talked to her, and therefore, I told Mr. Page and Mr. Josey when I came back that I didn't talk to her. I remember that.

Q. I will further ask you if at the same time and at the same place, if you didn't testify as follows, reading question from page 231 of the record, "Question. When did you see her the next time? Answer. The next day. Question. Where? A. In the house; in her home." Did you so testify at that time?

A. I don't know; I might have. I could have been in her home whether it was on the porch or not, it was at her home.

Q. Then, you mean to say that you talked to her for approximately two hours and you did not go in the house?

A. I talked to Minnie on the porch—on her porch.

Q. What time of day was that?

A. Well, it was in the morning; I don't know what hour.

Q. How early?

A. Well, I just can't tell you how early it was; along in the morning, though.

Q. Don't you know what time you got up and went out there? A. No, sir, it is too long back.

Q. How long did it take you to get out there?

A. I don't know; maybe ten or fifteen minutes, maybe thirty.

Q. You went out on the street car, didn't you?

A. Yes, sir, I sure did.

Q. It is a long ride, isn't it? A. Yes, sir, a long ride.

Q. And didn't it take you about an hour to make that trip? A. Well, I don't know; it might.

Q. Didn't it take you exactly an hour and ten minutes?

A. I didn't time myself, Mr. Hanford, and I couldn't possibly tell you.

Q. Betty, after you had this settlement with Mr. Page, when was the next time that you got into this case? Who employed you next?

A. Oh, I can't remember now; I would have to study that up. I think Mr. Wrightsman, I am not sure.

Q. Mr. Wrightsman? A. I wouldn't [] sure about it now.

Q. Mr. Wrightsman was a partner of Mr. Nixon's, wasn't he? A. No, I don't think they were partners?

A. He wanted to find Tommy Atkins.

Q. And you found one, didn't you?

A. No, I didn't find one.

Q. Did he find one?

A. They found one somewhere south.

Q. And you tried to help them put him over?

A. No, I just went out and got all the evidence I could find where anybody would say he was Tommy, and so on.

Q. You knew he wasn't Tommy Atkins, though?

A. Well, I didn't think he was the right one; he might have been Tommy Atkins but I didn't think he was the right Tommy.

Q. You knew he wasn't?

A. No, I didn't know who he was.

Q. You was just collecting evidence to support him? Who was he? A. I can't tell you that, I don't know.

Q. You was paid for that? A. Yes, I was paid.

Q. That is all you was after—just the money, wasn't it?

A. Well, I was trying to make some money like all the balance of you.

Q. And you were willing to get evidence for that Tommy as well as any other? A. Just as well.

Q. After your conviction you testified to, were you released on bond? Weren't you? A. Yes, sir.

Q. Who went on your bond?

A. Mr. George Evans for one man, and Tony Clark for another.

Q. Is that the same bond that is still up? A. Yes, sir.

Q. Never been changed? A. No sir.

Cross Examination by Mr. Maxey.

Q. Mrs. Mann, your first employment by Mr. Bartlett was in 1912 when you got that deed at Lawrence, Kansas?

A. Yes, that was the first I worked for Bartlett.

Q. Now, how long after that until you were employed again or did you remain in his employ continuously?

A. Well, I don't remember; there was quite a while though, something like about a year, I think, that I didn't do anything for him.

Q. After you got that deed, it rested for something like a year? A. I think so.

Q. Now, isn't it a fact, Mrs. Mann, your next employment was when that suit was filed in Sapulpa by Nancy Atkins against Bartlett, and the Gypsy Oil Company?

A. Well, I don't remember. I think that we—I went to Kansas City before that. I know that Bartlett wired to me while I was in Kansas City to come by Nowata and bring Minnie down—Nancy, rather, down to Sapulpa.

Q. And you did bring her down? A. Yes, sir.

Q. And she testified while she was there, didn't she?

A. I think she did.

Q. That was after the suit was brought?

A. Well, probably was, I don't remember about that.

Q. The suit was filed on July 23rd, 1913?

A. Well, that might be; I don't remember about that.

Q. It was the time she testified up in McDougal and Lytle's office, wasn't it?

A. Well, I didn't hear her, I don't know; I knew she was there to testify for Mr. Bartlett for something but I don't know where.

Q. Now, you was employed to look up Tommy after the trial of that case, wasn't it, by Mr. Page or Mr. Long?

A. Well, I don't know when that trial was; I don't remember.

Q. The trial was on the 26th of the February, 1914; commenced on the 26th of February, 1914.

A. Well, I had been working for Mr. Bartlett before that because along the first of January——

Q. Yes, you commenced working for Mr. Bartlett the second time, after this suit was brought when you brought Nancy down there?

A. Yes, but I was working for Mr. Bartlett before I brought down there, I had taken Harvey and Mr. Whitehead and Edward Bartlett, and Mr. Rodgers, we all went to Wichita, and to Kansas City, and was up there, something like two weeks, I think, and then I think that Mr. Bartlett wired that he wanted Nancy down there, and I came on back home and brought Harvey—he was very near of age. I think his birthday was the 19th of February, and I got—came by and got Nancy and brought her down there for a witness or something; I don't know just what that was.

Q. Now, when was it? You remember when the trial was, don't you?

A. Well, I don't believe that I do. I don't believe I do.

Q. You was there, wasn't you?

A. I don't believe I was there.

Q. Wasn't you in the courtroom when the trial was going on? A. What trial? I don't remember.

Q. The trial between Nancy Atkins and H. U. Bartlett and the Gypsy Oil Company at Sapulpa?

A. I might have been, I don't remember.

Q. Don't you remember that you was brought in there during the trial and that Mr. Gresham, a witness from Lawrence, Kansas, identified you? A. Yes, I remember that.

Q. You was there, then, wasn't you?

A. Yes, I remember that.

Q. Now, was it after that that you started on your trip west to hunt up Minnie?

A. Yes, it was way long up in the summer.

Q. In the summer afterwards? A. Yes, sir.

Q. Do you remember the month?

A. I think it was the last of May.

Q. The last of May after the trial was had at Sapulpa, in February? A. Yes.

Cross Examination by Mr. Cobb.

Q. This Tommy Atkins, from whom a lease was taken to Nixon that you referred to a moment ago, where was he located?

A. I think—I am not sure, I don't know only what Mr. Nixon told me.

Q. Wasn't he located in Texas?

A. He told me at Sweetwater, Texas. I just got his word for it.

Q. Sweetwater, Texas; you don't know for yourself?

A. I don't.

Q. Did you see him?

A. I have seen him several times since.

Q. Where did you see him? A. At Tulsa.

Q. Where does he live now? A. I don't know.

Q. Did you see him around Tulsa frequently?

A. Not for the last three or four months.

Q. Do you know of him going by any other name?

A. I do not.

Q. I wish you would describe the appearance of this party. A. Oh, I can't describe people.

Q. Is he—what was his color?

A. Oh, he was of dark complexion, I think.

Q. Look like an Indian, or a mulatto negro?

A. Looked like he might be an Indian.

Q. Might be an Indian. About what would he weigh?

A. Oh, I just couldn't tell. I don't know about just looking at anyone—about what they weigh.

Mr. Cobb: I will ask the stenographer to mark this photograph as defendant H Carter's exhibit A-1.

Q. I present you a photograph marked *ad* H. Carter's exhibit A-1, and ask you if that is the Tommy Atkins—photograph of the Tommy Atkins referred to in your examination a while ago? A. What was the question, please?

Q. Is that a photograph of the party referred to a while ago that made the Wrightsman and Nixon lease? A. Yes, sir.

Q. That is a photograph of him? A. That is him.

Mr. Cobb: We will offer this now, or later on either.

The Court: Just as you choose.

Mr. Cobb: We offer defendant H. Carter's Exhibit A-1.

The Court: Which this witness says is a photograph of the Tommy Atkins which made the Wrightsman and Nixon lease. It may be admitted.

A. I don't know that he made the lease; they had him there.

The Court: Well, he is identified with that lease?

Mr. Cobb: That is all.

Mr. Hanford: I would like to ask counsel for the Government, if they will admit that the transcript of the Receivership proceeding as far as the testimony of Betty Mann is concerned, that she was cross examined by me as I have read into the record in my question.

Mr. German: I make this suggestion; that we have a mutual agreement that that transcript as to the record of any witness who either of us desire, and may be entitled to use, is a correct transcription of the testimony taken at the Receivership hearing.

Mr. Hanford: Not necessarily the evidence but that the part quoted from is according to the way it is quoted.

Mr. German: I make this proposition; that we agree that that transcript as printed and held in your hand or any copy of it is a true transcription of the testimony of any witness whose testimony it purports to contain. Then if you want to introduce testimony, if we want to introduce testimony of a witness, if it is admissible we can.

Mr. Hanford: I want to save the introducing of this record if it is not necessary.

The Court: I understand it is admitted that this transcript in the Receivership case correctly states the evidence taken in that case and that it is not necessary to put the stenographer on the stand.

Mr. Hanford: What I would like to get at, is, if they admit that the witness testified as I read at that time and place.

Mr. German: I think that is so but there might be a little discrepency in the reading.

Mr. Stuart: Your Honor, I ask that it be understood that that portion that we read the questions and answers be introduced in the case.

The Court: I see no trouble about that if that proof is correctly read and I presume it is.

Mr. German: Now, Your Honor, we don't consent—in other words, they have not begun to introduce their proof. If they want to introduce that as their evidence when they reach it, I will say now that I will agree that you read it correctly.

Mr. Hanford: That is exactly what I am doing, Mr. German, offering it in evidence to save producing the stenographer, to save putting the record in the case.

The Court: Let's see if I understand you. You have interrogated this witness with regard to certain portions of that Receivership transcript. At the time you interrogated the witness, I assumed that you were laying a predicate to introduce some testimony here in that transcript different from what the testimony had been on the stand.

Mr. Hanford: Yes, sir.

The Court: I apprehend there is no serious objection. I think probably you had better indicate the portion of the record that you want to offer as a part of her cross examination, or impeaching her examination.

Mr. Hanford: I will then offer in evidence at this time, pages 231 and 232 of the printed transcript of record in the Receivership hearing of this case.

The Court: That is sufficiently identified; it may be admitted.

Q. Bettie, would you know Minnie Atkins now if you would see her? A. I would know her.
Q. Is she in the Court room?
A. I haven't looked. Yes, sir, there she sits.
Q. Point her out? A. There she is.

Mr. German: Will you stand up Minnie? Is that her?

A. That is her.
Q. Betty, did you have any conversation with Nancy Atins at or after the trial that Judge Maxey asked you about in the Brady Hotel at Tulsa? A. Yes, sir.
Q. Where in that hotel?
A. I don't remember the room, Mr. German, but we were stopping at the hotel.
Q. Did the conversation relate to Tommy? A Yes, sir.
Q. Tell the conversation exactly what it was?
A. Well, Nancy was laying there and says, "Bettie, what a fool we have been;" she says: "Why didn't we let me claim that child and make some money, and we wouldn't have hunted up Minnie;" says, "I could have been Tommy's mother just as well and we could have had a lot of money now."
Q. Betty, at the time you and Mr. Long had the first conversation about your employment by Mr. Page at Sapulpa, what was said about your conviction, if anything, about the trouble you were in?
A. Why, Mr. Long said that he knew that I had trouble and that he was——well, had a good deal of influence and so did Fred Cook and Mr. Page, and they would help me out of my trouble and would pay me more than Mr. Bartlett.
Q. Did Mr. Long know at that time that you were working for Mr. Bartlett? A. Yes, he knew it.
Q. Were you out on bond at that time? A. Yes, sir.
Q. Did Mr. Page or Mr. Long have anything to do with the making of bond for you? A. None whatever.
Q. They didn't make one for you? A. No, sir.
Q. When were you to respond to the Court on that bond?
A. Whenever they called me.
Q. Did they have anything to do or claim to have anything to do with the failure of the Court to call you up?
A. Not that I know of, I don't think so.

Q. Did Mr. Page have any conversation with you about that matter? A. Yes, several times.

Q. Several times? A. Yes, sir.

Q. What was the conversation?

A. Well, he would say every day that Frank must get busy and get that fixed up.

Q. What fixed up?

A Get my case fixed up, disposed of.

Q. Now, when was it he had any conversation of that kind?

A. Well, I can't tell the date of it, Mr. German.

Q. Before or after you went to Seattle?

A. After I came back from Seattle; I never did talk with Mr. Page untiil I got back; never had talked with him.

Q. How long had you lived in Tulsa?

A. Oh, ever since Tulsa started.

Q. Where was that conviction of yours?

A. Tulsa County, Tulsa.

Q. What court? A. Superior.

Q. What were you convicted of? A. Forgery.

Q. Was there anything in the newspapers about that at the time? A. Oh, yes, the news papers were full of it.

The Court: What forgery case was that? That wasn't the Thomas Atkins?

A. No, that was——

The Court: Or the Minnie Atkins suit?

A. No.

Q. It wasn't the Minnie Atkins deed taken at Lawrence, Kansas? A. No.

Q. Nor anything connected with the Atkins case?

A. No. I don't remember the name now.

Q. Now, at Seattle when you first went out, you say the house of Minnie having been pointed out to you by a soldier, you went past her house but didn't go in and see her the first time? A. No, sir.

Q. Why didn't you go in and see her?

A. Well, I don't know why.

Q. Was there anyone around the house?

A. Well, just as I come back past the house there was a man came in.

Q. Where was Minnie?

A. Sitting on the porch rocking.

Q. How far from the house were you?

A. Well, I couldn't tell the distance, there was a path running up from the street car, what I would call the front of the house; I don't know which direction.

Q. It was the next day you went out there and went in the house? A. Next morning.

Q. What kind of a house is that, frame or brick?

A. Oh, it is a frame.

Q. One or two story? A. Just one story.

Q. How many rooms?

A. I couldn't tell you, I wasn't in the house.

Q. Where were you about the house? A. On the porch.

Q. Oh, that is where you talked with Minnie?

A. Yes, sir.

Q. Was that porch on the front, or on the side or in the rear? A. Well, I would call it the front.

Q. Well, are the streets well marked there? A. No, sir.

Q. Any pavement?

A. No, just side walk and runs up out of board.

Q. Now, in that conversation I wish you would state whether the matter of drawing of money at the 1895 payment was talked about by you or Minnie?

A. Minnie told me that she drew some money that didn't belong——

Mr. Stuart: Now, your Honor, that is not proper redirect examination. He didn't bring that out the first time.

The Court: Well, this is redirect now, anything that Minnie stated she may answer.

Mr. Stuart: Well, your Honor will give us the right to cross.

The Court: Sure.

Q. You say she said she had drawn for somebody that wasn't entitled?

A. Yes, had drawn for somebody that wasn't entitled to it, and that she was afraid of the Government; that was the reason she had never wrote back and never come back to see her children.

Q. And that was the reason she hadn't written back or come back to see her children? A. Yes, sir.

Q. Did she call any name?

A. Well, I don't think she did, she might have told me, it has been a good while back and I can't remember all these things.

Q. Did she say how many she had drawn for?

A. No, sir, I think she told me she drew for her sister, I am not sure, I wouldn't be sure of that.

Q. Now, you say that Mr. Long told you in the conversation he had with you after he had been out to the house and come back, and while you were at the hotel, not to tell anybody you had talked to Minnie?

A. Yes, sir, he certainly did.

Q. And after Mr. Long had gone, you had some conversation with Captain MacNab? A. Yes, sir, I did.

Q. Now, where was Captain MacNab's house?

A. Well, it was out at the Fort.

Q. Inside of the Fort Grounds?

A. Yes, sir, several buildings around there, had their names on there, I asked some one where to find Captain MacNab and Lieutenant McCombs, and they told me their name would be on the house.

Q. Where was this house of Captain MacNab's with reference to the main entrance to the Fort Grounds?

A. Well, I don't know that I can tell you, Mr. German.

Q. Was it far away?

A. Well, not so very far; might have been a couple of blocks, I wouldn't say.

Q. And where was Minnie's house with reference to the entrance to the grounds?

A. Well, it was over the other way.

Q. On the outside? A. Yes, sir.

Q. About how far away?

A. Well, I don't know, it could have been a quarter of a mile, I couldn't tell you about those distances.

Q. Were there other houses in the same block?

A. Yes, sir, there were other houses there.

Q. What did Captain MacNab say to you, if anything, about what Minnie had said to him?

> Mr. Stuart: Your Honor, we object to that, because your Honor knows that I limited my questions to what Captain MacNab said about not letting Minnie make this lease.
>
> The Court: She may answer.
>
> Mr. Stuart: We save an exception.

A. I don't remember that he said anything.

Q. Did he say anything about having talked with Minnie?

A. Well, I think that he did, I wouldn't be sure.

Q. Did he say anything about what he had been able to get Minnie to say, or what the result of the conversation was?

A. No, he didn't tell me that.

Q. Did he express any view on the question as to whether Minnie had such a child?

> Mr. Stuart: Oh, that is a conclusion, your Honor.

The Court: Well, that would only be so far as Captain MacNab's statement.

Q. Did he state whether he had talked with Minnie?

A. Yes, he had talked to Minnie.

Q. Now, you testified in response to Judge Stuart's question that he said something about getting money out of this himself?

A. Well, he did. And I said to him that I thought the sooner Minnie signed the lease the better it would be; and he said he rather thought so too, "and I think I will have Minnie sign the lease, since you have talked to me, to Charlie Page."

Q. How long were you in conversation with him?

A. Oh, I don't know, a long while, I stayed there all the afternoon and part of the morning; they had dinner while I was there.

Q. Did you have any conversation relating to whether Minnie probably owned the land?

A. Well, I don't know just what I said.

Q. Did he attempt to tell you what Minnie may have said, talk to you about Minnie's case?

A. I don't think that he did. If he did, I don't remember it.

Q. Did he say anything about there being anything wrong, or anything along that line?

A. Well, no, I don't remember that he did—— Oh, he thought there was something wrong, he said he thought it was worth more money; that he knew a little something about the oil country down here; and I think three thousand dollars was what they offered her.

Q. Did he say anything about Tommy or Thomas?

A. Well, now, I don't remember that he did.

Q. After you came back to Tulsa, did you have any conversation with Mr. Page or Mr. Long or Rube Smith and Dennis Jones? A. I don't think that I did.

Q. Did you know of their having employed Rube and Dennis? A. I don't think that I did.

Q. You didn't know it? A. Not that I remember.

Q. Now, you say that you talked with Mr. Page quite a lot about evidence at Leavenworth?

A. Yes, sir, I talked to him so much that I can't remember all that was said.

Q. About evidence. About what period of time would you say was covered by the different conversations you had with him with reference to Leavenworth testimony?

A. Well, we started talking about it after Minnie had been on the stand the first time.

Q. When?

A. At Sapulpa. I don't know when that was, but it was after that.

Q. Well, about what period of time was covered by these different conversation I mean—— How long after that testimony before you had your first conversation?

A. Oh, I think the next day we talked about it.

Q. Then, how soon again did you talk with him?

A. That is it might have been the day after that. I think the next time he called me up and said for me to come over, and said Hanford had gone up to Leavenworth and had found out something about Minnie swearing wrongfully, and about the Hospital record, and said that something had to be done about it; that might have been two or three days after.

Q. Well, were you up to see him frequently?

A. Yes, almost every day.

Q. What for?

A. Trying to get my money, trying to get a settlement with him.

Q. On those occasions, did he talk to you about producing any evidence for him?

A. Why, he wanted to take up the evidence or proof of Tommy's birth; it had to be done he said.

Q. Did he say where he wanted it established?

A. No, he didn't say.

Q. Did he say at what city? A. No.

Q. Did or not he tell you——

A. Well, he wanted me to go up there and see what I could find out; and I told him I couldn't go; and he said he had a nigger woman that would go; and I said to get his nigger.

Q. Did you tell why you wouldn't go?

A. I told him I couldn't find anything before when I was there.

Q. During those conversations what was said about the question as to whether there was a Thomas if anything?

A. It was just generally understood that there wasn't; I can't remember the words that were spoken, but that was the impression.

Q. In the conversation between you and Mr. Page?

A. Always.

Q. How? A. Always.

Q. And he told you that there was a negro that he could get? A. Yes, sir.

Q. Do you know who that negro was?

A. No, I didn't, but I think he did tell me afterwards that it was Sadie.

Mr. German: That is all.

Cross Examination by Mr. Stuart.

Q. You say Minnie said something about drawing money?

A. Yes.

Q. She did tell you that it was not her father that she drew for, didn't she?

A. Well, I don't remember who—— What she told me about who she drew for.

Q. Didn't you testify when I asked you before, that she said that her father had been dead many years and that it wasn't her father?

A. Well, they was talking about the allotment. She said he had been dead too long, didn't say many years, she said too long.

Q. She didn't tell you who she had drawn for?

A. I don't remember, she said she had drawn for several

Q. Just said she had drawn the money? A. Yes, sir.

Q. After you got through with that conversation did you talk to her any further about it?

A. Why, I talked to her quite a lot.

Q. Talked to her quite a lot. When you came back to this country, Betty, and entered on this other engagement for Wrightsman, this Tommy that you were going to send up for him you kept at your house, didn't you, a good while?

A. Tommy?

Q. Yes? A. No, sir.

Q. Didn't you keep somebody at your house that you claimed to be Tommy Atkins?

A. Well, I should say I did not.

Q. You should say you did not?

A. I certainly did not.

Q. Did you ever meet a Tommy that you was going to show up and have a talk with him? A. Never did.

Q. This one you have a picture of, did you see him?

A. I have seen him several times. I met the Tommy that Mr. Nixon had in his office.

Q. You saw that Tommy? A. Yes, sir.

Q. That is the one you were going to get the allotment for?

A. I don't know, I wasn't trying to get it, I was helping get all the evidence I could.

Q. For this same Tommy that this is a picture of?

A. Yes, sir.

Mr. Stuart: That is all.

Redirect Examination by Mr. German.

Q. You found out that wasn't a genuine Tommy?

A. I certainly did.

Mr. Stuart: You didn't quit it for that reason, did you *Minnie*?

The Court: Any further questions? Stand aside.

(Witness dismissed.)

Mr. German: Your Honor, we desire to ask counsel if they will agree that the transcript of depositions taken at Leavenworth in October, 1914—we all have copies of them—taken by Mr. Page or on his behalf for use in the State Court in the case of——

Mr. Stuart: Well, Mr. German, one of you gentlemen spoke to me about that, and if that is correct, we will make no objection to your not having the stenographer.

Mr. German: Yes, sir. You are not admitting that it is competent but it is identified?

Mr. Stuart: That it is identified.

The Court: You are merely admitting now that this is a correct transcript of those depositions.

Mr. Stuart: Yes, sir.

Mr. German: In the case of Minnie Folk, formerly Minnie Atkins, et al., plaintiff, vs. Nancy Atkins, et al., defendant, No. 3772, District Court of Creek County.

Mr. German: Now, we would like to discharge Mr. Tharp, who was the notary public who took that.

The Court: The notary that was called, gentlemen, to establish these depositions they desire to discharge now.

Mr. Stuart: Your Honor, we are not willing to discharge Mr. Tharp.

Mr. German: Mr. Tharp is court reporter of the District Court at Leavenworth and he says that Court convenes Monday and that he is needed there and it will be——

Mr. Stuart: Well, we will agree that he can go.

The Court: All right, Mr. Tharp may be discharged from further attendance as a witness.

And thereupon, ALICE M. ROBERTSON, was recalled for further direct examination, and testified as follows:

Direct Examination by Mr. Pinson.

Q. Miss Robertson, you were on the stand a few days ago in this case, were you not? A. I was.

Q. What official position, if any, have you held here in this city?

A. I was United States Inspector, School Supervisor for the Creek Nation from July 20, 1900, to January 8, 1905. After that I was United States Postmaster from 1905 to May 18, 1913.

Q. I call your attention to your testimony of a few days ago, that upon going to Seattle to attempt to identify Minnie Atkins, you were first treated by the Commandant with courtesy and respect, is that true?

A. First, until I said Minnie Atkins, and then he was preturbed.

Q. Was there any further conversation there that seemed to have any effect on his treatment of you?

A. I don't remember until I was asked whether I knew Mr. Chas. Page.

Q. What did you reply?

A. That I did not know him personally.

Q. Was there any further conversation along that line?

A. I said I knew him by reputation but I didn't like him.

Q. From that time, what was the manner of the Commandant toward you?

A. I was persona non grata in that place immediately.

Q. What became of you at that time?

A. A little lieutenant stepped up and wanted to know what business it was of mine and what I wanted.

Mr. Stuart: If the Court please, we object to this testimony. It is immaterial.

The Court: I can't see the relevancy of it.

Mr. German: If the Court please, the testimony of two other witnesses, one in the form of deposition, and the other orally, is to the effect that they were not permitted to see Minnie unless they represented certain interests, and were not permitted to have free intercourse there at that time.

The Court: I suppose then the testimony of Miss Robertson will be that she was not permitted to see Minnie. She has testified she saw her very briefly.

Mr. Pinson: I propose to ask one further question.

Mr. Cruce: Note our exception.

The Court: Exception noted.

Q. After you were at Captain McNab's quarters and Minnie was present, you testified on your former examination that there was some question or suggestion made to you by Minnie—made by you to Minnie which was objected to by her counsel, will you state what that was?

A. I was not allowed to say to Minnie anything that bore upon her life previous to her visit to my house in 1895. Everything after that time was objected to.

Q. Do you remember the occasion of your mentioning something in regard to Tommy? A. I do.

Q. What was that?

A. I had been a witness in having known so many of the Creek people, I had been a witness in a number of cases in which so much definiteness of detail had been required of me that I said, and called attention of the lawyer who was noticing all that I said—because I didn't want to be considered as doing anything under-handed; I said, now Minnie you know you will have to prove when and where this boy died, and her lawyer said then, "Don't answer that." And he said to me, "You must not trouble her with such questions as that."

Mr. Pinson: That is all.

Cross Examination by Mr. Stuart.

Q. Miss Robertson, when you got up there to investigate, you found that this girl, Minnie Atkins, had been in the soldiers service and in the Army service ever since she left here?

A. I know that only by hearsay, but I am not allowed to testify.

Q. Yes, you can, the Judge controls that.

The Court: You may answer the question.

Q. You learned up there that she had been in the Government service all these years, didn't you? A. No, sir.

Q. You learned that she was a soldier's wife, didn't you? A. Yes, sir.

Q. And you were talking to a soldier, what was his name, that soldier you were talking to? A. The Commandant?

Q. Yes? A. His name was Wilson, I think.

Q. He was the head of the whole thing at the Fort? A. Yes, sir.

Q. And you were talking to him? A. Yes, sir.

Q. And he told you when you spoke about Minnie Atkins and Chas. Page, he became cool toward you? A. He did.

Q. And didn't talk any more?

A. He simply told the Orderly to take me over to Captain MacNab's quarters.

Q. And you could talk to Captain MacNab, is that right, he sent you over there to talk to Captain MacNab?

A. Sent me there to wait.

Q. To talk to Captain MacNab, that is what you went there for? A. I am not definite upon that point.

Redirect Examination by Mr. Pinson.

Q. Have you seen Minnie recently, Miss Robertson?

A. Day before yesterday.

Q. Did you see her in the Court room, can you identify her? A. Sitting right over there.

Mr. Pinson: Will you stand up please.

Mr. Stuart: What is the use in her standing up when she has been identified?

The Court: Well, she may sit down.

The Witness: Your Honor, may I make one little statement?

The Court: With regard to your testimony?

The Witness: With reference to the soldiers of the United States. That I show reverence to all of them, that I always do to every one who wears a United States uniform.

(Witness dismissed.)

And thereupon, J. B. WHITE was called as a witness for and on behalf of the Government, and having been first duly sworn, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. J. B. White?

Q. Where do you live, Mr. White? A. Coweta, Oklahoma.

Q. Mr. White, were you in Sapulpa, Oklahoma, in the District Court in July, 1914, when Minnie Atkins was there?

A. I was.

Q. State whether or not she testified? A. She did.

Q. Who was she produced as a witness for?

A. Witness for Mr. Page.

Q. Who examined her on the witness stand?

A. Rice and Lyons.

Q. Who were they representing? A. Mr. Page.

Q. Who else examined her? A. McGraw.

Q. Who was he representing?

A. The Gypsy Oil Company.

Q. Was Mr. Hanford there? A. Who?

Q. Mr. Hanford? A. Yes, sir.

Q. Did he examine her? A. Yes, sir.

Q. Was Mr. Gresham there?

A. Mr. Gresham and Judge Rosser and I don't remember whether Judge Maxey was there or not.

Q. The men you have named are lawyers? A. Yes, sir.

Q. Who was Mr. Gresham representing?

A. He was representing at that time myself, Dr. Carter, Selzer and Fowler.

Q. You were defending under the Nancy Atkins side of the case? A. Yes, sir.

Q. Now, did Minnie testify there with relation to Tommy Atkins? A. She did.

Q. What did she say as to her children?

A. How is that?

Q. What did she say as to what children she had had?

A. She said that she had had four children.

Q. Did she say where they were born?

A. She said that the first one, Thomas Atkins, was born in Leavenworth.

Q. Did she say at what place? A. Yes, sir.

Q. Where?

A. Said it was born in the Sisters Hospital.

Q. Did she say whether she had had any other children at Leavenworth? A. She said only had one.

Q. Where did she say the other three were born?

A. Fort Logan, Colorado.

Q. Was she asked as to who she had worked for at Leavenworth? A. Yes, sir.

Q. Did she answer? A. Yes, she did.

Q. Who did she say she first worked for there?

A. She went to work for Mr. Hyde.

Q. Did she state who she had worked for next after that?

A. Mr. Grodevant.

Q. Did she say who she had worked for after that?

A. First Lieutenant—— I declare I don't believe I can call his name.

Q. To refresh your memory, was it Stafford?

A. Stafford, yes, sir.

Q. Did she say when she had given birth to Thomas, with reference to when she went to work for Hyde?

A. Yes, she had worked three months for Mr. Hyde; she stayed at Grodevants for a year and six months, and went then to work for Lieutenant—went to this lieutenant and worked there something like a year or a little over and she had to quit on being heavy with child and went to the hospital.

Q. And gave birth to Thomas? A. Yes, sir.

Q. Did she or not give the name of the father of Thomas as claimed by her?

A. She did not to my hearing. I heard her refuse to do it.

Q. State whether or not she gave testimony as to the names of the other three children? A. She did.

Q. What names did she say they had?

A. The second one was a girl, and I won't be certain what she called her. The two next ones were both boys, named Charlie and Harvey Harrison.

Q. Did she say what became of the girl? A. She died.

Q. Did she say what became of the boys, Charlie and Harvey?

A. Why, she brought them back here to the Territory in 1895 I believe.

Q. Did she say what had become of Tommy that was born in the Sisters Hospital?

A. She said she left him when he was about six months old, that she got a woman to take care of him and keep him. That after she left Fort Logan, Colorado, and went to Michigan, I believe it was, she got a letter from this lady stating that he was dead.

Q. Did she say anything about whether she had seen him since she left Leavenworth?

A. Never had saw him since she left him when he was about six months old.

Cross Examination by Mr. Stuart.

Q. What connection have you got with the Nancy Atkins claim? A. I am one of the first ones that obtained a lease.

Q. You then have got an interest in sustaining the Nancy Atkins claim? A. I have.

Q. And you are claiming that Nancy was the mother of the real Tommy? A. I do.

Q. That is your claim. You were present and heard this testimony? A. How is that?

Q. You were present and heard this testimony? A. I was.

Q. Remember it with great distinctness? A. Yes, sir.

Q. Did she say she had a boy named Tommy?

A. She did.

Q. And that boy was born at Granny Letcher's?

A. No, sir. Afterwards when she had the examination in the lawyer's office, she said she had the child at Granny Letcher's.

Q. But when you heard her first she said that she had the child at an old colored woman's?

A. That was her second testimony.

Redirect Examination by Mr. German.

Q. Now, this second testimony, when was it, where was that given?

A. Taken, if I am not mistaken, and I don't think I am, in Rice & Lyons office.

Q. In Tulsa?

A. Mr. German, I am not positive whether it was in Tulsa or Sapulpa.

Q. When was it taken?

A. This first testimony was taken along in the summer following the trial we had at Sapulpa.

Q. You had a trial in January, 1914?

A. February I think.

Q. That was before Minnie was found?

A. Yes, sir. Then that summer following, Minnie was brought in and her first testimony was taken.

Q. In open court?

A. Yes, sir. Then after she gave a deposition along in the fall sometime.

Q. In Rice and Lyons office?

A. Yes, sir, in Rice and Lyons office.

Q. Now, it was the second—— Then, two or three months after her testimony at Sapulpa that she gave the second testimony? A. Must have been.

Q. That you refer to? A. Yes, sir.

Q. When she stated that the child was born at Granny Letcher's? A. Yes, sir.

> Mr. German: Now, Your Honor, we will not go more into that Tulsa testimony because we didn't intend to prove it at this time.

Cross Examination by Mr. Hanford.

Q. Mr. White, you testified that Minnie Atkins was asked the name of the father of Thomas Atkins and refused to disclose it. Isn't it true that she was asked this and it was objected to on the ground that she had previously testified that the child was not legitimate and the court sustained the objection on the ground that that was a privileged question and that she didn't have to answer?

A. Why, there was quite a quarrel over that, Mr. Hanford.

Q. Wasn't that the ruling?

Mr. German: I object to the question; the witness stated she declined to tell the father.

The Court: She is on cross examination.

Q. I asked if that wasn't a fact?
A. I say there was quite a quarrel over the answer and one of her attorneys advised her not to answer it and made some statement to the court that it was an illegitimate child and didn't want her to name the father of it, and the objection was sustained.
Q. That is the facts the way you remember it?
A. Yes, sir, that is the way I remember it.

(Witness dismissed.)

The Court: This deposition that was taken some two or three months after this open court hearing, was that in this same case?

Mr. German: We expect to prove exactly what that was.

Mr. Cruce: This testimony was taken in the District Court?

Mr. German: Yes, sir.

The Court: If it becomes necessary, we can know exactly what that testimony was.

Mr. German: Yes, we will be glad to introduce a copy, Your Honor, but we thought this would be the simplest way, and we will be glad to file a copy.

The Court: I don't mean the whole thing.

Mr. Stuart: Well, we will see, Your Honor.

Mr. German: Your Honor, with reference to that Sapulpa testimony, I would like to explain that George Reeves, who was the Court Reporter who took it, is very ill in the hospital at Tulsa.

The Court: That is all right now; it is perfectly competent that this witness to testify what was said there, and there seems so far to be no controversy about it, and until there is we will not take up the time.

And thereupon, J. B. WHITE was recalled for further direct examination, and testified as follows:

Direct Examination by Mr. German.

Q. Following the giving of the testimony by Minnie at

Sapulpa in the summer of 1914, did you have occasion to go to Leavenworth? A. I did.

Q. With reference to what she had testified to?

A. In a few days after the hearing up there.

Q. What did you go up there to investigate?

A. I went up there to investigate if she was in the hospital.

Q. The Sisters Hospital?

A. Yes, sir, and see if the child was born in the hospital.

Q. Did you go there? A. Yes, sir.

Q. To the hospital? A. I did.

Q. Were you in the Court room this morning when the records were introduced from the hospital? A. Yes, sir.

Q. State whether or not you examined those records?

A. Beg pardon?

Q. State whether or not you examined those records?

A. I did.

Q. Did you learn whether anybody else had been there?

The Court: I guess there is no controversy about that. You mean other people inquiring?

Mr. German: Yes, I am trying to fix the time only. We expect to introduce evidence to show that Mr. Hanford and Minnie Atkins went there.

The Court: If they had been there and somebody told this witness they had been there, which he can't testify to.

Mr. German: Well, I think that is true.

Q. Did you find out there, Mr. White, whether Minnie had been in the hospital in the '80's?

A. There was a Minnie Peterkin been in the hospital two weeks.

The Court: Now, that is all a part of the record, I take it, and I take it that that is not controverted and doubtlessly will not be so far as the record stands, but it will be a question of what it shows.

Witness dismissed.

Mr. German: Your Honor, we now offer in evidence Government's Exhibit A-83, the contract between Charles Page and Dennis Jones, dated September 23rd, 1914. Do you deny the execution of this—the original contract between Dennis Jones and Mr. Page?

Mr. Hanford: No doubt about the execution of the contract.

The Court: It may be admitted.

Mr. German: We now offer in evidence as Government's Exhibit A-84, the original letter from Mr. Hanford to Mr. Peterkin, dated November 23rd, 1914. I call Your Honor's attention to the fact that when we were taking Mr. Peterkin's deposition at Boston, a copy of the letter appearing in the transcript—printed transcript was used with the understanding that the original would be used in lieu of that copy.

The Court: Alright, it may be admitted.

Mr. Cruce: We reserve the right to make objection to it.

The Court: You may object now and for the purposes of the present record, it will be overruled and I give you your exceptions.

Mr. Cruce: Alright.

Mr. German: We offer the deposition of William A. Cranston, taken before Mr. Penick, appearing in his transcription of depositions beginning on page 1610.

WILLIAM A. CRANSTON being called as witness on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name? A. William A. Cranston.

Q. Age? A. Twenty-seven.

Q. Your place of residence? A. Leavenworth.

Q. Mr. Cranston, are you connected with your father in the livery business in this city? A. Yes, sir.

Q. Where is your barn located?

A. 320 and 322 Cherokee.

Q. Have you with you the books of original entry showing to whom you furnished a team and to whom a charge was made in 1914? A. Yes, sir.

Q. Is that the book that you have in your hand? A. It is.

Q. I wish you would turn to the date of September 12th, 1914, and state what entries are contained on that date in the book that you now have?

By Mr. Blakeney: Do you mean by that to read the entries?

By Mr. Allen: Yes, sir.

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and not properly identified.

By Mr. Hanford: The same objection.

By Mr. Allen: Gentlemen, do you insist upon the introduction of this entire book into the record?

By Mr. Blakeney: We don't think any of it is competent.

Q. Did you make—— I refer now to the entry showing the furnishing of a team for S. D. Long, did you make that entry?

By Mr. Hanford: Objected to as leading.

Q. Who made that entry in that book?
A. I made the entry.
Q. Are all the entries appearing in that book as of the date of September 12th, 1914, in your handwriting?
A. Yes, sir.
Q. Is the book that you now have in your hand the book of original entry in which entries are made showing to whom teams were furnished and to whom they were charged?

By Mr. Blakeney: We object as asking for a conclusion.

A. Yes, sir.
Q. On what page of this book do those entries appear?
A. I can't tell you on what page, these pages are not numbered.
Q. The dates come in consecutive order in that book?
A. Yes, sir.
Q. Have you any independent recollection of that transaction? A. No, I have not.

By Mr. Allen: We now offer in evidence the book identified by the witness, and particularly the page thereof, showing the date of September 12th, 1914.

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and not properly identified.

By Mr. Blakeney: You are not attempting to offer that book are you?

By Mr. Allen: I am going to have to if you don't—

By Mr. Blakeney: I object to the offer of any book as incompetent, irrelevant, and immaterial, and can serve no possible purpose except to encumber the record, we object to it.

Q. What is your custom with reference to keeping the record of teams that go out of your barn?

A. Well, the custom is——

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. Well, the custom is if we know the man's name we enter his name on the book, whether the rig was called for or delivered, the time out, time in, the name of the horse and the kind of a rig and the amount of the charge.

Q. Your record shows those entries as to the team charged to F. B. Long? A. Will it show it?

Q. Does it show it? A. Yes, sir.

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Q. Was that your rule to make such entries at the time this entry was made?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and as leading.

By Mr. Hanford: The same objection.

A. Yes.

Q. When was this entry made with reference to the time of the transaction, the time the team was furnished?

A. You mean the time of day?

Q. The same day or——

A. The entry was made the same day, the same date.

By Mr. Allen: Is there any objection to the witness reading the entry?

By Mr. Blakeney: I have no objection to any particular item that you desire to introduce, I have no objection to that form of introducing it, I object to the evidence as incompetent, irrelevant, and immaterial, and not properly identified.

Mr. Hanford: The same objection and agreement as to the portion of the record to be introduced.

Q. Will you please read the entry referred to?

Mr. Blakeney: We object for the same reason as stated in the last——

Mr. Hanford: The same reason, same objection.

A. Under date of September 12th, 1914, Frank B. Long of Tulsa, Oklahoma, time out, 3:30 P. M. Time of return, 6:30; name of the horse was Madge; buggy; and then this here remark column, Gem Oil Company, amount two dollars; that Gem Oil Company is in that—probably Mr. Long is——

Mr. Hanford: I object to any statement of the witness as not responsive to the question.

Mr. Blakeney: We object for the same.

A. It was probably put in there to identify him; he might have been a stranger to us.

Q. Have you any other entries of that book showing that any team was charged to either Mr. Long, or the Gem Oil Company, during the year 1914?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and indefinite.

A. I don't know whether there is any others in there or not.

Q. Have you made any examination of your records to determine that fact? A. Well, partly; yes.

Q. How far? A. Well, through the month of September.

Q. That is the only entry appearing during the month of September? A. That is the only one I can find.

Witness dismissed.

Mr. German: We offer the deposition of O. Giacomini, taken before Mr. Penick, appearing in his transcription, beginning on page 1615.

And thereupon, O. GIACOMINI, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name, age and residence.

A. O. Giacomini; 56 years old; National Hotel, corner of Cherokee and Fourth.

Q. Leavenworth, Kansas? A. Leavenworth, Kansas.

Q. Are you the proprietor of the National Hotel?

A. I am.

Q. How long have you been proprietor of that hotel?

A. Well, practically thirty years.

Q. Does the hotel keep a register in which guests stopping at the hotel register? A. We do.

Q. Have you such a register for the year 1914?

A. Yes, sir.

Q. Have you that register with you?

A. Yes, sir, there it is.

Q. I wish you would look at the date of Sunday, August

23rd, 1914, and see whether or not on that day, F. B. Long registered at your hotel.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and leading.

Mr. Blakeney: Objected to as incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. What is the custom as to the registering of guests stopping here at your hotel, and was the custom at that time?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Mr. Blakeney: Objected to for the same reason.

A. The custom is that all guests that come to the hotel, and apply for rooms, are registered on that book when they are assigned to the rooms.

Q. And have you before you now, the register showing Sunday, August 23rd, 1914, and showing the guests who registered on that day? A. I have.

Mr. Allen: We offer in evidence the page of the register identified by the witness, showing the names and addresses of guests of the hotel who registered at the hotel August 23rd, 1914.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and not sufficiently identified.

Mr. Blakeney: We object for the same reason.

Mr. Allen: Now, will you waive the introduction of the book and let the witness read the entry?

Mr. Blakeney: We don't object to the form of the offer.

Mr. Hanford: We agree that the entry may be read into the record in lieu of the introduction of the entire book, or page, without waiving our objection as to the relevancy of the item.

Q. You may read that entry, Mr. Giacomini, the Frank Long entry.

A. Sunday, August 23, 1914, shows the name of Frank B. Long; do you wish the address?

Q. Yes, sir, the whole address.

A. From Kokomo, Indiana, I presume it is.

Mr. Blakeney: We object to any supposition.

Q. Kokomo, Indiana?

A. Assigned to room 3, and paid.

Q. Are you familiar with the signature of Frank B. Long?

A. Well, not familiar enough to be certain on it, that I would say that that is his, or not his signature.

Q. State when he registered in your hotel as shown by this register, how many names were registered on Sunday, August 23rd, 1914, and where his *manes* appears in the list?

> Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial; and also as to the form of the question. The witness has not stated that he registered.
>
> Mr. Blakeney: I object for the same reason.

A. The page of the 23rd of August, 1914, registers twenty-two names, I think, and he is registered at the foot of the page, almost; only two names being registered after his. Mr. Long is——

Q. I will ask you to turn to the page of the same register showing the registering of names under date of Tuesday, August 25th, 1914, and ask you how many guests registered at your hotel on that day?

> Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.
>
> Mr. Blakeney: We object for the same reason.

A. Twenty-three names are registered on that date.

Q. You are now referring to the same register just identified by you?

A. The same register under date of August, 23rd, 1914.

> Mr. Allen: We offer the page of the Register showing the guests registering on Tuesday, August 24th, 1914, and particularly the names of Mrs. F. E. Mann and daughter, the address being Sapulpa, Oklahoma, and room assignment, number 5.
>
> Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.
>
> Mr. Blakeney: We object particularly to the general offer of the registrations of that date as incompetent, irrelevant, and immaterial, and not pertinent in any way to the case, and we object to the particular offer because it is incompetent, irrelevant, and immaterial, and not properly identified.
>
> Mr. Hanford: The same objection.
>
> Mr. Allen: Is there any objection to the witness reading this entry instead of introducing the book?
>
> Mr. Blakeney: No objection to the form of the introduction at all.

Mr. Hanford: We consent that the offer may be read into the record without waiving our objection to the testimony.

Q. You may read the entry.

Q. Mrs. F. E. Mann and daughter of Sapulpa, Oklahoma, assigned to room 5, on August 25, 1914.

Q. You have already testified to the number of guests registering on that day; will you please state where this entry appears in among those names?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial. We object for the further reason that they have offered the whole page of registration and the whole registration for the day, and it shows itself without the conclusion of the witness.

Mr. Hanford: The same objection.

A. The party is registered on the ninth line of the day's registration.

Mr. Allen: Answering the objection of Mr. Blakeney and Mr. Hanford, I desire to say in the record in view of the agreement of counsel——

Mr. Hanford: I object to any statement of counsel as argument.

Mr. Allen: That these names may be read, I withdraw the record of the entire page; that is also true of the page showing the name Frank B. Long.

Mr. Blakeney: We move now to strike out the entry read by the witness, Mrs. F. E. Mann and daughter, as incompetent, irrelevant, and immaterial, and not properly identified.

Mr. Allen: I do of course offer the entry read by the witness.

Cross Examination by Mr. Hanford.

Q. Mr. Giacomini, you say you have been proprietor of the National Hotel for about thirty years?

A. I will correct that; I have been connected with the hotel for about thirty years.

Q. Since what year? A. Since 1885.

Q. What month of 1885? A. About October, 1885.

Q. You state that you were connected with the hotel—what was the name of the firm that was then proprietor of the hotel? A. Mella and Giacomini.

Q. How long did that firm continue?

Mr. German: We object to this as incompetent, irrelevant, and immaterial and improper cross examination.

Mr. Hanford: I will withdraw that question.

Q. Were there any other Giacominis in Leavenworth at that time that you came here?

Mr. German: We object to that for the reasons stated before, to the other question.

A. There were.

Q. What business were they engaged in?

Mr. German: The same objection.

A. Mostly in the restaurant and hotel business.

Q. Were they members of your family? A. They were.

Mr. German: The same objection.

Q. They *ere* different branches—that is, they were different families? A. No, the same family.

Q. The same family, but I mean different households?

Mr. German: We make the same objection.

A. Well, some were and some were not.

Q. What was the place known or called Giacomini's at the time you came here?

Mr. German: We object to that for the same reason.

Q. Was that a restaurant?

Mr. German: The same objection.

A. It was a restaurant, also with rooms, called the Delmonico hotel and restaurant; that was what they called the Giacomini's place.

Q. You have no independent recollection of Mr. Long, or anyone else making that entry in the book, which you have just read, have you? A. No, sir.

Q. Have you any recollection as to the other entry on August 25th?

A. None whatever except what is on the book—that I see.

Mr. German: We want to offer another item that we overlooked at the start, Mr. Blakeney, if you rather cross examine after that.

Mr. Blakeney: Alright.

Redirect Examination by Mr. Allen.

Q. I will ask you to turn to the entry of August 21, 1914, and ask you to state whether or not that is the same register from which you read the names a few minutes ago?

Mr. Hanford: Mr. Allen, is this a part of the direct examination?

Mr. Allen: Yes.

Mr. Hanford: I agree that the witness may be called for further direct examination.

A. Names or name?

Q. That is the same register that you referred to a little while ago? A. The same register.

Q. I will ask you to turn to the date August 21, 1914; state whether or not F. B. Long registered at your hotel on that date.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and leading. The witness has not stated whether he knows or not.

Mr. Blakeney: We object to the question as incompetent, irrelevant, and immaterial, and to the *competent,* of the *withess* and asking for a conclusion.

Q. Does that page of the record show the names of all the—state whether or not it shows the names of all guests registering at your hotel on August 21, 1914.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and to the competency of the witness.

Mr. Hanford: The same objection.

A. It does; shows the names of the guests staying at the hotel that day.

Mr. Allen: We offer in evidence the hotel register identified by the witness and particularly the names of —about which the witness has testified.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and not properly identified.

Mr. Hanford: Do I understand that you offer this whole register, Judge Allen?

Mr. Allen: I will unless—I want now, to offer that register in order that the Court might see the names, unless it can be admitted that the name of Frank B. Long appearing on August 23rd, and the name of F. B. Long appearing on August 21, were with the post-office address given, was written by Mr. Long; if you will agree to that, I will not offer the register.

Mr. Blakeney: I won't agree to it.

Mr. Hanford: In view of my objection as to the competency, relevancy, and materiality of the testimony, I don't care to make any agreement relating to the item referred to.

Mr. Allen: I want the register identified and marked.

Mr. Hanford: That is objected to on the ground that it is incompetent, irrelevant and immaterial, and not sufficiently identified.

Mr. Allen: I am not introducing it; I ask that it be marked for identification as Government's Exhibit.

Mr. Hanford: Mr. Long is not present but I feel reasonably sure that is his signature; sufficiently so, that I can agree that he wrote it.

Mr. Allen: You do so? Agree?

Mr. Hanford: Yes.

Mr. Allen: That applies to both the entries showing the name of Long and the address of Kokomo, Indiana?

Mr. Hanford: Yes, sir.

Mr. Allen: In view of the admission of counsel, I withdraw the request for the identification of the register referred to.

Recross Examination by Mr. Hanford.

Q. Mr. Giacomini, do you know Mr. Long?
A I know him by sight, yes, sir.
Q. Do you know where he comes from?
A. Not exactly, except from what he registers.
Q. You know his home now is in Tulsa, Oklahoma?
A. Only from where he registers from.

Q. Do you know where his home was, prior to Tulsa, Oklahoma? A. I do not; he might have told me, but I do not.

Q. He has not told you that his home was Kokomo, Indiana, prior to Tulsa, Oklahoma? A. Not to my knowledge.

Cross Examination by Mr. Blakeney.

Q. I started to ask you, I believe, about the Delmonico; you said some Mr. Giacomini ran the Delmonico—is that you?
A. No, sir.

Mr. German: I object to that, to that question on the ground that it is incompetent, irrelevant, and immaterial, and improper cross examination. If the answer had been given before I made the objection, I move to strike the answer for the same reason.

Q. Who did run this restaurant, the Delmonico restaurant?

Mr. German: The same objection.

A. Why, Thomas Giacomini and Antonio Giacomini, two uncles of mine.

Q. When was that restaurant started, if you know?

Mr. German: The same objection.

A. Perhaps in the early seventy's.

Q. You came into the hotel business, you say, in about 1865?

Mr. German: The same objection.

A. I did.

Q. You remember who was the other employes in the hotel at that time?

Mr. German: The same objection.

A. What do you mean by employes, Mr. Blakeney?

Q. Well, porter and——

A. That is a pretty hard question.

Q. You are not sure that you remember?

A. That is a pretty hard question; I can't remember that.

Q. Were you giving it your personal attention at that time?

Mr. German: The same objection.

A. I did.

Q. Was Dennis working there at the hotel when you came?

Mr. Allen: We object for the same reason. Mr. Blakeney, may it be agreed that we may have the same objections to each and every one of your questions upon the ground that they are improper cross examination, incompetent, irrelevant, and immaterial?

Mr. Blakeney: Yes, sir. I think so, as this is the last one.

A. Not that I know of.

Q. Did you know what business Mr. Long was engaged in?

A. Not the first time I met him; not since. Afterwards.

Q. Did you know in August of 1914? A. I can't tell.

Q. What business did you learn he was engaged in; was he engaged in the oil business?

A. You mean later on, or at the time?

Q. Yes, later on.

A. Later on, I understood that he was in the oil business.

Witness dismissed.

Mr. German: We offer the deposition of Martha Jones, taken before Mr. Penick, appearing in his transcript, beginning on page 1633.

And thereupon MARTHA JONES being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Martha Jones.

Q. Where do you live, Martha?

A. I live in the rear of Cherokee street, in the rear of 309 Cherokee.

Q. Leavenworth, Kansas? A. Yes, sir.

Q. How long have you been living there?

A. Close on to 6 years now.

Q. What age are you?

A. I guess I am about fifty-two or fifty-three—somewhere along about there, I don't know correctly.

Q. Do you know a woman by the name of Sadie James?

A. Well, yes, I know her by Hopkins—Sadie Hopkins; we always called her that. I knew her mother.

Q. How long have you known Sadie?

A. Oh, I have known her since she was a girl; about 11 or 12 years old, I guess, when I first knew her.

Q. Did you see Sadie in August, 1914?

A. Well, I don't just know the date, but I know I saw her; she lived not far from me down there on Second, about two or three years ago—two years anyway—I haven't saw her——

Q. When was the last time when you ever saw her?

A. Well, I don't remember the date because I forget but I know it was the fall or summer about two years ago; she came there one evening, her and——

Mr. Hanford: Now, I ask to object to all this testimony as incompetent, irrelevant, and immaterial.

Mr. German: Certainly.

Q. On that occasion, how long was Sadie at your house?

A. Why, she came there in the evening feeling sick and bad, and laid on the lounge all night, and the next day she left for Kansas City; at least she said she was going home.

Q. Was she sober or drunk?

A. Well, I should say that she was drinking; she was sick at the stomach and threw up; that is all I knew about it. I never knew her to drink and didn't know she did drink.

Q. She was sick at the stomach?

A. Sick at the stomach and threw up and had a headache the next morning. I made her some coffee.

Q. Who came to *you her* house that evening with her?

A. This Irene was the only one I saw. I was in the yard, and they knocked and they came in.

Q. Irene Vinson?

A. I didn't know her name; never saw her before.

Q. Same girl who has just testified before you did?

A. Yes, I had saw her but wasn't acquainted with her.

Q. Do you know Rube Smith? A. Yes, sir.

Q. A colored man here in town? A. Yes, sir.

Q. He came to *you* house that evening or the next morning that Sadie left? A. I think it was the next morning.

Q. Did he see Sadie? A. He did, yes, sir.

Q. Talk with her? A. Yes, sir.

Q. Where? A. The next room, down stairs.

Q. Did you over-hear her conversation?

A. No, sir, I was about my work and he went in, and I never heard [] *came* in at all.

Q. He came in the front way or the back way?

A. He came in the side gate.

Mr. Hanford: My general objection goes to this question.

Mr. German: Certainly; no use to repeat it.

Q. Did any white man come there to see Sadie while she was there on that occasion?

A. Well, the evening she came, it was early about five o'clock—it wasn't dark—and there was some gentleman, I don't know who it was, talked with her; he called her, or at least she went out and talked with him—out in the alley there—and I don't know what was said, or who it was.

Q. He was a white man? A. Yes, some gentleman.

Q. Where did he approach your house? In the front or the rear?

A. Well, it is in the rear it sits on the alley way. There was a side gate through a vacant lot but this is closed up now.

Q. Was it open at that time?

A. No, sir, I always kept it closed.

Q. What gate did Rube come in?

A. He came in the side gate; I don't know which way he came in—up the alley or down the alley—but he talked with her there a little while.

Q. Did he go in your house on that occasion?

A. No, sir, never came in at all.

Q. Did you see him any more?

A. No, sir, never saw him.

Q. But you have not seen Sadie since?

A. I haven't saw her. I have asked about her several times but it seems like——

Mr. Blakeney: We object.

Q. Did Sadie ever stay all night at your house before or after that? A. No, sir.

Q. And that is the only time that she ever stayed all night at your house? A. That is the only time, yes.

Cross Examination by Mr. Hanford.

Q. Martha, who lives at your house beside yourself?

A. No, one.

Q. That is your home? A. Yes, sir.

Q. What is your occupation?

A. Oh, I work; wash and iron, and cook, I have been cooking around places that used to be run here.

Q. Cooking and washing and ironing?

A. Yes, that is always what I have done.

Q. Do you rent rooms? [A.] No, sir, I have none to rent; only got two little rooms.

Q. You don't allow people to go to your house and remain there, do you? A. No, sir.

Q. You don't allow women to entertain men there?

A. I wouldn't have let Sadie, but I had known her a long time, and I supposed she had confidence in me that I would care for her, and I didn't know she was sick there. I hardly ever let anybody come down to my place; I am there alone.

Q. What I want to get at—I will ask you the direct question. Your home is perfectly respectable, is it?

A. Why, yes.

Q. And you are a perfectly respectable woman?

A. I try to live that way.

Cross Examination by Mr. Blakeney.

Q. You saw this girl Irene that just finished testifying, come with Sadie that night, or afternoon?

A. Did I see her?

Q. Did you say she did come with Sadie?

A. Yes, yes, I think she did; I think it is the same girl —I am sure it is. She introduced her to me.

Q. You knew her then, did you?

A. That is the first time I saw her to know her.

Q. She is a colored girl is she?

A. Yes, sir, I think she is the same girl.

Q. And you are a colored woman?

A. Yes, sir, I guess I am.

Recross Examination by Mr. Hanford.

Q. Is that the only time that Rube Smith came to your house and saw Sadie?

A. Oh, I think so; I don't remember ever him being there, that I know of. He has been there and asked about her since and I have asked him; seems like he said she had gone away. I never paid much attention to people; so many of them asking me questions.

Q. That was long about that time?

A. Well, it was afterwards; she came again I think; she went away that next evening.

Q. That was after she went to Kansas City? A. Yes, sir.

Q. Within a few days after that time? A. Yes, sir.

Witness dismissed.

Mr. German: We offer the deposition of Irene Vinson, taken before Mr. Penick, appearing in his transcript beginning at page 1628.

And thereupon, IRENE VINSEN being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Irene Vinsen.

Q. Where do you live, Irene?

A. I live at 712 North 3rd St.

Q. What age are you? A. 22 years old.

Q. How long have you lived in Leavenworth?

A. Well, I have been here ever since 1913.

Q. Do you know a woman named Sadie James?

A. Yes, sir.

Q. A colored woman? A. Yes, sir.

Q. How long have you known her?

A. Well, I have knowed her ever since about 1910.
Q. Where did you first know her?
A. Knowed her in Tulsa, Okla.
Q. Did you see her in the month of August, or September, 1914? A. Yes, sir.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Q. Where?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. Well, she came to my house.
Q. In Leavenworth? A. Yes, sir.
Q. Are you living now where you were then?
A. Yes, sir.
Q. What was her condition as to being sober, or——

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. Oh, well, she was sober alright, but she had been drinking a great deal.
Q. She had been drinking?
A. She could walk straight.
Q. She could walk straight? A. Yes, sir.
Q. How could you tell that she had been drinking, Irene?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial. I wish my objection to go to all of this testimony.

Mr. German: Alright.

Q. You say she had been drinking?
A. Yes, sir, she had been drinking.
Q. Now, did she show that she had been drinking; what did she do?
A. Well, you know when a person is drinking, they talk loud—talk, you know, and after we got where we were going at, she was awful sick, you know.
Q. Where did you go at?
A. Went down to Miss Martha's.
Q. Miss Martha who?
A. Well, I never did know her last name.
Q. Where did she live?
A. Lived back down her- on Cherokee, on some alley; I don't know the name of the place, but if I would have to go there, I would know where it is.
Q. Is that same woman now, that is out in the other room? A. Yes, sir. Jones, I believe it is.

Q. Martha Jones? A. Yes, sir.

Q. About when was this, that you saw Sadie?

A. About when was it?

Q. Yes.

A. Well, it was about 1914. Well, it has been over a year now, but I don't know the date but I know it was in September; something like that, because it had been a little bit cold. It had been about a year and a half ago.

Q. You say you and she went from your house to Martha's?

A. Well, we stopped at another place before we went down there.

Q. Where did you stop?

A. We stopped on Seneca street; 230 Seneca.

Q. Did you pass by the National Hotel; did you, in going from your house down to Martha's?

A. Well, when we went to go from 230 Seneca, we went to Fourth and Delaware and turned down, going to Miss Martha's.

Q. Did you see anybody at Fourth and Delaware to talk to?

A. Well, a real tall white fellow; she knew him—wasn't too drunk that she didn't know him.

Q. Did she have any conversation with him?

A. Yes, sir, she did.

Q. What was said there?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and calling for hearsay testimony —a conversation not made in the presence of any of the parties of this suit.

Q. I will ask you another question first. Was that a white man or a colored man?

A. A white fellow it was, yes, sir.

Q. Did she make any statement as to who he was?

Mr. Hanford: Objected to as hearsay, incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. Was that—when was it that she made that statement? While you were with him there?

Mr. Blakeney: We object as leading?

Q. Or elsewhere?

Mr. Blakeney: We object as leading and suggestive.

Mr. German: Well, I will withdraw that question.

Q. Where was it that she made this statement as to who he was?

A. On Fourth and Delaware; pretty near to the National Hotel.

Q. Where was this white man when she made that statement?

Mr. Hanford: The same objection.

A. Well, he was talking to her.

Q. Now, what was the statement she made?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and calling for hearsay testimony, and a conversation not made in the presence of any of the parties to the suit.

Mr. Blakeney: We join in that objection and assign the same.

A. She says to me, she said, this is my lawyer from Tulsa—just like that. So he said, well, I will see you later on; I have got to go to the hotel for something, and I don't know whether she saw him or not.

Q. Would you know that man if you should see him again?

A. No, sir, I wouldn't. I wouldn't know him if I would see him again.

Q. Did he or not have glasses on?

A. Well, I can't say that either; I didn't *o*ay that much attention.

Q. Where did you and Sadie go, then?

A. We went to Miss Martha's house.

Q. When you got to Miss Martha's, what occurred—what took place?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. Well, what took place? Why, she sat down, and Miss Martha said, Sadie, I will wash your face, and so she washed her face.

Mr. Blakeney: I move to strike out what Miss Martha said and did.

Mr. Hanford: I move to strike on the ground that it is hearsay and not responsive to the question.

Q. Did Sadie do anything?

A. No, she started to pulling off her shoes.

Q. What did you do, then?

A. Well, I sat there a while, and then left.

Mr. Hanford: No cross examination.

Mr. German: We offer the deposition of Clara Kirk, taken before Mr. Penick, appearing in his transcription of depositions, beginning on page 292, and when recalled, beginning on page 319.

And thereupon, the taking of evidence herein is adjourned to be commenced at ten o'clock, A. M., January 5th, 1916, at the United States Court room, at Portland, Oregon.

And thereafter, on January 5th, 1916, at the United States Court room, at Portland, Oregon, further taking of evidence herein is adjourned to room 612, Benson Hotel, Portland.

And thereafter, at room 612, Benson Hotel, Portland, Oregon, further evidence herein is taken as follows:

CLARA KIRK, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Clara Kirk.
Q. What age are you, Mrs. Kirk? A. Forty-four past.
Q. Where do you live?
A. I live at 350½ Hawthorne Avenue, Portland.
Q. Portland, Oregon? A. Portland, Oregon.
Q. How long have you been living in Portland?
A. Five years the 8th day of last September.
Q. Are you acquainted with Mrs. Minnie Folk?
A. Yes, sir.
Q. What was her name prior to her marriage to Harry Folk?
A. Well, I have known her going on eleven years, and I never knew anything but Minnie Folk, they were together at that time when I met them.
Q. When you met them? A. Yes.
Q. Do you know when they were married?
A. I can't call when they were married, I know when I heard they were married.
Q. Where did you first know her? A. In Van Couver.
Q. Were you living there at that time?
A. Van Couver, Washington.
Q. Washington, State? A. Yes.
Q. How long did you live there?

A. I guess I lived there three years before I went east and I came back and lived there two years again. Five years I think all told.

Q. Was Minnie living in Van Couver all the time you were living there?

A. No, she lived there the first two years, I think, I lived there, and she went to the Philippine Islands and came back again.

Q. Did you know her very well? A. Yes, sir.

Q. Were, or not, you and she friends? A. Yes, sir.

Q. Were you very intimate friends?

A. We were good friends.

Q. Did you have any communications with her after you got to Portland and prior to the summer of 1914?

A. You mean that before 1914?

Q. Yes, before the summer of 1914? A. Yes,

Q. Did you correspond with her regularly?

A. Oh, yes, regularly.

Q. She would write you at Portland? A. Yes.

Q. Do you know a colored woman by the name of Sadie James? A. Yes, sir.

Q. When did you first know her?

A. Well, I can't exactly say the date, but I think it was after the 8th of July, I think sometime near the 12th, between the 12th and 16th, I can't exactly swear to the time.

Q. What year? A. 1914, I think.

Q. Summer before last?

A. Yes, summer before last, that is right.

Q. Do you know H. U. Bartlett?

A. I know a Mr. Bartlett, yes, sir.

Q. Hugh Bartlett?

A. Hugh Bartlett, yes, I think that is it.

Q. When did you first know him?

A. I met him the same time I met Sadie James.

Q. Were was it you met them?

A. They came to my house.

Q. Here in Portland? A. Yes, East Market Street.

Q. Did you see Minnie Atkins that summer?

A. Yes, sir, Minnie Folk.

Q. Folk? A. Yes, sir.

Q. How did you happen to see her?

A. I went to Seattle to see her.

Q. At whose instance?

A. At Mr. Bartlett's and also Sadie James. Well, Sadie James did the talking for Mr. Bartlett. Mr. Bartlett asked me if I would go to Seattle to see her.

Q. Did he tell you why he wanted you to go to see her?

A. Well, nothing only to see if I could have a talk with her and if they could have a talk with her.

Q. Did they learn anything from you as to your acquaintance with Minnie? A. As to my acquaintance of the——

Q. Of the facts of your acquaintance with her?

A. Minnie informed them of that before they came.

By Mr. Blakeney: We object to that and move to strike it.

Q. Did they say anything to you of Minnie having spoken of you?

A. They said Minnie gave them my address for Sadie to call in Portland at my house and she would find Minnie there and she would be treated square and fair by me.

Q. That Sadie would find who at your house?

A. Minnie Folk at my house. Minnie gave that instructions.

By Mr. Hanford: We object to the question and move to strike the answer on the ground that it is incompetent, irrelevant, and immaterial, and hearsay.

By Mr. Blakeney: We move to strike out the answer on the ground that it is irrelevant, is hearsay and immaterial.

Q. State whether you were expecting Minnie to visit you about that time?

A. I was expecting Minnie on the 8th day of July, 1914. She wrote she would be there then to see me.

By Mr. Blakeney: I object to what Minnie wrote, it is not the best evidence, move to strike the answer.

Q. Have you the letter that Minnie wrote you?

A. No, sir.

Q. You did receive the letter?

A. Yes, sir, I have plenty of proof that I did receive such a letter.

Q. What did you do with it?

A. I don't know, just threw it away, I guess, I don't know.

Q. You stated that Minnie had instructed them that they would find her at your home here? A. Yes.

By Mr. Blakeney: We object to that as incompetent, and hearsay.

Q. How do you know that Minnie had so told them?

A. They had my address and they asked me if Minnie Folk was at my house when they came to the door, they expected to find her there.

By Mr. Blakeney: I move to strike out that that they expected to find her there as a conclusion.

Q. What do you say that they expected to find her there?

By Mr. Blakeney: We object as leading, suggestive and incompetent.

A. What is it?

Q. Why do you say they expected to find her at your house?

By Mr. Blakeney: We object and repeat the objection.

A. Because she gave them my name, street number and address, and said if they didn't find her at her house they would find her there.

By Mr. Blakeney: Move to strike that out.

Q. How do you know that? A. They told me.

By Mr. Hanford: We move to strike it out on the ground that it is hearsay.

Q. Did they, or not, make any arrangements for you to go to Seattle to see Minnie?

A. Mr. Bartlett asked me if I could go to Seattle and see Minnie, if I thought they would let Minnie see me.

By Mr. Blakeney: I move to strike the statement as hearsay, incompetent, irrelevant, and immaterial.

Q. You say you thought—— What was it you said you thought about Minnie?

A. They asked me if I thought I could go to see Minnie and talk to her, and I said I didn't see any reason why they should put me out, or why I couldn't have a right to see Minnie.

By Mr. Blakeney: I want to object to any conversation of this witness with Bartlett or Sadie James, as hearsay, incompetent, and ask that the objection be considered as against all this class of evidence offered by this witness.

Q. What did you tell them as to what you thought about that?

A. I said: "Minnie and I were always good friends," and I told them I could talk to Minnie if anyone could.

Q. Did you go to Seattle then? A. Yes, sir.

Q. How came you to go?

A. Well, Mr. Bartlett asked me if I could go that evening.

Q. What did you tell him?

A. I told him I could, I could if my husband would let me.

Q. State whether you did go? A. I did go to Seattle.

Q. Who else went, if anyone?

A. Well, Sadie James went to Seattle on the same train that I did.

Q. State what you did when you got to Seattle in reference to Minnie Folk?

A. Well, I got out to Minnie's I think about nine thirty that morning and I called to her from away under the hill and she answered me and I came up there and we visited all day and she told me she had to go to the Post right after lunch and she left me there alone and she went to the Post, and Mr. Folk came down after she was gone, because she told him I was there and he came down and visited with me, and in the meantime while she was gone Sadie James came out there, and we were all there—met there and talked waiting for Minnie to come back; and finally Harry said he didn't think she was coming back—— Harry Folk, and I said: "Sadie James is going to town and I am going as she goes, so I won't go alone." I wanted to stay and talk to Minnie, I had gotten her suit case; and as I came back out I got off the car at the station, and I seen Minnie break and run down towards me and she snatched my suit case out of my hand and broke and run off way up the hill with my suit case and I said: "What does this mean, Minnie" and she said: "I just want to help you." I didn't go in the house at all after she did. I just took my little girl to go up the hill——

Q. Your little girl? A. Yes, sir, my foster child.

Q. You had taken her with you?

A. Yes, sir, and I got into the house and that man Hanford was there, and he jumped up and she introduced me to him and he started in to abusing me, and he abused me and told me I was traveling with a negro wench and I was lowering myself, and I said—asked him what business he had calling me down over traveling with anybody; and I told him my father fought for the negro, as you call her, and I will treat a negro right as long as they treat me right, and he told me "you better get out and go back to Portland where you belong." They took my suit case toward the kitchen and I thought they fully intended to hold me up from all appearances.

By Mr. Blakeney: I move to strike out what she thought was intended as merely an expression of malice and a conclusion of the witness.

Q. Tell just what was said and done?

A. When Hanford first spoke to me, he said: "I understand you accompanied a negro down town this afternoon," and I said: "I don't know that I accompanied her, we both went down on the same car together," and he asked me if I didn't think a whole lot of myself traveling with a negro. I told him my father fought for negroes to free them; and he said: "I think you had better beat it back to Portland where you belong, Mrs. Kirk, and I turned around to Minnie, I said "Minnie, you couldn't be mistreated in my house as I have been treated here." I got on the porch and Minnie came out to me, because Minnie liked me and I liked Minnie as far as friends and acquaintances as far as I know of her——

By Mr. Blakeney: We move to strike out all that about getting out on the porch as hearsay and immaterial.

Q. Let me ask you a question, Mrs. Kirk? Did you leave the room after the conversation with Mr. Hanford?

A. Well, I went on to the porch, that was all.

Q. Who went out there besides you?

A. Minnie followed me out.

Q. But what was said and done out there?

A. I said: "Well, good-by Minnie," and Hanford stamped his foot and called for Minnie to come in there.

Q. Then, what occurred?

A. Why, she ran in like a little whipped child.

By Mr. Blakeney: We move to strike out the answer like a whipped child.

A. Well, she did, she looked scared to death.

By Mr. Blakeney: We insist that you take down her response to my objection.

By Mr. German: I do too.

Q. Did Minnie hurry back into the room or go in deliberately? A. She did, she run back into the room.

Q. Well, then was there anything else said? What next occurred? A. I went to town.

Q. Did you see Minnie any more on that occasion while you were in Seattle? A. No, I never saw Minnie any more.

Q. Where did you go from town, where did you go when you went to town? A. I went to the O. R. & N. Depot.

Q. Did you see any of those parties whom you have named? A. Yes, sir, Hanford came down there.

Q. How long was that after you had been at Minnie's home?

A. I left Minnie's home I think about seven-twenty, and this was twenty minutes to eleven—twenty or twenty five minutes to eleven.

Q. Seven thirty in the morning or evening? A. Evening.

Q. What occurred at the station?

A. Well, he walked up to me and he wanted to know, he said: "Say, have you got any money," and I said: "Well, I don't know as that is any of your business." Well, he said: "I say again, have you got any money?" and I said: "Now, here, this has gone far enough, you got no business asking me if I got money," and he then began to abuse me again for traveling with a negro wench and I asked him if he saw the negro wench there—"is she in my company here," and he said he was going to pinch her that night and her sister and me if I didn't get out of town.

Q. Is that all that was said?

A. I think that is practically all. He stood and abused me over Sadie James a while—negro wench—and then he went away.

Q. And then did you get out of Seattle that night?

A. Yes, sir.

Q. You say that Sadie went on the same car that you did when you first went out to see Minnie? A. Yes, sir.

Q. State whether or not Sadie was on the train from Portland to Seattle with you as you went to Seattle?

A. Yes, she was on the train.

Q. State whether or not Sadie was out at the Fort?

A. What is that?

Q. In the afternoon?

A. Yes, well, she wasn't out at the Fort, she was out at Minnie's home.

Q. She was at Minnie's home?

A. Yes, I think she got there about one-ten, one-twenty, something like that in the afternoon.

Q. What time of day had you gone?

A. I think I got there about nine-thirty in the morning.

Q. Did Sadie go to Minnie's home—— Oh, I believe you said she was, and Mr. Folk and yourself? A. Yes.

Q. Stayed at Minnie's home?

A. Fully two hours waiting for Minnie to come back.

Q. When Minnie did come, was Sadie there?

A. Minnie never came until after we left.

Q. Was Sadie out there any more that day?

A. No, not that I know of.

Q. State whether Sadie was at the station when Mr. Hanford got there?

A. I never saw Sadie from a quarter to nine, or nine o'clock on. After that I never saw her any more.

Q. You mean in the evening?

A. Yes, in the evening.

Cross Examination by Mr. Blakeney.

Q. Who was it you say that insulted you there in the station? A. Mr. Hanford.

Q. Do you like Hanford? A. Well, I hardly think I do.

Q. What is your feeling toward him?

A. Well, I feel that he treated me wrong, I wasn't there for any bad purposes and he treated me wrong.

Q. Is that all the feeling you have about it?

A. Well, I feel that a man wouldn't do such a thing to a woman unless he had a just cause, he shouldn't do it anyhow, and talk to me as he did talk to me.

Q. You have expressed a good deal of resentment against Mr. Hanford, haven't you?

A. I have my opinion of Mr. Hanford.

Q. Your feeling is very bitter, is it? A. Yes, I——

Q. You say it is?

A. Yes, sir, it is. My own personal feeling never influenced me in any way. His own speech to me and his own conduct against me personally myself.

Q. Made you very bitter? A. He treated me ridiculous.

Q. What time did you get to Minnie's house that morning? A. Nine-thirty, sometime about nine-thirty.

Q. You left Portland for Seattle in the night time or day?

A. I don't know exactly, sometime near eleven o'clock, around eleven.

Q. At night? A. At night I think.

Q. You rode practically from eleven to day light in getting to Seattle?

A. I think we got in there about seven.

Q. Did you take a sleeper? A. Yes, sir.

Q. Who paid for your ticket?

A. I don't know who paid for my ticket.

Q. Who paid for your reservation and berth?

A. I can't say.

Q. Who handed you your ticket and reservation?

A. Sadie James handed me my ticket, yes, I believe she handed me my ticket.

Q. Were you in a compartment or just a berth?

A. I had one berth and she had one.

Q. Where was her berth in reference to yours?

A. Across the train.

Q. Across the *isle*? A. Across the *isle*, yes.

Q. You got in about seven o'clock, and where did you go to?

A. I went to the hotel and got me breakfast at a restaurant.

Q. What hotel? A. I can't say as to that.

Q. Did you take breakfast with Sadie?

A. No, sir. My baby and I took breakfast alone in some cafe.

Q. In some cafe? A. Yes, sir.

Q. After breakfast where did you go?

A. We went to that waiting station there going out to the Fort.

Q. You went to the Traction Company waiting station?

A. I don't know, only the station where we take the car to the Fort is all I know.

Whereupon, by agreement of counsel, the witness being examined is withdrawn from the witness stand in order to examine another witness.

And thereupon CLARA KIRK being recalled for further examination, testified as follows:

By Mr. Blakeney.

Q. Did you see either Mr. Bartlett or Sadie there?

A. Yes, Sadie came to the waiting station.

Q. Had you any arrangement with Sadie by which you were to meet there?

A. Well, nothing any further than I was to go out on the car that morning.

Q. You had fixed about the time that you would leave?

A. No, I went to lunch, you see, and when I came back she was——

Q. You went to breakfast? A. Yes, I went to breakfast.

Q. And she went to breakfast?

A. I don't know where she went but when I got there she was there.

Q. She was there? A. Yes.

Q. You both took the car and went out to Fort Lawton?

A. No, we didn't go to Fort Lawton; we went to Minnie's place.

Q. Practically at the Fort?

A. No, quite a way from the Fort; I never saw no Fort.

Q. Then you went to the station on the Fort Lawton line, where you got off to go to Minnie's house? A. Yes.

Q. Who paid your fare? A. I paid my own.

Q. Did you pay Sadie's? A. No, sir.

Q. When you got off at the station, did Sadie get off?

A. She got off but she never went with me.

Q. You don't know what she did? A. No, not after that.

Q. You spoke to her after you got off?

A. We walked a little ways together.

Q. What did you say?

A. I don't know—we were just talking—it had been quite a while.

Q. Sadie had fully informed you what her reasons were for wanting to talk to Minnie, hadn't she?

A. No, sir, I don't know yet.

Q. You don't know what she wanted to see Minnie for?

A. No, sir, I don't know yet.

Q. You don't know whether Mr. Hanford was trying to protect Minnie against burglar, now?

A. Well, I don't consider myself a burglar; Minnie knows me well enough to know I ain't no burglar.

Q. You don't know what Sadie and Bartlett wanted to see Minnie about?

A. Nothing further than that they wanted an interview with her.

Q. They didn't want it in your presence, did they?

A. They didn't say whether they did or not.

Q. What was said when you left Sadie and left for Minnie's house? You didn't have any understanding as to why Minnie was to come up or not?

A. Yes, I was to let Sadie know if I found Minnie.

Q. How were you to let her know? A. By telephone.

Q. She told you where to telephone?

A. I don't know, I believe it was the Comfort Hotel, or something—Comfort, or something.

Q. In the town of Seattle? A. Yes.

Q. When you left Minnie—when you left Sadie, you had agreed that you would go on up to Minnie and if you found Minnie that you would telephone Sadie at some hotel, which you think was the Comfort in Seattle, that you had found Minnie?

A. Well, that Minnie was home and if I was visiting with Minnie; that was the report that I was to give.

Q. Did Sadie tell you that she was going back to Seattle? A. Going back when?

Q. Well, as——

A. No, she didn't tell me where she was going—when she left us there at the car you mean?

Q. Yes. A. No, she didn't tell me.

Q. Then you didn't know whether you would catch her at the Comfort Hotel or not?

A. No, she told me to call up there.

Q. That is as definite as you want to make that understanding that you had with her?

A. She told me to call up there and they would tell me whether she was there or not.

Q. You knew she wasn't there? A. No, when I——

Q. You knew she was out near Minnie's house?

A. No, when I called up, I got her.

Q. You did? A. Yes, sir.

Q. When you went up to Minnie's house you saw her on the porch? A. Yes, sir, I did.

Q. And you visited there practically all the forenoon?

A. Yes, sir, until after the lunch hour.

Q. You ate lunch with Minnie? A. Yes, sir.

Q. Mr. Folk came in during the time you were visiting?

A. Mr. Folk?

Q. Yes? A. No, sir.

Q. He didn't come to lunch? A. No, sir.

Q. You had your little girl with you? A. Yes, sir.

Q. How old is she? A. She is past five now.

Q. Had you mentioned the fact to Minnie that you knew Bartlett or Sadie James?

A. No, sir, that was never brought in the subject whatever towards any business turn.

Q. You just made a personal visit?

A. A personal visit.

Q. Minnie didn't know so far as you knew Sadie James and Bartlett were in Seattle? A. No.

Q. Did she tell you they were in Seattle?

A. I believe she told me they had been there.

Q. And you changed the subject and didn't discuss any one of those parties with Minnie?

A. We didn't discuss it, no, because she didn't seem to want to discuss it herself.

Q. And you did not?

A. I couldn't very well draw her on because I wasn't into the case far enough.

Q. You didn't make any attempt to draw her on?

A. That was my orders—to make no attempt to draw her on.

Q. Please answer the question. When you discovered that Minnie was not disposed to discuss Bartlett or Sadie James, you didn't press that subject further? A. No, sir.

Q. And your visit was just one of the usual visits you had during your acquaintance?

A. Yes, sir, you would have thought it was just the same.

Q. In no way did you impart to Minnie that you had come up with Sadie James? A. No.

Q. You hadn't imparted that you had come up with Bartlett? A. No

Q. Minnie did tell you that she was going to get some money?

A. Yes, she told me that she was going to get $5000.00, I think the 28th or 29th of the month.

Q. Told you she was going to get it from some land of her son Tommy, or Thomas, did she?

A. No, she always tells me it was *his* father's estate.

Q. Told you it was from her father's estate?

A. She always tells me it was her father's estate.

Q. Told you that there? A. She always told me that.

Q. You told me down stairs in the corridor this morning, that she said she had one boy named Thomas.

A. No, sir, I didn't.

Q. Didn't you tell me in the parlor of the hotel at Portland Minnie had a son that was very wealthy and she was going to get $5000.00 from him? A. No, sir.

Q. You tell me anything in that respect?

A. I told you that she said her father's estate, she was going to get $5000.00 off of it, and she had a son that would be awful wealthy some day.

Q. Did you mention the father's estate this morning?

A. I can't tell you whether I did or not. I say always, eight or nine years, Minnie has always told me it was her father's estate.

Q. During eight or nine years you had several conversations with Minnie and she told you——

A. That she would be well-to-do some time.

Q. Would get some money from her father's estate?

A. Yes, sir.

Q. She didn't however, mention either her son or father that day?

A. Yes, sir, she mentioned her boy but she just said that she was getting $5000.00 off of the estate. I can't say definitely, exactly what she was getting the $5000.00 off, but she was to get it the 28th or 29th of the month.

Q. And because *she* heard her say something about the father's estate before——

A. I thought that was what she was trying to make me think she was getting, from her father's estate.

Q. What did she say about the rich friends?

A. That is all she said.

Q. Did she mention——

Mr. German: I object.

Q. A friend that had a rich estate?

A. She mentioned one friend—Charlie, I think——Harvey or Charlie, or something like that.

Q. How long, now, after lunch was it before Minnie left?

A. Just as quick as she could leave.

Q. What had just been stated or said by either of you before Minnie left?

A. I can't say as to that.

Q. I will ask you this now, if you can give us the substance of the conversation that you had just *proceeding* Minnie's departure? A. I can't say as to that.

Q. She told you she was going to the Post?

A. She told me she was going to the Post, that is all I remember.

Q. She went over to the Post, or went away, and stayed all afternoon?

A. Well, I never seen her any more until seven o'clock; I saw her get off the car and run across to the store in the afternoon when we took the car to Seattle.

Q. About seven o'clock that evening you saw Minnie?

A. Her husband went toward the Post walking; Minnie saw him and they talked a second, and she broke and run to the store.

Q. You say broke and run—you mean that she actually run? A. Yes, sir.

Q. Did she see you? A. I can't say as to that.

Q. You were exposed to her view?

A. We were standing there waiting for the car; we took the car that she got off of.

Q. She got off the car at the same point you got on?

A. No, she got off the car at the bottom of the hill, at the stores somewhere, and we took it at the station.

Q. How far did she leave the car from the place you took it?

A. I judge it was about two blocks, something like that.

Q. Her husband met her there?

A. We all came down toward the station together, he walked toward the Post.

Q. Her husband discussed with you during the time that you were there, this land matter? A. No, sir.

Q. Bartlett? A. No, sir.

Q. Sadie James? A. He was talking to her.

Q. About what?

A. Just visiting; just talking along about other subjects—this subject wasn't ever mentioned between them.

Q. Then you went on back to Seattle, did you?

A. Yes, sir.

Q. Did you hear Sadie tell Folk there that she was en-route to British Columbia and just stopped over there to see Minnie a few hours? A. No, sir, I don't think I did.

Q. Did either of you state that you would go up together?
A. No, sir.

Q. Was any suggestion that you were acting together in going? A. No, sir.

Q. You went on back to Seattle, you say, at seven o'clock?

A. No, I went back that afternoon about three o'clock, three or half past three.

Q. Then what did you do after you got to Seattle?

A. I went to the hotel.

Q. What hotel?

A. I can't tell you the name of the hotel.

Q. How did you happen to find the hotel?

A. Well, we went there from the train.

Q. Who was that?

A. Baby and I, and Sadie. I followed her—I don't know anything about Seattle.

Q. You and Sadie, and the baby, went to the hotel?

A. Yes.

Q. Did you register there?

A. I can't say as to that; I never——

Q. Did you see Bartlett? A. No, sir.

Q. What did you do when you got to the hotel?

A. I went up to my room and washed and combed my hair, and fixed the baby up.

Q. Whose room? A. I went up to a room got for me.

Q. Who got it?

A. I can't tell you whether she got it or I got it.

Q. After fixing up, what did you do?

A. I went to the cafe and got my breakfast.

Q. I was talking about the afternoon?

A. Going from the train?

Q. You said about three o'clock in the afternoon, you went down and took a car, didn't you, to Seattle—street car, when you saw Harry Folk come and speak to his wife and his wife run over to the Exchange, where did you go to?

A. I went down town.

Q. How did you go? A. Went on the car.

Q. You mean down to Seattle—down town in Seattle?

A. Yes, sir.

Q. What did you do when you got down town?

A. I went to the hotel and got my suit case.

Q. Was that the time you went up to your room and cleaned up? A. No, sir.

Q. That you did in the morning? A. In the morning.

Q. You got your suitcase? A. Yes, sir.

Q. You had left your suitcase at the hotel that morning?

A. Yes, sir.

Q. What did you do after you got your suitcase?

A. I went back out to Minnie's.

Q. You took the street car and went on out? A. Yes, sir.

Q. You got off the street car at the same station that you had gotten on? A. Yes, sir.

Q. Carrying your grip? A. Yes, sir.

Q. When you stepped off you saw Minnie?

A. Not when I stepped off I didn't see Minnie.

Q. How long were you there before you saw Minnie?

A. I started up the hill and she broke and run to me.

Q. How far was Minnie's residence from the station?

A. I can't say as to that; I judge a block and three quarters, or a block and a half, something like that.

Q. You had gone a little ways up the hill and Minnie came running down? A. Yes, sir.

Q. Did she run that time? A. She run, yes, sir.

Q. She actually ran, did she? A. Yes, sir.

Q. She took your grip?

A. She grabbed my grip out of my hands.

Q. And took it entirely from you? A. Yes, sir.

Q. And she turned and started running back up the hill?

A. Yes, sir.

Q. And she actually ran again up the hill?

A. Well, I guess——

Q. I don't want you to guess, I want you to know the facts. Is that true?

A. Well, she run up the hill.

Q. We sometimes use the word run up, meaning walking up very fast.

A. I think that is the best she could do, walk very fast.

Q. That is all she ever did, just walk fast, when you used the term running, is that right? A. Yes.

Q. Then, when you—you couldn't keep up with her, I believe? A. No, sir, I couldn't.

Q. Did the little girl keep up? A. No, sir.

Q. After Minnie got to the house, what did she do? Wait for you or go right on? A. No, she went right on.

Q. Carrying your grip?

A. Took it to the kitchen door and set it down.

Q. Took it to the kitchen door? A. Yes, sir.

Q. And did you go on in? A. Yes, sir.

Q. She left the door open for you?

A. The door was already open.

Q. And you and the little girl walked in?

A. Yes, sir, we didn't walk in; we just stepped to the door and that is when this man here started in on me.

Q. What man? A. Hanford.

Q. I have noticed in this examination that you insist on calling him Hanford instead of Mr. Hanford; is that the way you address gentlemen?

A. That is always the way I speak about him.

Q. You speak about him as Hanford because you dislike him? A. This man Hanford, isn't that alright?

Q. You do that as a term of disrespect for him?

A. I can't help that.

Q. As a term of disrespect for him. You saw this man Hanford there then, what did he do?

A. Sitting there in the chair?

Q. What did you do when you saw him?

A. When he started in on me, I stopped; stood right at the door.

Q. You kind of jumped back when you saw him?

A. Who? Me?

Q. Yes. A. Indeed I didn't.

Q. What did you do? A. I tried to hold my own.

Q. When you first saw him?

A. I received an introduction to him.

Q. Minnie came up and introduced him? A. Yes.

Q. What did Minnie say?

A. She said, it was her friend Mrs. Kirk from Portland, Oregon, Mr. Hanford. Said I was from Portland, Oregon.

Q. What did Mr. Hanford say?

A. That is when he started in on me.

Q. Not what he started in, what did he do? Let us determine whether he started or not; give us the words, can you?

Mr. German: Tell what he said, as clearly as you can, Mrs. Kirk.

A. Well, he said to me, I understand that you accompanied a nigger to town this afternoon, and I said what is that; and he said, I understand you accompanied a nigger to town this afternoon. And I said, not exactly; we went in on the same car. He said, you didn't accompany her on the car? I said, we both went in on the same car and he went on—I can't exactly word it as he worded it; anyhow, that I was lowering myself accompanying a negro, and I said, no, my father fought for the niggers, as you call them.

Q. You regarded it with some pride to be running around with Sadie James, didn't you? A. No, sir.

Q. Is that exactly his words, now?

Mr. German: Answer as best as you can, Mrs. Kirk; give as near as you can his words.

A. Yes, sir.

Q. What was there in that statement that he made that gave you such offense?

A. It was the tone of his voice and the actions that he had toward me in saying it.

Q. Did he not say to you, the first thing that was stated, you went to town this morning, or this afternoon, with a nigger named Sadie James, didn't you? Didn't he ask you the question, if you had gone?

A. The first question he asked me?

Q. Yes. A. No, sir; no, sir.

Q. Did he say that Sadie James had gone to town with you and paid your fare that morning? A. No, sir.

Q. Well, what was the next thing he said then?

A. He wanted to know if Sadie James didn't bring me to Seattle, and I said my husband put me on the train at Portland; I said I came here—I said my husband put me on the train in Portland and he said, you don't mean to say that Sadie James came on the train with you? And I said my husband put me on the train in Portland.

Q. From this you saw that he was trying to protect Minnie from Sadie James and her influence, didn't you?

A. I couldn't gather anything of the kind. I wouldn't think he was trying to protect Minnie; I could see he was mad.

Q. He was speaking in an angry tone, was he?

A. Yes, sir, he was.

Q. Well, now, what next occurred?

A. Well, he told me to go home where I belonged.

Q. What did you then say?

A. I said, well, Minnie, I will go back to Portland; I wouldn't let you be treated like this in my house by a man like that—just the words I said. I said no man could treat me——

Q. Was that in the room or after you got on the porch?

A. Said that in the room.

Q. What did you say after you got on the porch?

A. I told Minnie, you had better look out with a man of caliber like that—you better look out; just the words I told her; he isn't much.

Q. You were angry?

A. I was disgusted, I guess I was.

Q. You were just at the fighting pitch, were you?

A. I guess I was.

Q. You would have given ten dolars to have gotten him out of that house? A. I would have give twenty.

Mr. German: I object to that as argument and move to strike it.

Mr. Hanford: I object to that on the ground that it is an improper question put to this witness.

Q. You say you would have given twenty dollars to get him out alone where you could have settled this matter with him?

Mr. German: Same objection.

Mr. Hanford: Same objection.

A. Yes, sir, I would give twenty dollars and I would give it today.

Q. Right today your feelings are bitter toward him and you would give twenty dollars to get him out and settle this matter with him?

A. To make him know how to treat a lady.

Mr. German: I object for the same reason.

Q. You feel that way sort of, toward me, don't you since this examination?

A. Yes, sir; if you hadn't had any breakfast like I haven't had, you would be too.

Q. Then the next thing you saw Mr. Hanford at the station?

A. I saw Hanford at the station.

Q. O. & W. station at Seattle?

A. O. R. & N., isn't it, that big depot, whatever it is.

Q. He came up and spoke to you there?

A. He came up and asked me if I had any money; didn't lift his hat or speak to me—address me.

Q. He walked up to you and asked you if you had a ticket home? A. He never said a ticket, no, sir.

Q. Didn't mention the word ticket? A. No, sir.

Q. He asked you if you had any money? A. Yes, sir.

Q. What did you say?

A. I said, well, now, I think that is going a little too far. Then he demanded to know if I had any money.

Q. Then what did you say?

A. I told him I would show him if he didn't get out and attend to his business.

Q. Then what did he say?

A. Then he went on to tell me how low I was getting to travel with a nigger.

Q. Then when you told him the pride that you felt, that your father had fought for the nigger——

A. That wasn't when I told him that.

Q. You told him that before, did you? A. Yes, sir.

Q. Up at the house? A. Yes, sir.

Q. What else did you tell him there? A. Not much more

Q. What did you tell him?

A. I told [] he had better get away and let me alone or I would see that he did do it.

A. Yes, finally.

Q. Were you angry then? A. Well, I think I was.

Q. Did he say anything about if you didn't have a ticket or money to go back to Portland he would buy you a ticket?

A. Why, he said he thought maybe that black wench would ditch me, that is the words he used; he thought maybe that black wench would ditch me.

Q. And if she did——

A. He didn't say anything about giving me any money.

Q. Said he would get you a ticket back?

A. No, sir, he didn't.

Q. What did he say after he said the black wench might ditch you? Didn't you know from the conversation he had there with you, that he came there to ask you, and did ask you, whether or not you had a ticket to get home, and if you didn't he would furnish you a ticket?

A. No sir, he never intimated once that he would give me money to go home on; he came up and demanded to know if I had any money. He asked it twice and the last time, it was in a demanding tone, and I told him my husband wasn't in the habit of starting me out without return money.

Q. How long have you been married?

A. Ten years this 3rd day of this coming September.

Q. Where were you born? A. Born in Missouri.

Q. How long did you live in Missouri?

A. I left Missouri when I was 12 years old, past, when I left Missouri.

Q. Where did you go to from Missouri?

A. I went to Greenwood County, Kansas.

Q. Did you go with your parents? A. Yes, sir.

Q. How long did you live there? A. One year.

Q. Where did you go to from there?

A. Callis County, Washington Territory.

Q. Did you go to Washington with your parents?

A. Yes, sir.

Q. How long did you live there?

A. I can't tell you now.

Q. At that particular place that you first stopped at when you got to Washington, how long did you stay there?

A. Well, I moved there in '85 and moved away in '92.

Q. Were you married there? A. Yes, sir.

Q. Who did you marry? A. Albert Dray.

Q. How long did the marriage relationship between you and Mr. Dray continue? A. Eleven years and a half.

Q. Did he die? A. He was killed.

Q. Where were you living when he [] killed?

A. Kalama, Washington.

Q. How long did you live at Kalama after your husband died? A. After my husband died?

Q. Yes ma'am. A. Three years.

Q. What were you doing there in that three years?

A. Running a restaurant part of the time, and part of the time working in restaurants.

Q. Were you married there again? A. Yes, sir.

Q. Who did you marry? A. Married Percy Pierson.

Q. Where did you marry him?

A. On East Cline, Portland, Oregon.

Q. How long did you live with him?

A. Three years and three months.

Q. How was that marriage dissolved? A. Divorced.

Q. After the divorcement, what did you do?

A. Well, I lived single six months, then married again; seven months, pretty near, and married again.

Q. What were you doing during that seven months?

A. Living on 18th and Coflin Avenue.

Q. What occupation were you following?

A. I wasn't following any; I couldn't get any work.

Q. Then you got married, you say? A. Yes, sir.

Q. Who did you marry? A. H. R. Kirk

Q. What employment does Mr. Kirk follow? A. Now?

Q. Yes.

A. He is a master creamery worker—pasteurizer.

Q. Are you doing anything other than household work now? A. No, sir.

Cross Examination by Mr. Hanford.

Q. Mrs. Kirk, you haven't had your breakfast and you are tired, and I won't ask you only a few questions. If your antagonism toward me was due to a misunderstanding, you will be willing to admit it, wouldn't you?

A. No, I would never forgive you; that is emphatic.

Q. If you were mistaken? A. I wasn't mistaken.

Q. You didn't understand my question; I said if you were. A. Well, I am not.

Q. If wrong in anything and found it out you would admit it, wouldn't you?

Mr. German: I object on the ground that it is argumentive, calling for a conclusion of the witness, and an improper question.

Q. If you found out that you were mistaken in the opinion you formed of any one, or their actions, you would admit it, wouldn't you?

Mr. German: I object for the same reason.

Q. Whether or not you would forgive them or not, you would admit it wouldn't you?

Mr. German: I object to that for the same reason.

A. I never get mad at anybody with a prejudice against them until I have a right, and I have seen it with my own eyes, and whenever I get that prejudice it never leaves me; it grows and grows and grows.

Q. You didn't even have your coffee, this morning, did you? A. I consider that my business.

Mr. German: Answer the question.

Mr. Hanford: I withdraw it.

A. I will answer any question that is sensible.

Q. You have no objections to answering my questions relating to the matters that you just testified to about?

A. Yes, sir, I have.

Q. You say you will answer any questions.

A. If you will ask any business questions, I will answer it in a business way.

Q. The matters you just testified about on direct, you will answer, won't you?

Mr. German: Mrs. Kirk, it is necessary for you to answer any question that he asks.

A. He didn't have to ask me if I had my coffee.

Mr. Hanford: I object to his instructing the witness on the stand.

Mr. Blakeney: I think it is apparent here that it is necessary for the United States District Attorney to make this witness answer the questions.

Mr. Hanford: I object to all this talk in the presence of the witness; it only appears to aggravate her present state and makes it difficult to examine her properly.

Q. Mrs. Kirk, you have no objections to answering my questions that are material to the matters that you just testified to, have you?

A. If you will ask a business question, I will answer it.

Q. Well, I don't know what you call business question.

Mr. Allen: We object that question and insist that the gentleman be required to ask the question.

Q. But I will ask it just the same; do you remember about the day you came up to Seattle, Mrs. Kirk? It was early in the month of July, wasn't it?

A. No, it was sometime near the middle because Minnie was to be at my house the 8th of July, and it was sometime near the 12th or 16th that Bartlett and Sadie called—sometime near that. I am not sure but it was near the 16th or 20th that I went to Seattle.

Q. Had you invited Minnie to your home in Portland at the time she came? A. Minnie never came.

Q. At the time she was to come? A. Yes, sir.

Q. At the first instance had you written her to visit you?

A. What is it?

Q. At the first instance? A. At my home.

Q. Had you met Mr. Bartlett? A. No, sir.

Q. Or Sadie James prior to that time? A. No, sir.

Q. Then you met them first after the 8th of July?

A. Met them the day before I was at Minnie's—the first time I ever saw them before in my life—the day before.

Q. Had you met anybody that had talked to you about Minnie? A. No, sir.

Q. Or her visit to you? A. No, sir.

Q. When you arrived at Seattle on that morning, you went to the hotel in the taxi cab, did you not?

A. I don't know but I believe we did though.

Q. You and Sadie and the little girl?

A. I don't know; we were going to take a taxi cab, I believe we did

Q. And the name of the hotel was the Wright hotel, wasn't it—Wright?

A. I wouldn't swear to it because it wouldn't be safe for me to swear to what the name of the hotel was.

Q. There was a hotel in the middle of the block of First Avenue?

A. I can't swear to that; Seattle was all strange to me.

Q. When you [] back into town in the afternoon to get your grip, Sadie went to the hotel with you while you got your grip and then saw you to the car when you were going back to the Post, didn't she?

A. We walked down toward the car and I think she was getting a car there herself, yes, she was talking a car from there herself.

Q. Then, when you got out to the Post, Minnie came down from the house—came herself down the path and met you?

A. Yes, sir.

Q. And took your grip? A. Yes, sir.

Q. And you led the little girl by the hand up the path?

A. Yes, sir.

Q. And Minnie was talking quite excitedly, wasn't she?

A. Yes, sir.

Q. And quite loud, as she does when she gets excited, wasn't she? A. Yes, sir.

Q. And didn't she talk about why she got off the car and ran on back to meet Harry?

A. No, sir, not to my remembrance.

Q. Didn't she tell you that Harry had motioned to her to get off?

A. No, I saw him do that—I saw him do that; she didn't tell me anything of the kind, I saw him do that.

Q. Didn't he tell you when she got back there that what he wanted her for was to tell her that Sadie James had been to the house? A. No, I don't know that she did.

Q. Do you remember whether or not Minnie's conversation going up the path——

A. She didn't talk to me—she didn't talk to me.

Q. You didn't understand me—you just said she was talking quite excitedly.

A. I asked her—I said to her, Minnie what does all this mean—you running down to me; Oh, nothing, I just thought I would help you, that is all, she said. She said that in a loud tone.

Q. Didn't say anything about Sadie at that time?

A. No, sir.

Q. You came up to the steps of the house and Minnie *porceeded* you and started toward the bed room with your grips, didn't she?

A. No, sir, she took my grips to the kitchen.

Q. Well, you had to go through the kitchen to go to the bed room, do you not? A. Yes, sir.

Q. The bed room is a side room off of the kitchen?

A. My suit case never went to the bed room, it went to the kitchen.

Q. Minnie got as far as the kitchen door with it and put it down? A. Yes, sir.

Q. That was just as you got in the room with the girl?

A. As I got to the front porch, Minnie set my suit case down by the door that led into the kitchen.

Q. Are you quite sure that you were not clear in the room?

Q. No, I wasn't in the door yet when I seen Minnie set my grip down.

Q. Well, I was sitting by a table in a corner of the room, wasn't I? A. No, kind of center of the room by the table.

Q. Don't you remember after lunch Minnie slipped a table over to the corner after the table was cleared?

A. No, sir, the table wasn't setting there.

Q. I was sitting beside the table, wasn't I? A. Yes, sir.

Q. And you turned around and saw me sitting there, didn't you?

A. I never turned around, simply Minnie stopped me and introduced me as I went into the door.

Q. She said Mrs. Kirk, this is Mr. Hanford?

A. No, sir; she said, Mr. Hanford, meet my friend Mrs. Kirk from Portland, Oregon.

Q. And you took a chair then, facing me?

A. I had never taken a chair.

Q. Didn't you sit down?

A. I think I went and sat down on a couch right facing you, some sort of a——

Q. The couch is near the door, isn't it?

A. No, it is not near the door, it is by the wall away from the door. Minnie told me to take off my wrap, and I said no, and after you started in on me, I said I would wait a minute.

Q. You had the little girl with you? A. Yes, sir.

Q. And I said how do you do, to the little girl, didn't I?

A. No, sir, you didn't.

Q. Didn't I take the little girl by the hand?

A. No, sir, you didn't.

Q. And ask her how she liked traveling on the train?

A. No, sir, you didn't.

Q. And I asked you then if you had had a pleasant trip from Portland? A. No, sir, you didn't.

Q. And didn't you say, what business is that of yours?

A. No, sir, I didn't.

Q. And didn't I tell you I was just trying to say something pleasant to make conversation? A. No, sir.

Q. And then, didn't I ask you if you came from Portland all alone? A. Well, I can't say as to that.

Q. And you told me that was none of my business?

A. No, sir, you asked me who came to the train with me in Portland, and I said my husband.

Q. Wasn't that later on in the conversation? A. No, no.

Q. And then, I asked you if you didn't come up with Sadie James, a colored woman? A. No, I don't think you did.

Q. And you told me, you said to me, what if I did, isn't that alright—that my father fought for the niggers?

A. No, sir, when you called her a black nigger wench, I said, now hold on here; I am not much of a lover of niggers, as you call them, but my father fought to free them, but a nigger is alright that stays in her place.

Q. Did I say anything about niggers?

A. Yes, sir, you did. You called Sadie a black nigger wench right there—you did.

Q. And then, Mrs. Kirk, didn't you stand up and tell Minnie that you objected to being jumped and asked questions the minute you got in the house, and asked me who I was—if I was some detective, or something, to be talking to you like that?

A. Oh, no indeed, I didn't think you were any detective, no indeed.

Q. And didn't you say, if you have any objections to me being here with Minnie who I have known for years, that I will just take my grip and go back home?

A. Yes, after you told me to go didn't I turn around to Minnie and said, Minnie have ever I harmed a hair on your head; and I said no, I never did and never will.

Q. Yes, you said that. And didn't I then say, Mrs. Kirk, I think that is the best thing you can do?

A. No, you told me to get back to Portland where I belonged.

Q. Didn't you say you wouldn't go unless Minnie wanted it, and Minnie said, Clara, I am sorry?

A. No, Minnie said, Clara, that is too bad; that was ignorance—she never opened her mouth—she was afraid to speak.

Q. And didn't you take your suit case and go out on the porch and Minnie followed you?

A. Out on the porch, yes, sir.

Q. And you turned to Minnie and told her that she had better be careful if you were her, you wouldn't have anything to do with a man like that?

A. Yes, sir, I did. I told her, Minnie, be careful, for a man to speak to a woman like you spoke to me would never treat you fair and square; a man with no more breeding than to talk to me like you talked to me here in this house, would never treat you square.

Q. And then you went to the car? A. Yes, sir.

A. And went back to town? A. Yes, sir.

Q. And instead of waiting at the hotel until train time, you went down and waited a long time at the depot?

A. I went to the depot and checked my suit case at the little fruit stand in the depot, and got my little girl and ice cream cone, and struck out and hunted and hunted for a restaurant and found nothing but a Chinese restaurant, to get some supper, and went back to the station and got my baby some ice cream cones, and went out and walked, and went back to the station, and that is when you came to me.

Q. And I came in and sat down on the bench beside you and asked you, Mrs. Kirk, have you got any money, didn't I?

A. You never sat down on the bench at all until afterward.

Q. I guess you are right—I stood up for a while.

A. You stood up, I am pretty sure, all the time.

Q. Yes, and you said, what business is that of yours?

Q. And I said I wanted to be sure that you had the money to get back to Portland because I was afraid—because you didn't stay with Minnie that Sadie James would ditch you, and leave you to your own resources?

A. That nigger wench would ditch me.

Q. Well, isn't that the statement?

A. No, you didn't bring that word, I am afraid, in once in there. No, you didn't say that since you left Minnie you would not have fare to go back to Portland. You came up to me and said, have you got any money; and I said——

Q. That is going a little too far?

A. Yes, that is going a little too far. You demanded to know whether I had any money and I said I would show you whether I got any money or not in a muinte if you will get out and let me alone, and then you turned on Sadie.

Q. Didn't I tell you, Mrs. Kirk, you don't know what this case is; that other people will come to you about Minnie and for you to be careful and look out for them?

A. No, sir, you never told me anything of the kind.

Q. And to keep out of it?

A. No, sir, you never told me anything of the kind.

Q. That they might impose upon your friendship with Minnie? A. No, sir.

Q. And to be on the lookout?

A. Emphatically no, you didn't tell me anything of the kind.

Q. Now, stop and think if there wasn't some discussion.

A. No, sir, you told me, you are lowering yourself and I was pretty low to be traveling in that wench's company, and you were going to pinch her, her sister, and also me, if I didn't get out of town; and I said I would like to see you pinch me for anything I had done or said.

Q. And didn't I tell you that I just wanted to be sure; if you were alright, I had nothing further to say, and left you?

A. No, sir, you never once pretended that you were the least bit uneasy about my ticket back, or welfare.

Q. Mrs. Kirk, what did you think I asked if you had any money for? Did you think I wanted to take it?

A. Well, I don't know.

Q. Going back to the time that you were there with Minnie in the morning?

A. I know if I had been in my home town and you asked me that what you would get.

Q. I am not asking you that—just answer my question and we will get through in a minute. Mrs. Kirk, getting back to the time that you were in the house with Minnie in the morning, you say she didn't want to discuss matters of this case, and you didn't attempt to talk to her about it?

A. I never did in my life try to pull anything *put* of Minnie about her business. She has told me a whole lot about her business.

Q. Wasn't this one subject brought up when you were talking to her, and didn't you tell her to be sure it was with the right people and that was all?

A. Yes, sir, I said Minnie be sure you are with the right folks before you make a move; don't sign your name to a paper of any kind until you know you are right. I said, get you a good lawyer and know you are right.

Q. And that is all you said to her?

A. That is all I said.

Q. Just that sort of advice? A. Yes, sir.

Redirect Examination by Mr. German.

Q. Mrs. Kirk, how did it happen that you didn't get your breakfast this morning?

A. I never eat any breakfast in the world; if you fellows don't leave my breakfast out now——

Q. All you said on that subject has been in jest, hasn't it?

A. Yes, but when I am here for business I want to talk business and go home.

Q. The court at Muskogee can't see you, so I am going to ask you this question. Are you a white woman? A. Yes, sir.

Q. You spoke of Minnie having stated to you something about expecting money from her father's estate; tell us when.

A. Well, she used to tell me her father was wealthy. You know Minnie will tell you one thing—he knows it as well as I do.

Q. Who is he?

A. Mr. Hanford. And she will tell you one thing and in an hour, turn around and tell you another one crossing it. She used to tell me that she had money.

Q. What did she say about her father?

A. That was Indian blood in him and she was going to have money off the Government for her father.

Q. Did she tell you where this money might come from?

A. Well, the Government, through her Indian people.

Q. Did she say anything about her father's name having been on the roll—that had anything to do with her getting any of his money?

Mr. Blakeney: We object—very leading, argumentative, and suggestive.

A. No, I can't remember that just exactly.

Q. Do you recall when it was that she told you things along the lines that you have stated?

A. Oh, at different times in the last eight or nine years, at different times that we have talked.

Q. When was it that she talked of her son—any estate of her son?

A. Oh, it is ten years ago—you see, I had two little boys; she used to think so much of my boy, so much like her boy ten years ago.

Q. Where are your boys now?

A. On South *Air*, North Dakota; I have two here now. She used to admire my boy and talk much about her boy; I have seen his picture, myself.

Q. Did she tell you his name?

A. Either Charlie or Harvey, I forget which it was. I wouldn't——

Q. When she spoke of her son having an estate—having some property—what son was she speaking of?

A. This one was all she ever owned to me, you know.

Q. Charlie, or Harvey?

A. This one is all she ever owned to me, whatever his name is.

Q. Down at the depot there in Seattle when Mr. Hanford was talking with you, do you remember whether he spoke of a ticket for you? A. Ticket for me?

A. Yes. A. No, sir, he never spoke of no ticket for me.

Q. He just talked about whether you had some money?

A. Just asked me whether I had some money.

Q. And told you and that nigger wench had better get out of town?

A. Yes, told me he was going to pinch the two of them —Sadie and her sister, and me, if I didn't leave the town.

Q. What about her sister?

A. He told me her sister was running—I won't tell you what kind of a house he called it to me.

Q. Of ill-fame?

A. Yes, sir, but he didn't call it that to me.

Q. Pick-pocket or something?

A. No, sir, he told me she was a fast one and run a bad place.

Q. Where? A. In Seattle.

Q. Had you ever heard of that before? A. No, sir.

Q. Do you know her sister? A. No, sir.

Q. When you spoke a while ago like settling with the gentleman here, Mr. Blakeney who was examining you—the Examiner didn't get your smile; did you or not say that for fun? A. With him?

Q. Yes. A. Oh, I didn't mean anything towards him.

Recross Examination by Mr. Blakeney.

Q. When Mr. Hanford said something about pinching this woman, you understood what he meant by that?

A. Yes, sir, arrest them.

Q. You understood that word pinching then?

A. Yes, sir.

Q. Were you ever pinched? A. I should say I wasn't.

Q. How did you understand that term?

A. I guess I heard it about fifty times a day.

Q. In your life, it is a common expression?

A. No, sir, not in my life but my business, I have lots of roomers and living in a boarding house they don't use any thing else but pinch, and that is an expression that he used to me.

Recross Examination by Mr. Hanford.

Q. Mrs. Kirk, when Minnie told you about her father, didn't she tell you that he was a prominent man among the Indians, or had been, rather? A. No.

Q. And didn't she tell you he raised hogs and fancy horses, and had a good deal of property?

A. No, I asked her why don't you send for your boy and give him a mother's love and she said no, my father can give him more than ever I could do.

Q. She didn't say anything about his having lots and lots of horses and hogs?

A. He had his Indian share and that is where she claimed she was going to get hers from; I never remember hearing anything about race horses, or anything of that kind.

Redirect Examination by Mr. German.

Q. Mrs. Kirk, do you or not, lead a respectable life?

A. I do.

Q. Have you ever lead any other kind? A. No, sir.

Recross Examination by Mr. Blakeney.

Q. Why did you hesitate to answer that last question, Mrs. Kirk? A. Why.

Q. Yes. A. Well, I don't know.

Witness dismissed.

Mr. German: We offer in evidence, the testimony given by the deposition of Dennis Jones, at Leavenworth, Kansas, on October, 1914, in the case of Minnie Folk, formerly Minnie Atkins, and others, plaintiffs, against Nancy Atkins, and others, defendants, No. 3772, he having testified there on behalf of the plaintiff.

The Court: If there is no objection, it will be admitted.

Mr. Cobb: The defendant H. Carter objects as incompetent, irrelevant, and immaterial.

The Court: Overruled; exception noted.

Mr. German: Your honor, I desire to state the purpose of the testimony of Mr. Whites, by which he stated —in which he stated what Minnie Atkins testified at Sapulpa, and the purpose of offering this deposition of Dennis Jones. We are offering that proof for the purpose of showing, and in support of our theory and contention that the defendants Minnie Folk, Page, and their associates—that group, fabricated a case, and we expect them to follow with proof of the fact that it was a fabrication, the proof being coupled with the proof already introduced relating to that question.

The Court: Now, this testimony was taken in a case as between Page on the one side and Nancy Atkins on the other?

Mr. German: Yes, sir.

The Court: Is that the case out of which the order grew which permitted Page to go on and exploit the property?

Mr. Maxey: No, that was a subsequent case that they brought against Nancy.

The Court: Is that the entire——

Mr. German: No, sir, there are a few pages of it that are Dennis Jones' testimony.

Mr. Stuart: Your Honor, I would like to make that objection so as to enlighten the Court. Minnie Atkins was not a party to that suit——

Mr. German: Yes, she was.

Mr. Stuart: But she never was served.

Mr. Maxey: This is her suit that she brought against Nancy.

Mr. Cruce: Your Honor, on behalf of Page, we object to the introduction of that testimony, because it is incompetent.

Mr. German: And we are offering this testimony of Dennis Jones as testimony produced by the plaintiff in that case to support their theory.

The Court: In which Minnie Atkins and Page were parties plaintiff?

Mr. German: Parties plaintiff.

The Court: Now, designate the pages of that record which you offer.

Mr. German: Without reading it into the record now?

The Court: If it is not long, you may read it now.

Mr. German: Apparently from the index page here, it will cover 31 pages; it extends in this group of depositions which I hold in my hand from page 34 to page 65.

Mr. Stuart: Well, Your Honor, of course your Honor has indicated that the oral testimony may largely be selected by counsel but this matter—in this particular matter now, I think the Court ought to direct the order, because here is a large deposition going into the evidence here, and he says that he is going to prove that this evidence he is putting in there was procured by Page and his confederates in order to fabricate a case. It is not the ordinary case.

The Court: Well, this is offered now as evidence which Page as plaintiff introduced in a case involving a collateral question and kindred question in another suit. He seeks to introduce that evidence—the purpose of introducing it, he says, is to show the Government's intention that the Tommy Atkins phase is a fabrication.

Mr. Stuart: You are not introducing it, then, now for the primary purpose of showing that this evidence of Dennis Jones was to show it by Page and these people?

The Court: The point he makes is that it is offered by Page in his case in support of his contention.

Mr. Stuart: Well, if that is the case, we don't object on those grounds.

Mr. Cruce: Well, Judge, on any grounds; unless—this witness is presumed to have told the truth there.

You can bring Dennis Jones here and prove anything that will bind Page—any instructions that Page gave him on the outside, but any testimony given is not equivalent to the——

The Court: Well, you may save your exceptions, gentlemen.

Mr. Hanford: I will like to state an objection, if it please Your Honor, different from that of associate counsel. I would like to object to the evidence on the ground that it is introduced to show a purported fabrication of the case by the Page interests and that on the further ground that the fabrication of the case by them is not material in this or anything done after all this time. It is not relevant to the proposition as to whether or not Thomas Atkins ever existed or ever to the question of whether or not they notice. Anything that they might have done after they had notice is not material at all and does not show anything in regard to his enrollment——

The Court: Well, save your exceptions; it will be admitted.

Mr. German: Shall we read that or just file a copy of it?

The Court: File a copy of it now. Indicate the pages of that transcript which will go into the record, as the Dennis Jones testimony under the present offer.

Mr. German: Yes, sir. It will be pages 34 to 64 inclusive. Now we offer for like reasons and like purposes, the deposition given on the same occasion on the same case wherein Dennis Jones' deposition was given, the testimony of Rube Smith, whose name is given here as R. J. Smith, which begins on page 351 of the copy which I hold in my hand, and extends to the conclusion of the deposition.

Mr. Cruce: Objected to as incompetent.

The Court: The same objection, I suppose, on the part of each counsel; the same ruling by the Court and exceptions noted.

Mr. German: Likewise, we offer for the same purpose and for the same reason, the deposition of Walted Banks, given in the same case as the deposition of Dennis Jones above referred to, which appears in the certified copy beginning on page 80 and ending on page 115.

Mr. Cruce: The same objection.

The Court: The record may show the same objection on the part of counsel, and the same ruling and exceptions noted.

Mr. German: We offer the deposition of Samuel Nash, given in the same case as the deposition of Dennis Jones, and on the same occasion, and we offer it for the same purpose.

The Court: Now, you will eventually offer that entire bunch?

Mr. German: No, sir, it is the last one.

The Court: Admitted over the same objection and ruling, and exceptions noted.

DENNIS JONES of lawful age, being by me first duly examined, cautioned and solemnly sworn to testify the truth, the whole truth and nothing but the truth, deposed and said:

Direct Examination by Mr. Rice.

Q. State your name. A. Dennis Jones.

Q. Age and residence?

A. I am 58 next month; I reside in Leavenworth.

Q. What is your profession? A. Lawyer.

Q. How long have you resided in Leavenworth?

A. Fifty years.

Q. Fifty years? A. Yes, sir.

Q. You were then residing here along in 1884, 1885 & 1886? A. Yes, sir.

Q. In what business were you engaged in at that time?

A. From '80 to '86 and '87, I was porter at the Continental Hotel, now the Imperial Hotel.

Q. Where is the Continental Hotel?

A. Well, it is directly opposite west of the National Hotel at the corner of 4th and Cherokee Street.

Q. Is that building standing?

A. It is still standing, yes; it marked "The Imperial Hotel" now, not "The Continental."

Q. Along in 1884 and 1885 were you acquainted with Mr. George Crilly? A. Yes.

Q. What business was he engaged in?

A. Oh—livery business.

Mr. Lytle: I object to the question as incompetent, irrelevant and immaterial to any issue in this case.

Mr. Rosser: I object for the same reason.

Q. Where did Mr. Crilley carry on his business along about '84, '85 and '86?

Mr. Lytle: I object to the question as incompetent, irrelevant and immaterial to any issue in this case.

Mr. Rosser: I make the same objection.

Mr. Greenslade: I make the same objection.

Q. Go ahead; answer.

A. On Seneca Street, north side between Second and Third Street.

Q. Were you, during that period acquainted with a woman named "Letcher"? A. Yes, sir.

Q. Do you remember what her name was—how was she designated? A. Called "Granny Letcher."

Q. Granny Letcher—where did Granny Letcher reside at that time?

A. She lived just opposite Crilly's stable; I think the number was about 217 to the best of my recollection at this time; *and* old shack stood probably thirty or forty years.

Q. Was that house in which Granny Letcher resided one or two story?

A. Two story or a story and a half; I do not know whether it was full built or two story.

Q. After you worked at the Continental Hotel what relation did you hold to the City?

A. Well, I was connected with the police department off and on for 26 years.

Mr. Lytle: I object to the question and move to strike out the answer as incompetent, irrelevant and immaterial.

Q. Are you at this time a property owner in the City of Leavenworth? A. Yes, sir.

Q. What was the character of the house where Granny Letcher lived along in 1885 and 1886 as to being a rooming house? A. It was a rooming house.

Q. You may state whether or not people of more or less loose character would—were accustomed to congregate there? A. Yes, sir.

Q. Have you seen Minnie Folk, the plaintiff in this case in the last few days?

A. The last week; I think some day last week; I do not just recollect now the day, between Thursday and the last end of the week.

Q. Had you seen her shortly before that; I mean in the last few months?

A. I saw her probably a week before that; possibly a week; I won't be sure.

Q. Where was that?

A. She passed my office in an automobile going south.

Q. Had you ever seen Minnie Folk before that time?

A. Oh, yes, I seen her in fact from 1884 to 1885.

Q. In Leavenworth? A. Yes.

Q. What was her name when you knew her in 1884 and 1885?

A. We called her "Indian Minnie," and "Minnie Atkins."

Q. What? A. Minnie Atkins.

Q. She was commonly called "Indian Minnie"?

A. Indian Minnie.

Q. Did you ever see her at the residence of Granny Letcher? A. Often.

Q. What was her color at that time? A. What?

Q. What was her color at that time?

A. Oh, she was light complexioned.

Q. What?

A. Light complexioned; light like; she was white and Indian mixed, or some foreign woman.

Q. What was her appearance as to being good looking or ill looking?

A. Well, at that time she looked very well to me; I would not say she was a pretty woman or I would not say she was an ugly woman.

Q. What was her physique?

A. She was nice even physique; she was not as large as she is now.

Q. You recognize her when you see her as the same person you knew?

A. Yes. I pass the National Hotel on my road home to my dinner from my office and I was on the opposite side of the street, and I looked across the street and I saw a woman sitting in an automobile and I walked over, crossed over and walked upon the sidewalk, and walked past, and I then recognized her features, though, I could not say just at that time that that was really the Indian Minnie, but I thought it was.

Q. Did you aferwards see her again? A. Yes, sir.

Q. And you are now confirmed in your belief that it is the Indian Minnie that you knew?

> Mr. Lytle: I object to the question as incompetent, irrelevant and immaterial—what the witness was confirmed in.

Q. Answer.

A. Yes, sir, it strikes me it was the same Indian Minnie we had here years ago.

Mr. Lytle: I move to strike the answer as stating his conclusion. Have you talked to her since she had been here at this time?

A. Yes, had a few words with her, yes, sir.

Q. Along in 1884, '85 and '86 can you state whether or not from the appearance of Minnie she was *carry* a child?

Mr. Rosser: I object to the question as leading.

Q. Well, you may answer the question?

A. Yes. I remember her when she was at Granny Letcher's and she appeared to be in a family way.

Q. You know whether or not she gave birth to a child about that time?

A. Yes, she did, she gave birth to a child.

Q. Boy or girl? A. Boy.

Q. Where was the child born?

A. Where was the child born?

Q. Yes. A. Born there at Granny Letcher's.

Q. At Granny Letcher's house? A. Yes.

Q. You recall now how long before the child was born that you saw Minnie Atkins? A. How long before?

A. Yes.

A. Oh, I saw her several months before the child was born.

Q. Did you see her shortly before the child was born?

A. *Sir,* sir.

Q. How many days before?

A. Well, I could not say that; I do not know how many days, but I saw her shortly.

Q. You saw her frequently during the period she was carrying the child? A. Yes.

Q. How long was it after the child was born that you saw her?

A. Well, now, I could not state that, it was some time; oh, I seen her after the child was born, around about the house, in the yard, on the sidewalk and on the street.

Q. Do you know what she called the child? A. Tommie.

Q. Do you know what he was generally called in the neighborhood? A. Well, Tommie, Tommie Atkins.

Q. Did you at that time see Minnie with the child?

A. Yes, I have been at Granny Letcher's often [] her often, with the baby in her arms, or sitting on her lap, or on the floor; playing with it.

Q. Who was commonly reputed to be the mother of the child?

Mr. Greenslade: I object to the question as incompetent, irrelevant, immaterial and hearsay.

Mr. Rosser: I make the same objection.

Mr. Lytle: I object to the question as incompetent, irrelevant, immaterial, hearsay and not the best evidence.

Mr. Greenslade: I move to strike the answer as incompetent, irrelevant, immaterial, hearsay and not the best evidence.

Mr. Lytle: I make the same motion.

Q. Was Indian Minnie commonly reputed to be the mother of the child?

Mr. Lytle: Same objection to that.

Mr. Rosser: Same objection.

Mr. Greenslade: Same objection.

A. (No answer.)

Q. How old was Granny Letcher at that time?

A. Well, at that time I would take Granny Letcher to be about 34 years old.

Q. She was a colored woman? A. Yes, sir.

Mr. Rosser: Thirty-four?

A. Thirty-five or 34 years old, may be older.

Q. Do you remember a mid-wife who was about the Letcher place about the time of the birth of Tommie?

Mr. Rosser: I object to the question as incompetent, irrelevant and immaterial.

Mr. Greenslade: I make the same objection.

Mr. Lytle: I make the same objection.

A. Well, I do not remember that; I do not remember it in fact.

Q. After the child was born you may state whether you saw it with Minnie for some length of time?

A. Well, during the time she was there, her and the child were there together.

Q. How long was that?

A. Oh, probably a year or more, may be not so long, and may be longer; I would not say [] to that; she was around about there.

Q. Do you know whether or not Minnie left Leavenworth after the child was born? A. Yes, sir.

Q. About how old was the child when Minnie left Leavenworth?

A. Well, I do not know just; I could not tell exactly, the child was a couple of years old, she hung around Granny's there quite a little while after the child was born.

Q. You may state whether or not Minnie lived at Granny Letcher's all the time or whether she was there sometimes, and other places in the City?

A. Well, that I could not say; I have seen her there quite often; she stayed there and lived around. I have seen her at the table eating, seen her in the wash tub, helped to wash, and I just supposed she lived there.

Q. Did you see Minnie again after she left when the child was about two years old, before you saw her here in the last year? A. No, sir.

Q. After Minnie left when the child was about two years old, did you see that child any more?

A. Did I see that child any more?

Q. Yes. A. Oh, yes.

Q. Where did the child stay?

A. The child staid with Granny Letcher.

Q. About how long did the child stay around Letcher's that you saw it?

A. Several years, ten or twelve years, may be longer.

Q. Is Granny Letcher living or dead? A. She is dead.

Q. Do you remember about when she died?

A. Well, she died after the Spanich American War. Granny Letcher died after the close of the Spanish American War sometime, I can tell you why, if you want me to.

Q. Would you say she died about 1900?

A. About that time; I was going to tell why——

Q. How long before she died was it that you lost sight of the child? A. How long before Granny died?

Mr. Lytle: I object to the question as leading and suggestive.

Q. At the time of Granny's death, you may state whether or not the child was still living at her house?

A. Still there, still, I think at Granny's death.

Q. At Granny's death?

A. Yes, that is my recollection; I am pretty sure about that.

Q. What was the appearance of this child as to being light or dark?

A. It was a light complexioned child; very bright little boy.

Q. What was the condition of its hair as to being——

A. Good hair, almost straight.

Q. At any rate it was not kinky?

A. Oh, no, no, no it was between a light boy and dark complexioned; red features, good hair, and his features were good.

Q. When you say "good" hair, what do you mean?

A. Straight hair.

Q. Do you remember any other boys that were at Granny Letcher's when Tommy was a small boy?

A. Her son, Granny's son, "Jim" was there, and there was a boy there they called "Walter."

Q. Walter Nash?

A. Sam was—was the one armed boy. She raised Sam.

Q. Sam Nash was a one armed boy? A. Yes.

Q. And Walter Banks had two arms? A. Two arms.

Q. He is her son? A. Yes, Jim was there her son.

Q. Jim is dead now? A. Yes.

Q. Do you remember a physicial here by the name of McCormick?

Mr. Rosser: I object to the question as leading.

A. Yes, I know Dr. McCormick.

Q. You may state whether or not he resided in Leavenworth in 1884 and 1885 and 1886?

A. Yes, and 10 or 15 years prior to that time.

Q. He is dead now, is he not? A. Yes.

Q. Do you know what physician attended Minnie at the time the child was born? A. No, sir.

Mr. Rosser: I move to strike the testimony with reference to the physician as not tending to prove or disprove any issue in this case; and because it is impertinent.

Mr. Lytle: I make the same motion.

Q. While Tommy was a boy around Leavenworth did you have any children?

A. I raised a boy; I never had any of my own.

Q. What was the boy's name you raised? A. Robert.

Q. Did you live anywhere near the Letcher place?

A. Oh, about four blocks.

Q. You may state whether or not this Tommie sometimes associated with your boy?

A. I seen him playing with my boy.

Q. When he was about how old?

A. Oh, probably 10 or 11 years old, twelve may be. That is he was about the age when I noticed him *paying* around with my boy.

Mr. Rice: That is all.

Cross Examination by Mr. Lytle (?) (Rosser).

Q. You say you are 50 years old?

A. The 9th day of next month I will be 58 if I stay on earth that long.

Q. In 1884, '83, '84, '85 and '86 you were portering at the National Hotel? A. No, the Continental.

Q. What year did you go to work for them?

A. About 1880—'79 or '80.

Q. When did you quit working for the hotel?

A. Along somewheres about '86 or '87, along in there.

Q. '86 or '87.

A. Might have been later; I do not know just when I quit; I worked for them about six years—five or six years.

Q. And went to work in '79 or '80; you do not remember the exact date?

A. '79 or '80. I got married on the 30th day of October, 1880, and I was working at the Continental Hotel at that time, and I had been working there for some time.

Q. And you worked there for some time afterward?

A. Yes.

Q. Was your wife employed there too.

A. No, my wife never hit a lick for anybody but me.

Q. How is that?

A. My wife never hit a lick for anybody but me.

Q. And she then kept house? A. Yes, sir.

Q. You stayed at home and didn't stay at the hotel?

A. Yes, I took shifts. I stayed at home.

Q. Ate and stayed at home and went home for your own dinner? A. Yes, except when on duty at the hotel.

Q. You lived four blocks from this Letcher home?

A. Just about four.

Q. You live at the same place?

A. Thirty-five years lived in one house.

Q. The place the Letcher woman ran was a house of ill repute? A. Kind of a tough resort.

Q. How is that?

A. A kind of a tough resort, a place where men and women resorted for immoral purposes.

Q. Yes, a place where men and women resorted for immoral purposes; do you know how many women stayed in that house? A. Besides Mrs. Letcher and Minnie?

Q. Yes?

A. No, there was always two or three women there, two or three, sometimes more than that; and then again may be you would not see them; some one around there all the time.

Q. Did Minnie stay there all the time?

A. Most of the time; she was there when she was pregnant, and after the birth of the child, and stayed around there when the child toddled around and crawled pulling *two* chairs.

Q. Before she became pregnant did she stay there most of the time?

A. Well, I do not know where she stayed. I found out —I have heard where she worked at anyway.

Q. I am not asking you what you found out.

A. I could not tell.

Q. You did not see her yourself?

A. The first time I ever saw Minnie in my life was at Granny Letcher's.

Q. The first time you ever saw Minnie she was at Granny Letcher's? A. Yes.

Q. That you think was about 1884? A. About that time.

Q. And at that time she was pregnant?

A. No, well that time I guess she must have been the first time I ever seen her, but it developed and developed until it became noticeable.

Q. But the first time you saw her she must have been pregnant judging what took place? A. Yes, sir.

Q. The child was born at the Letcher woman's and you were not present then? A. No, I know nothing about that.

Q. Didn't you state that the woman stayed there at the Letcher woman's with her child until it was two years old?

A. Something like that, yes.

Q. Do you know exactly when she left there?

A. No, not—I know about the time she left there.

Q. You do not know personally where she went?

A. No, not; I do not know where she went but I know what I found out afterwards.

Q. Well, that is all rumor, of course; and when was the last time you saw this child you spoke of?

A. Well, it must be probably twelve or fourteen years ago.

Q. You have been here in the city all the time you say for the last 50 years?

A. This has been my home, yes, I was out in Colorado in 1871 to 1876 living in Denver.

Q. Living in Denver, Colorado from 1871 to 1786?

A. From 1871 to 1876 or 1877.

Q. You have not lived anywhere since that time?

A. Right here in Leavenworth; I have been right here and since 1892, practicing law.

Q. Since 1892? A. Yes.

Q. What became of this child? A. I do not know.

Q. You do not know? A. No, I wish I did.

Q. You are a colored man?

A. Well, my grandfather was an Indian full blood.

Q. Your grandfather?

A. My grandfather on my father's side was a full blood Indian.

Q. Well, you are——

A. Identified with the colored race.

Q. You live and associate with the colored race?

A. Oh, yes, of course.

Q. You say this child was associated with the one you were raising? A. Why sure, he was as good as he was.

Q. The other children Granny Letcher was raising associated with your child?

A. Yes, and I associated with them; played ball with her son Jim Mayo around the house, her son was captain of the team and we would all meet there to make arrangements to play ball.

Q. At her place? A. Yes.

Q. You did associate with her family a good deal at that time? A. Why sure.

Mr. Rice: I object to the question as indefinite and uncertain.

A. We just knew her as old Granny Letcher, and would go there any time we got ready; she would treat us all well.

Q. And Minnie left there and you never saw her until a few days ago?

Mr. Lytle: That is all.

Redirect Examination by Mr. Rice.

Q. I take it that you are about 58 years now?

Mr. Lytle: No, now.

Q. Now? A. Next birthday.

Q. Then in 1884 and 1885 you were——

A. About 28 to 30 years old.

Q. You played on the base ball team at that time?

A. Yes, played ball.

Q. Now who was captain of the base ball team?

A. Jim Mayo, Mrs. Letcher's son.

Q. Jim Mayo, Mrs. Letcher's son; and during that period you were around the Letcher house and it was during that period that Minnie gave birth to that child?

A. Yes, we were playing ball at that time whenever I could get away from my work I would go up there.

Mr. Rice: That is all.

Cross Examination by Mr. Greenslade.

Q. Dennis, what was Minnie's occupation from about 1880 to 1885? A. From 1880 to 1885?

Q. Yes.

A. I cannot tell; I have heard she worked for Banker

Hyde out here in South Leavenworth for a little while, two or three months may be?

Q. During the time you knew her she was boarding at the Letcher house?

A. Right when I first knew her she was at the Letcher house.

Q. How long did she stay there?

A. A couple of years, about that time.

Q. What was her reputation at that time?

A. Oh, she was running around on the street; street woman.

Q. You mean a prostitute?

A. Well, if you call it that. I would not like to say.

Q. Well, a common prostitute?

A. Well, not not a common prostitute, because we had houses where they were not like hers, but regulated by the police department.

Q. Her reputation was that of a sporting woman?

A. She would run around about.

Q. Did she associate with colored or white?

A. At Mrs. Letcher's she associated with most anybody that would come there; white women were just the same as colored women, anybody that wanted to meet her.

Q. And other women stayed there at the same house off and on? A. Yes, sir.

Q. And at that time white and colored?

A. I would not say white; about all I think was white men.

Q. And other colored men would stay there?

A. Yes, I have seen also colored men there.

Q. Were there other people besides her there?

A. Yes, Walter Banks was there, and Sam Nash and Jim Mayo.

Q. They were illegitimate children? A. I don't know.

Q. You did know their parents? A. No.

Q. They were not the children of Mrs. Letcher?

A. Jim was.

Q. The other two were not? A. Not to my knowledge.

Q. You were not present when Tommie was born?

A. No, sir.

Q. Don't know who the attending physician was?

A. No.

Q. Don't know who the mid-wife was? A. No, sir.

Q. How do you know Tommie was Minnie's child?

A. By seeing her nourishing and cherishing and nursing it around after she had been in a family way to my knowledge; the child was born there, and she took care of this child, and naturally I thought it was her child.

Q. You didn't talk with her?

A. Just "How do you do" and "Good Morning" and "Where is Jim," "Where is Sam"?

Q. Who was Tommie's father?

A. I do not know; I know he was hers.

Q. Was he reputed to be a white or colored man?

Mr. Rice: I object to the question as improper cross.

A. Well, I have heard it both ways.

Q. Dennis, how old was this boy Tommie when you last saw him?

A. Well, he was between probably twelve or fourteen years old.

Q. Twelve or fourteen years old?

A. May be older, along there.

Q. Did he remain all the time that you knew him at this Letcher house? A. Yes, sir.

Q. Who supported him?

A. That is I never seen him anywheres else. I never seen him except I seen him there in and out around the building there.

Q. Who supported him?

A. I could not tell you that; Granny Letcher, I guess; she was a very good woman with children.

Q. Did he go to school in this town?

A. I think he did; I cannot be sure of that; I think he went to the primary grade; I wont be positive.

Q. Did you ever know of him doing any work here?

A. No.

Q. As a boy, where did he go when he left here?

A. I wish I knew, I do not.

Q. How old a boy is this Rob Jones?

A. Rob is 30 past.

Q. How old was he when he left Leavenworth?

A. Rob has been gone away from here about eight years.

Q. Rob has been gone away from here about eight years?

A. Yes, he went away from here eight years ago.

Q. How does his age compare with those other boys?

A. They are near the same aged boys; almost the same age.

Q. Relative to the time Rob left Leavenworth when did Tommie leave Leavenworth?

A. Well, it was after that; quite a while after that.

Q. You mean Tommie left Leavenworth quite a while after?

A. Quite awhile before Rob; my boy left quite awhile after.

Q. Do you know the exact time he left? A. My boy?

Q. No, Tommie? A. No, I do not.

Q. How do you know he left?

A. Just missed him, didn't see him around any more.

Q. To your knowledge had that boy Tommie ever been out of Leavenworth until the time you missed him entirely?

A. Not to my knowledge, Mr. Greenslade.

Q. After Minnie left Leavenworth did she ever come back to see the boy at all.

A. If she did I did not see her.

Q. Where is Rob Jones now?

A. He is in Washington, D. C.; that is he was the last I heard from him.

Q. What is he doing?

A. Portering, table waiting for some kind of a roof garden club there.

Mr. Rice: I object to the question as improper cross examination.

Q. Dennis, when did you last hear that Tommie Atkins was alive?

Mr. Rice: I object to the question as improper cross examination. If counsel insists on the witness answering that question the witness will be considered his witness.

A. I never did hear anything about it after he left here.

Q. Never heard anything about him?

A. Not until here a few weeks ago.

Q. Here a few weeks ago did you hear he was alive or dead?

Mr. Rice: I object to the question as improper cross examination and I ask that the answer be considered the answer of the witness of the defendant, The Gypsy Oil Company.

A. I heard he was dead?

Q. You heard he was dead? A. Yes.

Q. Where did you hear that he died? A. Chicago.

Q. Chicago?

Mr. Rice: Same objection and same request as to the last question asked.

Q. Did you hear at that time whether or not he was married.

Mr. Rice: Same objection and same request as to the answer.

A. Well, now I never heard that; I got a letter from a party telling me that he was dead.

Q. You say you got a letter from a party telling you that he was dead? A. Yes, sir.

Q. That is the only information you have.

A. Yes, but that information was got——

Q. That is hearsay evidence and of course it might as well be stricken out.

Mr. Rice: It may be left in, that is all right.

Recross Examination by Mr. Lytle.

Q. Did I understand you correctly to say you saw this boy that was called Tommie 12 or 14 years ago?

A. I judge that was about that length of time.

Q. You saw him after the death of Mrs. Letcher?

A. I saw Tommie before just during the Spanish American War; that was in 1898—along about there.

Q. Did I understand you to say you saw him after the death of Mrs. Letcher?

A. Granny Letcher died in 1900, I seen the boy in 1898 or 1899.

Q. So your testimony now is?

A. And always has been.

Q. I am just saying that your testimony now is that for at least a year prior to the death of Mrs. Letcher you had not seen this boy?

A. Why the best of my judgment would be that; it might be more or less.

Q. So far as you know he was swallowed right up.

A. I do not know where he was.

Q. You were well acquainted with the family?

A. Yes, sir.

Q. Visited there frequently? A. Yes, quite often.

Q. You say that this boy was a white boy?

A. Complexioned yes.

Q. White complexioned with straight hair? A. Yes.

Q. Black? A. Yes.

Q. Black hair?

A. Well, dark, it was not red, yellow or anything like that; it was dark hair.

Q. It was dark brown or black?

A. It was as dark as this, (indicating) may be darker.

Q. It was dark brown?

A. May be darker than this; it was between a black and a brown.

Q. And during the time that you knew Minnie here in Leavenworth she went under the name of Minnie Atkins?

A. Yes, sir.

Q. And so far as you know, she never had any other name?

A. No, when I first saw her I did not know whether her name was Atkins, or not; I found out later.

Q. When did you find out her name was Atkins?

A. I will tell you about that; she went to the colored church at on 6th and Pottawatomie with a colored man and the other darkies wanted to know why he would bring a white to a black church, so I among others began to inquire about her name and whether that was her husband, or not.

Q. Just a moment. Was that before of after the birth of Tommie?

A. That was after the birth of Tommie; and there was where I found out her name was Minnie Atkins.

Q. Why did you then say that the boy's name was Tommie Atkins that was born at Mrs. Letcher's?

A. They all called him Tommie Atkins; I did not know whether that was her husband or not, I began to ask about her and what her name was and that is when I found out her name was Atkins.

Q. About how old was this Tommie when you first saw him? A. He was a baby.

Q. Well, about how old?

A. May be two or three months, may be four months; may be six months.

Q. That you are not able to state now within a period of six months as to when he was born?

A. Well, I said for two or three months. May be longer; within two to six months when I first knew about it. That has been a long time ago.

Q. Hadn't you been at the Letcher home during that period from two to six months? A. Yes, sir.

Q. You had been? A. Yes, sir.

Q. You saw Minnie every time you went there?

A. No, sir, I didn't intend to say any such thing and I do not know that I did. And I do not now say so. I might have been there 50 times and didn't see her.

Q. You are not able to state now whether you went there and saw Minnie 50 times or one time covering that period?

A. I did state it; I did.

Q. But you now say you could have been there 50 times and not have seen her?

A. That is what I mean; I might have done that and then might not.

Q. In fact the circumstances at the time didn't impress this upon your mind very firmly?

A. I didn't go there to see Minnie; I was just scouring around; and I talked and played base ball; and if she was there I seen her; she might have been in a room upstairs in the house with the baby boy before I seen her, and I not know about it. I remember about the time I seen her and the kid.

Mr. Lytle: That is all.

Redirect Examination by Mr. Rice.

Q. I believe in your testimony by Mr. Rosser, I think it was, you stated you did see Tom after Granny Letcher's death. Now, if you did make that statement do you wish to correct it?

A. That I saw Tommie after Granny Letcher died?

Q. Yes.

A. I didn't say that; I said I saw Tommie between 1888 and 1889, and Granny Letcher died in 1900.

Q. In answer to the question you mean 1898 or 1899?

A. Yes—the Spanish American War.

Mr. Lytle: I object to him prompting the witness.

A. Well, I meant 1898 or 1899.

Q. Now in order to get the record clear, you *say* Tommie shortly before the Spanish American War, about 1898 or 1899? A. Along in there somewhere.

Q. And Granny Letcher died in 1900.

A. Yes.

Q. Now Mr. Lytle asked you how you knew that Minnie Atkins was named Atkins and you have testified about some church affair you questioned about her. Did you question her?

A. No, we asked; I do not know just how we got—we were all just trying to find out and I heard she was working for Banker Hyde out there; and that is how we found out.

Q. Did you find out at that time what her blood was?

A. They called her "Indian Minnie" before I found out she worked at Hydes.

Q. Did you find out at that time where her home was? Where she was from?

A. No, no, I never found where she was from.

Q. Did you learn what Indian blood was in her. A. No.

Mr. Rice: That is all.

Cross Examination by Mr. Rosser.

Q. You say you began practicing law in 1892? A. Yes.

Q. Where was your office, Mr. Smith?

A. I was with W. B. Townsend on 5th street, in the Hunt Building.

Q. On the ground floor or up stairs? A. Up stairs.

Q. And where was that with reference to Granny Letcher's place?

A. Let's see, about four and a half or five blocks.

Q. About four and a half or five blocks; and where was it —did you pass her place in going to and from home?

A. No, sir, I never did do that.

Q. You never did that? A. No.

Q. When you began the practice of law you went to your office regularly, did you?

A. Well, I do not know that I did.

Q. Not very regular about that?

A. Oh, as often as I felt like it—felt disposed; I did other work after I began the practice of law; you see I didn't have all the money I wanted to buy books and things and I did other work.

Q. You say you think the child went to school some time?

A. I don't know; no I did not; that aint my statement; I said I did not remember whether her children attended school or not.

Q. I understood you to say the child went to school.

A. I think possibly he may have gone to the primary grade.

Q. You are just guessing; you do not know anything about that?

A. No, just my view. All children should go to school, and probably he went.

Q. That is true. The woman Minnie attended colored church? A. I saw her there one time.

Q. One night? A. One time.

Q. That was after Tommie was born? A. Yes, sir.

Q. And you made some question about *home* she came to be there with your pastor?

A. No I never said anything about that.

Q. You said there was somebody got up—what was it?

A. I said there was a commotion among the colored people—not a commotion either, but they were all curious to know who she was and why a colored man would bring a white woman to church.

Q. A colored man—did a colored man bring her there?

A. Yes, sir.

Q. Who was that colored man.

A. I do not know; I could not say who the colored man was; if I ever knew, I do not know now.

Q. You made some investigation as to whom she was?

A. Yes, as to who she was.

Q. You say you assertained she worked at Banker Hyde's. A. Yes.

Q. At that time? A. No, she worked for Banker Hyde.

Q. Did you know who she was working for at that time?

A. She did not work then, she was staying at Granny Letcher's.

Q. Is the Banker living now? A. I do not know.

Q. You do not know? A. No, sir.

Q. He was living here at that time; during the time you made the investigation?

A. Yes, he was living here 30 years ago.

Q. How is that?

A. He was living here 30 years—up to 30 years ago, since then—I do not think it has been 30 years years since he was here; I do not know just when Banker Hyde left here—it has not been that long.

Q. You do not know where he moved?

A. Except what I have heard, back to Massachusetts somewhere.

Q. What was the relative age of those boys and the other —of this boy and the other children they had at Granny Letcher's?

A. Oh, I do not know. Jim was older and Sam was older.

Q. I did not understand?

A. Jim was older and Sam was older. I think he and Walter must be near the same age.

Q. Whose child was Walter?

A. I do not know; they called him "Walter Banks," I do not know whose he was.

Q. Was he born there? A. I do not know.

Q. You do not know about that—when did you first see him? A. Oh, seen him there at Granny's.

Q. When did you first see him with reference to the time you first saw Tommie?

A. I think he was there about the same time and I have seen him, oh, many, many, many times in going there.

Q. Who seemed to be his mother; who was in charge of him? A. Granny Letcher.

Q. Was she his mother? A. I do not know.

Q. You do not know? A. No, I do not know.

Q. Never heard who was his mother?

A. No I never heard who was his mother—anything about his mother; if I ever heard anything about his mother I do not know it.

Q. That was the Banks boy's? A. Yes, Walter Banks.

Q. Walter Banks? A. Yes.

Q. And the other was named Mayo? A. Jim Mayo.

Q. Who was his mother? A. Granny.

Q. She was his mother? A. Yes.

Q. And the other—what was his name? A. Sam Nash?

Q. Who was his mother? A. I never did know.

Q. You never heard that? A. No, sir.

Q. How much older was Nash, if any, than Tommie?

A. Sam is now 46 or 48 probably—45 or 46.

Q. He was a good chunk of a boy?

A. Yes, sir, small for his age; he is not very large now.

Q. When did you first get acquainted with Mrs. Letcher?

A. Probably here in 45 or 46 years ago.

Q. Forty-five or 46 years ago. You got acquainted with her soon after you came here yourself? A. Yes, sir.

Q. And before any of these children were at her house?

A. Jim was there; Jim was born.

Q. Jim was there when you first got acquainted with her?

A. Yes, sir.

Q. See Nash?

A. I do not think Nash was there—I might—I do not think Nash was there.

Q. Do you remember when he first came there? A. No.

Q. You never saw who brought or who had charge of him? A. No, sir, I could not say that.

Q. Granny Letcher never told you? A. No.

Mr. Rosser: That is all.

Recross Examination by Mr. Lytle.

Q. About how old was this boy Tommie at the time Minnie went to the colored church?

A. Oh, I do not know; I could not tell you that.

Q. Well, was he a year old?

A. I have said I do not know, and I would not try to guess it out.

Q. Was he as much as two years old?

A. He may have been six months old; he may not have been over a day—and he——

Q. And he might have been a year?

A. Minnie went to church after Tommie was born and Minnie left here a couple of years after the birth of the child.

Q. But you could not—it didn't impress it this strongly enough on your mind so you are able to state what period—in what period that two years of this church episode occurred?

A. No, I never was impressed with it—with none of it.

Mr. Lytle: That is all.

Recross Examination by Mr. Greenslade.

Q. What was the condition of this boy's—Tommie's health?

A. I guess he had good health. Always around playing; I never noticed him being sickly—good health.

Q. Good health up to the time he left?

A. Well I could not say that. I didn't pay that much attention to the boy.

Q. He appeared to be good and stout, healthy?

A. I do not know; I never paid close enough attention to tell whether he was healthy or not. I know he was a boy around about.

Mr. Greenslade: That is all.

Witness excused. (Signed) Dennis Jones.

Subscribed and sworn to before me, Clark A. Tharp, this 13th day of October, 1914.

Notary Public.

My commission expires Nov. 22, 1914.
(Seal).

R. J. SMITH, of lawful age, being by me first duly examined, cautioned and solemnly sworn to testify the truth, the whole truth and nothing but the truth, deposed and said:

Direct Examination by Mr. Rice.

Q. State your name? A. R. J. Smith.

Mr. Rosser: I object to the testimony of this witness for the reason that he was not sworn and put under the rule at the beginning of the taking of these depositions.

Mr. Lytle: I object to the testimony of this witness for the reason that although he has been present in the courthouse during the entire taking of these depositions, he has not sworn, and was not placed under the rule; and for the further reason that the witnesses who have so far testifed have not been admonished, that they were not to discuss with any person excepting the attorneys in the case the evidence which had been adduced while they were on the stand.

Mr. Greenslade: We make the same objection and the further objection to the testimony of this witness because it does not appear he is a party or attorney to the suit; and to the evidence of former witnesses with whom he has conversed about the testimony which they should give in this case.

Mr. Lytle: We adopt the exception and objection by Mr. Greenslade.

Q. Rube, were you in the room when any testimony was given in the taking of these depositions?

A. Not in this room.

Q. Were you in any room in the courthouse when any testimony was given there? A. No, sir.

Q. Have you heard any witnesses testify on the stand?

A. I have not been where I could hear them, no sir.

Q. How old are you? A. I was born in '51.

Q. Where do you reside?

A. Leavenworth City and County, State of Kansas.

Q. How long have you resided in Leavenworth?

A. Since the fall of 1861.

Q. What kind of business are you engaged?

A. My business is handling real estate; I am deputy sheriff at the present time, have been for four or six years.

Mr. Greenslade: Deputy Sheriff? A. Yes, sir.

Q. Deputy Sheriff of Leavenworth County?

A. Leavenworth County.

Q. Were you residing in Leavenworth along in 1884, 1885 and 1886? A. Yes, sir.

Q. Where did you reside at that time?

A. You mean my residence?

Q. Yes? A. 405 Kiowa Street.

Q. In what business were you engaged during the years I have mentioned, 1884 to 1886?

A. I was Stock Agent for the Kansas Central, Rock Island, Union Pacific and Missouri Pacific combined in the Stock Yards.

Q. Those roads were tributary to Leavenworth?

A. Yes, sir, the central point at that time.

Q. What was the nature of your duties?

A. How is that?

Q. What was the nature of your duties?

Mr. Lytle: I object to the question as incompetent, irrelevant and immaterial.

Mr. Greenslade: I object to the question as incompetent, irrelevant and immaterial, and not tending to prove any issue in the case.

Mr. Rosser: I object to the question as incompetent, irrelevant and immaterial.

Q. Go ahead. A. I said it.

Q. Which?

A. My duties were to count, rebill and ship stock to any portion of the world that the bills called for.

Mr. Lytle: I move to strike the answer as wholly irrelevant and immaterial to any issue in the case.

Q. Did you have any other business at the time you acted as agent for these various roads?

A. I had a store, a grocery store.

Q. What was the location of the grocery store?

A. 407 Kiowa.

Q. That was next door to your house?

A. Next door to my residence.

Q. In running the store were you there in 1884, 1885 and 1886?

A. Yes, sir, I had my wife and my Uncle and my boy.

Q. To help in the store?

A. Yes, they attended to the store when I was in the office.

Q. During the years I have mentioned were you acquainted with a colored woman called Letcher, sometimes called "Granny Letcher"? A. Yes, sir.

Q. Where did she reside relative to the location of George Crilly's barn, that is along about 1885 and 1886?

Mr. Lytle: I object for the reason that the witness had not shown that he knows the location of George Crilly's barn.

Q. Go ahead and answer the question.

A. Why she lived at that time at Number 217 Seneca Street, on the south side opposite Crilly's residence.

Q. In Leavenworth? A. In Leavenworth, yes, sir.

Q. Were you during the years, 1884, 1885 and 1886—along in that time acquainted with a girl called "Minnie," or "Indian Minnie," or "Minnie Atkins?"

A. She lived at that time——

Q. Answer the question, were you acquainted with her?

A. Yes, sir.

Q. Under what name or names did you know her?

A. Why, her general name was "Indian Minnie."

Q. Did you know her by any other name? A. Atkins.

Q. What kind of looking girl was she as to being light or dark?

A. Oh she seemed to me to be half breed Indian, light.

Q. About what was her age in 1885?

A. Well, that I should judge, my judgment is she was somewhere along about 19 or 20; I do not know.

Q. Where did you first become acquainted with her, as to what place in the United States, was it in Leavenworth?

A. In Leavenworth, yes, sir.

Q. At what place in Leavenworth?

A. Why at Granny Letcher's; Oh I seen her before, but I was not acquainted.

Q. Now, do I understand that you had seen her before you became acquainted with her at Granny Letcher's?

A. Yes, sir.

Q. You first really knew her then at Granny Letcher's?

A. Yes, sir.

Q. You may state whether or not from her appearance at that time you became acquainted with her at Granny Letcher's she was—you can say whether she was in a family way?

Mr. Lytle: I object to the question as leading and suggestive; and calling for the conclusion of the witness.

Mr. Rosser: I object for the same reasons.

Mr. Greenslade: Same objection.

Q. Answer the question. A. She seemed to me.

Q. What in her appearance indicated that to you?

A. I did not understand what you said.

Q. Read the question. (Question read).

Mr Lytle: I object to the question for the reason that the question pre-supposes that there was something with reference to her appearance that might have indicated that to the witness, which facts are not in evidence.

Q. Read the question please. (Question read).

A. A man of my age at that time of a family should know when he sees a woman that is pregnant, he would notice her.

Mr. Lytle: I object to the answer and move that it be stricken as not responsive to the question asked.

Q. Do you know whether or not subsequently to the time you saw her in a family way she gave birth to a child?

A. She did, she had a child there at Letchers.

Q. Just a minute; now where was that child born?

A. At Mrs. Letcher's.

Q. About how long after you first saw her at Mrs. Letcher's was the child born?

A. I think it was somewhere along in 1885.

Q. As to months from the time you first saw her at Mrs. Letcher's in a family way how many months until the child was born?

A. Oh, that was, when I noticed that that was probably a couple of months.

Q. How long after the child was born did you see it?

A. You mean after the child was born?

Q. Yes?

A. Oh, probably a week or ten days, something like that.

Q. Where did you see it? A. At Mrs. Letcher's.

Q. What doctors, if any, attended the birth of this child?

Mr. Lytle: I object to the question as leading and suggestive.

Q. You may answer? A. Why——

Q. Just answer that question?

A. Dr. McCormack, I think.

Q. Was there any woman at Letcher's at that time who aided in the birth of the child besides Mrs. Letcher?

A. There was an old lady there by the name of Aunt Betsy.

Q. What if anything was Aunt Betsey's business?

A. She was a granny, I think that is what she was called.

Q. What we call a mid-wife?

A. Yes, she may be termed that.

Q. What was the appearance of the child when you saw it as to being light or dark? A. Light.

Q. You may state whether or not you saw the mother after the child was born?

A. Yes, I saw her after the child was born.

Q. You may state whether or not you saw the child with her from time to time?

A. Yes, I think I noticed her having the child in her arms there, probably may be two or three different times I was there.

Q. Do you remember whether or not Minnie Atkins subsequently and right after the birth of the child left that Letcher place?

A. I know I missed her from there and I never saw her.

Q. You at that time were engaged in the grocery business? A. Yes, sir.

Q. Were there any business relations between you and Mrs. Letcher relative to the purchasing or selling of groceries?

Mr. Rosser: I object to that as incompetent, irrelevant and immaterial.

Mr. Greenslade: Same objection.

Mr. Lytle: I take it that is preliminary.

Mr. Rice: Yes.

A. Why, she traded there with me same as other people, as Judge Hood—I guess 150 people traded there at my store; I didn't have no piece of one.

Mr. Rosser: Had what?

A. I didn't have no piece of a store.

Mr. Rosser: A full grown one?

A. A full grown one, plenty of it too.

Q. In making deliveries during the time you have mentioned who delivered groceries to the Letcher house from time to time?

A. Some times I would go, sometimes my uncle.

Q. Was this baby a boy or girl? A. Boy.

Q. What was he called? A. Tommie.

Q. And how old was Tommie when the mother, Minnie, passed out of your view?

A. Oh, he must have been in the neighborhood of a year and a half, may be, might have been two years old—along there; I would not be positive; I didn't keep any dates.

Q. After the mother passed out of your view did you ever see the baby again around there?

A. Yes, the boy got to be quite a good sized boy.

Q. After the mother went away where did the boy stay?

A. He stayed around the old Lady Letcher's.

The witness was here withdrawn a few minutes to permit the taking of Mrs. Dillman's testimony, after which the examination was resumed as follows:

Q. You may state after the mother went the boy passed out of your view? A. Yes.

Q. About how old was the boy when you last remember seeing him?

A. Oh, I could not say that, the best of my judgment probably he was six or seven, may be eight, I could not be positive, I do not know.

Q. Where was he living after the mother left?

A. The boy?

Q. Yes?

A. Why he was there when I seen him; he was living at Letcher's.

Q. What was his appearance when he was along six or seven or eight years old as to being light or dark?

A. Light colored.

Q. What was his hair? A Hair was dark.

Q. Was his hair curly, kinky or straight. A. No.

Q. What was it? A. Straight.

Q. And his hair was dark, you say? A. Yes, sir.

Q. Have you seen this Minnie Atkins of whom you have spoken in the last few weeks? A. Yes, sir.

Q. Is that the same woman you knew in 1884 and 1885?

A. Yes, sir, same Minnie Atkins.

Q. After Minnie left and passed out of your view did you ever see her again until you saw her lately?

A. I did not see her no more until I seen her here, and I hadn't thought any more about it.

Q. Did you ever see him again after he was about that age? A. I do not remember ever seeing him.

Q. So far as you now know your best recollection is you have not seen him since he was about six or seven or eight years old? A. I do not think I have.

Q. Do you remember whether or not there were any other boys living at Granny Letcher's house when that boy was a little fellow? A. Yes, sir.

Q. What did they call this light boy, Minnie Atkin's son?

A. Which boy?

Q. Minnie's boy, what did they call him?

A. They called him Tommie.

Q. When Tommie was a little boy were there any other boys living at Granny Letcher's?

A. There was two boys there bigger than him.

Q. Who were they? A. Sam Nash.

Q. Sam Nash was a one armed boy? A. Yes.

Q. Did the old lady have a son who was there too?

A. Yes, his name was Jim, Jim Mayo.

Q. Jim Mayo?

A. That is what they called him; I do not know how he got the name.

Q. Now, who was the oldest of those three, Walter, Sam and Jim?

Q. Was Jim the oldest of that bunch?

A. The old lady's son; oh, he was a man.

Q. Then, who came next; who was the older, Walter or Sam? A. Sam was the next.

Q. How much older would you say Walter was than Tommie, if any? A. I could not say.

Q. One or two or three years?

A. But there was a difference in their age; this Walter, why he was a little boy running around there before Tommie appeared.

Q. Do you know whether Granny Letcher is still living?

A. She is dead.

Q. Do you know whether Jim Mayo is still living?

A. He is dead.

Q. When did he die? A. Granny Letcher died in 1900.

Q. When did Jim die?

A. Some months after that, I guess three *of* four.

Q. The mother died first?

A. Yes, that is my recollection she died first.

Q. Do you know whether—how long Minnie stayed at Granny Letcher's after the child was born?

A. I didn't just get that question.

Q. Do you know [] long Minnie stayed at Granny Letcher's after the child was born?

A. Well, possibly she was there a year; may be a little over. I could not say, may be two.

Q. Now, when you say that do you mean that she remained at Granny Letcher's for a year or that she remained in Leavenworth—in the vicinity for a year?

A. No I mean that she passed away; I do not know where she went.

Q. I see. You don't know when she left Granny Letcher's house?

A. No, I don't know nothing about when she left.

Q. That is all.

Cross Examination by Mr. Greenslade.

Q. What business did you say you are in? A. When?

Q. Now? A. I am Deputy Sheriff now.

Q. What other business are you in? A. Real estate.

Q. Real estate—where is your office?

A. My office is at home.

Q. You have no office down town?

A. No. When I was settling up this Douglas estate I used the courthouse.

Q. You have a desk in no office down town- -you know Dennis Jones? A. About 45 years.

Q. Very friendly with him? A. Yes.

Q. Did you ever talk to Dennis Jones about this case?

A. I have.

Q. When? A. Ever since it has been on.

Q. What? A. Ever since it has been on.

Q. How long ago? A. Oh, about a month ago.

Q. How did you come to talk to Dennis Jones about the case? A. How did I?

Q. Yes?

A. I saw it in the paper and then after that we talked about the matter.

Q. What did you see in the paper?

A. About, I believe you were one of the gentlemen—I guess that you were here seeking——

Q. I was not here?

A. Well, some of them, I do not know it was some gentlemen that wanted to find something about the lawyer; I read something in the paper, I do not remember.

Q. That was about a month ago, was it?

A. I guess so, may be a little later than that?

Q. Shortly after that time you talked to Dennis Jones about it? A. Yes.

Q. How did you happen to talk to him about it?

A. Just noticed it in the paper, and I knew it had reference to Indian Minnie.

Q. What were you and Dennis talking about?

A. Just naturally just like you see an article in the paper, and we spoke of it and it passed off.

Q. What time did you see Dennis?

A. I do not know what time I did see him.

Q. You do not know what time you did see him? A. No.

Q. But you talked it over?

A. Just what I seen in the paper, that is all there was to it.

Q. Were you talking with anybody else about this case?

A. Why, yes.

Q. Whom were you talking to?

A. Why several people; I was asking them about this case.

Q. Who were they? A. How?

Q. Whom were they?

A. Well, speaking to Anderson, I asked him if——

Q. Charley Anderson?

A. Yes, sir, I asked him if he knew her.

Q. Who else?

A. I was speaking to—I do not know whether I spoke to Burns—I do not think I spoke to Burns.

Q. Did you ever talk to George Crilly about it? A. Yes.

Q. Talked about it? A. Yes.

Q. Did you ever talk to Dick Nichols? A. No.

Q. Ever talk to Louis Brown? A. No.

Q. Did you ever talk to William Grape? A. Yes.

Q. Why did you talk to these people about this case?

A. Why did I?

Q. Yes? A. Why, I had a right to.

Q. I understand you had a right to.

Mr. Rice: Answer the reason why.

A. Oh, well I knew those people down around that house because I had seen them there; and Mr. Long asked me if I knew any people that had been around that house.

Q. And after Mr. Long asked you that, then you talked to these other people?

A. I asked the people myself; he didn't ask me that.

Q. Why were you—how were you interested in finding people that knew about the case?

A. How were I interested in finding people that knew about this case?

Q. Yes?

A. Just the same as any other man in business.

Q. Did Mr. Long ask you to find some people who were interested?

A. He asked me if I knew of any and I told him I did.

Q. You then saw these other people for him.

A. I went to these people and asked them because I knew they knew her.

Q. Did Mr. Long pay you anything for that?

A. I do not work for nothing.

Q. Did he pay you anything for that?

A. I am like all business men.

Q. Then you mean to say he did pay you for your services? A. Why, I expect he will; I do not know.

Q. Did you make a contract with him?

A. No, I haven't any contract.

Q. But you had an understanding he was to pay you for your services? A. Why of course.

Q. How much was Mr. Long to pay you for your services in finding these witnesses.

A. I do not know. I didn't ask him; I might go and get it now; I didn't ask the question.

Q. But he promised to pay you?

A. I told him, I said "I want pay for my time, services," he said "All right, that is all right."

Q. Now how long ago was that you had that talk with him? A. I could not say just exactly.

Q. Well, about how long ago?

A. Two or three or four weeks.

Q. Two or three or four weeks ago, and since that time you have seen him off and on have you not?

A. Sometimes I have seen him.

Q. Since that time you have been hunting for these people, have you not? A. No, I didn't have to hunt.

Q. Well, you found them? A. I knew where they were.

Q. And you did talk to them? A. Yes, sir.

Q. You have presented him with the names of these witnesses, have you not?

A. Well, no, to tell the truth I do not know all of the witnesses that have been here.

Q. You know that Charlie Anderson has been here?

A. Yes, I know that Charlie Anderson has been here.

Q. You know William Grape has been here? A. Yes.

Q. Do you know anybody else that you have talked to that had been here as a witness?

A. No, just those men that I have talked to.

Q. Do you know Annie Wills? A. Yes.

Q. Did you talk to her about this case?

A. I talked to her this much; I told her that they wanted her over at the courthouse over the phone.

Q. You told her they wanted her at the court house?

A. Yes.

Q. Why did you tell her that?

A. Because Mr. Long asked me to call her up.

Q. You were asking her to come over here as a witness in the case? A. No, sir.

Q. Told her they wanted her is all?

A. Wanted her at the courthouse.

Q. Did you talk to her before that?

A. About this case? In fact I didn't know she knew anything about it.

Q. You did not know she knew anything about it?

A. No, sir.

Q. For the last few weeks have you been working for Mr. Long in this matter? A. Yes.

Q. Do you know what connection Mr. Long has with this case? A. I do not.

Q. You do not. During the last two or three days you know that testimony has been taken in this case, do you not?

A. Yes.

Q. During the last day or two. During which time testimony has been taken you have been here at the courthouse, have you not? A. That is my business to be here.

Q. And you have been staying out in the courtroom near the room where this testimony has been taken, have you not?

A. I have been staying out there in the clerk's office, or standing around the grating.

Q. And during this time you have been talking to witnesses who have been testifying before and after they have testified? A. Not at all, no.

Q. Well, did you at all? A. What is that?

Q. Talk to witnesses? A. I told you who I talked to.

Q. Just answer my question.

A. Well, I am going to; I am going to be fair with you.

Q. During the last day or two during the time which testimony has been taken in this case in this room, and in the courtroom you have been in the adjoining room talking to witnesses, have you not?

A. Not all your witnesses.

Q. Have you talked to any of them during that time in those places? A. I have.

Q. You have. Did you ever talk to them both before and after they have testified? A. Not about the case.

Q. I didn't ask that? A. Oh, yes, I talked to them.

Q. In other words you have assisted Mr. Long during the last two or three days in getting the witnesses here, and in obtaining the witnesses who should testify, have you not?

A. I told you I did.

Q. You did. Did you talk to Dennis Jones about this case since the first conversation you had with him?

A. About the case?

Q. Yes?

A. No, he is right here the same as I am; he could see what was going on the same as I could.

Q. Were you ever talking to him?

A. Not concerning the case as I know. Nothing particularly about the case.

Q. Were you talking to him at all at any time about *about* the witnesses? A. No.

Q. Have you talked to him at any time about getting witnesses in this case? A. No, that is Mr. Long's business.

Q. That is Mr. Long's business? A. Yes.

Q. And you have assisted Mr. Long? A. Certainly.

Q. Has Dennis Jones been assisting Mr. Long in that matter?

A. That is something I could not tell; I do not know anything about their business.

Q. You do not know anything about that.

A. Not one thing.

Q. Don't you know that Dennis Jones has been talking to some of these witnesses about this case?

A. Not in my presence?

Q. I didn't ask you if it was in your presence, I asked you if you knew that? A. No, I know that.

Q. All right, say so then.

A. I am just trying to give you the truth, that is all.

Q. Before the time Mr. Long first talked to you about this case about getting witnesses did you remember about Minnie?

A. What is the question?

Q. Did you have any recollection of Minnie Atkins?

A. Oh, yes.

Q. You did?

A. Yes, that is after I seen the newspaper article.

Q. After you saw the newspaper article, then you remembered Minnie? A. Yes, I remembered Minnie Atkins.

Q. Before that time you didn't remember her at all?

A. Well, yes, I knew her.

Q. But you had forgotten her?

A. There was nothing to refresh my mind, nothing to bring it up to me.

Q. Is it part of your duties as deputy sheriff to help people obtain witnesses?

Mr. Rice: I object to the question as improper cross examination.

Q. Read the question. A. Is it part of my duty?

Q. Yes? A. I am free to do as I please.

Q. Just answer the question; is is part of your duty as deputy sheriff?

A. No, not part of my duty, but as a man.

Q. As deputy sheriff do you devote all of your time to county business? A. Not all of my time.

Q. How much of your time? A. I could not say that.

Q. Is it not a fact you only devote a very small portion of your time?

A. Well, I could not say how much I devote.

Q. Is it not a fact?

A. I do not know how much time I devote.

Q. How many arrests have you made in the last month?

A. That I could not tell you.

Q. Have you made any? A. Yes.

Q. How many? A. I do not know.

Q. As many as fifty? A. No.

Q. Two? A. No, we have a better class of people.

Q. Two? A. Three.

Q. Have you made two or three? A. Three.

Q. You have made three arrests last month? A. Yes.

Q. Do you do criminal business *of* civil business as deputy sheriff? A. Most civil.

Q. Have you served any summons in the last month?

A. No, none at all.

Q. Have you served any processes out of the sheriff's office in the last month?

A. As a matter of fact you devote only a very small part of your time to the work of Deputy Sheriff?

Mr. Rice: I object to the question as improper cross examination.

A. Why, I devote whatever time—whenever the sheriff calls me to go.

Q. Where was it you first talked to Frank Long about this case? A. Well, it was Leavenworth.

Q. In Leavenworth?

A. Either Leavenworth or Kansas City.

Q. Have you been to Kansas City in this case?

A. In this case?

Q. On business concerning this case?

A. I am in Kansas City sometimes five or six times a week.

Q. Have you been in Kansas City on any business concerning this case within the last few weeks?

A. I went down there once, I believe once, to see Mr. Long.

Q. Went down once or twice to see Mr. Long? A. Yes.

Q. Did you see Minnie Atkins when you were down?

A. Minnie Atkins—I seen her right here.

Q. Did you see her in Kansas City?

A. I didn't meet her in Kansas City.

Q. Why did you go to Kansas City to see Mr. Long?

A. Because he called me up and wanted to see me.

Q. What did he *was* to see you about?

A. Private business.

Mr. Rice: I object to the question as improper cross examination.

Q. That is the only answer you can make?

A. That is private business.

Q. That is the only answer you would like to make?

A. That is all I am going to answer.

Q. All right. Has he paid you any money for your expenses in connection with the work in this case?

Mr. Rice: I object to the question as improper cross examination.

A. That is another private business.

Mr. Rice: You may answer the question.

Q. That is another answer you are not willing to make to that question. Read the question (question read).

A. Why, he paid my railroad fare to Kansas City and expenses I had when he called me down, of course.

Q. And how much other money has he paid you?

A. I think Mr. Long give me $10.00 once, I mean for expense that I had.

Q. That is all that he has paid you, is it?

A. I do not think he has—I think another time he gave me $5.

Q. And $15 is the total amount of money that he paid you? A. Yes, sir, he paid me that.

Q. Have you been employed by any other person than Frank Long to work in this case? A. No.

Q. Have you made any effort to find Thomas Atkins?

A. Have I made any effort?

Q. Yes? A. Why, no.

Q. Have you made any inquiries concerning his whereabouts?

A. Well, I simply asked some people here if they knew him, but nobody seemed to know anything about him.

Q. How old was Thomas Atkins when you last saw him?

A. Oh, I guess he was perhaps six or eight years old.

Q. Six or eight years old? A. Yes sir.

Q. Where was he living then? A. Who?

Q. Tommie Atkins?

A. Why, the last I knew him he was living on Seneca street.

Q. Seneca street, who with? A. Mrs. Letcher.

Q. With Mrs. Letcher? A. Yes.

Q. Do you know what became of him?

A. No, sir, I don't.

Q. At the time that he disappeared you did not hear what became of him? A. No.

Q. At that time all of these facts about which you have testified made no particular impression upon your mind, did they? A. No.

Q. You were not interested in Tommie Atkins?

A. No more than I am now.

Q. You were not employed then to find out about him, were you?

A. No, why, I suppose we are all friendly in this matter, at least I am.

Q. Did you ever talk to Mrs. Letcher about this child?

A. Who?

Q. Mrs. Letcher? A. She has talked to me about it.

Q. Did she tell you what became of Thomas? A. No, sir.

Q. Were you sworn when the testimony started here?

A. Yes, sir.

Q. As a witness? A. Yes, sir.

Q. What day was that? A. I didn't understand.

Q. Were you sworn as a witness when we first started taking testimony here two days ago?

A. No, the first time I have been sworn——

Q. Was today when you commenced here giving your testimony? A. Yes.

Q. And were you present in the courtroom when the testimony started in this case here in Leavenworth?

A. No, sir, I have not been present; I have not heard a witness testify. That is all.

Cross Examination by Mr. Lytle.

Q. You were in the court building?

A. I was in the building.

Q. Yes? A. I was in the building.

Q. You were in the building when we were taking evidence in this case? A. I was in the court building.

Q. You were running a grocery store here in Leavenworth when?

A. I run a grocery store from 1884 up until 1893.

Q. In what period of those years was it when this child was born?

A. Well, now the best of my recollection it was either the latter part of '85 or '86.

Q. It might have been 1887 or 1888? A. Oh, no.

Q. How do you fix one of those years in preference to any other year? A. How is that?

Q. How do you fix one of those years in preference to any other year?

A. Simply my own mind; I have no record of it. That is my best judgment.

Q. It didn't create any special impression on your mind at the time did it? A. Well——

Q. You were not interested in the child? A. No.

Q. Nor in the mother?

A. No, I was—there was one thing that will refresh my memory. She at one time lived on Cherokee street and then she moved to Seneca street.

Q. That is Mrs. Letcher, you are speaking of? A. Yes.

Q. Do you remember about that occurrence?

A. Yes, from the time I would have to go there.

Q. But there was not anything that specially fixed this on your attention at the time was there?

A. Just simply——

Q. On the past occurrences, the same as the other occurrences here in Leavenworth?

A. Yes, and I fixed that time in my mind; that was about the time, in those years.

Q. You have not had it called to your attention within a period of 28 or 29 years?

A. Well, I would not say that, because I could not tell about anything—about how often I have spoken of it.

Q. You didn't have any cause to speak of after Minnie left, and after the child left, until you seen this circumstance in the paper, did you? A. No.

Q. So that for a period of anywheres from 25 to 28 or 29 years this matter had not been brought to your attention?

A. No, not lately.

Q. Not until just lately?

Q. And you say there was a child born to this woman at Granny Letcher's? A. Yes, sir.

Q. To refresh your recollection was the child not born at the Sister's Hospital here in Leavenworth?

A. Well, not of this woman I am speaking of.

Q. Not of this woman you are speaking of?

A. Not—yes, it could have been born in the hospital; I mean she could have been taken to the hospital at night when the child was born and be brought back in the next two or three days after that.

Q. You did see her in the next two or three days after?

A. No, I said not very long.

Q. How soon did you see the child after it was born?

A. How soon did I see the child?

Q. Yes?

A. I think probably five or six days, probably.

Q. Five or six days, and then you saw the mother from then on about how often?

A. The only way I knew her she had that child there; and old Lady Letcher said that Minnie had a baby; she is the one told me.

Q. Oh, that is the only way you knew her?

A. I saw I knew she was going to have one, that *if* I thought she was.

Q. And then Granny Letcher told you that she had had one? A. Had it, yes.

Q. And sometime after that you saw it?

A. I think it was four or five or six days, I could not exactly say.

Q. How often did you visit this Letcher house?

A. Every time I had an order there me or my uncle would take it.

Q. And how often would they call you?

A. Just when it was my turn to go; I could not tell certain.

Q. Do you mean as often as once a week or once a month?

A. Oh, no, it was sometimes—that wagon would go there twice a day.

Q. The wagon would go there twice a day?

A. Yes, indeed.

Q. And you think you went about half of the time the wagon went?

A. Oh, I do not know as I went half; I have been there twice a day sure.

Q. How?

A. I know I have been twice a day with the wagon.

Q. But you are now unable to say how many times you went with the wagon?

A I could not say that, no, not if I was going to be shot.

Q. Of course your business was just simply to take the groceries and deliver them and get away?

A. If I didn't want to stand there and talk; business men generally talk.

Q. And this continued after the birth of the child up until Granny Letcher died; or until you quit the grocery business?

A. What?

Q. Why did you quit going there?

A. Oh, yes, she traded there right along.

Q. She traded at your store and the goods were delivered until sometimes, that is about the time of the birth of the boy?

A. Yes.

Q. And this continued up until the time of Granny's death or until you quit the grocery business?

A. My uncle would go and I would go.

Q. How, how long did Minnie remain at Granny Letcher's? A. I do not know unless it was about——

Q. Well, do you know anything about it? How long she remained there? A. Well——

Q. Of your own knowledge—not what someone told you, but of your own knowledge do you know anything about it?

A. Well, if you want me to answer that question——

Q. I do, I do, I do want you to answer that question.

A. If you will just give me a second I will answer it, please? About a year and a half.

Q. About a year and a half; do you know when she left?

A. I saw about; I do not know, mind, the day she left; I could not tell you that.

Q. Well, your best judgment now is that she remained there about a year and a half? A. I——

Q. Is it? A. I think so.

Q. How long did she remain in Leavenworth??

A. Who, Minnie?

Q. Yes? A. From the time I knew her?

Q. Yes?

A. I think my best recollection about Minnie, I think she left here probably the latter part of 1886 or the first part of 1887, somewhere along there.

Q. It was not 1893 she left?

A. No she was gone then.

Q. Didn't she leave with the army and go to Fort Logan, Colorado? A. With the army?

Q. Yes, the army people at Fort Leavenworth?

A. No, I do not know; she might have left with a lawyer; I do not know; I do not know; I am telling the truth; I do not know, if I did I would tell you.

Q. You do not know when she left or with whom it was?

A. No sir, I am telling you the truth about the matter.

Q. Consequently you do not know how long she stayed in Leavenworth?

A. I don't know how long she stayed in Leavenworth.

Mr. Rice: I object to the question as misleading.

Q. All right, go ahead.

A. When I first knew Minnie it was along about 1885 I think or the latter part of 1884 to the latter part of 1886 or 1887 I knew no more of Minnie. Now that is all in a nutshell.

Q. Your entire knowledge of her whereabouts was confined to your knowledge of her being at Granny Letcher's?

A. Yes, sir.

Q. That is all.

Cross Examination by Mr. Rosser.

Q. You say you delivered groceries at Granny Letcher's for how long a time? A. Yes, she traded with me.

Q. How long did you stay in business after this child was born?

A. I was in business in the grocery business up until 1893.

Q. Who else was staying at Granny Letcher's besides these children that you spoke of and Minnie?

A. Why, Jim's wife.

Q. Who?

A. Jim Mayo's wife; this son of old lady Letcher.

Q. And Jim's wife, what was her name?

A. I do not know her name.

Q. What was her name before he married her?

A. Only Mayo, that is all.

Q. Was there anyone else staying there?

A. Oh, there was people in and out; I could not say how many stayed there.

Q. You could not say how many stayed there regularly?

A. Not regularly, no, sir.

Q. About how many?

A. There was three or four, I could not say; sometimes we would see a person there may be this week, may be next week they are gone, and we would see another one.

Q. Well, do you remember anyone staying there a considerable length of time?

A. You mean roomers?

Q. Yes?

A. Well, Jim's wife and Minnie; I do not know the other woman's name, she is dead. They taken her from there I think to the poor house or some place.

Q. That was Walter Banks' mother, was it not?

A. Well, that may be her, yes.

Q. Those are the only females stayed there along about that time, that is, regularly?

A. Yes, that I noticed; there were several there in and out and some white too.

Q. You didn't see all the people that were there?

A. Oh, I did see all the people that were there, but they were running a rooming house, just a rooming house, something like hotels; they are all run on the same plan; you cannot tell what is on the inside of a wall.

Q. You were delivering groceries for several months there and you did not notice any other woman staying there regularly except these you have mentioned?

A. I told you all who I——

Q. You didn't see any except these you have mentioned —you have mentioned all the women you saw staying there regularly during the time you were delivering groceries there?

A. Yes, that I knew.

Q. That you knew? A. Yes.

Q. Well, were you not pretty well acquainted with the colored people around through town at that time?

A. Yes.

Q. You did not know anybody else that stayed there regularly about that time?

A. Well, I do. If you call them by name, I can tell.

Q. Well, but I want your recollection?

A. Well, I have given mine.

Q. You have told all you saw there?

A. Yes, that I can remember now. If you call any name of them that stayed there, and if I know them I will tell you.

Q. I don't know the names, I am not acquainted with them. If there was any one else there at that time staying regularly you do not now remember it?

A. Jim's wife, and this woman that died.

Q. And Granny Letcher?

A. Yes, and another woman stayed there that this man Parker married.

Q. Parker? A. Yes.

Q. What was her name?

A. Mrs. Parker, that is all I know; before he married her I never did know her name, but he married her at the time she was staying there.

Q. How long did she stay there?

A. Well, I could not say that to be positive about it. Like any servant along up within a year may be.

Q. You do not know when two companies of cavalry, 2nd cavalry left the fort over here and went to Fort Logan, do you?

Mr. Rice: I object to the question as improper cross examination.

A. No, sir, I do not.

Q. You do not know that?

A. Because that is a common occurrence soldiers coming and going, unless I was interested in it I would not remember.

Q. You were in the courthouse most of yesterday, were you not? A. Yes, sir.

Q. And most all of today? A. Yes, sir.

Q. You were in company with Dennis Jones a good deal of yesterday and day before, were you not?

A. Off and on.

Q. And also today?

A. No. Off and on I have been in his company today.

Q. That is what I said. You have been in his company all these three days? A. Yes, sir.

Q. And been here in the courthouse? A. Yes.

Q. You were not sworn until since noon?

A. No, sir, not until I was a while ago.

Q. I think that is all.

Recross Examination by Mr. Greenslade.

Q. Smith, the Mr. Long, Frank Long you testified paid you $15 and who employed you to find some witnesses in this case is the gentleman who is sitting right here in the room today? A. Mr. Long?

Q. That is the same man sitting right by my chair in this room? A. I charged him for my services.

Q. I asked if that is the same man to whom you testified?

A. Yes.

Q. That same man has been in the court room and in the room where testimony has been taken during the last two or three days, has he not?

A. Well, now, I didn't keep trace of it. I could not tell you whether he was in here or in any room.

Q. You have seen him in and about here?

A. Yes, sir.

A. Around about? A. Yes, sir.

Q. And you have seen him talking to witnesses in this case, have you not? A. Seen him talking to witnesses?

Q. Yes?

A. Yes, I have seen him talking to witnesses and all you.

Q. What? A. I seen all of you talking to witnesses.

Q. I say you have seen him talking to witnesses outside of the room where the testimony has been taken, have you not?

A. I seen him talking to some people, I could not say which one.

Q. Well, you have seen him talking to some of them?

A. Yes.

Q. Do you know whether he is a party to this lawsuit?

A. I do not.

Q. Do you know whether he is an attorney in this lawsuit? A. I do not.

Q. That is all.

Recross Examination by Mr. Rosser.

Q. You say you are a deputy sheriff? A. Yes.

Q. How long have you been deputy sheriff?

A. Six years—four years—no it is part of that this term; I think two years.

Q. You are a colored man?

A. Well, I do not know, I was born this way.

Q. You were born that way? A. Yes, sir.

Q. You call yourself a member of the race that call themselves Africo-Americans? A. (No response).

Q. You are a member of the negro race?

A. Well, I am identified with them—and proud of it.

Q. What is the politics of the sheriff of this county?

Mr. Rice: I object to the question as improper cross examination.

A. I can answer.

Q. He is a democrat? A. Yes, sir.

Q. You work for him in election?

A. And that is I think, the right principle too; I am glad of that because I find them to be gentlemen.

Q. That is all.

(Witness excused).

Signed R. J. SMITH.

Subscribed and sworn to before me this 26th day of October, 1914.

CLARK A. THARP,
Notary Public.

My commission expires Nov. 22nd, 1914. (Seal).

Mr. German: That deposition appears beginning on page 200 and ending on page 247.

We offer now, for the same reasons and the purposes as we offered the deposition of Dennis Jones, the deposition of MINNIE ATKINS, taken at Tulsa, Oklahoma, in the office of Rice and Lyons, in the month of November, 1914, and filed in the court—District Court of Creek County on November 17th.

The Court: Now, is it necessary to offer all that deposition?

Mr. German: No, it really is not.

The Court: You must have some little thought for the record here.

Mr. German: Your Honor, I will tell you what we will do; we will pick out the particular questions and answers which we desire to offer, out of this and offer it that way, and in order to do that intelligently, we will wait until Monday morning.

The Court: Alright.

Mr. German: Now, Your Honor, for the same purposes and like reasons, and same reasons we offered the testimony of Dennis Jones and Rube Smith and Walter Banks, we desire to offer some pleadings filed in the District Court of Creek County. Judge Allen is more familiar with them than I am.

Mr. Cruce: Can our exception be recorded as going to them?

The Court: Yes.

Mr. Allen: We offer the petition filed in the District Court of Creek County in the case of Minnie Folk, formerly Minnie Atkins, against the unknown heirs and devisees of Thomas Atkins, deceased, No. 3719.

The Court: Admitted.

Mr. Allen: Also offer as Government's Exhibit A-86, the certified copy of an amended petition filed in the case of Minnie Folk and others. against Nancy Atkins, and others, No. 3772, in the District Court of Creek County.

And as Government's Exhibit A-87, certified copy of the petition and intervention filed in the case of Minnie Folk and others, against the unknown heirs of Thomas Atkins, and others, No. 3719, in the District Court of Creek County.

The Court: There will not be time to put on any other oral testimony this afternoon. If you have any further offer of depositions, you may make them.

Mr. German: Let's see; I don't believe we have, Your Honor. Our next witness in the order, according to the way we have arranged it, will testify orally.

And thereupon, court takes a recess in the hearing of this case until 10 o'clock Monday morning, May 7th, 1917.

And thereafter, and on May 7th, 1917, at 10 o'clock A. M., court convened pursuant to adjournment and further proceedings herein were had as follows:

Mr. Blakeney: We have a witness, Your Honor, who has to leave, and we, by agreement of counsel, desire to put him on at this time, and later to insert testimony at the proper place in the record.

Mr. Stuart: Your Honor, with the understanding that we object now for the Page interests and will renew our objection later when it is offered, with a motion also to strike.

The Court: Alright, the record may so show.

And thereupon, R. F. DAVIS, being called on behalf of the defendant Nancy Atkins, sworn and under oath testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name, Mr. Davis? A. R. F. Davis.

Q. Where do you live, Mrs. Davis? A. Muskogee.

Q. How long have you lived in Muskogee? A. 15 years.

Q. What is your business?

A. Wholesale grocery business.

Q. I didn't ask you your age? A. 46.

Q. Where did you live prior coming to Muskogee?

A. Wagoner.

Q. How long did you live in Wagoner?

A. I lived there since '88 or '89, until I came here.

Q. What business were you engaged in when you went to Wagoner?

A. I worked in the Davis and Jones Mercantile Company's store.

Q. How long did you work in their store?

A. About 2 years.

Q. Do you know Nancy Atkins, one of the defendants in this case? A. Yes, sir, I did know her.

Q. When did you first become acquainted with her?

A. When I first went to Wagoner, she used to be around the store a good deal; lived right near by.

Q. She was around the store frequently, you say?

A. Yes, sir.

Q. State what you observed, if anything, as to her condition at the time that you worked at the store, with reference to being pregnant or otherwise.

A. I remember at one time while she was around the store that she was in a family way.

Q. Did you see her after she was through with that period? A. Yes, sir.

Q. Did you ever see her child?

A. I saw her child with her—that I supposed was her child, afterwards.

Mr. German: We object as to what he supposed, Your Honor.

The Court: Of course, all there is in that is that afterwards he saw a child with her.

Q. How large was the child the last time you saw it?

A. Oh, large enough to walk—walking around.

Q. Mr. Davis, what was the general reputation among the people of Wagoner at that time as to whose child that was.

Mr. German: We object, Your Honor, on the ground that it is hearsay, irrelevant, incompetent, and immaterial.

Mr. Hanford: The same objection.

Mr. Cruce: The same for us.

The Court: He may answer.

Mr. German: We except.

Mr. Cruce: We except.

A. You will have to ask the question again. (Question read.)

The Court: Now, first, this witness of course, cannot answer that unless there was a general reputation in that regard; unless it was generally talked and conceded in the neighborhood, there, that this child was the child of Nancy. If he knows that such existed, then he may state what it was.

A. Well, nearly everybody around there was accused of being the child's father.

Q. Well, whose child was he—the question is who was reputed to be its mother? A. Nancy.

Q. You say you went there in '88 or '89? A. Yes, sir.

Q. What time after you went there, was it that you noticed her in a pregnant condition?

A. Oh, that I can't state. I just remember that was her condition in being around the store but I don't remember how long after I went to Wagoner. I was only there two years and during that time I observed that, and afterwards saw the child.

Q. And how large was the child the last time you saw it?

A. Oh, large enough to walk.

Q. What was the color of the child?

A. Why, light yellow.

Cross Examination by Mr. German.

Q. What is your age, Mr. Davis? A. Forty six.

Q. You say you went to Wagoner in '89?

A. Eighty eight or eighty nine. I went there the year the Iron Mountain Railroad was built in there.

Q. What age were you then?

A. I was nineteen, eighteen or nineteen.

Q. You say you worked in the store, what store was that?

A. My father's store, Davis & Jones Mercantile Company.

Q. How long were you there? A. Two years.

Q. So you quit working there in ninety or ninety one?

A. Yes, sir.

Q. And it was during the time you were in the store you saw Nancy in a family way? A. Yes, sir.

Q. Who did she live with at that time? A. I don't know.

Q. Where was this store located?

A. On the west side of the M. K. & T. tracks, nearly west of where the present station is.

Q. How far? A. Just a block and a half.

Q. Do you know a woman named Mashack? A. No, sir.

Q. How long did Nancy stay around Wagoner?

A. Well, I was there for quite a number of years, she was there so far as I know when I went there.

Q. How long did you live there?

A. I left there fifteen years ago. I don't know that she was there, but I suppose she was.

Q. So, you knew her then for some ten or fifteen years?

A. Well, I don't know as I knew her, I used to see her around there frequently.

Q. Was she ever in a family way more than once?

A. Not that I know of.

Q. Just once. Now, what was the name of this child?

A. I couldn't tell you.

Q. You never knew? A. Never knew.

Q. Never heard it called? A. So far as I can remember.

Q. In those days?

A. Lately I have, I don't know that I heard it called a name in those days.

Q. Was it a boy or girl?

A. My recollection is it was a boy.

Q. Are you positive about that or not?

A. Well, I am quite positive.

Q. When was the first time you ever saw that boy?

A. I couldn't tell you.

Q. How old was it? A. Couldn't tell you that.

Q. What is your best judgment?

A. The first time I saw it?

Q. Yes, sir?

A. Well, I don't remember; I remember Nancy being around there with a child, but I don't remember the first time I saw her or the child.

Q. Well, was she carrying it in her arms or was it walking?

A. I don't remember whether I ever saw her carrying it in her arms or not, probably did, she was in the store every day.

Q. Now, you don't know whose child that was?

A. I don't understand the question.

Q. Do you know whose child that was?

A. I don't know.

Mr. German: No, sir. Well, that is all.

Cross Examination by Mr. Hanford.

Q. Mr. Davis, how long did you say you remained in the Davis & Jones' store? A. About two years.

Q. For about two years? A. Yes, sir.

Q. You went there when the Railroad was building into Wagoner? A. When the Iron Mountain Railroad.

Q. When the Iron Mountain Railroad was building in there. That was eighty nine or ninety?

A. Eighty eight or eighty nine.

Q. As a matter of fact, wasn't it eighty-nine?

A. I am not really positive, I think that it was, but I am not really positive whether it was eighty-eight or eighty-nine.

Q. You say Nancy came to the store about every day while you were there? A. A good many times every day.

Q. And that is where you saw her with this boy?

A. Yes, sir.

Q. Did the boy ever come to the store?

A. With her, yes, sir, afterwards.

Q. With her. And how would she take him, by the hand?

A. It has been so long ago I don't know that I could be positive she took him by the hand. I remember him after he was old enough to walk.

Q. Do you remember Nancy in the pregnant condition?

A. Yes, sir.

Q. How long had you been there in the store when you saw Nancy there in that condition? A. I couldn't tell you.

Q. You had been there some time before you saw Nancy there, hadn't you?

A. I had been in the store some time before I saw her come in the store?

Q. Yes?

A. I couldn't tell you, she may have been there the first time I was in the store.

Q. You don't remember? A. No, sir.

Q. Where did you come to Wagoner from?

A. Neosho, Missouri.

Q. You don't know where Nancy lived then before she came to Wagoner? A. No, sir.

Q. Never saw her before she came to the store?

A. No, sir.

Q. How long was she in this condition, or did you just see her once or twice?

A. I suppose I saw her a good many times.

Q. So, you probably saw her covering a good part of the period gestation? A. I should judge so.

Q. How old would you say that boy got to be when she would come to the store there, a good sized boy?

A. So far as my recollection serves me he was able to walk around.

Q. Able to walk around? A. With her.

Q. How old, three or four?

A. I don't think so, I wasn't there that long, I was only there two years.

Q. Did you ever see the boy afterwards?

A. Not to my recollection.

Q. Did you ever see anybody that looked like him?

A. I don't remember how he looked.

Q. You left Wagoner fifteen years ago, what did you do after you left the store? A. I run a newspaper in Wagoner.

Q. Do you know Claude Weldon? A. Yes, sir.

Q. Do you know a boy that stayed out there with him?

A. He lived in town when I lived there.

Q. The boy did? A. Claude did.

Q. You didn't know a boy that was around there with him? A. No, sir.

Q. Did you ever know a Charlie Harrison?

A. I don't remember him.

Q. An Indian boy over there?

A. I don't remember him.

Q. Did you ever hear that this boy that was with Nancy was anybody else's child? A. No, sir, never did.

Q. Did you hear that that was one of Minnie's children?

A. Never heard it, no, sir.

Q. Do you know what became of the boy?

A. No, sir, never heard.

Q. Never heard anything about him? A. No, sir.

Q. The only thing that you do know is that you saw Nancy in this condition and that you saw her in that condition covering a good part of the nine months' period gestation, and that you later saw her with a boy that she used to bring to the store there, and he was a good sized boy—able to walk, and you don't ever remember seeing him in her arms, but you do remember that he used to come there and walk to the store with her. Is that your testimony? A. Yes, sir.

Q. That is all that you can remember now? A. Yes, sir.

Q. And you have no knowledge of the absolute fact as to whose boy that was?

A. Other than the fact that it was generally understood to be her child.

Q. I am asking you as to your own personal knowledge, Mr. Davis.

A. Of course, I haven't got any real knowledge regarding the birth of the child.

The Court: That is very clear as to what he relies upon.

Recross Examination by Mr. German.

Q. Do you know of Nancy being convicted of a felony there, and sent to the penitentiary about 1890?

A. Yes, sir, I think I remember something of it. I have a faint recollection.

Q. Was that before or after her pregnancy?

A. I don't know; I can't tell you.

Q. You don't [ ] where that came in?

A. I remember something of her being convicted, something, for some offense but I don't remember whether it was before or afterward.

Redirect Examination by Mr. Maxey.

Q. Mr. Davis, I believe I didn't ask you what your business was?

The Court: Wholesale grocer, he said.

Q. What position do you hold? A. President.
Q. What grocery?
A. The Muskogee Wholesale Grocery Co.

Witness dismissed.

And thereupon, C. S. WALKER, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. C. S. Walker.
Q. What is [] business, Mr. Walker?
A. I am an attorney.
Q. Where do you live? A. Tulsa, Oklahoma.
Q. What age are you? A. 47.
Q. How long have you been practicing law?
A. 20 years in June.
Q. How long have you been in Tulsa practicing law?
A. Thirteen years the first day of this month.
Q. Continuously? A. Yes, sir.
Q. Do you know a woman by the name of Sadie James?
A. Yes, sir.
Q. How long have you known her approximately?
A. Oh, I have known her somewhere between eight and ten years.
Q. Has she ever been a client of yours? A. Yes, sir.
Q. State whether in the summer of 1914, she had occasion to consult you concerning any matter connected with the Thomas Atkins case? A. She did.
Q. Did it or not, involve Mr. Page or the conversation involve Mr. Page, or Mr. Long, or Mr. Bartlett?
A. Yes, sir, all three of them; at least, she consulted with me about matters between her and all three of those men.
Q. All three of them? A. Yes, sir.
Q. Can you fix the time at which this conversation occurred? The first one concerning that matter?
A. I don't believe I can, Mr. German.
Q. Could you by reference to a certain contract between Mr. Page or the Gem Oil Company and Sadie James?
A. I think so.

Q. Did the conversation also involve any statements relating to Thomas Atkins or Minnie Atkins? A. Yes, sir.

Q. Tell the Court what the conversations was; the first one you had concerning that matter.

Mr. Cruce: I object, if the Court please, on behalf of Page, as hearsay and incompetent testimony.

The Court: Why, it seems to me so.

Mr. German: It would apparently, Your Honor, possibly; here is the object, we expect to show by the witness that Sadie came to the witness and discussed her —possibly her contract and work for Mr. Bartlett, and Mr. Page's attitude toward the matter, and that it will then cover a trip of hers to Mr. Page's office, and then back to the witness and what was said between them, and then still another one.

The Court: But all the time being what Sadie said that somebody else, some other of these interested parties had said to her, or a message that they had her to convey?

Mr. German: It would involve what she said to them and what they said to her.

The Court: That is as she told this witness.

Mr. German: Yes, sir, now it occurred in the summer of 1914, at the time of the employment of Sadie by Mr. Page.

The Court: Now, this witness has been permitted to testify that there was a conversation involving these parties at that time; the fact that there was, without detailing what it was. There is now referred to a contract which was entered into and that probably has been offered in evidence already.

Mr. German: Yes, sir.

The Court: Between Mr. Page and Sadie.

Mr. German: Yes, sir.

The Court: But clearly what Sadie said Mr. Page may have said to her, at another place, and she conveyed to this witness, would be hearsay from the mouth of this witness.

Mr. German: Your honor, we have authorities right square in point here.

The Court: Well, I want to hear them. It occurs to me to be clearly hearsay.

Mr. German: Yes, sir. Now, in order that Your

Honor, may understand our position, it is this: we expect this witness to relate conversations between himself and Sadie which covered her conversations here, the first conversation, with Minnie Atkins at Seattle; that is, which included some statements made by her—by Minnie to Sadie, also which covered some conversations between Sadie and Mr. Page, and Mr. Long, and the transaction whereby Sadie was employed by Mr. Page, and how it happened that she was employed by Mr. Page. Now, it appears already in the evidence that at the time of these conversations Sadie had no occasion to tell this witness anything but the truth, and since then and in December, 1914, some five or six months after the conversations with this witness, Sadie, according to Sadie's story, came, and to use an expression from our view-point, made a full confession to Mr. Montgomery, the United States Probate Attorney, of all that she knew about this case and about the alleged frame-up. Now, then, she tells on the witness stand the entire story when she entered the case up to the time of her confession to Mr. Montgomery. Then on cross examination counsel show by *Said* that she is in the—she is receiving $50.00 a month from the Buell interest; they also show by her own testimony that she is a self-confessed crook; they also show by her, that on—that she admitted and she confesses to having attempted to develop a frame-up with reference to the existence of Thomas Atkins, his birth and so forth; in other words, on cross examination of Sadie James and by other circumstances in this case, counsel for defendant have attempted to impeach Sadie James and reflect upon the truth of her story. The object of introducing these statements of Sadie James is to show this, that prior to any time when she had occasion to fabricate, she related to this witness many of the material features of her story testified to on the witness stand. Now, I want to read to Your Honor from a case entitled Diggers vs. The United States.

The Court: I am not going into this matter now. My first impression was it was clearly hearsay. I am not clearly convinced yet that it comes within the rule which counsel contends for. Without taking further time now—I take it Mr. Walker is your only witness.

Mr. German: One other.

The Court: Who is it?

Mr. German: Judge Williams.

The Court: These gentlemen will be here this afternoon. I want, during the noon hour, to examine the Oklahoma authorities and some others. It is going to take considerable time and if I open this up it may open up a good many other matters which will lead to a largely increased record and collateral matters that will confuse matters here. I will not hear further arguments now on it. Just hand me your authorities before I leave the bench. The Oklahoma case and these Tennessee cases and give the United States cases, and I will determine the matter when Court convenes this afternoon. These gentlemen will be in attendance this afternoon; and Mr. Walker may stand aside now. You may proceed with some other witnesses.

Mr. German: Your Honor, we will put on Mrs. Flitner. It is a little out of order. We tried to put her on Friday but she was not in attendance.

And thereupon, Mrs. ANNA RILEY FLITNER, produced and sworn as a witness for and on behalf of the Government, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name?
A. Mrs. Anna Riley Flitner.

The Court: Now, Mrs. Flitner, you will have to talk up pretty loud so all of these people can hear.

The Witness: Well, I haven't a very loud voice.

Q. Your age and place of residence? A. Forty-eight.
Q. Where do you reside at this time?
A. Well, on a ranch near Graybull, Wyoming.
Q. Where did you live in the eighties?
A. I lived in Leavenworth, Kansas.
Q. What was your profession at that time?
A. I was a teacher.

Q. Do you remember having at one time taught the school in School District No. 53? A. Yes, sir.
Q. Leavenworth County, Kansas? A. Yes, sir.
Q. What was the name of that school?
A. The Brown School.
Q. How long did you teach at the Brown School?
A. Just the one year, seven months, one school year.
Q. What was that year?
A. The fall of 1888 and the spring of 1889.

Q. Do you know Henry Carter, one of the defendants in this case? A. He attended my school at that time, yes.

Q. He was one of your pupils during the school year of 1888 and 1889? A. He was.

Q. Did you know his younger sister, Viola Carter?

A. She also attended school.

Q. How much older was Henry then Viola?

A. Well, as nearly as I can remember he was about two years older, I don't remember the exact age, I think she was six and he was at least eight.

Q. Do you remember the two children very well, do you?

A. Well, I hadn't thought very much of them since they went to school.

Q. Is there anything that causes you to remember them any more than other pupils attending that school?

A. I remember in the spring of 1889, when I was away from the school and had a substitute, that the white children chased them off of the school ground. That was just a little incident that happened at that time.

Q. What was the color of the children?

A. Well, I should say that they were rather mulattos.

Q. With what race—— To what race did they belong and with what race did they associate?

A. Well, really I don't know very much about them.

> The Court: Do you know them to have had negro blood from their appearance; you called them mulattos, I suppose you meant having a portion of negro blood?

A. Well, I supposed that they did, that was just my opinion.

Q. Well, you regarded them as negro children, didn't you? A. Yes, that is the way I looked at them.

Q. Were there any other colored children attending your school? A. Yes, sir.

Q. How many others?

A. Well, there were the Hodges and the Bells.

Q. Two other families? A. Yes.

Q. Did you ever teach that school any other times than the year you mention '88-9? A. No, sir.

> Mr. Allen: We have in the Government's exhibit taken at the Receivership hearing, I think, the report signed by this lady as the teacher for that scholastic year.

> The Court: Has she been a witness in the deposition?

> Mr. Allen: No, sir, but the trustee of that district

was a witness—the clerk of that district, and we identified it.

The Court: If you have the report—is that the report you contend this witness made?

Mr. Allen: Yes, sir.

The Court: If you have that report you may present it to her and interrogate her with regard to it.

Mr. German: I don't know whether we had that or not.

The Court: Well, let's not take time with that now.

Cross Examination by Mr. Cobb.

Q. This party you speak of as H. Carter, had he ever gone to school before the time he went to you?

A. Not that I know of.

Q. Wasn't he ignorant of any learning at this time?

A. He was in the first grade.

Q. He didn't even know his letters, did he?

A. Well, I wouldn't swear to that because I don't really know.

Q. Well, he was in the primary class, you remember that?

A. Yes, sir, he was in the primary class.

Q. You don't remember whether he knew his figures or knew how to count, do you?

A. I don't remember whether he did when he started or not.

Q. Now, he didn't start to school until after the holidays, did he?

A. I am not positive whether he started before or after the holidays; I am positive that he was there in '89. I am positive he was there in the spring.

Q. In the spring of '89? A. Yes, sir.

Q. And you are not positive that he was there before that time?

A. No, sir, because I hadn't thought much about it. There is no incident to fix it in my mind.

Q. Now, you stated that your recollection was that he was about 8 years old at this time? A. Yes, sir.

Q. Upon what do you base your recollection of this matter?

A. Well, the minimum age for school children was about six, and the little girl was at least that old and the little boy was much larger and I should judge at least two years older.

Q. Now, that is the only reason that you have for saying that he was about 8 years old at that time because she was not permitted to go to school until she was six years old?

A. Yes, sir.

Q. And you judged he was about two years older than she was? A. Yes, sir.

Q. How long did you live at Leavenworth prior to '89 when you taught this school? A. About 20 years.

Q. Ma'am? A. About 20 years.

Q. How long did you live there after you taught this school? A. How long after?

Q. Yes.

A. I left there in '97; I would have to stop to think a minute.

The Court: Well, she taught there in '89; that ended the term and she left there in '97.

Q. You left there in '97? A. Yes, sir.

Q. Now, Mrs. *Blickner,* is there any way you could be mistaken as to the time you taught this school?

A. No, there is no possible way; I am positive.

Q. How do you fix this date of '88 and '89 as a certainty in your mind?

A. Well, we built a new home in Leavenworth that year and I had a friend who taught in an adjoining district the same year that I taught at the Brown; the following year, we taught in adjoining districts right at the edge of the City of Leavenworth, and that summer she was married, 1890.

Q. I didn't exactly understand that.

A. Well, a friend of mine taught the adjoining district, taught at Springdale, the year I taught at the Brown; the next year she taught an adjoining district and I taught the district right at the edge of Leavenworth, and she taught the next district and was married in May.

Q. At the *ned* of that term? A. 1890, yes, sir.

Q. In other words, you fix the date of teaching this Brown district 53, as being the year before your friend got married?

A. That is one way, yes, sir.

Q. And your friend was married in May, 1890?

A. '90.

Q. Now, how do you fix the date of this marriage of your friend? Might it not have been in 1891 or '92?

A. No, sir, I went to New York that year and I was not able to attend the wedding.

Q. In other words, did you have a recollection of this date of your friend's marriage in your mind? A. Yes, sir.

Q. And this trip that you made to New York, now, mightn't it have been a year later or a year earlier?

A. No, sir, I am just positive of it.

Q. That is your best recollection that it was in 1890?

A. Yes, I had a letter from her a short time ago——

The Court: Well, now, you needn't state anything about that letter. You have cross examined this witness sufficiently along the line to see what she bases it upon.

Mr. Cobb: That is all.

(Witness dismissed.)

And thereupon, RUSH GREENSLADE was called, sworn as a witness for and on behalf of the Government, and testified as follows:

Direct Examination by Mr. Allen.

Q. You may state your name, age, and place of residence?
A. Rush Greenslade, thirty-two, Tulsa, Oklahoma.
Q. Are you a practicing attorney? A. Yes, sir.
Q. At this time attorney for the Gypsy Oil Company?
A. Yes, sir.

Q. Mr. Greenslade, in 1914, did your company make an investigation in connection with the Thomas Atkins Allotment? A. Yes, sir.

Q. What was the object of that investigation?

A. Well, ultimately, of course to establish our title to the leasehold if we could upon that land.

Q. Did you make any search throughout the country for Thomas Atkins at that time? A. Yes, sir.

Q. State whether or not Dennis Jones was engaged by you to assist in making that search? A. Who?

Q. Dennis Jones, of Leavenworth, Kansas?
A. Yes, sir.

Q. Is he a lawyer, colored lawyer of Leavenworth, Kansas? A. He so holds himself out.

Q. I hand you Government's Exhibit A-88, and ask you to state what that is?

A. That is a contract between the Gypsy Oil Company and Dennis Jones.

Mr. Allen: We now offer in evidence a contract between Dennis Jones and the Gypsy Oil Company, marked Government's Exhibit A-88.

The Court: What does that tend to prove in this case? I don't quite see?

Mr. Allen: Sadie James testified in her testimony about going from Tulsa to Leavenworth, and about going to Mr. Page in Tulsa and telling him that she could hire Dennis Jones, but that Dennis at that time was engaged for the Gypsy Oil Company and it would be harder to get him than it would Rube Smith, but that he was a co-worker of hers and she could get him, and she testified——

The Court: On the point to prove just the fact that there was a contract between Dennis Jones and this Company?

Mr. Allen: Yes, sir.

The Court: There has been no objections, but I merely want to keep out of this record anything except that *whin will thrown* some light.

Mr. Allen: There is a representation in the contract that he can locate the living Thomas Atkins.

The Court: I don't think the contract between Dennis Jones and this Company has any place in this case. As to the contents of it, I don't think that is material.

Mr. Stuart: We don't object to this contract, just let him have it go in subject to cross examination.

The Court: If you gentlemen don't object, it may go in. I don't see its relevancy but it may go in.

Mr. Allen: Its relevancy will be apparent later on in this case.

Q. I now hand you Government's Exhibit A-89, and ask you what it is?

A. That is a letter from Dennis Jones to the Gypsy Oil Company. It is addressed to Mr. Crawley, Vice President of the Gypsy Oil Company.

Mr. Allen: We offer in evidence Government's Exhibit A-89.

Mr. Cobb: Objected to as incompetent, irrelevant, and immaterial.

The Court: Overruled.

Mr. Cobb: Exception.

Q. I hand you Government's Exhibit A-90, and ask you what that is?

A. That is a letter from Dennis Jones addressed to Mr. Crawley of the Gypsy Oil Company.

Mr. Allen: We offer in evidence, Government's Exhibit A-90.

Mr. Cobb: Same objection.

The Court: It may be admitted. Exception noted.

Q. Mr. Greenslade, subsequent to the employment of Dennis Jones, did you go with him in search of a living Thomas Atkins? A. I did.

Q. Where did you go?

A. Washington, D. C., and New York City.

Q. Where else? A. That is all that I went with him.

Q. Do you know whether he went to Chicago and other places?

Mr. Cruce: We object to this testimony because it is immaterial, Your Honor.

The Court: Yes, it would only be hearsay anyhow.

Q. Well, was your company paying the expenses of Dennis Jones for making various trips over the country, which he made?

A. We paid his expenses to Washington, D. C., and to New York City in accordance with that contract. I don't know of any other expenses that we paid.

Q. You were unable to find Thomas, were you?

Mr. Cruce: We object as incompetent, irrelevant, and immaterial.

The Court: Sustained.

Q. Were you able to find Thomas Atkins?

Mr. Cruce: We object for the same reason.

The Court: Sustained.

Mr. Allen: You may take the witness.

Cross Examination by Mr. Stuart.

Q. Mr. Greenslade, at the time this contract was made, the deed which your company got from Mr. Bartlett, that is you claimed under Mr. Bartlett didn't you at the time you made this contract?

A. We claimed by a lease from Mr. Bartlett, yes, sir.

Q. By a lease from Mr. Bartlett? A. Yes, sir.

Q. And you had found at that time that the purported deed from Minnie Atkins to Bartlett was a forgery, hadn't you? Found it out at that time?

A. We had no—we had suspicions of it.

Q. Had suspicions? A. We didn't know that.

Q. You suspected that deed was a forgery?

A. We didn't know that.

Q. You knew it had been adjudged to be a forgery, hadn't it? A. It hadn't been adjudged within my knowledge.

Q. Hadn't on August 3rd?

A. Don't think it has ever been adjudged to be a forgery.

Q. Don't you know it was in the case of Nancy Atkins and so forth, and was found so—think about it.

A. My recollection is, Judge Stuart, that question was not involved in the case; I might be mistaken.

Q. You were an attorney in it?

A. No, sir, the case was tried before I became connected with the *term*.

Q. Mr. Diggs of your firm appeared?

A. Mr. McGraw appeared in the case.

Q. Any how, you got suspicious about the title from Minnie, didn't you?

A. Well, I think the Company had had suspicions for some time.

Q. Well, you can answer that. You got suspicious, and then you wanted to find Tommy, the son, didn't you? If you could?

A. Judge, we were searching for both Minnie and Tommy. I wouldn't be sure whether that contract was made after Minnie had been discovered or not, but I think it was.

Q. Yes, it—— A. I think it was.

Q. This contract was after you discovered that Minnie was in existence. A. I think so.

Q. And if Bartlett's title from Minnie proved bad, the title from Tommy, if he was alive, would prove superior to Minnie's? A. Yes, sir, absolutely.

Q. And that is what you were hunting for, isn't it?

A. Absolutely.

Mr. Stuart: I state, Your Honor, that Mr. Greenslade, might be needed on another matter.

Cross Examination by Mr. Maxey.

Q. Mr. Greenslade, this investigation that you started to find Tommy Atkins and Minnie Atkins was after the trial of the case between Nancy Atkins and H. U. Bartlett, and the Gypsy Oil Company, in the District Court at Sapulpa?

A. Yes, sir.

Witness dismissed.

And thereupon, court takes adjournment until 2 o'clock P. M.

And thereafter, court having convened pursuant to adjournment, further proceedings were had as follows:

The Court: In relation to the evidence offered this morning, to which objection was offered, and upon [] the Court did not rule before the noon hour, without having, of course, read the record so far as Sadie James' testimony is concerned, I understand from the statement of counsel that on the cross examination, it was shown that the cross examination brought out by counsel for defendant, that Sadie James is now employed by some interest in this case; that she was so employed at the time that her deposition was taken, and that at the time that she gave the testimony with regard to which it is now offered to show that she made similar statements in 1914, at a time prior to this case, and at a time prior to the arising of this controversy. The question is then, whether or not now, in view of what was brought out on that cross examination, a person not Sadie James, but another to whom she made certain statement, may relate the statement which she made at that time, offered by the complainant in this case on the theory that being consistent with her statement now, and made at a time before this controversy arose, in view of impeachment growing out of cross examination, these statements may be testified to by a third party in corroboration of what she now states. As counsel suggests, I find no direct federal authorities on the subject. In relation to this class of evidence, Greenleaf has this to say (reads from authority).

Here is a case very like the Tennessee case that was read this morning, where the witness in a personal injury case was cross examined with relation as to whether or not she had been paid to come there and testify, and various other matters relating to her being there as a witness; and in view of that cross examination, the Court there [] that it was competent for the plaintiff to show by the testimony of a third person that this witness, long before the case came up, had made certain statement consistent with that made upon the stand.

Now, the only question here is, assuming that Sadie James' cross examination was what counsel conceived it to have been, and assuming that that cross examination showed that at the time she made her deposition she was employed by an interested party in the case, and that there were reasons existing which might have impelled her to color her testimony, whether or not merely because that is brought out on cross examination and not shown by independent statement, this witness may not now be interrogated in regard to her consistent statement made at a time before this controversy arose.

I am inclined to think that the evidence is competent, and that it is one of the exceptions to the rule, and conclude that after considering the matter, and will so rule, and give you your exceptions.

Mr. German: Your Honor, we will recall Mr. Walker presently. Just now we want to take up another matter. We offer the deposition taken by the defendant, Folk, Page and others in that group, of Edward Charles Fritsche, taken before Mr. Penick; for the same purpose and same reason that we offer the deposition of Dennis Jones taken in the suit pending in the District Court of Creek County, which I stated into the record; beginning on page 1889.

Mr. Cruce: Counsel having stated the purpose for which they offer it, we object because it is incompetent.

The Court: Objection overruled and exception noted.

Mr. German: Call Mr. Fritsche.

The Court: Is this the same witness whose deposition was offered?

Mr. German: Yes, sir.

The Court: You are not going to cover the same ground that the deposition covers?

Mr. German: No, sir.

Mr. Cruce: We would like to add to our objection the fact that the witness is present and the deposition in no event would be competent.

The Court: I will reserve a ruling on that and determine that later.

Mr. German: Your Honor remembers that we offered the deposition for the sole purpose of supporting our contention that defendant Folk and that group have fabricated a case of the birth and life of Thomas Atkins.

Mr. Stuart: If Your Honor please, I would like to make this objection, that we took this man's deposition.

The Court: That is what I thought, that is my understanding, if the witness is here why not interrogate him?

Mr. German: Well, we are offering the deposition to show that they produced proof by this witness—introduced testimony which we charge is fabricated. We are showing that they produced the witness.

The Court: What do you propose to interrogate this witness about now?

Mr. German: With reference to giving that testimony and the circumstances under which he gave it, and what he now has to say.

The Court: All right.

Mr. Cruce: Note our exception.

And thereupon EDWARD CHARLES FRITSCHE being called on behalf of the defendant sworn and under oath testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Edward Charles Fritsche.
Q. Where do you live, Mr. Fritsche?
A. Leavenworth, Kansas.
Q. How long have you lived in Leavenworth, Kansas?
A. Fifty-one years past.
Q. How old are you now?
A. I will be fifty-two in April, born April '64.
Q. What has been your business in Leavenworth?
A. I am a druggist.
Q. Are you a graduate of pharmacy? A. I am.
Q. When did you graduate in pharmacy?
A. March 13th, 1885.
Q. Have you got any papers in reference to your graduation with you? A. Yes, sir.
Q. Would you let me have them, please?

Mr. Stuart: Please identify this as defendant's Exhibit No. 8.

Q. State to the examiner what the paper is?
A. It is a notification of the dean of the faculty notifying me of the fact that I passed satisfactory examination in pharmacy, materia medica, etc.

Mr. Stuart: We offer this in connection with witness' testimony.

Mr. German: We object to this as incompetent, irrelevant and immaterial.

Mr. Stuart: St. Louis, Missouri.

Mr. German: I further object to it on the ground that it has not been sufficiently identified and its authenticity sufficiently proven.

Mr. Stuart: In view of the latter objection I will ask the additional question.

Q. How did you receive this? In the due course of mail? By hand or how?

A. Through the mail from the dean of the faculty, Professor J. M. Good of the College of Pharmacy.

Q. What place? A. St. Louis, Missouri.

Q. This paper notified you that a graduate in pharmacy would be conferred on you on the 18th of March, 1885? Now Mr. Fritsche with whom had you worked prior to the time you went to St. Louis to study pharmacy?

A. For Theodore Ergersdorf and Adolph Lange.

Q. When did you work for Lange first?

A. For Lange first?

Q. In what year? A. Yes. October, 1880.

Q. Did you work for him after that? A. Yes.

Q. What year? A. 1885.

Q. What time in 1885 did you go to work for Lange?

A. About the summer months, during the summer months.

Q. Did you know a girl there at that time known as Indian Minnie? A. Yes, sir, I did.

Q. Where did you see her during the summer of '85?

A. On the street, in the drug store. Waited on her a number of times and at Mother Letcher's on lower Seneca Street.

Q. You say you saw her at Mother Letcher's?

A. Yes, sir.

Q. Did she have a baby?

Mr. German: I object to the question as leading.

Q. Answer it. A. She did.

Q. Where was she when you saw her with a baby?

Mr. German: I object to that question as assuming that the person referred to had a baby.

Q. Where did you see her with the baby?

A. In Granny Letcher's home.

Q. What was she doing with the baby?

Mr. German: I object to that question for the same reason.

A. Why I saw the baby several times. It was nursing.

Q. Nursing. How old was the baby when you saw it?

Mr. German: Same objection.

A. A few days or a week, or two weeks.

Q. Or two weeks?

A. Yes, sir. Different times I saw it.

Q. How old was the baby when you saw it the first time, in your judgment?

A. Oh, I don't think the baby was over three or four days old, probably a week.

Q. Did you know this Indian Minnie?

A. Well, I knew her, yes.

Q. What kind of a looking girl was she, Mr. Fritsche? Describe her as near as you can.

A. Well, she was what I considered a rather prepossessing woman.

Mr. German: I move to strike the answer because it states a conclusion, an opinion of the witness and is not responsive to the question.

Q. What kind of hair did she have?

A. She had dark hair of Indian type, black.

Q. How did she wear her hair, Mr. Fritsche, if you remember generally? A. In those days it was combed flat.

Q. How do you mean by combing flat? Explain it now.

A. Down like this is now. I call it like this is now. She was of olive complexion, dark eyes and prominent cheek bones and characteristic features of an Indian maiden and very plump figure.

Q. A prepossessing woman? A. Yes, sir.

Mr. German: I object to the question as leading.

Cross Examination by Mr. Blakeney.

Q. I want to ask a question as evidence really in chief in behalf of my client. About how tall was Minnie?

A. How tall?

Q. Yes? A. Oh, I should judge five foot six or seven.

Q. Five foot six or seven? A. Yes.

Q. About what weight was she?

A. Well, now, about a hundred and thirty-five or forty-five pounds.

Q. How often could you say and feel certain that you were stating it within the limit did you see Minnie?

A. How often?

Q. Yes?

A. Oh, frequentely. She came to the store there, and I waited on her.

Q. Did she ever bring anybody with her to the drug store that you remember? A. Bring any what?

Q. Anybody with her?

A. Well, there was a character that she walked the streets with, a forturne teller, so-called. She assumed the title of fortune teller.

Q. You saw these two come into the drug store did you?

A. Yes, sir.

Q. How frequently would you say that you saw them?

A. Oh, the fortune teller was almost a daily frequenter She was *edicted* to a habit.

Q. You say she was *edicted* to a habit? A. Yes, sir.

Q. And how frequently would you see the two together?

A. Well, now, that is hard to answer, Your Honor, but frequently though.

Q. Several times at least? A. Oh, yes, yes, sir.

Q. How often can you say you saw her at Granny Letcher's? A. Well I've seen her there a number of times.

Q. What were you doing at Granny Letcher's?

A. Why, I visited at Granny Letcher's occasionally. Sometimes I delivered medicines there—and some days—— Young sporting blood I would drop in there.

Q. When was the last time that you saw Minnie?

A. Oh, after her confinement. It was some weeks later. She suddenly disappeared and I saw her no more afterwards.

Q. Some weeks later did you say?

A. I should judge a few weeks. It was a long time now. I know she disappeared from here. Lots of the young fellows wanted to know what became of Indian Minnie and no one seemed to know.

Q. Did you ever see the child after that? A. After that?

Q. Yes, or after Minnie disappeared?

A. Yes, sir, I saw the child later.

Q. How long did you see the child after that?

A. Oh, probably to the age of six or seven years. Eight years probably, not later than that.

Q. What was the child known by? A. Tommy Atkins.

Q. Where did you see the child?

A. In a house of prostitution.

Q. What house? A. Ella Abbitts.

Q. Where was Ella Abbitts' place?

A. At Third and Cherokee Streets at one time. At another time she was on Broadway and Delaware Streets.

Q. How frequently did you see the child there?

A. Oh only a few times.

Q. Had you seen the child before that at any place?

A. Only as an infant.

Q. You saw the child as an infant and then you saw it as a child called Tommy Atkins? A. Yes.

Q. At Ella Abbitts? A. Yes.

Q. Some several years later? A. Yes, sir.

Q. You didn't see the child or hear its name mentioned in the interim between that period of time?

A. Well, they said it was Ella Abbitts' child—Indian Minnie's child.

Q. You heard that when you saw the child at Ella Abbitts'?

A. Well, I heard the child was in town. Indian Minnie's child was here, but I hadn't seen the child excepting at this house several times.

Q. Had you heard about the child from time to time during the whole period of time?

A. Well, I can't say that I did, not being interested.

Cross Examination by Mr. German.

Q. Mr. Fritsche, how long have you lived in Leavenworth? A. Since April 13th, 1864.

Q. You went away to school did you?

A. College of Pharmacy.

Q. How long were you in school there? A. Two years.

Q. At St. Louis? A. Yes, sir.

Q. What two years?

A. Well, 1813 when I graduated and '12—later part of '11 and '12, bringing it into March, 1813.

Q. That is when you graduated? A. Yes, sir.

Q. When were you born? A. April 13th, 1864.

Q. Well, you graduated—— You were in school two years, you say? A. Yes, sir.

Q. And you are not mistaken about the year that you were there?

A. No, that proves it there 1885 there when I graduated.

Q. Oh, instead of 1813? A. Yes, sir, '85.

Q. I see.

A. 1813 is when I went to school, yes, sir, and I graduated in March, '85.

Mr. Blakeney: 1813?

A. Sure.

Q. If you want to put it that way it is all right, Mr. Fritsche? A. The drinks are on me boys, '85.

Q. Mr. Fritsche you say the drinks are on you?

A. Yes, sir, '85.

Q. You were in the drug business here quite a while?

A. Yes, sir.

Q. And when they closed the joints here you went out of business and into bankruptcy?

A. That is rather a unkind way to put it though. I went out of business.

Q. I asked you if you didn't go into bankruptcy?

A. No, sir, I didn't.

Q. You went out of business, then, at that time?

A. I went out of the business, unfortunately.

Q. You had a Government license to sell whiskey, too, before you went out of business, didn't you?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

Q. Here in Leavenworth?
A. That question I can explain to you, if you will allow me.
Q. Did you not have such a license?

Mr. Blakeney: Answer and then explain, if you want to.

A. I did; now, I will explain.

Mr. Blakeney: Make any explanation you want to. I want to show that the witness said that he wanted to answer, and make the explanation, and when he started to make an explanation, Judge Allen interrupted——

Mr. Allen: He answered our question.

Mr. Blakeney: He said with an explanation. I ask the commissioner, now, to state to the witness that he can make his explanation.

The Examiner: Mr. Witness, you will answer questions propounded to you and when you are through testifying, then you may make any further explanation you desire.

Q. You had that license for seventeen years, didn't you?
A. For seventeen?
Q. Yes, sir. A. Yes, sir.
Q. Longer, too, didn't you? A. Longer, too.
Q. Here at Leavenworth, Kansas? A. Yes, sir.
Q. Kansas has been a prohibition state ever since before you went into the drug business, hasn't it?
Q. How long before I went into the drug business?
Q. Yes?
A. How long have we had prohibition? Thirty years.
Q. How long have you had prohibition in this state, I asked you?
A. Twenty-nine, or thirty years—somewhere along there—I am not positive as to the year.
Q. Now, you say you worked for Mr. Lange before you graduated? A. Yes, sir.
Q. In his drug store? A. Yes, sir.
Q. And that you worked for him in 1880? A. Yes, sir.
Q. How long did you work for him in 1880?
A. Until I went to school.
Q. Well, how long? A. About two years.

Q. In 1880? A. In 1880.

Q. What are you referring to?

A. To when I worked for Lange.

Q. What are you looking at now? What is it you took out of your pocket and are looking at? A. I worked for——

Q. I am not asking you to read it? What is that paper you are taking out of your pocket, and looking at?

A. This paper?

Q. Yes. A. That is a memorandum.

Q. Where did you get it? A. I figured it out myself.

Q. When? A. Last night.

Q. At home? A. Yes, sir.

Q. And wrote it down there? A. Yes, sir.

Q. Who was present? A. This copy——

Q. I am asking you who was present when you made this card at home last night?

A. Well, I made another card and recopied this.

Q. From the other copy? A. Yes, sir.

Q. When did you copy it?

A. This morning; off of this one original that I made last night at my house.

Q. Who was there?

A. I don't know; no one was there. My wife was at home, but wasn't where I was working.

Q. Anybody else? A. Daughter-in-law was there.

Q. Anyone else? A. That is all I know of.

Q. Who had been to your house last night before you made that memorandum? A. I don't know now.

Q. Had Mr. Bond been there—Mr. Lee Bond? A. No, sir.

Q. Mr. Frank Long? A. No, sir.

Q. You know both of them? A. Yes, sir.

Q. Neither one had been there? A. No, sir.

Q. You had seen them yesterday? A. Yes, sir.

Q. Both of them, and talked to them? A. Yes, sir.

Q. This morning—where did you copy the thing you now hold—from the other?

A. Copied it in Mr. McNaughton's office.

Q. Who is he?

A. He is one of the firm of Bond, McNaughton, and Dohrn.

Q. Why didn't you say in Mr. Bond's office?

A. It wasn't in Mr. Bond's office. Mr. Bond's office is in front, isn't it?

Q. I asked you why you didn't say in Mr. Bond's office?

A. There are three offices as I understand it; Bond, McNaughton, and Dohrn—three rooms there, I understand it.

Q. You know he is one of the attorneys in this case, don't you? A. Mr. Bond?

Q. Mr. Bond. A. Yes, sir.

Q. Now, why didn't you bring the memorandum that you made last night instead of copying it off?

A. I have two; if you doubt my integrity, I will give you both and you glance them over.

Q. I am asking you why you didn't do that?

A. Because the other one was partly obliterated, and my eye-sight isn't the best.

Q. Where did you get the data that you put on there?

A. From papers and my memory.

Q. Now, is there anything on that paper about Indian Minnie? A. I will read it to you.

Q. Is there anything on there about Indian Minnie?

A. Yes, sir.

Q. Let's see that, will you?

A. Gladly; refreshing my memory, if questions was asked. There is nothing there to hide.

Mr. German: *Mr. German,* I wish you would mark that, please, as Government's Exhibit 46.

Q. Mr. Fritsche, I have had this marked as Government's Exhibit No. 46, I wish you would read that, please, sir. Out loud, now.

A. Worked for Eggersdorff December first, 1879, age 15 years; worked for Eggersdorff until October, 1880, then for Lange until 1883, then went to college where I graduated March 13th, 1885. April of 1885, I worked for a short while for Eggersdorff; then back to Lange until December 11, 1886, when I went in business for myself. Molly Peters, fortune teller, Page, Hanford, Oil wells. Mr. Long, Judge Stuart, Ella Abbott, Third and Cherokee, Broadway and Delaware, Indian Minnie, Minnie Atkins, Tommy Atkins, Mrs. Letcher, Granny, Jim Mayo, Olive.

Q. Then comes the mark that the Examiner put on there?

A. Yes, sir.

Q. Marking it as an Exhibit? A. Yes, sir.

Q. Where did you get the card on which you wrote this?

A. Just the adjoining offices up there—the Board of Education rooms; the same building where Mr. Bond's and McNaughton's office is.

Q. Do you want to hold this card while I examine you?

A. No, the data—my memory sometimes gets the best of me on names, but I can answer it.

Q. You don't remember names well?

A. Not unless there is some reason I should remember them. I have been under a severe nervous strain of late.

Q. What is the cause of your nervous strain?

A. I have had considerable reverses—lost my business; lost $7,200.00 three months ago today.

Q. That is when you went out of business?

A. I was forced out of business.

Q. Now, Mr. Fritsche, you say you knew an Indian woman in the '80's? A. In eighty-five.

Q. '85? A. Yes, sir.

Q. Did you know an Indian woman at any other time in the '80's? A. At any other time?

Q. Yes, sir. A. No, sir.

Q. You never did? A. No.

Q. She is the first Indian you ever saw, isn't she?

A. No, sir.

Q. Where had you ever seen an Indian before that?

A. Quite a number of Indians in Leavenworth in the early days; in the '70's and '60's.

Q. In the '60's? A. The later '60's and early '70's.

Q. You remember seeing them? A. Yes, sir.

Q. How old were you when you saw the first Indian you ever saw? A. About five years of age.

Q. About five years of age? A. Yes, sir.

Q. It made a distinct impression on you?

A. It certainly did.

Q. Now, these Indians would live around Leavenworth?

A. I wouldn't say lived, no, sir.

Q. Lots of them?

A. Some Indians—I wouldn't say lots. Some Indians were here until the early '70's.

Q. And there never was another Indian around here until when—when was the next time there was an Indian around Leavenworth? A. I can't recall; I don't know.

Q. Well, there was two or three or four; maybe a dozen Indians and around here all the time?

A. Yes, a few Indians here all the times in the early days, but the reason I remember this particularly, when I was about 5 years of age, I was picked up by an Indian woman.

Q. I didn't ask you that.

Mr. Stuart: We object to the manner of examination of attorney as unfair and improper. The attorney refuses and the Examiner also refuses to permit the witness to make an explanation of his answer.

Mr. Blakeney: I want to join in that objection.

The Examiner: The Examiner has not refused permission of the witness to make any explanation he desired. The statement was made by the Examiner that while counsel was examining the witness, he should answer the questions and then an opportunity would be afforded him to make any explanation he desired.

Mr. Blakeney: I would like to have this—that the opportunity ought to be given as a part of the same answer, and not leave the answer inaccurate.

The Examiner: I have no authority to require counsel to stop questioning the witness, or permit him to make explanations. I do say, so far as the Examiner—so far as he is concerned—the witness will be allowed to make explanation at a time before he leaves the witness stand.

Q. Mr. Fritsche, you say you worked for Eggersdorff?
A. Eggersdorff.
Q. How many times?
A. A short time as an apprentice, and then Mr. Eggersdorff sold out to Adolf Lange, and I finished my apprenticeship with Adolf Lange and went to college.
Q. When did you commence working for Eggersdorff?

Mr. Blakeney: I would like to interpose the objection that witness was about to give another time when he worked, when he was interrupted by another question.

A. 1879.
Q. What date in that year? A. I think it was December.
Q. What time in December? A. The first of December.
Q. First of December. How old were you then?
A. Fifteen years.
Q. And how long did you work for him?
A. Until he sold out to Adolf Lange.
Q. When? A. In October, '80.
Q. October, 1880; and then you worked for Lange until when?
A. Until I got ready to go to the college of Pharmacy.
Q. When was that? A. '83.
Q. Lange's place is right where his predecessor's place was, isn't it? A. Yes, sir.
Q. And you saw this Indian woman before you went to college, didn't you? A. No, sir.
Q. Sure of that, are you? A. Sure of that.
Q. How old were you when you went to college?
A. Well, 18 or 19.
Q. 18 or 19 years old? A. Yes.
Q. Where was Granny Letcher living then, when you went to college?

A. Down on Seneca, between Second and Third, on the south side.

Q. Right in front of Crilly's barn, was it?

A. No, Crilly's barn was on the opposite side of the street, if I remember correctly.

Q. Well, I say right in front of Crilly's barn?

A. Well, you could call it front, yes, sir.

Q. How long had she been living there, prior to the time that you went off to college? A. Well, I don't know.

Q. You had been there frequently, hadn't you? A. Yes.

Q. Went there lots and lots of times?

A. I went there a few times.

Q. Just before and after you went off to college?

A. I had been there a few times; a number of times.

Q. Both before and after you went to college?

A. Not before college.

Q. You didn't go there before you went to college?

A. Well, I might have delivered packages there; that is all. Not in the light that you wish to put it.

Q. Did you actually go there, or did you not?

A. I have been to Madam Letcher's, or Mother Letcher's, or Granny Letcher's——

Q. What is her name?

A. Granny, is all I have known her by.

Q. Did you say Mattie a while ago? A. No, sir, I didn't.

Q. You had been there before you went to college?

A. I just gave an answer to that.

Q. It was '83 when you went to college?

A. I don't believe I did.

Q. You were 18 or 19 years old?

A. I was at school, then, in '83.

Q. Well, you went to school in '83, didn't you?

A. Up to March.

Q. March, '83; where?

A. St. Louis; graduated in March.

Q. Graduated in March, '83, didn't you?

A. Yes, sir, in March, '83, and went to Granny Letcher's house in '85.

Q. '85? A. Yes.

Q. How long after you graduated, was it, until you were in Granny Letcher's house?

A. Well, that was when I worked for Mr. Lange.

Q. You didn't answer my question. A. It was in '85.

A. How long after you graduated was it, that you were in Granny Letcher's house?

A. It was the summer month; July, August, and along there—as well as I can recall it, now.

Q. You graduated in March? A. March.

Q. In 1883? A. And came up here.

Q. And came up here? A. And worked in April.

Q. Worked in April? A. Started in April.

Q. Started in April. Then, you were in Granny's house that summer? A. That summer.

Q. That summer? A. '85.

Q. 1885? A. Yes, sir.

Q. You went into business for yourself when?

A. December.

Q. What year? A. '87, I believe.

Q. December, '87; where?

A. On Broadway and Shawnee, Leavenworth, Kansas.

Q. What day in December?

A. What day it was—I believe it was December 11, about 5 P. M.

Q. You think it was about 5 in the afternoon?

A. Yes, sir; I bought a store out.

Q. You bought a store out? A. Yes, sir.

Q. Now, what year was that? A. '87.

Q. '87. How long did you work for Mr. Lange after you got out of college, before you went into business for yourself?

A. Well, now, let's see; it was 1887—a short period from about June, July, or thereabout, until December.

Q. From about June or July, until December?

A. Yes, sir, as near as I can recollect now.

Q. So about five months, four or five months?

A. I believe that is it.

Q. Had you worked for Mr. Lange before that, except when—except prior to the time when you went to college?

A. Only as an apprentice.

Q. Well, I say, had you worked for Mr. Lange before the time you have mentioned, except*ed* when you worked for him before you went to college?

A. I only worked for him when he bought out Mr. Eggersdorff; finished a little apprenticeship with him, and went to St. Louis, and upon my return from graduation, I worked a short time.

Q. A short time—four or five months?

A. Yes, sir; something like that.

Q. And you went into business for yourself?

A. For myself, yes, sir.

Q. Now, you say, you went into business for yourself in 1887, is that right? A. I believe that is right.

Q. Well, don't you know when you went into business?

A. That is right.

Q. That is correct, is it? A. Yes, sir, that is correct.

Q. What day in December did you go into business for yourself?

A. As near as I can recollect, December 11th, at 5 P. M.

Q. Now, you say you worked for Mr. Lange, after you returned from college, before you went into business for yourself, for about four or five months?

A. As near as I can recall, yes.

Q. Now, let's see. Where was that place of business when you went into business, with reference to Mr. Lange's place of business? A. Where was my place of business?

Q. Yes?

A. Four blocks west of Mr. Lange's corner.

Q. Four block's west? A. Yes, sir.

Q. You say before you went into business for yourself, and while you were clerking at Lange's, that Indian Minnie would come there?

A. Indian Minnie traded there at Lange's store, yes, sir.

Q. What would she buy?

A. Just ordinary run of drugs—toilet articles; I don't remember what she bought.

Q. Do you remember any particular thing that she ever bought?

A. No, that is a hard question to answer after 25 or 30 years.

Q. Wasn't anything peculiar about the purchases that she made, was there?

A. No, sir; if she was a—addicted to narcotics, I would remember it.

Q. She was not? A. She was not.

Q. Did she buy any particular kind of toilet articles?

A. She was strong on German cologne; stunk around a block, and she would sometimes pour all of a bottle of that on her, right in the rtreet.

Q. You used to take her a bottle of it, sometimes, didn't you? A. No sir, I didn't.

Q. You don't remember about her buying any sarsaparilla of any sort; she didn't buy anything of that sort regularly? A. I have no knowledge of it.

Q. Well, you have known of it?

A. I didn't sell it to her that I knew of it.

Q. You would have known of it if she bought anything like that regularly?

A. I would have known it if I sold sarsaparilla.

Q. She didn't buy any blackberry compound, with any regularlity? A. Indian Minnie?

Q. Yes? A. No.

Q. So far as you know, didn't buy anything like that at all? A. Not Indian Minnie.

Q. Now, this fortune teller, that you spoke of; what is her name? A. I will think of that in a little while.

Q. Well, it has not been three hours since you wrote it down on the card. A. That is true.

Q. I have got that card now, haven't I?

A. Yes, sir; say, my memorandum.

Q. But you wrote it down last night, out at home, on a piece of paper, didn't you?

A. Yes, sir, Mollie Peters, I think.

Q. Now, you are satisfied about it as, to what it was aren't you? A. I am, yes, sir.

Q. What do you think it is?

A. I can't think, now; I will think of it before long.

Q. Who is the man who owns this—the oil wells—the property here in litigation—what is his name? A. Mr. Page.

Q. How did you find that out?

A. Through the newspapers, and at the barber shop. I asked Mr. Bond—several ways.

Q. And he told you. Now what connection is there between your knowledge and Indian Minnie and your having knowledge of Mr. Page being the owner of this oil well?

A. I don't quite understand your question.

Mr. German: Please read him the question.

(Question read.)

A. What connection? Simply the fact that I was detained Sunday here as a witness in this case, and I asked what case, and they said Mr. Page and the Government, and if I knew this Indian Minnie, and I said yes, and Judge asked me to come up to his office—Judge Bond.

Q. What have these oil wells got to do with it?

A. With what?

Q. With your knowledge of Indian Minnie?

A. That I was a witness on this case.

Q. You went so far as to write down on this card, the name Page owner of wells, didn't you? A. Yes.

Q. You didn't want to forget that, did you? A. No.

Q. And you wrote down the name of Mr. Long, didn't you? A. Yes, sir.

Q. You wrote down—— A. And Mr.——

Q. And wrote down the name of Ella Abbott, didn't you?

A. Yes, sir.

Q. And the name Indian Minnie, didn't you? A. Yes, sir.

Q. And the name Minnie Atkins, didn't you?

A. Yes, sir.

Q. And the name Tommy Atkins? A. Yes, sir.

Q. And the name Mrs. *Lesher*—Granny, didn't you? A. Yes, sir.

Q. And the name Jim Mayo? A. Yes, sir.

Q. And the word, Olive? A. Yes, sir.

Q. You wrote all that down here, didn't you? A. Yes, sir.

Q. Now, you were afraid you would forget the complexion of that woman? A. No, sir.

Q. Is that why you wrote the word, olive, down here? A. No, sir.

Q. You weren't afraid of that? A. No, sir.

Q. This piece of paper was for the purpose of refreshing your memory, wasn't it? A. It was.

Q. You used to live at 319 Seneca street, didn't you? A. Yes, sir.

Q. How long did you live there?

A. Oh, up to the time that I was 6 years of age, as near as I can recall, as a child.

Q. From the time that you were six years old until when?

A. From the time I was a baby until six years.

Q. Until you were six?

A. The first six years of my life.

Q. Then where did you live?

A. Called the Continental Hotel, now the Imperial Hotel, opposite the National.

Q. Are you living there now? A. No, sir.

Q. You did live there a while. Did you ever live on Seneca street any more? A. Yes, sir.

Q. How old were you then? A. 20 and 21.

Q. What number did you live at?

A. 319 Seneca street.

Q. How long did you live there that time?

A. About 2 years.

Q. When you were 20 and 21 years of age? A. Yes.

Q. Is that right? A. Probably 22.

Q. Maybe 22? A. Yes.

Q. Now, let's see; just where had you lived before you lived there at that time? A. At what age?

Q. No, where had you lived just before you lived there that time?

A. On North Broadway, if I can recollect right; North Broadway, Miami and Broadway.

Q. Where did you live, just after you lived on Seneca that time?

A. I married and lived on—a little cottage on North Broadway, between Shawnee and Seneca, on the east side.

Q. How far is that from Second and Seneca?

A. Oh, that is six blocks.

Q. West? A. West.

Q. Six blocks west, isn't it? A. West, yes, sir.

Q. When you were living at 219 Seneca, when you were at the age of 21, 20, 22, you knew Granny Letcher, didn't you?

A. Pardon me, 319 Seneca.

Q. 319 Seneca? A. What year?

Q. When you were 20, 21, or 22 years old; during the time that you lived there, you know Granny Letcher?

A. I knew Granny Letcher from the time I was a boy.

Q. You are a white man, aren't you?

A. Yes, sir. Granny Letcher worked for my father.

Q. Where was your father living at that time?

A. *Mr.* father with another gentleman, owned the Continental Hotel.

Q. And Granny Letcher worked there as a maid?

A. No, more as a roustabout, in the kitchen.

Q. You didn't remember that, then, though, did you?

A. I did, yes, sir.

Q. How old were you then?

A. I lived in the hotel from the time I was 6 until I was 15; father went in the hotel business when I was six, until I went to school when I was 15.

Q. You say you were 15 when you went to school?

A. No, I should say, when I went to Lange's.

Q. You should say when you went to Lange's?

A. Yes, or Eggersdorff's, rather.

Q. Where was Granny living at the time that you went to work for Lange?

A. As I remember, Fourth and Choctaw; an old frame shack that is now removed.

Q. Now, let's see if we can fix with some definiteness, the time when you commenced living on Seneca street the second time. You hadn't married when you commenced living on Seneca the second time? A. No, sir, I had not.

Q. You lived there for two years you think?

A. Two or three years.

Q. Maybe three? A. Possibly.

Q. When did you get married? Give us the day, the month, and the year.

A. Well, I celebrated my silver anniversary November, three years ago.

Q. Then, how long prior to that, was it that you married?

A. Well, November 25, from 1829—I had been married about 28 or 29 years.

Q. Twenty-eight or nine years? A. Yes, sir.

Q. Now, you mean——

A. Yes, sir. Twenty-nine years, I think, this November.

Q. Don't you know how long you have been married?

A. Not exactly.

Q. You don't? A. I can tell you.

Q. Do you know what year you married in?

A. Yes, not the year but——

Q. Well, give us the year? A. Well, I can in a minute.

Q. Now, wait a minute; let me ask you a question. When was it that you celebrated your silver anniversary?

A. Three years ago last November.

Q. Then what year was that?

A. Well, that would be 1913.

Q. 1913? A. March 25 from that.

Q. That would make you married in '88, wouldn't it?

A. Yes, about '88.

Q. Now, you married about in November of '88, didn't you? A. Yes, sir.

Q. November 25th, is that right?

A. No, just what date—it was the day before Thanksgiving day. I could tell you of that by producing my marriage license.

Q. How long had you been in business for yourself when you married?

A. From December until November, eleven months.

Q. Eleven months? A. Yes, sir.

Q. After you married, you were never in Ella Abbott's house, were you? A. No, sir.

Q. You were never in Granny's house? A. No, sir.

Q. Was Ella Abbott a white woman or a colored woman?

A. A white woman.

Q. She ran a bawdy house, didn't she? A. Yes, sir.

Q. Granny Letcher was a negro, wasn't she?

A. Yes, sir.

Q. She ran a bawdy house? A. Yes.

Q. How long was it before you were married, that you saw Tommy at Ella Abbott's house?

A. It must have been several years if I saw her in '85, and I was married about '88.

Q. It was in '85 that you saw Tommy at Ella Abbott's?

A. No, probably '87 or '88.

Q. Maybe '87 or '88?

A. Yes. The kid was probably three or four years old.

Q. Probably three or four years old? A. Yes.

Q. Didn't she say the child was about seven or eight years old when you saw it in Ella Abbott's, a while ago?

A. I didn't say when I saw it there.

Q. Didn't you say it was about that old when you saw it in Ella Abbott's?

A. I didn't say I saw it in Ella Abbott's at the age of 7.

Q. You said it was about five years old, a while ago, when you saw it at Ella Abbott's? A. Some where along there.

Q. You never went back to Ella Abbott's or Granny Letcher's place since you were married?

A. I have been to Ella Abbott's on business.

Q. That is all?

A. Yes, sir. Ella Abbott was within one block of my business at one time and I delivered packages to her and medicines.

Q. You went in Granny Letcher's after you married?

A. No, sir.

Q. Never a single time? A. Never a single time.

Q. Nor were you there on business, were you?

A. Not there on business.

Q. Ella Abbott is now Ella Witt, isn't she? Mrs. Witt? A. I got that from hearsay.

Q. You understand she is the same woman? A. Yes, sir.

Q. You also understand that she is to be a witness in this case, don't you? A. I didn't know so.

Q. Have you been talking with her? A. I have not.

Q. Do you know George Crilly? A. Yes, sir.

Q. When did you talk to him last about this case, if at all? A. I have talked to no one about this case, sir.

Q. You haven't talked to anybody?

A. Absolutely no one.

Q. No one whatever?

A. Only except to parties who would say what are you doing in town this week, Fritsche, and I never discussed it with any one—the merits or demerits, I never discussed with anyone.

Q. You never told a soul what you knew about this case, did you? A. No, sir.

Q. Not a soul? A. Not that I know of.

Q. How old do you say you are?

A. Born April 13th, 1854; 52 this coming April.

Q. You are a married man now? A. Yes, sir.

Q. Have some children? A. Yes, sir.

Q. You didn't tell Lee Bond what you knew about this case, did you?

A. Sure I did. As counsel, he asked me some questions; perfectly naturally.

Q. Did you tell him what you knew?

A. He asked me if I knew this woman, Indian Minnie.

Q. Mr. Fritsche, did you tell him what you knew about this case? A. Why, he asked me questions.

Q. Answer me my question. A. Yes.

Q. You did? A. Yes, sir.

Q. Did you tell Frank Long what you knew about this case? A. They were together.

Q. They asked you questions, didn't they? A. Yes, sir.

Q. How long were you together?

A. Oh, with Mr. Long, only a few minutes,

Q. How long with Lee Bond? A. Probably a half hour.

Q. Where? A. In his office.

Q. How many different times did you talk with Lee Bond about it? A. Sunday and Monday, is all.

Q. This last Sunday and Monday?

A. I was supposed to have gone out on the road and I have been detained here all the week.

Q. Then you talked with him yesterday about it, didn't you?

A. Had to sit here all day, and he said, you stay around —hang around.

Q. You say you didn't talk with him yesterday about it?

A. About this case?

Q. Yes, about what you knew in this case.

A. Well, probably I did; a few questions might have been asked.

Q. You say you are in hard financial circumstances now?

A. Well, my—I am broke. I haven't any money to speak of; my business was taken away from me—sold for three thousand, some hundred dollars, and the creditors, I was told yesterday, get about forty cents on the dollar. I got nothing out of it except the book accounts; it is a long story about my——

Q. How long have you known George Crilly?

A. Oh, I have known George for about 25 years, I should judge.

Q. You talk with him every now and then, don't you?

A. No, sir, I haven't seen Mr. George Crilly to talk with for a year.

Q. In a year? A. Or two years.

Q. Two years? A. No.

Q. How long have you known Lee Bond?

A. Ever since he was a young man—a child, twelve or fifteen.

Q. Great friends, aren't you?

A. Well, we are friendly.

Q. You are quite friendly with him, aren't you?

A. I consider him a good friend of mine; always have—family and all.

Q. You are a closer friend to one of his partners, though, aren't you, than you are to him? A. A closer friend?

Q. Yes. A. No.

Q. You are not? A. No.

Q. No, you say that you used to go to the negro bawdy house of Granny Letcher? A. I have been there.

Q. Lots and lots of times, haven't you?

A. No, I don't know what you call lots and lots of times; I have been there a number of times.

Q. Been there several times? A. Yes.

Q. When did you first commence going there?

A. Why, that was in 1885.

Q. '85; you say you think it was in '85?

A. I said it was in '85.

Q. Actually so? A. Yes, when Indian Minnie was there.

Q. When did you quit going there?

A. Well, after Indian Minnie disappeared.

Q. I see. She was your beau, then—rather you were her beau? A. I don't have to answer that question.

Q. You decline to answer that, do you?

A. Yes, sir; she was no beau of mine, anyway.

Q. You are swearing to that?

A. I will swear she was no beau of mine.

Q. She was no beau of yours? A. Yes.

Q. But you refuse to tell whether you were her beau?

A. I wasn't her beau.

Q. You weren't? A. I was not.

Q. You met her, though, frequently, at this negro bawdy house, didn't you? A. I seen her there several times.

Q. Met her there, did you? A. Yes.

Q. You took her there, sometimes, too, didn't you?

A. No, sir.

Q. Well, how would you know she was there?

A. I would see her there.

Q. Was she living there?

A. Mrs. Letcher was keeping an assignation house, and it was a place where fellows would take their girls. I had nothing to do with Indian Minnie, nor with Mrs. Letcher.

Q. She lived there?

A. She lived there, then. I don't deny, when I wanted a room, I would pay her fifty cents, and get through and get out.

Q. White girls or colored girls?

A. White girls.

Q. Nothing but white girls? A. White girls.

Q. White girls were all you ever knew outside of Indian Minnie?

A. I had nothing to do with Indian Minnie criminally.

Q. I see. You didn't? A. Did not.

Q. Well, who lived in that house when you first commenced going there?

A. Why, Granny Letcher and her stepson, whose name I didn't think of until last night, named Jim Mayo. Indian Minnie was there, and this Granny Letcher rented her rooms for immoral purposes.

Q. Those were the only persons there?

A. That I remember.

Q. You don't recall anybody else being there at the house? A. No.

Q. Not a soul? A. Not that I think of now.

Q. Don't you know there were two other women living there at the same time? A. I don't remember that.

Q. And don't you remember another man living there at the same time?

A. I do not, that was Jim Mayo living there.

Q. Was he grown? A. He was grown.

Q. Did he have a wife? A. I don't know.

Q. If he did you don't know it?

A. I never did see her.

Q. Did he have any children? A. Not that I know of.

Q. Wasn't any children around there, was there?

A. I don't remember seeing any children.

Q. You were there lots and lots of times?

A. Well I was there a few times in the evenings at dark.

Q. Were you ever there in the daytime? A. Yes.

Q. Now the first time that you ever saw Indian Minnie there she was in a pregnant condition, wasn't she?

A. She was pregnant, yes, sir.

Q. She was pregnant? A. Yes, sir.

Q. She was far gone, wasn't she?

A. In a pregnant condition, yes, sir.

Q. It wouldn't be long until she would give birth to a child? A. No, seven or eight months I should think.

Q. Seven or eight months gone? A. Yes, sir.

Q. And finally she was staying there regularly, wasn't she?

A. Well, that was where she was supposed to be staying.

Q. What was your answer?

A. That was where she was supposed to be found, if you wanted to find Indian Minnie in those days.

Q. Anybody that wanted to find her. Well, did anybody go down there to find her in those days? A. I don't know.

Q. Who inquired about Indian Minnie?

A. Oh, Army Officers.

Q. Name some of them?

A. I can't recall their names.

Q. You can't recall the name of a one? A. No.

Q. Who else inquired about her?

A. Oh, some of the little boys around the town that lived here in those days.

Q. Name some of them?

A. That is a pretty hard thing to do now after this many years.

Q. You can't do it? A. No.

Q. White boys? A. White boys.

Q. Some of your friends were they?

A. No, I never confided anything on those things.

Q. Well, they were your associates, were they?

A. Not necessarily.

Q. Were not any of them your associates?

A. No, sir. I did my riding alone.

Q. You never rode with anybody? A. No, sir.

Q. But you had your friends didn't you here in town, besides the women that you would see down there?

A. Had my friends?

Q. Yes, didn't you have some men friends here in town?

A. Certainly.

Q. You weren't married? A. No, sir.

Q. Didn't you have some associates? A. Yes.

Q. Played a little cards, didn't you, now and then?

A. Never played cards.

Q. Drank a little whiskey now and then?

A. I never drank whiskey, beer.

Q. Drank beer? A. Yes, sir.

Q. You would run around with the boys to the dances?

A. Yes, sir.

Q. Well, now, can you name some of your friends?

A. Yes.

Q. Name some of them? A. Albert Trocan.

Q. Is he going to be a witness here? A. I don't know.

Q. Did he ever ask you about Indian Minnie?

A. I don't remember.

Q. Name another one? A. Charles Munn.

Q. Did he ask you about her?

A. I don't remember.

Q. You don't remember it if he did. You can't remember or name anybody who did ask you about her, can you?

A. No, sir.

Q. Now it was what time in the year when you commenced to go to Granny Letchers there on Seneca? A. 1885.

Q. 1885? A. Yes.

Q. Now what occurred in 1888 here in Leavenworth?

A. How is that?

Q. Any particular thing occur here in Leavenworth in 1888 that impressed itself on your mind?

A. I can't recall the fact, unless it was the year that I got married, I am not positive of that now.

Q. You are not sure of it now, but you are able to tell the Court that it was in 1885 that you got that date fixed in your mind, haven't you—that Minnie was at Granny Letcher's pregnant with child? A. Yes, sir.

Q. Now you didn't have any particular interest in Indian Minnie did you? A. No.

Q. No particular interest? A. No.

Q. You had no particular interest in the fact that anybody in town had a child prior to the birth of your own children, did you? A. Not particularly interested, no.

Q. Tell me somebody else who had a child in Leavenworth in 1885? A. I can't answer that question.

Q. What is your answer?

A. I can't answer that question.

Q. Tell me somebody who got married in Leavenworth in 1885? A. I can't tell you that?

Q. You don't know? Now lets see, Mr. Fritsche didn't you see Indian Minnie at Granny Letcher's in March 1886?

A. I can't recall it, Your Honor.

Q. You don't remember it? A. No, sir.

Q. Did you see her there in April 1886? A. No, sir.

Q. Did you see her there in January 1887? A. No, sir.

Q. You know you didn't? A. No, sir.

Q. Because you were married then?

A. I don't believe I was married then, I can't remember the exact date.

Q. Well you went around Granny's some didn't you?

A. Well I didn't go there much after Minnie disappeared.

Q. Oh, I see; you only went to Granny's while Minnie was living there did you? A. No I was there before that.

Q. And you went to her house when Minnie was living there, and you never went a day after Minnie left, did you?

A. Yes, I went afterwards.

Q. How long did you continue to go after Minnie left?

A. Oh, I don't know, several times.

Q. Several times?

A. Until I became engaged, and then I quit.

Q. When did you become engaged?

A. About six or eight months before I married.

Q. Now you continued to go to Indian Minnie's until you became engaged, didn't you? A. Granny Letcher's.

Q. Granny Letcher's until you became engaged?

A. Yes, sir.

Q. And you became engaged six or eight months before you were married, didn't you?

A. I was engaged six or eight months.

Q. Yes, before you were married? A. Yes.

Q. Now you married November 25, 1888, didn't you?

A. 1888 in November, the day before Thanksgiving day, that I don't know.

Q. Then you were going to Granny Letcher's in January 1887, weren't you? A. No, I don't believe I was.

Q. Then you were going there—you weren't going there up to six or eight months before you were married?

A. No, it wasn't '87, wasn't that late.

Q. In 1888 then? A. No not that late.

Q. Then you must have been engaged a long time before you were married?

A. Well, you have taken the family history; I should judge between six and eight months.

Q. You testified a while ago that you continued to go to Granny Letcher's until you were engaged? A. 85 and 86.

Q. 86 comes after 85, doesn't it, and you remember you were there in 85? A. Yes, sir.

Q. So you also know that you were there in 86, to, don't you? A. I say——

Q. You know that from the fact that the year 86 comes after 85, don't you? A. I do.

Q. That is the reason you know it? A. Yes, sir.

Q. You went there prior to the year 86, didn't you?

A. Well, I was there a number of times.

Q. Well were you there in December 86?

A. I can't recall it.

Q. Were you there in November? A. I can't recall it.

Q. Were you there in September?

A. I can't recall the dates.

Q. You can't recall that you were there in any part of the month in 86 or 85, can you?

A. No, no particular month, no.

Q. You can't name any particular month that you know you were at Granny Letcher's in 85, can you?

A. Yes, the summer months.

Q. Name them? A. Oh, from July to September.

Q. Now Minnie—that was the first time that you were there, was in July, wasn't it?

A. No, I was in there before that.

Q. How long before?

A. Oh, I don't know; sometimes I would deliver prescriptions up there, probably three or four or five or six a month, I can't tell you exactly.

Q. Now the first time that you were there to see Indian Minnie was in July, wasn't it, that you ever found Minnie there, wasn't it?

A. I said July or August or thereabouts.

Q. The first time, and she was seven or eight months gone; then probably it would be a couple of months until she would have her baby? A. She was in a pregnant condition.

Q. Wasn't it about the first of June or the first of July that you first saw her there?

A. I can't recall it now; I answered it as near as I could.

Q. She was staying there regularly at that time, wasn't she? A. That I don't know.

Q. She was the only woman that you would see there every time that you went there, outside of Granny Letcher, wasn't she? A. Yes, she was about the only one.

Q. But you did always see her there? A. Not always.

Q. Not always? A. No.

Q. You saw her there about the beginning of July 85 and continuing for how long? A. Several months.

Q. How many months?

A. Well I should judge the balance of the year to be safe.

Q. To be safe, the balance of the year?

A. Yes, and she disappeared.

Q. She disappeared then? A. Yes.

Q. And you never did see her again?

A. I never did see her again.

Q. Never at all? 9. No.

Q. Now let me see; how old was that baby the first time that you ever saw it?

A. I answered that question; it was an infant of a few days.

Q. How old? . A. A few days then, or a week.

Q. Four or five days old? A. Yes.

Q. Where was it that you saw it?

A. In Granny Letcher's house.

Q. Where in her house? A. In the bed room.

Q. Which bed room? A. How.

Q. Which bed room?

A. In a bed room, in a bed room occupied by Indian Minnie. Indian Minnie was nursing the child.

Q. Well that was a one story house, wasn't it?

A. No, sir.

Q. Two story house? A. Two story house.

Q. Which bed room in that house was it?

A. I—I——

Q. Why do you hesitate?

A. I don't know after 30 years what particular bed room in the house, Your Honor. It is sufficient that I saw her there in her room.

Q. They had bed rooms downstairs and bed rooms upstairs?

A. Most of the bed rooms for assignation purposes were upstairs.

Q. Was she in one of the bed rooms for assignation purposes?

A. As near as I can remember she was upstairs, I am not so positive on that now.

Q. Was she in the front part or back part?

A. Fore part.

Q. Yes, fore part or back part? A. How?

Q. How many rooms were upstairs? A. I don't know.

Q. One? A. More than one.

Q. Two? A. I don't know that.

Q. Three?

A. I should judge about three or four rooms, a good sized house.

Q. Now were those rooms all in the front part?

A. As I remember the rooms they run in a row, and just a narrow hall, as near as I can recall now.

Q. Allright. Which room was she in?

A. I believe, if I remember correctly, in a front room.

Q. Front room? A. Yes.

Q. Now the front room to the east or to the west?

A. I think to the North.

Q. North? A. Yes.

Q. Well, there were two front rooms weren't there?

A. Yes, north.

Q. Weren't there two front rooms?

A. I don't remember that now that there were two front rooms; as near as I can recollect now it was a house with a narrow hall.

Q. How did you happen to go to see that baby?

A. How did I happen?

Q. Yes? A. Just stopped in.

Q. Stopped in for the purpose of seeing it, did you?

A. I didn't go down there for the purpose of seeing that baby, I went down to that house and Indian Minnie was in the room.

Q. You saw her from the street, didn't you? A. No, sir.

Q. How did you find out she was in the room?

A. Granny Letcher; I said, Where is Indian Minnie, and she said—north, go in there and see, and I saw her in there.

Q. And you went up in the room? A. I went in.

Q. Did you pick that baby up? A. I did not.

Q. Did you know whether it was a boy or girl?

A. Boy.

Q. You could tell it was a boy?

A. Well, she told me it was a boy.

Q. Oh, she told you it was a boy? A. Yes.

Q. About a week old? A. Well, three or four days.

Q. What color was that baby at that time?

A. It was a light color.

Q. Did you see it after that?

A. Probably a week or so later I saw the baby.

Q. Still the same color? A. Yes.

Q. And then you saw it after that?

A. No, that was the last I saw of it. I can recall now, because Minnie made her get-a-way after that.

Q. And took the baby with her—did you hear me?

A. Took the baby with her?

Q. Yes?

A. As to that I don't know, naturally I suppose she did.

Q. You never saw her or the baby any more then?

A. Never saw Indian Minnie.

Q. Never saw her any more? A. I saw the child.

Q. Oh, you saw the child? A. Yes, later.

Q. Where? A. Down in the sporting house.

Mr. Stuart: We object to that because it has been asked fifteen times.

Mr. Blakeney: Counsel went fully over the age of the child.

Q. Did I go fully over the age of the child?

A. You asked me when I saw the child again and I told you at Ella Abbitt's house about what age.

Q. Now you saw this boy at Granny Letcher's house, and who said its name was Tommy? A. Why Skinny Frischman.

Q. Who is he, living or dead? A. He is living.

Q. Here in town?

Mr. Hanford: I want to enter an exception here to the remarks of counsel passed around apparently misconstruing the testimony of the witness. He stated the last time that he saw the child it was six or seven or maybe eight years old, but that he also saw it when it was younger.

Mr. Allen: We ask that the witness be withdrawn from the room before a statement of counsel is made as to what his testimony was.

Mr. Hanford: The record shows what his testimony was.

Mr. Allen: Then it is unnecessary to repeat it.

Q. What was the name of the man that called that boy's name? A. Skinny Frischman.

Q. Was he grown, or was he a boy?

A. He was a boy.

Q. Where did he live?

A. If I remember correctly he lived on Seneca one block north and about a half a block west on the north side of the street.

Q. From here, you mean, where you are now testifying?

A. Yes, this is Shawnee, this street, and this street north is Seneca. He lived right between Fourth and Fifth.

Q. Was he a boy at that time?

A. A boy, I judge, probably 16, he was selling weiner-wurst—Frankfurters.

Q. Where was this that you heard him make that remark?

A. At the foot of the stairs, Third and Cherokee at Ella Abbitt's house.

Q. That was the first time you had ever heard the boy's name, wasn't it? A. Yes. Tommy Atkins.

Q. Yes?

A. He told me that kid up there threw something at him or jumped on his back. What the remark now was I can't recall—it was Indian Minnie's boy.

Q. Oh, I thought you told him his name was Tommy Atkins? A. Tommy Atkins, Indian Minnie's boy.

Q. He told you that? A. Yes, sir.

Q. The first time that you ever heard that boy's name called, wasn't it? A. No, sir, I knew it was——

Q. When did you first find out that that boy was called Tommy?

A. That evening at the foot of the stairs, when I don't know.

Q. When that boy Frischman told you?

A. Yes. He had been upstairs selling weiner-wurst, or something, and he was coming down, and he said that little kid was Indian Minnie's boy, Tommy Atkins.

Q. And that was the first time that you ever heard the name called? A. Yes, sir.

Q. Now what age would you say that boy was then?

A. Well, I should judge between six and seven.

Q. Six and seven years old? A. Yes.

Q. You didn't see him then, did you? A. See the boy.

Q. At that time, did you, he was upstairs?

A. No, I didn't see him, only from the head of the stairs to the foot I couldn't identify the boy.

Q. When had you seen him before that?

A. Only as an infant.

Q. When did you see him after that?

A. I haven't seen him.

Q. Never did in your life, did you?

A. Except when he was pointed out to me on the stairway. I say I couldn't identify him then.

Q. The only time then that you ever saw the boy was the one time when you saw him was a little infant about a week old. and when you saw him at the head of that stairs?

A. No, sir, I stated in my testimony that I saw him as an infant about a week or less of age. and then a little later a few weeks old, and then Minnie disappeared.

Q. You saw him from the time he was an infant until Minnie disappeared? A. Yes, sir.

Q. And then never saw him anymore except the dim view of him at the head of those stairs? A. That is it.

Mr. Blakeney: I want to move to strike out the witness's testimony in reference to what somebody told him at the foot of the stairs. as incompetent and hearsay, irrelevant and immaterial, referring to the statement that this was Indian Minnie's boy, Thommy Atkins.

Q. Now after Indian Minnie disappeared with the boy I believe you said that you saw Indian Minnie until—oh for about six months after the boy was born?

Mr. Stuart: We object to that question because it assumes that Indian Minnie did disappear with the boy.

Mr. German: Then I will restate it, Judge, if that is your objection to it.

Q. You say that you saw this Indian Minnie around this Letcher place until she disappeared. I believe you stated to make it safe you would say that you saw her there for about six months, I believe you said that, didn't you, from July until the last of the year?

A. Somewhere along there; I don't believe it was six months, no. I didn't make that statement six months.

Q. How long was it then? A. Oh, a few weeks.

Q. A few weeks? A. Yes, I didn't say six months.

Q. How many weeks?

A. Oh, probably three or four weeks, and then she disappeared.

Q. Now you never saw her in your life until about the first of July, and then you never saw her after about four weeks after the child was born?

A. I saw Indian Minnie as I stated in my testimony when she traded there at Lange's drug store and on the street.

Q. Well, wasn't that during the time of her pregnancy?

A. Yes, sure.

Q. That was while she was in that impregnated condition? A. Yes.

Q. Seven or eight months gone, when you first saw her?

A. No, she wasn't that far gone when I first saw her.

Q. Well, then were you mistaken awhile ago?

A. I saw her in a pregnant condition, but not seven months.

Q. How many months?

A. I knew her quite well. She was pregnant. It takes nine months.

Q. Yes, it takes nine months to develop a case?

A. What was it that you want to know.

Q. Now how long was it before that child was born that you first saw Indian Minnie?

A. Oh, it was probably six months.

Q. About six months? A. Yes.

Q. She didn't show the pregnancy at all when you first saw her did she? A. No, sir.

Q. You are sure of that answer? A. Yes, sir.

Q. You remember that distinctly, do you?

A. Any woman can carry a child for the first three or four months and not show it.

Q. I know that, but I am asking you are you sure?

A. I am sure I didn't notice it.

Q. Then she kept coming to the store, and finally this condition showed up? A. Yes, sir.

Q. And you kept noticing it until finally the child was born? A. Yes, sir.

Q. Now when was it with reference to the first time that you ever saw Minnie how long was it until you first saw her at Granny's?

A. Oh, I can't recall just the exact time when I first saw her at Granny's.

Q. How long was it after you found out who she was that you first saw her at Granny's?

A. I can't answer that question.

Q. She attracted your attention, on sight, didn't she?

A. Probably a few weeks.

Q. Probably a few weeks? A. Yes.

Q. Now how many weeks?

A. Say a month, three weeks, something like that, I don't know just exactly.

Q. Well, you have a recollection about that?

A. Not exactly the data about the exact date of it, the date I saw her or what day I went, I know it was after I waited on her a few times, and saw her, saw her there at Letchers, probably four weeks, or maybe a month.

Q. How long were you working at Lange's after your return from school until you saw Indian Minnie?

A. Very shortly thereafter.

Q. Immediately, wasn't it?

A. I don't remember whether it was a day or a week.

Q. And she was not then in an impregnated condition, so far as you could tell? A. Not from observation.

Q. And it was from six to eight months after that that she had the baby, is that right?

A. Somewhere along there.

Q. Somewhere along there? A. Yes.

Q. Then you saw her—let me see—she would come to the store and you would go to Granny's and you would see her about how often from the time you first saw her until she had the baby? A. I had seen her a number of times.

Q. Quite frequently, didn't you? Who would she come to the store with?

A. Generally alone. Sometimes with this fortune teller.

Q. What was her name?

A. I was trying to recall it, I have been trying to think of that name.

Q. Was it Vina Peterson?

A. She was an old hag, that I remember; she was addicted to blackberry and one dram of opiate. I remember of a quart of blackberry that she bought.

Q. And she would come there very frequently? A. Yes.

Q. Sometimes Minnie would come with her?

A. Sometimes Minnie would come with her.

Q. After the baby was born Minnie would bring the baby to the store with her?

A. No, sir, I never saw her with the baby, I don't believe I did.

Q. She would run around on the streets with the baby, wouldn't she?

A. I never saw her on the streets with the baby.

Q. Now when did you leave school with reference to the date that you got this letter here from the Dean of the faculty, marked Exhibit——

A. The night after the graduation—the morning following the graduation exercises I came to Leavenworth.

Q. And then you commenced to work for Lange right away, did you? A. For Eggersdorff.

Q. How long did you work for him?

A. A very short while, I went to work for Lange.

Q. How?

A. A short while and I then went to work for Lange.

Q. How long did you work for Egglesdorff?

A. Three or four months, and went to work for Mr. Lange in October.

Q. You went to work for Mr. Lange in October?

A. Yes.

Q. Now as I understand you, you never saw that woman after she disappeared? A. No, sir.

Redirect Examination by Mr. Stuart.

Q. You said on direct examination that you saw an Indian here, an Indian infant when you were very young and that something had impressed it on your mind. Will you tell us what it was?

A. Yes, sir. This Indian woman picked me up.

Mr. German: I object to this question on the ground that it is improper re-direct examination.

Mr. Stuart: And improper because the Examiner refused him permission for an explanation when he was testifying.

Mr. German: Then I object to the question on the ground that it is leading and suggestive.

Q. Tell us what impressed it on your mind?

A. Well, I can show you gentlemen, if you will allow me to illustrate. From here I lived right over here and I can find the place——

Mr. German: I object to the witness leaving the witness chair, gesticulating and pointing out of the window, as it can form no part of the record.

The Examiner: Mr. Witness, will you please sit here.

Mr. Blakeney: We object to the Examiner ordering the witness to take his seat, and not permitting the witness to point out from the middle of the room and window the location that he is referring to in his testimony.

The Examiner: The Examiner did not refuse the witness to point out anything, he told the witness to take his seat until the record is made.

A. Well, there was an Indian woman who picked me up right here.

Q. Just stop a minute. This gentlemen can't get it in the record unless you call streets and houses?

A. Well.

Q. Tell him what house it is and what street it is and so, on, he has got to get it in his record.

Mr. German: I make the same objection that I did to the preceeding question.

Q. Now you can do your pointing?

A. I was picked up by an Indian woman when about the age of five in the rear of 319 Seneca Street. It created a commotion among the neighbors. The Indian woman dropped me and ran. I was picked up by my mother and caressed.

Mr. German: That is the end of the story?

A. The end of that.

Mr. German: I move to strike that as not responsive to the question, and as incompetent, irrelevant and immaterial, and forming no proper part of the re-direct examination.

Q. What house were you born in in this city?

A. What house?

Q. Yes?

A. The house adjoining Granny Letcher's or Mother Letcher's.

Q. What was that house called? A. Well, it was——

Q. Did it have any name?

A. Yes, it was Mr. Feth's home.

Q. Mr. Feth's home? A. Yes.

Q. Did you pursue any studies at that place when you lived there, any kind of studies? A. No, sir.

Q. Did you study Greek? A. No, sir.

Q. Did you study Hebrew? A. No, sir.

Q. Did you study music? A. No, sir.

Q. You didn't study anything while you were there?

A. No, sir.

Q. Now after you moved away from there, did you have any studies—pursue any studies? A. No, sir.

Q. Any music? A. No, sir.

Q. You never did study music? A. No, sir.

Q. When you returned from college after you had your Pharmacist course, you say it was in 1885, as shown by the paper which you introduced here?

A. Yes, sir, when I graduated, you mean?

Q. When you graduated? A. Yes, sir, March 13th.

Q. March 13, 85? A. 85.

Q. And it was after that in the same year that you worked for Lange? A. Yes, sir.

Mr. German: I object to that question as leading and suggestive, and move to strike the answer.

Recross Examination by Mr. German.

Q. You say that when you were a mere child that an Indian woman picked you up and dropped you? A. Yes, sir.

Q. Out here? A. Right over here on this block.

Q. That was this same Indian woman?

A. No, no. You put a question to me asking me about the history of the Indians in the early days.

Q. Oh, I see?

A. And I answered the question, and you interrupted me and would not let me continue the story.

Q. How came that Indian woman to be here in town?

A. We had Indian neighbors in those times, quite a number of Indians, in the latter seventies and early eighties.

Recross Examination by Mr. Blakeney.

Q. You started to state or indicated that you desired to explain an answer when you were asked if you had a government license? A. Yes.

Q. To sell liquor? A. I would like to explain that.

Q. I would like for you to make an explanation now.

Mr. German: I object to it because it is incompetent, irrelevant and immaterial.

A. I wished to discontinue the sale of liquors. I had a few particular friends at the store the Fort trade, and I did violate the prohibitory law, I make no denial of it, but last year I made up my mind I was not going to take a revenue license, but the mistake I made I came up here to look for Petrel or the revenue office, and made application for a liquor license, customary to law, about the end of June. Understand me I made application. That would give me right to get my license any time after 30-60 or 90 days as I understand the law. A few days after I made application I decided not to sell any intoxicating liquors, as the State Board of Pharmacy, of which I am a member adopted a stringent resolution to druggists to abstain from the sale of spiritous, vinous or malt liquors, even it is to satisfy the wishes of a physician or a patient. About September of 1915, a revenue man by the name of Mr.——I can't recall the name now,—walked into my store and asked if I was Mr. Fritsche, and I told him I was. He said you haven't taken out your government license. I says, no, nor do I intend to take out one, from the mere fact that I had no intoxicating liquors in my store, and had quit selling intoxicating liquors. He replied, if I remember correctly, I believe, Mr. Fritsche, you are right, I have no evidence of you selling liquor. He said that doesn't excuse you, Mr. Fritsche, you are liable to the United States government in the sum of $25.00 and penalty on the mere fact that you made application to the United States government for a liquor license, and that is a liability that you have to pay. It took me by surprise, and I said, well it is strange that I should take out a license for something that I am not guilty of. No occasion for me taking a license. And then he repeated, you have made application, and you will have to pay. I then paid the $25 and a $1.25 penalty and the license was mailed to me. It is in the legal envelope at home yet. It hasn't been taken out except to look at it, and since then I have made request to Mr. Petrel to reimburse me for the money paid out and Mr. Petrel has sent me some blanks, and shortly before my departure about three weeks ago—four weeks ago—I filled out this blank and mailed it to Mr. Petrel. Since then I have heard nothing further.

Recross Examination by Mr. German.

Q. Now let me ask the witness one question. You were still in the drug business when you made that mistake and made that application for this liquor license, wasn't you?

A. Yes, sir.

Q. And when was it that you made payment of that fee?

A. It was made, I believe, in September.

Q. This last September?

A. Yes, sir, to the gentleman that called on me.

Q. About eight or nine months ago?

A. September 1915.

Q. About five months ago, wasn't it?

A. Yes, five months ago.

Q. When did your creditors take charge of your stock of goods? A. Three months ago today.

Mr. German: Now, in connection with the cross-examination of this witness, we offer what has been marked as Government's Exhibit No. 46.

Mr. Stuart: We have no objections.

And thereupon the witness is excused until 1:30 o'clock; and adjournment of the taking of the testimony herein is taken until 1:30 o'clock P. M.

And thereafter, and at 1:30 o'clock P. M. further testimony is taken in this case as follows:

JAMES M. ALLEN, being called on behalf of the defendant, being sworn, and under oath, testified as follows:

[Clerk's note: Approved statement of the evidence shows no testimony by this witness at this place.]

And thereupon, EDWARD CHARLES FRITSCHE was called, sworn, and examined as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. Linebaugh.

Q. You may state your name?
A. Edward Charles Fritsche.
Q. Where do you live, Mr. Fritsche?
A. Leavenworth, Kansas.
Q. How old are you? A. Fifty three last month.
Q. Are you a married man? A. Yes, sir.
Q. When were you married? A. 1887, November 22.
Q. November 22, 1887? A. Yes, sir.
Q. Where were you married? A. Leavenworth, Kansas.
Q. Were you born in Leavenworth, Kansas? A. Yes, sir.
Q. How long did your father live in Leavenworth, Kansas?
A. My father came to Kansas in the latter fifties and remained there until his death in the latter eighties.
Q. What is your business or occupation, Mr. Fritsche?
A. I am a druggist by profession.
Q. You are a druggist? A. Yes, sir, druggist.
Q. Did you ever study to equip yourself as a druggist?
A. I did.
Q. You have attended a pharmaceutical school have you?
A. Yes, sir.
Q. Before going to that school, were you employed in a drug store as an apprentice? A. I was.
Q. Whose drug store and at what place?
A. Theodore Eggersdorff store, at Leavenworth, Kansas.
Q. When did you go to school? A. March, 1883.
Q. Prior to that, you were employed in this drug store as an apprentice? A. Yes, sir.

Q. Mr. Eggersdorff owned the drug store at the time you worked there? A. Yes, sir.

Q. Was the ownership transferred to any other person before you left for school? A. It was.

Q. To whom? A. Adolph Lange.

Q. During that period before you went to school, while you were serving your apprenticeship, did you know an Indian woman at Leavenworth? A. Yes, sir.

Q. What age woman, apparently at that time?

A. In the latter twenty eight or early thirties, I should judge.

Q. That was before you went to school in eighty three? A. Yes, sir.

The Court: Who was this woman?

Mr. Linebaugh: An Indian whom he says appeared to be in the latter twenty eight or early thirties.

The Court: And when was that?

A. In the eighties.

Q. That was before you went to school? A. Yes, sir.

Q. And you went to school in March, 1883? A. Yes, sir.

Q. How long did you remain in school?

A. I graduated March 18, 1885.

Q. After you graduated, where did you go?

A. I went to work for Theodore Eggersdorff at Kansas City, Missouri, who moved from Leavenworth to Kansas City.

Q. The same man that you had formerly worked for at Leavenworth as an apprentice? A. Yes, sir.

Q. How long did you remain with him and in his employ at Kansas City? A. Only a few months.

Q. Do you remember the date that you left school and went to Kansas City?

A. I graduated March 18, 1883, and went to work for Mr. Eggersdorff in April, 1885.

Q. And worked for him for a few months?

A. For a few months.

Q. After that, where did you go?

A. Then I went to Leavenworth again and worked for Adolph Lange.

Q. Then, about what time was it in 1885 that you went back to Leavenworth and worked again for Adolph Lange?

A. That was when I went from Kansas City, in 1885, in the summer months and worked then until December 11, 1886, when I went in business for myself.

Q. Now, during that summer of 1885, when you first come back to work for Mr. Lange, do you remember the premises known as 217 Seneca Street? A. Yes, sir.

Q. Do you recall any effort being made to remove the parties then in possession from those premises? A. I do.

Q. What efforts were made that you recall?

A. I beg pardon, sir?

Q. What efforts were made that you recall?

A. Oh, a petition was got up by property owners and presented to the City Counsel for abatement of a nuisance.

Q. Who was occupying that premise at that time?

A. One Lillie White.

Q. Lillie White. I hand you this instrument which is marked for identification as Government's Exhibit 59 (identified as Government's Exhibit 59 in connection with deposition taken) and ask you to state whether or not you now recognize that instrument? A. I do.

Q. Do you recognize that? A. Yes, sir.

Q. What is it? A. It is a petition drawn——

Mr. Cruce: We object, if the Court please, as incompetent testimony, hearsay, on behalf of Page.

The Court: Well, as to the contents of it, of course it will itself be the best evidence. You referred to it as Exhibit 59——

Mr. German: That Your Honor, was an exhibit introduced before Mr. Penick as Examiner.

The Court: Then it is incorporated in the deposition and is already introduced.

Mr. German: Yes, sir.

Mr. Cruce: Note our exception.

The Court: Exception noted.

Q. What is that, Mr. Fritsche?

A. It is a petition drawn up by property holders and signed by property holders in that vicinity to abate a nuisance.

Q. Is that the petition that you just recall to have been circulated to remove Lillie White from this 217 Seneca street?

A. Yes, sir.

Q. Do you recall now if she was removed from that premise? A. She was.

Q. After her removal, do you remember who occupied that place? A. One Granny Letcher.

Q. Now, when was that petition circulated, Mr. Fritsche, if you remember? A. July.

Q. July when? A. '85.

Q. That was the July that you come back and begun work for Lange? A. Yes, sir.

Q. Do you recall when it was after the circulation of the petition that Lillie White was removed from that place?

A. Probably thirty days later; as soon as the Council took action.

Q. Now, after Granny Letcher moved into the place, were you there? A. Was I where?

Q. Was you at that place? A. Yes, sir.

Q. When, with reference with when—when were you there, Mr. Fritsche? A. In '85.

Q. Were you there—what time of the year were you there? A. Well, it was when this woman had a baby.

Q. Well, was that in '85 or '86? A. '86.

Q. It was in '86? A. '86.

Q. That was the summer after that petition was circulated? A. Yes, sir.

Q. You are positive of that? A. Yes, sir.

Q. Sir? A. Yes.

Q. Now, you say a woman had a child there in '86?

A. Yes, sir.

Q. What time of the year, was it, in '86, that you saw a woman there with a child?

A. It must have been in the early fall.

Q. The early fall of 1886. Is that right? A. Yes, sir.

Q. Now, state to the Court whether or not that woman with that child in the fall of 1886, was the same woman that you had seen about Leavenworth before you went to school in 1883. A. Same woman.

Q. It was the same woman. What business was that woman engaged in in 1883? A. What business?

Q. Yes? A. She was a prostitute.

Q. She was a prostitute in 1883? A. Yes, sir.

Q. What business was she engaged in after you returned to Leavenworth? A. Same, only on a cheaper scale.

Mr. Cruce: If the Court please, we object to that testimony as clearly a conclusion; he can tell what this woman was doing but permitting the witness to say that she was engaged as a prostitute one year and in another year that she was engaged as a prostitute on a cheaper scale——

The Court: That probably throws no light on this case, you may go on.

Mr. Cruce: Exception.

Q. Mr. Fritsche, this child that you saw there at Granny

Letcher's, that this woman had in the fall of 1886, how old did it appear to be the first time that you saw it?

A. A few days.

Q. What race did it appear to belong to?

A. Looked like a negro child.

Q. When was the first time that you heard the name Tommy Atkins used? A. When I was——

Mr. Cruce: We object, if the Court please, it is immaterial.

The Court: Overruled.

Mr. Cruce: Exception.

A. Answer?

Q. Yes, answer.

A. When I first gave my—a day or two before I gave my deposition at Leavenworth.

Q. How long before you gave your deposition at Leavenworth? A. Probably twenty-four hours.

Q. About twenty-four hours. Where was it that you heard that name Tommy Atkins? A. In Mr. Bond's office.

Q. Mr. Lee Bond's? A. Yes, sir.

Q. Who was there?

A. There was another lawyer there whose name I can't recall now.

Q. Do you observe him in the—do you observe him in the courtroom? A. At the end, there, I believe.

Q. Mr. Hanford, the first gentleman, there?

A. I believe that is the gentleman.

Q. Sir? A. I believe it was, yes.

Q. Did they use the name Tommy Atkins to you?

A. Yes, sir.

Q. And that is the first time that you ever heard that name used? The first time you ever heard the name called?

A. Yes, sir.

Q. Is that right? A. Yes, sir.

The Court: Answer yes or no so that it can get in the record.

A. Yes, sir, yes sir.

Q. When, Mr. Fritsche, is the first time that you ever heard the surname Atkins used, and in connection with that Indian woman, or this law suit, or any other time in your life. What was the first time you ever heard that surname Atkins used? A. In the office of Lee Bond.

Q. At the same time you heard the name Tommy Atkins? A. Yes, sir.

Q. Who used that name at that time?

A. As near as I can recall now, I believe it was Mr. Bond.

Q. It was either Mr. Bond or Mr. Hanford, one of the two? A. One of the two, yes, sir.

Q. Sir? A. Yes, sir.

Q. What day of the week was it that you were in Mr. Bond's office when Mr. Bond and Mr. Hanford were there talking? A. It was on a Sunday afternoon.

Q. Tell the Court the circumstances of your having gone there Sunday afternoon.

A. I was at a matinee, a theatre in Leavenworth——

Mr. Stuart: Talk a little louder.

A. I was at a matinee at the theatre and I was called out by the usher with the request that someone wanted to see me in the lobby and it was Mr. Bond, and I went to Mr. Bond's office.

Q. When you got there who did you find?

A. Found Mr. Bond and this gentleman here.

Q. Mr. Hanford? A. Mr. Hanford.

Q. What did they say to you if anything, Mr. Fritsche, in connection with using the name Minnie Atkins and Tommy Atkins?

Mr. Cruce: We object because it is hearsay testimony.

The Court: Overruled.

Mr. Cruce: Exception.

A. I can't recall the name Minnie Atkins being used by them, Indian Minnie.

Q. Well, what was said with reference to the name Tommy Atkins?

A. Asked if I ever knew of any one by the name Tommy Atkins being the offspring of Indian Minnie.

Q. What, if anything, did they say about the birth, when he was supposed to have been born and where?

A. At Granny Letcher's.

Q. When and where? A. When?

Q. When did they say, if when, when did they say he was supposed to have been born? A. Eighty six.

Q. Eighty six?

A. As near as I can recall now, eighty five or eighty six.

Q. Well, which was it? A. Eighty six I think.

Q. Eighty six. Did you write down anything there in the presence of Mr. Bond and Mr. Hanford?

A. I made some data, some dates there.

Q. You made a memorandum? A. Memorandum.

Q. For what purpose did you make that memorandum?

A. To refresh my memory for the questions the next day when they told me to come down to the Court.

Q. And from that memorandum that you made at that time did you give your deposition the next day?

A. Not the next day, it was a few days later.

Q. Well, a few days later? A. Yes, sir.

Q. And you gave it from that memorandum which you then made there in the office, is that right? A. Yes, sir.

Q. Now, when you were giving your deposition, did you hold that memorandum in your hand?

Mr. Cruce: If the Court please, we object to any more leading questions.

The Court: Let me understand the situation. You have introduced deposition of this man, which as I understand now was taken by the defendant for use in this case, is that true?

Mr. German: Yes, sir.

The Court: Well, now, you have the witness here, you are putting on the case in chief. You have introduced the deposition, you made it your deposition.

Mr. German: We introduced it for the limited purpose which I stated in offering it.

Mr. Stuart: Introduced it for the purpose of knocking it down.

The Court: For what limited purpose now?

Mr. German: For the purpose of showing the support of our contention that the group of defendants whom I named have fabricated evidence.

The Court: Well, I know, but they haven't offered their deposition. That evidence wouldn't be in this case if you hadn't offered it.

Mr. German: That is true.

The Court: Then, why put this witness on the stand until it is offered unless you want to offer it.

Mr. German: We are using it for the purpose of showing that it was in furtherance of their scheme to fabricate a case, and then we are showing——

The Court: Well, all right, go ahead.

Mr. Linebaugh: I withdraw that question, I believe it was objected to as leading.

Q. What did you do with that memorandum, Mr. Fritsche? A. It was taken away from me.

Q. When and where? A. When I gave my deposition.

Q. And where did you have it when you were giving your deposition? A. In the Court room.

Q. Well, about your person? A. Yes, sir.

Q. Whereabouts? A. In my hand.

Q. You had it in your hand? A. Yes, sir.

Q. Did you give any dates in the deposition that you gave? A. Yes, sir.

Q. Where did you get the information of the dates that you gave in your deposition?

A. Some of the information I got at home after having time to think of it from Sundays and Mondays, and some of it was suggested.

Q. Now, who suggested it, who made the suggestions to you?

Mr. Cruce: On behalf of Mr. Page we object because it is hearsay testimony.

The Court: I suppose you refer to the meeting in Mr. Bond's office?

Mr. Linebaugh: Yes, sir.

The Court: This witness has testified as to who was there and what was said.

Mr. Cruce: Exception.

Q. Now, I will ask you this question: Where did you get the information as to the date of the birth of the child called Tommy Atkins that you gave in your deposition?

Mr. Cruce: If the Court please, we object to that. He hasn't stated that he received any suggestion as to the date of this child's birth.

The Court: Well, he may answer.

Mr. Cruce: Note our exception.

A. Got it in Mr. Bond's office.

Q. Now, you testified, did you not, in that deposition that Indian Minnie, or Minnie Atkins gave birth to a child named Thomas Atkins at Granny Letcher's in the spring or early summer of 1885? A. Yes, sir.

Q. Was that correct or were you mistaken?

A. Well, mistaken in what part of the testimony?

Q. As to that part of the testimony?

A. I saw the child and I didn't know it was Tommy Atkins.

Mr. Cruce: If the Court please, we object. They have introduced that deposition as their testimony. They can't at least without stating to the Court that they are honestly surprised introduce this testimony.

The Court: Well, as I understand, it is offered to attempt to support their contention that this is a frabricated case on the part of Atkins and certain of those claiming under her and that this deposition was a part of that scheme of fabrication.

Mr. Cruce: Assuming that what they want to prove is correct with reference to the attorneys, would that connect Mr. Page with it?

The Court: I am not determining who would be bound by it at this stage.

Q. Well, the part of the testimony wherein you said a child was born at Granny Letcher's at 217 Seneca Street in the spring or early summer of 1885, was that correct or were you mistaken?

A. I was correct as far as seeing the child there.

Q. How about the date?

A. I may be mistaken in the date.

Q. Well, I believe you stated, did you not, that Lilly White lived there?

A. Lilly White lived there in 1885 and 1886.

Q. At the time you saw the child there in 1886?

A. Yes, sir.

Q. And you didn't know it's name?

A. Didn't know its name.

Q. And you never did know that name until it was suggested to you in Mr. Bond's office? A. No, sir.

Q. Mr. Fritsche, after you had given that deposition, did you come to Oklahoma?

A. I come to Oklahoma in March this year.

Q. Who, if anyone, did you talk with before coming to Oklahoma? A. What?

Q. About coming down here, who did you talk to, if anybody?

A. Oh, I spoke to several parties at Leavenworth. Mr. Tom Dailey, Judge Bond——

Q. Judge Lee Bond? A. Yes, sir.

Q. Tom Dailey, who is he?

A. He was a witness in this case.

Q. Well, what did Judge Lee Bond say to you with reference to Oklahoma, and where you should go?

A. I told him that I wanted to come to Oklahoma, either Oklahoma City or Tulsa, and asked Mr. Bond if he would give me a letter to Mr. Page; that I was looking for work.

Q. What did Mr. Bond say?

A. He gave me the letter, rather wrote a letter to Mr. Page.

Q. And what else did Mr. Bond say at that time about other people? A. In what respect?

Q. Did he use the name Sam Nash? A. Yes.

Q. In that conversation?

A. Yes; that Sam Nash was down there working.

Q. Who is Sam Nash?

A. He is a colored fellow that formerly lived at Leavenworth.

Q. A witness in this case for Mr. Page? A. Yes, sir.

Q. Did he use the name Walter Banks? A. No, sir.

Q. Did you go to Tulsa? A. I did.

Q. Did you see Mr. Page? A. Yes, sir.

Q. And what did he say?

A. Why, he apparently was glad to see me and wanted to know what I was doing in Tulsa, and I told him that I was looking for work.

Q. Go ahead.

A. He asked me what I was doing and I told him that I was not doing anything but I expected to go out as a salesman for a Chicago perfume house and he said, well stick around and maybe we could find something for you. I stuck around Tulsa about eight or nine days and one afternoon I was his guest out at his orphanage and I left there at the evening meal and we looked over the grounds and he wired and showed me his park which was illuminated for the first time of the season, and he said I am thinking seriously of putting up a stand right here, and I will build a stand for you Mr. Fritsche, and I told him that I didn't care to go into the peanut business.

Q. Sir?

A. I told him I didn't care about going into that kind of business, frankly; and he said, well, if there is anything else that we can do for you, stick around.

Q. Mr. Fritsche, did you see Mr. Lee Bond, in the Union Station at Kansas City last night? A. I did.

Q. You may state to what he said to you with reference to this case at that time.

A. I left Kansas City Saturday evening to go to St. Joe, to spend the day with my wife and daughter, left St. Joe yesterday evening at 6:45 and got in the Union Station about nine, and I went to get my supper at the Harvey Eating House, and Mr. Bond was in there, sitting some distance away from me and he recognized me and waved his hand and a few minutes later we went in the lobby of the depot and he asked me if I was going to Oklahoma, and I told him yes.

Q. Go ahead.

A. And he supposed that I was *subpoened* and I told Mr. Bond I didn't care about discussing the case and made the excuse that it was about train time—I was looking every minute for the train master to call the train, and I went to the train to my car.

Q. Go ahead.

A. And when I got into the car, I had about a half of a cigar in my hand, and I went in the smoker and finished my cigar and there were about four or five other gentlemen in there and Mr. Bond came in there and sat beside of me, and we just talked about topics of the day at my old home. That is all the talk Mr. Bond and I had.

Q. Now, did he say anything to you, up in the Station; when you started off, did he call you back and say anything more to you?

A. Oh, yes, I told him that I didn't care about discussing the case and he said, I believe, he said, you haven't got cold feet—they haven't bluffed you, have they?

Q. How is that?

A. He said, I don't suppose you have got cold feet; they haven't bluffed you, have they? And I said I didn't want to discuss the case, and Mr. Bond didn't say anything further about the case.

Q. Mr. Fritsche, did you ever go to Ella Abbott after you were married?

A. I have no recollection of going there.

Q. You did sometimes go there before you were married?

A. Yes, sir.

Q. Did you ever see a boy, a child, at Ella Abbott's, who was the same child that you had seen as a baby at this Granny Letcher's place?

A. No, that child was too old to be the child that I saw.

Q. In your deposition you identified that child that you saw at Ella Abbott's as the same child that you had seen at Granny Letcher's as the baby. A. Well, I erred.

Q. That was a mistake, was it? A. That was a mistake.

Q. Where did you get the information upon which you based that identification?

A. Well, that was in Bond's office.

Q. Now, this child that you saw at Ella Abbott's—how old was it at the time that you saw it?

A. Oh, 7 or 8 years.

Q. Seven or eight years, and you were married on the 22nd of November, 1887? A. Yes, sir.

Q. And you saw that child before you were married?

A. Yes, sir.

Q. How long before your marriage, do you remember?

A. Oh, probably four, or five, or six months.

Q. Four, or five, or six months. Do you know Dennis Jones at Leavenworth? A. Yes, sir.

Q. Did you have any talk with him before you come down to Tulsa, Oklahoma? A. Possibly, yes.

Q. What did he have to say wth reference to your coming to Tulsa, if anything?

Mr. Cruce: Objected to as hearsay.

The Court: Overruled.

Mr. Cruce: Exceptions.

Q. What did he say?

A. Why, he said that he wished me well and wished that I would strike something down there. He said, you might call on Mr. Page, he might be in line to help you.

Q. Did he say anything about Mr. Page having helped the others? Joe Bailey or Tom Dailey? A. Yes, some.

Q. Sam Nash? A. Yes.

Q. And Walter Bank?

Mr. Cruce: Objected to as incompetent.

The Court: Overruled.

Mr. Cruce: Exceptions.

A. He did.

Q. Mr. Fritsche, when you went up there that Sunday afternoon to Mr. Bond's office, did Mr. Bond pay you any money that day?

A. He paid me for that day, yes, sir.

Q. How much did he pay you that afternoon?

A. Ten dollars.

Q. Ten dollars. And after that were you paid any money?

A. Yes, sir, I was paid, yes, sir, I was in the employ of the State Board of Pharmacy.

Q. How much per day were you paid for your services by Mr. Bond or those associated with him?

A. My earning capacity at that time was ten dollars a day.

Q. They gave you ten dollars a day, did they?

A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. Mr. Fritsche, you did testify in this case up at Leavenwroth, didn't you? A. Yes, sir.

Q. You told everybody connected with this case that you were testifying to the truth, didn't you? A. Tried to.

Q. Sir? A. I tried to do so.

Q. And you did tell everybody that you were testifying to the truth. How came you to change your testimony in this case? A. Well, I was mistaken in data.

Q. Who convinced you that you were mistaken?

A. Well, the court—the United States Government.

Q. The United States Government convinced you?

A. Yes, sir.

Q. And how did they convince you? Just tell me how it came about.

A. Well, about three weeks ago I received a letter from my son who resides at Kansas City, Missouri. He said, dear Father—I have the letter with me if you wish to see it.

Q. Well, go ahead; I want to know all about it.

A. Read the letter?

Q. No, just tell it. Go ahead.

A. He said, I am afraid you are in serious trouble, the Government detectives have been here watching my house, and they have had me for three or four hours, trying to locate you. With the parties was Mr. Younkman of Tulsa, Oklahoma; he said now, I read your deposition—your deposition was read to me, and it looks as if you have got your dates badly confused. He said if you have made a mistake, why, you want to rectify it. This detective—Mr. Younkman, has been searching for you for some time. You left your route for the week with Mamma, and you have not lived right up to your route, either a day ahead or a day behind; they followed you to Blackwell, and different towns in Oklahoma, El Reno, and so on; Wichita, Augustus, Kansas, and at Wichita, I received this letter from my son, who requested me to get in touch with Mr. Younkman at once. I wired Mr. Younkman at once.

Q. Who was Mr. Younkman?

A. Oh, he is Mr. Younkman, formerly lived at Leavenworth. Worked in a drug store, then he moved to Tulsa and engaged in the drug business himself. Then he entered the political arena and became a Commissioner of Water Works for Tulsa.

Q. All right, go ahead?

A. And Mr. Younkman was forced to leave his work at Tulsa and accompany these detectives over this search for me. I wired Mr. Younkman what was the trouble. I just received a letter which looked serious from my son and if there was anything wrong I wanted to know it. Mr. Younkman wired back, come to Tulsa at once serious trouble, I will stand by you, or words to that effect. And I left Wichita that evening and was met at the station in Tulsa by Mr. Younkman and one of the gentlemen connected with the Department of Justice and driven immediately after breakfast to Muskogee.

Q. Who was that gentleman from the Department of Justice? A. Mr. Bruff.

Q. All right, go ahead?

A. I was driven in an automobile from Tulsa to Muskogee.

Q. In an auto? A. In an auto.

Q. All right, go ahead?

A. And then I was brought here.

Q. What did they do with you after they got you here?

A. They gave me the third degree.

Q. Gave you the third degree? Just tell now how they gave it?

A. Well, they showed me the error of my testimony.

Q. Go ahead?

A. I could see my mistake there in dates. After thirty years, and not being interested in the case, it was hard to recall the exact data.

Q. Go ahead? Put you under arrest, did they?

A. Threatened to do so.

Q. And did put you under arrest?

A. Well, I was under the care of the Court.

Q. Of whom? A. Of the Court, I should judge.

Q. Well, now, I want you to tell everything that occurred there in detail. Tell everybody that was there and I want you to tell what occurred?

A. Well, then I was taken from Muskogee on the train with Mr. Younkman to Tulsa and from Tulsa we drove to Mr. Younkman's house and I was kept there until train time, and from there I was taken back to the depot and handed a ticket back to Wichita.

Q. Well, when did you change your statement that you made up at Leavenworth?

A. When I came here to Muskogee.

Q. Who took your statement that you gave then?

A. Judge Linebaugh there and——

Q. Who was present when your statement was taken?

A. Mr. Bruff, this gentleman over here.

Q. All right, who else? A. I think that is all.

Q. Mr. Bruff, Mr. Linebaugh, and who else?

A. That is all.

Q. They took a statement from you in writing, did they?

A. No, sir.

Q. Took an oral statement? A. Oral.

Q. Well, what did they tell you they would do with you if you didn't tell the truth?

A. Told me I was up against it.

Q. What do you mean by being up against it, just tell what they said?

A. That I would have to go to jail. Mr. Younkman told me that.

Q. And which one of them was it convinced you that you told a lie at Leavenworth?

A. Beg your pardon I didn't tell no lies.

Q. Well, which is the truth now?

A. What I testified this afternoon.

Q. This is the truth you are testifying now?

A. That is, to the best of my knowledge and belief.

Q. Did anyone tell you at any time there in Leavenworth—— A. How is that?

Q. Did anybody intimidate you at any time to make that statement in Leavenworth?

A. Well, in that way, they asked me the questions.

Q. Who asked the questions?

A. You asked questions and Judge Bond asked questions. After thirty years it was pretty hard to remember data exactly.

Q. Did anybody threaten you in Leavenworth when you gave your testimony there? A. Oh, no.

Q. You were asked to tell the truth?

A. To the best of my recollection and belief at that time.

Q. And you did tell it? A. Yes, sir.

Q. You told the Examiner up there that you knew Indian Minnie well, didn't you? A. Yes, sir.

Q. This very Indian Minnie; do you know her, this lady over here? That's the lady, isn't it; look at her?

A. Yes, sir.

Q. Go ahead, look at her, ain't that the lady?

A. That looks like her.

Q. That is the woman you used to know in Leavenworth?

A. Yes, sir.

Q. And when she was in Mr. Bond's office, you walked up of your own accord and said, hello Minnie, didn't you?

A. Yes, sir.

Q. Recognized her up there after all these years?

A. Yes, sir.

Q. What did you tell Mr. Linebaugh just now for that the Indian Minnie you knew was twenty-eight or thirty?

A. How old is she now?

Q. Do you say this girl you knew in Leavenworth was twenty-eight or thirty years old when you knew her?

A. Yes, sir.

Q. And didn't you tell Mr. Linebaugh that this was not the same Minnie? A. No, sir.

Q. Well, you did testify up there that you knew this Indian Minnie?

A. This is the Indian Minnie I supposed I knew in the early days.

Q. And you said you knew her well at Granny Letcher's?

A. I said when she lived in Leavenworth.

Q. And at Granny Letcher's?

A. When she lived at Granny Letcher's, because I waited on her a hundred times.

Q. Didn't you say she went about from time to time with an old fortune teller? A. Yes, sir.

Q. And you knew the fortune teller well? A. No, sir.

Q. You said you waited on her a number of times?

A. Yes, sir.

Q. Didn't you see the fortune teller come in every day?

A. Often.

Q. Where did that fortune teller live? A. I don't know.

Q. Don't you know she lived across the street with Granny Letcher? A. No, sir.

Q. In the Crilly House? A. No, sir.

Q. Didn't you say that you saw this boy at Granny Letcher's, this Indian boy? A. The baby.

Q. Indian baby? A. Indian baby.

Q. You didn't say then it was a nigger baby; you swore at Leavenworth that it was an Indian baby and had all the marks of an Indian child?

A. There is very little difference as an infant.

Q. There is a good deal of difference in the truth about it. Now, you are testifying now it was a nigger baby. You testified up yonder it was an Indian baby, didn't you do that?

A. I supposed; it was a baby at its mother's breast.

Q. Wasn't this stated: "What time in 1885 did you work for Lange? A. About the summer months"——

Q. Take that card out of your hand and answer my questions. Just put that away please. I am asking you questions.

The Court: Just put the card up.

Q. I am asking you this: Didn't you so testify: "Q. What time in 1885 did you go to work for Lange? A. About the summer months, during the summer months. Q. Did you know a girl there at that time known as Indian Minnie? A. Yes, sir, I did.

Q. Where did you see her during the summer of '85?

A. On the street, in the drug store. Waited on her a number of times, and at Mother Letcher's on lower Seneca Street.

Q. You say you saw her at Mother Letcher's?

A. Yes, sir.

Q. Did she have a baby? A. Yes, sir. Q. What was she doing with the baby, where did you see her? A. Granny Letcher's house. Q. What was she doing with the baby? A. Why, I saw the baby several times. It was nursing. Q. How old was the baby when you saw it?" Were you mistaken when you swore at Leavenworth that you saw that woman in Granny Letcher's with a baby? A. I was not.

Q. You did see the defendant at Granny Letcher's with a baby? A. I did, it was 1886.

Q. And you say she had a baby with her in 1886 at Granny Letcher's house? A. Yes, sir.

Q. You are certain of that? A. Yes, sir.

Q. How old was that baby then? A. I judge a few days.

Q. She was in the bed, wasn't she? A. Yes, sir.

Q. Lying in the bed? A. Yes, sir.

Q. With a baby in her arms? A. Nursing.

Q. Nursing in 1886 at Granny Letcher's, now, that is the way of it. You are just as certain about that date, although you said before it was 1885?

A. Well, I can see my error about 1885 since I have seen this petition here.

Q. Is that petition what changed you? A. Yes, sir.

Q. That is the reason then. But you did see her with a baby in her arms at Granny Letcher's in 1886? A. Yes, sir.

Q. "Q. Did you know this Indian Minnie? A. Well, I knew her yes. Q. What kind of a looking girl was she?" Well, you have already picked her out.

Q. This fortune teller you speak of was addicted to a bad habit, wasn't she?

A. I knew very little about her.

Q. She was addicted to a bad habit?

A. I never sold her any opiate, because I was not a licensed pharmacist.

Q. Well, then, why did you swear to this: "Q. Anybody with her? A. Well, there was a character she used to walk the street with, a fortune teller, so called. She assumed the title of fortune teller. Q. You saw these two come in the drug store, did you? A. Yes, sir. Q. How frequently would you say that you saw them? A. Oh, the fortune teller was almost a daily frequenter. She was addicted to a habit. Q. Did you say she was addicted to a habit? A. Yes, sir. Q. And how frequently would you see the two together? A. Well, now, that is hard to answer, Your Honor, but frequently though. Q. Several times at least? A. Oh, yes. Q. How often can you say you saw her at Granny Letcher's? A. Well, I have seen her there a number of times. Q. What were you doing at Granny Letcher's? A. Why, I visited at Granny Letcher's occasionally. Sometimes I delivered medicine there —and some days—young sporty blood I would drop in there. Q. When was the last time that you saw Minnie? A. Oh, after her confinement. It was some weeks later. She suddenly disappeared and I saw her no more afterwards." Now, is that true? A. That is true.

Q. Absolutely true? A. Yes, sir.

By the Court.

Q. Now, if I understand you, Mr. Witness, that Indian Minnie that you are talking about is the defendant Minnie Atkins, over here now in the courtroom? A. Yes, sir.

Q. You can't be mistaken about that?

A. I hardly think I am mistaken, Judge.

Recross Examination by Mr. Stuart.

Q. That is your letter, isn't it, Mr. Fritsche? Look at that. A. Yes, sir, that is my letter.

Q. Now, I will ask you if this letter was written on the —what date was this letter written on?

A. Shall I read the letter?

Q. Oh, no, just tell the date. *Q.* January 30th, 1917.

Q. Now, when did you testify up yonder?

A. Well, I believe it was about March, 1916.

Q. March, 1916?

A. Or April—which was it, March or April?

Q. Now, on the 30th day of January of this year, you had not found out you were mistaken about your testimony, had you? A. No.

Q. You were still sticking to it in this letter, weren't you? Now, I will ask you if in this letter you didn't say these words, "Last spring I proved an important witness for you—this is Charles Page in the Indian Minnie case; in fact my deposition was of such nature, dating back in early days when it was proven by my testimony that Indian Minnie had a child, my deposition was of valuable importance on your behalf, and this statement of mine can be verified by your counsel Mr. Lee Bond. I respectfully make application to you for a position." Now, on the 30th day of January of this year, you still thought your testimony was straight, didn't you?

A. Yes, sir.

Mr. Linebaugh: Who was that letter addressed to?

Mr. Stuart: Mr. Charles Page.

A. That is part of the letter.

Q. Now, you didn't find that you had made a mistake in your testimony until you heard that detectives were after you, up in Leavenworth, did you?

A. I didn't know they were after me in Leavenworth.

Q. Well, where were they after you—Kansas City?

A. They started from Kansas City, from Oklahoma City, Blackwell——

Q. Well, where did your son say they were after you?

A. The detectives met my son in Kansas City.

Q. Can't you answer my question? I say you didn't learn you had made a mistake until you learned the detectives were after you? A. Yes, sir.

Q. And then you found out that you had made a mistake?

A. Well, my deposition was read to me here in courtroom.

Q. Who read it to you? A. Judge Linebaugh.

Q. What did they say about you having made a mistake about the case? A. Well, I saw the error there when they read it to me.

Q. You saw it? A. I saw it, yes, sir.

Q. You kept insisting that it was true until the detectives got after you, didn't you?

A. I had no occasion to insist on anything.

Q. Will you just tell me what occurred there?

A. Occurred where?

Q. Between you and Mr. Linebaugh and Mr. Bruff.

A. I stated it.

Q. State the conversation.

A. I did state the conversation.

Q. Well, state it again; I didn't get it. Just what occurred? What he said to you and what you said to him.

The Court: Answer the question again, as to what occurred—where do you refer to, Judge? Here in Muskogee?

Mr. Stuart: Yes, sir, when he came to the District Attorney's office and he read the testimony over.

The Court: You stated that he was given the third degree; that was what you referred to?

Mr. Stuart: Yes, sir.

The Court: Now, what was said in that third degree performance?

A. Why, they read the deposition to me and I saw that I was mistaken in date and I have had very little experience in court and I don't think I ever was in court but two or three times in my life, and the cross questions, they got me rattled, and my nervous strain from financial losses; I was nearly a physical wreck, and when they read this to me, I saw the errors in my testimony which looked really bad.

> The Court: Well, he asked you what was really said and asked you there. The deposition was read to you—what else was said?

A. Well, he said you are just on the road to be punished for perjury, for perjured testimony.

Q. Keep on, tell it all.

A. He said, I want the facts of this case, and I am going to get the facts and the truth and nothing but the truth, and I said, Judge, that is what I want to give you, the truth and nothing but the truth; if I make a mistake, I made a mistake. The deposition was read to me and I saw the error and I told them how I thought it happened. I was just on a verge of nervous breakdown after thirty years of hard work, and I had just lost my business, $14,000.00, and I was financially embarassed and broke, at the advise of my physician I was seeking out door labor, and I was working as assistant state drug inspector for the State Board of Pharmacy for the State of Kansas for four months.

Q. And you was pretty much alarmed when you was in that office, wasn't you? A. Scared.

Q. You were scared? A. Yes, sir.

Cross Examination by Mr. Bond.

Q. You said, Mr. Fritsche, that when you were sent for in the theatre to come to my office that you met Mr. Hanford also, that Sunday afternoon?

A. I believe that is the gentleman, isn't it?

Q. Isn't it a fact that you didn't meet anybody there but me and that I told you that you would have to stay until the last of the week, until Mr. Hanford and Mr. Long got into Leavenworth and would talk to you, because they knew more about the case than I did? A. I think you are right.

Q. So, Mr. Hanford, wasn't there that Sunday?

A. It was on a Monday.

Q. And then you said, did you not, that your work was worth ten dollars a day and I would have to pay you if I would hold you off the road? A. Yes, sir.

Q. And I told you that you should not lose any money?

A. Yes, sir.

Q. Do you tell the Court, now, that I suggested to you the name of Tommy Atkins as the boy that you saw there, that Sunday afternoon? A. It was on Monday.

Q. Well, did you come again Monday, to my office or is it Sunday that you have been testifying to that you were up there? A. I was in your office on a Monday.

Q. Well, let's see; what you said was on Sunday that you was testifying to—Monday, hasn't been spoken of. You say that was on Sunday that I suggested to you that I wanted you to say that you knew a boy by the name of Tommy Atkins?

A. I don't remember now, Judge.

Q. Did I ever suggest to you that you ever swear to anything in this case?

A. You didn't ask about swearing anything in this case.

Q. Did I ever suggest to you that you come before the Commissioner and swear to any facts in this case?

A. I can't remember now.

Q. Now, seeing me in the Station last night—now that you have brought that up, Mr. Fritsche, isn't it a fact, that after I had finished my lunch you were waiting for me just outside the door with your two travelbags on the floor when I got out? A. Not waiting for you, no, sir.

Q. You were standing there, any way, waiting for the train to be called? A. Yes, sir.

Q. And you knew that I hadn't come out. Isn't it a fact that the first thing that you said to me was, Lee, I can help you, and I want to talk to you, and I am afraid because I am being followed every minute. Isn't that the first word you said to me?

A. I don't remember it was the first word. I remember saying that to you.

Q. And didn't you tell me that you and your wife were trying to get into communication with me for a week, and wanted to know why I hadn't been in Leavenworth?

A. No, I didn't say that.

Q. Didn't you say that you had been trying to get into communication with me, trying to get word to me but that detectives had been keeping such close watch on you, you couldn't? A. No, I don't remember.

Q. And didn't you say to me that you were under arrest?

A. Yes, sir.

Q. And I asked you for what? And you said you didn't know?

A. I said I didn't want to discuss the case with you.

Q. And you said you thought it was for perjury and I asked you how they could arrest you for perjury that they claimed you committed in Kansas? A. That is true.

Q. And didn't you say to me, now, Lee, I never met you here, tonight, and don't say anything about it? A. Yes, sir.

Q. And the very next thing—the very next time you speak of it is when you go on the witness stand and tell what occurred there, and tell what you claimed occurred there?

A. Yes, sir.

Q. Did you say in your examination, I couldn't hear very well—that I took a memorandum away from you after you testified? A. No, sir.

Q. Did I ever give you a memorandum? A. No, sir.

Q. Isn't it a matter of fact that when you were in my office speaking of the memorandum that you said I am slightly confused on dates—that was Sunday after, and that I want to go home and see when I was married and I can testify positively?

A. I stated so to Judge—that I wanted to get the paper

Q. And you went home and got the date of your marriage license and then you testified? A. Yes.

Q. You, also, wanted the date of your graduation, I believe, before you could fix your dates at Leavenworth?

A. Yes, sir.

Cross Examination by Mr. Cobb.

Q. Mr. Fritsche, this property at 217 Seneca street, is located on an alley wasn't it? A. Located on an what?

Q. On an alley, it faces a street and an alley runs by the side of it, doesn't it?

A. Runs back of it; the house faced the north and the alley is to the south.

Q. Well, isn't there an alley on the east or the west side of it? A. No, sir.

Q. Just on the back end of it?

A. Just on the back end. This property at 217, you say?

Q. Yes. Now, there is at the place where Lille White lived in 1885—now, do you know—did you know Granny Letcher at that time? A. Yes, sir.

Q. Now, I will ask you if it is not a fact that at that time Granny Letcher was working for Lillie White, occupying a part of the premises—the back end of the premises at 217 Seneca street? A. That I don't remember.

Q. And when Lillie White moved out of these premises that Granny Letcher just occupied all of the premises after that date? A. That I don't know.

Q. You don't remember of her moving in front somewhere else, do you? A. Granny Letcher?

Q. Yes.

A. I may be mistaken but I think she moved into that house.

Q. Well, didn't she just move into that from the rest of the premises—to occupy the whole premises?

A. I don't know nothing about Lillie White; I never was in Lillie White's place.

Q. I am speaking of when Lillie White moved out; Granny Letcher then took charge of the whole premises and you don't know whether she occupied the back end part of the premises prior to that time and worked for Lillie White or not, do you?

A. No, I remember Granny Letcher occupied the whole house.

Q. After that time? A. Yes.

Q. And you don't know where she was before then?

A. Granny Letcher?

Q. Yes.

A. Yes, if I remember correctly, she lived at Fourth and Choctaw street.

Q. Well, after she moved from Fourth and Choctaw street, didn't she move to that place?

A. I am speaking of Granny Letcher. Granny Letcher lived at Fourth and Choctaw and she moved to Seneca Street; if I remember correctly, 217.

Q. Well, didn't she move up there and live a while before Lillie White moved away? A. Well, that I don't know.

Redirect Examination by Mr. Linebaugh.

Q. Mr. Fritsche, did you know more than one Indian Minnie at Leavenworth?

A. Did I know more than one Indian Minnie?

Q. Yes? A. No, sir.

Q. That Indian woman that you knew, Indian Minnie, or Indian Mary?

A. I never knew her by the name of Indian Mary.

Q. The one you knew was called Indian Minnie?

A. Indian Minnie.

Q. You never heard her surname used until after you was in Mr. Bond's office? A. No.

Q. Sir? A. No, sir.

Q. Now, the Indian woman, the only one you knew, was the one you knew in 1883 who was a prostitute and you saw her with child?

Mr. Stuart: Your Honor, we object to that. This is leading.

The Court: I think it is a repetition of what the witness has already testified.

Q. Now, Mr. Fritsche, did you see any woman before you gave the deposition? A. Did I see any woman?

Q. Yes, that you identified or sought to identify as the

Indian woman whom you had known at Leavenworth before you gave your deposition? A. No, sir.

Q. Sir? A. No, sir.

Q. Now, state to the Court when it was that you saw and identified an Indian woman as the Indian Minnie that you knew? A. Last summer.

Q. Last summer? A. Yes, sir.

Q. Where was it? A. In Mr. Bond's office.

Q. State to the Court the circumstances how you come to go to the office, who was there and what happened when you got there?

A. Well, I was at home. I had received a telephone call to come down to Mr. Bond's office, and after breakfast I went down. And walked into Mr. Bond's office and that woman sat there and I recognized her, and I walked up to her and shook hands with her and said how do you do Indian Minnie.

Q. Did she recognize you? A. She did not.

Q. She didn't know you? A. She did not.

Q. Now, you stated to Judge Stuart that this Indian woman who you knew would usually come to your drug store in company with a white woman who was a fortune teller, is that right? A. Yes, sir.

Q. Now, what character of goods did you sell to this Indian woman that would come there with this white fortune teller?

A. Why, she used a great deal of blackberry and ginger, and she purchased a good many drugs and toilet articles.

Q. You talked with her frequently did you? A. Yes, sir.

Q. How frequently would she come to your drug store to buy this beverage or blackberry cordial and ginger?

A. Oh, I suppose every day. Sometimes I would wait on her and sometimes Mr. Lange would wait on her.

Q. Now, who else was it in Mr. Bond's office besides Minnie Folk when you went in there last summer?

A. The gentleman right here.

Q. Mr. Hanford?

A. Yes, sir—— No, it wasn't Mr. Hanford. I can't recall the gentleman's name. He is from Sand Springs.

Q. Frank Long? A. No, I don't believe it was Frank.

The Court: The question is, is the man in the Court room now?

A. I don't see him.

Q. And what else did you say to this woman and Mr. Bond, say to you last summer?

A. Mr. Bond didn't say anything.

Mr. Stuart: Your Honor, this is in direct examination.

The Court: Well, it is redirect examination, I thought the matter was entirely covered. I think we have given about all to that that we can.

Q. How long have you known Mr. Younkman?

A. Oh, probably from the time he first came to Leavenworth and worked in the drug store there, twelve or fifteen years.

Q. What is your relation to him?

A. None whatever except in a friendly way.

Q. He is your friend? A. Yes, sir.

Q. And has been for a number of years? A. Yes, sir.

Q. You went from Mr. Younkman to the District Attorney's office in Muskogee? A. Yes, sir.

Q. You saw Mr. Bruff, these other gentlemen, and myself here? A. I remember seeing you and a few of you there.

Q. Do you remember of seeing these other gentlemen there any of them? A. One or two of you were there.

Q. Your deposition was read over to you? A. Yes, sir.

Q. State what you said concerning it when it was read to you?

A. I said, Judge, I see my mistake. I made some errors in data there and it looks bad.

Q. That was the first thing that was done when you came in the office, the deposition was read to you and the first thing you said after it was read to you is just what you have stated?

A. Yes, sir.

Q. And wherein was that deposition wrong?

A. Well, in the date, one about 1885 and another 1886.

Q. Well, was it wrong as to your seeing a child at Ella Abbott's?

A. No, that deposition is correct, I saw the child.

Q. But with reference to its being the same child that you had seen at Granny Letcher's?

A. Saw this one child, baby nursing at the breast of its mother.

Q. But that was not the same child you saw at Ella Abbott's? A. No.

Q. Did you state there when that deposition was read that it was in error?

A. Yes, I could see that after the deposition was read to me.

Q. Did you tell Mr. Younkman you were glad you had discovered the mistake and a load had been lifted from your mind, and you felt better about it? A. I did.

Q. Mr. Fritsche, I believe you stated a while ago that you thought you were under arrest, is that so? A. Yes, sir.

Q. What made you think so?

A. The detectives were after me.

Q. Well, what made you think so?

A. The mere fact that the detectives were searching for me from town to town and searching hundreds of miles, and holding my son in Kansas City for four hours or more in a hotel; and taking Mr. Younkman away from his fields of labor and having him help search for me.

Q. And that is why you thought you were under arrest?

A. Yes, sir.

Q. And that is the only reason. Now, you say you were given a third degree; in what way except as you have said?

A. Well, I thought that was a third degree from the grilling I got in your room.

> The Court: You have stated in substance now have you what occurred in there; you have covered all the circumstances, that is what you referred to as the third degree, that examination in Mr. Linebaugh's office when the deposition was read to you?

A. Yes, sir, I saw my error in dates.

Q. Now, Mr. Fritsche, I will ask you one other question and I think that is about all. Did you remember the circulation; did you recall the fact of the circulation of that petition before you saw it?

A. How is that, I didn't catch the question?

Q. Did you recall recently the circulation of that petition?

A. When it was handed to me, I saw right away my mistake.

Q. Did you recall the circulation of the petition before you ever saw the petition? A. This here petition?

Q. Yes, did you remember it was circulated before the petition was shown to you? A. Yes, sir.

Q. And after you saw that, you did remember it. When was the petition shown to you?

A. This petition was shown to me this afternoon.

Q. When was it you said you remembered the petition having been circulated? A. In 1885.

Q. Now, when was it recently that you said you remembered?

> The Court: When was your mind first directed to the petition?

A. This afternoon.

The Court: Not since it was circulated until this afternoon? A. No, sir.

Q. Was anything stated to you about it this morning before lunch? A. I don't recall it now.

Mr. Cruce: I would like Your Honor to see that letter from his son.

The Court: Counsel may examine the letter from his son.

A. It is in my grip.

The Court: Now, you may let Judge Cruce see the letter from your son if he desires to see it after you leave the witness stand.

Q. Mr. Fritsche, describe as nearly as you can the Indian woman whom you knew at Leavenworth, Kansas; describe her as you knew her in Leavenworth, Kansas?

A. She was a woman I should judge weighed about a hundred and thirty-five or forty pounds, medium height, big breasts, prominent jaw bones, cheek bones, and Indian complexion; black hair combed flat on her head.

Q. What was her appearance as to dress?

A. Always slouchy.

Mr. Stuart: Good looking?

A. Yes, she was a good looking woman in features.

The Court: How did she wear her hair?

A. As I recall it, just flat back, combed back, not braided, tight in a knot.

Q. How did she dress whether neat or otherwise?

A. Otherwise.

The Court: He said slouchy.

Mr. Stuart: You mean she was a pretty loud dresser?

A. No, sir.

Q. You were referring, in your examination by Judge Stuart in answer to a question, that you said you were in financial stress and nervous. Now, when did you have reference to that condition, the time they took your deposition, or in the office here at Muskogee?

A. When they took my deposition in Leavenworth.

Cross Examination by Mr. Stuart.

Q. How came them to bring you down here in an automobile instead of on the train?

A. I don't know, I would rather have taken the train, it was a very chilly day.

Q. How came you to get in that automobile, who put you in the automobile? A. This gentleman over here.

Q. Why didn't they put you on the train?

A. Too late for a train.

Q. Did you ask him to let you come on a train?

A. I asked him if there was any train and he said no we were too late for a train and we were going in an automobile.

Q. Don't you remember, Mr. Fritsche, that that old fortune teller over there was afflicted with dysentery, the old fortune teller?

A. I saw her frequently in the store but I very seldom waited on her, because if she bought any opiate, I was not a licensed pharmacist.

Q. You were working for Mr. Lange? A. Yes, sir.

Q. And you and Mr. Lange both saw that old fortune teller and sold her a balsam preparation for dysentery?

A. I did not.

Q. Did you see Mr. Lange sell her balsam?

A. Saw him sell her medicine.

Q. Something for dysentery, a balsam preparation?

A. He might have sold her an opiate preparation.

Q. But you saw him sell it? A. Yes, sir.

Q. To her? A. Yes, sir.

Q. For dysentery? A. Yes, sir.

(Witness dismissed.)

And thereupon, C. S. WALKER, was recalled for further direct examination on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. You are the same Mr. Walker who took the stand this morning? A. Yes, sir.

Q. From Tulsa.

Mr. Cruce: I understand our objection to that testimony is overruled.

The Court: Perhaps when the question is asked you had better interpose your objection.

Q. Mr. Walker, when was it Sadie James came to you about Mr. Bartlett?

A. My recollection is it was sometime in 1914.

Q. Do you know what time in the year?

A. Sometime in the summer, possibly the early part of the summer.

Q. Did she make any statement to you in that conversation about Minnie Atkins? A. Yes, sir.

Q. Relate the conversation?

Mr. Cruce: We object to that, if the Court please on behalf of Mr. Page on the ground that it is hearsay and incompetent.

The Court: I suppose now that you have reference to her statements about Minnie Atkins as coming from the defendant Page and others?

Mr. German: This particular conversation I may not have his testimony correctly in mind.

The Court: Well, the objection will be overruled and exception noted. The ruling so far as statements made by this witness Sadie James at the time now inquired about—the ruling which was made this afternoon being the reason for overruling this objection. Exceptions are noted.

Mr. Cruce: It won't be necessary to renew the objection.

The Court: And the objection may be considered as going to all of the questions propounded to this witness as the statements made by Sadie James.

A. She told me that she had been out to Seattle, Washington, in company with Bettie Mann in search for Minnie Atkins, and that they had found Minnie Atkins out at Seattle, or right near Seattle. That she and Betty had gone out there in the employ of H. U. Bartlett of Sapulpa. That they had found Minnie and that Betty Mann had without her knowledge or consent sold Minnie to Charlie Page, or turned her over to Charlie Page. That she afterwards found that Minnie had made a deal with Mr. Long by which she was to turn Minnie over to Mr. Page——

Q. You mean Betty had?

A. Betty had made a deal with Mr. Long and that within the course of a few days after she found Minnie, Mr. Long was in Seattle. And that Betty had detectives following her so as to keep her in the dark on the proposition, and that she and Betty before going away had entered into a contract of some description with Mr. Bartlett whereby he had promised to pay them a certain sum of money upon the location of Minnie Atkins.

Q. You mean before going to Seattle?

A. Yes, sir, before going to Seattle. That after Long had gotten hold of Minnie and taken her away from Bartlett, that Bartlett had refused to pay them the money he had agreed to pay under the contract before they went away. And asked me to assist her in the collection of her portion of it under that contract. Mr. Bartlett was refusing to pay it because he was charging them with having sold out on him. But that she, not knowing of Bettie's sale of Minnie to Page, thought she was entitled to her half of the money under her contract with Bartlett, and wanted to know if I would represent her in the collection of money from Bartlett. The contract as drawn between Betty and Minnie—I mean between Betty and Sadie and Bartlett was in the possession of George Brown, and attorney at Tulsa, whose office at that time was on the floor above where my office was at that time. I went with Sadie up to Mr. Brown's office to look at a copy of the contract or the contract. We went up and I made an examination of it. We came back to the office and I then took up with Mr. Bartlett the settlement of Sadie's portion of the money under that contract. We didn't discuss at that time whether there was a Thomas Atkins or anything about the boy. We only discussed the matter pertaining to the collection of the Bartlett money.

Q. Then, you may pass over the details of that discussion.

A. After the course of—— Oh, I wouldn't be certain as to how long, possibly two weeks or three weeks, or might have been longer than that, Sadie came back to my office and told me she was on a deal with Mr. Page now to establish the birth and existence of Tommy Atkins.

Q. Now, prior to the time she came and told you that she was on a deal with him, did she or not discuss with you the matter of seeing Mr. Page, or was there a conversation in which the matter of seeing Mr. Page was suggested by you or her?

A. Yes, sir, she said that—well, I was coming to that—I told her when she had that contract there was some question in my mind about her being able to collect anything under that contract.

Q. You mean the Bartlett? A. The Bartlett contract.

Q. Well, I should not have interrupted you; go on.

A. And I said to her, the next time you draw a contract, if you want me to have anything to do with it, let me see it before you execute it and then she came back to see me about the contract she said she was going to enter into with Mr. Page and Mr. Long. I had spent considerable time myself in investigating the Thomas Atkins case for a client of mine, and I asked her when she began to talk about the contract with Mr. Page, if she thought there was any such a person, or had there ever existed any such a person as Thomas Atkins. She said no. I asked her then what kind of a contract, or what kind of a deal—or words to that effect—what kind of a deal or contract was she going into with Mr. Page; she said she was going to get witnesses by whom she [] prove, for Mr. Page, that Thomas Atkins was a son of Minnie Atkins, and the place and time of his birth and his real existence.

Q. Now, Mr. Walker, do you know—did you have any conversation with Sadie, about going to Mr. Page's office?

A. Yes, sir. Something was said about my going to Mr. Page's office, and she——

Q. In what connection was that suggestion or was that or not prior to the time that she came to you about *going* a contract with Mr. Page?

A. Yes, sir, she told me at that time—the time I was discussing the Bartlett contract with her in connection with the contemplated deal with Mr. Page, that she wanted me to go with her to Mr. Page's office to see Mr. Page about the execution of the contract with Mr. Page.

Q. Did she say whether or not she had seen Mr. Page up to that time?

A. Yes, she said that she had talked with Mr. Page and talked with Mr. Long; a number of talks with Mr. Long.

Q. Did she say what she said to either of them about Thomas Atkins?

A. I asked her the question. After she had told me that she was going out for the purpose of getting these witnesses, if Mr. Page and Mr. Josey knew what she was going to do. I said is it possible that Mr. Page and Mr. Josey know the character of the mission you are going on, and she said that she didn't think Mr. Josey did, but that Mr. Page knew because she had discussed it with him; she said that Mr. Page, using our language, she said of course Mr. Page knows, there never has been any such a boy as Thomas Atkins because I told him so; he knows that I know because of my associations with Minnie in the early days.

Q. State whether or not she told you where she had seen Mr. Page and Mr. Long the first time about talking with them.

A. Oh, Sadie made too many trips to my office about that time for me to remember which occasion but upon one occasion she was in my office in the afternoon and she told me that she had—oh, she was not—yes, one afternoon, that she was going over to see Mr. Page and Mr. Long about this matter, and my recollection is that she came back in the course of an hour or so, and told me that she had made an engagement with Mr. Page and Mr. Long to meet them at 8 o'clock that night in the park at Sand Springs.

Q. Did she say anything about whether she had gotten her a job, in that conversation?

A. She said that the deal was then pending but that it had not been closed up. She was going that night to meet them in the park for the purpose of finishing the detail, or finishing the deal about just what she was to do or what she was to get. I said to her——

> Mr. Stuart: Your Honor, I think it is going a little far to let him tell what he told her.
>
> The Court: Well, only in so far as it is necessary to tell what Sadie had to say.

Q. Go ahead. The court says so far as is necessary to connect up with what Sadie has to say.

A. I told Sadie to come back the next morning and let me know whether Mr. Long and Mr. Page had really entered into such a contract with her. The next morning about ten o'clock, she came to my office and told me that she had entered into a written contract with Mr. Page and Mr. Long which was *on* compliance with the meetings they had had the night before in the park at Sand Springs, whereby she had agreed to go get the witnesses to establish the existence of——

> Mr. Cruce: Well, that contract is in writing, if the Court please and we object to that.
>
> The Court: Yes.

Q. Now, did you or not see that contract? A. Yes.

Q. State to the Court how you happened to?

A. Sadie came to my office and said that she wanted me to go over to the bank and read it.

Q. What did you say to her?

A. I told her that I would go over to the bank and see the contract and I went.

Q. Did you go alone or not?

A. Why, my recollection is that she came—we didn't walk right along together. She walked along behind, my recollection is.

Q. What bank did you go to?

A. Went to the First National.

Q. I show you Government's Exhibit No. 42, and ask you whether that is the contract that you saw?

A. That is the contract that they showed me that morning with the exception that this notation down here, this receipt of $250.00 on the bottom, has been put on there since I saw it, is my recollection.

Q. Did Sadie tell you anything about how much, prior to the time that you saw that contract, how much she was to get?

A. She told me that they were trading on $500.00, that they were to give her $500.00 is my recollection. No, I will take that back. I think that her expenses were not to exceed $500.00; I think maybe she was to get a thousand; I wouldn't be sure about that.

Q. Now, when did she tell you that?

A. Well, sometime before she went out to the park to see them; I don't remember which occasion.

Q. Now, in either of the conversations that you had with Sadie which you have been testifying about, did she tell you anything about—as to what Minnie had said to her about having a son named Tommy Atkins? A. Yes, sir.

Q. What did she tell you?

A. She told me that she and Minnie had talked the matter over and that Minnie had told her that she never had had any such a boy as Tommy Atkins.

Q. Did she tell you anything about what she suggested to Minnie to do with reference to that matter, or say?

A. She told me that Minnie got nervous or uneasy about the matter and that she told her not to be uneasy that she could make the proposition stand up—or words to that effect.

Q. Did she say anything about whether she had represented herself as a Government officer in dealing with Minnie?

A. I believe she did; I believe, she told me, Mr. German, that she told Minnie that she was working in the interest of the Government in some way.

Q. Now, state whether on the afternoon when Minnie—when Sadie came to your office the second time and stated that she had been to Mr. Page's office and that they were negotiating and that she was going to meet Mr. Page in the park that night, whether she told you—have you related all the conversation that—all that she told you that evening that you now recall? A. No, I don't think so.

Q. What else was in that conversation with reference to this matter?

A. My recollection is now, Mr. German, that she came in the first time that afternoon and asked what could be done with her if she went off to another state and manufactured testimony and got witnesses to swear that which was false; I told her that they would send her to the penitentiary for it. She said I am not going to testify, though, in the case; I said that would make no difference: but she said, I am going to *to* this in another state, not in Oklahoma. I said that would make no difference and if you do anything of that sort they will send you to the penitentiary, sure; she then began to relate the pending contract between she and Page and Long and Josey. I then said to her that the- will send you and Long and Page and Josey to the penitentiary if you all pull off any such a stunt as that. Then she related to me that she was not going to do it in the state, that she was going to manufacture the testimony out in Kansas if she did it; that these big law suits were being pulled off down here and that she had a good opportunity to make some money and that she was going to make some money, and I told her she was going to have a still better opportunity to go to the penitentiary, and she said if she should make a big killing out of this law suit she wouldn't care if she did go to the penitentiary for a few years, and then, I said to her that Mr. Page and Mr. Long and Mr. Josey wouldn't have anything to do with such a raw proposition—a raw deal, or words to that effect, and she said I am going to meet them tonight, or I am going over to their office this afternoon and see them about it, and she then, after that, came back and said she had an engagement to meet them at 8 o'clock, and she left my office and I saw her no more until the next morning.

Q. And was it at that time she told that she told them that there was no Tommy Atkins?

A. Either then or the next day, I don't know which. I said Page and Josey don't know this, do they, what you are fixing to do; and she said, I don't think Mr. Josey does; Mr. Page does, because I told him so. I told him there never was a Tommy Atkins—never had been and he said, oh, hell, you go on and get these witnesses.

Q. Now, Mr. Walker, after that, a week or two, did you have another conversation with her about her working under this contract?

A. She came back to my office some two or three—might have been four weeks, I can't be positive about those times, it has been some time ago—she came into my office and said to me that she had been up to Leavenworth, Kansas, and that she had gotten the witnesses by which she was going to prove birth and life and existence of Thomas Atkins; that she had made arrangements for them to testify to all the necessary proof that she needed to carry out her contract.

Q. Did she call the name of any party in Leavenworth in connection with that?

A. She called the name of two or three but I don't remember the names of any now, except the negro lawyer of Dennis Jones, I believe is the name. She called another name, I believe, but I don't remember.

Q. Was it Rube Smith?

A. I wouldn't be sure about it, Mr. German; I didn't tax my mind with it. I wouldn't be certain of it.

Q. Mr. Walker, did you on or about that time, have a conversation with her about Judge Allen in which she made some statement, you and she, about Judge Allen and her work in this case?

A. Some while after, she came back from Kansas, if I may tell leading up to it——

Q. Yes. Now, don't go beyond the date of December 4th, 1914.

A. Well, this was sometime—I don't know about the date, but sometime shortly after she went out there.

The Court: Was it before December 4th, 1914?

A. Yes, sir, that is my recollection; that it was sometime in the early part of the fall, is my recollection now. She came back to my office a number of times and was uneasy about the situation and talked to me a number of times about what she had done and about what was the probable outcome of it. I told her that as soon as this case——

Q. Now, let me see, in order to make sure of the competency of this, did you learn the fact of her having made a so-called confession to the Government?

A. Did I learn of it?

Q. Learn of the fact. Did you hear of the fact?

A. Yes, sir.

Q. Now, were these conversations before that?

A. These conversations were before that, yes, sir.

Q. Alright.

A. She was uneasy about the situation. I told her that it was only a question of time that they were bound to catch her when they got to taking the depositions and got to the trial especially of this case, and she asked me what I would advise her to do; I told her that having gone into it with her eyes opened like she had and being advised of the liability, I thought the best thing that she could do was to go to Judge Allen—Judge Allen's office and make a confession of the whole situation and swear to it, if she was telling the truth about what she had done. She didn't tell me what she was going to do at that time but came back later——

Mr. Cruce: Let me suggest this is clearly incompetent.

The Court: Oh, yes, it hasn't any bearing about the case or the point about which this evidence is offered.

Mr. German: That is true.

Q. Now, did the conversation about which you relate now, did it take place after the so-called confession?

The Court: Now, does that relate as to what she is purported to have told this witness about what occurred before Judge Allen?

Mr. German: Yes, that is what I am trying to get at.

The Court: You have in mind, no doubt what the witness' testimony will be upon the point. Now, clearly it is incompetent for him to say now what was said by her occurred before Judge Allen.

Mr. German: I think so, Your Honor. He had so many conversations and told her so many that it is difficult for me to have them in mind.

The Court: Now, I have permitted this testimony to go on, assuming that you were confining this witness to the statement made during the course of her transaction with the defendants Page and Josey and others.

Mr. German: Yes, sir, I was not attempting to go beyond that; in fact I was trying to hold myself within the limits. May I suggest that she was in the employ of Mr. Page only two or three days before she made the confession?

The Court: I thought that you were coming to something that transpired after the confession?

Mr. German: No indeed, that is all.

Mr. Cruce: We now move, if the Court please, to exclude all of this witness' testimony on the ground that it is hearsay and incompetent.

The Court: Overruled; exception noted.

Cross Examination by Mr. Stuart.

Q. Judge, how long have you been Sadie James' lawyer at Tulsa? A. Sir?

Q. How long have you been Sadie's lawyer at Tulsa?

A. I don't know, Judge, something like six or eight years.

Q. Six or eight years. How many crimes did you ever defend her for?

A. Bootlegging and murder were the only ones.

Q. Bootlegging and murder? A. Yes, sir.

Q. You knew, I suppose, that she was a very notorious character in that community, did you? A. Yes, sir.

Q. And sustained a very bad reputation?

A. Well, I suppose so; as bad as a nigger of that character of that kind has in a community, as much character.

Q. You knew she ran a place there known as the Bucket of Blood?

A. No, sir, I don't think she ran the Bucket of Blood, that has not been my information.

Q. You never heard that she ran that? A. No, sir.

Q. Didn't run it?

A. I said that I hadn't heard that she ran it.

Q. Hadn't heard that. Now, when Sadie came to you to talk to you about this matter, she told you that Fred Cook was after her, didn't she? A. I think not.

Q. Didn't she tell you that? A. I don't think she did.

Q. Don't think she did? A. No, sir.

Q. And when had—and she had considerable conversation with you about it there? A. I beg your pardon, Judge?

Q. She had a considerable conversation with you, there, about it, didn't she? A. About what, Judge?

Q. How long was your conversation with Sadie, Mr. Walker, about—— A. Oh, I suppose we have had——

Q. I mean the first conversation when she came to you and said she was in trouble—scared?

A. Oh, I can't say now, Judge.

Q. Well, you can give me some idea, can't you?

A. Well, I would suppose she was in my office at that time anywhere from ten to forty minutes.

Q. From ten to forty minutes, and she asked you to go over to Page's didn't she? A. She——

Q. Can't you answer my question? Now you are a lawyer, didn't she ask you to go over to Page's with her?

A. She said that she would want me to go to Page's with her.

Q. Said that she would want you to go? A. Yes, sir.

Q. And what did you tell her?

A. I told her that I would go when she got ready.

Q. Said you would go.

A. She was going to draw an instrument, she said.

Q. You didn't tell her that you wouldn't go, did you?

A. No, sir.

Q. Didn't tell her that you wouldn't go? A. No, sir.

Q. Didn't tell her you go on and see him and come back and tell me what he said; you didn't tell her that, did you?

A. I don't know what conversation you have reference to.

Q. I am talking about this one that she told you that she was going over to Page's.

A. Well, at that conversation, she didn't ask me to go at that time

Q. Alright.

A. She says, when I get ready to make a contract with Page, I would like to have you look it over.

Q. Like to have you look it over? A. Yes, sir.

Q. Then, coming to the second conversation, she wanted you to go then, didn't she?

A. No, she never fixed a time when she wanted me to go.

Q. She never did ask you to go, did she, Mr. Walker?

A. No, sir, she never fixed a time when she wanted me to go, an hour or a day but she said——

Q. Well?

A. Wait a moment, I will answer your question. She said when I get ready for this contract, I want you to go.

Q. Did she ever get ready? A. Yes, sir.

Q. Then, did she ask you to go?

A. I presume so—no sir.

Q. She never did ask you to go, then, [A.] no, sir.

Q. Never did ask you to go, then? A. No, sir.

Q. Even when she got ready? A. No, sir.

Q. And you didn't tell her to go over there and talk with him, and come back and tell you about it, did you, Mr. Walker?

A. Yes, I told her to go on and if she made that sort of deal, to come back and I would like to know whether Page and Josey would go into that raw a proposition.

Q. And she did come back and told you that they went into the raw proposition, didn't she? A. Yes, sir, she did.

Q. And you didn't inform the Government about it, did you? A. I did later on.

Q. Just kept still and you didn't do it that day, did you?

A. No, sir, I didn't.

Q. How long after before you did it?

A. Well, Judge, I can't tell you that.

Q. Let's figure, Mr. Walker, how long before you told.

A. I can't tell you, Judge.

Q. I know but you can give me some idea.

Q. My recollection is, Judge, that it was sometime afterwards but I wouldn't say; it might have been a month and it might have been two months.

Q. It might have been two months? A. Yes, sir.

Q. You knew all the time that she was putting up a job on the Government, didn't you? Knew Charles Page, and Josey, men living there in Tulsa, were putting up a job on the Government, didn't you?

A. No, sir, I didn't think Josey was; I didn't think Josey knew it.

Q. She said Page was? A. Yes, sir.

Q. You thought Page was, didn't you?

A. I thought Page was because she told me, yes, sir.

Q. You thought he was? A. Yes, sir.

Q. You didn't have any trouble about seeing that contract between Page and Sadie James, did you?

A. No, sir, Mr. Bradshaw, the banker, gave it to Sadie upon her demand.

Q. It was there for your inspection, wasn't it?

A. Yes, sir, it was there in the bank in escrow.

Q. Mr. Walker, you were also Betty Mann's attorney, weren't you?

A. No, sir, I never represented her in my life.

Witness dismissed.

And thereupon, W. I. WILLIAMS produced, sworn, and examined as a witness for and on behalf of the Government, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. W. I. Williams.

Q. You are an attorney at law? A. I am.

Q. Practicing at Tulsa? A. Yes.

Q. How long have you been practicing at Tulsa?

A. Since the middle of January, 1911.

Q. Who is your partner? A. R. L. Davidson.

Q. How long have you and he been in partnership?

A. Since that date, since the date of my going to Tulsa.

Q. Do you know a woman named Sadie James, a negro woman? A. Yes, sir.

Q. About how long have you known her?

A. About five years.

Q. You knew her in 1914? A. Yes.

Q. Did you or Mr. Davidson, your partner, represent her in any matters without telling what they were?

A. Mr. Davidson represented her in some matters before I had any representations for her, and later on I represented her in a matter.

Q. Is the matter that you represented her in, did it relate in any way to any contract that she had with the Gem Oil Company or Page and Josey? A. Yes.

Q. Well, did she come to see you about that?

A. Yes, she did.

Q. When was that?

A. Sometime in the early fall of 1914.

Q. In order to fix the time with reference to another matter, state whether you learned of her having made a so-called confession to the Government officers?

A. Yes, I heard of her having made a confession.

Q. Was this before or after that? A. Before.

Q. In the conversation, did she say anything about a contract with the Gem Oil Company or Page and Josey?

> Mr. Cruce: We reserve, if the Court please, the same objection.
>
> The Court: The record may show the same objection to this witness' testimony along this line; overruled and exception.

A. I would like to go back just a little bit and say that Mr. Davidson had represented Sadie in two or three matters, but I had not met Sadie James except to see her come to the office. I knew who she was, but I had never talked to her except to speak to her when she came in or something of that sort. She came to our office sometime in the early fall of 1914 and asked for Mr. Davidson. He happened to be out of town. I told her that he was away but that he would be back in a few days, and I asked her if I could do anything for her, and she said no that she wanted to see him. She left without stating her business. She came back in a few days and asked for Mr. Davidson again and I told her that Mr. Davidson had not returned, and again I asked her if I could attend to anything for her. I am not sure whether she at that time or whether she made the third visit before she stated the matter to me, but on the second or third trip she then stated what she wanted. She said that she had a contract with the Gem Oil Company by which she was to hunt up and produce evidence to show that Minnie Atkins had had a son named Tommy Atkins, and that when she had produced that evidence to the satisfaction of Mr. Page, that she was to receive a thousand dollars for her services and to receive her expenses in an amount not exceeding five hundred dollars. She said she had complied with the contract and that she wanted her money and asked me whether or not she could recover it. She said she had been to see Mr. Page and that Mr. Page had put her off and hadn't paid her. I said to her, I don't know whether you can recover it or not, I haven't seen your contract. She told me that the contract was in writing and in escrow in the First National Bank of Tulsa, Oklahoma. I said, from your statement you are entitled to your money, but I said I can't pass definitely on the proposition of whether you are or not until I see the contract between you. She then asked me if I would go to the bank and look at it, and I said yes, if the bank will allow me to see it I will do so. I told her to go down to the bank and ask them if they would permit me as her attorney to examine it and if they would to call me over the 'phone and I would come down to the bank and look at it. She went down and in a little while she called me. I went down to the First National Bank and she was there on the outside waiting for me. We went in and Mr. Bradshaw, who was one of the officers of the bank, is the man who showed us the contract. The contract was written on the back of an envelope.

Q. State whether or not Government's Exhibit A-42 is the contract you refer to?

A. This is the contract with the exception that this receipt here dated November 10, 1914, for two hundred and fifty dollars, has been put on since I saw it. We looked at the contract in the presence of Mr. Bradshaw and I made a copy of the contract and took it back to my office. Sadie went back to the office with me. I told her under this contract she was not entitled to this money until a court of jurisdiction had rendered a final judgment in this case in favor of the Gem Oil Company, and that if Mr. Page paid her any part of this money at that time, that it was merely a piece of graciousness on his part. Well, she said she had talked with him and he was disposed to pay her because she had rendered the services and he was satisfied. She asked me if I would see Mr. Page for her. I told her I would. My recollection is I called up that afternoon and inquired at Mr. Page's office for him and he was not in. And she left with the understanding that we were to meet and go together to his office and have a talk about the matter. It was several days before I got Mr. Page, Mr. Page was out of his office a good deal at that time, and so I didn't get to see him, for several days, and one day she called me up and told me Mr. Page was at the office. We went over there to see Mr. Page. Mr. Page, Sadie, and myself talked about this contract. Mr. Page said that Sadie had rendered capable and efficient services and that so far as furnishing the witnesses was concerned she had complied with her contract; that she had earned the money and that so far as he was concerned he was ready and willing to pay her the money called for in the contract, but that Mr. Josey objected. That Mr. Josey was interested in this contract and that he was unwilling to pay this money at the time because he wanted the contract actually complied with, literally and technically. And Mr. Page said, now Sadie is a bright smart negro woman—in her presence and to me, and he said she had done her work capably and efficiently and I want her to have her money. And he says, I will say this much, you shall be paid two hundred and fifty dollars no matter whether Josey objects or doesn't object. While we were there he sent out to Mr. Josey's office to see if he was there, but word came back that he was out of town. Mr. Page said, I will take the matter up with Mr. Josey when he returns and if he is willing I will agree to pay Sadie the whole thousand dollars. I don't know that we talked about the expenses except casually. So, we separated with that understanding that Sadie was to receive two hundred and fifty dollars out of this contract no matter whether Mr. Josey objected or didn't object. I went back to my office and Sadie went away, I don't know where she went. Mr. Page said that the two hundred and fifty dollars would be issued or drawn within a few days. Well, it wasn't but a little while until Sadie came up to my office and asked if I had inquired about the two hundred and fifty dollars, and I hadn't, and I called up Mr. Page's office and he was out. Finally I got Mr. Page on the line and Mr. Page said to me that he had been out of the office and that the two hundred and fifty dollars had not been issued but would be. And then he went on to say that the Gem Oil Company and the Gypsy Oil Company had about reached a settlement between the two parties over their contest over the leases involved, and that when that was done Mr. Josey would be willing and he would be willing to pay Sadie the other part of the thousand dollars, seven hundred and fifty dollars. I never went back to Mr. Page's office again. Finally I got word—Sadie called me and told me she would like to know about this two hundred and fifty dollars, and I told her about the conversation between Mr. Page and myself; about the prospective settlement between the Gem Oil Company and the Gypsy Oil Company. So, some little time after that Sadie came up and told me she had gotten the two hundred and fifty dollars, and that is the two hundred and fifty dollars that is receipted here. I know I was called and asked if I wanted the money paid to me or to Sadie, and I said just pay it to Sadie. That discussion was had at the time Sadie and I were at Mr. Page's office and I said just pay it to Sadie. I saw Sadie some little time after that and she said that Mr. Page had said to her that he was willing to pay this seven hundred and fifty dollars if she would go and take it in furniture; that he wanted her to buy furniture and open up a rooming house there in Tulsa—and she gave me the name of a furniture store of one of the second or third grade furniture stores that Mr. Page said she could go and buy seven hundred and fifty dollars worth of furniture for the establishment of a rooming house.

Mr. Cruce: If the Court will pardon me.

The Court: It seems to me that this is getting outside of any range to which this testimony was limited.

Mr. German: Of course there are some details.

Q. Mr. Williams, in any of these conversations, did Sadie tell you what Minnie had told her?

Mr. Cruce: Now, I hate to be captious, but that is double hearsay, he is now testifying what Sadie said that Minnie said.

Mr. German: Here is the force of that, Your Honor, Sadie now tells that Minnie told her that there wasn't any Tommy, at Seattle. Now, if Sadie, prior to the time she would have occasion to fabricate, stated anything along that line to this witness, then it comes under the rule.

The Court: Well, that is probably true.

Mr. Cruce: Note our exception.

(Question read).

A. Not until sometime later, Sadie came to my office one day——

The Court: Now, when was this, what year?

A. 1914.

The Court: Before this alleged confession?

A. Before I heard of the alleged confession.

The Court: Well, was it later than December 4th?

A. I think not, I think it was sometime the latter part of November, that is my judgment but I am not positive. I know it was before the report that I heard that she had made a confession. She came to my office and said to me, she said—she said, Mr. Williams I am going to quit working for Mr. Page. She said he wont pay me the seven hundred and fifty dollars and I am not going to work for him any longer. She said I am going to work for H. U. Bartlett. And she said, there isn't any Tommy Atkins and there never was any Tommy Atkins. I said, Sadie, you have got no right if that is the truth you have no right to keep that disclosure from Mr. Page. That is the first time anything had ever passed between me and her that indicated that her transaction with Mr. Page was not in good faith. I had thought that her transactions were in good faith. I said, now, Sadie if that is the case you have no right to continue in the employ of Mr. Page and you ought to discontinue that sort of thing. She says, Mr. Williams, Mr. Page knows there isn't any Tommy Atkins and so does Frank Long. I said, well, Sadie, you ought not to be a party to anything of that sort—— I thought that Sadie was telling me a lie when she told me this latter statement and that she was mad because Mr. Page wouldn't pay her the seven hundred and fifty dollars.

Mr. Cruce: That latter testimony, if the Court please, we move to exclude because it is hearsay and incompetent.

The Court: Well, your objection will be overruled and exception noted.

Cross Examination by Mr. Stuart.

Q. Judge, how long have you been practicing law?

A. Twenty four years the 28th day of last month.

Q. The 28th day of last month. When Sadie James came to you to collect this money from Mr. Page, the first thing she did she gave you as you understood a full and complete statement of her case? A. So I understood.

Q. And as a lawyer you told her the contract as she related it to you with Mr. Page was a just and lawful contract?

A. I did based on her oral statement.

Q. And acting on that statement, you went down there and looked at that contract? A. Yes, that is true.

Q. And after you looked at that contract you made up your mind it wasn't good? A. Yes, sir.

Q. And acting on that you collected this two hundred and fifty dollars? A. Yes, sir.

Q. And she never for a moment intimated that there was anything wrong?

A. When she came to my office long after the two hundred and fifty dollars had been collected and paid over and notified me that she was going to quit.

Q. And she was very angry? A. She was.

Q. And in a very angry way told you what she said?

A. Yes, she told me she was going to quit working for Mr. Page and was going to work for Mr. Bartlett.

(Witness dismissed).

And thereupon Court adjourned until nine-thirty tomorrow morning.

And thereafter, and on May 8th, 1917, at 10 o'clock A. M., the court convened pursuant to adjournment, and further proceedings herein were had as follows:

Mr. Cruce: If the Court please, may we recall Mr. Fritsche?

The Court: For further cross?

Mr. Cruce: Yes, sir.

The Court: Let Mr. Fritsche be called. (The witness Fritsche fails to respond). If the witness is not here, you may recall him later, gentlemen.

Mr. German: Your Honor, we offer a portion of the testimony given by Mr. E. C. Hanford in this court at the Receivership hearing in this case, in the first two or three days of March, 1915. I will read the portion which we offer, page 312 of the printed transcript, the following: "By Mr. Rice. Q. You may state your name and residence. A. E. C. Hanford, Seattle, Washington. Q. You are an attorney at law? A. I am. Q. You represent the defendant Minnie Atkins, now Mrs. Minnie Folk, in this case? A. I do. Q. You are also, I believe, a defendant in the case? A. Yes, I am a party. Q. Was you ever in the Army, Mr. Hanford? A. Yes, sir, I was." Then, on page 322, the following: "Q. You were present at the hearing at Sapulpa when she", referring to Minnie, "testified where the child was born? A. I was. Q. And at that hearing she testified that the child was born in the Sisters Hospital? A. Yes. Q. Now after that hearing at Sapulpa, you may state whether or not you made any investigation with her as to the place of birth of the child in Leavenworth. A. Yes, I started back to Seattle with Minnie and she was anxious to stop off at Leavenworth, and I went over there with her, and I went to the Sisters Hospital that she remembered and took me to and I asked the Sister Superior to let me see the record of that date, and about that time, and I looked first through the years 1884 and 1885, and I found no record of Minnie being there, and the Sister Superior told me that she was satisfied that nobody had been in the hospital at that time in a confinement case, because they did not receive them. Well, Minnie asked me when the Sister went out, did she say that I was never in the hospital? And I said yes, and she said, well I was; then, I asked the Sister Superior to let me go through all their records, and she agreed to bring them to me, one at a time, and she brought me a record for the year 1886, and in the month of October, I think from the 7th to the 21st, as I remember it, of October 1886, showed Minnie Peterkin." Then on page 324, the following: "Q. Peterkin lived in Massachusetts? A. Lived in Boston, Massachusetts. Q. Did you see Peterkin? A. I did, I saw Peterkin. Q. You had some conversation with him relative to Minnie? A. Yes." Then on page 325, the following: "Q. After you left the east, you returned to Tulsa, or Sapulpa? A. I returned to Tulsa. Q. And proceeded with the investigation at Leavenworth, I presume? A. No, I returned to Leavenworth, and I went to see some old soldiers that Peterkin had given the names of at Leavenworth to see if they knew anything about Minnie and I found nothing there, so I then came to Tulsa. Q. Now, at that time that you returned to Tulsa, did you receive information as to the name of the house and locality of the house in which the child was born? A. Yes, I heard from Mr. Long a name. Q. Did you go to Leavenworth after you learned the name of the house in which the child was born? A. Yes, I went to Leavenworth. Q. Did you make any investigation of the locality in which this house was situated? A. I was not over at the locality where the house was situated, the thing was this: Mr. Long was going up there with Sadie James and he had already arranged to go with Betty Mann who knew something about the birth of Thomas, but we had no confidence in her, and he was going with Sadie James; it was arranged that I should go with Betty Mann and not let either one know the other was there, and I should find out what Betty Mann could dig up, and we should see that if it checked with his, and we would have a check on Sadie James. Q. So far as you were concerned, the trip was made and you went to Leavenworth with Betty? A. I went to Leavenworth with Betty."

And thereupon, MALCOLM E. ROSSER was produced, sworn, and examined as a witness for and on behalf of the Government, and testified as follows:

Direct Examination by Mr. German.

Q. Judge, you are an attorney for the Nancy Atkins interest in this case? A. Yes, sir.

Q. Were you interested in the matter of litigation affecting the title to this land in 1914?

A. Yes, sometime in July, 1914, at the request of Mr. Maxey, who was sick at the time, I went to Sapulpa and took part in certain proceedings.

Q. Were you present there when Minnie Atkins testified? A. Yes.

Q. In July, 1914? A. Yes, sir.

Q. Did you hear her testimony? A. Yes, sir.

Q. State whether or not she testified as to how many children she had given birth to at Leavenworth?

A. She testified having given birth to one child at Leavenworth.

Q. Did she then and there make any mention of the fact of the birth of Robert Lee Peterkin to her at Leavenworth July 30th, 1886? A. No, sir.

> Mr. Cruce: Just a moment, if your Honor please, I think we already have our objection in the record, but on behalf of Mr. Page we object to that testimony.
>
> The Court: Your objection will be noted.
>
> Mr. Cruce: Exception.

Q. You say she didn't mention that?

A. She didn't mention that, no, sir.

Q. Did she make any mention in her testimony there of the death of Robert Lee Peterkin in the month of August 1886? A. She did not.

Q. Now, Judge, were you present at Leavenworth, Kansas, in October, 1914, at the taking of depositions for use in the suit pending in the State Court?

A. Yes, at one time when they took a lot of testimony.

Q. Were you there when Dennis Jones testified?

A. Yes.

Q. Were you there when Rube Smith testified? A. Yes.

Q. When Walter Banks testified? A. Yes, sir.

Q. And Sam Nash? A. Yes, sir.

Q. What is the nationality of the four persons I have named? A. They are all negroes.

Q. Who produced them as witnesses there before the party taking the testimony, on whose behalf I mean were they produced?

> Mr. Stuart: Your Honor please, I would like to inquire what this examination is for.
>
> The Court: Is this not shown—I remember that you offered the transcript of the depositions of these several witnesses. Your statement was at the time that it was offered to the point that these parties had produced these witnesses on their behalf as deponents, and your theory was that that tended to sustain your contention that they had entered into a scheme to fabricate evidence. Now, don't the depositions themselves merely show clearly who produced the witnesses?
>
> Mr. German: Well, I don't know, that is the only reason I am asking this question.
>
> The Court: Judge Rosser has testified that these

witnesses were negroes; he is asked now who produced them. I think the record will show that.

Mr. Stuart: Mr. German knows who called those witnesses. He was there.

Mr. German: Well, I wasn't there, Judge.

The Court: Well, Judge, who called the witnesses?

A. Your Honor, Mr. Rice, who I understand was at that time attorney for Mr. Page and also Minnie Atkins, called the witnesses. I think possibly Mr. Hanford may have called some of them, but I am not sure.

Mr. German: That is all.

Mr. Stuart: That is all.

(Witness dismissed).

Mr. German: Now, your Honor, there is one other question I want to ask Judge Rosser.

The Court: Ask him right there.

Q. Judge, were you present at the taking of testimony of Minnie Atkins by deposition in Rice and Lyons' office in the fall of 1914? A. No, sir.

Mr. German: Your Honor, now we desire to offer certain portions of the testimony given by Minnie Atkins by deposition in the office of Rice & Lyons in Tulsa, in the case pending in the District Court of Creek County, the same case in which the depositions at Leavenworth were taken in October, 1914, by Minnie Folk and her co-plaintiffs; which deposition of Minnie Atkins was taken on the 22nd day of October, 1914, filed in the District Court of Creek County in November, 1914. This deposition was taken after the deposition was taken at Leavenworth. I will read the portion which we desire to offer if I may. If the Court will prefer we can copy them and file them.

The Court: Perhaps you had better read them.

Mr. Cruce: On behalf of Mr. Page we object, because it is incompetent, and if any part is read we desire that they offer it all.

Mr. German: It is offered for the limited purpose of showing the fabrication.

The Court: The objection will be noted. You may read it to the record such portion as you may desire.

Counsel for defendant may read such other portions as they may conceive should be offered.

Mr. Stuart: Your Honor, we would like to reserve the right to read our part when we put on our case.

Mr. German: The plaintiff then produced as a witness MINNIE ATKINS, MINNIE FOLK, who after being duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

Direct Examination by Mr. Rice.

"Q. Will you state your name? A. Minnie Folk.
Q. How old are you? A. About fifty.
Q. Where do you reside at this time?
A. Fort Lawton, Seattle.
Q. What was your name before you were married?
A. Minnie Atkins.
Q. Where were you born?
A. I was born at El Paso, Texas.
Q. Where did you live during your childhood?
A. We lived on L. Creek.
Q. Where is L Creek, in what territory?
A. It is near Muskogee.
Q. In what was then Indian Territory?
A. Creek Nation.
Q. You are the plaintiff in this suit? A. Sir?
Q. You are the plaintiff in this suit, you are the person bringing this suit? A. I didn't understand you.
Q. I say you are the Minnie Folk mentioned in this suit?
A. Yes.
Q. How long did you live on L Creek?
A. We stayed there until I was about twelve years old.
Q. What was your father's name? A. Tom Atkins.
Q. What was the names of your brothers and sisters?
A. Nancy Atkins and Lee Atkins and the three that is dead.
Q. Is Lee still alive? A. No, sir, dead.
Q. Are your mother and father alive?
A. No, sir, both dead.
Q. What was the occasion of your leaving Tullehassee Mission? A. The school burned down.
Q. Where did you go after the school burned?
A. Carlisle, Pa.
Q. Among the other things you studied at Carlisle, did you take up cooking? A. Yes.

Q. Where did you go when you left Carlisle?

A. I went to Leavenworth to George R. Hyde's, the banker.

Q. Do you remember how long you worked for Mr. Hyde?

A. Nearly five months.

Q. You may state whether or not there was a child born to you in Leavenworth? A. Thomas Atkins.

Q. Your answer then is, yes, there was a child born and you named him Thomas Atkins? A. Yes.

Q. Where was he born?

A. He was born at Granny Letcher's.

Q. In Leavenworth? A. Yes.

Q. After Tommy was born how long did you remain in Leavenworth?

A. Well, after he was born, I must have remained about a year.

Q. And when you left Leavenworth where did you go?

A. I went up to the Post.

Q. That is the Fort about three miles from Leavenworth?

A. That is the Fort.

Q. How long did you stay at the Post?

A. I worked a year at Grodevant's, and then I went to Mr. Stafford's for a few months.

Q. At the Fort too? A. Yes.

Q. When did you leave the Fort?

A. I don't know what year I left the Fort in.

Q. Let me ask you this: About how long after Tommy was born before you left Leavenworth and the Fort?

A. He was a year and a half old.

Q. Where did you go?

A. When I left Leavenworth where did I go?

Q. Yes? A. I went to Denver, Colorado.

Q. Is there a Fort near Denver? A. Fort Logan.

Q. Were you at Fort Logan? A. Yes.

Q. What did you do at Fort Logan?

A. Oh, I worked around.

Q. Were any children born to you at Fort Logan?

A. Yes.

Q. When you left Fort Logan, where did you go?

A. After I left?

Q. After you left Fort Logan, where did you go?

A. Then, I went to Muskogee, then I came back again.

Q. Now, was it on that trip to Muskogee that you attended the payment Mr. Brown testified about?

A. Yes, that was the time I got my money.

Q. Who came with you to Muskogee from Fort Lawton?

A. I went with the two children, Harvey and Charlie.

Q. When you went away from Leavenworth and the Fort what did you do with Tommy?

A. Left him at Granny Letcher's.

Q. Have you seen him again since then? A. No, sir.

Q. Have you ever heard he was alive or dead?

A. I heard, when I was in Detroit, that he was dead."

Mr. German: Now, we offer the following portion of cross examination by Judge Maxey:

"Q. How long was it after you went to Fort Leavenworth was it before the child was born?

A. Well, I was—— He was born, of course, in the nine months you see.

Q. Well, was he born in nine months after you got there?

A. No, I didn't get him right away when I went there.

Q. About how long was it after you went there before?

A. Well, after I left George Hyde's I knew then.

Q. Where did you go after you left George Hyde's?

A. I went around to Granny's.

Q. Granny Letcher was a negro woman that lived there, wasn't she? A. Yes, she was colored.

Q. And was it as much as a year after you went from Carlisle to Leavenworth that this child was born?

A. I don't know.

Q. Well, what is your best judgment about it?

A. I would rather say nothing because I don't know.

Q. Was it as much as two years after you went to Leavenworth that he was born? A. Yes, about that.

Q. About two years? Then, how long did you stay there after the child was born? A. At Granny's?

Q. Yes?

A. Well, I didn't stay there steady at any time after I got well. I was just in and out and left the baby there.

Q. You say the child was born at Granny Letcher's?

A. Yes, he was born at Granny Letcher's.

Q. You stated in your testimony over at Sapulpa that he was born in the Sister's Hospital?

A. Well, I just simply said it because I didn't want to tell where he was born.

Q. Why didn't you want to tell?

A. Well, I just didn't want to because——

Q. Because Granny was a negro?

A. No, but she didn't run a very good house, and I didn't want everybody to know my business.

Q. You stayed around Granny Letcher's all the time you were in Leavenworth? A. I hung around a good deal.

Q. Now, how long did you stay there after this child was born? A. In Leavenworth?

Q. Yes?

A. Well, after the baby was born I left him at Granny's and went up to the Post to work, and I was at one place a year, Mrs. Grodevant's, and then about three months at Mrs. Stafford's.

Q. That would be about a year and a half? You made your home at Granny Letcher's all that time, didn't you?

A. I always went there.

Q. Then, where did you go? A. From the Fort?

Q. Yes?

A. Then, I took sick at the Fort and I was in the Hospital for a while and got well and went to Logan.

Q. How old was the child when you went to Fort Logan?

A. A year and a half."

Mr. German: There was one or two more questions, but we will introduce them later.

And thereupon, E. C. FRITSCHE, being recalled for further cross examination further testified as follows:

By Mr. Cruce.

Q. Mr. Fritsche, on yesterday afternoon, you testified about having received a letter from your son? A. Yes, sir.

Q. You remember in answer to questions propounded to you by Judge Stuart on cross examination that you pointed your hand to your coat pocket as though indicating that you had the letter there, and asked Judge Stuart if he wanted to see it? Did you have the letter with you at that time?

A. No, I didn't.

Q. Will you let us have the letter at this time?

A. I haven't the letter with me, Judge. I looked over my grip yesterday evening.

Q. How came you to state to the Court that you had the letter in your grip?

A. I was under the impression that I had the letter with me. The letter is at home and I said that I would write Mrs. Fritsche and I wrote her yesterday afternoon.

Q. You remember having a conversation with Mr. Cruce, myself, yesterday afternoon?

A. Yes, sir, I told you I would write for it.

Q. You told me, did you not, that you might have burned it up in some old junk?

A. Yes, possibly I said that; I know the contents of the letter.

Q. Who did you talk to first after you left the witness stand yesterday? A. I don't remember just exactly.

Q. Do you know Mr. Robinson, the detective?

A. Robinson, the detective?

Q. Robinson, the detective. This gentleman, the third man there in the back row. A. I don't remember.

Q. Sir?

The Court: Do you know him?

A. No, sir, not personally.

The Court: Have you ever talked to him?

A. I can't recall just now, Judge.

The Court: Well, it is alright if you have; tell about it.

A. Well, I don't remember now.

Q. Did you speak to anyone after you left the witness stand yesterday afternoon with reference to that letter except the few words that you had with me in Mr. Linebaugh's presence?

A. I met a Mr. Martin yesterday evening from Leavenworth, in front of the hotel where I am stopping.

Q. Did you talk to him about the letter?

A. I don't remember anything about the letter; no, I can't recall that. In fact, it slipped my mind entirely because I told you I would write for the letter and I did so.

Q. Did you talk with Mr. Martin after I talked to you—Mr. Cruce? A. Who is Mr. Cruce?

Q. After you talked to me?

A. Yes, Mr. Martin, last night, about 9:30.

Q. What was he talking to you about?

A. He was a witness in this case.

Q. Did he ask you anything about that letter?

A. I really don't remember, Your Honor.

Q. You can't remember from yesterday evening at 9 o'clock whether Mr. Martin was talking to you about the letter?

A. I told him I thought I had a letter, yes; yes, we did talk about the letter; I remember now, and I said the letter may be at home or might have been destroyed, and I had written for the letter.

Q. How came Mr. Martin to be talking to you about the letter? A. I mentioned it myself.

Q. Sir? A. I mentioned it to him.

Q. You mentioned it to Mr. Martin. Do you know what he is doing here?

A. I suppose that I was dismissed and was through.

Q. You say that letter from your son told you that detectives were there? A. At his house, yes, sir.

Q. How many detectives did he say there were?

A. He said there were two.

Q. Did he say who they were?

Mr. Linebaugh: If the Court please, we think the statements that the son made to this witness would be incompetent, and we object to them.

The Court: Well, this witness is now being cross examined as to things which caused him to do what he did with relation to his evidence taken by deposition, and he may state what his son said to him.

Q. Did he state who the detectives were?

A. He said there were two detectives, father.

Q. Well, did he name them?

A. He named one, Mr. Blum, is it?

Q. Mr. Buell? A. Blum, the gentleman here yesterday.

Q. Bruff, the other one he didn't mention his name.

Q. Did he say where they were from?

A. Said they were from Oklahoma.

Q. Now, he stated to you in that letter that you had gotten yourself in a very serious condition, did he?

A. He said I read the testimony and it looked as if you made conflicting statements there.

Q. He told you in the letter that these detectives had read from the testimony that you had given in your deposition? A. Yes, sir.

Q. And that your testimony was in error and that you were in a dangerous condition? What danger did he say that you were in? A. He didn't say dangerous condition.

Q. What did he say you were in——

A. Said it looked as though I were in trouble; looked like you should correct yourself; he said Mr. Younkman, from Tulsa, accompanied these gentlemen.

Q. The detectives? A. With the detectives.

Q. Did he say that these people said that you committed error and if you corrected the error, it would be alright?

A. No, he didn't put it that way. He said from your deposition I read in the Baltimore hotel, there were some conflicting statements and he said, I know, father, I know you wouldn't intentionally commit error which would get you in trouble and you can correspond with Mr. Younkman right at once, and he can enlighten you further.

Q. How old is your son? A. My son is 28.

Q. Twenty-eight years old? A. Yes, sir.

Q. So he was not living in '85 and '86, was he?

A. No, I was married in '87.

Q. He couldn't have had any personal knowledge about when this child was born?

A. Why, no, he wasn't in existence.

Q. And he intimated to you in his letter, didn't he, that all he knew about it was told him by these detectives?

A. That is all.

Q. Did he state if you would get into communication with Mr. Younkman that he would explain it to you? A. Yes.

Q. Tell you what to do? A. I did.

Q. Well, did you get into communication with him?

A. Yes, sir.

Q. Whose automobile, was that, that you came down in that you spoke about yesterday, about some man getting you in an automobile? A. Yesterday?

Q. Yes. A. I don't know whose automobile it was.

Q. I mean you said something on the witness stand as I now recall it——

The Court: Your trip from Tulsa, down in an automobile—whose automobile was that?

A. I don't know Your Honor, whether it was Mr. Younkman's or hired livery; Mr. Younkman and this detective and myself.

Q. What detective was that? A. Mr. Blum.

The Court: Bruff—B-r-u-f-f, isn't it?

A. Bruff.

Q. You don't know whose automobile it was?

A. No, sir.

Q. You didn't pay for it? A. No, sir.

Q. And you don't know who did pay for it? A. I do not.

Q. When was it that you made that trip?

A. About three weeks ago.

Q. Three weeks ago. Were you shown your testimony that you had given in your deposition at that time?

A. Here in this building I was.

Q. In this building. Who was present?

A. Judge Linebaugh.

Q. Well, who else? A. I don't really remember now.

Q. Was Mr. Bruff present? A. Yes, sir he was present.

Q. Was anything said about your having—correcting your former deposition?

A. Why, my attention was called to errors.

Q. Well, I believe you testified about that yesterday. At any rate, you corrected your testimony? A. Yes, sir.

Q. Now, if I understand you—understand my question—that when you made this correction of your testimony, you had it in mind that you were practically under arrest, did you? A. I felt that way.

Q. Yes, sir, and you felt like the hand of the Government was going to be laid upon you if you didn't correct that testimony?

A. Your Honor, when that testimony was read to me, I saw the error.

Q. Please answer my question, now. You believed that at the time you corrected that testimony, that if you didn't do it, you would be punished, didn't you?

A. Well, if it was perjured testimony, it would be.

Q. Well, I thought you stated yesterday that you had testified honestly in the deposition? A. I certainly did.

Q. Now, are you ready to answer my question? Whether or not at the time you agreed, in Mr. Linebaugh's office, that you were going to correct your testimony——

A. I told them that I was willing to correct my testimony.

Q. Did you understand, then, if you didn't correct your testimony that you were in danger of being prosecuted for perjury? A. It looked that way.

Q. Did you keep a copy of that letter you wrote your wife last night? A. No, sir.

Q. Did you show it to anyone? A. I did not.

Q. When would you ordinarily hear from your wife in reference to it?

A. I told her to answer at once; she probably will get that letter if the mail is prompt—she ought to get it in this afternoon's delivery between three and four o'clock; they have a delivery at three, afternoon, and forenoon about ten.

Q. Did you suggest in your letter to your wife that you thought that perhaps the letter from your son had been burned or destroyed? A. No, sir.

Redirect Examination by Mr. Linebaugh.

Q. Mr. Fritsche, who is this Mr. Martin you say you talked to?

A. Mr. Martin is in the Dry Cleaning business at Leavenworth.

Q. Who else have you talked to, if any one, since you left the witness stand?

A. I can't recall of anyone just now.

Q. Sir? A. I don't know of anyone.

Q. No one that you remember of? A. No.

Q. Other than Judge Cruce who talked with you immediately after the recess of Court? A. Yes.

Q. I was present at that time? A. Yes, sir.

Q. And you talked with Mr. Martin?

A. Mr. Martin yesterday evening.

Q. That is all? A. That is all.

Q. Now, who was present in the District Attorney's office at the time you say you came over here from Tulsa?

The Court: I think that was pretty fully gone over yesterday. He stated those that he remembered.

Q. Did Mr. Younkman come with you? A. Yes, sir.

Q. Mr. Pinson there? A. Who?

Q. Mr. Pinson?

A. Another gentleman, I don't know who it was and Mr. Bruff.

Q. Now, Mr. Fritsche, did you remember the—I will ask you this question; if you had not already seen—if you had seen this woman at any place other than Lee Bond's office, would you have remembered her?

A. I believe I would; probably if my attention would have been called to her, passing her on the street.

Q. Did you know what you went to Lee Bond's office for last summer? A. Last summer, I did not.

Q. You went there—— Had you seen the woman that you knew in 1883, since 1886, until the summer of 1916 when you saw her in Lee Bond's office?

A. That's the last time I saw her.

Q. You say you went down there responsive to a telephone call from Mr. Bond? A. From Mr. Bond's office.

Q. Did he tell you what he wanted with you when you got there? A. No.

Q. You had given your testimony about three months before, hadn't you? A. Yes, sir.

Q. Did you talk to Mr. Bond at all that day when you went down responsive to his telephone call? A. Yes.

Q. What did you say and what did he say to you?

A. I can't recall that; we passed the greetings of the day and I saw Indian Minnie sitting back there and I recognized Indian Minnie.

Q. Did you know what you went there for?

A. I did not, no sir.

Q. Did you know whether the woman that you saw in 1883 and 1886 what race she belonged to?

A. I judge an Indian.

Q. Did you know that they sent for you at Lee Bond's office for the purpose of having you identify Minnie Atkins as being the woman you saw in 1883 and 1886?

Mr. Stuart: Your Honor, that is assuming a fact that is not in the proof, no proof that they sent for him to identify her.

The Court: Well, that is true. The question is whether he understood at that time, was he advised.

Q. Were you advised, did you go there—was that the purpose for which you went? A. Not to my knowledge.

Q. Well, what did you go there for, Mr. Fritsche?

A. In answer to the telephone call.

Q. When you got there, what did you do, what did you say, tell the Court everything that you did and said.

The Court: Well, now, the point is, what you are trying to show is—to find out what, if any, intimation this man had before he went to Mr. Bond's office that this woman would be there, or that he would be called upon to identify her.

Mr. Linebaugh: Yes, sir.

The Court: Now, that can only be determined by what passed between Mr. Bond and others interested in this matter and this witness before he went there.

Q. When you came over to Muskogee, you came voluntarily, didn't you? A. Voluntarily?

Q. Yes?

A. Why, the detectives were there and Mr. Younkman and they placed me in the automobile and brought me over here.

Q. Was that objectionable or agreeable to you?

A. I don't know just how to answer that question. I received a telegram from Mr. Younkman to come to Tulsa. I was in Wichita.

Q. Yes. Was it agreeable to you to come? A. Yes, sir.

Q. You have been arrested in your life, have you?

A. Arrested?

Q. Yes, sir? A. I can't recall the time.

Q. You say you never was? A. No, sir.

Q. You have seen people arrested? A. I have.

Q. Well, were you arrested? A. No, sir.

Q. Were you ever arrested by anybody in this case?

A. In this case, no, sir.

Q. Sir? A. No, sir.

Q. Did anybody ever threaten to arrest you? A. No, sir.

Q. Did you say in the office that day that you went to Lee Bond's office in the summer of 1916, after you had given your deposition, for the purpose of identifying this woman as the woman that they told you had given birth to a child at Grammy Letcher's house in the spring or summer of 1885?

Mr. Stuart: We object, your Honor. Now, your Honor, here is a most remarkable situation. They introduce the man's testimony by his deposition; then make the man their witness to take it back, and then they try to impeach him.

The Court: The objection will be sustained for this reason: The whole matter was gone over in chief yesterday and crossed, with regard to what occurred in the office here. He was asked with regard to what he said. The matter in my judgment has been fully and sufficiently covered. The objection is sustained.

Q. Mr. Fritsche, I believe you said that you saw that the woman that you saw with child was the one that you knew as a prostitute in 1883 before you went to school?

A. Yes, sir.

Q. If this woman, Minnie Atkins, was not in Leavenworth in 1883, then she is not the woman you saw with child is she? A. Couldn't have been.

The Court: Any further questions? Stand aside.

(Witness dismissed).

Mr. German: Your Honor, I think counsel will admit what I want to find in Minnie's testimony at Tulsa, her statement at Tulsa when she gave her deposition there.

The Court: Well, perhaps, Mr. German, you had better take the time to find that and then introduce it as it appears there. It will take less time than to interject some agreement about it.

Mr. German: Well, I can't find it. Now, I want to prove that she didn't mention Robert Lee Peterkin, the fact of his birth at Tulsa in her deposition given there in October, 1914. But I assume that you will admit that she didn't, Mr. Hanford:

Mr. Hanford: Mr. German, I haven't a copy of that testimony here and I am not prepared to admit that.

Mr. German: I will put Mr. Hanford on the stand, he knows.

And thereupon, E. C. HANFORD was produced, sworn, and examined as witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. Mr. Hanford, you heard Minnie testify at Tulsa at Rice & Lyons' office?

A. I did, Mr. German, I don't recall whether I was in the room all the time but I think I was.

Q. You know, do you not, that she did not in her testimony mention the birth of Robert Lee Peterkin to her in Leavenworth in July 1886 or at any other time?

A. I know this, Mr. German, they have not——

Q. Now, wait a minute, I am asking you what she testified, did she mention that in her testimony?

The Court: Mr. Hanford, if you are prepared to answer as to whether she mentioned that in the testimony, you may do so.

A. I will say that she did not.

Mr. Stuart: Haven't you got the record?

Mr. German: Yes, sir, but I didn't want to put in the whole thing.

The Court: Here is the question, as I understand: The question is whether Minnie, in that deposition, mentioned the birth of the child Robert Lee Peterkin. The only way that can be determined, unless it is agreed, that she did not, would be to put in the whole deposition for the consideration of the Court.

Mr. Stuart: One trouble about that Your Honor, is this, that that independent fact might be testified to and I have no objection to that; but there might be all sorts of coloring in the deposition itself. I am willing to pass this particular question, but I insist that hereafter, if the gentleman wants to prove what is in that record, let him take the time and find the record; it will be very short.

The Court: Yes, Mr. Hanford may testify to the extent that he now remembers in regard to that; I think he has answered, however.

A. I am testifying in this way, Your Honor; I am not prepared what is in or is not in that record, but the proposition being a negative one, I testify because I do know——

Q. Now, wait a minute, Mr. Hanford; I don't want anything that you learned on the stand or learned from any source except what she gave in the deposition.

A. Well, that is what I am testifying to.

The Court: Proceed.

Mr. German: That is all; he stated that she did not.

The Court: That is answered.

A. But I am testifying to what I learned off the witness stand; not what was in the record.

Cross Examination by Mr. Cruce.

Q. Was she asked on the witness stand there, in reference to the Peterkin baby? A. I don't think she was.

Mr. Cruce: If that is a fact, we move to exclude this because a woman can't be expected to testify about a matter she was not inquired as to.

The Court: The Court will examine that; the testimony stands with the witness's statement and if what you said is correct, of course that nullifies that.

(Witness dismissed.)

Mr. German: Now, in view of counsel's objection, we offer the following additional portion of MINNIE'S testimony given at Tulsa on the occasion mentioned:

"Q. When was Alice born with reference to the time that Tommy was born? A. Alice was born in Fort Logan and Thomas in Leavenworth. Q. Alice was born afterwards? A. Thomas was born first and then, Alice."

Mr. Cruce: What page is that?

Mr. German: Page 27 of the copy of the deposition. Now, Your Honor, we offer the following portion of the testimony given by Mr. Hanford in this court in this case, in the Receivership hearing, in March, 1915.

Mr. Cruce: Objected to on behalf of Mr. Page on the ground that it is incompetent, and hearsay.

The Court: Objection noticed, overruled, and exception noticed.

Mr. German: "Q. And subsequently Minnie was brought back to Leavenworth, at which time the depositions were taken? A. Yes. Q. That was in month of 1914? A. Yes. Q. Those depositions were taken in the

State Court case? A. Yes. Q. Minnie did not testify at that hearing and subsequently went to Tulsa? A. Yes, she was sick in the hospital." That is on page 326.

Then the further testimony of Mr. PAGE, given at the Receivership hearing, appearing on page 276 of the printed transcript of the Receivership matter: "Q. You learned, did you not, that Dennis Jones, Rube Smith, and others, testified that Minnie had given birth to a child at Granny Letcher's whose name was Thomas Atkins? A. Yes, I think I did. Q. Minnie went on the witness stand on your behalf and hers, there in Tulsa, and gave testimony to the same facts, didn't she? A. I know this, Judge, that Minnie tried to hide—— Q. Answer that question. (question read). A. I think she did. Q. You heard her testify? A. No, I don't believe I was there. Q. You didn't hear her testify? A. No, sir, I might have been there, I don't remember. Q. She testified there at Tulsa after she had left your home, didn't she?"

,"The Court: You mean at Tulsa or Sapulpa"

"Tulsa, on the occasion when she gave her deposition. A. After she left my house? Q. Yes, sir. A. In Tulsa? Q. Yes, sir. A. Well, on her second trip to Tulsa, I think she stayed at my home all the time. Q. How long? A. I think she was there two or three days, wasn't she? Q. Well, now, was this her second trip, the occasion when she gave this deposition there in Tulsa? A. I have an idea it was; now, I can't say for sure. Q. Didn't she give her deposition after she had stayed at your house for two or three days? A. Maybe she did. Q. Well, you know, Mr. Page. A. I don't know positively. I know this, Judge, that I worked on her for fully an hour to get the truth of the case; I worked on her fully an hour and had Mr. Hanford try to get the truth and she would come up with a few things. Q. She didn't want to tell the truth about it, did she, Mr. Page? A. She wanted to cover up certain things in her life; no question about that. Q. You encountered difficulty about getting her to tell the truth? A. About certain things."

Now, in order to straighten up one matter, Your Honor; we offered Friday, I think it was, the deposition of Dennis Jones, Rube Smith, Sam Nash, and Walter Banks, taken by the Page proof, at Leavenworth in October, 1914, for the limited purpose stated, and Your Honor made some suggestion about not encumbering the record with all of them, with everything unless we desired to introduce the entire deposition. Since then, we have gone over these depositions and want to save encumbering the record, and offer only portions of the depositions of Sam Nash and Walter Banks and I will indicate the portions of the Sam Nash and Walter Banks depositions which we will offer in lieu of the whole of them, the direct examination of Walter Banks which begins on page 80 of the certified copy which we are using of that proof of depositions, and the re-direct examination of the same witness, which begins on page 130 of the certified copy.

WALTER BANKS, of lawful age, being by me first duly examined, cautioned and solemnly sworn to testify the truth, the whole truth and nothing but the truth, deposed and said:

Direct Examination by Mr. Rice.

Q. How old are you Walter? A. Thirty two.

Q. Where do you live now?

A. I am living in Kansas City now.

Q. Where do you work?

A. Work at the Jefferson Hotel.

Q. Where did you live along about 1884, 1885 and 1886?

A. Two hundred seventeen, Seneca Street.

Q. You may state whether or not you lived at that place at that time with Mrs. Letcher? A. Yes, sir.

Q. What relation was Mrs. Letcher to you?

A. Why, she was my adopted mother. My mother died in her house and gave me to her when I was two years old.

Q. You considered her as your mother and grand mother?

A. Yes, sir.

Q. What did you call her?

A. Called her "Grandma" sometimes and called her "Mama" sometimes.

Q. Did Granny Letcher have any boys of her own there?

A. Yes, she had a boy.

Q. What was his name? A. Jim Mayo.

Q. Joe Mayo—Jim is it? A. Yes, sir.

Q. Did Jim—was Jim younger or older than you?

A. Older.

Q. Do you remember about how much older than you he was? A. No, sir, I do not.

Q. What other boy lived there in the house?

A. Sam Nash.

Q. Sam Nash—is he older or younger than you?

A. Older.

Q. Is he a one armed boy? A. Yes, sir.

Q. What other boy lived there?

A. Little Tommie Atkins lived there.

Q. Do you remember Tommie Atkin's mother?

A. Yes, sir.

Q. What was her name?

A. Why some of them called her "Indian Minnie," some called her "Minnie Atkins."

Q. Were you living there when Tommie was born?

A. Yes.

Q. About how much older are you than Tommie?

A. About three years older than he is.

Q. How much? A. About three.

Q. Do you remember Tommie when he was a baby?

A. Do I remember when he was a baby?

Q. Yes. A. Yes, I do; I should say so.

Q. Did you ever see him nursing?

A. Yes, sir, he used to fight.

Q. Who was he nursing?

A. He nursed his mama. I used to fight and try to get some titty myself.

Q. Did you nurse his mother some too? A. Yes, I did.

Q. You can remember that, can you? A. Yes, sir.

Q. You were about three or four years old?

A. Yes, somewhere along there, between three and four I was.

Q. How do you remember when Tommie was nursing Minnie? A. Why, how do I remember?

Q. Yes. A. I would see him, she would have him in her lap and her breast out.

Q. And then she would let you nurse some too, would she? A. Yes, sir.

Q. Do you know whether or not Minnie went away after that?

> Mr. Lytle: We suggest counsel frame his question as not leading.

A. No, sir, I do not know whether or not she went away.

Q. Do you remember whether or not she did actually go away?

A. She left the house there, I do not know whether she left town or anything like that, but she left the house.

Q. Do you know whether or not Tommie was there after she left? A. Yes, sir, he was there?

Q. How long was Tommie there?

A. Well, now I could not tell you just how long he was there, but he was there until he was about between ten and eleven years old.

Q. You and he played together? A. Yes.

Q. Did Sam Nash live there during that time?

A. Yes, sir.

Q. You may state whether or not Tommie went away from Granny Letcher's when he was a pretty good sized boy?

A. Tommie left there when he was about eleven years old with some woman that came after him and said——

Q. Wait a minute? Were you living there at that time?

A. Yes, sir.

Mr. Lytle: I suggest the witness be allowed to answer the question—to finish the answer.

Q. All right, he may finish.

Mr. Rosser: We object to his statement as to anything the woman said.

Q. All right, you say you were at Granny Letcher's when Tommy went away? A. Yes, sir.

Q. Do you remember the occasion of his going?

A. Yes, sir.

Q. Did he go by himself or with somebody?

A. With somebody.

Q. Man or woman? A. Woman.

Q. Had you ever seen the woman before? A. No, sir.

Q. Did you ever see Tommie after that?

A. No, sir, I have not ever seen him after that.

Q. Did you ever see the woman that come and got him, after that? A. No, sir.

Q. Did this woman make any statement in your presence relative to her taking Tommie?

Mr. Rosser: I object to the question as incompetent, irrelevant, immaterial and hearsay.

Mr. Greenslade: I make the same objection.

Q. Answer yes or no? A. Yes, sir.

Q. And after she made this statement Tommie went with her, is that right? A. Yes, sir.

Q. Did you ever see Minnie Atkins after she left when Tommie was a little boy?

A. No, sir. I never seen her any more.

Q. How long did you live in Leavenworth after Tommie went away?

A. Well, I stayed here then until I was about 21 years old then.

Q. Do you remember the occasion of the Spanish American War? A. Yes, sir.

Q. Did you enlist in the Spanish American army for that war? A. Yes, sir.

Q. Where did you enlist? A. Kansas City.

Q. You enlisted prior to the termination of the Spanish American War? A. Yes, sir.

Q. Relative to the time of your enlistment, did Tommie leave Granny Letcher's before or after?

A. Tommie left before I went to the Spanish American War.

Q. How long before, would you say?

A. I could not remember just how long.

Q. Was it a few months or more?

A. I just don't know; I would not say just how long it was.

Mr. Rice: Take the witness.

Cross Examination by Mr. Rosser.

Q. You say you live in Kansas City now? A. Yes, sir.

Q. How long have you lived there?

A. Oh not very long. I guess I been living there about six or seven years.

Q. Where did you live before you went to Kansas City.

A. Oh, I lived around different places; a few months at Hutchinson.

Q. Around where?

A. A few months in Hutchinson and around.

Q. A few months in Hutchinson—how long did you live in Hutchinson?

A. Oh, I do not know how long I lived there; I waited tables and didn't stay very long in one place.

Q. Where did you wait tables at Hutchinson?

A. At the Matland Hotel.

Q. Matland Hotel? A. Yes, sir.

Q. Where did you live before you went to Hutchinson?

A. Kansas City.

Q. How long did you live in Kansas City before you went to Hutchinson? A. Before I left Kansas City.

Q. Yes? A. About six years.

Q. About six years before you went to Hutchinson?

A. Yes.

Q. Where did you live before you went to Kansas City that time? A. Before I went I lived here.

Q. Lived here? A. Yes.

Q. How long did you live here after you came out of the Spanish American War before you went to Kansas City?

A. Well, I do not know how long. I stayed home then because my grandmother was sick; I do not know just how long. I did not stay very long. I do not know just how long I stayed.

Q. You do not know how long you stayed? A. No, sir.

Q. Do you remember whether you stayed one month, two years, or one year, or how long. Just give your best judgment, if you have any judgment.

A. I do not think I stayed very long, over a couple of weeks, I guess, because I had plenty of money then, and I had running on my mind. I would not stay very long anywhere.

Q. Had plenty of money and what?

A. Running, that is, I wanted to travel.

Q. You went to Kansas City immediately after you got out of the Spanish American War for a few weeks?

A. That is after I got mustered out I stayed around here a little while and then went to Kansas City.

Q. How long were you in the army?

A. Nine months. That is all.

Q. Did you go to the Philippines?

A. No, sir, I went to Cuba.

Q. You went to Cuba? A. Yes, sir.

Q. When did you enlist in the army? A. 1898.

Q. What time of the year? A. I do not know exactly.

Q. Were you there prior to the battle of San Juan Hill?

A. I was not right there at the time; I was there right after.

Q. Were you enlisted at that time? A. Yes.

Q. You had enlisted before that?

A. No, sir, not before the battle; I was not in a company before that.

Q. Where did you enlist? A. In Kansas City.

Q. What regiment did you serve in?

A. Twenty-third Kansas Volunteers.

Q. What Company? A. Company "G".

Q. Company "G", 23d Kansas Volunteers; cavalry or infantry? A. Infantry.

Q. Twenty third Kansas Volunteers?

A. Yes, sir, 23rd Kansas Volunteers.

Q. How *how* long have you worked at the Jefferson Hotel? A. About seven months.

Q. What do you do there? A. Portering.

Q. Portering? A. Yes, sir.

Q. And what work did you do before you went to the Jefferson Hotel? A. Well, I waited tables?

Q. Where? A. At Hutchinson, Kansas.

Q. I think you said you had been seven years in Kansas City that time. A. Seven years?

Q. Didn't you?

A. No, you asked where I went before. You asked about the Spanish American War.

Q. State how long you have lived in Kansas City this last time?

A. Well, this last time I have been there about beginning about fourteen months.

Q. Fourteen months. And you lived in Hutchinson before you went there—before this last time you went to Kansas City. A. Yes.

Q. You do not know exactly how long you lived in Hutchinson? A. No, sir, I do not.

Q. Well about how long?

A. Well, I stayed there—I do not know just exactly, I would not say, but I guess two months, something like that.

Q. Two months—something like that? A. Yes, sir.

Q. Where did you go from when you went to Hutchinson? Where did you live before you went to Hutchinson?

A. In Kansas City.

Q. How long did you live in Kansas City that time?

A. Before I went to Hutchinson?

Q. Yes? A. Six years.

Q. And then where did you live before and after you got back from the Spanish American War before you went to Kansas City? A. I lived here.

Q. You say you lived here?

A. After I got out of the Spanish American War where did I live?

Q. Yes.

A. I was here a couple of weeks and then I went back to Kansas City.

Q. How long did you stay there at that time?

A. I did not stay over two or three days.

Q. Then where did you go?

A. I went to Chicago, Baltimore, Maryland and around.

Q. How long did you stay in Chicago?

A. Stayed around four or five days, something like that.

Q. How long did you stay in Baltimore?

A. About a week or two.

Q. Then where did you go?

A. Come back to St. Louis.

Q. How long did you stay?

A. I do not know how long.

Q. Did you stay several weeks or several months?

A. I could not tell you because——

Q. Did you work any in St. Louis? A. No, sir.

Q. Didn't stay long enough to go to working?

A. No, sir.

Q. Then where did you go?

A. Well, I went over to—I could not begin to name all the places I went to.

Q. I want you to name all the places and state from the time you came from the Spanish American War up to the present time? A. I do not know.

Q. You know whether you worked any other places than these you have mentioned?

A. No, sir, I did not work because I had too much money.

Q. You did not work then at all. A. No, sir.

Q. No, sir.

Q. You drifted around four or five years and didn't work?

A. No, sir, I did not drift around that long.

Q. You have accounted for eight or nine years since the Spanish American War. Where did you spend the balance of the time—what were you doing?

A. Well, I have told you I was table waiter sometimes; cooking a little while; working on the streets a little.

Q. I want to know where you did that work—what places?

A. I worked in Kansas City.

Q. You say you worked there six or seven years one time and then you worked this last time sometime there a year possibly—but there is some five or six years since you got out of the Spanish American War we do not know what you were doing? I want to know about that.

A. I do not know what I have done myself.

Q. You do not know about that—have you ever been convicted of any crime? A. No, sir.

Q. Have *have* been?

Q. Never have served any sentence of any sort?

A. Oh yes, I have been arrested.

Q. What for? A. Fighting and the like of that.

Q. Fighting and other things—what were the other things? A. I do not know.

Q. You do not know what else you have been charged with or convicted?

A. Just fighting is all I have ever been charged with.

Q. Never charged with anything else? A. No, sir.

Q. You served a sentence for that?

A. No response.

Q. You served a sentence for that? A. Oh, yes.

Q. How much time did you spend in jail? You say you were sentenced?

A. I never was in jail; I have been in—I do not know whether it is jail; I was in the holdover.

Q. Well, either one, how much time did you spend in the holdover? A. Twenty-one days is all.

Q. Twenty-one days? A. That is all.

Q. That is all? A. Yes sir.

Q. How many times have you been arrested?

A. About twice is all.

Q. About twice? A. Yes.

Q. You say "about," don't you know?

A. Twice is all I have ever been arrested.

Q. Now you say you were living at Granny Letcher's at the same time Minnie Atkins was staying there?

A. Yes, sir.

Q. What was her color?

A. Why she was pretty near white.

Q. She was pretty near white? A. Yes, sir.

Q. Do you know whether she is of negro blood?

A. Well, sir, I would not say she was of negro blood; she looks very like an Indian—pure Indian than she does like any colored blood.

Q. Her hair is straight, is it not? A. Yes, sir.

Q. You are of the negro race?

A. Well, I am part; a little Indian myself, negro to, yes, sir.

Q. And have the features of the African race. Your hair is—— A. Kinky.

Q. Kinky? A. Yes, sir.

Q. You look just like any other negro, as far as outside appearance is concerned—that is true, is it not?

A. Yes, sir.

Q. You say you are older than Tommie, the boy you speak of being born there? A. Yes.

Q. You remember you stated you remember seeing that child nursing? You remember seeing Minnie Atkins nursing that child? A. Yes, sir.

Q. What do you mean by "nursing"?

A. Well sir, I mean that a baby nursing.

Q. You said a while ago that she put it to her breast—to use a more vulgar expression, would you say it was sucking her breast—that is what you mean? A. Yes, sir.

Q. I understood you to say that you also during the time she was nursing this child, that you also sucked her breast?

A. Yes, sir.

Q. And that you would fight the child to get to nurse her breast at the same time it was? A. Yes, sir.

Q. You remember that? A. Yes.

Q. And she permitted it? A. Yes, sir.

Q. And she would let you fight the child and would then let you suckle her breast? A. Yes.

Q. How old was the child when it quit nursing—quit sucking? A. I do not know sir.

Q. You do not know? A. No, sir.

Q. Who was your mother, you say?

A. My mother is dead.

Q. Your mother is dead? A. Yes, sir.

Q. Was she living at the time this child was born?

A. No, sir.

Q. Do you know how long she had been dead?

A. No, sir, I do not.

Q. Do you remember at all? A. My mother?

Q. Yes? A. Yes, I do remember her.

Q. You remember her? A. Yes.

Q. You do not remember though, how long she had been dead when this child was born? A. No, sir.

Q. You didn't suckle—you didn't nurse Granny Letcher—you did not suck at her breast? A. No, sir.

Q. You were not sucking any other woman at the time this Minnie Atkins came there—that this child was there, were you? A. No, sir.

Q. But you did nurse her breast? A. Yes, sir.

Q. Now you say that some woman came along and took the child away from there? A. Yes, sir.

Q. You had never seen the woman before? A. No, sir.

Q. You have never seen her since? A. No, sir.

Q. That was before Granny Letcher died? A. Yes, sir.

Q. Granny Letcher raised the children? A. Yes, sir.

Q. She was good to them? A. Yes, sir.

Q. Treated you kindly?

A. Yes, treated me and all the rest of them——

Q. Treated you all alike? A. Yes, sir.

Q. You all got along there?

A. Yes. I would call him more my brother, more than anything else.

Q. When you say "you would call him more your brother than anything else," you mean Tommie? A. Yes, sir.

Q. You would call him more your brother than anything else? A. Yes, sir.

Q. But this woman you say just come and took the child and went right on away and stayed?

A. Well, she didn't take him right away; she came here like this evening after the child and she did not take him away until the next day.

Q. And nobody made any objection?

A. Oh, yes there was objection made about it. My grandmother could not read and write and I didn't know nothing until the older folks come home and she would ask to get advice from them.

Q. Do you know where she said she was going to take the child to? A. No, sir, I do not.

Q. She didn't tell you where she was taking the child?

A. No, sir.

Q. Didn't say anything about what she was going to do with him? A. No, she did not say.

Q. Never told you what she was going to do with him?

A. No, sir, she did not say anything to me.

Q. You heard her talking, did you not?

A. No, sir, I did not hear her all of the time, because my mother was a mother not to let young people stay in the house when older people were talking; and I did just what she told me.

Q. Was she a colored woman or white?

A. She looked like she was pretty near white.

Q. Did she appear to have some colored blood?

A. Yes, she appeared she had some cross; some other blood.

Q. What did it appear to be? A. Colored.

Q. She appeared to be part colored and part white?

A. Yes, sir.

Q. But rather white you say?

A. Yes, she was rather white.

Q. You all went down to the train when the child went away—how did she go, on the train? A. On the train?

Q. Didn't go on the train?

A. I do not know whether she went on the train.

Q. Didn't you and Granny Letcher and all the family go down to the train with the child?

A. No, sir, no sir.

Q. You did not go with them, anyway? A. No, sir.

Q. Did they leave in a cab or afoot or how?

A. I do not know just how they left.

Q. You do not know about that? A. No, sir.

Q. How old were you at that time?

A. When the child left?

Q. Yes?

A. Well, he was eleven when he left the house.

Q. You were about 14? A. Yes, I was about 14.

Q. You had always lived with him and I believe you said you considered him about the same as a brother?

A. Yes, sir.

Q. And you do not remember how he left the house?

A. No, sir, because I was not in the house when the people left there.

Q. You were not?

A. No, sir, I was sent to the store, and when I got back he was gone.

Q. You did not know he was going?

A. No, sir, I did not even know he was going.

Q. You did not?

A. I knowed he was going, but I did not know that woman was going to take him away that day.

Q. Where was the store you went to?

A. To Mr. Rube Smith's store.

Q. How far was that from your place?

A. I guess it could have been a little over a half mile.

Q. A little over a half mile? A. Yes, sir.

Q. The other boys that were, the Mayo and Nash boy; did they go with you to the store? A. No, sir.

Q. Now, where are they? A. Who?

Q. Nash and Mayo? A. Why Jim is dead.

Q. Jim Mayo is dead? A. Yes, sir.

Q. Where is Nash?

A. I do not know where he is at; he is up in town somewheres.

Q. Here in town? A. Yes.

Q. He did not go with you to the store?

A. No sir, he was working at Spratly's.

Q. He did not go with you to the store? A. No, sir.

Q. You say he was at home? A. No, sir.

Q. Did he stay away from home at night?

A. Well, he, I think part of the time he stayed part of that time at home.

Q. Now the night this woman came there, did she stay all night there? A. Yes, sir.

Q. She stayed all night there? A. Yes, sir.

Q. Did Sam Nash stay all night there that night?

A. I do not know whether he did or not.

Q. You do not know whether he did or not?

A. No, sir, may have come in late; I had to go to bed, you know at six o'clock—seven o'clock anyhow.

Q. You got up pretty early at that, did you not?

A. He got up earlier than I did, because he had to go to work.

Q. Did you see him next morning? A. Sam?

Q. Yes? A. No, sir, I did not see him, no sir.

Q. You did not see him next morning? A. No, sir.

Q. Did you see the woman? A. No, sir.

Q. Did you hear what her name was?

A. No, sir, I did not.

Q. Never heard what her name was? A. No, sir.

Q. She came to that Letcher house there and carried off this child and still you never heard what her name was?

A. No, sir.

Q. You never did? A. No, sir.

Q. He never wrote? A. No, sir.

Q. Or the woman never wrote to you? A. No, sir.

Q. You boys attended school together? A. Yes, sir.

Q. Tommie went with you, did he? A. Yes, sir.

Q. To what school did you go?

A. North Leavenworth school.

Q. North Leavenworth School, where is that?

A. Right up, straight up 3rd street upon the Reservation, pretty near.

Q. What part of the year did this woman carry him away, do you remember? A. No, sir, I do not.

Q. Do you remember whether it was cold or hot weather?

A. Well, sir, I do not remember whether. It must have been pretty cool.

Q. It must have been pretty cold?

A. Yes, I think it was.

Q. Well, you went down to the store that evening and do you remember whether or not you wore a coat or whether you wore a shirt, or just barefooted?

A. Well, I wore a coat.

Q. Was school going on at that time? A. Yes, sir.

Q. Did he go to school the day before he left?

A. Yes, sir.

Q. He went to school the day before he left; did you?

A. Yes, sir.

Q. How long before—had he been going to school before he went away with this woman?

A. Well, sir, I do not know. He started to school when he was six years old.

Q. Six? A. Yes, sir.

Q. Well then he went to school regularly, did he?

A. Sir?

Q. Then he went to school with the balance did he?

A. About five years; some where along about five years.

Q. You do not know what period the school would be, nine months, full term, or three months each year?

A. Well, we run six, yes, sir.

Q. You think you ran six months?

A. Six months or a little over six months, yes, sir.

Q. He started in to school when he was about six years old and he went all the time to school until he left?

A. Yes, sir.

Q. What was the name of the teacher you were going to?

A. Miss Mackey.

Q. Is she living here? A. I think so.

Q. Is she living here now?

A. I do not know whether she is living here because I do not know whether any of the old folks are here now or not, because I have been away for a few months.

Q. What other teacher did you go to?

A. That is the only one I ever remember going to, Miss Mackey.

Q. Well, you and Tommie went to the same teacher?

A. Yes, sir.

Q. How old a woman was she?

A. Oh, I *just* she was about 35 or somewhere along there —38 years old, somewhere along there.

Q. Was she colored or white? A. Colored.

Q. Now is the school building you went to still standing?

A. I do not know that, sir.

Q. Is it what you called the North Leavenworth School?

A. Yes, sir.

Q. Was it a separate school or did white and colored go together? A. Separate school?

Q. Separate school? A. Separate school.

Q. Whereabouts was it in town, give us the best idea you can? A. This school?

Q. Yes? A. The school?

Q. The school you are talking about?

A. In North Leavenworth right between 3rd and between Metropolitan, I think it is, avenue—right on 3rd and Metropolitan avenue; right on the Reservation.

Q. Right in the reservation? A. Yes.

Q. This Miss Mackey is the only one you remember you went to school to? A. Yes, sir.

Q. Were you and Tommie in the same classes?

A. Yes, sir.

Q. You started in together and just went on together?

A. I did not go to school *must* because I was sickly.

Q. And while you were sickly you did not go much—Tommie was pretty regular? A. Yes, sir.

Q. He was a pretty strong healthy boy was he?

A. Yes, sir.

Q. You never knew anything being the matter with him? A. No, sir.

Mr. Rosser: That is all.

Redirect Examination by Mr. Rice.

Q. What kind of appearing boy was Tommie, was he light or dark? A. Light boy.

Q. Was his hair what you call "good"? A. Yes, sir.

Q. And by "good," you mean it was not kinky?

A. It was not kinky, no, sir, it was not kinky.

Q. Was it light or dark? A. Dark.

Q. Have you seen Minnie Atkins in the last day or two?

A. Yes, sir, I have seen her.

Q. Her in town? A. Yes, sir.

Q. Is that the same Minnie Atkins you knew when you were a baby?

A. Yes, sir, only she just got fatter, that is all; she merely got fatter.

Q. You may state whether or not there was any family resemblance between Tommie and Minnie?

A. Yes, sir, she looked just like—they both looks just alike, that is, in this way; cheek bones and her forehead, and her nose and mouth.

Q. How was Tommie's nose as to being like a colored man's nose, a white man's nose or an Indian's nose?

A. Like an Indian's nose.

Q. That is, slim? A. Slim.

Q. And how were his cheek bones as to being high or low? A. High cheek bones just like an Indian.

Mr. Rice: That is all, take the witness.

Cross Examination by Mr. Lytle.

Q. What kind on an appearing woman was this that came after Tommie?

A. Why she was a woman about—I guess about as tall as this gentleman here, and a little heavier.

Q. About five feet tall, or five feet two or three or four?

A. Well, I should judge she was about five foot something.

Q. Five feet three or four? A. Yes, sir.

Q. Was there any distinguishing features or marks about her? A. I never noticed any.

Q. How long did you say you had lived in Kansas City before you enlisted? A. Before I enlisted?

Q. Yes. A. In the army?

Q. Yes?

A. Why I had not lived in Kansas City. I did not say anything like that.

Q. Didn't I understand you to say you were working in Kansas City before you enlisted, or did I misunderstand you?

A. You must have.

Q. You never worked in Kansas City before you enlisted when you left? A. No, sir.

Q. You did not mean to give that testimony?

A. I meant the time that I had been away from around home; I meant from the time I left home and began to run around I put in most of my time up around Kansas City.

Q. Now, when with reference to your enlistment did you see Tommie Atkins? A. When was the last time I saw him?

A. Yes. A. When he was eleven years old.

Q. Now, I am asking when with reference to your enlistment you saw him?

A. I didn't see him; I said the last time I see him he was eleven years old; that is the last time I ever laid eyes on him.

Q. Now, you enlisted in—— A. In 1898.

Q. In 1898. When before that did you see Tommie Atkins? A. Before I enlisted?

Q. Yes, sir.

A. Why, I never seen him any more after that, after he had left there.

Q. Well, but now how many years before 1898 was it when he left there?

A. Well, I say I do not know; I ain't seen him since he was eleven years old; that is the last time. He left there before I enlisted in the army.

Q. That is before you enlisted, but how long before?

A. Well, it was 1898 when I enlisted in the army; and he was eleven years old——

Q. Well, now how long was it; was it six months?

A. I do not know just how long it is.

Q. Might it have been three years?

A. Yes, sir, it could have been three years.

Q. Might it have been five years?

A. Yes, sir, it could have been that.

Q. Your remembrance of the time when you last saw him in very indistinct, is it not? A. Yes, sir.

Q. Will you tell why it is that you are able to distinctly remember when you were at school, but you are unable to remember this when you were 17 and 18 years old?

Mr. Rice: I object to the question as argumentative.

Q. You may state how it is you are able to distinctly remember occurrences which happened when you were two years old and unable to remember occurrences which were of just as much importance and happened when you were 17 and 18 years old?

Mr. Rice: I object to the question as indefinite, uncertain, argumentative, and a mis-statement of the evidence.

Q. You may answer the question?
A. I do not know how long it was.
Q. Which time do you have the more distinct recollection of, when you were two years old or when you were 18 years old?
A. Well, they say when you are younger you can remember.
Q. Well, how is it with you?
A. It is that way with me too.
Q. So that you now say that you remember occurrences which happened when you were two years old with greater facility than you do those which happened when you were 17 and 18 years od age; is that correct? A. (No response.)

Mr. Rice: Do you understand the question?

A. No, sir, I do not understand at all.
Q. Do you more easily recall occurrences which happened when you were two years of age, than you do those which happened when you were 17 and 18 years of age.

Mr. Rice: Now, do you understand that?

A. Why we understand them more, I guess, when we are 17.

Mr. Lytle: I guess that is all.

Cross Examination by Mr. Greenslade.

Q. Have you ever heard of Tommie since he left?
A. No, sir, I never seen or heard of him since he left.
Q. Do you know Rob Jones?
A. I know Rob Jones, yes, sir.
Q. He is colored?
A. Yes, sir, lived with the colored people.
Q. Who is his father?
A. Why, Dennie Jones is his father.
Q. Dennis Jones? A. Yes, sir.
Q. Where does he live now?
A. I do not know where he is.
Q. How old is he?
A. Oh, I judge he is about twenty some *of* years old.
Q. About your age? A. No, he could not be my age.

Q. Younger? A. Yes, sir.

Q. Did you ever play with him when you were a boy?

A. Yes, sir.

Q. Did Tommie ever play with you when he was a boy?

A. Yes, sir.

Q. You played together, you boys? A. Yes, sir.

Mr. Greenslade: That is all, take the witness.

Recross Examination by Mr. Lytle.

Q. If I understood you this Robert Jones is about 20 years old, is that correct?

A. I don't know just how old he is, Mister, because——

Q. You played with him as a boy?

A. Yes, sir, and still I could not know his age.

Q. How much older than he were you?

A. Well, now, I do not know what his age was; I could tell you just how old I am.

Q. You are 32? A. Yes, sir, I am 32 years old, yes.

Q. And your best judgment of his age is that he is about 20?

A. I said he is along about in the 20's. Along up in—about 22 or 23 years old.

Q. Then your best judgment is that there is about ten years difference between your age and the age of Robert Jones?

A. Yes, sir, I guess so. I do not think there is that much. he may be as old as I am, I do not know; I am just guessing; I do not know; he may be as old as me. He has never told me his age.

Q. You played with him frequently when you were boys?

A. Yes, sir, played with a good number of boys.

Mr. Lytle: That is all.

Redirect Examination by Mr. Rice.

Q. Was Rob Jones about *sice* when you played together?

A. What do you mean—as boys?

Q. Yes? A. No, sir, I was taller than he was.

Q. Did you commonly run together, you and Rob?

A. Well, we run together; we played ball and the like of that, you know?

Q. You played on the team? A. Yes, sir.

Q. Did he play on the same team?

A. No, sir, he would always play against us.

Q. But he was old enough to play against you on the baseball team?

A. Yes, sir, little boys around school; and coming from school and like that.

Mr. Rice: That is all.

Recross Examination by Mr. Rosser.

Q. How long did you say Minnie Atkins stayed there after this child came there—how long was she there at Granny Letcher's?

Mr. Rice: I object to the question as indefinite, what child?

Q. Tommy Atkins—the one they called "Tommie Atkins." A. Came there?

Q. Or was there?

A. He was born there. It was at my grandmother's house.

Q. How long did she stay there after he was born there?

A. I do not know sir, how long she stayed, sir.

Q. Have no idea at all?

A. No, sir, I have no idea how long she stayed there.

Q. You were not present when he was born, were you?

A. No, sir.

Mr. Rosser: That is all.

Recross Examination by Mr. Lytle.

Q. Did Minnie go first, or did they take the boy away first? A. Minnie went first.

Q. About how long before?

A. I do not remember that either.

Q. Can you tell within five years of how long before?

A. Yes, sir.

Q. Well, now——

A. She left—I will tell you in just a moment now—she left it is so far back—give me time to think and I will tell you. She left the boy and it was two years old when she left there.

Q. Oh the boy was two years old?

A. Yes, between one and two years old, the boy was, and she left there.

Mr. Lytle: That is all.

(Witness excused and recalled.)

Redirect Examination by Mr. Rice.

Q. Now, in Judge Rosser's cross examination relative to where you spent the time after you got [] of the army he stated to you there was a discrepancy of some five or six years. Now, taking altogether since you came out of the army how many years have you lived in Kansas City?

A. Altogether?

Q. Yes.

A. Twelve years; about 12 years altogether, I didn't understand it that way. I thought——

Mr. Rice: That is all.

Recross Examination by Mr. Rosser.

Q. You didn't understand me when I asked you where you spent all of your time?

A. No, sir, because you asked me about all the rest of the other places and everything, you know.

Q. Did anybody tell you it was about twelve years altogether? A. No.

Q. Just now? A. No.

Q. Sir? A. No, sir, I will hold up my right——

Q. You say you spent 12 years there? What were you doing during the 12 years?

A. Well, now that is pretty hard matter for a man to answer.

Q. Can you give me the names of the people you have worked for?

A. I worked on the street on concrete, waited tables; porter work, cooked, house cleaned, drove automobiles; I could begin to explain to you——

Q. Have you had any independent business of your own or have you worked for other people?

A. Worked for other people.

Q. Give me the names of the people you have worked for in Kansas City? A. Mr. Bales 29th and Forrest.

Q. What does he do? A. Real estate business.

Q. What else?

A. I waited tables at the Baltimore Hotel; I waited tables at the Edwards Hotel; I waited tables at the Coates House; and I waited tables at Mitchell's Cafe; I have worked in saloons.

Q. What saloons?

A. Mr. Keene Cronan's and I worked for Moran's.

Q. Saloon? A. Yes, sir.

Q. What part of town?

A. I have worked for Jim Maney.

Q. Where is Cronan's place? A. Fifth and Broadway.

Q. You worked for Maney? A. Yes, sir.

Q. Where is the Maney place? A. 6th and May.

Q. Go ahead.

A. I have worked for the City tearing up streets. I could not begin to name all of them.

Q. You didn't stay the 12 years there continuously; you were in and out?

A. Altogether I have been in and around Kansas City just 12 years.

Q. I say you were not there continuously; you were in a while and then out a while; is that right?

A. Yes, in a while and out a while.

Q. And you worked about seven months or a year in Hutchinson; what did you say?

A. No, sir, I said about two or three months there.

Q. About two or three months there? A. Yes, sir.

Q. And where did you spend the balance of your time since you have been out of the Spanish American War?

A. Since I have been out of the Spanish American War?

Q. Yes.

A. That is where I been telling you now, around Hutchinson.

Q. You told of two or three months in Hutchinson and 12 years in Kansas City. Where have you been the balance of the time?

A. Well around different little towns; following the races, and things like that.

Q. You followed the races some, did you? A. Yes, sir.

Q. How much did you follow the races?

A. I could not tell you just how much I followed the races.

Q. By "following the races," you mean you have gone from place to place where they were running horse races?

A. Yes, sir.

Q. And where they were gambling on the races?

A. No, sir, I didn't have nothing to do with gambling——

Q. What is that?

A. I didn't have nothing to do with gambling.

Q. I say there was gambling on the races you followed?

A. No, I never.

Q. You raced? A. No, sir.

Q. You would not bet on a horse race at all if you were flush? A. No, sir.

Q. No? A. No, sir.

Q. Nor shoot craps? A. No, sir, I do not shoot craps.

Q. And just went around and played the horse races to get work? A. Yes, sir.

A. I see. That is all.

Redirect Examination by Mr. Rice.

Q. Worked pretty much all of your life? A. Yes, sir.

Q. Made a living?

A. Yes, sir, I have done nothing but work.

Q. Are you married? A. Yes, sir.

Mr. Rice: That is all.

Mr. Rosser: How long have you been married?

A. I have been married pretty near two years.

Mr. Rosser: That is all.

(Witness excused.)

Signed WALTER BANKS.

Subscribed and sworn to before (Clark A. Tharp, Notary Public) me this 14th day of October, 1914. (Seal) My commission expires Nov. 22, 1914.

Mr. Cruce: Does it take all up to 103?

Mr. German: Now, all of the direct examination, which begins on page 80, and the re-direct examination which begins on page 103.

The Court: In other words, you are just offering the direct examination of this witness in those depositions, and not the cross?

Mr. German: That is the idea. Of Sam Nash, we offer the direct examination which begins on page 200; also of the cross examination. Then the last eleven questions on page 220, and continuing then to the end of that cross examination, in the middle of page 221.

The Court: You see that is not right.

Mr. German: May Judge Allen state it in my stead?

The Court: Alright, then; start again with regard to this witness.

Mr. Allen: Also the last eleven questions——

The Court: Well, now, let's just wait; let's see if I understand you; what is the name of this witness, now?

Mr. German: Sam Nash.

The Court: You are offering all the direct examination of Sam Nash, aren't you?

Mr. Allen: Yes, sir.

The Court: That goes in. Now, what part of the cross examination?

Mr. Allen: The last eleven questions and answers on page 220, and continuing down to the middle of 221, which was the end of that cross examination.

The Court: That makes it.

Mr. Allen: Also, the last question and answer on page 221 and the first seven questions and answers on page 222. Also, it is understood that all of the depositions of Dennis Jones and Sam Nash remain as first offered.

Mr. Stuart: Both direct and cross?

The Court: Yes.

SAMUEL NASH, of lawful age, being by me first duly examined, cautioned and solemnly sworn to testify the truth, the whole truth and nothing but the truth, deposed and said:

Direct Examination by Mr. Rice.

Q. You may state your name? A. Sam Nash.

Mr. Rosser: I object to the testimony of this witness because he was not sworn and put under the rule.

Q. Have you been in the room and heard any of the testimony given here? A. No, sir.

Mr. Rosser: I do not think that satisfied the rule.

Q. How old are you Sam? A. Forty-three.
Q. Where do you live?
A. E. H. Blookberger's 5th and Chesnut.
Q. Leavenworth? A. Yes, sir.
Q. Where did you live in 1885 and 1886—'84, '85 and '86?
A. Two hundred seventeen, Seneca.
Q. Whose house was that? A. My grandmother's.
Q. That was in Leavenworth? A. Yes, sir.

Q. Where was that with relation to George Crilley's livery barn?

A. Why it is very near straight across the street from the barn; it is straight across from the house to Mr. Crilly's house.

Q. How old was Granny Letcher at that time?
A. My grandmother?
Q. Yes?

A. Well, really I could not say; in fact she never knew herself.

Q. Was she a grown woman, old was she? A. Oh, yes.
Q. Did Granny Letcher have a boy of her own?

A. Oh, yes, she had a son of her own.

[Q.] What was his name?

A. James Mayo, he went by that but his right name was Phillips.

Q. That is the Mayo we speak of as Jim Mayo?

A. Yes, sir.

Q. Is he alive or dead? A. He is dead.

Q. Is your grandmother alive or dead? A. She is dead.

Q. When did she die? A. I believe she died in 1900.

Q. After the Spanish American War? A. Yes, sir, after.

Q. When did Jim Mayo die relative to her death?

A. Lacking just about eight days of being three months difference between the two.

Q. Who died first? A. My grandmother.

Q. Did Jim die here? A. Yes, sir.

Q. And your grandmother died here? A. Yes, sir.

Q. Did she die down at her house across from Crilly's barn? A. Yes, sir.

Q. Did Jim die there?

A. No, sir, I think he died at 219 Shawnee Street.

Q. What other boy was there at Granny Letcher's?

A. A boy by the name of Walter Banks.

Q. Do you know who Walter Banks' mother was?

A. Yes, I know.

Q. You may state whether she was living at your grandmother's? A. Not on Seneca street.

Q. Where did you last see her living?

A. The last time I saw her alive she was living at 215 Cherokee street.

Q. About how long was it—what became of her, did she die? A. She died.

Q. Did she die in your grandmother's house? A. No, sir.

Q. How long did she live after she left your grandmother's house?

A. As near as I can remember I think it was about four or five months.

Q. When Walter's mother died what became of Walter?

A. Why he still lived with us.

Q. Your grandmother took care of him?

A. Yes, my grandmother fed him and my uncle taken him under his care to buy his clothes.

Q. Now, how old was Walter when your grandmother moved from Cherokee to Seneca street?

A. I think he was in the neighborhood of about four years old.

Q. Did you ever know Minnie Atkins? A. Yes, sir.

Q. Where did she live when you first became acquainted with her?

A. Why the first time I ever got—became acquainted with her she had come to our house to Seneca Street.

Q. Came to your grandmother's house? A. Yes.

Q. What kind of appearing woman was she as to being light or dark?

A. Why, she was—showed that she was an Indian; she had a kind of a copperish color.

Q. What was that name—what was she called?

A. She went by the name of Minnie Atkins?

Q. Did she have a nickname?

A. I never heard none only Indian Minnie, was all.

Q. Now when Minnie first came to your grandmother's house about how old were you? A. I was about 14.

Q. You may state whether or not Minnie Atkins was in a family *was* when you saw her along about that time?

> Mr. Rosser: I object to the question as leading and suggestive and as calling for the conclusion of the witness.
>
> Mr. Greenslade: I make the same objection.

Q. If you do not know say so and if you do say so.

A. What was it?

Q. Read the question. (Question read.)

A. Yes, sir, she was.

Q. You may state whether or not Minnie Atkins gave birth to a child along about that time? A. She did, yes, sir.

Q. Where was the child born? A. Born at our house.

Q. What part of the house? A. Up stairs.

Q. And did you see the baby after it was born?

A. Yes, sir, two or three days after.

Q. How old was the baby when you saw it about?

A. Oh, it was about three days *years* old.

Q. Where was it when you saw it? A. Down stairs.

Q. Who had it?

A. Why, I think a colored lady by the name of Aunt Betsy a mid-wife.

Q. What was her business? A. She was a mid-wife.

Q. How old was she—was she an old woman?

A. Yes, sir.

Q. Did you ever see the boy—what did Minnie call the boy? A. She called him "Tommie."

Q. Did you ever see Tommie nurse? A. Yes, sir.

Q. Who was he nursing? A. His mother, Minnie.

Q. That was Minnie? A. Yes, sir.

Q. Have you seen Minnie lately in the last two or three weeks? A. Once, I believe.

Q. When was that? A. Kansas City.

Q. Is that the Minnie Atkins that you knew before?

A. Yes, sir.

Q. That is the one that was the mother of this Tommie Atkins? A. Yes, sir.

Q. What were you doing when you were there about the time Tommie was born?

A. I was working for John W. Spratley in north Leavenworth.

Q. What business was he in?

A. He was a banker part of the time I worked for him and he was county treasurer the other part of the time.

Q. Did he have any children? A. Yes, sir.

Q. How many? A. One.

Q. What was that, a boy? A. Boy.

Q. Do you remember whether or not Minnie subsequently left the Letcher place after the child was born—did she leave the house?

A. Yes, sir, she went away after the child was born.

Q. About how old was the child when she left?

A. You mean left town?

Q. Yes? A. Why, he was very near two years old.

Q. Did Minnie remain in Leavenworth after the child was born until the child was about two years old; is that what you mean? A. Yes, sir.

Q. Did she stay all of the two years at your mother's?

A. No, sir.

Q. How long was she there at your mother's after the child was born?

A. Well, I judge two months or a little more before she went to work.

Q. And then she was there off and on for two years?

A. Yes, sir.

My Lytle: I object to the question as leading and suggestive.

Mr. Rosser: I make the same objection.

Q. You may state whether or not during the period after the two months and up to the time the child was born you saw Minnie from time to time?

Mr. Lytle: I object to the question as leading and suggestive; based on a leading—premised on a former question having been leading.

A. Yes.

Q. After the child was about two years old you may state whether or not you saw Minnie? A. No, sir, I did not.

Q. You lost sight of her after the child was born—was about two years old? A. Yes.

Q. And did you see her again until you saw her lately in Kansas City? A. No, sir.

Q. Who was the older, you or Jim?

A. Why, Jim was the oldest.

Q. Jim Mayo? A. Yes, sir.

Q. Jim Mayo was working was he? A. Yes, sir.

Q. And you were working? A. Yes, sir.

Q. After you lost sight of Minnie you may state whether or not you saw Tommie any more A. Yes.

Q. Where did you remain after you lost sight of Minnie? A. At our house.

Q. At your grandmother's house? A. Yes, sir.

Q. How long did he remain at your grandmother's house after you lost sight of Minnie?

A. Well, I judge—in fact he was about eleven years old.

Q. What kind of a looking boy was he as to being light or dark? A. Real light.

Q. What kind of hair did he have? A. Straight.

Q. What color? A. Well, very near black.

Q. Was there any family resemblance between him and any person who lived at your grandmother's house?

A. No, sir, outside of his mother.

Q. Did he look a little like his mother?

A. Yes, sir, he had high cheek bones.

Q. Did Tommie go to school? A. Yes, sir.

Q. Did Walter go? A. Yes, sir.

Q. Who furnished Tommie's clothes after he got along two or three or four years old? A. I did.

Q. Who furnished Walter's clothes?

A. My uncle Joe—Jim.

Q. Tommie was kinda in your care and Walter was in your uncle's care? A. Yes, sir.

Q. And both of them lived there at your grandmother's?

A. Yes, sir.

Q. Did you buy any of these clothes? A. Yes, sir.

Q. Some of them were given to you?

A. Yes, some of them were given to me at Spratley's.

Q. How old was the Spratley boys?

A. About the same age.

Q. And Mrs. Spratley sometimes give you some of the boy's clothing? A. Yes, sir.

Mr. Lytle: I object to the question as leading and suggestive.

Q. Do you remember buying any clothes for the boy?

A. Yes, sir, I do.

Q. When did you buy the last clothes?

A. The last suit of clothes I bought he was (eight—this word scratched out) or ten years old, just a day before Thanksgiving, I bought a suit of clothes and an overcoat, and I took him and got a hat and a pair of shoes and a pair of stockings.

Q. Where did you buy that?

A. I bought it at Salinger's on the corner of 4th and Delaware, right where the Manufacturer's Bank is now; and the shoe shop was right next door to that.

Q. That was in Leavenworth? A. Yes, sir.

Q. How long did Tommie live with your grandmother after his mother went away?

A. After his mother went away?

Q. Yes, until he was about how old?

A. Until he was about; well he was near the age of 11 (typewritten in original—13—changed the 3 to 1 with a pencil by someone) years old.

Q. What became of him then?

A. Why, there was some lady came there and said that his mother had sent for him.

Mr. Greenslade: I object to the witness stating what somebody told him as hearsay.

Mr. Rosser: I make the same objection.

Mr. Lytle: I request the witness finish his answer.

Mr. Rice: He has answered it.

Q. What time of the year was it this woman came there to your house? A. Why it was warm weather.

Q. Were you at home when she first came? A. No, sir.

Q. Where were you?

A. I was at Mr. Spratley's where I worked.

Q. Did you see this woman yourself?

A. Yes, sir, she came about eleven o'clock in the morning.

Q. When did you see her?

A. I did not see her until I got home that night. Tommie came there to the house and stayed there all day because he didn't want to go with her, and stayed with me until I got ready to go home.

Q. Well, you and Tommie went to the house?

A. Yes, sir.

Q. What kind of a woman? A. She was real light.

Q. What was she, Indian, negro or white.

A. She was mixed breed; there was neither colored straight through or a white woman.

Q. What was her appearance as to being large or small?

A. She was a woman would weigh in the neighborhood of 160 pounds.

Q. How old a woman was she as near as you can recollect?

A. Well, she looked to be a woman of about 30, somewhere along in there as near as I can remember.

Q. Did you have any conversation with her yourself?

A. Yes, sir.

Q. How long did she stay at your grandmother's?

A. Why she intended to go back that afternoon, but she had to stay until the next day because Tommie run off and come over to where I was at.

Q. He didn't want to go?

A. He didn't want to go and she didn't go until the next afternoon.

Q. Did your grandmother have any conversation with this woman about letting him go? A. Yes, sir.

Q. Was there a desire on the part of your grandmother to have Tommie go or opposition to his going?

A. There was not because she asked her. She says——

Q. What do you mean, "There was not"?

A. She didn't want him to go,

Q. That is your grandmother didn't want him to go with this woman? A. No, sir.

Q. Well, did he finally go with this woman? A. Yes, sir.

Q. The following day after that woman arrived?

A. Yes, sir.

Q. Where did they go?

A. Why, she said she was going to Kansas City and from there she was going to take him to his mother.

Mr. Lytle: How is that?

A. She said she was going to Kansas City and from there she was going to take him to his mother—she said his mother was in Oklahoma, then.

Q. Did they leave by train? A. Yes, sir.

Q. Were you down to the train? A. No, sir.

Q. Did anybody go to the train with them?

A. My grandmother did.

Q. Have you seen Tommie since? A. No, sir.

Q. Have you seen this woman since? A. No, sir.

Q. I will just ask you to answer yes or no. In *taking* with this woman that came for Tommie did you and your grandmother ask her many questions as to who she was and where she was going, and so on? A. My grandmother did.

Q. Did you ever hear anything from Tommie afterwards?

A. No, sir.

Q. Did sir.

Q. Did you hear from this woman again? A. No, sir.

Q. Had you ever seen this woman before? A. No, sir.

Q. Did she leave you any money? A. No, sir.

Q. Leave your grandmother any money?

A. No, sir, she said she would send it.

Q. Did she ever send it? A. No, sir.

Q. What was she going to send money for?

A. Why, for Tommie's expenses.

Q. About how long was this before your grandmother died? A. Oh, as near as I can judge about two years.

Q. Now, you may state whether or not Walter Banks went in the army? A. He did, yes, sir.

Q. At the time of the Philippine War? A. Yes, sir.

Q. And when did your grandmother die? A. About 1900.

Q. And when do you figure the Spanish American War was—about 1898? A. Yes, sir.

Q. Now, if the Spanish American War was in 1898 about two years before your grandmother died when was it that this woman came after Tommie? A. It was before that.

Q. About how long before, can you fix the time?

A. About—oh, I guess somewhere, one or two or three years.

Q. How long did you work for Mr. Spratley?

A. About nine years.

Q. When did you start working for him, do you know?

A. I started work*ed* for him after we moved—well I was about 15, about 14 or 15 years old when I started working for him.

Q. You are 43 now. You started working for him about the time Tommie was born? A. Yes, sir.

Q. You worked for Mr. Spratley about nine years?

A. Yes, sir.

Q. Were you still working for Mr. Spratley when Tommie went away? A. No, sir, I was working for Dr. Brock.

Q. Here in Leavenworth? Take your time and be sure of it.

A. Yes, sir—he went when I was at Spratley's when he went away.

Q. How long did you stay at Spratley's after he went away? A. Until the coming spring afterwards.

Q. Then I take it you worked at Spratley's practically all the time Tommie lived at your grandmother's, is that right? A. Yes, sir.

Q. Then you went to work for them? A. Dr. Brock.

Q. Here in town? A. Yes, sir.

Q. How long did you work for him?

A. I worked for him about four years.

Q. Whom were you working for at the time your grandmother died?

A. I was working for George Crilly when my grandmother died.

Q. You had quit working for Dr. *Brown*?

A. Yes, sir, because he was dead then.

Q. You were working for George Crilley? A. Yes, sir.

Q. How long did you work for George Crilley?

A. Oh, about a year and a half.

Q. That would bring it to along about 1901 or so. Where did you work after that?

A. Jim Davis Commission house on Shawnee.

Q. Here in town? A. Yes.

Q. How long did you work for him?

A. Three or four years?

Q. That would be 1903 or four.

Mr. Lytle: I object to the question as incompetent, irrelevant and immaterial to any issue*d* in the case.

Mr. Greenslade: I object to counsel coaching the witness as to dates.

A. Yes, sir.

Q. After you worked for Jim Davis, who did you work for then?

Mr. Lytle: I object to the question as incompetent, irrelevant and immaterial to any issue in the case.

A. I have worked for Dustin the fish man.

Q. Here in town? A. Yes, sir.

Q. How long did you work? A. Two years.

Q. After working for Dustin the fish man who did you work for then?

Mr. Lytle: I object to the question as incompetent, irrelevant and immaterial.

A. Then I worked for George Etta fishing company.

Q. Here in Leavenworth? A. Yes, sir.

Q. How long did you work for him?

A. About a year and a half?

Q. And then who did you work for?

Mr. Lytle: I object to the question as incompetent, irrelevant and immaterial.

Q. All right. When did you los*t* that arm?

Mr. Lytle: I object to the question as irrelevant and immaterial to any issue in the case.

Mr. Greenslade: Same objection.

A. When I was about nine years old.
Q. What are you doing now for a living?
A. Well, I am taking care of automobiles, house cleaning and everything else.
Q. Are you married? A. No, sir.
Q. Did you know Dennis Jones? A. Yes, sir.
Q. Did Dennis Jones have a boy, or raise a boy, if you know? A. Yes, he has a boy.
Q. What was his name—Rob, was it?

Mr. Rosser: I object to leading the witness.

Q. You do not remember his name?
A. I do not remember it, no, sir.
Q. Did Tommie go to school? A. Yes, sir.
Q. Do you know the names of boys went with him?
A. No, there was no colored people living around there in our neighborhood but just us.
Q. And this Mr. Crilly living across the street was a white man? A. Yes, sir.
Q. Did Walter Banks go to school? A. Yes, sir.
Q. Was there separate schools here then for white and colored? A. Yes, sir.
[Q.] They both went to the colored school? A. Yes.
Q. Do you know the name of the teacher at that time at the colored school for children? A. Miss Montgomery?
Q. Are you sure of the name?
A. Miss Montgomery was the teacher.
Q. Is she alive? A. No, sir.
Q. Where was this colored school?
A. It was on 3rd and Metropolitan Avenue.
Q. And is that near the Reservation? A. Yes, sir.

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12 o'clock M. an adjournment was taken to 1:30 o'clock P. M. at which time there being present the same as before the examination of the witness was resumed by Mr. Rice as follows:

Q. Sam, do you remember the name of any girl o girls that used to go with Minnie along about the time the child was born?
A. Well, I seen her with Ida Foster, but not very often.
Q. Was Ida Foster colored or white?

A. I could not say as to that. She was not no colored girl.

Q. Light complexioned was she?

A. Yes, her sisters were all white.

Mr. Rice: I believe that is all. Take the witness.

Cross Examination by Mr. Lytle.

Q. Who was that gentleman you worked for nine years?

A. Spratley.

Q. Yes. You commenced working for him when?

A. Along about either the latter part of 1885 or the first part of 1886.

Q. Were you working for him at the time that this boy you called Tommie Atkins went away from your grandmother's place? A. Yes, sir.

Q. And he was eleven years old when he went?

A. Yes, sir, you want me to explain that?

Q. Yes?

A. For two years Spratley's they went away from home——

Q. I never asked for an explanation about it?

Mr. Rice: I want him to explain his answer.

A. The reason I say he was eleven years old for two years Spratley's left home and went away. Part of the time I stayed there and at a farm in Missouri, I think, part of the time they were gone out of the City, and when they came back I started on to work.

Q. What two years was that?

A. Well, I had been working for them, I guess three or four years before they went away and were gone they two years, and then they came back again.

Q. Who did you work for during those two years?

A. During the time they were gone?

Q. Yes, sir. A. I was working for anyone.

Q. What kind of a house was that your grandmother, Mrs. Letcher, lived in? A. It was a frame house.

Q. Frame house—how many rooms? A. About 13 rooms.

Q. About 13 rooms; a two story house was it?

A. Yes, sir.

Q. How many girls did Mrs. Letcher keep, or have around her during the time Minnie Atkins was there?

A. I do not think there was but one girls in the house.

Q. One girl in the house. Did a number of men come there during that period of time?

A. Why they come there all the time, yes, sir, my uncle used to play ball and the team used to meet there; and then they gave minstrels and the like of that. We (the word "they" inserted here in pencil) used to rehearse in the cellar.

Q. In the cellar? A. Yes, sir.

Q. What kind of a looking woman was this that took Thomas Atkins? A. Why, she was real light.

Q. About how old?

A. Oh I judge she was about 30 years old.

Q. Any distinguished marks about her?

A. I never noticed.

Q. What did she say her name was?

A. I do not remember that now; it has been so long ago.

Q. Would you recall it do you think if you heard it?

A. I think I could; I ain't sure.

Q. Where did you say she lived?

A. She did not say where she lived; she said she was going to take Tommie to his mother.

Q. Did she—she did not tell you where she lived and she was here alone? A. Yes, sir, she came to our house alone.

Q. She had some purported papers from Tommie's mother? A. No, sir.

Q. Didn't have any papers? A. Didn't show any.

Q. And just on her say so that she came from Minnie, and she a total stranger, you turned this boy over to her, that you had been supporting for ten or eleven years?

A. Yes, sir.

Q. And at that time you were a man of 26 or 27 years of age; is that right? A. Twenty-five or twenty-six.

Q. You are a member of the African race, are you not?

A. Yes, sir.

Q. And attended school?

A. Yes, sir, a little bit, not much.

Q. What? [A.] A little bit, not much.

Q. Can you read and write? A. Pretty well, yes, sir.

Q. A man of average intelligence?

A. Well, I judge so now, but not quite that much then.

Q. After Minnie Atkins left here you—as you say they boy was about ten years old, did you know where she went?

A. No, I did not.

Q. Did your grandmother know to your knowledge?

A. No, sir.

Q. Did you, or your grandmother to your knowledge ever write?

A. No, sir, because we did not know where she was at.

Q. She just picked up and went away without a word?

A. Yes, sir.

Q. In other words, when this boy was about six months of age his mother abandoned him to your care, did she?

A. No, sir, I did not say that.

Q. Didn't I understand you to say this morning; or did I understand you to say that when that boy was about from four to six months old Minnie left your place?

A. I never—and didn't come back any more?

Q. You didn't say that?

A. I said he was three or four months old when she went to work.

Q. Yes—and about how often did she return to Mrs. Letcher's after that?

A. Well, I could not say as to how often because you see I was at work myself.

Q. You came home at night?

A. No, sir, not all the time.

Q. Well, about how much of the time?

A. Well, I could not say that either.

Q. Where did Minnie work? A. She worked at the post.

Q. She worked at the post? A. Yes, sir.

Q. Do you know who was adjutant at the post?

A. At that time? No, sir.

Q. And did you say you went down to the train when Tommie left here? A. No, sir, I did not.

Q. Then, you do not know how he left town of your own knowledge? A. No, sir, not my own knowledge.

Q. The boy was healthy when he went away?

A. Yes, sir.

Q. And from that day until this you didn't hear from him? A. No, sir, I have not.

Q. And from the time that Minnie left here when that boy was about two years old you didn't hear from her, or know of her whereabouts until this controversy over this land arose? A. No, sir, I did not.

Q. Did you talk to Dennis Jones since yesterday morning about this case? A. Since yesterday morning?

Q. Yes? A. No, sir.

Q. When did you talk to him about it?

A. Oh, it was about a month or so ago.

Q. Did you then go over with Dennis what your evidence would be in this matter?

A. No, sir, we never did talk that matter.

Q. You never did talk that matter; who did go over it with you? A. I never went over it with anyone.

Q. You never went over it with anyone; did you talk to Mr. Long this gentleman right back here about what your evidence would be, before coming on the stand here?

A. I do not understand the question?

Q. Did you talk with Mr. Long this gentleman right back here, about what your evidence would be? A. When?

Q. Any time? A. Yes, sir, we talked the matter over.

Q. What was Minnie's reputation when she was at your place with reference to morality or immorality.

A. I never noticed anything wrong about her.

Q. Well, did you hear anything about it?

A. No, sir, I never heard anyone say anything about it.

Q. Did your grandmother keep a place where lewd men and women congregated for immoral purposes?

A. No, sir, she did not.

Q. That is all.

Cross Examination by Mr. Greenslade.

Q. Sam, did you say that a woman called "Aunt Betsy" was mid-wife at the birth of Tommie? A. Yes, sir.

Q. She was a mid-wife around *Minnie's* at that time, was she? A. Yes, sir.

Q. How old a woman was she?

A. Well, I could not tell that because she was an old woman then.

Q. Is she alive or dead? A. Dead.

Q. Dead. Were there any other children born at that house you know of? A. No, sir.

Q. Did you have any doctor at the time this child was born? A. Yes, sir.

Q. Who was the doctor? A. Dr. McCormick.

Q. Is he living or dead?

A. I could not say, but I think he is dead.

Q. Is he a white man? A. Yes, sir.

Q. Who was Tommie's father? A. I do not know.

Q. Did you ever hear who his father was?

A. No, sir, I did not.

Q. Never heard your grandmother say?

A. No, sir, I do not think she knew.

Q. Or Minnie? A. I never heard her say.

Q. Now, I believe you said this morning that Jim Mayo looked after and supported Walter Banks, and you looked after and supported this boy Tommie? A. Yes, sir.

Q. That is right, is it? A. Yes, sir.

Q. By that you mean that you not only looked after his whereabouts personally but you bought his clothes for him?

A. Yes, sir.

Q. Who supported your grandmother?

A. Why, the rooming house supported her.

Q. The rooming house? A. Yes, sir.

Q. Did you and Jim Mayo contribute to her support?

A. Yes, sir.

Q. Paid her board, did you?

A. No, sir, I did not pay no board, because I was working most all the time; I ate where I worked at, but I always gave her money.

Q. And Jim did too?

A. Yes, sir, at the time while he lived at home.

Q. At the time while he lived at home? A. Yes, sir.

Q. Did Minnie Atkins ever contribute anything to the support of Tommie? A. No, sir, nothing that I saw.

Q. So far as you know Minnie Atkins never did buy Tommie any clothes, did she? A. No, sir.

Q. Or never contributed to his board?

A. Well, that I do not know, you know; she might have given grandmother some money that I did not know anything about?

Q. I say, so far as you know, she never did.

A. So far as I know.

Q. From what period of Tommie's life did you support him? A. Right after his mother left.

Q. Right after Minnie left Leavenworth. Did anybody contribute anything to his support and maintenance except you and Mrs. Letcher? A. No, sir.

Q. Nobody—did you see Minnie just before she left town?

A. No, sir.

Q. How did you learn that she had left town?

A. Well, I told you I didn't know she had gone until I went home one evening and mama said, "Minnie is gone," I said, "Is she," she said "Yes." I said "How do you know?" She said "Somebody told me, that is how I know."

Q. You never seen her until recently? A. No, sir.

Q. During the time she was gone did you or your mother attempt to locate her? A. No, sir.

Q. Or to get her address? A. No, sir.

Q. During that same period did you ever have any letters, postal cards or other communications from Minnie?

A. No, sir.

Q. Before this woman came to take away Tommie had you ever heard from anybody claiming to be a relative of Tommie, or to have come from relatives of Tommie?

A. No, sir, not up to the time this woman come.

Q. Did Tommie's father ever contribute anything to the support of his child?

A. I do not know him; I never seen him.

Q. Did any man ever acknowledge Tommie as his son or recognize him as his son? A. No, sir.

Q. Then, after Minnie left Leavenworth Tommie had no one in this town related to him, so far as you know?

A. No, sir.

Q. There was no one interested in him except yourself and Mrs. Letcher? A. That is all.

Q. After this woman came and took Tommie away did you ever meet him again? A. No, sir.

Q. Did you ever hear from this woman? A. No, sir.

Q. Did you ever attempt to find out his whereabouts or locate him? A. No, sir.

Q. Did your grandmother ever attempt to locate him?

A. Oh, she often wondered and said where could she write and find out; of course, not having trace we could not write.

Q. Then she did not write to anybody to find out where he was?

A. No, sir, because we did not know anybody in Oklahoma to write to.

Q. You didn't know anybody in Oklahoma to write to. You did not know, of course, whether he was in Oklahoma or not? A. No, sir, I did not.

Q. There was no one in Leavenworth besides yourself and your grandmother to make inquiries or who would be interested in making inquiries concerning him, was there?

A. No, sir, not that I know of.

Q. This woman that came and got Tommie was a white woman? A. No, sir.

Q. She was a light mulatto (the word "colored" stricken out and words light mulatto" inserted with lead pencil) woman?

A. Well, I could not say whether she was colored; she was mixed; she was about half *wife*. She was a whole lot shadier than some colored people, but she was not to say a colored woman.

Q. Did she have any Indian blood in her?

A. She might have.

Q. And she came alone? A. Yes, sir.

Q. Do you know Rob Jones?

A. I might now, but I cannot place him by name.

Q. You know Dennis Jones, of course? A. Yes, sir.

Q. Do you know the boy Dennis Jones raised?

A. Well, I know of him; I saw him.

Q. How long ago is that you saw him?

Q. He was a boy about the same age as Tommie, was he not? A. That I do not know.

Q. Do you know whether he ever played with Tommie and the boys together? A. No.

Q. Did you ever see Dennis Jones' boy?

A. With Tommie?

Q. No, at all, anywhere? A. Oh, I have saw him.

Q. Did you know him when he was a boy?

A. Well, I know there was one around here; I did not know his name.

Q. I mean a boy living with Dennis Jones and his wife?

A. Yes, sir, I remember that.

Q. You say you knew him well? A. No, sir, I did not.

Q. How old a boy was he compared to Tommie?

A. That I could not tell.

Q. Well, how old did he appear to be—about the same size boy?

A. Well, I do not know; he might have been a little larger.

Q. Might have been a little larger; you do not know he ever played with Tommie? A. No, sir, I do not.

Q. You do not know whether he ever knew Tommie, do you? A. I do not know that, no, sir.

Q. Were there any pictures ever made of Tommie?

A. No, sir.

Q. Never had his picture taken? A. No, sir.

Q. When this woman came and got him, did she take all his clothes? A. Yes, sir.

Q. How big a boy was Tommie when he left your house?

A. You mean, how tall?

Q. Yes? A. Oh about four feet or something like that.

Q. And about how much did he weigh?

A. He weighed about 100 pounds, something like that.

Q. About the average size boy for that age, was he?

A. Yes, sir.

Q. Did he wear long pants?

A. No, he hadn't commenced to wear long pants.

Q. He hadn't? A. No.

Q. How long before he left was it you bought him that suit of clothes?

A. Just the Thanksgiving before that when he left the next?

Q. What?

A. It was this Thanksgiving before he left—he left the next coming summer—I do not know whether it was summer or fall.

Q. Did you buy any other clothes for him between those dates between Thanksgiving and the summer before he left?

A. Yes. (Words "No, sir" stricken out with pencil and word yes written in.)

Q. He was not yet in long pants? A. No, sir.

Q. Did he do any work around town before he left?

A. No, sir.

Q. Never had any job? A. No, sir.

Q. Was he in school the year before this woman came and got him? A. Yes, sir.

Q. The winter before that? A. Yes, sir.

Q. Was Walter Banks in school with him?

A. Yes, sir, Walter was at school too.

Q. Were they in school together that year—the winter before he left?

A. No, I am not positive whether Walter went to school that year or not, but Tommie did. Walter went to the Catholic school he didn't learn anything in the public school.

Q. Did Tommie ever go to the Catholic school?

A. No, sir.

Q. I believe you said he was born in Mrs. Letcher's house? A. Yes, sir.

Q. Do you think Tommie left your home—Mrs. Letcher's home in 1887? A. (No response.)

Q. What year was it he left there?

A. I do not remember exactly the year, but I think it was about 1896—somewhere along in there, '95 or '96.

Q. I got mixed up—about '96, you say?

A. About somewhere in there; may be the latter part of '95 or '96.

Q. You think it was '95 or '96?

A. It must have been '95 or '96.

Q. You are giving those facts now by reason of having counted them up or do you have any independent recollection of any other event which happened the same year by which you fix the time? A. No, sir, I do not.

Q. Do you remember when the World's Fair was held in Chicago? A. Yes, sir.

Q. What year was that? A. I think it was in 1893.

Q. 1893; and was it before or after that that Tommie left your house? A. It was after.

Q. You would think it was about three years after that?

A. Somewhere near that, yes, sir.

Q. Was Tommie Atkins ever baptised? A. No, sir.

Q. Never was? A. No, sir.

Q. Did Walter Banks and Tommie ever go to Sunday school? A. I do not remember that.

Q. You do not remember that?

A. They might have went sometimes and I not know anything about it.

Q. Did you attend church? A. No, sir, I did not.

Q. You were not a member of the church? A. Sir?

Q. You were not a member of a church then?

A. No, sir.

Q. Was Mrs.—was your grandmother a member of a church? A. Yes, sir.

Q. What church did she attend? A Second Baptist.

Q. Second Baptist? A. Yes, sir.

Q. Where is that? A. Sixth and Pottawatomie.

Q. How far was that from the house there at that time?

A. Let's see, Miami, Osage, Pottawatomie—that is three, four, five, six. It is about six blocks.

Q. Who was the pastor of the church at that time?

A. Well, I am not positive, but I think it was Elder Ewing.

Q. Elder Ewing? A. I think.

Q. That was a colored church? A. Yes, sir.

Q. Did Elder Ewing ever call at your house?

A. I never saw him there.

Q. Never saw him there, is he dead or alive?

A. I think he is alive.

Q. Lives in Leavenworth? A. Yes, sir.

Q. You say Walter and Tommie never went to Sunday School to your knowledge? A. Not to my knowledge.

Q. And were never baptised. How did this child get the name "Thomas Atkins"? Tommie Atkins.

A. His mother gave him that name.

Q. His mother gave him that name? A. Yes, sir.

Q. Do you know after whom she named him?

A. No, sir, I do not.

Q. Did your mother have a family Bible? A. Yes, sir.

Q. Have you that family Bible now? A. No, sir.

Q. What became of it? A. I do not know, sir.

Q. You do not know?

A. No, you see when my grandmother died, my uncle taken everything that was in the house.

Q. By your uncle you mean Jim Mayo? A. Yes, sir.

Q. You think he took the family Bible?

A. Yes, sir, got all of the books.

Q. He is dead? A. Yes, sir.

Q. And if he did take it what became of it at his death?

A. That, I could not say; you see after he died the girl that was living with him, why, she got everything that he had.

Q. Was he married at that time?

A. Yes, sir, he was married.

Q. Was Thomas' birthday written in the family Bible?

A. I could not say as to that.

Q. Did you ever see your grandmother write in the family Bible? A. She can't write.

Q. She could not write—could she read? A. No, sir.

Q. Do you know whether or not the birth of this child Tommie was reported to any official in this town?

A. I do not.

Q. Do you know whether or not the births were required to be reported at that time? A. No.

Q. Who paid Dr. McCormack for attending Minnie at the birth of this child? A. I could not say as to that.

Q. You do not know. Was Aunt Betsey paid anything for her services there?

A. I could not say as to whether she was.

Q. Have you ever been in Washington, D. C. A. No, sir.

Q. Have you ever been away from Leavenworth?

A. Oh, yes.

Q. Have you ever been to Chicago?

A. I was there about a week.

Q. When was that? A. During the World's Fair.

Q. During the World's Fair in 1893? A. Yes, sir.

Q. Have you made any effort to locate Thomas Atkins recently? A. No, sir.

Q. Whom did you first tell that you knew anything about Thomas Atkins? A. Why the first one?

A. I mean with reference to this case?

A. Whom did I first tell?

A. Yes?

A. In fact, I didn't tell anybody anything since.

Q. Well you told Mr. Long, didn't you? A. Oh yes.

Q. Was he the first man you talked to about it?

A. No, I was talking to Rube Smith.

Q. Rube Smith. Who is Rube Smith?

A. That is a gentleman outside here.

Q. Is he a witness in this case? A. Yes, sir.

Q. How long ago was it you talked to him?

A. Oh, I was on the street one evening when he came along and he said, "Are you in a hurry?" I said, "No." He said, "We might need you before long," I said "What for?" He said "As a witness," so he told me what for and I said "All right," said "I will see you" and I turned around and went in the show because I didn't want to miss it.

Q. Was he looking for witnesses? A. No, sir.

Q. Do you know how he came to do that?

A. No, sir, I do not.

Q. Did you ever talk to Dennis Jones about the matter?

A. No, sir.

Q. How did you happen to be talking to Mr. Long?

A. Why Mr. Crilly brought Mr. Long to my place.

Q. Mr. Crilly? A. Yes, sir.

Q. You told Mr. Long whatever you knew did you?

A. Yes, sir.

Q. About Thomas Atkins? A. Yes, sir.

Q. Where do you live now?

A. 5th and Chesnut, E. H. Blockberger's.

Q. Are you married? A. No, sir.

Q. Have you ever been married? A. No, sir.

Q. Have you any brothers and sisters? A. No, sir.

Q. That is all.

Recross Examination by Mr. Lytle.

Q. Just one question. Did I understand you to say this morning to and in answer to Mr. Rice's question that that lady that came for Thomas Atkins was a white woman?

A. No, sir, you did not.

Q. You didn't. As a matter of fact she was a mulatto?

A. Yes, sir.

Q. Would you say that she had colored blood?

A. Yes, sir, I would.

Q. Or was she just dark or brunette white person?

A. Well, she had colored blood, in her.

Q. That is all.

Recross Examination by Mr. Greenslade.

Q. Do you know Sadie James? A. Sadie James?

Q. Yes? A. Sadie Harris, you mean.

Q. Sadie James?

A. I know Sadie Harris; I do not know Sadie James. It might be Sadie Harris, may be she is married since I knew her.

Q. Besides Walter Banks and possibly this Jones boy, do you know of any other boys in your neighborhood that played with Thomas Atkins?

A. Why, the Crilly boys, white boys across the street.

Q. Who?

A. The Crilly boys, white boys across the street.

Q. Do you know of any colored boys?

A. No, sir. There were no colored boys in that neighborhood.

Q. That is all.

Redirect Examination by Mr. Rice.

Q. In regard to Minnie, would you say she had colored blood, I mean African blood or Indian blood?

A. Why black blood or something. I know she was not pure white.

[Q.] That is all.

Cross Examination by Mr. Rosser.

Q. Can you tell the difference between Indian blood by looking, and black blood? A. Hardly.

Q. Could not hardly tell?

A. Hardly, not a person as light as she was I could not tell them.

Q. How old were you when you first got acquainted with Minnie? A. About 14 years old.

Q. Had you know her before she came to your grandmother's? A. No, I had not.

Q. You had not known her before? A. No, sir.

Q. How long was she there before the child was born?

A. Why, I should judge about two or three months.

Q. Two or three months; well, was it two or three months?

A. I could not say.

Q. You could not say? A. No, sir.

Q. You know whether or not your grandmother had been acquainted with her before that?

A. I do not think she had.

Q. She just came in there at that time? A. Yes, sir.

Q. Two or three monhts before the child was born?

A. Yes, sir.

Q. You do not think your grandmother was acquainted with her, and you had never met her before? A. Hardly.

Q. What? A. I say hardly.

Q. Hardly, well you mean by that that you did not meet her? A. No, sir, I never met her before.

Q. You do not think your grandmother had met her. Do you know whether any of the balance of the women had?

A. There was not anyone else in the family but my uncle.

Q. Well, did your uncle know her?

A. No, sir, he did not.

Q. He did not know her? A. No, sir, he did not.

Q. He did not know her—you say she appeared to be pregnant? A. Yes, sir.

Q. Were you present when she and your grandmother first met? A. No, sir, I was not.

Q. You were not present? A. No, sir.

Q. How long was she around there before you were when they were together?

A. She had come sometime during the day and I came that evening; she was there when I came home that evening.

Q. Did you remark anything about her being pregnant?

A. No, sir, I did not.

Q. You did not say anything about it; did your grandmother say anything about it to the balance of you?

A. She would not say anything like that to me, no, sir.

Q. She would not say anything like that to you. You knew, then, of course that she was going to have a baby practically as soon as she came there? A. Yes, sir.

Q. You never mentioned that to anybody to your playmates, or your brother or your uncle or anybody that was there? A. No, sir.

Q. Now what time of the year was it she came there?

A. I do not remember exactly. I do not remember that.

Q. Well, you remember when the child was born; what time of the year was that? A. I do not remember that.

Q. Was it born—what part of the house was the child born in? A. Up stairs.

Q. Up stairs, which room up stairs?

A. Well, I could not say as to what room it was in.

Q. Do you know which room she stayed in? A. No, sir.

Q. You do not know that? A. No, sir.

Q. Well how long had the child been born after you saw it? A. Oh, about three days, I guess.

Q. About three days; where did you first see it?

A. Down stairs in the front room.

Q. You never saw it then in her room where she stayed at that time? A. No, sir.

Q. How long was it before you saw it in the same room with her?

A. Why it was about, oh, about three or four weeks, I think.

Q. About three or four weeks, what room did she occupy during the time the child was born—when she first came there, what room did she occupy?

A. She was up stairs. I never went up stairs in the rooms; I very seldom went up stairs because I slept down stairs when I was at home and when I was not I slept at the house where I was working.

Q. So you do not know what room it was born in.

A. No, sir.

Q. Do you remember what time of the year it was?

A. No, sir.

Q. Don't you remember whether it was hot or cold weather? A. I know it was not cold.

Q. Well, was it warm, or how was it—where was the child when you first saw it? A. In the front room.

Q. In the front room down stairs? A. Yes, sir.

Q. Who had it? A. Why Aunt Betsy.

Q. Aunt Besy—was there a fire place in the room?

A. No, sir, a stove in it.

Q. Stove; was there a fire in the stove?

A. No, sir, there was not.

Q. There was not—sure of that? A. Yes, sir.

Q. Stove up? A. I think it set up all the time.

Q. Never took it down? A. No, sir.

Q. You say there were 13 rooms in the house?

A. About 13.

Q. Was that counting the cellar; did you count that as a room where you had your musical parties?

A. I could not tell exactly just how many rooms there was—yes, it was counting the cellar too.

Q. Then there were 12 rooms outside the cellar?

A. There was two rooms in the cellar.

Q. Well, there were eleven besides the cellar?

A. Yes, sir.

Q. How many then were down stairs rooms?

A. Eight, I think.

Q. Eight down stairs? A. Yes.

Q. Then there were three up stairs? A. Five up stairs.

Q. Five. Well, how many—you say there were eight, you mean counting the two in the cellar? A. Yes, sir.

Q. There were counting the ground floor above the cellar, is that right? A. That is right.

Q. And five up stairs? A. Yes, sir.

Q. Now who were the members of your family?

A. Sir?

Q. How many were—there were you, Jim Mayo, your grandmother, now who else made the family?

A. That is all in the family except Walter and Tommie.

Q. Except Walter and Tommie? A. Yes, sir.

Q. Well, Tommie was not in the family until he was born. You did not count him in your family just while the woman was pregnant with him did you? A. No, sir.

Q. And you never really counted him part of your family until she left, did you? A. No, sir.

Q. How many of those rooms had beds in them?

A. All of them up stairs.

Q. All up stairs. How many down stairs?

A. I think three down stairs.

Q. Three down stairs. Think they were eight bed rooms in the house? A. Yes, sir.

Q. How many did the family occupy? A. Two—three.

Q. You occupied three down stairs rooms?

A. Yes, sir, we had three down stairs rooms.

Q. The up stairs was for boarders, or for transients, was it? A. Yes, sir.

Q. You said your grandmother lived from the proceeds of the rooming house? A. Yes, sir.

Q. ——what she made out of renting her rooms, didn't she? A. Yes, sir.

Q. How long was Minnie there?

A. How long was she there? What do you mean?

Q. How long did Minnie stay at your grandmother's place? A. I said two or three months.

Q. Two or three months—well, now how many other people stayed there during that time, as near as you can say?

A. Why, they were coming and going all the time.

Q. Yes, men and women too, were there not?

A. Yes, sir.

Q. Were there any other woman stayed there at that time besides your grandmother? A. There was one.

Q. Who was that? [A.] That was my uncle's wife.

Q. What was her name? A. Caroline.

Q. What was your uncle's name?

A. Well, his name right was Phillips, but he went by the name of Jim Mayo there.

Q. That was the only woman stayed there? A. Yes, sir.

Q. You are certain about that?

A. That is the only one stayed there to my knowledge.

Q. Well, you would know, would you not?

A. (No response.)

Q. Well, now after Minnie left there during the next year or two was there any other woman stayed there? A. Yes, sir.

Q. Who was that? A. A girl by the name of Lucy Bell.

Q. When did Lucy come there?

A. Well, I do not remember exactly when Lucy came there.

Q. She was not living there while Minnie was living there? A. No, sir.

Q. You are sure of that? A. Yes, sir.

Q. You cannot say how long after Minnie left there that it was she came there? A. No, sir, I could not say that.

Q. How long did Lucy stay there?

A. Well, I do not know exactly, a year or so; something like that.

Q. Then she married and left, did she? A. Yes, sir.

Q. Where is she now?

A. I do not know, sir; I heard she was in St. Joe.

Q. When did you hear that?

A. Why, I heard Will Parker speak of that.

Q. Just since you have been here?

A. No—it has been down town; it had been a long time ago since I heard that; and then he was not talking to me, he was talking to somebody else.

Q. Did she stay a year or two? A. Somewhere——

Q. Now, who else stayed with you during the years you lived there in that house?

A. There was no one stayed there, I said there was people coming and going all the time.

Q. Jim Mayo's wife, where is she? A. She is dead.

Q. She is dead. Everybody ever stayed in that house is dead or disappeared so you cannot say where they are except you and Walter Banks, is that right?

Mr. Rice: I object to the question as incompetent, it not being proper cross examination.

Q. Is it not a fact, according to your statement that everybody ever stayed at your grandmother's place any length of time except you and Walter Banks are either dead or disappeared so you do not know where they are?

Mr. Rice: Same objection.

A. Well, I could not say. I could not say as to that because I have not been running around the country trying to find anybody that stayed at our house at that time.

Q. Well, did you lose interest in the people that came and stayed at your grandmother's house from one, two and three years, so you didn't care what became of them?

A. I didn't pay much attention to them.

Q. Didn't pay much attention to them? And this boy you were supporting there eight or nine years, you didn't pay much attention to him either? A. I did to him, sure.

Q. You did to him—how old was it you say when he disappeared? A. I would judge about eleven years old.

Q. He went with this woman? A. Yes, sir.

Q. She told you, I believe you said she was taking him to his mother in the Indian Territory?

A. In Oklahoma I said.

Q. In Oklahoma? A. Yes.

Q. Well, she told you where his mother was in Oklahoma, did she not?

A. She didn't. She said she was in Oklahoma; that is all she said.

Q. You didn't ask where the mother was in Oklahoma?

A. No, I did not think it was necessary to ask her any questions.

Q. You did not think it was necessary?

A. I judged her to be straight and was telling the truth.

Q. What is that?

A. I judged her to be straight and was telling the truth.

Q. You didn't have curiosity enough to ask what place in Oklahoma she was taking him to then?

A. I might have asked the question but I do not remember it.

Q. You do not remember it. Well, if she did tell you the place that she was taking this child you would remember it, don't you think?

Mr. Rice: I object to the question as incompetent.

A. I do not know; I might have, but I do not remember now.

Q. You never wrote to any place?

A. I didn't understand the question.

Q. You never wrote to any place to find out about the child?

A. No, sir, I did not. I did not know anyone to write to.

Q. Well, if you had asked her for the place she was taking the child you would have had a place to write to, would you not? A. (No response.)

Q. So, as a matter of fact you just let her take the child away without asking what address she was taking the child to?

Mr. Rice: I object to the question as incompetent, and a mis-statement.

Q. Is that true? A. What did you say?

Q. I said you let her take the child away and didn't ask her where she was taking it to—what address—what place?

Mr. Rice: I object to the question as a repetition and incompetent.

Q. Did you?

A. She said she was taking the child to Oklahoma to his mother.

Q. And you never had any more definite address than just Oklahoma.

Mr. Rice: Same objection.

A. No, sir.

Q. What was the name of this Smith. A. Rube Smith.

Q. How long has Rube Smith been here? A. Where?

Q. In Leavenworth? A. Ever since until I was.

Q. What does he do? A. He was running a grocery store.

Q. What is he doing now? A. He is a lawyer, I guess.

Q. His office is with Dennis Jones, is it not?

A. I don't know.

Q. Don't you know he stays at Dennis Jones' office and is with Dennis Jones a great deal? A. No, sir, I do not.

Q. You did not know that? A. No, sir.

Q. How long did this child continue to nurse its mother, or did she continue to nurse the child?

A. I do not know, I suppose the baby was nursing when she left town.

Q. You suppose it was? A. Yes.

Q. Could it talk when she left?

A. Why it could blabber around like some kids talk.

Q. Blabber like some kids? A. Like children do.

Q. Well, you mean it could talk then—it could not talk possibly very plain? A. No, sir.

Q. Could it walk? A. Yes, sir.

Q. Ever get out of the house? A. Out in the yard.

Q. Out in the yard? A. Yes, sir.

Q. Was the yard fenced in? A. Yes, sir.

Q. Fenced in at that time? A. Yes, sir.

Q. Did the child ever go anywheres else except out in the yard?

A. It would go out on the sidewalk once in a while.

Q. I believe you gave the name of the teacher he went to. I wish you would state it again? Montgomery, was it?

A. Montgomery.

Q. Did you ever go to any other teacher besides her?

A. No, sir.

Q. You didn't go to school very much?

A. No, sir, not very much.

Q. What school was it you went to?

A. I went to the public school a while and then I went to the Catholic school, but I didn't go to school but about four years.

Q. Well, that is two years more than I went; you say you can just barely read and write?

A. No, sir, I didn't say I just could barely read and write; I said I could read and write a little bit.

Q. A little bit. How long did Tommie go to school before he left there?

A. Why he didn't start to school until he was about seven years old.

Q. About seven, and he went right along until he was about *seven* years old.

Q. About seven and he went right along until he left all the school sessions?

A. No, not all the school because it got too cold.

Q. How is that? A. Got bad weather; it was too cold.

Q. It was kind of a bad winter?

A. It was too bad and he had too far to go.

Q. Did you ever hear of Minnie after she disappeared?

A. No, sir.

Q. Did she tell you all anything about when she was going away? A. No, sir, she did not.

Q. You think she hadn't nursed the baby up until she did leave, at all? A. Yes, sir.

Q. How long had she been gone before you knew she was gone, or do you know as to that?

A. I do not know as to that.

Q. Well, how long had you missed her before your grandmother told you she was gone?

A. Why, I didn't miss her, my grandmother missed her because she came around the house—came around in the afternoon, and I would be at work, and so I come home and my grandmother said, "Minnie is gone," I said, "Is she," and she said, "Yes"? We thought she would write and never paid any more attention.

Q. This was 1906? A. 1895 or '96 somewhere.

Q. Somewhere along there? A. Yes, sir.

Q. That is all.

(Witness excused.)

(Signed) SAMUEL NASH.

Subscribed and sworn to in my presence this 20th day of October, 1914. Clark A. Tharp, Notary Public. My commission expires Nov. 22nd, 1914. (Seal)

And thereupon, FRANK L. MONTGOMERY, a witness produced and sworn on behalf of the Government, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Frank L. Montgomery.

Q. Mr. Montgomery, what official position, if any, do you hold? A. I am the United States Probate Attorney.

Q. Acting in the matter of minor Indian affairs and restricted Indian affairs that come before the probate courts of Oklahoma?

A. Yes, together with such other special matters as are directed to be attended to by me by the Department of the Interior.

Q. You are under the supervision of the Secretary of the Interior? And commissioner of Indian affairs?

A. Yes, sir.

Q. How long have you been United States Probate Attorney, Mr. Montgomery?

The Court: I suppose you are going to interrogate him now with regard to something that transpired along in 1915 or 1916. Was he probate attorney then?

Mr. German: Yes, sir.

A. I was appointed probate attorney in 1914, February.

Q. February. And have held that position ever since?

A. Yes, sir.

Q. How long have you been practicing law, Mr. Montgomery? A. About fifteen years.

Q. Do you know Sadie James? A. Yes, sir.

Q. Mr. Montgomery, it appears in evidence here that you signed, and the document is introduced, a so-called—a document granting to Sadie James immunity from the prosecution in the matter—in connection with what she had done in her work with relation to Thomas Atkins, that you did that in December, 1914, and the document is signed this way: "Frank L. Montgomery, United States Attorney," The words "United States Attorney" being typewritten. I will ask you how it happened that you signed it as United States Attorney?

A. That was evidently a mistake on the part of the stenographer, and overlooked by me at the time I placed my signature thereto.

Q. Where was the document prepared, in what city?

A. In Kansas City.

Q. Was the stenographer who was used one who had ever worked down in this Indian country that you knew of?

A. I do not personally know.

Q. You hadn't known the stenographer before?

A. I never had seen him prior to that time.

Q. Now, Mr. Montgomery, do you know Minnie Atkins, Minnie Folk now it is? A. Yes, sir.

Q. When was the first time you ever saw her?

A. In December, 1914.

Q. Where? A. At Fort Lawton, Seattle, Washington.

Q. In what time in December, if you recall, was the first time you saw her?

A. About the middle, I wouldn't attempt, without looking at my report, to state the exact date, it has been quite a while.

Q. Is this your report, Mr. Montgomery (handing witness a paper)? A. It is.

Q. Now, can you refresh your memory as to the exact date when you first saw her?

A. (Referring to report.) It was on Monday morning, the 14th of December, 1914.

Q. Where?

A. At her home just immediately outside the entrance to the Fort.

Q. Fort Lawton, where is Fort Lawton from Seattle?

A. It is about five or six miles from the City I think.

Q. North? A. I don't know what direction.

Q. You didn't get the direction? A. No, sir.

Q. Mr. Montgomery, did you talk with her that day?

A. Yes, sir.

Q. Who was with you, I mean, at her house?

A. Her husband Harry, I think, Harry Folk and Captain MacNab introduced me, but I don't think that they remained present during the entire conversation had with Mrs. Folk.

Q. What did you talk to her about, don't state the conversation, but the subject matter, the subject of the conversation?

A. I stated to her the purpose of my visit, which was to secure information as to the legality of the allotment of Creek land to Tommy Atkins.

Q. And did you discuss the matter that day? A. Yes, sir.

Q. Did you see her the next day, Tuesday? A. Yes, sir.

Q. Did you discuss the matter with her that day?

A. I did.

Q. Did you see her the next day, Wednesday?

A. (Referring to report.) Yes, sir, I think I saw her Wednesday.

Q. On Wednesday, where did you see her?

A. At her home.

Q. Now, were you discussing with her the matter of whether she was the mother of Thomas Atkins? A. Yes, sir.

Q. Just cutting a long story short, she contended that she was, didn't she? A. She did.

Q. Did she make any statement to you on that occasion when she would see you again, or make any engagement with you? A. Yes, sir.

Q. What was that conversation?

A. My recollection is that Mr. Hanford was present at the time I talked to Minnie on Wednesday, and after considerable audience Minnie expressed the fact that she was tired and nervous and didn't care to discuss the matter any further, but would take it up with me on the following Friday.

Q. Did she say where? A. It she did I do not remember.

Q. Now, then, the next day, Thursday, what did you—— Did you see her or Captain MacNab, who did you first see among the three persons, Captain MacNab, Mr. Hanford, and Minnie, if you saw either of them?

A. I saw Captain MacNab at his quarters.

Q. What time on Thursday?

A. In the morning about ten or nine o'clock.

Q. Was either Mr. Hanford or Minnie there at that particular time when you saw the Captain? A. They were not.

Q. Who was there besides you and the Captain?

A. Oh, there might have been some of the Army Officers in the quarters.

Q. No one that you knew?

A. I think that two or three of the Army Officers to whom I had had a casual introduction, but I don't remember with any distinctness as to who was there.

Q. Did anyone come in whom you knew while you were there talking to Captain? A. Yes, sir.

Q. Who first? A. Mr. Hanford.

Q. Did you discuss this matter further? A. Yes, sir.

Q. I mean you and Mr Hanford and Captain was there in the Captain's house, did anyone else come in that you knew? A. Yes, sir.

Q. Who? A. Minnie Atkins.

Q. Was you looking for her? A. I was not.

Q. What did she say when she came in?

A. I do not have any recollection of what she said when she first came in and do not remember whether she expressed the purpose of her visit there or not.

Q. Do you know how she happened to come in?

A. No, I do not.

Q. You expected to meet her the next Friday?

A. Yes, sir.

Q. Now, tell what you and the Captain and Minnie all said there and Mr. Hanford in Minnie's presence on that occasion. You might begin at the beginning and relate it just as you recall it?

A. Prior to this particular time I had gone over with Captain MacNab and Minnie in detail all of the information and data which I had bearing upon the Tommy Atkins controversy.

Q. Pardon me now, let me ask you this question: Had you information at that time that she had a child named Ellis born and died at Fort Logan?

A. I had information that she had a child named Alice, but the birthplace or where she was born, I was not aware of.

Q. Had you information that she had a child named Charlie, Charlie Harrison, at that time, and Harvey Harrison? A. Yes, sir, I think——

Q. State whether or not you had any information at that time with relation to a child named Rober- Lee of Minnie's Robert Lee Peterkin?

A. I had no information as to Robert Lee Peterkin.

Q. Now, go ahead and state what you were about to a while ago?

A. As I stated before, a careful review of all the data in my possession had been gone over repeatedly with Minnie, and upon more than one occasion with Captain MacNab. Much of this was discussed with Mr. Hanford, who represented himself as Minnie's attorney, and upon the occasion of Minnie coming to the quarters when Captain MacNab and Mr. Hanford were present——

Q. On Thursday morning?

A. Upon Thursday morning, a review of much of the data which had previously been gone over was had. In addition to that I—I think prior to the time that Minnie had come in I presented Mr. Hanford with a telegram to the effect that Minnie Atkins had, sometime in October of that year, made a conveyance of her royalty interest, and possibly her fee in the Thomas Atkins allotment, to Mr. Page. This information was secured by wire from the office of the Register of Deeds in Sapulpa of Creek County. This conveyance was discussed and I then, after going—reviewing the matters, pressed Minnie Atkins for the truth about all of these facts and demanded that she tell me the actual truth relative to the enrollment of Thomas Atkins. And when that was done, Mr. Hanford, as her attorney, warned her that I was an officer of the United States Government and that any statement which she might make to me would be taken against her and not for her. Practically the same statement was made to her by Captain MacNab. And in addition to what I have already related, the question of granting immunity to Minnie Atkins, in the event that she did make a confession, was discussed. I have some——

Q. What did Captain MacNab say, if anything, to Minnie? Give us his language in connection with the matters you have just related about you and the truth?

A. Well, Captain MacNab told her that she would be held to account for any statement which she might make to me at that time and substantially gave her the same kind of advise and warning that Mr. Hanford had previously given.

Q. Where was Minnie sitting?

A. Minnie was sitting on a sofa as I remember. I was standing before the fire-place, I believe most of the time, and Captain MacNab and Mr. Hanford were in the room, I think either sitting down or standing up, I don't remember the exact position. After this discussion every body became quiet; for quite a while Minnie deliberated, and——

Q. How long would you say?

A. Oh, it must have been twenty minutes. Then she stated that she was not the mother of Thomas Atkins; that the Thomas Atkins for whom she drew the Grass money was her father; that she had three children, I believe named Alice Peterkin, and the two Harrison children.

Q. Charlie and Harvey? A. Yes, sir.

Q. Did you or anyone else enter into the conversation or put any questions to her or make any remarks as she was relating what you have just said?

A. No, there was absolutely nothing said by anybody in the room.

Q. Until she finished? A. Excepting Minnie Atkins.

Q. Until she finished making that statement?

A. That is true.

Q. Now, tell what occurred.

A. Then, a further discussion was had as between Mr. Hanford, I think, Minnie, myself, and I think Captain MacNab, with reference to the immunity.

Q. Why was the immunity discussed, Mr. Montgomery?

A. For the reason that Minnie would probably be subjected to——

> The Court: Well, not, what was said there that brought up the immunity question; that is the idea. Who brought it up?

A. I don't remember just who suggested it; possibly I did, myself.

Q. Was it before or after she had made the statement which you have just related?

A. I think we discussed the question of immunity before she made the statement.

Q. I see. During the conversations that had gone on prior to her stating—sitting there some twenty minutes?

A. Yes, sir.

Q. Alright?

A. And after she had made the statement, a further discussion as to immunity was had.

Q. Let me ask you. You realized there, all of you, and discussed the matter of her having testified at Sapulpa in July preceding? A. Yes, sir.

Q. When she testified that the child was born *ot* her at Leavenworth at the Sister's Hospital?

A. I had all of that record with me.

Q. And did you have the record of her testimony given at Tulsa in the latter part of October, that same year?

A. Yes, sir, I had a copy of that testimony.

Q. Alright.

A. And read from the testimony and from that record, and from the confession of Sadie James, to Minnie, repeatedly, prior to the time, and that is——

Q. You had also this Sadie James' confession?

A. Yes, sir.

Q. I was in no position to promise immunity to Minnie at the time that this occurrence took place and so stated.

Q. One other question about that immunity; you stated that after she made this statement, sitting on the sofa, that probably that you mentioned the matter of immunity then?

A. I think I mentioned it prior to that time.

Q. Who brought up the matter of immunity before? The first time it was brought up?

A. I don't recollect who suggested it; perhaps I did, myself.

Q. Alright; now come to the point where you were.

A. After the statement had been made by Minnie and the discussion of immunity came up, and I think I suggested that this confession that Minnie had made be reduced to writing, that it be left with Captain MacNab; that I would proceed immediately to secure immunity for Minnie Atkins; that if I succeeded in procuring immunity, that Captain MacNab was to deliver me this written confession; if I did not secure immunity for her, that Captain MacNab was to burn it.

Q. Well, what was said in response?

A. That was agreed to.

Q. Agreed to?

A. We then, went to Captain MacNab's private office on the second floor of the quarters and I prepared a confession.

Q. That office was in the same building where he lived?

A. On the second floor on Captain MacNab's quarters, in his private office. I sat down at his desk and prepared a written confession, and after I had written it, Captain MacNab told Minnie that she did not have to sign it unless she wanted to, and that what she had stated would be taken against her and not for her, but that he wanted her to tell the truth; now was the time to tell the truth about this matter and have it over with, or words to that effect. *Captain* Hanford, at the same time, warned her, as his attorney.

Q. As her attorney?

A. As her attorney, yes, sir. And after some little deliberation, Minnie Atkins signed this statement and it was delivered by me to Captain MacNab.

Q. Have you the statement? A. No, sir.

Q. Where is it? A. I don't know.

Q. Did you ever get it back from Captain MacNab?

A. No, sir.

Q. Well, we will get what was in it, in just a minute, then. Now, Mr. Montgomery was——

The Court: Did I understand you to say that Minnie signed the statement?

A. Yes, sir.
Q. And you have never had possession of it since?
A. No, sir.
Q. Nor have not seen it since? A. No, sir.
Q. What was in that statement?

The Court: Did you keep a copy of the statement?

A. No, sir.

The Court: Was it in longhand, written by——

A. Yes, sir, it was written by me.
Q. At Captain MacNab's desk? A. Yes, sir.
Q. With pen and ink or lead pencil?
A. It was written with pen and ink, is my recollection.

Mr. Hanford: Just a minute, Mr. Montgomery, what is the paper that you refer to that you hold in your hand?

A. That is my report made at that time on the case.

Mr. Hanford: That was made out after you got back?

A. Yes, sir, it was written on the 28th of December, after I returned to my office.

Q. Now, if at all, after you left Captain MacNab's after incident, after the occasion when she signed this statement, how long after that if at all, did you reduce to writing for your private files, the substance or the verbiage of the statement from memory?

A. I think on the train, en route from——

Q. Seattle? A. From Seattle to Denver.

Q. How long after the statement had been signed by Minnie?

A. It was about—it was about three or four days.

Q. About three or four days? A. Yes.

Q. Now, tell the Court what was in that statement.

A. Substantially, the statement is as follows: dated at Fort Lawton, December 17th. I, Minnie Folk, nee Atkins, in the presence of C. E. Hanford, and Frank L. Montgomery, United States Probate Attorney, do hereby state that no child was ever born to me by the name of Thomas Atkins, or Tommy Atkins, and that the Thomas Atkins for which I drew the

Grass money was my father; that I am the mother of only three children, Mabel, or Alice Peterkin, Charlie Harrison and Harvey Harrison; that was signed by Minnie on this occasion.

Q. Now, Mr. Montgomery, state whether or not that is a substantial reproduction of her words when she was sitting on the sofa, after the twenty minutes silence down stairs in the Captain's quarters.

A. Yes, sir, it is; it does not show as much detail as the conversation had below.

Q. What detail in her statement made below is left out of that statement that she signed?

A. Well, she stated Charlie and Harvey Harrison were on the rolls, and that Sadie James made the suggestion to her that she had a child named Thomas Atkins.

Q. Was this detailed—this which you just now suggest, a part of her statement while she sat on the sofa at the conclusion of the last of the twenty minutes? A. Yes, sir.

Q. Now, I believe that you stated that at that time that you didn't know about Robert Lee Peterkin? A. I did not.

Q. And had anyone during the week—you say you arrived there on Monday and talked to Minnie every day up to this Thursday—had anyone, either yourself or Minnie or Captain MacNab mentioned the name of Robert Lee Peterkin?

A. They did not.

Q. Mr. Montgomery, how long were you and Minnie in Captain MacNab's house from the time that she came there until the time she left that Thursday morning?

A. It was from about 10 o'clock until about noon.

Q. About noon. About how long, was it, after she signed this statement until you left Captain MacNab's house that morning?

A. I don't know; it was—I don't think it was but a few minutes, perhaps.

Q. Where did you go?

A. I come from Captain McNab's quarters to Minnie's residence with her.

Q. With Minnie? A. Yes, sir.

Q. Did you see her husband at the house?

A. I don't remember whether he was in the house or not, I think he either was there or came in with her.

Q. Now, how long did you stay at Minnie's house on that occasion? A. I took lunch with them.

The Court: That is Minnie's house?

Mr. German: Yes, sir.

The Court: You went to Minnie's house after this confession?

A. From Captain MacNab's quarters I walked with Minnie to her home.

Q. What occurred at her home?

A. We had lunch. Minnie prepared the lunch.

Q. Minnie prepared the lunch? A. Yes, sir.

Q. And you ate lunch with her, was her husband at the lunch table? A. Yes, sir, that is my recollection.

Q. And you ate with them? A. That is my recollection.

Q. What was her frame of mind?

A. Well, she was agreeable and pleasant and hospitable.

Q. Did you go with her anywhere after lunch?

A. Yes, sir.

Q. Where?

A. We went to Seattle to the—I think the Bank of Commerce, National Bank of Commerce.

Q. For what purpose?

A. It was for the purpose of Minnie's withdrawing four thousand dollars from the—I think the Exchange Bank of Tulsa, where it was on deposit, on a time deposit.

Q. Yes, now, had that matter of that four thousand dollars been discussed before? A. It had.

Q. When? A. At Captain MacNab's quarters.

Q. On the morning she made the confession? A. Yes, sir.

Q. Prior to that now, or on that occasion, had you learned anything about that four thousand dollars and how she came to get it, from her or from Mr. Hanford her attorney, or Captain MacNab?

A. I learned that she had been paid money for this in consideration of executing a lease, the oil and gas lease; I didn't know where the money was however.

Q. Well, did they state anything to you about any agreement attending the payment of that money at the time it was paid? A. Yes.

Q. Who told you?

A. Captain MacNab told me, he claimed to have acted as trustee for Minnie in the negotiation, in negotiating this oil and gas sale, sale of this oil and gas lease from Minnie to I take it the Gem Oil Company, or possibly Mr. Page, I don't remember. And the information that I secured from these parties was substantially that five thousand dollars was to be paid for the lease and five thousand dollars to be paid for the purpose of attorneys fee to Mr. Hanford and to meet any expenses which might be required of Minnie Atkins in supporting her title to this property.

Q. Now, what was said, if anything, about the giving of the five thousand dollars to Minnie win or lose?

A. Captain MacNab, the trustee, impressed me on several occasions that the purchase of the oil and gas lease was made without any recourse on Minnie, or failure of title in her.

Q. Anything said about the money, the five thousand in that connection—— Well, that is sufficient. Now, Mr. Montgomery, how come you and Minnie to go to the bank that afternoon, on Thursday?

A. It was done at my suggestion, that in view of the confession made by Minnie, and having been informed by her that this four thousand dollars, in the bank at Tulsa, was the consideration for the lease, that the Page interests, upon learning of this confession, might undertake to tie up this fund in Tulsa by some legal proceedings; and if she could get the money out of the jurisdiction of the Oklahoma Courts, she would perhaps be better secured in its possession.

Q. You understood that she was to get that consideration whether her title was good or bad, and that was the understanding at the start? A. Yes, sir.

Q. Now, at the bank what occurred?

A. I introduced myself to the bank officers and suggested that Minnie desired to waive the interest and have the funds transferred to that bank at once.

Q. Did she sign any paper there? A. She did.

Q. What was it?

A. I don't remember just what it was, it was some necessary transaction required by the bank.

Q. Whereby the bank could draw the money from the Tulsa Bank? A. Yes, sir, I don't remember the details.

Q. Now, up to—— Did you send Commissioner Sells any communication with relation to that confession?

A. I did.

Q. Have you a copy of it?

A. No, I have no copy of the telegram. I have embodied in my report the wording of the telegram taken from a copy at that time.

Q. Taken from a copy. Where had you gotten a copy?

A. I kept a copy of all my telegrams.

Q. A carbon copy? A. Yes, sir.

Q. Did you incorporate that in your report? A. I did.

Q. When was it you sent him that telegram?

A. It was a short time after leaving Minnie and her husband at the bank.

Q. In that telegram, state whether you—— Why were you sending him that telegram?

Mr. Cruce: We object, if the Court please, it is immaterial.

Mr. German: All right.

Q. Please state to the Court what was in that telegram?

A. (Reading) Seattle, December 17, 1914. Sells, Commissioner, Washington, D. C. Minnie Atkins today confessed to me in presence of Captain MacNab and Hanford she never had child Tommy Atkins. That Thomas Atkins for which she drew graff money was her father. I promised her would attempt to secure immunity from prosecution for perjury and conspiracy. Immunity will have to come from Oklahoma State authorities. Recommend that effort be made and I be directed that agent Ligon. see County Attorney Creek County and secure necessary action. Minnie's confession corroborated by affidavits in my possession. Necessary to work quickly and quietly as Oklahoma and Kansas parties appear to be seriously involved. Montgomery.

Q. Now, Mr. Montgomery, did you succeed in getting authorities to grant her immunity from any source? A. I did.

Q. When? A. The following day.

Q. Did you see her the following day—— Who did you see first the following day with relation to this matter?

Mr. Hanford: If the Court please, we object to the telegram on the ground that it is selfserving. I make the objection.

The Court: Well, I didn't hear any objection and I let the telegram go in. I will let it stand.

Mr. Hanford: We ask for an exception.

The Court: Exception noted.

Mr. Hanford: I put that, your Honor please, because in this same connection we have some on our part that we will introduce.

Q. Mr. Montgomery, who went with you to Seattle on that occasion?

A. Well, substantially, Mr. Buell, Mr. Robertson, and Sadie James met me at Seattle, I really met them at Portland. I met Mr. Buell and Mr. Robertson and Mr. Bond, but it was agreed that we should meet at Seattle. I didn't go out there with them.

Q. How did you happen not to go with them?

A. Because they went by way of Los Angeles and I had to return from Kansas City to Muskogee to get authority to make the trip.

Q. So, you went the shorter route by Denver?

A. Yes, sir.

Q. And you met them at Portland by accident?

A. Yes, sir.

Q. Intending to meet them at Seattle. Now, during the time, Mr. Montgomery, that you—beginning on that Monday, covering Tuesday, Wednesday, and Thursday, all the transactions during the times of all the transactions and conversations you have related, state whether or not either one of the three parties you have named were with you in your talks with Minnie and in your conversations with Minnie; in your conversations with Mr. Hanford there or Captain MacNab up to the time that you have mentioned, Thursday afternoon?

A. I positively refused to permit any interference of any——

The Court: Well, now, just answer the question.

Mr. Montgomery: Whether they were with you at any of these conversations up to that time?

A. No, none of the conversations.

Q. Were they present at Captain MacNab's or Minnie's house on any of the occasions you have told about up to Thursday afternoon?

A. No, but there is one explanation I desire to make.

Q. All right?

A. Upon the morning of the day that Minnie made this statement in writing, I requested Mr. Robertson——

Q. He is a Pinkerton Detective? A. Yes, sir.

The Court: Who was employing him?

A. Mr. Buell and Mr. Bartlett as I understood it. To watch Minnie's house and see who came to see her and where she went.

Q. That was when?

A. That was on Thursday morning.

Q. It was the day then after she had told you that she would meet you Friday? A. Yes, sir.

Q. She told you on Wednesday evening she would meet you on Friday?

A. Yes, sir. Mr. Robertson did as I directed and when Minnie and I came down from the Post——

Q. From the Captain's Quarters?

A. From the Captin's Quarters. We passed Mr. Robertson standing near the little station on the railroad, which is about a block or so from Minnie's residence. And after that he went on back.

Q. Tell the occurrence there?

A. When I got close to Mr. Robertson, I dropped my filing case.

Q. Purposely or accidently? A. Purposely.

Q. Alright.

A. Mr. Robertson picked it up and I looked at it and turned around to him and said to him that every thing was alright: I then accompanied Minnie toward her home, and as I did so, she told me that this gentleman had been watching the house that morning and she had noticed it and I went back and gave Mr. Robertson a formal bawling out.

Q. Loud enough for Minnie to hear you? A. Yes, sir.

The Court: That was for Minnie's benefit?

A. Yes, sir.

Q. And then you went on to Minnie's house?

A. Yes, sir.

Q. And to lunch? A. Yes, sir.

And thereupon, court takes a recess until 2 o'clock P. M.

And thereafter, court having convened pursuant to adjournment, and at 2 o'clock P. M. further proceedings herein were had as follows:

Cross Examination by Mr. Hanford.

Q. Mr. Montgomery, when did you first take up this matter of the Atkins case?

A. About the first days of December or the extreme latter days of November 1914.

Q. Who first took the matter up with you?

A. M. L. Mott.

Q. And who is Mr. Mott?

A. Mr. Mott, prior to about February 1914, was National Attorney for the Creek Nation.

Q. And what was his interest in this case at the time he took the matter up with you?

Mr. German: I object unless the witness is informed.

The Court: Well, if he is not informed, he won't answer.

A. I don't remember that Mr. Mott explained to me his interest at that time.

Q. What did he take up with you in regard to it?

A. He took up with me what he considered to be a reasonable probability of the Government, for the benefit of the Creek Nation, to cancel the allotment of Tommy Atkins, and invited my attention to information which could be furnished by a darkey who was supposed at that time to reside in Kansas City, named Sadie James.

Q. You knew that Mr. Mott at that time was representing J. Garfield Buell and H. U. Bartlett, did you?

A. I don't remember very distinctly; very likely I did.

Q. Is it not a fact that Mr. Mott came to you and asked you if you wanted to handle a very important case?

A. He might have used that language.

Q. And he then discussed with you, your disposition to take up this Atkins case?

A. I think he asked me if I would be willing to prosecute it.

Q. And he gave you to understand that if you did, if you were so disposed, that he wanted you to enter upon an investigation and go and see this colored woman Sadie James?

A. Yes, sir.

Q. And he told you that they would have her there at Kansas City for you to see when you arrived there?

A. I think so, yes.

Q. And you did go to Kansas City and saw Sadie James, did you not? A. I did.

Q. Who did you go in company with? A. No one.

Q. You met Mr. Buell after you got there, did you not?

A. I did.

Q. And he cooperated with you?

A. Well, yes. And then I want to explain the character of his cooperation; he furnished me with a record at Sapulpa, and I think a copy of the deposition of Minnie Atkins taken at Tulsa.

Q. And he arranged for you to see Sadie James?

A. Yes, sir.

Q. Took you out there?

A. I think he went out with us, perhaps.

Q. Who else went with you?

A. Mr. Robertson went with us.

Q. Mr. Robertson the Pinkerton detective?

A. Yes, sir.

Q. Who was he working for?

A. Well, I don't know of my own personal knowledge who he was working for; didn't at that time.

Q. Well, you know now that he was working for J. Garfield Buell and H. U. Bartlett?

A. That is my understanding.

Q. At the same time that Mr. Allen and Mr. Mott went to Washington to arrange for the commencement of this suit.

A. I don't know.

Q. You know that Mr. Mott went to Washington, do you not?

A. Yes, I think he went to Washington but I didn't know anything about the object of his visit and I don't remember when he left.

Q. You remember Mr. Allen went to Washington at the same time?

A. Mr. Allen, I think, was in Washington.

Q. He was already in Washington? A. Yes, sir.

Q. You knew that after your interview with Sadie James there when you returned to the hotel, that Mr. Buell sent a telegram to Mr. Mott, telling him that everything was alright and to have the Department commence suit at once in the name of the Creek Nation, did you not?

A. I think that Mr. Buell—I know that he communicated with Mr. Mott but I do not personally know the contents of the message. If proper I can say that Mr. Buell expressed to me during the time, a desire to have immediate proceedings had for the cancellation of the allotment.

Q. Mr. Buell told you at that time in Kansas City that he and Mr. Robertson had found Sadie James at Leavenworth, Kansas, and had previously interviewed her and had arranged for her to be interviewed by you in Kansas City?

Mr. German: Just a minute, your Honor, I don't want to be captious about the cross examination. I am perfectly willing for Mr. Montgomery to relate any matters which may in any matter affect himself personally, but I do not think that these matters are admissible in proof——

The Court: Does it relate to the direct examination of this witness?

Mr. Hanford: It does, your Honor. It is a little bit hard to disclose the purpose of the cross examination.

The Court: Well, of course you appreciate, Mr. Hanford, I am sure that your cross examination in order to be proper must relate in some way to the direct examination this morning or representing the interest of this witness.

Mr. Hanford: It will relate to his testimony this morning and I will bring that out as quickly as possible, your Honor.

The Court: All right.

Q. During the time that you were making this investigation, both in Kansas City and at Seattle, you were of the opinion, Mr. Montgomery, that you were to bring this suit and conduct this suit, is that not true?

A. I was of the opinion that I was acting as an attorney and would likely be actively engaged in the trial of the case.

Q. And Mr. Mott had led you so to believe?

A. Well, yes, together with the Washington Office.

Q. At that time, Mr. Montgomery, nothing had been done by the United States Government, through the Attorney General's Office, looking to bringing this suit?

A. If anything had been done it had never been brought to my attention.

Q. The only party that was interested, so far as you know, was the Bartlett and Buell interest and the Creek Nation?

A. The Bartlett and Buell interests were of course interested, the Creek Nation was interested, and my superiors at Washington, Commissioner Sells.

Q. You mean the Indian Department?

A. The Indian Department had notice from me and from Superintendent Kelsy, who was in charge of the Muskogee office at this time, of the nature of the investigation about to be made; and my recollection also had notice of the interest represented by Buell and Bartlett.

Q. When did you first learn, Mr. Montgomery, that you were not to participate in the conduct of this case as an attorney?

A. About the time we had the Receivership hearing.

Q. That was in February or March of the year following? A. Yes, sir.

Q. You are now, and at that time were a probate attorney in the Indian service for the Creek Nation?

A. Not particularly for the Creek Nation.

Q. For the Indian Department? A. Yes, sir.

Q. You have no connection with the Attorney General Department whatsoever? A. Not a bit.

Q. Mr. Allen, the Creek National Attorney, has no connection with the Department of Justice or the United States Government proper? A. None of which I am cognizant.

Q. He is employed through the proper department in the nature of a private attorney for the Creek Nation to look after their intersts?

A. I do not know the character of his contract.

Q. At the time, Mr. Montgomery, you returned from Seattle and made the report to which you refer, you still then were of the opinion that you were to participate in the conduct of this case for the cancellation of this allotment?

A. Yes, sir.

Q. And you were of that opinion at Seattle?

A. Yes, sir.

Q. And that report was made as a preliminary to the commencement of this suit and conduct of this suit?

A. Yes, sir.

Q. The telegrams that you sent to Mr. Allen and Mr. Sells were sent in the same connection, looking towards the commencement of this suit for the cancellation of these patents? A. They were.

Q. Mr. Montgomery, you arrived at Seattle on a Sunday?

A. Sunday morning?

Q. December 13th. And you went to see Captain MacNab when? A. On Sunday.

Q. On Sunday. And you told him that you were there representing the Government and wanted to make an investigation of this case? A. That was it substantially.

Q. And you also told him that your investigation was to be made impartially to get at the truth and that depending on the result of your investigation it would be determined what if anything should be done in the matter?

A. That was practically my representation to him; I told him that the result of my investigation would be considered in the determination of any future action. I don't know that it would have been final.

Q. You did not tell him that this suit was brought at the instigation of the Garfield Buell and H. U. Bartlett's interests?

A. I don't think I said anything to him about Buell or Bartlett up to and including the time that Minnie Atkins made her written statement. I might have said something about it afterwards, but I am sure I didn't mention it to him prior to that time.

Q. You don't know that you did tell him anything regarding their interests?

A. I don't remember whether I did or not. Subsequent to the statement made to me.

Q. Didn't you in your report, to which you referred this morning, or in your letter to R. C. Allen, accompanying that, make a statement to the effect that it will be learned that this suit is brought at the instance of J. Garfield Buell, and that something must be done quickly on that account, or word to that effect?

A. I don't know; my statement, I believe, would be the best evidence of what I said.

Q. I will ask you if you didn't state in your report as follows: during the time that I was in Seattle, Sadie James was in town, having been brought there by Mr. Buell and placed in the hotel where no one knew that she was in the city, except Mr. Buell, Mr. Robinson and myself. It will be known that Mr. Buell is the tentative lessee of Quinton Garrett, who filed upon the Tommy Atkins allotment, and that Mr. Buell is instrumental to having the allotment deed to this allotment cancelled.

A. I think I made that statement. I think I had previous to that in telegrams advised——

Q. Just a minute, I will read further to you in connection to the answer, it may refresh your memory so that you can answer correctly, as follows: The interest of Mr. Buell in this case was fully and completely [] by me to Captain MacNab when I had my first audience with him in regard to this case, although Captain MacNab, Minnie Atkins, C. E. Hanford, or none of the parties knew that Mr. Buell or Mr. Robinson, or Sadie James was in the city, up to the happening of the event which I now relate.

A. Well, that might possibly be true. My recollection is, however, I didn't state to anybody in Seattle, the interest of Mr. Buell and it might have been that I did tell Captain MacNab because I took him into my confidence in regard to the entire situation.

Q. This report was rendered December 28th, was it not?

A. Yes, yes.

Q. Mr. Montgomery, when you—when did you first see Minnie Atkins after your arrival in Seattle?

A. Monday morning, I think, following the Sunday at which time I arrived.

Q. Did you ask her on that occasion whether or not she gave birth to a son named Thomas Atkins?

A. Substantially so, I did.

Q. And what did she tell you?

A. She said that nobody could ever get her to say that she was not the mother of Thomas Atkins, or words to that effect.

Q. And she did tell you that she was the mother of Thomas Atkins?

A. I have stated to you what her answer was.

Q. At that time, Mr. Montgomery, did you not read to Minnie Atkins, the statement of Sadie James, which you had taken from her at Kansas City, prior to that time?

A. I don't think it was read to her at that particular date. I did, however, read it to her.

Q. And did you not tell Minnie Atkins at that time, that the Page interests had been up to Leavenworth recently trying to prove that her son Thomas was drowned there at Leavenworth and that they had fallen down in making that proof?

A. I don't know whether I told her that or not.

Q. What is your recollection?

A. I have no distinct recollection about it.

Q. You knew that at time time that the interests claiming under Minnie's sister, Nancy Atkins, had been up to Leavenworth attempting to prove that Minnie's son Thomas Atkins was drowned there, did you not?

A. I think I heard some talk about Thomas Atkins having been reported to have been drowned but I did not——

Q. But you knew that it turned out to be some boy there in Leavenworth, wholly different——

A. I don't remember that I knew any final result of any investigation, however.

Q. But you did tell Minnie Atkins this, that they had taken the depositions of numerous witnesses in the State court case there at Leavenworth, and that they had attempted to prove in her absence that the father of her child was a negro, didn't you, and she became greatly incensed? A. No.

Q. At that statement—— A. I don't think I did.

Q. Didn't you tell her that at any time that you were out there?

A. No, I think Minnie herself suggested to me that an attempt was being——

Q. Didn't you tell Minnie Atkins——

A. Well, wait and let me get through with that.

Q. Go ahead.

A. That an attempt was being made to charge her with being the mother of a darky named Tommy Atkins.

Q. To refresh your memory, isn't it a fact that on Tuesday night, I was there with Minnie, she told me of something that you had read to her, and I asked you what that was and you told me that you didn't care to acquaint me with that at this time but that Minnie stated to me that you had read something to her which told her that they were trying to prove that the father of her child was a negro, and I told her that that was not so, that I was there during the taking of those depositions, and that that was absolutely untrue; isn't that a fact, Mr. Montgomery, don't you recollect it was that way, now?

A. No, I don't; anything which I read to Minnie Atkins was embodied in the depositions of Minnie from the record of the Creek County Court and in the confession of Sadie James together with the affidavit of the Hamiltons, I believe taken at Los Angeles.

Q. Isn't it a fact, Mr. Montgomery, that the only thing that you read to Minnie Atkins on your first visit there was from—were her own depositions and affidavit of Sadie James, and the first time and the only time that you read to her the depositions of other witnesses was when you read her the deposition of Mr. Crilly in my presence?

A. I don't know when I read those things to her, which particular document, but I did read to her from the record which I mentioned, up to and including, I think, Wednesday of that week.

Q. Mr. Montgomery, it did state in Sadie James' affidavit, on the part of Sadie James, that Sadie James was a party to a scheme to try and make Rube Smith the father of Minnie's child. It did state that in the affidavit which you read to Minnie, did it not?

A. I have distinct recollection of somtehing of that sort in the affidavit, but I do not remember clearly what it was.

Q. Let me put the question; is it not a fact that that is one feature of the Sadie James affidavit that you read to her, that Minnie rebelled against and that got her excited?

A. I read—— If it is embodied in the Sadie James affidavit I evidently read it to Minnie, because I think I read practically everything.

Q. And didn't Minnie during the time that you interviewed her there keep repeating that she rebelled against their trying to make the father of her child a negro?

A. I think she resented that, yes.

Q. And isn't it a fact that I told her that that was not so, that the witnesses had testified and I had heard them and that that was not so?

A. You may have made such a statement, I do not remember whether you did or not.

Q. Mr. Montgomery, you recollect reading to Minnie the deposition of George Crilly in my presence?

A. Not distinctly.

Q. And isn't it a fact that Minnie made one or two corrections while you were reading in Crilly's testimony, spoke up in regard to certain features of his testimony?

A. I think that I embodied in my report that——

Q. I am asking you what took place there, Mr. Montgomery, I am asking for your recollection? A. And that——

Q. Just a minute, Mr. Montgomery?

A. I am answering your question.

Q. I don't want you to state what is in your report. I want you to state what took place.

The Court: Are you now testifying what is in your report or what took place there, or are you referring to your report?

A. I just referred to my report to clear up my recollection of it.

The Court: All right.

A. That Minnie stated that parts of Crilly's statements were true and part of them were untrue, substantially that.

Q. Isn't it a fact, Mr. Montgomery, when you read to her Crilly's testimony to the effect that he thought she was about twenty years old that Minnie spoke up and said I was younger than that?

A. I have no distinct recollection.

Q. And isn't it a fact that when you finished reading that deposition of Minnie, that Minnie said: "Well, Crilly remembers it better than any of them"? A. I do not recall.

Q. And don't you recall that you asked Minnie, before you read her deposition, if she knew George Crilly; and that she stated to you, yes I used to call him the parson because he always dressed so funny and was such a nice little fellow?

A. I recall that she stated to me that she knew Crilly; the other part of it I do not.

Q. Mr. Montgomery, I came into Minnie's house while you were there on your visit Tuesday, that is your second visit to Minnie, did I not? A. I think it was Tuesday.

Q. And Minnie introduced me to you? A. Yes.

Q. You told me who you were and told me that you were investigating this case? A. Yes, sir.

Q. And you told me that you wanted to interview Minnie privately, and for that reason you would like to have me withdraw, and I told you that I was Minnie's attorney and that I would like to remain and be present; and you interviewed her and I sat down at the table——

Mr. Stuart: Mr. Hanford, you are not getting any answers.

Mr. Hanford: The witness nodded his head.

The Court: Answer yes or no; interpose an answer once in a while.

The Witness: Ask your question Mr. Hanford.

Q. Mr. Montgomery, and after I came in and was introduced and you stated the purpose of your business I sat down and remained; and didn't I—— A. Yes.

Q. That was Tuesday? A. I believe it was.

Q. And when I insisted upon staying and Minnie stated to you that she had nothing to say that she didn't want to say in my presence, you announced that you would leave and come back and see her another time, and got up and left?

A. Possibly I did.

Q. That is about all that took place on Tuesday?

A. I do not recollect whether I went back to see Minnie on that day or not.

Q. Then, you did go back Wednesday?

A. Yes, I saw her Wednesday.

Q. And about the time of your arrival I came out again did I not? A. Very likely.

Q. And that is where you read her the deposition of Crilly?

A. I do not remember whether the deposition was read at that time or not, Mr. Hanford.

Q. And Mr. Montgomery, isn't it a fact that I told you that I would rather you would not read her the deposition of those witnesses, because it was necessary for us to get Minnie's recollection in regard to the facts in this case from her directly, and that we did not want her to read the testimony of other witnesses?

A. It is probable that you made such a statement.

Q. And you then left off reading depositions upon my request? A. I do not remember that I did.

Q. And stated to me that any time that I thought you were doing anything improper to let you know and you would desist? A. I did not.

Q. You did not state that? A. No, sir.

Q. Do you remember that occurrence?

A. I recollect positively that I did not.

Q. Do you recollect that after that we left the house together and went back to town on the street car?

A. I think we went back to town together on the street car.

Q. And on that occasion Minnie told you that she didn't want you to come back on the next day?

A. I think an arrangement was made to see her on the following Friday.

Q. Isn't it a fact that both Minnie and her husband requested you not to come back because she was so nervous and had been annoyed so much that they wanted her to have a rest?

A. I remember that Minnie suggested that she was nervous and would prefer to take the matter up further with me on Friday.

Q. But on Thursday you did go back and tell her you wanted to see her at Captain MacNab's house? A. I did not.

Q. You went direct to Captain MacNab's house?

A. I went direct to Captain MacNab's house.

Q. And arrived there about noon?

A. I think it was sometime before the noon hour.

Q. Don't you recollect the officers eating lunch there?

A. No, I do not.

Q. And that I came in about the time that they were leaving the table?

A. I do not; it was along possibly towards the noon hour, I don't have any distinct recollection as to what hour it was.

Q. Captain MacNab called Minnie up and told her to come to the house, didn't he?

A. He did not in my presence.

Q. He received a telephone call and then came and told you that Minnie would be there shortly didn't he?

A. My recollection is that he went to the telephone in answer to a call.

Q. Yes, and then came back and told you that Minnie would be there shortly? A. Possibly he did.

Q. And then Minnie came in? A. Minnie came in.

Q. And I was there and Captain MacNab was there?

A. Yes, sir.

Q. And there was some other officers there?

A. I do not distinctly remember any other parties being there, they might have been.

Q. And when Minnie came in Captain MacNab asked me if it was true that Minnie had signed a deed to Charles Page, didn't he?

A. I think he made some such statement to you.

Q. And I told him that that was not so, didn't I, that I didn't believe it?

A. You expressed surprise and some concern about the matter, and stated that you didn't believe a man of business integrity would do such a thing or words to that effect.

Q. And then Captain MacNab showed me a telegram to you from the abstractor in Sapulpa, stating that such a deed was of record, didn't he?

A. You want shown such a telegram.

Q. And I went to the telehone and telephoned a telegram to the telegraph office for a telegram to be sent to Rice and Lyons, asking them to wire me as to the facts in regard to that, did I not?

A. You went to the telephone but I was not concerned and did not charge my mind with the character of your request.

Q. There was some excitement over the *informed* that you had received from the abstractor, wasn't there?

A. Yes, sir.

Q. Captain MacNab was greatly incensed, wasn't he?

A. I believe you showed more feeling, Mr. Hanford, in the matter than anybody else.

Q. And Minnie?

A. I didn't see that Minnie was particularly concerned about it.

Q. The next thing that took place, Captain MacNab advised Minnie that you were there as a representative of the Government to investigate this case and that you wanted to get away and that he wanted her to make a statement to you so that you could get away and return to Oklahoma, did he not?

A. I don't recall any statement of that character by Captain MacNab.

Q. You recollect telling Captain MacNab that you wanted to get away, that you had been here too long now, and that you wanted to see Minnie at that time, did you not? And that she had requested you not to come back that day, and that was why you had come to him to arrange for an interview, did you not? A. I did not.

Q. At that time, after Captain MacNab told Minnie that he wanted her to make a statement to you, and that he would not be concerned with the matter any longer, did I not then advise Minnie, that if she wanted to follow Captain MacNab's advice, that she would also have to follow his advice and tell you the truth, because that was all that you wanted?

A. Captain MacNab didn't make a request of Minnie to make a statement to me at that time and I don't recollect that Mr. Hanford made any suggestion, the character of which is expressed in his question.

Q. There was some talk there at the time of immunity, was there not? A. There was.

Q. On account of Minnie's testimony at Sapulpa?

A. Yes, sir.

Q. And is it not a fact that I resented your talking of immunity and told you—told Minnie that you had no authority to talk of immunity, and I told you that I wanted you not to talk of immunity and prosecutions, because it was only for the purpose of intimidation, and you and I had some altercation over that? A. Possibly that may be the fact.

Q. And you repeatedly told Minnie at that time that all you wanted was the truth did you not? A. I did.

Q. And didn't I tell you on one occasion to ask her what you wanted to know and you asked her if she ever had a son named Thomas, to which she replied, yes, she was the mother of Thomas?

Q. Such conversation may have taken place prior to the time that Mr. Hanford, Captain MacNab, Minnie and myself were in Captain MacNab's quarters on Thursday.

Q. Didn't Minnie ask you during that conversation what you were—what would you do to me if I told you a lie, to which you replied that you would not do anything to her but that you wanted her to tell the truth?

A. It is probable that such a statement was made, I don't have any clear recollection at this time.

Q. Do you recollect that Minnie asked you, well if I should say that I didn't have Thomas Atkins, would my boys down there in Oklahoma get some of that land, and you told her, yes, but that they would only get their share along with the other Creeks? A. No, I didn't.

Q. You are positive of that, Mr. Montgomery?

A. I have no recollection of any such statement.

Q. Mr. Montgomery, isn't it a fact that during that whole interview Minnie sat there in a quiesence mood and didn't say much?

A. It is a fact that Minnie sat on a sofa and had little to say, and apparently took but little cognizance of the conversation going on.

Q. You stood up most of the time, didn't you, Mr. Montgomery? A. I think so.

Q. And you told her once or twice that you wanted her to tell the truth but that you knew that there never was any Thomas Atkins, didn't you? A. No.

Q. And didn't you tell her that these people down in Oklahoma were manufacturing evidence and that you were going to see that the whole bunch was put in the penitentiary?

A. No, I may have stated in the general conversation that it was probable that the Government was going to prosecute any fraud which had been perpetrated by reason of any fraudulent allotment, or attempt at securing a fraudulent allotment.

Q. Didn't you state in the presence of Minnie Atkins, as you walked the floor there, that you were going to see that the whole bunch there—using the word bunch, Mr. Montgomery—was going to be sent to the penitentiary?

A. I have no recollection of that remark.

Q. But that you were going to attempt to get immunity for Minnie?

A. I did state that I would attempt to get immunity for Minnie in the event that it was required.

Q. And that subject of immunity was mentioned a number of times? A. It was.

Q. Isn't it a fact that Captain MacNab stated to Minnie in your presence at that time that you was there to get a statement from her, and if she had told an untruth, to tell the truth and that you would get immunity for her?

A. He stated substantially all that you have said but stated that I would attempt to get immunity for her.

Q. I believe I used the word attempt Mr. Montgomery, and that was the only reference that was made at any time to you getting immunity, was that you would attempt to get immunity?

A. I would attempt to do it, yes, sir.

Q. And you told both Minnie and Captain MacNab that you had no authority to grant immunity or offer immunity to her but that you would use your personal efforts to attempt to get immunity? A. That is true.

Q. Mr. Montgomery, is it not a fact that before Minnie came to the house, Captain MacNab told you in my presence that he was not going to be present while you interviewed Minnie because he feared that any statement she might make might be influenced by his presence and that he intended to do with it because she had been annoyed so much, and was nervous from being watched by detectives, and worried over this matter that he didn't think she would be responsible for anything that she said? A. No.

Q. Then, if Captain MacNab testified to that effect, then you contradict his testimony?

Mr. German: I object to that as argument.

The Court: Yes, that follows.

Mr. Hanford: If Your Honor please, there is a great deal upon which I am examining Mr. Montgomery which is already in the record.

The Court: Well, that is alright. Just interrogate him with regard to what was said.

Mr. Stuart: Your Honor, if Mr. Hanford will permit me to make this suggestion. Mr. Montgomery is evidently attempting to answer with great accuracy; now, you have asked him a question and the question as propounded he says that he did not state that; Now, ask Mr. Montgomery what he did state. Give him an opportunity to say what he did say; say if he agrees with Captain MacNab in substance.

Q. Mr. Montgomery, what if anything, did Captain MacNab state to you in regard to Minnie's condition?

A. Captain MacNab stated that day that Minnie had been harassed by contending interests in this case; that detectives had been employed; that the protection of the military authorities at the Post had been exercised in her behalf and that she was necessarily to some extent excited about this matter. That was substantially as I remember his conversation.

Q. To refresh your memory, Captain MacNab didn't state to you that the military authorities had officially attempted to——

A. I am not undertaking to say that it was done officially.

Q. They were friends who were military officers?

A. Yes.

Q. That was the impression that you got? A. Yes, sir.

Q. Mr. Montgomery, did Minnie state to you in words anything to the effect that she was not the mother of Thomas Atkins prior to her signing that paper in the residence of Captain MacNab at that time? A. She did not.

Q. She did, however, nod her head in the affirmative to your statement that there never was a Thomas Atkins?

A. You mean on the occasion of the conference between you, Captain MacNab, and Minnie and I on Thursday in Captain's Quarters?

Q. Yes?

A. She stated in language that she was not the mother of Thomas Atkins, spoke it out.

Q. Isn't it a fact, Mr. Montgomery, that you stated that all that you wanted her to do was to tell the truth?

A. Yes, sir.

Q. And that I stated to you then, well ask her what you want to know; and you turned to Minnie and said: "And I know that there never was a Thomas Atkins and that the only child she had was that girl that died at Fort Logan and those boys down in Oklahoma, isn't that so, Minnie?" and she nodded her head?

A. I don't remember such an occurrence, Mr. Hanford.

Q. Hadn't Minnie asked you prior to that a number of times, "What do you want me to say?"

A. No she did not.

Q. Didn't she tell you "You look at me so funny"?

A. She might have said that, likely did.

Q. Mr. Montgomery, after the interview regarding which you have testified in the room downstairs, you went to Captain MacNab's office with Minnie and myself and Captain MacNab?

A. Yes, sir.

Q. And you told Captain MacNab that you wanted to make out a statement for Minnie to sign in his presence?

A. Substantially so, yes, sir.

Q. Captain MacNab had been out of the room for sometime prior to that?

A. I think he had been out on military duties.

Q. You got a piece of paper from Captain MacNab's desk and wrote out something for Minnie to sign, didn't you?

A. Yes.

Q. And Minnie asked Captain MacNab if she should sign it, didn't she?

A. She may have done so, I don't remember distinctly.

Q. To be exact, Mr. Montgomery, didn't she turn to Captain MacNab and say "Do you want me to sign it"?

A. She may have done so.

Q. And Captain MacNab told her that he only wanted her to sign it if it was the truth?

A. I think that is true.

Q. And she hesitated some time before signing that paper, didn't she? A. She did hesitate, yes.

Q. She sat a quite a while and said she didn't know what to do, didn't she?

A. She likely, very likely, made such a remark as that.

Q. Mr. Montgomery, you have testified as to the contents of that paper that she signed by refreshing your recollection from your report? A. Yes.

Q. And your testimony as to its contents is dependent upon your refreshing your memory from that report, is it not? A. To some extent.

Q. I will ask you, Mr. Montgomery, if it is not a fact that in that statement nothing was said regarding Minnie's father or graft money?

A. Her father and the graft money was mentioned.

Q. In that report, in that statement?

A. In that written statement.

Q. Are you positive of that?

A. That is to the best of my recollection.

Q. On the other hand, Mr. Montgomery, to refresh your memory, let me ask you, didn't that statement contain the bare statement that "I, Minnie Atkins, in the presence of F. L. Montgomery, Probate Attorney for the Creek nation, and E. C. Hanford, her attorney, here state that I never gave birth to a son named Thomas Atkins, and that the only children I ever had was Alice or Mabel and Harvey and Charlie", without any reference to her father?

A. No, I think the statement embodied the mention of her father and the graft money.

Q. Your memorandum of that statement you state was written out on the train on your way to Denver?

A. Yes, sir.

Q. The following day, Mr. Montgomery, on Friday, you again went out to Captain MacNab's quarters, did you not?

A. Yes, sir.

Q. And you were there when I came in? A. Yes.

Q. And what did I tell you?

A. You told me that Minnie wanted to see me at once.

Q. And I requested you and Captain MacNab to go with me to Minnie's house? A. Yes.

Q. Captain MacNab stated that he had other matters to attend to but that he would see her later?

A. Well, Captain MacNab didn't go with us I don't know.

Q. And you went down with me to her house? A. Yes.

Q. Minnie wasn't there when we got there?

A. I don't remember whether she was there or whether she had some callers, we didn't see her for some time.

Q. Don't you remember we went in and talked to her husband, that she was out and we talked to her husband?

A. I don't remember whether we talked to her husband or not.

Q. Don't you recollect that—— Didn't I tell her husband that something had come up that we had to see Minnie at once, and that we would wait for her to come back, and I asked him if Minnie had told him anything?

A. I don't remember.

Q. And don't you recollect her husband telling us that Minnie was mumbling in her sleep last night and couldn't sleep, and I was up with her several times, and she cried in the night?

A. It is probable Mr. Hanford but I do not remember.

Q. I am satisfied you are testifying from your recollection and I am trying to refresh it Mr. Montgomery. And didn't he tell us there——

The Court: Well, now, let me see. I am interested in knowing about Minnie there. Get to the point when Minnie comes in.

Mr. Hanford: This is preparatory to other statements, and also goes to testimony that is already given, your Honor with which your Honor is not familiar and I can bring it out very quickly.

The Court: Well, all right then.

Q. And didn't Minnie's husband tell you at that time that he had returned to lunch that day just before we got there and found Minnie crying with her head on the table, and she told him that she told a lie to the Government and now she would have to go to jail?

Mr. German: I object to that on the ground that is hearsay, calling for hearsay evidence.

The Court: Objection sustained.

Mr. Stuart: Your Honor, let me make a suggestion about that. This is all one matter and contemporaneous with the investigation of Mr. Montgomery. Mr. Montgomery was there to find out the facts?

The Court: Well, we will not take any more time about it. Let him answer. I will get the whole thing, except that I am anxious that it be boiled down just as much as possible consistent with my getting the situation. Cut out everything that is not material as you conceive it.

A. It is very probable that such a conversation was had, Mr. Hanford.

Q. And following that, Minnie came back to the house but in the meantime a caller had arrived and you and I went outside?

A. Well, I know we met Minnie around the corner of the house.

Q. What did she tell you?

A. She substantially repudiated the confession made to me the day before, and stated that she had done it to please—

Q. Just a minute, Mr. Montgomery. Will you repeat just as nearly as you can what Minnie said to you?

A. I am undertaking to. That she had made this statement to please me, and that I had been very persistent in this matter, and that she wanted to get rid of me; and that she was nervous and that she had been subjected to strennous ordeals for months in regard to the birth and existence of Tommy Atkins; and that the statement was untrue; that she was the mother of Tommy Atkins and that the statement, written statement, was signed purely under those circumstances.

Q. And did she tell you at that time that she didn't want the land and that she hoped they would take it and begone with it?

A. She said substantially that she would rather not have any property rights in the matter than to be harassed so much.

Q. And didn't she tell you that she just had to tell you that she had told you a lie and that she knew it in her soul at that time, and that now if she ever got to jail for telling the Government a lie I will just go and that is all?

A. No, she didn't tell me anything of that kind.

Q. And didn't you tell her "Well, Minnie, you have made me a great deal of trouble, I have sent telegrams in regard to that statement, and I will have to send a lot of others now, and if what you are telling me now is the truth I hope you will get the land and I hope to assist you in getting it." Or words to that effect?

A. Substantially correct.

Q. Mr. Montgomery, you do recollect that in that signed statement, Minnie told you that the only children she ever had were Alice and Harvey and Charlie? A. Yes, sir.

Q. She didn't say anything about the Peterkin child that was born at Leavenworth in that statement?

A. She did not.

Q. She did state that she was the mother of only three and that is all? A. That is all.

Q. So, the statement was not true in that regard?

Mr. German: I object to that as argument?

The Court: Sustained.

Cross Examination by Mr. Cruce.

Q. Mr. Montgomery, you speak about, in this report that you made, about the interest that Buell had, Buell and Bartlett? A. Yes, sir.

Q. By virtue of some one having filed on the land. Who was it that had filed on it? A. I think that——

Q. Quinton Garrett?

A. Quinton Garrett and possibly some other parties who claimed rights.

Q. Do you know whether allotment certificates were issued to any of these other parties?

A. No, I do not, no.

Q. You didn't inquire. Now, do you know who has been paying Mr. Robertson, the Pinkerton Detective in this case?

A. I can tell you from my nnderstanding.

The Court: That can probably be gotten at more directly.

Q. Well, is the Government paying him? The United States Government?

A. The Government is not from my acquaintance, as long as I was connected with the case the Government didn't.

Q. What expenditures do you know of Bartlett and Buell having made to support the plaintiff in the prosecution of this suit?

Mr. German: I object to that.

The Court: Overruled.

Mr. German: Exception.

A. It was understood by me that the interest of the Government and Bartlett and Buell, and was so represented by me to the authorities at Washington and to R. C. Allen, National Attorney at the time, that the interest of Buell and Bartlett and the Creek Nation were identical up to the point of the cancellation of this allotment.

Mr. German: Interest of who?

A. Buell and Bartlett and the Creek Nation.

Q. Now, one other matter. Minnie, I think you said, told you on some two or three occasions before she finally made the signed statement in Seattle, that in substance, she had had a child named Tommy? A. She did.

Q. Now, your attitude, Mr. Montgomery, in all your talks to her was that you did not believe that statement?

A. Yes, it was and I insisted that she give me such information as would—whereby I could verify the facts that she was the mother of Thomas Atkins.

Q. Now, you gave her the benefit of all the information that you had gathered prior to going there? A. Yes, sir.

Q. And your judgment—your opinion was in talking to her that if she gave you a statement that was the truth, it would be a statement that she had not had any child named Tommy?

A. With the showing that I had before me, that is true.

Q. And it was in this connection that naturally you said to her that if you could—that if you make a statement now, and get into any trouble about having made false statements heretofore, I will do what I can to get you immunity?

A. That is true.

Recross Examination by Mr. Stuart.

Q. Who was in Seattle from this country at the time that you was seeking this—besides yourself? Mr. Robinson——Mr. Robinson, the Pinkerton detective, was there, wasn't he?

A. Mr. Robinson.

Q. He was employed by Buell, was he?

A. That is my understanding.

Q. And Sadie James was there? A. Yes, sir.

Q. At the same time that you were there? A. Yes, sir.

Q. And who was the other one?

A. Buell—Garfield Buell.

Redirect Examination by Mr. German.

Q. Mr. Montgomery, you say Mr. Mott was the first person to take this matter up with you?

A. That is my recollection.

Q. Yes, sir, about when did he do that?

A. Either the very last days of November or the first days of December 1914.

Q. You say at that time you had not heard anything about the Thomas Atkins case?

A. I only had, just in a—just in an intimation of the fact that it was included in a list of what we called fraudulent and duplicate allotments, in our office.

Q. In your office? A. Yes, sir.

Q. And in that time, did you know that about the middle of October, a month and a half before Mr. Mott came to you, that Judge Allen, as Creek National Attorney, had written a letter to the Commissioner of Indian Affairs, recommending that suit be brought to cancel this Atkins allotment?

A. I knew nothing of such letter.

Q. You didn't know anything of that? A. No, sir.

Q. Did you know at the time that Judge Allen wrote that letter——

> The Court: Well, now, Mr. German, probably that, —unless you think that this witness knows, let's get that into the record in some other way.
>
> Mr. German: Well?
>
> The Court: If you believe—if you feel that he has that information or could reasonably have it, you may ask the question; otherwise, let's get it into the record some other way.

Q. Mr. Montgomery, your work as probate attorney does not call ordinarily for activity in the matter of work for the Creek Tribe as a Tribe, did it?

A. Up to that time practically all of my energies were directed toward Creek National affairs.

Q. You officed by the side of Judge Allen's office?

A. With him.

Q. With him? A. In his office, yes, sir.

Q. And he had frequently conferred with you concerning tribal matters? A. Continually.

Q. Continually? A. Yes, sir.

Q. Now, when Mr. Mott came to you, do you know whether he was advised of that? A. I take it that he was.

Q. Yes, sir. And he took up with you the matter of taking some action in this case? A. Yes, sir.

Q. Now, after Mr. Mott conferred with you concerning this matter and told you of a negro woman who might be seen in connection with it, state whether you conferred with any official of the United States Government.

A. I had an extended conference with Mr. Kelsey in regard to the matter.

Q. Regarding the matter? A. Yes, sir

Q. Was Mr. Mott present? A. I don't think he was.

Q. Did you get any *of* advice from Mr. Kelsey with regard to what you should do?

A. I did, and he framed a telegram to the Washington authorities, requesting that I be sent to Kansas City to make this investigation.

Q. Now, who was Mr. Kelsey?

A. He was the—in charge of the Indian Agency, Superintendent.

Q. Superintendent for the Five Civilized Tribes?

A. He had some sort of name; I don't know what it was.

Q. He was the head man—— A. Yes.

Q. Locally here, in the matter of the Five Tribes affairs?

A. Yes, sir.

Q. Did you get any instructions from the Commissioner of Indian Affairs? A. I did.

Q. Pursuant to that telegram state whether in going to Kansas City, it was in pursuance to those instructions.

A. It was.

Q. And you say you met Mr. Buell and Mr. Robinson there? A. Yes, sir, and Mr. Bartlett, also.

Q. Were you authorized or instructed to confer with Sadie James by any communication from the Commissioner of Indian Affairs? A. I was.

Q. Mr. Montgomery, as United States Probate Attorney, then and now, during your term, who is the officer—to whom you are required to look for instructions?

A. The Commissioner of Indian Affairs has primary control over the Probate Attorney as I understand, and about this time, I think the Commissioner's office recognized authority upon the part of Judge Allen to direct the energies of the Probate attorneys in the Creek nation.

Q. Now, in your work in Kansas City, state whether you permitted any influence to be exercised by the Buell and Bartlett interests.

A. I guarded against every possible influence on the part of Bartlett and Buell.

Q. Now, when you went to Seattle, state at whose suggestion you made that trip to see Minnie.

A. At the suggestion of the Washington office.

Q. Had you made any suggestion to the Washington office that you make the trip or that she be interviewed?

The Court: That the Kansas City or the Seattle trip?

Mr. German: The Seattle.

A. On my return from Kansas City, I went into conference with Mr. Kelsey, and we then consulted Mr. Linebaugh.

Q. The United States Attorney?

A. Who was United States Attorney for this district, and Mr. Kelsey communicated with the Washington office with respect to my Seattle trip. That is the best of my recollection.

Q. In the conference between yourself and Mr. Kelsey and then with Mr. Linebaugh, you discussed the matter of interviewing Minnie? A. Yes, sir.

Q. Was authority from Washington obtained for you to make the trip? A. Yes, sir, it was.

Q. And you went pursuant to that authority?

Q. Yes, sir. If it please the Court, I would like to add right there, for my benefit, that during this time Judge Allen and the Washington authorities were clearly advised by me as to the attitude of Buell and Bartlett in this case.

Q. You didn't conceal any of that from them?

A. I did not.

Q. Now, on page 12 of your report, will you refer to it—on page 12 of your report, Mr. Hanford read among others, this statement: the interests of Mr. Buell in this case was fully and completely explained by me to Captain MacNab when I had my audience with him in regard to this case, although Captain MacNab, Minnie Atkins, C. E. Hanford, or none of the parties, knew that Mr. Buell, or Mr. Robinson, or Sadie James, were in the city up to the happening of the event which I now relate. I wish you would state to the Court to what event you then relate; what date the event you relate then occurred.

> The Court: The point being as to when it was in that Seattle situation that the presence there of Buell and Robinson became known to Hanford, Minnie Atkins, and the officer?
>
> Mr. German: Captain MacNab.

Q. Refer to your report and give the date.

A. Their presence was unknown to any of the parties mentioned until Friday.

Q. Until Friday of that week?

A. Yes, sir. Subsequent to the making of the written statement by Minnie Atkins in Captain MacNab's office on Thursday.

Q. Now, Mr. Montgomery, I call your attention to page 4 of your report, in that you state when I read to her—that is Minnie—the depositions taken at Leavenworth, she stated that she was subjected to the influences—I better not read that to you; I don't want to make a leading question. State what Minnie said when you read to her the depositions taken at Leavenworth.

A. She stated in substance that no one could get her to say that she was not the mother of *Minnie* Atkins.

Q. Now, what else in that connection did she state. If you need to refresh your memory——

A. I don't remember that there was very much said.

Q. Look at the middle of that page, the middle paragraph.

A. If the Court will permit me, I will read this.

The Court: Well, now, you have referred to a statement made as you have testified a few days after this occurred; is what you read there as you have purported Minnie said substantially what she said?

A. Yes, sir.

The Court: Alright.

Q. When I had read to her the depositions taken at Leavenworth, she stated that she was subjected to the influence of Page through Frank Long at the time that she was at Leavenworth, and that she knew none of the parties there, except Mr. Crilley, the liveryman, and stated that while she knew him, much that she testified to was not true.

Q. Let me interrupt you there to ask you a question. Had you read to her the depositions of Dennis Jones and Rube Smith and Sam Nash, and Walter Banks?

A. Very likely I had, I don't remember.

Q. They were among the depositions? A. Yes, sir.

Q. Go ahead.

A. She stated that she had been framed by Long and others to say that Tommy was born at Granny Letcher's and not at the hospital, and was emphatic in that no one could get her to say that Tommy was never born to her. I believe the balance of that is practically——

Q. Now, what day was it that she made those statements to you on? A. Monday.

Q. Was Monday the first day that you interviewed her?

A. Yes, sir.

Q. With reference to Minnie's statement to you, that an attempt was being made to prove that she was the mother of a darkey—do you recall her language on that occasion—that subject? A. No, I don't.

Q. Do you recall the substance of it, you stated instead of me doing so or Mr. Hanford?

A. I think Minnie was rather emphatic in her denunciation of any imputation of that character.

Q. Did she tell you where they had gotten the information that they were trying to prove that she was the mother of a darkey?

A. She may have done it but I don't remember.

Q. Did she tell it—did she tell you where she had gotten that information? A. I don't recall.

Q. Did she tell you who was trying to do that?

A. I am at a loss to tell you Mr. German, about those things.

Q. Do you remember whether she said it was Mr. Long or not? A. No, I don't think she told me that.

Q. Did she detail to you in that connection any occurrense at Leavenworth while she was there, on that subject?

A. She spoke to me and discussed her Leavenworth trip and mentioned the number of parties that she met in Leavenworth but I didn't charge my mind with that detail.

Q. Did you read over to her or call to her the names of all the witnesses who had given depositions at Leavenworth in October just before your trip. [A.] Crilley and—I named several of them and read over their testimony, but whether I included them all or not, I am not, I am unable to state.

Q. And it was in that connection that she told you Crilley was the only one who knew her?

A. The only one that she knew.

Q. The only one that she knew? A. Yes.

Q. You say on the Thursday morning when you went to the Captain MacNab's that he answered the telephone call and then came back and told you that Minnie would be up there? A. Yes, sir, that is my recollection.

Q. That is your recollection. Did you find out who it was calling? A. I didn't, I did not.

Q. What was it that Captain MacNab said to Minnie on that Thursday morning about her making a statement in connection with the subject as to what she should tell.

A. Captain MacNab substantially stated to her that any statement made by her would be taken against her and not for her, but that in any event, he wanted her to tell me the absolute truth about this situation, that it was time now that the matter was—that the ruth of the entire matter was brought out.

Q. Was that before or after she made the statement after waiting about twenty minutes?

A. I don't remember whether it was before making the statement when she was sitting on the sofa, or whether it was before signing the written statement prepared by me.

Q. No, in answer to a question of Mr. Hanford's, you stated this, that Minnie did not state prior to the time that she signed the statement that she was not the mother of Thomas.

A. Well, I am incorrect in that; she stated that down on the sofa.

Q. You mean prior to the morning on which——

A. Yes, prior to the occurrence at the time at which she made this confession.

Q. You told about Captain MacNab having been out of the room for quite a little while that morning; I didn't understand the connection in which that came; what are the facts there?

A. I think that Captain MacNab was there when Minnie first came in, and we all three—four of us—talked there for some time and he had to go out on account of some of his military duties and came back, I think about the time that she made her statement, or maybe afterwards, I don't know, but he was present at the time that we went up stairs to his office and remained with us until we left.

Q. What was Minnie's condition that morning, what was her appearance, what indication with reference to her frame of mind?

A. Well, Minnie always impressed me—— Well, Minnie was of a nervous disposition rather irratic.

Q. Always that way during your acquaintance with her?

A. Apparently, yes, sir.

Q. Was she any different that morning from the way she was the day before when she said she would not say she was not the mother of Tommy Atkins?

A. No perceptible difference.

Q. No perceptible difference? A. No, sir.

Q. After she signed this statement, how did it happen that you went down to her house with her?

A. It was lunch time and I ate lunch with them and went on to town.

Q. I am asking how it happened?

A. Well, it happened by reason of the fact that I wanted to help her get this money out of Oklahoma.

Q. Oh, that was mentioned while you were at the Captain's house? A. I think it was.

Q. Now, during that noon hour and the afternoon as long as you were with her, what did she say if anything about the statement she had signed that morning?

A. She expressed relief and satisfaction that the thing was over; and a hope that she would secure the money from Oklahoma before any legal process was gotten out to withhold it in this jurisdiction.

Q. Now, did she figure on the probability of a suit down in Oklahoma?

A. Well, that was more by suggestion from either myself or Mr. Hanford than any original business thought on the part of Minnie.

Q. Now, what had Mr. Hanford said about that?

A. Either Mr. Hanford or I made the original suggestion that the money be withdrawn, and both of us concurred in that being desired.

Q. Because of your information as to how it was paid, the condition on which it was paid?

A. Yes, sir, I take it all parties concerned were cognizant of that.

Q. Now, when did you next see after you left Minnie—where did you leave Minnie, at the bank or not?

A. At the bank I think.

Q. Was her husband with her? A. Yes, sir.

Q. When did you next see Minnie or Mr. Hanford or Mr. Folk or Captain MacNab?

A. The next morning when I went to the Post, I don't know what time it was, it was before noon.

Q. Who did you first see? A. I first met Mr. Folk.

Q. Where?

A. Just where the little railroad station is close to the line of the Campus of the Fort.

Q. Did he talk with you? A. He did.

Q. State whether or not he told you in that conversation anything about Minnie desiring to retract the statement?

A. He said nothing about Minnie's desire to retract the statement.

Q. Did not. Now, where did you go from there?

A. I went to Captain MacNab's quarters.

Q. How long were you in going from where Mr. Folk was to Captain MacNab's quarters, about?

A. Oh, five minutes I suppose.

Q. Was the Captain in when you got there?

A. I think he was, I do not remember distinctly.

Q. How long before Mr. Hanford came in?

A. It wasn't but a short while.

Q. What did he say when he first came in?

A. I think he told me that Minnie wanted to see me.

Q. Did he say where he had been?

A. Yes, said he had been to see her.

Q. Been to see her and that Minnie wanted to see you, and then what did you do? A. I said all right.

Q. Did he tell you what Minnie wanted?

A. I believe he did but I am not sure about it. I think, however, he did.

Q. What is your recollection as to what he did tell you?

A. I think he stated that she had retracted.

Q. That she had retracted? A. Yes, sir.

Q. Did he say how long before? A. He did not.

Q. What was his manner when he came in?

A. He was in considerable of a hurry.

Q. Did he come in in a hurry? A. He did.

Q. And said that she wanted to retract the statement and wanted to see you? A. Substantially so.

Q. Then you went back out there and she retracted it?

A. Yes, sir.

Q. Now, what was it you said to her?

A. I expressed a disappointment at the situation having become again complicated, because I thought it was over with, she had made this statement, and likely expressed my regrets at having spent my time and money without having finally concluded.

Q. Did you express to her any belief on your part as to whether she did or didn't have Tommy?

A. I might have told her that I was glad it was over and that she had finally made up her mind as to just what the truth was, something to that effect.

Q. What was your belief?

Mr. Stuart: I object to that.

Mr. German: If he gave any expression of that view.

The Court: I expect I will have to finally conclude what all those circumstances led to.

Q. Mr. Montgomery, did the presence of Mr. Robertson and Mr. Buell in Seattle on that occasion and your work, your knowledge of their presence, in any manner influence you in connection with your work with Minnie?

Mr. Cruce: We object, if the Court please, as incompetent, calls for a conclusion, the Court will have to determine.

The Court: Overruled.

Mr. Cruce: Exception.

A. It did not.

Cross Examination by Mr. Hanford.

Q. Mr. Montgomry, that statement that Minnie Folk signed at that time was not sworn to was it? A. No, sir.

Q. Simply a signed statement? A. That's all.

Cross Examination by Mr. Cruce.

Q. Now, Mr. Montgomery, at the time you took that statement you read it yourself? A. I did.

Q. And you thought you were writing down the substance of what you had come to Seattle to get?

A. No, sir, I was writing the substance of what Minnie Atkins told me about the birth of Thomas Atkins.

Q. Now, if she had stated to you—— If she had stated to you that she didn't know Sam Nash or Walter Banks or any of these other witnesses, why didn't you put that in your written statement?

A. Because I didn't think it was material. I took it as a proposition of law that the mother of a child had the best knowledge of its birth.

Q. Well, why didn't you stop your investigation then when woman—— Now, listen—— When this woman, having repudiated the statement and told you finally that she was telling you the God's truth; when she told you she had Thomas Atkins, why didn't you take that statement as final as well as the statement which you treated as final when she denied having been the mother of Tommy Atkins?

A. I didn't treat her statement denying that she was the mother of Thomas Atkins as an absolute finality.

Q. Well, didn't you testify a few moments ago, or did I understand you wrong, didn't you tell Mr. German that when she repudiated that confession that you expressed surprise and disappointment, that you had thought the matter finally closed? A. Well, I did.

Q. She did repudiate that statement? A. She did.

Q. And told you she was going to tell the truth about it if she went to prison? A. Yes.

Q. Why didn't you treat that statement—or rather, you didn't treat it as final did you? A. No.

Mr. German: I think that is argumentative.

Q. After she repudiated this so called confession, you had a conference at the hotel, didn't you? A. Yes, sir.

Q. You went over there and met Mr. Buell? A. Yes.

Q. Mr. Robertson, the detective, Pinkerton Detective?

A. Yes, sir.

Q. And you talked the situation over? A. Yes, sir.

Q. And what conclusion did you come to then?

A. We thought we would get the entire bunch together.

Q. What bunch do you mean, your bunch or the other bunch? A. All of them.

Q. I will ask you to refresh your recollection, because it has been some time since you made this report, if you didn't report—and by the way this report we have been reading from is not made to the Secretary of the Interior is it?

A. No, sir.

Q. That is a report to Judge Allen? A. Yes, sir.

Q. I will ask you to refresh your recollection, if that report doesn't read this way; if after talking about her repudiating the statement and that she said she did not know what she was talking about at the time, and that she made the statement for the purpose of pleasing me and that it was not true that she was the mother of Thomas Atkins: "I then went to the hotel where I had an audience with Garfield Buell, J. W. Robinson of the Pinkerton Detective force of Kansas City, Missouri, and after talking the situation over we concluded that we would try to find out the exact attitude of C. E. Hanford in the case." Is that correct?

A. That is substantially correct.

Q. What had you sent that telegram for when Minnie had told you at a prior time that she had sold out to Page. Why did you send a telegram to Creek County to get a confirmation of it?

A. Because I wanted to locate Mr. Hanford in this matter.

Q. Well, now, was it or not—— Cancel that question. You got the confirmatory telegram, you made it convenient that Mr. Hanford should get that information? A. Yes, sir.

Q. The purpose in that was to get Hanford angry with Page? A. Not primarily so.

Q. Well, was that one of the purposes?

A. That was one of the purposes.

Q. Who suggested that, Robinson or Buell?

A. I was the one that suggested it.

Q. Do you know how they happened to be in Seattle with you, Robinson and Buell?

A. They went—— It was arranged in Kansas City that they were going to Seattle.

Q. Who arranged it?

A. The general conversation between Mr. Buell, Mr. Robinson and I.

Q. And you had made up your mind you were not going to let them influence your mind in any way?

A. Not in the initial investigation or at any time as far as my duty toward the Government was concerned.

Q. If you were going there simply to interview Minnie, and you took pains to keep them away from Minnie, what services could they render you?

A. It was their suggestion that they went and not mine.

Q. They went on their own suggestion? A. Yes, sir.

Q. Now, you don't know how many times they saw Minnie in your absence in Seattle? A. No.

Q. Now, you had also a meeting there in the hotel in which Buell and Robinson and Sadie James were present?

A. Well, that was preliminary to a meeting with Mr. Hanford.

Q. Who procured the room that Sadie was occupying?

A. She was in Mr. Buell's room.

Q. Mr. Buell's room? A. Yes, sir.

Q. That was adjoining your room? A. Yes, sir.

Q. And you arranged to have Mr. Hanford come down there? A. Yes, sir, to my room.

Q. And then did Mr. Robinson and Mr. Buell and Sadie appear on the scene?

A. I think when Mr. Hanford first came in Mr. Buell and Mr. Robinson were in there in my room and I introduced him and then some little surprise was expressed by Mr. Hanford when he appeared to feel like there had been some plot laid for him, and expressed the desire to have one of his friends present.

Q. It wouldn't be proper to state the conversation. I just wanted to show the circumstances. I believe that is all.

Redirect Examination by Mr. German.

Q. Did you have a conversation with Mr. Hanford there in the room? A. Yes, sir.

Q. Did he have anybody present?

A. He had a friend of his, yes, sir.

Q. He desired that a certain friend of his be called in before he talked? A. Yes, sir.

Q. And he called a friend of his? A. Yes, sir.

Q. And you held a conversation? A. Yes, sir.

Q. What date was that?

A. That was on Friday I think.

Q. Now, Mr. Montgomery, up to that time so far as your knowledge extended had Buell or Bartlett—— I mean Buell or Robinson or Sadie James during that week talked to Minnie Atkins? A. They had not.

Mr. Cruce: You mean so far as your knowledge is concerned?

A. Certainly.

Q. Are you a detective? A. I am not.

Q. Did you ever act in the capacity of a detective?

A. I have not unless it was on this occasion and that was a subterfuge.

Q. If you were a detective on this occasion it was your first experience? A. It was an imposition on me.

Cross Examination by Mr. Stuart.

Q. Mr. Montgomery, at the time you were there making this investigation, you knew that Mr. Hanford was Minnie Atkins' attorney? A. Yes, sir.

Q. You knew that? A. Yes, sir.

Q. And you knew that he was representing her throughout that transaction as her attorney? A. Yes, sir.

Mr. Stuart: That is all.

(Witness dismissed).

Mr. German: Your Honor, we desire now to offer the portion of the testimony of Mr. Hanford given on the Receivership hearing and appearing on page 340 of the printed transcript of that matter: "Q. Minnie made these admissions to Mr. Montgomery on Thursday afternoon, didn't she, or Thursday morning? A. I think it was in the afternoon; no, let me see. Q. Thursday morning? A. No, I think it was Thursday morning, yes, sir, just before noon. Q. She signed a written document, did she not? A. Yes, sir. Q. And it was turned over to Captain Hanford? A. Captain MacNab. Q. Captain MacNab, and the next morning you say Minnie came to Captain MacNab's quarters and repudiated? A. Oh, no. Q. What did she say? A. I said that Mr. Montgomery and I went down to Minnie's house and she repudiated. Q. At the house? A. Yes. Q. Where did you find Mr. Montgomery to go with him to the house? A. Captain MacNab's quarter's. Q. Where had you come from when you went to Captain MacNab's quarters for him? A. From Minnie. Q. You had a conversation with Minnie before you went up? A. Well, she talked to me. Q. Answer my question; you had a conversation with her? A. She conversed with me, yes. I said something to her when I came in. Q. I am asking you if you had a conversation with her? A. Yes."

Now, I want to—I guess I had better take the witness stand.

And thereupon, W. P. Z. GERMAN, being called on behalf of the United States, testified under oath as follows:

Direct Examination by Mr. Allen.

Q. Mr. German, were you present at the preliminary hearing, the Receivership hearing in this case? A. Yes, sir.

Q. Did you conduct the case in chief on behalf of the Government? A. Principally, yes, sir.

Q. At that time, you may state whether or not the Government offered evidence to show that, or showing that Minnie Atkins gave birth to Robert Lee Peterkin, in July, 1886?

A. It did.

Q. At the home of Mrs. Woods, in Leavenworth, Kansas?

A. It did.

Q. Was it—was that evidence offered before the affidavit of Minnie Atkins was filed or the testimony of Minnie Atkins given in that case?

A. Yes, sir, the evidence was offered—was introduced in chief and her affidavits and then the testimony following it on cross examination was offered by the defense.

Q. That evidence on behalf of the Government showed that Minnie Atkins was the mother of this child born at the home of Mrs. Woods, on July 31, 1886, I believe?

A. Yes, sir.

Mr. Stuart: Well, Your Honor, I object to that because it is leading in the first place, the evidence did not show that——

The Court: That is a conclusion as to what the evidence showed. I don't now appreciate the point that is being made here.

Mr. Allen: If the Court please, it is the short way of proving the fact that we would have to introduce another record to prove.

Mr. Stuart: Yes, Judge, but it's a very improper way to make a record.

The Court: Let me see if I understand it. Are you offering this now, for the purpose of avoiding putting in the evidence introduced at the Receivership hearing regarding what transpired at the home of the witness?

Mr. Allen: That is what we desire to prove, Your Honor. We desire to show following this that Minnie Atkins admitted that she had a child at the home of Mrs. Woods; that that was the first time that she had ever admitted having more than one child in Leavenworth.

The Court: Well, now, I gathered from this testimony that the point you were seeking to prove here by Mr. German, was merely the order in which the proof was presented at the Receivership hearing.

Mr. Allen: That is all.

The Court: And not what that proof amounted to.

Mr. Allen: No, sir.

The Court: Mr. German has now testified that the order of proof at Receivership hearing was this, that the testimony in regard to what transpired at the Woods place, of the birth of the child there, was offered before the affidavit of Minnie Atkins and her testimony.

Mr. Allen: That is all.

The Court: That is the only effect the Court can see that it can have.

Mr. Allen: That is the purpose at this time.

The Court: Cross examine.

Cross Examination by Mr. Stuart.

Q. Mr. German, your contention being all the time that Minnie had the Peterkin child at the Woods place, is that correct?

A. I beg your pardon, Judge, I didn't hear you.

Q. Your contention being all that time that Minnie Atkins had the Peterkin child at the Woods place?

A. We——

Q. Just answer my question?

A. No, not all the time, because we didn't know it until January.

Q. Well, it is your contention now?

A. Yes, sir, been that since we discovered it in January, 1916.

Q. And that the child born in 1886 to Minnie was the Peterkin child at the Woods house? A. Yes, sir.

Q. That is the Government's contention? A. Yes.

Witness dismissed.

Mr. German: Your Honor, we now offer a portion of the affidavit signed by Minnie Atkins, and filed and used in the Receivership case in the defense. I don't know whether it is necessary to read it or not. It appears——

The Court: You better read it, I guess. Read it right in the record.

Mr. German: Now, we offer this for the limited purpose of showing, and in support of our theory and contention, that the defendant, that group of defendants, had fabricated a case.

Mr. Stuart: Your Honor, I would like to understand that; we offer this now as showing that the defendant offered a certain group of witnesses, as showing a certain state and condition, with reference to this Minnie Atkins——

Mr. German: No.

Mr. Stuart: Well, what?

Mr. German: To show that a group of defendants, Minnie Folk and her group, have a fabricated a case of the birth of Thomas Atkins; we are offering the evidence which they produced in the support of that, not vouching for its truth at all, and then we propose to prove that it was false and they knew it, and our proof relating to the falsity of it has already been partly introduced, and we will follow it with depositions. That is the purpose of it.

The Court: And this that you now offer is a part of the affidavit of Minnie Atkins produced at the Receivership hearing?

Mr. German: Yes, sir, in support of that, the same exactly as the theory and reason for our introduction of the depositions of Dennis Jones, Rube Smith and Walter Banks and Sam Nash.

Mr. Stuart: Your Honor, I don't——

Mr. German: And the testimony of Minnie on two or three occasions.

Mr. Stuart: Your Honor, I can't see any legal ground for the admission of that, if he wants to break down our case, he can either attack our witnesses on cross examination and present these statements as contradictory statements, or he can do it by any other method known to law; but he is now saying I am going to introduce a lot of depositions in evidence that you had in another case, and then attack that testimony that I now put in evidence. In other words I am going to attack a statement that you made out of court, before you make it in this court; that is just the proposition.

Mr. German: Exactly.

Mr. Cruce: There is this statement I would like to make in reference to that if the Court please——

The Court: I am not going to admit that as far as the Receivership hearing is concerned. I permitted you to introduce the depositions, but the Receivership case was closer related to this case now. That is, the court sitting here has heard that case. That comes too closely to taking the very evidence that is offered by the parties in this case now, and seeking to prove by that that they are fabricating a case. I must determine that from the apparent truth or falsity, and their knowledge of its truth or falsity, as it appears.

Mr. German: Yes, sir, but here is this, if I may make a suggestion——

The Court: Now, I am not going to encumber the record with anything offered for the purpose of building up the case so far as relates to the evidence in the Receivership case, for the purpose of building up a case and then breaking it down. If that evidencce is offered in this case now, you will be permitted to lead it with such evidence as you have to break it down.

Mr. German: May I make this suggestion to the Court? It appears in evidence that Minnie first stated when she first testified at Sapulpa, the first testimony that she gave, that she had given birth to one child at Leavenworth, and then she stated that its name was Thomas; that it was born at the Sister's hospital, and that it was born after she left the Stafford's; that she was carrying it at the Stafford's and gave birth to it at the Sister's hospital. Now, you will recall that the Stafford's was the third place that she worked at in Leavenworth. Now, it is in evidence that the defendants could not support that theory, found out the records did not support that theory at the hospital, but they came in contact with Mr. Peterkin; Mr. Peterkin knew of course of the birth of this child, Robert Lee, at Mrs. Woods, following Minnie's stay at the Stafford's, and that she carried him at the Stafford's; there upon and following that, they came in contact with Sadie James and Dennis Jones and those parties, and they changed the time of its birth to between the Hyde's, the first place she worked at, and the Grodevants, the second place she worked at; but still said nothing about Robert Lee, and she testified at Tulsa then, that she had given birth to one child, but one at Leavenworth, and that it was born at Granny Letcher's between the time she worked at Hyde's and the Grodevant's, and she worked at Stafford's following Grodevant's. Then at the Receivership hearing which followed the deposition she had given at Tulsa about three months, we proved as a part of our case in chief, the Robert Lee Peterkin birth. Then, Minnie testified that it was true she had Robert Lee Peterkin, that she carried him at the Stafford's and gave birth to him at Mrs. Wood's, as we proved, but she said that she also had Thomas, and that he was born at Granny Letcher's between the time she worked at the Hyde's and the Grodevant's. Now, I want to introduce her statement there for this purpose, among others, that she fixes the time and she testified at her own instance and that of the defendant, of the alleged birth of this child, anterior to the time when she admits that she gave birth to Robert Lee Peterkin. That is one reason; and then we have not only a concentrated showing, but we also have that testimony which we are prepared to show, as we view it, and as we believe, is not true.

The Court: Now, your testimony will show that; it will be a part of your case to show that if that is as you contend, refuting any contention which Minnie has made or may make in that record.

Mr. German: We merely want to show what she contended following the time of our proof as to Robert Lee Peterkin.

The Court: Well, I am not going to complicate this case with that now. Minnie Atkins is here; presumably she will be a witness; if she is, you can cross examine in regard to any conflicting statement she made or examine her in regard to one that she first made, and that will all come out.

Mr. German: I would like to make an offer of proof, without reading it at this time, but with the understanding that it will be copied in the record.

The Court: Alright.

Mr. German: I desire to state that we offer to prove, for the limited purpose for which I stated, the matters set forth in Minnie E. Folk's deposition, on pages 363, 364, and 365—affidavit, I should say, instead of deposition, of the printed transcript of record in the Receivership case, except the paragraph on page 363 beginning with words "I didn't tell anybody" and so forth; and except the three paragraphs on page 364, following right after the other, the first one beginning with the words "I have been married about eight years," and so forth; and except the last paragraph of the affidavit. Also the following questions and answers which she gave on her cross examination at the Receivership hearing beginning *at* on page 370 of the printed transcript referred to: "Q. Now, while you were at Mr. Hyde's, you said you were there six or seven months? A. I don't know just how long, quite a while though. Q. About that long wasn't it? A. Yes, sir. Q. Then, you went from Mr. Hyde's to the Grodevant's? A. No, I didn't go just right off.

Q. Now, how long until you did go? A. Well, I didn't go up to Grodevant's until I had Tommy Atkins. When I left Hyde's I was with him. Q. How long from the time that you left Hyde's until you went to Grodevant's? A. I don't know just how long. Q. Give the Court some idea. A. Well, I was there—I was down about a year in the city. Q. You went in the city about a year between the time that you left Mr. Hyde's and went to Grodevant's? A. Yes. Q. Grodevant's was at the Fort? A. Yes, Q. The Fort is about three miles from the city of Leavenworth? A. Yes. Q. You stayed at the Fort, then, until you left for Fort Logan, Colorado, did you, with the exception of just a little bit—well, I will ask you this. How long did you work for the Grodevants? A. Well, I worked there quite a while, too. Q. How long? A. About a year. Q. Then who did you work for? A. Then I left Grodevant's and went to Lieutenant Stafford's. Q. How long did you work at Lieutenant Stafford's? A. I don't know just how long I worked there. Q. Well, how much would you say? A. Well, I think I must have been about a year at Stafford's."

We offer to make proof of those things, Your Honor.

The Court: The record may show your offer and that it is excluded by the Court.

Mr. German: Exception.

And thereupon, GEORGE W. DOTTER, was called, sworn as a witness on behalf of the Government, and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. George Dotter.

Q. How do you spell Dotter? A. D-o-t-t-e-r.

Q. What is your age, Mr. Dotter? A. Forty seven.

Q. Where do you live? A. Ellenwood, Kansas.

Q. Did you ever live in Leavenworth, Kansas?

A. Yes, sir, I was born there.

Q. You were born there? A. Yes, sir.

Q. Do you know the place there known as 217 Seneca Street? A. Yes, sir.

Q. Did you ever live there?

A. Yes, sir, I was born there.

Q. Born there? A. Yes, sir.

Q. Did your father live there? A. Yes, sir.

Q. How long—— Well, I will ask you this: Who owned that property while you lived there? A. My father.

Q. What was your father's business?

A. He was a school teacher.

Q. Did anybody ever run a bakery at that place?

A. My father was also a baker before that time.

Q. When did you leave that property there?

A. We left there in 1884.

Q. What time of the year? A. July.

Q. What day in July? A. The 28th day of July.

Q. What was the occasion of your leaving there?

A. We moved to a farm from there.

Q. Was your mother living at that time? A. No, sir.

Q. Who was in the family besides you and your father?

A. My brother and sister, that is *that* wasn't married.

Q. State whether your father sold that property at that time? A. Yes, sir, he had sold it.

Q. When did you and your father and family move out of the property with reference to the time that he sold it?

A. Well, we left the property there that day and I recollect it the 28th day of July, 1884.

Q. When was it that your father sold the property?

A. I couldn't say, sometime previous to that but it wasn't very long.

Q. Now, how do you know that that is the date you moved out of the property?

A. Well, I know it of my own accord, and I have a paper in my pocket that my father had printed in the Ellenwood Leader where he kept his biography.

Q. Is your father living or dead?

A. He is dead, and my father always kept a diary and he took it from that I suppose, at any rate he has it in this paper. It is in German.

Q. In the German language? A. Yes, sir.

Q. State whether that article contains a statement as to the date you moved out of that property? A. Yes, sir.

Mr. Stuart: Your Honor, they haven't identified the diary yet and he is testifying as to its contents.

The Court: No, here is a statement in the paper I suppose, I gather that it is a sort of biography of his father. Isn't it?

Mr. German: Yes, sir, he states it is.

The Court: Published in this paper at the time of your father's death?

A. No, sir.

The Court: What was the circumstances, did he publish it himself?

A. He wrote it himself.

The Court: And this witness supposes that he took that date which appears in this article from a diary which his father kept.

Q. Your father wrote the article? A. Yes, sir.

Q. Did your father state in the article the date when he moved out to the farm?

Mr. Stuart: Your Honor, we object to that.

The Court: You may answer that yes or no. Did your father state in that the date he moved from Leavenworth out to the farm?

A. Yes, sir.

Q. Now, did you have an independent recollection of the date you moved out of 217 Seneca Street?

A. Well, I remember it to be that date, but I wouldn't be sure exactly but this is all I have.

The Court: Have you an independent recollection as to the year you moved out, regardless of that paper? Could you say without referring to that paper whether it was 1884 or 1885?

A. Yes, sir.

Q. Now, before you found that paper were you able to say what date it was?

The Court: What do you mean, the day of the month or year?

Mr. German: Both.

A. Well, I would think it was that date, but I wouldn't say for certain, but I know it was the year.

The Court: You know it was the year regardless of the paper?

A. Regardless of the paper.

The Court: Regardless of the paper. Was it spring, summer, winter or autumn when you moved out?

A. Well, it was in July.

The Court: All right.

Mr. German: That is all.

Cross Examination by Mr. Stuart.

Q. Is your name Dossler? A. Dotter.

Q. Dotter? A. Yes, sir.

Q. Where was this house located that you lived in?

A. 217 Seneca Street, Leavenworth, Kansas.

Q. Who lived right in front of you?

A. In front of us?

Q. Yes? A. No one, the street was in front of us.

Q. Who lived on the side of you? A. Mr. Seth.

Q. Did somebody live across the street in front of you, I didn't mean in the street?

A. Well, I couldn't tell you who it was.

Q. Who lived in front of you? A. I don't know.

Q. You don't know who lived across the street?

A. At the time, no, sir.

Q. Do you know who lived next door on the right?

A. Yes, sir, there was a lumber yard on the right side.

Q. Who was on the left hand side? A. The Seths.

Q. What business was Seth in?

A. He was a stone mason.

Q. How old were you at that time?

A. I was fourteen years old.

Q. Fourteen years old? A. Yes, sir.

Q. How long ago has that been?

A. It will be thirty three years.

Q. Thirty three years. Now, you couldn't have told about that date or year with any accuracy without consulting that paper, could you? You were just a small boy?

A. Well, I wouldn't say that I could.

Q. That is it. In other words, you couldn't have been accurate upon what you knew about that when you was a boy fourteen years old, unless you could have consulted your father's article? A. No, I wouldn't say that I could.

Q. And you couldn't do it, it is your best judgment that you couldn't have spoken with any sort of certainty without consulting your father's article could you?

A. I think I could, but I couldn't say what to go by to say that.

Q. There isn't any other incident that fixes it in your mind except your father's article is there? No other incident? A. I don't know of any.

Q. You can't recall anything. That's all.

Redirect Examination by Mr. German.

Q. Before you found your father's article, were you able to tell what date it was?

A. Well, I had it in my mind, that date, but I had nothing to go by.

Q. What date was it you had in your mind?

A. I had it in my mind the same date as my father, the 28th of July.

Q. What year? A. 1884.

Q. Now, Mr. Dotter, I show you what has been marked Government's Exhibit A-91, a plat or drawing, and will ask you to look at that and state whether that house appearing nearest the center of the plat is a correct representation of your faher's house?

A. Well, as near as I can tell any more than there was a little summer kitchen built up behind this.

Q. A little summer kitchen?

A. Probably twelve by fourteen or such a matter back of this part.

Q. Now, what about the tree?

A. Well, the tree looks natural any more than that tree was high enough that I could crawl on top of that house; I have crawled on there many a time.

Q. Whose house is represented in the right hand, on the right hand of the picture?

A. Well, the gentleman here asked me, I got it wrong.

Q. Well, say west of your father's house?

A. Well, west is the Seth house. That looks natural all right as far as I can tell.

Q. Mr. Dotter, what buildings were in the rear of your father's house toward the alley or next to the alley?

A. Well, there was nothing but an old shed stable; it wasn't fit for anything because we had abandoned it for at least ten years.

Q. Now, was that barn that you refer to, did it have any loft in it?

A. I couldn't say as to that whether it had or not.

Q. What was it used for?

A. Well, years before that my father used to run a bakery and he kept a horse, kept a horse in there and kept a delivery wagon.

Q. Was there a floor in the barn, in the barn used to keep the horse in?

A. As near as I can remember there was a floor where the horse stood and that is all, but I wouldn't be positive as to that.

Q. During the time you lived there was that barn ever used as a residence? A. No, sir.

Q. Was it used for—was it fit for residence purposes? A. No, sir.

Mr. Stuart: We object to that because it is a conclusion. Let him tell that.

Q. What doors did it have?

A. I couldn't say as to that either, I don't remember.

Q. Did it have any windows up stairs—or you say you didn't remember?

A. I don't think there was an up stairs to it but I couldn't say as to that.

Q. What was its condition when you moved away from there? A. Very poor.

Q. And it hadn't been used for ten years?

A. Not by us; we had rented it out years ago to some teamster around town there that kept a team in there for a while, I don't know just how long.

Q. Was there any residence or cottage or any house for residence purposes on that alley back of your father's house, or back of Seth's house?

A. I couldn't say, I don't remember what was back there.

Cross Examination by Mr. Stuart.

Q. Now, how old were you when you left Leavenworth?

A. Fourteen years.

Q. Fourteen years old, and that has been thirty years?

A. Thirty three years.

Q. And you were fourteen when you left. Of course you played around here when you were a boy where these houses were? A. Yes, sir.

Q. And your recollection as far as you can be accurate of your own memory is that you moved out of there in July, 1884? A. Yes, sir.

Mr. Stuart: That is all.

Redirect Examination by Mr. German.

Q. Did your father take a mortgage on that property when he sold it?

A. I don't know, I think he did but I am not sure.

Witness dismissed.

Thereupon JOHN ROHR was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. John Rohr.

Q. Mr. Rohr, what age are you? A. Seventy past.

Q. Where do you live? A. Leavenworth, Kansas.

Q. Have you ever held any official position in Leavenworth County, Kansas? A. I have.

Q. Is Leavenworth the County *Site*? A. Yes, sir.

Q. What position did you hold?

A. I have been Register of Deeds of that county four years; under-sheriff of that county four years; Clerk of the District Court of that county four years.

Q. When were you clerk of the District Court?

A. 1883, four, five and six.

Q. Did you know a man by the name of Joe Malone?

A. Joe Malone, I knew Joe Malone, yes, sir.

Q. Did you know him in the eighties?

A. Yes, sir, he was a Deputy Sheriff in 1886.

Q. Now, did you know him intimately? A. I did.

Q. Did you know a woman, white woman, in Leavenworth by the name of Lilly White?

A. I didn't know her intimately but I met her and had been at her place.

Q. What kind of a place did she run?

A. House of prostitution.

Q. Where was she running that house the first time you ever knew her, ever saw her?

A. The first time I ever saw her I testified that I had been there the second time in November.

Q. You are referring to the fact of your testimony when you gave your deposition?

A. Yes, sir. I will answer that first. The first time was in May, 1885.

Q. The first time was in May, 1885? A. Yes, sir.

Q. How did you happen to go there?

A. Well, sir, if you will permit me to explain; I was going home one evening; I dropped into the saloon and got a glass of beer. Mr. Norby and Dick Mulvaney were in the place. I invited them to have a glass of beer and the conversation drifted on going to Lilly White's. I said that is a place I never have been, I will go. So, we took another drink and we concluded to go the three of us and I says, I have no money. And I goes to Mr. Haverlin and asked him to give me fifteen dollars. He says I refuse to give you the fifteen. I said why, won't you give it to me?

The Court: Let's just cut that short. You did go to Lilly White's did you?

A. I did.

Mr. German: Pardon me, your Honor, the little incident he is about to relate will bear upon the other testimony.

The Court: All right. Go on. He refused to give you the money?

A. I says there must be some reason for it. He says there is. He says to me, you owe me twenty six dollars for subscription to the German Frey Press; and he says my brother George asked you for the money which you refused to pay. I said no he may have asked me for the money but I never refused to pay it. I will tell you what I will do, I will give you a check now for forty dollars.

Q. Who said that?

A. I did. That will pay you the twenty six dollars I owe you for the subscription for the German Frey Press. And he gave me fourteen dollars and I gave him the check.

Q. Then, where did you go?

A. From thence we took a glass of beer and went direct from that place to Lilly White's.

Q. Have you got that check? A. I have.

Q. Let's see it. Is this the check which is now marked Government's Exhibit A-92 that you refer to?

A. Yes, sir, this is the check given to Ed Haberline.

Q. Is that check dated the date it was given?

A. Yes, sir, that same evening.

Mr. German: We offer this in connection with the witness' testimony, as Government's Exhibit A-92.

Mr. Hanford: We object to it, your Honor, on the ground that it is hearsay, incompetent, irrelevant, and immaterial. It is not a matter in this case whether he made a loan.

The Court: This witness is referring to that to refresh his memory. The record may show that he refers to a check to refresh his memory.

Mr. German: All right, we except.

Q. Now, what was the date of it?

A. 16th day of May, 1885.

Q. State whether having gotten that money you went to Lilly White's?

A. Directly to the place after receiving the money.

Q. Who went with you?

A. Richard Norway and Dick Mulvaney.

Q. Had you been to Lilly White's before?

A. Never in my life, before.

Q. Where was it?

A. On Seneca between Second and Third on the south side of the street.

Q. What part of the block?

A. I think it was on the west portion of the block.

Q. Did you know where Phillip Seth lived? A. Yes.

Q. Where was it with reference to Phillip Seth's?

A. Adjoining it.

Q. The next house?

A. Next house west, I think it was west, I am not sure.

Q. Now, what sized house was it that Lilly was living in?

A. It was a two story house if my memory serves me right.

Q. Were you ever at that house again? A. Yes, sir.

Q. How many times? A. Once after that.

Q. When?

A. It was between—— I can't give the exact time; I testified before in September, but I positively was there between the first of June and the thirtieth day of September with John J. Malone.

Q. How do you fix that?

A. Because I have written him checks and I wanted to get the money. And I went to his place of business and he told me he didn't have the money but to take a walk with him, and we went up to Lilly White's.

Q. Was Lilly White and John Malone, what relationship existed?

A. I believe that John Malone was living at this place, or Lilly White was his mistress as far as I know.

Q. What did the payment of that money back to you have to do with this suggestion to go to Lilly White's?

A. Well, I went there and I didn't get the money until several years after. After he went to Tacoma he sent me the money.

Q. I will ask you to state whether Mr. Malone, whether the trip to Lilly White's had anything to do with the repayment of the money?

A. That is what caused me to go there with John J. Malone. I asked him for the money and he said I haven't got the money but I will pay you in a short time. And he said come and take a walk with me and we walked to Lilly White's. I stayed but a few minutes and went out and left him there.

The Court: That was still in 1884?

A. 1885. It was about a month or two after the other.

Q. The first trip was in what year? A. May 16, 1885.

Q. The same date as the check? A. Yes, sir.

Q. And when was the second trip?

A. Between the first of June and the thirtieth of September. I testified it was in September. I was there within those three or four months with John J. Malone.

Q. Have you any way of fixing that date?

A. Well, I have two other checks that I gave Mr. Malone and they kind of confuse me as to the time I was there. I have the checks here but I can't exactly tell. I know he owed me seven hundred dollars after he left there.

Q. When was this money that you let him have paid back, if ever paid back to you?

A. Well, it was to be most any time. I took no paper. I gave it to him on his word that he would pay me in a few weeks. Not later than a month, never.

Q. Now, where was Lilly living on that second trip?

A. Same place.

Q. On Seneca Street between Second and Third?

A. Yes, sir.

Q. In this two story house.

Mr. German: You may have the witness.

Cross Examination by Mr. Stuart.

Q. Your memory proved very treacherous in this case at the last hearing, didn't it?

Mr. German: I object to that as argument?

The Court: Overruled.

Q. Your memory proved very treacherous at the last hearing, didn't it?

A. Yes, sir, well if a person is taken up—— has to go back thirty years in a few moments without a chance to recall anything.

Q. But you did have time enough to pull another check out of your pocket, didn't you, and present it in court?

A. Well, it happened so.

Q. And that check was dated August, wasn't it?

A. What?

Q. That check was dated August, 1884?

A. The $500.00 check?

Q. Yes. A. I believe it was, yes, sir.

Q. And that was the check that you swore before the Examiner that you gave to this man which enabled you to find this date, wasn't it?

A. Well, I can come very near to the date, now, yes, sir.

Q. Well, why then, did you quit that check and put this one in?

A. Well, I will tell you, I will explain; I worried over two months to recollect who the men were with me the second time and I finally recalled who was with me and then I remembered of that check. I never thought of the check of the time *that* that I was on the stand before.

Q. Now, Mr. Rohr, this is the check, then, that you want to stand on, then? A. Yes, sir, that is the check.

Q. That May check? A. The May check, yes, sir.

Q. Now, this is the one that you used now, to refresh your memory? A. Of course that one time.

Q. Wait a minute. To know that you were in Lillie White's in May 1885? A. Yes, sir.

Q. That is correct now? A. Yes, sir.

Q. Now, the August check has identified the time you were at Lillie White's, and has refreshed your memory and you want to eliminate that from the case, don't you?

A. No, I don't care to eliminate that from the case for I might have been there in September.

Q. But not at this time; September, why, that check was in August, what are you talking about September for?

A. I am aware of that but it was due in September, the money.

Q. Mr. Rohr, what you want to tell the Court is this; that you can positively identify this as having been at *Minnie* White's in May, 1885, can you? A. I was there.

Q. You cannot positively [ ] this except from memory that you were there later, can you?

A. Well, only by those checks; I know I was there with John J. Malone, and it was only a short time after that, within three or four months.

Q. You say after this May check was given there, you are satisfied you were there sometime between June and September? A. Yes, sir, positively.

Q. Why did you give yourself such a wide latitude for your memory, right in there? What is the idea for that?

A. Well, I am not interested directly or indirectly in the case.

Q. I know that but why did you give yourself such wide—

A. And I don't care who wins it, I am trying to protect myself. I want to give myself time in those——

Q. That is it? A. In that time.

Q. Don't understand me as trying to contradict you or to wind you up.

A. I have no dates upon which I can give, only those dates.

Q. And therefore you put it between June and September for safety, don't you? A. I do, yes, sir.

Q. Without knowing with any definiteness whether it was June or September?

A. Well, I wouldn't swear positively.

Q. How long have you had this check, Mr. Rohr?

A. Had that 32 years.

Q. You keep them all, do you?

A. I have them, I always did keep them.

Q. Now, here is the part of that check written in ink and payee written in pencil?

A. Well, I wrote that check, I remember when I wrote it, and I couldn't write very well the date, so I took a pencil; I was drinking a little bit that night and I remember the whole transaction.

Q. You were drinking a good deal that night weren't you pretty full?

A. No, sir, I wasn't; I don't think I drank more than three or four glasses of beer.

Q. But this check you now refresh your memory with, written in ink every where except the payee's name——

A. I started that——

Q. I want you to answer my question—written every where in ink, except the payee's name? A. Yes, sir.

Q. And that is written in pencil? A. Yes, sir.

Q. Does that check show that it were paid anywhere?

A. Well, it was not verified but I assure you it was paid.

Q. Is that verified anywhere?

A. I guarantee it was paid.

Q. It don't show it, does it?

A. Well, that——

Q. It don't show it has been paid by the bank, does it?

A. Well, I don't know.

Q. Look at it and see. A. I say it is not verified.

Q. Then it don't show on its face that it was ever paid by any bank, does it? A. Well, the bank——

The Court: Just answer the question. Does it show that it was paid, so far as the check is concerned?

A. No, sir, it don't show.

The Court: Alright, that answers the question, now.

Mr. Cruce: I would like the Court to look at that in view of the fact that first had the lead pencil. The date is first in ink, and then the name of the payee is in what is in seemingly lead pencil, and then follows the ink.

The Court: Just a moment, let me look at it.

Mr. Stuart.

Q. Were you ever in business with Mr. Malone?

A. Never.

Q. Never in partnership? A. Never.

Q. You are satisfied that the directory don't show you ever was in business with him?

A. Yes, sir, they had a Malone real estate business but I was not a partner in that business; the map shows.

Q. Your name was in it, though?

A. Malone and Company, and Rohr, yes, sir.

Q. Yes, sir, your name was in there.

A. Yes, sir, that was during the boom there.

Q. Yes, sir, your name was in there during the boom?

A. Yes, sir.

Q. And you were not a partner, just let him use your name? A. I was in the office part of the time.

Q. What did you let him put your name into the partnership for?

A. I had no partnership outside of that map.

Q. What did you put your name in partnership with Malone for if you were not a partner?

A. He didn't—he done it himself and I didn't object and that is all there was to it.

Q. And checks were passing back and forth between you and Malone all the time, weren't they?

A. No, sir, not at that time.

Redirect Examination by Mr. German.

Q. Mr. Rohr, I show you Government's Exhibit No. 54 about which Mr. Stuart asked you, the check about which Judge Stuart asked you, dated August 18th, 1885; is that the check that you produced at Leavenworth? A. Yes, sir.

Q. When you gave your deposition?

A. Yes, sir, the same check.

Q. The same check. Now, why is *that* it that you say that you want the latitude from June 1st to September 1st? Have you any other checks? A. Yes, sir.

Q. Let's see them. Are these they? A. Yes, sir.

Q. Now, here is one dated July 14th, 1885, payable to John J. Malone; here is one dated May 28th, 1885, payable to John J. Malone; the first one for $200.00 and the second one for $300.00; and here is this date August 18th, 1885, payable to John J. Malone for $500.00. Now, when you went to collect one or the other of these checks—— A. Yes, sir.

Q. Is the date that you went to Lillie White's the second time, is that the——

A. When I went and tried to collect one of them, I don't know which one.

Q. Which one of the three?

A. No, sir, that is what confuses me, yes, sir.

Recross Examination by Mr. Stuart.

Q. All these checks show payment, don't they?

A. Yes, sir.

Q. Every one of them? A. By the bank, yes, sir.

Q. Show they were paid by the bank? A. Yes, sir.

Q. And this last check you now refresh your recollection with does not show any payment? A. No, sir.

Redirect Examination by Mr. German.

Q. Is Haberline dead?

A. No, sir, I think he lives in McPherson, Kansas.

Cross Examination by Mr. Hanford.

Q. Mr. Rohr, Mr. Malone was buying real estate there in that office, was he?

A. No, sir, that was after my terms of office expired that I was in with Malone.

Q. You were not in with him in 1885? A. No, sir.

Q. You are sure of that? A. Yes, sir.

Q. He ran a gambling house in 1885, is that true?

A. Yes, sir.

Q. And you were clerk of the District court?

A. I was.

Q. You were loaning money to him at different times?

A. I have loaned him money at different times, yes, sir.

Q. There were three or four months there in succession when you loaned him money? A. Yes, sir.

Q. And you are not able to say which one of those checks it was that he went to Lillie White's with you in regard to, are you?

A. No, I never went with him—he never borrowed any money to go to Lillie White's with me but I loaned him this money and I went to collect this money from him, and I went to Lillie White's, after the money.

Q. And the first time you say you were ever at Lillie White's was in May, 1885?

A. Yes, sir, the 16th day of May.

Q. When was the next time?

A. Between the 1st day of June and the 30th of September, with John J. Malone.

Q. And when was the next time?

A. That is the only time I ever was in the house.

Q. The only time you were ever there?

A. Yes, sir, in that house.

Q. You have testified before in this case, haven't you?

A. Yes, sir, I have.

Q. And didn't you testify that you went to Lillie White's a number of times after that?

A. No, sir, I did not.

Q. Didn't you testify that, at the beginning of the December term of court, along in the latter part of November, 1885, that you went to Lillie White's at 217 Seneca Street?

A. I did, and I want to correct that; I was not there in that month, that is a mistake I made.

Q. Didn't you testify—— A. I did. I made a mistake.

Q. That you went there with a number of men after court—— A. I did, I did.

Q. And didn't you testify that you were a young man then and used to sport around a bit and you went to her house frequently during that year? A. No, sir, I did not.

Q. Mr. Rohr you have allowed yourself considerable lattitude as to the time that you went to collect that Malone check; in fact you have left yourself a latitude of three or four months; that is so, isn't it? A. Yes, sir.

Q. So that it might have been in September or October?

A. No, sir, not October. I made my statement between the 1st day of June and the 30th day of September; not later than that.

Q. What was the date of that check that you gave to Malone? A. Which one?

Q. The check that you went to collect?

> The Court: All that has been gone over; the cross examination has covered all this, Mr. Hanford; let's not take up time.
>
> Mr. Hanford: Your honor please, I want this witness to come back tomorrow; I want to go over that deposition. I understand he was brought here to testify in lieu of the deposition.
>
> The Court: Well you can examine that in the mean time. Court will stand adjourned until 9:30 a. m., tomorrow morning.

And thereupon court adjourns until 9:30 o'clock a. m.

And thereafter, and at 9:30 o'clock A. M., May 9, 1917, court convened pursuant to adjournment, and further proceedings herein were had as follows:

JOHN ROHR, being recalled further testified as follows:

Cross Examination by Mr. Hanford.

Q. Mr. Rohr, this $500.00 check is the only record that you have of the loan that you made to John Malone at that time, isn't it?

A. Well, that is the only check that I found at that time. I mentioned at the time that there was another check of two hundred which I remembered at the time I testified at Leavenworth but there was another check of three hundred that escaped my memory.

Q. But you do remember that it was the five hundred dollar check that you went with Malone to collect?

A. Well, it may have been that check.

Q. Five hundred dollars?

A. Yes, sir, but I am not positive but I think it was.

Q. You were positive that it was the five hundred dollar check when you testified before?

A. Well, I wasn't positive but I believe it was; to the best of my memory, it was.

Q. Did you have any trouble collecting that two hundred check?

A. The two hundred dollar check and the five hundred dollar check I collected seven years afterwards.

Q. Isn't it a fact that you had no trouble collecting the two hundred check, and therefore you made the further loan to him of the five hundred check?

A. No, sir, I never received that money until I received it all, seven hundred dollars.

Q. Now, you have testified before in this case?

A. Yes, sir.

Q. I want to ask you about your former testimony.

A. Alright.

Q. Reading from the deposition of John Rohr, taken before Giles Penick at Leavenworth, in this case, in the transcript of depositions at 2505: "Q. The check is the only record you have of the loan, you didn't take any note you state? A. No, sir." A. That is correct.

Q. That is correct? A. Yes, sir.

Q. "So your recollection of speaking to him and calling his attention to it and then asking him finally if he would pay it, because you needed the money, is your independent mental recollection? A. Yes, sir."

A. Yes, sir, at that time it was.

Q. "Q. The loan was made according to the check August—the middle of August 1885? A. Yes, sir."

A. Yes, sir, the loan was made at that time.

Q. You did testify that way at that time? A. Yes, sir.

Q. "Q. So the matter of the payment ran on for a period of three or four months and you know that it was later than that that you took this walk with him to this house?

A. I took it with him thirty days after I loaned him the money, gave him the check, thirty days; it must have been some time in September." You testifiel that way?

A. Well, I believe it was some time in September or——

The Court: Just answer whether——

A. Yes, sir, I did.

The Court: He is asking you with regard to your testimony when your deposition was taken; all you need to answer is whether or not you testified that and you will be allowed to explain later.

A. Thank you.

Q. "Q. Well, you didn't ask him to pay the check right away after the loan was made? A. No, I let him have it for thirty days; he said he would probably pay me back in a couple of weeks; and I said, John, I must have this money within thirty days, and it was several years before I got it."

A. That is right.

Q. "Q. What I mean is, right after you gave him the money, you left him have the time on the loan before you spoke to him about it? A. I certainly did." Is that correct?

A. Yes, sir, that is my answer.

Q. Now, that was the loan made in the middle of August, and ran for thirty days or longer before you spoke to him about it? A. About that time, yes, sir.

Q. And reading from page 2506: "Q. Did you know her."—I will explain, that is speaking of Lillie White—"Q. Did you know her? A. I knew of her and met her once or twice there; met her there that night that I went with Malone." Is that correct? A. Correct.

Mr. German: Read the last of the answer, please.

Q. "And another time when I went there with a crowd of fellows, and took in the town as we call it."

A. Well, I testified to that but it was wrong.

Q. That is all I ask you. "Q. You were not averse in those days to going around? A. Not at all." Is that correct? A. Yes.

Q. "Q. You were a younger man at that time? A. Yes, sir, I was single and unmarried at the time, and was one of the boys." Did you so testify? A. I may have——

The Court: There is probably little controversy about his being a younger man at that time.

Q. And from page 2509: "Q. You don't know how long that would be after the time that you went there with Malone when you went with the parties? A. No, I can't say but it was in the same year." Is that correct? A. I guess it is.

Q. And from page 2510: "Q. It was before January, 1886? A. Yes, sir. Q. Probably? A. I can't tell, I can't tell the month, nor the day, nor the week, but I know it was before; it was shortly after that I had been there with Malone." Is that correct?

A. That is the testimony I gave.

Q. "Q. Just estimating the time, the number of weeks, about how long? A. I can't say." Is that your testimony?

A. I guess it is.

Q. "Q. Can't even approximate it? A. I can't approximate it, no, but it was within a month or two." Is that your testimony? A. Yes, sir.

Q. "I was just trying to find the approximate month by an estimation of the time, Mr. Rohr; if you can say whether it was a month or two or three months? A. Well, I can't tell. I went along with a crowd of boys and went from one place to another, and I can't tell exactly the time. It was, anyhow, between the 20th of September and the 1st of January. I will give you that latitude within the three months." Did you so testify?

A. I guess I did.

Q. From the same page: "Q. Now, thinking of that occasion can't you remember that it was—some or a definite number of months subsequent to that you went there? A. I can't say that I know it was two or three months after I went in there—whether it was a month or two or three I can't say, I wouldn't swear, but I am positive I was there once after the Malone instance." Is that your testimony?

A. It is.

Q. And from page 2511: "Q. And that would be in probably the month of November or the early part of December? A. Well, I can't state definitely what month it was. It was between September and the first of January. Whether it was October or November or December I don't remember. I know Court was in session, December term, and it was shortly before the Court went in session when I went around with the boys because when Court was in session I didn't have time." Did you so testify? A. I guess I did.

Q. And from the same page: "Q. It was during that time that you were with this crowd? A. Oh, well I think it was before. I think it was before Court convened." Is that correct? A. Yes, sir.

Q. "Q. So the nearest you can fix it is by the convening of that session? A. Well, that is near November, isn't it? That is as near as I can get." Is that correct? A. Yes, sir.

Mr. German: Your Honor, Counsel has examined this witness with reference to it being in the fall and that is clear, and I think that is all he possibly can develop.

Mr. Hanford: I can't see what objection counsel can have.

The Court: The Court has this objection to the reading of anything into this record that hasn't some value as cross examination. So far, I am inclined to think it is all right.

Mr. Hanford: Your Honor please, it is necessary to get this in to show that the witness was absolutely positive.

The Court: Now, you have pretty well covered his testimony with regard to those incidents. What I want to avoid Mr. Hanford, as you appreciate, is duplicating this record except so far as is necessary for proper cross examination.

Q. From page 2512: "What time did the December session convene, the first Monday? A. I don't know. The first Monday in December, I think. Q. That is as near as you can give me the month? A. Yes, sir."

A. Yes, sir.

Q. That was your testimony? A. I believe it is.

Q. And from the same page, 2512: "And this man Malone was a gambler? A. Yes, sir. Q. Had you ever loaned him any money before? A. Why, I loaned him fifty and a hundred and amounts like that and he always paid it back." Is that correct? A. Correct.

Q. "How long prior to this loan on the 15th day of August, '85, was it that you had loaned him? A. I don't know. Q. The 18th instead of the 15th. When was the last loan you had made him prior to this loan you are testifying about prior to this five hundred dollar loan? A. Why, I don't know. I loaned one of his partners two hundred dollars and he paid it back. Q. When was that? A. That was prior to this. Q. How long Mr. Rohr? A. I don't know, probably three or four months. They always borrowed small amounts and always paid it back and finally got the five hundred and I waited." Is that correct? A. Yes, sir.

Q. That is your testimony at that time? A. Yes, sir.

Q. And from page 2513: "How many loans do you think you made Mr. Malone and his partner? A. Oh, I don't know. Made them a good many small loans. Q. Now, is it or not possible that the trip that you had to Lillie White's was with reference to one of the other loans? A. No, sir, he didn't owe me anything else but the five hundred at that time." Is that correct? A. I guess I made that statement.

Q. "I understand, but you had loaned him two hundred dollars once before? A. Yes, yes. Q. Now, is it possible that you went to see Lillie White after one of the other loans? A. I never troubled him with any of the loans prior to this one, never asked him for the money. Q. Is it a possibility, understand my question? A. Yes, sir. Q. Is it not possible for your recollection to be at fault as to that? A. No, sir." That is your testimony at that time? A. I guess it is.

Q. And that is the testimony you have come down here to correct? A. Yes, sir, that is part of it.

Q. Now, Mr. Rohr, have you refreshed your recollection any?

A. Yes, I had ample time to recall some things that I had forgotten in thirty years and I was worried considerably.

Q. And you mean to say at this time that you can't fix the time that you went to Lillie White's?

A. With Mr. Malone I cannot, but the other with Nordy and Dick Mulvaney I am positive——

Q. Mr. Rohr? A. Yes, sir.

Q. Have you learned since giving your testimony that the Government had discovered a petition in regard to moving Lillie White out of the house where she was on Seneca Street, so that she couldn't have been there in September at the time you put it, hasn't that something to do with changing your testimony?

A. No, sir, I didn't know a thing about that until I came to this building.

Q. But some one told you about that? A. No, sir.

Q. You just got to worrying about your testimony and got to thinking about it, didn't you?

A. I got to thinking about it immediately after; for a month I was worried after I had given that testimony; and I went to Kansas City and told the attorneys there I made a mistake in my testimony.

Q. You told a number of people? A. At Kansas City.

Q. You told a number of people at Leavenworth?

A. After I found that I was in error I did.

Q. You told them you had made it by putting Lillie White up there in the fall and now you had to correct it?

A. No, I said I was mistaken in my evidence, nothing said about Lillie White.

Mr. Hanford: That is all.

Cross Examination by Mr. Stuart.

Q. Mr. Rohr, do you know how the Government came to know that you knew anything about that baby? A. Yes, sir.

Q. How was it?

A. I was in the barber shop getting shaved, and Mr. Robinson came in and asked whether he knew anything about Lillie White's place; and the barber said there is a man that can tell you all about it.

Q. Is Mr. Robinson this gentleman here? A. Yes, sir.

Q. Now, you made some statement yesterday evening when you left office, you didn't leave office until 1887 did you?

A. January, 1887.

Q. You stated that you left in 1886, you made a mistake there? A. I don't remember saying I left in 1886.

Q. I understood you to say you did. You did not leave until 1887? A. Four years my term was.

Mr. Stuart: That is all.

Redirect Examination by Mr. German.

Q. Mr. Rohr, at Leavenworth, you testified as I understand, that you loaned John Malone this five hundred dollars in August? A. Yes, sir.

Q. And you have the check? A. Yes, sir.

Q. Now, when did you get that check with reference to the time that you took the witness stand at Leavenworth?

A. About a half hour before.

Q. How did you come to get it?

A. You asked me whether I had anything to refresh my memory and I said yes I have a check at home, I guess I have if I can find it. And I brought that check; it was a short time and I only had about half an hour.

Q. And then you testified that same day, didn't you?

A. Yes, sir, as soon as I brought the check.

Q. Your testimony there was that you went with Malone to Lillie White's to this place on Seneca about thirty days after the date of that check? A. Yes, sir.

Q. And that you went there one other time which was after that with the boys? A. Yes, but I wasn't.

Q. That is the part that has been troubling you most is it? A. Yes, sir.

Q. Did you make your search for these other checks after your testimony up there? A. Yes, sir, I did.

Q. And you found this old check?

A. Haberline, that refreshed my memory and brought it all back to me.

Q. And then is when you knew it was in May?

A. Yes, sir.

Q. That you was there first with the boys?

A. Yes, sir.

Q. And about thirty days after one or the other of the three checks given to Malone in the summer time?

A. Yes, sir.

Q. That you were there the second time? A. Yes, sir.

Mr. German: That is all.

Mr. Stuart: That is all.

Witness dismissed.

And thereupon, WILLIAM P. FETH, produced and sworn as a witness for and on behalf of the Government, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. William P. Feth.

Q. Where do you live, Mr. Feth?

A. Leavenworth, Kansas.

Q. What is your business? A. Architect.

Q. How old are you? A. Fifty years old.

Q. When is your birthday?

A. Twenty fourth day of April.

Q. How long has Leavenworth been your home?

A. Well, with the exception of about four years, since the day I was born.

Q. Those four years where were you?

A. Chicago and Denver.

Q. Attending school or what?

A. In Chicago I was working and attending school at night. In Denver I had an office of my own.

Q. As an Architect? A. As an Architect, yes, sir.

Q. You have an office in Leavenworth now?

A. Yes, sir.

Q. Mr. Feth, is your father living? A. No, sir.

Q. Is your mother living? A. No, sir.

Q. What was your father's given name? A. Phillip.

Q. What was your mother's given name? A. Catherine.

Q. Did they ever live on Seneca Street in Leavenworth?

A. Yes, sir.

Q. Where? A. No. 223 Seneca Street.

Q. Which side of the street is that?

A. Well, that is on the south side.

Q. Did you know the house as 217 Seneca Street?

A. Yes, sir.

Q. Is your father's house still up, still standing?

A. No, sir.

Q. Is this house 217 Seneca Street still standing?

A. No, sir.

Q. Do you know about how long they have been out?

A. No, I do not.

Q. What is there now? A. Lumber yard.

Q. About how long has it been there?

A. Well, it has been there a number of years.

Q. A number of years? A. Yes, sir.

Q. Now, I will ask you if you know where Crilly's barn is? A. Yes, sir. The present barn?

Q. Yes, sir? A. Yes, sir.

Q. Do you know how long he has been there where he is now? A. A number of years.

Q. Is that across the street from your father's property? A. Yes, sir.

Q. Did you make a drawing of that Seneca Street approximately as it existed in 1884, '5 and '6, along in there?

A. I did.

Q. Did you draw it from memory? A. Yes, sir.

Q. I will ask you to look at Government's Exhibit A-91 and state whether that is the drawing you refer to?

A. Yes, sir.

Q. Now, to distinguish one portion of your drawing from the other let's letter it "X" and "Y". What portion of this drawing presents Seneca Street as you recall it now, or did when you made the drawing as it existed in the eighties? The part marked X or Y? A. Both.

Q. Both? A. Yes, sir.

Q. Well, the part marked Y there represents certain houses more in detail?

A. Yes, sir, this is the elevation of it, or you might say perspective, and the other is the floor plans.

Q. And gives the street names?

A. Street names, yes, sir.

Q. Now, where was your father's house on this Seneca Street? A. Right here.

Q. Now, where was 217 Seneca Street?

A. This was the house right here, two lots in between, vacant lots.

Q. Where is Van Tyle's barn? A. Right there.

Q. That is at the corner of Third and Seneca?

A. Yes, sir.

Q. Where was the so called Stella Forrest house?

A. Right here.

Q. That was a house of ill repute? A. Yes, sir.

Q. Where was Crilly's Barn, you have marked it Cranston and Crilly? A. Yes, sir.

Q. Where is the so called Seneca House?

A. To the east.

Q. East of Cranston and Crilly's Stable? A. Yes, sir.

Q. Now, where was Abernathy's furniture factory?

A. Abernathy's furniture factory?

Q. Yes, sir.

A. Abernathy's furniture factory is at this corner, Second and Seneca street.

Q. Second and Seneca, on the north side of Seneca?

A. Yes, sir.

Q. Now, where was Shawnee street?

A. South of Seneca.

Q. Is Shawnee street the main division street in the city, in numbering the property? A. Yes, sir.

Q. What street is north of Seneca street? A. Miami.

Q. Where is Cherokee street? A. Cherokee street?

Q. Yes, sir. A. It is Seneca, Shawnee——

Q. Going south?

A. Delaware and Cherokee, going south.

Q. Cherokee is the fourth street south of Seneca?

A. Yes, sir.

Q. Where is the business part of town from this Seneca street? A. At the present time?

Q. Yes, sir. A. Deleware street.

Q. What direction from this Seneca street block that you have drawn there? A. South.

Q. South and a little west? A. Southwest, yes.

Q. Two or three blocks. Is Shawnee—is Shawnee one of the streets that runs through the business part?

A. Yes, sir.

Q. Cherokee is another?

A. Yes, sir, Cherokee is another.

Q. Delaware is another? A. Another, yes, sir.

Q. Fourth street, running north and south, which is the first street west of—is the main business street?

A. Fourth street?

Q. Yes. A. No, I should say not; Delaware street.

Q. Delaware, east and west? A. East and west, yes.

Q. Did you make any drawing——

Mr. German: I would like to offer that in evidence, Exhibit A-91.

The Court: It may be admitted.

Q. Did you make any drawing of a portion of the Post ground at Leavenworth, purporting to show the location of the old United States prison and some residences, including the Grodevant residence recently? A. I did.

Q. Did you base your drawing on your own information or information given you by others?

A. I based it on information given me by the Government and Captain Purcell.

Q. Is this that drawing which I show you now?

A. Yes, sir.

Q. When did you make it approximately?

A. I should say two months ago.

Q. The drawing I have referred to, and which you have just testified to, is Government's Exhibit A-79. Mr. Feth, what age were you approximately in 1885? A. 15.

Q. 15; at that time, did you know—were you living in Leavenworth? A. Yes, sir.

Q. With your parents? A. Yes, sir.

Q. At this 223 Seneca street? A. Yes, sir.

Q. Do you recall this 223 Seneca street property and who has lived in it so far as your knowledge extends?

A. Yes, sir.

Q. Who? A. John Dotter.

Q. John Dotter? A. Yes, sir.

Q. That was a white family? A. Yes, sir.

Q. Now, do you recall who next lived in that property?

A. I do not.

Q. Do you recall whether or not Lillie White lived in it at one time?

A. I remember mother telling me that Lillie White lived there.

Q. I see; on what occasion did she tell you that?

A. Well, I should think at the present time, on account of that petition I drew up for her in 1885, or for my father.

Q. Are you the author of that petition? A. Yes, sir.

Q. The so-called Lillie White petition? A. Yes, sir.

Q. Dated July 5th, 1885? A. Yes, sir.

Q. You drew that, you say? And how came you to draw that?

A. I guess at the request of my mother and father.

Q. You were then 15 years old? A. Yes.

Q. Now, you remember a family living in that 217 Seneca at one time by the name of Letcher? A. No, I do not.

Q. When did you move out of that property at 223 Seneca, finally, never to return?

A. It was either in 1888, or in 1889.

Q. That was when you went to Chicago? A. Yes, sir.

Q. When you were living there in the '80's, prior to '88 and '89, were you a young man? A. Yes, sir.

Q. You were not of age? A. No, sir.

Q. Where were you working at that time?

A. Just state that question again.

Q. Where were you working at that time?

A. Prior to 1889?

Q. Yes, sir?

A. I was working with Mr. E. C. Carr, Carr and Grodevant at that time.

Q. What was Mr. Grodevant's name? A. Frank.

Q. You were an apprentice? A. Yes, sir.

Q. In their office? A. Yes, sir.

Q. They were architects?

A. Yes, sir, architects.

Q. Have you with you any memorandum or record from which you can tell when you were working for Carr and Grodevant as an apprentice? A. Yes, sir.

Q. Will you produce it, please. Is that it?

Q. When did you recently run across that?

A. Yesterday afternoon, about four o'clock.

Q. Where did you find it? A. At home.

Q. Are there any entries in that relating to your work for Carr and Grodevant? A. Yes, sir.

Q. Did that in any manner refresh your memory as to just when you did work for them? A. Yes, sir.

Q. Prior to yesterday had you found any memorandum or anything which refreshed your memory as to just the time that you did work for them?

A. No, sir, I didn't look for anything.

Q. Until yesterday? A. Until yesterday.

Mr. German: Your Honor, when that petition is brought in, I would like to have the witness identify it; otherwise, I am through. Well, there is one other matter.

Q. In your diagram here, or your drawing I should say of Seneca street, I notice you have drawn in the rear of this 217 Seneca street, which you have marked or indicated, for instance you have indicated this way—Dotter, or Granna Letcher; in the rear of that house you have drawn a stable that is, you have drawn lines and marks indicating a stable?

A. Yes, sir, that indicates a stable. This is our stable here.

Q. Mr. Feth, do you recall—do you have any independent recollection about those two stables? A. Yes, sir.

Q. Were they fitted up for residence purposes?

A. No, sir.

Q. Were they ever used for residence purposes while you were there? A. No, sir.

Q. What were they used for? A. For horses and cows.

Q. Take the stable in the rear of your father's house, who used it? A. A man by the name of Ludolph.

Q. Where is Mr. Ludolph now? A. He is dead.

Q. Was that a one or two story stable?

A. It was a story and a half.

Q. A story and a half?

A. Yes. It held about three horses and the above was for hay.

Q. Take the stable back of the so-called Letcher house; do you remember the condition that was in when the Dotters left that property? A. In poor condition.

Q. Do you know whether it was then being used for anything? A. I don't think it was.

Q. Was it fitted for residence purposes? A. No, sir.

Cross Examination by Mr. Stuart.

Q. Mr. Feth, how old were you when you say that you wrote this petition? A. 15 years old.

Q. 15 years old; had you been to Chicago prior to that time? A. No, sir, except on a visit.

Q. Just on a visit. When did you visit there prior to that time—Chicago?

A. Probably six or seven years; I had a sister living there, and I stayed——

Q. Six or seven years before that? A. Yes, sir.

Q. You were there quite frequently after you wrote this petition? A. Yes, sir, I worked there.

Q. Worked there? A. Yes, sir.

Q. When was the first time you went there after you wrote the petition? A. In the spring of 1889.

Q. The spring of 1889? A. Yes, sir.

Q. Do you know what is claimed in the case to be the Granny Letcher place?

A. I should judge it was the 217 Seneca street property.

Q. Yes, you have drafted the whole business, haven't you, on paper? A. Yes, sir.

Q. Then, that place was west of your father's house?

A. Yes, sir,—east of my father's.

Q. Immediately east of your father's place?

A. Yes, sir.

By the Court.

Q. Let me get this location in my mind. Which side of Seneca—the north or south? A. South side.

Q. South side? A. If this was north.

Q. This is north.

A. Well, it was on that side of the street, south side of the street.

Q. South side of the street and east of your father's house? A. Yes, sir, my father's house faced north.

By Mr. Stuart.

Q. Did your father sign that petition? A. Yes, sir.

Q. How did you know he did?

A. It looked to me like his signature.

Q. He was living then, was he? A. Yes, sir.

Q. You testified in this case before, didn't you?

A. Yes, sir, that is I was subpoenaed.

Q. Didn't you give a deposition in it, Mr. Feth?

A. I did, sir.

Q. You gave a deposition? A. Yes, sir.

Q. And didn't you state in that deposition that it was impossible for you to tell whether your father was living or dead at that date? A. I did.

Q. Well, why do you change your testimony now?

A. Because this little book here reminds me of the entire thing.

Q. That your father was alive at that date?

A. Yes, sir, 1885; he was buried from that same house.

Q. He was buried from that same house? A. Yes, sir.

Q. You did, however, testify before—— A. Yes, sir.

Q. That it was impossible for you to remember whether your father was living or dead at the time that you prepared this paper, didn't you?

A. Yes, sir. Will you allow me to explain something?

Q. I will if you will answer my question. A. Yes, sir.

Q. Did you say on your examination before when said you prepared the petition, that it was impossible for you to remember whether your father was alive or dead at that date? Did you use those words?

A. I don't remember that.

Q. Well, let's see.

> Mr. Stuart: I don't think, Mr. German, that our pages correspond with yours. It is on page 3164, Mr. Feth's testimony at Leavenworth.

A. I never testified in 1914, it was 1916.

Q. It reads this way—Mr. German asks: "Q. Whose handwrting is that? I notice the name of Phillip Feth; who was Phillip Feth?" "He was my father." "Whose handwriting was that?" "I should judge it was my father's." "Do you know whether your father signed the petition or not?" "I do not." "Was your father living at the time that petition was drafted by you?" "It would be impossible to tell whether he was living or dead at that date; I can't tell." "You don't know the date." "No." You testified to that, didn't you? A. Yes, sir.

Q. Now, why was it that this petition made more impression on your mind than your father's death did?

A. Because it was in my own handwriting.

Q. Because it was in your own handwriting?

A. Yes, sir.

Q. And your mind was perfectly clear at that time about your writing the petition and what was in it but you didn't have any recollecteion whatever of the time that your father died?

A. No, sir, I didn't know that was in the petition until that was shown to me and that refreshed my memory.

Q. It was shown to you at this trial at the time that you testified here? A. I seen it before that time.

Q. You saw it before that time?

A. I am not sure of that.

Q. Now, might not this be a fact, Mr. Feth, that you wrote this petition before that date, before the date now which is on it; that of the name from time to time, and finally dated it when you had filled up the petition, might not that be true?

A. I don't think so.

Q. You don't think so. Are you certain that is not true?

A. I am.

Q. Now, Mr. Feth, I want to ask you, you have heard of this woman Lillie White, hadn't you? *A.* You knew that Lillie White afterwards bought this property, didn't you?

A. No, she bought the property, no sir.

Q. Well, did she live there? A. She lived there.

Q. In your father's house afterwards?

A. Never was in my father's house.

Q. Didn't Malone buy this property from your father?

A. Malone?

Q. A man named Malone?

A. I am not sure; there was a syndicate bought it.

Q. Syndicate?

A. The way I understand it; four or five men.

Mr. German: Do you refer to your father's house?

A. I am referring to my father's house now.

Q. Your father's property covered lots 20, 21 and 22?

A. No, sir.

Q. Didn't it? A. Only two lots.

Q. What were they?

A. I can't say; I think it was 21 and 22.

Q. Why, Mr. Feth, haven't you abstracted the property a half a dozen times; can't you tell me the number of the lots of your father's property?

A. No, sir, because I haven't abstracted them.

Q. You made that map, didn't you? A. Yes, sir.

Q. You made it in reference to the location of the property, didn't you? A. Yes, sir.

Q. You knew the number of the lots, didn't you?

A. There are 16 lots in the block, I didn't number them on this at all.

Q. Do you know whether the Feth property was sold in 1887 by Catherine Feth to John J. Malone?

A. I know it was sold in 1887 during the boom; I don't remember the date.

Q. One J. Malone—isn't Malone that same man who was in business with Mr. Rohr?

A. I don't know whether he was in business with Mr. Rohr or not.

Q. He was a gambler there? A. A saloon man.

Q. And gambler. You do know your father's property and your mother's property was sold to John J. Malone in 1887, wasn't it?

A. My understanding was it was sold to Malone and Judge Hook, of the United States court and several others at the time.

Q. Now, you were 15 years old, then? A. Yes, sir.

Q. And you drew up this petition to put Lillie White out?

A. Yes, sir.

Q. Did they put her out?

A. I don't think they did. I think she stayed there for a while.

Q. How long did she stay there? A. I don't know.

Q. Where did she move to when she left there?

A. I don't know.

Q. Why, weren't you interested in seeing her get out of there?

A. I was interested in seeing her get out, I wasn't interested in where she went to.

Q. You were a boy around town?

A. Yes, sir, 15 years old.

Q. And Lillie White was a notorious prostitute there in the city? A. Yes, sir.

Q. Every [] knew her when they saw her?

A. Yes, sir, I think they did.

Q. You couldn't tell where Lillie White went to from your property? A. No, sir, I don't know.

Q. Never did find out? A. No, sir.

Q. Never did hear?

A. Never did hear and don't care.

Q. I know you don't care. The question is, did you find out? A. No, sir.

Q. Didn't find out. Did you hear anybody say where she moved to? A. No, sir.

Q. When you got her out, she just passed out of your mind? A. Yes, sir that is all.

Q. You are certain that she got out? A. No, I am not.

Q. You are not certain that she got out at all?

A. No, the best of my recollection is that we had a hard time getting her out.

Q. You spoke of a stable back there. You say nobody ever lived in that stable at all?

A. No, sir, couldn't have lived in there.

Q. Couldn't possibly have done it? A. No.

Q. Are you certain of that?

A. Certain of that, yes sir.

Q. Certain no negroes were rooming in there?

A. Yes, sir, I am.

Q. And never did room in there?

A. No, sir, never did in the stable.

Q. Alright, the place you call the stable.

Mr. Stuart: Is that petition, in, Mr. German?

Mr. German: Now, I didn't want to interrupt you.

Mr. Stuart: That is alright, I wasn't going to ask any——

Redirect Examination by Mr. German.

Q. Mr. Feth, I show you what has been marked Government's Exhibit No. 59, and will ask you to state what that is.

A. That is a petition to remove Lillie White—petition to the council for Lillie White to be removed from the premises at 217 Seneca street.

Q. Also covers Stella Forrest? A. Stella Forrest.

Q. Across the street at Third and Seneca? A. Yes, sir.

Q. Who drew that up? A. I did.

Q. Is that in your handwriting? A. Yes, sir.

Q. Take the signature appearing on there of Phillip Feth one of the— apparently one of the signers; state whose signature that it.

A. I should say it was my father's handwriting.

Q. When did you draw that petition up?

A. July 5th, 1885.

Q. Do you remember where you drew it up?

A. I do not.

Q. Where did you get the information that you put in that?

A. I don't know it but I must have copied it from some form because it is more legal than a boy of 15 years of age——

Q. I see. Must have copied it from some form. Do you know at whose suggestion you prepared it?

A. My father and mother's.

Q. Do you recognize any of the other signatures on it?

A. I don't recognize the signatures, no, sir.

Q. When was this petition first called to your attention in recent years? A. It was last year some time.

Q. When with reference to the time you gave your deposition at Leavenworth? A. I don't know.

Q. Very long before?

A. I don't know whether it was before or after, I paid little attention to it.

Q. Well, you testified to it at Leavenworth? A. Yes.

Q. Now, had you recalled the fact of preparing that petition before it was called to your attention up there—the photographic, or typewritten copy, or the original, along about the time you testified? A. No.

Mr. German: We offer Government's exhibit No. 59 in evidence.

The Court: It may be admitted.

Recross Examination by Mr. Stuart.

Q. Now, Mr. Feth, who moved into your—into the house that Lillie White moved out of?

A. Some colored people moved in after Lillie White moved out.

Q. Was her name Granny Letcher? A. I don't know.

Q. Didn't you ever hear of Granny Letcher?

A. I have heard of Granny Letcher but not at that time.

Q. Never heard of Granny Letcher while you were there?

A. No, sir.

Q. And the first you ever heard of Granny Letcher was when this trial came up? A. Yes, sir.

Q. Never heard of her as a boy; never heard of Granny Letcher as a boy? A. As a boy, no.

Q. When you were a child there 15 years old, you never heard of Granny Letcher?

A. No, if I did, I have forgotten.

Q. Alright. Now, will you take hold of that paper? Whose house is that? A. The John Dotter house.

Q. Who lived in there? A. John Dotter.

Q. Who lived there afterwards?

A. After the next person that moved into it?

Q. Yes. A. I should say Lillie White.

Q. Lillie White. Now, that is the house Lillie White lived in? A. Yes, sir.

Q. And that—this house right east of it, is the house your father lived in? A. West of it.

Q. West of it, the Feth house? A. Yes, sir.

Q. Now, the Lillie White house, known as the Dotter house on this map had an attachment to it on the rear, didn't it?

A. Yes, sir.

Q. Those three windows, or a door and two windows? What is that? A. That is two doors and one window.

Q. Two doors and one window?

A. The way it appears to me.

Q. Will you tell me at the time Lillie White lived there, if any negroes were in that rear portion, do you?

A. I don't know.

Q. You won't say they didn't will you? A. No, sir.

Q. So that Lillie White might have occupied the front portion—that is the big part of the house, and negroes occupied the back portion and you not know it, mightn't they, as it now stands?

Mr. German: I object to that as argument.

The Court: So far as he knows. You know whether —you say you don't know whether they did or not?

A. Whether they lived there or not. They may have had colored servants.

Q. Well, you don't know? A. No, I don't know.

Q. Now look at this. That Seneca Street is marked on the map isn't it? A. Yes, sir.

Q. And what is this down here, south, north, or east?

A. That is south.

Q. Right south of that is an alley? A. Yes, sir.

Q. And between Seneca Street and the place named as an alley is located the Van Tyle Stable? A. Yes, sir.

Q. Then the next place is a corn crib? A. Yes, sir.

Q. The next place Feth's house? A. Yes, sir.

Q. Then the stable? A. Yes, sir.

Q. Then the next place is the stable right east of Dotter's?

A. South of Dotter's place.

Q. Where Granny Letcher is supposed to have lived?

A. Yes, sir.

Q. I will ask you, Mr. Feth, if between the stable, known as the Granny Letcher house, and the Granny Letcher house there wasn't a little two story frame building? A. No, sir.

Q. You say that positively? A. Yes, sir.

Q. You never saw it there and you know it wasn't there?

A. Yes, sir.

Mr. Stuart: All right. That is all.

Redirect Examination by Mr. German.

Q. Where was that stable that you spoke of just then?
A. On the alley, southeast corner of the lot.
Q. Back of the Dotter house?
A. Back of the Dotter house, yes, sir.

(Witness dismissed.)

Mr. German: Your Honor, with relation to that original petition, we borrowed that from the City Clerk of Leavenworth and promised him that we would return it as soon as the trial is completed, if the Court would permit us to withdraw it; and we have a photographic copy here which we would like to substitute in lieu of that original.

The Court: Is there anything about this original petition as compared with the photograph here that makes it material that the original be kept rather than the photograph?

Mr. Stuart: Oh, I think not, your Honor.

The Court: All right, you may substitute the photograph. Just make the photograph an exact copy of the original.

Mr. German: In connection with the testimony of Mr. Dotter yesterday, we will offer as soon as we get it a certified copy of the deed from his father to the purchaser of the property to which he referred.

We now offer in evidence the deposition of Fred Metchan taken before Mr. Penick as Examiner, appearing in his transcript of depositions beginning on page 3011.

FRED METSCHAM, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Fred Metscham.
Q. Where do you live, Mr. Metscham? A. 621 Walnut.
Q. Leavenworth, Kansas? A. Yes, sir.
Q. What age are you? A. I am 39, past.
Q. Do you hold any official position with the city of Leavenworth? A. Yes, sir, I am city clerk.
Q. How long have you held that position?
A. It will be two years this coming December.

Q. As city clerk, do you have custody of any of the records, and files, belonging to the city? A. Yes, sir.

Q. Do you have custody of the records of the council proceedings? A. Yes, sir.

Q. Do you have custody of petitions that have been filed with the council—the present council and preceeding councils?

A. Yes, sir, all that you can find; a good many of them are stored away up in the garret.

Q. You have custody of those, too, haven't you?

A. Yes, sir.

Q. Mr. Metscham, did you bring with you any of the—did you bring with you this morning, and have you here any of the records of the council proceeding—— A. Yes, sir.

Q. For what year?

A. The year starts from December 17th, 1884, and ends with December 21, 1887.

Q. I wish you would turn—is that the book you are now examining? A. Yes, sir, the council proceedings.

Q. I wish you would turn to the proceedings of the council for August 5th, 1885. Have you done so? A. Yes, sir.

Q. Is that book—where did you get that book?

A. From the city clerk's office.

Q. Who did you receive it from when you entered the office of the city clerk? A. My predecessor.

Q. Is that one of the permanent files and records of the office?

A. This is a regular record of the minutes—proceedings and minutes of the council.

Q. And recognized as such for the year 1885? A. Yes, sir.

Q. How is it numbered or lettered?

A. Record as council proceedings No. M.

Q. What page in the book are you—do the proceedings for August 5, 1885, appear? A. Page 146.

Q. Is there any minute, there, relating to a petition with relation to Lillie's White's operation of a bawdy house, or house of ill-fame?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

Mr. Hanford: The same objection.

Mr. Allen: Do you object upon the ground that the book is not properly—that the minutes of that meeting of the council are not properly identified? Is there any objection to the identity of the proceedings of the council of that date?

Mr. Hanford: I make my object complete and include that objection as not properly identified.

A. There is one paragraph here about a petition being filed that reads as follows.

Q. Will you let me ask you another question that will call for the reading of it, please, Mr. Witness. There is a paragraph in the minutes of that date pertaining to a petition for the abatement of a so-called nuisance alleged to [] operated by Lillie White, as I understand you? A. Yes, sir.

Q. On what different pages in the book do the minutes for the date August 5th, 1885 appear?

Mr. Blakeney: We object as wholly immaterial, irrelevant, hearsay, incompetent, and immaterial.

A. Pages 144, 145, 146, 147, 148, 149, 150, 151, 152, and 153.

Mr. German: We offer in evidence the minutes of the council proceedings of date August 5th, 1885, in so far as they relate to the opening of the session and that portion thereof, relating to the action of the council on the petition which has been referred to.

Mr. Blakeney: We object as incompetent, irrelevant, immaterial, and hearsay.

Mr. Cruce: On behalf of Mr. Page, we object because the testimony is incompetent, and it is hearsay.

Q. I wish you would read, please, Mr. Witness, the recitation with reference to the opening of the session of the council and the portion of the minutes pertaining to the petition referred to.

Mr. Cruce: The testimony is objected to on behalf of Mr. Page, on the ground that it is hearsay, incompetent, and it is proposed to introduce the entire minutes of the meeting.

Mr. Blakeney: We object as hearsay, incompetent, and immaterial.

Mr. Hanford: The same objections. I join in the objections of Mr. Cruce and Mr. Blakeney on behalf of the defendant Minnie Folk.

Mr. German: To obviate an objection made by Judge Cruce, we offer all of the proceedings of the council of that date.

Mr. Blakeney: We object especially now, to the offer of the whole, containing about eight pages, which obviously is disconnected with this case and encumbers unnecessarily the record and we object to any part of this offer, for the reason that it would be hearsay evidence, incompetent, irrelevant, and immaterial.

Mr. Cruce: It is particularly hearsay testimony. If those petitioners had knowledge of matters, they can be brought as witnesses. Some petition they filed here some twenty years ago can not bind anybody.

Q. Mr. Witness, will you read the numbers which I asked you a while ago to read? A. The first part of them?

Q. Yes, sir.

A. Leavenworth, Kansas, Wednesday August 5th, 1885, council met in regular session with Mayor Neely in the *the* chair. *Room* call—present—Biringer, Brunes, Bond, Cook, Przybylowitz, Miller, and Roach; absent, Richards. Minutes of the last regular and adjourned meeting were read and approved—read all of it.

Q. No, sir. Now, read that part with relation to the petition that has been asked about.

A. The petition of Philip Feth and others, to have two houses of ill-fame occupied by Lillie White, 217 Seneca Street, and Stella Forest, 303 Seneca Street, removed and the nuisances, caused thereby, abated, was read and referred to the city marshal with instructions to abate the nuisance.

Q. Now, I wish you would state whether you have a petition purporting to be signed by Phillip Feth*l* and others, with relation to the occupancy of 217 Seneca street, by Lillie White in 1885?

Mr. Blakeney: We object as immaterial.

A. Yes, sir.

Q. Is that—do you hold it in your hand? A. Yes, sir.

Q. Where did you get that?

A. In the City Clerk's office.

Q. From what particular file did you get it?

A. 1885's file, petitions etc.

Q. Is this the file from which it came? A. Yes, sir.

Q. What is the indorsement on this page—on this envelope?

Mr. Blakeney: We object as immaterial.

Mr. Hanford: The same objection.

A. On the top there, is November petition, and December petition crossed out.

Q. Those words are crossed out? A. Crossed out.

Q. And what appears elsewhere?

A. On the edge it says petitions 1885, from June to July.

Q. Are there very many petitions in that envelope, or file case? A. Yes, sir, there is all kinds of them.

Q. Now, where has—where did you—where has that file case been kept?

A. In a regular wooden rack, right back of the vault.

Q. In the city hall? A. Yes, sir.

Q. What was the condition of that file case when it was found, or when did you get that to bring it here?

A. This morning.

Q. What was the condition to it with relation to whether it had dust on it?

A. Yes, sir, they are all dusty up there.

Mr. Blakeney: We object as immaterial; the amount of dust that might have been on it.

Q. Are you the custodian of that file? A. Yes, sir.

Q. And all the contents of it? A. Yes, sir.

Q. Where did you receive it?

A. Why, it was up there when my predecessor turned over the stuff.

Q. State whether that is kept where all petitions addressed to the council are kept—the later ones?

A. They are all filed in the city clerk's office.

Q. And this was among them? A. Yes, sir.

Q. Now, the petition which I ask you about, a while ago, I wish you would hand that to the Examiner.

Mr. German: I wish you would identify that, Mr. Examiner, as Government's Exhibit No. 59. I now offer in evidence a certified copy of the petition referred to, and asked that it be marked Government's Exhibit No. 60.

Mr. Blakeney: We object as incompetent, irrelevant, immaterial and hearsay.

Mr. Cruce: On behalf of Mr. Page, I object to it because it is hearsay, and incompetent. It is the rankest kind of hearsay testimony; no man can be bound by the petitions that—miscellaneous petitions that appeared before the council twenty years—thirty years ago; not under oath, and I must express surprise at the thought of this testimony.

Q. Mr. Witness can you leave this exhibit No. 59, that original petition, here for a little while in the custody of the court if he will agree to re-deliver it to you during the day?

A. Yes, sir.

Q. In the custody of the Examiner, I mean? A. Yes, sir.

Mr. German: Then Mr. Penick, we have not offered it. (Exhibit 59). We will not offer it.

Cross Examination by Mr. Hanford.

Q. Mr. Metschen is there an endorsement or any record to show when that petition, Government's Exhibit 59, was received by the clerk of the city council?

A. Not unless it is written on the back. Only way that you can tell is by the time it was read. The date of July 5th and read on—whenever the minutes show—the clerk evidently forgot to mark it.

Mr. Blakeney: We move to strike out the opinion of the witness that the clerk evidently forgot to mark it.

Redirect Examination by Mr. German.

Q. Do the petitions contained in the file from which—do the other petitions contained in the file from which you extracted Government's Exhibit No. 59 show on—by endorsement on them when they were filed?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial and hearsay.

A. Most of the old records do not show that.
Q. Don't show that?
A. No, the petitions and things of that kind.
Q. But it is contained in the file indicating by the endorsement on the back of the file that it is a petition from a certain time to a certain time? A. Yes, sir.
Q. And what is the particular time in this case?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

A. From January to July, 1885.

Q. That includes the month of July? A. Yes, sir.

Witness dismissed.

Mr. German: We now offer in evidence the deposition of Harry Seckler, taken before Mr. Penick as Examiner appearing in his transcript of depositions beginning at page 3178.

And thereupon HARRY H. SECKLER being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Harry H. Seckler.
Q. You live in Leavenworth, Mr. Seckler? A. Yes, sir.
Q. What age are you? A. Forty-three.
Q. I show you Government's Exhibit No. 59, a certified copy of which is Government's Exhibit No. 60. I will ask you

to examine the signatures on that petition and state whether you recognize any of them and if so, which one or ones?

A. I do.

Q. Which one?

A. I recognize the signature of John Seckler.

Q. Who was John Seckler? A. My father.

Q. Is this his signature? A. Yes, sir.

Q. You know your father's signature when you see it?

A. Yes, sir.

Q. Where did your father live in 1885?

A. 206 Miami Street.

Q. City of Leavenworth? A. Yes, sir.

Q. Where is Miami Street, in relation to Seneca Street?

A. One block north.

Q. Then 206 Miami Street is one block north of the 200 block on Seneca Street? Is your father living or dead?

A. No, sir, he is dead.

Cross Examination by Mr. Bell.

Q. Harry, did you know Lillie White? A. No, sir.

Q. Did you know Mrs. Letcher? A. I did not.

Q. Did you know Jim Mayo?

A. No, I have a recollection of some one named Mayo, but I do not know——

Q. You don't know where they lived? A. No.

Q. Did you know Sam Nash?

A. I knew of Sam Nash, yes.

Q. Did you know when he lived up on Seneca Street?

A. No, I don't know where Sam Nash lived, I remember of him being around a livery stable up there; that Sam Nash and the livery stable were sort of connected when I was a small boy, because he worked there.

Q. Did you know the Seth family, the old lady and gentleman?

A. No, I knew Billy Seth in later years, but I didn't know the old people.

Cross Examination by Mr. Hanford.

Q. Did you know John Mettier? A. Yes, sir.

Q. Where did he live?

Mr. German: I object to this as improper cross examination.

A. On the northeast corner of Second and Shawnee Street; he had a bakery.

Q. Is that where he lived, or where he had a bakery?

A. He had a bakery there if I am not mistaken, if my recollection serves me right, it was several years ago, he lived up stairs over the bakery. The building is still there I think.

Redirect Examination by Mr. German.

Q. What is your occupation?

A. I am in the advertising department of the Leavenworth Times.

Witness dismissed.

Mr. German: We now offer the deposition of William W. True, which I think is spelled by Mr. Penick, Krew, it is one or the other, which deposition was taken before Mr. Penick as Examiner and appears in his transcript beginning at page 2207.

And thereupon, WILLIAM W. KREW, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name?

A. William W. Krew is my name.

Q. What age are you, Mr. Krew? A. Sixty three.

Q. Where do you live? A. 601 Shawnee.

Q. Leavenworth? A. Leavenworth.

Q. How long have you resided in Leavenworth?

A. Ever since about 1883, about that, 1883.

Q. What business are you engaged in?

A. In the manufacture of furniture—furniture work and machine work.

Q. What do you call your occupation?

A. Machine operator.

Q. Who are you employed by?

A. Abernathy Furniture Company.

Q. Wholesale? A. Wholesale and retail.

Q. Manufacture furniture? A. Yes, sir.

Q. Here in Leavenworth? A. Yes, sir.

Q. How long have you been employed by the furniture company?

A. I think I commenced with them in eighty four, I think it was eighty-four, in the spring of 1884.

Q. Have you been in their employ ever since with the exception of——

A. Probably two years. Two years in ninety or ninety one—I think ninety one I was away from town.

Q. Mr. Krew, you are a white man? A. Yes, sir.

Q. Do you know the property on Seneca Street between Second and Third where there used to be a frame residence known as 217 Seneca Street? A. Yes, sir.

Q. On the south side of the street?

A. On the south side of the street.

Q. Who was living in that house, according to your knowledge, who first lived in that house so far as you know?

A. Well, there was a great many living in the house. I don't know any of them personally, there was several of them that we talked about, you know, said that they lived there, parties that were pretty near right across the street from where I was.

Q. Where is the Abernathy Factory?

A. It is on Second and Seneca and Miami together.

Q. Now, where *if* the factory, with reference to 217 Seneca? A. Northeast, a little northeast of 217.

Q. Just across the street?

A. Just across the street.

Q. And a little east? A. Yes, sir.

Q. Did you know a woman by the name of Lillie White?

A. Why, I knew her when I saw her, wasn't personally acquainted with her, no, sir.

Q. Did she ever live at 217 Seneca?

A. She was there, I believe, to the best of my knowledge, at the time that I was working there, I was night watching at the factory, and she was living in that property that is 217 that is occupied now by a lumber shed.

Q. How is it occupied now? A. Lumber shed.

Q. The old frame residence has been torn down?

A. That has been torn away, yes, sir.

Q. Who was the first person that you ever knew to live at 217 Seneca?

A. Well, that I don't remember, I remember of the talking of her and others, but I don't remember their names, there was a number of them there at the time.

Q. Was she a white woman?

A. She was a white woman, yes, sir.

Q. Well, was it not Lillie White who was one of the ones that you mention? A. How?

Q. Was or not, Lillie White one of the persons who lived there?

A. Well, that is the name that she went by.

Q. Do you remember a colored family living in that house, having lived in the house? A. I do not, no, sir.

Q. At 217 Seneca? A. I don't remember of it, no, sir.

Q. Did you know Granny Letcher?

A. I don't believe that I did, I remember the name but I can't place the person distinctly.

Q. Did you know Jim Mayo?

A. No, I don't remember him.

Q. Sam Nash, the one armed boy?

A. Sam Nash, I remember that, yes.

Q. Was he a colored boy? A. A colored boy I believe.

Q. Where did he live? A. Sam Nash?

Q. Yes?

A. Why, I think they lived on Kickapoo, I ain't sure whether he did or not.

Q. Now, this Lillie White, when she was living in that house, when was that with reference to the time that you came to Leavenworth?

A. Well, that was about eighty-four, 1884.

Q. Along there? A. Along there, yes.

Q. Was there any colored people living in that house with her?

A. Well, that I can't remember, I don't know.

Q. Now, did you know a woman by the name of Emma Moss? A. I have heard of her, yes.

Q. Do you know whether or not she lived there?

A. I can't say, positively, but it seems to me that she did, but positively, I can't say.

Q. Now, what was Lillie White's reputation?

> By Mr. Hanford: Now, we object to all this testimony as incompetent, irrelevant, and immaterial, object to this question and all of this line of testimony.

A. Why it wasn't good.

Q. And you remember her? A. Yes, I remember her.

Q. Living there, you remember her very well?

A. A great many of them, I remember that she went to other places and finally married and went away.

Q. What other street did she go to?

A. Well, the last that I remember of her she was on Main street.

Q. Did she go to Choctaw Street?

A. She went to Choctaw Street, as well as I remember, from 217.

Q. From Seneca?

A. Yes, the last I heard of her she was on Main Street.

Q. Was she a very attractive woman?

A. There seemed to be a good many that thought a great deal of her.

Q. I mean her appearance.

A. She was a very nice looking woman, yes.

Q. About how long did she live on Seneca Street?
A. That I can't say, my memory doesn't serve me.
Q. What is your best judgment as to that?

By Mr. Hanford: Objected to as calling for a conclusion, the witness stated he doesn't know.

Q. She was there sometime, I knew she was there, how long before I can't state.

Witness dismissed.

Mr. German: We now offer the deposition of C. W. Dassler, a lawyer, taken before Mr. Penick as Examiner, appearing in his transcript beginning page 2213.

In connection with the testimony of Judge Dassler, we offer in evidence a certified copy——

Mr. Stuart: Your Honor, I object to Mr. Feth being in the Court Room during the testimony.

The Court: Mr. Feth may go to the witness room. May Mr. Feth be excused and finally discharged?

Mr. Stuart: Yes, sir.

The Court: Mr. Feth may be discharged as a witness.

Mr. German: In connection with the testimony of Judge Dassler, we offer as Government's Exhibit A-93 a certified copy of a petition filed by him in the District Court of Leavenworth County on October 30, 1885, before John Rohr as Clerk of District Court in the suit entitled C. F. W. Dassler and L. G. Hopkins vs. Charlotte W. Calkins and others including Lillie White.

The Court: What is the point of that?

Mr. German: It is this, your Honor, Judge Dassler testified as to having filed a petition October 30, 1885, against Lillie White and others affecting the title to this Seneca Street property. And he explained in his testimony that Lillie White was not made a defendant except for the reason that she was in possession and he wanted to conserve the rents pending the suit. It was to foreclose a mortgage lien. And the object of introducing this is to fix the date with certainty.

The Court: Fix a certain time at which Lillie White was occupying that place?

Mr. German: Yes, sir, and coupled with our other testimony.

The Court: Now, is it necessary to encumber the record with the entire petition? Probably there is a lot of stuff in that petition which is not necessary.

Mr. German: Except for the allegation contained in it to show that she was not one of those liable on the obligation but was merely made a party because she was in possession.

The Court: Any objections to this?

Mr. Cruce: Yes, sir, if your Honor please, it is hearsay testimony. The witness in his deposition undertook to tell how he fixed this date. Now, to incorporate the statement he had made when he was not under oath is to make his unsworn statement testimony now.

The Court: Well, we are seeking now to determine the existence of certain facts thirty years ago. As a circumstance it might have bearing on this case. I don't like to encumber the record with a whole lot of immaterial stuff. The circumstances merely relating to the date at which this petition or action was filed; there possibly is some question with regard to the attitude of this Lillie White in the suit; and I suppose the witness has testified covering that. May the record show that the petition was the petition referred to by the witness?

Mr. German: Judge Dassler had the original with him.

The Court: And does his testimony show the date of the filing of that petition?

Mr. German: I think so, but it doesn't show the contents.

The Court: Now, you say you just want to get the date and the fact that it was charged in that petition that Lillie White was in posession?

Mr. German: Yes, sir; it isn't charged that she was an obligor. Coupled with his testimony it constitutes evidence of occupancy.

The Court: And covers the same things set up in his petition?

Mr. German: I think so.

The Court: Very well, we will not put it in.

Mr. German: Now, I would like to introduce a certified copy of a dismissal of that suit in November. It is very short and he didn't, as I remember it, recall when the suit was dismissed.

The Court: Does he testify with regard to this dismissal?

Mr. German: Yes, sir.

The Court: It may be admitted.

Mr. Hanford: Your Honor please, before that original petition is taken away, I didn't exactly join in consenting to allowing it to be taken away. At this time I want to interpose my objection to having that petition taken away or taken out of the files of this Court and a photographic copy substituted until the conclusion of the trial.

The Court: No, the original will be retained during the trial.

Mr. German: The original petition?

The Court: The original petition of Lillie White.

Mr. German: As Government's Exhibit A-94 we offer the dismissal which the Court has just admitted.

And thereupon, C. S. W. DASSLER, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. C. S. W. Dassler.

Q. Where do you reside, Mr. Dassler?

A. Leavenworth, Kansas.

Q. What is your business? A. Attorney at law.

Q. How long have you been practicing law?

A. Since 1873.

Q. At Leavenworth? A. At Leavenworth, yes, sir.

Q. You are the same C. S. W. Dassler who is the author of some law books? A. Yes, sir.

Q. What is the name of the books, Mr. Dassler?

A. Oh, thirty or forty, I don't know. Principally statutes and digests and treatises on various subjects.

Q. Mr. Dassler, where is your office?

A. At 307 Edward St., in this city.

Q. Did you ever have any interest in a piece of real estate here in town which is known as No. 217 Seneca Street?

A. I don't remember the number, but I presume you refer to lots twenty-three and twenty-four, in Block 24, is that the property?

Q. That is correct. Where is that located?

A. On Seneca Street between Second and Third on the south side.

Q. About the middle of the block?

A. Close to the middle of the block, yes, sir.

Q. Did you know a family by the name of Dotter, the head of which was Gustav Dotter?

A. Yes, sir, I remember that family, yes, sir.

Q. Did they ever reside there?

A. Yes, sir, they resided there.

Q. Did you know about their having—the fact of their having sold that property to a woman named Emma Serrill?

A. Yes, sir.

Q. And about Emma Serrill having executed some notes in part payment of the consideration? A. Yes, sir.

Q. Did you ever have any interest in those notes?

A. Yes, sir. I purchased some of them.

Q. Purchased some of them? A. Yes, sir.

Q. Have you those notes now with you?

A. Yes, sir, I think the whole batch is here. There are the notes.

Q. How many of those notes did you purchase?

A. Now, I will have to dig into it a little, I have here the paid notes, and also notes that were purchased.

Q. Well, I will not trouble you——

A. There were quite a bunch of notes, at the time I purchased, quite a number of them had been paid off and they were turned over to me afterwards.

Q. Then, I will not trouble you, Mr. Dassler, to go into the entire number; approximately how many in all were there?

A. I can get that by the serial number. Well, they are not in their regular order here.

Q. Well, there was approximately——

A. I see one here payable thirty eight months after date.

Q. Payable monthly were they?

A. Monthly notes, yes. One runs—appears to be dated August 1st, 1884, and I signed one here thirty eight months.

Q. The first one is payable one month after date?

A. One month and so on.

Q. In what denomination are they?

A. Fifty dollars each.

Q. Who was Emma Ferrill, a white woman or a colored woman? A. A white woman, yes, sir.

Q. Where did she reside, did you ever know?

A. Well, I don't know of my own knowledge, except that I supposed she resided at this property, I was told that she did.

Q. Now, you say you purchased some of those notes?

A. I did.

Q. Were they secured?

By Mr. Hanford: Just a moment, I wish to strike the previous answer on the ground that it is hearsay.

By Mr. German: I will consent that it may be stricken. It is hearsay.

A. By mortgage on this property.

Q. On the property? A. Yes, sir.

Q. Have you the mortgage?

A. I don't know whether that original mortgage is here or not, it doesn't appear to be here.

Q. Do you know when the Dotters moved out of that property? A. Not of my own knowledge, no.

Q. When did you purchase the notes that you purchased?

A. The first batch of notes that we purchased, was on November 22nd, 1885.

Q. Will you refer to your check again?

A. No, I beg your pardon that ain't the first one; October 27th, 1885.

Q. October 27th? A. Yes, sir.

Q. And then when did you purchase some more?

A. October 29th another batch.

Q. And then when did you purchase——

A. November 27th, I think we got in the remainder the same year.

Q. 1885? A. All in 1885.

Q. How did you—— How do you fix those dates, Mr. Dassler? A. By checks given to pay for them.

Q. You have the original checks now in your hand?

A. Yes, sir.

Q. You didn't purchase all of them at the beginning?

A. No, sir.

Q. Were the notes that you purchased paid when due?

A. No, sir, they were not.

Q. Or were they past due when you bought them?

A. It seems to me that the first notes were past due or about due, possibly there was a default in one note, I think.

Q. Did you have any occasion to file any suit to foreclose the mortgage? A. Yes, sir.

Q. Where did you file that suit?

A. The District Court of Leavenworth County, Kansas.

Q. I show you the files, Court files, or what purports to be the Court files in the case of D. W. W. Dassler, and others against Charlott W. Calkins and others. Was any one interested with you in the purchase of those notes and the ownership of them?

A. Mr. L. G. Hawkins, we purchased them together.

Q. L. G. Hawkins? A. Yes, sir.

Q. He lives here now, does he? A. Yes, sir.

Q. The papers, the Court files, which I show you, I will ask you whether or not they are the files in the case you refer to? A. Yes, sir, they appear to be, I think they are.

Q. Who prepared the petition in that case?

A. It looks like my handwriting, I think I did. I did in fact, yes.

Q. I wish you would examine all the files there, please, sir, so that you may testify whether they are the files in the case that you refer to? A. Yes, sir, they are.

Q. On what date did you file that law suit? A. October 30th, 1885.

Q. Mr. Dassler, I notice that in the original Petition that yourself and Mr. Hopkins are plaintiff and that Julia W. Calkins, John Dotter, Gustav Dotter, Alonzo F. Callahan, Billy White, Emma Darrington, and James Darrington her husband, and John Mettinger were made parties defendant, and two other persons whose names are erased in the style of the case, but who appear to be Henry LaRamelt and Emma Farrell, were the parties defendant. Will you state, if you know why all those parties were made parties defendant?

A. Why, Charles W. Calkins had a prior mortgage on the property. John Dotter and Gustav Dotter were supposed to hold the notes that we didn't own; also Alonzo F. Callahan. We supposed he had some notes that we didn't own; Lillie White was supposed to be an occupant of the property; Emma Darrington and James Darrington was intended for Emma Ferrill and her husband. We afterwards ascertained that the names were not correct, that she married a man by the name of Cowfer, and as the records will show, the Petition was amended afterward. John Mettinger was a tenant in the property and Henry Randal, whose name is erased here, owned some of the notes which we purchased about the time this petition was filed. The Petition was probably prepared before we purchased the notes and then the name was erased.

Q. Now, was Process served upon the defendants, or do you depend upon the files for that?

A. We depend upon the files for that entirely, whatever the files show as to that.

Q. That lawsuit was settled, or dismissed, or how was it disposed of?

A. Here is a stipulation of dismissal, I think.

Q. When was it dismissed?

A. The stipulation is dated November 27th, 1885.

Q. How come it to be dismissed?

A. Why, Mr. Callahan, who represented the Calkins—Callahan, attorney, represented the Calkins Mortgage, and also represented the Dotters in this suit when we purchased from him the remaining notes and became the owners of all of them, why the suit was dismissed.

Q. Now, on what date did you purchase those remaining notes?

A. Let me see, the same date of that stipulation, November 27th, 1885.

Q. And you acquired the title to the property?

A. Yes sir,

Q. Right about that same time?

A. Well, we got the deed just about the same time.

Q. The record will show the date of the deed?

A. The record will show the date of the deed.

Q. I mean the place where the deed is recorded?

A. Possibly that deed is here.

Q. You may have the deed there?

A. Possibly.

A. Yes, these two deeds, the deed from Emma Cauffer and her husband to Frederick Werner, dated November 18, 1885, then Frederick Werner conveyed to Mr. Hopkins and myself by deed dated November 24th, 1885.

Q. Were you interested in any way in that property or those notes prior to the date of the first purchase of the notes by you? A. No, sir.

By Mr. German: We offer in evidence the notes referred to.

By Mr. Hanford: We will object to the notes as incompetent, irrelevant, and immaterial, but agree that they may be read into the record instead of the introduction of the notes themselves.

Q. Now Mr. Dassler, those other checks that you refer to are the checks I now hold in my hand? A. Yes, sir.

Mr. German: We offer in evidence these as Government's Exhibits Numbers (three checks) 47, 48, 49 and we offer in evidence the deed of Emma Kaufer and others to Frederick Werner, dated November 18th, 1885, as Government's Exhibit Number 50.

Mr. Hanford: I wish to note my objection to all of those instruments, on the ground that they are incompetent, irrelevant and immaterial.

Mr. German: And the deed dated November 18th, 1885, from Frederick Werner, a single man, to Charles W. Dassler and L. G. Hopkins as Government's Exhibit No. 51.

Mr. Hanford: Mr. German my objection is general to all of these?

Mr. German: I see. I am willing to that.

Mr. Bell: We offer the same objection Mr. German.

Mr. German: We will not introduce the original court files but we will introduce certified copies of them later on. All of the court files in that case. We will later offer certified copies of them.

Q. Mr. Dassler you collected rent from that property after you acquired the title, did you not? A. Yes, sir.

Q. Who were the tenants from whom you first collected rent?

A. Why Mrs. Letcher was the first tenant from whom I received rent.

Q. And who else? A. And Mettinger, I think it is.

Q. John Mettinger? A. John Mettinger, yes, sir.

Q. When did you collect that rent? The first money that you ever collected?

A. That was received on November 28th, 1885.

Q. From whom did you collect rent on that date and in what amount?

A. Why I received from Mr. or Mrs. Mettinger the sum of $6.00, and from Mrs. Letcher the sum of $13.00, and from Mr. Mchale the sum of $10.00.

Q. Who was Mr. Mchale?

A. Mr. Mchale at one time owned some of these notes and he was a real estate agent with office up here on Seneca Street and he appeared to be in charge of the property when we first became interested in it.

Q. He in some way got hold of $10.00?

A. When Mrs. Letcher paid me $13.00 she informed me she had already paid $10.00 to Mr. Mchale on that same month's rent and afterwards Mr. Mchale paid that over to me the $10.00.

Q. How much rent a month did Granny Letcher pay?

A. The rent at that time was $25.00 a month for her portion of the house.

Q. And do you remember how much for the Mettinger portion? A. $6.00 a month.

Q. How did you get at those dates, Mr. Dassler? How do you know these are the dates?

A. Well, from the account book I kept of receipts of rent from this property together with other property.

Q. Do you know by reference to your book there the rent during every month for months and months? Do you know when was the end of Granny—of Molly Letcher's rental month?

A. Her month ran apparently from the 2nd of the month to the 2nd.

Q. 2nd to the 2nd? A. Yes, sir.

Q. Did she pay you—she had paid $23.00 then?

A. Yes, sir.

Q. On November rent? A. Yes, sir.

Q. Did she ever pay the other two?

A. Paid that on December 5.

Q. December 5? A. Yes, sir.

Q. Does your record indicate whether that was to fill out the month or not?

A. Well the next month's record does.

Q. Shows the end of her rental month was the 2nd of the month? A. The 2nd day of the month.

Cross Examination by Mr. Bond.

Q. Did you go through your record to see when she stopped paying rent?

A. Well, I can in a little while. She stopped in about the month of April, 1890.

Q. And when did she commence again according to your record?

A. Well, she was away from the building then and she commenced——

And thereupon the witness is dismissed until 9:30 o'clock A. M., and an adjournment of the taking of testimony is had herein until 9:30 o'clock A. M., March 1st, 1916.

And thereafter and on March 1st, 1916, at 9:15 o'clock A. M. further testimony herein was taken as follows:

C. F. W. DASSLER being recalled further testified as follows:

Cross Examination by Mr. Bond.

Q. Mr. Dassler will you please state what your book shows with reference to the date that Mrs. Letcher paid rent and when she did not pay rent?

A. The book shows that she stopped paying rent about the month of April, 1890, and again commenced paying rent in

September, 1894, the first payment being September 20th, 1894.

Q. How long does she continue then?

A. Then she remained in until her death, I think. I think she died there.

Q. About when?

A. I don't know. My records only go while I was interested in the property and I don't know whether I was interested at the time she died or not or whether Mr. Hopkins had it alone. We afterwards divided up our interests and whether she died when he was sole owner I don't know. But my record shows I got rent until some time in 1899, the last payment of rent I got. Not in this record but later record in 1899.

Redirect Examination by Mr. German.

Q. I want to ask another question, one or two on direct examination which I had overlooked. Mr. Dassler did you have a list of the names of the persons who held leases on that property or notes? A. At the time I speak of?

Q. Yes, sir, at the time you testify about in 1885?

A. In 1885?

Q. Yes, sir, in the fall when you became interested and when you filed the suit?

A. Well, I expect I had that in this way. Mr. Hopkins is an abstracter of titles and he probably looked it up and I filed the suit on the information that he gave me with reference to that.

Q. Lillie White was not one of the note holders or lien holders?

A. No, sir, neither a note holder or a lien holder as far as I know.

Q. Now Granny Letcher, I don't know whether you knew her as Granny Letcher or not?

A. My books just show Mrs. Letcher.

Q. Mrs. Letcher resided in the house continuously so far as your knowledge extends, from the time that you received rent on November 28, 1885, until in the spring of 1890?

A. Yes, sir.

Q. How would you collect the rent?

A. Why Mrs. Letcher would either bring it down in person or send it down by her boy or sometimes she would send it down by a woman that perhaps lived there. Just came in and paid the rent. It was very seldom that I went up there to collect rent excepting when she would begin to get short and I would run up and dun her once in a while.

Mr. German: Pursuant to the stipulation yesterday in reference to the notes referred to by Mr. Dassler I will briefly describe them. There are thirty-five notes, each dated August 1st, 1884. The first one is payable four months after date and the others are payable monthly, one each month; the last one being payable thirty-nine months after date. They are each in the sum of $50.00, executed by Emma Serrell, and payable to the order of John Gotter, and bear interest at the rate of eight per cent per annum. Several of them have a note on the margin indicating that they are secured by mortgage. They are all endorsed John Gotter. Some of them have further endorsements.

Recross Examination by Mr. Bond.

Q. Your testimony is given principally from what you find in your memorandum book and from the papers you have concerning this transaction?

A. Altogether. I have no independent recollection as to dates at all.

Q. You said that the first rent that your book showed was November? A. November 28th.

Q. Was November 28th? A. Yes, sir, 1885.

Q. And at that time a man name McHale paid you $10.00?

A. Yes, I received from Mr. McHale $10.00 which Mrs. Letcher said she had paid to him on that month's rent and he paid it to me afterwards.

Q. You made certain parties in your suit there parties defendant, your suit being filed on October 30th I believe?

A. Well, whatever those papers show.

Q. You obtained the names other than the lien holders as you could, I suppose, from different parties?

A. Yes, sir, from inquiries I made. Mr. Hopkins would find—He really knew more about that matter, I guess, than I did. He knew more about as to who was on the premises than I did and that——

Q. You don't want to give the impression here do you Mr. Dassler that Granny Letcher was not at that house prior to the time that you bought it?

A. I don't know. I don't know—I don't know who was there prior to that time.

Q. She might have lived there four years prior to this as far as you know?

A. Yes, I wouldn't know whether she did or not.

Q. And the first that you knew that she was in the house, even after you had bought it, was when Mr. McHale and she came to pay you some rent, is that right?

A. Mr. McHale didn't come to my office. Mrs. Letcher came there probably. I went up to the house after we got our deed and found Mrs. Letcher there and she then told me that she had paid $10.00 to Mr. McHale on this month's rent and promised to—and I told her that Mr. McHale had no authority to collect rent for us, that is meaning Mr. Hopkins and myself, and then she came down to the office either the same day or the next day and paid this $13.00 and in the meantime on the same day, according to this record here, I went to see Mr. McHale and he paid the $10.00 back to me that he had gotten from the tenant there.

Q. And so far as you know Mr. McHale might have been collecting rent from her for a year prior to that?

> Mr. German: I object to that as argument and improper cross examination.

A. I don't know what Mr. McHale did prior to that time.

Q. You don't know who in fact did physically occupy the house do you? A. No, sir. You mean at that time?

Q. At that time?

A. No, I don't. Of my own knowledge I do not.

Q. And you don't know who had slept in the house and lived there of course prior to the time that you got it?

A. I do not.

Q. Now you filed the original suit October 30th, 1885?

A. Yes, sir.

Q. Naming several parties, parties defendant?

A. Yes, sir.

Q. On November 23rd of the same year you filed an amendment to your petition didn't you? A. Yes, sir.

Q. And at the time that you filed that amendment you didn't make Mrs. Letcher a party defendant did you?

A. No, I did not.

Q. And your books show from what they show that at the time you filed your amended petition she had paid rent to Mr. McHale for living in that house dating back from November 2nd, I believe you say?

> Mr. German: I object to that question as assuming a fact which is not proven, which the witness has not stated; that his books showed that and that McHale had collected from Granny Letcher.
>
> Mr. Bond: I will withdraw that question.

Q. As I understand your testimony given from your books that the money—that the first rent that you collected Mrs. Letcher in the last of November was for the month of November, dating from November 2nd?

A. Yes, sir.

Q. So that when you filed your amendment to your petition she had been a tenant so far as your books are concerned for several weeks?

Mr. German: I object to that as purely argumentative and calling for an opinion and conclusion of the witness.

Q. That is correct isn't it?
A. My books show that I received the $10.00 and the $13.00 on the 28th day of November.
Q. In other words, Mrs. Letcher might have been living right in that house when you filed your petition, isn't that right, and you didn't make her a party defendant.

Mr. German: I object to that question as argumentative.

A. She might have been.

Cross Examination by Mr. Bell.

Q. Mr. Dassler, Mr. McHale was real estate man here wasn't he?
A. Yes, sir. Had an office right over here on Seneca Street between Third and Fourth.
Q. And didn't you get inference when he paid you the $10.00 that he had been collecting rent from Mrs. Letcher?

Mr. German: I object to that as calling for a conclusion and opinion of the witness. Let him state what was said.

A. I don't remember that Mr. McHale told me from whom he had received the $10.00.
Q. Don't remember that he did? A. No.
Q. All you know is that Mrs. Letcher told you she paid Mr. McHale $10.00? A. On that month's rent.
Q. Did you know of your own knowledge what authority McHale had for collecting rent?
A. No, I didn't, of my own knowledge excepting that he had some of these notes we bought from him.
Q. And you bought some of those notes from him?
A. Before that time, yes, sir.
Q. Before you began your foreclosure suit? A. Yes, sir.

Redirect Examination by Mr. German.

Q. You have no recollection as to what Mr. McHale may have told you as to where he got that $10.00?
A. Oh, no, I have no recollection as to—from what person he got it except it was rent from that property.
Q. Now who was the agent of Emma Ferrell here in town at that time?
A. I can't say that she had an agent but Alonzo F. Callahan apparently was representing the Gotters and her also.

Q. When was your first connection with this property or any lien or note against the property, when you bought these notes you described?

A. When the first purchase of notes was made.

Q. You had no interest in it before then?

A. None whatever, absolutely none.

Q. When you prepared your papers for that suit or just before doing so did you make inquiry as to who the occupants of the property were?

A. Well, I naturally would make an inquiry.

Q. Did you learn then that John Mettinger and Lillie White were the tenants?

A. Some one must have told me that.

Q. That was your information at least from some source?

A. Yes, from some source. I don't know where it came from.

Q. What was your object in making Lillie White and John Mettinger parties defendant to the suit, they not being lien holders?

A. It was because I supposed that they were living on the premises.

Q. Was it your practice in such suits to make the possessor of the property, the actual possessor, a party defendant?

A. Yes, sir, whenever we intended to apply for a receiver as we did in this case.

Q. You applied for a receiver? A. No, we intended to.

Q. So you could preserve the rents? A. Yes, sir.

Q. Pendente lite? A. Yes, sir.

Recross Examination by Mr. Bell.

Q. Did Mettinger use and occupy the whole of that premises? A. No, sir.

Q. Didn't he sub-lease it to others?

A. Mr. and Mrs. Mettinger simply occupied the ell only at the rear of the premises; there was no connection between that and the front except one door, as I remember it.

Q. And the other part of it he sub-leased?

A. He didn't sub-lease it. He was only paying for the two rooms, I think, that he occupied.

Q. Now, who was in the other part of the house when you filed the suit?

A. Why Mrs. Letcher must have been there because I received rent from her. As to who else was there I don't know.

Mr. German: I move to strike that answer on the ground that it is hearsay, irrelevant, immaterial and argumentative.

Q. Well then the first rent that you did receive from that house after you got your deed was from Mrs. Letcher and McHale and Mettinger?

A. Yes, sir, from those people.

Q. The three?

A. Yes, sir, the money came from the three persons.

Q. $13.00 from Mrs. Letcher, I understand? A. Yes.

By Mr. German: Let's let him read that and the next into the record.

Q. Now, what was the rent of Mrs. Letcher?

A. Well, what my books show you *want* is it?

Q. Yes?

A. Well, my book shows this is headed Lots 23 & 34, Block 24, 1885, November 28th, received from McHale $10.00.

Q. Is that John C. McHale?

A. Yes, sir, John C. McHale. Same date received from —it is Meninger—it should be Mettinger, to pay to December 19, '85, $6.00. Same date received from Letcher $13.00; December 5, received from Letcher, two dollars; December 7, received from Letcher account of December rent $15.00; December 18, received from Letcher, account of December rent $5.00; December 22nd, received from Menninger to January 19, '86, $5.00; December 22nd, received from Letcher $5.00; this pays to January 2nd, eighty-six. Do you want to go any further?

Q. No, I do not.

Redirect Examination by Mr. German.

Q. Yes, read the next line?

A. January 6th, received from Letcher $11.00. Now, the next item doesn't belong to this property; that was another property.

Q. Just omit it then.

A. January 22nd, received from Letcher $12.00; January 29, received from Menninger $5.00, paid to February 19, '86; February 6th, received from Letcher, paid to February 2nd, '86, $2.00.

Recross Examination by Mr. Bell.

Q. Now, when you referred to Menninger there, do you understand from your own knowledge that that means John Mettinger?

A. I don't remember the first name, but it means—he was quite an old gentleman, I know at that time, and his wife was quite an elderly lady at that time.

Q. And the rent that you have just designated there is the rent that you received after you became in possession of the property by your deed?

A. Yes, after we got title to that property.

Q. Before that whoever collected the rents you know nothing about? A. No, I do not.

Recross Examination by Mr. Bond.

Q. Will you refer now to April, 1890, and tell us, according to your books, who took the place of Granny Letcher in that house when she moved out, as I believe that is the date that you say your book shows she stopped paying rent?

A. She stopped paying rent, my book shows, April 15, 1890. That is the last payment. In 1889 that property, the basement to that property caved in and the premises became untenantable for a time. The next person who occupied the premises was a Mrs. McPherson, who made her first payment of rent on June 6th, 1890.

Q. You were asked by Mr. German if you attempted to make all of the tenants of the house parties defendant. I call your attention to your amendment to the petition, filed November 23rd. I will ask you to state whether or not you made Mrs. Letcher a party defendant in that paper?

A. No, I did not.

Q. And so far as your recollection goes and your books show, she was at that time an actual occupant paying rent in that building, and had been several weeks, is that correct?

> By Mr. German: Now, wait a minute. I object to that question, because the witness, by his testimony already given, has shown that he had no actual knowledge, acquired no actual knowledge of the occupants of the property until the 28th day of November. That is acquired no knowledge from a tenant or from observation as to who the actual occupant was until the 28th of November.

A. The suit was filed October 30th, 1885, before I had had any dealings with Mrs. Letcher with reference to that property. I haven't the date of the filing of that amendment here, at the time the amendment was filed, I had no dealings with Mrs. Letcher with reference to this property.

Q. And yet, your best judgment is that she had been a tenant at least for several weeks?

> By Mr. German: I object to the question because it is argument, witness having already shown that he had no dealings with her until November 28th, no actual knowledge of her occupancy until that time.

A. I can answer that by saying that I did not have any dealings with Mrs. Letcher with reference to this property until the date she made the first payment, November 28, 1885.

Q. And at that time, as I understand you, she paid rent herself, and McHale paid rent for her, dating back to November 2nd?

A. He paid me ten dollars, repaid me ten dollars that he had collected on that month.

Q. From Mrs. Letcher? A. Well——

Q. At least that is what Mrs. Letcher told you?

A. Yes, she told me that it was paid on that month's rent.

Redirect Examination by Mr. German.

Q. Mr. Dassler, Mr. Bell elicited this argument from you a moment ago to the effect that Granny Letcher must have been in the property the date you filed the suit, judging from the knowledge you acquire from your books and with reference to the rent. I call your attention to the fact that the books show that the end of her rental month was the second day of the month and that in the month of December on the 22nd, your book indicates that when she paid five dollars it was to pay to January 2nd, 1886. Then, was not the rent the sum of two dollars which you collected on December 5th, 1885, from her thereby completing the twenty-five dollar payment, was it not a payment for the month ending December 2nd, 1885?

A. Yes, sir.

Q. Then the ten dollars which she told you she had paid McHale and the ten dollars that McHale paid to you would be the first payment on a month's rent beginning November 2nd, 1885, would it not? A. Yes, sir.

Q. Then, have you any information as to any rent paid by her prior to that time at all? A. No, sir, I have not.

Q. Then, you don't know whether she was or was not in possession, so far as your knowledge is concerned, before that?

A. No, I do not.

Q. So, you wouldn't say now, since those facts have been called to your attention, that she must have been in possession on October 30th, would you? A. No, sir.

Recross Examination by Mr. Bell.

Q. You wouldn't say that she was not in possession, would you?

A. Well, I can't say that, and I rather think she was not, because we had no information, that is I had no information that she was a tenant at the time I filed the suit.

Q. You did though, receive rent from McHale and her that had accrued there, from Mrs. Letcher, before you filed the suit in November? A. The suit was filed in October.

Q. You amended in November? A. Yes.

Q. And before the amendment the rent that she paid you had accrued before your amendment to that petition was filed, wasn't it? A. Yes, sir.

Recross Examination by Mr. Bond.

Q. In going through your book, it shows, as a matter of fact, does it not, that the rent paid you by Mrs. Letcher was paid in driblets at different times?

A. Oh, yes. There is not a single instance where she paid the rent in full.

Witness dismissed.

Mr. German: Now, Your Honor, we offer the deposition of L. G. Hopkins taken before Mr. Penick as examiner, appearing in his transcript of depositions at page 2235.

And thereupon, LA BAN GARDNER HOPKINS being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name?

A. My full name is La Ban Gardner Hopkins.

Q. What is your age, Mr. Hopkins?

A. Well, as they say of the horses, rising seventy-seven. I am between seventy-six and seventy-seven.

Q. Where do you live?

A. My residence is 328 Third Avenue, Leavenworth, Kansas.

Q. How long have you resided in Leavenworth?

A. I arrived in Leavenworth April 13th, 1868.

Q. What business are you engaged in?

A. Attorney at law, abstracter of titles, not abstracting anything else.

Q. Were you ever interested with Mr. Dassler in the property known as 217 Seneca Street?

A. Yes, I don't know that that is the street number, but I know the property you mean.

Q. It is the property there on Seneca, between Second and Third on the south side? A. Yes, sir.

Q. Which was at one time occupied by Mollie Letcher, a colored woman? A. Yes, sir.

Q. You and he acquired the title to that property in November, 1885? A. Well, about that—of course——

Q. The deeds will show?

A. Yes, we didn't acquire a thorough title of course until the foreclosure suit was finished, but we took possession of the property before that.

Q. Now Mr. Hopkins, you and he purchased some of the notes that were against this property, did you not?

A. Yes, that is the way we first acquired possession, started to acquire possession.

Q. And then you had occasion to file a lawsuit, yourself and Mr. Dassler as plaintiffs?

A. Yes, sir, it was an ordinary foreclosure.

Q. Who handled the suit, you or Mr. Dassler?

A. Mr. Dassler entirely.

Q. At the time of the filing of that suit, Mr. Hopkins, was there in contemplation an application for receivership?

A. My recollection is that there was. I was under the impression that that was prayed for at the time in the petition, but I don't recall about that now; it was in contemplation when we brought the suit but I don't recall. I know the application was not made and I think I was under the impression that it was prayed for but I may be mistaken on that point.

Q. Do you remember the fact of having made Lilly White a party defendant to the suit? A. Yes.

Q. And John Mettinger? A. Yes.

Q. They were not holders of any notes or liens, were they?

A. No, not as I recall, I know that I looked up some other parties of course in my abstract work for Mr. Dassler.

Q. Mr. Hopkins, do you remember anything in reference to an effort on the part of the white occupant of the premises at or about that time to purchase the property and a complaint of any person against such tenant purchasing the property?

A. Well, my recollection is that in my discussions about it with Mr. Dassler, that was the only way I had anything to do with it, or acquired a knowledge. My recollection is that there was a woman by the name of White and she was in the property at that time, if I remember right, and I suppose from what he said and so on, that while there was no direct offer to purchase or anything of that kind, the impression was on our minds I think that possibly we might have sold it to her.

Q. Did you know Mrs. Seth, who lived the next door?

A. I did.

Q. She was a kind of complaining woman sometimes I suppose. A. She was a holy terror.

Q. She was a white woman too?

A. Yes, sir, she lived in what was originally the calaboose, city prison, it was not at that time, it had been used as a residence but that was the original calaboose of the city.

Q. Mr. Hopkins, did you ever hear of her complaining against the sale of the property to the White woman?

A. No, sir, I never did hear her complaining about the sale of the property to the White woman. I was present on one occasion when she was making complaint about the woman in that house, for throwing bricks at her, she produced some of them.

Q. Did you see the brick? A. Yes, sir, it was a tile.

Q. Where was she?

A. At that time Mr. Martin Smith, an insurance agent, and myself had offices together and of course all those women used to come with their troubles and woes and she appeared there one day and he had not arrived, she had this brick wrapped up in a newspaper, and of course when he came she commenced a conversation and unwrapped this, as I recall it, was more of a tile than a brick, and she claimed that this White woman on the other side of the fence had thrown this brick at her into her house. I don't recall that she said that she hit her or anything of that kind, but she had made this attempt to injure her, and I recall Mr. Smith heard her relate that part of her trouble and he laid back an roared; that is what first attracted my attention to the interview and he explained it afterwards.

By Mr. Bond: I move to strike out all the witness has said as being incompetent, immaterial, and as hearsay.

By Mr. Bell: I join in the same motion.

Q. Do you recall when that was with reference to the time that you acquired an interest in the notes? Or do you know?

A. Well, this interview in the office of course was some little time after we had acquired the notes, some little time after the— Well, I can't say exactly, but I don't know but what the suit was pending, I don't know, maybe we had gotten judgment, I can't fix the date of that.

Cross Examination by Mr. Bond.

Q. To refresh your recollection, I will ask you whether or not that Mrs. Seth was not complaining, and afraid that Lilly White would be able to get this property under your foreclosure and that she didn't want her to be a next door neighbor under buying in at a foreclosure sale?

A. Well, of course I suppose from what was said that was her idea, but I only knew from what she said, it being in German, from what Mr. Smith told me, of course I was present, it was all a part of the res gestae of the affair, but from what Mr. Smith told me that was her complaint.

By Mr. German: You say it was all in German?

A. The conversation between her and him yes, the conversation between Mr. Smith and Mrs. Seth.

Q. I believe you said that Mr. Dassler had personally charge of the bringing of the suit? A. Oh, yes.

Q. And collecting the rents? A. All at that time, yes.

Q. Pertaining to the property?

A. He had the entire charge, of course I aided by giving him what information I got from the record, he had the entire charge and brought the suit, the papers show that themselves, all in his own handwriting.

At this time, a telegram from the Clerk of the United States District Court of the Eastern District of Oklahoma, is received, showing that Dennis Jones has been entered as attorney of record for Charles Page, the telegram being addressed to Mr. C. B. Stuart.

By Mr. Bond: If I appear as attorney of record for Minnie Atkins in this case, it is an error, as I know no such person, and only represent Charles Page.

Cross Examination by Mr. Hanford.

Q. Mr. Hopkins, were you ever a party to any negotiations for the purchase of the Seth property? A. No, sir.

Q. Next door, do you have any recollection?

A. No, sir, I have no recollection of anything of that kind.

Witness dismissed.

Mr. German: We now offer the deposition of Joe A. Malone taken before Mr. Penick as examiner, appearing in his transcript of depositions at page 2934.

J. A. MALONE being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. J. A. Malone.

Q. What age are you, Mr. Malone?

A. I am 54, going on 55.

Q. Where do you live? A. Tacoma, Washington.

Q. Did you ever live in Leavenworth, Kansas? A. I did.

Q. Where were you born? A. Leavenworth, Kansas.

Q. How long did you reside there after your birth?

A. Until 1889; I left there for Tacoma.

Q. Did you ever hold any official positions in Leavenworth County, or city? A. Yes, sir.

Q. What was the first official position that you held?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. I was guard at the Kansas State Penitentiary.

Q. At Lansing? A. At Lansing.

Q. Where is that from Leavenworth? A. Right south.

Q. About how far?

A. Two and a half, or three miles, I guess.

Q. When did you act in the capacity of guard at the State Penitentiary at Lansing?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. 1884 I went there.

Q. What was the next official position that you held there, either in the city, county, or state?

Mr. Hanford: The same objection; immaterial.

A. I went on the police force.

Q. In the city of Leavenworth? A. City of Leavenworth.

Q. How long had it been since you were guard at the penitentiary that you went on the police force?

Mr. Hanford: The same objection.

A. Immediately, I think; went from one position to the other.

Q. Were you a policeman, or what was the name of your position on the police force?

A. I started in as special policeman and was regular policeman before long.

Q. Then, what was the next official position that you held?

A. I went in the sheriff's office—deputy sheriff.

Q. Of Leavenworth County? A. Yes, sir.

Q. Did you go immediately from the police force to the sheriff's office? A. I did.

Q. Then, when did you discontinue your position as deputy sheriff? A. In 1889.

Q. Did you know a white woman in the city of Leavenworth by the name of Lillie White? A. I did.

Q. What kind of business did she conduct?

Mr. Hanford: Objected to as immaterial.

A. She run what we call a sporting house.

Q. Where was she running a sporting house when you first knew her? A. On Seneca Street.

Mr. Hanford: Objected to as immaterial unless he specify the time. I withdraw my objection.

Q. Between 2nd and 3rd? A. Yes, sir.

Q. On which side of the street? A. South side.

Q. What official position were you holding when you first met Lillie White? A. I was on the police force.

Q. Where was it that you met her?

A. In her house there.

Q. On Seneca street? A. On Seneca street.

Q. What time of the year, do you recall?

A. I wouldn't be positive about that: I wouldn't like to say.

Q. What is your best recollection as to that, or have you —are you able to indicate whether it was winter, summer or fall?

A. No, I wouldn't like to say as to that because I might be wrong; I am not positive.

Q. I see. Now, what was the occasion of your meeting her on the occasion—at the time when you first met her?

A. Well, I just dropped into the house and met her. She was the one—and got to talking to her, and during our conversation, we talked along about different things. She finally told me she was going to Kansas City on the four o'clock train.

Q. Four o'clock in the morning or four o'clock in the afternoon?

A. Four o'clock in the morning. It seemed to be kind of quiet around there because she left—she said she was glad we came in and stalled along with her because it killed the time— she was lonesome.

Mr. Johnson: The defendant Henry Carter objects to this line of testimony because it is incompetent, irrelevant, and immaterial.

Mr. Hanford: The same objection.

Q. Was it day time or night when you entered her place and met her?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Mr. Johnson: The same objection.

A. Night.

Q. About how long did you stay at her place that night?

Mr. Hanford: The same objection.

A. Well, the nearest—my recollection is, probably about two hours; maybe an hour and a half—something like that.

Q. Were you ever in her place of business on Seneca street after that?

Mr. Hanford: The same objection.

Mr. Johnson: Let them objections go for Carter.

A. Not to my recollection.

Q. About what time in the night was it that you left her place?

Mr. Hanford: The same objection.

Q. On the occasion of your first acquaintance with her?

A. Oh, it was some time, way after midnight.

Q. Were there any colored folks in that house?

A. None that I saw.

Q. Who was in charge of that house?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. Lillie White.

Q. Did she afterwards live elsewhere in the city of Leavenworth, or rent a place elsewhere? A. Yes, sir.

Q. Where? A. On Choctaw street, close to Fourth.

Q. Do [] know of her leaving the city of Leavenworth?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. Yes.

Q. Where did she go to? A. Kansas City, Missouri.

Q. Where did she go to from there, if you know?

Mr. Hanford: The same objections.

Mr. Johnson: The same objections as to Carter.

A. From Kansas City?

Q. Yes. A. She went to Tacoma, Washington.

Q. Did you ever see her in Tacoma?

Mr. Hanford. The same objections.

Mr. Johnson: Objected to.

A. Yes.

Q. You said you left Leavenworth, as I understood you a while ago, in '89? A. Yes, sir.

Q. Where did you go to? A. Tacoma, Washington.

Q. Was she at Tacoma, when you got there?

Mr. Hanford: Objected to as irrelevant, and immaterial.

A. Yes.

Q. Is she now living or dead? A. Dead.

Q. Do you know about when she died?

Mr. Hanford: Same objection.

A. Yes.

Q. When? A. June 1894.

Mr. Hanford: Mr. German, may we agree that a general objection on the ground of irrelevancy, and immateriality shall go to all this testimony regarding Lillie White?

Mr. German: Yes, provided when you have a technical objection to a question, that you make it the objection as a form.

Mr. Hanford: The general objection on the ground of relevancy and materiality.

Mr. Johnson: Do you agree to the same on behalf of Henry Carter?

Mr. German: Yes.

Q. Mr. Malone, did you know a woman, a white woman in Leavenworth by the name of Ella Abbott?

Mr. Hanford: Objected to as irrelevant and immaterial.

A. I did.

Q. When did you first know her? A. In 1890.

Q. You stated a while ago that you left Leavenworth in 1889, do you remember what time of the year?

A. In August.

Q. Did you return to Leavenworth afterwards?

A. I returned to Leavenworth in 1890—the last day of October.

Q. How do you fix that time?

A. Because I went down town that night and there was —oh, a lot of cutting up, and one thing and another, and I said to someone, what is the matter—everybody crazy in this town, and they laughed and said, don't you know it is Halloween?

Q. How long did you stay in Leavenworth at that time?

Mr. Hanford: Objected to as immaterial.

A. I stayed until Christmas evening about seven or half past seven.

Q. In 1890? A. 1890.

Q. Where did you go to?

A. I went back to Tacoma, Washington.

Q. Did you return to Leavenworth after that?

A. I did.

Mr. Hanford: Objected to as irrelevant and immaterial.

Q. When.

Mr. Hanford: The same objection.

A. In 1894, in March.

Q. How long did you stay in Leavenworth at that time?

A. I stayed until some time in September.

Q. Where did you go to then?

A. I went to Tacoma, Washington.

Q. Did you return to Leavenworth? A. Yes.

Q. When?

Mr. Hanford: Objected to as irrelevant and immaterial.

A. I recall along that fall.

Q. Fall of '84? A. Yes.

Mr. Hanford: '94?

Q. '94, I mean? A. Yes, '94.

Q. How long did you stay in Leavenworth, or live in Leavenworth on that occasion?

Mr. Hanford: The same objection.

A. I stayed there until '95.

Q. What time of the year?

Mr. Hanford: The same objection.

A. Well, I think I stayed there all of '95 until '96, probably; I went in business there.

Q. You were in business there? A. Yes, sir.

Q. Now, you say that you first met Ella Abbott in 1890?

Mr. Hanford: Objected to as irrelevant and leading.

Q. Where, Mr. Malone?

A. On Choctaw Street, in a brick house, a two-story brick house.

Q. What was her business at that time?

Mr. Hanford: Objected to as irrelevant and immaterial.

Mr. Johnson: The same objection.

A. She told me that night that she was going to take this house and run it.

Mr. Hanford: Objected to as irrelevant, incompetent, and immaterial and move to strike on the ground of hearsay?

Q. What kind of a house was that?

A. Sporting house.

Mr. Hanford: Objected to as irrelevant and immaterial.

Q. Did she do so?

Mr. Hanford: The same objection.

Q. Did she take the house? A. She did.

Q. Did you visit her place there very frequently during the two months of the year 1890 that you were in Leavenworth?

Mr. Hanford: Objected to as immaterial.

A. I did.

Q. About how often?

Mr. Hanford: The same objection.

A. Well, I don't know just when it was that I met her there but after I did meet her there, I was there pretty nearly every night; after I met her, quite often.

Q. In 1894 when you came back to Leavenworth, where was Ella Abbott living?

Mr. Hanford: Objected to as irrelevant and immaterial.

A. She was living on the corner of 3rd and Cherokee, upstairs in Abel's building; over the drug store. Abel's had the drug store and she was up stairs over it.

Q. What kind of business was she engaged in then?

A. Sporting business.

Mr. Hanford: Same objection.

Q. Did you visit her place very frequently while you were there in '94?

Mr. Hanford: The same objection.

A. I did.

Q. Then, as I remember it, you stated that you left Leavenworth in September '94 and returned again that year?

A. I think along during the year.

Q. In the latter part of the year? A. Yes, sir.

Q. And then resided in Leavenworth through the year '95? A. Yes.

Q. Did you visit Ella Abbott's place very frequently during the time you were there then?

Mr. Hanford: The same objection.

Q. From the latter part of '94 and throughout the year '95? A. I did.

Q. Where was her place of business then?

A. Same place, Third and Cherokee.

Q. Over Abel's drug store? A. Over Abel's drug store.

Q. How often were you in her place of business in '94 and '95 during your residence in Leavenworth?

Mr. Hanford: Objected to as irrelevant and immaterial.

Q. Approximately how often? How often would you go there? A. Well, I was there very often—very often.

Q. Well, were you acquainted with the people who were members of her household there? A. Yes.

Q. Now, state whether or not 1890, when you knew her, and in 1894 when you knew her, and in 1895 when you knew her, when you were at her place of business, state whether or not there was any child there—boy child there by the name of Tommy, or Indian Tommy, or Thomas Atkins.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and leading.

A. I never saw any boy there of that description at all.

Mr. Hanford: Move to strike as not responsive.

Q. Did you ever hear Ella Abbott, during those years, say anything about there being such a child there?

Mr. Hanford: Objected to as irrelevant and immaterial, and calling for hearsay testimony, and leading.

A. I never heard her say anything about it.

Mr. Johnson: Mr. German; this is in the general objection and we will specify whether we want any objection in the record now?

The Examiner: I so understand.

Q. Was there any Indian boy in that household during the time—in Ella Abbott's place—during any of the time that you were a frequenter of her place?

A. I never saw any?

The Examiner: You never saw any?

A. No, that is, any Indian child.

Q. Prior to the time that you first met Ella Abbott in 1890, you say you had the various offices that you have related; state whether or not you—whether or not you were acquainted with, in the city of Leavenworth, with the various sporting persons who operated sporting houses—that is, know of the persons who operated sporting houses?

Mr. Hanford: Objected to as irrelevant, immaterial, and incompetent.

A. I did.

Q. Had Ella Abbott operated a sporting house prior to the time that you left Leavenworth in the '89, in the city of Leavenworth?

Mr. Hanford: Objected to as irrelevant, incompetent, and immaterial.

A. No.

Q. Mr. Malone, you recently received a letter from Ella Abbott, did you not? A. I did.

Q. Has Mr. Hanford been to see you?

Mr. Hanford: Objected to as irrelevant and immaterial.

Q. The gentleman sitting there—recently? A. Yes.

Q. About how long ago?

A. I should judge about 6 weeks ago, maybe less—maybe more.

Q. He saw you in Tacoma? A. Yes.

Q. Have you the letter which you received from Ella Abbott with you, Mr. Malone? A. I have.

Q. May I see it, please sir. Mr. Malone, I show you what has been marked Government's Exhibit No. 56. I will ask you to look at that please sir; where did you get that?

A. In Tacoma.

Q. How? A. By mail.

Q. By mail?

A. It was left at my residence; I wasn't there at the time.

Q. And I show you Government's Exhibit No. 57, and will ask you to look at that and tell what that is.

A. That is a letter to me.

Q. Is that the letter which Ella Abbott wrote to you?

A. It is.

Q. How did you receive that? A. By mail.

Q. *Is now* you Government's Exhibit No. 58, and ask you what that is? A. It is an envelope.

Q. How did you get that? A. By mail.

Q. What came in it? A. This letter.

Q. No. 57? A. Yes, sir.

Mr. German: We offer these three in evidence (56, 57, 58).

Mr. Hanford: Objected to as immaterial and not properly identified. I make my objections to run to each one.

Mr. Cruce: I don't know what the purpose of the letter is, but on behalf of the defendant Page, we object, to it, because it is hearsay testimony and incompetent. The same objection to the three Exhibits offered.

Q. In your conversation with Mr. Hanford, Mr. Malone, without going into detail, state whether you related substantially the same matters that you have related here on the witness stand.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. I did.

Cross Examination by Mr. Hanford.

Q. Mr. Malone, in your conversation with me at Tacoma, which Mr. German referred to, you were not able to give me dates and times with the exception of the date when you first went to Tacoma in 1889 and the date when you went back to Leavenworth the last time as the year of the—mid-winter fair. You didn't have a recollection of the other dates at that time, did you?

A. Substantially what I told here, I told you.

Q. I am referring to the matter of specific date—I say you were not able to give me the specific date and times at that time?

A. I told you that I left Leavenworth in '89 and returned in '90—1890.

Q. Yes, and the last time you returned was the year of the mid-winter fair?

A. I came from California from the Fair, I told you.

Q. The date that you were guard at the Penitentiary and on the police force, and in the Deputy Sheriff's office, those years you didn't recall at that time?

A. I told you that I went to the prison in 1884, and I left the sheriff's office in 1889, so that——

Q. Is it your recollection that you remembered those years at that time? A. What?

Q. I say is it your recollection now that you remembered those years now, and named the years, when you were talking to me?

A. I don't remember whether you asked what year I went to work at the prison, but I am sure if you did, I said 1884 that I worked there.

Q. Just to refresh your memory, Mr. Malone, let me ask if you didn't tell me that you didn't remember those years at that time; that you remembered how long about that time you were a guard at the penitentiary and were later on the police force and then, became a deputy sheriff under Churchill?

A. Yes.

Q. But that you couldn't at that time name the exact year?

A. I don't remember of talking to you that way; in fact —we talked——

Q. Well, didn't we fix the date that you were deputy sheriff by the fact that you were deputy sheriff under Churchill, and whenever he was sheriff, that is when you were deputy sheriff? A. Yes.

Q. And prior to that you were policeman? A. Yes.

Q. And prior to that you were a guard at the penitentiary? A. Yes.

Q. And since I talked with you, Mr. Robinson has been to see you again? A. Yes, he has.

Q. And he went over these dates with you, didn't he?

A. Well, we talked the matter over, yes.

Q. And he told you that since he was first out there, he had come back to Leavenworth and looked up those dates, and got them for you, didn't he? A. No.

> Mr. German: I want to object to the question and move to strike the answer on the ground that witness has fixed no date save only the date when he commenced as guard at the penitentiary, and the date when he left the sheriff's office so far as his official positions were concerned.

> Mr. Hanford: I except to the form of the objection as manifestly one for the information of the witness, and not the ground of objection; doesn't state a legal ground or premises for an objection.

Q. Mr. Robinson, the Pinkerton Detective, who is working with the Government in this case, was out there to see you before I was there? A. Yes, sir.

Q. And after his first visit he returned to Leavenworth and then came back again?

A. I don't know where he went, he came back out there.

Q. Well, you knew he had been to Leavenworth and looked up these matters, didn't you?

A. No, I didn't know. I believe I did ask him if he saw so-and-so in Leavenworth, and I believe he said yes.

Q. Now, who do you refer to as so-and-so?

A. Well, I asked him if he saw friends of mine there; such as Tim Foren, and John Beechler. The way that came up, I asked him if he saw them, and said did you tell them boys that you saw me, and he said yes; that is the way the conversation came up.

Q. Mr. Malone, how do you fix the year that you began as guard at the penitentiary as 1884?

A. Well, how I fixed it that I was a guard there in'84, was that I remember that it was Cleveland's first election and that there was a big demonstration at Leavenworth, and lot of us boys got off and went up there to see it—this demonstration that night—parade and things like that.

Q. That demonstration was shortly after you became a guard?

A. I think it was; I know I was a guard at that time for

I went from Lansing up there—the prison—to see that parade and celebration.

Q. How long were you guard at the penitentiary altogether?

A. Well, all the time I was there, I was there altogether—but I don't know just exactly how long I was there. I couldn't say off-hand how long I was there—it is so long ago, but I know I was there maybe eight or nine months; maybe a year, and maybe longer than that.

Q. And you went direct from there to the police force?

A. Yes, sir.

Q. And you were a special policeman first? A. Yes.

Q. Then a patrolman? A. Yes.

Q. And then, what?

A. I went to the sheriff's office after I left the police force.

Q. From the position of patrolman? A. Yes.

Q. Do you know how long, altogether, you were on the police force? A. No, I can't say.

Q. Approximately?

A. I can't say just exactly how long I was on.

Q. What were you doing, Mr. Malone, before you became a guard at the penitentiary?

A. Well, I—a short time before that I was working for the Government driving a six-mule team. Before that I was working for the telephone company, after I was driving the six-mule team; just before I went to be a guard, for a time, I worked for the Bell Telephone Company at Leavenworth.

Q. What did you do for the Telephone Company?

A. We built a line at Marysville, Missouri, and repairing.

Q. Outside work? A. Yes.

Q. Did you work for the quartermaster's department when you drove the six-mule team?

A. I hired at Leavenworth to drive a six-mule team at Fort Garland, Colorado; it was the time of the Ute out-break.

Q. You were then— —

A. I hired to haul supplies and things.

Q. You went from Leavenworth?

A. We went from Leavenworth and the team.

Q. Overland?

Q. No, railroad. Went to Fort Garland by railroad.

Q. When you got back from that expedition, you went to work for the telephone company?

A. Yes, I went to work for the telephone company and worked in the bridge shop, and new foundry at Leavenworth, helping the blacksmith.

Q. Then, after you got back from the expedition, you worked for the Government some time before you went to work for the telephone company?

A. When I got back, I had quit the Government.

Q. Did you work in the foundry at Leavenworth?

A. Yes.

Q. That was after the up-rising? A. Yes.

Q. Then you didn't quit the Government right away?

A. Quit what?

Q. Quit the Government?

A. Quit before I got back to Fort Leavenworth; came to Pueblo, and on back to Leavenworth.

Q. What—when you got out, how long—you came back to Leavenworth—how long were you there before you got your position with the Telephone Company, and went to work?

A. I wasn't out any of the time after I got back.

Q. But you didn't get me. I am trying to get the interval of time between your job with the Government and the Telephone Company—did you go to work for the Telephone Company right away in Leavenworth?

A. Oh, I was probably around there sometime; I got back in '80. Went to work for the Government in '79, and got back in '80, and I was around there; that was my home.

Q. Then, you were around there several years before you went to the penitentiary?

A. To the prison to work, yes, sir.

Q. Now, you don't know that you worked at the penitentiary except that it might have been more than a year?

A. I think it was more than a year.

Q. Now, you don't know how long you were special policeman—how many months?

A. Oh, I had several positions there; I was special policeman and collecting toll passengers, and I was helping the guard there handling prisoners, and finally went on as special policeman.

Q. Was it several years that you were on the police force?

A. It looks like it was several years to me because I worked under two chiefs.

Q. What two chiefs were they?

A. Shellcross was chief when I went on, and Joe Walters was the other chief.

Q. Who was the chief when you went to the sheriff's office, when you quit the police force? A. Walters.

Q. And those were the only two chiefs that you worked under? A. Only two.

Q. Did you go on the police force when Shellcross was made chief?

A. Oh, no, he had been on some time when I went there.

Q. Now, you went in the sheriff's office when Churchill was sheriff? A. Yes, sir.

Q. Did you go under him when he was elected and took office? A. When he was first elected?

Q. Yes? A. No.

Q. He was sheriff, then, before you were appointed deputy? A. Yes.

Q. Do you know how long he was sheriff before you were appointed deputy?

A. Well, he was sheriff for two terms and if I remember rightly, it was while he was serving his second term when I went on.

Q. And how long were you a deputy sheriff?

A. Oh, I think from '87 to '89.

Q. About two years, then? A. Something like that.

Q. And you were in his office at the time that you went to Tacoma?

A. I left his office; he had resigned and we all had resigned, too.

Q. No, Mr. Malone, you stated that you first met Ella Abbott in a brick house on Choctaw street; had you known her before you met her there at that time? A. No.

Q. Do you know where she came from?

A. Only what she told me.

Q. You never knew her outside of Leavenworth—before she came there? A. No.

Q. Did you know who she came to Leavenworth with?

A. No, I don't.

Q. Didn't she come with you?

A. Come to Leavenworth with me?

Q. Yes? A. No.

Q. You mentioned Tim Foren a moment ago; who is he?

A. Well, he is a young man of Irish descent that lives in Leavenworth, that I was raised with.

Q. Do you remember when he was a bar-tender at the National hotel? A. I do.

Q. Well, I don't know; I wouldn't like to say positively when it was but I was there at the time, in Leavenworth.

Q. You sort of ran with him at that time, didn't you?

A. Well, we were raised probably in the same neighborhood, you know, and we kind of jumped together—that is, we were very great friends.

Q. Intimate? A. Intimate friends.

Q. And you were intimate with him at that time when he was working there at the National hotel bar? A. Yes.

Q. At that time, you and he were both friendly with Ella Abbott, weren't you?

A. No, I don't know as he was very friendly with her. Tim was a fellow that never went around much, at them places; he knew her.

Q. Well, didn't he have Ella Abbott before you did?

A. Well, not to my knowledge; not to my knowledge.

Q. You know that he did from what he told you, or she told you? A. I know it?

Q. Yes? A. No.

Q. You know what other places she lived at before you knew her? A. No.

Q. About Lillie White, Mr. Malone. You say that you were in her house one time when you [ ] a policeman; wasn't that one time when you were a guard at the penitentiary?

A. No, I think I was on the police force.

Q. Are you sure about that, Mr. Malone? Wasn't that one time when you came in from the penitentiary?

A. No, I——

Q. When you were a guard?

A. It was after I left the penitentiary, I am almost sure. It was after I came in from the penitentiary.

Q. Going back to your conversation with me, Mr. Malone, just to refresh your memory, don't you remember telling me that you came in from the penitentiary one night and you were in town; you were all from the penitentiary, and you knew that Lillie White was in that Seneca street house because at that time, that night, you went to her place on Seneca street, and saw her there, and that it was one night when you came in from the penitentiary?

A. No, sir, I didn't tell you anything of the kind.

Q. But your recollection now is that you were a policeman at that time?

A. My recollection is the same all the time; that is what it was then.

Q. You were in uniform?

A. No, no, I never wore uniform when I was on the police force.

Q. Wore plain clothes all the time?

A. Blue suit but no uniform.

Q. Do you know what year that was? What year that would be?

A. To the best of my knowledge, it was in '85.

Q. And the next you knew of Lillie White was when she was down on Choctaw street? A. Yes, sir.

Q. And that was 326?

A. It was right next to the corner of Fourth street, on the north side of the street—a brick building on the corner.

Q. A brewery there?

A. A bottling company; she was right next to that.

Q. A frame house? A. Yes.

Q. Do you know how long she remained there at that place?

A. No, I don't know how long she was there but I know that I was in the sheriff's office when she left there.

Q. That is when she left to go to——

A. She left Choctaw street.

Q. Did she go from there direct to Tacoma?

A. From Leavenworth?

Q. Yes? A. No, she came to Kansas City.

Q. She was in Kansas City a while before she went out there? A. Yes.

Q. You didn't know her intimately until after she moved to Tacoma?

A. Oh, yes, I knew her in Leavenworth.

Q. I mean you knew her very well?

A. Well acquainted with her; knew her name and she knew my name and knew who I was and everything.

Q. Mr. Malone, when you went to Tacoma the first time in 1889, how long did you stay that time?

A. I stayed until October 1890.

Q. It would be about a year then?

A. Yes, I guess it was a little more than a year. I left Leavenworth in June—not June, but August, 1889, and I came back in October, 1890.

Q. Were you in business in Tacoma during that time?

A. Not at that time; I was in business, I think, during that time in Seattle.

Q. Is that the time that you went to Fairhaven?

A. Yes—no—let's see; I guess it was that time that I went to Fairhaven.

Q. And you were out there a little over a year? A. Yes.

Q. And you came back to Leavenworth? How long did you stay?

A. I arrived on the last day of October—Halloween night.

Q. Stayed until Christmas?

A. Stayed until Christmas Eve.

Q. And then you went straight back to Tacoma?

A. Yes.

Q. When you got back to Leavenworth in '94, did you go into business then?

A. Not then; not just when I got back, but sometime in the fall, I did—in '94.

Q. It was during that visit, though?

A. Well, I went back again, and stayed a short time in Tacoma, and then went into business.

Q. What did you do in Leavenworth at that time?

A. In Leavenworth?

Q. Yes? A. Saloon business.

Q. Ran a saloon? A. Yes.

Q. By yourself?

A. No, I had a partner; to start with but I wound up by myself. I started with a partner but he didn't last long.

Q. You stated that you didn't know any boy named Thomas Atkins at Ella Abbott's? A. No.

Q. Did you know any boy there at all?

A. No, not around the house but as I believe I told you when you were out there, I have a kind of a hazy recollection of a boy.

Q. A kid?

A. Two or three years old; a colored child, I thought.

Q. Didn't you refer to it as a little negro—a little niger?

A. Well, I don't know as I did, Mr. Hanford; I don't remember.

Q. Do you remember a little kid that you referred to as a little negro that sometimes annoyed you by following you?

A. By following me?

Q. Yes?

A. No, I never was annoyed that way that I know of.

Q. Don't you recall ever telling Ella Abbott to stop that little nigger from following you or you was going to get after her, or get after him, or something of that kind?

A. Never remember anything like that at all.

Q. Do you recall that he had a nickname and was called Commodore, or something like that? A. Who was this?

Q. This kid?

A. No, I don't remember anything like that.

Q. Don't remember any nickname of Commodore, or any boy that was called that? A. No, I don't.

Q. After you first met Ella Abbott at this place,—the brick—how long after that was it that she took the brick herself?

A. I think she had it the next day. I met her that night and she took it the next day.

Q. Do you know how long she had it?

A. No, I don't; she had it when I left town.

Q. Then you don't know where she was or what she was doing in between then and the time that you came back and she was at Cherokee? A. No, I don't; I never inquired.

Q. You don't know anything about when Lillie White moved down to Choctaw, and when she went in business there?

A. No, I don't remember just the time; I know that I was there but I can't recall just the time, but I remember when she lived there because I was in her house.

Q. You know what house it was that she was in, on Seneca? You don't know the number?

A. No, I don't know——

Q. All you know it was between 2nd and 3rd?

A. It was between 2nd and 3rd, yes; next to a stone house. I remember it was a brown house, at that time, if I remember rightly.

Q. Do you know the Feth house? A. Feth house?

A. That was a stone house there, yes.

Q. She was next to that? A. Next to that.

Q. And next to the Van Tuyl's livery barn?

A. Well, if I recall, recall right, the stone house was next to Van Tuyl's. I know this house of hers, where she lived, was next to the stone house; so the stone house must have been next to Van Tuyl's. Of course, it is a long while since I saw it, or have been near there, but that is my recollection.

Q. You recall who was in the house after she was?

A. Who was there after she was?

Q. Yes? A. No, I don't.

Q. That is—I mean after Lillie White was in that house?

A. It appears to me that there were colored people living there sometime after that.

Q. You don't know who they were or the name?

A. No, I don't; I don't remember.

Q. When Ella Abbott lived there on 3rd and Cherokee, you went there to see her? A. Yes.

Q. Went there in the evenings? A. Yes.

Q. You didn't live right there? A. No.

Q. Her business she was in, was of course, separate and her own? That was no concern of yours?

A. Absolutely none; none whatever.

Q. She would simply be referred to as your girl?

A. Well, I guess she was referred to as that there, while I was there.

Q. Mr. Malone, do you remember who—any of the other people were who were in Ella Abbott's house there on Cherokee? Can you name the—— A. Girls?

Q. Women that were there, yes?

A. Yes, I of course, knew all of them, but I don't remember that I can just remember their names, their names have kind of slipped, you know, but all the time I was around there, I knew everybody that was there; everybody that came I got acquainted with them.

And thereupon, a recess is taken until 1:30 o'clock.

And thereafter, and at 1:30 o'clock, further testimony is taken herein as follows:

Additional appearances: C. B. Stuart, Esq.

Cross Examination by Mr. Hanford.

Q. Mr. Malone, going back to the time that you were a policeman, you were a policeman during two administrations under Shellcross and Walters?

A. Part of the time of both I guess.

Q. Who did you serve the longest? Shellkross or Walters? A. Well, I wouldn't be positive about that.

Q. You left the police Department while Walters was in office I believe? A. Yes.

Q. And you went into the Department under Shellkross?

A. Yes.

Q. And you don't know who you served under the longest? A. No, I don't.

Q. All you remember is that you were a policeman several years? A. Yes.

Q. Do you remember how long you had been a policeman at the time that you visited Lillie White's on Seneca Street?

A. No, I don't.

Q. Was that shortly after you left the penitentiary and came in to town on the *fourth?*

A. Well, I went right on the *fourth* after I left the penitentiary but I can't say how long that I was on the *fourth* at the time.

Q. Do you remember which Chief was in office at that time? A. No, not now, I can't say that now.

Q. Do you remember how long—— Oh, you went into Churchill's administration during the second term, I believe. Do you know how much of his second term he served before he resigned?

A. He resigned in August if I remember correctly, it was in August that he resigned.

Q. He took office in January and resigned in August?

A. Eighty-nine.

Q. Then, you were a Deputy Sheriff only a few months?

A. Why?

Q. Well, if you took office in his second administration, he was only in office a few months on his second administration, he was only in there from January to August?

A. No, he was in there a year and a half I guess on his second administration. At least that is the way that I figure it.

Q. He was elected first in '86, was he not, and took office January 1st, '87, and served his term in '87 and '88, two years, and in '88, he was re-elected and took office in January, '89?

A. He went right along, he was in the office and he went right along.

Q. Yes?

A. And I think it was shortly after the election that I went in, after the election if my memory is correct, after his election the second time.

Q. Then, you were only in from January to August?

A. I could have been right after the election, couldn't I?

Q. Yes, but then it would only be a few months, would it not?

A. Well, I think I was in there a year and a half, or two years, something like that in the Sheriff's office, I can't say now, it was so long ago.

Q. You are sure you went in there in his second term, or his first term?

A. I am almost sure that it was the second term that I went in.

Q. Mr. Malone, do you remember the different elections, you remember when Shellkross was elected, or appointed Chief of Police, or whatever he was?

A. Yes, I was there when he was appointed Chief of Police.

Q. Now, estimating from the time he was appointed Chief of Police, do you know how long he was in office before you were—you went on the Police Department?

A. Well, I think all the time that I was at the prison that he *were* Chief of Police in Leavenworth.

Q. And you were at the——

A. At the Penitentiary, I mean.

Q. And you were at the Penitentiary about a year?

A. Yes, or over, maybe over or maybe less, I don't remember.

Q. Can't you say how long you served then under Shellkross, do you remember how long you were there? Just look back and think of him as Chief of Police and see if you recollect how long you were under him?

A. No, I can't. No, I can't. I remember of more distinctly about being under Walters when he was Chief of Police. The reason I remember that was it was—— The Police force was made Metropolitan Police, and that was when I was on a regular policeman.

Q. Regular Patrol? A. Yes.

Q. And that was under Walters?

A. That was under Walters.

Q. Now, do you remember whether you were a regular patrolman or a special policeman? I believe you said you were a special policeman that time that you went to Lillie White's. Is that right?

A. Well, when I first went on I went on as a special policeman, and then I was changed around.

Q. Well, what I was getting at, I was trying to fix the time that you went to Lillie White's a house on Seneca Street? I believe you said you were a special policeman there then, and it would be when Shellkross was chief?

A. Well, I don't know, I wouldn't say who was Chief.

Q. Well, you recall that you were a special policeman at that time?

A. Well, I recall that I was a special policeman when I first went on, yes.

Q. Well, I mean at the time of your visit to Lillie White's was that during the time that you were a special policeman?

A. Yes, I am pretty sure it was.

Q. Well, then after the Metropolitan Police was organized, and Walters became Chief, you became a regular patrolman, a regular policeman? A. Yes.

Q. Do you recall how long it was after you resigned as a Deputy Sheriff, that you went to Tacoma?

A. It wasn't but a short time.

Q. Resigned in August, and I believe you went to Tacoma in October? A. No, I went in August.

Q. Oh, in August? Immediately after? A. Yes, sir.

Q. Your brother, John, had preceded you out there?

A. Yes.

Q. You went out there to join him?

A. Yes, on a visit.

Q. Now, Mr. Shellkross was beginning his term as Chief of Police in April, 1883, do you recall if that was right?

A. No, I don't.

Q. You don't know the date? A. That he went in, no.

Q. That he went in? A. No.

Q. Do you recollect how long he continued as Chief of Police?

A. No, I can't say as to that, I was there all the time.

Q. To refresh your memory wasn't it a little more than two years? A. Sir?

Q. To refresh your memory, wasn't it a little more than two years? A. Yes, I think it was.

Q. I believe you stated that you didn't know the time of year it was that you visited at Lillie White's on Seneca Street?

A. No, I can't hardly say what time of year it was.

Q. Mr. Malone, this little kid that you spoke of having a hazy recollection of, do you remember anything about him?

A. No, I don't. The only thing I remember of, it is awfully hazy, but it appears to me that I saw this little kid down stairs in the kitchen, where the kitchen was, if it belonged to Ella Abbott's establishment, I used to go down the back stairs and go out the back way and go out, and going out you could look into the kitchen and see anybody in there, and it appears to me there was a child running around there, but to my recollection it couldn't have been over two or three years old, a colored child, and that is very meager, and that is the only child I ever remember of seeing around there.

Q. Do you remember the board run way up back of her place on Cherokee Street, a sort of a back porch? A. Yes.

Q. A back stairs? A. Yes.

Q. Do you remember of any kid playing around up there on the back stairs?

A. I can't place it, can't remember it.

Q. You don't know what that little kid was called?

A. No, I don't.

Q. What his name was?

A. No, I don't. I never saw it up stairs, only saw it down stairs in the kitchen.

Q. Mr. Malone, the Government has introduced an Exhibit 57, letter to you from Ella Witt, which the envelope has a post mark, Leavenworth post mark, May 12th, 1916, in which he writes as follows: "Pardon my writing you, but I ask you for old friendship's sake to give no deposition or to talk to this oil company until I talk to you, for there may be things come out that neither of us would want the public to know", and then she goes on and wants to know if she can see you. Do you know what she has reference to when she refers to things that you might not want the public to know about?

A. Absolutely no idea what she means by that.

Q. There are some things, and one thing in particular between you and she that is private, is it not?

A. Nothing that I know of, nothing that I know of.

Q. Do you recall the time that Ella Abbott was shot?

A. I do.

Q. You are present? A. When she was shot?

Q. Yes? A. No.

Q. There has always been an understanding between you and Ella in regard to that matter, has there not?

A. Understanding?

Q. Yes? A. In what way?

Q. In some private way? A. None at all.

Q. Is there anything else between you and Ella?

A. Nothing at all.

Q. Of a private nature? A. Nothing at all.

Q. Dating with your relation with her in Leavenworth?

A. No.

Q. Mr. Malone, you are living at this time in Tacoma?

A. Yes.

Q. That is your permanent residence? A. Yes, sir.

Q. You are simply in Kansas City to attend the taking of this deposition? A. Yes, sir.

Q. You arrived here today? A. Yes, sir.

Q. Who got you to come? A. I was subpoenaed.

Q. Mr. Robinson, the Pinkerton operative, went to Tacoma to get you? A. He went there to see me.

Q. Did he come with you? A. I came with him, yes.

Q. You came with him? A. Same train with him.

Q. He pay your expenses? A. Yes, sir.

Q. You knew that he was co-operative with the Government in this case?

A. Well, he explained himself that he was a Pinkerton man when he came out there.

Q. That was when he went out a few weeks ago?

A. Yes.

Q. Then he came back this time? A. Yes, sir.

Q. Did he tell you who he was employed by? A. He did.

Q. Or did I tell you that?

A. Well, I don't know, I think he told me that, he stated the case to me.

Q. The first time? A. The first time, yes.

Q. Who did he tell you he was employed by?

A. Why, he was employed by the Pinkerton Detectives himself, but he said he was working for Mr. Buell, and that I think that is what he said.

Q. Did he tell you what Mr. Buell's relation to the Government was in this case?

A. He explained what the Government—what the Government wanted to prove. He talked about this, about this here, about not being a Tommy Atkins, I think, and also told me that the Government would subpoena me.

Q. Did he tell you who was paying his expenses and your expenses to come back here? A. Yes.

Q. Who did he state? A. Mr. Buell.

Q. Mr. Buell, did he mention Mr. Bartlett with Mr. Buell?

A. Mr. Bartlett, if he did I don't remember it.

Q. You don't recall the name Bartlett?

A. I remember his mentioning Buell, but I don't remember Bartlett.

Q. You stated that you thought it was '85 when you went to Lillie White's on Seneca Street, what makes you think that it was that year, Mr. Malone?

A. Well, because it was, I know that in '84 I was working at the prison and I know—what makes me think that it was eighty-five that she was there, because I think after that she was on—Lillie White had moved from Seneca Street to Choctaw Street. I was also in her house on Choctaw Street after she moved from Seneca Street. So, that is what makes me think it must have been in '85.

Q. When you were in her house on Choctaw Street, you were a Deputy Sheriff at that time, under Churchill, were you not? A. No, I was in the Police Department.

Q. You were in there when a policeman?

A. Yes, I was in her house several times on Choctaw Street and it was while I was connected with the Police Department, and I probably was in there when I was in the Sheriff's office too, because I was in the Sheriff's office when she moved over there.

Q. You stated, Mr. Malone, that you didn't recall how long it was that you had been on the Force when you went to Lillie White's. Now, if you were at the Penitentiary in '84, do you know that you were on the Force in '85? A. Yes.

Q. You don't know when you went to work at the Penitentiary, what time of the year?

A. No, not positively. But what makes me know I was there was on account of going up town to that celebration I spoke of.

Q. That was late in the year, in the fall?

A. Yes, I don't know how long I was there then, but I was there then.

Q. You don't know how long you staid after that election, do you, at the Penitentiary? A. No, I don't.

Q. So that, if you went to work at the Penitentiary about the time of that election in '84 and were there more than a year, that would take you up to '86?

A. But I don't think that is a fact. I think I had been there sometime when this election came up.

Q. You think you had been there sometime? A. Yes.

Q. But you haven't any idea how long you staid there after that election

A. No, because I hadn't—I don't remember it and I haven't tried to look up the facts, you know. I can't get them—I can get them facts by going up there.

Cross Examination by Mr. Cruce.

Q. Mr. Malone, how long did you live in adultery with this woman Lillie Abbott? A. In adultery?

Q. Yes, sir? A. Oh, well, I don't know.

Q. Well, how long?

A. Off and on close to two years, probably, different times.

Q. You were a policeman? A. Not at the time, no.

Q. You were an officer at the time?

A. I wasn't no officer at the time that I knew her.

Q. When did you quit living in adultery with her?

A. Probably in '95 or '6.

Q. Did you answer this letter that has been introduced by the Government? A. No, sir.

Q. Who did you first show that letter to?

A. Why, I showed it first, I think it was—I don't see the gentleman here. I showed it here.

Q. Who? A. I showed it here in this building first.

Q. You brought it from Washington here?

A. Stuck it in my coat pocket, yes. I got it the day I left.

Q. Why did you bring it with you?

A. Well, I generally put letters, after I read them, put them in my pocket and look them over again, read them over again.

Q. How many other letters have you in your pocket that you brought with you?

A. I don't know, I tore some letters up on the train coming here.

Q. You didn't tear it up? A. No, sir.

Q. Who did you first show it to after you got to Kansas City? A. I showed it to some gentleman.

Q. Mr German? A. Yes.

Q. How came you to take it to Mr. German?

A. He asked me to see it.

Q. How did he know you had it?

A. I guess Mr. Robinson told him I had it.

Q. How did Mr. Robinson know you had it A. I told him.

Q. Then you told Robinson at first before you got to Mr. German?

A. I told him I got a letter, yes.

Q. Didn't show the letter to Mr. Robinson? A. No, sir.

Q. Did you tell him what was in it?

A. I told him the substance of it.

Q. Told him the substance of what was in it?

A. Yes, sir.

Q. What are you getting for your wages for this trip?

A. Getting my expenses.

Q. And how much a day? A. Three dollars.

Q. Three dollars a day. Have you any business in Tacoma?

A. Well, I have got some property there that I look after.

Q. Have you any business there?

A. I am not in business now.

Q. How are you making a living?

A. Well, I am collecting rents from an apartment house I have got there.

Q. An apartment house? A. Yes, sir.

Q. Is it rented for a house of prostitution? A. No, sir.

Q. What is it rented for? A. Private families to live in.

Q. You make you living then by collecting rents?

A. From my property.

Q. Is your income as much as three dollars a day there?

A. Oh, yes.

Q. And you left that income and came all the way to Kansas City on three dollars a day and expenses?

A. I could—I came because I was subpoenaed by the Government.

Q. Who subpoenad you?

A. A Deputy Marshal in Tacoma.

Q. Have you the subpoena with you? A. Yes, sir.

Q. When was that subpoena served on you?

A. It was served on me last Monday morning.

Q. How come you to demand three dollars a day and expenses? A. I didn't do it at all.

Q. He told you he would pay you that? A. Yes.

Q. Said he would pay you three dollars a day?

A. And my expenses.

Q. Do you know the ordinary witness fee is a dollar and a half a day? A. I was told so.

Q. And you understood you were to get twice the legal fee for testifying in this case?

A. That is what he told me.

Q. Did he buy you a ticket? A. Yes.

Q. He didn't tell you he was representing the Government? A. Sir?

Q. I say he didn't tell you he was representing the Government?

A. He told me he was working for the Pinkerton's.

Q. Working for the Pinkerton's. Do you keep a diary?

A. No, sir.

Q. You have been testifying about dates then simply from recollection? A. Yes, sir.

Q. Do you know who was Mayor of Leavenworth in 1882?

A. No I can't say that right off.

Q. Can't say that right off, do you know who was the United Senator from Kansas in 1889, the year you testified about? A. No.

Q. Do you know when Mr. Roosevelt was first inaugurated as President of the United States?

A. That was after McKinley's death wasn't it?

Q. I am asking you, you are the witness?

A. Yes, I remember that.

Q. Well, when was it? A. I don't know the year, no.

Q. You don't know? A. I don't know the year.

Q. But notwithstanding you cannot name these dates, you are willing to swear *diefinitely* and positively as to the dates of 1889 and 1894 that you have fixed in your testimony?

A. Yes, sir.

Q. And kept no diary of it? A. No, sir.

Redirect Examination by Mr. German.

Q. Mr. Malone, did Mr. Robinson tell you that you were to get three dollars a day for testifying or three dollars a day for your time? A. For the time.

Q. For each day that you consumed while you were gone?

A. For the time.

Q. And your expenses? A. Yes, sir.

Q. When Mr. Hanford was out there, did he say anything to you about whether you would need to obey a subpoena served on you?

A. Yes, I asked him, I asked Mr. Hanford if the Government could compel me to come back here.

> By Mr. Cruce: On behalf of Mr. Page, we object to that testimony, because it is incompetent.

A. I asked Mr. Hanford if I would be compelled to come, and he told me no. I told him I didn't want to come, I didn't want to come back here at all. I explained to him why that I didn't want to come back, that I didn't want to come back and be going over all these things that happened when I was a young man, and that I wasn't very proud of. That was the conversation.

Q. Now, when was it, the first trip *of* the second trip of Mr. Robinson, that you say you think he told you about the three dollars a day? A. The second trip.

Q. On the first trip that Mr. Robinson made to see you, that was before Mr. Hanford had seen you, wasn't it?

A. Yes, sir.

Q. And you have already testified, I believe, that you told Mr. Hanford when he was to see you, substantially the story that you have related here on the witness stand? A. Yes, sir.

Q. Now, was Mr. Hanford's trip to see you, was that before or after Mr. Robinson's second trip to see you?

A. It was before the second trip.

Q. Then, you received this letter, which you have identified here as Government's Exhibit No. 57, from Ella Abbott, shortly after Mr. Hanford had been to see you?

A. No, it was the day that I left there, a week ago today, no it was Tuesday

Q. Last Tuesday a week ago? A. Tomorrow.

Q. This coming Tuesday? A. Yes, sir.

Q. A week ago tomorrow? A. Yes, sir.

Q. It has been six days ago?

A. Yes, sir. It was the day I left there I received it.

Q. How long ago was it that Mr. Hanford had been to see you?

A. It was probably three weeks or such a matter, somewhere along there, I am not positive.

Q. Now, the first time you saw Mr. Robinson, or rather the first time Mr. Robinson saw you was about how long before Mr. Hanford saw you

A. It was probably a month or five weeks, somewheres in that neighborhood.

Q. Now the first time Mr. Robinson saw you, state whether or not you told him substantially the things, the same state of facts that you have related here on the witness stand?

A. Yes, sir, the same as near as I can.

Q. Referring to this letter from Ella Witt, signed Ella Witt, Exhibit No. 57, which has already been offered in evidence, I will ask you whose handwriting that handwriting is in? A. Ella Abbott.

Q. Do you know her handwriting? A. I do.

By Mr. German: Unless the letter has not been sufficiently identified, I offer it in evidence again as Government's Exhibit No. 57.

By Mr. Cruce: On behalf of Mr. Page, we offer the same objection that we originally offered.

By Mr. Hanford: And I renew my original objection and make the same objection to this offer at this time.

Q. Did you have any other letter from Ella in reference to this Atkins matter

A. No. Oh, I did, yes. Not from Ella, but from—It wasn't from Ella, no, it has been sometime ago.

Q. Was it from an oil company?

A. Yes, it was from the Gem Oil Company.

Q. Who signed it, do you remember? A. No, I don't.

Q. Whose name was signed to it?

A. I wouldn't swear to it, because I don't remember.

Q. Have you that letter? A. No, sir.

Q. What did you do with that letter? A. I destroyed it.

Q. When was it that you received that letter about?

A. Oh, it was sometime ago, it was along about—it was along while ago.

Q. Was it before or after Mr. Robinson saw you the first time?

A. Oh, it was a long while before that, long while before that.

Q. Do you remember what that letter contained, what it said?

A. Well, it is—It was asking me some questions.

By Mr. Cruce: We object in behalf of Mr. Page as incompetent testimony.

By Mr. German: I withdraw the question for the present.—I will renew my question.

Q. What, if you remember, was the statement contained in that letter?

By Mr. Cruce: On behalf of Mr. Page, the same objection, incompetent testimony.

A. No, I can't remember it.

Q. Did it make any statements in reference to Ella Abbott?

A. There was something concerning her.

Q. Did the letter purport to tell you what Ella Abbott would say in this case, what she would testify to or not?

A. It appears that they were trying to get some information from me was what they wanted.

Q. Concerning what matter?

A. Concerning this case, I guess.

Q. Did they ask you about any Indian woman or any Indian boy named Tommy, or boy named Atkins?

A. I can't remember what it was they asked me, but I know that I answered the letter then tore it up, the one that I wrote tore it up.

Q. And didn't mail it? A. And didn't mail it.

Q. Do you remember the substance of the letter that you received signed the Gem Oil Company? A. No, I don't.

Q. You say that was quite a little while before Mr. Robinson came to see you the first time? A. Oh, yes.

Q. About how long? A. Shortly—A year or more.

Q. You say that you have an indistinct recollection of seeing a child around Ella Abbott's, what was the nationality of that child? A. Colored.

Q. Colored? When was it that you saw that child there?

A. I think it was when I was going around there, I didn't see it often at that. I don't think I saw it over once or twice.

Q. Where was Ella living at that time?

A. Third and Cherokee.

Q. Then, that was in 1894 or '5 that you saw that child?

A. Yes, '95 I think.

By Mr. Cruce: That question is objected to because it is leading.

Q. How old do you say that child was?

A. Between two or three years old.

Q. Did Ella keep any colored help? A. Yes.

Q. Men or women?

A. A woman, she had one colored man in there as porter.

Q. Did you know who the mother of the child was?

A. No, I didn't.

Q. Who was the child with?

A. With the woman that was cooking down stairs.

Q. In the kitchen?

A. Yes, I suppose it was the mother, the cook.

By Mr. Stuart: Don't state what you suppose.

A. I naturally judge that was the mother of the child, while I didn't know who the child was with or who it belonged with.

By Mr. Stuart: Well, put it that way.

Q. You saw it in the kitchen? A. Yes.

Q. And that is where the colored cook staid? A. Yes.

Q. Was the colored cook in there when you saw the child in there? A. Yes.

Q. Now, if Ella Abbott had been in the bawdy house, or proprietor of a bawdy house before 1889, in October, or while you were an officer there in the town, would you have known it?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and suggestive and argument.

By Mr. Cruce: Objected to for Mr. Page on the ground that it asks for a conclusion of the witness in a matter that the Court must determine.

A. Yes, August, 1889, I left.

Q. Prior to the time that you left the Sheriff's office in August, 1889, state whether Ella Abbott ran a sporting house or was in a sporting house in the City of Leavenworth?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. No.

Q. Did Ella Abbott ever become a dope fiend, Mr. Malone?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Q. While you knew her? A. Yes.

Q. Did you ever have occasion to seek to cure her of that habit?

By Mr. Hanford: The same objection.

A. Yes, I discovered she was taking it and I talked to her, advised her to let it alone and she said she would. She sent for her sister here in Kansas City, and her sister came up and she wanted to go to Hot Springs, Arkansas, to a doctor there they said could cure her.

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and not responsive.

Q. And she went to see him on account of this habit?
A. Yes, sir.

By Mr. Hanford: Objected to as incompetent.

Q. Was that the reason she went? A. Yes, sir.

Q. Mr. Malone, while you were on the Police Force, while you were Deputy Sheriff, did you, in the performance of your duties, have occasion to have a wide acquaintance with the houses of ill repute in the City of Leavenworth?

By Mr. Hanford: Objected to as irrelevant, and immaterial, and improper redirect.

A. I did.

Q. Was there any woman in any of those houses, or elsewhere in the town, so far as your knowledge extended, by the name of Minnie Atkins or Indian Minnie?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial and leading.

A. I never heard of her.

Q. Was there any in any of those houses?
A. I never heard of her or saw her.

By Mr. Hanford: The same objection and move to strike the answer if it was made before the objection could be interposed.

By Mr. Johnson: The same objection for Carter.

Q. Did you know any Indian boy in any bawdy house or house of ill fame, while you were on the police force, by the name of Tommy Atkins, or Indian Tommy?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. No.

Cross Examination by Mr. Stuart.

Q. Mr. Malone, did you ever hear of a girl in that town at all by the name of Indian Minnie? A. No, sir.

Q. Never was such a girl there that you know of?

A. Not that I know of.

Q. As Indian Minnie? A. Not that I know of.

Q. Did you ever hear of an Indian girl being around Granny Letcher's? A. No, sir.

Q. Did you ever hear of an Indian girl working for a man by the name of Hyde? A. No, sir.

Q. Did you know Hyde? A. Yes, sir.

Q. You knew where his place was well, didn't you?

A. Yes, sir.

Q. Never heard of this Indian girl? A. No, sir.

Q. You never heard of Granny Letcher, did you?

A. Oh, yes.

Q. When did you hear of Granny Letcher?

A. Oh, a long while ago, I don't just remember.

Q. What year was it that you first knew Granny Letcher, Mr. Malone?

A. I can't say that, I was born and raised there and don't know what year it was.

Q. Figure on that the best you can and give us the year that you knew Granny Letcher?

A. Well, I can't say, I was raised up there and knew pretty near all the people you might say.

Q. Well, you can give us some idea in the year, can't you, some idea of the year that you knew Granny Letcher?

A. Probably in the eighties, I judge.

Q. What eighties?

A. I don't know what time of year it was.

Q. Well, did you know her in eighty-three?

A. I think I did.

Q. Did you know her in eighty-five?

A. If she was there.

Q. Did you know her in ninety-six? The truth is you don't know when you knew her, do you?

A. I know that I did know her, I knew her son too.

Q. I didn't ask you anything about her son. You can't fix any definite time that you knew Granny Letcher?

A. Well, I can't say for fear I might be wrong and I am trying to tell the truth.

Q. I assume that, you are trying to tell the truth, I assume that. If you are, you tell me, you can fix any definite year that you knew Granny Letcher?

By Mr. German: Objected to on the ground of repetition.

By Mr. Stuart: I guess I can repeat a little on cross examination.

Q. Go ahead and tell us now just about what year?
A. Well. I ain't going to try to say.
Q. Did you know a fortune teller in that town?
A. A fortune teller?
Q. Yes, an old woman fortune teller? Did you ever hear of that fortune teller there, celebrated fortune teller down there next to that livery stable?
A. If I have I have forgotten it.
Q. You have forgotten all about the fortune teller. You know where Crilly's barn was? A. Yes, sir.
Q. You knew that whole country in there well, didn't you?
A. I never heard of a fortune teller. I say if I had, I have forgotten about it.

Redirect Examination by Mr. German.

Q. There wasn't any fortune teller in any of those bawdy houses that you knew anything about, was there, Mr. Malone?
A. No, sir.

Recross Examination by Mr. Cruce.

Q. Who else was running a bawdy house there in 1889?

By Mr. German: How many counsel are representing one party?

By Mr. Cruce: Two apiece.

By Mr. German: I want to make the objection that we object to more than one counsel representing one party examining the witness.

Q. Mr. Malone, how many women were running bawdy houses in 1889 in Leavenworth? A. Oh, I don't know, 1889?
Q. Yes?
A. I don't know just exactly how many there was.
Q. Couldn't give that? A. Oh, I knew a lot of them.
Q. Now, you are testifying, have testified that Ella Abbott was not running one in 1889?
A. No. I testified that I didn't see her and didn't know her until '90.

Q. Well, you don't know whether she was running a bawdy house in '89 or not? A. If she did, I didn't know it.

Q. Who shot her? A. She shot herself.

Q. She did? A. Yes, sir.

Q. How do you know?

A. Well, because there wasn't anybody in the room with her when the shot went off and the bar tender down stairs ran up and found her in the room alone.

Q. Mr. Malone, didn't you shoot that woman?

A. No, sir.

Q. You didn't? A. No, sir.

Q. Would you admit it if you had shot her?

A. Yes, sir, I would.

Q. How many times was she shot? A. Once.

Q. Through the throat?

A. No, she was shot through the breast. She took poison several times.

Q. To get rid of you?

A. No, sir, to get rid of herself, I guess.

Q. To get out of your life? A. No, sir.

Q. Was it because of your conduct toward her that she took poison and tried to poison herself? A. No, no.

Q. You don't know why?

Redirect Examination by Mr. German.

Q. Do you know how the hole in her neck came to be there?

A. Yes, the doctor put a silver tube in there so that she could breathe or something.

Q. Was that hole made by a gun shot?

A. In her throat?

Q. Yes? A. No, by the doctor.

Q. Made by a doctor? A. Yes.

Q. Do you know how it happened that the doctor had to make that hole?

A. No, I don't; the doctor that treated her thought that was necessary to put a tube in there.

Witness dismissed.

Mr. German: We now offer the deposition of W. B. Shaughnessy taken before Mr. Penick as Examiner, appearing in his record of transcript at page 3033.

And thereafter W. B. SHAUGHNESSY being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name, age, and residence?

A. W. B. Shaughnessy; 39 years old; residence, Leavenworth.

Q. What official position do you occupy in the city of Leavenworth at this time? A. Chief of Police.

Q. As chief of police, are you the—have you the custody of the books and records pertaining to the Police Department?

A. Yes, sir; that is, the Captain takes care of the books, you see, but they are all in our Department.

Q. All under you? A. Yes.

Q. Are the books showing the officers of the Police Department during the year—during the '80's in your possession? A. Yes, sir.

Q. Have you a record showing when J. A. Malone was first put on the force as a special policeman? And the term he served as special policeman?

A. Joseph Malone—I don't know whether his initial are J. A.—Joseph Malone.

Q. Have you that book? A. Yes, sir.

Q. With you? A. Yes, sir.

Q. Will you please produce it?

A. There are two books here.

Q. What is the book you now have in your hand?

A. That is what they call the Roll Call Book.

Q. Does it show the names of the different officers of the Police Department including the special policeman?

A. Yes, sir.

Q. And the dates that they were on duty?

A. Yes, sir, shows there the specials.

Q. Have you examined the other records of your office to determine the date when Joe Malone first went into the service as a special policeman?

A. No, we haven't any record, only this roll call book that we have been able to find.

Q. How far back does that Roll Call Book go?

A. For Mr. Malone?

Q. For the Police Department.

Q. This is the 1872, this one.

Q. It includes the officers for that Department from 1872 up to and including what year? A. 1886, December 1886.

Q. What is the first date shown by that book when Joe Malone commenced working for the city as special policeman?

Mr. Hanford: Object to the question as incompetent, irrelevant, and immaterial, and to the form of the question as stating a conclusion.

Mr. Allen: I withdraw it.

Q. On what page of that book, does the name of Joseph Malone appear?

Mr. Blakeney: We object as immaterial, and hearsay, there being no law authorizing such a book, and it not being competent, for evidence for any purpose.

Mr. Hanford: The same objection.

A. This page—what page is it, the pages are not numbered here?

Q. Under what date?

Mr. Blakeney: Objected to for the same reason; object to all the evidence of this witness on the ground scheduled in the last objection so far as relating to this record.

Mr. Hanford: The same objection.

A. This is June, 1885. I guess that is an eight, alright.

Q. I wish you would read all of the entries off that page in so far as they pertain to the name of Joseph Malone.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Mr. Cruce: On behalf of Mr. Page, we object to it on the ground that the testimony is incompetent, and not binding.

A. Do you want——

Q. Just read it just as it is.

A. 1885, Joseph Malone—this is the number of men on there—number 14, Joseph Malone; he is a special. He was collecting road tax—special number 14—Joseph Malone, road tax, number 17.

Q. The date he began service?

A. That looks like the 25th, doesn't it?

Mr. Hanford. Wouldn't that last date begin the service?

A. Looks like the 25th.

Q. Have you examined the records to see whether this book shows that he was regularly in the service of the city from that time on?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion of the witness.

Mr. Allen: Now, Mr. Hanford, to you three gentlemen representing the defendants, if that objection is insisted upon, of course we will have to introduce all of the book, so far as the records pertain to this party, covering a period of five or six years, and we will do that, but we wish you would examine it and waive that objection.

Mr. Blakeney: I will agree to the first page; I don't care for the whole batch. I will agree to the special policeman, letting the records show that there were 17 regular policemen at that time—16 or 17—16 I believe it shows—one line being vacant, and 14 special policemen on *the* June 1st, 1885, their names being as follows: the only name that I am particularly caring about, number 9, Dennis Jones, and Joseph Malone. Malone as to showing that he commenced working on the 24th of June 1885, and he continued as a special policeman until August 1885, first day of August his name appears as Jos. Malone—his office day—and he continued to work but in September, went on as an assistant guard; and in October Joseph Malone, assistant guard, S. P., commencing the first and working continuously during the month as shown by this book, and continued during November in the same capacity. In December 1885 is shown Joseph Malone, S. P. guard, during the entire month. Same during January 1886, same during February 1886, and same during March 1886, same during April 1886 and same during May 1886, same during June 1886, same during July 1886, same during August 1886; now, in September 1886, entries shown as follows: Joseph Malone, north beat, night, during the entire month. In October, entry shows that Joseph Malone, day, during the entire month; in November it showed Joseph Malone, middle beat, night, during the entire month; in December 1886, it shows Joseph Malone, south beat, at night during the entire month, and that he continued as a regular policeman until the 11th day of April, 1887.

Mr. Allen: Now, gentlemen, do you all agree to the correctness of the record identified by the witness as read by Mr. Blakeney?

Mr. Cruce: We agree that Mr. Blakeney read the record correctly but we object, of course, to the competency of the testimony.

Mr. Hanford: I want it to be shown that on the first page, where Joseph Malone's name appears, it is the last name under the list specials, and that he is designated as a special under the list of specials, and that his service or station is designated as special road tax, and in the month of April, there were six specials but no special road tax collectors; for the month of May, on page immediately preceeding—that is for the month of May, the record—the book shows 12 specials, of whom 6 are special road tax, and shows the name of Dennis Jones as number 9, his employment commencing on May 13, 1885.

Mr. Allen: That is alright.

Witness dismissed.

Mr. German: We now offer the deposition of John T. Beechler, taken before Mr. Penick as Examiner, appearing in his transcript at Page 2169.

And thereupon JOHN T. BEECHLER, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. John T. Beechler.
Q. Where do you live, Mr. Beechler.
A. I reside at 319 Delaware now.
Q. Leavenworth? A. Yes, sir.
Q. What age are you?
A. I will be 56 the 2nd day of August.
Q. Were you born then in 62? A. 60.
Q. 1860? A. Yes, sir.
Q. How long have you been residing in Leavenworth this time? A. I always considered this—this town?
Q. This town? yes?
A. Well, I always considered this my home.
Q. Have you lived elsewhere? A. Yes, sir.
Q. Where, since you were grown?
A. That is going a long ways.
Q. Well, not back that far?
A. Recently I have been living in California, San Francisco, lived there a year.
Q. Have you lived in Oklahoma any? A. Yes, sir.
Q. Where? A. Oklahoma City.
Q. How long did you live there?
A. About three years.
Q. What business were you in there?
A. Real Estate and Loans.
Q. What business are you in now, Mr. Beechler?
A. None at present.
Q. When did you first live in Leavenworth?

A. Well they tell me I came here about 60, the latter part of 60, I was six months they claim, when I first came here.

Q. How long have you lived here continuously?

A. This always been my home, always considered it.

Q. You were here in the *in the* 70's and 80's? A. Yes, sir.

Q. And 90's? A. Yes, sir.

Q. Did you ever know an Indian woman here by the name of Indian Minnie or Indian Mary?

A. I knew one by the name of Indian Mary.

Q. When did you first know her? A. About 75.

Q. 75, where, and in what part of town was that in?

A. The North part of town.

Q. When you speak of the North part of town, where do you mean?

A. I mean north of Shawnee and East of Fifth.

Q. You mean in the—— A. First ward.

Q. How long did you know that woman to be around this town? A. I can't say.

Q. Did you know her in the 80's to be here in the 80's?

A. I have seen her.

Q. You have seen her? A. Yes, sir.

Q. In the 80's. Where did you see her in the 80's, where particularly?

A. My best recollection is on Second Street.

Q. On Second Street? A. Yes.

Q. What year was that, if you remember?

Mr. Blakeney: We object to all inquiry regarding Indian Mary as not relevant to the case.

Mr. Hanford: We make the same objection.

A. 83.

Q. 83? A. Yes, sir.

Q. You say that was on Second Street? A. Yes, sir.

Q. Where else did you see her in town?

A. Well, she used to buy wood from Mr. Apperson.

Q. You would see her there? A. I have.

Q. Where else would you see her?

A. Well, I would—she was a chorister that lived in North Leavenworth, I have seen her.

Q. Around at different places? A. Yes, sir.

Q. What kind of a looking woman was she, describe her?

A. In height about five foot four or five, I should judge.

Q. What was her complexion?

A. Well, yellow, I guess.

Q. Was she an Indian?

A. I can't say, Spanish or an Indian; she wasn't a white woman.

Q. She wasn't a white woman; was she a negro?

A. That I can't say.

Q. What was she called? A. Indian Mary.

Q. How did she dress, anything peculiar about her dress?

A. Well rather flashy colors.

Q. Was she a neat dresser or otherwise?

A. I don't think so.

Q. You didn't think so; didn't she wear any shawl, or anything of that sort? A. Why, I don't know.

Q. You don't remember. Did you ever know about her having a baby? A. No, sir.

Q. Didn't know about that. Didn't she—did you know of a Fortune Teller here in town in the 80's? A. Yes, sir.

Q. Where did she live?

A. This one I knew I had seen, her place of business, was on Second between Delaware and Cherokee.

Q. Was this Indian woman around her any?

> Mr. Blakeney: We object to the expression, Indian woman.

Q. Well, this Indian Mary? A. Yes, sir.

Q. Did you know of this Fortune Teller living elsewhere than on Second Street?

A. Why, I never was in her place of business, only what I have been told.

> Mr. Blakeney: We object to his being told, as incompetent, irrelevant and immaterial.

Q. Did you hear about that time of any other place where the fortune teller lived?

> Mr. Hanford: Objected to as incompetent, irrelevant, immaterial and hearsay.

A. Yes, sir.

Q. Where? A. On Seneca.

Q. On Seneca? A. Yes, sir.

Q. What part of Seneca? A. Between Second and Third.

Q. What place between Second and Third, if you know?

A. The number I can't give——

Q. Which side of the street?

A. The North side of the street.

Q. Was Indian Mary around her any there?

A. I don't know.

Q. You don't know?

A. I have seen her on that street.

Q. You have seen her on that street. When do you remember to have been the last time that you ever saw that Indian woman, they called Indian Mary?

A. Well, I would say later than 83.

Q. How much later would you say? A. A year or so.

Q. Did you know a white woman here in town in the early 80's by the name of Lillie White? A. Yes, sir.

Q. Where did she first live when you first knew her?

> Mr. Hanford: We object to this interrogation in regard to a Lillie White, on the ground that it is incompetent, irrelevant and immaterial.

A. On Seneca.

Q. On Seneca, what part? A. I can't give the number.

Q. What house was it? On which side of the street?

A. On the South side of the street.

Q. South side? What house was it in?

A. Well, it was called the old Dotter property.

Q. What kind of a house was it, as to being frame, or stone, or what? A. Well, the front part of it was frame.

Q. What was the other? A. Well, I don't know.

Q. Which part of it was frame? A. The front part.

Q. What size house was it? A. A two story.

Q. Do you know where the Feth's lived? A. Yes, sir.

Q. Where was it with reference to the *resident* of Feth's?

A. East of that.

Q. The first house?

A. A vacant lot between them.

Q. Do you remember the old Seneca house on the north side of that street? A. Yes, sir.

Q. Between Second and Third? A. Yes, sir.

Q. Where was it with reference to the old Seneca House?

A. Right across the street, right opposite on across the street.

Q. Right across the street from the old Seneca House?

A. Yes, sir.

Q. Did any one else live in that house with Lillie White?

A. Yes, sir.

Q. Who?

A. The only one I really knew was a woman by the name of Emma Moss.

Q. Were they white folks? A. Yes, sir, white people.

Q. White people or colored? A. White.

Q. Did you know about the Dotters having lived in the house? A. Yes, sir.

Q. Who lived there first, the Dotters or Millie White?

Q. How came you to know that the Dotters and Millie White lived there?

A. Well, I expect they called that a sporting house at that time.

Q. The Dotters didn't run it as a sporting house, did they?

A. No, sir.

Q. They were nice people? A. Yes, sir.

Q. You had occasion to visit that house when Lilly White and Emma Moss were living in it? A. Yes, sir.

Q. Frequently? A. Oh, probably once a week.

Q. How long did Lilly White continue—which one was the head of the house, Lilly White or Emma Moss?

A. I think Lilly White was.

Q. How long did they continue to reside there?

A. About a year, I think it was. Probably a year and three months, I don't remember the exact time.

Q. Do you know who succeeded them in the house, whether it was colored folks or white people?

A. I think they were called colored people.

Q. Did you know the name? A. Yes.

Q. Who was it? A. Mrs. Letcher.

Cross Examination by Mr. Blakeney.

Q. How do you spell your name?

A. Beechler, B-e-e-c-h-l-e-r.

Q. Beechler. A. Yes, sir.

Q. You say you were in the real estate business in Oklahoma City? A. Yes, sir.

Q. When? A. Four years ago.

Q. Did you live there four years ago?

A. Yes, sir, about that time.

Q. And how long were you in the business—real estate business there? A. About three years.

Q. What was your firm name? A. Barnett & Beechler.

Q. Who? A. Barnett & Beechler.

Q. Where was your office? A. Main and Harvey.

Q. Main and Harvey, what building?

A. Hale owned the building.

Q. The State National Bank Building?

A. No, that is on——

Q. On the street west? A. Robinson and Main.

Q. The street west? A. Yes, sir.

Q. Are you familiar— Do you know Oklahoma City?

Q. Yes, sir. *A.* Roach & Veasey's Drug Store, Room 504 and 505, Security Building.

Q. What floor were you on? A. Fifth floor.

Q. You sold real estate there?

A. I was in the real estate and loan business.

Q. Do you know Johnny Garrett? A. Yes.

Q. What was he doing there when you knew him?

A. If it is the Garrett I mean, I think he was a gambler.

Q. Well, you were well acquainted with him?

A. Not so very well.

Q. Were you associated with him in any business enterprise? A. No, sir.

Q. You mean to tell the court that you were in a legitimate real estate business? A. I do, sir.

Q. What real estate did you sell?

A. Well, mostly in the loan business, real estate.

Q. What loans? A. Well, mostly chattels.

Q. You would file them of record, would you?

A. Yes, sir.

Q. In whose name did you make those loans?

A. The firm was Bennett & Beechler, I filed them in that.

Q. You put it in the firm name? A. Yes, sir.

Q. Bennett & Beechler? A. Yes, sir.

Q. And you usually filed them for record? A. Yes, sir.

Q. How many loans did you make? A. I don't know.

Q. Well, during the four years now, how many would you say you made?

A. Well, I could get my books, they are in Oklahoma City, I could refer to them.

Q. Just only an estimate?

A. I can't give you an estimate.

Q. Name some of the people that you made loans to?

By Mr. German: I object to the question as improper cross examination, incompetent, irrelevant, and immaterial, and useless detail about an immaterial matter.

A. I could get my books and look them over.

Q. What did you do before you went to Oklahoma City?

A. Why, I lived in Leavenworth.

Q. You had been living here in Leavenworth?

A. Yes, sir.

Q. And you left Oklahoma City, you say, about four years ago, that was in 1912? A. Yes, that is about right.

Q. And you stayed there about three years, you went there about 1909? A. I was there about three years I think.

Q. Then, prior to 1909, you had been living in Leavenworth? A. California a year. San Francisco.

Q. That was before coming to Oklahoma City?

A. No, after.

Q. After you went to Oklahoma City? A. Yes, sir.

Q. Well, was that in that four years all together?

A. It was after I was in Oklahoma City.

Q. What did you do in California? A. Nothing.

Q. Nothing at all? A. No, sir.

Q. You carried on no business occupation of any kind, lawful or unlawful? A. No, sir.

Q. What were you doing in Leavenworth before you went to Oklahoma City? A. Running a gambling house.

Q. Running a gambling house? A. Yes, sir.

Q. How long had you run it? A. A good many years.

Q. Approximately how long?

A. The records will show, I can't say.

Q. Well, give us your estimate of it? A. I can't do it.

Q. Well, thirty years? A. No, sir.

Q. Twenty years?

A. Well, I can't answer that question, because I was off and on in business here for a good many years. We were open and closed at times, I can't say how long I was in business.

Q. Were you connected with any of that kind of business in Oklahoma City? A. No, sir.

Q. In Frisco? A. No, sir.

Cross Examination by Mr. Bond.

Q. You say, I believe, you were born in——

> By Mr. German: I object to Mr. Lee Bond's cross examining the witness, or questioning the witness, on the ground that he is not an attorney of record in the case, and not an attorney of record in the Eastern District of Oklahoma, and for the reasons assigned yesterday.

> By Mr. Hanford: I will state that Mr. Bond is an attorney of record, and that his appearance is on file in the office of the clerk of the court of the Eastern District of Oklahoma, at Muskogee.

> The Examiner: Since there is objection to Mr. Bond's appearance in this matter, and in view of the fact that the certified copy of the appearances in this case, furnished by the court of the Eastern District of Oklahoma, does not show Mr. Bond as an attorney of record in this case, Mr. Bond will not be permitted to examine witnesses in this case at this time.

> By Mr. Hanford: I wish to state further that in the absence of Judge Stuart, Mr. Bond represents defendant Charles Page.

Cross Examination by Mr. Blakeney.

Q. Have you got a recent photograph of yourself?

A. Sir?

Q. Have you a recent photograph of yourself?

> By Mr. German: I object to the question on the

ground that it is incompetent, irrelevant, and immaterial, and improper cross examination.

A. I have not.

Redirect Examination by Mr. German.

Q. Are you a member of any lodge Mr. Beechler?
A. Yes, sir.
Q. What lodge? A. The Eagles and the Elks.
Q. Where is your membership in the Elks?
A. 417 Oklahoma City.

By Mr. Blakeney: Objected to as incompetent, irrelevant, and immaterial.

Cross Examination by Mr. Hanford.

Q. Mr. Beechler, you stated you were in California for a year? A. Yes, sir.
Q. Just prior to going to Oklahoma City?
A. After I was in Oklahoma City.
Q. After you were in Oklahoma City? A. Yes, sir.
Q. And it was about four years ago that you went to Oklahoma City? A. No, it has been longer than that.
Q. Well, what year was it that you went to Oklahoma City?
A. I can't say, I can definitely though in a little bit.
Q. Well, how many years ago?
A. Six or seven possibly.
Q. Six or seven years ago you went to Oklahoma City?
A. Yes, sir.
Q. And stayed there three years? A. About three years.
Q. About three years? A. Yes, sir.
Q. Then, where did you go?
A. I went to California— No, came to Leavenworth.
Q. How long did you stay in Leavenworth?
A. Sixty or seventy days.
Q. Then, where did you go? A. San Francisco.
Q. How long did you stay there? A. Stayed there a year.
Q. And all the rest of the time prior to that you lived in Leavenworth? A. I came back to Oklahoma City.
Q. And prior to going to Oklahoma City, you lived in Leavenworth did you all the time?
A. This has been my home, no I haven't lived here all my life.
Q. Well, where else have you lived?
A. I have been all over the west.
Q. State where? A. Well, I have been.
Q. Give me the places you have lived in the west?
A. Albuquerque, Las Vegas, Denver, Tacoma, Washing-

ton, that is the only places I have lived, I have been all through the west, though.

Q. You have been all through the west. When were you in Albuquerque?

A. A good many years ago, I can't tell, thirty years ago or longer, I have been there recently.

Q. You have been there recently? A. Yes, sir.

Q. You say you were out there thirty years ago or longer?

A. Yes, sir.

Q. Give me the year? A. I cannot.

Q. How long were you there?

A. About a year this time.

Q. Were you there about a year this time? When you were out there, I am asking you when you were out there first, how long were you there? A. About a year.

Q. About a year, now, what year was that?

A. I am only saying about thirty years ago, it has been quite a while, might have been longer and might have been lots less, I hardly think it was less though.

Q. About the middle of the eighties, then, was it?

A. Can you tell me when Garfield died?

Q. You were out there when Garfield died?

A. I was in Las Vegas at that time.

Q. I am asking you about Albuquerque?

A. I could tell you then about the year.

Q. How long were you in Las Vegas?

A. About, pretty near a year, I guess.

Q. About a year. You went there from Albuquerque?

A. I went to Las Vegas first.

Q. You went to Las Vegas first? A. Yes, sir.

Q. And you were there about a year?

A. Possibly not that long but around a year.

Q. But around about a year? A. Yes.

Q. And you went there when Garfield died? A. Yes, sir.

Q. What business were you in there?

A. I was in the hotel business.

Q. Hotel business, what hotel?

A. Mr. Harvey at the Montezuma.

Q. You were at the Harvey house? A. Yes, sir.

Q. What did you do, run it? A. No, sir.

Q. Did you work for Harvey? A. For a while.

Q. For a while? A. Yes, sir.

Q. Who else did you work for? A. There?

Q. Yes, sir.

A. That is about the only man I ever drawed a salary from that I know of.

Q. What work did you do when you didn't draw a salary?

A. Well, I guess I gambled.

Q. You gambled, did you? A. Yes.

Q. Now at Albuquerque, you went there from Las Vegas?

A. Yes, sir.

Q. Did you go any place else first?

A. I went directly to——

Q. You were in Albuquerque about a year?

A. Yes, probably a year.

Q. What did you do there?

A. Well, I run a new restaurant.

Q. Who for?

A. It was for a— I don't know, I think the lady's name was Gadner, who used to live here.

Q. How long did you work for her? A. Not very long.

Q. How long were you there, about a year?

A. About a year, yes, sir.

Q. Did you work for that woman a month?

A. No, sir.

Q. Two months? A. I can't say.

Q. A short time? A. Yes, sir.

Q. What else did you do?

A. I went to working, tending bar I think.

Q. Who were you tending bar for? A. Zigler.

Q. How long did you work for him?

A. Four or five months I suppose.

Q. You gambled at Albuquerque, didn't you? Answer the question? A. Yes, sir.

Q. From Alburquerque, where did you go?

A. I went to Leavenworth, I think.

Q. Went to Leavenworth, how long did you stay in Leavenworth? A. I don't know.

Q. Were you here a year? A. I expect so.

Q. Were you here more than a year?

A. I can't say how long I was here.

Q. What did you do while you were here? A. Nothing.

Q. Didn't do a thing? Did you gamble?

A. Occasionally I did.

Q. Did you run a house? A. No, sir.

Q. Just gambled? Where did you live when you were here in Leavenworth? A. 226 Delaware.

Q. 226 Delaware, you lived there all the time you were here? A. That was supposed to be my home.

Q. Who did you rent from?

A. I lived with my mother, roomed with her.

Q. From Leavenworth, where did you go then?

A. Well, I stayed around here.

Q. What year was that? A. I don't know.

Q. You don't know the year, about what year was it?

A. I can't say.

Q. You can't say, was it 1887?

A. I was here in Leavenworth in 1887.

Q. You were here in Leavenworth in '87?

A. Yes, I didn't leave until about——

Q. Was that the year that you came back from Albuquerque?

A. No, I got back from Albuquerque previous to that quite a while.

Q. After you got back from Albuquerque and lived in Leavenworth, how long do you say you lived here?

A. I don't know.

Q. Did you live here two years? A. Yes.

Q. Two years, you are sure of that? A. Or longer.

Q. Longer, three years?

A. What year is this that you gave—eighty-seven?

Q. You went from Leavenworth to Las Vegas, is that right? A. The first time?

Q. Yes? A. Yes, sir.

Q. And then to Albuquerque? A. Yes, sir.

Q. And then from Albuquerque you came back?

A. I might have come back from Las Vegas to Leavenworth.

Q. I thought you went right to Las Vegas. Which did you do, go from Las Vegas to Albuquerque, or come back to Leavenworth? A. I went to Las Vegas.

Q. And stayed there about a year?

A. I might have been there about a year, I don't know.

Q. Now, when you came back to Leavenworth, how long did you stay?

A. I don't know, I might have been here a year.

Q. Do you know what year it was? A. I do not.

Q. Did you stay one year or did you stay five years after you came back from Albuquerque? A. I can't say.

Q. Where did you go from Leavenworth?

A. I guess I went to Albuquerque.

Q. Did you go back to Albuquerque?

A. I am now at Albuquerque, I am there.

Q. Then after Albuquerque, you came to Leavenworth?

A. I think so.

Q. Now, how long did you stay in Albuquerque?

A. About a year.

Q. And came from Albuquerque to Leavenworth?

A. Yes, sir.

Q. How long did you stay in Leavenworth that time?

A. I don't know.

Q. Did you stay a year? A. Yes, sir, maybe longer.

Q. Did you stay two years?

A. I can't state how long I was here, I never kept any memorandum.

Q. One year, or two years, or three years?

A. A year or more, I will say.

Q. Might have been five years, mightn't it?

A. Oh, no.

Q. Might have been all of that, mightn't it?

A. I don't know.

Q. You don't know, where did you go from Leavenworth?

A. Tacoma. I think I went to Tacoma in 1889.

Q. To Tacoma, Washington, in 1889, what did you do there? A. I gambled.

Q. Gambled? A. Yes, sir.

Q. How long were you there? A. A little over a year.

Q. Where did you live in Tacoma?

A. I think it was on C Street.

Q. What else—C Street and what?

A. It was in the middle of the block, Gleason Hotel, I think that was the name.

Q. Were you there all the time?

A. Supposed to room there, I always had a room there.

Q. You were there about a year? A. Yes, sir.

Q. Where did you gamble? A. The street number?

Q. Yes, where did you gamble? A. Pacific Avenue.

Q. Did you go to Seattle? A. Yes, sir.

Q. What kind of a city was Seattle then?

A. Not much of a town.

Q. Not much of a town? A. No, sir, just had a fire.

Q. Just had a fire, you were there the year of the fire?

A. Yes, sir.

Q. How long after the fire, how long before the fire did you arrive there?

A. About the time they had the fire, eighty-nine, I don't know what month it was in.

Q. You got there about the time of the fire? A. Yes, sir.

Q. And stayed there about a year? A. In Seattle.

Q. And in Tacoma?

A. Yes, sir, off and on, I was in Seattle.

Q. Did you live in Seattle? A. A little while.

Q. Was that part of the year you say you were in Tacoma?

A. No, I think I was in— Well, I was in Tacoma about a year and a half including the time I was in Seattle, or longer I will say.

Q. That was in 1889? A. The latter part of 1889.

Q. The latter part of '89?

A. Whenever the fire was, I can't tell.

Q. Where did you go from Tacoma? A. Went to Seattle.

Q. From Seattle where did you go? A. Tacoma.

Q. Back to Tacoma? A. Yes, sir.

Q. And then where did you go from Tacoma?

A. Leavenworth.

Q. What year did you get back to Leavenworth?

A. The latter part of ninety, I think.

Q. How long did you then stay in Leavenworth?

A. Nineteen or twenty years I guess.

Q. About nineteen or twenty years, stayed in Leavenworth all the time then, did you? A. Yes, sir.

Q. Now, when did you live in Denver?

A. I think it was eighty.

Q. Lived in Denver in 1880, how long did you live in Denver? A. About a year, I judge.

Q. About a year? A. Yes, sir.

Q. When did you go to Tacoma? A. Eighty-nine.

Q. Did you go to Denver before you went to Las Vegas?

A. Afterwards.

Q. You went to Denver afterward? A. Yes, sir.

Q. Are you sure that you went to Denver in 1880?

A. I think that was the year.

Q. That was the year? A. Yes, sir.

Q. And you were in Las Vegas before that? A. Yes, sir.

Q. Where did you go from Denver, back to Leavenworth?

A. Yes, sir.

Q. Tell me some of the other places that you lived?

A. Well, that is about all I guess, I have been all over the country.

Q. Have you ever been in Portland? A. Yes, sir.

Q. Portland, Oregon? A. Yes, sir.

Q. How long were you there?

By Mr. German: I object to this line of examination.

A. About three or four weeks the last time.

Q. Three or four weeks the last time? A. Yes, sir.

Q. How long the first time?

By Mr. German: I object to this line of examination, on the ground that it is improper cross examination, incompetent, irrelevant, and immaterial.

Q. How long were you in Portland the first time?

A. I don't know.

Q. A year? A. No.

Q. Six months? A. Maybe a day.

Q. Maybe a day? A. Yes, sir.

Q. Well, was it a day? A. I don't know.

Q. Was it a day or a month?

A. I was traveling, I didn't know how long.

Q. You were traveling. Did you ever gamble in Portland? A. No, sir.

Q. Where did you live in Portland?

A. With a relation—a relative.

Q. You lived with a relative? A. I stopped there.

Q. Is that relative still living, you stopped there?

A. Yes, sir.

Q. And you won't say whether it was a day or a month?

A. This time I was there a couple of weeks, I think, maybe longer.

Q. Which time, the first time?

A. I don't know, I have been there a good many times.

Q. Been there a good many times? A. Yes, sir.

Q. You have traveled a good deal, haven't you?

A. I don't know.

Q. How many times have you been in San Francisco?

A. Five or six.

Q. Five or six times?

A. I don't know, I judge five or six, more than twice I will say.

Q. Have you ever been in New Orleans? A. No, sir.

Q. How long did you live there? A. No, sir.

Q. Never been there? A. No, sir.

Q. Been in San Antonio? A. No, sir.

Q. Been in Los Angeles? A. Yes, sir.

Q. How long did you live in Los Angeles?

A. I never lived there.

Q. How long did you stay there?

A. I stayed there four or five times, possibly two or three weeks at the longest.

Q. How long did you live in Butte?

A. I never lived in Butte.

Q. You ever lived in Butte? A. No, sir.

Q. Have you ever been there? A. Yes, sir.

Q. Gambled any there? A. No, sir.

Q. Never gambled there? A. No, sir.

By Mr. German: I object to counsel following the route that we took on the taking of our western depositions.

Q. What year were you in Butte? A. I don't know.

Q. Now, this Indian Mary, how old a woman was she the last time you saw her? A. I don't know.

Q. You can't say? A. No, sir.

Q. You first saw her in what year?

A. It might have been seventy-six or something.

Q. How old was she then? A. I don't know.

Q. Was she a young girl?

A. Well, I wouldn't call her a spring chicken.

Q. She was a middled aged woman?

A. I don't know how old she was.

Q. Along about forty years? A. I don't know.

Q. Forty or fifty wasn't she? A. At that time?

Q. Yes?

A. I wouldn't judge that. I am not a good judge of ages, I don't know how old she was.

Q. You are sure she was a middled aged woman?

By Mr. German: We object to that as assuming something to which the witness didn't testify.

Q. That is what you said?

A. I didn't state her age, I don't know how old she was.

Q. Now, this fortune teller, you say she lived on Second, between Delaware and what? A. Cherokee.

Q. Between Delaware and Cherokee? A. Yes, sir.

Q. Did you ever visit her there? A. No, sir.

Q. How did you know that she lived there, did you see her around there? A. Sir?

Q. Did you see her around there?

A. She lived there I guess.

Q. You saw her there did you? A. Yes, sir.

Q. How many times did you see her there?

A. I don't know.

Q. How do you know that she was a fortune teller?

A. I am under the impression that she had a sign out there or something. I was told so, and I think she had a sign out there if I am not mistaken.

Q. Do you remember what she looked like?

A. No, I don't, I wouldn't know whether she was an Indian or Spanish.

Q. Tell me what she looked like.

By Mr. German: Who are you referring to, Indian Minnie or the fortune teller?

Q. The fortune teller, what kind of a looking woman was she?

A. Well, she was a colored woman, I never was in there.

Q. Just know that she was a colored woman?

A. Just know she was colored, I don't know whether a colored woman, Mexican, or Spanish, or whether she was of Indian blood, I never spoke to her in my life, I wasn't acquainted with her.

Q. You knew she was there, didn't you?

A. It was all appearances and somebody was there, and I have seen her at the door.

Q. You knew she was there if you saw her there, didn't you?

By Mr. Allen: I object to that as argumentative.

A. Well, I saw a woman there.

Q. What kind of a looking woman did you see?

A. Well, I didn't pay much attention to her.

Q. You didn't pay much attention to her at all? A. No.

Q. You don't know whether she was a large woman, a short woman, a fat woman or a thin woman, do you?

A. I can't give you a description of her, I wasn't interested in her, I never had occasion to go in there, and I never spoke to her nothing in my life.

Q. Just state that you saw her standing at the door?

A. Yes, sir.

Q. What kind of a woman did you see standing at the door? A. Can't describe her now.

Q. The only thing you remember is that she was a colored woman?

A. She was colored, I don't say a negro. Would that be a negro, a colored woman, she was colored.

Q. She was colored?

A. Yes, sir, she might have been an Indian and might have been a Spaniard.

Q. What would you say, just an ordinary sized woman?

A. I can't say, I don't remember whether she was—I wasn't acquainted with her.

Q. Whether she was fat, thin, short, or small?

A. I never paid any attention to her.

Q. Never paid any attention to her at all, now you say you saw her on the street? A. I didn't say so.

Q. You didn't say that you saw her on the street?

A. No, sir.

Q. Well, you saw her at Seneca Street, didn't you?

A. I don't remember of having seen her there, I never knew her.

Q. You never knew her? A. Personally, no.

Q. The only place that you remember seeing that fortune teller was on Second Street between Delaware and Third, is that right? A. Yes, sir.

Q. That is the only place you remember of seeing her?

A. Yes, sir, I might have seen her on Seneca, I knew there was a fortune teller there, but I never had occasion to go in there, so I didn't know her.

Q. What other fortune tellers do you know of in Leavenworth? A. None.

Q. You know that there are three here, don't you?

A. No, sir.

Q. You didn't know that? What was the name of that fortune teller? A. I don't know.

Q. Only what you were told?

A. Oh, I heard the name frequently years ago, I think they called her Mrs. Teeters, I don't know her by that name, that is the name she went by I think.

Q. Mrs. Teeters, now you are sure, are you, that the fortune teller that you knew on Second between Delaware and Cherokee is the same fortune teller that was in the old Seneca House up on Second between—up on Seneca between Second and Third, and you wish to testify to that fact, do you?

A. It looked like her.

Q. It looked like her? A. Yes.

Q. Or then you did see her on Seneca Street?

A. I said I might have seen her.

Q. Well, what did she look like?

A. I don't just remember.

Q. What did she look like?

A. Well, I can't describe her.

Q. You remember what she looked like?

A. Well, I know what I was told, I never was in the place at any time.

Q. I am not asking about what you were told but what you know? A. I don't know.

Q. You don't know, can't give me an idea of what she looked like, can you?

By Mr. Blakeney: Which one is that, the one on Seneca Street?

By Mr. German: He is talking about the Teeters woman.

By Mr. Hanford: That is just what I am inquiring about.

By Mr. German: I was answering Mr. Blakeney's question, he hadn't been listening. He was talking to me, Bell, Mr. Bond, or some one.

(Witness dismissed.)

And thereupon, the witness, JOHN T. BEECHLER, who was just dismissed from the witness stand, is recalled, and further testified as follows:

Direct Examination by Mr. Hanford.

Q. Mr. Beechler, when did you learn that you were going to be called as a witness in this case? A. I think Friday.

Q. Friday night?

A. No, I think it was in the afternoon.

Q. Who notified you?

A. I was notified from this office. I think Mr. German.

Q. Mr. German notified you?

A. I don't know who notified me.

Q. You had talked to Mr. German prior to that?

A. Yes, sir—No, sir.

Q. You hadn't prior to that time?

A. Not before I was notified as a witness, after.

Q. Who called you as a witness? A. Sir?

Q. Who notified you you were going to be a witness?

A. I think Mr. German telephoned me, I don't know, but it was over the 'phone.

Q. The first time you talked with Mr. German was after you were notified you were going to be a witness?

A. I came up here, I was notified to come up here.

Redirect Examination by Mr. German.

Q. Mr. Beechler, some one called you on the 'phone?

A. Yes, sir.

Q. And asked you to come up to the Postoffice Building on the second floor? A. Yes, sir.

Q. That there was a man wanted to see you? A. Yes, sir.

Q. Do you know who that was that called you?

A. No, sir.

Q. When you came, you found me up here with John Meserve, didn't you? A. Yes, sir.

Q. And we talked with you, and that was in the afternoon of Friday? A. Yes, sir. Three or four gentlemen here.

Q. Had you talked with anybody about the case at all before that?

A. No, sir, that is, only incidentally.

Q. Nobody had talked to you of your knowledge of the facts? A. No, sir.

(Witness dismissed.)

Mr. German: We now offer the deposition of Mrs. Alice O'Day taken before Mr. Penick, appearing in his transcript at page 2662.

And thereupon, an adjournment is taken until nine-thirty A. M., April 7th, 1916, at Kansas City, Missouri, at the United States Grand Jury Room.

And thereafter, and on April 7th, 1916, at nine-thirty o'clock A. M., at the United States Court Grand Jury Room, Federal Building, Kansas City, Missouri, further testimony herein was taken as follows:

On behalf of the complainant:

MRS. ALICE O'DAY, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. You may state your name? A. Mrs. Alice O'Day.

Q. Where do you reside, Mrs. O'Day?

A. 800 Lydia Avenue.

Q. In Kansas City, Missouri?

A. Kansas City, Mo., yes, sir.

Q. Did you ever live in Leavenworth, Kansas?

A. Yes, sir, I was raised there.

Q. You say you were raised there? A. Yes, sir.

Q. Were you ever engaged in any business there?

A. Yes, sir.

Q. What kind of business was it?

A. Dressmaking and hair dressing.

Q. Where was your business located at Leavenworth?

A. 208 Shawnee Street, I think it was 208 or 210, I am not exactly sure about that, I don't remember, it is so long ago.

Q. Anyhow, between Second and Third?

A. Between Second and Third on the north side of the street in the middle of the block. I also had business in the south side.

Q. On the south side of Shawnee?

A. 610 South Fifth Street.

Q. That was after your Shawnee store?

A. No, that was before.

By Mr. Cruce: We object as leading.

A. No, that was before.

Q. That was something new to me, that was before you had your Shawnee establishment?

A. Yes, sir, that was before.

Q. You had your place of business on what street?

A. Shawnee.

Q. No, on Third Street?

A. First on South Fifth Street.

Q. That was the same kind of business?

A. Same kind of business, yes, sir.

Q. Where was that Shawnee Street place of business with reference to 217 Seneca Street? A. Where was it then?

Q. Yes, where was it with reference to 217 Seneca Street?

A. Well, now, I should judge, I don't remember exactly the number, it has been so long ago, but I should judge it was about 208 or 210, the way the numbers run there.

Q. Then, it would be across the alley?

A. Yes, across the alley.

Q. From 217 and maybe a little east?

A. Yes, I may be a little wrong, but I think it was about midway of the block.

Q. When did you establish your Shawnee Street hair dressing and dressmaking establishment?

A. In the spring of '85.

Q. In the spring of '85?

A. Yes, sir, in the spring of '85.

Q. Did you know Lillie White? A. Yes, sir.

Q. A woman named Lillie White that lived in Leavenworth? A. Yes, sir.

Q. When did you first get acquainted with her?

A. When I moved there.

Q. When you moved where? A. On Shawnee.

Q. When you started that store? A. Yes, sir.

Q. How did you happen to get acquainted with her?

A. In a business way, dressmaking and hair dressing.

Q. I beg your pardon I didn't hear you?

A. I did dressmaking and hair dressing for some of her inmates in her house.

Q. She ran a house of ill fame? A. Yes, sir.

Q. Where was Lillie White's house when you started that dressmaking and hair dressing establishment?

A. It was almost opposite my back gate.

Q. Across the alley from you? A. Yes, sir.

Q. Do you remember the occasion of C. S. Dassler repairing that property where Lillie White was living or had lived?

A. Yes, sir, I remember the time that—about the time that he got that.

Q. Did you know Mr. Dassler?

A. Yes, I knew Mr. Dassler well.

Q. Did you know his wife? A. Yes.

Q. Was there any complaint made after you started your store on Shawnee Street, so far as you knew, against Lillie White being in the house she was in across the alley from you?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, hearsay, and asking for an incompetent conclusion.

By Mr. Cruce: We object as immaterial.

By Mr. Hanford: I join in the objection of Mr. Blakeney and Mr. Cruce.

A. Why, yes, before that and at the time I was there.

Q. In what form was that complaint, what occurred that brought it to your attention? A. At that time?

By Mr. Cruce: We object as immaterial.

By Mr. Blakeney: We object for the same reason.

A. At that time, I think there was a petition got up.

By Mr. Blakeney: Move to strike that.

By Mr. Cruce: I didn't hear that.

A. There was a petition at that time got up to have her dispossessed. I will not be exactly positive, but I am pretty sure of it. Yes, I know there was. There was a petition at that time got up to dispossess her, and also another woman on the corner above.

Q. At what time, Mrs. O'Day?

A. Well, I think that was along about the middle of the summer.

Q. About the middle of the summer?

A. Yes, quite a time after I had moved in there.

Q. Of '85? A. Yes, sir.

Q. Was the petition or not presented to you?

A. Yes, sir.

Q. Did you sign it? A. No, sir.

Q. Why? A. It wasn't business policy for me.

Q. How did it interest you for Lillie White to have her place?

By Mr. Blakeney: We object to that as incompetent, irrelevant, and immaterial, the witness not a party to the case up to the present time.

A. I felt in one way that it was a business proposition with me, I was doing business with them, and another thing they didn't bother me, if they had been the next door to me I don't think I would have signed the petition, because they attended strictly to their own business.

By Mr. Cruce: Wouldn't have disturbed you?

A. Didn't disturb me, and I would have incurred the enmity by doing it.

Q. Why did they do business with you?

A. I was doing dressmaking and hair dressing.

Q. Mrs. O'Day, where did you live at the time you opened up your establishment on Shawnee Street?

A. With my mother.

Q. Where was your mother's?

A. The second door from the corner of Second and Shawnee.

Q. The second door from the corner of Second and Shawnee? A. Yes, sir.

Q. Between Second and Third? A. Second and Third.

Q. On the north or south side?

A. North side of the street.

Q. Was that a hotel? A. Boarding house.

Q. Boarding house? A. Yes, sir.

Q. Who was running it? A. My mother.

Q. Had she been running that boarding house very long?

A. Yes, sir.

Q. How? A. Some three or four years.

Q. What was the name of it, or did it have any particular name?

A. Didn't have any name, Howard House, I *till* take that back, she had her cards out as the Howard House, although there was no name on the door.

Q. Did you— How long did you run your hair dressing and dressmaking establishment?

A. Well, as near as I can remember, I should judge it was over two years.

Q. Did you make any dresses that you remember anything —remember about for the inmates of Lillie White's house?

A. Yes, I made summer dresses, kimonos and silk dresses, and such as that.

Q. Do you remember what time in the summer you made those dresses?

A. Well, that was along about July, the latter part of June and July, and possibly August. It was all along through those months, and I did a great deal of hair dressing.

Q. For those girls? A. Yes.

Q. Do you now recall the names of any of her girls?

A. No, I don't.

Q. Do you remember, to refresh your memory, whether there was one there by the name of Emma Moss?

A. The name is familiar, but I wouldn't want to say positively that it was one of those girls. It has been so long and I am *an* poor hand to remember names, I can remember faces, but I am an awful poor hand to remember names unless it is some one I was thoroughly familiar with.

By Mr. Cruce: You don't remember names and dates?

A. Well, some dates that I can fix exactly; that is, as near as I could fix the dates the time that I lived there.

Q. Mrs. O'Day, who did you rent the building from that you had your place of business in on Shawnee?

A. I can't tell you, a German name, a market gardener on the south side, I don't remember his name, he was near Pilot Knob on the south side, what his name was I don't know.

Q. Did you change the plan of the store any or remodel it, or do any improvements there before you entered?

A. Yes, sir, it was just a store building and they made it into four rooms, partitioned it and made it into four rooms.

Q. Remodeled?

A. There was a three-room cottage between my part of the house and the alley, that was rented separate.

Q. You rented that also?

A. Well, I rented the whole property, and I re-rented to a party across the way, I don't remember what his name was, he had a barber shop across the street on the south side.

Q. You— While you were running this hair-dressing and dressmaking establishment, you were married, were you?

A. Yes, sir.

Q. Did you have any children? A. Yes, sir.

Q. How many?

A. I had two at that time and one was born while I was there.

Q. Born while you were there? A. Born and died there.

Q. When was that child born?

A. The 15th day of January, '87.

Q. When did it die?

A. The 14th day of February, '87, I got the records of that.

Q. Couldn't be any question about that?

A. Couldn't be any question about that.

Q. When did you move out of that store?

A. In October following my baby's death.

Q. Then, it was in October, '87? A. Yes, sir.

Q. While you operated this store, did a colored woman named Mollie Letcher move into this house that had been occupied by Lillie White?

A. I never knew her as Mollie Letcher, we called her Mary.

Q. Was she ever called Granny? A. Yes.

Q. Did you know her before she moved into this house?

A. Yes, for several years.

Q. You had? A. Yes.

Q. Where had she been residing?

A. On Cherokee Street part of the time she was on Cherokee Street, part of the time she was on Choctaw Street, but I don't—I can't fix any time exactly about that, but she was on Cherokee Street for quite awhile, she worked for my mother, washed for her and she washed for me also for several years, while she was living on Choctaw.

Q. How long had you been operating your hair-dressing establishment there on Shawnee at the time your child was born?

A. Well, that was very near a year, it was the spring before that that I opened up there.

Q. Then, you opened up in '86, did you?

A. Oh, no, two years before that, two years before that. No, I was there over two years before I moved out of the building, I was there for two years or more.

Q. Now, after you made these dresses for Lillie White's girls that summer, did Lillie White move out of that house?

A. Well, yes, yes.

Q. Who moved into it?

A. This colored woman, this Mrs. Letcher that you speak of.

Q. How had you known her prior to the time that she moved into that house?

A. She was my mother's laundress for quite awhile, I didn't know her as Mollie, called her Mary Letcher.

Q. After she moved into this Seneca Street house, did she do any work for you?

A. Yes, sir, she had been washing for me about six months before I moved there, and washed for me all the time I was there. She also took care of me in confinement and took care of my child until it died.

Q. Were you ever over at her house after she moved over on Seneca? A. Yes, often.

Q. How did you happen to go over there?

A. Well, I might have wanted a piece of linen for the children most likely to get a piece of clothing for the children, or something for the—*and* apron or something that I needed. I never went further than he- kitchen, just went right through the back way into her kitchen.

Q. Run across the alley?

A. Yes, right through my back gate into her kitchen.

Q. And she was frequently over to your place?

By Mr. Blakeney: We object.

By Mr. Cruce: Leading, we object.

By Mr. German: I withdraw that question

Q. Mrs. O'Day, was she doing your laundry work?

A. Yes, sir.

Q. And waited on you while you were ill? A. Yes, sir.

Q. Where were you confined?

A. Right in this building across the alley from her where she was living, across the alley from her.

Q. On Shawnee? A. Yes, between Second and Third.

Q. At your store building?

A. Yes, we had three rooms, family rooms in the store building all in this building.

Q. And she waited on you during your confinement?

A. Yes, sir.

Q. Did you have occasion to talk to her very often?

A. Oh, when she was in my house, yes.

Q. Do you know what children or persons, grown or young, that she had in her family?

A. She had a son and a grandson.

Q. What were their names?

A. Why, Mayo, I think was her son, Jim, and her grandson, I think his name was Sammy.

Q. Did she have two rooms?

A. No, had one room.

By Mr. Hanford: Objected to as leading.

By Mr. Blakeney: Objected to as leading, and we insist that the whole examination of this witness has been leading and suggestive.

Q. Now, was [] any other member of her family?

A. Yes, she— Well, I don't know whether she ever raised him until he was grown or not, because after I left there I don't know anything about him, but she had a little boy that a woman who cooked for my sister died and left a little boy. He roomed with Aunt Mary and Aunt Mary I think took charge of him. There was no one else to do it.

Q. What was that woman's name?

A. I think her name was Banks.

Q. Do you know what the boy's name was? A. Walter.

Q. Walter? A. Yes, I remember it was Walter.

Q. Now, was there any other boy there older than the Banks boy? A. Not that I know of.

Q. Was there any boy there in the Letcher family by the name of Indian Tommy or Tommy Atkins?

A. I never heard the name.

Q. Speak out, please madam?

A. No, I never heard of that.

Q. Do you know of any woman ever being in her home by the name of Indian Minnie, or Minnie Atkins?

A. No, I don't know of any one like that.

Q. When did you move away from Leavenworth?

A. October, 1887.

Q. October 9th, '87? A. 1887.

Q. Or October, 1887? A. Yes.

Q. Where did you move to? A. Kansas City, Kansas.

Q. Have you ever resided in Leavenworth since?

A. No, sir.

Cross Examination by Mr. Hanford.

Q. Where was that place on—in the south side of town?

A. I lived at 610 South Fifth Street, right opposite the Public Library.

Q. Who owned that place?

A. Well, I don't know who owned that building, I was raised in that building.

Q. You don't know who you rented it from?

A. No, I don't know, my mother I think paid the rent to a man, to a Mr. Moss, but I don't think he was the owner of the building.

Q. Did your mother move to the corner of Second and Shawnee at the same time? A. No, sir.

Q. That you opened up?

A. Oh, no, she had been living on Shawnee quite a while before I opened the hair dressing place on Shawnee Street.

Q. Then, when your mother——

A. I hadn't been in business for quite a bit when I moved over here and opened up the hair dressing place on Shawnee.

Q. Now, then, where did you live prior to the time that you opened up on Shawnee?

A. I had been living with my mother on Shawnee, second door from the corner.

Q. So you moved with her when she moved? A. Yes.

Q. And just lived with her at the place on the corner?

A. Yes, lived with her.

Q. And then you opened up? A. Opened up on Shawnee.

Q. Do you remember what month it was when you opened up?

A. No, I wouldn't exactly say, but I judge somewhere near the latter part of May.

Q. Some place near the latter part of May?

A. Yes, I wouldn't be positive about the dates, because I don't absolutely remember the dates.

Q. Then, Lillie White and her girls were customers of yours?

A. Some of the girls were, I didn't work for Lillie White at all, I worked for some of the girls.

Q. You just knew that they were some of the girls that lived with Lillie White? A. Yes, they told me that, yes.

Q. You didn't visit at the house, at Lillie White's house?

A. No.

Q. You didn't know who was in there of your own knowledge? A. No, only the names that came to the house is all.

Q. And they always came to you? A. Yes.

Q. How long did you work for those girls?

A. Oh, several months, I couldn't say exactly how long.

Q. Did you do any work for them after that, after Lillie White moved? A. No, no.

Q. Did you do any work for any girls of that character after that time? A. Yes, I did work for several.

Q. Did you know where they all came from?

A. Where they came from?

Q. What houses they were inmates of?

A. Oh, no, I don't know as I knew all of them. Some of them were with Stella Forest, I remember that, on the corner.

By Mr. German: On what corner?

A. Second and Seneca.

Q. And some of them were girls from Lillie White's?

A. Well, those I worked for. Lillie White's were before she moved.

Q. What I am asking is, after Lillie White moved away, these girls that had been customers of yours, did they drop right off or come back?

A. No, I think most of them disappeared as far as I knew.

Q. You don't know where Lillie White moved to?

A. Well, I don't know that positively, I heard she moved to Kansas City, but whether she did or not, I don't know, I don't remember.

Q. So at the time these girls came to you, all you knew about them was that they were girls from Lillie White's?

A. Yes.

Q. And you don't know anything about Lillie White after she moved?

A. No, not after that. I don't remember a thing about it, only I heard that she had moved to Kansas City.

Q. What was in that place where you opened up before you got it? A. It was an empty store building.

Q. Just an empty store building?

A. An empty store building and my husband partitioned it, put four rooms in it.

Q. It was standing there an empty store building and you simply took it? A. Yes.

Q. How long had it been a vacant store building before you got it?

A. Well, I can't say that, how long it had been—sometime, I think.

Q. There was no indication of what had been in there before you moved in?

A. Well, I don't think it had ever been used for anything only store purposes, some kind of business.

Q. What makes you think that it was the month of May that you opened up?

A. Well, it was not right in the early part of the spring, that is as near as I can place it, I was thinking it was about the latter part of May, I wouldn't attempt to fix the time, because it was later than the early spring.

Q. Well, it might have been earlier?

A. Yes, it might have been earlier.

Q. Now, about this petition, you say there had been petitions prior to the time you moved in there about Lillie White?

A. Well, not only Lillie White, but with all of those places there had been complaints made because it was a residential district.

Q. That was in what is called, in police terms, a licensed district, that is where they allowed those kind of places?

A. Well, I don't know whether they licensed them or not.

Q. I don't mean in the real sense of licenses, I mean it was in a place where those places were allowed?

A. No, that couple of blocks there was residence districts, most all of them German people, and they objected on that account, they owned homes there.

Q. And that agitation finally resulted in forcing Lillie White to move?

A. Yes, sir, it did, I think if I am not mistaken, I am sure about that, but I think there was others that was requested to move about the same time, because it was there in the residential district, but I won't be sure about that.

Q. Where were those other places located?

A. Well, all over Choctaw and Cherokee, and the lower part of Shawnee, some of them on Seneca. Stella Forest. I think was on the corner of Seneca and Second.

Q. Did she move?

A. Yes, she moved. I understood she moved to Kansas City, but whether she did or not, I can't say.

Q. Did she move before or after Lillie White?

A. I think it was after.

Q. Now, you never visited any in Granny Letcher's home as a visitor? A. Oh, no, I had no occasion to visit her.

Q. You were not on familiar terms other than that she was a servant? A. Oh, no, other than she was a servant.

Q. You didn't inquire into her household affairs?

A. Oh, no.

Q. Or boarding house affairs?

A. She had spoke to me about keeping roomers, she always did do that ever since I knew her.

Q. You didn't inquire who the roomers were? A. No.

Q. You weren't interested in that? A. No.

Q. Granny Letcher had a number of children around there a number of times?

A. Well, I don't know only those three.

Q. You didn't inquire and find out? A. No.

Q. Those were the members of her family?

A. Well, the only members that she had in her family were her son and grandson that I knew anything about, only this little boy—my sister—she cooked for her several months and my sister had to turn her off, and I knew Granny kept him because there was nobody else to take him.

Q. And you didn't know of any other children?

A. No, and I believe if Granny had had it she would have said something about it.

By Mr. Hanford: I move to strike the latter part of the witness' answer as not responsive to the question, purely voluntary and an opinion and conclusion and uncalled for.

Q. You didn't know any of the patrons and other inmates of her house at all? A. No.

Q. Or who was there? A. No.

Q. You didn't know whose children she had care of and nursed?

A. I don't know, as I say, I didn't know but these three.

Q. You didn't know any girls that she attended in childbirth besides yourself? A. No.

Q. You didn't know of any girls that came to her house to give birth to children? A. I never heard of it.

Q. Those things were all outside of your interests?

A. Yes, outside of my interest and what I knew.

Q. Did you care— Did you do any advertising for your place of business?

A. No, I didn't need to have any advertising.

By Mr. Blakeney: Just answer it yes or no.

Q. You simply opened up and it was known that you had the place where your friends patronized you?

A. Well, I had been in business previous to that on the other side of town, as I told you, and my customers knew that.

Q. There was an interim when you didn't have——

A. Yes, interim when I didn't have any business. After I was married I hadn't done any hair dressing work until I did that.

Q. You were married when you lived on South Fifth?

A. Yes, sir.

Q. What was the date of your marriage?

A. The first day of January, 1880.

Q. Then, it was about five years before you went into business again? A. Yes.

Q. Where did you live during that five years?

A. Well, there was a year that I still lived on South Fifth

Street, and then my husband opened a confectionery and ice cream parlor on Fifth Street just south of Choctaw.

Q. Did he have that place when you were married?

A. No.

Q. How soon did he open that up after you were married?

A. About a year afterwards, a little over a year.

Q. A little over a year after you were married? A. Yes.

Q. Were you living on South Fifth when he opened that up? A. Yes, yes, and we moved from——

Q. Was that— So that after you married you were more than a year then on South Fifth?

A. Yes, just a little over a year.

Q. How soon after he opened up that confectionery did you move to Shawnee?

A. Well, we only had that just a few months and we sold it in the height of the season, we opened that in the spring.

Q. How soon after you sold it did you move to Shawnee Street?

A. I moved right, just as soon as I sold that I moved right out to my mother's, Second and Shawnee.

Q. That is when you went out to her?

A. Second and Shawnee, yes.

Q. Then, you didn't move to Shawnee Street at the same time that your mother moved, she moved ahead——

A. Oh, yes, my mother was right with me at the time, but she opened this boarding house, I had nothing to do with that. She opened the boarding house and my husband was engineer for Kelley-Lyle Mill, and after an explosion they had he went to Waldron, Mo., and I was out of the city at that time.

Q. Was that the time that the Kelley-Lyle Mill burned down?

A. Yes, right after it. He had a position with them after we sold out this confectionery and after the explosion, when the mill burned; they bought the mill at Waldron, Missouri, and he went there, but I didn't go with him right away. My mother opened this house at Second and Shawnee and I went later, I don't remember the date I went down there.

Q. Then, after he went to Waldron, you remained at Leavenworth? A. Yes.

Q. Then, how long did you remain in Leavenworth before you moved to Kansas City after that?

A. Oh, I moved to Kansas City in '87, that was in '82.

Q. That was in '82? A. Along about '82, yes.

Q. When the mill burned?

A. Yes, eighty-one or two, but it was about eighty-two when I came back from Waldron and moved in with my mother.

Q. Then you moved back from Waldron and moved in with your mother? A. Yes.

Q. Then, how long did you stay in Waldron?

A. Only just about two months.

Q. Only just about two months?

A. Yes, I was down and they brought me home and I didn't go back any more.

Q. Now, let me see if I got this straight. You were married January 1st, 1880? A. '80, yes, sir.

Q. And about a year or so after you were married, your husband bought this confectionery place?

A. Yes, he furnished it himself, he didn't buy it out, he furnished it.

Q. He set up the confectionery place? A. Yes.

Q. And then he had that for several months?

A. Yes, but that was after the fire, that was after the mill fire.

Q. Oh, that was after the fire?

A. Yes, as near as I can bring dates, I don't remember the date of that, but as near as I can get to that was the time of the heavy storm—the cyclone that killed those girls in the Academy there. Our house the whole roof of it was torn to pieces at that time. If I am not mistaken that was in May, sometime along there, because the children were all killed here in Kansas City, and nearly——

Q. Lathrop School? A. Yes, sir.

By Mr. Cruce: Eighty-one?

A. Eighty-one I think, because I know we had the '81 flood right close to the same time.

By Mr. Hanford: I move to strike the remark as uncalled for from the sidelines.

By Mr. Blakeney: I would like to have counsel designate. I didn't hear any remarks.

A. That was the time that I was in the confectionery.

Q. That was the time that you were in the confectionery?

A. Yes, sir, and it was soon after that that we sold it out.

By Mr. German: What was the motion of Mr. Hanford, the last motion that you made?

By Mr. Hanford: I withdraw my motion to strike.

By Mr. German: About the '81 flood, that is what you were talking about, wasn't it?

By Mr. Hanford: I think the witness volunteered something I hadn't asked her yet, and I wanted to lead up to it.

A. Well, they were both close together.

Q. Now, at the time of this cyclone, you were in the confectionery store? A. Yes, sir.

Q. And it was long about——

A. The building was in the Southwest corner of Choctaw and Fifth.

Q. Just a minute, let me direct your attention to what I am asking you. You sold out shortly after that time, or was that the time that you opened up?

A. No, sold out shortly after the storm.

Q. Did that storm do any damage to your place of business?

A. Yes, tore the roof all off, and awnings on the front, and the building to the side of me——

Q. Was that influential in causing you to sell out?

A. Oh, no.

Q. You simply remember that it damaged that place?

A. No, just had a chance to sell it out and make some money.

Q. It put you to considerable expense repairing the damage before you sold?

A. Oh, no, we didn't have anything to do with that. The landlord did that. We didn't have anything to do with that.

Q. Now then it was about that time that you moved to Shawnee Street?

A. Shawnee and Second.

Q. Then how long did you say you lived at Shawnee before you opened up this place of business?

A. Well that was from '81 to '85 when we moved up there right after we sold the restaurant.

Q. Now let me call your attention to the question. I am not asking you the year I am asking how long about you lived at Shawnee Street with your mother before you opened up your place of business?

A. Well, I can't say exactly that, how long it was. I should judge it was a couple of years.

Q. It was at least a couple of years?

A. Yes, somewhere in the neighborhood of that.

Q. I thought you stated a while ago it was three or four years.

A. No, you asked me how long my mother lived there.

Q. Just a minute. And you know it was at least a couple of years? A. Well it was near that. Somewhere near that.

Q. Now do you remember the year of that storm?

A. Well, I am not positive.

Q. You don't remember of your own knowledge?

A. No, I am not positive. No I wouldn't say positive of the year, at the same time—— That is as near as I can fix it, soon after that storm.

Q. And you remember at the time of that storm there were a number of people killed in Kansas City? A. Yes, sir.

Q. And the school children in that school were killed?

A. No, they were killed [] St. Mary's Academy. There were one or two girls killed there. I am not positive about the storm in Kansas City and the storm in Leavenworth being the same night. I don't know for sure about whether it was the same night or not. I won't be positive about that but if I am not mistaken that storm was at the time that we had a terrible cyclone there and as it runs in my mind I think it was at the time that the girls were hurt there in the academy but I don't aim to fix the date.

Mr. German: Out of the town?

A. At Leavenworth but I wouldn't be positive about it. To fix dates I wouldn't do that.

Cross Examination by Mr. Cruce.

Q. Mrs. O'Day is your husband living or dead?

A. He is living so far as I know.

Q. Are you living with him? A. No, sir.

Q. How long since you lived with him? A. Since '87.

Q. Since '87? A. Yes, sir.

Q. When was it you——

A. No I take that back, '88.

Q. '88? A. Yes.

Q. Do you remember when Granny Letcher lived on Seneca Street? A. No, I don't.

Q. Do you remember who lived at Number Two on Seneca Street between Second and Third?

A. At Number Two?

Q. Yes *mam*. I mean at this time when Granny Letcher lived there?

A. At Number Two Shawnee Street?

Q. No, I mean Seneca Street?

A. No, no. I don't know. I told you I didn't remember the numbers. I knew quite a few that was in the block but I don't remember the numbers.

Q. Do you remember when Governor Francis was elected Governor of Missouri?

Mr. German: I object to that as improper cross-examination.

A. No, I don't know. I don't pay attention enough to politics to know that.

Q. Do you remember when the present governor was elected Governor of Missouri?

Mr. German: The same objection.

A. Well, no, I won't say anything about the date because I don't know. I don't pay attention enough to it.

Q. Do you remember when Mr. Wilson was elected President of the United States?

A. No I expect it was about four years ago as near as I can tell anything about the newspapers.

Q. When was he elected President of the United States?

A. I can't tell you that because I don't know. I don't pay any attention to politics.

Q. When was it that you went over to Granny Letcher's and found out the members of her family?

A. I never did to find out the members of her family.

Q. Then you don't know then who were the members of her family?

A. I certainly do. I certainly knew her son well. Knew the grandson.

Q. Well where was Tommy Atkins living when you were living there?

A. I don't know anything about Tommy Atkins.

Q. When did you find out that he was not a member of her family?

A. I never knew him to be one.

Q. I say, when did you find out that he was not a member of her family?

A. I say, I never knew him to be one.

Q. Do you know now that he was not a member?

A. No, sir, I don't know that he was or was not.

Q. You have no information about that?

A. No, sir. I said I never knew anything about him.

Q. Well you had been over there hadn't you?

A. Yes, sir.

Q. You had been over there to find out who the members of the family were?

A. I didn't go to find out who the members of the family were. I went to get pieces of linen or something for the children. She washed for me.

Q. How many times did you go over there to get pieces of wash?

A. I can't tell you anything like that. She did my family washing. I didn't keep record of anything like that.

Q. Do [] remember now any particular time that you went over there to get some of your washing?

A. No, only when she was living there I went across the alley occasionally.

Q. What year was that, '81 or '82?-

A. No, '84 or '85?.——no '87.

Q. '87?

A. Yes, sir. When she was doing my laundry there.

Q. She didn't do any laundry for you in '85 or '86?

A. Yes, she did.

Q. But you didn't go over after any washing in '85 and '86? It was '87 that you went?

A. No, she was doing my washing but she was living in the other end of town.

Q. When was it you went over there to get the pieces of linen? A. '87.

Q. '87? A. Yes, sir.

Q. How many times in '87?

A. I can't tell you that sir.

Q. Have you any idea? A. No, I haven't.

Q. You don't know whether it was one time or a dozen times?

A. No, I don't think it was a dozen times, a few times.

Q. What pieces of washing was it left out that you had to go to get?

A. Wasn't any left out. She hadn't brought the laundry home and I needed a piece of laundry for the children. That was the only time that I was in her house.

Q. You walked across the alley did you? A. Yes, sir.

Q. Did you go in her house?

A. Only to the kitchen.

Q. Only to the kitchen? A. Yes, sir.

Q. Well did she have all her family gathered in the kitchen?

A. I don't remember seeing them. Might have been there and might have not.

Q. Did you ask her who the members of her family were?

A. No, I didn't.

Q. Then you don't [] whether there was a Tommy Atkins or not, do you?

A. No, sir, I don't. I didn't say I did.

Q. There might have been a Tommy Atkins there?

A. There might have been.

Mr. German: Wait a minute. I object to that question and if the witness answered it before the objection I ask to strike the answer on the ground it is argumentative and speculative.

Q. There might have been a Tommy Atkins there that you didn't see, Mrs. O'Day?

Mr. German: The same objection.

Q. Is that right?

A. There might have been. I don't know.

Q. Well what became of Minnie Atkins?

A. I don't know that. I didn't know her.

Q. You were not well acquainted with her as you were with Granny Letcher?

A. No, sir. I didn't know her at all.

Q. Well were you ever about the military post?

A. I couldn't have been raised in Leavenworth and not have been very well

Q. Were you pretty well acquainted about the military post?

A. Enough to go up and go around it, is all. Nobody particularly, personally, that I was acquainted with there. There were some.

Q. Did you know a soldier up there named Peterkin?

A. No, sir, I didn't know no soldiers.

Q. Well did you know any Indian woman that stayed in Leavenworth? About those days?

A. No, sir, I didn't. Never heard of it.

Q. You never heard of there being? Mrs. O'Day when did you first begin thinking about who the members of Granny Letcher's family were in 1887?

A. Well, I don't know that I commenced to think anything about it. It didn't interest me at all only that she worked for my mother for years and I knew the boys. Didn't any of us but knew the boy in town, grew up with them.

Q. How came you to be a witness?

A. Subpoenaed is all I know.

Q. Did any one talk to you before you were subpoenaed?

A. Yes.

Q. Who?

A. An attorney. A gentleman came to see me and asked me if I knew these parties in Leavenworth and I told him I did.

Q. Do you see any of the gentlemen that came to see you?

A. Yes.

Q. Who? A. There is one of them.

Q. Me?

A. No. There is one of them over there. That one right there. That is that one.

Q. Mr. Buell? A. Yes.

Q. Who else?

A. That one right there. The red-headed one.

Q. Mr. Meserve?

A. No. He can't deny being red-headed.

Q. No I don't think he can. And who else?

A. This gentleman here.

Q. Mr. German?

A. I don't know what their names are. I had an introduction to him but I don't remember.

Mr. German: He is pointing to German if it is not clear.

Q. This old gentleman at my right, Mr. Blakeney, didn't come to see you?

A. I don't know. There was another gentleman but I won't swear to it.

Q. You mean another man. Mr. Buell was the first man that came to see you?

A. That gentleman over there.

Recross Examination by Mr. Blakeney.

Q. Mrs. O'Day I want you to go back and see if I can get some of your earlier history in Leavenworth straightened out in my mind. You went to Leavenworth when?

A. When I first went to Leavenworth?

Q. Yes?

A. '70 when I was a child. That was when we first moved to Leavenworth.

Q. How old were you? A. Seven years old.

Q. Seven? A. Yes.

Q. Born in 1863? A. No, '62.

Q. How old are you now?

A. That is a leading question. You should not ask a lady that. I will be fifty-four the first of May. I am not ashamed of it a bit.

Q. I was asking you merely to see your mathematical education and computation and you was married at what age?

A. I was married in '81. No 1880, the first day of January. Just about such a day as this.

Q. You don't know how old you were when you were married?

A. I was only about seventeen. I think—I am not positive.

Q. You married Mr. O'Day? A. Yes, sir.

Q. I believe you said about the first year that you were married that your husband worked at the mill? A. Yes.

Q. And how long did you say he was at the mill after you were married?

A. Well, I don't know exactly how long it was. He worked at the mill there until it burned whenever that was.

Q. Until it burned?

A. Yes. A little over a year. It might have been longer. I wouldn't be positive.

Q. Now I believe you said this fire resulted from an explosion of a boiler or something?

A. No, it was spontaneous combustion. That is what they called it.

Q. Where did you live in reference to the—where the mill was? A. Oh, I lived quite a ways from the mill.

Q. You didn't live close to the mill? A. No.

Q. And you were not acquainted around the mill?

A. No, there wasn't anything around the mill but factories to amount to anything.

Q. You remember there were some negro shanties around the mill? A. Yes, there was quite a few.

Q. Do you remember that negro shanty where the negro Scott lived? A. No, I don't.

Q. Mary Anthony lived there. You remember that?

A. Mary Anthony?

Q. Yes, or Antherny?

A. He didn't live near the mill.

Q. He? Who are you speaking of?

Mr. Cruce: Mary she is speaking of?

A. Oh.

Q. Mary Anthony, a colored woman? A. No.

Q. You remember Mary Anthony that lived there—had the child that Granny kept a while, don't you?

A. Annie is all I remember of.

Q. Annie? A. Yes.

Q. She lived down at the mill?

A. No, she lived on Choctaw Street.

Q. She lived at the mill that burned down and came up there to Granny Letcher's the day of the fire?

A. I don't know anything about that.

Q. Annie who?

A. This child Granny Letcher raised—this Walter.

Q. You are talking about the mother of Walter?

A. Yes. I don't know about these other parties at all.

Q. You didn't know about any nearly white looking colored child? A. No.

Q. A little girl being raised there at Granny's?

A. No, I don't know. The only one that I know about, Aunt Mary, is what I heard her talk of. She had always, I told you, roomers. Most of these women worked and Aunt

Mary would take care of their children while they worked for them out in town. I don't know that Aunt Mary raised any.

Q. Did you know of this woman?

A. No, I didn't know them.

Q. You lived right across the alley, didn't you?

A. Only this Walter is the only one I knew anything about.

Q. You just said that Aunt Molly did keep children while these women were working. Did you know the children?

A. I didn't know those children, no.

Q. Didn't know them and lived right across the alley?

A. Well, I don't, none but this Walter Banks.

Q. Walter Banks lived there before you came?

A. Walter Banks didn't live there before I came. Walter Banks was the youngest child she had. The mother of that child worked for my sister in the hotel.

Q. You knew Walter Banks' mother?

A. Yes, I knew the mother.

Q. Did his mother work for your sister? A. Yes.

Q. You knew the woman was working for your sister and had the child? A. Yes.

Q. And you knew the child was being taken care of in the day time by Granny Letcher? A. Yes.

Q. But there were women that worked for other people that you didn't know who had their children with Granny Letcher?

A. No, the ones that I heard of Granny Letcher speaking of keeping, the one that I remember, she was a cook for my sister.

Q. Another woman cooking for your sister?

A. Yes, Margaret Chase and I understand she left her girl with Granny when she was working out.

Q. Well you understand. What do you mean by that?

A. What I heard them say. The mother would say the child was with Granny Letcher.

Q. Didn't you see it across the alley?

A. No, she wasn't across the alley from me at that time. That was before that.

Q. Before they moved? A. Yes, sir.

Q. You went down to get clothing or to get an apron before she moved?

A. Never did go to her house except when she was on Seneca Street.

Q. Never did go to get an apron nor—for your child before Granny lived up there? A. No.

Q. Never had seen the child?

A. Yes I seen that child of course because its mother had it at my sister's.

Q. Granny had that child?

A. Granny had the child.

Q. You didn't understand the question. I asked if you saw that one there? A. Yes, I saw it.

Q. Where was it? A. At Granny's.

Q. Where was she then? A. On Seneca Street.

Q. She did have this child on Seneca Street then?

A. She had this Walter Banks.

Q. Were you talking about Walter Banks?

A. You asked me if I knew about the children that she kept in the house. That is the only one that I knew about.

Q. Didn't you say your sister had another woman that cooked for her who had a child that Granny kept a while?

A. Yes, but you didn't let me finish that.

Q. Didn't you understand I was inquiring about that child?

A. I don't know. You were inquiring about children and you didn't give me a chance to tell how I knew them.

Q. I wanted you to tell me what you saw.

A. I can't say that I saw this girl there at Mary's house because I wasn't there.

Q. What year were you married in? A. '80.

Q. Why have you said '81? A. I didn't say '81.

Q. You never said that?

A. I don't think so. I was interested enough to know when I was married. I would have that date.

Q. How many children have you had during your married life that lived? A. Three, sir.

Q. Three that lived?

A. No, sir, I have got three living and one dead.

Q. What are the names of your children?

A. Clarence, Charles and Clara.

Q. Who is the older? A. Francis.

Q. Francis the oldest and who is the next?

A. Charles.

Q. What is the next one?

A. Clara is the third one.

Q. When was Francis born? A. '81.

Q. What time? A. The second of April.

Q. When was the next one born?

A. In '82 while I was in Waldron at the mill. While my husband was engineer at the mill then at that time.

Q. How long did your husband run that mill at Waldron? A. Why he wasn't there very long.

Q. Where did he go to from——

A. I don't know exactly how long.

Q. Well approximately how long?

A. Oh I should judge about six or seven months, somewhere in there.

Q. Where did you go from there? A. To Leavenworth.

Q. Where did you live when you came back to Leavenworth?

A. I lived at my mother's, Second and Shawnee.

Q. How long did you live with your mother then?

A. Oh I should judge it was in the neighborhood of two years, before I left her again.

Q. Where did you go to then?

A. I opened a place for myself then there on Shawnee.

Q. On Shawnee? A. Yes, sir.

Q. Where abouts on Shawnee?

A. Well as near as I can figure, and the rest of you figured—I figure it was '85. I can't exactly state the date.

Q. Who else has figured it that way?

A. Why you people have right here, when you were talking. Fixed it about that.

Q. Have I fixed it at '85? A. No, you haven't.

Q. Who has?

A. Well the ones that were asking questions. From the questions as near as I could make it '85.

Q. Who suggested '85 to you in this room?

A. Nobody suggested it any more than the questions that has been asked. I said that the nearest that I could fix that date that I was in that building was from two years before my child was born. I should judge it was some months over two years. I can't fix that date because I don't remember it.

Q. Where was your child Clara born?

A. Right in this building between Second and Third on Shawnee.

Q. Between Second and Third on Shawnee?

A. Yes, sir.

Q. What child? A. Clara.

Q. Clara, that was your oldest child?

A. That was my oldest child, yes, sir.

Q. And your first child was born where?

A. No sir, she was born in South Leavenworth.

Q. South Leavenworth? A. Yes, sir.

Q. Your first child Francis was born in South Leavenworth? A. Yes, sir.

Q. Your second child was born at Waldron?

A. Yes, sir.

Q. And your third child was born at Second and Shawnee?

A. Not at Second and Shawnee, no sir. At the middle of the block between Second and Third.

Q. Well I mean between Second and Third on Shawnee?

A. Yes, sir.

Q. Who asked you to determine just how long it was that you had gone into business there? A. Why nobody.

Q. Before your last child was born? A. Nobody.

Q. Never suggested it to you? A. No, sir.

Q. No date was ever suggested to you?

A. No, sir. I can't say that anybody ever suggested anything to me about it.

Q. You said that the best you could figure it?

A. Well the question was asked me, when I moved there.

Q. And you just figured it out on the stand?

A. As near as I could. I was there a little over two years and I figured it from my child's birth and death. That is the only thing I can figure it from.

Q. Who asked you the question?

A. I think that gentleman there.

Q. Pointing to whom?

A. This gentleman right there.

Q. Pointing to Mr. Hanford? A. Mr. Hanford.

Mr. German: Mr. Hanford.

Q. And then you have done your figuring since you came on the stand?

A. Why should I figure it before? This doesn't interest me a bit.

Q. Please answer my question, yes or no? A. Why no.

Q. Well when did you figure it?

A. Well just from the dictations of the questions that have been asked me is what I am trying to get at. I am answering it as near as I know how.

Q. Now you knew didn't you that Granny Letcher didn't move up to Seneca Street until 1886?

A. She moved there while I was there.

Mr. Allen: I want to object to the further cross-examination of this witness by counsel representing Henry Carter and now enter our protest of objection to the counsel—more than one counsel representing the interests of the Page-Carter-Atkins side of the case as they have been in conference. Their interests are identical and it is unfair for more than one of them to cross-examine the witnesses upon the same questions.

Mr. Blakeney: If the right to cross-examine is denied me I will ask the court to strike out all of the evidence of this witness because this right and privilege has been denied me.

Q. How about two years before the child was born, your last child was born, you had closed out your dressmaking establishment and had gone to live with your mother?

A. Yes, sir.

Q. Now Mrs. O'Day you say about—it might have been a little longer or a little shorter?

A. Well, I think it was. You mean from the time I closed out my business?

Q. Yes, until your child was born?

A. Oh, it was more than any two years. I will put it more than that.

Q. It was more than that? A. Yes.

Q. How long would you say it was now?

A. I was in Waldron but a couple of months myself.

Q. What child are you referring to then now? Or do you understand that I am referring to?

A. The one that Mary Letcher took care of and me in my illness at the time.

Q. Which one was that?

A. That was the youngest one, the one that is dead.

Q. Named Clara? A. Yes, sir.

Q. Where were you living when Clara was born?

A. I was living there between Second and Third on Shawnee.

Q. On Shawnee? A. Yes, sir.

Q. And you had been living there about two years or more?

A. Yes, sir, I think possibly a little more than two years.

Q. Now after reflection what would be your best recollection?

A. Well I don't know. I can't exactly place that but I know that I was there from the time that I was left—my mother left Leavenworth—after I came back from Waldron, it was just a little over two years that I was in that place after I came back from Waldron. It must have been two and a half from the time I opened up there. It was along about two and a half possible four.

Q. Two and a half years?

A. It is a guess. I can't exactly state, dates because I don't remember.

Q. I am not expecting it accurately but try to give your best recollection?

A. I expect about two and a half years. Possibly more, possibly less.

Q. Your judgment would be it would be between two and a half and three years? A. Yes.

Mr. Allen: We obect to that and ask that the answer be stricken because the question is not based upon the testimony of the witness, assuming testimony that the witness has not given.

Q. When did you go to Waldron with reference to the time that you moved to your mother's place?

A. Why I couldn't say that. That must have been in September in '82 when I went to Waldron.

Q. '82 when you went to Waldron? A. Yes.

Q. And you stayed at Waldron?

A. A couple of months.

Q. A couple of months and then you came back to your mother's place and then your husband came and joined you?

A. Yes.

Q. What did he do then?

A. He went to work for the gluecose works.

Q. Glucose?

A. Yes, they called it the sugar factory.

Q. How long did he work there?

A. He worked there until we left for Kansas City.

Q. Permanently for Kansas City? A. Yes.

Q. About how long was that? A. We left there in '87.

Q. About how long did your husband work in that from the time that he went to work?

A. Well I judge about five years.

Q. About five years?

A. Yes, in the neighborhood of it.

Q. Now after you came back from Waldron and your husband went to work for the glucose company what did you do? A. What did I do?

Q. Yes?

A. Stayed with my mother until I opened up that place of business.

Q. Stayed with your mother until you opened up your place of business in South Leavenworth?

A. Yes. No it wasn't South Leavenworth. On Shawnee between Second and Third.

Q. On Shawnee between Second and Third? A. Yes.

Q. And how long did you stay in business there?

A. Two and a half years; between two and three.

Q. On Shawnee Street?

A. Yes, sir. My husband was here working at the glucose factory.

Q. How long was it after your husband went to work at the glucose factory before you started your place on Shawnee Street? A. I can't state that.

Q. About?

A. Well, it was in the spring following. He came back at Christmas.

Q. He came back?

A. Yes, from Waldron. He came back at Christmas, along about Christmas time.

Q. Christmas week? A. Yes, Christmas week.

Q. And in the spring following that you started the business there on Shawnee Street? A. Yes, sir.

Q. And you stayed there two or three years?

A. It was between two and three years. I won't say positively whether it was that spring or the spring following. The latter part of that spring. I can't be positive about that.

Q. I know, but I understand you know he came home Christmas?

A. He came home Christmas week and never went back to the mill any where any more.

Q. You are not sure whether it was the spring after Christmas or the next spring?

A. It was the spring following after the spring he came home.

Q. After you closed up at Shawnee Street did you go up to Seneca Street?

A. No, sir, I moved to Kansas City, Kansas.

Q. You did what?

A. I never did live on Seneca Street. I moved to Kansas City, Kansas.

Q. You never lived on Seneca Street? A. No, sir.

Q. You lived down on Shawnee? A. I lived on Shawnee.

Q. And lived there about two and a half years, or three?

A. Yes, sir, nearly three.

Q. And Granny lived there across the alley from you?

A. Yes, sir, just before I lived there Granny lived across the alley.

Q. From Shawnee Street? A. She was on Seneca.

Q. She had been on Seneca but she moved?

A. No. She was on Choctaw Street when she moved up there.

Q. And moved up where? A. On Seneca.

Q. Where was that place of business?

A. I was right there on Shawnee Street when she moved in there.

Q. When she moved up on Seneca you were on Shawnee Street? A. Yes, sir.

Q. Now which direction did your house face?

A. I faced south.

Q. You faced south? A. Yes, sir.

Q. And Granny faced north?

A. Yes, sir, her house was facing north and mine south when she was taking care of me in my illness there.

Q. What kind of house was she living in?

A. Two story house.

Mr. Cruce: Brick or stone?

A. I think it was part brick and part stone. One part of it I think was brick. I am not sure of that.

Q. Which was brick, the second story? A. No.

Q. Of stone?

A. No. It wasn't stone I don't think.

Q. You don't think so?

A. No, I won't be positive about the house at all.

Q. Do you remember that it was an old story and a half building?

A. It was an old building. I don't know. I am not positive about that whether it was stone or frame. I wouldn't be sure because I didn't pay no attention to it at all. I didn't live there long enough and wasn't interested in the street at all. I wasn't off of the street in fact. I was with my mother and was busy and I don't remember exactly about that.

Q. Now how long did you continue to live there after Granny had moved over there?

A. Well I don't [ ] exactly how long it was from the time she moved in there but I moved over there in October after my child died and she was living there then and cared for me through my illness.

Q. In October 1887?

A. Oh, no, that is when I moved over there.

Q. October, '87?

A. Yes. She took care of me in January and February, '87.

Q. '87? A. Yes, sir.

Q. She took care of you in January and February of '87?

A. Yes, sir.

Q. Now can you say how long she had lived in there before that? A. No I can't.

Q. And you moved away from there in October of '87?

A. Yes, sir.

Q. And your child was born in January of '87?

A. Yes, sir.

Q. Now you said something about this Lathrop School?

A. Well that was in regard to something asked me where I was living before I lived on Shawnee Street.

Q. Well what did you know about any Lathrop School?

A. Well that Lathrop School, we knew that from the papers.

Q. What was it you knew about it?

A. The time of the cyclone and killing the children.

Q. Where was the Lathrop School? A. That was here.

Q. Kansas City, Missouri? A. Yes, sir.

Q. That was quite a well known event? A. Oh, yes.

Q. Was it?

A. He asked me where I was living at the time.

Q. I am not talking about him. I am not on speaking terms with him. Let's forget him. A. Well.

Q. I am asking you what you recall about the Lathrop School? A. About the cyclone is all.

Q. A cyclone came and destroyed the school and killed a lot of the school children? A. Yes, sir.

Q. And it was a matter of general public sympathy and sorrow? A. Yes, sir.

Q. And you remembered it? A. Yes, sir.

Q. Well they didn't have any cyclone or any storm at that time at Leavenworth did you?

A. Well, no, I don't think the storm was at that time. I don't recall whether the storm that was at Leavenworth was at that time or not, but we had a cyclone and also injured children in school.

Q. Had a cyclone there at Leavenworth? A. Yes, sir.

Q. Killed one child in your school at Leavenworth?

A. Yes, sir.

Q. Blew the roofs off of some buildings there?

A. Yes, sir. Quite a bit of the town.

Q. And part of the roofs off? A. Yes.

Q. And you remember that incident? A. Yes.

Q. Now you remember it mainly because it blew some of the roof off of your own place? A. Yes.

Q. And after the storm had done its havoc it was reported as sweeping over Indiana and Illinois?

A. I don't know about that.

Q. Didn't follow it that far in its course? A. No.

Q. You said, I believe, that that occurred while your husband was working down at the mill?

A. No, I didn't say anything like that—I don't think I did.

Q. Oh I beg your pardon.

A. The gentleman asked me where I was living at that time and I told him.

Q. It was when your husband was in the confectionery business?

A. He was in the confectionery business, yes.

Q. And your husband was in the confectionery business a year after you were married?

A. Oh, no—— Yes, a year after we married.

Q. So you did know that the storm occurred in 1881?

A. That was in 1881 I think, when the storm was. I am not going to be positive about that but I think though.

Q. Well you are positive your husband didn't stay in the confectionery business any spring except the spring of '80 and '81?

A. No, he was not in the business there but a couple of months.

Q. A couple of months? A. Yes.

Q. And what year was it?

A. As near as I can remember I think that was in '82.

Q. In '82? A. I won't be positive though.

Q. Then you think the storm was in '82?

A. I think so, '81 or '82. No, I think it was '81.

Q. '81? A. Yes.

Q. That is what you said at first and what you still think?

A. Yes, that is when we had the confectionery.

Q. Which impresses that storm most on your mind? The fact that it blew the roof off of your house or the fact that it killed little children here in Kansas City?

A. I think that I came very nearly losing my child I thought.

Q. Your child was killed in Leavenworth and you knew a large number of children were killed here in Kansas City?

A. I don't know about those two storms being the same or not.

Q. The same night?

A. The same night. I don't say that at all.

Q. Well were they the same year?

A. I am under the impression they were but I am not positive about it.

Q. You are in doubt only about it because of these objections interposed by counsel aren't you?

A. No they didn't concern me at all. Any of them don't concern me at all any more than answering the questions as near as I know how.

Q. Now, did you hear of any storm there that frightened the horses and a couple of horses ran away and tore the vehicle or anything like that?

A. No, I don't think any horses were out that time of night.

Q. You never heard of anything of any such storm as that, did you? A. No, no.

By Mr. Cruce: Of course, she is just testifying as to her recollection, and we are taking up a great deal of time here.

By Mr. Allen: We object to side remark of counsel.

By Mr. Cruce: Of course, that is not in the record. Just suggested that for your benefit as well as my own.

By Mr. Allen: We don't appreciate the——

By Mr. Blakeney: I want the record to show that I entirely agree that counsel remember it.

By Mr. Cruce: I don't think anybody can remember twenty eight years ago very much.

A. When you are not interested in it.

Recross Examination by Mr. Hanford.

Q. Mrs. O'Day, how long did you say you were in the business there on Shawnee Street?

By Mr. Allen: We object to further cross examination of this witness by counsel representing the associated defendants in this case, and upon the ground that he has cross examined this witness at length and that upon the very questions that he is now proceeding to cross examine her, she has been examined and cross examined at length by both he and Mr. Cruce and Mr. Blakeney.

By Mr. Hanford: I didn't finish my cross examination of the witness and Mr. German agreed that I could continue my examination.

By Mr. German: Yes, I did, and I had forgotten until he just mentioned it.

By Mr. Allen: In view of the fact I made the objection——

By Mr. German: Why not strike the objection. Let me state in the record that Mr. Hanford discontinued his examination evidently before he had concluded it on account of a little incident which need not be related.

Q. How long did you say you had been in business, Mrs. O'Day? A. Where at?

Q. Well, where you closed out on Shawnee Street?

A. Where?

Q. On Shawnee Street?

A. Between two and three years.

Q. How long before you moved to Kansas City did you close up the place? A. From February to October.

Q. When your child died you closed up?

A. Yes, when she died, I left there in October.

Q. Now, you lived in that neighborhood before you opened up there?

A. Yes, lived at the corner, next to the corner of Second and Shawnee.

Q. Did you have any trade from that section prior to the time that Lillie White moved in there?

A. No, I was not working at no trade, I was not working at anything after I was married until I opened that.

Q. Until you opened that place?

A. Yes, although I had had a business before I was married.

Q. Did you live in this house where your business was, in the building, or did you live with your mother?

A. I lived in the building.

Q. Right in the building? A. Yes, sir.

Q. All the time? A. Yes, sir.

Q. Did you know who owned that property?

A. No, sir.

Q. You didn't know anything about that?

A. No, all I know he was a market gardner in the south end of town.

Q. I mean the place where Granny Letcher lived?

A. There was a baker that lived in there but I can't recall his name, he owned it, I think, in the first place, but I can't recall the man's name. They lived there a number of years, a German baker, and I understand Mr. Dassler acquired it after that, I don't know whether there was any one between them or not, but I know Mr. Dassler owned it at one time or controlled it, I wouldn't say positive.

Q. You got no trade from the baker, that is in your place of business from his family?

A. No, they weren't there, I had no occasion to have any business with them.

Q. Then, how long did you have this trade from these girls that lived there?

A. Well, I can't say exactly how long that was. It was along in the middle of the summer until they moved from there.

Q. Then, it was as long as two or three months?

A. Well, I should judge about two months, possibly a little longer.

Q. Between two and three months? A. Yes.

Q. Then, you wouldn't say it was as long as four months?

A. No, I wont.

Q. Your recollection is that it was a short time?

A. That it was a short time, yes, sir.

Q. And after they moved away you got no more trade from them?

A. No, only Aunt Mary Letcher, I sewed for her, my mother sewed for her for eyars.

Q. But from these girls I mean you got no more trade?

A. No not any from the girls at all.

Q. What was your sister's name?

A. That lived in Leavenworth?

Q. Yes? A. Mrs. Jennie Blankenship.

Q. What was your husband doing at the time that you ran that place on Shawnee Street?

A. Working for the glucose works.

Q. Working for the glucose works?

A. Yes, sir, part of the time. I think when he left there, I think he was for just a short time was at the Elevator near the North Leavenworth Coal Mine.

Q. Who did he go to work for after you sold the confectionery?

A. He came back to work for Kelley & Lyle's.

Q. Went back to work for Kelley & Lyle's?

A. Yes, they put the mill out at Waldron, Missouri, and he went up there.

Q. That was after the explosion? A. Yes, sir.

Q. And it burned? A. Yes, sir.

Q. And they continued business in Leavenworth at that time?

A. No. Well, I think they had business at the plaining mill, but they put this mill at Waldron, the Waldron mill was a flour mill and I think they had both the plaining mill and the flour mill.

Q. What I want to get at is, after you left the confectionery shop until you moved to Kansas City, who did your husband work for? A. He worked for Kelley & Lyle.

Q. A part of the time?

A. A part of the time, and a part of the time for the Glucose Works, but I don't know who it was.

Q. A part of the time at the Elevator north of Leavenworth?

A. No, he worked at the Glucose Works after he came from Waldron, but I don't know who was running the Glucose Works at all, I don't remember.

Q. I am talking about after you sold your confectionery?

A. Well, you asked me that and I told you he went to work at the Waldron mill, but we moved from there to Second and Shawnee, my mother was with me at Second and Shawnee.

Q. When you sold your confectionery you didn't move directly to Second and Shawnee, you went directly to Waldron?

A. Oh, no, we moved to Second and Shawnee and we moved from there to Waldron. He went prior to the time I did.

Q. Prior to the time you opened up your dress making establishment? A. Yes, sir.

Q. He went to Waldron as soon as you sold the confectionery? A. He went to Waldron before I did.

Q. You stayed there three or four months?

A. I stayed there with my mother.

Q. I mean you stayed at Waldron?

A. I was in Waldron not quite two months.

Q. How long was he at Waldron before you joined him?

A. He was in Waldron until Christmas week.

Q. Until Christmas week? A. Yes.

Q. From summer?

A. No, he went there in about September.

Q. He went there in about September? A. Yes.

Q. You joined him Christmas week?

A. Joined him Christmas week.

Q. And you stayed there possibly two months?

A. I wouldn't be positive about that, he came home Christmas.

Q. He came home Christmas?

A. Yes, sir, I went to Waldron wasn't very long after he went after we sold the confectionery.

Q. Not very long after he went? A. Yes.

Q. And he went in September?

A. No, I went in September, and I came back in November and he came back in December.

Q. Then, when he came back he went to work for whom?

A. The Glucose Works, but who run it I don't know.

Q. Yes, but he went to work for the Glucose Works?

A. I don't remember.

Q. After you came back from Waldron, how long was it before you opened up your place of business?

A. I think it was the spring following, no, it wasn't that early, it wasn't that early, it was in that—— Close to the time I came from Waldron.

Q. How long was it after he started to work for the Glucose Works?

A. He went to working for the Glucose works as soon as he came home, we were with mother and a little bit before I opened this place on Shawnee Street.

Q. You think it was as long as a summer following?

A. No, I believe it was longer than that, I wouldn't be positive.

Q. Let me call your attention to how long you lived at your mother's without doing anything?

A. I think it was the following year after we came back from Waldron if I am not mistaken.

Q. About a year?

A. If I am not mistaken, as near as I can think back.

Q. Have you thought about how long you were idle at your mother's there?

A. Just give me time to think and I will get as near to it as I can. I may have made a false statement a while ago because I said it was the spring following that I came from Waldron, but it was longer than that, because my son was born at Waldron, and I know it was at least a year before I opened that business.

Q. About a year? A. Yes.

Q. Then you opened the business on Shawnee Street? A. Yes.

Q. For yourself? A. Yes, sir.

Q. And you remained in business there you think about three years before you moved to Kansas City? A. Yes, sir.

Redirect Examination by Mr. German.

Q. Mrs. O'Day, let's get down now to something that is related to your business there on Shawnee. Before you opened up that business you were living with your mother the second door west of the corner of Shawnee? A. Yes, sir.

Q. That house that your mother was running is a boarding house? A. Yes, sir.

Q. You and your children and your mother—was your father living at the time? A. No.

Q. Were living there together? A. Yes.

Q. There were no houses of ill fame on that street, were there?

By Mr. Cruce: Leading.

A. Well, if there was, I don't remember it. It was near Main street, if there was.

Q. Where were the houses of ill fame—that is, in what direction from that street?

A. Well, there was one at Second and Seneca, and this one of Lillie White's that I call to mind. There was quite a few on Choctaw Street.

Q. Now, what direction was Choctaw Street from Shawnee Street?

A. Second Street south and I think there was one on

Cherokee Street, but I don't know positive- about it. I think it was near the corner of Second Street on the south side of the street, but who run it I don't remember.

Q. Were there any business houses on Shawnee Street at the time your mother was running this boarding house?

A. All business houses, lower floors were all business houses. Mine I think was the only single store business in the block.

Q. The one that you rented and put your business in?

A. Yes.

Q. You say that you started your hair dressing store in the spring of the year? A. I think so, yes.

Q. Whatever year it was it was in the spring?

By Mr. Hanford: Objected to as leading.

A. Yes, the latter part of the spring.

Q. The latter part of the spring? A. Yes.

Q. Now, where was Lillie White living in the spring of the year before you started your store, before you started your store?

A. She was on Seneca in the same block on Seneca.

Q. Between Second and Third on Seneca, in the same block with your mother, in the same block that your mother was living in? A. Yes.

Q. And only across the alley and up west a piece?

A. Yes.

Q. Do you know how long Lillie White had been living in that Seneca Street House before you started your store?

A. No, I don't.

Q. Who lived in that Seneca Street house that Lillie White had occupied, before Lillie White lived in it?

A. Well, the only one I know of, the party that owned it was a baker, I can't recall his name now.

Q. To refresh your memory, was it Dotter, Gustav Dotter? A. I think that is the name, Dotter.

Q. Was he a musician? A. I don't know.

Q. You don't know? A. No.

Q. Do you or not know when Dotter moved out of that house? A. No.

Q. You don't know when? A. No.

Q. Do you know how long Lillie White had been living in that house? A. No.

Q. Just a minute. Before you started your hair dressing store? A. No, I don't.

Q. Who did you buy your material from to renovate or rebuild the inside of the store building that you went into?

A. Well, we bought our paint from John Madden, two brothers there the second door from me.

Q. The second door from you? A. Yes, sir.

Q. What direction? A. West.

Q. You spoke of there being a little house on the lot on which the store building was situated that you put your hair dressing establishment in? A. Yes, sir.

Q. What was that little house used for at the time you rented the property? A. Why, it was empty.

Q. Who had occupied it?

A. I don't know, I don't remember.

Q. You don't remember?

A. No, I don't remember who had that.

Q. Do you know—— Well, was it occupied, had it been occupied?

A. Well, I can't say how soon it had been occupied or not.

Q. When you established your business there in the spring, whatever year it was that you did establish it, where was Lillie White living? A. She was living on Seneca.

By Mr. Hanford: We object to that as leading.

Q. Where with reference to your place of business?

A. On Seneca back of me.

Q. Back of you? A. Yes.

Q. Now, after you established your business there, the inmates of Lillie White's house patronized you, I believe you stated?

A. Some of them, not all I don't think, just part of them.

Q. When was it that the petition to bring about the removal of Lillie White from there was circulated with reference to the time that you started your business there?

By Mr. Blakeney: We object, of course as not redirect, and purely repetition, no reference made to it in cross examination.

A. Well, that was along in the summer before, after the birth of my child.

Q. You think it was after the birth of your child?

A. Yes, I think so, I won't be positive about that.

Q. Well, I will ask you this. Was it before or after you started your business there? A. Oh, no, it was after.

Q. After you started your business? A. Yes.

Q. And you don't remember when?

A. I don't remember exactly what time.

Q. Well, it was before Lillie moved out, wasn't it?

A. Yes, quite a little bit before she moved out. The papers and everything was stirred up, not only about her but about other parties in that neighborhood.

Q. Now, how long were you in business there all together, with your hair dressing and dress making establishment?

A. Two or three years, I wouldn't in any way establish just what time between two and three years.

Q. And you closed it out, you say in October, 1887?

A. Yes, sir.

Q. Now, let's refer to some matters that counsel asked you about on cross examination. You say your sister, Mrs. Blankenship ran a hotel? A. Yes, sir.

Q. In Leavenworth? A. Yes, sir.

Q. What hotel? A. Leland.

Q. Had she run another hotel? A. Yes, sir.

Q. What was it? A. They were both called the Leland.

Q. Both called the Leland? A. Yes, sir.

Q. Where was the first hotel that she ran located?

A. Right where the new Union Depot there is now. Along the trackage rather between the old depot and the new one, the building sat right there.

Q. Where was the second one run?

A. Second and Shawnee, a vacant lot was at the corner and she was after that.

Q. Between Second and Third? A. Yes, sir.

Q. Which side of the street? A. South.

Q. Was she running either one of these hotels while you were engaged in the hair dressing business?

A. There on Shawnee?

Q. Yes?

A. Yes, sir, part of the time, she sold out and went to Carrolton, Missouri.

Q. You spoke of a storm having occurred which injured the house which you were living in while you were living in Leavenworth? A. Yes.

Q. Which one of your children—— How many children did you have at the time of that storm? A. One.

Q. One? A. Yes.

Q. That was your only child? A. Yes.

Q. That was your oldest child? A. Yes.

Q. What was its name? A. Francis.

Q. Do you remember how old she was?

A. Oh, she was a very young child just learning to walk, just barely could walk.

Q. When was that child born?

A. The second of April, '81.

Q. '81? A. Yes, sir.

Q. The 2nd of April, '81? A. Yes, sir.

Q. You say that child was just learning to walk?

A. Just learning to walk.

Q. Now, where did that storm do any damage of any material——

A. Oh, there was damage done all over the City different places.

Q. Of Leavenworth? A. Yes, sir.

Q. You spoke of St. Mary's Academy, where was that?

A. Well, I think this storm, I think that was the same time the storm injured the girl at St. Mary's Academy.

Q. At where?

A. At Leavenworth. I won't be real positive about it, but I think so.

Q. Now, you spoke of—— On cross examination when counsel asked you about the storm that did so much damage in Kansas City, do you know when that was?

A. Well, when he asked me in reference to that, I said I wouldn't be positive about that storm in Leavenworth and the one in Kansas City being that same date.

Q. I see, they were different storms? A. Yes, sir.

By Mr. Blakeney: Object to that as leading and suggestive.

Q. I mean you don't know whether they were different storms or not, is that what you mean?

A. That is what I mean.

Q. The Kansas City storm you don't mean to connect with any storm in Leavenworth?

By Mr. Cruce: Leading and suggestive.

By Mr. Blakeney: Objected to as leading.

Q. You do not mean to connect the Kansas City storm that killed so many children with any occurrence in Leavenworth? A. That happened at the same time?

Q. Do you, or not, undertake to connect any occurrence that happened in Leavenworth with the Kansas City storm that did so much damage? A. No, I wont.

Q. You spoke of the mill in which your husband worked burning, whose mill was it? A. Kelley & Lyle's.

Q. Where was it located?

A. I think it was on Second Street, South Second Street.

Q. South Second Street? A, South of Choctaw.

Q. Now, what caused that fire?

A. Well, it was supposed to be a spontaneous combustion in the dust room.

Q. Did it destroy the building or not? A. Yes, sir.

Q. On Second Street? A. Yes.

Q. After that did Kelley & Lyle, at any time after that, operate another mill in Leavenworth?

By Mr. Blakeney: We object as leading.

A. Well, I think they still owned the planing mill in Leavenworth.

Q. Where was it located? A. On Cherokee Street.

Q. Where on Cherokee Street?

A. Between Second and Third.

Q. Did you ever know about that mill burning?

A. No, I don't remember that.

Q. Do you say you left Leavenworth?

A. I don't remember yet I know of it burning, yet I don't remember of the time, whether it was before I left or after.

Q. Do you know from——

By Mr. Cruce: Objected to as leading.

Q. To refresh your memory of the fact, after you left Leavenworth, did you hear of the burning of the so called Kelley-Lyle Planing Mill, in fact? A. I don't remember.

Q. In fact, in January, 1889?

By Mr. Hanford: Objected to as leading and suggestive and calling for a hearsay testimony.

By Mr. Blakeney: We object as leading, suggestive, and its leading characteristics are more apparent than the preceding leading questions to the witness.

By Mr. German: I withdraw the question and stop objection.

By Mr. Cruce: She said she doesn't remember.

By Mr. Blakeney: The objection had been completed when the question was withdrawn.

Q. Mr. Hanford asked you a while ago on cross examination, if after you started your store your friends didn't patronize you? A. Why, certainly.

Q. And you said yes. Now, from whom did you get patronage in the city?

A. Why, from lots of people, I would have to think of the whole details and think them all up, I don't know whether I could remember them all.

Q. Was that patronage in any way limited to these names?

A. No, that is the only ones I did have of that class of people.

Q. Just the Lillie White people?

A. Yes, the only one woman that I sewed for, Stella Forest, run that house there at Third and Seneca.

Q. Do you not mean Third and Seneca?

A. Yes, up stairs, there at Third and Seneca, but what her names was I don't remember, I don't remember any of the names as far as that is concerned, but my business was confined to a better class of people. I didn't turn any of them down as long as money was in it.

Q. Judge Cruce asked you if there might have been a child named Tommy Atkins at Mary Letcher's and you not have known it. I will ask you this, if there had *have* been a child there by that name——

By Mr. German: I am just getting back at Judge Cruce. I withdraw that for the present.

And thereupon, an adjournment is had until 1:30 o'clock P. M., and thereafter, and at 1:30 o'clock, P. M., further testimony herein is taken as follows:

MRS. O'DAY, being recalled, further testified as follows:

Redirect Examination by Mr. German.

Q. Mrs. O'Day, have you talked to anybody during the noon recess about the facts in this case?

A. No, sir, I didn't. Nobody to talk to.

Q. Any of the lawyers?

A. I didn't see one of you after I went out of here, I don't like you anyway.

Q. Mrs. O'Day, while you were running your store, what did you call that, what did you call—— did you call it a store or what?

A. Well, it was a hair dressing, Fancy Goods, and Dress Making.

Q. Would you call it a store? A. Yes, sir.

Q. While you were running your store and prior to the time that Lillie White moved out of the Seneca Street House, did you ever notice her girls in her back yard?

A. Well, I did while she was there.

Q. That is what I mean? A. Yes.

Q. You did? A. Yes.

Q. In the summer time or cold weather or what?

A. No, they would sit out in the back porch and back yard sometimes.

Q. How was the back yard kept?

A. Just about like anybody else's, it was a lawn, part of it.

Q. Now after Lillie White moved out and Mary Letcher moved in, did you notice the boys or children around the house any?

By Mr. Blakeney: Objected to as leading.

A. I can't say that I do know anything about it.
Q. Did you see Walter Banks very often?

By Mr. Blakeney: Objected to as leading.

A. Well, yes, I have seen him often, I made shirt waists and various articles of clothing for the boy, for Walter.
Q. For Walter? A. Yes, sir.
Q. At that time, about what aged person was this one armed Sam, the Sam Nash?
A. Well, I don't know, I could have taken him to have been from seventeen, sixteen or seventeen, possibly eighteen, stripling of a boy.
Q. Did you make any clothes for him?
A. I did when he was small, I made shirt waists for him.
Q. Did you after you started your store?
A. No, no, he was a big boy, too big a boy then.
Q. Did you make any clothing of any sort for any other boy at the Letcher home? A. No.

By Mr. Blakeney: Objected to as not redirect.

Recross Examination by Mr. Cruce.

Q. How many negro women had their dresses made at your place?
A. Well, I wasn't sewing for anybody but him.
Q. Madam?
A. I wasn't sewing for anyone but Mary Letcher.
Q. How many dresses did Mary Letcher ever have made there?
A. That is something that I can't begin to tell you.
Q. Give us an idea?
A. I sewed for her for several years, I can't begin to tell what the woman wore.
Q. She was an extravagant woman?
A. No, had her dresses made in the spring and fall like anybody else.
Q. Can't you remember any special dress that you made for Granny Letcher?
A. I don't know as I can remember any special one, made so many of them I didn't pay any attention to them.
Q. Just made dresses for her like any other people?
A. Yes, sir, certainly.

Q. You don't remember the color of any of the dresses?

A. No, sir.

Q. Or style of any of the dresses?

A. No, sir. Certainly not.

Q. She wasn't an associate of yours?

A. Certainly not.

Q. You are a white woman? A. Certainly.

Q. And you and Mary Letcher were in——

A. Certainly not, only in a business way, she was my laundress and I charged her like anybody else in her position.

Recross Examination by Mr. Blakeney.

Q. How long had you been sewing when you moved up into this dress making and hair dressing establishment?

A. Oh, my mother had a dress making shop there for years. I sewed in the shop at home, sewed for Mary Letcher before she was ever on Seneca Street at all.

Q. How long before had you been sewing for Mary Letcher? A. Several years.

Q. Two, three, or four years? A. Yes.

Q. Longer? A. Maybe longer than that.

Q. How long?

A. I should judge eight or ten, somewhere along there, ever since I have known her, and it seems I have known her ever since I was in Leavenworth. She used to be my mother's laundress when I was a girl growing up.

Q. It wasn't the laundress, I was asking about sewing?

A. I said she was my mother's laundress and my mother sewed for her.

Recross Examination by Mr. Hanford.

Q. Mrs. O'Day, what was your second child's name?

A. Charles.

Q. And what was the date of his birth?

A. The 13th of November, 1882.

Q. And the date of the next child's birth?

A. The 15th day of January, 1887.

Q. That child died in February?

A. Died in the February following, yes, sir, the 14th of February.

Q. That was when you closed up your shop on Shawnee Street? A. Closed the shop up after that in October.

Q. Then, you moved to Kansas City? A. Yes, sir.

Q. Where was Charles born? A. In Waldron, Missouri.

Q. He was born over there? A. Yes, sir.

Q. That was the time you went over to join your husband? A. Yes, sir.

Q. That was about a year before you opened up on Shawnee?

A. Well, about that. Might have been longer, I couldn't say positively about that.

Q. Your best recollection is around a year? A. Yes.

Q. It would not be six months, wasn't as short as that?

A. No, I don't think it was as short—— No, it wasn't as short as that, because I was with mother quite a while before that, at home with mother.

Q. That long, ten or twelve or thirteen months?

A. It was nearly a year, it might have been longer, I can't say.

Q. How much less or longer?

A. Well, I should judge it was about a year or a little over.

Q. That is, you had this second child and you took care of him for about a year?

A. No, that second child, I went home directly after his birth, and I was sick for quite a while there before that, and I don't know—— I should judge it was along in the neighborhood of a year after my husband came home in December that we opened this place.

Q. You think that you lived at your mother's house about that length of time?

A. Yes, in the neighborhood of that.

Q. You are sure that it was not as long as two years or three years?

A. As, I say, I won't be sure about it all because I haven't the recollection.

Q. Your recollection is that it was near that time?

A. That is as near as I can get what I can think of.

Q. Now, the first child's name was what?

A. Florence.

Q. She was born April, '81? A. April, '81.

Q. That is the child that you thought was in danger?

A. Lost in the storm.

Q. When the storm occurred? A. I certainly did.

Q. She was just learning to walk then?

A. Yes, just partly able to totter, just barely able to totter across the floor.

Q. About a year old? A. No, she was hardly that.

Q. Did she learn to walk early?

A. Oh, not any earlier than any other children.

Q. Well, that would be about a year, most children learn to walk in about a year, don't they?

A. Eight or nine months, something like that.

Q. That was—— Your recollection of that storm is about what it did in Leavenworth?

A. Well, now, I will tell you, we had three or four real hard cyclones along in those years, the few years before I left Leavenworth, and I won't be positive about the exact time of the storm, but we had one just before we moved into that building, not long before that, and we had one in that building, and one while——

Q. You do remember it took the roof off of your house?

A. Yes, sir.

Q. And awnings?

A. Yes, sir, and blew my baby away in the buggy, she didn't get out of the house but went the full length of it.

Q. The baby was out in the baby buggy?

A. Yes, it was a long building, the floor—the store building and she went the full length of the building to the plate glass windows.

Q. What time of day was that?

A. That was in the night, middle of the night.

Q. The baby was sleeping in the baby buggy?

A. She was, the storm struck the back end of the house and the back door was open.

Redirect Examination by Mr. German.

Q. Mrs. O'Day, you say that your son, Charlie was born in '82? A. Yes, sir.

Q. And in what month? A. November the 13th.

Q. Now, you were then residing at?

A. Waldron, Missouri.

Q. Waldron? How long after the birth of that child was it that you came back to Leavenworth?

A. About two weeks.

Q. Then, where did you live?

A. As soon as I was able to move——

Q. Where did you live?

A. At my mother's next door to Granny's, on Second and Shawnee.

Q. How long had your mother been living there at that time?

A. She hadn't been there but just about a year possibly a little longer.

Q. Now, was your mother still living at that same place when you left Leavenworth in '87? A. No, sir.

Q. When did your mother move away from that place, in reference to the time that you started your store on Shawnee? A. Why, she was there when I started my store.

Q. And she moved away from there while you were running the store? A. Yes, sir.

Q. Where did she move to?

A. Across the street in front of me.

Q. Now, you recalled your store—— I understood you to testify in the course of the cross examination that you operated this store between two and three years? A. Yes.

Q. And that you left Leavenworth in October, '87?

A. Yes, sir.

Q. That at that time you closed your store there?

A. Yes, sir.

Q. Discontinued it? A. Yes, sir.

Q. Then, when would you say that you opened your store?

A. Well, it was two or three years before that.

Q. Before you left?

A. Yes, sir, before I left there. Now, I wouldn't like to state any special month because it would be impossible for me to do it.

Q. Was it in the spring, summer or fall that you saw those inmates of Lillie White's house in the back yard of her home or on the back porch? A. Summer.

Q. In the summer time? A. Yes.

Q. How were they dressed?

A. Oh, sometimes they were dressed in street gowns and sometimes in kimonas, they were in respectable garb; every lady you would pass was wearing kimonas around the house.

Q. Summer or winter clothing? A. Summer clothing.

Recross Examination by Mr. Hanford.

Q. Did you have any employees? A. No.

Q. You ran the place yourself?

A. I ran the place myself.

Q. Did anybody ever work for you there at all?

A. Yes.

Q. Who?

A. Well, not right in the shop, I gave out a good deal of my work.

Q. You gave it out on the outside?

A. Yes, I gave work on the outside.

Q. Did you ever have any hair dressers there besides yourself?

A. No, I did the work myself, my husband and I did the work, he did a great deal of it himself at nights.

Q. Did you close up your shop when you were sick with your second son?

A. My business had to stop, I wasn't able to attend to it.

Q. How long were you sick?

A. I don't know, a month—three weeks or a month before I was able to attend to business.

Q. Your mother was living at Second and Shawnee when you moved to Kansas City?

A. No, sir, she was living across the street from me at that time.

Q. Did you stay with her any time before you moved to Kansas City? A. No, sir, I moved right from my own place.

Redirect Examination by Mr. German.

Q. How old was Charlie.

Q. How old was Charlie when you started your store there? A. A little tad in dresses.

Q. About three years old?

A. Just in dresses, I don't think he was quite three years old.

Recross Examination by Mr. Blakeney.

Q. How long did you say that you closed your store at the time Charlie was born?

A. At the time Charlie was born, I didn't have no store.

Q. Well, you didn't have any store? A. No, sir.

Q. Then, you didn't understand the question that Mr. Hanford asked you?

A. He asked me how long I closed that store at the birth of my child.

Q. Which child?

A. I suppose he meant Clara, my youngest one.

Q. Clara was born there, Clara wasn't born there at all was she?

A. Yes, sir, born right there and died right there.

Q. Clara was born right there and you were still running the store? A. Yes, sir.

Witness dismissed.

Mr. German: We now offer the deposition of A. L. Schott, taken before Mr. Penick, appearing in his transcript at Page 3189.

And thereupon, A. L. SCHOTT, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. Your initials are A. L.? A. A. L.

Q. Mr. Schott, you have been on the witness stand before here? A. Yes.

Q. Have you any records there pertaining to the burial of a child by the name of Clara Estelle O'Day?

A. I have. You asked me if I have anything regarding this burial?

Q. I asked you if you have any record showing the item pertaining to—— A. Yes, I have the item here.

Q. You are and were then in the undertaking business?

A. No, sir.

Q. What is your business?

A. My business is Secretary and Treasurer of Mount Munsey Cemetery.

Q. Is this book which you have here one of the records of interment at Mount Munsey Cemetery?

A. It is. I have here two books.

Q. What is the one you are now looking at that is open?

A. This is the register, this book contains the original burial certificate.

Q. The other book contains the original burial certificates? A. Yes.

Q. Have you the original burial certificate in reference to Clara Estelle O'Day? A. Here it is. I have.

Q. Who made the entries there, Mr. Schott?

A. These entries were made prior to my office by the former clerk of the Association.

Q. Are those books and papers in your custody?

A. Yes, sir.

Q. How long have they been in your custody?

A. Since 1908.

Q. Where did you receive them?

A. I received them from the former Secretary and Treasurer of the Association.

Q. Where are they kept?

A. They are kept partly in the city, 401 Delaware, and partly at the cemetery. The certificates are kept at the cemetery, and these records are kept in the city office.

Q. Mr. Schott, will you please state what the records show with reference to the date of the birth, date of death, and date of interment of Clara Estelle O'Day?

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and will ask you, Mr. German, to agree that my objection go to all of this testimony relative to these entries, but not to the form of the testimony, that is, the testimony of the contents in lieu of the records themselves. You agree to that, Mr. German?

Mr. German: Yes. You will not object on the ground that the best evidence is not introduced before the Court?

Mr. Bell: Oh, no.

A. I will read the certificate as I find it here?

Q. Yes?

A. The certificate for Mount Munsey Cemetery, No. 4367. Name of deceased, Clara Estelle O'Day, white—this is the color of the race—— Place of nativity, Kansas; late residence No. 218 Shawnee Street; the date of the birth is January 15, 1887; the date of death is February 14th, 1887; date of interment, February 16th, 1887, two o'clock, P. M.; single person; parents names, William F. and Alice O'Day; buried in the section of single graves, Section No. 11, row No. 1, grave 37. Signed W. D. Bidwell, physician.

Witness dismissed.

Mr. German: We now offer the deposition of Joseph A. Eckert, taken before Mr. Penick as Examiner, appearing in his record at Page 2466 and again at Page 2529.

JOE A. ECKERT being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

A. What is your name, age and place of residence?

A. Joe A. Eckert, sixty-two years, Leavenworth.

Q. What business are you engaged in, Mr. Eckert?

A. Tailoring business.

Q. How long have you been engaged in the tailoring business?

A. Well, I started to learn the trade in seventy-six, I have been in it forty years, a little over.

Q. Have you been actively engaged in that business during all of that time? A. All of that time, yes, sir.

Q. Did any of your people run a business in which you were afterwards engaged before you began the tailoring business?

A. My father was running the business, I was with him and learned my trade under my father.

Q. How many people were working in your establishment in 1884 and '85? A. Eighty four, and five, and six?

Q. About how many?

A. We run all the way from twelve to eighteen men.

Q. That business was conducted at that time where it is now, in Leavenworth, Kansas?

A. Well, we were then at that time in the Fitz-Williams block. We had the two rooms on fourth where the cigar and telegraph office is now.

Q. Leavenworth, Kansas?

A. We had that from '76 to '93.

A. Where were you born?

A. I was born in Philadelphia.

Q. How old were you when you came to Leavenworth?

A. About three years old.

Q. Have you lived here since that time?

A. Since that time, yes, sir.

Q. In 1884 and '85, did you know a woman by the name of Lillie White?

A. I did, eighty-five, eighty-four, eighty-five, eighty-six.

Q. Do you know when you first saw her or met her to know her?

A. I met her, I think it was in eighty-three or the spring of eighty-four, I wont say for sure, but I think it was the latter part of eighty three or the spring of eighty-four.

Q. Did you go away from here in 1884? A. Yes, sir.

Q. Where did you go? A. I went to Chicago.

Q. On what mission?

A. Well, I went there to go to work, but then my first trip there was—— Cleveland, during the Democratic Convention in Chicago, in '84. I belonged to the band here at that time and I worked at my trade, and I belonged to the cornet band, and we went a week in Chicago and played and a week engagement——

Q. Did you return to Leavenworth in 1884?

A. The week I was in Chicago, and we had three engagements here on account of the campaign, and I went back to Chicago and came back the latter part of October, the following fall I came back in October, Halloween day is when I lit in Leavenworth in 1884. I spent those three months in Chicago, three or four months, July, August, September, and October.

Q. Upon your return to Leavenworth, did you again see Lillie White? A. Yes, sir.

Q. Where was she living at that time?

A. Living on Seneca Street.

Q. At what place on Seneca Street?

A. Well, between Second and Third on the south side of the street; there was a stone house, I guess it is there yet, and I haven't been up there for so long, but there was a frame house next to it, and she lived in that house.

Q. It was, with reference to George Crilly's barn——

A. Now, let me see. Well, just about like that, I don't know, it might be. Well it might be a little bit south and east.

Q. Across the street from——

A. Across the street from Crilly's barn on the south side of the street.

Q. Which one of those houses did she live in, the stone or the frame? A. The frame.

Q. Do you know who afterwards lived in that house?

A. That, I couldn't say, I wouldn't swear to it.

Q. Were they white or colored?

A. I think there was a colored family that moved in there afterwards, I am not sure as to that, I wouldn't swear to that.

Q. During the summer of 1885 were you around that Lillie White house on Seneca Street that you have just described? A. Quite often in the early part of '85.

Q. What was the occasion of your going there at that time, I mean by that, where would you be going to or from?

A. Well, now, my occasion of going there—— Well, like all young fellows that go and come, I went there on—just for certain purposes for sometimes and for a joke sometimes.

Q. Were you there at any time during the base ball season? A. Yes, sir.

Q. In 1885? A. Yes, sir.

By Mr. Blakeney: We object to that as leading.

Q. Tell the circumstances under which you would go there then?

A. Well, of course, it is just a question like this——

Q. In other words, how do you remember that you were there during the summer of 1885?

A. Well, those were the palmy days, times were good, I used to make a whole lot better wages then than I can now, and I would go to the base-ball game, I didn't miss an afternoon, didn't hurt me at all to miss it, and I would go in with the bunch, and we roomed over here on Shawnee Street between Second and Third, and I would go to their rooms, and if we didn't have beer in those rooms at that time, we would go up to Lillie White's or go to Laura Ward's and get it, or down at the other places and get it. Days isn't like they were then, I wish they were.

Q. After the base-ball season closed, state whether or not you continued to go there?

A. Yes, I went there off ond on.

Q. About how long after that did she live in that Seneca House after the base-ball season?

A. Well, I don't know. I think she got out of there that fall, or that winter, or the early part of '86, she moved down on Choctaw Street.

Q. It was in the fall or winter of '85 or early in '86 that she moved? A. Or early in '86, yes, sir.

Cross Examination by Mr. Hanford.

Q. You continued to go there up until the time that she moved?

A. I went there, and I went down to the other place, because I was a young fellow and I was going around, I was chasing them all, I moved around.

Q. You went to different places?

A. Oh, certainly, I wasn't confined to no one place.

Q. And you remember the other places that you went to?

A. I do. She wasn't the only one place in town, there were several of them.

Q. Did you go to her place after she moved?

A. I told you that, yes, sir.

Q. Where did she move? A. On Choctaw Street.

Q. What part? What number?

A. I don't know the number, never paid no attention to the number, it was right next to that brick house, the Slitz Broom Company had it at that time, the frame house was right next to it.

Q. Well, it was 326, wasn't it?

A. Well, I don't know whether it was 326 or what it was, not about that, right down adjoining that brick building.

Q. It was just east? A. Of that brick building.

Q. Of Fourth Street, just east of Fourth Street?

A. And next to the brick building.

Q. The brick building was on Fourth? A. Yes.

Q. And this was right next to the brick building?

A. Right next to the brick building.

Q. It was tucked in under the wing of the brick building?

A. Wasn't no wing, no wing on the brick building, the frame house was pretty near as high as that brick building, no wing to it, it was built right next to that frame house, the frame house was there before the brick building was put up, there was no wing there at all.

Q. But it was about that distance from Fourth Street, make it about that number?

A. Well, two blocks from Fourth Street.

Q. That would be about 326, wouldn't it?

A. Oh, I don't know, I think so.

Q. You don't recollect that that was the number, do you?

A. I am not sure as to the number, because I never looked at the number, I went in the doorway.

Q. Now, when did you start going to her place on Fourth Street? A. Right after she moved.

Q. Right after she moved? A. Yes.

Q. And when was that?

A. I think that was the——I wouldn't say, I think it was the latter part of '85 or the early part of '86.

Q. Well, can you say which?

A. No, I wouldn't swear to it, it was about that time.

Q. But you do recall that she was at Seneca Street all together more than a year?

A. Yes, I think so, pretty sure of it. I think she was there in '83, and part of '84, and '85. She might have been there longer than that so far as I am concerned, I wouldn't say that she was there in '83 positive.

Q. Two years or a year and a half?

A. She might have been there a year and a half, yes, on Seneca Street.

Q. What is your best recollection, about eighteen months?

A. Well, that I can't——I never kept no diary of that in those days, but my best recollection is that she was there about a year or a year and a half.

Q. Do you remember anybody that was there with her?

A. Well, I remember two or three girls that were there with her.

Q. What were their names?

A. One was Bee Randolph, and there was Francis Randolph. Bee Randolph, she is dead and gone, and her sister is dead and gone too. Of course, there is no use of bringing that in there now, they are all dead.

Q. How many did she have there?

A. She had five or six girls there at one time.

Q. All in that house? A. Yes, sir.

Q. How many rooms were there in that house?

A. That I can't tell you now, I never kept tab on it, eight or nine rooms, seven or eight rooms, something like that; they built awful small rooms at that time.

Q. How many stories did it have?

A. A story and a half house, you might say. You might call it a two story house, but I think a story and a half house.

Q. Do you remember how many rooms it had up stairs?

A. No, sir.

Q. Do you remember how many rooms it had down stairs?

A. No, sir.

Q. Did it have parlors down stairs?

A. Yes, sir, the front room was a parlor.

Q. Do you remember of going there after the ball season of 1885?

A. Yes, not after the ball season. Well, that winter, yes, that fall.

Q. That fall and winter?

A. Yes, that fall. I don't know whether it was late in the winter or not now, I wouldn't say that, but that fall in eighty-four or eighty-five, and in part of eighty-six we used to go around there, used to go down there.

Q. You didn't go there in the ball season of '86?

A. No, in '86 I think we went down on Choctaw Street, because she was there when I went away from here in the latter part of '86, and lived there for quite a while before that.

Q. Was anybody else in the house with her except her girls and herself? A. There was a time, yes.

Q. I mean anybody else living there occupying the same premises?

A. No, not that I know of. I thought she was running the house, she was the boss, she was the land-lady.

Q. And she had girls living there?

A. Oh, sure, you are getting—you know what the girls were for, don't you. What use is there in quizzing me about that?

Q. I say she had these girls?

A. Yes, that is what I told you.

Q. And they were the only occupants in the house?

A. Yes.

Q. They lived there?

A. Yes, they roomed there for a purpose.

Q. And she had about six or eight?

A. At times. I didn't say she had eight. I said she had about six.

Q. About six?

A. Yes, there were about six girls in that house at one time that I know of, because Bill Buffington and I had two of them over there one night.

Q. Do you remember the names of any of the other girls? A. No.

Q. Just those two?

A. Those two, because we associated with them two.

Q. They were the only ones that you did associate with?

A. Yes.

Q. Didn't see any of the others?

A. Oh, we saw them, yes, but I don't remember their names now. This has been a long time ago.

Q. Where were some of the other places that you went during that same time? A. Went to Lou DeVore's.

Q. Lou DeVore's? A. Yes.

Q. Where was she?

A. In that frame house this side of Third Street on Seneca.

Q. When did she move in there?

A. I don't know, I think she moved there, probably she was in there in eighty-three, and eighty-four and eighty-five. That is where we—— That is where I got acquainted with Lillie White, because Bill Buffington and I had those two girls over there, and Lou DeVore had them arrested and we took them over to Lillie White's, that is how I got acquainted with Lillie White.

Q. Took those two girls from Lue DeVore's down to Lillie White's? A. Yes.

Q. And left them there?

A. It was just a case like this. They couldn't stay further at Lou DeVore's any more and they wanted to go to Lillie White's and they went to Lillie White's.

Q. You didn't go to Lou DeVore's any more after that?

A. No, I got mad at her.

Q. Where else did you go?

A. Oh, well, I don't know. There has been so dog gone many of them.

Q. You went all around to the different places in town, didn't you? A. I was a rounder.

Q. Would go any place?

A. From one place to another, yes, sir, wasn't tied down to no particular place.

Q. There is nothing to call your attention to the affairs of Lillie White any more than any of these other places?

A. None whatever.

Q. You were impartial in your patronage?

By Mr. German: I object to that as calling for a conclusion and opinion of the witness.

A. Now, that will be all right, I will pass that up to you.

Q. And your recollection is just the recollection in passing from one place to another? A. Yes.

A. And you have your impressions of the length of time and places and names and things?

A. To the best of my recollection for a man who hasn't paid no attention to it and never kept no diary, and didn't figure on what the past was at all.

Q. Let's see, that was thirty one years ago? A. Yes.

Q. And you have outgrown those days sometime past, haven't you? A. Yes, I couldn't keep that gait up now.

Q. You have no particular desire to want to remember those things?

A. No, I would rather have them pass by if I could let them go by I would forget it, I try to forget a whole lot of it.

Q. So your recollection of the years are simply the impression that you have now of thirty one years ago?

A. Yes, that was my time and I was there at that time, and here and there.

Q. And you are certain that Lillie White was in that house on Seneca from October—or was she there in October in 1884 when you came back from Chicago, wasn't she?

A. Yes.

Q. You don't know when she moved in?

A. No, I wouldn't say.

Q. And she was there until——

A. There until probably the latter part of eighty-five or the early spring of '86, because when I——

Q. That is all you can be sure of?

A. Yes, but I will say this, she was down on Choctaw Street in '86, the latter part of '86.

Q. The latter part of '86?

A. Yes, and in the summer of '86, but what time she moved there, I don't know.

Q. The only thing you do know, it was the latter part of '85 or the early part of '86? A. Yes, sir.

Q. And you do know that she was not on Seneca Street during the winter season of 1885? A. 1885, yes, sir.

Cross Examination by Mr. Blakeney.

Q. You are able to recollect that you were at Lillie White's place in 1885, because you went there during a base ball season with the base ball players?

A. Yes, that was the season that we went there. We were young fellows at that time that would go, a bunch of us; that is we did go.

Q. This place was a house of prostitution, wasn't it?

A. No.

Q. It was not? A. No.

Q. What was it?

A. We used to call it the house of ill fame. There was no prostitution going on there.

Q. You never knew of any prostitution going on there?

A. No, I never paid no attention to that part. We used to call it the house of ill fame. Prostitution you know is a pretty dirty word. When we call a person a prostitute, you know that is pretty bad.

Q. You say you had two girls there? A. No, sir.

Q. Or assisted two girls in getting there? A. No, sir.

Q. What did you say about you and Bill Buffiington?

A. I said that Bill Buffington and I—— Those two girls were arrested, was fined, and was taken from Lou DeVore's house, and Bill Buffington and I had—said we will go on down to Lillie White's house and they rented a room at Lillie White's house the same as they had at Lou DeVore's.

Q. Why did they leave Lou DeVore's?

A. Because Lou Devore got mad at them.

Q. What kind of place was Lou DeVore running?

A. A house of ill fame.

Q. It wasn't a house of prostitution either?

A. No, they were all the same in that time, house of ill fame. We switched them from one place to another. We used to have a bunch of them here at that time. They ain't gone now. I guess we have got more now than we had at that time.

Q. You and Bill Buffington had two girls that had been fined at the DeVore's place? A. Yes.

Q. You paid their fines? A. Yes.

Q. And they moved then to Lillie White's?

A. Yes. That was in '85.

Q. What were they fined for?

A. Well, they were—had gotten drunk and disorderly now, they were fined for drunkenness.

Q. Were you with them when they committed the offense for which they were fined? A. No.

Q. Where were they fined? A. What?

Q. Where were they fined?

A. Up in the Police Court. In the Police Court, but they were taken up and there was a five dollar—they were put under a five dollar bond.

Q. At Police Court?

A. At the Police Station that night. They were arrested that evening, and they were put under a five dollar bond.

Q. And you put up the bond?

A. Buffington and I put up the two bonds for the two girls.

Q. What were the names of the two girls?

A. Bee and Francis Randolph, I believe.

Q. Which one did you put up for?

A. Bee, and Buffington put up the other one, five dollars for the other one.

Q. Where did the girls go after they were released that night?

A. Then, they went right down to Lillie White's place, that was where I got acquainted with Lillie White.

Q. Did you go down with them after you put up the fine?

A. No, they went down there and we went afterwards.

Q. You went down that night?

A. Yes, we went down that night afterwards.

Q. How long did you stay there that night?

A. Stayed there until about one or two o'clock.

Q. What were you doing there?

A. Drank a couple of bottles of wine.

Q. Who were you drinking with? A. All of them.

Q. How many girls were there at that time?

A. Five or six girls there at that time, with these two that we brought in.

Q. Was there any other men there besides you two?

A. Well, I don't think it is wise for me to mention names of men that were there, do you think so? Do I have to answer that question, mention names of the men that were there?

Q. You have to answer the question or decline to answer it, or something. A. What?

Q. You will have to answer the questions or decline to answer it.

The Examiner: Answer the question, Mr. witness, or decline to answer it.

A. Of course, if it is necessary, I could mention it. Two of them are dead. I suppose it wouldn't hurt to mention them.

By Mr. Cruce: No, don't mention them, but mention living men.

A. I rather mention those that are dead.

Mr. Cruce: No, we can't call them to contradict you.

A. I will tell you as far as that is concerned, as far as my recollection is concerned, there is only one that is living out of the four or five men that were there with me that night and that is a fellow named John Thompson.

Q. Where does he live?

A. I don't know where he is living now.

Q. Where was he living the last time you knew him?

A. He was in North Leavenworth.

Q. What was he doing?

A. He was a painter at the time, I don't know whether he is living up there now or not.

Q. How old were you at that time?

A. I was about twenty-two years old or twenty four.

Q. Twenty-two, three or four years of age?

A. Yes, sir.

Q. How old are you now?

A. Fifty three, will be fifty four years old in September; I was born in '62, and at that time, '85, that would make me about twenty-three years old at that time.

Q. What time of the year was it that this transaction occurred?

A. It occurred in—well I can't say exactly, but I think it was the spring of eighty-five. I—well, it was somewhere around the winter of eighty-four and the spring of '85 when it happened.

Q. Have you ever been married? A. Sir?

Q. Are you a married man?

A. I am now, I wasn't then.

Q. How long have you been married?

A. Twenty eight years.

Q. Now, after these girls went over there, when was the next time that you was back to Lillie White's?

A. Well, probably the next night, I don't know, I might have. No, I didn't go the next night, but I went there two or three nights a week.

Q. Now, you said probably the next night, do you have any recollection of going the next night?

A. No, not particularly, I ain't got that—I ain't got that memorized or haven't kept tab on it, I might have went the next night. I went afterwards, I don't know——

Q. Why do you say might?

A. Well, because——

Q. Merely because, or was it your habit to go every night or so?

A. My habit was to go every night or so, my habit was to go first one place or another, I was a young man going around and had nothing to do at night, and I went from here to there.

Q. Where else did you go at the same time?

A. I went to all of them.

Q. Let's have them?

A. This one and that one, down on Choctaw Street down on Cherokee Street, I don't know who was keeping them now.

Q. Give us the names of any of the other places that you went to?

A. Well, there was a couple of places down on Cherokee Street. I don't know who run them.

Q. Where on Cherokee Street?

A. Between Third and Fourth.

Q. What kind of places were they?

A. On the same plan.

Q. Two story buildings? A. Yes.

Q. Brick or wood? A. Brick.

Q. Both of those places on Cherokee Street between Third and Fourth were brick buildings? A. Yes, sir.

Q. They had a Madam in charge? A. Yes, sir.

Q. You don't know who the Madam was?

A. I don't remember now.

Q. What girls were in there?

A. That I can't tell you, I didn't pay much attention to them.

Q. What did you do at those places?

A. Just went in and got a bottle of beer and walked out.

Q. How frequently did you visit those places?

A. Oh, I don't know, once or twice a week probably.

Q. Can you give the names of any of the girls that were in those places?

A. I can't now, no, sir. That has been a long time ago.

Q. No longer since you went to those places than when you went over to Lillie White's was it?

A. Because I was more closely associated with her and her friends than I was with those other people.

Q. You went to Lillie White's oftener than you went to those places on Cherokee? A. Yes, sir, I did.

Q. You only went to those places on Cherokee Street once or twice a week, during that time?

A. Maybe not that often.

Q. But Lillie White's you went oftener? A. Oftener.

Q. Who went with you to those places on Cherokee?

A. Well, sometimes I would meet some of the boys Thompson, Christelle Cosgrove, and such as that, Ed Wells, those boys that used to be going around here at that time.

Q. What were they doing? A. Working here in town.

Q. What kind of work did they do?

A. One run a wholesale liquor house, one worked at the Furniture Mill, one was a painter, planing mill and different jobs.

Q. What was Buffington doing?

A. Buffington was a sport.

Q. What kind of a sport? A. A gambler.

Q. How long did you know Buffington?

A. I knew Buffington about six or seven or eight years, I guess or more than that.

Q. Did you run with him during that time?

A. No, no, I never run with him much, I never was a gambler, never gambled in my life, never played a card for a five cent piece in my life.

Q. In the daytime he run a gambling house, did he?

A. Yes, and at night too.

Q. He ran the house at night?

A. Yes, all gambling houses run at night. There is where they get the money.

Q. Did he work at his gambling house at night?

A. He did.

Q. Where did you get him? A. I didn't get him.

Q. Where did you and he meet when you put up this money for the fines? A. That night?

Q. Yes? A. Met him at the shop.

Q. Who met you there? A. Buffington.

Q. He came up and told you? A. Yes, sir.

Q. The girls had been arrested and come and go up?

A. Yes, sir.

Q. And you went up with him and put up the five dollars? A. Yes, sir.

Q. And the girls were turned loose? A. Yes, sir.

Q. And you followed them down?

A. No, we didn't follow them down, we went down after he got through with his work?

Q. About what time? A. About twelve o'clock.

Q. And just stayed an hour?

A. About an hour and a half. I had my home to go to then, I had a home.

Q. Where was your home?

A. Out on Third and Atchison.

Q. What occupants did you have in your home?

A. Father and mother and two sisters.

Q. And you left there about one-thirty?

A. Yes, I guess it was about that time, I don't know.

Q. Did you get drunk that night?

A. I never got drunk.

Q. Never?

A. No, sometimes I would get pretty full, but never got drunk.

Q. Just sort of three sheets in the wind?

A. Yes, about three sheets and a half.

Q. Three sheets and a half?

A. Yes, the other one fluttered.

Q. Did the girls get three sheets and a half or four, that night?

A. I don't know, didn't have no sheets at all that night, they had just moved.

Q. Just moved? A. Yes.

Q. How do you know whether they had any sheets or not?

A. Didn't see none.

Q. Were you up in their rooms?

A. I don't know. You wouldn't put up five dollars for a girl without going to her room, would you?

Q. Well, what did you do?

A. I went up to see her room and I didn't see nothing fluttering, that is why I didn't stay long.

Q. Then when was the next time you say you were back?

A. Sir?

Q. When did you say the next time you were back after this? A. Oh, a night or so after that.

Q. What did you do that night?

A. Oh, I had to go and get even.

Q. What did you do that night?

A. Had a couple of bottles of beer.

Q. Beer, at a dollar a bottle?

A. Sometimes at that, sometimes I paid a dollar a bottle for beer.

Q. What did you pay for those? A. Fifty cents.

Q. Fifty cents? A. Yes, I got good rates.

Q. You had a sort of stand in with the girls, didn't you?

A. Oh, yes, certainly.

Q. Where did you do that drinking, in the parlor, or did you go up in the room?

A. In the parlor, because they all had to come in on that you know.

Q. Had the rooms been fixed up then that night by that time? A. Up stairs you mean?

Q. Yes?

A. I don't know whether they were or not that night, wouldn't say about that, I didn't pay much attention to it.

Q. You mean by that you didn't pay much attention, or you weren't in condition to notice very much?

A. Oh, I was in condition to notice, because we went there for that proposition, I didn't pay much attention to the room that night.

Q. How did you go up stairs? A. Up the steps.

Q. Went up the steps? A. Yes.

Q. What room did you go to?

A. The first room up the landing.

Q. The first room after you got to the landing? A. Yes.

Q. What did you drink that night? A. Beer.

Q. Was that all you drank? A. Yes, sir.

Q. How long did you stay?

A. Oh, I don't know, maybe an hour or so.

Q. You saw Bee that night, did you? A. I did.

Q. What was Frances doing?

A. I don't know what she was doing, Buffington was in there that night with me.

Q. Well, you didn't see Buffington that night at all?

A. No, not that night at all.

Q. Well, you knew that Buffington was sort of keeping Francis didn't you? A. Well, I didn't know that no.

Q. Well, Buffington was doing just about the same for Francis as you understood you were doing for Bee?

A. We put the five dollars up for them, that is all there was to it. As far as the other part of it is concerned they never got nothing out of me. Of course, once in a while I had to divy up.

Q. How long had you known Bee at that time?

A. About four or five months.

Q. Where had you first met her?

A. Up at Lou Devore's.

Q. You were rather well acquainted at DeVore's then, weren't you?

A. Pretty well. She was a nice woman for a while here in this town and she got pretty gay and started a hoar house—house of ill fame. That is what she done. Her husband was a nice man and she was a nice woman.

Q. Did you get acquainted with her soon after she started? A. Yes, I knew her before she started it.

Q. You knew her before and you visited her after she did start?

A. Yes, I never visited her before she did start though.

Q. I say you visited her after she started this house?

A. Yes, of course I went there because I knew her.

Q. Now, what was the second time you went over there. You described the second visit,—describe the third visit?

A. I can't describe the third visit.

Q. Well, who went with you?

A. I went by myself most of the time. Sometimes I would go with a bunch of boys who would come up with me, we were going through the rounds, going to do the rounds and would go from one place to another.

Q. Well, how long did you keep Bee there at Lillie White's?

A. Not very long. She went away from here with a fellow [] Kay Norris.

Q. About when did she leave?

A. She left in the latter part of '86, fall of '86.

Q. In the fall of '86? A. Yes.

Q. She stayed there until she left, didn't she? A. No.

Q. Where did she go?

A. Kay Norris took her and married and took a room previous to that.

Q. Previous to that?

A. Yes, they lived in town here about three or four months in a room. After that I never saw her.

Q. In the summer of '86 Bee married Norris?

A. I think so, about that time, I don't know whether she married him or not, she was living with him anyhow.

Q. She commenced living with Norris as a married woman? A. Yes.

Q. Where was she living just before she started living with Norris?

A. I think she was at Lillie White's previous to that.

Q. She left Lillie White's and went over to Norris' room?

A. Yes, and went to living with Norris.

Q. When did Norris begin beating your gait?

A. About the spring of '86.

Q. About the spring? A. Yes.

Q. Who did you pick up then?

A. I picked up no one then, I had enough.

Q. You quit them all then?

A. I quit them all. I got tired of it.

Q. That was the Spring of '86? A. Yes, sir.

Q. Now, when you quit in the spring of '86, you knew that Norris was going with Bee—was sort of lying up with Bee? That is what you call it, isn't it, sort of laying up with her?

A. I guess so, yes. That is coming right out flat footed, yes.

Q. Norris commenced laying up with Bee in '85?

A. No, in '86, I think in the spring.

Q. In the spring of '86? A. Spring of '86.

Q. And he commenced laying up with her before you quit, or did he just beat your gait to it and you quit?

A. Well, it was mutual.

Q. You discussed it with him, did you? A. Yes.

Q. He came for her?

A. Yes, I told him he could have her.

Q. That was in the spring of '86?

A. I think it was about that time.

Q. Was that the last time then that you had been over to this Seneca place?

A. No, I wasn't over there at that time at all, the spring of '86 Lillie was down on Choctaw Street.

Q. The spring of '86, she was down on Choctaw?

A. Yes.

Q. You abandoned your claim to Bee when Lillie was down on Choctaw Street? A. Well, previous to that.

Q. Where was Lillie White living at the time you quit Bee?

A. Well, now, I don't know whether Bee was at Lillie White's, I think that is in the winter—fall or winter of '85, or spring of '86. Of course, I don't know exactly. Anyhow, we didn't hook up after that and she went to living with Kay Norris, and I think that was in the winter of '85 or spring of '86.

Q. Where was Lillie White living when you quit Bee?

A. I didn't—— When I quit Bee?

Q. Well, didn't quit her, she quit me, both quit mutual. Kay Norris and I had an understading, I don't know what month it was exactly or what year it was exactly what month it was but it was '85 or '86.

Q. What was that understanding you had with Norris?

A. He wanted her and I didn't want her, and he said all right Joe, and I sold him two suits of clothes on top of it.

Q. He bought a couple of suits of clothes? A. Yes.

Q. And you turned Bee over to him? A. Yes.

Q. Did he turn anything over to you?

A. Yes, I made him two suits of clothes.

Q. He turned his girl over to you?

A. He had none then.

Q. Who was Kay Norris?

A. A young farmer that came in from the farm out here, nephew of Dick Kitchen, of Omaha.

Q. Who was Dick? A. Dick Kitchen?

Q. Yes?

A. Any old timer knew Dick Kitchen, the hotel man up in Omaha.

Q. Well, Norris was a sport, wasn't he?

A. Well, they were all sports in those days as far as we could go. Well, he had the money to go on.

Q. He was always a sport as long as the money lasted?

A. Yes, I met him in '88 and his money was all gone.

Q. You took him then around and showed him the old sites?

A. No, I wasn't here, I was in Colorado—Lamar, Colorado, I didn't show him no sights, he knew more about them than I did.

Q. Did he take you and show you the sculptures at that time?

A. No, I didn't have to be shown. I was out there on business.

Q. Now, in the fall of '85 it was that you took Bee over to Lillie White's?

A. I think it was, I don't know whether it was—about that time, yes.

Q. In the fall of '85?

A. Yes, something about that time, yes.

Q. Wasn't it the fall of '84?

A. No, I don't think it was, because I hadn't been back long enough to get acquainted so very well, with Bee.

Q. Then, after you got acquainted you took her over to—

A. I came back from Chicago in October '84, and I hadn't met her except probably on one or two occasions previous.

Q. You didn't commence being the best fellow with her until the spring or summer of '85?

A. About that time, yes, after I got acquainted with her.

Q. And then some three or four months afterwards, you took her over to Lillie White's place? A. Yes.

Q. In the fall of '85?

A. Something like that, about that time, that is the best of my recollection.

Q. You played her during the winter and spring?

A. I what?

Q. I say you played her during the fall, winter, and spring? A. Played her?

Q. Yes?

A. I don't know exactly the term of that word play; I didn't play with her, I was dead on the square, no playing with me.

Q. How long did that relationship continue during that fall and winter?

A. Oh, probably three or four or five months.

Q. You say about four or five months? A. Yes.

Q. And the next spring the base ball fellows——

A. No, that fall.

Q. What? A. That fall.

Q. That fall?

A. Yes, '85 and part of '86, and part of '86 we had it—— Of course in '86 we had it—Town Ball.

Q. Where was the ball ground in '85?

A. Out on Oliver St.

Q. And you didn't get in with the ball team until the fall of '85?

A. Of course I was always with the ball team. I was always a crank on the ball team.

Q. You was a fan?

A. Yes, I was always the ball team.

Q. And you knew the boys? A. Always.

Q. And after the work was done in the evenings, you associated with them? A. Yes, sir.

Q. You had the—— Made the rounds of the town with them? A. Like a bunch of young fellows would do.

Q. They were a pretty gay gang, wasn't they?

A. Just about as gay as you ever make them They were a good bunch at that time.

Q. And you commenced that in the——'85?

A. I commenced it previous to that.

Q. After this Chicago trip? A. Oh,——

Q. You didn't know the team very well in '84, because you were gone a part of that year?

A. Well, they didn't have no team here to amount to anything in '84.

Q. In '85 they had what?

A. The Western League Team.

Q. Had a Western League Team in '85? A. Yes, sir.

Q. And that was the first year they had a Western League Team? A. Yes, sir.

Q. And you took up with the boys and associated with them that summer?

A. That summer and that fall, yes, sir.

Q. That season?

A. A part of that winter, some of them stayed here.

Q. And the next year they opened actively as a member of the league?

A. Yes, sir, I was with them just the same; I knew pretty near all of them. As soon as they got in town a stranger base-ball player, I met them.

Q. And you run with them that summer? A. Yes, sir.

Q. The summer of 86? A. Yes, sir.

Q. And you were with them at nights? A. Yes, sir.

Q. All of you would go off and get drunk together?

A. No, sir, I never said that; I told you I didn't get drunk.

Q. You would not get drunk, but you would get three and a half sheets in the wind with them?

A. Yes, but I never got drunk.

Q. I beg your pardon? Did they get any more than that?

A. They?

Q. Yes?

A. They always right with me, once in a while one might get knocked out. They were the kind that could stand it.

Q. Now who was in that team in 85? A. In 85?

Q. Yes, who managed it?

A. Well, now I won't say, but I have got a picture down there of the team of '85—Hawkins.

Q. You have got a picture of the team of '85?

A. Yes, sir, if I could just find that. Cahill and Hawkins and Twinam, Tub Wells, he came in '86, I believe. Bagley came here in '86.

Q. Who was the manager in '85?

A. Well, Linn Creder, managed the team a part of '85. Will Sargent managed it a part of 85. They are both dead; they were sports; they are all dead. I am the only one sport now out of that bunch that is living and living right, trying to live right.

Q. What do you mean by that expression, trying to live right? A. Why I am here on top.

Q. On top of the soil? A. Yes, and going.

Q. Still however keeping your sheets primed up to about three and a half, aren't you?

A. No, sir, about two and a half now.

Q. That is all you have had today, about two and a half?

A. Only had one.

Q. Only had one today?

A. Yes. Wouldn't mind getting another one if I could but not in Kansas.

Q. You keep the sole about worn off walking over to Drydale, don't you?

A. No, no, I haven't been to Drydale for about seven months. Wouldn't believe that, would you. If a man was to ask me where that sidewalk is built on that bridge, I wouldn't know on which side it was on, to tell you the truth about it; Drydale and I don't mix.

Q. It has got to be wider than that to mix with you, hasn't it?

A. Yes, sir, I go to Kansas City to get mine, I ought to have been down there yesterday, I suppose I would have got about half shot yesterday over the election; the way the election went I would have had a good time. Well, laying all jokes aside, that is the fact. No I haven't been over in Drydale for seven months, but I would like to go this afternoon. I think I will just lay off this afternoon.

Mr. Allen: Just answer the question.

Q. You are not putting it all down now, are you?

Mr. German: I want the record to show that Mr. Blakeney has been in conference with J. Coody Johnson, and that the witness has been rather drifting during the latter part of his answer and testifying with the rest of us.

Mr. Blakeney: I move to strike out from the record Counsel's statement; it is not necessary to cite the facts with reference to it, because I think it is irrelevant.

Q. Name the girls that were up at DeVore's place, what was the names, DeVore, up at DeVore's place?

A. Name them?

Q. Yes?

A. I can't name them now. Those two that were there Bee and Francis were sisters, and there was another one, oh, I can't call their names.

Q. Do you know when the DeVore's opened up there at that place? A. Not exactly, no, sir.

Q. Don't know the year? A. No, sir.

Q. Before you went to Chicago?

A. I think so, or it might have been while I was in Chicago, I can't say that.

Q. Now you are not pretending to try to say that you can recall after 30 years the dates of your visits to houses of prostitution? A. No, sir.

Q. In Leavenworth? A. No, sir.

Q. You just made an approximation of it? A. Yes, sir.

Q. You might be a month off, or might be longer?

A. No, I wouldn't be six months off, probably be four or five weeks off, but not six months off, because I was here all that time.

Q. Yes, you were here all the time, but couldn't be more than four or five weeks off?

A. No, in that neighborhood, might be off four or five weeks, something like that.

Q. Then you can say with absolute positiveness that Lillie White was on Seneca Street at least as late as the first day of January 1886?

> Mr. Allen: We object to that as not predicated upon any statement that witness made, or upon any testimony that this witness has given.

A. I won't say at least that late, but in that neighborhood. She was there in the fall of '85 and she moved in '85, early spring or the winter of '86.

Q. Then there would be six months difference between the fall of '85 and the spring of '86, wouldn't there? A. No.

Q. Well when do you refer to that she must have moved?

A. She might have moved in December, and she might have moved between December and March, and that is only about three months.

Q. Between December and March? A. Yes.

Q. Then you can say with positiveness that she did move between the first of December '85 and the first of March '86?

Mr. Allen: We object—I withdraw that.

A. No, I won't say that. I said she was there the fall of '85, what time she moved I can't say, because I wasn't there at the moving.

Q. Now then you can't fix the date within two or three or four weeks?

A. No, I can't because I didn't keep no tab on it; that is a long time ago.

Q. You can't even say she was there the 1st of November 1885? A. Yes, sir I can.

Q. You are sure of that?

A. Yes, sir, she was there in the fall of '85.

Q. I said nothing about the fall, I said the 1st day of November? A. That is fall isn't it.

Q. Will you say positively she was there the 1st day of November?

A. I think so, yes. Oh yes; I am pretty sure; yes, I wouldn't swear to that part of it either, so far as that is concerned; but she was there in the fall of '85.

Q. How long did you know of Lillie White being at that place before you took Bee over there?

A. I knew that for probably several months, I don't know.

Q. Had you been there?

A. I think I was there once previous to that, yes, I wouldn't swear to that either; I think I was though because I knew Lillie White, knew her personally; knew the man she was held up by.

Q. Who was keeping Lillie at that time?

A. Oh, I don't like to bring those recollections up; the man is dead, and what is the difference; I don't think it is necessary to tell those questions. The man is dead and gone.

Mr. Allen: That is answered it now.

A. Do I have to answer it. Of course he is dead and gone; she is dead; of course if I have to answer it I will answer it, but I don't want.

Mr. Hanford: I insist that you answer it.

Q. Everybody knows that; Dennis Jones knows who that was. You know who that was.

Mr. Allen: Don't talk to outside witnesses.

Q. Who was in her house at the time that she moved?

A. I wasn't there at the moving.

Q. How long were you there before she moved?

A. Oh, I don't know; I may have been there a month or so before she moved.

Q. Then you wouldn't know within a month of when she did move?

A. Yes, not just about a month, but something like that. She moved in—I don't know, she moved sometime between the latter part of '85 and the early part of '86, because I know I was down to her house on Choctaw Street in the early part of '86.

Q. You don't mean to say that there was ever a month passed that you weren't at Lillie White's house during that time? A. Yes.

Q. A whole month?

A. Yes, three months one time I didn't go at all.

Q. That was when you were in Chicago, wasn't it?

A. Sir.

Q. That was when you were in Chicago, wasn't it?

A. No, sir, I was sick.

Q. Sick?

A. Yes, wasn't feeling very good and didn't go out.

Q. When was that? A. The winter of '85 and '86.

Q. Were you treated by a doctor? A. I was, yes, sir.

Q. Who treated you? A. Doctor Brock.

Q. Is he dead? A. All these doctors are dead.

Q. He is dead? A. Yes.

Q. Where did you get your drugs?

A. Got my drugs from Fritsche's.

Q. Across the street here?

A. It was up on Shawnee street then. Didn't need many drugs, I was just knocked out, was all.

Q. Have any prescriptions filled?

A. I believe I had three or four.

Q. Now when do you say that was?

A. I think that was in '85, winter of '85, or '86.

Q. The winter of '85 or early part of '86?

A. I had what they called the grippe, I didn't get out much, I wasn't in bed.

Q. Where was Lillie living now the last time that you visited her place before you got sick?

A. Well, the last time I was in her place I think was ——

Q. Before you got sick?

A. Now I don't know; if I remember right, let me see, November '85. In December I was away for two weeks, I think the last time I was in her place was in November.

Q. Just before you got sick? A. No, no.

Q. How long before you got sick?

A. Oh, I may have—to get down to that about that, I might know, I haven't got it here, but in '85 I made a trip to

Dodge City in '85, on the 7th day of December, I think it was, I left here and was gone two weeks to Dodge City.

Q. Where was Lillie living when you left now?

A. I think she was living there then.

Q. On Seneca?

A. Yes, and when I got back, after I got back from Dodge City, and I didn't go around then for a couple of months and then she was living down on Choctaw Street.

Q. Now when you left then on the 7th of December, she was living then on Seneca? A. Yes, I think so.

Q. When you came back you were sick? A. Yes.

Q. And didn't go about her place for a couple of months?

A. For a couple of months.

Q. And when you got well you went next time to the place——

A. When I got out, I wasn't so awful sick, but I didn't go around much—didn't go around much.

Q. After you did get out a couple of months she was living then out on Shawnee Street?

A. I think it was on Choctaw Street.

Q. Then she must have left in the—— A. Between times.

Q. Between December 7th and the 1st of March?

A. Yes, not December 7th, because I probably wasn't there for two or three weeks before I went to Dodge City.

Q. Then she must have left within two weeks of December 7th, or while you were gone to Dodge City?

A. At least that is the best of my recollection, but I made that trip to Dodge City and was gone two weeks, and I came back, and I didn't go out at all because I had a lot of business to attend to.

Q. What record have you made to show you went to Dodge City? A. Measurements on a book.

Q. Have you got that so you can give it to us?

A. I think so, if I didn't throw it away.

Q. I wish you when you leave the stand would get this book showing the measurements of Dodge City, and the measurements for the two suits that you sold this man that you gave this girl to—Bee?

A. That I can't find now, because I threw a whole lot of those books away since father died.

Q. You wouldn't say whether you threw that away or not? A. I wouldn't say for sure, I may have.

Q. When did your father die?

A. The 5th of January?

Q. What year? A. This year.

Q. You have thrown a lot of them away since that time?

A. Yes.

Q. Where did you throw them?

A. Threw them down in the cellar and the furnace, I guess.

Q. I wish you would make an examination and see if you have the measurements for those two suits now that you say you sold to the fellow who took Bee from you, and the measurements that you took at Dodge City?

A. I may have them.

Q. And the picture of the baseball club that you say you had for '85?

A. I may have that too, I wouldn't say for sure, I think I have them.

Q. If you have you will produce them, will you?

A. Allright, yes, sir.

Q. When Lillie White was living in this place Granny Letcher wasn't living there, an old negro woman?

A. I don't think so, I never saw anything like that.

Q. Wasn't any old negro woman in charge of the place?

A. Not that I know of.

Cross Examination by Mr. Cruce.

Q. Lets see if I understand you, Mr. Eckert. After you got acquainted with this Bee, or put up this bond for her, how many months was it that you stated that you were associated with her before Norris took her?

A. Oh, it was only two or three months.

Q. Two or three months?

A. Something like that, yes.

Q. And you weren't around this White girl's place much after that?

A. No, oh, I used to visit them all, as far as that is concerned.

Q. I know, but after that you didn't visit that place you didn't have any regular girl, anywhere, didn't visit that place any more than any other place of the same character? A. No.

Recross Examination by Mr. Hanford.

Q. You say you started going to her house when you had that room—girl down there? A. Yes, sir.

Q. That was the attraction? A. Yes.

Q. You had no occasion to go there?

A. I knew Lillie White previous to that though.

Q. You didn't frequent her place until the Randolph girl went down there? A. No.

Q. Up to that time you had been going to Lou DeVore's and didn't know anything about Lillie White's place until [] quit the DeVore's?

A. I went down there, and I was a little more at home there than I was at the others.

Redirect Examination by Mr. Allen.

Q. Where was this you say you went about the 7th day of December '85? A. Dodge City.

Q. And how long before that was it that you saw Lillie White?

A. I think about a couple of weeks before, it may have been a month.

Q. What was the name of this man whom Lillie White went with?

A. Well, I just refuse to answer that question, Judge. Do I have to answer that?

Q. Yes. A. Well, John Malone, was his name.

Witness dismissed until 1:30 o'clock P. M.

And thereupon, JOE A. ECKERT being recalled, further testified as follows:

Redirect Examination by Mr. Allen.

Q. Mr. Eckert, you were on the witness stand this morning? A. Yes, sir.

Q. And were asked by Mr. Blakeney to get some records? A. Yes, sir.

Q. The record of the sales made by you when you went over to Dodge City? A. Yes, sir.

Q. You said that you thought that was in 1885? A. '85.

Q. Have you that record now? A. I have.

Q. Have you it with you? A. I have.

Q. Let me see it.

A. There is a copy of these pictures that I said in regard to the base ball team in 1885.

Q. Well, just about the record?

A. That was one that he asked for too.

Q. Is this your book of original entries in which you entered——

A. That is the book that I brought back when I came back from Dodge City I——

Q. Is this the book of original entries where you entered the orders that you received at Dodge City on the occasion that you referred to?

A. Yes, sir, that is when I came back when I put those measurements in the book, part of them, it is not all of them.

Q. Refreshing your memory by that book, when do you now say that you went to Dodge City?

A. About the 7th or 8th of December.

Q. What year? A. '85.

Q. Who did you take orders from for clothes at Dodge City on that occasion, as shown by your books? A. Well——

Q. Just read off the names there?

A. I don't have to read them off that book. The first man I sold was Ben Daniels, and then I sold Joe Northcrab, I sold Lou Wallace, I sold George Reynolds. Jim Kellev, Neal Brown, Bill Pilgran, E. F. Kellog, Roy Drake, Lee Collins, and there was several others that I don't remember their names now, but I haven't got them all in that book, but I have got their names down in another book that I had, a further one previous that I had there.

Q. Most of the names that you have given are shown by this book? A. No, I won't say all of them.

Q. I say most of them are?

A. Yes, most of them are. You will find Ben Daniels, Northcrab, Warren——

Q. That is enough. Are the dates that you made these entries shown by this book, were these entries made on the dates that this book shows they were made?

A. They were made after I got back.

Q. How long after?

A. Just about the same day that I got back, that was about the 20th or 21st, I guess, of the months. I left here on the 7th and was gone two weeks.

Q. Was that in '85? A. '85, yes, sir.

Q. What date does the book show you made the entry?

A. I guess it is '85, I don't know.

> By Mr. German: Let the record show that the witness had not the book in his hand when he made that answer.

Q. When I ask you about the entry, refresh your memory by the book, Mr. Witness, what date does the book show you made those entries? A. '85.

Q. What date?

A. This was—— That was before that, previous. If you will get the book there and look over on the other side, you will find out the dates of these measurements was later.

Q. Well, what date?

A. The 26th, you will find that these measurements——

Q. 26th of what? A. December.

Q. What year? A. '85.

Q. Is that book in the same condition now that it was in then?

A. All except the outside cover is off of it, it has never been changed.

Q. You testified this morning about a ball team that you had a picture of, the team of '85? A. Yes, sir.

Q. Have you the picture now of the team of '85?

A. I have the—— This is the wind up of the '85 team, and they came here in '86 and got their picture taken; in the latter part of '86 there wasn't but two men of that team in the ball team of '86. This was the '85 team and they were lined up in the spring of '86.

By Mr. Hanford: I object on the ground that it is not responsive to the question.

Q. Don't make any further explanation than is necessary in order to answer the question. Mr. Eckert, you say that that picture that you have now, at this time being examined by counsel for Mr. Page, is a picture of the team of '85? A. Yes, sir.

By Mr. German: We tender to counsel for the defendant, the book and the photograph for examination.

By Mr. Hanford: You don't mark them in evidence, Mr. German?

By Mr. German: No.

By Mr. Cruce: Mark the photograph, please, sir. (Marked Defendant's Exhibit 2).

Cross Examination by Mr. Cruce.

Q. Defendant's Exhibit 2, is a photograph about which you have been testifying, is it? A. I think so.

Q. And you state that is a photograph of the team in 1885?

A. That is the balance of them, some of them that was taken in 1886, according to the way that picture was taken in the spring of '86.

Q. Will you find something on that card that indicates that it was taken in the spring of '86? A. Will I?

Q. Yes, sir, look at it and see what there is on it to indicate that it was taken in the spring of '86?

A. Yes, sir, Leavenworth Red's of 1886.

Q. What is there on that that indicates that photograph was taken in the spring of 1886?

A. Because I—— There was a bunch of those boys, I will say this: Bagley was in Klinely's place, Swartzell in place of these two batteries, Robinson was in here, only at the last turned out of the bunch; this one wasn't here, Cahill wasn't here, and we had a new team altogether in the latter part of '86.

Q. You took that photograph?

A. No, sir, I didn't, I am not a picture taker.

Q. Was you present when it was taken?

A. No, sir, but I know it was taken.

Q. You have sworn now that this picture was taken in the spring of 1886, haven't you?

A. No, sir, I don't swear it was taken then.

Q. What are you doing, you understand you are under oath when you swore a moment ago?

A. I said I thought the picture was taken in 1885.

Q. You swore you thought it was taken in '85?

A. No, sir.

Q. Didn't you swear a while ago that this picture was taken in the spring of 1886? A. I didn't swear that.

Q. Well, do you say so?

A. I said it must have been taken in the spring of '86, because in the fall of '86 none of these fellows were in the team at all. O'Donnell, and all these fellows were not in the team at all. I can prove——

By Mr. Cruce: I want to introduce that picture.

Q. How many times have you been to Dodge City to take orders for your tailoring establishment? A. Once.

Q. Only in 1885? A. I went once, yes, sir.

Q. And that was on—— A. December, '85.

Q. What time in December?

A. The first part of the month.

Q. What names were there that you gave just a few moments ago?

A. Ben Daniels, Joe Northcrab, Lou Warren——

Q. Pick out Ben Daniels?

A. You can find the name there.

By Mr. Allen: Find that, Mr. Witness.

Q. Find the first name that you have just mentioned.

A. Right here?

Q. What name is it? A. Ben Daniels.

Q. I will ask you if that doesn't appear under the date of December 26th? A. It does, yes, sir.

Q. Why did you swear then that it was in the first part of December?

A. I didn't swear that, I put that down there on the first part of December, I left here the first part of December, and I came back, and when I got back I put these names down.

Q. You didn't make these entries then when you took your orders?

A. No, sir. When I got back I put them down, I didn't carry that book with me when I went out on the trip.

Q. Did you keep all of these entries in your head then and put them down in your book when you came back?

A. No, sir, I had a smaller book, measuring blank that we used to carry.

Q. These measuring blanks were the entries made at the time you took the orders? A. Yes, sir.

Q. You were wrong a while ago when you swore this book was a book of original entry, were you?

A. No, I wasn't wrong.

By Mr. German: I object on the ground that the witness is not qualified as an expert lawyer, and therefore not qualified to know the meaning of the term "book of original entry."

Q. Did you answer on direct examination some few moments ago that these were the original entries? A. No, sir.

Q. You did not?

A. I don't think I did. They were the entries after I got back from the trip.

Q. What do you understand by original entry?

A. Now, you are too strong for me, because I don't understand that. Original entry I suppose when I took the measure and put it down, is that the original entry? If that is it, then this is not the case at all because I put them down after I got back.

Q. Whatever name besides Hagerman, did you take over there?

A. I didn't mention Hagerman's name at all there.

Q. Will you look on this book then for the name of L. C. Hermann? A. Yes, I will look on that.

Q. And tell what date you took that order?

A. There is L. C. Hogmer, I didn't take that order at all.

Q. It appears on your book, doesn't it as an order?

A. Yes.

Q. Taken on the 26th day of December?

A. I know that probably was when I got back. Ben Daniels was the first order I took at Dodge City and I brought back and put on this book.

Q. Turn to a page on that book where the name Ben Daniels appears? A. Right next to it.

Q. Where did Houserman live? A. Lived in town.

Q. What town? A. Leavenworth.

Q. This entry then that you are testifying about is an original entry, the name of Ben Daniels, of Fort Dodge, or Dodge City, and L. C. Houserman, of Leavenworth, representing both orders to have been taken on the 26th day of December '85? A. Yes, sir, according to that book.

Q. Is there anything on this book that indicates where Ben Daniels lived?

A. No, sir, but everybody knew where Ben Daniels lived, anybody that knew him at all.

Q. Where did he live? A. In Dodge City.

Q. There is nothing to suggest in this book where he lived is there? A. Not according to that, no.

Q. You are relying simply upon your recollection as to where he lived? A. Yes, sir.

Q. What other evidence have you?

A. I have got it in my mind because I took his measurement in Dodge City, and everybody that ever knows of Ben Daniels, knows that he lived in Dodge City.

Q. I say you are relying upon your recollection as to where Ben Daniels lived?

A. No, sir, not relying on my own recollection, but relying on my own personal measurements.

Q. Where did White live?

A. Ain't got no White there.

Q. Whitelaw?

A. Lived in Dodge City, lawyer there in Dodge City.

Q. What day of the month did you take this order?

A. About the same day I said, between the 8th and 9th of December up until the 25th I took all those measurements.

Q. You took orders there from the 7th or 8th of December up until the 25th of December?

A. I think in that neighborhood, I won't say up until the 25th, but when I came back I put these measurements down, I came back home the day before Christmas or a couple of days before that, and I put these measurements down in the book.

By Mr. Cruce: If the Court please, we want to introduce this book, pages 220, 221, 223, and 224.

By Mr. Allen: No objection. The pages offered in evidence are torn from the book in which the pages are contained.

Q. Where did Mr. Tom Welsh live? A. Tom Welsh?

Q. Yes? A. He lived in Leavenworth at that time.

Q. Leavenworth?

A. Yes, sir? That is previous to these measurements.

Q. His name appears under date of December 25th?
A. Yes, sir.
Q. Where did D. C. Milton live?
A. He lived at Dodge City.
Q. Where did Neal Brown live?
A. Anybody that lived in Kansas, Dodge City, of course.
Q. Where did John Rawlins live? A. Dodge City.
Q. Where did James H. Kelley live?
A. Old Doc Kelley lived in Dodge City, was Mayor of Dodge City four years. Old Jim Kelley—Harve Kelly, as I called him, he was my best friend.
Q. Where did George Anderson live? A. Dodge City.
Q. George Reynolds? A. Dodge City.
Q. Jack Keeler? A. Dodge City.
Q. Sam Blonger? A. Dodge City.
Q. Where did E. R. Garland live? A. Dodge City.

Redirect Examination by Mr. Allen.

Q. Mr. Eckert, you say you have lived here since you were three years old? A. Yes, sir.
Q. Have you ever been away for any length of time except the time that you were in Chicago?
A. Yes, two or three occasions.
Q. Short trips? A. Yes.
Q. Mr. Eckert, have you ever been arrested in your life?
A. Arrested?
Q. Yes?

By Mr. Cruce: We object to that as immaterial, if the Court please.

A. No. By Gosh! I never was. Thank Goodness, I never was!

(Witness dismissed).

Mr. Cruce: We have no objection to the introduction of this exhibit.

Mr. German: That is Government's Exhibit A-93.

The Court: All right if you gentlemen have no objection I will admit it.

And thereupon, WILLIAM JACKSON was produced, sworn and examined as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. William Jackson.

Q. Where do you live? A. Fort Leavenworth, Kansas.

Q. How long have you lived there?

A. I have been in Fort Leavenworth ever since '61.

Q. Sixty one? A. Yes, sir.

Q. What has been your business there, your occupation or profession?

A. Well, I have been driving a team for the prison since seventy three, first went to work in the Quarter Master's department in seventy and was transferred to the prison department in seventy three.

Q. Do you have charge of the Commandant's stables?

A. Now, yes, sir.

Q. Mr. Jackson, were you living there in eighteen eighty three, four, five and six? A. Yes, sir.

Q. Did you know Herbert Grodevant?

A. Perfectly well, yes, sir. Lived a few doors from him.

Q. You lived how far from Herbert Grodevant's?

A. Just the second door.

Q. I hand you Government's Exhibit A-79, which is a sketch, and ask you where your house was located with reference to the home of Mr. Grodevant?

A. Right here. I lived in the second house. My brother lived in the first house next to Mr. Grodevant and I lived in the second.

Q. Where were you working at that time with reference to your home?

A. Right down in here, right in front of Mr. Grodevant is the prison corral.

Q. Just in front of Herbert Grodevant's home?

A. Just straight west of Mr. Grodevant's a hundred yards.

Q. What is that community known as? A. Bluntville.

Q. Was it known as Bluntville at that time? A. Yes, sir.

Q. How many families lived in Bluntville, about how many? A. About twelve or fourteen families.

Q. Was that inside of the Post?

A. Well, it was just north of the Post joining the prison wall.

Q. Was it a part of the Government Reservation?

A. Yes, sir, yes, sir.

Q. You were married at that time in 1884, '5 and '6?

A. Yes, sir, indeed before that time.

Q. Was Mr. Grodevant married?

A. Yes, sir, he came there after I moved there and he was married.

Q. Where do you live now with reference to where Grodevant lived then?

A. I live just north of that in the same house that Mr. Grodevant lived in then.

Q. How long have you lived in that house that Mr. Grodevant lived in at that time? A. Some twenty years.

Q. Were your family and the Grodevant family friendly?

A. Yes, sir.

Q. Did they visit each other at that time?

A. Well, we would all gather out in front on the lawn, always very friendly.

Q. Do you remember the occasion of an Indian girl coming to work for Mr. Herbert Grodevant in 1884? A. Yes, sir.

Q. Who was that girl?

A. Well, as we used to know her, Indian Minnie; an Indian girl, some used to call her the Indian girl and some used to call her Indian Minnie.

Q. How long did she stay there in the Grodevant home?

A. Well, it was late in the fall of ’84, or in the—yes in the fall of ’84, and she was there during the winter of ’85, and along in the early spring.

Q. In the winter of ’84 and ’85? A. Yes, sir.

Q. And then how much longer?

A. Well, it was somewhere along in the spring time that she left there, and I don’t just remember what time it was; along in fine weather.

Q. About how long was she there, do you remember?

A. Well, I should judge it was something like a year, in that neighborhood.

Q. Were you thrown in company with her any during the winter of ’84 and ’85?

A. Well, nothing further than just in the winter months that the families around there would get together and go around the hill a coasting, and Minnie would join in with the crowd and sleigh ride down the hill on a bob-sled.

Q. How frequently would you see her during the time that she was at the Grodevant home?

A. Well, in the position that I was in driving that ambulance and express wagon, sometimes I would pass the Grodevant house four or five, and probably a half a dozen times a day, and I would very often see Minnie out in the yard, or out on the porch, or in the window, or something like that; dusting, or something like that.

Q. State whether or not she was in a family way at any time during her stay [] the Grodevant home.

A. No, sir; never was in it that I ever heard of it. Never heard that remark, no, sir.

Q. Did she give birth to any child during the time that she worked at Grodevants?

A. No, sir, never heard of it, never in the world.

Q. Was she ever in the employ of the Grodevants more than the one time, about a year that you say that you saw her there? A. Not to my judgment, no, sir.

Q. Did any of the other neighbors of yours have any servant girl at that time?

A. No, sir, they wasn't able to keep one; wasn't able to have a servant girl.

Q. State whether or not there was any other Indian girls around the Post there?

A. Well, we had one more in the neighborhood by the name of Hubbard—married to a sergeant there. She was a northern woman.

Q. She was married to Sergeant——

A. Sergeant Hubbard, yes, sir.

Q. Was any other servant girl than Minnie around the Post? A. Not in Bluntville—not in Bluntville.

Q. Did the Hubbard woman ever serve as a servant girl?

A. No, sir, no, sir.

Q. Did she ever work as a servant girl? A. No, sir.

Cross Examination by Mr. Stuart.

Q. Is your memory as good now or better than when your deposition was taken?

A. Well, sir, I think it is just about as good now as it ever was.

Q. I mean was your deposition taken in this case?

A. Yes, sir, I think it was.

Q. And was your memory as good then as it is now?

A. Yes, sir.

Q. And you knew as much about the case then as you do now? A. Yes, sir.

Q. Now, when you testified before, you testified that you didn't pay any attention to this girl, didn't you?

A. I said I never had any interest in her.

Q. Just answer my question. Didn't you say that you didn't pay any attention to her whatever?

A. Well, that is the way I meant it, I never bothered with the girl.

Q. Didn't you say that you merely glanced at her in the yard? A. That is all.

Q. And that is all you knew about it?

A. Yes, sir, I had been out sleigh riding.

Q. You didn't tell that before, did you?

A. They never asked me that question before.

Q. You were asked to tell all you knew about this case?

A. Those things came to me since.

Q. How did they come to you since?

A. Since I was on the stand, I was giving this matter this thought.

Q. Was there anybody helped you with it? A. No, sir.

Q. Who talked with you about it since you were on the stand?

A. I never talked with nobody, only some lawyers asked me if I knew her is all.

Q. But you have since giving your testimony, given the matter serious consideration? A. Yes, sir, I have.

Q. And in that consideration, it occurred to you that you had gone out sleigh riding? A. Yes, sir.

Q. During that period? A. Yes, sir.

Q. Now, let's see. You were asked on page twenty two hundred and seventy something—I don't know what it is, I will ask you if you didn't say this on direct examination: "I have seen her out in the yard and going back in the house, yes, sir.", answering Judge Allen's question? A. Yes, sir.

Q. "State whether you saw her very frequently?

A. Well, I can't say just how often it would be; just whenever I would be passing there. If she was out, I naturally saw her, you know, not paid any attention her at all, just merely seeing somebody in the yard." Did you swear to that?

A. Well, I knew it was her.

The Court: Did you swear to that?

A. Yes, sir, I seen her in the yard.

Q. "During the time that you saw this Indian woman, state whether or not you ever saw her showing any signs of being in a pregnant condition?" A. Never did.

Q. Wait a minute.

The Court: Wait until he gets through with the question.

Q. I am asking you if you swore to this: "No, I never did; never noticed a thing of that kind. No, sir, I never did. I never noticed her being that way. I never heard of it." Is that what you testified to? A. Yes, sir.

Q. Now, on page 2376, Mr. Jackson, did you testify to this: "Mr. Jackson, you had no reason to question how long Indian Minnie worked for the Grodevants, did you? A. Why, no, gentlemen, I wasn't interested in Indian Minnie at all; I never paid any attention to the girl. I seen her." Is that what you said? A. Yes, sir.

Q. Again: "She was simply a servant in the house of the Grodevants and your relations were with the Grodevants and not with their servants, that is true, is it not? A. Yes, sir. Q. You made no attempt to employ her or keep track of their domestic affairs? A. None whatever. Q. Or observed their servants? A. No, sir. Q. Or their physical condition as to whether they were in pregnancy? A. No, sir. Q. You didn't pay enough attention to the girl to look into any such a matter? A. I was not interested in the girl at all." You swore to that, didn't you? A. Yes, sir.

Q. Now, again: "You simply remembered that the Grodevants had a servant girl named Indian Minnie and she worked there along about those years? A. Yes, sir, along about that time. Q. And you didn't keep track of her goings and comings, and what her habits were? A. No, sir. Q. Or how long she was there or whether she was away for some time? A. No, whether she was away or went back, I never paid any attention to her. Q. Where she went after she left, you didn't know? A. No. Q. And where she came from you didn't know? A. No, sir. Q. Your observation of her was in the way you describe, casual observation of a neighbor's servant? A. That is all; just passing by and happened to see the figure out in the yard and maybe happened to glance that way. Q. Do you think you would know her if you saw her again? A. I don't believe I would know her; I don't think so. That is quite a while ago and I presume she was quite a young girl at that time and now she must be quite large and there is lots of changes in that time. I don't believe I would know her if I was to meet her out on the street." Now, did you testify to that portion? A. Yes, sir.

Q. And this sleigh ride of yours, you have remembered since you left the stand? A. Yes, sir.

Q. As a matter of fact, you didn't pay any attention to that girl at all, did you?

A. Not to any great extent, no.

Q. You had no interest in her?

A. Not a bit on earth.

Q. And you had social acquaintance with her, did you?

A. Not a bit.

Q. Not a bit in the world? A. No, sir.

Q. And you didn't notice her as to whether she was pregnant or not, did you?

A. Well, I never noticed anything of that kind. If she had of been, I probably would have known it.

Q. If she would have shown it, you would have known it?

A. Yes, sir.

Q. But you don't say she was not pregnant while she was there, do you?

A. No, sir, I don't say she wasn't; I don't think she was.

Q. You never paid any particular attention to that matter at all, did you? A. No, sir, not like that.

Q. And when you state that you simply glanced at her in the back yard from time to time in a casual way, that is your testimony now, in addition to what you have said with reference to the sleigh riding? A. Yes, sir.

Q. And that is the only addition that you want to make to your testimony? A. That is all.

Redirect Examination by Mr. Allen.

Q. You were married, you say at that time? A. Yes, sir.

Q. How many children have you? A. I have eight.

Witness dismissed.

And thereupon, JOHN M. PURCELL, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. John M. Purcell.

Q. Where do you live? A. Leavenworth, Kansas.

Q. What official position do you hold at this time?

A. Captain of the watch, United States penitentiary.

Q. At Leavenworth?

A. Leavenworth, Kansas, yes, sir.

Q. How long have you held that position?

A. Since December 1909.

Q. Were you ever an enlisted—were you ever enlisted in the Army? A. Yes, sir.

Q. When did you enlist?

A. On the 3rd of November, 1881.

Q. Where were you at that time? A. New York.

Q. Did you thereafter go to Fort Leavenworth?

A. Yes, sir.

Q. When did you go to Fort Leavenworth?

A. The 16th of December and I left Davis Island about the 12th of December and got into Leavenworth, Kansas, on the 16th of December, 1881.

Q. What were you doing in 1884-5?

A. 1884, from December 16, 1881, until the 6th of October, 1884, I was in Company A, Fourth United States Infantry, at Fort Leavenworth, Kansas, and I was transferred to the provost guard, general service, on the 6th of October, 1884.

Q. And continued in that service through 1885 and '86?

A. Well, until November 2nd, 1886, I was discharged and re-enlisted on the 2nd day of December, 1886, in the provost guard, and remained continuously in the service there until the 1st day of September, 1885, when I was mustered out of that service to take the present position as a guard at the United States Federal Penitentiary.

Q. And you were guard then, at the United States Penitentiary until you became a captain of the guard?

A. Until December 1909.

Q. So you have been in the Government service continuously since 1881? A. Yes, sir.

Q. During the year—years 1884 and '85, did you see an Indian girl at the home of Herbert Grodevant?

A. Yes, sir.

Q. Did you know Herbert Grodevant? A. Yes, sir.

Q. You knew where he lived?

A. Knew where he lived, yes, sir.

Q. State the circumstances under which you saw that girl at that time?

A. We were detailed to take some prisoners out to do some kind of repair work.

Q. Talk a little louder, Captain.

A. We were detailed to take some prisoners out to do some kind of repair work and we took them to Mr. Grodevant's house. There was another guard and myself. He was on the north side of the house—a little north and west, towards the barn and I was on the south side of the house, on a little raise, and the men were employed doing some work there, the nature of it, I do not know. They had some pieces of timber and some workmen were there and this Indian girl came out on the back porch of Mr. Grodevant's house, walked along the porch to the end of the porch, and looked around and had a saucer in her hand, or a plate, and she threw some article out of it onto the ground, looked around, looked toward the west or toward the east, and then went back in the house. I would see her several times passing in and out during the day; that is around the house there, just coming out of the door.

Q. What time of the year was that, Captain?

A. Well, that was in the—I should judge that was in the early summer.

Q. What year? A. In 1885.

Q. Did you see her after that during the summer of 1885?

A. I seen her frequently on the street, on the walk, passing around in company with a man.

Q. Where? At the Fort? A. At the Fort, yes, sir.

Q. What man did you see her with?

A. Well, he was a solldier, I didn't know his name at that time.

Q. Did you learn his name later? A. Yes, sir.

Q. Who was it? A. I learned his name was Oliver.

Q. Did you ever [] Oliver with her around the Grodevant's, or inside of the Grodevant home? A. No, sir.

Q. Where would you see them together?

A. Back of the prison wall where Mr. Grodevant lived, there was a walk that came around the west side of the prison and around the Commandant's residence, towards the front of the prison, and over around the corner of the hop room into the main post. I saw them, I think, on three different occasions, coming up there late in the evening, walking together.

Q. Was that in the prison section?

A. It was on a walk between the prison section and the Post section.

Q. It was on the Government Reservation?

A. It was on the Government Reservation.

Q. How was Minnie dressed usually, was she neat or otherwise?

A. Always dressed neat, the first time I ever saw her, she was dressed neat and trim.

Q. State whether or not she was in a pregnant condition at any time when you saw her.

A. Not to my knowledge she was not in a pregnant condition.

Q. Was any appearance of pregnancy?

A. Nothing to indicate it to me.

Q. Do you remember the building there in the Post called the Bats Nest?

A. Yes, sir; called the Beehive. We called it the Bats Nest or Beehive.

Q. What was it?

A. It was the quarters occupied by teamsters and some families that lived in there that was employed around the Post. There was a lady that kept a boarding house there for the teamsters; what they termed the teamsters mess.

Q. Did you ever see Minnie at that place with Oliver?

A. No, sir, I never seen her at the place with Oliver but I seen her up on the porch there and going into that place on several occasions.

Q. Do you know whether Oliver stayed there or not?

A. That I can't say; I never seen Oliver coming from there

Q. When was that in reference to the time that you saw her at Grodevants?

A. Oh, that was later on after I saw her at Grodevants.

Q. How much later?

A. Well, that was probably a couple of months later.

Q. Did you ever see her after she left the employ of Herbert Grodevants?

A. I don't know what date she left the employment of Grodevants.

Q. Did you ever see her after the fall of '85? A. No, sir.

Q. I hand you Government's Exhibit A-95, and ask you what it is?

A. That is the Grodevant residence at that time.

Q. Which part of the residence?

A. Well, that is the front part here and this is the side view.

Q. I hand you Government's Exhibit A-96 and ask you what it is?

A. That is the front porch of the Grodevant residence.

Q. Can you point out the place where you saw Minnie from Government's Exhibit A-95? A. Along on that porch.

Q. It was on that porch that you saw her? A. Yes, sir.

Q. The first time? A. Yes, sir.

Q. How long did you say she was standing there on the porch at that time?

A. She came out, oh, probably a couple of minutes or three minutes.

Mr. Allen: We offer in evidence Government's Exhibit A-95 and A-96.

The Court: They may be admitted.

Q. Captain Purcell, I call your attention to Government's Exhibit A-79, where at that time did Herbert Grodevant live? Is the location of the home as shown upon that exhibit correct?

A. Yes, sir, this is the Grodevant residence, the Jackson residence—Henry and then William Jackson's residence; Fossman and Mrs. Hubbard's; Northwoods, Leonard's, Readman's and Collins. This is the present front here. This is Fokensteins; this is number 1——

Q. Number 1 is marked the Beehive; is that the house where you say you saw Minnie? A. Yes, sir.

Q. Going into several times?

A. Yes, sir. This is the walk here that came right along to the front of the prison, and over across here to the hop room; and they came this walk and crossed over and this is the Military Reservation.

Mr. Allen: We offer in evidence, the Government's Exhibit A-79. I believe that has not been offered before.

The Court: I think it is already offered in evidence, if not, it will be admitted.

Cross Examination by Mr. Stuart.

Q. Captain, how old were you at the time this transaction occurred that you speak of?

A. About twenty four years old.

Q. You had never known this Indian girl personally at all, had you? A. No, sir.

Q. And one day while you were walking by Grodevant's house you looked over there and saw an Indian girl standing on the porch for about two minutes?

A. I wasn't walking by the house.

Q. Well, you looked over there? A. Yes, sir.

Q. And saw her for about two minutes? A. Yes, sir.

Q. You had no particular interest in the girl did you?

A. No, sir.

Q. Didn't know her, merely glanced at her? A. Yes, sir.

Q. You found out afterwards that she was Indian Minnie? A. No, sir, I had heard of her before that.

Q. You don't mean to say, Captain, at that distance at twenty four years of age, your eye was so practiced that you could tell whether a woman was pregnant?

A. Yes, sir, it was.

Q. Your eye was good enough at that age? A. Yes, sir.

Q. Now, Captain, they were making some repairs on the Grodevant house weren't they? A. Some kind of repairs.

Q. Up stairs? A. I don't know what they were.

Q. Now, Captain, what time of the year was that, you can't be positive can you? A. It was in the early summer.

Q. Captain, I will ask you whether or not it may not have been about the first part of July after the beginning of the fiscal year? A. That I don't know.

Q. You can't say?

A. Well, I am more inclined to think it was in May or June.

Q. Did you testify before that you couldn't be positive about the date? A. Yes, sir.

Q. And it might have been after the beginning of the fiscal year? A. I don't think it could have been.

Q. But it was in the early summer? A. Yes, sir.

Q. You know that to be true, don't you? A. Yes, sir.

Q. Now, you saw her after that in the summer, didn't you? A. Yes, sir.

Q. What month? A. Along during the summer months.

Q. You saw her after that in July and August?

A. June, July and August.

Q. What time in June did you see her, Captain?

A. I couldn't say positively the date.

Q. Do you mean to say you saw her at all in the month of June. A. Yes, sir, I believe in the latter part of June.

Q. But you didn't see her towards the middle of June, you don't remember that? A. No.

Q. And you don't remember of seeing her at all the first of June?

A. No, sir. I don't remember at that particular time.

Q. You don't know how long, if she was away at all from Grodevant's, how long she was away?

A. I wouldn't know anything about that.

Q. Captain, she could have been away two or three weeks and you wouldn't know?

A. Yes, sir, I didn't go there every day.

Q. You had no interest in the girl?

A. None whatever.

Q. None whatever? A. No, sir.

Q. Had no personal acquaintance with her? A. No, sir.

Q. You simply noticed her as an Indian? A. Yes, sir.

Q. At the time you saw her at Grodevant's, the grass was green? A. Yes, sir.

Q. And the earth was covered with verdure, wasn't it?

A. Yes, sir.

Q. Captain, when did you first begin to go back through the years and try to remember these facts; when was it first called to your attention? A. In regard to this?

Q. Yes?

A. I was called on by some lawyer in regard to it and asked questions.

Q. And then it was you began to try to think as best you could? A. Yes, sir.

Q. What you saw? A. Yes, sir.

Cross Examination by Mr. Cobb.

Q. What did you say the soldier's name was you saw Minnie with? A. I learned his name was Oliver.

Q. I wish you would describe the personal appearance of this man Oliver?

A. Well, I saw him at a distance and in the evening. I believe he had a kind of dark mustache and he had a soldier uniform on and a campaign hat.

Q. About how tall was he?

A. Well, I judge a man about your height.

Q. What would you judge to be his weight?

A. Well, I judge him to be about a hundred and fifty pounds.

Q. Did you notice the color of his hair and his eyes?

A. No, sir, I was never that close to him.

Q. Was he inclined to be thin or fleshy?

A. Well, square built.

Q. A man my height weighing a hundred and fifty pounds would be rather tall wouldn't he?

A. Well, I judged that at a distance.

Q. Can you describe his complexion?

A. No, sir, I was never close enough to judge his complexion.

Q. You didn't know him personally?

A. Didn't know him personally, no, sir.

Q. Just saw him at a distance? A. Yes, sir.

Q. How did you learn his name?

A. Well, hearing some of the guards talking about it in connection with his leaving and I don't exactly recall what the conversation was.

Q. Was there some particular fact connected with his leaving the Post there?

A. No, sir, he was discharged I understood.

Q. About that time? A. Later in the fall.

Q. There was no particular significance you say to his discharge in any way? A. Only what I heard talking.

Q. Well, did you hear the talk at that time? A. Yes, sir.

Q. What was it?

A. In regard to Peterkin going with Minnie and that Oliver was discharged.

Q. He and Peterkin had had some trouble about Minnie?

A. Well, I don't know about that.

Q. Well, that is the reports?

A. No, that is not what I heard.

Q. Well, in what connection did his discharge have to do with his trouble with Peterkin?

A. I don't know that he had any trouble with Peterkin.

Q. I failed to understand you awhile ago?

A. I said that Oliver was discharged and that Peterkin was going with his girl.

Q. The discussion came up and that is how you learned his name? A. Yes, sir.

Q. You had never known his name before that time?

A. No, sir.

Q. And the matter of his relations with Minnie and Peterkin, relations with Minnie were discussed at that time?

A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. Captain Purcell, I hand you Government's Exhibit A-97 and ask you what it is?

A. That is a residence that a Mrs. Wood lived in; that is on Eighth and Osage on the corner—not Eighth and Osage but Eighth and Chickapoo.

Q. Anyway, it is the home that Mrs. Wood lived in?

A. Yes, sir.

Q. Is that the home that Mrs. Wood lived in 1886?

A. Yes, sir.

Q. Who lived in that home with her? A. I don't know.

Q. Did she have any daughters?

A. She had a daughter Maggie and a daughter Mary.

Q. Maggie, is that Margaret Morton? A. Yes, sir.

Q. And what is the other daughter's name?

A. Mrs. Allen.

Q. Did you in 1886, or did you ever hear of this Indian girl giving birth to a child at the home of Mrs. Wood?

A. Yes, sir.

Q. When, with reference to the time that you saw Minnie at the Post?

A. Well, it was about probably a year after.

Q. Did you ever hear of her giving birth to any other child than the one at the home of Mrs. Wood? A. No, sir.

Q. How many children have you, Captain Purcell?

A. Five, I am the father of eight children.

Q. Father of eight children? A. Yes, sir.

Q. Five living? A. Yes, sir.

Witness dismissed.

Mr. Allen: We offer the deposition of Patrick Collins, appearing in Mr. Penick's transcript of depositions at page 2279.

And thereupon PATRICK COLLINS being called on behalf of the United States and sworn under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name, age and place of residence?

A. Patrick Collins, sixty-eight, 606 Kickapoo, Leavenworth, Kansas.

Q. Mr. Collins, where did you live in 1884?

A. Fort Leavenworth.

Q. Fort Leavenworth? A. Yes, sir.

Q. Mr. Collins, did you know Herbert Grodevant?

A. Yes, sir.

Q. Where did you live with reference to Herbert Grodevant? A. Diagonally across the street from where he lived.

Q. And where is Fort Leavenworth with reference to the City of Leavenworth, is it close to Leavenworth?

A. Well, I should judge about close on to three miles.

Q. Do you know which direction? A. North.

Q. How far do you now live from Fort Leavenworth?

A. About three miles, I guess, close to it.

Q. How long have you been living where you now live?

A. Eight or nine years.

Q. Prior to that time, since 1884, where have you lived?

A. Since 1884?

Q. Yes, sir? A. I have lived in Fort Leavenworth.

Q. At the place where you were living when you lived diagonally across the street from Grodevant? A. Yes, sir.

Q. What position, at that time, did you hold with the government?

A. Quarter Master Sergeant and Provo Sergeant of the Military prison.

Q. What government position have you held since that time?

A. Captain of the Guard of the United States Federal Penitentiary.

Q. And are you now holding that position? A. Yes, sir.

Q. The penitentiary at Leavenworth, Kansas?

A. At Fort Leavenworth. It is on the reservation.

Q. On the reservation? A. Yes, sir.

Q. When were you married with reference to the time that Grodevant married?

A. I guess a couple of years after Mr. Grodevant married.

Q. Where did Mr. Grodevant live after the time of his marriage?

A. Right at the same place. When I got married and was living close to him.

Q. Do you know who built the house in which he lived at the time he was married? A. He built it himself.

Q. Mr. Collins, did you know an Indian girl called Minnie Atkins that worked for the Grodevant's?

A. There was a girl that they use to call her by that name.

Q. What did you say?

A. I say there was a girl living there that they called by that name.

Q. Do you know how long she stayed there with the Grodevant's?

A. I guess close to a year. I don't know exactly the date, but I should judge close to a year.

Q. Was your family and the Grodevant's closely associated? A. Yes, sir.

Q. You visited back and forth? A. Yes, sir.

Q. How frequently did you see this girl during that year?

A. O, I might have seen her once or twice or three times some days, and some days I would not see her at all.

Q. Was there ever any considerable length of time that you did not see her at all?

A. No, sir. May be a day or so would elapse without my seeing her.

Q. Did you know her during all of this time that she worked for the Grodevant's?

A. Yes. I seen her move around the yard and around the house.

Q. I mean—I don't mean by that that you met her or had any acquaintance with her, but you know who she was when you saw her? A. Yes, yes.

Q. Was she an Indian girl?

A. She looked to me to be that.

Q. State whether or not she was in any pregnant condition at any time during the time that she worked for Grodevants? A. Not to my knowledge.

Q. Did she ever appear to be in that condition?

A. Not that I know of, sir.

Q. Did you ever hear of her being in that condition or giving birth to a child?

Mr. Blakeney: We object, as same is hearsay and incompetent.

Mr. Hanford: Same objection.

A. I never heard a word about it.

Q. What kind of people were the Grodevants?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.

Mr. Blakeney: Objected to for the same reason and asking for a conclusion as to the competency of the witness.

Mr. Allen: Do not answer that.

Q. What position did Grodevants hold at the Fort?

Mr. Hanford: The same objection.

A. He was foreman of the carpenter shop.

Q. Do you know what his standing was among those who resided there?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial, calling for hearsay and conclusion of the witness.

Mr. Blakeney: The same objection.

Q. You may just answer that yes or no.

A. Well he——

Q. Just answer that yes or no whether you know what his standing was or not. A. Yes.

Q. What was his standing?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.

Mr. Blakeney: The same objection.

A. His standing was good.

Mr. Blakeney: I move to strike the answer as not responsive and as incompetent, irrelevant and immaterial.

Q. Was he a man of high class, medium or low class?

Mr. Blakeney: Objected to as asking for a conclusion of the witness, incompetent, irrelevant and immaterial and leading.

Mr. Hanford: The same objection.

A. High class.

Q. What was his wife in that respect?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial and as calling for a conclusion of the witness.

Mr. Blakeney: The same objection.

A. Very high.

Mr. Cruce: Without incumbering the record, I ask you to note the same objection for Mr. Page.

Mr. German: Just put down Mr. Cruce's statement.

Q. What kind of a community was this that you and Mr. Grodevant lived in at that time? A. Very good.

Q. With reference to the people who lived there?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial and calling for a conclusion of the witness.

Mr. Blakeney: We object for the same reason.

A. Very good.

Q. About how many houses were there in that immediate community?

Mr. Blakeney: We object as immaterial.

A. About eight or nine, or may be ten.

Q. Did that particular community have any name to distinguish it from the balance of the community?

Mr. Hanford: Objected to as leading.

Mr. Blakeney: We object as leading and immaterial.

A. Did it have what?

Q. Was it known by a name in that particular community than Fort Leavenworth?

A. Yes, it was known by the name of Bluntville. That was the name of the little place.

Q. Are you speaking now of that particular little community in which this nine or ten families live? A. Yes, sir.

Q. You say there were about nine houses in that?

A. There may be more or less now, I don't remember for certain.

Q. Were they occupied by private families? A. Yes, sir.

Q. On the reservation were there any other neighbors known by other names—a community known by other names?

Mr. Hanford: Objected to as immaterial.

Mr. Blakeney: The same objections.

A. Yes, there were some other little cluster of houses scattered through the Fort.

Mr. Blakeney: That is not responsive, and I move to strike out the latter part.

Q. Do you know about when Grodevants left that community?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial.

A. I can't say.

Q. Was there ever any other Indian girl or any other girl named Minnie who worked for Grodevants?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial and asking for a conclusion of the witness.

Mr. Blakeney: We object for the same reason.

A. That was the only one Indian girl that I know of.

Q. Have you been sick recently, Mr. Collins?

A. Yes, sir, I just got out of a sick bed yesterday.

Cross Examination by Mr. Hanford.

Q. When did you go to work at the prison?

A. In May, 1877.

Q. 1877? A. Yes, sir.

Q. Did you live in the house that you spoke of that you were living in in eighty-four? A. Yes.

Q. From eighty-seven until that time?

A. No, sir, no I didn't.

Mr. German: You mean from seventy-seven until that time?

Q. From seventy-seven until that time?

A. No, sir, I didn't.

Q. When did you move into that house?

A. I don't know when I did move into that house.

Q. Where did you live before you lived there?

A. I lived at the prison.

Q. At the prison? A. In the barracks.

Q. You were married in eighty-three wasn't you?

A. Yes, I was married in eighty-three.

Q. What was your wife's name before you married her?

A. Mary Ann Stanton.

Q. Did she live at the Fort?

A. She was living there for quite a while, but she was living here in town when I married her.

Q. You say there were eight or ten houses in Bluntsville when you lived there? A. I think about that.

Q. And Grodevants lived out on the bank overlooking the river, didn't they? A. No, sir.

Q. Where did he live?

A. He lived diagonally across the street from where I lived.

Q. What street did you live on?

A. Well, sir, it was only the one street and that had no name.

Q. Has Bluntsville been changed materially in the arrangement of streets and houses since that date?

A. A great deal.

Q. A great deal?

[A.] Yes, a great deal. Some of the houses have been torn down and others put up in their places.

Q. Did you visit in the Grodevant house often?

A. Yes, I visited several times.

Q. Did he visit in your house?

A. Well not very often, but he has been there several times.

Q. Your duties were at the prison, were they not?

A. Yes, sir.

Q. You went from your house to the prison? A. Yes, sir.

Q. To work? A. Yes.

Q. You were sergeant of guards at that time? A. Yes.

Q. How long were your tours of duty?

A. From seven o'clock until five.

Q. Seven o'clock in the morning until five in the evening?

A. Until five in the evening.

Q. How far is the prison from Bluntsville?

A. Well, the walls of the prison from where I lived to Mr. Grodevants would not be over a hundred yards, but going to the prison, it might be three hundred yards.

Q. You have to go up around the prison wall? A. Yes.

Q. Upon the hill? A. Yes.

Q. To go in at the front entrance? A. Yes, sir.

Q. And the prison is surrounded by a high stone wall?

A. Yes.

Q. That is right, is it? A. Yes, sir.

Q. From the prison yard you don't see down into Bluntsville?

A. No, sir, you cannot see anything when you are in the prison yard out on the outside.

Q. It is completely enclosed? A. Yes, sir.

Q. So that you can't see over the wall? A. No.

Q. Did you have any duties at the prison at night?

A. Not without probably called on on some special occasion.

Q. You spent the evenings at home? A. Yes, sir.

Q. What were your habits? Did you remain at home, or did you spend your evenings out?

A. Well sometime I would visit.

Q. In town? A. No, sir.

Q. You spent your time at Bluntsville?

A. The most part of it, yes.

Q. Who lived next door to you in Bluntsville?

A. O, there were several people, since I have been living there.

Q. In 1884 and 1885 who lived next door to you?

A. There was a man by the name of Mr. Redmon and a man by the name of Mr. Snider and a man by the name of Mr. Leonard and a man by the name of Mr. Purcell. I don't know whether there was any more or not.

Q. Who lived next door now, in 1884 and 1885?

A. Well, those two years, no.

Q. I am asking you who lived next door to you, in 1884 and 1885, who lived on the left?

A. I don't know which one of those men lived there in those years.

Q. Who lived next door to you on the left?

A. On the left?

Q. Yes?

A. Well that is just what I am talking about.

Q. Any one of those that you have named? A. Yes.

Q. Someone of these? A. Someone of those.

Q. Did they have servants working for them? A. No.

Q. Did you have a servant working for you?

A. No, sir, I did not.

Q. Did any one else in Bluntsville have servants working for them? A. No, none except Mr. Grodevant.

Q. Only Mr. Grodevant? A. That was all.

Q. Who was Mr. Curry? A. Mr. Curry?

Q. Yes? A. I don't know.

Q. Never heard of him?

A. I don't know anything about Mr. Curry, I think you mean Mr. Kingsley.

Q. Mr. Kingsley, who was Mr. Kingsley?

A. He was an engineer at the prison.

Q. Where did he live?

A. Kind of diagonally across the street from me.

Q. Where did he live with respect to Mr. Grodevant?

A. He lived on the same side next to Mr. Grodevant, on the side of the street north.

Q. Did he have any servants?

A. I think they did their own work.

Q. Did they have any daughters? A. Yes.

Q. How many?

A. Two. At least his step-daughters, and he had a daughter of his own.

Q. What were their names?

A. I think Maggie and Mary, and he had a daughter of his own.

Q. Did you know Maggie? A. Yes, I knew her.

Q. Did you know her very well?

A. Well, I spoke to her and often she was in my family.

Q. Just in passing? A. Yes, and often at her house.

Q. Do you know when she worked for Mr. Grodevant?

A. No, sir, I don't remember.

Q. You don't remember? A. No, sir.

Q. Do you know that she did not?

A. No, sir, I can't say.

Q. Do you know whether she worked for Mr. Grodevant in 1885?

A. I don't know whether she worked for Mr. Grodevant at all, sir. I haven't any recollection.

Q. Do you know when Minnie Atkins worked for Mr. Grodevant? A. Yes, I think it was in 1884 and 1885.

Q. 1884 and 1885?

A. I think it was a part of '84 and part of 1885.

Q. Was it the fall of eighty-four to the fall of eighty-*four*?

A. I think she worked the part of eighty-four and a part of eighty-five, if I am not mistaken.

Q. What makes you think that? Has anybody told you that recently? A. No, sir.

Q. How do you fix that date?

A. Well, I guess she came there the latter part of eighty-four, I think.

Q. How do you remember that year? What fixes that year in your mind that she came there?

A. Well, now, I am only giving you this as the best of my information.

Q. That is simply your guess at this time?

A. Yes, that is the best of my information. I am not giving you this as the facts.

Q. What other servants did Mr. Grodevant have?

A. None, that I remember.

Q. You can't remember any others?

A. No, sir, he might have had them, though.

Q. During that time that you say that Minnie Atkins worked there, from the fall of eighty-four to the fall of eighty-five, you are sure he did not have anybody else there?

A. Well not that I know of.

Q. None that you know of? A. None that I know of.

Q. You are sure that Minnie was not away from there though more than a day or a two at a time?

A. I don't know. Can't say.

Q. Can't say how long she was away from there?

A. No, sir.

Q. She might have been away from there a month and you might not have known it?

A. Well, yes, could have been.

Q. Wasn't it a fact that she was away from there for a considerable time and Maggie Curry, Mr. Kingsley's step-daughter, took her place at Mr. Grodevant's house while she was gone?

A. If she did, I don't know anything about it.

Q. Not a thing? A. No.

Q. You were not inquiring into Mr. Grodevant's domestic affairs, were you? A. No, sir.

Q. Were not keeping track of his back door, were you?
A. No, sir.
Q. You weren't watching his servants go and come?
A. No, sir.
Q. You were not intimate with his servants and watching them? A. No, sir.
Q. You were a home-loving man and attentive to your own affairs, weren't you? A. Exactly.

Mr. German: I don't object to counsel's question only as to the tone of his voice.

Mr. Hanford: Will you take that down?

Q. Now, Mr. Collins, what was this girl's name?
A. Which girl do you refer to?
Q. The girl that worked for Mr. Grodevant?
A. The Indian girl?
Q. Yes?
A. Well, all I know about her they called her Minnie.
Q. They called her Minnie? A. Yes.
Q. That is the only name you ever heard her called?
A. Yes, sir.
Q. Just Minnie? A. Yes.
Q. The same as they called any servant by their first name? A. Yes, the same as they called any servant.
Q. You knew that they had a servant named Minnie?
A. That was all.
Q. Did you observe and watch her closely?
A. No, sir, I did not.
Q. Just saw her in passing? A. That is all.
Q. Just saw her in passing back and forth?
A. That is all.
Q. Occasionally? A. Occasionally.
Q. Did you ever examine her closely to determine whether or not she was pregnant? A. No indeed.
Q. You were not looking for that?
A. No, I was not looking for anything of the kind.
Q. Then if she was in that condition you may not have noticed it?
A. Well, I may not have noticed it. It would be a pretty hard matter for her to be that way for any length of time and somebody in that neighborhood not notice it.

Mr. Blakeney: I move to strike out pretty hard and all subsequent to that.

Mr. Hanford: I move to strike that answer as not being responsive and uncalled for.

Mr. Blakeney: I move to strike out all that after 'would be pretty hard' of the answer as incompetent, irrelevant, immaterial and hearsay, and not responsive.

Mr. Cruce: The same objection from Mr. Page.

Cross Examination by Mr. Blakeney.

Q. Mr. Collins, when did you say you were married?

A. I didn't say. I haven't got the year.

Q. You haven't got the year? A. No.

Q. Have you been married more than once? A. No, sir.

Q. Are you still living with the woman you married? Is she alive, in other words? A. Yes, sir.

Q. You are unable now to give the year that you were married in and you can state with some positiveness the year that you saw some servant working for the neighbor's family, is that true?

Mr. German: I object to that question on the ground that it is argumentative.

A. Yes, that is I cannot state positively you know, but the best of my information I am giving——

Q. This opinion is a result of the notoriety that this case has gotten in the last two months? A. What?

Q. This opinion, I say, is the result of the notoriety this case has gotten in the last few months. In other words, before you heard of this case, could you have recalled that you had [] a girl working for the Grodevant family by the name of Minnie? The year that you had seen her working?

A. Well, I just thought—when I was subpoenaed for this court here I give a guess about that time.

Q. When you was subpoenaed several days ago? I don't care for the date.

A. Well, it was the last month. I was subpoenaed today.

Q. You were subpoenaed before our adjournment last month? A. Yes.

Q. Had you ever talked to anybody before you were subpoenaed? A. About the case?

Q. Yes? A. No.

Q. I say you never had talked to anybody about this case? A. About this case?

Q. Yes, about this case.

A. Yes, I talked to him.

Q. Who did you talk to? A. I talked to Mr. Allen there.

Q. Judge Allen? A. Yes.

Q. When did you talk to him?

A. Few days before I was subpoenaed.

Q. He told you what the government was trying to prove, didn't he?

A. He came to my house and he asked me did I know anything about this Indian woman.

Q. Well, was that all he said?

A. Well that was about all as far as I know.

Q. Well he asked you if you knew anything about an Indian woman that worked for Grodevant in 1884 and '85, didn't he? A. Yes, he didn't mention no years.

Q. Didn't mention any years? A. No.

Q. You didn't know whether he was talking about the one that worked there in 1884 and '85, or '86 or '87 or when?

A. Well, when he commenced to speak about this Indian girl, well I commenced to think about the time she was working and those are the years——

Q. Tell us how your mind worked out. Give us the process of your mental conclusion?

Mr. Allen: We object to that as argumentative.

A. It would be just like if you asked me a question about some man here, if I knew some man in town and I would tell you that I did that you saw him and you asked me about the time it was or the year it was, I would get to thinking and then I would give you the best of my information about the time I thought it was.

Q. You had no fixed facts about what you could determine when Minnie worked there?

A. No, sir, not a bit. I happened to—never given her a thought.

Q. Then you had to go back some thirty-three or four years, some thirty years?

A. Yes, I had to go back until I got possessed of my opinion that that was the year that she was working.

Q. And you do not take much notice of servants being hired by the neighbors or the length of time they work, do you?

A. The time that servants are hired by neighbors?

Q. Yes?

A. No, and I could not swear—positively swear now that this was the exact time that she was working for them, for Mr. Grodevant.

Q. Well, you mean by the exact time that you cannot say whether it was in the fall of '84 or the winter of '85?

A. Or 1885. Now it may be 1883 for that matter, but I am giving you the best of my opinion of what I think.

Q. Did Judge Allen tell you or ask you if you know anything about this Indian girl, Minnie, that worked there for the Grodevants? A. Yes.

Q. Is that all that he said?

A. That is all that I can remember.

Q. Well did he say anything about Minnie, about Minnie except that one question?

A. Well he might have asked me where she was, or if I knew where she had been since she left.

Q. Did he ask you that?

A. No, but he may now, I can't tell you.

Q. You mean you are not positive about that?

A. No, no.

Q. This conversation occurred about a month ago and you can't remember positively about what took place in that?

A. No, I have not paid any attention to the thing at all. I did not even know what he was asking about.

Q. Did he ask you anything about how much Indian blood Minnie seemed to have in her? A. No, he didn't.

Q. Did he ask you whether or not she appeared to be an Indian?

A. Why, he asked me if I thought she was an Indian, yes. I think he did now, but I wouldn't say for certain.

Q. Your best recollection is he asked you that?

A. Well that is the best of my opinion—

Q. Did he tell you what he wanted you for a witness for?

A. No, he didn't tell me until he subpoenaed me.

Q. Yes, but didn't he tell what he was wanting to prove by you? A. No, he did not tell me anything of the kind.

Q. You didn't know until you took the stand whether he was going to ask you whether you had ever seen her pregnant or not?

Mr. German: I object to that question as argumentative and as calling for—as not being based upon the facts.

Mr. Allen: The witness never having testified——

Mr. German: Never having covered the matter in his inquiry.

Mr. Blakeney: I want to suggest that counsel is trying to pump the witness.

Mr. Allen: We object to that as improper and not justified by anything that we have said.

Mr. Blakeney: I want to especially note that now in the records.

A. Well he asked me if I had noticed her in that way.

Q. What did you tell him?

A. I told him that I hadn't noticed.

Q. And you hadn't noticed it? A. I had not, no.

Q. You knew that the government was trying to establish that Minnie did not have a child didn't you?

A. I didn't know anything about it until I came here what the government was trying to do.

Q. It was not explained to you? A. It was not what?

Q. It was not explained to you at all what the government was trying to do?

A. Nothing only what I had read in the papers.

Q. You had read it in the paper? A. Yes.

Q. Then you did know from the paper that Judge Allen was trying to prove that Minnie didn't have a child at that time?

A. I didn't know that Judge Allen was for the case or against the case until I came here to the court house.

Q. You didn't know whether Judge Allen was talking to you about it?

A. No, I didn't know that Judge Allen was prosecuting the case or whether he was——

Q. He told you what official position he held?

A. No, he did not.

Q. Did you ever talk to anybody else? A. W[illegible]?

Q. You about the case?

A. He said that some lawyer was looking or hunting up Minnie Atkins.

Q. When did you learn that some lawyer was looking up Minnie Atkins.

A. Just when Mr. Allen called me.

Q. That is the first time that you knew anything about it? A. That is the first time, yes.

Q. Who was with Judge Allen? A. Nobody.

Q. Nobody? A. No, sir.

Q. Did you ever meet Mr. McMillan?

A. I wouldn't know the gentleman.

Q. Did you ever meet a Mr. Cook?

A. I would not know him.

Q. Did you ever meet the handsome gentleman that sits behind you, J. Garfield Buell?

A. No, I don't know that I met him.

Q. Describe Minnie Atkins, will you, as you remember her?

A. I can't do it, as I never paid very much attention to her.

Q. What was the color of her hair? A. I can't tell you.

Q. What was her complexion?

A. Well, kind of red, like any other Indian.

Q. She was a pronounced Indian?

A. That is what they called her, what I heard everybody call her.

Q. Let's forget these callings, I didn't ask you that. From her appearance, as you remember her, was she a pronounced Indian? A. Well, I can't say.

Q. You could not tell by looking at her that she was an Indian? A. She looked like one.

Q. Looked like one? A. Yes.

Q. About what blood of an Indian did she have?

A. I can't tell you.

Q. She was not a full-blood? A. I can't say.

Q. About what size woman was she?

A. I can't tell you that, I hadn't paid attention enough for it.

Q. She always wore a mother-hubbard working around there?

A. She might have worn any other kind, so far as I know.

Q. In other words, you don't remember anything about the character of costume that she wore?

A. No, I do not. I saw her dressed the same as any other servant.

Q. Are you on active duty now, you say you are still Captain of the Prison Guards? A. Yes, sir.

Q. Are you on active duty? A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. Was Minnie Atkins a little woman or a large woman?

A. I can't tell you, sir, I didn't pay that much attention to her.

Q. You don't recall her appearance?

A. No, sir, I can't. I simply paid no attention to the woman at all.

Q. Mr. Collins, you say that I talked to you in your home about your recollection of this girl?

A. Yes, I think you made some remarks to that effect.

Q. Who was present when I talked to you?

A. I think it was my wife.

Q. Any one else? A. No.

Q. You——

Mr. Hanford: Mr. Examiner, has the rule been changed as to the appearance of parties in the room?

Mr. Allen: Do you mean Mr. Codding?

Mr. Hanford: Yes.

Mr. Allen: Let the records show that. Do you make objections to Mr. Codding?

Mr. Hanford: I object, yes.

Mr. Allen: For several weeks here——

Mr. Blakeney: We object to any speeches being put in the records.

Mr. Allen: For several weeks here Mr. Long has been permitted to remain in the room over our objections.

Mr. Lee Bond, who was not attorney of record was permitted to remain in the court room, having been employed by Mr. Page, and I want to say now that Mr. Codding is employed by me as attorney for the Creek Nation by authority of the Secretary of the Interior, and is associated with me for the government in this case so far in the taking of depositions here is concerned.

Mr. Hanford: Upon the statement of Judge Allen I will withdraw my objection on the same reason and consent to his being present for the same reason, that we have our objections to the presence of Mr. Meserve and Mr. Robinson and the other parties who are here in connection with this case in the co-operation with the government, and J. Garfield Buell.

Q. Mr. Collins, you say that you lived sometime after your marriage in the same community with Grodevant, and these other eight or nine people? A. Yes, sir.

Q. You were intimately acquainted with the people who lived in that community? A. Yes, sir.

Q. Knowing the Grodevants as you knew them, what would you say as to whether or not they would have permitted a servant to have remained in their employ after they had discovered that she was in a pregnant condition?

Mr. Hanford: We object to that as incompetent, irrelevant and immaterial, calling for a conclusion of the witness, and as improper re-direct examination.

Mr. Blakeney: I want to interpose the same objection that Mr. Hanford did.

Mr. Cruce: Mr. Page interposes the objection that it is incompetent testimony.

A. Why I don't think they would have retained her, I don't think they would keep her if they knew anything about it.

Mr. Blakeney: I move to strike out the answer as argumentative.

Witness dismissed.

Mr. Allen: We now offer the deposition of Margaret A. Collins, appearing at page 2298 of Mr. Penick's transcript.

And thereupon, MARY A. COLLINS, being called on behalf of the United States, being sworn, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name? A. Mary A. Collins.
Q. Age? A. Fifty-six.
Q. Where do you live?
A. 696 Kickapoo street, Leavenworth.
Q. You are the wife of Mr. Patrick Collins, who has just left the witness stand? A. Yes, sir.
Q. Mrs. Collins, when were you married?
A. On the 26th of November, 1883.
Q. Where did you live after your marriage?
A. I lived in Bluntville, Fort Leavenworth?
Q. Is that the community on the reservation at the Fort?
A. Yes, sir.
Q. About how many families lived in that community called Bluntville at that time?
A. O, about fifteen, ten or fifteen.
Q. Were they all private families? A. Yes, sir.
Q. Private residences? A. Private residences.
Q. Did you know Mr. and Mrs. Herbert Grodevant?
A. Yes, sir, I knew them very well.
Q. Do you know about when they were married?
A. Well, I think they were married about '81, but I am not positive.
Q. They were married before you were? A. Yes, sir.
Q. Were they living in that community when you were married and living in the house that you lived in for a long time? A. Yes, they were there.
Q. About how long did you live in that house?
A. About twenty years, twenty or twenty-one, about twenty-one, I think.
Q. Where did you live with reference to where Mr. Herbert Grodevant lived? A. In Bluntsville.
Q. I know, but on which side of the street from him?
A. On the east side, I think.
Q. He lived on the west side of the street? A. Yes, sir.
Q. Did you live straight across the street from him, or where? A. No, diagonally across the street.
Q. Did you know a servant girl that worked for the Grodevant's in 1884 and five?

Mr. Hanford: Objected to as leading.

A. Yes.

Q. What was her name?

A. Minnie, Minnie Atkins, I believe.

Q. Do you remember about when she worked for the Grodevants?

A. Well she worked for them in '84 and part of '85, I believe.

Q. About how long did she work for the Grodevants?

A. About a year.

Q. Did you and the Grodevants visit back and forth?

A. Yes, sir, quite frequently.

Q. About how frequently would you see the servant girl?

A. O, I would see her whenever she would appear, when I went there. Sometimes every day and sometimes every week, I saw her when I——

Q. You stated that her name was Minnie Atkins?

A. I think it was Atkins, Minnie, she was an Indian girl I know.

Q. Mrs. Collins, was she ever in a pregnant condition during the time she worked for the Grodevants?

A. Not to my knowledge.

Mr. Hanford: Objected to as incompetent.

Mr. Blakeney: The same objection.

Mr. Hanford: I move to strike the answer which was made before my objection could be interposed.

Q. Please state whether or not she ever appeared to be in a pregnant condition?

Mr. Blakeney: Objected to as leading and suggestive and incompetent.

Mr. Hanford: The same objection.

A. No, she never did.

Q. Do you remember the appearance of this girl?

A. I think she was a stout girl, about twenty-three or so, a quite robust girl, I don't know whether I remember just how she appeared.

Q. Did the other families in that community at that time keep servant girls?

Mr. Hanford: Objected to as immaterial and irrelevant.

A. Did the other girls keep servants?

Q. Did the other families keep servants?

A. I don't think they did.

Q. About how long did the Grodevants live in that community after they moved there?

A. Five or six years, I believe, I don't know which, I believe five or six years.

Q. During all of that time did you and Mrs. Grodevant visit back and forth?

A. Yes, sir, while they lived there we did.

Q. Did you ever hear of this Indian girl being in a pregnant condition, or giving birth to a child while she worked for the Grodevants?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial and calling for hearsay testimony.

Mr. Blakeney: We object, because it is leading, irrelevant and immaterial, and calling for hearsay evidence.

Mr. Hanford: And I want to object on the ground that it is leading.

Q. Please state whether or not you ever heard of this fact?

Mr. Hanford: The same objection.

Mr. Blakeney: The same objection and leading.

A. No, I never did. I never heard of it at all.

Cross Examination by Mr. Hanford.

Q. Did you visit with Mrs. Grodevant or with this servant? A. With Mrs. Grodevant.

Q. You didn't visit the servant?

A. No, of course, I didn't.

Q. You knew her very intimately?

A. Well, just to see her in Mrs. Grodevant's house. I never visited the servant.

Q. Were you in the kitchen?

A. Well, I went in the kitchen.

Q. What did you say this girl's name was? A. Minnie.

Q. Minnie? A. Minnie Atkins.

Q. Minnie. A. Yes, sir.

Q. That is what they called her?

A. That is what they called her.

Q. Did you ever hear her called anything else?

A. No, sir, just Minnie.

Q. Just Minnie?

A. Well, Minnie Atkins, they called her that.

Q. Called her Minnie Atkins?

A. Yes, sir, I think they did.

Q. You think they did, are you sure?

A. Yes, they called her Atkins.

Q. They called her by her full name?

A. They called her Minnie.

Q. The same as any other servant, by her first name?

A. Yes, sir.

Q. Then you can't say of your own recollection that her name was Atkins?

A. No, I think that is what they called her, Minnie Atkins, but I can't say now.

Q. Your memory is refreshed by the name in this case, is it not? A. Well, a little, yes.

Q. So that you know that the name Atkins was her last name? A. Yes.

Q. Just hearing about this case?

A. No, I think Minnie Atkins is what Mrs. Grodevant called her, but she always addressed her as Minnie. That was her name like any other girl's sir-name.

Q. Now who else in that neighborhood had servants?

A. Well, there wasn't anybody that kept servants regularly there then, but the Grodevants.

Q. Did Mrs. Grodevant always have a servant?

A. Not all the time.

Q. Did she have any other servants besides Minnie?

A. Yes, sir, she had two that I know of, one Francis Roff and another, Julia Forkay.

Q. How often did you see Minnie at Mrs. Grodevants?

A. I don't know just how often I saw her, but I saw her when she lived there whenever she would appear, I don't know just how often.

Q. You did not keep track of her going and coming?

A. No, sir, I didn't.

Q. And what she did? A. No, sir.

Q. You just remember that Mrs. Grodevant had a servant named Minnie? A. Yes, sir, yes, sir.

Q. Minnie Atkins? A. Yes, sir.

Q. That you heard that she was an Indian?

A. Yes, sir, I knew that.

Q. That she was an Indian girl? A. Yes, sir.

Q. Did she look like one? A. Well she did, yes.

Q. She was a large girl you say?

A. Yes, she was a large, dark complexioned girl, had Indian features.

Q. Kind of stout? A. Yes, sir.

Q. Did you ever examine her and notice her closely?

A. No, sir, I did not.

Q. You would simply see her the same as any other servant? A. Yes.

Q. That you would notice in the house? A. Yes, sir.

Q. Then you never looked especially to see whether she was in a pregnant condition? A. No, I did not.

Q. You did not look to see how she wore her clothes, or anything of that kind, did you?

A. She wore her clothes just like anybody else. She was kind of a slovenly like girl.

Q. Kind of loose and slovenly? A. Loose.

Q. How long did she work at the Grodevants?

A. I think about a year.

Q. About a year? A. I think so.

Q. During the time that she worked there about a year you know of any other servants that Mrs. Grodevant had?

A. She did not have any other servant then.

Q. Did anybody else ever work in her house during that time? A. During the time that Minnie worked there?

Q. Yes? A. I don't believe they did.

Q. Are you sure of that? A. I don't think they did.

Q. Would you of known it if they had?

A. Well, I think I would.

Q. Do you know whether or not Maggie Currie ever worked in her house?

A. Maggie Currie lived next door to her and she may have helped her out, but I don't think that she was hired to her.

Q. Isn't it a fact that Maggie Currie worked in her house in '85 for several weeks?

A. I don't know, she may have, I don't know that she was hired.

Q. Didn't she work for Mrs. Grodevant at different times in '85? A. I don't know. Maggie Currie?

Q. Yes, Mrs. Kingsley's daughter?

A. I know her very well.

Q. But you don't remember of her working for Mrs. Grodevant there at different times in 1885?

A. No, sir, I do not. I often saw her at Mrs. Grodevant's but I don't know that she hired her to work for her.

Q. Did you see her in Mrs. Grodevant's at the same time Minnie was there? A. No, I don't think so.

Q. Then you won't say whether Minnie was gone from Mrs. Grodevant's for several weeks in 1885, and Maggie Currie worked for Mrs. Grodevant at that time?

A. No, I don't know whether she did or not.

Q. You did not keep that close track of Mrs. Grodevant's affairs did you? A. No, I didn't I——

Q. You did not keep close track of Minnie Atkins?

A. I did not keep close track of any of them, only I knew when I seen them there.

Q. She might have been gone and you did not know anything about it? A. Yes, she might.

Q. Might have been gone for a month? Mrs. Grodevant was a good housekeeper, was she not? A. Yes, she was.

Q. She did lots of her own work didn't she? A. Yes, sir.

Q. She was known as a cook, wasn't she?

A. She was a very good cook.

Q. Minnie Atkins was there as a sort of helper, wasn't she? A. She did general house work.

Q. She was an assistant to Mrs. Grodevant? A. Yes.

Q. And Mrs. Grodevant took pride in doing her own house work, didn't she? A. Yes, sir, she did.

Q. And there were periods of time when she was by herself and did all of her house work? A. Yes, she did.

Q. You have not kept track of those times and periods?

A. No, I don't know when she was without help, but she kept servants.

Q. They gave her a great deal of annoyance, didn't they?

A. She didn't complain.

Q. There were times when they were gone?

Mr. Allen: We object to that question as not based upon the evidence, that this witness has given and as testimony of counsel and not of the witness.

Q. You don't remember those periods of times when they occurred and what year or month? A. No, I don't.

Q. So you cannot say how long Minnie Atkins was gone or stayed away?

A. She only worked there about a year. I don't think—she was gone hardly any time while she was there.

Q. Are you positive of that?

A. Well, I didn't notice her around her after a year or may be in that year.

Q. But in that year are you positive that she may not have been gone?

A. No, I am not positive as to how many days she was gone.

Q. You did not keep that close track of her?

A. No, I did not keep that close track of her, or anybody else that she had.

Q. You did not attempt to keep track of Mrs. Grodevant's domestic affairs, the affairs of her servants? A. No, I did not.

Q. Mrs. Grodevant was a very kindly woman?

A. A very kind lady.

Q. And very good to her servants?

A. Yes, sir, she was.

Q. Took a great deal of interest in them, didn't she?

A. Yes.

Q. Mr. Grodevant was employed at the prison, was he not? [A.] He was an architect there.

Q. At the prison? A. Military prison, yes.

Q. In the carpenter department? A. I think so.

Q. Who did the work around his house, the heavy work?

A. He had a parole man.

Q. Parole man? A. Yes, sir.

Q. He worked around there? A. Yes, sir.

Q. Who composed Grodevant's family?

A. Mr. and Mrs. Grodevant?

Q. Just the two? A. Yes, sir.

Q. They lived there during those years that you spoke of, 1885?

A. Yes, 1883, '84 and '85, and I think they moved there in 1889 or '90, I can't say what year.

Q. Until their children were born they lived alone?

A. Well, they had no children when they lived at the Fort.

Q. You are sure there were just the two?

A. Just the two and his brother stayed with them part of the time, Mr. Frank Grodevant.

Q. How long did he stay with them?

A. I can't tell you. He stayed four or five years, I think.

Q. Then according to your recollection, there were periods of time when the only servants that they had was this parole and trusty working around? A. Yes, sir, that was all.

Cross Examination by Mr. Blakeney.

Q. Mrs. Collins, who was that parole man?

A. O, I don't know who he was, a prisoner, some prisoner.

Q. White or black?

A. Well, I can't tell you, nearly always white.

Q. Ma'am?

A. White prisoner, I believe, nearly all the time. I never paid any attention to the prisoners.

Q. Same prisoners?

A. O, no, they would just come for several months at a time and then would have a new one.

Q. The prisoner would not stay at the house at nights?

A. No, he would not stay at the house at nights, he came in the morning.

Q. He came in the morning and worked during the day?
A. Yes, sir.

Q. The same prisoner did not work continuously, but they were changing from time to time? A. Yes.

Q. Do you know whether any prisoners were working there at the same time Minnie was?

A. Well, I suppose there was a prisoner there when Minnie was there.

Q. When you say 'suppose', I want your recollection. Do you know whether the prisoners were working there at the same time Minnie was? A. I don't know, I suppose there was.

Q. You don't recall, you mean? A. Yes.

Q. At the time you suppose they were there together, but you don't recall not?

A. Well, there wasn't more than a few times that they wouldn't have a prisoner, may be a day or two they would parole somebody else for them. They weren't very long without one.

Q. You paid no particular attention to these paroles than you did to the servants? A. No, sir.

Q. Did Mrs. Gredevant ever have any other servants besides Minnie? A. Yes, sir, two other girls.

Q. What were their names?

A. Francis Roff and Julia Forkay.

Q. Who was the first servant that you remember she had? A. Francis Roff, and I am sure she was——

Q. How long did Francis work for them?

A. I couldn't say, I don't know how long.

Q. Well about how long?

A. About a year or two, I guess.

Q. About a year? A. I think so and she married.

Q. Francis Roff was working there when you moved up into that neighborhood? A. Yes.

Q. And continued about a year?

A. I don't know how long.

Q. I said about?

A. Yes, about, she must have left there that year that Minnie came in 1884.

Q. How do you know Minnie came in 1884?

A. Well, I remember when Minnie was there.

Q. Well, how long ago has that been?

A. About thirty-two years or three.

Q. Been about thirty-two years? A. Yes, sir.

Q. And you can remember after thirty-two years just the year a person worked for her as a servant for one of the neighbors?

Mr. Allen: We object to that as argumentative.

A. Do you want me to say yes?

Q. I want you to say whatever is true.

A. Well, I think I can.

Q. But you can't say when Francis Roff quit working?

A. No, I can't.

Q. You can't say how long she worked?

A. I think Francis worked there almost a year.

Q. Well you think that because you have got to put Minnie commencing there in the fall of '84?

Mr. Allen: We object to that as argumentative and improper.

A. It is very easy to find out how long Francis worked for her.

Q. I am trying to find out the best I can. I say you don't recall?

A. No, I don't recall the month she left or how long she was with Mrs. Grodevant, but she was there when I moved there.

Q. You put it about a year? A. Yes, I think so.

Q. In order that Minnie might commenced working in that same year?

A. No, sir, that is not the reason.

Mr. Allen: We object to that as incompetent, improper and argumentative.

Q. How long did you say Francis worked there now after you came?

Mr. Allen: We object to that as repetition.

Q. Answer the question? A. What was it?

(Question read).

A. I think about a year.

Q. And you moved up there when?

A. I moved up there in 1883.

Q. What time in '83? A. The 26th of November in '83.

Q. Did you know the Grodevants before you moved up there? A. No, sir, I did not.

Q. Then your recollection is that Francis worked right up to the time that Minnie came?

A. Well I don't know whether she did or not, they may have been without a girl for a month or so, I don't remember whether she did or not, but I know she was there, then Francis was there when I moved there.

Q. Francis a white girl? A. Yes, sir.

Q. Where did Francis stay when she was working for the Grodevants? A. Well, she stayed out there.

Q. At Grodevant's? A. Yes, sir.

Q. Where did Minnie stay? A. She stayed there too.

Q. Do you know where they stayed, what part of the premises?

A. Well, Minnie had a room upstairs, but I don't know just where it was, right over the kitchen, I think.

Q. Were you ever in that room?

A. I have been through the upstairs, yes, sir, in Mrs. Grodevant's house. I think it was right over the kitchen, I believe.

Q. Don't you know that Minnie had a cot that she made down in the kitchen and took it up in the day time?

A. No, I don't.

Q. And that was true that you never saw the cot?

A. I never saw the cot.

Q. After Minnie left there where did she go?

A. I don't know.

Q. Who constituted that village or community?

A. Why, civilians and men who were employed at the prison. Sergeants and men who were entitled to quarters, or at least had gotten quarters in the prison. Mr. Grodevant, Mr. Henry Jackson and Billy Jackson, and quite a number of enlisted men, I don't remember their names.

Q. You say Mr. Grodevant had a brother who stayed there part of the time? A. Yes, sir.

Q. Was he there when you came?

A. No, he wasn't there then.

Q. How long would you say after you moved there was it before he came?

A. O, a couple of years after, I think, I don't know just when Frank came.

Q. What is your best recollection?

A. About two years, I believe.

Q. About two years. Was he there—was Minnie working for them at any time at any time his brother was there?

A. I don't know whether she was or not.

Q. What is your best recollection about that?

A. Well I think she must have been. Minnie must have been there then.

Q. You don't have any recollection about it and you are reasoning it out, is that what I understand?

A. That is it, I don't have any reason to be interested in it.

Redirect Examination by Mr. Allen.

Q. You say you were married on November 26th, 1883?

A. Yes, sir.

Q. Was there ever any considerable period of time that you missed Minnie Atkins in the Grodevant's home?

A. No.

Q. During the time that she was working for the Grodevants?

Mr. Blakeney: Objected to as leading and indefinite.

A. I never missed her at any time.

Q. Was there ever any change in her appearance from the time that you first saw her until you last saw her?

A. I never noticed any.

Q. Mr. Hanford asked you about the habits and customs and the characteristics of these Grodevants, and especially of Mrs. Grodevant. What do you say as to whether Mrs. Grodevant would have kept this girl—— A. I don't think——

Q. If she had believed that she was not a good girl?

Mr. Blakeney: Objected to as incompetent, irrelevant and immaterial and based on a wrong conclusion, the apology is not positioned justification for the question and calling for hearsay and for an opinion of the witness.

Mr. Hanford: Objected to on the ground that it is incompetent, irrelevant and immaterial and called for a conclusion of the witness, and especially it is not competent.

Mr. Cruce: The same objection.

A. I don't think she would.

Cross Examination by Mr. Cruce.

Q. Mrs. Collins, when did you next hear of Minnie Atkins after she left the Grodevants?

A. I never heard of Minnie any more.

Q. Never did hear of her until this case?

A. Yes, I heard of her last summer. We saw in the paper——

Q. During all of that time you never heard of her having given birth to an illegitimate child?

A. No, sir, never did.

Q. Never did? A. No, sir.

Mr. Blakeney: I want to move to strike out answer to the last question of counsel as calling for hearsay, a conclusion incompetent, irrelevant and immaterial.

Redirect Examination by Mr. Allen.

Q. Did you know Lieutenant and Mrs. Stafford at Fort Leavenworth? A. No, I did not.

Q. Where was Bluntsville with reference to the officers' quarters?

A. Bluntsville was right back of the prison, right back of the prison wall and is a little village where the employees live.

Q. Was the military prison between the army officers' quarters and Bluntsville?

A. Well there was a part—you mean the officers of the prison?

Q. No, the army officers.

A. O, it wasn't in any part of the fort. The army officers were off quite a distance from the prison.

Q. Quite a distance from Bluntsville?

A. Yes, some of them were. The garrison was right near the prison though, but Bluntsville is——

Q. If Minnie Atkins went over to some officer's home to work you never heard of it?

A. No, I never knew of her only when she worked at Mrs. Grodevant's.

Q. Mr. Cruce asked you if you ever heard of her giving birth to a child after she left Grodevants?

A. No, I never did.

Mr. Blakeney: That is not the question, you had not finished the question when she answered it.

Q. Did you ever hear of her being in a pregnant condition while she was working for Grodevant's or before that time?

Mr. Blakeney: We object as it is incompetent, irrelevant and immaterial and asking for hearsay evidence and a conclusion of the witness.

A. I never did.

Witness dismissed.

Mr. Allen: We now offer the deposition of William E. Dawes, taken by Mr. Penick and appearing in his transcript at page 2343.

WILLIAM E. DAWES, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Mr. Dawes, please state your name, age and residence?

A. William E. Dawes, 1113 North 8th, Leavenworth, Kansas.

Q. What business are you engaged in, Mr. Dawes?

A. I am a carpenter and builder.

Q. How long have you been engaged in that business?

A. Oh, I guess for the last 20 years, ever since I left the Fort.

Q. Did you at one time live at Fort Leavenworth?

A. No, I never lived at the Fort.

Q. Did you work there? A. Yes, sir.

Q. What year did you work at the Fort?

A. My first work at Fort Leavenworth, I went to work in October 1882, for the Quartermaster's at Fort Leavenworth, and in July 1883, I went to work for —I went to work at the Military Prison, under Col. Blunt.

Q. Were you associated with any one there in that work under Col. Blunt?

A. Yes, I was Assistant Foreman to Mr. Grodevant.

Q. What Grodevant was that?

A. H. D. Herbert was his name.

Q. Do you know where Mr. Grodevant lived at that time?

A. When I first went to work there?

Q. Yes, sir, when you first commenced working as his Assistant?

A. He lived with his father-in-law, down on the river side, Mr. West.

Q. Walt? A. Mr. West, I think his name was.

Q. Where did he live after that?

A. Why Col. Blunt built him a house back on a place called Bluntsville, back of the prison, and he moved in there.

Q. Did you have anything to do with the building of that house?

A. Yes, I built it; he got out the stuff in the shop and I erected the building.

Q. He constructed the frame work and got out the material in the shop?

Mr. Hanford: Objected to as immaterial.

A. Yes, sir.

Q. Did you know Mr. and Mrs. Patrick Collins at that time?

A. No, I didn't—not as Mrs. Collins. I knew her as Miss Stanton before she was married.

Q. Do you remember when they were married? I don't mean the year, or day or month, but the occasion, the occurrence of their marriage?

A. Yes, married about the same year that I was, '83, if I remember right.

Q. Do you know where they lived with reference to the Grodevants? A. Right across the street.

Q. Straight across the street?

A. Right opposite, I built the house after I built Mr. Grodevant's, the same year.

Q. Did you build both of those houses? A. I did.

Q. During the year of 1884 and 5 were you still Assistant to Mr. Grodevant?

A. I was Assistant from 1883 until December 1884. December 1884, and January and February, 1885, three months I was away, and then about the 1st of March, I went back, and then I was there until 1887 continuously.

Q. Were you around Grodevant's home much of the time during the fall of 1884 and the year of 1885?

A. Yes, I was around there on several occasions, doing work for Mr. Grodevant. I did all the outside work.

Q. Before you went away in December of '84, did you see any Indian girl working around Grodevant's home?

A. I did, they had one girl working there.

Q. Was she—what race of people did she belong?

A. Well, I thought she was a colored woman—that is what I thought she was, I didn't know.

Q. What did they call her?

A. They called her Indian Minnie, that is the name she went by, and that is why I knew her so well, they called her Indian Minnie.

Q. What kind of looking woman was she?

A. She wasn't a bad looking woman; she was a pretty good size; she wasn't no slim woman.

Q. They called her Indian Minnie?

A. That is what they called her.

Q. Did you see that woman when you worked for Grodevant's in March 1885?

A. I believe I did; I think I did. If I remember rightly, Mr. Pursel—he was sentry—he had taken three prisoners and I did some work there in March, the first work I done when I went back to work for him, I think in connection with the stable I had done for Mr. Grodevant—he started it and I finished it—she was there when I went back to work.

Q. During the rest of that summer, did you see her?

A. I saw her occasionally; I was working and went up there.

Q. During any of that time, Mr. Dawes, did she ever appear to be in a pregnant condition?

A. No, not to me—I can't say so; she didn't look it.

Cross Examniation by Mr. Hanford.

Q. Mr. Dawes, you say that you were the assistant to Mr. Grodevant? A. Yes, sir.

Q. He was the foreman?

A. He was the foreman of the carpenter shop.

Q. The prison carpenter shop?

A. And I was his assistant on the outside; I done all the outside carpenter-shop——

Q. Did you do any work in the shop? Supervising?

A. Only when he was sick. I run the shop for a month when he was sick, and I used to go in there occasionally, myself, to get out *from* work when he was busy.

Q. Do you remember the occasion of Mr. Grodevant's illness?

A. No, I don't; I think he got a cold, or something.

Q. Fever, wasn't it?

A. Something, I guess, and Colonel Blunt told him to stay in the house and he put me in the shop, and I run the shop. I don't know whether it was a month or not—three or four weeks.

Q. He had the grippe, or fever, or something like that?

A. Something like that; he never was strong, I don't think—he never looked like it.

Q. The time of Mr. Grodevant's illness was along about this time, was it not?

A. Well, I can't say now. I was there for five years; now I can't say positively when it was. I don't think it was the first year or two that I was there.

Q. You was there from '83 on?

A. From '83 to '87; I was there practically steady, except for three months.

Q. Now, in 1885, Mr. Grodevant was ill with the grippe, fever, or hard cold, and was in bed at his home for several weeks, or about a month?

A. For several weeks or about a month; I may be——

Q. Wasn't that about two years after you were there?

A. I don't know.

Q. After you went there in '83?

A. I don't think it was as soon as that. I know when I first went there, I had an awful lot of work outside—I don't remember; I can't say just when it was, but I know he was sick. Both of us had to work pretty hard. We had to put up a lot of new buildings there, and I know I was kept pretty busy, and he, too, and he got sick and I had to do it all, then.

Q. That was along about that time?

A. '85, or '86, some where along there, I guess.

Q. What was the nature of your outside work?

A. Why, putting up buildings. I put up two buildings on the Riverside; one was a set of officer's quarters.

Q. Buildings? A. Dwellings, yes.

Q. All prisoners under you?

A. All prisoners; I didn't have no civilians at all—all prisoners. I usually had twelve or fifteen men.

Q. And you built officer's quarters?

A. In the prison department.

Q. In the Garrison Department, too?

A. No, prison department; down on the Riverside—that was the prison.

Q. Some of those houses are along Scott Avenue, aren't they—leading up to the Prison?

A. What they call Riverside—that was all prison property, and I built one house on the west side of Riverside. That was the only house that was there; that was built for the chief clerk, Mr. Ripley.

Q. Now, where was that house with respect to the prison itself? A. Mr. Ripley's?

Q. Yes.

A. It was southeast from the corner of the prison wall, and it looked over the present road down that way.

Q. Then it was down below the prison wall?

A. Oh, yes, a way down.

Q. And where was that house with respect with the Grodevant's house?

A. The Grodevant's was directly north of the prison—quite a ways.

Q. But it was in the same locality?

A. It was in the prison grounds, yes.

Q. When was that house built for Mr. Grodevant?

A. I started that house, to put it up, on the foundation—the first of August of '83.

Q. And then it was built during that year?

A. Yes, he moved into it along about the holidays.

Q. What houses did you build after that?

A. I built one for Sergeant Collins, right across the street, a little one-story house; Grodevant's was two-stories.

Q. Then Mr. Grodevant's was the last house you built except one? A. While I was there, you mean?

Q. In Bluntsville?

A. Yes, that is the—that is the only two houses I put up; put additions on others, but they is the only two houses I built in Bluntville.

Q. The Grodevant's house, and then Sergeant Collins'; the Grodevant's is the only two story house?

A. Story and a half it was.

Q. Well, there was an up-stairs part?

A. Yes, two rooms up stairs—three, I believe.

Q. The additions that you built on were—what houses?

A. Well, that I can't say. I think I put on a room on three different houses back there in Bluntville; I can't tell which one of them. There was two rows.

Q. Well, were they put on about the same time that the Grodevant's house——

A. No, they were put on later; I don't think I built any that year, or the next, because we built a big building in the yard—forty by a hundred feet—and the next year I was pretty busy on that all the summer. I think it was in 1886 or '87, that I done that work out there—yes, practically all the building we built then, and then we done repair work, and fixed up the old houses.

Q. So that, after the Sergeant Collins house was built, there wasn't much building down there until you came to put these additions on other houses?

A. No houses built down there by me after that.

Q. Well, I mean there wasn't much building of any character? A. No.

Q. Except when you came to put these additions?

A. No, there was nothing built down there.

Q. Mr. Dawes, you lived in Leavenworth, did you not?

A. Yes.

Q. And you would go back—

A. I drove up and down; I had my horse and buggy.

Q. You had your own horse and buggy? A. Yes.

Q. And drove out and back? A. Yes.

Q. Out in the morning and back at night?

A. Everyday.

Q. Did you ever stay nights out at the Post?

A. No, never stayed nights.

Q. All the time in here?

A. All the time in Leavenworth.

Q. Did you go out and make visits at the Grodevant's home?

A. Yes, we were up there several times of an evening.

Q. That was in the evening? A. Yes.

Q. You went out with your wife? A. Yes.

Q. Did you always see Indian Minnie when you went there? A. No.

Q. You didn't go to see her?

A. No, I never saw her while my wife—my wife never saw her—she wasn't there while we visited because it was in '86—the latter part of '85 we went up there. We had a little one, you know, and it was after her first trip out. We used to go up there occasionally, and Mrs. Grodevant used to come down to our house.

Q. So you didn't go out prior to the latter part of '85?

A. No, it was the latter part of '85 that I went up there; two or three trips with my wife, just for a drive.

Q. So that your observation of the Grodevant home during that time was during the time that you were working there? A. When I was working, yes.

Q. Passing by? A. Yes.

Q. Did you know this Indian girl personally?

A. No, sometimes I would know another servant girl at the officer's quarters and say good morning—never got acquainted with her no more than I would bid the time of day.

Q. So that she didn't attract your attention? A. No.

Q. And your observation of her was in that casual way?

A. That was a respectable working girl—that is what I took her to be. She appeared to be neat and clean and that is as far as I ever noticed her.

Q. You made no particular observation to determine whether she was in any condition of pregnancy? A. No, sir.

Q. You say that you were away awhile prior to March 1885; I didn't catch when you said that you were away.

A. They ran out of money in the latter part of '84, December first, and the Colonel sent me a letter and said——

Q. No funds?

A. Would have to dispense with my services for a while, but he said, don't put yourself so that I can't get you—I want you again. So, I had a chance to build a house here in town, and I told them it satisfied me, alright. I was away three months, December '84 to first of March '85, and they sent for me and I was back there till '87, when he left.

Q. You think this Indian girl was at the Grodevant's when you went back in March '85?

A. March '85, she was there.

Q. You made no observation to determine her goings and comings? A. No.

Q. Or whether she was there continuously?

A. No, sir, I don't know anything about it.

Q. At the various times? A. No.

Q. So you can't say that she was there continuously, or—— A. No, I——

Q. Or off and on? A. Certainly can't.

Q. Do you know when she left the Grodevant's?

A. I do not.

Q. Know where she went after she left the Grodevant's?

A. No, sir, I don't.

Q. You know nothing about her except what you saw?

A. I saw her there, that is all; I don't know what ever became of her.

Q. Do you know who composed the Grodevant family, Mr. Dawes? A. At that time?

Q. Yes?

A. No; just him and her, and his brother. I think his brother had an office here in town, and used to go up and down every day; I think he boarded with her.

Q. That is Frank? A. That is Frank.

Q. He used to do the same as you except in the opposite direction? A. Yes.

Q. He came in here in the morning and went back out at night? A. Yes.

Q. You went out there in the morning and back in at night? A. Yes. I understood he boarded there.

Q. He built some buildings here in town, didn't he?

A. Yes. I built several.

Q. I say Frank Grodevant—didn't he build some here?

A. He drew the plans for them; I built the buildings myself.

Q. He drew the plans? A. Yes.

Q. But his work was all in the city of Leavenworth?

A. Yes, he never done much at the Fort. He re-modeled General Pope's quarters; they wanted me to take that job, but I couldn't get away from the prison. He made the plan to re-model that roof: I wanted to get off from the prison and couldn't get off. I could have made a thousand dollars there, within two or three months. The General wouldn't let me go. He done that one place, only, at the Fort.

Q. Did you know Mrs. Grodevant's mother? A. No.

Q. Did you know Mrs. West?

A. No; I don't know that I ever saw her. I guess she was living there—I knew Mr. West; he was chief clerk—that was her father.

Q. Did you know where Mrs. Grodevant was from—what state? A. No, I didn't.

Q. Or Mr. Grodevant?

A. Mr. Grodevant was from Syracuse, N. Y.; that is what he told me when he came there—his home.

Q. Where did you say that the Grodevant's lived when they first married?

A. They were stopping with Mr. West, with her folks, before I built the house.

Q. Well, then, you did know Mrs. West's mother?

A. Oh, I knew that her father and mother lived there at the Post; he was working at the prison—he was chief clerk.

Q. Do you remember when he died? A. No, I don't.

Q. Do you know where Mrs. West went after his death?

A. No, that I can't say.

Q. Did you ever know of Mrs. West ever living at the Grodevant house, or visiting them?

A. Not to my knowledge, no.

Q. Or Mrs. Grodevant visiting Mrs. West after she went away?

A. She may have went away; I don't remember of her being away from home while I was there—that is, from the Post.

Witness dismissed.

Mr. Allen: We now offer the deposition of Louis Young, taken by Mr. Penick and appearing at page 2354.

And thereupon LEWIS YOUNG, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name, age, and place of residence.

Q. My name is Lewis Young; 55 in July; Leavenworth.

Q. Where did you live in 1884 and '85, Mr. Young?

Q. I lived adjoining the reservation, on the north side of Fort Leavenworth.

Q. During those years, or after that time, did you know a family living in Bluntville, by the name of Grodevant?

A. I knew Mr. Grodevant, yes sir; I knew of him—knew where he lived.

Q. You knew where he lived? A. Yes, sir.

Q. What business were you engaged in at that time?

A. In what year did you say?

Q. During the time that you knew the Grodevants and knew where they lived.

A. Well, I first knew Mr. Grodevant when I was driving a team in the quartermaster department, in '82, and I don't remember how long I did stay there in the quartermaster department, but I was raised at Fort Leavenworth—practically raised until I was quite a big fellow, and we lived adjoining the West Side there, and worked for the Government off and on.

Q. Do you remember about the time that Grodevant's moved to Bluntville?

A. Why, I don't remember exactly the time that he moved there, sir.

Q. I don't mean the day; I mean the occasion of him moving there.

A. Oh, he got there without my knowing the time. When I first—when I was knowing he lived there.

Q. Were you around his place much, afterwards?

A. Oh, I passed in front of the house quite often.

Q. Did you see any Indian girl around his place there, about '84 or '85?

A. Why, I wouldn't be positive of the time. I seen an Indian woman there that everybody spoke of and called her Indian Minnie.

Q. About how long was she there at Grodevant's home?

A. Oh, I can't tell you that.

Q. About how long did you see her there?

A. I think it was, if I remember right now, to the best of my judgment, I think she was there—oh, I can't positively say—I can't say how long; she was there quite a little spell, I should judge.

Q. For quite a while she was there?

Mr. Hanford: Objected to as leading.

Q. What did you mean by spell, Mr. Young?

A. Oh, she might have been there a summer, or something like that; I don't remember that it was in the summer, now—I think it was in the summer I seen her there. I used to see her out in the back yard.

Q. How frequently would you see her there?

A. Oh, that would be hard to say because I was just like —passing along the street—why, I might pass along often and not so often at other times; sometimes driving along the street.

Q. Would she ever appear to be in the family way when you would see her there?

A. No, not as ever I noticed or heard of; I never heard of it.

Mr. Blakeney: I moved to strike out heard, as supposition.

Mr. Hanford: The same objection.

Cross Examination by Mr. Hanford.

Q. When did you commence driving for the quartermaster department, do you remember, Mr. Young? A. '82.

Q. '82? A. Yes, sir.

Q. How old were you at that time, do you remember, Mr. Young? A. I was born in '51; twenty-two years old.

Q. You were grown up at that time? A. Yes.

Q. What team did you drive for the quartermaster?

A. For the quartermaster?

Q. Yes?

A. I drove a two-mule jigger-wagon, they used to call it —a baggage wagon and we hauled everything.

Q. It is what would correspond in civilian parlance a delivery team? A. Yes, sir, something of that order.

Q. Your business would take you around and about the Post? A. Yes, sir.

Q. At different places? A. Yes, sir.

Q. And your duties were all in the day time in that community?

A. Oh, not necessarily so; sometimes we would have a trip after night. About wherever you were sent around the Post—that is where you would go.

Q. Pick up a trunk, or something like that?

A. Not so much a trunk; haul the wood—they didn't issue coal then—had to deliver wood around; anything that they had to haul. Lots of times, we would go to town for stuff.

Q. You lived west of the Post?

A. At that time we moved west of the Fort, yes, sir; west of the Fort reservation. My father worked at the Fort ahead of me before I was old enough to work there.

Q. Where was that with respect to Mr. Grodevant's house? A. Where we lived?

Q. How many miles west?

A. Oh, that would be right on a line, I guess. Mr. Grodevant's was right due west over Arsenal drive—down the valley, there, I supposed would be about two miles—just about two.

Q. And you continued to live there all this time that you were working for the quartermaster's department?

A. Oh, no, my folks lived close, but when I was driving the team, I was boarding there and sleeping there. I wasn't married at all.

Q. Where did you board?

A. We had a mess called the teamster's mess at that time.

Q. Near the quartermaster's corral?

A. Oh, no, we had a teamster's mess where the prisoners and—you are thinking about that enclosed ground, now. All them houses have been moved back; they used to stand up close to the prison, and the prison is enlarged. They have been pushed back.

Q. By an extension of the wall north, the prison has taken in the ground where the mess formerly stood?

A. That mess house, and our quarters have been torn down, years ago. I lived in this place Bluntville from '89 up to—no, I went there to live in '95, after I got married. I got married in '90, and the Military prison was turned over to the Fort.

Q. That was a long time after this girl was at Grodevant's? A. Oh, yes.

Q. What did you say she was called?

A. I aimed to tell you about this very business with the Government. I went to work for the male prison in '89; continued until '95. In July '95, it was turned over to the Federal Department. I was with the Federal Department until here in December.

Q. Now, Mr. Young, that is all subsequent to the time that this girl was there?

A. Yes, sir, now you want to know from '82 up until '89?

Q. Yes.

A. I went to work for the Government in '82, in the Quartermaster's Department; that is the different——

Q. How long did you work there?

A. I was thinking I worked something like two and a half years, or three years; something like that.

Q. Then, where did you work?

A. I went back on my father's place in the valley.

Q. And you then worked out there?

A. Well, I was in and out the Fort; went in there several times.

Q. What did you do on your father's place? Was that the farm?

A. Yes, sir; that farm joined the reservation at that time.

Q. Were you assisting your father in farming the place?

A. Oh, when we was idle, us boys, we would go home and work, yes, sir. Fort Leavenworth was a home to us. We went to school in Nevada and we would go back and forth.

Q. You would go back to the farm and work the farm with your father and brothers?

A. My father worked at the Fort during all his lifetime since I can remember.

Q. So that the farm was either left to you boys, or was carried on in addition to your other work—just kept up as a home farm, or as a farm home? A. Yes, sir.

Q. Now, what did you say this girl was called that worked for—— A. Grodevant's?

Q. Yes? A. Indian Minnie.

Q. Did she always go by that name? A. Yes.

Q. Did you ever hear her called anything else?

A. What?

Q. Did you ever hear her called anything else?

A. Not that I know of; lot of them around there that were nicknamed around the Fort.

Q. Did you ever hear her full name, or right name?

A. I don't believe I ever did; if I did, I have forgotten it.

Q. And when you saw her there at the Grodevant's, you knew that she was this character that you heard called Indian Minnie?

A. Folks would say, there is Indian Minnie. I never spoke to the woman in my life that I remember of.

Q. Didn't know her personally? A. No, sir.

Q. And what you saw of her, would be in only driving past?

A. Just exactly; like you would drive along that street and look in the yard here.

Q. She didn't attract your attention in any personal way at all? A. No.

Q. You made no personal, or close observation of her appearance? A. Oh, no.

Q. And your observation of her was purely casual in the way that you have described? A. Precisely.

Q. You never discussed her with the Grodevants, or anybody that knew anything about her?

A. No, I never did discuss her; no, sir.

Cross Examination by Mr. Blakeney.

Q. What is your name? A. Lewis Young.

Q. What are you doing?

A. At the present time, I am guard down here at the State Prison.

Q. Guard at the State Prison at Lansing? A. Yes, sir.

Q. Under Warden Codding? A. Yes, sir.

Q. You knew Mr. Codding was one of the attorneys in this case, didn't you?

A. I never heard him say so; I don't know, sir. He has never spoken to me about it.

Q. Now, you tell the Court, now; did you ever hear of a woman named Indian Minnie until this case got into the newspapers around Leavenworth? A. How is that?

Q. Did you ever hear of a woman called Indian Minnie until this case got into the newspapers around Leavenworth?

A. Why, certainly I have, sir.

Q. You say you have?

A. Yes, sir; I know what I am talking about.

Q. Over some thirty years ago, you remember seeing a girl who was a domestic in a family around Fort Leavenworth, just before you left to go somewhere to remain a few months?

A. I have heard of Indian Minnie, sir, and seen her.

Q. And you can fix the time over that lapse of that period that was just before you left to go somewhere, to be gone several months?

A. I never went anywhere; just moved adjoining the reservation there.

Q. You quit working for Grodevant's?

A. Quit working for who?

Q. You quit working as a carpenter for Grodevant?

A. I never worked for Grodevant.

Q. You quit working as a teamster for the Grodevants?

A. No, sir.

Q. You had been working with him? A. No, sir.

Q. For him? A. No, sir.

Q. What were you doing?

A. Driving a team for the quartermaster's department.

Q. You had no relation with him at all? A. No, sir.

Q. And you remember servants that he had in his family after a thirty-year period?

Mr. Allen: We object to that as argument.

A. I remember a party working there that they called Indian Minnie.

Redirect Examination by Mr. Allen.

Q. Mr. Young, you never made any ex-ray examination, or examined this woman to see whether she was pregnant or not? A. No, sir.

Q. You have never found that necessary in order to discover pregnancy?

Mr. Blakeney: We object to it as asking for a conclusion; incompetent, irrelevant, and immaterial.

A. No, sir.

Mr. Hanford: We object on the ground that it is improper re-direct; incompetent, irrelevant, and immaterial.

Q. You can tell when a woman is pregnant after she has developed far enough, to have it to show, can't you?

Mr. Hanford: Objected to as calling for a conclusion of the witness.

Mr. Blakeney: The same objection.

Mr. Allen: We will withdraw it.

Q. Mr. Young, did you know until you came on the witness stand here, and Mr. Blakeney so advised you, that Mr. Codding had any connection with this case?

A. I never heard Mr. Codding, no, sir; I didn't know he was in anyway connected. I didn't know anything about the case until Saturday evening.

Q. Did you ever talk to Codding? A. About this case?

Q. Yes?

A. No, sir. I had spoken to him this morning and he brought me up in the automobile, and I asked him what case he wanted me on, and asked him if that Indian Minnie case and he said, yes, sir; he never asked me no questions.

Q. Never talked to you about it in any way or——

A. Only I asked the question what case did he want me up here on.

Cross Examination by Mr. Cruce.

Q. There was nothing to attract your attention to this girl any more than to any other girl in the neighborhood?

A. No, sir; that is the idea.

Q. You don't remember, now, of any other woman, who was pregnant, in that community, in '85, do you? A. Oh, no.

Q. Or '84, or any other year, practically, except it might be your own family? I mean, any of the neighbors?

A. No; I don't remember, sir.

Redirect Examination by Mr. Allen.

Q. This was an Indian girl, wasn't it?

A. Oh, yes; she resembled an Indian girl to me. If I remember right, they called her Indian Minnie. Quite a few of them around the country at that time.

Q. Was she or not, an attractive looking woman?

A. I can't remember now whether she was a good looking woman or not. I never paid much attention to her.

Q. Was there any other servant-girls in the community that you ever saw? A. Not as I remember of.

Recross Examination by Mr. Cruce.

Q. There was nothing to make you suspect an Indian girl of pregnancy any more than any other girl, was there?

A. Not a thing, sir.

Witness dismissed.

Mr. Allen: We now offer the deposition of Mrs. Margaret Jackson, taken before Mr. Penick and appearing in his transcript at page 2364.

And thereupon, MRS. MARGARET JACKSON, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Mrs. Margaret Jackson.

Q. Your husband's name is William Jackson?

A. William.

Q. Where do you live, Mrs. Jackson?

A. Well, No. 22, Bluntville, Fort Leavenworth.

Q. When did you and Mr. Jackson marry?

A. Well, I am not sure of the year; I think it was either '80 or '81.

Q. How old is your oldest child? A. She is 34.

Q. What month is her birthday? A. This month.

Q. Now, if she is 34, has her birthday come this month yet? A. It will be the 8th.

Q. The 8th? A. Yes, sir.

Q. Is that when she is 34? A. 34.

Q. How long have you been living at Fort Leavenworth?

A. An awful long time.

Q. When with reference to the date of your marriage, did you move there?

A. Oh, I was up there a couple of years before, I think.

Q. Before. Have you been living there ever since?

A. Nearly ever since.

Q. How much time have you not lived there?

A. Well, I really can't tell just the time.

Q. When was it that you didn't live there? About—where did you live elsewhere than at the Fort?

A. I lived in Leavenworth.

Q. In Leavenworth? A. Yes.

Q. Do you remember how long?

A. Oh, three or four years I should think.

Q. When was that if you remember?

A. Well, I don't remember.

Q. Did you know the Grodevant family—Herbert Grodevant? A. Yes.

Q. Were you living at the Fort at the time they lived there? A. Yes.

Q. You were? A. All the time.

Q. All the time? A. Yes.

Q. What place inside of the reservation—what was the name of the little community in which you lived?

A. Bluntville.

Q. Bluntville. About [] many homes were in Bluntville, in the earlier days, along of the '80's—the latter part of the '80's?

A. Well, there weren't very many, but I never did count them.

Q. I beg your pardon, I didn't hear you.

Q. I say there weren't very many but I never counted them.

Q. Where was Bluntville located with reference to the Military prison?

A. Just about 500 feet from the south-side of where it is now.

Q. Now, which was south—the prison or Bluntville?

A. The prison was south.

Q. The prison? Where did you live with reference to where Herbert Grodevant's family lived?

A. I lived two doors north.

Q. Do you remember who built the Grodevant's home?

Q. Do you remember of its being built?

A. I remember of it being built.

Q. Were you living in the home which you spoke of?

A. Same place, yes.

Q. At the time the Grodevant's home was being built?

A. Yes, sir.

Q. Did you ever live in the Grodevant's house?

A. I live there now.

Q. Oh, you live there now?

A. Yes; not before they lived there, though.

Q. After they moved out? A. After they moved out.

Q. How long after they moved out, was it, until you moved into their home?

A. Well, I should think it was about two years after.

Q. In order for you to get to town—to Leavenworth—in those days, or to get to the—any portion of the reservation that was occupied and used, would you or not, have to pass the Grodevant's home?

A. Yes, sir, I had to pass it nearly every time.

Q. Did you ever know of their ever having in their employ, a servant girl—an Indian girl, a young woman?

A. I remember something about it.

Q. Do you remember the girl?

Q. Well, I don't know whether I would remember her now or not. I don't know whether I would know her if I were to see her.

Q. What she was called?

A. Why, we called her Indian Minnie.

Q. Do you know how long she was in the employ of the Grodevant's? A. No, sir.

Q. How frequently did you see her, Mrs.——

A. Well, really, I can't tell you that. I have seen the girl but I don't know how often.

Q. Did you or not see her right often?

A. I think I have seen her, you know, going back and forth in my back door; I probably have seen her but I didn't pay any attention to the girl.

Q. Did you see her as you would pass in front of the Grodevant's home? A. I probably did, I don't know.

Q. During that time, and your observation of her, was she or not, or did she or not, show any condition of pregnancy?

A. No, sir, not to my knowledge.

Q. Was there any other family there in Bluntville who had a servant girl? A. No, I don't think there was.

Q. This Grodevant family was the only one? A. I think so.

Q. What was the standing in that community of the Grodevant family?

> Mr. Blakeney: We object on the ground that it is incompetent and hearsay, and seeks hearsay evidence, and is wholly immaterial.

A. They were considered—were nice people; at least I thought they were nice.

Q. Did you hear in the community of Minnie Atkins having been in a family way—of this Indian Minnie having been in a family way?

> Mr. Hanford: Objected to as calling for hearsay testimony, incompetent, irrelevant and immaterial.

> Mr. Blakeney: We object as incompetent, irrelevant, and immaterial; asking for a conclusion, and seeking to *bet* hearsay statements.

A. No, sir.

Q. There used to be an old hospital out there?

A. Yes, I think there was. Not in Bluntville.

Q. No, it was not in Bluntville. A. No, sir.

Q. Where was it located with relation to the Military Prison?

> Mr. Blakeney: We object.

Q. It wasn't related to the Military Prison in any way.

Q. Where was it from the prison—what direction?

A. Well, the old hospital I think that you have reference to, was over west of the Fort road; next to the old Catholic church.

Q. What direction from the Military Prison?

A. Sort of southwest.

Q. Was that ever used for student officers quarters?

A. Well, really I don't know.

Q. You were not around there? A. No.

Cross Examination by Mr. Hanford.

Q. Mrs. Jackson, your knowledge and observation of this Indian girl was simply that of one of the servants of a neighbor? A. Yes, sir.

Q. She was a servant in the home of the Grodevants?

A. Yes, sir.

Q. The Grodevants were friends of yours? A. Yes, sir.

Q. And your neighborly connection, or social connection, was with the Grodevants and not with their servants, was it?

A. That is right.

Q. You didn't attempt to keep track of the Grodevant's domestic affairs. A. No, sir.

Q. You didn't watch or pay attention to the goings or comings of their servant? A. No, sir.

Q. It was of no matter of interest to you how long they had a servant or who they had? A. No, sir.

Q. Or what the physical condition of their servant might have been? A. No, sir.

Q. So your memory of this girl is simply the memory after thirty or thirty-one years of your casual observation of her at that time? A. Yes.

Cross Examination by Mr. Cruce.

Q. Do you remember any other lady in that community that was pregnant in 1885? A. That was what, sir?

Q. That was pregnant in '85? A. No, sir.

Q. Or '86? A. No, sir.

Q. Or '84? A. No, sir.

Q. Children were born out there, however, weren't they?

A. Oh, I guess they were but I never kept track of them.

Q. You didn't keep track of Minnie, either, did you?

A. No, sir.

Redirect Examination by Mr. German.

Q. Mrs. Jackson, did you notice anything wrong with Minnie's conduct? A. No, sir.

Q. She was the only servant girl in that—in Bluntville—in that time she worked there, I believe you said?

Mr. Blakeney: We object as leading.

A. Yes, I think she was; I don't remember of another.

Q. Did you ever remember of any other Indian girl?

A. No.

Q. Who was a servant at Bluntville?

A. No, I never have.

Witness dismissed.

United States Circuit Court of Appeals.

EIGHTH CIRCUIT.

NO. __________

United States of America, - - - - - - - - - - ***Appellant,***

vs.

Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as Guardian of Nancy Atkins, an Incompetent, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, - - - ***Appellees.***

NO. __________

Nancy Atkins, H. A. Ridgway, Guardian of said Nancy Atkins, an Incompetent, Robert L. Rutherford, and A. L. Ferguson, Administrator of the Estate of James A. Ferguson, Deceased, - - - - - - - - - - - - - - - ***Appellants,***

vs.

United States of America, Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kahopkah Harris, Harvey Harrison, a Miner, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy,

Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, *Appellees.*

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

PLEAS AND PROCEEDINGS BEFORE THE HONORABLE RALPH E. CAMPBELL, JUDGE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF OKLAHOMA, PRESIDING IN THE FOLLOWING ENTITLED CAUSE:

UNITED STATES OF AMERICA,
Equity *vs.* **No. 2131**
MINNIE ATKINS, *et al.*

VOLUME III.

Statement of the Evidence *(Continued).*

Mr. Allen: We now offer the deposition of Mary N. Cunningham, taken by Mr. Penick and appearing in his transcript at page 2379 and recalled at page 2423.

And thereupon MARY N. CUNNINGHAM being called on behalf of the United States, sworn and under oath testified as follows:

Direct Examination by Mr. Allen.

Q. State your name, age and place of residence.
A. If I told my age Judge. It is a terrible thing to ask a woman.
Q. You are more than twenty-one?
A. Yes, I was born in sixty-three. Leaves me somewhere on the sunny side of sixty.
Q. Your name? A. Mary N. Cunningham.
Q. Where do you live Mrs. Cunningham?
A. Fort Leavenworth.
Q. Where did you live in 1884 and '85?

A. 1884 and five, well? I lived part of the time in the City of Leavenworth and Fort Leavenworth most of the time. I have been in Fort Leavenworth, not continuously, since '82.

Q. Did you know the Grodevants while they lived in Bluntville? A. I did.

Q. Were you ever by their home? A. I was.

Q. About how frequently?

A. Well, that of course I can't say how often I would pass there. I passed several times but I can't say the number of times.

Q. Do you remember an Indian girl that worked for the Grodevants in '84 and five? A. Yes.

Q. Or about that time? A. I do.

Q. Do you know what her name was?

A. Her name was Minnie.

Q. About how long did she work there?

A. Well, that of course I can't say just how long she worked there. I can't say that. I really don't know how long she worked there. I can't say that because——

Q. About how many times do you think you saw her there?

A. Well, that would be a pretty hard thing, Judge, to say. I can't say how often I saw her. I can't say how often. I saw her passing several times and I saw her on the street going around by the prison there about two or three at the very most that I had ever seen her. I don't forget a person. The garrison has changed some but the prison is pretty near the same.

Q. Where were you living in reference to the Grodevant home?

A. Well, I was living for a while in '85—I was for a short while right down at the prison right below the commandant's house, right there by the prison and then I was with friends in Leavenworth a great deal, a family by the name of Craton, [ ] and Broadway.

Q. Was your sister at the Fort at that time?

A. Yes, my sister was at the Fort and I went up to see her.

Q. Where was she living then?

A. In this place I mentioned—the first house right down the steps from the commandant's, frame house. I think it stands the same yet, on this side, facing the commandant's.

Q. Where was that with reference to the prison?

A. Where was that? I don't quite understand that.

Q. With reference to the prison. Which direction from the prison and about how far?

A. Well, it is facing east. You go right down the steps, that faces the east and their house faces the west. West of the commandant's. That is the way they are situated I think.

Q. Now how far was that house where your sister lived and where you visited here from the Grodevant home, Mrs. Cunningham?

A. Well that distance I can't just say how far it is but you just turn right around the wall and I can't tell the distance. Quite a little ways back of the wall down to where the Grodevants lived. I can't say the distance but it is not very far.

Q. You lived between the Grodevants and where the officers lived, didn't you?

A. No, this way on the— It is now Officers Row. It is right on the Officers Row.

Q. Where your sister lived?

A. Yes, on the Officers' Row.

Q. And was the prison between you and Bluntville?

A. Well, the prison, yes, it was in a way. Of course the wall run right around. The house is below the wall and you go right around the wall in the direction where the Grodevants lived.

Q. That is the one——

A. The only thing between those wall right around was a barn. I don't know whether it is there now or not, but I believe it is. A barn between this house——

Q. And Bluntville?

A. Yes, and this house back of the prison a family lived in named Few and Mr. Henry Jackson, he lived in the first house back of the wall, that is because I remember——

Q. Then who lived next to Jackson?

A. Next to that place, to their house?

Q. Yes?

A. Now, I don't remember whether there was a house came in between that or not but the Grodevants I believe came next. There may have been a little house but that I have forgotten.

Q. Any way they lived right there close to Henry Jackson's?

A. Yes, they lived there right down from Jackson's in a two-story frame house and I think that house stands as it was at the time.

Q. Where did Henry Jackson live with reference to where the Grodevants and Mr. Billie Jackson lived?

A. They lived on you might say——

Q. I mean was Billie Jackson between the Grodevants——

A. It is so hard to think of that when I thought so little of it. Last night got me to thinking of those things.

Q. Henry Jackson was living between Billie Jackson's and Grodevants?

A. Yes, between—on this side next to the prison. Well, before you get to the Grodevants in a large house that is torn down now, a family by the name of Hughes I think. I know they lived there and Henry Jackson lived in the house and I know there was a house. I don't [] whether a house came in between that or not. A little brick was built in there afterwards. I think that was moved since that. I haven't been back to the prison for years, although I lived in the Fort for years. I don't go around enough to know new buildings that are built at the Fort, just like a new city to me when I—when anybody asks me about the Fort.

Q. During the time that the Grodevants were living in this place you describe, you say you saw Minnie Atkins a number of times—Minnie a number of times at that place?

A. Well, I saw her quite a few times. I wouldn't like to say a number of times but I saw her enough to know who she was. She was a girl pointed out to me as Indian Minnie, they called her. And the only thing I remember distinctly on one occasion was in May——

Mr. Hanford: Objected to as incompetent.

Q. Now, Mrs. Cunningham did you see her in the spring or summer of 1885? A. Yes, I did.

Q. Please state the circumstances under which you saw her at that time. Where were you and what were you doing?

A. Well, I remember on this particular occasion of going out to pick flowers, wild flowers, and I believe they were crab-apple blossoms, and we strolled down the old Missouri Pacific Railroad tracks and walked up the hill and came in back of the Grodevants house. As we came around the house Mrs. Grodevant was speaking to me—started to say—sister wasn't talking to me and I don't know what the conversation was now. I have forgotten but in the meanwhile this girl, we saw her in the yard and it seems to me she was hanging something on the line and I believe it was dish-towels and my sister asked if she employed colored help and she said no, and she said we thought she was colored help and she said no, she was an Indian girl, so few colored [] were employed in the Fort and she said no, she is an Indian girl. That occasion I remember but that is just a few occasions that I remember seeing her and knowing she was this Indian girl.

Q. You say that was in May?

A. That was in May. I can't say the day in May, in '85. What makes me remember that distinctly the 20th Infantry met in May, 1885, and that is what makes me remember that particular occasion.

Q. Now Mrs. Cunningham did you see her before and after that occasion?

A. Well, I am pretty sure that I saw her in the winter of '84, we used to coast a good deal down the prison hill there and I saw her on that road coming in from the prison.

Q. And then did you see her after the time that you were picking flowers there in 1885?

A. I think I saw her probably once or twice but can't say the number of times. I wasn't back of the prison after that.

Q. State whether or not during any of the time you saw her she appeared to be in a family way, Mrs. Cunningham?

A. Well, of course not thinking of anything at that time I never thought of anything like that but from her appearance I should not think so, and I should think if anything of that kind happened the entire prison would know it and if they didn't they would be a funny——

> Mr. Hanford: We object to the statement of this witness as to personal conclusion *is* not responsive to the question, purely voluntary statement.
>
> Mr. Blakeney: In addition to what counsel says, it is irrelevant, irresponsive and immaterial.

Cross Examination by Mr. Hanford.

Q. Mrs. Cunningham, at that time you spoke of in 1885 your sister, you say, was living in this house which was just across and was east of the entrance?

A. It was east of the entrance, yes.

Q. And to get to that house you would pass in front of the prison at the top of the hill?

A. Yes, and down a couple of steps. A few steps. I don't know how many steps.

Q. Well, isn't it quite a hill, the first hill down to the——

A. Well, a level place and then you come down a second hill.

Q. The second hill into Bluntville and pass around the corner of the prison wall.

A. Well that is going around to the prison but this house is right direct down the walk.

Q. Where your sister lives? A. Yes.

Q. But going down into Bluntville?

A. You go right around.

Q. Let me ask you this—if I can describe it correctly. You come first in front from the prison gate up above down this first hill to the level where the commandant's house is?

A. Yes, I can't say that it is much of a hill. It is a very small incline. No hill running from the gate down to the commandant's house that I can remember. It is just a little incline. We don't call it a hill.

Q. Well, with your correction, we go down to the commandant's house? A. Yes.

Q. Then that level stretch and his house is there?

A. Yes.

Q. And the commandant's barn you spoke of is on the same level? A. Yes, right there.

Q. And then this frame house where your sister lives and then going from there you go down another hill and around the prison wall and that takes you down into Bluntville?

A. From her house, you mean? It is not necessary to go down from her house, to go down—you go by the steps to go [] the prison. There are three or four steps. The house is right down in a low——

Q. You have never been down the road that leads——

A. Yes, I have been all over the road everywhere. You can go down that road to the commandant's and you go up the steps to go around to the prison and you can go the other way.

Q. But I want to get the description of the place so as to show in the record that the house where your sister lived was between the commandant's and Bluntville when you would have to go around the wall?

A. Yes, yes, certainly.

Q. And after you left your sister's house and came around the wall——

A. I was in that house myself for a while of course.

Q. What was your sister's name?

Q. Her name was Helen Cunningham.

Q. Now, you state that you can't name the number of times that you saw this girl? A. No, I can't.

Q. You were not personally acquainted with her?

A. I wasn't acquainted with the girl.

Q. Didn't know her personally?

A. Just seeing that she was an Indian.

Q. Just knew that she was a servant?

A. Servant at Grodevant's, all I know about her.

Q. Your observation of her was just casual?

A. Yes, I never heard anything wrong about her in my life.

Mr. Blakeney: I move to strike the question and answer as incompetent for the reason it is conclusion, hearsay, incompetent, irrelevant and immaterial and not responsive.

Q. Your observation of her was in a casual way?

A. Yes, that is all. That is all I know.

Q. She was no prominent character in the life of the Fort or anything that would——

A. No, I never heard——

Q. That would attract attention to her?

A. No, I never heard anything like that.

Q. How large a woman was she?

A. Well, sir, now she was a woman of my size, not quite as large as I am now, but she was quite a stout woman and she usually wore her hair in two braids. Some times she combed it in one braid.

Q. You say she was a pretty good sized woman?

A. Yes, I can't say her age.

Q. A stout woman and wore her hair in two braids?

A. Yes, sometimes, not all the time, sometimes.

Q. You were not married at that time?

A. I was never married, unfortunately.

Q. So you didn't pay any attention to questions of maternity on the part of other women or approaching maternity?

A. I never heard that.

Q. You didn't examine the girl closely enough to see whether she was in that condition?

A. I never had occasion to.

Mr. Blakeney: I would like to have the officer instruct the witness that we are not asking her what she heard but what she knows. I want to object to the question of Dame Rumor here and putting it in the record.

Mr. Allen: I suggest that the answer of the witness was perfectly proper.

Mr. Blakeney: I call attention to Judge Allen's statement to show probably why the witness is giving the incompetent evidence.

Q. Miss Cunningham perhaps you will tell us why you keep repeating that you never heard anything about—as to whether this woman was pregnant or not?

Mr. Blakeney: I object to any effort to get hearsay evidence in the record as incompetent, irrelevant and immaterial.

A. Why do I repeatedly say that?

Q. Yes.

Q. For the simple reason you had asked me if I had noticed anything to that effect.

Q. But what you heard you seem to direct your testimony to that one particular point. Has that matter been discussed with you? A. Never.

Q. Prior to the time of your testifying here?

A. Never. You simply asked me if I had known of that.

Q. You have been reading the newspapers have you?

A. No, I have never read it, never. I saw the heading but paid no attention to the other part.

Q. You know what you are called here to testify to?

A. Yes, sir. This came up all of a sudden and you asked me——

Q. You had been thinking it over last night?

A. Yes, I have been thinking it over. Of course if I had time there is a great deal more but I can't— You know it came up too sudden about the prison and everything.

Q. You know the point to which your testimony is directed is whether or not this woman was ever in a condition of pregnancy at that time?

A. As I say I never have heard anything like that or never heard of any such remark of that kind.

Mr. German: I object to that as argumentative.

Mr. Blakeney: We move to strike out the statement that she never heard as incompetent, irrelevant, immaterial and hearsay.

Cross Examination by Mr. Blakeney.

Q. Where were you living at that time in eighty-three, four, five and six?

A. Eighty-three, four and five. Well, I was living in the Fort; part of the while I was living in town and my home was at Easton. That is on a farm near Easton, Kansas. I can't remember all this time where I was and what place I was. The Fort has changed around a great deal. We have lived up there more or less since '82 but I was not continuously there.

Q. What do you mean by we?

A. Well, I mean my sister when I say we. I guess I say the wrong thing again.

Q. You mean yourself and sister?

A. Myself and sister, yes.

Q. Did you live with your sister at the Fort the greater part of the time during these two or *these* years?

A. No, I did not. I lived with myself. Shall I say what I did?

Q. Yes.

A. I was in charge of the officer's mess as I am now.

Q. You were in charge of the officer's mess?

A. Yes. I was housekeeper at the time. Several times I have been in charge of the officer's mess. I am in charge of the post mess now.

Q. When did you take charge of the officer's mess?

A. Well, I say in those days I was housekeeper.

Q. Well as housekeeper then?

A. Well, as I say, I just can't just remember the time.

Q. Well, give us the year? You ought to remember that, don't you, as well as you can about apple blossoms.

Mr. German: I object as argumentative.

Q. Well, that is all about the apple blossoms.

A. I remember the apple blossoms for the reason——

Mr. Allen: We object to that as argument and as insulting.

A. Those I have of course forgotten.

Q. Just a minute now. Just answer the question. I asked you to give us the year that you went up there to work in the officer's mess.

A. The year that I took charge of the officer's mess was in '88 but this was in years before in '83 and two. I didn't take charge of the officer's mess until '88, but I rented a house and had charge of the house on a salary but not as I am doing now, but I can't just call what house we were in. The places are torn up so that I just can't remember because I wasn't here continuous in eighty-two, three and four—I was in after years but in eighty-four and five I was not all the while in Fort Leavenworth, just at times but I can't tell just how long, I have forgotten that.

Q. In eighty-two and three you were there continuously?

A. No, I wasn't continuously.

Q. Only occasionally? A. Only occasionally.

Q. Eighty-three and four only occasionally?

A. Eighty-three and four only occasionally.

Q. Eighty-five? How?

A. Eighty-five? I was there for a while, not continuously.

Q. But occasionally? A. Occasionally.

Q. Eighty-six?

A. In eighty-six I was only there occasionally.

Q. Eighty-seven? A. Occasionally.

Q. Eighty-eight? A. All the while.

Q. All the time in eighty-eight?

A. All the time, yes. No I wasn't all the time in '88. I was from the time they went away in '98—I was out of the Fort a while.

Q. I am not speaking about 98?

A. You said continuously.

Q. I mean for the year, for that year?

A. No, not in '98, I wasn't.

Q. '88?

A. Oh, '88 I was. I was there continnously in '88. I said I couldn't say.

Q. Now, let's go back in '82 and three, you were housekeeper? A. Well, I was there then.

Q. When did you first go to the Fort?

A. When did I first go to Fort Leavenworth?

Q. Yes? To work?

A. Oh, to work, I don't know exactly when I did go but I remember that it was Centennial year.

Q. Seventy-six?

A. Yes, seventy-six, so I am an old soldier, been there a long time.

Q. When did you go to work, just the best you can give us?

A. Well, let me see. Well, I am pretty sure that I went to work in the fall of '76. I am not sure.

Q. How old were you when you went to work?

A. Well, that I don't know how old I was.

Q. Well, just now as you look back?

A. Well, I will tell you now.

Q. Wait a minute. Look back now over the picture in your memory of the time you came to work in Leavenworth, about how old were you?

A. Oh, I was a small girl. I was small. I can tell you.

Q. Can you tell me about your age?

A. I can't say just the age at that time. I would have to look that back——

Q. You remember I am asking about your age?

Mr. Allen: What date are you directing——

Mr. Blakeney: She said '76.

A. But that was years afterwards. That was the first time that I was in Fort Leavenworth.

Q. You were in Fort Leavenworth in '76. How long did you stay there?

A. I can't say. A short while, I can't say.

Q. Less than a year?

A. Oh, yes, less than a year.

Q. A month or two?

A. It was longer than that I think. I just was there a short while. I just came up for a short while. I didn't start to work. You asked me when I first came to Fort Leavenworth. I was here in '76, I remember that. Was in Fort Leavenworth until '82, along in there. So I have forgotten it. I can't bring that to my memory.

Q. Were you as a girl rather large for your age?

A. No, I was very small, very slight. I think I was about eleven or twelve. Something like that. Just a little bit of a girl.

Q. Miss Cunningham, you, I believe, stated that you went back to work at the Fort in about '82?

A. Somewhere along there, yes, sir. I can't remember. I wasn't there continuously.

Q. At that time you went to work in the mess hall?

A. No.

Q. What did you go to work in?

A. I was working in a family I think at that time but I can't just place where we were.

Q. The first work that you did then after you returned in about 1882 was to work in a private family?

A. I took my sister's place.

Q. Yes or no. The first work that you did after you went back to work in 1882 was in a private family? A. Yes.

Q. How long did you work in a private family?

A. Well, that I can't say. I have forgotten that.

Q. What did you next go to doing?

A. Well, I didn't work up there then for some time but I can't say the length of time.

Q. Did you leave that neighborhood and go back to your farm?

A. I went back to the farm awhile and was in town awhile. Whenever I felt like going up and back and that is part——

Q. Excuse me. I am [] trying to be impolite. Did your father live on the farm?

A. My father wasn't living at that time.

Q. Did you have a mother living there? A. Yes.

Q. And when you would go to the farm you would go out to see your mother? A. Yes.

Q. You stated something about at times you would go up to, you mean the City of Leavenworth itself?

A. The City of Leavenworth, yes.

Q. You went to the city? A. No.

Q. You were merely visiting in the city? A. Yes.

Q. Now in eighty-three commencing with about the first of the year where were you? A. I was in Leavenworth.

Q. You mean by that the City of Leavenworth?

A. That is Leavenworth and my home is Easton.

Q. Did you go to work in Fort Leavenworth that year?

A. I don't remember but I don't think I did. I have really a recollection of that. I don't think I did.

Q. About when then did you go to work at the Fort? After the time we are inquiring about now? After eighty-three?

A. In eighty-four.

Q. About what time in eighty-four?

A. It was the fall of eighty-four.

Q. You was then grown? A. Yes.

Q. According to the age you have given us you would have been twenty-one years of age?

A. I don't know whether I would have been that or not.

Q. You were born in sixty-three? A. Yes.

Q. And this was eighty-four, would have been twenty-one year?

A. Yes. Whether it would be that I don't know. As I say I would have to look it up to see.

Q. What work did you commence doing then in eighty-four? A. I took my sister's place.

Q. And what had your sister been doing?

A. She had been doing housekeeping, was housekeeper in this place.

Q. Housekeeper in the officers' mess?

A. No, it wasn't the officer's mess, it was a family.

Q. A private family?

A. A private family, if I remember rightly, yes. Not the officer's mess.

Q. Do you remember whether it was about the first of the year that you commenced working there?

A. It was in the fall.

Q. Fall of '84?

A. Fall of '84. I am pretty sure if I remember rightly. It was the fall of '84. I don't know just what time in the fall. Is that too much?

Q. No, that is enough. Who was that family?

A. I think the name was Townsend. I am positive it was.

Q. Who were they? A. Captain Townsend.

Q. A captain in the United States Army?

A. Yes, I don't know much about that but he was there.

Q. They lived in the quarters of the officers at the Fort?

A. Yes.

Q. How long did you work there?

A. Well, I can't say. I was there just a short while.

Q. Did you work there all of the winter? A. No, I didn't.

Q. Where did you next go to?

A. Well, that I have forgot. After that of course I took up cooking for the officers but I can't just tell at what time.

Q. What is your best recollection now? Think it over and see if you can tell us your best recollection as to whether you left this Captain—who? A. Townsend.

Q. Captain Townsend's place and went to cooking for the officers' mess?

A. Right at that time, I did not. I can't just say when I started; between the time and '82, but I can't tell you just when.

Q. Now, can you give any approximate time, whether it was a few months or as much as a year?

A. Oh, it was quite a while, I know that; it was quite a while. Well, let's see, it was— Oh, I can't say the number of months because I was there in the fall, but how late in the fall I can't say, I can't tell how long I was there but not very long.

Q. Can you give us an estimate of how long it was?

A. I cannot, no.

Q. Between the time that you left this captain's place and the time you commenced working at the officers' mess?

A. Well, it was not called really the messes in that day, it was just a few of them.

Q. Well, I was not asking with reference to the names but as to the time? A. Well, that is one thing I can't remember.

Q. Calling your attention again, can you give us an estimate of the time——

A. No, I can't give you that, I can't remember, I know I was in Leavenworth a great deal of that time.

Q. In the City of Leavenworth? A. Yes.

Q. What were you doing in the city?

A. I was visiting friends and I was at home.

Q. You never work in the city during that time?

A. Not in that time, no.

Q. Did you visit home during that time? A. I did, yes.

Q. When you would visit home, how long would you stay?

A. Well, that I can't say; until I would get tired; I can't say that either, just as long as I cared to.

Q. You still treated the farm and where your mother resided as your home? A. Yes.

Q. Now, I believe you say you can't say whether it was a year after you quit the captain's place or not?

A. I know it was a long time.

Q. Before you went to work at the officers' mess?

A. Yes.

Q. And you can't say whether it was more than a year or not?

A. Well, I don't believe it was more than a year, but I can't say as to the time.

Q. Well, if it was nearly a year, it must have been sometime in '85?

A. Well, in the summer of 1885, I was not working there in '85, I was up here.

Q. I am just trying to get my answer?

A. I was up in the Fort, but I was not working there.

Q. I am just trying to see now as you have thought it over, by this examination we have had, whether you can say now it was sometime in the latter part of 1885 that you took charge of the Officer's Mess.

A. No, I didn't work at the Officer's Mess in 1885.

Q. Didn't you work at all?

A. I can't remember, it has been so long in those messes, I declare to goodness, I don't know one from the other.

Q. When you would go up there in '85, you would visit your sister and visit the other families there on the Reservation? A. Yes, there were several families I knew of course.

Q. Would you go up to the mess?

A. No, there was no mess, no I wouldn't go near the mess.

Q. Well, you hadn't worked in the mess then prior to the time that you worked for this Captain at all?

A. I hadn't worked—no, not in the—I can't just remember when I started first, I suppose they would call it that, I never heard it termed that in those days, I can't remember when I started.

Q. What did you call it in those days?

A. Well, I never heard mess until later years. Well, they would call it a mess I suppose too, they would mess together.

Q. Just a term or mess to fit your idea as to what I am referring to? A. Yes.

Q. Three or four officers that had their meals together there in this building? A. But I can't remember——

Q. Wait a minute, I say that word——

A. Yes, but I have forgotten all of that.

Q. Please try to give me with some certainty——

A. Well, I tried to think that, but I can't think of that.

Q. When you started to work in the Officer's Mess?

A. When I started to work in the Officer's Mess?

Q. Yes?

A. Well, I told you before, I thought that I took charge of the Officer's Mess in 1888, but that was a year afterwards, independent——

Q. You understood my last question, didn't you, when you went to work in the Mess?

A. I just can't tell the year.

Q. About how long did you work there before you took charge in 1888?

A. Well, those times, I just can't tell how long I worked there, I forgot, I can't say that positively.

Q. When you worked at the mess then, before you took charge now, what were your duties, not in detail but generally?

A. Well, in general, ordering and looking after things, and I assisted of course.

Q. Did you do the actual cooking?

A. No, I didn't do the actual cooking.

Q. You had employees to cook?

A. I didn't, they did.

Q. They did? A. Yes, sir.

Q. They had employees to clean the building?

A. Well, I have forgotten, it seems to me there was a man, I have forgotten that, just how that was, I have forgotten that.

By Mr. German: I object to each of the questions that will hereafter be answered, with Mr. Blakeney's permission, on the ground that it is unnecessary detail, repetition, and improper cross examination. You object to it going to each of your questions? It will save time.

By Mr. Blakeney: Yes, sir, you will probably withdraw that objection when you see the purpose of it.

By Mr. German: Well, he consents to it. *Go to it.*

Q. Now, what time did you go to work, you know the time now that I am referring to now, the time that you worked at the Mess before you took charge of it?

A. Well, I can't tell.

Q. Did you hear my question? What time did you go to work in the day time?

A. Oh, I was right in the house there, I didn't go to work, I was right in the building, lived in the Post.

Q. Did you live in the Fort Building in which you did your work?

A. I did, yes, but I can't remember what building, that is what's bothering me; been around so many places in that Fort, I can't tell you anything about that building, I don't remember that at all.

Q. Now, did you have time, when you were working there, to go to the City and visit around?

A. Yes, I didn't visit very much, I came to the City whenever I wanted to, yes; I knew how to manage to do that.

By Mr. Allen: Mrs. Cunningham, I wouldn't go into details with those answers.

A. I don't know what to tell him.

Q. Your work was not so exacting then that you had to remain at the building all day? A. No.

Q. After the evening dinners were served, was your time at your own command? A. Yes.

Q. Were you fairly well acquainted with—not personally acquainted now, but by sight, did you know the women, the men, the children that lived around the Fort?

A. Very few, no, I didn't know but very few people.

Q. I mean did you know them by sight?

A. Well, of course, I knew some by sight.

Q. Did you know many of them? A. No.

Q. By sight? A. No.

Q. But you can now, after this examination——

A. No, I can't.

Q. You cannot now, after this examination, say about how long you worked there before you took charge?

A. No, I cannot.

Q. Was it more than a year? A. I can't say that.

Q. Can't say whether it was five years?

A. Oh, it wasn't five years, I know that.

Q. Three years, can you say it was not three years?

A. No, I will not say that either.

Q. During all that time now, however long or short it was, while you were there working at the Mess, you never saw Minnie Atkins, or Indian Minnie? A. At the Mess?

Q. Well, while you were working at the Mess you never saw Indian Minnie?

A. I didn't see any Minnie at the Mess. No. When I worked at what they called the Mess, that was in '88, I didn't see Indian Minnie.

Q. Was there anything in my last question that said——

A. You said the Mess.

Q. You heard counsel's statement here a minute ago, didn't you, in which he said you said you had not worked at the mess until '88. Did you hear counsel make that statement here just a minute ago?

By Mr. German: I submit that the witness so stated in her last answer, and that that answer was given before Judge Allen's remark, to which the counsel refers.

By Mr. Allen: And I was merely asking the Examiner to record that answer.

By Mr. Blakeney: I would like for the Examiner to make this statement into the record: That neither counsel interposed any objection, they were just trying to coach the witness.

By Mr. Allen: We submit the record is an absolute refutation of the statement of counsel.

By Mr. German: I want to add to Judge Allen's statement, that counsel's suggestion is false in point of fact. You said we were trying to coach the witness, I deny it.

By Mr. Blakeney: I want more proof.

And thereupon recess is had until 1:30 o'clock P. M.

And thereafter, and at 1:30 o'clock P. M., further testimony herein is taken as follows:

MARY N. CUNNINGHAM, being recalled, further testified as follows:

Cross Examination by Mr. Blakeney.

Q. Since the examination this morning, and during the recess or adjournment for the lunch hour, have you been able to think that over so that you could say any more definitely than you did this forenoon, when you went to work at this private mess of officers up there in the Fort?

A. Yes, I have thought over it a little bit, it was in 1888, but how many months I can't say. I had charge of the Mess in '88, and I worked for the officers when they ran their own mess.

Q. Before '88?

A. It was in '88, the latter part of '88, I had charge of the Mess myself you understand, running it independently, they paid all the expenses but I oversaw it.

Q. How long did you work while they ran it?

A. Well, that I can't say, I don't remember the length of time, but several months.

Q. Not as much as a year?

A. No, not quite a year, pretty near a year, I thought that out afterwards.

Q. Then the latter part of '88, now you say you took charge?

A. Yes, I don't know what time, in '88, I can't say.

Q. You are reasonably sure it was the latter part of '88?

A. Yes, somewhere along there. I took charge of the mess in '88, the latter part.

Q. And how long did you run the Mess?

A. Well, I can't exactly say how long I run the mess until it was closed down, I can't remember. You know as the school changes, the mess at that time would close. I can't say how long I ran that mess, I have forgotten that.

Q. Well, can you give us any idea?

A. No, I can't, but I should think, judging from the best of my knowledge, it was about probably two years, or a year and a half, I think the class was for two years at that time.

Q. What class do you refer to?

A. Well, I can't tell you that.

Q. What do you mean?

A. Well, it was in 1888. I don't know whether the class was not leaving in 1888, but it seems to me that the class, if I remember right, left that fall, but I am not positive.

Q. A new class came in the next year?

A. Well, I can't say exactly.

Q. Well, can you name any of the persons who were in that class at that time? A. The first mess?

Q. Yes? A. Yes, I can mention some of them.

Q. I wish you would do that?

A. There was Captain Scott, and I don't remember whether Lieutenant Rice was in it or not, he is at the present time, but he was in that mess, but what time I can't say. Of course, a great many of them I have forgotten.

Q. Captain Stouts isn't here now?

A. No, he is perhaps a general or colonel by this time, years ago.

Q. Do you know which he is?

A. No, I don't know whether he is dead or is a colonel; I think I heard he died, I am not sure.

Q. Name somebody else in that mess?

A. Lieutenant Farber, of the Eighth Infantry, I think; there was Lieutenant Benjamin, I think that he belonged—I don't know whether he belonged to the First Infantry at that time or not, but he was in the First Infantry—Lieutenant Benjamin, I don't know whether he was in the First Infantry at that time or not. I have forgotten, but I believe he was in the First Infantry. Those are some of the men, the others I have forgotten their names.

Q. Those are some of the men that were taking meals at the mess after you took charge?

A. No, those men were in before I took charge.

Q. While you were working there?

A. While I was working there.

Q. Who preceded you there working?

A. That I can't tell you.

Q. Now, from 1883, when you say that you worked there a short time for some Captain?

A. I don't remember saying that I worked there in 1883 or in '84.

Q. In '84, who was it you worked for?

A. Captain Townsend. I was just there a short time taking the place of my sister, she was ill.

Q. From the time that you worked for Captain Townsend, up until you went to work at the private mess in 1888, what did you do?

A. Well, I worked in the Fort at all of that time, only came up here occasionally. I don't remember whether I—I don't remember what I did after that, I don't remember whether—I don't think I was in the Fort much of that time.

Q. You were staying at your home?

A. I was at my home and in town.

Q. You would merely make visits in town?

A. Yes, my home was in Easton, near Easton river, a little country town out here.

Q. How far is Easton from Leavenworth?

A. I should judge about fifteen miles, fifteen or sixteen miles.

Q. How far did you live from Easton?

A. About a mile I think, it may be a mile.

Q. You stayed out there with your mother's family most of the time then following '84 up to '88?

A. No, I was in and out of there so much, I was in town a great deal, remained with a family, Mr. C. W. McCorbin. He was Register of Deeds in Leavenworth.

Q. Was he Register of Deeds at the time that you stayed with him? A. Part of the time he was. This was like home.

Q. How long? A. I don't remember how long.

Q. How long would you stay when you visited them?

A. I don't remember. I just stayed until I felt like leaving, and went home and came again, I don't remember.

Q. You didn't work for them?

A. No, I didn't work for them.

Q. Would you say that you just went to visit there and stayed as long as you wanted to? A. Yes.

Q. And came as frequently as you wanted to?

A. As frequently as I wanted to, yes.

Q. Don't know how long you stayed and how frequently?

A. I don't remember.

Q. Can you give any period of time that you did stay there?

A. I don't remember.

Q. But you were not up to the Fort very much during that time? A. Not much of the time during that time.

Q. How often could you say you were up to the Fort during that time?

A. I don't remember these years, I forget now, the years eighty-seven and eighty-eight, where I had been.

Q. You would go up there very frequently and visit your sister wouldn't you?

A. No, not very frequently, wouldn't go up there very frequently.

Q. Wouldn't you go there and stay three or four weeks at a time with your sister? A. Oh, no.

Q. Your sister was keeping house, wasn't she?

A. I have forgotten what she was doing at that time.

Q. When was your sister married?

A. I have gotten mixed up, she was married in 1902.

Q. 1902? A. Yes.

Q. Married fifteen years? A. I think about fifteen.

Q. About fifteen years? A. Yes.

Q. And until that time your sister was working around the Fort?

A. I don't know where my sister was, she can tell you more about that than I can know.

Q. Up until '84 to '88, was she working around the Fort?

A. Yes,—from what time?

Q. From '84 to '88?

A. I don't know whether she was working continuously or not.

Q. You took her place when she was sick?

A. A short while in the fall when she had typhoid fever. I have forgotten about the place, let alone how long I was there.

Q. You are pretty sure it was in '84?

A. I am pretty sure it was in '84; I could be mistaken about that but I think it was '84.

Q. After she got well of the fever she came back and took her place?

A. I don't remember, I believe she did.

Q. And you went home?

A. Yes, I don't remember whether I went home or went to town, that I don't remember.

Q. When you worked there for Captain Townsend, did you stay at his house at night? A. Yes.

Q. And your sister stayed at the house at night? A. Yes.

Q. Did you ever go back there, then, and stay with your sister at Captain Townsend's?

A. Well, perhaps over night; I don't remember but it seems to me I did go up there and stay perhaps over night, sometimes, that is all.

Q. Your recollection is that you would be up there at night?

A. No, just probably once in a great while at night.

Q. You have a recollection, do you, that you did go up there once? A. At least once, I think I did.

Q. Well, how long after you quit working?

A. I don't remember.

Q. Had you been home before you made that visit?

A. I don't remember.

Q. Where did your sister next work?

A. I don't remember that.

Q. Where did you next visit her? At work? A. What?

Q. Where did you next visit her at work?

A. That I don't remember.

Q. Do you remember whether you visited her any more for the next three or four years?

A. I suppose I did but I don't remember. I didn't tax my memory with that and it is awful hard to go into that. That has been just like a dream to me, the whole thing; if I could think it up——

Q. This whole case seems to be just like a dream to you?

A. Well, that is—not the whole case.

Q. What is in the case that doesn't appear to be a dream?

Mr. German: I object to that as argumentative.

A. Well, of course, I can remember since 1888, and a great many things I can't remember.

Q. Answer the question; what is there in this case that doesn't appear to be a dream?

Mr. German: Object to that as argumentative and as calling for a conclusion, and as incompetent.

A. I don't remember.

Q. You can't now recall any place that you went up there to visit your sister after she quit working for Townsend?

A. No, I don't remember; I suppose I have, but I don't remember.

Q. You are not sure, even, that your sister worked up there during the next two or three years?

A. Well, I think my sister worked there, but I can't recall when or where.

Q. You can't recall that you went up to see her?

A. I can't recall that either, but I suppose I did; naturally I suppose I did, but I can't recall when or what time.

Q. Do you remember—you say this trip—that you remember going up there to see her when she worked for Townsends, to see her and stayed all night—do you remember whether that was soon after you left, or a long time?

A. No, I do not.

Q. Don't remember that? A. No, I don't.

Q. You remember where you saw your sister; whether you saw her down town or went up with her?

A. I didn't go up with my sister; if I went, I went alone. I don't remember whether I met her in the store or not—I don't remember.

Q. You don't remember if you saw her out on the street? A. No.

Q. At that time, I say? A. No, I don't remember that.

Q. And you don't remember the time that you visited your sister up there? A. No, I don't.

Recross Examination by Mr. Hanford.

Q. Miss Cunningham, do you know what regiment relieved the 20th? A. Relieved the 20th?

Q. Yes? A. I do.

Q. Which one?

A. The 18th came down here and then—I may be wrong—it seems to me that they came down here in June '85.

Q. The 20th went away? A. In May.

Q. They left a small detachment here? A. Yes.

Q. At the Post until the 18th came here? A. Yes.

Q. And there was some weeks before the 18th arrived and that small detachment of the 20th went away to join the rest of the regiment?

A. Yes, they joined the regiment, you see——

Q. Well, I am speaking about the detachment that was left back? A. Yes.

Q. They stayed here until the 18th came? A. Yes.

Q. Can you recall how long it was from the time the 20th left in 1885, until the 18th arrived?

A. No, I don't but to the best of my knowledge it seems to me that they came in the fall, or June of '85. Of course, that I wouldn't say——

Q. Now, Miss Cunningham, the time that you were gathering these wild flowers, or crab-apple blossoms that you spoke of, was just at the time that the regiment departed, was it not? At the time the 20th went away?

A. Yes, but not the day the 20th departed; it wasn't the day that the 20th left.

Q. Was it before or after?

A. Well, that I don't remember; whether it was before or after.

Q. But it was the same year?

A. It was the same month, and I wouldn't remember that but for the 20th going away—we were all down seeing the 20th off, I remember that very distinctly.

Q. And you were staying at the Post at that time?

A. No, I wasn't staying at the Post at that time.

Q. The occasion that you speak of, when you were gathering the flowers, was that matter approximately when the 20th left? A. Yes.

Redirect Examination by Mr. Allen.

Q. When did you say the 20th left?

A. The 20th left in May, '85, if I remember distinctly; then, there was an Infantry—another regiment here. Of course, a few other companies were here at the time.

Q. Miss Cunningham, you have—was your father in the Army?

A. My father, I really don't know whether he was or not; I don't believe he was.

Q. Your uncle was, wasn't he?

Mr. Blakeney: We object as immaterial.

Mr. Allen: Alright; I withdraw it.

Witness dismissed.

And thereupon MARY N. CUNNINGHAM being recalled further testified as follows:

Recross Examination by Mr. Blakeney.

Q. About what is your weight, now?

A. Well, I really can't say but I should judge about 150 —I can't say. Really, I haven't weighed, you might say, in an age; funny thing to say that I don't know how much I weigh, but I don't.

Q. Do you think you weigh about 150 pounds?

A. I judge about that but I don't know.

Witness dismissed.

Mr. Allen: We now offer the deposition of Helen Beeler, taken before Mr. Penick appearing in his transcript at page 2410.

And thereupon, MRS. HELEN BEELER, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Where do you live? A. Where do I live at present?

Q. Yes? A. With my sister, Fort Leavenworth.

Q. What is your name?

A. My given name or my husband's full name?

Q. Your name? A. Helen Beeler.

Q. Mrs. Beeler, was you at Fort Leavenworth in 1884 and 1885? A. I was.

Q. Did you ever have typhoid fever? A. I did.

Q. When was that?

A. In August 1884, or possibly September, but I remember it was in the early summer or fall month.

Q. Did you know Herbert Grodevant who lived at the Fort? A. I remember the family, yes.

Q. Where were you living when you had typhoid fever?

A. I was living at the first house down from the commander's—commander of the prison—the first house facing east.

Q. Whose home was that?

A. It was Captain Townsend's.

Q. How far was that from the Grodevant's home?

A. Oh, well it was—you would have to go around the prison wall—go north quite a distance, then west about a half, then north about a half a block. No, in all, I judge it was about five blocks from where I lived.

Q. Were you around the Grodevant's in the fall of '84, and the summer of '85?

A. Not to my knowledge in the fall of '85, but I often went down that way. I was down aroumd that locality in the spring of '85.

Q. Did you see at that time, at any time that you were at Grodevant's, an Indian girl named Indian Minnie?

A. I saw a party in the yard one evening. As near as I can remember; it was an evening in May.

Q. Will you tell how you fixed that date?

A. I will as near as I can; I remember it from this instance. The 20th regiment left Fort Leavenworth in May, 1885, and during that time, whether it was before, now, but I think it was after the regiment left, that I and my sister walked out one evening to gather flowers, and we went down northeast as far as the river by the old wagon road, and around, and gathered flowers, and I know it was in May, for the simple reason that there was apple and crab-apple blossoms bloomed at that season. We came around by the little park and in there where the Grodevant's resided, and passing the Grodevant and her husband were sitting on the front porch, and I stopped and talked with them a few minutes—I didn't go in, I never was in the house—and while standing this, as I supposed at the time, a colored girl, step- out in the back yard, hanging up some clothes that looked like tea-towels, and I just remarked to Mrs. Grodevant, do you employ colored help now, and she said, no, I don't—she is an Indian girl.

Q. After that did you see her around the Grodevants?

A. No, not around the Grodevants, but twice.

Q. Did you see her at any other places?

A. I did; I saw her coming that road from the Grodevant's, just as though she was going to the prison wall—going down to the Missouri Pacific Depot, which was the main way for going to the town. A great many people went that way; it was the shortest way to go to town. I have seen her go in that direction twice; that is all.

Q. Do you know how she was dressed when you saw her at the Grodevant's home?

A. No, I do not. To be candid, I don't, but I know very ordinary, like anybody of the kind that was working and more so, than the other class of help, you know—clad in a very ordinary gown.

Q. In a tight fitting, or a wrapper?

A. No, sir, just as anybody—no, not in a wrapper. I don't remember the color of the gown but I remember her being dressed just as a servant would go down here—common clothes with that class of people.

Q. Who was with you at that time?

A. When seeing her pass?

Q. Yes?

A. Why, I can't tell you sir; but on one occasion, my sister was with me—we were walking one evening.

Q. I mean on the occasion of you being out gathering wild flowers?

A. Oh, my sister on that occasion; I thought you had reference when she was going as I supposed to the Missouri Pacific Station. I don't know where she was going.

Q. You just saw her pass?

A. On the walk, and the walk was as near as that place—like that.

Q. You mean about five or six steps from you?

A. You know they had to pass through the lines.

Q. Would it be about five or six steps as much as you would——

A. No, further than that; just about the length of this room.

Q. About thirty-five feet? A. Yes, sir, about that.

Q. During any of the time—at any of the times you saw this Indian girl, did she appear to be in a condition of pregnancy?

A. No, sir, she was not; not at any time.

Cross Examination by Mr. Hanford.

Q. Mrs. Beeler, at that time, you were not a married woman? A. No, sir, I was not.

Q. You were just a young girl?

A. I was just about 18, as near as I can remember.

Q. And your observation of this girl was simply the observation of somebody else's servant? A. Yes.

Q. Purely casual? A. Yes, yes.

Q. You had no particular interest in her?

A. None in the world.

Q. You were not inquiring into, or observing to determine matters approaching maternity on the part of other women? A. Not at all.

Q. So that you had no reason to look for anything of that kind?

Mr. German: I object to the question as argumentative.

Q. When did you say that the 20th Infantry left?

A. Maybe some time in May.

Mr. German: And as calling for a conclusion.

A. '85.

Q. Are you certain of that month?

A. I am not. While one person says it was June, I say it was May; it was a number of years, and I was no—I remember it distinctly as May. I may be mistaken there, but it was May, or the early part of June.

Q. Mrs. Beeler, you mentioned the 20th Infantry leaving in connection with this time that you were gathering flowers?

A. Yes.

Q. What is the connection between those two events?

A. For the simple reason that I have read of this Minnie case coming on. I never associated her in any manner with one of these women I had seen in the Grodevant's house, until parties asked me and tried to insist upon me—that I must have remembered this girl, and then I sat down, naturally, and began to recall these numerous years, and then I remember this—that in '85, the 20th Infantry left, succeeded by the 18th. I knew where I was at the time, and I remembered going over on the old Arsenal and seeing the regiment away. I remember having typhoid fever the fall before, and I was in the same house the fall before until sometime in the summer, I don't know when, until '85.

Q. Mrs. [] you don't quite understand my question. I asked you this; what is the connection between the gathering of the flowers and the 20th Infantry?

A. Because it happened in the same year and the same month, as near—if there was a mistake, it was that the 20th might have gone in June, but I say they went in May; and I know that the day that we gathered the flowers, was the first time I had ever seen that Indian girl, and would not have seen her then, if we had not gone by the Grodevant's house, and saw her in the yard.

Q. Then it is purely a coincident that you remember gathering these flowers about the time the 20th left?

A. For the reason that the first time I had seen Grodevant's house——

Q. But she had nothing to do with the gathering of the flowers?

A. Not at all, but it was the first time I had ever been in that neighborhood. I had often heard of them living in this new house but never knew anything more about them.

Q. Now, this house that the Grodevant's lived in, was in what is called Bluntville?

A. Yes, I believe it is; I don't know whether it was then or not, but it is now.

Q. And one of the new houses?

A. One of the new houses at that time.

Q. It has recently been built? A. By Mr. Dodge.

Q. You remember that he built that?

A. I do remember him well—having seen him.

Q. That was prior to the time that you saw this Indian girl? A. Prior to the time?

Q. Yes?

A. No, the house was built then, she was living in it.

Q. How long had the house been built?

A. I can't say, sir, but I think it was about '83 that house was built. I am not sure about that.

Q. Who said '83——

A. The old residents—you must remember that I have been there all my life; have been away three years.

Q. That is what you heard just recently?

A. Just like anybody else knowing there was a house back there, and didn't have to see it to know it was there.

Q. I mean your recollection of the year '83, is what you have refreshed your memory recently?

A. Well, I have no knowledge about it then; no, I have not.

Q. Mr. Dawes was able to confirm your memory as to the year?

A. He was not, sir; he didn't have to tell me that. I have known Mr. Dawes—know his first wife—lived upon Potawatomie street, some place—they were great friends of a friend of mine that has gone years ago—my first knowledge of him, but I knew what he was doing up there.

Q. Knew that he lived in this house right near the Commandant of the prison? A. Yes, sir.

Q. And were you working for him at that time?

A. I was, sir.

Q. That was Captain Townsend?

A. Yes, sir, they called it working; called me the housekeeper, but I know I was doing a lot of good work.

Q. And you had your duties there as housekeeper?

A. I did, but they kept prisoners—paroled men—did the laborious work.

Q. You had that all to over see?

A. Yes, sir, and to supervise the meals.

Q. And do the ordering?

A. Yes, that was mv occupation, and housekeeping.

Q. Generally? A. Yes.

Q. Were any of your particular associates located in the village people? A. No. Well, I don't remember that, sir.

Q. So, you had no occasion to go down there except——

A. No- at all.

Q. In the way that you passed through when you were gathering the flowers?

A. No, people moved around so like a city, an Army Post —people were moving in and out, and it is pretty hard to recall the number of people that have been there since they have—the regiment, let alone the people.

Q. What I mean to say—your particular friends that you visited with and associated with, were people who lived in the city, and your sister, and not the Garrison itself?

A. Yes, I never have made a habit of visiting—no one can ever say—for thirty-three years——

Q. I understand.

A. They can't say that we ever went to visit with people according to our position at the time—understand that.

Q. What I was trying to get at was, that your family lived in Easton? A. Yes.

Q. And your sister?

A. Was here in town and when we went any place, we went home.

Q. And your friends were there and in town?

A. Yes, there and in town.

Q. So that you were not called upon to——

A. No, I didn't know anybody.

Q. Down at Grodevant's and places like that?

A. No, I never was at Mrs. Grodevant's in my life.

Q. And you certainly had no association, or no personal acquaintance with this Indian Minnie, as you call her?

A. I certainly did not, no, except as she was such a curiosity I wouldn't have seen her then; she was the first one I ever saw.

Cross Examination by Mr. Blakeney.

Q. You say she was the first Indian you ever saw?

A. Ever saw to know.

Q. Weren't there a lot of Indians around that Fort at that time?

A. I suppose there were, but they might be just a little bit before my time.

Q. Wasn't there a tribe of them? A. There was not, sir.

Q. Part of a tribe kept there as a sort of prisoners?

A. I remember that they were in the Guard House, now that you speak about it; had a couple of chiefs there in the Guard House but I never did see them.

Q. You didn't understand that they kept them actually confined? A. Don't know.

Q. You know Indian Molly, don't you?

A. No, sir, I never heard of such a person.

Q. You say that you didn't associate with the people out there around the Fort?

A. I did not, sir, to any extent; I was a young girl and I knew nobody—didn't pay any attention to nobody but my business.

Q. I believe that you said that while you lived there all your life, you could scarcely tell the number of regiments that have come and gone?

A. I could scarcely tell them, I did say that, Mr., but that is up to that present time that you are referring to.

Q. What ever time you are referring to?

A. Referring to that time, but since then, of course, I know lots of people.

Q. Up to that time, had there been a number of regiments? A. Of course, there was, but I didn't know it.

Q. I mean to your knowledge? A. Up to that time?

Q. Yes?

A. Well, no, the 20th Infantry, I think, was my first knowledge.

Q. And they were succeeded by the 18th Infantry?

A. By the 18th, as I remember.

Q. How do you remember that was '85?

A. Well, I remember it for several reasons. I remember that in the fall of '84, I was ill. I was out to my brother's during that time; I came back late, possibly along in November, and I was in this place, along until sometime in the summer of '85—during that time the regiment left, and during that time, I either went home—that is how I remember, just as anybody would remember.

Q. You continued to work there?

A. I did, up until that summer.

Q. What did you do then?

A. I can't remember. I may, if I have a little time; you must remember this is 24 hours thinking up. Let's see—I think I went home—in fact I know I did— —

Q. You think you went home? A. I did; to Easton.

Q. How long did you stay home?

A. Well, I don't remember.

Q. Well, now, think up a little and tell us to your best recollection.

A. Well, I can't remember how long I stayed at home.

Q. I don't mean exactly; I mean approximately—a few weeks, or a few months?

A. My next knowledge of the Post was, as near I can remember, in '83—no, '83—no, I do remember, it was in the fall of '85, but I don't know how late—that was the same year.

Q. Is the same year?

A. The same year but it was late in the fall, yes. Now, I am not certain about that; it might be the spring of '86—I am not certain about that. How long I was home I don't know.

Q. Let's see if we can work it out more accurately.

A. I don't think you can unless I had more time to think.

Q. Now, Captain Townsend, what regiment did he belong to?

A. I don't know, sir, he was assigned to—attached to the prison.

Q. He was not transferred when the regiment was transferred? A. No, sir, he was not.

Q. Did you work on with Captain Townsend after the transfer of the 20th regiment?

A. I certainly did, until sometime the next summer.

Q. About how late into the summer?

A. Well, now, that is exactly what I don't remember, but I remember it was in rather warm weather, and I went home and came back late in the fall, again, but now, I am not sure about that, Mr. It was in the cool weather—whether it was late in the fall, or spring.

Q. Captain Townsend is living now?

A. I don't know a thing about him from the time that he left here; I don't he——

Q. He left here, did he?

A. Yes, he left here years afterwards; they was there a long time.

Q. Who else was working for Captain Townsend?

A. Well, a girl named Eliza; another named Nellie.

Q. Don't knew the last names?

A. I do not; I did know. The girl Eliza was from New York; she went with the family when they left—I am quite sure that she did.

Q. What was the other girl's name?

A. Her name was Nellie.

Q. Nellie who?

A. I don't remember what her name was. If I am not mistaken, she is dead. I think she married a Sergeant, and died—I don't remember her name. I know she was not there very long.

Q. You was sick, I believe you said, of typhoid fever? In August or September of '84? A. Yes, sir.

Q. Did you have a physician? A. Well, yes, I did.

Q. Who did you have?

A. Well, now, I don't know who I had, but I will think that up in time. I wouldn't want to be positive; it has been so many physicians there since. I had a physician; I know I came very near dying. Whether it was Dr. Rice, the prison doctor—and I believe it was——

Q. Where is he now? A. I don't know, sir.

Q. Is he here?

A. He is not. Shortly about that time, I think he left here; I think it was Doctor Rice.

Q. Where did you get your medicine at that time?

A. Well, right at the prison, at the hospital.

Q. The prison hospital?

A. I should guess so, but I can't even answer that. I don't think I paid for it; I think it was furnished as they usually do—the Government furnishes medicine.

Q. Do you know whether or not any record was made for that? A. I do not, sir.

Q. You have no record that you might even refer us to?

A. To my illness?

Q. To your illness, to fix that date?

A. No, sir, only just as I tell you. It was in the early fall; I remember taking a chill, and from that on, it was six weeks that I knew nothing, hardly.

Q. Early fall, either August or September?

A. Well, I remember it was warm weather, you know, extremely warm, and I know I was ill a long time, that is all I know about it.

Q. And from that, after you went on back to work, for the Captain, after you got better?

A. I did, after I got better.

Q. And you can recall in '85 that you saw Minnie?

A. Yes, I can, and during absence, my sister was there in my place.

Q. And helped you to recall the date?

A. Beg your pardon?

Q. I said that helped you to recall the date?

A. I can't tell you anything about the date, but I know my sister was there in my absence.

Q. You do recall the date—you say '84?

A. Yes, but not the date, of course, but I am telling you the year.

Q. What kind of flowers were they that you gathered?

A. Oh, those old May-apple—not May-apple blossoms, but crab-apple and such blossoms that grew on the trees in May.

Q. Grew wild on the river?

A. Well, on the river—old fashioned crab-apple and blooming blossoms—pink and the white flowers; we used to go and gather them.

Q. You don't remember particularly what kind of blossoms they were except from the month that you gathered them?

A. Yes, just remember it was along in May.

Q. White, yellow, or red?

A. No, sir, white and pink. One tree would have been white—old as I am, I don't know whether the crab had white, or the other tree—but I know it was a combination of flowers you gather along in May, and sometimes in April, according to the seasons, whenever the spring happens to be.

Q. In this country, sometimes as early as March?

A. Well, I have seen them in February, some years ago; blossoms in February, and everything was frozen and frostbitten. They are in blossom now—not with us up here.

Recross Examination by Mr. Hanford.

Q. Mrs. Beeler, your recollection about the flowers is that it was the spring flower?

A. Yes, spring flowers, and that is all the recollection that I have, but I knew it was along in May when the grass and everything was beautiful and green, and we walked in this Avenue like anybody would, to see that part of the Post.

Q. And when people naturally came out to gather flowers? A. Yes.

Q. When the blossoms came, you came out?

A. Yes, a very natural consequence.

Witness dismissed.

Mr. Allen: We now offer the deposition of John F. Bierly, taken before Mr. Penick and appearing in his transcript at page 3024.

JAMES F. BIERLY, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. James F. Bierly.

Q. Mr. Bierly, what is your age?

A. I will be 74 in September.

Q. You are living now in Leavenworth?

A. Yes, sir, have been here for forty years, and a little over.

Q. You have lived here for over forty years?

A. Yes, sir.

Q. Where were you living—in what part of the city, in 1863-4-5-6?

Q. I wasn't in the city; I was working at Fort Leavenworth

Q. What years were you at Fort Leavenworth?

A. From '83 until '90?

Q. When you say you lived here during the last forty years, you mean it has been in Leavenworth and Fort Leavenworth?

A. Leavenworth, Fort Leavenworth, and Lansing, Kansas—Penitentiary. I was three years out there. Not a convict, but a guard.

Q. What were you doing at the Fort?

A. From '83 until '90, I was driving a six mule team at the Military Prison.

Q. Did you know Herbert Grodevant?

A. Certainly, he was Post Carpenter at the Military Prison.

Q. When did you get acquainted with him?

A. Well, I got acquainted with him almost quick as I began driving the team in '83; I was under him in the duties I was performing.

Q. You were working under him, were you?

A. No, I was directing under Henry Jackson. I was driving a team and Mr. Grodevant was the boss carpenter, but I drove the team and knew everybody.

Q. He was the boss carpenter at the Military Prison where you were? A. He was boss carpenter.

Q. From the stables where you kept your horses, could you see the home of Mr. Grodevant?

A. I could; wasn't horses, however. I was driving mules; didn't use horses for that purpose.

Q. During '84 and '85, did you see an Indian woman around the Grodevant home? A. I did.

Q. Do you know what her name was?

A. Called her Indian Minnie.

Q. How long did she stay at Grodevant's?

A. I think she was there a year or a little more. I ain't positive how long, but I know she was there fully a year.

Q. Do you remember the time that she commenced working there? I don't mean the date, but about the time?

A. I don't exactly but I think it was about the winter of '84 and '85, or the early part of '85. I am not positive about the time she came there.

Q. I am not speaking of the date, but do you remember the time she commenced working there? The occurrence of her starting to work there?

A. The first I recall, it must have been early in '85.

Q. I am not speaking of the date, now, but the time of the year.

A. Well, what I mean, as near as I can get to the time, it was early in '85; I don't recollect the date but as near as I can remember.

Q. I understand that you don't remember the time of the year that she commenced working there.

Mr. Blakeney: We object, now, to that statement because witness says he does.

Mr. Cruce: We object to that.

Q. About how long had she been working for Grodevants when you first saw her?

A. Well, I don't suppose she was there—she might have been there a month before I first got to know her, and know who she was, and might have been there longer than that, and might have been less. I am not positive exactly of the time.

Q. During the year, or about a year that you saw that you saw her at Grodevant's, how often would you see her there?

A. Well, I would see her twice or three times a day, or sometimes it would be days that I wouldn't see her at all; wouldn't pass there with my team. Sometimes I would pass two or three times a day with the team.

Q. Would there ever be as much as two weeks that you wouldn't see her?

A. No, sir, maybe four or five days I wouldn't see her, and then see her a couple of times a day.

Q. Were you well acquainted with her?

A. Well, I wasn't well acquainted with her but knew her well enough to talk to her.

Q. Did you talk to her frequently or not?

A. Well, every once in a while I talked to her. I can't say how often.

Q. State whether or not during the time she worked for Grodevant's she was ever in a pregnant condition.

A. Not to my knowledge; I never thought she was.

Q. Did she ever appear to be in a pregnant condition during the time she worked for Grodevant?

A. No, I didn't at any time think the girl was pregnant, at any time that I knew her; at least, nothing caused me to think so.

Cross Examination by Mr. Hanford.

Q. Did you see this girl as you would pass the house with your team?

A. Yes, and I would often see her outside; we could see the house from the corral.

Q. You would be up there to get the mules?

A. Yes, sir; the Prison stable.

Q. You see her from the—at the house?

A. Yes, sir; a little south diagonally, a little south of the stables, on a rise.

Q. How old was this girl?

A. I suppose she was about 16 years of age at the time—

Q. About 16?

A. That is what I suppose. I can't say—in fact, I never asked her her age, but I don't think she was over 16 or 17.

Q. How big was she?

A. To my recollection, she was a medium sized girl, not large. I suppose a girl about 5 foot, 2½—something like that.

Q. Short?

A. Short; rather heavily built; not too heavy from her appearance—strong built girl, though.

Q. Plump? A. Plump, yes, plump built girl.

Q. How long ago was that that you used to see her there?

A. How long ago?

Q. Yes? A. In 1885.

Q. Thirty-one years ago. Do you remember servants for any other people around there?

A. Not there; know servants any other places.

Q. At that time? A. Yes.

Q. Did you ever see this girl afterwards? After you saw her at Grodevant's?

A. Yes, I saw her several times when she was working for a lieutenant; I forget the Lieutenant's name, now.

Q. An Army officer?

A. An Army officer, yes, sir. She went from the Grodevant's to the Army officer's.

Q. Was she pregnant then?

A. I can't say; I never was real close to her—close enough to see. She was with a soldier everytime I seen her after that.

Q. Well, you don't know about her being in a pregnant condition?

A. I only know that she had a baby sometime in '86, up on Eighth street.

Q. How do you know that?

A. Party that seen her there, and told me so.

Q. Did you know it then, or just know it now?

A. Oh, no, I have known that for some time. I always knew she had a baby at Mrs. Woods, but I had it awhile in my head that Mrs. Woods remained at the Fort after I moved to town.

Q. When did you find out the difference?

A. Well, I didn't think it was necessary.

Q. I say, when did you find out different about Mrs. Woods moving to town?

A. Well, after I got to recalling, I knew she moved to town but I had forgotten it. She lived right up stairs over us when her husband died. I was thinking——

Q. This Indian girl was nothing to you when she worked at Grodevant's? You just knew that she was a servant there?

A. I knew she was a servant.

Q. And saw her when she passed and didn't give any more particular attention to her than any other servant?

A. Not any more than any other servant. I would talk to her some times.

Q. You never inquired to find out whether she was in a pregnant condition? A. No, I didn't.

Q. It was no concern of your's?

A. No concern of mine, directly.

Q. You say this girl was an Indian girl?

A. Well, I thought she was a half breed; I didn't think she was a full blood Indian.

Q. She showed her Indian blood?

A. Just enough to show a little Indian in her; I have seen enough of Indians in my time that I never thought she was a full blood.

Q. You knew she was not a full blood, in fact, didn't you?

A. Yes, I knew she was not a full blood Indian.

Q. Could you tell that from her looks? A. Yes.

Witness dismissed.

And thereupon, ROY REYNOLDS was produced and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Roy Reynolds.

Q. What age are you, Mr. Reynolds? A. Thirty four.

Q. Where do you reside? A. Washington, D. C.

Q. What do you do?

A. Clerk in the United States Census office.

Q. Clerk in the United States Census office of Washington City? A. Washington City.

Q. How long have you been Clerk in the Census Office?

A. Since 1900 with the exception of two years, two years 1902 and 1903.

Q. Mr. Reynolds, do they keep in the office where you are employed the files—I mean the census—what do you call them? A. Censuses.

Q. Is there a plural to that? A. They do.

Q. Do they have there the censuses taken of the City of Leavenworth taken in 1890? A. They have.

Q. State whether you examined the census of Leavenworth taken in 1890 in search for the name Thomas Atkins?

A. I did.

Q. When did you make that examination?

A. Well, I made two examinations for my satisfaction. The first one was the latter part of 1916, and then after the first of the year.

Q. After the first of this year? A. Yes, sir, 1917.

Q. State whether you examined—what do you call the sheet? A. Schedules.

Q. What is a schedule, explain that. I don't know that I quite understand that?

A. Well, the schedule for the census 1890 was a family sheet and each family has the, shows the number of names.

Q. Did you or not examine every schedule covering the City of Leavenworth for 1890? A. I did.

Q. State whether or not there was in any of those schedules the name of Thomas Atkins? A. There was not.

Q. State whether there was the name Tommy Atkins?

A. There was not.

Q. Was there the name Tommidore anybody?

A. There was not.

Q. Did you search for the name Tommidore as a given name? A. I did.

Q. And as a surname? A. Yes.

Q. Was that name there? A. No.

Q. Was there any Commodore appearing in that record anywhere as a given name? A. No, sir.

Q. As a surname? A. No, sir.

Q. Did you *searce* for the name Indian Tommy?

A. I did.

Q. Did that appear in there anywhere? A. No, sir.

Q. I show you Government's Exhibit A-98, a certified copy of the original returns for the family of Mollie Letcher, made by William H. Hyden Enumerator in Ward 1, Leavenworth County, Kansas, at the Eleventh Census, 1890, and will ask you if that is one of the schedules you refer to?

A. Yes, this is one of the schedules that I made a search for but it is with reference to a certain address that I made search for.

Q. You made a search for that particular address?

A. Yes, sir.

Mr. German: Now, in this connection, we offer Government's Exhibit A-98 and will state that it is a schedule of the family of Mollie Letcher for 1890.

The Court: I suppose she is identified in the record as Granny Letcher?

Mr. German: Yes, sir, clearly.

The Court: It may be admitted.

Mr. German: This is for Street Number 119 North Third Street.

Q. Mr. Reynolds, do these schedules show the nationality of the persons whose names are on them? A. They do.

Q. State whether you made a search through there for every person who was listed that having Indian blood?

A. I did.

Q. Was certified copies of all of all of these schedules of persons having Indian blood then made? A. Yes, sir.

Q. If those certified copies are shown to you will you be able to state whether they are all the schedules showing persons of Indian blood? A. Yes, sir.

And thereupon Court adjourned until two o'clock P. M.

And thereafter, and at 2 o'clock P. M., court convened pursuant to adjournment and further proceedings herein were had as follows:

Mr. Cruce: If Your Honor please, Judge Allen informs me that they made a formal offer of Government's Exhibit A-98; that was the report from the census.

The Court: Yes.

Mr. Cruce: I overlooked the matter that it was formally offered, and we have examined it since, and we would like to reserve an objection to the introduction of that, and now move that it be excluded as hearsay testimony.

The Court: Overruled, and your exception will be noted. It is merely admitted as one of the circumstances in this case. You have your exceptions.

And thereupon, ROY REYNOLDS, being recalled, further testified as follows:

Direct Examination by Mr. German.

Q. You are the same Mr. Roy Reynolds who was on the stand before lunch? A. I am.

Q. Mr. Reynolds, you say you have been in the census office for a number of years? A. Yes, sir.

Q. And have worked in the matter of census schedules? And records? A. Yes, sir.

Q. Are you familiar with the regulations and practice of the office with relation to taking the census—the various censuses? A. Yes, sir.

Q. From time to time? A. Yes, sir.

> Mr. Hanford: Just a minute, Mr. German. Does that question relate to the time that this census was taken?
>
> Mr. Hanford: I understand he says that he is familiar with that?
>
> Mr. German: Yes, sir.

Q. You have become familiar with it by your work in the office, intimate association in the office? A. Yes, sir.

Q. In the old as well as the new returns? A. Yes, sir.

Q. Now, in 1890, what was the practice with relation to entering on one schedule all the persons at a particular address?

A. In 1890, the office used what was known as the family or dwelling schedule, and on that was entered the names of all persons residing in that dwelling.

Q. Children, adults, and all persons whether the members of the head of the house or not, that is by relation—blood relation? A. Oh, yes.

Q. That is by relation, by blood or marriage?
A. Yes, sir.

Recross Examination by Mr. Stuart.

Q. This census card shows that this is the returns for the family of Molly Letcher—Molly Letcher's family—that is what that is for, isn't it?

A. Shows the people residing in that house at that number.

Q. No, but what does it show on its face?

A. I haven't seen it.

Q. Read it on the face.

A. I hereby certify that the annexed is a true [] of the original returns for the family of Molly Letcher.

Q. That is all; family of Molly Letcher.

Witness dismissed.

And thereupon, LARRY BROWN, a witness produced and sworn as a witness on behalf of the United States, testified as follows:

Direct Examination by Mr. Pinson.

Q. What is your name? A. Larry Brown.

Q. Where do you live? A. I live at Olive.

Q. Oklahoma? A. Oklahoma.

Q. Are you an Indian? A. Yes, sir.

Q. Of what tribe? A. I am Euchee.

Q. Well, the Euchees are associated with the Creek Tribe? A. Yes, sir.

Q. Do they speak the same language?

A. No, sir, different language.

Q. In 1901 were you an officer of Euchee Town?

A. Yes, sir.

Q. What officer? A. I was Warrior.

Q. Of the house of Warriors? A. Yes, sir.

Q. You were known as a Warrior of Euchee Town?

A. Yes, sir.

Q. What other persons were Warriors in 1901?

A. Chicken Dixon, George Clinton.

Q. And who else? A. I don't remember.

Q. Do you remember whether Sam Brown was a member of the House of Warriors at that time? A. No, I don't.

Q. How many Warriors were there at that time?

A. Four.

Q. What was the other representative besides the four Warriors that represented Euchee Town in the National Council? A. The King.

Q. Who was he in 1901?

A. I think Noah Grayson was king.

Q. Do you remember the Council Meeting to ratify a treaty with the United States in 1901?

A. Treaty, yes, sir.

Q. Where was that council meeting? A. Okmulgee.

Q. At that time do you recall whether the Dawes Commission had an office there?

A. Yes, I think they had office there.

Q. In the same building with the Council?

A. Yes, sir.

Q. Did you see them at work there at that time?

A. Who is that?

Q. Did you see the Dawes Commission at work there?

A. Yes, sir.

Q. Did you know what they were doing?

A. No, I didn't pay much attention. They was there.

Q. Were you called upon by the Dawes Commission at that time to appear before them for any purpose? A. No, sir.

Q. Did you talk with any members of the Dawes Commission at that time? A. No, I didn't.

Q. Did you talk with any of the clerks working there with the Dawes Commission? A. No, I didn't.

Q. You were in the Council yourself, were you?

A. Yes, sir, we was there.

Q. Now, were there any other members of Euchee Town there excepting Warriors you have named and the king?

A. Yes.

Q. Who else was there? A. A good many was there.

Q. A good many were there? A. Yes.

Q. Did you know at that time a Minnie Atkins?

A. No, sir.

Q. Of Euchee Town? A. No, sir.

Q. Did you ever know of such a woman? A. No, sir.

Q. Did you ever know of anybody that claimed to be the child of Minnie Atkins? A. No, sir.

Q. Did you know Nancy Atkins? A. No, sir.

Q. Lee Atkins? A. No, sir.

Q. Didn't know any of the Atkins? A. I don't know now.

Cross Examination by Mr. Stuart.

Q. Do you mean to say that Nancy Atkins, the Euchee never, lived in this territory? A. Don't know.

Q. Do you mean to say that Minnie never lived there?

A. No, I don't.

Q. Do you mean to say that Tommy didn't live here? You were a Deep Fork Euchee?

A. Yes, I am a Euchee myself.

Q. Up on the Deep Fork, North Fork? A. No, sir.

Q. How far did you live from Sam Brown?

A. Must be about forty miles.

Q. And you lived forty miles from there?

A. That is my home.

Q. You didn't know much about the Euchees in Sam Brown's neighborhood, did you? A. No, sir.

Q. Your people were over forty miles from him and his people were forty miles from you, you didn't know much about them? A. No, didn't know.

Witness dismissed.

And thereupon, CHICKEN, being called as a witness on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Pinson.

Through sworn interpretor Brown:

Q. What is your name? A. Chicken.
Q. Is that all the name you have?
A. That is all I have, he says.
Q. Where did you live?
A. West of Kellyville, about four miles.
Q. How old are you? A. I am about 65.

Mr. Allen: We request that he interpret in Creek.

The Court: Mr. Brown, could you talk to this man in Creek?

Mr. Brown: Yes, sir, I could, I suppose. I rather Mr. Grayson interpret for this man, because I am here as a witness and I would rather listen to them.

The Court: Well, we want you to interpret now. Try to talk to him in Creek.

Q. How old are you? A. 65 years old.
Q. Of what Band, or Town, are you a member?
A. Euchee.
Q. Is the Euchee Band associated with the Creek Tribe of Indians? A. He says yes.
Q. In 1901 were you associated with—were you an official or an officer of the Euchee Town? A. Yes, sir.
Q. What office did you hold? A. He was a Warrior.
Q. Are the Warriors members of the National Council?
A. Yes, sir.
Q. Now, you remembered being in Okmulgee in May 1901, when the council was considering a Creek Treaty with the United States? A. Yes, sir.
Q. What treaty was that?
A. Relative to allotment, alloting the country.
Q. Well, did you see any members, or clerks of the Dawes Commission working there at that time? A. Yes, sir.
Q. Did you talk with any of them? A. Yes, sir.
Q. Did any of them talk to you about the members of your town and the enrollment of these members?
A. Yes, sir.
Q. They did at that time? A. Yes, sir, he said.

Mr. Pinson: Now, if Your Honor, please, we plead surprise at this witness; on being interrogated by us on last evening, he testified to the contrary. May I lead him a bit here and ascertain?

The Court: Yes, go on, we will see what he knows about it.

Q. Now, who was it you talked with at that time about the enrollment of the members of your band?

A. He said he told them that I was the one that made the roll.

The Court: I don't understand, Mr. Brown, he told them what?

Mr. Brown: He told them that I was the person that made the roll.

Mr. German: That you, Sam Brown?

Mr. Brown: Yes, Sam Brown.

Q. Did they ask you anything about—did they ask you about any particular persons by name who were members of your town?

A. He says that he don't recollect that part of it.

Q. Did you know at that time, Minnie Atkins?

A. No, sir.

Q. Did you ever know Minnie Atkins? A. No.

Q. Did you know Nancy Atkins? A. He don't know her.

Q. Or Lee Atkins? A. He don't know him.

Q. Who else besides yourself was Warriors of Euchee Town at that time?

A. He pointed at me, Sam Brown; and John Buck, I, and Tom Folsom, and Noah Gregory.

Q. How many Warriors were there from Euchee Town at that time? A. Four Warriors.

Q. Was Larry Brown a Warrior at that time?

A. He says he was elected afterward.

Q. Elected afterwards? A. Yes, sir.

Q. Was George Clinton a Warrior?

A. He said that he filled a vacancy.

Q. Whose vacancy?

A. He sat in Noah Gregory's place and also a man by the name of Gartheny.

Q. As a matter of fact, didn't George Clinton and John Buck have a quarrel over the seat there in 1901 in the council? A. I don't know.

Q. You don't remember that very well do you Chicken?

A. No, he don't remember.

Q. Did you put anybody's name on the roll from your town at that time? A. He says no.

Q. You just told them that Sam Brown made the roll?
A. He said I was the one.

Mr. Pinson: The interpreter says I made it.

Q. You meant Sam Brown made the roll?

A. Samuel W. Brown.

Cross Examination by Mr. Stuart.

Q. Ask him if Euchee Town wasn't divided into two divisions, one part of it living on Pole Cat and the other on Deep Fork? A. Yes, sir.

Q. Ask him if he didn't live in the Deep Creek Division?
A. No, sir.

Q. Ask him what division he lived in? A. Pole Cat.

Q. Pole Cat? Ask him he knows, if he ever heard of old man Tommy Atkins?

A. He says that he didn't know Thomas Atkins and furthermore than that he heard that last Friday that was in regard to that case he was subpoenaed.

Q. Didn't know old man Tommy Atkins? A. No, sir.

Q. Ask him if he ever knew any Euchee by the name of Minnie Atkins? A. No, sir.

Q. Ask him if he ever knew Lee Atkins?
A. He don't know.

Q. Ask him if he didn't know a man by the name of Lee Atkins that was a Euchee that got killed here some years ago?
A. He don't know.

Q. Ask him if he ever heard of the Atkins family until he was examined the other day? A. No, sir.

Mr. Stuart: That is all.

Witness dismissed.

And thereupon, GEORGE CLINTON, a witness called and sworn for and on behalf of the Government, testified as follows:

Direct Examination by Mr. Pinson.

Q. What is your name? A. George Clinton.

Q. Where do you live?
A. I live eight miles south of Bristow.

Q. Now, talk so the Court can hear you and these other men. Eight miles south of Bristow? A. Yes, sir.

Q. George, what town, what tribe of Indians do you belong to if any? A. Euchee.

Q. Is that the same as the Creek? A. Yes, sir.

Q. Talk the same language? A. No.

Q. Don't speak the same language? A. No.

Q. Back when you used to hold the Councils, did the Euchees send representatives to the Council? A. Yes, sir.

Q. Did you ever hold an official position in Euchee Town? Were you ever an officer of Euchee Town? A. Yes.

Q. What office did you hold? A. Warrior.

Q. Warrior? A. Yes, sir.

Q. George, were you pretty well acquainted with the Euchees? A. Yes, sir.

Q. Where did they live generally?

A. Some of them lived near Pole Cat, some Snake Creek and some Big Pond.

Q. Did many of the Euchees live in the western part of the Nation or in the eastern part of the Creek Nation?

A. Why, some kind of north of Okmulgee, some west of Kelleyville, some west of Okmulgee.

Q. West of Okmulgee, north of Okmulgee, and south of Kellyville? A. Yes, sir.

Q. Did any of them live over near Muskogee or Eufaula or Wagoner? In this part of the country? A. No, sir.

Q. You didn't know any of those? A. No, sir.

Q. Did you know Nancy Atkins? A. No, sir.

Q. Did you know Minnie Atkins? A. No, sir.

Q. Lee Atkins? A. No, sir.

Q. Did you know any Euchee by the name of Atkins? A. No, sir.

Q. Did you ever hear of Nancy Atkins, Minnie Atkins, or Lee Atkins? A. I don't think I ever have.

Q. Do you remember when the National Council was considering the first Creek agreement or treaty? A. Yes.

Q. In 1901? A. Yes, sir.

Q. Where was that treaty considered? A. Okmulgee.

Q. Okmulgee? A. Yes, sir.

Q. Do you remember some members of the Dawes Commission and Clerks working there at that time? A. Yes, sir.

Q. Do you know what they were doing?

A. I guess they was filing I guess enrolling.

Q. Filing and enrolling? A. Yes.

Q. Did you talk to any of those clerks or officers of the Dawes Commission? A. No, sir.

Q. Did they ask you about the names of any members of your tribe whether they ought to be enrolled? A. No, sir.

Q. Did you have anything to do with making the rolls of your town? A. They never asked any questions of me.

Q. George, who were the other Warriors besides yourself at the time?

A. Larry Brown, Sam Brown, Chicken Dixon and Noah Gregory.

Q. What was Noah at that time, what position did he hold?

A. Sam Brown was Warrior of the House, Larry Brown was Warrior too.

Q. And what were you? A. Warrior.

Q. And Chicken Dixon? A. Yes.

Q. All Warriors? A. Yes.

Q. What was Noah Gregory? A. Town King.

Q. Was that all of the officers that the Euchees had in the National Council? A. Yes.

Q. George, down at Okmulgee at that time were there any other Euchees there besides you and the other members of the Council? A. Not that I know of.

Q. Did you see any Euchee there that you knew?

A. Several of them around there filing land.

Q. But you have mentioned the names of all the Warriors and Town Kings have you? A. Yes.

Q. Are you a full blood Indian? A. Yes.

Q. Is Chicken Dixon a full blood Indian? A. Yes.

Q. How long have you lived where you now live over there? A. Which way I live?

Q. Where you now live, how long have you lived there?

A. (No answer).

Q. Well, I mean in the community, how long have you lived in the same community where you live now?

A. Where I live?

Q. Yes? A. Pretty near all my life.

Q. Is Larry Brown a full blood Indian too?

A. Yes, sir.

Q. You spoke of Chicken Dixon, is he sometimes known as Chicken? A. Yes, sir.

Q. That is the same man that testified just a head of you?

A. Yes.

Cross Examination by Mr. Stuart.

Q. Noah Gregory was in the House of Kings?

A. Yes, sir.

Q. He was the only King from Euchee Town?

A. Yes, sir.

Q. The other three were Warriors? A. Yes, sir.

Q. Yourself and Chicken? A. Yes, sir.

Q. And Sam Brown? A. Yes.

Q. And who else? A. Larry Brown.

Q. Four Warriors? A. Yes.

Q. Were there four Warriors? A. Yes.

Q. And one king? A. Yes.

Q. Noah Gregory was the king? A. Yes.

Q. And the other four were Warriors? A. Yes.

Q. You were in session at the time, the Warriors and kings were in session at the time the Dawes Commission were enrolling weren't you? A. Yes, sir.

Q. You were there? A. Yes, sir.

Q. And the Dawes Commission would come in and talk with the Warriors from time to time and the Warriors with them?

A. No, sir, I never have seen them come in.

Q. You never saw any Warrior talking with the Dawes Commission? A. No, sir.

Q. You never saw any king talk with the Dawes Commissioners?

A. No, sir, they were in the other room the kings.

Q. I know, but you never saw a king or Warrior go in and talk to the Dawes Commission? A. No, sir.

Q. And you never saw a single king go in and talk to them? A. No, sir.

Q. And you never saw a single Warrior or king talking with the Dawes Commission? A. No, sir.

Q. How old are you? A. I am about fifty two I guess.

Q. How old were you in 1879 or 1880? A. Yes.

Q. How old were you in 1880, that has been about thirty seven years ago. You were about fifteen years old. You don't remember a young girl in Euchee Town there——

A. No, sir.

Q. Wait a minute, don't be so fast—— You don't remember a girl in the Euchee Tribe away back there named Minnie Atkins? A. No, sir.

Q. Never heard of her? A. No, sir.

Q. Or a young girl named Nancy Atkins? A. No, sir.

Q. Who made the roll for your town, who went out and collected the evidence, Sam Brown? A. Yes, Sam Brown.

Q. Sam Brown went out and talked with all the people he could find to find who were there? A. Yes.

Q. He talked with all the families? A. Yes.

Q. And all the people? A. Yes.

Q. And tried to find out who was there? A. Yes.

Q. And then Sam went down to the House of Warriors, didn't he, with this roll? A. I guess so.

Q. And these names that he had enrolled?

A. Yes, he got all the people.

Q. How far did you live from Sam Brown?

A. About thirty nine miles I guess.

Q. Thirty nine miles? A. Yes, sir.

Q. Were you on Deep Fork or Snake Creek?

A. On Big Deep Fork.

Q. You was on Big Deep Fork? A. Yes, sir.

Q. You was on the Deep Fork side of the Euchees?

A. Yes, sir.

Q. Sam was on the Pole Cat side? A. Yes, sir.

Q. You didn't know many people in the Pole Cat community? A. I knew all the Euchees.

Q. You knew all the Euchees? A. Yes, sir.

Q. You knew all the Euchees in the Pole Cat community?

A. Yes, sir.

Q. And knowing all the Euchees, did you now tell the Court there never was a Minnie Atkins?

A. No, sir, never was.

Q. You say there never was? A. I don't know.

Q. Do you mean to say there was no Nancy Atkins?

A. In the Pole Cat.

Q. You didn't know all the Euchees in the Pole Cat District, you knew all the Euchees in Deep Fork?

A. I didn't know her.

Q. Did you know all the Euchees on Pole Cat?

A. Yes, all full bloods.

Q. Did you know all the half bloods?

A. No, I know some of them.

Q. And some of them you didn't?

A. No, sir, never heard of them.

Q. And you never heard of the Atkins family?

A. No, sir.

Q. Did you ever hear of old man Tom Atkins?

A. No, sir.

Q. Never heard of him? A. No, sir.

Q. Don't you know old man Tom Atkins used to be at the head of the Light Horse way back there?

A. Not that I know.

Q. Away back there? A. No, sir.

(Witness excused.)

Mr. German: We desire to offer the deposition of Joseph G. Callahan, taken before Mr. Penick, his testimony appearing in Mr. Penick's transcript, beginning at page 2193.

And thereupon JOSEPH H. CALLAHAN, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Joseph H. Callahan.

Q. Mr. Callahan, what age are you?

A. I am now sixty the 5th of next month.

Q. Sixty the 5th of March? A. Yes, sir.

Q. Where do you live, Mr. Callahan?

A. 113 North Fifth.

Q. In Leavenworth? A. Yes, sir.

Q. What is your business?

A. At present, city fireman.

Q. City fireman? A. Yes, sir.

Q. Which fire station do you—— A. No. 1.

Q. Are you assigned to? A. No. 1 fire department.

Q. What is the name of the fire chief?

A. Michael Bahlor.

Q. How long have you lived in Leavenworth, Mr. Callahan? A. The 5th day of February, 1884.

Q. You came here in 1884? A. Yes, sir.

Q. What was your occupation when you first came here, what did you do?

A. I was a discharged soldier— My first employment here, do you mean?

Q. Yes, sir?

A. Building a street railway here for Tom Stivers, I was fireman and he was manager.

Q. You had to do with the building of that street railway? A. Yes, sir, I was fireman.

Q. What did you next do?

A. Went to work for the Pacific—United States Express.

Q. About when did you go to work for them?

A. Why, it was around August or September in 1884.

Q. How long did you work for them?

A. Until about October, 1885.

Q. What did you do then?

A. I went as watchman out at the Sugar Factory.

Q. Did you ever work for the Wells-Fargo Express Company? A. Yes, sir.

Q. When did you begin your work for them?

A. The 12th day of January, 1887.

Q. Now, while you were working for the Pacific Express Company, I believe you said the Pacific Express Company, United States, didn't you?

A. Joint companies, yes, sir. C. G. Mandler was the man that hired me, but the agent, Westlake, and I worked for both of them.

Q. While you were working for those companies, did you know George H. Hyde?

A. Yes, sir, president of the German Bank.

Q. Did you ever see any Indian woman at his house?

A. Well, I did once or twice, I wouldn't say whether she was an Indian woman or not, a woman used to come to the door, and I seen her out in the yard hanging clothes, I used to go to the Hyde house once or twice a week to deliver packages; he had a family of a wife and two or three daughters, and used to get packages from Kansas City, and I used to deliver packages out to his house.

Q. Had you ever seen any Indians before you came to Leavenworth? A. Yes, sir.

Q. Where?

A. Out west when I soldiered, stationed with them.

Q. At what point?

A. Mescalori Indian Agency in New Mexico, that is about two days march from Fort Stanton, one day to Woods Ranch and one day to the Indian Agency, about thirty-six miles I believe from Fort Stanton, they called it.

Q. You say you saw this woman at Mr. Hyde's?

A. I did, yes.

Q. Did she look like an Indian?

A. Why, she was, I can say that she looked something like an Indian, but of course this fine woman, well built, and coal black hair was rolled up on her head, and she would come to the door and I would see her out in the yard.

Q. About what height woman was she?

A. Oh, I can't very well describe, I am five foot seven, and she looked about my height; I am five seven and three quarters, and something, about my height.

Q. Did you ever see her any where else?

A. I seen her in the carriage down at the express office with Mrs. Hyde, drove up to the office with Mrs. Hyde to come to send a package away or something like that woman's build, [] [Q.] How was she as to her build?

A. She was a straight woman, straight up and down, that is, she wasn't *no* fleshy, didn't look to be any surplus meat on her bones, ordinarily built woman but not no robust.

Q. Did you ever know— Was she an Indian or what was her nationality? A. I can't tell.

Q. What did she look like?

A. She looked like an Indian, I couldn't tell her nationality.

Q. Looked like an Indian?

A. Just looked like an Indian, you know.

Q. What was her color?

A. Light color, not a red copper like an Indian, more like a mulatto, that is yellow complected, copper of course, Indians are mostly copper colored.

Q. Did you ever learn her name?

A. No, I didn't never know her name.

Q. You say she had straight black hair?

A. Straight black hair as far as I could see, it was rolled up in a ball on her head several times when she came to the door.

Q. Now, Mr. Callahan, did you ever see any other Indian woman in Leavenworth?

A. Only when I was working for the Wells-Fargo, supposed to be an Indian woman too.

Q. When was it you commenced working for the Wells-Fargo? A. The 12th day of January, 1887.

Q. Where did you keep your team?

A. Van Tyle's stable.

Q. You kept your team at Van Tyle's stable?

A. Yes, sir.

Q. Where was that stable? A. Third and Seneca.

Q. Here in Leavenworth? A. Yes, sir.

Q. What corner of the street? A. The southeast.

Q. The southeast corner or the southwest corner?

A. The southeast corner.

Q. The southeast corner? A. Yes, sir.

Q. Which side of Seneca Street was that on? A. South.

Q. South side, which side of Third Street? A. East.

Q. When would you take your team there?

A. A little before twelve, used to take them there. We fed at dinner time, and we were out before seven o'clock in the morning and got our wagons, two single wagons.

Q. Did you take them there at night?

A. Yes, sir, around about a quarter of six when we got through.

Q. When was it you saw this other Indian woman?

A. Seen her with a child on her back with a kind of shawl, she used to [ ] by the back door and I seen her all around there, across the street at a family they called Roaches, I seen her there all the time. He was a stone cutter, worked at Burke & Campbell's stone yard, and I seen her over there; they used to keep a couple of boarders and the boarders would be talking to the little one.

Q. There at Roache's? A. At Roache's, yes.

Q. Where did Roache live?

A. Lived on Third Street and between Seneca and Shawnee on the corner of the alley, northwest corner of the alley, two frames I believe were there, but they are torn down now.

Q. Between Seneca and Shawnee?

A. Between Seneca and Shawnee, northwest corner of the alley.

Q. You say she was an Indian woman?

A. Supposed to be an Indian woman. They used to call her Indian Mary, or Indian something around there.

Q. Now, about what height was she?

A. Well, she was an Indian woman, I should judge, five foot four, or five or something, fleshy built woman, straight black hair, and used to wear it in two braids down her back, very heavy black hair.

Q. How did she dress?

A. Well, I can't tell very well, she dressed ordinary, I don't know what you would—skirt and waist.

Q. Did she wear anything on top of her head, hat or anything?

A. Every time I seen her she always was bare headed.

Q. I believe you stated she had a baby with her.

A. She used to have a little baby.

Q. How did she carry it?

A. She used to carry it up on her shoulder in a shawl. That is what first attracted my attention. Being a soldier out west and seeing the Indian women carrying babies that way; that was the first one I had seen in Leavenworth or since that carried a child that way; that was what first attracted my attention.

Q. You had seen them carry them that way out west?

A. Out west, in Arizona and New Mexico both.

Q. What kind of shawl was that she had?

A. Well, it was a plaid shawl that used to be worn in those days, red colored. Might have been some other color mixed with it; I didn't pay much attention to the colors, a red shawl, might have been blocked off in squares, I didn't pay much attention to it, the time has been so long ago, I know she had a red shawl; I seen her take it down and stand the little fellow up in the Union Depot building in about eighty-seven, and she was down at the new depot, she had the child down there, eighty-seven, that was in the summer of eighty-seven.

Q. When do you remember to have been the last time that you ever saw her?

A. Sometime during that summer, I don't believe—I just naturally was driving up or down the street and seen her, might have been later and might not, and paid no attention to her.

Q. About how old was that baby that was with her?

A. I don't know, the little fellow was standing on his feet, about a year old, I judge.

Cross Examination by Mr. Hanford.

Q. You say you used to see this woman that was at Hyde's drive up to the office with Mrs. Hyde?

A. No, sir, I didn't say that.

Q. What did you say?

A. I said she was in the carriage with Mrs. Hyde, I never seen her drive up.

Q. She came in the carriage with Mrs. Hyde?

A. Came in the carriage with Mrs. Hyde, yes, sir, to the express office.

Q. How long were you with that Express Company?

A. I was with it fourteen months.

Q. When did you leave it?

A. I left that company about October 18th, 1885.

Q. When did you go to work for them?

A. I went to work for them about August or September, 1884.

Q. August or September, 1884? A. Eighty-four, yes, sir.

Q. And how long after you went to work for them was it that you saw her come up in the carriage with Mrs. Hyde?

A. Well, I can't very well state, you see I was delivering packages for this express [] to people at the house, I can't say whether it was three months, two weeks or six weeks, couldn't testify.

Q. How long did you see her at Hyde's?

A. I saw her once or twice at the house when I delivered packages, I seen her in the carriage when Mrs. Hyde came down to the office.

Q. When did you see her at the house?

A. When I delivered the packages?

Q. When was that?

A. Well, I can't possibly state, sometime during the time that I was in the employment of the company, during eighty-five, it might have been during eighty-four, I can't specify any time, sometime when I was with the company.

Q. She didn't look like the Indians that you knew out west? A. No, sir, she didn't.

Q. She was a finer looking woman?

A. Well, that is as far as I can explain.

Q. She had a finer complexion and better looking?

A. She was a better looking woman and was neat in her appearance.

Q. Had better features? A. Had better features.

Q. Was there a common type that you were with——

A. No, a lighter complexion than the ones that I had seen, I had seen the Apaches and people like that.

Q. Those other Indians that you saw, she looked more like the Indians?

A. More like the Indians, and her actions were more like the Indians.

Q. She carried a baby on her back?

A. That is the way she attracted my attention.

Q. So she was called Indian Mary, or something?

A. Indian Mary or Indian Minnie, or something like that, I can't specify what her name was called or what she was.

Q. How old a looking woman was she?

A. She was, I should judge, looked to be about twenty-four or something like that, I can't say, twenty-four or five, I can't tell or anything like that.

Q. Twenty-four or twenty-five, and might have been thirty for all you knew? A. For all I knew, yes, sir.

Q. Now, how long did you see her about there?

A. Well, I seen her at different times during that summer.

Q. During the summer of 1887?

A. Yes, sir, eighty-seven.

Q. She was about there all the time?

A. She would live around there I think somewheres because I would see her with the child and see her without the child. I seen her over at Roache's with the child, with the little one and had the little one with her, and then I seen her come out of there by herself, whether the little one was in the house or not, I don't know; looked like she might have worked for Mrs. Roach, wash dishes or something.

Q. That is the only place you saw her going past the barn?

A. That is all, and I seen her at the Union depot, was there working on the retaining wall or the depot either one.

Q. How many times did you see her down there?

A. I can't tell you, I would go out on the wagon and drive up and down and noticed this person.

Q. Several times?

A. Several times, I can't tell you how often or when was the last or anything.

Q. You saw her take the child and stand it up on the ground?

A. Stand it up on the ground, looked to be about a year old, I judge.

Q. A little infant?

A. A little infant, I don't know whether it was a boy or girl or what it was, just a little baby.

Q. When were you discharged?

A. Discharged from where?

Q. From the army? A. In 1884.

Q. What were you in the service?

A. No, sir, the 13th Infantry.

Q. And your service? A. Five years.

Cross Examination by Mr. Stuart.

Q. How did you come to be a witness in this case?

A. How did I come to be a witness in this case?

Q. Yes, sir.

A. Why, Mr. German, I believe that is—that gentleman understood that I had been employed in the Express Company around through Mr. Taschetta, the postmaster of this building, and came up to ask me if I had been employed around the Express Company and around that stable, and I said I had; and he asked me if I had seen anything of an Indian woman anything like that and I said I had.

Q. A negro woman?

A. An Indian woman, at any time, he said just the same to me as I am telling you now.

Q. Now, when did you first see this girl, this Indian girl?

A. First see her?

Q. Yes? A. Sometime during eighty-seven.

Q. Eighty-seven? A. Yes, sir, the first time.

Q. Where did you first see her?

A. Van Tyle's stable on Third and Seneca.

Q. Van Tyle's stable? A. Yes, sir, see her going by.

Q. Did you know where Granny Letcher's was?

A. I know where it was, yes.

Q. Tell me where it was?

A. About the second door east of Van Tyle's stable on the south side of the street as near as I can recall. There was a man lived in there before Granny Letcher, I think named Dotter.

Q. What was the man's name?

A. Professor Dotter or Otter, something like that.

Q. You say you saw this woman put the child down on the floor when it was a year old?

A. Stand it up on the walk.

Q. The child was a year old?

A. It looked like about a year old to me.

Q. It would stand up?

A. Not without her assistance when she had it.

Q. Who was with her when she had that child?

A. I never seen nobody with her, she was always alone, it was in the daytime when I seen her, when I was driving the wagon around, I never seen her anywhere else except with that little one.

Q. She was called Indian Mary, wasn't she?

A. I just said, I don't know whether it was Indian Mary or Minnie, something of that kind.

Q. How did you get the word Minnie?

A. How did I get the word Minnie?

Q. Yes?

A. It just came to me, I never heard her called that or anybody call her, I never heard her called anything. I read these things in the paper and I suppose that is the only thing.

Q. You got your information from what you read in the paper, is that right? A. No, sir.

Q. You say you read this stuff?

A. I read about Indian Minnie, I said, in the paper, I don't know what her name was, I said that a half a dozen times.

Q. Tell us what her name really was, Indian Mary or Indian Minnie? A. I don't know.

Q. Can you tell us what the name was, Indian Minnie or Indian Mary? A. How could I tell you?

Q. You heard her name called, didn't you?

A. No, I never heard anybody address her, I never heard anybody call her.

Q. Now, wasn't her name Sadie? A. I don't know.

Q. Indian Kate? A. I don't know.

Q. You remember Indian Kate used to be here?

A. Not in my time, I never heard of her.

Q. Did you know a girl named Indian Mollie?

A. No, sir, none.

Q. You didn't know that? A. No, sir.

Q. Did you know a fortune teller here by the name of Indian Mollie? A. No, I didn't.

Q. Did you hear of Indian Mollie?

A. No, sir, I didn't.

Q. Did you ever hear of a fortune teller there right next to Crilly's?

A. There was a fortune teller, I don't know who she was, in the Seneca House, I don't know who she was or anything about her, just there is all.

Q. Did they call her an Indian?

A. I don't know what they called her.

Q. Where did you see this fortune teller.

A. I never seen this fortune teller to know her.

Q. The truth is you never saw any of these people until about eighty-seven, did you?

A. Eighty-seven, yes, sir, that is about when I went to work for the Wells-Fargo Express and had my wagon up there.

Q. This girl that worked for Hyde's in eighty-seven?

A. No, sir, I didn't say that girl, I said there was another girl.

Q. Another girl?

A. Yes, sir, another woman; I said a woman worked in eighty-three or eighty-four or eighty-five at Hyde's.

Q. Was it the same woman that you are talking about?

A. No, sir, wasn't the same woman at all, a different woman.

Q. A different woman all together? A. Yes.

Q. An Indian woman worked at eighty-four at Hyde's who was called Indian Minnie, wasn't there?

A. I don't know what she was called I never heard that, I don't know except just sometimes would come in here and deliver a package and go about my business again.

Q. The girl that you knew in 1884 at Hyde's was a dark haired girl, wasn't she?

A. Yes, sir, dark complected and hair like any——

Q. She would— She wore her hair braided down her back?

A. No, sir, that woman at Mrs. Hyde's didn't.

Q. Didn't you say a few moments ago——

A. I said she wore her hair up on the back of her head in a knot or roll.

Q. How old was this girl that worked at Hyde's?

A. I don't know how old she was, I can't tell.

Q. How often did you see her there?

A. Why, going to the door and delivering packages.

Q. How old a girl was this girl at Hyde's?

A. I don't know, I can't tell you how old she was, couldn't tell you how old only I seen her on Seneca Street, went by because——

Q. Now, the girl that you saw at Hyde's and the girl that you saw in eighty-seven were different people?

A. Yes, sir, different people.

Q. Not the same girls at all?

A. No, sir, quite different, different people.

Q. And the girl that you saw with the baby in 1887 was not the girl that you saw at Hyde's in 1884?

A. Yes, sir, not the same girl.

Cross Examination by Mr. Blakeney.

Q. How old did you say you were?

A. I will be sixty the 5th day of March coming.

Q. You came to Leavenworth when?

A. On the 5th day of February, 1884.

Q. Now, you don't seem to have in your mind distinctly whether the girl you saw in eighty-seven was called Indian Mary or Indian Minnie or Indian Mollie?

A. I can't tell, I don't know what she was called, only she was an Indian woman, that is as far as I know, I don't know what she was called, Indian this or what.

Q. You don't know that you ever heard the other name?

A. Not that I know of. If I had I have no recollection of it.

Q. Don't you know that there was an Indian named Indian Mary that was rather a distinguished character by her vices or other qualifications around Leavenworth, who got killed on

Sheldon's drive just about the time that you came here or a little before? A. I heard of that after I came here.

Q. After you came? A. After I came here.

Q. You always heard that was Indian Mary?

A. I heard that name mentioned, yes.

Q. Heard Indian Minnie had been killed, had her head cut off?

A. Yes, sir, had a soldier arrested, Dave Keller was sheriff, that happened about the time I came here.

Q. That woman you always heard referred to as Indian Mary? A. Heard that name, yes, sir.

Q. And whether you ever heard any other called Indian Minnie, you can't say? A. I don't know a thing about it.

(Witness dismissed.)

Mr. German: We desire to offer the deposition of Eli Nirdlinger, taken before Mr. Penick, appearing in Mr. Penick's transcript beginning at page 2210.

And thereupon, ELI NIRDLINGER, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Eli Nirdlinger.

Q. What is your profession?

A. I am a practicing attorney.

Q. What age are you? A. I am fifty-five.

Q. Have you ever held any official position here? A. Sir?

Q. Did you ever hold any official position here?

A. Well, I held official positions without pay.

Q. Were you ever judge of the District Court?

A. I was, yes.

Q. How long? A. A term.

Q. Temporary judge? A. Yes.

Q. Where do you live? A. Where do I live now?

Q. Yes, what place in the city?

A. I live at 402 Ottawa Street, Leavenworth, Kansas.

Q. You resided in Leavenworth how long?

A. Since 1882.

Q. Where did you first live in the city?

A. I lived on North Third Street between Miama and Osage on the east side of Third Street.

Q. Between Miama and Osage? A. Yes.

Q. The main dividing line or rather the street from which they began the numbering is called Shawnee, is it not?

A. I don't know, I think that is the dividing line.

Q. You think that is the dividing line?

A. I think it is.

Q. Then what is the next street north of Shawnee?

A. Seneca.

Q. Then, what is the next one north of that? A. Miama.

Q. Then, what is the next north of that? A. Osage.

Q. You say you were on Third Street between Miama and Osage? A. Yes, sir.

Q. That is where you first lived?

A. That is where I first lived, yes, sir.

Q. How long did you live there?

A. I lived there until about the summer of 1883.

Q. Where did you move to then?

A. I moved to 506 Pottawatomie.

Q. Now, while you lived on Third Street, between Miama and Osage, did you know any Indian woman here in town?

A. Yes, I knew several of them.

Q. Did you know any that——

A. That is, I saw them, I wasn't acquainted, several of them, but I knew one particular woman.

Q. How did you happen to know her?

A. Well, she lived down the alley, lived right down the alley from me about a half block.

Q. Did she do any work at your house?

A. Yes, sometimes.

Q. What was her name? A. Her name was Mary.

Q. That is they called her Mary, did they have any Indian attached to her name?

A. No, they didn't call her Indian Mary, but she was an Indian woman, they claimed she was an Indian woman.

Q. What kind of an Indian woman was she?

A. Well, she was a woman about five foot five inches tall, and she weighed about a hundred and fifty or sixty pounds, she was a plump, well developed woman, Kentucky fashion.

Q. About what age?

A. Her age, I took her to be between twenty-six and thirty years of age.

Q. How did she wear her hair?

A. Well, that I am not positive about.

Q. What kind of hair did she have?

A. She had black hair, straight black hair, she had a mole on one side of her face right on the top here on her cheek.

By Mr. Hanford: Pointing to the right cheek there.

A. I don't know whether it was on the right cheek or on the left cheek, I can't say, I don't remember that, but I remember she had a mole on her cheek.

Q. Do you know whether she was ever intoxicated?

A. Oh, she felt pretty good sometimes, this woman?

Q. Acted as though she had been drinking sometimes?

A. Yes.

Q. Do you know whether she was ever in police court any? A. That I don't know.

Cross Examination by Mr. Stuart.

Q. Do you remember when she died?

A. I don't know whether she died or not. I can't tell you. I moved away from that place on Third street and I don't think I saw her more than once or twice afterwards.

(Witness dismissed.)

Mr. German: We desire to offer the deposition of Katherine Williams, taken before Mr. Penick, it appearing in his transcript beginning at page 2240.

And thereupon, KATHERINE WILLIAMS, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Katherine Williams.

Q. Where do you live, Mrs. Williams?

A. 730 Cheyenne.

Q. What is your husband's name? A. Peter Williams.

Q. You and Mr. Williams, what is your nationality, what is your blood, Mrs. Williams?

A. Why, he is German, I am Irish, I guess.

Q. You are Irish? A. Yes.

Q. You are white folks?

A. Yes, never was any other in Ireland but white folks.

Q. Mrs. Williams, what age are you?

A. Well, the best of my information I am I guess sixty-eight or sixty-nine, I may be more.

Q. You don't know how old you are?

A. No, I don't really.

Q. You have some grown daughters?

A. I have got five daughters and five sons here all around Leavenworth.

Q. Have you any grown children?

A. Yes, sir, I am a great grandmother, too.

Q. A great grandmother? A. Yes.

Q. Mrs. Williams, do you remember years very well?

A. Well, I remember a good deal but I can't remember—

Q. When things happened? A. Sir?

Q. Can you remember when things happen very well? Can you tell the years things occurred very well?

A. Yes, I can tell you——

Q. Did you ever live on the Reservation here at Fort Leavenworth?

A. Well, I lived at the Fort, it was called the Reservation where we lived in the woods when we were there nearly, called the reservation then.

Q. What was your husband doing then?

A. He was a blacksmith then, he was a soldier when we married, and he was a blacksmith then up there.

Q. What did you do while you were inside the Reservation?

A. Done nothing but take care of my children and work for them at home, kept house, that was all.

Q. How many children did you have, Mrs. Williams?

A. We had eleven, ten of them all around town here.

Q. Did you know an Indian woman on the reservation, Mrs. Williams, did you ever know an Indian woman on the reservation?

A. I knew this Indian Mary, I knew her very well.

Q. You knew Indian Mary well? A. Yes.

Q. Was she called any other name?

A. I never heard nothing only Indian Mary.

Q. Did anybody ever call her Indian Minnie?

A. Well, I heard other people say it after that, after we came to town, but I never heard it at the Post only Indian Mary; after I came to town here I heard them say Indian Minnie and I said I never heard them call her that.

Q. When did you move off the Reservation?

A. Well, I guess about thirty-five years in town now.

Q. You did not— Did you not move off of the reservation in 1883? A. Well, I can't really tell that.

Q. Your husband will know?

A. He can tell, I ain't very smart that way, not for the years, but I know it ain't over thirty-five years since we left there.

A. And how long was it after you were off the Reservation that you also heard her called Indian Minnie?

A. Well, I suppose a couple of years, I heard some talk that she was found dead. Lots of soldiers used to go down to see us, my husband was a soldier and they told us she was found dead out at Salt Creek, but I don't know whether it was so or not.

Q. What sort of woman was this Indian Mary?

A. Well, she almost looked like any other squaw to me, I can't tell, she was kind of stout built then to the best of my information.

Q. How did she wear her hair?

A. She used to wear her hair sometime hanging down and at other times plaited, sometimes she wore a red shawl, I didn't much notice, the neighbors kicked against her up there.

Q. What was she doing up there?

A. She lived in the woods as far as I knew about her. Whenever she wanted anything to eat she would come and get a cup of coffee.

Q. Get a cup of coffee from you? A. Yes, often.

Q. Did she have any perfumery on her?

A. Yes, sir, she gave me a bottle one time.

Q. What did she say about this perfumery matter?

By Mr. Hanford: I object as incompetent, irrelevant, and immaterial, and hearsay.

A. I don't like to tell that.

Q. You say you don't like to tell that? A. No.

Q. Tell us what it was?

A. I told you the other night.

Q. Yes, tell us what it was?

A. Well, she used always to carry—she would always have whiskey with her and she wanted me to take whiskey and I said no I don't want it, I want to take care of my children; and she said, you are a good white woman and men like to smell it, I will give you a bottle of cologne.

Q. Did you ever know her to work for anybody at the Fort?

A. No, she told me one time she had lots of money coming to her and sometimes I will come around and give you some money because you have been good to me, I got lots of money coming to me.

By Mr. Hanford: I move to strike that on the ground that it is hearsay, incompetent, irrelevant and immaterial.

Q. Did you ever see her drink any?

A. Well, she used to yes, I give her some milk sometimes, I had a cow and I would give her milk and she generally would put some whiskey in the milk and would drink it.

Q. Did you ever see her around saloons?

A. No, I never seen her in the town at all, only at the Fort because I hardly ever came to town.

Q. Do you know whether she was arrested or in Police Court or not?

A. No, I don't remember ever hearing of her being arrested, she usually would go to Salt Creek, I don't know about her being in town but I heard she was in town.

Q. Did you ever hear her say anything about ever having had some children?

A. No, one time she told me she had a boy but the boy got drowned at the first Bridge as you go to the Fort, somebody drowned him she told me.

Q. Did she say anything about where the boy was?

A. No, just said he got drowned.

> By Mr. Hanford: Objected to on the ground as incompetent, irrelevant, and immaterial, calls for hearsay, and I move to strike the previous answer on the ground that it is hearsay, incompetent, irrelevant, and immaterial, and not responsive to the question.

Q. What did she say about her boy, what was it she said about her boy?

> By Mr. Hanford: Objected to on the ground that it is irrelevant, incompetent, and immaterial and hearsay.

Q. She just used to worry about him and say that somebody drowned him, but I never did pay much attention to her talking that way.

Q. Did she say anything about where she had raised the boy or where he had stayed? A. No, she did not.

> By Mr. Hanford: Objected to on the ground that it is incompetent, irrelevant, and immaterial and calling for hearsay.

Q. Did she say anything about her having any trouble keeping the boy or other people wanting him?

By Mr. Hanford: Same objection.

A. No, sir, she didn't.

Cross Examination by Mr. Hanford.

Q. Mrs. Williams, what kind of looking woman did you say this Indian Mary was?

A. Well, I forgot almost, but she seemed like any other squaw almost.

Q. She was brown skinned?

A. Yes, brown skinned and kind of heavy set.

Q. Dark in color?

A. Yes, near like a mulatto, but she was an Indian, regular Indian, I know that.

Q. How old a woman was she?

A. Well, she didn't look old then. I can't tell how old she was, but she didn't look old.

Q. About thirty? A. I think so.

Q. How old was you at that time? Was she about your age?

A. I think she was, I guess I was about the same age at that time, I might be a little older.

Q. When did you stop living on the Reservation?

A. I guess it was about thirty one, I don't know whether it was that long or not when we came to town I think it was over thirty one.

Q. Over thirty one years? A. I can't really tell.

Q. That is the best of your recollection?

A. But now, if my husband wasn't sick he would come down with me and he can tell better than I can, I really can't tell, I know over thirty years in town here.

Q. Do you know what became of that Indian Mary?

A. Only what I heard, she was found dead out at Salt Creek in a ditch there, from friends of mine that came from the Fort.

Q. She was found with her head cut off?

A. No, I never heard about that, but that she was found dead laying in the ditch, didn't hear about her head being cut off.

Q. Did you hear about a trial about a soldier being tried for having killed her?

A. I heard a soldier killed her, I didn't hear about the trial, they said she died of drunkenness.

Q. You never saw her in town here?

A. No, I didn't but I heard about her being on Cheyenne Street, up here where I lived around some stables.

Q. You never heard about an Indian Minnie?

A. No, I never heard about an Indian Minnie, never heard of her at all, I used to say to my children, this Indian Mary, I never heard of Indian Minnie.

Q. You never saw her in town? A. No.

Q. When did you say that to your children?

A. Just when I heard at the time. A fellow was around looking for Minnie, I said, that was Mary she is dead. About a year ago some fellow came to our place to look, that was the first time I ever heard of Indian Minnie.

Q. Did she tell you how old this boy was when he got drowned?

A. No, she didn't tell me, just said her boy got drowned, that somebody had threw him over the bridge up at the Fort, between here and the Fort.

Q. He got drowned before you knew her?

A. Yes, yes. No, she told me when she came in to see me, said my boy got drowned, and I wouldn't believe her, thought she was just telling stories. I had never seen the child with her, but I heard other people that did though. Of course I never seen him.

Q. Was he old enough at that time to run around, the boy? A. I can't say.

Q. She said he was a boy? A. Yes, boy.

Q. Didn't say her baby? A. No, she said her boy.

Q. Her boy? A. Yes.

Cross Examination by Mr. Bond.

Q. How many years had you known her when she told you that her baby—her boy had been drowned?

A. Well, I can't tell that, because she used to just wander around up there, and several months she would come around there and she would go away again and come back.

Q. Was it a year or two after you first knew her up there or saw her, when she then came in and said her boy had been drowned?

A. Yes, when she used to come to see us, I guess it was two or three years?

Q. Two or three years that you had known her before she came and told you her boy was drowned?

A. Yes, she used to come in and see us, go away and come back.

Q. You never saw her with the boy?

A. No, just herself alone, not with the boy.

Cross Examination by Mr. Bell.

Q. Were you living——

By Mr. German: I object to Mr. Bell cross-examining the witness. He is not an attorney of record in the case so far as the certification of the Examiner is concerned.

By Mr. Blakeney: All right, I will examine her.

Cross Examination by Mr. Blakeney.

Q. What is your name? A. Now?

Q. Yes? A. Katherine Williams.

Q. How old are you?

A. I can't hardly tell my exact age, I am I guess I am about sixty seven or sixty eight, I may be more, I can't hardly tell. I sent home to the old people for my age and I can then tell better.

Q. Have you grand children?

A. Yes, I am a great grand mother, too.

Q. You have great grand children? A. Yes, sir.

Q. How old are your great grand children?

A. Why, he is going on two year old.

Q. How long have you lived in Leavenworth?

A. I lived here I guess over fifty years.

Q. Where did you come from to Leavenworth?

A. From Ireland.

Q. From Ireland? A. Yes, sir.

Q. You married when you came to Leavenworth?

A. No, I was only sixteen years old.

Q. Sixteen years old? A. Yes.

Q. You married in Leavenworth, did you?

A. Yes, married at Fort Leavenworth.

Q. At Fort Leavenworth? A. Yes.

Q. Whom did you marry? A. My husband.

Q. I know, but his name?

A. Pete Williams, he was a soldier.

Q. You married Mr. Williams, a soldier? A. Yes, sir.

Q. Did you ever know a girl here known as Indian Minnie or Minnie Atkins? A. No, I never.

Q. You were not acquainted with her?

A. Never heard of her until I heard of her lately, no.

Q. Never heard of her? A. No, never.

Q. And then you came to Fort Leavenworth then in about 1866? A. I guess so.

Q. After the war?

A. The war was ending when I came here I think.

Q. Did you say you came just after the war?

A. No, the war wasn't over then, I remember they said Price was going to come and kill every woman and child in Leavenworth, it wasn't ended then at all, my husband he was down south fighting.

Q. Did your husband, after the war, become stationed at Fort Leavenworth? A. Yes, he got work there.

Q. Not as a soldier but as an employee?

A. No, he worked in the blacksmith shop there.

Q. How long did he work in the blacksmith shop there?

A. Well, we were there a long time, I really can't tell that, all my children were raised up at the Fort, only two here in town.

Q. Were there any Indians around the Fort?

A. Yes, you bet, lots of them around my house.

Q. Were they what you call civilized Indians?

A. Yes, some of them, some of them wild ones.

Q. Men and women and children? A. Yes.

Q. A band of Indians there were war prisoners?

A. Yes, Sitting Bull, I saw him.

Q. Many years after that though?

A. Well, they had them in the Guard house and the guards would walk them around and bring them around where we lived.

Q. That was in the eighties that you saw Sitting Bull, massacre of Custer in Missouri—in Montana?

A. Yes, I had a friend killed with Custer.

Q. What other tribe of Indians did you have there besides these two Indians? A. I can't tell that.

Q. You knew that Sitting Bull belonged to the Sioux, didn't you?

A. Yes, I could tell, we were scared of them.

Q. Were there any Comanche or Apaches?

A. I don't know, I can't tell their names, lots of Indians there.

Q. Now, there was however, a band of Indians there in the early seventies, wasn't there?

A. Yes, I remember we used to go to see them on the parades around, I can remember.

Q. A good part of the Fort was laid out where the Indians had their tents?

A. Yes, near the race track, down near the river they ha them.

Q. A good many Indians were in the town of Leavenworth? A. Yes, lots of them around there.

Q. Did you get acquainted with any of those Indians?

A. No, I was always scared.

Q. You were always scared of anything that you knew was an Indian?

A. Yes, like we lived, the citizens all lived at a place called Happy Hill, and they would come to the Commissary, and they would come around us looking for feathers and some times we shut the door when we seen them. Some of them were wild but they were not, they had an interpreter with them.

Q. While you was knowing these Indians, you knew an Indian named Indian Mary? A. Yes.

Q. Did you know what tribe she belonged to?

A. She didn't belong to any.

Q. What?

A. She didn't belong to any when I knew her, only out in the woods herself.

Q. What was she wearing, a blanket?

A. She had a red shawl plaid shawl.

Q. A red plaid shawl?

A. I don't know whether it was a blanket or shawl to my notion.

Q. She had the habit of what we called "A Blanket Indian?" A. I don't know. I couldn't tell that at all.

Q. She lived out in the woods in a tent?

A. No, she had no tent. She was what we called her, a prostitute.

Q. Oh, she was just an Indian prostitute?

A. No, she wasn't counted anything, she never run with the Indians.

Q. Didn't even run with these Indians?

A. No, she was——

Q. She was from your Fort life what you understood to be a Reservation prostitute?

A. Yes, that is what she was.

Q. You never knew her cooking for any white folks?

A. No, never.

Q. Or doing any legitimate work?

A. No, not a thing.

Q. And was finally killed? A. That is what I heard.

Q. You didn't see her after she was killed?

A. No, just heard that she was found in a ditch at Salt Creek laying in the ditch, somebody said that some soldier found her there.

Q. With her head cut off? A. No.

Q. You didn't hear how she was killed? A. No.

Q. Well, you heard that she was killed away back in the early eighties? A. Sir?

Q. How long ago was it that you heard that she was killed?

A. Oh, I can't tell you that. I believe I have told all I know about it.

Q. Twenty five or thirty years ago?

A. Yes, maybe more than that.

Q. You don't think it is less than thirty five?

A. No, I know it ain't, we had come from the Fort, we were here maybe thirty five or maybe thirty six years that we left the Fort. I was in town when I heard it, living up here in the——

Q. How long you say it was after the close of the war when your husband came back and went to blacksmithing?

A. I don't know, I can't tell that either.

Q. I know you can't tell exactly, can you tell within five or ten years?

A. After he was discharged he went to work in the Fort and we lived there.

Q. How long after that was it that you heard that Indian Mary had been killed?

A. Not until after we came to town, we lived at the Fort a good many years, after we came to town here.

Q. You heard that after you came to town? A. Yes.

Q. How long after your husband was discharged was it that you came to town?

A. I can't tell that either. We had six or seven children born at the Fort.

Q. How long ago was the youngest of the——

A. He is going on thirty.

Q. What?

A. The youngest boy he is going on thirty, my youngest boy.

Q. And you came to town after he was born?

A. No, he was born here in town.

Q. Now, what was the last child born in the Fort?

A. My youngest daughter, Kate.

Q. How old is Kate?

A. I believe she is thirty two.

Q. She was born at the Fort.

A. Yes, she was born at the Fort I can't tell you their exact ages now. I am only guessing, but I know——

Q. You do know that some thirty years ago you came to town to live?

A. Yes, about thirty six or seven as near as I can guess.

Q. And soon after you came here to the city, Mary was killed?

A. Yes, just heard from some friends of ours from the Fort, said that old Indian Mary was found out at Salt Creek in the ditch.

Cross Examination by Mr. Hanford.

Q. You have eleven children? A. Yes, sir.

Q. Six or seven of them were born at the Fort?

A. Yes, I think so, there was two born in town. One died you know.

Q. You said you had three children in town?

A. No, just two.

Q. Just two?

A. Yes, one lived in town a little while when one was born.

Q. And two in town that lived? A. Yes.

Q. And one that died?

A. No, two in town, and one about ten month's old when it died.

Q. What is the name of the children born in town?

A. Edward and Frankie.

Q. Edward and Frankie?

A. Yes, Frankie is dead you know.

Q. Now, Edward is going on thirty? A. Yes, sir.

Q. Who is the next one to Frankie, the next older?

A. To the one that is dead?

Q. Yes? A. Edward——

Q. He is the youngest?

A. He is the youngest boy I have.

Q. Now, who is the oldest, the next oldest to Edward?

A. Kathryn.

Q. Where was Katheryn born?

A. She was born at the Fort.

Q. And how much older is Katheryn than Edward?

A. Well, of course I will have to tell it, she was only seven months.

Q. She was a seven month's child? A. Yes.

Q. How much older was she than Edward?

A. I think she is a year, thirteen or fourteen months I am not sure now, as near as I can go, she is the one seven months you know, I just can't tell their ages, I may be telling some stories but I am going to do the best I can.

Q. So your children that were born were Katheryn, she was born at the Fort?

A. She was born at the Fort, yes.

Q. Then, Frankie? A. Frankie was born in town, yes.

Q. And then Edward? A. Edward was born in town yes.

Q. And Edward is going on thirty?

A. He is going on thirty yes, sir.

Recross Examination by Mr. Blakeney.

Q. Do you say you could be able to show their age?

A. My old man has got all of their ages down.

Q. Where is that record? A. Out at home.

Q. Out at your home? A. Yes, sir.

Q. You could bring that, could you after dinner?

A. Yes, he is smart, I aint very smart, I got no memory, I could have it but I——

Q. Could you send that down to us and not come yourself?

A. Yes, I could, I could send it down, my daughter lives right down here, I could send it to her.

Q. I wish you would send it by your daughter and ask your daughter to let Blakeney see it?

A. Well, all right.

Witness dismissed.

Mr. German: We offer the deposition of Joseph A. Cranston, taken before Mr. Penick, appearing in his transcript beginning at page 3019.

And thereupon JOSEPH A. CRANSTON being called on behalf of the United States and being first duly sworn on oath testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Joseph A. Cranston.
Q. Where do you live, Mr. Cranston?
A. I live at 308 Fifth avenue.
Q. Leavenworth, Kansas? A. Yes, sir.
Q. What business are you engaged in?
A. Livery business.
Q. Leavenworth? A. Yes, sir.
Q. Where is your place of business?
A. 320 and 322 Cherokee.
Q. What age are you Mr. Cranston?
A. I am sixty-five.
Q. Were you ever engaged in the livery business in the city of Leavenworth with Mr. George Crilly? A. Yes, sir.
Q. Were you and Mr. Crilly ever located on Seneca Street? A. Yes, sir.
Q. With your business. What particular place on Seneca?
A. It was I think, 220 and 222 Seneca, north side of the street.
Q. When were you located there?
A. Well I don't remember that. A long while ago.
Q. You don't remember when? A. No.
Q. When were you married, Mr. Cranston?
A. Married thirty years ago last December.
Q. Then you were married in December, 1885?
A. That is what my wife says. I don't remember.
Q. You do know it was thirty years ago last December?
A. Yes, thirty years ago.
Q. Mr. Cranston where were you in business at that time?
A. Well Crilly and I were together at that time on Cherokee and also on Seneca.
Q. Both places?
A. 319 Cherokee, across the street from where I am now. We had a branch there.
Q. When you had your business on Seneca Street were you running the place of business? A. Yes, oh yes, sir.
Q. Actively engaged there in the operation of the business?

A. Yes, sir, that is Crilly or I was there most all of the time.

Q. How? A. One of us was there most all the time.

Q. About how much of your time did you spend there on Seneca Street in connection with your business?

A. Oh, I can't say.

Q. Well, were you there daily?

A. Yes, sir, every day and every night.

Q. Practically all the time during the business hours day and night? A. Yes, sir.

Q. Except when you were at home?

A. Well I had no home then.

Q. Oh, you were not married? A. No.

Q. Well after you married?

A. I was still there. I lived up north then a couple of blocks of the barn.

Q. How long after you were married did you continue to have this business on Seneca Street?

A. Oh I don't know. Quite a while. We got burnt out there you know. I don't remember the year we got burnt out. I wouldn't say when.

Q. After you were burned out did you continue to operate a business there on Seneca? A. No, sir.

Q. But you did operate it up until that time?

A. Yes, sir.

Q. Before you married and on after your marriage until you burned out? A. Yes, sir.

Q. Wasn't it in 1889 that you were burnt out?

A. I can't say.

Q. '87 or—— A. Oh, no, it wasn't '87 I know.

Q. It was later than '87? A. Yes, sir.

Q. Now Mr. Cranston you remember—do you remember of there being a colored family living across the street at Number 217 Seneca Street? A. Yes, sir.

Q. Across the street from your business?

A. Yes, sir.

Q. What was the name of the woman? A. Letcher.

Q. Molly Letcher? A. Molly Letcher, yes, sir.

Q. Do you remember who preceded her in the occupancy of that property? Who lived in the house before she did?

A. Why two different families, while we were up there—I think—I don't remember who the first family were, when we moved up there but then there was a woman named Lillie White moved there. I remember her.

Q. She lived there before Granny Letcher?

A. Yes, sir.

Q. You don't remember the name of the family that lived there before Lillie White? A. No, sir.

Q. To refresh your memory, was it Mr. Dotter—Gustav Dotter?

A. I am unable to say, two or three families, one next to the barn and one across the street in the stone. I don't remember the name. Mr. Seth. I remember Mr. Seth lived right across the street.

Q. That is immediately west of the Letcher home?

A. Yes.

Q. Then in the place that Molly Letcher finally moved into there were, as I understand you, two families that preceded her in that home? A. Yes, sir.

Q. Lillie White and some other family whose name you don't recall? A. Yes, sir, I don't recall.

Q. This other family whose name you don't recall, were they white folks? A. Yes, sir.

Q. White? A. Yes, sir.

Q. Mr. Cranston did you know of any Indian woman around this Letcher place by the name of Minnie or Indian Minnie? A. No, sir.

Q. Or Minnie Atkins? Did you know of any Indian woman around there at all?

A. No, sir, never saw or heard of any.

Q. Did you know of any boy around there or young male child by the name of Indian Tommy? A. No, sir.

Q. Or Thomas Atkins or Tommy? Or Commodore?

A. No, sir.

Q. Or Tommodore? A. Never heard of him.

Q. Did you see any Indian boy around there? A. No, sir.

Q. Did you ever see an Indian boy around your barn?

A. Never did as I remember of. Never did.

Q. On that street? A. Never did.

Q. Or any boy around your barn by any of the names that I have called? A. No, sir.

Cross Examination by Mr. Hanford.

Q. Mr. Cranston you say you had two places at that time? A. Yes, sir.

Q. One on Cherokee and one on Seneca? Now how far apart were those two places?

A. Well one was on Cherokee and the other was on Seneca, about five or six blocks—about four or five blocks.

Q. You ran the Cherokee Street place didn't you?

A. Yes, we both run it, yes, sir.

Q. Did Mr. Crilly run that? Was he ever down there in charge of that place?

A. Oh, yes, we were both in charge. I was up there and down there and he was both places too.

Q. Isn't it a fact Mr. Cranston when you had those two places that Mr. Crilly was superintending the Seneca Street Street more and you the Cherokee Street?

A. Why I put in more time at the Cherokee Street place than I did above but I was at both places, so was he.

Q. Now do you know the names of any other people in that block other than you have named—— You named Mr. Seth I believe? A. Yes, I remember Mrs. Seth.

Q. Do you remember anybody else around there?

A. I think there was a family name of Jordan lived west of the barn.

Q. Did they have any children?

A. They had grown daughters, I believe. One I know of, maybe more. I wouldn't say.

Q. Did you ever see any children around the street or around the barn on Seneca Street?

A. No, I don't remember of any children around there.

Q. You can't give the names of any children at all around there? A. No, sir, no.

Q. There might have been there?

A. Oh, they could have been there while I was away of course, probably.

Q. Without you noticing them?

A. But there wasn't any lived around there that I know of. Only one I know of was this colored boy.

Q. Did you ever go to Molly Letcher's house?

A. No, sir, never went around there.

Q. Do you know who lived in her house?

A. No, sir, I don't.

Q. Didn't pay attention to that? A. No, sir.

Q. You weren't concerned with her or her affairs?

A. No, sir.

Q. You don't know what children she had?

A. Yes, I know of some boys that she had.

Q. Which ones?

A. Well, the one armed boy and the other, I have forgotten his name, he was by a former husband I guess.

Q. Jim Mayo?

A. Jim Mayo, yes. I know him quite well. A one armed— He was a negro.

Q. That was Sam Nash? A. Sam Nash, yes, sir.

Q. There were three at her house were they?

A. Well I seen them around there, yes, sir. Know them.

Q. You didn't know who else was there?

A. No, sir, I didn't.

Q. What children or whose children they were?
A. No, sir.
Q. Did you know any of the women that came and went?
A. No, sir.
Q. Didn't pay any attention to that? A. No, sir.
Q. Did you keep books, Mr. Cranston? A. Yes, sir.
Q. At that time? Have you still got those books?

A. No, sir. You mean the firm books. No. Looked for one the other day. They are gone.

Q. You have looked for them? A. Yes.

Q. Have you got any old books? How far back did you go?

A. I haven't got any since Crilly and I dissolved, whenever that was, at the time of the fire.

Q. You spent the summer of 1885 in Denver, Colorado, did you not?

A. I was there a part of the summer, yes, sir. I don't know whether it was '85 or what the year was.

Q. You know you were there it snowed on the 4th of July?

A. Yes, I was there the year it showed whatever July that was.

Q. You went up there for your health, didn't you?
A. Yes, sir.
Q. Was that the year you were married?
A. Yes, sir, I was married that fall.
Q. Married that fall? A. I think so; I am not sure.

Q. Mr. Crilly, you remember that was the year you were married?

A. I think it was; I think I was married that fall.
Q. Mr. Cranston—I beg your pardon.

Witness dismissed.

Mr. German: We offer the deposition of Charlie Hudson, taken before Mr. Penick, appearing in his transcript, beginning at page 2584.

CHARLIE HUDSON being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. State your name. A. Charlie Hudson.
Q. Where do you live, Charlie?
A. Parsons, Kansas.
Q. What age are you? A. I am fifty-one.
Q. Charlie did you ever go by the name of Daniel?

A. Yes, sir, I did.

Q. Daniel what?

A. Daniel Hudson.

Q. How come you to be called Daniel?

Q. Why a boy by the name of Will Parker give me the name of Daniel.

Q. Where? There in Leavenworth? A. Yes, sir.

Q. Did you ever live in Leavenworth, Kansas?

A. Leavenworth, Kansas?

Q. Yes? A. Yes, sir.

Q. When did you first live in Leavenworth?

Q. Well it was in '84.

Q. What time of the year? A. Along in the fall.

Q. Did you know a woman there by the name of Molly Letcher? A. I did.

Q. Did you live with her in her house? A. Yes, sir.

Q. Where was she living in Leavenworth when you first knew her? A. Living on Cherokee street.

Q. Between what two streets? A. Second and Third.

Q. On which side of Cherokee? A. On the South side.

Q. Did you room at her house any while she lived on that street? A. Yes, sir.

Q. Did she move off of that street? A. Yes, sir.

Q. Where to?

A. I can't just remember whether it was on Seneca or on Delaware street but I know she was there. I think she went from Cherokee to Delaware. I ain't sure now. I won't say positive but I know—and then from there I think to Seneca, if I ain't mistaken.

Q. Now what year did she move on Seneca street?

A. Well I can't say positively.

Q. What time of the year?

A. Well I can't quite say.

Q. When did she move off of Cherokee street?

A. Well, I don't remember.

Q. How long had you been living in Leavenworth? Say you came there in the fall of '84? A. Yes.

Q. When did she move off of Cherokee street?

A. When I first went to Leavenworth I stayed at my uncle's house, maybe three months, might have been two months and then I left over there down to—went to staying at Granny Letcher's and I stayed there.

Q. Were you staying at Granny's when she moved off of Cherokee? A. Well, not all the time.

Q. Well I mean were you rooming at her house at the time that she did make the move off of Cherokee?

A. Well, yes, sir, I think I was.

Q. Now how long—about how long, if you remember, did you live or room at Granny's house on Cherokee street? About how long did you room at Granny's house on Cherokee street?

A. Well I guess off and on, I guess about three or four years.

Q. Well, I mean while she lived on Cherokee street?

A. Well, I can't tell you that for sure because I don't remember.

Q. Now, you say you first roomed at your uncle's?

A. Yes, sir.

Q. When you came to Leavenworth? A. Yes, sir.

Q. And roomed there about three months, you say?

A. About that time.

Q. And then you went to rooming at Granny Letcher's on Cherokee street? A. Yes, sir.

Q. What season of the year was it, whether it was spring, summer or fall or winter, that Granny moved off of Cherokee street?

A. Well, I think it was in the fall. I ain't sure but I think it was in the fall.

Q. Now she moved there to Delaware or to Seneca from Cherokee and you think it was to Delaware, I believe you say?

A. Yes, sir, that is what I think. I know there was some moving done there, at one of them places but I disremember whether it was at Seneca or Delaware street.

Q. Now when she did—she did move to Seneca street?

A. Yes, sir. I know that.

Q. And when she moved there did you room with her there? A. Yes, sir.

Q. Very irregularly? A. Pretty regular, yes, sir.

Q. Did you get married when you were living in Leavenworth? A. Yes, sir.

Q. Who to? A. Woman by the name of Mattie Oldan.

Q. Lottie Oldan? A. Yes, sir.

Q. Where were you rooming at the time you married Lottie?

A. At the time I married her I was rooming at Granny Letcher's and then we went from there out to her father's.

Q. You and Lottie, your wife? A. Yes, sir.

Q. How long did you stay at her father's?

A. Well, I don't suppose we stayed there a year.

Q. Where did her father live?

A. He lived out on Cherokee street, way out.

Q. Way out? A. Yes, sir.

Q. West? A. Yes, sir.

Q. Where did you go to from her father's?

A. Went back to Granny Letcher's.

Q. You and Lottie? A. Yes, sir.

Q. And how long did you live there at that place with Lottie?

A. I don't remember how long it was but I know what made me quit it.

Q. What made you quit her place?

Q. Why she wanted me to give her money to go to St. Joe and I wouldn't do it and she stuck a knife in my side and I left her.

> Mr. Blakeney: I move to strike out the statement what made him quit as incompetent, irrelevant and immaterial, and couldn't object to the question because we didn't know whether it referred to the case or not.
>
> Mr. Hanford: The same objection on the further ground that it is not responsive to the question.

Q. Now Charlie do you know how long you had been living on Seneca Street at Granny's before you and Lottie married? A. No, sir, I don't.

Q. Had you been living there regularly or not from the time—— A. Not regular.

Q. From the time you went on to Seneca street?

> Mr. Blakeney: Objected to as leading?

A. Not regular.

Q. Until you married her, had you roomed there very much?

A. I went there sometimes when I wanted to and when I didn't I roomed somewheres else. I don't know exactly how long.

Q. Well, how much of the time after she moved on to Seneca street before you married was it that you did room there?

A. Well, I can't say because I didn't keep a record of it. If I had kept a record of it I could give better answers but I didn't keep a record of how long; in fact, I didn't keep a record how long we lived together.

Q. I am speaking of before you married Lottie?

A. Sir?

Q. I am speaking of before you married Lottie on Seneca street. Did you room at Granny's regularly or not?

A. Not very regularly.

Q. About how much of your time did you room there?

A. Well, I can't say.

Q. Did you room there very often or very long at a time or not?

Mr. Blakeney: We object as leading and suggestive.

Mr. Hanford: The same objection.

A. I was just like any other young man. Sometimes I would stay there and sometimes I wouldn't.

Q. When did you leave Leavenworth?

A. Well I think it was in '89. I ain't sure.

Q. How long after you and Lottie had the trouble?

A. Oh, it was quite a bit.

Q. Did you continue to room at Granny Letcher's after you and Lottie had the trouble? A. No, sir.

Q. What year did you and Lottie marry?

A. I can't say that.

Q. What time in the year? A. I can't say.

Q. What business were you—what was your occupation there? A. Cooking.

Q. Where did you cook? A. Cooker for Myers.

Q. What was his given name? A. E. D.

Q. A. D. Myers? A. E. D.

Q. E. D. Myers? A. Yes, sir.

Q. What did he run? A. Restaurant.

Q. Where was it located?

A. On the corner of Fifth and Shawnee.

Q. Did Granny Letcher have any children?

A. Yes, sir.

Q. Who? A. Boy by the name of Jim. Jim Mayo.

Q. Jim Mayo. What other boys, if any, were in her family?

A. Well, a boy by the name Sam Smith. He was related to her. I forget now just what relation he was, and another one named Arch, Archie, and then there was a boy there, a little boy, five years—he must have been about four years old, named Walter.

Q. Walter Banks? A. Yes, sir, I think that is his name.

Q. During the time that you lived there at the Letcher home and knew the Letcher family was there any child in that family by the name of Tommy or Indian Tommy?

A. Not as I remember.

Q. Was there any Indian woman or girl in that family by the name of Minnie or Indian Minnie?

A. Not as I remember.

Q. Or Minnie Atkins? A. Not as I remember.

Q. Was there any boy in the family by the name of Thomas Atkins? A. Not as I remember.

Q. Did you know a fellow there by the name of Scott Rector? A. Yes, sir.

Q. What did he do? A. He was my second cook.

Q. Did he ever stay with you or room with you at the Letcher home?

A. I don't think he did. He might have went down and stayed with me once in a while but I don't think he roomed there. I won't say positive that he did because I think he stayed with his mother most of the time then.

Q. But he might have gone and stayed all night with you? A. Yes, sir, he might have did that.

Q. Was there any other boy beside the ones you have mentioned who lived or stayed at the Letcher home while you were there at any time? A. Not as I remember.

Q. What did Molly Letcher call you?

A. What did she call me?

Q. Yes? A. Called me Son.

Q. Called you Son? A. Yes, sir.

Q. Do you know how she happened to call you Son?

Mr. Blakeney: We object as immaterial.

A. No, sir, I don't. She just taken a liken to me and called me Son all the time.

Q. Did you eat meals at her table any?

A. Yes, sir, after I quit Mr. Myers I ate there most of the time.

Q. When did you quit Myer's?

A. I don't remember exactly when.

Q. About how long before you left Leavenworth?

A. In fact now, I didn't quit him. He went away to work for Fred Harvey.

Q. Mr. Myers did?

A. Yes, sir, and while he was gone I didn't do any cooking.

Q. And did he come back while you were there?

A. Yes, sir, I suppose it might have been a year or year and a half or such a matter.

Q. That he was gone?

A. Yes, sir. He first bought the old Colonel Jimison place and he run that. He went away a year or a year and a half or maybe two years and he then hired me to hunt him a location. He was coming back to Leavenworth and start him up a restaurant and I got a location between Dustin and Hosman's butcher shop.

Q. Where? A. There in Leavenworth.

Q. Where is that place?

A. That is between Fourth and Fifth, on Shawnee.

Q. Now where was Granny living when Myers left to go to work for Harvey? A. Living on Seneca.

Q. So for about a year and a half or such a matter, you took your meals at Granny's house? A. Yes, sir, more or less.

Q. Ate at her table? A. Yes, sir.

Q. And Granny? A. Yes, sir.

Q. Was there any boy who ate at that table besides the ones that I have mentioned?

A. Well now there might have been. I can't say for sure.

Q. This Archie—Archie Taylor, is that his name?

A. Yes, sir, I think that was his name. He was a one-eyed boy.

Q. Sam Nash, did he have two arms? A. No, sir.

Q. He was one-armed? A. One-armed.

Q. And during that year and a half——

A. Might have been.

Q. Whatever length of time it was there was no child there by the name of Tommy or Indian Tommy or Thomas Atkins? A. Not that I recall of.

Q. Would you have known it if it had been?

Mr. Cruce: We object as a conclusion.

Q. I don't remember. He might have been there and he might not have been there.

Q. He didn't eat at the table where you ate?

Mr. Cruce: I object as leading.

A. I don't remember.

Q. You never heard that name called there—— You never heard anybody called that name there?

Mr. Cruce: Objected to as leading.

Q. Did you hear anybody called Tommy or Indian Tommy, a child—young child, boy?

A. I don't remember whether I did or not. I don't remember that Indian Tommy or Indian Nellie there, whatever her name is.

Q. Minnie? You have no recollection of such persons being there. A. No, sir, I don't.

Cross Examination by Mr. Hanford.

Q. You say you worked for Myers? A. Yes, sir.

Q. Cooked for him? A. Yes, sir.

Q. Did you cook there pretty steadily? A. Sir?

Q. I say did you work there pretty steadily?

A. Yes, sir.

Q. While Myers was there you worked for him all the time? A. Yes, sir.

Q. While he ran a restaurant? A. Sir?

Q. While he ran a restaurant? A. Yes, sir.

Q. And would you be there throughout the day cooking?

A. Who? Me?

Q. Yes? A. Yes, sir.

Q. What were his hours? How long did he keep open?

A. He kept open day and night. That is, at the restaurant there on—between Dustin and—the other man, the mean man, I forgot. Dustin and Hosman, I think his name is Lou Hosman.

Q. That is when he—— After he came back from Fred Harvey's? A. Yes, sir.

Q. Now where else did you room around Leavenworth, some of the other places? Did you room at different places?

A. Yes, sir, I roomed some places and some I didn't.

Q. You can't remember all the places now? That is too long ago to remember all the places?

A. Yes, sir. I know I stayed at Granny Letcher's more than any.

Q. You would stay there at night? A. Yes, sir.

Q. Sleep there? A. Yes, sir.

Q. These boys that you have named, you say are the other people that you remember that stayed there?

A. Only as I can remember of, yes, sir.

Q. There was a number of other people that stayed there at different times? A. Sir?

Q. I say she kept a rooming house didn't she?

A. Yes, sir.

Q. And there were a good many other people that stayed there a good many times? A. Yes, sir.

Q. You didn't know all those people or know who they were? A. Not all of them, no, sir.

Q. You didn't keep track of them? A. No, sir.

Q. These people were nothing to you? A. No, sir.

Q. You didn't pay any attention to them, who came and went? A. No, sir.

Q. Or that roomed there? A. No, sir.

Q. You didn't pay attention to Granny Letcher's business and household affairs, did you?

A. No, sir, not particularly.

Q. Now you say lots of other children were around there at different times?

A. I don't know. There might have been.

Q. You didn't pay much attention to that? A. No, sir.

Q. Your attention was particularly directed to your work as cook?

A. Well I didn't pay no attention to their cooking when

I wasn't there. When I was in the kitchen I paid attention to my work and when I am out I don't let it bother me.

Q. When you were out you would go to places where you would meet other men and do other things the same as other men? A. Yes, sir.

Q. And then go home and go to bed?

A. Sometimes I would and sometimes I wouldn't. I would set up there and play cards with the boys. Sometimes I would go to bed early and sometimes I wouldn't.

Cross Examination by Mr. Blakeney.

Q. Where are you living now? A. Parsons, Kansas.

Q. How long have you lived there?

A. About nineteen years.

Q. What are you doing?

A. I am working for the Foley Railroad Printing Company now.

Q. Working for what?

A. Foley Railroad Printing Company.

Q. What are you doing.

A. I am porter there now. Doing a little of everything.

Q. Been working there—Been living there you say nineteen years? A. Yes, sir.

Q. And where did you go from to——

A. Went from Kansas City, Missouri.

Q. How long did you live in Kansas City?

A. Oh, I can't say, maybe a year and maybe not so long.

Q. What did you do in Kansas City?

A. What did I do here in Kansas City?

Q. Yes? A. Well I worked for a colored [ ] by the name of Jim Claybrook.

Q. What kind of work? A. Attended to his horses.

Q. You say about a year?

A. Might have been and might not have been that long.

Q. Well might it have been longer? A. Might have.

Q. You just really don't know how long it was?

A. No I don't to tell the truth about it.

Q. Where did you go from Kansas City?

A. Where did I go from?

Q. Yes? A. Leavenworth.

Q. How long did you say you lived in Leavenworth?

A. Well, I don't know. I judge it must have been somewhere about '89, somewhere along there.

Q. Eight or nine years?

A. No, sir, in '89, when I left Leavenworth.

Q. You left Leavenworth, you think, somewhere about '89?

A. Yes, sir.

Q. Well how long did you live in Leavenworth, is my question? A. Well I went there in '84.

Q. How long did you live in Leavenworth?

A. About five years, I guess Four or five years I guess. May have been a little longer.

Q. It may have been a little less?

A. Shouldn't have been any less.

Q. Well are you just reasoning it out or do you remember?

A. Sir.

Q. Are you just reasoning it out or do you remember?

A. No, I don't remember exactly the date when I left there.

Q. Where did you go from Leavenworth?

A. Where did I go from Lawrence, Kansas?

Q. How long did you live in Lawrence?

A. I don't know.

Q. Well about? A. Three or four years, I guess.

Q. What did you do in Lawrence? A. Cooked.

Q. Where did you go from to Lawrence?

A. Independence, Missouri.

Q. Were you born in Independance? A. No, sir.

Q. How long did you live in Independance?

A. I was practically raised there.

Q. Well about how long was that, that you were practically raised at that place?

A. Well I guess I must have been about fifteen or sixteen years old, somewhere like that.

Q. You mean fifteen or sixteen years old when you left Independence? A. Yes, sir.

Q. And how old were you when you went to Independence?

A. Came from Independence?

Q. How old were you when you got to Independence?

A. I guess about fifteen or sixteen years old.

Q. Do I understand you that you were fifteen or sixteen when you came to Independence? A. No, sir.

Q. That is what I asked, how old were you when you came to Independence?

A. I was a small boy then. Riding on a horse behind my mother.

Q. Four or five or six or seven?

A. About that, I guess. About six or seven years old.

Q. Six or seven years of age and you stayed there until you were fifteen? A. Yes, sir I guess about that.

Q. When did you go to work, about what age did you go to work?

A. I don't know how old I was when I was working around. I worked around Independence.

Q. What did you first do?

A. Worked in private families.

Q. What kind of work?

A. Well I was principally house boy.

Q. How old are you now? A. Fifty-one.

Q. What year were you born in? A. In 1864.

Q. What month? A. '65 I meant to say.

Q. What month? A. July 3rd.

Q. Can you read and write?

A. I can't read. I can't do much writing.

Q. Did you ever go to school? A. Not much.

Q. You have to depend entirely upon memory as to incidences that occurred thirty-five years ago? A. Yes, sir.

Q. You kept no records, diary or memorandas of anything?

A. No, sir.

Q. And you have nothing now in your possession made by you or any other person to fix a date thirty or thirty-five years ago? A. No, sir.

Q. When did you first have your attention directed towards Granny Letcher's place in the last few years?

A. Sir?

Q. When did you in the last few years have your attention directed towards your neighbors at Granny Letcher's?

A. When did I have——

Q. You attention here. When was it called to your attention in the last year?

A. It has been about three or four weeks ago I guess.

Q. Who talked to you about it?

A. With me? That gentleman over there.

A. Mr. Buell, Garfield Buell? A. Yes, sir.

Q. He came to Parsons and saw you? A. Yes, sir.

Q. And talked to you about it? A. Yes, sir.

Q. Pay you anything? A. No, sir.

Q. Promise you anything?

A. No, there is one thing though I am expecting?

Q. What is that? A. My expenses.

Redirect Examination by Mr. German.

Q. From Parsons up here and back? A. Yes, sir.

Cross Examination by Mr. Cruce.

Q. What expenses are you expecting?

A. I am expecting my expenses, railroad fare and my expenses while I am here.

Q. How much do you think that will amount to?

A. Well, I don't know. I haven't give it a thought.

Q. Well how came you to expect that if they didn't promise you anything?

A. Nobody promised me anything only the gentlemen were down there to serve a subpoena told me my—Didn't only tell me—He told my boss that my railroad fare and my expenses would be allowed. Didn't say where from or who.

Q. Say who would pay it? A. No, sir, he didn't.

Q. Now let's get back. One thing I didn't understand. What year did you say you married? A. I didn't say.

Q. You said you didn't remember? A. No, sir.

Q. You don't remember what time in the year it was you got married? A. No, sir.

Q. How long did you live with your wife?

A. I don't know, sir. It might have been a couple of years and might not have been so long.

Q. Where were you married?

A. I was married in the courthouse at Leavenworth.

Q. Now when you were rooming at Granny Letcher's house, Charlie, what did you pay a month for your room?

A. Well now when I was cooking I paid her a dollar a week. When I wasn't working I didn't pay her anything. Stayed there. Just made it my home.

Q. You and Granny were pretty thick? A. Sir.

Q. You and Granny wasn't thick? She wasn't a sweetheart of yours?

A. No, sir, she wasn't no more sweetheart o' mine than she was of yours.

Q. So there wasn't any reason why you should take any special interest in her family to see who she was taking care of was there?

Mr. German: I object to that as argument.

A. Of course I would be just like you or any one else if you was there and you made it your home. You would kinda help her along. Do the best you could while you were there.

Q. I say, was there any reason why you should try to find out who the members of her family were?

Mr. German: The same objection. Go ahead and answer.

A. No, I don't see why I should.

Q. Was she a charitable woman or not?

A. She wasn't to everybody, no, sir.

Q. She was to some?

A. She was to me. She treated me nicely while I was there.

Q. How many months did you board there, Charlie, before she moved off of Cherokee Street?

A. Well I can't say.

Q. I understand it has been a long time but just give us your best judgment? A. I can't say how long.

Q. Was it three months, would you say? A. I can't say.

Q. Was it as much as four months? A. I can't say.

Q. Have no idea?

A. Have no idea how long I was down there on Cherokee Street with her. I got no idea.

Q. Now Charlie we are just trying to—we realize it has been a long time and we are trying to get your best judgment—nobody can be accurate about things that happened thirty years ago. Give your best judgment.

Mr. Blakeney: I object to the statement after the Captain testified.

Q. What is your best judgment, think a minute, and think whether you were there on Cherokee Street three or four months?

A. I wouldn't like to answer that question for the reason why I can't remember so long. That far back, how long I was there and I know I was there, but I can't say for sure, two months, three months, five months or six months or a year.

Q. Would you say you were there as much as a year?

A. No, sir, I wouldn't.

Q. Don't think you were there a year?

A. Not before she moved away from there.

Q. Just your best judgment now, do you think you were there as much as six months before she moved off of Cherokee?

A. I don't remember.

Q. You don't think so?

Mr. German: He didn't say that.

Q. What did you say? A. I say I don't remember.

Q. Well, haven't you any idea about it? A. No, sir, I haven't to tell the truth about it.

Q. Then your recollection about the whole thing is a little hazy, isn't it?

Mr. German: I object to that as argument.

Q. Is it or not?

A. You know one thing, you know me nor anybody else twenty-eight or twenty-nine years ago can remember every little things of that kind.

Q. I agree with you there?

A. And I didn't—I don't see why you want me to make a statement of something I tell you I can't remember, so far back.

Q. Well, will you explain to the Court how you remember this was in 1885 then? A. In 1885 what?

Q. That you stayed with Granny Letcher?

A. Well, I know I went there in '84.

Q. How do you know that?

A. Because I know I did at the time of the re-union there in Leavenworth, and another thing was Grover Cleveland's election.

Q. In 1884? A. I think so.

Q. Did you vote for Grover? A. No, sir, I didn't.

Q. Now what time of year did you go there to room with Granny before Grover's election or after?

A. It might have been after, I think it was after.

Q. After? A. I stayed up at my Uncle's quite a bit.

Q. Well he was elected in November '84, wasn't he?

A. I think so.

Q. Was this September or November? A. November.

Q. Now he was elected in November '84, and just after he was elected you think you went to Granny's?

A. It might have been a month or two months or such a matter, somewhere along there.

Q. If it were two months that would put it up into '85 when you went there wouldn't it? A. Yes, sir, I guess it would.

Q. So you went there in 1885, then, and not in 1884?

Mr. German: I object to the question on the ground that it assumes a thing not testified to by the witness.

Q. What was the answer?

Mr. German: He is not answering the question.

Q. Let's see if I understand you? You are willing to say positively the year that you went to Granny Letcher's, and yet you don't remember the year or the time of the year that you got married, do you swear that?

Mr. German: I object to the question on the ground that it assumes a fact not testified to and as argument.

Q. Will you answer that question? A. How is that.

Q. You are willing to swear positively as to the year that you went to Granny Letcher's to board or to room, and you don't remember when you were married or the time of the year you were married?

Mr. German: The same objection.

A. I still say that I don't remember the exact time that I went to Granny Letcher's, whether it was in '84 or '85, but I know I went there; I told you that all the way through.

Q. Well was it '85 or '86 that you went there?

A. I don't remember that.

Q. Might have been '86 that you went there, is that right?

A. It might have been, I am not even—I don't know for sure.

Q. Well, might it have been 1887 that you went there?

A. Well I can't say positively which year.

Q. Can't say positively? Well, which was the most important event in your life, marriage or your wife, or the day that you went to Granny Letcher's to room?

Mr. Allen: I object to that as argument.

Mr. German: And calling for an opinion and conclusion of the witness.

A. Well, no man would think that a married life would be the most valuable to him at times.

Q. But I thought the marriage was a more important event, you remember the other event rather than the marriage, the date of it?

Mr. German: I object to that for the same reasons.

A. How is that?

Mr. German: As implying a fact not testified to by the witness.

Mr. Blakeney: We want to especially object to the form of objection made by Counsel, not in legal form but for the apparent purpose of coaching the witness.

Mr. German: I designedly avoided making suggestion of the—signifying the matter to which I referred to in order to keep from suggesting anything to the witness.

Q. Are you ready to answer the last question?

A. I didn't understand you.

Q. Please read the last question? (Question read.)

A. Well as I told you at first I didn't remember the exact date when I married; I don't remember it today.

Q. Did you at any time that you were rooming at Granny Letcher's undertake to determine who the members of her family were? A. I knowed three, yes, sir, there was.

Q. Just answer my question. Now see if you understand it. I want to be fair with you. I want to know if at any time while you were living at Granny Letcher's rooming there, it occurred to you to find out the members of her family?

A. Well I know the members of the family as far as they told me, I knew them.

Q. Did it occur to you—Now see if you understand this question. Did it occur to you at the time while you were rooming there—not now, but during the few months that you were rooming there in '84 or '85, did it occur to you then to ascertain who the members of the family were?

A. I think it did.

Q. When did it occur to you?

A. When I was staying there.

Q. When you first went there or afterwards?

A. After I went there.

Q. How long after you went there before you determined to find out who the members of her family were?

A. I don't know how long I had been there.

Q. What caused you while you were living there to think it was important to find out who the members of her family were?

Mr. Allen: We object to that as argumentative.

A. If you go to a family you would want to know who the family was, wouldn't you?

Q. I am asking you what caused you?

A. Well, nothing caused me in particular.

Q. But you do state to the Court that while you were there you thought it was necessary to find out who the members of her family were, is that right?

A. Well, I don't understand that very well.

Cross Examination by Mr. Hanford.

Q. You say that Granny moved up on Deleware street first? A. I think she did, I won't say for sure.

Q. You remember how long she stayed there?

A. No, sir, I don't. She either moved up there—I know it was either her moved up there at the time, or Jim; one of the two moved up there; I thought, though, that Jim moved up there and she went on to Seneca Street; Jim run a kind of a restaurant there.

Recross Examination by Mr. Blakeney.

Q. What is your nationality, race or color?

A. Why I am a negro they call it.

Witness dismissed.

Mr. German: We offer the deposition of Laura Thomas, taken before Mr. Penick appearing in his transcript, beginning at page 2785.

And thereupon, **LAURA THOMAS** being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. State your name and place of residence.

Q. Laura Thomas. I live in Luray, Kansas.

Q. How old are you?

A. I was born in 1865, the 25th day of December, 1865.

Q. Laura, did you ever live in Leavenworth, Kansas?

A. I was bred and born there.

Q. Were you reared there? A. Sir?

Q. Were you reared there? A. Yes, sir.

Q. When did you leave there? How old were you when you left there?

A. When I left Leavenworth?

Q. Yes? A. Oh I had been married when I left there.

Q. You left there after you were grown? A. Yes, sir.

Q. Did you know a colored woman named Molly Letcher or Granny Letcher? A. Yes, sir.

Q. Where did she live when you first knew her in Leavenworth?

A. She lived down on Cherokee Street between Second and Third.

Q. Between Second and Third? A. Yes, sir.

Q. On which side of the street?

A. On that side of the street in a frame house.

Q. Which is that side, south or north?

A. I can't tell over here.

Q. Well did she live on the south side of the street or north side of the street?

A. She lived on that side of the street.

Q. Well that is south, isn't it? A. Yes, sir.

Mr. Cruce: We object as leading.

Mr. Hanford: Object to as leading.

A. It was on the south side of the street I think.

Mr. Allen: We think the record ought to show in view of the record of counsel that she pointed south.

A. It was on that side of the street. On account of being turned around here——

Mr. Cruce: She is pointing east.

Q. Did you go to her house any when she was living on Cherokee Street? A. Yes, sir.

Q. Very often? A. Well I was there quite often.

Q. Did she move off of that street? A. Yes, sir.

Q. Where to?

A. Well she moved from there up on Seneca between Second and Third.

Q. Between Second and Third on Seneca?

A. Yes, sir. And that was on that side of the street.

Q. The same side of the street that she had lived on down on Cherokee?

A. Yes, sir, it was that side of the street.

Q. Do you know where Crilly's barn was up there?

A. It was right across the street from Crilly's barn.

Q. Did you go to her house any after she moved to Seneca Street? A. I lived there.

Q. You lived there? A. Yes.

Q. When did you commence living there?

A. Well I will tell you I just can't tell, when I commenced living there. I can't keep a date or anything like that.

Q. Well how came you to commence living there?

A. How come me to commence living there?

Q. Yes?

A. Well I just went up there and got a bedroom and commenced living there——

Q. Got a room?

A. Yes, sir, and commenced living there.

Q. How long had she lived on Seneca Street when you commenced living there?

A. Well she hadn't been up there very long when I went up there. She had flowers and everything out like that.

Q. Was that the first flowers she had put out after she had moved up there? A. Yes, sir.

Mr. Blakeney: We object to the knowledge of the witness, leading the witness. It is not shown that she knows.

Q. Did you visit her house up there after she moved on Seneca Street before you went to living with her?

A. No, sir.

Q. When you first went there then after she moved on Seneca you began to live with her? A. Yes, sir.

Q. Did you know Dan Hudson? A. Yes, sir.

Q. Where was he living?

A. He lived there. That was my husband.

Q. That was your husband? A. Yes, sir.

Q. Did you marry him before or after she moved up to Seneca Street?

A. I married him after, Charley Hudson.

Q. Charley Hudson, was it? A. Yes, sir.

Q. What? A. His name was Charley Hudson.

Q. Were you around her house after she moved on to Seneca Street before the time when you married Charley? Did you go up there to see her any before you married Charley? After she moved on Seneca?

A. I was there once or twice but I didn't stay but just a little while.

Q. How did you happen now before you married Charley how did you happen to go to her house? What did you go there for? A. What did I go there for?

Q. Yes? A. Why my husband was there.

Q. I am speaking of before you married him, how came you to go there?

A. Why he told me to come up there. He wanted to see me.

Q. Well would you just go up there to see him?

A. Yes, I would go up there to see him. Of course Molly and him were all there together. We called her Granny.

Q. What were you going to say about Granny?

A. I say I just went up there to see Granny you know and my husband was there.

Q. You mean your sweetheart, don't you? A. Yes, sir.

Q. Before you married him? A. Yes, sir.

Q. Did they have any parties or socials up there?

Mr. Hanford: I object as leading.

Mr. Blakeney: I object to that as leading.

A. Why they didn't have any parties that I know of. Only our family folks you know, like I would go to your house or something like that.

Q. Did they have any singings?

Mr. Hanford: Objected to as leading.

Mr. Blakeney: Object to it as leading.

A. On sometimes.

Mr. Hanford: The same objection.

A. Sometimes Sam and Jim was there. That was her son.

Q. Jim who? A. Jim Mayo.

Q. And Sam who? A. Sam Nash.

Q. Were they members of her family? A. Yes, sir.

Q. Did you know a boy by the name of Walter or Walter Banks? A. Yes, sir.

Q. Where did he live? A. Lived there.

Q. When did you commence living at Granny's house with reference to the time when you got married to Charley?

A. We commenced living there right away.

Q. After you married did you live at your house any, your father's? A. I went out to my father's house.

Q. How long did you stay?

A. I can't tell just how long. Been so long ago I can't tell but I stayed out to my father's quite a while.

Q. Well about how long? A. I can't say.

Q. One month, two months, three months, a year, or what?

A. No, we didn't stay out there—— About a month. Something like that, at my father's and then we came back to Molly's.

Q. How long then did you live at Molly's?

A. Well I stayed at Granny's all that summer and all that winter.

Q. Then where did you go to? A. Where did I go to?

Q. Yes? A. I went up to Fourth and Seneca.

Q. Were you back at Granny's any more?

A. Oh, yes, I used to go down there all the time. I used to go down there every day.

Q. Were you around there—— When you were down there would you go through her house? A. Yes, sir.

Q. Would you see the people that were around there?

A. Well most in general. Most in general I would go down and see anybody that was around, anything like that.

Q. Do you know who lived in her house regularly? Do you know the names of the people who did?

A. Well some I do and some I don't.

Q. All right, tell us now the names of the people who lived with her regularly while you knew her.

A. While I knew her?

Q. Yes?

A. Well Mrs. Scott lived there with her family. A woman lived there name of Mary.

Q. Mary—Molly or Mary Ford?

A. I don't know what Mary's last name was. Worked up at the Delmonico Hotel.

Q. Mary Anthony?

Mr. Cruce: Don't lead the witness please.

Q. Go ahead? A. And Jim.

Q. Mayo?

A. Yes, sir. I didn't keep track very well you know. In a rooming house you can't run through everybody's room and see who everybody is like that.

Q. Did you know all of the children that she had living with her? A. Yes, sir.

Mr. Hanford: Objected to as calling for a conclusion of the witness, and move to strike the answer which was made before my objection could be stated after hearing the question.

Q. During all the time that you knew her and were around her house was there any child there by the name of Indian Tommy or Tommy Atkins? A. I don't know.

Q. If there was did you know anything about it?

A. No, sir. I don't know anything about that woman or that child.

Q. When you say that woman, do you mean Minnie Atkins? A. Yes, sir.

Q. You knew of no woman there by the name of Minnie Atkins?

A. No, sir, I didn't know nobody by that name there at that time you are all talking about.

Q. If there had been any such woman there would you have known it?

Mr. Hanford: Objected to as calling for a conclusion and opinion of the witness, leading and incompetent.

Mr. Blakeney: Objected to as calling for a conclusion of the witness and incompetent.

Mr. Cruce: Objected to as calling for a conclusion.

A. Yes, sir, if there had been a woman there I would have known it.

Q. If there had been any boy there by the name of Indian Tommy or Tommy Atkins would you have known it?

A. Yes, sir.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial and asking for a conclusion.

Mr. Hanford: The same objection.

A. Yes, sir, I would have known it.

Q. Was there any boy there younger than Walter Banks?

Mr. Blakeney: We object to the competency of the witness.

A. Why, yes, there was a child there younger than Tommy Atkins along——

Q. Younger than who?

Mr. Cruce: Tommy Atkins she said.

Q. What did you say? A. Now listen.

Q. I want to question this witness. I protest against interruption.

A. Now listen here. There was a child there—— It was my sister's baby and he was six weeks old.

Q. He was younger than what child?

A. My sister's baby was there and he was six weeks old.

Q. Now he was younger than what child?

Mr. Blakeney: I would like for the Court to read—

Mr. German: I admit that the witness inadvertently used the name Thomas Atkins.

Mr. Blakeney: I move to strike out counsel's statement as not being under oath as to whether it was inadvertently or not and I object now to this method of cross-examination and browbeating the witness.

Mr. German: I move to strike the last statement of counsel as purely improper and not called for by any condition existing. I ask that the Examiner read the witness's answer wherein she used the word Thomas Atkins so that I may ask her again about it.

Mr. Blakeney: I object to the Examiner reading the answer to the witness in order that counsel might ask her questions when counsel shows in his request that he knows what the witness testified to.

Mr. German: I will withdraw that request and ask her a question.

Q. Laura, a moment ago you said that there was a child there younger than Thomas Atkins, that it was named—that it was your sister's baby? A. Yes, sir.

Q. Now did you know any child there by the name of Thomas Atkins? A. No, sir.

Q. What boy did you refer to when you used the name Thomas Atkins?

A. Listen. The only child there was there when I was there was my sister's baby was there. She was six weeks old. her name is Annie Nelson now. She has been married. That was the only baby was there and this Walter—Walter Banks was the next biggest child there and that is the only small children around there at the time. Now I don't understand this court or anything like that.

Mr. Blakeney: I object to the statement of the witness as not responsive.

Mr. Allen: Let her go ahead and finish that.

Q. When you used the word Thomas Atkins a while ago and you said that the only child there younger than Thomas Atkins did you mean to use the words Thomas Atkins?

A. No, sir.

Mr. Hanford: Objected to.

Q. What did you mean to say?

A. I meant to say my sister's baby and you all were talking to me about this Thomas, and you all talking to me about this

Atkins woman and got that on me here and I don't know the woman. I never seen the woman or the baby in Granny Letcher's house.

Mr. Allen: We want to enter our protest against the action of counsel representing Henry Carter, Minnie Atkins and Charles Page, each in a threatening manner, jumping at this witness.

Mr. Cruce: I want to state to the counsel that unless a man is crazy he wouldn't jump at this witness.

Mr. Blakeney: I want to examine the witness first because I want to draw out some matters that the probabilities are that Mr. Hanford and Mr. Cruce will desire to cross-examine her on. If counsel, however, objects I am willing that they proceed first.

Mr. Hanford: I would like to proceed first with the witness.

Mr. Cruce: I am willing for you to go ahead.

Mr. German: I want to put this in the record. I object to Mr. Blakeney's examining her or cross-examining her at all unless he is going to make her his witness.

Mr. Blakeney: I will yield to Mr. Hanford.

Cross Examination by Mr. Hanford.

Q. What was your name when you married Dan Hudson? A. My name was Lottie Olden.

Q. How do you spell Olden? A. Olden.

Q. A-l-d-e-n? A. Yes, sir.

Q. Your father had a place out side of Leavenworth at that time? A. Had a place at 917 Cherokee Street.

Q. 917 Cherokee Street? A. Yes, sir.

Q. Where was it that you went to live with Dan, as you call him, when you first married?

A. I wasn't living with him.

Q. Well when you married him where did you go to live first? A. Went out to my mother's.

Q. Where is that? A. Out on Cherokee Street.

Q. Way out west? A. Yes, sir, it was out that way.

Q. Way out toward the end of Cherokee?

A. Yes, sir, 917.

Q. 917 Cherokee? A. Yes, sir.

Q. You went there when you were first married to him?

A. Yes, sir.

Q. Where were you married?

A. I was married at the courthouse in Leavenworth, Kansas, and Judge Hawn married us.

Q. And how long did you stay out there?

A. I think we stayed out there about two weeks. I don't know how long we did stay, been so long. We didn't stay out there.

Q. You remember whether it was a long time?

A. Not a very long time, maybe longer, something like that. But we came back to Molly's to stay. We went out to Molly's you know. It was very satisfactory you know so we came back up to Molly Letcher's.

Q. After you came back there to Molly Letcher's house how long did you continue to live together?

A. Oh we stayed at Molly's all that summer and all that winter.

Q. All that summer and all that winter? A. Yes, sir.

Q. So that it was about six months?

A. Longer than that because when I went there she was putting out the flowers in her yard and the flowers bloomed and I stayed there all that winter. The next following spring me and my husband parted.

Q. You say that she was putting out flowers? That would be the springtime?

A. Yes, sir. It was spring.

Q. And you were there all the rest of that spring?

A. Yes, there all that summer.

Q. All the summer? A. Yes, I stayed all the summer.

Q. And fall?

A. And stayed there all that winter, and next.

Q. So you were there about nine months or the best part of a year?

A. Oh, more than a year. I was there more than a year.

Q. With Dan? A. Yes, sir.

Q. You and Dan had a quarrel and separated?

A. We had a room upstairs and lived there.

Q. And lived there? A. Yes, sir.

Q. And then you separated? A. Yes, we separated.

Q. Did you leave him or did he leave you?

A. I left him.

Q. You left him? A. Yes, sir.

Q. Then you went away from Molly Letcher's?

A. Yes, sir.

Q. And where did you go?

A. Well I went down on Cherokee Street.

Q. Now was this woman there that you spoke of, this Mary, was she there while you were there? A. Yes, sir.

Q. In the same house?

A. They had two rooms off on the porch back that way and Mrs. Scott and them all worked up at the Delmonico Hotel.

Q. And were you living with Dan at that time?

A. Yes, sir, I was living upstairs but Mrs. Scott and Mary Anthony and their children had two rooms back and I seen Mary and I seen the folks every day you know.

Q. Who was living at Granny's first? Were you living there?

A. I wasn't there when Mrs. Scott moved up there. Mrs. Scott lost her husband and then she moved up there and brought her children.

Q. And how long had you been living there when they came.

A. Well, Mister, I just can't tell you how long because I didn't keep no dates or anything like that about the time.

Q. Well do you remember how long you stayed at Granny's after they left?

A. After Mrs. Scott and them left?

Q. Yes?

A. Oh I stayed there a long time after they left.

Q. So they came there then not very long after you went to Granny's? A. Mrs. Scott?

Q. Yes?

A. Yes, they came there while our garden was coming up you know, something like that, and they stayed there until it commenced to get cold, along in the fall.

Q. In the winter or fall? A. Yes, sir.

Q. Didn't they come up there when they got burned out down at the——

A. I don't know anything about it.

Q. You don't recollect?

A. Well I don't know how come them to come, nothing like that. I just know they moved up there—because when I came home——

Q. Now did you ever leave there? You didn't live there before you went there to live with Dan at Granny's house?

A. No, sir.

Q. That was when you first went to living at Granny's?

A. When we were up on Seneca Street?

Q. Yes? A. Yes, sir.

Q. Do you remember anybody else that lived at Granny's besides those people? A. Who?

Q. The six and that Mary?

A. I know lots of people that used to live there outside of me and my husband.

Q. Who were some of those people?

A. Well Nettie lived there and Belle lived there and then I had my sister there.

Q. What was her name?

A. My sister's named Annie Nelson now.

Q. Annie Nelson? A. Yes, sir.

Q. How long did she live there?

A. I don't know just how long. I took her up there. She was sick.

Q. Do you remember anybody else?

A. That has been so long, really I just can't remember.

Q. Well Granny had boarders, didn't she?

A. Yes, sir. And they was in and out. In and out all the time you know, and my sister was there too with the child, and I don't just remember how many roomers and everything was up there.

Q. You say you don't know all the people or children or anything else that were around there all the time that you were there?

A. Well I know about all the children because Walter waited on me a good deal, Walter Banks.

Q. How big a boy was Walter?

A. Walter was about that high.

Q. Good sized boy?

A. Yes, sir. He could run to the grocery and places, you know, and to get milk for my sister and I washed down stairs you know, and this here Scott, Mrs. Scott's children was good sized children, you know. I don't know just their age but they were big enough to run around, you know, and take care of themselves. Stay there all day by themselves.

Cross Examination by Mr. Blakeney.

Q. What did you say your name was at that time? The time you lived at Granny Letcher's?

Mr. German: Let the record show that we object to any other counsel by the allied defendants cross-examining this witness.

Mr. Cruce: We are not allied. He is our enemy.

Mr. Blakeney: I would like to let the record show that the Government with two attorneys aided by the assistance of Judge John B. Meserve and two detectives spent months looking up this case and now object to my representing my client by asking any question of a witness that takes the stand.

Mr. German: We don't object to counsel examining them if he is the sole cross-examiner.

Mr. Blakeney: I have nothing to do with the other gentlemen and can't govern their examinations.

Mr. Hanford: Counsel for complainant brought the suit and made the parties to the suit. Parties defendant are those that are made by the bill of complaint.

Q. What did you say was your name before you went to live with——

A. Before I married Charles Hudson?

Q. Yes? A. My name was Lottie Olden.

Q. Olden? A. Yes, sir.

Q. Counsel asked you if you had gone up there to dances, gone up to parties or singings at Granny Letcher's. You went up to Granny Letcher's to drink beer and to sleep with Hudson, didn't you?

A. No, sir, no, sir. I never slept with that man until I was married to him.

Q. Did you go up there with other men? A. No, sir.

Q. You never did? A. No, sir.

Q. Then what were you doing when you went up there?

A. When I went up to Molly Letcher's I visited her like you would go to see your mother and your sister and treated everybody nice and sat down and went on back home. And this man took me back home.

Q. Was he your mother or sister?

A. No, sir, but Charley boarded with this woman. He boarded with this woman.

Q. At that time you were what is known as a chipey or prostitute?

A. No, sir, I wasn't a chipey and wasn't a prostitute. I was living at home with my mother and father, Mary Olden.

Mr. Allen: We object to the question as insulting and to arouse the anger——

A. I was a young girl, quite young.

Q. You knew the character of Granny Letcher's place didn't you? A. No, sir.

Q. You didn't?

A. Mister, I didn't know no more about that place than you know and I don't think you know.

Q. You know that place was regarded in Leavenworth as an assignation house?

A. I didn't know nothing about that place. The first time I went in that woman's house I was a young girl. I didn't know nothing about the place at all.

Q. When was the first time that you went in it?

A. I went down to the hall one night, down to the Benevolence Hall and to the church and I came over and set down there.

Q. Who did you go with?

A. Oh, I went with a woman named James Caney Hoy. They were older than I was. My father came down there after me and whipped me and took me home.

Q. Your father came and whipped you for going there?

A. Yes, sir. He met me on the street.

Q. He told you what kind of place it was, didn't he?

A. My father didn't tell me nothing because he didn't allow us to go away from home. We kinda lived out in the country like and when we came to town and came into the hall if we got a chance we run off like anybody would. Somebody say, come on, and I came on and went.

Q. You run off to Granny Letcher's?

A. I run off down there.

Q. Is that the only time that you were ever down there?

A. That was the only time I was ever down there.

Q. Before you married? A. Yes, sir.

Q. I am just trying to get track that you ran off and went to a place on Cherokee Street?

A. We were on Cherokee Street between Fourth and Fifth, right across from the Continental Hotel where we went to the lodge meeting.

Q. And you left? A. Went down the street to Molly's.

Q. Molly who?

A. Molly Letcher, we called her Granny.

Q. Where was Molly Letcher at that time living?

A. Down on Cherokee Street.

Q. And you met Hudson there? A. Did I?

Q. Yes? A. I seen him before I went down there.

Q. You went down there because Hudson was there?

A. No, I didn't say that.

Q. Well I——

A. I said I seen him before I went there.

Q. You saw him before you went? A. Yes.

Q. Did you go with him?

A. No, I went down there with Jane, Kate and Ada.

Q. Well did he go? A. He was down there.

Q. He was down there? A. Yes, sir.

Q. You saw him down there and you went down there to see him, is that right?

A. I didn't go particularly to see him but the girls asked me to go and of course I went down there.

Q. What girls?

A. Jane and Ada. He was kinda my beau you know and went to see him.

Q. Jane who? A. Jane Cain and Ada Rowl.

Q. Jane and Ada? A. Yes, sir.

Q. Colored girls?

A. Yes, sir. We were all raised up together there in Leavenworth.

Q. Who were they?

A. Friends of ours, raised up together there in Leavenworth?

Q. When you got down there who did you find?

A. Lots of people down there.

Q. What?

A. Lots of people down there. Sadie Harris and her mother lived down there.

Q. Sadie Harris? Is that Sadie James now?

A. Yes, Sadie James now.

Q. She was there?

A. Yes, sir, she and her mother lived there.

Q. Who else? A. I can't tell you who all were there.

Q. Any men there? A. Yes, sir, a house full of men.

Q. A man for each of the women?

A. I don't know but we seen them all in there you know. We were out like that would be that room——

Q. You were not in the room where the crowd was?

A. No, sir.

Q. You went into another room?

A. We were right back—young girls like.

Q. Who is we? A. Jane Kane and Ada Bowl (or Howl).

Q. And you three girls were in the back room?

A. We were all sitting back there; went down there and we sat back there and talked and Granny was talking to us and she called Dan.

Q. Were you in the same room with the crowd?

A. No, sir, we didn't go in the room with the crowd.

Q. You were in a back room? A. Yes, sir.

Q. Who else was back there besides you three girls?

A. Me and Ada and Jane and Granny and Granny sent and got Charley; Charley was my beau.

Q. Then you sent and got Charley? A. Yes, sir.

Q. Where was Charley?

A. He was back over in that other room.

Q. He was where?

A. He was back over in the other room with the people.

Q. He was in the room with the crowd of people?

A. Yes, sir; we didn't go in there, you know; because I wasn't allowed in such places as that, you know; down town like that.

Q. What was the matter with the place?

A. I don't know. Anything like that, my father was very strict on us, and he didn't allow us to go down town. I was going to school.

Q. You were going to school at this particular time?
A. Yes, sir, I was going to the highschool.
Q. Did Hudson come back? A. Sir?
Q. Did your sweetheart come back?
A. Yes, sir, he come back.
Q. When he got back, what did you do?
A. He just talked to me and took me on back up to the hall.
Q. Where did you go when you got up to the hall?
A. He took me back up to the hall and stopped at the steps and talked a few minutes and I went in up.
Q. You stayed there in that room and did your talking, did you?
A. Yes, sir, just like we all sitting right here, and we were sitting there talking and Charley told me something, and I said I could——
Q. Charley told you something? A. Yes, sir.
Q. What did he tell you?
A. That got anything to do with this case?
Q. I don't know; I will see; what was it he told you?
A. He made a date with me.
Q. Made a date with you? A. Yes, sir.
Q. When was the date made for?
A. He told me to meet him on Sunday night.
Q. Sunday night? A. Yes, sir.
Q. He made the date with you for Sunday night?

Mr. German: I object to this as incompetent, irrelevant, and immaterial.

A. Charlie was my beau. That hasn't got anything to do with this case, has it? That is all, there was improper, anything like that, about it.
Q. Why do you object to me examining you about if there was nothing improper?
A. You can examine me, ask me any question you want to. I wouldn't done anything wrong, because I was a girl then.
Q. When did you commence doing wrong?
A. After I married Charley Hudson.
Q. After that you got to be rather notorious, didn't you?
A. Well, do you see anything notorious about me? Have you heard anything notorious about me?
Q. I am not testifying; I am asking you.
A. Well, I am asking you.

Mr. Germain: I object to the question on the ground that it is not justified by anything that the witness has stated, and is an improper question.

A. I don't understand court.

Mr. German: And is immaterial evidence.

Q. Well, I believe I asked you if after that, if you didn't come to be a sort of notorious girl around there, around town.

Mr. German: I object as incompetent and immaterial.

A. No, sir.
Q. You didn't?
A. No sir; I didn't. When I married Charley Hudson I lived like a woman and I have lived ever since——
Q. You have always lived like——
A. I have always tried to live like a woman and tried to be a woman and what I do I am not ashamed for you or anybody to see, and where they came and get me out here in Kansas, they can prove my record and everything else.
Q. You stuck a knife in Charley, didn't you? A. Who?
Q. You? A. No.
Q. Didn't you stick a knife in Charley?
A. No, Emma Woods did.
Q. Who was Emma Woods?
A. One of his old sweethearts; I didn't see it, I heard it.
Q. Didn't he leave you on account of your sticking a knife in him? A. I told you.
Q. Answer it yes, or no, didn't he leave you because you stuck a knife in him? A. No, sir.
Q. Didn't you want some money to go to St. Joe?
A. No, sir.
Q. And asked him for it and he didn't give it to you?
A. No, sir.
Q. And you stuck a knife in him? A. No, sir.

Mr. German: I object.

A. If my father was here I could tell you.

Mr. German: I object to this as incompetent, irrelevant and immaterial, and improper cross-examination.

A. No, sir, I can't tell you.
Q. Now how long after this first time that you were with Charley was it before you saw him again?
A. Me and my husband, when I left Charley——
Q. No, I am talking about before you married Charley, you saw Charley the first time after you run away from the lodge? A. Oh, I would see him every day.
Q. Saw him every Sunday, did you?
A. Yes, I would see him nearly all the time.

Q. Charley worked nearly all day, didn't he?

A. Sometimes he was on day watch and sometimes on night watch. When he was on day watch I would see him at night, and when he was on nights I would go up there to Lige Myers and see him, that was the man he worked for.

Q. Now, how long was it after this first trip that you went up to Granny's place before you married him?

A. How long before I went up to Granny's.

Q. No, how long was it after you ran away from the lodge and went up to Granny's to see Charlie, was it before you married Charley?

A. We were down to the lodge on Tuesday night, and I met him on Sunday night and the next following week I followed him up there.

Q. Came up where?

A. Came up where I was working; he told me to come home tonight, I was a young girl, and I said all right I will be home; I always called him dad, I said, I will be home tonight, Dad, and I didn't know what was going on, so he goes to work——

Q. Is this answering the question I asked you, how long it was from that time that you run away from the lodge to see Charley until you married Charley?

A. Well I guess it was about two weeks, two weeks before we married.

Q. And after your marriage you went up to live at Granny's? A. I went out home.

Q. Did you go home first?

A. Yes, sir, my father took us and made us marry, my father made Charley Hudson marry me.

Q. What for? A. What for.

Q. What did your father make Charley marry you for?

A. I don't know; I guess because he did mean and ugly.

Q. That is the only answer you have now?

A. Yes, sir.

Q. Now after you married Charley did you live at Granny's, or at home? A. No, sir, I went out home.

Q. And how long did you stay home?

A. Oh, I stayed out there two weeks or more; it has been so long I don't remember just how long I did stay home.

Q. About how many times did you see Charley from the time you ran away from the lodge until you married him?

A. Well it was the first of the week, and then you know I seen him the next Sunday night.

Q. The next Sunday night?

A. And then the next following week father made him marry me.

Q. Had you ever stayed all night now at Granny Letcher's up to that time? A. No, sir.

Q. You had never been to Granny Letcher's but twice?

A. No, sir, I just went down there that night with Jane and them; I never stayed down there, anything like that; I never stayed with Charley until we were married.

Q. And you hadn't been to Granny Letcher's now but the one time before you were married? A. Just that night.

Q. Now then, after you were married you went out to your own father's place and stayed two weeks and then came back?

A. I don't know; it might have been longer than that.

Q. Well about two weeks, and then you came back to Granny's?

A. Yes, sir, I told them I wouldn't live out there.

Q. And you came back to Granny's?

A. Yes, and lived at Molly's.

Q. Please answer yes or no? A. Yes, sir.

Q. After you came back to Granny's you stayed there during the day time as well as at night?

A. I stayed there all the time.

Q. Well, after you were married you were not working, were you?

A. No, sir; after I was married my husband didn't allow me to work for a while.

Q. For a while you weren't working? A. No, sir.

Q. You stayed about the place day and night?

A. Yes, sir, I was there during the day and during the night just like you would be home.

Q. Just like any other married woman would stay in her place?

A. Yes, sir, after I was first married I didn't work out for a long time.

Q. Who was at Granny Letcher's during that time?

A. Who was there?

Q. Yes?

A. Sam, and Arch and Walter and Jim. Jim was her boy, Jim Mayo, that was supposed to be her boy. I don't know nothing about who alls you know.

Q. Well, was these Scott's there? A. Who?

Q. Scotts?

A. No, sir, they hadn't come up there then.

Q. How long were you there before they came?

A. Well, a long while.

Q. Well, about how long?

A. Well, I don't know just how long; I never kept no tab about anything like that, like I do now.

Q. Did you say when Mr. Hanford was examining you that you were there a month *of* more?

A. Before the Scotts came.

Q. Yes?

A. I think it was about November; we were planting flowers and things outside.

Q. You have no special reason for guessing the exact time?

A. Yes; listen, I never kept no time of nothing, I didn't have to keep no time on nothing.

Q. Your best recollection is it was about a month?

A. Yes, sir.

Q. Who came when the Scott's came?

A. When the Scotts moved up there?

Q. Yes? A. Mary Anthony.

Q. Who else?

A. That is all, Mrs. Scott's children.

Q. Mrs. Scott and her husband came?

A. Mrs. Scott's husband was dead.

Q. Mrs. Scott and her children came? A. Yes, sir.

Q. And Mary Anthony came?

A. Yes, sir; they all worked up there at the Delmonico Hotel.

Q. Now, at that time Mayo was living with Belle, was he?

A. Yes, sir, upstairs.

Q. Was Belle related to the Anthony woman?

A. That was Jim Mayo's woman.

Q. Who was Jim Mayo's woman?

A. You asked me who was up there, and I said Belle Wright.

Q. Belle Wright was Jim Mayo's woman? A. Yes, sir.

Q. Who was you striking at, me or the stenographer, when you waved your arm around that way? A. This way?

Q. Yes?

A. I didn't strike at nobody; I didn't strike at nobody.

Q. Now, was there any other woman there besides those that you have named?

A. Mister, I want to tell you it was a rooming house and they were in and out and I didn't pay no attention much to came in and went out.

Q. Did this Anthony woman have a little girl there?

A. Yes, she had a little girl, a great big child.

Q. How big?

A. Well, it was a pretty good sized child, big enough to walk around and suck a bottle.

Q. Suck what? A. Suck a bottle.

Q. Big enough to walk around and suck a bottle?

A. Yes, sir, Mary Anthony's child.

Q. Didn't somebody keep that child there before Mary Anthony came up there?

A. No, sir, not that I know of; I don't know what Granny done before I went up there.

Q. Not before you went up but before Mary came up?

A. If Granny had that child there I didn't see it. When the Scotts moved in there they all come in together.

Q. The first time you saw the child there was when the Scott's moved in there?

A. Yes, sir. And listen, when the Scott's moved in there they had been there a week before I seen them.

Q. Now, who else was there then when these Anthony's moved in there—when Mary Anthony moved in there, any other woman?

A. I was there, and Belle was there.

Q. I mean other than those two that you named?

A. Listen, I didn't run all over the house to see who was in that rooming house.

Q. Now do you know what year that was?

A. Well, Mister, really I can't tell; it has been so long, you know, and I have been away from there.

Q. It has been about 26 years ago, hasn't it?

A. Yes, sir, longer than that.

Q. Longer than that?

A. Yes, sir, because I ain't been to Leavenworth for 30 years.

Q. You haven't been to Leavenworth?

A. For 30 years. Molly Letcher, and Jim and all of them died since I left there.

Q. You haven't been to Leavenworth for 30 years?

A. I haven't been to Leavenworth for 30 years.

Q. How long did you live in Leavenworth after you separated from Scott? A. Charley?

Q. Charley Hudson?

A. I stayed there about a week after that and I went to Colorado Springs.

Q. And you went to Colorado Springs? A. Yes, sir.

Q. You say about 30 years; has it been more than 30 years since you went to Leavenworth?

A. No, I think it has been about 30 years.

Q. Just about? A. Yes, sir.

And thereupon adjournment was had until 9:30 o'clock A. M.

And thereafter and on April 8, 1916, at 9:30 o'clock A. M. further testimony herein was taken as follows:

And thereupon the witness under examination at the adjournment yesterday afternoon, being recalled, further testified as follows:

Cross Examination by Mr. Blakeney.

Q. Laura, have you seen anybody that is connected with this case since the adjournment last night?

A. No, sir, I haven't.

Q. Haven't seen anybody?

A. No, sir; I went home and went to bed last night, didn't go out anywhere.

Q. Didn't go anywhere last night?

A. No, sir, I haven't seen anybody at all connected with this case.

Q. I believe the last question I asked you yesterday was how long it has been since you had separated from your husband and left Leavenworth, and you stated, I believe, about 30 or 31 years? A. Yes, sir.

Q. Have you any way of fixing the time?

A. No, sir, I haven't, it has been so long.

Q. Just a mere matter of memory?

A. Yes, sir, it has been so long since I have been to Leavenworth.

Q. What year is this? A. This is 1906.

Q. 1906? A. Yes, sir, now?

Q. Yes? A. This is 1906.

Q. 1906? A. Yes.

Q. What month is it? A. April.

Q. April? A. Yes, sir.

Q. April, 1906? A. Yes, sir.

Q. Then if you separated 30 years ago you separated in 1876?

A. Along somewhere about that time. Of course, if Judge Harn was along I could know better.

Q. Judge Harn?

A. Judge Harn, that is the man that married me in Leavenworth, and I could tell better.

Q. You was only married about a year?

A. We was married quite a while, and stayed around at Molly's.

Q. Well, I understood you to put it about 10 months when you were being examined by Mr. Hanford, is that right?

A. What is that?

Q. Didn't you say that you had lived with your husband about 10 months?

A. I told you yesterday that I lived with my husband, in planting the flowers, I lived there all that summer and lived there that winter.

Q. Well, you planted flowers the first few months you were married? A. Yes, we were up at Molly's.

Q. You didn't plant any flowers the last months you were married, did you? A. No, sir.

Q. You were breaking crockery over each other's head?

A. How is that?

Q. You were breaking crockery over each other's head?

A. No, sir.

Q. You didn't do anything like that?

A. No, sir, we never had any quarrels, me and my husband didn't.

Q. I want to get that right in your mind now, the best I can. I wish you would think and tell me about how long you had been married when Mary Anthony came up there to live at Granny Letcher's?

A. Well, when Mary Anthony came up there I had been there quite a while you know, and Mrs. Scott she came there with the Scott's folks; I had been there quite a while; I can't tell you dates, you know, nor anything like that.

Q. And you lived with your husband then how long after Mary Anthony came?

A. Well we stayed there—they moved away.

Q. Mary Anthony moved away?

A. Mrs. Scott, and Mary Anthony and all moved away.

Q. And how long did you stay there after they moved away? A. I stayed there all that winter.

Q. That winter? A. Yes, sir.

Q. Well, when did the Anthony's come?

A. Well, they came along in the spring, when we were planting flowers, and things like that.

Q. Well then they came about the same time you did, you came there in the spring, you said? A. Yes, sir.

Q. So they came about the same time you did?

A. Yes, sir.

Q. Where was these flowers being planted; in the house or——

A. Oh, no, out in the grounds, in the yard; you know how they plant flowers in the ground. Of course, I will tell you Mister, when I went there, Molly, like in the spring of the year, they were planting flower gardens and things like that, and we planted our flowers out there, and we always called Molly Granny.

Q. Well then, Mary got there before you got done planting flowers, didn't she?

A. No, they came right in I guess a week or so after.

Q. And they stayed there then along——

A. Along until it commenced to get cold weather.

Q. They stayed there until winter time?

A. No, along about cold weather.

Q. What time do you call cold weather, cold enough to freeze water? A. We began carrying out coats.

Q. Until it got fall or winter?

A. And Mrs. Scott moved away then.

Q. And Mary lived with her?

A. They all went together.

Q. Did the baby go? A. What baby.

Q. Mary Anthony's baby?

A. They all moved together when they went away.

Q. Mary had her baby?

A. They was all living there together. Mary stayed with Mrs. Scott.

Q. The question was did Mary take her baby off with her?

A. Yes, sir, they all moved together when they went away; moved to South Leavenworth.

Q. You are sure now that the baby didn't stay there after Mary left? A. No, sir.

Q. And you are sure that the baby wasn't there before Mary came? A. No, they all moved there together.

Q. They all moved there together?

A. Yes, just like a family, you know; colored people moving to a place, they all come in together you see, and they all worked at the same place, Mrs. Scott and her daughter, and Mary Anthony; I don't know whether she was an orphan girl or not. They all moved in together and brought Ada there with her.

Q. Yetta? A. Yetta, a little child of Mary Anthony's.

Q. Yetta? A. Yetta.

Q. I believe you said Sadie James was living there at Granny's? A. Who?

Q. Sadie James? A. Sadie Harris.

Q. Sadie Harris?

A. Yes. Well, she was married to Scott.

Q. Yes, she was married, but she had lived there?

A. Well, she lived on Cherokee Street with Granny.

Q. On Cherokee Street with Granny?

A. She didn't live up there on Seneca, not as I know of; she was not living up on Seneca with Granny.

Q. Well, you didn't know anything about who was living with Granny down on Cherokee? A. No, sir.

Q. All you know is what you have heard since?

A. No, sir.

Q. You——

A. I know that Sadie lived there with Granny.

Q. How do you know it? A. Because I went down there.

Q. On Cherokee? A. Yes, sir.

Q. Did you go down to Granny's on Cherokee?

A. Yes, sir.

Q. How did you happen to go down there?

A. Well, we were at the hall one night, pavilion, the Netherland's Hall, one night, and we went down there to Granny's.

Q. Who went down there with you at that time?

Mr. Allen: We want to *the* cross examination of this witness by counsel representing interests allied with the interests represented by other counsel who have cross examined the witness on questions this witness has been cross examined about. I want to state now in the record that the object of the prolonged examination of this witness is to prevent the Government from taking the testimony of other witnesses now in attendance, and we are going to insist on a night session being held so that these witnesses may be examined before adjournment. We would like to inquire now of counsel if that is the object.

Mr. Blakeney: I have no objection to a night session, if counsel wants it. The object is to let the court see this witness as we see her.

A. Jane Cain and Ada Hoy, two sisters.

Q. You went from the hall?

A. Yes, sir, we went from the hall..

Q. And that is where you saw Charley?

A. We went from the hall down to Molly's.

Q. Then you saw Charley down there? A. Yes, sir.

Q. Now, was that on Cherokee Street, or Seneca Street?

A. That was on Cherokee Street, on that side of the street between 2nd and 3rd.

Q. Then, if you said in your examination yesterday that you went up to Granny's on Seneca Street from the hall, to see Charley——

A. No, I didn't say no such thing.

Q. If you did say it you were mistaken?

A. I didn't say no such thing. The man has got the statement written down there. You know what I said yesterday.

Q. Now, let's see then; you went down to visit Granny when she was living on Cherokee Street? A. Yes, sir.

Q. That was on Tuesday night? A. Yes, sir.

Q. And you made a date with Charley for the next Sunday? A. Yes, sir.

Q. And during the week you and Charley were married?

A. No, I didn't say that.

Q. What did you say?

A. I said I went down there to meet him on Sunday night.

Q. Yes? A. We wasn't married that week.

Q. Oh, you wasn't married that week?

A. No, we wasn't married that week.

Q. Then if you said you were married that week, you didn't tell the truth about it?

A. I didn't say no such thing; we wasn't married that week. We wasn't married until the fourth of March.

Mr. Allen: I want to protest against counsel stating in his questions as a fact things about which this witness has not testified.

Mr. Blakeney: I will stake my right arm on the statement that she said the week following that Sunday she was married.

Mr. Allen: She never stated that she went from that hall to Granny's house on Seneca Street, as your question a minute ago implied.

Mr. Blakeney: I said she said that, but she corrected that now and I am taking the question now.

Q. How long after this trip that you made down from the hall on Tuesday night was it until you married?

A. Well, I think it was about—say like it would be this week and then the next week, then my father came up there and made me marry this man. It had been about two weeks, I think.

Q. About two weeks?

A. Yes, I think it had been about two weeks; I just can't tell, it has been so long. I just can't tell you, no—if I had kept the records and everything like that I would have known. Of course you can get the records from Judge Harn of Leavenworth, where I was married at. I was married in the courthouse at Leavenworth, and he married me, and my father and my husband was there when I married.

Q. Was your husband there when you married?

A. Well, how do you think I would get married if he wasn't there, just ask me that, how do you think I could marry you and you'd be some place else?

Mr. Allen: We object to this manner of cross examination of this witness, and insist that counsel ask the witness proper questions, and that he proceed to conclude his examination.

Q. Now, I have it now that you went down from the hall to Granny's place on Tuesday? A. Yes, sir.

Q. And within two weeks of that time——

A. I was married.

Q. You were married? A. Yes, sir.

Q. Where were you married? What particular place were you married?

A. I was married in the courthouse at Leavenworth, Kansas.

Q. In the courthouse? A. Judge Harn married me.

Q. And then you went from the court house to Granny's place?

A. I went from the courthouse to Molly Letcher's on Seneca Street.

Q. Molly then had moved in the meantime?

A. She had moved up there.

Q. Had moved from Cherokee Street to Seneca Street?

A. Yes, sir.

Q. Had she moved anywhere else between that time?

A. No, sir, she moved from Seneca—from Cherokee up there.

Q. Up to Seneca Street?

A. Yes, sir, right across from Crilly's & Cranford's barn.

Q. Where she lived a great many years after that time?

A. Oh, she lived there a long time. I left from there.

Q. Now, you are sure about that?

A. Why sure I am sure.

Q. You are sure that that statement now——

A. I am sure of that statement. I left Molly Letcher's living on Seneca Street.

Q. I don't mean that. You are sure that you went down to Molly's place on Cherokee Street? A. Yes, sir.

Q. And that within two weeks after that you were married? A. I was married.

Q. And you went to her place on Seneca Street?

A. She lived up there on Seneca Street.

Q. Just answer? Are you sure now of that statement?

A. Yes, sir, I am sure of that. Of course, if my father was here, or the judge he could tell you, either one.

Q. Your father attended the wedding?

A. My father was there with me, my father and Sallie, I believe that was all that was there when I was married, that was all there was there.

Q. Did you go up there with Sallie? A. Yes, sir.

Q. Did your father go with both of you?

A. We all three together, went from Lige Myers.

Q. You had what they call a military wedding, didn't you?

A. No, we didn't had what they call a military wedding; that doesn't look like a military wedding, does it; that doesn't look like a military wedding being married in the Justice of the Peace.

Q. Your father marched Charley up there with a gun, didn't he? A. No, no, sir, my father doesn't use a gun.

Q. How did your father make Charley marry you?

A. I don't know; if he was here he could tell you.

Q. Can't you tell me?

A. Why, no, I can't tell you.

Q. Then when you had been at Granny's a few months or a few weeks, I believe, Mary Anthony came there?

A. No, Mary Anthony didn't come, Mrs. Scott came.

Q. Well, Mrs. Scott?

A. Mrs. Scott came there and rented a room from Granny, two back rooms.

Q. And they lived in one, and they——

A. No, they all lived together, like a family.

Q. The Scott family? A. Yes, sir.

Q. You got married and went over to Granny's and stayed a short time and then went out to your father's place and stayed didn't you?

A. I stayed at my father's a little while after I was married.

Q. The first time? A. Yes, sir.

Q. And how long did you stay at your father's?

A. I don't know how long I stayed out there. I was out there quite a bit; I didn't like the country, you know, I didn't like it.

Q. Account too slow for you, wasn't it?

A. Yes, sir, like it would be for you; I came in town.

Q. You had had a taste of the lamplight of the city, hadn't you?

Mr. German: I object to that as improper cross examination, speculative and——

Q. Well, how long did you stay at your father's?

A. Well, I don't know just how long.

Q. Well, you stayed about two weeks, didn't you?

A. Two weeks or a little more. I don't know just how long, I was not keeping track of the time.

Q. I know, but you know whether it was two weeks or two months?

A. I don't think it was any two months, I didn't stay any two months.

Q. You didn't stay two months? A. No.

Q. Then your best judgment is it was about two weeks?

A. Yes, sir, about two weeks. We stayed out there and then we came back down to Molly's.

Q. Came back to Molly's? A. Yes, sir.

Q. That was the first time you had been to Molly's after you were married, wasn't it? A. No.

Q. Had you been to Molly's before that, after you married? A. I had been to Molly's down on Cherokee Street.

Q. And you were not married then?

A. No, sir, I wasn't married then, I was quite a girl then.

Q. Where was Lilly White living? A. Lilly White?

Q. Yes? A. I don't know her.

Q. You didn't [] Lilly?

A. No, sir, I didn't know anybody by the name of Lilly White.

Q. You never heard of Lilly White?

A. Never heard of her.

Q. Now, you knew Ida Foster? A. Who?

Q. Ida Foster, you knew Ida Foster, didn't you?

A. Yes, sir.

Q. Where did you know her? A. Leavenworth, Kansas.

Q. You didn't know her before you were married?

A. Yes, sir, I did.

Q. You knew Ida before you were married?

A. Yes, sir, she was a little girl.

Q. How big a girl?

A. Oh, she was a good sized girl, we all went to school together, Leavenworth school.

Q. She was about your age?

A. I guess she must be older than I am.

Q. She was older than you were? A. I guess she is.

Q. When you and Ida had gone to school, Ida was in the class above you? A. Oh, no.

Q. In your same class?

A. We all went to Della Armstead in the same class and we went to another woman, Malinda Montgomery.

Q. You both went to the same teachers?

A. And we passed out of this room to the next room, and we all went into the same class the next year.

Q. You and Ida went right through the classes together?

A. Me and Ida Foster went right through and on to the high school.

Q. Ida go to the high school with you? A. Yes, sir.

Q. Did Ida go through the high school?

A. I don't know whether she did or not.

Q. Did you?

A. No, sir, I didn't go through the high school.

Q. How far did you go in the school?

A. North Leavenworth School; I went to Professor Waldron.

Q. What grade did you finally finish?

A. I was the 6th grade; that was the last grade in that school, and you go up to Professor Waldron, that was the last grade.

Q. That is the ward school, what you call now a ward school, it was not the high school, the high school was situated somewhere else up in the city, wasn't it?

A. Yes, sir, the high school was on 7th and Oak.

Q. You finished the ward school?

A. I finished that school there and the next year *you* to that high school.

Q. But you didn't go? A. No, sir, I didn't go.

Q. Did Ida go? A. I don't know, sir.

Q. Ida and you finished that school together?

A. Yes, sir, we finished that school together.

Q. How long was that before you married?

A. Oh, a long time.

Q. Four or five years?

A. I don't know, but it was a long [ ] though.

Q. A long time? A. You know I have got to quit.

Q. Did you see Ida any more after she quit school?

A. Yes, sir.

Q. What did Ida do? A. I don't know what she done.

Q. What were you doing? A. Working.

Q. What kind of work?

A. What you call general housework.

Q. And you don't know what Ida was doing during that time? A. No, sir, I don't.

Q. Well you saw her frequently?

A. Oh, once in a while.

Mr. German: I object to this as improper cross examination, incompetent, irrelevant and immaterial, and move to strike this answer and all the answers pertaining to Ida Foster, and all the questions pertaining to her.

Mr. Cruce: For the further reason that it is trying on a man's patience.

Q. About how frequently did you see Ida Foster?

A. After we quit school I hardly ever seen her, you know I hardly ever seen her.

Q. But did Ida run with—— A. I don't know.

Q. You don't know Ida's associates? A. Sir.

Q. You didn't know Ida's associates, you didn't know who associated with Ida? A. Oh, no, no, I didn't.

Q. Do you remember seeing Ida Foster around Leavenworth with a rather tall, heavy set—not heavy set—but rather robust woman about 18 or 19 years of age, with just a little bit colored?

A. Now, let me tell you something. I worked up to Cunningham's and I hardly ever seen that woman, because she was in—like this was South Leavenworth and that would be North Leavenworth, and she lived down this way.

Q. In South Leavenworth? A. Down that way.

Q. Don't point that way, you are pointing east?

A. South.

Q. You are trying to point south, are you?

A. She lived kinda in south, you know.

Q. South Leavenworth?

A. On down in there somewhere, I don't remember just where.

Q. And you worked in North Leavenworth? A. Yes, sir.

Q. Where did you live?

A. I stayed right where I worked, at the Cunningham's.

Q. Did you stay there all the time?

A. Yes, only when I came home, you know.

Q. Where was home, in the country?

A. Pretty near in the country, 917 Cherokee Street.

Q. Now how long did you work for Cunningham?

A. I worked for him three years.

Q. Then who did you work for? A. After that?

Q. Yes? A. I left there after that.

Q. You left where? A. Leavenworth.

Q. You left Leavenworth after working for Cunningham?

A. Yes.

Q. Cunningham was the last person you worked for?

A. Cunningham's was the last people I worked for in Leavenworth, Kansas.

Q. Did you work for them before or after you married?

A. Before.

Q. Before you married? A. Yes, sir.

Q. You never worked any at all after you were married?

A. No, sir, I never worked for anybody, Charley didn't allow me to work.

Q. Who, during the years that you were married, did you ever see Ida Foster——

A. No, sir, I didn't.

Q. Never saw her at all?

A. No, sir, after me and Charley married I never seen her at all.

Q. Never saw her around Granny's?

A. No, I never did see Ida up at Granny's.

Q. You saw Ida on Cherokee that night you were down—

A. If she was I didn't see her.

Q. You didn't see her that night?

A. No, sir, I didn't see her that night.

Q. Who was the beaux of these two girls that you went down to Granny's on Cherokee Street?

A. Well, one of them was named Charley Taylor, and Jane's husband was named Ed King.

Q. Jane's husband? A. Yes, sir.

Q. She was a married woman, was she?

A. Yes, a married woman and had children.

Q. When you went down to Granny's that night?

A. When we went down there from the hall, you know; I was quite a young girl then.

Q. Well, about how old were you?

A. I don't know, I was quite young, like any other old country girl.

Q. You were a country girl then? A. No, sir.

Q. You had got city broke, though, hadn't you?

A. No, sir, I wasn't use to coming into town, anything like that; my mother and father brought us into the hall; we would have to stay with them and I run off that night.

Q. That was the first time you ever run off?

A. Yes, sir.

Q. You had to meet Charley Scott—Hudson?

A. I went down there, yes, sir.

Q. And you knew him when you went down, didn't you?

A. No, I had seen him.

Q. Where had you seen him?

A. Seen him out on the streets.

Q. You had passed him on the street, had you?

A. I had seen him out on the street.

Q. Where did you get acquainted with him?

A. Up at the Methodist Church in Leavenworth.

Q. Methodist Church? A. Yes, sir.

Q. While they were preaching?

Mr. German: I object to that as immaterial.

A. That is what I think so, myself. I am certainly getting tired of you.

Q. You met Charley at the Methodist Church?

A. Has that got anything to do with this case?

Mr. German: I object to that on the ground of repetition.

Mr. Blakeney: It was repetition, but counsel had muddled the mind of the witness, trying to get it back to the point of inquiry.

Q. You met him at the Methodist Church?

A. Yes, sir.

Q. How often did you meet Charley up there?

A. Well, has that got anything to do with this case?

Q. Tell me.

Mr. German: Now, answer his questions.

A. Yes, sir, I met him at the Methodist Church, a revival meeting going on there; like all other young girls I seen him up there.

Q. Did you ever see him at church again?

A. Yes, I seen him at church lots of times.

Q. Saw him at church lots of times. Where else have you ever met Charley?

A. I told you that I met Charley down at Granny Letcher's.

Q. Now, you told me that you didn't think you met him at the church?

Mr. German: I object to that as not supported by the witness' statement.

Q. Now, I want you to tell me where else you had ever met Charley except at our Methodist Church?

A. Down at Granny's.

Q. Down at Granny's? A. At Granny's.

Q. You only met Charley once at Granny's?

A. That is the only place I could meet him at.

Q. What?

A. That is the only place I could meet him at.

Q. Then, you only met him once?

A. I met him once down at Granny's.

Q. And you met him at the church?

A. I met him at the revival.

Q. Had Sallie gone up to the mourner's bench?

A. That isn't got anything to do with this case.

By Mr. German: I object.

Q. Well, I want to know.

A. No, she hasn't gone up to the mourner's bench.

Q. Well, have you gone up there? A. I didn't go.

By Mr. German: Let the record show that counsel and witness laughed heartily.

By Mr. Allen: I want to suggest into the record that the object of this prolonged cross examination is to delay the taking of——

The Examiner: I want you to stop talking when these gentlemen are making objections. You haven't anything to do with what they say. You just answer the questions and stop.

By Mr. Blakeney: I object to the officer instructing the witness.

By Mr. German: I want to state further into the record that the Examiner will have to adjourn the taking of the testimony this evening, because of other engagements for next week, and we have now in attendance on the Court six or seven other witnesses whose depositions ought to be taken today; and we now serve notice that the costs of this unnecessary cross examination, covering the whole immaterial details, be fixed against the client represented by counsel conducting the examination.

By Mr. Allen: Let the same objection go to each and every question.

By Mr. Blakeney: Let the record show that I am willing to stay until the Government examines every witness that they desire to examine.

By Mr. Allen: I want to say into the record that Mr. Blakeney has announced that he would leave at noon, and obviously is prolonging the examination of this witness until that time, and I will serve notice on you now that we will let the record show it if he does appear at noon as he has expressed his intention to do.

Q. Well, now, when did you meet Sadie Harris?

A. I met her in Luray, Kansas, she came cut there.

Q. Met her where?

A. I met her in Luray, Kansas. She came out there.

Q. Was Ida Foster with her?

A. Why, no, wasn't nobody with her but the cab man brought her out there.

Q. Do you mean in the last few weeks you met her, do you? You are referring to meeting her recently? A. Yes, sir.

Q. I mean, when did you meet her in Leavenworth years ago? A. Oh, I met her lots of times.

Q. When did you first meet her? A. Well, at school.

Q. She went to school with you? A. Yes, sir.

Q. And Sadie and you and Ida Foster went to school together?

A. Well, I don't know how long Ida and Sadie went to school.

Q. Well, she and Ida went as long as you did?

A. I don't know, she missed out of school you know, and I don't know how long she went to school, or anything like that. I didn't keep no track of her because that wasn't none of my business.

Q. Well, you was well acquainted with her?

A. Oh, yes, I was well acquainted with her.

Q. Was Sadie down at Granny's when you went down to see Charlie?

A. They lived there. Sallie Chase was her mother and they lived there at Granny's.

Q. Were they there when you went down to the place on Cherokee? A. They lived there.

Q. But was she actually there, did you see her that night?

A. Sure, I seen her.

Q. You saw her? A. Yes, sir.

Q. Did you find Ida Foster down there?

A. No, I didn't see Ida Foster, I didn't go into the room where the people were.

Q. Well, you saw in the room?

A. There were so many there I didn't look to see. Let me tell you another thing, I didn't go to work to see who was there, that wasn't my business around there that night.

Q. You just wanted to get off and see Charlie, is that right? A. Yes, sir.

Q. Now, didn't you go to Granny's more than that one time? A. Not down on Cherokee.

Q. Didn't you go down there frequently?

A. No, sir, I didn't, I didn't. I didn't go to Granny's with no man at all, I never did go there.

Q. Did you meet men there?

A. No, sir, I never met no man in Granny Letcher's house.

Q. You never saw Sadie at Granny Letcher's place except the one time?

A. Her and her mother lived there, Carrie Chase.

Q. But you didn't see her at the house that you knew of after that? A. They lived there.

Q. Yes, but you only saw her there once?

A. Yes, but I know where they lived. We all went to school like children together to school, and we came in from my home, and I would go to see her in school days, in North Leavenworth, but I don't know anything about them people down there.

Q. When you came to your place from school, you wouldn't pass Granny Letcher's place on Cherokee?

A. No, we didn't come by down that way.

Q. But Sadie told you at school that she was living at Granny Letcher's? A. I know she was living there.

Q. I say Sadie told you that?

A. She told me where she lived.

Q. And you saw her there once? A. I saw her there once, we didn't go that way.

Q. Who was Sadie's beau at that time?

A. I don't know, I don't know whether she had any beau because she was too little at that time.

Q. She was as big as you, wasn't she?

A. No, she wasn't, she was a little bit of a girl when I first seen Sadie, she was about that high, looked like a girl ten or twelve years old.

Q. How high were you?

A. I was a pretty good sized girl.

Q. Well, you were about fifteen or sixteen?

A. Oh, I was a pretty good sized girl, I always was tall and slim.

Q. Well, how old were you when you first saw Sadie about ten years of age? A. About how old was I?

Q. Yes? A. I guess I was a great big girl.

Q. Well, we can't tell about your age from your size.

A. About fifteen years old, I guess.

Q. About fifteen years old? A. Yes, sir.

Q. And how long did you go to school with Sadie?

A. Well, I went to school in Leavenworth about six years.

Q. Then, when you went down to Granny's you were about twenty years of age——

A. I was about nineteen years old.

Q. About nineteen years old? A. Yes.

Q. When did you next see Sadie after you saw Sadie at Granny Letcher's on Cherokee Street that night?

A. Where did I next see her?

Q. Yes?

A. I seen her away down in South Leavenworth.

Q. South Leavenworth? A. Yes.

Q. When was that?

A. Oh, it was that summer sometime. We was going out to the park some day and we would go by there and Carrie was sitting out there by the house.

Q. Carrie was living out there?

A. Yes, that was her mother.

Q. Who was that you say would go by there?

A. Me and May Chives, that is a cousin of mine. We were going to the park.

Q. Just a crowd of girls were going out to there?

A. Yes, sir, we were going out to the park.

Q. That was after you were married? A. Yes.

Q. Was Charlie with you? A. No, I wasn't with him.

Q. What man were you with?

A. Nobody, wasn't no man with us at all.

Q. You say you saw Sadie out there?

A. We went past there, we got off the car and stopped.

Q. Stopped at Sadie's place? A. Stopped at Carrie's.

Q. Sadie went out with you? A. Sadie didn't go out.

Q. You saw Sadie? A. Yes, saw Sadie and her mother.

Q. Did Sadie go out there with you?

A. No, Sadie didn't go, we didn't stay out there but a little bit.

Q. Sadie, was how big then?

A. A great big girl. It has been so long I can't remember. She was like all school girls, we were all wearing short dresses.

Q. Wearing short dresses when you were nineteen?

A. We were all wearing short dresses at that time.

Q. You are assuming that we are talking about Sadie?

A. Yes, sir, I was wearing short dresses.

Q. After you were married you were wearing short dresses?

A. Didn't wear very long dresses after I was married.

Q. When you were up at Granny's you were wearing a kimono, wouldn't you?

A. No, sir, I wasn't wearing a kimono, I didn't never wear anything like that. That got anything to do with this case?

By Mr. Allen: I would like to make one more objection. I want to observe into the record, I asked counsel and he stated last evening that he could conclude the examination of this witness in less than five minutes; that he has now been cross examining her on immaterial matters, going over the same matters he went over yesterday for more than an hour this morning. Counsel for the Government believes that it is an attempt to prevent the taking of the testimony of other witnesses who are now in attendance upon the court, and whose presence have been observed by the attorneys and agents representing the allied defendants; this, in view of the fact that the announcement has been made that the taking of depositions will be adjourned after today until the 22nd of next month.

By Mr. Cruce: On behalf of the defendant Page I want to state that he is allied with no one in this case, and that the charge that he, in conjunction with anyone else or upon his own account, is trying to delay the taking of testimony, is an unjust one.

Mr. Blakeney: I want to object to this record being encumbered by stump speeches, either by counsel for the Government or counsel for Page. The record in the case disclosed with whom Henry Carter is allied in this case.

Mr. Allen: I want to say one more thing, that in the event that this is prolonged much longer, that I intend, upon my own responsibility, to wire Judge Campbell, asking that he direct the Examiner to proceed with the taking of depositions here until the testimony of the witnesses in attendance has been concluded.

Mr. Cruce: In behalf of Mr. Page, I want to make this statement——

Mr. Blakeney: I want to object to time being consumed by these frivolous objections.

Mr. Cruce: Judge Allen has repeatedly made the statement that he has witnesses in attendance. In behalf of Mr. Page, I will state that I am willing to write out the testimony of all witnesses he has in attendance, and let them sign it, and make it part of the record, without any cross examination by Mr. Page.

Mr. Allen: You know very well the other defendants will not agree to that.

Q. Now, after you saw Sadie that day, where did you next see her? A. Luray, Kansas.

Q. Luray? A. Yes.

Q. What were you doing in Luray?

A. I work out there. I work four miles and half out in the country.

Q. What do you do out there in the country?

A. General house work; what do you expect people to do out there in the country?

Q. Where is Luray?

A. Sixty-five miles northwest of Salina, Kansas.

Q. How far from Kansas City? A. Really, I don't know.

Q. You don't know what the railroad fare is from Kansas City? A. Seven sixty-six.

Q. What? A. Seven sixty-six or six sixty-six.

Q. About six or seven dollars?

A. It is six sixty-six or seven sixty-six, I don't know just which now.

Q. You say Sadie came out there to see you? A. Yes, sir.

Q. Was that the first time now you had seen her since you had seen her that day at her house when you were going to the park?

A. Yes, sir, the first time I had seen her for years, and she called me up and was talking to me over the 'phone, I didn't know, I had done forgot the woman and then she came out; she got a man to bring her out and she came out there and she stayed all night and all day with me.

Q. She first telephoned you?

A. Yes, sir, she telephoned me and told me she was coming.

Q. Did she tell you where she was?

A. She was down at Luray at the union station.

Q. She was in town when——

A. Yes, sir, she was at the depot at Luray.

Q. At Luray?

A. Yes, sir, and I was four miles and a half from there and she said she was coming out.

Q. She 'phoned you from Luray that she was coming out?

A. Yes, sir.

Q. And she came out that day?

A. She came out that night. The train comes at seven thirty and she came out that night.

Q. What time did she get out there?

A. I guess it must have been about nine o'clock, maybe. My folks had gone to church, the train don't get out there until about seven-thirty, two trains a day.

Q. Who are your folks?

A. M. O. Morris, that is the folks I work for.

Q. Was it Sunday night?

A. No, sir, it was Friday night.

Q. Friday night? A. Yes, sir.

Q. Where did you sleep there at that place, did you have a room in the house?

A. Yes, sir, sure I had a room in the house. Where did you think I had a room, out in the yard. I had a room in the house—here is the kitchen and here is my room.

Q. And you occupied that room?

A. Me and Sadie slept right together.

Q. What did Sadie say when she came in first, the first thing she said. A. When she came in to see me?

Q. Yes? A. Me and a little white girl was there.

Q. A little white girl was there with you?

A. Yes, sir, a little white girl about nine years old, my folks had gone to church.

Q. Who was the little white girl, Mr. Morris' little girl?

A. Left me and the little girl there on account of Sadie saying she was coming out, and when she came and knocked on the door, I opened the door and I looked at Sadie and it had been so long since I had seen her I looked at her and she said, you don't know me do you, and I said no, I don't know you, and this white man came in and sat down—this taxi driver, and she kept looking at me and talking. And she said——

Q. Kept talking to you?

A. Yes, sir, and she said, you don't know me, and I said no, I don't, and she said I am Sadie Harris, it had been so long——

Q. Then you knew her?

A. It had been so long I had forgotten her.

Q. What did the white man do? A. Just sitting there.

Q. Did he stay there all night?

A. No, sir, just sat there.

Q. How long did he stay?

A. About as long as you and me been talking, just a few minutes, he brought her out and he took his car and went on back to town and left her there.

Q. Now, the little girl was staying there with you?

A. Yes, sir, she stayed right in there with me until I took her up stairs and put her to bed.

Q. How long did she stay there now after Sadie came until you took her up stairs and put her to bed?

A. The little girl?

Q. Yes?

A. She stayed until I—I told you—until she went to go up stairs.

Q. Just a few minutes or hours?

A. Wasn't very long, I took the little girl up stairs and put her to bed.

Q. I don't care about that. You took the little girl up and put her to bed and then you came back and had a visit with Sadie? A. I came back and came into my room.

Q. Sadie was in your room then? A. Yes, sir.

Q. What had you and Sadie been saying before you took the little girl up stairs, tell all that you and she said?

A. She asked me did I know her and I said no, it has been so long, and she said I am out here on business you know, and I said what business, and she said, well I wanted to talk about a land case, and I said what land case. You know I thought it was something from my mother and father, and I said what land, and she went on to tell me. I disremember just what Sadie did say that night.

Q. She told you that night, didn't she, that she was working for the Government, trying to help——

A. She said she was working for the Government, but she said she was working for a man named Walter Banks.

Q. Working for a man named Walter Banks?

A. Yes, sir.

Q. You knew Walter Banks, didn't you?

A. Sure, I know Walter.

Q. And she said she was working for Banks?

A. Yes, sir, and I said, Sadie what is it. I didn't know nothing about it.

Q. Were you and Walter Banks good friends?

A. Oh. Walter was a child when I left Leavenworth.

Q. Just a child?

A. Yes, sir, big enough to go down to the store and get milk for my sister, he was a child. I have seen him since, he is a man now.

Q. Well, no particular friendship between you and Walter Banks? A. No, sir.

Q. Sadie said she was working for Walter Banks?

A. Yes, sir.

Q. Sure you got the name right?

A. Sure, I got the name right.

Q. Didn't she say Garfield Buell?

A. No, she said Walter Banks.

Q. What did she say to you about Mr. Buell?

A. Didn't say anything to me about Mr. Buell.

Q. Didn't she say that Mr. Buell was giving her three thousand dollars to——

A. No, sir, we never talked on no money matters or nothing like that.

Q. She told you a lot of niggers were going to be sent to the penitentiary didn't she? A. No, she didn't.

Q. Didn't tell you that? A. No, sir, she didn't.

Q. Now, what did she tell you after she said she was at work for Walter Banks?

A. I said what are you doing out here, and she said Walter is got some money coming to him, or some land out here in Oklahoma, or something like that; and she said, you know when you and Charles lived up there, and I said yes I remember all things like that; and she asked me about them and I didn't know you know, I had done forgotten you know, didn't know anything about it, but she never talked to me about any money matters, about any other part at all.

Q. When was that now that she was out there?

A. Well, really, Mister, I can't tell you. It was along about—let me see. I went home Christmas and then about the 18th of January, I think, I was called home. My father was awful sick and I was called home and when I went back she came out there.

Q. This last January? A. This last January.

Q. About two or three months ago? A. Last January.

Q. This is April. Three months between January and April? A. Yes, sir.

Q. Two or three months ago?

A. Well, in January she was out there, because I was home on the 18th of April.

Q. The 18th of April?

A. I was called home the 18th of April, I was called home.

Q. Last April? A. This last April, I was called home.

Q. Oh.

A. I went back, and I think it was the third or fourth.

Q. Third or fourth of what, May?

A. March, you know it ain't May.

Q. That is what I thought, you were mistaken about the month? A. Now listen, let me tell you something——

Q. Well, tell me?

A. I was home on the 18th day of April.

Q. April or January? A. April.

Q. Why this is April and we haven't reached the 18th yet. Now was it January or April?

A. I was home on Christmas.

Q. Christmas, that is December?

A. Yes, I was home and stayed ten days, and I went home the 18th of—must have been January.

Q. Well, you said January at first?

A. Yes, it must have been January. Listen: When we got back, me and my sister, it was the first of March.

Q. You went back after you got home in January?

A. Yes, sir, I went back.

Q. And how long did you stay there then?

A. I have been there ever since until we came back over to Wichita. Listen: If I had brought my book with me I could have showed you.

Q. Well, we can straighten it up so we can understand it. Where did you come from to Court? A. Luray, Kansas.

Q. When did you leave Luray?

A. I left Luray last Thursday morning.

Q. Last Thursday morning? A. Yes, sir.

Q. How long have you been at Luray since you have been up here when your father was sick? A. The first of March.

Q. You have been at Luray since the first of March until you left to come to Court?

A. Yes, when the man came for me.

Q. A little over a month?

A. About five weeks, we go by Wednesdays. Say we go to work tomorrow, week is not up today. That is the way we go.

Q. You go by the weeks? A. Yes, sir.

Q. So this is about five weeks? A. Yes, sir.

Q. Now, just before the first of March when you went out there, where had you been? A. To Wichita, Kansas.

Q. That is where your father is?

A. Yes, sir, 1821 North Wabash, Avenue.

Q. You had been to Wichita, Kansas, between the 18th of January until the first of March?

A. Yes, sir, I stayed ten days.

Q. That would be six weeks?

A. I stayed ten days in Wichita.

Q. Then you stayed ten days, you must have left Luray—

A. And we went on back and the first day of March——

Q. Wait a minute now, because I have got to get you straightened out. You left Wichita for Luray on the first of March?

A. No, sir, I never done no such a thing, I didn't tell you that neither. We went to work the first day of March, me and my sister.

Q. You didn't understand me, did you?

A. I don't think I did.

Q. I say you came back from Wichita to Luray to go to work about the first of March?

A. We were there the first day of March, like this would be the first day of the month, we went to work and we have been there ever since.

Q. You came back from Wichita to Luray then on the first day of March and went to work?

A. Oh, I didn't say that, we went to work the first day of March——

Q. You came back before the first day of March and went to work the first day of March?

A. The first of March.

Q. You had a lay off of ten days?

A. Yes, sir, been in Wichita, Kansas.

Q. And then you got to Wichita about the 18th or 19th of February?

A. Don't you know what day of the month is the last day of the month?

Q. Yes? A. Well.

Q. I am talking about when you went to Wichita, you stayed ten days? A. Yes, sir.

Q. So you went to Wichita about the 18th or 19th of February? A. I think it was about the 18th or 19th.

Q. Where did you go to from Wichita?

A. Where did we go to?

Q. Yes? A. We came back to Luray, Kansas.

Q. When you left to go to Wichita, where did you leave?

A. Went from Luray, Kansas.

Q. To Wichita? A. Yes, sir.

Q. How long had you been to Luray then?

A. Since the 4th of last November.

Q. Had been there since the 4th of November?

A. And stayed up to Christmas and then I went home Christmas Eve and home Christmas and stayed ten days.

Q. And stayed home and came back about the 4th or 5th of January? A. I think it was the 6th.

Q. All right?

A. I think it was the 6th of January.

Q. You went back to Luray then on the 6th of January and you stayed up until February?

A. I stayed until they called me home for my father.

Q. Up until the middle of February?

A. It was the 18th.

Q. About the 18th of February, and during that time Sadie James came to see you?

A. No, Sadie never come to see me until after I went home and seen father.

Q. Then, after you had returned from seeing your father, on the first day of March, Sadie came out to see you?

A. Oh, no, Sadie wasn't there the first of March.

Q. I said after the first of March?

A. Sadie wasn't there the first of March, Sadie had done been there and gone.

Q. Well, when did Sadie come?

A. That is it, I don't remember the date.

Q. Did she come before you went to see your sick father?

A. I had just been back home just a week the day Sadie came.

Q. You had been back a week from seeing your father?

A. Yes, sir, when Sadie came.

Q. And you came back to work the first of March?

A. Yes, sir.

Q. Then, Sadie came the 7th or 8th of March?

A. I don't know just what date.

Q. Well, a week from the first of March would be the 7th or 8th, wouldn't it? A. Yes—— Listen——

Q. Answer that yes or no?

A. We had been there a week, we had been back home a week when Sadie came, because her week is up on Tuesday and mine is up on Saturday.

By Mr. German: I will admit in the record that this witness is not good in the matter of the recollection of dates nor the length of time, if that is what he is after.

By Mr. Blakeney: Now, we have had so much stump speech making in this record now, we see absolutely the purpose of these objections, and I am trying to fix the date, when I am trying to fix the date that they think is damaging, they want to object in that regard in order to discredit the examination.

By Mr. German: What date do you want Sadie to be out there, I think I will admit it.

Q. Did you just stop talking because the Examiner ordered you to? A. Did I stop talking because he told me?

Q. Yes?

A. Well, he told me to just answer you all his questions.

Q. How many times has he told you that in your examination?

By Mr. German: I object to that as immaterial.

A. What has that got to do with this case anyhow? I thought you was examining me, I didn't think you——

Q. How many times has the Examiner had to tell you to quit talking, just answer the questions.

A. Has that got anything to do with this case?

The Examiner: Answer the question.

A. I don't know. Because he has told me so much I don't know.

Q. Now, just as you went to bed that night, did you sleep with Sadie? A. Yes, sir.

By Mr. German: I want to make objections—I desire to show in this record that Mr. Blakeney stated to Judge Allen this morning that if he, Blakeney, consumed the morning in the cross examination, that he thought Mr. Hanford would consume the afternoon.

By Mr. Hanford: I insist upon my privileges to speak for myself as to my intentions.

By Mr. Blakeney: I want to say that I haven't seen Mr. Hanford since the adjournment of Court yesterday to speak to him.

Q. What did you and Sadie talk about the next morning? A. The next morning after she got up?

Q. Yes?

A. We didn't—— We were talking about Leavenworth people you know.

Q. You were talking about the Leavenworth people?

A. Yes, sir. First one and another, like you would say do you know so and so, like that, and Mr. Monrey and Mrs. Monrey were talking to her. We were talking about anything just like old acquaintances.

Q. Well, Sadie told you about her being a witness in this case? A. No.

Q. Didn't Sadie tell you that these lawyers up there had had her on the witness stand for about a week?

A. No, sir. No, sir. No, sir, I never heard——

Q. Didn't she tell you that when you got on the stand to watch that red headed lawyer?

A. No, sir, she didn't. We didn't talk about no business like that at all, we didn't talk about no business like that at all; and another thing, we didn't have no discussion about courts.

Q. Not any at all? A. No, sir.

Q. Just talking about whether any Tommy Atkins was around there and if there was not——

A. No, sir, that name wasn't mentioned out there.

Q. Wasn't at all?

A. No, sir, wasn't mentioned like Tommy Atkins, anybody like that.

Q. When was that name mentioned to you?

A. I never seen the name until I saw that name on the paper that man brought out there.

Q. Where is that paper?

A. Here it is in my pocket book, Mr. Frost handed it to me.

Q. The first time then that you had seen anything about Tommy Atkins was when—— A. I don't know the people.

Q. I know you don't know Tommy Atkins, you say you don't. A. I don't know the woman.

Q. The first time you heard of him was when this paper was served on you?

A. The first time I heard anything about Tommy Atkins, I don't know whether this man——

By Mr. German: I would like in this connection, Mr. Examiner, to have the document identified as Government's exhibit.

By Mr. Blakeney: I object to counsel now trying to interrupt my examination by proposing to introduce some exhibit. I think it is merely done for the purpose of delaying my examination.

By Mr. Cruce: I think it will be well enough to suggest that Mr. Blakeney has now in his hand and is examining the witness about a paper counsel for the Government is seeking to introduce as an exhibit.

By Mr. German: To have it identified, I am not seeking to introduce it now.

Q. The first time you ever heard then of Tommy Atkins was when this paper was served on you? A. Yes, sir.

Q. When you were subpoenaed?

A. Yes, sir, the man that came out there, Mr. Frost he called himself.

Q. Is this the paper that he referred to that I now hand you? A. Yes, sir.

By Mr. Blakeney: I ask to have that marked as an exhibit for identification.

Q. That is it, is it? A. Yes, that is my paper.

Q. I hand you a paper that the Examiner has marked Defendant Carter's Exhibit No. 11, and ask you to state if that is the paper that you say was served on you?

A. Yes, sir, Mr. Frost brought that paper out to me.

Q. You have answered it then now. The first time then that you had ever heard of Tommy Atkins was when this paper was served on you? A. Yes, sir.

Q. Did the gentleman, who served this paper on you, talk to you about this case? A. No, sir.

Q. He didn't say a word to you? A. No, sir.

Q. Just asked you your name?

A. No, sir, he just knocked on the door and Mr. Monery got up and opened the door.

Q. And asked for you?

A. No, sir, he just opened the door and said good evening, and said I am a United States Marshal and I am looking for Laura Thomas, and I said here I am and he said Mr. Monery I got a paper to serve on her, and he took the paper and read just like you know it on the paper, and I said give me that paper let me look at it, and Mr. Monery, I ain't got a very good education, and he read it.

Q. That is the first time that you ever heard anything about Tommy Atkins? A. Yes, sir.

Q. You couldn't read the paper, can you? A. Yes, sir.

Q. Show me anything in that paper that says anything about Tommy Atkins?

A. I don't know nothing about it, I don't know nothing about these people at all, it says Minnie Atkins.

Q. Minnie Atkins?

A. Yes, sir, it says the plaintiff's Minnie Atkins, something about defendants or something like that, I don't understand it. I don't see no name on here about that boy's name.

Q. You don't see anything? Who was that boy they called Commodore around Granny's there? A. Who?

> By Mr. Blakeney: I withdraw the question until the witness makes any further examination that she desires of the paper referred to.

Q. Have you made all the examination you desire now of that exhibit? A. I guess so.

Q. Now, who was that boy they called Commodore?

A. I don't know.

Q. You knew a boy around Granny's there that they called Commodore? A. No, sir.

Q. You don't remember that kind of a boy?

A. No, sir. All the people I remember around there were Sam and Jim and Arch.

Q. Well, they were the girls Sadie talked to you about?

A. Sadie didn't talk to me about—— She didn't have to talk about no Court or nothing while we were out there.

Q. Do you still think you are testifying to help Walter Banks?

A. I don't know what is Mister, I don't understand it.

Q. Well, you were wanting to help Walter— You would want to help Walter, wouldn't you?

A. I don't want to help— I don't understand it at all.

Q. I know, but you would like to help Walter, wouldn't you? A. I don't know nothing about it.

Q. Answer the question. Would you like to help Walter if you could?

A. I would help anybody, I don't know nothing about it and I don't know, and I don't want you to get me "jimmed up" with nothing I don't know nothing about. I don't know nothing about these people.

By Mr. Blakeney: I want this exhibit offered in evidence. (Defendant Carter's Exhibit No. 11).

Cross Examination by Mr. Cruce.

Q. Mollie, I want to get some dates—— Laura, What year was it you were married, in '85? A. Sir?

Q. What year was it you were married?

A. It has been so long Mister I done forgot. I was married in Leavenworth, Kansas, but it has been so long I never kept no date.

Q. January or April, or——

A. March, married in March.

Q. Where was Granny Letcher living then?

A. She had moved, she was living on Seneca then.

Q. She was living on Seneca then?

A. I think she was moved up on Seneca then. Yes, she was on Seneca, because we come from the bus and went up there.

Q. She was living in the house next to the——

A. She was living in the house next to Mrs. Woods.

Q. Do you think that was '85?

A. Well, really I can't say, but of course if you get Harn or something like that——

Q. Get your marriage license you could tell?

A. The Court House burned down, there is a man from my home that might tell pretty much.

Q. Who?

A. Mr. Jones, he could tell pretty much when the Court House burned down or anything like that.

Q. Anyway, when you were married in March Granny was living over on Seneca Street? A. Yes, sir. Yes, sir.

Q. Now, Luray, Kansas, is in what county—Russell?

A. Luray, I don't know.

Q. You know where Russell is don't you?

A. No, sir, but Osborn City is on the county side, there is where the bank and everything is over there.

Q. Is your sister here with you? A. Yes, sir.

Q. Who paid your way out here?

A. I don't know, a man name of Mr. Frost, he come out there and subpoenaed us.

Q. Mr. Frost?

A. Yes, sir, he said he was United States Marshal, and he come out there and got us, you know.

Q. Did he pay your way?

A. I don't know, he handed us the tickets, went to the ticket office and handed us the tickets.

Q. Have you seen that gentleman since you have been here? A. No, sir, I haven't seen him.

Q. Where did you stop when you got in town here?

A. They have got a place, 1117 Walnut.

Q. You say they have got you, who do you mean?

A. This man, he is one of the gentlemen brought us up.

Q. What is his name?

A. I don't know what his name is, but he brought us up there.

Q. Mr. Anderson? A. Mr. Anderson.

Q. Does he pay your——

A. I don't know, I didn't see no money transactions going on.

Q. Who paid your board bill? A. I don't know.

By Mr. Hanford: I would like for the record to show that the witness pointed to Mr. Robinson.

By Mr. Cruce: Yes, I called him Anderson instead of Robinson.

A. I don't know anything about it.

Q. You don't know who is paying your board bill?

A. No, sir I don't know nothing about it at all.

Q. Have you got a ticket home?

A. No, sir, we haven't got anything, haven't got no money.

Q. Are they going to make you walk home you think?

A. I never walk home. I will telephone to Mr. Monery tomorrow if the- don't treat me——

Q. They promised you a ticket home?

A. Haven't promised us anything, promised us a ticket home you know.

Q. Who promised you?

A. This man that come out there told Mr. Monery, said they would take care of us, and everything, while we were down here.

Q. Are you just going to get your railroad fare?

A. I don't know nothing. Don't ask me because I don't know nothing.

Q. Are they going to pay you anything?

A. I don't know anything.

Q. Don't you expect anybody to pay you anything?

A. I don't know.

Q. Don't you think you ought to have something for your time?

A. I think like this, they brought me away over from my work out there and I could have been out there and better satisfied than sitting up here in the court house.

Q. How much do you think they are going to pay you?

A. I have no idea.

Q. Are they going to give you any interest in this oil land?

A. I don't know nothing about this oil land, nothing like that.

Q. Your sister is here you say?

A. Yes, sir, she is here.

Q. Now, when Sadie came out there to see you, she said she had some papers with her? A. Yes, sir.

Q. What papers was it did she say?

A. She got to talking—— Whenever we talked about court or anything like that, just talked about me living up to Granny Letcher's and my husband.

Q. Did she tell you when Granny died?

A. She didn't tell me just the day, the day of the month and when.

Q. Did she tell you when Minnie died, Indian Minnie?

A. She—— I never heard that name, I never seen that name until I seen it on the paper. We weren't talking about that, but she told me about Jim being dead.

Q. Jim who? A. Jim Mayo, that was Granny's son.

Q. When did she say Tommy Atkins died?

A. She never called that name, I never seen that name until I seen it on the paper.

Q. You didn't see Tommy Atkins at all until it was on the paper?

A. We were never talking anything about it.

Q. You didn't talk much about the case when she was out there?

A. We didn't talk about the Court at all while she was out there.

Q. Well, she just came out there to pay you a visit?

A. Yes, and I said to my sister, I called my sister up over the phone and I said say, Sadie Harris is out here, and she said what is she doing out there; and we thought she was trying to get my mother—my mother is an Indian woman you know, and we thought some land—because it lays like that—

and I thought Sadie was out there on that business and I never found out until this Mr. Frost come out there and brought this paper.

Q. You never did find out what Sadie wanted from what she said? A. No, she never told me.

Q. You haven't seen Sadie since?

A. I haven't seen Sadie since, I thought I would see her here, but I haven't seen her since I have been here.

Q. You thought you would see her here?

A. Yes, after this man said it was United States Court, I thought I would see her here.

Q. What made you think you would see Sadie here?

A. I have seen so many people from Leavenworth since I have been down here the last day or two I thought she would be here.

Q. You haven't been around to see Sadie up in town?

A. I wouldn't know where to go to find her, I don't know anything about her.

Q. Now, have you any way that you could fix the date that you were married without going back to get your license?

A. Well, I could call up there at Leavenworth and find out.

Q. Will you do that?

A. You can find out if you want to, I can but it would be more business like for you to call up than me.

Q. What?

A. It would be more business like for you to call up than me. Judge Harn is the man that married me.

Q. Do you think that was in eighty-three, eighty-four, or eighty-five? What is your best judgment? Don't you think it was in '85? A. I know it was the 4th of March.

Q. 4th of March?

A. And we never went back you know to get the certificate, what you should get from the Court House. Since I have been away they say the court house has been burned down and they said all papers were filed——

Q. You are not willing to say that your best judgment is that it was in March, '85?

A. It has been so long I have done forgot you know.

Recross Examination by Mr. Hanford.

Q. You are just—— Laura, I just want to ask you one or two questions. You say you worked for Cunningham, is that the name? A. Yes, sir.

Q. Who else did you ever work for in Leavenworth?

A. In Leavenworth?

Q. Yes? A. Judge Latter, but he is dead now.

Q. Judge Latter? A. Yes, sir.

Q. Is that the name? A. Yes, sir.

Q. Who else? A. I worked for Cunningham.

Q. Judge Lavick? A. Yes, sir, but he is dead now.

Q. I just want to get the names of the different people you worked for. Judge Latta and Mr. Cunningham?

A. Yes, sir, they are both dead now.

Q. Who else besides those two?

A. I worked for the Cunningham's and then I worked there on Seneca at the Washington House, me and my husband were there together.

Q. Who else did you ever work for?

A. I never worked out very much, I didn't have to work.

Q. When you worked at Judge Latta's did you live at his house? A. I stayed at home.

Q. Stayed at home?

A. Stayed at home and went to school.

Q. That was before you were married?

A. Yes, sir, stayed home and went to school and got there every morning, and would go there every morning.

Q. When you worked at the Washington House, where did you stay?

A. I stayed there, me and my husband stayed there.

Q. Have a room? A. Yes, sir, had a room.

Q. Was that out in the back part or up stairs?

A. Up stairs over the kitchen.

Q. How long did you work for Judge Latta, do you know?

A. Worked there a long while, back and forward like school girls after school.

Q. How long did you work at the Washington House?

A. It has been so long really I can't tell how long we did stay there. Stayed at the Washington House quite a while.

Q. Now, after you and Dan Hudson separated, you say you went to Colorado? A. Yes, sir, I left and went out there.

Q. How long was that after you and he separated?

A. Well, I just can't tell.

Q. I believe you said yesterday it was a couple of weeks?

A. Yes, sir, then I went away, my father sent me and I went out there.

Q. Your father sent for you when he heard you and Dan had separated?

A. I wrote to him and told him I was in a little trouble.

Q. So he told you to come home?

A. My father sent for me. There is a man, my father.

Q. How long did you continue to live together?

A. About two years. Oh, I am so tired.

Q. After you were married you think you lived together about two years?

A. We lived together about two years.

Q. Now, yesterday, you said you thought it was about a year, which was it?

A. I lived with Charlie Hudson about two years after we were married.

Q. About two years? A. Yes, sir.

Q. And then you separated?

A. Yes, sir, we separated and I went out west. My father sent for me.

Q. Your father sent for you? A. Yes, sir.

Q. Now, the only place that you can remember that you ever worked in Leavenworth was for Judge Latta and Mr. Cunningham?

A. And Fourth and Seneca there at the Washington, yes, sir.

Q. The only other places you ever worked?

A. The only places I worked, I never worked out much.

Q. Only those three places?

A. Only places I remember working out, I didn't have to work.

Q. Wasn't there some other places you worked in Leavenworth?

A. I might have worked out by the day, something like that, been so long ago I have forgotten.

Q. I thought you might remember the names of people and places?

A. People I worked [] here I done forgotten them.

Q. You say you have done forgotten the names of people that you worked for?

A. Yes, never worked out very much.

Q. Then, you may have worked for other people there by the day off and on in Leavenworth?

A. Oh, I may have done lots of little jobs, places like that, but I never kept track.

Q. But the longest you ever worked was at the Washington House? A. And at Latta's.

Q. And at Latta's? A. Yes, sir.

Q. When did you work for Mr. Cunningham?

A. I worked for him in warm weather.

Q. It was warm weather, I don't mean the year, but was that after you were married? A. Before I was married.

Q. Before you were married? A. Yes, sir.

Q. Where were you working when you and Dan separated, just before you went to Colorado?

A. Where were I working?

Q. Yes? A. I were not working anywhere.

Q. You were not working any place then?

A. No, sir, I wasn't working anywhere, I stayed at Granny Letcher's then, I was not working at all, he didn't allow me to work.

Redirect Examination by Mr. German.

Q. Laura, what was the name of the Lodge you have been talking about there in Leavenworth?

A. The Benevolent Lodge.

Q. Were you a member of it?

A. I was a Juvenile, yes, sir.

Q. Juvenile?

A. Yes, sir, children. I belonged to the Juvenile Lodge in Leavenworth, Kansas—— Juvenile.

Q. Did you attend the Lodge very much?

A. We had nearly every week.

Q. Nearly every week?

A. We went every week, it met once a week.

Q. Did you go to the lodge any after you got married?

A. No, sir.

Q. Were you a member of the Lodge when you were going to school? A. Yes, sir, all of us girls were.

Q. And after you quit going to school did you go to the Lodge? A. Yes, I went a little while.

Q. How old were you when you got married?

A. Oh, I was about nineteen years old.

Q. How old are you now?

A. I am fifty some years old, I was born in 1865, 25th day of December.

Q. Were you married more than once in Leavenworth?

A. No, sir.

Q. Just married to Dan? A. Charlie Hudson.

Q. Charlie, I mean? A. Yes, sir.

Q. Did you go to the Lodge from Granny Letcher's house with any girls or boys? A. Yes, sir.

Q. How many different times?

A. I went down there that night.

Q. How?

A. I went down there that night and made a date with Charlie.

Q. After that, did you go from the Lodge to Granny's with any boys? A. No, sir.

Q. What street was the Lodge building on?

A. On Cherokee Street between Fourth—between third and fourth.

Q. When did your father find out——

A. I don't know.

Q. Wait until I finish my question. Where was Granny living when your father made you marry Charlie?

A. Up on Seneca between Second and Third.

Q. Do you know how long she had been living there?

A. No, sir, I don't know just how long she had been living there, but she had planted flowers and things out like the spring——

Q. Well, do you know how long, or do you not know how long? A. I don't know.

Q. Had you been to the Lodge after Granny moved up on Seneca Street? A. No, sir, I hadn't.

Q. You say your father got after you for going down to Granny's that night?

A. I didn't see nothing of the man.

Q. Where were you at the time your father got after you?

A. I went out home one day.

Q. What?

A. I went out home one day and then he come up there and got after Charlie.

Q. Come up where and got after Charlie?

A. Up to Lige Meyers.

Q. What did he get after Charlie about? A. About me.

Q. Where was Granny living at that time?

A. Up on Seneca Street.

Q. What—— Was that before you were married or after? A. Well, that was before we was married.

Q. How long was that after you had gone from the Lodge down to Granny's? A. Oh, about two weeks.

Q. What?

A. About two weeks I think, just about two weeks.

Q. Now, after you went to Granny's from the Lodge and Dan made the date with you for the coming Sunday——

A. I didn't go to see him.

Q. Did you fill that date?

A. I didn't go to see him that Sunday night.

Q. You didn't? A. No.

Q. Why? A. Pa kept me home.

Q. What?

A. My father kept me home, I didn't go to see him on Sunday night, and two weeks after that we got married.

Q. Now, where did you say Granny was living when you went from the lodge to Granny's?

By Mr. Blakeney: We object as repetition.

A. She was living down on Cherokee Street.

By Mr. Blakeney: We object to this obvious effort of the Government to kill time.

Q. Laura, where did you live—— You were living at home at the time that you went down to Granny's and the date was made between you and Dan for the next Sunday?

A. Yes.

Q. When was it that you worked——

A. Washington Hotel.

Q. No, at the Latta's. Was it before or after that that you worked at Latta's, before or after your father wouldn't let you fill that date with Dan?

A. Oh, I was going up mornings, you know, and doing my work and go on to school.

Q. Oh, you were working at Latta's while you were going to school?

A. Going up mornings and doing whatever chores the white people wanted me to do, and would go back in the evening.

Q. Back where? A. Back to Latta's and go on home.

Q. Then, you worked for Cunningham some? A. Yes.

Q. Was that before or after you were married?

A. That was before too.

Q. You were going to school when you worked for Cunningham? A. No, I never worked anywhere after I married.

Q. I say you were going to school when you worked for Cunningham? A. I was staying home.

Q. Was that when you finished school?

A. I was going to school. I would go back and forward to do my work and would go on to school, you know, washed some dishes.

Q. So you were going to school when you worked for Cunningham too? A. Yes, sir.

Q. You finally quit going to school, what did you do between the time you quit going to school and the time you married Charlie? A. Stayed at home.

Q. At nine hundred and something Cherokee?

A. Yes, sir, my father had a big place and I stayed at home.

Q. Did you go to Granny's after she moved to Seneca Street? A. Yes, sir.

Q. Before you married? A. Before I married?

Q. Yes?

A. I was up there once or twice, but wasn't in the house, you know.

Q. After she moved to Seneca? A. Yes, sir.

Q. How many times did you go to Granny's while she was living on Cherokee, do you remember?

A. I went down there that night, went down there to see Charlie.

Q. Well, did you go there any more?

A. No, I never went down there any more, this woman just took me down there you know.

Q. Was Ida Foster a white woman or a colored woman?

A. I don't know what kind of a woman she was.

Q. Well, was she some mixed breed?

A. I don't know what she was, Mister.

Q. Well, was she black or white?

A. No, she wasn't white, mixed breed woman.

Q. Was she light or dark?

A. No, sir, she was a light woman, real light woman.

Q. Laura, yesterday evening when Court adjourned, did you have any money for street car fare to go over to your hotel? A. No, sir.

Q. See that red headed man right there, Judge Allen?

A. Yes, sir, I have seen him.

By Mr. Blakeney: I object to that method of addressing a member of this Court.

A. What do you want to know about him?

Q. I want to know if you got any change from him?

A. Did he tell you he give me any change?

Q. No, but did you get any change from him to carry you on the car? A. No, sir, he didn't.

Q. Did you sister? A. No, sir, he didn't.

Q. If he gave your sister a dime, you didn't see it?

A. There was somebody else out there in the hall and I said that I didn't want it, I said, no I didn't want that dime.

Q. Now, after you lived at the Letcher home, after your marriage to Dan, you say you never knew any child there by the name of Tommy or Indian Tommy?

A. No, sir, I didn't know the people.

Recross Examination by Mr. Hanford.

Q. When did your father go to Colorado?

A. He went out there years and years ago, been so long I don't remember it, but he went out there before my sister's baby was born, and that has been twenty years, thirty years ago, because my mother went and they had to bring my mother back.

Q. How long did you live in Colorado?

A. I was there three months.

Q. And where did you go from Colorado?

A. I came on back to Newton. I brought my mother. I went out after my mother, you know. I left here and went after my mother and brought her to Newton, Kansas.

Q. Have you been in Kansas ever since?

A. Yes, first one place and then another.

Q. And when did your father go to Colorado, before you were married, or after you married?

A. Oh, my father was gone after I was married, you know.

Q. He went after you married?

A. Yes, sir, my father and mother left early you know, after mother went, this child, my sister's baby was born, and then we brought her back, she came back.

Q. And then how long did she go out there before your sister's baby was born?

A. Oh, she was born at home.

Q. Born in Leavenworth?

A. Yes, sir, the baby was born in Leavenworth.

Q. Did they go to Colorado before the baby was born?

A. After. My niece was born right at home. She was born and we have her record and everything like that.

Recross Examination by Mr. Cruce.

Q. One question, *Mollie,* was your husband a white man or colored man?

A. Was my husband a white man or a colored man? My husband was a black man.

Q. He was a black man?

A. Yes, sir, he was here yesterday.

Q. What? A. He was here yesterday.

Recross Examination by Mr. Blakeney.

Q. You say you went out home and your father found out something that he decided to make——

A. I didn't say—I didn't tell you no such thing as that about my father about me being married.

Q. What was it your father found out that made him want him to marry you?

A. I don't know what he found out. Like all girls do out in the country, we live out, we don't live close to town.

Q. What was it that made your father——

A. I don't know.

Q. You don't know? A. No, sir.

Q. Did you ever have any children?

A. Yes, sir, I had children.

Q. How many have you had?

A. That got anything to do with this case. I had four.

Q. You had four? A. Yes, sir.

Q. Have any of them before you married Scott?

A. No, sir.

Q. Not Scott, but before you married Hudson? Did you have any before you married Hudson?

By Mr. German: She didn't understand.

Q. Did you have any children before you married Hudson? A. No, sir, I didn't have any at all.

Q. What? A. No, sir, I didn't have any children.

Q. Did you have any children while you were living with Hudson? A. Sure.

Q. How many? A. All my children are big children.

Q. Well, how many? A. Four.

Q. Did you have four children by Hudson? A. Yes, sir.

Q. Turn around and look at me please, where were they born? A. At Leavenworth, Kansas.

Q. Did you have four children born at Leavenworth, Kansas. A. Yes, sir.

Q. Were they twins? A. No, sir, none of them.

Q. None of them twins? A. No, sir, just all——

Q. Where was the first one born?

A. The first one was born down on Second and Atchison, down there, Dr. McKelvey was my doctor, and Dr. Brock was the next door doctor and he is dead now.

Q. What was your first child's name?

A. We didn't name it.

Q. What? A. Didn't give it any name, didn't name it.

Q. Didn't name it, was he born dead?

A. Died just a few minutes after he was born.

Q. Was it a full child? A. I guess so.

Q. A full nine months child? A. I guess so.

Q. Well, did you make an abortion or did you have a regular birth? A. Just be a regular birth.

Q. No abortion? A. No, sir.

Q. Was that child born before or after you were married?

A. Why, it was after I was married. What was I doing having children before I was married. Just ask me another question like that so I can tell you.

Q. Well, I mean after you married Charlie Hudson?

A. Charlie Hudson was the father of all my children. They are all dead.

Q. Well, how long after this first one was born was it before you had your second child? A. Pretty near two years.

Q. How many?

A. Pretty near a year, or something like that.

Q. Excuse me, I can't hear you?

A. He was telling you something is the reason you can't hear me.

Q. All right, how long after your first child was born until your second child was born? A. It was quite a while.

Q. Well, tell me how long?

A. All I know is it was long enough to get that way again, is all I can tell you.

Q. Then, it was at least a year, was it?

A. Yes, I don't how near get that way again.

Q. I am not trying to be abusive, you understand, to you. I am not trying to be offensive in any sense to you.

A. Listen, has this got anything to do——

Q. Maybe I can show you if you will just answer these things. Tell us now how long after your first child was born until your second child was born? A. Oh, a long time.

Q. A long time? A. Yes, sir.

Q. You will say at least a year, will you? Will you say at least a year? A. Just about, I guess.

Q. Now, where were you living when the first child was born? A. I was living at home.

Q. Living at home?

A. Yes, sir, I called home—I went out home after I was sick, you know.

Q. And the child was born at home?

A. Yes, sir, I went out home to be sick you know. We were staying at Mollie's you know.

Q. You were staying at Granny Letcher's?

A. We were staying at Granny Letcher's, and when I got sick I went out home you know.

Q. Where was your father living now when you went out? A. He was living at 917 Cherokee Street.

Q. He was still living out in the country, as you call it?

A. Yes, we called it pretty near out in the country, pretty near the edge of town.

Q. He was still living out there?

A. He was still living out there when I went out there.

Q. What did you say a minute ago, did you say the child was born some place else?

A. I didn't tell you no such thing.

Q. Well, maybe I misunderstood it?

A. I said my boy was born at home.

Q. And about a year after that another child was born?

A. A still child.

Q. A still child, what do you mean by that?

A. Still born.

Q. It was still born? A. Yes, sir.

Q. Was it a nine months full child?

A. I don't know whether it was or not.

Q. Where was that child born?

A. Born down on Delaware Street.

Q. Born on Delaware Street? A. Yes, sir.

Q. Where were you living when the next child was born?

A. Where was I?

Q. Yes?

A. I came over home. I had been living up to Mollie's you know. I stayed at Granny's two or three years.

Q. Two or three years?

A. Yes. You know I stayed there a long time, you know.

Q. You were mistaken when you said you stayed there about ten months, yesterday?

A. Oh, I made my home up to Granny's.

Q. Let's go back. You were living at Granny's and you went out home to have this child? A. Yes, sir.

Q. And you—— Where was home then?

A. Out on Cherokee Street.

Q. Did you go back to Delaware to have the child?

A. I didn't tell you no such thing as that.

By Mr. German: I want the record to show our objection to Mr. Blakeney's examination a while ago before he turned this witness loose, and it goes to all of these questions, all of this cross examination.

A. I am getting tired of you.

By Mr. Blakeney: I want to ask counsel now if he regards this as killing time.

A. Sure it is killing time.

The Examiner: You keep quiet.

By Mr. Blakeney: Please put down what the Officer said. I would like to have the tone of voice the Examiner said it in.

Q. Now, let's see, you had the second child then, that was born you said out at your home away out in the country, is that right?

A. What did you say? Are you talking to me?

Q. Yes? A. What did you say?

Q. You had your second child out at your home?

A. On Delaware Street.

Q. Delaware Street?

A. Yes, sir, I came down there and got sick before they could get me home.

Q. Then, I was not mistaken when I said that you said you had your second child at Delaware Street?

A. We went up to Mollie's——

Q. Are you trying to keep from telling the truth in this examination?

A. Why, no, why would I keep from telling the truth. This has got no bearing on this case anyhow.

Q. Now, when was the next?

A. I am so tired of you I don't know what to do.

Q. After this second child, when was the second child born?

A. Wasn't no child, it was a legal—— It was born dead.

Q. You mean by a legal, a child born dead?

A. Yes, that is what I mean.

Q. The third child was born dead? A. Yes.

Q. Where was it born? A. Up on Delaware.

Q. On Delaware Street? A. Oh, I am so tired.

Q. The third child was born on Delaware Street at the same place? And the second child was born—— A. Yes.

Q. Why didn't you go out home that time?

A. Why didn't I?

Q. Yes? A. Because I didn't want to go.

Q. The second time you wanted to go and you got sick before you could get home? A. Yes, sir.

Q. But the third time you didn't want to go home?

A. No, sir.

Q. What place on Delaware?

A. Well, you wouldn't know the place anyhow, between Seventh and Eighth.

Q. Between Seventh and Eighth on Delaware?

A. Yes, sir.

Q. Who run the place?

A. Oh, just a colored woman living there name of Mrs. Bailey.

Q. Name of Mrs. Bailey? A. Yes, sir.

Q. What kind of a place was she running?

A. Wasn't running no kind of a place. Just lived there.

Q. Did she have anybody else living there?

A. Her mother and sister.

Q. Your sister? A. No, her mother and sister.

Q. Well, did she have a husband?

A. No, her husband was dead.

Q. How did they make a living?

A. She took in ironing and washing.

Q. Was that a house where men and women would meet?

A. I didn't see the men and women there, didn't see no men and women meet there.

Q. But you knew it had that reputation?

A. No, sir, Mary Fields didn't have no men meeting at her house.

Q. Did Mrs. Bailey, I believe—— Was she a nice woman or not? A. She didn't have nobody meeting there.

Q. Was this third child a full nine months child?

A. I don't know, you ought to ask the doctor.

Q. Who was the doctor? A. Dr. McCormick.

Q. Who? A. Dr. McCormack.

Q. Is he dead or alive?

A. I don't know whether he is dead or alive, been so long since I was in Leavenworth, I can't tell.

Q. How long was it after that before you had the next child? A. Nine months like anybody else.

Q. Nine months after the third one died you had the——

A. Had this other legal child.

Q. Had the other one? A. He was born dead, yes, sir.

Q. How long was it between the second and third child?

A. Nine months like anybody else.

Q. Did you have a doctor attending you on that child?

A. Dr. McCormack.

Q. Where was the fourth child born?

A. Where was my fourth child born?

Q. Yes?

A. Where was my fourth born. He was a legal child born up to Mollie's.

Q. I can't hear you? A. Up to Mollie Letcher's.

Q. The fourth one was born at Mollie's was it?

A. Yes, sir, wasn't nobody there but the doctor, it was a legal child.

Q. The fourth child was not a full grown child?

A. No, sir.

Q. Now, how long was it between the time the first child was born and the fourth child was born?

A. Nine months like any other woman.

Q. Wait a minute, between the first child and the fourth child? A. Nine months like any other woman.

Q. Just nine months between the time the first one was born? A. Yes, sir, about.

Q. Well, two other children were born between that?

A. I have children awful fast.

Q. You mean by that that you have children every nine months. The last question was, you mean by that you have children every nine months?

A. You ask*ed* the doctor and see.

Q. I have got to ask you?

A. Well, ask the doctor, he is the one.

Q. You don't know?

A. He is the one. It might have been a little longer you know, don't you see?

Q. Well, now the first one was born at your father's place? A. Yes, sir.

Q. And the other and the *new* two were born on Delaware Street? A. Yes, sir.

Q. And the last one at Granny Letcher's place?

A. Yes, sir, it wasn't a child.

Q. It was just a miscarriage? A. Yes, sir.

Q. And when was the next one born?

A. How many do you think I was going to have, I told you I had four. My God! Must think I was having children every two weeks, don't you? I am tired.

Q. Where were any of them buried? A. Mount Munsey.

By Mr. German: Did you get her statement that she was tired?

By Mr. Allen: How old are you?

A. I am fifty years old.

By Mr. Blakeney: I object to being interrupted.

Q. Where were any of those children buried?

A. Mount Munsey.

Q. Where? A. Mount Munsey, Leavenworth, Kansas.

Q. Did you name them to bury them? A. No.

Q. What name were you going under at the time they were buried? A. Laura Hudson.

Q. Laura Hudson?

A. Yes, sir, that was my husband. Oh, I am just so sick of you I can't——

By Mr. Allen: I insist that the witness be given a recess. She says she is sick and tired.

A. Yes, I am tired and have to go out.

By Mr. Allen: She says she is sick and got to go.

A. Yes, I got to go.

By Mr. Cruce: Let the record show that the witness abandoned the witness chair and left the room, Mr. Blakeney claiming that she was sick.

By Mr. Allen: She said that she had to go out immediately, that she was sick.

(The witness leaves the room)

By Mr. German: Let the record show that the witness has reappeared and taken the witness stand.

Q. Can you just tell us now any of the names under which your children are buried? A. They had no names.

Q. You cannot in any manner now designate in any way by which we could find from the records the date of the burial of your children?

A. Oh, I suppose if you would go to Carley, the undertaker up there, something like that, in Leavenworth, that is the only way you can find it, you see.

By Mr. Hanford: Is that name Carthouse?

A. Carthouse, that was the name. We buried them out at Mount Munsey, my father and mother had a lot out there.

Q. Were they buried in your father's and mother's lot?

A. Yes, sir, they was all small, you know. Didn't have any names at all. None of my children didn't have no names.

Recross Examination by Mr. Hanford.

Q. How long had you been living at this Mrs. Bailey's or Dailey's when your second child was born there?

A. I didn't live there.

Q. You didn't live there?

A. No, sir, I just went down there and was sick, and was caught there, caught down there.

Q. You went down there to be sick?

A. There is where I was sick.

Q. Why did you go there to be sick?

A. I didn't know it at the time, just like you started somewhere, I was living at home and I went to Mrs. Dailey's.

Q. You went to Mrs. Dailey's? A. Yes, sir.

Q. That was the second child? A. Yes, sir.

Witness dismissed.

Mr. German: We offer the deposition of Elizabeth Bradford, taken before Mr. Penick, appearing in his transcript, beginning at page 2022.

And thereupon, ELIZABETH BRADFORD being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Gordon [German].

Q. What is your name? A. Elizabeth Bradford.

Q. How old are you, Elizabeth?

A. Fifty-seven the 11th day of last October past.

Q. Where do you live?

A. I live on Third Street, 808 South Third.

Q. In Leavenworth? A. Yes, sir.

Q. How long have you been living in Leavenworth?

A. Since eighty-three, since 1894 I have been regularly here, but I have been in and out of here since eighty-three.

Q. Did you know a colored woman in this town who was called Granny Letcher? A. Mary Letcher, yes, sir.

By Mr. Stuart: We would like to request of the Examiner now to permit a short-hand reporter to come in and take the evidence of this witness.

The Examiner: Is there any objection, gentlemen?

By Mr. Allen: I object to it. We object to the request in the presence of the witness, and to an outside reporter coming in here and taking the testimony of this witness in the presence of the witness, because it is a means of intimidating the witness and will have that effect upon the witness.

The Examiner: In view of the objection of counsel, the request will be denied.

And thereupon, the witness retires from the room.

By Mr. Stuart: Now, Mr. Examiner, put this down. Mr. McMillian, a representative of the Government, has been here from day to day taking down the testimony in this case without objection from the defendant counsel. Defendant counsel have made no objection of any kind to any person appearing here to take down the evidence in this case. I now ask that this evidence be taken down because it is impossible for the Examiner to transcribe the evidence as it is given now within a reasonable time, and we desire to have a transcript of the evidence of this witness made as the case progresses.

By the Examiner: Mr. McMillian was in the room without objection on the part of any one present, he may have made notes, but at times when I happened to look at him, he was not making a report of the evidence. There was no objection at the time to his presence and if there had been he would have been excluded. On objection of counsel to the presence of a stenographer for the purpose of taking a report of this particular witness' testimony, the request will be denied.

By Mr. Stuart: The defendants now ask that a stenographer be permitted to be present to take down the evidence of the witness now introduced upon the stand, the witness being Mrs. Elizabeth Bradford.

By Mr. Allen: If you will have the stenographer sit back of the witness, so it will not have the effect of intimidating her, we will withdraw our objection.

By Mr. Stuart: All right.

And thereupon, the witness is recalled to the witness stand.

By Mr. German: Judge Stuart, I shall object to this Stenographer taking it. I want a man who is not interested as an active worker for the defendants.

By Mr. Stuart: Your suggestion is quite proper.

By Mr. German: And we are willing to adjourn until after lunch until you can get some one else.

By Mr. Stuart: I want to keep tab on some things here.

By Mr. Allen: We want that remark to go into the record and our objections to it in the presence of the witness.

And thereupon, a recess is taken until one-thirty o'clock.

And thereafter, and at one-thirty o'clock, P. M., February 28th, 1916, further evidence is herein taken as follows:

By Mr. German: I desire to suggest into the record that the testimony of the witnesses, as disclosed by the record, shows the active participation on the behalf of the defendants, Page and others, in this case, of Lee Bond as an attorney for said defendants, and that Lee Bond holds the office of United States Commissioner; that he resides at Leavenworth, and maintains his official office as United States Commissioner at Leavenworth where these depositions are being taken, and where a great number of the witnesses, who are long time acquaintances of his, reside; and that he has been active among the witnesses for both sides, and that his active participation serves to embarrass the Officers of the Government in consulting with their witnesses and procuring their attendance; and that, therefore, he should not appear as an attorney for said defendants, nor should he participate in this case on their behalf, and we object to his further participation.

By Mr. Stuart: Now, Mr. Examiner, I wish to make this statement: L. Q. C. Lamar, one of the greatest men that America has ever produced, made this statement once on the floor of the United States Senate: "That is an insinuation that no proud man would stand, and no brave man would bear". That is all I have got to say.

By the Examiner: At this time, Mr. Bond is not in attendance at the taking of these depositions. When Mr. Bond appears if there is objections to his remaining in the room where these depositions are being taken, the matter may then be called to the attention of the Examiner.

And thereupon, MRS. ELIZABETH BRADFORD, being called, testified as follows:

Direct Examination by Mr. German.

The Examiner: Gentlemen, this record is not complete. There was a request as to a stenographer to take the testimony of this witness.

By Mr. Allen: We now renew our objections to the presence of a Stenographer to take this testimony of this witness.

By Mr. Stuart: Let the Stenographer retire. We don't want him. Let the objection appear that they object to a Stenographer taking down this evidence.

Q. You say that you first came to Leavenworth in eighty-three? A. Yes, sir.

Q. But didn't leave here until the beginning of ninety-three? A. Ninety-three.

Q. You say you knew Granny Letcher?

A. Yes, sir. From ninety-three to ninety-seven— From eighty-three to 1897.

Q. Did you have a daughter or an adopted daughter who lived here? A. Yes, sir.

Q. What was her name? A. Georgiana Payne.

Q. When did she come to Leavenworth?

A. That was in the early ninety's that she came here. Of course I am not an educated woman and I don't know just the date she came and what time to tell you, it was in the early ninety's and she was here about nine or ten months before I came.

Q. You mean before you came here to live? A. Yes, sir.

Q. Where did you live from eighty-three to ninety-three, where was your home? A. In St. Joe, Missouri.

Q. Where was it that Granny Letcher lived in eighty-three when you first met her?

A. It was on the west end of Shawnee street where she was living then.

Q. Here in Leavenworth? A. Yes, sir.

Q. Did you see Granny Letcher after eighty-three when you first met her and before ninety-three when you moved here? A. I often saw her.

Q. Where?

A. In Leavenworth here, I saw her often.

Q. At her home or where?

A. I saw her at her home and around the streets here.

Q. Did you know what—— Who were the members of her family? A. Jim.

Q. Jim, who?

A. Jim Mayo. Jim Phillips they called him, Walter Banks and Sam Nash.

Q. When you came here in ninety-three you say you came here to live? A. Yes, sir.

Q. Where was your daughter living at that time, or your adopted daughter, Georgia?

A. Down on the South side of Delaware Street.

Q. Who with?

A. Her and Jim called themselves in business down there, a kind of a restaurant, I came here and helped them start up with that.

Q. Did your daughter and Jim ever live at Granny's home? A. Yes, sir.

Q. Now state if you know about how often you would be at Granny Letcher's between eighty-three and ninety-three?

A. Between eighty-three and ninety-three?

Q. Yes, before you moved here?

A. Well, I was here about once a month, usually spent Sundays; I would come down in the interest of the girl.

Q. In the interest of the girl? A. Yes, sir.

Q. Was the girl here then?

A. Yes, she was here whenever they could get away from me.

Q. I don't understand you, Elizabeth?

A. You don't understand me?

Q. No, sir?

A. I say, whenever he could persuade her to dodge me me she was here and I would come after her.

Q. Who? A. Georgiana, before she married him.

Q. Who is it you refer to when you say when he could persuade her? A. Jim. Jim Mayo.

Q. Jim Mayo? A. Yes, sir.

Q. Was your daughter up here prior to the time she married him? A. Yes, sir, back and forth.

Q. Did she ever *married* him?

A. They were said to be married in Atchison, Kansas.

Q. When did that occur? A. In the nineties.

Q. How long before had she been here?

A. Ten month before I came. I came in ninety three.

Q. During all the time that you knew Granny Letcher and were around her home or at her home, state whether or not you knew of any boy living with her whose given name was Tommy?

A. No, sir, I never knew of any one of that kind.

Q. Or Thomas Atkins? A. No, sir.

Q. Or Indian Tommy? A. No, sir, James.

Q. How?

A. Jim, and Sam, and Walter was all the children that were around there to my knowledge.

Q. Did you know of a woman during that time, or at any other time who was at Granny Letcher's home or lived there or visited there by the name of Indian Minnie?

A. No, sir, never saw her around the place.

Q. Or Minnie? A. No, sir.

Q. Or Minnie Atkins? A. No, sir.

Q. Do you know Mr. Lee Bond? A. Yes, sir.

Q. Do you know whether or not he holds any office, whether he is an officer of any kind?

A. I don't know it, but I was told that he was State Commission or something to that effect. Of course, I am not an educated woman and don't pay much mind.

Q. For the Government? A. Yes, sir.

Q. Did he ever call to see you?

A. Yes, sir, he came out to my house not long ago.

Q. Did you at that time know whether he was a United States Commissioner? A. No, sir, I didn't.

Q. Did you know he held any office at that time?

A. No, sir, I just thought he was a lawyer.

Q. A lawyer?

A. Yes, sir, just the law and the big law when he came in the house, the way I knew him when he came in, the law and the big law. I knew him when he wore knee pants.

By Mr. German: There may be one other question a little later, but I don't want to ask it now.

By Mr. Stuart: I think you better ask it now.

By Mr. German: I haven't decided whether to do it or not.

By Mr. Stuart: Well let it go.

Cross Examination by Mr. Stuart.

Q. When was—— When did you say you first made up your mind to be a witness in this case?

A. It was in 1915, I didn't make up my mind to be a witness.

Q. Who first found you? A. Sadie.

Q. Sadie James? A. Yes, she came out.

Q. Where did Sadie find you?

A. At my home, she came out.

Q. What did Sadie tell you about this case?

A. She didn't tell me anything about it, she simply asked me did I remember anything about—of the—that went on at Granny's house; and I said, don't say Granny to me. I tell you just what I said to her, I said to her, say Mary Letcher.

Q. Tell everything.

A. She said do you know where Georgia is, and I said I don't, the girl I raised. I said I don't, she said, will you write to Georgia, I will leave you my address, and will you let me know, and I said yes I will do that, and I wrote and didn't get any answer, so I didn't write to Sadie. She didn't tell me anything about this case.

Q. Tell me the questions she asked you?

A. She asked me did I remember what went on at Granny's, how many boys were there when you were around there, she said you were in and out nearly every day, Aunt Lizzie, how many boys were around there? I said Sam, Walter and Jim was all that ever I saw around the place, and she said, do you know anything about Indian Minnie, and I said I never saw her in my life that I am sure of only the time that I met her when we were down looking at the torch light processions at the foot of Cherokee Street, and I said that is the woman you said was Indian Minnie, but——

Q. Go on and tell all you know about it?

A. I said she didn't tell me anything about it, merely asked me questions what went on, did I remember what went on and who was there, and she asked me was I sure. I am not an educated woman and I am not sure, because I didn't carry any of these things around in my head. She said a good deal, went on, they say a good deal went on, and I said, well if Granny had anything like that there she must have had it in a box, I didn't see it, and I said why what is it? And she said I will tell you later.

Q. Did she tell you later?

A. No, sir, she ain't told me later.

Q. Never has told you at all? A. No, sir.

Q. Kept it to herself? A. Whatever it was.

Q. You haven't told all that Sadie said to you?

A. I would be talking a week if I told everything that Sadie said.

Q. We want a week's talk?

A. She didn't say anything particular, just asked me did I remember it, and I said no I never saw any child around the place except Jim, Walter—Pike we always called him, because he——

By Mr. German: I don't want to interrupt counsel's examination, but I thought of another matter.

By Mr. Stuart: Go ahead now.

Redirect Examination by Mr. German.

Q. Did you know in the early days here a woman, an Indian woman, did you ever see an Indian woman here in the earlier days known as Indian Mary or Indian Minnie?

A. No, sir.

Q. Did you ever see an Indian woman here at the Torch Light Procession once?

A. That is the woman they said was Indian Minnie, about eighty-three or four when I first came here.

Q. Where was it that you saw it?

A. At the foot of Cherokee Street next to the river, between Second and Third where I saw her, but I can't tell what the woman looked like, they said that was Indian Minnie, but I wouldn't say it was.

Q. Who was she with? A. With some soldiers.

Q. White soldiers or black soldiers?

A. Yes, sir, white soldiers.

Q. What was going on at that time?

A. Drinking and carousing everybody seemed to be drunk around there.

Q. You say that was on the occasion of a torch light procession? A. Yes, sir.

Q. Did you see this woman that they said was Indian Minnie?

A. Yes, sir, I saw her. Looked at her, I didn't go up to her of course to speak to her or anything like that but I saw her.

Q. Was she sober or drunk? A. Drunk.

Q. Drunk? A. Yes, sir.

Q. What did she have on, how was she dressed?

A. I never paid no attention, but she had no extraordinary dress about her, just an ordinary citizens clothes.

Q. Had on woman's clothes?

A. Yes, sir. just ordinary.

Q. How was her hair fixed?

A. Well, her hair was all down.

Q. You say her hair was long or short?

A. Long hair, her hair was long.

Q. What was the color of it? A. Black.

Q. Black? A. Yes, sir.

Q. What sized woman was she?

A. She was a woman that looked like she would weigh about a hundred and forty pounds maybe, or heavier, short.

Q. Short woman? A. Shorter than I.

Q. How tall are you?

A. About five foot eight or nine, probably.

Q. About how much shorter than you was this woman?

A. Considerably shorter, maybe six inches, maybe more.

Q. When did you say this was? A. In eighty-three.

Q. The first year that you ever came here?

A. Yes, sir, my first year.

Recross Examination by Mr. Stuart.

Q. Now, witness think a minute. There was a girl here named Indian Minnie, wasn't there

A. Yes, sir. there was but I never seen her.

Q. You always heard of her here in the city?

A. I always heard of her but I never knew her.

Q. Indian Minnie? A. Yes, sir, she was here all right.

Q. And she was regarded *and* an Indian Girl here in the City? A. Yes, sir.

Q. Black hair? A. Yes, sir.

Q. Black eyes? A. Yes, sir.

Q. Braided her hair down her back?

A. I never saw her braid her hair, her hair was all down when I saw her.

Q. Do you think that was in eighty-three?

A. Yes, sir, it was in eighty-three.

Q. Are you sure about that?

A. No, sir, I am not sure it was in eighty-three.

Q. Might have been eighty-four?

A. Yes, sir, might have been eighty-four.

Q. And might have been eighty-five?

A. Yes, sir, it might have been, yes, sir.

Q. A long time ago, hasn't it been?

A. Yes, sir, a long time ago.

Q. A long time ago? A. Yes, sir.

Q. This was known as a girl—as Indian Minnie?

A. Yes, sir, I never knew her.

Q. You saw her at the torch light procession?

A. Yes, sir, I just saw her.

Q. Do you remember when Mr. Blaine was running for the Presidency? A. Yes, sir.

Q. Eighty four, wasn't it? A. Yes, sir.

Q. That is the time that you saw the torch light procession, isn't it? A. That is the time.

Q. That is the time that you saw Indian Minnie, isn't it?

A. That is the time I think. It was a torch light procession.

Q. Jim Blaine was running for the Presidency?

A. I remember that, and everybody was drunk but me.

Q. You remember that well? A. Yes, sir.

Redirect Examination by Mr. German.

Q. What time of the year was that torch light procession, summer, winter, early spring, or fall, or when?

A. Spring, it was in the spring.

Q. It was in the spring, was it? A. Yes, sir.

Cross Examination by Mr. Bell.

Q. You never lived at Granny Letcher's did you?

A. At Granny Letcher's, no, sir.

Q. Yes? A. No, sir.

Cross Examination by Mr. Hanford.

Q. Auntie, you remember that night when they had the torch light procession was when they elected some big man, wasn't it? A. Yes, sir.

Q. It was election night?

A. It was election night, yes, sir.

Q. You say it was in the spring, are you sure it was in the spring? A. Well, I am not sure.

Q. But you are sure it was an election?

A. I am sure it was an election night, I am satisfied of that.

Q. Now, Auntie, did you ever stay at Granny Letcher's house?

A. I never staid at Granny Letcher's house but one night in my life and I slept in a chair by the side of Jim Mayo's wife's bed.

Q. That was Georgiana? A. Yes, sir.

Q. You ran down from Atchison to find her? A. Yes, sir.

Q. And you found her sick at that house? A. Yes, sir.

Q. Then you came down several times from Atchison to Granny Letcher's house, didn't you?

A. Yes, sir. I come down right along to the interest of—

Q. And you just went there to get your Georgiana?

A. I just went there to look after that girl's interest. I had no other interest in the place.

Q. You were trying to keep her away from Jim Mayo?

A. Yes, sir.

Q. Now, you know of the people that were around Granny Letcher's house, do you? A. No, sir.

Q. You never staid around there long enough to find out?

A. I didn't make their acquaintance to go there.

Q. Now, Auntie, that night when you went down to that drinking place Georgiana went with you, didn't she?

A. Yes, sir.

Q. She came and got you and asked you to go down there with her? A. Yes, sir.

Q. And she wanted to go down there and get Jim, didn't she? A. Yes, sir.

Q. And she was mad at Jim because he was running after Minnie, wasn't she?

A. She said that he was running after a woman and I asked her what she wanted with such a man as that, and she—and I went with her down there.

Q. Didn't she say that she was going to get after Minnie, that she was going to knock her in the head or something of that kind? A. No, sir, she wasn't that kind.

Q. But she was suspicious of Minnie?

A. Minnie didn't need to fear her, they feared me, the old hand was the one that kept her eye on.

Q. And it was Minnie that Jim was after, wasn't it?

A. I don't know that he were.

Q. Or that Georgiana was suspicious of?

A. Minnie was with the soldiers when I saw her.

Q. With a couple of soldiers?

A. A couple of dozen it looked to me.

Q. A couple of soldiers were trying to get her to go away with them some place?

A. A couple of dozen I would say was trying to get her to go to the dummy and go to the fort where she belonged.

Q. And Georgiana told you that that was Indian Minnie?

A. Georgiana and several others told me that that was Indian Minnie.

Cross Examination by Mr. Bell.

Q. Now, you say that Georgiana taken you down there?

A. Yes.

Q. Was that after she and Jim are supposed to have been married? A. No.

Q. How long before they were supposed to have been married, was it?

A. Now, I just got the right man to talk to now, because you know these things, you know that Jim had that girl running back and forth.

Q. Just answer my questions. How long before they were supposed to be married was it that they taken you down to this drinking shop?

A. That was in eighty-three, eighty-three or four, along in there somewhere that we were down there.

Q. And when was it that you seen Indian Minnie?

A. That is the night I saw her, that election night.

Q. How is that?

A. That was before Jim was married to Georgiana.

Q. How long before? A. I don't know.

Q. Was it—— Were you here in eighty-four? A. Sure.

Q. How often?

A. I lived right here at 763 on Seneca Street.

Q. How often were you up Mother Letcher's or Granny Letcher's?

A. I was there every night or every day while Georgia was there.

Q. Georgia was at Granny Letcher's from 1883——

A. No. I didn't say that.

Q. Now, I want to try to refresh your memory?

A. All right.

Q. Do you mean 1884 or 1893 or 1893?

A. I mean that I came to Leavenworth first, last, and all the time, first I met Granny Letcher was in 1883.

Q. And you remained here?

A. No, I didn't. I knew Granny Letcher from then to 1890 and to 1897.

Q. Did you live here during all that time?

A. No, sir.

Q. Where did you live at?

A. Lived in St. Joe and in Atchison.

Q. And how often did you return back to Leavenworth while you were in St. Joe and in Atchison?

A. In 1893 I came here and stayed ten months.

Q. Where did you live in 1884?

A. Down on Seneca Street here.

Q. Where did you live in 1885?

A. In Seneca Street on John Madden's house.

Q. Now, was Georgiana here during those years?

A. Georgiana was here when I lived here.

Q. Was she living at Jim Mayo's house during that time?

A. Cherokee street between *between* Bruce's grocery and that frame. and she worked down on Choctaw on Cheyenne Street up stairs over Abel's store—over Abel's Drug Store for those sporting ladies.

Q. You lived here since 1893? A. Yes, sir.

Q. Regularly? A. Yes, sir.

Q. Haven't been away?

A. Yes, sir, been away six years since that.

Q. Georgiana came here six or eight months before you came here in ninety three?

A. Yes, sir, as near as I can think of it.

Q. And when she lived on Cherokee Street across from the old Continental Hotel there, it was in 1892 or three, wasn't it? A. Yes, sir.

Q. Just before you came back here? A. Yes, sir.

Q. Now, at the time that Georgiana taken you down to this drinking shop to get Jim Mayo, you had returned back here in 1893, wasn't it? A. No.

Q. When was it? A. No, it wasn't.

Q. Well, when was it? A. It was before I moved here.

Q. Well, how long before?

A. It might have been as much as two years before.

Q. As much as two years? A. Yes.

Q. Then, it would have been about 1890, wouldn't it?

A. Yes, about.

Q. 1890 then? A. Yes.

Q. Then, instead of being in 1884 or '83 that she taken you down to this drinking shop it was 1893, wasn't it?

A. Ninety-three?

Q. Yes, ma'am?

A. No, sir, it was before I moved here that I saw that woman down there.

Q. I want to know how long before, whether ten years or two years?

A. No, it wasn't no ten years, it wasn't two years.

Q. But you did move here in 1893?

A. Yes, sir, I did move here until ninety seven. In 1897 I moved away from here.

Q. And you want to say that the woman they pointed out to you as Indian Minnie you seen in 1893 or four when you returned back here to live? A. No, I didn't say that.

Q. What did you say?

A. I said it was between eighty-three and the time that I moved here before Jim married that girl I saw that woman.

Q. Eighty three and between the time you moved here, 1893, would be ten years, wouldn't it?

A. Yes, sir, or eleven.

Q. Was it eighty-four? A. No.

Q. Eighty five? A. No.

Q. 1886? A. No, sir.

Q. 1887? A. No.

Q. Was it 1888?

A. I am trying to think now where I lived in 1888?

Q. What did you say?

A. I say I am trying to think. No, it wasn't 1888. Jim married that girl in the nineties. I will stick to it. I don't know what year, but it was in the early nineties that he married that girl.

Q. But I am trying to get fixed the time that she taken you down to this drinking shop.

A. That time that she taken me down to that was one of the times he had caused her to come down here and I came after her.

Q. But you don't know what year it was?

A. No, I don't, it was in between that.

Cross Examination by Mr. Hanford.

Q. Auntie when you came down from Atchison, you usually came down on Sunday?

A. I usually came oftener than Sunday, any time anything went wrong with that child I was here regardless of the day of week it was I was here.

Q. How long did you stay, Auntie?

A. A week at sometimes, and probably a couple of weeks. I worked all day and came down in the morning, kept that up for weeks.

Q. Auntie, when you first moved down here in ninety-three, where did you go to live, do you remember?

A. I went down on the corner of Eighth and Seneca, paid rent to Judge Windors.

A. I don't know, I paid the rent to Judge Windors.

Redirect Examination by Mr. German.

Q. When Mr. Lee Bond came down to your house, who was there with him? Will you point out the man, is he here in this room?

A. I think that is the man right there, am not sure, but he had on——

By Mr. Hanford: Mr. Hanford?

A. Wasn't it you?

By Mr. Hanford: Yes, sir.

Cross Examination by Mr. Hanford.

Q. Auntie, when we came down there to see you, you told us the same thing you told here?

A. I am aiming to tell you the truth as near as I know how.

Q. And what you told us was just what you told here today? A. Yes, just the same thing.

Recross Examination by Mr. Stuart.

Q. Auntie, when did you first learn that Mr. Bond was the United States Commissioner?

A. They were out there just a short time ago.

Q. Who told you about it?

A. My husband told me, he told me not to talk too much, he said you got no education and got no remembrance, and you will tell something that is not right directly.

Recross Examination by Mr. Hanford.

Q. Auntie, when was it that Sadie James came to see you?

A. I can't tell you on my life, but in 1915, sometime during the year.

Q. Sometime in 1915? A. Yes, sir.

Q. Are you sure it wasn't 1914?

A. No, sir, I think it was last year.

Q. Last year? A. I think so.

Witness dismissed.

Mr. German: We offer the deposition of Belle Reed, taken before Mr. Penick, appearing in his transcript, beginning at page 2980.

And thereupon, BELLE REED called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Belle Reed.

Q. What is your age and residence?

A. My age, will be forty-six years old the 6th day of August.

Q. Where do you live? A. St. Joe Missouri.

Q. Did you ever live in Leavenworth, Kansas?

A. Yes, sir.

Q. Who did you live there with?

A. I lived in Leavenworth, Kansas, with Jim Mayo.

Q. How long did you live with [] there?

A. About two years.

Q. At whose home? A. Mollie Letcher's.

Q. Where? A. On Seneca Street.

Q. Do you know what year that was?

A. Why, I think it was about 1888.

Q. That you commenced living there?

A. Yes, sir, September in '88.

Q. How long did you live there then, two years, you say?

A. I stayed there about two years.

Q. During the two years that you stayed at the home of Mollie Letcher with Jim Mayo, who were the members of that family? Who lived in that house?

A. Well, Dan Hutchinson and his wife lived there one time while I was there, and old lady Scott moved there in the night, there was the fire and she moved there with her children, and of course there was some other roomers, I don't remember who the other roomers were, Granny had a little boy there named Walter Banks.

Q. And what other boys or men were there?

A. Sam Nash.

Q. How large was Walter Banks at that time?

A. Oh, he was quite a small boy.

Q. Was there any other boy there about the size of Sam Nash or smaller than he was?

A. None but Lucian Scott.

Q. Lucian Scott was there?

A. He was old lady Scott's boy, he were there.

Q. Was he brought there the same night?

A. The same night that Mrs. Scott come there he was brought there.

Q. About how long had you been living there when the Scott family came there that night?

A. Well, I disremember how long I had been there, but I know they came there in the night.

Q. That was during the two years that you stayed there?

A. During the two years that I stayed there.

Q. During the two years that you stayed there in that house, did you see or hear of any boy by the name of Tommy Atkins or Indian Tommy? A. No, sir.

Q. Or an other Indian boy? A. No, sir.

Cross Examination by Mr. Hanford.

Q. How big a boy did you say Walter was?

A. I said he was quite a small boy, I judge him to be about eight years old, but I didn't know his age, I don't know his age at all.

Q. How old was Sam?

A. I don't know that either, but Sam was a young man.

Q. You say you lived with—— A. Jim Mayo.

Q. Jim Mayo? A. Jim Mayo.

Q. Anybody else live with Jim Mayo at the time you did?

A. No, sir, not when I did.

Q. Who lived with Jim Mayo before you did?

A. Before I went there, I heard that a woman was there by the name of Nettie.

Q. Who lived there with Jim Mayo afterwards?

A. I don't know.

Q. Did you ever know any other children around there?

A. Never knew no children around there, only just Walter Banks and Mrs. Scott's children, a little child Mrs. Letcher——

Q. How many children did Mrs. Scott have?

A. I think she had four girls, I wouldn't be sure, but I think she had four girls and one boy, and Mary Anthony was there with one child. but hers was a girl child named Etta.

Q. No other children around there at all? A. No, sir.

Q. Did anybody live there—— Did anybody leave their children there for Granny to take care of?

A. I never seen any.

Q. What did you do while you were living there?

A. Why, I worked out, I taken in washing awhile while I was there.

Q. Did you live in the house on Seneca Street?

A. On Seneca Street between Second and Third I think it is.

Q. Did you ever live any place else?

A. Yes, sir, lived at one time, three weeks, Jim run a restaurant down on some street, I don't know what street it was, and I went down there about three weeks, and that is the only time I was working there.

Q. Never was any place else except the restaurant?

A. No.

Q. Did you ever work at anybody's house?

A. I used to work for George Crilly's house, used to go there in the mornings that is all the work I did away from home. but I used to take washing in at home.

Q. Did you have any children while you were living there? A. No.

Q. You say you live at St. Joe? A. Yes, sir.

Q. When were you first called as a witness in this case?

A. I don't exactly remember the date, but it were a little over a month ago.

Q. Who came to see you?

A. Some man that came to see me this time, I don't remember his name.

Q. What kind of looking man is he?

A. He lives there in St. Joe, but I don't remember his name, tall slim man.

Q. Colored man? A. No.

Q. A feller that lives there in St. Joe?

A. He came to subpoena me and some one else was there with him.

Q. Who came with him? A. When he came to see me?

Q. Yes?

A. No one came with when he came to se me.

Q. Do you know Sadie James?

A. Yes, I know Sadie James, but she didn't come then.

Q. When was she there?

A. I don't know, but she was there quite a while before that.

Q. She came before he came? A. Yes.

Q. How long did Sadie stay?

A. She was there one evening.

Q. That was the first time? A. Yes.

Q. When did she come back?

A. She came back, I seen her not so long ago.

Q. That is just before you came down here?

A. Oh, I seen her two or three weeks ago.

Q. Was that the second time that she came?

A. No, she was there once before when I didn't get to see her.

Q. Sadie told you she wanted you to testify in this case?

A. She just asked me a few questions that is all.

Q. She told you about that she was in trouble?

A. No, she didn't tell me.

Q. And she had to prove there was no Tommy Atkins?

A. No, she didn't tell me anything like trouble at all.

Q. She told you if you testified a little Indian boy was around there named Tommy she would have to go to the Penitentiary? A. No, she didn't tell me that at all.

Q. Did she tell you she was in trouble and had to prove there was no Tommy Atkins? And hoped all of you colored people would stick by her? A. No, she didn't.

Q. She didn't? A. No, sir.

Q. Tell you about this man she was working for?

A. No, sir, she didn't.

Q. Just asked a few questions?

A. A few questions was all.

Q. Who did she tell you she was working for?

A. Didn't tell me who she was working for.

Q. What did she tell you?

A. She asked me about being in Leavenworth about this time, but she didn't tell me about any trouble at all.

Q. Did you know her in Leavenworth?

A. I had seen her at Leavenworth.

Q. Where did she live?

A. She lived up the alley from Granny's, but I don't remember the street she lived on. On the corner from Granny's, I think it was on Second Street, but I wouldn't be sure.

Q. Did you remember her when you saw her up at St. Joe? A. No, sir, I didn't.

Q. Did she tell you who she was?

A. Yes, sir, she told me who she was, but I didn't remember who she was until she told me.

Q. Well, didn't she live at Granny Letcher's when you did?

A. No, she didn't live there. She used to come there.

Q. When did you find that out?

A. When she told me who she was, I remembered her coming there.

Q. You say you remember seeing her in Leavenworth?

A. Yes, I remember seeing her when she used to come to Granny's, yes. I didn't when I first met her, I didn't remember her at all.

Q. Now, wasn't she there all the time, didn't she take all her meals there and sleep there and eat there?

A. Not at the time I was there, no, sir.

Q. Are you sure of that?

A. Not at the time I was there, no, sir.

Q. You were there for two years?

A. I were there about two years, I know she used to come in there.

Q. About this man that came to see you, he came after Sadie did? A. Yes, he came after Sadie did.

Q. And he talked to you? A. Yes, he talked to me.

Q. He didn't tell you his name?

A. Yes, he told me his name.

Q. What was it?

A. I don't know, I don't know his name.

Q. Who did he tell you he was working for? [A] I think he said he was one of the Government men.

Q. One of the Government men? A. Yes.

Q. Do you see him around the room any place?

A. I have seen him today since I have been here.

Q. You told him Sadie came to see you? A. Yes, sir.

Q. How long did she come to see you before he came?

A. Let me tell you, I can't tell you exactly how long it was because I didn't pay that much attention to it, how long it was, but I know it was over a week or something. I had seen Sadie, or maybe a couple or three weeks, I don't remember.

Redirect Examination by Mr. Allen.

Q. Is this the man who was out to see you (pointing to Mr. McMillian)? A. Yes.

By Mr. Allen: Pointing to Mr. McMillian.

Cross Examination by Mr. Cruce.

Q. I forgot your name? A. Bell Reed.
Q. Are you a married woman? A. No.
Q. Have you any children? A. Yes.
Q. How many? A. Two.
Q. You been living with some man? A. What is it?
Q. You have been living with some man in adultery?

By Mr. German: We object to that as incompetent, irrelevant, and immaterial.

A. I don't know whether you call it adultery or not, I was living with a man, yes.
Q. How long have you lived with him?
A. I have lived with him ten years.
Q. Where are you living with him? A. In St, Joe.
Q. Is he the father of both of your children? A. Yes, sir.
Q. How old were you when you were living at Granny Letcher's?
A. Well, I don't remember just how old I were when I went to Granny Letcher's, no I don't.
Q. Well, about how old?
A. Well, I don't know, I will be forty-six my next birthday. Now, and that was in 1888 that I went there.
Q. How do you know it was 1888?
A. Well, just because I know it.
Q. You know it? A. Yes, sir.
Q. You know what year this is, don't you?
A. Yes, sir, I know what year this is.
Q. What year is it? A. 1916, isn't it?
Q. Now, you went to live with Granny in 1888?
A. That is what I think it was, September, 1888.
Q. What? A. I say I think it was September, 1888.
Q. You just remember it, you didn't put it down did you, the date?
A. No, I didn't put the date down, I can't tell the day of the month that I went there, but I know it was in September.
Q. You may be mistaken about the year?
A. Maybe, I am, but I don't think so.
Q. You weren't only about sixteen years old then, weren't you?
A. I go by one of my sisters, is just what I go by.
Q. How old do you think you were then?

A. I don't know, I can't read or write, Mister, and I go the best I know.

Q. How did you happen to pick out Granny Letcher's, you knew she was running a house of prostitution, didn't you?

A. No, I didn't know Granny Letcher was running a house of prostitution.

Q. But you stayed there two years without finding it out. Now, you hadn't been living with any man before you went to Granny Letcher's?

A. No, sir, never lived with any man in my life before I went to Granny Letcher's, went there with Jim.

Q. What? A. No, I never did.

Q. You commenced living with Jim Mayo while living with Granny Letcher? A. Why, I went there with him.

Q. You hadn't lived with him before you went there?

A. No, sir, I knew him before, but I hadn't lived with him.

Q. You commenced living with him when you went to Granny Letcher's?

A. That is the first I went with him, yes.

Q. Did you pay the board, or did he pay the board?

A. He paid it, I didn't pay it.

Q. What did you do the two years that you lived there?

A. Well, I was there taking in washing, and I washed for a while, washed for George Crilly's wife, and I used to take in washing for the girls that worked at the hotel.

Q. Did you notice Indian Minnie? A. No, sir.

Q. Did you hear of her?

A. No, sir, I never heard of no Indian Minnie.

Q. Well, if she had been living there, and if she had been there in that town, you would have heard of her, wouldn't you?

A. I might have, but I never heard of no Indian Minnie.

Q. What?

A. I say I never heard of no woman named Indian Minnie.

Q. Never did? A. No, sir, never did.

Q. How long did you and Mayo live together?

A. Lived there two years.

Q. He quit you after the two years was up?

A. Well, he went to Lincoln and I went to Atchison.

Q. He quit you then? A. No, sir.

Q. You seen him since? A. Yes, sir, lots of times.

Q. Who have you lived with since?

A. Do I have to tell you the men I lived with since?

Q. How many men have you lived with since?

A. Do I have to tell him how many men I have lived with since?

Q. Do you remember the number?

A. I haven't had that many that I can't remember the number.

By Mr. Allen: Go ahead and answer.

By Mr. Cruce: You don't remember, well that is all right.

Cross Examination by Mr. Bell.

Q. How old did you say you are?
A. I will be forty-six, Mr. Bell, my coming birthday.
Q. Then you lived with Jim Mayo, you say, for about two years? A. I certainly did.
Q. Where at?
A. There in Leavenworth on Seneca Street.
Q. When did you first live with him?
A. When I first lived with Jim I went to Leavenworth in the year 1888 in September.
Q. Went to Leavenworth in 1888? A. Yes, sir.
Q. Where did you go to Leavenworth from? A. St. Joe.
Q. Who taken you there? A. I taken myself there.
Q. What did you go to Leavenworth for?
A. What did I go there for, I went there because he sent for me to come down there.
Q. He sent for you to come down? A. Yes.
Q. Where did you first know Jim Mayo?
A. First met him in Atchison, and then I met him in St. Joe, he came to St. Joe to see me.
Q. Did he ask you to come to Leavenworth and live with him? A. He asked me to come down to Leavenworth, yes.
Q. He didn't ask you to marry him?
A. No, he said he had been a married man.
Q. And you hadn't been married? A. No.
Q. Now, Bell, after living there two years with Jim Mayo, what did you do then?
A. Went to Atchison, and I worked for Judge Hutchinson in Atchison.
Q. How is that?
A. I say I left there and went to Atchison and worked for old Judge Hutchinson, in Atchison, in service.
Q. How long did you work there?
A. Stayed there all one summer.
Q. Then what did you do? A. Went back home.
Q. Back to St. Joe? A. Back to St. Joe.
Q. How long did you stay in St. Joe?
A. Stayed at St. Joe ever since except a few years.
Q. Where were you at those few years?
A. Different places.
Q. Name some of them?

A. Stayed two years in Missouri, and three years in Chicago.

Q. Two years in Missouri and three years in Chicago?

A. Yes, sir.

Q. Live anywhere else after that? A. No.

Q. Ever live in Leavenworth after that?

A. About two years.

Q. Who did you live with? A. Will Parker.

Q. Married to Will Parker? A. No.

Q. How many children did you have with Will Parker?

A. Two.

Q. Two in two months?

A. No, Will Parker was at St. Joe, I didn't have no two children in two months, lived with Will Parker two years in St. Joe.

Q. And two months in Leavenworth?

A. In Leavenworth.

Q. How do you know it was '88 that you came to Leavenworth? A. As near as I can count.

Q. How do you know about it?

A. By knowing my sister's age.

Q. How old is your sister?

A. Twenty-seven her next birthday.

Q. You say you don't know your own age?

A. I didn't tell you I didn't know my own age, I said my next birthday I would be forty-six years old.

Q. What year were you born?

A. Well, I told you that I can't read or write, I guess it as near as I can.

Q. You told us about 1888, what year you were born?

A. That is for you to study down and figure, and I can't tell you.

Q. I want you to tell me?

A. Well, I can't tell you.

Q. You don't know what year you were born?

A. No, I don't exactly.

Q. Do you know what year you worked for Judge Hutchinson in St. Joe?

A. No, I can't tell you what year I worked in Atchison, I said I stayed with my aunt and worked for Judge Hutchinson.

Q. Do you know what year you began to live with Will Baker? A. No, I don't know what year.

Q. Know what year you began living with Reed?

A. Reed? *A.* I never told you or anybody else that I lived with Reed. My mother is named Reed.

Q. Living with a man in St. Joe now, aren't you?

A. No, I work out and stay with my mother.

Q. Haven't you got two other children?

A. No, I have got two children.

Q. They are Will Parker's?

A. Yes, they are Will Parker's and you want to know so much, you ask Will Parker.

Q. And you have not lived with a man at St. Joe since you lived with Will Parker? A. I have not.

Q. You have not? A. No.

Q. You don't know what year you began living with Will Parker?

A. No, I don't know what year I began living with Will Parker.

Q. Don't know what year Will Parker left you?

A. He left me? I left him.

Q. What year? A. Wait a minute I can tell you.

Q. All right. A. Where is Mr. McLain?

Q. I don't want you to ask him, I want you to tell me.

A. I can ask my sister.

Q. I don't want you to ask your sister, I want you to tell me.

A. That is the only way I can tell you by asking her what year I went to Chicago.

Q. What year did you go to live at Chicago?

A. I asked you to ask my sister.

Q. I want you to tell me?

A. I can't tell you exactly. I stayed in Chicago three years, and I been back from Chicago, will be eight years this June coming.

Q. Who told you it was 1888 that you went to Leavenworth to live with Jim Mayo?

A. Who told me? I went there the year before my sister was born, and I know it was '88.

Q. What year was your sister born?

A. She is out there, ask her.

Q. I am asking you? A. I can't tell you, ask her.

Q. Don't you know what year your sister was born?

A. 1889.

Q. 1889, are you sure about that?

A. No, I am not sure. You talked to her this morning and you asked her about her age. You ought to know.

Q. Now, will you tell me what year you left Leavenworth? A. What year I left Leavenworth?

Q. Yes? A. Left Leavenworth when?

Q. When you went to Atchison?

A. No, sir, I said stayed in Leavenworth two years, can't tell you what year I left there, never kept that close track.

Q. Can you tell me what year you came back to Leavenworth and lived two months?

A. I came back to Leavenworth and lived two months, will be eight years this coming July.

Q. What year was it?

A. You can count it better than I can, Mr. Bell.

Q. I want you to tell me?

A. I can't tell you when I was down there and I know just how long I was down there and when it was, and when it was I went.

Q. Now, you say Scott came to Granny Letcher's to live?

A. Yes, sir.

Q. While you were there? A. Yes, sir.

Q. What year was that?

A. Came there the first year I was there.

Q. The first year you were there?

A. I think it was the first year, I wouldn't be sure, but I know they came there during the time I was there when that fire was.

Q. Did Sadie tell you they came there then?

A. No, sir, I know when they came there, I was there when they came.

Q. What year did Mary Anthony bring her child there?

A. I don't know that either. Brought it there after I was there.

Q. How long did the child stay there?

A. I don't remember whether the child was there when I left or not, I think it was, I don't remember.

Q. Do you know what year that was? A. No.

Q. What year was it that Mayo ran the restaurant down on some street in Leavenworth?

A. During the time I were there.

Q. What year? A. I don't know the year either.

Q. Now, you don't know anything about the years except just as your sister or somebody has given you, do you?

A. About the years?

Q. Yes?

A. I told you how I know it was that. I went to Leavenworth the year before my sister was born.

Q. Answer my question. Somebody told you to testify that you were in Leavenworth in 1888, didn't they? A. No.

Q. Nobody didn't tell you that?

A. No, sir, didn't nobody at all tell me that.

Q. How many times did Sadie James come to St. Joe to see you?

A. I seen her twice, she didn't exactly come to see me the last time, I seen her a couple or three weeks ago, but didn't particularly come to see me, she was passing through and stopped at my house.

Q. She was there once before, wasn't she to see you?

A. Yes, she was there once before.

Q. How long ago?

A. A couple or three months; maybe a little longer.

Q. Each time she talked to you about this case, didn't she?

A. The first time she did. This time when she was there, she didn't have much to say.

Q. Now, what did she say happened at Granny's?

A. What she said—she asked me did I remember her, and I told her I didn't, and she got to talking about this boy, Walter and Sam, and she asked me did I ever know Minnie Atkins, and I said no, I didn't know Minnie Atkins.

Q. Did she say she knew Minnie Atkins?

A. No, she said she never knew Minnie Atkins.

Q. What did she say about the boy?

A. Didn't say anything; asked me if I knew them—if they were there during the time I were, and I said, no, I never knew Minnie, or Tommy either; and asked if they were there when I was, and I said no.

Q. Did she ask you if there were any other babies there?

A. I told her all the children I knew; Walter Banks and Mrs. Scott's Lucien was the only boy children that were there.

Q. Now, then you say that Sadie came up to mother Letcher's when you were there often?

A. I said she lived up the alley there from Granny, I think it was on *end* street where she used to come from there, to see Granny; that is what I said.

Q. Who else came up there?

A. I can't tell you who else came to Granny's. That would be impossible for me to know who else came to Granny's.

Q. Did you know Martha Clark?

A. The one they call Mattie? *A.* Yes, sir.

Q. Did she have two children?

A. She didn't have no children there at all, that I know of.

Q. Where did she live?

A. She used to come some where—out of town there.

Q. Out of town?

A. Came from out in town to see Granny but I don't know where.

Q. You don't know where she came from? A. No, I don't.

Q. How long did you know Mary Anthony?

A. I knew her during the time she kept the child at Mrs. Letcher's.

Q. Mary Anthony ever stay at Mrs. Letcher's any of the time that you were there?

A. She was there with Mrs. Scott, they—she was living with Mrs. Scott, and they all moved there together.

Q. Do you know that she had her two children there, don't you?

A. No, I don't know but one child Mary Anthony had and that was a child named Etta.

Q. How old was Etta when she brought her there?

A. Small baby.

Q. About how old?

A. I think about a year and a half or two years; I can't say.

Q. Do you know how old she is now?

A. No, sir, I don't.

Q. You don't know how long ago that is?

A. I have never seen Mary or Etta since.

Q. Never seen Mary or Etta since? A. No, sir.

Q. Are you sure that the Scotts went to Granny Letcher's, or came there—the first year you went there?

A. I don't know whether the first year or the second year. I know it was in the winter time that they came there; whenever they had the fire.

Q. Winter time? A. I am sure it was cool weather.

Q. The first year or the *send* year?

A. I don't remember whether the first year or the second year but I know it was during the time I was there.

Q. You don't know who else was there?

A. Dan Hudson and his wife lived there, I know.

Q. How many of the Scotts came?

A. She brought her whole family; I don't know whether three or four girls.

Q. Name them?

A. One girl Louisa, and one named Mary—I am not sure —one of her daughters had a little girl.

Q. What kind of a looking woman was Mrs. Scott?

A. A little bit of a woman.

Q. Do you know whether Mrs. Scott was there, or whether the oldest daughter were taking care of the family?

A. The old lady Scott was there.

Q. She was living? A. Yes, sir.

Q. Where was Mr. Scott? A. Mr. Scott was dead.

Q. How many girls were there?

A. I don't know; I said three or four—I am not sure.

Q. How many boys were there?

A. She only had one there, Lucien.

Q. She didn't have no other boy?

A. Not there she didn't.

Q. Do you know whether Mrs. Scott had two boys or not? A. No, sir, I don't know that.

Q. If she had them, you didn't see them?

A. I never seen but the one boy and that was Lucien.

Q. Did you work out anywhere in Leavenworth except Crilly's?

A. I used to wash for the livery stable man as I said before and used to take the girl's washing.

Q. Which livery stable man? A. Crilly's.

Q. You were there two years?

A. I were there two years.

Q. Who lived next door to Granny Letcher's during that time?

A. One side was a lumber yard, and the other side Alice Woods lived, and her two boys, and one girl and her nephew, and a Jew family lived in front in the stone house, and they lived in the back and the Jew family moved out, and they took the whole house.

Q. Who lived right across the street?

A. I don't know; some white people. I didn't know them.

Redirect Examination by Mr. Allen.

Q. Did any of your people die while you were there?

A. Yes, sir, I had a sister that died.

Q. What was her name? A. Nancy Francis.

Q. How long did she die before your other sister was born? A. She died a year before my other sister was born.

Q. What was the name of that sister? A. Corrine.

Q. Is she here now? A. She is out in the hall.

Q. How long had you been living with Jim Mayo when this sister died? A. Two weeks.

Q. Did you go back home? A. Yes, sir.

Q. How long did you stay?

A. I don't know; I stayed about two weeks and Jim come after me.

Recross Examination by Mr. Bell.

Q. You say you had a sister by the name of Mary Francis? A. Nancy Francis.

Q. Where did she die at? A. St. Joe.

Q. Is her husband living there now?

A. She was a baby—she didn't have any husband.

Q. How old was she? A. She was 15 months old.

Q. About two weeks afterward?

A. I was in Leavenworth about two weeks—the very day I went home.

Q. Your mother living? A. Yes, sir.

Q. Was she living at that time?

A. I guess she was—she is not dead yet.

Q. Was your mother living at the time you came to Leavenworth? A. She was living I——

Q. She know what you were coming down there for?

A. She didn't know; I run off.

Q. And didn't know you were going there to live in adultery with Jim Mayo, did you? A. I run off.

Mr. Allen: We object to that as improper cross examination, going into a matter not gone into by counsel for the Government.

Q. Answer the question.

A. Why, I knew I was going there to live with Jim, yes.

Q. Knew you were going there to live in adultery with him? A. I——

Mr. German: I object to that question that it involves a legal question which witness is not qualified to answer.

Q. Tell us, did you know you were going there to live in adultery with Jim Mayo?

A. I told you once I didn't know I was going to live in adultery; I knew I was going to live with Jim Mayo.

Q. Did you go there for the purpose of marrying him?

A. No, I didn't go for the purpose of marrying him?

Q. You went there for the purpose of living with him without marrying?

Mr. Allen: We object to that as having been about fifteen times. We call upon the Examiner at this time to restrict the examination of this witness and call his attention to the fact that this matter has been inquired into over and over again by counsel for the defendants.

Mr. Bell: I don't insist upon that question.

Recross Examination by Mr. Hanford.

Q. How long did Sadie James stay when she came to see you?

A. When she came to see me she didn't stay but a very short while.

Q. The second time when she came to see you?

A. She stayed at my house about three quarters of an hour.

Q. That is all?

A. Yes, sir, about three quarters of an hour.

Q. How long did she stay the first time?

A. When I went home from work, she was there; I don't know how long she had been there before. When I went home she was there.

Q. When [] say you and Sadie talked about this boy, and then, changed to Walter and Sam, that was just a slip, wasn't it? A. No, it wasn't a slip.

Q. Then you did talk about the boy?

A. She asked me if any Tommy Atkins was there during the time I was there, and I said no.

Q. Did you tell her that the first time?

A. I always said it because I never knew of any Tommy Atkins, and I never knew of no Minnie Atkins.

Q. Did she talk to you about this Indian boy the first time?

A. She spoke about it and we talked about Granny and different things. We didn't particularly talk about Minnie Atkins at all, or Tommy Atkins.

Q. Where did she see you? At your mother's house?

A. At my mother's house.

Q. Did she tell you that she working for the Government?

A. No, sir, she didn't; her and Martha Clark came to my house together.

Q. She and Martha came together?

A. Yes, sir; Martha was a friend of mine, and a friend of Sadie's and they both come there and didn't tell me she was working for the Government at all.

Q. They came together both times?

A. No, sir, just the first time.

Q. Sadie came by herself the second time? A. Yes, sir.

Q. And didn't she tell you that if you were going to testify for the Government to testify that you didn't know this boy and you wouldn't get in trouble?

A. No, sir, she didn't tell me anything of the kind.

Q. And [] you tell her the first time that you wouldn't do it, and she came back the second time, and you told her you would do it? A. No, sir.

Q. Did Sadie James tell you she was going to get three thousand dollars and was getting fifty dollars a month?

A. No, sir, she didn't tell me.

Q. If she could prove this boy wasn't there?

A. No, sir, she didn't tell me.

Recross Examination by Mr. Bell.

Q. What did Mattie Clark tell you? A. Nothing.

Q. Didn't say a word to you? A. No, sir.

Q. Just came to pay you a visit?

A. She comes to my house often, Mattie does.

Q. She just came to pay you a visit?

A. She comes to my house often.

Q. Did Sadie tell you that this controversy was over some land in Oklahoma?

A. I don't know until yet, what it is over.

Q. Well, did she tell you?

A. No, sir, she didn't; I don't know yet what I am down here for.

Q. You don't know what you are down here for? A. No.

Q. Sadie or the man that came to see you told you——

A. The man that came to see me Friday evening to be at the Post Office building Monday morning, and the woman I worked for asked what for and he said on a Government trial and that is all I know yet.

Q. And nobody ever talked to you about the case?

A. No, sir, nobody talked to me about the case.

Q. And Mattie never said nothing to you, just paid you a visit? A. She comes to my house often, Mattie does.

Witness dismissed.

Mr. German: We offer the deposition of Corrinne Woolfolk, taken before Mr. Penick, appearing in his transcript, beginning at page 3001.

And thereupon, CORINNE WOOLFOLK, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Corinne Woolfolk.

Q. Where do you live? A. 1701 East 13th.

Q. Kansas City? A. Kansas City, Missouri.

Q. What is your age?

A. My age—I will be 27 my next birthday, the 30th day of September.

Q. Did you have a sister named—what was your sister's name? A. Nancy Francis.

Q. Nancy Francis? A. Yes.

Q. Did she died before you were born?

A. Yes, she died a year before I was born.

Q. Has that always been your understanding?

A. That has always been my understanding, yes, sir.

Q. You have kept up with your own age? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. What year were you born in? A. 1889.

Cross Examination by Mr. Johnson.

Q. Have you a Bible record of your age?
A. No, sir, I haven't; I haven't any Bible.
Q. You haven't? A. No, sir.
Q. Has your mother got a Bible record of your age?
A. I don't know.
Q. So then, your statement, then, is simply from hearsay?
A. From my mother, yes.

Redirect Examination by Mr. Allen.

Q. Have you talked to your mother recently about your age? A. No, I haven't.
Q. You didn't talk to her about your age with reference to testifying here?
A. No, I haven't seen my mother since October.

Mr. Hanford: I move to strike the testimony of this witness and quash the deposition on the ground that it is irrelevant and immaterial, and hearsay testimony.

Witness dismissed.

Mr. German: We offer the deposition of M. Bahlor appearing in Mr. Penick's transcript beginning at page 1626, and again beginning at page 2069.

And thereupon, M. BAHLER being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. M. Bahler,
Q. You reside in Leavenworth, Mr. Bahler? A. Yes, sir.
Q. What age are you?
A. Well, I hate to give away my age; I was born in '62—that is 50 years old.
Q. Do you hold any official position in the city?
A. Chief of the Fire Department.
Q. How long have you held that position?
A. Why, I have been chief, now, close on to eight years; been working the Fire Department thirty years, the first of next March.
Q. Then, you began——
A. The first day of March, '86.
Q. The first day of March, 1886. Have you been connected with the Fire Department ever since that time?
A. Yes, sir.

Q. Do you know of the burning of some property in the City of Leavenworth; fire destroyed—when fire destroyed the home of Doctor Brock? A. Yes, sir.

Mr. Hanford: Objected to as incompetent.

Q. Was that fire a big fire?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Q. Why yes, it was quite a big fire. That is, the Brock, itself, was not so very big, but originally it started in the livery stable.

Q. Whose livery stable?

A. Clark, Byrnes & Brock's was the joint property and it destroyed the residence also, and altogether, it was quite a big fire.

Q. Destroyed some other property, too?

A. Yes, McDongy's property and damaged Weid's property some; it was on the east, Brock's was on the west.

Q. Where was this fire—where was it in the city?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. It was on Shawnee between Fifth and Sixth, on the north side.

Q. When did that fire occur?

A. It occurred June—between the 18th and *18th* of '86.

Q. In 1886, you remember that?

A. I remember that outside of the record.

Q. You remember that outside of the record? A. Yes.

Q. Did you bring with you here this morning, a record of fires in the city? A. Yes, sir.

Q. Does it contain a record of the fire you referred to?

A. Yes, sir.

Cross Examination by Mr. Blakeney.

Q. You say you remember the date of the fire?

A. Yes, sir.

Q. What day did you say it was?

A. It was between the 18th—the book shows it was——

Q. Don't testify as to the book.

A. I*f* was of the night between the 18th and 19th—just about 12 o'clock; it says 12:15.

Mr. Blakeney: I move to strike out what the book says.

Q. I am asking about your memory, now; leave the book out. A. Well, it was the night between the 18th and 19th.

Q. Without reference to the book? A. Yes, sir.

Q. Without having kept any record, you would have remembered it? A. Yes, sir.

Mr. Hanford: I move to strike the whole testimony of the witness as incompetent, irrelevant, and immaterial.

Redirect Examination by Mr. German.

Q. Mr. Bahler, how does it happen that you remember that fire independently?

A. Well, because I went to work the first day of March and it was my first large fire.

Q. That was? A. And therefore, I remember the occasion.

Witness dismissed.

And thereupon, M. BAHLER, being recalled, further testified as follows:

Direct Examination by Mr. German.

Q. You are the Fire Chief? A. Yes, sir.

Q. In Leavenworth? A. Yes, sir.

Q. You were on the witness stand once before?

A. Yes, sir.

Q. Early last week?

A. I forget what day it was, last week sometime.

Q. Do you remember the occasion of the burning of the Kelly-Lysle Mill here, Mr. Bahler? A. Yes, sir.

Q. Do you remember the date of that fire independently of your record?

A. No, I don't remember of the date, but I remember of the other circumstances, but the date, I just got to look at the records.

Q. Was the fact of that fire records in the records?

A. Yes, sir.

Q. Have you that record with you? A. Yes, sir.

Q. Will you turn to it, please, sir, turn to the record of this fire. Were you at this fire? A. Yes, sir.

Q. Can you refresh your memory as to the exact date of it by reference to that record?

A. Why, yes, I remember the time of the fire and all, but the date I had forgotten, but it was on Sunday night.

Q. On Sunday night, in what year? A. In eighty-nine.

Q. What month? A. In February.

Q. What day of the month? A. Well, the 29th of——

Q. The 29th of February?

A. Of February, yes, sir, February 25th, I mean.

Q. February 25th, 1889? A. Yes, sir. February 25th.

Q. That was the Kelly-Lyale Mill? A. Yes, sir.

Q. By reference to the record, you are able to refresh your memory as to the date of that fire, are you?

A. Oh, yes.

Witness dismissed.

Mr. German: We offer the deposition of Elizabeth La Vallie, taken before Mr. Penick, appearing in his transcript beginning at page 2070.

And thereupon, ELIZA LA VALLAY, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. State your name? A. Eliza LaVallay.

Q. Where do you live?

A. I live on Kiowa, Leavenworth, Kansas.

Q. What is your age?

A. I was borned in August 12th, 1876, or 1867, I don't remember.

Q. How old are you now?

A. Well, I can count up from the 12th of August, 1876, I think.

Q. Are you a sister of Alice Taire, who was just on the witness stand? A. Yes, sir.

Q. How much older are you than Alice?

A. Well, I don't know. I guess about, I don't know what you call it, five years or four, which, I don't know.

Q. Eliza, do you remember the occasion of the Kelly-Lyle Mill burning? A. Yes, sir.

Q. Where were you living prior to that time?

A. I was living on the south—on the east side of the mill during the fire, that was kind of between the mill and what used to be the Methodist Church.

Q. Did the house in which you were living burn?

A. No, the house didn't burn.

Q. Did you have to leave the house on account of that fire?

A. Yes, sir, he had us to move on account of the smoke stack, they was afraid it would fall.

Q. Where did you move to?

A. I moved then, that night to Granny Letcher's.

Q. Who else moved in your family to Granny Letcher's?

A. Well, there was myself and my sister Alice, my sister Julia, Mrs. Carter, and Lucian Lyman, and Mary Anthony, Mary Lower it is.

Q. How old were you at that time?

A. Well, I can't hardly say.

Q. Were you grown?

A. Oh, I was a young lady as they take to be young ladies now days.

Q. Did you know Granny Letcher before that time?

A. Yes, sir.

Q. How long had you known her prior to that fire?

A. Well, I guess all together I must have known Granny Letcher about four or five years, or some place around there.

Q. How frequently were you at her home?

A. Well, during the four first years then, you might call it, I guess about—— Oh, quite often I was in and out.

Q. Well, about how often?

A. I was there at Granny's and I was there at night.

Q. Nearly every day during that time?

A. Nearly every day in the afternoon.

Q. After that, how long did you live at Granny's?

A. Well, from the night of the fire, I must have lived at Granny Letcher's about a month, or maybe more. I lived there until we could get our house empty. We had our house rented out and I had notified the people and give them time to get out of our house before I could move back.

Q. Where was your house?

A. Our house was out on Fifth Avenue. We owned our own property out there.

Q. Was that the same house that you moved out of when the fire moved you?

A. No, we didn't own that house. We rented that house down by the mill. I moved to that house down by the mill so I could be closer to my work.

Q. After you moved from Granny Letcher's home, how often did you see her?

A. How often did I see her after I moved away?

Q. Yes?

A. Well, I seen her just the same in the morning and in the afternoon.

Q. Where? A. Then, she was on Seneca Street.

Q. Where, at her home? A. At her home.

Q. Were you in her home frequently? A. Yes, sir.

Q. How long after the fire?

A. Oh, I don't know, I was there, I don't know—from about—— Let's see now, how long was I there? I can't exactly tell because I was there quite often afterwards.

Q. Eliza, do you know Minnie Atkins or a Thomas Atkins or an Indian Minnie or an Indian Tommy at Granny Letcher's home? A. No, sir.

Q. Did you ever hear of one being there? A. No, sir.

Cross Examination by Mr. Stuart.

Q. Now, Eliza, what time did you first go to Granny Letcher's, give me the year?

A. Well, when I first went to Granny Letcher's?

Q. Yes? A. She lived on Shawnee Street.

Q. What year was it, Eliza?

A. I can't tell you what year it was, I don't remember the year.

Q. Where on Shawnee, what place on Shawnee?

A. Well, she lived right across from what used to be the old Monet Livery Stable.

Q. How old were you when you first went to Granny Letcher's?

A. I don't know how old I was, I might have been a—fifteen or sixteen, or maybe older.

Q. You were a big chunk of a girl? A. Yes, sir.

Q. You were about fifteen or sixteen years old then, or seventeen years old, wasn't you? A. Well, I might have been.

Q. And might have been eighteen?

A. I might have been older.

Q. Or twenty?

A. No, I might have been older than that, I won't say how old.

Q. Can you give me some idea of the year that you first saw Granny Letcher?

By Mr. Allen: Judge, there is one other question.

By Mr. Stuart: All right.

Redirect Examination by Mr. Allen.

Q. When you first knew Granny Letcher, what children were in her home?

A. When I first knew Granny Letcher, the first time I knew her was when I say when she lived on Shawnee Street. There was a girl lived there had two children, her name was Mattie Clark, had one which was named Mabel and the other was named Annie. That was when I first knew her on Shawnee Street.

Q. Who is Mattie Clark?

A. Mattie Clark, that is all I can tell you. Sometimes they call her Martha Miller, and sometimes Mattie Clark. She was a lady friend of mine.

Q. Does she live here now? A. Yes, sir.

Q. What does she go by now? A. Mattie Clark, I guess.

Q. She is sometimes known as what, sometimes known as Martha Miller? A. Marthat Miller, yes, sir.

Q. Do you know Walter Banks? A. Yes, sir.

Q. Sam Nash? A. Yes, sir.

Q. Jim Mayo? A. Yes, sir.

Q. Where did they live? A. With Granny Letcher.

Q. What other people lived with her?

A. Well, there was, as you say, Jim Mayo, Sam Nash, Walter Banks, and a woman they called Nettie, and another woman they called Bell, and another woman they called Georgia.

Q. Was there a baby girl ever born at your home?

A. Yes, sir.

Q. Did that girl ever live at Granny Letcher's?

A. Yes, sir.

Q. What was her name? A. Etta Lower.

Q. Do you know when Granny Letcher lived on Cherokee Street? A. No, sir, I don't.

Cross Examination by Mr. Stuart.

Q. Eliza, when did you first meet Sadie James?

A. When did I first meet Sadie James, at school.

Q. How long ago?

A. Been many a day ago. I can't tell you how long ago it has been.

Q. Well, about what year was it that you went to school with Sadie?

A. I can't tell you, it has been so long, went to North Leavenworth school together.

Q. Can you figure it a little bit and see if you can find the date?

A. No, sir, I am not a very good figurer, I can't tell you, but I have been knowing Sadie from that on right along.

Q. You and Sadie took a trip together not long ago, didn't you? A. Yes, sir, we did.

Q. Where did you and Sadie go to?

A. My sister's at Kansas City.

Q. What did you go down there for?

A. I most always go to see my sister..

Q. What did you take Sadie for?

A. I didn't take Sadie and she didn't take me. I paid my way and she paid hers, I went one way and she went another.

Q. How come you to go with Sadie?

A. Sadie was going down the day I went down.

Q. You and Sadie had a talk before, hadn't you?

A. No, not very much. She came to my house one time looking for a little boy called Tommy.

Q. What did she say, Eliza, when she came there?

A. Well, she said, she was looking for a little boy by the name of Tommy Atkinson, and she asked my sister if she could go out to Father Shorty's with her, and she said she would be back and go *and go*, but Sadie didn't come back and go, and the next time after that she came back and said there wasn't no Tommy Atkinson, it was only a put up job.

Q. And she told you that she was satisfied Tommy Atkins was a myth, didn't she, didn't exist at all?

A. That is what she said.

Q. You agreed with her?

A. No, sir, I didn't agree with her, I never seen him or heard tell of him.

Q. What did you say about that?

A. I didn't say anything.

Q. Now, what did Sadie tell you she wanted you to swear in this case, Eliza?

A. Sadie never has said, until today, that she wanted me to swear anything, never has until today, said that she wanted me to swear anything.

Q. What did she tell you today, now?

A. Didn't tell me anything. I haven't seen Sadie since I—— I believe one day last week she was at my house looking for somebody and I don't know, and she went on.

Q. What did she say when she came to your house one day last week? A. She was looking for some woman.

Q. What woman?

A. Let's see if I can tell—— Let's see if I can think of her name. Well, I can't think of her name now. Her name was Matt—I can't think of it now.

Q. Eliza, what did she say she wanted with this woman?

A. She didn't say nor I didn't ask her.

Q. You talked about this case, didn't you?

A. No. No, she didn't say a word about the case, she asked me if I knew where Matt—— Well, I can't think of the name now.

Q. Tell me that name now? A. I can't think of it.

Q. You knew her didn't you, knew the woman that she wanted, didn't you?

A. No, I am not acquainted with the woman at all.

Q. Was the woman's name Matt Burns?

A. No, and I don't know where she lives, and my brother showed her where she lives. She met my brother on the street and asked him and he showed her.

Q. How came her to come to your house?

A. Well, I can't tell you.

Q. How long did she stay there?

A. Not very long, long enough to speak and ask if I knew where this woman live-, and I told her I didn't know, but I heard she lived in North Leavenworth.

Q. How did you know that of the woman if——

A. I can't think of the woman's name now, my brother knows her. Mr. Bell knows what her name is.

Q. Mr. Bell may know it, but he can't tell it.

A. Well, I know.

Q. You tell me just what that woman's name was?

A. Well, I can't tell it, but I will ask my brother, he is out there in the hall.

Q. When you and Sadie went off together, where did you go?

A. To Kansas City to my sister's. I went to my sister's, I don't know where Sadie went.

Q. Did Sadie go to your sister's with you?

A. Yes, she went.

Q. How long did she stay?

A. Didn't stay at all, went there and spoke to Julia and walked off.

Q. What did she say to Julia?

A. Asked her how she was and how she was getting along.

Q. And what else did she say, Eliza? A. Not a thing.

Q. Not a thing else? A. No.

Q. Didn't she ask her what she knew about this case?

A. No.

Q. How long did Sadie stay at your house?

A. My house, she didn't stay there very long at all. No longer than just to walk on out.

Q. How long did she stay at your sister's house?

A. She didn't stay there long at all, didn't even sit down.

Q. Where did she go when she left your sister's house?

A. I can't tell you because I didn't go with her.

Q. She told you when you all went off together, what she was trying to do? A. No, sir, she didn't.

Q. Told you that she was hunting evidence in this case, didn't she? A. No, sir, she didn't.

Q. Who else did you see down there besides Sadie? Now, let's have all the persons that you saw while you were down there, when you went on that trip. A. I can't remember.

Q. Well, try to remember; tell me the names of the people that you saw when you went down there with Sadie.

A. Why, I didn't go with Sadie, I paid my——

Q. Well, we assume that Sadie went with you.

A. No, Sadie didn't go with me.

Q. Just tell us, now, who it was that you saw down there?

A. I can't remember who I did see.

Q. Don't you remember anybody at all?

A. No, I can't; I can't remember. It might come to me later on.

Q. Try to put your head on it, now.

A. Well, I don't know; I can't tell you.

Q. Was any white man there?

A. I don't know; I can't say.

Q. Well, now tell us. You were there.

A. I don't remember.

Q. Well, think it over.

A. It has been so long. I don't keep so very much on my mind; I can't tell.

Q. How long ago has that been?

A. It has been—I don't remember; one year, I guess, since I have been to Kansas City.

Q. You told us, just now, things that occurred thirty years ago, didn't you?

A. Oh, yes, but I wasn't thinking about Kansas City.

Q. You wasn't? A. No.

Q. Well, tell us what occurred in Kansas City a year ago.

A. I can't tell you; I don't know.

Q. Can you tell us some people that you saw down there; just a few of them?

A. Well, I saw lots of my friends that I met on the street.

Q. Name some of them.

A. I met Mrs. Green down there; and I met Mrs. Nash, and I met several other women; and I went over to the Catholic institution and seen Dr. Gray, and then——

Q. Who did you see at your sister's place down there? Give me the names of the people that you saw.

A. I can't remember.

Q. Well, do the best that you can.

A. I can't remember, now, to save me.

Q. You can't remember a soul that you saw at Julia's a year ago?

A. Let me see, I can't remember. I can't remember of anybody I seen there a year ago. It might come to me later on, but I don't remember now.

Q. You can't recollect anybody now?

A. Not as I can think; I can't think.

Q. You think you can remember by morning?

A. I don't know; of course after a person studies anything over, it might come to them. I wasn't thinking about meeting anybody down there to keep it in my mind.

Q. Who have you talked with about this case? A. Here?

Q. Yes. A. Not anybody that I know of.

Q. Who have you talked with about this case?

A. Well, I have talked with Mr. Long, and that gentleman there, when he came to see me.

Q. Judge Allen?

A. Yes, sir; and Mr. Cook, at my house.

Q. At your house when? A. Quite a while ago.

Q. When you and Sadie went off on the same car and went to your sister's house, what did Sadie say she was going to do? A. Didn't tell me what she was going to do.

Q. Did Sadie tell you that she was a Government officer? A. Sadie?

Q. Yes.

A. No, indeed she didn't—didn't tell me she was a Government officer.

Q. She didn't? A. No indeed, she didn't.

Q. Did she tell you that she was working for the Government in this case? A. She didn't tell me.

Q. Who did she tell?

A. I don't know; she was talking to my other sister before she was talking to me.

Q. I know. What did she say to your other sister?

A. I never heard Sadie say anything to her; she told me what Sadie had said to her.

Q. What did she say Sadie said?

A. She said Sadie said there wasn't no Tommy, but she was going to try to make a Tommy. It was a put-up job, but Sadie didn't tell me that.

Q. Your sister told Sadie that she would help to make a Tommy?

A. No indeed, she didn't even go as far as Shorty's to see.

Q. You told them you would help them?

A. Oh, no, I didn't know Tommy; I hadn't seen Tommy. Sadie said if there wasn't a Tommy, she would try to make a Tommy. That is what she told my sister.

Q. You mean to say, there wasn't never a girl in this town named Indian Minnie?

A. I don't mean to say that there never wasn't a girl in this town named Indian Minnie, but I didn't know her.

Q. You *neam* to say that you never saw a girl at Granny Letcher's by the name of Indian Minnie?

A. I don't mean to say that I never saw a girl there, but I never knowed her.

Q. When were you there?

A. Well, I was there before the mill burned down; I was there after it burned down.

Q. You were down there a short time before the mill burned, didn't you? A. Short time?

Q. Yes.

A. I was there every day before the mill burned down.

Q. How many years were you there before the mill burned down, Eliza?

A. Might have been four or five years, I don't know.

Q. Was it three?

A. No, it might have been between four and five.

Q. Two years?

A. It might have been between four and five.

Q. How long do you say you were there before that mill burned down?

A. Well, I say it might have been between four and five.

Q. What is your best judgment about it?

A. Between four and five years.

Q. You know when the mill burned down?

A. I don't remember the day, or the night.

Q. What year do you think it was?

A. I can't tell you what year it was.

Q. Do you have any idea what year it is?

A. No, sir, I don't.

Q. Well, you are now measuring your dates by the time the mill burned down, aren't you?

A. I am measuring some part of it, and some parts, I ain't.

Q. Well, you are making reference to when the mill burned down, aren't you?

A. Well, I said when the bill burned down. I had been to Granny Letcher's after it burned down and before it burned down.

Q. How long before the mill burned down as near as you can get it?

A. Well, I don't know: as far as I can make out, it must have been four or five years before the mill burned, I don't know.

Q. Were you at Granny Letcher's in 1882?

A. I can't tell you; I don't remember dates at all.

Q. Eliza, were you there in 1882?

A. I don't remember dates at all; won't say yes or no, because I might tell a story.

Q. Were you there in 1883? A. I don't know.

Q. Were you there in 1884?

A. I don't know; I wouldn't name any date.

Q. There in 1885? A. I wouldn't name any date.

Q. '86? A. I can't name no date.

Q. Did you ever hear of a child called Robert Lee Peterkin here? A. No, sir.

Q. Never did? A. Never did.

Q. There was no such child as that ever born here, was there? A. I don't know; if there was, I never did see it.

Q. Did you ever hear of a man here named Peterkin?

A. No, sir, I never did; there might have been and I didn't know it.

Q. You never heard of a soldier here named Peterkin?

A. Never heard of it—never seen it.

Q. You never heard of the girl that had a baby down here, at the Woods' house, did you? A. No, sir.

Q. Named Indian Minnie?

A. No, sir, never but one baby in the house—a small child.

Q. Where was that?

A. That was Etta Loar at Granny Letcher's.

Q. You never heard of Robert Lee Peterkin, did you?

A. No, sir.

Q. He didn't exist, did he?

A. If he did, I didn't know anything about it.

Q. You never heard of that child? Never saw a girl here by the name of Indian Minnie?

A. I never seen her. I wouldn't say she wasn't here, but I didn't see her; she never was at Granny Letcher's in my days.

Q. Eliza, isn't it a fact, that long after this happened, you were there in about '89?

A. I ain't going to say because I can't keep track of the month.

Q. You are not going to say positively when you went there?

A. No, sir, I ain't going to fix any date. I don't know nothing about the year nor the day; know when I was there as near as I can, and that is all.

Q. And you ain't going to say here before the Examiner, what year it was? A. I was at Granny Letcher's?

Q. Yes.

A. No; God a-mighty. I moved to Granny Letcher's the night the mill burned down.

Q. That is the year you moved there? A. Yes, sir.

Q. If the mill burned down in 1884, you were at Granny Letcher's in 1884?

A. If that is the time the mill burned down, that is the time I was at Granny Letcher's.

Q. If the mill burned down in 1890?

A. That is the time that I was at Granny Letcher's; that is all.

Recross Examination by Mr. Hanford.

Q. No, Eliza, where did Granny live?

A. Well, as I say, the first time I knew Granny Letcher, she lived on Shawnee street, down by the McNaty barn.

Q. Where did she live after that?

A. After that, she lived on Seneca street?

Q. Seneca street?

A. Yes, sir; right across from Geo. Crilly's house.

Q. Right across from George Crilly's house?

A. Yes, sir; George Crilly's house she was living in.

Q. And she lived there all the time you knew her?

A. All the time that I knew her from the time she left Shawnee street.

Q. How often did you go to her house?

A. Well, I would tell you; worked ever day—worked for twelve years at John Giacomini's, on Shawnee street, and I used to go to Granny Letcher's every morning and every evening when I was through with my work.

Q. You used to go there every morning and every evenin? A. Yes, sir.

Q. What did you go there for?

A. To see this little girl. Now, this woman had this little girl there; this baby was born in our house, and I used to go there some when she couldn't get off, and carry milk to this baby.

Q. You used to go there to see the baby?

A. Yes, sir; carry milk back and forth. This baby was born in our house and this baby's mother lived with us, and she worked at Giacomini's.

Q. What was her name? A. Mary Loar.

Q. What was the baby's name? A. Etta Loar.

Q. And you used to take milk?

A. Yes, used to take milk there in the morning before breakfast, and in the evening.

Q. That is the first time you——

A. No, that is not the first time; when Granny was on Shawnee street and I went there—I had a lady friend rooming there. She had a rooming house, and this lady was rooming there. That was Martha Clark.

Q. Martha Clark? A. Yes, sir.

Q. That was when she lived on Shawnee street?

A. Yes, sir. That Mattie roomed with her. That was the first time I ever was in Granny Letcher's.

Q. And when you went to see Mattie Clark, you kept on going there every day? A. Yes.

Q. From then on? A. Yes.

Q. After Mattie Clark stopped living there, what did you go there for?

A. After Mattie Clark quit living there, Granny had moved to Seneca street and she had taken my friend's baby—the baby that was born at our house—had taken that baby to take care of it, and she had a girl living with her they called Nettie, and Nettie took the baby first—came after the baby and——

Q. Just a minute. You understand me, when Mattie Clark stopped living with Granny Letcher—— A. Yes, sir.

Q. And in between that time and when Etta was there, what did you go to Granny's for?

A. To see Etta; she stayed there from a year old, until she was three.

Q. That was the only thing that took you there?

A. Yes, sir.

Q. You went first to see Mattie? A. Yes, sir.

Q. And did you go every day?

A. Sometimes I would; sometimes I wouldn't. Didn't go there so regular when Etta was there.

Q. And you went to see Mattie Clark? A. Yes, sir.

Q. And then Etta came there?

A. Not at that house, you remember; she didn't take Etta——

Q. No, but right after Mattie Clark left, Granny Letcher moved?

A. Not right at that time exactly; maybe a little between the time, I guess; a month—something like that.

Q. Just a short time?

A. Just a short time; I don't remember just exactly what but short.

Q. After Mattie moved, you went to the Seneca house on Seneca street to see Etta?

A. Yes, sir; Granny kept a rooming house.

Q. And then you kept going to see Etta? A. Yes, sir.

Q. And after Etta left there——

A. Jim Mayo run a home show for the Grand Army Hall for the old soldiers, and they had the Grand Army Hall. Mr.

Michard, he was a lumber yard man, and they run a home show, and my sister and brother, they were in the home show.

Q. You weren't in the show? A. No, I wasn't in it.

Q. Then you lived at Granny Letcher's—how long did you live there?

A. It must have been a month, or over, after we moved there.

Q. A month or more? A. Yes.

Q. So those are the things that took you to Granny Letcher's house? A. Yes, sir.

Q. First, to see Mattie Clark, on Shawnee street?

A. On Shawnee.

Q. And then to see Etta on Seneca?

A. Yes, sir. And then my sisters and brothers was in old man Manning and Mr. Mickart's show that we had the Grand Army Hall at that time.

Q. So those were the causes of your going to Granny Letcher's house? A. Yes, sir.

Q. Did you ever go there for anything else?

A. No, I didn't go there for anything else.

Q. That is all? A. Yes, sir.

Q. Now, after Granny Letcher lived on Seneca street, where did she live? A. She died there, I think.

Q. She died there? A. Yes, sir, I think so.

Q. How long after you lived there at Granny's house, did they have this show?

A. Well, they had the show, I think, until Mr. Manning left Leavenworth; Mr. Manning and Mr. Cooper, then went partners and Jim Mayo—I don't know how long that was. They had the show at the Grand Army Hall; Mr. Mickart, and Mr. Manning and Mr. Cooper.

Q. I am not asking you the names of the men who were giving the show, I am asking you how long it was after you stopped going out to Granny's?

A. Well, I stopped living at Granny's quite a while; I don't know how many months, or years, but quite a little while.

Q. Don't you remember whether it was a year or more?

A. Well, I will tell you—her son, then, had begun to get so feeble, he didn't have no more shows, but I don't know how long it was between the time he had the show and the time they quit.

Q. Who was his wife when they had those shows?

A. Well, Georgie Phillips was supposed to be his wife.

Q. Georgie Phillips was his wife at that time?

A. Yes, she was in the show.

Q. Are you sure it wasn't Nettie who was his wife?

A. No, it wasn't Nettie. Nettie was the first one that ever kept this little girl there.

Q. Now, how often did you go to Granny's when they had this show?

A. Well, sometimes I would go there, maybe, two or three times in the week, and maybe oftener, or something.

Q. You weren't in the show? A. No.

Q. What did you go there for?

A. I went there and dressed the smaller children; my brother and my sister—both my sisters were in it, and both my brothers were in it.

Q. You went there and dressed them?

A. Yes, I went up there from the hotel. I worked at the Giacomini's hotel.

Q. Where was the show given?

A. At the Grand Army Hall, down below the Court House.

Q. Did you ever go to the Grand Army Hall?

A. Oh, yes, I went there to the show.

Q. These were the rehearsals that you used to go to?

A. Yes, sir.

Q. Where were the most of the rehearsals given?

A. Some of them at Granny's; they would practice at her house, and then they would practice over at the G. A. R.

Q. How long did they practice for this show?

Q. Well, sometimes they practiced for maybe a week, pretty near every other night, or every other afternoon, or something like that. Sometimes Jim would wait until he got through his work, and go down to practice and sometimes, we would all be up at Granny Letcher's and wait for him to come.

Q. I don't mean how long you would practice at night, but before the show was put on for the public. how long did they have these rehearsals getting ready for it?

A. Well, I can't tell you how long but I suppose I could find out if I tried very hard from Mr. Cooper, at the Soldier's Home. Of course Mr. Mickart is dead; I couldn't find out from him.

Q. What place on Shawnee street. did Granny Letcher live, before she moved to Seneca street?

A. Right across from the Magnet barn.

Q. Do you know what other street? A. No, I don't.

Q. Eliza, you never went to Granny Letcher's to meet any men. or anything like that, did you?

A. Me, men?

Q. Yes? A. I didn't have to go to Granny's to meet men.

Q. Well, I mean did you ever go there to entertain men friends? A. Well, you could if you wanted to.

Q. Well, did you?

A. Sometimes I did, if I had a friend; I had a room there sometimes if I wanted it. Not men, I had a friend.

Q. A friend? A. Yes, but not men.

Q. And just state what you mean by a friend.

A. Well, like all little girls say they have a beau sometimes.

Q. And you would go there to have a room and entertain your friend? A. Yes, sir.

Q. When was that?

A. Oh, that was during the time—you see I got off in the morning after breakfast, and I got off after dinner until supper.

Q. That is the only time?

A. That is the only time when I would go up there to carry milk for the baby.

Q. Well, I mean you wouldn't stay there all night?

A. No, sir.

Q. The only time then, that you lived there, was after the fire?

A. When the fire was, yes, sir; I moved there the night of the fire—that is the only time that I lived there.

Q. And the other times, you went to see Mattie Clark?

A. And carried milk for the baby.

Q. And up to the rehearsals for the show?

A. Yes, sir.

Cross Examination by Mr. Bell.

Q. Now, Eliza, you say you went there the night of the fire? A. Yes, sir.

Q. How long did you live there?

A. I might have been there a month and I might have been there longer.

Q. You say Etta Loar was there at that time?

A. Yes, sir, she was there before that time.

Q. Where was Granny Letcher living?

A. Seneca street.

Q. And you say Etta Loar was there before that time?

A. She was there before that time.

Q. How long had she been there?

A. Can't say; quite a little while.

Q. Well, about how long?

A. Well, I can't say; might have been there, five, or six months—I don't know—been there quite a good while.

Q. Do you want to be positive that she was there two years?

A. She was there, as far as that is concerned, three years.

Q. You are positive she was there at Granny Letcher's three years?

A. She was there from a year old, as far as I can remember—from a year old—until she was three years old.

Q. How old is Etta? A. I don't remember now.

Q. About how old is she?

A. I won't say because I don't know. She has been away so long.

Q. Do you know what year it was she went there?

A. That she went to Granny Letcher's?

Q. Yes. A. No, I don't.

Q. Then if she was there about a year before you moved there—

A. I ain't saying; she might have been there a year before I moved there. I say I don't know how long she had been there before I moved there.

Q. Was she there two years before?

A. I ain't going to say; I don't know.

Q. Was there three?

A. I ain't going to say three; I don't know.

Q. Still living there when the fire was?

A. Yes, sir, she was.

Q. And then you lived there for about a month?

A. I may have lived there a month, and it may have been two months; I don't keep no exact account.

Q. If that fire was in 1890, then it was 1890 that you was living there?

A. I don't say whether that fire was 1890, or when it was. I say I moved to Granny Letcher's the night the fire was—if you know when the fire was, then you know when I moved there.

Q. How long had you been going to Granny Letcher's before that fire?

A. I had been going to Granny Letcher's before that fire for quite a little while; went to Granny Letcher's when she was on Shawnee, and when she was on Seneca.

Q. Did you go there regularly every day when she was on Shawnee street, until she moved to Seneca street?

A. Not every day but very often; all the time.

Q. How often were you there from the time that she moved from Shawnee street to Seneca street?

A. Well, I can't exactly tell you; I might have been there every other day, and might have been twice a week, and might have been there every day.

Q. You know everybody in the house?

A. I did at that time.

Q. Now, was Jim Mayo and his wife living there at that time? A. No, sir, he had no wife.

Q. He had no wife? A. No, sir, not at that time.

Q. When did he marry?

A. I can't tell you when he married; had a woman that they called Big Nettie, and after Nettie left, he had one they called Belle, and after Belle left, he married Georgie.

Q. Do you know when he married Georgie?

A. No, not exactly, I don't.

Q. Now, was Georgie living there at the time of the fire? at Granny Letcher's?

A. At the time of the fire, no, Georgie wasn't. She came there after the fire, I think.

Q. How long after? A. I don't know.

Q. Where was she living at the time of the fire?

A. I don't know; I don't know whether she knowed him or not.

Q. Now, this show you speak of, was that organized before the fire or after?

A. That show was organized before the fire, I think; I think it was before, I am not sure.

Q. Was it organized before the building of the Grand Army Hall, or after? A. Why you know.

Q. I am asking you?

A. Why before the Grand Army Hall was built.

Q. Yes, ma'am? A. The Grand Army Hall was built.

Q. What year was it built?

A. I don't know what year it was built; it was there. They was giving shows in it.

Q. Do you know who built it?

A. No, but I suppose you do; Mr. Mickart had a hand in it.

Q. Do you know who built it?

A. No, I don't know. Mr. Mickart seemed to be the head man.

Q. If that Grand Army Hall was built in the '90's, then, it was '90 that the show was organized, was it?

A. I don't know when the show was organized but the show was organized for the benefit of Mr. Manning's son, Archie.

Q. And Mr. Manning?

A. And Jim and Mr. Mickart, and Cooper organized the show.

Q. Do you know *whether* Etta Loar is at this time?

A. I do.

Q. Where? A. Home.

Q. Where abouts? Where is her home?

A. Lawrence, Kansas.

Q. Where is her mother? A. She is with her.

Q. She is with her? A. Yes.

Q. No, you was over to Lawrence to see Etta Loar?

A. Did you see me there?

Q. I am asking you? Did you go to Lawrence to see Etta Loar? A. Yes, I have been to Lawrence lots of times.

Q. Well, did you go there about a year ago?

A. I don't know whether it was last year or year before last.

Q. Did you go with Sadie James to see her?

A. Nobody can say they seen me in Lawrence with Sadie James.

Q. Did you go with her? Did Sadie James take you to see her?

A. No, Sadie James couldn't take me. If I wanted to go, I could go by myself.

Q. Did you go in company with Sadie James to Lawrence?

A. I went to Lawrence but I didn't go in company with Sadie.

Q. Did you go on the same train?

A. Yes, we went on the same train.

Q. The same morning?

A. I don't know whether it was the same morning or the same evening; Sadie was there.

Q. When Sadie came? A. Yes, sir.

Q. You went away together?

A. No, we went to Kansas City.

Q. Where did Sadie go? A. I don't know.

Q. You both were visiting Etta Loar?

A. Yes, Sadie has knowed her mother quite a while.

Q. And you went there to show her where Etta's mother lived, didn't you?

A. Oh, no; Sadie knows. She has been at Lawrence lots of times.

Q. You had a talk with Etta's mother when you were in Lawrence? A. No, nothing about this.

Q. You had a talk with her?

A. No, not about this business.

Q. You did talk with her?

A. Yes, but not about this business.

Q. You talked about this Thomas Atkins case, didn't you? A. No, sir.

Q. Did you talk with her there, about a picture of Sam Nash and her little girl, Etta Loar, being taken together in this town?

A. I talked to Mr. Long about the picture. Mr. Long said he had the picture, at my house.

Q. Well, we will get to Mr. Long by and by.

A. No, I never said anything to Etta.

Q. Never said anything to Etta? A. To Mary, no.

Q. Now, didn't you tell Mr. Long that that little girl taken with Sam Nash wasn't Tommy Atkins?

A. Mr. Long asked me.

Q. Didn't you tell him that? A. Yes, sir.

Q. Mr. Long asked you if it was Tommy Atkins, didn't he? A. Yes, sir.

Q. And that was one of the causes of your trip to Lawrence, was it not? A. No, sir.

Q. What did you go there for, then?

A. I went to call on Mary, and went to see where my aunt used to have her hotel, the Scott hotel.

Q. The Scott hotel? A. Yes, sir, Arnelde Scott.

Q. Yes. When did you visit before that time?

A. When she first married Mr. King.

Q. About ten years ago?

A. I don't know whether it was ten years or not.

Q. You haven't been there since you went with Sadie?

A. No, I haven't been there since; not since.

Q. Did you ask Etta Loar's mother whether or not that she knew Tommy Atkins? A. No, sir.

Q. At the time her daughter was at Mother Letcher's?

A. No.

Q. Or Granny Letcher's? A. No, sir.

Q. Now, then, Miss Eliza, can you tell us about how old Etta is? A. No, I can't; I don't really know.

Q. Do you know at this time that Etta is in the jail serving a year's sentence at Lawrence? A. No, sir.

Q. You didn't know that?

A. No, sir, I never correspond with them.

Q. You never correspond with them?

A. Not very much.

Q. They were never no very particular friends of yours?

A. Yes, once in a while her mother lived at our house, and that baby was borned at our house, but after she went away, I never kept track of either of them.

Q. How many times did you visit her in Lawrence?

A. A couple of times.

Q. How long has she been in Lawrence?

A. I don't know; quite a while.

Q. When she had taken it away from Mrs. Letcher, she went to Lawrence, did you? A. No, sir.

Q. She didn't? A. No, sir.

Q. Now, if about 24 years old, it was about 21 years old when she left Mrs. Letcher? A. I can't tell you.

Q. If she is about 24 years old, she spent about three years of that life at Mrs. Letcher's, didn't she?

A. Yes, sir, I guess so.

Recross Examination by Mr. Hanford.

Q. When you went to Lawrence, you took the train at Kansas City, did you? A. Yes, sir.

Q. You don't remember whether it was the morning or the evening?

A. Let me see; I think it was in the evening—in the morning; I believe it was in the morning.

Q. In the morning? A. Yes, sir.

Q. And you stayed at your sister's all night?

A. Yes, sir.

Q. And Sadie stayed at the house with you all night?

A. No, Sadie stayed down to Will Pelton's.

Q. Will Pelton's? A. Yes, sir.

Q. Then you didn't meet her until she came to the train?

A. The next morning I seen Sadie at my sister's.

Q. She came by there on the way to the train?

A. Yes, sir.

Q. She came in a taxi-cab?

A. I don't know how she came; she didn't come there in no taxi-cab.

Q. Well, how did you get to the train?

A. Why, I walked to the train. I didn't know how Sadie got there.

Q. But she was there—you know that?

A. Yes, Sadie was there.

Q. And how long after she was there, did the train leave? A. After Sadie was at the depot?

Q. No, at the house? A. Oh, I don't know.

Q. Did Sadie give you your ticket at the house or at the depot?

A. No, Sadie didn't give me no ticket; I had my own money.

Q. You had your own money? A. Yes.

Q. You paid your own way?

A. Yes, I had my own money; I wasn't waiting for nobody to pay my way any place.

Q. You paid your own way to Kansas City?

A. Oh, yes, I got my ticket; right here, myself.

Q. And stayed all night at your sister's? A. Yes.

Q. And the next morning, you paid your own way to Lawrence? A. Yes, sir.

Q. And how long did you stay at Lawrence?

A. All day.

Q. All day, and you left that night?

A. Left that—yes, late in the afternoon, I guess it was.

Q. Late in the afternoon?

A. I guess along about three o'clock—something like that.

Q. And then you went to Kansas City? A. Yes.

Q. And Sadie paid her own way? A. Yes.

Q. And when you went to Kansas City, you just happened to go on the same car? A. I was at my sister's.

Q. I say, when you went over here to your sister's, you just happened to go over on the same car? A. Yes, sir.

Q. And when you went to Lawrence, you just happened to go on the same train? A. On the same train.

Q. And where did Sadie go from your sister's in Lawrence? A. Well, to Will Pelton's.

Q. When you got to Lawrence——

A. She went to a woman's house they call Zora Young.

Q. When you left Lawrence, where did Sadie go?

A. When I left Lawrence?

Q. Yes.

A. When I left Lawrence, why, Sadie came on to Kansas City.

Q. She came back on the same train?

A. Yes, same train.

Q. And then, how long did you stay in Kansas City?

A. I stayed in Kansas City, Sunday, Monday—I think I came home Tuesday.

Q. You stayed there two or three days?

A. I stayed at my sister's yes.

Q. Two or three days? A. Yes, sir.

Q. And then you came to Leavenworth?

A. Came back to Leavenworth.

Q. Do you know how much you paid for your ticket to Lawrence, from Kansas City? A. My ticket?

Q. Yes?

A. I don't know exactly how much my ticket cost. I had my ticket from here; I had my ticket from here to Lawrence.

Q. From here to Lawrence? A. Yes.

Q. Oh, it was a round-trip ticket?

A. A round-trip ticket.

Q. Then, when you went down to Kansas City, you went down on the train? A. Went to Kansas City?

Q. Yes? A. No, sir, I went on the Electric car.

Q. And how did you go to Lawrence—went on the cars, there to Lawrence.

Q. On the train?

A. On the train over to Lawrence, from Kansas City.

Q. Then you had two round-trip tickets?

A. Oh, no, I never had but one ticket. I had a ticket one way from here to Kansas City, and then, me and my sister went from Kansas City to her house and got the ticket in Kansas City over at the depot, there, for Lawrence.

Q. I thought you said you had a round-trip ticket from here to Lawrence?

A. No, I mean I got my ticket over here at the Electric office for Kansas City; good for five days, and then I got a ticket for Lawrence in Kansas City.

Q. Then you did have two round-trip tickets?

A. Well——

Q. One on the electric and one on the train?

A. Yes, sir. Now, my sister, when we got in Kansas City, and got the tickets in Kansas City, she got the tickets—she got the ticket for Lawrence.

Q. So, she got your ticket, and her ticket?

A. My sister didn't go.

Q. She didn't go; just you and Sadie?

A. Sadie, went all her own self.

Recross Examination by Mr. Bell.

Q. Who is Martha Clark?

A. I don't know; that is all I know.

Q. Where did she live?

A. Well, I can't tell you where she lived.

Q. I believe you said that she had two children at Granny Letcher's? A. Yes.

Q. What year did she have the two children there?

A. I don't know what year it was; that was when Granny Letcher lived on Shawnee street, when she had the two children there—Mabel and Sammie.

Q. Where are the children now?

A. Mabel is living; she is married to McElroy, and the other little girl is dead.

Q. You want to say that she lived at Mother Letcher's—Granny Letcher's—with those two children about the same time that Etta was there?

A. No, I don't. I said that she had two children—lived on Shawnee street with her two children—and then she moved away from there and then Granny Letcher moved on Seneca street, and that is when Granny had Etta—when she moved on Seneca street.

Q. Well, did Granny Letcher ever take Martha's children?

A. No, Martha kept her own children, as far as I know.

Q. She was living there next door to Granny Letcher, on Shawnee street?

A. No, she wasn't living next door; she had a room rented from Granny Letcher.

Q. On Shawnee street? A. Yes, sir.

Q. Where was Etta born at? A. In my house.

Q. Where at? A. South Leavenworth.

Q. What street? A. On Fifth Avenue.

Q. What year? A. I can't tell you.

Q. Now. I want to get it straight, Eliza. You say Etta was born before Mattie's children were born here on Shawnee street? A. Before they was born on Shawnee street.

Q. Before Mattie's children were born on Shawnee street yes?

A. No, Martha had her children on Shawnee street before Etta ever went to Granny Letcher's.

Q. Before Etta ever went to Granny Letcher's?

A. Yes, sir, she had two little girls on Shawnee street.

Q. You don't know what year that was?

A. No, sir, I don't.

Q. How long after Mattie's were born on Shawnee street, before Granny Letcher moved to Seneca?

A. Well, listen Mr. Bell; Mattie's children wasn't born on Shawnee street.

Q. Wasn't they? A. No, sir.

Q. Where were they born? A. I can't tell you.

Q. But they lived on Shawnee street when Mrs. Letcher lived there? A. Martha had a room at Granny's.

Q. On Shawnee street? A. Yes, sir.

Q. And her children were born there?

A. No. sir, wasn't born there.

Q. When she had a room there, did she have any children? A. She had two.

Q. How old were they?

A. I don't know; neither one of them wasn't walking.

Q. And you are positive that she had these two children in part of Granny Letcher's house on Shawnee street before Granny Letcher moved to Seneca Street? A. Yes, sir.

Q. Sure of it? A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. Do you mean that they [] born there?

A. No, sir; wasn't born there.

Q. What do you mean by had them there?

A. She lived there—had them there, but they wasn't born there.

Q. You say Etta Loar was born in your house?

A. Yes, sir, in our house.

Q. Then how old was she when she was taken over to Granny Letcher's?

A. Well, she was about a year old.

Q. How long before that was it that you had known Granny Letcher?

A. I had known Granny Letcher then, I guess, for four or five years.

Q. Now what about that girl's picture that Long brought to your house?

A. Mr. Long brought a picture there and he sat down and talked and he asked me a few questions and he said that he was here representing the government and he wanted to find out if there was a Tommy Atkins. Somebody had sent him there to see me and he said he had a little picture—he did not show the picture, but he described the picture and said it was the child born at Granny Letcher's house and it was Indian Minnie's child.

Q. Whose picture was that?

A. Well, if it was the picture like he said it was Etta's picture—Etta Lore, because Sam had Etta's picture taken with him.

Q. What did he say about the dress, if anything, on the child? Did he say that this child had a dress on?

A. Yes, said it had a dress on and its hair was parted on each side and roached back like a little boy.

Q. Is that the Mr. Long that is in the room now that you are speaking of—that is in the back end of the room?

A. I believe it is. I cannot hardly tell them apart. He had on a green hat with a black band around it at that time. I don't know, as I did not take a very good look at him.

Recross Examination by Mr. Bell.

Q. What month was it that you went to Lawrence in 1915? A. I don't know.

Q. Don't know what month it was? A. No, sir.

Q. Nor what day it was?

A. No, sir. Never set no time.

Q. You went from here up to Kansas City and then down to Lawrence on the U. P. or Santa Fe?

A. Well, I don't know the train. We left Kansas City and went to Lawrence. I can't tell you which one.

Q. You went from here with Sadie to Kansas City?

A. Went on the same car Sadie did.

Q. Sadie stayed out at Delton's? A. Yes, sir.

Q. She stayed with your sister?

A. Yes, sir, at my sister's.

Q. You went from Kansas City to Lawrence on the same train with Sadie?

A. Said *said* she was going there.

Q. I said you went on the same train? A. Yes, sir.

Recross Examination by Mr. Hanford.

Q. You remember whether it was the summer time you went there? A. No, sir, I don't think it was.

Q. Was it in the winter?

A. It was kinder cold, just about such weather as this now, I guess.

Q. Along in the fall?

A. It seems like to me it was. I won't be sure, but I think there was snow on the ground.

Q. Was there snow on the ground? A. I think so.

Q. Then it was in the winter?

A. I am not sure, but I think it was. I think there was snow on the ground.

Q. Was it after fourth of July?

A. O, yes, it was after the fourth of July.

Q. After the fourth of July?

A. Yes, there ain't no snow on the ground after the fourth of July at Leavenworth.

Q. Are you sure there was snow on the ground?

A. Snow on the ground? Yes, sir.

Q. The fields were covered with snow?

A. Well, I didn't see very many fields, I wasn't looking out.

Q. You went on the train, didn't you? A. Yes, sir.

Q. And outside the train window there was snow on the ground?

A. O, outside the train window there was snow on the ground.

Q. You saw the white snow from the train window?

A. There was snow on the ground.

Q. And when you got off at Lawrence there was snow on the ground? A. Yes, sir, there was snow on the ground.

Q. Was it before or after Christmas? A. Let me see.

Mr. Allen: We object to these questions because it is improper re-cross examination.

A. I am not sure.

Q. Now, that was sometime ago that you went up to Lawrence? A. Yes, sir.

Q. Last year I believe you said?

A. Yes, sir, I think it was last year.

Q. About the middle of last year?

A. I guess about that time, I am not sure. I don't like to say anything that I am not sure about.

Q. Well it was more than two months ago?

A. Yes, sir, more than two months ago.

Q. More than three months ago? A. Yes, sir.

Q. Wasn't it six months ago?

A. It might have been. Might have been as long and might have been longer, I can't tell.

Q. Did you keep track of the months?

A. Well, sometimes I do and sometimes I don't.

Q. To refresh your memory, wasn't it the month of September that you went up there?

A. Well, if I was going to tell you the truth, I don't know whether it was September or not. I never kept no account of month.

Q. About August or September?

A. No, it wasn't August, because there was snow on the ground. I can remember that there was snow on the ground but don't know what month it was, but it was along about six months ago.

Q. You are sure of that?

A. I am not very sure, but it might have been that long and maybe longer.

Q. You say you paid for your ticket? Where did you get the money? A. My money?

Q. Yes?

Mr. Allen: We object to that as having been several times asked and answered and is repetition.

Q. Who gave you the money? A. Why my husband.

Q. Your husband gave you the money? A. Yes, sir.

Q. What does your husband do.

A. He don't do anything. He is a retired sergeant.

Q. Does he have a pension?

A. No, he don't get no pension, he gets his every month.

Q. How much does he get?

A. I think it is fifty-nine and now it is twenty-nine dollars raise, or something along there.

Recross Examination by Mr. Allen.

Q. You say you use to have a friend at Granny Letcher's

A. Yes, sir, sometimes.

Q. Was that before or after Etta was born?

A. That was before and after too.

Witness dismissed.

Mr. German: We offer the deposition of Alice Paire, taken before Mr. Penick, appearing in his transcript, beginning at page 2041.

And thereupon, ALICE PAIRE, being called on behalf of the United States sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. Your name is Alice Paire? A. Yes, sir.
Q. What age are you? A. Thirty nine.
Q. What year were you born?
A. Well, I don't know exactly.
Q. You know you are thirty nine though? A. Yes, sir.
Q. When is your birth day?
A. The 3rd of April I will be forty.
Q. The 3rd of this coming April you will be forty?
A. Yes, sir.
Q. The third of this coming April you will be forty?
A. Yes, sir.
Q. Where do you live? A. Leavenworth.
Q. What is your street address? A. 908 Fifth Avenue.
Q. How long have you lived here?
A. I was born here, all my life.
Q. Did you know Mollie Letcher? A. Yes, sir.
Q. Was she known as Granny Letcher? A. Yes, sir.
Q. Did you ever live at her house any? A. Yes, sir.
Q. When was it?
A. Well, the night that Kelly's and Lyle's mill burned down my mother moved there and we lived there about two months and I used to go there long before that, she kept a little girl.
Q. You say that your mother when the Kelly and Lyle mill burned—— A. Yes, sir, the night it burned.
Q. The night it burned? A. Yes, sir.
Q. Were you living with your mother at that time?
A. Yes, sir.
Q. Where had your mother been living before the Kelly and Lyle mill burned?
A. On Archer street and she moved from there on Choctaw street right next to Kelly & Lyle's mill, she was working for the Delmonico.
Q. So, just before your mother took you to Granny Letcher's you lived right next to the Kelly & Lyle mill?
A. Yes, sir.
Q. What happened to your mother's house or the house

that your mother was living in when the Kelly & Lyle mill burned?

A. Well, when the mill caught on fire, it was next to the house and we moved out of there, afraid the house would catch on fire, it was by the side of Kelly & Lyle's mill.

Q. Did the house catch a fire?

A. No, sir, but every one was moving out.

Q. You moved out of there though? A. Yes, sir.

Q. That same night? A. Yes, sir.

Q. It was at night was it? A. Yes, sir.

Q. Do you remember what year that was?

A. No, sir, I don't.

Q. Was there any other members of your family?

A. Yes, sir.

Q. Who else?

A. Julia Todd, that is my sister, and Lucian Scott and Eliza Le Vallie.

Q. Was Eliza LeVallie your sister? A. Yes, sir.

Q. What was her name then? A. Eliza Scott.

Q. What was your name then? A. Julia Scott.

Q. What was your mother's name? A. Jane Scott.

Q. You say that prior to the time when the Kelly & Lyle mill burned that you had been to Granny Letcher's?

A. Yes, sir, I had been there before then.

Q. What did you go there for?

A. She was keeping a little girl named Etta Lower, her name was Mary Lower, and Granny was keeping this little girl. At the first in the beginning why there was a lady there by the name of Nettie.

Q. Lady where?

A. At Granny Letcher's, and she kept this little girl and she left and after she left Granny still kept the little girl; the little girl wasn't quite a year old.

Q. Where was Granny living at that time?

A. Living on Seneca Street.

Q. Do you remember the street number?

A. No, sir, I don't.

Q. Between what streets? A. Between Seneca and Main.

Q. Well, I am speaking of between what two streets so far as numbers are concerned, where was it with reference to—— A. Third and Seneca.

Q. Where was it with reference to Crilly's barn?

A. Right across the street.

Q. In front of Crilly's barn?

A. Yes, sir, Crilly's barn was right on the side there, I don't remember, but I know Crilly lived across from there now, but it was right close.

Q. Well, Crilly's barn was between Second and Third?
A. Yes, sir.

Q. And Granny was on Seneca? A. Yes, sir.

Q. On Seneca between second and third? A. Yes, sir.

Q. Now, on which side of the street did Granny live, on the north side of the street or on the south side?

A. On this side, the south side.

Q. The south side? A. Yes, sir.

Q. Whose baby was that you referred to a while ago?
A. Mary Lower's. The baby was born at our house.

Q. Was it a girl or boy? A. It was a little girl.

Q. What age was that child about when Granny took charge of it? A. Well, it wasn't a year old.

Q. How long had Granny had that baby before the Kelly & Lyle mill burned?

A. Well, she had her a good while, but I don't remember whether it was—— It must have been about a year that she had had the baby.

Q. About a year? A. Yes, sir.

Q. How long did Granny keep that child after the Kelly-Lyle mill burned?

A. Well, she kept her until she was three years old.

Q. Did you visit Granny's any after your mother took you away from there? A. Yes, sir.

Q. How long did you continue to visit there?
A. I used to go there after we moved away. I used to go and see the little girl and then after the little girl was taken away. I was there with Jim Mayo and Georgie, that was his wife that run—they run a show there. They run a show there and I used to go there.

Q. With Jim Mayo and his wife? A. Yes, sir.

Q. You say you were in a show? A. Yes, sir.

Q. What kind of a show?

A. Mr. Manning—H. G. Manning, he was the head of the show then. Uncle Tom's Cabin, Platte City, they got up a show.

Q. Where was the performance?
A. Platte City. Conganway and Sullivan were in it, I don't know whether he is dead or not.

Q. He was in that show?
A. Yes, sir, and Sullivan too, she is a white girl.

Q. Now, during all the time that you have mentioned, that you have visited Granny Letcher's house, and that you lived in her house, did you ever know of a boy there by the name of Tommy? A. No, sir.

Q. Or Indian Tommy? A. No, sir, never seen him.
Q. Or Tommy Atkins? A. No, sir.

Q. Did you ever know of a woman who was there by the name of Minnie? A. No, sir.

Q. Or Indian Minnie? A. No, sir.

Q. Or Minnie Atkins? A. No, sir.

Cross Examination by Mr. Stuart.

Q. When did you first see Sadie James?

A. Well, Sadie was at my house about last year.

Q. Last year? A. Yes, sir.

Q. Well, did she talk to you about this case?

A. Yes, sir, she did.

Q. What did she tell you that she wanted you to swear in this case?

A. Well, the first time she said she wanted me to go out to Father Shorty's with her and see if there was a boy by the name of Tommy Atkins there; and the next time she came back here she said there wasn't such a thing as that, the next time she came back to my house.

Q. She advised you that there wasn't any such thing as Tommy?

A. Well, she said there wasn't any one there by the name of Tommy.

Q. And you believed it?

A. No, I knew Father Shorty didn't have such a child as Tommy Atkins.

Q. She told you that there wasn't any such child?

A. When she came back she said she had made it up.

Q. Was anything—that there wasn't any such thing as a Tommy? A. Yes, sir.

Q. Your testimony now is based on that proposition now, isn't it? A. No, sir.

Q. You mean to say there never was a girl in this town by the name of Indian Minnie?

A. No, not to my knowing, I never seen any one at Granny Letcher's, I was there between thirteen and fourteen——

Q. You are going to swear before God and man——

A. Yes, sir.

Q. That there wasn't any such girl as Indian Minnie?

A. Yes, sir, that there wasn't any at Granny Letcher's to my knowing.

Q. You never heard of it, did you? A. No, sir.

Q. You never heard of it when you were a child?

A. No, sir.

Q. How old were you when you were around Granny Letcher's? A. Between thirteen and fourteen years old.

Q. What year was that? A. I don't know.

Q. Well, now, let's figure it out. When were you born?

A. I was born—— I will be forty the 3rd day of April.

Q. Forty? A. Yes, sir.

Q. Well, what year would that make you born, do you know? A. Yes, sir.

Q. Well, what year would that make you born, when were you born, let's get at the date? A. In seventy-six.

Q. Seventy-six? A. Seventy-six.

Q. In seventy-six?

A. Because I was between thirteen and fourteen.

Q. Do you know when that mill was burned?

A. No, I don't, I don't know the year it was burned.

Q. Now, listen, wasn't that mill burned in 1889? Now, think it over, wasn't it burned in 1889?

A. Well, I don't know because I didn't keep track of when it was burned.

Q. You tried to establish your dates with reference to that mill?

A. I don't know, I would be afraid to say, I would be telling a story, I don't know.

Q. Are you afraid you will tell a story in this case?

A. Well, I don't know, I don't know the year when it was.

Q. Are you afraid that you can't tell the truth?

A. No, I ain't scared to tell the truth, but I don't know the year.

Q. Let's figure on it. Are you married? A. Yes, sir.

Q. How long have you been married?

A. I have been married four years the second time.

Q. You were married before that, weren't you?

A. Yes, sir, I was.

Q. What is the date of your first marriage?

A. I don't know.

Q. Well, the best you can, give me the best idea you can about it, can you give me any idea about when you were married the first time?

A. I know I was nineteen years old when I was first married, you can count it up and see.

Q. What year was it? A. I don't know what year.

Q. Who did you marry?

A. Married Harry Jacobs, he is dead now.

Q. In what year?

A. I don't know what year. You will have to count it up.

Q. Let's try to count it up?

A. Well, you may try to count it up.

Q. What year was it that you married?

A. I know I was nineteen years old.

Q. Nineteen years old when you first married?

A. Yes, sir, to Harry Jacobs.

Q. What year was it, do you know?

A. No, I don't know what year unless I would go home and look in my bible and find out and then I will come back and tell you.

Q. Let's test your memory and see about what time?

A. Well, I don't know what time.

Q. Was it in ninety five that you married?

A. I don't know sir.

Q. Was it in ninety six? A. I don't know.

Q. Was it in ninety seven?

A. I don't know I would have to count it up.

Q. Was it in ninety, figure it out as close as you can?

A. Well, I was nineteen years old when I married.

Q. Nineteen years old when you first married?

A. When I first married. You can figure it out.

Q. You can figure out the dates of the year, can't you that far back, you can remember when you were married? Just think back a minute now and see if you can't remember?

A. I don't know.

Q. What do you say? A. I don't know.

Q. Have you got any idea about it at all?

A. Well, I might have if I could figure it out, but I don't know exactly when it was.

Q. I want you to think now, I don't want you to say anything that wasn't right, go ahead and tell me what year you married the first time as near as you can. Now, let's have it?

A. Well, I don't know, I will look and see when I go home and I will look.

Q. Look where? A. Look in the Bible and tell you.

Q. You got a Bible at home? A. Yes, sir, I got two.

Q. When you go home wont you bring it up here?

A. Yes, sir, I will.

Q. How many children have you got?

A. I have got one.

Q. How old is your child? A. Eighteen.

Q. How old, thirteen? A. Eighteen.

Q. I thought you said thirteen?

A. Oh, no she is eighteen.

Q. Eighteen? A. Yes, sir.

Q. Are you sure that child is eighteen now?

A. Yes, sir, she is eighteen years old.

Q. Now, let's figure back eighteen years ago when you had this first child? A. Eighteen.

Q. Who was the father of that child, your first husband? or was it your second?

A. When I married, the one I married when I was nineteen years old.

Q. Who was the father of that child? A. Harry Jacobs.

Q. Your first husband? A. Yes, sir.

Q. That child is eighteen years old? A. Yes, sir.

Q. Will you please figure back and find out how far eighteen goes back? Let's figure back now and find out how far eighteen goes back. Can you answer it or not?

A. I don't know.

Q. Now, I will tell you what I want you to tell me. When did Sadie James see you the last time?

A. Well, the last time Sadie seen me, it was last year.

Q. Hasn't Sadie James seen you since you come here?

A. No, she hasn't seen me.

Q. Who has she seen?

A. I don't know who she has seen.

Q. You knew Sadie was here, didn't you?

A. I certainly did.

Q. You know Sadie well, don't you?

A. I don't know her well, I know her. Yes, I know her pretty well, she used to go to school here.

Q. Used to go to school here? A. Yes, sir.

Q. When did you meet her the last time?

A. Well, the last time that I met her was last year when she came to my house.

Q. Now, do you mean to say that you haven't seen Sadie since she has been here? A. This last time?

Q. Yes, the last time? A. No, I haven't seen her.

Q. Where is Sadie stopping?

A. I don't know, I live at South Leavenworth.

Q. You knew that Sadie was here?

A. Yes, sir, my sister told me.

Q. You are an old school mate of hers?

A. Yes, sir, we went to school together, but weren't such friends.

Q. You knew she was in the city?

A. Yes, I knew she was in the city.

Q. Do you mean to say that you didn't go to see your old school mate? A. No, she wasn't that dear to me.

Q. Who told you Sadie was here?

A. My sister told me she was here.

Q. Where does your sister live?

A. She lives on Kiowa Street.

Q. How came your sister to tell you that Sadie was here?

A. I didn't ask her about it.

Q. What did your sister say?

A. Just said that Sadie was here.

Q. Just tell me? A. That is what I am telling you.

Q. Did you say that you would like to go to see her?

A. I said I would like to see her.

Q. And you really didn't go to see Sadie?

A. No, sir, I really didn't go to see Sadie.

Q. You mean to say that you haven't said a word to Sadie?

A. I haven't seen Sadie and I haven't said a word to her since——

Q. Since she has been here? A. Since she has been here. If I had there is no use of me telling a story about it.

Q. You were at Granny Letcher's as a child?

A. I was at Granny Letcher's as a child.

Q. Yes?

A. No, I didn't say I was about Granny Letcher's as a child.

Q. Well, when did you go there then? I thought you said you were there as a child?

A. No, I didn't, I said I went there to see the child. I said I went there to see the child that she had there.

Q. What child? A. Lower.

Q. What child was it?

A. Etta Lower, a little girl she was keeping.

Q. Now, you tell me the exact year that you first began to go to Granny Letcher's?

A. Now, I don't exactly know the year, I didn't keep no track of it.

Q. Let's have as good as we can?

A. I went to Granny Letcher's, we moved there the night that the mill burned down and I went there after then.

Q. Now, listen, you are sworn, you went to Granny Letcher's the first time when the mill burned down?

A. No, I went before that mill burned down?

Q. Not long before that? A. Yes.

Q. How long before?

A. I don't know, she had that little girl before the mill burned.

Q. How long before? A. I don't know how long before.

Q. You know when the mill burned down? A. Yes.

Q. When? A. I don't know the year.

Q. Can you tell me the day?

A. No, I don't know the day.

Q. Listen. When you first commenced to go there was when the mill burned down, wasn't it?

A. No, sir, it wasn't, it was before the mill burned that I went to Granny Letcher's.

Q. You don't remember the exact year when the mill burned down did you? A. The exact year?

Q. But the first time you went there was when the baby was there wasn't it?

A. When I first went to Granny Letcher's I went to see the baby.

Q. You went to see the baby? A. Yes, sir.

Q. You are sure the baby was there?

A. Sure the baby was there.

Q. And that baby was named Etta Lower?

A. Yes, sir, the only baby in the house. I went there to see the baby because she was keeping Mary Anthony's little baby, Etta Lower.

Cross Examination by Mr. Hanford.

Q. The time that mill burned down was the only time that you lived at Granny's?

A. Yes, sir, the only time that I ever lived there, I would go there before that.

Q. To see the little baby?

A. To see the little baby, yes, sir.

Q. And you used to go up there when they were putting on that show?

A. Yes, sir, I used to go up there then, after she kept the baby and gave the baby up, I went back.

Q. And you got into that show and you used to go up there and see Jim and Georgiana?

A. Yes, sir, I went there all the while, but they had started the show when she was keeping the baby there, but after the little girl's mother came and got her, Jim Mayo started up the show, him and Mr. Manning, and I used to go back, and Granny Letcher then was kind of sick.

Q. Now, the first time that you went there was when the little girl was there and you used to go and see the baby?

A. Yes, sir, the first time.

Q. And then the mill burned? A. Yes, sir.

Q. And burned your house with it?

A. I think not, the night my mother moved up there.

Q. Then the mill burned? A. Yes, sir.

Q. And burned your house?

A. No, sir, didn't burn our house.

Q. But you had to move out?

A. Yes, sir, had to move out.

Q. And then you went to Granny Letcher's and lived there a couple of months? A. Yes, sir.

Q. And then after you had lived there a couple of months Jim and Georgiana got into this show? A. Yes, sir.

Q. And you were in it with them? A. Yes, sir.

Q. And you used to go up there? A. Yes, sir.

Q. What for, rehearsals or something of that kind?

A. Yes, sir.

Q. That was before the show went to——

A. To Tonganoxy. And then we used to rehearse at the G. A. R. hall.

Q. Where were most of the rehearsals for the show had? At the G. A. R. Hall? A. Yes, sir.

Q. And then after the show had been ended you didn't go up there to Granny Letcher's any more?

A. After the show was ended?

Q. Yes?

A. No, sir, I didn't go up there any more.

Q. You didn't go around there? A. No, sir.

Q. You weren't a person who hung out around there after you lived there? A. No, sir, I never did.

Q. So those times are the times when you used to go there? A. Yes, sir.

Cross Examination by Mr. Bell.

Q. Now, Alice, how old were you when you first went to visit Granny Letcher's?

A. Well, I was between thirteen and fourteen.

Q. Between thirteen and fourteen? A. Yes, sir.

Q. And do you know what the age of Etta Lower is, how old she is?

A. Well, now, I don't know for sure, but I think Etta is between either twenty four or twenty five.

Q. How long did Etta Lower live at Granny Letcher's?

A. Well, Etta stayed there at Granny Letcher's until she was three years old.

Q. How old was she when she went there?

A. She wasn't quite a year old.

Q. Wasn't quite a year old? A. No, sir.

Q. Are you positive she stayed there until she was three years old? A. Yes, sir.

Q. Then where did she go?

A. Then, her mother brought her home to us a while and then taken her to Mrs. Dora Young's.

Q. Where did Mrs. Young live?

A. She lived on Second Avenue then.

Q. Where did she go from Mrs. Young's?

A. Then she taken her to Kansas City.

Q. Do you know where she went from Kansas City?

A. Why, no, she stayed with a woman down there, I don't know the woman's name, and then she left there and went with some white people and stayed there a while, and then her mother taken her home.

Q. And you think she is about twenty four years old?

A. Well, I don't know for sure, but her mother knows her age, but that is as near as I can say.

Q. Well, if her mother would say she is twenty eight, that would be right?

A. No, her mother isn't going to say she is twenty eight, she is not that old.

Q. How long since her mother left here, this town?

A. Well, her mother has been away from here for quite a while.

Q. She went away from here before they were getting up that show, didn't she? A. Her mother did?

Q. Her mother did?

A. Yes, her mother went to Lawrence.

Q. And you say you visited Mother Letcher's or Granny Letcher's sometime before the Lyle's mill burned down?

A. Yes, sir, I did.

Q. Do you know what year that mill burned?

A. No, sir, I don't.

Q. About how many years before that mill burned down did you visit Mother Letcher's?

A. I don't know, I don't remember.

Q. Where was Granny Letcher living? A. On Seneca.

Q. When you first visited her? A. Yes, sir, on Seneca.

Q. Was Jim Mayo married at that time?

A. Well, he was calling himself married.

Q. Well, did he have a wife there? A. Yes, sir.

Q. Georgiana?

A. No, not Georgia. Had one named Nettie he called his wife then; the next was Belle and the next was Georgia, that was his wife, Georgia.

Q. And you lived there during the marriage of all three of these women? A. Yes, sir.

Q. Which one of these women was he married to at the time Etta Lower was at the house? A. Nettie.

Q. And you think it was about twenty four years old?

A. Well, I don't know for sure.

Q. Do you know where Etta is now? A. Yes, sir.

Q. Where is she? A. In Lawrence.

Q. What is she doing in Lawrence?

A. She is with her mother.

Q. You went to Lawrence and visited Etta Lower's mother, didn't you? A. It was my sister.

Q. Did Sadie ask you to go there and visit her?

A. No, sir.

Q. She did not? A. No, sir.

Q. It is your sister, where is your first husband Jacobs?

A. He is dead.

Q. Dead? A. He is dead.

Q. Where were you living at, your parents living at when you married Jacobs? A. My parents were all dead.

Q. Who were you living with?

A. I was living with my sister on Archer Street when I married Harry Jacobs.

Redirect Examination by Mr. German.

Q. You say that the last time you talked to Sadie, she told you that she just made up that there was a Tommy?

A. Yes, sir.

Q. She told you that there wasn't any?

A. The last time that I talked—the first time that Sadie came there, Sadie went out to Father Shorty's to find out if there was a boy there by the name of Tommy Atkins, and there wasn't any, and then Sadie came back again; she stayed away quite a good while and then she came back and said, Well, there isn't no Tommy, just what she said.

Q. Did a man named Hunt, who lives here in town, a colored man, ever come to see you? A. Yes, sir.

Q. About this matter? A. Yes, sir.

Q. What is his given name? A. Jim Hunt.

Q. Jim Hunt? A. Yes, sir.

Q. What did he want you to do?

A. Well, he came there one day, I got it down when he came, he came and says Alice, he says, Dennis wants you to come down to his office and he says you can go if you want to, and he says, have you been? And I says, I went once, he sent for me and I went once. He says, they want you down there this time and he says if you go down there they want you to swear to a lie and you will get paid for it. Hunt told me this, he said, you can do to suit yourself, but he says, if Mr. Long is there he will tell you what to say, and if you tell it you will get paid for it, but he said don't tell Dennis that I said so, but he said I am putting you next and you will get paid for it if you want to go you can go, and he said, have you ever been down there, and I said I was down there once.

Q. Well, did you go? A. I went once.

Q. Did you go after that conversation?

A. No, sir, when Hunt told me I didn't go. He said now you can go if you want to, but he said if you go you will swear a lie and get the money for it.

Recross Examination by Mr. Stuart.

Q. You say you got it written down?

A. Oh, I put down the day that Hunt was there.

Q. Will you bring it up here, I want to see it?

A. Yes, sir, I put down the date he was there.

Q. What did you put down that date for?

A. I didn't put it down, some one else heard him talking and put it down.

Q. Who was that some one else now?

A. It was my brother-in-law.

Q. What is his name?

A. I didn't put it down or nothing, because I didn't pay that much attention to it, and he put it down.

Q. What is your brother-in-inlaw's name?

A. LeVallie.

Q. And he put it down in writing?

A. He just put down the date, I didn't see it, but he said I will just put that down what Hunt said to you the date Hunt was here.

Q. Where is your brother-in-law? A. He is home.

Q. Home? A. Yes, sir.

Q. He got that date written down? A. I guess so.

Q. Will you bring it up here?

A. I will if he has got it, he said he put it down the night Hunt was there, they live next door to me.

Q. He wanted to keep a record of it, did he?

A. I don't know whether he did or not.

Q. Did you tell him to put it down?

A. I didn't tell him to because I didn't care that much for it. If I did, I would have went down there.

Q. You know he put it down for some purpose?

A. I don't know what he put it down for. He is lots older than I am.

Q. How old is he?

A. He is seventy eight, and I guess he was putting it down because he had more sense than I did.

Q. He is a white man too, isn't he?

A. Yes, sir, he is white.

Q. And you say he was there when you had this conversation? A. He is white, yes, sir.

Q. You say he was there when you had this conversation? A. Yes, sir, he was there, he is white.

Q. Yes, and you are sure he has got it down?

A. He put it down at that time.

Q. Well, is it in existence now?

A. Well, it isn't very far to where he lives.

Q. You think he has got it now? A. I guess he has.

A. How old do you say you were?

A. I said I was thirty nine years old.

Q. And you are certain of everything you have said?

A. Certain of everything I have said?

Q. Yes? A. Yes, sir, yes, sir.

Q. You mean to tell the Examiner that you never heard of a girl here by the name of Indian Minnie?

A. I certainly do, I never heard of her.

Q. There never was such a girl here, was there?

A. No, there never was such a girl here, there wasn't at Granny Letcher's.

Q. And she never was in this city, was she?

A. Well, if she was I never did see her, I don't know her, and never heard of her until all of this came up in the paper.

Q. Until this case came up?

A. Until this case came up, that is right.

Q. You never heard of Indian Minnie?

A. No, sir, not until this case came up.

Q. Do you remember the time that your sister went off with Sadie?

A. Do I remember when she went off with Sadie?

Q. Yes? A. Yes, sir.

Q. Where did your sister and Sadie go to?

A. I don't know that, I can't tell you.

Q. When did they leave here? A. I can't tell you.

Q. When did Sadie come after your sister?

A. I don't know that.

Q. Well, did they leave here?

A. I don't know, I wasn't at home, I wasn't at home when Sadie came there.

Q. Well, where did they go to?

A. I don't know where they went.

Q. Out with it, where did they go to?

A. I don't know where they went.

Q. They went off together, didn't they?

A. Yes, sir, went off together.

Q. And when did they come back?

A. Well, now, I can't say when they came back.

Q. How long did they stay?

A. I can't tell that because I don't know.

Q. You tell me what time was it Sadie came down to see your sister? A. I don't know.

Q. Was it night or day?

A. I wasn't there when Sadie came to see her.

Q. Do you know when she went out?

A. I know when she was away.

Q. She and Sadie went together?

A. I can't tell you because I don't know, Sadie came to see me first before she did my sister.

Q. She came to see you first? A. Yes, sir.

Q. What did she have to say to you?

A. I just told you that she wanted me to go to Father Shorty's with her.

Q. You told her to go to see your sister?

A. I never told her anything. Sadie was older than I was.

Q. You went together?

A. She was in a different grade than I was.

Q. What grade was she in? A. I don't know.

Q. What grade were you in?

A. I don't know, I was very small.

Q. What did you study when you were in there with Sadie?

A. I wasn't studying with Sadie, she was older than I was and she was up stairs.

Q. Did you study? A. Not much, I didn't have——

Q. Arithmetic? A. Yes, sir.

Q. Geography? A. Yes, sir.

Q. Geometery?

A. I didn't study that, I was too small.

Q. How old was Sadie when you went to school?

A. I don't know, Sadie was older than my sister.

Q. You remember distinctly that Sadie and your sister went off together?

A. I don't know, I can't prove they went together, I can't say.

Q. It isn't a question of proving, don't you know that they went off together?

A. I don't know I wasn't there when Sadie came there.

Q. Don't you know that your sister and Sadie went off somewhere together?

A. I don't know where they went, because I wasn't there at the time.

Q. Well, you know they went, don't you?

A. I don't know where they went to.

Q. Well, they went, didn't they?

A. Well, they went, but where did they go?

Q. That is what I want to know, where did they go? Do you know, do you know where they went?

Q. The first time that you say Sadie came to your house, *Recross Examination by Mr. Bell.*

Q. The first time that you say Sadie came to your house, she said there was a Tommy, didn't she, and that she wanted you to go to Father Shorty's and see if you couldn't find him?

A. The first time she came there?

Q. Yes?

A. When she first came to my house, she said I am looking for a boy and I want you to go out to Father Shorty's with me to see if he is out there, and she didn't go; I didn't know whether she went or not, but she found out there wasn't any boy by that name out there, and then when she came back she said there wasn't none.

Q. Said there wasn't any? A. Yes.

Recross Examination by Mr. Hanford.

Q. You say a man named Hunt came to see you?

A. Yes, sir.

Q. He told you when you got down there they would want you to swear to a lie? A. Yes, sir.

Q. And what did he say this lie was?

A. He didn't say, and he didn't say who wanted me to, but he says, when you go down there they will want you to swear to a lie and he says you can if you want to, but he said I am putting you next and he said, don't tell Dennis what I am saying to you.

Q. He was warning you in advance?

A. Yes, he said don't tell Dennis that I told you this, but he said if you go down there——

Q. And he told you that Dennis sent him to see you?

A. Yes, sir, Dennis sent him to see me.

Q. And what did he say to you?

A. He said he came out there and he said that Dennis sent him out there.

Q. Well, tell me the words that he used, how did he say Dennis sent him out?

A. He said Dennis sent him out to see if I was coming down to the office.

Q. Did he say: "Dennis sent me out here to see you"?

A. He said: "Alice, Dennis sent me out to see if you are coming down to the office", and he said are you going, and I said I don't know, and he said, well I am putting you next, if you go you will have to swear to a lie, and I said who will be there, and he said Long will be there, but he said you can do to suit yourself, but don't tell Dennis that I told you; and I didn't tell Dennis anything about it and I didn't go, but I had been down there before that.

Q. Now, what else was said?

A. He said about the money, said if I would go I would go I would get some money.

Q. Did he say how much? A. No, sir.

Q. How did he say that?

A. He said if you go and say what they want you to say, you will get some money.

Q. That is what he said?

A. Yes, sir, the very words he said.

Q. Now, when was that?

A. I don't know, but as I said, my brother-in-law said, I will put that down, he said, why don't you put it down, and I said for what, why should I put it down?

Q. Did he put down what Hunt said?

A. No, sir, I think he put down the date, but they were right in the next room, right in there.

Q. Did he put down anything that Hunt said?

A. I don't know, but I know he put down when he was there.

Q. They knew you talked to Hunt?

A. Yes, sir, him and my sister both, I know he put down when he was there.

Q. When was this that he put that down? Long afterwards?

A. That was a little after Sadie came, I believe it was.

Q. A little after Sadie came?

A. Yes, sir, when Mr. Long and all of them were here.

Q. That is when he put down the date? A. Yes, sir.

Q. And when Sadie came she came out to your house?

A. No, sir, I don't think she did, I never had any talk with Sadie.

Q. Now, this was shortly after Sadie came here that he put this down?

A. Sadie was here first I think, and after she went back, you know, when all of them was meeting at the office, that is when Hunt came out there.

Q. Now, you say it was shortly after Sadie came here that he put this down?

A. He hadn't been here very long I think.

Q. He told Sadie about this? A. No, I don't think he did.

Q. Sadie told him to put it down?

A. No, sir, he didn't say Sadie told him to put it down.

Q. I didn't say he said that. Sadie did tell him to put it down? A. Tell Hunt to put what down?

Q. Didn't Sadie tell your brother-in-law to put down the date? A. Oh, no, no, sir.

Q. Well, how did she know about it?

A. Sadie didn't know about it. Wasn't no one there but myself when Hunt came.

Q. How did Sadie know it? A. Sadie don't know it.

Q. She don't know it? A. No, sir.

Q. Are you sure about that?

A. She never said anything to me if she knew that he put this down.

Q. But you know it was shortly after she was here?

A. Yes, sir, she had been here, the first time she came after it all came out and when Mr. Jones was having a talk or something in his office, when Mr. Long was here, that is when it was.

Q. Was it when they were taking depositions?

A. Yes, sir.

Q. They were taking depositions? A. Yes, sir.

Q. Was that in 1915? A. Yes, sir.

Q. Or 1914? A. It was last year.

Q. Last year? A. Yes, sir.

Q. 1915? A. Fifteen, yes, sir.

Q. What time of the year?

A. Well, now, I don't just exactly know when it was, I know it was the first time Sadie——

Q. Was it in the summer? A. Yes, sir, it was.

Q. In the summer? A. Yes, sir.

Q. Did you go away any place last year?

A. No, sir, I didn't go any place.

Q. Can you remember about the time of the summer that it was?

A. Let me see, now, I don't think it was in the summer though.

Q. You think it was in the summer?

A. Yes, sir; yes, sir, I think it was.

Q. Well, are you sure?

A. Well, I think it was in the summer.

Q. Hot weather, was it?

A. Yes, sir, it was. I know it was in the summer, because——

Q. Do you remember the 4th of July last summer?

A. Yes, sir.

Q. Was it before that or after that?

A. It was after that.

Q. After the 4th of July?

A. Yes, sir, it was, it must have been along in August or September, it was after July.

Q. August or September? A. It must have been.

Q. Wasn't it as late as November?

A. November? No, sir, it wasn't.

Q. It was either August or September? A. Yes, sir.

Q. One of those two months?

A. Yes, sir, it must have been.

Q. You didn't go down to see Dennis?

A. No, sir, I went down there once. He sent for me.

Q. Before that? A. Yes, sir.

Q. Or after that?

A. Before that. He sent for me and I went down to see him.

Q. Did you talk to Dennis about this?

A. Why, he talked to me about it, but he didn't say anything about it, about swearing or anything about it.

Q. He just asked you what you knew?

A. No, sir, he just asked me is Sadie said anything to me, and I told him no, sir, not to me.

Q. Did you talk about Granny Letcher's?

A. No, sir.

Q. Or when you lived there? A. No, sir.

Q. You didn't talk about that? A. No, sir.

Q. How long was that before Hunt came to see you?

A. Oh, that was about a week before.

Q. About a week before that?

A. Yes, sir, about a week.

Q. How long did you see Dennis that time?

A. I just seen him once, he was there in the office.

Q. Just once? A. Yes, sir.

Q. How long were you there?

A. I wasn't there very long.

Q. Just a few minutes? A. Yes, sir.

Q. Did he tell you—did he ask you what he wanted to know about what Sadie said, or anything?

A. No, sir, he asked me what did Sadie say about him.

Q. About him? A. Yes, sir.

Q. And what did you tell him?

A. I told him she didn't say anything about him.

Q. Sadie had been to see him before that? A. Yes, sir.

Q. Shortly before? A. Yes, sir.

Q. About how long before you went down to Dennis's?

A. Well, I guess about three weeks.

Q. About three weeks before that? A. Yes, sir.

Q. That is all he wanted to know?

A. Yes, sir, that is all he said.

Q. Didn't say anything about testifying?

A. No, sir, and then he came out to the house and he asked me when he came out, he asked me what had Sadie said, and I told him nothing, and he said he didn't want her to get him into any trouble, and he wanted me to tell him, he said, if Sadie said anything about him.

Q. About him?

A. Yes, sir, but she hadn't to me, she hadn't said a thing about him.

Redirect Examination by Mr. German.

Q. How came you to go to Dennis's office the first time that you went there? A. He sent.

Q. Who did he send? A. He called me up.

Q. On the telephone? A. Yes, sir.

Q. Now, did he tell you up in the office what he wanted with you?

A. No, sir, but he was talking about my sister, the one in Kansas City, and he did say a few words to her about this. He asked her did she know anything about Granny Letcher's, and Etta, or something like that, but he didn't say nothing to me about it.

Q. Now, Alice, you say that at the time Hunt came to your house was when they were taking depositions. Who was taking depositions?

A. Well, now, when Hunt came there, they had been, I don't know, they was going down to his office, down to Dennis's office.

Q. Was that where they were taking depositions?

A. Yes, sir, Mr. Long——

Q. Dennis and Mr. Long were taking depositions?

A. Yes, sir, they had him come down there and talk to me.

Q. Is that what you mean by taking depositions?

A. Yes, sir, I thought that was what you meant.

Q. You thought that was taking depositions?

A. Yes, sir.

Q. Now, Alice, you remember that they did take some testimony at the Court house? A. Yes, sir.

Q. And a whole lot of folks went up and testified, you remember that? A. Yes, sir.

Q. Now, was this before or after that?

A. Now, let's see. It was before.

Q. Before that? A. Yes, sir, it was before.

Q. It was in August or September before that?

A. Yes, sir, it was before they were taking them, because I know that when Mr. Hunt told me about it, if I had went I would have——

Q. You would have been one of the witnesses?

A. Yes, sir.

Q. At the taking of depositions at the Court House?

A. Yes, sir, yes, sir.

Q. They took those depositions in the winter time?

A. Was it in the winter?

Q. Was it or not at the Court House?

A. Well, sir, I forget, at the Court House, yes, sir.

Q. At the Court House? A. Yes, sir.

Recross Examination by Mr. Hanford.

Q. How do you know they were taking depositions?

A. Well, when I went down there you know, if I had—— You know the first time I went down to Dennis's.

Q. When was that, when he sent for you?

A. Yes, sir. Then they hadn't taken them then.

Q. Well, how do you know that they had taken depositions?

A. Well, all of them were going up to the Court House and they were talking about it. Wasn't that when Sam Nash and all of them——

Q. When they took depositions at the District Court House then, up on the hill?

A. I guess it was then. I know it was then when they sent for me.

Q. That was at the District Court House up here on the hill? A. Yes, sir.

Q. They were taking depositions? A. Yes, sir.

Q. And how did you hear they were taking depositions?

A. I heard first one and then another one talking about it, and after Mr. Hunt told me if I wanted to I could go.

Q. Did Sadie tell you that? A. No, sir.

Q. That they were taking depositions?

A. No, sir, I never seen Sadie. I only seen Sadie once to talk to her.

Q. You are sure that they were taking depositions at the Court House? A. Well, right after that, yes, sir.

Redirect Examination by Mr. German.

Q. Alice, then wasn't it summer before last that Hunt came to your house to get you to go to Dennis's instead of last summer? A. Summer before last?

Q. Yes?

A. No, sir, she didn't came out there then.

Q. You still think it was last summer, do you?

A. Yes, sir.

Witness dismissed.

Mr. German: We offer the deposition of Mary Lower, taken before Mr. Penick, appearing in his transcript, beginning at page 2607.

And thereupon, MARY LOWER being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Mary Lower.
Q. Your age? A. 43.
Q. Your place of residence? A. Lawrence, Kansas.
Q. Mary, did you ever live in Leavenworth, Kansas?
A. Yes, sir.
Q. When did you live there?
A. Well, it has been about 27 years ago, I guess.
Q. Where were you born? A. Lawrence, Kansas.
Q. About what year did you move to Leavenworth?
A. Did I move to Leavenworth?
Q. Yes?
A. I don't know because I went there when I, when I was a little girl, went to Leavenworth when I was a child.
Q. About how old were you when you went to Leavenworth? A. I was about 12.
Q. Then you lived there until about how long ago?
A. I lived there just about 27 years after I went there.
Q. Did you have a child while you were living in Leavenworth? A. I did.
Q. What was the name of that child? A. Etta Lower.
Q. Where does she live now?
A. She lives in Lawrence, Kansas.
Q. Is she married at this time? A. No, sir.
Q. What work are you engaged in at this time?
A. At this time?
Q. Yes?
A. I am a cook and do caterer's work, cooking.
Q. What place?
A. Kapa Alpha Theta, a Ladies' Sorority.
Q. And how long have you been there? A. Ten years.
Q. The same place you are staying now? A. Yes, sir.
Q. What year was that child Etta born?
A. Etta is 27 years old the 28th of July.
Q. Where were you living when Etta was born?
A. At Scott's, in South Leavenworth, Eliza Scott's.
Q. Etta will be 28——
A. She will be 28 now the next 28th of July.

Q. Was Etta ever taken by you to the home of Granny Letcher? A. Yes, sir.

Q. How old was she when you took her to Granny Letcher's home? A. I let Nettie have her first.

Q. Nettie who?

A. I don't know her other name, Nettie, is all I ever knew her by. She was Jim Mayo's wife, or whatever she was. I let her have her first when she was about six months old.

Q. And how long did she stay with Nettie?

A. Why, she was walking when Nettie left; she must have been about a year old.

Q. When Nettie left did you take her then to the home of Granny Letcher?

A. I did, I let Granny Letcher have her.

Q. How long had you known Granny Letcher before that time?

A. I never knew her at all before that time, before I let Nettie have the baby.

Q. You then first got acquainted with Granny when your baby was about six months old? A. Yes, sir.

Mr. Blakeney: We object as leading and suggestive and we also object as the prompting of the witness.

Mr. Allen: The witness has just stated, Mr. Blakeney.

Mr. Blakeney: I heard what the witness just stated now.

Q. Then how old did you say Etta was when she was taken by Granny Letcher? A. How old she was?

Q. Yes, Etta, when she was taken by Granny Letcher?

A. Well, she was walking; she must have been a year old.

Q. How long did she stay then in the home of Granny Letcher? A. I think she stayed there altogether about a year.

Q. Where was Granny living? A. On Seneca street.

Q. Were you—did you come to the house frequently during the time your baby was there? A. Yes, sir.

Q. Where were you living at that time?

A. Well, when I first taken her there I was living down by the mill, down—I don't know what street it was.

Q. What mill?

A. I don't remember the name of it, Pierce's or——

Q. Did anything ever happen to that mill? A. Yes, sir

Q. What? A. It burned.

Q. To refresh your memory was that the Kelly-Lyle mill?

A. I won't say for sure because I have forgot that name, I never thought of it.

Q. Who were you living with? A. Mrs. Scott.

Q. What relation was she to Eliza Lavelly?

A. Her mother.

Q. Was Eliza and the rest of the family living in the same house? A. Yes, sir.

Q. Where did you live in the Lavelly home?

A. Lavelly?

Q. I mean the Scott home?

A. The Scott home. I don't remember just when I left there.

Q. With reference to the time that the Kelly-Lyle mill burned, when did you leave?

Mr. Hanford: Objected to as leading.

A. Oh, I was there I guess, I must have been here about two years after that.

Q. At what place? A. At Scott's.

Q. Did the fire at the Kelly-Lyle mill effect the house where they were living at that time?

Mr. Hanford: Objected to as leading and suggestive.

A. I don't know anything about that because we moved out of the house that night.

Q. You moved out of the Scott house the night that the mill burned? A. Yes, sir, and went to Granny Letcher's.

Q. You moved then to Granny Letcher's? A. Yes, sir.

Q. How long did you live then in the home of Granny Letcher? A. Oh, I roomed there then about two months.

Q. Where was your baby then when you moved to the home of Granny Letcher? A. Granny Letcher's.

Q. About how long had she been living at that home at that time? A. At Granny Letcher's?

Q. Yes? A. Well, she was walking, old enough to walk.

Q. About how long had she been living at Granny Letcher's when you moved there from the Kelly-Lyle mill?

A. I guess a year, she wasn't walking when I taken her there, and she was walking then.

Q. How long after you left Granny Letcher's did you continue to visit her home? A. After I left there?

Q. Yes?

A. After I left there I never went back, after I taken the baby away.

Q. How long did you say you lived at the home after the mill burned? A. At Granny Letcher's?

Q. Yes? A. About two months.

Q. During all the time that you knew Granny Letcher, that you were around her home was there any child there by the name of Tommy Atkins or Indian Tommy? A. No, sir.

Q. Was there any woman there by the name of Minnie Atkins, or Indian Minnie? A. No, sir.

Q. Who were the members of Granny Letcher's family?

A. Well Sam Nash, and some Walter, and when I first went there a girl named Nettie. I don't know her last name.

Q. Was Nettie living at Granny Letcher's home when you took Etta Lower to her? A. Yes, sir, she was.

Q. Did you know Dan Hudson? A. Yes, sir.

Q. Where did you first see him?

A. In J. R. Myers restaurant in Leavenworth, I used to wash dishes there.

Q. When was the last time you saw him?

A. Dan, it has been about 15 or 16 years since I seen him; seen him in Lawrence, Kansas, his mother lives there.

Q. After you last saw him in Lawrence, Kansas, when was the next time that you saw him? A. Now.

Q. You haven't talked with him since you have been here? A. No, sir.

Q. You haven't talked to him in 16 years?

A. No, I haven't.

Q. How old was Walter Banks when you were there?

A. I don't know, he was a pretty good sized boy, but I don't know how old he was.

Q. Was there any boy in that home during any of the time that you knew Granny Letcher younger than Walter Banks? A. No, sir.

Q. Was any other boys there besides Walter Banks and Sam Nash? A. No, sir, there wasn't.

Q. Where was Jim Mayo living?

A. With his mother in the same house.

Q. Was he a grown man?

A. Yes, sir. He is older than I am.

Q. Did you come here this morning from your—from the place you are now working in Lawrence, Kansas in obedience to a subpoena from the United States Court? A. Yes, sir.

Cross Examination by Mr. Blakeney.

Q. How old are you now? A. I am 43.

Q. You are 43? A. Yes, sir.

Q. What was your child's name? A. Etta Lower.

Q. What is your name? A. Mary Lower.

Q. What was your maiden name? A. Ford.

Q. When did you take the name of Lower?

A. It has been about 27 years ago.

Q. Were you married? A. Yes, sir.

Q. Where? A. At Lawrence, Kansas.

Q. To whom were you married? A. Lower.

Q. What was his other name? A. Luke.

Q. Luke Lower. When were you married with reference to the time that Etta was born? A. When was I married?

Q. Yes?

A. I was married about a year before Etta was born, married just about a year.

Q. Married about a year before Etta was born?

A. Yes, sir.

Q. Were you living there in Leavenworth when you married? A. Yes, sir.

Q. And you went up to Lawrence and got married?

A. I was married in Lawrence, yes, sir.

Q. What day did you marry on?

A. I don't know, I don't remember.

Q. What month?

A. I don't remember that either, because I have been separated from him ever since I married him, haven't even got my papers.

Q. Never lived with him after you married?

A. Oh, yes, I lived with him four or five months.

Q. Lived with him four or five months and then you separated? A. Yes, sir.

Q. Where did you live with him that four or five months?

A. When did I live.

Q. Yes? A. I lived in Lawrence.

Q. Lawrence. And where were you living before you married? A. Before I married?

Q. Yes?

A. I was living here in Leavenworth, working for Bill Pratt.

Q. Working for Bill Pratt? A. Yes, sir.

Q. And living in Leavenworth and you went up to Lawrence and got married and you stayed there four or five months? A. I stayed there, yes, sir.

Q. Got license from the County office at Lawrence?

A. Yes, sir, and preacher Wallace, married us.

Q. Now after you had lived four months about you left your husband and you came back to Leavenworth?

A. Yes, I have been back.

Q. Well, now, I am not trying to mix you up; just trying to get the facts, if I can. Did you come back immediately after you left your husband to Leavenworth?

A. After I left him?

Q. Yes? A. Yes, sir, I came back here.

Q. This is Kansas City you are in now?

A. Well, I mean I came back to Leavenworth.

Q. You came back to Leavenworth immediately after leaving your husband? A. After he left me.

Q. After he left you? A. Yes.

Q. Where did you go to then? A. Back here.

Q. To Leavenworth? A. Yes, to Scotts.

Q. Went back to Scott's to room?

A. Went back there to live, lived the same as one of the family.

Q. That was over close to the mill?

A. No that was out to their place where I went first, out to their home, they owned a home.

Q. Were Scott's white people? A. No.

Q. They were colored people? A. Colored.

Q. I don't quite understand. Scott's also lived over by the mill, didn't they, sometime?

A. After they rented their home out, that is how it come them to live by the mill we would close to our work. I was work- at Giaimini's hotel.

Q. Working at Giaimini's hotel? A. Yes, sir.

Q. The mill was closer to the hotel than Scott's home?

Q. Yes, sir, Scott's home was out on Broadway.

Q. About how long did you live at Scott's home before you went up by the mill after your marriage?

A. I don't know how long I lived out there; I kept no track of it.

Q. Well, now, was it only a short time or several years?

A. Before I went up by the mill?

Q. Yes?

A. I won't say how long it was because I don't know, I didn't keep no track how long I lived out there.

Q. I don't want to get the exact time, a few days or a few weeks?

A. Oh, more than a few days and weeks and months.

Q. More than a few months? A. Yes.

Q. And where were you living when your child was born?

A. Living at Scott's; she was born at Scott's house.

Q. At Scott's home? A. Yes, sir, at the mill.

Q. You were still living there when the child was born?

A. Still living there when the child was born.

Q. How long after you came back and left your husband, how long was it until the child was born?

A. Oh, just a few months.

Q. Well, now, about how long; you know don't you about how long you were pregnant after the time your husband left you?

A. Yes, I guess she was born about six months, something like that.

Q. About six months after your husband left you your child was born, so you had lived at Scott's old place about six months before the child was born?

A. I guess that is about right.

Q. About how long did you continue to live there after the child was born? A. At Scott's?

Q. Yes? A. I can't tell how long.

Q. You kept the child there with you for a while at Scott's? A. Yes, until she got old enough to put her out.

Q. Well did you put her out before you left Scott's old home or not? A. No.

Q. You had the child with you while you lived there at the old place? A. Yes, sir, I did.

Q. When you moved up to the mill you put the child out with Nettie? A. Yes, I did.

Q. You don't know Nettie's other name? A. No, I don't.

Q. White or colored? A. Colored, big yellow woman.

Q. Do you know where she was living?

A. At Granny Letcher's on Seneca street.

Q. So when you put her with Nettie you put her at Granny Letcher's place? A. Yes, sir, I did.

Q. Now about how old was the child when you put it with Nettie? A. It must have been about six months old.

Q. Six months old? A. Yes, sir.

Q. Then it had been about a year after your husband and you had separated you put the child with Nettie?

A. About a year?

Q. Yes?

A. She was about six months old when I put her with Nettie.

Q. Well, the child was born about six months after your separation, and she was about six months old when you put her with Nettie; that was about a year after your separation.

A. I guess it must have been, wouldn't say for sure.

Q. Well, you will say for sure six or twelve, won't you?

A. Well, yes.

Q. How long did Nettie keep the child?

A. I put her with Nettie when she was about six months old and she was walking when I took her out. I don't know how old she was but she must have been a year.

Q. How old is the child Etta?

A. She is 27 now, born on the 28th of July, her name is Etta.

Q. She was 27 in 1915, she was born on the 28th of July, 1888? A. That is right.

Q. And you had her then when she was about six months old—you took her about the first of January 1889——

Mr. German: You mean you took her to——

Q. Yes, you took her to Nettie about the 1st of January, 1889? A. Yes, that must be right.

Q. Now, how long then did the child stay there before the mill burned? A. Before the mill burned?

Q. Yes?

A. Well, just like I said, she must have been there a year.

Q. Must have been at Granny's—at Nettie's?

A. She was walking when Nettie left and then Granny taken her.

Q. You never took her back to your home until after Nettie had taken her?

A. No, I left her at Granny's, Granny taken her then.

Q. She stayed with Nettie until she could walk?

A. Yes, sir.

Q. You can't say just how long that was?

A. No, I can't say.

Q. Now you don't remember the year that the mill burned in? A. No, sir, I don't.

Q. Anyhow Nettie kept her until the mill burned?

A. She was walking.

Q. Well now, I just want to get it right, if I can. This is important to me and I want to get it right?

A. No, Nettie never kept her until the mill burned.

Q. Nettie didn't keep her then until the mill burned?

A. No, she never, Granny Letcher taken her before that mill burned.

Q. Granny took her before the mill burned?

A. Yes, sir, Nettie was gone when the mill burned.

Q. And after the mill burned you moved up to Granny's—— A. I did.

Q. About how long had Granny been keeping her when you moved up there? A. I can't say.

Q. About how old was the child?

A. The child was walking.

Q. Well, she is still walking, isn't she? A. Yes.

Q. About how old was the child when you went back to live with her again at Granny's?

A. Well, I don't know that either, how old she was.

Q. The child was walking when Granny took her, you think? A. I think she was.

Q. And then Granny kept her awhile, and you went over to live with Granny and the child.

A. I did.

Q. Now don't you remember, can't you look back over and see the child, the little child just about its age when you went back to Granny's to live?

A. Well I won't say how old she was.

Q. Well how long will you say it was that Granny kept it before you went up to Granny's place to live?

A. I won't say that either.

Q. Well, was it a year? A. No.

Q. It was longer than a month?

A. Yes, it was longer than a month.

Q. Well about how many months would you say now?

A. I would say she kept her one whole winter?

Q. She kept her in the winter? A. Yes, sir.

Q. Well, you went up there then, and the winter, as you figure it is about three months, is that your idea about what the winter would be, about three months or four months?

A. Well, Nettie left in the fall, and Granny kept Ettie until the spring.

Q. Now Nettie left in the fall and Granny then took the child in the fall, and kept it until spring?

A. Yes, but I don't know what month, whether March, April or May, I wouldn't say.

Q. You won't say whether Granny kept the child then until March, April or May?

A. I won't say what month it was.

Q. Well, now during the time that Granny kept her, you moved in there with her? A. I did.

Q. About what time did you move?

A. I don't remember. Oh, I moved the night the mill burned, that is the night I moved.

Q. You moved in the night the mill burned?

A. Yes, sir, but I don't——

Q. About how long did Granny keep the child after you moved there?

A. After I moved there, I lived there about two months with Granny.

Q. You lived about two months with Granny?

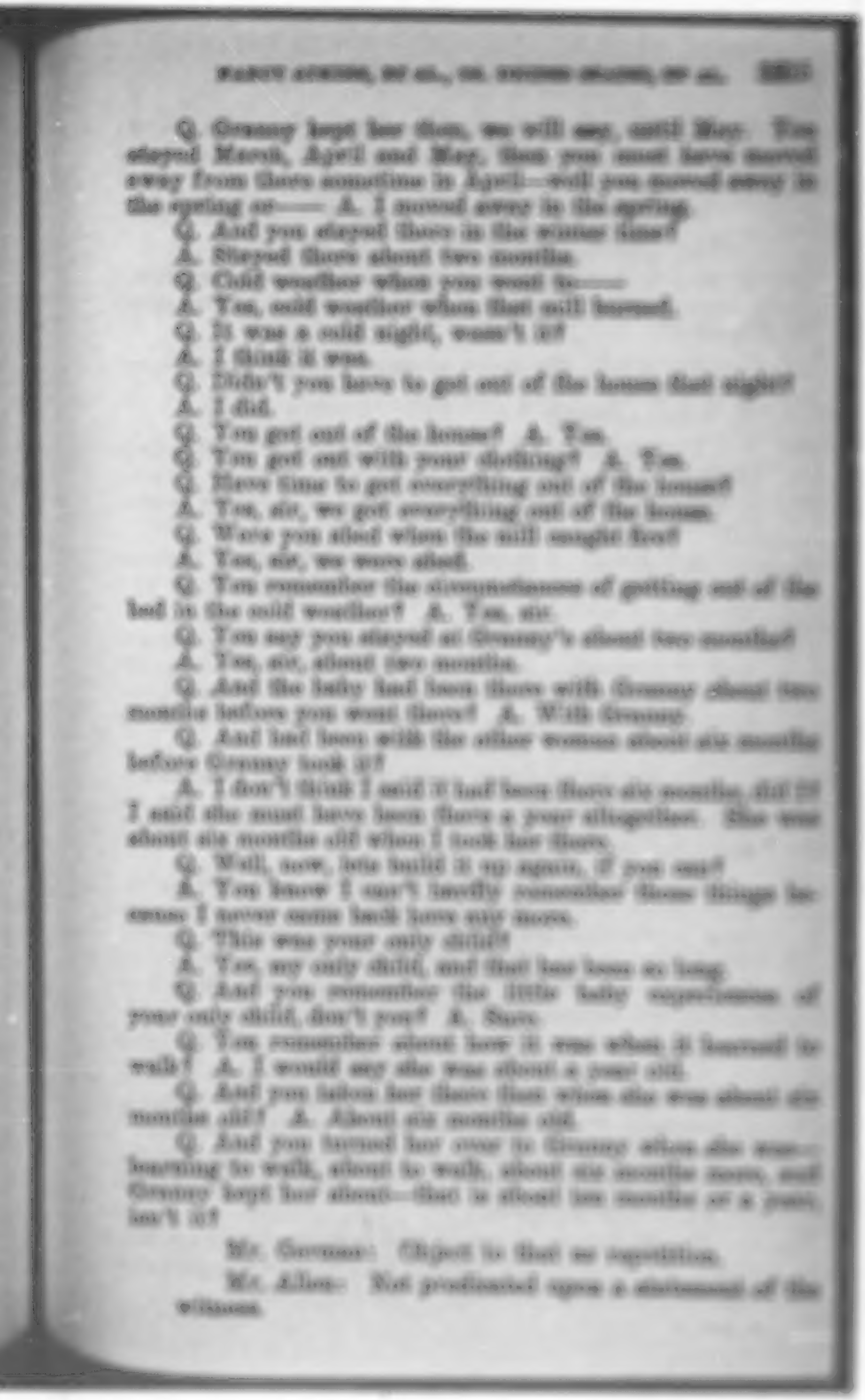
A. Yes, sir.

Q. Did you take the child away with you?

A. I took the child away when I went, I did. I don't think Granny had her—I think she did have her about two weeks until we got settled until we moved.

Q. Granny kept her about two weeks after you left?

A. Yes.



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Mr. Blakeney: I said I would have to repeat it when she made a statement inconsistent with it, and I would have to try——

Mr. Allen: We object to that. The witness's testimony is entirely consistent.

Q. Now we have got it in mind now that it had been about eight months before the mill burned that the child was taken to Granny's?

Mr. Allen: We object to that as not predicated upon the testimony of this witness.

Q. Is that correct?

Mr. Blakeney: I want the record now to expressly show that when the witness is trying to make a thing definite that counsel for the Government is trying to prevent it being made definite.

Mr. Allen: I insist upon my objection to Counsel putting into the mouth of the witness statements that she has not made.

Mr. Cruce: I wonder if we can enter into an agreement that would be effective, that without interposing objections here, that we could go ahead and ask our questions, and you the same way, and then on trial interpose any objections that we might have.

Mr. German: Can't do that, Judge, for this reason. Primarily there might be a technical objection that we couldn't secure by further objection. Outside of that I don't see why we can't.

Mr. Blakeney: I would like now to make the agreement now and have it applied to my witnesses when they come on the stand, that when we make objection to witnesses that we would not then try to state our theory of the case to the witness, so that *we* witness may reform or correct her testimony in reference to it.

Mr. Hanford: Reserve the argument until the trial.

Mr. Blakeney: I have got an illustration here, a single suggestion and prompting makes the witness throw down all the—— I have to start anew again.

Mr. Allen: We will have to reserve the right to make objections when we desire to do so, and in such form as we see fit to make them.

Mr. Blakeney: I would like to renew this examination while she is on the stand, before she has any time for any suggestion in regard to fixing this matter.

Mr. Allen: In view of the insinuations of Counsel we insist upon the witness' testimony being concluded.

Mr. Blakeney: That will be very satisfactory as to me. I am not insinuating as to Counsel at all.

Q. I want to ask you now if you can state just how long the child was at Granny's place there with Nettie or Granny?

Mr. German: We object to that on the ground that it is repetition.

Q. Before the fire?

Mr. German: The same objection.

Q. After thinking now, can you answer that last question; just one question. What is your difficulty now, are you aggravated at something that has been done here, why are you sobbing? A. It made me sick.

Q. Are you sick? A. Yes.

Q. Do you want to take a recess until after lunch hour?

A. Can you get through with me now?

Q. I am not in any sense trying to mix you; I am trying to help you fix the date, if you can?

A. Well, I have told all I know about it.

Q. Well, while we are working it out, we might work the date a little more perfect, is the only purpose I have now in the matter. Now going back again, getting your mind on the subject of inquiry, isn't your best recollection——

Mr. German: Mr. Blakeney, to save the record will you consent that I object to all your further inquiries on the ground that it is repetition?

Mr. Blakeney: Yes, sir.

Mr. Allen: And where the objection is proper the further objection is made that the Counsel is assuming a fact not testified to by the witness.

Mr. Blakeney: That is all right, I am willing to that.

Q. Now what is your given name? A. Mary Ford.

Q. What? A. Ford, Mary Ford.

Q. Mary, can you tell us whether or not your child had been at Granny's about eight months when this fire occurred, and stayed there about two months after the fire occurred, can you answer that?

The Examiner: Think about it Mary, and see if you can answer it, so we will get through soon.

Q. Can we get an answer?

Mr. Allen: Just answer it the best you can, Mary.

The Examiner: Go ahead and answer the question, as nearly as you can.

A. Yes, sir.

Q. That is your best recollection then, is it?

A. That is the best.

Q. How often did you go up to Granny's during the time that Nettie kept your child?

A. I went there about every evening.

Q. You would go up every evening to see her and the child?

A. I would take her milk up there about every afternoon.

Q. About how long would you stay?

A. I would stay until about 5 o'clock, time to get back to work.

Q. What time would you get away to go up?

A. About two.

Q. You would go up and stay about three hours?

A. Yes.

Q. After you got burned out and you went up there to live did you still work at the hotel? A. Yes, sir.

Q. Then you would not only have the time off between 2 and 5 but you would be there at nights? A. Yes, sir.

Q. Would you go up to Granny's place then, between 2 and 5, when you were staying there at nights?

A. Yes, sir, I did.

Q. During all that time you never saw a boy around that place known as Tommy Atkins? A. No, sir.

Q. When did you get what you would call intimately acquainted with Granny?

A. I got acquainted with her when Nettie taken the baby.

Q. You got acquainted with Granny then? A. Yes, sir.

Q. Did you get acquainted with her the first day you took Etta to Nettie's, or get acquainted in the course of a few days or a week afterwards?

A. I had taken [ ] there in the morning and went up there that night to see her, and got acquainted with her.

Q. Where did you visit Etta in the daytime when you would go up? A. Down in Granny's house, down stairs.

Q. The first few months, the baby couldn't walk, you state? A. Yes, sir.

Q. And of course, you visited her by carrying the baby around then?

A. I went in the afternoon with milk for the baby.

Q. And after the baby got to walking, the baby would play around the room with you when you would go up to see it? A. Yes, sir.

Q. And when you were living there, the baby would sleep in your room? A. No.

Q. The baby still slept in the same room that Granny had kept it in? A. Yes, sir.

Q. Now, did you meet other people in the house?

A. Yes, sir.

Q. Meet boarders and others? A. Yes, sir.

Q. And all of the boarders that were there regularly at the time, you got acquainted with, did you?

A. Yes, sir, wasn't anybody there at that time but the Scotts.

Q. Nobody but the Scotts?

A. Yes, they moved up there the night the mill burned; that was the only boarders I seen, outside of a woman that was there.

Q. What woman? A. Name of Belle somebody—dark.

Q. A colored woman? A. Yes, sir.

Q. A young woman?

A. She was young, yes, sir; in her twenties.

Q. Now, did you ever meet a man by the name of Carter? A. Carter?

Q. Yes, Henry Carter, a colored man that peddled vegetables around the city of Leavenworth?

A. No, I don't know him.

Q. You don't ever remember his coming up to the house in the day time when you was there?

A. No, I don't remember him at all.

Q. You don't remember an old peddler driving a wagon, that occasionally came around and talked to Granny, there at the place?

A. I don't; maybe he never happened there when I was there in the afternoon.

And thereupon an adjournment is taken until 1:30 o'clock P. M. And thereafter, and at 1:30 o'clock P. M., further testimony herein was taken as follows:

MARY LOWER being recalled further testified as follows:

Recross Examination by Mr. Hanford.

Q. Mary, you [ ] that Nettie took Etta before Granny Letcher? A. Yes, sir.

Q. And she [ ] Etta up until she was about a year old?
A. Yes, sir.

Q. Nettie was supposed to be Jim's wife at that time?

A. Yes, sir, that is what I understood.

Q. Nettie and Jim ran a restaurant, didn't they?

A. Ran a restaurant? I don't know anything about that.

Q. You don't know aything about that?

A. No, nothing about the restaurant.

Q. You didn't know anything about them living up on Shawnee street, and that is where they had a restaurant?

A. No, I never knew they lived on Shawnee.

Q. They never lived on Shawnee? A. Etta——

Mr. German: She didn't say that, Mr. Hanford; I call your attention to your misunderstanding.

Q. You never knew about them living on Shawnee?

A. No, sir, I never knew about that.

Q. Was Etta ever on Shawnee street at the time that you went to see her? A. No.

Q. Are you sure of that? A. Seneca street.

Q. Seneca street always? A. Yes, sir.

Q. And did Granny Letcher live on Shawnee street any of the time you knew her?

A. Not that I know of unless she—no, it was Seneca street, where I knew her at.

Q. She was on Seneca street all the time that you knew her? A. Yes, sir.

Q. You knew Sam Nash? A. Yes, sir.

Q. Sam had his picture taken with Etta one time, didn't he? A. Yes, sir.

Q. Do you remember what, if anything, Etta was standing on in that picture?

A. She was standing on a chair in one picture.

Q. Was Sam standing alongside of her?

A. Yes, but I don't think his full view was there.

Q. That is, all of the way down to his feet wasn't there?

A. No, sir, I don't think it was.

Q. Just about three-quarters length?

A. I think he was kind of—holding Etta in the chair; I am not sure, it has been so long since I saw him.

Q. Well, he had his good arm around her, didn't he?

A. Some where near—I wouldn't say where it was on her, or on the chair.

Q. When was that picture taken? When Nettie had Etta, or when Granny had Etta?

A. Nettie had Etta, I think when that picture was taken.

Q. You worked out while you lived in Leavenworth?

A. Yes, sir.

Q. After the Kelly-Lyle mill burned, you say the Scotts made their home at the Letcher's? A. Yes, sir.

Q. And you did, too? A. Yes, sir.

Q. And you were working out at that time?

A. I was working at Giacomini's hotel.

Q. Now, who took care of Etta before the mill burned?

A. Before the mill burned?

Q. Yes? A. Well, I had Etta up to Granny's.

Q. Up to Granny's?

A. Yes, sir, up to Granny Letcher's.

Q. Granny was taking [] of Etta at that time?

A. Yes, sir.

Q. Are you sure of that?

Mr. German: I object to that on the ground that it has been asked about fifteen times, by Mr. Blakeney particularly.

Mr. Blakeney: Mr. Hanford still has a right to ask it if I had. Make her answer it.

Mr. German: She is not objecting to answering it.

Q. Mary are you sure that Etta was at Granny's before the mill burned. A. Before the mill burned?

Q. Yes?

A. Yes, she was there before the mill burned.

Q. Wasn't Etta taken up there after the mill burned, when you moved up there, and then left there with Granny from that time on?

A. Left her with Granny from that time on?

Q. Yes?

A. Etta was at Granny's when the mill burned.

Q. She wasn't down there at the——

A. No, because I had taken her away; I had taken her away after I moved there. I stayed up there about three months.

Q. She was there after the mill burned so you had to take her away, but I am trying to call your attention to the time that you took her to Granny's house, whether or not it wasn't at the time you moved up here yourself?

A. Well, she was already there when I moved up there. Granny had taken care of her after Nettie had her.

Q. Did Nettie go away before the fire? A. Yes, sir.

Q. Sure of that?

A. I think Nettie was gone because Granny was taking care of her, yes, sir.

Q. Well, was Etta at Granny's house all the time that Nettie taking care of her?

A. Yes, she was there all the time, yes, sir.

Q. Didn't Jim and Nettie live away from Granny's house? A. Not while I knew her, she never.

Q. Was she there at the house?

A. Yes, sir, she had the front room, up stairs, right at the top of the stairs.

Q. And had Etta with her?

A. Had Etta with her, yes, sir.

Q. You say that you used to go and see Etta in the afternoons? A. Yes, sir.

Mr. German: I object to all this line of examination at this time on the ground that it useless repetition about a collateral matter.

Mr. Hanford: It was all brought out on direct examination. I reserve my right to cross examine the witness regardless of the other defendants.

Mr. Blakeney: I drew that out, but counsel is now cross examining, you have the right to cross examine about anything I examined about.

Mr. German: If your examination, Mr. Blakeney, was in chief, I now, having learned that fact, move to strike all of Mr. Blakeney's examination on the ground that his questions were leading and suggestive.

Mr. Blakeney: I think that counsel may defend his action by lack of knowledge of my purpose. Can't close himself——

Q. Did you go to see Etta about every day? A. Yes, sir.

Q. Did you go after your work? A. I did.

Q. And were working at the hotel, I believe you said?

A. Yes, sir.

Q. You took the milk up yourself to her?

A. Well, most of the time I had taken it. When I would go up I would take the milk up; sometimes I would send it by the fat girl.

Q. That was bottled milk for nursing the child?

A. Yes, sir.

Q. So you didn't go up all the time yourself?

A. Most of the time; nearly every afternoon. No, once in a while I didn't go up.

Q. Your only interest in Granny Letcher at that time was on account of the little girl? A. Yes, sir.

Q. You had no interest in her household affairs and private matters? A. No, sir.

Q. Was she running a boarding house, wasn't she?

A. I don't know whether she did or not; she had a rooming house—I don't know about the boarding.

Q. Rooming house, then? A. Rooming house.

Q. You didn't pay any attention to the roomers who went or came?

A. No, never was a crowd; I never did see a crowd in there.

Q. But those people were strangers to you? I mean the roomers were strangers to you?

A. No, only roomers I seen was the woman her son had.

Q. That was Nelle? A. Nettie first, and then, Belle.

Q. Who ever else might have been around the house, you didn't pay any attention to?

A. I didn't see anyone else around the house.

Q. And you didn't inquire and look into whether or not any one else was around there?

A. I always went through her house.

Q. You were not a frequenter of that place, were you? I mean at night?

A. I went there; of course, I was there every night when I roomed there but I never went there before of nights.

Q. You never went there for any other purpose except to see the girl?

A. No, sir, and I wouldn't have of been there only for her being there.

Q. Mary, at that time, weren't you known by the name of Anthony?

A. Yes, I went by the name of Anthony, but that was a step-father.

Q. Step-father. A. Yes, that Anthony.

Q. Was you married to him? A. Who?

Q. Anthony?

A. No, that was my step-father; that is why they called me Anthony—he was a step-father to me.

Q. Your step-father?

A. Yes, my father's name was Ford.

Redirect Examination by Mr. German.

Q. What made you ill just before lunch today? A. Sir.

Q. Was it smoke in the room that made you ill?

A. I guess it made me sick; I like to have fainted.

Witness dismissed.

Mr. German: We offer the deposition of Julia T. Carter taken before Mr. Penick, appearing in his transcript beginning at page 2918:

And thereupon, **JULIA T. CARTER**, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Julia T. Carter.
Q. How old are you, Julia? A. 31.
Q. Where do you live? A. 1611 East 22nd.
Q. Kansas City, Mo.? A. Yes, sir.
Q. How old did you say you are? A. 31.
Q. Did you ever live in Leavenworth?
A. Yes, sir, I was born there.
Q. What was your mother's name? A. Jane Scott.
Q. You were born in '84? A. Yes, sir.
Q. 1884? A. Yes, sir.
Q. Did you ever live at Granny Letcher's?
A. A short while.
Q. When did you go there?
A. Well, I don't remember just what date, or what day, but it was the night the mill burned in Leavenworth.
Q. What mill? A. The Kelly & Lyle.
Q. How long did you stay at Granny's?
A. I don't remember.
Q. Who went with you? A. My mother and sisters.
Q. What are your sisters names?
A. Liza Lavally and Alice Perry.
Q. Were there any other children at Granny Letcher's?
A. Walter Banks, and a little girl by the name of Etta Lower, a baby girl, a small girl about a year old I guess at that time.
Q. Did you know Sam Nash? A. Yes, sir.
Q. And Jim Mayo? A. Yes, sir.
Q. They were grown at that time? A. Yes, sir.
Q. Any other children at Granny's, Granny Letcher's besides yourself and this baby, Etta Lower, and Walter Banks?
A. My two brothers.
Q. What were their names?
A. Lucian and Lyman Scott.
Q. Now were there any other children there? A. No.
Q. When did you come to Kansas City?
A. Well, I have been here off and on for quite a while, I don't remember just what date I did come.
Q. About how old were you when you left Leavenworth?
A. I was about 19.
Q. And you grew up from childhood after you stayed at Granny Letcher's, for that short while, and did you go back to Granny's any to visit any? A. No, sir.

Q. While you were living there was there any child there by the name of Tommy or Indian Tommy?

A. No, I don't know of any, I never seen them.

Q. Did you hear that name called while you were there?

A. No, sir.

Cross Examination by Mr. Blakeney.

Q. You went there the night that the place burned you said? A. No that Kelly & Lyle mill burned, yes, sir.

Q. When did you say you were born? A. 1884.

Q. What time in '84? A. The 10th day of December.

Q. Do you remember what day of the year the mill burned? A. No, I don't.

Q. Winter time or summer? A. I don't remember.

Q. Do you remember going there to Granny Letcher's?

A. Yes, sir.

Q. You was about—you were nearly five years old?

A. I don't remember; I won't say because I don't know.

Q. Well you know that the mill burned when you were about four and a half or five years old, don't you?

A. I don't know that at all; I remember when the mill burned, my mother taken me to Granny's, but how old I was I don't remember.

Q. How long did you stay at Granny Letcher's?

A. I don't remember that, either, I didn't keep tab of it.

Q. About how long? A. I don't know.

Q. You actually remember ever being at Granny Letcher's? A. Yes, sir, I do.

Q. You actually remember? A. Sure I do.

Q. Do you remember anything else that occurred when you were four or five years old? A. No, I don't.

Q. Nothing else?

A. I didn't say I was four or five, either, I don't know how old I was.

Q. But you don't remember another thing that occurred about the time that you went to Granny Letcher's?

A. No, I don't.

Q. You lived around Granny Letcher's there for a while, and then you went down to some other part of the city?

A. I went to my home.

Q. Had your family moved to some other place in the city? A. They went to my home place.

Q. Your home place? A. Yes, sir.

Q. Was it in your mother's home?

A. My mother's home, you know what I mean.

Q. That was in South Leavenworth? A. Sure.

Q. And you went to that? A. Went to my mothers.

Q. Yes, went with your mother? A. Yes, sir.

Q. And the other members of your family? A. Sure.

Q. Did they take this little Etta with them?

A. I don't know, I don't remember that at all.

Q. When do you first remember seeing Etta now?

A. Etta?

Q. Yes?

A. Why, I seen her the same night that we went to Granny Letcher's, she was there then.

Q. In bed?

A. I don't know whether she was in bed or not, she was there, I won't say the same night, but she was there the next morning.

Q. The next morning?

A. Yes, and she must have been there that night.

Q. Do you remember seeing her? A. Why sure.

Q. You remember seeing a little girl in the house there when you were not quite five years of age?

A. I didn't say how old I was.

Q. No, but don't you know that fire occurred in 1889?

A. I don't know whether it did or not.

Q. Well, if it occurred in the fall of '89, you wouldn't have been quite five years old, would you?

A. I don't know, I remember when the mill burned down but I didn't keep tab of that.

Q. How did you go to Granny Letcher's?

A. At that time? The mill was on Choctaw; we went straight up from Choctaw up Fifth street.

Q. Had you gone to bed when the fire broke out?

A. Why sure, we was nothing but children.

Q. Burned in the night, did it?

A. Sure, it burned in the night.

Q. What time at night? A. I don't know.

Q. Had you been to sleep? A. I suppose we was.

Q. You just supposed you went up to Granny Letcher's, you don't remember?

A. I don't suppose that, I know we went there.

Q. You don't remember? A. Don't I.

Q. Do you remember? A. Sure I remember.

Q. Did you walk?

A. We didn't crawl, we must have walked.

Q. You yourself didn't crawl?

A. No, I was old enough to walk.

Q. Was it a cold night? A. I don't remember that.

Q. You don't remember whether you were such a child that somebody carried you up there or not?

A. No, I don't think they carried me.

Q. But you don't remember?

A. They didn't carry me if I was big enough to remember when the mill burned down, I was large enough to walk.

Q. You don't remember whether you stayed at Granny Letcher's a month or a year? A. I sure don't.

Q. What part of the house did you stay in?

A. I didn't look at that, I don't know, I stayed there some place, I don't know the room or the part of the house.

Q. Upstairs or downstairs?

A. I disremember whether it was upstairs, or downstairs, or in the kitchen, I don't know which place it was.

Q. What did you sleep on a bed or pallet?

A. I don't remember, I know I was sleeping in it.

Q. You know what?

A. I know there was sleeping in it, but I don't remember where I slept.

Q. How do you know that? A. How do I know I slept?

Q. Yes?

A. Well I must have slept, I didn't stay awake all night.

Q. You don't know whether you stayed there more than one night, or not, do you?

A. Oh, yes, stayed there more than one night, but I don't know how long, whether two months or two years, but I know I stayed there.

Q. Did you sleep in the room where this woman Nettie slept? A. Nettie?

Q. Yes?

A. I don't know Nettie, I never seen her.

Q. Belle?

A. I don't know Nettie, or Belle, I don't know them, they are people I guess old enough to be my mother, I don't know them.

Q. If they were there you don't remember?

A. No, I don't.

Q. When was the first time, not reasoning it out—but from your own memory, when was the first time that you saw this little girl Etta, when is the first time you remember having seen Etta?

A. Well, the first time I ever seen Etta, I don't remember that, but I know she was at Granny Letcher's when I was there.

Q. Had you ever seen her before?

A. I disremember, I know she was there at Granny Letcher's when I went there, and she was a smaller child than I was.

Q. Had you gone to school before the mill burned down?

A. No, I don't think so, I never went to school until I was eight years old.

Q. You don't remember whether you had ever seen this little Ethel until you saw her there?

A. No, I might have seen her but didn't pay any attention to her, or something, but I know she was at Granny Letcher's when I was there.

Q. Don't you know that she had lived in your home before you moved up by the mill? A. No, sir.

Q. Where did you live before you moved to the mill?

A. South Leavenworth.

Q. In your old home? A. Yes, sir.

Q. You remember living there too, don't you?

A. Yes, sir.

Q. Remember Ethel lived there?

A. I don't know whether it was Ethel or Edna, two of them.

Q. Who was Edna?

A. That was another one, another baby belonging to another lady.

Q. Belonging to who?

A. Another lady, I don't remember who it was; Etta was the one I knew at Granny Letcher's.

Q. But did you know Ethel that lived there in your home?

A. No.

Q. You remember Edna, however? A. I remember Edna.

Q. Did she live there in your home? A. Yes, sir.

Q. After you moved up to the mill? A. No, sir.

Q. At your home you don't remember Etta living?

A. No, I don't.

Q. Don't you know that the reason why that Etta's mother took her up to Granny Letcher's was because they were moving from your old home by the mill and didn't have room up there?

A. No, I don't know that; I didn't keep track of that, that was my parent's business.

Q. You kept track of children that you played with?

A. I know Etta, because she was a little baby, and I was playing with her.

Q. Played with her down at your home, didn't you?

A. If I did I forgot it.

Q. A month or two later you remember playing with her up at Granny's, don't you?

A. I don't know how much later it was I played with her at Granny's.

Q. Don't know how long you played with her at Granny's? A. No, I don't.

Q. Don't know other children that you played with at Granny's? A. Walter Banks and my two brothers.

Q. Those are people that you have known years after that; those brothers continued to live with the family after you got to be a big girl?

A. We didn't stay there that long at Granny's.

Q. I don't mean that; they lived around home after you got to be a big girl? A. Yes, sir.

Q. You knew Walter Banks after you got to be a big girl?

A. Yes, sir, know him yet.

Q. And knew Sam Nash? A. Yes, sir.

Q. Know him yet? A. Yes, sir.

Q. But those you did know after you had gotten to be a big girl you have forgotten, haven't you?

A. Well, if I knew them when I was small I might know them now.

Q. Who was Edna, whose child?

A. Edna was another lady's child that used to room with us.

Q. What lady was that?

A. Oh, I think her name was Martha.

Q. Martha who? A. Martha Miller.

Q. You knew that child too after you grew up, didn't you? A. Oh, that child was a little bit a baby.

Q. Well, it grew up? A. No, it didn't, it died.

Q. You remember that child? A. Yes, I remember that child.

Q. Died there at your home before the fire?

A. I don't know whether it was before the fire. I guess it must have been before the fire.

Q. You have been talking about this case out in the hall since you have been here as a witness?

A. Talked with some of the ladies out there, they asked me what I was up here for, and I told them supposed to be the same thing they were.

Q. And you proceeded to talk about what you knew?

A. I said all I knew, I didn't know much.

Q. What was it that you said about me as I passed by coming in at the lunch hour? A. Me.

Q. Yes, you?

A. I don't know whether I said anything about you or not; you all look alike to me.

Q. As I passed, didn't you point your finger and make a remark about me? A. Oh, no, sir.

Cross Examination by Mr. Hanford.

Q. Julia, are you married? A. Yes, sir.

Q. Your name is Carter now?

A. Yes, sir, at the present time.

Q. How long have you been married?

A. I have been married about nine years.

Q. You were married after you came to Kansas City?

A. I married before I came to Kansas City.

Q. How long have you lived in Kansas City?

A. I have been here, this is my fourth year this last time.

Q. Did you live in Leavenworth before that?

A. Yes, sir.

Q. Julia, were you in Leavenworth a short time ago when your brother was sick? A. Yes, sir.

Q. You have only been back there to visit in that way?

A. That is all.

Q. Do you know Sadie James?

A. I know of her, I am not personally acquainted with her at all.

Q. She has been to see you several times?

A. Why, she comes to see me constantly; she has knowed me ever since I was a baby.

Q. She came to see you about this case?

A. Yes, sir, she told me about it, asked me something about the mill.

Q. And she wanted you to testify to something you didn't know, didn't she?

A. Not that I didn't know; I told her just what I knowed, and that was all.

Q. Some things that you didn't know that she wanted you to say that you did? A. No, she didn't.

Mr. German: I object to that as calling for a conclusion and opinion of the witness.

Q. Didn't she try to get you to say that you knew certain things? A. No, sir, she didn't.

Q. And you told her that you didn't want to have anything to do with it?

Mr. German: I object to the conversation on the ground that it is incompetent, irrelevant and immaterial, and object to any conclusion.

Q. You told her you didn't want to have anything to do with it? A. I never told her that.

Q. You didn't tell her that? A. No, sir.

Q. Didn't you tell Dennis Jones that Sadie had come to you and wanted you to testify to something that she would fix up for you? A. Why, no.

Mr. German: Wait a minute, let me object. I object to that on the grounds that it is incompetent, irrelevant and immaterial, and that no time or place has been named.

Q. You talked with Dennie Jones in his office in Leavenworth about a year ago, about Sadie coming to see you, didn't you?

A. I might have talked with him in his room about a year ago, but I never said much about Sadie to him, and he didn't say much about her to me.

Q. Didn't you tell Dennis Jones that Sadie James wanted you to testify in this case, and told you that she would tell you what to say? A. Why, no.

Q. And you told her that you wouldn't have anything to do with it? A. Why, no, sir, I didn't.

Q. And didn't you tell Dennis that Sadie had gotten your sisters Eliza Lavally and Alice Parre—not Alice Parre, but Eliza LeVallay to do it, and you wouldn't?

A. Why, no. I didn't tell Dennis that.

Q. You didn't tell Dennis that? A. Why, no.

Witness dismissed.

Mr. German: We offer the deposition of George Dale, taken before Mr. Penick, appearing in his transcript, beginning at page 2928.

And thereupon **GEORGE DALE**, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. George Dale.

Q. Where do you live, George?

A. I live at 620 Harrison.

Q. Kansas City, Mo.? A. Yes, sir.

Q. How old are you? A. Well, I am 41.

Q. Did you ever live in Leavenworth, Kansas?

A. Yes, sir.

Q. Did you ever live at the home of a woman named Molly Letcher, or Granny Letcher? A. Yes, sir.

Q. How long did you live at her home?

A. About two years.

Q. When was that with reference to the date on which Molly Letcher died; was you living there when she died?

A. Yes, sir, I was there when she died.

Q. Now, how long before she died had you lived there?

A. Oh, I guess about two years, or about that.

Q. Had you ever lived in her home before that?

A. No, sir.

Q. Had you visited her home before that? A. No, sir.

Q. While you were living there was there any boy who lived there by the name of Indian Tommy or Tommy Atkins?

A. Not that I knows of.

Q. Did you know of any such boy by that name at that time? A. No, sir.

Q. Did you know who the members of her family were, of Molly Letcher's family, who lived at Molly Letcher's house at that time?

A. Why, Walter Banks, I believe, and Sam Nash and Jim Mayo.

Q. Was there any boy living in that family younger than Walter Banks? A. I didn't see any there.

Cross Examination by Mr. Cruce.

Q. You knew Minnie Atkins? A. No, sir, I didn't.

Q. What? A. No, sir.

Q. Well, you knew that Indian girl over there?

A. No, sir, I never did.

Q. What year was it you went there?

A. I don't know what year it was.

Q. You just knew her about two years before she died in '98? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. Did you live there all during that two years?

A. I lived there from the time I went to room there until she died, and after she died I stayed there a week or so after she died.

Q. That is all? A. Yes, sir.

Q. You didn't live any other place during that time?

A. No, not at any other place.

Q. What was you doing, working out?

A. I was driving a hack.

Q. And you just went there to sleep? A. Yes, sir.

Q. Did you know anything about any other people in the house? A. No, I didn't know nothing about——

Q. You didn't know who lived there and had rooms there during that time?

A. No, I just knowed those that were there.

Q. You didn't know anybody else?

A. Not outside of Mattie, I don't know what her name is.

Q. Did you know all the children around that neighborhood? A. No, I didn't.

Q. You don't know who played around there? A. No.

Q. Who did you drive for?

A. Why, I drove for all of them; I was driving for Quinby at that time, George Quinby; I drove for several of them.

Q. Do you remember a little boy around there they called Commodore? A. No, sir, I don't.

Q. You never knew anybody by that name? A. No.

Cross Examination by Mr. Blakeney.

Q. Did you ever make a statement to Dennis Jones about this case?

A. No, sir, I have never seen the gentlemen until yesterday, I believe it was.

Q. Did you ever read him a letter about it?

A. No, I never read him a letter.

Q. Did you ever make any statements to anybody about it? A. No, sir.

Q. Nobody?

A. Nobody, that is a couple of men came to my house one time, they came to my house, the only thing.

Q. Who were they?

A. Well, I don't know who they was.

Q. Dennis Jones now never tried to get you to say that there was any boy at Granny Letcher's about the time you stayed there, just before Granny died?

> Mr. German: I object to the question on the ground that it is incompetent, irrelevant and immaterial and improper cross examination.

A. No, sir, I haven't seen him since. Oh, I guess since 1905, since I seen him here until yesterday here.

Redirect Examination by Mr. German.

Q. Were there any other children around the Letcher home at the time you lived there, besides those whose names you have called? A. I didn't see any.

Recross Examination by Mr. Blakeney.

Q. If they had been there you would have seen them wouldn't you? A. Sir?

Q. Were you in the house, all over the house?

A. I was in the house, yes, sir, I had a room there.

Q. You were there during the day time any?

A. I worked nights mostly; I would go in there and go to bed, in the morning.

Q. Well, if there was any 15 or 16 year old boy there you would have seen him?

A. I never saw a boy around there, not that I know of.

Q. Not that you know of? A. Yes, sir.

Q. You know that you never saw any 15 or 16 year old boy around that place?

A. Walter was the smallest one I seen around there.

Q. Well, Walter was grown at that time, wasn't he?

A. He was the smallest one, I don't know whether he was grown or not.

Recross Examination by Mr. Hanford.

Q. Didn't Walter go away while you were there?

A. No, sir.

Q. Were you there at the time the Spanish War broke out? A. Yes, sir, I was in Leavenworth at that time.

Q. Didn't Walter enlist and go away to the war?

A. I wasn't there I don't think, rooming there when the Spanish American War——

Q. Wasn't rooming at Letcher's then? A. No.

Q. Where did you room then? A. At Mrs. Blaine's.

Q. Where did she live? A. On Pottawatomie Street.

Q. How long did you room there?

A. I don't know how long I roomed there.

Q. How long did you room there before the war broke out? A. Well, I don't know that.

Q. Did you room there a long time?

A. Yes, I was there quite a while.

Q. How many years? A. I don't know.

Q. Did you go there before you went to Letcher's?

A. No, it was after I went to Letcher's.

Q. And you went from Letcher's to Blaine's?

A. Yes, sir.

Q. Did you live there until you moved away from Leavenworth? A. No, sir, I lived on Shawnee, on Delaware then.

Q. Well, there was sometime you lived at Blaine's, you didn't know how many years? A. No, sir, I don't.

Q. Did you live at any other place before you went to Blaine's after you left Letcher's?

A. I lived at home before I went to their place.

Q. Well, I mean in between Letcher's and Blaine's?

A. No.

Q. Didn't stop at any other place?

A. Not that I know of.
Q. Temporarily, I mean, just a short time? A. No.
Q. You went direct to Blaine's? A. Yes.
Q. Are you sure about that?
A. Yes, I am pretty sure of it.
Q. Well, now, stop and think a minute. You said you were pretty sure, I want you to be very sure.

Mr. German: I object to that as incompetent, irrelevant and immaterial.

A. Well, I don't know.
Q. George think of all of the places that you lived in Leavenworth, and then try and remember if it was at one of those places that you lived in between Letcher's and Blaine's?

Mr. German: I object to that as incompetent, irrelevant and immaterial, and passing no light on the issues in this case, or the weight that is given to the witness' testimony.

A. No, there wasn't no place that I know of.

(Witness dismissed.)

And thereupon an adjournment is taken until May 22, 1916, at 10 o'clock A. M.

Mr. German: We offer the deposition of John Phillips, taken before Mr. Penick, appearing in his transcript, beginning at page 2739.

And thereupon, JOHN PHILLIPS, being recalled on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. John Phillips?
Q. Where do you live?
A. 808 Liddy, Kansas City, Missouri.
Q. John, what is your name? A. John Phillips.
Q. How old are you?
A. Well, about, I will be forty-four about September.
Q. Where do you live now? A. 808 Liddy.
Q. Where were you born? A. Weston, Missouri.
Q. Did you ever live in Leavenworth, Kansas?
A. I did, sir.
Q. When did you move there?

A. Well, shortly after my mother died.

Q. When did she die?

A. I can't say, I don't know the year at all.

Q. How old were you?

A. Well, that would be pretty hard to tell, I can't tell that, I was a mere boy.

Q. Well, about how old?

A. Well, I should judge about seven or eight possibly.

Q. Where did you live when you went to Leavenworth?

A. I lived in Weston, Missouri.

Q. I mean after you went to Leavenworth?

A. Oh, I lived on Second and Miami, and then from Miami to Seneca.

Q. What place on Seneca did you live?

A. I lived on Seneca between Second and Third in the—— It would be the stone house behind the frame, I think now that it is in front and the stone house, is it behind the frame?

Q. Who lived in the front part of that house?

A. I can't say.

Q. Were they white or colored?

A. That I can't remember.

Q. To refresh your memory, was it an old German lady named Seth?

By Mr. Blakeney: We object as leading.

By Mr. Cruce: It is not urged, the point where you are refreshing the witness' memory.

A. I don't know, I can't say now.

Q. Who lived in that back part of that house at the time that you lived there with you? A. Alice Woods.

Q. Who else?

A. Emma Hardin, at that time her maiden name was Emma Woods at that time.

Q. What is her name now?

A. Her name is Emma Gatewood now.

Q. Did you live there during the time that Emma Gatewood lived there? A. Yes, sir.

Q. About how old were you then?

A. Well, I were in my teens at that time, I really can't just say, but I think——

Q. When you were living there about how old were you?

A. Oh, I was along about ten I guess.

Q. Were you living there when Granny Letcher moved in the house next to you?

A. I suppose I was, I didn't know Granny Letcher until after she moved on Seneca Street.

Q. Do you remember the year that she moved on Seneca Street? A. No, sir, I don't.

Q. Were you around her house much of the time when she was on Seneca Street? A. I went very often, yes, sir.

Q. Who were you up with there? A. Sam Nash.

Q. Who were the members of Granny's family?

A. Well, at that time there were Sam and Walter, and Jim Mayo—Maho, or Mayo——

Q. How long did you continue to live in the back of this house on Seneca Street?

A. Well, I guess it would be about three or four or maybe five years, I can't be positive about that.

Q. You say this Walter, who? A. Walter Banks.

Q. Was there any other boy at Granny Letcher's during that time? Younger than Walter Banks?

A. Not that I know of.

Q. Was there any baby born at Granny Letcher's during that time? A. Not that I know of.

Q. Was there any Indian woman there during that time?

A. Not that I knew of.

Q. Did you ever see Tommy Atkins or Indian Tommy, or Minnie Atkins or Indian Minnie? A. No, sir.

Q. You don't know what year you moved away from there? A. No, sir, I do not.

Cross Examination by Mr. Cruce.

Q. What kind of a looking woman was *Granny Atkins?*

A. Oh, she——Granny, who?

Q. Granny Letcher?

A. Oh, she was a heavy set woman, what we call a dark browned skinned lady.

Q. Did she live in a stone house or the frame*d* house?

A. No, sir, she lived in the frame house just this side of us.

Q. Which side is that, east or west?

A. Well, it would be on the west side. I should judge, facing this way, it would be on that side.

Q. How many did you know in her family?

A. I knew of two.

Q. Two? A. Yes, sir.

Q. They were your playmates? A. Yes, sir.

Q. You were just a boy then?

A. I was a boy at that time.

Q. What was the name of that younger baby there?

A. I don't know anything about a baby at all.

Q. What?

A. I don't know anything about a baby at all.

Q. You don't remember a younger—— A. No, sir.

Q. What? A. No, sir.

Q. Well, how old were you then?

A. Well, I guess about ten, somewhere along in there, possibly ten, or a little older.

Q. When was that?

A. I don't know, I can't tell the year.

Q. Well, can't you give us an idea what year it was?

A. Well, not accurately.

Q. What?

A. I can't hardly, because that would be an answer that I can't——

Q. How long ago was it?

A. Well, it has been quite a while.

Q. Quite a while? A. Yes, sir.

Q. Ten years? A. Sir?

Q. Ten years? A. Longer than that.

Q. Fifteen? A. Longer than that?

Q. Twenty?

A. Along there, about twenty or twenty-five, possibly.

Q. Twenty or twenty five years ago that you knew Granny Letcher, how old are you?

A. I will be forty-four my next birthday, the way I count, I don't know whether that is right or wrong.

Q. I didn't hear your answer?

A. Forty-four my next birthday.

Q. Now, didn't you go over there to find out who were the members of Granny Letcher's family?

A. Did I go over there to find out who?

Q. Yes?

A. No, sir, I didn't go over there to find out who the members of the family were. I and Sam, I used to go over there often.

Q. You played? A. We played together, yes, sir.

Q. You were just a boy? A. Yes, sir.

Q. And you played with the other boys? A. Sure.

Q. And you didn't have to inquire who was in the house, what babies were up there above you?

A. No, I never thought, I guess, anything like that.

Q. You didn't think about it, did you, John? A. No.

Q. It didn't occur to you to think about it, you were interested in your games weren't you? A. Why, sure.

Q. How many rooms are in that house? A. I can't say.

Q. Well, it was a two story house? A. Yes, sir.

Q. What rooms of the house did you usually go into?

A. Well, most all over the house.

Q. Up stairs and down stairs?

A. Up stairs and down stairs, yes, sir.

Q. Well, who lived up stairs?

A. Well, the only ones that I knew that had any rooms up there was Sam and Jim.

Q. Sam and Jim? A. Yes, sir.

Q. Well, who had rooms down stairs?

A. Well, I don't know I suppose the lady of the house had some down stairs.

Q. Not what you suppose, but who do you remember?

A. I don't remember any one.

Q. You don't remember any one who had rooms down stairs? A. No, sir.

Q. Where does Granny live now?

A. Well, that is pretty hard to tell.

Q. You don't know what went with her? A. No, sir.

Q. Living in Missouri or Kansas?

A. I don't know where she is living at now.

Q. You don't know what became of Granny? Well, John, that has been a long time since you were playing around there with those boys, hasn't it? A. Yes, sir.

Q. You didn't think about it at that time, did you, it didn't occur to you that it would be—ever be necessary to testify who were the members of Granny's family? A. No, sir.

Q. When did you first think of this?

A. When did I first think about it?

Q. Yes? A. Why, I never gave it a thought at all.

Q. When did you first learn that you were going to be a witness.

A. Why, I don't know, it has been some time ago. They asked me did I know Granny Letcher and I of course told them, told him I did.

Q. Who asked you?

A. Some lady, I don't know what her name was, named Sadie.

Q. Who?

A. Name was Sadie, something, I don't know what her last name was.

Q. Sadie James?

A. I don't know her last name at all.

Q. Describe her? I am not acquainted with her myself, I don't want to meet the lady, but——

A. She was a brown skinned lady, what I call yellow.

Q. A pretty broad woman? A. Not so awfully broad.

Q. Fairly broad? A. Yes, tolerably.

By Mr. Allen: He is speaking of complexion.

By Mr. Cruce: I am speaking of——

Q. She is a broad woman, woman of good mind, isn't she?

A. Well, I don't know, I don't know whether she is or not, I judge she would be.

Q. How did she strike you? A. Well, just like——

Q. A pretty smart woman, a pretty smart woman, John?

A. Sir?

Q. A pretty smart woman, wasn't Sadie?

A. Well, I didn't think she would be so awful smart, she might be smart.

Q. Where is she now? A. I don't know.

Q. Has she gone to the French countries?

A. I don't know, she may be in Mexico so far as I know.

Q. You think she is down in Mexico now?

A. I don't know.

Q. When did you see her last?

A. I haven't seen her for quite a while.

Q. What do you mean for quite a while?

A. Six or seven weeks possibly.

Q. You haven't seen Sadie for six or seven weeks?

A. No, sir.

Q. Didn't you learn her other name?

A. That is all I know.

Q. Just Sadie, how did you meet Sadie?

A. How did I meet her?

Q. Yes? A. She met me.

Q. Came up and said I am Sadie? A. No, sir.

Q. How did you get acquainted with her?

A. She asked me had I lived in Leavenworth and I told her I did, and she asked me did I know Granny Letcher, and I told her I did, and she aske me wasn't I the boy that Alice Woods raised with her children, and I told her I was one, and she asked me about my brother.

Q. She did most of the talking? A. Some parts.

Q. You didn't let her lead you into any traps, did you?

A. Not exactly, I don't think that I did.

Q. Well, you let her do most of the talking?

By Mr. German: I object to that as argument.

Q. What became of Sadie? A. I don't know, sir.

Q. She is a good looking woman?

A. Well, I don't know, some people might call her good looking, I didn't call her good looking.

Q. Was she a colored woman or a white woman?

A. Must have been colored. She was born that way, I don't know whether she was colored or not. That was the color the Almighty gave her.

Q. Didn't you ask her her other name?

A. No, I didn't know her other name, Sadie is all I know.

Q. She just came up and talked to you by the name of Sadie? A. Why, my nephew that lives over in Kansas——

Q. I don't care anything about your nephew, I am talking about you and Sadie. She came up and talked to you and you didn't ask her her other name. She said I am Sadie, is that right?

A. No, sir, she came up and approached the conversation with me and of course I naturally talked to her on it, and she asked me didn't I know her and I told her no I didn't believe I did, and she said her name was Sadie, something, I don't know what her last name was, that is all I remember.

Q. Didn't she tell you that Uncle Sam, or the United States, was trying to unearth a great fraud down there in the Indian Territory?

A. No, sir, she was saying something about Sam Nash, or something, and I told her I didn't know nothing about it.

Q. What did she say about Uncle Sam?

A. She didn't say nothing about Uncle Sam that I know of.

Q. Well, did you learn that the Government was trying to unearth some fraud down there, did you learn that from her? A. No.

Q. She didn't say anything about the Government?

A. Not at that time, she didn't.

Q. When did she?

A. When she came back, she said there was going to be a law suit, the last time I seen her, about some land or something, and I told her, well I don't know anything about this, I said, you asked me did I know Granny Letcher and Sam and them, and I told you I did, but so far as this land proposition I don't know anything about it, and she said you are liable to be subpoenaed, and I told her don't subpoena me because I don't know anything about it at all.

Q. Well, the last time she came to see you, when was that, John? A. Well, the date I don't really——

Q. Was it last year? A. No, it was this year.

Q. This year?

A. I think it was along in January or February, I can't say which.

Q. And she said you are liable to be subpoenaed?

A. Yes, sir.

Q. Didn't she say anything about a law suit?

A. That was all she said about it.

Q. You didn't ask her about a law suit?

A. No, because when she came that night I was in condition that I didn't want to see anybody.

Q. What was the matter, you wasn't full——

A. Not exactly, but I was getting up pretty close to it.

Q. Pretty near full? A. Yes, sir.

Q. Did she say anything about how you were going to be paid? A. No, sir.

Q. What? A. No, sir.

Q. Did you tell her you were coming up to testify without—— A. No, sir.

Q. You never saw anybody else with reference to this case? A. No, sir.

Q. Except her?

A. Yes, I did, there was—— When I lived at 901 Independence Avenue.

Q. That is Kansas City, Kansas?

A. No, Kansas City, Mo.

Q. I mean Kansas City, Missouri—— Who?

A. A couple of gentlemen came up there and were talking to me. I don't know their names, and if they were in here I wouldn't know them.

Q. Let's see if we can find them. Was—— Do you see them here now? A. I don't know their names.

Q. This old gray headed man here?

A. I don't know, I can't describe their names.

Q. Was it Mr. Hanford?

A. No, I don't see any of them at all here that I can really remember.

Q. It wasn't Judge Allen over there?

A. I don't think it was.

Q. Was it Mr. Maxey?

A. I don't know their names at all.

Q. Two men came over there? A. There was two.

Q. Well, what did they say?

A. They just asked me about Granny Letcher.

Q. Was one of them a one armed man? A. No.

Q. What did they ask you about Granny Letcher?

A. Asked me did I know her, and I told them I did, and asked me where did I live, and I told them, and they asked me did I know anything about any Atkins, or something like that and I told them no sir I didn't.

Q. Well, what became of Tommy Atkins?

A. I don't know him.

Q. What?

A. I don't know him, I never seen him that I know of.

Q. That you know of? Well, who was that boy that you saw over there, that little boy—— That little boy—that three year old boy that stayed with Granny Letcher, what was his name? A. I never seen him.

Q. You didn't see him at all? A. No, sir.

Q. Well, you knew Minnie Atkins? A. No, sir.

Q. That Indian girl? A. No, sir.

Q. Were you around the camp up there, the Military Fort? A. No, sir.

Q. You never went around that Military place?

A. Went around there but I didn't know her.

Q. How long did you stay in Leavenworth?

A. Oh, I stayed in Leavenworth quite a little while.

Q. Well, about?

A. I don't know the exact time or anything like that, I can't say.

Q. What time did you go over to Leavenworth?

A. I don't know that, I went there shortly after my mother died.

Q. Well, when did your mother die?

A. That, I don't know either, I can't tell you the year.

Q. What? A. I can't tell you the year.

Q. Well, you could give us some idea?

A. I really can't because I was too young.

Q. She died in 1875?

A. I don't know, she might have died in 1875, I don't know.

Q. What is your best judgment?

A. I have no idea at all, sir.

Q. Did you love your mother? A. I guess I did.

Q. But you don't remember when she died? A. No.

Q. But you remember when you were living in Leavenworth? A. I do.

Q. What year was that?

A. I don't know the year either.

Q. I thought you said you did?

A. No, sir, I had never been to school at that time.

Q. You have been to school since?

A. A little bit, yes, sir.

Q. When did you leave Leavenworth?

A. I left Leavenworth about 1891.

Q. Now, John, I am not trying to confuse you, I just want to get at the facts in this case, it has been a long time you know. How old are you now?

A. I will be about forty-four my next birthday if that is correct.

Q. You don't remember when your mother died?

A. No, sir.

Q. Have no idea? A. No, sir.

Q. Where did she die? A. In Weston, Missouri.

Q. Where in Weston, Missouri?

A. I don't know no streets, up a lane there.

Q. What?

A. No streets there at that time, or the streets were not numbered.

Q. Did she die in some town in Missouri?

A. Weston, Missouri.

Q. Weston, I beg your pardon, do you mean the town of Weston? A. Yes, sir.

Q. You don't remember the time when your mother died?

A. No.

Q. Did you ever hear of Minnie Atkins? A. No, sir.

Q. Did you ever hear of her—— You have heard of her now? A. Lately.

Q. How lately?

A. Here in the last, maybe two or three months.

Q. Who told you about her?

A. I don't know. That is town talk, everybody in Leavenworth will ask you, did you know Minnie Atkins.

Q. You were not around that camp any at all then?

A. Camp?

Q. Military Fort, over in Leavenworth?

A. I used to drive a bus from Leavenworth to the Fort.

Q. Used to drive a bus? A. Yes, sir.

Q. What bus?

A. Cap Burns, I believe it was called "The Lone Star," the name of it was if I mistake not.

Q. Well, you just did that once every two or three months?

A. No, sir, I did that once every morning.

Q. When was that?

A. I don't know sir, when Cap Burns had his barn on Cherokee Street.

Q. How long was that when you commenced driving that bus after you went over to Leavenworth, was that in '84 or '85? A. I can't say.

Q. What is your judgment about it?

A. I have no judgment at all.

Q. Haven't got any?

A. Not in regard to that, because I was really too young to remember anything like that, and didn't give it a thought.

Q. Well, how old were you when you were driving that bus?

A. I suppose along about thirteen or fourteen, I suppose something like that, I wouldn't be positive.

Q. Well, at that age—now listen: At that age, you remember now what happened at thirteen or fourteen better than you do things that happen at thirty or forty, don't you?

A. I really couldn't say.

Q. Well, what is your judgment?

A. Well, it happened forty years ago, do you mean?

Q. No, I mean don't you remember things that happened to you when you were from thirteen to fifteen and sixteen, better than you do things that happened in later years.

A. Well, I suppose I would remember things that happened in later years.

Q. Do you suppose you would remember things that happened in later years better than you do things that happened in your childhood? A I think so, yes, sir.

Q. Well, you ran this bus for this man? A. Yes, sir.

Q. You never saw any Indian girl around there?

A. That I know of. I may have seen Indian girls, but I don't know.

Q. What is your judgment, that is what we are trying to find out?

A. I am telling you I might have seen Indian girls and not known any of them.

Q. Did you see Indian Minnie?

A. No, sir, not that I know of.

Q. Didn't see any Indian girls?

A. I say I didn't see any Indian girls that I knew of.

Q. There weren't any Indian girls around there then?

A. Not that I know of.

Q. That you saw?

A. Might have saw lots of them and didn't pay any attention to them.

Q. Did you see any Indian girls there from 1881 to 1891?

A. Maybe I did, I don't remember of it.

Q. I don't want maybe, what is your judgment about it?

A. I never seen any that I paid any attention to or knew of at all.

Q. What kind of looking boy was Tommy Atkins?

A. I never seen Tommy Atkins.

Q. You didn't see Tommy? A. No, sir.

Q. What kind of looking woman was Granny Letcher?

A. Granny Letcher was a heavy brown skinned woman.

Q. Was she a white woman or negro woman?

A. No, sir, she was a colored woman.

Q. Colored woman? Indian? A. No, sir.

Q. How much would she weigh?

A. I judge she would weigh about a hundred and seventy five or a hundred and sixty pounds possibly.

Q. When did you last see Granny?

A. Oh, that has been quite a while I guess, I don't know.

Q. Two or three years?

A. It has been longer than that, it has been years since I have seen Granny.

Q. Yes, how many years?

A. I would judge it has been twenty five years, something like that.

Cross Examination by Mr. Blakeney.

Q. Who did you live with? A. Alice Woods.

By Mr. Allen: We now enter our objection into the record to the cross examination of this witness by counsel representing the interests identical with the interests of Mr. Page, whose counsel has just completed the cross examination of the witness.

By Mr. Cruce: We wish to state in this connection, that we would be glad if the interests of counsel that is going to examine the witness was identical, but he is a very hostile attorney.

By Mr. Blakeney: My interest appears on the record and I will submit the record as evidence of what interest I am representing.

Q. Who else lived there?

A. Emma Hardin, at that time, her name at that time would be Emma Woods, she married recently after that, you know.

Q. Alice Woods and Emma Woods? A. Yes.

Q. Who else? A. And Walter Woods.

Q. And who else? A. Jack Bartlett.

Q. And who else? A. And George Phillips.

Q. And George, who? A. George Phillips.

Q. Phillips? A. Phillips.

Q. Were those two women that you have named married?

A. Why, they have been married. Emma wasn't married at that time, Alice had been married, she wasn't married then.

Q. No husband living with her? A. No, sir.

Q. What did they do for a living?

A. Washed and ironed and cooked.

Q. Is that all that they did?

A. That is all that I know they did.

Q. Is that all that you know they did, or all that you are willing to swear that they did?

A. That is all that I know that they did.

Q. Who were these boys? The boys that were there that you have named?

A. Why they were all related. There was two brothers of us, George and myself were brothers. Walter Woods and Jim Bartlett were brothers.

Q. What was your name?

A. My name was John Phillips.

Q. You and Walter Phillips were brothers?

A. No, sir, I and George Phillips were brothers.

Q. You and George, who? A. Phillips.

Q. Phillips? A. Yes, sir.

Q. Which were the older?

A. I were a year older than he was. I believe, so they said.

Q. These other two brothers that lived there, which was the oldest of those two? A. Walter.

Q. Were they older than you?

A. No, sir, they were younger.

Q. Both of them younger than you? A. Yes, sir.

Q. Were both of them younger than your brother?

A. I think they were, yes, sir.

Q. Were any of you working there at that time?

A. I were.

Q. What time did you go there with reference to the time that your mother died?

A. I don't know the year, because they came and got me.

Q. Just a minute, I said with reference to this, I mean did you go just immediately after, or sometime after?

A. No, sir, I didn't go right away, no, sir.

Q. How long was it before you went there?

A. Wasn't over three or four or five months, something like that possibly.

Q. Did your brother go with you?

A. No, he was there.

Q. When did he go in reference to the time you went?

A. Why, my aunt is the one, Alice Woods, taken me, and I didn't go right with them, I went with my aunt and my father's people and came back to Leavenworth.

Q. How long were you gone?

A. I wasn't gone, I guess maybe four or five or six months, something like that. I stayed in Weston there.

Q. Then, when you got back all these other boys were there?

A. Yes, sir.

Q. Any of them going to school? A. They did.

Q. All of you? A. All but me.

Q. What was it you first commenced doing?

A. I first commenced to shine shoes there, I shined shoes there for a while.

Q. Where? A. In Leavenworth.

Q. Where abouts in Leavenworth?

A. All over town, on Shawnee and Seneca, all over town.

Q. You got your box and blacking and brush and you went around town shining shoes?

A. The principal parts of it, yes, sir.

Q. How long did you follow that business?

A. I didn't follow it so awful long.

Q. Well, how long?

A. Well, I can't specify the time at all, just been a year or two or might not have been so long, I can't say really.

Q. Now, when you went there was Granny Letcher living there in that building? A. When I first went there?

Q. Yes?

A. I don't know whether she was or not.

Q. How long had you been living there before you found out she was living there?

A. Well, we had moved from Second and Miami.

Q. Who was that? A. My auntie and the rest of us.

Q. Oh, when you first went to living with your auntie, you first went to living at Miami?

A. On Second and Miami.

Q. And you didn't know who was living over here on this place then? A. Over on Seneca?

Q. Yes? A. No, sir.

Q. And then you moved over on Seneca in this stone building? A. We did.

Q. When you got there, who was living in the house in front of you? A. I can't say.

Q. How long did you live on Miami?

A. I don't know just exactly how long we did live there, I guess it must have been two or three years, something like that, possibly.

Q. Then you came on up to Seneca and you lived there, and how long had you lived on Seneca before you learned that Granny was living at the front part of the house?

A. Granny wasn't living at the front part of the house then.

Q. Listen to my question. How long did you live there before you did learn that she was living in the front part of the lot?

By Mr. Allen: We object to that, as not based upon any testimony that this witness has given.

A. Well, I don't see how I could answer it, because she wasn't living in this lot at all, not there, she was living on this side of us.

Q. Which side is that?

A. Well, I don't know, the house sets this way.

Q. North and south?

A. North and south and she was on that side.

Q. Facing Seneca street, it would be on your right?

A. On my right, yes, sir.

Q. All right, how long were you living in this house before you learned that Granny was living in that place?

A. Oh, I don't know, you know how children are, we get acquainted with one another pretty quick. I had known Sam quite a while before that.

Q. Known Sam quite a while before you came up there?

A. Yes, sir, more than likely.

Q. And you saw Sam soon after you came up there?

A. Yes, sir.

Q. You didn't know who Sam was living with when you knew him before he came there?

A. He said he was living with Granny I suppose——

Q. Well, you didn't know who Granny was?

A. No, not at that time.

Q. Now, how long did you live there after you got acquainted with Sam, or after Sam came up?

A. Well, I can't say how long we really did live there.

Q. You don't really know? A. No, sir, I can't say.

Q. Can you give us an estimate of it?

A. Maybe lived there two or three years, and may have lived there longer, I can't say.

Q. Well, would you say you lived there any less?

A. Less than two or three years?

Q. Yes?

A. I can't say that, but I can't say definitely that time, because I don't know.

Q. Well, now, what would be your best judgment about that?

A. Well, my best judgment would be about four years, something like that.

Q. Well, but why do you say two or three years, and your best judgment is four?

A. Well, you asked me to put my judgment on it.

Q. And you think it was four?

A. To come down and tell the truth, I don't know how long we did live there.

Q. Well, why did you say two or three years, if you thought it was four?

By Mr. Allen: We object to that as argument and for the further reason that the witness has fully explained what he meant by his testimony.

By Mr. Blakeney: I want to interpose the same objection that I have interposed heretofore: That whenever counsel feels like his witness was being put up against the wall, he has commenced coaching, by his method of objecting.

By Mr. Allen: I didn't mean for my objection to carry that compliment to counsel.

Q. You were not there then when Granny died?
A. No, sir.
Q. You heard of her death? A. Yes, sir.
Q. I don't mean now, did you hear of it at the time?
A. No, sir.
Q. You didn't hear of it until years afterwards?
A. No, sir.
Q. After you left that place where did you go to live?
A. Where did I go to live?
Q. Yes?
A. I believe we moved from there over on Kiowa between Third and Fourth.
Q. How long did you live in Kiowa?
A. That I don't know.
Q. Well, I don't want the exact time, but the approximate time, about the time?
A. I don't know, I left home shortly after, when my people moved from Seneca to Kiowa, I left home.
Q. How long do you say you lived there before you left there, how long had you lived up on Kiowa?
A. I left them I guess after they had moved there a couple of weeks.
Q. A couple of weeks? A. Yes, sir.
Q. Then, where did you go to?
A. Then I went to boarding.
Q. Where did you board?
A. With a lady named Miss Jackson.
Q. Where was she living?
A. She was living down on, I believe it was Chicapoo now.
Q. About how far was that from the place on Seneca where you had lived, was it in the same part of town or was it in another part of the city?
A. In the same part of town, but Seneca, we were farther north.
Q. About how far north?
A. Let me see, we would be about six or seven blocks, I should judge, from Seneca street.
Q. Now, about how long did you live there boarding?

A. I boarded there with her, possibly three or four weeks.

Q. Then, where did you go?

A. I left there then and went over—and went to work in the mine.

Q. You went to work in the mine? A. Yes, sir.

Q. How long did you stay there?

A. Oh, I stayed there until one pay day.

Q. And then where did you go?

A. I left there and came on back up town and stayed there about a day, and then I left town and come here.

Q. Then three or four months after you left Seneca street, you came to Kansas City?

A. I would guess it was something like that, yes, sir.

Q. Did you ever go back?

A. I have been back to Leavenworth twice.

Q. How long after you left was it before you went back the first time?

A. Oh, I guess about ten or twelve years.

Q. Did you see Granny then?

A. No, sir, I didn't visit at all, I made no visit at all.

Q. Now, John, when did you first meet Sadie?

A. Sadie?

Q. Yes? A. It was here last winter.

Q. Last winter. Do you mean by that the winter of 1915?

A. 1915.

Q. That would be some three or four or five months ago?

A. Possibly may be six.

Q. Possibly may be six?

A. Hasn't been over that time, five or six.

Q. Hasn't been over five or six? A. No, sir.

Q. Where did you meet her?

A. I first met her when I was living at 901 Independence Avenue.

Q. Who were you living with there? A. With my wife.

Q. Did Sadie know your wife?

A. No, she didn't know her at that time.

Q. How did you happen to meet her there, did you send for her or—— A. No, sir, I didn't send for her at all.

Q. She came down to see you?

A. She did, I guess through my cousin.

Q. Just don't guess.

A. Well she did through my cousin who lived over Kansas.

Q. Well, that is all guess work about your cousin?

A. I think so.

Q. You wasn't there when your cousin told her anything, were you? A. No.

Q. Did Sadie tell you your cousin sent her? A. No, she didn't say anything like that.

Q. Well, when Sadie came to see you, she just came up and knocked at the door? A. Yes.

Q. Just came in and sat down and talked to you and your wife? A. She did.

Q. Did she talk to you in the presence of your wife? A. She did.

Q. Altogether? A. Yes, sir.

Q. What was the first thing that Sadie said to you?

A. Well, she asked me how long—did I know her, I told her no I didn't.

Q. And then did she up and say, Now, John, you know Sadie? A. Didn't go that way at all.

Q. Well, what did she say?

A. She said why you ought to know me, and I said, I really don't; then she said, well, do you remember Granny Letcher, and I said yes, and I asked her how she were—or something like that, and she, oh, she is dead, and she said Sam had been down in the summer—something like that—and asked me did I see him, and I said no, I hadn't seen Sam for quite a while. And she to me, well, we are going to—how did she have that—I disremember the words she said, but anyway, it was something similar, that she was going into some trouble or was going to have some trouble, and asked me when had I been to Leavenworth, and I told her I had been to Leavenworth but once, and I told her that I was up there and worked three or four months ago, which I were, and she asked me did I see Sam, and I said I seen Sam twice and just spoke and that was all. And she said I wouldn't know the town and the next time I seen Sadie, she——

Q. Was that all the conversation you had?

A. That was all, I believe.

Q. She didn't even tell you what she came there——

A. No.

Q. You wasn't drinking then?

A. No, that wasn't the trip.

Q. You were sober then? A. Yes, sir.

Q. Now, you are sure that was all she said?

A. That was all I remember her saying, yes, sir.

Q. Did she tell you what she was doing?

A. No, sir not at that time she didn't.

Q. Well, did you next see her?

A. The next time I seen her—I don't know what day or date.

Q. Well, about how long was it?

A. She came there and said there would be a couple of gentlemen from Leavenworth to see me, and I asked her what for, and then she begun to ask me did I know anything about Tommy Atkins, and I told her no, I didn't know Tommy Atkins; and she said did I know anything about Indian Minnie, and I said, Oh, no, Pop, I didn't know nothing like Indian Minnie——

Q. Is that the way that you spoke to her?
A. Yes, I spoke to her.
Q. You said, no, Pop, I don't know nothing? A. Yes.

Mr. Allen: We object to that as not expressing the answer of the witness the way he said it.

Q. Did you drawl that out that way to her?
A. I don't know whether I drawled or not; I said no, Pop.
Q. You called that rolling it out?
A. I called it speaking it out.
Q Why did you use that unusual tone of voice when you told her you didn't know?
A. I don't know, sir; the way we have of speaking it——

Mr. Allen: We object to that as misconstruing the witness's tone of voice.

Mr. Cruce: I think it was a little unusual.

Mr. Blakeney: The witness repeated several times in a rolling tone of voice, and counsel is now tying merely to get the witness not to describe it in the manner that he made it.

Mr. Allen: The statement of counsel we take issue with in point of fact, and especially deny the statement that we are seeking to influence the witness in any way.

Q. Well, why did you use that tone of voice?
A. I don't know, sir; it was just a mere way we have of speaking lots of times to people.
Q. That is, when you want to be very emphatic, isn't it?
A. No, sir, I don't know whether very emphatic—just like you said hello, Phillip, and I said hello, so-and-so, whatever your name might be.
Q. Well, describe that tone of voice that you were using —that you sometimes might use.
A. Describe it? What do you mean?
Q. Well, you sort of rolled it out, or drawl it out?
A. I don't know whether——

Mr. Allen: We object to the question as incompetent, irrelevant, and immaterial.

Q. Were you drinking that day?
A. I don't think so.

Mr. Allen: For the further reason that it is incapable of description.

Mr. Blakeney: I admit the last expression that it is incapable of description by one of my limited vocabulary.

Mr. Allen: We submit that the tone of voice of the witness is not unusual.

Q. Now, were you drinking that day?

A. I don't think I were; I might have been—I can't tell.

Q. Who can tell?

A. God Almighty at that time because I can't tell.

Q. Did you roll your eyes up, too, like you did when you spoke it to me?

A. No, sir, I didn't roll my eyes at you at all; I rolled my eyes at that light.

Q. Well, after you said, no, Pop, I don't know her, what did *Minnie* then say—what did Sadie then say?

A. She asked me did I know anything about any baby being born there, and were there in my time. and I told her no, Pop, I don't know anything like that at all.

Q. No, Popper?

A. No, Pop, I said I knew Granny Letcher, and I knew some—I knew Walter, and I knew Jim, and I—so far as anybody else being there, I didn't know that at all—no babies.

Q. Just when in that conversation, did Sadie tell you she was getting three thousand dollars?

A. She never told me nothing like that at all.

Q. How much did she say she was getting?

A. Never told me anything about that at all.

Q. Did she say you niggers stand by the Government, and we will get money?

A. I don't know anything about that at all; she didn't tell me anything like that.

Q. What did she tell you she was getting?

A. She never told me; never spoke to me in any way, shape, form or fashion about money, and you niggers stick to me—she never said nothing like that to me at all—nothing like that.

Q. Now, when was it that you had this conversation with Sadie that you said you were drunk?

A. Oh, that was way long in January?

Mr. Allen: We object to that for the reason that it is not predicated upon any testimony of this witness because it assumes testimony of this witness which has not been given.

Q. That was long in January, was it?

A. I judge it would be long in January, or February; I think it was in January.

Q. Where were you when you had that talk? A. At home.

Q. Did Sadie bring that whiskey down with her?

A. No, sir, no, sir.

Q. Did Sadie take any of it with you?

A. I don't know whether she did or not; if she did, she didn't take none for me.

Q. What did Sadie say then?

A. She didn't say anything to me, because I wasn't in condition, I couldn't talk to her, or anybody else.

Q. Well, did she talk to your wife?

A. Not that I know of.

Q. Where were you? A. Home.

Q. What number of home? A. 808 Liddy.

Q. On the floor or bed? A. Bed.

Q. You were in bed, putting cold rags on your head?

A. I don't know whether cold ones or hot ones; I was in the bed.

Q. Pretty drunk, were you, John?

A. I don't know whether pretty drunk; I was fairly.

Q. You don't remember what Sadie said, then?

A. I don't think Sadie said anything to me, to my way of thinking.

Q. How did you know Sadie was there?

A. By my wife telling me.

Q. When did you first hear the name of Garfield Buell?

A. Garfield who?

Q. J. Garfield Buell, the one-armed lawyer. oil man, of Oklahoma.

A. I never heard of it before in my life until now.

Q. The first time you have heard of it?

A. The first time I have heard of it.

Q. Who were you expecting to pay you for this?

A. I don't know; don't know whether I am going to get any pay. In fact, I am not asking for pay.

Q. Did Sadie make no explanation to you where the money was coming from?

A. Sadie never told me nothing about no money, sir, at all.

Mr. Cruce: Who did?

A. No one at all.

Q. When Sadie said to you that somebody was about to get into trouble, did she name who it was? A. No, sir.

Q. What was it she said about that?

A. She just said there is liable to be some trouble—going to make some trouble over something, and I told her I had nothing to do with it, Pop—anything about it at all, so that was all that was said about that. She ask me did I know this Tommy Atkins, and I told her no, never knew Tommy Atkins.

Q. And she asked you did you know Minnie?

A. The second time, she asked me the second time, and I told her no, I didn't.

Q. You didn't say no, Pop?

A. Not the second time; the first time I thought she was trying to joke with me, and I answered that way, and when she came down the second time, I told her, no, I didn't know no Tommy Atkins.—Nobody in Granny's house at that time but Walter and Sam; they were the only ones I knowed at that time.

Q. Did you know what kind of a place Granny was running? A. No, sir.

Q. When you were living there, you didn't know anything about what kind of a place? A. I wasn't living there.

Q. Living close there? A. No, sir.

Q. You didn't know anything about it? A. No, sir.

Mr. German: I object to counsel's going any more over the matters in the knowledge of the witness on the ground that it is repetition. He has covered already the whole ground about——.

Mr. Allen: For the further reason that counsel representing allied interests have also cross examined him at length upon these questions.

Mr. Blakeney: I object to counsel for Government interposing two objections to the one question.

Q. Now, you never saw any women going in and coming out of Granny's?

A. Well, there might have been a woman going and coming out, so far as I know.

Q. Were you old enough at that time, you were living, to know the difference between a good woman and a bad one?

A. No, sir.

Q You were not? A. No, sir.

Q. So you would no more notice a woman going into Granny's place than you would have a man? A. No.

Mr. German: I move to strike that answer on the ground that the question is improper because it is argument and calls for an opinion and conclusion of the witness

Cross Examination by Mr. Hanford.

Q. John, where did you live when you first came to Leavenworth from Weston, Missouri?

Mr. Allen: We object to the question of counsel representing interest allied with the interests represented by Mr. Blakeney and Mr. Cruce, and for the further reason that it is going [] the same matter which his associate counsel has gone into, and especially object to the manner of counsel in examining the witness, as being intimidating and brow-beating—strike out the brow-beating.

Q. John, were you intimidated when I asked you that question?

A. Can't but one talk at one time, Captain; I didn't understand you?

Q. Didn't understand me? A. No, sir.

Q. I didn't scare you when I asked you that question, did I?

Mr. German: I object to that question on the ground that it is incompetent, irrelevant, and immaterial.

Mr. Cruce: I would like to state that he is the most gracious lawyer in the case to the witness, and he is not brow-beating anybody.

A. Not as I know of.

Q. You were just a baby at that time? A. No, sir.

Q. A child? A. No, sir. I wasn't no child.

Q. How old were you, John?

A. I don't know; I can't state my age exactly.

Q. You were too young to remember much about it?

A. How is that?

Q. I say, you were too young to remember much about it? A. About when I came to Leavenworth?

Q. Yes? A. Pretty young, yes, sir.

Q. Your mother died when you were a child?

A. She did, yes, sir.

Q. And you can't recall the year of her death because you were too young to know about such things? A. Yes, sir.

Q. Do you know how long you lived at 2nd and Miami?

A. No, I don't really; I can't specify the time there, at all.

Q. But the best of your recollection is that you were about ten when you moved up in this stone house—in the rear of this stone house? A. Maybe, possibly a little older.

Q. What were you doing at that time, were you working?

A. I was; I was shining shoes.

Q. And what did you do after you quit shining shoes?

A. I went to work for Cap Burns.

Q. Driving a bus? A. Yes, sir.

Q. How long did you drive a bus for Cap?

A. I guess four or five months; possibly six months.

Q. And what did you do after that?

A. Went to work for Dave Atchinson.

Q. Where did you work for him?

A. At his wood yard, there at Fifth street, right across the bridge—Fifth Avenue I believe they call it.

Q. How long did you work for him?

A. I worked for him I guess three, or four, or five months, possibly.

Q. Did you work for him while you were living in the rear of this stone house? A. No, sir.

Q. You were 2nd and Miami at that time?

A. I was living at 2nd and Miami [] time.

Q. Did you drive the bus while you were living at 2nd and Miami? A. Yes, sir.

Q. Then what did you do after working for Dave Atchison? A. Well, I believe, I dug coal.

Q. Dug coal down in the mine? A. Yes, sir.

Q. Which one? A. Up to the old shaft, we called it.

Q. The old shaft? A. Yes, sir.

Q. How long did you work at the mine?

A. Oh, I can't specify that at all because I worked there quite a while.

Q. Did you learn the mining business? A. I did.

Q. Got to be a good miner? A. Pretty fair.

Q. Did you get pretty fair money there? A. I did.

Q. But you can't say how long you were there?

A. No, sir.

Q. Where did you live when you were working there?

A. When I first went to work in the mines, that was after I quit Dave Atchison.

Q. After you quit Dave Atchison?

A. Yes, sir, and then I went to work in the mine and I moved from Miami to Seneca.

Q. You mined coal? A. Yes, sir.

Q. Where were you living at the time that you went to work in the mine? A. At Miami.

Q. And you continued to work at the mine until after you moved to Seneca? A. Yes, sir.

Q. So, while you were living at Seneca, you were working in the mine?

A. In the winter I worked at the mine, yes, sir; and in the summer, we came out and were turning concrete.

Q. You were a concrete worker, too? A. Yes, sir.

Q. Did you learn something about that trade?

A. I don't know more than an ordinary man could learn to shovel.

Q. Well, you learned enough to get good wages, good pay? A. Yes, sir.

Q. Most of your business was in mines? A. Yes, sir.

Q. Now, after you moved from Seneca street, I believe you said you went to Kiowa? A. Kiowa, yes, sir.

Q. Did you ever visit any other place on Seneca street except that stone house? A. No.

Q. You never lived in any other house?

A. Not while I was with them, we never.

Q. I am asking you about—did you live in any other house? A. No, sir, Seneca is the only place I lived there.

Q. That house was stone in the front and frame in the rear?

A. No, I think it was frame in front and stone in the rear.

Q. And you lived in the stone?

A. If I ain't mistaken, we lived in the back.

Q. It was partly stone and partly frame? A. Possibly.

Q. Did you ever live in the brick house? A. Yes, sir.

Q. On Seneca? A. No, sir.

Q. Where?

A. My folks lived in the brick house on 3rd street between Seneca and Miami.

Q. On 3rd between 2nd and Miami?

A. Between Seneca and Miami.

Q. Between Seneca and Miami? A. Yes, sir.

Q. When they lived in the brick house, where were you working? A. I was working in the mines.

Q. You were still working in the mines? A. Yes, sir.

Q. How long did you live in the brick house?

A. I don't know; I wasn't there with them at all.

Q. You weren't there with them at all? A. No, sir.

Q. You had left their house?

A. I had left home altogether.

Q. Before they moved there? A. Yes, sir.

Q. And where had you gone to live?

A. With Miss Jackson.

Q. Miss Jackson? A. Yes.

Q. You said her house—what was her address?

A. I don't know her address—on Kickapoo, I believe it was.

Q. Kickapoo; after you went to live on Kickapoo, you continued your work in the mines?

A. I continued to work in the mines, yes, sir.

Q. Now, did you—when you were a boy—did you play with children your own age?

A. I don't know—that would be a pretty hard question to answer; some might have been old and some——

Q. Did you know all the children around that neighborhood on Seneca street? A. I suppose I did.

Q. Name some of the children that lived around there.

A. Well, I knew no one in that block but Walter Banks and he were younger than I.

Q. He was near the age of Walter Woods?

A. Yes, sir. Somewhere along in that place, I guess.

Q. So, he played with Walter and the younger kids more than with you?

A. Well, I never played much with them, because I was getting to be—getting too big to play with children, then; I wasn't getting too big. I was getting where I didn't play with any small boys like that.

Q. You were getting to a place where it was up to you to support yourself and you didn't give up your time to playing?

A. Well, I did some playing, too, but not as much as lots of them would around there.

Q. Well, do you remember any of the other children around there besides Walter?

A. No, no more than my family's folks.

Q. Just those are the only ones that you remember?

A. They were all that were living in that block.

Q. That is all that were living there? Were they the only ones that played around there?

A. Weren't the only ones that played around that I knew; might have been others played around—lots of them around there. I can't tell who they were now.

Q. A parcel of kids around there that you wouldn't know who they were?

A. Possibly I did at that time, but now I wouldn't recall them who they were.

Q. Do you know anyone else that lived at Granny Letcher's house besides Jim, and Sam, and Walter?

A. Besides Jim, and Sam, and Walter?

Q. Yes? A. No, that was all.

Q. How long did you live in that stone [] altogether?

A. I can't say; can't answer that at all.

Q. About how long—a couple of years?

A. I don't know; might have been a year and might not have been that long—I can't say. Really can't. To tell the truth, I can't say.

Q. You think it might have been a year?

A. Yes, and might have been longer.

Q. How much longer?

A. I don't know, sir; I have no recollection, no idea, of how long we lived there.

Q. Who lived on the other side of you, east?

A. That would be this way, wouldn't it?

Q. Yes?

A. I believe there was a barn there, if I ain't mistaken.

Q. And what was the name of the family that lived in the front part of the house? A. I don't know, sir.

Q. You didn't know? A. No, sir.

Q. Who lived back of you? A. Back of us?

Q. Yes.

A. I don't know; it was an alley between us.

Q. You don't know who lived across the alley?

A. No, sir.

Q. Who lived across the street from you?

A. There was a barn across the street from us.

Q. A barn? A. Yes.

Q. Whose barn?

A. I don't know; I have forgotten now whose barn that was.

Q. Were there any houses across the street?

A. No, I don't remember any.

Q. You don't remember any?

A. Not at that time, no, sir.

Q. Did any children live across the street?

A. I don't remember of any.

Q. You don't remember of any children on other side of the street?

A. Not on the other side. On the north side you are speaking of now?

Q. Yes, on the north side?

A. No, sir, I don't remember of any.

Q. You didn't know of any children over there at all?

A. No, sir.

Q. Do you know what year you were born in?

A. No, along about '74 is what I understand them to say. I don't know whether that is true or not.

Q. That is just what you were told?

A. That is what I was told.

Q. Always told that you were born in 1874?

A. 1874, yes, sir.

Q. John, were you considered a good miner?

Mr. Allen: We object to that as having been answered three or four times by this witness, on cross examination of this counsel, and as immaterial, incompetent, and irrelevant.

A. I made fair wages at it.

Q. You went down in the shaft and mined coal?

A. Yes, sir.

Q. With a pick? A. Yes, sir.

Q. Do you know who you worked for in the mine—what Company?

A. No, it was John Carr was the Superintendent—I think his name was, now, if I ain't mistaken. I don't know what Company he was representing.

Q. Do you remember anybody that worked in the mine with you?

A. Well, W. M. Briscoe, and Will Smart, and I believe Dick Montgomery.

Q. They were making, all about the same as you?

A. No, they were men then and I was a boy at that time.

Cross Examination by Mr. Maxey.

Q. John, who was Alice Woods? A. My aunt.

Q. And Emma Hardin? A. Her daughter.

Q. How old were you when you went to live with them?

A. I don't know, sir.

Q. Was that right after your mother died?

A. Yes, sir, I guess shortly after she died. I guess about maybe five or six months; something like that.

Q. I believe you said you were 7 or 8 years old when your mother died—or something like that?

A. I don't know how old I were when she died.

Q. You remember it, do you?

A. I remember it, certainly.

Q. Now, when you commenced to live with Alice Woods, how long before you got acquainted with Sam Nash and Walter Banks, and those boys that lived at Granny Letcher's?

A. It wasn't a great while. I knew Sam—I had knew Sam.

Q. Before you knew the others?

A. Before I knew Walter.

Q. Sam lived at Granny Letcher's?

A. Yes, sir.

Q. And Walter lived at Granny Letcher's? A. Yes, sir.

Q. And Jim Mayo lived at Granny Letcher's?

A. Yes, sir.

Q. Jim Mayo lived with a cousin of yours, didn't he?

A. A cousin of mine?

Q. Yes, sir? A. No, sir.

Q. Well, did you know Sam before Granny Letcher moved to Seneca street? A. No, sir.

Q. Didn't know him? A. No, sir.

Q. You knew Walter before? A. No, sir.

Q. Didn't know either of them? A. No, sir.

Q. Now, you was living in that stone house on Seneca?

A. How, you say?

Q. You was living in that stone house on Seneca street?

A. When they moved up there?

Q. Yes?

A No, sir, they were moved there when we moved in the stone house; I don't know how long.

Q. They were already there? A. Yes, sir.

Q. You don't remember how long they had been there?

A. No, sir.

Q. Then, how long did you live there?

A. I don't know; quite a little while.

Q. Well, as much as three or four years?

A. Well, that is pretty hard to say; possibly it might have been—might have been longer, and it might have been shorter.

Q. But Granny Letcher was living there when you went there? A. Yes, sir.

Q. Now, you played with Sam and Walter?

A. Yes, sir, me and Sam were good friends around there.

Q. You was over at Granny Letcher's every day, wasn't you?

A. No, sir, not every day. I were over there pretty often, but not every day.

Q. Now, during the time that you were there, did you see any other children around there except Walter and Sam?

A. No, sir, Walter was the youngest that I seen there.

Q. Now, Walter is younger than Sam?

A. Well, yes, sir, I judge he is.

Q. You say you never saw or heard of Tommy Atkins?

A. No, sir.

Q. Or Indian Tommy? A. Indian who?

Q. Indian Tommy. Any child there by the name of Indian Tommy?

Q. Now, if there had been a child there by that name during the time that you lived there, why, you would have known it, wouldn't you?

A. Possibly, in my time, if it was around there, I would have known it.

Q. Your opportunities for seeing who was there was as good as anybody's wasn't it? A. Yes, sir.

Q. During that time that you lived there and visited Granny Letcher's, you never seen or heard of Thomas Atkins?

A. No, sir.

Q. Or any child around there called Tommy?

A. No, sir.

Q. Or Indian Tommy? A. No, sir.

Q. You never heard of Minnie Atkins? A. No, sir.

Q. Well, during the time you lived there, did you know of a child being born there? A. No, sir.

Q. Now, where did you say you went after you left Alice Woods? A. Me?

Q. Yes?

A. I went to boarding with the lady named Miss Jackson.

Q. How old were you then?

A. I don't know, sir; guess I must have been along about 15—some where along about there; I wouldn't specify.

Q. Now, from the time that you went to live with Alice Woods, up to the time that you were 15, you lived there in that stone house, did you? A. Lived there in the stone house?

Q. Yes?

A. No, from Miami to stone house and then we moved to Kiowa, and then I left Kiowa, and went to Miss Jackson's.

Q. Now, how soon after you went there you got acquainted with Walter Banks and Sam Nash? A. To the stone house?

Q. Yes?

A. Well, I had knew Sam as a young man would—or boys rather, going to school.

Q. You went to school with Sam? A. Yes, sir.

Q. Was there any boy who went to school with you and Sam by the name of Tommy Atkins?

A. No, sir, not that I know of.

Q. Well, would you have known it if there had been a boy going to the same school?

A. Possibly—in my room, I would have known it.

Mr. Cruce: Objected to that question as calling for a conclusion of the witness.

Q. Now, you spoke of two white men coming to see you; what kind of looking men were they?

A. That I really don't know; it has been so long.

Q. How long ago has it been?

A. Quite a little while. I never paid them no mind. They just came and asked me my name and I told them, and asked me if I was over at Leavenworth, and I told them I was, lived there, and they asked me about this Tommy Atkins, and I told them I didn't know him; and they asked me about Granny Letcher and I told them I knew Granny Letcher.

Mr. Blakeney: I move to strike out all this line of answers as not responsive, and object to the conversation as attempted to be detailed as not competent. Counsel who is conducting the examination is conducting it upon the phase of the case that concurs with the Government's theory and must conduct the examination in the nature of an examination in re-direct.

Q. You say that you don't recognize any of the gentlemen around here as the gentleman that came up there?

A. No, sir, I don't believe I do.

Q. Did they want you to make a written statement about what you knew?

A. No, sir, there was nothing like that asked at all.

Q. You were not asked for anything of that kind?

A. No, sir.

Q. How long did they stay there?

A. Oh, they didn't stay there no time.

Q. They just asked you if you knew Granny Letcher and if you knew Tommy Atkins? A. Yes, sir.

Mr. Blakeney: We object.

Q. And you told them that you knew nothing about Tommy Atkins? A. Yes, sir.

Mr. Blakeney: We object as leading.

Q. That was about all the conversation there was?

A. That is about all there was.

Q. Now you spoke of a barn being across the street from where you lived? A. Yes, sir.

Q. You didn't remember whose barn it was?

A. No, sir, I didn't.

Q. Was it the Van Tuyl's barn?

A. I don't know whether it was Van Tuyl's or not.

Q. Or George Crilly's barn?

Mr. Cruce: We object; the witness stated he doesn't know what the barn was, and it is improper to lead him to some answer.

A. I don't know what barn it was.

Q. Which direction was it? A. On the north side.

Q. Across Seneca street?

A. Across Seneca street, yes, sir.

Mr. Blakeney: We object to all this line of questions as leading and being improper.

Q. Now, after you moved away from there, did you go back to Granny Letcher's frequently?

A. Oh, I went around there once in a while.

Q. About how often?

A. Well, I don't know; possibly I was there three times a week or something like that.

Q. Three times a week? For how long did you keep up those visits?

A. Oh, I don't know; I can't really say. I would go up there to see Sam at the time we were singing, and we used to go up there for a rehearsal and classes, and we would go up in the rooms up there.

Q. Kept it up for several years?

A. Oh. wasn't several years.

Q. Well, one, or two, or three years?

A. Might have been three, four or six months, something like that. I wouldn't be positive about the length of time.

Q. Now, in your visits back there, did you ever see any other children around other than Sam and Walter?

A. No, sir, Walter was the only child I noticed there.

Q. Well, Jim Mayo lived there, didn't he? A. Yes, sir.

Q. He was older than any of you, wasn't he? A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. You and Sam Nash belong to the same crowd, didn't you? A. Yes, sir.

Q. About this time?

A. Along in there, I guess it would be about the time; we were singing around there for a quite a while together.

Q. I believe you said you were a small boy, when you first got acquainted with these people? A. I were, yes, sir.

Q. Were there two men to see you representing the Government? A. I don't know; they didn't say then, I didn't—

Q. Did they tell you that they were representing the Government?

A. No, I don't remember because I don't know whether they said anything like that. I never asked them any questions; they just came in and I being a little ignorant, I reckon, I never thought of asking them anything. They wanted to know my name and I told them my name.

Q. Was I not one of the men that went to see you?

A. I don't know, Captain; I would say you was or wasn't.

Mr. Blakeney: I object as leading.

Q. Did I not tell you I was representing the Creek Indians?

Mr. Blakeney: I object as leading and as assuming.

Mr. Cruce: Object as leading.

Q. Do you remember whether or not Fred Cook, a Government man, was with me to see you?

Mr. Blakeney: Objected to as leading and assuming.

Q. No, sir, I don't.
Q. These two people were to see you more than a year ago, were they not?
A. I guess so. No, I don't think—hasn't been a year, I don't think—in the winter time.

Mr. Cruce: Objected to as leading.

A. Beginning to get winter.
Q. You stated a while ago that you were under the influence of intoxicants when Sadie was at your house?
A. Yes, sir.
Q. Do you frequently get in that condition? A. No, sir.
Q. Do you drink much? A. Not a great deal.
Q. You are not drinking now, are you?
A. No, sir, not drinking now.

Mr. Cruce: Did Sadie get you full?

Mr. Allen: Don't answer that; wait until I get through.

Q. You say there is a barn on the east side of where you lived in the back of this house?
A. No, sir, there was a barn on this side.
Q. Across the street?
A. No, sir, on this side of the street, this way from us.
Q. On the other side of you from Granny Letcher's?
A. Yes, sir.
Q. Would that have been Van Tuyl's barn?
A. I don't know what the name of that barn was; one on the north side, and the other side—I don't know what the name was now.
Q. There was one barn across the street? A. Yes, sir.
Q. Alice Woods, you say, was your aunt? A. Yes, sir.
Q. And Emma Gatewood, and these other people living in that house, were they cousins?
A. My cousins, yes, sir, with the exception of one.
Q. And you were taken when you were a small boy, by your aunt to raise?
A. She had taken two of us, yes, sir.
Q. You and your brother? A. My brother and I, yes, sir.
Q. You lived there in that house all the time that Emma Gatewood lived there?

Mr. Hanford: Objected to as calling for an opinion and conclusion of the witness.

Q. Did you or did you not? A. I did.
Q. You are a working man, are you? A. Yes, sir.
Q. What work are you engaged in now?
A. Hod-carrying.
Q. Have you worked as a laborer all your life?
A. Yes, sir.
Q. Has anybody given you or promised you any money or thing of value in this case?
A. No, sir, no, sir, they have not.
Q. Have you told the same story that you have told upon this witness stand to everybody that has talked to you?
A. No, sir, no more than I do know Tommy Atkins. That is all I said.
Q. I say have you told the same things every time that you have told now? A. I tried to, yes, sir.
Q. Have you stated to everybody that has been to you that did know Tommy and did [] Minnie Atkins? A. Yes, sir.

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial and move to strike the answer for the same reason interposed before my objection could be gotten in.

Q. Was this party here with Sadie when she talked to you? A. When?
Q. The only time she talked to you?

Mr. Blakeney: We object.

Mr. Hanford: I object.

Q. Did she ever talk to you more than once?
A. She seen me twice I believe, if my memory serves me right. Once she came by herself and her husband and then she was—— Whether she came by herself the next time or not or had somebody with her or not——

Recross Examination by Mr. Hanford.

Q. You spoke of this crowd, John. Who else was in that crowd? A. Al Shepperd, just three of us.

Mr. Cruce: Three of you made a crowd?

A. Well trio.
Q. Who else? A. Sam Nash and myself.
Q. Where did you sing? A. Most all over Leavenworth.
Q. Did you sing for money.

A. Why, sure, serenading. If we got money, we got it and we didn't, we didn't.

Q. How much older was Sam than Walter?

A. I can't say. I don't know.

Q. What kind of looking boy was Walter?

A. Walter is a man. I don't know him now. If I was to see him I wouldn't know him.

Q. What kind of looking boy was he, I say?

A. He was a little brown skinned fellow, about the color of that gentleman over there. The last time I seen him he would have been about like that. Probably not so large.

Q. About as high as your shoulder?

Mr. Allen: We object to that statement.

Q. About as high as your elbow? A. I judge so.

Mr. Cruce: How high is your elbow?

Q. You are about five feet ten?

A. Five feet eight I think.

Q. Five foot eight or ten?

Mr. Allen: Objected to as assuming a thing the witness has not testified to. He said about five foot eight.

Witness dismissed.

Mr. Allen: We offer the deposition of Fanny Isam, taken before Mr. Penick, appearing in his transcript beginning at page 3003.

And thereupon **FANNIE ISAM** being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Fannie Isam.

Q. Where do you live?

A. 900 Independence Avenue, Kansas City, Missouri.

Q. What age are you Fannie? A. Forty.

Q. Did you ever live in Leavenworth, Kansas?

A. Yes, sir, a short time.

Q. How long? A. About three years.

Q. Who did you live with there? A. Alice Woods.

Q. Where in Leavenworth?

A. I think it was on Seneca street.

Q. Between what two streets? A. I don't remember.

Q. Where was it with reference to Van Tuyl's livery stable?

A. It was right next door to Van Tuyl's livery stable.

Q. Did you [] a woman by the name of Granny Letcher?

A. Yes, sir.

Q. Where did she live?

A. She lived next door to us—the second door, I think it was.

Q. On which side of Seneca street was that? The north or south? A. It was on the south side if I am not mistaken.

Q. How old were you when you began to live with Alice Woods? A. Nine years old.

Q. Was that her name, Alice Woods? A. Yes, sir.

Q. And you lived there three years? A. Yes, sir.

Q. Who else besides Granny Letcher, was in Granny Letcher's family?

A. Walter Banks, and Sam Nash, and Jim Mayo; I think that was the name—Granny's brother—Granny's son, I meant to say.

Q. This Jim Mayo was Granny's son? A. Yes, sir.

Q. Was any boy in that family at Granny Letcher's by the name of Tommy?

A. None that I knew of; I never heard of any.

Q. Any boy there by the name of Indian Tommy?

A. Never heard of him?

A. Any boy there by the Name of Thomas Atkins?

A. Never heard of him—never seen him.

Q. Any woman in that family by the name of Minnie or Indian Minnie? A. No, sir, I never heard of her.

Q. Did you play around there? Around Granny Letcher's house?

A. Yes, sir, Walter and I, and Sam, but I didn't hear of any Minnie.

Q. Did you hear of a Tommy? A. No, sir.

Q. Did Alice Woods have any children? A. Yes, sir.

Q. Who were they and what were their names?

A. Why, Emma, and Walter, and Jack.

Q. She had a boy named Walter, too?

A. Walter, yes, sir.

Q. Who is Emma now?

A. Emma now, she is married; her name is Emma Gatewood. She was up here with her daughter.

Q. Which was the youngest child in Granny Letcher's house?

A. The youngest that I knew anything about was Walter Banks.

Q. Walter Banks? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. How old was Walter Woods when you lived there?

A. Well, I don't know; we all were small children together is all I know. I don't know how old he was.

Q. Did Walter play around with you? A. Yes.

Q. Ran around the streets and played games?

A. Well, played anything, I suppose, that we wanted to play. I don't know whether we played games or not.

Q. He was along about your age? A. Yes.

Q. Played with other children? A. Yes, sir.

Q. Sam Nash too?

A. Well, Sam was older than we was.

Q. He was older?

A. Yes, he didn't play with us very much because he was a much larger boy than we was.

Q. And you never knew any other children around there?

A. But Walter and Sam, and Walter Banks.

Q. They were the only children you knew? A. Yes.

Q. What year were you born in?

A. Well, I don't know just exactly.

Q. You are 40 years old, now?

A. Yes, the second of December past.

Q. Then, you were born in 1876, weren't you?

A. I guess so.

Q. And you lived at the Woods for three years? A. Yes.

Q. You were nine years old when you went to live there?

A. Yes.

Q. How do you know that?

A. I knew it by them telling me so.

Q. Knew it because they told you so? A. Yes.

Q. Who told you?

A. Mrs. Woods, the lady I was living with.

Q. She told you you were nine?

A. Yes, she was with my mother when I was small.

Q. You remember it all this time? A. Certainly.

Q. And you left there when you were twelve? A. Yes.

Q. Now, when did you see—what is her name, Ella Gatewood? A. Emma Gatewood. Saw her Saturday.

Q. When did you see her before that?

A. Why, I see her every week.

Q. Was Sadie with her when you saw her Saturday?

A. No, I haven't seen her.

Q. When did you see Sadie?

A. I haven't seen Sadie for about three months.

Q. Three months? A. Yes.

Q. Was that the last time you saw her?

Q. When was the first time you saw her?

A. I don't know just when I saw her; here in Kansas City.

Q. Well, how many times has she come to see you about this case?

A. I don't know; she was to see me once or twice.

Q. Came to see you several times?

A. I said once or twice.

Q. And then she got Emam to come and see you?

A. No, she never got Emma to come and see me at all.

Q. Emma came herself?

A. She never came on nothing like this.

Q. Did she talk to you about this case? A. No.

Q. Didn't say a word? A. No.

Q. Didn't Sadie come to you and say that she wanted you to testify that there was no boy there named Tommy?

A. No.

Q. And you wouldn't do it? A. No.

Q. And then Emma came and got you to do it? A. No.

Q. That is not so? A. No.

Q. And didn't she tell you you could say that you didn't know of any boy, and it would be alright? A. No.

Q. And you did know of a baby around there?

A. No, I never saw any baby around there.

Q. You never saw any baby around Granny Letcher's?

A. No, I never. The youngest boy I saw around there, I have told you was Walter Banks; that was the youngest boy that I saw.

Q. You lived with Alice Woods? A. Yes.

Q. You didn't live at Granny Letcher's? A. No.

Q. You didn't live there at her house?

A. No, we played around there in the yard.

Q. You played around the yard? A. Yes.

Q. When you played around the yard there, would [] see Granny Letcher nursing a baby sometimes? A. I never did.

Q. You never did? A. No.

Q. What would she be doing?

A. Well, doing her housework and sometimes—sometimes she would be sitting out on the porch.

Q. When she was sitting out on the porch, you would never see her with a baby? A. No.

Q. Now, you say that you and Walter Banks and Walter Woods used to play around there together? A. Yes.

Q. You remember that? Do you know when Walter Woods was born? A. No, sir, I don't.

Q. You don't know what year? A. No.

Q. Was he born while you lived there?

A. Walter was there when I went there.

Q. Walter Woods was? A. Yes.

Q. What kind of a house was that you lived in?

A. It was a stone house.

Q. A stone house? What part did you live in?

A. In the back part.

Q. Was that the only place you lived with the Woods?

A. Yes.

Q. The only place in Leavenworth? A. Yes, sir.

Q. Where did you go after you left there?

A. The Woods moved up here to Kansas City, and I came here with them.

Q. And you came here with them when they came to Kansas City? A. Yes.

Q. Then, they moved out of the stone house to Kansas City? A. Yes.

Q. After you had been there three years? A. Yes.

Q. But you didn't live with them when they lived in the brick house?

A. I never lived in but one house with Mrs. Woods, and that was in the stone house.

Q. That was in the stone house? A. Yes.

Q. And when they left the stone house, they came to Kansas City? A. Yes.

Q. You were nine years old in 1885, weren't you?

A. Yes, sir.

Q. And you were there three years, so you were there until 1888, weren't you? A. Yes, sir, I guess so.

Q. So, in 1888, Alice Woods moved to Kansas City, and you came with her? A. Yes.

Q. Walter Woods was a pretty big boy at that time?

A. Yes, he was a pretty big boy.

Q. Sadie couldn't do anything with you, could she? She couldn't get you to testify, could she? A. Who?

Q. Sadie? A. Sadie never asked me to testify.

Q. She didn't? A. No.

Q. She didn't ask you about this case at all?

A. She didn't ask me to testify.

Q. She talked to you about the case?

A. She asked me did I remember being in Leavenworth; did I remember Granny Letcher. I told her yes, but she didn't say nothing to me about no testifying.

Q. When did you get your subpoena?

A. I don't know; last week sometime.

Q. Today?

A. No. didn't get it today; last week. I think it was the 13th I got it.

Q. And when did Emma come to see you?

A. When did Emma come to see me?

Q. Yes?

A. Emma didn't came to see me. I told you I seen Emma, but I didn't say she come to my house. I see Emma every week.

Q. See Emma every week? A. Yes.

Q. And she didn't talk to you about the case at all?

A. No.

Redirect Examination by Mr. German.

Q. What did you say your birthday is?

A. The second of December.

Q. Then, you were nine years, December second, 1885?

A. Yes, sir.

Q. Do you remember how far past nine years of age you were when you went to live with Alice Woods?

A. No, sir, I don't.

Cross Examination by Mr. Cruce.

Q. In what year were you born?

A. Well, I told you when I were born. I told you how old I was, and I told you what year I went to Leavenworth, so you can count it and see; I don't know.

Q. You answered Mr. German that you were nine years old on a certain day; do you know the name of the month you were born? A. Yes.

Q. Do you know the day of the week on which you were born? A. The day of the week?

Q. Yes? A. No, I don't.

Q. And you don't know the year?

A. No, I don't know the year.

Recross Examination by Mr. Hanford.

Q. Did Alice Woods move back to Leavenworth after she came to Kansas City?

A. I don't know whether she did or not.

Q. How long did you live with her in Kansas City?

A. She didn't move back there while I was with her.

Q. How long did you live with her?

A. I lived with her about two years after she came here.

Q. Two years after she came here? A. Yes.

Witness dismissed.

Mr. German: We offer the deposition of Emma Gatewood, taken before Mr. Penick, appearing in his transcript, beginning at page 2632.

And thereupon, EMMA GATEWOOD, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name?
A. My name is Emma Gatewood.
Q. Where do you live, Emma?
A. I live at 845 Ella Avenue.
Q. In Kansas City, Kansas? A. Kansas City, Kansas.
Q. What age are you? A. 44.
Q. When were you 44? A. Christmas past.
Q. Did you ever live in Leavenworth, Kansas?
A. Yes, sir.
Q. Where were you born?
A. I was born in Weston, Missouri.
Q. Did you ever live on Seneca street, in Leavenworth, Kansas? A. Yes, sir.
Q. Between what two numbered streets?
A. Between 3rd and 2nd.
Q. And which side of Seneca street did you live?
A. South side.
Q. Where with reference to Van Tuyl's barn?
A. On the corner.
Q. Next to the barn? A. Yes, sir, next to the barn.
Q. What kind of a house?
A. Well, the front part was of stone, and the back part was a frame—we lived in the frame part in the rear.
Q. What was that house known as? Who had owned the house?
A. I have forgot the old lady's name—German lady.
Q. Was it Feth?
A. Mrs. Feth, yes, that was the name.
Q. Were they living at the house at the time your folks moved into it with you?
A. She was living there in the stone part when we moved there.
Q. And you were living in the back part? A. Yes, sir.
Q. About what age were you when you moved into that house?
A. Well, I was between fifteen and sixteen.
Q. Were you living with your parents? A. Yes, sir.

Q. Who lived in the house just east of the Feth house, when your family moved into the rear part of the Feth house?

A. Granny Letcher.

Q. Mollie Letcher? A. We always called her Granny.

Q. What was your name at that time?

A. My name was Emma Woods.

Q. Did you have any brothers samller than yourself?

A. Smaller, two.

Q. What were their names? A. Walter and John.

Q. How long did you live in that house?

A. Oh, we lived there four years, maybe about four or five years, I guess.

Q. Four or five years? A. I guess.

Q. Until you were how old?

A. Well, I don't know exactly, when we moved out of there; I was in my teens when we moved out of there. When we moved out of there, I reckon I was going on 20 years old; I married when I was 20.

Q. What year were you born in? A. I have forgot now.

Q. Well you were 44 last December? A. Yes, sir.

Q. Then, you were born in December '71, weren't you?

A. December '71—we have it down—I forgot that.

Q. Who did you marry? A. Jack Hardin.

Q. Jack Hardin? A. Yes, sir.

Q. Were you acquainted with Granny Letcher and her family?

A. Not so awfully acquainted; only we moved there, that is all.

Q. Well, after you moved there? A. Yes, sir.

Q. Did you know Granny and the members of her family?

A. Yes, sir, I knowed Sam and Jim after we moved there.

Q. Was there any other boy in her family?

A. Sam and Jim and Walter, that is all I know.

Q. How did Walter's age compare with your brother's age? A. Well, I can't tell you.

Q. Did you have a brother about his age or not?

A. Well, I don't know now. Our boys were small and he was kind of a small boy—one. Walter was a kind of little bit taller than my brother.

Q. Did Walter and your brother play together?

A. Yes, sir, they played together.

Q. Would you see Granny Letcher very often?

A. Oh, we would see her there at work; I never visited very often over there—nothing like that.

Q. Would your brother and Walter play together very much? A. After school, every afternoon.

Q. Where would they play around?

A. Out there in the alley—around in the yard.

Q. Was there any boy around that Letcher home, or in the Letcher home,—child—younger than Walter—a baby child by the name of Tommy, or Indian Tommy?

A. No, sir, not that I know of.

Q. Or Tommy Atkins?

A. No, sir, I never heard of it; don't know anything about that.

Q. When was the first time that you ever heard of such a boy?

A. I never heard of such a boy until since this—let me see—last year when this—I forgot the man that come to my house.

Q. Is he here in this room?

A. I don't know, I don't think so.

Q. Is that the man? A. No, sir.

Q. Is that the man? A. No, sir.

Mr. Blakeney: Let's say who it is.

Mr. German: I was pointing at Mr. Long then; the first time I was pointing at Mr. Hanford.

Q. Who was the man, do you know?

A. Well, he was a tall, slender man, sort of——

A. Is this the man, Mr. Hanford?

A. He didn't have no mustache.

Q. Well, he has grown a mustache? A. No, sir.

Mr. German: Was it you, Mr. Hanford?

Mr. Hanford: Yes, it was me.

Mr. Blakeney: I object to anything that Mr. Hanford said, or the fact going into the record. I move to strike out the question that Mr. German directed toward Mr. Hanford, as Mr. Hanford is not on the witness stand, or being examined by Mr. German. I don't know that it was intended for the record and I move to strike out the statement that Mr. Hanford made.

Mr. German: A justification for asking Mr. Hanford that——

Mr. Blakeney: Just a minute. For the reason that Mr. Hanford is not sworn as a witness, I object to his unsworn statement being used against me and against my client.

Mr. German: As a justification for my question to Mr. Hanford, I desire to state in the record, that he was pointing his finger to his chest and looking at the witness, or at me, I am not sure which.

Q. Emma, was the man who came to see you, that you were just speaking of, the first man who ever came to see you about—the first person, I mean, who ever came to see you about what you knew in this case? A. Yes, sir.

Q. About any Indian Tommy?

A. Yes, sir, he was the first man that saw me.

Q. Was he the first person that ever came to see you about it?

A. He was the first one that ever came to see me.

Q. Did you ever know of any young woman, or woman being around the Letcher home, by the name of Minnie, or Indian Minnie? A. No, sir.

Q. Or Minnie Atkins? A. No, sir.

Q. Did you ever know of any boy child being around there by the name of Thomas Atkins? A. Tommy who?

Q. Atkins? A. Who?

Q. Atkins?

A. No, sir, I don't know anything about his being around there.

Q. Was there any boy in the Letcher family younger than Walter Banks?

A. Not as I know of, no, sir, I never seen any.

Cross Examination by Mr. Hanford.

Q. Emma, at that time—— You remember now, since I reminded you, that it was me that was up there to see you?

A. No, sir, I don't remember ever seeing you before.

Q. I stood there in the front room and talked to you a few minutes in the evening, wasn't it?

A. It was a man, but I don't remember it being you.

Q. You don't remember? A. No, sir.

Q. And asked you about—if you knew the girl named Minnie Atkins?

A. This man came and asked me about a girl named Atkins, if it was you I certainly sassed you pretty good about it.

Q. Then, it wasn't me, because we had—— You told me that you didn't know anything about—— A. Yes, sir.

Q. Told me that you were engaged in the laundry business. Have you a sister?

A. No, sir, I am the only child my mother had.

Q. I asked you if you remembered this boy, did I not?

A. I wouldn't say that you did or not. If you are the one, I didn't realize that you are the man. I won't say I did.

Q. You told me to ask your brother, to ask Walter about it?

A. In the meantime, my brother came home from work.

Q. Came down the sidewalk? A. Yes, sir.

Q. I spoke to him at the side-walk?

A. This man was standing at the gate and my brother came up home.

By Mr. Blakeney: The witness does not identify Mr. Hanford about being the person she talked to and I think it is improper.

Q. This man then spoke to Walter out on the walk, didn't he? A. Sir?

Q. I say this man spoke to Walter out on the walk?

A. Yes. I was standing there on the porch.

Q. Did you hear the conversation?

A. Yes, I heard the conversation.

Q. Can you tell what was said there? A. No.

By Mr. German: Now, wait a minute.

A. Said so much I didn't take much interest in it at all.

By Mr. German: I object to the question on the ground that it would be hearsay evidence.

Q. Then, you didn't hear what was said? A. Sir?

Q. You mean to say that you didn't hear what was said?

A. Yes. I heard some of it, yes.

Q. How much did you hear?

A. Walter said that he knowed that boy——

By Mr. German: I object to that conversation or any part of it, and to save encumbering the record, I will make objection now to any part of it that may be later asked about, if Mr. Hanford is willing that an objection may go that way, on the ground that it is hearsay evidence and immaterial. Are you willing to that, Mr. Hanford?

By Mr. Hanford: Yes.

A. Let me ask you a question. Is this the Government man here talking to me or what is he, or are you oil men, this man was on the side of some oil land man.

Q. Well, I am not a Government man.

A. Well, what are you?

By Mr. German: He is on the oil side of it.

A. All of you on the oil side?

By Mr. German: No, I am not. These men are. Some of us are and some of us are not.

A. I see.

By Mr. Blakeney: We are all wanting to get on the oil side.

Q. At that time, Emma, you were engaged in laundry work, weren't you, when you lived there at that place?

A. In what place?

Q. In the back part of the Seth house? A. Yes, sir.

Q. You and your mother? A. Yes, sir.

Q. And you didn't know all the children around in that neighborhood, that played around there? A. No, sir.

Q. You simply went and got Walter sometimes when he was playing with the children in the neighborhood?

A. Yes, sir, I called him when I needed him at home I called him.

Q. Walter was younger than yourself? A. Yes, sir.

Q. So, those children, you didn't play with and didn't know their names?

A. No, sir, I didn't play with them because I wasn't a child.

Q. But you knew about Granny Letcher through seeing her in this house next door?

A. Yes, sir, I lived there next door. Of course, I wouldn't know all about her house and all she had in there. Anybody in there of course I didn't look after that, because it was all I could do to take care of my own house.

Q. That wasn't a matter that you were interested in?

A. No, sir, it wasn't none of my affairs at all.

Q. Who would go or come? A. No, sir.

Q. And what kids were around there? A. No.

Q. Do you recollect when it was that you moved into the Seth house?

A. No, I don't, been so long I don't remember.

Q. You think you were about twenty years old when you moved away? A. Yes, sir, I married when I was twenty.

Q. Did you move away from there when you got married?

A. I moved before I got married.

Q. Before you got married? A. Yes, sir.

Q. Do you remember about how long you had been away from that house when you got married?

A. No, sir, all I know, we lived there quite a while.

Q. You remember that you lived there about four or five years and then moved away and were away from there when you married? A. Yes, sir.

Q. Can you tell me within a year of how long it was before you married that you moved away?

A. Oh, I don't know, I can't tell you, a year or a half a year, I don't know.

Q. Probably less than a year? A. Might have been.

Q. You moved away from there, after you moved away from there, what did remind you of how long it was—— Let me ask you this question: Do you remember where you were living when you were married? A. Yes, sir, I do.

Q. Were you living in Leavenworth?

A. Leavenworth, Kansas.

Q. Where was that?

A. A little brick house that sets right around on Cherokee Street, right on College Avenue, right back of Dr. Brock's Livery Stable.

Q. Now, did you move there from the Seth house?

A. I did, for a fact.

Q. Recalling to your mind the fact that you moved into that house, do you remember about how long you had lived there in that house when you got married? A. No.

Q. Do you think it was six months or a year?

A. No, I wouldn't say how long it was; we were living there quite a bit.

Q. And you can't say how long within a year? A. No.

Q. Don't you know how old you were when you moved into the Seth house?

A. Let me see. I was twenty years old when I married, I was going on twenty—— When I moved into the Seth house?

Q. Yes, when you moved in there?

A. When I moved in there, between fifteen and sixteen.

Q. So that, when you went to Leavenworth, you lived in Leavenworth before that?

A. We went to Leavenworth when I was a child, a baby.

Q. You had grown up there?

A. Yes, sir, I was raised there.

Q. Was that when you started to work, when you moved in there, or had you worked before that?

A. Had worked before that, I had worked all my life.

Cross Examination by Mr. Blakeney.

Q. When were you married? A. I have forgotten now.

Q. You have forgotten the year? A. Sir?

Q. You have forgotten the year you were married in?

A. Yes, sir, it has been so long.

Q. How many years ago has it been since you married?

A. It has been sixteen years ago since I married this time.

Q. Been married more than once?

A. The second time, I was single sixteen years before I married again.

Q. You were single sixteen years and married a second time how long ago? A. Just a year.

Q. When were you married this last time? A. 1914.

Q. June 14th? A. No, I married Thanksgiving, 1914.

Q. Thanksgiving, 1914? A. Yes, sir.

Q. And you had been single about sixteen years?

A. Yes, sir.

Q. And how long did you live with your first husband?

A. About two years.

Q. And then there was about eighteen years between the two marriages? A. Yes, sir.

Q. Where did you live when you were married the first time? A. Leavenworth, Kansas, in that little brick house.

Q. Which of those houses were you living in?

A. I lived in the little brick.

Q. That is where you had moved from the Seth place?

A. Yes, sir.

Q. You say you don't know how long you had been living there? A. No, sir.

Q. How long did you live in the Seth place?

A. Oh, we lived there four or five years.

Q. And how old were you when you moved into the Seth place? A. Between fifteen and sixteen.

Q. Between fifteen and sixteen? A. Yes, sir.

Q. You say you have a brother?

A. Yes, sir, my brothers is all dead.

Q. I beg your pardon but I can't hear you?

A. I say my brothers is all dead.

Q. Who was it that came up when Mr. Hanford was there?

A. That was my brother, he has dropped dead since that time.

By Mr. Hanford: I don't understand you, is Walter dead?

A. Yes, sir, it is a good thing he is too, I am glad of it in a way.

Q. You say you don't recognize Mr. Hanford as the gentleman who came there to talk to you? A. No, sir, I don't.

Q. He didn't have on this calico suit he is wearing now if he came, did he? What kind of a suit did the man have on that came?

A. I didn't pay that much attention to his clothes, he had on dark clothes is all I can tell you.

Q. How about the size, about the size of Mr. Hanford?

A. Tall, smooth faced man, I never believed that he is the man.

Q. You never noticed that he was trying to grow a mustache, did you? A. No, sir.

Q. What was it he said to you?

A. He walked up and asked me my name and I told him my name was Hardin, then you know. I told him I lived there, he asked me if I lived in Leavenworth, Kansas, and I told him that I was raised there; and he asked me about these folks and I told him I didn't know anything about them, about this Atkins, and I told him I didn't know anything about her at all.

Q. He asked you if you knew Minnie Atkins?

A. Yes, sir.

Q. And you told him you didn't?

A. Yes, sir. Asked me did I know Mollie Letcher, and in a minute my brother came on home and he asked him.

By Mr. German: Don't tell that.

By Mr. Blakeney: That was not responsive. I want to examine the witness.

Q. I asked what Mr. Hanford said to you, not anybody else now, you just answer the question. Did he make any request of you to swear to any statements other than that you had told him? A. No, sir.

Q. Didn't try to get you to swear to anything that was false?

A. No, sir, he didn't because he didn't like my talk very good because I sassed him. I was tired and I sassed him.

Q. He just asked you questions and you answered?

A. Yes, sir, that is all.

Q. That is all that passed between you?

A. Yes, sir, that is all.

Q. And he started out?

A. He came in there and sat down there and talked to my brother.

Q. He started out of the house, did he, and saw your brother coming?

A. No, he was standing at the gate and I said here comes my brother.

Q. Where did he talk to you?

A. Standing at the gate and on the porch. I came out the door at the time that he came out.

Q. Where had he asked you those questions, in the house or on the porch?

A. Both places, talked to me at both places, out doors and in the house too.

Q. Then, while you were out on the porch, your brother came up? A. Yes, sir.

Q. And he commenced asking your brother questions?
A. Yes, sir.
Q. Now, what did he ask your brother?

By Mr. German: Now, I object to that as hearsay, incompetent, irrelevant and immaterial.

A. He asked him did he know her, and he said yes, and I asked Walter——
Q. I didn't ask you what you asked him. He asked your brother if he knew him? A. Yes, sir, and he said——

By Mr. German: I would like for the record to show, to save time, that I object to all this as incompetent, irrelevant, and immaterial, and I don't want to state the objection every time he asks a question.

By Mr. Blakeney: I am willing. I am cross examining this witness on matters Mr. Hanford drew out.

By Mr. German: I object to it on the further ground that it is improper cross examination.

Q. Did you say that Mr. Hanford asked your brother if he knew Tommy Atkins and he said that he did?
A. He said he did.
Q. And what else did Hanford say to your brother?
A. He asked him where did he know him at and where did he live at, and Walter told him yes he knowed him in Leavenworth, and Walter said he played with him, and I said I don't remember anything about playing——
Q. I didn't ask you that. I want what Walter said and what Hanford said. Now, Hanford asked him if he knew him and he said he did? A. He said he did.
Q. Then, Hanford asked him where he knew him and he said he knew him in Leavenworth?
A. That is what he said.
Q. Then, your brother said he played with him?
A. That is what he said, and I said that I didn't believe it.

By Mr. Blakeney: I move to strike out the response of witness as not responsive to the question referring to her statement, of course to what the witness said.

Q. Was that all that passed between Hanford and this brother of yours?
A. They stood there and talked and I went on and got my supper.
Q. You left and they were still talking?
A. They came inside, I asked him inside and they sat down.

Q. And they sat down inside and was talking?

A. Yes, sir, and was talking.

Q. You didn't hear what was said?

A. Oh, I heard some of it.

Q. Did you hear Hanford make any proposition to pay your brother anything? A. No, I didn't.

Q. You heard nothing of that kind?

A. No, if he did, I would have objected if he had.

Q. I didn't ask you what you would do, I asked what Hanford said. A. No, I didn't.

By Mr. Blakeney: I move to strike out what the witness would have done, what she said she would have done.

Q. Did Hanford make any proposition there in case he recovered this oil land he would pay your brother anything?

A. No, he didn't.

Q. Didn't in your presence? A. No, he didn't.

Q. Did he say anything in your presence about paying your brother for anything he would do in the matter?

A. No, he did not.

Q. Did he tell you he would pay you anything?

A. Well, I should say not, I should say not.

Q. Did he say that you two, or to your brother, or you either, if you would go on and swear, he would pay you anything? A. No, sir.

Q. Didn't ask you to come and swear at all?

A. No, sir, because I didn't know anything to swear?

Q. Just answer yes or no. A. No, sir; no, sir

Q. Did you hear him ask your brother to come and testify and that he would pay him?

A. No, he didn't say nothing about no pay to him.

Q. Did you hear him say anything about wanting him to testify?

A. He told him he would like to have him on the witness stand and that he would let him know, he written Walter a letter.

Q. I am not asking you about letters yet. We are wanting to know what Hanford said to your brother there about wanting him as a witness, at that time?

A. He said he would need him and when he needed him he would write and let him know.

Q. You heard Hanford say that now? A. Yes, sir.

By Mr. German: I would like to ask counsel upon what possible theory this testimony is admissible.

By Mr. Blakeney: Well, I—— The theory is that

I have a right to show what the parties are doing in this case, the Government as well as Hanford, to get evidence in this case.

By Mr. German: I want the record to show that it shall be the contention of the Government that the costs attending the inquiries concerning this conversation shall be taxed against the party represented by counsel making the inquiries, because it is clearly incompetent.

Q. Now, you say positively that you didn't hear Mr. Hanford say anything about paying your brother for anything that he might testify to in this case?

A. Not to my—— Not before me. If he said anything to him I don't know anything about it.

Q. Did they have any talk about it out of your presence?

A. Walter went to the door with him.

Q. How long did they stand out there?

A. I don't know, didn't stay very long, I don't think.

Q. Did you see him give him any money? A. No, sir.

Cross Examination by Mr. Cruce.

Q. Is your brother, who took part in that conversation that day, living or dead?

A. Why, he is dead. You heard me say a while ago he was dead, he dropped dead. There is no danger of his being alive.

Q. Now, if I understand you, when the gentleman was there talking to you, if it was Mr. Hanford, he asked you what you knew about Tommy Atkins, and your brother came and in the same conversation your brother said he did remember Tommy?

By Mr. German: Now, you remember I am objecting to all of this, just as I did to Mr. Blakeney's inquiries for the same reasons.

By Mr. Cruce: Let the record show the objection.

Q. Is that right, Emma? A. Sir?

Q. Your brother said he did remember Tommy Atkins?

A. He said so, yes, sir.

Q. Said he had played with him?

A. That is what he said.

Q. And do you remember that he gave Mr. Hanford, or that gentleman, whoever he was, that was there his recollection of the description of Tommy?

A. Yes, sir, he said he did.

Redirect Examination by Mr. German.

Q. Mr. Hanford left a dollar there with Walter too, didn't he? A. Left a dollar there with Walter?

Q. Yes? As he left?

A. I don't know nothing about it.

Q. You didn't know that?

A. No, sir, I didn't know nothing about it.

Q. And you don't know what the conversation—what was said between Hanford and Walter, except the little that you have related? A. No, sir; no, sir.

Q. When you got through Walter told you that there was money in this case, after Mr. Hanford had left, didn't he?

By Mr. Blakeney: We object now.

A. Yes, sir, he did, he said that, and I said you are not going to fool with it.

By Mr. Blakeney: Wait a minute. I want to object as incompetent, irrelevant, and immaterial.

Q. Go ahead and answer it.

By Mr. Cruce: We object to this testimony because it does not appear that the part of the conversation between the witness and her brother and Mr. Hanford—— It appears to be a conversation between herself and her brother after the ending of the conversation between Mr. Hanford and the witness, and is therefore incompetent.

Q. Now, go ahead and tell? A. Tell what?

Q. What Walter said to you and what you said to him?

A. Oh, he said there is money in this case, and I said you ain't going to fool with it, if there is money in it, you are not going to fool with it. I don't know nothing about it and I know you ain't going to fool with it. I said—excuse the expression—I said one-half of these niggers is going to the penitentiary fooling with Uncle Sam's business, that is what I said to my brother, just what I said to him, so that is all he said to me about it.

Q. Do you know who he had talked with before he saw Mr. Hanford about Tommy? A. No, sir.

Q. Do you know whether Banks had been over to see him before that? A. Not to my house, no, sir.

Q. Do you know whether he had seen Walter before that? A. No, sir.

Q. Why was it that you said a while ago that you were glad your brother Walter was dead?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

By Mr. Cruce: We object because it is immaterial.

A. Why, I hoped, because I thought if he would get Walter tangled up in this and this man would offer him a lot of money he would go up there and swear a whole lot of stories that he did know this boy, raised up this boy, when he didn't know nothing about it and he would be one of the gang who went to the penitentiary. Of course I am sorry my brother is dead, and I am glad in another way.

Q. Did your brother get a telephone before that or after that from somebody about this Atkins matter?

A. Get a telephone?

Q. Yes, did somebody telephone him?

A. No, sir, he didn't telephone, he got a letter that came to my house.

Q. What did he tell you about that?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

By Mr. Cruce: We object as hearsay testimony and as incompetent.

Q. Was that before or after?

A. That was after this man had been to my house.

Q. Now, what did he tell you about that?

By Mr. Blakeney: We object.

By Mr. Cruce: What did her brother tell her?

By Mr. German: Yes.

By Mr. Cruce: I understood you and Mr. Hanford had an agreement a while ago that this conversation might be detailed. I don't know whether the stenographer got it or not. I mean the conversation between this witness and her brother and Mr. Hanford.

By Mr. German: No, indeed, we strenuously objected.

By Mr. Blakeney: No indeed.

By Mr. German: And my sole theory of cross examining her about it is the possible theory that the Court lets it in.

By Mr. Cruce: Do you suppose, that lets in all the conversation that occurred between her and her brother?

By Mr. German: I have just as much right so far as the law is concerned to suppose it is admissible.

By Mr. Cruce: Well, however, I object.

By Mr. Blakeney: I drew out that conversation without any agreement, would have accepted no agreement. I was doing it for the purpose of showing what Page and his representatives had done to get evidence in this case, as I have tried to show what the Government and its allies have done to get evidence, and I object now to any hearsay evidence.

By Mr. Allen: You mean to show what they have not done.

By Mr. Blakeney: No, sir, I wanted to show what they have done.

Q. All right, tell what he said to you after he got that letter and all about it?

A. He said he got the letter—— Well, the letter was home when he came from work and he said—read the letter and he said—told Walter to call him up.

By Mr. Cruce: I would like to ask counsel representing the Government, if he will state as a lawyer if he thinks that testimony is competent.

By Mr. German: I will answer you in this way: I think as a lawyer, that is is just as admissible as the conversation that your associates and yourself elicited between Walter Banks and Mr. Hanford.

By Mr. Cruce: I would like to state in reply to that, representing Mr. Page, I drew out all the conversation drawn out by other attorneys representing other interests, and I had the right to do it.

Q. Go ahead and answer the question.

By Mr. Cruce: I make the further objection, if there was a letter, that the letter itself is the best evidence of its contents.

By Mr. Allen: Do you know where the letter is?

A. I did. I had it. I expect I burned it up though cleaning house, I wouldn't doubt it.

Q. Answer the question?

A. He said that the man told him to call him up at some hotel, I forget the name of the hotel, and Walter said he called him up and he said ain't no money in that thing, I ain't going to fool with it. And I said to him just like this: You better not fool with it anyhow, you better stay out of this mess, that is what he said to me.

Recross Examination by Mr. Hanford.

Q. Emma, at that time your name was Hardin?

A. Hardin, yes, sir.

Q. And you married again in November, 1914, that is Thanksgiving? A. Yes, sir.

Q. This was in the summer time at the time this man came to see you?

A. I think it was warm, summer or something.

Q. About the month of August?

A. I don't know, somewheres along in August or July, I don't know which.

Recross Examination by Mr. Blakeney.

Q. This man came in the summer time of 1914 and talked to you? A. I guess it was.

Q. And then you got married in November of that same year? A. Yes, sir.

Q. Did you continue to live with your brother after you married? A. My brother was dead when I married.

Q. Your brother was dead when you married?

A. Yes, sir, my brother died that same year.

Q. How long did your brother live after this man came to your house?

A. I don't know, he lived until in the fall.

Q. How long was your brother dead when you married?

A. How long was my brother dead when I was married?

Q. Yes?

A. Let me see. He was dead about two months.

Q. About two months? A. Yes.

Q. And you married in November and your brother had died in September?

A. No, he died, let me see. I married a month before Thanksgiving.

Q. A month before Thanksgiving? A. Yes.

Q. I thought you said on Thanksgiving day?

A. No, I didn't say Thanksgiving Day.

Q. Then, you were married in October? A. Yes, sir.

Q. And your brother died about two months before you were married, he died in August? A. No, he died in the fall.

Q. How long did he die before you were married?

A. Well, he had been dead about two months, I never kept the straight time, but I know he died in the fall.

Q. Did he die in the fall of the same year you were married? A. Yes, sir.

Q. And how long was it before he died that this man had come to see you?

A. I don't know, it was warm weather when the man came to see me.

Q. The same year? A. Yes, sir, I guess so.

Q. I want your judgment and your recollection in this and not your guesses?

A. Well, that is as far as I can remember, and I didn't pay much attention to the man.

Q. The same year? A. I know it was warm weather 1914.

Q. The man came to see you in 1914, your brother died in 1914, and you were married in 1914? A. Yes, sir.

Q. Now, you say your brother got a letter, from whom was that letter written or by whom was that letter written?

A. The man that came there to see him.

Q. The same man? A. Yes, sir.

Q. How do you know that?

A. Because his name was signed to it.

Q. What name was signed to it?

A. I forget his name, but his name was signed to it.

Q. And you remembered at that time the name of the man that came?

A. Yes, sir, because he told him that he would write to him, and after Walter came in from the gate, he told him he write to him.

Q. I didn't ask you that. I am pretty anxious for you to answer the questions, because I am objecting to some of this other evidence. Now, did you keep the letter?

A. Yes, sir.

Q. Did you read it?

A. No, sir, I never opened his mail, he read it.

Q. After it was opened, did you see the letter itself?

A. Yes, sir.

Q. Not the envelope, but the letter? A. Yes, sir.

Q. You saw it? A. Yes, sir.

Q. See the man's name signed to it? A. Yes, sir.

Q. You don't remember the name? A. No, sir.

Q. Written on a typewriter or in long hand?

A. I have forgotten now.

Q. You don't remember whether it was typewritten or not? A. He read it, I didn't read it.

Q. As he read it, did you see it? A. Yes, sir.

Q. Was it on a letter head, anything printed on the letter? A. No, sir.

By Mr. German: You understand we are objecting to all of this as incompetent, irrelevant, incompetent, and immaterial, and hearsay.

By Mr. Blakeney: You are objecting to her testimony about the letter as hearsay?

By Mr. German: My sole purpose in asking the witness about the letter at all, or the conversation following it, was confined so that if the Court admits the conversation with Hanford, then I understood that this would go in. Otherwise, I don't; I wouldn't have asked those questions.

Q. You say that he read you the letter, was it on more than one sheet? A. On one sheet.

Q. The one sheet. What did he read you?

A. Well, he said this man told him to call him up.

Q. I didn't ask you what Walter said now, I asked you what the letter said.

A. Well, he read the letter and told me about it.

Q. Did he read the letter aloud then?

A. No, he didn't read it to me, he read it himself and he told me this man said to call him up.

By Mr. Blakeney: I move to strike out what he told me as not responsive.

Q. Then, you don't know who the letter was from or what its contents were except what your brother told you?

A. That is all.

Q. Did you see him as he tore the letter open?

A. Yes, he tore the letter open.

Q. In your presence?

A. Yes, I went on and fixed my supper and he read it.

Q. Just answer the questions. Did he tear the letter open in your presence? A. Yes, sir.

Q. And you saw it?

A. Yes, sir, saw the letter, just one sheet.

Q. Was any money in the letter? A. I didn't see any.

Q. Did you see a check in the letter? A. No, sir.

Q. You didn't see Walter take any check or any money from the letter?

A. No, sir, if he had got any money he would have said so.

Q. I just ask you to answer the questions. A. No, sir.

Q. Then, Walter did afterwards attempt to tell you what was in the letter?

A. He told me, yes, that he got the letter from him and the man told him to call him up.

Q. Well, did he attempt to tell you what was in the letter? A. He just told me the letter was from this man.

Q. Just a minute, he didn't attempt to tell you what the letter itself said?

A. No, sir, he didn't tell me all of it. If there was any more he didn't tell me.

Q. Just told you after he read it, that there wasn't any money in the case and he was going to quit it?

A. That is what he said.

Q. He didn't say that the letter said that?

A. No, sir, he didn't say.

Q. You said something about these niggers coming in here and fighting the Government would get into the penitentiary, didn't you, or something of that kind? What was that you said about that?

A. I said, well, if they mess around with something they don't know nothing about there will be half of them go to the penitentiary, fooling with Uncle Sam.

Q. That is what you told Walter?

A. That is what I told Walter.

Q. Yet you heard Walter tell him in your presence that he did know the boy and played with him? A. I heard that.

Q. You didn't want Walter to swear to that, did you?

A. Because I didn't think Walter did.

Q. Because you didn't remember the child, you didn't want your brother to swear to it?

A. Didn't want him to swear to something he didn't know nothing about it.

Q. You heard him say he did know about it?

A I heard him but I didn't believe he did.

Q. Because you didn't believe it, you didn't want your brother to swear about what he thought was true?

A. I didn't because I didn't think it was right.

Q. You thought if he swore against the Government, he would be getting in trouble? A. That is what I said.

Q. You told him that you niggers always had to line up with the Government? A. That is what.

Q. Said these niggers always must help the Government?

A. No, I didn't. I said you all fooling around Uncle Sam, with the Government, a lot of you will be going to the penitentiary for swearing the lies, that is what I said to him.

Q. And you told your brother that when the only thing you knew about the case was that the gentleman asked you if you knew Tommy Atkins or Minnie Atkins and you said you did not? A. Yes, sir.

Q. And he walked out and asked your brother and your brother said he did?

A. My brother came down the street——

Q. Just a minute. Now, that was all that had been said that made you think that your brother would go to the penitentiary if he would swear that he knew Minnie Atkins and Tommy Atkins? A. Yes, sir.

Redirect Examination by Mr. German.

Q. You knew you had just as good a chance to know whether Tommy was there as Walter?

A. I knew I had just as good a chance to know as he did, because I was older and knew the children that played around there.

Recross Examination by Mr. Blakeney.

Q. Did you know Sadie James? A. Who?

Q. Sadie James? A. Sadie James?

Q. Yes, Sadie James? A. Yes, sir, I know her.

Q. When did you get acquainted with her?

A. Years, she was raised up here too.

Q. She was raised around Leavenworth? A. Yes, sir.

Q. When have you last seen her?

A. I have seen her a while back.

Q. How long back?

A. I have seen her here at church, about the third Sunday, last third Sunday of last month.

Q. Third Sunday of last month? A. Yes, sir.

Q. That the last time you have seen her? A. Yes, sir.

Q. Did you talk to Sadie there?

A. I wasn't studying about——

Q. Didn't have a chance to talk to Sadie there?

A Just spoke, laughing and talking.

Q. Sadie goes to that church pretty near every Sunday, doesn't she? A. She belongs to that.

Q. Belongs to that church? A. Yes, sir.

Q. What church is that? A. Baptist Church.

Q. Sadie sits in the Amen Corner, doesn't she?

A. Yes, sir.

Q. When had you seen Sadie just before that? A. No, sir.

Q. I say when?

A. I don't know, I haven't seen Sadie for a long time.

Q. Well, when have you had a talk with Sadie last?

A. Last Third Sunday we were talking at church.

Q. I mean had an opportunity of talking as a visit, making a visit with her? Has she been to your house in the last two years?

A. To my house in the last two years, she has been up there once, when she was over in Kansas she stepped up and seen me.

Q. What time of day did she come by?

A. In the afternoon, I [ ] fixing to go out to town.

Q. How long did she stay?

A. She didn't stay long, she was in a hurry, passing by.

Q. She told you she had decided to help the Government in this case and was going to send everybody to the penitentiary that didn't testify as the Government wanted?

A. She didn't tell me nothing, she didn't have no conversation with me about that.

Q. What did she tell you anything about the case, told you nothing about it? A. No, sir.

Q. You had no conversation with Sadie about what your testimony would be in this case?

A. She didn't say nothing to me, not at that time, no.

Q. Well, in your presence at any time?

A. No, sir, she wasn't saying nothing to me at all.

Q. At any time, never did have a talk with her about this case?

A. Oh, at the first she had something to tell me something, but we never had time to talk.

Q. Never had time to get it told to you? A. No, sir.

Q. Before that, had she ever told you anything?

A. No, sir, I hadn't seen her.

Q. Did she intimate to you what it was she was going to talk to you about at first? A. No, sir, she didn't.

Q. Well, why did you think it was about this case?

A. I didn't think it was about this case, I thought she might have something else to tell me.

Q. Didn't have any idea it was about this case at all?

A. No, sir.

Q. Then why did you volunteer the statement here that she said she had something to tell you about?

A. She may have had something else, her own affairs or something.

Q. That is what you thought it was? A. Why, sure.

Q. That is the reason you told it here in this case?

A. Sure, that is all I know.

Recross Examination by Mr. Hanford.

Q. Emma, did Sadie tell you she was working for the Government? A. Tell me?

Q. Yes?

A. She didn't say nothing to me about it that Sunday.

Q. When did you first learn that the Government was in this case?

A. When did I learn that the Government was in this case? Let me see. The man came to my house. I think Walter heard something about it, my brother heard something about it, I didn't pay much attention to it myself.

Q. Did some other man come to your house besides that man that was there first?

A. Yes, there was a man came there, a Government man, he said he was a Government man.

Q. Do you remember what his name was?

A. No, sir, I don't.

Q. Do you see him around the room any place?

A. No, sir, I don't.

Q. Do you recall if he was a one armed man?

A. No, this man had two good arms.

Q. And that was the first time that you learned that the Government was in the case? A. Yes, sir.

Q. Did you ever discuss that feature of it with Sadie?

A. He asked me did I know her, and I told him yes, I knowed her.

Q. When Sadie was at your house, did you ask her what she was doing there and did she tell you what she was doing there?

A. No, she didn't tell me exactly what she was doing.

Q. She knew that you used to live in Leavenworth?

A. Yes, sir.

Q. But she didn't mention this case to you at all?

A. No, she was talking something about it, I didn't pay much attention to it, I told Sadie I didn't want to hear a mess, they were all talking so much about it.

Q. She mentioned in fact that the Government was in the case?

A. She asked me did I remember, and I told her no I didn't know nothing about this woman.

Q. Did she say anything about all these people that were messing with the Government and were going to get sent to the penitentiary? A. No, I said that to her.

Q. You said that to her? A. Yes, sir.

Redirect Examination by Mr. German.

Q. Emma, the time that the Government man came to see you was after—— A. Yes, sir.

Q. The time that this man, whose name you don't remember, came to see you? A. Yes, sir.

Q. And the time that Sadie came to your house and talked something about the Atkins case, that was also after this man had been to your house? A. Yes, sir.

Q. And you had told him you didn't know anything about it? A. Yes, sir, I did.

Q. Any Minnie or Tommy being around Granny's?

A. Yes, sir.

Q. Wasn't the man that came to see you, the Government man, wasn't his name Fred Cook?

A. Well, I don't remember what his name was.

Q. You don't know? A. No, sir.

Q. Emma, was it before or after your brother, Walter, died that Sadie was at your house and said something about the case? A. It was after my brother was dead.

(Witness dismissed.)

Mr. German: We offer the deposition of Nettie Brown, taken before Mr. Penick, beginning at 2873.

And thereupon, NETTIE BROWN being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name, age and place of residence?
Q. Nettie Brown.
Q. How old are you.
A. I can't say. I don't remember exactly.
Q. Where do you live? A. 927 State Line, Missouri.
Q. Nettie, where were you raised? A. St. Joseph.
Q. St. Joseph, Missouri? A. Yes, sir.
Q. How long did you live at St. Joseph?
A. Oh, I lived there until I was fourteen or fifteen.
Q. Did you ever live at Leavenworth, Kansas? A. Yes, sir.
Q. About how long did you live there?
A. Oh, about two years as near as I can remember, very near two anyway.
Q. Were you ever married? A. Not then, I wasn't.
Q. Were you married after you left Leavenworth?
A. Yes, sir.
Q. About how long after you left Leavenworth were you married?
A. Between three and four months, about four months after I guess, somewhere along there, as near as I can remember.
Q. Was it as much as a year?
A. No, not quite that long.
Q. Then you don't remember the exact time, the exact length of time after? A. No, sir, I don't.
Q. Who did you live with in Leavenworth, Kansas?
A. Jim's mother, Mrs. Letcher.
Q. Who with? A. Jim Mayo.
Q. You lived with Jim Mayo at the Letcher home?
A. Yes, sir.
Q. Where was his mother living at that time?
A. On Seneca Street, across from Crilly and Cranston's livery barn.

Q. About how long did you live in that house with Jim Mayo?

A. I lived in that house about two years, very near two years, the only place I lived in Leavenworth.

Q. Did you know the members of Granny Letcher's family while you lived there in that house?

A. None but Walter and Sam Nash, a little boy that she raised.

Q. And Jim Mayo, with whom you were living?

A. Yes, sir.

Q. Was there any boy there younger than Walter Banks?

A. No, sir.

Q. Was there any boy there living or staying at that home, during any of the time that you stayed there, by the name of Thomas Atkins? A. No, sir.

Q. Or Indian Tommy? A. No, sir, I didn't know any.

By Mr. Cruce: Objected to as leading.

Q. Was there any Indian woman living there during that time, or any Indian girl? A. No, sir.

Q. Was there any person there by the name of Minnie or Minnie Atkins?

By Mr. Hanford: Objected to as leading.

A. No Indian people there at all. No light persons up there at all. I was the oldest person there all the time that I was there.

Q. Was there any person there called Minnie Atkins or Minnie?

A. No, sir, I don't know of any person by that name.

Q. Where were you married after living there?

A. St. Joseph, Missouri.

Q. You say that was several months after you left Granny Letcher's? A. Yes, sir.

Q. To whom were you married? A. Edward Bell.

Q. Did he have any middle initial?

A. No, sir, not that I know of.

Q. Were you ever married to any one else? A. No, sir.

Q. What was your maiden name? A. Nettie Mabry.

Cross Examination by Mr. Cruce.

Q. How old are you? A. I can't tell you exactly.

Q. What? A. I can't tell exactly how old I am.

Q. Was your husband a white man or a black man?

A. He was a light man about my color.

Q. Well, what is your color?

A. He wasn't black, I don't know what you call it, he was a colored man though.

Q. You are a colored woman? A. Yes, sir.

Q. Do you remember what year it was when Granny was living over there on Seneca Street?

A. No, sir, I don't.

Q. You don't remember? Well, have you any idea when she lived there?

A. No, sir, I can't tell exactly what year it was in when she lived there. It has been so long I don't know.

Q. What time of the year if you know was it that she was living there? A. Sir?

Q. What time of the year was it in the spring of the year?

A. I was there in the spring and in the winter too. I was there nearly two years.

Q. '85 or——

A. I can't tell that because I don't know exactly what year it was.

Q. Have you any idea? A. No, sir, I haven't.

Q. Do you know what year this is?

A. This is 1916.

Q. Well, can you count back and give us your best judgment? A. I can't count back that far.

Q. Well, do you think it was 1895 or '96, or——

> By Mr. Allen: I expect you people would want to cross examine this witness on the date of her marriage, and we have here the certified copy of the marriage license, if there is no objection to the form of the certificate, we will introduce it in evidence at this time.

Q. What are you doing now, Nettie, for a living?

A. I wash some, I have a friend who takes care of me.

Q. What?

A. I wash sometimes when I get it and when I ain't I have a friend that takes care of me.

Q. A lady friend? A. No, sir.

Q. You have a gentleman friend? A. Yes, sir.

Q. You mean? A. Mr. Brown.

Q. Mr. Brown? A. Yes, sir.

Q. Are you married to him? A. No, sir.

Q. You are living in adultery with him?

A. I have him two years, I am living with him, yes, sir.

Q. Sleeping with him? A. I do.

> By Mr. Allen: We now offer in evidence in connection with our direct examination of this witness, certified copy of the marriage license, showing the marriage of the witness to Edward L. Bell.

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and not properly identified.

Mr. Mr. Hanford: We object to it as incompetent, irrelevant, and immaterial, but waive objection as to the form of the certificate.

By Mr. Cruce: Mr. Page objects on the ground that it is immaterial.

By Mr. Allen: I will withdraw the offer. I haven't offered it.

By Mr. Blakeney: I withdraw any objection as to the identification.

By Mr. Allen: All right, I want it in the record. (Marked Government's Exhibit 55.)

Cross Examination by Mr. Hanford.

Q. Nettie, where did you meet Jim Mayo? A. St. Joe.

Q. Met him up there?

A. That is where I first seen him.

Q. How long did you live with him up there?

A. I didn't live with him up there at all.

Q. When did you come to Leavenworth, how long after meeting him? A. After I first met him?

Q. Yes?

A. About a week after he came up there I went down to Leavenworth with him.

Q. Met him and about a week later he came for you?

A. Yes, sir, I went to Leavenworth with him.

Q. What was your name then? A. Nettie Mabry.

Q. Where were you living then?

A. Eighteenth and Messina.

Q. How do you spell Messena, M-e-s-e-n-a? A. I guess so.

Q. Were you living there with your folks?

A. I haven't any people, no kinds. My parents died when I was little.

Q. Who were you living with? A. Susan Smith.

Q. How old were you?

A. I don't know exactly how old I was. If I had known how old I was then I would have knowed it now.

Q. How big a girl were you?

A. I was a young girl wearing long dresses.

Q. Did you ever go to school? A. For a while.

Q. How long after you had been to school when you met Jim? A. I hadn't been to school for a long time.

Q. How long had you been living with Susan when you met Jim?

A. I made that my home, I had been there off and on for a couple of years or more.

Q. Had been there for a couple of years?

A. Yes, sir, when I wasn't working at places off and on like that, I made it my home.

Q. You wasn't working any place when you met Jim?

A. I was not.

Q. Just living there with Susan?

A. Yes, her and her husband and family.

Q. About a week later Jim came back and got you?

A. He did.

Q. And took you down to Leavenworth? A. Yes, sir.

Q. Where did he take you?

A. Seneca Street to his mother's.

Q. What time of year was it?

A. Warm weather when I went there then.

Q. In the summer time? A. Yes, sir.

Q. About the middle of the summer?

A. I don't know whether it was the middle or not, I don't know what weather it was, it wasn't cold weather it was warm weather, they were playing baseball there.

Q. It was baseball season? A. Yes, sir.

Q. Did you work any place in Leavenworth?

A. I did not.

Q. What did you do? A. I didn't do anything.

Q. Just stayed there? A. Yes, sir.

Q. Did you stay any other place? A. No, sir.

Q. Who else was there while you were there?

A. Where, at Mrs. Letcher's?

Q. Yes? A. Her family.

Q. Who were there, who were they?

A. This little Walter she was raising, and Sam Nash and Jim.

Q. Anybody else?

A. When I first went there she used to have the soldiers and things come, she kept a rooming house.

Q. She kept a rooming house and soldiers came in?

A. They used to come there now and then when they were discharged from the Fort, used to come there and get rooms over night.

Q. Who else was there?

A. A woman named Mrs. Stuart, she used to be there. I ain't positive, lived in the rear.

Q. Where did she come from?

A. Some little country town.

Q. Was she a colored woman? A. Yes, sir.

Q. Were these soldiers colored or white? A. Colored.

Q. Colored soldiers? A. Yes, sir.

Q. Did anybody else live with Granny while you were there?

A. No, one, only that colored lady that lived in the rear, Mrs. Stuart, I think that is the name, I wouldn't be positive but I think that is her name.

Q. How long did she live there?

A. I think she was living there when I left there, her and her husband and another woman, dark lady.

Q. How long did she live there all together?

A. I can't tell you how long she lived there.

Q. A week or two weeks?

A. No, she was living there, rooming, that was all.

Q. Can you say less than a year or a month?

A. I can't tell how long she stayed there after I was gone and living away from there.

Q. How long did she stay there before you went away?

A. She was there two or three months while I was there.

Q. She was there two or three months while you were there? A. Yes, sir.

Q. Do you know anybody else?

A. Wasn't nobody else there.

Q. None there at all?

A. No one lived there at that time I was there.

Q. Just people that boarded there?

A. They didn't board, just came there and stayed at nights is all.

Q. Were the Stocks there when you was there?

A. No, sir.

Q. You didn't know about them? A. No, sir.

Q. You don't know of anybody that lived there regularly, just people that came there for the night?

A. Just that one woman?

Q. Just that one woman, Stuart?

A. Her and her husband, she wasn't alone, she had a husband.

Q. You have named them. I am asking for others that lived there?

A. Well, there wasn't any others that regularly stayed there. Sometimes soldiers would come there going to the Fort and come there and get a room until the next morning or something.

Q. Nettie, you are sure nobody else lived there?

A. I know there wasn't when I lived there.

Q. You were there all the time?

A. Wasn't no one stayed there then only the ones I told you of.

Q. How long were you there?

A. I told you pretty near two years, quite two years.

Q. You mean not quite two years?

A. I don't say no full two years, I said very near as well as I can remember, I wasn't there any longer than two years, and no shorter than that I don't guess. I know I didn't live there no longer than two.

Q. You know that you lived there with Jim Mayo about two years?

A. The whole time that I was in Leavenworth, I lived with him.

Q. Where did Laura Hudson live when you lived in Leavenworth? A. I didn't know anything about her.

Q. You don't know her? A. No, sir, I don't.

Q. Don't know where she lived? A. No, sir, I don't.

Q. You didn't know the Scott's? A. No, sir, I don't.

Q. Now, how long after you left Letcher's were you married to Bell?

A. I said about four months, maybe not that, somewhere along about that long, wasn't a year I know.

Q. Wasn't a year? A. No.

Q. About half a year, you think it was three or four months? A. That is what I said at first.

By Mr. Blakeney: Let her answer the questions.

Q. Did she answer it? A. I did.

Q. And it was about that time, three or four months?

A. I guess it was about that time.

Q. Were there any children, any babies around there when you were around there?

A. None but that one, that Stuart woman had *the* back there.

Q. Did Granny take care of other people's children?

A. Not that I know of, only Walter, the only child that I knew of her taking care of, and he was wearing pants.

Q. Didn't she take care of babies for girls working out?

A. Never taken no care of babies while I was there, I don't know what she did after I left.

Q. You don't know anything about it?

A. She never taken care of no babies while I was there, no, sir.

Q. You were married in January, 1889?

A. 31st day of January.

Q. Thirty-first day of January? Then, you think that you left Letcher's along in the fall? What time of year was it when you went away from Letcher's?

A. It wasn't cold weather.

Q. It was still warm weather? A. Yes.

Q. Was it hot weather? A. No, it wasn't hot.

Q. Well, what time of year do you think it was?

A. I ain't going to say, because I am not going to sit up here and tell no story, because I don't know, I don't remember enough—never kept no account of it.

Q. The only thing you remember was that it was warm weather? A. Summer months, I don't know.

Q. Is that right, warm weather?

A. I say it wasn't cold weather. Yes, sir, I guess it was warm weather, if you want me to just go out and say that.

Q. Well then it was in the warm weather in 1888, the year before was it? A. Year before what?

Q. The year before you were married?

A. Why I wasn't away from there the year before I was married, I said.

Q. I say it was in the warm weather of the preceding year that you went away from Letcher's?

A. Yes, sir, I think it was.

Q. Who lived next door to Granny when you lived there?

A. I don't know who it was.

Q. You don't know anybody that lived next door?

A. I don't. Wasn't but one house on one side and the other side was a lumber yard. I never knew who those people were. Those were white people. I don't know who lived in there.

Q. You don't know who lived in the house on the other side away from the lumber yard?

A. Wasn't but that one house. This house sets on the east—a stone house on the——

Q. Who lived in the house?

A. I don't know, white people.

Q. Were there any colored people in that stone house?

A. Not that I know of. I never seen any.

Q. That house had two parts to it? A. Sir?

Q. Did that house have two parts to it?

A. I can't tell you I never was in the yard.

Q. Who was Emma Woods?

A. Alice Woods' daughter, I think.

Q. Who was Alice Woods?

A. A colored woman is all I know. Lived as you go out toward the brewery, is all I know. Mrs. Woods, I knew her daughter.

Q. What was her daughter's name? A. Emma, I think.

Q. Emma? What brewery was that?

A. I don't know what brewery it was. I don't know whether Rochester or what one it was.

Q. Lived out toward the brewery?

A. Out that way, yes. I don't know what the street is next about the lumber yard and straight up that way. I don't know what the next street is.

Q. Did she live there all the time you were in Leavenworth? A. She was living there when I left there.

Q. You don't know when she moved away from there?

A. No, sir. Her mother is dead now. I don't know when she moved away.

Q. Did she live next door to you while you were at the Letcher's?

A. No, sir. I say she lived up next as you go out toward the brewery.

Q. How do you know that. Did you see her there?

A. I used to go there. Used to visit her.

Q. You knew her daughter? A. Yes, sir.

Q. Where did you get acquainted with her daughter?

A. Leavenworth.

Q. Where did she live when you got acquainted with her?

A. Up there toward the brewery.

Q. The same place? A. Yes, sir.

Q. What was Jim doing when you lived with him?

A. I don't know what he was doing.

Q. You don't know anything about what he did? A. No.

Q. How did he make any money?

A. Around in the pool halls, I guess. I don't know.

Q. You don't know any business that he had or any work that he did at all?

A. Nothing more than being around the baseball team and around the pool hall.

Q. Just playing baseball?

A. He had a team at one time there, baseball team or whatever you call it. I don't know.

Q. What did he do in the Winter?

A. I don't know what he did in the winter. I don't know how he made his living. I don't know.

Q. You were there in the winter?

A. I was. I don't know whether he gambled or what he did. He taken care of me is all I know. I don't know what he did.

Q. How many—— He had this baseball team you say?

A. He did at the time that I met him in St. Joe, yes, sir. He was up there with a baseball game.

Q. He was up there to a baseball game?

A. With one, yes, sir. I think him and some of the boys he taken [] Leavenworth was with him.

Q. How long did he have that ball game?

A. I don't know.

Q. That is all you ever knew about him doing was having a ball game?

A. Yes. Saloons and things were open. I don't know how he made his living. Gambled I guess. I don't know.

Q. You came there in warm weather you say?

A. Yes, sir, it was kinda warm.

Q. And you were there that same winter?

A. I was there. I said very near two years.

Q. Were you there the next summer?

A. I was only when I would go back home and stay a couple of days, something like that.

Q. You went home sometimes?

A. I did, whenever I taken the notion I wanted to go I went.

Q. What was the longest you ever stayed home?

A. While I was in Leavenworth?

Q. Yes?

A. I would go up there sometimes and stay three or four days and sometimes a week. That is the longest I stayed.

Q. That is the longest you stayed?

A. No, I never did stay longer than that until I went home and stayed for good.

Q. What did Jim do the next summer?

A. One year we went away on a boat, government boat.

Q. Where did you go?

A. Went as far as Lockston with it. Cooked on there. Taking in government land, yes.

Q. What was that a drainage?

A. One of them tugs with a house on it, tables and things.

Q. The boat was working on the river?

A. Yes, sir, the boat pushes derricks and things, derricks taking up government land, putting down stone slabs in different places.

Q. Building breakwater?

A. No, sir, putting up stones and things.

Q. How long were you on that boat, all the summer?

A. No, sir, not more than about a month. Went as far as Lockston and quit them at Lockston, Missouri.

Q. Did Jim go with you?

A. Yes, sir, me and him cooked on it.

Q. What did you do after that?

A. I didn't do anything.

Q. Did you do any other work besides that?

A. That is the only work ever I did the whole time I was in Leavenworth. I just went there to be going. Just went to working on there just to be going. Just to say I was on a boat.

Q. Just for the trip.

A. That is all, just to be going.

Q. When was that? Was that the first time you came to Leavenworth or the——

A. I never went away and stayed over there a year. It was while I was in Leavenworth.

Q. It was during the time you were in Leavenworth?

A. Sure.

Q. How long after you had met Jim?

A. I guess I had been there a year then, when those boats came into Leavenworth. They were starting a port I think that is what they were.

Q. Had you been there a long time or short time?

A. Been there a good while, for a year anyway.

Q. Now how long after you went on that trip did you leave Leavenworth? A. After I got back, you mean?

Q. Yes?

A. Very near a year, I guess, after that before I went home.

Q. You think it was about a year after that that you got married? A. It wasn't no year after I left him that I married.

Q. No, I am calling your attention to the time you went on this boat?

A. I know what you are speaking about the boat.

Q. Now from the time that you worked on the boat how long was it before you got married?

A. It was over a year or more after that.

Q. Over a year or more after that?

A. Until I married, yes, from the time I left off of the boat and then went home it was over a year. That would made two years and a little more.

Q. What was the name of that boat?

A. The boat didn't have no name only the captain. It was Captain Wellman's boat.

Q. Wellman?

A. Yes, sir, nothing on there but man taking in government land and Jim taken the kitchen. Two or three boats went out. I think that is what the name was, Capt. Wellman.

Q. You think the boat started from the Fort?

A. I think it did. I don't know. It was a government boat I think.

Q. When did you go aboard the boat?

A. I don't know. I thought I went to the Fort. I don't know where I did go with Jim to that boat. I know there was two or three of them and Jim taken one. There was two or three of them went out. The river there somewhere they went out on.

Q. What kind of boats were they?

A. Just tug boats, a little house on them. There was a bridge thing I guess you would call it one end of the steamer.

Q. A steamer pulled the other boat?

A. Pulled the tugs the house was on.

Q. The tug pulled the other boat did it?

A. The tug couldn't pull the other, had to have an engine to it, a little steering wheel.

Q. A little steering wheel tug was it?

A. Steamer I guess it was. This bridge, I don't know what you call it, you know what I have reference to.

Q. How many was it?

A. Just that one. The house carried the stone on the engine part. The house was setting on the tug part, a steamer pulled this other part and there is where they would put their things.

Q. Did you have any children when you were in Leavenworth? A. No, haven't had none yet.

Q. Never did have? A. No.

Cross Examination by Mr. Blakeney.

Q. You met Jim Mayo in St. Joseph? A. Yes, sir.

Q. How old were you then? A. I don't know.

Q. How large were you then?

A. I always was large for my age. Pretty near as large as I am now.

Q. You were grown? A. No, sir, I wasn't grown.

Q. What were you doing at that time? A. Sir?

Q. What were you doing at that time?

A. Well, I *was* wasn't doing anything right then.

Q. Where were you living? A. 18th and Mesina.

Q. With whom? A. With Susan Smith.

Mr. Allen: I want to object at this time to the cross-examination of this witness upon matters gone over by Mr. Hanford and the witness has been thoroughly interrogated about all the matters brought out in the direct. We object to the further cross-examination of the witness and ask that this objection go to each question.

Mr. Blakeney: I am unwilling to take counsel's judgment as to whether it has been thorough or not.

Mr. Allen: Are you willing for the objection to go to each question?

Mr. Blakeney: Yes, sir, each question to-day and tonight.

Recross Examination by Mr. Hanford.

Q. You say you didn't have any children?

A. No, I didn't have no children.

Q. Didn't have any children at all while you were at Granny's? A. No.

Q. Did you have anybody else's children? A. Why, no.

Q. Well, didn't you take care of some babies?

A. I never did take care of anybody's babies. No, never had no babies. If I had had one I sure would knowed it.

Q. Didn't you take care of babies for women that worked out? A. Never took care of anybody's babies.

Q. How was Mary Lower—— A. I don't know.

Q. Don't know her? A. Don't know who she was.

Q. Didn't you ever take care of any babies?

A. No, I didn't.

Q. Did you ever know Mary Lower? A. No, I didn't.

Q. Didn't you take care of a little girl for a woman named Lower?

A. I said I never taken care of any children. If I had taken care I would have knowed it.

Q. Didn't Granny take care of one for her?

A. I don't know. She never taken care of any while I was there. Only this Walter.

Q. If she had taken care of it would you have known it?

A. I suppose I would.

Q. Who was Etta? A. I don't know any Etta.

Q. Don't know any Etta Lower?

Q. I never heard of her until now. If I did I don't remember.

Q. You don't know any Mrs. Scott? A. I don't.

Recross Examination by Mr. Blakeney.

Q. Is your manner of answering questions—— A. Sir?

Q. Is your manner of answering questions a natural one?

A. My natural one.

Q. The answers that you have made to Mr. Hanford in cross examination, has it been entirely natural—a natural one?

A. Of speaking?

Q. Yes? A. Yes, sir, as far as I know.

Q. You haven't been prompted by any anger or indignation? A. No, sir.

Q. Who did you say you was living with in St. Joe now?

A. Susan Smith.

Q. Who was Susan Smith?

A. Why a woman, Susan Smith, is all I know.

Q. That is all you know about her?

A. Yes, sir. She had children. Been there a good while.

Q. She was a married woman? A. Yes, sir.

Q. Had children? A. Yes, sir.

Q. And you were living with her?

A. I made it my home there when I wasn't working.

Q. What children did she have?

A. She had a daughter named Maggie. She had one named William, Will Sherman, his name was.

Q. How old was Maggie?

A. Maggie was then about ten or twelve years old and her son was grown going to school.

Q. And some other children besides the two you named?

A. Yes, sir, but I can't think of their names now. She had four, I think, four or five.

Q. You was working out at that time?

A. Not right then I wasn't. I used to work out. When I wasn't working I made my home there. I didn't have no people, kin or nothing.

Q. Had you ever gone to school any?

A. Yes, sir, I went to school a little.

Q. Where about? A. St. Joe.

Q. When did you go to school at St. Joe? How long before you commenced living with Susan Smith?

A. I haven't went to school since I was small—— Since I lived with my adopted mother.

Q. How many years?

A. I haven't went to school for about five or six years I guess. Longer than that.

Q. Been out working five or six years before you went to Susan Smith's? A. At different places, yes, sir.

Q. And how long did you live at Susan Smith's?

A. I don't know how long I lived there.

Q. Did you pay board at Susan Smith's?

A. No, sir, just made it my home.

Q. Any other girls there besides yourself?

A. Only her children.

Q. So Jim Mayo came over there with a base ball team?

A. That is the first time ever I seen him.

Q. Did you go to the ball game? A. Who, me?

Q. Yes? A. No, sir, I didn't.

Q. Did Jim play on the team?

A. I guess he played on it. I don't know.

Q. You don't know whether he played on it or not?

A. No, I know he was there with it.

Q. Was it a colored team? A. Yes, sir.

Q. Mail boys?

A. I never seen them. I guess boys, young men or something. I never seen them.

Q. You never saw any of the players? A. No, sir.

Q. Did you understand Jim was taking the team around from place to place playing for exhibition?

A. No, in different places. I don't guess he was. I know how he happened to be up there. He was with them he said.

Q. What did you understand that team's name, Leavenworth colored team playing the St. Joe team?

A. No, sir, I didn't know anything about it.

Q. Well, how did you happen to meet Jim?

A. How did I happen to meet him?

Q. Yes?

A. Through a friend of his came from Leavenworth.

Q. What was that friend's name?

A. I don't know, he brought him out to the house there. And he got to talking to me.

Q. This friend brought him out? A. Yes.

Q. And you don't know that friend's name?

A. No, I don't know him now.

Q. You are sure now you don't [] it? A. Yes.

Q. If you knew the name would you tell me? A. Sure.

Q. Have you ever seen that friend since? A. No, sir.

Q. Man or woman? A. Man.

Q. How long have you known that friend?

A. Which friend?

Q. The friend of Jim's?

A. I wasn't to say personally acquainted with him at all.

Q. Had you seen him before?

A. I had seen him once before.

Q. Where? Down at the house?

A. Out there at Mrs. Smith's.

Q. Did you have a good deal of company out there at Mrs. Smith's? A. No, sir.

Q. You saw Jim after the game of ball had been played did you? A. Yes, sir, he came back out to the house.

Q. About what time of the day did he come out?

A. Three or four o'clock.

Q. In the afternoon? A. Yes, sir.

Q. And you were introduced by this friend? A. Yes?

Q. What did Jim say to you?

A. I can't tell now all that man said to me.

Q. Well, did he make you a proposition to go and live with him?

A. He didn't make no proposition to go and live with him. He asked me to go to Leavenworth with him and I went.

Q. Asked you to go to Leavenworth with him?

A. Yes, sir.

Q. You were living that kind of life at that time?

A. No, sir.

Q. Is that the first time you had ever gone with a man?

A. To live with a man, yes, sir.

Q. And you had had men come and live with you a short time?

A. No, I hadn't had men come and live with me a short time.

Q. The first man then that ever slept with you was Jim Mayo?

A. I think that is an improper question to ask me anything like that.

Q. Why do you think it is improper?

A. Because I don't think that *it* what I was here for.

Mr. Allen: We object to the question as incompetent, irrelevant and immaterial—could possibl*e* shed no light upon the subject of inquiry.

Q. Now, how old were you at that time? Are you crying?

The Examiner: Do you desire to retire a minute?

(Witness retires.)

(Witness returns to room.)

Q. Did you go over there that evening there to Leavenworth with Jim? A. No, sir, I didn't.

Q. When did you go?

A. I told you about a week after that.

Q. Did Jim stay there a week? A. Sir?

Q. Did Jim stay there with you until you went?

A. No, sir, he didn't.

Q. How long did Jim stay there?

A. Why he left that evening.

Q. About what time of the evening?

A. I don't know what time the train went out.

Q. What time did he leave your house?

A. I guess it must have been about six o'clock or four or five anyway. I don't know what time it was.

Q. You promised him when he left that you would come over, did you? A. I did.

Q. Did he leave you any money to pay your expenses over?

Mr. Allen: Answer it Etta.

A. No, sir, he didn't leave none.

Q. Did he send you any? A. He did.

Q. How did he send it? A. Sent it in a letter.

Q. Send the money or get a postoffice money order?

A. Sent it in a letter. He didn't send no postoffice order.

Q. He couldn't send a postoffice order in a letter could he? A. He could if he wished to but he didn't do it.

Q. What did he send in the letter?

A. Sent me a two dollar paper bill.

Q. Now then, you went over and went right direct to Granny Letcher's house did you?

A. No, I didn't go right there. I didn't know where it was at.

Q. Well, where at did you go?

A. Why, he met me at the depot.

Q. Then where did you go?

A. He took me to Granny Letcher's.

Q. Then you did go right to Granny Letcher's house?

A. I did.

Q. Did he introduce you to Granny Letcher?

A. Why certainly he did.

Q. How did he introduce you, as his wife?

A. Why she knew I wasn't none of his wife, no, sir.

Q. Just told her that this is Nettie that is going to live with me?

A. I don't know what he told her. He introduced me to her. I don't know what he told her afterwards. He didn't tell her that before me. She knew I wasn't none of his wife.

Q. That you say, was the first man you had lived with? Consecutively as his wife?

A. I never told anybody that I wasn't his wife. Ain't never told nobody that yet.

Q. You never claimed to be his wife?

A. No, I couldn't.

Q. Well, now after you got there what did you do?

A. What did I do?

Q. Yes? Just stay around the house?

A. I didn't do nothing.

Q. Just stayed around there house?

A. Sure. I stayed there in my room and went down stairs and around when I got ready.

Q. You had the liberty of the house, did you?

A. No, I had no possession of the house only my own part, my room, when I was there.

Q. I said you had the liberty. You were at liberty to go about the house when you wanted to? A. Yes, sir.

Q. And you don't know what Jim——

A. I did not. I didn't see him do nothing. He didn't do nothing around there. I wasn't around out on the street where he was at but that one time.

Q. You was around one time where he was?

A. That one time. Out at the boat. I know he was working then.

Q. That was the only time?

A. Only particular job that I know that he had.

Q. Now to jump a little, you never lived with Jim Mayo but that one time?

A. Yes, sir, the only place I ever lived with him in Leavenworth.

Q. Well, you never lived with him any where else?

A. No, sir.

Q. How long did you say you had lived there now? With Jim before you went on this boat?

A. I said I thought it was somewhere along about a year before he went on that boat.

Q. It was summer time when you got over there? A. Sir?

Q. It was summer time? A. Warm weather, yes, sir.

Q. You know that they play baseball in the summer, don't you? A. Sure.

Q. So you went over in the summer time and you stayed about a year? A. Yes, I guess it was about that time.

Q. Now, why did you say guess? Are you in doubt—you know it was at least——

A. Well, I can't say exactly how long it was, about a year, any way.

Q. During that time you didn't know what Jim Mayo did for a living? A. No.

Q. Well, then you went up on a boat. This boat I believe is, as I understand, you say was a boat that went up to help survey land? A. Yes, sir. Putting up targets, I know that.

Q. Targets?

A. I guess that is what they call them. Is what I call them. What I used to hear them called when they were moving them. They were small things they made out of wire. Put cloth across them, two kinds, black cloth and white cloth.

Q. Where were they putting those?

A. Around—supposed to take in government land I guess they call it. I don't know what they call the thing. No one really explained it. I don't know what they were doing.

Q. Did you know Dennis Jones?

A. His name sounds familiar. I don't know whether I know him or not unless I would see him.

Q. Your husband was not the chief cook was he? He was an assistant cook? A. Whose husband?

Q. Yours? Or Jim Mayo. He was not the chief cook, was he?

A. He done most of it and I helped. Wasn't nobody on there but him and me.

Q. Just you two? A. Yes.

Q. How many boats? A. Only that one.

Q. You said three boats.

A. Two or three were on the river. I don't know when they started.

Q. Did you go on the boat at Fort Leavenworth?

A. Where the river was. I don't know.

Q. You didn't take a train and leave?

A. No, sir, went down the river.

Q. And got on the boat? A. Yes, sir.

Q. And which way did you go, up or down the river?

A. Went up the river I guess. Near Lackston.

Q. Lackston where?

A. Missouri. There is where we quit it. I don't know whether Lackston is up the river or down the river.

Q. You went to Lackston, Missouri?

A. There is where we quit, Lackston, Missouri, yes, sir.

Q. And you kept putting up targets on land?

A. These men went on there working. Those white fellows were on there putting them up. They were government business I know that. Called them that.

Q. How long were you out on that boat?

A. Not quite a month.

Q. Just worked about a month?

A. Not quite a month I don't think.

Q. And you got on at Lackston? A. On the boat.

Q. What did you do after you got off the boat?

A. When we got a train and came back to Leavenworth.

Q. Took a train and came back to Leavenworth?

A. Yes, sir.

Q. Went to Granny Letcher's?

A. Went back there, yes, sir.

Q. How long did you stay there?

A. I don't [ ] exactly how long it was before I went home.

Q. Well, did you go anywhere else? A. Me?

Q. Yes? A. No, sir, not until I went home.

Q. You and Jim fell out, did you? A. Yes, sir.

Q. What did you fall out over?

A. What did we fall out over?

Q. Yes? A. Different things.

Q. Had a lot of grievances?

A. Got tired was one thing. When I got tired I went on home.

Q. Then you went home? A. Yes.

Q. What did you call the name Susan Smith?

A. St. Joe.

Q. Went to St. Joe? Where did you go when you got to St. Joe? A. Went to Susan Smith's.

Q. How long did you stay there?

A. Stayed at Susan's about three weeks and then went to Wathena, Kansas, and worked for Mr. Jones. Mr. Gregg's wife in St. Joe married to a hardware man in Wathena, Kansas.

Q. Do you know how to spell Wathena?

A. W-a-t-h-a-r-a-n-a.

Q. What was the name of the man you worked for?

A. Otto Jones. Married Mr. Gregg's daughter. He run a hardware store when I married. I was married from their house. I was working there when I got married and went to St. Joe.

Q. How long did you work there?

A. Clear up until I married and stayed there about a week after I married.

Q. I don't know when you married?

A. I said 1890. It was 1889.

Q. How long did you stay there? A. At Otto's?

Q. Yes?

A. Stayed there about two months I guess, until I married.

Q. And then you married who? A. Ed Bell.

Q. Are you still living with Bell?

A. No, sir, he is married again.

Q. Were you divorced from him? A. Yes, sir.

Q. When? A. Before I got to Kansas City.

Q. Living in Kansas City now? A. 927 State Line.

Q. How long have you lived in Kansas City?

A. I don't know.

Q. How long?

A. I don't know. I don't know what year I came here in.

Q. The only periods of time you know is that you lived at Leavenworth two years?

A. I lived with my husband over a year.

Q. After you came here? A. Sir?

Q. Lived with your husband over a year after you got here? A. No, sir.

Q. Where did you live with your husband?

A. I got a divorce from my husband before I came to Kansas City.

Q. Where abouts? Where did you get the divorce?

A. St. Joe.

Q. Got it in a Court?

A. I know I never went to Court. He went to Court. I don't know nothing about no Court. He said he was going to Court but I didn't go.

Q. How long did you live in St. Joe after you got a divorce? A. Clear until I came to Kansas City.

Q. Did you understand my question? How long?

A. You asked me how long did I stay at home until I came to Kansas City.

Q. How long you stayed at St. Joe after you got a divorce? A. I don't know about four or five months I guess.

Q. Four or five months? A. Yes, sir.

Q. Then you came to Kansas City? A. Yes, sir.

Q. What did you do in Kansas City? A. What did I do?

Q. What did you do then in Kansas City?

A. I came down here with Mary Love.

Q. Who is Mary Love? A. She is dead.

Q. What did she do?

A. She didn't do anything. Her husband took care of her.

Q. You came down here with a married woman?

A. Yes, sir.

Q. Lived together with them?

A. Well she lived here. She was at St. Joe on a visit. I had my own people here and I came on down here with her.

Q. Where did you live? With whom, when you first came?

A. With her. Came with her. Sixth and Rio Grande Avenue.

Q. How long did you live there? A. I don't know.

Q. What did you do for a living? A. Who?

Q. You, at that time?

A. Just go around here at the house and things.

Q. Just made your living around the house there?

A. Yes.

Q. Any other girls there besides you?

A. No, sir, but her.

Q. You and Mrs. Love? A. Yes, sir.

Q. The only two girls? A. She was.

Q. The only two women? A. Yes, sir.

Q. How long did you stay around the house there?

A. Stayed there near all the time.

Q. Well, about how many years?

A. I lived with her about a year.

Q. What did Joe Love do?

A. His name wasn't Joe. His name was Sam.

Q. What did Sam do?

A. Worked in a saloon at that time. He is dead too.

Q. Worked in a saloon? A. He did at that time.

Q. What did he do after that?

A. I don't know what he did afterwards.

Q. He was just a notorious gambler around colored dives in Kansas City, wasn't he?

A. I don't know anything about him gambling. He was from my home and I never [] of him gambling in my life.

Q. Stayed there about a year you say? Then what did you go to doing? A. Went to taking care of myself.

Q. Well, how did you take care of yourself?

A. Got my own friend.

Q. Had your own friend every night, didn't you?

A. No, I didn't get no friend every night.

Q. You changed friends frequently? A. No.

Q. How long did you live with that friend? The first friend you got?

A. I lived with him out there about four years I guess.

Q. Then you quit him and got another friend, did you?

A. Well, I got one now.

Q. You feel sort of proud of the fact that you have lived that kind of a life don't you?

Mr. German: I object to that as incompetent and immaterial.

A. No. I don't know whether it is proud or not but I have got to have a living.

Mr. German: We have an objection to every question, haven't we. Every legal ground?

Mr. Blakeney: Legal and illegal.

A. I got to have some one to take care of me.

Q. I notice you smiled when you was telling about having a friend to take care of you?

A. Well, I cried a while ago and you all laughed at me and I just as well laugh with you.

Q. You say you never knew a woman named Anthony?

A. I did not.

Q. You never knew a little long-haired girl? A. No.

Q. Named Etta? A. No, sir.

Q. Etta Lowry? A. No, sir.

Q. Never knew of a girl of that name?

A. Not of that name.

Q. Never knew of a bright colored girl who lived there at Granny Letcher's named Etta?

A. Not at the time I was there.

Q. Well you never knew of one lived there when you didn't live there?

A. No, sir, any time that I know of.

Q. Nobody hired you to take care of that girl? A. No, sir.

Q. And none was there? A. No, sir.

Q. You know Sadie James? A. Who?

Q. Sadie James. Sadie Harris?

A. Not by the name, no, sir.

Q. You know a woman named Sadie?

A. I don't know none there.

Q. You don't know her there at Leavenworth?

A. No, sir.

Q. You didn't know her until you came here to Kansas City?

A. I didn't know her at all. Sadie Harris, no sir.

Q. You didn't know a girl named Sadie? A. No, sir.

Q. Who first talked to you about this case?

A. Hasn't any one talked to me about it only those gentlemen that came after me.

Q. What gentlemen?

A. That came and asked me if my name was Nettie.

Q. And then handed you a paper to come to court?

A. Never handed me nothing. I got no paper until yesterday.

Q. Who were those gentlemen?

A. I don't know who the men was. I never met him before.

Q. What did he tell you his name was?

A. I never asked him his name. He came down with the two police on the beat there. Emmett McClune one of the police.

Q. Would you know the man if you were to see him?

A. I don't know.

Q. Was that the gentleman there?

A. No, sir. It was another man. I think he had a grey mustache and broad brimmed hat. He is not in here I don't think. I think he had a mustache. I didn't pay that much attention.

> Mr. Allen: I desire to suggest for the benefit of counsel if he desires to find out the truth of the situation that the return will show that the United States Marshal served her.

Q. What did they say to you when they came down?

A. Never said nothing. Asked if my name was Nettie. Emmett knew who I was. He was on the beat there next below here.

Q. You always knew the policeman on the block there didn't you? A. Can't help but know them.

Q. Now Nettie that was the first person that had ever been down to see you about this case? A. Who?

Q. The man that came with Emmett, the policeman?

A. No, he wasn't the first one ever I seen.

Q. About this case, what you knew about it, what you recalled about Leavenworth, he was the first one you ever seen?

A. I said I didn't say a thing about that, no. Emmett don't know what I knowed about that.

Q. Alright, who was the first? A. Who was the first?

Q. Who was the first man ever talked to you about this case? A. Wanted to know my name.

Q. Wanted to know what you knew about this case?

A. That is the first gentleman I seen.

Q. Mr. Robinson?

A. I don't know what his name is. The first man I seen.

Q. When did he come?

A. That Sunday it rained so, about two weeks ago, I guess, two or three weeks ago.

Q. About two weeks ago? A. Two or three.

Q. What did he say to you?

A. He didn't say nothing, asked me what my name was, was all. I had no talk with him at all.

Q. He just asked you your name?

A. Asked me if my name was Nettie; he didn't know exactly where I lived then. I seen them in an automobile again passing where I lived.

Q. Who was with him in the automobile?

A. I don't know who the gentleman was.

Q. A one armed gentleman? A. No, he had two arms.

Q. Only two of them? A. That is all.

Q. They went by your place and came back and asked you if your name was Nettie?

A. Yes, I guess some one took them there, I knew they didn't know me.

Q. And you told them yes?

A. Told them my name was Nettie, yes, sir.

Q. Then what did you say?

A. They asked me if I ever lived in Leavenworth?

Q. What did you say? A. I told them I did.

Q. What did he say?

A. Why he asked me if I knew this woman named Letcher.

Q. Then what did you say?

A. I said slightly acquainted with her, I knowed her, I lived there; I didn't know who they were though.

Q. You were just slightly acquainted with her?

A. Yes, sir.

Q. That was what you told him?

A. Told him that I lived there.

Q. You told him you were slightly acquainted with him?

A. I told him I lived there.

Q. Then you didn't tell him you were slightly acquainted with her? A. Told him——

Q. I insist on the question?

The Examiner: Answer the question.

A. I said that I—I told him that I did live there, after he found out where I had first known her.

Q. Why did you tell him you were slightly acquainted with her?

Mr. Allen: Object to that as incompetent, irrelevant, and immaterial, and argument.

A. I had an idea somebody was going to ask me about something I didn't know anything about.

Q. You knew something about this, didn't you?

A. No, I don't know, a thing about it to yet.

Q. You asked him who he was?

A. I didn't; he told me who he was before he went out. I started to ask him before they went out. He said he would just explain to her who we are.

Q. What did he say he was?

A. I don't know whether he said a Pinkerton or who he was; some kind of a detective. One was a government man, I know that.

Q. The other was a government man?

A. Something, yes.

Q. Do you know his name?

A. I can't call it now if I try; can't call his. I never seen the man before.

Q. And who did the talking, the government man or——

A. Both talked.

Q. They both talked? A. Talked a little.

Q. Is the government man here, look around and look at all these handsome gentlemen? A. There he is.

Q. Mr. McMillan, the government man, that is what he said?

A. I think that is what he said, I know this is him.

Q. When he said he was a government man then you were going to get in with him, wasn't you?

A. It was nothing to me.

Mr. Allen: Let the record show that the witness pointed to Mr. A. G. McMillan.

Q. Haven't you all of your life been following an occupation that made it necessary for you to court or to stand in with public officers? A. No, I haven't.

Q. And haven't you always tried to do it?

A. What doing about policemen. Me stand in with public officers.

Q. Have you ever been fined?

A. Yes, sir, I have been fined.

Q. How often have you been fined?

A. I don't think that is anything——

Mr. Allen: We want to object to this question and each, every and all of the subsequent questions to this witness upon the ground that it is incompetent, irrelevant and immaterial, in addition to the other objections.

Mr. Blakeney: If counsel has any objections now to this line of questions I just ask, I insist that it be specifically interposed.

Mr. Allen: I am objecting merely in the interest of time as it could have no earthly effect upon her testimony, throw no light upon the testimony of this witness.

Q. How many times have you been fined?

A. I don't know sir.

Mr. Blakeney: If counsel has any objections to these questions, I want them interposed.

Mr. Allen: Objected to as incompetent, irrelevant and immaterial, and improper cross examination.

Q. What were you fined for?

Mr. German: The same objection.

A. That hasn't anything to do with this what I was fined for, nothing I ever did here.

Mr. Allen: Go ahead and answer the question.

A. Disturbing the peace, all they had against me.

Q. What had you done? A. I didn't do nothing.

Mr. Allen: The same objection.

A. Wasn't fined every month nor every year either.

Q. You paid a fine? A. Yes, I paid a fine.

Q. At regular intervals as a *lude* character?

A. No, as far as paying a fine, I never paid the city nothing, I worked it out.

Q. You worked it out?

A. Yes, before I pay them, yes.

Q. How often have you worked out a fine to the city?

Mr. German: The same objection.

Q. I insist on the answer?

Mr. Allen: Answer the question.

A. Worked it out twice.

Q. Twice? One time you say was disturbing the peace, what was the other time?

A. I said disturbing the peace, the time I had been arrested. They had charged against me disturbing the peace, that is what they told me at the court.

Q. You were out making your own living when these fines——

A. I wasn't out anywhere. One time I was down here at home. You can't disturb the peace they say sometimes at home. I wasn't out on no street.

Q. Were you ever married since living with this last man? A. That is the only time I ever was married.

Q. How long ago?

A. The 29th of last March a year ago.

Q. That was the last time? A. That was the last time.

Q. When was the time before that?

Mr. Allen: The same objection.

A. I don't know [] long it was before that, two or three months. That was the last time though I was arrested, the 29th day of last March.

Q. Now what else did these government officers tell you; they were talking to you?

A. I don't know I never written down the things they asked me, and I can't think of them; I never paid it no mind after that anyway, to tell the truth.

Q. Was a colored woman there named Sadie?

A. No, sir, there wasn't.

Q. When did you last see Sadie?

A. I don't know no Sadie.

Q. Are you intending to tell this Court that you don't know a colored woman named Sadie? A. I don't.

Q. Have you ever talked to a colored woman who claimed to be Sadie? A. No.

Q. You never have?

A. I know one Sadie, her name was Sadie Alexander, she died here about two weeks ago. There are a lot of people named Sadie, but I don't know that Sadie you are speaking about.

Q. Where did Sadie Alexander live?

A. She lived in Kansas, buried her last Thursday. She went with this fellow Alex.

Q. You never heard of Sadie James?

A. No, not that I know of, don't know anything about it.

Q. Any colored person ever talk to you about this case?

A. No, sir, never have.

Q. Never have?

A. No, sir, I didn't know anything about it until them gentlemen came there.

Q. You didn't know Sadie James around Letcher's?

A. No, sir, I don't know no Sadie, I told you.

Q. Sadie Harris, Sadie Hopkins, or Sadie James?

A. No, sir, I don't know none of them, if I do I don't remember them unless I see them face to face, been so long since

I have been in Leavenworth, I wouldn't know anything about it, wouldn't know how to go through Leavenworth.

Q. Was any girl named Sadie living at Letcher's while you were living there? A. I said there wasn't.

Q. Did you ever go out on the street while living in Leavenworth? A. Sure, been out on the street.

Q. Do you know where George Crilly's place was?

A. No, sir, I don't.

Q. Where the livery stable was?

A. Where Crilly & Cranston was, right across the street from old lady Letcher's.

Q. Were you ever over there?

A. I had no business over there.

Q. What?

A. I had no business over in that livery barn.

Q. Well, do you know Mr. Crilly?

A. I do know him when I seen him.

Q. Who else do you know in Leavenworth, white people in Leavenworth?

A. I don't know none by names; I wouldn't known them if they hadn't been across the street there.

Recross Examination by Mr. Hanford.

Q. Nettie, when did you live at Second and Seneca?

A. Second and——

Q. And Seneca in Leavenworth?

A. Second and Seneca, don't you——

Q. Didn't you and Jim run a restaurant?

A. Not in Leavenworth, no, sir.

Q. You say you didn't run a restaurant in Leavenworth?

A. No, I didn't run no restaurant in Leavenworth.

Redirect Examination by Mr. Allen.

Q. On cross examination by Mr. Hanford, Nettie, you said that there was a colored woman at Granny Letcher's that had a baby, where?

Mr. Hanford: I object to statement of counsel as a misstatement of the evidence.

Q. Did you say on cross examination by Mr. Hanford that you saw a baby there, and saw the baby's mother at Granny Letcher's? A. Yes, sir.

Mr. Hanford: I move to strike the answer, made before I could interpose an objection, upon the ground that the question—and object to the question on the ground that it is based upon a misstatement of the evidence and is leading.

Mr. Cruce: Misconception.

Q. Do you know whether that baby was the baby of Mary Anthony or not?

A. I don't know anything like that, no, sir, I don't remember it.

Q. You don't remember it?

A. No, sir, the only woman that I know that lived back there, I think her name was Stewart, I ain't positive of that, she was dark.

Q. She was a colored woman, though?

A. Yes, sir, dark.

Q. How old was that baby when you left Granny Letcher's?

A. I don't think they had quite put it in short clothes yet, a little thing.

Q. Was it as much as a year old when you left down there?

A. No, sir, a little thing, I don't think it was put in short clothes yet, it has been so long I can't remember, I know there was a little baby there.

Q. Is that the baby you mentioned in your cross examination?

A. The only baby I mentioned outside of this little boy Walter.

Q. Outside of that baby now, Walter Banks was the youngest person there?

Mr. Blakeney: We object as leading.

A. Outside of this baby?

Q. Was Walter Banks the only child there outside of that little baby? A. Yes, sir.

Mr. Blakeney: Objected to as leading.

A. The only one I know of, this little baby.

Q. Was that little baby there when you left at Granny Letcher's? A. I think she was, yes, sir.

Recross Examination by Mr. Hanford.

Q. Was that baby born there? A. Yes, sir.

Witness dismissed.

Mr. German: We offer the deposition of Richard Joseph Winfield, taken before Mr. Penick, beginning at page 2336.

And thereupon, RICHARD JOSEPH WINFIELD being called on behalf of the United States, sworn, and under oath testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Richard Joseph Winfield.
Q. Where do you live? A. 407 Kickapoo street.
Q. Your age? A. 48.
Q. Where were you born? A. Leavenworth, Kansas.
Q. You lived there all your life?
A. Well the biggest portion of my life in and out.
Q. Did you know Granny Letcher about the time she commenced living on Seneca Street?

Mr. Hanford: Objected to as leading.

A. Yes, sir.
Q. How long after that did you know her?
A. Well, I knew her up until her death.
Q. State whether or not you visited at the Letcher home?
A. I were around there a good deal, yes.
Q. Where did she live at that time?
A. On Seneca street between Third and Second on the South side of the street.
Q. Where, with reference to Crilly's barn?
A. Cata-cornered across from Crilly's barn, a big frame.
Q. How often would you go there?
A. Well, sometimes it would be two or three times in the week, I would be around there in and out in the yard.
Q. You say that continued as long as she lived on Seneca Street? A. No, not as long as she lived there.
Q. How long did you continue to go there?
A. Well, I guess it was some two or three years or more, while I was a boy, running around carrying papers and a boot black.
Q. While you were a boy carrying papers?
A. I was at that time, yes.
Q. Did you ever see an Indian girl there, or woman?
A. Not to my remembrance.
Q. Did you ever see an Indian girl there, named Minnie or Indian Minnie? A. No, sir, not—I don't remember it.
Q. Did you ever see a boy there named Indian Tommy or Tommy Atkins? A. No, sir.

Q. Did you ever know of one staying around the Granny Letcher's home? A. Not to my knowing, no, sir.

Q. Who composed the Letcher family?

Q. Who composed it?

Q. Who lived there with Granny Letcher?

A. Well I can't tell you that because most of the time I was there in the evening.

Q. What boys lived there with Granny Letcher?

A. There was Jim Mayo, they called him, and there was another boy there, I can't think of his name just at present. He was a brown skinned boy, I can't think of his name now. He was a grandchild—of Mrs. Letcher, I can't think of his name right now.

Q. To refresh your memory, was it Walter Banks?

A. Walter Banks, that is right.

Q. Was he ever called, Walter Johnston?

A. Not to my knowing of, he may have.

Cross Examination by Mr. Hanford.

Q. When were you born? A. Born in 1868.

Q. 1868? A. 1868.

Q. How long did you carry papers?

A. Oh, I don't know just exactly, I carried them most of the time while I was going to school largely; that was the way I had of helping myself in going to school. I guess six or eight years or more.

Q. How old were you when you used to go around Granny Letcher's?

A. Well, I don't remember now, between I guess 16 and 17 years old, I guess, or younger than that, I disremember now how old I was.

Q. What did you do around there?

A. Just go out there, just like boys do, go in and out. You see we were together and would wait for the time to go and get papers, playing marbles, or something like that, playing ball, or something like that, and go on and finish up.

Q. Just went in there in the evening?

A. In the evening.

Q. Sort of a gathering place?

A. Sort of a gathering place like boys have that play together.

Q. You didn't pay any attention to who was in the house? A. No, never paid much attention to them.

Q. Who came and went?

A. No, I didn't pay any attention to that.

Q. Didn't know anything about any night lice?

A. No, I didn't know about the night lice, I was home.

Q. You didn't know who stayed there?

A. Outside of Jim Mayo and these other boys. I knew they lived there because they called that home, and made their home there.

Q. You didn't know anything about any children at all?

A. Not to my remembrance; I didn't pay that much attention when I was around there after that.

Q. What are you doing now? A. Barber.

Q. Working at your trade? A. Yes, sir.

Q. Where is your place of business?

A. 212 Shawnee street.

Q. How long have you been a barber?

A. I have been a barber now for fourteen years.

Q. In Leavenworth all the time? A. No.

Q. Worked out of town part of the time? A. Yes, sir.

Q. What other places did you work?

A. I worked in—I learned my trade in Ottumwa, Iowa.

Q. Ottumwa, Iowa? A. Yes, sir.

Q. How old were you then?

A. I guess 20 years, or 2 or 3 something like that.

Q. A young fellow? A. Yes, sir.

Q. Did you go there from Leavenworth?

A. No, I went there from Omaha.

Q. Went to Omaha and then to Ottumwa? A. Yes, sir.

Q. Did you go to Omaha from Leavenworth?

A. Yes, sir.

Q. How long did you live in Omaha?

A. I was only there about six months, I guess.

Q. Now, you said you were carrying papers when you were 16 or 17 years old?

A. Somewhere along in there, I guess it was.

Q. That was about the time you used to go around Granny Letcher's? A. Yes.

Q. Then did you stop going around there after that time?

A. Oh, yes, I stopped going around there; of course when I was around here I used to go around there once in a great while, just go by there, and stop and talk, or something like that with Jim.

Q. As far as being around there, and you said that you were—you didn't go around there after you were 16 or 17 years old? A. No, I never frequented that place at all no more.

Cross Examination by Mr. Blakeney.

Q. You carried a paper route, or were you selling papers?

A. Selling papers around town.

Q. Evening paper or—— A. Evening paper, yes, sir.

Q. What paper were you selling?

A. I think it was called the Evening Sun, I believe, at that time, or something like that, it was a little paper.

Q. Where was it printed?

A. On Edwards Street, I think.

Q. How far from Granny Letcher's home?

A. That would be just, ah, about two blocks down there, between Second and Third.

Q. Did you go to school, in the day time? A. Yes, sir.

Q. And after four o'clock you would go down and get papers to sell?

A. Yes, sir, and then go back home and do my other night work for my people.

Q. After you got done selling papers you went home?

A. Yes, sir.

Q. How old were you when you quit selling papers?

A. Well, I disremember myself, I didn't pay much attention to that.

Q. See if you can now fix about the date. Now lets get it accurate, if you can. About how old were you when you quit selling papers?

A. I don't know, I guess I was about 17 years old, I guess, or maybe——

Q. You think you were about 17 years of age?

A. Close onto that anyway.

Q. You were born in 68? A. Yes.

Q. What time of the year were you born, what month?

A. May, the 10th day of May.

Q. After you quit selling papers, I believe you said you didn't go around Granny Letcher's? A. No.

Q. You might pass by the place?

A. Just like me and any other boys acquainted, we naturally would stop and talk once in a while, but as to frequenting that place——

Q. You remember a little white girl living there at Granny's with long hair, curly hair?

A. I will be honest with you. I don't remember seeing her at all. If she was she wasn't there any time I was around there.

Q. If she was there you didn't notice her?

A. I didn't see her, no.

Q. When you say you didn't see her, you did see a number of people about the house that you didn't know, but you didn't inquire about who they were, did you?

A. Well, may have been people went in and out. No, I didn't inquire about them.

Q. You understood it was a sort of rooming house?

A. Yes, I knew it was some kind of a rooming house.

Q. You knew men and women both went into the house at times to get rooms? A. Yes, sir.

Q. You didn't inquire about who they were?

A. No, I didn't pay much attention to it that day and time, like boys do now a days.

Q. At that age you didn't pay much attention to it at all?

A. No, I didn't pay much attention to it at all.

Q. And if there had been a little white girl staying there kept by Granny Letcher during that time you didn't notice it? A. No, not unless she was out playing, like some children.

Q. Walter Banks was about your age?

A. Yes, they were playing around there.

Q. They were boys about your age? A. Yes, sir.

Q. And played with them at other places?

A. Yes, played with them at the school.

Q. But little children, naturally, infants, they weren't playing with you; you paid no attention to them around a place?

A. No, I never paid any attention to them, I was in the house.

Redirect Examination by Mr. Allen.

Q. You say you were about 16 or 17 years old when you quit selling papers? A. Yes, sir, about that.

Q. Do you remember now about how old you were when you quit selling papers?

A. No, I won't say for sure, I don't remember that.

Q. You do know that you were around Granny's after she moved to Seneca Street?

A. Yes, on Fifth and Seneca, between——

Mr. German: Wait a minute; let him correct that.

A. I mean on Seneca, between Second and Third.

Q. You don't remember what year that was?

A. No, I don't remember just exactly, I think it was somewhere maybe in the neighborhood of——

Q. Well that is all?

A. 1885, or something like that, I don't know now.

Recross Examination by Mr. Hanford.

Q. Did you carry papers in vacation after school?

A. Yes, for awhile, and then I did other little jobs that I could get around. I would do that because my father died and there were two——

Q. Did you go around there after that time?

A. No, I never bothered around there after that. I would get other jobs. I went to work around the Great Western Foundry and that taken up my time in vacation, I worked around that.

Q. You didn't carry papers in vacation?

A. No, I didn't carry papers after I got a job at the Great Western Foundry.

Q. So the time that you went around Granny Letcher's in the evenings was before school let out?

A. Yes, during the school hours, during the time of school.

Q. Before the summer vacation? A. Yes, sir.

Q. And your best recollection is that was in 1885?

A. I think it was along there somewhere, I won't be positive.

Witness dismissed.

Mr. German: We offer the deposition of Mattie Tutt, taken before Mr. Penick, beginning at page 2728.

And thereupon MATTIE TUTT being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Mattie Tutt.

Q. Where do you live?

A. 721 Charlotte, Kansas City, Missouri.

Q. How long have you lived in Kansas City, Missouri?

A. Eight years.

Q. Where did you move from to Kansas City?

A. Well, from Third and Pawnee, in Leavenworth.

Q. Were you living in Leavenworth in the eighties when you were born? A. Born in 1876.

Q. You were born in Leavenworth? A. Yes, sir.

Q. Did you live there until eight years ago?

A. Yes, sir.

Q. Did you know Granny Letcher in the eighties?

A. Yes, sir I knew of her in the eighties.

Q. Were you ever at or by her home when she lived on Seneca Street? A. I lived there in 1899.

Q. 1899? A. 1899, the year of 1899.

Q. How long did you live there? A. Three years.

Q. Were you living there when she died? A. Yes, sir.

Q. How long had you been living there when she died?

A. About two years and a half.

Q. You lived there about six months after that?

A. Yes, sir.

Q. During all the time that you knew Granny and during the time that you stayed at her home, did you see anybody around her place called Tommy Atkins or Indian Tommy?

A. No, sir.

Q. Where was she living when you were with her?

A. On Seneca Street.

Cross Examination by Mr. Cruce.

Q. Where did Tommy live?

A. I don't know Tommy.

Q. Well, you knew that woman, that woman Lillie White, you knew where Lillie White lived? A. No, sir.

Q. Didn't Lillie White live in a stone and brick house there? A. I didn't know Lillie White.

Q. Where did Granny Letcher live?

A. She lived on Seneca between Third and Fourth, between Second and Third, I don't know exactly what the number was.

Q. She lived in that stone house?

A. No, sir, lived in a frame, two story frame.

Q. She didn't live in the house that was part stone and part brick then? A. No, sir.

Q. Did she die in that house? A. Yes, sir.

Q. Died in that frame house? A. Yes, sir.

Q. Never did move over on to Delaware Street, then?

A. She wasn't living there when I—she didn't move from there when I was living there.

Q. You state that you knew where she lived?

A. Yes, sir.

Q. She didn't move over on Delaware Street?

A. No, sir, not that time, because I was there from the time my mother died until she died.

Q. Well, she didn't move from there after she died, did she? A. No, indeed, you couldn't move her.

Q. You don't know where Tommy Atkins lived?

A. No, sir.

Q. Do you know where Minnie Atkins lived?

A. No, sir, I didn't know either.

Q. Do you know about a Military Fort they had over there, the United States Government had a Military Fort establishment over there? A. Certainly.

Q. And did you know the United States had a Military Fort at Fort Leavenworth? A. Yes, sir, I know.

Q. You had been out there?

A. Yes, sir, I have been out there.

Q. Frequently?

A. I used to work out there in a way.

Q. You were there when Minnie Atkins lived there?

A. No, sir.

Q. You never heard of Minnie?

A. Just the last year is all.

Q. You never did hear of Minnie Atkins until the last year? A. No, sir.

Q. Who told you?

A. No one particularly, I just heard people speaking of her.

Cross Examination by Mr. Hanford.

Q. Mattie, how old are you?

A. Well, 17th of April, if I live to see, I will be forty.

Q. How old were you when you lived at Granny's house?

A. Well, twenty three years old.

Q. Twenty three years old?

A. Yes, sir, that has been seventeen years ago, I know.

Q. Are you married? A. Yes, sir.

Q. How long have you been married? A. Seven years.

Q. Been married seven years? A. Yes, sir.

Q. Married when you came to Kansas City?

A. No, sir, after I came down here.

Q. Married after you came down here? A. Yes, sir.

Q. Married by a minister? A. Yes, sir.

Q. Get a license?

A. Yes, sir, I haven't got them, but his mother, my husband's mother.

Q. She has got them? A. Yes, sir, I haven't got any.

Q. How old were you when you were married?

A. Well——

Q. Answer the question, how old were you Mattie?

A. I was thirty—— Let me see.

Q. How old were you when you married?

A. Let me see, I was—— Well, seven years ago.

Q. Well, how old were you? You ought to know how old you were.

By Mr. German: I submit into the record that the witness is endeavoring to think up how old she was and counsel is not giving her an opportunity.

Q. Do you remember how old you are, or do you have to count back?

By Mr. Allen: We object to that.

A. Sometimes your memory slips. Mine does about age now.

Q. Then, it is necessary for you to count back to see how old you are, is it? You don't remember how old you were?

By Mr. Allen: We submit if counsel would just let the witness think a minute, she probably would be able to answer it.

A. I was twenty seven. Wait just a minute, I want to tell the truth if I can.

Q. Mattie, you say you worked out at the Fort?

A. Yes, sir.

Q. When did you work out at the Fort?

A. Oh, when I was quite a girl.

Q. When you were quite a girl? A. Yes, sir.

Q. Were you working out there when you were at Granny Letcher's? A. No, sir, I wasn't.

Q. It was after that?

A. Yes, sir, before that when I worked out at the Fort.

Q. Before that, who did you work for?

A. Captain Swift.

Q. Who else?

A. Sargeant Oliver, and I worked at the Chinese Laundry and several places.

Q. Several places? A. Yes, sir.

Q. What was the first place you ever worked at?

A. For Captain Swift.

Q. What was his first name?

A. I don't know what his first name was.

Q. Where did you live before you lived at Granny's, Granny Letcher? A. I lived with my mother.

Q. Where did she live?

By Mr. Allen: May we inquire the object of this detail cross examination. We have attempted to fix no date by this witness, but merely inquired about how long before Granny died that it was she lived at the house.

By Mr. Blakeney: This was immaterial about whether she ever lived at the house. The evidence ought to be stricken then.

Q. Mattie, where did she live? A. My mother?

Q. Yes?

A. Well, when she died she lived on Pawnee street between Seventh and Broadway.

Q. When did she die, Mattie? A. 1899, 5th of July.

Q. And how old were you when your mother died?

A. Twenty-three years old.

Q. Is that when you went to live at Granny Letcher's?

A. Yes, sir.

Q. Then where were you born in Leavenworth?

A. Well, I can't tell you what street, on Delaware street, but I don't know what the number was.

By Mr. Blakeney: I object to the competency of the witness.

Q. Mattie, how long did your family live there after your birth, how old did you get to be at that place?

A. Why, they lived, my parents lived there until their death.

Q. Lived there how long?

A. You say how long my parents lived in Leavenworth?

Q. How long did you live on Delaware where you were born?

A. I don't know, I was a little child, just a little baby when we moved from Delaware street, what my parents told me.

By Mr. Blakeney: I move to strike out what her parents told her as hearsay.

Q. Where did you move to?

A. We moved on to Decatur street.

Q. How long did you live there?

A. I can't tell you how long we lived there.

Q. Where did you live the longest in Leavenworth.

A. Oh, at John Fullams.

Q. Then, you were practically raised at this place?

A. Yes, sir.

Q. Did you move to Pawnee Street from his place?

A. Over on Cheyenne, we moved from there on Cheyenne Street.

Q. You moved from Fullam's over to Cheyenne?

A. Yes, sir.

Q. How old were you then?

A. I guess— I was still going to school, I could just guess about how old I was, about fourteen I guess, somewhere along there, fourteen or fifteen.

Q. And how long did you live on Cheyenne?

A. About, I can't tell you just exactly about how many years, but it was a long time.

Q. It was a long time? A. Yes, sir.

Q. And then you moved to Pawnee Street?

A. No. We moved over on Cheyenne further.

Q. Moved further over on Cheyenne? A. Yes, sir.

Q. Did you ever live with Jim Mayo and his wife?

A. Yes, sir.

Q. When was that? A. Year 1899.

Q. It was in 1899, after your mother died? A. Yes, sir.

Q. Now where did Granny Letcher live when you just got acquainted with her? A. Over on Cherokee Street.

Q. On Cherokee? A. Yes, sir.

A. No, sir.

Q. And where did she move to after that?

A. I can't tell you where she moved to then, when she moved off of Cherokee.

Q. Then, where did you next know her?

A. On Seneca, Seneca Street.

Q. On Seneca Street? A. Yes, sir.

Q. That was when you went to live with Jim Mayo?

A. Yes, sir, after my mother died.

Q. That was after your mother died?

A. Yes, sir. And I went there.

Q. So you don't know anything about her between those two times? A. No, sir.

Q. Or nothing about her family or private affairs?

A. No, sir.

Cross Examination by Mr. Blakeney.

Q. You say you went there in 18—To Granny's in 1899?

A. Yes, sir.

Q. You commenced living with Jim Mayo as his wife?

A. Yes, sir.

Q. Had you lived with Jim before that anywhere?

A. No, sir.

Q. That was your first time you and Jim had taken up as husband and wife? A. Yes, sir.

Q. Were you working out at that time? A. No, sir.

Q. You were staying around the house all day?

A. At their house, I did.

Q. At their house? A. Yes, sir.

Q. You stayed around their house all day? A. Yes, sir.

Q. And all night? A. Yes, sir.

Q. You were not receiving any other company except Jim? A. No, sir.

Q. You were leading a straight—— You were living faithful to Jim? A. Yes, sir.

Q. You never saw a boy at that time around there, named Tommy Atkins, did you? A. No, sir.

Q. Or Commodore? A. No, sir.

Q. Did any other part Indian or part negro boy, except those that you have named—Walter Banks——

A. And Sam Nash.

Q. And Sam Nash? A. Yes, sir that is all.

Q. Tommy Atkins wasn't around there? A. No.

Q. Do you know old man Henry Carter? A. No, sir.

Q. Old man Henry Carter that used to come to town and bring vegetables and sell them there on the street?

A. No, sir, I didn't know him.

Q. Do you remember that there was an old man that used to come around and see Granny and sell vegetables to her? A. I don't remember of ever seeing him.

Q. You don't remember ever seeing him? A. No, sir.

Q. You did have vegetables there at the house to eat though, didn't you?

A. Yes, sir we did, but I don't remember whether they went out and got them or——

Q. You don't remember how they were obtained?

A. No, sir.

Recross Examination by Mr. Hanford.

Q. Mattie, Captain Swift's first name——To remind you, was it Captain Eben *Smith?*

A. Well, Eben had boys, one Eben, one named Merrice.

Q. Do you remember Balsom Smith?

A. I don't think I would remember him now.

Q. I mean, he was a young boy at that time?

A. They were all boys but they were small, and two little girls when I was there.

Q. How old was Balsom?

A. I couldn't say how old he was.

Q. He was a young boy? A. Oh, going to school.

Q. While your mother was living, you were a good girl and stayed at home? A. Yes, sir, and worked out.

Q. And worked out? A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. Mattie, you don't remember dates very well, do you that far back?

A. Not away back before Minnie and Tommy was there, I don't know anything about them days, because I don't know anything about them being there.

By Mr. Blakeney: We move to strike out all about Minnie and Tommy as not responsive.

Q. You never heard of them being there? A. No, sir.

By Mr. Blakeney: I move to strike it out.

Q. Well, now, Mattie, without regard to the dates, did you know Granny Letcher when she lived on Cherokee Street?

A. Yes, sir.

Q. Where did she live on Cherokee Street?

A. Well, she lived in a frame house that sat right——It was on Cherokee between Fourth and Fifth right by Bruder's Grocery Store.

Q. Which way from the National Hotel?

A. Well, it was south—— Well, more southwest from the National Hotel.

Q. Was it between Fourth and Fifth, or Second and Third? A. Between Fourth and Fifth.

Q. Which side of the street was that on?

A. The south side.

Q. What business was she in there?

A. Well, I can't say, I think it was a rooming house, I don't know for sure. I used to go with a girl to carry milk and butter there.

Q. Did she do any laundry work there?

A. Not as I know of.

Q. Washing and ironing? A. Not as I know of.

Q. Did you know Granny Letcher when she lived on—Between Second and Third on Cherokee Street? A. No, sir.

Q. The place you are speaking of on Cherokee Street is where she lived before she moved to Seneca? A. Yes, sir.

Q. Then, you knew her after she moved to Seneca Street?

A. Yes, sir.

Q. Were you living with Jim Mayo on Cherokee Street at Granny Letcher's? A. No, sir.

Q. You say you never saw or heard of any Indian boy or any Indian woman around Granny's house? A. No, sir.

By Mr. Blakeney: We object to what she heard as hearsay and incompetent.

Recross Examination by Mr. Hanford.

Q. Mattie, how old were you when Granny lived on Cherokee Street?

A. I can't say exactly, because I was a girl going to school and I don't know how old I was. I was small and used to go down there with the girl to carry the milk and butter.

Redirect Examination by Mr. Allen.

Q. Did George Crilly and this gentleman over here, Mr. Long, come to see you one time? A. Yes, sir.

Q. Did they talk to you about this case? A. Yes, sir.

Q. What did they say to you about the case?

A. They asked me did I remember seeing Tommy Atkinson there or Minnie, and I told them that I didn't know anything about them.

Recross Examination by Mr. Hanford.

Q. You made an affidavit to that effect for him?
A. Yes, sir.

Recross Examination by Mr. Blakeney.

Q. In that affidavit did you state that you had been there in 1899 and stayed three years?
A. No one didn't ask me what date I was there.
Q. Do you know what date Granny died?
A. Yes, sir.
Q. What date?
A. She died—— She died in the same year that I went there. No, not the same year, I was there two years and a half. No, I don't remember the date, but I was there two years and a half before she died, that is when it was.
Q. Do you know what year you went there then?
A. Yes, sir, went there in 1899.
Q. How do you know that?
A. Because my mother died the 5th day of July, 1899, and I went the same month she died in.
Q. You say Granny Letcher died about two years and a half afterward? A. Yes, sir.
Q. And you lived there all those two years?
A. Yes, sir.
Q. And no Tommy Atkins was living there around that house when you were living there? A. No, sir.

Redirect Examination by Mr. Allen.

Q. Did Jim Mayo die before Granny Letcher died?
A. No, sir.
Q. How long after she died was it until he died?
A. A month difference in their death. She died in August and Jim died in September of the same year.

Witness dismissed.

Mr. German: We offer the deposition of Martha Miller, taken before Mr. Penick, beginning at page 2451.

And thereupon MARTHA MILLER being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Martha Miller.
Q. Where do you live, Martha? A. 414 Ottawa.
Q. Leavenworth, Kansas? A. Leavenworth, Kansas.

Q. What age are you? A. 43, past.

Q. How long have you been living in Leavenworth?

A. All my life.

Q. Do you know a colored woman named Mollie Letcher?

A. Yes, I did.

Q. When did you first know her?

A. Well, I guess I was about 17 years old—between 17 and 18, when I first knew her, talked to her, rather. I had heard of her before that but I never had been in her presence until about that time.

Q. Where was she living?

A. On Seneca between 3rd and 2nd.

Q. Between 2nd and 3rd?

A. Yes, on the south side of the street.

Q. What was the house number if you recall?

A. I don't know, I never——

Q. About midway between 2nd and 3rd?

A. That is the one I guess it was, just about half way.

Q. About half way? A. Yes, I should think.

Q. How did you happen to—where was it that you held any conversation with her at that time that you spoke to her?

A. Why was it, did you say?

Q. Where was it? A. At her house.

Q. How did you happen to go there?

A. Well, she had taken care of a child of mine, a little girl.

Q. What was the child's name?

A. It was named Sissie.

Q. How did it happen that she took care of your child?

A. I were working out.

Q. How long did she keep your child?

A. Just 3 weeks.

Q. Was she keeping any other child at the same time?

A. Yes, she was.

Q. What child was that?

A. Well, she was keeping a little girl by the name of Etta, a little mulatto girl.

Q. Etta who?

A. Well, I didn't know her last name; I know her name was Mary Anthony, or Mary Loar, I heard them call her that, but I always called her Mary Anthony.

Q. That was the grandmother of the boy?

A. No, her mother—the baby's mother, and she just kept this child—kept people's children that said they come from off and didn't have any home, and wanted to work out, she'd taken care of the children. This little girl was there—I don't know that any other little girl was there at that time.

Mr. Hanford: I move to strike the latter part of the witness' answer as not responsive to any question as to not keeping other children.

Q. After you became acquainted—personally acquainted with Molly Letcher, did you visit her home there frequently?

A. Well, no, not after I had taken my child away, I didn't.

Q. Did you go there some?

A. Sometimes, yes, sir, I did.

Q. Did she live anywhere else besides on Seneca after you became personally acquainted with her?

A. Yes, she did; she kept a restaurant.

Q. Where?

A. Once at 3rd and Seneca; that was in the summer time. I disremember now, I can't tell you what year. At that time, I never paid much attention to the year, but I know in the hot part of the summer, I used to go up there, and often eat meals with her, and after that I stayed at her house for three weeks.

Q. Where was she living then?

A. On Shawnee. That was I guess, two years after that she moved to Shawnee street.

Q. Then, where else did she live beside on Seneca, if any where?

A. Then, I stayed there with her for a while, and then I think for about a month, and then I left her house, and then she moved back to Seneca, at the old place again.

Q. Between 2nd and 3rd? A. Yes.

Q. Did you go there any?

A. No, I never visited her any then, not lately. I didn't go to her house any more then for quite a while.

Q. About how long?

A. Oh, I don't know; I guess it must have been—well, I don't know just exactly, I can't tell you, but I know it was several years.

Q. Six months, two years, a year, or what?

A. No, three or four years, I think, afterwards, that I went to her house.

Q. Were you acquainted with the members of her family?

A. Well, I knew some of them, yes.

Q. Do you know who were the regular members of her family? A. Yes, I knew.

Q. I know Jim, that was her son, Jim Mayo; I knew Sam Nash, that was her grandson; I knowed Walter Banks, that is the little boy that she raised; I understood that Walter was one of her grandsons, too, but I understand here of late that he was just a child that she was raising, and that is about all of her family there were—that I knew of. Of course——

Q. State whether or not there was any child in that family beginning with the time that you first came—came personally acquainted with Molly Letcher, and extending throughout the time of your acquaintance with her, who bore the name of Indian Tommy? A. No, sir, never.

Q. Or Tommy Atkins? A. No, sir, never saw him there.

Q. Did you ever hear in those times of him being there?

A. No, sir. As I said, she kept my child and I got off in the evening and other parts of days, and I never saw no child there, at all, of that description; never heard her say so.

Q. Never heard her say so? A. No, sir, or anybody else.

Mr. Hanford: I move to strike out what the witness heard as hearsay testimony.

Mr. Blakeney: What she says about never hearing about it, we move to strike it as incompetent, hearsay, and not responsive.

Q. Did you ever know of any woman in that household, or being there temporarily, by the name of Minnie Atkins?

A. No, I never, no, sir.

Q. Was there or not any boy child in that family who was an Indian?

A. Not that I knows of, never heard anyone say that.

Q. Did you ever see one there?

Mr. Blakeney: I move to strike out what the witness said about that expression never heard anybody say so, as not responsive, and as hearsay.

Q. No, I never.

Q. Then you started to say something about Walter was——

A. Well, I was going to say that Walter was the only Indian child that I ever saw there. They said Walter was mixed with Indian; looked something like an Indian.

Cross Examination by Mr. Hanford.

Q. Martha, you say that Granny kept this child of yours?

A. Yes, sir.

Q. How long? A. Three weeks.

Q. You were working out at that time? A. Yes, sir.

Q. Where was you working?

A. Working for Mr. Devlin, over on Broadway.

Q. At his house? A. Yes, at his house.

Q. Broadway and what?

A. I think it was between Walnut——

Q. Well, it was near Walnut?

A. I think it was near Walnut; I know it was near Walnut but I don't know what the other street is.

Q. Did you only work there three weeks?

A. Oh, I worked there longer than that, but that is only all she kept my child.

Q. What did you do with your child after that?

A. It died.

Q. It died at her house? A. Yes, sir.

Q. Did you have a funeral? A. Yes, sir.

Q. Funeral at her house? A. Yes, sir.

Q. How old was the child when it died?

A. About 6 months old.

Q. Where was the child buried? A. In Mt. Muncie.

Q. What was its given name? A. Lizzie Jones.

Q. When did it die? What was the day of its death?

A. Oh, I don't remember; I can't tell you.

Q. Remember the day it was buried?

A. No, I don't remember that.

Q. Remember the year? A. No.

Q. Your name was Jones at that time? A. No, sir.

Q. What was it? A. Mallory.

Q. You had been married again?

A. No, sir, I had never been married.

Q. Never had been married? A. No, sir.

Q. It was an illegitimate child? A. Yes, sir.

Q. Did you name the child after its father?

A. I did, yes, sir.

Q. And you didn't take his name yourself? A. No, sir.

Q. How old were you when the child was born?

A. About 18 years.

Q. And it died when it was about 6 months? A. Yes, sir.

Q. Who buried the child? A. Carthouse.

Q. Carthouse? A. Yes, he was undertaker here then.

Q. It was buried in Mt. Muncie? Yes, sir.

Q. Now, that was the first time you got to talk to Granny Letcher—to know her personally? A. Yes, sir.

Q. You just had a child there because you wanted her to take care of it? A. Yes, sir.

Q. And you saw this child Etta there?

A. Yes, sir. She was there before my child was there.

Q. Was Etta there all the time that your child was there?

A. Yes, I think we think we left Etta there if I ain't—no, she had taken Etta away before.

Q. You say Lizzie was the only one there?

A. Yes, Lizzie was the only one there, I am pretty sure Etta was gone.

Q. How long after that, was it, that Granny kept the restaurant on 2nd and Seneca?

A. I judge about two years afterward.

Q. But she kept on living in this house?

A. No, she moved from this place; came to 3rd and Seneca.

Q. And then she moved from there to Shawnee?

A. Shawnee street afterwards.

Q. How long did she run the restaurant?

A. Well, I don't think she run it very long, something over a year. I don't think she did.

Q. So, she moved to Shawnee street about three years after your child was there? A. Yes, three years.

Q. Then, how long did she live on Shawnee street?

A. Well, I can't tell you that; how long she lived there.

Q. Well, you went to live there and went to live there three weeks at one time?

A. Yes, at one time; my child was there—three weeks at one time.

Q. You lived with her on Shawnee street, you say?

A. Yes, one month.

Q. Who did you live with? A. Just lived with myself.

Q. With yourself?

A. Yes, rented a room with her on Shawnee street.

Q. You were working out?

A. No, sir, I wasn't working out.

Q. Weren't doing anything? A. No, sir.

Q. Just rooming there? A. Just rooming.

Q. What year was that?

A. I don't know; I don't remember that.

Q. How old were you?

A. Well, I was, I guess, between 21 and 22 years old.

Q. Then she moved from there back to Seneca street?

A. Yes, sir.

Q. Who else lived at Granny's on Seneca street when she took care of your child? A. Her son.

Q. Who else? A. Her grandson.

Q. Which one? A. Sam.

Q. Who else? A. Walter Banks.

Q. Who else? A. That is all I know of.

Q. Anybody in the house? A. Not that I knows of.

Q. Don't know of anybody else in the house at all?

A. No, I don't.

Q. Didn't know of anybody staying there? You didn't stay there yourself? A. No, I didn't stay there myself.

Q. What did you do, take the child there in the morning and get it at night?

A. No, it would stay there all the time.

Q. You went to see it sometimes?

A. In the evenings when I got off from work I went to see it.

Q. You didn't stay there at night?

A. No, I didn't—where I worked at night.

Q. You didn't pay any attention to anybody else except the child?

A. I didn't; I don't think I was ever up her stairs.

Q. You knew better in later years?

A. I did afterwards, yes, sir.

Q. That was in the '90's? A. I suppose it was.

Q. Before her death? A. Yes, sir.

Q. Do you know when she died? A. Yes, sir, I do.

Q. Then you began going to her house shortly before she died? A. I did.

Q. How much did you go there?

A. Not very often; just once in a while.

Q. Just visit there? A. Yes, sir.

Q. You weren't looking into any of Granny's affairs?

A. Not at all.

Q. Household affairs? A. No, sir.

Q. Who lived, or boarded with her? A. I did not.

Q. You were not interested in that? A. I was not.

Q. Didn't pay any attention to it? A. No, sir.

Q. Who else did Granny keep children for besides Etta and Eliza—what other children did she keep, rather, besides Etta and Eliza? A. I don't know; I can't tell you.

Q. You simply knew that she had other children there?

A. Yes.

Q. And that they were around her place and boarded there; you never paid any attention to the children?

A. I never.

Q. Don't remember whether they were boys or girls?

A. Oh, yes, I remember what I seen was girls except Walter—a little boy she called her grandson; I know that.

Q. If a girl that had worked had a boy—she didn't keep boys?

A. I suppose she did, but I never seen one.

Q. I mean, you didn't pay any attention to that?

A. No, I didn't at all.

Q. All you know is, that you saw kids around there?

A. I saw a little girl there, and my child was there. Of course it was nothing but an infant baby, and I saw Walter.

Cross Examination by Mr. Blakeney.

Q. What did you say your name was? A. Martha Miller.

Q. Never been married? A. I haven't lately.

Q. You said you had this child when you were 18 years of age? A. Yes, sir.

Q. How old are you?

A. I am 43 past; I was 43 the second fall month and the second day.

Q. What is the fall month?

A. Don't you know what the second fall month is?

Q. No, what is it? A. October.

Q. October? A. Yes, sir.

Q. You were 43 the second of last October?

A. Yes, I was.

Q. October, 1915; you was born in 1872?

A. Along in there, I think.

Q. October, 1872—you was 18 years of age when you had this illegitimate child? A. Yes, sir, I was.

Q. And you had this illegitimate child and took it to Granny's place? A. Yes, sir.

Q. There was another child there, a little girl, you say?

A. Yes, sir.

Q. What was that girl's name? A. Her name was Etta.

Q. Was she an illegitimate child? A. Yes, sir.

Q. You knew the mother of th's child? A. Yes, sir.

Q. You knew who was the mother? A. Mary Anthony.

Q. Living now in Lawrence, Kansas? A. Yes, she is.

Q. Was the child there when *you there when* you went?

A. Yes, she was there when I went there but I am sure they had taken the child away before my child died. I am pretty sure they did.

Q. Your child stayed there how long?

A. Three weeks, just exactly.

Q. You said you didn't know what day the child was born?

A. No, I don't. He put it down.

Q. What time of the year? A. It was in the spring.

Q. The child was born in the spring time?

A. No, she was born in the winter; it was in the spring when she died.

Q. Then you say you were 18 years old when the child was born in the winter? A. Yes.

Q. And you was past 18 when it died in the spring following?

Q. The child, then, was born in 1890?

A. Along there, I guess.

Q. Along in 1890. You was rather familiar with Granny's place there, at that time while your child was there, wasn't you?

A. No, I wasn't; same as a stranger to me because that was about the first time I was in the place, while my child was there.

Q. That was the first time you had been in her place, after she moved up on Seneca?

A. No, that was my first [] at her house. She had never moved away then, to my knowing.

Q. The first time you ever was in Granny Letcher's house was when you went to see about putting your child there?

A. Yes.

Q. And that was in 1890? A. I suppose that was.

Q. You could figure it—born in 1872 and you were 18 years old, and that made 1890? A. Yes.

Q. Or '91. Now, you recall the evening that you went over with your child—was it in the evening or the day time?

A. It was in the afternoon.

Q. You went over with your child? A. Yes.

Q. Stayed there all the afternoon?

A. No, I didn't stay there no longer than we made the arrangements to keep the child, and I had to go back to my work.

Q. You hadn't stopped your work?

A. Oh, no, that is why I got her to keep it.

Q. You had had the child at the place where you were working, had you.

A. No, I had it right in my home; home with my parents.

Q. And you had to place the child with Granny Letcher?

A. Yes, I had to take care of it and I had to have some place to keep it when I went out.

Q. Every evening you went down to see the child?

A. Not every evening; when I got from my work. I didn't get off every evening.

Q. You got off after work?

A. Oh, no, sometimes Thursday evenings, and sometimes, Wednesday evenings.

Q. You use evening for afternoon? A. Yes.

Q. You would have after supper? A. Yes, after supper.

Q. And you would go to see the child frequently?

A. Not very.

Q. I say frequently? A. Yes.

Q. At that time, you didn't see any Indian boy named Tommy there? during that time?

A. No. No Indian boy named Tommy.

Q. And if one had been there, you wouldn't have seen it?

A. That is what I thought.

Q. You was all through the house?

A. No, I wasn't all through it.

Q. You sat in the sitting room, didn't you? A. Yes.

Q. And saw people coming and going? A. Yes.

Q. And boys or children playing? A. Yes, sir.

Q. And you didn't see any boy named Tommy?

A. No, I didn't.

Q. Or any little Indian boy? A. No, sir.

Q. Or any boy that looked very much like a colored boy with a little colored blood in it? A. Yes.

Q. You didn't see anybody called Tommy?

A. No, I didn't see any Tommy.

Redirect Examination by Mr. German.

Q. What was this man Jones' given name, the father of your child? A. Of my child?

Q. Yes? A. His name was Bill Jones.

Q. Walter Banks when you first knew him—— A. Walter?

Q. Walter Banks when you first knew him there at the Letcher home was just a boy? A. Yes, he was.

Q. Was ten or twelve years old?

A. No, he wasn't that old, he was between seven and eight years old, he looked to be. I never heard any one say how old he was, I judge he was that old from looks.

Q. Sam Nash? A. Sam Nash was a grown young man.

Q. And Jim Mayo? A. He was an old man.

Q. Older than Sam? A. Yes.

Q. A tall aged man? A. Yes, he was.

Cross Examination by Mr. Hanford.

Q. Martha you know Sadie James? A. Yes, sir, I do.

Q. And she has lived with you? A. Yes, she has.

Q. When did she last discuss this with you, your testimony in this case with her?

A. Well, I will tell you the facts, I never discussed it with her; she talked with me about it, she was the first one that ever told me about it, she was the first one that ever asked me.

Q. Well, she has discussed it with you several times?

A. She did, yes, sir.

Q. Now, Martha, did you ever know any Indian boy, part Indian boy any place in Leavenworth? You stated that you don't know any such Indian boy at Granny Letcher's, where did you know one? A. In no place.

Q. You didn't know any? A. No, in no place.

Redirect Examination by Mr. German.

Q. It was summer before last when Sadie James first saw you, wasn't it? A. Yes.

Q. She wanted you to swear that there was a Tommy there, didn't she? A. Yes, she did.

Q. What did you tell her? A. Well, of course I couldn't tell you all of the details of it.

Q. No, about that?

A. When she first came to me she asked me if I didn't remember about Indian Minnie, and she said study over the matter and see if you don't remember a woman named Indian Minnie, and I said no I can't place her, and she said don't you know——

By Mr. Cruce: If the Court please, we object to any conversation between this witness and the other witness, Sadie James, as incompetent, irrelevant testimony.

By Mr. German: Alright then.

Q. I will ask you this: did she ask you about Tommy?
A. She did.
Q. At that time? A. She did.
Q. Did she want you to swear that he was there?
A. Yes, she asked me didn't I know him——

Mr. Cruce: We object to the testimony of any conversation between this witness and Sadie James, because it is hearsay, and incompetent testimony.

Q. Did you agree to do it? A. No, sir.
Q. What did you tell her? A. I told her I wouldn't.
Q. Has Dennis Jones seen you about it? A. No, sir.
Q. Has Rube Smith? A. No, sir.

Witness dismissed.

Mr. German: We offer the deposition of Tom M. McKenzie, taken before Mr. Penick, appearing in his transcript beginning at page 2155.

TOM M. McKENZIE, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. State your name and address?
A. Tom M. McKenzie, 4012 Spruce Street, Leavenworth, Kansas.
Q. How old are you? A. 53.
Q. When were you born? A. In '52, so they say, I think.
Q. Tom, how long have you lived in Leavenworth?
A. I came here to Leavenworth when I was going on between seven and eight years old, so my folks say.
Q. Did you know Granny Letcher during her lifetime?
A. Yes, sir.
Q. When did you first get acquainted with her?
A. Oh, I can't tell you that.
Q. How old were you? A. I can't tell you that.
Q. About how old?

A. Oh, I was a small boy, I don't know I might been 16 or 17 I presume, I would not state positively about *how* old I was.

Q. Did you get acquainted with her when she lived on Cherokee street, before she moved to Seneca? A. Yes, sir.

Mr. Hanford: Objected to as leading and suggestive. I move to strike the answer on the ground given in my objection here recorded.

Q. Did you know her during all the time that she lived on Seneca Street? A. Yes, sir, I would say that.

Q. You were at her home? A. Yes, sir, frequently.

Q. About how often were you there?

A. I wouldn't dare say that, I was there pretty often.

Q. Were you there every week?

A. Some weeks I guess I was two or three times a week.

Mr. Hanford: Objected to as leading.

Q. Who were the members of her family?

A. Jim Mayo, Sam Nash and Walter Banks.

Q. Were you intimately acquainted with all the members of the family, and with Granny Letcher?

A. Know them personally do you mean?

Q. Yes? A. Yes, sir.

Q. How long did you—when did you commence going to Granny Letcher's home?

Mr. Hanford: Objected to as repetition.

A. I can't tell you that.

Q. Was it prior to her moving to Seneca Street?

Mr. Hanford: Objected to on the ground that it is leading and suggestive.

Mr. Allen: I will withdraw the question.

Mr. Hanford: Let him answer.

Q. Where was she living when you first got acquainted with her?

A. Next to Tim McCarthy's, I don't know what street it was; an old Irishman who used to keep a saloon down there, where Rose's paper bag factory is now, I don't know the number.

Q. Do you know any building located on the street that she was?

A. Right across from Watson's down here on Cherokee street, I forget the number, it was between Second and Third, however.

Q. On Cherokee Street? A. On Cherokee Street.

Q. Do you remember where she moved to from there?

A. I think she moved up on Seneca Street, I am not positive.

Q. Do you know where she moved, I mean? A. Where?

Q. Yes, the house? A. Yes, sir.

Q. Which way was that house with reference to Crilly's barn?

A. Right across the street, pretty near right across the street; I think her's was 217, and Crilly's—right across from Crilly's house, her house was here.

Q. When did you commence going to Granny's house frequently, was it before or after she moved to Seneca Street?

A. On Seneca Street, when I commenced to going to her house frequently.

Q. How long after she moved to Seneca Street?

A. She was living there when I went to work there for Brocks. She was living there then when I commenced running there so much.

Q. How long had she been there? A. I can't tell you.

Q. About how long?

A. I wouldn't dare say; I don't remember.

Q. Before you commenced working for Brocks did you go to the house?

A. I might have been there, I wasn't running there I suppose I was there a time or two.

Q. State whether or not you knew Granny Letcher and all her family before you commenced working for Brocks?

A. Yes, sir.

Q. Then how long after that did you continue to go to her home frequently? A. Until she died.

Q. State whether or not during any of the times you have mentioned you knew or ever saw around Granny Letcher's place an Indian Boy named Tommy Atkins, or Indian Tommy?

A. No, sir.

Q. Did you ever hear of such a boy before this litigation started? A. No, sir.

Q. Did you ever know or hear of an Indian woman around Granny Letcher's named Indian Minnie or Minnie Atkins?

A. No, sir.

Q. How long did you work for Brocks?

A. Between ten and twelve years, I just can't remember.

Q. Where was Brock's barn with reference to Granny Letcher's home?

A. His barn was 226 Seneca, and Granny Letcher's was 217, like this was her's right across that way, here was the barn, and that garage over there would be Granny Letcher's.

Q. When did you quit working for Brock?

A. It was 1903 or '4, something like that, I would say, I can't give the exact date.

Q. What was the occasion of your quitting Dr. Brock?

A. The Doctor died.

Q. You worked for him up to the time he died?

A. Yes, sir, and after, I recond a year or so after, I worked for his neice.

Q. What kind of work did you do? A. Coachman.

Q. Where did you keep your horses? A. In the stable.

Q. At the barn that you have just spoken of? A. Yes, sir.

Q. Where did you live during the time that Granny lived on Cherokee street?

A. I lived out in the south part of town.

Q. Where did you work?

A. I worked for—I don't know whether I worked for Tommy Morgan or—I can't tell you who I worked for; I might have worked for Tommy Morgan, and I might have worked for-- —

Q. You worked down in the community where you lived, or down town?

A. All over, different places; I might have worked for Dancan Transfer Co., I can't tell.

Cross Examination by Mr. Hanford.

Q. Tom, you said that you worked for Brock between nine and ten years?

A. Between ten and twelve years.

Q. Between 10 and 12 years? A. Yes, sir.

Q. When did you say you quit?

A. That was in 92 or 3, somewhere along there. When did he die, Mr. Bond, and then I could remember the time. What year did he die in; I can't say positively, without I knew——

The Examiner: You just answer the best you know yourself.

A. Allright.

Q. Now you worked for his neice a year or two after the doctor died? A. Yes, sir.

Q. And then you quit altogether? A. Yes, sir.

Q. Now how long did you work for the Doctor himself, not counting the time that you worked for the neice?

A. Oh, I can't tell you that.

Q. But count the time you worked for the doctor and after he died you worked for his neice? A. Yes, sir.

Q. Ten or twelve years ago? A. Yes, sir, altogether.

Q. Did the doctor die in 1904, Tom?

A. I don't know, I don't think he did.

Q. You don't remember? A. No, I don't remember.

Q. Do you know how many years ago he died; can you think how many years it has been since he died?

A. I think he must have——

Q. How long has he been dead?

A. I think he has been dead—let's see.

Q. About twelve years, isn't it?

A. I don't know, I wouldn't say positively, without I knew what year he died in. It was about ten or twelve years I think since he died.

Q. Where are you working now, Tom? A. Coal mines.

Q. Up in the coal mine? A. Down in the coal mine.

Q. You are a miner? A. Yes, sir.

Q. How long have you been working in the mines?

A. Ever since I quit driving a team, that has been about five or six years.

Q. About five or six years? A. Yes.

Q. And who did you drive for? A. Last.

Q. Yes? A. Myer Transfer Co.

Q. Myer Transfer, and how long did you drive for them?

A. Pretty soon after I quit the doctor's.

Q. Soon after you quit the doctor's? A. Yes, sir.

Q. Do you know how many years you worked for Myers?

A. No, I don't, unless he has got it on record, you can find out from him.

Q. Well, give me your best recollection about how long?

A. Oh, three or four years, I presume.

Q. Would it be as much as five years, maybe?

A. I ain't worked for him in five years, I don't think it has been that long.

Q. I mean did you work for him as long as five years?

A. Straight along?

Q. Yes?

A. I worked different times and I would get fired and they would come back after me, this transfer man, they would fire me, and I worked again straight along, I don't know if I worked a year right straight along, and I worked along until I went to the mines and him and I fell out for good.

Q. Now, Tom, you assisted at Granny's funeral, didn't you? A. Yes, sir.

Q. You helped put her in her coffin? A. Yes, sir.

Q. About how long after Granny died did you quit working up there at Brock's? A. I can't answer that question.

Q. Several years afterwards, wasn't it?

A. I think it was a year or two, or three years, or something like that.

Q. You don't remember the year that you went to work for Brock, you don't remember? A. No, I don't.

Q. But you do remember that you worked for him ten or twelve years?

A. Yes, sir; you know I would go up to the house every Christmas and Mrs. Taylor said I wished you——

Q. You were just the same as one of the family, wasn't you? A. Yes, sir.

Q. Now after you quit at Brocks, you went to work for the Myers Transfer Co? A. Yes, sir.

Q. And you worked for them off and on for a number of years? A. Yes, sir.

Q. Then you went to work in the mines? A. Yes, sir.

Q. And you have been there—— A. Ever since.

Q. About five or six years? A. Ever since.

Q. Ever since? A. Yes, sir.

Q. Now, Tom, during all the times that you were at the Letcher's Granny lived in that same place, didn't she?

A. When I hung out around there, yes sir; I never hung out around this other place where she lived.

Q. No, but when you went to Brocks then you hung out around there from then on? A. Yes, sir.

Q. And she always lived in that same place, didn't she, in that same place there on Seneca street?

A. Always lived there.

Q. Now while you were working at the Dock, Granny was at—— A. I think she was.

Q. She was in that house on Seneca street?

A. Wait, let me see; I believe she moved away from there and then moved back.

Q. You believe she moved away and then moved back?

A. Yes, I don't think it was during my time at Brock's though; I know she moved down on Shawnee street and she came back up there.

Q. But while you were at Brocks?

A. I don't think she moved while I was there, I would not be positive.

Q. The time that you hung out around there when you were working for Brocks she lived at that same place all the time? A. Yes, sir.

Q. That was when you began to hang out around there when you went to work for the Brock's? A. Yes, sir.

Q. Before that Tom, you lived out in South Leavenworth?

A. Yes, sir, at my home down in South Leavenworth; my people lived down there. I sometimes would go down town and boarded down town.

Q. Tom, you are now how old,—lets see, you said you were 53, didn't you? A. Yes, sir.

Q. 53 years old. And how old were you when you went to work for Doctor Brock? A. I don't remember.

Q. You don't remember? A. No, sir.

Q. Didn't he ask you when you came there to start to work how old you were?

A. He might have, I don't remember.

Q. You don't remember about that?

A. No, sir, I don't remember.

Q. And you don't know how old you were when you went to work there?

A. I must have been 34 or 35 I should think.

Q. 34 or 5 years old? A. Yes, sir, I think so.

Q. Now lets see if we can get the year from that. Are you sure you weren't older than that?

A. No, I am not so sure about it. I might have been.

Q. Tom, do you remember when the Kelly and somebody's mill burned down here? A. Kelly & Lyle mill.

Q. Yes, the Kelly & Lyle mill? A. Yes, sir.

Q. Where were you working then?

A. I was working for the Duncan Transfer Co.

Q. For the Duncan Transfer Co? A. Yes, sir.

Q. And you went to work at Doctor Brock's after that?

A. Yes, sir.

Q. About how many years after that?

A. I can't tell you.

Q. Seven years after that fire, wasn't it?

A. I don't know how many years.

Q. You see what I am trying to do. I am trying to fix the year that you went to work for Doctor Brock, and I am trying to help you by asking you those things?

A. I don't remember what year that was.

Mr. Allen: We object to remarks of counsel, as immaterial, irrelevant and incompetent, and improper.

Q. Now Tom, you remember about the fire, though. Do you remember how old you were when that mill burned?

A. No, sir.

Q. Then can you fix your age by that, can you?

A. No, sir, I didn't pay much attention to my age; I tell them I am so old——

Q. You remember that you were working for the Duncan transfer? A. Yes, sir.

Q. What makes you remember working for the Duncan Transfer?

A. Because I was working across the street, and I didn't wake up, and they had to wake me up.

Q. How long did you work for the Duncan Transfer?

A. I can't tell you.

Q. Several years?

A. I wouldn't be positive about it, I suppose I was.

Q. Who did you work for after you quit Donovan's?

A. I don't think I did anything for awhile; I don't think I done any work for awhile, only jobs around like that.

Q. You were jobbing then? A. Yes, sir, I think so.

Q. Do you remember who you worked for just before you went to Doctor Brocks?

A. No, without I was working for Donovan; I don't remember.

Q. You don't remember? A. No.

Q. How did you happen to get the job with Brock, do you remember?

A. I was bumming, I believe, bumming around the town, and there was a fellow a friend of mine, he wanted to hire me and he told me to go up and see the Doctor. that he wanted a man, and he taken me up there and he hired me.

Q. He told you the job was open?

A. Yes, my friend did.

Q. And came and saw you? A. Yes.

Q. Now, Tom, do you know how long you had been bumming? A. No, I don't.

Q. Know how long you had been without a job?

A. No, I don't.

Q. You wanted a job pretty badly?

A. Yes, I did, because I didn't like to do that kind of work, yes.

Q. So you remember after you quit the Donovan's you were without work for a while? A. Yes, sir.

Q. And just before you went to work for Doctor Brock you remember that you were without a job? A. Yes, sir.

Q. You never heard of an Indian Minnie, you say?

A. No, sir.

Q. Nor of a Tommy Atkins? A. No, sir.

Q. Never heard anybody speak of them?

A. Not until here recently, no, sir.

Q. Not until here recently? A. No, sir.

Q. Tom, who all were living at Granny Letcher's house when you started going around there, do you remember, tell me.

A. No, I can't remember who lived there. she kept roomers.

Q. You can't remember anybody?

A. No, I can't remember the names of anybody, when I first commenced going around there.

Q. When did you go there, mostly in the night time or mostly in the day time? A. Both.

Q. Both? A. Yes.

Q. You were on duty in the day time most of the time wasn't you? A. Oh, I had lots of time to myself.

Q. But as a matter of fact Tom, you went around there mostly in the evening, didn't you?

A. No, I was over there in the daytime some.

Q. But you can't tell me any of the people that were around there at the time you started in going there?

A. No, sir, no.

Q. You know Sadie James, don't you? A. Yes, sir.

Q. When did you talk with her last Tom?

A. Day before yesterday.

Q. How long before that? A. About a year.

Q. About a year?

A. I suppose. She was there last fall, or spring, or sometime.

Q. You talked to her about this case, she asked you about it, didn't she?

A. Not about this case exactly; she came there to ask me a question about——

Q. About what you knew about it?

A. Yes, that was the first.

Q. About what you remembered?

A. And I told her I didn't remember. She tried to make me remember the first time she ever came, before I heard anything else, and tried to make me remember Indian Minnie, and where she worked, but I couldn't place her, couldn't remember.

Q. Couldn't place her at all? A. No.

Cross Examination by Mr. Bell.

Q. I will ask you this question; Tom when did you work for Tom Morgan? A. I can't tell you the year.

Q. You worked for Tom Morgan before you did Brock, didn't you? A. Oh, yes.

Q. Did you commence—you were out west in Graham County awhile, wasn't you? A. No, sir.

Q. Your parents lived out there?

A. My folks did, yes, sir.

Q. Did you ever go out there? A. No, sir.

Q. And did you work at Brock's the same time that Sadie James did? A. No.

Q. What? A. No, I went there just after she did.

Q. You went there after she left there? A. Yes.

Q. You worked there when Mag. Turner did?

A. No, she had worked there. She came to work but not steady. Both of them worked.

Q. You worked for Doctor Brock ten or twelve years?

A. Yes.

Q. And you don't know where you were working in 1884, 5 and 6, do you?

A. I must have been working for the Donovan Transfer Co. I think.

Q. In 1887?

A. I don't know that I was working for the Donovan Transfer Co. in——

Q. To refresh your memory; were you working for Tom Morgan in 1887? A. I don't know.

Q. If you were subpoenaed as a witness in 1887, in a murder case, known as the State of Kansas against the Drake boys, and were working for Morgan at that time, you couldn't have been working for Brock? A. No.

Q. And you didn't go to work for Brock until seven years after that? A. No.

Recross Examination by Mr. Hanford.

Q. After you worked for Morgan you went to work for Donovan? A. Yes, sir.

Q. How did you know that Sadie James worked for Brock, did she tell you?

A. I knew her when she worked up there.

Q. You knew her when she worked there? A. Yes.

Redirect Examination by Mr. Allen.

Q. Tom, you say Sadie came to you the first time, and you told her that you had known Granny Letcher all your life, did you tell Sadie that you had known Grannie Letcher most of your life when she came to see you the first time?

A. She didn't ask me anything about knowing Granny Letcher, I don't think.

Q. Did she know that you did know her?

A. I suppose that she did; we had seen one another there, I guess.

Q. You say she tried to get you to say that you knew an Indian Minnie and a Tommy Atkins?

A. She didn't try to get me to say that, she tried to make me remember. I remembered the people where she said she worked at but I couldn't remember the Indian Minnie.

Q. Do you know who she was working for then?

A. She said she was working for Hyde on Second and Arch, that is what she said, used to work for them.

Q. I see, do you know who Sadie was working for when she was talking to you the first time?

A. She didn't live here I don't think when she came.

Q. When was it that she talked to you the first time?

A. I don't remember—it was about a year or two ago when she first came up hunting Indian Minnie.

Q. You told her that you had never heard of Indian Minnie or Tommy?

A. Yes, I told her that I didn't remember, and she tried to make me remember, and I said I didn't remember them. I don't know who she was working for.

Q. You say you commenced working for Brock about ten or eleven years before he died?

A. Yes, sir, in all. I worked a year for him after he died.

Q. You worked for him twelve years altogether?

A. Yes, sir, altogether, yes, sir, steady.

Q. But you knew the Letcher family before then?

A. Yes, sir.

Q. And you went to her home before then, Granny Letcher's? A. No, not so much as I did.

Q. I know, not so much, but you were there?

A. I might have been there, yes, sir.

Q. You never saw nor heard of Minnie or Tommy?

A. No, sir, not to my knowledge.

(And thereupon the witness was dismissed.)

Mr. German: We offer the deposition of Dr. C. M. Moats, appearing in Mr. Penick's transcript at page 2520.

Dr. C. M. MOATES being called on behalf of the United States sworn and under oath testified as follows:

Direct Examination by Mr. German.

Q. State your name? A. Dr. C. M. Moates.

Q. What is your profession Doctor? A. Physician.

Q. Where do you reside?

A. 509 Fifth Avenue, Leavenworth, Kansas.

Q. How long have you resided at Leavenworth?

A. About twenty-eight years I think. Soon will be.

Q. When did you come here?

A. I came here November 27th, in '88.

Q. Have you been engaged in the practice of medicine ever since you came here? A. I have.

Q. What age are you?

A. Fifty-two. Will be this year.

Q. Did you know a colored woman here by the name of Molly Letcher, commonly called Granny Letcher? A. Yes.

Q. Where was she residing when you first knew her?

A. I think she was on Third and Seneca, I believe is where I commenced treating her.

Q. She was living in a house there?

A. Living in a house just east of the livery stables.

Q. Frame house?

A. Frame house, it strikes me. Might have been partly brick but kind of an old shack at that time.

Q. Just east of which livery stable?

A. Van Tyles'. Known at that time.

Q. On which side of the street did she reside?

A. On the south side of Seneca.

Q. Between what two streets was her residence?

A. Well between Shawnee and Seneca on the south side.

Q. Now running east and west?

A. Yes, running east and west.

Q. I mean between what two numbered streets?

A. Well you see she was living at the corner of Third and Seneca.

Q. You mean between Third and Seneca? A. Yes.

Mr. Hanford: Objected to as leading and suggestive and move to strike the answer.

Q. Which direction from Third street? A. East.

Q. Doctor did you—were you ever her physician?

A. Yes.

Q. Beginning about how soon after you came here?

A. I think—— Well it was in the early part of the year of '89.

Q. Was she—— Did she have any trouble that was of continuous nature? A. Yes.

Q. Any affiiction?

A. She had a lacerated varicose vein. I don't remember just which limbs.

Q. One of the lower limbs?

A. Yes, and she had neuritis of which she finally died.

Q. Some ten years later?

A. Several years later, yes.

Q. Were you or not her physician throughout the time of her life after you came here? A. Yes, when I were in town.

Q. State whether you visited her home professionally. is that where you would see her?

A. Yes, I never was there only professionally.

Q. And is that where you would treat her?

A. That is where I treated her.

Q. Where you would see her professionally at her home?

A. Yes, my office was down on Delaware, corner of Third and Delaware and I boarded at 326 Decatur street so I would go up and down that street three or four times a day to my meals, up in the north end of town.

Q. Where was Decatur street in reference to Seneca street? A. It was directly north.

Q. What direction was Delaware from Seneca?

A. It was south.

Q. You officed at what placed on Delaware?

A. Third and Delaware.

Q. And you resided at 326 Decatur? I believe?

A. No, 303 Delaware. I slept at the office and ate up north.

Q. Ate at home? A. Yes.

Q. Where was the home? I don't get that?

A. 326 Decatur street.

Q. So you would go back down on Third street?

A. I kept my horse at the livery stable Van Tyles'.

Q. Next door to Granny's?

A. Yes. Put my horse there and kept him there a year or more.

Q. You would go up and down Third street going from your office home and home to your office? A. Yes, direct, yes.

Q. Would you call at the home of Granny Letcher very frequently?

A. Well I was in there quite often when I would go in the livery stable for the horse to go in and make a call. She would leave often word with the liveryman to tell me to come in.

Q. And you would do so?

A. I would do so. There at night quite often.

Q. Did she live anywhere else except on Seneca street after you became acquainted with her?

A. It seems to me she did. Over there is where I have my remembrance stronger of her residence than anywhere else. Seems to me she was on Shawnee with her son.

Q. You haven't a distinct recollection as to the whereabouts? A. No, sir, I don't.

Q. Now Doctor did you know of any child, small or large, any boy child in that family who was an Indian boy? A. No.

Q. Did you know of any child in that family by the name of Indian Tommy? A. No.

Q. Or Tommy Atkins?

A. No. I have a recollection of seeing, it seems to me, two little girls about that tall with beautiful hair, there at the time that she was quite low, that were not there long. They were very bright. I learned since that one of them lived in Lawrence. I don't know. She has grown up since.

Cross Examination by Mr. Hanford.

Q. How long Doctor was Granny Letcher in failing health prior to her death?

A. It seems it was quite a time. She swole up with dropsy. That is when I was called there so frequently. She couldn't breathe and she would lay down.

Q. Do you know when she died?

A. Before her death, quite a time before her death.

Q. I say, do you know when she died?

A. No, I don't. I can't recall the time.

Q. Would that be as long as a year that she suffered prior to her death?

A. Well not continuously. She got up and her dropsy disappeared and then she taken down again with kind of a asthma and she passed off. She had a sore limb that I treated and that give her lots of trouble.

Q. Up to the time that she began to fail which finally culminated in her death she was an active woman and did her work, did she not and got about?

A. Well, in a way, like most old ladies do. She was large. She did I think. She kinda had a lot of people around there, boarding and so on.

Q. Do you remember any of those people?

A. None but that little Sam Nash and her son.

Q. What was her son's name? A. Jim.

Q. Jim? A. Yes.

Q. Those are the only two that you remember?

A. Yes, those are the only two that I know so much about.

Q. Now this girl that you spoke of with the beautiful hair was a white girl, wasn't she?

A. No, she didn't strike me as white. She was light and was rather fleshy. Nice looking children but I don't remember seeing them there but a few times, so when she was having considerable trouble with her limb at that time.

Q. About how long after was that that you came here?

A. Oh, it must have been some years.

Mr. German: What are you referring to Mr. Hanford?

Mr. Hanford: When the girls were there.

A. It must have been five years I would say as far as I can recollect.

Q. The nearest that you can recollect is that it would be about five years? A. Yes.

Q. How old were those two little girls?

A. I don't know. From what I would judge they must have been about six or seven years old.

Q. Did they look to be about the same age?

A. No, one it strikes me was a little larger than the other and probably a couple of years——

Q. That would be a six or seven year old child? A. Yes.

Q. And then?

A. And it was a little darker than the younger one.

Q. Then the younger one would be about four or five?

A. Yes. Seemingly, yes.

Q. Was it the older one that had the beautiful hair?

A. Yes, it strikes me.

Q. Long hair? A. Long hair.

Q. Did you hear her name?

A. No, I never learned those children's names.

Q. Or the name of her mother?

A. No I didn't. Granny Letcher when she would have those spells at night, she would have people come in and it strikes me there was another girl that used to be around there with her son that used to dart in and around these alleys that carried a beer bucket a great deal. She looked more like a Mexican, a fleshy looking girl. I don't know her name.

Q. Doctor you came here in '88? A. In '88.

Q. Did you commence your practice then?

A. The next week afterwards.

Q. Where did you have your office? You say 303 Delaware?

A. 303 Delaware, right now where the ticket office is, the Kansas City—upstairs.

Q. You doctored principally among the colored people?

A. Yes, sir.

Q. Who had that practice mostly prior to yourself?

A. Well Dr. H. B. Callahan; a man named Hamilton, Dr. Callahan was a very old man from Missouri.

Q. Do you remember Dr. McCormack?

A. Yes, sir. He had been here but was kinda failing, going out.

Q. He had been a prominent doctor among colored people?

A. The white people had kinda discredited him. He was not so popular but among the older colored people he occasionally would have a case.

Q. About how long after you came here did you attend Granny Letcher?

A. Well, I think it must have been in '89. You see I came here just ending of the Thanksgiving. They were having a big celebration here then and I got straightened out and practicing in about a week or two. Got an office and got straightened out and a house and it was shortly after.

Q. Have you your reference to show your different cases and the different physicians at that time?

A. I don't think I have. In 1884 I went away and kinda destroyed them. I went over to Chicago and taken a post-course and I destroyed a lot of things.

Q. And that was in '94? A. Yes, 1894, yes.

Q. You came here in '88?

A. Yes, '94. The next year after the World's Fair at Chicago.

Q. Then that was '94? A. Yes, '94.

Q. Now, in these earlier years you didn't attend her so much if she was a negro woman at that time?

A. I attended her more after I got back from Chicago, especially on that limb. I paid quite a lot of attention in post-graduate to these old ulcers and [] and I treated a lot of things on Granny.

Q. After you came back from Chicago up until her death was when her limb gave her lots of trouble?

A. Yes, gave her lots of trouble? Had sugar in her urine and quite a bad limb and she had lots of trouble in hot weather.

Q. The only occasion of your visiting Granny was when you went there to attend her for her leg? A. Yes, sir.

Q. And later on when she was developing dropsy?

A. When she developed dropsy.

Q. You didn't visit her house?

A. No, only at times when they were hitching up. I might see them come in the stable.

Q. No, you were not a frequenter of her place?

A. No, I wasn't a frequenter. I didn't board there. I never knew them as I did others.

Q. You were only there professionally?

A. Professionally, every time I was called there.

Redirect Examination by Mr. German.

Q. Doctor you visited her professionally in the day time as well as night time didn't you? A. Yes, sir.

Q. Just whenever you were called?

A. Whenever I was called.

Q. Did you know a boy around there called Walter—Walter Banks?

Mr. Hanford: Objected to as leading.

A. No.

Q. You don't remember a boy of that kind? You knew Jim Mayo? A. I did.

Q. And Sam Nash? A. Knew Sam.

Q. Sam was a one-armed boy?

A. I remember the first night they came—Doctor Callahan sent them down to me. I slept—— It was late at night and they told them we had a colored doctor and they came for me that night, the two boys, but I didn't know them. That was my first visit there then.

Q. You didn't know them then?

A. No, I didn't know them then, but later Nash being a one-armed fellow, I became acquainted with him.

Q. You started, in answer to a question propounded by Mr. Hanford to give some description of a woman that looked something like a Mexican woman? A. A girl.

Q. A Mexican girl.

A. Another woman old it seems to me, some years. She was around here; I never knew what became of her.

Q. Was she in the Letcher home some?

A. She seemed to be around, this Sadie was running a sort of a meeting place and she was there some.

Q. You are talking about a boy? A. Jim.

By Mr. Hanford: Objected to as immaterial.

A. This woman stayed around there quite a while, around Jim, I don't know whether she was around Letcher's or not. I remember of seeing her quite a few times.

A. Did you know her name? A. No, sir.

Witness dismissed.

Mr. German: We offer the deposition of Mary Nash, beginning at page 2260 of Mr. Penick's transcript.

And thereupon, Mrs. MARY NASH, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Mrs. Mary Nash.

Q. Where do you live? A. 1221 Chickapoo Street.

Q. What age are you? A. Sixty years old.

Q. You live here in Leavenworth? A. Yes, sir.

Q. How long have you lived in Leavenworth?

A. Oh, my, I have lived in Leavenworth ever since I was nine years old, and I lived here before that; I was born in Chickapoo, Kansas.

Q. You a married woman? A. No, sir, I am a widow now.

Q. What was your husband's name? A. Randolph Nash.

Q. Did you know Sam Nash?

A. Yes, sir. He is my step-son.

Q. Step-son? A. Yes, sir.

Q. Who raised him? A. Mrs. Letcher.

Q. Mollie Letcher? A. Yes, sir.

Q. Sometimes called Granny Letcher? A. Yes, sir.

Q. Did she ever live on Cherokee Street? A. Yes, sir.

Q. Did she ever live on Seneca Street?

A. Yes, sir. I was married at her house on Seneca or Miama, at the Golden Gate, wherever that was.

Q. The Golden Gate was on Miama wasn't it?

A. That was where I was married at.

Q. Miama is the first street north of Seneca?

A. Oh, yes.

Q. It is not? A. Yes, sir, I think so.

Q. Where was the Golden Gate, between what two streets? Second and Third, or Third and Fourth, or what?

A. Fourth and Fifth.

Q. Between Fourth and Fifth? A. Yes, sir.

Q. Did you ever visit Granny Letcher's any after your marriage?

A. Not very much, I married and went to Missouri and stayed in Missouri two years and then when we came back here, then my husband moved away out where we are living now, out in that neighborhood.

Q. Where was Sam during this time?

A. Well, Sam mostly stayed with his grandmother.

Q. Mollie Letcher? A. Yes, sir.

Q. Did you ever furnish Sam with any clothing?

A. I have, yes, sir.

Q. When he was a boy?

A. Yes, sir, my husband and I, we have bought him school books and we bought him some clothes.

Q. Bought him clothes? A. Yes, sir.

Q. Did you ever make him any clothes?

A. Yes, sir, I made him clothes.

Q. Did you go to see him any at Granny's?

A. Well, no, I didn't go down there very often, it was very seldom that I would go down to Granny Letcher's, but Sammy came out to the house to visit us; he came out and sometimes he would stay all day, but he hardly ever would stay all night with me, I don't know why.

Q. You remember the fact of Granny Letcher dying?

A. Oh, yes, I was there.

Q. You were there when she was buried?

A. Well, I was there pretty soon after she died, was there just before she died and I was called home on some business and I came back and she was dead.

Q. She died on Seneca, I believe, wasn't it?

A. Seneca? Seneca or Miama, yes, sir. I think it was Seneca.

Q. Across from Crilly's barn? A. Yes, sir.

Q. Do you remember when she died?

A. No, I don't just remember, but I think it was in 1900, I ain't really positive.

Q. It was about that time?

A. Yes, sir, I think it was.

Q. Now, how old is Sam, about?

A. Well, really, I don't know Sam's age. Of course, when we married, why, Sam was a little boy about four or five years old, something like that.

Q. What was your maiden name?

A. Mollie Williams, Mollie Knox some of them called me; I went to school a while by Mollie Knox, that was my father's name in Chickapoo.

Q. And you were at Granny's sometimes, were you at her house on Seneca Street before the occasion of her sickness when she died?

By Mr. Blakeney: We object as leading and suggestive.

A. Not more than—— Oh, not more than two or three times, I don't think I was there more than twice before she took sick, because I was a woman that was—I was raising children and I stayed at home to take care of my children and I didn't go out much.

Q. Was Granny at your house? A. No, sir.

Q. What children were raised by Granny Letcher, if you know?

A. Well, what boys were there? Jim Mayo, that was her son, and Sam Nash and Walter Banks, that is all that I know anything about.

Q. Did you ever hear Granny, or Jim, or Walter or Sam ever make any mention of any woman, of any Indian Minnie, a woman by the name of Indian Minnie being at their home?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and as hearsay.

By Mr. Blakeney: We object for the same reason.

A. No, sir.

Q. Did you ever know or hear of any of them say anything about a boy by the name of Indian Tommy being at their home?

A. No, sir, I don't know anything about it.

By Mr. Blakeney: We object for the same reason.

By Mr. Bond: Same objection.

By Mr. Blakeney: We didn't get our objection in before the answer, she answered right off; I ask that the answer be stricken as incompetent, irrelevant, and immaterial.

By Mr. Hanford: The same motion and the same reasons.

Q. Did you ever see a boy at the Letcher home by the name of Indian Tommy? A. No, sir.

Q. Or any boy *that* the name of Tommy? A. No, sir.

Q. Did you ever see a woman there by the name of Minnie or Indian Minnie?

A. No, sir, I wasn't around here that much to know them people.

Q. Where is Sam living now?

A. I really don't know where Sam is; I was told that he was down in Oklahoma somewhere.

By Mr. Hanford: Objected to and move to strike the latter part of the answer as to what the witness was told, on the ground that it is incompetent, irrelevant, and immaterial, and hearsay, and not responsive to the question.

Q. How long since Sam left Leavenworth?

A. This last time?

Q. Yes?

A. Well, I don't know, Sam was out of town a long time before I knew he was out of town, because he never came out to the house.

Q. Did Sam have any property or anything—— Did he have any property or any means when he left here?

A. No, not as I knows of.

Q. Did you ever know him to have any property or any means of any kind? A. No, sir.

By Mr. Hanford: We object and move to strike the previous answers on the ground that it is irrelevant, and immaterial.

Q. Did you hear from Sam when he was down in Oklahoma? A. Yes, sir.

Q. When?

A. I heard from him when he was down there before; he wrote to me, he wrote me a letter.

Q. Have you got that letter with you?

A. I think I have.

Q. Let me see it?

A. The letter doesn't amount to anything, speaking of his mother is all.

Q. Is that the letter? A. Yes, sir.

By Mr. German: I ask that this letter be marked as Government's Exhibit 52.

Q. Is that letter in Sam's handwriting or not?

A. Well, really I don't know, but I think it is.

Q. Does he call you mother?

A. Yes, sir, he always calls me Mamma.

Q. This envelope which is marked Government's Exhibit No. 53, where did you get that?

A. Why that is the envelope that came with the letter.

Q. Did you get it through the mail? A. Yes, sir.

By Mr. German: I would like to file these two exhibits, don't offer them yet, in evidence.

Q. Did you see Sam after you received this letter, did Sam come back to Leavenworth?

A. I just don't know, I can't say.

Q. This letter is dated in January, 1914, that should evidently be 1915, I believe the envelope—— Yes—— January, 1915, was when that letter was mailed to you, January, yes. Have you seen Sam since then?

A. Yes, I met him on the street, that is all, met him on the street.

Q. Did he tell you how he was getting along down in Oklahoma?

By Mr. Hanford: We object to all this line of testimony on the ground that it is incompetent, irrelevant, and immaterial, and hearsay.

A. Yes, he said he was getting along nicely.

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, hearsay and not the best evidence, and move to strike if the answer was interposed ahead of this objection, for the reasons stated in the objection.

Q. What did he say as to how he was getting along?

By Mr. Hanford: The same objection.

By Mr. Blakeney: The same objection for the same reasons.

A. Why, he said that he was doing nicely down there.

Q. Did he tell you what business he was in?

By Mr. Hanford: The same objection.

By Mr. Blakeney: Objected to as hearsay, incompetent, irrelevant, and immaterial.

A. Why, he said he had a cafe or something like that down there, Nash's Cafe, I believe he called it.

Q. Did he say anything about how much it had cost?

A. No, sir.

Q. Did he say where he had gotten it?

A. No, sir, I didn't inquire that far.

Q. Did he tell you anything about Mr. Page?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and as hearsay.

By Mr. Blakeney: We object for the same reasons.

By Mr. Bond: The same reasons.

A. Why, Mr. Page, you say?

Q. Yes?

A. No. He spoke of Mr. Page before he went down there but not at that time when I met him on the street.

Q. Before he went down there he spoke of Mr. Page?

A. Yes.

Q. What did he say about Mr. Page?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and hearsay.

By Mr. Blakeney: Object for the same reason assigned by Mr. Hanford, and for the further reason that no proper predicate has been laid if it is intended for impeachment purposes.

By Mr. Bond: The same objection.

A. He didn't say anything, only he said that Mr. Page was a very nice gentleman and treated him awful nice, Mr. Page and Mr. Long, I believe.

By Mr. Hanford: I move to strike the answer on the ground that it is hearsay, incompetent, irrelevant, and immaterial, and for the reason that the answer was made before an objection could be interposed.

By Mr. Blakeney: We move to strike out, especially the reference to Frank Long, as not responsible, and to strike the whole for the reason assigned in the objection.

Q. Did he or not mention Frank Long?

By Mr. Blakeney: We object now as incompetent, irrelevant, and immaterial and hearsay.

By Mr. Bond: Same objection.

By Mr. Hanford: The same objection.

A. Why, he spoke of Mr. Long and Mr. Page being such nice men.

Q. Did he say anything about them having done anything for him?

By Mr. Blakeney: We object as hearsay, incompetent, irrelevant, and immaterial, and no proper foundation laid for impeachment purposes.

By Mr. Bond: The same objection.

A. No, sir.

Q. Just said that they were nice men? A. Yes.

By Mr. Blakeney: We object as hearsay.

By Mr. Hanford: We object on the further ground that it is leading.

Q. Did he say anything as to how he had gotten that restaurant?

A. No, sir, I wasn't with him that much, he didn't come out to the house.

Cross Examination by Mr. Bond.

Q. Do you know where Granny Letcher lived in 1890?

A. 1890, wasn't that when she died? Or 1900 was when she died; 1890, I will have to study that, I can't remember where she lived then.

Q. Do you know where she lived in 1893?

A. She lived on Miama Street, didn't she, in 1893, let's see, that is twenty-two years ago, I guess she lived on Miama Street, Miama or Seneca, wherever it was, over there by Crilly's barn, which street is that?

Q. You say you have lived here how many years?

A. Have lived here ever since I was nine years old and then I was taken to Missouri.

Q. And you don't know the streets?

A. Oh, I know the streets but I get tangled up sometimes, I came back here when I was nine years old and have lived here ever since, was born in Chickapoo.

Q. Didn't I understand you to say that after you were married you didn't come to Granny Letcher's place more than twice? A. After I was married?

Q. Yes?

A. We stayed here three weeks before we went away.

Q. After you went away then and came back?

A. Oh, I never did stay there any more after we came back.

Q. And as I remember the testimony, you said you thought you had been in Granny Letcher's house not over twice after that, and that she never did come to your house?

A. Oh, no, she wasn't out to my house, only in sickness and death, something like that, she would always come.

Q. And you think now that three times is about the only times that you ever were in her house?

A. Oh, no, I have been there more than that, I have been to Granny Letcher's more than twice, I was there when Sammy got his hand cut off, and all of that.

Q. When did you move out in the neighborhood of where you are living now? A. Out in West Leavenworth?

Q. Yes?

A. We moved out there, let me see, what year was it, must have been in 1879, I guess, or 1878 or 79.

Q. That you moved out there? A. Yes, sir.

Q. And did you testify a few minutes ago that after you moved out in West Leavenworth, you thought you had not been in Granny's house but about twice?

A. I hadn't been down there more than that. Of course I went down when Jim was sick and when she was sick, and when she died I was there, but previous to that——

Q. That is what I am asking, prior to Granny's death, and after you moved out in West Leavenworth, two times would cover the times that you were at Granny's house, you think?

A. Well, I can't positively tell you. I might have been oftener than that, because she used to send word out and tell Mr. Nash to tell me to bring the children down that she wanted to see them, but I don't know how many times.

Q. How many times were you at her house when she lived on Seneca Street? A. How many times?

Q. About? A. I can't answer that question.

Q. Did you know all of the people who lived in the house when she lived on Seneca Street?

A. No, sir, I knew she was there and Sam was there and Jim was there, and this Walter was there.

Q. But there were others there that you did not know?

A. Of course, there was others there but I did not know them, and I never meddled into it.

Q. Never interested you at all. Is that right?

A. No, sir.

Q. You never inquired? A. No, sir.

Q. But you simply gave the names of the parties that you happened to see a few times that you were there?

A. Yes, sir.

Q. That is all that you know about who lived in her house, is that right?

A. Yes, sir, that is all I do know. Of course, this court business is something new to me. You all——

Cross Examination by Mr. Blakeney.

Q. Of course you knew where Sam Nash lived, because he was your stepson? A. Oh, yes.

Q. Your husband was Sam's father? A. Step-father.

Q. And he frequently mentioned about Sam in your home? A. Yes, sir.

Q. And when he did he told you where Sam was living? A. Yes.

Q. If Sam was going to school he told you, and told you whether he was buying books or not for him, and what he was doing? A. Yes.

Q. And so you knew of Sam living at Granny Letcher's? A. Oh, yes.

Q. Wait a minute. You knew of Sam living at Granny Letcher's independent of the fact that you saw him there? You knew it from the knowledge that you got from your husband? A. Yes, he lives there.

Q. You knew where Walter Banks lives for the same reason? Walter was related to you wasn't he? Related to the family? A. No, Sam was.

Q. Wasn't he?

A. No, sir, I don't know that he was any relation to the family and Walter, I don't know much about him. He was at Mrs. Letcher's, but I don't know nothing much about Walter at all.

Q. You knew from talking to your husband that Walter was living at Granny Letcher's for a good many years, from childhood to manhood? A. Yes, I knew he lived there.

Q. And made that his home from childhood to manhood, and you know that Jim Mayo was her son?

A. Yes, Granny Letcher's son.

Q. And you know from the conversation that you had in your home that her son was living at Granny Letcher's?

A. Yes, sir.

Q. Now, most of the information that you got of who lived there were those that you were interested in at your home? A. Yes, of course.

Q. Those that you were not interested in you did not discuss in your home? A. No.

Q. The fact that a little long golden-haired white girl had been living at Granny Letcher's in the early eighties, during the eighties, that was not mentioned in your home?

A. No, I don't know anything about that.

Q. Now, the fact that any other children were raised there was not mentioned—not related to you and not discussed?

A. No, I did not come down in this part of town very often.

Q. Well, if you had never come down, from the frequent conversation you have had in your home, you would have known where Sam lived, wouldn't you?

A. What did you say?

Q. If you had not come at all, you would have known where Sam lived, wouldn't you?

Mr. German: I object to that as argumentative.

A. Oh, yes, if I had wanted Sam I would have known where to go to find him, at Mrs. Letcher's.

Q. You never was in Tulsa, Oklahoma? A. Oh, no, sir.

Q. In January, 1915, you would [] known where to find Sam, too, wouldn't you? A. According to that letter.

Q. According to your knowledge and information you would of known where to find him?

A. According to that letter I would have known that he was down there—Tolaski, or what you call it.

Redirect Examination by Mr. German.

Q. How did you find out that Walter Banks was living at Granny Letcher's house.

A. Well, he used to come out to the house sometime with Sam and would come out to our house and Walter would come out with him sometime.

Q. Did you see Walter at Granny's home?

A. Yes, I had met him there when I went there, but as I told you I wasn't there very much.

Q. Wasn't there very much? A. No, sir.

Q. Did you know of any boy, or did you hear any of them say anything about any boy that Granny was raising and that she kept for any considerable length of time except Sam and Walter? A. No, sir.

Mr. Hanford: Objected to.

Q. What? A. No, sir.

Mr. Hanford: I object to the question on the ground that it is incompetent, irrelevant and immaterial, all of which is hearsay, and I move to strike the answer of the witness, which was made before my objection was completed.

Witness dismissed.

And thereupon, GEORGIA FLINT, being called on behalf of the United States, sworn, and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Georgia Flint.
Q. What age are you? A. I am 27.
Q. Where do you live? A. Spokane, Washington.
Q. What do you do? A. I am a maid.
Q. Where?
A. At the Culbertson and Rankin Ladies Department store and the Liberty Theatre.
Q. A ladies' department store in Spokane? A. Yes, sir.
Q. How long have you been maid in that department store there? A. It was a year in this month.
Q. Is that a large department store? A. Yes, sir.
Q. Did you ever live in Leavenworth, Kansas? A. I did.
Q. When did you first go there? A. In October, 1890.
Q. In October, 1890? A. Yes, sir.
Q. Georgia, did you know a man named Jim Phillips?
A. Yes, sir.
Q. Were you ever his wife? A. Yes, sir.
Q. When did you marry him? A. In October, 1890.
Q. Where? A. Atchison, Kansas.
Q. Was he also known as Jim Mayo? A. Yes, sir.
Q. Was he any relation of Molly Letcher's?
A. Yes, sir.
Q. What relation? A. He was her son.
Q. Her son. You went to Leavenworth upon marrying Jim? A. Yes, sir.
Q. When you went to Leavenworth in October, 1890, who did you live with, who did you and Jim live with?
A. With Jim's mother.
Q. Jim's mother? A. Yes, sir.
Q. Molly Letcher? A. Yes, sir.
Q. Was she known as Granny Letcher? A. Yes, sir.
Q. Where was she living at that time in Leavenworth?
A. She was living on Choctaw Street.
Q. On Choctaw; that was in the fall of 1890? A. Yes, sir.
Q. How long did you and Jim live with his mother?
A. I don't know just how long; I don't know just the exact date we stopped living with them.
Q. Did she move off of Choctaw Street onto any other street? A. Yes, sir.
Q. Where did she move to? A. Shawnee.
Q. Did you live with her on Shawnee Street? A. Yes, sir.
Q. While you were living with her on Shawnee Street, did

[] and Jim—well, I will ask you this, did you and Jim live with her until she moved off of Shawnee Street or not?

Q. No, sir.

Q. Where did you and Jim go to?

A. We moved down on Shawnee, I think it was across from the postoffice, and run a restaurant there.

Q. Ran a restaurant? A. Yes, sir.

Q. How long did you and Jim run that restaurant?

A. Well, probably we were there about 6 months at that place.

Q. Yes, did you move from that place? A. Yes, sir.

Q. Where to? A. We moved on Delaware Street.

Q. You moved your restaurant over to Delaware?

A. Yes, sir.

Q. Did you ever quit running that restaurant?

A. Yes, we moved from that restaurant to another one on Delaware Street.

Q. Another one on Delaware Street?

A. Another place on Delaware Street.

Q. And run a restaurant there? A. Yes, sir.

Q. Did you ever keep house in Leavenworth? A. I did.

Q. Where? A. On Cherokee Street.

Q. Was that before or after you ran this restaurant?

A. It was after.

Q. How long did you keep house on Cherokee Street?

A. Well, I was there about a year, probably; I was there one winter and a summer I know.

Q. Where did you go to from there?

A. Well, Granny had moved back to Seneca Street, and we moved back there.

Q. Moved back to Seneca. You went back to live with Granny? A. Yes, sir.

Q. When did you leave Leavenworth?

A. It was either in April—in '95 or '96, I don't remember which it was.

Q. One of those two years? A. Yes, sir.

Q. Then you were in Leavenworth from October, 1890, until 1895 or 1896? A. Yes, sir.

Q. Now, while you were running this restaurant, state whether or not you visited Granny's home very often.

A. Well, I visited her sometimes.

Q. How frequently?

A. Well, not so—I was busy most of the time but I would go there back and forth sometimes to see her.

Q. Well, while you were keeping house on Cherokee Street, did you visit her any? A. Yes, sir.

Q. Very frequently?

A. Yes, I went to see her more than——

Q. Now, during your stay in Leavenworth, who lived with Granny Letcher, not counting the times when you and Jim lived with her. not mentioning yourself and Jim; you already told the time that you and Jim lived with her. Who else lived with her during your stay there?

A. Sam Nash and Walter Banks.

Q. No one else?

A. Then, she had a little girl that she was keeping for a lady.

Q. What was the little girl's name?

A. We called her little Maude.

Q. Did she keep little Maude during the entire time you were in Leavenworth? A. No.

Q. When was it that she kept little Maude?

A. When we were on Choctaw Street.

Q. Who was Walter Banks—who was Walter?

A. He was a boy whose mother had died. so Ma told me—Mother Letcher. said that his mother had died there and he was an orphan child and she had raised him.

Q. About what aged child was Walter when you went to Leavenworth?

A. Oh, he was about 9 or 10, about as near as I can guess at his age.

Q. Now, who was Sam?

A. That was her daughter's son she said.

Q. What was his surname? Sam what? A. Sam Nash.

Q. What was Walter's name? A. Walter Banks.

Q. Was Sam Nash afflicted in any way?

A. Yes, sir, he had one hand off.

Q. Was there any boy in the Letcher home when you were living in Leavenworth who lived with Mollie Letcher by the name of Thomas? A. No, sir.

Q. Was there any boy who lived with her by the name of Tommy? A. I never knew of any one.

Q. Was there any boy who lived with her by the name of Indian Tommy? A. Not that I ever knew.

Q. Did you know any boy in Leavenworth by the name of Thomas Atkins? A. No, sir, I did not.

Cross Examination by Mr. Stuart.

Q. Georgia, there was a little Indian boy playing around Granny Letcher's wasn't there?

A. Not that I remember.

Q. Didn't you know there was an Indian boy around Granny Letcher's, don't you remember now, think of it. When you went to Shawnee Street, wasn't there a little Indian boy around there? A. I can't remember.

Q. You can't remember? A. No.

Q. Wasn't there a little boy around there that didn't belong to the family, don't you remember a little boy there that wasn't any kin to Granny Letcher that was there in her house? A. No, I don't know.

Q. Now, you married Mayo in 1890? A. Yes, sir.

Q. That has been how many years ago——

A. Twenty-seven years ago.

Q. How old were you when you married?

A. Twenty-one.

Q. Twenty-one, you are forty-eight now?

A. I will be forty-eight in October.

Q. How many times had Jim been married before you married him? A. Once, he told me.

Q. Once? A. Yes.

Q. Did you hear that he was married at the time he married you? A. No, sir.

Q. Did not? A. No, sir.

Q. Do you remember Ella Abbott, the woman who kept a house of prostitution there? A. Yes, sir.

Q. You worked for Emma a good while? A. Yes, sir.

Q. When did you go to work for Emma?

Mr. German: Who?

Mr. Stuart: Emma Abbott.

Mr. German: Ella.

Q. Ella Abbott, how long did you work there?

A. I don't know just how long; I went to work for her when I was living at the restaurant.

Q. You and Jim were running the restaurant? A. Jim.

Q. Jim run the restaurant and you worked at Ella's?

A. When I first went there was when she was shot and I sat up with her at night, and after that I went to work for her.

Q. Where do you say you are living now?

A. Spokane, Washington.

Q. When did you go out there? A. In 1910.

Q. When were you summoned as a witness in the case?

A. On the 30th of May.

Q. Who was the first person ever talked to you about what you knew in the case?

A. I don't know the gentleman's name.

Q. Well, look around and see if you see him? A. Yes, sir.

Q. Where is he now?

A. That gentleman sitting over there.

Q. Mr. Robertson, the Pinkerton Detective? A. Yes, sir.

Q. He is the man. Where did he find you?

A. He found me at Spokane.

Q. Where were you when he found you?

A. I was at 704 Olympic.

Q. That is your residence?

A. No, sir, I was waiting on a sick man.

Q. He found you there, did he? A. Yes, sir.

Q. Have a talk with you? A. Yes, sir.

Q. How long did you and him talk over this situation?

A. Oh, not very long, I don't know just how long.

Q. Well, did you get through talking that evening or that morning? A. Oh, yes, sir, he didn't stay very long.

Q. When did he come back again? A. Sir?

Q. Did he come back again? A. No, sir.

Q. Did he take your statement?

A. Not that I know of.

Q. Didn't take anything down on paper?

A. I don't remember.

Q. Well, now, think it over and see if you can't think. Did he take something down on paper? A. I don't know.

Q. Did he have anybody with him? A. Yes, sir.

Q. Whom did he have with him—— Don't look at him, look at me.

A. I think it was Mr. Malone. I know it was Malone with him.

Q. What Malone? A. Joe Malone.

Q. Who is Joe Malone?

A. He used to run a saloon or be a bartender.

Q. A gambler and saloon keeper in Leavenworth?

A. Yes, sir.

Q. Anybody else with him?

A. I don't know the other gentleman.

Q. What kind of a looking man was he? Do you see him around the court room; look all around the court room and inside the bar and see if you can find him?

A. I don't know him if I would see him.

Q. What kind of a looking man was he?

A. He was a tall man and his hair was gray.

Q. Gray hair? A. Yes, sir.

Q. Tall and slender? A. No, he was kind of heavy.

Q. Did he claim to be an officer? A. No, sir.

Q. Which one of them claimed to be an officer?

A. That gentleman there.

Q. He claimed to be an officer, what kind of an officer?

A. Pinkerton detective.

Q. What did he say to you?

A. Well, he asked me if I had ever lived in Leavenworth, and I told him I had; he wanted to know if I knew Granny Letcher and I told him I did; and he asked if I remembered

Ella Abbott and I told him yes; and he asked me where she lived when I worked for her and I told him.

Q. You never were at Granny Letcher's house on Seneca Street were you? A. Yes, sir.

Q. What year? A. Just before I left there.

Q. When was that?

A. It was either in the spring of 1905 or 1906.

Q. Either the spring of 1905 or 1906? A. Yes, sir.

Q. But you don't know who was there at her house between 1885 and the time you married? A. No, I do not.

Q. Don't know anything about it? A. No, sir.

Q. Do you know who was there? A. No, sir.

Q. Did you see a little boy around Granny Letcher's whose name you didn't know, you didn't know whether he was an Indian or not?

A. Well, the children played in the yard.

Q. Did you see a little boy around Granny Letcher's, Georgia, don't you remember that you saw a little boy around there?

A. I don't remember about the children that played in the yard. You know Granny took care of children and working out and being away from home I didn't pay any attention to the children; I don't know who was in the yard.

Q. You don't say there wasn't a little Indian boy around there? A. No, because I don't know.

Cross Examination by Mr. Bell.

Q. Georgia, you were in Leavenworth in 1905 and 1906?

A. I said I left there.

Q. In 1905? A. In 1905 or 1906.

Q. How long did you live in Leavenworth?

A. I lived there five years.

Q. When did you first come to Leavenworth?

The Court: I think evidently she means 1895 or 1896.

A. Yes, 1895 and 1896.

Q. That is what you want to say now? A. Yes, sir.

Q. Jim Mayo—Granny Mayo was your mother-in-law?

A. Yes, sir.

Q. And you never went around her house much?

A. Well, I couldn't say I went around much.

Q. You didn't go there often?

A. I went there several times.

Q. You never lived there, did you?

A. Not only the time I have made mention of.

Q. What time was that?

A. When we was on Choctaw. I lived with her all the time when we was on Choctaw Street.

Q. How long did she live on Choctaw the last time?

A. I don't know, she was living there when I went there.

Q. When you came to Leavenworth in 1890? A. Yes, sir.

Q. And how long did she live there? A. I don't know.

Q. You don't know? A. No, sir.

Q. About how long?

A. Well, she may have lived there a year or six months, I don't know.

Q. Did you live in the house with her all the time?

A. I did then.

Q. Did you work any of that time for Ella Abbott?

A. I didn't know Ella Abbott then.

Q. Where did you work for Ella Abbott?

A. On Cherokee Street.

Q. Where about?

A. On the Corner of Cherokee and Third I think over the drug store.

Q. Whose building?

A. A Jewish drug store, I don't remember the name.

Q. Would you know it if I would call it?

A. I think I would.

Q. Was it Able's Drug Store? A. I think that is it.

Q. Your husband was living with you at that time?

A. Yes, sir.

Q. Where did John Malone run his saloon and gambling house? A. On Cherokee Street.

Q. And your husband worked for him?

A. I thought it was Joe Malone's place.

Q. Did your husband work for him? A. He did.

Q. And that was the time you commenced working for Ella Abbott?

A. Yes, sir, I was working for her before that.

Q. At that time there was no Indian boy at Mrs. Letcher's was there? A. Yes, sir.

Q. What boys were there? A. Sammy and Walter.

Q. What girl was there if any?

A. Wasn't any that I know of then.

Q. Was there any other members of the family of Mrs. Letcher's there at that time? A. No.

Q. Mrs. Letcher often had other members in the family didn't she? A. Yes, sir.

Q. Did you go to the house often after she moved back to Seneca Street?

A. I didn't go there very often until I moved back there.

Q. When did you move back there?

A. Well, it was in 1895 or 1896, because I wasn't there long, when I moved back I didn't stay there very long until I came to Oklahoma.

Q. You had lived on Seneca Street before that?

A. No, sir.

Q. What do you mean by saying when you went back there? A. When she moved back there.

Q. When did you leave Leavenworth?

A. I left in the spring of 1895 *ot* 1896.

Q. Who left with you? A. I left with myself.

Q. Did your husband know you were going to leave?

A. Yes, sir.

Q. Where did you go? A. I went to Oklahoma.

Q. Did you ever come back to Leavenworth? A. No, sir.

Q. Did you ever see him afterwards? A. No, sir.

Q. Had you separated from him before you left Leavenworth? A. No, sir.

Q. When did you separate? A. When I left there.

Q. The night you left? A. Yes, sir.

Q. And he didn't know you was going? A. No.

Mr. Bell: That is all.

Redirect Examination by Mr. German.

Q. Where did you go to in Oklahoma?

A. I went to my mother's.

Q. What place? A. Okarche.

Q. Over in the Oklahoma Territory? A. Yes, sir.

Q. When you were living with Granny, when you and Jim were living with Granny on Choctaw Street, you knew who lived in that family, didn't you? A. Yes, sir.

Q. And tell the Court whether at that time there was any Indian boy living in that family?

A. No, because I lived in the house.

Q. How long did you live on Choctaw Street?

A. I don't remember just how long.

The Court: I think that is pretty well covered.

Q. Now, you spoke, in answer to Judge Stuart, that you didn't know what boys played around the yard? A. No.

Q. Whether there was any Indian boy played around in the yard or not. While you were living at Granny's you say there was no Indian boy lived with her? A. No, sir.

The Court: What do you mean that Granny Letcher took care of children; you said she took care of children?

A. Just like little Maude, her mother boarded her there when I went there on Choctaw.

Q. Do you recall any other child that she took care of while you lived in Leavenworth?

A. Not while I worked there.

Q. Did she take care of any other child while you were living in Leavenworth?

A. No, sir, not while I was around.

Q. Did you know of Granny owning a horse and buggy?

A. Yes, sir.

Q. Where was she living when she first owned it as far as your knowledge extends?

A. She bought the horse while she was working for Governor Smith at the Soldier's Home.

Q. When was it that she worked for Governor Smith?

A. It was about 1893 I think.

Q. Where was her place of residence in Leavenworth at the time she was working for Governor Smith?

A. Well, a part of the time—— She went to work for Governor Smith while she was living on Shawnee Street.

Q. And I believe you stated she moved from Shawnee to Seneca? A. No, she moved out by the home.

Q. Lived out by the home a while? A. Yes.

Q. When she was working for Governor Smith?

A. Yes, and that is when I remember she had the horse and buggy and she had a garden out there.

Q. Did she bring that horse and buggy back when she moved to Seneca? A. Yes, sir.

Q. Where did she keep it?

A. In a little barn back on the lot.

Q. Next to the alley? A. Yes, sir.

Q. Was that barn ever used for people to live in?

A. Not to my knowledge.

Q. What was the color of Granny Letcher?

A. She was a dark woman.

Q. She was a negro? A. Yes.

Q. Was she a black negro? A. Yes.

Q. Or light color, which? A. No, she wasn't light.

Q. Tell us now distinctly what her color was?

A. She was dark, what you would call a black.

Q. Well, Sam and Walter, are they in the city, have you seen them since you have been there? A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. Do you know Sadie James?

A. No, sir, I never knew her until I have seen her here.

Q. How many times have you talked to Sadie since you have been here?

A. I haven't talked to her over once or twice since I have been here, only just to speak to her.

Q. You had a talk with her, haven't you?

A. No, not only just to speak to her and go by.

Q. That is all you have said to her? A. Yes, sir.

Q. Haven't talked with her at all about the case?

A. No, sir.

Q. Haven't talked about what you would swear to?

A. No, sir.

Q. Haven't told her what you would swear to in the case?

A. No, sir.

Q. Did these people that came out to Portland talk to you just once? A. That is all.

Q. Anybody else saw you but them? A. No, sir.

Q. And those three men were the ones that saw you there and nobody else? A. That is all.

Q. Now, think about that, is that all?

A. That is all I have ever talked to.

Q. You are sure of that? A. Yes, sir.

Q. In Portland about this case?

A. The only one ever spoke to me about it.

Q. About this case? A. Until the subpoena came.

Q. Well, but I mean out at Spokane? A. Yes.

Q. Well, after the subpoena came did anybody talk to you out at Spokane?

A. No, the marshal told me that I would have to come and told me to come and be here.

Q. The point I ask you is this, did anybody ever talk to you about questioning you—ever talk to you about this case except Mr. Robertson, Mr. Malone and the other man?

A. Well, the other man didn't speak about it, he was just there.

Q. Did anybody ever talk to you while he was present except the two you have mentioned? A. No, sir.

Mr. German: The other man was the chauffeur driving the car?

A. Yes, sir.

Cross Examination by Mr. Bell.

Q. Georgia, you have an aunt living in Leavenworth, haven't you?

A. Well, I always called her mother Bradford.

Q. Didn't she write to you that the officer was coming to see you? A. If she did I didn't get it.

Q. Where were you living in Oklahoma two years ago?
A. I haven't been in Oklahoma.

Q. Where did you go from Oklahoma to Spokane, did you go from Oklahoma?

A. No, I went from Oklahoma when the regiment, my husband was sergeant in Company E of the 25th Infantry and we was moved from there to Fort Bliss, El Paso, and I went from there to Fort Bliss.

Q. And you haven't heard from your step-mother?
A. No, I haven't.

Mr. German: Her name is Elizabeth Bradford?

A. Yes, sir.

(Witness dismissed.)

Mr. German: Your Honor, we now offer the deposition of John C. Ketcheson taken before Mr. Penick, appearing in the transcript, beginning at page 2538.

And thereupon, JOHN C. KETCHESON, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name, age, and place of residence?
A. John C. Ketcheson, seventy-eight years and one month.
Q. You live in Leavenworth, Kansas? A. Yes, sir.
Q. How long have you lived in Leavenworth, Mr. Ketcheson? A. I came here in the fall of '66.
Q. Lived here continuously since that time? A. Yes, sir.
Q. In what business were you engaged in eighty-four, five and six? A. The printing business.
Q. Are you also in the binding business?
A. Well, we have done more or less binding, yes.
Q. Do your own binding?
A. In some classes. Not any pamphlet binding, not any book binding.
Q. What was the name of your firm then?
A. Well, when I first came here it was the old Leavenworth Conservative.
Q. In '85 and '86?
A. And the Ketcheson & Hubble in '85.
Q. You were then the senior member of that firm?
A. Yes, sir.
Q. You have been continuously engaged in that business ever since? A. Yes, sir.

Q. Have you before you the city directory for the year 1885? A. Yes, sir.

Q. Who compiled that directory, Mr. Ketcheson?

A. Edward Green.

Q. Is he living or dead?

A. He has been dead several years.

Q. Have you also the directory of 1886 before you?

A. Yes, sir.

Q. Who compiled that directory? A. Edwin Green.

Q. The same party who compiled the '85 directory?

A. Yes, sir.

Q. Who composed those two directories?

A. Why, we printed them for him, I suppose Mr. Green was the publisher literally; we done it as a job of printing.

Q. I ask you what book this is I have in my hand?

A. It is the Leavenworth City Directory.

Q. Is that the official City Directory for what year?

A. '85.

Q. In whose possession has this directory been since that time? A. Mine, it is my regular file.

By Mr. Allen: We now offer the entries appearing in this record in reference to the name of Lilly White, appearing on page 292 of the City Directory of the City of Leavenworth for the year 1885, which was just identified by the witness.

By Mr. Cruce: We object, if the Court please, because it is hearsay testimony, purported directory has not been sufficiently identified as the authentic official directory of the City of Leavenworth, and the testimony otherwise is incompetent.

By Mr. Hanford: I join in the objection stated by Mr. Cruce on the further ground that it is incompetent, irrelevant, and immaterial.

By Mr. Allen: No objection to my reading the entry appearing in the book?

By Mr. Cruce: Oh, no.

By Mr. Allen: White, Miss Lillie, r 217 Seneca. From the entries appearing on page 180 of the same directory as follows: Letcher——

By Mr. Cruce: We object to that for the same reasons.

By Mr. Hanford: We make the same objection.

By Mr. Allen: Letcher, Mrs. Mary, colored, widow, washing and ironing, r. 215 Cherokee.

By Mr. Cruce: We object for the same reasons lodged to the introduction of the other entry.

By Mr. Allen: And on page 191, James Mayo.

By Mr. Hanford: We make the same objection to this entry.

By Mr. Allen: The following entry: Mayo, James H., col'd lab. r 215 Cherokee. And the following entry on page——

By Mr. Cruce: The same objection as to the other entry.

By Mr. Hanford: I join in the objection.

By Mr. Allen: 212.

By Mr. Hanford: We object on the same ground.

By Mr. Allen: Nash, Simon, col'd lab. r 215 Cherokee.

Q. I will ask you what book this is, Mr. Ketcheson?
A. Edwin Green's directory of the City of Leavenworth, and Fort Leavenworth, of 1886.
Q. Is that the official directory of the City of Leavenworth for the year 1886? A. Yes, sir.
Q. That is the directory that you stated just a few moments ago that you published for Mr. Green who is now dead?
A. Yes, sir.

By Mr. Allen: We offer the following entries, appearing on page 193 of said directory.

By Mr. Hanford: The same objection as to the other entries.

By Mr. Allen: Letcher, Mrs. Mollie, boarding house, 217 Seneca. Page 205, Mayo, James, col'd.

By Mr. Hanford: The same objection to this entry.

By Mr. Allen: Wks. Skating Rink, r. 217 Seneca. Mayo, J. H., col'd lab. r. 217 Seneca. Page 227.

By Mr. Hanford: The same objection.

By Mr. Allen: Nash, Samuel, wks. John S. Stratley, r. 217 Seneca. Page 213.

By Mr. Hanford: The same objection.

By Mr. Allen: White, Miss Lillie, r. 326 Choctaw.

Q. Both of those directories, you say have been in your possession since they were compiled and published?
A. Yes, sir.
Q. For what period of time did this man Edwin Green compile the city directories for the City of Leavenworth?

A. I don't know just how long, five or six years, I think, that is my recollection.

By Mr. Allen: There is no objection to the introduction of these entries upon the ground that we are introducing the entire directory, is there?

By Mr. Cruce: No.

Cross Examination by Mr. Hanford.

Q. Mr. Ketcheson, what was your occupation in 1885?

A. Printer.

Q. What kind of a shop did you have?

A. Book shop and printing.

Q. What kind of presses did you have?

A. Well, at that time I was running two cylinder presses and three or four job presses.

Q. You say you had two or three what kind of presses?

A. At that time, I think two cylinder presses and three job presses, three or four.

Q. Two cylinder presses? A. Yes, sir.

Q. And three job presses?

A. Three or four, I wouldn't be positive, at that time.

Q. These books were printed on the job presses?

A. No, sir, they were printed on the cylinder press.

Q. What kind of type did you use?

A. Well, that is Johnson's manufacture in Cincinnati, at that time tended Long Primer.

Q. Your type was set by hand?

A. Yes, sir, didn't have machines in those times.

Q. How many employees did you have at that time?

A. Oh, I suppose probably, well, that was—five or six men setting type.

Q. That was a good job getting out the city directories?

A. It was considered a good job, and we had all the force we could put on it.

Q. And how much time would be consumed in setting up the work?

A. We would average about sixteen to thirty-two *people* a day; sometimes we run one form and sometimes two, I suppose it would average probably twenty-four pages a day.

Q. So that would mean about two weeks in the setting up of the pages? A. Well, along about that, yes.

Q. Then, how much time would be consumed in the printing the press work?

A. That was done every day, that was a very short job, probably take an hour.

Q. Then, the books were bound?

A. They were folded right up as each form was printed and sent them to the bindery.

Q. All together, how long did it take you to get out the city directory?

A. Well, I don't remember, sometimes longer than others, because sometimes we would be delayed on a copy or something like that.

Q. So it would be a month or more?

A. Probably a month, yes, from the time it was commenced until it was finished.

Q. Directories were always gotten out at the beginning of the year? A. Well, along about that, I think.

Q. I didn't understand you?

A. I said it was about that time, I don't remember exactly. Usually in the spring.

Q. The directories were being compiled before they were turned over to you? A. Yes, sir.

Q. They gave you the compilation after it was made up?

A. Yes, sir. They done a good deal at once though, of course the advertisement and everything of that kind.

Q. Did Mr. Green compile the directories himself?

A. He had two or three assistants.

Q. And their work was to collect the names and addresses?

A. Yes, sir.

Q. And compile the directories and turn them over to Mr. Green? A. Yes, sir.

Q. And did he edit them himself?

A. Yes, sir, he done the most part; he always oversaw all the work.

Q. Were the lists of names and the order in which they were placed made up in his office? A. Yes, sir.

Q. Then, his employees gathered the names and addresses on the outside and would turn them in to him and he would have to arrange them in order?

A. The way they would take the data was on little slips about that long and about that wide and turn them in to him, and when they got through they would sort them and pile them and place them on a sheet.

Q. And get them in the order in which they were to be printed? A. Yes, sir.

Q. And that would be the copy which he would turn over to you? A. Yes, sir.

Q. How large a city was Leavenworth in 1885?

A. Why, they used to claim about twenty-five thousand I think, twenty-five or thirty.

Q. How would its size compare with today?

A. Well, the city is all here, but I suppose not quite so many population now.

Q. There was more people in those days?

A. More people, yes.

Q. Those were the prosperous days? A. Yes.

Q. When Leavenworth was the large city in this locality?

A. It was considered in that time bigger than Kansas City, quite a rivalry as to which was the biggest.

Q. There were a great many changes from year to year in residence? A. Oh, yes.

Q. And addresses? A. Yes.

Q. And in those days people were moving here and there and building new places? A. Yes, sir.

Q. And changing very rapidly? A. Yes, sir.

Q. Houses were in demand? A. Yes.

Q. Now, Mr. Ketcheson, when would they start to compile that directory and get their list of names for the coming year?

A. It would take them at least three or four weeks.

Q. At least two to four weeks?

A. Two at least, depending on what force they had. After they would get it compiled, they would generally go over it and revise and that sort of thing, and it would take more time.

Q. The revising and rearranging would take some time after the names were collected? A. Oh, yes.

Q. That was the hard work on the part of the compiler?

A. Yes, sir.

Q. About how much time would be consumed in the compilation and arrangement?

A. Well, I don't—— Probably a week. I wouldn't say that definitely. I never paid much attention to it.

Q. Then, all together to get the directory, the names, and the addresses, and the matter collected and compiled and printed and bound, and the directories put out early in the year, they must have started work either in the latter part of the preceding year, or at the beginning of the year for which the directory was printed?

A. Yes, sir, my recollection is they didn't commence until along about the first of January to compile.

Q. About the first of the year?

A. Yes, generally would take them two months probably, I guess, to get them out and compile.

Q. They would allow about that much time? A. Yes.

Q. Do you recall about the month that the directories were usually put out?

A. Well, I can't call to mind just now, probably March or April, along in there somewhere.

Cross Examination by Mr. Cruce.

Q. Mr. Ketcheson, this was a private enterprise, the publication of this directory? A. Certainly, yes, sir.

Q. Wasn't published by any authority of the city and paid for by the city? A. No, sir.

Recross Examination by Mr. Hanford.

Q. Mr. Ketcheson, have you any book to show—record to show when the 1885 directory was delivered?

A. I have got it here.

Q. Mr. Ketcheson, what is this book that you have before you now?

A. That is what we call our daily blotter, our entry book we entered all the work in.

Q. I see the title at the top of the page "Shop Order Book"? A. Yes.

Q. Would that be what you would call the book?

A. Yes, sir, when I received a job I would put it down there.

Q. This book includes the year 1885, does it?

A. Yes, that is the date there at the top of the book, 1885.

Recross Examination by Mr. Cruce.

Q. Mr. Ketcheson, look at your record there and see what date you received compilation of that directory that was to be published in 1885 and read the entry?

A. Well, it was on the 9th of March, 1885, "Edwin Green, 350 copies of the directory, and the number 354 pages." The first copy of the directory proper was received today, that is March 9th, completed in bindery, April 29th, 1885.

Redirect Examination by Mr. Allen.

Q. Mr. Ketcheson, you say that is not the official directory for the City of Leavenworth, or do you mean that it was merely compiled and published by a private concern?

A. Why, I don't know that the city had anything to do with it more than others had to do with getting out a directory.

Q. He was authorized by the city to get out——

By Mr. Cruce: We object to that.

A. That is just my presumption, I don't know.

By Mr. Cruce: We object to that, because if the city authorized the publication of that, there must be some ordinance and this is not the best evidence.

Q. Was that the only directory published in the City of Leavenworth for those years?

A. I think it was all I know anything about.

Q. Has it been generally recognized as authentic and correct and official?

By Mr. Blakeney: We object as asking for a conclusion.

Q. I will kill the word official. Authentic and correct?

A. That is my understanding, yes, sir.

Q. Are those the directories that were in common use in the City of Leavenworth? A. Yes, sir.

By Mr. Blakeney: We object as irrelevant, incompetent, and immaterial.

Q. What was Edward Green's occupation during those years?

By Mr. Blakeney: I object as incompetent, irrelevant, and immaterial.

A. Well, that is about all he done I guess, and little odd jobs around town, collector and so on.

Q. What was his chief occupation?

A. Why, he—— Before he started into the directory?

By Mr. Blakeney: We object as immaterial.

Q. I mean during the time, the years of 1885 and '86?

By Mr. Blakeney: Objected to as incompetent, irrelevant, and immaterial.

A. He was manager here for Dun's Directory—— Dun's Agency, Commercial Agency.

Q. So he devoted most of his time to the publication of this directory?

By Mr. Blakeney: Objected to as incompetent, irrelevant, and immaterial.

A. Well, after he got out of Dun's, that is about all he done.

Q. When did he get out of Dun's?

A. I can't say that.

Q. Was it prior to the time that he begun the publication of these directories?

A. Oh, he published two or three while he was in there and some afterwards, I can't say how many before, or how they went.

Cross Examination by Mr. Blakeney.

Q. When do they have the city election in Leavenworth?

A. Well, I wouldn't begin to give dates on that, never paid enough attention to it.

Q. Don't they have some fixed Monday?

A. I think the first Monday in April, I think.

Q. The first Monday in April?

A. That is my recollection.

Q. The city officers that you gave then for the year 1885, were the city officers that were elected in April, 1884, and would go out in April '85?

A. Well, now if I am allowed. I think they generally hold the directory up until after the officers are elected. That portion of the directory was about the last published.

Q. Hold the directory open for that purpose?

A. Yes, sir.

Q. But for no other purpose?

A. Well, and to get the official city directory, I expect——

By Mr. Blakeney: I would like to offer the first page of each.

By Mr. Allen: We will read them.

By Mr. Blakeney: 1885 is as follows: "Edwin Green's Municipal Record and City Directory for April, 1885. City Government"—— I don't care to encumber the record with any except with the councilmen, they are the only ones that seem to be elected. "First Ward, City Council, J. F. Richards and W. H. Cook. Third Ward—— I only give the second ward—— Second Ward, H. Burns, S. A. Miller. Fourth Ward, J. J. Roache, J. Birringer." Now, the City Directory of '86: "Edward Green's Municipal Record and City Directory for 1886: City Government, First Ward: John F. Richards and John W. Brandon; Third Ward, Harman Burns, Julia S. Edwards; Fourth Ward, Anton Swobada, Peter Everhardy.

By Mr. German: I object to the offer made by Mr. Blakeney, from both of the directories, on the ground that it is incompetent, irrelevant, and immaterial.

By Mr. Blakeney: Oh, I consent that they may be stricken then.

By Mr. German: We don't make any objections to the one.

By Mr. Blakeney: Well, I don't particularly care, let it all be stricken.

By Mr. Allen: I now offer that part of the directory of the City of Leavenworth, identified by the witness, appearing on page 15, as follows:

By Mr. Blakeney: We object.

By Mr. Allen: Edwin Green's Municipal Record and City Directory for 1885.

By Mr. Cruce: Objected to because it doesn't prove anything and the testimony is incompetent.

By Mr. Allen: And that part of the City Directory—

By Mr. Blakeney: We object for the same reasons stated by Judge Cruce.

By Mr. Allen: And that part of the City Directory for the year 1886, identified by the witness, appearing on page 16 as follows: Edwin Green's Municipal and City Directory for 1886.

By Mr. Cruce: The same objection urged to the last one.

By Mr. Blakeney: We object to it, and for the further reason that we were trying to offer the notations on that page and they were objected to by the United States, and we thought that they were incompetent, and consented that they be stricken.

By Mr. Allen: That part of the introductory part on page fifteen, showing that the same was signed Edwin Green, Leavenworth, May 24th, 1886.

By Mr. Cruce: Objected to because it is incompetent testimony, statements made not under oath and not binding upon anybody in this litigation.

By Mr. Blakeney: I object for the same reason.

Recross Examination by Mr. Allen.

Q. As the work would progress of printing and publishing the City Directory, state whether or not the compiler would continue to get data as to changes in the residences or addresses of people whose names appeared in there?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and to the competency of the witness.

A. Well, my understanding is that——

By Mr. Blakeney: We object to his understanding.

Q. You did the actual work of printing the paper?

A. Yes, sir.

Q. Done under your supervision? A. Yes, sir.

Q. You were at that time the head of the printing establishment that printed these directories? A. Yes, sir.

Q. State what your personal knowledge and recollection is of what was done in that respect?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. And as to the compiling?

Q. As to changes made in the addresses or residences of people, whether or not the names would be given you and the addresses changed to correspond with the new addresses?

A. Why, if I may be allowed to explain. After they had been completed and had the compilation, they would generally go over the lists and if they don't agree with our former residences, they generally would go around and verify them, and see if they are correct before they hand them to the printer.

By Mr. Blakeney: We move to strike the answer. Of course, it is incompetent, and a conclusion.

Q. Then, after this copy would be handed to the printer, would any changes ever be made in the——

A. Oh, yes, quite frequently.

Q. And they would learn of people moving and changing residences, that change was made in the directory?

By Mr. Blakeney: We object as incompetent, irrelevant, and not directed toward any definite time.

A. Yes, sir.

Q. State whether or not that was true with reference to '85 and '86? A. Why, they published notices requesting any one that had changed during the time that compilation had been taken to come to the office and make corrections and that was frequently—— I don't know but what there is a change in that of corrections before——

Q. The page you speak of is on page 40 of the 1885 directory, it shows new corrected and changes of locations?

A. Yes, sir. That is what I have reference to.

Q. When would that data be prepared?

A. That is about the last thing printed, that and the city officers there in the first part of it.

Q. Would be the last thing printed? A. Yes, sir.

Q. The same is true of the other directories, isn't it?

A. Oh, yes.

Q. Then, on page 48 of the directory for the year 1886, are a number of names appearing under errata; is that where the changes in the residences would be printed? A. Yes, sir.

By Mr. Allen: It can be agreed that none of the names that I have read into the record appear on either page forty of the '85 directory or page forty-six of the '86 directory, can't it?

By Mr. Blakeney: Oh, yes, of course.

Recross Examination by Mr. Blakeney.

Q. You don't remember about Mollie Letcher coming around just before the directory was out and notifying them that she was going to move in a few days after the directory was published? A. I wasn't acquainted with Mollie.

Witness dismissed.

And thereupon, Mrs. A. G. WILDS, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Pinson.

Q. You may state your name. A. Mrs. A. G. Wilds.
Q. Where do you live, Mrs. Wilds?
A. Seattle, Washington.
Q. What was your name before you married?
A. Alvina Dlabal.
Q. Where did you live in May of 1915? A. Seattle.
Q. Do you know Minnie Folk? A. Yes.
Q. Mrs. Minnie Folk? A. Yes.
Q. Do you know her husband, Harry Folk? A. Yes.
Q. When did you meet Mrs. Folk first?
A. I met her about—well, I was introduced to her about April, 1915.
Q. Where? A. At one of her neighbor's.
Q. In Seattle? A. In Seattle.
Q. Do you know where Mrs. Folk lives, her house?
A. Yes.
Q. About what day did you first go to Mrs. Folk's house, if you ever went there? A. July 26th.
Q. 1916? A. Yes.
Q. Do you know Mr. Kohler, a man named Kohler?
A. I do.
Q. How long have you known him?
A. A good many years.
Q. Had you talked with Kohler before going to Mrs. Folk's home? A. Yes.
Q. Had you discussed with him anything that you should do in connection with Mrs. Folk?
A. Yes, he wanted to know if I could let him know when Mrs. Folk was going to leave Seattle.
Q. Now, after that time, Mrs. Wilds, when did first talked to Kohler did he explain to you why he wanted to get this information?
A. He didn't explain anything; he just said he wanted the information for himself.
Q. Did he tell you of whom he represented?
A. He did not.

Q. Did he mention any matter of importance in which Minnie and her alleged son were interested? A. Yes.

Mr. Cruce: If the Court please, this testimony would be clearly inadmissible, it is hearsay.

The Court: Who is Kohler? What does the records show his connection with this case is?

Mr. Pinson: I may state it, Your Honor, if you care to hear it. Kohler was employee J. Truman Nixon, and Mrs. Wilds, then Miss Dlabal, was employed by him in order to ascertain when Minnie Atkins would leave Seattle.

The Court: Then probably it is unnecessary to detail the conversation between Kohler and her.

Mr. Pinson: It is for the purpose, Your Honor, of showing her purpose in talking to Mrs. Folk and her information and knowledge of the affairs of this case at that time.

The Court: I think the record is sufficiently clear to show that Kohler was interested and had her to seek this information.

Mr. Pinson: Very well, Your Honor.

Q. Had you talked to anybody else about this matter before going to Mrs. Folk's home on the occasion that you referred to? A. You mean the first time I ever went there?

Q. Yes. A. Yes.

Q. Who was that person? A. Mrs. Mann.

Q. Mrs. Betty Mann? A. Mrs. Betty Mann.

Q. Did she talk to you with Kohler, in company with Kohler? A. Yes.

Q. Did they appear to be associated in the matter? A. Yes.

Q. Now, what information, if any, did Mrs. Mann tell you they wanted to get?

Mr. Cruce: Objected to as hearsay.

The Court: Overruled.

Mr. Cruce: Exceptions.

Q. Go ahead, Mrs. Wilds.

A. Why, what was the question again, please?

Q. What information if any, did Mrs. Mann tell you that she wanted you to get in regard to Mrs. Folk?

A. She didn't explain a thing to me.

Q. What did she tell you to do in regard to Mrs. Folk?

A. She just told me to go over to Minnie's home and just let Minnie talk and see what Minnie had to say, and then to report to her.

Q. Now, Mrs. Wilds, at that time what was your profession or business?

A. Teaching school, I was going to go back to teaching school again.

Q. You had taught before? A. Yes.

Q. Now, on this visit which you referred to at Mrs. Folk's how did it happen that you went there at that particular time?

A. It happened very accidentally; I delivered two altered skirts that were sent there by one of her friends.

Q. To Mrs. Folk? A. Yes.

Q. Did you have a conversation with her on that occasion?

A. She merely stated that she received a letter from her lawyer, Mr. Hanford, and I made no comment upon any of her remarks.

Q. How long did you stay there upon that occasion?

A. About ten minutes, I should judge.

Q. Now, Mrs. Wilds, did you go back to her home again?

A. Yes.

Q. How frequently?

A. Just as often as I could, whenever she was at home.

Q. What was your relations with her? How did they become?

A. Why they was—she had me take too pairs of shoes—she asked me if I wouldn't try to stretch two pairs of shoes for her, the first time I was there; and I told her I would; and the second call I made there, I went there in regard to the shoes.

Q. Well, you didn't quite understand my question, probably. What relation afterward existed between you and Mrs. Folk?

The Court: Were you friendly?

A. Oh, we became very friendly.

Q. Did she talk very freely to you about matters connected with her affairs?

A. She did. That seemed to be the only thing that was on her mind.

Q. Now, can you recall at this time the conversations which you had with her on the various occasions when you went there?

A. I don't think I could detail every conversation but I remember the substance of them all.

Q. If I should call the names of persons to whom were referred, would you be able to detail to the Court what she said with regard to those persons? A. I think I could.

Q. Do you know Mr. Hanford?

A. I have merely met Mr. Hanford.

Q. Did you know him at that time? A. No, I didn't.

Q. Did you know Mr. Page at that time? A. No.

Q. Mr. Long? A. No, I didn't.

Q. Sadie James? A. No.

Q. I believe you said you had met Betty Mann?

A. Yes, Betty Mann.

Q. What, if anything, was said to you by Mrs. Folk with regard to Mr. Hanford and her connection and his with this case?

A. She said that Mr. Hanford had beat her out of money and she—shall I tell?

Q. Yes, ma'am, go ahead with that.

A. Said that Mr. Page paid out five—ten thousand dollars and that Mr. Hanford was to place this first five thousand in the bank for Mrs. Folk, and the second five thousand was to belong—to be paid to Mr. Hanford for his services, to follow, and she said that instead of that, Mr. Hanford kept the first five thousand himself, and when she went to the bank to draw out some money, there was not a nickel in the bank.

Q. Now, did she say what she did with Mr. Hanford on account of that transaction?

A. Yes, she said that she called him down about it, something terrible, and that she dropped him cold; that she got even with him.

Q. Now, was anything said about her re-employing him as a lawyer?

A. I asked her how she happened to take him back again, and she said that Mr. Long talked her into taking him back again; and she said that Mr. Long said that Mr. Hanford had been in the case so long and knew so much about the case, that the best thing she could do would be to keep him in the case, because they had told so many lies at the first trial——

The Court: When was this now? What year was that?

A. 1915.

The Court: What part of 1915?

A. It was in July and August.

Q. Now, I understood you to say that Mr. Long persuaded her to take Mr. Hanford back because he knew of the lies that had been told at the first trial? A. Yes.

Q. Did she refer at any other time to lies that had been told?

A. Yes, she did; she said that Mr. Long gave her drinks at the first trial and wanted to make her claim the nigger kid and she said, good God, she said, my claiming a nigger kid for a little money; Oh, no, not me, not yet.

Q. Are you trying to relate Minnie Folk's exact words as near as possible? A. I am trying, yes, I am.

Q. Was anything further said about lies or the manufacture of lies?

A. Yes, she said that Hanford was a crook and that all the lawyers were crooks; that Page and all of them she said, made her swear to lies, and if she had had her way about it in the first place, that she wouldn't have gone to law about it at all but that Mr. Page wouldn't have it any other way.

Q. Was anything said by her with regard to changing her story?

A. Yes, she said that she had a different story every time; she said that the plans had to be changed altogether, after the first trial.

Q. Did she say why?

A. Yes, she said that they had all sworn to lies; that they made her swear to lies and she said they tried to make her claim the nigger kid.

Q. Now, in making these statements in regard to the lies, did she refer to them seldom or frequently?

A. Frequently.

Q. Do you remember whether the name of Allen was mentioned by her?

A. Yes, it was; she said that at one time she received a letter from Mr. Long and one from Mr. Hanford, and they told her that there were 18 wells operating on the place; that they would tie things up soon, but that Mr. Allen had to remain where he is. I asked her who Mr. Allen was and she says, why he is the big Government man that caught them at the lies at the first trial, and they couldn't put him out of it very easily.

Q. Now, did she mention the city of Leavenworth, Kansas? A. Yes, she did.

Q. Did she speak of a visit there? A. Yes.

Q. State what she said in reference to that visit.

Q. She said that she had never—that all the niggers at Leavenworth were liars and crooks; she said that they all swore that they knew her, and she said that she never saw them before in her life until she went to Leavenworth.

Q. Mrs. Wilds, did you hear her mention the name Sadie James? A. I did.

Q. You may state to the Court in what connection—what was said in regard to *Said* James.

A. Well, she said she had to give Sadie James credit for finding her; she said Sadie found me alright and that she gave her a good many facts about herself but that she could have given her a great many more.

Q. Let me understand you. Minnie gave Sadie James a great many facts about herself? A. Yes, sir.

Q. Go ahead.

A. But that she could have given her a great many more but that she said that Sadie was being paid for finding out this information about her and she said let her find out for herself; and she further stated that Sadie James had been employed by Mr. Page; that Mr. Page paid her a thousand dollars to help manufacture the story about the nigger kid, and she said then Sadie double-crossed Mr. Page, and she told the truth to the Government and got another thousand dollars for that. She said two thousand dollars is pretty good for a nigger.

Q. That is as near as you can tell it, in exactly Mrs. Folk's words? A. Yes.

Q. Did you hear her mention the name of Frank Long frequently? A. Yes.

Q. In what connection besides those that you have mentioned, if you recall any other time?

A. She said that Mr. Long was the smartest man on earth; that he could make you lie and make you think that you were telling the truth. She said that he made her swear to lies alright, but that he couldn't make her swallow that negro dope.

Q. Mrs. Wilds, at that time, were you acquainted with any facts concerning the case or law suit, or controversy that was then in progress? A. No, I was not.

Q. Now, state to the Court, just what facts you have been advised of with regard to why this information was being sought, either what had been told you at that time, either by Kohler or Betty Mann.

A. Well, they said that it was a good cause, that I was working in the right cause. I told them I didn't want to get mixed up in any affairs of any kind and they said——

Mr. Cruce: Who said?

A. Mr. Kohler and Mrs. Mann; said that Mrs. Folk was trying to steal some money or get some money away from her child who was going ragged in the streets; that is what Mr. Kohler told me in the beginning and she said——

Q. Now, did he tell you what the name of the child was?

A. Mr. Kohler?

Q. Or Betty Mann, either. A. Yes.

Q. What name did they call? A. Tommy Atkins.

Q. Tommy Atkins. Did you ever hear Mrs. Folk mention the name of Tommy Atkins? A. Yes, I did.

Q. Once or many times, or a few times? A. Many times.

Q. Did you understand from your conversation with her what relation Tommy Atkins was supposed to bear to her?

A. She referred to him as Tommy Atkins.

Q. Do you recall that she ever referred to him as my boy or my son? A. No, sir.

Q. Throughout the time that you knew her? A. No, sir.

Q. Now, how else did you hear her refer to Tommy Atkins as to his being alive or dead?

A. She said that he—let's see, the woman that raised him she said that Tommy—that they had paid witnesses to swear that Tommy was drowned at Leavenworth, and that the woman who raised him [ ] and buried in the Muncie cemetery at Leavenworth; that they had five witnesses to swear that.

Q. In that connection did she state what she was depending upon for her money—what story?

A. Yes, she said I get my money on the dead Tommy Atkins. The other side is still searching for a live Tommy Atkins but they ain't never found him yet, she said that Mr. Page and Mr. Long told her that if the boy was alive that she wouldn't get a cent; that he had to be dead.

Q. So she referred to these persons as the live Tommy Atkins and the dead Tommy Atkins repeatedly, did she?

A. Yes, sir.

Q. Now, did she at any other time, ever change her story about whether she would get nothing if Tommy was alive?

A. Yes, at another time she stated—I asked her what if the other side would find the live Tommy Atkins; well then, she said, I would get half and he would get half.

Q. Now, Mrs. Wilds, what particular question did you understand from Mrs. Mann you should put to Mrs. Folk?

A. Mrs. Mann told me to ask Mrs. Folk this question. She says, ask her, she says, if you can get her to admit that there is a live Tommy Atkins, we have got her.

Q. Now, did you ask that question or that question in substance, of Mrs. Folk? A. I did.

Q. Now, just as near as you can, state the question just as you asked it, and give the circumstances and her demeanor and her answer.

A. Well, we were talking about Tommy Atkins and I said, well, was there really a Tommy Atkins, and she hesitated for quite a while, and made no reply, and then finally she said in a very loud tone of voice, she said, "Sure there was a Tommy Atkins; he is on record and they can't go back on that."

Q. Mrs. Wild, when were you first advised positively by any one of facts that gave you reasons to believe that there was no Tommy Atkins?

A. After Mrs. Mann was ready to leave Seattle at the close of her work there.

Q. Who was it—who gave you that information?

A. Mrs. Mann gave me that information.

Q. What did you do as a result of that information?

A. I told Mr. Nixon about it and I told Mr. Talley about it.

Q. Now, who is Mr. Nixon?

A. Mr. Nixon is the man who was at the head of this case.

Q. He was the man you were employed by? A. Yes.

Q. Finally understood that? A. Yes.

Q. And who is Mr. Talley?

A. Mr. Talley is—well, he is a lawyer; he is a lawyer, I guess.

Q. In Tulsa? A. Yes, he is with him.

Q. Did you advise anyone else?

A. Yes, the Department of the Interior.

Q. Did you advise Mr. Nixon and Mr. Talley personally or by a letter, or how? A. Personally.

Q. How did you advise the Department of the Interior?

A. By letter.

Q. Now, what reason did you have for notifying the Department of the Interior of that fact?

A. Why, because I thought it was a fraud.

Q. Just because you had been advised of the fact that there was no Tommy? A. Yes.

Q. Have you seen that letter that you wrote them since?

A. I have.

Q. Who had it when you first saw it? A. Mr. Bruff.

Q. Where was that? A. Seattle.

Q. Did he visit you there? A. He did.

Q. Mrs. Wilds, have you seen that letter since? A. Yes.

Q. It is in our possession, is it? A. Yes, sir.

Q. Now, you spoke of informing Nixon and Talley personally, how did you happen to be in Tulsa, if that is where you informed them? A. Mr. Nixon sent for me.

Q. You come from Seattle to Tulsa? A. Yes, sir.

Q. I mean did he advise you as to what he wanted you to come to Tulsa for? A. Yes.

Q. State to the court what that was?

A. He told me that he judged by my letters and my reports that I was a conscientious sort of person and he wanted me in Tulsa to check up on the work that was done in Seattle and on Mrs. Mann.

Q. Now, did he refer at that time to any report? A. Yes.

The Court: Who was this?

Mr. Pinson: This was Mr. Nixon who brought Mrs. Wilds from Seattle to Tulsa.

Q. You may state whether there were any reports in Mr. Nixon's office in regard to conversations had with Mrs. Folk?

A. Yes, there were all the reports.

Q. Of whom?

A. Of all the operatives who worked on the case in Seattle.

Q. Now, you refer to the operatives who worked on the case; what other persons besides yourself worked on the case in Seattle?

A. Mrs. Mann, Mr. Kolar, Mr. Briggs, Mr. Murphey, Mr. Wright and Mr. Wild, he was there a very little of the time.

Q. Now, what did you have occasion to do with regard to any reports?

A. They wanted me to go over these reports and check up as to the truthfulness about what some of the reports that they had in his office.

Q. What did you find as to those reports, as to their truthfulness or falsity?

A. Well, some of the reports, the conversations that some of the other operatives had had with Minnie I didn't hear.

Q. Well, as to those that you heard yourself?

A. Those that I heard myself there were a great many things in some of the other reports that were supposed to have been said in my presence when I was talking to Minnie, which never were said in my presence.

Q. Now, these other operators that you refer to, how could they hear a conversation that was carried on by you and Mrs. Folk? A. By means of a dictograph.

Q. Where was that dictograph placed?

A. About a block and a half in a building right close to Mrs. Folk's home.

Q. Now, were you ever at the end of the dictograph when the messages were received? A. No, I was not.

Q. Did you see the dictograph installed or did you ever see it after it was installed?

A. I saw it when it was being taken out.

Q. Now, with reference to the place in Mrs. Folk's house where that dictograph was located, where was it?

A. It was right above the door.

Q. Inside or outside? A. Outside.

Q. Why was the dictograph placed on the outside of the house?

A. Well, because Mrs. Folk was in the habit of sitting on the porch all the time, she was out there all the time.

Q. You knew the dictograph was there did you?

A. Yes, saw the wires.

Q. Saw the wires, I don't understand you?

A. The wires that were leading up to the dictograph above the door were in plain sight.

Q. I hand you Government's Exhibit A-99 and ask you what that is?

A. Picture of Mrs. Dean, Mrs. Folk, Mr. Wright and myself.

Q. Hold it so the Court can see it and identify Mrs. Folk on the picture? A. Right here.

Q. Now, state just where she is sitting or standing in the picture so that the stenographer may have it in the record.

A. She is sitting on the porch.

Q. On what part of the porch?

A. The front part of the porch.

Q. Is she on the steps or chair? A. On the steps.

Q. The picture then represents yourself, Mr. Wright, Mrs. Dean and Mrs. Folk? A. Yes.

Q. Where was that picture made?

A. Right at Minnie's home.

Q. What was the occasion of that picture being made?

A. It was the last day that the dictograph was in there and they had arranged to have the photographer come there and take that picture while the dictograph was being taken out and Mr. Murphy and Mr. Wright had a chance to be in the picture.

Q. And this picture was made at Minnie's home in Seattle? A. Yes, sir.

Q. Mrs. Folk's home.

Mr. Cruce: This picture was made while they were taking out the dictograph?

A. Yes.

Mr. Cruce: And so as to get a picture of Mr. Wright and Mrs. Dean?

A. Yes, sir, Mr. Murphy is also in the picture; he is the one who took the dictograph out.

Q. Now, I hand you Government's Exhibit A-100 and ask you to state to the court what that is?

A. A picture of Mrs. Dean, Mrs. Folk, Mr. Murphy and Mr. Wright.

Q. Was that taken at the same time Government's Exhibit A-91 which you have previously examined?

A. Yes, same day.

Q. Now, pointing to the person, looking we will say at the person sitting on the banisters of the porch there, what is his name? A. Mr. Murphy.

Q. What is that he has in his hand, if you know?

A. He is holding the dictograph and the coiled wires that the dictograph was attached to.

Q. And which had just been taken out?

A. That he had just taken out.

Q. Now, Mrs. Wilds, these statements continue over a period of about how long?

A. Well, three weeks altogether.

Q. How long after you began to go to see Minnie before the dictograph was installed?

A. About three or four days, somewhere along there.

Q. After the dictograph was taken out did you continue to call on her? A. No, I did not.

Q. Now, was she making these statements—— Let me ask you this question: What was the longest visit that you ever paid to Mrs. Folk? A. The second visit I believe it was.

Q. Was that before or after the dictograph was installed?

A. That was before.

Q. Were any of these statements made at that time or can you remember? A. Yes, a great many of them.

Q. And as I understand you, they were repeated from time to time by Minnie, repeated over and over again? A. Yes.

Q. Did she say anything at any time about regretting having testified falsely?

A. Yes, she said it doesn't pay to do wrong and lie about it. She says when once you have done wrong and lied about it, it is pretty hard to right things again. She said if she had had her way she would have told it her way at the beginning but Mr. Page wouldn't let her. he wanted to go to law.

Q. State whether Mrs. Folk related to you the circumstance in regard to this Mr. Kolar bringing Tommy Atkins there? A. Yes, she did.

Q. State what that conversation was?

A. She said that Mr. Kolar came to her house one day, came to her home, and asked her—that he told her that he had Thomas Atkins and could bring him to her in five minutes if she wanted to see him. And she said yes go get him. She says bring him here and I will put a bullet through each one of you, the first one through Mr. Kolar and the second through Tommy and then you can dress him up and take him to Tulsa and tell them how it happened.

Q. Did she state whether she had a revolver under her apron at that time? A. Yes.

Cross Examination by Mr. Stuart.

Q. Your name was—— What was your name? Mary DeLabal? A. D'Laval.

Q. Was that your maiden name? A. Yes, sir.

Q. What is that French or Hungarian?

A. It is a Bohemian name.

Q. Where did you come from to Spokane?

A. I was never in Spokane.

Q. Well, where did you come from to Seattle?

A. From Kansas.

Q. What part of Kansas? A. Wilson, Kansas.

Q. When did you leave Wilson, Kansas?

A. I think it was during the time of the Portland Fair the first time I went to Seattle.

Q. Did you have any trouble before you left there?

A. Seattle?

Q. No, Kansas, did you have any trouble of any kind?

A. No.

Q. Did you go straight to Seattle? A. Yes, sir.

Q. And where did you settle at Seattle, what was your place of abode there?

A. At first I lived on Spring Street and then I lived on Eighth Avenue and Westlake Avenue.

Q. Give us the places you lived in Seattle?

A. You mean from time to time?

Q. Yes, from the time you went there until you met Betty Mann?

A. I taught school, I wasn't right in Seattle all the time.

Q. Well, where were you? A. Where I taught school?

Q. Yes, where did you live first when you went up in that country, whose house did you live in?

A. I roomed with a roommate from home, that is a friend of mine from home.

Q. I asked you where you roomed?

A. Well, let me see if I can think of the address exactly; I think the first place was 618 Spring Street.

Q. 618 Spring Street. Who was the proprietor of that place? A. A lady by the name of Mrs. Stors.

Q. Where was the next place? A. 811 Eighth Avenue.

Q. Who was the proprietor of that place?

A. Mrs. Ferguson and Mrs. Butler.

Q. Was that a regular rooming house? A. Yes.

Q. Decent place? A. Yes, sir.

Q. Where was the next place you lived?

A. 2041 Westlake.

Q. You know a man by the name of Nixon, don't you?

A. Yes, sir.

Q. Where did you get acquainted with Mr. Nixon?
A. In Tulsa.

Q. In Tulsa, Oklahoma? A. Yes, sir.

Q. What year? A. 1915.

Q. 1915? A. Yes, sir.

Q. He sent you the money to come to this country, didn't he? A. He did, yes, sir.

Q. He did. Do you know why he sent you the money to come to this country? A. Yes.

Q. Why?

A. He told me that he wanted to check up on our Seattle report; that is, he judged by my reports that I was a conscientious sort of person and he wanted to check up on the report of Mrs. Mann.

Q. Did you come down here? A. I did.

Q. And did you and he check them up? A. Well, yes.

Q. You and he were trying to have a Tommy then yourself? A. No, sir.

Q. Wasn't trying to get a live Tommy to stand up?
A. No, sir.

Q. Didn't Mr. Nixon tell you he had tried to make a live Tommy stand up? A. No, he made no such remark.

Q. Did he say anything like that?
A. Well, he had a Thomas Atkins.

Q. What sort of looking gentleman was that that Mr. Nixon had?

A. He was very dark and he was slender and I should say a little shorter than the medium, very slight and neat.

Q. Mr. Nixon had a scheme by which he was to work off a fake picture on Minnie? A. No, sir.

Q. Wasn't you to present the photograph to Minnie?
A. No, sir.

Q. Didn't you try to get to see Minnie so you could show her a photograph? A. No, sir.

Q. You did not. Now, is that the same Mr. Nixon—— Are you the same lady that threatened to sue Mr. Nixon for white slavery?

A. No, sir—— Well, I didn't threaten to sue him for white slavery.

Q. Didn't you go to Mr. Page and tell Mr. Page that Mr. Nixon had treated you in that way and that you wanted to be advised about getting the law and prosecuting him?

A. I did not positively not.

Q. What did you tell him?

A. I told him that Mrs. Mann made a suggestion to me that we should try and get our money from Mr. Nixon by frightening him with that charge and I would not consent to it.

Q. Now, let's see. Betty told you to put up a White Slave game on Mr. Nixon, didn't she?

A. It was up to me.

Q. I say she told you to put up the game?

A. She didn't tell me to do it, she said I could if I wanted to.

Q. Well, she suggested it would be the thing to do, didn't she? A. Yes.

Q. You and her talked it over and you refused to do it?

A. I refused, yes, sir.

Q. You did consult Mr. Page about it?

A. I didn't consult Mr. Page, no.

Q. Did you talk with him about it?

A. I mentioned it to him.

Q. Why did you mention it to Mr. Page?

A. Why, for the simple reason—— Well, I just went to his office to see Mr. Page, just to see Mr. Page before I left Tulsa.

Q. Just a matter of curiosity? A. That is all.

Q. And while there you opened up on this white slave story? A. No, there was no spread about it.

Q. But you opened up and told him about it?

A. I told him what I told you.

Q. And that is the first time you ever saw him?

A. Yes, sir.

Q. And you told him how Mr. Nixon had treated you?

A. Well, I said I had worked for Mr. Nixon, yes.

Q. Told him that he mistreated you?

A. Told him the mystery?

Q. Told him that he had mistreated you?

A. Yes, I mentioned the fact that he owed me the money.

Q. And you told him that Betty Mann wanted you to put up the white slave game on him?

A. I said that she suggested it to me.

Q. Suggested that to you? A. Yes, sir.

Q. That is all you said to Mr. Page, is it? Just tell us all that was said there. You have a wonderful memory haven't you?

A. Well, I hope so. I went into Mr. Page's office just to see Mr. Page; I had heard so much about him and I never saw him and as far as talking about the case I talked to a number of people about it.

Mr. Stuart: Now, your Honor, she is wandering.

The Court: Just proceed to tell as near as you can what conversation occurred between you and Mr. Page when you went to see him. That is the question.

A. Well, I told him first who I was and he said: "Oh, yes," and he called in Mr. Hanford and he asked me if I had ever known Minnie and I said yes. And he said Betty Mann, yes. He said she is quite a character, isn't she? She has done quite a good deal of work for me. And I said I have met Mrs. Mann in Seattle and worked with her some. And I happened to mention this merely off handed about Mr. Nixon, that Betty Mann had said I could get my money in that way. Mr. Nixon sent for me out west. He said he had a better job for me than teaching school, and told me to give up my position there. And after I got to Tulsa he had no job for me, that was all. He told me to stay in Tulsa——

Q. I didn't ask you to tell what Mr. Nixon said. You know what the facts are.

The Court: We are getting back now to the question as to what occurred between this witness and Mr. Page at that meeting.

Mr. Pinson: If that conversation was had there your Honor between the witness and Mr. Page——

The Court: I don't understand that that was a part of the conversation. Proceed now, Mrs. Wilds, and state what the conversation was. Did you in that conversation state to Mr. Page about Mr. Nixon having sent for you to come and saying that he had a better place for you than teaching school?

A. I don't remember if I explained all those facts.

The Court: Just go on and state what occurred between you and Mr. Page.

A. I told Mr. Page that I had had trouble in getting money from Mr. Nixon; and I said I went to several lawyers and none of them seemed to want to take it up. And he said: "Go to my lawyers," and gave me the name, I forget what the name is now, they were in the First National Bank building. So, I went to see the lawyers.

Mr. Stuart: Now, you are getting off again.

The Court: Is that all that occurred between you and Mr. Page? That is the question. Was there any further talk that you now remember between you two at that time?

A. No, sir

Q. Well, now, Betty Mann came to Seattle and employed you, didn't she? A. Yes, sir.

Q. Who was Betty Mann representing at that time?

A. She was representing Mr. Nixon I learned afterwards.

Q. Representing Mr. Nixon? A. Well, yes.

Q. Who did she tell you she was representing?

A. She didn't tell me.

Q. Do you mean to tell the Court that Betty Mann came out there and employed you to do this work without telling you who it was she wanted to get this property for?

A. She didn't explain anything to me. She merely said it was in a good cause.

Q. When did you start in to the detective business?

A. I never started into detective work.

Q. You never was a detective? A. No, sir.

Q. How came her to come to you?

A. How came Betty to come to me?

Q. Yes?

A. I was employed by Mr. Kolar not as a real detective but merely to let him know when Minnie would leave Seattle.

Q. Who was Mr. Kolar? A. Mr. Kolar?

Q. Yes? A. I was told he was a detective.

Q. Well, didn't you never see him? A. Yes.

Q. Well, he did employ you didn't he? A. Yes, sir.

Q. Well, what was his position, a detective?

A. I think so.

Q. Where did he live, in Seattle somewhere, didn't you try to locate him, find out who he was?

A. No, I did not.

Q. Did he say he represented this man Kolar?

A. He didn't tell me who he represented at all.

Q. Didn't say who he represented?

A. I didn't ask him any questions and he didn't explain.

Q. How long had you lived in Seattle did you say at that time?

A. Several years, let me see, about nine or ten years.

Q. Had you ever heard of Mr. Kolar before? A. Yes.

Q. You had heard of him as a character there in town?

A. No, sir, I knew nothing of his reputation whatever.

Q. How did you hear of him, what kind of a man?

A. Just a detective, that is all I heard.

Q. Now, where did you and Kolar first meet?

A. I met him when I first went to Seattle, was merely introduced to him.

Q. How came you to be introduced to him in Seattle six years before that? A. At a meeting.

Q. What kind of a meeting? A. Just a social gathering.

Q. What kind of a social gathering?

A. Why the Bohemian Club.

Q. The Bohemian Club? A. Yes.

Q. Was Kolar there and you there? A. Yes, sir.

Q. Who introduced you to Mr. Kolar?

A. I do not remember.

Q. Did the introduction ripen into an intimate acquaintance?

A. No, sir, I didn't know Mr. Kolar was in Seattle.

Q. Did you ever see him after you were introduced to him until he employed you? A. No, sir.

Q. Never saw him afterwards?

A. No, unless it was immediately after I met him.

Q. Then never again for six or seven years?

A. No, sir.

Q. Nine years. How long was it?

A. About nine or ten years.

Q. Then Mr. Kolar came to you? A. Yes.

Q. Now what was it he said, just tell every word he said?

A. He was very anxious to learn of Minnie's movements and he knew that I was in the neighborhood and had a chance to hear when Minnie would leave Seattle, and all he asked of me is to let him know when she would leave Seattle. I told him I didn't want to get mixed up in anything, and he said you wont, that is all I want to know.

Q. You did undertake, however, to get a history of Minnie's life, didn't you? A. No, I didn't.

Q. You did undertake to get all she knew about this law suit, didn't you? A. I just let her talk.

Q. You undertook to get it?

A. If that is what you mean, yes, sir.

Q. You went there for that purpose didn't you?

A. Well, yes.

Q. Yes, you went there for that purpose. Now, who sent you there to get that information? A. Mrs. Mann.

Q. Mrs. Mann did. Now, what relation was there, if you know, between Betty Mann and Kolar, did you see them together? A. Yes, sir.

Q. They talked together frequently? A. Yes, sir.

Q. And you were with both? A. Yes, sir.

Q. What occurred at the first conversation between you and Betty Mann and Kolar and where was it?

A. You mean where I met Betty Mann?

Q. And Kolar together?

A. It was at a cafe. I think the first evening she landed in Seattle.

Q. What Cafe? A. I believe it was the Newport.

Q. What part of town? A. On Madison Street.

Q. And did you go in a booth together, you three?

A. No, sir, we had a table right out in the open.

Q. Did you three talk together there? A. Yes.

Q. Now, what occurred in that first conversation?

A. Not very much of anything. It was just an enjoyable time. I didn't talk with Mrs. Mann that time.

Q. You didn't talk with Mrs. Mann at all?

A. Not a great deal.

Q. Well, what was said?

Q. There was entertainment going on.

Q. What was said about this case?

A. Nothing to me that night.

Q. What was said between Kohler and Betty Mann about this case?

A. To me? Well, they—Betty Mann said the—the same thing that Kohler told me when he got me to talk—tell him of Minnie's movements.

Q. Was that to watch Minnie and see when she left?

A. Yes.

Q. Was that all that Betty said? A. No.

Q. What else did she say?

A. She said—I told him that I didn't want to get mixed up in anything—any trouble of any kind and she said it was in a very good cause and that nobody would work like that if it wasn't the right kind of cause. She said that the mother was trying to beat her child out of money.

Q. That her mother was trying to beat her child out of some money? A. That is what Mrs. Mann told me.

Q. That was the Mann story? A. Yes, Betty Mann.

Q. Now, what did Kohler say when Betty said that?

A. Well, he was very much in favor with my keeping right on with the case.

Q. Then you understood from Betty there that you were to watch Minnie and report, because Minnie was trying to beat her own child out of some money. That is the way you understood it? A. Yes, sir.

Q. Then when you separated that night, when was the next time that you saw her?

A. I believe it was the next day.

Q. The next day? A. Yes.

Q. Now, what occurred between you the next day?

A. Well, that is when Betty told me about the mother and the boy; that the mother was trying to beat——

Q. I thought you said it was the first meeting?

A. I said it was merely an evening of entertainment and there wasn't anything said pertaining to the case.

Q. Oh then, we will come to the second meeting.

A. That was said——

Q. Was that *was* all that was said at the second meeting?

A. Practically.

Q. Where was this second meeting?

A. At the Wright hotel.

Q. At the Wright hotel, in the room up in the hotel?

A. Yes, sir.

Q. Whose room? *A.* Mrs. Mann's room and you and Kohler went up in Betty Mann's room and had that talk?

A. Yes.

Q. Now, when was the next meeting?

A. Well, I was with Betty a great deal every day.

Q. With Betty a great deal every day. Were you rooming with her? A. No.

Q. Did you stay up in the room most of the time?

A. Well, a good part of the time.

Q. And when was the first time that Betty first unfolded to you her scheme?

A. When we finished our work in Seattle.

Q. When you finished your work?

A. That is when we finished working on the case, I mean.

Q. How long were you with Betty in Seattle?

A. About three weeks altogether.

Q. Three weeks? A. Very nearly.

Q. Who showed up there besides Kohler while you were working for Betty—name some of them.

A. Mr. Briggs.

Q. Who is Mr. Briggs?

A. Well, he is just one of the operatives.

Q. Operative? Who else? A. Mr. Murphy.

Q. Mr. Murphy? A. Mr. Wright.

Q. Mr. Wright?

A. And Mr. Kohler, and Mr. Wilds, he was there very little of the time.

Q. Mr. Wilds? A. Yes, sir.

Q. Now, let me ask you, did anybody show up in Seattle from Oklahoma while you were working with Betty?

A. Not to my knowledge.

Q. You didn't see any of them? A. I didn't see anyone.

Q. You didn't see anyone? A. No, sir.

Q. Now, did you go with Betty Mann any where on a trip? A. No, not with Betty.

Q. Who was it that you went with?

A. Mrs. Folk at one time.

Q. Mrs. Folk, what trip was that that you took with Mrs. Folk? A. A trip to Everett.

Q. Where from to Everett—what place? A. Seattle.

Q. To Everett? A. Yes, sir.

Q. How far was Everett from Seattle?

A. I don't know the exact number of miles; it isn't a great distance.

Q. How did you go out to Everett? A. What is it?

Q. How did you go out to Everett?

A. In an automobile—Minnie's automobile.

Q. Who drove it? A. Harry.

Q. Who is Harry? A. Her husband.

Q. Harry Folk? A. Yes, sir.

Q. He drove it? A. Yes, sir.

Q. Now, will you tell me the first time you ever visited Minnie Folk's house, the very first time?

A. The very first time?

Q. The very first time, yes. What month was it and what year?

A. I visited her home on the 26th of July, I believe.

Q. What year? A. 1915.

Q. 1915. Did you go alone? A. Yes.

Q. Now, you never had met her up to that time, had you?

A. I believe I was introduced to her but I wouldn't swear to that. I think I was introduced to her before that.

Q. Now, you got into her house—went down to her house through her dressmaker, didn't you? A. Yes, sir.

Q. What was her dressmaker's name?

A. Mrs. Feldhusen.

Q. What did you tell Mrs. Feldhusen when you made up your mind to go to Minnie's house—what did you tell her?

A. I didn't tell Mrs. Feldhusen anything; I don't think she knows until this day that I was ever in Minnie's house.

Q. Didn't you say a minute ago that you got in there through Mrs. Feldhusen?

A. Mrs. Feldhusen asked me to deliver two altered skirts to Minnie as a favor to Mrs. Feldhusen; on my way home I was to deliver them.

Q. You asked her to let you deliver them, didn't you?

A. No, sir.

Q. How did she know that you knew Minnie?

A. She knew her very well.

Q. How did she know you knew her?

A. I believe that is the way that I was introduced to her.

Q. At Mrs. Feldhusen's? A. Yes.

Q. Mrs. Feldhusen asked you to take those two skirts down to Minnie's? A. Yes, sir.

Q. You took those two skirts down there to make your first appearance as an inquisitor in the case, didn't you?

A. That was purely accidental.

Q. Purely an accident? A. Yes, sir.

Q. That was after you saw Betty Mann, wasn't it?

A. Yes, sir.

Q. Why didn't you talk to her then? A. When?

Q. That evening. A. To whom?

Q. Minnie Folk?

A. I didn't want her to think that I was there to obtain any information; that was purely accidental that, I stopped there.

Q. You didn't talk to her there that evening, did you?

A. Very little.

Q. You never got inside of her house, did you?

A. I had very little to say to Minnie.

Q. Did you ever get inside of Minnie Folk's house?

A. Yes.

Q. Didn't you ask her to let you stay all night with her?

A. No, sir.

Q. And didn't she tell you that you couldn't stay all night there?

A. No, sir, she suggested one time that I stay all night, though, when she wanted to take me on a fishing trip.

Q. She suggested that you stay all night with her?

A. Yes.

Q. Sure of that? A. Yes, sir.

Q. When was that? Give us the time when she suggested that you stay all night with her.

A. Let me see if I can recall the exact date—it was in August.

Q. In August? A. Yes, sir.

Q. Who was there? Anybody? Was Harry there?

A. I don't remember; I don't think he was when she said that.

Q. You don't think he was present?

A. No, when she asked me.

Q. What time of day was it that she asked you to stay all night out there? A. It was in the evening.

Q. What time in the evening?

A. Oh, about six o'clock or somewhere along there.

Q. Six o'clock in the evening? A. About that time.

Q. Now, that after you had been there several days, was it? A. Yes, sir.

Q. While your dictaphone was there? A. Yes.

Q. Don't you know the dictaphone was put in one day and taken out the next? A. It was not, no, sir.

Q. It was not? You did not know that Harry Folk found it there and pulled the wires out, did you?

A. No, he didn't do anything of the kind.

Q. He did not? A. No, sir.

Q. You know that to be a fact that he did not do that?

A. I do, I do.

Q. And you do know that that dictaphone was not put in one day and taken out the next? A. I do.

Q. Well, if you moved it from the place where it was first put, where did you put it—it stayed there at the same place all the time, didn't it? A. Until they moved it from the house.

Q. It stayed at the same place at the house where you installed it all the time it was there, didn't it?

A. All the time it was there, yes, sir.

Q. It never was moved, was it?

A. Until Mr. Murphy took it out.

Q. Took it out? A. Yes, sir.

Q. You said that dictaphone didn't talk right?

A. No, sir, I didn't say anything of that kind.

Q. Didn't you say a part of it—something in the report —that it recorded something that Minnie said which she didn't say?

A. Well, I can't say what the other operators did.

Q. Didn't you say that dictaphone report reported Minnie as saying certain things that she didn't say to you?

A. It wasn't the dictaphone.

Q. Well, what was it?

A. Well, the operatives had things in their reports that I didn't have.

Q. The operatives had things in their reports—tell me some of them. A. Mr. Briggs——

Q. Mr. Briggs, what did Mr. Briggs have in his report that you had never heard of?

A. Oh, I don't know as I remember all of it.

Q. Well, now, tell it to us; it is very important. Think of it.

A. I don't know whether it was Briggs or Murphy.

Q. Well, you said it was Briggs. If it wasn't Briggs, tell me who it was. A. Mr. Murphy had some things.

Q. Well, was it Murphy? You said it was Briggs and took that back; was it Murphy?

A. No, I didn't say it was Briggs.

The Court: Now, understand, you are asked now with regard to Briggs' report; whether there were things in Briggs' report that you hadn't heard. Now, if you remember any of those, state that and get through with Briggs first.

A. I didn't read all of the reports but I read some of them and I can't state definitely what was in each report; what was said in each report that was not true but I know that they were not like mine.

Q. Well, then, there was not a single one of them exactly accurate so far as you could see?

A. Well, there was some of them, yes.

Q. What report did you read that was accurate, that had not been added to? Which one?

A. Well, Mr. Wilds' reports were very short and there was not a great deal in them.

Q. Will you say the Wilds report was just as you heard it? A. Yes, sir.

Q. How about Briggs'? You read Briggs' report, didn't you?

A. Yes, I looked over them, that is, most of them; not all of them.

Q. Will you just answer my question. You read Briggs' report, didn't you? A. I think so.

Q. You read every word of it, didn't you, and you know that Briggs' report didn't represent it as you heard it, didn't you?

A. Well, certainly there were things in all—most of the reports that I had never heard; that is what I am speaking of.

Q. That is alright. Then, there were things in Briggs' report that you didn't hear? A. Yes.

Q. And things in Murphy's report that you didn't hear?
A. Yes.

Q. You were doing the talking, weren't you, with Minnie? A. Yes, sir.

Q. And you were the only one doing the talking to Minnie, weren't you? A. Minnie was doing most of the talking.

Q. But Minnie and you were doing the talking. Was anyone with you when you were talking? You were the one getting the information and they were taking it back yonder, weren't they? Now, Briggs' report didn't tell it as Minnie told it to you, did it? Can you answer that question?

A. Well, there was a great deal in the report that I hadn't heard. That is the only way that I can answer.

Q. A great deal in Briggs' report that you hadn't heard from Minnie's lips, isn't that so? A. Yes, sir.

Q. Now, take Murphy's; there was a great deal in Murphy's report that you hadn't heard from Minnie's mouth, too?
A. Yes, sir.

Q. What is the other one? A. Mr. Wright?

Q. There was a great deal in Mr. Wright's report that you hadn't heard from Minnie's lips? A. Yes, sir.

Q. Do you know how it came in there?

A. I can't state definitely how it came in there.

Q. Do you know who put it in there?

A. I presume they put it in.

Q. Do you know what they put it in there for?

A. I don't know.

Q. You know it is not a true report, don't you, Mrs. Wilds, what you heard Minnie say, don't you?

A. I don't know whether what I heard of Minnie is true or not.

Q. I didn't ask you that. I say you know those reports you read of Minnie's, were not true reports of what you heard Minnie say? A. Yes, sir, they were not.

Q. They were not. You say yes, sir, and you mean that they were not? A. They were not.

Q. They were not true reports. Now, who was hanging out at the other end of that line? Who was there?

> Mr. Pinson: Your Honor, we submit that she could not have the information——

> The Court: Well, find out. Do you know who was at the receiving end of the dictagraph while you were talking to Mrs. Folk?

A. I couldn't see them.

> The Court: Have you any means of knowing?

A. Some of the notes and reports that they furnished I saw those.

Q. Mrs. Wilds, you were present when this dictagraph scheme was concocted, wasn't you, you was present?

A. I was not in the room when Mrs. Mann made the arrangement with these men to put the dictagraph in there.

Q. You heard it, didn't you?

A. Yes, sir, I heard about it.

Q. Now, you know the men that were going to assist Mrs. Mann in running that dictaphone, don't you? A. Yes, sir.

Q. You know them. Now, tell every one of them?

A. I met them at that time, I didn't know them before that.

Q. All right. Tell the name of every one of them?

A. Mr. Briggs and Mr. Wright and Mr. Murphy and Mr. Kohler and Mr. Wilds.

Q. And Mrs. Wilds was Mr. Wilds your husband?

A. Yes, sir.

Q. Your husband was at the other end? A. Yes, sir.

Q. Did he make a report too? A. Very few of them.

Q. Was his report right? A. Yes, sir.

Q. His report was exactly right? A. Yes, sir.

Q. But all the balance were wrong? A. Yes, sir.

Q. Now, when is the first time that you met Mr. Robinson the Pinkerton Detective?

A. I believe it was in, let me think, I believe it was in August, I am not quite certain.

Q. Which August? A. Last year.

Q. August of last year, and where did you meet him?

A. In Seattle.

Q. Under what circumstances did you meet Mr. Robinson? A. He came to see me with Mr. Bruff.

Q. With Mr. Bruff? A. Yes, sir.

Q. Where did they have the conversation with you?

A. At my apartments.

Q. Your apartments? Where was your apartment, Mrs. Wilds? A. 701½ University Street.

Q. 701 University Street? A. 701½ University.

Q. How long did they talk with you?

A. Oh, an hour or so perhaps.

Q. Did they have any documents with them of any kind?

A. They had the letter that I had written to the——

Q. The letter that you had written to the Secretary?

A. Yes, sir.

Q. Have any other documents?

A. I don't think so, I don't remember any.

Q. You don't remember any? Now, can you tell who first spoke to you? A. Mr. Bruff.

Q. What did Mr. Bruff say to you?

A. He said that he represented the Department of Justice and that Mr. Robinson represented—— He introduced Mr. Robinson, he said that he represented the interests of the Government I believe he said.

Q. Mr. Robinson also was a Government man he said?

A. Well, he merely put it in that way.

Q. Representing the interest for the Government?

A. The interests of the Government.

Q. Did he tell you that he and Robinson were working together in the matter? A. Well, that is all he said.

Q. All right. Go ahead. Just tell us as near as you can what occurred there. A. What is it you want?

Q. Go ahead and relate the further conversation?

A. Well, Mr. Bruff handed me this letter and asked me if I had written it and I told him yes; and well, we talked about the—— He asked me why I had written it and all that, and I told him about having no faith in the case, that I thought it was a fraud and that is the reason that I did it.

Q. That was the reason you did it?

A. Yes, sir, and I told him why.

Q. Now, whose case was that? A. Minnie Atkins.

Q. Now, I say whose case were you talking about, Nixon's case wasn't it? It was Nixon's case that Betty was representing at that time?

A. Well, I told him I had no faith that there was a Tommy Atkins?

Q. I understand, but representing Nixon you were when you made that report?

A. Yes, I told him I had been representing Nixon.

Q. And you had no faith in Tommy Atkins. How long did they talk to you?

A. Well, just about an hour or so, I don't remember exactly.

Q. Well, then did they tell you that they wanted you as a witness in this case?

A. They said perhaps they would send for me.

Q. Send for you. Did they see you after that?

A. Yes.

Q. Who saw you, which one or both? A. Both of them.

Q. How long before they saw you again?

A. Well, in October I believe it was they sent for me, summoned here to Muskogee.

Q. The following October? A. Yes, sir.

Q. Did you see them after that again? A. Yes.

Q. Did you talk over the case with them each time as to what your testimony would be?

A. We talked over the case in the presence of others, yes.

Q. Did they take down in writing what you were going to tell? A. Yes.

Q. When did they take it down, at the first conversation?

A. You mean down here—— Yes, sir.

Q. No, up yonder at Seattle? A. No.

Q. When did they take it down here?

A. I don't understand you just exactly.

Q. I say what period did they take what you were going to tell down here, what day was it they took down what you were going to swear to?

A. Well, *the* August 17th I believe it was.

Q. Now, who was present when that first written statement of yours was made? A. Well——

Q. Tell us everybody that was present?

A. Mr. Bruff and Mr. Robinson if you mean here?

Q. Yes, in what office was it here in Muskogee?

A. I thought you were talking about Seattle.

Q. No, did they take one in Seattle, a written statement?

A. Just merely I told them——

Q. Let's go back to Seattle then, did they take a written statement in Seattle? A. Yes.

Q. You said at first that they did not?

A. Well, I had the two places confused.

Q. Now, who has taken that statement in Seattle?

A. Mr. Bruff.

Q. Mr. Bruff? He took it down in long-hand or did he have a short-hand person there, or have a typewriter?

A. Why he took some things down just in long-hand.

Q. And what did the other things that he took down, what were they in?

A. They were typewritten, I forget just exactly.

Q. Just tell us how he took it down, some in long-hand and some on type and some in short-hand, is that right?

A. He didn't take anything in short-hand.

Q. Did he take anything on the typewriter?

A. I showed him my report notes.

Q. That isn't answering my question?

A. And from those, those statements were made.

Q. Did he take anything on the typewriter?

A. He had typewritten it afterwards.

Q. He take any of your conversation on the typewriter?

A. No, sir.

Q. Did he take any of your conversation down in long-hand?

A. No, he didn't take it down then, only looked over the report.

Q. Then you didn't make any written statement to him in Seattle? A. I don't know that I just understand you?

Q. I mean did he write down what you knew about this case on paper? A. Some things, yes.

Q. Well, now, I asked you that, how many things did he write down and how much—— How much volume did it occupy? A. I don't know just exactly how many pages.

Q. About how much, page or two pages, ten pages or five; now, just tell us what was it?

A. Seven or eight or nine or ten, I don't remember.

Q. Seven or eight or nine or ten? A. Just exactly.

Q. And as you told it *you* took it down, or did he talk to you and then put it down, how was it done, explain it to the Court?

A. He looked over my reports and he asked me if those things were true and I would tell him that they were or that they were not which ever it was.

Q. Mrs. Wilds, did you and he talk and then did he put it down, you and he would talk about a fact before he would put it down, wouldn't you now, do you remember?

A. No, I don't think he took anything like that down.

Q. You don't think he took it down, now, you are mistaken about that now are you?

A. I wouldn't swear to it, I don't remember just how he —I know there was a statement that I made to him that I had signed.

Q. That you signed? A. Yes.

Q. Well, if you signed a statement up there somebody put the statement down, didn't they, Mrs. Wilds? A. Yes.

Q. Now, who put it down?

A. Well, Mr. Bruff did I guess, I would just have to stop to think I guess.

> The Court: Well, stop and think. You are asked now about the first meeting there in Seattle. Where was that, at your apartment?

A. Well, he asked me a few question about my occupation and things like that.

Q. Put that down? A. Yes, sir.

Q. And then he asked you what Minnie had said, didn't he, when you had visited her? A. Yes.

Q. And he put that down, didn't he?

A. Well, he must have put it down, but I don't remember just exactly how he did it.

Q. Well, we will just then relieve you of that. You did make a written statement in Seattle, didn't you?

A. Yes, sir.

Q. And Mr. Bruff wrote it down in Mr. Robinson's presence, didn't he? A. Yes, sir.

Q. Your statement in Seattle? A. Yes, sir.

Q. Now, when was the next time that you made a written statement about it, when was the next written statement that you made in this case? A. The next written statement?

Q. Yes?

A. I didn't make any written statement of it.

Q. You didn't make any additional written statements? Are you certain of that?

A. Just copied my old, that is the notes.

Q. Copied your notes? A. Yes, sir.

Q. That was in October following August?

A. That was in August when he was there.

Q. And you came down here and made another statement in October didn't you? A. Yes, in the presence of others.

Q. Now, who was present when you made that other statement? A. Mr. German and Mr. Allen and Mr.——

Q. Robinson? A. I believe so.

Q. Yes, Mr. Robinson, and who else? A. Mr. Bruff.

Q. Mr. Bruff?

A. And Mr. McMillan, that is the name I think; I was trying to think of that.

Q. You never have made a statement in this case unless Mr. Robinson and Mr. Bruff were present, have you?

A. Yes, sir, I have.

Q. I mean until you came to Court this time, until you came to Court this time? A. You mean in Seattle?

Q. No, anywhere until you came to Court this time, you haven't made a statement unless they were both present?

A. I don't remember whether Mr. Robinson was present on all occasions or not.

Q. You don't remember?

A. I don't remember; he was present at some.

Q. Who did you get a wire from to come down? Mr. Robinson? A. No.

Q. Mr. Robinson met you at the train, didn't he?

A. No.

Q. He took you up to your room in the hotel, didn't he?

A. What do you mean, last October?

Q. No, when you got here the other day?

A. No, sir, I went up there alone.

Q. You went up there alone? A. Yes, sir.

Q. Mr. Robinson was the first man that you met, wasn't he, when you got here? A. I called up.

Q. Wasn't he the first man that you met when you got to the hotel? A. I called him over the 'phone.

Q. Where did you get him?

A. I called up 1055 whoever's office that is.

Q. And called for Mr. Robinson?

A. No, sir. I just said that I was here, reported that I was here.

Q. You say that you called Mr. Robinson over the 'phone?

A. After that.

Q. And what did you say then?

A. I said that I was at the hotel.

Q. Did you say that you were going to the hotel?

A. I was at the hotel.

Q. Where was Mr. Robinson when you called him up?

A. At the hotel.

Q. What did you call him up for?

A. Well, just to say hello I guess.

Q. Just to say hello? Did Mr. Robinson see you immediately after you said hello? A. No, he didn't.

Q. How soon after you said hello until you saw him?

A. I might have seen him that evening, I believe I saw him that evening first.

Q. Did you talk this case over? A. No.

Q. Didn't talk about this case at all, he didn't mention what you were going to swear to you and you didn't mention it to him? A. No.

Q. You just talked about social matters, didn't mention the case? A. No, we didn't mention the case.

Q. Now, we will come down to your visits to Minnie, the first time you went to Minnie's house you went there to take a pair of dresses, didn't you? A. Yes, sir.

Q. Who was at her home when you got there?

A. There was no one at home.

Q. No one at home? A. But her.

Q. But her; well, she was somebody wasn't she, she was there? A. Well, I mean nobody else but her.

Q. And did you knock at the door? A. I believe so.

Q. You believe so?

A. I don't remember all those little things.

Q. You didn't go in without knocking, did you?

A. No, I wouldn't be apt to do that.

Q. Well, did she come out to the door to see you?

A. She had me step inside of the house.

Q. Now, what did you say to her when you first saw her what was the first remark you made?

A. I told her I brought the skirts over to her.

Q. Brought the skirts over to her. Did she invite you in the house? A. Yes, she——

Q. Do you know whether she did or not?

A. Yes, I was there a few minutes. I don't think I even sat down though.

Q. You didn't sit down? A. I don't think so.

Q. You didn't talk to her that evening?

A. Just about shoes and dresses.

Q. Well, about shoes and dresses? A. Yes, sir.

Q. Well, had you been employed by Betty Mann then?

A. I had talked to Betty Mann.

Q. But Betty had told you what she wanted you to do?

A. Yes, but this was purely accidental.

Q. Yes, but when you talked about shoes and dresses you were just paving the way to talk about something else?

A. I didn't know whether I would ever be able to go there again or not.

Q. Why did you think you would never be able to go there then?

A. Well, I had heard so many stories about Minnie driving people away from her house.

Q. Who told you about Minnie driving so many people away from her house, who told you that? A. About——

Q. About Minnie driving people away from her house now, who told you that? A. It was neighborhood gossip.

Q. Well neighborhood gossip. Tell me one neighbor who said Minnie drove people away from her house?

A. Mrs. Feldhusen told me.

Q. What kind of people was it she said Minnie drove away from her house, name them, what kind of people were they? A. Well Kohler was one.

Q. Kohler was one. He was your detective wasn't he. Minnie wouldn't let him come around there. You heard that, didn't you? A. Yes, sir.

Q. Now, who was the other one that you heard Minnie wouldn't let come around there?

A. I don't think I heard the name of any of them. She said people from Tulsa were calling on her all the time.

Q. Oh, that is it, you learned that people from Tulsa were calling on Minnie all the time and she got to the point where she would run them away from the house, is that it?

A. I don't know whether they were from Tulsa, but she always was suspicious it didn't make any difference.

Q. Didn't you say a moment ago that they were people from Tulsa and that she drove them away from there?

A. She always had suspicions of every stranger, she said she thought they were from Tulsa.

Q. The truth about it is, the woman told you that she had been harrassed to death, didn't she, by those people coming up there?

A. She said a good many people called to see her.

Q. You are not answering my questions, you will have to do it before you get off the stand, if you don't we will be here until Monday. Didn't she tell you that she was harrassed to death by these people coming there?

A. She didn't put in that way.

Q. Well how did she put it?

A. Well, she said that people called to see her and that she was suspicious of every one.

Q. Why did she say she was suspicious?

A. Well she thought they might be coming there to injure her in some way.

Q. The woman was afraid of being killed?

A. No, not killed.

Q. What did she say?

A. Well, she thought she might be kidnapped or something like that.

Q. And don't you know that that woman when you saw her was in fear of some trouble to herself all the time, wasn't she?

Mr. Pinson: May I ask whether the witness is testifying as to the statements of the neighborhood or her own statements?

Mr. Stuart: I don't care.

The Court: Your questions started out with the dress-maker.

Mr. Stuart: Yes, sir.

The Court: I assume you are now interrogating about that?

Mr. Stuart: I am interrogating her about Minnie's appearance.

Q. She appeared to be suspicious of everybody she saw?

A. She said there was a great many people called to see her.

Q. She appeared to be suspicious of everybody, didn't she? A. Yes, sir.

Q. And she was afraid she would suffer some injury, aint that so?

A. She said they all had a different proposition to make to her.

Q. She told you she was afraid she would be kidnapped?

A. Well, she didn't know what they would do.

Q. Didn't you use the word kidnap? A. Yes, sir.

Q. Is it your word or hers?

A. She said that. She said her lawyers told her never to be alone.

Q. Her lawyers told her not to be alone?

A. Never, it wasn't safe.

Q. And she told you she was suspicious of everybody because she was afraid she would be kidnapped?

A. That was one of the things she said.

Mr. Cruce: She said her lawyers told her never to be alone she wasn't safe?

A. Yes, sir.

Q. Did she tell you she was afraid she would be kidnapped, didn't she? A. Yes.

Q. How long did you talk to her at that first meeting?

A. The first time I was in her home I think I was there about ten minutes.

Q. About ten minutes the first meeting. Did you talk with her about this case?

A. She merely mentioned receiving a letter from Mr. Hanford.

Q. You didn't know her well, did you Mrs. Wilds?

A. Why, no.

Q. Then why did she open up and tell you all her private business to you?

A. I don't know unless it was because I was well known in the neighborhood.

Q. Oh, she just opened up of her own accord without your saying a word at all, because you had—told you she had received a letter from Mr. Hanford? A. Yes.

Q. And then she began and rattled off this story?

A. Not the first time.

Q. What did she say?

A. Merely said she had received a letter from Mr. Hanford.

Q. You encouraged her to talk? A. No, sir.

Q. When was the next time you went back there?

A. The next day.

Q. Did you go back and tell Betty Mann that you had struck fertile ground out there?

A. I told her I might be able to go there but I didn't like the idea.

Q. But still you undertook to do it, did you tell Betty Mann you thought you could go out there and by staying with Minnie get a whole lot of information out of her?

A. I didn't say I would stay with her.

Q. I mean by being with her from day to day?

A. Well, if I could manage to be there I thought she would talk, the way she had started.

Q. Well, you did manage to get back there the second time? A. Yes, sir.

Q. Who was there when you went in the second time?

A. She was home alone.

Q. What time in the afternoon was it when you got there?

A. I believe it must have been about, oh, possibly one o'clock, somewhere along there, half past twelve.

Q. Now, what was the first thing you said to her when you went in that house the second time?

A. I talked to her about the shoes she had.

Q. Then what else did you talk to her about, the dresses?

A. Well, I had the shoes to be stretched for me.

Q. The second time? A. Yes, sir.

Q. Didn't you say you told Betty Mann after that first time that you thought if you could get back there sufficiently to talk that you could get some good information?

A. I said if I had a chance to go back I thought Minnie would talk to me.

Q. Well, you went back the second time to get that information? A. I went to see her.

Q. To get that information? A. Yes, sir.

Q. And the first thing you did was to talk about shoes? A. Yes, sir.

Q. So as to break the ground? A. Yes, sir.

Q. What was the first thing you said about this information, how did you open the subject?

A. She commenced to talk about it herself.

Q. She did? A. Yes, sir.

Q. You didn't mention it? A. No, sir.

Q. She just commenced rattling off about this case?

A. Well, at first she said she had had a lot of trouble, an awful lot of trouble about her lawsuit, I think that is the way she put it.

Q. And you were sympathizing in her trouble?

A. I told her I had read a great many things in the papers and knew a great deal about her case.

Q. And then you asked her to make you her confidant?

A. I didn't ask her.

Q. Did you ask her to tell you all she knew about it?

A. No, sir.

Q. Did you invite her confidence?

A. No, sir, I just said I knew some things about the case.

Q. You knew you were there to report what she said to you? A. Yes, sir.

Q. You knew you were there for that purpose to report to Betty Mann? A. Yes, sir.

Q. What she said? A. Yes, sir.

Q. And every time you went there, just as soon as you got through, you went and hunted up Betty Mann, didn't you?

A. Yes, sir.

Q. And Kohler? A. Kohler wasn't always there.

Q. And you reported to Betty Mann just what she had said to you? A. Yes, sir.

Q. Now, in that second conversation, was that the time that she told you all about the fraud that they wanted her to put up?

A. I don't know as I could tell each conversation I had with her; I had a good many.

Q. In the second conversation now, did she at that time, for the first time commence to tell you about the lies that people were trying to get her to tell? A. Yes, sir.

Q. That was the first time?

A. She mentioned that a good many times.

Q. I mean the first time. And did she tell you at that second visit the lies that people had tried to get her to tell in this case?

A. She said they tried to get her to—yes.

Q. And she told you that everybody around was trying to get her to tell a lie, didn't she; told you that Page was trying to get her to lie? A. Said he did make her lie.

Q. And that Frank Long made her lie? A. Yes, sir.

Q. Did she say that Hanford made her lie?

A. She said—yes, that they were all crooks.

Q. Did she say anything about an individual named Sadie James? A. She did.

Q. Did she say Sadie tried to make her tell a lie?

A. No.

Q. She said Sadie was the only true friend she had?

A. No, she didn't make that remark to me.

Q. She said Sadie was there to try to get the truth?

A. She said Sadie was there to get some information.

Q. And that Sadie was her friend?

A. She didn't say Sadie was her friend.

Q. She didn't tell you that Sadie had tried to get her to tell a lie; she didn't tell you that, did she?

A. She didn't say that Sadie tried to get her——

Q. Did she say Betty Mann had tried to get her to tell a lie? A. No, she didn't.

Q. Now, the only people in that second conversation that she said to you tried to get her to tell a lie was Page and Long? A. In that conversation, yes, sir.

Q. In that conversation. Now, when was the next conversation? A. I think it was the very next day.

Q. The very next day. Now, who did she abuse the third day? A. I don't believe I could detail each conversation.

Q. Well, but you can tell me. She accused somebody soon after that in addition to Page and Long, didn't she, of getting her to swear a lie?

A. She accused Hanford of beating her out of her money.

Q. I didn't ask you about that. I asked you if she ever accused anbody but Long and Page to try to get her to tell a lie and you said not that day. Now, I asked you what day it was she accused somebody else?

A. She repeated that so many times I couldn't state definitely.

Q. Well, did she at any time thereafter accuse anybody else of trying to make her tell a lie?

A. She said they made her swear to lies.

Q. Well. who? A. Page and Long.

Q. Didn't she ever accuse anybody except Page and Long of trying to get her to swear a lie?

A. I don't know as she did it exactly in that way, they were all crooks.

Q. Who did she say? A. All of her lawyers.

Q. Did she say anybody was crooked except Hanford and Page and Long, those were the three crooks?

A. She said she had seven lawyers.

Q. And all of them were crooks?

A. That is what she said.

Q. Do you remember who they were? A. I do not.

Q. You do not. You know Hanford was one? A. Yes.

Q. She said he was a crook? A. Yes.

Q. And said Page and Long were two more? A. Yes.

Q. Did she name anybody as crooked except Page and Long and her lawyers. Think of that for a moment?

A. Well, she would often refer to the other side.

Q. I mean on her side—— Well, take the other side, who on the other side were crooked?

A. Well, she said they would do her if they could.

Q. Who would do her up?

A. I don't know, she said the other side.

Q. So the only persons you have a definite memory of as being charged by her as being crooked are Page and Long and her lawyers? A. Yes.

Q. That is all. She never did tell you that she didn't have a son named Tommy Atkins, did she, never did, did she?

A. No.

Q. She never at any time in any conversation said that she didn't have a boy once named Tommy, did she?

A. No, sir.

Q. Never did. In all the different conversations with you and all this talk that you say you had, in which she was abusing Page and grumbling and complaining, she never at any time said that she never had a boy Tommy, did she?

A. I don't remember at all.

Q. You know that she did not? A. Yes, sir.

Q. You know that she did not say she had a boy named Tommy? A. No, sir.

And thereupon Court took a recess until nine thirty tomorrow morning.

And thereafter, and on May 10th, 1917, at 10 o'clock A. M., court convened pursuant to adjournment, and further proceedings herein were had as follows:

MRS. A. G. WILDS, being recalled, further testified as follows:

Cross Examination by Mr. Stuart.

Q. Mrs. Wilds, do you remember at any time while you were in Seattle taking a ride one night with Mr. Kohler and Mrs. Feldhusen in an auto? A. No, I never did.

Q. You never took that ride? You were never out riding, now, in Seattle, in an auto with Mr. Kohler and Mrs. Feldhusen? A. No, sir.

Q. Were you out riding with Mrs. Feldhusen?

A. Not alone, no.

Q. Who was with you?

A. Mrs. Folk and her husband, and Mr. and Mrs. Dean.

Q. You distinctly remember that you never went out with Kohler in an automobile any where? A. Yes, sir.

Q. How long was it since you had first seen Kohler when you first went out to Minnie Atkins'—to Minnie Folk's?

A. How long since I had?

Q. Yes, how long was it before you went out the first time since you had seen Mr. Kohler? Did you see him the night before? A. I saw him—I believe so.

Q. Yes? A. You mean when I went out to Minnie's?

Q. Yes? A. I think so, yes, sir.

Q. Now, Mr. Kohler knew that you were going to install this dictaphone, didn't he?

A. Not at that time, not to my knowledge.

Q. Mr. Kohler and you were still working together at this time?

A. Well, *they* had been negotiating about working together.

Q. I understand, but you were in the same service at that time? A. Yes, sir.

Q. Mr. Kohler told you, didn't he, Mrs. Wilds, that he had gone out there and had put a boy out in the bushes for Minnie to recognize? Kohler told you that, didn't he?

A. No, sir.

Q. Anybody tell you that? A. Yes, sir.

Q. Who was it? A. Mrs. Folk.

Q. Mrs. Folk? A. Yes, sir.

Q. Mrs. Folk told you that there was a negro boy in front of her house in the bushes, did she?

A. She didn't say whether he was a negro boy or what kind.

Q. Well, she said there was a boy in the bushes?

A. Yes, sir.

Q. And that Kohler had come there and said Minnie, I have got your boy out here? A. Yes, sir, she said that.

Q. In substance?

A. That he could bring him there in five minutes.

Q. And Minnie said to him, now Mr. Kohler——

A. Said that——

Q. Wait a minute. Minnie said, now, Mr. Kohler, you can't work off any negro child on me and if you don't get out of here, I am going to shoot you. Didn't she say that?

A. No, sir.

Q. What did she tell you?

A. She told me that Mr. Kohler told her that he could bring the boy in five minutes if she wanted to see him; and she said go ahead and bring him and I will put the first bullet through him and the second one through you, and you can take him to Tulsa, and tell my lawyers how it happened.

Q. What was she going to do that for?

A. Because he said he had the right boy and did not.

Q. But she told you that she was going to do it because they were trying to work off the negro baby?

A. No, sir, she didn't mention the negro baby then.

Q. Did she ever mention the nigger boy to you?

A. Yes, sir, a great many times.

Q. And she also said that this nigger boy was out there in the bushes? A. Yes, sir.

Q. He was out there in the bushes? A. Yes, sir.

Q. And that she saw Kohler get on the car and the boy?

A. And the boy.

Q. She saw the boy? A. Yes, sir.

Q. Did he look like a Mexican Jew?

A. Said he was a Jew from close to Mexico.

Q. Looked like a Mexican Jew, looked like a Philippino.

A. Said he looked like a Jew and came from close to Mexico.

Q. Then, you did know from Minnie early in your conversation with her that Kohler, the detective whom you were working with, had come out there with a boy to show Minnie as her son? A. Yes, sir.

Q. You know that. Did Kohler ever tell you that he had offered to sell this information to Page for a hundred dollars?

A. He never told me anything of the kind.

Q. Didn't he tell you he had offered to sell this information to Page? A. He didn't tell me.

Q. Did he tell anybody else that in your presence?

A. Not to my knowledge.

Q. Did you ever hear of that before? A. No, sir.

Q. Didn't you know Mrs. Feldhusen—didn't Mrs. Feldhusen tell you that Kohler had offered her five hundred dollars to go and get a statement from Minnie about her boy?

A. I believe she said he offered her money, yes.

Q. To go and get a statement? A. Yes, sir.

Q. That Kohler offered her five hundred dollars?

A. Yes, sir.

Q. Were you there when the dictagraph was installed?

A. No, sir.

Q. You say you knew how it was fixed; where was the other end from the house, in the woods?

A. No, in a house in the neighborhood about a block and a half or two blocks from Minnie's home.

Q. When you went back there, you went there in the afternoon after the morning that the dictagraph was installed, the dictagraph was installed in the morning, wasn't it?

A. I don't know just exactly when it was.

Q. Was it installed when you went back there the afternoon, did you think it was installed?

A. The dictagraph wasn't in there right in the beginning.

Q. I know, but did you go there in the afternoon thinking that the dictagraph had been put in there that day?

A. Yes, sir.

Q. You went there then assuming that the dictagraph that morning had been put in there sometime and that the dictagraph was working on you and Minnie there that afternoon?

A. Yes.

Q. You assumed that. Did your people find out that when Mr. Folk came home the next day he had gone and picked up a lot of this wire and pulled it and thrown it on the ash pile?

A. No, he didn't do anything of the kind.

Q. How do you know?

A. Mrs Folk told me Harry was very suspicious of some wires he had seen in the yard, and she said I told him that the electrician left them out there, that they were dead wires and that he was coming out to get them.

Q. Then you say Mr. Folk as a matter of fact to your knowledge you know he didn't go and pull those wires up this way and without further search throw them down on the ash pile without breaking your wires I mean?

A. I didn't see him do that.

Q. Do you say he didn't do it?

A. I say he didn't do it.

Q. You were not there. Now, then, you say the other end was in a house somewhere in the neighborhood? A. Yes, sir.

Q. Then your understanding was that on that particular afternoon that you went there that the dictagraph should commence to work, wasn't it? A. Why, yes.

Q. That was your understanding?

A. After it had been installed.

Q. You had an understanding with the people at the other end that you were to do the talking with Minnie and they were to take it off? A. Yes.

Q. That was your understanding. Now, what was your idea of taking that photograph. You suggested the photograph, didn't you? A. No, sir.

Q. Who suggested that?

A. It was suggested by the operatives in the case.

Q. What for?

A. They wanted to have real proof, wanted to have the real goods on Minnie.

Q. What kind of goods?

A. Why, to prove that they had had it in there and had gotten conversation.

Q. Did the photograph prove that they had gotten conversations?

A. They thought it would show we were working together.

Q. Show you were there and Minnie was there. Now, that man in the photograph that has the wires was that an electrician?

A. He was supposed to be a detective.

Q. Supposed to be a detective?

A. I don't know what he is.

Q. Well, did they have any electrician along?

A. No, Mr. Wright said that he told Minnie that he was an electrician.

Q. Well, did they actually have an electrician along?

A. I didn't see them installing this.

Q. Did they have one along to your knowledge?

A. Not to my knowledge.

Q. You say you saw all of these men afterwards, didn't you? A. Yes.

Q. They were in that photograph? A. Yes.

Q. They were all in the photograph. Now, after you had gotten through with this dictagraph and taken it out of the house, you all assembled and had a conversation together, didn't you? A. Yes, sir.

Q. Where did you meet after you pulled the dictagraph down? A. At 202 Wright Hotel.

Q. Now, who was there? Give the names of every one who was there?

A. Mr. Murphy, Mr. Wright, Mr. Briggs, Mr. Kohler, Mrs. Mann. That is all, I believe.

Q. Now, then, Mr. Kohler was still on the job at that time, wasn't he, he was there with you? A. Yes, sir.

Q. Did you compare what the dictagraph said with what you had heard there? A. No, sir, I didn't.

Q. When did you make your comparison?

A. After I came to Tulsa.

Q. After you came to Tulsa. Do you know why an addition was made to the dictagraph record?

A. Why, no, I don't know.

Q. Did anybody ever explain to you why the dictagraph record didn't correspond with your recollection?

A. Not all of it corresponded, a great deal of it did.

Q. Did anybody ever explain to you why that didn't correspond, Mrs. Wilds? A. Well, not definitely, no.

Q. Did they do it indefinitely?

A. No, no one ever explained that to me. No.

Q. Never explained it to you? A. No, sir.

Q. You told them that that dictagraph record said things that Minnie never said to you, didn't you? A. Yes, sir.

Q. You told them that and they made no explanation to you, did they?

Mr. Pinson: Told who that?

The Court: Who did you tell that, Mrs. Wilds?

A. I told Mr. Nixon and Mr. Tally.

The Court: Did you ever have any conversation with Mr. Briggs and these other operatives about that, if so, tell about it.

A. Well, no. I know they wouldn't sign an affidavit.

Q. Wouldn't sign an affidavit to what?

A. To their report.

Q. Why wouldn't they sign it, because you would contradict them? A. They thought I was working with them.

Q. Well, why wouldn't they sign an affidavit to that report, Mrs. Wilds?

A. Well, because they were afraid of getting in trouble.

Q. Afraid of getting in trouble? What sort of trouble?

Mr. Pinson: We submit, Your Honor, that that calls for a conclusion.

The Court: She may answer, if she knows.

Q. What sort of trouble?

A. Well, they didn't seem to have any—well, they seemed to think that they were not true.

Q. Seemed to think that they were not true?

A. That was sort of a peculiar atmosphere around there.

Q. A peculiar atmosphere? What kind of atmosphere was it now?

A. Well, I don't know as I can exactly explain it.

Q. Well, you can tell how it felt, can't you?

The Court: Where was it, now, that this matter of signing the affidavit came up?

A. In the Wright hotel.

The Court: At that meeting?

A. Yes.

The Court: Who brought up the question—making the affidavit to these reports?

A. Mrs. Mann.

The Court: Now, just go on and tell in response to the question what occurred there in regard to the signing; that will give the atmosphere.

Q. You remember that you told me a few minutes ago that it didn't come up there? A. Come up where?

Q. You told about the report, and as to whether they were true or not did not come up there at the hotel meeting. Did it come up there? You just told the Court it did come up there?

A. I said it was sort of a peculiar atmosphere.

Q. Didn't you tell the Court it came up there and Betty Mann called it up? A. About signing the affidavit.

Q. What was said about that?

A. Mrs. Mann wanted them to sign the affidavit and they would not.

Q. Why not?

A. Mr. Murphy said that he had been in trouble about signing affidavits before and he wasn't going to take any more chances.

Q. What did the others say?

A. His partner seemed to be a very expert man and he wouldn't sign anything.

Q. Would anybody sign it? A. Only Mr. Kohler.

The Court: What I would like to know is this. For whom did Betty Mann, when she asked them to sign, who did she say she wanted it for?

A. For Mr. Nixon.

Q. For Mr. Nixon? A. Yes, sir.

Q. Alright. Now, when did you leave that country to come down here?

A. I believe it was the latter part of September or the first part of October.

Q. The last part of September or the first part of October?

A. I don't remember the exact date.

Q. And you went right to work for Mr. Nixon, didn't you?

The Court.

Q. Now, let me get it in my mind. That was in 1914?

A. 1915.

Q. 1915? A. Yes, sir.

Q. A year ago last fall? A. Yes, sir.

By Mr. Stuart.

Q. You went right to work for Mr. Nixon? A. Well——

Q. A short time after that? A. Yes.

Q. You went right to work in his office?

A. Not in his office.

Q. How long did you stay there?

A. I was there until November 17, at that particular time.

Q. Well, when did you go back?

A. I think it was 5 or 6 weeks after that.

Q. And then, how long did you stay?

A. Then I think I stayed until May.

Q. Now, how long were you in Mr. Nixon's service altogether down here?

A. I was supposed to be in his service as long as the term of school would have lasted.

Q. I am not asking about suppositions, I am asking how long you were actually in his service.

A. Up until November 17.

Q. How many months?

A. Well, from the time that I went to work on the case in Seattle; that was from——

Q. I mean in his service in his office down here?

A. Oh; that was from about the first of October until November, until the time I went home.

Q. Yes, you must have been there five or six months, weren't you, with him?

A. Well, about two months, then, I guess.

Q. No, you worked from October until when—November?

A. October until November.

Q. Then, you went about in six weeks and worked to May, didn't you?

A. Yes; Mr. Nixon told me to come back.

Q. It don't make any difference what he told you. How long did you work there—four or five months, didn't you?

A. Yes, sir.

Q. About four or five months you worked for him in that period? A. Yes, sir.

Q. What work were you doing for him?

A. He was in Washington, D. C., he sent for me to come back.

Q. What particular work did you do for him in his office, Mrs. Wilds? A. No particular work in his office.

Q. Well, what was you doing there?

A. He told me to come back, they might need me any minute.

Q. What did you do for him in this time?

A. All I was doing, I went to business college and worked two weeks in Mr. Bailey's abstract office.

Q. What were you doing for Mr. Nixon in that five months?

A. Mr. Nixon told me to come to Tulsa and work in Mr. Bailey's office. He said he had a clear understanding with Mr. Bailey.

Q. You didn't work four or five months for Mr. Bailey?

A. No, sir, only two weeks.

Q. What did you do for Mr. Nixon at that time? What did you do for him?

A. He told me to come to Tulsa, and he said stay at the hotel, he said, and he said if you get tired—he explained that there was no position for me which he had promised me, and he said we may need you at any minute, and he said if you go to Kansas to pay a short visit to your people, he said stay somewhere where we can reach you by wire at a minute's notice.

Q. You stayed at the hotel? A. Yes, sir.

Q. Who paid your board there?

A. From January until May I paid everything myself.

Q. Who paid you money to pay it with?

A. I had been paid for my work in the case by Mr. Nixon up to November 17th.

A. Mr. Nixon paid you? A. Yes.

Q. Now, did you get any pay after that from Mr. Nixon?

A. All I got from Mr. Nixon was my fare back to Seattle and about a forty-five dollar hotel bill because I wouldn't [] a voucher, he finally consented to pay that hotel bill. That is all.

Q. Now, just to go back a second. Who paid you for your services at Seattle?

A. Mrs. Mann told me that it was Mr. Wrightesman.

Q. Mr. Wrightesman?

A. Not directly, it was through them.

Q. How much were you paid for your services there?

A. You mean altogether.

Q. Yes, I mean altogether, for your services in Seattle in this case.

A. It was something like three hundred and thirty dollars, or something like that.

Q. Three hundred and thirty dollars?

A. Three hundred or three hundred and something along there and my transportation.

Q. Now, at the time that you were down here at the hotel, Mrs. Wilds, you know that Mr. Nixon and Mr. Wrightesman were claiming to have a Tommy Atkins, didn't you?

A. I didn't know anything about Mr. Wrightesman until I got to Tulsa.

Q. You knew that Mr. Nixon was claiming to have a Tommy Atkins, didn't you? A. Yes, sir.

Q. And you knew it all the time that you were in Tulsa, didn't you? A. Yes, sir.

Q. And you knew it was a fraud, too, didn't you?

A. I had been told it was.

Q. Now, who was that confidential friend you spoke of in that letter who told you it was a fraud? A. Mrs. Mann.

Q. Mrs. Mann was the confidential friend? A. Yes, sir.

Q. Mrs. Mann told you that Nixon was trying to put up a fraud on the Government, didn't she?

A. She told me there was no Tommy Atkins.

Q. That Nixon's claim was a fraud, didn't she?

A. Yes, sir.

Q. Why didn't you tell the Government right then? Why didn't you go right then and tell the Government that this man was trying to put up a fraud?

A. Well, I was going to do it right along and kept putting it off.

Q. Putting it off, putting it off; and you never made up your mind, Mrs. Wilds, to do that until you fell out with Nixon, did you? A. Yes, sir.

Q. You made up your mind to do it?

A. Yes, sir, I told Mr. Nixon right along that I had no faith in the case, and wouldn't stand by him.

Q. Well, why didn't you write to the Secretary about it?

A. Well, I didn't—I don't know; I never worked at anything like this and wasn't in any hurry to get mixed up in any trouble. I wasn't looking for any trouble.

Q. Who finally told you to write to the Secretary of the Interior? A. I did it of my own free will.

Q. Of your own free will? A. Yes, sir.

Q. You had two purposes in that, didn't you, Mrs. Wilds? The first purpose was to punish Nixon, wasn't it?

A. Well, I had no faith in that case.

Q. Your first purpose in sending that letter was to punish Nixon for the way he had treated you, wasn't it?

A. Why, no.

Q. You were mad at Nixon at the time you wrote it, were't you? A. Well, he owed me money.

Q. You were mad with him, weren't you, Mrs. Wilds?

A. Well, I didn't feel very kind toward him for bringing me to Tulsa and——

Q. If Mr. Nixon had paid you promptly you never would have written that letter, would you? A. Yes, sir.

Q. You would? A. Yes, sir.

Q. You expected to get employment, didn't you, from the Secretary of the Interior? A. No, sir.

Q. You expected to get employment, didn't you, from the Government, in this case? A. No, sir.

Q. Now, you wrote a letter to the Secretary of the Interior, did you? A. Yes, sir.

Mr. Stuart: Have you got the letter here?

Mr. Pinson: Yes, sir.

Q. In this letter you told the Secretary of the Interior that Nixon was a crook, didn't you?

A. I don't remember if I expressed it in those words.

Q. Can you remember—you read this letter a dozen times before you came on the stand, didn't you? A. No, sir.

Q. When was the last time you read this letter?

A. I think I looked over that letter day before yesterday.

Q. Day before yesterday? A. Just glanced over it.

A. Just glanced over it? A. Yes, sir.

Q. How long were [] glancing over this letter?

A. Oh, I don't know; just hurriedly read it through. I don't think I finished the last two pages because I was interrupted.

Q. You*d* [] the Secretary of the Interior in this letter that Nixon was a crook; you made proffer of letters that Nixon had written you, didn't you? A. That he had written me?

Q. Yes?

A. He had written me a great many letters.

Q. You copied some of them in here? A. Yes, sir.

Q. And you just wound up and told them that Nixon was a crook, and trying to put up a fraud on the Government, didn't you?

A. I don't think I expressed it exactly that way but it amounted to the same thing as far as my faith in the case was concerned.

Q. And so far as your faith in Nixon was concerned?

A. In the case.

Q. I will ask you if in this letter you said this: "Last October after working on the case in Seattle and after our reports had been written and sent to J. Truman Nixon, I learned or rather it was told to me in confidence that there was no Tommy Atkins, but that Minnie did not know the difference; that he was a cousin and used to play around with the other children." Did you say that in the letter? A. Yes, sir.

Q. Now, who was it told you they was trying to work off a cousin? A. Mrs. Mann said that.

Q. Said somebody was trying to work off a cousin. Who was it trying to put this cousin up as Tommy Atkins?

A. She told me that the boy who was placed on record was a cousin.

Q. Was a cousin of whom?

A. Well, she didn't explain, she said he was a cousin.

Q. You didn't ask whose cousin it was?

A. I didn't ask because I didn't know anything about it.

Q. You were writing to the Secretary of the Interior about it giving the facts about it, you didn't inquire who the cousin was?

A. They didn't talk to me anything about much.

Q. "Only two weeks ago I heard that the Thomas Atkins Nixon is parading around is a Jew from Texas. His name is Tommy Mooney, but by Nixon's magical transformation he became Tommy Atkins?" A. Yes, sir, I wrote that.

Q. "Nixon had him registered somewhere at Sweetwater as Tommy Atkins and was the first to introduce him as Tommy. Tommy is even branded "T.M."; I also learned this." Is that in there? A. Yes, sir.

Q. Where did you get that?

A. From Mrs. Mann the second time.

Q. Was Mrs. Mann at that time working for Mr. Nixon?

A. Why, yes she was supposed to be.

Q. In Tulsa? A. Yes, sir.

Q. You saw her every day? A. No, sir.

Q. How often did you see Mrs. Mann? A. Very seldom.

Q. But you did see her long enough in Tulsa to learn everything she knew about Nixon's case, didn't you?

A. No, she made a special trip to Tulsa to see me one Sunday evening.

Q. Did she tell you to write to the Secretary of the Interior about it? A. No, sir.

Q. Did she know you were going to?

A. I told her a great many times.

Q. Did you tell her you were going to write to the Secretary of the Interior? A. Yes, sir.

Q. And did she know you were going to impart the information she was giving you to the Secretary of the Interior?

A. I don't know that.

Q. You don't know. "I wrote discouraging letters to Nixon and this is what he wrote to me"? A. Yes, sir.

Q. "Keep your nerve up, keep a tight upper lip; keep fighting in the right in our case; keep thinking twice before speaking; keep thinking we are right for we are; we will win"?

A. Yes, sir.

Q. What did you put Nixon's letter in this letter to the Secretary for?

A. I don't remember just exactly what I wrote.

Q. But you did write that, didn't you? A. Yes, sir.

Q. What did you put that in there for?

A. Well, because Nixon wrote that to me.

Q. Put it in there to expose Nixon, didn't you?

A. Well, to show that I thought I was working in the right.

Q. Mrs. Wilds, you put it in there to expose Nixon, didn't you? A. I did it to explain my own affairs.

Q. You didn't have any feeling against Nixon, did you?

A. Kindly feeling toward him?

Q. Did you have any feeling toward him?

A. Why, no, but I didn't think he did the right thing by not settling up with me for my wasted time.

Q. He hadn't settled with you for your wasted time?

A. No, sir.

Q. You told the Secretary he hadn't settled up with you for your wasted time? A. I don't remember.

Q. All right, we will see. "He sent for me to come down here to Tulsa that he had a better job for me——"

Mr. Stuart: (To Mr. Pinson) There is no use watching me, I will read it correctly.

Q. "He told me that my reports and my letters made him feel that I was a conscientious sort of a person and wanted to know the truth about everything." Is that right?

A. Yes, sir.

Q. "I told him all I knew and also that it was told me in confidence that there was no Tommy"? A. Yes, sir.

Q. But still during all these months that he claimed to have a Tommy Atkins?

A. Yes, I knew the Tommy Atkins that he claimed.

Q. "He gave me a very convincing talk, showed me photograph copies of the enrollment, still I argued and balked and one time I heard him mutter to himself, in an undertone, 'Some people do not know how to help themselves,' I felt that it was meant for my benefit, and yet I did not take it that way then, since I learned two weeks ago, that Nixon himself arranged this case himself, transformed Mooneys into Atkins, etc. I felt certain it was meant for my benefit then. Nixon gave me one of the most sincere confidential, and fatherly talks, when I came down here, that I felt it a crime to consider him anything but an honest man". Is that so?

A. That is exactly the way he talked to me.

Q. He talked to you in such a way that he lulled you into a sense of security, didn't he?

A. He said so many nice things that I didn't see how a man like that——

Q. He was just full of nice things? A. Yes, sir.

Q. He professed to be a Christian Scientist?

A. Well, that is what he said he was.

Q. Well, is that your religion too?

A. Well, it don't happen to be, no, sir.

Q. "And altogether he passed as a real *faint*". Is that what you said? A. Yes, sir.

Q. Now, what was you telling all that for, if you were not trying to expose Nixon to the Secretary of the Interior?

A. Well, for a long, long time I thought perhaps Mr. Nixon didn't know that there was no Tommy Atkins.

Q. You are not answering my question. I say, why did you put that in your letter if it wasn't for the purpose of exposing Nixon to the Secretary of the Interior?

A. Well, if any one is connected with the Tommy Atkins matter, you couldn't hardly leave their names out.

Q. "I often asked questions about the case but he would never answer them, and I felt that I was asking questions that I had no right to ask, the reason he did not answer them. He made me feel cheap. I just put myself down as not knowing what was proper to ask and do in the business world, but I worried myself sick trying to figure things out for myself"?

A. Yes, sir.

Q. "He had no position for me at all and now he refuses to pay me for my wasted time"? A. Yes, sir.

Q. What did you put that in the letter to the Secretary for? A. Well, I wanted to show them where I stood.

Q. Did you think the Secretary had any concern about whether Nixon had paid you or not?

A. I don't know anything about it, and I never thought the letter would reach the right hands.

Q. What right hands? A. Well, the hands that would take care of it properly, the right hands.

Q. You didn't know that the letter would get into the right hands, what do you mean by that?

A. I didn't really know who I was writing to.

Q. Didn't know whether it would get in the right hands or not. You say in the letter you hoped it would get into the right hands? A. Yes, sir.

Q. Well, now, what did you mean by that?

A. Well, I hoped that everything would be cleared up that would show people where I stood. What kind of a position I was in.

Q. On Page 9 you say again: "I am inclosing you a copy of a letter I wrote Nixon sometime ago, in regard to the position, etc. but he did not pay me for my wasted time since November 15". Now, what did you put that in there for?

A. Well, to prove my statements I presume.

Q. Your purpose, Mrs. Wilds, was to betray Nixon to the Secretary of the Interior, wasn't it?

A. I had no intention of betraying anyone.

Q. But your purpose was to do it. It was a sorrowful duty, but your purpose was that way?

A. It was about the Thomas Atkins case what I was concerned about.

Q. Mrs. Wilds, tell the Court whether it was your resentment against Nixon or your conscientious duty to do right that made you write this letter?

A. It was my conscientious duty that caused me to write that letter.

Q. And there wasn't any resentment against Nixon in your nature when you wrote this letter?

A. I didn't feel very kindly toward Mr. Nixon.

Q. You didn't intend to injure Nixon?

A. I hoped it wouldn't.

Q. You hoped it wouldn't? A. Yes, sir.

Q. Do you mean to say that you hoped this letter wouldn't injure Nixon?

A. Well, I didn't know what would happen, but I didn't want to hurt anyone.

Q. You didn't want to hurt anyone? A. No.

Q. "He did pay me my fare money back to Seattle. I presume he did that just to get me away from here, but I am still here". What did you put that in there for?

A. I wouldn't have said it that way, I wasn't doing any spite work.

Q. But you did say so? A. Yes.

The Court: Where was this letter written?

A. At Tulsa.

Q. Was written in Nixon's office?

A. No, sir, it was written in my room.

Q. But written at the time you were in Tulsa?

A. Yes, sir.

The Court: What is the date of that?

Judge Stuart: May, 1916, your Honor.

Q. In this letter you told the Secretary that you never started anything that you didn't finish? A. Yes, sir.

Q. What did you say that for?

A. Well, I started in this case and thought I was in the right, and I was going to carry out the right purpose all the way through.

Q. When you said to the Secretary: "I am in this case and I never started anything that I don't finish," what did you mean by that? A. Finish right.

Q. Finish right? A. Yes, sir.

Q. Finish right. "I could write all day and then not tell half I know, and I really do not know if this letter will ever be considered by anyone at all, so perhaps I had better bring it to a close. Should appreciate hearing from you. I never like to start anything that I cannot finish." Is that what you said? A. Yes, sir.

Q. You also said: "I shall wait in Tulsa for an answer from you. I did expect to leave Tulsa tomorrow, but a few more days will not matter much. I do not like to leave a battle field where I have witnessed so much injustice without at least mentioning it to some one, who I feel ought to know." Is that what you said? A. Yes, sir.

Q. Now, when did you finally make up your mind that Nixon wasn't going to pay you—— What did you make up your mind to do then? A. Go back home.

Q. Where, to Seattle? A. Yes, sir.

Q. What efforts did you make to collect your money from Nixon?

A. I tried to see him two or three weeks before he ever gave me a chance to see him. He would always get out of the office.

Q. Dodging you? A. Yes, sir.

Q. He was dodging you. You went there frequently to see him? A. Yes, sir.

Q. He was there and you couldn't see him. Who advised him you were coming? A. He didn't want to talk to me.

Q. How much did he owe you at that time?

A. Well, the salary at the rate of fifteen dollars a week alone would have been four hundred fifty dollars, and then my other expenses, and he never paid that at all.

Q. Didn't pay that? A. No, sir, I paid that.

Q. Did you ever get to see him at all? A. Yes, sir.

Q. Now, what occurred between you and him in that conversation?

A. He called up the Ticket Office and found out what the fare was to Seattle and he put that down, and what the Pullman would be and the expenses. He allowed me so much and made out a check for about seventy nine dollars and some cents; and he also had a voucher and he said for me to sign when I got this money. And I said: Well, Mr. Nixon, do you consider this a business settlement? He says, that is all I consider that I owe you. So, I sat down and talked to Mr. Nixon. I said Mr. Nixon I am so thoroughly green in the business world I don't know anything about it and I would like to have some one who knows tell me what is the best thing to do at all times, and I asked him if it always paid—— I said does it pay in the business world to be on the square and do everything just right? He hesitated for quite a while and says: "Are you asking me that question personally for me to give you my honest opinion about the business world?" I says, yes, sir. He says no, very emphatically.

Q. Is that all that occurred?

A. And we talked for quite a while. He was talking his nice line of talk as he was in the habit of doing.

Q. Still giving you that necromancy talk?

A. Yes, he thought I would take the check and be satisfied with it and go on home and when I got ready to leave the office, I picked up the check and made no attempt to sign the voucher and he got very nervous; commenced to scratch his head and said, aren't you going to sign this voucher? And I said, no, sir, Mr. Nixon, I don't consider that we have had a fair business settlement and I don't mean to sign it; and he said, well, hand over that check. I didn't make any attempt to give it to him first, and although I knew it would not do any good to hold it, it was on his own bank, but I wanted to see him stew around there a while, and he asked for it the third time and he said if you don't sign that voucher, I will 'phone down to the bank and tell them not to pay that check. And I said alright, Mr. Nixon, and handed him the check and didn't say another word and walked out of the office; and that afternoon he trie to get me—had his stenographer try to get me, 'phoned me to the hotel a number of times, and I was not in, and he wanted to—that is, what he said—had the girl say to me finally when she did get me about six o'clock that evening, he said, tell Miss D'Labal, that we will settle her bill at the hotel if that will be any help to her. She asked me if that would be of any help to me and I knew there was no use trying to get my salary from Mr. Nixon, because he said he wouldn't pay it, so I took what I could and signed the voucher for $125, and that was the end of it and I went home.

Q. Now, was it after that time, before or before you—drifted into Mr. Page's office?

A. I think it was right in there.

Q. Right after?

A. Either before or after, I don't remember which.

Q. It was right after that?

A. I don't remember that just exactly.

Q. Did you know where Page's office was?

A. Well, I thought he had an office in Tulsa.

Q. And who told you where it was, do you know?

A. Let me see; I don't remember that. I went to see several of the lawyers about it.

Q. You went to see several of the lawyers before that?

A. Yes, sir.

Q. What lawyers did you go to see?

A. I went to see Mr. Lyons.

Q. Mr. Lyons, and who else before you saw Page?

A. And I think there was another lawyer I mentioned it to in the presence of Mrs. Mann, I can't recall the name.

Q. Was Mrs. Mann with you? A. No, she was in a——

Q. She went with you to some lawyers, didn't she?

A. We were at a lawyer's together.

Q. Well, she took you there, didn't she, or did you take her there?

A. Well, we just went up there, I don't know.

Q. You were together, weren't you?

A. Yes; I met her up town.

Q. And you said you wanted a lawyer?

A. She was going up to her lawyer.

Q. You said you wanted a lawyer, didn't you?

A. I told her I was trying to get my money.

Q. Now, did you go up to see this lawyer? What was his name? A. He was in the Haywood building.

Q. You don't remember his name?

A. Garrett or Barrett, or something like that.

Q. Did you see any other lawyer? They wouldn't take your case because they didn't want to fool with it?

A. I don't know whether they did or not; probably thought it was a small affair.

Q. They didn't take your case? A. No, sir, they didn't.

Q. What other lawyer did you see?

A. I believe Mr. Lyons said Mr. Brown was a good lawyer to see.

Q. Did you see Brown? A. No, sir, I didn't see him.

Q. After all that you went to Page's office, didn't you?

A. I think it was just about that time, yes, sir.

Q. Yes, you went to Page's office. Now, you said you went to Page's office out of mere matter of curiosity?

A. No, I just wanted to see who Mr. Page was before I left Tulsa.

Q. You were still hunting a lawyer, weren't you?

A. No, I had signed the voucher then and everything was all settled.

Q. Didn't you say yesterday that you told Page how he had treated you and everything and you couldn't get a lawyer and Page said why you can get my lawyers?

A. No, Mr. Page mentioned that but I didn't ask him for any help or anything.

Q. Didn't you tell him how Nixon had treated you?

A. Yes, sir.

Q. And didn't you tell him that you couldn't get a lawyer?

A. I said that I had seen several lawyers and that they wouldn't take it up at all.

Q. And then Mr. Page said—didn't he say this, my dear woman, I will see that you get a lawyer and see that you are——

A. I don't remember that I told him that I had signed the voucher or not.

Q. I didn't ask you that. Didn't he say I will help you get a lawyer if you want a lawyer?

A. No, he said I might drop in to see his lawyers or something like that.

Q. Didn't he say they would help you?

A. He didn't say they would help me; he said I might drop in to see them.

Q. Then you talked to Mr. Page a while in the presence of Mr. Hanford? A. Yes, sir.

Q. I will ask you if the whole burden of your song was against Mr. Nixon and if you didn't say there in the presence of Mr. Page and Mr. Hanford that you had never heard Minnie Folk make any statement about this case in reference to Thomas Atkins or with reference to the merits of this case?

A. No, sir.

Q. You didn't make that statement? A. No, sir.

Q. Did you see Page's lawyer?

A. I saw Mr. Hanford; I was introduced to him that day.

Q. Did you see Page's lawyers about your claim against Nixon?

A. Yes, I went into the office the next day, I believe it was.

Q. And saw them?

A. One of them met me, I didn't know who it was.

Q. What was his name? A. I don't know.

Q. What did he say?

A. I walked into the office and he met [] almost half way and knew what I was coming there for and he said we won't take it.

Q. Won't take it? A. Yes.

Q. So, the net result of it is, Mrs. Wilds, you consulted four different legal *terms* in Tulsa, to assert your claim against Nixon, and everyone of those firms turned down your law suit. A. There were three, I think.

Q. Three besides Lyons, Pages' lawyers?

A. No, that was the third one.

Q. And all three turned down your law suit against Nixon? A. Well, they didn't look into the matter at all.

Q. Didn't take it?

A. They didn't look into the matter at all in Mr. Page's lawyer's office.

Mr. Pinson: We offer the letter from which portions have been read in evidence, Your Honor, and ask that it be marked Government's Exhibit 101-A.

The Court: It may be admitted.

Q. Are you in anybody's employ now besides the Government? A. I didn't understand the question.

Q. Are you in anybody's employ now besides the Government? A. You mean in this case?

Q. Yes. A. No, sir.

Q. Are you receiving any money now from any one besides the Government? A. No, sir; no, sir.

Redirect Examination by Mr. Pinson.

Q. Are [ ] to receive anything in this case besides the usual witness fees and mileage, Mrs. Wilds? A. No, sir.

Q. Have you ever been a witness before? A. I have not.

Q. Have you ever been in the court room besides in this trial? A. I have not.

Q. Have you stated to the Court all the facts that you had before you as to the details of this case when you first went out to Minnie's home?

A. No, there were a great many that——

Q. Probably you misunderstood me. Have you stated every thing that you knew about the case when you first went out to Minnie's home?

A. I haven't stated everything. There are a good many things that I have not mentioned.

Q. Well, did you know when you went to Minnie's home aside from the fact that there was a suit or controversy supposed to be between her and her son, in which she was trying to beat her son out of money, as you explained it; what further did you know about the case? A. Nothing.

Q. You have referred frequently in the letter which Judge Stuart read portions of, to Mr. Nixon; now, so far as you know when you were in Nixon's office, Mr. Nixon was the only person interested, aside from Minnie, in the case, was he not?

A. Yes, sir.

Q. Have you ever become acquainted with all the different claims in this case? A. No, sir, I have not.

Q. Do you know what Mr. Page claims in this case, as a defendant? A. I do not.

Q. Do you know what Mr. Nixon—I believe you said you knew what Mr. Nixon claimed in the letter, did you not?

A. Yes, sir.

Q. Do you know anything about the Henry Carter claim? Did you ever hear anything about that? A. No, sir.

Q. Do you know anything about the Nancy Atkins claim?

A. I know nothing about Nancy Atkins.

Q. Then, so far as you knew, when you wrote that letter, this case was just a matter between Nixon's client and Mrs. Folk, is that true? A. Yes, sir.

Q. Did Page, at the time you went to his office, discuss with you his interest in this case?

A. He said that he had won the case long ago.

Q. Said that he had won the case long ago? A. Yes, sir.

Q. Now, Mrs. Wilds, when—you testified in your cross examination that Mrs. Mann suggested to you that you could frighten the money that Mr. Nixon owed you out of him, by threatening him with a white slavery charge, did you not?

A. Yes, sir.

Q. Did you ever consider seriously such a threat?

A. No, sir.

Q. Were your relations with Mr. Nixon perfectly proper?

A. Very proper.

Q. Did you tell Mr. Page that? A. I did.

Q. You told him that you had not considered Mrs. Mann's proposition, did you not? A. Yes, sir, I did.

Q. Tell the Court what happened in the hallway yesterday afternoon just before you were called to the stand, while you were waiting to be called to the witness stand?

A. I was standing there talking to some gentleman—he was a stranger to me. He mentioned, he says, you are one of the witnesses in this case; and I says I guess I am. Just talked in generalities, he was telling about his family trouble, his wife died a few years ago——

Q. Just pass over that?

A. And Mr. Page came up and stood right in front of me and nodded. I said how do you do. He said to this gentleman I was speaking to, he said: "She and Betty Mann," he says: "She came to my office and wanted me to help her out on a white slave charge;" he says: "To get a piece of money for both of them, for Mrs. Mann and for herself." He says: "She came to my office with that."

Q. Did you answer?

A. Yes, I did. I said, Mr. Page, I think you are very sadly mistaken. I said, I never made any such statements to you at all; and I said to the gentleman—— Well, he said that to him, well he says: "I won't mention this in the court room; I won't mention it," and he winked to the other fellow two or three times and walked away.

Q. Mrs. Wilds, is it true that you suggested to Mr. Page that he help you in any black mailing scheme against Mr. Nixon? A. It is not true.

Q. Now, referring to the matter of the places where you resided in Seattle, was each of those places a respectable boarding house? A. Very respectable indeed.

Q. You never lived in any other kind? A. No, sir.

Q. What is your occupation at this time when you are at home? A. I am keeping house for my husband.

Q. When did you marry? A. In December.

Q. Last December? A. Yes, sir.

Q. Some things have been said about Mr. Kohler; do you know what nationality he is? A. He is a Bohemian.

Q. What is your nationality? Your descent?

A. Bohemian descent.

Q. Now, you referred to the Bohemian Club, what kind of an organization was that in Seattle?

A. It was a little group of Bohemian people who lived in Seattle.

Q. The word Bohemian didn't have its slangy significance in relation to that group or club? A. No, sir.

Q. You met Mr. Kohler there casually, I believe you stated, before you engaged in this enterprise? A. Yes, sir.

Q. Years before? A. Yes, sir.

Q. Now, let's refer to the dictagraph just a few minutes. I think perhaps we can straighten out some matters in regard to these reports. Were you advised as to whether the operatives at the other end of that dictagraph were on duty whether you were at Mrs. Folk's house or not?

A. There was some one supposed to be there all the time, but they were not on duty all the time, they said they were not.

Q. There was some one supposed to be there all the time, what do you mean, day and night? A. Yes, sir.

Q. Now, the dictagraph was installed primarily for the purpose of obtaining your conversations with Mrs. Folk?

A. Yes, sir.

Q. And any other conversations which they might overhear, is that true? A. Yes, sir.

Q. So that some of the things in the report which you saw in Nixon's office may have been true or not, but you couldn't vouch for them? A. That is it exactly.

Q. Those conversations didn't all take place in your presence? A. Not all of them.

Q. Did the reports contain some matters which purported to be conversations held outside of your presence?

Mr. Cruce: That is a leading question, if the Court please.

The Court: Well, she may answer. Now, the question is whether those reports related to conversations, any part of those reports related to any conversations between

Minnie Atkins and other persons at times when you were not present, or did they purport merely to relate the conversations which occurred while you were at Minnie Atkins' house?

A. Some of the conversations never took place in my presence, some of the things that were said were not said. That is all.

The Court: Do I understand, Mrs. Wilds, that all the reports which you saw didn't agree with what you heard—purported to relate merely to conversations which took place at Minnie Atkins' house while you were there?

A. Yes, sir.

Q. Now, there were in some of those reports some things that you didn't know anything about, is that true?

A. Yes, sir.

Q. You have referred to Minnie's fear of being left alone. How frequently did you find her entirely alone when you went there to the house? A. Quite frequently.

Q. As a matter of fact, you really rarely went there unless she was alone, isn't that true? A. That is true, yes, sir.

Q. What, Mrs. Wilds, is your feeling towards Minnie in this case? Is it friendly or otherwise? A. It is friendly.

Q. Have you any feeling of spite or vindictiveness against Minnie Folk? A. No, sir, I have not.

Q. Do you know at this time what Minnie Folk is claiming in this case or what her interest is in this case?

A. I don't know anything definitely, no.

Q. Aside from what you gained from her, the general remarks that you got from her? A. No.

Q. Some reference has been made to the fact that a written statement was taken from you in Seattle in the presence of Mr. Bruff and Mr. Robinson, can you just relate to the Court exactly the method that was employed by all three of you in preparing that statement?

A. Mr. Bruff asked me a few questions about my occupation and my residence and things like that, and he took that down; and we went over all the original reports that I have notes, and he asked me if they were true, if I knew that they were true and was willing to swear to them. And I said that I most certainly was. So, Mr. Bruff—— He said he would like to take the statements along with him to look them over, and asked if I would prepare the statement or let him do it. And I said he could prepare it and I would look it over very carefully and see if it was true. And I said if it was I would sign it.

Q. Did you do that? A. Yes, sir.

Q. Did you make any corrections? A. No, sir.

Q. It was substantially true as covered by your report? A. Yes, sir.

Q. I will ask you if Mr. Robinson participated in that conversation?

A. Mr. Robinson was merely there, he just sat there and I was thinking that Mr. Bruff, was wondering why Mr. Robinson—— He was just there, that is all.

Q. Did you know at that time anything about what interest Mr. Robinson had? A. None whatever.

Q. Was any influence exerted upon you at that time to make any kind of statement, or were you simply asked about the statements contained in your reports?

A. I was simply asked about the statements contained in my report. There was no influence of any kind exerted.

Q. Had you completed your answer? A. Yes, sir.

Q. You have your original memorandum, and your original reports as prepared by you, with you have you not, Mrs. Wilds? A. Yes, sir.

Q. Exactly what method did you employ to retain the conversations in your memory?

A. Well, you mean at Minnie's?

Q. Yes?

A. Well, of course, I had to take mental notes only, but it was a long way down to town and sometimes if the conversation was long and I had a number of things to remember, I had a little memorandum that I would write just little things down in that memorandum on the street car on the way down town.

Q. Then, when you got home did you prepare a written report?

A. Yes, sir, I told Mrs. Mann about things and prepared a report.

Q. Now, when you were in Mr. Nixon's office—— Let me get the dates correctly, the conversations which you had were in May, June, July, and August, 1914? A. Yes, sir, 1915.

Q. I mean the conversations with Mrs. Folk were in 1915?

A. 1915, yes, sir.

Q. In that fall you went to Tulsa, did you not?

A. Yes, sir.

Q. What was the date when you went to Tulsa?

A. The latter part of September, I believe it was, or the first of October.

Q. Did you find your original report, as given to Betty Mann, in Mr. Nixon's office? A. I did.

Q. Did you at that time go over them and refresh your memory in regard to those reports? A. I did.

Q. Did you find any truthful statements in other reports there? A. I did.

Q. Now, after having refreshed your memory from your own report and your original notes, did you make a complete new statement? A. I did.

Q. Was that in longhand or typewriting?

A. I prepared it in longhand and had it typewritten afterwards.

Q. What does that typewritten memorandum contain, what is in that?

A. It contains facts or things that I heard Minnie say.

Q. And the statements contained in that are true are they? A. Yes, sir.

Mr. Cruce: We object to that, if the Court please.

A. Well, the statement isn't offered.

Q. Have you refreshed your memory from that statement and from your original notes before testifying in this case? A. Yes, sir.

Q. Now, you testified that you received three hundred and thirty dollars, will you explain whether that was the full amount received by you or merely your salary in Seattle?

A. It was salary in Seattle.

Q. Then the total amount of money received by you is approximately what?

A. About—— You mean counting the transportation?

Q. Everything that you received?

The Court: Well, let's not take up time with that addition. She got three hundred thirty dollars for the work in Seattle, then she has testified to certain things, certain payments that were made after she came to Tulsa, and the final payment made when she was about to leave.

Mr. Pinson: I wasn't sure, Your Honor.

The Court: Well, I think that is sufficient.

Q. Well, for how long did you work on this case in consideration of the amount that you received?

A. From May—— Just exactly one year.

Q. When you went to Tulsa state whether or not Mr. Nixon requested you to do any particular work?

A. I didn't mean to say one year, it was from May 17th until November 17th and then my transportation besides, one hundred and twenty five.

Q. Then, you returned in December or January and worked until May, did you not? A. Yes, sir.

Q. Now, during the time that you were there, just what work did Mr. Nixon request you to do, just state to the Court?

A. Well, he told me to go to work in Mr. Bailey's office, that he had made arrangements with Mr. Bailey.

Q. Well, aside from the work with Mr. Bailey, that was two weeks? A. Yes, sir.

Q. And you testified he also had you work about two weeks in Mr. Tally's office, or his own office?

A. Not after I went back the second time.

Q. That was before? A. Yes, sir.

Q. Now, what was it just exactly he wanted you to do when you did go back?

A. He told me to stay right in the hotel just as you are, and he was to pay me fifteen dollars a week and all expenses; and he says, "We may need you any minute and we want—" Well, he wanted me where they could get me at a minute's notice.

Q. That is why you didn't do anything except stay at the hotel? A. Yes.

Q. Now, do you recall the name of Wrightsman? A. Yes.

Q. Do you know when the Wrightsman—— When Mr. Wrightsman lost interest in this matter and quit paying expenses? A. I was told that it was about August 7th.

Q. You were told by Mr. Nixon, did he explain that to you?

A. Yes, Mr. Nixon wrote that to me when I was in Seattle.

Q. That he quit paying expenses about August 7th. Did you understand whether he had any connection with the case after that or not?

A. I didn't understand. In fact, when I read that in the letter I thought he had reference to the Mr. Wright that worked on the case, and I thought he didn't have his name right, I didn't know Mr. Wrightsman at all.

Q. Now, I forgot to ask you yesterday about one matter which refers to Minnie. Did Minnie say anything with regard to a salary paid her by Page? A. Yes, sir.

Q. State what that was?

A. Minnie stated that Page paid her a salary for seven months before he had any right to do so. She said that was done on the quiet. She said I could have been receiving that salary all my life, but after the first trial the salary had to be cut off.

Q. Did she attempt to explain why it had to be cut off?

A. Yes, sir, she said after Mr. Allen had caught them in the lies that it had to be cut off. They couldn't put him out of it very easily.

Mr. Pinson: I think that is all, Your Honor.

Mr. Stuart: That is all.

(Witness dismissed.)

Mr. German: Your Honor, we now desire to re-offer in evidence the affidavit, the portion of the affidavit of Minnie Folk, which was offered yesterday morning and which was introduced by the defendants at the Receivership hearing in March, 1915, in this Court, and to also re-offer the portion of her cross examination which was then read into the record and offered, that is yesterday morning, for the limited purposes of which it was then offered.

The Court: You have read it into the record, I think, fully, haven't you?

Mr. German: Yes, sir.

The Court: The record may show that re-offer and I will reserve ruling on that now.

Mr. German: We desire to offer in evidence Government's Exhibit A-102, the deed from Gustav H. Dotter to Emma Ferrell, dated July 16th, 1884.

The Court: How has that been identified?

Mr. German: It connects with the testimony of——

The Court: Any question about the authenticity of this?

Mr. German: It is certified.

The Court: It may be admitted. I suppose it merely has reference to the date when that transaction occurred?

Mr. German: Exactly. You remember the witness George Dotter——

The Court: Now, may the record be not then made sufficiently clear for this case by offering merely the portion of the deed which related to the date?

Mr. German: Yes, sir.

The Court: No reason why that should not be?

Mr. Hanford: Is that July 22nd, Mr. German?

Mr. German: The 16th day of July, 1884.

The Court: Well, the portion of the deed, then, really offered as having any bearing in this case is the date of the instrument which—what is that date?

Mr. German: July 16th, 1884.

The Court: Alright; well, it may be admitted, the entire instrument now, and possibly you may reduce the record later.

Mr. German: Now, Your Honor, in connection with the testimony of Mr. Dassler, in relation to that law suit filed against Lillie White, October 30th, 1885, we offered the petition at the time, we didn't have at hand summons which was issued and served on Lillie White. I now have certified copy of the summons issued in that suit and served on Lillie White, which I would like to introduce in connection with the petition.

The Court: Was the petition admitted?

Mr. German: Yes, sir. You remember they objected to it at first and then consented—withdrew the objection, rather.

The Court: The summons identified as an exhibit?

Mr. German: Yes, sir, exhibit A-103.

The Court: It may be admitted.

Mr. German: At this time, Your Honor, we would like to re-offer in evidence the so-called hold-up records from the office of the Dawes Commission. Those are the records—I have forgotten the exhibit numbers—relating to the re-calling from the—rather, relating to the holding up of patents.

The Court: Now, then, they have been read into the record over the objections and ruling. You made a proffer of that in the record. You now reoffer that?

Mr. German: We now reoffer it.

The Court: Alright; you may make the record. Identify what you re-offer. Now, what is the reason for the re-offer which did not exist before?

Mr. German: The reason which was not suggested before is all; we take, the position that they are admissible in addition to the reasons which we assigned before, for the further reason that they constitute evidence of notice to the world that there was a question raised about the citizenship rights of Thomas Atkins and the rightfulness of this allotment.

The Court: The record may show your re-offer; the same objection heretofore offered and the Court sustaining the objection, and noting your exceptions.

Mr. German: There was a question the other day about whether or not deeds were filed of record or any leases or deeds in the office of the Register of Deeds of Creek County, prior to the date of the forged deed from Minnie Atkins to Mr. Bartlett, which were filed in October, 1912, and you said that you would consider the matter.

Mr. Hanford: I told you that I did not have a copy and you were going to furnish me copies of their stuff so I could see them.

Mr. German: I handed copy of the abstract to Judge Cruce and supposed you had considered it. We have a witness here by whom we can prove it.

And thereupon, ROBERT L. BAUGH, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Robert L. Baugh.

Q. Mr. Baugh, have you recently made an examination in the office of the Register of the Deeds at Sapulpa which is the county seat of Creek County, with relation to what instrument had been filed for record there affecting the title to this Tommy Atkins allotment? A. Yes, sir, I have.

Q. When did you make that examination? A. Yesterday.

Q. Yesterday? A. Yes, sir.

Q. State whether you found any instrument or conveyance or lease of record affecting that title, other than the recorded patents, certified copies of the recorded patents, prior to a deed purporting to have been executed by Minnie Atkins to H. U. Bartlett in October, 1912.

A. No, sir, there was nothing on record there.

Q. What was the date of the first instrument to the Gem Oil Company, or to Page, or to Josey?

A. The first instrument to the Gem Oil Company was a lease executed by Alexander MacNab and Minnie E. Folk and Harry B. Folk, executed on June 24th, 1914, recorded June 29th.

Q. Recorded June 29th? A. Yes, sir.

Q. Was there any instrument of record there purporting to have been executed by Minnie Atkins or Minnie Folk, prior to the date of the instrument you have just testified about other than the Bartlett deed?

A. There was a deed—a trust deed to Alexander MacNab, Jr.

Q. What was the date of that?

A. June 13th, 1914; recorded June 22nd, 1914.

Q. Other than that was there any other instrument purporting to have been executed by Minnie Folk or Minnie Atkins prior to the date of the instrument you have just testified about except the Bartlett deed? A. No, sir, I found none.

Witness dismissed.

Mr. German: Now, Your Honor, we expected, as you understand to introduce Edward Merrick who has been ill, but is improving and I think it was announced in the court room the other day that his physician said he would be able to testify Monday, this coming Monday, and whatever else we do, before we rest, we will in all probability conclude before that date, we would like the privilege of putting Mr. Merrick on on Monday.

Mr. Stuart: That is alright, Your Honor; perfectly agreeable.

Mr. German: We have one other witness relating to the Minnie Atkins branch of the case. I think only one, but we have not been able to talk with yet. He will be very short. We would like to talk with him at the noon hour if he is here before. Then we have the question about the Nancy Atkins end. It is a question of procedure and I think subject to the Court's control. I don't know what the disposition of the counsel for Nancy Atkins may be in reference to putting their evidence on. My opinion is that when the Government has made a case as against Minnie Atkins, that it has fulfilled the requirements, because the patents which are sought to be cancelled in the name of course of Thomas Atkins, which gives his roll number, and of course the enrollment was the basis of the patent, and the fact the enrollment constitutes a link in the chain of title; the enrollments describe Thomas Atkins as a son of Minnie Atkins, and then we have the tribal enrollment records—tribal rolls relating to the question and taking those matters into consideration, it occurs to us that no other Thomas Atkins except the one who claims to be Minnie's son, is in any position to claim this allotment unless he connects himself up with the enrolled Thomas Atkins.

The Court: Well, now, isn't this the test? There is a Thomas Atkins on the roll. Assuming that he is a myth, then, isn't it a question of identifying Thomas Atkins here?

Mr. German: I think so, Your Honor.

The Court: Now, you contend you don't think the Thomas Atkins placed upon the rolls was intended by the Commission to contemplate the Thomas Atkins who was the son of Minnie Atkins?

Mr. German: That is correct.

The Court: And your contention is that that Thomas Atkins never existed?

Mr. German: That is correct.

The Court: Now, if I understand the contention of the Nancy Atkins side, it is that the Thomas Atkins on the roll, noted as the son of Minnie Atkins, was a real person, but got on the '95 roll as Thomas Atkins, as a real person, and existed at that time, as the son of Nancy Atkins?

Mr. German: Yes, sir.

The Court: Now, the Dawes Commission goes back to the '95 roll and finds there the name of Thomas Atkins according to the census card, presumably they had some information either from the '95 roll or elsewhere, leaving them to believe that the Thomas Atkins on the '95 roll, who they conceive to be enrolled if he had the other qualifications, was the son of Minnie Atkins, and so noted. Now, I cannot suggest to you gentlemen *how* your case, of course, but it seems to me that it is a matter of identification very largely.

Mr. German: Yes, sir, and our view is that it is not necessary for us to find every Thomas Atkins that is in the country and say that he is not the enrolled Thomas Atkins, because the census card identified the person who the Commissioner intended to enroll, or the supposed person. * * *

The Court: * * * I am requiring the Government to put on the proof to the extent that they deem that to be necessary to support the case in chief as against all the interests. * * * Now, the case will proceed for the Government until they are willing to close in chief. Then, Nancy comes on——

Mr. Allen: If it please the Court, we of course will proceed unless the Court directs the order of procedure. We thought as we view the law when we had shown that there was no child by Minnie of the name of Thomas Atkins, that we have shown that this is a mythical person.

The Court: Now, gentlemen, I think it is unnecessary to take further time. The matter is entirely in your hands.

Mr. Allen: We wanted to suggest this for the record, unless the Nancy Atkins claimant can show that they had the Thomas Atkins which the Commission intended to enroll. We wasn't to proceed without waiving our position on that question.

* * * * * * * *

The Court: Well, I conceive that the Government has already introduced evidence in this case, which the Court considers as substantial evidence sustaining their theory that this Thomas Atkins on the roll was not a son of Nancy Atkins. Now, how much more they will offer I am not prepared to. I think they ought to cover their case in that regard. That is my view.

Mr. Stuart: That is alright, Your Honor, and if [] think they have covered their case in that regard, we withdraw our objections.

The Court: That is cover their case in chief. I think in my judgment—I think there is evidence in this case against which the Nancy Atkins case would be required to offer proof. Now, whether you have offered all the evidence in chief, and proper evidence, you gentlemen know.

And thereupon, Court recessed until 2 o'clock P. M.

And thereafter, court having convened pursuant to adjournment, further proceedings herein were had as follows:

Mr. German: We desire to introduce the testimony of NANCY ATKINS, given by deposition in the case of Nancy Atkins, an incompetent, et al., plaintiff, against H. U. Bartlett, et al., defendant, pending in the District Court of Creek County of Oklahoma, case No. 3120, which deposition was given on February 9th, 1914, before C. B. Rockwood, notary public; that is a portion of that deposition, which I will now read: "Q. What is your name? A. Nancy Atkins. Q. Where do you live? A. At Nowata, Oklahoma. Q. What is your age about? A. I guess about 43. Q. Are you the same Nancy Atkins who has as your guardian Micco T. Harjo? A. Yes, sir. Q. Were you ever married? A. No, sir. Q. Did you ever have born to you a child? A. Yes, sir. Q. What was the child, male or female? A. Female. Q. Have you ever had more than one child born to you? A. No, sir. Q. How long did the child that was born to you live? A. It was born dead. Q. Do you have any brothers or sisters? A. One brother and one sister. Q. What are their names? A. The girl's name is Minnie Atkins, and the boy's name is Lee Atkins. Q. When did you last see your sister Minnie? A. The last time I remember, it was about the year 1895."

That was the direct examination and I will read now from her cross examination: "Q. Where were you living when the child was born? A. Wagoner. Q. Who was you living with? A. I was not exactly living with any one. I was working at the Barnard hotel. Of course, I was working there until I got so I couldn't work. Q. Where did you go after you got so that you couldn't work? A. Out to Mrs. Williams; she was running a rooming house. Q. Where was you when your child was born? A. At Mrs. Williams. Q. When was that? A. I can't exactly remember; I can't remember the year, it has been so long ago. Q. Where did you live after the child was born? A. I lived right at Wagoner until I got ready to go to Nowata. Q. Did you say this child was born dead? A. Yes, sir. Q. Well, whose child was that you had with you when you was living at Wagoner? A. I never had no child with me. Q. You worked at Mr. McNally's restaurant? A. I never worked at Mr. McNally's restaurant; I knew him though. Q. You are sure you never worked at his restaurant any while you lived there? A. I am not only sure, I am satisfied I did not. Q. And you did not have any child around there with you during the time you lived at Wagoner? A. No, sir. Q. Did you know Thomas Atkins? A. I don't know anything about him. Q. Where do you live now, Nancy? A. Nowata. Live in town? A. Yes, sir."

We now offer the deposition taken before Mr. Penick of Elnora Mayshack, appearing in his transcript beginning at page 350.

And thereupon **ELNORA MAYSHACK**, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. State your name. A. Elnora Mayshack.

Q. Where do you live?

A. I live on—I have forgotten the street name, 75 Union Avenue.

Q. In Portland, Oregon? A. Yes, sir.

Q. How long have you lived in Portland?

A. I have lived in Portland five years in September, this coming September.

Q. Where did you come from to Portland?

A. Kansas City.

Q. How long did you live in Kansas City?

A. I lived in Kansas City about ten years.

Q. Where did you go from to Kansas City?

A. I came here.

Q. When you moved to Kansas City——

A. I came from Oklahoma.

Q. What place in Oklahoma? A. Bartlesville.

Q. How long had you lived in Bartlesville?

A. I didn't live in Bartlesville but about three months.

Q. Where did you come to Bartlesville from?

A. From Brushy Creek.

Q. Where is Brushy Creek?

A. It is in the Cherokee Nation about five miles from Choteau, west of Choteau.

Q. Near Wagoner, Oklahoma?

A. Yes, sir, I think it is about fifteen miles to Wagoner, and then I came from Wagoner up there.

Q. How long did you live on Brushy Creek?

A. Oh, I lived there about ten years.

Q. Where were you living at the time of the payment made to the Creeks in 1890? A. To the Creeks?

Q. Yes. A. I was living in Wagoner.

Q. How long had you been living in Wagoner at that time?

A. Well, I don't know; I had been in Wagoner ever since they started that there railroad from Fort Smith going to Coffeyville, they hadn't gotten to Wagoner when I lived there.

Q. How old are you? A. I am 48 years old.

Q. Are you a citizen of the Cherokee Nation? A. Yes, sir.

Q. A freedman? A. Freedman, yes, sir.

Q. A freedman citizen of the Cherokee Nation?

A. Yes, sir.

Q. Did you know Nancy Atkins in 1890, and for several years before that time?

A. Several years before that time—I didn't know her quite a year before that time.

Q. About when did you get acquainted with her?

A. I got acquainted with Nancy—you know, when Lee Bennett was United States Marshal of Muskogee.

Q. Leo Bennett?

A. Yes, sir, that year that he was elected—well, Nancy came up to our house then.

Q. Where were you living at the time of the 1890 payment with reference to Nancy Atkins?

A. I was living in Wagoner.

Q. How far from where Nancy lived?

A. Nancy lived with me.

Q. Nancy lived with you at that time? A. Yes, sir.

Q. How long had she been living with you?

A. Oh, Nancy had been living with me about six months.

Q. Where were you living? A. I was living in Wagoner.

Q. Where in Wagoner?

A. Well, the streets weren't numbered then but I can tell you if you have ever been to Wagoner.

Q. Do you remember the Davis Jones store?

A. Yes; I live right between Davis Jones' store and Kid's blacksmith shop.

Q. What kind of a house?

A. The house has got a porch running this way, and rock on it, for a side walk, you know, and it was painted yellow.

Q. That was the house you lived in?

A. That was the house I lived in.

Q. How many rooms?

A. Four up stairs and two down stairs, and it had a little side room outside to it where we had some beds for people to sleep in.

Q. Did Nancy have a child during the time that she was living in that house with you?

A. She didn't have the child in my house, she had the child right across between the two tracks.

Q. *Dod* you remember her having the child?

A. Yes, sir, I was there when she had the child.

Q. Was that before or after she lived with you?

A. She was living with me at the time, but I didn't have room for her to be there sick, and they rented a tent for her and she was in the tent.

Q. Were you there when the child was born?

A. Yes, sir, four of us there.

Q. How long did it live?

A. It was born in the morning and died in the afternoon.

Q. How long was that before this payment was made?

A. Well, I really don't know.

Q. Was it before the payment was made or after?

A. Well, she got one payment after that, and she got a payment before this baby was born.

Q. How long before that baby was born had you known Nancy? A. About a year.

Q. Had she had any other child during that time?

A. No, sir. Well, I say no—she said she hadn't; she was a school girl when she got—she just left the high school at Muskogee when she came to our house.

Q. She told you she had had no other child?

A. Yes, sir, she said that was her first.

Q. How long after that child was born, did you know Nancy?

A. Four years; she followed me around for four years.

Q. Did she live in the house with you after that?

A. Yes, sir.

Q. Do you remember the year that you left Wagoner?

A. No, sir, I don't.

Q. How long did you live in Wagoner, and did Nancy live there with you, after that child was born?

A. Nancy lived with me after that child was born, about two years.

Q. In Wagoner? A. In Wagoner, yes, sir.

Q. Then, where did you go?

A. I went to Brushy Creek—you see, I wasn't in the Creek Nation, and I had to go in my own country.

Q. Did you have an allotment over there? A. Yes, sir.

Q. On Brushy Creek? A. Yes, sir.

Q. Did you move on your allotment? A. Yes, sir.

Q. What do you mean by allotment?

A. You mean you go and take up your homestead, you know, and move on it.

Q. You had no deed to it? A. No, sir; no, sir.

Q. How long after you left Wagoner and went to Brushy Creek was it that Nancy came to Brushy Creek.

A. Nancy went with me—Nancy moved with me.

Q. How long did she stay on Brushy Creek?

A. Oh, I stayed on Brushy Creek ten years but Nancy didn't stay with me all the time.

Q. How long did she stay with you?

A. She stayed with me about a year, I guess. Off and on, Nancy was with me four years—off and on.

Q. How long between times would you see her after she quit staying with you on Brushy Creek?

A. Oh, I would see her every three months, or every two months.

Q. Was there ever a period longer than three months that you wouldn't see her?

A. No, sir, because I would go to town every week.

Q. Can you say positively whether she had any child other than the one you testified about? A. No, sir.

Q. Before you last saw her? A. No, sir; no, sir.

Q. You say she did not?

A. No, sir, she did not, up to the time I knew her and she was with me.

Q. That was how long ago?

A. From the last time I seen Nancy?

Q. Yes.

A. I guess it has been about—— Oh, I don't know, it had been about thirteen years, I expect, since I have seen Nancy.

Q. Did any boy every live with Nancy during the time that you knew her? A. No, sir.

Q. Where was that baby buried?

A. Why, I can't tell you, but I think, to the best of my remembrance, it is buried up there to the graveyard, to the side.

Q. To refresh your memory, isn't it buried—wasn't a hole dug back of Davis Jones' store, and it was buried there?

A. I don't know, I wouldn't say.

Q. But you do know that it didn't live but just a few hours?

A. No, it didn't live but a few hours. Monday Barnett buried it—I don't know where he buried it.

Cross Examination by Mr. Blakeney.

Q. Are you related in any way to Nancy Atkins?

A. No, sir.

Q. How long did you say it was after the first payment, or before this second payment you referred to, that this child was born?

A. I really can't tell you for I really don't just know but it wasn't very overly long.

Q. Long what? Before the second payment?

A. Yes, sir.

Q. Well, what do you mean by overly?

A. Well, it wasn't more than a couple of years.

Q. About two years, then before this last payment?

A. The last payment that I know she got money that the Creeks paid.

Q. That this child was born and died? A. Yes, sir.

Witness dismissed.

Mr. German: We now offer the deposition of Micco Harjo, taken before Mr. Penick, appearing in his transcript, beginning at page 303.

And thereupon, **MICCO HARJO** being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name and residence?

A. I will be thirty-two years old the 26th day of July.

Q. Are you a Citizen of the Creek Nation of Indians?

A. I am a citizen but I didn't get any land.

Q. How long have you lived in Portland?

A. I have been in Portland—I came to Portland two years ago last September.

Q. Where did you live prior to coming to Portland?

A. Nowata, Oklahoma.

Q. How long did you live in Nowata?

A. Between seven and eight years.

Q. Where did you live prior to that time?

A. In Sioux County, Nebraska.

Q. Where were you born?

A. I was born in the Territory.

Q. What place?

A. Born there about twenty-six miles southwest of Muskogee.

Q. The Creek Nation? A. Yes, sir.

Q. Micco, do you know Nancy Atkins? A. I do.

Q. How long have you known her?

A. I have known Nancy for the last ten or twelve years.

Q. Are you the Micco Harjo first appointed guardian of Nancy Atkins, an incompetent? A. I am.

Q. At the time of that appointment where was Nancy living? A. With me.

Q. Are you a married man? A. I am.

Q. You had a home in Nowata? A. Yes, sir.

Q. And Nancy lived in your home? A. Yes, sir.

Q. Did Nancy Atkins ever make any statement to you in reference to the birth of a child at Wagoner? A. She did.

Q. Tell me in your own way the conversation that you had with her and the conversation you had with other people living up to the—— What statement did she make to you with reference to this child?

A. She first told me it was a girl and then she said it was a boy.

Q. About when was it you first had a conversation with her about this child?

A. Well, it was in—— Let me see. It was in 1912, I believe, as near as I can remember.

Q. What was the occasion for that conversation?

A. Well, one man by the name of Claude Welden, from Wagoner, came up to see her and I asked him what his business was, and at that time she was out at my mother-in-law's, seven miles from town, and he told me what his business was and I wouldn't let him talk to her, and then he went back to Wagoner and shortly he came back again and I talked to Nancy about it myself and then she told me it was a girl, and then she said it was a boy, and then this man named White came up to see me about it, and he told me he had all evidence to show me that this child was a boy.

Q. Prior to the time that White came to see you, had Nancy told you the child was a boy?

A. As I told you before, she said it was a girl and then said it was a boy.

Q. When did she say it was a boy in reference to the time that White saw you?

A. Well, she said that when White came up just a minute —when Hammett; Ellis Hammett and others came up and Ellis Childers—— They wanted to take a lease and I told them I couldn't make a lease, and he said: "The Damn lease you gave us is no good and you can get another lease," and I talked to the Field District Clerk, Van Jones, and Jones told me not to have nothing to do with them; and they said, well they went up and looked over the records and this guardianship was irregular in form and they were going to take a lease from Nancy, and I said: "If you take a lease from Nancy you will take it at your own risk," and they taken it and taken a lease from Nancy and give her a check for fifty ($50.00) dollars on a bank in Coweta; and after that White came and said the other lease was no good, and he said: "I want a lease from Nancy at the Campbell Hotel at Nowata, on Cherokee Street," and I talked to him a long time out in front on a bench and he said: "Now, you can make this lease and I will bear all expenses, and I can absolutely prove it was Nancy's child," and he said: "I want to go down and talk to Nancy again"—— "Can't I talk to her?" and I said: "Yes, you can;" and it was about ten o'clock in the morning and we went down to my home and he talked to her; talked to her about living in Wagoner and such things as that, and he said: "Go and talk to the Judge," and I talked to the Judge and he induced me to make a lease, so we made a lease through the Probate Court at Nowata.

By Mr. Blakeney: You are getting a lot of things in there that are not responsive to any question.

Q. Now, Micco, in reference to the time Hammett came up there to get a lease from Nancy Atkins, when was it that Nancy told you this was a boy? Was it before or after that?

A. It was before and after too.

Q. Well, when did she first tell you it was a girl?

A. Well, the first time I talked with her about it.

Q. Then, when did she tell you it was a boy?

A. That was after Hammett was there.

Q. That is what I was asking you and you probably didn't understand it. In the meantime, between the time she had told you it was a girl and told you it was a boy, had you talked to her about the matter?

A. Yes, sir, I talked to her and you know she was a habitual drunkard. She got drunk one day and she cussed me out about it and she told me the child was a girl and she wouldn't have anything to do with it, and then she turned around and told me it was a boy.

Q. What was the occasion of her telling you it was a boy?

A. Because she wanted money and got money out of it.

Q. How do you know?

A. Because I know she always wanted me to give her money.

Q. What had been said to her, if anything, about it being a boy at that time? A. What had been said to her?

Q. Yes?

A. Said if the child was a boy could get lots of money out of it.

Q. Who came up to get a lease?

A. Markham Hammett and J. P. White.

Q. Did you talk to her about the effect of the child being a boy? A. Yes, sir, I did.

Q. What did you say to her?

A. I said, if your child is a boy, you probably can some day get lots of money out of it.

Q. Up to that time, had she told you it was a boy?

A. As I said, she told me once and then denied it and said it was a girl.

Q. Which did she first tell you it was?

A. Told me it was a girl.

Q. Then when, in reference to the conversations, in reference to the facts of the child being a boy, was it that she first told you it was a boy?

A. I don't just exactly understand you.

Q. Did she ever tell you that it was a boy prior to the time you told her that if it was a boy she could get some money out of it? A. No, sir.

Q. It was after that she first told you that it was a boy?

A. It was after, yes, sir.

Q. Then later on you say that she got drunk?

A. Yes, sir, she got drunk frequently.

Q. And while drunk she made some statements to you in reference to this child? A. Yes, sir.

Q. What was that statement?

A. Well, she told me she wasn't going to have a damn thing to do with it at all, one way or the other, she wasn't going to be bothered with it at all.

Q. Why did she say that?

A. Because she said she didn't believe she could get anything out of it and she would be beat out of it.

Q. Why did she say she wouldn't get anything out of it?

A. She said that—— She figured she would be beat some way, she might die and she didn't want to leave nothing anybody.

Q. In that conversation you are now testifying about, did she say anything in reference to whether the child was a boy or girl? A. Just as I said a while ago she said——

Q. At the time she got drunk and cussed you out, and said she wouldn't have anything more to do with it?

A. Well, she said it was a girl.

Q. When you first talked to Nancy Atkins about this child, when she told you it was a girl, did she say anything in reference to how long the child lived? A. Yes, sir.

Q. What did she say?

A. She told me the child was born dead.

Q. Did she tell you where it was born? A. Yes, sir.

Q. Where? A. At Wagoner in a tent.

Q. Where, how is that? Where with reference to what place in the City?

A. Well, she said across the railroad there in some tent.

Q. Where did she say it was buried?

A. Well she said Monday Barney buried the child out there some place.

Q. Did she ever undertake to tell you—— Did she ever tell you at any subsequent time anything about the time of the death of the child?

A. Yes, about the time of the death of the child, she couldn't remember, she said how long it had been only by the railroad coming to Wagoner.

Q. I mean this, did she always tell you that the child died in infancy? A. Yes, sir.

Q. When did she say she died, did she say?

A. Well, she told me it was about the time that the railroad was coming to Wagoner, or something like that.

Q. The M. K. & T.? A. The Missouri Pacific.

Q. The Missouri Pacific Railroad? A. Yes, sir.

Q. That was after she had said that it was a boy, after the conversation you had had with her? A. Yes, sir.

Q. Micco, you were appointed official guardian of Nancy Atkins, were you not? A. Yes, sir.

Q. At whose instance were you appointed Guardian?

A. At whose instance?

Q. Yes? A. Well, by the Agent at Nowata.

Q. Who?

A. I talked with the Agent at Nowata about it.

Q. What oil man talked with you about it?

A. Well, when I was appointed guardian for Nancy there was nothing in sight. Nancy was living with me and there was nothing to the oil at that time when I was appointed guardian.

Q. Well, you later made a lease on this land to J. B. White, didn't you? A. Yes, sir.

Q. When you first talked to Mr. White about it—about this land, did you tell him that Nancy Atkins claimed that the child was a girl?

A. Mr. White first talked to me, Mr. White first called me up himself.

Q. What did you say to him in that conversation in reference to the child?

A. He asked me if I had made a lease on an allotment of Thomas Atkins and I told him yes, he says: "Who to?" and I told him H. U. Bartlett, and he says: "There is nothing on record and I will be up to see you," so he came up.

Q. Then did you talk to him about the child?

A. Yes, sir.

Q. Did you tell him—— What did you tell him if anything about the child?

A. Well, we had a conversation about the child and I told him what Nancy said, and he told me there was no question but what it was Nancy's child.

Q. You told him what Nancy told you, what was that?

A. Well, I told him Nancy told me the child was a girl.

Q. After that, what did he say to you?

A. Well, he said he had evidence that the child was a boy.

Cross Examination by Mr. Blakeney.

Q. Micco, when was the first time that Nancy told you that she had had a child? A. The first time she told me?

Q. Yes?

A. That was prior to the time these fellows came up to see me about the lease.

Q. About how long ago?

A. Well, I can't just exactly tell you how long it has been.

Q. Were you appointed guardian for her at that time?

A. I was, yes, sir.

Q. When you were appointed guardian had you heard anything about her having a child?

A. When I was appointed guardian?

Q. Yes? A. No, sir.

Q. You didn't know, at the time you was appointed guardian, that Nancy claimed that she had had a child?

A. No, sir.

Q. When these parties came up to talk to Nancy about the lease, I believe you said that at first the first time you didn't let them see her? A. I did not.

Q. You talked to her about it, did you? A. Yes, sir.

Q. And she told you she had had a child?

A. Yes, she did.

Q. And it was a girl child? A. Yes.

Q. And it had been born dead? A. She did.

Q. Did she tell you when it was born?

A. Just as I said, she told me about the time and I figured as near as I could.

Q. Well, she told you it was born and died about the time the Iron Mountain Railroad came into Wagoner?

A. Somewhere there, yes, sir.

Q. She was living in a tent? A. Yes, sir.

Q. Working in a restaurant?

A. She said she had been working in a restaurant prior to that time.

Q. Did she tell you what she named the child?

A. Did she tell me?

Q. Yes? A. No, sir.

Q. She had never named the child that you know of?

A. Not to my knowledge.

Q. She never, in any conversation there, that she had with you, told you the name of that child, what she named the child? A. What she had named it?

Q. Yes? A. No, sir.

Q. The child died, as you understood from her, without being named? A. That was my understanding.

Q. She never mentioned any name when she mentioned the child to you whether she told you it was a boy or girl?

A. Until after this came up.

Q. What did she say after it came up?

A. Well, she said after it came up, just as I formerly said, it was a girl and then said it was a boy, and then said it was Tommy Atkins.

Q. She said it was Tommy Atkins?

A. She said that her—she said that was her father's name, I believe, or something like that.

Q. To get the matter straight as to the parties came to see you about the lease, you talked to—you went out then, and talked to Minnie and told Minnie—talked to Nancy and told Nancy about it, and Nancy told you that she had had a child that was a girl; had been born dead and it was born about the time that the Iron Mountain Railroad was built into Wagoner? A. Yes, sir.

Q. Later on you say some other parties came back to see you? A. Yes, sir, they did.

Q. Who was the next parties that came?

A. The next party that came—what party do you have reference to now?

Q. The second party that came. The first parties that came to you was named who? A. Claude Weldon.

Q. He came and talked to you? A. Yes.

Q. And you wouldn't let him see Nancy?

A. No, sir, I did not.

Q. And then you talked to Nancy yourself? A. Yes, sir.

Q. And Nancy told you she had had a female child born dead, as I stated? A. Yes, sir.

Q. And then somebody else came to you? A. Yes, sir.

Q. Who was it? A. The second person?

Q. Yes?

A. Let's get that straight now. The first party that got the lease was H. U. Bartlett.

Q. Not the first party that got the lease but the first party who came to see you about the lease.

A. The first party was Claude Weldon.

Q. Who was the second party who came to see you?

A. Ellis Hammett and Ellis Childers and another fellow, I don't know his name.

Q. The first time that you knew Minnie had a child was when Claude Weldon talked to you about it?

A. I don't know Minnie at all.

Q. I mean Nancy; the first time that you knew Nancy had a child was when Claude Weldon talked to you about it?

A. Yes, sir.

Q. When Tommy came, did you let them go out to see her?

A. When they came, they hung around for a half a day, and they finally said they wanted to see Nancy, and I told them to go ahead and see her. They said they were going to take a lease from her.

Q. You went out to see Nancy then, did you?

A. She was at my house at that time.

Q. You saw her after they got through seeing her?

A. I did.

Q. And then Nancy told you the child was a boy?

A. She told me it was a boy.

Q. Did she tell you why she was claiming it was a boy?

A. She didn't say exactly why but I knew why.

Q. What did she say to you?

A. Well, she said she was going to get some money out of it.

Q. Did she say who she was going to get money from?
A. She didn't name any parties.
Q. Or how much she was going to get?
A. She didn't say.
Q. Did she say how much she was to get?
A. Fifty.
Q. Do you know whether that check was paid or not?
A. Yes, sir, it was paid to Nancy in person.
Q. Which was the next party that you saw?
A. The next party that came?
Q. Yes? A. J. P. White.
Q. What did he do? A. He'd taken a lease.
Q. From whom—you or Nancy? A. From me.
Q. What did he pay you?

A. At the time he'd taken the lease, he didn't pay me anything.

Q. What did he agree to pay you?

A. He agreed to take the thing through court and prove it was Nancy's child; he came back and told us it was a complicated lease and he would go through court and fight it to a finish.

Q. Who else came to get a lease? A. John Markham.
Q. Did he get a lease? A. No, sir.
Q. Who came next? A. I can't tell you how many came.
Q. Frank Long?
A. Frank Long didn't come to Nowata to see me.
Q. Anybody representing Page come?
A. Not to Nowata.
Q. Where did they come?

A. The only people I saw representing Mr. Page at Tulsa, the Gem Oil Company, was in Portland.

Q. Portland? A. Yes, sir.

Q. When did you see them—any representatives of Page in Portland?

A. I think it was a year ago last summer as near as I can remember.

Q. Who did you see? A. A Mr. Long of Tulsa.
Q. Anybody else?

A. Well, I suppose the gentleman standing there was representing some people through Mrs. Atkins.

Q. You saw Mr. Hanford? A. I saw Mr. Hanford.
Q. Who else did you see in connection with this matter?
A. Well, I saw Mr. Bartlett.
Q. When did you see him?
A. At the same time practically.

Q. When was it—about July of 1914? A. Well, I don't remember the month.

Q. Summer time? A. It was in the summer, yes.

Q. It was the time that Bartlett and Sadie James was going on through? A. I didn't see Sadie James.

Q. You heard she was here?

A. I heard she was here with them; I heard Mr. Robinson was here, or coming, or something.

Q. You heard Mr. Bartlett and Sadie James were here?

A. Yes, sir, I saw Mr. Bartlett—he talked to me.

Q. You told Bartlett about this matter just as you told it here?

A. Yes, sir, I talked to Mr. Bartlett at the Portland Hotel.

Q. If I understand now, Bartlett talked to you in detail about the matter and you told Bartlett just how the Nancy Atkins claim arose in about the language that you have told it here?

A. Yes, sir; then you asked me about Mr. White, at the time he had taken the lease—he didn't pay me any money. Several months after that, there was eighty paid.

Q. Who paid that? A. Mr. White.

Q. Did you report that as money that was received by you as guardian? A. Did I report it?

Q. Yes? A. I made my report, yes, sir.

Q. Including that in it?

A. Yes, sir, sure, but the money in the meanwhile was in escrow in the bank.

Q. It was never actually paid you then?

A. Sure, I got the money afterwards.

Q. Did you receive any money from anybody else, Micco?

A. On this proposition?

Q. Yes, sir? A. For Nancy?

Q. Yes? A. No, sir.

Q. Did you ever receive any money from anybody, for anything, in connection with this Tommy Atkins claim?

A. Did I receive any money?

Q. Yes?

A. Well, I was down at Tulsa one time, and Mr. Bartlett give me $25.00 but you couldn't say it was in the Tommy Atkins claim. I told him that I needed some money and I wanted to get some money from him, and he give me a check for $25.00.

Q. Did anybody else give you any money?

A. Anybody else?

Q. Yes? A. Not that I recall at the present.

Q. Did Frank Long ever give you any?

A. No, sir, he didn't.

Q. No representive of Page ever gave you any?

A. No, sir, they asked me to make a deposit but I didn't make it.

Q. Now, Micco, just to straighten this matter in my mind and see if I understand it rightly, Nancy had told you this was a girl baby when you first talked to her? A. Yes, sir.

Q. Afterwards White came down and he told you he could establish the fact that it was a boy baby, and if he did establish that fact, that he could get a large amount of money for Nancy? A. Yes, sir.

Q. Then you talked to Nancy about it, didn't you?

A. He went out and talked to her first himself, and then I went out and talked to her.

Q. Didn't you tell Nancy what White had said and that she had better stand pat—that it was a boy baby? A. I did.

Cross Examination by Mr. Hanford.

Q. Micco, do you know anything about suit that was started in the State Court of Creek County to quiet in Nancy Atkins to this land? A. Do I know about a suit?

Q. Yes?

A. Well, I heard the suit was filed but I wasn't there.

Q. Did you know that suit was filed in—was commenced in your name as Micco T. Harjo, Guardian of Nancy Atkins?

A. I know that White had taken the lease that way.

Q. You never participated in that case at all?

A. No, sir.

Q. Did you ever authorize it to be brought?

A. As guardian?

Q. As guardian? A. Yes, sir, as guardian.

Q. You were not present at any of the proceedings of that case that were had, were you?

A. No, sir, they told me when I came West they would notify me but I didn't get any notice.

Q. You don't know anything of the witnesses who testified? A. No, sir, I didn't; you see I was here.

Q. Did Nancy Atkins ever tell you any of the people who were with her at the time her baby was born? A. She did.

Q. Who did she tell you?

A. She told me a long time, that if she could find one Elnora Williams that she could establish the claim.

Q. Did she tell you that Elnora Williams was with her at the time the child was born? A. Yes, sir, she did.

Q. And knew of the facts?

A. Yes, sir. This woman, you know here is known as Elnora Mayshack.

Q. At the present time? A. Yes, sir.

Q. She is a resident of Portland? A. Yes, sir, Portland.

Redirect Examination by Mr. Allen.

Q. Micco, have any threats been made to you growing out of the—of your participation in the Nancy Atkins claim?

A. Yes, sir.

Q. State what?

A. Well, Will Robinson, Ellis Hammett and others told me they would put me in the penitentiary.

Q. What did Ellis Hammett tell you, if anything?

A. He didn't tell me personally; they left word, and they told the deputy sheriff of Montgomery County, Kansas, that other business in Coffeyville—that I had gotten great sums of money for Nancy Atkins and they were there to protect her, and when I went away they kidnapped her and took her to Muskogee, and I went to the Missouri Pacific to stop them and they had gone.

Q. When you came to Portland, did you believe they were going to prosecute you for having proceeded—for having participated in the way you say you did in this claim of Nancy Atkins? A. Well, I looked for them to.

Q. You stated to me this morning that in the event you told the truth about this, that you wanted to be protected from prosecution? A. Yes, sir.

Q. Nancy Atkins, you say, was living with you at the time you told her to make a claim that this boy was her son?

A. You say she was living with me—yes, sir; I had taken care of her before I was married because I kept house and she lived with me.

Recross Examination by Mr. Blakeney.

Q. Micco, isn't it a fact that you left that country because—when did you leave that country?

A. When did I leave there?

Q. Yes?

A. Left there in August, I left there last August two years ago.

Q. August two years ago? A. Yes, sir.

Q. Didn't Nancy come with you? A. No, sir.

Q. Where did you leave her when you left?

A. She was in Coffeyville.

Witness dismissed.

And thereupon, ELIZA STERLING was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Eliza Sterling.

Q. Where do you live, Eliza? A. At Wagoner, Oklahoma.

Q. How old are you? A. Forty-five.

Q. How long have you lived in Wagoner?

A. About twenty-nine years.

Q. When did you come there, and what do you fix the time when you moved there by if anything?

A. The time when the railroad, what they call the—— We call it the Valley, but I guess it is the Iron Mountain, when it was going through from Fort Smith to Coffeyville.

Q. When they were building that road? A. Yes, sir.

Q. Who was your mother? A. Mandy Barnett.

Q. Was a she a mid-wife? A. Yes, sir.

Q. Is she living or dead? A. She is dead.

Q. Do you know Nancy Atkins? A. Yes, sir.

Q. When did you first know her?

A. Well, I have been knowing her all along.

Q. Where did you live before you moved to Wagoner?

A. Between the two rivers.

Q. The Arkansas and the Verdigris? A. Yes, sir.

Q. Near Clarksville?

A. What they used to call it Marshalltown.

Q. Over north from Muskogee on the other side of the river? A. Yes, sir.

Q. The Arkansas? A. Yes, sir.

Q. And southwest of Wagoner across the Verdigris?

A. Yes, sir, it is close to what they call Whybark now.

Q. Did you know Nancy when you lived there?

A. Yes, sir.

Q. Do you know whether Nancy ever gave birth to a child? A. Yes, sir.

Q. Where was that? A. At Wagoner.

Q. Whose house? A. Elnora Williams' house.

Q. Were you or not present? A. I was at the presence.

Q. You were there? A. With my mother, yes, sir.

Q. Was Elnora Williams a colored woman or a white woman? A. She was a colored woman.

Q. How long had you been in Wagoner about when that child was born? A. About a year.

Q. About a year? Yes, sir.

Q. Did that child continue to live?

A. No, sir, it was born dead.

Q. Born dead? A. Yes, sir.

Q. Was it a boy or girl? A. It was a girl.

Q. Who else was there besides you?

A. Well, my mother and Elnora Williams.

Q. And Elnora Williams? A. Yes, sir.

Q. Where is Elnora Williams now, if you know?

A. I don't know.

Q. Did you know about her later marrying a man named Mayshack and becoming Elnora Mayshack? A. No, sir.

Q. Where was Elnora Williams house there in Wagoner?

A. Her house was—— Where was the house?

Q. Yes, which side of the railroad track?

A. On the west side.

Q. There are two railroad tracks there? A. Yes, sir.

Q. Two railroads running through Wagoner?

A. Yes, sir.

Q. The Katy and the Iron Mountain?

A. Yes, sir, the Iron Mountain hadn't gone past the house yet but the Katy was there.

Q. It was west of the Katy track? A. Yes.

Q. Where was it with reference to where they were building the Iron Mountain track? A. West of that.

Q. Very far? A. No, sir, not very far.

Q. Not very far? A. No, sir.

Q. About how far?

A. I couldn't tell, it wasn't so very far, but I can't tell the feet you know.

Q. About how far from where the Katy track and the Iron Mountain tracks cross each other?

A. Pretty good piece from where the crossing is.

Q. Was it north or south of where they crossed?

A. It was north.

Q. It was north? A. Yes, sir.

Q. Did you know a woman named Birney? A. Yes, sir.

Q. What was her given name? A. Betty.

Q. How far did she live from where Elnora Williams lived? A. She lived back behind Elnora Williams.

Q. Which direction from the railroad?

A. West, still west.

Q. Still west, was she still further west than Elnora?

A. Yes, sir.

Q. About how far?

A. I reckon about two blocks.

Q. Were there any stores close there? A. Store?

Q. Yes? A. Yes, sir.

Q. Whose? A. Mr. Davis's and Jones.

Q. Davis and Jones' store? A. Yes, sir.

Q. On the west side of the track?

A. Yes, on the west side of the track but they were below this.

Q. Was there a hotel there known as the Barnard hotel?

A. Yes, sir.

Q. Which side of the track was it on?

A. The west side.

Q. Now, what part of Elnora Williams house was it that this child was born in?

A. Down—down stairs in the—you know, they had a story—what we call a story and a half house.

Q. Yes?

A. And it was upstairs and a little shed room to the house on each side. Well, I think it was on the south side.

Q. Did you know Nancy after that pretty well?

A. Yes, sir.

Q. Did she stay around Wagoner very long?

A. Yes, sir, she [] around there a long time; about 6 or 7 years, off and on.

Q. In one of those shed rooms? A. Yes, sir.

Q. She was sent to the penitentiary while you were there?

A. Yes, sir.

Q. And came back? A. Yes, sir.

Q. And then, did she continue to live in Wagoner?

A. Yes, sir.

Q. About how long after that?

A. About 6 or 7 years.

Q. Six or seven years? A. Yes, sir.

Q. Then where did she go to? A. She went to Nowata.

Q. Now, while she lived in Wagoner, during the time that you knew her in Wagoner, what—would you see her very often? A. Yes, sir.

Q. Where did you live? A. I live at Wagoner.

Q. I mean, where did you live with reference to where she lived?

A. Well, Nancy lived with me; Nancy stayed with me part of the time.

Q. Part of the time? A. Yes, sir.

Q. Where was your house from Elnora Williams?

A. Oh, Elnora Williams was gone from there a long time ago. My house was south of Elnora Williams.

Q. South? A. Yes, sir.

Q. About how far?

A. Five, or six, or seven blocks—a way down the street.

Q. In going to your work, or in going around, would you see Nancy very often when she was not living with you?

A. Yes, sir, quite often.

Q. Where else did she live during those years that you knew her there, besides at your house?

A. Well, sometimes she would stay where she worked, in the servant's room, there at the Barnard hotel.

Q. Barnard hotel? A. Yes, sir.

Q. She worked there some?

A. Yes, sir, and she worked at the McNally hotel, and she worked at—I forget the other people's name that she worked for; all the hotels there, around there.

Q. What [] Nancy's habits as to running around much?

A. Well, she would go wherever she wanted to whenever she would get ready.

Q. Did she visit around you colored people a good deal or not?

A. Yes, sir, she stayed pretty nigh all the time around among us colored people.

Q. Now, during the time that you knew Nancy there, state whether or not she had any other children besides this one that you have told about? A. No, sir.

Q. Did you know about her being in family way before she had that child? A. No, sir.

Q. The child you told about? A. Sir?

Q. The child you told? A. That I knew about it?

Q. Yes?

A. Yes, sir, when she came to Wagoner she was.

Q. In that condition, was she?

A. Yes, sir, in that condition.

Q. About how long after she came there was it that she had this child?

A. I don't know, sir, now, about how long.

Q. Was the child with—were you present at the birth of the child she was carrying when she came to Wagoner?

A. Yes, sir.

Q. Do you see Nancy in the courtroom now?

A. Yes, sir. There she sits right over there.

Q. Right here by Judge Maxey?

A. Right behind lawyer Maxey.

Q. Nancy, you say, stayed at your house a while?

Cross Examination by Mr. Maxey.

Q. How old do you say you were? A. 45 years old.

Q. When was this child born?

A. I don't know the day it was born.

Q. What? A I don't know the date it was born.

Q. Well, what year?

A. I think it was in '89; the year of '89.

Q. How old was you then?
A. I was 18 or 19 years old.
Q. You was 18 or 19 when the child was born?
A. Yes, sir.
Q. Now, where did you say it was born?
A. At Elnora Williams.
Q. How came you to be there?
A. My mother was a mid-wife and I went with her.
Q. Who else was there? A. Elnora Wiliams.
Q. Anyone else? A. Not as I know of.
Q. Where did you live at that time? A. At Wagoner.
Q. Where abouts?
A. South of Elnora Williams.
Q. How long had you lived there prior to that time?
A. About a year.

Q. What other colored people lived in Wagoner at that time?

A. Betsy Birney and my sister Maudie Vann, and Patsy Overton, and Henry Anderson, and Grant Tucker, and that is about all I could think of now; very few was—wasn't so many colored people there, then.

Q. Wasn't many colored people nor many white people there at that time? A. No, sir.

Q. You say this child was born dead? A. Yes, sir.
Q. Are you sure of that? A. Yes, sir.
Q. What time of the day or night was it born?

A. Well, I don't know, it was in the night but I never paid no attention.

Q. In the night, was it? A. Yes, sir.

Q. And you and your mother and Elnora Williams were there? A. Yes, sir.

Q. Who has been talking to you about what your testimony would be? A. Nobody.

Q. Nobody at all? A. No, sir.
Q. Nobody hasn't ever talked to you about it?
A. No, sir, no one—some men talked to me last night.
Q. That the first time any one ever talked to you?
A. Yes, sir.
Q. You have testified before in this case, haven't you?
A. Yes, sir, not here but in Sapulpa.
Q. Well, now, hasn't anybody talked to you since then?
A. No, sir.
Q. Until last night? A. No, sir.
Q. Who talked to you last night?
A. I don't know the lawyer's name.
Q. Where were you? A. Here in the Court Room.
Q. Here in this building? A. Yes, sir.

Q. And you didn't talk to anybody from the time you testified in Sapulpa in the trial at that case until last night?

A. No, sir.

Q. Didn't talk to anybody? A. No, sir.

Q. Anybody been to your house to talk to you?

A. No, sir.

Q. Betty Mann ever been to your house to talk to you?

A. She was to my house before I went to Sapulpa.

Q. Well, wasn't she there afterwards?

A. Yes, sir,—— No, sir.

Q. Who was with her when she was at your house before you went to Sapulpa? A. There was a white man.

Q. Who else? A. Nancy.

Q. Was this white man Mr. Bartlett? A. Yes, sir.

Q. When Nancy and Mr. Bartlett came there to fix up what your testimony was to be, didn't you—— A. No, sir.

Q. You was to testify that it was a girl? A. No, sir.

Q. And that it was born dead?

A. No, sir, I told him when he come in and told me what his business was, asked me didn't Nancy have a child to born it in Wagoner. I told him yes, sir, she had a child borned in Wagoner and it was a girl and my mother waited on her. He never told me anything.

Q. What did he tell you?

A. Well, he said he would subpoena me. Nancy brought him there. She said they said I had a boy by the name of Tommy Atkins and you know I didn't.

Q. You fixed up what your testimony was to be, you was to testify that it was a girl? A. No, it was a girl.

Q. And it was born at Elnora Williams, and it was born dead, and you went up to Sapulpa and testified to that, didn't you? A. Yes, sir I did because it was the truth.

Q. That is as near the truth as you told? A. Sir?

Q. Is that as near the truth as you ever told?

A. Yes, sir.

Mr. German: I object to that as argumentative.

The Court: Well, she says yes, sir.

Q. Did they have a funeral for that child?

A. No, sir, it was born dead.

The Court: Born dead?

A. Yes, sir, a little infant.

The Court: Do you know where it was buried?

A. No, sir.

Q. Now, you said something about the railroad being built in there, which railroad are you speaking of, the one east of Wagoner or west? A. The one east of Wagoner?

Q. Yes, the Iron Mountain?

A I am talking about the Iron Mountain.

Q. Well, the Iron Mountain was built into Wagoner and then it didn't go any further for a year or two? A. Yes, sir.

Q. Well, now, which was it? A. The Iron Mountain.

Q. Was that built in east of Wagoner or west of Wagoner when the child was born? A. West.

Q. Building the road from Wagoner on to Claremore?

A. Yes, sir.

Q. Had they been running cars over it up to that time?

A No, sir.

Q. How much of it was built?

A. Well, it was small place, just tents there.

Q. Well,I say how much of the road was built?

A. Well, I think the road was as far as—about a half a mile above where Wagoner is now.

Q. That is north or west?

A. Yes, sir, west. I think it was about that far up above where Wagoner is.

Q. Now, how long had the road east of Wagoner been built at that time?

A. Oh, I don't know sir, how long, they was building on it when we moved there.

Q. Building on it when you moved there? A. Yes, sir.

Q. When did you move there?

A. A year I reckon, about a year before that baby was born.

Q. And what year do you say the baby was born?

A. 1889.

Q. What time in the year?

A. I think it was in the fall.

Q. What month?

A. I don't know, I don't know exactly.

Q. Don't you know that Nancy was here in Muskogee in 1889 in school?

A. Well, she just left school, run off from school and come to Wagoner.

Q. Now, you testified in that case at Sapulpa, didn't you?

A. Yes, sir.

Q. Didn't you testify: "She gave birth to a child in 1890, it was a female and born dead?" A. That was it, yes, sir.

Q. Well, now, which is right now, now you say 1889?

A. 1890, that is what I mean.

Q. That is what you mean? A. Yes, sir.

Q. Why did you say 1889 there?

A. Well, I was just studying. I forget, it has been so long and I never talked over.

Q. Well, now, which do you say now? Was it 1889 or 1890? A. 1890.

Redirect Examination by Mr. German.

Q. Eliza, you say that Nancy lived with you some, now, when was it she lived with you some with reference to the time that she left Wagoner?

A. She left Wagoner what time—Nancy was staying with me when she left Wagoner to go to Nowata; she told me she was going to Nowata.

Q. Now, how long had she lived with you?

A. About a year or 6 months, I reckon; we had been together very nigh all the time while Nancy was in town.

Q. I didn't ask you one question I aimed to a while ago. Did she have any boy she carried around with her and took care of around there?

A. Betsy Birney had a little boy name of Joe.

Q. Name of Joe? A. Yes, sir.

Q. About what age was that boy?

A. A little bit of boy.

Q. About how old was that boy when Nancy left town?

A. The boy wasn't in town when Nancy left town.

Q. He had moved out? A. Yes, sir.

Q. When was it with reference with the time Nancy was sent to the penitentiary that she had led this boy around?

A. Well, it was before she was sent to the penitentiary.

Q. It was? A. Yes, sir.

Q. Now, about what age was that boy at that time?

A. I don't know, sir; I guess the boy was about three or four years old—a small boy.

Q. A small boy? A. Yes, sir.

Q. Did you know any boy in Wagoner named Thomas Atkins? A. No, sir, I did not.

Q. Was there any colored boy there by that name?

A. No, sir.

Q. Did you know all the colored people there pretty well?

A. Yes, sir, I knowed all of them.

Q. And you knew the Indian people there? A. Yes, sir.

Q. And you say there were not a great many people in Wagoner there at that time?

A. No, sir, there wasn't and I knowed them Indian people, too.

Q. Did you know of Minnie's children Charlie and Harvey, ever being in Wagoner? A. Yes, sir.

Q. When was that?

A. That was away after Nancy's child was born; I disremember just what year it was.

Q. You don't remember what year it was? A. No, sir.

Q. You say it was way after Nancy's child was born?

A. Yes, sir.

Q. Did Nancy have anything to do with these two little boys?

A. Yes, sir; Minnie went off and left the children and Nancy kept the children a while.

Q. How long did Nancy keep them?

A. I don't know how long she kept them.

Q. Did she have them with her when Nancy was living with you? A. No, sir, she didn't.

Recross Examination by Mr. Maxey.

Q. How large did you say this boy was when Nancy was sent to the Detroit? A. Betsy's boy?

Q. No, this boy that you say was running around there with her? A. Well, I say, Betsy's boy, Joe Birney.

Q. Yes?

A. Well, I say I guess he was 3 or 4 years old; he was a small boy.

Q. You testified—who did you testify—who did you say this boy belonged to? A. Betsy Birney.

Q. You testified before at Sapulpa——

A. Della Snow was a white woman and had a little boy, yes, but he didn't ask me——

Q. You stated there that she down and said it was not hers; not she was caring for it and that it belonged to a white woman by the name of Della Snow who had a boy about 4 years old?

A. You didn't ask about Della Snow. She had a boy—she was a white woman, and the little boy used to follow Nancy.

The Court.

Q. How long after Nancy's baby was born was it that she was sent to the penitentiary?

A. I think it was a year, or two years, I don't know. I can't——

Q. It was between the time that her baby was born and the time that she went to the pentitentiary that she had Betsy's little boy running around with her? A. Yes, sir.

Q. Now, do you know where she came from when she came to Wagoner? A. Do you mean Nancy?

Q. Yes? A. Yes, sir, she came from Muskogee.

Q. From Muskogee? A. Yes, sir.

Q. What had she been doing down here?

A. She had been going to school here; she lived here. Her folks were here.

Q. And you say she was that way with the boy—with the child when she came up there? A. Yes, sir.

Q. And how long was she there, about, before the child was born?

A. I don't know just exactly how long; it wasn't long. It was showing when she came; might have been a few months and it might have been longer than that.

Q. And she was about how old then? A. Who?

Q. Nancy?

A. I don't know; I don't know how old she was. She was a young girl.

Q. Young girl? A. Yes, sir.

Q. Had you ever known her before?

A. Yes, sir; she was a girl when I was a girl. I used to come here and sell berries with my mother and see her.

Q. Well, she was about your age, or older, or younger?

A. Well, I guess she was about my age; might have been a little younger than I was.

Q. How old were you when she came there with that child?

A. I was about 18 or 19. I was about 18 years old.

Q. Now, after she came there—how long was she at the penitentiary? A. I think she was there 8 months.

Q. And then did she come right back to Wagoner?

A. Yes, sir.

Q. And live there, then, until she left for Nowata?

A. Yes, sir.

Q. You saw her right along every day, then, until she left for Nowata? A. Not every day, once in a——

Q. Well, once in every week? A. Yes, sir.

Q. Once a week?

A. Yes, sir, and then she went to Fort Smith, you know, and she stayed there.

Q. How long did she stay there? A. I think 8 months.

Q. Eight months?

A. Yes, sir, I didn't see her then.

Q. Now, did you see her just before she went away to Fort Smith? A. Yes, sir.

Q. And did you see her just after she came back?

A. Yes, sir.

Q. When she went away to Fort Smith, so far as you know, she was not in a family way, was she?

A. No, sir, not so far as I know.

Q. And when she came back she was not that way?

A. No, sir.

Q. And all the time you knew her there, after the child was born dead, until she went to Nowata, you saw her every week or so, and sometimes every day except the time that she was at Fort Smith, is that true? A. Yes, sir.

Q. And she didn't have any child during that time but the dead child?

A. She didn't—she didn't have any child during that time but the dead child.

Q. You are sure of that? A. Yes, sir.

Q. Can't be mistaken? A. No, sir.

Redirect Examination by Mr. German.

Q. What was the given name of this Birney child?

A. Joe Birney.

Q. Joe? A. Yes, sir.

Q. Did she go to the penitentiary at Detroit before or after this child was born dead? A. It was after.

Q. It was after? A. Yes, sir.

Mr. German: In this connection, Your Honor, we offer as Government's Exhibit A-104, a certified copy of the sentence of the court in connection with her.

The Court: Now, that just involves the date I take it.

Mr. German: That is true.

The Court: Any question about that?

Mr. Maxey: No.

Mr. Hill: I would like for that whole record to go in.

The Court: Well, alright.

Cross Examination by Mr. Maxey.

Q. It was after this child was born that Nancy was sent to the penitentiary?

A. I didn't say no exact time because I don't know.

Q. Well, about how long was it?

A. Well, about a year I reckon.

Q. A year? A. Yes, sir.

Q. Might have been two years?

A. Yes, sir, it might have been two years, I don't know just exactly, I only know it was after.

Redirect Examination by Mr. German.

Q. Do you know who buried that child? A. No, sir.

Q. Do you know where it was buried? A. No, sir.

Mr. German: That is all.

Witness dismissed.

And thereupon, ANGELINE MOODY was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Angeline Moody.
Q. How old are you?
A. Seventy-two years old next December.
Q. Seventy-two next December? A. Yes, sir.
Q. Where do you live? A. I live here in town.
Q. You live here? A. Yes, sir.
Q. In Muskogee? A. Yes, sir.
Q. Did you ever live in Wagoner? A. Yes, sir.
Q. When did you go to Wagoner to live?
A. I don't know exactly what year, but I lived there twenty years, I have been here two years.
Q. Been living here two years? A. Yes, sir.
Q. And you lived there twenty years? A. Yes, sir.
Q. Were you living there when the Iron Mountain Railroad was built into Wagoner? A. Yes, sir.
Q. Did you know Nancy Atkins? A. Yes, sir.
Q. Did you know Minnie Atkins? A. Yes, sir.
Q. Did you know their parents, Thomas Atkins and Mary Jane? A. Yes, sir.
Q. Have you known Nancy all her life or not?
A. All her life.
Q. Is she the mother of any children?
A. She was the mother of one.
Q. Mother of one? A. Yes, sir.
Q. Was you present at its birth or not?
A. Yes, sir, I was present.
Q. Where was that child born?
A. It was born in Wagoner.
Q. In whose house? A. At Mrs. Williams.
Q. Elnora Williams? A. Elnora Williams, yes, sir.
Q. When was that child born about when?
A. About when?
Q. Yes, do you know when it was born?

The Court: What year? Do you know what year?

A. No, sir, I don't exactly know what year.
Q. Do you know about Nancy having been sent to the penitentiary? A. Yes, sir.
Q. Was it before that or after that?
A. It was before that.
Q. Was the child born before or after the Iron Mountain Railroad was built into Wagoner?

A. It was just about the time they was building. They was just carrying it through.

Q. It had been built from Fort Smith to Wagoner?

A. Yes, sir.

Q. And about the time they were building it on north?

A. Yes, sir.

Q. Were there any tents around there?

A. Yes, sir, there was lots of them.

Q. Where did you live with reference to where Elnora Williams lived? A. I lived right up the street.

Q. How far? A. I guess about two blocks.

Q. Did you know Betsy Birney? A. Yes, sir.

Q. How came you to be present at the birth of this child?

A. How came I to be present?

Q. Yes?

A. Well, how came I to be present, I had been to work and I came by going on and Elnora Williams said Nancy was sick, and I wasn't going to come in, and she said come in and see. And when I got to the door Mandy Barnett says come here and help me.

Q. Who was Mandy Barnett?

A. Eliza Sterling's mother.

Q. Eliza Sterling who was in here a while ago?

A. Yes, sir.

Q. Was she a mid-wife? A. Her mother was.

Q. That is Mandy Barnett? A. Yes, sir.

Q. Is her name Barney or Barnett? A. Barnett.

Q. Did that child live?

A. No, sir, it didn't live it come dead.

Q. Come dead? A. Yes, sir.

Q. What was done with it? A. They buried it I guess.

Q. What?

A. They buried it around the house some place I guess.

Q. Did you see where they had buried it? A. Yes, sir.

Q. Where?

A. Right around the corner of the house or barn somewhere.

Q. Well, had you seen Nancy around Wagoner before the birth of that child? A. Yes, sir, I seen Nancy.

Q. About how long had she been there before the birth of the child?

A. I don't know, I met Nancy on the corner right after I went there, and she looked like there was something the matter with her, and I says Nancy what in the name of God is the matter with you, and she says I got it.

Q. She looked like she was in a family way?

A. Yes, sir.

Q. Now, after that did you see her very often?

A. Yes, sir, seen her all the time until she left Wagoner.

Q. Where did she go to from Wagoner?

A. She went to Nowata.

Q. Then, did she come back to Wagoner to live any more?

A. No, sir.

Q. About how long after this child was born was it until she left Wagoner and went to Nowata?

A. Oh, I don't know exactly how many years. She stayed here a long while after the child was born.

Q. Do you remember when the Creek Land Office opened?

A. Yes, sir.

Q. Where they started to make allotments? A. Yes, sir.

Q. Was Nancy living in Wagoner at the time?

A. Yes, sir.

Q. Still living in Wagoner, she hadn't gone to Nowata yet? A. No, sir.

Q. Was Nancy in a family way any more? A. No, sir.

Q. Prior to the time, before the time that she had this child had you seen her very much?

A. Before she had the child?

Q. Yes, for several years before?

A. Oh, yes, sir, I had seen Nancy all my life.

Q. Was she ever in a family way before that time?

A. That is the only time I know.

Q. Was she mother of any child besides that one?

A. No, sir.

Q. Was that a girl or boy? A. Girl.

Q. Aunt Angeline, did Nancy come up to your house, or come to your house in the last three or four or five years and talk about this matter in any way? A. Yes, sir.

Q. Who did she come with?

A. I don't know the man's name now, but she came with a lady.

Mr. Rosser: Betty Mann?

A. Yes, sir.

Q. Was this matter talked about? A. Yes, sir.

Q. Whether she had a child or not? A. Yes, sir.

Q. What if anything did Nancy say about it?

A. Nancy said she came after us to go and witness for her and to tell the Court what it was. She came for me to go and say I knowed she had one child and it was born dead, and they wanted me to tell the Court that that wasn't her child they was trying to make her claim; and we went up there and told it.

Q. And that was the truth? A. Yes, sir.

Mr. German: That is all.

Cross Examination by Mr. Maxey.

Q. Who was with Betty Mann and Nancy when they came to your house? A. When they came to my house?

Q. Yes? A. Nobody but Nancy and Betty.

Q. Was there a white man with them?

A. There was a white man but he didn't get to my house.

Q. When Nancy came did she tell you she wanted you to come to Sapulpa and testify she had a child and it was a girl and born dead? A. Yes, sir.

Q. And you did do that? A. Sir?

Q. You did that? A. Yes, sir.

Q. Now, how much did you get for going to Sapulpa and testifying in that case? A. How much did I get?

Q. Yes? A. I got fifteen dollars.

Q. Who paid it?

A. Some man, but the name I don't know. I know the man but I done forgot his name.

Q. Bartlett? A. I guess so.

Q. Does that sound like the name? A. Yes, sir.

Q. Now, when was that paid to you, before you went?

A. Sir?

Q. When was the money paid to you?

A. The money was paid ten dollars after I returned back home.

Q. After you returned back home? A. Yes, sir.

Q. Well, was any money paid before you went?

A. Yes, sir, there was five dollars.

Q. Now, Betty Mann and Nancy came there together and told you what they wanted you to testify up there?

A. Yes, she knowed we knowed just how it was.

Q. Now, you are certain you were there when the child was born? A. Certainly.

Q. Who else was there?

A. The mid-wife was there and Eliza Sterling.

Q. Mandy Barnett? A. Yes, sir.

Q. And Eliza Sterling? A. Yes, sir.

Q. And yourself? A. Yes, sir.

Q. Anyone else?

A. Elnora Williams was there but she wasn't in the room.

Q. Was Elnora Williams Babe Williams wife?

A. No, she was old man Jim Williams wife.

Q. Jim Williams wife? A. Yes, sir.

Q. Now, what year was this? A. Sir?

Q. I say what year was it?

A. I can't remember the year at all.

Q. How long after you went to Wagoner was it?

A. Two or three years.

Q. Two or three years. And when did you go there?

A. When did I go to Wagoner?

Q. Yes?

A. I was at Wagoner about three years before this happened I reckon, I think I was.

Q. Do you remember the year that the child was born?

A. No, sir, I don't. I didn't keep no count of it.

Q. Didn't you testify at Sapulpa that you had been in Wagoner twenty-four years at that time? Was that right?

A. 24 years?

Q. Yes?

A. I know I have been in Wagoner 20 years but I haven't been there 24, I don't think.

Q. Well, that was three years ago you testified at Sapulpa wasn't it? A. Three years ago?

Q. Yes? A. It was over that.

Q. What? A. I think it was longer than that.

Q. Longer than that that you testified in Sapulpa?

A. Yes, sir, I think so.

Q. You testified then, you had been in Wagoner 24 years then, didn't you? A. 24 years?

Q. Yes?

A. I don't think I did. I think I had been there 20 years, I guess. I don't think I was there 24 years but I might have been. I haven't kept no account of the years; I don't know much about the years anyhow.

Q. Now, where did you go from to Wagoner?

A. I went from Choska.

Q. What year was it you went from Choska?

A. I don't know what year it was.

Q. Your husband sold out his place there, didn't he, when you left Choska?

A. I sold out my place, he didn't have any place.

Q. Who did you sell to? A. I sold to Mr. Lipscomb.

Q. Now, isn't it a fact that you sold out your place there to Lipscomb in 1892? A. Well, it might be.

Q. And moved to Wagoner?

A. It might be. I couldn't keep count of that, I don't know.

Q. It was after you—you didn't go to Wagoner until after you sold your place to Lipscomb? A. No, sir.

Q. And it was after you went to Wagoner that this child that you spoke of was born? A. Yes, sir.

Q. How long after?

The Court: I didn't understand whether she means

—did you sell your place to Lipscomb before you went to Wagoner to live?

A. Yes, sir, I sold it about the time I was going to Wagoner. After I sold the place, I didn't go right then, and then after a while I went over there.

Q. And after a while you went to Wagoner? A. Yes, sir.

Mr. Maxey.

Q. How long after you sold to Lipscomb, was it, that you went to Wagoner?

A. I don't know exactly how long it was.

Q. What kind of a place did you have?

A. What kind of a place?

Q. Yes? A. I had a farm.

Q. Mr. Lipscomb was running a store over there in Choska at the time, wasn't he? A. Yes, sir.

Q. Then, it was after you sold out to Lipscomb and went to Wagoner that you say this child was born? A. Yes, sir.

Q. Now, how long was it after you went to Wagoner that the child was born?

A. I don't know exactly how long it was; about some years but I don't know how long it was.

Q. Did you not testify at——

A. I didn't keep account of it right then.

Q. You moved there—you testified at Sapulpa—"did you sell out? I sold out but didn't leave the same time. To J. P. Lipscomb? A. Yes, sir. How long after, was it? Not until next fall. It was in 1892 before you moved? I moved the next fall in November. In 1893 then, is when you moved to town, is that right? Yes, sir, I guess so." Did you testify to that?

A. Yes, I think I did, but like I tell you, I just guessed so, I can't tell you whether it was so or not. It may have been—I kept no count of the years at all.

Redirect Examination by Mr. German.

Q. How many days were you in Sapulpa when you went over there? A. How many days?

Q. Yes. A. I think we were there 3 days.

Q. Three days. A. Three or four days.

Q. Three or four days? A. Yes, sir.

Witness dismissed.

And thereupon HENRY ANDERSON, being called as a witness on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. My name is Henry Anderson.

Q. How old are you Henry? A. I was born in 1848.

Q. Where were you born, what state?

A. I was bred and born in New Haven, Conn.—New Haven state.

Q. Did you ever live in Wagoner? A. I did, sir.

Q. Where do you live now? A. I live in Wagoner.

Q. When did you first go to Wagoner?

A. I came there about 28 years ago.

Q. That is about 15 miles north of Muskogee?

A. Yes, sir.

Q. When did you go there with reference to the time the Iron Mountain Railroad was built into Wagoner?

A. That was the time I came, sir; I was working on the Iron Mountain Railroad.

Q. You came there with a crew? A. Yes, sir.

Q. Working on that road? A. Yes, sir.

Q. What year did you say that was?

A. I don't know, sir; I don't read and write and I don't—

Q. You don't know for certain? A. No, sir.

Q. Was you in charge of the gang or was you just a laborer? A. I was straw boss.

Q. Straw boss?

A. Yes, sir. I had a gang there in the field yard.

Q. At Wagoner? A. Yes, sir.

Q. How many men did you have under you?

A. I have fifty men, there, sir.

Q. Now, did you get acquainted with a woman named Nancy Atkins there? A. I did, sir.

Q. Do you see her in the courtroom?

A. Yes, sir, there she sit.

Q. Behind Judge Maxey here? A. Yes, sir.

Q. Had you ever known her before? A. Yes, sir.

Q. Had you ever known her before——

A. I got acquainted with her when I first came to Wagoner, yes sir.

Q. When you fitst saw her was she or not in family way?

A. Yes, sir, she was in family way.

Q. Did you know anything about whether or not a child was born to her?

A. Well, now, there was a child born there sir, and it was still born, and didn't live, and they said that it was Nancy's.

Q. Let's see. How did you come in contact with her? How did you find that out?

A. Well, one of my men laid off one morning and was staying at a woman's, named Betsy Birneys.

Q. Where was Betsy staying there?

A. At an eating house—old man Williams, west of the place, about a hundred yards.

Q. Elnora Williams' house? A. Yes, sir.

Q. Now, go ahead.

A. The way it came up, on the morning I went up there to see what was the matter——

Q. Went up where? A. To Betsy's.

Q. Betsy Birneys? A. Yes, sir.

Q. Alright.

A. And he was digging a hole back of the closet there.

Q. Who was digging a hole?

A. Ellis Harris, the man I had working for me.

Q. That man?

A. Yes, sir. And I asked him what he was doing—what happened he didn't come to work——

Mr. Maxey: We object to that, Your Honor.

Mr. German: It is a part of the res gestae.

The Court: I am going to admit it in this case. Go ahead.

A. I asked him why he didn't come to work that morning and he said Nancy had found a baby that night and he was going to dig a hole and put it down there, and he had a little box about that long on the ground, and the top wasn't nailed on and I picked off the top and looked at it and there was a little new born baby in the box.

Q. Yes. That was dead? A. Yes.

Q. Now, did he say whose child that was?

A. He said it was Nancy's.

Mr. Maxey: We object to what the witness said to him and move to strike it.

Mr. German: It is a part of the res gestae.

The Court: Overruled; exception noted.

Q. Now, had you been seeing Nancy up to that time?

A. Yes, I had.

Q. Did you see her very often?

A. Yes, sir, I would see her sometime a half a dozen times a day around there.

Q. Where were you living? At whose house were you staying?

A. I was living in a tent right on the ground—right north of old man Williams eating house.

Q. And how far north?

A. Well, I would say about 50 yards.

Q. And you say this Birney place was west of Williams about a hundred yards? A. Yes, sir.

Q. Now, where had Nancy been living at that time? Where was she staying?

A. Well, sir, I can't tell you where she was staying but I thought she was in Betsy's house, or in a little tent up there.

Q. I am asking where she had been living before this child had been born? A. I don't know, sir.

Q. Don't know whose house she had been living in?

A. No, sir.

Q. But you would see her frequently? A. Yes, sir.

Q. Nearly every day? A. Yes, sir.

Q. Now, up to the time of the relation which you have told about, what was Nancy's condition as to being in a family way?

A. Well, she had a stomach on her—way out like all women have.

Q. Then after the day you saw this child in the box there, that this man said he was going to bury, did you see Nancy?

A. Yes, sir.

Q. Was she or not in a family way after that?

A. No, sir.

Q. State whether or not you saw Nancy very frequently after that?

A. Yes, sir, I saw her very frequently after that.

Q. For how long?

A. Well, for 5 or 6 years after that.

Q. Did you know about her being convicted there and sent to the penitentiary? A. Yes, sir.

Q. Were you a witness in that case, against her?

A. I was, sir.

Q. What was she charged with?

A. Well, we had done put the road through, then, and I made that my home and I got a job carrying the mail from the depot to the Post Office—Iron Mountain depot, and Nancy would come there and get her letters out of the office, and she came and got a letter for Betsy Birney.

Q. Without going into details, was she charged with taking some letters that didn't belong to her from the Post Office?

A. Yes, that letter she'd taken, instead of belonging to Betsy Birney it belonged to Nesho Birney.

Q. Now she had some trial over that? A. Yes, sir.

Q. Were you a witness in the case? A. Yes, sir.

Q. After she returned from the penitentiary did you see her very often? A. Yes, sir, I did.

Q. Until she left Wagoner? A. Yes, sir.

Q. Where all did she work?

A. Well, she went to work at the Barnard Hotel, it was—Her name is Mrs. Bob Bee now, but it was Fraylix then, and she went to work for her; and went back to jail for whiskey.

Q. She went back to jail for whiskey? A. Yes, sir.

Q. Over at Fort Smith on account of that? A. Yes, sir.

Q. Now, did she live with this woman, Eliza Sterling, any?

A. I declare I don't know sir whether she did or not.

Q. Did she have any boy that ran around with her there that you knew about?

A. There was a little white boy that belonged to Della Snow.

Q. What was its given name?

A. I don't know sir what its given name was. Run around there with all them women.

Q. Well, did you know the colored folks in town?

A. Yes, sir.

Q. You were well acquainted in the town were you?

A. Yes, sir.

Q. Did you know the Indians that lived there too?

A. Yes, sir.

Q. Was there any boy in town by the name of Tommy Atkins?

A Well, the only Thomas Atkins I knowed of lived out about ten miles from town.

Q. Out north of town? A. Sir?

Q. North of town or was it in which direction?

A. Northwest of town yes, sir. He was a son of Dick Atkins.

Q. Do you know who his mother was?

A. No, sir, I do not.

Q. No kin to Nancy?

A. I don't know, I think Dick and Nancy were half brothers and sisters.

Q. During the time that you knew Nancy and aside from this one case of pregnancy that you have told about, was she in a family way so far as you can tell? A. No, sir.

Q. I say was she ever in a family way as near as you can tell? A. After that?

Q. Yes? A. No, sir.

Mr. German: You may have the witness.

Cross Examination By Mr. Rosser.

Q. When was it you went to Wagoner?

A. When was it?

Q. Yes?

A. Well, it was about, it has been about twenty eight years ago when I went to Wagoner.

Q. You went there when the Iron Mountain Railroad was building in from the east from toward Fort Smith?

A. Yes, sir, we graded it from Fort Gibson to Coffeyville, and then the road stopped.

Q. You went there when they were grading from Fort Gibson to Coffeyville?

A. Yes, sir, I didn't go to Wagoner, I graded up to Wagoner.

Q. Then you moved to Wagoner when they got the road to Wagoner? A. Yes, sir.

Q. You moved before they laid the steel?

A. No, sir, I moved there the first train that moved a crew.

Q. You went then on the first train that was run into Wagoner? A. Yes, sir, about the first.

Q. Except the work train that was used on construction?

A. Yes, sir.

Q. Now, what time of year was that?

A. Along in the fall.

Q. In the fall of the year? A. Yes, sir.

Q. Did you see Nancy about the time you went there?

A. I don't remember of seeing her about the time I went there.

Q. How long were you there before you first noticed her?

A. Well, I don't know sir. I went to Wagoner and then we moved away from Wagoner and moved about ten miles above at a place now they call Wall, and we camped there a month or two and then they brought me back to Wagoner

Q. Now, what time of the year was it that they brought you back to Wagoner?

A. They brought me back in the winter time.

Q. Then when you saw Nancy, with reference to that time, when did you see Nancy?

A Then I saw Nancy right along. Well,why, it was soon after I moved back there.

Q. How long was it after you noticed her until she had this child, this occurrence you speak of when the child was buried?

A. Well, now, that was in the summer and I think the child come along in the spring.

Q. Along in the spring, the child was born you think along in the spring? A. I think it was.

Q. So, then, the time you saw her there was in the winter?

A. Winter, yes, sir.

Q. Then, you only saw her a few months until the child was born? A. Yes, sir.

Q. Now, you noticed, did you, when you first noticed her, did you notice that she was pregnant?

A. I noticed she was pregnant.

Q. When you first saw her you knew that? A. Yes, sir.

Q. Then, it wasn't very long after you first saw her until the child you speak of was born? A. No, sir.

Q. Couldn't have been? A. No, sir.

Q. And where was she living during that time?

A. I declare I don't know sir, I don't know where she was living no time.

Q. You noticed her?

A. I noticed her going to and fro.

Q. How many colored people were living there at that time?

A. Very few outside of the railroad men, there wasn't more than two or three families.

Q. Who were they?

A. Well, one was Eliza Barnett's mother and father.

Q. Yes? A. And the other was old man Overton.

Q. And who else?

A. And old man Williams, that old man that run the restaurant.

Q. Those three families?

A. Yes, sir. About the only three families there was there.

Q. And you got acquainted with them right away after you went there? A. Yes, sir.

Q. Was Nancy living with any of them?

A. I don't know sir whether she was or not.

Q. You didn't ascertain that? A. No, sir.

Q. You visited those families there?

A. Not much, sir.

Q. Well, did you visit them at all?

A. About once every week or two I would go around some of their houses.

Q. Once every week or two you would happen around their houses. Well, was Nancy living with them?

A. I don't know sir; I didn't see her at their houses.

Q. Did you ever see her at any house unless it would be some store?

A. I never seen her in any house at all but in a tent.

Q. Now, what tent was it?

A. At old man Williams I seen her in a tent and at Betty Birney's.

Q. Where was she at the time of this grave digging that you speak of?

A. I don't know sir whether she was in Betsy's house, in a tent, or in Williams' house.

Q. How far apart were those houses, those two tents; the tent that Williams had?

A. The tent that Williams had was setting right west of his house, and the tent that Betsy Birney had was east of

Betsy's house; that made the tent come before you got to the house.

Q. How far apart were they, about how far?

A. Well, about seventy five yards apart.

Q. And you don't know which of those tents she was in?

A. No, sir.

Q. You understood she was there though?

A. I understood she was there.

Q. Yes, but nobody told you where?

A. No, nobody told me in the tent there.

Q. You didn't ascertain which tent? A. No, sir.

Q. Well, didn't you see anybody about there that would indicate that there was somebody sick in one or the other of the tents?

A. No, sir, I heard people talking but I didn't go in the tents.

Q. Did you hear them talking in both tents?

A. No, sir, in the tent at Betsy Birney's.

Q. Where was this grave that you speak of with reference to Betsy Birney's?

A. It was closer to Betsy Birney's than to Williams tent.

Q. And how far was it from Betsy Birney's house and tent was it?

A. Betsy Birney's tent was about five feet from her house and Williams' as far as from here to the door.

Q. From whose house? A. From his house.

Q. And that was about seventy five yards from Betsy's?

A. Yes, sir.

Q. Where was that grave you speak of with reference to these tents? A. That was right between the two tents.

Q. Right between the two? A. Yes, sir.

Q. About how far away, between?

A. About half way between the two tents; an old water closet set, the door was setting facing to the house, to the west, and he was on the east side, the back of it digging a hole.

Q. And it was about half way and you couldn't tell the house or tent it belonged to? A. No, sir.

Q. And you never did ascertain which one of these tents this child was born in if there was one? A. No, sir.

Q. Now, you say it was in the winter time that you finally moved back there to stay? A. Yes, sir.

Q. Well, now, was that twenty eight years ago this last winter?

A. Well, now, I don't know sir the number of years, can't read and write and I aint positive.

Q. Well, it was the winter after they had finished the Iron Mountain Railroad through Wagoner?

A. Up to Wagoner; we had laid steel up to Wagoner, and then we went to the front ten miles and then they ordered us back to unload steel; we had a steel yard there then.

Q. Then it was in the winter that they were unloading steel there that you came back to Wagoner to unload steel?

A. Yes, sir.

Q. And it was a few weeks or two or three months after that that this occurrence took place that you speak of?

A. Yes, sir.

Q. You are sure of that? A. Yes, sir.

Q. You don't know whether that was twenty-eight years this past winter or twenty-eight years this coming winter?

A. No, sir, but I think it was twenty-eight years ago this past winter. You can get the Iron Mountain records and look over them.

Q. Yes, I think so. And the child you think was born in the spring?

A. Yes, I think it was born in along in the spring.

Q. You noticed Nancy right after you came back and she was then in a pregnant condition so that it showed?

A. Yes, sir.

Q. And the child was born in the regular course of nature after that? A. Yes, sir.

Q. I don't believe you testified in this case before, did you? A. No, sir.

Q. Now, how long after the child was born was it—— You were a witness against Nancy when she was sent away?

A. Yes, sir.

Q. When she was sent off for this mail business?

A. Yes, sir.

Q. How long after this occurrence of the grave digging was it that she was sent away?

A. That was a year or such a matter.

Q. A year or such a matter? A. Yes, sir.

Q. How long did you work laying steel after you came back there before you went to carrying the mail from the depot to the post office? A. Well, I don't know, sir.

Q. Well, several weeks or several months?

A. Several months.

Q. Several months? A. Yes, sir.

Q. Then you got you a job carrying the mail?

A. Yes, sir.

Q. From the station to the post office? A. Yes, sir.

Q. How long had you been at that when Nancy got in this trouble?

A. Well, I declare I don't known sir, but it was six or eight months.

Q. Six or eight months? A. Yes, sir.

Q. Then from the time you came back there it was a year or more until Nancy got into this trouble? A. Yes, sir.

Q. Are you sure of that? A. Yes, sir, it was a year.

Q. Well, I want you to give the time as definitely as you can?

A. Yes, sir, it was about a year before she got in that trouble, yes, sir.

Q. And are you satisfied it was just a year or just about a year? Or was it two years or six months?

A. It wasn't two years. What I am going by now, Mr. Cobb put up his drug store and then Mr. McCrary had the post-office and then he taken it and moved it over to his drug store.

Q. Who?

A. Sam Cobb. And then directly after he got the office I got an employment from the Iron Mountain Company to take the mail from the depot to the office; and then in two or three months or maybe four month, soon after that why then that is the time Nancy got in that trouble. But I never paid no particular attention how long.

Q. Then, that was something like a year after this digging of the grave you speak of?

A. I expect it was about a year, yes, sir.

Q. Now, who was it you say dug that hole or grave?

A. Fellow by the name of Harris.

Q. Was anybody helping him?

A. Well, I didn't see anyone.

Q. How long did you talk with him at that time?

A. I didn't talk with him more than about a minute.

Q. He just told you what he was doing and you went on?

A. Yes, sir.

Q. Did you talk with anybody else about that afterwards?

A. No, sir, not a bit.

Q. Well, I am not talking about lately, but at that time?

A. No, sir.

Q. And then you heard—— You understood what that was being dug for? A. Yes, sir.

Q. You asked a question or two and went on and never mentioned it to anybody afterwards? A. No, sir.

Q. And you didn't see anybody helping dig the grave?

A. No, sir.

Q. Do you know Monday Barnett?

A. Yes, sir, I know him well.

Q. You knew him at that time? A. Yes, sir.

Q. Did you see him about there?

A. He wasn't about there then.

Q. You didn't see him?

A. No, sir, he *mout* have been in the tent.

Q. What time of day was that, do you remember?

A. Well, it was about half past seven o'clock in the morning.

Q. About half past seven o'clock in the morning?

A. Yes, sir, it was very early.

Q. Early in the morning? A. Yes, sir.

Q. And they told you they were digging a grave there to bury a child that was born? A. Yes, sir.

Q. And told you whose it was? A. Yes, sir.

Q. Were you on speaking terms there or terms that you would be holding conversation with Nancy prior to that time?

A. Well, no, sir, no more than anybody else; Nancy was just running around; where there is a crowd of railroad men there is always a crowd of women.

Q. You were on such terms that you would hold conversations with her?

A. I don't suppose I ever spoke half a dozen words to her while I was on the road. I just seen her and knowed her and that is all.

Q. And you didn't talk with her before this occurrence that you remember? A. No, sir.

Q. And did you talk afterwards?

A. Well, yes, sir, whenever I would meet her I would say howdy Nancy.

Q. Did you ever make any inquiry of anybody as to whose child this was? A. No, sir, it wasn't any of my business.

Q. Had no curiosity about it at all?

A. No, sir, not a bit.

Q. This woman lived with negroes, didn't she? A. Sir?

Q. Nancy lived with negro people? A. Yes, sir.

Q. Your race of people? A. Yes, sir.

Q. And you knew, though, that she was not a member of the negro race, didn't you? A. Well, I didn't know.

Q. You didn't know? A. No, sir.

Q. You didn't hear that? A. Sir?

Q. You didn't know that? A. No, sir.

Q. You didn't know she was an Indian?

A. No, sir, I just thought they were all mixed up together.

Q. You stated a while ago that you knew of a Tommy Atkins or Thomas Atkins who lived up ten miles northwest of there? When did you hear about him?

A. Well, his father was named Dick Atkins and he was always there in the camp.

Q. Yes. He was about the camp?

A. Yes, sir, he was a half negro like myself.

Q. Half nigger? A. Yes, sir.

Q. And part Indian too? A. Yes, sir, part Indian.

Q. And you knew he was also a half brother of Nancy's?

A. Yes, sir, that is what he told us.

Q. He told you? A. Yes, sir.

Q. You knew that, then, at this time? A. Yes, sir.

Q. And yet you made no inquiry about the father of this child or anything of that sort?

A. No, sir, it wasn't none of my business. I knowed it was Nancy's and if it was Nancy's it wasn't mine.

Q. Have you any record yourself about when this Iron Mountain Railroad was built into Wagoner?

A. No, sir, I haven't.

Q. You haven't any yourself and can't tell about that?

A. No, sir.

Q. Do you know where Nancy came from before she went up there? A. I know where they say she came from.

Q. Did you ever hear her say where she came from?

A. No, sir.

Q. Did you ever hear them say how long she had been there at the time you got acquainted with her? A. No, sir.

Q. You didn't hear them say that? A. No, sir.

Q. You understood she had been living there before you came back at Wagoner to load that steel?

A. I never noticed her about there.

Q. You hadn't heard that? A. No, sir.

Q. You don't know about that?

A. No, sir, I don't know about that.

Cross Examination by Mr. Maxey.

Q. Who have you talked with about this case, Henry?

A. Well, I don't know, sir, there have been one or two men at my house there at Wagoner.

Q. Do you remember the time the case was tried at Sapulpa? A. Yes, sir, I remember about the time.

Q. Did anyone come to you about that time or a little after that to get you to make a statement? A. Yes, sir.

Q. Who was it? A. Old man McNally.

Q. Did you make one?

A. Yes, sir, I made one to him up there in my house, and he didn't like that statement so well that I made to him, and I told him just what I told that gentleman there just now, and then he wanted me to change that statement; wanted me to say this baby lived and I told him there wasn't but one way for me to make it live and that was for him to give me money enough to get out of the United States and then some for me to live on after I got out.

Q. Didn't Mr. P. J. White there and Ellis Childers come out to your house and talk to you about this?

A. No, Mr. White carried me up stairs there, once.

Q. And didn't you tell Mr. White at that time that you knew that Nancy had a child there and that it was a boy and it was named Tommy? A. No, sir, I didn't.

Q. And that it lived to be quite a big boy?

A. No, sir, I didn't.

Q. And didn't he take you upstairs to take your affidavit and after he got your affidavit ready, you said you wouldn't sign it unless they would give you a hundred dollars then and three hundred dollars when the case was over?

A. No, sir, I didn't tell him that.

Q. What did you tell him now, let's see?

A. He wanted me to testify that that boy lived and I told him no, sir, I couldn't testify that that boy or child of Nancy's lived—I didn't know whether it was a boy or girl.

Q. You say you didn't tell him what I have stated?

A. I didn't tell him that child lived.

Q. You did offer to make an affidavit if he would pay you a hundred dollars then and three hundred dollars when the case was over? A. No, sir, no, sir.

Q. How much are you getting for testifying in this case?

A. Not nothing that I know of.

Q. Have you ever got anything? A. No, sir.

Q. Not a cent?

A. Well, yes, sir. Some man came up there once—it was snowing, and he wanted me to go and show him where the man dug that hole, and I went out there in the snow and looked around but I couldn't tell nothing because there was snow on the ground. And I told them if there wasn't no snow or nothing, I might find where the old closet set and that gentleman give me a half dollar.

Q. Now, who was that? A. I don't know who he was.

Q. Have you seen him since?

A. No, sir, I haven't seen him since.

Q. A white man? A. Yes, sir.

Q. What sort of looking fellow was he?

A. Oh, sir, I don't know; he was a white man.

Q. How long ago has that been?

A. I don't know, sir. It has been over a year.

Redirect Examination by Mr. German.

Q. The time Judge Maxey was talking about—the time somebody took you in some office—who was it that had you in some building or office? A. Which?

Q. Did somebody have you in some office talking to you about this—wanting you to say that child lived? Who was it wanted you to say that the child lived?

A. Oh, that was Mr. McNally.

Q. Did anybody else? A. No, sir.

Q. At any other time want you to say that the child lived?

A. No, sir, not that I know of.

Q. Who was present when Mr. McNally wanted you to say that?

A. Well, nobody—that was at my house; he came down to my house that day.

Q. Did he offer you any money if you would?

A. No, sir, he didn't offer me any money only told me it was right smart of money if I could make it live.

Q. Who is McNally?

A. He is an old gentleman who used to live there at Wagoner but he is paralyzed now—he is in California.

Mr. Hanford: Your Honor, I would like to ask this witness a question about another branch of the case.

Cross Examination by Mr. Hanford.

Q. Henry, do you know a sister of that Thomas Atkins, the son of Dick?

A. You will have to talk a little louder.

Q. Did you know a sister of that Thomas Atkins, the son of Dick? A. You will have to talk a little louder.

Q. Did you know a sister of that Thomas Atkins, the son of Dick?

A. Yes, sir, he has got a sister by the name of Trent.

Q. Chaney Trent? A. Yes, sir.

Q. And she is a sister of the Thomas Atkins that you say you knew?

A. Yes, sir, on her father's side I think she is.

Q. And she is a daughter of Dick Atkins? A. Yes, sir.

Q. And Thomas Atkins is her brother? A. Yes, sir.

Witness dismissed.

And thereupon, DORA SMITH was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Dora Smith.

The Court: Now, what is your name?

A. Dora Smith.

The Court: Dora Smith?

A. Yes, sir.

The Court: Now, talk up loud so all of these people can hear you.

Q. Where do you live? A. I live here now.

Q. In Muskogee? A. Yes, sir.

Q. Did you ever live at Wagoner? A. Yes, sir.

Q. When did you first go to Wagoner?

A. I don't know exactly what year I went there, but I think it was along about 1904 or 1905.

Q. Do you mean 1894? A. 1894 or 1895, yes, sir.

Q. How long did you live at Wagoner?

A. I lived there about eighteen or nineteen years.

Q. When did you come to Muskogee?

A. I came to Muskogee about two months ago.

Q. From Wagoner?

A. No, sir, from Tullehassee. I lived in Tullehassee, my home is in Tullehassee now but I came from about Okmulgee here.

Q. What are you doing here?

A. I am going to live here. I came here to bring my daughter to a doctor and she died and I stayed here.

Q. You are going to make this your home? A. Yes, sir.

Q. Did you know Nancy Atkins? A. Yes, sir.

Q. You know her yet? A. Yes, sir.

Q. What did you do when you first went to Wagoner?

A. I washed and ironed.

Q. When did you first know Nancy Atkins?

A. Along about when I first went there. I knew her a little before I went there, I knew her a little down here.

Q. At Muskogee? A. Yes, sir.

Q. You knew her best after you went to Wagoner?

A. Yes, sir.

Q. Did you work with her any there?

A. No, I never worked with her any.

Q. Did you live with her there?

A. No, sir, she very often visited me.

Q. Did you have any family there? A. Yes, sir.

Q. Any children? A. Two girls, yes, sir.

Q. Did you have any conversation with Nancy about your girls? A. Yes, sir, we have.

Q. While you were there in Wagoner? A. Yes, sir.

Q. Did she have any children with her then?

A. With her?

Q. Yes, or was she taking care of any little children?

A. She had two little boys that she said were her sister

Minnie's boys, but I don't know how long she had had those children before I saw them, but she had them there.

Q. Do you know what their names were?

A. I don't know their names, but I think they called one of them Lee, I am just guessing at their names, it has been so long ago I don't know.

Q. Now, did Nancy make any remark about whether she had had any children?

A. Yes, sir, she told me once or twice that she was the mother of one child.

Q. What did she say? A. She said it was dead.

Q. How come her to tell you anything like that?

A. Well, the first of her telling me that I can remember, she asked me did I only have two girls, and I told her that they were the only two I ever had. Then I asked her was she ever the mother of any child and she said yes, she was the mother of one child but it was dead.

Q. When do you think this was, about what year?

A. I couldn't tell you exactly. I wouldn't attempt to tell you exactly, but I was there quite a while and she was coming backward and forward. She had Minnie's little boys with her at the time.

Q. Then you continued to live in Wagoner after you went there in 1894 or 1895 for some eighteen years you say?

A. Yes, sir, as near as I can get at it.

Q. Did Nancy ever leave Wagoner for good? A. Yes, sir.

Q. Where did she go?

A. I don't know where she went to, but in 1909 and 1910 I saw her at Nowata.

Q. While you knew Nancy there in Wagoner was there any boys that ran around with her except these two children of Minnie's? A. Not that I ever saw.

Q. Did she ever make any statement to you about having a boy living? A. No, sir, she never told me.

Q. Were you and she good friends? A. Always have been.

Q. Were you and she intimate friends up there?

A. Oh, we was pretty close friends; Nancy when she felt like it stayed around my house.

Mr. German: You may have the witness.

Cross Examination by Mr. Rosser.

Q. You say you moved to Wagoner in 1894 or 1895, somewhere along about there?

A. Somewhere along about there, I am not positive of the year.

Q. You had known Nancy before that in Muskogee?

A. Yes, sir.

Q. How long before that?

A. Not very long before that. I had been living in Kansas City; when I came from Kansas City I found Nancy here in Muskogee and she often went to my mother's house.

Q. You knew her before you went to Kansas City?

A. No, sir, since.

Q. You say you lived in Wagoner fifteen or twenty years?

A. No, sir, about eighteen, between seventeen and eighteen and nineteen years, I don't remember exactly what year I went there.

Q. During that time you saw Nancy? A. Yes, sir.

Q. Ever once in a while? A. Ever once in a while.

Q. You spoke of a conversation that you had with her, you don't know when that was?

A. No, I don't know exactly when that was.

Q. You wouldn't attempt to say?

A. No, sir, I wouldn't attempt to say.

Q. When did you leave Wagoner?

A. I left Wagoner in 1911, last day of November and came down here.

Q. And she left there sometime before that?

A. Yes, sir, she was gone.

Q. Do you know when she left there?

A. No, sir, I left Wagoner the first time——

Q. I mean when she left?

A. No, I don't even know when she left there.

Q. You wouldn't undertake to tell within two or three years? A. No, sir.

Q. And you wouldn't undertake to tell within two or three years of when this conversation took place?

A. No, sir, I couldn't remember.

(Witness dismissed.)

And thereupon, PATSY WILLER was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Patsy Willer.

Q. What was your name before you became Patsy Willer?

A. Patsy Overton.

Q. Patsy Overton. Did you ever live at Wagoner, Oklahoma? A. Yes, sir.

Q. Where do you live now? A. In Wagoner.

Q. How long have you lived there?

A. About twenty-eight or twenty-nine years.

Q. Can you fix the time you came there by any incident?

A. I think I can.

Q. All right?

A. I think it was about December 29, 1887, I am not sure, but about that time.

Q. How do you fix that date? A. Sir?

Q. How do you fix that time?

A. Because I know that I married about the 28th of December of 1887 to Overton, and the next day I went to Wagoner and always made it my home.

Q. Did you know a woman named Nancy Atkins?

A. Yes, sir.

Q. When did you first know her?

A. I knowed her a few years before I moved to Wagoner.

Q. Where had you lived before you moved to Wagoner?

A. Between the rivers, between the Verdigris and Arkansas; it was called Marshal Town at that time.

Q. Did you know Angeline Moody? A. Yes, sir.

Q. Before you moved to Wagoner? A. Yes, sir.

Q. When you went to Wagoner was Nancy living there?

A. No, sir.

Q. She came later? A. Later.

Q. When she came to Wagoner, state whether or not she was in a family way? A. When I seen her she was.

Q. When you saw her she was? A. Yes, sir.

Q. Do you know Mandy Barnett? A. Yes, sir.

Q. Is she living or dead? A. She is dead.

Q. Was she a midwife? A. Yes, sir, she was.

Q. Did you have any conversation with her about Nancy having had the child? A. Yes, sir.

Q. When?

A. Ay my home and at her home, also. We didn't live very far apart and we often talked about it.

Q. Did you know Elnora Williams? A. Yes, sir.

Q. How far did you live from Elnora's?

A. We didn't live so very far in the little town of Wagoner.

Q. Wagoner was a small place at that time?

A. A small place at that time.

Q. Which side of the tracks did you live on?

A. On the west side.

Q. About how far from Elnora's?

A. I can't say. The town, then, was just in one piece, and I just can't say rightly.

Q. Did you know a woman by the name of Birney?

A. Betsy Birney?

Q. Betsy Birney? A. Yes, sir, I knew her.

Q. Where was she living at that time?

A. She lived in Wagoner there.

Q. Where did Mandy Barnett live at that time?

A. She lived in Wagoner not far from me.

Q. You say Nancy was in the family way when you first noticed her there at Wagoner? A. Yes, sir.

Q. Did that condition disappear? A. Yes, sir.

Q. Tell the court when it was with reference to the time that Nancy was in this family way that you had this conversation with Mandy Barnett about Nancy.

A. I didn't rightly understand you.

Q. When was it that you had this conversation with Mandy Barnett about Nancy?

A. Oh, before and after she waited on her; just a day or two after she waited on Nancy.

Q. Now, what was said just before she waited on Nancy?

Mr. Rosser: We object to all this conversation.

The Court: Overruled.

Mr. Rosser: We except.

The Court: What was said, now, in that talk?

A. She often visited me and said that Nancy was really sick last night, and I knowed what her condition was, you know, and we talked about her condition, and she said I think I am going to have bad luck with Nancy, and I said why, and she said the baby died, and I said do you think you can manage it, and she said yes, I am a midwife and I can manage it and she went back the next night—like this was today, she came over and asked me for some coffee and she said I am awful worried and I say why, and she said Nancy had the child last night, and I am awful worried, the baby is dead——

Mr. Rosser: If the Court please, I don't suppose we have to make this objection——

The Court: You might move to strike if you care.

Mr. Rosser: We will move to strike all this testimony.

The Court: The record may show that it is overruled and your exception noted.

Q. Did she say whether it was a boy or a girl baby?

A. If I understood right I understood her to say it was a boy.

Q. That is the way you understood it?

A. Yes, sir, the way I understood it.

Q. That is your recollection?

A. Yes, sir, that is my recollection.

Q. You say Mandy Barnett is dead?

A. She is dead now.

Q. Where was Mandy living at the time of this occurrence you have related? Where was she staying—at whose house?

A. I think she was at the Barney's, I am not sure. Nancy lived several places there, I am not sure where she had the child birth but I think at Barney's.

Q. Had she lived at Elnora Williams?

A. Yes, sir, and at Mrs. Barney's, too; lived at different places there.

Q. Now, do you know what was done with that child after it was born? Do you have any knowledge as to what was done with it?

A. Only what Mrs. Barnett told me—they buried it.

Q. When did she tell you that?

Mr. Rosser: We object to that.

The Court: Well, no——

Mr. German: Well, alright.

Q. Did you see Nancy around there after that?

A. Yes, sir, I saw her after that.

Q. How long did Nancy stay in Wagoner, about how long after that? A. About six or seven years, I think.

Q. During that time, did she go to the penitentiary?

A. I think so.

Q. Do you know about her having any other trouble and being taken to court on account of it?

A. About opening a letter—that is what she was sent to the pen for.

Q. During the time that she stayed in Wagoner after this time that Mandy Barnett told you about her having this baby, state whether she was in a family way any more.

A. Not that I know of.

Q. How frequently would you see her?

A. I would see her often because the way the road was she couldn't get to town any way without going way around —without passing by there, and we was the nearest way. I often seen her.

Q. Tell the court how often; how much you would see of her.

A. Quite often; maybe two or three times a week, and maybe every evening off and on, when she was walking around there.

Q. Do you know where all she worked?

A. I don't know. I think she worked one time at Mrs. Haley's rooming house; Mrs. Barbee, I think she was then.

Q. Do you know about her working at the Barnard hotel?

A. Yes, sir, that was the name of it.

Q. Did you know this girl Eliza Sterling?

A. Yes, sir, I know her.

Q. Do you know whether she lived with Eliza?

A. Yes, sir, she lived with Eliza.

Q. Now, during all that time that you knew her there at Wagoner, was there any child—boy child that she took care of?

A. I seen her once with two little boys.

Q. Do you know what boys they was?

A. I don't. I asked her——

Q. What did she say?

A. She told me that they was her sister's boys and I asked what her sister's name was and she said Minnie.

Q. Well, were there any other boys that ran around with her? A. I never seen any others.

Q. Do you know—did you know all the colored folks there in town?

A. Yes, sir; there wasn't very many there then.

Q. Were there very many there in 1895 and '96, along there, five or six years after you got there.

Q. Did you know all the colored folks there in town?

A. I knowed mostly all of them that stayed any length of time.

Q. Did you know all the Indian folks there in town?

A. I think I did.

Q. Was there any boy around town there by the name of Thomas Atkins? A. Not that I know of.

Cross Examination by Mr. Rosser.

Q. You moved to Wagoner in 1887, in December?

A. Yes, sir, about the 29th of December, I think is as near as I can remember.

Q. As near as you can remember? A. Yes, sir.

Q. You had known Nancy before you moved to Wagoner?

A. Yes, sir.

Q. Where had you known her?

A. I lived between the rivers there and I seen her over there on occasion and that is how come me to know her.

Q. You had seen her a few times or were you well acquainted with her?

A. Seen her a few times and didn't know her over there.

Q. You just knew her? A. Yes, sir.

Q. How long did you live in Wagoner before you noticed Nancy there? A. I guess about two or three years.

Q. About two or three years?

A. Yes, sir, about that; I am not sure.

Q. About that? A. Yes, sir.

Q. You wouldn't undertake to say definitely?

A. No, sir, I wouldn't.

Q. When you moved to Wagoner, what railroads ran into Wagoner?

A. Well, the Katy railroad was running there but when I moved to Wagoner I think they were working on the Iron Mountain railroad, running from Wagoner to Fort Smith.

Q. That was running from Wagoner to Fort Smith when you moved, wasn't it?

A. Yes, sir, working somewheres on the road there, when I moved there.

Q. How long after you moved there, was it before they ran trains on west of that to Coffeyville?

A. I can't say rightly.

Q. About how long—can you say?

A. I can't say that.

Q. Now, you have testified with reference to what a woman named Barnett told you; you weren't present at the birth of any child? A. No, sir, I wasn't.

Q. All you know personally was that you saw Nancy in a pregnant and afterwards saw that that condition had passed away, that is right, isn't it? A. Yes, sir.

Q. How many colored people lived in Wagoner at that time? A. I would say that there——

Q. Do you remember—did you know all that lived there at that time? A. I think that I do.

Q. You think you knew all of them. Now, can you tell us there was just a few families there, wasn't there?

A. Three or four families.

Q. Who were they?

A. Williams, and Birneys and myself, and Mrs. Barnett.

Q. Barnett?

A. I think those were the only colored folks there at that time.

Q. And others came in about the time they were building the railroad?

A. Yes, sir, they just commenced coming there.

Q. They came in. Now, at that time—at the time of this incident you speak of, when the Barnett woman told you something about the child, how many families lived there, if you know. A. I can't say that.

Q. You can't say?

A. I don't know, might have been——

Q. But you can't say how long that was after you moved to Wagoner?

A. How long what? Let me understand you.

Q. How long after you moved to Wagoner was it that this incident of the birth of the child occurred that you testified about?

A. I think it was about two or three years after I moved to Wagoner.

Q. How long had you seen Nancy about there before you had this talk with the Barnett woman?

A. It wasn't very long.

Q. Well, was it a week, or two months, or three months, or how long?

A. I can't say; it might have been two or three months before.

Q. Two or three months before? A. Yes, sir.

Q. You had seen her around there two or three months before? A. Yes, sir.

Q. Nancy afterwards got into some trouble with reference to the opening of a letter that you knew of? A. Yes, sir.

Q. How long after this incident of the birth of this child was it that that trouble came up?

A. I couldn't tell you about.

Q. Can you tell me about how long?

A. I don't know how long.

Q. You wouldn't undertake to state whether it was six months or a year or two years? A. I wouldn't say.

Q. Do you know about how long she was gone when she was away? A. I wouldn't say that either.

Q. You wouldn't say whether it was six months or a year or two years? A. No, sir.

Q. Now, I believe you stated a while ago that at the time of this conversation with the Barnett woman that Nancy lived at Betsy Birney's, what were the facts about it?

A. I don't know, she lived at Betsey's and Eliza's, Eliza Sterling's.

Q. You talked with Nancy, didn't you know where she was living?

A. I think she was at Mrs. Betsey Birney's if I mistake not, I won't be sure.

Q. That is your recollection?

A. As near as I can remember.

Q. Where did the Birney's live with reference to your place where you were living?

A. I guess I would call it—— Let me see now——

Q. How far from your place, how far from where you lived was it?

A. I couldn't say, I don't know the distance only say from here to there.

Q. Well, was it as far as across this room or as far as from here across the street from your house to Mrs. Birney's?

A. It was further than across the house.

Q. Was it as far as from here across the street?

A. I don't know how far the street is from here I am in the court house, I can't see.

Q. Well, you have stood on the front steps of this court house and looked over to the church across the street?

A. Yes, sir, Methodist church.

Q. Well, was it that far or further?

A. It was further than that.

Q. Was it as far from your house to the Birney house as from the front of this building here to the Severs Hotel?

A. Well, from the front of this building to the Severs Hotel—— You mean was it as far from my house to the Birney house, that distance?

Q. Yes, sir?

A. Let me see how far that is, it might have been that far.

Q. Well, it was pretty close around that distance?

A. I think so, I am not sure.

Q. You were a married woman at the time? A. Yes, sir.

Q. Did you have any children of your own at the time?

A. I had one son.

Q. Do you know how old he was at the time?

A. I know my son's age.

Q. Do you remember how old he was then?

A. You are speaking of my son?

Q. Yes?

A. My son was five years old, when I married; I had been married before and he was just five years old when I married Overton. I have got his age down, yes, sir, and I know it.

Q. Have you any children by Overton?

A. I never had any children any more.

Q. And you don't know how old this child was at the time you had this talk with Mandy Barnett?

A. No, because I don't know the time.

Q. You didn't go over to see about Nancy or to see her?

A. No, I didn't visit her at all. Sometimes she would come to my home and back to Mrs. Barnett's and I would see her there.

Q. You got along with the Birney family?

A. Oh, we got along all right.

Q. Did you visit back and forth with them?

A. I did at Mrs. Barnett's but not very much with Birney's.

Q. Did you visit with them at all?

A. Not very much because they was kind of rough character people and my husband objected and that is the reason I didn't go, to have peace at home.

Q. You didn't go to see Nancy?

A. No, sir, she came in to see Mrs. Barnett and I saw her there.

Q. Did you know how long it was after she had this trouble in the Birney place before she came to Barnett's?

A. I think it was about four weeks.

Q. She did go over to Barnett's after she left the Birney place?

A. I have seen her there I don't know where she come from.

Q. You didn't understand she lived there?

A. At Barnett's?

Q. Yes? A. She stayed at all those places.

Q. Did you understand that she was living there at the time, at Barnett's?

A. She stayed first one place and then another. First Eliza's, first Barnett's, and first Wiggins.

Q. And after this incident that you have testified to, that talk with Mrs. Barnett, the mid-wife, Amandy Barnett, did you make any investigation to see what became of the child or the child's body? A. No, sir.

Q. You didn't inquire about that? A. No, sir.

Q. And you didn't go see her at all? A. No, sir.

Q. And you can't fix the date of this incident?

A. No, sir.

Q. With reference to the time the Iron Mountain Railroad was building on west of there, when was this with reference to that time?

A. I don't know, sir, I know they was working on that road all right.

Q. They were working on the road?

A. They were doing something, whether they was working in ties or not I don't know.

Q. They were either grading or laying ties or steel at the time? A. When I moved there.

Q. Well, at the time of this incident that you have testified to about Mrs. Barnett, the railroad was finished was it?

A. I don't know whether it was or not; when I moved there they were working on it; I don't know what time they finished it.

Q. Had they begun running trains in there when you moved there? A. I disremember, I don't think they was.

Q. You don't think they were? A. I don't think so.

Q. Well, do you know whether they were running trains through there on west at the time of this incident that you have testified to? A. I don't remember that.

Q. And you didn't have much to do with Nancy you say?

A. No more than speak to her when I seen her.

Q. Your husband didn't want you to associate with that class of people?

A. No, sir, because they drank and gambled and he didn't want me to go there.

Q. You were not associated with her much then?

A. No, sir.

Redirect Examination by Mr. German.

Q. How far did you live from Elnora Williams house?

A. We lived quite a little way.

Q. Which did you live the closest to, Betsy Birney or Elnora Williams? A. Elnora Williams I think.

Q. You lived closer to Elnora Williams than you did to Betsy? A. Yes, sir.

Witness dismissed.

And thereupon, HENRY KIDD was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Henry Kidd.

Q. Where do you live? A. Wagoner.

Q. What is your age? A. Sixty-six.

Q. How long have you lived in Wagoner?

A. I have lived there about twenty-two years or three; I come there I think it was the fall of 1892 if I aint mistaken.

Q. Do you know Nancy Atkins? A. Yes, sir.

Q. How long have you known her?

A. Well, I have been knowing her ever since I have been in the country.

Q. Do you know about the time she went to the penitentiary?

A. No, sir, I didn't know, that was before I come here.

Q. Did you ever have any conversation with her concerning the birth of her child? A. Any conversation which?

Q. With Nancy about her child, about which she gave birth to? A. No, sir, not in particular I have not.

Q. Did she ever say anything to you about it?

A. No, sir, I don't think she did.

Q. Did she ever talk about it in your presence?

A. Well, I don't know, it has been so long I didn't pay any attention, it didn't interest me.

Q. To refresh your memory, were you out at her house or did she come to your house with Betty Mann some time ago?

A. No, sir.

Q. A few years ago?

A. No, sir, she didn't come to my house, she met me up in the street, up there in front of the First National Bank.

Q. She and Betty Mann? A. Yes, sir.

Q. At that time, did she say anything to you about a child she gave birth to? A. Yes, sir.

Q. What did she say?

A. She said she never had a child but the one and it was a girl and died, it come dead. And she turned around and her lawyers were in a buggy and said I told that and I told you Mr. Kidd would tell the truth, and I never did.

Q. Were there many colored people living in Wagoner when you went there? A. No, sir, not very many.

Q. Did you know them all?

A. Why, old man Barnett——

Q. Did you know all of the colored people who lived there? A. I knowed pretty near all of them.

Q. Did you know the Indians who lived there?

A. There wasn't no Indians hardly lived there.

Q. Was there anybody there by the name of Thomas Atkins?

A. No, sir, not Indians. There was one there colored.

Q. How old was he when you went there?

A. Well, I couldn't tell how old he was, I seen him hauling wood to me and several others, Dick Atkins' boy.

Q. Do you know where he lived?

A. Yes, sir, he lived up on the Verdigris.

Q. Do you know Chaney Trent? A. Yes, sir.

Q. What relation was this boy to Chaney Trent?

A. Why, sister.

Q. He belonged to the Chaney Trent and Dick Atkins family?

A. He belonged to the Dick Atkins family, he was Dick's *daughter.*

Q. He was the son of Dick Atkins?

A. Yes, sir, Thomas Atkins was and Chaney Trent is too.

Q. Do you know what became of him? A. He died.

Q. Do you know about when?

A. No, sir, I do not, I don't know exactly when, but I heard of the death at the time, but I never entered any record; I don't know exactly when the time, but I heard of him dying.

Q. Do you know where he died?

A. They said he was about thirteen so Mrs. Trent said, but I don't know that.

Q. You don't know of your own knowledge, personal knowledge, anything about——

A. Well, he was a good sized boy, able to haul wood, one of Mrs. Trent's sons; both of them hauled wood there two or three days and made their support by hauling wood.

Q. Hauled wood around the town of Wagoner?

A. Yes, sir. So did a number of them around there.

Mr. Allen: That is all.

Cross Examination by Mr. Rosser.

Q. You came to Wagoner you say in 1892?

A. About then; I ain't right positive of it; I never kept a record; I haven't got any education; but I know from my children that I have been there about twenty-two or three years; maybe a little longer.

Q. 22 or three years or a little longer?

A. I aint certain.

Q. Nancy had been away; she had served her sentence, at least she never served any sentence in jail or the penitentiary after you went there?

A. Well, I don't know whether she did or not; I don't remember nothing about her serving anything; I heard she was in the pen, but I didn't know it, and I wasn't personally acquainted with her at that time.

Q. You heard she had been in the penitentiary before you got acquainted with her? A. Yes, sir.

Q. And you went to Wagoner then after she had served a term in the penitentiary?

A. Well, I aint certain now; she might have been in the pen the year that I came there and maybe the second year, before I got acquainted with her personally.

Q. Where was she living when you got acquainted with her? A. She was staying with old man Wililams.

Q. How long were you living in Wagoner before you got acquainted with old man Williams?

A. Well, right away, when I stepped off there, when I got off the train.

Q. You stayed at his boarding house? A. Yes, sir.

Q. That was where Nancy stayed at the time you knew her, old man Williams'?

A. Yes, sir, at the time I knew her, that is where she was living. I ain't right positive, either; she might have been living in a tent with some other colored people, but I aint right certain.

Q. At any rate, you don't know then exactly where she did live?

A. Well I say I don't know positively; she was at Williams right then or after I got acquainted with her, she stayed at Williams quite a while and with other folks.

Q. How long did you stay at Williams'?

A. I can't tell you how long she stayed there.

Q. I say how long did you stay there?

A. I didn't stay there but a few days.

Q. Now, you testified in a suit in Sapulpa between Nancy Atkins and Bartlett, didn't you? A. Yes, sir.

Q. Before you went up there to testify you had talked with whoever had you subpoenaed, hadn't you?

A. I had a talk with her and Nancy.

Q. With Betty Mann?

A. Well, no, I had a talk with her and Nancy.

Q. Well, Her; who is her?

A. Well, Nancy and Betty Mann.

Q. That is what I say, you had a talk with her and Betty Mann before you went up there? A. Yes, sir.

Q. You understood you were subpoenaed there to testify in that case? A. Yes, sir.

Q. Now, you didn't undertake there to testify any conversations that you had with Nancy, did you? A. No, sir.

Q. And you didn't undertake then to testify as to the birth of a child, or anything of that sort? A. No, sir.

Q. You didn't know anything about that? A. No, sir.

Q. And you don't know anything about it now?

A. I don't know anything about it now. I don't know whether she ever had one at all or not.

Witness dismissed.

And thereupon LULA SMITH, being called on behalf of the United States, sworn, and under oath testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Lula Smith.

Q. Where do you live? A. Parsons, Kansas.

Q. Did you ever live in Wagoner? A. Yes, sir.

Q. How old are you? A. I am 38.

Q. When did you first go to Wagoner?

A. I went to Wagoner in 1891.

Q. How old were you then?

A. I don't remember how old I was then, but that is how old I am now.

Q. What did you do there, how came you to go there?

A. Well, my grandfather went there and so we went there, my aunt and I, and worked out. I waited table when I first *gone* there, and I cooked for a family, and then I waited table.

Q. You moved there in 1891, the first time? A. Yes, sir.

Q. Did you know Nancy Atkins? A. Yes, sir.

Q. When did you first know her?

A. Well, I knew her that year when I first *gone* there.

Q. When you first went to Wagoner? A. Yes, sir.

Q. Did you ever work with her anywhere? A. Yes, sir.

Q. Where?

A. At the hotel, Barnard Hotel, in Wagoner.

Q. Barnard Hotel? A. Yes, sir.

Q. About how long did you work with her at that hotel?

Q. I don't know exactly how long I worked there at the hotel; about four years, but she didn't work all the time that I did.

Q. What did you do at the hotel? A. I waited table.

Q. Did she work there very much while you worked there, during the four years you were there?

A. Well, yes, the first year she worked right along.

Q. Did she have any child that she was taking care of?

A. I didn't see any.

Q. Did you have any conversation with her about whether she had ever had any child?

A. She said she had had a child, but that it was dead.

Q. Did she tell you when it had died?

A. Well, I don't know whether she said it was born dead, or died soon afterward, but one of the two.

Q. One of those two? A. Yes, sir.

Q. How long did you continue living in Wagoner, when did you leave there? A. I left there three years ago.

Q. You lived there from 1891 until three years ago?

A. Yes, sir.

Q. Do you know where Nancy is living now?

A. No, sir, I don't.

Q. How long after you got there until she left Wagoner?

A. Oh, five or six years; maybe more, I don't know just exactly.

Q. Do you know where she went to?

A. No, sir, I don't know where she went.

Q. During the time she was living there, did you know whether—did you associate with her very much?

A. Well, around the work there, I was around where she was working a good deal; she was around the hotel.

Q. Now after she quit—after you left the hotel what did you do? A. After I left the hotel?

Q. Yes?

A. Well, I just went across the street and worked at the railroad house.

Q. What railroad? A. It is the Iron Mountain.

Q. That had a cafe there?

A. Yes, sir, they fed the railroad people there.

Q. Did you see Nancy while you were working there?

A. Yes, sir, I would see her very often whenever she was around.

Q. About how frequently would you see her during those years? A. Well, I don't know exactly.

Q. Well, once every six months?

A. Oh, I would see her oftener than that.

Q. Once a month?

A. As long as she was in town there, I would see her every day or two, when she was in town.

Q. Did she say anything to you about having been in the penitentiary? A. Yes, sir.

Q. Was she in the penitentiary any after you knew her?

A. No, sir, she said she had been before we came there.

Q. During the time that you knew her was she ever in a family way? A. Not to my knowing, she wasn't.

Q. Have you any children? A. Yes, sir.

Q. How many? A. Two.

Q. When was your first child born, about?

A. My first child will be 17 years old the 21st day of June.

Q. It was born there at Wagoner?

A. Born in Wagoner, yes, sir.

Q. Now, were you pretty well acquainted there in Wagoner among the colored people? A. Yes, sir.

Q. Did you know the Indians who lived there?

A. Well, I knowed some of them.

Q. Was there any boy around Wagoner, small boy, by the name of Thomas Atkins? A. I never knew of any.

Cross Examination by Mr. Rosser.

Q. Your name is Lula Crump?

A. Smith now; used to be Crump.

Q. Your name is now Lula Smith?

A. My name is now Lula Smith.

Q. Your name was Crump when you were in Wagoner?

A. When I used to work with her.

Q. I mean, before you got married? A. Yes, sir.

Q. And you are 38 years old now? A. Yes, sir.

Q. You went to Wagoner in 1891? A. 1891.

Q. Do you know what time of the year you went there?

A. No, sir, I don't know exactly, but is was along in the fall sometime.

Q. Sometime in the fall?

A. Yes, sir, I don't remember exactly.

Q. When will you be or when were you 38?

A. Last October, the 2nd day of October.

Q. 2nd day of October? A. Yes, sir.

Q. Then you were about 13 years old when you went to Wagoner?

A. Well, I don't know exactly how old I was; I hadn't counted it up.

Q. Well, you were 12 or 13 years old.

A. Yes, I was a good big girl.

Q. How is that? A. Good big girl.

Q. A good big girl but you weren't a grown girl?

A. No, I wasn't grown.

Q. Nancy was a grown woman?

A. I guess she was; she looked like it.

Q. You waited on the table at the hotel? A. Yes, sir.

Q. What did she do? A. She was laundry girl.

Q. Your work was in the same sort of work?

A. As hers?

Q. No-, your work wasn't of the same sort? A. No, sir.

Q. I believe you stated you got acquainted with her as you worked together? A. Yes, sir.

Q. You didn't visit her or go to see her? A. No.

Q. Did you know where she lived at that time?

A. She stayed there at the hotel where she worked, a good deal.

Q. A good deal? A. Yes, sir.

Q. And she was away a good deal, too?

A. Yes, sir; of course I didn't ask her where she was when she was gone.

Q. How did this conversation come up about her children?

A. Well, she would just get to talking and would tell——

Q. Who else worked there in the hotel? A. My aunt.

Q. Your aunt? A. Yes, sir.

Q. Where is your aunt, is she here? A. Yes, sir.

Q. How long did you and she—how long did Nancy work there at the hotel with you?

A. I don't know exactly how long it was.

Q. Well was it a year, two, or three or four, five or six years? A. I don't know, I won't say.

Q. You wouldn't say?

A. No, because it has been so long I have forgotten.

Q. Well did you ask her about whether she had had children?

A. Well I don't know whether I asked her or not, but she just said she had had.

Q. You don't know whether you asked her?

A. No, I don't know.

Q. She just volunteered that information?

A. Well, I don't know whether I asked her or not. I know she said she had one.

Q. Now, you lived in Wagoner until three years ago?

A. Yes, sir, three years ago.

Q. Do you know when Nancy left Wagoner?

A. No, sir, I don't know when she left, what year it was or nothing.

Q. Well, would you come within a year or two of it?

A. No, sir, I don't dare to say, that has been so long.

Q. You met her at various times after this time you worked together in the hotel, didn't you? A. Yes.

Q. You worked with her at other times since that?

A. Yes, while she was around there in Wagoner, I saw her.

Q. And once in a while you met her and would talk to her?

A. Yes, sir.

Q. When did you get married?

A. When did I get married?

Q. You were 21 when you married, weren't you, or 22?

A. Yes, just about; I will be married 17 years in August.

Q. In August? A. Yes, sir.

Q. Then you were nearly 22 years old when you married?

A. Yes, sir.

Q. And you have children of your own? A. Yes, sir.

Q. How long were you married before you had a child, about how long? A. I don't know; my baby is 15.

Q. And you have two children? A. Yes, sir.

Q. Now, did you see Nancy and talk with her after you had children of your own?

A. No, sir, I don't remember seeing Nancy after I was married.

Q. You don't remember seeing her? A. No, sir.

Q. You don't remember it?

A. No, sir, I don't remember seeing her.

Q. Will you say you didn't see her?

A. I wouldn't no, say I didn't see her, I don't remember.

Q. Did you have any brothers or sisters with you at the time you were working in the hotel?

A. Who stayed with me?

Q. Yes, or with your aunt? A. No, sir.

Q. I wish you would tell how this conversation came up about Nancy having a child, do you know?

A. I can't tell, only she was just talking.

Q. She voluntarily told you she had had a child and it was dead? A. Yes, sir, I remember that.

Q. And you were then a girl 12 or 13 years old?

A. Yes, sir.

Q. You didn't associate with her except when you were working together, you didn't visit her, or anything like that?

A. No, sir, she was a woman and I was a girl.

Q. Well, she was running around there with people, she went out of the hotel once in a while, didn't she? A. Yes.

Q. Did you ever talk to your aunt about whether you ought to associate with her or not?

A. No, I didn't; she didn't seem like she cared to go with us.

Q. You never saw her, you say, with any child or children about there? A. No, sir, never saw her.

Q. You saw her frequently while you stayed there?

A. Yes, sir.

Q. Didn't you ever see her with these Harrison children, Harvey and Charley Harrison?

A. No, sir, I didn't see them; I heard her say her sister had two children, but I didn't see them.

Q. When was it you heard her say her sister had two children?

A. Well, while she worked there with us.

Q. But you don't know what time during that period you heard that? A. No, I don't know.

Q. And you never saw her with any child at all at any time? A. No.

Q. Did you know the Barney family there?

A. Yes, sir, I used to know them.

Q. You knew them? A. I used to know them.

Q. Do you remember whether she was there about that place any or not?

A. Well, I guess she went over there when she wanted to.

Q. I am not asking you about guessing. Do you know whether she went there or not? A. No, don't know.

Q. You didn't know who she visited with when she was not at the hotel?

A. No, I didn't know who she visited with.

Q. You are sure about the date you went there, 1891?

A. Yes, sir, that is the year we went there, 1891.

Q. You don't know what time of the year?

A. No, sir, I don't know.

Q. You knew Nancy had been in trouble and in the penitentiary? A. No, sir, I didn't know; I heard her say so.

Q. You heard her say so? A. Yes, sir.

Q. Heard that after you went there? A. Yes, sir.

Q. And you don't know what time in the year 1891 you went there? A. No, sir, I don't know exactly.

Q. Was she working at the hotel when you went there?

A. Yes, sir.

Q. Working in the hotel when you arrived? A. Yes, sir.

Q. Well was it in the fall of the year, to refresh your memory, the fall of the year?

A. Along in the fall of the year; I don't know the month.

Q. You got a job in the hotel immediately, did you?

A. No, sir, I didn't; I didn't work there for two or three months after I *gone* there, but my aunt did.

Q. Your aunt went to working there immediately? And Nancy was working there when your aunt went there?

A. Yes, sir.

Witness dismissed.

And thereupon court adjourned until 9:30 o'clock A. M.

And thereafter, and at 9:30 o'clock A. M., May 11th, 1917, court convened pursuant to adjournment, and further proceedings herein were had as follows:

Mr. Hanford: I believe Your Honor was going to take up the matter that Judge Rosser wanted to be taken up in advance?

The Court: Yes.

Mr. Hanford: And that is upon our objection to any evidence relating to the claim of Nancy Atkins as to a son by herself named Thomas Atkins, and that he is the Thomas Atkins who was enrolled, and by whom the land in question was allotted. It is our contention that that evidence is not competent, and that this Court is without jurisdiction to determine that question. So it comes before the Court—this case comes before the Court now upon a collateral proposition; it is presented as though the Court has found that the Government has failed to establish its case, that Thomas Atkins was a myth, or that the evidence to controvert that proof was sufficient to do so, and has found as a fact that he did exist; and then the question is presented as to the identity of Thomas Atkins, and that is presented upon the cross-bill which is brought by the defendant Nancy Atkins against Minnie Atkins. The enrollment records are in evidence in the case, among them the enrollment certificate or census card. That exhibit shows Thomas Atkins enrolled opposite the number 7913, and also shows that he was a Creek Indian, to Euchee town; it gives his age as 10 years; it describes him as being of ½ blood; it names his mother, Minnie Atkins; it shows that he was upon the '95 roll, and that she was upon the '95 roll; it shows that his father is a white man, unnamed. That, Your Honor, we contend, and I think Your Honor will so hold, is the judgment of the Dawes Commission upon the enrollment question. By Section 21, of the Act of Congress of June 28th, 1899, called the Curtis Act, it was provided as follows: * * * * Your Honor, the Government will join in this objection; while I am not speaking for them, they must speak for themselves——

The Court: Do I understand that to be the Government's position?

Mr. German: Yes, Your Honor, I will state it directly but——

The Court: Let's see; there has been sufficiently developed now in this case, it seems to me, to show beyond peradventure, that this name Thomas Atkins was enrolled by the Dawes Commission because it was found on the 1895 roll of the Creek Tribe. The Dawes Commission undoubtedly assumed before that, that when that name was placed there, there was a person in being named Thomas Atkins, and that his name was upon that roll, and so assuming the Dawes Commission assumed that whoever was represented by that name, Thomas Atkins, was entitled to consideration as to final enrollment by the Dawes Commission, because he appeared to have been a member of the tribe in 1895. Therefore, they proceed to consider his right to enrollment; as to whether they received any evidence or not, is a question in this case, up to this point, not capable of final determination; it is a question in this case what, if any evidence, they heard in regard to that. But they had that question before them. Here is the roll, 1895 roll; here is a name purporting to be that of a Creek citizen entitled to this payment in 1895. Presumbaly at that time a person in being, and entitled to enrollment as a Creek citizen. Now, sitting as the Dawes Commission, we find that situation in regard to the 1895 roll. Assuming that that person was in being at that time, whoever is represented by this claim of Thomas Atkins, if he was alive April 1, 1899, he is entitled now to enrollment by us. Now, let's see who he is· His name is Thomas Atkins. Did he ever exist? If so, did he exist April 1, 1899. Both those questions were resolved in favor of this Thomas Atkins on the roll. Now, they proceed to enroll him; they determine, according to the evidence shown by the census card, as a part of his identity, that this Thomas Atkins was a boy, the son of Minnie Atkins; but suppose they were wrong about that? Suppose he did have an existence; suppose there was a Thomas Atkins actually in being, placed upon the 1895 roll, contemplated by the Creek Nation in 1895, by persons in authority in that Nation knowing him as a person in being placed upon the roll. But suppose as a matter of fact, he was not the son of Minnie Atkins, but that he was a son, for the purpose of this argument, of Nancy Atkins. None the less, he is a Creek citizen entitled to enrollment; he is on the 1895 roll; the Dawes Commission considers him because he is on that roll, and they proceed to enroll him; but in enrolling him, they mistakenly classify him as a son of Nancy Atkins, rather than somebody else. Now why isn't that a question in this case?

Mr. Hanford: Not for this reason, Your Honor: * * *

Mr. Stuart: Then, Your Honor will hold that they have got to show that the Thomas Atkins appearing on the 1895 roll was put there and intended to be put there as the son of Nancy Atkins?

The Court: Absolutely.

Mr. Stuart: And when the Dawes Commission enrolled him——

The Court: That the Dawes Commission intended to enroll the person appearing on the 1895 roll as Thomas Atkins No. 290, and they have got to show further that that person when enrolled and given the status of a Citizen of the Creek Nation by the Creek Authorities in 1895, was enrolled because of his relation to Nancy Atkins rather than Minnie Atkins. It seems to me that that burden rests upon Nancy Atkins and unless she discharged that she has no standing in this case at all. If she does I think that they have a right to show the identity of Tommy Atkins.

Mr. German: Now, Your Honor, I don't want to make any argument because I agree with Your Honor's views, with this supplemental suggestion, that there is a question as to where the burden of proof rests. Now, our view, as I explained to Your Honor yesterday just before noon, is that the identity of the patentee in this case is fixed by the patent and enrollment records. The grantor intended to convey the land to the person there described. Now, when the Government comes in and established who the Commission and the Interior Department intended to convey that land to; which if established by the proof of the enrollment records and the patent, and then when the Government sustains the burden resting upon it to show that that person—— It happens in this case was fraudulently enrolled as we contend and didn't exist—then as against the world we have shown—if we prove all these claims—that the patent should be cancelled. Now, here comes Nancy Atkins claiming we made her a defendant, and we told why we made her a defendant. There should always be a reason for making anyone a defendant.

* * * * * * * * * * * * * *

The Court: Your idea is that they must bear the burden to establish that the Thomas Atkins of the 1895 roll was not the son of Minnie but was the son of Nancy?

Mr. German: Son of Nancy and that when the tribal authority put the name upon that roll they intended to put the name of the son of Nancy Atkins, and that when the Dawes Commission considered that name and enrolled it upon the final roll that they meant to enroll the son of Nancy.

The Court: That they intended to enroll the person represented by the name on the 1895 roll. That is the same thing.

The Court: I am inclined to think, gentlemen, that the Government should proceed the show—to assume the burden as to the Nancy Atkins side of the case. You have started in; I guess I will let you do that.

Mr. German: Of course I take it that Your Honor will treat this more largely as a matter of procedure, and then of course the question as to whether she was the mother of such a boy will be determined upon the preponderence of the evidence.

The Court: Oh, yes; if a preponderence of the evidence show that she never had such a child, that stops her right there; if it shows she did, then comes the question of identity on the roll.

Mr. Cobb: If the Court please, we would like to have the Court determine at this time what will be the order of proof, if we are to follow——

The Court: I am inclined to think that inasmuch as Henry Carter, who claims to be the real Thomas Atkins, that interest and the interest of Minnie Atkins coincide up to the point where Thomas dies; that probably the order would best be, after Nancy Atkins' case is through, that the Page interests put on their proof, and you will support them; you will come in with a strong re-enforcement, and then, after they come to the point of establishing him and his death, you will part company with them, and bring up your proof that he still lives. Wouldn't that be logical?

Mr. Cruce: I think ordinarily it would, except that we are in possession and that——

The Court: I think I'll declare the order of proof. I will get at it better that way.

Mr. Cobb: I think it will shorten the case some by following that procedure, also.

And thereupon, MARTHA HARDRIDGE, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Martha Hardridge.
Q. Your age? A. I am 44.
Q. Where do you live? A. I live in Wagoner.
Q. How long have you lived in Wagoner? A. Since 1891.
Q. In 1891, did you know Nancy Atkins? A. Yes, sir.
Q. Had you known her before then? A. No, sir.
Q. Where did you first meet her?
A. At the Barnard hotel.
Q. Were you working at the Barnard hotel? A. Yes, sir.
Q. Was she working there?
A. She was there when I came.
Q. Where did she live at that time?
A. She roomed at the hotel where she worked.
Q. Did you also room at the hotel? A. Yes, sir.
Q. Did you room together?
A. We roomed together.
Q. How long did you room together at that hotel?
A. We worked there off and on for eleven months together.

Q. Did she, during that time, say anything to you about having given birth to a child? A. Yes, sir.

Q. What did she say to you?

A. She said she had given birth to a child that was born dead.

Q. Did she have any child with her during that year?

A. No, sir.

Q. Do you know the Birneys? A. Yes, sir.

Q. Did Nancy ever stay with them?

A. She would go around there but she didn't stay there, not during the time that I knew her.

Q. Were you intimately acquainted with the Birney family?

A. No, no more than just as I would see them; I knew them when I saw them.

Q. Did you know Joe Birney? A. Yes, sir.

Q. Do you remember him when he was a small child?

A. Yes, sir.

Q. Did you ever see Nancy with that boy?

A. Yes, they would be around there together, and very often he would come to the hotel where she worked.

Q. Was there any boy living around Wagoner at that time by the name of Thomas Atkins?

A. No, sir, I never knew a Thomas Atkins.

Q. During all of your association with these people did you ever know a Thomas Atkins? A. No, sir.

Mr. Allen: That is all.

Cross Examination by Mr. Hill.

Q. When do you say you came to Wagoner?

A. The year 1891.

Q. What time in 1891?

A. It was the latter part of September or first of October, I don't know just which.

Q. This girl that testified yesterday was your niece?

A. Yes, sir.

Q. And you were both living in the hotel at the same time? A. Part of the same time.

Q. Was she present when Nancy made the statement to you about having the baby?

A. No, Nancy and I stayed together, we was together three or four months before my niece came there.

Q. You were not present when she talked to your niece about that? A. No, sir.

Q. She told you she had had a baby and it was born dead?

A. Yes, sir.

Q. What was the occasion of her telling you that?

A. I would ask her about her people and all, and just in conversation she told me she gave birth to this child.

Q. She lived there in the hotel with you eleven months?
A. Yes, off and on we worked for different parties.
Q. And lived together? A. Yes, sir, we roomed together.
Q. All that time? A. Yes, sir.
Q. You say Nancy went down to Birney's some?
A. Yes, sir.
Q. This Joe Birney, how old was he?
A. I don't know how old, just a little boy.
Q. A little boy? A. Yes, sir.
Q. Right black? A. No.
Q. What color? A. Kind of brown skin.
Q. How big was he in 1891?
A. Little bit of a thing, just a little boy but he wasn't no baby.
Q. Well, make your best estimate?
A. Oh, might have been five, six, or seven years old.
Q. When you knew them in 1891?
A. As far as I can tell.

Witness dismissed.

And thereupon, PATSY JENKINS was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Patsy Jenkins.
Q. Where do you live?
A. I live at Choteau, is my postoffice.
Q. How far from Wagoner?
A. I don't know how far from Wagoner.
Q. You live near Wagoner?
A. Yes, sir, I live between Wagoner and Choteau.
Q. Did you ever live in Wagoner?
A. No, sir, I never lived there.
Q. Do you know Nancy Atkins?
A. Yes, sir, I know her when I see her.
Q. When did you first get acquainted with Nancy?
A. Well, the first time I ever seen her I seen her in Wagoner when there wasn't but one store. I wasn't acquainted with her only knowed her when I saw her.
Q. When did you get acquainted with her?
A. Well, I guess it has been about twenty one years ago she came to my house and stayed a while.

Q. Did she live in your home for a while? A. Yes, sir.

Q. Where was you living then?

A. Out in the country on Brushy they call it.

Q. How long did you live there?

A. In the winter some white folks was my renters and she stayed with them a while and then left them and stayed with me.

Q. Did she have any children with her at that time?

A. No. sir, when she first come to my house.

Q. Did she later bring any children to your house?

A. Yes, sir.

Q. Who were they?

A. The oldest boy was named Charley and the youngest was Harvey.

Q. How old were they at that time?

A. I don't know their age.

Q. Were they small or large?

A. Yes, sir, they were small boys.

Q. Do you know where she got them?

A. I don't know where she got them, whether she got them at Wagoner or not but she brought them from Wagoner.

Q. Do you know Henry and Dick Birney? A. No, sir.

Q. Did you know their mother?

A. No, sir, I don't know her.

Q. Did you know any boy around Wagoner named Thomas Atkins? A. No. sir, I didn't know Thomas.

Q. Did Nancy have any boy with her when she first came to your house? A. No, sir.

Q. Did she ever bring any other boys to your house?

A. Just those two I spoke about.

Q. Did you ever see her with any other boy? A. No, sir.

Q. Did she say anything to you about having had any children?

A. Yes, sir, she told me one time she had had one.

Q. What did she say about it?

A. She said it was a girl and that it was born dead.

Q. When did she tell you that?

A. When she was staying with me.

Q. That was about twenty years ago?

A. Twenty or twenty-one.

Q. That was during the time she first brought Charlie and Harvey from their home over about Choska?

A. No, sir, the boys wasn't there then when we were talking about the baby.

Q. That was before she brought the boys? A. Yes, sir.

Q. She told you she had had one girl born dead?

A. Yes, sir, she told me that.

Q. You say you first saw Nancy when there was just one store in Wagoner?

A. Yes, sir, that is the first time I seen her.

Q. Do you know about when that was?

A. No, sir, I don't know how many years back that has been.

Q. How long before she brought *Nancy* and Harvey to your house?

A. Oh, it was a long time after that before she ever come to my house.

Q. Did you see her frequently after that around Wagoner? A. Sir?

Q. Did you see Nancy frequently after that around Wagoner—after you first saw her at Wagoner?

A. No, sir, I never did go there very often and just went there when I wanted to trade.

Q. When you did go back there, did you see Nancy?

A. No, sir, I never did see her only that one time when I got acquainted with her.

Q. You next saw her at your house?

A. Yes, sir, when she came to my house.

Q. Do you know where she went when she left your house?

A. No, sir, I don't know where she went; she told me she was going to Nowata to work—told me she was going to Nowata to work.

Q. You say that was about 20 or 21 years ago.

A. Yes, sir.

Mr. Allen: That is all.

Cross Examination by Mr. Hill.

Q. You say that you knew Nancy at Wagoner when Wagoner had only one store?

A. I had seen her—that was the first time I had seen her. I wasn't acquainted with her, and would only know her when I see her.

Q. Was that before the railroad got to Wagoner?

A. I don't remember whether the railroad had got there or not; it has been so long ago, I don't remember.

Q. You just saw her there?

A. I just saw her there; didn't have any talk at that time.

Q. And you never seen her any more until she came to your house with these two little boys?

A. No, sir, I never saw her until she came to my house with the little boys.

Q. How long after you first saw her, was it, until she came to your house with the little boys?

A. No, sir, I never——

Q. I say how long after?

A. Oh, I don't know how long—when she came in the country—I never kept any record of it.

Q. Was it one year?

A. It was longer than that when I seen her. There was only one store in Wagoner and Wagoner had done built up then.

Q. One year?

A. I don't know; I can't count the years back.

Q. It was a long time, though, wasn't it?

A. Yes, sir, a long time.

Q. You didn't have any talk with Nancy when you first saw her in Wagoner? A. No, sir.

Q. And the first time you ever had any talk with her was when she brought the boys to your house?

A. No, sir, when she brought the boys she was staying with me and we had talked often together; she was staying there.

Q. How long had she stayed there when she brought the boys?

A. She came there in the spring, I think; the place was rented and the renter was coming there on the farm.

Q. She was living with the renter on your farm at that time?

A. She was staying with them and they didn't treat her good, and she came and stayed with me.

Q. And she was working there?

A. No, sir, she wasn't working there but she was staying with them, and she came to my house.

Q. She stayed at your house and worked?

A. Yes, sir, she was staying there and she helped me to work.

Q. And it was when she was staying at your house that she brought these boys? A. Yes, sir.

Q. Did she tell you who those boys were?

A. She said they were her sister's children.

Q. Did she say anything about who her sister was?

A. She said her sister Minnie's children.

Q. She said her sister had gone away and left these children?

A. Yes, sir, she said her sister had gone some place.

Q. Gone out of the country?

A. No, sir, she didn't tell me that.

Q. Didn't tell you that? A. No, sir.

Q. Now, how big was these boys when they came to your house?

A. Oh, small boys; the oldest was about that high, I think, and the youngest one smaller.

Q. Was the youngest one able to walk around?

A. Yes, he could walk around.

Q. He was big enough to walk around, was he?

A. Yes, sir.

Q. About how old was he?

A. I don't know. I never did ask her.

Q. Well, two years old? A. More than that, I think.

Q. Well, five years old?

A. He might have been five and the other looked about six years, but I don't know their ages.

Q. Somewhere around five or six years old?

A. The oldest one looked to be about 6 years old but I don't know.

Q. About what time was it those boys were at your house?

A. Well, I can't tell the year it was; I know the oldest boy stayed at my house until along in the spring, and somebody come and got it.

Q. I want to know about when that was?

A. Well, I don't know what time of the year it was.

Q. I don't care about what time of the year it was, I want to know what year it was? A. Well, I don't know.

Q. Well, how long ago was it? A. I can't tell that.

Q. Ten years?

A. Because I can't read and write and can't count the years back.

Q. Well, was it ten years ago?

A. No, sir, I don't think it was ten years ago.

Q. You don't think it was ten years ago?

A. No, sir, about 21 years since them boys were at my house.

Q. That is what I am asking you; is it about 21 years since they were at your house? A. Yes, sir.

Q. What makes you say 21 years?

A. I don't know how to get at it any other way.

Q. Just 21 years at that time?

A. That is all the way I know how to get at it.

Q. Not 20 years?

A. It was a little longer than 20 years.

Q. 21? A. Yes, sir.

Q. Not 22?

A. I don't know that. I told it just as near right as I can tell it.

Q. Just as near right as you can tell it is 21 years that they were at your house?

A. Yes, sir; they didn't stay there all that time—they came and got him.

Q. The time we are talking about, that is just 21 years ago? A. Yes, sir.

Q. You know what year this is?

A. No, sir, I don't know anything—about the year at all.

Q. Had the railroads been built into Wagoner at that time?

A. No railroad there that I remember when I first saw her.

Q. At the time that these boys were brought there, was the railroad built there at that time?

A. I don't remember.

Q. You don't remember whether the railroad was in there or not? A. No, I don't remember.

Q. How far do you live from Wagoner?

A. They call it 13 miles from my house to Wagoner; I don't know how far it is.

Q. Which direction?

A. I live south from Wagoner—north from Wagoner.

Q. Are you in the Creek Country or——

A. Cherokee Nation.

Q. Cherokee Nation? A. Yes, sir.

Q. How long did Nancy stay out there?

A. She came there in the fall, like, when the man came there to rent.

Q. Well, how long did she stay after she got there in the fall like?

A. Well, she stayed there until the man got his crop all planted.

Q. Next spring?

A. Yes, sir, she stayed there until warm weather—getting warm.

Q. She stayed there from one fall until it was getting warm the next spring?

A. Well, she came there in the spring of the year like—you know when people go to farm, and she came along with him, and before his crop was gathered, she was gone.

Q. Well, did they go to rent farms in your country in the spring of the year? A. They come in the fall.

Q. That is what I thought; she came in the fall and stayed until the next spring—is that the idea?

A. She stayed there until the man planted his crop, the same year he rented she came; and she stayed until he planted his crop.

Q. And Nancy told you that she had one baby and that it died?

A. Yes, sir. She said she had one child—a little girl and it was born dead.

Q. How come she to tell you that?

A. Oh, we were talking like women do; I had some children and she was just talking like all women talk.

Q. That was what she told you in your house?

A. Yes, sir, in my house.

Q. Now, when was that—when she was living there with you? A. Sir?

Q. When she was living there with you?

A. Yes, sir, she was living there.

Q. Did she say when the child was born or anything about it?

A. No, sir, she never told me anything about it at all.

Q. Never told you that? A. No, sir.

Q. You don't know when that railroad came into Wagoner?

A. No, sir; I don't know anything about when the railroad got in there.

Q. Didn't you go to Wagoner often?

A. No, sir, I never went there very often.

Q. Just now and then? A. Now and then.

Q. Where did you do your trading?

A. I would go over to Chotean.

Q. Over to Choteau? A. Yes, sir.

Mr. Hill: That is all.

Witness dismissed.

And thereupon SARAH COATS was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Sarah Coats.

Q. Where do you live?

A. 550 North Ninth Street, Muskogee.

Q. Do you know Nancy Atkins? A. Yes, sir.

Q. How long have you known her?

A. I have known her about twenty three or four years.

Q. When did you first get acquainted with her?

A. Along in 1891, '92, somewhere along there.

Q. In 1891. Where was she working when you first knew her?

A. She was working at the St. Bernard Hotel, Wagoner.

Q. Where were you working?

A. I was working for McAnally in the same town.

Q. Where did you live with reference to where she lived?

A. There was just a fence between the two hotels, I worked at one and she worked at the other.

Q. Did you see her frequently?

A. Yes, sir, seen her frequently.

Q. Every day while you were there together?

A. Every day, yes, sir.

Q. Was she friendly with you at that time? A. Yes, sir. she was friendly with me.

Q. Did she ever talk to you about any child she had given birth to? A. No, sir.

Q. Never had any conversation with her about that child?

A. No, sir.

Q. How long did you continue to live in Wagoner after that?

A. I lived in Wagoner up until, I think it was 1895 or 1896, I don't remember just the date.

Q. Do you know about Nancy—— Did you know about Nancy going to the penitentiary? A. Yes, sir, I did.

Q. Did you know her before that?

A. I knew her before she went to the pen and I knew her after she came back.

Q. After you and she quit working at the hotel did you see her frequently as long as she lived around Wagoner?

A. As long as I lived there.

Q. When did you go away? A. About 1895 or 1896.

Q. Up to 1895 or 1896, you say you saw her frequently?

A. Yes, sir, I saw her frequently.

Q. Did you know the Birney's? A. Yes, sir, I did.

Q. Did you visit them?

A. Well, not very much, I knew them though. I knew they lived there in town.

Q. Did you see them frequently?

A. Yes, sir, I saw them frequently.

Q. Did Nancy associate with them?

A. I think she stayed there quite a good deal of the time.

Q. Did you see her around the Birney's? A. Yes, sir.

Q. Did you ever see her with any children around Wagoner?

A. Never at any time did I see her with any children.

Q. Did you know Joe Birney? A. Yes, sir.

Q. Did you ever see Nancy with Joe?

A. I don't remember that I ever did.

Q. Did you know most of the colored people who lived around Wagoner at that time?

A. No, I knew a part of them, I didn't know most of them because I worked and didn't go among them very much.

Q. What race did Nancy associate with?

A. The colored race.

Q. Did you know any colored boy or Indian around Wagoner during any of the time you stayed there called Thomas Atkins? A. No, sir.

Q. Did you know any boy there who was named Tommy?

A. I never knew any.

Mr. Allen: Take the witness.

Cross Examination by Mr. Hill.

Q. When did you first know Nancy?

A. I don't just remember the date. but it seems to me that it was in 1891, something like that. I knew her before she went to the pen and I knew her after she got back.

Q. Where did you know her, Wagoner? A. Yes, sir.

Q. You didn't know her before she went to Wagoner?

A. No, sir.

Q. When did you go to Wagoner?

A. Well, I don't remember just when I went there, but I have been there most all my life.

Q. As near as you can fix it, your first acquaintance with her was in 1891? A. Yes, sir, somewhere along there.

Q. What part of the year?

A. I don't know what part of the year.

Q. And according to your recollection Nancy hadn't been sent to the penitentiary then?

A. Well, I knew Nancy before she went to the pen, I don't know just what year she went to the pen.

Q. I understand you to say you first got acquainted with her in 1891?

A. I don't remember that that was the year, but I do remember that I knew her before she went to the pen.

Q. Then you are not certain that it was 1891, but you are certain that you knew her before she went to the pen?

A. Yes, sir.

Q. How long did she stay in the pen?

A. I don't know how long she stayed.

Q. But you knew her before she went there and you knew her after she came back? A. Yes, sir.

Q. Now, when you worked close together, was that before or after she went to the pen?

A. It was before and after.

Q. How old are you? A. Forty two.

Q. Forty two? A. Yes, sir.

Q. And you were working at what place?

A. I was working at McAnally's.

Q. Hotel or restaurant? A. Hotel and restaurant.

Q. That was when you first knew Nancy and before she went to the pen, you and she were working at McAnally's?

A. No, sir, she was working at the St. Bernard Hotel.

Q. How far from there? A. Just a fence between.

Q. You and Nancy were continually together?

A. I seen her frequently. We were not continually together. She was over at her work and I was at mine.

Q. Then she was sent to the penitentiary and after that you saw her when she came back? A. Yes, sir.

Q. Where were you working?

A. I was stil working at McAnally's.

Q. And where was she working?

A. She was working at the St. Bernard Hotel.

Q. You say you went away in 1895? A. 1895 or '96.

Q. And you think she was working at the St. Bernard Hotel about the time you first knew her except when she was in the penitentiary until 1895?

A. I don't know that she was there all the time.

Q. You saw her frequently before she went to the penitentiary and the best of your recollection she was working there practically all the time? A. Well, yes, I guess she was.

Q. She never told you anything about having any children? A. No, sir.

Q. Now, this Joe Birney you say you saw when you first knew him in 1891, how big was he?

A. Well, I think he was just a child; there was quite a bunch of those Birney boys.

Q. How big was he in 1891?

A. I couldn't say because I didn't pay enough attention to him.

Q. Well, give us your best judgment, was he running around in 1891?

A. I don't know, I couldn't say, because I don't know.

Q. And how big was he when you left in 1895?

A. I don't remember that because I paid such little attention to him.

Q. He was a negro boy?

A. Yes, sir, he was a negro boy.

Mr. Hill: That is all.

Witness dismissed.

Mr. Allen: We have four witnesses we just found out this morning that have not been served. All of these with the exception of Dave Marshall testified in the District Court of Creek County. We would like to use them when they do come.

The Court: To what point will they be used?

Mr. Allen: The same point to which these witnesses have been offered.

The Court: All right. Have you other witnesses with which you can proceed now?

Mr. Allen: Not upon the Nancy Atkins.

Mr. German: Now, diverting just a little from the Nancy Atkins, we would like to offer the depositions which we took relating to Henry Carter.

The Court: All right.

Mr. German: We offer the deposition of Mariah Yoakum, taken before Paul Mahl, Examiner, and the deposition of John Yoakum taken before Paul Mahl as Examiner.

In the United States Court for the Eastern District of Oklahoma. The United States of America, Complainant, vs. Minnie Atkins, et al., Defendants.—No. 2131 E.

CERTIFICATE OF EXAMINER.

The State of Kansas, County of Leavenworth.

I, Paul C. Mails, examiner appointed herein, do hereby certify that the above witnesses Mariah Yokum and John Yokum were by me first duly sworn to testify the whole truth; that their depositions were reduced to writing by me, and after being so reduced to writing were read over by me to them respectively, and were by them respectively subscribed in my presence.

The said depositions were taken in pursuance of the annexed noticed at the home of the said witnesses in the City of Leavenworth, County of Leavenworth, and State of Kansas, on the 5th day of November, 1915.

That the complainant was represented by W. P. Z. German, Special Assistant to the United States Attorney for the Eastern District of Oklahoma, and R. C. Allen, National Creek Attorney, and J. K. Codding, Esquire, and the defendant, Henry Carter, was represented by B. B. Blakeney, Esquire, and J. Coody Johnson, Esquire, and T. W. Bell, Esquire, and the defendants Minnie Folk, nee Atkins, Harry B. Folk, E. C. Hanford, Charles Page and R. A. Josey, were represented by E. C. Hanford, Esqnire, and the defendants Thomas Atkins and J. Truman Nixon were represented by H. B. Talley, Esquire, in the examination of said witnesses, and the several exhibits attached to the depositions were offered in evidence and marked for identification as appears in the depositions.

I further certify that I am not of counsel, nor interested in any manner in the case, and it being impracticable to deliver the depositions in person, I have sealed up, directed and transmitted them by due course of mail to the court in which the case is pending.

In Witness Whereof I have hereunto set my hand.

Paul C· Mails. Examiner.

Prior to the swearing of Mariah Yokum the following conversation was had, which, at the request of attorneys for the complainant, is included in the record:

Mariah Yokum: I refuse to swear, to hold up my hand and swear to the truth and getting nothing. These men here are all getting big pay and why is it that all I get is a little dollar and a half.

Mr. Allen: That is all the law allows us to pay you.

Mariah Yokum: You are getting big money and we need it and we want to know what you are going to give us.

Mr. Allen: All we want is for you to testify what you know.

Mrs. Yokum: I don't know nothing. That is what I know.

Mr. Allen: Well, you have been subpoenaed.

Mariah Yokum: Well, I have never been sworn to know anything.

Mr. Allen: We have always told you that the Government does not pay anything but the regular fee that we are authorized to pay you, and all we will pay you or any other witness is just what the Government pays the witness. The witness fee is $1.50 per day and we have paid you that. When you obstruct the evidence in a Government case, you subject yourself to fine and imprisonment.

Lillie Williams (Mariah Yokum's Daughter): This is a family affair and I know the facts as well as mamma does. Mamma didn't have to tell the truth, she could have told a lie; she could have done just like the rest have done, but she knows the truth and I know the truth.

Mr. Allen: Let her be sworn.

Lillie Williams: She ought to have something.

Mr. Allen: She has got a dollar and a half, all that the law allows.

Angie Yokum (Mariah Yokum's daughter): A dollar and a half wouldn't pay for the carpets you fellows have worn out.

Mr. Allen: You don't want her to be paid for telling the truth?

Angie Yokum: Yes, she ought to be paid. Mamma has been accused of being bribed.

Mr. Allen: Then do I understand she won't be sworn.

Angie Yokum: She didn't say she wouldn't be sworn.

Mr. Allen: I understood her to say that.

Lillie Williams: She wanted to know what she was going to get.

Mr. Allen: She won't get anything but the fees she has already received—you understand that.

Lillie Williams: No, I think she ought to get something more.

At this time an adjournment for fifteen minutes was declared by the Examiner.

Upon the resumption of the hearing, the Examiner read to the witnesses who had been subpoenaed, the Order of the Court making provision for the hearing, and further stated to the witnesses that they had been duly summoned and paid the witness fee of $1.50 each and demanded that they consent to be sworn; to which they consented.

Thereupon, MARIAH YOKUM, being duly sworn, on oath, says:

Direct Examination by Mr. Allen.

Mr. Blakeney: Defendant Henry Carter insists that witnesses be examined separate and apart and as the examination is not to be directed as to Mariah Yokum, that her husband be put out of the room. We insist that all persons be required to leave the room in the hearing of Mariah Yokum, and we especially insist on the witness John Yokum, whose deposition will next be taken, being excluded.

Lillie Williams: My mother and father are old and I want to know what you are going to do about paying them.

Mr. Allen: I realize that these witnesses are old, but all we want is for these witnesses to tell the truth. The Government of the United States don't want to pay, can't pay and will not pay more than the law provides. One day is all this subpoena calls for and that is all we can pay and all we will pay.

Angie Yokum: This is a family affair and mamma will get cussed over it.

Mr. Allen: She is telling us nothing but the truth.

Angie Yokum: I know that, but we will get cussed just the same. Mamma has been accused of being bribed.

Mr. Allen: You are asking us to bribe her.

Angie Yokum: No, she has been accused of that, and she won't be. She has been accused of being bribed to tell this when she hasn't.

Mr. Allen: Well, we don't think she has.

Lillie Williams: Parties have accused her of it and it has been accused up to me. When you use people's homes for court rooms, is it paid for?

Mr. Allen: The reason we use this for a court room is because she said she didn't feel able to go up town. We came here for her accommodation, and not ours. It would be more comfortable in the court room up stairs, but she said she didn't feel able to walk up stairs and we came here for her comfort.

Angie Yokum: I am willing to do what is right, and mamma will do what is right, but I don't think she ought to be imposed on.

Mr. Blakeney: Defendant Henry Carter moves to strike from the record all conversations of the attorney for the United States with other parties and statements of such other parties.

Mr. Allen: We have no objection to the entire record being stricken up to the present time and let the record merely show the examination of the witness.

Mr Blakeney: We want her statements left in the record.

Mr. Allen: Well, then, let it all go in.

Q. You may state your name? A. Mariah C. Yokum.

Q. You- age? A. I don't exactly know my age.

Q. About how old? A. My old man knows—I don't.

Q. Aunt Mariah, step over here a little closer, so Mr. Mails can hear you. Now, tell about your age.

A. I would like to tell it just as it is.

Q. How much older is your husband than you?

A. I don't know—two or three years.

Q. You are about the same age?

A. Yes, he is two or three years older than me.

Q. Where do you live? A. Live here.

Q. State the number of the house. A. Seven something.

Q. What street? A. Shawnee.

Q. Leavenworth, Kansas? A. Yes, sir.

Q. The number is 705 Shawnee Street? A. Yes, sir, 705.

Q. How long have you lived in Leavenworth, Kansas?

A. Pretty near ever since I have been in Leavenworth County.

Q. Where did you live in 1883-4-5 and 6.

A. I don't know.

Q. Who was your father? A. Henry Carter.

Q. Is he living? A. No, he is dead.

Q. About when did he die?

A. That must have been ten, eleven or twelve years ago, something like that.

Q. Did you have any brothers or sisters? A. Yes.

Q. Give me the names of your brothers and sisters.

A. Those that are living or dead?

Q. All of them?

A. My oldest brother was John Smith Carter. He is dead. My next brother was John T. Johnson Carter. He is dead too. Then there was another named James Shannon Carter.

Q. Is he living? A. Yes, in Oklahoma.

Q. Then who else?

A. There was another named William Wallace Carter. He is dead too.

Q. Who else.

A. My youngest brother named Thomas Jefferson Carter.

Q. Where is he living? A. Yes, at the old home place.

Q. Is that all your brothers and sisters?

A. Yes, I ain't called no sister's names yet—that is all the brothers.

Q. Alright who are your sisters?

A. One is named Emily Rogers. She is dead too.

Q. Alright, the next.

A. Mary Elizabeth Carter. Samuelton is her name now.

Q. Who else? A. Susan Ann Carter.

Q. What is her name now?

A. Susan Ann Smith, now, she is married.

Q. Who else? A. Mary Elizabeth Carter.

Q. Is that Mary Elizabeth Samuelton?

A. Yes, I called her name before.

Q. Who else?

A. The next one is Adis Wright. She is married now.

Q. The next one?

A. The next one, she is dead, her name was Nancy Violet.

Q. What others? A. None.

Q. Was that all?

A. That was all. It looks like that ought to be enough.

Q. Where do you say James Shannon Carter was living now? A. In Oklahoma. Boynton, Oklahoma.

Q. Where does Thomas Carter live?

A. Lives on the line of this county.

Q. How far from Leavenworth?

A. Twenty miles by the railroad. I don't know how far it is to go around the road. Eighteen miles or something like that.

Q. What place?

A. At the home place, where my father died.

Q. Near what station? A. Springdale and McLouth.

Q. Where does Susan A. Smith live?

A. She lives at the same place. Ain't you all been out there?

Q. Where does Adis Wright live?

A. I don't know exactly where they live—down near Tonganoxie somewhere. I don't know just where.

Q. In this county.

A. I don't know whether it is in this county or not, down there somewhere.

Q. Are you acquainted with Henry Carter.

A. What Henry?

Q. The Henry who is a defendant in this case?

A. Of course I am acquainted with him.

Q. Do you know who was the mother of Henry Carter?

A. I don't know whether I do or not.

Q. Well, answer yes or no.

Mr. Blakeney: That is an answer.

Q. Tell us what you know about his birth, if anything.

A. People forget sometimes when we get torn up and there is so much sculduggery done. I don't know whether to talk or not.

At this point Mr Blakeney objected to John Yokum, another witness, and his daughters standing in the doorway and listening to the testimony, and they were excluded from the room by the Examiner and the door closed.

A. You know it is pretty bad to get nothing, nothing no benefit of it.

Q. You have taken an oath to tell the truth. The Government only wants you to tell it.

A. I know, I won't tell a lie.

Q. Tell us now, if you know, about the birth of Henry Carter. A. I don't feel like talking.

Q. Alright, just tell the Commissioner you refuse to talk.

A. No, I ain't going to say I refuse to talk—I don't feel like talking. I didn't refuse to talk.

Q. Will you answer my question?

A. I ain't answered it yet.

Q. Will you answer it? A. Well, I guess I will.

Q. Alright, go ahead and tell us what you know.

A. I might tell you something, but I ain't told you all I know.

Q. Alright, just answer the question.

Q. What question did you ask me.

Q. Tell us what you know about the birth of Henry Carter. Strike that. Were you present at the birth of Henry Carter? A. Yes.

Q. Who else was there? A. My father and mother.

Q. Your father and mother? A. Yes.

Q. They are both dead? A. Yes.

Q. Where was this child born—with reference to the place? At whose house? A. My father's and mother's.

Q. Was that your old home? A. Yes.

Q. Where were they living at that time.

A. On the line of this county.

Q. Is that the place you say your sister lives now?

A. Yes.

Q. Susan A. Smith? A. Yes.

Q. How old were you at that time? A. I don't know.

Q. About how old?

A. I don't know. All these children of mine was born except that little girl.

Q. Did you have any small children at that time?

A. Yes, one.

Q. What was the name of that child? A. Annie Yokum.

Q. About how old was Annie Yokum at that time?

A. I couldn't exactly tell you, between six and nine months old.

Q. How long were you at the house before this child was born?

A. Along about mid-night. It was born about midnight. I went there a little before twelve o'clock.

Q. Were you in the house before the child was born?

A. Yes.

Q. Do you say you went there about twelve o'clock in the night or day it was born.

A. It was at night and it was earlier than that.

Q. How long had you been in the house when the child was born?

A. I couldn't tell you that. There wasn't no clock.

Q. About how long?

A. It appeared to be two or three hours, I don't know.

Q. Was there a physician present when the child was born? A. No.

Q. Who, if anybody, acted as midwife?

A. Nobody but myself.

Q. Did you assist in delivering the child?

A. Yes, I did everything.

Q. Who was the mother of the child? (Witness hesitated here.)

Q. Answer me. (Witness hesitated.)

Q. Answer me.

A. That is a mouth full. It won't come out. It wasn't no Minnie Atkins.

Q. Is Adis Wright older or younger than you?

A. She is younger than I am.

Q. How much younger?

A. A good deal younger, next to the baby—I don't know exactly how much younger.

Q. About how old was she at that time? A. I don't know.

Q. Had she been married? A. No.

Q. What became of the child after he was born—strike that. When you left the house after this child was born, what time was it.

A. A little before daybreak.

Q. Where di- you go? A. I went home.

Q. Where did you live with reference to the place where this child was born?

A. I have told you a dozen times right up on the hill from my father's place in a little cabin.

Q. How far from where the child was born?

A. It wasn't very far—I don't know how far.

Q. Right on the same farm?

A. On the same farm. Yes. It wasn't very far at all.

Q. Who went home with you that night when you returned home?

A. My father went home with me. I wasn't afraid—it wasn't no distance.

Q. Did you leave the child at your father's house?

A. No, I took it home with me.

Q. How long did you keep the child?

A. I kept it six or eight months—I don't know exactly.

Q. Who nursed the child during that six or eight months?

A. I did.

Q. At your breast? A. Yes, with my child.

Q. And your baby then was who? A. Annie Yokum.

Q. Is she living?

A. No, she is dead. You seen her picture in there yesterday. She was a married woman when she died.

Q. Do you say Adis Wright wasn't married at the time this child was born? A. No.

Q. How long after was she married? A. I don't know.

Q. How long was it after that before she married?

A. I don't know.

Q. When did your child die? A. Which one?

Q. The one who was a baby when this child was born?

A. She died in Colorado Springs.

Q. When?

A. It has been nine or ten years since she died.

Q. Was she married? A. Yes, she was a married woman.

Q. Where was she married?

A. At Colorado Springs, I guess, I wasn't at the wedding. I didn't know when they married.

Q. Who was she married to.

A. Nip Trusty they called him, John Trusty.

Q. Is he living now?

A. Yes, I suppose so. He is out in Colorado, I never heard of him being dead.

Q. Did she have any children? A. No, sir.

Q. You say that Henry Carter is not the son of Minnie Atkins? A. Yes, I say so.

Q. Whose son is he?

A. I don't know nothing about Minnie Atkins—never seen her that I know of.

Mr. Blakeney: I insist that the witness be required to answer the question.

A. (Continued) What if I would tell you that I didn't know? Would that suit you?

A. Aunt Mariah, if you don't know, then that would suit us, but we want the truth, but if you don't know who was the mother of Henry Carter, that is different. You have sworn that you would tell the truth, and you wouldn't be telling the truth if you said you didn't know when you did. We only want you to tell what you know, but we want you to tell all the truth. Now, tell us again, who was the mother of Henry Carter, if you know?

A. What if I would tell you I didn't know?
Q. Do you know who was the mother?
A. I said, what if I would tell you I didn't know?
Q. I said, do you know?
A. (Witness hesitated and did not answer.)
Q. You say you kept this child six or eight months?
A. Yes.
Q. Then what did you do with it?
A. My husband made me *sent* him home.
Q. Did you send him or take him?
A. I don't remember whether I took him or sent him.
Q. Where did you take him?
A. Down to my mother's where he was born.
Q. Who was living there at that time, besides your mother and father?
A. My sister and brother.
Q. Who was your sister? A. Adis Carter.
Q. Who was in the house the night this child was born?
A. My father, mother and brother and myself.
Q. And who else? A. And my sister.
Q. Which one? A. Adis.
Q. Who else? A. That is all.
Q. Which one of those you have named had this child?
A. (Witness hesitates.)
Q. You say there was nobody in the house that night but your sister, your brother, and mother and father and yourself? A. Yes, I said my sister.
Q. Which sister?
A. (Witness hesitated and didn't answer.)
Q. Was Adis Wright there? A. Yes.
Q. Did you have that baby?
A. Me. I couldn't have two babies in one year.
Q. Did your mother have that baby?
A. My mother was too old to have any babies. That gentleman sitting by you told you to ask me that.

Q. I know it wasn't your father or brother?

A. I should say not.

Q. Aunt Mariah, you say your father's name was Henry Carter? A. Yes, Henry Carter.

Q. And that he died some ten or twelve years ago?

A. Yes.

Q. Did he own any property?

A. He owns that property that they live on now.

Q. Did he leave a will?

A. Didn't you all go to the courthouse and see it?

Q. But we can't get that into the record.

A. Yes, he left a will.

Q. Did he will any of that property to you?

A. Twenty acres.

Q. What did you do with the twenty acres he willed to you?

A. I am on the brink of selling it now. I have sold it, but haven't got the money.

Q. Do you know whether he willed any property to Henry Carter? A. Twenty acres. He willed him twenty acres.

Q. State, if you know, what he did with the twenty acres?

A. My sister bought it from him.

Q. Which sister?

A. Mrs. Smith. I think Mrs. Smith bought it from him.

Q. Do you know who is referred to in the will of your father, Henry Carter, as his grandson, Henry Carter.

A. Yes, that is the way it is.

Q. Who is the person that he refers to in that will as his grandson, Henry Carter? A. That's my father.

Q. Who is referred to in that will as Henry Carter, the grandson of Henry Carter?

A. The one who wrote the will, is that what you are talking about?

Q. Your father willed some property to his grandson, Henry Carter, who is he?

A. That is the way it read in the will.

Q. Who was the grandson of Henry Carter?

A. Who was he?

Q. Yes. A. Henry Carter.

Q. State whether or not he is the same child that you delivered from his mother when your girl was a baby. A. Yes.

Q. The one you cared for at your own home is the same Henry Carter referred to in the will?

A. Yes, we always called him "H".

Q. After the child was born who named him?

A. I don't know; I couldn't say. Some of the folks at home—I didn't.

Q. Was he named before or after you took him back?

A. He was named after I took him back.

Q. How long did you continue to live on the same farm where this boy stayed after you took him back?

A. Oh, until he was a great big boy, I don't know how old, a great big boy.

Q. When you moved away? A. Yes.

Q. When you moved away, where did you move?

A. Down on Big Stranger.

Q. How far was that from your father's farm?

A. I couldn't tell you that. It was three miles from Springdale.

Q. Three miles below Springdale?

A. Yes, I don't know exactly.

Q. About how far from your father's is Springdale?

A. They call it three miles—they used to.

Q. That would make you live about six miles from your father? A. Yes.

Q. Where did your father live with reference to McLouth?

A. I think it was three miles from there—that is what they called it.

Q. After you moved away, did you visit your father's home very frequently? A. Yes.

Q. How long did Henry Carter continue to live at your father's home? A. Until he was a man.

Q. How long did you live out in the country about six miles from your father's home?

A. Three or four years, I don't know which.

Q. Then, where did you live?

A. We moved back to Leavenworth. We moved from Leavenworth out to the farm and then we moved back.

Q. You have lived here continually ever since? A. Yes.

Q. How often did you see Henry Carter from the time you left the farm where he was living until this controversy arose? A. I don't know.

Q. Did you see him frequently?

A. Yes. When we lived in the country I seen him every week.

Q. State whether or not he is the same Henry Carter you delivered from his mother the night you spoke of.

A. Well, he must be, I have been knowing him ever since. He must be the same Henry Carter.

Q. You have known and seen him frequently since then?

A. Yes.

Q. Is he married?

A. Yes, got two or three children.

Q. Who is his wife? A. Ara Simpson was her name.

Q. Where do they live?

A. They lived here; I don't know where they are at now.

Q. When did they leave?

A. Sometime last winter—first part of the winter I think it was.

Q. Did he come to see you after this controversy arose and after the claim was made that he was Thomas Atkins?

A. Yes, sir.

Q. Did he talk to you about his parents?

A. Yes, a little bit, not much.

Q. Did he tell you he was representing himself as Thos. Atkins?

A. He said he was sick of having no mother. He said he had found his mother. I said: You already know who your mother was. He said she was the only woman who ever owned him.

Q. Who said that? A. Henry said that.

Q. Did he tell you the name of that woman?

A. Yes, Minnie Atkins—said he got letters from her all the time.

Q. When did he tell you he had found this woman?

A. He didn't say.

Q. Did you know about your father willing a feather bed to Henry Carter? A. No, I didn't know that.

Q. You don't know what became of that feather bed?

A. I don't know. I have heard it since, but never heard it read in the will, so I don't know.

Q. You say your father and your mother, yourself and your sister Adis Wright were the only people in that house when that child was born?

A. No, I didn't say that was the only ones—I said my brother.

Q. And your brother.

A. Yes, they were the only people in that house.

Q. Are you sure?

A. Yes, nobody else need say they were there, because they wasn't.

Q. Do you know about when that was when he was born.

A. No, I don't, I can't read and I never had it put down, I never paid no attention.

Q. Do you have any idea how old he is now?

A. No, I don't believe I do. I know he ain't no baby—I know that.

Q. Did you ever see the family Bible containing the record of the deaths and births of the Carter family including Henry Carter. A. I don't know whether I did or not.

Q. Can you read? A. No, I told you I couldn't read.

Q. State whether or not you had a Bible at home in which the births of the family were kept.

A. I got a Bible here—I had a little Bible out to my father's when my mother died and I had my daughter copy the names into it. I had them put into my Bible.

Q. Which daughter copied it?

A. It was Annie and Emma. She is in California, now, I gave you her name.

Q. What is her name? A. Emma Goodman.

Q. What is her address? A. What do you mean?

Q. Where does she live? A. San Diego, California.

Q. Where is the Bible. Strike that? Did she copy those names into a new Bible, into your Bible?

A. No, Annie Yokum called them off and Ulysses Green put them into the Bible.

Q. Where does Ulysses Green live?

A. In Kansas City, I guess.

Q. Where is the Bible into which those names were copied?

A. I don't know—my daughter keeps track of them. Didn't she show it to you yesterday. I haven't got it. It is [] here in the house . I haven't got it.

Q. Where is the old Bible?

A. I left it out there—out there in the country. I found the Bible and [] it copies off and put it back.

Q. Where did you get it?

A. Out from under the foot of the bed.

Q. In the house your father lived in when Henry was born? A. Yes.

Q. Do you know where that Bible is now?

A. No, I ain't been out there for a good while.

Q. Who lives there now?

A. Susie Smith and Thomas Carter, my brother and sister.

Q. When was your daughter Annie married?

A. I don't know.

Q. About when was your daughter Annie married?

A. I don't know how long ago; she has been dead about ten or twelve years.

Q. About how long had she been married when she died?

A. About two or three years.

Q. She married, you think, in Colorado Springs.

A. Yes, they were out there and that is where she married.

Q. How old would she be if she was living now?

A. I don't know.

Q. About how old was she when Henry was born?

A. Eight or nine months, I don't know which.

Q. About a year or nine months?

A. Something like that—not quite a year.

Q. You, at that time were nursing her? A. Yes.

Q. That is all.

Cross Examination by H. B. Talley for Thos. Atkins and J. T. Nixon.

Q. Your sister, Adis Carter, is now named Mrs. John Wright? A. Yes, sir.

Q. Do you remember what year it was she left her home at McLouth and came to Leavenworth? A. To live?

Q. To work?

A. I know she come to Leavenworth to work, but I don't remember how long it has been.

Q. Do you remember when that was with reference to the time this child was born? A. No, sir. I do not.

Q. Had she been living out there with her father right along up to the time this child was born? *Q.* Which child?

A. Henry Carter that you have testified about?

A. Yes, she was living out there until she come to town. She was working in town and come out home.

Q. She was working in town sometime before the child was born? A. Yes, sir.

Q. Do you remember about your father coming down to your house along about seven o'clock November, 1876, and telling you for God's sake come up to the house Adis is awful sick and mother won't do anything for her because of her condition? A. Yes.

Mr. Blakeney: We object as hearsay, incompetent, as what the father said and move to strike out.

Q. Who dressed the baby? A. I did.

Q. Do you recall in whose clothes you dressed it?

A. My daughter's.

Q. Dressed it in clothes prepared for your daughter?

A. Yes, sir.

Q. How old was that daughter of yours with reference to the age of this baby just born?

A. Nine or ten or eight months, something along in there.

Q. Not a year old. A. I don't think so.

Q. Do you remember stating Henry was born on November 7th, 1879.

A. I don't know as I ever said what month, or what day of the month, because I didn't know. I don't remember—I might have said it, but I don't remember. I never kept track of the months.

Q. Did you nurse this baby you took home with you?

A. I nursed it for five or six months. I nursed him and then when they took him home they raised him on the bottle.

Q. You mean by "home" back where he was born?

A. Yes.

Q. Was any effort made by your father to keep the neighbors from knowing about the birth of this child?

A. I never said that.

Q. I am just asking you if your father did attempt to keep the neighbors from knowing about this child being born?

A. I don't remember.

Q. Do you remember why it was that the child was taken down to your house?

A. Just like anybody else. If they were decent people and that happened in the house they wouldn't want it to be public talk.

Q. They didn't want it *down* who the mother of the child was? A. They didn't say that, and I didn't say that.

Q. What was their object then, in sending the child *the child* away?

> Mr. Blakeney: We object to that as incompetent, asking for a conclusion and an opinion.

Q. You have known this boy that was born that night constantly to the present time? A. Yes.

Q. Haven't lost track of him any time since he was born?

A. Not until recently when he went away.

Q. You say he told you recently he had found the only woman that would ever own him? A. Yes.

Q. When did he tell you and where?

A. Right in this house last winter sometime.

Q. About what time? A. After all this talk come up.

Q. Who was present with him when he made that statement?

A. Both my daughters and Mr. Yokum and another man.

> Mr. Hanford: We object to the question and move that the answer be stricken out as hearsay, incompetent, irrelevant and immaterial.

Q. Is the man present who was there at that time?

A. It was my own man.

Q. Your husband. A. Yes, sir.

Q. Who came here with Henry Carter? A. By himself.

Q. Did he state to you his object in coming here?

A. He always come to see us.

Q. He has been coming to see you quite a while, ever since he was born. A. Yes.

Q. Did he want you at any time to make any statement or say you could make any statement with reference to whom his mother was?

A. No. He said he had found the only woman who would own him for his mother.

Q. Did he say Adis Carter was his mother?

A. He said she never owned him.

Q. Who did he say owned him?

A. A woman by the name of Minnie Atkins did own him.

Q. Did he show you letters from her?

A. No, said he had them in his pockets, but wouldn't show them.

Q. Did he say at that time he wanted you to say that Minnie Atkins was his mother? A. No.

Q. Did he say he wanted you to say that Adis Carter was not his mother? A. No.

Q. Did he say that if Minnie Atkins was his mother he would be entitled to a large sum of money?

> Mr. Hanford: We object to this as hearsay, incompetent, irrelevant and immaterial and move to strike out all testimony as to what he said.

Q. Did he say at that time he was receiving assistance from any parties in establishing his rights to land in Oklahoma.

A. I don't know. I can't say.

[Q.] Did he say he was getting money for claiming he was the son of Minnie Atkins?

A. I don't know. There has been so much said I forget half of what I did know.

Q. You forgot what he did say. A. Yes.

> Mr. Hanford: I withdraw my objections and motions to strike out the testimony given in the cross-examination by H. P. Talley.

Q. Did he say to you he was Thomas Atkins.

A. No, he didn't ever say that.

Q. Didn't he ever say that?

A. I don't know—I have forgotten. There has been so much said, I don't know what to say.

Q. Did he say to you he wanted you to state that he was Thomas Atkins? A. No. He didn't exactly say that.

Q. Did he say he was getting proof to the effect that he was Thomas Atkins and not Henry Carter?

A. Yes, he said that.

Q. Did he say who was inducing him, or assisting him in getting that proof?

A. No. He said there was a white woman here in town who said she washed him and dressed him when he was born, and I said whoever that was, she was a liar. She might have washed and dressed somebody, but not him.

Q. That is all.

Redirect Examination by Mr. Allen.

Q. I want to ask just a few questions· You say you are getting quite old?

A. Yes, I am, and my old man here is old too.

Q. What has been your physical condition lately?

A. Well, I had two paraletic strokes and so did he and then I have been sick besides. I guess Dr. Moates can tell you about it.

Q. You have had a physician attending you of late?

A. Yes, sir. I was just getting out of bed when you was here before.

Q. Are you able to get around away from the house?

A. No, sir. I ain't been away for a year almost.

Cross Examination by Mr. H. C. Hanford.

Q. Do you remember how long ago Henry Carter came to you and told you of that business.

A. No, sir. About Thanksgiving or Christmas, I don't know for sure, last winter.

Q. Last winter? A. Yes.

Q. That was about the time he disappeared and went away? A. No, he went away before that.

Q. Shortly after that or a long time?

A. I don't know. He was gone for a long time before I knew it.

Q. Did he tell you he saw that woman Minnie Atkins·

A. Yes.

Q. And said he had letters from her? A. Yes.

Q. Got letters right along? A. He said he did.

Q. Aunt Mariah, Adis Carter had a 2nd child called Kink, or Viola? A. Yes. Kink was a nickname.

Q. King a nickname and Viola the real name?

A. Yes, sir.

Q. How long was she born after Henry Carter?

A. I don't know· I couldn't tell you how many months.

Q. You couldn't say whether it was five or six or seven or eight years after?

A. It wasn't that long, I know. She was married in less time than that.

Q. Married at that time? A. I said is less time.

Q. Do you know how old Adis Wright is now?

A. No, I don't

Q. But she is younger than you? A. Yes. Next to the baby.

Q. What does she look like?

A. I think she is younger looking than me, a little bit brighter and not fleshy like me.

Q. Not quite as dark? A. No, a real little woman.

Q. Slender and fair color?

A. Yes. Not as light as my daughter.

Q. You mean she is a member of the colored race?

A. Yes.

Q. She is a colored person, but brighter in color?

A. Yes.

Q. That is all.

Cross Examination by Mr. T. B. Blakeney.

Q. You say you have been bothered a good deal?

A. Yes.

Q. Who bothered you? A. Both sides of the parties.

Q. Name the parties that have been bothering you so much?

A. I couldn't tell you their names to save my life. There is so many.

Q. Ever see me before? A. No.

Q. I never bothered you? A. No. Not that I know of.

Q. You know you never saw me before?

A. I don't think I did.

Q. Who first same to you about this matter?

A. Let's see, what was his name?

Q. Yes, the first one who ever did come?

A. Dennis Jones and Reuben Smith.

Q. Dennis Jones and Rube Smith?

A. Yes, they were the first two to ever come here.

Q. About how long ago did they come?

A. Before the cold weather. That was the first I knowed of it, and I said to him——

Q. Never mind what you said. How often did Dennis Jones and Reuben Smith come? A. I don't know.

Q. Did they come before or after you had that talk with Henry Carter?

A. It was a long time after that when he was talking to me.

Q. Henry was talking a long time after Jones and Smith called to see you? A. Yes, sir.

Q. Did Jones and Smith tell you who they represented?

A. No.

Q. Tell you what they were doing here?

A. No, they didn't.

Q. Did they talk to you about the matter?

A. Yes, asked me something. I told them I wasn't ready to talk.

Q. They came back again to see you? A. Yes.

Q. After that you got ready to talk?

A. I didn't talk to them at all.

Q. Who did you next see?

A. What was that fellow's name?

Q. Long?

A. Long I believe, I believe that was it, Long.

Q. The next man who came to see you was a man named Long? A. Yes.

Q. Did you talk to him? A. A little bit.

Q. Did he get you ready so you would talk? A. What?

Q. Did he get you ready to talk? A. I don't know.

Q. What did you mean by getting ready? A. I don't know.

Q. Isn't it a fact that you didn't feel like talking unless they paid you? A. Well, they didn't pay me.

Q. What did they offer you?

A. They didn't offer me anything. They didn't offer me no pay and I didn't say nothing about no pay.

Q. Because they didn't offer you any pay, you didn't talk? A. No.

Q. Has anybody offered you any pay for talking? A. No.

Q. Ever receive any?

A. No. Except this dollar and a half.

Q. This dollar and a half you have received today is the only money you ever got? A. Yes.

Q. Has anybody ever promised to give you anything?

A. No.

Q. Did you ever make any affidavits or statements?

A. No. I have talked a little bit, but I never swore to nothing.

Q. Did anybody ever write down what you said? A. Yes.

Q. They would come and write it down? A. Yes.

Q. Who did that? A. I don't know.

Q. Can you remember anybody that wrote it down?

A. Cook was one of the men.

Q. When was he here?

A. He ain't been here for right smart.

Q. How long do you mean by that, a few months?

A. Yes, not a few days.

Q. Did you say your mother kept a Bible?

A. Yes. She had a Bible a small Bible.

Q. What kind of Bible was it?

A. A little book about that thick (motioning) and about that long (motioning).

Q. What kind of binding was it?

A. I think it was a leather back?

Q. Have a clasp to hold it shut?

A. No, it didn't have anything of that kind.

Q. Could your mother write? A. No, father neither.

Q. Was there any writing in that Bible that you know of? Ever see any writing in that Bible?

A. Yes, a good deal, but I didn't know what it was.

Q. You couldn't read it, but you could see writing?

A. Yes.

Q. Was it about full?

A. One of the places where there was room for writing was about filled up.

Q. Did you ever see anybody write in it? A. No.

Q. Who in the family could write?

A. All the children, but my brother Smith and brother John and me.

Q. All except the three oldest? A. Yes.

Q. You never saw any of the children write or make entries in the Bible? A. No, sir, I didn't.

Q. Never saw the mother call them? A. No, sir.

Q. Which was the oldest child?

A. Emily Rogers. She is dead.

Q. Who was the next oldest? A. My brother, Smith.

Q. Alive or dead?

A. No, died in Little Rock, Arkansas.

Q. Who is the next oldest? A. Me.

Q. The two children older than you are dead? A. Yes.

Q. Who was the next child?

A. John T. Johnson, my brother.

Q. Is he alive or dead?

A. Dead, died in Kansas City.

Q. Who is the next child? A. Mary Elizabeth.

Q. Alive or dead?

A. She is alive. I ain't heard from her for a long time

Q. Where is she?

A. She is in Butte, Mont. Her name is Symington.

Q. Symington or Samuelton, do you know how it is spelled?

A. No, it is Simington—Eli Simington was her husband's name. He is dead too.

Q. So far as you know Mary Elizabeth is still alive?

A. Yes.

Q. When did you last year from her?

A. It has been about three months. It was when I had that bad spell.

Q. Who was the next child?

A. James Shannon—he lives in Oklahoma.

Q. Lives in Oklahoma? A. Yes.

Q. Who is the next, Susie Smith? A. Yes.

Q. Is she alive?

A. Yes, she lives on the home place.

Q. That is the one you gave as Susan Annie Smith?

A. Yes, sir.

Q. Is she married?

A. Yes. She was a Carter before she married—she is a Smith now.

Q. Is her husband living out there?

A. Yes, her husband is down sick.

Q. Who is the next child?

A. Did I say Mary Elizabeth?

Q. You have already given Mary Elizabeth, who was the next? A. William Wallace.

Q. Is he living? A. He is dead.

Q. How long has he been dead? A. A long time.

Q. Who was the next one? A. Thomas Jefferson.

Q. Is he alive? A. Yes, living on the home place.

Q. Who is next? A. Ada Wright.

Q. Is that Adas, Ada or Edest? A. We called her Adas.

Q. Where is she living?

A. Down by Tonganozie, I don't know just where.

Q. What is Adas Wright's husband's name?

A. He is dead. His name was John Wright.

Q. What was the next child?

A. Nancy Violet? She is dead—she was the baby.

Q. Now, at the time you say this child was born, where was Thomas Jefferson Carter living.

A. Do you mean where is he living now?

Q. Where was he living at that time? A. At home.

Q. That was your young brother you refer to—living at home? A. Yes.

Q. Was William Wallace Carter living or dead?

A. Dead.

Q. Where was James Shannon Carter living?

A. I don't know whether he was in Topeka, then, or whether he was living on the farm out beyond there.

Q. He did live on a farm out some eight, ten or twelve miles? A. Yes.

Q. Live there a good many years?

A. Yes, five or six years.

Q. You don't remember whether he was living on a farm eight, ten or twelve miles west when Henry was born?

A. I don't remember.

Q. You don't remember? A. No.

Q. You do remember the fact of when he went to Topeka?

A. No.

Q. Can you remember the incident?

A. Yes, but I don't know what year.

Q. At the time he went to Topeka to live last, left the farm, where did you live?

A. I don't remember whether I was living in the country or here in town.

Q. You, or your husband, had some little difficulty with the Carter family about some stock just before you came to Leavenworth the last time? A. No.

Q. When did you have it?

A. We had a cow jump fences and after we had moved to Stranger, she would go back and they said she got in the field—we never had no great difficulty about it.

Q. That difficulty was after you had moved up some six miles from your father's place?

A. Yes, when we moved on Stranger.

Q. On what? A. Big Stranger.

Q. Had you had no difficulty up to that time?

Q. Didn't you have some difficulty about cattle and stock breaking in that made some feeling between yourself and your father to such an extent that you couldn't visit your father's place? A. No, we always visited there.

Q. Didn't you quit visiting after this difficulty? A. No.

Q. When James Shannon, your brother was living out west of your father's place, did he frequently come over to see you and your father? A. Yes.

Q. When you were living on your father's place, you saw your brother frequently? A. Yes.

Q. About how often?

A. Seen him every day or so—we wasn't living very far apart.

Q. How far apart?

A. I don't know whether it was as far as *sown* there to Broadway or not?

Q. How far would that be, seven or eight blocks?

A. No, about one block.

Q. About one block? A. Yes, sir.

Q. It was just about a block that you lived from James Shannon Carter? A. Yes, sir.

Q. Which left the farm first? A. Shannon left first.

Q. Where did he go?

A. Went on a farm, I think. I ain't sure.

Q. About how far from your father's farm?

A. I don't know he never was there when they moved away.

Q. How frequently did he come back?

A. He was there every Sunday to papa.

Q. Did he continue this coming to your father's place every Sunday until after he moved to Topeka?

A. Yes, about. At least he did until after we moved up to Big Stranger. He was there all the time.

Q. After you moved up to Big Stranger Creek did he come up there to see you occasionally?

A. No, he never come down there it was too far.

Q. You would visit your father's place and you would see him there? A. Yes.

Q. So that he kept up a relationship, visiting relationship, with your father and family up until the time he went to Topeka? A. Yes, sir.

Q. Did he go to Topeka before or after you came back from Leavenworth the second time? A. I couldn't say.

Q. Which moved first.

A. I couldn't say whether they moved first or us.

Q. The best of your recollection is that you both moved close to the same time? A. Yes, sir.

Q. You mean to leave the impression that this child is the child of Edest Wright, don't you?

A. I said she was there.

Q. You were and are trying to give the impression to the Court that Edest Wright was the mother of this child?

A. The father?

Q. No, the mother of this child?

Mr. German: I object to that question on the grounds that it is argumentative and calls for a conclusion.

A. I know what he said.

Q. Do you understand you took an oath to tell the truth?

A. Yes, but people don't do it at all. People take oaths lots of times and don't tell the truth.

Q. Do you do it? A. I ain't took an oath before.

Q. Will you tell the truth now?

A. What I have said is the truth.

Q. Is Edest Wright the mother of this child?

A. You needn't get so mad—can't you talk mild.

Q. Yes, I can, but I am always suspicious about those who protest so much.

Mr. Allen: Answer it yes or no.

A. I know what he said, but I haven't answered it.

Q. Well, answer the question. I insist that you answer the question.

A. Let me catch my breath—that is a mouthful. (Witness hesitates for quite a while.) It ain't no cause for me to strain my tongue on my own people.

Q. Will you answer that truthfully?

A. (Witness hesitates.)

Q. Let's have an answer without this waiting.

Q. What did you ask me?

Q. I asked you a simple question. Was Edest Wright the mother of this boy you have been talking about today?

A. Well——yes——she is the mother.

Q. You say now that Edest Wright had a child at her father's house and that child was later known as H. Carter?

A. Yes.

Q. How long had Edest Wright been about the place before she had this child?

A. I don't know. I never kept no track.

Q. Well, had she been there several months before this child was born? A. Yes, sir.

Q. You say about twelve o'clock your father come running over and asked you to come to the house?

A. I didn't say he ran—I said he come after me.

Q. He told you what he wanted? A. Yes.

Q. That was the first time you knew Edest was going to have a child? A. No, I didn't say that.

Q. You knew it before that? A. Yes, sir.

Q. Did she show she was heavy with child? A. Yes.

Q. Was James Shannon visiting the place during the time she showed that?

A. I don't know. He might have been in Topeka. I didn't say that.

Q. You didn't come up to Leavenworth to live for four or five years after this child was born, did you?

Q. And you can't tell now, within four or five years, when James Shannon went to Topeka? A. No, I can't.

Q. Did you know your brother would take this child to Leavenworth when he came to town? A. No.

Q. You never saw him take this boy to Leavenworth?

A. No.

Q. You say your mother kept a Bible, and you had it copied? A. Yes.

Q. Did you copy it yourself?

Q. I had my daughter write it on a piece of paper and then I brought the paper into Leavenworth and had it put in my Bible.

Q. You saw her write it off and you saw her when she write it into your Bible?

A. My daughter read it to Ulysses Green and he put it into my Bible.

Q. That was done in your presence, and at your request?
A. Yes, sir.

Q. You were doing it to have a record of the births and marriages and deaths of your family? A. Yes.

Q. Where is it? A. My daughter has it.

Q. Where is she? A. *Her.*

Q. Live with you? A. Yes, sir.

Q. Your married daughter? A. Yes, sir.

Q. Do you know where she keeps it?

A. She has got it in her room? I don't know where it is.

Q. Will you go and get it?

A. No, I will not, she has got it in her room.

Q. Where do you—where is she?

A. What do you want with her?

Q. I want the Bible in here. A. You want the Bible?

Q. Yes, I want the Bible that you say these births are in.

A. I don't know whether Henry's birth is in it.

Q. Did you ever had it read to you? A. No.

Q. When you had it copied from the old Bible at home Henry Carter's birth was not read? A. I don't know.

Q. You said Edest Carter had another child?

A. I said so.

Q. Yes. A. No.

Q. Did she have another child? A. Yes.

Q. What was her name? A. Viola.

Q. Her name, was it in the family Bible?

A. I don't know.

Q. You do not recollect? A. No.

Q. Do you say under oath that you can't walk into that other room and get that Bible? A. What did you say?

Q. We have asked for you to walk into one of the rooms of your house and get that Bible.

A. I could walk in, but I couldn't get it.

Q. Will you ask your daughter to get it?

A. I will ask her, but I don't know whether she will or not. I will call her, but I don't know whether she will or not. What do you want with the Bible?

Q. Just to see what it said.

Judge Allen: I have seen it two or three times. I think she showed it to us two or three times.

Q. That is why I want to see it.

Mr. Talley: We object to the request for the reason that it is an effort to get secondary evidence and not the best evidence, when it is shown the best evidence is available, and incompetent, irrelevant and immaterial.

Mr. Allen: We join in the request of Mr. Blakeney that the Bible be produced.

Mr. Blakeney: I ask that the Master require that the witness at 1:30 or when this hearing is resumed produce this Bible, concerning which she is testifying.

Mr. Allen: We join in that request.

The Examiner: Mrs. Yokum, when we return here at one-thirty to resume this hearing, I want you to have that Bible here so that we can all see it.

Now on this 5th day of November, at 1:30 P. M., the Examination was continued, pursuant to adjournment.

Cross Examination by Mr. Blakeney Continued.

Q. Is this the Bible you have been referring to where the record of the births of the family were kept? A. Yes.

Mr. Talley: Do you want the record to show that she has the Bible in her possession.

Mr. Blakeney hands the Bible to Mariah Yokum.

Q. You now have in your hands the Bible which you say contains a copy of the record that was made of your mother's Bible? A. Yes, sir.

Mr. Allen: We will agree that she may read into the record the entire page of this Bible about which the witness has testified and which she had just identified.

Q. This page, which I ask the stenographer to mark, is the page you refer to?
A. I don't know whether that is the page or not—I don't read.
Q. Well, this says "births" at the top of it?
A. I guess that is it.
Q. What was your father's name?
A. Henry Carter. They most called him Henry for short.
Q. Was there any other Henry in your family?
A. I don't know which his name was Henry or Harry.
Q. You had a brother named John. A. Yes, sir.
Q. Oldest brother? A. Yes, sir.
Q. Didn't he have a boy named Henry Carter?
A. Yes, a little boy.
Q. What was John Carter's wife's name?
A. Mary Brookens.
Q. What was your mother's name?

A. Jeanette Hansbury Hughes before she was married. She was called Jeanette.

Q. Called Jeanette? A. Yes, sir.

Q. And one of your brothers was called John. A. Yes.

Q. Younger or older than you?

A. He was younger than [], I think.

Q. What was John Carter's wife's name?

A. Mary. Brookens.

Q. Mary Brookens before she was married? A. Yes, sir.

Q. Then known as Mary Carter after she was married?

A. Yes, sir.

Q. What was you known by before your marriage?

A. Carter.

Q. Well, your maiden name? A. What?

Q. Your given name? A. Mariah Catherine.

Q. You were known as Mariah Catherine?

A. Yes, Mariah Catherine Carter.

Q. Well, your school mates called you Mariah?

A. Some of them and some called me Kate.

Q. Your father was a slave before the war?

A. Yes, bought himself before the war.

Q. Was he freed before the war?

A. Yes, bought himself.

Q. About how long was he freed before the way?

A. I couldn't tell you.

Q. Do you remember when he bought his freedom?

A. No, I don't.

Q. How old were you? A. A little girl.

Q. Where did you live? A. Three miles from Platte City.

Q. On whose farm? A. O'Donnell.

Q. Who was his last master? A. I don't know.

Q. Do you remember when you left Platte City?

A. We lived three miles below Platte City when we came to Kansas.

Q. You were married when your father came to Kansas?

A. Yes, had one child.

Q. Can you remember when your father came to Kansas?

A. Yes.

Q. Was it before or after the war that he came here?

A. Before.

Q. How long after he came to Kansas when you came?

A. I was here first.

Q. How long had you been here when he came?

A. Pretty near a year.

Q. You were still living with your present husband?

A. Yes.

Q. Only had one husband? A. Yes.

Q. Where did you settle when you came from Missouri to Kansas?

A. Up near the Fort. I don't know where it was.

Q. In the city of Leavenworth? A. Yes.

Q. When your father came, where did he settle?

A. He stopped in the house with us. Houses were very scarce then. He didn't come straight over here. He moved mother and two children over here and then went back where he was working.

Q. What two children did he move over here?

A. Edest and one younger than she. He brought Edest when she was a baby.

Q. What do you mean by that—bought her freedom?

A. Yes.

Q. How old was Edest when they moved here?

A. I don't know three or four years old.

Q. Was she called Adas or Edest.

A. It was Adas.

Q. When they named her it was Edest?

A. Yes. And then when she growed up they called her Ada.

Q. When they named her, who was she named after?

A. A brother.

Q. What was the brother's name that they named Ada after? A. Carter, I guess, I never seen him.

Q. What was his name?

A. Edest, I guess. When she was a young lady they——

Q. Your mother, during her younger years called her Adas?

A. I don't know how she had it written in the family Bible. Mother called it Edas.

Q. What did she have written? A. I don't know.

Q. What was the oldest sister's name? A. Emily Jane.

Q. Known as Emily Rogers?

A. Yes. Married a man by the name of Rogers.

Q. The next child was John Smith? A. Yes, sir.

Q. And the next was yourself, Mariah Yokum?

A. Yes, sir.

Q. Then the next was Johnson Carter?

A. Yes—— No, I guess it was Mary Elizabeth and then Johnson.

Q. Your recollection is that Mary Elizabeth was older than Johnson?

A. Yes, and then James Shannon and Wallace and Thomas Carter and Mary I. Carter.

Q. Who was Mary I.

A. I don't know, I guess it was Mary Elizabeth?

Q. There was no other Mary but Mary Elizabeth?
A. No.
Q. Then Susan A. Carter? A. Yes.
Q. And Edest Carter? A. Yes.

Mr. Talley: We object at this time to counsel reading from the exhibit, which has been identified, but not introduced, for the reason that it is not the best evidence.

Q. You said, I believe, that Edest or Adas had two children before she was married? A. Yes.

Mr. Talley: I withdraw my objection.

Mr. Blakeney: I offer this page as an exhibit and ask the stenographer to copy the same into the record.

Mr. German: We join in the offer.

EXHIBIT "A."

BIRTHS.

Henry Carter born 1809

Jenette H. Carter	born	March 11, 1816
Emma Rodgers	"	Jany. 18, 1837
John Smith	"	Nov. 10, 1839
Maria Yokum	"	Jan. 7, 1841
Johnson Carter	"	Feb. 14, 1843
James S. Carter	"	" 25, 1845
Wallace Carter	"	Aug. 31, 1847
Thomas "	"	Nov. 22, 1849
Mary I. "	"	May 17, 1852
Susia A. "	"	Dec. 15, 1855
Edest "	"	March 31, 1859
Nancy Viola	"	Feb. 27, 1861
Henery	"	Nov. 7, 1879
Maude Viola	"	Nov. 13, 1881
Elvin Williams "	"	Dec. 27, 1891
Lucy Williams		Dec. 8, 1912.

Q. When your father came to Leavenworth with his family how long did he stay here?

A. Not very long. Went back where he was working.

Q. Did he stay the rest of that year and then come home?

A. Yes. Worked all the next summer. I think he come over in the fall.

Q. How long did your mother live with you in Leavenworth?

A. About a year and after that my father bought a place.

Q. Where did he buy a place?

A. Over on Walnut Street, between 5th and 6th.

Q. In Leavenworth? A. Yes.

Q. Did he move to that? A. Yes.

Q. How long did he stay?

A. Lived there for about a year, I think, and then moved to Oskaloosa.

Q. How long did he live in Oskaloosa?

A. I don't know exactly and then he bought a farm.

Q. Where was your father living when the war closed, over in Missouri? A. I think he was living out on this farm.

Q. Your recollection is that he had bought his farm and moved to the farm. A. Yes.

Q. How old was Edest or Adas at that time?

A. She was a little girl at that time.

Q. About how old was she when she lived with you?

A. I don't know exactly. I can't tell nothing that I can't remember.

Q. But, about how old would you say she was? When her mother stayed with you and your father worked in Missouri?

A. She was a good sized girl.

Q. Going to school? A. Yes.

Q. She was going to school? A. Yes, sir.

Q. Did she go to school during the entire time she stayed there? A. No—not regular all the time.

Q. Then when she went out to the farm, did you visit out there frequently? A. Yes.

Q. How long did they live on the farm before you came out there to live from Leavenworth?

A. I don't know how long it was.

Q. A good many years? A. Yes.

Q. What is your judgment as to the number of years?

A. I don't know—I can't remember.

Q. As much as ten years?

A. Yes, it might have been more.

Q. Is there any way you can fix anything more definite?

A. No, I don't know as there is. It has got to come from my old man—he might know.

Q. What was Edest doing when you went out on the farm.

A. She come to town to work.

Q. She commenced working in town before you moved out? A. Yes.

Q. She had been working for some time in town.

A. Yes, not awful long.

Q. Do you know anybody for whom she worked?

A. Yes, but I have forgotten.

Q. You can't call to mind the name of any person Edest worked for before you moved to the country?

A. No, I can't. I think there was one man—I forget his name.

Q. What were you doing when you were living in town?

A. I worked out.

Q. Cooked out? A. Worked out and cooked out.

Q. Can you tell us now for whom you were working?

A. I was cooking for some women part of the time and then washed out a good deal.

Q. Who was the head of the house?

A. These women were all living together.

Q. What you would call a sporting house? A. Yes, sir.

Q. You knew Granny Letcher?

A. I knew her when I seen her. I have no recollection of her.

Q. Did you work for her?

A. No, I never was in her house.

Q. You washed for people who lived in her house?

A. No.

Q. Do you remember a girl known as Indian Minnie?

A. No.

Q. Don't you remember a girl who stayed at Granny Letcher's working? A. No, I didn't know about it.

Q. Who is, who was Nancy Viola or who is she?

A. My niece.

Q. Your niece? A. Yes, sir.

Q. Who was her mother? A. Mrs. Wright.

Q. Edest Wright? A. Yes, sir.

Q. Is she the girl you said was named Viola, daughter of Edest? A. Yes, sir.

Q. What was her nick name? A. Pink.

Q. How old was Henry Carter when Pink was born?

A. I don't know.

Q. Did you have, or did you hear from your parents read all that was put into the Bible? A. I don't remember.

Q. Were your children at home?

A. All my girls were home, I think, I don't remember.

Q. You heard it read one daughter out at your mother's place when your daughter was writing it down on a piece of paper? A. No, I didn't hear it read.

Q. Then you don't know whether the page that has been read into the record from your Bible was a copy of your mother's Bible or not?

A. Yes, I do. I gave it to them to copy and they did it.

Q. But they didn't read what was in the Bible or read what they had written? A. Yes.

Q. Did they ever read it to you? A. Yes, at times.

Q. When it was read to you, did you know it was correct?

A. Yes, sir.

Q. A correct copy of your mother's Bible? A. Yes, sir.

Q. You had heard the page in your mother's Bible read.

Q. And you heard the page in your Bible read?

A. Yes, sir.

Q. And you remember both were the same?

A. Yes, sir.

Q. This Mary Viola, born in 1861, was copied from your mother's Bible? A. Yes, sir.

Q. And Henry, Born Nov. 7, 1897, was copied from your mother's Bible? A. Yes, sir.

Q. You remember that? A. Yes, sir.

Q. You were mistaken this morning when you said you didn't think Henry was in your mother's Bible? A. Yes, sir.

Q. Now you remember Henry born Nov. 7, 1879, was in your mother's Bible and put into the Bible correctly?

A. Yes, sir.

Q. According to that Henry was 18 years younger than Nancy Viola, can you explain that? A. No, I *aint*.

Q. You say they put correctly down Nancy Viola, February 1861 and Henry, Nov. 7, 1879.

A. What is that?

Mr. Allen: Read her that place.

Mr. Blakeney: I am examining this witness, please, sir.

Q. That isn't correct then? A. No, sir, it aint.

Q. Then Nancy Viola, known as Pink, was not born before Henry? A. No, she wasn't.

Q. Who is Maude Viola?

A. That is the one—you make a little mistake in reading it.

Q. Maud Viola was the youngest child, the child of Edest?

A. Yes, sir.

Q. Then who was Nancy Viola?

A. There aint no Nancy Viola that I know of.

Q. Wasn't there a Nancy Viola born the year the war was opened? A. That was my youngest sister, Nancy Violet.

Q. Then, Maude Viola, is the one you refer to? A. Yes.

Q. That was also in your family Bible? A. Yes, sir.

Q. Your mother's Bible didn't have a sheet like this to write on? A. No. It was just a little Bible.

Q. And you had to write on blank pages? A. Yes, sir.

Q. There was a blank page in the Bible somewhere where these entries were made? A. Yes, sir.

Q. You would know the Bible if you would see it?

A. Yes, I would.

Q. You are certain that in the Bible of your mother's the births of Henry and Maude Viola appeared?

A. They ought to be.

Q. Well you are certain that Henry and Maude Viola appeared in that Bible?

Mr. Allen: I object, she didn't say that.

Q. Are you certain that in the Bible of your mother's Henry's birth and Maude Viola's birth appeared?

A. Yes, I am. They were born long before my mother died.

Q. Do you remember hearing them read from your mother's Bible? A. Yes.

Q. However, Lucy Williams was not in your mother's Bible? A. No, sir. She was born later.

Q. Was Elvin Williams? A. No, sir.

Q. How do you account for them being in this Bible?

A. I guess my daughter put them down so she could remember them.

Q. Would you consent that a photograph be made of this page and put into the record? A. I don't know.

Q. You wouldn't object to that, would you—we won't take it out of your possession.

A. I don't know what my daughter would say. She has possession of that.

Q. Well, we want to just take a picture of it—of that page. A. I guess there would be no objection.

Mr. German: Let us all agree that a photograph be taken of this page and that it be inserted in the record marked as an exhibit.

Mr. Blakeney: Do you know who did the writing in that book?

A. I told you two or three times.

Q. Yes, but I can't remember, who did you say wrote it?

A. Ulyssis Green.

Q. Made all the entries in that book?

A. I don't think he made that one.

Q. Do you know who did that?

A. Angie, I guess, my daughter.

Q. But you don't know. A. No.

(Photograph of page in Bible attached to this page).

Q. But this Green made the others? A. Yes.

Q. When did he make them?

A. I don't know how long ago——

Q. A good time ago? A. After my mother died.

Q. When did your mother die?

A. She has been dead—maybe you can find it in the Bible.

Q. About how long ago did your mother die?

A. I don't know exactly how long ago it has been.

Q. How old was Henry or "H" when your mother died?

A. I don't remember, a great big boy—I don't remember exactly how old.

Q. You have no way you could fix, within ten years, when your mother died?

A. No, sir, I guess the children and my old man knows.

Q. How long did your father live after your mother died?

A. Ten or twelve years.

Q. How long ago did your father die?

A. Pretty near that long. He was pretty near a hundred.

Q. Your father died ten or twelve years ago and your mother died ten or twelve years before that? A. Yes, sir.

Q. Now, how long after your father got the farm before you went out from Leavenworth to live?

A. I don't know how long—a good many years.

Q. A good many years? A. Yes, sir.

Q. How long had you been out there when this child was born? A. Two or three years.

Q. How long did you stay out there?

A. Live on my father's place, do you mean?

Q. Yes?

A. I don't exactly—we didn't move right on his place.

Q. Did you make your Bible record during the lifetime of your mother, or afterward.

A. Right at the time she died. She had just died.

Q. You was out to attend the funeral? A. Yes, sir.

Q. Did she die after Elvin Williams was born?

A. Oh, yes.

Q. How old was Elvin when your mother died?

A. I don't remember.

Q. Well, you went to the funeral? A. Yes.

Q. She is one of your nieces?

A. He is my grandson. He is married now and got children.

Q. He is the son of whom? A. Mrs. Williams.

Q. The one in here? A. Mrs. Williams, yes, sir.

Q. Did Mrs. Williams go out to the funeral of your mother? A. I don't remember whether she did or not.

Q. Whether she took any baby you don't remember?

A. No.

Q. But you do remember Elvin Williams was quite a big child when your mother died? A. Not so very big.

Q. What would be your judgment of her age?

A. I don't remember.

Q. You don't remember his walking, or going to school? A. No, he didn't go to school, I know.

Q. Where were you when Viola, the girl known as Pink, was born? A. Out there.

Q. Where at? A. My father's.

Q. Still living on your father's place? A. Yes, sir.

Q. You had been living on your father's place two or three years when Henry was born? A. Yes, sir.

Q. And continued to live there when Pink was born? A. I don't know, I think so.

Q. How old was she when you moved away? A. I don't know, she was a great big baby.

Q. Were you present when Viola was born? A. Yes.

Q. Who else was present when Viola was born? A. My mother and father and brother.

Q. This brother is the one you call Tom? A. Yes, sir.

Q. The one still living on the place? A. Yes.

Q. Thomas was living with his father during the time that Edest was carrying this child? A. Yes, sir.

Q. And you say it was obvious that she was carrying a child? A. Yes.

Q. Her brother was living there, at the place in the same house? A. Yes.

Q. He was living in the same house? A. Yes, I wasn't.

Q. Was your brother in the room the night Edest had the child. A. No, he wasn't in the room.

Q. Did you take the child, Henry, into his presence that night? A. Which one are you talking about?

Q. Henry. A. No, he didn't see me do that.

Q. You didn't take the child into the room where he was? A. No.

Q. He was awake, around the place, that night? A. Yes, sir.

Q. But he never seen the child until the next morning? A. Yes, he saw the child next morning.

Q. Where did he see it? A. Before I brought it away.

Q. When did you take the child away? A. That same night it was born—it wasn't quite day light.

Q. When did Thomas see the child. A. That morning before I took it away.

Q. Tom saw the child? A. Yes, sir, he saw it.

Q. Tell us how it happened? A. He saw it in the house. He come into the room.

Q. Did he come into the room where its mother was? A. No, I took it into the kitchen.

Q. You dressed the child? A. Yes, sir.

Q. Did you have any clothing to put on it.

A. No, I went over and got my little girl's clothing, I sent over.

Q. Who did you send? A. Thomas.

Q. Thomas went over to your house and got the clothing?

A. Yes, and my daughter gave them to him.

Q. Then you dressed the child? A. Yes.

Q. And in dressing the child did you notice any birthmarks? A. No, sir.

Q. You kept the child for nine months?

A. Five or six months, something like that?

Q. You washed and dressed it daily? A. Yes, sir.

Q. You never saw a birthmark on the child? A. No.

Q. You never saw a red blot or spot, something like a half dollar on the back of the child? A. No, sir.

Q. If it had been there, you would have seen it?

A. Yes, sir. I never seen nothing.

Q. Was your eyesight good then?

A. Yes, my eyesight was good then. He might have had it—you know a birth mark on a boy grows bigger when the boy grows bigger.

> Mr. Blakeney: We move to strike out the last statement of witness for the reason it is not responsive to any question.
>
> Mr. Allen: Be sure to get that answer.

Q. You never saw on the back a white blotch or spot which was a birthmark?

A. Not that I know of. He didn't have it. If he did, I don't remember.

Q. Now, at that time you were personally friendly with Edest Wright.

A. Yes, sir. I must have been, or I wouldn't have took care of her.

Q. Well, you were friendly? A. Yes, sir.

Q. When did you have a falling out with Edest?

A. Never had.

Q. When did you have a regular falling out? A. Never.

Q. Well, when did you have an irregular falling out?

A. Never.

Q. Well, didn't you have any falling out?

A. Not until after she married. She lived so far away I didn't go to her house. She come here sometimes.

Q. For the last ten or fifteen years you never had anything to do with Edest?

A. Yes, she has been here regularly.

Q. Then you have no feeling against Edest now?

A. No. All the feeling I have is that I wouldn't swear to a lie for nobody.

Q. Where was Edest married? A. I don't know.

Q. You don't know where Edest was married?

A. No, sir.

Q. How long a time did you see Edest carrying this child Henry around the place after she quit working in town?

A. I don't remember—a good while—I don't remember how long.

Q. About how long? A. I never kept no account.

Q. She was showing when she come home?

A. Yes, when she come home.

Q. You have a sister named Susie? A. Yes, Susie Smith.

Q. Susie Smith. A. Yes.

Q. Living on the home place? A. Yes.

Q. She is married? A. Yes.

Q. And her husband lives with her? A. Yes.

Q. Where was Susie at the time of the birth of this child?

A. Down in Missouri somewhere teaching school.

Q. Was the child born in the summer or winter time?

A. I don't know whether was fall or spring. It was cool, rainy weather, either fall or winter.

Q. Your sister taught school in the winter time?

A. Yes.

Q. She didn't teach in the summer?

A. Well, she wasn't home in summer.

Q. Would she come home? A. Yes, on a visit.

Q. How often did she come home while you was living out on the farm? A. I don't remember, not very often.

Q. You lived there about five years? A. I guess it was about that long.

Q. Did she come home five times

A. No, I don't think she did.

Q. She didn't come home every year?

A. I wouldn't say for sure, she might have come home.

Q. You don't know? A. No.

Q. She taught a winter shool? A. Yes, sir.

Q. During the summer she didn't teach?

A. I don't know that.

Q. Don't you know she——

Q. Don't you know she visited her home every year she taught school in Missouri?

A. No, sir, I don't know that. I won't say she did or she didn't.

Q. Can you recall now whether she was ever in your father's house with Henry Carter? A. Was in the house.

Q. Do you recall any particular time?

A. (Witness hesitates—doesn't seem to understand).

Q. Do you remember? A. No.

Q. You don't remember it?

Q. Was she ever in the house after Henry Carter was born up to the time you moved away? A. Yes, sir.

Q. When? A. She was there when my mother died.

Q. She came to the funeral of your mother?

A. No, she was there when she died.

Q. Living there? A. Yes.

Q. How long had she been living there?

A. A good while.

Q. Did she continue to live there from the time your mother died up until the time your father died?

A. Yes, sir. Kept house.

Q. How old was Henry when your mother died?

A. I don't know. A great big boy.

Q. How long had your sister been to the place before your mother died?

A. I don't know, she was there when she took sick.

Q. How long had she been sick?

A. I think she was sick about three years?

Q. Your sister took care of her?

A. Yes, sir.

Q. Then Henry was quite a small boy when your sister went to take care of your mother? A. Yes, sir.

Q. Do you remember the circumstances. Strike that. After you took the child back to the father's place how long did you live at the home farm?

A. I don't know how long it was. He was walking, I think.

Q. Then you must have lived there more than a year.

A. I guess so.

Q. Do you know the white people who lived in your neighborhood.

A. Yes, sir. Some of them.

Q. Name some you knew?

A. Some moved away. Some are in Missouri and some away off.

Q. Well, name some of them.

A. I knew Mrs. Wright and Mr. Wright and the Fowlers.

Q. What was the Fowlers first name?

A. I don't know what *they* given name was.

Q. Did you know a young man named Charles Fowler?

A. No, I knowed one named Will Fowler.

Q. Is he still living?

A. I don't know. He was here about two months ago.

Q. Did Will Fowler visit your father's place when you were on the farm? A. Yes, sir.

Q. Did he visit the place after the child, Henry, was born?

A. Yes, he had been there but I don't know whether he knew about the child.

Q. How far did he live from the Carter place?

A. Not very far, over by the grave yard, over on the other side of the creek.

Q. Was he the next place in that direction?

A. No, somebody else that moved away.

Q. Then Fowler's place didn't join your father's place?

A. No, sir, it didn't.

Q. Did you know any other white people who were living there?

A. I did know them all, but I have forgotten their names.

Q. Do you remember the circumstances of your father's will being opened? A. How do you mean?

Q. Being read to the children? A. In what way?

Q. All of you getting together and having somebody read the will? A. Yes.

Q. Who read it?

A. The man that wrote it, Steeper at McLouth and there was two other men, I don't remember.

Q. Was Steeper the banker at McLouth?

A. Yes, and is now.

Q. You were present when he read that will? A. Yes.

Q. You were present and two men from McLouth and who else?

A. Adas Wright, Shannon Carter, Thomas Carter and a lawyer.

Q. Who was that?

A. Frank Graves. Lived up on the hill. He is dead now.

Q. That will was read by whom? A. Mr. Steeper.

Q. And did you say anything after the will was read?

A. How?

Q. Do you remember what you said after the will was read? A. Yes.

Q. What?

A. I know my brother-in-law wanted me to rent my part to him and I said no, I am going to let Susie work it and give me my part.

Q. I don't care for that. You became angry after the will was read? A. No, I did not.

Q. Did it suit you?

A. I didn't think it would do any good. I didn't think after they had taken H and raised him they ought to give him an equal share with the children and then give his mother an equal share with the rest.

Q. Then you did get a little cross?

A. No, didn't have any fuss.

Q. You did complain?

A. I did say a little, others said more than me.

Q. Did you not say at that time "Father had not done right in giving that bastard from Granny Letcher's place an equal share with the children."

A. No, I didn't say that.

Q. Did you say anything in substance to that effect?

A. No.

Q. Did you say in substance that you didn't think it was right to give that child born in a house of ill fame in Leavenworth an equal part?

A. No. Why should I say that when I knew where he was born.

Q. Where was that will opened?

A. In my father's front room.

Q. On the farm in this county? A. Yes.

Q. Do you remember the circumstances? A. Yes.

Q. It was a few days after your father's death?

A. Yes.

Q. You say you remember the circumstances?

A. Yes, my brother, Shannon, had them bring the will out and read it.

Q. Do you remember just what was done? A. Yes, sir.

Q. Did you at that time and place, in the presence of these people, say in substance: "I can't see why my father should give his property to this boy," referring to Henry, "who is no relation to him and who was brought from a house of ill fame in Leavenworth, and leaving his own children out" or in substance to that effect.

A. No, there was no words like that spoken in the house. Who ever told you this told you a long tale.

Mr. Allen: Do you mean in the presence of all those people?

Mr. Blakeney: Yes, all those people.

Q. At the time and place we were speaking about, two or three days after your father's death, in your father's home, or in the presence of these children that I have named, Adas Wright, Shannon Carter, Thomas Carter, Emma Samuelton and perhaps other members of the family and Mr. Chas. Steeper and Mr. Dan Blair and Mr. Frank Travis, did you not in substance have the conversation that I have mentioned.

A. No, there was nothing like that spoken in the house.

Q. Isn't it a fact Henry Carter said he would deed his part to the other children because of the statements you had made, that he was a bastard and born at the house of Granny Letcher's? A. There was no such words spoken in no way.

Q. Nothing like that at all?

A. No, sir. I know he wasn't born at Granny Letcher's, house. I know that. I don't see where they got that, because I know it isn't so.

Q. Do you remember whether your mother's Bible had your mother's name, Jeanette H. Carter, Platte City, Missouri on the fly leaf?

> Mr. German: In this connection, Mr. Blakeney, we would like to demand of you the production of this Bible that we may use it in connection with the examination of this witness here now?

A. I don't know.

Q. And you say you know Henry Carter wasn't born at Granny Letcher's here in Leavenworth?

A. Yes, that was a made tale, a long tale.

Q. It wasn't a made tale or a long tale until these parties commenced coming to see you?

A. I never did hear nothing about such a tale.

Q. Can you name any white woman, or any white man, who to your knowledge saw this child, H. Carter, in your father's home before he was four or five years of age?

A. No, I can't remember any.

Q. You can't remember? A. No.

Q. Will Fowler was a frequent visitor at your father's place? A. Yes.

Q. Went hunting with your brothers?

Q. Chas. Steeper loaned money to your father?

A. I don't know about that. My father put money in the bank.

Q. Did you ever see Mr. Steeper at his place? A. Yes, sir.

Q. Did you ever see him there after this boy, Henry, was about the place? A. No.

Q. Did you ever see Mr. William Jenkins there?

A. I don't know him.

Q. Did you ever see a man out in that country named Cox? A. I don't remember—I might have.

Q. You don't recall a man who came out from Leavenworth who moved out there?

A. I don't remember.

Q. Did you know a man named Carter from another Carter family?

A. There is so many Carters there I don't know which you talk about.

Q. Ever see Sidney Corson there? A. Yes, sir.

Q. Was he there often? A. A good many times.

Q. During the time Henry was under four years of age, was Sidney there?

A. I don't know, but I know he used to come there.

Q. What was the white man that lived right across the road from you? A. Newby's.

Q. Do you know where they are living now?

A. They did live in Kansas City. They moved to Kansas City.

Q. Did they visit your father's family often?

A. Yes, I don't think Newby's were living there when H was born.

Q. You are friendly with Thomas are you? A. Yes, sir.

Q. And Susie? A. Yes. She was here when I was sick.

Q. Which one of your sisters is living out there with your brother? A. Susan Smith.

Q. What is the name of your sister living in Butte, Montana? A. Mary Elizabeth Simonton.

Q. Where was Susan Smith. Strike that. Where was Mary Elizabeth Simonton when Adas or Edest gave birth to the boy Henry? A. In Butte, Mont.

Q. Married and living in Butte? A. Yes, sir.

Q. Ever been back here?

A. Once when H was a baby she was back here.

Q. That is all.

Mr. Allen: Mr. Blakeney, before we proceed to the redirect examination of this witness will you produce the original Bible so that we may use it in the examination of this witness?

Mr. Blakeney: I don't know whether I can or not. I don't know nothing about it, about the original Bible. Any knowledge I would have would be hearsay as to the originality and if I had the original Bible I would want it properly identified before I would have it.

Mr. Allen: We just want you to let us have it to use in the examination of this witness, who says she has seen the original Bible and we want her to identify it.

Mr. Blakeney: She has seen no Bible which I have in my possession.

Mr. Allen: Will you let us have it for the purpose of the examination of this witness. We will hand it back to you.

Mr. Blakeney: Won't it have to be identified and become a part of the record?

Mr. Allen: We will consent that it may be returned after the proper excerpts have been read into the record.

Mr. Blakeney: I don't believe I want to furnish any evidence at this time.

Mr. German: I desire that all of this conversation be put into the record.

Mr. Blakeney: Let me have a few moments to consider it.

Mr. German: Certainly.

Mr. Blakeney: (After a few moments' conversation with T. W. Bell and J. Cody Johnson) I have a Bible supposed to be the Bible in question which was given me by my client and which he says he thinks was the family Bible. He himself did not get it from the family but from a lawyer, I think Mr. Crump, who got it from some member of the family. I am perfectly willing that counsel may at any time examine the book. I will let them examine it now. I am not willing that it be put in as part of the record until it is properly identified.

Mr. Hanford: Will you consent to submit it for identification to this witness?

Mr. Allen: We will take advantage of counsel to show the book.

Mr. Blakeney: I will wait until you get through with the examination of the witness and then submit it.

Mr. Talley: I would like to see it now.

Mr. Blakeney: I will let you see it as soon as we get through with this examination.

Mr. Allen: We are taking the testimony of this witness and her husband for the purpose of perpetuating their testimony and we would like to have the Bible at this time in order that we may exhibit it to them for the purpose of knowing whether it is the original Carter Bible.

Cross Examination Continued by Mr. Blakeney.

Q. I hand you this book and ask you as to whether it is your mother's family Bible?

A. I don't think that is the one—I know it aint, because it was a larger one and didn't have no clasp.

Q. Do you know whether it has your mother's name written on the front page, Mrs. Jeanette Carter, Platte City, Missouri. A. No.

Q. Then this is not the book?

A. No. The one she had was about that thick.
Q. That is all.

Redirect Examination by Mr. Allen.

Q. I asked you this morning, before you were sworn, if you would not, if you could not produce the Bible which has been offered in evidence today, did I not? A. I believe you did.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

Q. What did you tell me about it then?
A. I don't *you* I couldn't, my daughter had it in her possession.
Q. You said you would but you couldn't? A. Yes.
Q. Do you know about when the old Bible was copied into the new? A. No, I don't know.
Q. State whether or not it was before. Strike that. State whether it was before or after you heard of any controversy concerning Henry Carter.
A. It was a long time before, I never heard no controversy until years after.
Q. Then you are positive that the Henry Carter that you delivered from Edest Wright is the same Henry Carter who is making a claim to being Thomas Atkins?
A. Yes. He is no more that Atkins woman's son than I am her daughter.
Q. How frequently have you seen him from that time until now?
A. After he moved to town I seen him every day. He passed here every day on his way to work.
Q. Did Edest Wright ever talk to you about this child?
A. No, we never done no talking about it.
Q. Have you since this controversy arose?
A. No. I aint seen her since.
Q. Tell us why it is Mariah that you at first hesitated to tell us the name of the mother?
A. Because it was my sister and I hated to. It was in the family and it was a thing I hated to tell. It wasn't because I couldn't tell it.
Q. Have you any Indian blood in you?
A. I don't know whether I have or not.
Q. What is the color of your sister Edest Wright?
A. A little bit lighter than me, a little bit brighter because she is younger than me.
Q. Did you ever hear who was the father of this child?
A. No, sir. She never told me.
Q. Edest belongs to the colored race?

A. Of course. Her mother was colored and her father was colored, why shouldn't she?

Q. You say she was brighter than you? A. A little bit.

Q. You are light complected yourself, aren't you?

A. I don't know how light I am.

Q. You are not black? A. No, I ain't black.

Q. What was the color of your father?

A. My father was colored and Irish.

Q. That is all.

Recross Examination by Mr. Talley.

Q. I want to ask you another question. Was there some little question between you and your father about what you should be paid for taking care of this child?

A. Yes. Me and my mother had a little talk over it.

Q. What were you to be given?

A. They didn't say, but they gave me one little louzy calf.

Q. Is that all they gave you? A. Yes.

Q. You were paid to that extent for taking care of this child for six or eight months?

A. That is all they gave me.

Q. Were they to give you anything more than that?

A. No. They said they would pay me no more for it.

Q. That is all.

her mark
Maria X Yokum.

Witness to signature.
G. E. Taylor,
S. S. Simonde.

Thereupon it was mutually agreed by the attorneys for the various parties in interest that the examiner copy into the record the page showing the births of the Yokum family from the Bible from which Exhibit A has been copied, and the same is as follows:

Exhibit "C."

BIRTHS.

1 Mr. John Yokum born Aug. 22nd, 1837.
2 Mrs. Marie Yokum born Jan. 7, 1841.
Miss Henrietta Yokum born Feb. 9, 1861.
John W. Yokum born Sept. 1st, 1862.
Mary Yokum born Jany. 4, 1866.
Lillie P. Yokum born Dec. 9, 1868.

Tomie Yokum born Oct. 4, 1870.
Emma Yokum born March 9, 1871.
May Ethel Yokum born Jan. 1st, 1875.
Bertha Yokum born Feb. 13, 1877.
Annie B. Yokum born Oct. 13, 1878.
Minnie Yokum born Oct. 1, 1881.
Angie Yokum born May 7, 1884.

JOHN YOKUM, being first duly sworn, on oath, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name? A. John Yokum.
Q. Where do you live? A. Right here.
Q. You have been sworn as a witness in this case?
A. Yes, sir. Just now.
Q. What is your age?
A. I am seventy nine, going on eighty.
Q. Are you the husband of Mariah Yokum? The woman who has just testified?
A. What did you say? I am a little hard of hearing.
Q. Are you the husband of this woman who has just testified, Mariah Yokum. A. I am.
Q. How old is she? A. About seventy one or two.
Q. How much older are you than she? [A.] She was fifty-four. She was born in '44 I believe, the 2nd day of January, '74.
Q. '74 or '44? A. She is 71 years old, born in '54.
Q. Wasn't she born the 7th day of January, 1841, to refresh your memory. A. That is right.
Q. How many children have you had by Mariah Yokum?
Q. Who was the oldest of these children.
A. About 44 or 45 somewhere.

Mr. Blakeney: We object to the examination of this witness for the reason it is apparent that he is not competent to give testimony.

Q. Did you know the brother and sisters of your wife?
A. I did.
Q. The Carters? A. Yes.
Q. What were their names? A. Susie and Edest.
Q. And who else.
A. Susie, Edest and Emma. Emma was the oldest.
Q. How many of her brothers and sisters are now living?
A. I don't know. I believe but one of her brothers is

living now. That is Tom. Wallace he died. He died in Denver. Johnson died in Kansas City.

Q. What about Edest.

A. Edest is living. She lives down in this little town what do you call it. Yes I know her.

Q. I don't think you understand me. Give me the names of your brothers and sisters who. Strike that. Give me the names of the brothers and sisters of your wife now living?

A. Susie and Babe. I believe that is all living now.

Q. Who is Babe. A. Mrs. Simington.

Q. Susie and Babe and Tom and Edest are the only ones you remember who are living now? A. That is all.

Q. Do you remember the case of the birth of Henry Carter? A. I do.

Q. Do you know where he was born?

A. I [ ] Kentucky. I believe.

Q. I am speaking of the younger Henry Carter.

A. He was born out at the old home place. "H" we called him.

Q. You called him "H" Carter? A. Yes, sir.

Q. Who do you call Henry Carter?

A. Old man Carter and Henry too.

Q. Old man Carter was the grandfather of this Henry?

A. Yes.

Q. Where was the old home place where you say H Carter was born? A. Out at the line in Jefferson County.

Q. How far was he born from the place where you were then living?

A. When he was born, I was living right across the road on the upper end of the forty acre tract.

Q. On the same farm? A. Adjoining farm.

Q. On the same 160? A. No, on the same 40.

Q. Was this 40 a part of the 160? A. Yes, sir.

Q. When did you see Henry Carter after his birth?

A. I guess it was a couple of days.

Q. Where did you see him?

A. They fetched him up to the house.

Q. Who brought him there?

A. I don't know whether my wife fetched him there or not.

Q. Do you know how long he stayed there?

A. No, I don't know how long. He didn't stay long.

Q. Why did they take him away.

A. Because I told them he couldn't stay there.

Q. Do you know whose child he was?

Mr. Blakeney: We object to this as asking for a conclusion, as the witness has not been shown to have been present at the birth.

A. Yes.

Q. Whose child was it? A. Edest.

Q. Edest who? A. Edest Carter.

Q. Is she the same woman known as Edest Wright now? A. Yes.

Q. Did you see her shortly before this child was born? A. I think I did.

Q. What condition was she in?

A. I don't know what condition she was. She was pretty lusky.

Q. State whether or not she appeared to be in a family way? A. We thought she was.

Q. Have you known Henry Carter or H Carter. Strike that. Was she sick in bed at old man Carter's? A. She was.

Q. Did old man Carter come up after your wife? A. Yes.

Q. Were you at the house when old man Carter come for your wife? A. I was at home.

Q. What time at night was that?

A. I suppose a little after dark or after dusk.

Q. Was it in the night time? A. Yes.

Q. After this child was born, what did they name him.

A. Called him "H." That was his name Henry. Henry is his name, but he was called H. That was his nickname.

Q. Have you known him all the time since he was a baby? A. I have.

Q. Have you seen him recently?

A. Haven't seen him for a month or two.

Q. Where does he live now?

A. Down in Oklahoma, I believe, or Kansas City, one.

Q. Is he the same Henry Carter who is now pretended to be Thomas Atkins? A. Yes, sir.

Q. Then is he the same identical boy that you made your wife take back to the Carter home and whom you have known ever since? A. That is right.

Q. How often have you seen him since that time since the time of his birth?

A. I don't know how often? I have seen him pretty often. When he came to town he worked for this wagon maker Hesse—drove a wagon for him.

Q. Do you know whether or not Henry is now married?

A. He was married when he left here.

Q. Do you know who he married?

A. I know, but I can't call her name now.

Q. To refresh your memory, did he marry Ada Simpson?

A. I think her name was Ada Simpson, that is something like that.

Q. Or Ara Simpson? A. Yes, I think that was it.

Q. Did you have a child named Annie B. Yokum?

A. Yes, Annie Blanche.

Q. Do you know when she was born?

A. No. It is in the Bible there.

Q. Is the date given in this Bible the correct date.

A. Yes, I think it is.

Q. How old was she when Henry Carter was born?

A. I don't know how old. She might have been a couple of months before or like that.

A. Was she a baby then? A. Yes.

Q. Do you know whether or not your wife nursed Henry Carter during the six months she had him with her?

Mr. Blakeney: I object to the assumption of any time.

Q. Do you know whether or not your wife nursed Henry Carter while he was in your house as a little baby, at her breast? A. She did.

Q. Did you say Annie Blanche was a little baby?

A. Yes.

Q. That is the same boy who is now known as "H" Carter and who is claimed to be Thos. Atkins?

A. Yes. He is not Thomas Atkins. He is H. Carter.

Q. When was the first time you ever heard of Henry Carter claiming to be Thos. Atkins.

A. Never heard anything about it until last year.

Q. Was he ever known as Thomas Atkins or Tommie Atkins?

A. No, sir, not that I know of. If he did, I didn't know it.

Q. To what race did Edest Wright belong, was she a member of the colored race?

A. Yes, sir. My wife's sister.

Q. What was her complexion, was she black or light?

A. Light.

Q. Light complected? A. Yes, sir.

Q. That is all.

Cross Examination by Mr. Talley.

Q. You stated that Edest had the appearance of being pregnant? A. How is that?

Q. Did you state that Edest looked like she was pregnant before this sickness and before this boy was born?

A. Yes.

Q. How long after he was born before you saw her again?

A. I guess it was the next week, something like that.

Q. Did she appear to be pregnant then? A. No.

Q. That is all.

Cross Examination by Mr. Blakeney.

Q. You was living on the Carter place, or the Carter farm, when this child was brought to your place?

A. How is that?

Q. You was living on the Carter place, or the Carter farm, when this child was brought to your place?

A. Yes. I built a log house on the place.

Q. How long had you been living on the Carter place when the child was brought there?

A. Six months or a year, I guess. I don't know exactly what time.

Q. Was your other child Annie Blanche was she born there on the place?

A. She was. She wasn't born there, it was right across the road.

Q. In the log house you built?

A. No, I moved out of that into the other house. It was in the old Hollingsworth place.

Q. Then you moved into the log house? A. Yes, sir.

Q. How old was Annie when they brought this boy there?

A. Three or four months old. I don't know how old. She was a baby. A suckling.

Q. You say it was brought there when it was two or three days old, or a month old?

A. I don't know. It might have been a month. It was a pretty cold winter.

Q. How long did you keep it there?

A. I don't know how long, three or four days or a week, I got tired of it and made them take it back.

Q. Kept there about a week? A. I don't know.

Q. Was it there longer than a week?

A. It might have been.

Q. Then it was taken back? A. Yes.

Q. Who took it back? A. I don't know.

Q. But it was not kept at your place any more? A. No.

Q. Your wife nursed it about a week?

A. I never paid any attention to it.

A. Well, you know it wasn't there a month?

A. I guess it was a month. Yes a month or a week.

Q. Well, you know the difference between a week and a month. Which will you say it was, a week or a month?

A. It was a month.

Q. You know it wasn't there longer than two months?

A. Yes.

Q. You know it wasn't there longer than five months?

A. I don't know.

Q. You are sure it wasn't longer than two months, but you don't know about five months. Do you remember well?

A. Not very well, and I am hard hearing.

Q. You have been talked to a great many times about this case by assumed detectives?

A. No, I aint talked to nobody about it.

Q. Did you talk to Long about it? A. No.

Q. Made an affidavit didn't you?

A. I don't know whether I did or not. I might have but I don't know whether I did or not.

Q. Was Long here? A. I don't remember.

Q. Don't you remember a smooth looking fellow that came here and got a statement from you?

A. I don't remember. I forget sometimes.

Q. How long ago was it that H. Carter was born.

A. About thirty-five years I guess.

Q. How old is your daughter, Annie B.

A. She is about the same. There may be a difference of a month or two.

Q. What other children were there around the Carter place then?

A. I don't know. Tom and Susie staying there and my own.

Q. Were Tom and Susie staying there during that time?

A. Yes. She had been working at Chillicothe and had come home to take care of her mother.

Q. How long was it after H was born before Susie came home to take care of her mother? A. I don't remember.

Q. Well, about how long?

A. It might have been a week or two, or a month.

Q. Was it a year or two?

A. I don't think it was. I left there and bought a place down on Stranger and moved away.

Q. How long did you stay at that place after H was born?

A. I don't know that.

Q. How long did you stay in that log house you built?

A. About two years.

Q. And you had just come to that new house when Henry was born and you stayed there two years, then you stayed there about two years after Henry was born? Yes.

Q. And before you left there Susan came home to take care of her mother? A. Yes.

Q. Were there any other children in the family while you lived there? A. Only those in my own family.

Q. I am talking about old Henry Carter's place—no children were born? A. Only H.

Q. After you left your place, was there any babies around Henry Carter's place? A. Angie was born.

Q. Was Henry the last baby born at the Carter place? The last one you ever knew about? A. Yes, sir.

Q. Henry was the only boy after Tom who grew up around there? A. Yes.

Q. How old was Henry when old man Carter died?

A. I don't know how old Henry was when the old man died. He was a year old anyway when the old man died. It might have been more. I don't know.

Q. Yes, of course it might have been more, but what was it? What was your recollection of it?

A. That is my recollection.

Q. How old was he when the old lady died?

A. I don't know.

Q. Was he born when the old lady died?

A. Yes. The old lady died first.

Q. How long had the old lady been dead before the old man died?

A. I don't know. I guess it was two years.

Q. Then how old would you say "H" was when the old lady died?

A. I don't know. I never kept track of it at all.

Q. Well, think now, and tell us.

A. I believe it was about a year. It might have been two years.

Q. And how old when the father died?

A. I don't know. It would be about 4 wouldn't []. I don't know.

Q. That is your best recollection?

A. I never paid much attention to it.

Q. Well, you remember the old man died and you recollect the boy around the place?

A. Yes, I know "H" when they buried the old man. "H" he fainted out.

Q. How old was he? A. Four or five years old.

Q. Do you think a five or four year old baby would faint?

A. He didn't have sense enough to faint.

Q. Henry Carter, a four or five year old child, fainted when the old man died at the grave? A. I think he did.

Q. That is your recollection? A. Yes.

Q. Don't you know that "H" was 16 or 17 years old when the old man died?

A. No. He wasn't. He was about four years old. I don't know how old he was. He was a good sized boy, playing around through the yard.

Q. Not going to school?

A. No, he hadn't started to school.
Q. That is all.

Redirect Examination by Mr. Allen.

Q. You say you don't remember dates very well?

Mr. Blakeney: I object to the statement. He didn't say that.

Q. Do you remember dates very well, or the length of time that elapsed between things that occurred thirty-five years ago.

A. Some I do, and some I don't. I may think of them once in a while.

Q. You say you have seen H. Carter frequently since he was a baby? A. Yes, sir.

Q. Are you now positive that this Henry Carter who is now claiming to be Thomas Atkins is the same identical boy that was taken back to the Carter home after having spent a while in your home.

A. That is the same one—that is the same boy.

Mr. Blakeney: We object to the question as leading, assuming and argumentative.

Q. Is that the same boy who is claiming to be Thomas Atkins? A. Yes.

Q. Are you able to say how long that baby was in your home?

A. No, I couldn't say. I know he was there and he went away.

Q. You say that all you remember is that he was there and he went away? A. Yes, sir.

Q. He was brought there by your wife and because you objected, she took him away, took him back? A. Yes, sir.

Mr. Blakeney: We object as leading and argumentative.

Q. Is that what I understood you to say? A. Yes, sir.
Q. That is all.

his
John Yokum
mark

Witness to signature:
G. E. Taylor,
L. S. Summonds.

Mr. German: We offer the deposition of Miss Mary Byron or Bryan, taken before Mr. Penick, appearing in his transcript beginning at page 835.

Miss MARY BRYON being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Mary Bryon.

Q. Where do you live, Miss Bryon?

A. At present at Leavenworth, at 426 Osage.

Q. What is your profession? A. Teacher.

Q. What of teaching—what kind of school? Music?

A. No, just the grade school, if that is what you mean.

Q. Are you engaged in teaching now? A. Yes.

Q. Did you ever teach school in school district No. 53, in Leavenworth County, Kansas? A. Yes, sir, I did.

Q. What is the name of the Post Office in that district?

A. Ackerland, where I get my mail.

Q. What years did you teach there?

A. Well, I commenced there the fall of '97, and I taught three consecutive years.

Q. That would be '97 and '98; and '98 and '99; '99 and 1900? A. I think so, those are the years.

Q. While you were teaching there, did you have any pupils by the name of Carter? A. Yes, sir.

Q. What were their given names?

A. Well, H. Carter and Viola.

Q. What was their nationality; white or colored, or what?

A. Well, as far as I knew, they were colored.

Q. Did you have any other colored children?

A. I think not.

Q. The rest were all white children as you remember it?

A. As I remember it, yes.

Q. Miss Bryon, how old was H. Carter, if you know, when you first went there in 1897 and began this school?

Mr. Blakeney: We object to the competency of the witness; she has not been shown competent to testify as to age.

A. I don't know but as far as I am capable of judging, I should think she was 16 or 17 but I really don't know. That is as near as I can come to that.

Q. From what did you arrive at that conclusion?

A. That he was that age?

Q. Yes?

A. Well, from his size as much as anything else.

Q. Do you or not distinctly remember the boy?

A. I distinctly remember him.

Q. Miss Bryon, did you make any report to the clerk of the district—school district, at the end of the respective term that you taught school there—teacher's term report, in writing?

A. Well, I don't remember of making those special reports but I most surely did because we were supposed to do that but I can't distinctly remember making these separate reports—if that is what you mean.

Q. I show you Government's Exhibit No. 27 and will ask you to examine it and state what that is.

A. Well, it is the teacher's term report to the District Clerk.

Q. Who, if you know, made that report?

A. Well, I think I did; in fact I know I did.

Q. Turn it over, please, madam. Is that your signature there? A. Yes, sir.

Q. Is that your own signature there, at the conclusion of the report? A. Yes, sir, it is.

Q. The pen and ink work on that report—state whose work that is? A. Well, that is mine, too.

Q. You did that? A. Yes.

Q. What did you do with that report when you made it out? A. I don't know.

Mr. Blakeney: We object as immaterial.

Q. Did you deliver it to anyone?

A. I don't remember.

Mr. Blakeney: We object as immaterial.

Q. You have no recollection about that? A. No.

Q. To whom were such reports to be delivered?

Mr. Blakeney: We object to the competency of the witness, and the question seeks incompetent, irrelevant, and immaterial evidence.

A. Well, I think they are supposed to be delivered to the District Clerk.

Q. Of that school district?

A. Of that particular district.

Mr. Blakeney: We object for the same reason.

Q. Miss Bryon, I notice on that report which is for the years—for the school year of '97 and '98—the name H Carter. State whether or not that name represents the H Carter about whom you have testified.

A. Well, it does.

Q. That report purports to show the age of H Carter—where did you get the information, if you got it, as a basis of making that report, in so far as it shows his age? A. From him.

Q. From him. Did you record the age as he gave it to you? A. Yes, sir.

Q. I notice that report shows also the name of the pupil Viola Carter; she is the other Carter child of whom you spoke, is she? A. Yes, sir.

Q. That purports to give her age. Is the same thing true with reference to her age that it was with reference to his—as to the source of your information?

Mr. Blakeney: I object as incompetent, irrelevant, and immaterial and not the best evidence.

Q. I will change the question. Where did you get the information as to Viola's age which you put in that report?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. Well, I suspect as well as I can remember that I got it from her; at least that is the only source that I can remember.

Mr. German: I want to offer in evidence Government's Exhibit No. 27.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and we ask that we be permitted to examine her on voire dire as to the competency of this evidence, and prefer making that a part of our cross examination, as other exhibits will probably be identified by her.

Q. Miss Bryon, I hand you Government's Exhibit No. 28 and will ask you to examine it and state what that is?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. Well, that is a teacher's term report to the District Clerk.

Q. Is that one of your reports? A. I think so.

Q. Please see, Madam, whether you signed it.

A. Yes, I did.

Q. Is the writing in the body of the report, your own?

A. Yes, sir.

Q. What year is that report for?

Mr. Blakeney: We object, the report would be the best evidence, if material.

A. For the term ending 1899.

Q. In the spring? A. In the spring, 1899.

Q. When did you make up that report, Miss Bryon, with reference to the end of the school term of '98 and '99? What time in the—what time did you make it up, approximately?

A. Well, I can't answer that because I don't remember.

Q. Was it while the school was going on, or at the close of school?

A. At the close of school but I don't remember just the time.

Q. That report, Miss Bryon, purports to show the name of H. Carter as a pupil and to give his age. Please state where you got the information upon which you made that report.

> Mr. Blakeney: If you know. The opportunity of her knowledge how she knows is first to be inquired about. The question in the present form is incompetent, irrelevant, and immaterial.

A. Well, as I remember, I got it from him but I don't know.

Q. Well, where did you get the ages of the children?

A. I always took the ages from the children; that is I asked them.

Q. And you entered that on the record?

A. And entered that.

Q. That was your practice? A. Yes, sir.

> Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and move to strike that out because I didn't have time to interpose that objection. I move to strike it out.

Q. When did you obtain from the pupils, their ages, Miss Bryon? What time during the session?

A. When they entered school.

Q. When they entered? A. Yes, sir.

Q. Would you ascertain from them their ages any time after that during that session? A. No, sir.

Q. The report for 1897 and '98 that you have testified about, what time was it prepared by you, approximately?

A. The report of '97, did you say?

Q. Yes, '97 and '98, the first term that you were there?

A. Well, after the term sometime; I don't know just how many days, or anything like that.

Q. Would it be very long after the term?

A. No, perhaps the next day.

Q. Would you or not take into consideration in making that report, the fact that some of the children may have passed a birthday during the term—school term—at that particular term? What I mean is, that they would give you their ages upon school opening in the fall; then some of them might have birthdays during the term. Would you make any inquiries upon that subject, or take that into consideration?

A. No, sir.

Q. Then, your report, made at the conclusion of the term, would show their ages as given at the beginning of the term?

A. Yes, sir.

Q. Who were those Carter children living with?

A. With an elderly gentleman named Carter, as I understood from the District——

Q. Colored or white?

A. Well, his last name was Carter; just Mr. Carter.

Q. I said, colored or white?

A. Well, I beg your pardon. He was colored; at least, I supposed he was—I never saw him.

Mr. Blakeney: I move to strike that as incompetent.

Q. What relationship did he bear to these children?

Mr. Blakeney: I object to the competency of the witness.

A. I don't know.

Q. Did you ever learn who the parents of H. Carter were?

Mr. Blakeney: We object as incompetent, hearsay, irrelevant, and immaterial.

A. No, sir, I did not.

Q. Did he make any statement to you on that subject?

A. No, sir.

Q. Did you ever inquire to him as to who his parents were? A. No, sir, not to my memory, I did not.

Q. Do you recall now who the Secretary—know who the District Clerk of School District No. 53 was while you were teaching there?

A. Well, the Board was changed while I was there and I don't know. Let me see—I believe it was Mr. Post. I think it was, at least.

Q. That it was Mr. Post? A. Yes, sir.

Q. C. J. Post, of Ackerland? A. Yes, sir.

Q. What was that—what name did that District bear?

A. Do you mean the number or the——

Q. The name. It was No. 53. A. Brown School.

Q. Known as the Brown School?

A. The Brown School.

Q. Where was that school with reference to the town of McLouth?

A. Well, it was northeast of McLouth; I don't just know how far—I think it was northeast, at least. I have been at McLouth.

Q. Approximately how far?

A. Well, I should think four or five miles perhaps.

Q. It is in what part of Leavenworth County?

A. Well, let me think.

Q. What direction is it from the city of Leavenworth?

A. It is west and a little bit southwest, I believe.

Q. About how far?

A. Oh, I should think 17 or 18 miles, perhaps further than that, I don't know.

Q. Miss Bryon, do you recall whether H. was in school the last term you taught there, which was the school term of 1899 and 1900? A. No, sir, I don't.

Q. If you see a list of the pupils for that year, would it refresh your memory in any way with reference to that matter?

A. Well, I would probably know whether he was there or not, if I saw a list—a complete list.

Q. Will you please examine the paper which I hand you?

Mr. Blakeney: Object.

Q. Which purports to be your report for the school term of 1899 and 1900.

Mr. Blakeney: We object to her using this list as she hasn't stated it could refresh her memory. The list hasn't been identified and is not competent.

Q. State what that is, please Ma'am?

A. That is a teacher's term report to the District Clerk.

Q. For what year?

A. The year of 1900. This is the spring of 1900.

Q. Ending in the spring of 1900? A. Yes, sir.

Mr. German: Will you mark that please, Mr. Examiner? It will be number 29.

Q. Miss Bryon, is that report which is now Government Exhibit No. 29—was that report made up [] you?

A. Yes, sir.

Q. Signed by you? A. Yes, sir.

Q. Did you put in all your report the names—your term report—the names of all your pupils who attended that school for that term?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. Have you looked over the list of names in that report—Exhibit No. 29? A. Yes, sir.

Q. Does that in any way enable you to refresh your memory as to whether or not H. Carter attended your school that term? A. I don't remember his being there that term.

Q. I see. If he had been, you would have put his name—A. I would have reported it, no doubt.

Mr. Blakeney: We object to the last question and answer and move to strike it out as incompetent, irrelevant, and immaterial, and not tending to prove any facts.

Mr. German: We offer Exhibit No. 29.

Mr. Blakeney: We object to Exhibit No. 29 for the reason that it is incompetent, irrelevant, and immaterial.

Q. Miss Bryon, this report made in the spring of 1900, shows the name of Viola Carter, and in the proper column is an age for her; where did you get the information which you put in there as to her age?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. From her, as I remember it.

Cross Examination by Mr. Blakeney.

Q. Is it Miss Bryon? A. Bryon.

Q. It is Miss, still, is it? A. It is.

Q. Miss Bryon, you have used the expression several times, as I remember, of some fact given? A. Yes.

Q. Do I understand from that that you have no distinct recollection of it, except as you see matters in the report?

A. I didn't get your question.

Q. You have no recollection of any of the ages of the pupils there except as you have examined your report?

A. No, I have not.

Q. You had a book, didn't you, in which you entered the names of the pupils, and their ages, and studied that they had, and grades? A. Yes, sir.

Q. And you kept that up from day to day? A. I did.

Q. And then at the end of a term you made out these reports from that book—is that right or not?

A. You mean the attendance, and age, and such as that?

Q. Yes, ma'am; anything that you put in this report—any of the matters that you have in this report, you got out of that book? A. Out of the daily register, yes, sir.

Q. Out of the daily register. That is true of all three of the reports that you have identified, being Exhibits 27, 28, and 29, is it? A. Yes, sir.

Mr. Blakeney: We ask that this part of our examination be directed toward the objection which we interposed to each of these exhibits.

Q. Miss Bryon, what do these marks indicated in these reports? A. You mean those?

Q. The marks in columns, yes, ma'am.

A. Well, it means that such a person was in that.

Q. Had those studies? A. Had those studies.

Q. As an illustration, in Exhibit No. 27, we take the first name there of Lottie Fox, under the column somebody's copy book. A. Laura Bush, number 2.

Q. You have a straight mark; that means that——

A. That she studied that particular book, and that is true of the rest.

Q. Now, Henry Carter, whose name appears in this same exhibit last referred to, attended—you have first, age 16; number of days attending 61; and you go over to column marked copy book and you have——

A. No, I think not; I think it is the next.

Q. Henry Carter, the first mark, I notice, is under copy book; that shows that he was using that—that he was writing, in other words—studying writing, using copy book—is that right? A. Yes.

Q. Then, going over to the next entry in the same exhibit, we have Speller; under column Speller, you have a straight line—that indicates that he was studying Speller? A. Yes, sir.

Q. And then you go over to the Fifth Reader—is that right? He was in the Fifth Reader? A. Yes, sir.

Q. And so forth. These entries show what studies they were using? A. Yes, sir.

Q. Now, I notice in Exhibit No. 28, now, which was the following year Exhibit No. 27 referring to the term opening September 13, '97, and closing April 7, '98, Exhibit 28 referring to term opening September, '98, and closing April, '99, I notice that Henry Carter's age is corrected as 19? A. Yes.

Q. And you have no explanation for it except as a rule that you took what they said about their ages, and you supposed that he must have made that statement to you?

A. That is as nearly as I remember.

Q. You have no remembrance about it but you judge that from an examination of your report, is that right? A. Yes.

Q. Do you remember Henry telling you that he didn't know how old he was? A. I don't think I do.

Q. You don't remember anything about that? A. No, sir.

Q. If you had any talk with him about his age and he told you he didn't know his age, you don't recall it?

A. No, sir, I don't.

Redirect Examination by Mr. German.

Q. As I understood you, you said that when he first entered your school in '97 in the fall, that H. was at any rate 16 years old? A. That I thought he was.

Q. Yes, if not older? A. Yes, sir.

Mr. Blakeney: We move to strike out the answer as incompetent, irrelevant, and immaterial. I want to move now to strike out both of those answers as incompetent, irrelevant, and immaterial, and not re-direct and a statement of no fact.

Q. Miss Bryon, was there anything about H. that attracted your attention when he first entered the school?

Mr. Blakeney: We object as not proper redirect.

A. Well, I don't know just what you mean.

Q. Was there anything about his appearance or his dress?

Mr. Blakeney: We object as not proper redirect.

A. Well, as I remember him the first day that he entered school, he had on a sort of a cut-away coat, and he was tall, and while he was quite slight, yet he was rather tall, and in that way I judged him to be in at least 16, but I don't know his definite age, only as he told me.

Witness dismissed.

Mr. German: We offer the deposition of Bertha Covington, taken before Mr. Penick, appearing in his transcript beginning at page 854.

And thereupon BERTHA COVINGTON being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. State your name. A. Bertha Covington.

Q. Where do you live? A. Omaha, Nebraska.

Q. What age are you? A. 39—going on 39.

Q. You are now 38? A. Yes, sir.

Q. When will you be 39? A. The 14th day of February.

Q. Four days from today? A. Yes, sir.

Q. Where were your born?

A. I think it is just about three miles from McLouth, Kansas.

Q. Who is your father and mother?

A. John and Maria Yoakum.

Q. They live here in Leavenworth, now?

A. Yes, sir, 705 Shawnee.

Q. You were born, you say, near McLouth? A. Yes, sir.

Q. Where with reference to your grandfather, Henry Carter's place?

A. Well, I can't say just what the distance is but it is close to where his place is at.

Q. Were you born on his place? A. No, sir.

Q. Did you ever live on his place? A. Yes, sir.

Q. When you were a child? A. Yes, sir.

Q. What year were you born in? A. '77.

Q. February 14th, '77? A. Yes, sir.

Q. Did you know H. Carter? A. I do.

Q. Do you know Viola Carter? A. I do.

Q. Where is Viola living now, if you know?

A. Out at aunt Susie's, on grandpa's place—Susie Smith.

Q. At the old Henry Carter home? A. Yes, sir.

Q. That is northeast of McLouth? A. It is northeast.

Q. A little more nearly east than northeast, isn't it?

A. Yes, I think it is, but I know it is north. You have to go north here from McLouth, to go to grandpa's place.

Q. About 18 miles southwest of Leavenworth?

A. I can't exactly say, but I think it about 24 miles; I am not sure.

Q. 24 miles? A. I think it is—I won't say for sure.

Q. Do you remember Henry Carter as a child?

A. Yes, sir.

Q. A little child? A. Because I used to nurse him.

Q. How? A. I have nursed him.

Q. That is, you have held him in your lap? A. Yes, sir.

Q. Have you any children? A. No, sir.

Q. About how old was he when you first remember him?

A. A little baby—a little bit of thing.

Q. Where was it that he lived when you first knew him?

A. He was at my mamma's house.

Q. Your mother's house? How far did you live from your grandfather's at that time?

A. Oh, let me see; it might have been a half mile, and might not have been so far. It didn't take us no time to get over there.

Q. Right there on your grandfather's place?

A. Yes, sir, it was on his place.

Q. Do you remember how old you were when you first remember him? A. No, I can't remember that.

Q. Did your parents move away from your grandfather's place? A. Yes.

Q. How old were you when they moved away?

A. Well, I can't say just how old I was but I remember when we moved.

Q. How? A. I remember when we moved.

Q. Were you still just a child? A. Yes.

Q. Where did you move to? A. Down on Big Stranger.

Q. Do you remember how long you lived on Big Stranger?

A. No, I don't remember just how long but we weren't down there so overly long; it might have been a year or two—something like that.

Q. Then where did you move to?

A. Here in town; Leavenworth, on Pottawatomie street.

Q. How big a child was Henry, or H, I should say; what did you call him, Henry, or H? A. H.

Q. How big a child was H when your parents moved off of your grandfather's farm?

A. Oh, I can't just remember just how large he was.

Q. Was there any sister or brother of yours younger than you? A. One.

Q. What is her name? A. Annie.

Q. Annie? A. Yes.

Q. Angy—is she called Angy?

A. No, Annie, and then Minnie—but Minnie died.

Q. What is the name of this sister of yours who just left the witness stand? A. Angy.

Q. Is she older or younger than Annie?

A. She is the youngest child.

Q. Youngest of all? A. Yes.

Q. She older or younger than Minnie?

A. She is younger—my mother's youngest child.

Q. Did you say Minnie died? A. Yes, sir.

Q. Then Annie was just younger than you? A. Yes, sir.

Q. And Minnie was just younger than Annie?

A. Yes, sir.

Q. And Angy was just younger than Minnie?

A. Quite a good deal younger.

Q. Were any of those children a nursing baby when H was a nursing baby?

A. Yes, Annie and Minnie both; they both nursed because Annie wasn't much older than Minnie.

Q. At the same time that H was nursing? A. Yes, sir.

Q. How much older—what do you mean by nursing?

A. Well, they nursed their mother's breast, I guess; I guess that is what they meant. Isn't that what it is? I never nursed any, I don't know.

Q. Well, that is the only meaning it has.

A. Because I never did have any; I never did nurse any.

Q. How much older are you than Annie?

A. Well, they was—I am a year and nine months; of course I can't tell——

Q. Do you know how much older than Minnie, Annie was? A. They said nine months.

Q. Do you know how much Minnie was then Angie?

A. Must have been three or four years, or five—or something—or six—or something like that. I can't just say.

Q. You say Minnie died when she was a baby? A. Yes, sir.

Q. How old was she, did you know?

A. They said she was seven months.

Q. After you moved to Stranger, did you see H any?

A. Not until after I moved to Leavenworth.

Q. Then did you see him very often?

A. Went out there pretty near every summer.

Q. Every summer? A. Pretty near; not every summer.

Q. Did you see him frequently?

A. When I went out there.

Q. Where did he live? A. At grandpa's.

Q. Old man Henry Carter? A. Yes, sir.

Q. Do you know whether he went to school out there?

A. Well, I guess he must have; I didn't see him.

Q. You didn't see him?

A. No, because I wasn't out there; all I know is they say he did.

Q. You needn't to tell what they say.

Mr. Blakeney: We object to the answer; not only object to the answer but object to the question—it is apparent that she can't have no information.

Q. Whatever became of H? Did he ever leave out there?

A. Not that I know of.

Q. Did you ever know about his going to Indian Territory? A. Well, I was in Omaha.

Q. When did you marry? A. 1902.

Q. And went to Omaha then? A. No.

Q. When did you go? A. 1898.

Q. You went to Omaha in 1898? A. Yes, sir.

Q. Has that been your home ever since? A. Yes, sir.

Q. Who *was* child was H, if you know?

Mr. Blakeney: We object to the competency of the witness; not an attempt to ask for any facts, but an attempt to ask for a conclusion.

Mr. German: I withdraw the question.

Q. Did H have any sister or brother?

Mr. Blakeney: We object to the question; as to the competency of the witness, and to the—I want it to appear in the record that the Government's theory of this matter is definite and is an attempt to establish it without proving any fact, either by anything—asks for a conclusion and asks the question so that it will illicit a conclusion of the witness.

A. Viola.

Q. Who was the older? A. H.

Q. Viola or H?

Mr. Blakeney: We object to the question as incompetent, irrelevant, and immaterial, and asking for a mere conclusion. I interposed the objection just as counsel completed the question; the answer the witness gave was an interruption of counsel's question and before it was completed.

Q. About what was the difference between their ages?

Mr. Blakeney: We object as improper and it asks for a conclusion of the witness which is incompetent.

A. Well, I just can't say but I don't think there was very much difference; might have been a year or two or something like that.

Q. Where was Viola born, if you know?

Mr. Blakeney: We object on the same ground that we stated. Counsel understands that the question will permit the witness to give her conclusions and not to state any facts; purposely asked to get the improper conclusion in the record as evidence.

A. Grandpa's house.

Q. Was that before or after you left your grandpa's farm to move to Stranger? A. Before.

Cross Examination by Mr. Stuart.

Q. Bertha, do you remember the names of your brothers and sisters? A. Yes, sir.

Q. Well now, commence at the top and tell them to me; what is your oldest brother or sister named? A. Henryetta.

Q. Alright. A. Johnnie.

Q. Johnnie. A. Mary.

Q. Mary. A. Lillie.

Q. Lillie.

A. Emma, Tommy, Ethel, and myself, Bertha; then Annie, then Minnie, and then Angie.

Q. Well, did any of your sisters ever have nicknames? Was one of them ever called Babe? A. That is my aunt.

Q. That is your aunt; Babe is your aunt? A. Yes, sir.

Q. Those were all the brothers and sisters?

A. What I called over—but not Babe; that is my aunt.

Q. I called those you mentioned were your brothers and sisters? A. Yes, sir.

Q. Do you know where Viola is now?

A. Out to aunt Susie's.

Q. Do you know where she has lived during all these years? A. Out to aunt Susie's, on grandpa's place.

Q. That is your grandpa's original place, is it Bertha?

A. Yes, sir.

Q. Has Viola ever married? A. Not that I know of.

Q. The little boy that was called H Carter over there—was that a nickname which you gave him?

A. I didn't give it to him; they did, so it must have been a nickname.

Q. What was your grandfather's name? A. Henry Carter.

Q. Henry Carter; do you know whether they called him H instead of Henry?

Mr. Blakeney: We object as calling for a conclusion, and incompetent.

Q. They called him H, did they? A. Yes.

Q. Do you know after whom he was named?

Mr. Blakeney: We object as asking for a conclusion and incompetent.

A. Grandpa.

Q. Named after your grandpa? A. Yes.

Mr. Blakeney: We object to the last question as asking for a conclusion, and incompetent.

Q. Your sister Lillie, was she the very light woman on the stand here? A. Yesterday?

Q. Yes. A. Yes.

Q. Called Mrs. Williams? A. Yes.

Q. Is older or younger than you, Bertha?

A. Why, she is a whole lot older than me.

Q. Older than you? A. Yes.

Q. Now, how far did you live from your grandfather's place?

A. Well, I can't say exactly. It might be a half mile, and still it might not be so far.

Q. Did you children go continuously back and forth from your mother's place to your grandfather's place?

A. Yes, would go up there every day.

Q. I asked you whether or not you saw this boy Henry there every day when you went there?

A. Yes, after he was taken back over to grandmother's.

Q. You saw him there? A. Yes, used to hold him.

Q. Do you know whether or not a certain Henry Carter is in this law suit—claims to be in this law suit?

A. Well, I can't say, because I haven't seen him.

Q. You haven't seen him. A. Because I can't say.

Q. How long since you saw him?

Mr. Blakeney: There is not any controversy about that fact.

Mr. Stuart: We want to identify him.

Mr. Blakeney: We admit the identification that the Henry Carter who she is testifying about, is the Henry Carter in the suit.

Q. The Henry Carter mixed up in this law suit is he the same Henry Carter you *pladed* with as a baby? A. Yes, sir.

Q. You know that to be a fact? A. Yes, sir.

Q. What was your aunt's name—Adis? A. Ada.

Q. What is the other name called?

Mr. Blakeney: In the Bible, it was put Edest, but that was an attempt to spell Adis.

Q. Well, you understood her to be your aunt Adis?

A. Yes.

Q. Now, who was the mother of this boy Henry?

Mr. Blakeney: We object to the competency of this witness, and insist that the counsel representing the party is making a fight common with the Government and the question has been asked and answered on behalf the Government, and it is not proper merely to ask the same question.

Mr. Stuart: My only answer to that is this, and I want it to appear in the record. I am asking these question- on the theory if Henry Carter is the true Tommy Atkins, my Tommy Atkins is out.

Q. So I now ask you whether or not this boy you played with, is the same boy that is in this law suit? You said, yes, to that, didn't you? A. Yes.

Mr. Blakeney: We object to that as a repetition.

Mr. Stuart: I just asked that as a preliminary to the other questions.

Q. Now, you heard your family talk a good deal about this, have you Bertha, or not?

A. No, not a good deal about it; I wasn't here.

Q. You heard your family talk a good deal about the parentage of this boy Henry Carter?

A. Well, I haven't heard them say so much about it.

Q. You heard them say something about it?

A. They didn't say so much about it.

Q. Who was reputed—do you know what the word reputed means? A. No, I don't know what you mean.

Q. That means recognized—who was reputed in your family to be the mother of Henry? A. Aunt Adis.

Mr. Blakeney: We object as incompetent.

A. Can I answer?

Q. Yes, answer it now. A. Aunt Adis.

Q. Adis who? A. Adis Carter.

Q. Your aunt? A. Yes, sir.

Redirect Examination by Mr. German.

Q. Who is aunt Adis now—what is her name now?

A. I haven't seen her for a long time. Her name was Wright. I don't know whether she is married again or not.

Cross Examination by Mr. Blakeney.

Q. Did you ever see any of her family—children?

A. I haven't for quite a while.

Q. Did you ever see them at all? A. Yes, I seen them all.

Mr. German: There is one thing I want to ask about before you proceed further.

By Mr. German.

Q. You say you were born in February, 1877? A. Yes.

Q. Your sister Annie is about a year and a half younger than you, isn't she?

A. I think it is a year and nine months, I think, but I won't say for sure because I don't know.

Q. Then, have you not examined the Bible record with reference to the date of the birth of yourself and sisters?

A. Not lately.

Q. Your family Bible? A. Not lately.

Q. Your Minnie, to refresh your memory, is it not true that your sister Minnie was born three years and one day after your sister Annie?

A. Well, I know they are all younger than me.

Q. And that your sister Angie was born about two years and a half after your sister Minnie?

Mr. Blakeney: We object to that.

Q. Oh, she must have been born—it was longer than that.

Cross Examination by Mr. Blakeney.

Q. Referring again to your aunt Adis, or Ada, Wright. You say you have seen all of her family? A. Yes, sir.

Q. Where did you see them?

A. Before they moved from out there at grandpa's.

Q. Did you see them at your grandpa's place?

A. Yes, I was over at her house. Uncle Tom and Adis came in town and I went out with them.

Q. At your aunt's place? A. At aunt Susie's.

Q. You went out to visit your grandfather's place?

A. Yes.

Q. And while there you went over to see Adis and saw all her family? A. Yes.

Q. You never saw any of her family in your mother's place there in Leavenworth? A. Sir?

Q. I am talking about Adis' family.

A. I believe her and her husband were there a year ago.

Q. One of her oldest children married? A. Yes.

Q. You were there? A. I was there.

Q. A year ago, when they were there?

A. Yes, and stayed all night.

Q. This daughter you referred to of Adis' was a married daughter and her husband? A. Yes, and she had a little baby.

Q. Naming the children, you named them in order Emma and Tommy, is that right? A. Yes.

Q. Emma was older than Tommy? A. Yes.

Q. How much older was Emma than Tommy?

A. I can't tell you.

Q. How much older was Emma than you?

A. Can't tell you.

Q. You don't know that? A. No.

Q. You say you used to nurse—you used to hold Henry in your lap when he was a baby? A. I have.

Q. How old were you at that time? A. I can't tell you.

Q. Well, you can give us some idea.

A. I don't know how old I was. I was large enough to hold him.

Q. Ten or twelve? A. No, I couldn't have been.

Q. How old? A. I don't think I was that old but how old, I can't say.

Q. How old was Henry? A. I can't say how old he was.

Q. How much younger is Henry than you?

A. I can't say that.

Q. Well, ten years or four years?

A. Oh, no, he isn't ten years younger than me.

Q. How much younger than you, would you say.

A. Three, or four, or five, or six, something like that—I can't say.

Q. You see that is indefinite. Between three and six years? A. Well, I can't say for sure.

Q. Can you make it more definite than that?

A. Well, he might be four years.

Q. That would be your judgment, then, between four and five? A. Yes.

Q. Now, I believe you said, Henry was once nursed by your mother? A. I did.

Q. You mean by nursing that he was fed from your mother's breast? A. Yes.

Q. And he was fed from your mother's breast how long?

A. Oh, well, I can't say.

Q. Well, you said during a period of nursing of two of her children? A. I said that.

Q. You said that at one time your mother was nursing three children? A. Well, I think she was.

Q. That is correct, is it? A. Yes.

Q. Sure?

A. They were all there; they were all little babies.

Q. All little babies and all there? A. Yes.

Q. And they weren't fed any other way?

A. No, I guess they couldn't have been.

Q. Let's don't guess; if you don't know——

A. I don't know.

Q. Well, you don't know how they were fed?

A. I don't know whether they were fed any thing else or not.

Q. You never saw the three nursing at your mother's breast? A. No, not at the same time because they couldn't.

Q. No, but you never saw the three nursing during the same period of time, or during the same day?

A. I seen mamma with two of them on her lap.

Q. You seen her with two of them on her lap?

A. Yes, because she called me and I had taken one of them.

Q. You have seen your mother with two of her children on her lap younger than you, haven't you? A. Sure.

Q. I am asking you about once. Did you ever see your mother nursing two at the same time? A. Yes.

Q. What two? A. Sister Annie and H.

Q. Did you ever see her nursing any other two?

A. No, not no other two because there wasn't but two then.

Q. Did you ever see her nursing Minnie and H?

A. No, I never.

Q. Ever see her nursing H and Annie?

A. Yes, had them up there; must have been nursing.

Q. How old are you? A. 39, I guess.

Q. 39? A. That is what the Bible says, I guess.

Q. You are 39 yourself—do you know what a woman is doing when she is nursing a baby? A. I never did nurse any.

Q. You have seen enough nursing babies, and mothers nursing their babies to know what a woman is doing when they are nursing a baby?

A. I have seen them have the breast in the mouth—I guess they are nursing.

Q. That is the only way you know—by guessing?

A. I guess that is what they must have been doing because I never did nurse any.

Witness dismissed.

Mr. German: We offer the deposition of Anna Davis, taken before Mr. Penick, appearing in his transcript beginning at page 1420.

And thereupon, ANNA DAVIS, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Anna Davis.

Q. Your residence? A. Kansas City, Mo.

Q. You are teaching school now in Kansas City, Missouri? A. I am.

Q. What school are you teaching? A. Garfield school.

Q. Miss Davis, did you teach school in Brown School House in Leavenworth County, Kansas, School District Number 52, at any time in the past?

A. I don't know whether that is the—I don't remember the number of the school district.

Q. What is the name of the school?

A. The Brown School.

Q. When did you teach that school?

A. In the fall of eighty-nine and the winter, six-month term, and the winter of ninety, and the following year; I taught there two years.

Q. When did you quit teaching there?

A. At the end of the—that would be——

Q. Spring of ninety-one?

A. End of the second year, spring of ninety-one.

Q. Have you ever taught there since? A. No.

Q. During the time that you taught school at the Brown

School House, did Henry Carter and Viola Carter attend school? A. Henry Carter?

Q. H. Carter?

A. That is the way he was known, I didn't know his name was Henry; and Viola, both.

Q. Were they colored people?

A. They appeared to be, they might have been mixtures for all I know.

Q. Were there any other colored people in school?

A. I think not.

Q. Do you remember the age of those two children?

A. I do not, I don't remember.

Cross Examination by Mr. Blakeney.

Q. How long did you say you taught in the fall of eighty-nine and ninety, how long a term?

A. I think it was six months.

Q. About six months, do you remember about when you commenced? A. I do not, sometime in September I suppose.

Q. Have you any very distinct recollection of the circumstances of the keeping there of the pupils there, such as the studies and things of that kind now?

A. Why, the studies of the—ordinary studies in the country schools.

Q. Yes, ma'am, you would know that if you didn't have any memory of it at all, you would assume that wouldn't you?

A. No, I remember teaching certain things there; I remember of teaching these colored children reading in the Primary, but I don't remember just what grade they were in.

Q. Remember teaching them in the Primary Reading?

A. Yes.

Q. Do you remember just when they started? A. I do not.

Cross Examination by Mr. Hanford.

Q. At what age did children start to school at the Brown School House?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. Well, I can't say, I suppose the same age as the—I don't remember just the age that admitted them at that time, might have been five and might have been six.

Q. That they started to school?

A. Not these children that you have reference to but the——

Q. The others? A. The others, any one of them.

Q. Had these children been started, was that their first year? A. That is what I don't remember.

Q. You don't remember?

A. No, I have been trying to remember all day.

Q. Do you remember which was the oldest, H or Viola?

A. I do not. There must have not been many years between them.

Q. Were they both there at the same time? A. Yes.

Q. Were they both there at the beginning of the term?

A. They may have been, I don't remember as to that.

Witness dismissed.

Mr. German: We offer the deposition of Mary Green, taken before Mr. Penick and appearing in his transcript at page 746.

MARY GREEN, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. Please state your name and residence.

A. Mary Green; I live out in Alexander Township.

Q. What is your postoffice? A. Jarbalo, Kansas.

Q. Is Jarbalo in this county—Leavenworth, County?

A. Yes, sir.

Q. How far is it from Leavenworth?

A. Well, I can't exactly tell you how many miles.

Q. What direction? A. South.

Q. What age are you?

A. Fifty; I was fifty, the 4th day of January.

Q. What was your maiden name? A. Mary Yoakum.

Q. Who was your father and mother?

A. John and Maria Yoakum.

Q. Where did they live?

A. Lived here in Leavenworth, on Shawnee Street.

Q. Do you know what the street number is?

A. I think it is 705—I think where they lived—the house.

Q. Where were you born?

A. I was born here in Leavenworth, on Walnut street.

Q. On what street? A. Walnut.

Q. What was your grand-father's name, on your mother's side?

A. Harve Carter; some calls him Henry but they nearly all calls him Henry—we call him Harry.

Q. Is he living or dead? A. He is dead.

Q. Where did he live at the time of his death?

A. In the line of Jefferson County, Leavenworth.

Q. The line between Leavenworth and Jefferson County?

A. Yes, sir, right on the line.

Q. What direction from Leavenworth?

A. It is kind of southwest, I think from here; I wouldn't be sure but I think it is.

Q. Towards McLouth?

A. Yes, sir, towards that way. McLouth is on the other side of him; that is this side of him.

Q. McLouth was west of him?

A. Yes, sir, I think kind of that way.

Q. About how long had your grand-father lived there when he died? A. Ever since I knowed him.

Q. How old were you when you first knew your grand-father?

A. Well, I can't tell you but I have known him ever since I have been big enough to know anybody—just like any other child when you get big enough to know who your grand-father is.

Q. Did your father and mother when you were living with them ever live near your grand-father?

A. Yes, sir, they lived right on the farm in a large house.

Q. On your grand-father's farm? A. Yes, sir.

Q. About how far from the house?

A. Well, I can't exactly tell you; wasn't much more than a quarter of a mile, anyhow—within hollering distance.

Q. How long did they live in that house?

A. Well, I can't tell you that, neither. I know they lived there a long time; I never kept no count of it but I know I was a little girl when I went there, and I think I was 14 years old when they moved away—or 15—somewhere along there—15 years old when they moved away.

Q. Did you have an aunt named Ada or Adest?

A. Yes, sir, Ada Carter was her name.

Q. She was your mother's sister?

A. Yes, sir, youngest one living.

Q. Where was she living when your father and mother lived on your grand-father's place?

A. She was at home with her mother and father.

Q. With your grand-mother and grand-father?

A. Yes, sir.

Q. Did you know of her giving birth to any children there at your grand-father's when your folks were living on your grand-father's place? A. Yes, sir.

Q. How many children? A. Two.

Q. What was the first one's name?

A. They called him H. but his name was Henry Carter. That was the oldest one, and the other one was Viola.

Q. About when was H. born?

A. Well, I don't know exactly the year that he was born in because I never kept no account; that is in the Bible.

Q. Did your parents move away from your grand-father's place? A. Yes, sir, they moved away from there.

Q. Where did they moved to?

A. Moved down to Stranger.

Q. Stranger? A. Yes, sir.

Q. About how far is that from your grand-father's?

A. Well, it is between five and six miles from there.

Q. Did they make that move before or after H was born?

A. Well, H was a great big boy when they moved down there.

Q. About how old do you think he was?

A. I never kept no court of his age; he was a great big boy.

Q. Had Viola been born when that move was made?

A. Yes, sir, only about two years difference in the children's age.

Q. H and Viola? A. Yes, sir.

Q. H was older? A. Yes, sir.

Q. About how old is H now?

A. Well, according to my understanding, he is about thirty-six or seven—somewhere along there.

Mr. Blakeney: We object to her understanding as not competent.

Q. Where did you get that understanding?

Mr. Blakeney: We object to that as immaterial, and seeking for a conclusion.

A. Well, I never kept any count, you know; I never thought there was anything going to turn up about it. That is the reason I don't exactly know his age.

Mr. Blakeney: I move to strike the answer as not responsive.

Q. Do you know what year it was that your parents moved away? A. No, sir, I do not.

Q. From your grandfather's place? A. No, sir, I don't.

Q. About how long did they live at Stranger?

A. Well, I can't exactly tell you that. They moved down there, I think in the fall, and in the spring I got married and moved off to Salt Creek Valley and they stayed there, I think that summer, and then they moved to town; that is all I know about it.

Mr. Blakeney: I object to what she thinks, as incompetent, irrelevant, and immaterial.

Q. Moved to what town? A. Leavenworth.

Q. Have they been living here ever since? A. Yes, sir.

Q. You say you got married in the spring following?

A. Yes, sir.

Q. The time your parents moved from your grandfather's place? A. Yes, sir.

Q. Where was it you say you lived then?

A. I said I lived at Salt Creek Valley.

Q. Salt Creek Valley? A. Yes, sir.

Q. How far was that from your grandfather's?

A. Well, I can't exactly tell you because I haven't heard anyone say how many miles it is from there.

Q. It is [] Leavenworth County? A. Yes, sir.

Q. Did you visit your grandfather? A. I did.

Q. After you married? A. Yes, sir.

Q. Where did you live—did you ever move from Salt Creek Valley?

A. I did; I moved from there to High Prairie Township.

Q. Is that in Leavenworth County? A. Yes, sir.

Q. How long did you live there?

A. Well, I lived on High Prairie some eight or nine years.

Q. How long have you been living where you now live?

A. Been there 21 years.

Q. Did you see very much of H after you moved away from your grandfather's place?

A. H came to our house two or three times a year to visit me and my husband, and after my husband died, he came there to visit my boy.

Q. Did you ever visit your grandfather? A. I did.

Q. While H was there? A. Yes, sir.

Q. Did H ever get married? A. Yes, sir.

Q. Who did he marry? A. Ara Simpson.

Q. Where? A. Here in Leavenworth.

Q. Do you know where he is living now?

A. No, sir, I don't know anything about them now.

Q. How long since you have seen him?

A. Well, I can't tell you—it ain't been a year, though; I seen him before he left here, and they all said he was in Oklahoma, so I don't know—that is the last time I seen him.

Q. Did he ever say anything to you about claiming to be Thomas Atkins? A. He said that once.

Q. Said what?

A. I think just the day before Thanksgiving a year, he came to——

Q. What did he say?

A. He came to my mother's and he said, now if you keep your mouth still, he says, I will make you independently rich, and Mamma says, for what? Well, he says, don't you tell who my mother is, and she said, I am not going to tell no lie; she said, you know Adis is your mother.

Q. Where was this conversation taking place?

A. Right in the house where she was sit[] by the stove.

Q. Here in Leavenworth? A. Yes, sir.

Q. Did he say anything about Thomas Atkins—being Thomas Atkins?

A. He said he got two or three letters from his real mother; and that is the only one that ever told him that is his mother and Mamma said, you know better than that because you know she is not your mother.

Q. Did he call her name? A. Said Minnie Atkins.

Q. Did he say what his name was supposed to be?

A. Tommy Atkins; he said that is what they called him.

Q. Is that the same boy that was born to your Aunt Adis?

A. Yes, sir, Henry Carter was.

Cross Examination by Mr. Blakeney.

Q. How old were you when you went out to your grandfather's place?

A. I can't tell you how old I was; I was a little child when I went out there.

Q. About how old do you say you were?

A. When H was born?

Q. Did you understand the question I asked you?

A. You said how old was I when I went out to my father's place?

Q. Grandfather's place, to live?

A. I can't tell you; we were all little children, then.

Q. About how old was you then?

A. I can't tell you; I must have been about ten or eleven years old when I first went there.

Q. How long were you out there before Henry was born?

A. I was fourteen years old when he was born.

Q. Fourteen? A. Yes, sir.

Q. Do you remember how old you were, or have you looked at the bible, or some other place to refresh your memory? A. No, I know how old I was when he was born.

Q. Where were you living when you went out there first?

A. We were living on old man Shaw's place.

Q. How long did you live there?

A. I don't exactly know; lived there two or three years.

Q. Were you living on Shaw's place when Henry was born? A. No, sir.

Q. You had moved to your grandfather's place?

A. Yes, sir, living right on there when he was born.

Q. About two years after that, Viola was born?

A. Yes, because there was about two years difference.

Q. How do you know it was two years difference?

A. Because I know; wasn't I there?

Q. That is the reason, is it?

A. Yes, sir. When my grandmother got so old, she kept hid to keep people from seeing her. They got me back there to help milk cows and do chores around and go to the door, and tell them they couldn't come in there.

Q. You actually were living there at the time Viola was born? A. I was.

Q. And staying about the house and going to the door?

A. Yes, sir; and washing her clothes, and taking her things to eat when she was in bed with H.

Q. You had done that with both of these children then?

A. Yes, with both of them.

Q. Stayed at the house before H was born?

A. Yes, sir.

Q. And stayed before Viola was born? A. Yes, sir.

Q. And you milked the cows?

A. Yes, sir, helped my grandmother to milk the cows.

Q. And you did the work that Adis usually done?

A. Yes, sir.

Q. And would go to the door and tell people not to come in? A. Yes, sir.

Q. You done that before both children were born?

A. Yes, sir, she told me not to let them come in there.

Q. Did you go to your mother's home at night?

A. Yes, sir; there all the time.

Q. Would go to your mother's home at night?

A. Sometimes I would and sometimes I wouldn't.

Q. What proportion of the time would you go to your mother's?

A. Sometimes when I got through milking I would go down there and tell mother to come down with some things she wanted.

Q. During the time she was so large, you kept her hid?

A. She kept herself hid.

Q. Well, she kept herself hid? A. Yes, sir.

Q. What is so funny about this?

A. I don't see anything so funny.

Q. Why are you laughing so much?

A. I nearly always laugh.

Q. Is that the only reason that you now have for laughing? A. Yes, sir.

Q. What was so funny about that last answer that you had to laugh at?

A. Well, not anything that I see, only it is natural to laugh.

Q. Was Adis keeping herself in? A. Yes, sir.

Q. During that time you stayed at the place?

A. Yes, sir, my grandmother told me to go down there and help her milk the cows. She had 12 cows to milk and couldn't milk them all—I milked six and she milked six.

Q. You did that when Viola was born?

A. Yes, sir, when both of them were born.

Q. Did the same service for your grandmother when Viola was born as when Henry? A. Yes, sir.

Q. Was this when she was so large she was trying to conceal? A. Yes, sir.

Q. About how long did you stay?

A. I don't know how long; until this all was over.

Q. Until the children were born?

A. I can't tell you that. Some persons gets pretty large and stay that way a good long time.

Q. Adis got large and stayed that way a good long while?

A. Of course she did, like any other woman.

Q. About how long, then, did she show?

A. I can't exactly tell you that; as soon as she got large enough to show, is all I can tell you.

Q. Can you give about the time? A. No, sir.

Q. It was nine months, wasn't it?

A. Of course she has to go nine months.

Q. That she was so large?

A. Of course she wasn't so large the whole nine months.

Q. About how many months do you recall now, that she was so large that you had to do the work?

A. I guess about four and a half or five months.

Q. You think you stayed at your grandmother's place and assisted for about four months? A. Off and on.

Q. Off and on? A. Yes, sir.

Q. Now, what other members of the family were there during the time that you say that she carried Henry?

A. Well, there was my sister Lillie, and my father and my mother were there, off and on, all the time—every day or two, or something.

Q. Your sister Lillie? A. Yes, sir.

Q. How old is Lillie? A. She is next to me.

Q. How much difference in your ages?

A. Two years difference in the ages between——

Q. Two years? A. Yes, sir.

Q. She was up at the house?

A. Off and on—she didn't stay there.

Q. Well, what other persons were there?

A. All the children were there, off and on.

Q. What ones of your aunts and uncles were there?

A. Wasn't any of them.

Q. Wasn't any there at all?

A. My uncles were there, my aunts wasn't.

Q. What aunt is it known as Mrs. Simonton?

A. Well, that is Babe Simonton.

Q. You call her Babe, do you?

A. Yes, but her name is Elizabeth.

Q. What name do you call her, Babe? A. Yes, sir.

Q. Was Babe around there? A. No.

Q. Wasn't there at all? A. No.

Q. You are sure, are you, within four or five months Henry was born, that your aunt Babe wasn't about the place at all?

A. No, her or Aunt Susie, either; none of my aunts were there but Uncle Tom.

Q. None of your aunts but an uncle? A. That is all.

Q. When was Henry born? Not the year, but what season?

A. Well, now, I know it wasn't—no, I can't tell you exactly. I don't know whether it was in the fall, or in the spring, but I know it was raining mighty hard when he was born—I don't know which one it was.

Q. It rained that night, did it? A. Yes, sir.

Q. You were at the house when he was born?

A. No, I was at my mother's; she was asking me to go home.

Q. I asked you if you was there?

A. Not at the house where he was born, I wasn't.

Q. Now, if Henry was born in November, when do you say that you went there to do the work for your sister Adis?

A. I was there before.

Q. Well, would you be there from June?

A. Well, I can't exactly tell you; I never kept no count of months.

Q. Let's see if we can figure without an account book: October, September, August, July, is four months.

A. I know.

Q. Now, from the 7th of July up to the 7th of November would be four months; were you there that long?

A. I was there in corn planting along in the spring, until after everything was over.

Q. Corn planting? A. Yes, sir, helped about the corn.

Q. You were there April and May?

A. Something like that.

Q. Until the child was born. You are sure that it was during that time that your aunt, Mrs. Simonton, or Babe, was not there? A. No, sir.

Q. She married at your father's house?

A. She married at my father's house.

Q. Wasn't she married in July that year?

A. I don't know what time she got married—she got married.

Q. July of that year, wasn't it?

A. I can't tell you, I never kept account of when she got married.

Q. Don't you know she was married in July, 1871?

A. I don't know when she got married; I know she came out there and brought a preacher and got married—what month and year, I don't know.

Q. Who attended at her wedding?

A. Whole lots of people were there—I can't tell you.

Q. What of the family? A. Any of the family?

Q. All that was in that neighborhood?

A. No, there wasn't—I can't tell you.

Q. Adis was there? A. All the time, yes, sir.

Q. At the time of the wedding? A. Yes.

Q. Your Aunt Susie there? A. No.

Q. She wasn't there? A. No.

Q. You remember she came a few days later, didn't she?

A. No, she didn't.

Q. You remember she had been to Chicago, attending some meeting of some colored club, or association, and came back? A. No.

Q. Came back a few days after your sister was married?

A. No, she didn't.

Q. You are sure of that? A. I am sure of that.

Q. Sure your aunt didn't come through the first of August and stay until about the first day of September?

A. No, she didn't.

Q. You are sure that is not true?

A. Yes, I am sure that isn't true.

Q. You are also sure that from corn planting time up until Henry was born, that your aunt, Mrs. Simonton, was not married at that house?

A. I don't know whether she was married then or not, but she wasn't there then.

Q. She wasn't married at your father's place during that time—the marriage ceremony?

A. No, it was before that.

Q. You are sure, I say, it was not performed during that time?

A. No, sir, I was sworn to tell the truth and that is what I am going to do.

Q. What are you laughing about then?

A. I told you I always laugh.

Q. You laugh whenever you say you are going to tell the truth, do you? A. I laugh all the time.

Q. Do you always laugh when you say you are going to tell the truth?

A. Why no, but then I laugh all the time.

Q. Now, you had milked the cows on the day that Henry was supposed to be born that night?

A. I told you that I went down there and helped to milk the cows; I didn't say what day.

Q. Well now, let's get the date. Do you remember you continued to milk the cows up until you say you went home one night, and stayed home, and your mother went over to Carter's place?

A. I said the day before I went home, Grandma told me to go home.

Q. I don't want what she told you. You went home and your mother came to the Carter's place?

A. Didn't come that day.

Q. That night?

A. Yes, sir, my grandfather came after her.

Q. Did you milk the cows that evening? A. Yes, sir.

Q. When you went home, who did you find at that place?

A. My mother and father, and the children.

Q. What children?

A. Emma, Billy, Bertha, Annie, and Ethel.

Q. Emma is the oldest?

A. I am the oldest, and Lillie is the oldest, and Emma next.

Q. Lillie is older than—who is next to Emma?

A. Ethel.

Q. Who is next to Ethel? A. Bertha.

Q. Who is next? A. Annie.

Q. Annie was the youngest?

A. Yes, sir, Annie was the baby.

Q. How old was Annie?

A. Well, I can't exactly tell you now what her age is but there ain't much difference between H and Annie—there ain't over 6 months difference between them because Mamma nursed H and Annie at the same time.

Q. About how long did you commence being at the place before Viola was born?

A. Just like I did with H, as soon as she got so she couldn't get around, she got me to come there and do the chores.

Q. Do you remember the season that Viola was born?

A. In the fall.

Q. Then you came about corn planting time when Viola was born?

A. No, I can't tell you that because she was born in the fall, I think.

Q. What is that?

A. I think she was born in the fall, along in October.

Q. Then you would come a little earlier, wouldn't you, to work when Viola was born, than you did when Henry was born?

A. Of course I went there because she tried to hid everything; her condition—that was the first one. She wasn't so particular about that as she was about the first one. I didn't stay there as much as I did when Henry was born.

Q. You did stay and help milk the cows? A. Yes, sir.

Q. As when Henry was born? A. Yes, sir.

Q. And sometimes you would stay all night with your grandfather, and sometimes you would go back to your mother's? A. Yes, sir.

Q. Your mother was living there on the place?

A. Yes, sir.

Q. Are you sure that your mother was living there on the place when both of them were born?

A. Yes, sir, when both of them were born.

Q. When both of them were born? A. Yes, sir.

Q. When did you first see Henry?

A. When did I first see him?

Q. Yes.

A. I seen him that night before he was dressed.

Q. Before he was dressed?

A. Yes, my mother brought him home and washed him and dressed him.

Q. At your place? A. Yes, sir.

Q. And you saw him?

A. Yes, sir, and nursed him and tended to him.

Q. Now, when did you see Viola first?

A. Well, I seen her the next morning after she was born because my mother told me—they sent for her—and they told me to go home and stay with the children, and when she came, she said, well they have got another girl; you go down there.

Q. Don't tell what was said; I told you, now, that I don't want any statement that your mother said to you, or you said to your mother. The question was, when did you first see Viola?

A. I seen her the next morning after she was born.

Q. How often did you see Henry after his birth?

A. Why I seen him all the time when he was at our house.

Q. He was at your house and you seen him all the time?

A. Yes, long as he was there.

Q. Viola stayed at her grandfather's place?

A. Yes, sir.

Q. Now, when you left to go up to Stranger Creek and live, and your parents went up to Stranger Creek to live, you say that Henry was quite a big boy, running around?

A. Yes, a little boy, running around, with dresses on then.

Q. How old was Viola?

A. She was a little baby; could sit alone and crawl around on the floor.

Q. Couldn't walk? A. No, sir, couldn't walk yet.

Q. She was about six or eight months old then?

A. I guess something like that but she was always so fat she couldn't get around.

Q. She may have been a little older then?

A. Yes, sir; she was so fat she couldn't stand like most children.

Q. Henry, then, would be close to three years old?

A. I guess he was when we moved away.

Q. When you moved away? A. Yes, sir.

Q. You have children, have you? A. I had two.

Q. How old is the oldest child?

A. Well, my oldest one would be 32 years old if she was living.

Q. 32? A. Yes.

Q. And how long have you been married?

A. I have been married 38 years.

Q. 38 years; sure of that?

A. Why certainly I am sure of it.

Q. Sure you married 38 years ago? A. Yes, sir.

Q. You were married in 1886? A. No.

Q. When were you married [A.] 1882, I think.

Q. 1882? A. I think that was when it was.

Q. 1882 you married. How come that [] be 38 years old?

A. It would be 38 years old this March coming—38 years.

Q. This 1916, isn't it? A. Yes, sir.

Q. You then was married in 1878?

A. No, it is in the bible—I can't exactly tell you.

Q. You know you haven't been married 38 years anyhow.

A. Well, maybe it ain't, but that is what I figured it up to be.

Q. Is that the way you figured about Henry, too?

A. No, because I know.

Q. And you know that within four or five months of when Henry was born, Mrs. Simonton was not married at your father's place?

A. I wouldn't say she wasn't married; I say she wasn't there when H was born.

Q. And you said that between the time that Mrs. Simonton was married, up to when Henry was born, your Aunt Susan was not on the place? A. No.

Q. What do you mean by no—that you didn't say it?

A. I say she wasn't there; she was in *Chilicarthy* attending school.

Q. How often did you see your Aunt Susan there about the place? A. Do you want me to tell when she came?

Q. I want you to answer that question.

A. Aunt Susan never came home until after my mother was paralyzed and got down, and she came home to take care of H and my mother and Viola.

Q. She came home when Edna was married, didn't she?

A. No, sir.

Q. When Edith was married? A. Yes, she was then.

Q. She was there when Edith was married? A. Yes.

Q. Do you know when Edith was married?

A. I know when she said.

Q. How old was Henry when she married? A. A big boy.

Q. She was married in 1886?

A. I don't know when she was married; all I know is when she told me—I didn't see her get married.

Q. Explain to me why you laughed about that?

A. Well, didn't I just tell you a while ago that I always laugh? That ain't cutting no figure.

Q. You aren't laughing now, are you?

A. Well, I can laugh.

Mr. Blakeney: I would like the record to show that the proceedings are suspended while the witness laughs.

A. Well, it is better to laugh than cry, isn't it?

Mr. German: I would like the record to show that counsel for Henry Carter suggested that she laugh, and smiled at her, whereupon she did laugh.

Mr. Blakeney: What I suggested was in the record.

Q. Now then, if Adis was married in '86, Susan was at home at that time? A. She was at home when she got married.

Q. Where were you living then?

A. I was living on High Prairie.

Q. You were married yourself, then, were you?

A. Yes, sir.

Q. And were living on High Prairie? A. Yes, sir.

Q. Were you at the wedding? A. No.

Q. When were you over after the marriage?

A. I never went there after she got married; I have never been inside that house since she was married. She never come in mine and I never went in her'n.

Q. She has two grown daughters, hasn't she? A. Yes, sir.

Q. Have they ever been in your house? A. No.

Q. Ever been in your mother's house?

A. Can't tell you that; I am not at my mother's all the time—I can't tell you.

Q. You never saw them at your mother's house?

A. No, I heard them say she was there but I never seen her.

Mr. Blakeney: I move to strike out what I heard them say, as not responsive.

Q. You were there when Mrs. Simonton was married?

A. I was there when she got married.

Q. And you saw Adis there? A. Yes, Adis was there.

Q. And Adis didn't show at that time, any pregnancy?

A. No.

Q. Going back now, to the time that Adis was married, all you know about her being married, is that you heard she was?

A. That is all I know about it.

Q. You heard she was married very soon after she was supposed to have gotten married, did you?

A. I heard she was married, is all I know.

Q. You heard about the time?

A. I heard about the time but I don't know—I didn't see it.

Q. But you heard it right after it was supposed to have occurred? A. Yes, sir.

Q. At that time, your aunt Susan was at your father's?

A. Yes, sir, after my grand mother got down sick she came there.

Q. I mean at the time you heard Adis was married, was Susan at your grandfather's place?

A. Yes, sir, she was there.

Q. About how long after that was it before your mother got down sick? A. I can't tell you.

Q. Three or four years?

A. I was just telling you what I know—I don't know.

Q. You know about the length of time, don't you?

A. Well, I ain't going to say because I don't know, and I am here to tell the truth and that is all I am going to tell.

Q. When did you see your aunt Susan at your grandfather's place, now, before Adist's marriage?

A. No, she never was there before.

Q. Never was there before?

A. She might have been there on a visit but I never seen her.

Q. She never was at your grandfather's place all this time? A. No, sir, I never saw her.

Q. Until after your grandmother got down?
A. If she was, I didn't see her.

Q. If Henry was born in 1879, and from 1879 up until Adist got married, you never saw your aunt Susan about your grandfather's place? A. No, I never saw her there.

Q. And then after Adist was married, she stayed a while and left, did she?

A. I can't tell you that either; I heard she went away—I don't know.

Q. You afterwards saw her back again when your mother got sick? A. No, I ain't seen her there. When I went on a visit, she was gone away, in a house to herself.

Q. When your grandmother was sick, did you see Susan about the place? A. Yes, she was there about all the time.

Q. There all the time in the sickness of your grandmother? A. Yes, and my grandfather, he was there.

Q. After she came, she continued to live on the home place? A. Yes, sir, and she is there yet.

Q. Thomas was there, too?

A. Thomas, too, has always been there; he has never been away from home.

Redirect Examination by Mr. German.

Q. You say he has never moved away from home?

A. No, sir, when aunt Susie got married, he went away a couple of weeks down to Lawrence and that is all the time he has been off the place.

Q. You mean he is living there now? A. Yes, sir.
Q. That is his home, now, is it? A. Yes, sir.

Recross Examination by Mr. Hanford.

Q. How old are you now? A. I am 50.
Q. How old were you when you were married?
A. When I was married I was 17 years old.

Redirect Examination by Mr. German.

Q. The Thomas that you referred to, is that your uncle?
A. Sir?
Q. Is the Thomas that you referred to, your uncle?
A. Yes, sir.
Q. Your mother's brother? A. Yes, sir.
Q. Was he older, or younger, than your mother?
A. He is younger than my mother.
Q. Is he older or younger than your aunt Susan?
A. He is older than aunt Susie.
Q. You say you married in 1882? A. Yes, sir.

Q. Have you ever—has the man you married, then, still living?

A. He has been dead seven years the 22nd day of January.

Q. And you say the time of your marriage was the spring following the removal of your parents over on to——

A. I say they moved that fall before.

Q. Moved to Stranger Creek the fall before?

A. Yes, sir, and I married in the spring—March—following—the 3rd day of March.

Q. What county were you married in?

A. Married right here in Leavenworth; up there in the courthouse.

Q. Courthouse? What was your husband's name?

A. George Green.

Q. Have you any Indian blood in you?

A. That is more than I know; I can't tell you. I have heard my grandma say there was a little bit but as far as I know, I don't know nothing about it.

Mr. Blakeney: I move to strike out what her grandmother said, as incompetent and hearsay.

Q. At the time of the birth of H and Viola, was your aunt Adis married? A. No, sir.

Q. She was single at that time? A. Yes, sir.

Q. About how far is it from Leavenworth to where your grand-father lives? A. They call it 20 miles.

Mr. German: I wish you would mark this Government's Exhibit—whatever it is (Exhibit 19)—that is a part of direct. I didn't have this at that time and I want to make it further direct.

Q. I show you what has been marked as Government's Exhibit No. 19 and ask you to look at that and tell whether or not you recognize anybody in that picture?

A. There is H, right there.

Q. Which one of the children there is H?

A. Right there—the boy; they call him Henry.

Q. Is H in the front, back, or middle row?

A. There is H, right there.

Q. Is H in the front, middle, or back row?

A. He is standing in the back row, between them two people there.

Q. In the middle, or at one end?

A. Here it is, right here.

Q. Tell it so that man can write it down. Middle or one end?

A. Not exactly in the middle, or at the end—two on one side and three on the other side—I don't know, but he is standing behind.

Q. Where is he standing with reference to that girl in the back row? A. Right side of her.

Q. Did you ever see this picture before? A. No, sir.

Recross Examination by Mr. Blakeney.

Q. Do you know any of the other persons in that picture?

A. I never looked at them good?

Q. When did you first see it? A. Which, this picture?

Q. Yes. A. Just now.

Q. Examine it and see if you recognize any of the other persons in that.

A. Ain't that Adis, and all her family? It certainly favors her down there. That looks like Viola, and I know that is H. Isn't that Adis Wright and all the Wright family—I think so.

Q. Which one, now, is Viola?

A. That one standing up there by H, in the corner.

Q. Which one do you say is Viola?

A. I say this one up here is Viola.

Mr. German: Standing by the side of H?

Q. Standing to our right? A. Yes, sir.

Q. And to H's left?

A. Yes, sir, and that is the mother and all the children.

Q. This, you say, is Viola? A. I think so.

Q. The top row, the first one at our right? A. Yes, sir.

Q. The next one, you say is Henry? A. That is Henry.

Q. The rest of them you say are members of the——

A. Of the Wright family.

Q. The Wright family? A. Yes, sir.

Q. This you say is Adith? A. Yes, sir.

Q. Your Aunt Adith is it? A. Yes, sir.

Q. And these are—— A. The little children.

Q. Four little ones on the bottom row and four on the upper row, not counting those that seem to be cut in two?

A. Yes, sir, there is H. right there himself.

Q. Who is this one?

A. I don't know nothing about him unless it is John Wright. It kind of favors him, her husband.

Q. And you think that man there in the middle there is John Wright?

A. It favors him, looks like him. I wouldn't say for sure, it looks like him.

Q. You can't tell about these three that seem to be cut off on our left? A. No, sir.

By Mr. German: We offer that Exhibit 19 in evidence.

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, not properly identified. We particularly object to any part of the picture, except the picture of Henry.

By Mr. German: At this time, we agree to the objection except so far as it relates to Henry.

(Witness dismissed.)

Mr. German: We offer the deposition of Jessie A. Hall, taken before Mr. Penick and appearing in his transcript at page 802.

And thereupon JESSE A. HALL being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Jesse A. Hall.
Q. Where do you live, Mr. Hall? A. Leavenworth.
Q. What age are you? A. 39.
Q. What is your occupation? A. Lawyer.
Q. How long have you been practicing law?
A. About six years.
Q. Did you ever teach school? A. Yes, sir.
Q. In Leavenworth County? A. Yes, sir.
Q. Where? A. Oh, various places.
Q. Did you ever in School District No. 53? A. Yes, sir.

Q. Where is that located with reference to the town of Leavenworth—the City of Leavenworth?

A. Directly west; west boundary line is in Jefferson County.

Q. Is it known as the Brown School House? A. Yes, sir.

Q. When did you teach school there?

A. I taught two terms there; the first beginning in September, 1894, and ending in the spring of 1895, and the second beginning with September, 1896, and ending in the spring of 1897.

Q. You state that you begun in the fall of 1893—you mean '94? A. I didn't say '93—'94.

Q. I misunderstood you. Did you know a family residing in that school district by the name of Carter?

A. I knew two children that attended school by the name of Carter.

Q. What were their given names?

A. The boy's name was H; the girl's name was Viola.

Q. Did Viola have any other given name, or was she ever called by any other given name also? A. Not that I know of.

Q. Do you remember her to have been called Pink?

A. Not to my recollection.

Q. What the nationality of these children?

A. Well, it was generally understood——

> Mr. Blakeney: We object to the answer as incompetent, stating an improper conclusion.

A. It was generally understood and represented to me that they were colored and Indian mixed. That was my understanding of their nationality.

> Mr. Blakeney: We move to strike the answer as incompetent, irrelevant, and immaterial.

Q. How did they look as to nationality?

A. Well, the boy looked very much as though he must have had—must have considerable Indian blood in him—that is my recollection.

Q. Did he look as though he had any negro blood?

A. Yes, some, probably.

Q. How did the girl look as to nationality?

> Mr. Blakeney: We object to the competency of the witness; he has not shown that he is able to determine blood by looking at the face or features.

A. Well, the girl appeared to me like she was more of a mulatto.

Q. Were there any other colored children in the school besides those two? A. Those were the only ones.

Q. All the rest were white? A. Yes, sir.

Q. Do you know about what age H was—or Henry Carter? What was he known as, H or Henry?

A. H. I never knew him by any other name.

Q. What family did H—what was the name of the head of the family where these children resides?

A. I am not certain as to that; I think he told me he stayed with his grand-parents, or some relatives—Wright—or by some such name—I don't remember just exactly what the name was.

Q. Where was this school located with reference to the town of McLouth? A. North and east.

Q. North and east—about how far?

A. About five or six miles.

Q. You spoke of Wright—did you hear of the family known as the Carter family—the old man being Henry Carter?

A. I believe I did but I don't remember much about it. It was so long ago, I can't say as to that.

Q. Do you remember the two children well?

A. Yes, sir, quite well.

Q. Did you have any trouble with H as a pupil?

A. Oh, I used to strike him quite a good deal with the stick.

Q. Bad boy?

A. Oh, he would get a little bit mischievous but we always quit the very best of friends.

Q. You were quite young then yourself? A. Yes, sir.

Q. About how much older were you than H?

Mr. Blakeney: We object as asking for a conclusion and an improper question. It hasn't been shown as to the age of either.

Mr. German: He had shown the age of this witness.

Mr. Blakeney: We object to the competency of the witness. The question is incompetent, irrelevant, and immaterial, and asking for a conclusion.

Q. Go ahead and answer, Mr. Hall.

A. Well, I can't say as to that. H never knew his age exactly.

Q. Did he give you his age? A. Yes, sir.

Q. Did you make any record of that?

A. Oh, I always made a record of ages; made the report to the district clerk.

Q. In writing? A. Yes, sir.

Q. Were those reports made on printed forms?

A. Yes, sir.

Q. I show you Government's Exhibit No. 21, and ask you to examine it and state what it is?

A. That is the teacher's report to the district clerk.

Q. School district? A. No. 53.

Q. The clerk of that district? A. Yes, sir.

Q. Whose report is that?

A. That is my report for the year 1894 and '05—school year 1894 and '05.

Q. Whose writing—who made the figures and writing there on that report in ink? A. That is mine.

Q. Did you sign it? A. That is my signature.

Q. That is your signature at the conclusion of the report? A. Yes, sir.

Q. When did you make that up, Mr. Hall?

A. At the end of the term.

Q. School term? A. Yes, sir.

Q. Now, can you state what age H Carter was at that time?

Mr. Blakeney: Now you mean to state from this report?

Mr. German: No, I am asking him to state if he can.

Mr. Blakeney: The witness was obviously incompetent unless he was at the birth of the boy.

Q. I will change the question. What did he say his age was at that time?

A. I don't remember exactly; I know he always stated he didn't know his exact age.

Q. Did you make a record on that report of the age H gave you? A. Yes, sir.

Q. Can you by reference to the report, refresh your memory as to what he said? A. Yes, sir.

Mr. Blakeney: Well, we object now, to the form of the question and move to strike the answer as incompetent, irrelevant, and immaterial.

Q. What did he tell you at that time that his age was?

Mr. Blakeney: We object and insist that the witness be required to state what Henry said about his age, and not—and counsel's question is leading and suggestive.

A. This report says that his age was 14.

Q. Well, what did he say to you with reference to what his age was?

Mr. Blakeney: We move to strike out this last answer as not responsive, incompetent, irrelevant, and immaterial.

A. He must have given his age in as 14—the report has it as 14.

Mr. Blakeney: I move to strike out the answer as incompetent, irrelevant, and immaterial.

Q. Did you recall that age as given to you by him?
A. Yes, sir, as near as I can remember.
Q. And that report is one of the records that you made?
A. Yes, sir.
Q. On that subject? A. Yes, sir.
Q. Did you have Viola as a pupil? A. Yes, sir.
Q. Did you get her age? A. Yes, sir.
Q. From whom? A. From her.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

Q. Did you make a record of that as given to you by her? A. Yes, sir.

Q. Does that record appear in this report? A. Yes, sir.

Q. Can you by reference to the report, refresh your memory as to what she told her age was? A. Yes, sir.

Q. What was it? A. 12 years old.

Q. At that time? A. Yes, sir.

Mr. German: We offer Exhibit No. 21 in evidence.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and prior to the reception in evidence, we want to examine the witness, but I am willing to make my examination as to this matter a part of my cross examination, and not interrupt you now.

Mr. German: Well, I am about through.

Q. Mr. Hall, I show you Government's Exhibit No. 22, and will ask you to examine that and state what it is.

A. That is a teacher's report to the District Clerk.

Q. For what year? A. For the shool year 1896 and '97.

Q. Whose report is that? A. That is mine.

Q. Whose writing is that—the figures and writing that appear in ink? A. Mine.

Q. Did you sign that? A. Yes, sir.

Q. That is your signature at the conclusion? A. Yes, sir.

Q. Did you give the ages that H. and Viola that appear? A. Yes, sir.

Q. From them? A. Yes, sir.

Q. And did you record those ages, Mr. Hall? A. Yes, sir.

Q. Is that report one of the records that you made of those ages? A. Yes, sir.

Q. Can you by reference to that report, refresh your memory as to what they told you as to their ages that year?

A. Well, I can tell what ages were put down there as given by them.

Mr. Blakeney: The question is, can you refresh your memory so that you remember independent of it, after you have examined it?

A. Well, I don't know that I could exactly do that; I could only rely on what the report says there.

Q. Did you correctly record the age as given by them? A. Yes, sir.

Q. What age did H. give you for that year?

Mr. Blakeney: We object as leading, suggestive, irrelevant, incompetent and immaterial, and we object to as his answer.

A. 16.

Q. What age did Viola give you for that year? A. 14.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and we object for the same reasons stated, and if the answer was incorporated ahead of my objection, I move to strike it for those reasons given.

Q. What time of the year, Mr. Hall—school year—would you ascertain the ages of your pupils?

A. Well, I think, as near as I can remember, these ages were taken in the spring.

Q. In the spring?

A. Yes, sir. The ages were taken in the fall but, if I remember right, when the report was due in the spring, we took the ages as they appeared in the spring—that is my recollection of the report.

Q. Why did you make those reports?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

A. The law requires them.

Mr. Blakeney: I move to strike out the answer as not the best evidence.

Q. Were you acquainted with the laws of Kansas on that subject at that time? A. Yes, sir.

Q. Was that law contained in the compiled laws of the state?

Mr. Blakeney: We object to the competency of the witness.

Q. At that time?

A. I don't know whether that was on the General Statutes or the Sessions laws, I can't say as to that, but it was the law.

Mr. Blakeney: We move to strike out the witness' answer that it was the law; he is not competent—he was not a lawyer at the time—and it is not the best evidence.

Mr. German: I now offer in evidence Government's Exhibit No. 22.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and not the best evidence, and we want further to object to it being received at all until our examination of the witness regarding it which we think will show it is incompetent fully.

Mr. German: I wish you would please mark this picture as Government's Exhibit No. 23.

Q. Mr. Hall, what did you do with these reports which are Exhibits Nos. 21 and 22, that you have testified about—what did you do with them when you made them out?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

Q. Who would you turn them over to?

Mr. Blakeney: We object to the last part as leading.

Q. If any one? A. To the clerk of the District.

Q. Do you now recall who that was at that time?

A. No, sir, I don't remember the clerk.

Q. I will ask you to refresh your memory whether or not it was Mr. Stigleman?

A. Mr. Stigleman was a member of the Board; I don't remember whether he was clerk, treasurer, or director.

Q. Do you know a W. B. Moore?

A. Yes, sir, he was a member of the Board.

Q. Did you know Mr. Robert Lee?

A. Yes, sir, he was a member of the Board.

Q. What was the name of the Post Office out there?

A. Ackerland.

Q. Do you know C. J. Post, of Ackerland? A. Yes, sir.

Q. Was he living there at that time? A. Yes, sir.

Q. Do you remember whether he was on the Board?

A. No, sir, he was not.

Q. At that time? A. No, sir.

Q. I show you Government's Exhibit No. 23, which is a photograph, and will ask you if you know anything about that picture?

A. Yes, sir, that was a picture of the school.

Q. When you taught? A. Yes, sir.

Q. Are you in that picture? A. Yes, sir.

Q. Where are you in the picture?

A. In the center part.

Q. The man who appears to have on a collar and tie—who looks white in that picture? A. Yes, sir.

Q. In fact, you are the only man in the picture, aren't you? A. No, I am afraid not.

Q. You are afraid some of those boys look like men?

A. There are some older than I am there; you can't probably tell that but I remember it.

Q. Is H. Carter in that picture? A. Yes, sir.

Q. Which one is he? A. This one is H.

Q. Where is he with relation to you?

A. To the back row, and to the right—the first one to the right in the back row.

Q. That is to your right as you are sitting now?

A. To my right, as I am looking now—to my left in the picture, I presume, but as I view it, to my right.

Q. In the back row, in that picture, there appear to be four boys on one side and three girls on the other; which one of the four boys do you refer to?

A. The third boy from the end.

A. I think not; she was in school but probably was absent the day of the picture. I don't see her picture there.

Q. Where was that picture taken?

A. Taken at the school house.

Q. Do you recall when? A. No, sir.

Q. It was while you were teaching? A. Yes, sir.

Q. Where has it been since then—that particular photograph? A. I have had it in my possession.

Mr. German: We offer Government's Exhibit No. 23 in evidence.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and we specially object to any portion of the picture except the picture of Henry Carter and the teacher.

Q. How did your age and H. Carter's age compare?

Mr. Blakeney: We object as asking for a conclusion; incompetent, irrelevant and immaterial.

A. I can't say except what the record here shows.

Cross Examination by Mr. Blakeney.

Q. Mr. Hall, you taught during the winter, or fall, of 1894 and 1895, first? A. Yes, sir.

Q. And then you taught in 1895 and 1896 and '97?

A. Yes, sir.

Q. I mean to ask you if you taught the second term in 1896 and '97? A. Yes, sir.

Q. You commenced teaching in September in each of the terms? A. Yes, sir.

Q. And quit in February? A. No, about April.

Q. About April?

A. Yes, sir, as near as I can remember—the report will show.

Q. During the school term you obtained information as to the ages of the different students attending? A. Yes, sir.

Q. And at the end of the term, or close to the end of the term, you made your report? A. Yes, sir.

Q. This report that has been marked as Government's Exhibit No. 21, being—or purporting to be—for the term commencing October 1st, 1894 and ending the 19th of April, 1895, you made about the month of April 1895? A. Yes, sir.

Q. You have no distinct recollection of what Carter—H. Carter—told you his age—except that he said he didn't know very definitely what his age was?

A. Didn't know definitely about that somewhere, and I suppose I put it down.

Q. You remember him saying about that, or do you just assume that by finding it in your report? In other words, I want to separate your exact recollection from your conclusion from an examination of the report.

A. I don't remember about that. I remember his stating that he didn't know his age exactly.

Q. You don't know whether he followed that by giving this age, or after discussing the matter with him, you reached his age by conclusion as to the age put down?

A. I don't remember, it is so long ago.

Q. Don't remember? A. No, sir.

Q. But you did take any information that you got to find out the correct ages? A. Yes, sir.

Q. And you say now whether you got that information directly and wholly from the pupil or not?

A. I think that was the custom that we took the ages from the pupil when they were old enough to give them, and when they were not old enough to give their ages, we took it from the older brother or sister, or someone who knew them. These two pupils in question were old enough to know [] state their own age.

Q. I believe you stated they didn't know their own ages?

A. H, in particular; I don't remember what Viola said, but I know H in particular said that.

Q. Now, in making out your report the next year, you would have used any information you acquired the previous years? A. Very likely, yes, sir.

Q. You can't say positively that you made any inquiry about any particular person's age that year if you had information from other sources, or if you recollected the age previously given you?

A. Well, I can't say as to that whether I put it down from recollection from previous years, or from their statement; I presume it was from their statement.

Q. Where did you originally put down the ages—did you have a book you would keep? A. Yes, sir.

Q. You had what is known as a teacher's attendance book? A. Yes, sir.

Q. And you would put down the matters in that book?

A. Yes, sir.

Q. Now, in 1896 when you commenced teaching school, at that school house the second time, you still had the book that you had used in 1894 in that same District, did you?

A. I don't remember whether the book was used up or not; it might have been a new book.

Q. It might have been a new book, or might been the same book, so far as your recollection is concerned?

A. Yes, sir, so far as I can remember—I can't say.

Q. And if you had the same book, it would have shown the ages that you put down? A. Yes, sir.

Q. But you could have gotten it from the book without consulting the pupil? A. Yes, sir.

Q. And it is probable that you would have gotten it in that form, isn't it?

A. No, if I remember right, we—I took the ages as they entered school. If they were there the first day, I took the ages from them.

Q. Now, you have no recollection, I believe you have said, as to what Henry Carter said about his age—that is about how old he was, and the figures that he gave you, independent of your report?

A. No, he didn't seem to know. I don't know how that got there, except he might have mentioned about that, or something like that.

Q. When you made these reports, then, that have been marked Government's Exhibit Nos. 21 and 22, you made it from your teacher's book, or this book that you had your record in? A. Yes, sir.

> Mr. Blakeney: We now renew our objection to this examination, and to the introduction of Exhibit No. 21, and also renew our objection to Exhibit No. 22, for the reason that same is incompetent, irrelevant, and immaterial, and not properly identified, and not the best evidence.

Q. I call your attention to the picture marked Exhibit No. 23; that was a picture taken at that school when you taught? A. Yes, sir.

Q. Do you remember when it was taken? I don't mean the date, but I mean, the first part of your term, or the last part of which term?

A. I can't say; I think sometime during the first term which was 1894 and '95—I don't remember whether it was the fall or the spring.

Q. Do you remember what Henry Carter was studying in your school? A. I do not; the report there will show it.

Q. You have no recollection yourself as to what studies he was taking?

A. Well, yes—I think that I could name a few but as to—

Q. Mr. Hall, because you are a lawyer, you can help me in this matter; I don't want your deductions and conclusions that we sometimes draw, but I want your recollection of the identical fact. Have you recollection with a book, or of his studying a particular book—have you that independent recollection? A. No, sir, I can't say.

Mr. Blakeney: I want to make this inquiry in case it is determined the report is admissible.

Q. What does the letter X indicate after the names?

A. May I see the report a minute?

Q. Yes, if you will remember. Does the letter indicate studies they didn't take, does it?

A. Indicates the studies they took.

Q. They took? A. Yes, sir.

Q. I ask you to examine it a little *more closer;* I notice you have got a cross on everything that was taught there, or one way or another.

A. Of course, some of those crosses are duplicates, if I remember right; I can't remember now just exactly what those are myself.

Q. You don't recall? A. No, sir, not exactly.

Cross Examination by Mr. Hanford.

Q. Mr. Hall, did you ever have any reason to doubt the ages as given you, or the age given you by the boy H?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and seeking for a conclusion.

A. Well, he never really knew his age.

Q. What was his appearance? Did he appear to be about that old?

A. No, I should say that he appeared to be a little younger.

Q. How much? A. Probably a year or so.

Q. As much as four or five years? A. No, sir.

Q. Then when you noted his age as 14, he didn't appear to be a boy 9 or 10? A. No, sir.

Q. How was he as to intelligence? Did he appear to have the intelligence of a boy of that age, or of a boy of 9 or 10?

A. Well, if I remember right—the subject that he was pursuing——

Q. I don't mean in his studies; I mean in his activities.

A. Well, I wouldn't say 9 or 10, but a year or so more than that—less than 14.

Redirect Examination by Mr. German.

Q. Which was the older—H or Viola? A. H.

Q. You got Viola's age from her?

A. Yes, sir. Two years difference, I remember that, without any record whatever.

Q. You have an independent recollection of that?

A. Yes, sir; distinctly.

Q. Viola knew her age?

A. They both gave their ages to me and I just remember that there were two years difference in their ages.

Q. You say Viola appeared her age?

A. As far as I know, I suppose she did.

Recross Examination by Mr. Hanford.

Q. Mr. Hall, in Government's Exhibit No. 21, which is your report you have identified, I notice that Chester Lee is a pupil whose age is reported as 9 years, can you point out that boy on Exhibit No. 23?

Mr. Blakeney: I want to object to any of this examination of counsel. I asked and insisted that all counsel used in this witness in chief against me make the examination before I cross examined, and Mr. Hanford stated that he had none.

Mr. Hanford: This is redirect examination.

Mr. Blakeney: Not redirect, as I never referred to the picture at all in there, except as to the time it was taken, and I object to the question for the further reason that it is incompetent, irrelevant, and immaterial, and not proper redirect.

Q. On Government's Exhibit No. 23, can you point out and state the position of Chester Lee?

Mr. Blakeney: We object for the same reason in our last objection.

A. Yes, sir.

Q. Where does he appear? A. Over on the corner.

Mr. Blakeney: We object for the same reason now.

Q. On the left-hand corner? A. I think——

Q. Of the picture?

A. Yes, sir, in the second row—on the second row.

Mr. Blakeney: We object for the same reason. We object to both questions, now.

Q. The large boy at the extreme left-hand edge of the picture who stands just behind Chester Lee——

Mr. Blakeney: We object for the reasons assigned in the last objection.

A. Yes, sir.

Q. That is your left-hand of the picture that you referred to and next to the stenographer's mark of identification, is that right?

Mr. Blakeney: We object for the same reason and for the additional reason that it is leading and suggestive.

Q. Is that right? A. Yes, sir.

Mr. Blakeney: We object to that question and answer to that question for the same reason.

Recross Examination by Mr. Blakeney.

Q. Mr. Hall, these boys and girls there, standing on the back row of this picture, Exhibit No. 23, are standing on the steps, or some elevation, aren't they? A. Yes, sir.

Witness dismissed.

Mr. German: We offer the deposition of Mrs. Elmer Jones, taken before Mr. Penick, appearing in his transcript beginning at page 921.

And thereupon, MRS. ELMER JONES, being called on behalf of the United States, and being first duly affirmed, testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name?
A. Mrs. Elmer Jones, my husband's name.
Q. Mrs. Jones, where do you live?
A. About three fourth's miles southeast of McLouth.
Q. What is your postoffice? A. McLouth.
Q. Did you ever teach school at the Brown School House?
A. Yes, sir.
Q. When did you teach at that place?
A. The winters of ninety-two and ninety-three, and ninety-three and ninety-four.
Q. During all of that time, during any of that time, did Henry Carter and Viola Carter attend that school?
A. Yes, sir, H. Carter.
Q. H. Carter? A. Yes, the way his name was given.
Q. Did they commence going to school at the first term?

A. Yes, sir.

Q. What time during the term did they commence going to school? A. The first of the term.

Q. Do you remember the appearance of those two children at that time? A. Exactly.

Q. Were they colored or white?

A. Well, they were not entirely white, I shouldn't judge, that is the white race.

Q. Did they associate with the white race?

A. They did at school.

Q. Were there any other colored children there?

A. Yes, sir.

Q. How many? A. One I believe.

Q. What relation did this H. Carter and Viola Carter bear to each other?

By Mr. Blakeney: We object to the competency of the witness, asking for a conclusion, incompetent, irrelevant and immaterial.

A. I was under the impression that they were brother and sister.

By Mr. Blakeney: I move to strike the answer as not a statement of facts.

Q. State whether or not they would come to school together or go away together? A. They did.

Q. Both they would come and go together?

A. I think so.

Q. Do you know where they lived?

A. Do you mean at the present time?

Q. No, at that time?

A. I won't say for sure just where they were living then.

Q. To refresh your memory, do you remember whether or not they were living at old man Henry Carter's?

By Mr. Blakeney: I object to that as leading.

A. Yes, I think so.

Q. At the time that you commenced teaching that school, about what size was H. Carter?

A. Well, he was a right good sized boy.

Q. What about the girl?

A. Well, they were some size—that is he was tall and slender and she was rather heavy set.

Q. Do you know whether or not they had been going to school previous to the time—prior to the time that you taught there? A. No, sir, I do not know.

Q. Do you remember how far advanced they were in their studies?

A. He was in the Fourth Reader, and I don't remember about Viola.

Q. Was he taking other studies?

A. Yes, sir, the other studies that came in the regular course.

Q. At the time you commenced teaching that school about how old was Henry Carter if you know—H. Carter?

> By Mr. Blakeney: We object to the form of the questions, the witness has not been properly qualified, and as irrelevant, incompetent, and immaterial.

A. As well as I can remember, it seems to me that he gave his age as eleven, or somewhere near that, it might have been a little less or a little more, I can't say positively.

Q. What about the girl?

A. She gave her name as younger—her age as younger.

Q. How much?

A. Well, I think it was somewhere near two years.

> By Mr. Blakeney: I move to strike the answer as not a statement of facts.

Q. How old did he appear to be—did H. Carter appear to be at that time, if you remember?

> By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and calling for a conclusion.

A. Well, that is rather a hard question.

Q. You could only, of course, estimate your knowledge—from your knowledge of other children and their ages.

A. So far as I could judge, I wouldn't question it at the time but what their ages were given correctly.

Cross Examination by Mr. Blakeney.

Q. Did you make a report? A. Yes, sir.

Q. Have you any distinct recollection at this time just what H. Carter said to you about his age? A. No, sir.

Q. When did you have your attention first called to this matter? A. Do you mean——

Q. To this testimony that you are testifying?

A. Do you mean to this case, or that I should be called as a witness?

Q. Yes, that you probably would be called as a witness, when did you first get that information?

A. Last night about half past two, that was the first I thought about it.

Q. Had you been talked to by anybody recently in the matter? A. Nothing in particular, no, sir.

Q. Well, had anybody pretending to be lawyers or officers called on you or talked to you about the matter?
A. No, sir.

Q. You never had been visited or been asked if you remembered about Henry Carter until you came on the stand and came here to testify? A. No, sir.

Q. Never had? A. No, sir.

Q. This is the first time that you have ever had your memory called to it? A. By anyone.

Q. That is what I mean, by anyone? A. Yes, sir.

Q. You had been thinking about it yourself had you?
A. No, sir, I had read some of the case but——

Q. What?

A. I had read some of the case occasionally.

Q. You had read and knew this case was pending in Court, you knew that? A. Yes, sir.

Q. But you hadn't had your mind called to the fact that these pupils had attended your school and so forth?
A. No, sir.

Q. And you just testified as you recalled when questioned today? A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. You don't know now anything about the issues in this case, do you?

By Mr. Blakeney: We object as immaterial.

A. Why, I don't know very much about it.

Q. You don't know whether—what figure in other words, the age of Henry Carter cuts in this case?

By Mr. Blakeney: We object as immaterial.

A. I understand that they are trying to prove a certain age.

Q. Do you know what that age is that they are trying to prove?

A. Well, I have heard some talking today and I have understood that it was a certain age.

Cross Examination by Mr. Blakeney.

Q. You never talked to anybody reporting to represent Henry Carter in the matter at all, have you? A. No, sir.

Q. This is the first time you ever saw any of us, was when you came in here to testify?
A. When I came here today.

Q. Well, when you came in the building to testify was the first time you had ever seen anybody representing Henry

Carter and then you didn't know who they represented, did you?

A. Well, we met a gentleman out here on the street this morning, but I talked very little to him myself, he talked to a gentleman in the crowd.

Q. It wasn't me, it wasn't I? A. No, sir.

Redirect Examination by Mr. Allen.

Q. Who was it? A. I can't tell you his name.

Q. Was he a white man? A. Yes, sir.

Q. You never talked to the Government about the case until you came up here to testify did you? A. No, sir.

Q. To anybody representing the Government?

A. No, sir.

Witness dismissed

Mr. German: We offer the deposition of Joseph L. Kelsey, taken before Mr. Penick, appearing in his transcript beginning at page 869.

And thereupon JOSEPH L. KELSEY being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name?

A. My name is Joseph L. Kelsey.

Q. Where do you live, Mr. Kelsey?

A. Leavenworth, Kansas.

Q. What age are you? A. 38.

Q. What is your business? A. Traveling salesman.

Q. What are you selling?

A. The McCaskey Accounting System; the name of the Company is the McCaskey Cash Register Co.

Q. How long have you been traveling as a salesman?

A. For these people, since May.

Q. Of this last year? A. Yes, May of last year.

Q. Did you ever teach school? A. Yes, sir.

Q. How long? A. Altogether 8 years.

Q. Did you ever teach in Ackerland, in Leavenworth, Kansas school district No. 53? A. Yes, sir.

Q. What is the name—by what name does that school go? A. Then, it went by the name of Brown School.

Q. What term did you teach there?

A. Well, the year of 1895 and 1896.

Q. Did you teach more than one term?
A. No, one at that place.
Q. Did you have as a pupil there, a boy by the name of H. Carter? A. Yes, sir.
Q. Did he have a sister in school? A. Yes, sir.

My Blakeney: We object as a conclusion whether or not it was a sister, and to the competency of the witness, and we ask that the objection be interposed before the answer.

Mr. German: I will withdraw that question.

Q. Was there any other child in that school by the name of Carter? A. Not to my recollection.
Q. Well, other than H?
A. Well, there was a girl, Viola Carter; I thought you meant in addition to the two.
Q. What was their color?
A. Well, they are considered negroes.

Mr. Blakeney: I move to strike out the answer as not responsive, and states a conclusion.

Q. What appearance did they have as to being white or colored? A. They had the appearance of being colored.
Q. Did you have any other colored children in school there? A. No, sir.
Q. About what age did H say he was when you taught that session——

Mr. Blakeney: We object to the competency of the witness.

A. The report of the term——

Mr. Blakeney: We object to what the report shows.

Q. I want to get your recollection.
A. Well, my recollection is, he was a boy about 15 or 16 years of age.
Q. About what age was Viola? A. Well, she was younger.
Q. About how much younger?
A. Well, about as much as two years younger—something like that.
Q. Do you know whose family these two children lived in? A. No, I do not.
Q. Did you know old man Henry Carter out there?
A. No, sir.
Q. Do you know where C. J. Post lives, or lived at that time?
A. Well, he lived in the district, but just where he lived, I don't know. He was in the district.

Q. Who were the members of the school Board?
A. Robert Lee, and William Moore, and Mark Stigleman.
Q. Do you recall who was the Clerk of the District?
A. Stigleman was the Clerk.

Q. At the conclusion of the session, or the term that you taught there, did you make up a report to the District Clerk of the record of pupils in attendance, and list of the pupils who attended your school? A. Yes, sir.

Q. I show you Government's Exhibit No. 30, and will ask you to examine it and state whether you have ever seen that before? A. Yes, sir, that is the one I prepared myself.

Q. When, approximately, did you prepare that?
A. At the close of the term. I don't know whether there is a filing date on here, or not; the law requires a report of this character to be made at the close of the term.

Q. Then, you made that report in the spring of what year?
A. 1896.
Q. Is that report in your handwriting? A. Yes.
Q. Is that your signature at the conclusion of it?
A. Yes, sir.

Q. Do you know what you did with the report after you prepared it? A. Filed it with the clerk of the District.

Q. Mr. Kelsey, that purports to show the name and age of H. Carter; where did you get the information that you placed in the column as his age?

Mr. Blakeney: We object as immaterial.

A. Well, the custom was to get it from the pupils themselves and I know of no reason why I should have varied in this case.

Q. You have no independent recollection of that fact?
A. No, no independent recollection of that because—but that is the way that we got our information.

Mr. Blakeney: We move to strike out the answer as stating a conclusion, and as incompetent, irrelevant, and immaterial.

Q. The ages as indicated opposite the names of the pupil given in that report, are they the ages obtained in the manner you stated?

Mr. Blakeney: We object to that as leading, incompetent, irrelevant, and immaterial.

Mr. German: I will withdraw the question.

Q. Did you make any record of the ages that were given to you by the pupils? A. At the time they gave them to me?
Q. Yes, sir? A. I did, yes, sir.

Q. From what did you gather from the information as to the age that you have put in this report?

> Mr. Blakeney: We object as incompetent, and immaterial.

A. Why, we kept a daily record; a book in which we recorded from day to day, the attendance and various other information regarding the work of the school, and from that book we made up this report. The book was also filed with the clerk.

Q. What time of the year would you get the age from the pupil? A. At the beginning of the term.

Q. State whether or not this report shows the ages of the children as given to you by the children.

> Mr. Blakeney: We object as asking for a conclusion, and incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. And that is true of H. Carter?

A. That would be true of all of them, yes, sir.

Q. Was Viola large for her age, or small for her age, or about the right size for her age as given by her?

> Mr. Blakeney: We object as leading, and incompetent, irrelevant, and immaterial; asking for a conclusion, and assuming facts that are not proven.

A. My recollection is that she was large for a girl of her age as given there.

Q. Where is the book that you speak of in which you kept a record of these various things?

A. I don't know where it is, but at the close of the term, we filed it with the Clerk.

Cross Examination by Mr. Blakeney.

Q. Mr. Kelsey, have you any distinct recollection of the ages of your pupils that attended at that time, except as you have refreshed it from the examination of your report?

A. Well, the report shows the ages as we had them recorded, and then my general recollection of the size of the pupils at that time——

Q. Independent of the report, could you give approximately the ages of your pupils there?

A. Well, from my recollection, the ages given there would be just about right.

Q. I am not talking about these two but any of the others? A. Yes, sir, any of the others.

Q. Did you have a pupil who attended by the name of Alva Carr?

A. Well, there are a few there, now, I may be a little hazy on. That Carr family didn't come there very long. My recollection about Alva Carr—she was about the age of Henry Carter.

Q. That would be your recollection? A. Yes, sir.

Q. Do you remember a boy by the name of Perry Blackford?

A. Yes, because I boarded at his house. He was a boy about 14 at the time.

Q. Do you remember a pupil named Rasby Graves?

A. Yes, he was a boy at least of 18 years of age; about the oldest child there.

Q. Do you remember a boy named Robert Lee?

A. Yes, sir.

Q. About his age?

A. Robert Lee was not as old as he was.

Q. About how old is your recollection, I mean now——

A. Robert was about 16 or 17.

Q. What do the marks indicate in these columns?

A. The studies they pursued.

Q. Studies they pursued? A. Yes.

Witness dismissed.

Mr. German: We offer the deposition of C. J. Post, taken before Mr. Penick as Examiner, appearing in his transcript beginning at page 912.

And thereupon, C. J. POST, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. C. J. Post.

Q. What age are you?

A. I am sixty years old past just a month or two.

Q. Where do you live?

A. Between Springdale and McLouth.

Q. What is your postoffice? A. Ackerman.

Q. How far do you live from the City of Leavenworth?

A. About eighteen miles.

Q. Do you live in Jefferson County? A. No, sir.

Q. I mean in Leavenworth County? A. Yes, sir.

Q. How long have you lived where you now live?

A. I have lived there since 1865.

Q. Do you know a family by the name of H. Carter—I mean of Carter? A. Yes, sir.

Q. Colored people? A. Yes, sir.
Q. How far did you live from them? A. Just a mile.
Q. What direction? A. East.
Q. Who was the head of that family?
A. Henry Carter.
Q. Is he living or dead? A. What?
Q. Is he living or dead? A. He is dead.
Q. About how long has he been dead?
A. Oh, he has been dead for fourteen or fifteen or sixteen years, or something like that I should judge, I don't know just how long, I don't remember.
Q. Several years?
A. I know he has been dead quite a while.
Q. Did he have a daughter named Ada? A. Yes, sir.
Q. Who did she marry? A. John Wright.
Q. Did you know a boy in that family by the name of H.?
A. Yes, sir.
Q. Did H. have a sister?

By Mr. Blakeney: We object to the competency of the witness.

A. I don't know now whether he had or not. Of course, there was a girl there said to be his sister by outside talk but that is as far as I know of.

By Mr. Blakeney: I move to strike out that statement and answer because it is shown to be incompetent.

Q. Was there a little girl in that family?
A. What, in the Wright family?
Q. No, in the Carter family? A. Yes.
Q. What was her name?
A. She went by the name of Viola.
Q. Viola, was she ever called by any other name?
A. Why, she was generally called Pink.
Q. Was she older or younger than H.?
A. I think she was.

By Mr. Blakeney: I object to the competency of the witness.

A. I think she was younger, I wouldn't say for certain.
Q. What was her appearance? Did she appear to be older or younger?

By Mr. Blakeney: We object to that as asking for a conclusion of the witness and as incompetent.

A. Why her appearance was younger to my notion.
Q. About how much?

By Mr. Blakeney: We object to the competency of the witness.

A. Why, two or three years, or something like that, or maybe more.

By Mr. Blakeney: And as calling for a conclusion.

Q. Do you hold any official position, Mr. Post?
A. Nothing only school officer.
Q. You are a school officer, what office? A. Clerk.
Q. How long have you been clerk?
A. Oh, I have been on I think nine years, ten running now; I have been clerk I guess for twenty-five or thirty years at different times.
Q. What is the number of that school district?
A. Fifty-three.
Q. What is the name of the school house, what do they call it? A. Brown's.
Q. Where is the school house from your house?
A. About a little southeast.
Q. About how far? A. About a mile and a half.
Q. You say the Carters lived west of you? A. Yes.
Q. Did these two children that you speak of H. and Viola, go to school? A. Yes, sir.
Q. At the Brown School House?
A. At the Brown School House.
Q. In going to school would they or not pass your house?
A. They would pass my house, yes, in the yard as a general thing.
Q. You saw them frequently?
A. I saw them frequently, oh, yes, every day as a general thing.
Q. Was there any other H. Carter that went to school there, so far as you ever heard or knew?
A. No, never was any other H. Carter went to school in that school.
Q. Was there any other Viola Carter went to school there? A. No.
Q. Do you remember a school teacher by the name of Miss Byron? A. Yes, sir.
Q. Did she ever teach there? A. Yes, sir.
Q. Did you know Mr. Kelsey?
A. Why I think I remember—I think there was a Kelsey; yes, there was a Kelsey who taught there, but I don't know what his given name was.
Q. Did you know a Mr. Hill who taught there? A. Hill?
Q. Hall?

A. Yes, sir, Hall taught there, I think he taught three terms in succession.

Q. Do you remember a Miss Denny who taught there?

A. Yes, sir.

Q. Who is she now? A. Mrs. Soupiset.

Q. As Clerk of the School District, did you make any report to the County Superintendent?

A. Made the annual reports.

Q. As clerk of the School District, did you receive from the school teachers there from year to year their reports?

A. Term reports?

Q. Yes? A. Yes, sir.

Q. Do you remember that those reports you refer to showed the name of H. Carter?

By Mr. Blakeney: This is a preliminary, I suppose.

By Mr. German: Yes, preliminary.

Q. What is your answer?

A. I suppose they are on all the reports, for he went to school at that time; all that went to school them years that I was clerk was on the reports.

Q. I wish you would grant that these reports—

A. No, not now, I don't know, I aint got no specks with me.

Q. Didn't you bring them with you?

A. No, I never thought about them, I can't see anything.

Q. Mr. Post, is the H. Carter, whose name appears in those reports, the same H. you have been testifying about?

A. Yes, sir.

Q. What size child was he when you first remember to have seen him, about how old was he?

By Mr. Blakeney: I want to move to strike out that last answer because I objected to the introduction of those reports and I have—don't want to wave that objection; and if that is sustained I want the answer stricken. I object to this last question as incompetent, irrelevant, and immaterial, and as asking for a conclusion, and as to the competency of the witness.

A. As near as I can say he might have been two or three or four years old, I wouldn't be certain; it has been so long ago I never give it any thought about anything of that kind.

Q. Do you know who his father and mother were?

A. No, sir.

Q. You say he lived with old man Henry Carter?

A. He lived with old man Henry Carter.

Q. Did you ever hear H. say anything about who his parents were? A. No.

Q. Did you ever hear H. refer to old man Carter, or call him—speak to him or address him?

A. Why, he always called him grandpa.

Q. You have heard him call him——

A. Heard him call him that dozens of times.

Q. Did you ever hear old man Carter say anything as to who this boy was?

A. No, I heard him say that he got him in Leavenworth to raise.

Q. You did? A. Yes.

Q. When did he tell you that?

A. Oh, years ago when he was a little fellow four or five years old, I don't remember just when.

Q. You don't remember when that was? A. No.

Q. Did you ever hear him say that more than once?

A. Yes, heard him say that more than once, telling different people that he took the boy to raise, but I don't ever remember him saying whose boy he was or anything of that kind.

By Mr. German: I want the record to show that a large part of this evidence will be used by the Government as rebuttal evidence.

By Mr. Blakeney: You are referring to the evidence of this witness?

By Mr. German: Yes, sir.

By Mr. Blakeney: We of course insist that when you introduced the deposition of the witness that you introduced the whole, that you will not be permitted to pick out that that you think you can distort to your advantage and omit that that is against you.

By Mr. Hanford: Mr. German is that part of the rebuttal evidence referred to yesterday in regard to the Minnie case?

By Mr. German: No, sir, the rebuttal evidence I referred to yesterday related particularly to your client, Mr. Hanford.

Cross Examination by Mr. Blakeney.

Q. Mr. Post, you have been testifying from memory as to your early knowledge of H. Carter? A. Yes, sir.

Q. If I understood you right, you didn't recall just how old he was the first time you saw him?

A. Well, I don't know just exactly how old he was, I suppose maybe he was about two or three or four years old as near as I can remember.

Q. Couldn't he have been five or six years of age?

A. Well, he might, I wouldn't say for certain how old he was.

Q. I say you are testifying from your memory?

A. As near as I can yes, sir.

Q. Mr. Post, Henry grew up there in that neighborhood after you first got acquainted with him he grew up?

A. Yes, sir.

Q. Into a young manhood? A. Yes, sir.

Q. Rather a large boy, wasn't he?

A. Oh, he wasn't—he was a medium tall slim——

Q. He was a tall boy but slim? A. Yes, slim like.

Q. The girl was a heavy fleshy girl?

A. A heavy built girl, yes.

Q. And rather a large girl for her age?

A. Well, she was a tolerably large girl, yes, heavy set, not so awful tall. Of course she wouldn't look as tall because she was a little larger around in weight.

By Mr. Blakeney: I was expecting to take Mr. Post's evidence out at McLouth myself when we got to where we would take other evidence and some data that we thought might refresh his memory, so that I don't care to examine him any further now.

Witness dismissed.

Mr. German: We offer the deposition of A. J. Ridgeway, taken before Mr. Penick, appearing in his transcript at page 909.

And thereupon, A. J. RIDGWAY, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. A. J. Ridgway.

Q. Your age? A. Fifty.

Q. Where do you reside?

A. A mile and a half southeast of McLouth.

Q. You were summoned at your residence as a witness in this case? A. Yes, sir.

Q. Mr. Ridgway, did you ever live in the vicinity of the Carter home, the old man Henry Carter home? A. Yes, sir.

Q. When did you reside there?

A. Well, I lived there seventeen or eighteen years a mile north of the Carter home.

Q. Did you leave that community? A. Yes, sir.

Q. When did you leave that community?

A. About twenty years ago.

Q. Did you know H. Carter, who is a defendant in this case?

A. I am not personally acquainted with him, no. I know of him and I know him when I see him, but so far as knowing him personally I don't know him, I don't know that I ever spoke to the man in my life.

Q. How long have you known him when you would see him? A. Oh, right around thirty years.

Q. Did you see him after you left the Carter community twenty years ago?

A. Yes, I have seen him a few times since that—yes, but—

Q. Do you remember about how old he was when you left the Carter community twenty years ago?

A. Well, of course——

Q. Just say yes, or no; Do you remember about?

A. About eight or nine years I should judge.

Q. How old do you say he was at that time?

A. Eight or nine years I think it was.

Q. How long have you been married?

A. Twenty-five years.

Q. How long before you married was it that you left the Carter community? A. About three years.

Q. Where did you move to? A. From the home place?

Q. Yes?

A. Why, about two miles and a half from McLouth.

Q. And have you lived in that community since that time?

A. In that community ever since and around about there.

Q. You are a farmer are you? A. What is that?

Q. You are a farmer? A. Yes, sir.

Q. The Court can't see you Mr. Ridgway; this evidence will be transmitted to the United States Court in Oklahoma, so I will ask you this question: You are a white man?

A. Supposed to be.

Cross Examination by Mr. Blakeney.

Q. Mr. Ridgway, what time of the year did you move from the old home place?

A. Well, it was—when I left that neighborhood, if I remember right, it was in the fall of the year and we moved to my brother-in-law's—didn't move, but I went to stay with him, I was still single and I wintered with him the first winter and with H. W. Dickenson.

Q. During these three years you visited your home place from time to time, but stayed at some other places?

A. I wasn't back in that neighborhood because my parents had left there; my mother had died a short time before that and my father went back to Indiana, and the home then was broken up and this place was rented and I left there at that time.

Q. When did your mother die?

A. Why, I think it was in eighty-four if I remember right.

Q. Your mother died in 1884? A. I think so.

Q. And how long did your father stay in the country after her death?

A. It seems to me in the neighborhood of two years, eighteen months or something like that.

Q. You stayed with your father there during that time?

A. Yes, around there close by home and with another farmer.

Q. Then after your father left, you went up to stay with a brother-in-law you say?

A. Yes, a brother-in-law of mine, there close to McLouth.

Q. Have you any way of fixing just how long your father stayed there after your mother died except from your memory?

A. No, I have not, no dates given that I could refer to, I think it was in the neighborhood of eighteen months, something like that, my father went east to Indiana to his old home where he was raised and remained there until his death.

Q. What time of the year did your mother die?

A. In the spring of the year, in the last of February or the first of March, the last day of February I think it was.

Q. And then he stayed the rest of that year and practically another year? A. Yes.

Q. And then left?

A. Yes, the rest of that year and then he left and went east to Indiana.

Q. He practically made two crops? A. I think so.

Q. The crop that year that your mother died?

A. Yes, sir, I think so.

Q. And then left? A. Yes.

Q. Where was your mother buried? A. At Springdale.

Q. Who was the place first rented to?

A. My father's place?

Q. Yes?

A. A man by the name of Shultz—Adam Shultz, I think.

Q. Do you know where he is now?

A. Why, I think he lives in Illinois; his son lives out close to McLouth and he could give just where he lives, but I think he lives in Illinois just now.

Q. Where were you married?

A. I was married near McLouth in my father-in-law's house.

Q. Do you remember the date of your marriage?

A. Let's see. I have been married twenty-five years the 25th of this month.

Q. The 25th of February?

A. The 25th of February I will be married twenty-five years.

Q. You married then in 1891?

A. I guess that would be it.

Q. Did you procure license in this County?

A. In Jefferson.

Witness dismissed.

Mr. German: We offer the deposition of .... V. Ritchie, taken before Mr. Penick, appearing in his transcript at page 3192.

Mrs. EMMA V. RITCHIE, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Emma V. Ritchie.

Q. What was your maiden name, Mrs. Ritchie? A. Rice.

Q. You live near Oskaloosa?

A. Three and a half miles northeast.

Q. How long have you lived in this neighborhood—the neighborhood of Oskaloosa, approximately?

A. This is the nineteenth year.

Q. Where were you reared?

A. Well, in the east part of Jefferson County, about seven miles from here I guess.

Q. Where, from McLouth?

A. North and east of McLouth; north three miles, and east a mile and a half.

Q. What is your nativity, what blood have you?

A. Well, English and German I guess.

Q. Mrs. Ritchie, did you know a colord man by the name of Henry Carter as you were growing up? A. Yes, sir.

Q. Where did you live when you were a girl with reference to where Henry Carter lived?

A. I lived a quarter of a mile west of the County line and he lived right at the County line of Leavenworth County.

Q. You say you lived a quarter of a mile from Henry Carter?

A. I suppose about a quarter, where you cat-a-cornered across about a quarter, I suppose.

Q. What direction did you live from Henry Carter's?

A. West and a little north.

Q. You lived with your father and mother there?

A. Yes, sir.

Q. They raised you? A. Yes, sir.

Q. You have a brother named—— What is your brother's name who is here today? A. Will Rice.

Q. How much older are you than Will?

A. Well, I guess a little over eight years.

Q. When were you born? A. Sixty-eight.

Q. In 1868? A. Yes, sir.

Q. In what month? A. January 18th.

Q. How long did you live, you and your parents live—How long did you live with your parents there in a quarter of a mile of Henry Carter's?

A. Nineteen years and a few months.

Q. From the time that you were born until you were a little over nineteen? A. Yes, sir.

Q. What girls did Henry Carter have, name his daughters?

A. Well, there was Susan and Mary and Maria and Adis. The older ones were not at home very much after I was old enough to remember.

Q. Do you remember of Adis having married a man named Wright? A. Yes, sir.

Q. Do you know a boy who used to live at the Carter home by the name of H? A. Yes, sir.

Q. Were there any other little children there as H grew up?

A. Yes, there was different children there at times of the family, the girls' children.

Q. Was there a child there by the name of Viola?

A. Yes, sir.

Q. Which was the older, H or Viola? A. H.

Q. About how much older?

A. I can't say just how much, but two or three years anyway.

Q. When was the first time that you ever saw H. What age was he the first time you ever saw him?

A. Well, he was just about as young a baby as I ever saw. They said he was born the day before.

Q. Where was it that you saw him then?

A. At Yokum's house, a short distance from Carter's.

Q. Maria Yokum's? A. Yes, sir.

Q. In her house?

A. She brought the baby to the door, called me to the door.

Q. How did she happen to call you to the door if you know?

A. I don't know why she did unless she wanted me to know they had a baby there.

Q. How came you to be near there?

A. Well, we had relatives living a little further or east there, and I was over there, and as I came along by their house, the yard was close to the road, and as I got about even with the door, she called to me and said, come and see what we have got here.

Q. What did she say about that baby?

Mr. Blakeney: We object as heresay and incompetent.

A. She said that a wealthy lady in Leavenworth had got her to take care of it.

Q. Was Adis Wright—What was Adis Wright's name? Had she married at that time? A. No, sir.

Q. She had not? About how long was that before her marriage?

A. Well, she has been married twenty eight or twenty nine years. It must have been about ten years then. I wouldn't swear to that though, I can't just be positive.

Q. But it was several years before her marriage?

A. Yes, she was married just before I was to Wright, before I was married.

Q. When were you married?

A. I was married when I was nineteen years old.

Q. Had you seen Adis Wright around the Carter place any just before this H. showed up there?

A. She was at our place just a short time before in the yard.

Q. How was she dressed?

A. Well, she had a big shawl on her, and at that time from her head and it came on almost to the bottom of her dress.

Q. About how old were you at that time?

A. I was about eleven years old.

Q. Did you see Adis—Do you know whether Adis had been anywhere away from home shortly before this child H was seen by you there as an infant?

A. Yes, sir, along a month or so before that, they said she was at Leavenworth. Of course, I don't know where she was. We didn't see her around home there for some little time.

Mr. Blakeney: I move to strike out what they said as incompetent and hearsay.

Q. After you first saw the child, the little child H.

Mr. Blakeney: We object to the form of the question as assuming a state of facts not proven.

Q. Was Adis around there, around the Carter place?
A. Yes, she was for a while, I don't know how long.
Q. What became of this child H, this boy child that you saw there that you say you saw there the day that Mrs. Yokum called you in?

Mr. Blakeney: We object to the question as assuming a state of facts not proven.

A. Well, she told me——

Mr. Blakeney: We object to what was told her.

Q. Let me ask this question: This boy you saw there, the morning that Mrs. Yokum called you in, the boy that she told you the rich folks had asked them to take care of, state what that boy was named, what name was given to him?

Mr. Blakeney: We object now as calling for a conclusion and assuming facts not proven.

A. Henry Carter, but he was always known by H.
Q. Did he continue to stay around the Carter place or not? A. Yes, sir.
Q. Would you see him very often?
A. Well, generally when we were passing the house. It was pretty close to the road. That is, in the summer time. In the winter time we didn't see him as often.
Q. State whether from the time that you first saw that baby, which you say was given the name H, up until the time you married, you ever missed him from being around the Carter home for any particular length of time?
A. No, sir.
Q. Did you know whatever became of him finally?
A. Well, he has been away from here some, he went to Oklahoma or some place down there and married and brought a wife back and this is the first time that I ever knew of his being away from the neighborhood.
Q. Was that before or after your marriage?
A. That was after, of course. He was only nine years old when I was married.
Q. Only nine years old when you married? A. Yes, sir.
Q. Now, from the time that you first saw that boy until you married, was a period of about nine years you say?
A. Yes, sir.
Q. During that nine years where did that boy live?
A. He lived at Carter's as far as I know.
Q. The child named Viola, whose child was that if you know?

Mr. Blakeney: We object to the competency of the witness.

Q. Well, we alway thought it was Adis's too.

Mr. Blakeney: I move to strike out what they thought as incompetent, irrelevant, and immaterial.

Q. Where would you see the boy from the time he was big enough to play around until you left there?

A. Why, he most always was with his grandfather about the place there.

Q. Playing around in the yard?

A. Yes, sir. He has been at our place occasionally.

Q. Was there any talk in the neighborhood as to whose child he was?

Mr. Blakeney: We object to that as hearsay, immaterial and incompetent.

Q. At that time, along about the time that he was born and afterwards for a few years?

A. Why yes, of course there generally is you know.

Q. What was the rumor and reputation in the community as to whose child that was?

Mr. Blakeney: We object as asking for hearsay and incompetent, irrelevant, and immaterial.

A. That is was Adis'.

O. The child, Viola, who was you say younger than H, was there any reputation in the community as to whose child that was?

Mr. Blakeney: We object as incompetent, hearsay, irrelevant, and immaterial.

A. Yes, there was.

Q. What was the reputation in the community as to that?

Mr. Blakeney: We object as incompetent, irrelevant, and hearsay, and immaterial.

A. Well, that it was Adis'. I don't know as anybody knew positively.

Cross Examination by Mr. Hanford.

Q. What year were you married in, do you remember?

A. I don't remember just what year it was. I was nineteen years old. I was born in sixty eight.

Q. Then you were married in eighty seven, wouldn't it be?

A. Well, I guess it would. I am poor—at remembering dates. I have been married twenty nine years.

Q. How old was this boy at the time you were married? That is, judging from his size?

> Mr. Blakeney: We object to that as repetition.

Q. How big a boy was he, how old would you judge him to be?

A. Well, he was rather small for his age until he was ten or twelve years old. There wasn't very much difference in the size of the children.

Q. Whose child was he generally reputed to be in the neighborhood?

> Mr. Blakeney: We object as hearsay, irrelevant, incompetent, and immaterial, and to the competency of the witness, and to his reputation. The examination is being made by the Page interests in this matter, allied with the Government.

A. Well, that he was Adis'.

Cross Examination by Mr. Blakeney.

Q. What was it that Mrs. Yokum told you there about the child?

A. She said a wealthy lady in Leavenworth had got her to take care of him.

Q. Did she tell you the name of the wealthy lady?

A. No, she told me no names.

Q. Did she show you the child? A. Yes, sir.

Q. Did you take it in your arms? A. No, sir.

Q. How did she exhibit it to you?

A. She brought it to the door and I walked up to the door and looked at it.

Q. The child was dressed? A. Yes, sir.

Recross Examination by Mr. Hanford.

Q. Did you see this boy any after you were married?

A. Yes, sir.

Q. Is the boy you saw after your marriage the same boy that you knew around the Carter place there before you married? A. Why, he always looked like he was the same.

Recross Examination by Mr. Blakeney.

Q. After you saw this infant exhibited to you there at Mrs. Yokum's, you didn't see the infant any more for sometime?

A. Not for a few months. He was big enough to be carried around in the yard before I saw him again.

(Witness dismissed.)

Mr. German: We offer the deposition of Mary Soupiset, taken before Mr. Penick appearing in his transcript at page 888.

Mrs. MARY SOUPISET being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Mrs. Mary Soupiset.

Q. Where do you live, Mrs. Soupiset?

A. I live in Jefferson County; my postoffice is Winchester.

Q. Jefferson County, Kansas? A. Yes, sir.

Q. How long have you lived there, or in that community?

A. I have lived there just nine years now, and up to that time, I lived down southwest of Leavenworth for seven years—about five miles southwest, and then all the rest of my life, I lived in the western part of Leavenworth County about six miles from where I live now.

Q. Is Jefferson adjacent to Leavenworth County?

A. Yes, sir.

Q. Which direction is it from Leavenworth County?

A. West.

Q. Where is your place of residence with reference to McLouth? A. I live three miles east.

Q. At this time?

A. Oh, at this time, no. It is eight miles northeast.

Q. What county is McLouth in? A. Jefferson.

Q. About how far is McLouth from Leavenworth?

A. About 21 miles, I think.

Q. How far do you live from Leavenworth, about?

A. About 18 miles.

Q. Did you ever teach school at Brown's school—school district No. 53, Leavenworth County?

A. Yes, sir.

Q. When? A. In the years of 1891 and 1892.

Q. Had you been reared in that County? A. Yes, sir.

Q. What was your maiden name? A. Mary Denny.

Q. Had your parents lived in that community then?

A. Yes, sir.

Q. They still live there? A. Yes, sir.

Q. Did you know a family by the name of Carter living in that County—colored people? A. Yes, sir.

Q. Where did they live with reference to Brown's schoolhouse?

A. I can't tell the distance exactly but I think it was somewhere in between two and three miles.

Q. In what direction from the schoolhouse?

A. Northwest from the school house.

Q. More nearly west than north?

A. Well, as near as I could judge, I believe it would be about equal.

Q. I see. In what direction did your parents live from the schoolhouse? A. Southwest.

Q. So the schoolhouse was between your folks and the Carters? A. Yes, sir.

Q. When you taught school there, did you have any pupils whose names was Carter? A. Yes, sir.

Q. Name then.

A. H Carter and Viola Carter.

Q. Where they white, ot colored, or what?

A. Well, I should think they were mulatto.

Q. I see. Did you have any other mulattoe, or colored children in the school? A. No, sir.

Q. The rest of the children were white? A. Yes, sir.

Q. You taught there one term? A. Yes, sir.

Q. What age, if you know was H Carter at that time?

> Mr. Blakeney: We object to the form of the question. She ought to be first shown to have qualifications. The question is incompetent, irrelevant, and immaterial.
>
> Mr. German. I will ask her another question.

Q. Do you know what age H Carter was at that time, or about what age? A. Yes, sir, I know about the age.

Q. About what age was he?

A. As nearly as I now remember, H was 11 years old at that time.

Q. That was in 1891 and '92? A. Yes, sir.

Q. The school session of 1891 and '92? A. Yes, sir.

Q. What time of the year, did you figure that age?

> Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and asking for a conclusion, and assuming a fact not proven.

Q. Go ahead.

A. *Tha* was in September when school commenced.

Q. 1891? A. Yes, sir, September 1891.

Q. Was there any relationship between H and Viola?

> Mr. Blakney: We object to the competency of the witness.

A. They were supposed to be——

> Mr. Blakeney: We object to what they were supposed to——

Q. Go ahead.

A. They were supposed to be brothers and sisters.

Q. Why do you say they were supposed to be?

Mr. Blakeney: We object, now, as leading, suggestive, and incompetent, and argument.

Q. What information did you have as to whether they were kin to each other?

A. I believe I heard the children call each other brother and sister.

Mr. Blakeney: I move to strike out the statement as not a statement of a fact.

Q. When did you hear them call each other call them that, if you did?

Mr. Blakeney: We object, now, as assuming, and as incompetent.

A. During the school session.

Q. Would they come to school together?

A. Yes, sir, they always came together.

Q. Would they have [] to do with each other, particularly at school? A. Yes, sir, they would sit together.

Q. They sat together?

A. Well. other children—the girls would sit on one side of the schoolhouse and the boys on the other but these two sat together in the same seat.

Q. What was Viola called. if she was called by any other name? A. She was called Pink.

Q. What was Viola's age?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and object to the competency of the witness.

A. I think she was nine years old.

Mr. Blakeney: I move to strike the answer as not a statement of a fact.

Q. She was younger than H then?

Mr. Blakeney: We object as asking for a conclusion, and as incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. About what was the difference between their ages?

Mr. Blakeney: We object to the competency of the witness, and the question as incompetent, irrelevant, and immaterial.

A. Between one and two years.

Q. How did they compare in size

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial so *afr* as Viola is concerned.

A. The girl was just about as large as the boy.
Q. Was she or not large for her age?

Mr. Blakeney: We object to the competency of the witness, and incompetent, irrelevant, and immaterial.

A. Yes, sir, she was large for her age.
Q. Was she fleshy or slender? A. She was fleshy.

Mr. Blakeney: We object as immaterial.

Mr. Berman: That is all.

Mr. Blakeney: I move, now, to strike out all the evidence of this witness as incompetent, irrelevant, and immaterial, and particularly move to strike it out as it in no manner supports the Government's case in chief, this being a mere effort of the Government to introduce evidence that would be competent on the contest between defendants when the Government is not of record representing any of the defendants in the case.

Mr. German: Nor otherwise, why don't you add, Mr. Blakeney?

Mr. Blakeney: It has no connection in any way in the world with your case.

Cross Examination by Mr. Hanford.

Q. Mrs. Soupiset, did you obtain the ages of the different children that attended the school from them, or from their families, or how did you obtain their ages?

Mr. Blakeney: We object as leading.

A. I obtained the ages from the children themselves.
Q. Did you have any reason to doubt that H. Carter was about the age you have given?

Mr. Blakeney: We object as leading, incompetent, irrelevant, and immaterial.

A. No, sir, I should judge that that was about his age.

Mr. Blakeney: I move to strike the answer as not responsive, particularly the last part of the answer which says I should judge, etc.

Q. From his appearance? A. Yes, sir.
Q. What did you take into consideration in judging his age, and as to how you formed your opinion?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. Well, from his general appearance; by the look of his face, I should judge he was about that age.
Q. How about his size?

A. I would consider that he was a little small for that age.

Q. Do you remember him well at this time?

Mr. Blakeney: We object as leading; incompetent, irrelevant, and immaterial.

A. Yes, sir, I remember him well.

Q. Your recollection as to that particular child is quite clear? A. Yes, sir.

Mr. Blakeney: We object as leading.

Mr. German: Let me ask her one more question before you start.

Redirect Examination by Mr. German.

Q. You say he was possibly a little small for a boy of 11?

Mr. Blakeney: We object, now, as leading, and assuming, and incompetent.

A. Yes, sir.

Q. What age would you judge him to be from his size?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and a repetition.

A. Well, I can't answer that only by explaining by other children.

Q. Yes? A. I have seen——

Mr. Blakeney: We object to any comparison or——

Q. Well, you state this; you said on his general appearance, he seemed to be a boy of 11 years old? A. Yes, sir.

Mr. Blakeney: I object.

Mr. German: I haven't completed my question.

Q. And you stated that from his size, he didn't appear to be quite that old; what age would just his size, eliminating his appearance, have lead you to believe he was?

Mr. Blakeney: We object as leading, suggestive, argument, incompetent, irrelevant, and immaterial, and an attempt to either cross examine or bolster up his witness.

A. From his size, I would not judge him to be over ten.

Cross Examination by Mr. Blakeney.

Q. When did you first have your attention called to this case? A. Sometime in November, about the middle, I think.

Q. Of last year? A. Yes, sir, last year.

Q. Who called your attention to it?

A. It was an attorney; I think he said his name was McMillan.

Q. And attorney named McMillan?

A. That is the way he introduced himself, if I got the name.

Q. Did he tell you who he was representing? A. No, sir.

Q. Did you make him an affidavit?

A. He just asked me questions and I answered them.

Q. Did he put it down on writing or did you sign it?

A. No, sir, I didn't sign it.

Q. That was in November of 1915? A. Yes, sir.

Q. Twenty-four years have transpired approximately before you—since you had had your mind directed towards this fact?

A. Well now, there are some things that I can't answer unless I have seen the family—some of the family—and heard their names spoken—something like that—but no one never questioned me about them.

Q. You never had your attention called to their ages?

A. No, sir.

Q. How frequently had you seen any member of the family?

A. Well, after two or three years after I taught that school, it was probably four or five years at a time before I would see any of them.

Q. During that two or three years how often would you see them? A. Oh, probably once a month, or near about.

Q. Who would you see?

A. I would see as I passed there, sometimes Mr. Carter, and then again, I have seen passing the road by our place I saw Mrs. Adis Wright, and at other times, I seen another member called Susie Carter. So, at that time, I don't know whether that is her name, yet or not.

Q. Then, some two or three years after this, you left that country, did you?

A. Yes, sir, that is left it as far as over here southwest of Leavenworth—four miles.

Q. You moved over southwest of Leavenworth?

A. Yes, sir.

Q. How far were you from that Carter place?

A. I would be about 14 miles from there, I think.

Q. Did you ever go over to their place after you moved southwest of Leavenworth? A. No, sir.

Q. Were you married when you were living southwest of Leavenworth? A. Yes, sir.

Q. Did you marry out there?

A. I married here eight miles west of Leavenworth.

Q. You didn't marry when you were living out there northwest of this school house that you mentioned?

A. Yes, sir.

Q. You married there? A. Yes, sir.

Q. How far were you living from the school house?

A. About 4 miles.

Q. Northwest? A. Southwest.

Q. About how long did you marry after you had taught?

A. Four years.

Q. What had you been doing during that four years?

A. Well, I taught school the next year after I taught the Brown, and the next two years, I worked at home.

Q. You taught one year school and then you worked at home? A. Yes, sir.

Q. Did you teach school any more? A. No, sir.

Q. Then you were married? A. Yes, sir.

Q. And since that you have been engaged in housework?

A. Yes, sir.

Q. Did the party that talked to you in November, make any statement to you about what they were trying to prove?

A. No, sir.

Q. Did not tell you that they were trying to prove Henry Carter's age?

A. He never told me anything about what he was trying to prove.

Q. But he did ask you about Carter's age? A. Yes, sir.

Q. And you remember then the size and appearance, age of Henry Carter when it was mentioned to you? A. Yes, sir.

Q. Some twenty-four or five years after you had taught there? A. Yes, sir.

Q. How did you happen to remember that one was 11 and that one was 9?

A. Well, just—I can't tell you that only how I remembered other children's ages of the school.

Q. You remembered the ages of each?

A. I can't say probably that I did every one, but the majority of them, I could remember pretty well their ages.

Q. You mean by that that you could remember the size of the children and from that you would judge of their age?

A. No, I——

Q. Do you remember what they told you about their ages after that lapse of time? A. Yes, sir.

Q. You did? What did Henry Carter tell you about his age?

A. I don't say for certain that I remember every child's age, but very nearly.

Q. What I was asking was whether or not you just remember about the size and appearance of the scholars who attended there, and you would now fix about the age from that size and appearance, or whether you would remember what they said to you about their age.

A. Well, I can remember a great many what they told me their ages were.

Q. What did Henry tell you about his age?

A. I believe he told me 11 years.

Q. Why do you say believe?

A. Well, I don't want to say too sure when there could absolutely be a little difference in it.

Q. Yes. Didn't he tell you he knew his age?

A. No, each child—every one—gave me an age.

Q. Every one gave you an age? A. Yes, sir.

Q. Some of the very young children, you would get their ages from older brothers or sisters, wouldn't you?

A. Well, each child gave me his own age.

Q. You are sure of that? A. Yes, sir.

Q. And you are sure of Henry giving you his age?

A. Yes, sir, every one.

Q. Well, you say, yes, sir, about that last question because your recollection is that you asked all of them their ages, and they all gave you their ages?

A. Every one gave me their age.

Q. Don't you remember Henry Carter told you he didn't know his age? A. He didn't tell me that.

Q. But that he supposed that he was just about that age?

A. The children, each one, gave me a certain age for themselves.

Q. Do you remember that as a fact, or that they must have done it, as you always inquired for ages?

A. I know they each one gave me their age because I didn't have to inquire to any other one for their ages.

Q. But you don't remember the language they used with reference to their age?

A. Each one would give me their age when I asked them, is all I can tell you.

Q. Well, if some of them would give you the dates they were born instead of their age, you could compute their age, couldn't you? A. Yes, sir, I could have.

Q. Do you remember whether anyone ever did that?

A. No, sir, they did not.

Q. Every one just answered out when you asked them their age? A. Yes, sir.

Q. You remember that? A. Yes, sir.

Q. Where was Henry Carter sitting when he gave you his age? A. They were all——

Q. No, not all, but just Henry?

A. Sitting in his seat.

Q. Sitting in his seat? A. Yes, sir.

Q. And can you see him there now, sitting in his seat, and his saying my age is 11, when you asked him, or are you just assuming that you asked everyone that?

A. I remember that each one—of course you said to see each one—but I remember H. was sitting in his seat, and when I asked him his age, he said.

Q. You have a picture in your mind—his sitting there and saying, my age is 11? A. Yes, sir.

Q. And Viola saying my age is nine? A. Yes, sir.

Q. Then you looked at his feature to see whether he was telling you the truth about it?

A. No, sir, I didn't think of such a thing as that.

Q. Well, you were looking at him when he answered you? A. Yes, sir.

Q. And you could see from his features and facial expressions, and his physical development that that was the truth?

A. Why no, there is no soul on earth that can do that exactly.

Q. But you say from his appearance you would judge that he was 11, and from his size, you would probably think he was a year or more younger?

A. I say in his face he looked that old but his size was smaller than the majority of children of that age.

Q. You noticed that and had that in your mind when he answered up as to his age? A. Yes, sir.

Q. And you carried that—kept it fresh in your memory during these twenty-five years, have you?

A. Yes, sir, I remember it.

Q. Do you live on a farm? A. Yes, sir.

Q. You say these two people sat together? A. Yes, sir.

Q. Viola and Henry? A. Yes, sir.

Q. They sat together because they were the only two colored people in the school and they sat together? A. Yes, sir.

Q. Their sitting together was because they were relatives in any way?

A. I don't suppose so because children didn't care to sit with the colored children and they sat together.

Q. You had two sitting at each seat? A. Yes, sir.

Q. Regular desks at the school? A. Yes, sir.

Q. And two sat at each desk? A. Yes, sir.

Q. And to keep two white children from sitting with each one of them, they sat together? A. Yes, sir.

Q. There were other brothers and sisters attending school there, and boys and girls sat at different desks? A. Yes, sir.

Q. Is it more difficult for you to tell the age of a colored pupil than it is white?

A. Of grown colored people it is.

Q. But of Henry Carter and Viola Carter, you had absolutely no difficulty?

A. No, I could tell those I think as well as——

Q. You could tell better, couldn't you?

A. I don't know as I could tell any better.

Q. Did you make a report?

A. Which, at school?

Q. Yes? A. Yes, sir.

Q. What did you do with the report?

A. Sent it to the Superintendent.

Q. The County Superintendent? A. Yes, sir.

Q. Have you ever seen it since? A. No, sir.

Witness dismissed

Mr. German: We offer the deposition of Lilly Williams, taken before Mr. Penick, appearing in his transcript at page 771.

And thereupon, LILLY WILLIAMS, being called on behalf of the United States, sworn and under oath testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Lilly Williams.

Q. Age and place of residence?

A. 200 Sherman Avenue.

Q. How old are you? A. Forty-seven.

Q. Have you been sick recently?

A. Yes, sir, I have been sick ever since the 6th of December; I haven't been out of the house until today since the 6th of December.

Q. Today is the first time you have been out of the house since the 6th of December?

A. Yes, sir, have been in bed six weeks.

Q. Where did you live in eighteen and seventy nine and eighty? A. 1879?

Q. And eighty?

A. Let me see, I don't know exactly, I think though——

Q. I will ask you this question: When were you married?

A. About—I was married twenty-seven years the twenty-fourth of December.

Q. To your present husband? A. Yes, sir.

Q. Prior to your marriage where did you live?

A. I have lived here in Leavenworth ever since I was married.

Q. Before that where did you live?

A. Well, I lived—I was born here in Leavenworth, and then we moved out in the country on—I forget the name—Shaw, I believe—Shaw's farm, and I think we stayed there a year, I think it was a year, and then we moved from there over on Grandpa's place.

Q. Are you a daughter of John and Mariah Yokum?

A. I am.

Q. Who was your grand-father, on whose place you then moved? A. A Harry Carter.

Q. Henry Carter? A. Yes, sir.

Q. Do you know H. Carter? A. Yes, sir, I do.

Q. Who is the defendant in this case? A. Yes, sir.

Q. Do you know whose child he is? A. I guess I do.

Q. Who is his mother? A. Ada Wright.

Q. Where were you when he was born?

A. We were living on Grandpa's place.

Q. Were you at the house where H. was born at the time of his birth? A. No, sir.

Q. Where was he born?

A. He was born at our house.

By Mr. Blakeney: I object as incompetent. The witness was not there.

Q. Did you learn at that time where he was born?

A. He was born at Grandmother's.

By Mr. Blakeney: I object as incompetent, irrelevant, and immaterial.

Q. When did you see him with reference to the time of his birth? A. The next morning.

Q. Where did you see him? A. Mamma brought him home.

Q. When did your mother bring him to your house?

A. The next morning.

Q. How long did he stay at your mother's house then?

A. Well, I don't know just exactly how long, but he was a small child yet, although he was pretty good size, but still he was small. I can't say just how many months because I don't remember.

Q. Did you have a brother or sister that was born soon before Henry was born? A. Yes, sir.

Q. What was the name of that child?

A. Annie Blanche Yokum.

Q. Is she living or dead? A. She is dead.

Q. How long has she been dead?

A. She has been dead about, I think it will be thirteen years in April.

Q. Who nursed this baby during the time she stayed at your house? A. Which baby?

Q. H. Carter?

A. I did, me and my other sister, but I cared for him the most.

Q. What did he eat during that time? A. Sir?

Q. Was he raised on a bottle or nursed during that time?

A. No, at first my mother put him on the breast and then she put him on the bottle afterwards, but at first she started in on the breast.

Q. What became of him after she had kept him for some time after bringing him to your house? A. What became of H?

Q. Yes? A. She taken him down to Grandma's.

Q. Have you known him since that time? A. Yes, sir.

Q. Is this man, H. Carter, who is the defendant in this case the same H. Carter that was born, as you understood at the time, to Adia Wright that night? A. Yes, sir.

By Mr. Blakemore: We object to that understanding.

A. Yes, he is the same.

Q. Do you know whether H. Carter is married or not?

A. Married?

Q. Yes? A. Yes, sir, he is married.

Q. Did he ever get married?

A. He has been married twice, I guess he has been married twice, he has been married once to my knowing.

Q. Who was that you know of him marrying?

A. His first wife, he brought her up here from the Territory, her name was Lela, she was red headed and cross eyed. He said she was Indian, but she looked like a white woman to me. I guess my house was the first place they came to when they came here to town.

Q. Who did he next marry? A. Ara Simpson.

Q. Is that the girl that you know about him marrying?

A. Yes, sir, she was Matron at the Hospital.

Q. That first wife was Lela or Lilly?

A. We always called her Lela, she told us that was what her name was.

Q. Lela? A. Lela.

Q. I hand you Government's Exhibit 10 and ask you——

A. I can't see without glasses, I forgot my glasses.

Q. Did you see that picture just before coming on the witness stand? A. This picture?

Q. Yes?

A. I can't see it without glasses—there is H.

Q. You have got on glasses now? A. Yes, sir.

Q. Looking at it through glasses? A. Yes, sir.

Q. Which one did you point to? A. This one.

Q. Is the one you pointing to standing up or sitting down? A. That looks like H., he looks to be standing up.

Q. In the back or front? A. In the back.

Q. In reference to the girl that is standing in the back, where is H. standing? A. Why he is standing to the left.

Q. Is he on the side or in the middle?

A. He is on the side—— He is in the middle of the picture in the back.

Q. Is he standing next to the girl that is standing in the back? A. Yes, sir, he seems to be.

Cross Examination by Mr. Hanford.

Q. Do you know which year it was that you say H. came up here and brought Lela with him?

A. No, I don't know just exactly what year it was, but let's see. My Georgia was a little baby and she will be twelve years old, next September, the 7th, and she was a tiny baby, I had never been out of the house.

Q. So that it was eleven or twelve years ago?

A. Yes, sir, it will be twelve years, I don't remember just exactly what month she came in. Well, it must have been in October, because she was born the 7th of September, and I wasn't able to get around much.

Cross Examination by Mr. Blakeney.

Q. Who are you living with now?

A. Who am I living with now?

Q. Yes? A. My family, my husband and children.

Q. Your husband and children? A. Yes, sir.

Q. Anybody else living in the same family?

A. I have a daughter-in-law living there with me—her husband and son.

Q. You have a daughter and her husband and son living with you? A. Yes, sir.

Q. Where do you live with reference to your parents?

A. What did you say?

Q. Where do you live with reference to your parents?

A. With reference to my parents?

Q. Yes? A. My parents live on Shawnee Street.

Q. Where do you live?

A. I live on Sherman Avenue and Ninth.

Q. Examine that picture that has been exhibited to you, marked Exhibit No. 19, and tell us the other persons in that picture if you know them? A. That looks like Viola.

Q. Which one? A. H's sister.

Q. Which one, I say, looks like Viola? A. This girl here.

Q. The one to our right standing up in the back row?
A. Yes, sir.

Q. You think it is Viola? A. It looks like her.

Q. Do you recognize any of the others? A. No.

Q. You have the ages of all the members of your family in a Bible, haven't you? A. No, sir.

Q. You haven't anything to do with the Bible that your mother has?

A. No, sir, that is hers. I have a Bible but I haven't any ages in it yet.

Q. Can't you tell who all the others in that picture are?

A. No, I don't think I know any of them. This boy here favors the Brosy boy.

Q. Who?

A. Frank Brosy, but I don't know whether it is him or not.

Q. Who was Frank Brosy? A. He was a German boy.

Q. Where did he live?

A. A mile, or about a mile and a half from Grandpa's place.

Q. From your grandpa's?

A. Yes, sir, that looks like Frank, I don't know whether it is or not.

Q. The others, you say you don't know?

A. No, sir, I might know them if I heard their names.

Q. You didn't know this man or woman?

A. I have saw that man. I might know him if I heard his name.

Q. You have seen him, have you? A. Yes, I think I have.

Q. Where do you think you have seen him?

A. I think I saw that fellow out around McLouth some place.

Q. You don't know who it is however, can't give the name? A. No.

Q. Did you ever see this one?

A. His face is familiar but I can't tell who it is now, I have seen that face I think.

Q. Where do you think you have seen that face?

A. Out there some place.

Q. The face of a white person? A. Yes, sir.

Q. Some white person that you knew? A. Yes, sir.

Q. That is a white man, some white person that you knew? A. Yes, sir, I have seen him.

Q. You don't think it is Adith Wright, do you?

A. That is a man.

Q. This woman here? A. That is a boy.

Q. What?

A. That is a boy, and this is a girl there, and this a boy.

Q. Is that a boy? A. Yes, looks like a boy to me.

Q. The one right immediately under——

A. Under this girl here.

Q. You think is a boy? A. Yes, sir.

Q. Now, you were there when Viola was born?

A. No, I wasn't there.

Q. You was on your grandfather's place? A. Yes, sir.

Q. When Viola was born? A. Yes, but I wasn't there.

Q. And how many years did you live on your grandfather's place?

A. I don't know exactly, I never kept any account, we was there—I know there were two children born there, there were Annie and Minnie.

Q. Annie and Minnie? A. Minnie, she is dead.

Q. Two of your sisters were born there?

A. Yes, sir, were born on grandfather's place. Minnie was older than Annie.

Q. Minnie was born first? A. Yes, sir, she is dead.

Q. And she died and Annie was born? A. Yes, sir.

Q. Both born on that place? A. Yes, sir.

Q. Then, you had been living there how long before Annie was born? A. I don't remember.

Q. In other words, how long between Minnie and Annie?

A. I don't remember that either, because I was a child, I don't remember.

Q. How old did Minnie live to be before she died?

A. Minnie was seven months old when she died.

Q. About how long is your best recollection now between Minnie and Annie?

A. Well, I don't remember. Of course, Mamma has their ages in the Bible. I know Minnie was older than Annie, must have been a year or two years, something like that.

Q. Between a year and two years?

A. Yes, must have been.

Q. You say must have been, have you any recollection about it or just talking about human nature?

A. Well, no, I think it was about two years, must have been.

Q. You were living there on your grandfather's place about two years before Annie was born then?

A. Well, I can't say and tell the truth, I don't know how long she was there.

Q. Let's tell the truth about something else then.

By Mr. German: I object to the remark of counsel and move to strike.

A. I ain't telling anything but the truth if I tell you anything.

Q. Let's get the truth then. A. I am telling you.

Q. How long between the birth of those two children?

A. I don't know, I said about a year or two years, along there some place, I know they are——

Q. You fix it to be two years?

A. I say it is along there about that.

Q. Can you now tell me how long it was?

A. I can't tell you because I don't know.

Q. Can you tell me how long you lived there before Minnie was born?

A. No, sir, I can't because I never kept any track of it.

Q. Now, you were living there when Minnie was born?

A. Yes, sir.

Q. On your grandfather's place? A. Yes, sir.

Q. You were living there when Annie was born?

A. Yes, sir.

Q. You lived there something about three years, you say?

A. I don't know how long we lived there, there were two children born when we lived on Grandpa's place.

Q. How old did you say Annie was when Henry was born?

A. Well, there was a small child and baby?

Q. About how old?

A. I don't remember how old, but she was a small child, she was still nursing and she had to be cared for.

Q. Now, how long did your mother nurse the baby Annie?

A. No, sir.

Q. To about what age? A. No, sir.

Q. How long did you live there after H. was born?

A. How long after H. was born?

Q. Yes, on your grandfather's place?

A. I don't know just exactly how long, I don't remember that.

Q. You lived about two years, didn't you?

A. I don't remember.

Q. Well, you lived there until after Viola was born?

A. Yes, she was a small child when we went away.

Q. You lived there until Viola was born? A. Yes, sir?

Q. So, how much older is Henry than Viola?

A. Well, I don't just exactly know, I can't say positively; there ain't so very much difference; he was small, I can't tell you how much older he is than her, not so very much difference.

Q. Not so very much difference between Henry and Viola?

A. No, they both were small together; of course, H. is older than Viola.

Q. About how much difference would you say?

A. I don't know, because I never kept any track of the ages, I know he is the oldest, that is all.

Q. Now, wasn't there three years and one day——

A. I don't know.

Q. Between Annie B. Yokum's birth and Minnie Yokum's? A. I don't know, I can't say.

Q. What?

A. I can't say, if I would tell you that I would tell you something I don't know.

Q. Minnie was born there and Minnie was older than Annie? A. Minnie was older than Annie.

Q. You can't say there was three years difference in their ages? A. No, because I don't remember.

Q. Where was Bertha born? A. Bertha?

Q. Yes? A. What Bertha?

Q. Did you have a sister named Bertha?

A. Yes, oh, yes, Bertha was born over on the Shaw farm.

Q. On the Shaw farm? A. Yes, sir.

Q. Now, Minnie was the first born and then Annie and then Bertha?

A. Bertha is older than Annie or Minnie. Bertha was born on the Shaw farm and we moved from the Shaw farm.

Q. Bertha was born on the Shaw farm? A. Yes, sir.

Q. And then you moved to your grandfather's farm?

A. Yes, sir.

Q. And then Minnie was born? A. Yes, sir.

Q. And then Annie? A. Yes, sir.

Q. Now, don't you know that Annie was born before Minnie was? A. Don't I know what?

Q. Don't you know Annie was born before Minnie was?

A. No, because I think Minnie was the oldest.

Q. Sure of that?

A. I believe Minnie is older, I think Minnie is older than Annie.

Q. Than Annie? A. Yes, I think she is.

Q. But you are sure Minnie was born on your grandfather's farm? A. Yes, sir, I am sure of that.

Q. Then, Bertha was born in 1877 on the Shaw farm, you were living on the Shaw farm in 1877?

A. Well, I guess we must have been.

Q. Then the last of these two, Annie and Minnie, both were born at the last—were born in 1881, you had lived down in that country three years then?

A. I never kept any track, so I can't answer that, I don't know, I have told you the best I know.

Q. But you are sure both of these children were born while you lived out on your grandfather's farm, Minnie and Viola? A. Yes, sir.

Q. That you are sure of? A. I am sure of that.

Q. Are you acquainted with the family of Adith's?

A. The Wright children?

Q. Yes, Adis?

A. No, I never seen all of them, because they lived out on the farm and we lived here in town and some of the children I never saw.

Q. You have seen the older ones haven't you?

A. Yes, sir.

Q. Where did you ever see them?

A. Out at Grandpa's. It was so far to their place we never went out there after we moved in.

Q. Where were you when you were married?

A. In Leavenworth.

Q. Living in Leavenworth? A. Yes, sir.

Q. You had moved back to Leavenworth? A. Yes, sir.

Q. What year do you say you were married in?

A. I have been married twenty-seven years.

Q. But you don't know the year?

A. I have forgot, I have got it on my certificate, but I have forgot, I can't remember everything.

Q. Twenty-seven years, married about 1888?

A. Along there some place, eighty-eight or eighty-nine, I forget which, along there some place.

Q. Where were you living when Adis was married?

A. When Adis married John Wright?

Q. Yes? A. We were living on Big Stranger, I think.

Q. Where? A. Down on Big Stranger.

Q. On Big Stranger? A. Yes, sir.

Q. Were you over at your grandfather's place about the time that Adis was supposed to be married? A. No, sir.

Q. When was your Aunt Babe married?

A. Aunt Babe married when I was a child.

Q. When you were a child? A. Yes, sir.

Q. Do you remember it, were you old enough to remember what was occurring then, I reckon?

A. Some things I guess I could remember.

Q. About how old do you say you were?

A. I don't know just how old I was, but I know I was a child, I was a good sized child.

Q. Well, give us something between five and fifteen, can't you?

A. I must have been— I won't say positively, but I must have been eight or nine, along in there some place.

Q. Were you at the wedding? A. I was.

Q. Who was at the wedding of the family?

A. Of the family?

Q. Yes?

A. There was Mamma and Papa, Uncle Tom, and I don't remember whether Aunt Babe was there or not.

Q. Your Aunt Babe? A. Yes.

Q. We are talking about Aunt Babe's marriage?

A. Not Aunt Babe, Aunt Susan. I don't remember whether she was there or not. Grandma and Grandpa, Mary and myself.

Q. Where was your father living when Babe was married?

A. My father?

Q. Yes?

A. On Grandpa's place. Now, wait, let me see: Yes, I think he was.

Q. Was Adis—where was Adis living?

A. With Grandma and Grandpa.

Q. When Babe was married she was living with her parents? A. Yes, sir.

Q. Before Adis was supposed to have had this child Henry, did you see her personal appearance? A. Yes, sir.

Q. Do you remember it? A. Yes, sir.

Q. What was her personal appearance last before——

A. Well, you might know what her appearance was if I see her, I was old enough to have——

Q. You say you were old enough? A. Yes.

Q. How old were you?

A. Oh, I must have been ten or eleven, along in there some place.

Q. Ten or eleven?

A. Must have been along in there some place.

Q. You noticed the fact that her person showed that she was pregnant? A. Yes, sir.

Q. Carrying a child? A. Yes, sir.

Q. You noticed that, did you? A. Yes, sir.

Q. How long did you notice that?

A. I don't remember that, I know I noticed it.

Q. You noticed it for several months?

A. I can't answer that question because I don't know.

Q. Did you notice it the night that your Aunt Babe was married? A. No.

Q. You didn't notice it? A. No.

Q. Then she didn't show that she was?

A. No. No, she didn't, because Aunt Babe was married, she wasn't—she wasn't here and making her home, Aunt Babe, she was working when she came back home.

Q. Let's get that right. Adis was working here in town?

A. Yes, sir

Q. And making——

A. I am not sure about her working now, I don't know whether she was working or going to school, but I know she was here in town and came home.

Q. Here in town living with your sister, your Aunt Babe?

A. Yes, sir.

Q. And she came out home showing that she was with child? A. Yes, sir.

Q. And how long was she at home before she had a child?

A. I don't remember.

Q. Don't you remember how long before she had the child that she came home? A. I don't know.

Q. Don't you know as a matter of fact, July 7th, or in the month of July, the year you claim Henry was born, 1879, that your Aunt Babe was married in her father's house?

A. I never told you that I knew H was born in that day, because I didn't know, and I never noticed her being in that stage when she was married, and I don't think I told you that either.

Q. But you now tell me that you didn't notice her in that stage when Babe was married?

A. No, I never noticed her in that stage.

Q. And when Babe was married, Babe moved up to town to live? A. Yes.

Q. And she came up here and stayed with Babe?

A. Yes.

Q. And stayed how long would you say?

A. I don't remember, I don't know.

Q. Stayed some time with Babe and then came back home to have this baby?

A. I know she came home, she had it after she came home.

Q. You know it wasn't in four or five months after she was married, don't you?

A. I can't answer that and tell the truth, because I don't know.

Q. Where does Mrs. Symons live now?

A. She lives on the corner of Chicapoo up stairs. At first she lived with my Aunt Emma, had her front room, and she moved from there at up over the grocery store on Fourth and Chicapoo.

Q. When you say that Adis was living with Mrs. Symonton, you mean after Mrs. Symonton's marriage? A. Yes, sir.

Q. You mean she came in and lived in their house?

A. Yes, sir.

Q. Do you remember your Aunt Susie going to Chicago to attend some lodge or organization of colored people and not being able to come to the wedding, but came a few days after the wedding?

A. Well, I can't say positively about that, I knew she was the leading officer in the tabernacle I think, one of the leading officers, I think.

Q. Do you remember that it met in July?

A. I think there was something like that, but I won't say positively, I don't really think Aunt Susie was there.

Q. But you do recollect that she came a few days after the wedding before your sister left home? A. Left home?

Q. Before she left your grandfather's place?

A. No, sir, she left there that evening.

Q. Babe left there that evening? A. Yes, sir.

Q. Do you remember whether your sister Susan came a few days afterwards? A. I don't remember.

Q. That is if she married about the first of July, '79, she came there about the first of August '79, coming from this convention in Chicago? A. I don't remember that.

Q. You don't remember that? A. No.

Q. You remember she was there about that time and stayed several months?

A. I know Aunt Susie came home, but I don't remember how long she stayed or how long it was after Aunt Babe married.

Q. Were you at your grandfather's place close to the time that Adis married?

A. When she married, John Wright went to living down on Big Stranger.

Q. Were you over to your grandfather's place after that day frequently or occasionally?

A. After Adis married John Wright?

Q. Yes. A. Yes, sir.

Q. Did you see Susan there?

A. Well, Susan came home to stay; she taught school in Missouri, and after grandma had a stroke she came home to take care of grandma.

Q. What is your recollection about the marriage? Was she married about the time of your grandma's stroke?

A. She had three; I can't say positively whether it was the first one or second.

Q. How long was she sick with the three?

A. I don't remember.

Q. Sick about two years with the three, wasn't she?

A. Along there some place.

Q. About how long do you say it was before she had the first, that Adis was married? A. I don't remember.

Q. You remember it was something like four years?

A. Well, I can't say and I wouldn't say and be positive about it; I remember she had three strokes. I don't remember how long they were apart.

Q. Search your memory and see if you can tell us about how long it was between the time that Adis married and the first stroke that your grandmother had. A. I don't remember.

Q. Have you any recollection as to whether or not any time intervened?

A. I know she was home. They lived there after they were married—her and John; they lived at home a while before they went to themselves.

Q. Don't you remember that Susan came home and was with them, and she left after that and was gone about three years and came back when your mother was sick?

A. I can't answer that because I don't remember.

Q. You don't remember?

A. I know she came and went but——

Q. When these two children, Viola and Henry, you say, were born, they continued to live there after Viola's birth, with your grandfather?

A. Yes, they have always been there.

Q. Always lived there after Viola's birth? A. Yes, sir.

Q. Were they living there when your sister Susan came there to attend the marriage of Adis? A. Yes, sir.

Q. Living there at your grandfather's place?

A. Yes, sir.

Q. You are sure of that? A. I am sure.

Q. But you don't recall any other visits that Susan made to the place?

A. Oh, she made several backwards and forwards but I don't remember.

Q. During all these visits she made there, these two children were there on that place?

A. I can't say during them all but she was there, and they were both small when Susie was there, I know.

Q. Your mother was nursing Annie, you say, at the time that Henry was born? A. That Henry was born?

Q. Yes? A. Yes, sir.

Q. Annie? A. Yes, sir.

Q. You remember whether Annie was over at the marriage of your sister—your Aunt Babe?

A. I don't remember.

Q. You remember that Babe received some presents at the time that she was married, don't you?

A. I think she did, yes.

Q. Do you remember that they were placed on the table and that your grandfather would take them off the table and hand them to Annie to carry to your——

A. No sir, I don't remember that.

Q. Don't remember that? A. No, sir.

Q. Don't remember that Annie was a little, tottling baby at that time, and could walk?

A. No, sir, I don't remember that.

Q. And that your grandfather handed the presents on the table to Annie—— A. No, sir.

Q. And Annie would take them over and give them to your married aunt?

A. He might have but I don't remember.

Q. Annie was at the wedding, you say, or not?

A. I don't remember whether she was or not—I have forgot.

Q. Annie was born after that time, was she?

A. I can't say positively; I don't remember whether Aunt Babe was married before Annie was born or afterwards.

Redirect Examination by Mr. Allen.

Q. Do you know Floyd Kessling? A. Yes, sir.

Q. What is his name? How do you spell his last name?

A. I don't know how you spell it, I know we always pronounced it Kessner.

Q. Kessner? A. Yes, sir.

Q. Did he ever go with any of the girls there at your grandfather's?

Mr. Blakeney: We object as not proper redirect examination.

Mr. Allen: We make it a part of our direct examination.

Mr. Blakeney: I object to that. I insist that after the cross examination that the Government will not be permitted—in the guise of a redirect examination—to reopen the direct.

Mr. Allen: I want to state that I was not advised at the time that I directed the examination of this witness, of this information that the witness had.

Q. Did he ever go with Adis Wright—Adis Carter?

A. Went with her as company, you mean?

Q. Yes. A. No, no, he did not.

Q. You borrowed a pair of glasses to look at the picture that you looked at a while ago of Henry Carter?

A. I did, yes.

Q. Do you use glasses to read by? A. Yes, sir.

Q. Where are your glasses?

A. I forgot them; I left them at home.

Mr. Allen: Mark this Government's Exhibit 20.

Q. Will you take this picture over to the light and look at it carefully and see if you recognize Viola?

A. I can recognize it right here. There is Viola, and there is H—on the end; there is Viola, and in the end, top row, there is H; this is H, and that is Viola.

Q. Which is Viola?

A. There is H, and there is Viola.

Q. Where is Henry, with reference to the back row, commencing on the end?

A. He is the third person from the left and the fourth person from the right.

Q. And where is Viola?

A. She is the first person on the right.

Q. Standing here in the back? A. Yes, sir.

Mr. Allen: We offer this picture in evidence as Government's Exhibit 20.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial; not properly identified, and we especially object to any part of it, other than the part identified to as H and Viola.

Q. Where were you married?

A. Married here in Leavenworth; C. M. E. Church—in the C. M. E.

Q. At your home?

A. The church there— I had the C. M. E. pastor but was married at home.

Q. To whom? A. George Williams.

Q. Where was Babe married? A. At the farm.

Q. At the farm of whom? A. Grandfather.

Q. To whom was Babe married? A. Eli Symington.

Q. Is that in Leavenworth County?

A. Yes, sir, right on the line. Their farm is on one side of the road—the other side of the road is Jefferson County.

Q. Where was Adis' father married?

A. I don't know.

Q. To whom was she married? A. John Wright.

Q. John Wright. Is your husband a white or colored man?

A. Well, he is mixed; he is French and colored—he is half.

Q. With what race does he associate?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

Q. The white or colored race? A. Colored.

Q. Is that true of the other members of your family?

A. Is what true?

Q. That they associate with the colored race?

A. They do, yes; they associate with the colored race.

Q. Did Adie Wright marry a white or colored man?
A. She married a white man.
Q. Where does Babe live now?
A. Well, I don't know whether she is in Helena, Montana, or Butte, Montana, but I think she is in Butte.
Q. Did you ever have any conversation with H. Carter with reference to his being a son of Minnie Atkins?

Mr. Blakeney: Now, I object to that for the reason that it is not proper redirect.

Mr. Allen: This is another matter that I was not advised about when I examined the witness in chief.

Mr. Blakeney: I appeal to the record as a contradiction of that statement. He asked the former witness——

Mr. German: No, I did that.

Mr. Blakeney: Well, the Government's attorneys.

A. I did.
Q. Where was that conversation? A. At my house.
Q. At Leavenworth? A. Yes, sir.

Mr. Blakeney: We object to it all as not redirect.

Q. About when? A. It was last winter.
Q. About what time last winter?
A. I am not really sure but I think it was along about November.
Q. Was anyone else present?
A. My two sons and my children—small children—and my two grown sons.
Q. What did he say to you in reference to his being the son of Minnie Atkins, or his claim in this case?
A. Why, he said that he had just learned that he was not a Carter; that he was part Indian and that his mother was Minnie Atkins, and that he was taken to the Carter farm, and I told him it wasn't no such thing—I knew better.

Mr. Blakeney: I move to strike out that statement as not responsive, incompetent, irrelevant, and immaterial, and hearsay.

Q. What did you say to him? A. I told him——

Mr. Blakeney: I object to her statement as self-serving, irrelevant, immaterial, and hearsay.

A. I told him that I knew who his mother was and so did he, and that it was no time for him to let no person pull that into his head—that it was known up there that Adie Carter was his mother, and that I knew it.
Q. What did he say in reply to that?

Mr. Blakeney: I move to strike out her statement as hearsay, and incompetent.

Q. What did he say in reply to what you said to him, if anything?

A. He wanted to know then, why it was that she didn't own him, and I said, you know why she didn't own him——

Mr. Blakeney: I object as hearsay, incompetent, and immaterial, and not responsive.

Q. What did you say to him then?

A. Well, I told him that he knew who his mother was.

Mr. Blakeney: I object as incompetent, irrelevant and immaterial, and hearsay.

A. And I told him if he wanted to know who his mother was, to go to mamma—she could tell him all about it—and he knew anyway who his mother was.

Mr. Blakeney: I move to strike out the expression he knew anyway who his mother was, as a conclusion of the witness and not responsive to the question.

A. He does, too.

Q. Did he say anything more, then, after you made that statement to him?

A. Oh, yes, he said quite a good deal.

Q. State what he said, as near as you can remember.

A. He said so much I don't remember all he did say. I know he tried to make me believe that she wasn't his mother—that he was another child——

Mr. Blakeney: I move to strike out the answer as a conclusion, irrelevant, incompetent, and immaterial.

Cross Examination by Mr. Hanford.

Q. Mrs. Williams, you have identified who you call E in these two pictures, as this boy here?

Mr. Gorman: This Exhibit is 19.

Q. I am showing you Exhibit 19; has this boy that I am pointing to—is that the one that you pointed out as E?

A. Yes, sir.

Q. In this picture, it is the boy I am pointing to here, in Exhibit 20—— A. Yes, sir.

Mr. Blakeney: They are the same pictures, you see.

Q. These are the same pictures, are they not?

A. Well, I don't know whether they are or whether they are not. This is E, and that is Viola, but these——

Q. Well, you have difficulty recognizing——

A. That is H Carter.

Q. How do you know it is H?

Q. I have knowed H ever since he was born, and I have got a picture of H at my house now—later than this, when he was 17.

Q. Well, you know what he looks like.

A. This is his father.

Q. Does he look like anybody else?

A. He looks like his mother and father's Carter family.

Q. Who? Like Adis? A. Yes, sir.

Mr. Blakeney: I move to strike out the answer that he looks like anybody else in the picture.

Mr. Hanford: I am asking the witness how she knows it is H, and who H resembles.

A. He resembles his mother.

Mr. Blakeney: Wait a minute. I object to the witness giving any information as to whether he resembles any parent or not. I move to strike out the former answer in which she says he resembles Adis Wright. I was making the suggestion that I didn't understand the question *illicited* that kind of answer, for the reason that I didn't object to the former question. I move to strike out the former answer and I object to this question as incompetent, irrelevant, and immaterial, and asking for an improper conclusion.

Q. You are looking now at Exhibit No. 19. I will ask you who that girl is that stands on H's left?

A. This looks like Viola.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and we move to strike out the answer, as being given before I could interpose the objection, for the reason stated in the objection.

Q. Look now, at Exhibit No. 20; do you see that same girl in that picture?

Mr. Blakeney: We object.

A. There she is, but her hair is combed different, and I suppose she was younger.

Mr. Blakeney: We object to her supposition and move to strike it out as incompetent.

Q. In Exhibit No. 20, she is the girl standing on H's left—take it to the light, if you want to.

Mr. Allen: I wish you would take it to the light.

A. This is Viola here.
Q. On the end of the top row?
A. Yes, this favors her a little, but here is the right one.
Q. Now, the court can't see what you are pointing to.
A. This first one here—there is Viola.

Mr. Blakeney: Exhibit 20.

Q. On the end of the line? A. Yes, sir.
Q. And this girl, you say, in Exhibit 19, who stands on H's left, favors her a little? A. Yes, sir, she does.
Q. But this is not Viola?
A. No, it didn't look like her—this is her.

Mr. Allen: The witness points to Exhibit 20, to the girl on the extreme right, standing up in the back.

Mr. Blakeney: We think that while Mr. Hanford is conducting this examination, he is doing it in harmony with the Government's ideas, and that he ought to be permitted to conduct it without the assistance.

Q. Then you were mistaken in your former testimony?
A. Yes, sir.
Q. When you called this girl on H's left, in Exhibit 19, Viola? A. Yes, sir.
Q. Then do you ask to correct your former testimony in that regard?
A. Well, it is a mistake—that first one that I said looked like Viola.
Q. Just answer the question. Do you ask to correct your testimony? A. Yes, sir.
Q. As to that girl in No. 19 being Viola? A. Yes, sir.
Q. Is the resemblance betwen H and Adis very marked?
A. Yes, sir.

Mr. Blakeney: We object.

Q. Very plain resemblance? A. Yes, sir.

Mr. Blakeney: I want my objection before the answer. Let the record be correct about that because this is important. I was trying to interpose the objection and counsel was continuing to ask questions, and the witness answer it before apparently the question was completed. I object to the question as incompetent, irrelevant, and immaterial, and asking for an improper conclusion, and we move to strike out her answer interposed under those circumstances for that same reason.

Cross Examination by Mr. Stuart.

Q. What is Henry's color compared with yours, Mrs. Williams, is he lighter or darker?

A. Well, I guess we are about the same.

Q. About the same color?

A. Yes, sir, not much difference.

Q. At the time his mother became pregnant with him, she was not married, was she Mrs. Williams—she was not married? A. Not to my knowing.

Q. And Henry was known in your family, to be an illegitimate child, was he? A. Yes, sir.

Q. Mrs. Williams—I believe that is your name?

A. Yes, sir.

Q. You are part white and part colored, are you not?

A. I am Mexican and colored.

Q. Mexican and colored? A. My father is a Mexican.

Q. No white blood, I mean, but Mexican blood?

A. No, not any white; my father was born in old Mexico, on the Rio Grande.

Q. And you are brighter than the ordinary light colored person, are you not?

A. Well, it is a different color because the African race is a mulatto color; the Mexican is a different color.

Q. Then, you are lighter than the ordinary African?

A. Supposed to be, yes, sir.

Q. Well, it is a fact you are, isn't it? We have got to get it in the record? A. Yes, sir.

Recross Examination by Mr. Blakeney.

Q. Your mother was Maria Yoakum? A. Yes, sir.

Q. Maria Yoakum was white and colored? A. Yes, sir.

Q. About what proportion of her color was white?

A. Well, she was more white than colored—I can't say.

Q. She was at least half white?

A. She is more than half white.

Q. I said at least. A. Yes.

Q. Was she three-quarters white? A. Yes.

Q. About three-quarters white? A. Yes, sir.

Q. Your father was a Mexican?

A. My father was a Mexican.

Q. Born in Old Mexico? A. Yes, sir.

Q. And of French nationality?

A. No, he was a Mexican.

Q. Do you know what nationality his descent was from?

A. No, I don't know—only Mexican, that if all.

Q. Well, you understand that the Mexicans—the white

Mexicans—emigrated to Mexico the same as they emigrated here, don't you? A. Yes.

Q. And you don't know what nationality?

A. I know he is not a greaser because they are dark. I cannot explain the difference.

Q. That is, he is not an Indian? A. No, he is a Mexican.

Q. The greasers, as you understand, are dark?

A. I think the greasers are Mexicans and negro, aren't they?

Q. Well, the Mexicans are Mexican Indians.

A. The greasers, are, I think——

Q. That is, you mean original Mexicans? A. Yes.

Q. You say he is not of that type?

A. No, no colored blood in my father at all—no African.

Q. And your mother, being three-fourths white, you have that much white in you of course, and your father had no negro in him? A. None at all.

Q. Did your grandfather, Henry Carter, have any considerable amount of negro blood in him? A. No, sir.

Q. Yellow-white man, is that right? A. Yes, sir.

Q. Was he a mulatto at all?

A. Yes, sir, grandpa was really light.

Q. A light mulatto? A. Yes, sir.

Q. He wore a beard? A. Yes, sir.

Q. Had a long, straight beard, did he? A. Yes, sir.

Q. How was his hair? A. Curly.

Q. Was it curly, or kinky? A. It was curly.

Q. It didn't have the short kink to it of the African?

A. No, sir.

Q. How was his physical—lips thin, or thick?

A. He was thin—a tall, fair man.

Q. How was your mother—grandmother?

A. She was something like my mother—short and fleshy.

Q. Did she show her negro blood stronger than your grandfather?

A. Well, I don't know. Grandma looked like an old French lady—I don't know.

Mr. German: Looked like what?

A. She looked like black French; she looked something like mamma, only I don't think she was quite as tall as mamma. She had black curly hair.

Q. What was the color of her hair? A. Black.

Q. Was it straight black, or—— A. Black and curly.

Q. Curly? A. Yes, sir.

Q. It wasn't kinky? A. No, sir.

Q. Did the children generally resemble your mother—your grandmother I mean, as to color?

Q. Well, there was only one dark one in the bunch, and that is Uncle Tom. Yes, I think Adis and Uncle Shannon—of course mamma used to be much lighter than she is now—she has been sick so much and is dark.

Q. Adist was about as bright as your grandmother?

A. Yes, she might have been a little bit lighter, but a different color.

Q. What kind of difference?

Q. She was a light yellow and grandmother was an olive.

Q. How about Susie?

A. She was more of a white mulatto color—difference color from the rest.

Q. Lighter than your mother? A. Yes, different kind.

Q. And lighter than Adist?

A. Yes, I don't know whether lighter but a different kind. Ada had more of a yellow cast and she had a white cast. When Susie was young her hair was light but as soon as she got older, it was dark.

Witness dismissed.

Mr. Geman: We offer the deposition of Jarret Smith, taken before Mr. Penick, appearing in his transcript at page 3200.

And thereupon, JARRETT SMITH, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. State your name? A. Jarrett Smith.

Q. Where do you live? A. I live here in town.

Q. In Oskaloosa, Kansas? A. Yes, sir.

Q. What county is Oskaloosa in? A. In Jefferson County.

Q. What age are you?

A. What age? I am eighty-nine year old the 7th day of this month.

Q. How long have you been living in Oskaloosa?

A. Well, I have been living here about nine or ten year.

Q. Did you ever live northeast of McLouth, Kansas?

A. Yes, sir.

Q. Do you know a colored man by the name of Henry Carter? A. Yes, I knew of him, I have seen him, yes.

Q. Did you know him personally? A. What is that?

Q. Were you acquainted with him? A. Yes, kinda.

Q. Did you ever live near him? A. Yes, sir.

Q. How far from him?

A. As near as I can tell you, about a quarter of a mile, maybe a little more, maybe might have been a half mile.

Q. What direction from his house did you live?

A. Lived east, I lived south. I lived east and then I lived south.

Q. Did you know his daughter, Adis? A. Yes, sir.

Q. Did you know his daughter Maria? A. Yes, sir.

Q. Who was Maria Yokum? A. Afterwards.

Q. How long did you live near Henry Carter's home?

A. Well, I just can't tell you now.

Q. Was it several years? A. Some three or four years.

Q. How long?

A. Three or four year, I guess, right around in the neighborhood there, in a mile and a half or two mile.

Q. How long did you live in a half a mile of him or a quarter of a mile, which ever it was?

A. I lived there I think two year. I think I raised two crops there.

Q. Did you ever have occasion to bring Adis Wright from Leavenworth out to old man Carter's?

A. Yes, sir, I brought her out several times.

Q. Several times? A. Yes, sir.

Q. From Leavenworth?

A. Yes, she used to go to town with me sometimes.

Q. Was that before or after she married Wright?

A. Oh, before she ever married Wright.

Q. Did you ever take her to town or bring her from town in Leavenworth I mean, from or to Leavenworth, after she married Wight? A. No, sir.

Q. Did you know a boy at the Carter home by the name of H? A. Yes, I saw him.

Q. Did you know a girl there, a little girl by the name of Viola? A. Yes, I knowed her.

Q. Which was the oldest, H or Viola?

A. Why, H was the oldest.

Q. About how much older was H? A. I can't tell you.

Q. What is your best judgment?

A. Two and a half year I guess, that is my best judgment, I don't know.

Mr. Blakeney: I move to strike the answer as incompetent, irrelevant, and immaterial.

Q. Was Viola born before or after Adis married Wright?
A. Before.

Q. About how long before?

A. I can't tell you just how long.

Q. What is your best judgment?

A. I never taken any notice of that. It must have been three or four years I guess, I don't know.

Q. That is your best judgment is it? A. Yes, sir.

Q. Prior to the time that this boy H was around the Carter place, did you have occasion to bring Adis from Leavenworth to old man Carter's? A. No, sir, no, sir.

Q. Did you ever bring Adis from Leavenworth to old man Carter's before H was around there any? A. Yes, sir.

Q. State whether you ever brought her out to old man Carter's when she had the appearance of being in a family way?

A. Yes, that is judgment. I was no doctor, that is just my judgment.

Q. Now, how did she appear?

A. Oh, she appeared to be kind of sick at her stomach. She came out with me and my wife one evening.

Q. How did she appear, what was her size and shape?

A. I never noticed particular, only she was sick.

Q. Was she large in the lower part of her body or not?

A. I thought she looked kind of bunchy, but a man can be fooled.

Q. You might have been mistaken about it?

A. Yes, I might have been mistaken about it.

Mr. Blakeney: We object as argument.

Q. Tell how she looked. You say she looked kind of bunchy?

A. Why, she looked like I have seen women that were in a family way, I don't know about that.

Q. Where did you come from that time in Leavenworth?

A. I don't know whether it was at Chris Meyers or who. That is where we always traded at.

Q. Chris Meyers? A. Yes, sir.

Q. What kind of a business did Chris have?

A. Grocery store and whiskey and beer.

Q. How far was it from Leavenworth to where you lived then?

A. It was twenty-one miles, called twenty-one miles.

Q. Twenty-one miles southwest of Leavenworth?

A. Which?

Q. It was what direction from Leavenworth?

A. It was a little south of Leavenworth, but not that for. I suppose Leavenworth lay about two or three miles north of where I lived.

Q. Oh, it was south and a little west? A. What?

Q. It was south and a little west?

A. Oh, no, east.

Q. In what direction was Leavenworth? What direction did you live from Leavenworth?

A. I lived a little southwest.

Q. About twenty-one miles in all from your house to Leavenworth?

A. I think so. I think that is what it was called, I ain't certain.

Q. Was there anyone with you besides Adis on the occasion when she looked to you like she was in a family way?

A. Yes, my wife was with me.

Q. Where did you take Adis to on that occasion?

A. Brought her to my house. I lived right there on adjoining farms. Old man Carter lived on one quarter and me on the other.

Q. What were you in? A. Wagon.

Q. She got out of the wagon at your house? A. Yes.

Q. Did she stay at your house or go somewhere else?

A. Went right on. Maria didn't live more than three hundred yards from me.

Q. Where did she go to?

A. I don't know, sir, I guess she went home.

Q. To Carter's?

A. Yes, sir, I never noticed after we turned in.

Q. How long was that before H appeared around the Carter or Yokum home? A. Around the Yokum home?

Q. Yes?

A. I can't tell you that. Sometime later in the fall.

Q. What time in the year was it that you brought Adis out on that occasion?

A. I think it was about wheat harvest as near as I can remember, about July, I think.

Q. Was it the coming fall that H appeared there?

A. I think so, yes. They say he was there. I never saw him there then.

Mr. Blakeney: We move to strike that out as irrelevant and immaterial. He says he never saw——

Q. When did you first see the boy?

A. I first saw him at Mariah Yokum's, a boy there, I don't know whether it was H or not.

Q. Didn't know whether it was H or not?

A. No. Mariah didn't claim it then.

Q. Did Mariah say anything to you then as to whose child it was or where it came from?

Mr. Blakeney: Object as hearsay.

A. No, sir, she never told me, but she said it was born— The night it was born they said the next morning. I never knew anything about it being born or anything about it. Some of them told that my wife was there but it was all a mistake.

Q. What is it a mistake?

A. My wife being there when she had the child.

Q. Oh, your wife was not? A. No, sir.

Q. Is your wife living? A. No, sir.

Q. About how long has she been dead?

A. Twelve year- ago last September, 6th day of last September.

Q. How old was H when you first saw him, about how old?

A. Well, he was quite young when I first saw him.

Q. About what age?

A. Oh, a baby, I don't know, a young born baby, a new born baby it looked like.

Q. Where was it you saw him? A. Mariah Yokum's.

Q. Was Mariah keeping him at that time?

A. Yes, sir, I think she was. She said that she had a child that she got from Leavenworth.

Q. What?

A. She said she had a child she got from Leavenworth and was keeping it and getting paid for it.

Q. Where was Adis then? A. At home I guess.

Q. How long did Mariah keep the child?

A. Well, now, I can't tell you that. I know it was along sometime when corn first commenced coming up the next spring that the old man and Mariah fell out about ducks being on the ground.

Q. Old man who? A. Old man Carter.

Q. What did the falling out have to do with the boy?

A. Then Mariah said she wasn't going to keep him any longer, told my wife. didn't tell me that.

Q. She didn't tell you? A. No.

Mr. Blakeney: I move to strike out the statement that she said she wasn't going to keep him any longer as hearsay, incompetent, irrelevant, and immaterial.

Q. After the falling out after the corn commenced to come up that spring, where was H, where did H stay?

A. He didn't go nowhere that I know of but out home.

Q. Did Mariah continue keeping him after corn came up that spring?

A. No, they fell out and she took him home somewhere, I don't know where she took him, she took some child, I can't swear it was H.

Q. Where did you see the child after that?

A. Well, it was sometime. He got about that high, just could talk, and I was up around old man Carter's, and old man Carter had a cow down and I went into the lot to help him raise her and the little boy come around on the road talking about his calves at grandma's. The child called Mrs. Carter grandma, I don't know about that. She told him to go back to the house.

Q. Who told him to go back? A. Old Mrs. Carter.

Q. Did you see the child very often?

A. No, I never saw him very much after that until he got so he could get around, a good sized boy.

Q. Where would you see him?

A. Saw him around the place there.

Q. The Carter place?

A. Yes, working there at John Wright's.

Q. What did they call this child?

A. H is all that I ever knowed him called.

Q. Did you see the boy off and on for a good many years, or not?

A. Why, I saw him most—yes, most all the time, once in a while traveling around. John Wright was doing public work. shelling corn and around shelling and he was generally with him. had him up home a good deal.

Q. Who? You did?

A. No, John Wright. H generally was up at John Wright's.

Q. Oh, H got big enough to work? A. Yes.

Q. John Wright? Who was he?

A. That was Adis' husband.

Q. Did John Wright and Adis live at the Carter place?

A. No. not then.

Q. Did they live near the same place?

A. Yes, lived near there sometime, at the stone house. You ever been to Carter's place?

Q. Yes. A. See that stone house east of them?

Q. Yes. A. They lived there.

Q. Did you know about H having finally left that community? A. What?

Q. Did H ever leave that community? A. Leave it?

Q. Did H ever leave that neighborhood?

A. I think he did, I think he went down to Oklahoma.

Q. Well, did you know him up to the time that he left there. that is, did you see him off and on?

A. Oh, I would see him places. I moved here to McLouth. I have seen him in McLouth.

Q. Where was he living from the time that you first knew him as a child and as a baby up to the time that he went to, you say, Oklahoma, if you know?

Mr. Blakeney: We object now as obviously a very unfair question, assuming a statement not proven and trying to connect isolated incidents with the witness as stated he cannot know, incompetent, irrelevant, and immaterial.

A. I don't know where he was living while he was a baby after Mariah quit him, I don't know nothing about that.

Q. You don't knew whether he lived at old man Carter's or not?

A. No, I don't, until I saw him about that high.

Q. Until you saw him about that high? A. Yes, sir.

Mr. Blakeney: Put that into the record. The witness is holding his hand higher than the table where he is sitting.

Q. How high, with reference to the height of this table, how high?

A. Oh, small. He wasn't much higher than that; not any higher than that.

Q. Not any higher than your hand or the table?

A. From the floor up, my hand ain't very high.

Q. From the floor up to your hand? A. Yes.

Q. High as this table or higher?

A. Might have been that high, or a little higher.

Q. How much higher than this table?

A. I can't tell you how much higher than that.

Q. About six or eight inches?

A. Yes, might have been or might not have been so high.

Q. What age was he? A. I can't tell you.

Q. About what age would you say he was?

A. Oh, I can't tell you to be certain; I don't know; I don't know the figures and like of that, never kept no count of it, nothing to me and I kept no count of it.

Q. It would be three or four or five years old?

A. No, I don't think he was.

Q. You don't think he was quite that old?

A. No, I think not.

Q. I don't quite understand you. You say you knew where he lived up to the time that he was that high or that——

A. I do which?

Q. I didn't understand?

A. I don't understand you either.

Q. Did you say that you knew where he lived up to the time that he was about that high, or that you didn't know where he lived up to the time that he was about that high?

A. I said that I didn't know where he lived, but it was supposed that he lived there at Carter's.

Mr. Blakeney: Answer yes or *know* whether you knew. I move to strike out the last part of that answer as supposition.

Q. About how many times did you see the boy from the time that he was a little baby until he was about that high?

A. I never saw him but the one time until he was about that high.

Q. Just the one time? A. Yes, sir.

Q. That was when he was just a tiny little baby?

Mr. Blakeney: We object as assuming a state of facts not proven.

Q. Then, after he was about that high, about six or eight inches higher than this table, did you see him very often?

A. No, sir.

Q. Where would you see him when you would see him?

A. I don't know that I saw him at all until he got able to walk.

Q. Did you still live in that community? A. What?

Q. Did you still live in that neighborhood?

A. Yes, sir.

Q. Did you ever see him after he was about six or eight inches higher than this table? A. Yes, lots of times.

Q. Where?

A. All over the country. He worked all over the country.

Q. Did you know where his home was?

A. He made his home at old man Carter's and John Wright's together, working.

Q. You say that Mariah Yokum kept that baby that you saw when it was a tiny little infant until the next corn commenced to come up? A. Yes, she had one there.

Q. How often did you see it during that[ ]?

A. I never saw it but the one time.

Q. How do you know that she had it there?

A. She sent word up for my wife to come down and see the baby she brought from Leavenworth.

Q. Then, you saw it too? A. I saw it after that.

Q. You didn't see it but once?

A. No, not until it got large.

Q. Then, how do you know she only had it until the spring of the next year?

A. I only know because she told my wife, that is all.

Mr. Blakeney: I move to strike out what she told his wife as incompetent, irrelevant, immaterial, and hearsay.

Q. Jarrett, was there any talk in this community as to whose child H. Carter was?

A. That was the general talk, that it was Adis' child, that is all that I know about it.

Mr. Blakeney: I move to strike out the answer as incompetent, irrelevant, and immaterial.

Q. Did they talk that very much?

Mr. Blakeney: Objected to as incompetent, irrelevant, immaterial, and hearsay.

A. Oh, I don't know how much they talked it.

Q. That was the general repute in the neighborhood?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. Yes, that was the general talk among the people.

Cross Examination by Mr. Hanford.

Q. How large a woman was Adis Wright? Was Adis Wright a large woman or a slender woman?

A. I don't know how large she is now, she was a slender woman.

Q. Slender woman then? A. Yes, sir.

Q. So, if you saw her big around the waist, that would be an unusual condition for her?

Mr. Blakeney: We object for the same reason that we have been objecting to these other witnesses. That counsel is allied with the Government in this proof, and would necessarily be confined to inquiring about matters not inquired about on direct, and would also be required to examine the witness with proper questions and not leading questions. We object to this question as incompetent, irrelevant, and leading and suggestive, argumentative and immaterial.

A. Why, I thought so, but a man can be mistaken.

Cross Examination by Mr. Blakeney.

Q. Jarrett, you are attempting to say that you saw Adis in a pregnant condition? A. What you say?

Q. You are not attempting to say that you saw Adis in a pregnant condition?

A. I thought she looked that way, I can't say that she was.

Q. You thought she was looking a little fleshy or fat?

A. Yes, sir.

Q. That is what you thought? A. Yes.

Q. Then, you say that you don't know how long that was before you heard of Mrs. Yokum having brought a child out from town?

A. Well, it was along late in the fall.

Q. Late in the fall that you heard that?

A. Yes, sir.

Q. And this, when you came down, was in May or June?

A. What?

Q. When was it that you brought her out, in May or June?

A. I don't know what time it was, I never kept notice of it.

Q. Do you know whether it was the same year or not?

A. Yes, sir, the same year.

Q. Sure of that? A. What is that.

Q. Sure that it was the same year? A. Yes, sir.

Q. What is your best judgment about the time that you brought her out?

A. Well, I think it was just along about wheat harvest or a little before, might have been in June.

Q. That would be in June or July, wouldn't it? A. Yes.

Q. Wheat harvest then was a little later than now, wasn't it? A. No, sir, none at all.

Q. Weren't you used to a different wheat in this country, Mediterranean wheat?

A. Used to Mediterranean wheat all my life.

Q. What time is harvest now?

A. July or first of August.

Q. You knew the daughter, Babe, didn't you? A. Yes.

Q. Old man Carter's daughter, Babe? A. Yes.

Q. You knew her? A. Yes, sir.

Q. Do you remember when she married old man Simonton?

A. Yes, I was at the wedding, but I can't remember the time.

Q. Adis was there at the wedding, wasn't she?

A. Well, I can't tell you.

Q. Don't you remember that she stood up with her sister? A. Well, she might.

Q. Well, don't you remember now after thinking it over that she did?

A. No, I don't remember, but she might have been there, I can't tell you about that.

Q. Do you remember what time she was married?

A. No, I don't.

Q. How long ago was it now that you brought Adis home before Babe was married?

A. Before Babe was married?

Q. Yes?

A. Oh, that was away after Babe was married.

Q. You brought her home after Babe was married?

A. Yes.

Q. Then, if Babe was married in July, when did you bring her home now, the next year afterwards?

A. I don't think she was away when Babe— She was not away to bring home when Babe was married, I don't think.

Q. I am just trying to help you to refresh your memory now, I am not trying for any other purpose.

A. I don't think that was the year at all.

Q. Don't think that was the year? A. No, sir.

Q. Was Babe married before or after you brought Adis home? A. She was married before, my best judgment.

Q. Your best judgment is that you brought Adis home afterwards. A. Afterwards.

Q. Now, if Babe was married in July, 1879, you brought her home you think then, it must have been in 1880 or later than that? A. Yes.

Q. 1880 or later that you brought her home?

A. Yes, but I can't tell you what time.

Q. It was in the same month anyhow or in the same summer Babe was married? A. No, it wasn't the same summer.

Q. Because you do recollect that Adis was at the wedding?

A. I think she was, pretty certain she was.

Q. Now, you saw a child you say at Yokum's?

A. Once.

Q. Was it once— Saw it once at Yokum's? A. Yes.

Q. A baby was it? A. What?

Q. It was a baby that you saw there at Yokum's?

A. Yes, it was a baby.

Q. Did you ever have it in your arms? A. No, sir.

Q. It was dressed? A. What is that?

Q. The baby was dressed? A. I don't hear you.

Q. Dressed. Had on its clothing? A. Yes.

Q. You didn't know whether it was a boy or girl?

A. Only what they said.

Q. You didn't know yourself? A. No, sir.

Q. Then, you didn't see any child around there until you saw over at old man Carter's, you saw a boy that, as you have indicated, was from six to ten inches higher than this table?

A. Yes, along there somewhere.

Q. This table you are referring to is the table that the stenographer is writing on now? A. No, no.

Q. About the average height for a table?

A. About that high.

Q. I mean the table is about an average height for a table, an eating or writing table? A. Yes.

Q. You saw the child then running out to the gate?

A. No.

Q. Where were you?

A. Somewhere around the barn, he was outside in the road and we were inside the lot, and hollering about his little calf.

Q. The child came running around where he was?

A. No, he didn't come to me, close to me as that wall.

Q. He came within about thirty or forty feet of you?

A. His grandma made him go back.

Q. He came running up within some thirty or forty feet of you? A. I don't know.

Q. You said to that wall, that wall is thirty or forty feet distant isn't it? A. Somewhere along there.

Q. And old man Carter's wife made the child go back?

A. Yes.

Q. How was the child dressed, do you remember?

A. I think it had on these little clothes, I think.

Q. Did it have on baby clothes, do you mean by that, or had on a dress?

A. No, I think he had on little pants or something. He was standing with his hands on his hips hollering about the calf.

Q. Now, going back now just a minute, do you recollect now in your mind, just how the boy looked there standing, or the child looked there standing with its hands on its hips, did he have on a dress or a pair of pants?

A. He had on a little pair of pants I think.

Q. But the fact you say you don't just remember?

A. Yes, no, I don't.

Q. Don't just remember what he had on?

A. No, I don't.

Q. How long was that after Babe Simonton was married?

A. Babe had been married before that.

Q. Before you saw the child?

A. Yes, in my judgment I think she was. I don't think the child had ever been there before Babe was married.

Redirect Examination by Mr. German.

Q. At the time that the child came up to the place where the cow was down? A. Which?

Q. I mean to ask you this: Was Adis married at the time that little boy came up to the place where the cow was down? A. No, sir.

Q. She hadn't married yet, are you sure of that?

A. Yes, sir, I am pretty certain of that.

Q. You say that your best judgment is that Babe married before the time when you brought Adis from Leavenworth when she looked like she was in a family way?

A. Yes, sir, I think she was married before as well as I can judge. I think so now.

Q. Do you mean when you say that, that is your best judgment but you don't know whether it was or not, or what do you mean?

Mr. Blakeney: We object now as leading and argumentative, cross examination and improper, and an attempt to keep his own witness from telling the truth.

Q. Where was Babe married?
A. Married right at the old man Carter's.
Q. You say you think Adis was there at the wedding.
A. I think she were.
Q. How long was that before you brought Adis from Leavenworth when she looked like she was in a family way?
A. Oh, sometime, sometime.
Q. About how long?
A. Well, I can't tell you at all; I never taken any notice of her at all.
Q. Well, was it a year or six months or two months?
A. Yes, a year anyhow, maybe more.
Q. Where was Viola born, if you know?
A. I suppose she was born there at Carter's they said it was born at Carter's. I don't know, I wasn't there.

Mr. Blakeney: We attempted to object to that question before it was answered as incompetent, irrelevant and immaterial. I want to object to the question in addition to that as not proper redirect.

Q. Did you have any little children? A. No, sir.
Q. At that time? A. No, sir.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

A. Got none at this time neither.

Mr. Blakeney: I want that same objection inserted in all of these questions.

Q. Were you at the marriage of Adis to Wright when she was married to Wright? A. No, sir, I were not.
Q. Were you living there in that community then, in that neighborhood? A. Lived here in McLouth.

(Witness dismissed.)

Mr. German: We offer the deposition of W. H. Rice, taken before Mr. Penick, appearing in his transcript at page 904.

W. H. RICE being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. W. H. Rice.

Q. Where do you live, Mr. Rice?

A. I live at Oskaloosa, Kansas.

Q. How far is that from Leavenworth?

A. It is twenty-nine miles by rail.

Q. What railroad is that on?

A. It is on the Santa Fe and Missouri Pacific.

Q. What direction from Leavenworth?

A. It is southeast.

Q. Where is it with relation to McLouth?

A. It is west and a little north.

Q. About how far?

A. It is about seven miles from McLouth.

Q. Did you ever live at or near McLouth?

A. I lived in McLouth.

Q. How long, about? A. About five years.

Q. Prior to that where did you live?

A. I lived on a farm northeast from McLouth about four miles and a half.

Q. How long had you lived there?

A. Well, I was born there on the farm.

Q. And raised there? A. Yes, sir.

Q. And lived there until you moved to McLouth?

A. Yes, sir.

Q. How old were you when you moved to McLouth?

A. I was twenty-two years old.

Q. In what year were you born? A. 1875.

Q. Did you know a family by the name of Carter living in the county near you? A. Yes, sir.

Q. Where you were raised? A. Yes, sir.

Q. What was the name of the head of that family?

A. Why, we called him Henry; Uncle Henry Carter.

Q. Henry Carter— How far did your folks live from Uncle Henry Carter's when you were living there in the county with them?

A. The houses were about a quarter of a mile apart, the farms adjoined.

Q. Which side of the road was the Carter house on?

A. Well, it was on the east side of the north and south road; there were cross roads there.

Q. Cross roads? A. Yes, sir.

Q. And the other road ran east and west north of the house, didn't it? A. Yes, sir.

Q. Which side of the road did your folks live on?

A. We lived on the north side of the east and west road; on the west side of the north and south road.

Q. Did they have any small children in that family when you were a child? A. Yes, sir.

Q. What were their names?

A. Well, there was a boy that we called H, and a girl that we usually called Pink.

Q. Do you know whose child H was?

A. I have no positive knowledge of my own.

Q. Was he regarded as an illegitimate or legitimate child?

By Mr. Blakeney: We object as incompetent.

A. He was considered as an illegitimate child.

By Mr. Blakeney: We move to strike out the answer as a conclusion and as an opinion and hearsay.

Q. Was there anybody there who was known to be his father so far as you know?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and to the competency of the witness.

A. Not as far as I know.

Q. Who did he live with?

A. He lived at the Carter home.

Q. With the old man, Uncle Henry Carter? A. Yes, sir.

Q. What was Uncle Henry's wife named?

A. I don't recall.

Q. Do you remember her? A. Yes, sir.

Q. About how old was H. when you first remember him?

A. Well, I can't tell you his age exactly, he was some younger than I was and probably as far back as I remember distinctly we were together.

Q. Did you ever play with him? A. Yes, sir.

Q. About how much older were you than he?

By Mr. Blakeney: We object to the competency of the witness, irrelevant, incompetent, and immaterial.

A. I was probably three or four years older than he.

Q. Mr. Rice. you say you moved away from your father's place there when you were twenty-two years old?

A. Yes, sir.

Q. What year was that? A. That was in ninety-seven.

Q. In 1897, you were born in 1875? A. Yes, sir.

Q. Did you see this boy, H. Carter, very frequently during the time that you lived on the farm there with your father?

A. Yes, sir, I saw him very frequently.

Q. Did he ever live anywhere else, so far as you know, up until the time you left your father's in 1897?

By Mr. Blakeney: We object now as asking for a conclusion, and as indefinite.

A. Not from the time that I remember him, he lived no place else.

Q. How old was he when you first remember him?

By Mr. Blakeney: We object as asking for a conclusion, incompetent, irrelevant, and immaterial.

A. Well, I can't say as to his exact age.

Q. Approximately?

A. We were boys there together and it never entered my head as to how old he was, and I can't recall now the first time that I saw him.

Q. Do you remember him as early as the time when you started to school?

A. Well, about that time somewhere I think.

Q. You are not sure about—— A. No, sir.

Q. Well, do you remember him as far back as you can remember occurrences and associates when you were a child—do you or not?

By Mr. Blakeney: We object as leading.

Q. I remember him about the same as I do any of the other young fellows around there as far as I can recall.

Q. Which was the older, H. or Viola?

A. H. was the older.

Q. About how much older?

By Mr. Blakeney: I object to the competency of the witness and as incompetent, irrelevant, and immaterial.

Q. Was there very much difference in their ages?

By Mr. Blakeney: I object to the competency of the witness again, and the question calls for a conclusion, it is incompetent, irrelevant, and immaterial.

A. She was some two or three years younger, I should judge.

Q. Did you know a woman in the Carter family by the name of Adis or Ada? A. Yes, sir.

Q. What was her other name, Ada what? A. Carter.

Q. Did she marry anybody?

A. She married a man by the name of Wright.

Q. Ada Wright? Did they live out in that country after the marriage? A. Yes, sir.

Q. Did they ever move away from that community or the immediate vicinity of the old man Carter's?

A. Well, they were in that community somewhere; they moved to different places.

Q. I see. You have an older sister, have you not?

A. Yes, sir.

Q. What is her name?
A. Well, I have three or four sisters older than I.
Q. Who is Mrs. Ritchie? A. Well, she is a sister.
Q. Sister of yours? A. Yes, sir.
Q. About how much older than you?
A. She is about seven years older.
Q. Where does she live now?
A. She lives near Oscaloosa.

By Mr. Blakeney: We pass him now, we are not going to examine him now. When I take my evidence I will examine him. I don't care about doing it now.

(Witness dismissed.)

Mr. German: We offer as Government's Exhibit A-105 a certified copy of a marriage license issued to Henry Kessenger and Miss Lela Shoemake, on November 3, 1904. That relates to the Henry Carter.

The Court: What is the purpose of that?

Mr. German: Your Honor, the depositions relating to Henry Carter show he was married to this Shoemake girl under the name of Henry Kessinger here in Muskogee in 1904. He is identified and he obtained the license and he gives his age.

Mr. Cobb: Objected to as incompetent, irrelevant, and immaterial, and hearsay.

The Court: Overruled.

Mr. Cobb: Exception.

The Court: It may be admitted.

Mr. German: I would like to get an agreement that Nancy Atkins gave her deposition in Sapulpa on July 3, 1914. I wanted to get the date of that testimony.

The Court: Are you gentlemen advised as to that date, as to the date—— You refer to the testimony in the trial of the case in Sapulpa?

Mr. German: Yes, sir.

The Court: 1914?

Mr. German: Yes, sir.

The Court: You suggest the date is what?

Mr. German: July 30th.

Mr. Rosser: No, sir, that is not correct.

Mr. German: What is the date?

Mr. Rosser: I don't know, but you have the case-made; I think it is the 24th or 25th.

Mr. German: Well, whatever it is, we would like to prove it.

The Court: Well, let's determine it right now.

Mr. Stuart: Your Honor, while they are determining that, I would like to call your attention to one phase of this record: Mr. German at an early stage of the trial, introduced certain portions of certain depositions taken at Tulsa, and introduced a bunch of them on the ground that they represented a group of persons, and introduced them for the purpose of showing that the defendant had fabricated a case, and that he would prove that the testimony in those depositions were false. Now, it may be necessary for us to have some witnesses here. We assume, if Your Honor please, we have a right to use for our own benefit the balance of the depositions that he offered in evidence, for this reason; he has offered a portion of the depositions; of course we are entitled to the whole deposition, because they might qualify, explain, or color the statement which you read.

The Court: Clearly so far as he gives that, you would be entitled to it.

Mr. Stuart: But how are we going to tell, Your Honor——

The Court: I think the Court very safely would permit you to introduce that on the theory that it would so explain or qualify.

Mr. Stuart: Yes, sir, and we want to reserve the right now to introduce those depositions if we see fit.

The Court: If that is the theory on which they are offered, I think they are clearly admissible.

Mr. German: I think that, aside from the—after we get this date of the testimony of Minnie which Judge Rosser is looking for, that aside from the witnesses that Judge Allen referred to, relating to Nancy Atkins, and in addition thereto, Edward Merrick, that we are ready to rest. Of course, we cannot rest until we have produced those witnesses.

The Court: Are you ready to proceed with the Nancy Atkins?

Mr. Maxey: I think, Your Honor, if you will give us until afternoon, we can save time.

The Court: Now, you are looking up that date, are you—24th of July. May the records show then that it is agreed that Minnie Atkins gave her testimony in the case in the state court at Sapulpa on July 24th, 1914?

Mr. Stuart: I think, Your Honor, that that may be shown. I was not there and have no personal recollection of it but I assume that is correct. I think it may go that way. If there should be an error, we will correct it.

The Court: The case seems to show that; so that for the present, it will be taken as the date without further proof.

And thereupon, court recesses until 2 o'clock P. M.

And thereafter, court having convened pursuant to adjournment, and at the afternoon session thereof, further proceedings herein were had as follows:

J. E. NEWBERRY, being called on behalf of the defendants Nancy Atkins, et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Hill.

Q. Mr. Newberry, state your name, age and residence.

A. J. E. Newberry, 65 years old, residence Wagoner, Oklahoma.

Q. How long have you lived in Wagoner?

A. I have lived there since the 27th day of March, 1890.

Q. When you went to Wagoner, where did you first live or board?

A. I was principally raised in Arkansas; I went from Arkansas in 1887 to Eufaula.

Q. You didn't understand my question, Mr. Newberry; I said when you first went to Wagoner, where did you first live or board? A. I boarded at the Barnard hotel.

Q. You boarded at the Barnard hotel?

A. Yes, sir, I boarded there for two years after I went there.

Q. For two years? A. Yes, sir.

Q. Do you know Nancy Atkins? A. Yes, sir, I used to.

Q. When did you first get acquainted with Nancy Atkins?

A. I think the first time I ever seen her or did get acquainted with her was in Eufaula but I got acquainted with her in Wagoner. She was around the hotel after I went there to board

Q. You may have seen her in Eufaula but after you went there to board on the 27th of March, 1890, you saw her around the hotel? A. Yes, sir.

Q. What was she doing around the hotel?

A. She worked around there; it is my impression that she worked in the cook room—back in the back part.

Q. Did you discover anything about her condition in the summer of 1890—her appearance?

A. Well, she didn't have an ordinary appearance—that is like most women have.

Q. What is that?

A. I say that her appearance showed that she was not in the ordinary condition.

Q. Well, what do you mean?

A. Well, I will say a virgin, then.

Q. She showed she was in a family way, did she?

Q. About when did you notice that?

A. I don't remember—during the year sometime.

Q. During when?

A. It was during the year sometime; it was during the summer. I guess it was.

Q. In the summer of 1890, do you guess? Do you know anything about her having a child born to her after you noticed this condition? A. Not only what I was told.

Q. Well, tell what you were told.

> Mr. German: Now, Your Honor, we object to that as hearsay, unless he connects it up in a proper way. I understand they have considerable evidence of this character, so we would like to make our point clear to the Court, if we may at this time. * * *
>
> The Court: Let me ask you now—— I will have to know the trend of this testimony sought to be brought out by this witness.
>
> Mr. Hill: I expect to prove by this witness that the doctor who attended Nancy talked with him and told him of the birth of this child.
>
> The Court: At the time of the occurrence?
>
> Mr. Hill: At the time, yes, sir.
>
> The Court: Is that objected to?
>
> Mr. German: If it is so related as to form a part of the res gestae.
>
> The Court: Counsel states that what he seeks to prove by this witness is that at the time of the birth of this child, about which there has already been evidence; that at that time there was a certain doctor in attendance

and that that doctor at that time made a statement to this witness which he is asked to relate.

Mr. German: He would need to prove independently that that doctor was attending on this case.

The Court: Yes, that would be an element.

Mr. German: And then if the declaration was not so related to the occurrence as to form a part of the res gestae the death of the doctor must be proved.

The Court: Well, you may proceed with the case.

Mr. Maxey: We are introducing Mr. Newberry a little out of the ordinary on account of his having a sick wife, and so we put him on first so he could get away.

Q. I asked him to relate the occurrence; I am referring now to what Dr. Bryant said.

Mr. Cruce: We object to that as hearsay on behalf of Mr. Page.

Mr. German: I just started to make the same objection.

The Court: The record may show the objections. This is being admitted on statement of counsel that he will produce proof as to the fact that the doctor referred to was in attendance in this case and that this statement was made at or near that time.

Mr. Hill: That is my information.

The Court: Unless it is done and connected up the Court will of course not consider it.

Mr. Hill: Yes, sir, we can't put it all on at once.

Mr. Cobb: If the Court please, I presume that it will be understood that the objection made by Page or Minnie Atkins goes to the Carter interest without special objection being made.

Q. Did you know Mr. Bryant? A. Yes, sir.

Q. Where is he now?

A. I couldn't say, he went north from Wagoner about fifteen years ago; I don't know where he is.

Q. Don't know what has become of him?

A. No, sir, I don't know where he is.

Q. He was living at Wagoner at that time we are referring to now in 1890, was he? A. He was.

Q. Were you acquainted with him?

A. Practicing physician there at that time; he was the only one that was there at that time that I know of.

The Court: Can you speak a little louder? Speak as if you were talking to Judge Stuart there.

Q. Did you have a conversation with Dr. Bryant in regard to Nancy having a baby, if so, state to the Court what it was?

The Court: First, let's see when it was.

Q. Well, when was it that you had a conversation with Dr. Bryant?

A. Well, sir, I can't exactly locate the time, but it was in the summer or fall or sometime I think of 1890.

Q. In the summer or fall of 1890? A. Yes, sir, it was.

The Court: When was it with relation to the time that you saw Nancy Atkins in this unusual condition?

A. After.

The Court: How long after?

A. Oh, I couldn't positively state, because I saw her nearly every day.

The Court: Well, was it a year after that?

A. No, sir.

The Court: Six months?

A. I suppose it was after I first noticed it was three or four or five months, I don't know.

Q. That is three or four or five months after you first noticed her in that condition? A. Yes, sir.

A. Yes, sir.

Q. That you had this conversation that I am inquiring about? A. Yes, sir.

Q. Very well, state what convesation you had then?

A. As I started to say, I started to breakfast and I met Dr. Bryant at the gate and went into the yard of the hotel. And he says: "You ought to go and see your kid." Says I, what kid? He says: "Old Nancy's." I says, thunder has she got a kid? And he says: "She sure has." That was the only conversation.

Q. The only conversation with Dr. Bryant? A. Yes, sir.

Mr. Stuart: We move to strike that out because it couldn't have been a part of the res gestae. This doctor was alive at the time the statement was made.

The Court: I will reserve a ruling on that.

Mr. German: We make the same motion.

Q. How soon after that did you see Nancy?

A. Well, it might have been a month, I don't know, couldn't say positive.

Q. When you next saw her, state what her condition was then as to pregnancy?

A. The next time I seen her, she didn't look like the time I seen her before.

Q. Appeared to be no longer in a pregnant condition?

A. No, sir, didn't show it.

Q. You did not accept the doctor's invitation to go and see the child? A. I did not.

Q. When did you next see Nancy, tell any occurrence that you remember about seeing her or the child?

A. Well, it might have been a month and it might have been longer, I couldn't say as to that.

Q. Tell about that?

A. The next time that I remember of seeing her after the report was that the child was born, I had occasion to deliver some furniture to an old lady by the name of Walker. I taken the furniture down, some bedsteads, and set them outside by the door, and after I got the things set out I stepped to the door. The old lady was there in the house and I said there is the furniture. And she come to the door and said: "Do you want to see Nancy's baby?" Says I, what in thunder do I want to see Nancy's baby for? And Nancy was laying on the bed. That was after I know September, 1890, it was later than September, but I couldn't say exactly.

Q. Did you see Nancy in bed and recognize her?

A. I recognized her laying on the bed, she wasn't covered up, she wasn't in the bed.

Q. Did you see a little boy around Wagoner there any time after that, that by common reputation was known as Nancy's boy? A. I did.

Mr. German: We object on the ground that that is hearsay and incompetent.

The Court: Well, I am impressed with these authorities that the federal rule would exclude this general reputation of persons not members of the family. I shall sustain the objection and give you an exception as to the general reputation in the community among persons other than the members of the family.

Mr. Hill: We will offer that to prove by this witness that it was generally reputed in that neighborhood that this boy known as Tommy Atkins was the son of Nancy Atkins.

The Court: The record may show your offer and the ruling of the Court and your exception.

Mr. German: Your Honor, will remember that R. S. Davis testified for them a few days ago and his testimony was solely based on reputation, and we now move to exclude his testimony.

The Court: Yes, he testified that a certain little boy came to the store with Nancy; his testimony also covers general reputation.

Mr. Maxey: We haven't offered it yet. We took it out of time.

The Court: That is in the record, but out of time by permission of the Court.

Mr. Allen: They took it as a deposition.

The Court: It can be ruled on then when it is offered.

Mr. Stuart: We again move to strike the statement of that doctor as to that baby, which clearly occurred a day or two after the baby was born.

The Court: That is the one with regard to which I reserved a ruling.

Mr. Stuart: Yes, sir.

The Court: Well, the question is whether it was so related to the incident of the birth as to make it a part of the res gestae.

Mr. Stuart: In order to be res gestae, he must have just come from the birth of the child.

The Court: Of course, it is very clear that the circumstances must have been such there that at that time the reason which now exists for a statement with regard to the matter didn't exist. The doctor, if he made such statement must have been presumed to have made it without motive of coloring the truth. I will not rule on that now. You have your motion.

Mr. Hill: In regard to that, you asked if we would connect him with it. I am still uncertain about it and will reserve it myself.

The Court: All right.

Q. Mr. Newberry, did you know a little boy around Wagoner that you saw with Nancy Atkins?

A. I couldn't say that I ever saw him with her.

Q. Ever saw him with her? A. Yes, sir.

Q. Did you see a little boy at the Birney's? A. Yes, sir.

Q. Betsey Birney's? A. Yes, sir.

Q. About when did you see that boy?

A. Well, I should say the boy must have been——

The Court: About when did you see him?

A. I couldn't know the date, it must—— He must have been some four or five, maybe six years old from his size, I couldn't say.

Q. Do you remember the boy, can you describe him?

A. Sir?

Q. Can you remember him so that you could describe him?

A. Yes, I could remember him. I don't know that I could describe the color exactly but I could describe his appearance.

Q. Describe him as best you can?

A. He was a little boy—— I suppose, well, I reckon he must have been that high (indicating). That is, from the table to my hand. He was very dark, I don't know whether—— He was rather yellow and he was very ragged and dirty.

Q. Do you remember the color of his hair?

A. No, sir, I do not.

Q. Where was Nancy living at the time you saw this boy at Betty Birneys? A. I can't say.

Q. Do you know where she usually lived?

A. No, I think she lived sometimes at Betty Birneys' and sometimes at another, I can't say.

Q. You know she was at Betty Birneys' frequently?

A. Sir?

Q. Do you know whether or not she was frequently at Betty Birneys'? A. I have seen her there quite often.

Q. Did you know Betsy Birneys' children? A. Yes, sir.

Q. Was this little boy that you were describing one of Betsy Birney's children? A. Why I should think not.

Q. What was that little boy called?

A. I don't know what that little boy was called; the one I have been speaking about, I can't say.

Q. Did you know anything about the death of that little boy? A. Not only what I was told.

Q. Well, what were you told in regard to his death?

Mr. German: We object on the ground of hearsay.

The Court: Objection sustained.

Mr. Hill: We offer to prove by this witness that it was generally reputed in the neighborhood that this little boy whose name he does not recall, who he testifies being a little boy at Betty Birneys, died about the year 1901.

Mr. German: We object to that.

The Court: You have your exception and you have made your proffer, and I have ruled against that.

Mr. Cruce: The same objection for the Page interests that the Government reserves.

The Court: You see I have sustained the objection.

Mr. Cruce: Well, I don't want it to appear that we have not objected with the Government.

The Court: Well, you want the same objection with the Government?

Mr. Cruce: Yes, sir.

Mr. Hill: Now, I want to put another question differently.

Q. Mr. Newberry, don't answer this question until the court rules upon it. Mr. Newberry, did you hear a general talk or discussion around Wagoner that Nancy Atkins had an illegitimate child and that it was a common joke in the neighborhood as to who was it's father?

Mr. German: We object to that on the ground that it is hearsay.

Mr. Cruce: We object for the same reason.

The Court: Objection sustained.

Mr. Hill: We offer to prove by this witness that there was a general discussion around Wagoner at the time this boy he has described was quite young and some years thereafter, was an illegitimate child of Nancy Atkins, and there was a joke in the community as to who his father was. Our exceptions will be noted?

The Court: Yes.

Mr. Hill: That is all.

The Court: Any cross examination of this witness?

Cross Examination by Mr. German.

Q. You spoke of going to old lady Walker's one day?
A. Yes, sir.

Q. She said something to you? A. Yes, sir.

Q. Now, who was old lady Walker?

A. Well, she was an old widow woman, I think, that lived in the town of Wagoner.

Q. Where did she live with reference to Betsy Birney?

A. She lived further south, I suppose—well now, it would be two or three blocks.

Q. Two or three blocks. She was a white woman?
A. Yes, sir.

Q. What was it you said she said to you?

Q. She asked me if I want to see Nancy's baby.

Q. If you wanted to see Nancy's baby? A. Yes.

Mr. German: Now, I didn't clearly get that, Your Honor, when the witness testified about that on direct examination, and I move to exclude his testimony on that subject. It is not shown that Mrs. Walker is dead, and on the ground that it is hearsay. Let me ask this preliminary question to the court passing on the objection.

Q. Is Mrs. Walker living? A. What is that?
Q. Is Mrs. Walker living? A. I think not.
Q. Don't you know that she was here at court yesterday?
A. I can't say, I don't know.
Q. Is it Mrs. S. T. Walker?
A. I don't know what her initials was; she is very old now.
Q. The mother of Minnie Taylor, that is the woman, isn't it? A. I can't say.
Q. Would you know her if you would see her?
A. I don't suppose I would now.
Q. Where do you live now? A. Sir?
Q. Do you live at Wagoner now? A. I do.
Q. Did she run a sporting house at that time?
A. No, I don't know that she did; I can't say that she did.
Q. Well, what kin was she to Nancy?
A. What is that?
Q. What kin was she to Nancy?
A. I don't know that she was any. Nancy, I think, was staying there.
Q. What?
A. Nancy, I think, was staying there. I have seen her quite often there.
Q. Working there as a servant?
A. No, sir, I don't suppose she was.

The Court: Was that admitted over your objection?

Mr. German: I don't think it was objected to at the time, Your Honor, it came in so——

The Court: That came out in connection with his testimony in which he said that Nancy was lying there on the bed; that he could see her lying there on the bed, and this old woman at the door asked if he wanted to see Nancy's baby.

Mr. German: I move to exclude the statement, that asking if he wanted to see Nancy's baby.

The Court: Overruled and exceptions noted.

Q. Now, when you went in that house, did you see Nancy?
A. I didn't go in there.
Q. Oh, you didn't go in?
A. No, sir. I seen Nancy lying on the bed.
Q. From the door? A. Yes, sir.
Q. Well, what else? Anything else?

A. I saw the families—they that was there.

Q. You didn't see any baby, though, did you?

A. I did not.

Q. You don't know whether the baby she was talking about was dead or alive, do you? A. I do not.

(Witness dismissed.)

And thereupon, CHARLES BAILEY was called and sworn as a witness for and on behalf of the defendant, Nancy Atkins, and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. Charles Bailey.

Q. What is your age?

A. I am fifty-eight years old.

Q. Fifty-eight years old. Where do you reside?

A. I reside at Sand Springs, Oklahoma.

Q. How long have you lived at Sand Springs?

A. Three years.

Q. Did you ever live at Wagoner? A. I did.

Q. How long did you live at Wagoner prior to the time that you went to Sand Springs or Tulsa?

A. I went to Sand Springs in 1888 and I lived there up until 1907.

Q. Do you mean Sand Springs or Tulsa?

A. Wagoner.

Q. You went to Wagoner in 1888? A. Yes, sir.

Q. And resided there how long?

A. I left there in 1907 I think.

Q. 1907?

A. Nineteen hundred and six or seven, I forget just which.

Q. Were you acquainted with Nancy Atkins?

A. I was.

Q. When did you first become acquainted with her?

A. Well, I became acquainted with her at Wagoner, but I have seen her at the Mission quite often, at the Tullahassee Mission down at Col. Robertson's place.

Q. Well, did she ever live in Wagoner? A. Yes, sir.

Q. Were you acquainted with her while she lived in Wagoner? A. I was.

Q. Where did she live?

A. When she first came to Wagoner, she lived—worked at the section house I mean, I don't know just how long, but she was working at the section house for the section foreman or his people. Afterwards she lived with a colored woman by the name of Birney.

Q. Betsy Birney? A. Yes, sir.

Q. Now, where were you working at that time?

A. I was with Davis & Jones Mercantile Company.

Q. Do you remember the circumstance of her having a child? A. I do.

Q. Did you see her prior to the time, a few months prior to the time? A. Yes, sir, see her quite often.

Q. Did you ever notice whether or not she was in a pregnant condition? A. I did.

Q. Was she or was she not? A. She was.

The Court: Now, what year was that?

A. I think it was in 1889, I won't be positive now whether it was in 1889 or 1890.

Q. Either in 1889 or 1890?

A. Yes, sir, one or the other, but I couldn't say positive.

Q. Now, do you know where the child was born?

A. The child was born——

Mr. German: Wait a minute. Do you know, answer that yes or no.

A. Yes, sir, I do.

Q. State when it was born?

A. It was born just back of Davis & Jones Mercantile House, over in what was the prairie. There was no street or anything there at that time, there was just a prairie right up to Davis & Jones yards and gin; and this tent was west of that a little ways.

Q. What tent are you speaking of?

A. A tent that she was living in at that time.

Q. Now, how do you know the child was born there?

A. There was a colored woman came in the store early one morning and spoke to an Indian a clerk, about getting something, some groceries and he referred her to me. And she came over there and told me that this girl was sick, had a child, and she didn't have any money or anything suitable to eat, and she wanted to get something there, some few little articles. And I told this Indian boy to let her have it, whatever she wanted.

Q. Now, did you see her or the child?

A. No, I never saw her for I suppose, or maybe it was a week or ten days before I ever saw her.

Q. When did you see her?

A. I saw her, she went from this tent to Betsy Birney's house. I saw her over there.

Q. Do you remember the time they moved her? A. Yes.

Q. From the tent to the house? A. Yes, sir.

Q. Did you assist in moving her? A. No, I did not.

Q. Did you see them moving her?

A. No, but I seen that the tent was gone and they said that they had taken her over to Betsy Birney's.

Q. Now, you afterwards saw her at Betsy Birney's?

A. Yes, sir, quite often.

Q. Where was she?

A. Betsy Birney had a two-roomed house and she moved into one of those rooms.

Q. Now, was she in bed or what part of the house was she in? A. No, she was walking around in the house.

Q. Now, did you see the child at that time?

A. I never saw the child until it was probably a month or two months old.

Q. Where did you see it then?

A. Right at this house. The road run within thirty feet of the house. It was a road it was no street.

Q. Who was with it when you saw it?

A. I don't mind whether it was Betsy Birney or Nancy.

Q. Where was it? A. At that house.

Q. At Betsy Birney's house? A. Yes, sir.

Q. You say it was about a month old when you saw it?

A. The first time I seen it to notice I suppose was a month after confinement, after this woman was confined there.

Q. Now, did you see it after that? A. Yes, sir.

Q. How frequently?

A. Oh, maybe once in a week, maybe later on two or three times a day.

Q. Where did you see it? A. At this place.

Q. Who accompanied it?

A. Well, it would be around the yard and playing with those children. Later on I bought property just outside of the corporate limits and built a house and moved over to it, and I passed by this place two or three times a day and I see this child there pretty nearly all the time.

Q. About how long did you see it there?

A. Oh, I suppose four or five years.

Q. Do you remember whether it died or not?

A. I remember that I was told that it died.

Mr. German: Now, wait a minute, we object to that on the ground that it is hearsay.

The Court: Objection sustained.

Q. Well, did you miss it afterwards? A. Yes, sir.

Q. Quit seeing it around there? A. Yes, sir.

Q. Now, I will ask you if you heard what became of it?

Mr. German: We object on the ground it is hearsay.

The Court: Sustained.

Mr. Maxey: Exception. We offer to show by him that after he missed seeing the child around where he was accustomed to seeing it, that he was told that it was dead

Q. Who told you it was dead?
A. I can't call to mind who it was told me.
Q. Did you hear more than one person say it was dead?
A. Yes.

Q. Was it generally reputed in the neighborhood there about that time—about the time that you quit seeing it around there that it had died?

Mr. German: Now, we object to that on the ground that it is hearsay, and in addition to that we move to strike the other two or three questions and answers for the reason that they are leading and state that—and calls for evidence in violation of the rules of law now being applied by the Court. They were made in such a way that we can hardly object to them.

The Court: I will tell you. This is going to run through your phase of the case pretty generally. I am going to do this. Before I exclude all of this finally, in view of the fact that it is nearly adjourning time now, I am going to give this matter a little further consideration between now and Monday morning, and I will not go further with the proof tonight. I want to satisfy myself with a little further investigation. This is a very important stage of this case.

Mr. Stuart: Your Honor, we might finish the cross examination of this witness, because that is the only question he is going to ask him.

Mr. Maxey: Oh, no.

The Court: Probably you might go into the other questions of fact in which this question does not arise and finish with him to that extent but leave this question as to the reputation of death until I give it some consideration between now and Monday morning.

Q. Do you remember what name this child had?
A. It was called Tommy Atkins, the only name I heard it called by.
Q. Was it a boy or girl? A. Boy.
Q. Do you know Minnie Atkins? A. Yes, sir.
Q. What relation is she to Nancy?
A. She is a half sister, I have been told—I don't know, I can't say.
Q. Do you know Minnie's children?
A. I know two of her children.

Q. What were their names?

A. Charlie Harrison and Harvey Harrison.

Q. When did you first see those children?

A. I think it was '95 or '96.

Q. 1895 or '96? A. Yes, 1895 and '6.

Q. Where did you first see them?

A. The first time I saw them, Charlie was brought to my house.

Q. What relation if any have you borne to those children, official or otherwise?

A. Well, this boy lived—his aunt asked me if I would take the boy and keep it. I told her I would.

The Court: What boy is that, now?

A. Charlie Harrison.

Mr. Blakeney: Minnie's boy.

A. I told her I would and she sent her son after this child. He was some 15 or 18 miles above Wagoner, living with some negro people and this son of Kate Holden went and brought him to my house. That was the first time I ever saw the child.

Q. Do you know what relation Kate Holden was to Minnie and Nancy?

A. She was a half sister to Nancy; a sister of Minnie. That is I have been told that ever since I can remember.

Q. Well, now, how long did this boy stay at your house—Charlie Harrison?

A. He stayed there until he was about 22 years old; something like four years ago—five or six years ago, or something like that.

Q. Did he have a guardian?

A. After several years I don't remember—but several years after that his aunt petitioned the court to appoint—for me to be appointed guardian of the child and I was appointed guardian at this place here, in the Federal court.

Q. Did you serve as his guardian up to the time that he became of age? A. I did.

Q. Did you ever have any conversation or correspondence with Minnie with reference to her children after they came to your house?

A. I had a letter from Minnie Atkins from—written from St. Joe, Missouri, there wasn't much said about the children; she asked for a loan.

Q. Have you got the letter? A. No, sir, I haven't.

Q. Do you know what become of it?

A. Well, I can't say because it was just probably just thrown away—I don't know.

Q. You haven't seen it recently?

A. No, I haven't saw it in I know——

Q. Did you search for it about the time of the trial at Sapulpa?

A. Yes, prior to that I did. I had a trunk at Wagoner with some papers.

Q. Were you able to find it? A. I was not.

Q. Haven't ever found it since?

A. No, I looked for it.

Q. State what was said in the letter with reference to the children, if anything.

A. She said that she understood that I had one of the boys.

Q. Did she say which one?

A. She said Charlie, and she said that she was very sick and asked me if I would send her some money.

Q. Do you remember about what date that letter was?

A. It was in ninety-six or seven, somewheres along in there.

Q. 1896 or '97?

A. Somewheres in there. I can't remember.

Q. Do you know what became of the other boy Harvey?

A. Kate Holden, that is his aunt, came to—the boy was out 8 miles from Wagoner living with Jim Childers, and she went there and got the boy and taken him to her house west of the Arkansas river at her home.

Q. Now, which was the older, Harvey or Charlie?

A. Charlie.

Q. About how old was he when he came to your house?

A. I never learned how old he was, he was very small though. I suppose he was about 4 or 5 years old; he was very small.

Q. Do you remember whether his mother was here about the time that you first saw him?

A. No, she wasn't here.

Q. Do you remember about her being here about the year 1895? A. Yes.

Q. Did you see her at that time?

A. I seen her in Okmulgee at that time.

Q. Is that the only time you saw her?

A. Yes, that is the only time I seen her for several years; before that while she was at Tallahassee Mission I saw her there.

Q. Now, at any of the time that you saw her, or in any of the correspondence you have had with her, had she ever mentioned anything about a child by the name of Tommy Atkins? A. No, sir.

Q. Did she—she did write to you about Charlie? She understood he was living with you and wrote to you about him?

A. Yes, sir. I don't think she spoke about the other boy; she just spoke about this boy that was living at my house.

Q. Did Charlie have an allotment? A. He did.

Q. Did you look after that for him?

A. I filed on the quarter section of land there by Wagoner; property I had been living on for several years. I bought it prior to that.

Q. You are not an Indian yourself?

A. No, sir; Shannon owned the place about six or seven hundred acres there and he sold it to me; just sold me the improvements on it.

Q. And you filed on it for Charlie?

A. Yes, sir, I filed on 160 acres of it for him.

Q. Did you hear from Minnie any more after this letter from St. Joe? A. Never did, never heard.

Q. Do you remember how long that was after she was here in 1895?

A. Well, I think it was in '96 or '97, or somewheres along there—I can't remember.

Q. Six or seven years?

A. 1896 or 1897, somewhere along there.

The Court: What St. Joe was that?

A. St. Joe, Missouri.

Q. Speaking of the times that you heard that he was dead, I will ask you whether you know anything about the making up of money to bury him?

A. I do not. I was not in town I am sure, I am very sure I wasn't at Wagoner at the time it died. I was frequently away from home for a week or three weeks at a time, in Texas or Louisiana, or Texas, or Kanses City, or other places where I had business. And if I would have been there I would certainly have known it at the time.

Q. Now, how old would you think it was then the last time you saw him?

A. I should judge he was five or six years old.

Q. What was the date of the last time you saw him as well as you can remember, the year?

A. I couldn't say, I couldn't state what year. I had no occasion to think about it.

Q. Well, now, you spoke a while ago of filing on some land for Charlie, living with you; what time was it that he disappeared, that is, what time did you quit seeing him there with reference to the filing, the time they opened the land office?

A. Well, it was several years.

Q. It was what?

A. It was several years before that, three or four, I don't know.

Q. You don't remember seeing him after they commenced filing? A. No, I don't.

> Mr. Maxey: Well, until the Court rules on the other, I believe——

Q. Where did this boy live? A. Which?

Q. The Tommy Atkins you knew?

A. The last time I saw him was living in Wagoner just west of our place.

Q. With whom? A. With Betsy Birney.

Cross Examination by Mr. Allen.

Q. Mr. Bailey, you say that you saw Nancy Atkins pregnant at one time? A. I did.

Q. Did you ever see her in that condition more than once?

A. No, sir, not to my knowledge.

Q. How old did you say this child was that you saw at Betsy Birney's, was it when you first saw it?

A. It was quite small, it was an infant, quite small, I couldn't say how old.

Q. You testified once before concerning your knowledge of this child, didn't you Mr. Bailey? A. Yes, sir.

Q. In the District Court in Creek County when the contest was on there between Minnie Atkins and Nancy Atkins?

A. Yes, sir.

Q. Between Bartlett and Nancy Atkins. You testified at that time that this child was a year or two old the first time you saw him, didn't you? A. I don't think I did.

Q. I will ask you if the following questions were not asked you to which you returned the following answers: "Do you know whether Nancy Atkins ever had a child or not? A. Only from what I was told, yes, she had a child there. Q. Did any child ever live there with her? A. Yes, sir. Q. How old was that child the first time you saw it? A. It must have been a year or two old, for I never was in her house." Were those questions asked and did you answer them in that way?

A. I don't remember, I expect I did.

Q. Refreshing your recollection from those questions, isn't it a fact, Mr. Bailey, that you never saw this child at the Birney home? A. No, sir.

Q. Until he was a year and a half or two years old?

A. No, sir. I saw a child there that was an infant. I don't know, I couldn't say whether it was one month or two or four, but it was an infant, and was told——

Q. But at that time you didn't know its name?

A. I did not, I never went in the house.

Q. Later you saw a little negro boy running around that community named Tommy Atkins, is that right?

A. Well, I wouldn't call him a negro boy, he run around with the negro children, but he wasn't called a negro boy.

Q. He associated entirely with negroes?

A. Yes, sir, he was living with a negro family.

Q. You saw him around the negro house?

A. I did, I passed by the house two or three times a day.

Q. Did you ever see him any place else except the Birney house? A. I saw him up around the street.

Q. You saw him later on hauling wood? A. No.

Q. You never knew but the one Tommy Atkins?

A. That is all.

Q. That is all the Tommy Atkins you ever knew of around Wagoner?

A. That is all the Tommy Atkins I ever knew or heard of.

Q. Betsy Birney moved away from that community you say several years after you first saw this child there?

A. Yes, she moved away from this place.

Q. And you never saw the child after he was five or six years old, did you?

A. No, sir, I suppose he was about that, I don't remember.

Q. Now, let me understand you, the first time you ever saw this boy you saw him around Betsy Birney's, you don't know just how old he was and didn't know his name?

A. Not at that time.

Q. Afterwards, you saw some boy around there and around the streets of Wagoner which you understand was named Tommy?

A. Named Tommy Atkins is what he was called.

Q. And that boy you never saw again after he was five or six years old? A. No, sir.

Q. Do you know where he went to when he left—— He passed out of your recollection? A. Do not.

Q. Mr. Bailey, you have done considerable work for the Nancy Atkins interest, haven't you? A. No, sir.

Q. Didn't you go around with Mr. White trying to get witnesses for him?

A. I went with him once to Dave Marshall's place to see him, went out from Tulsa. That is the only time I went for a witness.

Q. You told him—— Did he pay you anything for that service?

Mr. Maxey: We object to that. He had a right tc pay him.

The Court: He may answer.

A. He did not.

Cross Examination by Mr. Stuart.

Q. You knew Nancy before she left Muskogee, didn't you?

A. No, I never knew her in Muskogee; I knew her at the Mission.

Q. You knew her at the Mission? A. Yes, sir.

Q. You knew her before she went to Wagoner?

A. Yes, sir.

Q. Knew she was Minnie's sister? A. Yes.

Q. Did you know that? A. Yes, sir, I knew she was.

Q. Minnie's sister? A. Yes.

Q. You knew that, sir? A. Yes, sir.

Q. Now, when Nancy first went to Wagoner, she associated with negroes entirely, didn't she?

A. I can't say as to that.

Q. Well, what did you know about it—anything?

A. When she first went to Wagoner, she worked at the section house—I don't know how long she was there—maybe a month or maybe two months, I don't know.

Q. Don't you know that Nancy lived in that small negro community at Wagoner? A. Yes, sir.

Q. She lived there? A. Yes, sir.

Q. Stayed there didn't she? A. Yes.

Q. She had her home there with them?

A. I think so.

Q. And she slept there with those colored people, didn't she? A. I suppose so, I never was there after night.

Q. But whenever you saw her at all, you saw her going to and from those colored homes, didn't you? A. Yes, sir.

Q. And you took her to be a resident of that colored community, didn't you? A. Yes, sir.

Q. Did you know Eliza Sterling? A. No, sir.

Q. Did you know Nancy Barnett? A. I did.

Q. Know Betsy Overton? A. I did.

Q. Did you know Henry Anderson? A. Yes, sir.

Q. Angeline Moody? A. Yes, sir.

Q. Now, those colored people lived right in the immediate neighborhood where Nancy stayed, didn't they?

A. Lived in that neighborhood.

Q. Right around there close, didn't they?

A. In the negro part of town.

Q. In the negro part of town? A. Yes, sir.

Q. The fact is that the negro part of town was a sort of segregated part of the town, wasn't it?

A. It was.

Q. It was and they lived there as a sort of colored community to themselves, didn't they?

A. Yes, sir, they did.

Q. And in that community Nancy lived?

A. Yes, sir, that was a fact.

Q. When did you first see Nancy in Wagoner—what year? A. What year?

Q. Yes? A. It was in '89 or '90, I can't say which.

Q. '89 or '90. Was she pregnant when you first saw her?

A. I didn't notice it when I first saw her.

Q. How long after she came to Wagoner before you noticed her pregnancy? A. Probably three or four months.

Q. Probably three or four months? A. I can't state.

Q. Where was she living when she had her baby?

A. She was living just back of the Davis and Jones Mercantile house.

Q. In whose house? A. In a tent.

Q. In a tent? A. Yes, sir.

Q. In a tent? A. Yes, sir.

Q. Did she have her baby in the tent?

A. Yes, sir, I was so told she did; she was living there anyway.

Q. She had the baby in the tent. Whose house was that near to—what was that near to—what colored house?

A. It was near to Betsy Birney's house.

Q. Near to Betsy Birney's house? A. Yes, sir.

Q. You spoke of seeing an infant; you never was inside to see the infant was you? A. No, sir, I was not.

Q. Well, how did you see it?

A. I seen this woman and I don't mind whether it was Nancy or Betsy Birney—one of them had a child in her arms a little infant, in the yard on the porch immediately in front of the door.

Q. That was Betsy Birney's house? A. Yes, sir.

Q. You don't know whether that was Nancy's baby, or Betsy Birney's or Betsy Birney's grandchild?

A. No, I don't know.

Q. You didn't know whose child it was; you just was going along the road and saw an infant there? A. In the yard.

Q. In the yard and that is all you know about that infant that you saw there? A. I didn't inquire naturally.

Q. Now, you knew Nancy up there after she was reputed to have a baby, until she went to prison, didn't you?

A. Yes, sir.

Q. Didn't you? A. Yes, sir.

Q. She never was pregnant between the time she had that baby and the time she went to prison, was she?

A. I don't think she was; I knew nothing about it.

Q. She came back, didn't she? A. Yes, sir.

Q. And you never knew her to be pregnant after she came back from prison, did you? A. No, sir.

Q. And so as a matter of fact, so far as your knowledge and observation goes, Nancy never had but that one baby, did she? A. So far as I know.

Q. That is it. Now, you remember that Charlie Harrison did go up there, didn't he? Charlie Harrison, the boy that you claim to be guardian for, he came up to Wagoner, didn't he?

A. Yes, he was not in Wagoner, though, at the time they brought him to me—to my house.

Q. I didn't ask you that. I asked if he came to Wagoner.

A. I never saw him in Wagoner.

Q. Don't you know, Mr. Bailey, that Charlie Harrison was up there with his Aunt Nancy in Wagoner and stayed with her? A. I do not.

Q. Do you say that is not true?

A. I say I do not know it.

Q. Well, do you know it is not a fact? A. No.

Q. Well, you was his guardian, wasn't you?

A. This child was booked from near Choteau to my place —was the first time I ever saw him.

Q. I haven't ask- you that, Mr. Bailey. Let's speak of my question. A. Well?

Q. You were his guardian, weren't you? A. Yes, sir.

Q. Now, as his guardian, will you tell the Court whether or not he came there and stayed with his Aunt Nancy?

A. I never saw him there.

Q. You say he wasn't there?

A. I say I never seen him there. I never knew of the child until his aunt told me about it.

Q. Well, that is not the question. Did he come there after you knew of the child? Did he go there after you knew of the child? A. No, sir.

Q. He never came to Wagoner atfer you knew of the child? A. Knew of Charlie Harrison?

Q. Yes?

A. I never knew of him until two days probably, before he came to my house.

Q. I know, but he did go there didn't he? A. Yes.

Q. Now, didn't he afterwards stay with his Aunt Nancy?

A. No, sir, he didn't.

Q. He didn't?

A. He never was out of my house after he came to my house.

Q. Now, to your knowledge, did he stay with his Aunt Nancy before that time? A. Not to my knowledge.

Q. Not to your knowledge? A. No, sir.

Q. You say you got a letter from Minnie?

A. I got a letter from Minnie? [Q.] What year was it?

Q. I can't say what year it was. I said it was in '96 or '97.

Q. How much? A. '96 or '97.

Q. '96 or '97? Did you go to see her? A. I did.

Q. You went to see Minnie? A. I did.

Q. Paid your own way up there? A. I did.

Q. What for?

A. I was in Kansas City and I just taken a notion that I'd go over and see her.

Q. Well, *whay* did you take a notion to go over and see her at St. Joe?

A. Well, I thought probably she might be really in need of this money and if she was——

Q. Where was she in St. Joe when you saw her?

A. She was *looked* in what looked to me like a sporting house; a rooming house.

Q. Can you tell what place—what part of the town it was?

A. I had the number of the place and went there.

Q. Did you? A. I went there.

Q. Well, can you tell us what direction it was from the center of the town—in which direction it was?

A. No, I can't.

Q. And didn't she tell you that she had tuberculosis?

A. She told me she was sick, she looked to me like she did.

Q. She looked like she had tubèrculosis? A. Yes.

Q. She said she was very ill at that time?

A. She looked to be a very sick woman; she was lying covered up?

Q. Did she have a doctor with her?

A. I wasn't in the house thirty minutes.

Q. Well, did she say that a physician was attending her?

A. She did.

Q. She told you she was down and out, didn't she?

A. That is what she said.

Q. Told you that she expected to die?

A. That is the remark she made.

Q. And you went away, and where did you go to after you left there?

A. I came back to Kansas City and came from Kansas City to Wagoner.

Q. Well, did you notify any of her relations about her desperate condition? A. I did not.

Q. Why didn't you do it?

A. Simply because she told me not to.

Q. Told you not to tell where she was? A. She did.

Q. Told you that she didn't want anybody to know where she was, didn't she? A. That is the remark she made.

Q. You think that letter was in about '96 or '97?

A. I think it was, I don't remember.

Q. About '96 or '97. Now, you had no particular reason for watching Nancy while she was at Wagoner, did you?

A. None whatever.

Q. You had no particular [] in keeping up with her domestic affairs or her children, did you? A. No.

Q. You had no reason and the fact that your attention was especially directed to her, other than what you heard around in the neighborhood, did you? A. No. sir.

Q. And consequently you couldn't say, Mr. Bailey, really, whether her child was born dead or alive, of your own knowledge? A. Not of my own knowledge.

Cross Examination by Mr. Allen.

Q. Mr. Bailey, how old is Charlie Harrison at this time?

A. I couldn't say.

Q. How old was he when he was brought to you?

A. I couldn't say. I taken him to be four or five years old, he was very small and he was sick at the time. He never knew his age and I never found out. Never saw anyone that did know. I took it though that he was about four years old from his looks.

Cross Examination by Mr. Cobb.

Q. Mr. Bailey, how long has it been since you saw Charlie Harrison? A. Been about two weeks.

Q. Been about two weeks? A. Yes, sir.

Q. Where does he live now?

A. Well, he has been living in Tulsa for sometime, he told me he had been up there a couple of months.

Q. Now, how long has it been since you first saw Charlie Harrison the first time you saw him?

A. Oh, it must be twenty years anyway.

Q. And the principal part of that twenty years he has lived with you?

A. He has lived with me all the time up to——

Q. I wish you would describe the appearance of Charlie Harrison to the Court, his face and complexion?

A. His presence you mean now?

Q. Yes?

A. He is a tall slender made man; has very dark eyes and hair; would weigh about a hundred and forty five or fifty pounds; rather a good looking young fellow.

Q. Is his hair straight? A. Yes, sir.

Q. His cheek bones high? A. Not very.

Q. Shows the Indian? A. Shows the Indian some.

Q. Rather inclined to be thin, you say? A. Yes, sir.

Q. Now, how long has it been since you saw Harvey Harrison? A. Been over two years.

Q. Harvey is still living? A. I think he is.

Q. Where does he live?

A. I think he lives near Haskell, is where his farm is, his land.

Q. Now, when did you first meet Harvey?

A. His aunt came to my house.

Q. I don't care about the circumstances, about when was it?

A. Probably three or four months after this other boy was brought to my house.

Q. And you have known Harvey Harrison for practically twenty years?

A. Yes, sir, because he used to come to my house and stay for a week at a time, two weeks.

Q. I wish you would describe to the Court the personal appearance of Harvey Harrison?

A. Harvey is considerably larger and heavier than Lee, larger in every way, and darker.

Q. And darker? A. Yes, sir.

Q. You say he is darker, about what is his complexion, looks to be about a half blood Indian or a quarter blood Indian? A. Half blood.

Q. Looks to about a halfblood Indian. Is his hair straight? A. Yes, sir.

Q. Eyes black? A. Yes, sir.

Q. About what height, five, seven or eight?

A. Yes, I should think he is fully five-eight.

Q. Now, you say he shows to be about a halfblood?

A. He is darker complected than his brother.

Q. And his brother would show to be between a half and a quarterblood Indian, about that complexion? A. Yes, sir.

Mr. Cobb: That is all for the present. We may have a further question.

The Court: Any further examination of this witness?

Cross Examination by Mr. Hanford.

Q. Mr. Bailey, what year was it when you first saw this child of Nancy's that you say you saw there?

A. I couldn't say what year.

Q. Do you remember what year it was that you saw her pregnant? A. Well, no. It was '89 or '90.

Q. That you saw her in a pregnant condition?

A. Yes, sir.

Q. Then, it might have been one of those years or the following year that you saw the child? A. Yes.

Q. Was it as late as '91 or '92?

A. I don't think it was as late as '92.

Q. You are sure you saw that child younger than a year or two old? A. Yes.

Q. You have answered that you testified in Sapulpa in the case between H. U. Bartlett and Nancy Atkins. I will ask you if the following questions were not asked and answered by you. Reading from page 197 of the official record: "Q. Do you remember during the time that you knew Nancy Atkins whether she was pregnant at any time during that period? A. From the time I knew her? Q. Yes? A. Yes, sir. Q. About what time was that? A. I should think it was in '88 or '9, I wouldn't say positive." Is that your testimony?

A. I expect it is.

Q. Well, I am asking if you testified that way at that time?

The Court: Yes, he has practically said that he did.

Q. "Q. Well, now, how long after that was it until you saw this child? A. Probably in '91 or '92, I couldn't say." Is that your testimony? A. I think so.

Mr. Hanford: That is all.

Mr. Cobb: Just for one more question. Come around Henry.

(And thereupon, Henry Carter stood up for the inspection of the witness.)

Q. Mr. Bailey, I wish you would look at this party here and state to the Court whether you see any resemblance between him and either of the Harrison boys?

A. I can't see no resemblance in the face.

Q. In the features. As to the complexion, how does his complexion compare with either of them?

A. Well, his complexian is something like Charlie's, the older boy.

Q. About the same complexion as Charlie?

A. I think so.

Q. His hair is black and straight, the same?

A. Theirs is, I can't tell what his is.

Q. What about their height, about the same height?

A. He looks taller than Charlie, I don't know though that he is. He looks taller from here.

Q. About how much taller? A. Probably an inch or so.

Q. As to the color of the eyes, about the same color of the eyes?

A. What is his eyes, I can't see them from here?

Q. They are black, coal black?

A. Charlie's eyes are black.

Q. Mr. Bailey, isn't it a fact that there is a resemblance between Charlie Harrison and this man here enough for them to be brothers?

Mr. Maxey: Your Honor, I object as not cross examination.

The Court: Sustained.

Mr. Cobb: Exception.

Recross Examination by Mr. Allen.

Q. Mr. Bailey, you say that this party, Henry Carter, was about the same color as Charlie Harrison? A. He is.

Q. And in that respect only——

A. He may be a little darker.

Q. In that respect only they resemble? Mr. Bailey, do you know who Charlie is working for now, Charlie Harrison?

A. I don't think he is working for anyone.

Q. Do you know who he has been working for?

A. He told me he worked for Mr. Page a while, and told me he worked out on the pipe line for Mr. Page.

Mr. Allen: That is all.

The Court: Any further questions?

Mr. Cruce: Nothing only I would like to ask if those other two boys are bald headed like this boy who stood there?

A. No, sir.

Witness dismissed.

Whereupon, Court adjourned until Monday morning May 14, 1917, at ten o'clock A. M.

And thereafter, and on May 14, 1917, at ten o'clock A. M., Court convened, pursuant to adjournment herein, and further proceedings were had as follows:

The Court: On the question which was left with the Court when Court adjourned Friday evening, after the receiving in evidence of statements of witnesses with regard to what was the neighborhood reputation, general reputation, not confined to the family, but general neighborhood reputation as to the birth, kinship, and fact of death and time of death, of a certain child contended by the Nancy Atkins interest to be her child, I have during the interim, since Friday night, again gone carefully over all those authorities suggested by counsel on both sides. It is pretty well summed up by Mr. Wigmore, in Section 1605, at page 1953, where he says: (Reads from Section 1605).

Mr. Wigmore takes the most advanced position of any of the authors, on the side of Nancy Atkins interest here, in the contention that general reputation should not be confined to the family, but should extend to reputation among neighbors, friends, and those associated in the community. But after a very learned discussion of the matter, as he views it, he winds up in the way I have just read.

Now, here is a case where the evidence has gone far enough to show that it is contended by the Nancy Atkins interest that Nancy had a child, probably about twenty seven years ago, up at Wagoner, which is fifteen or sixteen miles from Muskogee where this case is now being tried. It is contended as against the contention of the Government, that the child which she had died, this child lived to be four or five or six years old; that it was around with her in Wagoner for several years as a little baby and as a growing child. The evidence has gone far enough to indicate pretty clearly that probably it will not be a contention that Nancy had more than the one child, and the question will revolve around that birth there, and as to whether that child was born dead and buried in its infancy, or whether it lived a number of years. If it died, as contended by the Nancy Atkins interest, it died a little more than twenty years ago. If there was any neighborhood reputation in that little community from Wagoner up there in regard to the birth and kinship of that child to Nancy, or its death, that reputation arose from matters of fact which certain people in the community knew. The facts which gave rise to that reputation must, in the nature of things, be very generally within reach of the parties now. Nancy Atkins, the mother, or reputed mother, of this child is a defendant and is in Court and may be called as a witness to testify as to its birth, the length of its lifetime, and the date of its death. And reviewing the whole matter, even taking the advanced position taken by Mr. Wigmore, I am of the opinion that the evidence, so far it relates to the general reputation in the community up there, outside of the family, in regard to these facts, is not admissible. The Court will adhere to the ruling announced Friday, and your exceptions will be noted and you may make whatever proffer you desire to save your record.

Mr. Hill: I expect, your Honor, we will have to make it from time to time as the witnesses appear.

The Court: I presume that the witnesses whom you seek to prove that by will have other matters?

Mr. Hill: Yes, sir, that is what we say. When we ask the questions we will be careful to instruct the witness not to answer the question.

The Court: All right, you may proceed.

Mr. German: We would like to have Mr. Bailey.

Mr. Maxey: Mr. Bailey is not here yet.

The Court: Well, Mr. Bailey may be recalled when he comes. Call another witness.

And thereupon, JAMES E. LONG, produced as a witness on behalf of the defendant Nancy Atkins, et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. James E. Long.

Q. How old are you Mr. Long? A. Fifty-four.

Q. Where do you reside?

A. I live in Chelsa, Oklahoma, Rogers County, at present.

Q. Did you ever live in Wagoner County, Oklahoma?

A. Yes, sir.

Q. What year did you live in Wagoner?

A. From 1896 until last year.

Q. Did you know Nancy Atkins when you lived in Wagoner? A. Yes, sir.

Q. How soon after you went there was it before you got acquainted with her?

A. As well as I remember it was something like a year after I moved there.

Q. Do you know whether or not she had a child?

A. Yes, sir.

Q. What kind of a looking child was it?

A. She had a mulatto looking boy.

Q. How old was he when you first saw him?

Mr. German: Now, your Honor, we object to this evidence, because it appears that the witness did not know Nancy until 1896—until 1897.

The Court: Has that statement been his statement?

Mr. German: Yes, sir, that he first went to Wagoner in 1896 and first knew Nancy about a year after.

The Court: Well, probably his cross examination will bring out the facts upon which he bases his statement that this was her child, and I will hear the whole matter all together.

Mr. Maxey: Answer the question please?

A. He was six or seven years old, I judged by his size.

Q. How long did you see him around there?

A. Well, four or five years.

Q. Who was he with when you would see him?

A. With Nancy Atkins and with another woman by the name of Maggie Martin.

Q. Where did Nancy live then?

A. She lived a part of the time on Church Street in Wagoner, and part of the time over in what we call Nigger Town on the west side.

Q. About how often did you see Nancy and this child together? A. In 1907 and a part of eight.

The Court: You mean 1907?

A. 1897 I mean and a part of eight.

Q. What official position did you hold if any in Wagoner at that time?

A. I was City Marshal. Went in in April of '97 and then went out in April of '98.

Q. Do you know what become of the child?

A. In 1901 or '2 it is reported to have died.

Mr. Pinson: That is objected to, your Honor, as hearsay.

The Court: Objection sustained. It will be stricken out.

Q. Now, you needn't answer this until I—until the

Court rules on it. State how you fix the time that you heard the report that he was dead? A. Well, it was the——

> The Court: He is merely asked now with regard to the time that he heard the report. That is a matter of fact as to date.

A. I was handling horses at that time and mules in 1901 and it was either one or two, I don't remember, I don't remember, only I know it was a very dry year that we had and I had an Indian fellow that was working for me that was very intimately acquainted with Nancy Atkins and we were called on to contribute to the burial of Nancy Atkins little boy, is how I come to remember that.

Q. Did you contribute?

A. Yes, sir, it strikes me I gave something.

Q. Do you know whether the man working for you gave anything?

A. I know my man gave fifty cents and I believe I gave a dollar.

Q. Now, did you see this boy around there after that?

A. No, sir, I never did.

Q. Now, you will not answer this until—— I will ask you this first: What was this boy called if you know any name?

A. He was called Tom.

Q. What was the general reputation among the people of the town—— Don't answer this now until I get through—— What was the general reputation among the people of the town as to who was the mother of this child?

> The Court: I suppose the objection is interposed to that?
>
> Mr. Pinson: Yes, sir.
>
> The Court: The objection will be sustained and exceptions noted.
>
> Mr. Maxey: Now, we expect to prove by this witness that this child was generally reputed in the neighborhood to be the son of Nancy Atkins, among all of the people that knew him at that time or resided there.
>
> The Court: The record may show the proffer and objection sustained, to which you except.

Cross Examination by Mr. Pinson.

Q. Mr. Long, did you know Nancy Atkins pretty well?

A. Yes, sir, I think that I had her in my hands severals times, I think I had her in charge in Police Court several times.

Q. She was quite a character about town, wasn't she?

A. Nothing desperate, no, sir.

Q. She was well known there in the community?

A. Yes, sir.

Q. She ran about a good deal, didn't she from place to place? A. Yes, sir.

Q. Was a Police Court character as you knew her?

A. There was, I should say, quite a number of those characters there at that time.

Q. Quite a number of that kind of characters? Nancy was one of those characters, was she not? A. Yes, sir.

Q. Now, have you any personal knowledge as to whether Nancy ever had any child?

A. No personal knowledge, no, sir.

Q. Do you know where Nancy was living, if anywhere, in the year 1896? A. No, I know where she was living in '97.

Q. Where was she living in '97?

A. She lived a part of the time on Church Street, near the residence of Captain Jackson, and part of the time over in nigger town, the southwest corner of the town.

Q. With what class of people did she associate there at that time? A. Well——

Q. With regard to color? Negroes?

A. Yes, and Indians.

Q. Negroes and Indians? A. Yes, sir.

Q. How many little boys were about these two places where Nancy lived, at the place over on Church Street where Nancy lived first, how many boys were around that house?

A. Only one.

Q. Only one? A. Yes, sir.

Q. How many women lived in that house besides Nancy?

A. Only two.

Q. Who were they?

A. Maggie Martin, I don't know what her name was then.

Q. You say two women, you mean Maggie and Nancy were the only ones who lived there? A. Yes, sir.

Q. Did Maggie have any children?

A. Yes, sir, she did.

Q. How many? A. Two, both girls.

Q. Did you ever see this boy running around with those children? A. Yes, sir.

Q. You did see him there? A. Yes, sir.

Q. You think he was a mulatto looking boy? A. Yes, sir.

Q. What do you mean by that, lighter than the average negro?

A. Well about leather brown with chocolate colored hair if I remember right, and brown eyes.

Q. You could easily see that he was a negro or part negro?

A. Well, he resembled white and Indian really more than he did negro.

Q. Well, was he a mulatto as you said a while ago, Mr. Long, or not? A. In color, yes, he showed mulatto color.

Q. Well, you say that he showed negro?

A. Well, yes, he had straight hair.

Q. Well, why did you use the term mulatto?

A. Well, because of the color.

Q. Do you understand what a mulatto is?

A. Yes, I think I do.

Q. You always have known, haven't you?

A. I think I do.

Q. Mulatto is part negro isn't it? You used that term in reference to this boy, didn't you, a while ago?

A. Yes, sir.

Q. Answer so the stenographer can get you? A. Yes, sir.

Q. You used that term, you used it meaning that this boy was part negro, didn't you?

A. Well, it looked that way to me.

Q. Now, did Nancy live in this house on Church Street in 1897?

A. She lived there part of the time, I don't know how long.

Q. Do you recollect any time along about that time when she was away from Wagoner for a time, when you missed her?

A. No, I can't tell whether she was there all the time or not.

Q. Did you ever see her with two boys along about that period of time?

A. No, sir, I never saw but one boy with her.

Q. You never saw her with two boys? A. No, sir.

Q. You are sure of that, are you, Mr. Long?

A. I don't think I ever saw her with but one boy.

Q. Now, this boy that you are speaking of was about six or seven years old you say?

A. I judge him to be that old from his size.

Q. And you don't know personally whose boy that was?

A. No, I don't know personally.

Q. Do you recollect Nancy going out in the country and staying about two years along in '96 or '7?

A. No, sir, I don't.

Q. You don't recall anything about that? A. No, sir.

Q. Do you recall Minnie having two boys there?

A. Sister, no, sir.

Q. You don't know anything about that? A. No, sir.

Q. Do you remember when Nancy went to Nowata?

A. No, sir.

Q. How long did you know Nancy to be around Wagoner from 1897 along until 1902?

A. I saw her off and on there from the time I went in the City Marshal's office in '97 until 1901 or '2.

Q. She did not leave there then for any appreciable time during any of those years?

A. Well, she might have done it and I not have known it.

Q. Mr. Long, isn't it a fact that Nancy moved away from Wagoner and went up to Nowata to live shortly after you went to Wagoner? A. I don't know, sir.

Q. Well, about how often did you see her about the streets of Wagoner from 1897 on?

A. Well, '97 and a part of '8 I saw her I should judge probably once a month, but after that after I went out of office I paid very little attention to her.

Q. Are you pretty sure that she was around there about the time you heard this rumor about a boy being dead?

A. Who a subscription was taken up for a funeral?

Q. Yes? A. Yes, sir, I am pretty positive she was there.

Q. You are pretty positive Nancy was there and living in Wagoner at that time? A. I think so.

The Court: Now, when was it that this subscription was taken up?

A. About 1901 if I remember right. It was a dry year.

Q. Who took up that subscription?

A. I can't recollect.

Q. A white man, negro, or Indian?

A. A white man, somebody I believe connected with Davis & Jones Mercantile Company, but I can't swear as to who it was.

Q. That subscription was taken up on a written list or simply by somebody going around?

A. Just simply going around to take up some money to bury Tommy Atkins which was done in several instances while I was there.

Q. Now, you say you had a man working for you who was quite intimately acquainted with Nancy, who was that?

A. Don Winton.

Q. Is he living or dead?

A. I haven't seen him for five or six years. He moved off to the southern part of the State.

Q. You don't know whether he is living or not?

A. No, sir.

Q. Don't know where he is? A. No, sir.

The Court: What was he, an Indian or——

A. A Cherokee Indian, practically a white man though, he wasn't anything near a fullblood.

Q. Are you acquainted with the Birney's there in Wagoner?

A. No, I saw some of them, not very well acquainted with them.

Q. Did you ever know any of the Barnett's there?

A. Barnett's?

Q. Yes? A. Yes, sir.

Q. Did you ever see Nancy living at any place except the two places that you have mentioned?

A. No, sir, I don't recollect any other place now.

Q. You say she stayed around those two places, did she, you know she lived around those two places do you?

A. Yes, sir.

Q. Now, you say this boy that you refer to, did you ever speak to him and call him by name?

A. I don't know that I ever did, sir.

Q. How did you happen to hear his name called?

A. Well I heard it called a number of times just the same as any other woman's kids that was *follering* around there, and the woman getting into trouble occasionally.

Q. Now, who called that name?

A. Oh, I can't tell you now.

Q. Can you remember one person that you heard call this child Tom or Tommy?

A. Well, I have heard her call it Tommy and I could swear to that very correctly.

Q. You have heard Nancy call it Tom?

A. And I have heard others call it Tommy, but I don't know who those others are now.

Q. Now, tell me where you got the name Tommy Atkins?

A. I heard it there, heard Nancy call it.

Q. I don't mean from your conclusion, Mr. Long, but do you as a matter of fact remember hearing anybody speak about that child as Tommy Atkins?

A. Yes, sir, I heard a number of people call it that.

Q. Just spoke to the child and would call it Tommy Atkins? A. Just spoke of the child.

Q. What is that?

A. Speaking of the child and its mammy.

Q. Now, when did you hear it called Tommy?

A. Well, probably the same time I heard it called Tom.

Q. Now, which did you hear it called, which more frequently, Tommy or Tom?

A. I don't know whether they called it Tommy or whether they called it Tom.

Q. What was the name of the two children of Maggie Martin, the two children that you described?

A. The oldest one was Bernice and the other one I don't recall.

Q. You recollect Bernice and Tommy? A. Yes.

Q. Those two were colored about the same color?

A. No, sir.

Q. What color were Maggie's children?

A. They were both white.

Q. Was Maggie Martin a white woman? A. Yes, sir.

Q. And both the children were white?

A. Yes, sir, I knew the father of her children, that is a fellow that claimed to be the father.

Q. Do you know of any other child that Nancy raised or had anything to do with up at Wagoner? A. No, sir.

Q. Besides the one you referred to? A. No, sir.

Q. Mr. Long, when were you first talked to in regard to this case?

A. Something like three years ago, two years ago I guess.

Q. You had no occasion to have the matter of Nancy or Tommy brought to your mind prior to that time since the rumor of the death?

A. Well, it was 1914 I think was the first conversation I had with anyone in reference to this case.

Q. Who was that?

A. It was Mr. J. B. White and Mr. Cunningham an attorney.

Q. Did you instantly recall the child that you referred to in your examination this morning?

A. Well, I remembered the woman and I remembered the boy.

Q. Was the name of Tommy Atkins mentioned to you at that time?

A. I don't remember now, sir, just what was said.

Q. Now, you referred a while ago to the fact that you had heard other people call the name of this boy Tommy Atkins, mention one of those persons?

A. Well, I don't know that I could mention one of them, it has been a good while ago and I couldn't recall a man's name that had said that particular thing.

Q. Are a good many of those people who were living in Wagoner at that time still living?

A. I think so, yes.

Q. Not all dead are they? A. No.

Q. Who was the next person that spoke to you about this matter after Mr. White spoke to you?

A. Mr. White and Mr. Cunningham, an attorney, are about the only men who have ever talked to me about this case.

Q. Have you ever testified before in this case?

A. No, sir, I made an affidavit.

Q. Who was that before?

A. Mr. Cunningham, I think, a Notary Public.

Q. Now, in that affidavit, you swore that you knew that Nancy Atkins had a boy child by the name of Thomas Atkins, didn't you?

A. I think so, I don't—— That was the substance of my affidavit.

Q. Well, you didn't know that, did you, Mr. Long?

A. I knew Nancy Atkins had a boy that she called hers and its name was Tommy.

Q. You heard Nancy call the boy hers?

A. I have heard her call him that more than once, yes, sir.

Q. What did she say about him?

A. Well, when I had her in Police Court, she referred to her boy, and that was frequent. I can't quote her language.

Q. I didn't understand the last?

A. I said I can't quote the language.

Q. She said something about her boy? A. Yes, sir.

Q. And she used the name of Tommy or Thomas, or which? A. Tommy mostly.

Q. Now, what other people did you hear refer to it using the name Thomas or Tommy?

A. Well, he was called Tommy and Thomas both.

Q. Called both those names? A. Yes, sir.

Q. Did you see the boy, Mr. Long, after he got to be eight or nine or ten years old there? A. No, sir.

Q. Did you see him any more after the time you refer to about when you were City Marshal?

A. Yes, I saw him frequently there up to three or four years after I went out of office.

Q. Three or four years after up to 1891 and '2?

A. Yes, sir, up to one occasionally.

Q. Now, did he do anything around town there or play around town like other boys?

A. Just loafed around town like other kids.

Q. You don't remember seeing him do any particular line of work? A. No, sir.

Q. Do you remember any boys that he loafed around town there with? A. No, I don't.

Q. Can you remember the names of some other boys, mulatto or negro boys who were in Wagoner about that time, who were about the same age?

A. Well, I don't think I could. There were a lot of negro kids there about his size.

Q. Can you recollect the name of one of them with whom you have seen this boy playing or loafing?

A. No, I can't, I wouldn't like to do it unless I knew.

Q. You can't recollect the name of one? A. No, sir.

Q. Now, you recognized this boy about town from time to time as being the same boy you saw, could you?

A. Yes, sir, I recognized the boy by my associating with his mammy, with his mother Nancy, more than I would any other way.

Q. Now, you mean associating with Nancy Atkins, don't you? A. Yes, sir.

Q. And you couldn't have anybody point him out to you as Thomas Atkins?

A. I don't think I ever had anybody point him out to me, no, sir.

Q. You recognized him as being her kid?

A. Except his mother, I heard his mother refer to him.

Q. You remember that his mother was there with him from time to time straight through these years? Do you?

A. Yes, sir.

Q. Did he ever live with anybody except his mother who you call Nancy? A. No, sir, not that I know of.

Q. Do you know that Nancy was in Wagoner at the time of this funeral that you referred to took place?

A. No, sir, I am not.

Q. You are not sure of that? A. No, sir.

Q. Are you sure of any length of time that Nancy remained there after you got to Wagoner? A. Yes, sir.

Q. How long?

A. During part of the year 1907 and part of '8 I know she was there.

The Court: 1907?

A. During 1897 and part of eight she was there practically all the time, might have been away for a day.

Q. Did you see her from time to time? A. Yes, sir.

Q. And the boy was with her?

A. Nearly all the time.

Q. I was just going to ask you how long you can now state positively that you saw Nancy there from time to time with this boy?

A. During most of 1897 and up to April of '98.

Q. And that is as far as you can go?

A. That I paid any attention to her, because I went out of office and went into another business and didn't look after that class of people.

Q. Well, did you see her after that from time to time?

A. Yes, I saw her about after that, but not as often as I had been seeing her before.

Q. Well, now, how often, Mr. Long?

A. I can't tell you, might have been once a year for all I know.

Q. Once a year or——?

A. Or twice a year for all I know.

Q. Can you mention any of the other characters who you used to arrest at that time who had a boy and child that you refer to? A. I don't understand the question?

Q. Can you mention any other police characters who you arrested while you were City Marshal who had a boy to whom she referred?

A. Now, this Maggie Martin had two girls, I don't remember of any other of those old women that had any boys.

Q. You don't remember. Do you remember of any other woman who had girls to whom you ever heard her refer when you arrested them?

A. I arrested Ada Wall, a time or two, for having young girls in her place of business, not hers, but girls under sixteen years of age.

Q. I am speaking of their own children?

A. No, that is the only one that I know of.

Q. You don't remember of any other? A. No.

Cross Examination by Mr. Hanford.

Q. Mr. Long, you say that you were City Marshal in Wagoner in '97? A. Yes, sir.

Q. What month did you take office in?

A. I think it was in April.

Q. And how long did you hold office? A. Held it a year.

Q. That office only continued for one year?

A. Yes, sir, was at that time.

Q. So, you held office one term? A. Yes, sir.

Q. What other office did you hold?

A. I was Deputy United States Constable for something like a year or year and a half, working for the United States Commissioner.

Q. And what else?

A. Well, that is all until 1910, I was elected Sheriff of Wagoner County.

Q. You were Sheriff in 1910?

A. No, I served on the City Council, member of the City Council during the time, I don't remember the year.

Q. When were you sheriff of Wagoner County?

A. 1911 and 1912 and a part of '13.

Q. Now, how long were you Deputy United States Constable?

A. Well, I can't recall the date. Andy Cunningham of Tahlequah was Constable and I was Deputy. He stayed in Tahlequah and I stayed in Wagoner, and the United States Commissioner lived in Wagoner.

Q. Was that the same Mr. Cunningham to whom you referred a minute ago? A. No, sir. No.

Q. How long did you hold office as a sheriff?

A. 1911 and 1912 and part of '13.

Q. Then, you didn't continue through the full term of office? A. No, sir.

Q. Why did you give up your position as Sheriff?

A. I was indicted by the Grand Jury and charged with embezzlement and resigned as sheriff.

Q. Were you tried? A. Yes, sir.

Q. Convicted? A. Yes, sir.

Q. Did you serve your term?

A. No, sir, the case was dismissed.

Q. But you were convicted? A. Yes, sir.

Q. What year was that?

A. Thirteen I reckon, or fourteen—— Fourteen, I believe.

Q. Did you know Patsy Birney? A. What is that?

Q. Did you know Patsy Birney? A. No, sir.

Q. Didn't know Patsy Birney? A. No, sir.

Q. Did you know anybody in Wagoner by that name at the time you came there in '96?

A. I knew some of the Birney's, but I don't recall their given names just now.

Q. That was the boys that you knew?

A. Yes, as well as I remember some boys or men that lived over towards Coweta.

Q. They lived over towards Coweta? A. Yes, sir.

Q. They didn't live in Wagoner?

A. I don't recollect they ever lived in Wagoner.

Q. During the time that you were City Marshal in '97 and '98, you never knew of any colored woman named Betsy Birney living in Wagoner? A. No, sir, I didn't know her.

Q. And you never knew of Nancy living with Betsy Birney during that time in Wagoner? A. No, sir.

Redirect Examination by Mr. Maxey.

Q. You spoke of being convicted of embezzlement there and the case being dismissed. Was a new trial granted?

A. No, sir, a motion was made for—— Yes, a new trial was granted, a new trial was granted and it was dismissed before that came to trial.

Recross Examination by Mr. German.

Q. Just one question. I want to ask you if the new trial was not granted on the grounds solely that the Court defined reasonable doubt to the jury? A. I don't know what it was—

Mr. Maxey: We object to that as immaterial.

The Court: Yes, don't go into that any further.

Cross Examination by Mr. Stuart.

Q. Did the County Commissioners remove you from office? A. No, sir.

Q. Did they recommend your removal?

A. Recommended my removal and I resigned.

Q. For embezzlement? A. Yes, sir.

Witness dismissed.

And thereupon, RICHARD BIRNEY, being called on behalf of the defendants Nancy Atkins, et al., sworn and under oath testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name. A. Richard Birney.

Q. Where do you live?

A. I live at Cushing now, near about Cushing.

Q. Did you ever live in Wagoner? A. Yes, sir.

Q. What years did you live in Wagoner?

A. Along about '94; I used to live there when I was quite a kid.

Q. How long had you lived there in '94—1894, was that?

A. Yes, sir. Well, I came to town when I was—well, I guess I must have been about eight or nine years old. My mother came to town and stayed there until I was grown, I reckon.

Q. Did you ever know Nancy Atkins? A. Yes, sir.

Q. Do you know whether or not she had a child?

A. Yes, sir, she had one there at our house.

Q. What was that?

A. Yes, sir, she had one there at our house.

The Court: I don't understand you.

A. I said yes, sir, she did.

Q. Where was the child born if you know?

Mr. German: I object unless the witness knows.

The Court: Unless you know where it was born you needn't state.

By the Court.

Q. How old was the child when you first saw it?

A. Oh, it was small, a little bit of thing.

Q. How big, how many days old?

A. I don't know, Judge, because I was a small kid myself.

The Court: Well, he may go on and state what he knows about that.

By Mr. Maxey.

Q. About how old was he when you first saw him?

A. Well, sir, I can't tell you; I was just a kid and they brought the child to my mother's house. I don't know how old.

Q. How often did you see the child after that?

A. Every day when I would go in—when I would be at home.

Q. Did Nancy stay about your mother's any?

A. Yes, sir.

Q. Well, how long after that did you see the child?

A. Well, I seen the child a good deal after that until I left home.

Q. How large was it the last time that you saw it?

A. Pretty good sized child; I can't say.

Q. About how old do you think he was?

A. Well, I can't say just really because——

Q. What kind of a looking child was he?

A. Well, I don't know what you would call it; his hair was kind of yellow hair to me. I can't tell nothing about that.

Q. Well, was he white or yellow?

A. I don't know; he was mixed up pretty bad. I can't tell you anything about it.

Q. Well, about how many years did you see him around there?

A. Well, I don't know just exactly about how many years because I never tried to keep any account of anything like that because I wasn't nothing but a kid of a boy myself, and I never paid any attention to it.

Q. Well, did your mother afterwards move away from town? A. Yes, sir, yes, sir.

Q. Where did she move to?

A. Moved over across from the Verdigris on Dry Creek.

Q. Did you see it any more after you went over there?

A. No, sir, I didn't.

Q. Now, what was this boy called?

A. Tommy Atkins is what they called him when he was there.

Q. Did you ever see him with his mother?

A. Yes, sir, I saw him when they brought him there.

Q. How did she bring him?

A. Why, they hauled them there in a wagon when they brought him there.

Q. Well, was he large enough to walk? A. No, sir.

Q. Did she have it in arms?

A. Yes, sir; that is the way that she brought it there.

Cross Examination by Mr. German.

Q. Dick, you say the first time that you ever saw that child was when they brought him to your mother's house in a wagon? A. Yes, sir.

Q. They brought Nancy along at the same time?

A. Yes, sir.

Q. What year was that?

A. Well, sir, I don't know really; I can't say.

Q. Where had they brought her from?

A. They brought her from up on the hill right north from where we lived.

Q. Where did you live? A. There in Wagoner.

Q. Where at Wagoner?

A. West of town—west of Wagoner.

Q. Well, you mean in the west part of town, don't you?

A. Yes, sir, the west part of town.

Q. Just west of the railroad track? A. Yes, sir.

Q. Close to Elnor Williams?

A. Yes, sir; near abouts.

Q. And close to Mandy Barnett's?

A. No, sir, we were not so close to them. They lived on the south side of town—south end of town.

Q. Now, where did they bring Nancy from?

A. Up there on the hill, near about where old man Bob Davis lived, near as I can get at it.

Q. Which side of the track? A. West side.

Q. Up on the hill? A. Yes, sir.

Q. About how far from your mother's house?

A. About three quarters of a mile.

Q. About how old was that baby at that time?

A. I can't tell you.

Q. Well, about, you have an idea don't you?

A. No, sir.

Q. Ten years old? A. No, sir.

Q. A year old? A. No, sir.

Q. Six months? A. No, sir. couldn't have been.

Q. A month? A. I can't tell you.

Q. Well, about how old?

A. Well, sir, I can't tell you and I wouldn't dare say. I don't know.

Q. You saw the wagon coming, didn't you?

A. Yes, sir, when they brought it there.

Q. Who drove that wagon?

A. Old man Saus Childers, if I ain't mistaken, and his wife.

Q. They are Indians? A. Yes, sir.

Q. And did you see the wagon start up at Davis'?

A. Start up?

Q. Start; see the wagon when it started up there?

A. No, sir, I didn't see it until it got there.

Q. When did you first see the wagon?

A. When it got there at the house.

Q. Right at your house? A. Yes, sir.

Q. Did they have to carry Nancy?

A. Carried her into the house.

Q. What did they carry her on? A. Cot.

Q. Cot? A. Yes, sir.

Q. What did they do with the baby? How did it get out?

A. They took it into the house.

Q. Who carried it? A. Mother.

Q. Who? A. My mother.

Q. Your mother? A. Yes, sir.

Q. Now, how old were you at that time?

A. Well, sir, I really don't know just then.

Q. About 12 years old?

A. Oh, about somewheres about like that.

Q. Somewheres about that. Now, you had known Nancy before that, hadn't you?

A. Yes, sir, I had seen her when I was a little bit of a tad when she first come to our house, I had seen her.

Q. How old were you the first time that you saw Nancy?

A. I don't know sir.

Q. Three or four years old?

A. Maybe so, I don't know; it has been so long.

Q. The fact is, Nancy came there so long ago and you were so small you don't remember?

A. I don't know when she came to town at all, I knew her when she came to mother's house.

Q. The truth of the matter is, you knew Nancy about as long ago as you remember anything? A. Yes, sir.

Q. That is a fact isn't it?

A. Yes, sir, I remember it.

Q. Now, how old are you? A. 39.

Q. 39? A. Yes, sir.

Q. Then what year were you born in?

A. I don't know what year I was born in.

Q. Wouldn't it [] about '78?

A. Some where along there, I guess.

Q. So you were about 12 years old in 1890?

A. Yes, sir, just about.

Q. Don't you know that Nancy didn't go to Wagoner until about '88? A. I don't know sir.

Q. When you were 10 years old?

A. I don't know, sir, what time she come.

Q. Don't you know that you can remember lots of things that happened before '88?

A. Oh, I guess so, but I never paid any attention.

Q. Was this child—you know this child was never at your mother's house until it was brought there from Davis' house?

A. No, sir.

Q. Never was? A. No, sir, never was.

Q. Wasn't around there? A. No, sir.

Q. You never heard of it until then? A. No, sir.

Q. Wasn't born in a tent around your mother's was it?

A. No, sir, never as I know of.

Q. Was not? A. No, sir.

Q. And wasn't born at Elnora Williams, a hundred yards away from there? A. No, sir.

Q. Now, let's see. Dick, you have been to the penitentiary, haven't you? A. Yes, sir.

Q. What for?

A. Well, they claim it was for larceny, all I can tell you.

Q. Claimed it was larceny? A. All I can tell you.

Q. You was not guilty? A. No, sir.

Q. But they convicted you and sent you up?

A. Yes, sir.

Q. More than once? A. No, sir, only once.

Q. You plead guilty, didn't you? A. Yes, sir.

Q. What penitentiary were you in?

A. Fort Leavenworth.

Q. Fort Leavenworth? A. Yes, sir.

Q. For five years? A. Yes, sir.

Q. Then, let's see. What year was it that you went to the pen? A. I disremember what year it was.

Q. Don't you know that you was sent to the pen in April 1900? A. 1900?

Q. Yes, sent to the penitentiary? A. No, sir, no, sir.

Q. Well, let's see. Who did you first talk to about this case? A. This Creek case?

Q. Yes, about testifying in this case?

A. I disremember who it was; not anyone that I knows of until I was called as a witness.

Q. What is that?

A. Not anyone that I knows of until I was called as a witness.

The Court: Oh, somebody talked to you about this case. Now, when was it and who was it?

A. I disremember, Judge, when it was and who it was.

By The Court.

Q. Now, when was it?

A. The first time I was in this case was in Sapulpa.

Q. Who talked to you about going down there?

A. Didn't anyone at all they subpoened me to go.

Q. You got a subpoena you say?

A. I don't know, sir, when I got the subpoena.

Q. The first you knew of it was when you got the subpoena?

A. Yes, sir, I didn't know anything about it until I got the subpoena.

By Mr. German.

Q. When you got over there who talked to you before you testified? A. I don't know, sir, who it was.

Q. You know J. B. White? A. I talked to him.

Q. You talked to him?

A. I never said anything to him that I knows of.

Q. How come you to come here to court?

A. I was subpoened.

Q. Did you talk to anyone before you came here to court?

A. No, sir.

Q. Didn't talk to any of these lawyers before you came here to testify?

A. No, sir, I didn't talk to anybody.

Q. Now, don't you know this; that there was a child born to Nancy right there, either in a tent right near your mother's house or in Elnora Williams' house that was born dead?

A. I don't know anything about it.

Q. Never heard of that before? A. No, sir.

Q. In your whole life? A. No, sir.

Q. And you lived right there with your mother all the time? A. Lived right there.

By The Court.

Q. Do you remember about Nancy Atkins being sent to the penitentiary over at Fort Smith? A. Yes, sir.

Q. Now, when was this baby brought to your house with relation to that time—before or after she went to the penitentiary?

A. Well, the baby was left there in care of mother.

Q. Well, while she was in the penitentiary? A. Yes, sir.

Q. How long before she went to the penitentiary, was it, that this baby was brought there?

A. I don't know, Judge; I really can't say just how long it was because——

Cross Examination by Mr. Hanford.

Q. Dick, you have testified before in regard to this matter, haven't you? A. Yes, sir.

Q. You testified down in Sapulpa? A. Yes, sir.

Q. In a case entitled H. U. Bartlett, and others, against Nancy Atkins, didn't you

A. Yes, sir. I don't know—how was that?

Q. That was in a case——

> The Court: I don't suppose there is any question about what he testified in Sapulpa. He probably wouldn't know the style. The record may show that it was in a case which you have mentioned.
>
> Mr. Hanford. A State court case.

Q. Dick, I will ask you if the following questions were not asked you, to which you made answers as I will read. Reading from the cross examination on page 116, of the record in that case: "Q. About how old were you at the time of Thomas' death? A. I must have been—I can't tell exactly. Q. About? A. About 15, I suppose. Q. About 15 when he died, and you were 12 when he was born? A. I was older than that—I must have been about—I can't think it has been so long, the only way I can tell is my age and reckoning back." Is that your testimony? A. I guess it is.

Q. That is your testimony; and on page 123: "Q. Where did he die? A. Right there at home, at Wagoner. Q. Were you there? A. Yes, sir." Is that your testimony?

A. Yes, sir.

Q. Do you remember when he died?

A. I don't know just what day of the week it was, or what day of the month.

Q. He died at your mother's house?

A. Yes, sir; but I can't remember the day of the week or month, either.

Q. You say that your mother moved to Wagoner?

A. Before she moved to Wagoner.

Q. Before she moved to the Verdigris? A. Yes, sir.

Q. Before she moved out to the Verdigris? A. Yes, si

Recross Examination by Mr. German.

Q. Dick, you never hear of Nancy having but one child in your life, did you? A. No, sir.

Q. Just one. Now, didn't you testify at Sapulpa as follows: "Did Nancy ever have any children to your knowledge? A. Yes, sir. Q. How many? A. One, to my knowledge." You testified that way over there, didn't you? A. Yes, sir.

"Q. Where was she living when that child was born? A. In a tent." Didn't you say that? A. Yes, sir.

Q. And then didn't you make an affidavit before James H. Cobb, at Wewoka, on the 12th of April 1913, about this matter? A. Before Judge Cobb?

Q. Yes, about this trial? A. Not as I knows of.

Q. Before this Mr. Cobb's brother?

Q. Not as I knows of.

Q. You knew his brother, didn't you? A. I knew him.

Q. Didn't you make an affidavit there on the 12th of April, 1913? A. Not as I knows of.

Q. You talked to him, didn't you?

A. I talked to him but never made any affidavit that I knows of.

Q. I will ask ou if you didn't make this affidavit before him? A. Not that I knows of.

The Court: Wait until it is read to you.

Q. "State of Oklahoma, Seminole County, Richard Birney being duly sworn, on oath states that he resides in Seminole County, State of Oklahoma; that he knew Nancy Atkins, a full-blood Creek Indian, who was a sister of Minnie Atkins, a full-blood Creek Indian; that said Nancy Atkins resided in the town of Wagoner about the time between the years 1889 and 1900; that Nancy Atkins had a child named Thomas Atkins, who was born about the year 1890 in a tent in the town of Wagoner; that said child lived in and around Wagoner with different persons, other than its mother, and died about the year 1900." Did you sign an affidavit to that effect?

A. I wasn't there in 1913, I don't think.

Q. Do you say that you didn't sign an affidavit to that effect? A. I don't remember.

Q. Have you signed an affidavit to that effect anywhere?

A. I have not signed that I knows of, I don't remember.

Redirect Examination by Mr. Maxey.

Q. Dick where is your brother Henry?

A. He is dead.

Recross Examination by Mr. Hanford.

Q. Dick, you served five years, didn't you? A. Yes, sir.

Recross Examination by Mr. German.

Q. Did Henry serve a term in the penitentiary?
A. Yes, sir; he did.
Q. What for? A. I don't know, sir.
Q. Was he with you?
A. No, sir, he wasn't with me at all.
Q. How long back?

Mr. Maxey: That shows it I think, Mr. German.

Mr. German: It shows it on its face?

Mr. Maxey: Yes, sir.

Mr. German: That is all.

Witness dismissed.

And thereupon, NOLAN WILLIAMS, being called on behalf of the defendants, Nancy Atkins, et al., sworn and under oath testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name. A. Nolan Williams.
Q. Where do you live, Nolan? A. I live at Wagoner.
Q. How long have you lived at Wagoner?
A. I have lived right in Wagoner, I expect as near about as I can remember, I guess about 24 years.

The Court: Now listen to me a little bit. It will be necessary for you to talk out loud so that everybody here will be able to hear you. The Court is not going to get after you for talking too loud.

Q. How old are you, Nolan?
A. Well, I am along in the fifties.
Q. Do you remember the year you went to Wagoner?
A. The year I moved to Wagoner?
Q. Yes.
A. Well, the year I moved to Wagoner was--you see when I first came to this country, three years—I stayed out of the country three years.
Q. Well, when did you first come to this country then?
A. About '89; you see, I stayed across the river about 25 miles.
Q. What were you doing here?
A. Handling cattle for Mr. Scott.
Q. Winfield Scott? A. Yes, sir.
Q. He was a cattle man at Fort Worth, Texas?
A. Yes, sir, he is *ead* now, yes sir.

Q. Well, where did you do your trading when you first came here?

A. Well, we done our trading at Wagoner; most of the trading at Wagoner.

Q. What store? A. Davis and Jones' store.

Q. Did you get acquainted with Nancy Atkins?

A. In the first year that I came here I did not.

Q. How soon after you got here?

A. Well, it was somewheres along in the '90's—I don't know just exactly—along in the '90's, though.

Q. Do you know whether Nancy had a child or not?

A. Well, I know that there was a child with her that she said was hers; I don't know whether she had any or not.

Mr. German: We move to exclude the answer that she said it was her's on the ground that it is a self serving declaration.

The Court: Well, I will not rule on that now; the record may show your motion.

Q. How old was the child when *ou* first saw it, Nolan?

A. Well, I don't know but it was a little fellow, seemed like—might not have been that high, me sitting up here, but it was small.

Q. A year or so old? A. Yes, sir.

Q. Where did you see it?

A. Well, I seen her going from the—down from Davis and Jomes' going to where a colored fellow had a restaurant—name of Birney; me and him were standing there, and she was coming from the store and I made the remark to her and spoke to her, and asked her if that was her child and she said yes, and I looked at it and didn't say any more, and I said well, what is its name and she called it Tommy; and I said it kind'a looks like a little girl, and she said it is a boy, so after she passed on by I asked old man Birney, and I said is that her child——

The Court: You needn't to state what you said.

A. Alright. She passed on toward the house.

Q. Did you see them any more after that?

A. Yes, sir, I seen them long after that, for a year or two. It would be quite a while you know before I would ever go to Wagoner; you see, we traded off and on for about three years at Wagoner, and then moved the trading point to Choska because it was nearer; the country got a little more settled up.

Q. Then, you saw it for about three years? A. Yes, sir.

Q. What kind of looking child was it, Nolan?

A. Well, I paid attention to her—it looked sort of like betwist an Indian and mulatto.

Q. What was the color of its hair, if you remember?

A. To the best of my recollection it was a little bit light; not so light but you know some people's hair is a little light, you know.

Q. How old was it the last time you saw it?

A. I can't tell you, Mr. Maxey, how old it was; a good big child, though. In the first place, I don't know how old it was at first.

Q. Now, you needn't answer this question until the Court rules on it. A. Alright, sir.

Q. Was it the general talk among the people of that community as to whose child it was? A. Yes, sir.

The Court: Now, don't answer this question until the Court rules on it.

Q. What was the reputation in the neighborhood there among the people as to whose child this was? Now, don't answer that yet.

The Court: Your objection, I suppose, is interposed as to this?

Mr. German: Yes, sir.

The Court: The record may show the objection; the objection sustained, and counsel may, if they desire, make proffer and your exception will be noted.

Mr. Maxey: We expect to prove by this witness that it was the general reputation in the neighborhood there among the people who lived at Wagoner at that time that this child—that he as described was the child of Nancy Atkins. Exception noted.

Q. You said that after you had traded at Wagoner for a while and saw this child around there that you changed to Choska? A. Yes, sir.

Q. And weren't about Wagoner much after that?

A. No, sir, just once in a while.

Q. When did you move to Wagoner to live?

A. Must have been about three years.

Q. Were you living in Wagoner in 1900?

A. Well, I was; I just stayed out there three years and then moved into Wagoner.

Q. Along in 1901 and '02?

A. No, I don't think I was in Wagoner in 1902, I don't think, without I just happened to go over there. I would go over there after we quit trading once in a while, you know.

Q. I don't remember whether I asked you or not when I talked to you but were you in Wagoner when it was reported this child died?

A. Well, I didn't hear nothing about it right then, no sir.

Cross Examination by Mr. Stuart.

Q. You knew a man name of Turner, didn't you?
A. Yes, sir, Steve Turner, he worked for me.
Q. The first time you ever saw Nancy, he was with you?
A. No, sir, I don't think he was.
Q. The first time you ever saw the boy, Steve was with you?

A. No, sir, I think probably we were talking about it since I come to remember. This talk was not when I first seen Nancy; it was afterwards. I was talking with him about her. He was more acquainted with her than I was because he stayed around town a good deal.
Q. You and Steve didn't see her together with the boy?
A. Steve?
Q. Didn't you and Steve see Nancy with that boy?
A. I am not so sure.
Q. Did you ever testify in this case before?
A. Yes, sir.
Q. Where? A. Sapulpa.
Q. I will ask you if this question was not asked you and if you didn't give this answer: "Q. Where did you see the child——

The Court: Just a moment. You listen to the question and answer and say whether or not you said that at Sapulpa.

Q. "Where did you see the child? A. Patsy Birney and she was together and I was up to Patsy's house and there wasn't but two colored places around there and there wasn't many colored people living around there then, and her and Patsy were together; and he remarked to Nancy that is not your child, and she [] yes, I can prove it by Patsy." That is old Patsy, isn't that a fact?
A. I might have testified to that—it has been so long.
Q. Well, it is true when you testified to that?
A. Well, we was talking—it might have been either Steve and I—we had so much talk; I might have said that and I might have not.
Q. Well, how come you to think Steve was with you at the last trial at Sapulpa?
A. Well, to tell you the reason why I thought he might be, he done the hauling of the grub.
Q. Steve said there is old crazy Nancy, didn't he?

A. That is what he always calls her.

Q. Crazy Nancy; and Nancy did say it is my child and I can prove it by Patsy, didn't she?

A. Well, Nancy told me it was her child?

Q. And said she could prove it by Betsy?

A. Either by Betsy or Richard, one. I got my mind from talk with old man Birney.

Recross Examintion by Mr. Allen.

Q. You say you got your information from old man Birney? A. Yes, sir, the most of the information that I got.

Q. So Nancy didn't say anything about it?

A. I asked him like this, is that her child and he said yes.

Q. You said you were talking there with Nancy and Betsy? A. Yes, sir, I seen them both.

Q. And then you asked old man Birney whose child that was and he said Nancy's? A. Yes, sir.

Q. That is how come you to know now that Nancy had a child? A. Yes, sir, that is the way I know.

Q. You testified at this case at Sapulpa, didn't you?

A. Yes, sir.

Q. Testified there that you didn't know whether you had ever seen this child but one time in your life?

A. Well, maybe I did. Seems like I seen it more but I wanted to be sure I knew what I was talking about.

Q. You couldn't be sure that you had seen the child but one time in your life?

A. Yes, sir, I think so because I wanted to be right.

Q. That is as much as you *will* swore to in Sapulpa?

A. Yes, sir; I wanted to be right.

Q. And you fixed his age anywhere from 15 to 2 years?

A. No, sir, not 15. I said he was small, about like this.

Q. You were not sure about his age?

A. No, sir. Somebody asked me could he have been 15 and I told them if he was he was mighty little.

Q. You say you don't know how old he was?

A. No, sir I don't know how old he was.

Q. You had asked old man Birney whether it was a boy or girl, didn't you?

A. No, sir, I said is that her child.

Q. You said he told you it was a boy, didn't you?

A. Nancy told me it was a boy.

Q. And old man Birney told you it was Nancy's child?

A. Nancy's child.

Q. That is how you happened to get this information that you give here and testify about?

A. Yes, sir, I seen the boy.

Q. You knew Chaney Trent and that whole family there?

A. Yes, sir, I knew Chaney Trent.

Q. Knew the whole family and everything?

A. I used to know them all but they have all got out of my memory.

Q. You say this same boy was playing with the Trent family, weren't they?

A. No, sir, I passed right by the Trent's when the river was down.

Q. Do you remember the children in that family?

A. I know several of them.

Q. You went by there every day or two, didn't you?

A. Well, they was little fellows, Frank and a little girl lives up at Choteau; they called her Mary—they was the biggest children; the others were little fellows. I know the old man pretty well.

Q. Was that not a family that you was intimately associated with? A. No, sir.

Q. You went by there every day or two?

A. No, sir, only when the river was down.

Q. Every time you went to Wagoner, didn't you pass there?

A. No, sir, when the river was up I went to Childers Ferry.

Q. Every time when you went to Wagoner except when the river was too high to ford it, you passed right by Chaney Trent's? A. I wouldn't stop there.

Q. You would see them there?

A. I would see somebody.

Q. They came over to your house occasionally?

A. They never have—the old man was there. You talking about Jim Trent?

Q. I am talking about Chaney Trent's house.

A. That is her husband, Jim Trent.

Q. You knew all the members of that family at that time?

A. No, I didn't. There was heap of them little folks and I never asked no names.

Q. You *say* them oftener than you saw Nancy Atkins?

A. Yes, sir; they came over to help round up or something like that.

Q. The first time you saw Nancy in your life was in Wagoner when some one told you that was crazy Nancy?

A. I seen her there; I never seen her anywhere but Wagoner.

Q. The second time you saw her in your life, was the time you say old man Birney told you this child with her was her child?

A. I said some time in '90; I don't recollect what time.

Q. The first time you ever saw Nancy?

A. It might have been; I didn't say for certain.

Q. That is the first time you will swear to now?

A. Yes, sir, but it has been a long time; a man can recollect a whole lot of things.

Q. That is the only time that you have any definite recollection of ever having seen the child with Nancy or seen Nancy around with any child, isn't it?

A. Well, I might have seen her but I can't judge for certain to be sure about it.

Q. But you won't be certain that you ever saw this child again?

A. No, sir, I would be certain I seen some child; I wouldn't say what child—some child with her.

Q. You wouldn't be certain about whether it was her child? A. No, sir, certainly not; not be positive to know.

Q. You don't know anything about it dying?

A. No, sir, I moved out from Wagoner.

Q. Who first mentioned this child?

A. I wouldn't be certain; I heard them talking.

Q. You and Jim White, are very friendly, aren't you?

A. Yes, sir, very friendly.

Q. He used to credit you when he was in the mercantile business? A. No, sir.

Q. You used to trade with him?

A. No, sir, he had a store at Coweta, I had no credit to be made because——

Q. You know you traded there?

A. I traded at Jones, all the time.

Q. You knew Charles Bailey intimately?

A. Yes, sir, I knew Charlie Bailey.

Q. Have you always been friendly with Charlie?

A. Yes, sir, certainly.

Q. Charlie Bailey came and talked with you about what you knew about this trial, didn't he? A. Charlie Bailey?

Q. Yes, sir. A. What I am talking about now?

Q. Yes?

A. No. Most of the talk, I heard people just talking.

Q. Who did you talk to and tell you had ever seen a boy with Nancy Atkins? A. Who did I tell?

Q. Yes, who did you first tell?

A. I disremember, it has been so long. Most of my talking was in our own camp.

Q. Did you talk with Mr. White? A. Yes, sir.

Q. Did you talk to Mr. Bailey? A. Yes, sir.

Q. Who else have you talked to?

A. Might have made some little remark, not for sure, only the lawyers asked me questions.

Q. The only definite recollection you now have is that sometime in the past you were coming out of Wagoner and you saw a child with Betsy and Nancy, and that Nancy told you it was her boy? A. Yes, sir.

Q. And the old man Birney told you it was Nancy's boy? A. Yes, sir.

Q. Could have been Betsy Birney's and they have been joking with you? A. Could have been sure.

Cross Examination by Mr. Stuart.

Q. You lived twenty-five miles from Wagoner?
A. Yes, sir.

Q. You never came there except for supplies?
A. No, sir.

Q. And that wasn't often?
A. I didn't go there very often.

Q. Never went there except when you had to get supplies? A. That is all.

Redirect Examination by Mr. Maxey.

Q. When you were trading at Davis and Jones, whose account did you run there, yours?
A. No, Winfield Scott's account altogether.

Q. You was foreman on his ranch out there?
A. Yes, sir, I didn't need no account.

Q. Now, you told Mr. Allen on cross examination that Richard Birney is the one told you this was Nancy's child?
A. The old man that is dead.

Q. Did Nancy tell you it was her child? A. Yes, sir.

Q. And then you asked Birney if it was and he said yes?
A. Yes, sir.

Mr. Maxey: That is all.

Recross Examination by Mr. Allen.

Q. You thought Nancy was just joking so you asked old man Birney about it? A. Yes, sir, that is right.

Q. Nancy and Betsy Birney was just joking about the boy was the way you took it?
A. Well, I didn't know but just for curiosity I just asked the question.

Q. You didn't have any reason for prosecuting that inquiry?
A. The only reason I asked questions, you know people was very——

Q. I say you didn't have any particular reason?

A. No, sir, I didn't know whether they was joking; it didn't make no difference to me whose it was.

Mr. German: Now, Your Honor, we move to exclude the testimony of this witness with relation to *tge* conversation with Nancy Atkins or Dick Burney; that as to Nancy it constitutes a self-serving declaration, and as to Birney that is hearsay.

Mr. Maxey: As to Birney, Your Honor, they brought that out themselves, on cross examination. He didn't testify anything about that.

The Court: Well, yes, that was brought out by Judge Allen on cross examination. He was not permitted to make that statement on direct examination. As to what Nancy may have said from time to time, of course Nancy is going to be here to testify. But I am disposed to hear any testimony that there is with regard to what Nancy said away back there at that time when she was handling this boy with regard to her relationship to the boy, and weigh it ultimately with everything else that appears in the evidence, in determining what value if any it has. I may be extending the rule a little far, but I am disposed to do that.

Mr. German: I want to save an exception.

The Court: Your exception is noted. So far as what Nancy said at that time about it.

Mr. Hill: On that point, and the only proposition I make right now, I want to call Your Honor's attention to Fredericks vs. Conway, eleven Howard, 408.

The Court: We will not take any more time about it, I am going to hear the testimony and give you your exceptions. I will weigh that with everything else.

Mr. German: Just one little suggestion. As to the admissibility under the theory that Mr. Walker's evidence came in, and Judge Williams, then it wouldn't constitute substantive evidence in the case supporting her contention——

The Court: I will hear you in argument on its place in the case afterwards.

(Witness dismissed.)

Mr. German: Your Honor, Mr. White is not a party to the suit and I understand he is to be used as a witness for the Nancy Atkins——

Mr. Maxey: He is a party.

Mr. German: He is a party?

Mr. Maxey: Yes, sir.

Mr. German: Then, I beg your pardon.

The Court: Mr. White is a party he is entitled to be present. If he is not, he should be placed under the rule. If there is some instrument in which he is involved sought to be set aside?

Mr. Maxey: Yes, sir, he was one of the lessees from Nancy Atkins.

The Court: Is it sought to set aside that lease?

Mr. Maxey: Yes, sir.

Mr. German: We are asking to set aside all of these instruments. He is not sued though.

The Court: Well, all right, I guess we will go on.

Mr. Maxey: He was one of the original parties to the suit at Sapulpa.

The Court: Of course, the parties in the case have a right to be in the room.

Mr. German: Yes, sir, I mean with reference to conversing with the witnesses.

The Court: Heretofore, Mr. White has sat here in the Court room. Now, this morning for some reason he is pretty active in passing in and out of the Court room. Mr. White may stay in the room but will cease to pass backward and forward.

Mr. Cruce: Mr. Long is not here this morning, he is sick in bed, but he has been in the Court room all during the case. Do you want him under the rule?

Mr. German: Yes, sir.

The Court: Well, he is not here. It is suggested he has been in the Court room. He is not here now.

Mr. Cruce: I will tell him. We thought perhaps he might be excused from the rule.

And thereupon, JOHN T. BEARD, was called and sworn as a witness for and on behalf of the defendant, Nancy Atkins, and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. John T. Beard.

Q. Where do you live? A. Wagoner.

Q. How old are you? A. Fifty-eight years old, past.

Q. How long have you lived in Wagoner?

A. With the exception of part of 1915 and '16, I have been there thirty years.

Q. In what business were you engaged?

A. I am a hardware salesman, however, I am not right now.

Q. Who were you with?

A. With Dunlap and Taylor and Jones Mercantile Company, and Wagoner Mercantile Company, and then I was in business a while for myself.

Q. When did you first go to Wagoner?

A. August 4, 1887.

Q. What business were you in then?

A. I was railroading.

Q. What railroad were you working on?

A. Iron Mountain.

Q. Did you ever know Nancy Atkins? A. Yes, sir.

Q. When did you get acquainted with her?

A. It was about—to the best of my recollection it was the latter part of '89 or '90, I don't just recollect, sometime right along there.

Q. Where did you first meet her?

A. Well, she was there on the street Wagoner was a small place, it only had about a hundred and fifty or seventy-five—— Well, when I first went there there wasn't anybody there. When she came there, there was forty-five or fifty people there.

Q. Did you notice her condition at that time as to whether she was pregnant or not?

A. Well, yes, it was just a little later on when I first saw her. Possibly the latter part of 1890 or 1891; she was on the streets there every day and everybody was talking about the way she looked and her condition.

Q. Do you remember when she was sent to the penitentiary? A. I don't remember just what time it was.

Q. You remember the fact? A. Yes, sir.

Q. Well, now, was it before that that you saw her in a pregnant condition?

A. It was before is my recollection.

Q. Do you know anything about her giving birth to a child?

A. Well, nothing only just town talk there, I didn't see her child.

Q. You observed she was in a pregnant condition? A. Oh, yes, sir.

Q. Then, did you see her after she had gotten over that condition? A. Yes, sir.

Q. Did you ever see her with the child? A. Yes, sir.

Q. Was she carrying it?

A. Well, I have seen her carrying it, and then I have seen the child after it got large enough to walk by itself.

Q. How old did the child appear to be the first time you saw it?

A. Well, I don't know now, I suppose two or three months old, something like that.

Q. Where did you see it then? A. She had it up in town.

Q. Carrying it in her arms? A. Yes.

Q. Did you ever talk to her about whose child it was? A. Yes.

Q. You may state what she said about whose child it was?

Mr. German: We object on the ground of being hearsay and self serving.

The Court: Overruled. Exception noted.

Q. Whose child did she say it was?

A. She said it was hers.

Q. Did you ever hear her call it any name?

A. Yes, sir.

Q. What name did she call it?

A. She called it Tommy.

Q. Now, how often did you see that child around there, Mr. Beard?

A. Well, in 1897 and 1898 and 1899 I worked for Mr. Schrimscher, in the store Mr. Schrimsher used to extend Nancy credit during the week from a dollar and a half to two dollars, and she washed and she would pay up Saturday night. And she used to send this little boy in during the week.

The Court: When was that?

A. Ninety-seven or eight. 1897 or 1898.

Q. How large did he appear to be at that time?

A. Well, he looked like he was seven or eight years old, something like that, a good sized boy.

Q. Well, how long did this continue, this coming to the store there, during those two years?

A. Well, I would say a year, now, I don't recollect just how long; it is a long time back.

Q. Did you ever see him with Nancy?

A. Oh, yes, he would come there with her a heap of times.

Q. Did you continue to live there in the situation, after 1900? A. Continuously, yes, sir.

Q. When did you last see that child?

A. I don't recollect, sometime— I don't know if it was '98 or '9, sometime along there.

Q. Do you remember hearing a report that he was dead?

A. Yes, sir.

Q. About when was that?

Mr. German: We object to that on the ground that it was hearsay.

The Court: Well, I think that is stretching the rule. The report itself wouldn't be admissible and this set his testimony to a date. Objection sustained. That is, he relies on just general neighborhood reports.

Q. Now, do you remember when it was reported to you that the child was dead, whether there was a collection taken up to bury it?

A. Yes, sir. W. U. Hall, a man there in town. I don't recollect if I contributed or not, I most always did though.

Mr. German: We move to strike that out.

The Court: Here is a witness testifying that a certain man came along taking up a collection with relation to a death. That is a circumstance that probably is admissible. He may testify about that.

Mr. German: We except.

The Court: Exception noted.

Q. Who was W. U. Hall?

A. He was a citizen there of the town, and I believe mayor at the time, I am not sure.

Q. Is he living or dead?

A. He is dead, died a short time ago.

Q. Now, Mr. Beard, don't answer this question until the court rules on it. Was there a general reputation among the people who lived there with reference to who was the mother of this child?

Mr. German: We object on the ground that it is hearsay.

The Court: Objection sustained.

Mr. Massey: Exception.

Q. Now, you needn't answer this.

Mr. Massey: We offer to prove by this witness that there was a general reputation among the people who lived in Wagoner at that time as to who was the mother of this child that he has described, and that that reputation was that it was Nancy Atkins' child.

The Court: You have your profert. I have sustained the objection to that evidence. You have your exception.

Q. Did you state what the child's name was?
A. Yes, sir.
Q. What name was he known by?
A. Tommy, Tommy Atkins.
Q. Did you ever know Minnie Atkins? A. No, sir.
Q. Where was Nancy living at the time you saw her and this child around there?
A. She stayed with a darkey by the name of Bett Birney I think most of the time.
Q. Where did she live with reference to Davis and Jones store? A. She lived right back of it there.
Q. Where was she living at the time you first saw this boy?
A. She was, I think, staying with old Bett Birney.
Q. What kind of a looking boy was it?
A. Tommy Atkins?
Q. Yes?
A. He was a kind of bright, we would call him a kind of mulatto looking boy.
Q. What was the color of his hair?
A. It was rather light but later on as he got older his hair got a little darker.
Q. Do you remember at the time he died of seeing a funeral procession at the time this collection was taken up?
A. Yes, sir.
Q. Where did the funeral procession pass with reference to where you worked?
A. Right along in front of the store up Main Street.
Q. And what year do you think that was?
A. I think it was about 1901 or '2, sometime in the fall or spring of 1901 or '2.

Cross Examination by Mr. Allen.

Q. Mr. Beard, you say that they buried this boy as a pauper? A. As a pauper?
Q. Yes. That they had to go around among the neighbors and friends to take up a collection to bury him?
A. Yes, sir.
Q. Wasn't you a little surprised at that when you saw a funeral procession following the body of the boy that you had subscribed to help bury?
A. Oh, I don't know that I was.

Q. They had lots of funeral processions those days, didn't they? A. Had some, yes.

Q. And can you tell me now of any other funeral procession that you remember along about that time?

A. Well, none in particular that I recollect of, no.

Q. Well, they buried this boy in the yard back of Davis and Jones' store, didn't they?

A. No, sir, not that I know of.

Q. Whose child was that [] was buried there that was born dead? A. I don't know.

Q. Near the tent back of Betsy Birney's house?

A. I don't know, I didn't know there was anybody buried there.

Q. Didn't you hear of them burying him there?

A. No, sir.

Q. You clerked at one time at Davis and Jones' store, didn't you? A. No, sir.

Q. Did you ever work there?

A. No, sir, not for Davis and Jones.

Q. Is this the only Thomas Atkins you know anything about around Wagoner?

A. It is the only one, yes, sir.

Q. Did you know the Trent family, you know old man Chaney Trent? A. Yes, sir.

Q. Did you know her brothers and sisters? A. No, sir.

Q. You knew the family of Chaney?

A. I knew Jim Trent and his wife, yes.

Q. They trade around Wagoner, didn't they?

A. Yes, sir, they do yet.

Q. What did this Thomas Atkins that you saw there do?

A. Why, I never saw him do anything.

Q. Never saw him hauling wood around there?

A. No, sir.

Q. Mr. Beard, you say that he was some month or two old when you first——

A. Two or three months old, something like that.

Q. When you first knew he was Thomas Atkins, the son of Nancy? A. Well, I saw Nancy carrying him.

Q. You heard her say at that time that he was Thomas Atkins? A. She was in the store, yes.

Q. You testified in this case at Sapulpa?

A. I think so.

Q. As a witness for the Nancy Atkins' interest?

A. Yes, sir.

Q. I will ask you if the following questions were not asked you at that time to which you returned the following answers: "A. I saw her with this boy. Q. What was its name? A. Tommy. Q. How old was he the first time you ever saw him? A. The first time I ever saw him to know it was Tommy Atkins, and the boy, he was about three or four years old. Q. How long was that after you had observed she was pregnant? A. Some four or five years I guess. Q. Did you see him often or not? A. Well, after he got to be a boy of about seven or eight years old he was in the every day buying something. I was well acquainted with him." Did you answer those questions in that way?

A. I think so. There is some connections there that I don't recollect of making, but there is nothing out of the way that I know of about them.

Q. Then he was three or four years old instead of— Then he was three or four years old instead of two or three months when you first knew him, is that right?

A. Well, my recollection is that he was about three or four months old when I first saw him with his mother.

Q. Why did you say at Sapulpa that the first time you saw him then to know that he was a boy was three or four years old instead of three or four months, wasn't your recollection as good then as now?

A. I think that is a mistake; I think I said three or four months.

Q. Well, you also said at Sapulpa, you just stated that this was four or five years after you saw her in a pregnant condition. Your recollection was as good then about these dates back there as it is now, wasn't it?

A. Oh, must have been, yes, sir.

The Court: How old was the child when you first knew his name?

A. I think three or four months old sir, when I saw the mother having him.

The Court: You say its name was Tommy Atkins?

A. She told me that that was the boy's name.

The Court: When she was carrying the child in her arms?

A. Yes, sir.

Q. Mr. Beard, did you know any other children around there about that time that this boy associated with?

A. Yes, I think Betty Birney had a lot of children.

Q. Outside of these two, Betsy Birney boys who were sent to the penitentiary about that time, who was it he associated with? A. Well, I don't recollect.

Q. Dick Birney and Henry Birney were not his associates, they were in the penitentiary then, were they not? What about Joe Birney, did you know him?

A. No, sir, I don't believe I did by the name of Joe.

Q. You understand that Nancy was living over in the bottom, you say?

A. Well, they called it the bottom, but it is not the bottom, it is right there back of Davis and Jones' store.

Q. With the Betsy Birney people? A. Yes, sir.

Q. You never saw her around there with a little boy called Joe Birney? A. Not that I know of, no, sir.

Q. If Betsy Birney ever had a child named Joe you never knew anything about it?

A. I don't think I did, no, sir.

Q. And isn't it a fact, Mr. Beard, that there was a Joe Birney instead of Tommy that you saw Nancy with?

A. Well, I have testified, told you what I know about it.

Q. You never had this matter brought to your attention from the nineties until 1914, did you, when you testified in Sapulpa?

A. Well, I have several things; one of those things that makes me remember the circumstance very distinctly about Nancy being in this pregnant condition.

Q. I know, but about the name of this child? A. No.

Q. You never thought about that again from the time you saw her in the nineties until 1914 when your recollection was refreshed?

A. Well, as I said now, when Nancy was going around on the street in this condition, the boys all accused Uncle John Newberry as being the father of this child.

Q. The man who testified here?

A. I don't know whether he testified or not, we had considerable fun about it. And as I said, there was only a few people living there and I was working for the Iron Mountain Railroad at the time and knew she lived across there. You could see everybody walking around through town, you could see her every time she was out of the house; and it was just west of the depot; and then later on the boys told old Johnny he had better go down and see his boy after the child was born.

Q. I am not calling for that testimony, Mr. Beard, I am directing your attention to the name of this boy. Mr. White first came to see you, didn't he?

A. Yes, sir, if you will just let me explain I will show you why I recollect his name was Tommy.

Q. Did Mr. White first come to see you about this case? Answer that yes or no. About your recollection of this boy?

A. Yes, he came to see me about it, yes.

Q. Didn't you tell him then that you couldn't remember much about it, and didn't he refresh your memory about the boy by telling you about the occurrence of its birth and its name?

A. I don't recollect that he did.

Q. Up until that time, you hadn't thought about the boy for years, had you?

A. Only through old Uncle John Newberry, deviling him as I told you.

Q. The first time you saw that boy to have heard his name was when he was three or four years old?

A. Two or three months old is my recollection.

Q. Then you were mistaken when you said at Sapulpa three or four years?

A. I think that is a mistake in the stenographer; that is what I think about it; I am not sure.

Q. Then it wasn't three or four years after you saw her in a pregnant condition that you first saw the boy to know what its name was?

A. I think it was about three or four months.

Q. But you never knew anything more about the boy, whether it was two or three months, or two or three years, you never saw anything more of the boy until he was six or seven years old and was coming to your store?

A. I seen him with her out on the street and following her.

Q. When did you ever see her with this boy following her up the street?

A. Well, most any time, she was on the street and she was on the street most every day.

Q. There were other women there who had boys around there? A. Why, sure.

Q. Can you tell me the name of another boy who was following his mother around?

A. You mean colored or white?

Q. She ran with the colored people didn't she?

A. Well, I didn't.

Q. Well, I will confine it to the colored race or Indians?

A. I don't know that I just could call to mind.

Q. You don't remember another one?

A. I don't think I do.

Q. You wouldn't have remembered this if you hadn't had your memory refreshed?

A. Well, I remember it from other circumstances.

Q. You have talked it over at great length with Mr. White, haven't you? A. Well, some, yes.

Q. And you and he have talked about the incidents leading up to the birth and death of Tommy, haven't you?

A. I think so, yes, sir.

Q. Did you ever discuss it with Charlie Barry?

A. No, sir, I don't think I did.

Q. But you and Mr. White have had frequent conversations about the birth and death of Tommy?

A. Well, not so many, I think we talked it over once or twice.

Q. You are sure that there was no other Thomas Atkins around Wagoner, are you?

A. Not that I knew of, no, sir.

Q. You never heard of but the one Tommy?

A. That is all.

Q. And that was the boy around Wagoner there?

A. That's all.

Q. Mr. Beard, did you know Charlie and Harvey Harrison? A. No, sir, I don't believe I did.

Q. Nancy ran with negroes there, didn't she?

A. Yes, sir.

Q. You had no more reason to follow the birth and death —life and death of this child than you had any other negro child around there, did you? A. No, sir.

Q. Your recollection of that matter now is just the recollection that anyone would have of any stranger there, isn't it?

A. Well, now, my own knowledge and with what I have talked to others about of course has refreshed my memory as you say.

Q. The others you have talked about it with has been Mr. White? A. Well, and some others, yes.

Q. You say you never knew Charlie and Harvey Harrison when they were little children with Nancy?

A. No, sir, I don't think I did.

Q. You don't know and can't say now whether this boy you saw running with Nancy was Charlie, Harvey, or Tommy?

A. Only what she said; she told me its name was Tommy is all I know.

Cross Examination by Mr. Stuart.

Q. You say you think that statement that you made up there that you never saw the boy to know him as Tommy until he was three or four years old is a mistake?

A. I think that must have been a mistake. I think I said three or four months.

Q. You made it twice. They asked you on direct examination how long it was and you said three or four months. Now, on cross examination they asked you this, didn't they: "You say you first saw the child when it was three or four years old? A. Something like that." You answered that same way on cross examination when three or four years was put directly to you, didn't you?

A. I might have done so; seems like I did, you have it there.

Q. Now, you saw Minnie Atkins and Nancy in 1890?

A. Minnie? I don't know that I ever saw her.

Q. You say you never knew her?

A. Minnie, no, sir, I don't know her.

Q. Now, let's see about that. Weren't you asked at the trial: "Did you ever know Minnie Atkins? A. Did I ever know Minnie Atkins? Q. Yes? A. Yes, sir. Q. Where did you know her? A. I have seen her at Wagoner. Q. When did you first see her in Wagoner? A. 1890, I think. Q. After the time you first saw Nancy? A. Sometime after Nancy was there. Q. Was Minnie living in Wagoner? A. I don't know, she was with Nancy."

A. I don't recollect that I ever seen Minnie Atkins.

Q. What did you swear to that for?

A. I don't recollect that I made it at all. I don't recollect that I ever seen Minnie Atkins at all.

Q. You were asked that question, weren't you?

A. That might have been, seems like you have it there, but I don't recollect of ever answering that question.

Q. If the question was asked you, why did you say you saw Minnie and why did you say you saw this?

A. Well, I am telling you that I don't recollect that the question was ever put that way.

Q. Were not these questions and answers given: "Did you ever see Minnie after that? A. I don't believe I ever did. Q. You saw Minnie before that? A. Yes, sir. Q. You ceased to see Minnie as soon as you saw this boy? A. Well, I don't know that I did. Q. You won't say you never saw this boy with Minnie, will you? A. I don't know that I ever did." Didn't you testify to all of that up there? Why is it your memory has failed you at this hearing?

A. Well, I am honest about it, I don't know.

Mr. Stuart: All right. You don't know why it failed you.

Recross Examination by Mr. Allen.

Q. Mr. Beard, Davis and Jones had charge of the funeral of the boy that you heard was dead, didn't they?

A. Not that I know of, I don't think they did.

Q. Did you testify at Sapulpa, did you make the following answers to the following questions: "Q. Did you know that boy from the time you first saw him up to the time of his death"— No, this question: "Do you know which undertaker had charge of the funeral? A. I think Davis and Jones had charge of it." Did you answer that question that way at Sapulpa?

A. I don't recollect that I did. I might have done that. At that time; Davis and Jones were undertakers, after that, but at that time I don't think they were in the undertaking business.

Q. The time that this child was buried, which you say I believe was 1900— What time did you say it died?

A. The fall of 1901 or spring of 1902.

Q. Along somewhere during the years 1901 and '2?

A. Yes, sir.

Q. Davis and Jones were in the undertaking business then?

A. Yes, at that time. That is true.

Q. Now, refreshing your recollection, don't you remember that they were the undertakers who had charge of the burial of this boy? A. They might have done so.

Q. What you mean by having charge of the burial was that they furnished the coffin that was bought by this public subscription? A. That would be all.

Q. There were lots of people buried in Wagoner in those days by taking up subscriptions for them to buy a coffin, wasn't there? A. Yes, sir, I expect there was.

Q. Now, if Mr. Dillon was taking up that subscription to bury this Thomas Atkins, it must have been some other person that was being buried as a pauper that you subscribed for?

A. Dillon?

Q. Yes. The boy or girl or whoever it was that you were giving money to help bury, that money that was taken up by Mr. Hall? A. W. U. Hall, yes, sir.

Q. Again testifying at Sapulpa, did you or not give the following answers to the following questions: "Q. Did you know that boy from the time you first saw him up until his death? A. Well, no I didn't. I couldn't answer that question. There was some space of time I wasn't familiar with him when he was small. Q. Nancy lived there during that period? A. Yes, sir. Q. You saw her frequently? A. Yes, sir. Q. You wasn't absent from that time during the space of a month or a year? A. I wouldn't say that." Did you answer those questions?

A. That I wasn't absent a month or a year? I will say I might have been absent a month but I wasn't a year.

Q. Did you make those answers to those questions?

A. Yes, sir, I expect I did.

Q. "Did you know that boy from the time you first saw him up until the time of his death? A. Well, no, I didn't. I couldn't answer that question. There was some space then I wasn't familiar with him."

A. Well, Judge Allen, I didn't keep along with him every day of his life.

Cross Examination by Mr. Hanford.

Q. Where was this boy buried?
A. Out in Wagoner graveyard, Elmwood Cemetery.
Q. The procession took him out there and buried him?
A. Yes, sir.

(Witness dismissed.)

And thereupon, court took a recess until two o'clock P. M.

And thereupon, court met pursuant to adjournment and the following proceedings were had.

And thereupon, M. I. SULLIVAN was produced, sworn, and examined as a witness for and on behalf of the defendant, Nancy Atkins and testified as follows:

Direct Examination by Mr. Maxey.

Q. What is your name? A. M. I. Sullivan.
Q. What is your age?
A. I am fifty-three years old now.
Q. Where do you live? A. Wagoner.
Q. How long have you lived in Wagoner?
A. Ever since 1892.
Q. 1892?
A. *It* was absent five years. I moved to Wagoner in December, located there in January '92 and stayed there until December, '95, when I was away for five years and come back there, have been there ever since.
Q. Came back in 1890? A. 1900, in December, 1900.
Q. Are you acquainted with Nancy Atkins? A. Yes, sir.
Q. Where did you first get acquainted with her?
A. Why, the first year that I was there in 1902, sometime during the year.
Q. Where was she living when you went there?
A. She was living on the west side of town somewhere, I never did know exactly.
Q. Do you know whether she had a child?
A. Well, she had a child.

Mr. German: Just a minute. Answer that yes or no.

The Court: Do you know whether she had a child, yes or no.

A. I know what she said. Said it was hers.

Mr. German: I object and move to exclude that answer on the ground that it is hearsay. And I would like to add in this connection another reason, for the reason that it is a self-serving statement; and for the further reason that as constituting a declaration of a member of the family, it would be improper because the declarent is alive.

The Court: Yes, that is true. That is the rule with regard to that. Your objection will be noted, overruled and exception.

Mr. German: While I am on the floor, Your Honor, I would like to move to exclude the testimony of the witness Beard relating to statements made by Nancy Atkins on the same ground and for the same reasons.

The Court: The record may show your objections; overruled and exceptions.

Mr. German: In order to save raising these objections every time, may it be understood we object to the statement of any kind purporting to give the statements of Nancy.

The Court: Yes. Any witness on behalf of Nancy Atkins who is interrogated about anything that Nancy may have said as to this child by herself, and subsequent question will be considered as objected to by counsel for the Government and counsel for the Page and Minnie Folk and other like interests, and overruled and exceptions noted.

Mr. German: Yes, sir. I notice a witness for the Page interest in the court room.

Thereupon, the witness was cautioned and placed under the rule.

Q. How old was the child the first time you saw it?
A. Oh, he was small, I guess two or three years old.
Q. Large enough to be walking around?
A. Walking, toddling.
Q. Where was it the first time you saw it?
A. It was in my place of business.
Q. Who was with it? A. Nancy.
Q. How come she to tell you it was her child?
A. I was talking to her about it, asked her if that was her kid and she said yes.
Q. Was she frequently about your place of business?
A. Yes, most every week, sometimes two or three times.
Q. What business were you in?
A. I was in the retail mercantile business.

Q. How often did you see the child with her?

A. Oh, I couldn't say how many times; I was there for two or three years and saw the child probably every week.

Q. What kind of a looking child was it?

A. I don't remember Judge, it has been so long back.

Mr. Cobb: If the court please, we can't hear.

The Court: Speak up a little louder.

A. I said I didn't remember how it looked.

Q. Do you remember the name of the child?

A. No, I don't remember the name of it.

Q. You say you were away until 1890? A. 1900.

Q. Did you see it after you came back?

A. I don't remember of seeing it after I came back.

Q. Do you remember of it being reported that the child was dead?

Mr. German: We object to that as hearsay?

The Court: Objection sustained.

A. I don't remember of hearing it, no, sir.

Q. When was the last time you saw it?

A. Well, I can't call to memory the last time I saw the child.

Q. Did you see it after you came back?

A. No, sir, not that I remember of.

Q. Don't recall? A. Don't recall.

Q. But you were acquainted with it from 1890 to 1895?

A. Yes, sir.

Q. And you saw it frequently, you say, during that period? A. Yes, sir.

Q. Was this child with her every time that she came to the store?

A. Well, I don't know that it was with her every time that she would come; that is the only time I would see the child was when she had it with her.

Q. Well, was that frequently?

A. She would come lots of times by herself. I was right on the Main street where the biggest passing by in the town was.

Q. Did you ever talk to her about it more than once?

A. I expect I have, I don't remember now. Talked with her a number of times.

Q. You just recall that you asked her whose child it was?

A. Yes, sir.

Q. And she told you? A. Yes, sir.

Cross Examination by Mr. German.

Q. Where was your store, Mr. Sullivan, in town?

A. Right on the Main Street, if you remember where Kellan's bake shop is, it was right on that spot.

Q. On which side?

A. On the west side of Main Street on the east side of the M., K. & T. Railroad.

Q. You went there in 1892? A. Yes, sir.

Q. At that time about how large a place was Wagoner?

A. It was a small place.

Q. Approximately what population?

A. Oh, not over two or three hundred.

Q. Two or three hundred? A. Yes, sir.

Q. The town increased in population from year to year, didn't it? A. Yes, sir.

Q. Did it have any sort of sudden increase in population as time went on? A. Never did.

Q. What population is it now?

A. I suppose between four and five thousand.

Q. Been gradually increasing since you first went there until it reached its present population? A. Yes, sir.

Q. When you went there where was Jones' store?

A. Davis and Jones' store was on the west side of the railroad.

Q. Now, the main business part of town when you went there was on the west side?

A. There was just that one store over there.

Q. That is the only store that has ever been on the west side? A. No, there was Dunlap and Taylor.

Q. At this time the main business part of town is on the east side? A. Yes, sir.

Q. And there isn't any business part on the west side?

A. Not to amount to anything.

Q. Did you know where the Birney negroes lived when you first went there?

A. I don't remember exactly where they lived, no, sir.

Q. Well, you know about where? A. Yes, sir.

Q. On the west side of the track? A. Yes, sir.

Q. And you knew about Elnora Williams living over there?

A. I don't remember whether I remember her name or not.

Q. You knew about Mandy Barnett living over there?

A. Yes, sir.

Q. Then there was some other colored families living over there? A. Yes, sir.

Q. And did—— And there were several colored families in town? A. Yes, sir, a number of them.

Q. A number of them? A. Yes, sir.

Q. And were there some Indian families living in town?

A. Not but very few Indians if any.

Q. What class of people did Nancy associate with, colored or white? A. Colored people mostly.

Q. She was pretty much of a character around town, wasn't she, drank a good deal?

A. That is what they say, I don't know, I never see her drinking any.

Q. What other children did she come to the store with?

A. I didn't question her about any others.

Q. Well, I am asking you about——

A. Not any that I ever saw.

Q. Well, did you see her around the streets with some children?

A. Yes, I have seen her in the street with her little fellow following along, noticed her that way.

Q. Do you remember about what period of years was covered by her association with this child?

A. Not only from 1902 to 1905.

Q. 1892? A. 1892 to 1895.

Q. That was the period you noticed her?

A. Yes, sir, three or four years.

Q. And yet Nancy stayed around town after that?

A. I don't remember, I was away five years.

Q. What five years were you away?

A. I left there in December, 1895, and was away until December, 1900. Five years, and then went back and have been there ever since.

Q. What was the color of this boy's hair?

A. I don't remember, it has been so long.

Q. What was the color of his complexion?

A. I don't remember that, just remember a toddling kid.

Q. Do you remember the Birney children?

A. I suppose I do.

Q. How many of them were there? A. I don't know.

Q. Did you see them around on the streets?

A. Yes, sir.

Q. Who would come there with them?

A. They would come there by themselves sometimes, and sometimes some of the family.

Q. Who would they come with in the family?

A. Well, I don't remember that.

Q. Don't you remember that they would come there with Nancy?

A. No, I don't remember whether they ever came with Nancy or not.

Q. What other child would come around your store that you recall?

A. Well, I can recall a number of them around there.

Q. Name one.

A. Well, there is Henry Kidds' children—had a gang; I knew them well.

Q. They colored folks? A. Yes, sir.

Q. Where did they live?

A. The west side of the track.

Q. How many children did they have?

A. They had a gang of them; I don't remember how many.

Q. Who would come in the store with them?

A. Well, they would come there by themselves once in a while, and with somebody, once in a while.

Q. Tell us some of their names.

A. Well, Henry's children—I can't specify the names of them.

Q. Can't tell the names?

A. No, sir, there were so many of them. I was in public business and seen them come and——

Q. That is true of Nancy's children that might have come there with them?

A. Yes, she might have come with lots of children.

Q. Might have come with lots of children? A. Yes, sir.

Q. Lots of different children? A. Yes.

Q. Now, she said to you that this was her child?

A. Yes, sir.

Q. Just use her language, now, to the Court and the language that you used.

A. Well, Nancy was a peculiar woman, you know. She was so nearsighted and pigeon-toed and a little scrawny thing—would make anybody remember her and she was a byword in the town with the boys.

Q. What do you mean by byword?

A. They had a little song that they used to sing about where is my Nancy—a little song that was all over town; she was a peculiar woman that would make anybody remember her, and I have seen her come in the store with the kid walking along, and seen her pick the kid up on her hip, and I would ask her whose kid it was and she said mine.

Q. You regard it as a joke, didn't you?

A. No, sir, I thought she was telling the truth about it. I know it was reported that she had a kid there.

Q. Well, now, I didn't ask you about any report.

A. Well, I know, but that is the reason I took her word as to what she said.

Q. You based it on a report, didn't you?

A. Just what Nancy said to me is all.

Q. Just what she said to you. Now, Nancy was—Nancy would say nearly anything, wouldn't she? She would gossip and gape around?

A. Like all the balance of the women folks over there.

Q. They would say nearly anything?

A. I don't know about that because I didn't run *run* with that class very much and I didn't know much about them only when I came in contact with them only in my place of business.

Q. You knew Nancy's reputation around there wasn't good for truth and veracity at that time, was it, at that time?

Mr. Maxey: We object to that.

The Court: Answer; we will see.

A. Well, I never heard of Nancy or anything only—except, simply kind of old street girl.

Q. She wasn't married?

A. I don't know whether she was married or not.

Cross Examination by Mr. Hanford.

Q. You say you came there in January, 1892? A. Yes, sir.

Q. Did you see Nancy continuously up until you left in '95?

A. Why, she was just like any of the rest of those folks there that I would see probably every day or once a week, or two or three times a week.

Q. Continuously?

A. I don't know whether it was continuously or not.

Q. Did you ever see this boy with anybody else?

A. Not that I know of.

Q. Never saw him with anybody else around there?

A. Not that I know of.

Q. He was always associated with Nancy?

A. The only times that I seen him Nancy was carrying him along.

Q. Your recollection is that Nancy was there all the time you were there from '92 to '95?

A. No, I don't remember whether she was there continuously or not; she might have been absent.

Q. You remember when Nancy went to the penitentiary?

A. No, I don't remember that.

Q. Don't you know that Nancy was arrested in connection with some trouble over the mails, the United States mails, in March, 1902?

A. I don't remember now; probably might have at the time it happened but I don't remember now.

Q. You don't remember that at all? A. No, sir.

Q. So she might have been away some time without your knowing it? A. Yes, sir.

Q. You don't recall that? A. No, sir.

Q. But you do recall that you never saw that boy with anybody else except Nancy? A. Not that I remember.

Q. Did you ever hear of Nancy being arrested for introducing liquor? A. No, not that I remember.

Q. You never heard of her going to the penitentiary at Detroit? A. No, I don't remember.

Q. For selling liquor? A. I don't remember if she did.

Recross Examination by Mr. German.

Q. You know J. B.—Jim White, don't you? A. Yes, sir.

Q. How long have you known him?

A. Well, I think I got acquainted with Jim a year or six months—or a year, after I went there.

Q. You and him are related in any way?

A. No, sir, no relation.

Q. You have been very intimate friends, since then, haven't you?

A. Not in particular; not any more than any good citizen.

Q. Who first spoke to you about this Nancy matter in recent years?

A. Well, Jim is the one who came and asked me about it, and I told him about what I told you—told the Court.

Q. Now, when was that?

A. Well, when this case first started, I suppose.

Q. About three years ago?

A. About three years ago, I suppose; two or three years ago.

Q. It has been talked a good deal up in Wagoner since then? A. Not so powerfully much.

Q. Well, it has been talked some?

A. Yes, been talked some.

Q. And had not been talked before that at all?

A. No, sir, I didn't know anything about it until Jim named it to me.

Witness dismissed.

And thereupon, A. GRANT WASSON, being called as a witness on behalf of Nancy Atkins, et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Maxey.

Q. What is your age, Mr. Wasson? A. 53.

Q. Where do you live?

A. Five miles east of Wagoner.

Q. Did you ever live in the town of Wagoner?

A. Yes, sir.

Q. How long have you lived in that neighborhood?

A. 29 years.

Q. Where were you living in 1889 and '90, and along there? A. Right by Wagoner.

Q. In the town? A. Yes, sir.

Q. Did you know Nancy Atkins? A. Yes, sir.

Q. When did you first get acquainted with her?

A. In '89.

Q. Do you remember ever seeing her in a pregnant condition? A. No, sir, I don't remember that I ever did.

Q. Do you remember whether or not she had a child?

A. I remember that she had a child, yes, sir, that she claimed was hers.

Q. Did you ever talk to her about it? A. Yes, sir.

Q. What was its name? A. Tommy.

Q. How old was it the first time that you saw it?

A. Well, I don't remember; it was about 2 years old, I think.

Q. Where was it?

A. It was—close to where Davis & Jones Mercantile Company used to be in Wagoner.

Q. Was it with her? A. Yes, sir.

Q. Now, how come her to tell you about it being her child?

A. Well, this little child was with some little niggers and one of these niggers was the worst one I ever seen, and I had a brother-in-law up here on a visit from Arkansas and he was always saying something to everybody he met, and I says to him, I said, say something to that girl and——

Q. Don't repeat what he said—I know what it is.

A. Well, I won't, and she got out some pretty bad language, and I said, Nancy is them your children, and she said none of them only Tommy, this little boy.

Q. Did she point him out? A. Yes, sir.

Q. Now, how often did you see that child around there afterwards? A. Oh, I seen him—I don't remember. Often.

Q. For how long?

A. Well, for—about '85 or '86; somewhere along there.

Q. You mean '95 or '96? A. Yes, '95.

Q. Then, did you move out of town? A. Yes, sir.

Q. Did you ever see him after that?

A. I don't remember ever seeing it after that, no, sir.

Q. About what age was he, about the last time you saw him? A. Oh, he was four or five years old.

Q. A good big boy? A. Yes, sir.

Q. What mind of a looking child was he?

A. Well, he was—looked like he was mixed between an Indian, nigger and white; he had kind of white looking hair. We always called him a white-headed nigger.

Q. You say you saw it often from the first time you saw it until you moved out? A. Yes, sir.

Q. In 1895? A. Yes, sir.

Q. But you don't remember seeing it after that?

A. No, sir.

Q. Do you remember hearing whether it was dead or alive? A. No, sir.

Mr. Stuart: We object to that, Your Honor.

The Court: Well, he says he doesn't remember, anyhow.

Q. You remember about them taking up a contribution?

A. No, sir, I don't remember anything about that.

Q. You don't remember that? A. No, sir.

Cross Examination by Mr. Linebaugh.

Q. Mr. Wasson, what time of the year of '89 was it that you met her?

A. Well, I don't know. It was off and on all the time there.

Q. How do you know it was in '89?

A. Well, I came there in '88 from Oregon—Baker City, Oregon, in '88.

Q. Where did you meet her?

A. Well, I met her off and on down there. Our blacksmith shop was right close to where her tent was, *but* the old Brown hotel.

Q. Where did you meet her the first time?

A. Well, I can't tell.

Q. What conversation did you have with her?

A. I never did have no conversation with her; only this one time is the only time I remember speaking to her.

Q. She never said anything to you at any other time?

A. No, sir.

Q. Did you talk with any other people at that time?

A. At that time, no.

Q. Never at any time did you have any conversation with any person up there? A. Oh, I have along, yes.

Q. Tell us one, and what the conversation was.

A. I don't remember; we used to joke each other there about the child, and about whose child it was.

A. Well, did you talk with anybody about that time with reference to anything else? A. No, sir.

Q. And other business matters or personal matters?

A. No, sir.

Q. You never visited with anybody?

A. Well, I didn't at that time I am talking about, no.

Q. During that time did you have any visit with any other person? A. Well, no visit, no sir.

Q. Did you talk with any other person?

A. Well, I suppose I did.

Q. Well, now, tell us one person that you talked with and what that conversation was.

A. Well, I don't remember about that; I wouldn't have remembered that only but for this little girl.

Q. What little girl? A. This little nigger.

Q. What was her name? A. Betsey Birney.

Q. What other child was there? A. A little negro boy.

Q. What was his name?

A. He was one of the Birney children; I don't remember his name.

Q. How long was it after '89 that you had this conversation that you say you had?

A. It was in '92 or '93, I don't remember exactly.

Q. What time in the year? A. It was July.

Q. Either July of '92 or '93? A. Yes, sir.

Q. You are sure about that, are you? A. Yes, sir.

Q. And Nancy was then in Wagoner?

A. I think it was '92 or '93; I think, though, it was '92, I don't remember exactly.

Q. What else happened in the year 1892 that you now remember? A. Well, I don't know.

Q. Anything at all?

A. '93 was the year that I moved north of Wagoner.

Q. Well, how long was it before you moved?

A. Well, let's see; I moved in—it was August or September that I moved out there on the prairie—I had taken a lease.

Q. Mr. Wesson, how long was it before you moved that you say you had this conversation?

A. Why, it wasn't but a month or two.

Q. Now, along about that time, can you tell us anything else that happened? A. No, sir.

Q. Either connected with yourself in which you were personally interested or a matter of public interest? Did anything happen that you now remember?

A. No, I don't recall anything that happened at that time.

Q. Do you recall anything that happened during the year of 1893 or was—that is the year 1893, I believe you said a while ago? A. Yes, sir.

Q. Now, can you tell the Court anything that happened in the year 1894? A. No, particular thing, no.

Q. Mr. Wasson weren't there a number of women who had children there in Wagoner, were there not? A. Yes, sir.

Q. About the age of this child?

A. Well, I don't know; there wasn't any great many women there then.

Q. No great many women? A. No, sir.

Q. Such women as were there, you saw them, would you, occasionally? A. Yes, sir.

Q. Knew them well? A. Yes, sir.

Q. Tell us the name of a woman who had a child two or three years old? A. I don't know of nary one.

Q. Who did you talk to about this case?

A. Well, Mr. White. Mr. White asked me if I knew anything about this trial; remembered anything about it.

Q. When did he talk to you?

A. Well, I don't know; it has been I suppose a year or two ago. I don't remember; it may have been a couple of years ago.

Q. Did he tell you when Nancy was supposed to have had a child? A. No, sir.

Q. What did he tell you?

A. He didn't tell me nothing only did I remember Tommy Atkins.

Q. Had the matter been brought to your attention?

A. No, sir, never.

Q. Between the time——

A. Never had heard of such a thing.

Q. You had no occasion to recall it? A. No, sir.

Q. Between the time it happened and the time Mr. White spoke to you? A. No, sir.

Q. Now, can you tell the Court anything that happened in 1895? A. '95?

Q. Yes.

A. Yes, sir, that was the year of the strip payment.

Q. That was the year of the payment? A. Yes, sir.

Q. Mr. Wasson, you said that this child looked as if it were a part Indian, a part negro, and a part white?

A. Yes, sir.

Q. Light-headed? A. Yes, sir.

Q. Its hair was light?

A. Yes, sir, we always called it a white headed nigger.

Q. What color eyes did the child have?

A. Well, I don't remember.

Q. How was it dressed?

A. Well, it had on a—you wouldn't say it was dressed; it had on some rags.

Q. And where was it you saw it?
A. It was close to the Davis and Jones' Mercantile store.
Q. In a house or in a tent?
A. No, it was out on the sidewalk, walking along.
Q. Who was with this child? A. Nancy.
Q. You never saw her in a pregnant condition?
A. No, sir.

Q. You saw her frequently from 1889 right along up to the time that you saw this child, did you?
A. Well, yes, sir, off and on.
Q. You noticing her when you saw her?
A. Well, not much, no.

Q. Would you notice her differently than you would other women? A. Why, I did in a way she walked, yes, sir.

Q. Was there anything to attract your attention about her more than would attract your attention about other women who lived there?
A. Nothing, only just the way she walked.
Q. Had a peculiar walk? A. Yes, sir.
Q. What was that peculiarity?
A. She was kind of pigeon-toed.
Q. And you would observe that, would you?
A. Yes, sir.

Q. You couldn't tell any other woman that had a child at that time? A. No, sir, I don't remember that.
Q. Was this a boy or girl? A. Sir?
Q. Was this a boy or girl?
A. Well, she said it was a boy; I don't know, now, whether it was a boy or girl.
Q. All you know about it at all is what she said?
A. Yes, sir.

Cross Examination by Mr. Hamford.

Q. How long did your brother stay with you?
A. Brother-in-law?
Q. Yes. A. Why, he didn't stay but a little while.
Q. He was just in town that once? A. He was, yes, sir.
Q. That time you spoke to Nancy? A. Yes, sir.

Q. You don't remember how long he stayed there after that? A. No, I don't. He didn't stay long, though.
Q. He left you there in Wagoner? A. Yes, sir.
Q. Was that the year that you moved out on the lease?
A. Yes, sir.
Q. It was the year before, wasn't it? A. Yes, sir.
Q. You moved out on the lease in '93? A. Yes.
Q. So that would put it '92, wouldn't it?
A. I think so, I think it was '92.

Q. And you recollect that he was there in the month of July? A. I know it was July.

Q. July? A. Yes, sir.

Q. And you met Nancy out on the sidewalk?

A. Yes, sir, we were in a wagon; we never did get out of the wagon there.

Q. You didn't? A. No, sir.

Q. But she was on the sidewalk? A. Yes, sir.

Q. And how far up town was it?

A. Well, about all the town there was there at that time.

Q. Well, exactly about where did you see her on the sidewalk?

A. Well, she—I guess it was about 40 or 50 feet from the Jones, Davis Mercantile store—Davis & Jones store, southeast.

Q. Nancy came along the sidewalk with this child?

A. Yes, sir.

Q. Have it by the hand?

A. No, sir, just walking along in front of her and these other two little niggers were right in front of them.

Q. And you are sure it was the year your brother-in-law was visiting you? A. Yes, sir.

Q. And your brother-in-law visited you in July?

A. Yes, sir.

Q. The year before you moved out on the lease?

A. Yes, sir, '92 or '93; I moved on the lease in '93.

Q. And you do know that your brother was there the year before you moved?

A. Yes, sir, I think that is the way it was, yes, sir.

Recross Examination by Mr. Linebaugh.

Q. How large was the child?

A. Oh, he was about that high.

Q. Well, how high is that?

The Court: How many years old was he?

A. Oh, I suppose about 2 or 3 years old; about 3 years old is what I thought.

Q. You got acquainted with Minnie in '89? A. Minnie?

Q. Nancy. A. Yes, sir.

Q. Who else did you get acquainted with in that year?

A. Oh, I don't know.

Recross Examination by Mr. Hanford.

Q. Where is your brother-in-law now? A. He is dead.

Q. He is dead? A. Died of consumption, yes, sir.

Witness dismissed.

And thereupon ANDREW JACKSON, being called on behalf of the defendants Nancy Atkins, et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name. A. Andrew Jackson.
Q. How old are you, Andrew? A. 51 years old.
Q. Where do you live?
A. I live 5 miles southeast of Wagoner.
Q. How long have you lived in that neighborhood?
A. 47 years this spring.
Q. Did you ever live in Wagoner? A. Yes, sir.
Q. What years did you live there?
A. Well, I lived in Wagoner three different times.
Q. What is it?
A. I have lived in Wagoner three different times.
Q. Were you living there in 1888 and '89, and '90, along there? A. No, sir.
Q. What year did you go there?
A. It seems to me that it was in '92.
Q. 1892?
A. Oh, no, I will take that back; no, it was fall—well, it was the dry year, 1902.

The Court: Do you mean 1901 or '02 or——

A. No, sir, it was 1902.
Q. Was it the dry year? A. That was the dry year.
Q. Did you know Nancy Atkins? A. Yes, sir.
Q. How long had you known her at that time?
A. At that time?
Q. Yes.
A. Well, I guess it must have been some 8 or 10 years; along there.
Q. Where did you know her?
A. Well, the first I ever saw her was in Wagoner.
Q. About when did you first get acquainted with her?
A. Well, I never was to say rith really acquainted with her; I just passed her and repassed her.
Q. Well, to see her to know her, is what I mean.
A. Well, the best I remember it must have been 1892 or '93.
Q. Do you know whether or not she had a child?
A. Yes, she had a child?
Q. What kind of child was it?
A. It was a boy child; light headed and kind of yellow looking hair.

Q. How old was he at the time that you first saw him?

A. Well, the first time I ever saw it to know it, I judge it must have been three or four years old; three years old anyway; wearing dresses.

Q. Where did you see it?

A. Well, that day and time, that country was fenced in, pasture, you might say a cattleman's country, and they lived a little ways north of Davis and Jones—that is where we done most of our trading—Davis owned a store on the west side of the track, and I started out of town, galloped around the road that came in from the country—the blacksmith shop was on the corner and it seems to me as if she lived in a little tent, or over the tent or a little box house; and this little kid was out in the road and I like to run over the kid, and I stopped my horse right quick and I said, Nancy, is this your kid, and she said, yes; and I said, well, you had better keep him out of the road—he will get run over.

Q. Well, now, did you see him after that?

A. Well, I don't know, Mr. Maxey, I am satisfied I saw it but just that *once* occasion drawed my attention to it for I liked to have run over the child.

Q. About how often did you see it after that?

A. Well, I can't say; I done my trading at Davis' and Jones' over there.

Q. Did you ever see it about the store?

A. Well, I think I have; I wouldn't be positive.

Q. About how long did you see it around there?

A. Well, I wouldn't say because I lived in the country at that time and I would go to town once a week or probably a little oftener.

Q. Did you hear the people talk about this child?

A. Well, now, I don't suppose so.

Q. You wasn't in town enough? A. No, sir.

Q. How large was the child the last time you saw it?

A. Well, I can't remember only that one occasion in particular.

The Court: You are not right sure that you ever saw it again after that occasion, are you?

A. Well, now, I am not, judge.

Q. Do you remember them taking up a contribution one time to bury somebody? A. Yes, I do.

Q. Who was the person they were taking up the contribution for? A. Supposed to be that——

Mr. German: We object to that as hearsay.

The Court: Oh, yes, that is a little bit too hazy.

It is in evidence that they had the practice of taking up contributions.

Mr. Maxey: Well, unless he knew it was for that particular person.

By the Court.

Q. When was it?

A. When was it when the child was——

Q. When was this contribution you are talking about? You have something in mind about a contribution, what year was that?

A. Well, sir, I rather believe that was in 1902 or '03, the years that I was in town.

The Court: Well, he can relate the circumstance.

Mr. German: We except.

Mr. Maxey.

Q. State what you remember about it.

A. Well, all I remember, they just passed around there taking up a collection.

Q. You know who it was taking up the collection?

A. No, I can't say positively.

Q. To refresh your recollection, was it Mr. Hall, the mayor at that time?

A. Well, it has been so long, I heard it was Mr. Long since, but that has been twenty-four or some odd years ago.

Q. You don't remember positively who it was?

A. No, I don't.

Q. Your father was the first mayor of Wagoner?

A. Yes, sir.

Q. And Mr. Hall followed him, didn't he? A. Yes, sir.

Recross Examination by Mr. German.

Q. You say you heard about this collection business, when was it you heard about Mr. Hall in connection with that collection business?

A. Well, I have heard that mentioned since this case got into court.

Q. You have heard a good deal of talk about this?

A. Not this time.

Q. Within the last year or two or three? A. Yes, sir.

Q. Last two or three years? A. Yes, sir.

Q. The last two or three years, there has been a lot of talk around Wagoner about Nancy and the boy, hasn't there?

A. No, sir, not any more than——

Q. You are a brother-in-law of Jim Long's, aren't you?

A. No, sir; no, sir.

Q. Kin to him? A. No, sir.

Q. Where do you live, right now?

A. I live five miles southeast of Wagoner.

Q. Now, did you have any near accident about 1892 or '93 with any other child? A. Who, me?

Q. Yes, you. A. No, sir.

Q. You didn't like to run over any other child?

A. No, sir.

Q. That was the only child that you nearly ran over?

A. Yes, sir.

Q. Did you know the Birneys? A. Yes, sir.

Q. They lived there in the west part of Wagoner?

A. Knowed of them.

Q. They had some children?

A. They was darkies, yes, sir, I suppose they had.

Q. Now, you knew of a white child that run around with Nancy some, too, didn't you? A. No, sir, I didn't.

Q. Did you know about her taking care of a white child there? A. No, sir.

Q. For a while? A. No, sir.

Q. What time in the year was it, that you ran into this child, or nearly ran over this child?

A. This was in the spring.

Q. What year?

A. Well, sir, as near as I remember, in 1892 or '93.

Q. In the spring? A. Yes, sir.

Q. Now, how close did you come to running over that child?

A. Well, sir, I just come close enough—I just choked my horse up. There was building on this side and one on this side and I came around the street—wasn't no street but a broad place in the road, I came up about 60 or 70 yards and was going west.

Q. Around in front of the store?

A. I went from the front of the store and then went west. The blacksmith shop was on the corner.

Q. Then, this was back of the store?

A. No, it was a little north and west of the store.

Q. What way did the store face? A. Faced the east.

Q. Little northwest of the store. Where was it with reference to the Birney house? A. To the Birney house?

Q. Yes? A. Well, now I don't know.

Q. Was there very many tents there at the time?

A. No, sir.

Q. Just this one tent?

A. No, I wouldn't say that. There used to be several tents when the railroad was building, in front of the store, used to be there when the railroad was building.

Q. When they finished that railroad, didn't they take away all of those tents? A. I think so, yes, sir.

Q. Then the time you saw this child that you are talking about and nearly ran over it, was when they had the tent there wasn't it?

A. I wouldn't be positive, that is a long time back for a man to remember correctly.

Q. Yes, sir. Let's get at it as near as you can remember. Wasn't it about the time they had the tent there building the railroad? A. I rather think so.

Q. Did you go to Wagoner very frequently? A. No, sir.

Q. How often? A. Once or twice a week.

Q. And you remember very well about the time that the railroad came into Wagoner, the Iron Mountain?

A. I remember very well, but what dates, I haven't got them in my head.

Q. But you remember the occasion? A. Oh, yes.

Q. And then about the railroad being built on north to what is now Claremore and on up towards Nowata?

A. Yes, sir.

Q. Now, at the time they built the road, the tents were there? A. Yes, sir.

Q. And after they built the road they didn't have the tents any more. The child was old enough to be wearing dresses and be out by itself? A. Yes, sir.

Q. And Nancy was living in a tent?

A. There was a kind of little fence as well as I remember right in front of her.

Q. She was inside near the tents? A. Yes, sir.

Q. I believe the tents was where she was living at the time?

A. I suppose so, I don't know whether she was living in it.

Q. And when she came out you asked her this question?

A. Yes, sir.

Q. Now, what is your name? A. Andrew Jackson.

Q. Mr. Jackson, don't you know they finished building that railroad there and moved all those tents away from there in 1889? A. No, I don't remember.

Q. You don't remember? A. No, sir.

Mr. German: That is all.

Redirect Examination by Mr. Maxey.

Q. They didn't commence building the road west from Wagoner in 1891 and '92, did they?

A. I don't know, Judge, I worked on that road two days when they commenced going to Claremore.

Q. You don't remember when that was? A. No, sir.

(Witness dismissed.)

And thereupon, JOHN FORD, was called and sworn as a witness for and on behalf of the defendant, Nancy Atkins, and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. John Ford.

Q. Where do you live? A. I live now in Cherokee County.

Q. What place? A. Hulbert.

Q. What is your age?

A. Well, I will soon be fifty years, 11th day of June.

Q. Did you ever live in Wagoner? A. Yes, sir.

Q. What years did you live there?

A. Why, I come to Wagoner about 1887.

Q. What was the occasion of your coming there?

A. We was haying then. I come up and when they run the Iron Mountain road through there.

Q. How long did you live at Wagoner?

A. Oh, I stayed at Wagoner about twenty or twenty-five years, something like that.

Q. From 1887 on? A. Yes, sir.

Q. For twenty or twenty-five years? A. Yes, sir.

Q. Did you ever know Nancy Atkins? A. I did.

Q. When did you first get acquainted with her?

A. Well, I got acquainted with Nancy about 1888 I think.

Q. Do you remember her being in a pregnant condition at any time? A. Yes, sir.

Q. What year was that?

A. Why, the best of my knowledge now, I think it was about 1889.

Q. Do you remember whether she had a child born or not? A. Yes, sir, she did.

Q. Where were you living at the time the child was born?

A. Wagoner.

Q. Where abouts?

A. We was camped right in the street right close to where the post office is.

Q. Where was Nancy living?

A. She was staying out back there where the old Davis and Jones Store is, she was out there in a tent.

Q. How soon after the child was born did you see it?

A. Why, I saw it the next two or three days.

Q. Where did you see it? A. At Betsy Birney's.

Q. Where was the child? A. There in the bed with her.

Q. With who? A. With Nancy.

Q. Now, how often did you see it from then on?

A. Well, I saw it mighty near every day and night too, because we fellows—I used to gamble then and there was gambling going on ever night.

Q. You would go down to Betsy Birney's? A. Yes, sir.

Q. What were you doing, shooting craps, John? A. Yes.

Q. How long did you notice it around there after that?

A. Well, I would notice it around there, oh, I don't know, off and on most all the time, that is I would—— Now, I suppose must have been a year; and then I noticed him much more then. I would see him too, and we went out from there about twenty-five miles I guess, out baling hay you know, but I never saw him then as often as I always had. I would see him once in a while. Of course he growed out of my recollection. They would just tell me that it was him.

Q. What kind of a looking child was he?

A. Well, to the best of my knowledge he was a pretty bright looking child.

Q. What was his color?

A. Well, he had an Indian look—— I couldn't say. He wasn't a white child.

Q. Kind of a yellow color? A. Yes, sir.

Q. What kind of hair did he have?

A. Looked like he had sandy hair to the best of my knowledge.

Q. How large was he the last time you saw him, John?

A. Well, the last time I saw him he appeared to me like—well, he was a pretty good sized fellow.

Q. About how old did he appear to be?

A. That is to my best judgment he looked like to me like he ought to have been eight or nine years old, might have been ten.

Q. When was that, John?

A. Well, that was along about '99, I guess; along about '99.

Q. Do you remember hearing that he was dead?

A. Yes, I were there when he died all right enough. At least I didn't see him, but that is what they told me, and when they came around to take up the money I gave them twenty-five cents.

Q. Who was getting up the money?

A. I don't remember who it was, but they came to me and said the boy is dead.

Q. What boy?

A. Tommy, Tommy Atkins, and they asked me to donate something and give something and I gave twenty-five cents.

Mr. German: Now, Your Honor, we move to strike that answer because it is hearsay.

The Court: Overruled.

Mr. German: Exception.

Q. Were you in town the day they buried *them*?

A. I think I had come in town after some wire but I didn't go out there at all.

Q. Did you see a funeral procession that day? A. No, sir.

Q. You don't know whether they buried him?

A. No, sir, I don't know, I don't know only what they said.

Q. Did you know of Nancy having any other children?

A. No, sir.

Q. Did you know Betsy Birney? A. Yes, sir.

Q. She was living there at that time? A. Yes, sir.

Q. Did you know Angeline Moody? A. Yes, sir.

Q. Where did she live?

A. I don't know where she lived, out there in the country a piece. She wasn't in Wagoner. At that time there wasn't very many niggers in Wagoner.

Q. Do you remember how many niggers there were there?

A. I don't know just exactly, but they was awful scarce, there wasn't no niggers there but very few.

Q. Was Mundy Barnett living there?

A. Yes, he was there.

Q. Where abouts was he living?

A. He was living right in the same place where his daughter occupies now, Eliza.

Q. Do you remember Sam McHenry? A. Yes, sir.

Q. Was he living there?

A. He might have been there about '99 or 1900, something like that, but I don't remember whether he was living there at that time or not, I don't think he was though.

Q. There was very few negroes there then?

A. Oh, there wasn't any negroes there hardly at all. That is when this child was born, because they had never come in there.

Q. Did you ever see the child with Nancy?

A. Well, I saw it there in the bed you know?

Q. Yes, after that?

A. You say after that, you know Nancy was arrested you know. They taken her away from there.

Q. Well, she came back didn't she? A. Yes, sir.

Q. Did you see it there with her after she came back?

A. Yes, sir.

Q. How often?

A. Oh, I couldn't tell how often, I just fooled around that place all the time, you know.

Q. Saw it often? A. Yes, sir.

Mr. Maxey: That is all.

Cross Examination by Mr. Linebaugh.

Q. John, where do you live now?

A. I live in Cherokee County, Hulbert, Oklahoma.

Q. Hulbert? A. Yes, sir.

Q. What do you do? A. Farming.

Q. How long have you lived over there?

A. Well, I guess—— I don't know, about eight or ten years I reckon.

Q. Are you a married man?

A. Been a married man. My wife is dead.

Q. When were you married? A. November 4th, 1887.

Q. How long did you live with your wife?

A. Well, I guess about—— Oh, I don't know, six years, six or seven years.

Q. You went over to Wagoner in what year?

A. I went over there in about 1886 or 1887.

Q. Well, now, which was it?

A. Well, I were cutting hay there you know in '86 and '87 the best of my knowledge when the Iron Mountain come through I helped lay the track.

Q. Did you get married before you went to Wagoner?

A. I got married before I went to Wagoner.

Q. Then, you didn't go to Wagoner until after November 4, 1887?

A. I said I married I think about November 4th, 1886 or '7, I said.

Q. Well, now, which one was it, do you remember?

A. Well, it might have been '87, I don't know. Anyhow we were married all right.

Q. You know that you were married? A. Yes, sir.

Q. That's the only thing about it you do distinctly remember? A. Well, I can remember that better than anything.

Q. You don't remember the date?

A. Well, I married November the 4th all right.

Q. You don't remember the year?

A. No, sir, I don't remember, it was 1886 or 1887.

Q. You went to Wagoner to work on the Iron Mountain Railroad?

A. No, sir, I helped lay the track from down close to Van Buren.

Q. A good many darkey employees in that construction?

A. Oh, more darkies than a little.

Q. When was it the construction was completed, John?

A. Well, you say the construction work, what do you mean by that?

Q. Well, when was the railroad built and trains begin to run?

A. I don't know just exactly when they did begin exactly.

Q. About when, can you tell us the year?

A. I believe after the trains commenced running and making regular time it was in '88.

Q. In '88? A. I reckon.

Q. When was it you would go down to Betsy's to gamble, was it while you were working on the railroad?

A. Oh, we was baling hay; I stayed around there and baled hay for fifteen years.

Q. And when was it you went to gambling at Betsy's with reference to the time you worked on the railroad?

A. When I was employed by a white man named J. D. Hammett.

Q. When did you go to gambling with reference to the time you worked on the railroad?

A. If you will let me explain it to you I will tell you. After we come to Wagoner we stopped there and then we were employed by another man on the railroad; that is when this gambling took place.

Q. You would go down and shoot craps?

A. Yes, we shot them too.

Q. Who did you go with?

A. Oh, several of other darkey boys, my brothers.

Q. Who were they?

A. There was myself, George Yates, John Ross, Tom Mayberry, Anthony Mayberry—— I don't know just exactly.

Q. Are they living now? A. No, some are dead.

Q. You would all go together and gamble?

A. Sometimes we would.

Q. What room of the house did you gamble in, John?

A. We would gamble in the front room.

Q. In the front room? A. Yes, sir.

Q. Was that the south room or the north room?

A. We would be in the north room.

Q. There was two rooms in the front of the house?

A. Yes, sir.

Q. How many rooms were in the back of the house, how large a house was it?

A. Small little old piece of a house, cabin. House built that way with another el on it and we would be in this room there; Nancy would be in this room back this way.

Q. How many rooms all together? A. Two.

Q. That wasn't a tent was it John? A. No, that wasn't a tent.

Q. Are you sure of that?

A. I am sure. If I can understand what you are trying to get at. You see Nancy first lived out in this tent and she moved out of that tent into this house.

Q. Oh, she first lived out in the tent?

A. Stayed in the little tent, yes, sir.

Q. How far was the tent from the house?

A. Well, I don't know that. Oh, hit wasn't very far.

Q. This Birney family, they never lived in the tent?

A. They lived in the house.

Q. But they didn't live in the tent?

A. You mean Mrs. Birney?

Q. Yes? A. Why, she lived in the house.

Q. She never did live in that tent, did she, John?

A. Well, now you are getting me so quick I don't know but when I saw her she was in the house.

Q. What was her husband's name?

A. At that time she didn't have no husband; she had been married to a man named Richard Birney, but at that time she was staying with another man, but that wasn't her husband.

Q. Now, when was it Nancy gave birth to the baby, was you there at the time?

A. No, I told you I wasn't right there when it was born, but then I saw it you know.

Q. Now, how long after it was born did you see it?

A. Well, just like I stated to you to start with I would come there and she would be right there in that room like people would have a cot.

Q. Now, wait a minute, she was in a tent wasn't she?

A. Well, you said so, I told you she wasn't at that time.

Q. When was she moved from the tent to the house?

A. That was after she had been confined.

Q. Who moved her? A. I don't know.

Q. Did you ever see her in the tent?

A. Sure I seen her in the tent.

Q. Was she living there by herself? A. She was there.

Q. Were you ever in the tent?

A. Yes, I would come around there to the tent.

Q. Well, do you know when she was moved, was it daytime or night time that she was moved?

A. You asked me did I know; all I know about that is what they told me; I didn't see them.

Q. How old was the baby when you saw it?

A. Oh, it was a little bit of something.

Q. Nursing at her breast was it? A. Yes, sir.

Q. Now, that wasn't a bottle baby was it, John?

A. Now, you know you asked me something that I don't know anything about.

Q. John, you know that is a fact, don't you? A. Which?

Q. That baby nursed at the breast and didn't from the bottle?

A. Afterwards, I suppose according to what I understand, I don't know that of myself and I don't want to answer, but that was my understanding that it did nurse from a bottle but I don't know myself and I ain't going to say so because I don't know.

Q. What doctor waited on her, John?

A. I don't know that.

Q. You don't know that? A. No, sir.

Q. Did the doctor come and see her?

A. Not as I know. Now, you take it at that time, I will tell you there was very few doctors around there, darkeys didn't have much to pay them.

The Court: Do you know whether there was a doctor or not?

A. I don't know, I didn't know.

Q. Now, John, were there any other colored people living about that part of town?

A. If there was, I don't know, I don't remember it.

Q. You were pretty well acquainted there, were you?

A. Well, yes, tolerable.

Q. Well, did you know Elnora Williams? A. Yes, sir.

Q. You knew her, did you? A. Yes, sir.

Q. Where did she live, John?

A. She lived just a little ways from there, oh, maybe forty or fifty yards from there.

Q. Did you know Eliza Sterling? A. Yes, sir.

Q. Where did she live? A. Down between the rivers.

Q. Between what rivers?

A. The Verdigris and Arkansas.

Q. How far from Wagoner?

A. Oh, about ten miles or twelve.

Q. She didn't live there in town? A. No, sir.

Q. Did you know Patsy Overton? A. Yes, sir.

Q. Where did she live? A. She didn't live there either.

Q. Did you know Mandy Barnett? A. Yes, sir.

Q. Where did she live?

A. She lived right there in Wagoner.

Q. But Patsy Overton didn't live there in Wagoner?

A. No, sir.

Q. Did you know Joe Birney?

A. I might have, but if I do, I don't remember it. I know Richard Birney.

Q. You have seen him about here?

A. Oh, yes, sir, I knowed him all right.

Q. Well, now, did you know any of the other Birney's?

A. Well, yes, I knew Charlie Birney.

Q. Where was he?

A. He was living there, that was Patsy's boy. I knew Henry Birney.

Q. Did you go any other place to gamble except Birney's?

A. Why, not at that time.

Q. Afterwards, did you? A. Yes, sir.

Q. Where?

A. Well, we had a box car on the railroad.

Q. What year was it that you went to the box car?

A. That was along the same time off and on.

Q. What year was it, John, that they moved Nancy from the tent over to Birney's house?

A. Why, I think it must have been about the year 1889.

Q. What time of the year?

A. Well, just don't know just exactly what year it was. I don't know, but seem like it was kind of cool, I don't know exactly what time it was.

Q. John, what else happened in the year 1889, if you remember?

A. Oh, I couldn't say what happened, I don't know.

Q. Can you tell us anything that happened in the year 1888 that you can remember? A. Yes, sir.

Q. What was it? A. I got put down here in jail.

Q. You got put down here in jail? A. Yes, sir.

Q. What time in the year 1888 was it that you got put in jail? A. I think along in the summer.

Q. How long did you stay?

A. I stayed about four or five days.

Q. When you come back, where was Nancy?

A. Why, she was there I guess. I saw her after that.

Q. John, how long did you continue to see this boy you say?

A. Well, I naturally saw him off and on for six or seven years, longer than that.

Q. And what kind of a looking boy did he grow up to be when he was six or seven years old?

A. It looked to me he wasn't a white boy but he was kind of yellow looking boy with reddish looking hair.

Q. He wasn't a white headed boy?

A. He didn't seem like that to me.

Q. He wasn't black headed either? A. No, sir.

Q. He didn't have straight black hair like an Indian?

A. No, sir, to the best of my knowledge, I don't think he did.

Q. What color eyes did he have, John? A. I don't know.

Q. Where was it you last saw the child?

A. Well, I don't know the last time; I remember now it has been a good while ago. I just remember seeing him fooling around town. These Birney people used to have him you know with a kind of old wagon pushing him around, I never paid much attention to them.

Q. Well, can you tell us where it was the last time you saw him and when it was? A. No, I can't.

Q. Can you tell us any time you did see the child except the time you mentioned seeing it in the bed with its mother?

A. Yhy, yes, sir.

Q. All right, tell us?

A. I told you I would see him around Betsy Birney's place and over at Elnora Williams.

Q. How far did she live from the Birney's?

A. Oh, about forty or fifty yards I think to the best of my knowledge.

Q. When did you leave Wagoner?

A. Oh, until eight or ten years ago, I have been at Wagoner off and on for the last thirty odd years.

Q. Well, how long have you been living at Hulbert?

A. Well, I have been down to Hulbert, I guess it would be off at Wagoner, eight or ten years. I do most of my business at Wagoner.

Q. John, was this called to your mind any time from the time you say you saw this child, from the last time up until you were subpoenaed here as a witness?

A. Why, sure, I have talked about it.

Q. Well, now, who did you talk to first, John?

A. The first time I ever talked about it just seen it in the paper. I talked to my brother.

Q. Now, what paper did you see it in?

A. I don't know, one of the Muskogee papers.

Q. When? A. When the case was first at Sapulpa.

Q. And who did you talk to then?

A. My brother and several more fellows.

Q. Who else did you talk to about it?

A. Several people since then.

Q. Anybody come to see you and talk to you about it?

A. No, sir.

Q. Anybody come out there to your place and talk to you to find out what you knew about it? A. No, sir.

Q. Well, do you know why they subpoenaed you?

A. Yes, sir.

Q. Why?

A. Because I was *taking* to Mr. Cunningham over at Wagoner one day.

Q. What Mr. Cunningham? A. H. E. Cunningham there.

Q. And what were you talking about?

A. Just talking about the case.

Q. And when was that John?

A. I don't know just exactly when it was.

Q. About when?

A. I don't know whether it was—sometime last year, I don't know just exactly.

Q. What did you talk about, just tell?

A. Why, he was talking about the old timers about people living in Wagoner and he knew I had been living there for the longest and he just asked me what I knew about it.

Q. And you just told him what you knew? A. Yes, sir.

Q. That is what you have testified to is it? A. Yes, sir.

Q. John, who was city marshal at that time?

A. Why, I believe—— I know he was an officer, Mr. Turnbal.

Q. Was he city marshal? A. I think so.

Q. You boys were gambling?

A. Well, us boys, the city, there wasn't no city there. He was a kind of officer here and city marshal, there wasn't no city.

Q. That was the time that you first saw the baby?

A. When?

Q. When that man was officer?

A. I don't know about that.

Q. Do you remember a man named Long being an officer around there? A. Yes, sir, Mr. Jim Long?

Q. Yes? A. Yes, sir.

Q. He wasn't city marshal when that baby was born was he? A. No, sir.

Q. When was he city marshal with reference to the time the baby was born? A. I don't know.

Q. About how long?

A. I don't know that. He was city marshal all right enough. That was away after lots of people done come into town then.

Q. John, did you see Nancy around there with another boy? A. No, sir, not as I know of.

Q. You saw her right around all the time?

A. Yes, sir, I would see her right around there.

Q. Right around there several years until this boy was five or six years old?

A. Yes, sir, I have been seeing Nancy the Indian.

Q. You would see her very frequently? A. Yes, sir.

Q. And she didn't have any other boy with her?

A. She might if she did I don't remember.

Q. If she had a boy living there with her and around with her for a year or two you don't remember?

A. Any other boy you say?

Q. Yes?

A. She might have had but if she did I didn't pay any attention.

Q. You never saw but one boy with her?

A. Well, I am just telling she might have had, I don't know.

Cross Examination by Mr. Stuart.

Q. When you was in Wagoner, I understood you to say you were gambling? A. Yes, sir.

Q. Did you make your living entirely by gambling?

A. No.

Q. What else were you doing?

A. We were baling hay for J. B. Hammett.

Q. You say you were married at that time? A. Yes, sir.

Q. Where did your wife live?

A. My wife didn't live in Wagoner. I stayed out in a tent.

Q. Where was that with reference to the colored community there? A. Well, it was east.

Q. How far out, were those colored people living there together?

A. There wasn't no colored people there but a mighty few.

Q. Do you mean to say there was five or six families of colored people in Wagoner at that time that lived in a segregated portion to themselves? A. I don't believe there was.

Q. I mean in the same neighborhood of the Davis & Jones store? A. No, sir.

Q. What year do you say they weren't there, fix your year? A. Well, along in 1889.

Q. Were they there in 1890?

A. I don't know they might have been there.

Q. Tell me the other people that you knew in 1896?

A. Dick Birney.

Q. Is Dick the one that testified here, old Dick?

A. Old Dick.

Q. The one that is dead? A. Yes, sir.

Q. Well, Dick and his family? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. All right, give me another?

A. There was Patsy Birney.

Q. That is part of his family?

A. He had another family.

Q. Who else? A. There was Mundy Barnett.

Q. All right, who else? A. There was Mollie Vann.

Q. That is three families, four families. Go ahead?

A. That is all that I know anything about at that time.

Q. Did you know Patsy Overton? A. Yes, sir.

Q. Was she there then? A. No, sir.

Q. When did she move there?

A. Oh, she never come there until—I don't know.

Q. Did you know the Williams woman, Elnora Williams?

A. Yes, sir.

Q. Was she there then? A. Yes, sir, she was there.

Q. Now, that is all you can remember is it? A. Yes, sir.

Q. Nancy lived right in that little colored community, didn't she, that is where she stayed right in that community all the time?

A. Yes, sir, that is where she stayed, with old lady Birney that is where I saw her.

Q. She slept out there at nights? A. Yes, sir.

Q. And she associated with them entirely didn't she? And the first you ever heard of the baby somebody told you about it?

A. Yes, they told me about it and then I went and seen it, you know.

Q. Tell the Court what you saw when you went there. What did you see? A. When we went there every night——

Q. Never mind, what did you see? A. I saw the baby.

Q. Where was the baby?

A. Laying there in the bed.

Q. With Nancy? A. Yes, sir.

Q. In whose house? A. Betsy Birney's.

Q. Now, who was there?

A. Bob Childers, John Galley, Tom Mayberry, Anthony, Mayberry and myself and brother, Luke Ford.

The Court: Was Betsy there?

A. Yes, sir.

The Court: Who else?

A. The homefolks.

The Court: Who were the homefolks?

A. Well, there was Dick Burney, and I think Charlie was there too and Henry Birney, Bob H., he lived there with Birney.

Q. Any women besides Betsy?

A. Well, there would be some there sometimes.

Q. Well, I am talking about this particular time?

A. I don't know, there might have been.

Q. Think it up and see if there wasn't some women there?

A. I don't know.

Q. Any women there?

A. I don't know, could have been.

Q. Could have been? A. Yes, sir.

Q. Don't you think there was some there?

A. I don't know, there could have been. There would be some there sometimes.

Q. Did you boys all go out there to see the baby?

A. We would be out there gambling and getting all excited.

Q. You were out there sporting were you?

A. Yes, sir.

The Court.

Q. Do you know Henry Anderson? A. Yes, sir.

Q. What was he doing there?

A. Henry was working on the track. He was in that construction business.

Q. In the construction business?

A. Working on the tracks.

Q. Was he or not present when you say you saw this baby?

A. Henry was there, but I disremember whether or not he was there at the place then. I don't know whether he was there right at that time or not, I don't know.

Q. Did he have charge of some men in that construction work? A. If he did I don't know anything about it.

Q. You didn't work under him? A. No, sir.

Cross Examination by Mr. Hanford.

Q. You say you were in town the day the boy was buried?

A. Yes, sir, I was in town.

Q. You just came in town to get some wire? A. Yes, sir.

Q. You were baling hay then? A. I think it was wire.

Q. It was something about baling hay, that is all you remember? A. Fixing to do something about the hay.

Q. You were working out in the hay were you at that time? A. I think so.

Q. And did you gamble a little bit that day?

A. No, sir, I don't think that I did.

Q. Weren't you down at the box-car? Didn't you go down to the box-car at all that day?

A. A white man was with us all the time, then; I didn't have no time to do nothing.

Q. Wasn't that the time that you contributed that twenty-five cents down at that game at the box-car? A. No, sir.

Q. Did the other boys put up?

A. I don't know whether they did or not.

Q. All you know is that you were in town, baling hay, is that it?

A. I said I was in town; I think I came in to get some wire, or something or other—I don't know what—and anyway, I know they asked me if I would give them something and I said that I would give them a quarter.

Q. Did you go to Betsy Birney's that day? A. No, sir.

Q. You didn't go to her house? A. No, sir.

Q. She still lived there, then, did she?

A. I don't know whether she did or not.

Q. Do you know when Betsy Birney moved away?

A. I was right around town but I don't know when she did move.

Q. You were right around town when the boy died?

A. I was, I was right around town and I don't know when she moved away; I don't know.

Q. Do you know where the boy died?

A. Not of myself, only what they told me, you know; what they told me.

Q. What else did you do around Wagoner, what else did you work at?

A. I didn't work at anything else. I was employed right there baling hay for 15 or 20 years.

Q. What time of the year did you bale your hay?

A. All times, I commenced and didn't stop.

Q. At all times, baled hay for about 15 years? A. Yes, sir.

Q. And you went at that right after you left the railroad? A. Yes, sir.

Q. How many times have you been in jail? A. Sir?

Q. How many times have you been in jail?

A. Been in jail? Oh, I have been in a couple of times; maybe more than that—maybe two or three times.

Q. Where? A. Here at Muskogee.

Q. What for?

A. One time was for cutting hay on Sunday, and the next time was getting into a fight up there at Wagoner.

Q. Ever been in the penitentiary?

A. I have been in there but never was sent there. My brother was down there at McAlister.

Q. You were never sentenced yourself? A. No, sir.

Witness dismissed.

And thereupon, J. L. DYER, being called on [behalf of] the defendants Nancy Atkins, et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. J. L. Dyer.

Q. How old are you Mr. Dyer? A. I am 58 years old.

Q. Where do you live?

A. I live three miles and a half, or four miles from Wagoner.

Q. Did you ever live in Wagoner?

A. No, sir, I never did.

Q. How long have you lived in that neighborhood?

A. I went where I am in '89.

Q. '89? A. December '89.

Q. Did you ever know Nancy Atkins? A. Yes, sir.

Q. When did you first know her?

A. Some time in the winter of '90.

Q. Do you remember ever seeing her in a pregnant condition? A. Yes, sir.

Q. When was it?

A. I am not sure whether it was in '90 or '91; either one of those years.

Q. '90 or '91? A. Yes, soon after I went there.

Q. Do you remember whether she had a child?

A. I remember seeing her with a child after I missed her a few months or weeks of'en the streets.

Q. Do you remember, Jim, when she was sent to the penitentiary? A. I don't remember what year.

Q. Well, you remember the fact of her being sent away?

A. Yes, I knowed she was gone some 7 or 8 months.

Q. Now, was it before or after she went to the penitentiary that you saw her with this child?

A. She had this child before she went.

Q. Had the child before she went? A. Yes, sir.

Q. Now, how old was the child the first time that you saw it? A. I guess it was three months old.

Q. How much?

A. I guess it was three or four months old; two months, I reckon. Not over two months, I seen her carrying the child; it looked like a white child—its head was light.

The Court: Was that before she went to the pen?

A. Yes, sir, his head was kind of bluish looking flax; didn't have black hair.

Q. Do you remember the child's name?

A. Well, I seen it often after that. They called it Tommy.

Q. About how long did you see it around there?

A. Well, I suppose until it was nine or ten years old, the last time I saw it.

Q. Then you quit seeing it? A. Yes, sir.

Q. Then did you learn what became of it?

A. I heard it died, I just heard it spoken of—I never saw it dead.

Q. Were you in town about the time it died?

A. Yes, sir, I was in town twice a week.

Q. Do you remember the circumstance of them taking up a collection to bury anyone?

A. No, I don't; I just heard that it died; Birney said it was dead or some of those fellows.

The Court: Never mind about what was said; I am not considering those reports about the death and that sort of thing.

A. I just heard it died.

Q. You never saw it after it was 9 or 10 years old?

A. No, sir.

Q. Now, after how often did you see it during—from the time that it was born up to the time that it was——

A. Well, I can't say but I was to town once or twice a week generally; I didn't see it every time, of course. I often noticed; I remember noticing it in Schrimpter's butcher shop a number of times after it was five or six years old or maybe older—on up until 1901, maybe, was the last time I seen it.

Q. And it disappeared about that time and you didn't see it any more? A. No, I didn't see it any more.

Q. Do you remember there being any talk around town among the men of the town as to who the father was?

Mr. German: Wait a minute, we object.

The Court: Objection sustained.

Q. What was the general understanding among the people of the town there as to who the mother of this child was, if there was such an understanding.

Mr. German: We object to that as hearsay.

The Court: Objection sustained.

Mr. Maxey: We offer to prove by this witness that there was a common reputation among the people of Wagoner at that time that this was Nancy Atkins' child and it was so regarded by all of them.

The Court: The record may show your proffer.

Cross Examination by Mr. Stuart.

Q. Mr. Dyer, you say you live about three miles from Wagoner? A. Three and a half miles.

Q. Are you any kin to Jim Dyer who used to live up in that country? A. I am Jim Dyer.

Q. You are the one that had trouble with the court down here? A. Not here, in Fort Smith.

Q. In Fort Smith? A. Yes, sir.

Q. Were you ever convicted, Mr. Dyer? A. Yes, sir.

Q. What were you convicted for?

A. Well, I don't know whether I could tell you or not.

Q. Train robbery? A. No.

Q. What was it?

A. For being constructively present as to a robbery.

Q. You were convicted for being constructively present at a robbery?

A. That is what they charged me with.

Q. Where was that robbery?

A. Back over here at Blackston.

Q. The celebrated Blackston robbery? A. Yes, sir.

Q. And you were convicted for being constructively present at that robbery? A. Yes, sir.

Q. Did you serve time for that?

A. No, sir, I was sent off but got a new trial and got off at that trial. I put up a six thousand dollar bond.

Q. Mr. Dyer, after you got through with your trouble, you went back to live at this same place, didn't you?

A. Yes, sir, I wasn't gone a year.

Q. How old were you when you first noticed Nancy Atkins? A. How old was I?

Q. Yes? A. I was about 31 years old or 32.

Q. And you had a farm about three miles from town?

A. About three and a half miles, yes, sir.

Q. Now, what particular interest did you have in Nancy Atkins?

A. Well, sir, nobody much lived at Wagoner at that time and I went there and frequented the gambling shops at that time, and I seen Nancy Atkins when I went there.

Q. You were a pretty wild boy at that time? A. Yes, sir.

Q. And you would see Nancy Atkins when you would come in there?

A. Yes, sir, I seen her when I came in there, with the child, lots of times, and seen her come in there where the gambling was, and they would give her a half a dollar and tell her to get out.

Q. Do you remember seeing Nancy there?

A. Yes, but not every time.

Q. You were in town frequently?

A. Yes, sir, in town frequently; at night lots of times.

Q. How old was the child when you first saw it?

A. Two months old, I guess.

Q. Where was Nancy?

A. I seen her carrying it, and the shack where she lived. She lived with a woman named Birney for a while.

Q. Did you go over to Betsy Birney's much in those days?

A. Well, I have sat on my horse and talked with them.

Q. Sat on your horse and talked with them. Was Nancy at Birney's much?

A. She stayed there for quite a while; I don't know just how long.

Q. Were you acquainted with the darkies in the town at that time?

A. Yes, sir, I knowed most of them—most all of them.

Q. Nancy lived over there with the darkies, didn't she, Jim? A. With the darkies and the chippies.

Q. Yes, with the darkies in that country?

A. Yes, associated with them.

Q. And lived over there with them?

A. Right close there.

Q. She slept over in that part of town, she stayed there —that was her place of abode?

A. Yes, I think so. The store was close to Birney's; he run a little——

Q. You never had known Nancy before you went to Wagoner? A. No, I didn't know her, I had seen her.

Q. Did you know Minnie?

A. No, I didn't know Minnie, I had seen her.

Q. Where did you see Minnie, at Wagoner?

A. I had seen Minnie here at Muskogee a time or two.

Q. Had you ever seen her in Wagoner?

A. No, I aint sure that I ever seen her in Wagoner. I never had any acquaintance with Minnie—just knew that she was Minnie Atkins.

Cross Examination by Mr. German.

Q. Do you know what is known as the Dalton gang?
A. I have heard of them.
Q. You were accused of being one of the members of that gang, weren't you, Jim?
A. No, I think I was accused of being in that bunch; I think I was accused of a good deal.
Q. What was the gang that you was accused of being in?

The Court: Well, don't go into that.

A. It don't matter about that.

Witness dismissed.

And thereupon JASPER NEWTON SKRIMPSHER, being called on behalf of the defendants Nancy Atkins, et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. Skrimpsher.
Q. What is your first name? A. Jasper Newton.
Q. Commonly called Newt Skrimpsher? A. Yes, sir.
Q. You don't hear very well, do you?
A. No, sir, you will have to talk tolerably loud to me.
Q. You will have to talk loud, too, so all these people can hear you? A. Yes, sir.
Q. How old are you Mr. Skrimpsher?
A. I am going on 70.
Q. Where do you live?
A. Wagoner, near Wagoner in the country six miles.
Q. Did you ever live in Wagoner? A. Yes, sir.
Q. When did you go to Wagoner?
A. I went to Wagoner sometime in 1890.
Q. And how long did you live there?
A. Lived there up to about 12 years ago.
Q. Did you know Nancy Atkins? A. Yes, sir.
Q. Was she related to you in any way?
A. No, sir, she was related to my wife—first wife.
Q. Do you remember her being in a pregnant condition?
A. No, sir.
Q. Do you remember whether or not she had a child?
A. Well, no sir, only what she told me.
Q. What did she tell you?
A. Well, she had a boy running around there with her, six or seven years old, she said it was her boy.
Q. What was his name?

A. She called him Tommy Atkins.

Q. Now, what business were you in at that time?

A. I was a butcher and merchandising.

Q. Did she trade at your store? A. Yes, sir, some.

Q. Now, tell the circumstances, how she traded there.

A. Oh, she traded some little now and then. She would come in, sometimes the boy would be with her and sometimes he wouldn't be, and sometimes she would pay for what she got, and she spoke one day—if I send this little boy up here, why let him have it and I will pay you. She wouldn't get much, *must* a little stuff, you know—meat or something.

Q. And did she send the boy by himself at any time?

A. Yes, I have let him have meat out of the market there, and little things in the store sometimes.

Q. Now, how long did that continue?

A. Well, off and on for about a year, I guess, as near as I can remember.

Q. Now, how old was this boy the last time you saw him?

A. Well, he must have been about 8 years old when I saw him.

Q. Do you know what became of him?

A. No, sir, I don't remember.

Q. When did you quit seeing him?

A. Quit seeing the boy?

Q. Yes?

A. Well, they were in there off and on for about a year and finally I didn't see him around. They didn't come in; I supposed they was other places. Well, I saw her off and on in town, you know—now and then, like I would anybody else, passing and re-passing, but they didn't come around there much.

Q. Well, I will ask you was there talk around the town among the people as to who this boy's mother was?

Mr. German: We object on the ground that it is hearsay.

The Court: Sustained.

A. Only——

Q. Never mind.

Mr. Maxey: Now, I offer to prove by this witness it was a common rumor and general reputation of the town that—among the people of the town that this child was a child of Nancy Atkins—this boy that he has described as coming to his store.

A. Yes, sir, he was generally known or supposed to be—she claimed him——

The Court: Never mind.

Mr. Maxey: Never mind.

The Court: The answer will be stricken.

Mr. Maxey: Yes, sir, I didn't call for the answer.

Q. Did Nancy ever tell you whose child it was?

The Court: He has answered that. She did tell him it was her boy.

Mr. Maxey: Alright, sir; I had forgotten it.

Q. You don't know whether the child died or whether it is still living? A. No, sir, I don't.
Q. What nationality are you?
A. I am Cherokee and white.
Q. What is the nationality of Nancy Atkins?
A. She is Creek and Euchee.
Q. And what was the appearance of this boy—being white or Indian or——
A. Well, he looked to be about a halfblood Indian—half breed.

Cross Examination by Mr. Stuart.

Q. What did you say your name was?
A. I live at Wagoner.
Q. I say what did you say your name was?
A. What is that?
Q. What is your name? A. My name?
Q. Yes, sir? A. Skrimpsher.
Q. Skrimpsher? A. Yes, sir.
Q. Did you marry a Euchee?
A. Part Euchee and part white.
Q. Where did your wife live? Were you married here?
A. I lived in Muskogee.
Q. Where did your wife live when you married her?
A. She lived in Muskogee.
Q. In Muskogee? A. Yes, sir.
Q. Had she been a member of the Euchee Town?
A. Yes, sir.
Q. What time did you marry her?
A. I married her the latter part of '73.
Q. Latter part of '73? A. Yes, sir.
Q. And you say she was kin to Nancy? A. Yes, sir.
Q. How much kin? A. She was her aunt.
Q. An aunt of Nancy's? A. Yes, sir.
Q. Was she living with you in Wagoner at the time that you saw Nancy with this baby?
A. Oh, no, no, sir; my wife had been dead long ago.

Q. She had been dead a long while? A. Yes, sir.

Q. You knew Nancy well did you?

A. I did, knew her.

Q. And knew Minnie? A. Yes, sir.

Q. And Lee? A. And Lee.

Q. Now the first time that boy ever came to your store he was about seven years old? A. He looked to be.

Q. And he quit coming when he was about eight didn't he? A. Yes, sir.

Q. You never saw him after that? A. No.

Q. That is the first time you saw the boy when he came to trade with you?

A. Yes, the first time I paid any attention.

Q. You never paid any attention to that boy being Nancy's boy did you? A. No, only just the rumors.

Q. You was kin to Nancy by marriage? A. Yes.

Q. But you didn't concern yourself with it at all?

A. No, sir, I was in business and paid no attention.

Q. And you don't know whether that was Nancy's child or not do you? A. No, sir, I did not.

Q. Do you know anything about it? A. No, sir.

Q. And didn't pay any attention to it? A. No, sir.

The Court: Mr. Johnson when did you go in business at Wagoner?

A. Yes, sir.

The Court: When did you begin business there?

A. I begun there about 1890.

The Court: What business?

A. I first put up a meat market and run that for a while and then I went into the dry goods and notions.

The Court: You ran through 1890, 1891 and up to 1896 and '7?

A. Yes, sir.

Recross Examination by Mr. German.

Q. Now what was the color of that boy's hair?

A. Well, it was dark.

Q. Dark? A. Black.

Q. It wasn't a kind of strawberry color?

A. No, it looked to me kind of dark looking. Might have been about the color of yours.

Q. What was the color of his eyes?

A. His eyes I couldn't say.

Q. The first you ever noticed of this boy was about 1897 you said?

A. Along about some time between '90—earlier than '97.
Q. Well when? A. Must have been about '91 or '2.
Q. Did you ever take him to your house? A. Never did.
Q. Never took any interest in him? A. None at all.
Q. He was about seven years old in '91 or '2?
A. Six or seven years old.
Q. Is that right? A. I think that is about right.

Witness dismissed.

And thereupon FOIL M. BRADY was called and sworn as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Maxey.

Q. What is your name? A. Foil M. Brady.
Q. You are commonly called Bill Brady?
A. Yes, oh, yes, that is my nickname.
Q. What nationality are you, an Indian or white man?
A. Well sir my mother was a fullblood Indian woman, Muskogee Indian, and my father was a Cherokee.
Q. How old are you, Bill?
A. Sixty-one years the 25th of last March; I was born in 1856, March 25th.
Q. Where do you live?
A. I live four miles west of Wagoner.
Q. How long have you lived in that neighborhood?
A. I went there in 1881, February 16th, 1880.
Q. Do you know Nancy Atkins? A. Yes, sir.
Q. How long have you known her?
A. Well I have known her a good bit.
Q. When did you first get acquainted with her?
A. Oh it was along about '89.
Q. What was she doing when you first got acquainted with her?
A. Along about '90 I think it was '90, I can't hardly tell the date of the year only one way, just before the Indian payment, this $29.00 payment, just a while before that I saw her —I had a boy crawling around the McNally Hotel she was dishwashing——
Q. At McNally's restaurant?
A. Yes, sir, hotel; and I went out there after my boy——

The Court: Well never mind that detail. He saw her then at McNally's restaurant as dishwasher.

A. Yes, sir.

Mr. Maxey: I think he will shorten that by just finishing that up.

A. I went out there and there was a little boy two or three years old and my boy was out there with him. And when I went out there to get this boy Nancy came out. I says, Nancy is that your boy? Says, yes. I says, what is its name? She says, his name is Tommy Atkins. I said you shouldn't never named him Thomas Atkins, his right name—in early days his right name was Shawnee Atkins——

Q. Well I don't care for that detail. Now you knew Nancy's father did you? A. Yes, sir.

Q. What was his name? A. His name was Thomas Atkins.

Q. Now how long did you know this boy that you saw there?

A. Well I saw it that time. In about a month I was back to town again and she was at the Brown Hotel; and I says, how is your boy getting along? She said my boy died. That was before this Indian payment.

Q. Well did you see it any more after that? A. No, sir.

Q. Now do you remember when Nancy was sent to the penitentiary?

A. I didn't know until she was back. I know she was away from Wagoner.

Q. Well did you know this boy that she said was hers before that?

A. No, sir, I never have saw it from that day that I saw it.

Mr. Maxey: I believe that's all.

Cross Examination by Mr. Stuart.

Q. When was that Indian payment, what year?

A. Which?

Q. When was that Indian payment, what year?

A. I think it was somewheres along about 1891 or 1892 I can't—I haven't no education and I can't give no recollection but my boy drawed that $29.00.

Q. You think it was about 1891 or '2? A. Yes, sir.

Q. You were born in 1856? A. Yes, sir.

Q. You remember that distinctly? A. Yes, sir.

Q. You remember that you went to Wagoner in 1882 or 1883? A. I come from the Cherokee Nation.

Q. You were born in 1856? A. Yes, sir.

Q. Went to Wagoner in '82 or '83? A. Yes, sir, '81.

Q. 1881 or '2? A. Yes, sir.

Q. You remember that distinctly; you remember distinctly that you saw Nancy in 1889 for the first time?

A. Yes, sir.

Q. But you can't tell when that Indian payment was; you drew that $29.00 didn't you? A. Yes, sir.

Q. Well when was that Indian payment?

A. Well sir that is one thing I can't tell.

Q. That is out of your memory?

A. Yes, sir, I have no education at all.

Q. Well you know dates pretty well?

A. Yes, sir, I can keep up.

Q. With dates pretty well? A. Yes, sir.

Q. Well anyhow you think that was about '90 or '91?

A. Yes, sir.

Q. A short time after you saw this boy you came back?

A. Yes, sir.

Q. And Nancy said he was dead? A. Yes, sir.

Q. So the boy when you saw him was two or three years old? A. Yes, sir.

Q. And then when Nancy told you the boy was dead——

A. It wasn't no longer than a month.

Q. Then the boy died when he was three or four years old? A. Yes, sir.

Q. According to Nancy's story? A. Yes, sir.

Q. You said he died before the payment? A. Yes, sir.

Q. He died before?

A. Yes, sir, before the Indian payment.

Mr. Stuart: That is all.

Witness dismissed.

And thereupon KIRK TURNBO was produced, sworn and examined as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. Kirk Turnbo.

Q. Where do you live Mr. Turnbo?

A. Wagoner, Oklahoma.

Q. How long have you lived at Wagoner?

A. I have lived at Wagoner since 1892.

Q. How long have you lived in that vicinity?

A. Well I have lived there off and on ever since. There was four years during this time that I was in Texas.

Q. What four years was that?

A. Well from 1906 I believe.

Q. When? A. 1906 till 1911 I came back.

Q. Are you acquainted with Nancy Atkins?

A. Well I used to know her.

Q. Where did you first know her?

A. I first knew her there at Wagoner of course.

Q. How soon after you went to Wagoner?

A. And I haven't been there but a short time. I came from Texas there.

Q. Well it doesn't make any difference about that. You came there in 1891? A. 1892.

Q. 1891 or 1892.

A. Yes, 1891 or 1892; I think though it is 1892.

Q. Well you got acquainted with her shortly after you came there you say?

A. Well I just met her, learned who she was.

Q. She was quite a peculiar character around there?

A. Yes, sir.

Q. Attracted strangers at once?

Mr. Stuart: We object to that because it is leading your Honor.

The Court: Objection sustained.

Q. Well how come you to get acquainted with her?

A. Well when I went out there I was acquainted with J. W. Gibson, and he told me if I felt so disposed I could go out and stay at the ranch and it would save paying board. So I went out to his ranch; and I wasn't working but I made a kind of hand. So we came there to have some horses shod and on this occasion is when I saw her. She came hollering for this boy.

Q. What boy?

A. Well Tommy Atkins; I learned who it was.

Q. Who did you learn who she was hunting for from her or some one else?

A. No, some one else of course; I didn't know her name.

Q. Did you hear her inquire about the boy?

A. Yes, sir, of course somebody——

Q. Well what was her language?

A. Well, "Have you seen anything of my boy Tommy?"

Q. Well now how often did you see him after that?

A. Which the boy?

Q. Yes?

A. Well I reckon as much afterwards, once in a while.

Q. Where did they live?

A. Well, now at that time I couldn't tell you, but I think they lived what we knew as Old Betsy Birney.

Q. Now, how old was he the last time you saw him?

A. Which the boy?

Q. Yes?

A. Well, now I don't know that I know. Now he was I suppose—now they made up money there at one time to bury him; now just what time that was I don't know, but I believe it was in 1902 to the best of my recollection.

Q. Well what size boy was he the last time you saw him?

A. Well he was always very small, kind of weazled looking child.

Q. Well what age would you think he was the last time you saw him?

A. Well, I would judge he would have been ten or eleven years old.

Q. Now did you contribute when they were taking up that money?

A. Well, now, Judge, I don't remember whether I did or not, but I expect I did; but I think I did.

Q. Do you know who it was making up the money?

A. Well as well as I remember it was W. U. Hall who was mayor there at the time or marshal. I don't remember which, he was at one time both; that is he was mayor at one time and *mayor* also.

Q. Do you remember whether you saw a funeral procession that day or not?

A. Well, no, sir, I do not; don't know that I know any more about it only he asked me if I could help him out on this burying.

Q. Who did he say he was making up the money for?

A. Told me Tommy Atkins, Old Nancy's boy.

Mr. Maxey: That is all.

Cross Examination by Mr. German.

Q. How long before that money was made up that you had seen the boy?

A. To bury him? Well, now that I don't know. Don't know as I can remember exactly how long I was in town and out but I did see him quite often, every time I was in see the boy somewhere.

Q. See him very often? A. Well when I was around.

Q. Who was he with? A. Sir?

Q. Who was he with?

A. Some times he would be with her.

Q. Who is her? A. Nancy, his mother I suppose.

Q. Some times you wouldn't?

A. That is I always thought so. Yes, some times I would see him with a lot of other kids.

Q. Who else did you see him yith? A. A lot of children.

Q. What grown person did you see him with besides Nancy Atkins?

A. No one else; I seen her at the blacksmith shop and at the drug store.

Q. Where did you live at that time?

A. I lived in Wagoner. I was in and out.

Q. You first came to Wagoner in '92? A. 1892.

Q. 1892? A. Yes, sir.

Q. And you got acquainted with Nancy?

A. Well just happened to meet her, yes, sir.

Q. You don't know whose boy that was?

A. Well, she was taking care of him. I supposed it was her child, I don't know of course.

Q. You don't know about that?

A. She was taking care of him.

Q. You stayed at Gibsons awhile? A. Yes, sir.

Q. How long? A. Oh, I was out there a month maybe.

Q. When did you come to Wagoner to live?

A. Well, I came there in June the best I can remember of 1892.

Q. To live?

A. Well, after I came from Texas there. But when I left the ranch I came back in town.

Q. And when was that?

A. I think it was in July or September.

Q. Of 1892? A. 1892.

Q. Did you know about Nancy going to the penitentiary?

A. Well I had heard that she had but I don't know anything about it.

Q. Then you lived in Wagoner how long?

A. I lived in Wagoner from that time on.

Q. Living there now? A. Yes, sir.

Q. When was this thing first talked about in Wagoner in recent years? A. Well, sir, I don't remember now.

Q. About three years ago? A. Two or three I suppose.

Q. Who first talked to you about it?

A. Well now that I don't remember; I declare I don't.

Q. Do you know Jim White? A. Yes, sir.

Q. Did he?

A. Well, Jim White asked me at one time if I remember Nancy Atkins.

Q. Is he the first one talked to you about it?

A. I don't think so; I think I had recalled the case.

Q. There was something in the Wagoner paper about it?

A. Perhaps there might have been.

Q. There has been a great deal of talk in Wagoner about it recently? A. There has been some, yes.

Q. And the general run of the conversation has been whether Nancy had a child that lived or a child that was born dead?

A. Well, of course I have heard some different remarks about it.

Q. Heard it both ways haven't you?

A. Yes, by different parties.

Q. The question has been discussed there in the last three or four years a whole lot hasn't it?

A. Well, I don't know as it has been so broadly considered.

Q. Well, considerably hasn't it?

A. Well, to some extent. I suppose it has.

Q. And you have been thinking about it a good deal haven't you?

A. Not much; I don't know that I have given it much.

Q. What other child did you see with Nancy?

A. Well, I don't remember that I ever seen any others.

Q. You were living in Wagoner in 1895? A. Yes, sir.

Q. And you would see her then a good deal?

A. I would see her a good many times.

Q. And in 1896 you saw her a good deal?

A. I don't remember.

Q. Well, didn't you?

A. I tell you I have seen her so many different times I have kept no tab of it at all.

Q. Did you see any other children with her in 1895 or 1896 or 1897? A. Don't remember, no, sir.

Q. Well refresh your memory now and tell us whether you did or not?

A. Well, I know in reason that I didn't see any only just this child that we are speaking of.

Q. Well, did you know Minnie? A. No, sir.

Q. Minnie Atkins? A. No, sir.

Q. Didn't know her at all? A. No, sir.

Q. Never heard of her? A. Oh, I have heard of her too.

Q. You didn't in those days? A. I don't know that I did.

Q. About the time they got up the money to bury this child Nancy was living in Wagoner? A. Yes, sir.

Q. And I suppose you saw her? A. At that time?

Q. Yes, did you go to the funeral? A. No, no.

Q. You don't know whether you contributed to that or not? A. No, I disremember.

Q. Had you seen the child with Nancy say shortly before that time?

A. Well, no I don't know that I had, I don't remember.

Q. Well, how often would you see her?

A. Well that of course I couldn't testify to, but I would see her at intervals you know, at different times; see her and the child in town; but just when it was and how often I don't remember.

Q. You were in business there? A. No, sir.

Q. What other child did you know that lived around town? A. I knowed quite a number of children.

Q. Name some of them, colored people?

A. A whole lot of colored children I could pick out.

Q. Well, give us the names.

A. Well, Tom and Jack for instance, they are widely known.

Q. Tom and Jack who?

A. Well that is all I can answer; I don't know their names. Tom and Jack is all I know of.

Q. How many children was Nancy looking after in 1892 when you came to town that time and did you ever hear of her having any except Tommy?

A. Well I never seen but the one; she picked this one up and went on out with him.

Q. Oh, it was there? A. Yes.

Q. Now, did not Nancy say this; did you see anything of my boy? A. My boy Tommy, as well as I remember now.

Q. Well, what other boy did she have?

A. Well, there were two other little kids back there about the size of him—maybe a little larger.

Q. Did she take them, too?

A. No, sir, they didn't go with her.

Q. Had you seen the boy she had with her, before?

A. No, sir, it was the first time I had seen her.

Q. He was a little white headed boy, wasn't he?

A. Some people would term him white—more sandy, though, I would judge him—more inclined to be sandy.

Q. Well, what color was its eyes?

A. Well, I don't know that I can remember the color of that boy's eyes.

Q. You don't know whose boy that was?

A. I don't know nothing only that Nancy Atkins was looking after it.

Q. That is the only time that you ever heard her call him her boy, isn't it?

A. As well as I remember, yes, sir.

Q. What was the first time you served as a peace officer in this country up here? A. When I——

Q. What was the first time that you served as a peace officer up in this Indian Territory? A. In '82—1882.

Q. In the Indian Territory I am speaking of.

A. Well, that was 1882.

Q. Where was you?

A. I worked for this court here; Judge Stuart was the—

Q. Was the Judge? A. Yes, sir, he was the——

Q. United States Judge?

A. Yes, sir, United States Judge.

Q. What office did you hold?

A. Well, I was under McAlister.

Q. Well, what was the name of your position?

A. Well, I was a deputy United States marshal.

Q. Then, how long did you hold that office?

A. Well, about a year, I suppose.

Q. That was in '82?

A. I think it was '82; it might have been a part of '83.

Q. Well, let's see. Wasn't Judge Stuart first on the bench about—sometime in the '90's?

A. I don't remmber, but that was the time—when he was on the bench at that time.

Q. He was on the bench, anyhow, when you were deputy United States marshal? A. Yes, just had come in.

Q. And you are unable to say what year that was?

A. It was in '82 as near as I can remember.

Q. Now, how long after you was deputy marshal, was it, until you first saw this boy?

A. Well, it was from this time, now, sometime—some time in June that I came here, and then, it was sometime in June, I suppose, that I first met this boy.

Q. Well, was it that same year that you was deputy marshal?

A. Same year that I came in the summer and went——

Q. You said '82? A. 1882.

Q. Did you mean '92?

A. 1882 is when I come to the country.

Q. Now, you are sure of that?

A. I am sure that I came here in 1882.

Cross Examination by Mr. Stuart.

Q. Mr. Turnbull, what time did you say you first laid eyes on this boy of Nancy's—what year was it?

A. Well, Judge, I suppose it was 1882.

Q. 1882? A. 1892.

Q. 1892? A. 1892.

Q. You saw the boy in '92? A. Yes, sir.

Q. How big was it then?

A. Well, it was just a small, toddling child, I suppose a year or little better, maybe.

Q. You had been marshal before that time—you were marshal then? A. No, I wasn't marshal then.

Q. When were you appointed marshal?

A. I was appointed sometime in the fall.

Q. Of '92? A. Of '92.

Q. You are sure of that? A. Yes, sir.

Q. Now, don't you know I wasn't appointed Judge, until way yonder in '93? Figure it up, now

A. Well, I was marshal anyway.

Q. Well, I wasn't appointed Judge until '93.

A. Well, it was under Cleveland's administration.

Q. Well, you are mistaken about its being '92 for I——

A. Well, it must have been '93 because I was here when you shoved a whole lot of niggers out of the door and said we call you niggers in Texas and you call them colored people here.

Q. Is that so? That incident struck you very forcibly, didn't it? A. Well, I was here.

Q. Did you resign as marshal or stay on a while?

A. I stayed on a while.

Q. You didn't resign. Well, now, as a matter of fact, it must have been in the fall of '93?

A. Well, it possibly was, now; that has been quite a while ago, and I don't——

Q. And that is the first time you ever laid eyes on the boy? A. Well, it was in that summer, yes, sir.

Q. Was it in that summer that first you ever saw the boy, the summer of '93?

A. Well it seems to me like it was 1892.

Q. How long did you serve as a deputy marshal?

A. Oh, I served a year or year and a half maybe.

Q. Did you quit voluntarily? A. Yes, sir.

Q. Wasn't fired? A. Well, I reckon I was partly.

Q. Yes, who fired you? A. McAlester.

Cross Examination by Mr. German.

Q. How long had you been deputy marshal before Judge Stuart was appointed?

A. Well, now, I can't say, but I know I happened to be in here when he run that bunch of negroes out of here, but I don't know whether that was my first trip or not.

Q. I am not asking you about that. A. I don't remember.

Q. Well who was the Judge before Judge Stuart?

A. Why, Judge Turner, as well as I remember.

Q. Judge Shackleford? A. Judge Shackleford.

Q. Is McAlester the man who appointed you?

A. Yes, sir.

Q. Now he went in with Judge Stuart, didn't he?

A. Well that was my idea about it.

Q. And that was the first time you were ever deputy marshal wasn't it, in this country up here? A. Yes, sir.

Q. And you didn't hold any official position up in this country of any kind, other than deputy marshal or anything up until then, did you?

A. Not up until that time, no.

Witness dismissed.

And thereupon WALTER POSEY, being called as witness on behalf of the defendants Nancy Atkins, et al., sworn and under oath testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. Walter Posey.
Q. How old are you? A. I am 57 years old.
Q. Where do you live? A. Wagoner.
Q. How long have you lived in that neighborhood?
A. Ever since '91.
Q. 1891? A. Yes, sir.
Q. Did you know Nancy Atkins?
A. Yes, sir, I have seen her.
Q. When did you first see her to know who she was?
A. Well, I think it was along in—I ain't certain——
Q. When? A. In 1891, or '92, somewhere along there.
Q. Where did you see her? A. At Wagoner.
Q. Did you know whether or not she had a child?
A. Well, they said she had one.
Q. Well,—— A. I seen the one she said was hers.

Mr. Cruce: If the court please, I move to exclude that answer.

The Court: Yes, it will not be considered by the court.

Q. Did you ever see a child with Nancy Atkins?
A. Yes, sir.
Q. Now, did you ever hear her say whose child that was?
A. Yes, sir, she said it was hers.
Q. Where was it you first saw it with her?
A. There about Jones and Davis' store.
Q. How often did you see it around there with her?
A. Well, I seen it quite a while there, well a few times with her, and mostly with Dick Birney, old man Dick Birney.
Q. It stayed around there with the Birney children?
A. Yes, sir.
Q. Was it older or younger than the Birney children?
A. Well, I don't recollect; I noticed it, I remember, because it was four or five years old and white-headed, and Dick Birney came there lots of times, and I asked him whose it was.

Q. Well, never mind what he told you. Now, how large was it the last time you saw it? A. The last time?

Q. Yes?

A. I can't say for certain, the last time, but I think it was along in 1900 or 1901, or something like that.

Q. Well, how old did he appear to be then?

A. About 10 years old, he looked to be.

Q. Do you know what became of him?

A. No, sir, not only what I heard.

Q. Well, were you there at the time someone took up a collection to bury—— A. No, sir, I wasn't there.

Q. You weren't there? A. No, sir.

Q. Now, how often did you see this child with Nancy?

A. Well, I never seen him very many times; a few times.

Q. What was the general reputation and understanding in that community—don't answer this until I tell you to—as to who was the mother of this child?

> Mr. German: We object, on the ground that it is hearsay.
>
> The Court: Objection sustained.
>
> Mr. Maxey: Now, we offer to prove by this witness that it was commonly understood and the general reputation in that neighborhood that this child that he has described was the child of Nancy Atkins.

Q. What color did you say its hair was?

A. White, I called it, white; it wasn't snow-white, it was like light haired babies.

Q. And what did you say it was called?

A. They called him Tommy; Tommy Atkins.

Cross Examination by Mr. Stuart.

Q. What was the color of his eye? A. What?

Q. What was the color of his eye? Light blue, wasn't they? A. Light blue?

Q. Light blue eyes?

A. Well, I think he had blue eyes.

Q. He was an albino Indian, wasn't he? White eyes and white hair? A. Well, I called him a mixed breed.

Q. Did he have Indian in him? A. What?

Q. Did he have Indian in him—appear to have Indian in him? A. Yes, sir, he looked like it.

Q. Well, now, if he had light blue eyes and white hair, where was the Indian?

A. Well, I have got some in my eyes. I don't know about him, where his Indian was.

Q. You got some in your eyes?

A. White headed and blue eyed.

Q. Perfectly white hair?

A. Oh, no; it wasn't perfectly white; you have seen them.

Q. This was a white, tow-headed fellow, wasn't he?

A. I don't know about tow-headed.

Q. What do you mean by a tow-head; about the color of Mr. Bruff's head over there?

A. No, his looks kinder sandy over there. His was sandy.

Q. Little sandier than Mr. Bruff's? A. Yes, sir.

Q. And blue eyes? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. You say the boy was four or five years old the first time you saw him?

A. The first time I seen him, I judge he was about four or five years old.

Q. That was in '91 or '92?

A. Two or three, somewhere along there; I might be mistaken about the date; been so far back.

Q. You saw him shortly after you came to Wagoner?

A. Sir?

Q. You saw the boy shortly after you got to Wagoner?

A. Well, I know exactly the time I got to Wagoner.

Q. When was that? A. 1891.

Q. '91, and shortly after you got to Wagoner it was that you saw him?

A. Well, I judge the boy to be four or five years old when I first saw him.

Q. That was in '91 or '2?

A. Or '93, somewhere along there.

Q. It was in a short time after you came to Wagoner?

A. Yes, sir.

Witness dismissed.

And thereupon is produced on behalf of the defendants Nancy Atkins, et al., GEORGE WILLIFORD, who, being first duly sworn, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. George Williford.

Q. Where do you live, Mr. Williford? A. Wagoner.

Q. How long have you lived in Wagoner?

A. It has been——

Q. Oh, about how long; we don't care as to the date.

A. It has been right close to about 30 years, somewhere along in there.

Q. How old are you? A. 55.

Q. Do you know Nancy Atkins? A. Yes, sir.

Q. When did you first know her?

A. Where I first got acquainted?

Q. Yes? A. I got acquainted with her at the hotel.

Q. What? A. At the hotel.

Q. Well, I say when?

A. It has been between 22 and three years, altogether.

Q. What hotel was she at? A. Mr. McAnally's.

Q. Do you remember ever seeing her in a pregnant condition?

A. Yes, sir, I seen her once in bad condition.

Q. What time was that?

A. Somewhere along in between 22 and three, somewhere along in there, about that.

Mr. Cruce: You mean about 22 or 23 years ago?

A. Yes, sir.

Q. Do you remember the time she was sent to the penitentiary? A. No, sir, I don't know.

Q. Well, you remember the circumstance of her being sent? A. I heard of it; I don't know where she went.

Q. Now, was it before or after that that you saw her in this pregnant condition? A. It was before that.

Q. Do you know whether or not she had a child born?

A. No, sir, I don't.

Q. Did you ever see a child there with her?

A. No, I seen one that she called Tommy.

Q. Who did you see with that child? A. Sir?

Q. Who did you see the child with? A. Nancy.

Q. Now, about how old was it when you first saw it?

A. Between two and three year old.

Q. Where did you see it?

A. There at Mr. McAnally's hotel.

Q. Did you see it anywhere else with her than there?

A. Well, I seen it a time or two up in town.

Q. Up at the house? A. Up in town.

Q. Oh, yes; with Nancy? A. Yes, sir.

Q. Now, how large was that child the last time you saw it? A. How large was it?

Q. Yes? A. Well——

Q. About how old would you say it was?

A. Between 2 and three somewheres, along in there.

Q. The last time you saw it? A. Yes, sir.

Q. Well, did you know what became of the child?

A. No, sir, I don't.

Q. Did you ever see it about any other place than McAnally's?

A. I saw it up town a time or two, and that is the last time I saw it after she went off.

Q. After she went off?

A. Never heard any more about it after she went off.

Q. Well, do you know how long she was gone?

A. No, sir, I don't.

Q. Do you remember seeing it after she came back?

A. No, sir, I don't.

Cross Examination by Mr. Allen.

Q. You say your name is Williford? A. Yes, sir.

Q. How long have you lived in Wagoner?

A. Off and on?

Q. Yes, sir? A. I came——

Q. When did you first come to Wagoner?

A. In 1880 and stayed there——

Q. How long did you live there at that time?

A. Well, I didn't live; I just was going; I went home a time or two.

Q. Now, is that the time you saw Nancy at the McAnally Hotel? A. No, sir.

Q. When did you see Nancy at the McAnally hotel?

A. Right close between twenty—somewheres along in between twenty-two and twenty-three—somewheres along in there; I didn't keep no record of it.

Q. Twenty-two and twenty-three? A. Yes, sir.

Q. What do you mean? A. Yes, sir, altogether.

Q. Years ago? What business are you in, Mr. Williford?

A. What business in?

Q. Yes, sir? A. Street cleaner.

Q. In Wagoner? A. In Wagoner, yes, sir.

Q. What do they call you? A. I don't know.

Q. What do the people call you?

A. They never have——

Q. Have you a nickname?

A. No, sir, not that I know of.

Q. Didn't Mr. Bruff come to see you not long ago—the gentleman sitting there on the back row, and talk to you about this case—this gentleman sitting on the back row there, did he come to see you? A. Yes, sir, I think so.

Q. Didn't you tell him you were positive it was in 1880?

A. When I first went to Wagoner.

Q. Or 1881, when you first saw Nancy and this child?

A. No, sir, I don't think so.

Q. Did he call your attention to the fact that you testified that it was in '91 and you said you were mistaken, it was in '81? A. It was '81 when I first came into Wagoner.

Q. I am talking about the time when you first saw Nancy Atkins.

A. It was between twenty-two and three years when I seen——

Q. Well, what year, about what year? A. What year?

Q. Yes?

A. Well, I disremember; somewheres along in there.

Q. Well, it was at least twenty-two to twenty-three years altogether, when you saw her with this baby?

A. Saw her with the white-headed boy.

Q. Oh, it was a white-headed boy, was it?

A. It was Bobby.

Q. What was the color of its eyes, notice that?

A. No, sir, I didn't. I never paid much attention to it.

Q. Don't know whether it had gray eyes or not?

A. No, never paid much attention to it.

Q. It was a boy called Bobby, you state? A. Tommy.

Q. You were mistaken a while ago if you said Bobby?

A. Yes, I was mistaken.

Q. Didn't they sometimes call him Joe, too?

A. I never heard it.

Q. Did you know Joe Birney? A. Who?

Q. Joe Birney; you knew Richard and Henry Birney, didn't you? A. No, sir, I didn't know none of them either.

Q. You didn't know any of the Birneys at all? A. No, sir.

Q. Now, you say the first time you saw this child it was two or three years old? A. Which the——

Q. Thomas Atkins? A. Yes, sir.

Q. You never knew what its name was then did you?

A. Not until she was——

Q. Nancy didn't talk to you about it, did she?

A. No, sir. She was talking to the others.

Q. And you saw it just the one time?

A. I saw it two or three different times.

Q. Nancy after that went to the penitentiary?

A. She went somewhere; I don't know where; I lost track of her.

Q. But this boy that you saw with Nancy was about how old when Nancy went to the penitentiary?

A. He was—I don't know when she went.

Q. I know but you knew about her going to the penitentiary? A. No, sir, I don't know where she went.

Q. She went away, though, after you saw this boy that was how old?

A. He was between two and three year old, I judge.

Q. You heard that she went to the penitentiary didn't you at that time? A. No, sir, I didn't.

Q. Then you never saw her or the boy again? A. No, sir.

Q. And who was the first man talked to you about this case? A. I don't remember.

Q. Mr. White talked to you about the case, Jim White?

A. No, sir, not until they come and put a subpoena to me.

Q. When did they come and put a subpoena to you?

A. Well, when they first got the suit.

Q. You made an affidavit over at Sapulpa? A. Yes, sir.

Q. That is when Mr. White talked to you?

A. Well, he didn't exactly talk to me.

Q. He didn't ask you anything about what you knew about the case did he? A. No, sir, I don't think that he did.

Q. Nobody ever asked you what you knew about the case?

A. Just wanted to know if I knew about Tommy.

Q. He just fixed up an affidavit and told you to sign it?

A. All he asked me if I knowed Tommy.

Q. And then they prepared an affidavit and you signed it? A. Yes, sir.

Q. That is all they asked you?

A. That is all they asked me. I certainly knew him.

Q. How do you fix the time twenty or twenty-two years ago when you saw Nancy and this baby?

A. I was there at the hotel.

Q. You are sure it was not sixteen years ago?

A. No, sir.

Q. Twenty-two and twenty-three years ago?

A. Between——

Q. Sure it wasn't thirty years ago? A. No, sir.

Q. You are not positive it was twenty-two or twenty-three years ago? A. Yes, sir.

Q. That you saw Nancy with this two or three year old white headed boy? A. Yes, sir.

Q. You never saw her after that?

A. I saw her up in town after.

Q. How soon after? A. Short time after.

Q. You have lived here in Wagoner ever since?

A. Yes, sir.

Q. And never seen the child since? A. No, sir.

Q. You have made Wagoner your home? A. Yes, sir.

Q. And you have been a street cleaner there for a long time? A. Yes, sir.

Q. And never saw any Tommy around there?

A. I haven't saw him from that day to this.

Q. Is this the same Tommy that used to haul wood around Wagoner when he was a little boy; you didn't see that?

A. I didn't see that.

The Court: What were you doing at the time you lived at the hotel, what was your business there?

A. I was just first one thing and another; used to make hay in town and out of town.

The Court: Just a laborer around.

A. Just a laborer.

The Court: Been there ever since?

A. No, sir, I went home twice.

The Court: How long did you stay away?

A. I stayed a year or two.

Q. Now you had seen Nancy frequently before this twenty-two years ago when you saw this boy? A. What?

Q. You had seen Nancy frequently twenty-two years ago when you saw her with this boy?

A. No, sir. I think the first time ever I saw Nancy she was at McNally's Hotel.

Q. That was what time, before you saw the boy?

A. I saw the boy with McNally's boy.

Q. That was some time before you had seen Nancy with the boy? A. Some time.

Q. How long before you saw Nancy and the boy was it you first knew Nancy by sight?

A. It was some where along in right close—I don't know, I may make a mistake.

Q. Well about how long?

A. Right close to three or four years.

Q. That you would be seeing Nancy frequently around there? A. At the hotel yes, sir.

Q. You never saw any boy with her until this twenty-two or three years ago? A. That was all.

Q. Now she didn't have any boy with her during those three or four years?

A. If she did I didn't see it. She done the cooking at the Brown hotel and for Taylor and McAnally.

Q. Your memory is not very good about what happened back there is it?

A. Well I don't know that there has anything happened only I was after something to eat and I got it and went on.

Q. This boy made no particular impression on your mind? A. No, sir.

Q. You might be mistaken now as to the name of the boy, might you not? A. No, sir; she called him Tommy.

Q. That boy was not a little mulatto boy you saw was he?

A. Yes, sir, he was what I called a little white-headed boy between two and three year old, and his head wasn't so very white either; it was between molasses and butter color; that is just about what it was.

Q. You are sure that was not more than twenty-two or three years ago; that was in 1895 wasn't it?

A. I disremember the dates; I never thought anything about it.

Q. Did you know Minnie Atkins? A. No, sir.

Q. You didn't know that about that time that Nancy Atkins had Minnie Atkins' boys?

A. No, sir; I don't know anything at all about the balance of them and wouldn't have known her if she hadn't been cooking.

Q. This is the only boy you ever saw with her and only saw him one or two times? A. That is all.

Cross Examination by Mr. Stuart.

Q. You saw the boy the first time about twenty-two or three years ago? A. Yes, sir.

Q. That would make it about 1895 or 1896, wouldn't it?

A. I couldn't say.

Q. Well 1895 is twenty-two years ago and 1896 is twenty-one years ago. It was about 1895 or 1896.

A. It was some where along there.

Q. And you saw the child for the first time and a short time after that the child disappeared? A. Yes, sir.

Q. And you never saw it any more?

A. I never saw it any more.

Q. I believe you said that prior to the time you saw the child for the first time you saw Nancy frequently and there was no child with her? A. There was no child with her.

(Witness dismissed.)

And thereupon court recessed until ten o'clock A. M.

And thereafter, and on May 15, 1917, at 10 o'clock, A. M., court convened pursuant to adjournment, and further proceedings herein were had as follows:

THOMAS BREWER, being produced as a witness on behalf of Nancy Atkins, et al., sworn and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name. A. Thomas Brewer.

Q. What is your age? A. 45.

Q. Where do you live? A. Collinsville.

Q. What is your nationality? A. Cherokee.

Q. Are you related to Mr. Brewer, the Postmaster here?

A. Yes, sir, first cousin.

Q. Where have you lived most of your life, Mr. Brewer?

A. About half way between here and Wagoner.

Q. Where were you living in 1889 and 1890, and along there? A. Living in Wagoner.

Q. How long did you live in Wagoner? A. About 5 year.

Q. About what year did you go there?

A. '89. I wouldn't be positive—no, it was in '98 or '99 when I went there.

Mr. Cruce: '99?

A. Yes.

Q. Now, do you mean '89 or '90, or '99 and 1900? A. 1899.

Q. Then, you either went there in '89 or 1900? A. Yes.

Q. Or 1890? A. Yes.

Mr. Cruce: No, it would be——

Q. Which was it, Mr. Brewer? Let's get that straight.

A. Well, I wouldn't—it was '99 I moved to Wagoner.

The Court: Well, now that would be just about 18 years ago?

A. Yes, sir, sometime along there.

Q. Did you get acquainted with Nancy Atkins?

A. Yes, sir.

Q. When?

A. Well, I knew Nancy Atkins long before ever I moved to Wagoner.

Q. Where was she living then? A. There in Wagoner.

Q. When did you first get acquainted with her?

A. Oh, I don't know just when; we done our trading at Wagoner and had all our work done there at Wagoner; that is blacksmithing. We traded there; Davis and Jones were in business there.

Q. What year did you commence trading there?

A. Oh, I have been trading in Wagoner mighty near ever since Wagoner started.

Q. Well, about when did you first get acquainted with Nancy Atkins

A. Oh, I guess—I don't know just exactly about when I did get acquainted with Nancy Atkins first. I used to go up to Wagoner, you know, and rally around there with the boys. I knew her a year or two before I moved there.

Q. Do you remember ever seeing her in a pregnant condition?

A. No, sir, I knew nothing about that; that is, if I did it slipped my mind. I never paid any attention to it.

Q. Do you remember whether or not she had a child?

A. Yes, sir.

Q. How did you find out it was her child?

A. Well, he told me he was Nancy's boy.

Q. And did Nancy ever tell you it was her boy?

A. I don't remember whether ever I asked her, only I know the kid told me he was Nancy Atkins' kid and other kids told me.

Mr. German: We object to what was told him.

The Court: Objection sustained.

Mr. German: Understand that we object to it all of course.

The Court: Yes.

Q. Now, how large was the boy the first time you ever saw it?

A. Oh, he was a good big kid, going around everywhere and talked.

Q. Who did he go around with?

A. Oh, I can't tell you; a lot of kids. He played there among the niggers.

Q. Did you ever see him with Nancy? A. Yes, sir.

Q. How often? A. Oh, several times I had seen him.

Q. Where would you see him?

A. There in town, in Wagoner.

Q. Did you ever see them in Davis and Jones' store together?

A. Yes, I would see them around there; they lived right back of the store—Davis and Jones', across the track over there.

Q. What kind of looking boy was he?

A. Well, he was sort of a mixed blood.

Q. Yellow or white?

A. Well, he was sort of mixed up. You could tell he was not a white kid and he wasn't a—he had—Oh, he was, I don't know, he was—his hair—he was sort of a molasses kid, I reckon you would call him. He wasn't white and he wasn't a nigger.

Q. Now, how long did you see him around town there?

A. Oh, I saw him off and on there quite a while; I can't tell you just how long. I had nothing to—no occasion to notice him much or anything of that kind.

Q. Do you remember what name the boy went by?

A. Tommy Atkins.

Q. Do you know what became of him? A. Died.

Q. About when did he die?

A. Well, it was about—he died, I believe it was a year after that dry year—that I believe was 1901 or—I wouldn't be positive which, but anyhow, it was about a year, just a little while after that I know the *kind* died there. I was living just down below there at the time.

Q. How did you find out that he was dead?

A. Well, I passed right by the house every day going to town; mighty near every day. I was buying cattle there and trading around there, and my road from my home went right by there to town.

Q. Do you remember the circumstance of them taking up a collection to bury him?

A. Well, no, sir, they had taken up at that time—oh, lots of times there in Wagoner they were taking up a collection every little while to bury somebody but I paid no attention to that; or to feed somebody or something.

Q. You say you think it was 1901 or '02 that he died?

A. Yes, sir, somewhere along there. I never paid any attention to it; it wasn't nothing to me.

Q. Did the boy ever come to your house or about your house? A. Yes, sir.

Q. What would he come there for?

A. Milk; he came there as a kid and got milk there. I had quite a lot of cattle.

Q. And who would send him there, or how would he come to come there?

A. I don't know, they just found out that we had milk there, you know, and a lot of folks were around there for milk.

Q. Do you remember anyone ever referring to him as your namesake?

A. Why, yes, sir, one time there—I remember one of the boys just hollored Tommy—said here is your namesake, or something—I never paid any attention to it; just joshing.

Q. Now, whose child was that generally understood to be among the people of the town?

Mr. German: We object to that as hearsay.

The Court: Objection sustained.

Mr. Maxey: Now, we offer to prove by this witness that it was the general reputation among the people of the town of Wagoner at that time, that this boy that he has described was the son of Nancy Atkins.

Cross Examination by Mr. German.

Q. What is your given name? A. Thomas.

Q. Thomas, what? A. Thomas Brewer.

Q. You haven't any middle initial? A. Sir?

Q. You haven't any middle initial? A. Yes, sir.

Q. What? A. F.

Q. Thomas F. Brewer? A. Yes, sir.

Q. How old are you? A. About forty five.

Q. What year were you born? A. Sixty two. Five from seven is two and four from ten is six.

Q. Wouldn't it be Seventy two, Mr. Brewer? A. 1917.

Q. You ought to remember though what year you were born?

A. I am forty five years old and forty five from seventeen undoubtedly leaves sixty two.

Q. Well, don't you have an independent recollection of the year you were born? That is, don't you know without calculating it what year you were born?

A. No, I never paid no attention. I just stopped for a minute and I can tell you exactly.

Q. You still say it was sixty two, do you?

A. You can figure it yourself, can't you?

Q. Yes, but I am asking you?

The Court: Well, he has stated it. Pass on.

Q. Mr. Brewer, where were you living the year you say this boy died? A. Living in Wagoner.

Q. How long had you been living there?

A. Oh, a couple of years I guess, or three, I never paid no attention. This Tommy Atkins didn't bother my mind at that time; it has been a good long time ago I never paid no attention to it.

Q. You never paid any attention to the boy?

A. Just saw him like you see me here and you pay no attention unless there be something to make you remember it.

The Court: Don't argue. Just go on and answer the question.

Q. Where was this boy living just before he died?

A. Wagoner.

Q. At whose house?

A. Well, I don't know. You see they just lived around there. I know Nancy stayed there at this house; I never asked whose house it was, never did know.

Q. How far did you live from where she lived at that time?

A. Well, I lived about a little over a quarter, might have been a quarter and might have been a little over a quarter.

Q. You lived in the edge of town? A. Yes, sir.

Q. Which edge? A. West.

Q. The Western edge of town? A. Yes, sir.

Q. And where was the place that she lived?

A. Well, it was a little bit north of east from where I lived.

Q. Close to the railroad?

A. Yes, sir. towards the railroad.

Q. Among colord folks?

A. Yes, sir. right in the colord part of town.

Q. What age, about, was this boy at that time?

A. I don't know, he must have been six or seven years old, something along there; I never paid no attention to that.

Q. I am speaking now of just before he died?

A. Well, I say.

Q. Six or seven years old?

A. Something along there, I couldn't say.

Q. You say you passed by that house every day?

A. Mighty near every day.

Q. In going from your house to town you would pass along that street? A. Yes, sir.

Q. Were there other colored people living there?

A. Yes, sir, on that side of town is colored people, lots of colored people.

Q. There were lots of children there?

A. Lots of colored children around there, yes.

Q. And a number of white children in town?

A. Yes, a few white children on that side.

Q. And a number on the other side?

A. Yes, on the other side is white.

Q. At that time Wagoner was a place of about two or three thousand people?

A. Oh, I don't know how many was there.

Q. Well, it was not just a little tiny village?

A. It was small.

Q. Were there a thousand people there?

A. I don't know, I never paid no attention to the amount of people.

Q. How many stores were there on the east side of town at that time?

A. Well, I don't know that; old man Schrimsher and Newberry——

Q. The main business part of town at that time was east of the track? A. Yes, it was on both sides.

Q. I say the main part?

A. Yes, the main part was on the east side.

Q. Now, how long before the death of that child was it that you saw Nancy around among those colored people?

A. Well, I couldn't tell you. As I said, I lived down in the Cherokee Nation but done my trading——

Q. I am talking now about when you were living in Wagoner? A. Oh, in Wagoner?

Q. Yes, you say this boy died while you were living in Wagoner? A. Yes.

Q. How long before this boy died had you seen Nancy?

The Court: In other words, was Nancy living at the house at the time the boy died?

A. Yes, sir.

The Court: You know that, do you?

A. Yes, sir, I reckon she was. She was there in town, I don't know whether she was living at this house when the kid died.

The Court: You know she was there in town?

A. Yes, sir.

Q. And had she been living in the town all the time before that since you first knew of her being in Wagoner?

A. That is the only place I seen her.

Q. Well, how often would you see her before the boy died?

A. I never paid no attention. I wasn't noticing Nancy; just the same as the rest of the people there.

Q. After the boy died did Nancy continue to stay there in town? A. I don't know, I never paid no attention.

Q. What became of her? A. I don't know.

Q. Did she continue to live in Wagoner a while after the boy died?

A. I don't know. I had no desire to pay any attention to her whether she stayed or left.

Q. Well, did you have any desire to pay any attention to the boy? A. Not a bit in the world.

Q. Did you attend the funeral? A. No, sir.

Q. How do you know that it died? A. What?

Q. How do you know that it died?

A. Well, I just know the people said Tommy Atkins died. That is all I know. I didn't notice him.

Q. Wasn't there anything connected with your passing by the house that led you to believe he was dead?

A. No, I just heard he was dead. I never got down to look and see.

The Court: You stated a while ago that he died in 1901 or 1902, and stated as a reason for knowing that, that you passed right by the house?

A Every day, yes, sir.

The Court: What did you see when you passed by the house that led you to believe that the boy was dead. Did you see anything?

A. I seen some people around there just like anybody else, they said the kid died there in the house; somebody said Tommy Atkins is dead. I just heard them talking about him being dead.

The Court: What kind of a house was that?

A. Well, a shack back of Jones, store; there was quite a good many.

The Court: I don't care how many there were. How many rooms did this house have?

A. I don't know, I never was in it.

The Court: About how many?

A. Couldn't do that. Some would be one little old room, some two.

The Court: I don't care about the others, I am talking about this house. Did Nancy Atkins live in the house?

A. I don't know whether she lived in that house or not, I seen her around there, I just saw her around there.

Q. You say you don't know whose house it was?

A. No, I don't know.

Q. Did you know the Birney's? A. Birney's?

Q. Yes? Negroes?

A. No, I might have known them; I have heard of them all my life.

Q. Where did you hear they were living?

A. Never heard; don't know that I ever noticed about them. I have heard about all of the old timers here in the Creek Nation.

Q. Tell us some other children that you knew there in Wagoner, give us some of their names?

A. Oh, my God, I knew lots of children.

Q. Name some of them?

A. Drapers had a lot of kids there.

Q. White or colored?

A. Colored. Kidd had some children there.

Q. White or colored? A. Colored.

Q. All right, what are their names?

A. Well, I know one or two.

Q. Call them? A. Gertie Kidd.

Q. Boy or girl? A. Girl.

Q. How old was that child when you first knew her?

A. She was a girl, big girl.

Q. What became of her? A. She is there in Wagoner yet.

Q. Name some other colored children that you knew?

A. Drapers.

Q. Name the child?

A. Well, there was one called Will Draper.

Q. How old was he when you knew him?

A. About seven or eight years old.

Q. Where did he live? A. In the west part of town.

Q. Right over there among these negroes? A. Yes, sir.

Q. Did you pass by his house every day?

A. No, he lived off to the right.

Q. Is that boy living? A. Will Draper?

Q. Yes? A. He was the last time I knew anything of him.

Q. Name some other children, negro children or colored boys? A. I never paid no attention.

Q. Well, there was some two or three dozen around town, weren't there, Mr. Brewer?

A. Yes, but Lord, I never went around to find kids names.

Q. You didn't pay much attention?

A. No, just like Will Draper, just hear his name, and of course you will naturally get acquainted with some, I don't care where you are.

Q. You say the first time you ever knew this boy was about a year before you moved to Wagoner? A. This boy?

Q. Yes, Tommy? A. No, I didn't say that.

Q. Well, about two years? A. No.

Q. You say you didn't say that a while ago?

A. No, sir.

Q. You did know him before that though?

A. Before I moved to Wagoner?

Q. Yes? A. No, sir.

Q. You didn't know him at all until you moved to Wagoner? A. No, sir.

Q. You knew Nancy when you were living out in the Cherokee Nation? A. Yes, sir.

Q. And you would come down frequently to trade?

A. Yes, sir.

Q. Did you ever see this boy before you moved to Wagoner? A. Not that I know of.

Q. Hadn't seen him that you know of? A. No, sir.

Q. You say you would come to Wagoner to trade lots and you knew Nancy before she ever moved to Wagoner?

A. No, sir.

Q. You didn't? Well, how long before you moved to Wagoner was it that you first knew Nancy?

A. Before I moved there?

Q. Yes?

A. I don't know, I say I would go to Wagoner often, might have been a year.

Q. Oh, it was Nancy you had seen around there for about a year before you moved? A. Yes.

Q. And you had known her before, is that what you are testifying to before? A. I hadn't known before I moved there?

Q. Hadn't known Nancy before about a year before you moved to Wagoner?

A. No, I say I won't be positive it was a year.

Q. Something like that? A. Yes, before I moved there.

Q. And you moved there in either 1899 or 1900?

A. Yes, sir, something like that.

Q. And Nancy was living in Wagoner when you moved there? A. Yes, sir.

By the Court.

Q. How did you associate the time of the death of this boy wtih the dry year? What makes you remember that it was about the time of the dry year?

A. Well, I had a bunch of cattle there in Mr. Bailey's pasture, there, just right west of town, and I had to move them out on account of water.

Q. Well, what connection has that with the funeral? That is what I am trying to get at. How did you associate the two?

A. How?

Q. Yes?

A. Well, after I had to move my stock, I had to move—I remember I couldn't keep but one or two milk cows then, and had quit letting milk go and kids were coming after milk and I had to turn them down because I only had enough for my own family use. Everything went dry and I had to move them back down—the only place we could go on account of the water.

Cross Examination by Mr. Hanford.

Q. Which direction did you live from Wagoner?

A. From Wagoner?

Q. Yes, out there?

A. Well, it was pretty near south but a little bit east of south.

Q. A little east of south? A. Yes, sir, a little.

Q. Out there on the river?

A. Right here at Fall City; north Muskogee it is called now.

Q. You knew Chaney Trent? A. Who?

Q. Chaney Trent; you knew Chaney Trent, didn't you?

A. No, sir.

Q. Never heard of her?

A. No, I have heard of Trents around there but I never knew them personally.

Q. Did you know Jim Trent?

A. No, I wouldn't say that I knew Jim Trent; I knew of the Trents—heard of the Trents there but wasn't acquainted with them.

Q. Did you know where they lived, though? A. How?

Q. You know where they lived?

A. No, I don't know where they lived.

Q. Who was some of the other children at that house?

A. Which house?

Q. Where you say this boy died?

A. Why, I don't know; you see I don't know how many kids were there. I don't suppose they all stayed there.

The Court: Well, don't go into that. If you don't know, just say so.

A. Well, I don't know.

Q. But there were other kids came to your house for milk? A. Yes, lots of them from town.

Q. Came there with his boy?

A. Always would be three or four together, you know; I don't know whether they all lived at the same house or not. I never asked.

Q. They came with him; came at the same time and got milk?

A. Yes, there hardly ever would be just one; two or three would come.

Q. Name one of those other children? A. Which?

Q. That came at the time that he came to get milk?

A. Well, I don't know that I could name just positive—I——

Q. Can you name one of those other children?

A. Well, as I named a while ago to him, kids that lived there and would come and get milk.

Q. Well, I want to know the kids that came when he came, that he came with.

A. Well, he would come with different ones.

Q. Well, name those different ones.

A. Well, I couldn't do that; I never asked them; I don't know.

Q. Didn't pay any attention?

A. No, sir, they would get the milk from my wife.

Q. You can't associate him with anybody else except Nancy? A. Who, that kid?

Q. That kid. Can't connect him up with anybody except Nancy? A. No, I——

Q. You can't connect him with any particular house?

A. Up?

Q. You can't connect him up with any particular house?

A. I just saw him there in town.

Q. What direction was that house from Davis and Jones' store?

A. Right west of it, behind it. There was an old lumber yard and these houses back of it.

Q. This house was standing by itself or were others around it?

A. Oh, they were there in—mixed up around it; just a street passing there.

Q. You remember passing the house the day these people were there? A. Who?

Q. The day of the funeral, you remember passing the house?

A. I passed the house every day. Yes, sir, every day, very near.

Q. You remember passing the house the day of the funeral? A. The day they said the kid was dead, yes, sir.

Q. Do you remember a lot of people there?

A. Yes, sir, a crowd.

Q. A number of people and you asked what it was as you were passing?

A. No, sir, I didn't ask. I went up town and somebody said there was a dead kid down there.

Q. You remember the crowd of people?

A. No, I seen them gathering up there.

Q. Can't you see that plain today as it was then? Isn't that the way it occurs to your memory—you can just see that house and see those people out there, don't you? A. No, sir.

Q. You don't remember how it looked, do you?

A. No, sir, that day and time my mind was on——

Q. You just remember what was said, is that all?

A. Who?

Q. You just remember what was said at that time?

A. I just remember they said Tommy Atkins was dead.

Q. You don't remember how it looked? A. No.

Q. The house and the people, and you don't know who the people were, do you?

A. Never paid any attention; just rode by and looked to see——

Q. Don't remember who said this to you? A. No, no.

Q. And don't remember who told you that Tommy Atkins was dead? A. No, no.

Cross Examination by Mr. Stuart.

Q. How old was this child when you first saw it? About how old? A. I don't know; he was a great big kid.

Q. Well about how old would you take him to be?

A. Well, I would take him to be five years old—four or five.

Q. Four or five years old? A. Yes, sir.

Q. Now, what year was it that you first saw him?

A. When I first saw him?

Q. Yes, see if you can get that. What year was it when you first saw him?

A. Well, the first year I moved to Wagoner—I was there about 1900 or—I wouldn't be positive.

Q. About when? A. About 1900.

Q. About 1900? A. Yes, when I first moved to Wagoner.

Q. Now, 1900, that has been 27 years ago, hasn't it?

A. No, sir.

Q. Hasn't it? A. Not quite.

Q. Seventeen—seventeen years ago. You were 28 years old then, were you? A. What?

Q. You were 28 years old then, were you; you are 45 now are you? A. I was 28?

Q. You was 28 years old, then, weren't you? A. Yes.

Q. What? A. Yes, sir.

Q. You were 28 years old and that was the first time that you ever saw the boy?

A. The first time I ever saw him?

Q. Yes?

A. As I say, when he came there to my house, after milk, I don't remember exactly whether that was the first time I never paid no attention to it.

Q. You moved there in 1900 you think?

A. '98 or '99, or 1900.

Q. Well, you have three years latitude, now. Can you get closer than three years? When did you move there as near as you can—what year did you move there?

A. Well, sir, I wouldn't say positively whether it was '99 or 1900; I can't say. I don't remember.

Witness dismissed.

And thereupon, FRANK ENGLES, a witness produced on behalf of the defendants Nancy Atkins, et al., sworn and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name. A. Frank Engles.

Q. What is your age?

A. I will be 55 years old the 10th day of November.

Q. Where do you live? A. Sapulpa, Oklahoma.

Q. How long have you lived in Sapulpa?

A. It will be 17 years the 8th of next August.

Q. Where did you live prior to going to Sapulpa?

A. Wagoner, Oklahoma.

Q. When did you go to Wagoner to live?

A. I moved there in January, 1891, when I moved my family there.

Q. Had you been around Wagoner prior to moving there in 1891? A. Yes, sir.

Q. How long?

A. Well, I lived at Pryor Creek nearly two years and I used to haul lumber from Wagoner up to Pryor Creek to build houses. Used to buy my lumber from John Newberry there.

Q. When did you go to Wagoner? With your family, or ahead of them? A. I went ahead of them.

Q. When did you go there yourself?

A. I came in December '90.

Q. December 1890? A. Yes, sir.

Q. Did you know Nancy Atkins?

A. Well, not right at the time that I moved there. Well, it is just hard to tell the exact month or the time that I was there until I met her; it was along five or six months—something like that.

Q. Do you remember whether you ever saw her in a pregnant condition? A. No, I don't.

Q. Could you say whether or not you met her a short time after you got there or——

A. Well, it wasn't over six months probably, I wouldn't say just the exact month because I don't remember.

Q. Do you know whether or not she had any children?

A. Well, she had a boy around there with her, a small kid, when I saw her.

Q. Did you ever hear her say whose boy it was?

A. Well, now, I couldn't say positively about that it has been so long but the child was with her and I seen her carry it in her arms and lead it around.

Q. How large was it when you first saw it?

A. Well, the best I remember it was about a year old; looked like about a year old child—just beginning to walk.

Q. What kind of looking child was it?

A. Well, sir, it was always a very dirty looking kid. It was kept in a awful shape; I can't hardly describe it. She always kept it very filthy and dirty and ragged.

Q. Now, now often did you see it?

A. Well, after I got acquainted there and got to doing the work at the Brown hotel—I used to—there was hardly a month for six years there that I wasn't working at the Brown hotel at something in the month. I did repair work and built two additions on the Brown hotel and this Nancy Atkins was living in the little servant house there behind the hotel there, a great deal of the time, and she had this kid with her, doing the laundry work and scrubbing of the kitchen and dining room there—the rough work she had around the hotel; and then I put in a butcher shop up town, across the street from Mr. Skrimpsher, and she used to come up there quite often and bring this kid with her, and we would give her meat and things out of the shop to eat. She was kind of a pitiful character and we helped her in such way as we could, you know.

Q. Now, how long did you know this child?

A. I don't remember just the year because I wasn't very much interested in it and how I come to remember her so well was her noted character, her and another woman that was there; what makes me remember the pair so well, was the two noted characters there, her and old High Pockets, they called her.

Q. Do you know what became of this child?

A. No, I don't from my own knowledge.

Q. Did you ever—well, I will ask you, when did you quit seeing the child?

A. Well, now, that would be hard; I know I saw the child there for several years—five or six years after I was there. I can't say positively when I saw it last.

Q. Do you remember of ever hearing of its death?

Mr. German: We object to that on the ground that it is hearsay.

The Court: Sustained.

Q. What time was it with reference to the time that you moved from Wagoner that you saw the child last?

A. That I saw the child last?

Q. Yes. [A.] Well, I left Wagoner in 1901, well, now—it was along in the latter part near 1900, it seems to me like. I can't say just positive.

Q. Did you move to Sapulpa in 1901?

A. Yes, sir, I went over there and me and my oldest son went there in August of 1901 and then, I bought a lot and built my house and moved my family over the 6th day of November, 1901.

Q. You think it was about a year before you——

A. Well, I wouldn't say whether it was a year or a year and a half. I wouldn't say positively.

Q. Something like that? A. Yes, something like that.

Q. Was this child a boy or girl?

A. The one that I saw was a boy.

Q. Was he wearing pants the last time you saw him?

A. Yes, he had pants on the last time I remember seeing him.

Q. What was the general understand- and reputation among the people of the town at that time as to whose child this was?

Mr. German: We object to that as hearsay.

The Court: Objection sustained.

Mr. Maxey: Now, we offer to prove by this witness that during the time that he lived there and knew this child, that it was the general reputation among the people of the town that it was Nancy Atkins' child.

By the Court.

Q. About what years, was it, now, that you were doing the work on that hotel there?

A. I commenced doing the work for J. R. Brown in 1892, three, four, five, six, seven, eight, nine.

Q. All through those years?

A. Clear up to the time I left there.

Q. Now, just about how much of that time was Nancy working at the hotel? I don't want it definite or anything of that kind but just your judgment?

A. Well, in my judgment, I don't think that there was a month during the time that I was working at the hotel that I didn't see her around there.

Q. Well, was she working there?

A. She was doing laundry; lived in the servant's house—a box house right behind the hotel.

Q. On the hotel property?

A. Yes, sir, on the hotel property.

Q. Did anybody else but the boy live there in the servant's house with her? A. Not that I know of.

Q. Well, did the boy stay with her all the time at the servant's house while——

A. Well, he was around the hotel there in the yard all the time.

Q. You say he stayed in the servants house with them, how do you know that?

A. Well, I seen them in there eating together, this boy and Nancy.

Q. Anybody else with them?

A. No, I saw the servants around there with them.

Q. Now, this boy—I wish you would tell me just as near as you can, what he looked like—what was his complexion? Did he look like an Indian, negro, or white boy? Just describe him as near as you can.

A. Well, he was dark as well as I remember him; he was always dirty.

Q. But suppose he was cleaned up; give your judgment as to the color of his hair.

Q. Well, he was very dark complexion as well as I remember.

Q. Well, what was the color of his hair?

A. Well, I can't say positively the color of his hair.

Q. You say he was a dark complexioned boy—do you mean his skin was dark? A. Yes, sir.

Q. Was his hair dark?

A. Well, it seems to me that his hair was kind of brownish yellow—dirty color.

Q. Well, now what impression did he give you as to whether he was white, Indian or negro, or whether he was a mixture?

A. Well, the impression now that I had, thinking as the general public there did that it was her style, that it was an Indian, having an Indian mother, naturally a man would think it was an Indian child. Of course I wasn't—I didn't know who his father was.

Redirect Examination by Mr. Maxey.

Q. Did you ever [] the name of the child?

A. Yes, I have heard it but I don't know it positive.

Q. Did you ever hear Nancy call it anything?

A. Hear her call it son, honey—loving ways; all names like a mother would call her children.

Q. Did you ever hear Nancy say whose child it was?

A. Well, I can't say that positively.

The Court: Says he can't say.

Recross Examination by Mr. German.

Q. Mr. Engles, you first went to Wagoner in 1891, did you say? A. I went there to make it my home?

Q. In 1891? A. Yes, sir.

Q. And you moved away from there in 1901?

A. Yes, sir.

Q. In August? A. Yes, sir.

Q. How long before you left there, was it, that you last saw the child that you are talking about?

A. Well, just as I told you a minute ago, I can't say exactly the year or the month—I don't remember.

Q. What was the last time before you left Wagoner that you did any work on that hotel?

A. Well, it was not so long because I did all the work that has been done after I first moved there and begun to do his work. No other man ever did any work for him.

Q. Was this child around that hotel when you did the last piece of work on it?

A. Well, I can't say, the last piece of work because——

By the Court.

Q. I think we can shorten this a little. Do you have any recollection now that the boy had disappeared as far as you knew before you left town?

A. No, sir, I don't have any recollection.

Mr. German.

Q. Had Nancy disappeared?

A. I couldn't say that; I don't think she had.

Q. You think she was still in Wagoner when you left town? A. Yes—I think she was.

Q. You say that—— The period of time covered by your notice of this boy was five or six years?

A. Yes, all that, maybe more, I don't remember the exact time; I had nothing to——

Q. About what age was this boy when you last saw it in Wagoner?

A. Well, he was a good big chunk of a kid; six or seven years old. Of course, I can't say just his age not knowing but judging from the size of the child——

Q. Now, you say during the entire time that you made repairs on that hotel, during the entire period of time and every time, or approximately every time that you made repairs on that hotel, that Nancy was around there?

A. Well, don't get that every time I had a piece of work there because I would go down sometimes and hang a couple of screens and go back again, but every time that I did work of any note I note—I built additions on to the hotel.

Q. When was it you built the additions?

A. 1895, I built the additions.

Q. Both of them?

A. No, it was two or three years apart.

Q. Well, when was the first addition?

A. The first addition was in '94.

Q. When was the second?

A. Well, that was '97; that was somewheres about that.

Q. What hotel was that?

A. J. R. Brown hotel; big red hotel, a little bit south or southwest of the depot.

Q. Is it there now? A. No, sir, torn down.

Q. Was it there when you left Wagoner? A. Yes, sir.

Q. Every time that you ever noticed Nancy was at that hotel?

A. No, sir, I couldn't say—I didn't say that; I saw her all over town.

Q. Did you know—did you ever know her to live any place but in that shack back of that hotel?

A. She used to stay in a tent over back of Davis and Jones store.

Q. When?

A. Well, I can't name the time but during the time I had known her. She would go over there and stay a week or two; maybe sometimes she would quit the hotel for a week. She was a character that gadded around a good deal all over town, quite a noted character.

Q. You say you lived near Wagoner?

A. I lived at Pryor Creek.

Q. Pryor Creek? A. Yes, sir.

Q. Did any work in Wagoner before you moved to Wagoner?

A. Nothing, only built my own residence; I came down and built my own residence.

Q. When did you start your residence? A. 1891.

Q. 1891? A. Yes, sir.

Q. Then, you moved there in '91?

A. Moved my family there.

Q. The first time that you ever saw this child did it have on dresses? A. Had dresses on, yes, sir.

Q. Short dresses or long? A. Short dresses.

Q. How old was it?

A. I judge a year, I couldn't say exactly.

Q. What time in 1891 did you move there?

A. Moved there in January.

Q. Where was Nancy working the first time you ever saw that child?

A. Well, I don't know that I could just name that place unless a man would take a notebook and was looking for something like this; I couldn't say, but it was in Wagoner.

Q. Was it at the hotel?

A. No, I wasn't working at the hotel the first year I was there.

Q. How long had you been in Wagoner before you saw Nancy?

A. Oh, I judge five, six, or seven months before I got acquainted with her, might have been here before but I didn't know her.

Q. Now, Mr. Engles, when did you first think about this matter in recent years?

A. Oh, she has appeared to me a thousand times but I never gave it any thought or study until about two years ago.

Q. Who first came to see you? A. Mr. White.

Q. Jim White? A. Yes, sir.

Q. Of Coweta? A. Used to be of Wagoner.

Q. You have known him intimately?

A. I have known him ever since a year or two after I went to Wagoner.

Q. How long did Mr. White talk to you about it the first time?

A. He just asked me if I knew about Nancy Atkins, and I told him I remembered her.

Q. Did you tell him you remembered her well?

A. Yes, I told him I remembered her.

Q. How long was he in conversation with you?

A. I suppose about five minutes.

Q. Was that all he stated to you?

A. Yes, sir, that was over at Sapulpa when he asked me that.

Q. That was over at Sapulpa? A. Yes, sir.

Q. Did you testify over there? A. Yes, sir.

Q. Now, you testified over there you didn't know the name of the boy?

A. I didn't say what it was, you watch and see.

Q. Yes, sir, I am asking you?

A. No, sir, I didn't know the name of it.

Q. You don't know whose child that was?

A. Nothing only what she said. The child was with her all the time.

Q. I thought you said that you didn't remember?

A. The child was with her and she always called it pet names.

Q. You just conclude that?

A. Yes, I told you a while ago I didn't know whether it was her child because I wasn't at the wake.

Q. Did you know the Birney negroes?

A. Yes, I used to know them.

Q. They had some children in their family?

A. I suppose so, most all colored people do.

Q. Were there any boys? A. Yes.

Q. Any girls? A. Yes.

Q. What was their names? A. I do not know.

Q. You don't know? A. No, sir.

Q. Well, you saw Nancy running around or saw all of those children going around with Nancy?

A. Well, I don't think I did ever see them running around with her very much. I couldn't say whether I ever did or not.

Q. Well, refresh your memory now, let's see if they didn't go around with her?

A. I say I don't remember, they might have done it, I don't know.

Q. Did you know the Williams family there, colored people? A. Might have known them but I don't remember.

Q. Did you know Joe Birney, a little boy child?

A. Not that I remember.

Q. Can you say that you ever saw any other children running around with Nancy at any time there?

A. Oh, I have seen her playing with little girls at the hotel; she used to take them out on a bicycle to teach them to ride.

Q. What did she call those girls? A. I don't know.

Q. Did she call them pet names? A. I don't know.

Q. She probably said honey so and so?

A. She might have, I don't know.

Q. In fact, don't you remember to have heard her do that? A. No, sir, I don't.

Q. Now, it was in 1897 that you built the last addition to that hotel? A. Yes, sir.

Q. And Nancy was there then? A. Yes, sir.

Q. In that house back of the hotel?

A. Yes, sir, she was working there and was scrubbing the floor. One incident that makes me remember that so well was—— I will just tell that.

The Court: Yes, I will be glad to hear it.

A. I was taking out the old refrigerator between the dining room and the kitchen and had it all torn out but one side; and there was one or two drummers there that day. And the old man always gave me my dinner when I was working there. There was a rat about half grown, the cat chased it out and it run up the fellow's breeches leg, and we tore the fellow's breeches to get it out. And old Nancy was there with a broom running around.

Q. You say Nancy was fighting the rat with a broom?

A. Yes, sir, and there was a little house dog and cat chased the rat and it was so close it run up the fellow's breeches leg.

Q. Was that known as the Barnard Hotel?

A. No, sir, that was north of there.

Q. Was that known as McAnnally's?

A. No, sir, it was J. R. Brown's Hotel.

Q. J. R. Brown's Hotel? A. Yes, sir.

Q. And this child was there then?

A. I didn't say I saw the child that day. I say Nancy was there.

Q. Oh, Nancy was there? A. Yes, sir.

Q. Did you know about Nancy keeping some children of Minnie Atkins there, did you know that?

A. I never heard of Minnie Atkins until this case come up.

Q. And you never knew of her?

A. No, sir, never heard of Nancy Atkins until this case.

Mr. Maxey: You mean Minnie?

A. Minnie, I mean Minnie Atkins.

Q. Don't you know now, just to refresh your memory, that in 1896 Nancy had a boy there by the name of Charlie?

A. No.

Q. And she kept him for two or three years?

A. I don't remember.

Q. You do not? A. No, sir.

Q. Never was with her while you saw her?

A. Not of that description, no I don't know anything about that part of it.

Cross Examination by Mr. Stuart.

Q. You didn't know a boy down there with Nancy by the name of Harvey?

A. No, Judge, I don't remember any of the names that the kids went by.

Q. Well, now, how old are you?

A. I will be fifty-five years the tenth day of this coming November.

Q. That has been how long ago? Since you went there, twenty-six or twenty-seven years?

A. Twenty-six or twenty-seven years.

Q. You were about thirty years old? A. Yes, sir.

Q. You worked about that hotel a good deal? A. Yes, sir.

Q. Nancy worked in the laundry?

A. She did the laundry, she just washed out of a tub.

Q. Did you talk with her any in the laundry?

A. Oh, passed along by there and probably spoke to her.

Q. Did you go in the laundry? A. She didn't have any laundry, it was just a little kind of shed.

Q. Well, did you go into the shed?

A. I expect I went in there.

Q. Went in there and talked with her? A. No.

Q. Well, how is it after nearly thirty years you can remember these endearing names that she called that child; why does that impress itself on you, honey and baby?

A. Because I heard her.

Q. Did you ever hear anybody else call children honey and baby? A. Every place I go, yes, sir.

Q. They all call them honey and baby? A. Yes, sir.

(Witness dismissed.)

United States Circuit Court of Appeals.

EIGHTH CIRCUIT.

NO. ____________

United States of America, - - - - - - - - - - ***Appellant,***

vs.

Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as Guardian of Nancy Atkins, an Incompetent, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, - - - ***Appellees.***

NO. ____________

Nancy Atkins, H. A. Ridgway, Guardian of said Nancy Atkins, an Incompetent, Robert L. Rutherford, and A. L. Ferguson, Administrator of the Estate of James A. Ferguson, Deceased, - - - - - - - - - - - - - - - ***Appellants,***

vs.

United States of America, Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy,

Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, *Appellees.*

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

Pleas and proceedings before the Honorable Ralph E. Campbell, Judge of the District Court of the United States for the Eastern District of Oklahoma, presiding in the following entitled cause:

UNITED STATES OF AMERICA,

Equity *vs.* **No. 2131**

MINNIE ATKINS, *et al*.

VOLUME IV.

Statement of the Evidence *(Continued).*

And thereupon, W. A. McELROY was called and sworn as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. W. A. McElroy.
Q. What is your age? A. Forty-nine.
Q. Where do you live?
A. I live in Jennings, Pawnee County, Oklahoma.
Q. Did you ever live in Wagoner, Oklahoma?
A. I used to live west of Wagoner up close to Coweta.
Q. What year did you live there?
A. I lived there from 1889 to 1901.
Q. Did you ever live in the town of Wagoner?
A. No, sir, I never did.
Q. What was your business when you were up there?
A. I was in the cattle business, pasture business.
Q. Did you have occasion to be about Wagoner very much? A. Yes, sir, I was there a good deal.

Q. Did you ever know Nancy Atkins? A. Yes, sir.

Q. When did you first get acquainted with her?

A. Well, I used to see Nancy around before I saw her at Wagoner. Then I saw her at Wagoner.

Q. Do you remember about the first time you saw her in Wagoner?

A. I think the first time was somewhere about 1890.

Q. Did you ever see her in a pregnant condition?

A. No, sir, don't know that I ever did.

Q. Do you know whether she ever had a child?

A. Well, the report there was once that she had a child.

Mr. German: Wait a minute.

The Court: Never mind what the report was. Do you know of your own knowledge?

A. Well, I know this: They taken up a collection for her, and said she had a child behind Davis and Jones Store, but I wasn't out there.

Q. About when was that? A. I think about 1890.

Mr. Cruce: We move to exclude the statement about taking up a collection—— I will withdraw the objection.

Q. Where was the collection taken up?

A. Taken up there at Davis and Jones store.

Q. Did you ever see the child?

A. Not for a while; I seen it around there with Nancy afterwards, or that she said was her son, I understood it was hers.

Q. Did you ever talk to her about it?

A. No, sir, I don't know that I ever did.

Mr. German: We move to strike his answer as to what he understood.

The Court: As to what he understood will not be considered by the Court.

Q. How often did you see it with Nancy?

A. I was there about every six months for several years and I saw it around town there nearly every time I was there.

Q. About how large was it the first time you ever saw it?

A. Well, the first time I ever saw it was around Davis and Jones store or on the street around Bill Smith's Drug Store; sometimes it was on the street with Nancy.

Q. Did you ever see it around with Nancy?

A. Yes, sir, I saw it in Davis and Jones Store with Nancy.

Q. How many years did you see it around there?

A. Well, off and on until I left there in 1901.

Q. About how large was it? The last time you saw it, what age would you take it to be?

A. I take it to be seven or eight years old.

Q. Do you know what became of the child?

A. No, sir, I don't.

Q. Do you know what the general reputation, or repute in the town there amongst the people was as to whose child it was?

Mr. German: We object to that.

The Court: You may answer that yes, or no. You are asked whether you know what the general reputation was there as to whether it was Nancy's child. Now, general reputation. You may answer yes or no.

A. Yes.

Q. That is made up by what people say about it.

The Court: All right. Put the question.

Q. What was that general reputation?

Mr. German: We object to that as hearsay.

The Court: Sustained.

Mr. Maxey: Now, we offer to show by him that it was the general reputation in the town there among the people who lived there at that time, that this child he has described was Nancy Atkins' child.

The Court: In a good many instances where your profert has been made the record doesn't show that the witness could have answered.

Mr. German: Very frequently he has simply asked what was that reputation.

The Court: Well, we will not take up any further time.

Q. Do you remember what the name of this child was?

A. Yes, always understood it was Tommy Atkins.

Cross Examination by Mr. German.

Q. You understood it to be Tommy Atkins?

A. Yes, sir, that is what they called it around Betsy Birney's.

Q. Where did Betsy live?

A. She lived right back of Davis and Jones Store.

Q. You went around there very frequently, didn't you?

A. Well, I had to, yes, sir.

Q. Why?

A. Well, I had three niggers that was working for me and they used to keep there a great deal and I had to go by there to get them.

Q. What were those negroes names?

A. Sam Wood, Jim Pipp and Atwood ———.

Q. What years were you there? A. 1896, '7, and '8.

Q. And then was the first time you learned his name?

A. No, I saw the child around there before that.

Q. I am asking you if it wasn't when you first learned its name? A. Well, I don't know.

Q. Well, didn't you assign that as the reason you remembered its name?

A. Yes. It was known amongst the boys as Tommy Atkins?

Q. That is all you know? A. Yes, sir.

Q. Now, these boys working for you in 1896, '7 and '8, isn't that the time that you first learned its name?

A. Well, I expect it is.

Q. Was Nancy living there?

A. I couldn't say she was, I saw her around there a good deal.

Q. Did the boy live at Betsy Birney's?

A. That is my understanding.

Q. All the time? A. I couldn't say that.

Q. That is the only place you ever saw him in a house?

A. Yes, sir.

Q. That wasn't back of the Brown Hotel?

A. Well, you might say it was back of both of them.

Q. Right by the side?

A. No, it was kind of to the back.

Q. How far from the store?

A. A hundred and seventy-five or two hundred yards.

Q. Faced the same way as the store did? A. Yes, sir.

Q. And back of the store and back of the hotel were these negro houses? A. Yes, sir.

Q. Including these negro houses? A. Yes, sir.

Q. What other negro houses? A. Oh, a number.

Q. Any shacks back there?

A. Yes, sir, I think there was.

Q. Who occupied them?

A. I couldn't tell you that because I wasn't around any of them.

Q. There were a number of colored children around there?

A. Yes, sir.

Q. Name some of those colored children?

A. Well, I don't know that I could outside of Dick Birney.

Q. Name them? A. I couldn't do it.

Q. What sized boy was Dick Birney when you first knew him? A. Twelve or fifteen years.

Q. When was it you first learned who he was?

A. Well, when I was going back there after those niggers.

Q. In 1895, '6 and '7 or '8, is that right? A. Yes, sir.

Q. Now, how many other negro children were back there?

A. I couldn't tell you. Seven, eight or ten sometimes maybe.

Q. Who did they live with? A. Couldn't tell you that.

Q. How many of them lived with the Birney's?

A. Couldn't tell you that.

Q. About?

A. Well, I don't know how many lived at Birney's.

Q. What was the name of some other children back there?

A. Couldn't tell you.

Q. Well, these boys called the names of all of those didn't they?

A. Well, I expect they did. I would just go by old Betsy's and Dick and get the boys that were working for me.

Q. You are unable to call the names of any other children that they called? A. I can't remember.

Q. When was it you first talked about this boy lately?

A. Well, I don't know when was the first time.

Q. You have talked to some one about it lately, haven't you? A. No, I don't know that I have.

Q. How come them to bring you here as a witness?

A. Well, I have talked to Jim White and the lawyers.

Q. When did you first talk to Jim White about this?

A. Oh, I expect two years ago.

Q. Where? A. At Jennings, Oklahoma.

Q. Jim come over there to see you? A. Yes, sir.

Q. How long did he stay with you?

A. Oh, I think he stayed over night probably.

Q. Talked with you that night about this case?

A. Yes, sir.

Q. Told you what he was trying to do?

A. No, he told me he had a lease on this place.

Q. Told you about Nancy having a boy named Tommy?

A. Well, I already knew that, knew she had a boy; he told me he had a lease on the Tommy Atkins place.

Q. He told you it was important for him to prove that it was her boy? A. Yes, sir.

Q. And that his name was Tommy? A. Well, yes.

Q. And he also told you some folks said she had a child that was born dead? A. Well, I don't know.

Q. He didn't tell you about that? A. No, sir.

Q. When did he talk with you again about it?

A. Well, I saw him at different times.

Q. How many different times since that first time?

A. Well. I have saw him several times.

Q. Did he come over there to see you any more?

A. He was over there two or three weeks ago.

Q. And talked with you again about it? A. Yes, sir.

Q. Did he refresh your memory as to anything else at that time? A. No, sir.

Q. Tell the Court where Nancy Atkins worked in Wagoner? A. Where did she work in Wagoner?

Q. Yes?

A. I never saw her any place only around old Betsy's.

Q. Where was Dick's store?

A. Across the road from Davis and Jones.

Q. Did you know Nancy well?

A. No, just when I saw her around Wagoner, Coweta and around here.

Q. Talked with her frequently? A. No, sir.

Q. You don't know of any place that she worked besides in Dick Birney's restaurant? A. No, sir.

Q. When did he quit running that restaurant?

A. Don't know that.

Q. When did you first know him to run it?

A. Well, about 1886.

Q. How long did he run it about?

A. I couldn't tell you that.

Q. About how long? A. He was running it in 1897.

Q. Well, Dick wasn't living with Betsy at that time?

A. Couldn't tell you that. The boys used to eat there. They were both in town.

Q. Did you know about Nancy working at the Barnard Hotel, you didn't? A. No, sir.

Q. And at Brown's Hotel? A. No, sir.

Q. And at McAnalley's Restaurant a good deal?

A. No, sir.

Q. And for some white families?

A. I couldn't tell you about that.

Q. When was the last time you ever saw Nancy in Wagoner? A. Well, I think about 1889.

Q. You mean 1899? A. '99, yes, sir.

Q. When did you leave Wagoner?

A. I left there in March, '91, I think.

Q. March, 1901, you mean? A. Yes, sir, 1901.

Q. And the last time you saw her was probably in '99?

A. About ninety-nine.

Q. What was the color of this boy's hair?

A. I think it was tolerable light.

Q. What was the color of his eyes?

A. I couldn't tell you that exactly, I never paid much attention.

Q. How old was he the last time you saw him?

A. Seven or eight years old.

Q. Seven or eight years old in 1899, is that right?
A. Something like that, yes, sir.
Q. Do you know of any other children that ever—— Did this child run around with Nancy?
A. Well, I saw him there on the street with Nancy.
Q. And what other children did you see with her?
A. I don't know.
Q. Did you ever see this Joe Birney with her?
A. Yes, I have seen Dick with her.
Q. Seen all of these boys with her?
A. Yes, I have seen two or three with her, yes, sir.

Cross Examination by Mr. Stuart.

Q. You didn't know Nancy but very slightly? A. No, sir.
Q. Just knew her when you saw her?
A. Yes, sir, talked to her. Never had no long talk with her.
Q. Never had a long talk with her? A. No, sir.
Q. And the only place you ever saw her work was at Birney's? A. Yes, sir.
Q. You paid no attention to her except when you saw her?
A. That is all.
Q. How much did you give in 1890 about this baby that Nancy had?
A. I don't remember just what I did give, but they taken up a collection.
Q. You didn't know whether it was to bury Nancy's baby or not?
A. Well, they said she gave birth to a baby back of the store and was in bad condition.
Q. She had given birth to a child and the child was dead and that she was in a destitute condition, that is the way that occurred?
A. I couldn't say whether the child was dead or not.
Q. But it was reported that she was in a destitute condition? A. Yes, sir.
Q. And that was in 1890? A. About that year.
Q. About that year? A. Yes, sir.
Q. You don't know who took up that collection?
A. It was one of the Childers.
Q. One of the Childers took up that collection?
A. Yes, sir.
Q. And you never saw Nancy staying at any place or around any place of abode except the Birney's?
A. No, sir, I don't believe I ever did.
Q. And your recollection with reference to that child is very hazy? A. Well, that collection——

Q. I am talking about the child. Your recollection about the appearance of that child is very hazy? A. Yes, sir.

Q. You couldn't for the life of you tell what that child looked like now, could you? A. No, sir.

Cross Examination by Mr. Hanford.

Q. You say these men that worked for you stayed at Betsy Birney's?

A. They taken their meals there when they was in town.

Q. And you used to go down to her house to get them to take them in the country? A. Yes, sir.

Q. And Betsy Birney lived there with her children at that time in 1896, 1897, and 1898? A. Yes, sir.

Q. And you have no recollection of this boy prior to the time you saw him there at Betsy Birney's? A. No, sir.

Recross Examination by Mr. German.

Q. Do you know Dave Marshall? A. Yes, sir.

Q. He was a clerk for Davis and Jones at the time of this collection?

A. Well, I couldn't say. He worked there a good deal.

Redirect Examination by Mr. Maxey.

Q. Mr. McElroy, I meant to ask you about the appearance of this child. About his color and what nationality did he appear to be?

A. He always appeared to me to be an Indian and white child. Had tolerable light hair.

Cross Examination by Mr. Stuart.

Q. I thought you told me the last thing that for the life of you you couldn't tell how that child looked?

A. How is that?

Q. I thought you told me that for the life of you, you couldn't tell how that child looked?

A. Well, I understood you to mean what that child looked like now.

Q. Have you seen the child lately?

A. No, sir, I haven't seen it lately.

Mr. Stuart: Well, all right.

Cross Examination by Mr. German.

Q. Now, the first time you ever noticed the child was in 1896, '7, and '8, along there when those boys were at the house of the Birney's? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. How old was the boy then?

A. I took him to be seven or eight years old.

Q. Was he tall and thin or kind of dumpy?

A. Tolerable slender.

Q. Bright looking boy? A. Tolerable bright, yes, sir.

Q. Healthy? A. Yes, sir.

Q. Ruddy cheeks? A. Tolerable well looking boy.

Q. I say rudddy cheeks, showed color in his cheeks?

A. Yes, sir.

Q. Kind of a sharp nose?

A. Well, I can't tell you that, he didn't have a fat nose like a nigger.

Q. Had a good nose? A. Yes, sir.

Q. And good hair? A. Yes, sir.

Q. How many boys were around Birney's that you can describe?

A. Well, I don't know that I can describe any particular—most of them——

Q. Dick was a nigger, wasn't he? A. Yes, sir.

Q. Any trouble describing Dick? A. No, sir.

Q. Because you know how a nigger looks?

A. I had seen Dick, too.

Q. What was that?

A. I saw Dick here the other day.

Q. So you can describe Dick? A. Yes.

Q. If you can *told* about any child that is half Indian and half white you can describe him, too, can't you? A. Sure.

Q. You know how a half Indain and half white looks?

A. Yes, sir.

Q. So, that child was seven or eight years old in 1896?

A. Something like that.

Q. Well, a while ago you said seven or eight years old in 1899. Is he seven or eight years old every time you saw him?

A. Well, the last time I saw him he was seven or eight years old then.

Q. Then, he wasn't seven or eight years old in 1896, was he? A. No.

Witness dismissed.

And thereupon, J. M. PRESTON, introduced as a witness on behalf of Nancy Atkins, et al., sworn and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. J. M. Preston.

Q. What is your age, Mr. Preston? A. I am 54.

Q. Where do you live? A. Wagoner, Oklahoma.

Q. How long have you lived in Wagoner?

A. Twenty-three or four years.

Q. Do you remember what year you went there?

A. I went there in 1903, I think, three or four.

Q. 1903, or 1893? A. 1893 or four—that is right.

Q. Did you ever know Nancy Atkins? A. Yes, sir.

Q. What is your business?

A. Why I am a building contractor; contracting building.

Q. What were you doing along in 1893 or four when you went there?

A. Well, I was working at a lumber yard then, work was scarce then and I had to get work at anything that I could get.

Q. Did you know Nancy Atkins at that time?

A. Yes, not when I went there but afterwards.

Q. How soon after you went there did you get acquainted with her?

A. Well, it was '94, or '95 when I first knew Nancy Atkins.

Q. You know whether or not she had a child?

A. She did.

Q. What kind of a looking child was it?

A. Well, it was a sort of—looked like a medium healthy—

The Court: How was that?

A. Medium healthy; he looked to me like he might be some where from five to seven years old and light complected and he had a—he wasn't white headed, he wasn't red headed; he had what I would call a molasses hair and little bit wavy.

Q. Where did you see the child?

A. I saw him in the Davis and Jones camp yard back of their store.

Q. What was the child called?

A. Tommy, that is what they called him; what his mother called him.

Q. Did you ever talk with Nancy about the child?

A. Yes, some.

Q. What did she say about it as to whose child it was, if anything?

A. Well, she said that he was her child. I told her that wasn't what I asked her, who was his daddy, and she said well, you might know, or something to that effect that he was a white man's child.

Q. Well, now, how often did you see it around there?

A. About a week?

Q. About a week?

A. Yes, I got my wages and quit work there.

Q. When did you leave there?

A. Well, sometime in the winter of '94 or '95.

Q. Now, how old did the child appear to be at that time?

A. Well, I would have taken the child to have been somewhere about—anywhere from five to six years old; might have been seven. It seemed that he was a kind of dwarf—wasn't a healthy child and might have been small for his age.

Q. Now, after you left the lumber yard, did you see the child any more?

A. No, sir, not that I remember. They passed out of my mind. I was making a living and never mixed up with that class of people.

Q. Did you ever see the child anywhere than in Davis and Jones' store?

A. I never saw him in there that I remember.

Q. Where was it that you——

A. In Davis and Jones' camp yard and we were using it, the camp yard, as a lumber yard at that time.

Q. They had a camp yard back of the store? A. Yes.

Q. And you used the camp ground at that time?

A. Yes, sir, they used it as a kind of a accomodation for farmers and let this man move his lumber yard in there, and she lived back there somewhere, and she came in through a little gate—hatch, in the fence when I saw her and noticed her.

Q. Do you know what become of the child?

A. I don't; only by what I heard.

Cross Examination by Mr. German.

Q. How long have you lived in Wagoner?

A. Since about '93 or '94—1893 and four.

Q. Right there in town?

A. Right in the town except months that I moved away about 12 years ago and went to Texas; I went back and bought my old home again.

Q. The first time you ever saw this boy that you are talking about was in the lumber yard? A. Yes, sir.

Q. And where was that lumber yard?

A. It was in the rear of Davis and Jones' Mercantile business.

Q. How long did you work in that lumber yard?

A. About a week, I think; five days probably.

Q. And where else did you see him? A. Never saw him.

Q. Never saw him? A. Not that I remember.

Q. In your life? A. No, sir.

Q. That you recollect? A. No, sir.

Q. Except in that lumber yard? A. No.

Q. During that week, how often did you see him during that week? A. Oh, I saw him every day, I think.

Q. Every day during that week?

A. He was there in my way several times, running around there; a little dirty thing.

Q. How many different times did you ever work in that lumber yard? A. That was the only time.

Q. Now, what year was that? A. 1894 or '95.

Q. How do you fix that year?

A. Well, just by the time that I went there.

Q. When did you go there?

A. I went there in '93 or '94.

Q. Don't you know what year you went to Wagoner?

A. No, I don't; it has been so long.

Q. Well, where did you go from to Wagoner?

A. Which?

Q. Where did you go from to Wagoner?

A. Muskogee, below Muskogee here.

Q. What were you doing before you went to Wagoner—what was your business?

A. I bought a lease and farmed one year.

Q. And farmed? A. Yes, sir.

Q. Did you farm more than one year?

A. I farmed partly two years and the first year I came here——

Q. How old were you when you went to Wagoner?

A. About 38—about 28.

Q. Had you ever done any carpenter work before you farmed that year that you speak of?

A. Not here, I had done some stone work.

Q. How long had you been in the farming business?

A. I farmed two years, that is, and worked out together with my trade.

Q. Do you mean to tell the Court that your removal to Wagoner when you entered into the contracting business, the date of your removal theer didn't make any impression on your mind so that you can tell what year it was?

A. Not at all, not at all.

Q. Well, you entered on a new life, new profession, didn't you? A. Yes, sir.

Q. And you don't remember what year it was?

A. Not exactly.

Q. How long after you went to Wagoner, was it, that you [] in this lumber yard? A. About two years.

Q. About two years? A. Something like that.

Q. If you went to Wagoner in '94, you were in the lumber yard in '96? A. '95 or '96.

Q. I say, if you went to Wagoner in '94, you were in the lumber yard in '96? A. '95 or '96.

Q. This child was with Nancy there? A. Yes, sir.

Q. The child that you have described? A. Yes.

Q. Did it have on dresses?

A. No, it didn't have on anything much; might been in pants.

Q. Didn't she call it Harvey or Charlie?

A. Not to me; she might have but not to me.

Q. Not to you? A. No.

Q. Didn't she speak of her sister Minnie?

A. Never heard of Minnie.

Q. You never heard of her? A. No.

Q. You knew Nancy, though, from the time you went to Wagoner until she left there? A. No.

Q. You didn't see Nancy? A. No.

Q. Around town? A. Not that I remember of.

Q. Weren't you around town quite a lot?

A. Not a great deal; the town was small then and I stayed on my work and never mixed up with such people.

Q. Wasn't Nancy quite a character, the talk of the town?

A. I didn't know it at that time.

Q. When did you find it out?

A. Just since I have been here in this case.

Q. Since you have been in this case?

A. Yes, sir; then I knew in my own knowledge that she—

Q. Who was the first person that you talked with about this case? A. I don't remember who I talked with.

Q. Well, do you know Jim White? A. I know Jim White.

Q. Did you talk with him? A. No, not to——

Q. You haven't talked with Jim?

A. The first talk I had with Jim was when he had a subpoena for me.

Q. Well, how did you find out that you knew anything?

A. I don't know just by my being an old timer there, I suppose.

Q. Well, who subpoenaed you? A. Mr. White.

Q. Mr. White. He talked to you then, didn't he about this matter?

A. No, I don't think he—he was in a hurry, I don't reckon he said a dozen words.

Q. Since you were subpoenaed, who has talked with you about what you are going to testify?

A. I don't know, no one in particular except the lawyer asked me as lawyers what they expected to prove of me and so on.

Q. Well, wasn't the color of that child's hair between the color of butter and color of molasses?

A. That child's hair was between the color of white and red. Now, you can make any color out of it you want to, I am not much of a painter.

Q. You could make black out of that couldn't you?

A. No.

Q. Is that sort of molasses, is that the common expression with you? When is the first time that you ever heard that?

A. Common expression? I have knowed of molasses color all my life.

Q. Did you ever hear of anybody else saying molasses hair color? A. I don't remember.

Q. You don't recollect it?

A. No, I don't recollect it.

Q. Now, think just a little bit. Did you ever hear any body else [] that hair was molasses colored in your life?

A. I may have, yes.

Q. Who? A. I don't know; I can't say.

Q. Well—— A. General expression.

Q. General expression?

A. Between a white and a red, little lighter than Mr. Allen's hair would be molasses hair.

Q. Why, didn't somebody talk to you about this in 1914?

A. 1914? No, sir.

Q. Are you sure of that? Didn't you make an affidavit March 20th, 1914?

A. March 1914? Yes, I made an affidavit once upon a time.

Mr. Maxey: Talk out a little louder.

A. I made an affidavit.

Q. Well, then, you are mistaken, aren't you, about when somebody talked to you about it? Who did you talk with before you made that affidavit?

A. I talked with—I don't know who he was. I believe it was Harrison Cunningham; I don't know the man.

Q. Well, have you read that affidavit over? A. No, sir.

Q. In the last two or three days? A. No, I haven't.

Q. Sure of that?

A. Well, let's see. Yes, I saw that affidavit, I think.

Q. When? A. I aint sure; probably yesterday.

Q. Probably yesterday? A. Yes.

Q. Now, you say that boy was from five to seven years old? A. Somewhere from five to seven I judge.

Q. Well, you didn't refresh your memory good from the affidavit, did you?

A. I don't know; I was going on my knowledge.

Q. Now, when you was there, when you saw this boy it was either in '95 or '96? A. Yes.

Q. And didn't you say in that affidavit that the boy was four or five years old? A. I think I did.

Q. Yes, sir. Well, now, why do you change it now?

A. Well, I don't change it, I still say——

Q. Still say it was four or five years old? A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. Were you pretty well acquainted around Wagoner at that time? A. Tolerably, yes, sir.

Q. You knew that darkies lived there pretty well?

A. Yes, sir.

Q. Did you know Jim Williams?

A. I know Nora Williams.

Q. Never heard of Jim Williams? A. No, sir.

Q. Did you ever hear of Jim Williams restaurant?

A. I have heard of it.

Q. Well, didn't you ever see Jim Williams' restaurant when you was in Wagoner? A. Not that I know of.

Q. Wasn't that a notorius restaurant there—that old Jim Williams ran? A. I can't say.

Q. Can't say? A. No, sir.

Q. Did you ever hear of Elnora Williams? A. No.

Q. Did you ever hear of Eliza Sterling? A. No.

Q. Ever hear of Angelina Moody? A. I heard of Moody.

Q. Do you know her? A. No, sir.

Q. Did you ever hear of Patsy Overton? A. No, sir.

Q. Did you know her? A. Knew the name.

Q. Did you ever hear of Betsy Birney?

A. Heard of her.

Q. Did you know her? A. No, sir.

Q. Did you ever hear of Henry Kidd? A. Yes, sir.

Q. You knew him? A. Yes, sir.

Q. What did Henry do? A. He ran a blacksmith shop.

Q. The truth about the matter is that you never did know anything about the colored people over there, did you?

A. No, I never mixed much with them.

Q. You never mixed with them and didn't know anything about them but Nancy did mix with them, didn't she?

A. I don't know.

Q. Didn't Nancy associate with the colored people?

A. I couldn't say; I saw her right there in the lumber yard.

Q. You just saw that woman—just glanced at her as an Indian woman, didn't you? A. No.

Q. Paid no attention to her?

A. No, she came out to where I was.

Q. What did she come out to you for?

A. I don't know.

Q. Did she hunt you up?

A. I don't know; the boy was out there.

Q. She didn't—I didn't ask anything about the boy. Nancy came out there to hunt you up? A. No.

Q. What was she doing there? A. I don't know.

Q. Do you know what month she was there? A. No.

Q. What was she doing there? A. I don't know.

Q. Do you know what year she was there?

A. I can't say for sure.

Q. You saw her once at the lumber yard?

A. I saw her several times.

Q. What did she come out to the lumber yard for?

A. Passing through there—going into the store.

Q. Did she stop at your lumber yard? A. Once or twice.

Q. For a talk with you? A. Not particular.

Q. Not particular. Did you have a general talk with her?

A. No, didn't have a general talk.

Cross Examination by Mr. Hanford.

Q. Do you remember when the Creeks got their payment in '95? A. '95?

Q. Don't you remember the Creek Indian payment?

A. I remember a payment at Fort Gibson.

Q. Do you remember a payment at Okmulgee?

A. I have heard of it probably.

Q. You don't remember when that was?

A. No, I was making my own living and attending to my own business.

Witness dismissed.

And thereupon, D. W. BEST, being called as a witness on behalf of the defendants, Nancy Atkins, et al., sworn and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. D. W. Best.

Q. Where do you live, Mr. Best? A. Wagoner, Oklahoma.

Q. How old are you?

A. I will be 66 next birthday, the 30th day of November coming.

Q. How long have you lived in the town of Wagoner?

A. Since '95.

Q. 1895? A. Yes, sir.

Q. Did you know a woman by the name of Nancy Atkins when you lived in Wagoner? A. Yes, sir.

Q. How soon after you went there did you get acquainted with——

A. Oh, a short time, I can't say exactly what length of time it might be; a short length of time, anyway. Probably during '95—1895.

Q. Do you know whether or not she had a child?

A. Yes, sir, she had a child I supposed to be hers; I was told it was supposed to be hers.

Q. What kind of looking child was it?

A. Well, he was a little swarthy fellow; Oh, I don't know whether you'd call him mulatto, nigger, part Indian or what he was. Anyway, he was not a white child.

Q. About how old was he when you first saw her?

A. I judge him to be between four and five years old; possibly older than that, I can't tell exactly.

Q. Where did you see him the first time?

A. The first time I seen him was on Cherokee street in front of a blacksmith shop known as John Easton's.

Q. Who was with him?

A. The mother, the first time I seen him to know who he was, or her either.

Q. Did you talk with her at that time? A. I did not.

Q. How often did you see him there after that?

A. Oh, frequently; I couldn't say how often, different times though, first and last.

Q. About how long did you continue to see him?

A. Up until—sometimes, I think, in 1908.

Q. Until 1908?

A. 1898, maybe up to 1900, I am not sure. It was something I paid no attention to.

Q. Do you know what became of him?

A. I am told he died, sir.

Mr. German: We move to strike that.

The Court: That will not be considered; never mind about what you heard.

Q. Do you remember about the time that you heard that he died? A. Yes, sir.

Q. As to what year it was?

A. Well, to the best of my recollection, that it was in 1909—1899, I should say.

Mr. German: Your Honor, that is incompetent.

The Court: Yes, that is incompetent as to what he heard.

Mr. Maxey: I was trying to get the date, that is all.

Q. About how old was he the last time you saw him?

A. If I remember right, he was something like nine years old, between nine and eleven—something along there. I can't judge his age, Judge, because I am not familiar with him enough to know.

Q. Was there a general reputation in the town of Wagoner at that time among the people who lived there as to who this boy's mother was?

The Court: Now, yes or no.

A. Yes, sir.

Q. According to that general reputation, whose child was it? A. Nancy Atkins.

Mr. German: Objected to.

The Court: Objection sustained.

Mr. German: I move to strike the answer.

The Court: Answer stricken.

Mr. Maxey: Now, we offer to prove by this witness that there was a general reputation in the town of Wagoner at the time among the people who lived there at that time as to who was the mother of this child and that according to that reputation Nancy Atkins was its mother.

Cross Examination by Mr. German.

Q. When did you go to Wagoner? A. 1895.

Q. '95? How do you fix that date?

A. I moved there in that year.

Q. And you know when you moved there?

A. Yes, sir, I do.

Q. What time of the year?

A. I think February, sometime about February first.

Q. How long after you moved there was it that you first saw this boy?

A. Well, sir, I can't fix the date exactly but I think as well as I remember it was during the forepart of the year, possibly as late as April. May not [] that late.

Q. Did you know Nancy before that?

A. I had not, sir.

Q. Hadn't seen her before you moved to Wagoner?

A. No, sir.

Q. Had you seen her before you saw this boy?

A. No, sir, never did.

Q. You never did? A. No, sir.

Q. Now, to meet that boy was a great event in your life, wasn't it—to see that boy?

A. Really it might—I might say it was an accident, if you will allow me to express it; if the Court will allow me to tell what happened.

Q. Well, it was an accident; you nearly ran over it?

A. No, sir, no, sir; if you will allow me to explain.

The Court: Tell what the circumstances were.

A. I was at this blacksmith shop, John Easton's blacksmith shop having a pair of mules shod at that time, and this woman came walking right down the middle of the street leading a little child. The blacksmith said there comes Nancy Atkins and Tom, and he said, Nancy you better look out, this is a wild mule, and she said I don't care nothing about no mule.

Q. That attracted your attention? A. Yes, sir.

Q. You was at the blacksmith shop? A. Yes, sir.

Q. How many times did you have your mules shod while you were at Wagoner?

A. That is another question I can't answer.

Q. What did you use your mules for?

A. I at that time had them hired to a man hauling. I just came down with them.

Q. How long did you own that team of mules?

A. I can't answer that either.

Q. About how long?

A. I can't say. I brought them there when I came to that country.

Q. You can't tell? A. No, sir.

Q. Well, let's see; this is a matter which concerns you, a matter of your own?

A. Yes, sir, but I hardly paid any attention to when because I was keeping the date when I had the mules.

Q. You finally got rid of those mules?

A. One of them died, sir.

Q. And you bought another?

A. I didn't; I wasn't able to buy another.

Q. When did that mule die? A. I can't tell you that.

Q. How long had you been in Wagoner when that mule died? A. Probably some six or seven years I suppose.

Q. What became of the other one?

A. I sold it, rather give it away.

Q. That one died? A. Yes, sir.

Q. That was a great loss to you when the mule died?

A. It was a loss of the mule.

Q. Tell the Court when the mule died?

A. I can't do it.

Q. How many times did you have that team of mules shod at that shop?

A. That is another question; I had them shod off and on one time and another.

Q. Every year, didn't you?

A. Well, so long as I kept them and used them, I did. Wasn't in use all the time, though.

Q. This incident happened the first time you ever had the mules shod there, didn't it?

A. That was my first visit I suppose to that particular place.

Q. You are not sure about it?

A. I am pretty sure of that, too; I don't think I had ever been at that shop before, and wouldn't have been there, then, if I could have gotten them shod at another shop.

Q. You never had them shod after that there, did you?

A. Yes, at this time I didn't know this blacksmith, I knew another one and the other one was busy.

Q. You were not acquainted with him but you kept having the mules shod there? A. Well, maybe I did.

Q. This was a molasses colored haired boy, wasn't it?

A. Well, I can't say; I could say he was mulatto colored.

Q. What was the color of his hair? A. Light hair.

Q. Light hair? A. Yes, sir.

Q. And you say he was four or five years old the first time you ever saw him?

A. I judged him to be four or five years old.

Q. Judged him to be four or five years old?

A. Yes, sir, that would be my judgment, to the best of my judgment, what I would judge him to be.

Q. Did you ever see him in Wagoner again?

A. I saw him time and again.

Q. Who did he live with?

A. I don't know; I suppose he lived with his mother.

Q. Don't you know where that boy lived? A. I do not.

Q. Did you ever tell anybody where he lived?

A. I never told anybody because I didn't know.

Q. Did you know Elnora Williams? A. Yes, sir.

Q. Where did she live around there?

A. I can't tell you.

Q. Did you know Mandy Barnett? A. Yes, sir.

Q. Did she live around there? A. I can't tell you.

Q. Where did Nancy live? A. I don't know.

Q. Never did know? A. No, sir.

Q. Did you ever talk to anybody about this case before?

A. I have talked with the attorneys I suppose.

Q. You suppose you have, you know.

A. Haven't talked with anybody else.

Q. Nobody else? A. Not that I know of.

Q. When did you talk with the attorneys?

A. I talked with Mr. Maxey last night.

Q. That the first time you ever talked to anybody?

A. Well, no; I talked to Mr. Gresham, I believe.

Q. That is the only——

A. Oh, I don't know—two or three years ago, I suppose—

Q. You read over the affidavit that you made in 1914, last night, didn't you? A. No, sir, I didn't read it.

Q. Was it read to you? A. No, sir.

Q. Was it talked about?

A. Yes, sir, I—it may have been.

Q. Did you make an affidavit in 1914?

A. I suppose I did.

Q. Tell the Court whether or not in that affidavit you said this, I know Nancy Atkins a Creek Indian woman and have known her practically all the time since I came to Wagoner and know she had a child by the name of Thomas Atkins and that she and the said child lived part of the time with a negro woman named Betsy Birney? A. I heard that.

Q. Now, why didn't you remember that before I read this?

A. I said I have heard it. You asked me if I knew it but I don't know it.

Q. You distinguish between things that you heard and know?

A. The Judge told me a while ago that hearsay wasn't good; I can hear lots of things.

Q. You don't know whether that was Nancy's boy or not?

A. Well, I don't know only what people say; of course it is impossible for me to know.

Q. And you don't know what his name was only from what people say, do you?

A. Certainly I don't; no other way to know.

Mr. German: I move to strike the testimony on the ground that it is hearsay.

The Court: Overruled.

Mr. German: Exceptions.

Cross Examination by Mr. Stuart.

Q. Where was that blacksmith shop that you speak of located in the town?

A. On the west side of Main street, north side of Cherokee street.

Q. Who was running that blacksmith shop?

A. A man by the name of John Easton.

Q. John Easton? A. Yes, sir.

Q. You went in there to have your mules shod, did you?

A. I drove up there to have my mules shod, yes, sir.

Q. And at that time you had never heard of Nancy Atkins had you? A. I had not; didn't know of such a person.

Q. Didn't know of Thomas Atkins? A. No, sir.

Q. Never heard of any Atkins family? A. I had not.

Q. Where did you say that you came from to that country?

A. I came from Fort Smith, that is the vicinity of Fort Smith.

Q. Came from near Fort Smith, Arkansas? A. Yes, sir.

Q. Did you go straight to Wagoner?

A. No, sir, I left Fort Smith in 1892.

Q. Where did you go to?

A. Went to Claremore, Oklahoma, Claremore, Indian Territory.

Q. How long did you stay there? A. About one year.

Q. Where did you go then? A. Vian, Oklahoma.

Q. How long did you stay there? A. One year.

Q. Then, where did you go to? A. Then I came here.

Q. Muskogee, Oklahoma? A. Wagoner, Oklahoma.

Q. Wagoner, Oklahoma. What did you do all that time? What was your business? A. I farmed up to '95.

Q. Well, how did you farm and live in Vian?

A. I farmed and lived on a rented place.

Q. Out from Vian? A. Yes, sir.

Q. How did you farm and live at this other place? Had a farm out? A. Which place, if Your Honor please?

Q. Did you sleep in town? A. I didn't get your question.

Q. You say that you lived in Vian, didn't you?

A. I did, one year.

Q. Year? A. Yes, sir.

Q. Your farm was out of town?

A. That is, we call it Vian when we say that is our postoffice.

Q. Well, now, did you live in Vian or did you live in the country nearby?

A. In the country; Vian was the postoffice.

Q. How far from Vian?

A. Well, I think they call it seven miles, the best I can—

Q. When you went in there to have your mules shod, you had never heard of Nancy and had never heard of Tommy?

A. No, sir.

Q. And as she passed by, this blacksmith said, there goes Nancy and Tommy Atkins, didn't he? A. Yes, sir.

Q. And Tommy Atkins? A. Yes, sir.

Q. That is what he said? A. Yes, sir.

Q. Had you heard that there was anything celebrated about Tommy Atkins at that time? A. I had not.

Q. Anything celebrated about Nancy? A. No, sir.

Q. But you remember distinctly now that he said there goes Nancy and Tommy Atkins?

A. Yes, sir, he was very talkative old man.

Q. He was a very talkative man?

A. Yes, sir, he was a talkative man that day, seemed to be like he always was, jolly kind of fellow.

Q. Was that a cloudy day or fair day?

A. Fair day. Yes, sir.

Q. Perfectly fair? A. Sun was shining.

Q. Very bright all that day; was the grass pretty green?

A. Well, I couldn't say as to that.

Q. What time of the year was that?

A. I think possibly the first of June.

Q. It had rained the day before, hadn't it?

A. I couldn't say.

Q. But it was shining that day?

A. I couldn't say what it done the day before.

Q. But it was a bright day that day; Now, how do you remember it was a bright sunshiny day about twenty-five years ago?

A. Well, I don't remember any more than if it had been a cloudy or wet day I wouldn't have been there.

Q. You never shoe your mules on any day but a bright day? A. Well, I couldn't say as to that.

Q. How wide was the street in front of the blacksmith shop? A. I judge about sixty feet.

Q. And she was in the middle of the street?

A. About the middle; there were lots of teams crowded up around in front of the shop.

Witness dismissed.

Mr. Hill: If the Court please, when Mr. Newberry was on the stand, you reserved a ruling as to Dr. Bryant's statement, and asked if we expected to connect it. I had that impression from Mr. Newberry. Later I spoke to Nancy and she said he did not wait on her.

The Court: I will go over this various testimony at the end and determine.

Mr. Hill: Well, I just wanted the Court to understand I couldn't sustain it on the ground I asked.

The Court: It will not develop this doctor attended her?

Mr. Hill: No, Nancy said he did not. Now, in the testimony at Sapulpa I am not certain whether all the parties to it—I have asked the lawyers and Nancy was a party and Bartlett, and I am told all the other parties who were defendants there who are defendants in this case have disclaimed. Now, here is the testimony of Henry Birney that was given. I do not believe there is such an identity of parties that we could introduce it, because from my information the parties are not the same in this record. But it seems to me on the ground of a deposition it might be introduced for that purpose and we offer it.

The Court: Will there be objection to this?

Mr. German: Yes, your Honor.

The Court: Will it be admitted that this witness is dead?

Mr. German: Yes, he is dead. Here is the objection: That the complainant here was not a party and some of the defendants were not parties.

The Court: Have you any authority to sustain you?

Mr. Hill: No, sir, I was under the impression that there was some of the parties here that were parties there. I want to offer it now to preserve the record, and if your Honor will reserve ruling on it——

The Court: I will reserve ruling on it until afternoon.

Mr. Hill: It is page 39 in this record.

Mr. German: I believe you have a different page number. We offer the direct examination of Henry Birney by Mr. Gresham and the cross examination by the different attorneys who cross examined beginning at page 125 of the official transcript.

Mr. German: We object to the introduction.

The Court: The objection will be noted. I will rule on it at two o'clock.

And thereupon, Court recesses until two oclock P. M.

And thereafter, Court reconvened at two o'clock P. M., pursuant to adjournment, and the following proceedings were had:

The Court: A day or two ago when the witness, J. E. Newberry, was on the stand he was interrogated with regard to a statement made to him by one Dr. Bryant in regard to Nancy Atkins giving birth to a child. At that time objection was made by the Government, complainant, and by the Page interest to the receiving of this testimony. Counsel for Nancy Atkins at that time stated that it was his belief that the evidence later in the case would show that this doctor had waited on Nancy Atkins. It now develops that the evidence will not be produced and that it will not appear that this doctor had any connection whatever with that child's birth, so that it stands merely as the statement of the doctor as an individual which was related by the witness. The witness was asked to state what the conversation was, and in his answer he says: "I met Doctor Bryant at a gate and went into the yard of the hotel; and he says 'You ought to go and see your kid.' Says I, what kid? He says, 'Old Nancy's.' I says, thunder has she got a kid? And he says, 'She sure has'." The witness concludes that that was the only conversation. In view of the present state of the record, the motion to strike it from the record will be sustained and exception of Nancy Atkins noted.

There is now offered transcript of the evidence given by one Henry Birney at a certain trial at Sapulpa, involving some of the questions involved here, but in a case which it is conceded involved parties different, entirely different in most part from the parties in this case. Objection is interposed to the receiving of this testimony in evidence in this case. I have in mind no rule, nor is any rule of law suggested which would make this testimony competent in this case. And the objection will be sustained and your exceptions noted. You may proceed.

And thereupon, T. J. WAY was called and sworn as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. T. J. Way.
Q. Where do you live?
A. I live at Haskell, Muskogee County.

Q. How long have you lived at Haskell?

A. Ever since it was a town.

Q. What is your business, Mr. Way?

A. Postmaster at Haskell.

Q. What has been your business for several years?

A. Well, I was first in the cow business, in the country there, and farming.

Q. Cattle business and farming? A. Yes, sir.

Q. How long have you lived in the Indian Territory or what was Indian Territory? A. Thirty-six years.

Q. Thirty-six years? A. Yes, sir.

Q. When did you locate at Haskell?

A. Well, in the neighborhood of Haskell about twenty one years ago.

Q. What business were you in there?

A. Stock business, cattle business.

Q. Did you know Tom Holden and Katie Holden, his wife? A. Yes, sir.

Q. Where did they live with reference to Haskell or where you lived at that time?

A. They lived about three quarters of a mile from my place, about two and three quarters miles north of where Haskell is.

Q. Were you at their place frequently? A. Yes, sir.

Q. Do you remember of them having any children there other than their own? A. Yes, sir.

Q. What children did they have there?

A. Charlie and Harvey Atkins and Tommy Atkins.

Q. Now, were they all three of them there all the time?

A. No, sir.

Q. Who were there first? A. Charlie and Harvey.

Q. Did you have any talk with Mr. Holden and his wife as to whose children they were? A. Yes, I asked him——

Mr. German: Wait a minute.

The Court: He has answered yes, he is not asked to state the conversation.

Q. What relation was Mrs. Holden to Minnie and Nancy Atkins? A. Sister she told me.

Mr. Maxey: Now, we submit, your Honor——

The Court: Well, now, do you conceive you have established a relation between Mrs. Holden——

Mr. Hill: The record has established she was a half sister.

The Court: There is no question about the relation?

Mr. Maxey: No, sir.

The Court: First, who made this statement, without stating what the statement was, who made any statement to you about these children?

A. Thomas Holden and Katie Holden.

Q. Are they living or dead? A. Dead, both of them.

The Court: Tom Holden was the husband of Katie Holden?

A. Yes, sir.

The Court: Were they together when this statement was made by one or the other to you?

A. Yes, sir, at the house.

The Court: I am inclined to think that it is competent.

Mr. German: We save an exception.

Q. Now, whose children did they say that Charlie and Harvey were?

A. Well, they were Minnie Atkins children.

Q. Now, you say they were there before you saw Tom there?

A. Oh, yes, they had been there—oh, eight or ten months before longer—I don't recollect just how long.

Q. Now, who did you see there at the time that you saw Tommy, other than the other members of the family?

A. Well, if I could be allowed to tell that just as I saw it I could get at it a little better.

The Court: You try to answer his question. He has asked you who you saw there at the time you saw Tommy, besides Tom.

A. Well, I saw Nancy Atkins there at one time, well, I expect at different times.

Q. Did you have any conversation with Nancy and Tom Holden and Katie Holden with reference to whose child Tommy was? A. Yes, sir.

Q. Whose child did they say it was?

A. Said it was Nancy Atkins.

Mr. German: Your Honor, we object to that.

The Court: Let the witness state what was said and who said it.

Q. Just state what occurred there; what was said and who said it.

A. They said Tommy was the child of Nancy Atkins.

By the Court.

Q. Who said that? A. Well, both said it.

Q. Both of whom? A. Tom Holden and Kate Holden.

Q. Just state how the matter came up, now. You was there, now; what was said that brought this about?

A. Well, alright, I just was over to the house pretty near every day——

Q. Let me understand first again, when was that?

A. Well, it would be a pretty hard matter for me to get the time.

Q. About what year? A. Well, say, it was in '99 or 1900.

Q. '99 or 1900? A. Yes, sir.

Q. And you were at the house. Now, tell me how that matter came up. What was said that caused this matter to be stated.

Q. Well, I was over there and saw this boy and asked Tom whose boy it was. He said that was Nancy Atkins boy, Katie's sister's son; now before this he came over and borrowed my buggy and said he wanted to go over to Wagoner to get little Tommy and I asked him who it was and he said it was Nancy Atkins child and he understood she wasn't taking any care of him and I let him have my buggy and he went over there and brought the boy home. And I was over there in a few days and he told me all about it. He and Katie both. I expect I talked with them at different times about it——

Q. Now, did you talk to Nancy about it?

A. When she came—Tommy the boy had been there quite a little while, I can't tell just how long when she came over. And I was over at the house and Tom Holden told me who she was; that it was Tommy's mother, introduced me in Indian way to Nancy Atkins; and I deviled with her and told her that I wanted to buy the boy—I wanted an Indian boy. My oldest child was then about a year old. His name was Tom, and I deviled her about my boy being named Tom, and that I would like to buy him from her and joked that way. She stayed there for a few days and then went away, and Katie—I was over there—well, I was by the house pretty near every day, and Kate Holden told me that Nancy had come over there to take the boy away from them and they wanted to keep it there—that she wouldn't take care of it, and shortly after that—I can't tell how long, possibly a month or possibly two weeks, she came back and taken the boy away, Tommy.

By Mr. Maxey.

Q. Now, let's get those dates right. When were you married, Mr. Way? A. The 7th day of July '87.

Q. And at the time of this you had a child about how old?

A. Well, he as I said—it was either in 1889 or——

Q. When was he born? A. Oh, 1890.

Q. When was the first child born?

A. The 5th of July 1908.

Q. 1898? A. Yes, sir, 1898.

Q. And I believe you stated he was about a year old—something like that? A. Yes, sir.

Q. When you saw Nancy there and talked with her?

A. Yes, sir.

Q. So that would make it somewhere in 1899 or '90?

A. Yes, sir.

Mr. Cruce: Or 1900.

Q. Now, did you ever see them any more? A. No, sir.

Cross Examination by Mr. German.

Q. Mr. Way, your given name is Tom, too?

The Court: Is your name W-a-y?

A. W-a-y; Thomas J. Way.

Q. How long had you lived close to the Holden family at the time of the occurrence you are now relating?

A. Well, I had been living there close to them for—oh, five or six years. I had land leased from Tom Holden, pasture land.

Q. How close did you live to him?

A. Oh, near three quarters of a mile.

Q. You were over frequently at their home, weren't you?

A. Yes, sir.

Q. And they visited in your home a lot, didn't they?

A. Some, yes, sir.

Q. Your baby was born in July 1898? A. Yes, sir.

Q. Might it not have been that these occurred in '98 after your child was born, or in '99?

A. Well, I don't think so.

Q. You rather think it was in '99? A. Yes, sir.

Q. You wouldn't attempt to say what part of the year?

A. Well, it was in the summer time.

Q. Well, now, Mr. Way, when was the first time you ever saw either one of the boys that you are talking about?

A. When they brought them there to Tom Holden's. But the day, now, and the month,—I can't give it.

Q. They just brought them there one at a time, didn't they?

A. No, they brought two of them; first they brought Charlie and Harvey, and afterwards brought Tommy.

Q. Don't you know that Charlie and Harvey were there in '95 before your child was born? A. Tommy?

Q. Yes? A. Tom Holden?

Q. Yes? A. They were not.

Q. Don't you remember Minnie being out to Tom's?

A. No, sir.

Q. You don't recall that? A. No, sir.

Q. You knew Minnie, didn't you about that time?

A. No, sir.

Q. Well, don't you recollect about Tom Holden going over or Kate Holden, one of the other, going over to Wagoner and getting Harvey?

A. I rather think they got them down this way somewhere in below here, I think.

Q. Down towards Eufaula? A. I think so.

Q. The first? A. Yes.

Q. But weren't these boys at Kate Holden's off and on sometimes there and sometimes not there?

A. No, they were there, Charlie and Harvey were there all—continuously, all the time, 'til Tom Holden died.

Q. When did he die?

A. I think it must have been in the fall of '90.

Q. Fall of '90? A. 1890, yes, sir.

Q. You mean 1900? A. 1900, yes, sir.

By the Court.

Q. Now, you say they had been there continuously; how long before that then?

A. Well, they had been there, I expect—I can't say positively.

Q. Several years? A. A couple or three years.

Q. Both the boys, Harvey and Charlie?

A. Harvey and Charlie, yes, sir.

Mr. Cruce: May I ask a question and see if I remember.

Q. Did you state a while ago eight or ten months before Tommy came?

A. Yes, possibly a year; that is guess work; they had been there quite a while.

By Mr. German.

Q. Now, Mr. Way wasn't it the fact that Nancy had taken care of Harvey, talked about there? A. Harvey?

Q. Yes? A. No, sir.

Q. Was the fact that Nancy had taken care of either one of those boys aside from Tommy mentioned there at all?

A. No, sir.

Q. In other words, she so far as any conversation went on there, was concerned, she had never had to do with taking care of but one boy? A. As far as I know.

Q. And they talked about these boys quite a lot, didn't they? A. Which boys?

Q. All the boys that you injected into the——

A. Well, as I said a while ago, now, my idea is I don't know—I don't recollect where they got Harvey and Charlie. Charlie was the oldest and Harvey and the youngest of those two children but I am inclined to think they got them down about Eufaula.

Q. I am asking about Nancy?

A. When Tom Holden brought Tom over there, they had had the older boy quite awhile. You see Kate Holden and Tom Holden had no children and they had been to Tom's place quite a while—I can't say.

Q. Let's get down to what I am asking you about, Mr. Way. A. Yes, sir.

Q. They talked about these boys quite a lot, didn't they, and where they had been?

A. Who, Tom and Kate Holden?

Q. Yes? A. Yes, sir.

Q. And they never mentioned the fact if it was a fact that Nancy had never kept any of these boys except Tommy?

A. Not to my recollection.

Q. Well, you would have remembered it wouldn't you? You remember those things very well? A. I expect so.

Q. Now, if Nancy had taken care of Harvey at all, it was not mentioned in any of those conversations?

A. No, sir, so far as I know, it was not.

Q. Was not? A. No, sir.

Q. Well, now, if she had taken care of Charlie over there at Wagoner that was not mentioned in these conversations?

A. No, sir.

Cross Examination by Mr. German.

Q. You gathered from the conversation that the only places Charlie and Harvey had ever been was down south toward Eufaula?

A. Well, that is my recollection of it, yes, sir.

Q. Well, did you know Sallie Atkins? A. Sallie Atkins?

Q. Yes? A. No, sir.

Q. Did you hear in that conversation of Nancy Atkins that was in the family of Richard Atkins?

A. Well, I don't know. I don't know whether this Nancy was in that family or not.

Q. Well, did you hear of any other Nancy besides the Nancy that was there? A. No, sir.

Q. Did you hear of Chaney Atkins or Chaney Trent in those conversations? A. I don't recollect it.

Q. Did you hear of Richard Atkins in those conversations? That lived over north of Wagoner?

A. I don't recollect that. I knew Lee Atkins.

Q. You knew Lee Atkins? A. Yes, sir.

Q. A brother of Nancy?

A. I don't know whether he was or not.

Q. How long was Nancy at the Holden's at that time?

A. Five or six or eight or ten days.

Q. How long had that boy Tommy been there?

A. I guess two or three months.

Q. And Nancy came and stayed how long?

A. Well, two or three or four days, maybe eight or ten days.

Q. Did she take the boy back with her?

A. No. They insisted on keeping the boy.

Q. How did his age compare to Harvey?

A. Well, my best recollection they must have been pretty near the same age.

Q. How did his age compare with Charlie's?

A. Well, I think Charlie would be the older; this little boy Tommy—— When Tom Holden brought him over there he just had on a long shirt; and Tommy told me why he wanted to get the boy, he was over there and nobody was paying any attention to him.

Q. Now, Mr. Way, let's refresh your memory good?

A. All right, sir.

The Court: I see Mr. White has gone out of the Court Room, I presume he is not talking to the witnesses.

Mr. Maxey: Yes, sir, we will observe the rule.

The Court: I don't want Mr. White to be going out and telling other witnesses.

Mr. Maxey: Well, he will not because I instructed him and he will observe it.

Q. Let's be real careful about this, Mr. Way. Isn't it a fact that the child that the Holden's brought there in rags was brought from Wagoner and that that was Charlie?

A. It was not.

Q. Well, wasn't it Harvey? A. It was not.

Cross Examination by Mr. Stuart.

Q. What kind of a looking boy was this Tommy that you saw? A. What is that?

Q. What kind of a looking Tommy was this that you saw?

A. He was an Indian boy.

Q. Dark eyes? A. Well, not so dark.

Q. Blue eyes?

A. I will tell you that has been quite a while ago, sir.

Q. That is the reason I am asking you. Were his eyes black or blue? A. Well, I wouldn't say so.

Q. Was his hair black, white, or molasses color?

A. Well, not so dark as an Indian.

Q. Well, what kind of hair did he have, anybody around here got hair like him?

A. Well, it was a little darker than Mr. German's I think.

Q. Do you call Mr. German's hair light?

A. Well, it isn't black.

Q. It was darker than Mr. German's hair, you are sure of that? A. Well, I think it was.

Q. You think it was darker than Mr. German's?

A. At that time it might not have been.

Q. Then, he had black hair, didn't he?

A. Well. I don't think he did.

Q. Mr. Way, if it was darker than Mr. German's his hair was black? A. Well, I don't know.

Q. Well. you are not color blind, don't you know a shade darker than Mr. German's hair would be black hair, look at it?

A. I have seen him quite often.

Q. Well, look at him again, don't you think a shade darker than his would be black hair? A. Well, I don't think so.

Q. It would be quite dark?

A. Yes, quite darker than his.

Q. Yes, and be quite dark hair, wouldn't it?

A. Well, now, I told you my best recollection about it.

Q. Well, I know you have, but you know he had darker hair than Mr. German's, you said he did. Now, what kind of hair? A. Well, my recollection his hair was not black.

Q. Well, we have you on that now. How were his eyes, blue or black? A. Well, sir, I wouldn't attempt to say.

Q. Well, think, remember back?

A. I didn't ever think I would be called upon to testify.

Q. I know, and you have to remember the best you can?

A. And I told you the best I recollected.

Q. You don't know whether his eyes were black or blue?

A. Well, I wouldn't say.

Q. You wouldn't state? A. No, sir.

Q. What color skin, black?

A. No, sir, he was not a fullblood Indian.

Q. Was he a yellow boy?

A. I would take him to be about half breed Indian.

Q. Well, you would take it from his skin, his eyes, and his hair all combined to be a halfblood Indian?

A. Well, to the best of my recollection, yes, sir.

Recross Examination by Mr. German.

Q. Now, Mr. Way, what was the color of the hair of Charlie and Harvey, take Charlie?

A. Well, Charlie's hair wasn't as black as an Indian, a fullblood Indian. I don't think either of the boys were fullblood Indians.

Q. Charlie's hair was somewhat lighter than Tommy's wasn't it in color?

A. Well, I wouldn't attempt to say, Mr. German.

Q. Take Mr. Bruff, here, how did it compare with that?

A. It was darker than that.

Q. Well, take Mr. Pinson's hair here, how did it compare with that?

A. Well, Mr. German, Charlie's hair, to my recollection, was something like his and maybe darker.

Q. Mr. Pinson's hair, you would call that molasses color?

A. Well, I wouldn't use that term.

Q. Well, do you know what molasses color hair is?

> The Court: Do you know what that term means, did you ever hear it before?

A. No, sir, never did.

Q. Now, tell us, Mr. Way, some of the neighbors that you had about the time Harvey and Charlie were brought over there, and Tommy?

> The Court: Who were some of the people that lived close?

A. Billy Barnett, a Euchee Indian.

Q. Is Billy alive?

A. Yes, sir, and Tom Holden, and at that time old man Dressback, who is dead now; and Jackson Barnett, who is dead now; and Billy Brown, Judge Moore, they are both dead. There is an old man by the name of W. T. Davis lived pretty close there. I boarded with him before I was married, and boarded with Mr. Dressback before I was married. I don't know whether O. W. Davis was living close or not. There was not as many people in that country as there are now.

Q. Did you know Jim White, well, you know Jim White very well? A. Yes, sir.

Q. How long did you know Jim?

A. I think I knew him first in the fall of 1891.

Q. You and he are pretty good friends? A. Yes, sir.

Q. You have talked with him about this case, haven't you?

A. Well, yes.

Q. Quite a lot, haven't you?

A. No, sir, I will tell you what was said. They were talking about it and I told them the Government was making a mistake in trying to prove there was no Tommy Atkins.

Q. You knew there was? A. Yes, there was.

Q. And you knew that he lived in this community but you didn't know he wasn't enrolled? A. No.

Q. You didn't know about that? A. No.

Q. You have known Judge Maxey quite a long time? A. Yes, sir.

Q. He has been your attorney in some suits? A. Yes, sir.

Q. Always represented you. You understand that he is attorney for the Nancy Atkins interest here, one of them?

A. I do now, I didn't before though.

Examination by the Court.

Q. You say the boy looked like a halfblood Indian. Were the Indians traits and features, did they appear pretty distinctly in his face? A. Yes, sir.

Q. They did? A. Yes, sir.

Q. He was a boy that a man liked to, being familiar with the Indians, upon seeing immediately recognized the Indian features? A. Yes, sir.

Q. Pretty distinctly? A. Yes, sir.

Q. Well, I am interested in knowing just as nearly as I can what he appeared to you to be. Now, what were those features as you remember them, those Indian features that you remember that he had?

A. Well, Judge Campbell, I judge him to be not more than a halfblood.

Q. But what about him as you remember?

A. Well, his features and the color of his skin and all—— It is pretty hard to tell you know; sometimes a halfblood Indian will show the Indian almost like a fullblood, and others in the same family will look like that they are not fullbloods.

Q. Well, now, this boy appeared to be at any rate a half blood Indian, that is what you judged from the features?

A. That is my best recollection.

Q. Now, how old would you say about he was at that time, just your judgment?

A. I expect he was up about here (indicating) must have been seven or eight years old, six or seven, some place along there.

Q. Appeared to be an intelligent boy? A. Well, yes.

Q. Did the three appear to you to look anything alike, did they resemble each other? A. No.

Q. Did Harvey and Charlie resemble each other?

A. Not as much as you would think brothers would.

Q. Harvey and Charlie were older than this boy?

A. Well, I guessed Harvey to be about the age of this boy.

Q. Charlie was older? A. Older.

Q. You say Nancy was there? A. Yes, she came over.

Q. Now, you know the Nancy that is a party in this case?

A. No, sir, only saw her at the time she was at Tom Holden's.

Q. Haven't seen her since? A. No, sir.

Q. Nancy is not here?

Mr. Maxey: No, sir, we will have her brought over.

The Court: Never mind now.

Cross Examination by Mr. German.

Q. Will you describe Nancy Atkins?

A. Well, she was medium height and sort of lean lank kind of woman.

Q. Well, go ahead?

A. Well, that would describe her about all I could.

Q. Was there anything peculiar in her appearance?

A. Well, not in particular, sir. She wasn't a good looking Indian girl or woman. Sort of on the flabby order.

Q. Her eyes were straight? A. Well, I don't recollect.

Q. She had two good arms? A. Well, I think she did.

Q. She wasn't one-armed?

A. I don't think she was, no sir.

Q. Well, now, tell the Court if there is anything about her peculiar that marked her in any marked degree from any other woman who was medium height and slender and not good looking.

A. I think she was pigeon-toed and cross-eyed.

Q. Pigeon-toed and cross-eyed? A. Yes, sir.

Q. Now, did you know this Nancy Atkins who was a daughter of Dick Atkins? A. No, sir, not that I know of.

Q. You had been in Wagoner formerly? A. Yes, sir.

Q. And had been in those days?

A. Yes, sir, but I had lived over in that country and had my trading there.

Q. Now, you were pretty well acquainted among the Creeks, weren't you? A. Yes, sir, pretty well acquainted.

Q. Didn't you know the Childers family over here?

A. Yes, sir.

Q. And the Atkins family north of Wagoner?

A. I don't think I knew the Atkins family there. If I did, I don't recollect it.

Q. Hadn't you heard something about them, Mr. Way?

A. If I did, I don't recall it.

Q. Don't you remember to have heard something about the children in their families?

A. Well, maybe I did but I don't recollect all those things. Tom Holden and Kate Holden both told me, probably, and probably gave me the family history but I don't recall.

Q. Now, you in those days, had heard something about this Atkins family out north of Wagoner?

A. Well, I don't recollect.

Q. Now, you don't recollect what you heard or whether you are confusing the information they gave you about them?

A. How is that?

Q. I say you don't know whether you are confusing the information they gave you about them with this?

A. I know I am not.

Q. You are satisfied you are not? A. Yes, sir.

Q. You lived in Wagoner a while once, didn't you?

A. No, sir.

Q. Lived near Wagoner?

A. Lived four miles north of Wagoner.

Q. Four miles north of Wagoner? A. Yes, sir.

Q. When did you move away from there?

A. I moved away from up there—well I run a ranch up there for Winfield Scott '94, '95 and '96.

Q. You did? A. Yes, sir.

Q. In '94-5-6? A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. Now, let me ask you. Kate Holden had been married to a man by the name of Wadsworth before she married Tom?

A. Well, that was my understanding.

Q. Well, you know that to be a fact. She was a Wadsworth, wasn't she? A. That was her name.

Q. She had a son named Mitchell, didn't she?

Q. You knew him well? A. Yes, sir.

Q. He was at that house with the father and mother?

A. No, sir.

Q. Where was Mitchell? A. He was in the penitentiary.

Q. Didn't he come back and stay there at all?

A. Yes, Mitchell was there in a way, there in a way.

Q. When did you first see the two children there?

A. Well, I think about the first time—when they first brought them there.

Q. Well, what year was that? A. What is that?

Q. What year was it, Mr. Way?

A. Well, I think 1899 or 1900.

Q. 1899 or 1900? A. Yes, sir.

Q. You learned that Minnie Atkins had brought Charlie and Harvey there, didn't you? A. No, sir.

Q. Well, how did you learn that they got there?

A. Tom Holden brought them there.

Q. Tom Holden brought them there? A. Yes, sir.

Q. Was that place out there called Stone Bluff?

A. No, sir, not at that time.

Q. Was it ever called Stone Bluff?

A. No, sir; well, there was a little post office after this that was started that was called Stone Bluff.

Q. That is it, and they lived right near that Post Office?

A. They lived about four miles.

Q. About four miles. But that was called Stone Bluff Post office? A. Yes.

Q. Now, this Charlie was light, and slender, and dark skinned, wasn't he? A. Little Charlie?

Q. Yes, sir, the oldest one?

A. He wasn't so slender then; he wasn't so stout as Harvey.

Q. Harvey was a stocky, fat chunk of a boy? A. Yes, sir.

Q. And Charlie was slender? A. Yes, sir.

Q. A good deal slenderer than his brother? A. Yes, sir.

Q. Very light complexion? A. No, sir.

Q. Was he light or dark?

A. He wasn't as dark as Harvey.

Q. Harvey was the darker boy of the two; Charlie being the light one, is that right? A. I think so.

Q. Well, now as a matter of fact, do you know where Flat Rock is? A. Flat Rock, yes, sir, north of Wagoner?

Q. Yes? A. Yes, sir.

Q. You know where Flat Rock is. They told you that one of these boys had been with some colored people out at Flat Rock, didn't they? A. No, sir.

Q. You didn't hear that? A. No, sir.

Q. And don't you know that Charlie was left up there with those colored people at Flat Rock and that Holden went up there after him and found him in a very pitiable condition?

A. No, sir, I do not.

Q. They didn't tell you that? A. No, sir.

Q. Didn't tell you that? A. No, sir.

Q. You knew that Nancy had been cooking in a restaurant there at Wagoner? A. No, sir.

Q. Didn't know Nancy at all?

A. No, sir, until she came to Tom Holden's.

Q. You never saw her before?

A. If I did, I never knew it.

Q. You were right at Wagoner?

A. I did my trading there.

Q. You were four miles from Wagoner? A. Yes, sir.

Q. And did your trading there? A. Yes, sir.

Q. You went in there a good deal? A. Yes, sir.

Q. And never heard of Nancy? A. No, sir.

Q. Never heard of her at all? A. No, sir.

Q. Now, didn't you hear the Holden's say that this boy had often been called Tommy, one of these boys—one of those Harrison boys? A. Charlie and Harvey?

Q. Yes? A. No, sir.

Q. Didn't hear that one of those boys had been frequently called Tommy Atkins? A. No, sir.

Q. And didn't Holden tell you that one of them was the very image of his grandfather? A. No, sir.

Q. Never heard that? A. No, sir.

Q. Never heard any conversation of that sort, Mr. Way? A. Not that I recollect of, no, sir.

Q. You might have heard it and forgotten it, might you not? A. I don't think I did.

Q. Don't think you did? A. No, sir.

Q. Was the boys ever taken away from there?

A. Well, I told you that Tommy had been taken away from there.

Q. Did they ever tell you where Charlie and Harvey were from about '96 to '99?

A. Well, they were at Tom Holden's part of the time. Where they were when they were away from there, I don't know.

Q. Well, now do you know—you were not there; you were at Wagoner, how do you know they were at Tom Holden's, Mr. Way? You weren't there, were you in '94, '95 and 96?

A. No, I was mistaken in the dates there. I said I was in Wagoner '94-5 and '6, didn't I?

Q. Yes? A. Well, it was '93-4 and '5.

Q. '93-4 and '5?

A. Yes, sir. Now, it is—it is pretty hard to get those dates just right.

Q. I know it is. Now, I want to know when you went down in the Holden neighborhood. Get your dates now, the year. When did you go there? A. '96.

Q. '96'? A. Yes, sir.

Q. And you say that Charlie and Harvey were continuously there from '96 to '99? A. No, I didn't.

Q. Well, did they go away?

A. They were there to the best of my recollection continuously from the time that they were brought there until Holden died.

Q. When did Holden die?

A. I can't tell that. I had a notion this morning to go over to the cemetery to see if there was a head rock there. I think it was in 1900.

Q. 1900? A. Yes, sir, I think it was.

Q. Now, you say that Harvey and Charlie were continuously at Holden's from the time they were brought there until the time that Holden died in 1900, do you know that to be a fact?

A. Well, now, I am inclined to think—I don't [] to be positive—that Harvey did go away a while. Not Harvey but Charlie, but I am not positive now.

Q. Well, where did he go? A. Well, I don't know.

Q. Well, as a matter of fact, both of them might have been away and you not known it, mightn't they?

A. No, I don't think they were.

Q. Well, you now think that one of them did go away?

A. Well, I am not positive as I told you, might have and might not have.

By the Court.

Q. I wish you would turn around and see if you recognize Nancy Atkins in the courtroom now.

A. Well, that woman there with the black hat on, looks like her to me. It has been quite a while ago, Judge.

Q. Let that woman with the black hat on stand up. Is that the woman? A. Yes, sir, looks to me.

Q. Looks to you as if she was the woman? A. Yes, sir.

Cross Examination by Mr. German.

Q. You lived north of Wagoner there in '93-4 and '5, did you know uncle Pole Childers? A. Yes, sir.

Q. You knew him intimately, didn't you?

A. No, sir, not so intimately.

Q. He was a very highly respected Creek citizen, wasn't he? A. Yes, sir.

Q. And then, not so far away, didn't you know Dick Atkins?

A. No, I didn't. You see Pole Childers lived about 12 or 14 miles from the ranch. When I was there I was kept busy pretty near all the time. I never [] Pole Childers—knew of him before I went over there. Pole—knew Pole Childers for 13 years; Saus Childers and all those Childers. I knew them from Okmulgee.

Q. Well, you—while you were over there you knew pretty much about the Indian people over in there?

A. Yes, well, I knew Pole Childers, of course; anyone going in that direction would be directed, if they wanted to cross the Virdigris, they would be directed to Pole Childers ferry.

Q. You learned about the names of Indian children over there? A. Not particularily.

Q. Well, you learned some, didn't you?

A. Well, only some of the most prominent ones is all.

Q. When you were asked to point out Nancy in the courtroom a while ago, state whether or not you saw any Indian woman in the courtroom except the one you pointed out?

A. Well, I don't know that there is.

Q. That is the only Indian woman in the courtroom, isn't she? A. Well, there are not as much Indian as she is.

Q. If there are any other Indian women in there they are not as much; they are some white women and some colored women, is that right?

A. Well, I don't see any colored women in here.

Q. Well, there are just three ladies in the courtroom; two white ladies and then Nancy, is that right?

A. Well, that is what I would take them to be now.

The Court: The Court will assume and take judicial notice of the fact that there are Nancy and two white ladies.

Mr. German: Well, I was simply making the record, Your Honor.

Witness dismissed.

And thereupon, W. C. SMITH, being called as a witness on behalf of the defendants Nancy Atkins, et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. W. C. Smith.

Q. Commonly known as Bill Smith? A. Yes, sir.

Q. How old are you Bill?

A. 59 years old; will be in July, born in '58.

Q. Where do you live? A. I live here at present.

Q. Where did you live—did you ever live at Wagoner?

A. Yes, sir, 19 years.

Q. When did you go to Wagoner to live?

A. I went to Wagoner in the latter part of '98.

Q. 1898? A. Yes, sir.

Q. Did you ever know Nancy Atkins? A. Yes, sir.

Q. When did you get acquainted with her?

A. Well, I was in the drug business there and she kept coming around the store and I asked Henry Anderson one day and he told me it was Nancy Atkins.

Q. Did she have anyone with her?

A. There was a kid, a little yellow headed kid, running around with her—probably three or four or five years old.

Q. Now, who was it told you who she was?

A. Henry Anderson, the porter there at the drug store. I asked him who that—I believe I said, old bat; I believe I said old bat—she didn't have no clothes on, she was nearly naked, and he said it was old Nancy Atkins and her kid. She associated with the darkies and I supposed she was a colored person.

Q. Is that the Henry Anderson who was a witness here some days ago?

A. Yes, I think so; he was a witness down here.

Q. A colored man? A. Yes, sir, a yellow fellow.

Q. How often did you see them around there?

A. I don't know, probably two or three years off and on at different places; on the streets generally piking around.

Q. Was she in your store frequently? A. Yes, sir.

Q. Did she ever have this boy with her more than once?

A. Yes, sir.

Q. You know what became of the boy? A. I do not.

Q. Now, about how many times would you say that you saw him around there with her?

A. I can't tell. Now, I seen him with an old darky by the name of Snow; we called him around there a coke fiend. Lived back of the store, wasn't more than the length of the street, just a little siding up there to unload cars and he lived at the back end.

Q. It was the last time you saw him with her, was it?

A. I don't know, it might have been, it was probably in 1901, '2, or '3.

Q. 1901?

A. Yes, sir, 1901, '2 and '3, I don't remember just when I did see him.

Q. What year did you say you went in business there?

A. 1898, the latter part of 1898; 1899 I went into business there.

Q. Then, you saw him then up to 1901 or '2?

A. Yes, or three I don't remember.

Q. What became of him then?

A. I don't know, I heard he died.

Mr. German: We move to exclude that.

The Court: That will not be considered.

Q. You didn't see him any more after two or three years after you first saw him? A. No, sir.

Mr. Maxey: I believe that is all—I will ask one question.

Q. What kind of a looking child was he? A. I don't know, his hair was kind of yellow, kind of curly; it wasn't kinky it was kind of curly.

Q. And what was his complexion?

A. Well, it was sallow complexion.

Mr. Maxey: That is all.

Cross Examination by Mr. German.

Q. You say in 1898 or 1899 he was three or four or five years old?

A. I said he was about that the last time I seen him.

Q. About the last time you saw him he was probably three, four or five years old? A. He probably was.

Q. Have you got any children? A. Yes, sir.

Q. Do you know a boy that is three or four or five years old when you see him? A. Yes, sir.

Q. How big a boy was that?

A. He was just a small kid.

Q. He might not have been two years old?

A. Well, I don't know, he might have been. He was over a year old, because he was walking by himself.

Q. Might not he been seven years?

A. Oh, no, unless he was a dwarf; I never asked anything about his age.

Q. Three, four, or five years old? A. When I seen him.

Q. When was the last time you saw Nancy in Wagoner?

A. Along the first part of 1900 somewhere.

Q. How many times have you been in jail? A. Me?

Q. Yes? A. Once.

Q. What for? A. Selling whiskey.

Q. There at Wagoner? A. Yes, sir.

Q. How many times have you been arrested?

A. Probably twice I think.

Q. For selling whiskey?

A. Yes, sir, both times and I have been arrested for fighting.

Q. You have had quite an interesting career there at Wagoner? A. Well, no, not very.

Q. Where was your drug store?

A. Right on the corner right by the hotel, Brown Palace Hotel; then up from the corner in the Himes Building, and across the street on the other side.

Q. When was the first time when you heard of this case in recent years? A. Three or four years ago I guess.

Q. Been talking about it quite a little? A. No, sir.

Q. Who first talked to you about it?

A. I think I said something to Jim about it the other day. Me and Jim were raised together in Arkansas.

Q. You are friends? A. We are friends.

Q. You spoke to him?

A. I thought it was Minnie Atkins' case, I just said I knowed old Nancy Atkins. And he said I want you for a witness. I didn't know that it was the kid.

Q. You don't know now?

A. No, sir, I don't know whether his name was Tommy.

Q. He was three or four or five years old the last time you saw him? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. Was that Ellis Snow—— A. Ellis Snow?

Q. Did you say you saw a man named Snow?

A. Just old Snow, he was a coke fiend.

Q. Nancy was too, wasn't she?

A. Well, I always thought she was.

Q. Isn't that what she came to your drug store for?

A. I don't think I ever sold her any coke.

Q. Didn't you know Ellis Snow kept these boys for a period for Nancy?

A. I did not know it until yesterday. They said he used to live there with them.

Q. Used to come down town with Snow?

A. Wasn't no town about it.

Q. But you used to see Snow with them? A. Yes.

Q. And used to see Nancy going to Snow's to see the boys?

A. Well, you might say she was just a street walker in those days.

Q. Did you ever hear the name of either of those boys?

A. Didn't know he had but the one, didn't know he had any.

Q. You knew Nancy had some?

A. Just the one that followed her.

Q. Never saw two of them? A. If I did I didn't notice it.

Q. Did you ever hear his name? A. Never did.

Q. Did you ever—— A. No, I know Lee Harrison.

Q. You know that boy? A. Yes, sir.

Q. And that was the boy she had right there?

A. I don't know, I don't know, I always heard it was an Atkins. But Charlie Bailey raised him.

Q. But isn't that the boy you saw right there?

A. No, sir, Lee was a great big boy.

Q. You didn't know Harvey?

A. Well, there was another, I didn't remember him very well.

Q. But you did know that there was another?

A. Well, I think so.

Q. That Nancy had around there?

A. I understood that was Lee's boy.

Q. But you knew Nancy had it around there?

A. I don't know, I don't know who did have him.

Q. So, you do know that two of Nancy's boys were around there? A. I knew that Charlie Bailey had one.

Q. One was Lee? A. Yes, sir.

Q. And the other was Harvey?

A. I don't know about him.

Q. You don't know about Harvey? A. No.

Q. But you know this boy did stay there with Ellis Snow a part of the time?

A. I don't remember whether Lee did or not.

Q. But you know this boy of Nancy's?

A. This boy of Nancy's I seen with old Snow.

Cross Examination by Mr. Stuart.

Q. Your drug store went out of business by the injunction route up there? A. No, sir.

Q. Didn't the court put you out of business? A. No, sir.

Q. Didn't you have some injunction served against you?

A. No, sir, not in that drug store. I sold it.

Q. What drug store was it?

A. I don't know, I worked in a drug store there.

Q. Were you put out of business by the court?

A. No, sir, not me.

Q. Well, the place where you were working?

A. Well, I think probably it was, I disremember.

Q. Don't you know the court put the drug store out of business because you were selling liquor, you know that to be a fact? A. I couldn't know; the drug store was there.

(Witness dismissed.)

And thereupon, BOB DELOZIER was called and sworn as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. Bob DeLozier.

Q. How old are you Bob? A. Fifty-five.

Q. Where do you live? A. I live in Nowata.

Q. Did you ever live in Wagoner? A. Yes, sir.

Q. How long ago?

A. It has been about twenty years now since I lived there.

Q. Did you ever know Nancy Atkins? A. Yes, sir.

Q. Where did you know her? A. In Wagoner.

Q. How long did you know her in Wagoner?

A. I knowed her there about ten years.

Q. What years were you living there, Bob?

A. I don't remember the date of the years.

Q. What time did you go there with reference to when the Iron Mountain railroad came into Wagoner?

A. Well, it had been built from Fort Smith and I went there when it was building out of there.

Q. When it was building out to Coffeyville?

A. Yes, sir, about two years before they started.

Q. When did you get acquainted with Nancy Atkins?

A. Well, I got acquainted with her the second year that I was there.

Q. Do you remember whether or not she ever had a child?

A. Yes, sir.

Q. Where was she living at the time the child was born?

A. She was living out on the west side of town in a tent back of Betsy Birney's house.

Q. Did you see the child about the time it was born?

A. No, I didn't see it until the next morning; I was sent down to the house to carry something to eat.

Q. Where were you living then?

A. I was living with the Childers.

Q. Which Childers?

A. Old man Bob Childers was living there at that time and I was living with his family.

Q. Who sent you down there? A. His wife.

Q. What did she send you down there for?

A. To take some grub down there.

Q. For whom? A. For Nancy.

Q. Where was she when you got down there?

A. She was in a tent right back of the house.

Q. Did you go in the tent? A. Yes, sir.

Q. Did you see her? A. Yes, sir.

Q. Did you see her child there?

A. Yes, sir, seen a child laying there in bed.

Q. Did you talk with Nancy about it?

A. I didn't talk with her about the child; I told her there was some grub Mrs. Childers sent down to her.

Q. Had you seen her for a few months before this child was born? A. Yes, sir.

Q. Was she in a pregnant condition?

A. That is what they said.

Q. Well, could you tell from looking at her? A. Yes.

Q. How often did you see the child after that?

A. I seen it there for about nine years after it was born, at different times around there.

Q. Did you ever see it with Nancy Atkins after that?

A. Yes.

Q. How often?

A. Oh, several different times, I couldn't call just from memory how many times.

Q. Do you know what became of that child?

A. What became of it?

Q. Yes? A. Yes, sir, it died.

Q. About how old was it when it died?

A. Between nine and ten years old, the nearest I can judge.

Q. Where was it buried?

A. Buried out northeast of Wagoner out where the grave yard is now.

Q. What did you have to do with burying it if anything?

A. I went out there and helped dig the grave. The man that was living with Betsy come and got me to go out and help dig the grave.

Q. Who was this fellow that come after you?

A. Fellow by the name of Steeples.

Q. Was he living with Betsy Birney at the time?

A. Yes, sir. We all went out there and dug the grave.

Q. Well, was you there when they buried the child?

A. Yes, sir.

Q. Who else was there?

A. Well, there was several men out there. I couldn't call their names, they were railroad boys.

Q. Well, did they have any funeral services at the grave?

A. Yes, there was an old darkey by the name of Mundy Barnett that preached across the river, he was the one that went out there and conducted the ceremony.

Q. Was there any other preacher there?

A. Not that I know of.

Q. To refresh your recollection, do you remember seeing Sam McHenry there?

A. Well, now, he could have been, I wouldn't say for sure.

Q. And there wasn't very many people there?

A. Very few colored people living in Wagoner at that time, in fact there wasn't many of any kind there.

Q. Most of them were colored?

A. No, the most of them were cattle men.

Q. I say at the grave?

A. Well, there was nobody out at the grave outside the men that hauled the corpse out there, that was the drayman there in town.

Q. Do you remember whether or not Nancy was there?

A. No, I don't remember.

Q. Don't recall? A. No.

Q. Now, what year was that, Bob, that this child was buried as near as you can remember?

A. Well, I couldn't call the remembrance of the year because I haven't any education.

Q. Now, you say that she was living there in a tent at the time the child was born. Did you go there more than once? A. Yes, sir, I was down there several different times.

Q. Go down there to take her something to eat?

A. Yes, sir.

Q. From Mrs. Childers?

A. Yes, sir, Mrs. Childers lived about two hundred yards from there and she sent something down there.

Q. Well, now, did she remain in the tent?

A. No, sir, she was taken out of the tent. The first morning I was down there I helped to move her out of the tent into Betsy Birney's house.

Q. And how long until Nancy got well?

A. She was in bed I guess two weeks.

Q. Now, do you remember the fact of Nancy being arrested and taken down to Fort Smith? A. Yes, sir.

Q. Was that before or after that?

A. That was after the child was born.

Q. About how long afterwards?

A. Well, I would judge the child was about three months old probably, might have been older than that.

Q. Then, did you see that child around from that time up until the time it died? A. Yes, sir.

Q. Where did it stay?

A. Well, Betsy taken care of it while she was away. Then, it just lived first one place and another around with the colored people.

Q. Did you ever see it on the street with Nancy?

A. Yes. sir, when she worked at the McAnally Hotel; she worked in the laundry.

Q. You were speaking of McAnally's Hotel, McAnally was a white man? A. Yes, sir.

Q. Was there a hotel or restaurant there run by a colored man named Williams?

A. Yes, sir, Williams had a shack where he fed and slept the railroad men.

Q. What other hotels were there there?

A. The Barnard Hotel was there, what was called the Hailey House, Mr. Hailey owned it.

Q. Did you ever learn what this boy's name was?

A. They called him Tommy, Tommy Atkins.

Mr. Maxey: I believe that is all.

Cross Examination by Mr. German.

Q. Bob, you knew this boy from the date on which he was born clear through his life to the grave?

A. Well, I would see him around town there.

Q. You knew him all that time. Will you say yes or no?

A. Yes, I will say yes.

Q. What year was it he died in?

A. I couldn't tell you because I have no recollection of the years at all, because I haven't any education.

Q. Wasn't it 1902?

A. I wouldn't say because I don't remember.

Q. Did you get an allotment in the Creek Nation?

A. No, sir.

Q. How old are you? A. Fifty-five.

Q. You were present at his death, weren't you?

A. No, I wasn't present at his death; I was called to help dig the grave after he died.

Q. Well, you were present during his last illness, weren't you? A. No, sir.

Q. Didn't you go get some medicine for him, Bob?

A. No, never did.

Q. What doctor waited on him?

A. I couldn't tell you that even.

Q. Who went after you to get you to help dig the grave?

A. Man by the name of Steeples.

Q. Steeples? A. Yes, sir.

Q. And you did help dig it, and what kind of a coffin was he buried in?

A. A coffin that was made there in town at the lumber yard.

Q. What kind of clothes did he have on?

A. I didn't pay that much attention to his clothes to tell you.

Q. You didn't inspect the clothes? A. No, sir.

Q. How long after he died was it until you buried him?

A. Sir?

Q. How long after he died was it until you buried him?

A. Well, it was along in the morning, I don't know what time he died; Steeples came and asked me if I would help dig the grave for Creek Nancy's boy, and I told him yes I would. I was working down at the stock yards then but there was no stock to unload that day.

Q. Can't you fix that time by something?

A. I don't know, might.

Q. What were you doing in 1902?

A. 1902, I couldn't say.

Q. What were you doing in 1901?

A. I really couldn't tell you because I don't remember.

Q. You don't recollect? A. No.

Q. You knew this boy in 1890 when he was born?

A. Well, I don't know what year it was.

Q. Well, whatever year it was, you knew him?

A. Yes, sir.

Q. Let's suppose, for the sake of argument it was 1890, will you? Then, you knew him in 1891 around town there?

A. Well, I couldn't say what year it was. I knew him from the time he was born up until the death of him.

Q. How frequently did you see him, Bob?

A. Very often because he was right there in town.

Q. Well, did you see him every year from the time he was born until he died?

A. Well, I am satisfied I did, because he was there in town all the time.

Q. You were in Wagoner all the time? A. Yes.

Q. You didn't live in Muskogee or anywhere else?

A. Not at that time I didn't.

Q. From the time this child was born until it died you lived in Wagoner? A. Right around Wagoner there.

Q. All the time? A. Yes, sir.

Q. You knew him intimately and played with him?

A. No, I never played with him.

Q. Well, you talked with him and talked about him?

A. Yes, saw him around town there.

Q. Don't you know it was 1902 he died?

A. No, sir, I don't because I don't know.

Q. How old was he?

A. I judge between nine and ten years old when he died.

Q. You testified over at Sapulpa, didn't you, in this case?

A. Yes, I did.

Q. And you read that testimony over yesterday or last night, didn't you? A. No.

Q. Somebody read it to you? A. No.

Q. Well, who has talked to you about this case?

A. Well, not anyone in particular.

Q. Well, you know some one has, Bob?

A. No there hasn't.

Q. Tell the Court?

A. There hasn't been anyone more than the folks around town wanted to know what I was down here for from Nowata.

Q. How did you come to be down here?

A. I was subpoenaed.

Q. Who talked to you at Nowata? A. Nobody.

Examination by the Court.

Q. It is all right if anybody has talked to you. The Court wants to know who did talk to you?

A. Nobody, Judge, only them that lived here five or six years ago, and I told them I was down here attending Court.

Q. Just tell me?

A. I told them I was down here on the Tommy Atkins case.

Q. Tell me what you talked about this case before you went on the witness stand. You talked to somebody. Tell who it was.

A. No, I didn't talk to nobody about what my testimony was going to be.

Q. Did you testify at Sapulpa? A. Yes, sir.

Q. You talked over what you knew about it? A. Yes, sir.

Q. Have you talked to anyone since that time about what you said over there? A. No, I haven't.

Cross Examination by Mr. German.

Q. Well, who talked with you before they put you on the witness stand over there?

A. Why, there was nobody talked to me about the case over there.

Q. Didn't Jim White talk to you? A. No, he didn't.

Q. Nobody at all. Well, how many penitentiary sentence-have you served out Bob? A. About three.

Q. About three? A. Yes.

Q. Where? A. I served one in this state.

Q. In Oklahoma at McAlester? A. Yes.

Q. What for? A. Forgery.

Q. When? A. Well, I don't know what year it was in.

Q. Well, when did you get out?

A. I have been out eight or nine years.

Q. How long were you in the Pen at that time?

A. Two years, right at two years and got a pardon.

Q. Where was the time, Bob, before that that you served?

A. In Ohio.

Q. What did you serve that time for? A. For forgery.

Q. How long were you in there? A. A year and a day.

Q. Where were you sent up from?

A. I was sent from here, from Muskogee.

Q. What judge sent you? A. Judge Thomas.

Q. Now, where was the other time that you served?

A. I was in Detroit.

Q. How long did you stay there?

A. Stayed a year and a day.

Q. Now, Bob, don't you know you were in Ohio in the penitentiary from November 5, 1900, up to June 25, 1904?

A. I don't know when it was, don't know what year it was.

Q. What time, don't you know that?

A. I say I don't know what year.

Q. You were there four years?

A. No, I wasn't there no four years, I know.

Q. How much did it lack of being four years?

A. I don't know, I couldn't say.

Q. You were in the United States jail at Fort Smith for about four months weren't you? A. I think it was.

Q. What were you in the Ohio penitentiary for?

A. Went there for forgery.

Q. Well, where did you go for larceny?

A. I was in Detroit.

Q. Now, wasn't you in Detroit during the nineties?

A. During which?

Q. During the nineties while Nancy was living up there at Wagoner?

A. Well, I don't know. I may have been, I don't know what years I was there.

Q. You have been in the penitentiary off and on nearly all your life, haven't you, Bob? A. No, I haven't.

Q. Now, who first told you that Nancy had a child up there at Wagoner? A. Old lady Childers.

Q. Old lady Childers? A. Yes.

Q. And you went down there to her house, to that tent, and you found Nancy in there all by herself, didn't you?

A. The old lady sent me down there.

Q. But I say you went down there? A. I was sent.

Q. Well, you went? A. Yes, sir.

Q. That baby was about two hours old?

A. I don't know how old it was.

Q. Well, how old do you say it was?

A. I don't know. I was in there.

Q. You testified at Sapulpa that it was about two or three hours old, didn't you?

A. Well, I was supposed—I suppose it was, that is what I said.

Q. There—not a soul in that tent but Nancy and the baby, was there? A. That was all that I seen in there.

Q. And Nancy was awful sick?

A. That was all I seen in there.

Q. They talked a good deal about how seriously sick Nancy was about that birth, didn't they?

A. They didn't that morning—nobody was there to talk about it.

Q. Nancy, when you got in there was cheerful and happy?

A. I don't know how cheerful and happy she was.

Q. Did you talk very much?

A. I didn't talk very much, just said I had something for her to eat.

Q. What was it you had for her to eat?

A. I don't know; the old lady fixed it up.

Q. A nice steak?

A. No, I know it wasn't no steak; there wasn't no steak around Wagoner at that time.

Q. What kind of victuals was it?

A. I don't know; I know it wasn't no steak.

Q. Well, was it meat?

A. No, it wasn't no meat; it was soup of some kind, I don't know what it was.

Q. You know that women can't eat solid food that soon after child birth?

A. No, I never have been one and I don't know what they take after the child birth.

Q. What was it you gave her the next time? The next day?

A. I don't know; I don't think I carried her anything the next day.

Q. How long after the child was born until she moved into the house? A. The next morning.

Q. The next morning after the child was born?

A. Yes, sir.

Q. Did she get up and walk in?

A. No, sir, she didn't.

Q. How did they get in there?

A. They carried her in on the cot she was laying on.

Q. Bob, don't you know that a woman with a child six or eight hours old, that they don't dare to move her around?

A. I don't know what they dare to do, I know what we did do.

Q. You did that very thing? A. Yes, sir.

Q. Was the baby crying or not? A. I don't know.

Q. Was it nursing her breast when you went in there?

A. I don't know.

Q. That was a bottle baby, wasn't it?

A. It was when she went to Fort Smith.

Q. How was it fed the first time you saw it fed?

A. Fed with a bottle the first time I ever seen it attempt to eat anything.

Q. Well, how old was it when you first saw it attempt to eat anything?

A. I don't know how old it was, I don't know.

Q. What other children were around there?

A. Betsy had some children around there.

Q. Well, name them.

A. I don't call to memory only two of the children, the biggest boy.

Q. Call their names. A. Henry Birney and Dick.

Q. You didn't know Joe then?

A. No, I didn't know Joe.

Q. What did they do with Nancy after they got her in the house? A. Placed her on the bed.

Q. In what room?

A. There wasn't but two rooms to the house; they got her in the west room.

Q. Who was playing seven up that morning?

A. Wasn't anybody playing that morning. Had several card games after that.

Q. Didn't have craps either?

A. Didn't that morning; did after that.

Q. How long after that? A. Possibly a week afterwards.

Q. Didn't have any crap games there the night before that birth? A. No.

Q. Or the night of the same day that she was brought there?

A. Well, I don't know but we played out there because it was at a place that we could pay and keep from being arrested.

Q. Now, who was arresting anybody? A. What?

Q. Who would arrest anybody there?

A. Well, they had a little city law around there.

Q. Well, who was the officer?

A. Well, I can't call to memory who the officers were. There were several Creek officers, what they called the Creek Light Horse at that time stayed around town a good deal.

Q. Do you know Henry Anderson?

A. Yes, I know Henry.

Q. He was there, wasn't he?

A. I don't know whether Henry was there at that time or not.

Q. Now, whose house were you living in at that time?

A. Living up at Mrs. Childers.

Q. What was her name? A. Rachel.

Q. And what was her husband's name? A. Bob.

Q. How long before Nancy got out of bed?

A. Well, I can't exactly say; I judge it was a couple of weeks though, before she got to walking around any place.

Q. That is a short time for a woman to get up, isn't it, after child birth?

A. Well, I have known them to stay in longer than that and known them to stay in as much as two months.

Q. Have you ever known one to get up as soon as two weeks?

A. Yes, sir, I have known them to get up the next morning.

Q. The next morning? A. Yes, sir.

Q. Nancy, didn't though? A. No, she didn't.

Q. Did Nancy go to work after that?

A. Yes, she went back to the hotel where she had been working down to the laundry.

Q. What hotel? A. McAnally's.

Q. McAnally's? A. Yes.

Q. How long after this child was born?

A. Well, I don't know, I never kept any particular count of time between time when she was done and after she was up but I know she went back and worked after she got up.

Q. Who kept the child for her?

A. It stayed at Mrs. Birney's.

Q. Kept on living there clear up until it died?

A. It was living around there with first one and then another—who would take care of it.

Q. Name them.

A. Wasn't but a few there. It stayed at Williams, and down at Betsy's and out at Mrs. Barnett's.

Q. Mandy Barnett's? A. Mandy Barnett's.

Q. Yes. And where else?

A. Only place I know it stayed.

Q. It died in Betsy Birney's house, didn't it?

A. No, I don't know where he died at.

Q. You knew him intimately right up until his death?

A. But I don't know where he died at.

Q. Where was he living the last time you know about it?

A. It was living with Nancy the last time she was around down there, I don't know what house he died in.

Q. It was living around town somewhere the last time?

A. Yes, with his mother.

Q. Where did she work?

A. I just told you, down at McAnally's.

Q. Was she working at McAnally's all the time?

A. No, not all the time; sometimes she didn't work at all.

Q. She worked at McAnally's the only place that you knew of her working? A. No.

Q. Where else did she work?

A. Williams and also at the Haley house.

Q. Where was she working the last time you saw this boy?

A. Where was she working?

Q. Yes. A. Down there at that laundry.

Q. McAnally's? A. Yes.

Q. And where was the boy?

A. He was at Betsy's when she was down there.

Q. Was he out at Betsy's when he died?

A. I can't say because I don't know just what house he died in.

Q. Was he living at Betsy's place the last time you know of him living?

A. Yes, that is where I seen him with Betsy's children.

Q. How long was that before he died?

A. I don't know just how long.

Q. About how long, Bob?

A. I wouldn't like to say because——

Q. Was it three months?

A. Well, it might have been three months and it might have been three weeks; I can't say.

Q. It wasn't long, though, was it? A. No, it wasn't.

Q. Now, you know when Betsy moved away from there out on the Virdigris, don't you? A. Yes, sir.

Q. Don't you know that was in 1897?

A. I don't know, I can't remember the year.

Q. If Betsy moved away from there in 1897, this boy died and was buried not later than 1897, wasn't he?

A. Well, I can't really say. I don't know what year Betsy moved out there and what year the child died in.

Q. How long did Betsy live there after the boy was born?

A. Why, she lived around there quite a while.

Q. Now, Bob, don't you know that Betsy was living out on the river when this boy died?

A. I know she had been living out there.

Q. She had? A. Yes.

Q. Well, had she moved back to town?

A. No, I don't think she had.

Q. Well, then, you want to change your testimony, don't you? Then this boy was not living at Betsy's anywhere from three weeks to two months before the boy died?

A. Wasn't doing what?

Q. Wasn't living at Betsy's.

A. Yes, it was living at Betsy's; lived with Betsy out in the country.

Q. Oh, lived out in the country? A. Yes.

Q. How long had she lived in the country?

A. Well, I don't know how long Betsy kept him out there with her.

Q. How long had Betsy been living in the country before the boy died?

A. I never kept up with the dates; I know she lived in the country.

Q. And the boy went with her?

A. I guess so. She carried him, I don't think he got up and went.

Q. And stayed out there until he died?

A. I don't think he did, I know that he didn't die in the country.

Q. You are confident that he was living with her from two weeks to two or three months before he died?

A. I wouldn't say exactly that long but I know he lived out in the country with her a while.

Q. Bob, you say this boy was nine or ten years old when it died? A. Yes, I judged that it was.

Q. Now, you know, Bob, when it was born, don't you?

A. I know the next morning I seen him after he was born.

Q. And you know that he must be from ten or eleven years old when he died, don't you?

A. No, I don't say that; I say that he was nine or ten.

Q. Well, you were in the penitentiary along about that time, weren't you? From April, 1900, to—from November, 1900, to June, 1904, you were in the penitentiary, don't you know that?

A. I know I was there when the child died; I don't know where I was but I know I was in Wagoner when the child died.

Q. So how long after he was buried until you went to the penitentiary?

A. Well, I never kept up with it to say how long it was.

Q. Well, how long? Six months—two months?

A. Well, I can't say.

By the Court.

Q. Now, here, Bob; you know whether it was right soon after that boy died that you went to the penitentiary?

A. Well, I was sent up to the penitentiary some time after the death of the child, Judge.

Q. Well, how long, then? A. I can't say.

Q. A year?

A. It may have been a year and it may not have been so long.

Q. More than a year or two years?

A. Well, I don't know.

Q. Think, think.

A. No use to remember, I know I was there when he died and helped to bury him; might not have been more than six weeks and might have been longer.

By Mr. German.

Q. You testified at Sapulpa that this child was ten or eleven years old when it died, didn't you?

A. I don't remember that I did. I don't know.

Cross Examination by Mr. Stuart.

Q. You knew a man at Wagoner about the time you were living there by the name of Tom Atkins, didn't you?

A. Old Tom Atkins?

Q. Yes. You knew a man who used to come there and drink a good deal—Tom Atkins?

A. I knowed Atkins around there, yes.

Q. Tell me, you knew a man Tom Atkins, who used to come there in town and drink a good deal on the streets—you knew him? A. I have seen him.

Q. You knew him when you saw him? A. Yes.

Q. Lived out on the Virdigris—lived out in the country?

A. Yes, Tom Atkins lived out of town.

A. And Nancy told you that he was her cousin didn't she? A. I think she did.

Q. And told you that Tommy was named after him, that he was her cousin—that was what Nancy told you?

A. Probably did.

Q. Well, you know that she did, don't you?

A. Well, I can't say.

Q. Well, you swore to it, didn't you, at Sapulpa?

A. I don't have the memory right at the time.

Q. You swore to that at Sapulpa, didn't you?

A. Probably I did.

Q. Well, do you swear to it now?

A. Well, if I swore to it then I swear to it now.

Q. Now, it is a fact that you knew an old man named Thomas Atkins who used to come in there and get full and Nancy said that was her cousin and the boy was named after him? A. Yes.

Q. Now, you know that fact? That occurred, didn't it?

A. Well, if I said it, why I say so.

Q. Well, tell me, did it occur?

A. Well, if that is my statement.

Q. I ask you now did it occur—was it a fact?

A. Well, if I stated it over there.

Q. Well, you tell me now, whether that occurred or not? Was it a fact? Was it a fact?

A. Well, if I said so, it is a fact.

Q. Do you know now whether it was a fact or not, you know right now whether it was a fact or not? Don't you know now as well as at Sapulpa whether it is true or not?

A. Well, if I said so at Sapulpa, I say so yet.

Q. Have you any recollection of it outside of what you said at Sapulpa? A. Of what?

Q. Of having seen this man Atkins there? A. Why, yes.

Q. Then, you do remember hearing—seeing him there in town? A. Yes.

Q. And you do know that Nancy told you that he was her cousin, don't you?

A. Well, I don't exactly call to memory whether she did or not.

Q. Well, what is your best recollection about that?

Mr. Stuart: That is all.

Cross Examination by Mr. Hanford.

Q. Bob, you were confined in the United States penitentiary at Fort Worth on the charge of larceny from December 20th, 1893, until April 18th, 1894, wasn't you?

A. I don't know what years.

The Court: It is not going to be much use to get this witness to testify in regard to dates.

Mr. Hanford: I wanted to cover this period from this time on, Your Honor. He knew this boy from the year he states——

The Court: When you ask him as to years——

Mr. Hanford: I just asked in order to predicate an offer.

The Court: Documentary evidence is the best. It will save time by that.

Mr. Allen: Mr. Hanford, I suggest in as much as the penitentiary records are voluminous, probably counsel will agree as to the time he entered the penitentiary.

The Court: I am going to take a brief recess and it may be that you can agree as to those dates.

* * * * * * * *

Mr. German: Your Honor, counsel suggested that they would agree as to whatever these present records show.

Mr. Maxey: After we examine them—we don't know what they show, but we are not going to dispute what it is; we want to look them over.

The Court: Then I will tell you what you do. Get the data in shape to read readily in the record tomorrow morning as a part of this cross examination and hand counsel for the Nancy Atkins interest a copy of the statement, and by tomorrow morning at 9:30 you can have that.

Witness dismissed.

And thereupon, SAMUEL McHENRY, being called as a witness on behalf of the defendants Nancy Atkins et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name. A. Samuel McHenry.
Q. How old are you? A. I am 78 years old, sir.
Q. Where were you born? A. Born in Tennessee.
Q. How long did you live in Tennessee?
A. I have forgotten that—how long I did live there.
Q. Well, when did you leave Tennessee?
A. Oh, I left Tennessee in the time of the war.
Q. And where did you go after the war was over?
A. I went to Arkansas.
Q. What part of Arkansas did you live in?
A. Lee County.
Q. And how long did you live in Arkansas?
A. Well, I don't know, about fifteen or sixteen years I guess.
Q. Then, where did you go?
A. I come to the Indian Territory.
Q. What place? A. Wagoner.
Q. What year did you come to Wagoner?
A. Well, sir, I think I came to Wagoner in '98 as well as I can remember.
Q. Now, have you lived at Wagoner since that time?
A. Yes, sir.
Q. What is your business? A. Preacher.
Q. What denomination? A. Missionery Baptist.
Q. Now, have you been preaching since you came to the Indian Territory?
A. Yes, sir, I was ordained in the Territory.
Q. Where have you been located, in Wagoner all the time?
A. In Wagoner and around out through the country.
Q. Now, were you in Wagoner from the time you came there in 1898 up for four or five years?

A. Yes, sir, I was in Wagoner all the time up to that time.

Q. Do you remember being called on to attend a funeral sometime after you came there?

A. Yes, sir, I remember in tending the funeral. I didn't call the burying a funeral.

Q. Well, all right, what year was that?

A. Well, now, sir, that is hazy on my mind right now, but I think it was in 1901, between 1901 and '2, I couldn't say what date it was.

Q. What funeral was it, burial you were asked to attend?

A. Well, the boy that they said was Nancy Atkins' boy.

Q. Now, who invited you to the funeral?

A. Mundy Barnett, that was my pastor at that time.

Q. Where was that funeral held?

A. Well, in the house, I don't know what house it was. I met them at the graveyard. I was working at that time at the depot.

Q. Did you attend the funeral out at the grave-yard?

A. Yes, sir.

Q. Now, who was there?

A. Oh, I couldn't tell you to save my life.

Q. Who was there?

A. Well, myself and Mundy Barnett, and I think Bob DeLozier and E. G. White, we always called him Dog White. DeLozier I think dug the grave.

Q.. Do you remember whether or not Nancy Atkins was there?

A. It is kind*ly* faintly on my mind right now, but I rather think that she was there.

Q. They were mostly colored people that were at the grave?

A. Around town there was a good many of them there. It didn't interest them to keep them on my mind until now.

Q. How do you fix it as 1901, anything you can fix that date by?

A. No, sir, I couldn't, couldn't fix the date to save my life.

Q. I say, is there anything, anyway you can fix that year?

A. No, I couldn't do that. I know it was between 1901 and 1902 in the spring I think.

Q. Now, were you preaching when you came to Wagoner?

A. Yes, sir, quite a while before.

Q. Well, now, how long had you been there preaching around before you attended this burial? A. Oh, I don't know.

Q. Two or three years? A. Two or three years maybe.

Mr. Maxey: I believe that is all.

Cross Examination by Mr. Allen.

Q. You say this was in 1901 or 1902 that you preached this funeral? A. I didn't preach no funeral.

Q. Oh, you were just there as one of the spectators?

The Court: I think he distinguished between the preaching of the funeral and the ceremony at the grave.

Q. Did you officiate at the grave? A. Yes, sir.

Q. You say you are a preacher? A. Sir?

Q. You say you are a Baptist preacher? A. Yes, sir.

Q. Can you read and write?

A. Yes, sir, I can read, and I can write it out, write my name, but I can read.

Q. Can't read very well, can you?

A. Yes, sir, what I call well.

Q. How many funerals have you officiated at, Uncle?

A. How many?

Q. Yes, since you have been in Wagoner?

A. Oh, I couldn't tell you, sir.

Q. A great many though? A. Yes, sir.

Q. During those days, you were about the only colored preacher around there? A. No, sir.

Q. Who else was there?

A. Mundy Barnett was there, he was my pastor.

Q. You were not preaching in those days? A. Yes, sir.

Q. You started preaching after that, didn't you?

A. No, sir, I was a preacher before I came to this country.

Q. Did you have any churches at that time?

A. No, sir.

Q. You were a preacher but you were not following your profession then?

A. Yes, sir, I was a licensed preacher.

Q. Where were you preaching then?

A. I was preaching at Wagoner out through the country.

Q. You are sure that Bob DeLozier dug this grave?

A. I think so, sir, I think so.

Q. And you say this was a child or cousin of Nancy's?

A. No, sir, I didn't say that, they said it was Nancy's boy at the time.

Q. You don't remember whether Nancy was there or not?

A. Well, I don't know exactly whether she was there or not.

Q. Well, to refresh your recollection, she was at the funeral, wasn't she?

A. I don't know, didn't know anything about her being there.

Q. You don't remember of seeing any pigeon toed, cross-eyed, Indian girl there do you, you didn't see anybody there that answers Nancy's description? A. At the cemetery?

Q. Yes?

A. Why, I don't know, sir, if I did or not, it has been so far back I can't remember.

Q. You know Nancy Atkins? A. Yes, sir, I know her.

Q. You don't remember of seeing her there?

A. I wouldn't say that.

Q. So, she never told you that it was her child did she?

A. No, sir, Mundy Barnett told me it was her child.

Q. But you didn't have any conversation with Nancy about it? A. No, sir.

Q. If Nancy had any child you didn't know anything about it at that time? A. No.

Q. That is the first time and last time you ever heard of Nancy having a child? A. No, I have heard it since that.

Q. Since this case came up?

A. I don't know when the case came up.

Q. During the last few years? A. Yes, sir.

Q. Now, Uncle, you know Mr. White here, don't you?

A. Yes, sir, I know him when I see him.

Q. You have known him ever since you came to Wagoner?

A. Yes, sir.

Q. And you feel very friendly to Mr. White?

A. I feel friendly to any man that hasn't mistreated me, yes, sir.

Q. Mr. White came to you and talked to you about this?

A. He only asked me to come down and be his witness.

Q. He asked you about this conversation you had with Mundy Barnett, didn't he? A. I don't know that he did.

Q. How did he find out you had a conversation?

A. I don't know whether he knowed it or not.

Q. When he came, did he subpoena you and you came to this court house, you had never told anybody about that conversation had you? Now, tell me, who did you first tell about ever having a conversation with Mundy Barnett?

A. The first one I told was my wife.

Q. Is your wife living?

A. Yes, sir, the one I have now is living.

Q. The one you had then is living? A. No, sir.

Q. You told the wife you had then or the wife you have got now? A. The wife I have got now.

Q. How long have you been married this time?

A. Two years.

Q. So, she might have told Mr. White or some of these people and let this secret out?

A. I don't know, there wasn't no secret to me.

Q. I know, but you never told anybody in the world except your wife, did you?

A. I might have told Mr. White when he was at my house.

Q. He knew about this conversation and asked you about it, did he, Uncle? A. I don't know, I just don't know.

Q. Didn't he ask you if Mundy Barnett told you that that was Nancy's child? A. No, sir.

Q. Didn't he ask you if Mundy Barnett, now think——

Mr. Maxey: If the Court please, I object to telling the witness now to think, I don't think that is proper cross examination.

The Court: The witness is able to take care of himself. Now, just listen to the questions and you answer them so far as you can.

Q. Where did Mr. White have this conversation with you?

A. Well, when he summoned me he come to my house.

Q. He summonsed you?

A. Yes, sir, at least he came there.

Q. He came there with a summons for you, did he?

A. No, he didn't have no summons, he just came there himself, he didn't read no summons.

Q. Didn't he give you a piece of paper? A. No, sir.

Q. How did you happen to come to court?

A. He told me to come as a witness.

Q. And that is the first time you had ever talked to anybody about what you knew?

A. No, I had told my wife about it before this.

Q. I know, but your wife hasn't been telling these people has she? A. I don't know, sir.

Q. Well, outside of your wife that you married two years ago, you had never told a living human soul about the conversation you had with Mundy Barnett at the grave of this party, had you; didn't you talk to Mr. White about it?

A. I wouldn't say that, for I don't know.

Q. You don't remember ever telling anybody else except your wife? A. I don't know if I do.

Q. And then Mr. White must have found out about it some way and got you to come to court. What did he say to you? A. He told me he wanted me to attend court.

Q. He wanted you to attend court? A. Yes, sir.

Q. And then did he ask you what you were going to tell when you attended court? A. No, sir.

Q. Didn't ask you what you knew about it? A. No, sir.

Q. You are sure of that? A. I am sure of that.

Q. You are sure he didn't ask you what you knew about this case when he came there? A. Yes, sir.

Q. And you didn't tell him?

A. No, sir, I didn't tell anybody at all.

Q. And you didn't tell anybody but your wife?

A. Yes, sir, that is all.

Q. How many burials did you attend in 1901 and 1902?

A. Oh, I couldn't tell, Judge, I taken a memorandum at times and when this thing came up me moving two or three times, I got my papers lost, I don't know how many.

Q. But you don't remember this funeral by any memorandum that you ever had, if you ever had a memorandum you have lost it, about attending this funeral? A. No, sir.

Q. You attended so many funerals those days, you kept a memorandum of them, keep account of them?

A. That is our rules.

Q. That is the rules of your church? A. Yes, sir.

Q. You attended a great many [] those times?

A. Well, I don't know.

Q. You and Mundy Barnett were the only colored preachers in that section of the country? A. No, sir.

Q. You were the only ones at Wagoner, weren't you?

A. No, sir.

Q. You know Chaney Trent don't you?

A. I don't know her name, I know her by the name of Mrs. Trent.

Q. She is a sister to this Atkins boy, isn't she?

A. I don't know.

Q. You were present at the funeral of her brother, weren't you? A. No, sir.

Q. Sure of that? A. I am sure of that.

Q. Now, isn't that the burial you are talking about now?

A. No, sir, I wasn't there.

Q. You don't know whether you were there or not?

A. No, sir, I wasn't there, I don't know anything about it.

Q. Wasn't you at the funeral of Dick Atkins' boy?

A. No, sir.

Q. Sure? A. I am sure.

Q. Near Wagoner in 1900 or 1901? A. I wasn't there.

Q. You knew Dick Atkins? A. Yes, sir.

Q. You knew the whole family, didn't you? A. No, sir.

Q. You knew his son Tommy died in 1900 or 1899?

A. No, sir, I didn't know that.

Q. Sure of that? A. I am sure of that.

Q. When did you say you went to Wagoner?

A. Oh, I think I went to Wagoner in 1891, I think it was.

Q. 1901? A. 1889.

Q. '89? A. Yes, sir.

Q. You mean '99, don't you? How long before you were at this funeral was it you went to Wagoner?

A. Well, I couldn't say that. I was working and preaching, too, at the depot, rustling freight.

Q. Wasn't this funeral you went to in 1903 instead of 1902? A. The funeral I speak of?

Q. Yes? A. At our cemetery there?

Q. Yes A. No, sir.

Q. What time was it now?

A. I don't think so, it was sometime in the spring, I couldn't tell you the hour or the day or the month.

Q. I want you to tell me what year it was?

A. Sometime in the spring.

Q. What year?

A. As I said it was sometime in '91 or '92.

Q. Ninety-one or ninety-two? A. 1902 or '1.

Q. It wasn't in 1900? A. No.

Q. It wasn't in 1903? A. No.

Q. You are sure it was in 1901 or 1902? A. Yes, sir.

Q. Was it in the winter time between those two years?

A. No, sir, in the spring.

Q. Well, was it in the spring of 1901 or in the spring of 1902 now, Uncle?

A. I think it was in the spring of 1901.

Q. It wasn't in the spring of 1900 then was it?

A. Yes, it was in the spring of 1900 but spring of 1901 or '2.

Q. It wasn't 1900, it was in 1901, you are sure about that are you? A. Yes, sir.

Q. Can't be mistaken. How do you fix the time?

A. Well, I might be. I think that. That is what I think, I don't exactly know.

Q. It was either 1901 or 1902, you are sure about that?

A. Yes, sir, between 1901 and 1902.

Q. Who told you that it was necessary for this child to die as late as 1901 or 1902.

A. I don't think there was a man on earth told me so. No one could have told me so but God you know.

Q. Didn't Mr. White tell you that they were trying to prove Nancy had a child? A. No, sir.

Q. Didn't he tell you that they were trying to prove that that child died after 1889? A. No, sir.

Q. How do you happen to be so positive about 1901 or 1902, what fixes that date in your mind, Uncle?

A. Well, because I was working as a freight rustler at the time at the depot, it was a union depot at that time.

Q. When did you commence working there at that time?

A. Oh, I don't know now.

Q. What year? A. 1900 I think.

Q. Then when was it you attended this funeral, after you quit working there?

A. I hadn't quit, I was working there at that time.

Q. How long did you work there?

A. Oh, I worked there about two years, I think.

Q. How long had you been working there when you attended this funeral?

A. Oh, probably a year, six months or a year.

Q. So it must have been at least in 1901 or 1902?

A. Yes, sir.

Q. And Bob DeLozier dug that grave, didn't he?

A. Yes, sir, at least he were there when I went to the cemetery.

Q. But you said a while ago that he dug the grave?

A. That is what I mean, he was there.

Q. Is there anything in the rules of your church that requires you to go out and see the grave dug? A. No, sir.

Q. Did you see this grave being dug, now, Uncle?

A. No, sir.

Q. Did you see this party that was buried in this grave?

A. No, sir, I didn't see him only the box.

Q. You don't know whether it was a boy or girl or who it was? A. Don't know only what the people told me.

Q. You say you have a hazy recollection about that?

A. I know no more than what they told me. I don't know whether it was a boy or gal or what.

Q. Your recollection is hazy about that?

A. No, all I know about it is what Mundy Barnett told me about it.

Q. Your recollection is hazy about what Mundy Barnett said? A. No, sir.

Q. What did he say?

A. He just told me he wanted me to assist him to bury this child. Nancy's boy, that is what he told me.

Q. Didn't he say Nancy's cousin? A. No, sir.

Q. Didn't he say Dick Atkins' boy? A. No.

Q. You didn't know Nancy Atkins at that time?

A. At that time. yes, sir.

Q. Oh, you had known her a long time before that?

A. Right smart while.

Q. You never knew this boy at all?

A. No, I wouldn't say that.

Q. And you didn't talk about the matter after that until you talked to your wife about it within the last two years?

A. Yes, Mundy Barnett told me it was her boy.

Q. Was Bob DeLozier a member of your church?
A. No, sir.
Q. Did you hear about him going to the penitentiary?
A. Hear about who?
Q. Bob DeLozier? A. Yes, sir.
Q. That was some four or five years after this, wasn't it?
A. I don't know, never paid no attention.
Q. Well, you saw him around Wagoner for a long time after that, didn't you? A. Yes, sir, I saw him there recently.
Q. He lived there for several years after he dug that grave, didn't he? A. Well, I don't know that either.
Q. Well, now, what is your best recollection?

The Court: Well, I think now we are not getting much light.

Cross Examination by Mr. Hanford.

Q. You were at the grave and saw the box when they brought it out there, were you? A. Yes, sir.
Q. And how did they get it out there, carried it didn't they? A. No, sir, put it in the wagon.
Q. Had it in the wagon? A. Yes, sir.
Q. It wasn't a regular coffin, it was just made out of boards. Do you know who made that coffin?
A. No, I don't know who.
Q. Don't you know Mundy Barnett made that?
A. No, sir.
Q. It wasn't a bought coffin, it wasn't a store coffin?
A. No, sir.
Q. It was made there in Wagoner? A. Yes, sir.
Q. And they just had it on the wagon, there were no carriages or anything like that? A. Two horse wagon.
Q. Just three or four people that were at the grave and the box that they brought out from Wagoner?
A. There was several people there, we didn't have any funeral, we had the burying.
Q. You brought the boy out there to bury him. But they didn't have a parade as they have for other people?
A. Yes, there was several people went out.
Q. They didn't have a parade going up Main Street like you have a funeral?
A. There wasn't much Main Street, all the streets were Main then.

The Court: You say they had just one wagon?

A. Just one wagon.

The Court: Was there anybody walking along?

A. Yes, sir.

Q. Who was walking along?

A. I couldn't tell you who was walking along.

Q. Were they men or women?

A. As I said I was working at the depot and they got there a little ahead of me.

Q. Do you know whose wagon that was? A. No, sir.

Q. Colored fellow? A. Yes, sir.

Q. Mules hitched to the wagon? A. Yes, sir.

Q. Didn't have horses, had mules? A. Yes, sir.

Q. Do you know the Davis-Jones store there?

A. Yes, sir.

Q. They didn't have anything to do with that funeral, did they? A. I don't know, I don't know that either.

Q. You know that was the big mercantile store there?

A. Yes, sir, I know the store.

Q. And they just got up a box and put the boy in it and took him out there. How big was that box?

A. Oh, I don't know, looked like the box might have been about four feet long.

Q. About four feet long?

A. Yes, sir, three or four feet long.

Q. Isn't that pretty long, Uncle, are you sure it was three or four feet long?

A. No, I aint sure, but I said it looked like it.

Q. It showed that there was a baby in it?

A. No, it was too long for a baby.

Q. It wasn't for a little baby, it was for a child, there is a difference between a baby and a child is there?

A. Yes, sir.

Q. And this would be about the right size for a child?

A. Well, it would be about the right size I think that seems to me about be about eight or nine years of age.

Q. Then, it would be a pretty big box.

A. That is about the size of the box.

Q. Do you know anybody named Steeples?

A. What is his other name, Judge?

Q. I am just asking about the man Steeples?

A. I don't know him.

Q. Were you in Wagoner in '91, I am not asking about 1901, I am asking about ten years before that, were you in Wagoner in '91? A. Before what time do you mean?

Q. Before this burial? A. I was in Wagoner in 1889.

Q. 1889 you came there? A. Yes, sir.

Q. Now, just going back, all of this talk about 1900 and 1902, has meant to you '91 and '92, hasn't it? A. No, sir.

Q. It hasn't. It was more than 10 years after you came to Wagoner, wasn't it? A. Yes, sir.

Q. You are sure of that? A. Yes, sir.

Q. It was when you were working up there at the depot? A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. Did you know Eliza Sterling? A. Yes, sir.

Q. She was a member of your church? A. No, sir.

Q. Was she a member of any church? A. Yes, sir.

Q. What church? A. The Fountain Church.

Q. Fountain Church. Do you know Angeline Moody? A. Yes, sir.

Q. Was she a member of the church? A. Yes, sir, she was.

Q. What church was she a member of? A. Member of the Baptist Church there.

Q. In another section of the town? A. Yes, sir; four Baptist churches there.

Q. She was a member of the Baptist church? A. Yes, sir.

Q. Angeline Moody? A. Yes, sir.

Q. Did you know Elnora Williams? A. Yes, sir.

Q. She a member of a church—what church?

A. I don't know whether she was a member of the church or not.

Q. Did you know Betsy Overton? A. Yes, sir.

Q. She a member of the church? A. Yes, sir.

Q. What church?

A. She had been a member of the Baptist church, and a member of the Methodist church; I think she was a member of the Methodist church.

Q. Parson, you used to visit the colored neighborhood a good deal? A. Yes, sir.

Q. You knew those women that I asked you about? A. Yes.

Q. You knew them well. They were friends of yours, those people I have mentioned, those colored women?

A. Yes, sir.

Q. And you never heard them or anybody in that colored neighborhood mention Nancy Atkins having a boy named Tommy Atkins, did you, never in your life; you never heard of this boy until he was buried, did you?

A. Well, yes, sir, I heard of him; I hope to bury him, the reason I heard of him.

Q. You never heard of him until the time he was buried, did you? Speak out, can't you?

A. Well, give me a little time.

Q. Plenty of time; I thought you said so twice. You never heard of him until the time you buried him, did you?

A. Oh, I don't know whether I did or not.

Q. Didn't you testify that you never heard of the boy until about the time he was buried, haven't you said that twice on the stand, that you never knew of such a boy until the funeral came up?

A. I said I never knew it was Nancy's boy; never knew it until I was told.

Q. You never knew that until it was told you at the funeral? A. No, sir.

Q. That is right. During all the time you knew those colored people there and associated with then, you never knew of Nancy having a boy named Tommy, did you?

A. Well, I don't know. We knew lots of things amongst ourselves.

Q. Now, Parson, don't side-step the question: You said you never knew of Nancy having a boy until the time of the funeral? A. If I said it, I say it now.

Q. Then you never heard of Nancy having a boy by the name of Tommy until the time of the funeral? A. No, sir.

Cross Examination by Mr. Allen.

Q. You never heard at that time what the name was, did you? I believe you testified that all you heard was it was a boy of Nancy's?

A. Tommy; yes, called him Tommy.

The Court: He has told all that. Stand aside; that is all.

Witness dismissed.

Mr. German: I would like to move, your honor, to strike the testimony of the last witness, on the ground that it is hearsay and incompetent.

The Court: Overruled.

Mr. German: Exception.

And thereupon ELLIS CHILDERS, a witness produced on behalf of the defendants Nancy Atkins, et al., was sworn, and testified as follows:

Direct Examination by Mr. Hill.

Q. Mr. Childers, state your name? A. Ellis Childers.

Q. Residence? A. Wagoner County.

Q. Age? A. 51.

Q. What blood are you, Mr. Childers?
A. Three-fourths Creek blood.

Q. What official connection have you had with the Creek Nation?

A. Well I have been a member of the Creek Council for years.

Q. Of both houses at different times? A. Just one house.

Q. What house? A. The lower house of Warriors.

Q. Have you been Speaker of the House of Warriors?
A. Yes, sir.

Q. How often? A. I have been Speaker three times.

Q. What other positions have you held in the Creek Nation?

A. I served as treasurer one term; District Attorney there during the Creek courts there.

Q. Where were you educated, Mr. Childers?
A. Carlysle, Pennsylvania.

Q. Indian School there? A. Yes, sir.

Q. Did you go to school with Minnie Atkins?
A. Yes, sir.

Q. How long have you known Nancy Atkins and Minnie Atkins?

A. I don't know exactly, somewhere between 30 and 40 years.

Q. Since your childhood? A. Yes, sir.

Q. Of what blood are they?

A. I can't be certain; they are about half-breeds, though, I think.

Q. Creek? A. Yes, sir.

Q. What tribe of the Creeks?
A. They belong to the Euchee Town.

Q. What are the Euchees, Mr. Childers?
A. What are they?

Q. Yes, what distinguishment is there between the Euchee and Creek?

A. Member of the Creek Tribe, but a band; they spoke a different language.

Q. But they are considered a part of the Creek tribe?
A. Yes, sir.

Q. A sub-division, you might call it, of the Creek Nation, Muskogee Nation? A. Yes, sir.

Q. Under the usages of the Creek Nation, what side does the child follow, the father or the mother? A. The mother.

Q. Did you know the father and mother of Minnie and Nancy Atkins?

A. I knew their mother, but I can't say that I knew their father; he died when I was young. I probably had seen him; he was quite a noted man. I knew of him.

Q. What was his name? A. Thomas Atkins.

Q. A Light Horse man, wasn't he?

A. Captain of the Light Horsemen several years.

Q. Did he occupy any position of any prominence in the Creek Nation, or was he a well known citizen of it?

A. He was quite a prominent man; I don't know that he occupied any other position, that I know of, but he was a noted man; a man widely known.

Q. What blood was he among the Creeks?

A. I can't say myself what blood he was, only as I understood, he was a halfblood.

Q. What parentage? A. He belonged to Coweta Town.

Q. Coweta Town? A. Yes, sir.

Q. What was his wife; what blood was she?

A. She belonged to Euchee.

Q. And according to Creek usages, the children of that marriage followed the mother, because she was a Euchee and the father was not; he was a Coweta, is that correct?

A. Yes, sir, that is correct.

Q. What years were you at school at Carlysle?

A. I was there from January, 1880, to June, 1884.

Q. Where have you resided since June '84, since you returned from school?

A. In what is now Wagoner County.

Q. Spent your life in what was then the Creek Nation, except the years which you have been away at school?

A. Yes, sir.

Q. How long have you known Nancy, I believe you said since you were a little child; fix it as definitely as you can.

A. Since a little child. I was quite a young boy, she was a girl when I knew her.

Q. Do you know about how old Nancy is?

A. I can't say; she must be something like about 41 or two years old.

Q. How old did you say you were? A. 51.

Q. How much difference do you think there is between your age and Nancy's?

A. There must be four or five years difference.

Q. That would make her a little older than that, wouldn't it? A. Probably so.

Q. How old is Minnie, you know?

A. Minnie, I think, is older than I am. I take her to be 57. She was quite a good size girl when we went to school; good deal larger than I was a boy.

Q. Are your families connected in any way, Childers and Atkins family?

A. No, sir; some of the Childers married Atkins.

Q. No blood connection, as I understand it, but some intermarriage between the Atkins relations and Childers relation, is that correct? A. Yes, sir.

Q. So you have known this family intimately practically all your life, have you not?

A. Yes, I have known them quite a while.

Q. Did you know Nancy Atkins in Wagoner?

A. Yes, sir.

Q. Did you know of her giving birth to a child in Wagoner? A. I don't know, only what I had heard.

Q. Well, state what the circumstances are that you know in regard to that, Mr. Childers.

Mr. German: We object to that as hearsay, your Honor.

Mr. Hill: I don't think his will be hearsay.

The Court: Anything anyone told him, the court will not consider. He may proceed now to state the circumstances.

A. My first hearing of it—there was quite a gathering there of Creek citizens that lived in the vicinity of what is now Coweta and Wagoner, known as the pasture payment; we had quite a considerable pastures from which we received the money and paid it out among the people that lived within or near the pasture, and during that payment it was in the fall, I think in the 1st day of October, 1890. While we were there Saus Childers came to me and said that Nancy Atkins was very sick; she had had a baby, and she was living in a tent there and if she was not taken care of, she was going to die, and finally Saus Childers and his wife, Mary, came and said the same thing. Well, I suggested that I didn't know of anything that we could do except that we are getting money here, getting paid, why not get up a subscription and help her; get somebody to take care of her. Saus immediately asked me to write out a subscription paper and I did. I was at the table, helping make this payment, and I took a paper and wrote it. I don't know the words but it was short, asking for donations, and right then I gave Saus five dollars, my father, he was sitting there, and he gave him five dollars.

Q. Whose father?

A. My father; M. B. Childers, and I gave him the money and the paper, before we got through with this payment he came back with quite a lot of money; as near as I can recollect it was seventy-odd dollars, and brought it back to me, and I told Saus and Mary, both, I said we haven't got time; I said get some of these old women and go and see after her. So my mother and some other of the Indian women that was there went and was there all the afternoon, and finally they came back and reported that they had taken care of her; that they got parties to look after her, and got clothes and cleaned her up and paid Betsy Birney to take care of her, and moved her into her house.

Q. Who was Betsy Birney?

A. Betsy Birney was an old colored woman who lived there in Wagoner.

Q. Now, did you see that child shortly after that?

Mr. German: We object, your Honor, on the ground that it is assuming——

The Court: Well, an assumption, and the court realizes it is an assumption; something this witness has not sworn to; if he would say he saw a child before, I would take that as testimony that it was her child.

Mr. Hill: Certainly.

Q. Did you see a child with Nancy any time soon after this event you have—— A. I did.

Q. Now, state all facts about that to the court.

A. A short time afterwards I don't know whether it was a week or more; I don't recollect, but shortly after that time Betsy Birney who owned a place within our pasture, and we had to pay her; we had agreed to pay her. In fact we had to get her consent and the only way that was done was to pay them and get their consent, and I went to settle with Betsy Birney, and while I was there I seen Nancy and this child.

Q. Now, fix as near as you can how soon this was after the date, the time, that you have told about the contribution being raised.

A. I don't think it was over ten days. I had other parties to settle with, and I went out in the country once or twice and back, and I think it was within at least ten or fifteen days after this occurred.

Q. Now, let me interrupt you a little about that, to go back to this Childers. You say that Saus Childers was the one came to you and told you of Nancy having the baby and her destitute condition? A. Yes, sir.

Q. Was Saus Childers related to Nancy?

A. Saus Childers' wife was a first cousin of Nancy.

Q. That is the Childers family connected with the Atkins family that you referred to? A. Yes, sir.

Q. Did you have any talk with Nancy at the time you were in the house settling with Betsy Birney?

A. After I got through I sat and talked with her a while.

Q. Did you have any discussion with her about the child?

A. I talked to her about it; I don't know that we had any discussion about it.

Q. Well, do you learn whether it was a boy or girl?

A. I don't recollect; I don't recollect asking her; I don't think I asked her.

Q. When did you next see that child, if you saw it?

A. If I saw the child after that, why I didn't know at the time that I was seeing it. I saw a boy they claimed it was afterward, but at the time I seen it, I didn't know it was the same child.

Q. Well, did after that time you see any boy around with Nancy? A. Yes.

Q. When was it that you saw a child around with Nancy after this event you are referring to?

A. I can't tell; it was sometime after, though; a year or such a matter.

Q. Year or such a matter? A. Yes.

Q. Did you have any talk with Nancy then as to whose child it was? A. No, I didn't.

Q. Did you know whose child it was?

A. I thought it was—I just thought it was hers. I never asked anything much.

Q. Do you know what name it went by?

A. Not at that time.

Q. Did you later learn?

A. I have heard that it was Tommy Atkins.

Q. When did you learn it was Tommy Atkins?

A. Sometime after that.

Q. Some time after that? A. Yes.

Q. In other words, when it was quite small you didn't have any recollection of its name? A. No, I don't.

Q. How long do you recall that boy?

A. Well, I can't say; I never paid very much attention to it.

Q. How big was it the last time you recall seeing it?

A. Well the last time I seen the child, they said was Tommy Atkins, it was probably a good sized kid, running around.

Q. Talking?

A. Well, I didn't talk to it; I don't know.

Q. Well, was it big enough to talk?

A. Yes, big enough to talk.

Q. Well, make an estimate, Mr. Childers, the last time you saw that boy as to how old it was.

A. It might have been a year or better, or between a year and a half or two years old.

Q. Well, you remember seeing him when he was along about that age? A. Yes.

Q. Did you see him with Nancy?

A. I seen him with Nancy and the others that lived there with him.

Q. Well, where was that? A. Right there at Wagoner.

Q. Wagoner? A. Yes, sir.

Q. Well, what place at Wagoner?

A. I think if I seen him at all, I seen him there at Davis & Jones store, or near there. That is about the only place I recollect seeing him.

Q. Did you see him at Betsy Birney's any?

A. I don't think I ever was at Betsy Birney's but once after that, and that was several years after.

Q. How often did you see this boy around Davis & Jones store after that time?

A. I can't tell. I paid very little attention to it. I have seen them there, but how often I don't know.

Q. Well, as he grew up, what is your recollection, now, of the size of the boy when you last saw him?

A. That is about the time I am speaking of, is about the last time I saw him.

Q. The last time you saw him? A. Yes.

Q. About two or three years old, something like that?

A. Yes.

Q. Give a description of the boy to the court, as you remember him, Mr. Childers?

A. I never paid that close attention to him; I don't know that I can describe him.

Q. Well, describe him as best you can. If you have any recollection at all of him, why give the court that recollection if you have not any recollection, why that is the end of it.

A. The child that I seen, I can't say describe him; I never noticed him particularly. I just seen the child.

Q. Don't think you could give a description of him?

A. I don't think I can give it correctly.

Q. Well, what about his blood; could you tell whether he was Indian, white, or what? What is your recollection of that?

A. Well, my supposition probably might have led me to think that he favored an Indian, knowing that she was an Indian, but to say distinct what blood it was, I don't——

Q. Have no distinct recollection on that subject?

A. No, sir.

Q. Now, Mr. Childers, you have given those circumstances about the time the child was born; can you fix that year and if so state what circumstance fixes it in your mind?

A. Year it was born?

Q. Yes?

A. Why the nearest that I could fix it was on the building of these pastures, the year I spoke of. We first—the law authorizing the building of those pastures was passed in '89; the spring of '90 we started building the pasture. We rented the pasture to Winfield Scott; the first payment on that, which would have been the April payment, we used that in building the pasture, and it was the first payment that we had at Wagoner, so when this occurrence happened and by that I think it must have been in the first day of October; our payment was the first of April and 1st of October of each year.

Q. Well now which year? A. 1890.

Q. I believe you testified before in this case did you not? A. Yes.

Q. Do you remember whether you testified it was 1889?

A. I did say it was 1889 but I was judging that the building of these pastures was in 1899, but since then it was in 1890, we had one pasture before. But the enactment of this law and we built this pasture after the passage of that law.

Q. Now from the circumstances which you relate you think this was about the first of October, 1890?

A. It was on the first day of October whether it was 1889 or 1890; I think it was in 1890.

Q. Did you see Nancy before that? A. Yes, sir.

Q. Did you see her in a pregnant condition? A. Yes, sir.

Q. How long before this event you tell about?

A. I saw her at different times.

Q. Did you see her pregnant more than once?

A. Yes, sir.

Q. I say did you see her pregnant more than once?

A. I said I seen her more than once.

Q. I asked if you saw her more than once in the condition.

A. No, I never did.

Q. The time you refer to was it in 1890? A. Yes, sir.

Q. You saw her several times during that time?

A. Yes, sir.

Q. Do you remember Nancy being sent to the penitentiary for violation of the postal laws? A. Yes, sir.

Q. Was the birth of this child before or after that?

A. It was before.

Q. Do you know about how long before that?

A. I don't know but it was after that though I am satisfied. I recollect the cause of her opening the letter in which she was charged; it was a Birney letter that she had opened, letter addressed to Neosho Birney.

Q. And taken by Betsy Birney?

A. I think the circumstance was a letter from Neosho Birney to Dick Birney.

Q. And she got it for the wrong Birney?

Mr. German: We object to the details.

The Court: That probably could throw no light. He remembers the circumstance.

Q. From these circumstances then you are certain that the conviction for this violation of the postal laws was after the birth of the child? A. Yes, sir.

Mr. Hill: Mr. German that judgment shows the conviction for violation of the postal laws?

Mr. German: I think so.

Mr. Hill: I asked that it be put in in full to show that charge.

The Court: What was the date of that judgment?

Mr. Hill: It was December 1890. Now your Honor I want to take up another subject with him but it will take quite a little time.

Mr. German: Your Honor we would like to cross examine this witness before court adjourns.

Mr. Hill: I am not through the witness.

The Court: Well, your cross examination of course will not proceed until you are through. You may go on, Judge.

Q. Mr. Childers were you connected in any way with making the Creek roll in 1895?

A. I were as a member of the Council in authenticating the Creek rolls.

Q. I wish you would explain what the Creek roll of 1895 was and for what purpose it was made?

A. The roll was made for the purpose of a per capita payment.

Q. What per capita payment?

A. There was an appropriation of Creek funds of $200,000.00 to be paid out per capita and these rolls were made for the purpose of distributing the per capita money.

Q. Among the Creek people? A. Among the Creek people.

Q. How was that roll made up?

A. Each town made their own rolls. There was no law but it was a custom that has always been that each town makes up its own rolls. Those rolls are submitted to the Creek Council and a committee appointed to investigate each separate roll and report on it, and it was authenticated by resolution of the Creek Council.

Q. Are those rolls or tentative rolls submitted to the people themselves before they are submitted to the council, do you have any mass meetings in your towns?

A. Each town officers have their own method of making up the rolls, some do and some do not. In our town we did and I know other towns that do that, in other towns they do not.

Q. Do you know how it was made in Euchee Town?

A. No, sir.

Q. You don't belong to Euchee Town? A. No, sir.

Q. Was there any other 1895 roll?

A. There were forty-seven towns and forty-seven rolls.

Q. Was there any other roll of the Creek Nation other than the 1895? A. There is the roll of 1890.

Q. What was that?

A. That was made for a per capita payment.

Q. Was it made up in a similar way to the 1895 roll?

A. It was.

Q. And the same conditions and usages governed as with regard to the 1895 roll? A. Yes, sir.

Q. Now the 1895 roll was the last roll made by the Creek Nation? A. Yes, sir.

Q. Was it supposed to be a complete and perfect roll of Creeks by blood? A. Yes, sir.

Q. What time in 1895 was that roll made up?

A. In May, in the month of May, 1895, it was an extra session of council.

Q. When was the work—you say the council met in May 1895, do you mean that was the time it was adopted?

A. The regular session of the Creek Council is in October; but the Chief called the extra session of council for this purpose and it held in May.

Q. Now as I understand the council was called to consider the rolls that were in process of being made up? A. Yes, sir.

Q. By the various *down* officers? A. Yes, sir.

Q. And the council came together in May 1895?

A. Yes, sir.

Q. What position did you hold?

A. I was the speaker of the house.

Q. What was the procedure then had?

A. There was a resolution appointing a committee of eighteen, twelve from the house of warriors and I think six from the house of Kings to take these various rolls under consideration and pass upon them, and this committee was appointed by the presiding officer of each house.

Q. You appointed the committee from the house?

A. I appointed the committee from the house.

Q. What did this committee do?

A. They called upon the town officials, the king generally, and in a great many instances the town king, probably a full-blood, they couldn't write or read, and maybe a member from the house of warriors made up the roll; any way they called the town king in to verify these rolls, and any other way that the committee may see fit to verify these rolls to see that they were members of the Creek Tribe and that they were entitled to participate in the tribal payment.

Q. Now did these committees go outside the town kings or town warriors and get any information from the relatives?

A. If they didn't get satisfactory proof of evidence from the town king if there was anybody else that lived in the vicinity that knew of them they called them. For instance I belong to Cheyoi Town and there are members of the town that live down on Canadian River, way down in the south part of the Creek Nation. I may not be able to verify these but I know of somebody a member of the Creek Council that lived there in the neighborhood and knew them. They would call them in to find out if the parties were living and if they were entitled to the per capita payment.

Q. And acted upon such information that they deemed reliable obtained in that way? A. Yes, sir.

Q. Now at the time this session was being held in May, 1895, did you know of the existence of this boy Tommy Atkins of Nancy's at that time?

A. I knew Nancy had a child but I couldn't say at this time that at that time I knew the child's name as being Tommy Atkins.

Q. But you knew she had a child? A. Yes.

Q. Did you know whether it was a boy or girl at that time?

A. The boy.

Q. I am getting at what your information was in 1895.

A. Yes.

Q. You can't recall now whether you knew his name was Tommy? A. No, sir.

Q. What information in 1895 did you have of Minnie's children? A. She had two boys.

Q. Did you know what their names were?

A. I don't think I did at that time.

Q. Did you know of her having any other children?

A. I never did.

Q. Mr. Childers did you talk with—did you know of the reputation among the Atkins family as to what children Minnie had in the year 1895?

The Court: You may answer that yes or no.

A. Yes.

Q. Now, what was the understanding in the Atkins family as to what children Minnie had in 1895?

Mr. Cruce: We object to that because it is incompetent testimony.

Mr. Hanford: Same objection your Honor.

The Court: Overruled.

Mr. Cruce: Exception.

A. She had two boys.

Q. That was the reputation in the Atkins family as to Minnie's family at that time? A. Yes, sir.

Q. Do you know Eddie Skrimpsher? A. Yes, sir.

Q. Was he related to the Atkins?

A. He was a first cousin.

Q. Did you know Lee Atkins? A. Yes, sir.

Q. Was he living in 1895?

A. 1895, no I don't think he was.

Q. He is a brother of Minnie?

A. Full brother of Minnie and Nancy.

Q. Did you know Kate Holden? A. Yes, sir.

Q. What relation was she?

A. She was a half sister on the father's side.

Q. Her mother was not a Davis? A. No.

Q. She was not a Euchee? A. No.

Q. Now were you called upon in 1895 to go before the committee in making out the rolls in regard to the Atkins family? A. I was called yes.

Q. Now state to the court what took place before the committee.

A. Sam Brown called me out of the house and asked me to come in the committee room, that he needed me to help him verify three families of Euchees that lived in our section of the country; and I done so.

Q. Well what three families was it?

A. Why I had an uncle by the name of Jim Childers, he had married a Euchee. And William Childers' family was Euchee and this very Atkins family was the other family.

Q. Now I would like to have the—before I go to that. I asked you a few minutes ago about the names in the Atkins family to state what family Minnie had; you have answered that. I overlooked asking you if you know what the names in the Atkins family were as to what children if any Nancy had in 1895.

The Court: You may answer that yes or no.

A. I think I do.

Q. All right what was it?

A. I think that she had one boy.

Q. And that was the reputation in the Atkins family that she had one boy in 1895? A. Yes, sir.

Mr. Hanford: I would like to move to strike the answer and save an exception.

The Court: Unless there is something more than that application circumstance that shows the court that he had that from which he may know what that was it will not be considered very weighty in this case. A man says I know what the reputation of a family was, the court takes that together with all the circumstances in the case.

I think we will not take further time now. It is going to take considerable time to complete this witness.

And thereupon court recessed until 9:30 o'clock tomorrow morning.

And thereafter, and at 9:30 o'clock A. M., May 16, 1917, court convened pursuant to adjournment and further proceedings herein were had as follows:

ELLIS CHILDERS, a witness heretofore produced on behalf of Nancy Atkins, et al., defendants, being recalled further testified as follows:

On Direct Examination by Mr. Hill.

Q. Mr. Childers, I want to call your attention to a list of names that appear on page 8 of defendant's exhibit B-1, which I understand was the book of Mr. Sam Brown. I am just going to read you this list of names and ask you if you can identify them: Ed Schemscher; do you know him? A. Yes, sir.

Mr. German: That is spelled here Schemscher.

Q. Is that the correct spelling of it? A. Yes, sir.
Q. Minnie Harris—Minnie Atkins?
A. She was sometimes called Minnie Harris.
Q. Do you know Minnie Atkins? A. Yes, sir.
Q. Charlie Atkins?
A. That was intended for Charlie Harrison I suppose.

Mr. Cruce: I would like to suggest if the Court please, that it looks to me like it would necessarily be a conclusion, perhaps an unwarranted conclusion, for this witness to testify as to what Mr. Brown meant by this book:

The Court: He is asked now whether he knows the individuals of the names called.

Q. Susan Atkins?
A. I don't know anybody by that name.
Q. Thomas Atkins?
A. Unless it was intended for this Thomas Atkins that we are talking about; that is the only one I know.
Q. You are referring to Nancy Atkins the——
A. Yes, sir.
Q. Mary Atkins?
A. I don't know anybody by that name.

Mr. Hill: I think this is Mary; I would be glad for the Court to look at it; I am not right certain—Mary or Mamie.

The Court: Well, I should call that Mary.

Q. You didn't know a Mary Atkins? A. I do not.
Q. Nancy Atkins? A. I know her.
Q. That is the Nancy now in the court room—is that the one you are referring to? A. Yes, sir.
Q. I want to call your attention to Government's exhibit A-32, page 76, which seems to be a memorandum book which I understand was introduced by Mr. Sam Brown; opposite these names is written the list, giving—given by John Davis; now, I want to read you what appears there and ask you if you identify these names: 1895, Muskogee, C. N.; March; Ed Schrimsher; do you know him?
A. I know him, yes, sir.
Q. Minnie Atkins? A. I know her.
Q. Charlie Atkins?
A. Well, I don't know him as Atkins; Charlie—Charlie Harrison we called him; the only one that I know.
Q. The one you have in mind is Minnie's son Charlie?
A. Yes, sir.
Q. That goes under the name of Harrison? A. Yes, sir.
Q. Susan Atkins? A. I don't know anybody by that name.
Q. Thomas Atkins? A. Yes.
Q. Who do you identify as Thomas Atkins?
A. Nancy's child.

Mr. Stuart: I didn't hear that.

The Court: He says that he identifies Thomas Atkins as Nancy's child. Of course I appreciate that this witness is only testifying now that he knows the individuals of the names called. It is no evidence to the mind of the Court that the individuals which he has in mind are the individuals that the maker of that book had in mind.

Mr. Hill: I understand; the point I am trying to develop is what was in the mind of Mr. Childers when he went before this committee.

The Court: It hasn't appeared yet that he had this data before him.

Mr. Hill: I will follow that up.

The Court: You only intend now to show that he knew the individuals that are represented by the names?

Mr. Hill: Yes, sir.

Q. The next name is Mary Atkins.
A. I didn't know a Mary Atkins, not in that family.
Q. The next name is Nancy Atkins?
A. I know Nancy Atkins.
Q. Who do you identify as Nancy Atkins?
A. The party that is in the court room.

Q. I suppose you understand, Mr. Childers, I asked you that yesterday, that these questions are relating to your knowledge of this in 1895 when you were before the Creek Council? A. Yes, sir.

Q. Mr. Childers, will you give us the number of the enrolled Thomas Atkins in addition to the one in controversy here; do you know the other; the other Thomas Atkins besides the one in controversy?

A. I know two others. I don't know their roll number, but I did know of two others. There is one I always thought was enrolled, but I found out later he wasn't enrolled for allotment but he was enrolled on the 1895 payment.

Q. Mr. Childers did you recognize this document which I hand you? A. Yes, sir.

Q. What is it? A. It is the payment roll of 1890.

Q. Of what year? A. 1890—1895.

Q. Mr. Childers, I hand you a photographic copy of what purports to be a photographic copy of this, marked Government's Exhibit A-2. Look at that and see if that is a correct photographic copy of the roll you hold in your hand?

The Court: Is that understood by counsel to be a copy?

Mr. German: Yes, sir.

The Court: The record may show that that is admitted to be a correct photographic copy of the original roll which the witness holds in his hand.

Mr. Allen: The roll which the witness holds in his hand is the same roll to which we have referred in this case.

Mr. Hill: It is admitted that the roll which Mr. Childers holds in his hand is the 1895 roll referred to in this trial?

A. It is a correct copy.

The Court: Well, it will be unnecessary now for him to answer that. You may proceed to examine.

Q. Now, Mr. Childers on this page to which your attention is called——

Mr. Stuart: I would like to ask one preliminary question, your Honor, please.

Examination by Mr. Stuart.

Q. The rolls out there were made up from the reports of the Town Kings, weren't they, the town men? A. Yes, sir.

Q. He made up his roll and brought it to the Council? A. Yes, sir.

Q. Then each roll of each Town King was acted upon by the Council? A. Yes, sir.

Q. And you had a separate independent roll outside of this that you acted on, this is a copy?

A. This is a copy, yes, sir.

Q. But the thing that you acted upon was the report of each Town King?

A. Yes, sir, that is what the Committee acted upon.

Q. And when they passed it up the Assembly acted on it? A. Acted on the Committee's Report.

Q. That wasn't before you?

A. This is the very roll, this pay roll is made up by this committee from the rolls that were submitted by the Town Kings.

Q. And each roll of the Town Kings was redrafted and endorsed by the committee, wasn't it? A. Yes, sir.

Q. An approval or endorsement put on the roll furnished by each Town King. That endorsement was put on each Town King's report, wasn't it? Don't you remember that?

A. I don't remember that. My best recollection of it is that when they got through with the report—that is the report that the Town King submitted—that was copied and forwarded to the Council as their report, and the Council passed on it as the authentic roll.

Q. That is, each Town King brought in his report from the Town? A. Yes, sir.

Q. That report was passed up to the committee, the committee examined that and if they approved it they endorsed it and passed it up to the Council?

Mr. German: The officers or somebody copied from that which the Council acted upon to this document?

A. Yes, sir.

The Court: Let's see if I understand you. Then, the Council didn't act upon this copy, but they acted upon the several rolls from the several Towns which had been approved by the Committee and submitted to them?

A. Yes, sir.

The Court: Then, after the Council had acted upon those several committee reports and had approved those severally, then they were incorporated into this roll by some person who wrote the roll from those approved?

A. That is true.

The Court: I understand the situation.

Mr. German: I would like for the record to show that when the words "This roll" has been referred to in this examination the so called original 1895 pay roll held in the witness' hand is referred to.

The Court: I will state what the Court understands to be the situation. That the 1895 roll, which is an exhibit in evidence here and which the witness holds in his hands, and which is referred to as the original 1895 roll, is a roll which was made up by some person from the several committee reports to the Council; each of which reports referred to one of the various Town rolls, and approved that Town roll to the Council; that the Council then took those several rolls incorporating the several Town rolls, passed upon the committee reports as to them and approved them, and when they were all approved, then the several reports were taken by some one and incorporated into what is now in the hands of the witness as the original 1895 roll.

Mr. Maxey: Pay roll.

The Court: Pay roll. But what the Council considered and had before them was not this 1895 roll which the witness holds in his hand, but was the several rolls from the various Towns, submitted by the Committee, and that that was what the Council approved rather than this roll of 1895, this being written up after the Council had acted.

Examination by Mr. Hill.

Q. That is the correct statement that the Court has made is it, Mr. Childers?

A. Yes, sir, that is the correct statement.

Q. Take this roll and explain how it is that the names written seem to be paragraphed and numbered separately, what does that mean? A. It showed families.

Q. That paragraphing and separate numbering means separate families for each paragraph or separate set of numbers, is that it? A. Yes, sir.

Q. Now, the first one there?

A. You will have to get Mr. Brown to read that, it is a Euchee name.

Q. Number 205? A. Narhee Mingo.

Q. That is the first of that particular family and contains four names in that family? A. Yes, sir.

Q. Then, commence with the paragraph which is headed by Nine under the words last number, present Number one, and first name Ed Schrimpsher. Do you recognize that as a family group? A. Down to Seven that is a family group.

Q. Then next to that is another family commencing with one again? A. That is just one in the family.

Q. Then following that is another family group commencing with one again and running down to seven?

A. Yes, sir, seven in the family.

Q. Now, returning to the second family group which is headed Ed Schrimsher, you recognize that? A. Yes, sir.

Q. Do you know that family? A. Yes, sir.

Q. Is that the Atkins family that is in controversy?

A. Yes, sir.

Q. Now, what is the second, two hundred and ten, present number Number two, what do you find there?

A. It shows Mamie Atkins in original writing; then there is the writing on top of the Mamie in red ink changing it to Minnie.

Q. You think that is Mamie originally, do you?

A. It looks as though it is Mamie; it is M-a-m-i-e.

Q. And the red ink begins after the letter M?

A. "M", yes, sir.

Q. Now, 211, the last number; what do you find there?

A. Charlie Atkins.

Q. Then next, under 212, and four?

A. Fourth in the family, it is originally wrote Susan Atkins, and the word Alice has been written over it in red ink.

Mr. German: Over what?

A. Over the word Susie—Susan—S-u-s-a-n—Susan.

Q. Now, number 213, the last number and present number 5, what do you find? A. Thomas Atkins.

Q. Now, following those last two names, do you find any notations?

A. There is a parenthesis in red ink besides the words "Error of 1", is written in red ink.

Q. How many names does that parenthesis cover and what names?

A. Two; covers Susan Atkins and Thomas Atkins.

Q. Now, Alice Atkins where *is* was originally Susan?

A. Yes, written over the word Susan, the word Alice in red ink.

By Mr. Allen.

Q. Isn't the word "Error" written opposite both the names of Thomas and Alice, and then isn't the word "of 1" written over the word "Error" opposite the name Atkins?

A. It shows a parenthesis in red ink around the word Susan Atkins, with the word Alice written over the word Susan and Thomas Atkins, and the word "Error of 1" written opposite those two names.

Q. Isn't there a word error——

A. The word "error" is written over the words of 1.

Q. Isn't it written under "of 1", too?

A. I don't see it under the words "of 1."

The Court: The original about which the witness has been interrogated, shows very plainly following the parenthesis, which immediately follows the name Susan, laterly Alice Atkins, the word "Error" written on the same line in red ink. Immediately following the name Thomas Atkins on the next line after the parenthesis—on the line after the parenthesis, appears to have been written the words "of 1". There also seems to be written on the same line and occupying practically the same space as the words "of 1," the word "error." That is as much as it conveys to me. But, as to whether the word "error" which appears in the same space as the words "of 1," was written before or after the writing of the words "of 1," I am unable to determine.

Mr. Hill.

Q. Following number 213, the last number, present number 5, the name Thomas Atkins which you have read, I will ask you what names appear next?

A. It was originally wrote Mary Atkins and the word Harvey written in red ink over the word Mary.

Q. Then opposite the last number, 215, present number 7, what do you find? A. Nancy Atkins.

Q. Now, does that contain all of the Atkins group?

A. Of that family?

Q. Of that family? A. Yes, sir.

Q. Mr. Childers, during the compilation of this roll, were you called before this committee? I think you explained yesterday it was working upon it; if so, state the circumstances and tell the Court all about it.

The Court: He stated yesterday that he was called before the committee as to three different names, as I remember it, among which was the Atkins family. He has gotten that far.

Mr. Hill: Now, I want him to take it up there.

Q. Explain who called you and what took place.

A. Mr. Brown called me.

Q. Mr. Sam W. Brown? A. Yes, sir.

Q. What position did he occupy to the Euchees?

A. He was Town King of the Euchees.

Q. Alright. Now, state what took place.

Q. He asked me to come in before the committee and help him to identify this three families, and in this three families, among them, this Atkins family was one of them.

Q. Well, did you go in? A. Yes, sir.

Q. Do you recall who was present?

A. The member of the committee was present and the clerks; I don't recollect that there was anybody else in there.

Q. Who was the clerk?

A. I don't remember; they had several clerks but they had one, John Phillips, is the only one I recollect.

Q. You think he was present at that time? A. Yes.

Q. Well, what took place when you went in the committee room?

A. The chairman of the committee had their roll and asked me if I knew this family, which I told him I did, and he called off the names and explained as to who they were intended for and at that time of course I remembered the family, knew the family and did verify that roll. That is the members of that roll there.

Q. Now, was the last roll, or the last list that was made up, that went into this authenticated roll that you hold in your hand—— A. Yes, sir.

Q. Did that contain the names read by you, as just read here, beginning with Ed Skrimpsher, and running through to Nancy Atkins?

A. I can't say—pardon me, let me get that question again.

The Court: Read the question, Mr. Penick.

A. It must have been.

Q. You recognize this as the final roll that was acted upon by the Creek Nation? A. Yes, sir.

Q. Then, when they read to you the name of Ed Skrimpsher, who did you identify as Ed Skrimpsher?

A. Newt Skrimpsher's son.

Q. When they read you the name of Minnie Atkins, who did you identify as Minnie Atkins?

A. I knew her, she was Thomas Atkins *son;* I knew her for quite a while.

Q. Daughter you mean to say?

A. Daughter, I should have said daughter.

Q. Minnie Atkins, who you went to school with?

A. Yes, sir.

Q. When they read you the name of Charlie Atkins, who did you identify?

A. Those children—I didn't know the names of the children; I knew that they had children and at that time I don't recollect—I don't think I knew the names of the children, and asked them who they meant, and if they explained to me the names of whom they meant, I knew that they had children and I identified them as such. At that time I don't think I knew the names of those children.

Q. Charlie and Harvey? A. Charlie and Harvey.

Q. Was it explained to you whose child that was supposed to be? A. It was.

Q. And you approved this Charlie on that roll as Charlie Atkins? A. Yes, sir.

Q. You cannot now recollect whether you remembered Minnie's child was named Charlie but the person that you identify here, you were identifying as Minnie's son?

A. I didn't know the names of either one of the children at that time.

Q. Now, the next name here is Alice Atkins written in red ink as you have heretofore explained. Who did you identify as Alice Atkins?

A. I don't remember that name at all.

Q. You don't remember that? A. No, sir.

Q. That next name is Thomas Atkins. Who did you identify as that?

A. Thomas Atkins, I am under the impression now, yet, that it was explained to me as Nancy's child, and I had that on my mind at the time.

Q. The next name is Mary Atkins, originally written over

Harvey in red ink, as you explained. Who did you identify as that? A. Harvey was a son of Minnie Atkins.

Q. Was that explained that this was Minnie's son as Charlie, as you heretofore stated? A. Yes, sir.

Q. The last name was Nancy Atkins, who did you identify as that? A. I knew her, the daughter of Thomas Atkins.

Q. A sister of Minnie? A. A sister of Minnie.

Q. What were the other two families that you identified at that time?

A. That was uncle Jim's wife and children.

Q. Uncle Jim Childers?

A. Uncle Jim Childers' wife and children, and William Childers had one of the girls.

Q. You have identified them in the same manner as you have testified you identified the Atkins family? A. I did.

Q. Do you know the handwriting which appears upon this roll which you have examined? A. Yes, sir.

Q. Whose handwriting is it?

A. The handwriting on the roll is Jim Lynch's handwriting.

Q. Who was Jim Lynch?

A. Jim Lynch was a Creek Indian and used as secretary for quite a long while around on the councils; sometimes he was a clerk on the various committees and worked for the Chief sometimes.

Q. Where is he now?

A. I have heard that he is dead, I don't know.

Q. You haven't seen him for years?

A. I haven't seen him for years.

Q. Can you recognize any of that handwriting in red ink?

A. I think I do.

Q. Whose do you think that is?

A. I think that is Mrs. Moore's handwriting.

Q. Who is Mrs. Moore?

A. She is Judge Moore's wife, a sister of Miss Alice Robertson.

Q. What position if any did she occupy with the Creek council?

A. She didn't hold any position with the Creek council, that I know of.

Q. Did she do any clerical work for the——

A. She assisted Judge Moore when the payment was going on.

Q. In a clerical capacity? A. Yes, sir.

Q. Now, while we have this roll here—I will ask you if you were present when those payments were made. I called your attention to the notations following those names.

A. I was present nearly the whole payment; sometimes probably I wasn't but I was present nearly the whole payment as it was made there.

Q. What was the custom of paying in these family groups how was the payment made in regard to family?

A. The head of families drew the money for the family.

A. I notice there, Mr. Childers, that each one of those family groups seems to have been footed up and changed over; have you noticed that? A. Yes, sir.

Q. Was that footing had before the payment was made or when was it made, do you know?

A. The footing was made during the payment and showed who drew each amount of money.

Q. Well, isn't there a change of the footing here in several instances that you can look down that page in this family and other family groups? A. Oh, yes.

Q. Do you see the footing in regard to this Atkins family group there as originally made before split up?

A. I see the footing in red ink showed——

Q. Well, I am speaking of the original before the changes were made, Mr. Childers; can you read it there? It is pretty dim. A. Is it on the same line?

Q. Can you read under there? A. I can't read it.

Q. You can see dimly on that that there has been some footing made before the red ink footing, can't you?

Q. I do, that is very dim; I can't tell what it is, though.

Q. Well, pass that and turn to——

The Court: Let me study that a little bit while we are on that point.

The Court: I ask this merely as a matter of information, I don't remember that it has been brought out in the evidence yet, as to when the blue pencil figures were made upon this roll. The roll to my mind indicates that what figures were placed upon the roll at the time the payment was actually made are probably the red ink figures in the "amount paid" column.

Mr. German: That is correct.

The Court: And the blue pencil figures would appear to have been placed upon the roll at some subsequent time.

Mr. German: I think the evidence shows that it was by the Dawes Commission in the course of their work. If it isn't we can prove it.

The Court: In regard to the words "Dead", where the Commission had evidence that a certain enrollee was dead, now I find the word "dead" here in blue pencil as well as the figures in the per capita column.

Mr. German: Your Honor, as I remember it, Mr. Shannefelt identified names on census cards as being on this roll by those blue pencil figures. If he didn't we can introduce evidence showing that the Dawes Commission did put them on there. Mr. Beall here, one of Mr. Page's attorneys, has personal knowledge.

The Court: In my judgment the blue pencil figures have no relation to the payment and has reference to something subsequent.

Q. Do you know anything about those blue pencil figures?

A. I don't recollect; the only thing I know is these red ink figures.

Mr. Hill: Well, that has already been introduced I believe and the amount.

Q. I will just ask you to state if you were present when that payment was made, at the time this payment was made that has already been introduced. It appearing that Minnie drew fifty-seven dollars sixty cents, covering four names, herself and Charlie and *Alive* and Thomas and Harvey; and Ed Schrimpsher fourteen dollars and forty cents was receipted for by Mr. Brown; Nancy Atkins fourteen dollars and forty cents was receipted for by Mr. Brown. That is already in evidence I understand; I want to ask him if that was correct.

Mr. German: There are five names included in the lines running to fifty seven dollars sixty cents, Minnie's being one of the five, but clearly there was only four drawn for.

Mr. Hill: The amount shows that it was four but it covers the roll of five names.

The Court: Yes, I have noticed that before. Now, the question is, Mr. Childers, were you present when that payment was made to Minnie and Mr. Brown as the roll shows it was made? A. Yes, sir.

Q. Relate the circumstances?

A. Minnie came up to draw for this family, the entire family. Mr. Moore, the gentleman who was making the payment, objected to Minnie drawing for the other parties, the whole family.

Q. On what ground do you know?

A. He just said he *didn't* was to be responsible to paying it to Minnie, and Mr. Brown and him had a little controversy; and finally Mr. Moore said to Mr. Brown: "I will pay it to you and you can be responsible if you care." So finally they come to that agreement and Minnie went up and signed for some and the others Mr. Brown signed up for. Signed the receipt on that. Then the money was paid over and when the money was paid over, my recollection is that Minnie got all of the money.

Q. Sam Brown turned over to her all the money he had signed for? A. Yes, sir.

Q. Did you know at that time which ones Minnie signed for and which ones Sam Brown signed for? A. No, sir.

A. No, sir.

Q. You just knew Sam Brown was signing for some and Minnie was signing for some?

A. Yes, sir. When the money was removed if I remember Minnie got that money.

Q. Did you see the way that was signed up in these photographic copies? A. Yes, sir.

Q. I say, did you see it until then? A. No, sir.

Q. You never knew who signed for this one or for that one? A. No, sir.

The Court: Nancy wasn't there then?

A. She wasn't there.

Q. Ed Schrimpsher there? A. No, sir.

Q. Did Charlie and Harvey and Tommy or any of the others come there?

A. There wasn't any of the family there excepting Minnie.

Q. I believe I asked you yesterday the relationship of Ed Schrimpsher to Minnie? A. He is a first cousin.

Q. I believe I asked you that?

A. They are two sisters children.

Q. Now, Mr. Childers——

The Court: I want to ask him a question there. Did you know a man by the name of Davis in that family?

A. Yes, sir.

The Court: What was his relation to Minnie and Nancy?

A. He was an Uncle.

Q. Yesterday you stated that you had learned from talking with members of the family what the general reputation in the family was as to Tommy being Nancy's child, and Charlie and Harvey being Minnie's. I will ask you what members you have talked to; I am referring now to prior to 1895.

The Court: Now, Mr. Childers, before you answer that; note particularly his last suggestion; what conversations you had had with members of the family in regard to these relationships prior to 1895. What did you know in 1895 as coming from the several members of the family, that is what members have you talked to?

A. Did I talk with any members of that family in reference to the children?

The Court: Yes, that is the question.

A. Outside of themselves and Sauce Childers and his wife.

Q. Then Sauce Childers and his wife are the only ones that you recall in the family, outside of Minnie and Nancy, that you talked to prior to that time? A. Yes, sir.

Q. Did you talk to Mr. Davis and his wife any prior to that time?

A. I certainly did, for I was with Davis a great deal.

Q. I thought you said you didn't recall any except Sauce?

A. I don't remember it, but I couldn't have helped it, because I was with Davis a great deal at the time.

Q. What *kind* was Mr. Robinson?

A. Col. Robinson's wife was an aunt of Minnie and Nancy.

Q. Were you on terms with them all? A. Yes.

Q. Do you recall any specific talk with them on this subject?

A. I don't remember any specific talk but I have been with the family a good deal, stayed over night with them.

Q. Do you remember whether Minnie and Nancy were discussed in any of those family talks?

A. I don't remember just now.

Q. But you remember that you were constantly thrown with the family? A. Yes.

Q. I asked you what other Thomas Atkins there were in the Creek Nation on the 1895 roll?

A. There was a Thomas Atkins, a son of Billy Atkins that lives in Coweta, that belongs to Coweta Town.

Q. I hand you census card 174.

Mr. Stuart: Mr. Hill, let me ask you if it is your purpose to show that the Tommy we represent was not one of those Tommys? We are Minnie's Tommy if we are any.

The Court: And if you are any Tommy at all it is the Tommy on the 1895 roll appearing in the same family with Minnie, and about which the witness has just been interrogated?

Mr. Stuart: Yes, sir.

Mr. Hill: I presume that would relieve us from proving this up?

The Court: I have understood that to be the admission all along.

Mr. Hill: I thought by the rule of exclusion we had to put in this other testimony.

The Court: That will save it now.

Mr. Hill: Well there is just one more question.

Q. Do you know where the allotments of these other Thomas Atkins are located?

A. This Thomas Atkins I have just spoke of is allotted east of Wagoner probably six or seven miles.

Q. And the other Thomas Atkins, do you know where his is?

A. I learned later that he didn't file. He died.—— That finally was rejected at first and we appealed it. They belonged to my Town and we appealed it to the Secretary the third time before I ever got that family on the roll.

Q. Your town is Cheyarha? A. Yes, sir.

Q. How many of the Thomas Atkins that were on the roll belonged to Euchee Town?

The Court: It seems to me the roll will identify that it is a final enrollment of the Thomas Atkins about which this controversy revolves in this case as No. 213 of the 1895 roll. That is this number.

Q. One other question. I asked him if any of the other Thomas Atkins belonged to Euchee Town? A. No, sir.

Mr. Hill: No further questions.

Cross Examination by Mr. Allen.

Q. Ellis, I believe you gave the other day, on yesterday, the chronological order of the different positions of trust that you have held in the Creek Nation? A. Yes, sir.

Q. What were you in 1890? A. 1890?

Q. Yes? A. I was a member of the Council.

Q. How long did you serve in that capacity at that time?

A. I had served eight years, two terms.

Q. In 1894 what were you doing?

A. That is as representative?

Q. Yes? A. I was still a member of Council.

Q. In 1895? A. Member of Council.

Q. You were at that time speaker of the house of Warriors, were you? A. Yes, sir.

Q. Before testifying on yesterday you went out to Mr. Brison's and obtained that information?

A. No. I wanted to get the names of the Committee.

Q. You wanted to be sure that you were at that time Speaker of the House of Warriors, didn't you?

A. No, I was sure of that.

Q. Didn't you ask Mrs. Brison to let you see the record, you wanted to be sure before testifying here that you at that time were Speaker of the House of Warriors? A. I did not.

Q. Isn't it a fact that even on yesterday you didn't have any independent recollection as to whether you were even at that time the Speaker of the House of Warriors?

A. I knew the time that I was Speaker of the House of Warriors, yes, sir.

Q. Didn't she go over with you the minutes of the Council for the year 1895, and that when you found a minute there showing that the Council convened with you as the presiding officer, that you were then satisfied with the information and looked no further?

A. She didn't go over with me, I seen it. It doesn't show it convened with me as Speaker.

Q. It shows though that you were speaker at that time, the minutes for 1895?

A. The beginning of the session doesn't show I was Speaker.

Q. Mrs. Brison was at that time the Secretary of the Council for the House of Warriors? A. No, sir.

Q. A. P. McKellop was? A. Yes, sir.

Q. She is the widow of A. P. McKellop? A. Yes, sir.

Q. And has those records? A. She has now.

Q. In 1896 what position did you hold, Mr. Childers?

A. I was treasurer.

Q. In 1897 were you here? A. Yes, sir.

Q. Do you remember when you were indicted?

A. In '98.

Q. And how long did you serve?

A. About eight months.

Q. And how long were you away from here before you went to the penitentiary? A. Away from the Creek Nation?

Q. Yes? A. I wasn't away no time.

Q. Judge Stewart, I believe, defended you at that time?

A. Yes, sir.

Q. Then, you didn't see Nancy in '98 did you?

A. In '98, I don't recollect seeing her, I don't think I did.

Q. When were you re-elected Speaker of the House of Warriors?

A. I was re-elected—— You mean this last time?

Q. Yes? A. I was re-elected after Davis' death.

Q. You was speaker of the House of Warriors in 1915, 1914, 1915 and continuously up until the present time?

A. Yes, sir.

Q. You are now the Speaker of the House of Warrior's?

A. Yes, sir.

Q. Ellis, you testified as a witness in this case at the trial of the case at Sapulpa, didn't you? A. I did.

Q. After the trial of that case you had a conversation with me in Muskogee, didn't you? A. I did.

Q. You stated then that you believed this allotment ought to be returned to the Creek Nation, didn't you?

Mr. Maxey: We object to that, your Honor, I can't see what that would have to do with it.

Q. I will change the question. You expressed belief at that time, did you not, that Thomas Atkins was not—that this enrolled Tommy Atkins was not the child of either Nancy or Minnie?

Mr. Maxey: We object to that.

Mr. Stuart: Your Honor, we object to that too. We don't want any opinion of his about our client.

The Court: Well, now, you needn't to worry, gentlemen, about the Court's taking this man's opinion or any man's opinion as to the ultimate facts, only so far as the cross examination touches the statement which he has made upon the stand is it competent at all. And only to that extent will it be considered by the court.

Q. Is that right?

A. Yes, sir, you asked me what I believed and I told you.

Q. You expressed that belief to me, didn't you?

A. Well, not in the way you have asked the question.

Mr. Maxey: Let him tell what he said.

The Court: You may explain now if you want to.

A. I told him this Tommy Atkins, I actually don't believe he lived when the land office opened, and if so it ought to go back to the Creek Nation.

Q. You say that the only two children you ever knew of Minnie having was Charlie and Harvey? A. Yes, sir.

Q. And that the only Tommy you ever knew in the Atkins family was the son of Richard Atkins, didn't you?

A. I couldn't have said that for I knew other Thomas Atkins'.

Q. In the family of Minnie, Nancy, Richard and Lee?

A. I told you Nancy had a boy but I didn't know at that time what his name was.

Q. Ellis, I hand you—— You said if Nancy ever had a boy named Thomas you knew nothing about it?

A. I didn't know whether it was Thomas, Peter, or what the name was.

Q. I hand you paper marked Government's exhibit A-106, and call your attention to the names appearing there; what is that paper, first?

A. That is the matter of the application of Mary E. Atkins, Margaret Atkins, John H. Atkins, Geneva Atkins, Nancy Atkins, James A. Atkins, Nathaniel Atkins, Aninias A. Atkins, Naomi Atkins, Naoli Atkins and Bertha Atkins for enrollment as citizens of the Muskogee Nation.

Q. Is that not also the application of Thomas and Susan?

> The Court: Now, that is all in the record. When it is identified by the party, it is unnecessary for this witness to read it because I will get that from the record. Get to the question that you want to answer.
>
> Mr. Allen: This is not in the record, yet, Your Honor.
>
> The Court: I beg your pardon, I thought it was.

Q. Doesn't also the names of Susan and Thomas Atkins appear in that application for enrollment? A. Yes, it does.

Q. I again call your attention to Government's exhibit A-2, the original payroll of 1895, I believe you testified that the changes in these names were made when the payment was made after the list had been approved by the council of which you were at that time a presiding officer; is that right?

A. Let me get your——

> The Court: Read the question, Mr. Penick.

Q. The list was first approved by the council, wasn't it?

A. Yes, sir.

> The Court: Well, now, let's not go all over that with this witness, because we have it clearly—this payment was made after this roll, now called the original roll, was made up, which is a copy of the several rolls approved by the council after being submitted.
>
> Mr. Allen: Your Honor, here is the point I am trying to get at, trying to show that this witness did not give information which he said he did in 1895, by showing that these names they appear upon that pay roll are not names that did appear upon the payroll that he approved.
>
> The Court: We have this, however, that the '95 payroll was made up from those several payrolls. I just wanted to avoid going over a lot of matter which takes up time and doesn't throw any light.
>
> Mr. German: Your Honor, may I make a little sug-

gestion on this as to what Judge Allen desires. The point is, this witness shows the roll was approved by the council and from those approved rolls, copy was made onto the roll that we use as Government's exhibit A-2. Now, it is clear that the names as they now stand on Exhibit A-2 were not the names that the council approved and which prior to the approval, this witness went before the committee to tell about. That is the point Judge Allen is after.

The Court: Yes, I have that clearly.

Mr. German: That is the changes were made after the council acted, is that clear? These—this change Susan to Alice?

The Court: It must have been made after the '95 roll, which is a copy of which the council acted upon; that is clear in my mind. Now, in order to say what those names were originally, unless it may be assumed that the red ink covers there, it will be necessary to go back to the original copies.

Q. Ellis, you were instrumental, were you not, in getting the names of this Richard Atkins family upon the roll, and represented that family in all of its contests before the Department?

A. I never had nothing to do with getting Richard Atkins name on the roll until they belonged to our town. They were transferred over to our town from another during Anderson Childers time.

Q. What year was that?

A. It was in '90—right after the '95 payment roll—1890 rolls but I don't know what year it was, exactly.

Q. Then, you knew that family and knew them well in 1895, didn't you?

A. Oh, yes, they lived in our neighborhood.

Q. On the approved roll, the Creek payroll that you have just been examining appears the name Mamie, Charty, Susan, Thomas, Mary and Nancy? A. It is on that roll, yes, sir.

Q. There was a Susan, Thomas, and Mary, and a Nancy in the Richard Atkins family, wasn't there? A. Yes, sir.

Q. That Thomas was a boy and stayed around Wagoner, didn't he?

A. He stayed at home, they never lived at Wagoner.

Q. I know but he recently went to Wagoner with his people, didn't he? A. Likely he did.

Q. He was a cousin of Nancy's? A. Supposed to be, yes.

Q. And frequently visited Nancy, didn't he?

A. I don't know; he may have; I can't say that he did.

Q. Do you know Fred S. Cook? A. Fred S. Cook?

Q. Yes? A. Yes, sir.

Q. Do you know Frank W. Walkup? A. Yes, sir.

Q. Frank H. Walkup; did you make a statement to Mr. Cook concerning your knowledge of this Thomas Atkins on February 26th, 1916, and swear to the statement before Mr. Walkup as notary public?

Mr. German: 1916.

A. I don't recollect making the statement before him, I made a statement before you.

The Court: Just examine the statement there and just see whether or not that is your signature and the statement that you made.

A. This is my signature and the statement that I made prepared by Mr. Allen, here.

Q. Mr. Fred S. Cook, the Special United States Indian Agent at that time, first administered an oath to you to tell the truth, didn't he, and then he himself asked you these questions, did he not? A. You asked the questions.

Q. Well, anyway the questions were asked?

A. Yes, sir, you asked the questions though.

Q. At that time did you make the following answers to the following questions: "Q. Did you ever at any time know an Indian woman by the name of Nancy? A. I did. Q. To what Indian town did she belong? A. She belonged to Euchee town. Q. And that is located where? A. In the Creek Nation; it is in the vicinity of what is now Sapulpa and Bristow." Those answers were made by you? A. Yes, sir.

Q. What did you say? A. Yes.

Q. And then, did you make the following answers to the following questions: "Q. Have you heretofore testified in court or made a deposition regarding the birth of a child alleged to belong to Nancy Atkins? A. I did. Q. What was the substance of your testimony and where did you testify? A. I testified at Sapulpa court—District Court. Q. What was the substance of your testimony? A. The question was asked me whether Nancy ever had a child; I told them she did and I told them the circumstances. Q. What was the circumstance? A. I don't recollect the date but on the 1st of October, 1890, we had what was known as a Pasture payment; we had several large Pasture payments and I made contracts with the cattlemen for the rent of the different pastures. The cattlemen paid me rent the 1st of October, and April each year during that time. All of the neighbors who were interested in this pasture money would come and get their part of the money. During that payment Saus Childers whose wife was a first cousin of Nancy, came to me and related that Nancy was very sick and that if something was not done for her that she would die; that she had had a child and was in a tent close to the store and needed attention. Saus' wife stated she would like to take Nancy home but she was too sick and wanted to know what to do; I said to her I didn't know, but we are getting some money here and we should get somebody to take care of her; Saus asked me, then, if I wouldn't write a subscription paper and I did. I don't recollect the wording but it was asking for aid and I gave five dollars, and my father was sitting at the table and he also gave five dollars and in two or three hours he came back with seventy odd dollars and I said don't give it [] me but give [] some of the women to take care of it. My mother was there and Mary, a cousin of Nancy's. I asked my mother to look after her, my mother and the woman, and with Betsy Birney who lived near the store to take care of her, and paid her twenty dollars of this money, and they came to the store and bought some things; I don't know what they were buying but they took care of her, and Nancy lay there until she got well." Those answers were made to those questions weren't they? A. Yes, sir.

Q. Then, were not the following questions asked you and the answers returned: "Q. What was the matter with Nancy at the time she was sick? A. She had given birth to a child. Q. Did you know whether that child was a boy or a girl? A. No, sir, I do not know. Q. Did you ever see it? A. I don't know that I could say that I saw it; I saw the bulk of it in the bed. I went to Betsy Birney's—she had an interest in that pasture. I saw Nancy in the bed. They claimed that it was a child; I never did open it up and see it. Q. When did you next see this child? A. If I ever saw it, I do not know it. Q. How long did that child live if you know? A. I don't know. Q. Did you ever hear what it was named? A. No, sir, I never did before until this thing came up. Q. Do you know of any other children Nancy had? A. No, sir, if she ever had any other child I never heard of it." Were those answers made to those questions? A. Yes, sir; yes, sir.

Q. Then, were not the following questions asked you and answers returned: "Q. Did you see her after her sickness? A. Yes, sir, every day or so; I didn't live in town but had business and was in town frequently. Q. You saw her often? A. Yes. Q. Did you ever see any child with her? A. She had Harvey, Minnie's child with her. Q. You say she had Harvey? Harvey who? A. Harvey Harrison; that is the way he is enrolled. Charlie and Harvey Harrison were with Minnie's children she brought back with her when she came to this country. Q. How long was it you saw Harvey there after

Nancy was sick? A. I don't know how long it was; it was not very long. Minnie brought these children over there and they stayed there a while." Did you make those answers to those questions? A. I did.

Q. Were not the following questions asked you and answers returned: "Q. Did Nancy have more than one child staying with her? A. There was two boys, Harvey and Charlie Harrison. Q. Did they both stay with Nancy? A. Yes, with Nancy. Q. How old was Harvey and Charlie at that time? A. They couldn't have been more than six or eight years old; they came back here in 1894 when Minnie brought them back and from that time until finally Charlie Bailey taken Charlie Harrison and my brother Jim took Harvey Harrison, and they lived around Wagoner one place and another. Q. Were those two children known as Harvey and Charlie Harrison? A. Yes, sir. Q. Were they recognized as Minnie's children or as Nancy's? A. I don't know who they were recognized as but I know they were Minnie's." Did you make those answers? A. Yes, sir.

Q. "How long was this after the birth of Nancy's child that you saw these two children of Minnie's in Nancy's home? A. Nancy didn't have any house but it must have been four or five years after that. Q. During the time dating back from her sickness until the time you saw these two children, did you ever see any other child around Nancy or with her? A. Not except those colored children of Betsy Birney's." Did you make those answers to those questions? A. I must have.

Q. "Q. Did you ever know or hear of Nancy ever having any child or claiming any child by the name of Thomas Atkins? A. I never heard of her having a child by that name or any other name; I knew she had one child but my understanding was that they never had named the child. It never had a name until this matter came up. I guess I was the man who told those people—those people who were hunting Thomas Atkins who he was likely to be. Ellis Hammett first approached me and asked me who Thomas Atkins was. I told him I couldn't tell but if he would furnish me the roll card, I could tell who he was. Some time afterward, he brought me a copy of the roll card. I seen what town it belonged to, and family it belonged to and that this Thomas Atkins was enrolled under the roll of the fourteen dollar payment roll, the 1895 payment, and I told Ellis Hammett that there was only one child that I knew of born in this family and that I didn't believe that this child was entitled to be upon the roll but that if it was anybody's child that was Nancy's child. Now, as Minnie had two children and that there was but one child that was born to either one of these two girls that was not named before that we knew of. I don't know that it ever had a name." Did you make that answer to that question?

A. I must have, yes.

Q. Then were not the following questions asked you and answers returned: "Q. How long did Nancy's child live? A. I really don't know but my understanding is that the child died very shortly after it was born. Q. What year did you think it was born in? A. Along in the month of September, 1899, or 1898—or 1898 or 1899." Evidently intended '88 or '89—"It was the first day of October when we were at the payment I spoke of. Q. Who was the mayor of Wagoner at the time? A. I can't tell; Jackson was the first mayor. It might have been Hall; it is likely it was U. W. Hall. Q. The facts that you have stated here are all that you know concerning the birth, life and death of the child born to Nancy Atkins? A. Yes, sir, that is right. Q. Did you ever at any time know any Creek child born to Minnie or Nancy Atkins by the name of Thomas Atkins? A. I never did." Were those questions asked you and answers returned? A. Yes, sir.

Q. Ellis, after that you went with Mr. McMillian to Wagoner to introduce some witnesses, didn't you?

A. I went with Mr. McMillian to show them; he wanted to see these parties. Mr. Allen sent me with him.

Q. You told Mr. McMillian you could take him to the people that knew about the birth of Nancy's child, didn't you?

A. I did not; I said I could take him to the people living at that time and likely to know.

Q. People who were living at that time? A. Yes.

Q. And would likely know about the birth of Nancy's child and about its death? A. Yes, sir.

Q. You took him, then, to R. B. Davis, didn't you?

A. We met him, I didn't take him to him; we met him in the street, I didn't take him to him.

Q. But you pointed him out to Mr. McMillian? A. Yes.

Q. As one of the men who knew Nancy? A. Yes.

Q. And by whom it could probably be shown that Nancy's child was born dead?

A. No, I didn't—not to show it was born dead; that he was likely to know something about it.

Q. Then, you took Mr. McMillian to see Henry Anderson who has testified in this case, didn't you?

A. You sent us particularly to go and see Henry Anderson.

Q. But you told us about his name, didn't you?

A. Yes, sir.

Q. And McMillian took a statement from Henry Anderson at that time, didn't he?

A. I don't think he did at that time. He got it but he wouldn't give it to us at first.

Q. He is the witness who testified here?

A. Likely he did, I don't know.

Q. Then you went with McMillian to see Betsy Overton, didn't you?

A. If he got a statement, I guess we did; I don't recollect.

Q. You took a statement from Betsy Overton, didn't he?

A. He must have if you have it.

Q. Then, you took him to see Lula Smith, didn't you?

A. Yes, I took him there.

Q. That was Parsons, wasn't it?

A. No, sir, she was living at Wagoner.

Q. Wagoner at that time? And he took a statement from Lula Smith? A. Yes, sir.

Q. You took him to see Martha Hardridge who testified in this case? A. She was at Lula Smith's at that time.

Q. But you were with Mr. McMillian when you took her statement? A. Yes, sir.

Q. Then, you took him to see Lula Smith, didn't you?

A. Lula Smith?

Q. The witness who testified here?

A. Lula Smith was the one I was speaking of—lives at Parsons now.

Q. That is the other Smith woman—the wife of the negro porter up there. That is the one you are talking about?

A. The one I am talking about is the wife of the train porter; she is now living at Parsons.

Q. Yes, that is Dora Smith.

A. No, it isn't. Dora Smith is another party.

Q. You took him to see two Smith women?

A. No, sir, one of them.

Q. Are you sure of the other?

A. Sure of the other because the other did live at Porter.

Q. Then you took him to see Martha Hardridge, didn't you?

A. That is the one that I said she was at Lula Smith's and she interrupted and taken her statement.

Q. And A. M. Hardridge?

A. That must be Adam, I don't recollect.

Q. Adam Hardridge? A. Yes.

Q. You took him to see him?

A. Adam Hardridge was Martha's husband—the whole bunch was there.

Q. Then you went with him to see Eliza Sterling who has testified in this case? A. You sent us to see her.

A. I sent you? A. Yes, sir.

Q. But you told me about her name and what she would testify?

A. I gave you the name of quite a number of those people. We met her in Wagoner, we didn't go out to her place.

Q. You went with him to see Dora Smith, didn't you?

A. No, sir.

Q. Where did you see Dora Smith?

A. I never seen Dora Smith; he got that.

Q. You told him about her?

A. I may have because she lives at Porter; I wasn't with him when he got that.

Q. But you went with him to see Sarah Coats who has testified? A. Yes.

Q. You at that time occupied the office of Speaker of the House of Warriors? A. Yes, sir, I did.

Q. You knew that the Creek Nation was claiming that this party was a mythical person and that Nancy Atkins claimed it was her son? A. Yes, sir.

Q. And you accepted pay from the Creek Nation to go out with Mr. McMillian to show him and to interview the people who knew about this child, didn't you?

A. I was paid as an interpreter and I was supposed to be an interpreter and was there but you sent me up there and of course I went along.

Q. But you went—you gave us the names of these people who would know about the birth of Nancy's child, didn't you?

A. I did.

Q. Did you give us the name of a single person who required the services of an interpreter?

A. I did not, not without this party——

Q. You didn't go with Mr. McMillian in the capacity of an interpreter, did you?

A. I could not but then I say I was employed as an interpreter in the Department.

Q. You knew these people, didn't you? A. I did.

Q. You knew what they would testify to, didn't you?

A. No, I didn't.

Q. Well, you knew that they were present when the child was born and died, didn't you? A. I did not.

Q. You believed that, didn't you?

A. Certainly I believe- that; that is, they were in the city and probably would know.

Q. And those people whose names I have read are all the people whose names you gave to me or to Mr. McMillian, who you claim were present at the birth of this child?

A. I never did claim *at* there was anybody present at the birth of the child.

Q. I mean who lived right around the child and would know about his birth and death?

A. Who lived in Wagoner and the vicinity of Wagoner.

Q. Now, Ellis, Minnie had two children there didn't she part of the time, one child there part of the time, both of whom lived with Nancy? A. Not at that time, sir.

Q. Betsy Birney had a boy named Joe Birney who followed Nancy around a great deal, didn't she?

A. She had a boy there?

Q. Joe Birney, a little boy? A. Yes.

Q. Thomas Atkins lived just out in the country, the son of Richard Atkins?

A. Lived about eight miles from there.

Q. He was a little boy then wasn't he?

A. He was a good sized boy.

Q. When did he die?

A. He died about the time the land office opened.

Q. At what age?

A. I really don't know, he was a good sized boy. He must have been about twelve years, must have been.

Q. Nancy Atkins and Minnie Atkins didn't belong to your town did they? A. No, sir.

Q. As an officer you had no interest in them did you?

A. No.

Q. The Richard Atkins family did belong to your town didn't they? A. Yes, sir.

Q. They were cousins of Nancy and Minnie? A. Yes, sir.

Q. There was a Susan, a Tommy, a Nancy and a Mary in that family? A. Yes, sir.

Q. You afterwards represented them in an effort to get them on the roll didn't you? A. I did.

Q. You were a member of the House of Warriors when that Richard Atkins was admitted to citizenship, wasn't you?

A. Yes, sir.

Q. Did you get him admitted? A. I did not.

Q. You introduced a resolution, didn't you, Ellis?

A. He was admitted on the report of the Committee.

Q. You testified, Ellis, didn't you before the Commission in regard to the enrollment of this family?

A. I guess I did, I don't know, I don't recollect.

Q. You gave your testimony did you not there, on the 23rd of July, 1903?

A. It is likely I did, I don't recollect when it was.

Q. Were not the following questions asked and the following answers returned——

Mr. Maxey: What family is that, Mr. Allen?

Mr. Allen: Dick Atkins family.

Q. "Q. Was Richard Atkins admitted to citizenship in the Creek Nation? A. He was a recognized citizen. Q. Was that by and act of Council? A. Yes, sir. Q. When was that? A. It was in 1890, I think if I am not mistaken. Q. Was you a member of Council at that time? A. I was. Q. Do you remember whether or not he made a written application for citizenship? A. Yes, sir, I introduced the application on request."

A. That is the only way he could have had a hearing.

Q. Then, you did introduce the resolution?

A. I must have.

Q. Then, as I now understand you, Ellis, your first attention was called to this name appearing on the Creek Roll by Ellis Hammett, one of the original lessees of Nancy Atkins, is that right?

A. Not my first attention. My first attention was called —oh, this guardian—by some fellow by the name of Harjo, but I never paid very much attention to it, in fact I didn't give a satisfactory answer.

Q. You didn't know then and don't know now any more about it than you stated to me in my office, do you?

A. That is about the *summons* of what I know.

Q. You have known J. B. White a long time?

A. Yes, I have known him quite a while.

Q. You talked to him at some length before you went to Sapulpa? A. He came to me and asked me what about it.

Q. He promised you an interest in this land if you could help him establish this party's right to enrollment?

A. No, sir.

Q. What did he offer you?

A. He didn't offer me anything.

Q. Didn't he offer you any money in the event that they won this law suit? A. No, sir.

Q. Didn't you say to me in the presence of Fred Cook that they hadn't done what they had agreed to do with you?

A. No, sir, I don't remember, I don't think so.

Q. Ellis, how much did they pay you to do the work that you did do? A. I didn't do any work.

Q. Isn't it a fact that Nancy Atkins was taken by Jim White to your house and that you kept her there for several months to keep anybody from making a statement to her?

A. Jim White brought her there and she stayed there three weeks.

Q. Three weeks? A. Yes, sir.

Q. You kept her away from anybody else to keep her from making a statement to anybody else?

A. Jim asked me to keep her, yes, sir, but I don't know what for, I thought it was to make a home for her. She went off.

Q. Then, didn't they come and get her and take her to Nowata? A. No, sir.

Q. Where did they take her?

A. I sent her to Inola, she wanted to go to Nowata. She went from home over to Inola.

Q. You took her? A. She wanted to go herself.

Q. You told Mr. White she wanted to go and he said all right let her go to Nowata?

A. It may have been, but I know I took her over there, Wesley and I took her over there.

Q. Then you told me, didn't you, that you believed that if you could get Nancy away from that crowd that she would tell the truth about this boy, is that a fact.

A. I may have, I don't recollect.

Q. Didn't you go to Nowata and try to get her?

A. Yes, sir.

Q. And didn't you come back and say that that big nigger guardian of hers drove me away?

A. Yes, sir, I went over there, you sent me over there.

Q. But you thought if you could get Nancy away from that influence that she would tell you the truth about this child being dead?

A. I came in your office and you asked me——

Q. Answer that question.

The Court: It is immaterial as to what he thought. The question is what he told you.

Q. Didn't you say if you could get her away from that crowd you could get her to tell the truth?

A. You said it and I sanctioned it. You asked if I didn't think so, and I said yes.

Q. I asked you if you believed she would tell the truth about this child if she was away from this influence and you said you believed she would tell the truth?

A. Yes, sir, I did.

Q. Ellis, you have a brother named James E. Childers, haven't you? A. Yes, sir.

Q. Jim has never been in any trouble in his life has he?

A. I don't know.

Q. You told me that Jim Childers kept one of Minnie's children part of the time; that he worked at Davis and Jones store about the time this child was born, or a little afterwards; that he stayed around Wagoner a great deal and would know more about this matter than anybody, didn't you?

A. I couldn't have stated what you have stated to me because part of it is not so.

Q. What do you say about that?

A. If I said anything at all I would tell you that he kept Harvey a while; but Jimmy did not work at Jones about this time.

Q. He worked there shortly after?

A. Sometimes afterwards, he was a little fellow then and wasn't able to work at Jones' store.

Q. He is your full brother, isn't he? A. Yes, sir.

Q. You went and hunted him up and brought him to my office to tell me what he knew about this case?

A. I did not. I met him down there.

Q. You met him down there and brought him to my office to tell me what he knew about this child? A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. Ellis, you understood and believed that the child which Nancy is alleged to have had in 1890 died shortly after its birth?

A. I couldn't say whether it died right away, I don't know.

Q. Died very shortly after its birth? A. No, sir.

Q. Didn't you say so in this statement? A. I must have.

Q. Well, did you tell the truth when you said it?

A. I never did know when the child died. No, I couldn't say shortly or longly.

Q. Did you tell the truth when you made this statement?

A. I never did know when the child died.

Q. You answer my question; did you tell the truth when you made this or not? A. Well, I did of course try to.

Q. And you said in this statement that your understanding always was that her child died shortly, very shortly after its birth? A. I heard that, I understood it.

Q. And that was a general understanding there wasn't it?

A. I couldn't say.

Q. How did you understand it, where did you get your understanding? A. I really don't know where I got it from.

Q. But that was your conviction? A. Yes, sir.

Q. That it died very shortly after its birth, that was the conviction you had about it?

A. Well, I guess so; I don't know when the child died.

Q. Now, you say that very shortly after that child died, or sometime afterwards, the only boys you saw with Nancy was Charlie and Harvey Harrison, and this Betsy Birney child?

A. It was a good while afterwards, several years.

Q. And until you saw them with Nancy you never saw any other child with Nancy did you? That is what you stated, isn't it? A. I don't know.

Q. That is what you said a few minutes ago to the Court, that you never saw her carrying any other child around?

A. I never saw her carrying any.

Q. Or going around the town except some colored children and Harvey and Charlie? A. The only time——

Q. Can't you answer that question? You will have to do it, Ellis. Make up your mind.

A. That is what I am trying to tell you now.

Q. Just answer yes or no, and then you can explain. Didn't you state a few minutes ago that after Nancy's child was alleged to have been born and died that you never saw her with any other children at Wagoner, going about the town with her, except Charlie and Harvey Harrison and some colored children? A. Yes, sir.

Q. And that is a fact, isn't it? A. Yes.

Q. Then, Ellis, at that time you believed that Nancy's child had died shortly after its birth?

A. I never thought about it at that time.

Q. That was your understanding at that time?

A. I gave no thought of it at that time; I thought of it since.

Q. Why did you say you understood it died shortly after its birth? A. That was my conclusion.

Q. But you did state to Judge Allen and Mr. Cook that your understanding was that it died shortly after its birth?

A. I say that they got that out of me.

Q. But it was the truth wasn't it? A. They prepared it and I signed it.

Q. It was the truth?

A. I guess I will have to stay with it.

Q. Now, then, Ellis, will you tell this court with those facts in your mind how you ever had an idea in 1895 that this Tommy on this roll was Nancy's Tommy; just explain that to the Court?

A. The only explanation I can make I didn't know of any children except those two children of Minnie's and this Tommy, if it was Tommy, another child. And I knew Nancy had a child and I don't think I gave much consideration about it. I just verified it, I don't think I went into the particulars.

Q. Didn't you go into any details at all? A. No, sir.

Q. The fact is, you didn't know anything about it?

A. I couldn't say that I didn't know anything about it.

Q. You didn't know about these names. Minnie Atkins had been away from here for years? A. Oh, yes, sir.

Q. You didn't know whether she was alive or dead, did you? A. No, I didn't.

Q. Prior to that time you saw her and didn't know it?

A. What is that?

Q. Where she come from to the payment?

A. Oh, she had come back from Colorado where she was.

Q. She had been away though? A. Yes, sir.

Q. Up to that time you didn't know where she was?

A. Only what I heard.

Q. You didn't know a thing about it. You didn't know what children she had?

A. No one here knew until she brought them here.

Q. None of her family knew her history after she left this country and went to Leavenworth and Colorado, did they?

A. No, none of them here, she didn't go from here.

Q. Now, as a matter of fact, when you went before that Committee you knew that Sam Brown had made up this Euchee Town roll? A. Yes, sir.

Q. You knew Sam Brown was a Euchee King?

A. Yes, sir.

Q. And you knew that you were not a member of the Euchee Town? A. Yes, sir.

Q. You didn't know anything about the members of the Euchee Town except those in your vicinity?

A. Didn't pretend to.

Q. So, when you came in there and they put the matter to you, you simply said I don't know any Tommy Atkins, didn't you? A. I don't think I said it.

Q. Didn't even say that much?

A. I don't know whether I said that much.

Q. Ellis, did you testify at all before that committee?

A. I just made a statement.

Q. What statement?

A. I asked what families they have got and they explained and I just simply said yes.

Q. That is all they asked? A. Yes, sir.

Q. Now, you do know that the Sam Brown [] of Euchee Town, as prepared by Sam Brown, was adopted by the Council, don't you?

A. I couldn't say that. I knew the Sam Brown roll as approved by the committee was adopted by the Council.

Q. But you know if the Sam Brown roll was endorsed by the Committee then the Sam Brown roll was adopted by the Council? A. Why, certainly.

Q. There is no doubt about that? A. No doubt.

Q. Now, when that payment came up, Minnie came to the payment? A. Yes, sir.

Q. Who was there with her, Sam Brown?

A. At the payment?

Q. Yes, 1895 payment.

A. She was in the room, Sam Brown was there present.

Q. Who else was there that you knew at that time and that Minnie knew?

A. There was quite a number of people.

Q. Tell some of them that Minnie knew and you knew and Sam Brown knew when she drew that money?

A. In the room?

Q. Yes, in the room? A. Cornelius Carr.

Q. All right, who else? A. Mrs. Moore.

Q. All right, who else?

A. This police that they have here, Sam McCurtain, he was the caller. Timmy Fife and I were sitting there talking.

Q. That is all?

A. If I keep on I might remember some more.

Q. Now, you said Sam Brown and Minnie come up to the paymaster? A. Sam Brown was already in there.

Q. Did they have a paymaster there? A. Yes, sir.

Q. Was he behind a table? A. Yes, sir.

Q. What was his name? A. Napoleon Moore.

Q. Napoleon B.? A. Yes, sir.

Q. Now when Napoleon walked up to the table did the girl Minnie walk up with him?

A. Let me get your question?

Q. When Napoleon walked up to the paymaster's table did anybody walk up with him?

A. Napoleon was already there, he was paymaster.

Q. And when Sam Brown walked up to the table did Minnie walk up with him?

A. They did not come together because Mr. Brown was already there and Minnie came in afterwards.

Q. Did Brown and Minnie stand in front of Mr. Moore's table? A. They virtually did.

Q. You were right close up?

A. I was just to the left in the corner.

Q. And you heard every word that passed?

A. I certainly did, I was right there.

Q. Now, when they asked about the child Alice, when that was brought up, the one that is on the roll——

A. If they did I don't recollect it.

Q. Didn't Minnie say to the paymaster, "I can't draw for that one, because she is dead," do you remember that?

A. No, I don't remember.

Q. What was said there about a child being dead?

A. If there was anything said about a child being dead I don't recollect it.

Q. Minnie drew for how many?

A. Minnie drew part of it, got all the money, but she signed for part of them.

Q. Got all the money but she signed for part of them?

A. Yes, sir.

Q. And Brown signed for the others? A. Yes, sir.

Q. Brown signed for Nancy?

A. He certainly did, I see from the records. He signed for somebody.

Q. And Ed Schrimpsher? A. Yes, sir.

Q. And Minnie signed for her own? A. I see she did.

Q. And what she claimed to be her children?

A. Must have.

Q. Now, how many did Minnie get?

A. I don't know only what I see from the records.

Q. Well, look at the roll, how many did Minnie get?

A. This red line to the mark shows there were five names but the amount of money that she drew only represents four.

Q. Four time- fourteen dollars and forty cents?

A. Yes, sir.

Q. And she got fifty-seven dollars and fifty cents?

A. Yes, sir.

Q. Then she must have drawn for herself and three others? A. Must have.

Q. Now, let's see, here is that roll now, and there is Minnie, Charlie, Susan marked Alice over it? A. Yes, sir.

Q. That was done by the paymaster, wasn't it?

A. The writing shows it was Mrs. Moore's handwriting.

Q. But those changes were made at the payment?

A. Must have been, might have.

Q. So, before the paymaster paid it he identified Mamie for Minnie; there is the red marks, you know that was made after the roll was made? A. The supposition is.

Q. Susan is changed to Alice? A. Yes, sir.

Q. And there is Thomas and Mary is charged to Harvey?

A. Yes, sir.

Q. And they have the same numbers 1659 and 1659?

A. That doesn't belong up there.

Q. I want to ask you if the books show 1659 standing opposite those names? A. Yes, sir.

Q. Showing that they were brothers?

A. They have the same mother.

Q. Now, Susan is changed to Alice; Charlie, Alice, Tommy and Harvey, those four? A. Four.

Q. This Alice is Alice Atkins. You see that word "error" there? A. Yes, sir.

Q. That means that there was error in that name?

A. There is a parenthesis, I don't know whether that means both or one.

Q. The "error" is opposite Alice's name? A. Yes, sir.

Q. Now, I will ask you if that "error" wasn't entered there by the paymaster when Minnie told him that Alice was dead? A. I couldn't say that it was because I don't know.

The Court: I want to clear up something.

Examination by the Court.

Q. Was Mrs. Moore right there at the time? A. Yes, sir.

Q. Were they using red ink in making changes?

A. They had red ink there.

Q. Were those amounts of the payments in red ink placed upon the roll at the time the payments were made?

A. Those amounts in red ink were paid by the clerks at the time the payment was made.

Q. That word "error" that follows Alice is in whose handwriting?

A. It appears to me to be in Mrs. Moore's handwriting, and I believe it is.

Examination by Mr. Stuart.

Q. Now, then, Minnie collected for three children and herself? A. It shows it there, yes, sir.

Q. And Sam Brown drew for Schrimpsher and Nancy, that is a fact isn't it; you knew John Davis? A. Yes, sir.

Q. John Davis was well acquainted with that Atkins family? A. He was their uncle.

Q. He knew more about it than you did, he was a Euchee or Coweta? A. He was Euchee.

Q. Lived in Euchee Town? A. He lived with us.

Q. But he was a Euchee? A. He was a Euchee, yes.

Q. Now, Ellis, how many people have you worked for getting evidence in this case? A. I worked for Mr. Allen.

Q. Your first employment was by Mr. White, wasn't it?

A. He employed me.

Q. He employed you first?

A. That is, he never did employ me either. I went over to Wagoner with him, he asked me to go with him. That is the only time.

Q. You helped him get up his evidence?

A. Only just speak to people.

Q. How long did you assist Mr. White?

A. I never did assist him.

Q. Did you give him any names?

A. I might have done that.

Q. And did you tell him what you testified here on direct examination?

A. I told him a whole lot he asked me about it, I don't know whether I gave him all of it.

Q. You told him all you knew? A. Yes, sir.

Q. And you told him where the witnesses were that you thought would prove it?

A. Where they were that would likely know about the case.

Q. And then how long after that was it before you went to the Government, Judge Allen?

A. Judge Allen sent for me and employed me as interpreter.

Q. But as soon as you were sworn in as interpreter, you went to hunting evidence? A. He sent me.

Q. And you did hunt evidence for Judge Allen?

A. That is on that trip he is talking about I did.

Q. And you now conclude don't you that the statements you made to Judge Allen and Mr. Cook is the true statement of facts in this case; ain't it, Ellis?

A. The statement I made as well as I knew at that time.

Q. Well, the statement you made today?

A. I don't see a vast difference in what I said to him and now.

Q. But the point is the statement you made on direct examination as modified by the written statement you made to Judge Allen is the truth in this case?

A. He has a statement that I made out there to prove that the child was dead at a certain time. I never did know when that child died.

Q. You never heard him ask you that question?

A. He asked me that question and I corrected it.

Q. I think you misunderstood him. He asked you simply if you didn't understand that the child was dead within a short time and you said yes, and you still say yes. That is a fact, that is all.

Cross Examination by Mr. German.

Q. Ellis, when you went before that committee you knew Ed Schrimpsher, Minnie Atkins, and Susan Atkins, Thomas Atkins, and Nancy Atkins, you knew persons of that name?

A. In some other family.

Q. In Dick Atkins family there was Susan, Thomas, and Mary? A. Yes, sir.

Q. And they lived west of Wagoner? A. Yes, sir.

Q. Then the old deceased Thomas Atkins family there was Minnie, Charlie, and Nancy; then you knew a Nancy in the Richard Atkins family?

A. Yes, there was a Nancy in that family.

Q. There were persons living in the Creek Nation at that time by those names? A. Yes.

Q. That Thomas Atkins, that child in that Dick Atkins family, who was his mother, Sallie wasn't it?

A. It was his last wife, but I have forgotten her name.

Q. It was Sallie, wasn't it?

A. I have forgot, it was Dick Atkins' last wife.

Q. Dick was a half brother of Nancy here?

A. Supposed to be.

Q. This Nancy that is in the Court House?

A. Supposed to be.

Q. And that child was a son of that Dick? A. Yes, sir.

Q. And he tried to get on the roll and they wouldn't let him be enrolled because he died too soon?

A. I see from the records.

Q. Now, let me ask you to look at this 1895 pay roll right close. I want you to look at the words "of one" and look at it carefully and see if you don't see written under those words the word "error" in the same handwriting exactly as the word "error" appearing opposite the name Alice Atkins?

A. I see just three little marks very dimly.

Q. Well, the words "of one"?

A. I see "of one" plainly.

Q. They follow the line. Don't you see here; there was the e and the r and there is the other r and the o and the r, see them just as plain, Ellis?

A. I can't see well enough to say.

Q. Well, will you say you don't? A. I see something.

Q. Now, let me ask you this: You say they had red ink there at that payment? A. Yes.

Q. And evidently the word Alice was written on top of the word Susan at that payment? A. Yes, sir.

Q. Evidently it stood this way, opposite the name Susan was the word "error" and opposite the name Thomas was the word "error," isn't that right? A. I couldn't say that.

Q. Well, it looks like it, and then about that time they wrote on top the word Susan the word Alice, didn't they, and then the words "of one" over the bottom "error" with the same pen and ink that wrote Alice, leaving Alice as the one not in error, and Thomas as the one in error?

Mr. Cruce: We object to that.

The Court: The Court understands this situation to be about this: That from what the witness has said, from his opportunity to figure out what this roll shows, he is in about the attitude that the Court would be in now in looking at the roll. So, it is a question for me to determine in the light of what you gentlemen construe it to be.

Mr. German: I thought possibly the witness would claim some knowledge on the subject.

The Court: No, I think not. I would be very glad if he was in a position to do so, because it is rather a nice proposition. I think probably he would be putting himself in my position and I won't allow that.

And thereafter, and at 1:30 o'clock P. M., court convened pursuant to adjournment and further proceedings herein were had as follows:

ELLIS CHILDERS being recalled, further testified as follows:

Redirect Examination by Mr. Hill.

Q. Mr. Childers, you testified this morning about going out to see a lady, I don't remember her name, now, to look over the rolls that had the minutes of the council—what was her name? A. Mrs. Brison.

Q. What was her previous name?

A. She was a Mrs. McKellop.

Q. Her husband was the clerk of the Council, was he?

A. Clerk of the House of Warriors.

Q. And she had possession of the rolls?

A. It was the minutes of the proceedings of the council.

Q. They were kept by her husband or by her?

A. They were kept by her husband and since he has died, she has got the minutes.

Q. For what purpose did you examine those minutes?

A. The date of the making up of those rolls were not settled in my mind; if it was made at the regular session of the Creek council, it must have been made in October, 1894, and this was known as an 1895 roll; and if it was an 1895 roll, it must have been an extra session of the council, and I was not certain about it and I could find out from the minutes whether it was a regular session of council or an extra session.

Q. Did you also look at the committees appointed?

A. In them minutes it was.

Q. That was the purpose for your investigation? To refresh your memory on that subject, was it? A. Yes, sir.

Q. Mr. Allen presented to you a statement which you had made to him, dated the 26th of February, 1915; by whom were you employed at that time? A. Mr. Allen.

Q. In what capacity? A. As interpretor.

Q. How long had you been employed as an interpretor?

A. I can't say just how long; probably a month before this.

Q. How long were you employed after this?

A. Not over a month. I don't think it was—I don't think I was employed over three months.

Q. Not over three months?

A. In fact maybe not two months—I think it was three months.

Q. What were your duties as interpretor?

A. To interpret any evidence or conversations he may have with some Creek Indians that couldn't talk English, that was all.

Q. Did you serve in that capacity? A. I did sometime.

Q. What were your duties principally when you were employed by Mr. Allen? A. That was my duties.

Q. Well, what did you actually do?

A. Why, he sent me on errands at different times and most of the time I was not doing anything much. I interpreted for these Indians visiting the Indian Department. I interpreted for them most of the time.

Q. That was in a different department from Mr. Allen's department? A. Yes, sir.

Q. Were you sent out to investigate the evidence in this Nancy Atkins case?

A. He sent me over to Wagoner. I was over there. I couldn't bring those witnesses without furnishing the money for them to come. Finally I came back and sometime shortly after that, why he sent the gentleman—I have forgotten his name; McMillian, I think it is now.

Mr. Hill: Is that the correct name, Mr. Allen?

Mr. Allen: A. H. McMillian.

A. He went with me; I went over there again with him.

Q. Did you interview these witnesses with Mr. McMillian?

A. I was present when he interviewed them.

Q. When he interviewed them? A. Yes, sir.

Q. Who were they?

A. It was the parties mentioned by Mr. Allen, Anderson——

Q. Was that Henry Anderson who testified here, a negro? A. Yes, sir.

The Court: Judge Allen went over that entire list this morning and he says it was the parties, and probably it would not be necessary——

A. It was those parties.

Q. These parties mentioned this morning? A. Yes, sir.

Q. All of them are witnesses in this case, were they? A. Yes, sir.

Q. Did they make statements to Mr. McMillian at that time that this child was born dead or died shortly afterward?

A. Some *died*, and some claimed he died shortly afterwards.

A. I notice in this statement that was read to you this morning in this question and answer: "Q. How long did Nancy's child live? A. I really don't know but my understanding was the child died very shortly after it was born." Was that a correct statement or how did you understand that statement?

A. Why, I had just had that information at the time I made the statement.

Q. Was that the information that you had gotten from these witnesses that you are referring to? A. Principally.

Q. Is that what you were referring to in this statement that you made to Mr. Allen? A. I certainly did.

Q. What was your information prior to that as to the existence of this boy some years after his birth?

A. There was not very much said about that other than the payment *was* were speaking of. I don't recollect anything said about it.

Q. Well, at the time of the payment, what was said about it?

A. Why, it was asked and the—the occasion must have been—my understanding was he was *illegible* to participation in this payment.

Q. And I see in this statement here, question and answer: "Q. Did you ever hear or know of Nancy ever having or claiming any child by the name of Thomas Atkins? [A.] I never heard of her having a child by that name or any other name; I knew she had one child but my understanding was they never had named the child; it never had a name until this matter came up. I guess I was the man who told these people who were hunting Thomas Atkins who he would likely to be. Ellis Hammett first approached me and asked me who Thomas Atkins was and I told him I couldn't tell; if he would furnish me with the roll card I could tell who he was and sometime afterward he brought me a copy of the roll card. I had seen what town it belonged to and what family it belonged to and that this Thomas Atkins was enrolled under the roll of the fourteen dollar payment, 1895 payment, and I told Ellis Hammett there was only one child born in this family, that I didn't [] it was entitled to be on the roll, but if it was anybody's at all it was Nancy's child, as Minnie had two children and that there was not but one child born to either of those girls that was not named before." What roll were you referring to in this statement that he was not entitled to be upon the roll?

A. The allotment roll, the Dawes Commission roll.

Q. Why did you think he was not entitled to be on that?

A. Why, I think—this litigation started—from what I could find out I had my doubts as to whether he was living, my own conclusion, though, whether he was living when the land office opened.

Q. What date was that? A. First day of April, 1899.

Q. If they were not living on the first day of April, 1899, they were not entitled to be on the Dawes Commission roll, is that correct? A. That is correct.

Q. Is that what you were referring to here? A. Yes, sir.

Q. Have you made statements to that effect to other parties? A. I have.

Q. What statement did you make about it being entitled to be on the 1895 roll?

A. He was undoubtedly entitled to be or he wouldn't have been there.

Q. I see this further question and answer: "How long was it you saw Harvey there after Nancy was sick? A. I don't know how long it was. It was not very long." Now, on the next page I find this statement: "How long was this after the birth of Nancy's child, that you saw the two children of Minnie at Nancy's house? A. Nancy didn't have any house but it must have been four or five years after that." Which of those statements is correct; one you say a short time after and the other you say four or five years?

A. Four or five years is correct, it must have been that long.

Q. When you saw Minnie and those two children in Wagoner? A. Yes, sir.

Q. Do you know how long they stayed there?

A. They didn't stay with Nancy very long.

Q. Was Minnie there with them? A. No, sir.

Q. I see this statement: "What year do you think it was born in? A. Along in the month of September, 1898, or 1899 it was the first day of October when we were at the payment

I spoke of." Is that correct, September, 1898, or September, 1899, or either?

A. No, sir, it is not correct. I either made the mistake or somebody that wrote it made the mistake.

Mr. Hill: I suppose that was intended to be 1888 or 1889?

Mr. Allen: It is conceded that is a typographical error; it was 1888 or 1889.

Q. I believe you testified at Sapulpa you thought the child was born in 1889? A. I did.

Q. And fixed that from the pasture particular?

A. Yes, sir.

Q. And you stated yesterday you were satisfied it was 1890 instead of 1889 after reflection? A. That is true.

Q. Here is another statement I want to call your attention to: "During the time, dating from her sickness until the time you saw these two children, did you ever see any other children around Nancy or with her? A. Not except those colored children of Betsy Birney's." Is that a correct statement?

A. It is not a correct statement. Of course I am bound to have seen her with other children. I must have stated it, but I couldn't say that I never did see her with any other children.

Q. As a matter of fact, did you see this child with Nancy after the time you saw it after its birth?

Mr. Allen: We object to that as a conclusion of the witness, leading and suggestive.

The Court: The question is: As a matter of fact, did you see this child with Nancy after its birth?

Mr. Hill: He has testified to seeing it shortly afterwards.

The Court: He may answer.

(Question read.)

Q. After the time you state you saw it after its birth?

A. I stated I seen a child that they said was the same one, but I never saw that child grow up.

Q. I want to read you from your Sapulpa testimony on page 73: "Who took care of this child during the last seven or eight years of its existence, who provided for it? A. I don't think anybody in particular outside of the time she stayed at Betsy Birney's, whatever he had to eat he had it there. Q. What was its color, black, white, or brown? A. Fair, kind of light. Q. Did it have any particular marks by which you remember? A. No, I didn't pay particular attention to it. [Q.] Do you know how long"——

Mr. Allen: May it please the Court, we object to this line of examination of this witness. He is now referring to the testimony that this witness gave at Sapulpa.

The Court: Is that evidence in any shape in this case?

Mr. Allen: No, sir.

The Court: What relevancy does that have, Judge, in your judgment?

Mr. Hill: It is this: Where a witness has made contradictory statements, the party introducing him may call the prior statement for the purpose of refreshing his memory.

The Court: I don't know about that. This is not before the Court at all. I will not consider what he said there at all. Now, he has made certain statements on the stand here. Now, I don't think I quite follow you.

Mr. Hill: I am going to ask him if he remembers this testimony and does it refresh his memory as to those facts.

The Court: As to facts there?

Mr. Hill: That I am now reading.

The Court: Is that different from testimony that he has already given?

Mr. Hill: Not entirely. He said he didn't remember about the child when I asked him this morning.

Mr. Allen: It is inconsistent with his statements on cross examination and this is his own witness and was his witness at Sapulpa, and he is putting him on now in redirect examination.

The Court: Is there very much of that line of examination?

Mr. Hill: That is all.

The Court: Well, you may ask him.

Q. There is just one other question: "Do you know how often Nancy Atkins visited that house at that time? [A.] Visited what house? At Betsy Birney's. No, I don't know, she made it her home when she went back." Do you recall that testimony, Mr. Childers? A. Yes, I do.

Q. Does it refresh your memory?

A. Yes, it does. I was speaking of the boy. To say it was the same child that grew up, as I was distinctly saying I don't know, but it was a boy I saw that they claimed was the same child.

Recross Examination by Mr. Allen.

Q. Ellis, you talked to Mr. White before you took the witness stand on yesterday, didn't you; you have talked to him about this case since you came to town?

A. I don't think I talked with him on yesterday. Yes, he has talked to me some.

Q. You have talked to him some about this case since you came to town? A. Not in details.

Q. You went over the testimony you gave at Sapulpa?

A. Not with Mr. White.

Q. Who did you go over that with?

A. I spoke to the attorneys there, they asked me about it.

Q. And you read over that testimony didn't you?

A. I did.

Q. And then to be certain about it, you went out and saw Mrs. McKellop?

A. I wasn't going out there to see Mrs. McKellop in reference to any statement I made at all.

Q. Ellis, you say that you gathered your information that this child that Nancy had was born dead, or rather had died during infancy, from the statement that you and Mr. McMillian got from these various witnesses up there?

A. That I got before, and finally got them in writing.

Q. You didn't go, as a matter of fact, to work on this case until after you made this statement in the presence of Fred Cook in my office in Muskogee, did you?

A. I don't think I went with McMillian, I was up there at various times, I don't know when just exactly the date that I first was up there.

Q. You state in this statement that when Nancy had this child that you went to the house and saw the bulk of something in the bed; that you did not turn back the cover to see whether it was a baby or not. Is that right?

A. I think I did.

Q. Well, there is nothing about that bulk in the bed that caused you to recognize a child afterwards was it? A. No.

Q. And you never heard about Thomas Atkins you say in this statement until this case came up and as the son of Nancy, that is right, isn't it?

A. I said I didn't know it to be named Thomas; didn't know it to be named Thomas Atkins or what the name was. I never did know what its name was.

Q. If you heard that child *child* died in early in fancy in

1895, you must have had in mind this Thomas Atkins, the son of Richard Atkins, when they asked you about a Thomas Atkins in this family, didn't you? Now, isn't it a fact——

A. Now, I don't think it was—the name was not mentioned there and I knew the family distinctly and I don't think I would have made a mistake from one family to the other.

Q. Well, Susan Atkins was not a member of the Minnie—Nancy Atkins family? A. No, I don't——

Q. But she was a member of the family of their half-brother Richard Atkins, wasn't she?

A. Yes, there was a Susie Atkins in that family.

Q. Mary Atkins was not a member of Minnie and Nancy Atkins family but was a member of their half-brother's family, wasn't she? A. Yes, sir.

Q. Those two names were in the same list that Thomas' name was in, wasn't it?

A. I didn't see the list, it was read to me.

Q. You didn't remember that until you saw it today, did you, Ellis?

A. If those Susie and them was on there, I didn't see the list—I didn't remember it.

Q. So, if you saw a list with Thomas and Mary, and Nancy, and Susie on it, you would have thought that it was the Richard Atkins family, wouldn't you?

A. Couldn't have helped it.

Q. Because that family had all those names in it, didn't it? A. Yes, sir.

Q. This statement that you made to Fred Cook was on the 26th of February, wasn't it?

A. I think the date shows it was. Yes, the date shows it was.

Q. The testimony—the statement you obtained from the witnesses when you and McMillian interviewed them was on —was how long after that, Ellis?

A. It couldn't have been very long because you know I wasn't with you over three months all together.

Q. I was authorized to employ you for three months, wasn't I, and did employ you for three?

A. I don't know; you said so.

Q. You say you went up to Wagoner and talked to these witnesses? A. Yes, sir.

Q. And then a few days after that Mr. McMillian went up there with you? A. Some time afterwards.

Q. How long afterwards?

A. I don't know how long; couldn't have been very long, though.

Q. Was it a week?

A. It might have been a week; I don't know.

Q. It wasn't over a week, was it?

A. It couldn't have been very long.

Q. It couldn't have been over a week, could it?

A. Not hardly.

Q. Then, you said that statement was made on the 26th of February, 1915? A. I think it shows it.

Q. These witnesses that you and McMillian examined and talked with, you talked to on beginning the 20th of March, didn't you? A. This one shows that the 20th of March.

Q. Then, you could not have formed your judgment that this child died immediately after it born by anything that these witnesses told you, could you, Ellis?

A. Well, under that statement, but it was after I had been up there sometimes afterwards I keep telling you. I don't know how long it was but it was after I came back from there.

Q. Now, Ellis, you never went out on this Nancy Atkins case; you never were talked to about this Nancy Atkins case until you went in the back room in my office with Fred Cook and made that statement to him. Now, isn't that a fact, and after that Mr. Cook and myself sent you to Wagoner to see these witnesses?

A. Well, you employed me on that case, I had been on it before.

Q. But these statements were made after—a month nearly after you made your statement, wasn't it?

A. Yes, that is it was taken down.

Q. Well, isn't that the date that you and McMillian took it down? A. It must have been, I don't recollect.

Q. Ellis, I believe that you testified a while ago that when you put this name Atkins on the '95 roll, or assisted in putthing it there, when they were considering that roll, when you were asked about it rather, but you had in mind this Thomas Atkins, the son of Nancy? A. I had in mind——

Q. Now, as a matter of fact, you had never heard of the name of that boy in your life, had you?

A. That is what I keep——

Q. You had merely heard that she had a little child that was born dead or died soon afterwards? A. No.

Q. You didn't know that Nancy had a boy by the name of Thomas Atkins then—answer.

A. By that name—I keep telling you that I didn't know what the child's name was.

Q. Then you couldn't have had the information at that time that Nancy Atkins was the mother of Thomas, could you?

A. I had in mind as I have told you, I think I stated that, when it was explained to me who it was meant for, I knew if it was named Tom or whatever its name had been, I didn't know the name at the time, it was meant for Nancy's child.

Q. Wouldn't you have said that it was meant for Richard Atkins' son if you had seen it in that family group I have called your attention to?

A. If it was in the Atkins family I would have, Dick Atkins' family.

Q. If it was in the same group with Susan and Nancy and with Mary, wouldn't you have said that it was a child of Richard's?

A. If it was in Richard's family, I certainly would have said it.

Q. If it was in the group with Susan and with Mary, you would have known it did not belong to Nancy or to Minnie, wouldn't you?

A. It had to be in the group with Dick Atkins' children.

Q. Those were Dick Atkins' children, weren't they? Susan and Mary? A. Why, certainly.

Q. Thomas and Nancy were Dick Atkins' children, too, weren't they? A. Yes.

Recross Examination by Mr. Stuart.

Q. Ellis, before noon, in answer to a question put by me, you said at least twice and maybe four times, that after you heard of the birth of Nancy's baby that you never thereafter saw Nancy with any child except the two Harrison boys and some colored children, didn't you? You told me that several times, didn't you, on the stand? A. Did I tell you that?

Q. Yes, you told me that. Now, that is true, isn't it?

A. Well, I am bound to have seen—I did see her with some other children.

Q. What is that?

A. I was bound to have seen her with other children.

Q. Well, hold on. Did you see her with any other children besides the two Harrison children and some colored children? Isn't that what you told me three or four times?

A. I seen her with them.

Q. Didn't you say that you didn't see her with any other children but them?

A. No, I can't say that and be candid about it.

Q. Ellis, how could you see her with any other children when you understood that this other child died immediately after its birth? How could you do it? A. Well——

Mr. Stuart: That is all.

Redirect Examination by Mr. Hill.

Q. Just one question, Mr. Childers. I wish you would look at this Euchee roll again, under the larger glass here. Now, as I understand the answer to Mr. Allen's question, you have stated that in Dick Atkins family I believe it was Dick, wasn't it? A. Yes.

Q. That other Atkins. That there was a Susan and a Mary, wasn't it? A. Yes, sir.

Q. Now, those two names have been changed here with red ink, Susan and Mary, to make it Alice and Harvey, have they not? A. It looks so, yes.

Q. And this *rool* you now hold in your hand became the final roll that went before the Dawes Commission in its present condition, did it not?

Mr. Allen: If the Court please, I believe that was gone over this morning at great length.

The Court: The evidence this morning, this witness convinced me that those changes were made at the time of the payment and it went before the authorities making the payment in its unchanged condition, and that it then developed at the payment that these names should be as changed.

Mr. Hill: I understand that and I will follow it up that this changed word is the way it went before the Dawes Commission.

The Court: Well, I don't know whether he knows.

A. I can't tell you.

The Court: Do you know what roll was before the Dawes Commission?

A. No, sir, I don't.

The Court: Well, that will do.

Mr. Allen: If Your Honor please, one statement Your Honor made in the record this morning, that may make it necessary to introduce expert testimony. Your Honor said that looking at this name upon this roll, that an "error of 1," that you couldn't tell whether that "error of 1" was written before or after the word "error" occurring thereunder. I wish you would observe that through the magnifying glass and see if Your Honor is satisfied then that it was written before or after.

The Court: Now, for the benefit of counsel merely, and not determining the matter finally, since I have examined it through the glass, it gives me the impression that originally the person weilding the red ink pen had written the word "error," following each of those two names there, the name Thomas Atkins and the name above it; and that then either that person or some person subsequently, with a red ink pen, had written "of 1" over the "error," the second word, error.

Mr. Allen: I think that is perfectly apparent from that roll and I just wanted to satisfy Your Honor about it.

The Court: The impression that I would get would be for some reason the person using the red pen at that payment at first, inadverdently or through mistake, had written "error" after the two names and then had reached the conclusion that there was only error as to one name and had added "of 1" over the error.

Mr. Allen: Well, of course it is argumentative but Mr. German summed our contention this morning, in that the fact that they wrote with red ink and corrected the roll, Susan to Alice showed that they intended that the one error——

The Court: Well, that is an impression, conclusion that I will not attempt to reach yet. If there is any expert testimony or any testimony of persons familiar with these circumstances that will shed any addition- light on that, I would be glad to have it but that is the way it impresses me now, and very clearly the evidence now shows that Minnie was there. I don't suppose that will be disputed. Very clearly, Minnie, according to that roll, collected for five persons; for four persons, herself and three others. And the question will then arise as to whether it was Thomas or Alice that was included in the four that she collected for because there are five that are included within the line and she only collected for four.

Mr. Allen: We merely call Your Honor's attention to it in connection with this original roll that you might give it consideration.

The Court: Well.

Witness dismissed.

Mr. Hanford: If the Court please, before the next witness is called, I offered the prison record of Bob DeLozier as exhibit in connection with the cross examination. I submitted them to counsel for Nancy Atkins and from those records they have prepared a memorandum which I understand they agree as showing his prison record and which may be read into the record instead of putting in the record themselves.

The Court: Well, then, let it be read in right now as part of the cross examination of the witness Bob DeLozier.

Mr. Hanford: These exhibits show that Bob DeLozier was confined in the Muskogee jail at Muskogee, Oklahoma, from June 12th, 1898, to December 24, 1898, for the crime of introducing and selling liquor.

That he was confined in the United States Penitentiary at Brooklyn, New York, under a three-year term and remained there from April 20, 1894, to July 29, 1896.

That he was confined in the Fort Smith jail from December 20th, 1893, to April 18, 1894, for the crime of larceny.

That he was in the United States Penitentiary at Columbus, Ohio, from November 5th, 1900, to November 25th, 1904.

That he was in Muskogee jail at Muskogee, Oklahoma, from May 7, 1900, to November 4th, 1900, for the crime of larceny.

In the prison record of the Ohio penitentiary at Columbus, Ohio, the prison records gives the past record, and shows that he served eight years in Mexico prison.

Mr. Hill: We object to that. I think that is not in the testimony.

The Court: I don't care for that service unless it has some date. Because so far as this man's prison record is concerned, so far as it has any legitimate bearing on this case, there is enough in the United States.

Mr. Hanford: The witness was asked whether or not he had spent most of his life in jail and he said that he had not. It might be relevant in connection with that.

The Court: Well, he is rather an elderly man now. Proceed.

And thereupon, NANCY ATKINS was called and sworn as a witness in her own behalf and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. Nancy Atkins.

Q. How old are you, Nancy?

A. I was forty-five years old yesterday.

Q. Are you a Creek citizen? A. Yes, sir.

Q. Where were you born?

A. I was born down near the place they call Elks Creek.

Q. Have you lived in the Creek Nation all of your life?

A. Oh, all of my life.

Q. Did you ever live in Wagoner? A. Yes, sir.

Q. When did you go to Wagoner to live?

A. I don't remember the year, I went there, the date of the year.

Q. What did you do after you went to Wagoner?

A. I got me a job laundrying.

Q. At what place?

A. Now, I am not sure whether it was at the McAnally's or the Bernard, but I think it was the Bernard Hotel was the first place that I worked.

Q. How long did you work there?

A. Oh, I worked there from the time that I went there until I was sick.

Q. What condition were you in at the time you went there? A. In a delicate state.

Q. You mean by that that you were pregnant?

A. Yes, sir.

Q. Where had you lived just before going there?

A. Here in Muskogee.

Q. With whom?

A. With Cherokee Robinson, my aunt that raised me.

Q. What was the occasion of your leaving her home and going to Wagoner?

A. Well, after I fell into this mistake I just left home, I didn't want to bring no disgrace on the family.

Q. Now, how long after you went to Wagoner was it before this child was born? A. That fall I think.

Q. Do you remember what month it was born in?

A. I think it was September.

Q. Where was it born, where were you living at the time it was born?

A. Why, I wasn't to just say living, I was working at the Bernard Hotel.

Q. Yes, I know, but whereabouts in the town was the child born, what house or what place?

A. Elnora Williams' house.

Q. What kind of a child was that, boy or girl?

A. My child was a boy.

Q. How long did the child live?

A. Well, I don't know how old he was when he died, he was about—— Now, as I don't know the year I went there, but as near as my recollection, I can get at it, he died in the spring of '90.

Q. Ninety or nineteen hundred? A. 1900, I guess.

Q. Where did he live during that time?

A. Well, I never did keep the child right with me when I was working; I always had somebody to care for him while I worked, but I would always go where he was evenings, every evening when I got off or else have him brought down to the laundry; there was a room there for me.

Q. Now, did you work at the Brown Hotel any time you were there?

A. Yes, I worked for Mrs. J. R. Brown directly after the hotel was finished.

Q. Do you remember seeing Frank Engles around there?

A. Yes.

Q. Now, did you ever have a child down there at the Brown Hotel where you worked?

A. Yes, sir, he would come down there.

Mr. German: Your Honor, we object to counsel leading the witness.

The Court: Well, she is asked if she ever had the child down around the hotel where she worked. I think that is all right.

Q. Now, when you went around town did you ever take him with you?

A. Oh, I would take him along with me and take him on back to Betsy's. I would usually always—I would send him out to Betsy's of a morning.

Q. Now, you say Betsy, who was that? A. Betsy Birney.

Q. Did you ever give birth to any other child?

A. That is the only one.

Q. Were you at the burial when he was buried, Nancy?

A. Yes, sir.

Q. Who else did you see there?

A. Well, old man MacHenry was there and that darkey they called E. J. White.

Q. There was several people there was there?

A. Yes, sir, it was hard to get anything around there, do anything like that, dig a grave, you just had to get who you could.

Q. Now, were you ever sent to prison? A. Yes, sir.

Q. Was that before or after the child was born?

A. That was after he was here I got into that little scrape

Q. About how long after he was born?

A. Oh, he was about three or four months old when I got into this.

Q. Where were you taken to, Fort Smith? A. Yes, sir

Q. And where were you sent from there?

A. Detroit, Michigan.

Q. How long were you sent for?

A. Sent for eight months and served six and a half.

Q. Now, when did you get back to Wagoner from Detroit?

A. I left Detroit the second day of July; it seems to me that was on a Monday, and I landed in——

Q. Do you remember what year it was?

A. No, I don't, and landed in Wagoner on a Wednesday morning.

Q. How soon after that did you see—— I will ask you first, did you see the child after you got back there?

A. After I went from the train I went to old man Williams restaurant and it had rained and the streets were muddy and I made it over there and Mrs. Williams come and met me half way; I got there and talked quite a while and said well I will go on out to Betsy's.

Q. Well, did you find the child there?

A. Yes, sir, he was there.

Q. You are the same Nancy that was the plaintiff in a suit up at Sapulpa against H. U. Bartlett and the Gypsy Oil Company? A. The same Nancy Atkins.

Q. You testified in that case up there, did you?

A. Yes, sir.

Q. Now, prior to the trial of that case, did you make any statement in regard to this child? A. At Sapulpa?

Q. Yes? A. Yes, sir.

Q. That was in MacDougal & Lytle's office, wasn't it?

A. Over when Bartlett sent for me?

Q. Yes? A. Yes, sir.

Q. Well, now, I wish you would tell the Court how you come to go there and how you come to make that statement?

A. Well, I hardly know how to commence on it, it is such a mixed up thing. But I will say I will commence from this: I was out to Coody's Bluff; I wasn't in Nowata at the time. And so, one day a big automobile runned up out there—it was in February I think was the month. So, in the car was Betty Mann, Bartlett's son, I think the one they call Elward, I think that was the name, and a colored man there by the name of Vass Grisson and his bull dog. This is what the car was loaded with. So, Vass wanted to know was I there at this house, and they said yes. There was a little store there Charlie Armstrong run. Mr. Newland said she may be over at home or up stairs with my wife. Well, Vass, he run up stairs and come in and he told me, now, Nancy, Bartlett—Mrs. Newland went to the door, so Vass says Bettie Mann is down here, wants to see you, says there is big money in this if you tell the truth about it. Says he is offering two thousand dollars; that would have been my part of it to get out of it. That was supposed I guess, but they meant, I don't know now, my interest. So, pretty soon Betty come up. Well, I never paid no attention to Betty Mann, I heard of her record and all. I had an idea what she was after. And she talked along there. I says I haven't got sufficient clothes to go down there. Oh, you will get clothes, says, I will give you all the clothes you want, all you will have to do is go down there. H. U. Bartlett wants to see you.

The Court: Now, Nancy, talk a little plainer and a little louder.

A. So, I said all right and I gets in this car and goes with them. In going along the road, Betty says, your nephew is over here; I says which one; she said Harvey; I says that is Minnie's child; says yes; so they drove up to the Terry Hotel and when we got there—I don't know whether Mr. Whitehead is H. U. Bartlett's brother-in-law or how, but anyhow something in that family. And we met Mrs. Allbright right in the door, and she opened the door and I says here is Harvey. Then, Mrs. Allright say, Nancy what are you doing here? Betty Mann says we want our dinner, says Nancy don't want to go in the dining room; says Nancy—Mrs Allbright says Nancy has worked for me and she knows she can go in the dining room. And so I told them I didn't want no dinner. So,. Betty took me to the room, and when I got in the room, Charlie Rogers was in there. So he commenced on me about Minnie Atkins. I told him if Minnie is living I don't know it now. I just tell you what I have heard, because this question has been asked me before and I have been under the impression that Minnie is dead. Oh, well that would be all right enough. So, I went on down there to Sapulpa.

Q. After you got to Sapulpa where did you go?

A. Went to Betty Mann's house.

Q. What time did you get there?

A. Got to Sapulpa that night about 8 o'clock.

Q. Where did you go the next day?

A. Well, let's see. I think it was Thursday night—Thursday night when he got there, and Friday we didn't go anywhere and Saturday didn't go anywhere. Didn't go to the office until Monday, I think that is the way of it.

Q. Now, had you seen Mr. Bartlett from the time that you got there up until Monday?

A. He came in Friday morning after I got to Betty Mann's.

Q. Now, state what conversation you had with him about giving your testimony or making a statement.

Q. Well, he said that he wanted to see me and I said, well, I am here, what you want to see me about? And he didn't ask no questions of me there in the house, and he asked me did I need *me* money and I told him no, and he give me five dollars; he said here is five dollars for spending money.

Q. Well, was that all the conversation you had with him then? A. That was all there.

Q. Well, where did they take you, then?

A. Well, Monday Betty's brother went up there to this office, I suppose—I can't never call that—red-headed lawyer—that tall one.

Q. Lytle? A. Lytle.

Q. Well, did you go up there? A. Go to office?

Q. Yes. A. Yes, sir, I went up with Betty's brother.

Q. Well, who talked to you up there? A. Lytle.

Q. And who else? A. I don't remember of any——

Q. Was Bartlett up there?

A. No, sir—oh, Bartlett's son was in there when I got to the office.

Q. Now, what conversation did you have with Mr. Lytle and Bartlett's son?

A. Well, they commenced about this child and Bartlett said—told me—that is—I don't remember; Bartlett wasn't up there, either. It was just Lytle and that boy.

Q. Well, go on; tell what was said.

A. He asked me was I Nancy Atkins and I told him, yes, sir, and he went to work, and I don't remember how he asked me now.

Mr. Cruce: Who asked you?

A. Lytle. I don't remember how it come up—what is the first question he asked me.

Q. Well, was he talking about this boy?

A. Yes, sir, he was talking about——

Q. What did they want you to say about it?

A. What they wanted me to do was to say that the child was a girl because they had it framed up by me claiming—saying it was a boy, my child was a boy, why I was fixing to get in the penitentiary, and the best thing I could do was to claim that this child was a girl. That is the start of it I think; that is the way it come.

Q. How long did they talk with you there?

A. Oh, they talked with me a few minutes and then—I then got to go back and that boy give me four dollars more, four dollars in silver.

Q. Well, now, did you see Mr. Bartlett after that?

A. Well, now, let's see; I don't know whether Bartlett come to the house, I never seen him anymore until I was up in the office; was to go back to the office at 2 o'clock in the afternoon.

Q. Now, who was to give you this two thousand dollars?

A. H. U. Bartlett they said. That is what Betty Mann said.

Q. Now, what was that two thousand for?

A. That was for me to deny the child.

Q. Well, did they say anything about your going to the penitentiary?

A. Well, Betty and all of them down to the house said that was what I was framed up for if I didn't.

Q. Well, did they say that you would go to the penitentiary if you didn't deny that it was your child?

A. If I said it was a boy which they claimed it that child was Minnie's.

Q. Well, what did they say about it?

A. They said that they could prove that *Minnie* was a girl and the best thing that I could do was to admit that it was a girl, if I didn't want to go to the penitentiary.

Q. Well, did you ever get the two thousand dollars?

A. I haven't got it this morning.

Q. Well, did you ever get it? A. No, sir.

Q. After you made this statement there in Lytle's office, do you remember who was present when your statement was taken down? A. When we went up at 2 o'clock?

Q. I don't know what time it was.

A. Why, I didn't know them—nobody but—Bartlett and the two sons and Betty Mann. I don't think Betty was in the office, though.

Q. She was out in the room adjoining the office, wasn't she?

A. Yes, I think that is where she was, because she was the first lady I seen when I come out.

Q. Now, Mr. Lytle was there? A. Yes, sir.

Q. You remember my being there? A. Yes, you and——

Q. Mr. Gresham?

A. Mr. Gresham was there, that is right.

Q. They asked you questions there and you answered them? A. Yes, sir.

Q. Now, why did you answer those questions as you did there?

A. Well, I was just taking them at their word. It was just like this; I wouldn't rather have got anything that way than go to the penitentiary and I would rather do without it if I thought I was going to be put in the pen because I have been there once and I know what it is and I thought I would let them have it.

Q. Well, was what you stated there in Mr. Lytle's office that day true or false?

A. No, it was false because I knowed my child was a boy, sure enough, but I done that on their account.

Q. They said you would go to the penitentiary?

A. They finally told me that.

Q. And if you would make that statement that would get you two thousand dollars? A. Yes.

Q. Now, you testified after that in the court at Sapulpa, didn't you? A. Yes, sir.

Q. And you took back what you have said there in Lytle's office and testified that it was a boy and lived several years?

A. Yes.

Q. Now, which was the truth?

A. Well, what I testified in the presence of Judge Stanfield.

Q. That was true? A. Yes, sir.

Q. And what you testified to over in Lytle's office was not true? A. Was not true.

Q. Now, has anybody else been up around Nowata since the trial of that case trying to get you away? A. Yes, sir.

Q. Who was it? A. Sadie James.

Q. Where did she want you to go?

A. She said she wanted to take me to where Minnie was to show me that that was Minnie, that was what she said.

Q. Well, where did she say she was?

A. I don't remember, I don't remember at all, but she said she could take me to her if I would go.

Q. Who else—who was with Sadie?

A. When she said this talk?

Q. Yes.

A. Well, she wasn't with anybody. I went to Mrs. Yarboro's; it was on a Friday morning and when I went in there—the reason I went up to Mrs. Yarboro's, Mrs. Yarboro was fixing a dress for me and when I went in there I told Mrs. Yarboro, if you have any urgent work in ahead of mine, I said you can take your own time because I don't need mine right away. She always had a lot of work on hand and Sadie was sitting there when I went in there, so I never did sit down. Mrs. Yarboro offered me a chair and I said no, I am going over farther east and as I started out Sadie James said to me, Nancy you don't know me, do you? And as I tell everybody I don't know, no, you got me bested, and she said don't you know Minnie? And I said yes, I would know Minnie but I thought Minnie was dead. She says no she ain't, she says

Minnie is living just as you is today and I said, well, that is good. Well, she asked me did I want to go with her and I said why, no, I don't want to go anywheres with you, and she said I can take you right to her; you ought to be ashamed of yourself you two sisters—only two girls; and I said my sister don't think enough of me to come to me and I think less of her, and I walked out and started where I was going to a colored woman's to get her to do me some washing because I was expecting to go to work. So, I came in the kitchen door—in the south door, in the kitchen door, and I left Sadie sitting over here to Mrs. Yarboro's and I just had got in and sat down to the table—and there was a chair there, and Sadie knocked at the front door. I went on around there and first and last she told her business to them there, that she was after me and offered some of them to persuade me to go with her.

The Court: What was that offer?

A. Offered Joe Byrd $50.00 and she told Joe that as she was a pretty good friend of mine couldn't she persuade me to go and Mrs. Byrd's sister was there and she offered her $25.00 to go as far as Kansas City. And she went as far as to tell Joe Byrd all I want to do is to get her out of Oklahoma into Kansas City and there won't be any more Nancy. That is what she told Joe Byrd and Mrs. Roach.

The Court: Did you hear her tell that?

A. No, sir, I didn't hear her tell it; that is what they told.

Q. Did she get you away?

A. No, sir, she came back then and talked to me on the same subject about going to see Minnie and she said she would take me there and she said you be ready Saturday and I will be here with a car. And I said alright, Sadie, I shall pack my suitcase and I will be here, but I was fixing to go east—go to Coody's Bluff, I was fixing to get away from her, was what I was after, so I wouldn't leave the house and I sent Joe Byrd to Ridgeways after my suit case and before Joe come back, Mrs. Yarboro sent her little girl Helen and she came to the door and I said what are you doing over here, Helen, and she said Mamma said for you to come over there at once, and I said when she bring the suit case to take care of them, and I said tell your mamma to wait, I will be there; and I told her what I was going to do, and Mrs. Yarboro said had—she made a big distress about getting me out of town; and Mrs. Yarboro said, Nancy, you are not going to leave here because they are certainly up to make away with you, and I said surely not, I haven't done anything—I haven't done anything to anybody to be going around trying to take my life, I said; and she said I done told you, you stay right in here and she said ain't there anybody to come to your rescue and I said I don't know but one person that could help me, and she said who is that, and I said ring Coweta, ring J. B. White, and tell him they was after me and to come up here and get me out of the way, if you please, so she done so.

Q. Well, did someone come after you?

A. To take me away?

Q. Yes. A. Yes, sir.

Q. Who came? A. Mr. White.

Q. Where did you go then?

A. Well, he was there—he came Saturday evening and we left Nowata Sunday morning. I went out to Ellis Childers'.

Q. And how long did you stay at Ellis'?

A. Oh, I stayed at Ellis' until December.

Q. Now, what time was this that Sadie James came out there?

A. It was in September I would—I think it was about—along, now, I ain't sure now of those dates: those dates now, I ain't positive of those dates, but it was either the 26th—it was on a Friday, it was in September; I think that I left Nowata the 28th. That was a Sunday morning.

Q. Now, was Sadie James ever there more than once after you? A. If she is, I don't know it.

Q. Now, who was with Sadie that time?

A. That first time?

Q. Yes. A. I didn't see nobody but her.

Q. Mrs. Yarboro got you over to her house?

A. And I stayed right there until Sunday night.

Q. Locked you up? A. Yes, sir, locked me up.

Q. Until Mr. White came? A. Yes, sir.

Q. And then you went over there to Ellis Childers?

A. Yes, sir, to Coweta, out to Ellis Childers, that was what I was doing out to Ellis Childers.

Q. Now, you had a guardian before your present guardian, didn't you? Old Mark T. Harjo? A. Yes.

Q. Well, did he ever try to get you away?

A. Who? Mike?

Q. Yes.

A. Yes, that was tried in Coffeyville, too. There was money offered up there for him to take me out of Oklahoma.

Q. Now, who was up to Coffeyville with you at that time?

A. Why, I was with Mike and his wife and his baby; we were supposed to be on our way to Portland, Oregon.

Q. What were you going to Portland for?

A. His mother-in-law moved out there and his wife was going and he wanted me to go too, so I was just going along.

Q. Well, now while you were at Coffeyville did you meet any of the lawyers in the case up there and make a statement?

A. I don't know *where* he was a lawyer or not, he was a *notry*—Bartlett came.

Q. Do you remember Mr. McGraw being up there?

A. Yes, sir, I guess that was the man.

Q. He was one of the lawyers in the trial at Sapulpa?

A. Yes.

Q. You made a statement up there about the child, didn't you? A. The same thing, just like I did at Sapulpa.

Q. Well, now has anybody else been around there since you went back from Ellis Childers trying to get you to go away? A. If they have, I haven't heard of it.

Q. This statement that you made up at Coffeyville was before the deposition you gave down at Sapulpa, wasn't it?

A. Yes, sir, yes, sir, it was before that.

Q. That was [] time Harjo had started with you to Portland, Oregon?

A. Yes, sir, that was the time he was to take me.

Q. How come that?

A. Well, that is another long rigamarole.

Q. Well, be as short about it as you can.

A. Well, how come me to come back—Bartlett come up there. Harjo seen him up town somewheres, he never brought him to the house right along with him—he come down there and said, Nancy, I can get hold of five hundred dollars if you will just do what I want you to do, and I said what is that? And he said, well Bartlett is here and he offers me five hundred dollars if I will get you to deny that child; he said we won't have nothing to do with it—we will get clean out of it; it will be better for you and better for me.

Q. That was your guardian talking to you?

A. Yes, that was Micco T. Harjo. I set around there for a while and I said, look here, that wouldn't be right and he said, Nancy, I will tell you this is going to get into a big law suit and there will be more lies swore about this and you will be liable to get into the penitentiary about this very thing and the best thing for you to do is to take my advice, he said, and I will go get Bartlett. Bartlett is here, and you can use your own desires about it; and I said it is just like this, that is one place I don't want to go if I can keep out of it; and sure enough he went and got him and he come there and he talked to me and I said just like this—oh, well, it is immaterial to me if you all can make it that way I will turn it over to you and I will get clean out of it because I haven't any money to spend on it. So, he went to work and wanted to know if Harjo would meet him in Tulsa. He give Harjo ten dollars for our expenses and we were to meet him in Tulsa Monday; so when Monday come, Harjo come up and got ready to meet him there and I refused to go. So, he come back that same evening—no, it was Claremore he was to meet him, it was in Claremore. So he come on back up there, then, and he brought this man—whatever you call him what does the writing.

Q. Mr. McGraw?

A. Yes, so he questioned me and I answered all his questions.

Q. Now, did Bartlett pay you the five hundred dollars at that time?

A. He never did pay it to me, I never did see any of it.

Q. Do you know whether he paid it to Harjo or not?

A. I can't swear to that.

Q. Now, after you gave this deposition up at Sapulpa, in Mr. Lytle's office, where did you go from there?

A. In Sapulpa?

Q. Yes.

A. Well, they wanted witnesses then to prove this, to prove that it was a girl. I said, alright; I said I will pick out the witnesses; go over to Wagoner; I said the first woman I want to see is Eliza Barnett when you get to Wagoner; that woman that you all had on the stand the other day—Sterling—Eliza Sterling or something. So we come up there.

Q. Who went with you?

A. Harvey Harrison and Barlett's boy, well Bartlett's boy and Harvey, my nephew, and H. U. Bartlett and Betty Mann. So, we didn't make Wagoner that night, we stayed all night in Coweta and next morning we made it on into Wagoner. And so first place we went to Eliza Barnett's.

Q. That is the same Eliza Sterling that was here?

A. Yes, sir, but she was a Ross at the time; and so we got out and went to the house. Eliza hadn't seen me for many years and when I come in she recognized me. She say, well, there is Nancy. I says yes, what is left of her. She offered us chairs and I says no, Eliza, we are in a hurry. I says, Eliza, I came down here to ask you one question to see if you know. I says you remember my baby and your mother waiting on me don't you; she says yes. I says, listen good what I ask you so you won't make no mistake if you ever have to testify in this case. Now, do you remember that this child was it a girl or boy. Was the very question I asked her. And she looked up and looked around and Mr. Bartlett was standing there and Betty was standing there. And she says Nancy, your child was a boy. Now, I says, are you right sure it was a boy; and before I could say anything else to Eliza, Betty Mann says you know good and well it was a girl. I says well now that is what they want you to swear it was a girl, I says, remember. So, Mr. Bartlett asked her then could we get any more witnesses. And

I says I think Aunt Angeline Moody. And I says I think old Henry Kidd; and we went on over there to Aunt Angeline. And I put the same questions to her, and in asking them these questions I says look out now, steady yourself and be sure your answer is correct. I says, do you remember when Aunt Mandy Barnett waited on me at my child whether it was a boy or girl. Aunt Angeline kind of stammered around over it and she says it did come to me, I believe it was a boy. And Betty Mann run into her and says wasn't it a girl, ain't you sure it was a girl. Well, I believe it was. As far as Kidd is concerned he didn't—— So, Mr. Bartlett gave then ten dollars, that was the expense money over there, and all. And we got in the car.

Q. Gave who ten dollars? A. Gave it to Eliza Barnett.

Q. What did you say about expense money?

A. I say Mr. Bartlett gave ten dollars for the expense money for them to be in Sapulpa, I believe it was three weeks from that to testify to this child. And so we come on back to Tulsa and put up at the Brady Hotel; and I says I am going on home because I think my time is out down here I had better get on. So, I am supposed to be clean out of this now. And so the next morning I caught that early train out and Mr. Bartlett and Betty Mann came to the train with me, and Betty came on to Claremore and to be sure I got on, and Mr. Bartlett gave me ten dollars that morning.

Q. Did he say anything about giving you any more?

A. He never did say what he would give me, it was Betty Mann brought the consideration about the two thousand dollars.

Q. Now, you came back to the trial?

A. Yes, but they didn't expect me back.

Q. Now, Nancy? A. What?

Q. Just tell the court what the truth is about that child?

A. Well, I will just tell the court.

The Court: Now, look at me and talk loud.

A. Judge, Your Honor, I can't look at you, can't tell when I am looking at you on account of the cataract on my eyes.

The Court: All right, look at me anyhow.

A. This child. Now, my child was a boy sure enough.

The Court: Yes, now look at me.

Q. I named it Tommy, but at the time I didn't know there was so many Tommys, so many boys in the Atkins family named Tommy I wouldn't never named him. I would much rather named him after my brother, but after Minnie had one named Lee, I just called mine Tommy, but the child really is a boy, honest. Of course I ain't talking.

Q. How long did it live?

The Court: Now, look at me and tell me how long it lived.

A. Now, like I stated a while ago, he died in the spring of 1900 I think as near as I can remember, I don't remember the date.

Q. About how old was he, Nancy, when he died?

A. He was either eight or he was crowding his nine. This is my boy I am talking about. I ain't talking about nobody's child but Nancy Atkins' child. I don't know anything about it.

Q. You think he was about nine years old when he died?

A. Yes, sir, he was past eight.

The Court: Where did he live while he lived?

A. He was there in Wagoner with me.

The Court: Well, now, let me ask you this. When you and Betty Mann went to ask those darkies about whether it was a boy or girl, you remember about that?

A. Yes, sir.

The Court: And you say Betty Mann wanted them to say it was a girl; where did they live, these darkies?

A. They lived in Wagoner.

The Court: Did they live in Wagoner all the time, this boy you say was your boy it lived there?

A. I don't know whether Aunt Angeline Moody, it seems to me that she moved there after.

The Court: Well, the others?

A. Yes, sir, Eliza and them.

The Court: Lived right there with that boy that you say was your boy while he lived?

A. Yes, sir, right there in Wagoner.

Q. Nancy, was Minnie's children ever with you at Wagoner? A. Yes, sir, they was there.

Q. How long?

A. Oh, I didn't have them long, you know she went off and left the children with Kate Holden, our half-sister. And she was to be back. She went to Fort Logan, Colorado.

Q. Now, how long did they stay with you?

A. Oh, I never had the little fellows over two or three months I guess.

Q. And then where did they go?

A. Well, Charlie Bailey got one of them.

Q. Did they go back to Holden's?

A. No, Jimmy Childers got one and Charlie Bailey got the other.

Q. They were at Holden's a while?

A. She left them at Holden's.

Q. Now, how long did they stay at Holden's before you had them? A. I don't know how long they had been there.

Q. Do you remember of being out at the Holdens while they were there? A. I was out there once.

Q. Was your little boy ever out there, out to Holden's?

A. He was out there but I wasn't there in town when they took him out there.

Q. Well, who took him out there?

A. I think Tom sent after him. They said he was running around; that is when I went to Nowata.

Q. And did you hear that he was out to Holdens?

A. Yes, I heard that he was out there.

Q. And did you go out there?

Mr. Cruce: If the Court please, we object to leading the witness.

The Court: Yes, Judge, let her tell her story.

Q. Was you ever out to Holdens?

Mr. Cruce: We object, that is the same question.

The Court: She can answer that whether she was out at Holdens.

A. Yes, sir.

Q. Who was there when you were there?

A. Tom Holden and Kate and Minnie's two boys and mine.

Q. And yours. Did you ever see Tom Way there when you were there? A. Where, at Kate's?

Q. Yes?

A. No, I never seen Tom Way right at the house but I believe we was coming to Coweta, I and Kate and we met him.

Q. How long did your boy stay out there?

A. I don't remember myself, I didn't stay out there myself and Kate said when she would bring him back she would leave him with Betsy, and I says all right I have got to go back, I have a woman in my place.

Q. Did you leave him there?

A. I left him right there to Kates'.

Q. How long after that was it before you saw him again?

A. Oh, I never seen him for I guess a year maybe.

Q. Where was he then?

A. He was with Betsy Birney when I come back.

Q. Do you know when he went back to Betsy Birney's?

A. No, I don't know when she took him back there.

Q. Nancy, I wish you would describe that child to the court?

A. Well, my child, he was just about my color, and of course when he was small he had light hair, but the older he got the darker his hair. He was supposed to be black headed, straight hair like mine.

Q. What was his size with reference to other children of the same age?

A. Oh, I couldn't tell you, he was puny.

Q. Was he small or larger than other children of his age?

A. Oh, he was small for his age.

Mr. Maxey: I believe that is all.

Cross Examination by Mr. Allen.

Q. Nancy, you say some one tried to kidnap you in 1914?

A. I don't say, I absolutely know they done it.

Q. Sadie James at that time was representing who?

A. Representing, I don't know what his initials is, Page.

Q. Charles Page?

A. Yes, sir, I think that is who she was representing.

Q. Did she tell you at that time, about two months before that she had seen your sister Minnie?

A. She didn't say how long before that time, said she had seen her.

Q. Is that the time she had a conversation with you at Mrs. Yarbrough's house where you were? A. Yes, sir.

Q. With Frank Long at Tulsa?

A. Yes, sir, that must be the time.

Q. That was before the Government brought this suit, wasn't it? A. When Sadie?

Q. Yes, when Sadie saw you, that was when you were having a law suit over in Creek County?

A. Yes, sir, that was after the last trial at Sapulpa.

Q. Nancy, let me see if I understand you. You say that you were induced to make this false deposition because Betty Mann told you that you would go to the penitentiary if you didn't do it, is that right? A. That is what I said.

Q. Didn't you know that you would go to the penitentiary if you swore falsely either to having a boy or not having a boy?

A. Well, but you see I knowed if I swore false either way I would go.

Q. Isn't it a fact that you have been trying to keep off the witness stand, been trying to keep from testifying?

A. Oh, no.

Q. In this case, to the birth of this boy because you know he didn't live?

A. No, sir, I tried my best to keep out of the court house entirely, not to have anything to do with it when it was first started.

Q. Now, Nancy, you mean to say that that child that was born there at Elnora Williams wasn't born dead?

A. Why, sure, I say my child wasn't born dead.

Q. If Elnora Williams says that that child was born dead or died the day he was born, she is mistaken is she?

A. Yes, she would be mistaken.

Q. You say it was born at Elnora Williams' place?

A. Yes, sir.

Q. You talked with Elnora Williams at Portland?

A. I never have been to Portland, Your Honor.

Q. You just got as far as Kansas City?

A. I got as far as Coffeyville here.

Q. Micco T. Harjo is the man that persuaded you over your protest to say that this child born to you was a boy, isn't that a fact? A. No.

Q. He told you that if you would say that this was a boy that he could get a lot of money out of White and his crowd?

A. No, he never, no, sir. No.

Q. Nancy, you testified at Sapulpa, did you, that your child born to you was a girl and born dead?

A. That was Bartlett.

Q. They told you they would pay you two thousand dollars for that testimony?

A. They never told me any such thing, and I never told that on the stand just now. I said that that was what Betty Mann brought up.

Q. Betty Mann told you if you would swear this child of yours was a girl born dead she would pay you two thousand dollars? A. She said that was my part of the interest.

Q. She said you would be paid that much money didn't she? A. Yes, sir.

Q. Now, did you swear that it was a girl born dead?

A. Yes, sir.

Q. To get the two thousand dollars or keep from going to the penitentiary?

A. I didn't care whether I got the money or not.

Q. You didn't care whether you got any money or not, did you, Nancy? A. No, sir.

Q. Now, you said a while ago that they told you at Coffeyville that you would get five hundred dollars?

A. That was what Mike said.

Q. Now, one time they were offering you two thousand dollars and later five hundred dollars for the same testimony, is that what you want the court to understand?

A. Yes, that is the way it was.

Q. Now, what did you think you were going to get, two thousand dollars or five hundred dollars?

A. I didn't know whether I would get any.

Q. Nancy, you made an affidavit in this case, didn't you, attached to your motion for a new trial, answer to the motion for a new trial at Sapulpa, in which you made your first reference to that five hundred dollars, didn't you? You remember making that affidavit don't you, Nancy?

A. Read it off.

Q. Don't know Mr. White had you make an affidavit over there and sign it in the District Court of Creek County? In that affidavit, didn't you say that "H. U. Bartlett desired to get a statement or affidavit from her"—— I will read a part of the affidavit to make sense: "That a few days prior to the 26th of July, 1913, one Micco T. Harjo came to her at Coffeyville, Kan., and informed her that one H. U. Bartlett desired to get a statement or affidavit from her to the effect that Minnie Atkins was the mother of Thomas Atkins, and that Nancy Atkins, affiant, was not the mother of said Thomas Atkins; that she was informed that by said Harjo that the said Bartlett was willing to give her five hundred dollars to make such statement or affidavit." Did you make that affidavit?

A. Is that the one that was made at Coffeyville?

Q. The one that was made at Sapulpa. Did you swear to an affidavit filed there that Micco T. Harjo told you that Bartlett would pay you five hundred dollars if you would swear that you gave birth to a girl baby?

A. Well, when Mike done that we was in Coffeyville.

Q. In Coffeyville, Kansas? A. Yes, sir.

Q. Now, Nancy, in this affidavit you didn't refer to the two thousand dollars you now say Betty Mann offered you?

A. Oh, that was after I came back to Nowata.

Q. Nancy, Mr. Bartlett never offered you a cent?

A. I said that Mr. Bartlett didn't offer me none.

Q. And if Mr. Bartlett was going to pay you anything, you got that information from your own guardian, Micco Harjo, didn't you? A. He is the same man.

Q. And you don't know a thing about that except what Harjo told you? A. That is all that was said.

Q. He at that time was your legal guardian? A. Yes.

Q. Mr. White had him appointed your guardian? A. No.

Q. Who had him appointed your guardian?

A. I had him appointed guardian when I sold this forty acres, my homestead.

Q. Then they got him removed and Mr. White had somebody else appointed? A. No.

Q. Who had this other man appointed? A. I did.

Q. What is his name? A. Ridgway.

Q. Is he in the Court room?

A. No, sir, he is not in town.

Q. What race does he belong to?

Mr. Maxey: He is a negro.

A. Yes, he is a negro.

Q. You have never until today before you went upon this witness stand, intimated that Betty Mann ever offered you a penny to swear falsely at Sapulpa, have you?

A. Oh, I did, I testified right before Judge Stanfield at Sapulpa the same thing.

Q. Nancy? A. Well, I did.

Q. You went on the witness stand in that MacDougal & Lytle's office, didn't you, at Sapulpa? A. Yes.

Q. You swore positively there that you had never given birth to a boy and that the only child that you ever had was a girl born dead, didn't you say that?

A. Yes, I testified to that right up there.

Q. Your two lawyers were there, Mr. Gresham and Mr. Maxey, Judge Maxey here, were they not?

A. Yes, they were there.

Q. They cross examined you at length, didn't they?

A. Yes, sir.

Q. And you stuck to the story that the only child you ever had was a girl born dead, didn't you? Isn't that a fact?

A. Yes, I testified.

Q. Now, who told you to go back on the story and say that it was a boy; who persuaded you to go back on that story after you had testified in giving your deposition?

A. Why, I wasn't persuaded exactly, I was taken down there and Judge Stanfield had me brought in the Court House and I told him.

Q. No, but who came to you before you was taken down there; Nancy, you said a while ago that they were surprised when you came down there, they didn't want you to come. How come you to go to Sapulpa?

A. Ellis Childers came after me.

Q. Ellis Childers who just preceded you on that witness stand? A. Yes, sir.

Q. Representing Mr. White? A. I guess he must.

Q. You went over there with Childers and talked to Mr. White? A. I didn't see Mr. White until the next morning.

Q. You talked with him before you went on the witness stand? A. I didn't change it until I got in the Court House.

Q. You didn't change it much then, did you, Nancy?

A. I don't know anything about that.

Q. After you had changed your testimony and went on the witness stand, I will ask you if these questions were not asked you and the following answers returned: "Q. Have you ever been married? A. No, sir. Q. Ever given birth to a child? A. Yes, sir. Q. What kind of a child was it? The Court: Boy or girl? A. Supposed to be a boy I guess." That is the way you changed your testimony from a girl to a boy, wasn't it Nancy? Did you answer those questions in that way?

A. They got that wrong when they asked me was it a boy or girl and I said yes.

Q. You said supposed to be a boy I guess?

A. Judge Stanfield told me you want to testify right and if it was a boy say so and if it was a girl say so.

Q. Nancy, who told you Tom Way went upon the witness stand and testified that he ever saw you at Tom Holdens?

A. Nobody ever told me.

Q. You said a while ago when Mr. Maxey first asked you the question that you were in Nowata when they came over there and talked Tommy? A. Did I say that a while ago?

Q. Yes, is that true or false? A. I went back to Nowata.

Q. Nancy, you were in Nowata all the time this Charlie and Harvey were at Wagoner and Tom Holdens, is that a fact; you never were at Kate Holdens but one time in your life? A. Oh, I know better than that.

Q. When Charlie and Harvey was there and that is when you went to get them in 1898?

Mr. Stuart: I would like to have some of these questions answered.

The Court: Yes, Judge, give her a chance to answer. Were you ever at Tom and Kate Holdens more than once when Charlie and Harvey were there?

A. Yes, sir, I was over there once about two years after that I guess.

Q. You don't remember——

A. When Charlie and Harvey was there.

Q. Nancy, you first went over there and got Charlie and Harvey and brought them to Wagoner? A. No, indeed.

Q. Where did you get them?

A. Well, sir, I will tell you how come me with them children if you want the story on it. I was in Wagoner at the time and Kate Holden had come to me and told me that Minnie had left these little children with her and went away, and she says, Nancy, Tom don't want them and I can't take care of them, and she promised to send money for the children's support. And I says, Kate, I don't think she wants me to have them or she would have left them with me. Then she come back to me again. I think Mitchell was scouting or he was in trouble or something and she wanted money to go to Fort Smith to Mitch, I think he was in jail. And I let her have the money and she started speaking about the children. I thought if Minnie wanted me to have the children she would have brought them to me in the first place, and so one Saturday, I wasn't thinking about these children and they sent them over to me by [] Indian man, I don't know his name; if I heard somebody call the man I would know it; I didn't want the children.

Q. You were not then at Kate Holden's at all while Charlie and Harvey were there, your first meeting with them being when they were sent to you, is that right?

A. No, I seen the children over there before they were sent to me.

Q. When did you see them there?

A. Oh, it was after Minnie had left, I don't know how long after she had left.

Q. Who else was there besides the two boys at that time?

A. Oh, I don't remember; as I just now testified that mine was there.

Q. Yours was there? A. Yes.

Q. That was before you ever took the boys to raise, that was before Charlie and Harvey came to live with you?

A. Before they were in my possession.

Q. Then, the only time you were out there with your boy was before Charlie and Harvey were in your possession? Is that right? A. Yes.

Q. Nancy, you talked to Henry McGraw, in Coffeyville, Kansas, on July 26, 1913, didn't you?

A. I don't remember the date, it was in the summer.

Q. It was in the summer before you gave your deposition at Sapulpa, wasn't it? A. Yes, I think so.

Q. You told him in Coffeyville at that time that you had never given birth to but one child and it was a girl and born dead, didn't you?

A. Yes, the same like I gave at Sapulpa.

Q. Nancy, during that conversation, he talked to you at length about your child, didn't he? A. Done what?

Q. He talked to you at length about your child?

A. No, he didn't talk with me, he just asked me questions and I answered.

Q. You gave him the name of the people by whom he could establish the truth of your statement that your only child was a girl born dead? A. Yes, that is what I told him.

Q. It was not until the following year that you testified at the office of MacDougal & Lytle was it?

A. That was in July and that was in February, I think.

Q. The following February, you went on the witness stand at Sapulpa and told the same story? A. Same thing.

Q. Then, almost immediately, Ellis Childers came out to get you to change that story, didn't he?

A. No, Ellis didn't exactly tell me to change it.

Q. Were you afraid to go to the penitentiary because you were testifying differently when you testified one day that you gave birth to a girl baby born dead, and then a few days afterwards that your child was a boy?

A. Well, as I stated I didn't want to have nothing to do with it; I tried to keep out of this suit, that is what I stated a while ago.

Q. Did you ask anybody for five hundred dollars or two thousand dollars or any other sum after you gave your deposition? A. No, sir, I ain't asked nobody for any nickel.

Q. Where were you when Ellis Childers came to see you?

A. I was in Nowata.

Q. Who with?

A. I wasn't with exactly anybody; I was up town.

Q. What did he say to you when he found you?

A. Well, I was up town; I went up to get some stuff for breakfast.

Q. Tell me exactly what he said to you?

The Court: Well, she is getting to it now, Judge.

A. Well, if you will give me time, I will tell you.

The Court: Go on, tell what Ellis said, now; tell me.

A. Well, I went up town with this woman, girl, Joe Byrd, went up to market; it was cold that morning so we had stopped in at Harden's barber shop to warm a while, and while we were in there somebody said—I don't know who it was—said, there is Nancy, why *there* are looking for her. So I rushed out and went immediately up town and done our trading at the market and come back by Ridegway's and I forgot what I got there at Ridgeway's store and went on down and a woman who lived on the corner, name of Cora, and I told Joe Byrd, you go on home, I want to stop here and swap lies with Cora.

The Court: What about Childers?

A. Well, I am going to get to it.

The Court: Well, get to it.

A. So went in there and she didn't have no fire burning in the cook stove, so I sat down and drawed my chair up and the first man that come in right behind me was Harvey Boling, I think.

Q. Tell the Court what Childers said to you.

The Court: Where did you see Childers?

A. At this house. And the next man I looked around and seen was Ellis and Ellis said to me Nancy, you are due at Sapulpa, and I said what, on that same old case, and he said yes. Well, I said I got to go to the country and get my clothes; my clothes is in the country, so we got a buggy and horse and went out there and came back and caught that train and come on down to Sapulpa that night.

Q. Didn't he talk to you at all about the case?

A. No, he never said nothing at all until I got in the Court house down there and I found out what it was for. You see, Bartlett then——

Q. What did he tell you what it was for?

A. Well, I found out after I got in the court house.

Q. The courthouse. Well, who told you?

A. Judge Stanfield.

By the Court.

Q. Well, now tell me what Ellis told you they wanted you down there at Sapulpa for?

A. He said he wanted me down there on this case.

Q. What about?

A. Well, he said that Bartlett and them was representing there that the child was a girl.

Q. Yes? Well, what else?

A. And he said you want to go—and he said you want to go and fix that because you might get in trouble.

Q. Yes—what else? Fix it how?

A. He didn't say how.

Q. Well, go on now, and tell me what else Ellis said.

A. So Ellis didn't say any more about it and I went to the St. James hotel and the next day, Friday, I think it was, the thing came to a test and I went on the stand.

By Mr. Allen.

Q. St. James hotel—well who did you meet at the St. James hotel? Is that where you met Mr. White?

A. Mr. White was there that night; I seen him.

Q. Mr. White told you he had come there to keep you out of trouble? A. No, sir, he didn't tell me.

Q. Did he tell you that you would get in trouble if you didn't change this, didn't he? A. No.

Q. Didn't fix it?

A. It was Ellis talking about fixing it.

Q. Did Mr. White tell you he would help you fix it? Didn't he? A. No.

Q. Help you keep out of trouble? A. No.

Q. Didn't you discuss with them the affect of swearing one time that you had a girl born dead and in the next few days that he was a boy?

A. No, I don't remember having anything that way with them.

Q. Did he talk to you about the value of this land at that time? A. No, I don't know the value of it today.

Q. Nancy, you stuck to the story that this was a girl, born dead, from July 1913, until February 9th, 1914, didn't you?

A. About its being a girl?

Q. Being born dead? A. Yes, that is what I——

Q. You went around to see those witnesses, didn't you?

A. I had Bartlett to——

The Court: Well, Judge let's not go all over that; I have that now.

Mr. Allen: Your Honor, I would like to examine her as what she said about the various witnesses.

The Court: Well, get right to that point.

Q. Now, you have related what you said to Eliza Sterling. Nancy, tell us just exactly what you said to Angeline Moody when you reached her.

A. I said the same thing just like I said to Eliza Sterling.

Q. Well, tell us what it was.

A. When I first went in the house just like I said, Eliza said here is Nancy, I haven't seen her for years, and she was glad to see me which I am acquainted with Eliza——

Q. What did you say about the boy?

A. I am going to tell that. She offered me a chair, I said Eliza, I am here on business. I said now, do you remember anything about that child of mine whether it was a boy or girl, and she looked around and looked up and looked down and said well, Nancy, your child was a boy and Betty said no, it was a girl, wasn't it, just steady yourself; it was a girl born dead, wasn't it, asked Eliza, and Eliza said, yes, I believe it was. That was what she said and the same way with aunt Angeline. I went up there to see if aunt Angeline knowed the same story.

Q. What was said to aunt Angeline?

A. Just what I said to Eliza.

Q. Tell us what you did say?

A. Well, I went in there——

Q. Tell us the conversation with aunt Angeline.

A. Well, I went in there and asked aunt Angeline did she know anything about my child that I had there, whether it was a boy or girl and she said the same thing that that Sterling—

Q. What did she say? Did she hesitate a while?

A. She hesitated and said I believe, I don't exactly remember Nancy, but I believe it was a boy.

Q. She hesitated a long time before she said that?

A. No, she didn't hesitate no long time.

Q. But she hesitated, you said?

A. Just a little while.

Q. And said she didn't remember but she believed it was a boy. And what did Betty say to her?

A. She said what she said the other time and said wouldn't you swear that it was a girl, and she said yes.

Q. So you had that witness fixed. Then you went to see who? A. Henry Kidd.

Q. Tell exactly what you said to Henry Kidd.

A. I asked Mr. Kidd—he was crossing the street, we met him on the street—we were all in the car, and somebody said there goes old man Kidd now, and I said call him down and they did and I told him to come here—they motioned to him, and he came to the car and stood by the car, and I said Mr. Kidd, do you remember anything about my child; and he said Nancy, I don't but I know you had a child here. Betty asked him the same questions again.

Q. And what [ ] she say?

A. She asked him was it a boy or girl and he said he didn't exactly know, just as I heard him testify here on the stand the other day.

Q. But he said he thought it was a boy, didn't he?

A. You mean that day when I was talking to him?

Q. Yes?

A. Now, I would tell you but I don't remember whether Kidd said that.

Q. What did Betty say, then, that it was a girl born dead?

A. Yes, that is what she said.

Q. Well, he agreed that he would swear to that, too, didn't he? A. I think he did.

Q. So you were satisfied with that witness. Then, go ahead, who did you next see?

A. I never seen any more. Just them three witnesses.

Q. Now, all three of those witnesses that you took these people to to establish the fact that your child was a girl born dead, didn't you?

A. Yes, I wanted them to swear that because—just like I stated to the Court, I wanted to get out of the mess. I didn't want to have nothing to do with it.

Q. And everyone of them said that it was a boy after hesitating a while?

A. They sure done it now, that is all there is to that.

Q. They didn't remember much about it, did they, Nancy? The child was dead so long?

A. They must have remembered the way they talked.

Q. They lived right around you, didn't they?

A. I didn't live amongst them, I worked all the time.

Q. You lived a while you say at Elnora Williams—Elnora Mayshack's? A. I never did live with Elnora Williams.

Q. The child was born there, wasn't it?

A. Well, I didn't live there, just there during my sickness.

Q. Well, you stayed there when the child was born?

A. I was there during my sickness, I had to stay somewhere.

Q. You know Joe Birney?

A. Yes, I know all the Birney children; Charlie Birney, Dick Birney, Coleetha was the youngest of the girls and Joe was the youngest one of the boys.

Q. Joe was a little boy when your child——

A. Joe was a little boy about that high; pretty good sized boy.

Q. How big? A. Pretty good sized boy.

Q. Be sure about that Nancy. How big was Joe when you gave birth to this boy?

A. I know what I am talking about because I know the children.

Q. How big was he?

A. Well, I might say tall as you and you wouldn't believe it.

Q. He was a little child?

The Court: Well, see here, I want to know Nancy, how old do you think Joe was when your baby was born?

A. I think Joe Birney was—to get down to the truth of it Judge——

The Court: Yes, that is what we want.

A. I think little Joe Birney was about four years old, as near as I can get at it.

By the Court.

Q. When your baby was born?

A. As near as I can get it, absolutely telling you the truth as near as I can get at it as far as my knowledge goes.

By Mr. Allen.

Q. He was sort of a pet of yours, wasn't he, Nancy?

A. Well, not exactly; I never had no special pets around there with the children.

Q. You say you never carried this boy around with you when you were at work in the day time but came back to it at night? A. Yes.

Q. That was true of it when you were at the Barnard and McAnally hotel, wasn't it?

A. And also at the Brown hotel.

Q. And also at the Brown hotel. You only saw him at nights when you returned after your day's work was over?

A. I could see him any time if I would just walk out of the laundry and go away from my work but I wouldn't make it my business to go.

Q. You didn't carry him with you to your work around town?

A. I had him with me down at the Brown hotel; he was playing around down there.

Q. Not anywhere else?

A. No, they would bring him up to the laundry in the morning sometimes.

Q. Nancy, who was present the night this baby was born?

A. Nobody in the house there but aunt Mandy and Mrs. Williams and old man Williams—he was down stairs in the restaurant; they had a restaurant. This house was a story and a half house with a room on the east and a room on the west. Well, I was in the west room, upstairs, in the bed.

Q. Aunt Mandy dead? A. She is dead now.

Q. Old man Williams dead?

A. And uncle Munday is dead.

Q. All dead except Elnora Williams? A. Yes.

Q. She is now Elnora Mayshack and now lives in Portland? A. They say she is in Portland.

Q. Nancy, did you know a boy at the home of your uncle and your aunt, Kate Holden—— A. Kate Holden?

Q. When Charlie and Harvey were there, when you went over to get Charlie and Harvey, or when they were there, rather—— A. I never did go to get Charlie and Harvey.

Q. Well, when they were there and you went over to visit, did you see any boy there?

A. When I went to get him?

Q. No, you said a while ago that before these boys ever came to live with you that you went over to Kate and Tom Holden's. Now, when you was there that time, did you see any other boy there?

A. Oh, I stated to the Court a while ago that my boy was over to Kate's.

Q. I know you did, did you see any other boy there?

A. What boy are you talking about now?

Q. Did you see any other boy there?

A. I never seen any other boy but Harvey and Charlie and mine.

Q. Then you didn't see a boy there by the name of Beaver? A. Why, no; I didn't know it if I did.

Q. Bear—Edmond Bear?

A. No, I don't know him if he was there.

Q. As a matter of fact Harvey and Charlie and Edmond Bear were the three boys who were there, isn't that true, Nancy?

A. I don't know nothing about this boy you are speaking about, Edmond Bear.

Cross Examination by Mr. Stuart.

A. Nancy, when were you first talked to in reference to this case? A. Sir?

Q. When were you first talked to by anybody in regard to this case?

A. Well, I believe the first beginning of it why Mike told me about it; Harjo.

Q. You call Micco Mike, Mike Harjo? A. Yes.

Q. He was your guardian. Do you know who had him appointed your guardian? A. No, I do not.

Q. Do you know how he came to be appointed your guardian, Nancy?

A. Well, how come them [] wanted a guardian, I sold my homestead there, I think it was in 1912; it was sold through the court.

Q. Who did you sell it to?

A. Why a man I think he lives there at Coweta; somewhere near around Coweta there, C. C. Carter, I think that is the man's name.

Q. Now, he was appointed your guardian——

A. Well, what I started to tell you—you see the money was here in the Agent's hands.

Q. Well, I don't care anything about that?

A. Well, he was appointed on account of this money, in order that we could get the money out of the Indian Agent's hands.

Q. Alright. Now did Mike Harjo talk to you about what you knew about this case, before or after he was appointed your guardian? A. After.

Q. After he was appointed your guardian. What occurred between you and Mike Harjo about this case the first time you ever talked about it; what did he say to you and what did you say to him?

A. Oh, he said that he had seen the rolls and Tommy Atkins was enrolled on there, and he first asked me did I have any children, and I told him yes, I was the mother of a child, and he asked what was it, and I told him, and he said did you ever get his allotment, and I said I don't know, because Uncle enrolled him, and if he failed, some of my kinfolks filed him, because I didn't file only for myself; that is what I told him, and he said well he is down there, and it must be yours, and I said well you got it to prove, then, if it is mine.

The Court: You said what?

A. I told him, well if it is mine, you will have to prove it; I said I am the mother of a child, and his name was Tommy, but whether he was enrolled or not, I don't know it, because Uncle enrolled us, was to enroll us, and I filed for myself.

Q. What uncle was that who enrolled for you?

A. Colonel W. W. Robinson.

Q. You say you filed for yourself alone?

A. I filed my own.

Q. And you didn't file for your child? A. No.

Q. But you didn't tell Robinson to file for your child, did you? A. He just said he was going to enroll us.

Q. You didn't tell Robinson to file for this child, did you, Nancy? Answer my question.

A. Well, I told him to enroll us.

Q. Wait a minute: Nancy, did you tell Robinson to file for your child? A. No, I didn't tell him.

Q. You didn't tell him. You did file for yourself. Now this child you are talking about was living at that time, wasn't he? A. When my uncle was talking to me?

Q. But you didn't tell him to file for your child, did you?

A. No, I didn't tell him.

Q. You didn't tell him to file for your child. Now, Harjo came to you a little later than that and made some sort of a proposition to you about starting a law suit, didn't he?

A. No, he didn't make no proposition about starting any law suit. He came to me and said he could give a lease on it. He said Minnie is claiming it and said I believe it is yourn, he said, and he said you can make a lease as good as Minnie can, and so Ellis Hammett he came up there and he wanted a lease, and so he give me fifty dollars, and I signed a lease.

Q. You signed the lease?

A. Yes, to Ellis Hammett, now.

Q. Mike told you that he was satisfied that you owned this oil land, didn't he?

A. He didn't say what kind of land it was.

Q. Well, he was satisfied this land was yours?

A. Yes, he was satisfied I was entitled to it.

Q. That you were entitled to it, and he says, now I want you to make a lease. Who did he want you to make a lease to? A. Ellis Hammitt.

Q. To Ellis Hammitt; and Ellis Hammitt came around and gave you fifty dollars? A. And I signs the lease.

Q. Well, you answer me; he came and gave you fifty dollars? A. Yes, sir.

Q. And you signed the lease? A. Yes, sir.

Q. To Ellis Hammitt? A. Yes.

Q. You signed the lease to this land. Now that is the first time that you and Harjo ever talked about this land being yours, wasn't it? A. Yes, the first time I remember.

Q. And Harjo was the man that suggested to you, for the first time, that this property was yours, wasn't he?

A. Maybe he was.

Q. Do you know where Mike is now? A. Mike Harjo?

Q. Yes? A. He is in Portland.

Q. Do you know what he left here for?

A. Yes, sir, I think I do.

Q. What was it?

A. Why he went around here and tied this case up some way and then left.

Q. Was afraid he was going to get caught, wasn't he?

A. Got scared of it, I guess.

Q. Afraid he was going to get lost, didn't he, Nancy, and he *sloped* out of here, got out between two suns, didn't he Nancy? A. Well he left.

Q. Left without letting anybody know anything about it, didn't he, Nancy? A. Yes.

Q. He has been gone ever since, never shown his face back here, has he?

A. If he has been back, I never knew it.

Q. After you made this lease to Hammitt, who was the next person talked to you about this case? A. I don't know.

Q. Well, think, as near as you can; do you remember anybody who talked to you sometime afterwards or shortly afterwards? A. Oh, there was so many different——

Q. I know there was, but state who, if you can. Who was the next person, as far as you remember, that talked to you about the case.

A. I don't remember any outside of Harjo and Bartlett.

Q. Bartlett was the next person, wasn't he?

A. Yes, Bartlett, I think was the next man.

Q. Now, who brought Bartlett to you, Nancy, Harjo?

A. Harjo went up town there at Coffeyville and brought him to me.

Q. Yes, Harjo went up town and brought Bartlett down to you and when Harjo brought Bartlett there, what was said to you? A. Oh, he came to me before he brought Bartlett down.

Q. Yes?

A. But he knew on a Saturday he knew that Bartlett was in town.

Q. And he told you he was going to bring Bartlett to you?

A. No, no; he came down there and told me what Bartlett wanted me to say.

Q. Yes; what did he say Bartlett wanted to you [] say?

A. Said he wanted me to say that it wasn't mine.

Q. That it wasn't yours; who wasn't yours?

A. That Tommy Atkins wasn't mine. That they claimed that mine was a girl.

Q. Yes, now Harjo told you that Bartlett wanted you to say—— A. That he had a ——

Q. Wait a minute; that the Tommy Atkins that had been enrolled was not your Tommy, and that the child you had was a girl? A. That is the way they had it framed up.

Q. That is the way they had it framed up. Now, did they bring Bartlett up there?

A. Yes, he went on and brought Bartlett to the house.

Q. Now what was the first thing Bartlett said to you when he came in, Nancy?

A. Well, he asked me would I be willing to deny the child.

Q. What did you say?

A. And I asked him how deny it, and he said well I want you to say that your child was a boy, because I have got a deed from Minnie Atkins to this Tommy Atkins land, and I said well how did you get it, and he said that was alright, he had the deed, that I was just up there, and if I thought best not, I could do so, to make the thing clear and come right up and say that my child was a girl, and that this Tommy Atkins belonged to Minnie Atkins.

Q. Now what did you say to that?

A. Well I just made him mad, I said well go ahead; I didn't care nothing about it; I didn't care to be in the suit about it or anything.

Q. You say you didn't want to make him mad?

A. I didn't want to make him mad, who, Bartlett?

Q. Yes?

A. Well, I didn't care whether he got mad about it or not.

Q. You said you were willing to go along with the frame-up? A. I said that is what they had framed-up.

Q. Well, you were willing to go along with the frame-up?

A. Yes, I was willing to get out of it. Now, understand me now: I said I was willing to get out of it.

Q. Yes, you were willing to adopt that frame-up that Micco—Mike, you call him, and Bartlett passed up to you; you were willing to do it? A. Yes, sir.

Q. Now, what was you to get for that?

A. Well, you see, listen, Bartlett never offered me—he never has offered me money; I just had Micco Harjo—

Q. What Mike said?

A. Mike said Bartlett would give him five hundred dollars, and be sure and take me out of the State of Oklahoma and the State of Kansas, and clean on out.

Q. Where were they going to take you to, Nancy?

A. I didn't know; maybe take me to Portland, or maybe he would have throwed me in the river before we got there; I didn't know.

Q. Did you get suspicious of them that time?

A. I just told him I didn't care how much money they got on it, I am going back to Oklahoma; I am not going, money or no money for my part of the business.

Q. You wouldn't leave Oklahoma, but you were going to take the money? A. Why, no, I hadn't got any of the money.

Q. You going to take it?

A. Mike was to get the money, Judge, your Honor; Harjo was to get the money.

Q. What was Mike going to do with it?

A. I don't know what; take his family and go to Portland.

Q. You and Mike were going to whack-up on that money?

A. I didn't get none of it.

Q. But you had an understanding with Harjo?

A. No, your Honor; Mike was to get it. He made away with lots of my money.

Q. I know you didn't; but Mike told you that you were going to get your part of it; you didn't believe him, but he told you so?

A. He showed me a place where I was to get part of it, yes, sir.

Q. He showed you that you were to get part of it?

A. Yes.

Q. Now, then, you agreed together then that you would put up this job to frame up together a statement?

A. Didn't make no statement until Monday.

Q. Now, where did you make the statement at Monday?

A. You mean while we was putting up at Renfroe's?

The Court: What town?

A. Coffeyville.

Q. All right, who was present when the statement was made?

A. Mrs. Renfroe was in there and Harjo's wife was in there, and myself and the man that done the Notary. That lawyer McGraw and Mrs. Renfroe's daughter.

Q. Anyone else? A. Nobody but him and Harjo.

Q. And Bartlett? A. No, Bartlett wasn't there.

Q. Was Bartlett's son there? A. No, sir.

Q. Now, who asked you about what you knew about the case, the Notary? A. Yes.

Q. The Notary asked you? A. Yes.

Q. He put the questions to you, did he? A. Yes.

Q. And you answered the questions? A. Yes.

Q. And did you there state whether your child was a boy or girl? A. Yes, that is what I told him.

Q. What did you say?

A. He asked me the questions and I just told him yes.

Q. Told him what? A. Told him it was a girl.

Q. And you told him it was born dead?

A. That is what he asked me.

Q. And you told him it was true?

A. He asked me was I telling him the truth and I kind of laughed and told him yes.

Q. And you did tell the truth about it as you understood it at that time? A. No.

A. No, I wasn't telling no truth.

Q. Nancy, were you telling a lie at the time?

A. I told him a lie, it wasn't in Court, he was just a Notary.

Q. Did he swear you?

A. No, I didn't hold up my hand like I did a while ago, he just come in and asked would I acknowledge to the questions that he asked me.

Q. Now, Nancy, you didn't care much what you said there? A. No, sir, I didn't because I was coming back.

Q. It was the money you were after?

A. I wasn't sure of the money, Judge.

Q. But you were after that money, wasn't you Nancy?

A. Harjo was after it as much so as I was.

Q. Now, you made this statement there, when was that, do you remember?

A. I don't remember now, it was in July, I think.

Q. Now, when did you make your next statement?

A. That was in February.

Q. Where did you make that statement? A. Sapulpa.

Q. Did you make it in the Court House or in somebody's office? A. In the lawyers office.

Q. Who was present when you made that statement now?

A. Judge Maxey and Mr. Gresham and Mr. Lytle, I don't know.

Q. Were your lawyers there, who were your lawyers?

A. Judge Maxey.

Q. He was your lawyer at that time? A. Yes, sir.

Q. Now, did you make a statement there just like you made in July? A. The same statement.

Q. The same statement. Why did you tell your lawyer, Mr. Maxey, that you were going to make that statement?

A. No, I had never seen him.

Q. But you did make it? A. Oh, yes.

Q. Same statement and he cross examined you there?

A. And I still stuck to it.

Q. And you wouldn't take it back? A. No.

Q. And when you got through then after Mr. Maxey had cross examined you and led you up to the case and tried to make you explain it as best you could, you still maintained that you had a girl child and it was born dead, didn't you Nancy?

A. Yes.

Q. All right, when you got through with that statement where did you go? A. Went on back down to Betty Mann's.

Q. And did you come back home?

A. No, I went from there to Wagoner.

Q. Went from there to Wagoner. Now, up to that time you hadn't seen Ellis Childers, had you, about this case?

A. No, sir.

Q. Now, where were you when you first met Ellis?

A. I was in Nowata.

Q. And Ellis, after you had made these two statements, came up to the Cora Lee House? A. Yes, sir.

Q. How did he know you were at Cora Lee's house?

A. He must have seen me and followed me in, I didn't know he was in town?

Q. Ellis, says to you: "Nancy, we have got to fix up that statement that you told up yonder"?

A. No, he didn't say that.

Q. What did he say?

A. He said I was wanted at Sapulpa before Judge Stanfield.

Q. What else?

A. Ellis says that is all. I says I can't go right now, I have to go to the country and get my clothes.

Q. Didn't he tell you you had to fix that up?

A. Did I testify that?

Q. Yes, you did? A. No, I don't know whether I did.

Q. Yes, you testified that, didn't you say that?

A. I don't believe I testified that.

And thereupon, a portion of the witness' testimony was read by the stenographer.

Q. Now, Ellis did tell you before you went down there that you had better go back there and fix that or you would get in trouble didn't he?

A. I will study on that before I answer. He said he wanted me in Sapulpa.

Q. If you didn't fix it, didn't he? A. No, sir.

Q. He told you you were going to be in some trouble?

A. Bartlett's side is the one that brought up about being in trouble.

Q. Didn't Ellis tell you you were going to get in trouble?

A. As I said, Ellis told me that that is my mistake.

Q. Didn't Ellis tell you you had better come down there and fix that up? A. He told me I was wanted in Sapulpa.

Q. For what?

A. And I said what about, that same old case? And he said yes.

Q. And didn't he say you have to fix that up or you will get into trouble? A. I don't remember.

Q. Nancy, when you got down to Sapulpa who put you on that stand in that Court, what lawyer?

A. I don't know what lawyer put me on the stand.

Q. Was it McGraw or Lytle? A. I don't know which one.

Q. Was it Lytle?

A. I come in the Court House and sat down back there and the Judge had me brought up to the witness.

Q. Was it Lytle?

A. I say I don't know which one of the lawyers had me put on.

Q. Who was it asked you this question, Nancy: "What kind of a child was it? The Court: Boy or girl? A. Supposed to be a boy I guess." Do you know who asked that?

A. Judge Stanfield.

Q. Who asked you the first question?

A. I believe it was lawyer Lytle.

Q. "How long did the child live? A. Lived to be ten years old." Then, didn't Mr. Lytle get up and say to the Court: "We desire at this time to state that we are entirely taken by surprise as the Court may see, and ask leave to cross examine"? Didn't Mr. Lytle say that?

A. I remember him walking up and down in front of me, said taken by surprise.

Q. Didn't he ask you this question, Nancy: "Did you appear in the office of MacDougal & Lytle on the 9th of February, 1914, to testify as a witness? A. I sure did." That is your answer? A. I don't know the date of the month.

Q. You answered "I sure did" didn't you; you said that? A. Yes.

Q. Now, I will ask you if you did not there testify that you gave birth to a girl child?

A. Yes, I did because we had a right to give testimony in that way at that time.

Q. You said that? A. Yes.

Q. Now, what did you say that for?

A. Well, I had a right to, I told you Harjo had framed up they were going to get the money.

Q. And you had a right to stand in in the frame up?

A. I didn't get any of the money, I guess he got it, I didn't.

Q. Now, Nancy, why didn't you tell that man before he put you on the stand that you were going to change your testimony? A. What man?

Q. Mr. Lytle?

A. Why, because they had got up and represented to the Court that I was not in the State of Oklahoma; I was out of the State of Oklahoma and couldn't be presented there before the Court, and Judge Stanfield called for Nancy Atkins and they presented me.

Q. And Ellis had carried you there?

A. No, sir, he didn't carry me there.

Q. He went with you there? A. From where?

Q. Down here? A. Muskogee?

Q. No, Nowata? A. Oh, yes.

Q. Now, when you got there did you tell your lawyers that you were going to change your testimony Nancy?

A. I never said a word to them until I got in the Court house.

Q. You never talked to your lawyers?

A. I never had any lawyers.

Q. So you took your lawyers just as much by surprise as you did the other lawyers? A. I suppose I did.

Q. And when you got up there and swore before Judge Stanfield that you supposed you had a boy, did you have any doubt about it?

A. I think that is wrong about that supposed, maybe I said it though.

Q. Well, if you did say it, why did you say it?

A. The reason I said it, they wanted this boy, this Tommy Atkins, they wanted him for Minnie; and I said before I will be tied in Court let it be Minnie's; but I know she didn't have no child by the name of Tommy Atkins.

Q. But you were willing for Minnie to have a child by the name of Tommy if you could get your money wasn't you?

A. Of course she could have had it.

Q. If you got your money?

A. I didn't frame up for no money. My guardian did the framing.

Q. And you followed the advice of your guardian, didn't you; you followed his advice; now, Nancy, let's get back to that child just for a moment. When you went to Wagoner you were pregnant, were you? A. Yes.

Q. You was heavy with child, wasn't you when you went to Wagoner? A. Why sure.

Q. You were with child. And when you got to Wagoner you had to beat about to have some place to have that child?

A. No, I didn't beat about, I worked right there.

Q. I understand, but you had made up your mind that you had to have your child. I meant that you were thinking about a place where you would have your child?

A. Oh, sure, I knowed I had to prepare for that.

Q. You knew Lenora Williams? A. Elnora Williams.

Q. You knew her, didn't you?

A. Yes, I was well acquainted with her.

Q. And you knew old Jim that ran the restaurant?

A. Little Jim?

Q. Yes? A. Yes, I knew him.

Q. Now, you knew Angeline Moody?

A. I knowed everybody in Wagoner.

Q. You knew every colored person in Wagoner?

A. Right now?

Q. You knew every colored person in Wagoner at that time, didn't you, Nancy? A. Yes, and white folks too.

Q. Yes, but you knew every colored person, didn't you, Nancy, at that time you knew every colored family in that town, didn't you?

The Court: Answer Nancy?

A. Yes, I will admit I knew them all.

Q. And you stayed and lived with the colored people?

A. No, sir, I stayed and lived where I worked at.

Q. Didn't you stay in the colored part of town nearly all the time?

A. No, only when I was off from my work. I just tell the natural facts about it, I just lived there at the restaurant because that was where the crowd was all the time.

Q. You naturally lived there at the restaurant with the colored people?

A. Of course it was colored, I didn't live there.

Q. I thought you said you naturally lived there?

A. Well, I was there whenever I got ready to go up there.

Q. When you came to have this child you went to Elnora Williams house to have it? A. I spoke for the room.

Q. You spoke for the room in her house and Elnora took you in didn't she? A. Yes, sir.

Q. And she was good to you? A. Yes, sir.

Q. She was kind to you and she tended to you when you had that sickness, didn't she? A. No, she didn't.

Q. But she was there? A. Oh, yes.

Q. She brought your meals to you?

A. Yes, sir, and saw that my washing was done.

Q. And took care of you? A. Yes, sir.

Q. This same Elnora Williams. Now, who came to see you while you was confined there, what colored people, name them? A. I don't know anybody but Aunt Mandy.

Q. Did Eliza Sterling come?

A. No, Eliza never come to see me during my confinement.

Q. She wasn't there at all?

A. She just didn't, she might have been down stairs.

Q. Who was the mid-wife? A. Aunt Mandy.

Q. Whose child was Eliza Sterling?

A. Aunt Mandy's daughter.

Q. She was Aunt Mandy's child, wasn't she; Aunt Mandy was there wasn't she? A. Sure, was there.

Q. Was Angeline Moody? A. I don't remember.

Q. Was Henry Kidd? A. Oh, no, no man.

Q. Did Mitchell Wadsworth come to see you? A. No.

The Court: Dora Smith and Betsy Overton?

Q. Did they come to see you?

A. They sat in here and testified that they did; they was in the town, but that was two colored women that I hardly ever went around.

Q. Did they come to see you? A. No, sir.

Q. I want you to tell me exactly the women whom you remember of visiting you during your sickness, the colored women, tell me who they were?

A. I know Miss Williams was there all the time and Aunt Mandy would go home and come back.

Q. Didn't any of those Childers people come there to see you? A. Ellis come to see me.

Q. Did Ellis come to see you? A. Yes.

Q. Are you sure of that, I thought you said there wasn't any men came there? A. I thought you said colored.

Q. Where did Ellis come to see you, in the room?

A. Yes

Q. Did he sit down by your bedside? A. No, sir.

Q. Did he talk to you? A. Yes.

Q. Did he ask you about the baby? A. Yes.

Q. Did you show him your baby?

A. No, I didn't show him no baby.

Q. How old was your baby at the time, if you can remember? A. Going on three weeks old.

Q. Was your baby lying down there by you?

A. Yes, it was there in the bed.

Q. There in the bed. Nancy are you sure of that?

The Court: Nancy, look at me now.

A. Yes.

Q. Are you sure that baby was lying there in that bed when Ellis Childers came in there? A. Yes, sir.

Q. Did you show him the baby? A. No, sir.

Q. Did you show the baby to Angeline Moody?

A. Aunt Angeline never saw it.

Q. Did you show the baby—— A. Aunt Mandy seen it.

Q. She is dead? A. Yes, she can't speak for herself.

Q. Where is Mrs. Williams?

A. She is in Portland, Oregon.

Q. She is not here to speak for herself?

A. Yes, but I guess she could be here.

Q. Now, listen, don't you know that that little child was born dead and it was taken out there and buried?

A. Oh, no. I aint going to testify to no—I aint going to brace those niggers lies up that way.

Q. You think all those niggers have lied?

A. They have absolutely lied on me because they swore my liberty away from me twice right there in Wagoner. That is the reason I say I will not brace their lies up.

Q. What niggers? A. Henry Anderson and all of them.

Q. Did Angeline Moody swear your liberty away?

A. I don't know whether she was on the case.

Q. Did Elnora Williams? A. No, she was for me.

Q. Did any other person besides Henry Anderson and some other niggers swear your liberty away?

A. All the niggers swore against me.

Q. Have you any reason to think why they should come here and swear a lie against you?

A. Well, I guess they have been offered money to swear a lie.

Q. You think they have been offered money by the Government? A. I honestly and truly believe it.

Q. And that they had lied on you for that purpose; that is the way you feel about it?

A. That is just exactly the way I feel about this case.

Redirect Examination by Mr. Maxey.

Q. Nancy, you spoke of your Uncle William Robinson filing for you. A. Enrolled us.

Q. Enrolled you? A. He came up there.

Q. Now, why was it that he was to look after enrolling you, getting you on the roll?

A. Well, the enrollment that I am speaking of was held at Coweta.

Q. Do you know whether he enrolled you or not?

A. Yes, sir, he did.

Q. Now, how did you find out—did you go to Coweta?

A. Yes, sir.

Q. How come you to go there?

A. Well I thought maybe Uncle, he might leave me off, and I knowed I was entitled to my rights, and I just went over there. I believe it was on a Saturday.

Q. Now at the time you asked him to enroll you, who did you ask him to enroll?

A. Why he asked me, he came to me where I was working at the Barnard Hotel, and if I can remember, as near as I can get to this, I think Mrs. Haley was proprietor then, I was working for her, if I am not mistaken, and Uncle and his oldest son came up there, Ed; Ed Robinson, and I am his first cousin; so Uncle came to where I was and was talking there with me, and I said to Uncle—he said Nancy I came up here to see you on some business; I want to know, do you want me to look after your business about enrolling you, being enrolled, or do you want to attend to it yourself; and I said, well I don't understand it, Uncle, I would rather for you to attend to it for me, and he said well, alright, all you got to do is tell me, and I said well, here is me; and he said is that all; and I hesitated a while and he said to me, pretty soon, where is that boy you had down there with you to Aunt's, and I laughed, and I said well he is around here somewhere. He said didn't you tell us that was Minnie's boy, and I said yes, but I was just joking with you, that is mine; that is what I told him.

Q. Then what did he say about enrolling you?

A. Well, he said I will get you all on the roll; he said you all. Now, whether Uncle enrolled him, I know he must have enrolled me.

Q. Now about the allotment; was he to select your allotments for you, too? A. Well he was supposed to look after it.

Q. Did you tell him where you wanted your allotment?

A. I told him what I wanted to file was between Ellen Springs—between Choteau and Wagoner, when I filed, if it was not filed, that was the piece of land I wanted.

Q. Did you get that piece?

A. No, Josephine Barber filed it.

Q. Well, where did you get your allotment?

A. I got my allotment over close to Coweta.

Q. Do you know what time you got your allotment?

A. I filed mine in 1901, June 6th.

Q. 1901? A. Yes, sir, I think the records shows it.

Q. Was your boy dead at that time or alive?

A. When I filed?

Q. Yes?

A. Yes, he died in nineteen—in the spring of 1900.

Q. He was dead, then, when you selected your allotment?

A. When I selected my allotment.

Q. Well, did you understand then whether you could select for him, or whether his being dead he didn't get any allotment; did you understand about that? A. No, sir.

Q. You spoke of selling your homestead and the money being in the court here, in the Agency?

A. Yes, sir, sold it through the court.

Q. Sold it through the Agency.

A. Yes, my land was restricted.

Q. Well, you had to have a guardian appointed, you say, before you could get the money?

A. Yes, that is how come Harjo was appointed.

Q. Well, now, did you ever get any of that money that Harjo got? A. Off my land?

Q. Yes? A. $75.00 of it.

Q. How much did he get?

A. Well, what was sent from Muskogee was up there to that bank, was $333, I think and 20c.

Q. And how much of it did you get?

A. I only got $75 of it.

Q. What became of the other?

A. He used it on his family, dressed them and himself with it.

Q. That is what he left here for, wasn't it?

A. Yes, sir; I guess that is what he left for; he has done so many crooked things.

Cross Examination by Mr. Hanford.

Q. Nancy, you say your brother named your boy Lee?

A. I said if I had knew there was so many Tommy Atkins, I wouldn't named mine that.

Q. But you didn't name him Lee because——

A. Her oldest boy was named Lee, Charley Lee.

Q. So you didn't name him Lee?

A. No, I didn't name him.

Q. When was your boy born?

A. I just stated, didn't you hear me, that I didn't know the year.

Q. Born when you first went to Wagoner?

A. No, not when I first went; born in the fall.

Q. You were carrying him when you left?

A. Yes, exactly what I stated; that is what I left home for, you understand me?

Q. When did you name him?

A. When I got ready; two or three weeks old.

Q. Named him when he was two or three weeks old?

A. Yes.

Q. How did you know Minnie had a boy named Lee?

A. How did I know it? Minnie was supposed to be my sister and she corresponded with me, wrote to me when she was in Fort Logan and in Denver, both.

Q. Charley was the boy named Lee?

A. Middle name was Lee.

Q. But he wasn't born then? A. When would she tell me.

Q. So she wrote you that she had a boy?

A. Yes, sir; she told me so.

Q. A long time before your boy was born, wasn't it?

A. Long time before I ever thought of a child, I guess; I was just a girl, going to school.

Q. Several years. Nancy, what was that boy that used to be up there with Della Snow?

A. Della Snow's little old boy?

Q. Yes?

A. Some Muskogee woman had died and give her the boy, and she was raising it.

Q. Did you have Harvey up there?

A. Well, I done stated that; Kate sent the children over there to me.

Q. And you had Harvey there for a while, didn't you?

A. I aint never had Harvey until Kate sent them over there, and that is when Charley Bailey and Mitchell took them.

Q. You don't understand me: When you had Harvey over there at Wagoner, he stayed at Della Snow's?

A. Oh, no; Harvey never did stay at Della Snow's.

Q. Where did they stay; at the hotel?

A. I never had them at all.

The Court: Where did you have them when they did come?

A. I worked at the hotel and I kept them in town a while, and then——

The Court: Where in town?

A. Lizzie Woodward's.

Q. Did you ever have either one at the hotel?

A. Well they could come there when they wanted to.

Q. When you were laundress at the McAnally hotel, did you ever have either one of them there?

A. I don't think that I laundered for McAnally; I think I dish-washed.

Q. Did you ever live in a little room back of McAnally's hotel? A. Never did in my life.

Q. When did you live out there?

A. I never lived in no little room there; J. R. Brown had a little wash room back there, but to live in the little house, I never done it.

Q. Well did you live at the McAnally hotel? A. No.

Q. You didn't stay there? A. No.

Q. Did you stay at the Brown Hotel? A. No.

Q. Did you stay at the Barnard Hotel?

A. I had a room; there was a room joined on the laundry part of the Barnard.

Q. And you lived there?

A. I didn't live there; I stayed there.

Q. Well, did you stay there; how long?

A. Long as I worked.

Q. Harvey was with you at that time?

A. I hadn't had Harvey during that time.

Q. How long did you have them there at Wagoner?

A. I don't know how long I had the children.

Q. A week? A. I don't know.

Q. Tell me, Nancy, as near as you can; week or a year?

A. I told a straight tale about Minnie Atkins' children; I don't know.

Q. You haven't told me how long you had them.

A. I don't know how long I had them there.

Q. You know whether it was a week or a year.

A. Well, if I said a hundred years, you wouldn't believe me.

The Court.

Q. Nancy, you tell it for my benefit and not his.

A. Well, Judge, you ask it.

Q. Well, Nancy, tell me this: How long, as near as you remember, did Minnie's boys stay there with you?

A. Well, I expect I had them about two months, as near as I can get at it.

Mr. Hanford.

Q. Well, Charley Bailey took Charley away first, didn't he, that is Lee?

A. Well, none of them wanted him until they found out he could get an allotment, and they all wanted him, that is how come them to take him.

The Court.

Q. Well, now, Nancy, who took this boy away; that is the question. Did Charley Bailey take him?

Q. No, Mitch, he came and got him, after he got out of jail.

Q. Well, did Mitch take him? A. Yes, Mitch took him.

Mr. Hanford.

Q. And Charley Bailey got him afterward?

A. Well, he let him take him I reckon.

Q. Didn't you have Charley a little longer than you had Harvey?

A. I testified about the children, that they were brought to me together.

Q. Were they taken away together?

A. No, I let Jim Childers have Harvey, and I had Charley yet out in the country, but I was speaking of Charley Bailey taking him, to raise him, because I couldn't raise him.

Q. Nancy, did you ever live in a tent back of Davis and Jones store?

A. No, that was Molly Vann; that is Eliza Sterling, you call her, her sistar.

Q. You never lived in a tent?

A. No, sir, I haven't lived in no tent.

Q. And your baby was not born in a tent?

A. I done testified to my baby all I know.

Q. Born in Williams' house?

A. That is all I know about it.

Q. Now, no man came to see you at all?

A. I testified all I know.

Q. Know Bob Delozer? A. Yes, I know Bob.

Q. He is a colored fellow? A. I guess so.

Q. Great, big colored fellow; he came to see you?

A. No, Bob, didn't come to see me.

Q. Didn't he bring you your meals? A. No.

Q. Who did? A. Elnora Williams.

Q. Elnora Williams brought you your meals. Did you ever live at Betsy Birney's?

A. Never lived there; I was there.

Q. There a good deal?

A. Yes, out, backwards and forwards.

Q. Nancy, where were you living the first time that you went to the penitentiary; you only went to the penitentiary once; or twice?

A. Well, as I stated about this living business, if I could get straight on that; get off that: I wasn't really living with anybody; I was working all the time. Betsy Birney kept my child. I stated to the Court here. I told all I know about it, unless you are compelled to get a lie.

Q. But they took you into Betsy Birney's house the day the baby was born? A. Oh, no.

Q. Didn't they have a big lot of colored people up there shooting craps? A. I don't know a thing about it.

Q. Where did they take you?

A. Right there in Williams' house, and I was there right where I was until I got well.

The Court.

Q. Let me see if I understand you, Nancy: When I am asking you these questions, I just want the truth; I am not trying to worry you at all. I understand, then, that you had your baby at this Mrs. Williams' house, in one of those rooms.

A. Yes, sir.

Q. And that you stayed there with your baby until you got well and got up.

A. Yes, sir, got able to go to work again.

Q. Well, tell the court about how long that was.

A. Well, I was in bed, well I was down you might as well say three weeks before I got up; about a month before I got to stirring around.

Q. And during all that time you were at Mrs. Williams' house? A. Yes, sir, right where I was confined at.

Mr. Hanford.

Q. Now Nancy, do you remember the next time you were in Sapulpa?

The Court: Let me ask you: Will anything be accomplished by bringing out all this?

Mr. Hanford: Just for a special purpose here, your Honor.

Q. Do you remember the next time you were down at Sapulpa in court when Minnie was there? Don't you remember when Minnie came up and said "Hello Nancy," and you said I don't know you?

A. I guess I ought to remember; I was there, wasn't I?

Q. Yes, you were there.

A. Well, why did you ask me whether I was there.

Q. What did you tell her you didn't know her for?

A. Well, I didn't know Minnie; I hadn't seen Minnie until seven years, until I seen her, at my brother's burial, and she went and I never seen her any more until Charley Page got her out at Seattle; I had a right to say I didn't know her, and of course if that is my sister, I am glad to see it, proud of it.

Q. Didn't you see her at Wagoner?

A. She wasn't at Wagoner. She was at my brother's funeral, where he was killed, right where he was buried, and is there today.

Q. That the last time you saw her?

A. I told the facts about it; I told.

Q. Remember when your father died, Nancy?

A. No, he might died before I was born; I don't know.

Q. You were a little kid, weren't you?

A. I done told you all I knowed about it.

The Court.

Q. Well, Nancy——

A. Well, Judge, your Honor, I told all I know.

Q. I understand; then you don't remember your father's death?

A. No, I was small; I was the youngest one of the children.

Mr. Hanford.

Q. Don't you remember when Lee and Minnie took you by the hand and you ran down to see your father before he died, and they pulled you along in your bare feet, don't you remember that? You can't recall that, Nancy? Ran across the prairie. Where was that, down to Ell Creek?

A. You aint going to get me to lie, because I done told all I know.

Q. You don't remember that? A. I was the youngest one.

Q. Yes, you were the youngest of the three; but you did correspond with Minnie, didn't you, afterwards?

A. I done testified to that, but I was with my aunt.

Q. You remember when she was at school away up there in Carlysle, don't you? You remember that?

The Court.

Q. Do you remember of Minnie being at Carylsle, Nancy?

A. Yes, I remember when they sent them off.

Q. You were a little girl? A. Yes, sir.

Mr. Hanford.

Q. Did you hear from her then, while she was at school?

A. Yes, I corresponded with her.

Q. She wrote to you. Then do you remember where she went after she got out of school? A. No.

Q. You don't remember? A. No.

The Court: Do you remember about her being in Leavenworth, Nancy?

A. I think the first I heard of her after she came back from school I think though it was Leavenworth.

Q. That is where she came to after she got out of school?

Mr. Cruce: She testified that she heard from her sister at Fort Logan and from other places.

The Court: Yes, she testified to that.

Recross Examination by Mr. Allen.

Q. Nancy you say that your child was dead before you filed and that is the reason you didn't file for him?

A. I suppose that is the reason; I filed for myself in 1901.

Q. You didn't know that you could file for a dead person?

A. No, sir.

Q. You thought they wouldn't be entitled to an allotment?

A. Well when I filed for myself down at the Dawes Commission I asked about brother's, and he said he was dead too long; claimed he died before the enrollment.

Examination by the Court.

Q. That was about what brother? A. Brother Lee.

Q. You asked about brother Lee did you? A. Yes, sir.

Q. And they said he died before enrollment?

A. Been dead too long.

Q. Your boy died after enrollment didn't he? A. Yes, sir.

Q. And you knew he had died after enrollment?

A. But brother died before enrollment.

Q. You asked about brother and they told you he died before enrollment and couldn't be enrolled? A. Yes, sir.

Q. Did you say anything to them about your boy?

A. No, Uncle John was in there and I called on Uncle John to see if he could find out whether I could file for brother or not and he was mad at me and wouldn't say anything in my favor at all.

And thereupon court recessed until nine-thirty A. M. tomorrow morning.

And thereafter, and on May 17, 1917, at 9:30 o'clock A. M., court convened pursuant to adjournment, and further proceedings herein were had as follows:

Mrs. BLANCHE YARBORO, being called as a witness on behalf of the defendants Nancy Atkins, et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name. A. Mrs. Blanch Yarboro.

Q. Where do you live, Mrs. Yarboro? A. Nowata.

Q. How long have you lived at Nowata?

A. 10 years the 15th of this month.

Q. Do you know Nancy Atkins? A. Yes, I know Nancy.

Q. Do you remember of someone coming to Nowata after Nancy Atkins a year or two ago?

A. Yes, I remember someone coming; not that I know of coming, but after her.

Q. Well, who was it, who came there?

A. Sadie James, that is who she told me she was.

Q. A colored woman, was she? A. Yes, sir.

Q. Was she at your house while she was there? A. Yes.

Q. Did she talk to you about what she was there for?

A. Yes, she was there to *ee* the guardian for Nancy Atkins; she said there was money to be paid to her and wanted the guardian for her.

Q. Did you see Nancy at that time?

A. Why, that day I saw her. While Sadie was there, Nancy came in.

Q. Now, while Sadie was there, did she have a conversation with anyone else?

A. No, for there was no one else there in the house but myself.

Q. Did she do any telephoning? A. Yes she telephoned.

Q. Do you know who she telephoned to?

A. She telephoned to Charles Page's office in Tulsa.

Q. Did you hear the conversation between her and Page, or hear her end of the conversation?

A. I hear- her end of the conversation.

Q. What were they talking about?

A. Well, I don't just know what they were talking about, only she said for Charles Page to meet her that night; that she would come down on the six o'clock train and I suppose he said *he said* he would meet her for she said alright.

Q. Did she *said* anything in that conversation about Nancy? A. She said the party.

Q. The party? A. Would be ready to go.

Q. Where did Nancy go? A. Go with her?

Q. Yes.

A. Nancy didn't go any place with her that I know of but I hear afterwards that Nancy was——

The Court: Don't state what you heard.

Q. Did she go anywhere that day? A. Sadie James?

A. No, Nancy. A. Yes, she went around.

Q. Well, did she leave town?

A. No, she didn't leave town.

Q. Why didn't she leave town?

A. Because I put her away so that no one could take her away.

Q. Well, then, what did you do after you got her to your house and put her away? A. Well, she told me——

Mr. Cruce: We object to that.

The Court: Sustained.

Q. Well, did you telephone to Mr. White is what I want to know?

A. I telephoned to Mr. White; I asked Nancy who was her protection and she said Mr. White at Coweta and I stepped to the 'phone and in only a few minutes I had him on the 'phone.

Q. Did he come to Nowata that night?

A. He came to Nowata that night.

Q. And took her away? A. In the morning.

Cross Examination by Mr. Allen.

Q. You say that she put in a telephone call for Charlie Page at Tulsa? A. Yes.

Q. Have you any way of fixing the time when that conversation occurred? A. Why, by the telephone bill.

Q. Have you it with you? A. Yes.

Q. Let me see it, please.

Mr. Allen: Please mark that Government's Exhibit No. A-107.

Q. I hand you Government's Exhibit Number A-107 and ask you if that is the telephone charge for that call that you referred to in your testimony? A. How is that?

Q. Is that the bill for that conversation?

A. Yes, that is the bill; that is the date. When I got the bill I——

Q. Was that bill rendered to you by the telephone company? A. Yes.

Q. And you paid for it? A. I paid for it.

Q. What is the date, now, refreshing your memory from that telephone bill that Sadie James had that conversation with Charles Page?

A. Just this date of the 'phone bill——

Q. Is that September 25th, 1914?

A. I can't see without my glasses.

Q. Do you have any independent recollection of the date of this call? A. Oh, yes, I know it was a nice, bright, sunshiny day.

Q. I know, but what day of the month?

A. Well, now I wouldn't say, only just the 'phone bill, there wasn't any other thing that was——

Q. Was there any other call for—was Charles Page called at any other time from your 'phone? A. Never was.

Q. What month and what year was this?

A. Why, it was in '14—1914, and I know it was in September but for the date, I don't know.

Q. This call seems to have been put in by Whitaker?

A. Yes. And I asked her why she done that and she said she didn't want anybody——

Mr. Cruce: If the Court please, we object to the hearsay statement as to what somebody else said.

The Court: Sustained.

Q. Do you know Sadie James?

A. I know her when I see her.

Q. Did she put in that call under the name of Whitaker?

A. Yes.

Q. You heard her do that? A. I heard her.

Cross Examination by Mr. Stuart.

Q. Who put Nancy Atkins in your charge?

A. No one put her in my charge.

Q. How did you come to put her in your house and lock her up?

A. She told me she thought there was someone going to do violence to her.

Q. You hadn't seen Mr. White?

A. I never knew who Mr. White was until I asked her who would protect her.

Q. She came to you and asked you to lock her up?

A. No, she came to me and told me somebody was going to do violence to her, going to get away with her, that is what she told me.

Q. And asked you to lock her up?

A. No, sir, and I asked Nancy who would protect her.

Q. It is a mistake about you locking her up, you didn't lock her up? A. I just put her in the bedroom.

Q. You didn't lock her up?

A. No, I didn't lock her up.

Q. The first thing Nancy said was to call Mr. White, he is my protector?

A. She just said Mr. White would protect her.

Q. And you called up Mr. White and Mr. White come and got her. A. Yes, sir.

Mr. Stuart: That is all.

(Witness dismissed.)

And thereupon, J. B. WHITE was called and sworn as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Hill.

Q. State your name? A. J. B. White.

Q. Residence? A. Coweta, Oklahoma.

Q. Your age? A. Fifty-six.

Q. How long have you lived at Coweta? A. Since 1901.

Q. What business are you engaged in?

A. I am deputy clerk of the County Court there at the present.

Q. Did you ever live in Wagoner?

A. Yes, sir, I lived in Wagoner for ten years; I lived in Wagoner ten years.

Q. What years?

A. I moved there in the spring of 1895.

Q. And lived there ten years? A. Yes, sir.

Q. How long did you live there?

A. Ten or eleven years, I left there in 1890 or 1891—1901.

Q. That wouldn't be ten years, Mr. White, if you have your years right?

A. I moved there in the spring of 1895, it was later than 1901 that I went over there; I went over there in connection with the Western Investment when it was first opened up.

Q. Well, about what time was that?

A. I declare I don't remember. Probably Mr. Allen could tell you. I declare I don't remember it.

Mr. Hill: Do you remember the date Mr. Allen?

Mr. Allen: About the spring of 1902.

Q. Were you there before 1902?

A. I don't think that I moved there before 1902, while I was there most every week or two during the five years that I was collecting for Mr. Davis, that was one of the places I held out at.

Q. When you lived at Wagoner what did you do?

A. I was collecting for Mr. Davis of the firm of Davis and Jones.

Q. From 1895 until you left there? A. Yes, sir.

Q. You moved there I believe you said in 1895?

A. 1895 in the spring.

Q. Did you get acquainted with Nancy Atkins there?

A. I did.

Q. Knew her pretty well?

A. Yes, sir, I knew her before I moved there; I traded there a couple of years before I moved there.

Q. You see her frequently?

A. I saw her very frequently after 1895.

Q. Where was she living?

A. Why, she seemed to be living promiscuous over the town, stayed a good deal of time at old Aunt Betty Birney's.

Q. You know the Birneys? A. Yes, sir.

Q. You know the Birney children? A. Yes, sir.

Q. Did you see a little boy around there in 1895?

A. I don't remember of seeing the boy until after I commenced working for Davis in 1896.

Q. Don't recall seeing him until about 1896?

A. No, sir.

Q. Who did you see him with?

A. I saw him with Nancy and saw him playing around the streets there, he and two of the Birneys boys very often got in my buggy.

Q. Did you learn who it was?

A. Nancy told me it was her boy. I was kind of scolding the boy for getting in my buggy and Nancy told Tommy to get out of there and go away. I asked her whose boy it was and she said that was hers.

Q. What kind of a looking boy was it?

A. Oh, a boy something like five or six years old, dirty, ragged boy.

Q. What blood did he show?

A. Well, he was generally so dirty it was hard to tell, but he looked to have Indian blood in him and white blood also.

Q. Do you recall the color of his hair?

A. His hair was light but as he got older it got darker.

Q. How long did you see that boy there?

A. I saw the boy up until 1900.

Q. How long did you see Nancy around?

A. I saw Nancy ever since 1892 or three—1893.

Q. When was the last time you saw her around Wagoner, in and around Wagoner?

A. I really don't remember; I knew I missed her along in 1898 or 1899 somewhere along there.

Q. Did you know about Betty Birney moving out in the country? A. Yes, sir.

Q. About when was that, do you know?

A. No, sir, I can't tell just when it was, I could relate a circumstance.

Q. Did she stay out in the country?

A. She moved out in the country in the spring, on the Verdigris; it was a very wet spring and she moved out of there to Coweta and stayed there until along towards fall and moved back to Wagoner.

Q. Was gone from the spring to the fall, is that right?

A. Yes, sir.

Q. Was it longer than that?

A. No, I don't think it was.

Q. You moved to Coweta about 1900 or later?

A. Yes, sir, it was a little later.

Q. Did you see Nancy any more?

A. I don't remember seeing Nancy any more after I moved to Wagoner—from Wagoner, I don't remember of seeing her for a year or so, maybe longer.

Q. When was the first you heard anything about this Tommy Atkins matter?

A. I reckon it was in '13, I won't be positive about dates.

Q. 1913? A. Yes, sir.

Q. Well, fix it this way, was it before or after the oil development began out in the section where the Tommy Atkins allotment is?

A. When I commenced looking after Tommy Atkins why the oil—it was getting up towards the place I suppose when they first started, it was eight or ten miles from there, and they kept drilling north, and every time I would get away from home some one was asking me on account I had lived here so many years, if I knew who Tommy Atkins was.

Q. As near as you can remember the oil development was eight or ten miles south of where this allotment is?

A. When I first interested myself in it.

Q. When you first had these inquiries made of you about Tommy Atkins, how far was the oil development away from what you have since learned—where his allotment was?

A. Well, it must have been three or four miles. This well was not drilled on the place when I commenced looking after it but again I got the lease——

Q. I am not talking about when you got the lease; we will get to that later. The question is when you first got inquiries before you became interested in the matter, how far was the oil development then from this allotment?

A. It must have been five, six or seven miles.

Q. Do you recall who made inquiry of you if you know anything about Tommy Atkins about that time?

A. Well, yes, some of them.

Q. Well, mention any that you recall.

A. Mr. George McElroy, of Jennings.

Q. Was he in the oil business? A. Somewhat, yes, sir.

Q. Who else? [A.] And there was a party asked—Mr. P. R. Brown, president of the First National Bank of Beggs; there one day we were at the courthouse at Okmulgee, this gentleman stepped up and asked Mr. Brown in my presence, who I didn't know who he was.

Q. Well, anybody else? A. I don't recollect?

Q. Bartlett ever make any——

A. Bartlett, Bartlett at Tulsa one day asked me and some men in my presence—a bunch of us together, three or four of us standing there; he was trying to find out if we knew Tommy Atkins or his heir.

Q. Well, do you recall anybody else who that you had an inquiry from?

A. I don't believe that I recall anybody else.

Q. You do think that you had more inquiries than you have mentioned? A. How is that?

Q. Did you have more inquiries than these you have mentioned? A. Yes, sir; yes, sir.

Q. But you didn't recollect them?

A. No, sir, I don't recollect them; it was a common occurrence.

Q. After having these inquiries made of you, what if anything did you do?

A. I went to looking after it for myself.

Q. Well, what was the first thing you did?

A. Well, I had written a letter to Mr. Jones at Wagoner who used to stay in the store when I worked with them so long; I didn't get a reply from them right away and I got on the train and went to Tulsa and went to see Mr. Bailey who used to work in the Jones and Davis Mercantile Store.

Q. Mr. Bailey who testified here? A. Yes, sir.

Q. What was your object in visiting Mr. Bailey?

A. To see if I was right about the Tommy Atkins.

Q. Did you ever make any inquiry of Mr. Bailey as to what became of him? A. Yes, sir.

Q. What was the next thing that you did?

A. He told me that he died.

Q. Never mind I would like to have the conversation but I don't think the Court will permit it.

The Court: No.

Q. You made inquiries of Mr. Bailey? A. I did.

Q. What else did you do?

A. I went straight and got Nancy located; I didn't know where she was but he told me where she was, and I went straight to Nowata and found her guardian.

Q. Who was he? A. Harjo.

Q. Micco Harjo? A. Micco T. Harjo, I believe it was.

Q. How long had he been guardian at that time if you know? A. Something like two years.

Q. Well, what did you see Mr. Harjo about?

A. I asked him—went and told him what I knew or understood about it and asked him for the lease. He told me that he would give me a lease on it but he said I have already signed up a lease, a Departmental lease, and he says I have understood that it was commercial and not Departmental, and he said as soon as that lease returns, I will give you a lease on it.

Q. Who was that lease to?

A. I declare I don't know who he said it was to.

The Court: Is that the Hammett lease?

Mr. Hill: Hammett lease, I suppose.

Q. Was that the Hammett lease?

A. No, sir, this here Hammett lease was on a commercial lease form from Nancy herself.

Mr. Hill: Mr. German, have you any recollection of the name, that is all I want at this time.

Mr. German: Here are all of them, Judge.

Q. Would you know the name if you would see it, Mr. White?

A. No, I wouldn't; I don't remember. I never did see the lease.

Mr. Hill: I will not take the time to look *up it*.

Q. It is what you call a departmental lease? A. Yes, sir.

Q. And he couldn't act until it was determined whether that would be approved or not, is that the idea?

Q. He said that lease, he had heard it was not a departmental lease and it would be sent back. When it was sent back to the District Agent at Nowata, Harjo notified me and I went to Nowata and he said he would give me a lease provided the County Court would approve it; and we went up, then, to his lawyer, and then before the County Court and had the lease approved, or it was ten days from that date set for sale and the lease was sold and I bought it and the County Court approved my lease on it.

Q. Before you did this, did you see Nancy and have any talk with her?

A. Oh, yes, I saw Nancy all the time I was there?

Q. The first time you were to see her guardian?

A. Yes, sir. And the rest of the time; I was there three times, I think, when I had my lease approved.

Q. Did you talk over the fact with Nancy when you saw her?

A. Yes, sir; talked with her in the presence of her guardian.

Q. Fully? A. Yes, sir.

Mr. Hill: I would be glad to introduce that conversation, Your Honor.

The Court: As to what Nancy said at that time?

Mr. Hill: Yes, sir.

The Court: I think not because then the controversy had arisen.

Mr. Hill: If the controversy had arisen, why I think clearly it would not be admissible; but this was before it had arisen, I believe.

The Court: No, I don't think that would be admissile because there were inquiries about Nancy, or rather about Tommy, and it had become known that this land would likely be valuable oil land and it is a very serious question whether this was free from any taint of the controversy, that it would be admissible. You have had Nancy here on the stand.

Mr. Hill: Yes, sir, I appreciate Your Honor's ruling entirely and I think it is absolutely sound, that statements prior to the controversy are admissible, and after the controversy had arisen are not, but it seems to me that this was the beginning of the matter.

The Court: Yes, but of course—I will not interpose the objection myself.

Mr. German: Well, we are objecting, now ourselves, Your Honor.

The Court: Well, we [ ] not take it.

Mr. Hill: I know what Your Honor's ruling is and I will not transgress it. Alright, sir; I understand that there is no objection and that the Court rules—that Mr. White stated he had a full discussion with Nancy before he took this lease?

The Court: He stated—that is in the record, yes.

Q. I don't know whether I asked you—was that before you took this lease that you had the discussion with Nancy?

A. It was the first trip up there to see the guardian and her in regard to it.

Q. You saw then together?

A. Well, I didn't see them together but Ridgeway had taken me down to the house to talk to Nancy.

Q. Ridgeway was her guardian then?

A. Not Ridgeway, I mean Harjo.

Q. Harjo? A. Yes, sir.

Q. Did you take any parties in the lease with you?

A. I did.

Q. Who were they?

A. Myself, a man name of Fowler, Dr. Carter and Bert Selzer.

Q. Carter and Selzer and who was the other one?

A. Fowler.

Q. Fowler was a relative of yours?

A. Yes, sir, by marriage.

Q. And later did you sell out your interest and re-arrange the lease interest in it?

A. Well, I will have to explain that a little if the Court will allow me.

Q. I don't care about the details, Mr. White; these original parties went out and Mr. Ferguson became interested?

A. Why, we traded the lease and——

Mr. Allen: We object to the details.

The Court: Let's not go into the details. You suggested to him that the original parties went out and Mr. Ferguson came in?

Mr. Hill: Yes, sir, and he is in.

The Court: That shows.

A. Well, it was really a man name of Rutherford that we traded——

Q. And Mr. Rutherford is a relative of Mr. Ferguson?

A. Yes, sir.

The Court: So, the present interest is Mr. Ferguson and Mr. White?

Mr. Hill: And Mr. White, and Mr. Rutherford.

The Court: And Mr. White and Rutherford.

Q. Now, Mr. White, going back to the lease. After you obtained the lease, what was the first step you took in the matter?

A. We filed suit against the—Bartlett and The Gypsy Oil Company.

Q. Why did you do that?

A. Well, the Gypsy Oil Company had possession of it and put a well down.

Q. What about the Bartlett interest?

A. The Gypsy Oil Company was operating under a lease from Mr. Bartlett.

Q. Well, did you find out the kind of leases they held?

A. They held a lease from Mr. Bartlett under a forged deed.

Q. Did you investigate that deed and prove it to be a forgery?

A. I did. The deed was taken in Lawrence, Kansas, and I had taken the abstract and went to Lawrence, Kansas, and found the notary who had taken the acknowledgment of it, and he were cashier in the Watkins National Bank, and I left him——

Mr. German: We object to that as hearsay, Your Honor; the mere fact that he found it to be a forgery is sufficient, I think.

The Court: Yes, the details of it would not throw any light on it and it is admitted that it was a forgery now.

Mr. Hill: That is now admitted that it was a forgery and I want to prove that Mr. White discovered that fact.

The Court: That is in the record, various stages of the record show that the deed was a forgery and Mr. White now says that he discovered it.

Q. Can you fix about the time, Mr. White, that you brought that suit?

Mr. Hill: Is that in the record?

Mr. Allen: That is in the record—no, I believe that portion is not in the record.

The Court: If you have the petition you might find that while Mr. Hill goes on with the examination and agree on that.

Mr. Maxey: Sometime in August, 1913.

Mr. Hill: We will assume that is correct until we verify it

Q. You say that suit was brought in August 1913, does that conform to your recollection?

A. It was along in the summer but I declare I can't tell whether it was 1913 or 1914 from memory.

Mr. Hill: Well, we will assume that.

The Court: Don't put in the record all this colloquy until we get the date.

Mr. Maxey: July 23, 1913, is when the original was filed.

Q. Does that correspond to your memory of it?
A. Yes, sir.

Q. After that suit was filed, which I find from the record here was brought by Nancy Atkins, an incompetent, by Micco T. Harjo, her legal guardian and next friend, v. H. U. Bartlett, and others, after that suit was filed what was the next step in your dealings or relations with Nancy?

A. Well, after that, they notified us they were going to take Nancy's deposition in Lytle's——

The Court: MacDougal & Lytle's office?

A. MacDougal & Lytle's office.

Q. Between those times had you seen and talked to Nancy? A. Well, I saw her at divers times.

Q. I mean between the time that suit was filed and the notice to take depositions was given? A. No, sir.

Q. You had not seen her in that interim?
A. Not that I recollect of.

Q. It seems to be from the testimony in the case that that deposition was taken on the 9th of February, 1914, does that conform to your recollection?

A. I know it was not a great while before we had the trial.

Q. And the trial seems to have been February 26th, 1914?
A. 26th.

Q. You say from the time you brought the suit and the time that deposition was taken you did not talk to her?

A. I never saw Nancy from the time she gave her deposition there in MacDougal & Lytle's office, I never saw Nancy from that time until she came to Tulsa——

Mr. Maxey: Sapulpa.

A. Sapulpa, about three days before the 26th of February.

Q. Well, that wasn't my question. In the meantime you had had no dealings with her between the time you brought the suit and the time she appeared at MacDougal & Lytle's office? A. I never saw her.

Q. Do you remember what became of her after she testified?

A. She got in a car and started out of town after the deposition.

The Court: Were you present at the taking of depositions in MacDougal & Lytle's office?

A. I was, Judge.

The Court: When before that had you last seen Nancy?

A. It was not since the day the lease was approved.

The Court: And that was before the filing of this suit? A. Yes, sir.

The Court: When and where was the first you saw Nancy on the day the depositions were taken?

A. I saw her in Lytle & MacDougal's office the first time I saw her.

Q. And after she left Sapulpa after giving that deposition, did you make any effort to bring her to the trial? A. Yes, sir.

Q. What did you do? A. I sent Ellis Childers after her.

Q. Did you have any talk with her?

A. Never spoke to her until after the trial was over with.

Q. Had no conversation with her at all until after the trial was over with? A. Not the least in the world.

Q. Where was she living then?

A. Nowata, or out east of Nowata on Verdigris, they called the post office Coody's Bluff.

Q. You had Ellis Childers bring her to Sapulpa to the trial? A. I sent Ellis Childers after her.

Q. After the trial what became of Nancy?

A. Went back to Stone Bluff—Coody's Bluff.

Q. Well, how long did she stay there?

A. At Coody's Bluff?

Q. Yes?

A. I don't know, she put in all of her time since I first met her, that is in regard to this lease, put in all the time at Nowata, Coody's Bluff, with the exception of a short time she stayed in Coffeyville.

Q. What was the next dealings you had with her?

A. Well, I have saw her since.

Q. I am talking about this trial at Sapulpa?

A. I have saw her divers times since that; I was phoned to come there.

Q. Was that the next time after the trial?

A. I can't say for certain but I might have seen her between the times that I was 'phoned for.

Q. Tell about being 'phoned for?

A. Well, I got a 'phone. I couldn't understand Mrs. Yarbrough's name, but it was her; and she 'phoned me the best thing I could do was to come to Nowata; that there was some parties there trying to get a party away that I was interested in; and told me her name but I didn't understand. And I got a car and went to Wagoner and went to Nowata. I inquired for Nancy and her guardian didn't know where she was. And I went up on what they call the Coal Oil Johnny train, got there before the nine o'clock train did——

Q. You finally found her?

A. I finally found her by Mrs. Yarbrough sending a man to the hotel looking for me.

Q. What did you find?

A. When I got to Mrs. Yarbrough's Nancy was back in one of the back rooms and Mrs. Yarbrough seemed to be excited. And I knocked and this gentleman that came after me I don't recall his name; but Mrs. Yarbrough wanted to know if it was me and I told her it was and she called Nancy and Nancy came in and we sat there and talked.

Q. And what did Nancy want with you?

A. Nancy said they was trying to get her in a car.

Mr. Cruce: If the Court please, we object to that as hearsay.

The Court: Yes.

A. She asked me to take her away.

Q. And you did so? A. Yes, sir.

Q. Where did you take her then?

A. We came on the train to Wagoner and I got a car and sent her to Coweta and sent that car back and got another car and sent her to Ellis Childers.

Q. How long did she stay at Ellis Childers?

A. I don't remember, but she came back to Nowata in December.

Q. Didn't stay there any great length of time?

A. Didn't stay any great length of time, but I don't remember.

Q. Mr. White, there has been an exhibit introduced this morning from Mrs. Yarbrough that this telephone call was on the 25th of February, 1914. Does that conform to your recollection about the date? A. Yes, sir, I think it was.

Q. And you took her to Ellis Childers house right after. How long did she stay there?

A. I really can't recall. I never saw her while she was there at Ellis Childers.

Q. Well, did you have occasion to bring Nancy to Muskogee at any time after that? A. Yes, sir.

Q. What was the occasion of that?

A. Well, I brought her on two different occasions. I——

Mr. German: Now, your Honor, we object to this as hearsay and incompetent and irrelevant.

The Court: He is asked if he had occasion to bring her here to Muskogee. That is a circumstance. You are not asking for any conversation yet. All right.

Q. To eliminate any immaterial matters, did you bring her to Mr. Allen's office?

A. Yes, sir. I didn't go after her.

Q. Well, how did that come about?

Mr. German: Now, if you know.

A. I know what Nancy and Mr. Allen told me is all.

The Court: We don't care for that.

Q. Do you know whether Mr. Allen sent for her by Ellis Childers, do you know that of your own knowledge?

A. Nothing except what Mr. Allen and Nancy told me and Ellis Childers told me; I wasn't here.

Mr. Hill: I think that would be competent as a connecting link.

The Court: Well, there are witnesses who know first hand.

Q. Do you know about the date of that, that she was brought here to Mr. Allen's office?

The Court: That would be a part of the hearsay. If he knows the facts of her being at Mr. Allen's office as a matter of his own knowledge, he may state when that was.

A. Yes, I know when she came I saw her.

Q. Can you give the date Nancy was at this office?

Mr. Maxey: Judge Rosser and I were there.

Q. Mr. White, did you go to Wagoner and look up witnesses after you took this lease? A. I did.

Q. Did you get anyone to assist you? A. I did.

Q. Who did you get? A. Ellis Childers.

Q. Who did you go see?

Mr. German: Your Honor, we object to this as incompetent. I don't see what theory counsel is introducing it.

Mr. Hill: I am endeavoring to connect up a conversation with Mr. Anderson that testified on the stand.

The Court: Was Anderson asked about that conversation?

Mr. Hill: He was not asked about this particular conversation, but he brought this in his testimony that certain offers had been made to him. I think he mentioned Mr. White's name.

The Court: I don't remember that. You had better be sure of that before you go into it.

Q. Did you have a conversation with Henry Anderson?
A. I did.

Mr. Hill: Then, I will look at the record.

The Court: You can put him back on the stand. This Anderson testimony is transcribed.

Mr. Hill: That is all, at the present with Mr. White.

Cross Examination by Mr. Pinson.

Q. Mr. White, you say you moved to Wagoner in 1895?
A. I did.

Q. Did you live right in the town of Wagoner?
A. Yes, sir.

Q. How long after you moved there did you first see Nancy? A. I had saw Nancy before I moved to Wagoner.

Q. Where? A. On the streets of Wagoner.

Q. When you were visiting there?
A. When I was trading there.

Q. At that time, did you know the Birney children?
A. I got acquainted with them—yes, I knowed old Dick Birney and his wife and children.

Q. What were those children's names?
A. Well, one was Dick and Henry, and then an old one, I don't remember what his name was.

Q. Didn't know Joe, did you?
A. It appears to me there was one by that name; I know there was.

Q. Did you ever see Joe with Nancy?
A. Why, I probably have, I don't call to mind that I have.

Q. Did you ever see Richard with Nancy?
A. I saw Nancy and her little chap and those Birneys all in a crowd together.

Q. Did Nancy ever have a white child with her?
A. I don't know whether you would call this a white child or not.

Q. I am not talking about an Indian, did she ever have a white child with her? A. Not that I know of.

Q. Who were the two boys in your buggy with Nancy's boy? A. Dick and Henry Birney.

Q. How old was Henry?
A. Well, he was probably seven, eight, or nine years old.

Q. And Richard? A. He was right next to him.

Q. You would say six or seven years old?

A. Yes, probably might have been nine or ten, the oldest one.

Q. And the third boy was about two years younger than Richard? A. Yes, he seemed to be.

Q. What color were the Birney boys?

A. They were what you would call light, mulattos.

Q. Kinkey headed? A. Well, yes.

Q. Was this boy that Nancy referred to as hers a light mulatto?

A. Well, he was light color, I don't know, I couldn't tell by looking at him that he had negro blood in him. I don't really think that he did.

Q. Did you at that time know what race of people Nancy belonged to? A. Yes, sir.

Q. How did you know?

A. Well, from the general conversation and I was acquainted with the Atkins family.

Q. Which Atkins family?

A. Well, I was acquainted with Nancy and her brother, Lee, and I was acquainted with Billy Atkins' folks that lived by Coweta.

Q. Acquainted with Dick Atkins family? A. Yes.

Q. What kind of race were they?

A. Oh, Dick seemed to be about half nigger.

Q. That was a half brother to Nancy, wasn't it?

A. I really don't know.

Q. Did you know the children of that family? A. Yes.

Q. What was their names?

A. Well, now, I can't call the names.

Q. Do you remember Thomas?

A. Yes, then there was a girl that married Jim Trent.

Q. How often did you see Thomas in Wagoner?

A. Oh, I saw him occasionally. I would be at Davis and Jones store and maybe I would see him once a month.

Q. Did he go to see his aunt?

A. Not that ever I knew of.

Q. You never saw her with this Thomas that lived out in the country? A. I never did.

Q. What kind of a looking boy was he?

A. Why, he showed white and nigger.

Q. Was it a mulatto boy? A. Yes, sir.

Q. All of this observation you made, you made while you were trading in Wagoner?

A. Well, I traded there and I lived there.

Q. Yes, but before you went there you knew all about Nancy and her—— A. I knew all about Nancy.

Q. And the Birneys?

A. Yes, I would call the Birneys.

Q. And knew the boys. Now, how old was the oldest Birney boy the first time you saw him?

A. Well, I can't call how old he was; probably eight or nine, seven or eight, or nine or ten.

Q. Now, Mr. White, this boy that you saw in the buggy there that day—where did you next see him again?

A. Well, I saw him, that is, off and on all the time.

Q. Who was he with most of the time that you saw him?

Q. Most of the time when I saw him he was with Nancy or around the streets there by himself or in the store, off and on with those Birney boys.

Q. In the store? A. Yes, sir.

Q. Who was working there at that time?

A. Well, there was Charlie Bailey, Dave Marshal and Johnnie Harbison, and Miss Flowers, I believe her name was.

Q. Did you ever call the attention of any of them to this child who you mention as being Nancy's child?

A. No, sir, I didn't; he was commonly called amongst them there——

Q. Commonly called what?

A. Nancy's child and they had to watch him there.

Q. Didn't they call him Tommy? A. They did.

Q. Called him Tommy? A. Yes, sir.

Q. Now, how long did you stay there?

A. I never worked around the store, I was out on the road collecting all the time; there in Wagoner some two or three or four weeks and sometimes there would be weeks I wouldn't be in there from Monday morning to Saturday night.

Q. Whenever you were in there you saw this boy?

A. I saw the boy; he lived not a hundred feet from the back of the store.

Q. Did you ever hear Charlie Bailey call him Tommy?

A. Never did.

Q. Never did hear anybody call him that?

A. Oh, yes; Charlie Foster.

Q. Did he work in there? A. Yes, sir.

Q. Is he here now? A. No, sir.

Q. Where is he? A. I think he lives in Texas.

Q. Who else did you ever hear call him Tommy?

A. I heard Howard Morton—no, I didn't hear Howard Morton.

Q. You are certain you didn't hear Howard Morton, aren't you? A. No, I don't think I did.

Q. Who else?

A. A man in the store there, it was a common occurrence, said there goes Tommy Atkins, or said there goes Tommy—see where he is going.

Q. Tommy Atkins, gave his full name?

A. Yes, sometimes.

Q. Do you know why they would ever call him Tommy Atkins? A. No, I don't.

Q. Did you ever hear of her being married?

A. No, I never heard of her being married.

Q. Never knew anything about the family history and the only members of the family that you know about was Lee and Nancy, was that true? A. Yes.

Q. You was there in Wagoner when Minnie was there?

A. I was there in Wagoner but I don't recollect ever seeing Minnie but about twice.

Q. Did she have any boys with her? A. Had two.

Q. What was she doing with them?

A. Why, personally, I can't say.

Q. Well, did you ever see them in Wagoner again?

A. Why, yes.

Q. When? A. I saw them off and on since then.

Q. Who were they with?

A. One of them stayed with Charlie Bailey, and first one place and another and it was my understanding that Jim Childers——

Q. Not your understanding, now. Who were they with, Mr. White? A. Oh, down town.

Q. Weren't they living with Nancy?

A. I never seen them living with Nancy; they could have lived with Nancy and I not know it. I didn't see them.

Q. But you never saw these two boys with Nancy?

A. If I did, I don't recollect.

Q. You knew both of them?

A. I did when I see them; I know them now.

Q. Describe Charlie.

A. Well, I don't know which one is the oldest.

Q. Well, describe the oldest.

A. He was rather light, he showed Indian, though; rather light complected, both of the boys.

Q. Showed the Indian, what do you mean by that? What characteristics in them showed Indian?

Q. You have saw people——

Q. Don't argue with me, Mr. White, please; tell me what characteristics showed Indian.

A. Well, their color.

Q. What else?

A. Their color and probably their cheek bones; a little high—higher than most average white man's.

Q. The hair? A. The hair was dark and——

Q. Charlie's hair was black and straight?

A. As well as I remember; I never paid any particular attention to them.

Q. How about the younger one?

A. Well, the youngest was pretty light complected; about the same.

Q. Pretty much the same complexion? A. Yes.

Q. Which one was the thinner? A. Oh, I don't know.

Q. Did either one of them have light hair?

A. I don't know, I think not.

Q. Both had straight black hair?

A. Well, as well as I remember they did.

Q. What was the color of the hair of this Tommy that you are talking about? A. Light headed——

Q. How light—regular tow-head?

A. Oh, no, reddish white.

Q. Well, was he red head? A. I don't think so.

Q. You have heard the description of these other witnesses given on the stand? A. Certainly I have.

Q. Ranging from molasses to butter?

A. Well, I don't know what color molasses is——

Q. Well, you think his hair was white with a reddish tinge to it?

A. Well, about that way; might have been different if it were washed.

Q. Did you ever see Tommy with Harvey or Charlie, these two boys? A. If I have, I don't recollect it.

Q. How long did these boys stay around Wagoner?

A. I can't tell you that; I never paid any attention to them.

Q. Did you ever hear anybody say yonder goes Minnie's boys Harvey and Charlie?

A. No, I asked in the store whose boys those were and they said Minnie Atkins' boys.

Q. You never heard anybody say yonder *there* goes Harvey and Charlie Atkins, Minnie's boys, did you?

A. No, I don't think I ever did.

Q. Now, Mr. White when you first conceived the idea of looking for Tommy Atkins, this property over there looked like it was very valuable for oil purposes, didn't it?

A. Well, it was looking better all the time; oil production was getting closer to it.

Q. That was in the Cushing field, wasn't it? A. Yes, sir.

Q. And at that time production was moving in that direction? A. Yes, sir.

Q. You found out that it probably would be very valuable? Now, who was the first person that mentioned to you the finding of Tommy Atkins?

A. I don't know—who was the first fellow that mentioned that?

Q. Mentioned that to you?

A. Asked for information as to where he was?

Q. Yes, or suggested to you that you look for Tommy Atkins?

A. I don't remember, sir, whether it was George McElroy, or whether it was Bartlett. If I am not mistaken, this man that asked P. R. Brown in my presence at Okmulgee was the first one that I remember of hearing anything.

Q. That was the first one? A. Yes, sir.

Q. Now, is that what put the idea in your mind of looking for Tommy? A. Well, yes, sir.

Q. There was a discussion then about the richness of this property? A. Well, he wanted to know——

Q. Now, did you tell these people that he was Nancy Atkins' boy? A. No, sir, I did not.

Q. What did you tell them?

A. I didn't tell them anything.

Q. Did you tell them that you knew? A. I did not.

Q. Tell them that you didn't know?

A. I didn't do that.

Q. Didn't tell them anything at all—these people that inquired of you?

A. I told George McElroy; I said I can't tell you——

Q. Now, you had in mind that time, clear and distinct, the knowledge that Nancy had had a boy named Tommy, didn't you?

A. Well, I knew that, I didn't know whether that was the one or not; I didn't know whether he died before allotment.

Q. But you knew that was one? A. Yes, sir.

Q. You knew that Nancy had a boy named Tommy?

A. I did.

Q. And you started out to find whether that was the one?

A. Yes, sir.

Q. What first did you do towards finding out?

A. The first I did; I had written the letter to Mr. Jones.

Q. Who was Mr. Jones?

A. Court clerk in Wagoner county, at Wagoner at present.

Q. Did you go to the records to find out about Tommy?

A. I came here and got a card.

Q. Now, you started out with card. What was the first thing you noticed about that card that helped you to find Tommy?

A. Well, in getting the family card, I got the name of Nancy, Minnie, Charlie and Harvey Harrison.

Q. Now, that card shows the relationship, doesn't it?

A. Yes, sir.

Q. Now, you knew when you got that card that that was not Tommy you were looking for, did you?

A. No, sir, I didn't or I wouldn't have went to get it.

Q. How is that?

A. Of course I didn't or I wouldn't have gotten it.

Q. Didn't the card say Tommy Atkins was enrolled there as the son of Minnie Atkins? A. I understood that.

Q. Then, you knew that was not the Tommy you were looking for, didn't you?

A. No, sir. I taken that card, then, and went to Mr. Bailey, at Tulsa——

Q. Never mind about the details but let me ask you this. Didn't you immediately surmise that that was one of the boys that Nancy had with her at Wagoner? Of Minnie's?

A. No, sir.

Q. You know Mitchell Wadsworth? A. Yes, sir.

Q. You asked him who that Tommy was, didn't you?

A. Yes.

Q. What did he tell you?

A. He said he didn't know. He said Minnie had two children named Harvey and Charlie.

Q. Richard Wadsworth was a member of Minnie's family, related to Minnie and Nancy?

A. He was related to Minnie's half sister.

Q. What is that half sister's name? A. Kate Holden.

Q. Half sister of Minnie and Mitchell's mother, isn't that true? A. That is my understanding.

Q. Didn't Mitchell tell you at that time, Mr. White, if you wanted that land that the best way to get it would be to frame up that that was Nancy's kid and you could get that land?

A. No, sir, he didn't make that suggestion to me.

Q. You and he were not very friendly at that time, were you?

A. Why, we were—I never associated around with Mitchell; I saw Mitchell at the time they arrested him and started to Fort Smith with him.

Q. That was back in 1890, or the '90's somewhere?

A. Somewhere back there, I can't call the time.

Q. Now, Mr. White, you have been associated with the Nancy case from the very beginning then, haven't you?

Q. Spent lots of money? A. Spent some money.

Q. In connection with this case, haven't you?

A. Spent some money.

Q. You and your associates have furnished the money with which this case has been carried on, haven't you?

A. Yes, sir.

Q. You have been active in going from place to place and seeking evidence and have been pretty continually on that job, haven't you? A. Yes, sir.

Q. And active? A. Yes, sir.

Q. In the case where the deposition was taken over at Lytle's office, did you hear Nancy testify then?

A. I did.

Q. You were present, too? A. Yes, sir.

Q. Now, how did you happen to send Ellis Childers back for Nancy after at Sapulpa she had said that she didn't have any boy baby?

A. Well, sir, if you had been there and heard her telling and refused to answer questions for Judge Maxey, you would have been like I was, confident that she was telling a falsehood.

Q. You were confident she was telling a falsehood?

A. I was.

Q. So, you sent Ellis down to get her back and straighten it up? A. I sent Ellis to get her down there for the trial.

Q. Now, Mr. White, when you sent Ellis down there, what assurance did you have that she would not tell a falsehood again? A. Well, I didn't know.

Q. You did go to her at the hotel just before she went on the stand, like she said, and stated to her——

A. Now, Mr. Pinson, I didn't say that I went to her and talked to her at the hotel.

Q. No, I said like Nancy said; you misunderstood me.

A. How is that?

Q. You went to her and talked to her like she said?

A. I talked to her after the trial, the 26th of February.

Q. Then, you didn't talk to her before she went on the stand? A. I did not, sir.

Q. You had no idea what Nancy was going to say?

A. No, I had taken a shot on it.

Q. Mr. McDougal and Lytle were representing you at that time? A. Judge Maxey and Judge Rosser.

Q. Judge Rosser in it then?

A. No, sir, Judge Maxey and Mr. Gresham, who is now dead, at Wagoner.

Q. They were both there, weren't they? A. Yes, sir.

Q. Representing you? A. Yes, sir.

Q. You told them that Nancy was coming? A. Yes.

Q. You knew then, that she was going to tell the other story? A. I didn't tell them any such thing.

Q. Who put her on the stand? You did? A. Yes, sir.

Q. Without having any idea what she was going to say?

A. How is that?

Q. Your lawyers talked to her about what she was going to say?

A. Mr. Gresham did: Mr. Maxey didn't according to my understanding.

Q. Were you present when Mr. Gresham talked to her?

A. I was not.

Q. Was Ellis Childers present then? A. I don't know.

Q. You put the matter in his hands and got Nancy and bring her there?

A. I told Ellis to get Nancy and bring her to the trial.

Q. Did you talk with Ellis about what she was going to say? Before she went on the stand?

A. No, sir, I didn't do it.

Q. Did you see Ellis before she went on the stand?

A. I saw Ellis, yes.

Q. And didn't talk to him about what she was going to testify? A. I did not.

Q. Did you give him any instructions to what to say to her when he went down there? A. I did not.

Q. You didn't see her at all from the time she made the affidavit in this office for the several days which elapsed, or weeks, when she went on the stand?

A. I was sitting in the lobby when her and Ellis come in and Ellis taken her to a room upstairs and I never saw Nancy until I went back to get when Judge Maxey and—until Judge Maxey and Bartlett's lawyer got into quite a squabble and they were going to introduce the deposition Nancy had give and Judge Maxey objected to it, that they hadn't shown any reason why they hadn't Nancy there and Mr. Bartlett went on the witness stand and swore that they had used all the energy they had to get Nancy; that she was out of the county and wouldn't come——

The Court: Then, what did you do? You went over and got her?

A. Yes—she was already there, Judge.

By the Court.

Q. She was in town? A. Yes, sir.

Q. But was not in the courtroom? A. No, sir.

Q. Who brought her to the courtroom?

A. Judge Maxey got up and told the Court that Judge

Bartlett was mistaken, that Nancy was not out of the county, that she was at present in Creek County, Sapulpa, and Judge Stanfield asked if he could produce her and he said that we could.

Q. And you went and got her? A. Yes, sir.

By Mr. Pinson.

Q. Did you keep her concealed *her* there the days that she was present? A. We did.

Q. You were going to spring her as a surprise on opposing counsel? A. I suppose they were.

Q. Yet you didn't have any idea what she was going to say? A. I didn't know for I never spoke to her.

Q. Now, in the taking of the depositions at Sapulpa, on February 9th, 1914, you were present, weren't you?

A. I was.

Q. You knew that Nancy ran around the streets of Wagoner; with the little boy you understood was hers, didn't you?

A. Yes, sir.

Q. You understood that at the trial at Sapulpa, February 26th, 1914, didn't you?

A. Yes, sir—I beg your pardon I didn't understand that.

Q. Well, after the deposition were taken at the trial there? A. Yes, sir.

Q. Ten or twelve days or three weeks latter?

A. Yes, sir.

Q. You understood that then? A. I understood that.

Q. You had known that ever since 1895 or '96?

A. Yes, sir.

Q. That was true when you filed an answer, or your attorneys filed an answer to a motion for a new trial which was filed by the defendants in that case?

A. My attorneys didn't file no motion for a new trial.

Q. I said an answer to the motion for a new trial. Don't you remember going down and getting 25 or 26 affidavits attached to that answer? A. Yes, sir.

Q. You knew that when the receivership trial was had here at Muskogee, didn't you? A. Yes, sir, I was here.

Q. Now, Mr. White, have you testified before in this action?

A. Never have, with the exception that the Government put me on the stand when they was asking for a Receiver; the Government put me on the stand here in the Federal Court and asked me if I heard Minnie Atkins' testimony.

Mr. German: As to what Minnie had testified to at Sapulpa.

Q. Now, that is the only thing that you ever testified to until this morning? A. It is.

Q. About Minnie's testimony at Sapulpa?

A. Yes, sir, it is, yes.

Q. You never had testified before that you knew anything about Nancy and her child? A. Never have.

Cross Examination by Mr. Stuart.

Q. Mr. White, what is your connection with this case? What part do you claim? A. I own 17 and a half per cent.

Q. Seventy and a half? A. Seventeen and a half.

Q. Who are your associates—who own- it with you?

A. Mr. Ferguson, J. A. Ferguson, and Mr. Rutherford, and I suppose——

Q. What Rutherford?

A. Bob Rutherford that was murdered down at Pine Bluff.

Q. And who else?

A. And I understood but it is not on record where Mr. Ferguson, Mr. A. L. Ferguson's wife owned an interest and A. L., but then I have never noticed that on record.

Q. Where did you get your interest from?

A. What is that?

Q. Where did you buy your interest?

A. After we traded it off?

Q. Yes, this seventeenth?

A. I got it from Mr. Rutherford.

Q. And where did your associates get their interest originally—who from?

A. Got it from myself, Dr. Selser and E. W. Fowler.

Q. And where did that crowd get it from?

A. Got it from Micco T. Harjo, guardian of Nancy Atkins.

Q. Micco T. Harjo, guardian of Nancy Atkins?

A. Yes, sir.

Q. Your title, then, comes from Nancy Atkins' guardian Micco? A. Yes, sir.

Q. When you were over at Sapulpa, where was Nancy kept before she went on the stand?

A. I beg your pardon; I didn't understand you, Judge.

Q. Where was Nancy kept before she went on the stand?

A. She was kept in the St. James hotel.

Q. St. James hotel? A. Yes, sir.

Q. Who was with her while she was there?

A. Well, she had a room up on the third floor and no one looked after her that I know with the exception of Ellis Childers. Mr. Gresham was up there once or twice, I just heard he was, and the porter carried her meals up to her.

Q. People representing you kept her there secretly, didn't they? A. Yes, sir.

Q. You didn't let anybody know she was there?

A. No, sir.

Q. Mr. Gresham did talk to her before this trial?

A. I understood he did, I didn't see him.

Q. He was your lawyer? A. Yes, sir.

Q. He told you before she took the stand that she was alright? A. He did not.

Q. Didn't you ask him whether she was going to take that testimony back or not?

A. I never asked him whether she was going to take it back or not; he said we would rather have her testimony whatever it was than to have the deposition.

Q. I know, but didn't your lawyer tell you that she was going to take that deposition back? A. No, sir, did not.

Q. You were an interested party there and you didn't know whether she was going to renig what was in that deposition or not? A. I did not, no, sir.

Q. Yet you understood your lawyer had talked to her about the case?

A. I understood Mr. Gresham had talked to her.

Q. About the case? A. Yes, sir.

Q. Who put her on the stand there?

A. The Bartlett interests were introducing her deposition——

The Court: I think, Judge, he covered that, stated on the stand before we put her on.

Mr. Stuart: He is mistaken about that.

Q. The other side put her on the stand, didn't they?

A. The other side didn't have anything to do with putting her on—didn't know she was there.

Q. Then you put her on the stand originally, didn't you? A. At the trial at Sapulpa?

Q. Yes? A. Yes, sir.

Q. The record here is headed direct examination. Who was Mr. Lytle? Was he your lawyer?

A. No, sir, he was not.

Q. I will ask you if Mr. Lytle didn't ask her the very first question that was asked in that case?

A. I can't answer that; I don't know. I don't remember.

Q. Well, now the record shows this; direct examination by Mr. Lytle: "What is your name? My name is Nancy Atkins. Where do you live? My home is in Nowata, Oklahoma.

Did you ever live in Wagoner,'' and so forth. That continued for several pages. Don't you know as a matter of fact, Mr. White, Mr. Lytle put that witness on the stand?

A. No, I can't say that he did, Judge, all that I remember about it was that when Judge Stanfield asked Judge Maxey if we could produce her Judge Maxey said we can, and he said produce her, and I got my hat and went after her and brought her up there.

Q. Who asked her the first question?

A. I couldn't tell you to save my life.

Q. Then, why did you say the other side didn't know about her being there? A. They didn't know she was there.

Q. But who asked her the first question?

A. I don't know, I couldn't say.

Q. Then, you don't know whether Nancy was put on the stand in the first place as a witness for Mr. Lytle's people or not? A. I don't know.

Q. Don't you know Mr. Lytle put her on, and didn't Mr. Lytle say "Your Honor, I am surprised at this woman's testimony? '' A. He might have done it.

Q. Didn't he do it? A. I told you I didn't remember.

Q. Don't you know he claimed surprise there?

A. Well, yes.

Q. What was he surprised at?

A. That she was there for one thing.

The Court: Were you a witness in that case?

A. I was not.

The Court: You didn't go on the stand over there?

A. I did not.

The Court: You were one of the plaintiffs?

A. I was.

Mr. Cruce: Is Mr. Gresham dead or alive?

A. He is dead so I understand? I didn't see him.

Cross Examination by Mr. Hanford.

Q. Mr. White you testified that Nancy Atkins, at the time she gave her deposition, her answers were so hesitant that you could tell that she lied? A. How was that?

Q. You say when Nancy gave her deposition in Mr. Lytle's office that you could tell by the way she gave her testimony that she was not telling the truth?

A. In her cross questioning you could.

Q. Was she positive when she testified in Court sometime later? A. How is that?

Q. Was she positive in her statement that she had a boy child that lived when she testified in Court a few days later?

A. Why, she did.

Q. Did she ever state in that trial there as a fact that she was the mother of a boy? A. She did.

Q. Didn't she simply say "Supposed to be a boy, I guess"? A. I think that was probaby the first question asked.

Q. I will ask you if these questions were not asked her?

The Court: Is that at the trial or the deposition?

Mr. Hanford: This is at the trial.

Q. "By Mr. McGraw: Q. Nancy, are you telling the Court the truth when you say this was your boy? By Mr. McDougal: We object to that as an improper question. By the Court: The objection sustained. By Mr. Lytle: I don't understand whether this Burnett woman was present. Was Mandy present when the boy was born; didn't she act as a mid-wife? A. I don't want to have nothing to do with it." Wasn't that her statement? A. I think so.

Q. Then, didn't the Court say as follows: "All the Court wants you to do is to tell the truth and the Court will protect you? A. If I lie you will? By the Court: I want the absolute truth now. A. Well, I done said that Tommy Atkins was mine. Q. Was he? A. Yes, sir." Isn't that the only time she answered a direct question to that effect and in that manner?

A. I don't think it was; it possibly could have been but I don't think so.

Q. The only other time she answered the question was when she said, "Supposed to be a boy I guess"?

A. I don't remember.

The Court: Is Nancy Atkins testimony in the record?

Mr. Hanford: It hasn't been offered.

Mr. Allen: The deposition is, but the testimony we just simply offered excerpts from it.

Mr. German: Pardon me, Judge Allen, the only use that has been made of her testimony as distinguished from her deposition has been in cross examination.

Redirect Examination by Mr. Hill.

Q. You say you knew these boys, the Birney boys, how many of them?

A. Judge, if I am not mistaken, I remember four of them.

Q. What were their names?

A. The first one's name I can't remember, Dick, Henry and Joe.

Q. Which one was nearest to Tommy's age? A. Joe.

Q. Which was next?

A. Now, I can't tell which was oldest, Dick or Henry.

Q. Which ones were playing with Tommy around the buggy?

A. That was Dick and Henry and Tommy. They was continually getting in my buggy and I had a very fractious team and I would get after them and throw them out.

Q. Sometimes they were together and sometimes single?

A. Yes, sir.

Mr. Hill: That is all with him.

Witness dismissed.

Mr. Hill: I think this entire testimony, given at Sapulpa before Judge Stanfield, should be introduced.

The Court: You mean with reference to Nancy's testimony. Is there any objection to introducing the entire testimony given by Nancy Atkins at the trial at Sapulpa?

Mr. German: Yes, your Honor, we object to it. Really there has been none of it introduced.

The Court: I will say frankly I am interested in having before me in this case everything which Nancy said—I understand I will have before me the deposition which she made before the trial. I am interested in having before me everything which she said at that trial in relation to the existence of this boy and her relationship to it.

Mr. German: Well, that is all right. Our reason for objecting is simply that it appears that she testified there that she was the mother of a boy named Thomas, etc. But we made use of that merely in connection with circumstances under which she gave it, and we concede that it constitutes a self-serving declaration and is not admissible in support of her present testimony, because it was given at a time, not at a time rather, when she would have had occasion to tell the truth.

The Court: I am disposed to admit it over your objection. Not as any direct testimony on her part, but merely to throw light on this complex question now, having the entire history of what she has done and the conflicting things she has done. The circumstance under which this was given. I want all that testimony before me. Your exceptions will be noted.

Mr. Stuart: Your Honor, you have my idea exactly. I want everything in this record that these women have said.

Mr. Hill: I am offering the entire testimony direct examination and cross examination.

The Court: Every item of Nancy Atkins testimony direct or cross or redirect at the trial at Sapulpa will be admitted and exceptions on the part of the Government will be noted.

Mr. Allen: Your Honor, we only offered a part of the cross examination in the deposition; it would be well to let it go in.

The Court: Well, the entire deposition, direct and cross, may also be admitted so far as Nancy is concerned.

Mr. Hill: We have no objections to it.

Mr. Allen: The deposition begins on page 287 and runs to 303.

Mr. Hill: The entire deposition is now offered by the Government?

Mr. Allen: We had offered all that we cared to; your Honor wanted it all.

The Court: I would rather have it all.

Mr. Allen: The testimony commences at page 332 and runs to 348.

NANCY ATKINS, being called as a witness, on behalf of the defendants, and being first duly sworn to tell the truth, the whole truth and nothing but the truth, testified as follows, to-wit:

Mr. Gresham: I believe it would be proper for one party to offer evidence at one time and then permit the other party to offer evidence.

By the Court: I think that is proper, sustained.

To which ruling of the Court the defendant Gypsy Oil Company excepts.

Mr. Gresham—I ask that the testimony proceed in that manner.

Direct Examination by Mr. Lytle.

Q. What is your name? A. My name is Nancy Atkins.
Q. Where do you live?
A. My home is Nowata, Oklahoma.
Q. Did you ever live in Wagoner?
A. I used to live in Wagoner.
Q. Where did you come from to Wagoner?
A. To Wagoner from Muskogee.
Q. Have you ever been married? A. No, sir.
Q. Ever gave birth to a child? A. Yes, sir.
Q. What kind of a child was it?

By the Court: Boy or girl?

A. Supposed to be a boy I guess.

By Mr. Lytle.

Q. How long did the child live?

A. Lived to be ten years old.

Mr. Lytle: We wish to announce at this time that we are entirely taken by surprise by this evidence, as the Court may see by the evidence heretofore given in this Court by the same witness, and ask leave to cross examine her.

By the Court: Proceed.

Q. Did you appear in the office of McDougal & Lytle on the 9th day of February 1914, to testify as a witness?
A. I sure did.
Q. I will ask you if you didn't there testify that you gave birth to a girl child?
A. Yes, I did in this way; I had a right to give testimony in that way at that time.
Q. You did? A. Yes, sir, legal right.
Q. I will ask you if you didn't testify at that time that this girl child was born at——
A. Yes I done that; I admit that.
Q. I will ask you if you didn't further testify that you had never given birth to any other child?
A. No, I never told that.
Q. You didn't? A. No.
Q. I will ask you if you did not in answer to this question make the following answer: Q. "Have you ever had more than one child born to you?" A. "No, sir."
A. Oh, yes, I might have answered all of those questions.
Q. "Q. How long did the child that was born to you live?" A. "It was born dead." Was that your answer to that question?

A. Yes, at that time I answered all of those questions.

Q. Were they true or false at that time?

A. They must have been false in a way I guess.

Q. Well, were they true or false?

A. Well, they were not true.

Q. I will ask you if the next day or the day after that you didn't go to Wagoner and have a conversation with Eliza Sterling and ask her if she didn't remember that you just had one child and that it was a girl born dead?

A. I don't know Eliza Sterling.

Q. You never saw her? A. I knew Eliza Barnett.

Q. I will ask you if you didn't also see Angeline Moody on that occasion?

A. Yes, I seen her; I asked her if she knew anything about it.

Q. I will ask you if you didn't ask Angeline Moody if she remembered about these circumstances?

A. Yes, I asked her but she didn't.

Q. Where was this child that was born to you, born?

A. My child was born in Wagoner at Neosha Burney's when she was living in town on the northeast side of the track,

Q. I will ask you if you didn't testify at the office of McDougal & Lytle on the 9th day of February, that this child was born at Williams' rooming house?

A. Yes, I did testify to that, but——

Q. But that wasn't true? A. No.

Q. Since the 9th day of February, 1914, who have you talked to with reference to this case?

A. Not anybody as I know of.

Q. Never talked with anybody at all; do you mean to tell this Court that you came down to Sapulpa to the office of McDougal & Lytle and there deliberately testified to the untruth in reference to these things?

A. Yes, I done it because I was told by them there was big money in it for me and the other people too—just like they all doing on that same piece of land, and I thought I ought to get some of it.

Q. Was that what Micco Harjo told you when he was appointed your guardian? A. Yes, sir.

Q. Was that what Mr. White told you when he took a contract from Harjo—to prosecute this law suit?

A. I wasn't with them when they took the contract.

Q. Don't know anything about that?

A. No, I wasn't with them at all.

Q. I will ask you if you didn't sometime in October or November 1913, see Mr. H. U. Bartlett at Nowata and there tell him that you never had had but one child born to you, and that child was a girl?

A. Yes, I told him that for this reason, Harjo got me to tell Bartlett and for me to deny the child, and that it belonged to Minnie Atkins, and that is the reason I done it; Harjo was the cause of it all.

Q. Harjo was the cause of it all?

A. Yes, I suppose Bartlett paid him; that is what he was after, the money.

Q. Did you see Bartlett pay him anything?

A. No, sir, only what Bartlett told me.

Q. I will ask you if you didn't tell Henry McGraw in the presence of Mr. Bartlett, this gentleman, here, that you had never had but one child born to you and it was a girl and died at birth? A. When was that?

Q. 1913?

A. I never saw Mr. McGraw at Nowata; I seen him at Coffeyville.

Q. Did you tell him that at Coffeyville?

A. He took the same kind of affidavit as you have there but I didn't put my signature there.

Q. You did tell him that? A. Yes, I told him that.

Q. I will ask you if you didn't on or about the 9th or 10th of February put your signature to this deposition?

(Here counsel exhibit to witness defendant's exhibit "A" being written deposition of witness).

A. Yes, I did that.

Q. You signed and swore to it before a notary public?

A. Yes, sir.

Q. Yet, at the same time you knew it was not true?

A. Well, I was paid to do it; I was promised pay but I never got any yet.

Q. Never got any yet? A. No.

By Mr. McGraw.

Q. You met Mr. McGraw at Coffeyville, Kansas, on or about the 10th day of August, 1913, did you not? A. Yes, sir.

Q. One Henry McGraw is that correct?

A. I don't know his first name; he was introduced to me as Mr. McGraw, Mr. Bartlett's attorney he said.

Q. There was present at that time, a young lady who was acting as a stenographer and notary public? A. Yes.

Q. And Micco T. Harjo was also present? A. Yes.

Q. At that time did I not ask you this question, "How many children have you ever had" and you replied "one"?

A. Yes.

Q. And did I not ask you the sex of that child and you replied "female and——"

A. Yes, on the same ground as that other is.

Q. Did I not ask you "how long did that child live" and you replied, "it was born dead"? A. You sure did.

Q. I asked you "where was that child born" and did you not reply "at Wagoner"? A. Yes, sir.

Q. Did I offer you any reward for your testimony at that time? A. No, the reward was given to Harjo.

Q. Did you ask me for any money for your testimony?

A. No, I didn't.

Q. Did I promise to give you any money?

A. No, you did not.

Q. Did I not then ask you "if you ever had a child who was a boy" and did you not reply "no"?

A. No, I think you asked me if it wasn't my sister's child, the boy.

By Mr. Lytle: There are one or two other questions I would like to ask.

Q. I will ask you in answer to a question by Mr. Maxey at the office of McDougal & Lytle on the 9th day of February, if in answer to this question you didn't make the following reply: "didn't you tell Mr. White when he was down there that Thomas Atkins was your child and lived until he was ten or twelve years old and that you wanted Harjo to lease the land to him"? A. "No, I didn't tell him that."

A. Yes, I answered that in that office but I answered different to White when he was up there; that is the answer I gave you up there, that is true enough.

Q. I will ask you if you didn't make the following reply to the following question: "You gave a lease on this land didn't you?" "A. Yes, I gave Ellis Hammet a lease on it."

A. Yes.

Q. You represented yourself as the mother of Thomas Atkins and leased this to Ellis Hammett? "A. Yes, they kept running up there and wanted the lease and I signed the lease for them"; did you make those answers to those questions?

A. Yes, because I done it.

Q. I will ask you if you didn't make the following answer to the following question: "Q. Didn't you tell Ellis Hammett at the time you executed that lease that Thomas Atkins was your child?" "A. No, I didn't tell Ellis that in a way and I told him I didn't see how he could prove it." Did you make that answer to that question? A. How is that?

Q. I will ask you if you at the office of McDougal & Lytle on the 9th day of February, 1914, if you didn't make the following answer to the following question: "Q. Didn't you tell Ellis Hammett at the time you executed that lease that Thomas Atkins was your child," A. "No, I didn't tell Ellis that—in a way and I told him I didn't see how he could prove it."

A. Yes, I think I did.

Q. How? A. Yes, I think I did.

Q. How, you never did? A. I think I did.

Q. Nancy, who is paying the expenses of this litigation? A. For who?

Q. Of this law suit? Who is paying the expenses of this law suit? A. I don't know.

Q. Are you paying them? A. I never entered suit.

Q. You never had any suit?

A. No, I aint got any suit.

Q. Where is Micco Harjo? A. In Portland, Oregon.

Q. How long has he been out there?

A. Ever since he left Coffeyville along about the middle of August, I think.

Q. Do you know whether your estate has any money at this time?

A. I don't know if it has; I guess all the rest of the kin folks has got it; I haven't got any of it.

Mr. Lytle: At this time the defendants Bartlett and Hammett offer in evidence the deposition; we offer in evidence defendants exhibit "A" the deposition of Nancy Atkins, the witness now on the stand, for the purpose of impeachment.

Mr. Maxey: We object to the offer.

By the Court: The objection is sustained.

To which ruling of the Court the defendants except.

By Mr. McGraw.

Q. Nancy, at Coffeyville, Kansas, did I not ask you this question: "Who, if you remember were present and knows of the birth and death (meaning the female child) and did you not reply, "A. Manda Barnett." Manda Barnett was midwife and Mondy Barnett buried the child, Eleanor Williams brought me my meals from the restaurant; I worked for her —" Did you make that reply to that question?

A. Yes, I answered all of those questions; he was getting money. He got me to deny the child.

Q. Did I not ask you this question? "Q. And who was the father of this child," "A. I couldn't tell; I don't care to tell that?"

A. No, I told you that was something you would never find out, was my answer, I think, up there.

Q. Did I not ask you this question: "Q. Nancy do you know a Thomas Atkins enrolled opposite roll No. 7913 upon the Creek roll?" "A. No, I don't." Did that occur?

A. If you got it on there it must be.

Q. Did I not ask you this question: "Q. He is not your child as I understand it?" and did you not make this reply, "No, sir;" is that correct? did I ask you that question and did you make that answer? A. I don't remember.

Q. Will you say you didn't answer that question that way? A. I think I did tho.

Q. You say you did or did not?

A. I don't remember.

By Mr. Lytle.

Q. Has anybody threatened you with any punishment if you didn't come down here and change your testimony today?

A. Yes, they all seemed to think I will get in the penitentiary over it.

Q. Did anybody tell you that you would get in the penitentiary if you didn't come and change your testimony?

A. No, they didn't tell me that today.

Q. How? A. No.

Q. They didn't do it today, but when they do it?

A. Before I came down here.

Q. Before you came down here; they told you if you didn't testify that Thomas Atkins was your son you would get in the penitentiary? A. No, they didn't tell me that.

Q. What? A. No, they didn't tell me that.

Q. What did they tell you?

A. None of these people around here told me that.

By the Court: Who told you that?

A. Several of them up home, up at Nowata; after Harjo got this money they said if I didn't deny it I would get in the penitentiary.

By Mr. McGraw.

Q. Nancy, parties have gone to you and told you that you would get in the penitentiary if you didn't come into court and testify that Thomas Atkins was your son, haven't they?

A. No, nobody down here.

Q. But somebody over at Nowata or Wagoner has frightened you with that story, has he not?

A. No, didn't any of them talk that way, and I know I didn't want to go to the penitentiary.

Q. You were afraid you might get into trouble if you didn't change your testimony?

A. No, I ain't scared of that; all of my kinfolks has got money from that and lied and lied, and I have to go to the penitentiary.

Q. You don't want to go to the penitentiary?

A. No, I aint going.

Q. And you are not going? You came and changed your story to keep from going?

A. No, I didn't want to come to the court house.

Q. Who invited you down here this time? Why did you come?

A. Because I wanted to; Mr. Bartlett said for me to be back down here and he didn't send for me and I come myself; that is all I come for.

Q. Who bought your railroad ticket to come here?

A. I bought it myself; I have got money.

Q. Where are you staying here in town now?

A. I am putting up at the St. James hotel.

Q. At the St. James hotel? A. Yes, sir.

Q. Who took you to the St. James hotel?

A. Ellis Childers.

Q. Ellis Childers; did Ellis Childers come down here with you? A. He sure did.

Q. He surely did? A. Yes, sir.

Q. Did Ellis Childers tell you how to change your story?

A. No, he aint told me anything like that.

Q. Have you talked to Mr. White? A. No.

Q. Has Mr. White talked to you about this case?

A. No, he hasn't talked to me.

Q. Has any of his associates talked to you?

A. I don't know them.

Q. Do you know his attorneys?

A. None except Mr. Maxey.

Q. You know Mr. Maxey?

A. I seen him up here when I was with you all.

Q. When did you last talk with Mr. Maxey?

A. I never had any talk with him except there that day.

Q. Tell the Court who told you that you would go to the penitentiary if you didn't testify that Thomas Atkins was your son? A. Colored folks up to Nowata.

Q. Who are they; what is their names; can you give the names of some one?

Mr. Gresham: We object if the Court please.

By the Court: The objection is sustained.

To which ruling of the Court the defendants except.

Q. Some colored folks told you this?

Mr. Gresham: We object.

By the Court: The objection is sustained.

To which ruling of the Court of defendants except.

By Mr. Gresham

Q. You testified that Harjo had gone west, didn't you?
A. Yes, sir.
Q. Do you know how he happened to go west?
A. Yes, because he got money on this same proposition, on this land, and he got that administration from Minnie Brown's child, and he had to go, they was after him.
Q. Do you know who paid his expenses to go away?
A. Why, he left his wife and child and I was in Muskogee; they come and got me and brought me back; he had about $3.00 and his wife got a check after he was gone.

Mr. McGraw: We object as incompetent, irrelevant and immaterial.

By the Court: The objection is sustained.

To which ruling of the Court the plaintiffs except.

Q. You have testified you were offered money to testify before, when you gave your deposition? A. Yes.
Q. Who told you would get money?
A. Betty Mann came up there, and she came out there to Nowata and said she wanted me, and I said what for, and she said there was big money in this thing for her and me and for me to come on down; I didn't know it was going to be like this tho; but now understand me, Mr. Bartlett never has offered me a dollar in regard to that.
Q. Now, did Betty tell you [] would have to deny this child?
A. Would have to give the child to Minnie, so the deed would stand up they said.
Q. So the deed would stand up? A. Yes.

Mr. McGraw: I move to strike out the testimony of the witness relative to Betty Mann for the reason that it is incompetent, irrelevant and immaterial.

By the Court: The objection is overruled.

To which ruling of the Court the defendants except.

Q. You gave your testimony on these representations of Betty Mann?
A. On that ground, they wanted the deed to stand up for Minnie Atkins, and they got it, I guess.
Q. Do you now in Court want to tell the facts in the case?
(No reply)

By the Court: Do you want to tell the truth; the Court wants the truth.

A. I will tell you, I would rather not have anything to do with it.

By the Court: You tell the absolute truth about it.

(To the attorneys—Ask her material questions in this case, otherwise dismiss the witness).

By Mr. Gresham.

Q. Was Thomas Atkins your son?
A. He is supposed to be.

By the Court: Was he or was he not; answer the question.

A. Yes, sir.

By Mr. Gresham.

Q. Are you an Indian or white, or what blood are you?
A. I am an Indian; I am enrolled as a fullblood.
Q. Of what tribe?
A. Father is a fullblood and my mother is mixed, Creek and Euchee.
Q. What are you enrolled as? A. Nancy Atkins.
Q. Of what Nation? A. Creek Nation.
Q. Fullblood Creek? A. As a fullblood, yes, sir.
Q. Did you get an allotment? A. Yes, sir.
Q. Over there close to Coweta somewhere? A. Yes, sir.

By Mr. McGraw.

Q. Nancy, you answered a little while ago, when asked if Thomas Atkins was your son, "he is supposed to be"; was he your son or was he not your son?
A. He was my son, my child; it was a boy, it must have been my son.
Q. Who else knows that he was your son?
A. I don't know; Bob Delozier.
Q. He is a negro and lives at Wagoner?
A. He is colored.
Q. Can you give the name of any living man that knows—
A. That Thomas Atkins—that he was my son?
Q. Yes? A. Henry Burney.
Q. Who was present when he was born?
A. A lot of them.
Q. Was Mondy Burney there?
A. Mondy wasn't but Mandy——

By the Court: Was Manda there when the child was born?

(No answer).

Mr. McGraw.

Q. Nancy, are you telling the Court the truth when you say this was your boy?

Mr. Gresham: We object to that as improper question.

By the Court: The objection is sustained.

To which ruling of the Court the defendants except.

By Mr. Lytle.

Q. I don't understand whether this Burnett woman was present—was Manda present when this boy was born; didn't she act as mid-wife, Nancy?

By the Court: When the boy was born?

A. I don't want to have nothing to do with it.

By the Court: All the Court wants you to do is to tell the truth and the Court will protect you.

A. If I lie you will——

Q. I want the absolute truth now.

Q. Well, I done said that Thomas Atkins was mine.

Q. Was he? A. Yes, sir.

Q. Who was present; was Manda Burnett present when he was born; just answer it yes or no.

A. Yes, Manda Burnett was there, but——

By Mr. Lytle.

Q. Was Angeline Moody there? A. No, no.

Q. She wasn't there? (No answer.)

By Mr. McGraw.

Q. Did you have that boy enrolled?

A. I think my aunt enrolled him and I think she must have enrolled the child; that is how come him in there.

(Witness dismissed)

NANCY ATKINS and E. C. BARTLETT, of lawful age being first duly sworn, deposes and says:

Principal Examination by L. O. Lytle, one of the attorneys for H. U. Bartlett and A. A. Hammer.

Q. What is your name? A. Nancy Atkins.

Q. Where do you live? A. At Nowata, Oklahoma.

Q. What is your age, about?

A. I guess about 43.

Q. Are you the same Nancy Atkins who have as your guardian Micco T. Harjo? A. Yes, sir.

Q. Were you ever married? A. No, sir.

Q. Did you ever have born to you a child? A. Yes, sir.

Q. What was the child, male or female? A. Female.

Q. Have you ever had more than one child born to you?

A. No, sir.

Q. How long did the child that was born to you live?

A. It was born dead.

Q. Do you have any brothers or sisters?

A. One brother and one sister.

Q. What are their names?

A. The girl's name is Minnie Atkins and the boy's name *if* Lee Atkins.

Q. When did you last see your sister Minnie?

A. The last time I remember, it was about the year 1895.

Cross Examination by Mr. Maxey.

Q. Where were you living when the child was born?

A. Living at Wagoner.

Q. Who was you living with?

A. I wasn't exactly living with anyone. I was working at the Barnard Hotel; of course I was working there until I got so I couldn't work.

Q. Where did you go after you got so you couldn't work?

A. Out to Mrs. William's, she was running a rooming house.

Q. Where was you when your child was born?

A. At Mrs. William's.

Q. When was that?

A. I don't exactly remember, I can't remember the year, it has been so long.

Q. Where did you live after the child was born?

A. I lived right at Wagoner until I got ready to go to Nowata.

Q. Did you say this child was born dead? A. Yes, sir.

Q. Well, whose child was that you had with you when you was living at Wagoner?

A. I never had no child with me.

Q. You worked at Mr. McNally's restaurant?

A. I never worked at McNally's restaurant, I knew him though.

Q. You are sure you never worked at his restaurant any while you lived there?

A. I am not only sure, I am satisfied I didn't.

Q. And you didn't have any child around there with you during the time you lived at Wagoner? A. No, sir.

Q. Did you know Thomas Atkins?

A. I don't know anything about him.

Q. Where do you live now, Nancy? A. Nowata.

Q. Live in town? A. Yes, sir.

Q. When did you come to Sapulpa?

A. Came to Sapulpa last Tuesday night.

Q. Who came with you?

Objected to as incompetent, irrelevant and immaterial.

A. Mr. Bartlett's son and Betty Mann and my nephew here.

Q. What did you come to Sapulpa for?

Objected to as incompetent, irrelevant and immaterial.

A. Why, I suppose I come down here to do what I am doing.

Q. Anybody tell you that they wanted you to come down here to give testimony? A. No.

Q. Didn't talk to you about that? A. No.

Q. When did you first find out that they wanted you to take your testimony today?

A. I don't like to be questioned so much; I won't answer them, that's all there is.

Q. Have you talked to anybody about what your testimony would be? A. No, sir.

Q. Never talked to Mr. Bartlett about it nor anyone else? A. No.

Q. Who paid your expenses down here?

A. I don't know.

Q. You don't know? A. No.

Q. I believe you stated you had been here since last Tuesday? A. Yes, sir.

Q. Where have you been stopping since you came here?

A. Out to Betty Mann's.

Q. Are you and Betty Mann related?

A. Not that I know of.

Q. How came Betty to go to Nowata after you and bring you down here?

A. I don't know whether she went especially after me, I couldn't swear to that.

Q. She went up there and asked you to come here, didn't she? A. Yes.

Q. Did you talk to Betty about what your testimony would be? A. No, sir, I didn't.

Q. You was not in Nowata when she went up there, were you?

A. No, I was out to Coody's Bluff, six miles east of Nowata.

Q. Did Betty Mann go out there after you?

A. She came out there, I don't know whether she came after me; wanted me to go home with her.

Q. Who was with her when she came out to Coody's Bluff?

Q. Edward Bartlett, herself, and the negro they call Glass Grissin.

Q. What day was it that they came out to Coody's Bluff?

A. I answered that question once; it was on last Tuesday, it will be a week tomorrow.

Q. When did you first make up your mind to testify that your child was a girl?

A. I made my mind up in Nowata last July.

Q. Who did you tell about it at that time?

A. I told Micco Harjo, also Ellis Hammett and Bill Robinson.

Q. How come you to tell them it was a girl at that time?

A. Why, simply because they wanted me to swear that my child was a boy; this Thomas Atkins that they are bringing up, and I knew that was none of mine.

Q. Was that the first time that you had ever heard of Thomas Atkins? A. It was to my knowledge.

Q. Have you been promised any money to come down here and give testimony?

A. No, sir, nobody has promised me any money.

Q. Haven't you told since you were here in town that you had to swear that your child was a girl in order to get some money that had been promised you?

A. No, sir, I have not.

Q. And isn't it a fact that your child was a boy, and that he lived until he was about ten or twelve years old?

A. No, sir, he didn't, and I didn't swear no such stuff, because I know.

Q. You knew Betty Burney at Wagoner, didn't you?

A. Yes, I knew Betty.

Q. You lived with her a good while, didn't you?

A. No, sir, I did not.

Q. Didn't you and your child live with Betty Burney for a long while?

A. I won't answer any more questions, that settles that.

Q. Didn't your child die there at Wagoner when it was ten or twelve years old?

A. How could it die when it was born dead?

Q. But I am asking you? A. No.

Q. Now, you mean to say that you never had a child that lived with you there at Wagoner a good part of the time at Betty Burney's that was a boy named Thomas Atkins, and that he died when he was ten or twelve years old, and was buried there at Wagoner?

Objected as repetition having already been answered two or three times.

A. Why, I said "no" the last two or three times.

Q. You said a while ago that you knew Thomas Atkins?

We object for the reason that the question puts evidence into the mouth of the witness, which the witness has not testified, the witness having testified that she did not know Thomas Atkins.

A. I know one Thomas Atkins. He was Billy Atkins child and he lived at Coweta.

Q. How old is he?

A. I don't know how old he is, he is a married man, I don't know his age.

Q. That the only Thomas Atkins that you ever knew?

A. The only one I ever knew.

Q. Do you know anything about Thomas Atkins that they are talking about in this lawsuit? A. No, sir.

Q. Do you know who enrolled Thomas Atkins?

A. No, I don't.

Q. What kin were you to Mrs. Robinson, Muskogee, or Colonel Robinson's wife? A. I am her neice.

Q. You were living at her home before you went to Wagoner? A. Why, sure, she raised me.

Q. Did you ever go back there after you went to Wagoner? A. No, sir.

Q. Do you know who enrolled you? A. She enrolled me.

Q. How do you know that?

A. Well, it was told me that she enrolled me.

Q. She is not living now, is she?

A. No, she is not living now.

Q. How long after you left her house and went to Wagoner before your child was born? A. I don't know.

Q. Wasn't that the reason you left there?

A. No, I didn't leave home on account of that.

Q. Who was the father of your child?

A. That is one thing you will never find out. I won't tell that.

Examination by Judson J. Hughes, Attorney for Norris, Walton and Hammett.

Q. How long have you known Micco T. Harjo?

A. I don't know, I got acquainted with Micco T. Harjo in 1910, I think it was.

Q. Did you know Micco T. Harjo at the time that you were living in Wagoner?

A. No, I didn't know nothing about him.

Q. Do you remember the time when Micco T. Harjo filed a petition in the county court in Nowata county, asking to be appointed guardian over you and your estate on the grounds of your being an incompetent. Do you remember that instance?

A. I ought to remember it, I had it done. You understand I didn't have it done because I was crazy; I know what that word "incompetent" means.

Q. You have gone to school, haven't you, Nancy?

A. Yes, sir.

Q. Can read and write? A. Yes.

Q. What do you understand the word "incompetent" to mean? A. That's all right what it is.

Q. You refuse to state what the meaning of incompetent is, though you state you know what it means, is that right, Nancy?

> We object as irrelevant, incompetent and immaterial in response to the question of the attorney and also in response of Notary before whom depositions are being taken. Attorney demands an answer which witness refuses to give C. B. Rockwood, the Notary Public now tells the witness to answer the questions when she knows, and when she don't know, to tell them she don't know.

Q. You don't know what an incompetent is? A. No.

Q. Why did you state that you knew?

> We object as incompetent to any issue in this case what the meaning of incompetency is.

A. I don't know.

Q. Did you tell Micco Harjo at the time when being appointed your guardian, that you wanted him to be appointed guardian for the purpose only of securing about $400.00 that was due you from the Department of Interior?

A. No, it wasn't that much.

Q. The appointment was for the purpose of getting your money out of the Department of Interior?

A. Getting it from Kelsey.

Q. Were you at the County Court at Nowata on the 27th day of May, 1913, when George B. Schwabe, attorney on behalf of Micco T. Harjo, filed a petition to lease the lands allotted to Thomas Atkins in Creek County, of which this hearing is about? Were you present on that date?

A. No, sir, I wasn't.

Q. Did you know that Micco Harjo, as your guardian, was executing a lease to the allotment of Thomas Atkins, deceased to anybody?

We object as incompetent, irrelevant and immaterial.

A. I knew that he was giving a lease to some of them.

Q. Who told you about it? A. He told me.

Q. Did you tell him to go ahead?

A. I told him I did not have anything to do with it because the child wasn't mine.

Q. You didn't tell him the child was yours and to put in his petition that it was your child?

A. No, that's some of his and Schwabe's work, his lawyer.

Q. You say that you were a sister of Minnie Atkins?

A. Yes, sir.

Q. Do you know how many children Minnie Atkins had?

A. Yes, sir, two.

Q. What are their names? A. Harvey and Charlie.

Q. Were the names, Harvey Harris and Charlie Harris?

A. No, that isn't the name I was learned for the children, their fathers name was Peterkin.

Q. Isn't the English of that name Harris?

A. I don't know a thing about it.

Q. Do you know whether or not Minnie had any other children other than the two named? A. No, I don't know.

Q. How far did you live from Minnie from the year 1890 to 1900?

A. I was at Wagoner and she was at Muskogee, most of the time.

Q. You visited her a good deal?

A. No, she visited me.

Q. If she had of had any other children than the two named, you would have known it?

Objections as calling for the conclusion of the witness as incompetent, irrelevant and immaterial.

A. Why, yes, I would have known.

Q. And she didn't have but the two?

Objected as calling for a conclusion of the witness and as a repetition of the former question.

Q. You knew that Micco Harjo as your guardian, was bringing suit to clear the title to the Thomas Atkins land here in Creek County, didn't you Nancy? A. Yes.

Q. Do you know Henry Burney? A. Yes.

Q. Did you know him when you lived at Wagoner? A. Yes.

Q. What relation to Henry Burney is Betty Burney, if you know? A. Betty was Henry's mother.

Q. After the birth of Thomas Atkins, isn't it a fact that Betty Burney took care of him a greater part of the time in her home?

A. I don't know a thing about that at all, I can't answer that.

Q. Did you leave any child for Betty Burney to take care of? A. No.

Q. Did not? A. No.

Q. Where were you living in the year 1900? A. I don't remember.

Q. Don't remember whether you was in Wagoner or not? A. No.

Q. Do you know Ben Hammons of Wagoner? A. No.

Q. Say you don't? A. No.

Q. Do you know John Phillips of Wagoner? A. No.

Q. Do you know Richard Burney? A. Yes.

Q. Is he any relation of Betty Burney? A. Betty's son.

Q. Did Richard live with his mother when you were living there? A. Why, he was with his mother.

Q. You lived at the home of Betty Burney at the time your child was born? A. No, I didn't.

Q. Whose home were you living in?

A. I worked at the Barnard Hotel clean up until I couldn't work, then I got a room at William's restaurant.

Q. Do you know William's given name?

A. Yes, Henry Williams, H. W. Williams.

Q. Does he live at Wagoner yet? A. No, he is dead.

Q. Were they colored folks or white people? A. Colored.

Q. Do you know Ben DeLozier?

A. Yes, I know Ben DeLozier.

Q. Were you acquainted with him at the time you were living at Wagoner?

A. I was not personally acquainted with him, I have seen him around there.

Q. Isn't it a fact that he was one of the men who dug the grave for your son, Thomas Atkins?

A. No, sir, indeed he didn't I didn't have any son Thomas Atkins.

Q. Where is your guardian Micco T. Harjo?

A. He is in Portland, Oregon.

Q. Have you had him discharged? A. Not yet.

Q. Do you know how he came to be out there?

A. Not exactly.

Further Examination by Mr. Macey.

Q. Nancy, you remember Mr. White being down at the house of Micco Harjo's with you and him about the time that Micco Harjo was appointed your guardian?

A. Yes, sir, I know White.

Q. He was down there at that time? A. Yes.

Q. You and Micco and him talked the matter of having him appointed your guardian over?

A. No, it wasn't nothing about no guardian.

Q. He had done been appointed? A. Yes.

Q. Well, then it was about the time that the lease was executed to Mr. White, was it? A. I didn't execute no lease.

Q. I know you didn't.

Q. You don't know when that was executed?

A. I know that White was going to do that, but I didn't have anything to do with it.

Q. Didn't you tell Mr. White when he was down there that Thomas Atkins was your child, and lived until he was ten or twelve years old, and that you wanted Harjo to lease the land to him? A. No, I didn't tell him that.

Q. You were present at the time Micco Harjo was appointed your guardian, wasn't you? A. Yes.

Q. You was in the courtroom at the time of the hearing, wasn't you, you didn't make any objections to it, did you?

Objected to as incompetent, irrelevant and immaterial.

A. Why, no, I had him appointed on purpose.

Q. You knew that he was executing a lease to Mr. White for Thomas Atkins land, didn't you?

We object as incompetent, irrelevant and immaterial.

A. Yes, sir, I knew that he was. He tried to get me to sign it and I didn't.

Q. You gave a lease on this land yourself, didn't you?

A. Yes, I gave Ellis Hammett a lease on it.

Q. You represented yourself as the mother of Thomas Atkins, and leased Thomas Atkins' land to Ellis Hammett?

A. Yes, they kept running up there and wanted a lease from me, so I signed the lease for them.

Q. You just signed anything that they brought to you, if they paid you some money? A. No, I wasn't that big a fool.

Q. Well, they did pay you some money, didn't they?

A. Yes, Ellis gave me $50.00.

Q. Didn't you tell Ellis Hammett at the time you executed that lease that Thomas Atkins was your child?

A. No, I didn't tell Ellis that in a way, he kept on and I told him I didn't see how he could prove it.

Q. What else did you tell him at the time?

Objected to as incompetent, irrelevant, and immaterial.

A. Well, I didn't have much talk with him about it.

Q. That $50.00 looked good to you?

A. No, sir. I had more money than that at times.

Q. But you took it, didn't you? A. Why sure.

Q. After you executed the lease to Ellis Hammett and Wilbur Norris and W. W. Walton, didn't you appear on the 19th day of April, 1913, before J. S. Dickey, Judge of the county court of Wagoner county, and petition the court to approve this lease to Hammett and others?

A. You say, didn't I appear before the court?

Q. Yes?

A. No, I have never been before the court about that.

Q. Didn't you sign a petition to the court, asking the court to approve this lease to Hammett and others?

A. I don't know, I guess I did, I don't remember.

(Signed) Nancy Atkins.

And thereupon, R. C. ALLEN was called and sworn as a witness for and on behalf of Nancy Atkins and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. R. C. Allen.

Q. Judge, do you remember the time that you had Ellis Childers in your employ as National Attorney for the Creek Nation?

A. I have no independent recollection of it, I think I have with me though——

The Court: Well, you remember the fact, Judge, I take it, that he was in your employ?

A. Yes.

Q. I am not particular about the date. During the time he was in your employ, did you send him after Nancy Atkins to bring her to your office?

A. Yes, sir, I think I sent him. Mr. Cook, at that time, was conducting the investigation.

Q. It was either you or Mr. Cook that sent him. Did she come? A. She did not at that time.

Q. Then, you came to Judge Rosser and I and told us what you wanted and we told you we would have her come, didn't we?

Mr. Pinson: Objected to as leading.

Mr. Maxey: I was just trying to shorten it.

The Court: Does that comport with your recollection?

A. Substantially. The fact is that you telephoned me and said that you understood that I had sent for Nancy and that you would be glad to produce her if I wanted to talk to her, and that you would want to be present when the conversation occurred. Later you and Judge Rosser and Nancy Atkins, and yourself I think, came to my office.

Q. Now, you interrogated her and had the questions and answers written down, didn't you?

A. Yes, sir, it has been a long time. I didn't know, I had forgotten that they were transcribed. Mr. German says he has a copy.

Q. You had it transcribed and furnished us a copy. Now, have you the original?

A. Probably have. Mr. German says it was in his files.

Mr. German: I had that two or three days ago in the office and it is among my papers. I can't put my fingers on it now. It can be found among our papers.

Q. Now, after she had testified or after you got through interrogating her and taking her answers down, you asked that she be allowed to go in another room with Ellis Childers and let him talk to her alone, didn't you? A. I believe so.

Q. And after he had been in there with her for sometime and came out, you said you didn't care to interrogate her any further? A. Yes, sir.

Q. That was about all that occurred there, isn't it, Judge?

A. I think so

Mr. Maxey: Now, we want to introduce that statement.

The Court: That is what statement?

Mr. Maxey: Her statement which she made to Judge Allen at that time.

Mr. Stuart: Is it in writing?

Mr. Maxey: Yes, sir, taken in short-hand and transcribed.

The Court: Have you got it here? Mr. German says he knows he has the original.

Mr. Maxey: We haven't the copy here. Judge Rosser has it and I just 'phoned a while ago and they look for him in on the Flyer. Mr. German, you think you can find it?

The Court: Now, then, are there any objections to this going into the record?

Mr. Stuart: We object to it, your Honor, I can't see of any theory of law upon which this would be admissible. Nancy Atkins went and had a talk with them and they say she made a statement.

The Court: If there is any serious objections to this, it will not be admitted, because in my judgment it is clearly incompetent. I am interested in statements she made in Court as compared with her deposition before the trial.

Cross Exaination by Mr. Stuart.

Q. Judge, at the time you employed Ellis Childers, you knew he was employed by Mr. White, didn't you?

A. I knew that he had been.

Q. And you knew that he had been getting up testimony for Mr. White, didn't you? A. He told me so.

Q. What did you pay him?

A. A hundred a month and expenses.

Q. Now, did you get authority to employ him?

A. Yes, sir.

Q. What was your general authority for employing people? A. My contract.

Q. Does that authorize you to employ anybody you want to?

A. No, I have to get specific authority from the Secretary of the Interior to employ any assistance.

Q. You got specific authority to employ him?

A. Yes, sir.

Q. He was paid out of the Creek funds? A. Yes, sir.

Q. And all the men you employ are paid out of the Creek funds? A. Yes, sir.

Mr. German: Judge, is there any statement you would like to make? A. No, sir.

Witness dismissed.

Mr. Maxey: Now, it is understood we can offer that statement in evidence when we get it?

Mr. German: I will try to find it at noon for you.

Mr. Hill: If the Court please, we are ready to close with the exception of one witness. There is one witness we have sent for, I don't know whether we will use him or not. We would like to reserve the right.

The Court: What is his name?

Mr. Hill: McClaren. If he comes in, we would like to reserve the right to put him on the stand. Otherwise, the Nancy Atkins interest rests.

The Court: The next testimony will be in regard to Minnie and the Page interests.

Mr. Hanford: If your Honor please, at this time I wish to make some record. On behalf of the defendants Folk and Hanford, I want to interpose a demurrer to the evidence of the Government, on the ground that it does not show first that there was no evidence before the Dawes Commission as to the right of Thomas Atkins to enrollment; and on the ground that it fails to show any fraud practiced upon the Dawes Commission in making that enrollment; and fails to show that Thomas Atkins never had any existence.

I also wish to interpose a demurrer to the evidence on behalf of the defendant Nancy Atkins, so far as it goes to sustain their so called cross bill against the defendants Folk and Hanford, on the ground that it fails to show that Nancy Atkins ever had a son by the name of Thomas Atkins; fails to show that Minnie Atkins was not the mother of Thomas Atkins enrolled opposite Number 7913; and in so far as it goes to affect the entire cross action.

The Court: Is that all the record you desire to make?

Mr. Stuart: We make the same motion in demurrer on behalf of Mr. Page.

The Court: The record may show these demurrers to this evidence. In so far as they are proper in this character of case at this time the Court will reserve ruling, and I will determine that later. That is, they will be practically overruled for the present and exceptions noted.

Mr. Hanford: That includes the overruling of a motion for judgment for dismissal based upon the demurrers?

The Court: Well, if that is what you are seeking; if you desire to stand now on this evidence—— Let the record show your *demurs* to the evidence, the several demurrers read into the record and the Court will overrule them and give you your exception. You may proceed.

And thereupon, EMILY RIPLEY, was called and sworn as a witness for and on behalf of the defendant Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Emily Ripley.
Q. Now, Mrs. Ripley, where do you live now?
A. Norfolk, Va.
Q. Who do you live with there? A. My son.
Q. How many sons have you now? A. Two.
Q. Where is your other son? A. Leavenworth, Kansas.
Q. Mrs. Ripley, did you ever live at Fort Leavenworth, Kansas? A. Oh, yes.
Q. When did you first go to Fort Leavenworth, as near as you can remember? A. I think in 1878.
Q. With whom did you go to Fort Leavenworth?
A. With my husband.
Q. With your husband. What was your husband with reference to the Fort, and what did he do?
A. He was a civilian employee.
Q. A civilian employee, working in what capacity?
A. He was chief clerk of the military prison.
Q. Did you know a Mrs. Grodevant there? A. Yes.
Q. What was her first name? A. Lettie.
Q. You may state to the Court whether you were friendly or intimate with Mrs. Grodevant? A. I was quite intimate.
Q. Where did Mrs. Grodevant live at the Fort?
A. She lived north of the prison wall.
Q. North of the prison wall? A. Yes, sir.
Q. Where did you live?
A. On the east side of Riverside.
Q. How far was that from the Grodevants?

A. It was quite a little distance. It would be called quite a distance in a city, but not so very far in a military post; but we were across the prison and down the hill towards the depot; I can't tell.

Q. You may state whether you ever visited Mrs. Grodevant? A. Frequently.

Q. And you may state whether she ever visited at your house? A. Oh, very often.

Q. Did you ever at any time see an Indian woman at Mrs. Grodevant's? A. Yes.

Q. You know what they called her? A. Indian Minnie.

Q. Indian Minnie. Was there anything that attracted your attention to her, I mean in her general appearance first?

A. Yes, her physical development and her unusual coloring and her hair.

Q. Did you see her at Mrs. Grodevant's? A. Oh, yes.

Q. Now, I will ask you whether or not when you were at Mrs. Grodevant's you noticed anything peculiar about her physical condition? A. Yes.

Q. What did you notice, state to the Court?

A. She appeared to be about to become a mother. I saw her through a window one day, Mrs. Grodevant and I were in a room and we just discussed her appearance.

Q. And did she appear to be very far gone or little gone in pregnancy? A. Well, rather it seems to me advanced.

Q. Did you speak to Mrs. Grodevant about it?

A. Yes, I did, I just said Minnie looks as if she was pregnant; and Mrs. Grodevant said I believe she is.

Q. Now, when was it, Mrs. Ripley? A. It was in '85.

Q. How do you know it was in '85?

A. '85 was a memorable year for me.

Q. Well, just compose yourself?

A. I gave birth to a child and I lost a child in that year.

Q. In what portion of that year? A. In January, 1885.

Q. And one of your children died the same year?

A. In August.

Q. In August, 1885, and do you know whether that was before or after your child died? A. That I saw Minnie?

Q. Yes? A. It was before.

Q. Mrs. Ripley, did you see Minnie after that?

A. Oh, yes. Not after my child died.

Q. After you saw her in the yard when you say she was pregnant? A. Yes.

Q. How did she appear then?

A. Her condition was normal.

Q. Did you speak to Mrs. Grodevant about that?

A. Yes, Mrs. Grodevant said yes, Minnie has had a baby. That is just what she said.

Mr. German: I move, your Honor, to strike the conversation the witness had with Mrs. Grodevant as hearsay.

The Witness: I didn't catch your question, I beg your pardon?

The Court: It was without objection. No objection was made. The motion will be sustained and the Court will not consider that evidence. Your exceptions will be noted.

Cross Examination by Mr. German.

Q. Mrs. Ripley, when did you first live at Fort Leavenworth?

A. 1878 or '79, I am not sure about that, but I am quite sure then, it was earlier than the eighties.

Q. When were you married? A. I was married in '76.

Q. Where were you living at the time?

A. When I was married?

Q. Yes? A. In Leavenworth City.

Q. Did you continue to live in Leavenworth City until you moved to the Fort?

A. Just a year or two until quarters were built for my husband.

Q. When were you married? A. 1876.

Q. Then, it was a year or two until you moved to the Fort? A. Yes.

Q. When was your first child born? A. '77.

Q. Where? A. In Leavenworth.

Q. In Leavenworth? A. Yes.

Q. How old was your first child when you moved to the Fort?

A. I think my first child was, I think he must have been about two years old, between a year and a half or two.

Q. Can't you fix the time with more definiteness than that?

A. Well, I think he was a little over two years, for the reason we moved there in the spring and my first child was born in February.

Q. Your first child was born in February and the following spring following that you moved up to the Fort?

A. Yes, following his first birthday.

Q. You think it was the spring following his first birthday? A. Yes.

Q. Then he would be about a year and a quarter old?

A. Well, about that time as near as I can remember.

Q. So, it wouldn't be then when he was about two years old? A. Well, I guess not.

Q. Now, let's see. You are not certain what year it was you moved to the Fort?

A. No, I am not. I think it was in '79.

Q. It was either '78 or '79? A. Yes, I am quite sure.

Q. You may be mistaken—you may be about a year off there, is that right? A. I might be.

Q. In point of time? A. I might be.

Q. Where was your husband working before you moved up to the Fort?

A. In Nashville, Tennessee; he came to the Fort Leavenworth, he was a Government employee when he came to Fort Leavenworth.

Q. So, he had been working at the Fort while you were living down in the City? A. Yes.

Q. What was the name of the quarters you moved into out at the fort?

A. Well, they had no name and they were not designated by number, but it was on the east side of Riverside.

Q. Where with reference to the Officers quarters?

A. Just below on the same line.

Q. Which way is just below?

A. South towards the depot.

Q. What depot?

A. I think it was the Missouri Pacific depot that is on the reservation.

Q. Then how far in City blocks was it from where you lived that the Grodevant's lived approximately?

A. Well, about six or eight.

Q. Six or eight? A. Yes.

Q. You lived on the south side of the Military Prison?

A. Southeast side, east side rather.

Q. How far from the prison?

A. Well, just below the hill, that would be about three or four blocks.

Q. About three or four blocks? A. Yes.

Q. And the Grodevants lived north of the prison?

A. Yes.

Q. In what is known as Bluntville? A. Bluntville.

Q. That was outside the reservation? A. No.

Q. Was that in the reservation? A. Yes, sir.

Q. It seemed to you so at least?

A. Well, I think I know so.

Q. Now, when did you first know Mr. Grodevant?

A. Well, I can't tell; I knew him when he first came there.

Q. What year was that? A. I don't know.

Q. Can you tell the Court approximately what year that was? A. Maybe in the early '80's.

Q. Yes, but you don't know whether it was '81, '82 or '83? A. I do not.

Q. When did you first know Mrs. Grodevant?

A. I knew her before I knew Mr. Grodevant.

Q. You knew her before their marriage? A. Yes.

Q. Where did she live?

A. She lived right next door to where I lived with her father and her mother.

Q. Down town? A. Oh, no, Fort Leavenworth.

Q. At the Fort? A. Fort Leavenworth.

Q. What were her parent's name?

A. West, Andrew West was her father.

Q. Then when did they marry?

A. I don't know; I don't remember.

Q. Can't you tell us the year? She was a pretty good friend of yours, wasn't she?

A. Yes, she was a particular friend of mine.

Q. You were at the wedding, weren't you?

A. She had no wedding.

Q. Well, you remember the occasion very well?

A. I remember the occasion.

Q. Can't you tell us when it occurred?

A. I cannot.

Q. Well, about when did it occur?

A. Well, it seems to me that Mr. Grodevant had not been there but a year or so when they were married.

Q. You can come within a year or two of the time, can't you? A. Yes.

Q. Now, where did they first live after their marriage?

A. With her parents.

Q. On the reservation? A. Yes.

Q. Next to where you were living?

A. Next door to where I was living.

Q. Then you were living in the quarters that had been provided for your husband? A. Yes.

Q. And the Wests lived next door? A. Yes.

Q. How long did they live with her parents?

A. Well, I think a year or two; maybe three years.

Q. Maybe three years? A. Yes.

Q. Well, you can come to within a year or two of it now, anyway, can't you? A. Yes.

Q. You don't know whether it was one, two or three years? A. I don't think it was as long as three years.

Q. Where did they go to, then, from there?

A. They moved to the house where they lived, in north of the prison wall, in Bluntville; that is the house that was built for Mr. Grodevant.

Q. When did they move in that house? What year?

A. I don't know.

Q. What time in that year?

A. I think it was in the fall.

Q. Was it in the fall of the same year in the '80's, wasn't it? A. Yes.

Q. Can you give us within a year or two of that year?

A. No.

Q. You cannot. Did they have any children?

A. Oh, not a while—she had a child the first year of her marriage while she was living next door to me but it was still born.

Q. Still born? A. Yes.

Q. You took an interest in her and noticed her, during her pregnancy with that child, didn't you? A. Yes.

Q. When was that child born?

A. That child was born the first year of their marriage but I don't know what year that was.

Q. Don't you remember what year that child was born to her and she suffered so?

A. I don't remember; I remember she had a very serious time, though.

Q. You know from an observation that a still born child is an extremely matter with a mother? A. Yes.

Q. In a case of still birth? A. Yes.

Q. And you was there and had an interest on that occasion, didn't you? A. Yes.

Q. Was it in the spring, fall, summer or winter?

A. I believe it was in the spring.

Q. You think it was in the spring? A. I am not sure.

Q. But you don't know what year? A. No, I don't.

Q. How long after that was it, that they moved into the house that was built for Mr. Grodevant?

A. It might have been a year, I don't remember exactly.

Q. Mrs. Ripley, about how many years did you observe Minnie Atkins, Indian Minnie I mean, around Fort Leavenworth? A. How many years?

Q. Yes, about how many years? A. No years.

Q. What? A. There was no years.

Q. Well, how long did you observe her around there?

A. Only while she was living with Mrs. Grodevant.

Q. That was the only time? A. The only time.

Q. Where did the officers live—where were the officers quarters in Leavenworth?

A. Around on the Main Parade and in the West End.

Q. How far from where you lived?

A. Well, it is hard to measure distances in that way when there were no blocks in the Government Reservation but they lived just south of the prison and west of the prison. Some of the quarters faced south, and some east, and some west.

Q. How far in city blocks was that from where you lived?

A. That the officers quarters were from where I lived?

Q. Yes?

A. Well, somewhere about—the same distance that Mrs. Grodevant's house was from mine when hers was north of the prison wall; some were farther.

Q. Now, in going to the station——

A. Oh, if you speak of the officers on duty at the prison? They lived all on one line; that is the officers quarters you are speaking of?

Q. Yes, that is right?

A. Oh, well, they were north and a little west of me.

Q. Now, going to the station, did you pass the officers quarters? A. Yes.

Q. Would you go right down the street or road-way that was between the different officers quarters or building put up as used by the officers quarters?

A. Did we go by?

Q. Yes? A. Oh, yes.

Q. Do you know where that Military school was, that officers school, where it was located in the '80's?

A. I think it was over in the west part.

Q. Some six or eight blocks from where you lived?

A. Yes, all of that.

Q. Did you know Lieutenant Stafford? A. No.

Q. You didn't know him? Did you know Lieutenant— who was in charge of the Fort at that time?

A. I don't remember; my acquaintance with the officers families was confined to the officers on duty at the Military Prison where my husband was employed.

Q. Well, you went around the Fort lots and lots of times, didn't you? Over the Fort grounds and reservation, didn't you? A. I used to ride over there.

Q. How? Horesback or—— A. No, buggy.

Q. Buggy, you would ride over the Fort grounds how frequently?

A. Sometimes I would go in the evening to Dress Parade and sometimes in the morning to see Guard Mounting, with my children.

Q. Would you go riding every day?

A. Yes, not always around the garrison.

Q. But you would ride around the garrison, now and then? A. Yes.

A. I never did, I haven't any recollection that I did.

Q. Of having done so.

A. I never walk.

Q. How would you go down to Mrs. Grodevant's residence? A. I used to walk, sometimes I rode.

Q. Then, you did walk some?

A. I thought you spoke of the garrison—the main garrison.

Q. Somewhere on the reservation? A. Oh, yes.

Q. Some days, didn't you and your husband take a walk over the reservation ground and go down sometimes past the officers quarters and all around?

A. Pass the prison officers quarters?

Q. Yes? And pass other officers quarters? A. No.

Q. Sure of that? A. No, my husband never cared to walk.

Q. Didn't care to walk?

A. My husband was a victim of locomotor ataxia and didn't walk.

Q. Oh, never walked? A. No.

Q. Didn't you take your children walking occasionally?

A. No.

Q. What other Indian girl worked at the Fort?

A. None that I knew of.

Q. What became of Minnie Atkins after she left the Grodevants? A. I don't know.

Q. You didn't see her? A. No, I didn't see her.

Q. Now, didn't you know Mrs. Ripley that she worked for Lieutenant Stafford right after leaving the Grodevant's?

A. I did not.

Q. You didn't know that. Worked for them nine or ten months following her services at the Grodevants?

A. I didn't know it.

Q. And that he was a young married officer there, you didn't know that? A. Was he on duty at the prison?

Q. He was teacher—he was one of the teachers at the officers school.

A. Well, I wouldn't be like to know him.

Q. One of the instructors who lived on the reservation there in quarters provided for him—you didn't know him?

A. Didn't know him.

Q. So, the reason, now, that you are fixing the time that you saw this pregnancy of Minnie as being while she was at the Grodevant's is because that is the only time that you ever knew Minnie at the Fort according to your best recollection at this time? A. That is the only time.

Q. So, if she was at the Fort at other times and stayed around there and walked around over the grounds with the soldiers, you don't remember it? A. No.

Q. Whose house were you sitting in at the time you and Mrs. Grodevant looked out the window and saw Minnie?

A. In Mrs. Grodevant's house.

Q. Where was Minnie? A. She was out in the yard.

Q. Grodevant's yard? A. Grodevant's yard.

Q. How long before that was it that you had seen her?

A. Well, I had seen her a few months before, I think, or a month before, I don't remember.

Q. How long after that was it until you saw her again?

A. Well, I really can't tell because I used to see her from time to time and I never paid any attention to the time, or the length of time that elapsed from seeing her one time to another.

Q. Now, Mrs. Grodevant was over to your house some?

A. Oh, yes.

Q. And it was over there that you saw Minnie when this condition of pregnancy was gone?

A. I beg your pardon?

Q. When Mrs. Grodevant was over to your house and you saw Minnie, this condition of pregnancy was gone?

A. No, it was at Mrs. Grodevant's.

Q. You never noticed this pregnant condition of Minnie's but once as I understand you?

A. Just once, that once that I was impressed with the fact that she was pregnant.

Q. On other occasions when you saw her you did not notice that? A. No.

Q. Minnie was at Mrs. Grodevant's from the 15th day of October, 1884 until the 15th day of September, 1885, wasn't she, Mrs. Ripley? A. I don't know.

Q. You don't know?

A. I don't know how long she was there.

Q. What year was it you saw Minnie there? A. In 1885.

Q. How do you fix it?

A. I fix it—that was the year in which I gave birth to a child and in which I buried one.

Q. Now, it was in August that you buried a child?

A. Yes.

Q. Was that the child that was born in January?

A. Oh, no.

Q. That was another child? A. Another child.

Q. That child was born when the one that you buried——

A. The child that I buried was born when?

Q. Yes? A. Born in November.

Q. In what year? A. Of '83.

Q. '83? A. '82.

Q. Of '82? A. '82.

Q. Wasn't that '83? Let's see; that child—how old was that child when it died?

A. That child was three years old.

Q. Three years old. Then that is the way that you figure up that it was '82? A. Yes.

Q. What is the birthday of your first child?

A. February 28th, '77.

Q. '77? February 28th, '77; is that child living? A. Yes.

Q. It is the same age that I am to a day.

A. Indeed? February 28th, 1877.

Q. Yes, Ma'am. Now, this child of yours that was born in January, '85, that of course was born at the quarters that was provided for your husband? A. Yes.

Q. How long before that child was born, was it that you seen Minnie? A. I hadn't seen her.

Q. You hadn't seen her? A. No.

Q. Hadn't seen her at all before that child was born?

A. No, because my child was born in January and I had not seen Minnie until the following summer.

Q. What was the first time that you saw Minnie that summer? A. I think it was in the spring.

Q. Spring, what time?

A. What do you want me to say, the month or the——

Q. Yes, approximately, Mr. Ripley. Just as near as you can get to it now?

A. Well, I can't tell but it seems to me that the spring was rather well advanced.

Q. What season—what month is it that you regard the spring as well as then?

A. Well, about June, the latter part of May or June.

Q. You would say the 31st day of May or the 1st day of June? A. Yes.

Q. Now, you have not seen Minnie before that at all?

A. No.

Q. You had been to the Grodevant's home during your carrying this child that was born to you in January—I mean prior to its birth?

A. I had gone there, you mean?

Q. Yes, to Mrs. Grodevant's? A. Yes.

Q. Frequently? A. Yes.

Q. And this girl was not working for Mrs. Grodevant at that time, I understand? A. No.

Q. And after this child was born, and that is in January '85, you went to Mrs. Grodevant's after you could get up and move around—walk around—you visited Mrs. Grodevant frequently? A. Yes.

Q. How often do you suppose it was that you visited Mrs. Grodevant between the time of the birth of this child in January '85 and the time that you saw Minnie for the first time?

A. Oh, I think it was a number of months.

Q. A number of months? A. Yes.

Q. Now, approximately how many? A. Three or four.

Q. Now, at Mrs. Grodevant's—did you eat meals with her sometimes? Dine with her? A. Not very often.

Q. You would sometimes?

A. In the evening. Mrs. Grodevant's meals—she didn't have them at the hours that we had ours.

Q. No? What hour did she have her meals?

A. She had her meals quite early; her husband was olibged to be in the shops, I think, at about half past seven or eight.

Q. In the morning? A. Yes.

Q. And in the evening, what time?

A. She had dinner about 12 o'clock and she had supper about six.

Q. About six; and you would eat with her sometimes?

A. I don't remember taking a meal at Mrs. Grodevant's in the daytime in my life, as well as I knew her. I had a husband and children——

Q. You did at night sometimes?

A. In the evening—just had lunch.

Q. What would be your occasion for visiting her so frequently?

A. I don't know; we used to play cards in the evening.

Q. Play cards? A. Play cards in the evening.

Q. Whist or what? A. Euchre and whist.

Q. Your husband would go over, too? A. Oh, yes.

Q. And Mr. Grodevant played? A. Oh, yes.

Q. You remember the brother Frank Grodevant?

A. Very well.

Q. He lived there, too? A. Yes, made it his home.

Q. Now, you would go over there about once or twice a week to play whist, wouldn't you? A. Yes.

Q. Would you go oftener or that or not so often as that?

A. Sometimes oftener and sometimes not so often.

Q. What would you do with this little child of yours born in January '85—during the spring of '85 when you would go over there, how did you handle it? A. I had a nurse.

Q. And the nurse would stay at home with that child?

A. Yes.

Q. Now, why is it, Mrs. Ripley, tell the Court how you remember so distinctly the first time you ever saw Minnie was the last of May or the first of June, '85?

A. How I remember so distinctly?

Q. Yes; that that must have been the time.

A. Well, because she was different; because she had Indian blood in her and she was unusual in her personal appearance.

Q. Very attractive? A. Very.

Q. And she was large or not?

A. Large, she was voluptous looking.

Q. She was larger than the average woman, wasn't she?

A. She—I think she was.

Q. And how did she wear her hair? A. In two braids.

Q. Two braids down her back?

A. Hanging down her back.

Q. Now, she attracted your attention the first time you saw her? A. Yes.

Q. And was she in a family way at that time?

A. Well, it was not apparent if she was.

Q. Now, when was that that you first saw her?

A. That I first saw her?

Q. That you first saw her.

A. I think it was in June.

Q. Of '85? A. Yes.

Q. And she was not in a family way as far as you could tell?

A. Oh, yes, that is when I discovered a difference, I thought, in her figure than when I first saw her.

Q. Oh, well, then, I haven't understood you, Mrs. Ripley, how long before that was it that you first ever saw Minnie?

A. I don't think it was but a month or so.

Q. A month or so? A. Yes.

Q. Where was it that you first saw her?

A. Mrs. Grodevant's.

Q. Now, you remember that occasion distinctly, the fact that it was about a month or so that you first saw her in a family condition from the time that you first saw her in your life? A. Yes, it was about a month or so that I——

Q. How do you fix the fact that you first saw Minnie, that you first saw Minnie ever in your life as being about a month before you first saw her in this family condition?

A. How do I fix what?

Q. How do you fix the time?

A. I have no way of fixing it, only the time just seems to me that that was about the time; that about a month or so had elapsed when I saw her again and that I noticed that there was something about her figure that I [ ] not noticed the first time I saw her.

Q. Then you saw her once before you saw this impregnated condition, and you saw the impregnated condition about the late spring of '85? A. Yes.

Q. Did you visit Mrs. Grodevant in the day time?

A. Sometimes.

Q. About how often?

A. I can't tell you; sometimes there was a week I didn't go up there, sometimes I went up there two or three times a week.

Q. How long was it after you saw her in this impregnated condition until you saw her again?

A. About two months it seems to me.

Q. About two months; where? A. At Mrs. Grodevant's.

Q. Where was she when you saw her that time?

A. I think she was in the kitchen.

Q. In the kitchen? A. I think so.

Mr. Stuart: Will you speak so I can hear you, please?

A. She was in the kitchen.

Q. And you were in the kitchen?

A. No, I was in the dinning room, next to the kitchen.

Q. Taking a meal there? A. No, I was not taking a meal.

Q. What was you doing in the dinning—having lunch?

A. No, Mrs. Grodevant was doing work around in there and I was sitting there talking to her.

Q. And you saw Minnie in the kitchen?

A. In the kitchen, yes.

Q. And she was not in a family way? A. No.

Q. It had disappeared? A. Yes.

Q. Tell the Court how she was dressed on that occasion.

A. Oh, I cannot.

Q. Well, did she have on a corset?

A. I think she did. I think she was always corseted; she looked that way, at any rate. I think she was always corseted.

Q. What was the color of her dress that day?

A. I don't remember; I only remember that she had on a kitchen apron.

Q. Kitchen apron; what was its color?

A. I can't tell you; I don't remember.

Q. Was she moving around in the kitchen or standing still? A. Yes, she was moving around.

Q. Working? A. Working.

Q. And so you saw her from all view-points? A. Yes.

Q. Now, when you saw her, looking out of the window that time, where was Minnie? A. Out in the yard.

Q. Mrs. Grodevant's yard? A. Yes.

Q. Was that a rainy day, or a cloudy day, or was it a sun-shiny day? A. It was a pretty, sun-shiny day.

Q. The grass was green? A. Yes.

Q. Now, how soon before that had it rained if you remember? A. I have no recollection.

Q. Well, which way was she—was she standing [] the yard or was she moving around?

A. She was moving around, I believe she was stretching a clothes line.

Q. Stretching a clothes line or hanging up clothes?

A. She was stretching a clothes line.

Q. On poles or what?

A. Well, they were *close* there in the yard.

Q. *Close*? A. Yes.

Q. Well, what did she have on? A. I don't know.

Q. You don't know? A. No.

Q. Did she have on a corset that day?

A. I think she did.

Q. Well, was it drawn tight? A. It appeared to be.

Q. It appeared to be drawn tight? A. Yes.

Q. And you say you saw her—now, did you see her from the back or from the front or from the side?

A. I think all sides.

Q. All sides? A. Yes.

Q. Was her condition prominent enough to make you sure or were you somewhat in doubt as to whether she was in a family way?

A. I was not very much in doubt because her figure was considerably exaggerated from the last time I had seen her.

Q. About a month before?

A. About a month before, yes; I can't remember just when.

Q. She was a portly woman then, wasn't she; rather stout built?

A. Yes, rather stout built; wouldn't call her portly.

Q. Rather stoutly built; she had large breasts, didn't she? A. Yes.

Q. Always did have? A. Yes, sir.

Q. And was rather tall; above the average height?

A. Yes.

Q. And she had rather a large frame, didn't she?

A. Yes.

Q. And she had on an apron that day out in the yard, didn't she? A. Yes, sir.

Q. It was hanging loose? A. Yes, sir.

Q. And you just formed the conclusion that she was in a family way? A. Yes.

Q. Now, you had seen Minnie, then, three times in your life before you came to Muskogee, hadn't you?

A. Oh, I had seen her oftener than that but I don't remember each time I saw her; I would catch a glimpse of her.

Q. Where? A. At Mrs. Grodevant's.

Q. When?

A. When she was living there in '85; when I was up there during the day.

Q. From the time that you first saw her in '85? A. Yes.

Q. How often?

A. I can't tell; it seems to me that I saw her almost each day when I was up there when she was there.

Q. Let's see. The only reason on earth that you fix this as being '85, is because you just think that is the year, isn't that the fact?

A. Oh, no, I don't just simply think, I am almost sure that is the year.

Q. Almost sure? A. Yes.

Q. And you just remember to be the year? A. Yes.

Q. And you played cards—played whist with the Grodevant's for several years? A. Yes.

Q. And you visited with Mrs. Grodevant at her home for several years? A. Yes.

Q. And you just feel sure this was '85 that you saw Minnie in a family way? A. Yes.

Q. You saw Minnie around sometimes in the streets of the Fort?

A. I don't remember ever to have seen her in the streets of the Fort.

Q. She didn't run around much, did she?

A. Not that I know of.

Q. She stayed at home nightly?

A. Oh, no, I don't think she did because she was not there all the time.

Q. How do you know?

A. Well, I know that she worked at Mrs. Grodevant's intermitently.

Q. Intermitently?

A. Yes, she would be there sometimes and then she would disappear and then she would come again.

Q. Well, where did you get that idea?

A. Where did *you* get that idea?

Q. Yes, ma'am.

A. Because I knew she had not been there.

Q. How do you know it?

A. By not finding her there, not seeing her there when I went up a few times.

Q. Then you know this, don't you, Mrs. Ripley, that she was not in the Grodevant home until prior to the first day of May, 1885? A. I don't know that she was not there.

Q. Well, why? You know when she was there. You just said you knew she worked there, intermitently. Now, let's see how you know.

A. Well, I don't know that she was not there before May.

Q. Why?

A. Well, because it was only after that that I saw her during the month of May or the latter part of May or the beginning of June.

Q. That you first saw her?

A. Yes, but I don't remember *where* she was there or not.

Q. Do you know when Minnie was there?

A. No, I don't.

Q. You just told the Court that you know.

A. Told the Court?

Q. Yes. A. I told the Court when I first saw her there.

Q. When now?

A. Some time the latter part of May or June.

Q. And if she was there before that you might have known that?

A. I might have known of her being there without seeing her.

Q. Did you know of her being there before that without seeing her?

A. I remember Mrs. Grodevant said she was going to have a new girl, that she was an Indian.

Q. When did Mrs. Grodevant tell you that?

A. I don't remember.

Q. What time, after the child was born or was it before?

A. Oh, it was after.

Q. You know it was after, don't you? A. Yes.

Q. You fix it by the child's birth?

A. Well, my child was born some months before that.

Mr. German: Your Honor, it is twelve o'clock. There is another matter we want to question this witness about.

Thereupon Court recessed until one-thirty P. M.

And thereupon, Court reconvened at one-thirty P. M., pursuant to adjournment, and the following proceedings were had:

And thereupon, EMILY RIPLEY was recalled for further cross examination and testified as follows:

Cross Examination by Mr. German.

Q. Mrs. Ripley, what stage of pregnancy was Minnie when you first saw her that day through the window in that pregnant condition? A. I would say in the latter state.

Q. The enlargement was low? A. Yes.

Q. Down low. It wasn't high? A. No.

Q. You understand that in the latter stages the enlargement is down low? A. Yes.

Q. And that up to about the last month or two before birth the enlargement is high? A. Yes.

Q. You say the evidence of pregnancy then was pronounced? A. Yes.

Q. Very pronounced?

A. Well, as pronounced as can be with a woman who seemed to be wearing corsets, ordinarily women do not.

Q. Well, was it so pronounced as to be very marked, could you tell it distinctly?

A. Yes, I would have said distinctly that the woman was advanced in pregnancy.

Q. Now, you say it was about two weeks after that that you saw her in the kitchen and she was freed from that condition? A. I didn't say it was two weeks.

Q. How long was it?

A. I don't remember how long it was.

Q. About two months?

A. Yes, it seems to me maybe not quite two months. I am not sure.

Q. How came you to be here as a witness? A. I was called.

Q. Who called you? A. Mr. Bond.

Q. Lee Bond? A. Yes, sir.

Q. How long have you known him?

A. A good many years.

Q. When did you first know him?

A. I can't recall just when, but I have known Mr. Bond ever since he was a boy.

Q. You were living in the City of Leavenworth when he was born, were you? A. When he was born?

Q. Yes? A. Yes.

Q. Do you remember the fact of his birth?

A. No, I didn't know his people at that time.

Q. You were not acquainted with them? A. No.

Q. Well, who was the first person ever talked to you about this? A. Why, Mr. Bond.

Q. Where? A. Leavenworth.

Q. When? A. It will be two years this summer sometime.

Q. Then, it was sometime in the summer of 1915?

A. Yes, I think it was. I think it was near the fall; it was not long before I went back to Cincinnati.

Q. How did you happen to be in Leavenworth?

A. I was visiting there.

Q. Who? A. I was visiting at my son's house.

Q. At that time you had a conversation with Mr. Bond about this? A. Mr. Bond had Mr. Long with him.

Q. Oh, Mr. Long saw you? A. Yes.

Q. Who did you have the conversation with, Mr. Long or Mr. Bond? A. With Mr. Long.

Q. Now, you didn't remember it very well at the that time did you at first? A. This?

Q. Yes?

A. Well, it seems to me that I remembered the principal things about as well as I do now.

Q. What are the principal things about it?

A. Well, the principal things are the dates at which, the time I remember making the discovery that Minnie was about to become a mother and after that when she returned to Mrs. Grodevant after the birth of her child.

Q. You remembered those two things then? A. Yes.

Q. Now, when did you come to Muskogee?

A. Wednesday morning, yesterday morning.

Q. Where from? A. From Norfolk, Va.

Q. Alone? A. Alone.

Q. All the way? A. All the way.

Q. Didn't some one come with you part of the way?

A. Not at all.

Q. Where did you first meet Mrs. Bond in the last two weeks? A. I beg your pardon?

Q. Where did you first meet Mrs. Bond in the last two weeks, where and when? A. I haven't been here but a week.

Q. You say a week Wednesday morning? A. Yes.

Q. Where, here in Muskogee?

A. Oh, no, I have been a week in Leavenworth, but in Muskogee I came yesterday morning.

Q. You were in Leavenworth a week before you came on here? A. Yes, sir.

Q. Well, did Mrs. Bond meet you somewhere between Norfolk, Va., and Leavenworth? A. No, sir.

Q. You came with her from Leavenworth to Muskogee? A. Yes.

Q. Who did you talk with about this matter after the early fall of 1915 and prior to the time you came to Leavenworth last week? A. Who did I talk to?

Q. Yes? A. Well, Mr. Long.

Q. Where did he see you?

A. He saw me at the Planters Apartments.

Q. Where? A. In Leavenworth.

Q. When?

A. That was in the early fall I think it was, in August.

Q. 1915? A. 1915, yes, sir.

Q. After that who has been to Norfolk to see you?

A. No one has been to Norfolk.

Q. No one at all? A. No. No, a man came to Cincinnati.

Q. And talked to you? A. Yes.

Q. When? A. I believe it was in the month of July.

Q. What year? A. Last year.

Q. Last year? A. I am not sure whether it was July.

Q. Wasn't it in May?

A. I don't think it was so early as that.

Q. Now, anyhow it was sometime last year?

A. Last summer, yes.

Q. Now, who was that man?

A. I can't remember his name now, he was a lawyer from Cincinnati, who called me up on the telephone before coming to my house; and he asked when he could see me, he wanted to see me on business—I didn't know any one there and I asked what business he wanted to see me on, and he said he wanted to see me about the Indian Minnie case. And he asked what car he should take to come to my apartment and within an hour he was there.

Q. You talked to him?

A. Why I answered the few questions he asked.

Q. You told him you didn't remember about Minnie?

A. Oh, I couldn't have said that.

Q. Now, didn't you tell him that?

A. I don't think so, because I did remember.

Q. Well, didn't you tell him if she was ever in a family way you didn't know? A. No, sir.

Q. You say you did not say that? A. I did not say that.

Q. Who was that man?

A. I don't know and I can't even remember his name.

Q. Now, when did you talk with somebody else about it after that? A. No one.

Q. Until lately? A. Until lately, yes.

Q. Who have you talked with lately about it?

A. I talked to Mr. Bond and Judge Stuart.

Q. Now, let's see, do you know Dave Atchison, Mr. Bond's father-in-law? A. Yes.

Q. Have you talked with him? A. No.

Q. Where are you staying, over at the Severs Hotel? A. Yes.

Q. Mr. Atchison is there? A. Yes.

Q. And Mrs. Bond? A. Yes.

Q. You and they are around there together? A. Yes.

Q. And you say you don't talk about this matter any? A. Why, no.

Q. Are you sure of that?

A. We might say a little something in discussing it in some way. I think he told me he had been examined, but we haven't discussed it.

Q. Who told you Mr. Grodevant had an itemized expense account that showed payments to Minnie but that there were two weeks in June, 1885, missing, who told you that?

A. I don't remember that anyone told me that.

Q. You heard of that, didn't you?

A. I don't believe I did.

Q. You don't remember it? A. No.

Q. Are you quite sure of that Mrs. Ripley? A. I am.

Q. Quite sure. Did somebody not show you a copy of those entries in that little book? A. No, sir.

Q. You knew that Mrs. Grodevant kept an itemized account expense book?

A. I did not; I knew that Mr. Grodevant was very methodical and systematic about everything he did but so far as household expenses were concerned, I didn't think he went into such detail.

Q. Now, on the occasion that you and Mrs. Grodevant looked out the window and saw Minnie in the family way—you say that you and she talked about it? A. Yes.

Q. And she expressed surprise about her being in that condition?

A. Not exactly surprise. She had her back to the window and I was facing it and I saw Minnie out there and I remarked on this condition and I said Minnie looks to me like she is in a family way and Mrs. Grodevant said I am afraid she is.

Q. Afraid she is? A. Yes.

Q. But Mrs. Grodevant was not sure about it, was she?

A. Well, I think she was about as sure of it as I was at the time.

Q. But she didn't say she is in a family way, she said I am afraid she is?

A. She said I am afraid she is. She said isn't it too bad.

Q. Did she say I am afraid she is? Did she say that, now, Mrs. Ripley?

A. I am not sure now whether she said I am afraid she is or I think she is, I am not sure about that, but Mrs. Grodevant had a favorite expression—would say I am afraid she is—that is, or I think she is, that is a characteristic expression of Mrs. Grodevant's.

Q. Afraid she is or I think she is? Did Mrs. Grodevant then turn around and look at Minnie?

A. I don't think she did; I don't remember but I don't think she did. At that time I think we had some cook peaches on our lot.

Q. You were not afraid about whether Minnie was in a family way? A. No, I felt rather positive.

Q. You knew it, and you didn't just have a think on that subject did you? A. No.

Q. Because you know when a woman is in a family way?
A. Yes.

Q. You can tell it? A. Yes.

Q. Mrs. Ripley, isn't it a fact that you can tell when a woman is in a family way for at least four months before she gives birth to a child, isn't that a fact?

A. Oh, yes, you can tell it.

Q. There is no doubt about it. Is your husband living?

A. Beg pardon?

Q. Is your husband living? A. No.

Q. How long has he been dead? A. Three years.

Q. Have you been married more than once? A. No.

Q. What is your adress in Norfolk, Virginia?

A. 429 Olney Road.

Q. How do you spell that? A. O-l-n-e-y Road.

Q. How long have you been living there?

A. Since the first of April.

Q. 1917? A. '17.

Q. You lived in Cincinnati before that? A. Yes.

Q. How long? A. About three years, I think.

Q. What was your address in Cincinnati?

A. Just Westminster Building, an apartment house.

Q. Westminster building, where was it located?

A. Gilbert Avenue, on Walnut Heights.

Q. Where had you lived before that?

A. Leavenworth.

Q. Did you leave Leavenworth about four years ago?

A. I left Leavenworth three years ago.

Q. Three years ago and went to Cincinnati?

A. Went to Cincinnati.

Q. What was your address in Leavenworth, your last address?

A. My last address was the Planters Apartments, Leavenworth, Kansas.

Q. Where are they located?

A. On Shawnee and the Esplanade.

Q. Shawnee and the Esplanade. Shawnee is the street running east and west immediately south of Seneca, isn't it?

A. Yes.

Q. And Esplanade is the street just east of First street, isn't it? A. Yes.

Q. On—just off of Main street?

A. Main street, that is the Esplanade, northern extension of Main street.

Q. Of Main street? A. Yes.

Q. Well, let's see, isn't Main street——

> The Court: Now, will there be any light thrown on the case by these details? You have the address.

> Mr. German: Yes, only one question in reference to that.

Q. Where is that in reference to the business part of the town?

A. Well, it is rather off; the business part of the town is more west.

Q. West of that and that is near the river?

A. Right on the river bank.

Q. Right near the depot?

A. Yes, just above the Union Depot.

Q. Did you talk with anybody during the noon hour about your testimony this morning?

A. Just talked about my testimony, how scared to death I was, and I didn't think I would live through it.

Q. Who did you talk with? A. Mr. Bond.

Q. Over to the hotel? A. Beg pardon?

Q. Over to the Severs hotel? A. Yes.

Q. Now, you say that the last time that you saw—I mean the first time that you ever saw Minnie was about a month before you saw her during—through the window, in this impregnated condition.

A. Well, maybe it was a couple of months before I saw her in this impregnated condition. I had a young baby at that time and I didn't go out very much.

Q. You hadn't a baby?

A. Yes, I had a little baby; baby was born in January of '85.

Q. Well, you didn't go over to Mrs. Grodevant's at that time? A. No, not at that time.

Q. Not twice a week, or maybe oftener?

A. No, not so often as I did prior to the coming of this child.

Q. Well, prior to the coming of the child in January, you had been there extremely frequently?

A. I was over that winter because——

Q. How?

A. Over that winter because I was pregnant and went out but little.

Q. After this child came, you had a nurse to take care of it? A. I did.

Q. And you went over there quite often? A. Yes.

Q. Quite often. You say it might have been two months before she was in this pregnant [] that you first saw her?

A. Yes.

Q. This morning you said one month; why do you now change that?

A. Well, because I am thinking about it now a little more clearly and it seems to me that it was a little longer than that.

Q. Little longer? A. Yes.

Q. You said this morning that you only saw her that one time, the first time you ever saw her and that the next time you saw her was through the window, in this impregnanted condition. Now, let's see; had your memory been refreshed any on that? A. Why, no.

> Mr. Cruce: If the Court please, I don't know whether it is proper to interrupt, she didn't state—she said she remembered those things.
>
> Mr. German: Well, she says her memory has not been refreshed.
>
> The Court: I don't remember the testimony as counsel incorporated it in the question, anyhow; of course the record we will rely on.

Q. Now, you say that Mrs. Grodevant told you that she was going to have an Indian to work for her? A. Yes.

Q. How long was it after your child was born that she told you that?

A. Oh, this was before my child was born that she told me this.

Q. You know it was? A. Yes.

Q. Well, didn't you say this morning that it was afterwards?

A. I don't think I did; I think I said it was before my child came that she told me she was going to have an Indian girl to work for her.

Q. Well, you say you talked with Mr. Bond during the noon hour?

A. Yes, just a little, just what I said, just discussed my—

Q. Over there in the southeast corner of the lobby of the Severs? A. I don't know the points of the compass.

Q. Well, it was in the corner of the lobby?

A. One corner, yes, sir.

Q. Then, how long after Mrs. Grodevant told you that was it until you saw Minnie?

A. Well, it must have been two months or so.

Q. Two months or more? A. Yes.

Q. How old was your child when you first saw Minnie?

A. Well, she was born in January?

Q. Yes?

A. And this must have been—I saw Minnie after that I think it was maybe July or August, I can't remember which. Remember I was mother myself and had a great deal to attend to, my husband, myself and my family.

Q. I say, not let's misunderstand. I ask you how long after the birth of your child until you saw Minnie?

Mr. Stuart: These ladies had better go out.——

The Court: While those witnesses are coming, the record may show in view of the cross examination of this witness, that the ruling of the Court this morning excluding the conversation between this witness and Mrs. Grodevant at the time the witness testified she noticed the pregnant condition of Minnie Atkins, will be set aside and that conversation will be permitted to remain a part of the record.

Mr. German: We except, your Honor. Will you read her the question, please? (Question read).

A. I think maybe three or four months; maybe four months.

Q. Maybe four months? A. Yes, I am not quite sure.

Q. And where was it you saw her?

A. I saw her out in the yard.

Q. Out in the yard? A. Yes.

Q. What was she doing?

A. I believe she was stretching the clothes line.

Q. That was the first time you had ever seen her?

A. No, I had seen her in the house. This was the first time I saw her that I thought she was pregnant

Q. Did she—— The very first time you ever saw her, how long was that after the birth of your child?

A. Two or three months.

Q. Your child was born in January? A. Yes.

Q. What time? A. The 8th.

Q. Then it would have been in March or April that you first saw her? A. Yes, March or April.

Q. Then, in the last of May or first of June you saw her in this condition? A. Yes.

Q. When was it you said your child died?

A. My child died in August.

Q. What time, what day? A. The 25th of August.

Q. How long was it before that that you saw Minnie for the last time before that?

A. The last time before that I think it was in July.

Q. July? A. Yes.

Q. How long had your child been ill? A. About a week.

Q. So, you think it was in July then you saw her the last time before your child's death, and was that the only time you saw her after you had seen her in the yard in this impregnated condition?

A. I believe it is, I believe that is the only time I saw Minnie after that. I went into mourning.

Mr. German: That is all.

Cross Examination by Mr. Cruce.

Q. Mrs. Ripley, what relation are you to Mr. Bond, if any?

A. I am no relation to Mr. Bond, I never considered myself a relative; Mr. Bond and my son married sisters.

Q. Now, did you tell Mr. German, have you since the noon hour, the gentleman who was just questioning you, that you had spoken to Mr. Bond during the recess of Court during the noon hour? A. Yes.

Q. Did you tell Mr. German that before you came to the witness stand after dinner?

A. Did I tell him that? I don't think I spoke to him until after I came up here.

Q. Do you know how he knew that you had had a conversation with Mr. Bond during the noon hour?

A. Well, I don't know, I can't imagine, this is all a great mystery to me.

Q. Do you know how the Government knew that you were living in Cincinnati? A. No.

Q. You don't reemmber the name of the man who came to see you in Cincinnati? A. I do not.

Q. He claimed to be a lawyer? A. Yes.

Q. Do you remember whether you have seen him here or not? A. Whether I have ever seen him again?

Q. I say, do you remember whether you have seen that Cincinnati lawyer here?

A. No, I wouldn't know him if I would see him.

Q. He told you he had been sent to see you by a Muskogee lawyer? A. Yes.

Q. Did he give you the name of the Muskogee lawyer?

A. He did not.

Q. Did you answer him truthfully as you remembered at that time?

Mr. German: We object to that as incompetent.

The Court: Overruled.

A. Yes, I think I answered his questions as nearly as I could remember and truthfully.

Q. Have you seen him since? A. Never.

Q. Has he or the Muskogee lawyer ever requested you to appear here as a witness? A. Never.

Q. Who were you living with in Cincinnati?

A. I was living with my son, keeping house.

Q. With your son?

A. I was living in an apartment house.

Q. With your son? A. Yes.

Q. Who are you living with now?

A. I am living with my son.

Q. In Norfolk, Va.? A. In Norfolk, Va.

Q. Is he a married man? A. No, sir.

Q. What is his business?

A. He travels for Proctor & Gamble.

Q. Now, Mrs. Ripley, you remember that your child was born in January, '85? A. Yes, sir.

Q. You remember that the time you saw Minnie in this condition was after the birth of that son and before the death of your other son?

A. After the birth of that girl, it was a girl, yes, sir.

Q. Can you be mistaken about that?

Mr. German: We object to that as argumentative.

The Court: I would like to ask Mrs. Ripley just this: What is it that causes you to associate your seeing Minnie with the death of your child and causes you to know you saw her in this condition before the death of your child. Is there anything you have in mind that causes you to know that one was before the other?

A. That one came before the other.

The Court: Yes?

A. Yes, I remember when my child was born and that was the year that was memorable to me, that Mrs. Grodevant and I had been very warm friends; and that at the death of my child in August, Mr. Grodevant and I had had a difference and I missed her very much and she didn't come to my house. That is how I remember.

Q. You remember the year of the death of your child?

A. Oh, yes.

Q. Did you answer this morning that yo unever to your recollection had seen Minnie anywhere except at Grodevant's?

A. Did I say that this morning?

Q. Is that the fact? A. That is the fact.

Q. Do you think you can be mistaken about her being in that condition? A. I could not be mistaken.

Q. Was your husband regarded as an officer or civilian?

A. No, sir, my husband was a civilian employee of the Government.

Q. What direction from the Fort did you live, you and your husband? A. East.

Q. And what direction from the Fort where the officers' quarters? A. West and northwest.

Q. Well, were they under the same commander or different commander?

A. Absolutely different. The Commandant of the prison had no authority over the military reservation and the commandant of the Fort had no jurisdiction over the prison. Those were as separate and distinct as though they were miles apart.

Q. Now, what was the custom as to whether the famlies of civilians associated generally with the famliies of the officer? A. There was no mixing.

Cross Examination by Mr. German.

Q. But there wasn't any prohibition against your walking around among the houses? A. Absolutely no, absolutely.

Q. And you did do that? A. I had occasion to, yes.

Q. And you did see the officers now and then on the streets didn't you? A. Yes.

Q. And their families? A. Yes.

Q. They would see you and those of your family?

A. Yes.

Q. When did you and Mrs. Grodevant patch up your difference?

A. Just prior to their going away when they left Fort Leavenworth, and I don't remember when that was.

Q. About when did they leave Fort Leavenworth?

A. I believe it was in the fall, I am not sure.

Q. Of what year?

A. In the very latter part of the eighties, maybe as late as the latter part of '89 or '90, but I am not sure.

Q. Now, what was that difference?

Mr. Stuart: Now, your Honor, we object.

The Court: Well, she stated that they had a particular difference. I asked her what it was. I desired to know what it was that associated those two things together in that relation, the one before the other. She stated that she had a difference—— I am rather averse to going into that difference. I assume that you want to hear from Mrs. Grodevant or some other source about this difference?

Mr. German: Yes, Mrs. Grodevant isn't living. I will leave it off, your Honor.

Q. Now, was that difference pretty serious?

A. Well, it was.

Q. Rather serious? How long after the death of your child was it until you and she had this difference?

A. It was before, the difference.

Q. How long before? A. Well, just a very short time.

Q. How long after the birth of your child in January was it that you and she had that difference?

A. Oh, it was sometime, because it was just prior to the death of the child in August that we had this difference.

Q. Did it relate to Minnie?

A. No, no, not at all. I can tell you what it was. It was a foolish disagreement over a card game, card club; a very foolish thing but at the time we thought it quite serious.

Q. I thought you testified this morning that after the death of your child that you continued to play cards frequently with Mrs. Grodevant?

A. No, sir, after the death of my child, I don't see how you could have understood me that way.

Q. Where did you play cards?

A. That was prior to the death of my child.

Q. Well, when you did begin playing cards again with whom did you play?

A. I may have played with the Grodevants again.

Q. You knew the Collins' who lived there?

A. Oh, yes, but there was as much difference in a social way between those people as there was between me and the officers.

Q. Mrs. Grodevant was a very highly refined lady, was she not? A. Yes, a very charming woman.

Q. And so was her husband a charming man? A. Yes.

Q. Elegant people. Who was there that lived in Bluntville—— They lived in what you called Bluntville? A. Yes.

Q. You didn't? A. No.

Q. Who was there in Bluntsville that you played cards with?

A. I played cards with Mr. and Mrs. McGowan.

Q. Where did they live with reference to the Grodevants?

A. They lived away down on a place that was called the Government Lane, way north of that.

Q. I am speaking of Bluntville?

A. Yes, way north in Bluntville.

Q. About how many blocks? A. Oh, I can't tell.

Q. One or two? A. It was more than that.

Q. Did you play with the McGowans after the death of your child? A. I may have done so, I don't remember

Q. Well, did you play with anybody after the death of your child?

A. Not immediately after; if I played it was a good many months afterward.

Q. But you did play cards with some one?

A. Yes, I think I did; I don't remember, because it would have been the most natural thing for me to do.

Q. Now who? Tell us who? A. Who?

Q. Yes? A. Well, the Grodevants.

Q. After the Grodevants, I am speaking of after the death of your child? A. With the McGowans, the Aikens.

Q. Where did the Aikens live?

A. West of Mrs. Grodevant, where she lived.

Q. West how far?

A. West, well that would be about a city block. The back part of their house came almost on the street to which Mrs. Grodevant fronted.

Q. You would pass by the Grodevants in going to the McGowans and going to the Aikens?

A. I didn't have to pass but went all the way to the prison, went around south and west of the prison.

Q. Instead of going east of the prison?

A. Yes, east and west.

Q. In going to the Grodevants, you would go right east of the prison to the Grodevants' home, wouldn't you?

A. Yes.

Q. You didn't go down that way any more?

A. Not for a long time.

Q. When did you go to the Grodevant house after the death of your child? A. I don't remember.

Q. Did you go there?

A. I think I must have, but I don't remember. I have no recollection.

Q. You resumed your visits with Mrs. Grodevant after the death of your child? A. Yes.

Q. And played some cards in her house again?

A. Yes, I think I did.

Q. You think you did, and she would come to your house and play cards? A. Yes.

Q. Did you go to Mrs. Grodevant's very often to play cards after the death of your child?

A. No, we were not so friendly, after the break, we were not so friendly.

Q. So you did then, play cards at Mrs. Grodevant's after the death of your child? A. Yes.

Q. What cemetery was your child buried in?

A. I beg your pardon?

Q. Mount Muncie?

Q. At Leavenworth? A. Leavenworth.

Q. What was its name? A. John Prosper.

Q. John Prosper? A. John Prosper Ripley.

Witness dismissed.

Mr. Hanford: If the Court please, at this time I wish to offer in evidence taken before Mr. Giles A. Penick, Special Examiner, of Mrs. Cornelia Hyde Collins, beginning at page 542.

Mr. German: I thought she was here?

Mr. Hanford: She is not here, never has been.

The Court: Well, it may be offered. If she should appear, then the deposition will not be used and she will be allowed to testify.

And thereupon CORNELIA HYDE COLLINS, being called on behalf of the defendants Page, Josey and Hanford, and being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Hanford.

Q. Will you please state your name, Mrs. Collins?

A. Cornelia Hyde Collins, commonly known in Leavenworth as Nellie.

Q. Mrs. Collins, you are the daughter of Mr. and Mrs. Geo. H. Hyde? A. Yes, sir.

Q. Formerly of Leavenworth, Kansas? A. Yes.

Q. And you have lived with them there while they were in Leavenworth? A. Yes.

Q. About what year did you leave Leavenworth?

A. I left Leavenworth to go off to school in '88; left Leavenworth to go to Honolula and I haven't been back, in 1897.

Q. You have lived in Pittsfield, Mass., this place a number of years? A. Since 1903, yes.

Q. That was since your marriage?

A. That was since I was married, yes.

Q. Did you live in Leavenworth during the years 1884 and 1885, Mrs. Collins? A. Yes, I did.

Q. About how old was you at that time?

A. I was born in 1870; I was 14 years old in 1884.

Q. Did you know an Indian girl named Minnie Atkins?

A. I did.

Q. State whether or not she worked for your family.

A. She worked for us for a few months; I can't tell how many months—as general housework girl.

Q. Do you remember the occasion of her leaving your employ?

A. Yes; quite suddenly and unexplained at the time.

Q. Do you know of any companions that she had, or attentions of men while she worked for you?

A. I remember seeing this soldier two or three times possibly around our back door. I shouldn't know his face but I remember seeing a man in soldier's uniform.

Q. Did he come there to see Minnie?

A. We thought that was why he came.

Mr. Allen: We object to that and ask that it be stricken as incompetent, irrelevant, and immaterial, and a conclusion of the witness.

Q. Well, the appearances were that he came——

A. Yes.

Mr. Allen: We object to that as leading, incompetent, irrelevant, and immaterial, and calling for a conclusion.

Q. Did you ever see Minnie after she left your employ?

A. I saw Minnie once after she left us, on Choctaw street.

Q. That was in the city of Leavenworth?

A. In the city of Leavenworth.

Q. What was the occasion of your seeing her at that time?

A. I was driving back from town—I had been on an errand—and was driving up with our horse and buggy, and I saw Minnie on the left hand side of the street. Do you know Leavenworth?

Q. The left hand side of Choctaw street?

A. Of Choctaw street, without a hat, apparently as if she were staying about there.

> Mr. Allen: We object to that answer and ask that it be stricken because it is not responsive to the question; incompetent, irrelevant and immaterial, and stating the conclusion of the witness—announcing a conclusion of the witness.

Q. Can you state between what cross-streets that would be?

A. Yes, I was on Fourth street, so she would have been between Third and Fourth, walking.

Q. I will ask you, Mrs. Collins, if you can—if you will describe the nature of the place that you saw her in front of, in your own words.

A. Choctaw street was a disreputable part of town—a good many rough kind of people lived down there.

Q. I will ask you if the place that you saw her standing in front of was one of those disreputable places? A. Yes.

Q. Did you notice Minnie's physical condition at that time?

A. Yes, I noticed immediately, and was shocked, and realized that must have been why she left our house when she was pregnant.

Q. About how long was that after she left your house?

> Mr. Allen: We object to that last answer and ask that it be stricken for the reason that it is not responsive to the question; incompetent, irrelevant, and immaterial, and states a conclusion of the witness.
>
> Mr. Hanford: Your objection is to the last part of the answer, Judge?
>
> Mr. Allen: Object to this question for the reason that is incompetent, irrelevant, and immaterial, and calling for the conclusion of the witness.

Q. Mrs. Collins, will you state how long it was after Minnie left your house, that you saw her?

A. I think that it must have been two months possibly: enough so that I realized that that was why she left our house

> Mr. Allen: We object for the reason that it is incompetent, irrelevant, and immaterial, and ask that it be stricken as stating—for the further reason, that a conclusion of the witness.

Q. I will ask you why, Mrs. Collins, you said you were shocked at Minnie's condition—why?

Mr. Allen: We object to the question for the reason that it is incompetent, irrelevant, and immaterial—leading and calls for a conclusion of the witness.

Q. Why do you state, Mrs. Collins, that you were shocked at Minnie's condition? A. Because——

Mr. Allen: We object to that question for the same reasons.

A. Because we didn't think that she was a bad girl.

Q. Is there anything that fixes in your mind the length of time after she left your house that you saw her in this condition—was there anything connected with your seeing her that makes you recall that it was only a short time?

A. Well, if it had been some length of time, I should not have thought that such a thing could have happened at our house, but it was near enough that I felt it must have happened while she was there.

Mr. Allen: We object to the question and ask to strike the answer for the reason that it is not responsive to the question, and states a conclusion.

Q. Did you ever see Minnie after that, Mrs. Collins?
A. Never.

Q. Did you ever know of her having given birth to any children? A. Well, I heard of one baby.

Mr. Allen: We object. Just what you know. Did you ask her if she—I move to strike the answer because it is not responsive to the question and is hearsay.

Q. Do you know when, or how long, after you saw Minnie in that condition that you heard of this one baby?
A. No, nothing definite.

Mr. Allen: We object to that for the reason that it is incompetent, irrelevant, and immaterial, and hearsay. Move to strike the answer for the reason stated.

Q. Mrs. Collins, when you saw Minnie on this occasion on Chostaw street, what was her condition?
A. She was evidently a pregnant woman.

Mr. Allen: We move to strike the answer for the reason that it states a conclusion of the witness, is incompetent, irrelevant, and immaterial.

Q. Can you state more definitely, Mrs. Collins, what her condition was?
A. I don't know that I can state it more definitely.

Q. I will ask you to state whether or not she was in a pregnant condition? A. She was in a pregnant condition.

Q. Did you observe anything to indicate that her condition was otherwise than normal?

Mr. Allen: Just answer that yes or no, Mrs. Collins, please, so that I can get in an objection to his next question.

Mr. Hanford: Instead of Judge Allen there, just put that Mr. Hanford.

Q. Just answer that yes or no, please, Mrs. Collins.
A. She was very large, yes.

Mr. Allen: We move to strike the answer for the reason that it is not responsive to the question, and states a conclusion of the witness.

Cross Examination by Mr. Allen.

Q. Mrs. Collins, what year did you say that you were born in? A. 1870.

Q. You were then 14 years old? A. 14 years old.

Q. When Minnie Atkins left the employ of your father?
A. Yes.

Q. At that time had you ever associated with—had you began to go with boys at all?
A. I went through high school?

Mr. Hanford: I object to the question as incompetent, irrelevant and immaterial, and improper cross-examination.

Q. That has been 31 years ago? A. Yes.

Q. Nearly 32 years ago now? A. Yes.

Q. Minnie worked at your house and up until the time that she left there, you believed she was a good, virtuous girl, didn't you? A. Yes.

Q. Would it not have shocked you as much at your age to have seen her in that condition several years afterwards as it would have—— A. No.

Q. You frequently went to town and around through town, at that time, didn't you—almost daily? A. Almost daily.

Q. You never saw her in all of your trips around town?
A. Not after that.

Q. But that one time that you saw her on Choctaw street?
A. Yes.

Q. If she had been in and around the town of Leavenworth, don't you suppose you would have seen her?
A. Not necessarily.

Q. You didn't frequent the Fort at that time, did you?

A. We went occasionally to concerts or for a drive.

Q. Do you know Frank Long?

A. Mr. Long came to our house once.

Q. He explained to you in detail the evidence in the Atkins case, did he not? A. Well——

Q. He told you of the time Minnie worked for you, didn't he?

A. He brought my father's post card which made it positive what time. I could have told——

Q. He told you of this child being born at a negro's house, didn't he?

A. Yes, after I had told him what I had remembered.

Q. He told you of this child being born at a negro woman's home between the time that she worked for you and the time that she worked for Grodevant at the Fort, didn't he?

> Mr. Hanford: I object to the question as incompetent, irrelevant and immaterial as to what Long told her and she told Mr. Long.

A. Yes, he did.

Q. You had told him that you were unable at that time to state definitely just how long it was after Minnie left your house until you saw her in the pregnant condition? A. Yes.

Q. And you wrote me to the same effect? A. Yes.

Q. This is the first time I have seen you, I believe?

A. Yes.

Q. Mrs. Collins, has anbody else talked to [] besides Mr. Long? A. No.

Q About the facts in the Atkins case? A. No.

Q. Did Mr. Long explain to you that this Minnie would win a big estate that he was able to prove the identity of this child?

A. He said that there was a—a valuable land at stake.

Q. That was dependent upon her proving that she had this child at this negro home?

A. Yes, that she had the child.

Q. Between the time that she worked for you and Grodevants? A. Yes.

Q. He told you of Minnie having left that child there, and of having paid no more attention to it after the child was a year, or such a matter old, didn't he?

> Mr. Hanford: I object to the question that it is incompetent, irrelevant, and immaterial and I want my objections to go to all this line of interrogation regarding to what Mr. Long told the witness or the witness told Mr. Long.

Q. Is that true, Mrs. Collins? A. Yes, he told us.

Q. Now,——

Mr. Hanford: Is it agreed, Judge Allen, that my objection may stand?

Mr. Allen: Yes, sir, the same objection may go to each question.

Q. Up until the time that Long came here and talked to you, had you thought of Minnie Atkins in several years?

A. Yes, because——

Q. Who first called your attention to her?

A. Mrs. Elizabeth Booth, of Leavenworth, sent me some clippings about the case.

Q. That was some year and a half ago? A. Yes, I think so.

Q. Up until that time you hadn't thought of Minnie since you saw her on Choctaw street, had you?

A. Why, I think so, occasionally, because I have seen my aunt Mary since then and she would suggest Minnie, don't you know.

Q. Your aunt Mary is not living now?

A. She is not living.

Q. How long had she been dead?

A. She died in February 1910.

Q. About how many times have you seen her since 1884?

A. Let me see—I can't—she has visited at our house and I have visited at her's and I have seen her in Wichita, and visited in Ware, where she lived.

Q. About how many times had you discussed with her Minnie Atkins since 1884?

A. I can't say.

Q. Very few times? A. Yes, very few times.

Q. Mrs. Collins, in those times there was nothing to attract your attention to the time when you saw Minnie with reference to the time when she left your home, was there?

A. No, I think not.

Q. So, the first time that that had become an issue that caused you to think about the time that you saw her with reference to the time that she left your house, was about the time Long came here and told you of the importance of that, wasn't it?

A. Not at all, for I had remembered the definiteness of my feeling about Minnie's condition; it was one of the most shocking things in my life.

Q. You were young then and didn't realize just how they—— A. Just what things were, no.

Q. Would progress, did you? A. Yes, I knew it.

Q. You were not able to say then about how long before she would become a mother, were you?

A. Not definitely, but I knew of such things. I was the oldest in my mother's family.

Q. She was large woman, wasn't she?

A. Yes, above the medium; in fact, when she was with us——

Q. She wore a corset and went dressed up when she was with you, did she? A. Not at her work always.

Q. And looked neat? A. No.

Q. When you saw her on Choctaw street she had a wrapper on, didn't she? A. Yes.

Q. And was loose? You rode up in the buggy, didn't you? A. I turned around to look.

Q. You didn't stop and talk to her? A. No, I didn't stop.

Q. Was she going across the street or——

A. She was apparently crossing from one side of Choctaw street to another so that she was parallel with me.

Q. And you just glanced around at her, and your horse went on?

A. Yes, went on up the hill. I told my mother about it when I went home.

Q. You don't know, and you didn't inquire after that about her condition?

A. No one to inquire of—I didn't know about that.

Q. You are not able to say, now, just how long it was, are you? A. No, not positively.

Q. The thing that impresses upon your mind is the fact that you saw this mere girl, who had been a domestic girl in your home, and had been sent to your home by your father's sister——

A. My father's sister.

Q. In what appeared to you to be in a pregnant condition, on the street, as you were driving by?

A. Yes, but soon enough afterwards so that it was very evident——

Q. That is the way it impresses you now?

A. Impressed me then. There would have been no feeling of shame in my mind if I had thought it had happened some where else.

Q. You feel that way now? A. I felt that way then.

Q. The matter had not suggested itself to you in 31 years, had it, until Mr. Long came up to you?

A. I think so; it was the only time any such thing happened at our house.

Q. The only time that one of your former domestics——

A. Had ever gone wrong.

Q. Ever gone wrong. Anybody else ever work while Minnie was there?

A. I presume we had a laundress—we generally did.

Q. When did you leave Leavenworth?

A. August 1888 to Boston to go to school.

Q. Have you ever lived in Leavenworth since then?

A. I have visited my mother but never continuously; I have either taught or lived away since then.

Q. You are quite sure, Mrs. Collins, that you never saw Minnie at any time except the one time that you saw her on the street as you were driving casually by?

A. That is the only time that I remember of.

Q. And that then from her loose and large condition, and appearance you got the idea that she was in the family way?

A. Yes, there was no mistaking it.

Q. Haven't you seen lots of women in your life, even after you arrived at on older age, who were shapeless and who wore wrappers, and who were large, and you couldn't tell whether they were in a family way or not?

A. Not frequently, no.

Q. You say you were just driving by on the street when you saw her? A. Yes.

Q. She was a large woman, wasn't she?

A. She wasn't fat when she was with us; she was tall.

Q. And slender but not fat—there was no superfluous flesh.

Q. Where did she go after she left your home, Mrs. Collins? A. We didn't know.

Q. You are just—were you a large girl for your age at that time?

A. Yes, I was about grown; about as large as I am now. I don't mean as fat, but I was tall—didn't grow any after I was 14.

Q. What month were you born in? A. July.

Q. In July, 1870? A. '70.

Q. Mr. Long told you that if this proof could—if they were able to prove that this child was born after Minnie worked for you, before she work- for Grodevant, that Minnie would get this large estate?

Mr. Hanford: I object to the question as incompetent, irrelevant, and immaterial, and improper cross examination.

A. He didn't say that she would get it, he said that it was at stake.

Q. You understood——

A. That she would get, I supposed, something for it.

Redirect Examination by Mr. Hanford.

Q. Mrs. Collins, have you any interest in this property or any concern in it at all? A. Not the slightest in the world.

Q. Would your testimony have been influenced by anything that Mr. Long may have told you as to what was at stake? A. Not in the least.

Q. I will ask you if your testimony had been in any way been influenced by the facts in the case?

A. Not in the slightest.

Q. Or what you heard from Mr. Long? A. Not at all.

Q. Mrs. Collins, you are a widow are you not? A. Yes.

Q. Your husband was a manufacturer, was he, in——

A. Here in Pittsfield.

Q. And a financier? A. Somewhat.

Q. He was a director in several banks?

A. No, a director in the Berkshire Fire Insurance Company; that was the only thing in which he was a director besides his mill.

Recross Examination by Mr. Allen.

Q. In your letter to me, Mrs. Collins, you stated that you were unable to say just how long it was after Minnie quit working for you that you saw her on Choctaw street in what you thought to be a pregnant condition, did you not?

A. Yes.

Witness dismissed.

Mr. Hanford: And the deposition of Mrs. John B. Sheehan, taken at Washington, D. C., beginning at page 586.

MRS. JOHN D. SHEEHAN, being called on behalf of the defendants, Page, Hanford and Folk, and first duly sworn and under oath, testified as follows:

Direct Examination by Mr. Hanford.

Q. Will you state your name, Mrs. Sheehan?

A. Mrs. John D. Sheehan.

Q. You are a resident of Washington, D. C.? A. Yes.

Q.. How long have you resided in Washington?

A. Continuously, do you mean?

Q. Yes?

A. Well, for the past three years continuously, previous to that I had been here several years, and then living in Virginia—a part of the time in Maryland.

Q. Your husband is employed in the General Land Office? A. Yes.

Q. What was your name before you were married, Mrs. Sheehan? A. Margaret Curry.

Q. What were you called—your first name?

A. Maggie Curry.

Q. Did you formerly live in Leavenworth, Mrs. Sheehan?

A. Yes.

Q. You lived there as a girl, did you not? A. Yes.

Q. A part of the time, did you live at Fort Leavenworth?

A. Yes.

Q. You lived with your mother there? A. Yes.

Q. Did you know Mrs. Herbert Grodevant? A. Yes.

Q. State whether or not she was a neighbor of your mother's? A. Yes, she lived next door to us.

Q. Was that in the part of Fort Leavenworth where the people who reside who are connected with the Military Prison? A. Yes, it was called Bluntville.

Q. Col. Blunt was the Commandant of the Prison?

A. Commandant at that time.

Q. Did you assist Mrs. Grodevant in connection with her household duties? A. Yes.

Q. How old were you at that time? That is, were you grown up or were you a young girl? A. I was about 16.

Q. State whether or not you assisted Mrs. Grodevant as a regular employment, or simply as a neighborhood matter, being called in to assist her.

A. Well, I think it must have been in the latter capacity, probably to help her out.

Q. Do you recall having any definite agreement with Mrs. Grodevant or Mr. Grodevant as to employment?

A. No, I do not.

Q. Did Mrs. Grodevant employ assistance regularly in her household affairs, or did she do her own work?

A. Well, as well as I can remember, she didn't employ help regularly, and she was assisted by a parole man a good deal of the time—a prisoner on parole.

Q. That would correspond with the trusty in other prisons?

A. Yes. Of course, he helped around the stable but he also did things in the house—I recall that.

Q. Do you know [] long you were at Mrs. Grodevant's before she began having regular employment?

A. I really have no idea.

Q. Do you remember the year that you assisted Mr. Grodevant?

A. Well, I don't remember exactly but I think it was in 1884.

Q. Might it not have been '85?

A. It might have been either of those two years.

Q. You recall what time of the year it was?

A. Well, I think it might have been in the summer—I can't be perfectly sure.

Q. Can you state positively what time of the year?

A. No.

Q. Is there in your recollection that would indicate the time of the year?

A. Well, I remember a dress that I had particularly at that time—it was a summer dress, and it might have been in the summer.

Q. Had you been going to school prior to this time?

A. Yes.

Q. And was school finished for the year?

> Mr. Allen: We object to the question as leading and suggesting; incompetent, irrelevant and immaterial.

A. Well, I don't remember.

Q. About how long did you assist Mrs. Grodevant at this time?

A. Well, I should suppose it was about three weeks.

Q. Was there anybody else at the home of Mrs. Grodevant while you were there assisting her in connection with her household duties?

A. No, I don't remember that there was, and I don't think there was anyone else but myself.

Q. Did you ever know a girl that worked for Mrs. Grodevant, named Minnie Atkins? A. No.

Q. Did you know a part Indian girl that worked for Mrs. Grodevant? A. No.

Q. Are you sure that there was no such person there during the time that you were there?

> Mr. Allen: We object to that as leading; incompetent, irrelevant, and immaterial.

A. There was no one else unless it was the parole man I formerly spoke of; he may have been assisting there but I don't think he was—or was not.

Cross Examination by Mr. Allen.

Q. What is your age? A. 47, on my last birthday.

Q. The matter about which you are testifying occurred 36, or 37 years ago, then?

A. Not that long—I should say 30 or 31.

Q. Thirty-one or two years ago; you were then a young girl? A. Yes.

Q. Did you work out as a common house servant at that time, or in what capacity did you work?

A. Well, I did go in service after that for a short time.

Q. Do you know what you did in the Grodevant home?

A. Yes, I assisted Mrs. Grodevant in the preparation of meals, and helped wait on table—she had a guest there.

Q. You don't even remember whether there was a trusty there at that time or not? A. I don't remember positively.

Q. You are not positive whether or not other girls were there in the capacity of maid servants?

A. I am sure there was not.

Q. You said a while ago that you didn't remember whether there was.

A. I don't remember whether there was a parole man there but I am sure there was no one else there.

Q. You remember how many weeks you worked there?

A. I am not positive how long—I think three weeks.

Q. Was that the only time that you ever worked for the Grodevants?

A. No, I was there at other times, and my memory is not perfectly good but I know I went in there and helped her.

Q. At other times you worked for a short time?

A. Yes; I remember only one other time. I do remember I went in there a short time.

Q. At other times, how long did you work?

A. Very short times—maybe a week.

Q. And maybe a day?

A. I don't know that I went in there for as short a time as that but it is possible.

Q. You don't remember, do you, the year even in which you worked three weeks at the Grodevants, Mrs. Sheehan?

A. No, I don't remember positively, I would have to look it up.

Q. Who has talked to you about this case?

A. Well, Mr. Hanford came up to find out whether or not I had worked for Mrs. Grodevant.

Q. He was the first one to talk to you?

A. No, sir, also another gentleman whose name I don't remember, from Oklahoma.

Q. Frank Long? A. No; his name was not Long.

Q. Mr. Page?

A. I really don't know who he represented, he said in the case——

Q. Mr. Josey? A. Possibly that was the man.

Q. That was the man?

A. I can't say positively that it was but I think so.

Q. He was a tall, rather slender man?

A. Well, he was tall.

Q. Middle aged? A. Yes.

Q. What did he tell you about the case, Mrs. Sheehan?

A. He came to find out whether I knew Minnie *Atkinson*.

Q. I would like to know what he told you about the case.

Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial.

A. Well, this gentleman came to see me in August, I think, or some time during the summer, to find out if I knew an Indian girl.

Q. Not what he came to find out, but what he said to you.

A. Well, he said it was almost impossible for me not to have known this girl worked there because she was quite a pretty girl, and I probably would have noticed her. I don't remember her, and asked him what reason he had for wanting to know, and he said there was an Indian claim, or some property, in question and it was to find out who the lawful heirs were, and this testimony of mine was necessary, or would be a help if I could remember. Of course, I remembered once that I had worked at Mrs. Grodevant's—at one time—and I think it was along about that time.

Q. He told you that it was in '84 that——

A. No.

Q. Or '85, that you worked at the Grodevant's, didn't he?

A. No, he didn't tell me that.

Q. In the lapse of these thirty years, you have not even recurred to the time when you worked for the Grodevants, had you? A. No.

Q. That had passed almost out of your memory until he recalled the incident, hadn't it?

A. That is true but I remembered it—the time I had worked there.

Q. After it was called to your attention, you remembered it? A. Yes.

Q. Now, you are not sure during which of the many times it was that you worked at the Grodevants that you were in their home three weeks, are you? A. No, I am not sure.

Q. It might have been before or after 1884 or '05?

A. No, it wasn't after that.

Q. It might have been before, though?

A. It couldn't have been before—it was one of those two years.

Q. But during what period of those two years, you don't know, do you? A. I am not sure.

Q. And you worked during those two years at odd times for a day at a time, other than the time that you stayed there three weeks? A. No, I think——

Q. A day or week, as you said a while ago?

A. No, I think it was more probably within a certain number of months when I helped her at all.

Q. Now, you were not on intimate terms with the Grodevants, were you?

A. Yes, afterwards; the time I think I went in there to help her, we had lived in the neighborhood a very short time.

Q. But you never saw or heard of Minnie Atkins [] your life, did you? A. No, never.

Q. You never heard her name mentioned until Mr. Josey mentioned it to you, had you? A. No, no.

Q. You had never heard Indian Minnie, or an Indian girl referred to, until Josey referred to her there? A. No.

Q. So you were not there as a temporary employe to take the place of Minnie Atkins?

A. I don't know whether I was or not.

Mr. Hanford: I object; if the witness never knew Minnie Atkins, she didn't answer the question, and it is leading.

Q. It was not suggested by the Grodevants that you were there as a temporary employe to take the place of a present servant? A. No.

Q. Who was Col. Bunt?

A. He was Commandant at the Prison.

Q. Do you know where he is now?

A. He is dead; dead a great many years.

Q. Are any of his family who lived with him at Leavenworth, living?

A. I think not; he had one daughter—I don't know what became of her.

Q. Do you know who she married? A. No, I don't.

Q. You don't know who she married?

A. Nellie Blunt—I don't have any idea.

Q. How old was she when you last knew her?

A. Oh, I don't know—she was a young lady—I don't know how much older than I.

Q. You remember an Indian girl working just a few weeks for the Blunts? A. No.

Q. When did you move to Leavenworth?

A. Well, I didn't understand your question. After I left the Fort, you mean?

Q. Well, did your family move to the Fort, or Leavenworth? A. Well, I was born in Leavenworth.

Q. And when did you get acquainted with the Grodevants?

A. Well, I think it must have been in the years I gave you—either '84 or '85.

Q. Well, you had been living there before that time?

A. Yes

Q. And that is considerable guess-work about that answer, isn't it, Mrs. Sheehan; you don't remember—you can't remember that long back just what year it was?

A. Well, I have a pretty good reason for remembering the year that I moved near the Grodevants, and yet at the same time, I can't say positively whether it was April of '84 or April of '85, but I can find out.

Q. And what is there that caused you to remember that?

A. Well, my mother married my step-father and we moved into that house as a consequence. He was an employe of the Prison.

Q. What was your step-father's name?

A. Richard Kingsley.

Q. Where were they married?

A. They were married at the Fort.

Q. Fort Leavenworth? A. Yes.

Q. And they moved into this house the day they married?

A. Yes.

Q. And it was at times subsequent to that that you worked at Grodevant's? A. No.

Q. Before that? A. Yes, subsequent—I beg your pardon.

Q. Do you know whether this man Blunt had any relatives or not? A. No, I don't.

Q. Is there any one at Leavenworth that would probably know about the Blunts, with whom they were intimately associated?

> Mr. Hanford: I object as incompetent, irrelevant and immaterial.

A. I don't know, I am sure.

Q. Do you know where he died?

A. No, not positively; I think he died at the Fort—of course, but I don't remember exactly.

Q. Fort Leavenworth? A. Yes.

Witness dismissed.

Mr. Maxey: If your Honor please, I just can't recall just what all is in these depositions taken of the defendants' witnesses, but I do recall that there is a great deal of hearsay testimony which would come within the ruling which your Honor excluded when we offere*ing* our testimony; and we desire to interpose our objections to anything in those depositions that comes within that ruling.

The Court: Does that *come* appear in the depositions?

Mr. Maxey: Yes, sir.

The Court: Well, then you have your—I am not passing upon any of those objections now.

Mr. Maxey: I just want it understood that we are not waiving our right to object, your Honor.

The Court: That is understood; objections that were made will be considered by the Court; but you are not waiving anything by not making your objections now.

And thereupon, DAVID ATCHISON, a witness produced on behalf of the defendants Minnie Atkins, et al., being first duly sworn testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. David Atchison.

Q. Where do you live, Mr. Atchison?

A. Leavenworth, Kansas, 700 South Broadway.

Q. How long have you lived in Leavenworth, Kansas?

A. 60 years this year.

Q. How old are you now?

A. 75 years, the 22nd day of February last.

Q. What business were you engaged in in the early '80's in Leavenworth?

A. Wood, coal, ice and feed business.

Q. I will ask you whether you did any work during the Civil war? A. Yes, sir.

Q. With reference to supplies?

A. I hauled in '63—began hauling in '62 for the Government from Fort Leavenworth to Fort Scott, and in the spring of '63, I hauled supplies for the Army from Fort Leavenworth to Fort Gibson, and then to Fort Smith in '63.

Q. Were you in the Civil war?

A. I was not an enlisted man, I was a militiaman in Missouri in '62, and in Kansas with Scott Price, of Kansas City. Missouri—Senator Price now.

Q. What business were you engaged in in 1880?

A. Wood, coal and ice business, and sprinkling the streets; I was street sprinkler from '75 to '82.

Q. Where was your coal yard located in Leavenworth, and the wood yard?

A. The Southwest corner of Fourth and Seneca street, and the post office was on the same street at Fourth and Shawnee.

Q. Do you know where Crilley's barn was? A. Yes, sir.

Q. How far were you from Crilley's barn?

A. A block and a half or thereabouts west, a few feet one way or the other—about the middle of the block.

Q. Did you stay around your woodyard a good deal?

A. Yes, sir.

Q. During those years?

A. Only in the winter time, I put up ice in the winter time at Kiowa and Second street, and got it on the Missouri river and I stayed there most of the time.

Q. Now, Mr. Atchison, I will ask you whether or not if at any time during that period you knew a girl in Leavenworth by the name of Indian Minnie?

A. Yes, sir, I did.

Q. Can you tell us when you first saw Indian Minnie?

A. Well, it was in 1885; she used to come there to order wood and coal from my place a little at a time. She was there pretty often when the weather got cold. When the weather got real cold she would come oftener.

Q. Did she have anybody with her?

A. Well, she had a baby with her, no man or woman.

Q. Well that is what I mean; she had a human being with her? A. Oh, yes, she had a baby.

Q. Had a baby? A. Yes, sir.

Q. What time in '85 was that?

A. Well, when she came to order the wood and coal, as I recollect during the cold weather, it would be in the fall and winter.

Q. Do you know who she would order the coal and wood for? A. Yes.

Q. Who for?

A. Mrs. Letcher; some called her Granny Letcher; an old colored woman.

Q. Did you know Granny Letcher?

A. I knew her before her name was Letcher; Mayo, and she married a Letcher.

Q. Did you know where she lived during this time?

A. Yes, sir.

Q. Where did she live?

A. Part of the time she lived on Cherokee street between Second and Third, the middle of the block on the south side; I used to send wood and coal to her there before this girl was with her.

Q. Then, where did she live after that?

A. Moved from there up on Seneca street between Second and Third on the south side, in a frame building built by a German who kept a bakery there, named John Dotter, and the house was sold as I recollect——

Q. Never mind about that. Now, Mr. Atchison, you say that you saw this Indian Minnie and she had a child with her?

A. Yes, sir.

Q. State whether or not the people around your place had any name for the child? A. Yes, called it papoose.

Q. Papoose, [A.] yes, there comes the papoose, that is what the colored boy said that drove the delivery wagon.

Q. You remember that distinctly? A. Oh, yes.

Q. Mr. Atchison, how do you fix that as the fall of '85 that you saw her?

A. Well, I run the theatre beginning in the fall of 1880, and I run it up until the spring of 1883—Opera House—theatre business.

Q. Alright; go ahead.

A. Well, then, there was another man elected; it was a stock company, I was a stockholder, and I was let out that year for some cause; didn't make enough money for them, and after that a year or so, the boom came—real estate boom all over the country up that part of the country, came in 1886, and it was the year before the boom that they came to my place to buy wood and coal.

Q. Mr. Atchison, I will ask you whether or not when you saw this woman in Leavenworth years afterwards, you recognized her?

A. Oh, yes, they asked me if I knew Indian Minnie and I said I did. The attorneys asked would you know Indian Minnie if you would see her and I said yes, put her out here among a dozen other Indians and I will pick her out and if I can't pick her out I don't know her. That is what I said, so the attorney, whoever he was, throwed down a card with eight or ten Indian pictures on it, girls or women, and he said——

Mr. German: We object to that.

The Court: Sustained.

Q. You recognized her?

A. Oh, yes, I picked her out on the card in less than half a minute.

Mr. German: I move to strike that.

The Court: That will not be considered.

Q. Now, will you tell me some of the darkies that were working for you at the time that you saw Minnie in the fall? Give some of the names.

A. Yes, men that had charge of my team hauled wood from the country, Missouri, and out in the country.

Q. What was his name?

A. Alex Ford, and his son Will Ford drove one one-horse wagon to deliver wood and coal and there is others that I can name.

Q. Mr. Atchison, you were well acquainted with the colored people in the community at that time?

A. Yes, had to be, they all worked for me.

Q. How many did you work during that period?

A. Well, I worked in the winter time when I was putting up ice it varied from 125 down to 115; never at any time I didn't have a 100.

Q. Do you ever remember passing Granny Letcher's about that time?

A. Well, in going to the ice house, the ice house was on the northeast corner of Second and Kiowa street and my wood yard was on the corner of Fourth and Seneca, and I went from Fourth and Seneca to Second street and that went by Granny Letcher's house and I saw Minnie in the yard a few times, once or twice or three times, maybe more; of course I couldn't tell the number of times but I did see her there.

Q. You did see her in Granny Letcher's yard?

A. Granny Letcher's yard.

Cross Examination by Mr. German.

Q. Mr. Atchison, are you any relation to Lee Bond?

A. I am his father-in-law.

Q. His father-in-law? A. Yes, sir.

Q. Do you know the witness Mrs. Ripley? A. Yes, sir.

Q. She any relation to you?

A. Well, her son married one of my daughters; we had six daughters and had six sons-in-law.

Q. Her son married one of your daughters?

A. Yes, sir.

Q. Who was the first person that you ever talked to about this matter? A. About Indian Minnie?

Q. Yes?

A. Why, Lee Bond asked me if I knew Indian Minnie; I said, no, who is Indian Minnie, and he said well, you ought to know Indian Minnie—she lived in your neighborhood, and I said I don't know, I will study up though, and see if I do know her; and I began to think about this woman coming there to get coal with the baby in her arms wrapped up in a red blanket or red shawl, I don't know which.

Q. Indian like? A. Oh, yes.

Q. There was a good deal in the Leavenworth papers about this too—about that same time, too, wasn't there?

A. Sir?

Q. About the time Lee spoke to you about it?

A. Oh, I guess there was something about it; I didn't pay any attention to it; I didn't bother reading it. All this has been 30 odd years ago.

Q. I mean the time Lee spoke to you about this, when was the time Lee spoke to you about this?

A. Well, it was the year I give in my deposition two years ago I guess it was.

Q. Didn't you first testify about it about a year ago?

A. Yes, it was a year ago, that is right; later than this though.

Q. And it was a little before that that he spoke to you, though? A. It was late in the spring.

Q. Of last year? A. Of last year.

Q. Prior to that a great deal was in the Leavenworth newspapers about this Indian Minnie case?

A. Might have been but I didn't read it.

Q. Don't you remember several articles wherein it suggested that Minnie Atkins, known as Indian Minnie, lived around Leavenworth there, in the '80's, and had her son Tommy that was born down at Granny Letcher's?

A. I don't know where he was born.

Q. Didn't you read those articles?

A. Well, I read a little, read the headings and let them go, about as I read the war news now in France.

Q. There was just about as much as there is about the war now? A. Oh, no.

Q. There was an article every week or two?

A. Might have been, I don't remember. I didn't read them.

Q. Now, you know Indian Mary who lived in Leavenworth?

A. No, there was no Indian Mary lived near where I was. I never heard of her name until the attorneys in that law suit when I was giving my testimony, he said you said Indian Mary said so and so; I said I never said such a thing. He said who did. I said you did. I said I didn't know Indian Mary but I did know Indian Minnie, and the one I am speaking about is Indian Minnie.

Q. You hadn't thought about the Indian woman you used to see there until Lee Bond spoke to you about it?

A. Oh, I thought about it; I remembered the baby coming there in her arms.

Q. Well, your recollection about it is rather distinct?

A. Well, it was, I had nothing to recollect her for.

Q. You say Leavenworth had a boom about eighty six?

A. '86.

Q. Was that boom a long time coming?

A. I was in Kansas City then; there was no boom when I left Leavenworth to go to Kansas City, that morning and when I come back the boom was on.

Q. When did that boom explode?

A. Well, I say in eighty-six, the spring of '86, 1886.

Q. Then you fix this—— What is there connected with Minnie and this baby and that boom, what relationship do those bear?

A. Well, I couldn't tell, but the boom came the year after she was there buying the wood and coal for Mrs. Letcher; some called her Granny Letcher but I called her Mrs. Letcher.

Q. In other words, you fix the boom by the time you saw this Indian woman and baby?

A. Well, the boom was there the next year.

Q. What is there between Minnie and the boom?

A. Well, I run the theatre up there.

Q. Did she attend the theater? A. I don't know.

Q. You got through with the theater in eighty-three?

A. Got through.

Q. What relation has your quitting the theater and seeing this Indian woman? A. Why nothing.

Q. What relation? A. No, none at all.

Q. Then you don't fix the time you saw Minnie by the time you run the theater?

A. Yes, the theater and the boom I saw her the year before the boom, in '85, and the boom was in '86.

Q. Wasn't it in '86? A. The boom?

Q. What day?

A. Oh, I don't know, too long ago, I couldn't remember. If I had to be hung or answer that I would have to be hung.

Q. You couldn't tell? A. No, sir.

Q. How long did the boom last?

A. The boom lasted until sometime in the fall.

Q. Did it quit very suddenly?

A. Well, not quite as suddenly as it started. One of the men who helped start that boom in Leavenworth was buried last week, eighty-seven years old.

Q. What was his name? [A.] Charlie Kitchener.

Q. For how long a period of time did you see this Indian woman?

A. Well, from the time she begun buying wood there until during the winter eighty-five and eighty-six, part of '86.

Q. You say she begun buying wood from you in the fall of '85 and when did she quit?

A. I don't know when she quit.

Q. You saw her when she came for wood? A. Yes.

Q. When did you last see her?

A. I don't know, I never paid any more attention to her. I only knew Indian Minnie by her buying wood there.

Q. And she just bought wood there one winter?

A. I don't think she ever bought wood since that.

Q. You don't know whose baby that was she carried?

A. Well, it was hers.

Q. How do you know?

A. Well, they called it Indian Minnie's baby and papoose. The colored boys would say, here comes the papoose for more wood, and they would go and load it up. The man would say, this goes down to Mrs. Letcher's ordered by Indian Minnie. I didn't load the wood.

Q. Did she carry the baby on her back?

A. No, carried it in her arms.

Q. Every time she came?

A. I don't know, I never saw her.

Q. How many times did she come after wood?

A. I wasn't there all the time. My wife stayed there in yard and looked after money matters while I was up the river putting up ice.

Q. Who else got wood of you?

A. We would sell from a hundred to a hundred and fifty dollars' worth of wood and coal a day.

Q. Lots and lots of people?

A. Yes, most of them bought small amounts.

Q. How would she take this wood home?

A. We would haul it in a wagon.

Q. Who else came up there and ordered wood for Mrs. Letcher?

A. Mrs. Letcher came a few times herself. I don't remember whether it was the year Minnie was ordered or the year after or the year before. Jim Mayo was her son, her name was Mayo, and Jim Mayo would order wood for his mother.

Q. Where was the first time you saw Minnie, at Mrs. Letcher's? A. I only saw her in the yard.

Q. What house? A. Well, in the frame house.

Q. That Dotter had built? A. Yes.

Q. At 217 Seneca Street? A. No, it wasn't 217.

Q. What number was it? A. 215.

Q. Wasn't it 215 Cherokee?

A. She lived at 215 Cherokee too.

Q. And then moved to 215 Seneca?

A. And then 217 Seneca; she lived in a frame house that was built for a bakery and that was sold to Abernathy Furniture Factory and they moved from that into a stone house.

Q. The old Feth house?

A. Well, Feth may have owned it.

Q. There wasn't but one stone house?

A. There wasn't but one. My wife went to school in that house in '66.

Q. Went to school to whom?

A. A man that lived in Topeka.

Q. Studied the German language?

A. No, it wasn't a German teacher.

Q. There was the stone house and this frame house, they were the only two residences there facing the livery barn?

A. There was a brick house on the corner, but I think that was built after eighty-five.

Q. What sized house was this frame house?

A. Dotters?

Q. Yes?

A. Nearly two story house, and the Dotters lived up stairs and kept a bakery down stairs.

Q. Now, that is the house that Mrs. Letcher lived in after she moved off of Cherokee Street? A. Yes.

Q. First lived in that house? A. Yes.

Q. You remember that?

A. As I recollect it, oh might have been living in the stone house.

Q. You knew Lilly White?

A. I used to sell wood to her.

Q. And she lived in that house too that Dotter house?

A. Well she may have I sold wood to her.

Q. Do you know C. F. D. Dassler? A. Yes.

Q. Do you remember about him suing over that house in October, '85? A. No.

Q. While Lilly White was in it? A. No.

Q. Lilly never lived in it but once did she?

A. I don't know, might have for all I know.

Q. After Granny moved over there off of Cherokee Street, lived there for several years? A. At the Dotter house?

Q. Yes?

A. Well, she lived there until it was torn down and then moved into the stone house.

Q. When this woman would come up to buy wood, she would carry this baby in her arms in a red blanket?

A. When I saw her.

Q. And did you see the baby?

A. Well, I didn't look at it, it was wrapped up in this blanket.

Q. You didn't see its head even?

A. No, it was cold weather when she was there.

Q. You don't know whether it was Indian or nigger or white?

A. Oh, no, couldn't tell. After it got a little older they called it Tommy.

Q. They did? A. Yes.

Q. Who? A. Well, the negroes around my place.

Q. Called that same baby Tommy? A. Yes, sir.

Q. How old was that child when you first saw it, do you know? A. I don't know.

Q. Was that the same child wrapped up in the blanket?

A. Supposed to be. When it was too little she didn't bring it up there, and when it got older she carried it up.

Q. After it got old enough to walk around, did she bring it up?

A. I didn't see it. That is, she never brought it.

Q. You lost track of her?

A. She went off and went to work I think. Went out to the Fort.

Q. Worked for a carpenter named Grodevant?

A. I don't know his name.

Q. Who did she go out there to work for?

A. Some house; Mrs. Ripley lived near the house. She was on the witness stand.

Q. You knew about that at the time? Mrs. Ripley's son has married your daughter? A. Yes, sir.

Q. And you knew about Mrs. Ripley and this neighbor of hers who had this Indian working for her?

A. Well, I knew about Mrs. Ripley, but I didn't know about the Indian woman.

Q. Did you know she was working there? A. Yes.

Q. And it was the same woman? A. Same woman, yes.

Q. It was after this she quit coming to your wood yard, you knew about her being out at the Fort?

A. It was after the child was weaned I guess.

Q. How old do you suppose this child was when this woman went out to the Fort?

Mr. Cruce: I don't think that is competent.

The Court: *She* may answer.

A. I don't know when this child was born.

The Court: How old, in your judgment, was the child when you remember Minnie went out to the Fort?

A. Oh, I should judge less than a year old.

Q. And she worked for this carpenter? A. Yes.

Q. And she worked for this carpenter? A. What?

Q. And she worked for this laborer, this neighbor of Mrs. Ripley's?

A. I don't know whether it was that time, it was along about that time.

Q. You have heard your son talk about this case a great deal? A. No, sir, he wouldn't do it.

Q. He just refused to talk about it?

A. No, he didn't refuse.

Q. You have been very much interested in his suit, in this case?

A. No, sir, I was on a lawsuit at Leavenworth and he was an attorney on one side and another attorney on the other side and when the attorney was challenging the jury this man —he wanted me to sit on the jury. I says I don't want to sit on the jury. Lee Bond won't let me sit on this jury, and he says I will.

The Court: Well, that is as far as you need to go on that.

Q. What was the size of this Indian woman?

A. In height?

Q. Yes? A. Just what we call medium size.

Q. Give us her height, describe that?

A. I never measured her and I couldn't say.

Q. You knew her good? A. Oh, I saw her often.

Q. You noticed her? A. No, I didn't notice her.

Q. You noticed the child in her arms?

A. That is what called my attention.

Q. You were looking at the child?

A. Well, I was looking at the blanket, that was the only one that carried a red blanket in Leavenworth at the time.

Q. Tell the Court about how tall she was?

A. I would judge about five feet tall, maybe not so tall.

Q. And how much did she weigh?

A. I never weighed her.

Q. Well, of course not, but you know how much she weighed about?

A. Say in the neighborhood of a hundred and twenty to twenty-five and maybe thirty pounds.

Q. And was about five feet tall?

A. About that. Not five feet tall, I don't say five feet tall.

Q. How old a woman was she?

A. Well, I would judge from eighteen to twenty-one years or maybe twenty-two.

Q. Maybe twenty-two? A. Possibly could be.

Q. She wore her hair in a way that attracted your attention, did she? A. Well, not necessarily, no.

Q. Tell the Court how she wore her hair?

A. I don't know, I couldn't tell you. Her hair was very black, I know that, and Mrs. Atchison said can that——

Q. Don't tell what Mrs. Atchison said. Don't you remember how she wore her hair?

A. Well, she wore it like the Indians wear it.

Q. You have known lots of Indians in your lifetime?

A. Oh, thousands of them.

Q. There used to be a great many in Leavenworth?

A. The Delawares were all there, and owned the ground where Leavenworth is. After you got eight miles below Leavenworth from there on to the ...... River, that was the reservation.

Q. About how many Indian women were living in the town of Leavenworth at the time? A. What time?

Q. Just after the Civil War?

The Court: He says he has known lots of Indians. Of course he has.

Q. You know how Indians wore their hair?

A. I knew how they wore it on the trains when I had to fight them back and forth for five years.

Q. This was a typical Indian woman?

A. Just the same as any others.

Q. And she wore her hair like other Indians. Tell the Court how that was.

Q. Well, they generally had it cut off in front.

Q. Bangs? A. What you call bangs.

Q. With their hair hanging down in front?

A. I don't recollect whether she had hers that way or not, but that is the way they wore it when I was on the trains fighting them.

Q. You first thought she was a negro?

A. We thought she was mixed; I says, no she looks more like an Indian.

Q. Do you remember whether she had her hair down?

A. No.

Q. Did she have her hair down her back?

A. No, she had it done up. I didn't notice her having it down her back, but I didn't notice it.

Q. What other woman came to your wood yard carrying a baby? A. Well, a colored woman?

Q. Do you remember a colored woman that lived right across the street north of your wood yard in 1885?

A. Well, there was a colored woman lived there, Travis Finlay and his wife and her sister.

Q. Now, let's see, Mr. Atchison, you learned from your son-in-law, Lee Bond, that this woman, Indian Minnie, was Minnie Atkins? A. No.

Q. You have heard that?

A. They called this baby Tommy, and then they got down to Tommy Atkins. I asked who is Tommy Atkins; says, "That Indian baby."

Q. So you knew the name Atkins all right?

A. Yes, Indian Minnie.

Q. Who lived right north of your wood yard among the colored people? A. Just colored people.

Q. Name the families? A. I named Findlay.

Q. Name another? A. I can't. There was none there.

Q. What was this man's name? A. Travis Findlay.

Q. Who lived diagonally across the street from your wood yard? A. That was the Washington house.

Q. Who lived in it?

A. This man Phillip Green that sawed the wood and split the wood.

Q. Colored man?

A. Yes, colored man, Phillip Green, his name was; worked for me twenty-six years.

Q. Your wood yard extended back to the alley, didn't it, between Fourth Street and Fifth? A. No.

Q. Between Shawnee and Seneca? A. Yes.

Q. They ran east and west?

A. The streets ran east and west.

Q. Seneca is north of Shawnee? A. Yes.

Q. You fronted on Fourth? A. No, on Seneca.

Q. Between Fifth and Fourth Street? A. Yes.

Q. And then Fifth was the next street west? A. Yes.

Q. And your wood yard occupied a quarter of the block?

A. Occupied four lots.

Q. Tell the Court who lived across the street in front or northwest corner of your wood yard? A. There was——

Q. Don't you remember Mollie Atkins?

A. There was no such person lived there.

Q. Where did she live? A. I didn't know her.

Q. Don't you know Mollie Atkins, the colored woman that lived there?

A. No, Travis Finlay lived there and he is the only one. And he died from an operation on his toe.

Q. Don't you know Mollie Atkins lived at 420 or 422, 4, 6 or 8 on Seneca Street? A. I never knew her by that name.

Q. That she was a negro there and had long black hair?

A. Travis Finlay lived there.

Q. When did you discontinue your wood yard?

A. I sold it to the Elks.

Q. How long ago?

A. About six years ago, seven maybe.

Q. And don't you recollect that right across the street from your wood yard, right in front of the northwest corner of your wood yard, that there was a colored woman there that kept some white girls in her house? A. No, sir.

Q. For improper purposes?

A. No, sir, there might have been. If there was anyone there they were in Travis Finlay's house.

Q. Don't you remember Flora Atkins, her daughter?

A. No.

Q. Did you know Ellis Shaw and Lou Shaw, colored folks lived across the street from your wood yard?

A. No, sir, they didn't live there.

Q. Don't you remember Robert Shaw, that little colored boy that was carried around there? A. No, sir.

Q. You don't recollect that?

A. No, sir, a colored man that worked for me come around there, Elex Ford, had two boys. One got large enough to drive a wagon. Willie Ford knew Tommy Atkins as well as I knew him and his mother and father knew Indian Minnie.

Q. You haven't seen Indian Minnie since 1885, have you?

A. Yes, I did.

Q. When? A. In Leavenworth.

Q. When? A. When?

Q. Yes? A. Last year sometime.

Q. Where? A. Well, she was in Lee Bond's office.

Q. You were told to come up there and identify her, weren't you? A. No.

Q. You went up there for that purpose?

A. No, I didn't. Who told you I did?

Q. I am asking you?

A. Well, I say no I didn't, I didn't know she was there. I am in the bill posting business, I have nineteen towns, nine in Missouri and ten in Kansas, and I have my letter writing done up in his office, and I went up there to have some of that done.

Q. She was sitting down?

A. She was in another room; wasn't in there at all.

Q. Sitting down in Lee Bond's—I guess they call it his private office.

Q. How tall are you Mr. Atchison?

A. I don't know—five—60 years ago.

Q. How tall are you? A. I don't know.

Q. How tall is your son-in-law Lee Bond?

A. I judge his height is about 6 foot one or two.

Q. How tall do you judge me to be?

A. You are about 5 feet, seven inches.

Q. You are a good guesser. A. Guessing at it.

Q. Now, Mr. Atchison, you didn't see this Indian woman that you saw in Lee's office standing up, did you?

A. Did I see her standing up? Yes. Not at that time; she was sitting down.

Q. Well, you have seen her standing up since you have seen her in Lee's office? A. Oh, yes.

Q. How tall a woman is she?

A. Well, I said at that time about five feet, maybe a little over.

Q. About five feet seven inches, isn't she?

A. Maybe she is, I paid no attention to her height. I am looking at you now, I can guess at your height pretty good.

Cross Examination by Mr. Cobb.

Q. Mr. Atchison, you say you didn't look at this baby when Minnie brought it there to your wood yard?

A. No, I had no occasion to look at it; it was in a blanket and something was moving in there; I didn't see it.

Q. You afterwards saw what was purported to be this child?

A. After it got big enough to walk I saw it there at Mrs. Letcher's; there were one or two other children.

Q. There in the yard?

A. Yes, there in the yard, when the weather got warmer.

Q. What was the names of those other children that you saw there? A. I don't know; never was at my place.

Q. What was their color?

A. Well, as I recollect, white.

Q. White children? A. Yes, sir.

Q. Was this child with two or three other white children?

A. Yes. I think one or two colored children, too, as well as white. She was a woman that took in children to raise; took in—made her living that way—and washing, together.

Q. About how old was it when you saw it there?

A. Able to walk around.

Q. A year and a half or two years old?

A. Able to walk around; I can't tell.

Q. About how often did you see the child there?

A. I don't know.

Q. Very frequently?

A. Only when I would drive by and notice the children in the yard.

Q. Now, how long did this period in which you saw the child around Mrs. Letcher's place there, continue?

A. How long?

Q. Yes, how long was it there to your knowledge?

A. Oh, I don't know, it was there after it was able to walk around next spring.

Q. Well, now give your best judgment as to how long a period did you see the child there? A. I can't tell.

Q. One month, six months?

A. I can't tell; I paid no attention; after she quit buying wood there I lost track.

Q. You know whether it was five years or not, don't you? That long?

A. Well, I recollect I saw him when he was six or seven years old.

Q. He was still at Mrs. Letcher's?

A. Well, I wouldn't say. I think he was; I didn't keep track of him.

Q. You saw him after he got to be seven years old?

A. Yes.

Q. You saw him frequently around town there?

A. Yes, not often though, I can't tell how often.

Q. I say you saw him every now and then?

A. I don't know what you mean by now and the[illegible] That would last for a year or ten years.

Q. Well, how often did you see him?

A. I don't know.

Q. In your best judgment give it to the Court.

A. Well, I saw him the next spring.

Q. The next spring? A. Yes.

Q. How many times did you see him the next spring?

A. I don't know.

Q. More than once?

A. Maybe, maybe not.

Q. You are not sure you saw him more than once?

A. I might have.

Q. What is your best judgment about that?

A. It has been 32 years ago—a good while to recollect. I am not going to say because I don't recollect.

Q. What I want Mr. Atchison, is your best recollection.

A. Well, if you want me to tell the story I will tell it.

Q. I just want you to answer the question.

A. If you won't let me tell it, I can't tell it.

Q. Answer how many times you saw him the next spring.

A. I don't know.

Q. Do you know whether you saw him more than once?

A. I don't know that; don't pretend to say.

Q. Well, did you see him later than next spring; at any time later?

A. I say I saw him—I want to explain to you, you won't hear it.

Q. You say you saw him later?

A. Well, I saw him later, yes. Will you let me answer the question?

The Court: Answer in your way when you saw him later.

A. Well, he and some colored boys when he got big enough to go away from home and live, went up to Iowa and thought they would get a job digging coal in the coal mine, and this Tommy Atkins went with them and came back and I saw this Will Ford that went up there with him and another boy, I forget his name and I said where have you been and he said up in Iowa.

Mr. Cobb: If the Court please, I object to that.

The Court: Well, you needn't to state that.

Q. When you next saw him in the spring in that year, he was ten or twelve years and was going to Iowa to dig coal?

A. No, he wasn't as old as that.

Q. How old was he then?

A. Oh, about seven years old, if I recollect.

Q. Those are the only two times that you saw him there during the period of his childhood that you remember of?

A. I didn't say that.

Q. Well, I am asking you if that is a fact?

A. Might be and might not.

Q. What is your recollection about the matter?

A. I want to tell you.

Q. I am asking you to find out?

A. Well, I told you I don't know.

Q. You don't know?

A. No, you won't let me tell it. I can't half tell it.

Recross Examination by Mr. German.

Q. This Iowa matter, you never told that before.

A. Had no chance to tell it; won't let me tell it now.

Q. That is something you learned in the last month or two, isn't it?

A. Oh, I knew that years ago when it happened.

Q. That boy was killed, wasn't he? A. Killed?

Q. Yes, sir? A. Not to my knowledge.

Q. Well, he died?

A. Supposed to have died but I don't know; might have. May be living yet; might be. He came back from Iowa; I saw him after he came back. I saw the colored boys that went with him and I asked them how they got back—walk or steal a ride on the train—we done both.

Q. You have [] talking with Lee Bond some about that, too, haven't you? A. No, sir, never spoke to him.

Q. Haven't?

A. Oh, I might have said something about that in his hearing but to talk to him about it, I did not.

Q. Well, do you know how it happened that Judge Stuart didn't ask you about that?

A. Well, he didn't know about it; I don't think I spoke to Judge Stuart about it. I might have but I don't think I did. I didn't talk about this to anybody; didn't do it.

Q. Now, speaking of the time that you saw this Indian woman first I will ask you if you didn't testify here when you gave your testimony before Mr. Penick at Leavenworth last spring; "Q. When was it you saw Indian Minnie, this Indian woman that you talk about? A. When did I see her? Q. Yes. A. I said it was '85, might have been; might have seen her in '84; I wouldn't be positive just what year or date, but it was between '83 and '86." That is what you testified?

A. I said '85.

Q. Didn't you say what I am reading to you?

A. It was between '85 and '86.

Q. You can't say positively?

A. Yes, I did say positively. Well, if the stenographer didn't put it down right, it is his fault.

Q. Well, didn't you testify up there that you couldn't be positive just what year or date but between '83 and '86?

A. Between '83 and '86——

The Court: Did you make that answer up there, Mr. Atchison.

A. There was a squabble about the answer I made and ordered stricken out by the stenographer. The stenographer wouldn't let me tell; he said stop, he said; I said what for, and he said you are talking too fast; and he struck it out and didn't strike enough out, I reckon.

Q. Didn't you answer this question? "You first saw her about a year before the boom." And didn't you give this answer: "I think I might have seen her in '84 and I believe I did; I won't say positively as to the date."

A. Yes, sir, I did say that and I say it now, between '83 and '86.

Q. And wasn't this question asked you: "When you first saw her, how old was this papoose," and didn't you answer "Just carrying it in her arms, I don't know how old it was." A. I say so now.

Q. Now, you say it was in '84 that you first saw her?

A. I may have seen her in '84, that is what I said.

Q. And she had the papoose?

A. No, she didn't; no, she didn't have the papoose.

Q. Didn't have the papoose then? A. Not in '84, no, sir.

Redirect Examination by Mr. Stuart.

Q. Have you ever stated to me at any time about the boy going away—these boys going to Iowa?

A. Never said a word to you about it; never did.

Witness dismissed.

Mr. Hanford: I offered in connection with the deposition—at this time I will offer the entries in the Grodevant book, which has been put in evidence heretofore, as to certain other entries in the year 1885, under date June 2nd, Minnie Atkins, one dollar; and under date of June 14th, the entry, Maggie, five dollars plus a dollar and a half, and carried out as five dollars. Under date of July 1st, an entry, Minnie Atkins in parenthesis five dollars on July, and carried out ten dollars. Those entries, the handwriting, of those entries were identified by Mr. Frank Grodevant.

The Court: Alright, they may be admitted.

And thereupon, L. B. BELL, a witness produced on behalf of the defendants Minnie Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Hanford.

Q. What is your name? A. L. B. Bell.

Q. Where do you live? A. Kansas City, Missouri.

Q. What is your occupation?

A. Well, sir, I am car repairer.

Q. Did you ever live in Leavenworth, Kansas.

A. Yes, sir.

Q. Just a minute—what is the name of the firm you are employed by? A. In Kansas City?

Q. Yes? A. Sheffield Car and Equipment Company.

Q. When did you live in Leavenworth?

A. I left Leavenworth four years ago—three years ago this fall.

Q. I wish you would talk louder.

A. Three years ago this fall.

Q. When did you go to Leavenworth?

A. I went to Leavenworth in '84 when I moved there.

Q. How do you fix that date?

A. I married in the fall of '83 and went to Leavenworth in the fall of '84 to go to work for the Transfer company.

Q. What did you do when you went to Leavenworth?

A. Driving team.

Q. Did you ever know an Indian woman in Leavenworth?

A. I knew of her, yes, sir.

Q. What was her name?

A. We called her Indian Minnie.

Q. Where did you know her?

A. She lived on Seneca street between Second and Third.

Q. Do you know whose house?

A. Granny Letcher's, we always called it Granny Letcher's house.

Q. The Granny Letcher house?

A. Yes, sir, I don't know the number of the house.

Q. Well, do you know what she was doing there?

A. I don't know what she was doing there.

Q. Did she live there or just stay there?

A. She lived there or stayed there, I don't know which.

Q. Do you know where she worked?

A. No, don't know where she worked.

Q. How did you happen to see her?

A. I was hackdriving and young and she drawed my attention, and I done some work——

Q. Did you haul her in your hack? A. Yes, sir.

Q. Where did you haul her from?

A. From Third and Seneca up to Fort Leavenworth once.

Q. Where did you deliver her at the Fort?

A. Right north of the prison there, Military prison.

Q. North of the prison? A. North of the Military prison.

Q. What time in the day was that? [*A.*] I think along about four o'clock, to the best of my recollection.

Q. About four o'clock in the evening? A. Yes, sir.

Q. Did you haul her more than once?

A. It seems to me that I hauled her more than once—once or twice, I forget how many times.

Q. Did you ever deliver her at any other place except that one place? A. No.

Q. You took her to any place in particular or——

A. Took her up on the corner and she got out—I don't know where she went to.

Q. North of the Prison?

A. Back of the Prison—Leavenworth Military Prison.

Q. Did you ever know of her giving birth to any children in Leavenworth? A. No, sir.

Q. Did you ever know of any children at Granny Letcher's?

A. There was a little boy there that they said was Indian Minnie's little boy.

Mr. Maxey: We object to that your Honor.

The Court: That will be stricken, what was said about the little boy.

Q. You said there was an Indian boy at Granny Letcher's? A. Yes, sir.

Mr. Allen: We object to that.

The Court: He said little boy there.

Q. What kind of boy was that?

A. Looked to me to be about a quarter breed Indian to look at him.

Q. How old was he when you first saw him?

A. I don't know; probably two years old when I first saw him.

Q. Did you know Granny Letcher?

A. Yes, sir, that is I knew of her living there. I wasn't acquainted with her.

Q. Did you ever talk to her about the boy? A. No, sir.

Q. Did you ever talk to Minnie about the boy?

A. No, sir.

Q. What was that boy called?

A. We called him Commodore, mostly; that was his nickname. Tommy Atkins was what they called him.

Q. How long did you see him there?

A. Oh, I don't know exactly; he must have been, anyway, six or seven years old the last time I seen him.

Q. Did you ever see him any place else?

A. Yes, I seen him around town, on Broadway there; Broadway and Delaware.

Q. Broadway and Delaware? A. Yes, sir.

Q. How old was he then?

A. Oh, he was a good big boy—running around.

Q. And that is the last place you saw him?

A. Yes, sir, that is the last place I recollect seeing him anyway.

Q. How long did you see Indian Minnie around there?

A. Well, I can't say how long.

Q. Did you ever see her with this boy?

A. Not with—no sir, no, sir, I never seen her with this boy.

Q. Was the last time you saw Minnie when you took her out to the Post, or did you see her after that?

A. I saw her after that; I never hauled her any place.

Q. You didn't know how long she stayed around there?

A. No ,sir.

Cross Examination by Mr. Allen.

Q. What is your nationality?

A. I am Irish descent, sir.

Q. What? A. Irish descent.

Q. Lived in this country, born in this country?

A. Yes, sir.

Q. Where were you raised?

A. I was born out in New Market, Missouri and raised in California until I was about 10 years old, and after that raised about over near Platte City, Missouri, and Leavenworth.

Q. Platte City, Missouri? A. Yes, sir.

Q. Do you [] Mrs. Mattie Cobb?

A. I know one Cobb up there; I don't know whether her name is Mattie or what it is.

Q. Mrs. Cobb, who is a witness for Mr. Page in this case?

A. Used to be Mrs. Edwards, yes, sir; not personally acquainted with her.

Q. You have talked with her, though?

A. Not in a good many years.

Q. Do you know George Crilley?

A. Know George Crilley, yes, sir.

Q. You have been talking to him recently, haven't you?

A. Talking to him a while ago, a few minutes ago.

Q. Everybody that ever referred to this boy, referred to him as Commodore Tommy Atkins, didn't they? A. Yes, sir.

Q. Now, was his name Commodore Tommy Atkins, or Tommy Commodore Atkins?

A. His name was Tommy Atkins, way I understood. Commodore was a nickname Crilley give him.

Q. Called him the full name though?

A. Tommy Atkins we always called him.

Q. You always used the word Atkins when call*ed* this boy, didn't they?

A. I can't say that they always used that word in calling him; lots of times they called him Tommy.

Q. You never heard him called anything except Commodore or Tommy Atkins? A. That is all.

Q. Didn't they call him Pommodore, some of the people?

A. Not as I know of.

Q. P-o-m-m-o-d-o-r-e? A. Not as I know of.

Q. Didn't you always hear Mrs. Edwards call him Pommodore?

A. I never was around those people much; I never spoke to Mrs. Edwards in 40 years.

Q. Did Crilley ask you if you knew this Tommy Atkins they called Commodore?

A. No, sir, Crilley didn't ask me anything about it.

Q. How long did you live in Leavenworth?

A. Well, I moved there in '84 and left there in '13. Moved there in 1884 and left there in 1913.

Q. What year did you say—in 1894 that you first saw Minnie Atkins? A. I didn't say '94.

Q. What did you say?

A. I said I moved there in '84 and the winter of '84 I saw her and the spring of '85.

Q. The winter of '84 and the spring of '85 that you hauled her to the Fort? A. Yes, sir.

Q. How old was Commodore then?

A. I don't know, sir, I never saw him at that time.

Q. Well, you said I believe, that the first time you saw him was at Granny Letcher's when he was about two years old? A. Playing around there, yes, sir.

Q. Wasn't that when you went there to get her to haul her to the Fort? A. It was after that.

Q. How long afterwards?

A. I don't know, probably two years, I don't know just how long. I never kept tab on it because I never expected to be called on it any more; never paid no attention to it.

Q. Did you ever see Minnie in your life after you hauled her to the Fort that time? A. No, not that I know of.

Q. But you saw that boy two years afterwards? You didn't see that boy when you went there for Minnie, did you?

A. No, sir.

Q. You didn't see him for two years after did you?

A. I didn't go there for Minnie; I got Minnie down on the corner.

Q. You never saw Minnie, then at Granny Letcher's, then, did you in your life? A. I can't say that I did.

Q. If she ever lived there, you don't know anything about it, do you?

A. She made that her home; that is all I know about it.

Q. Now, if you ever saw her there you have no recollection of it, have you?

A. No, I never saw her, I will say that.

Q. If she ever had a boy there, you didn't know anything of it?

A. I don't know anything of her having any boy; all I know that boy played around there and they called it Indian Minnie's boy.

Q. Now, I didn't ask you that. I asked you if you ever knew whether she had a boy or not. Can you answer yes or no? A. No, I don't. I didn't.

Q. Mr. Bell, who first talked to you about this case?

A. Mr. Graham—Pomp Graham was the first man that spoke to me.

Q. Pomp Graham is a hack driver in Leavenworth, isn't he?

A. Pomp Graham never drove a hack in his life that I know of.

Q. What does he do there?

A. He is a deputy sheriff—used to be.

Q. He became deputy sheriff after this case arose, didn't he? A. I can't tell you.

Q. He has been sort of a private detective in Leavenworth for Charles Page, hasn't he, since this case arose?

A. I don't know anything about it.

Q. You know that he has been working for Mr. Page?

A. I know nothing about this case until about a year ago.

Q. Don't you know he is employed there by Page?

A. I do not.

Q. And he spent the last two years following everybody that goes to Leavenworth around there to see what they are doing?

Mr. Stuart: If your Honor please——

The Court: If that is said for my benefit, if you don't know that this man knows, don't ask the question. Don't inject anything now in this case except the testimony.

Mr. Allen: I beg your Honor's pardon, I didn't say it for your Honor's benefit, I wanted to test the——

The Court: I am assuming, now, that you believe this man knows that to be a fact.

Mr. Allen: I think he does.

Q. Don't you know that Mr. Graham was working for Mr. Page there for the last two or three years? A. No, sir.

Q. Hasn't he told you so? A. No, sir.

Q. Where were you when he came to see you?

A. Kansas City, Missouri, at 17th and McGee.

Q. What did he say to you when he met you?

A. Why, he asked me in regard to this case.

Q. What did he ask you?

A. He asked me if I knew anything about the case; if I recollected it and I told him that it had been so many years ago that I had forgotten a great deal about it.

Q. Tell me exactly what he said to you.

A. He asked me did I recollect Indian Minnie who used to be around up there, was the question that he asked me.

Q. Did you tell him that it had been so many years that you had forgotten?

A. Forgotten until he spoke about it; when he spoke about it, I remembered.

Q. What did he ask you about the boy?

A. I don't think he asked anything about the boy.

Q. Didn't ask a thing about the boy?

A. I don't think he did.

Q. Do you say to this Court that he didn't ask you a thing about the boy at Granny Letcher's?

A. I don't think he asked me a thing about the boy.

Q. Who did you next talk to?

A. I didn't talk to anybody I guess. There was one man came down there but I was busy and didn't have no time to talk to him, so I went to work.

Q. Pomp Graham came back again with [] man to show him where you lived? A. Yes, Pomp came down there.

Q. Do you know who that was?

A. The last man who was up was Mr. Long.

Q. Mr. Frank Long, and you didn't talk to Mr. Long and Mr. Graham at all at that time?

A. No, sir, all they done was to tell me they wanted me to come down here and get me excused from my place of business to come down here, that is all the talk there was to it.

Q. They didn't ask you a word about Tommy, then?

A. No, sir.

Q. Didn't they so know that you ever heard of this baby at Granny Letcher's until you took this witness stand? Did you never talk to anybody about it, is that what you want the Court to understand?

A. Exactly what I want the Court to understand, I haven't talked to anybody about this.

Q. All you know about this case is that upon one occasion you drove Minnie Atkins from somewhere in Leavenworth up to the Fort? A. Yes, sir.

Q. You don't know in what year that was, do you?

A. That was in '85.

Q. What time in '85? A. Spring of '85.

Q. Didn't you say a while ago that it was either in the fall of '84 or spring of '85?

A. No, I said '84 or '85, I moved to Leavenworth in '84 and went to driving for the Transfer Company and mashed my foot and wasn't able to drive my team with team work, and went to driving a hack along about February.

Q. Do you know Walter Banks? A. Who?

Q. Walter Banks? A. No.

Q. Do you know Sam Nash? A. Yes, I know him.

Q. Who is Sam Nash?

A. The Sam Nash I have reference to is a colored fellow, one-armed fellow.

Q. Where did you first see him?

A. Oh, around there in Leavenworth; I don't know where is the first time I did see him.

Q. Do you know where he lived?

A. I don't know where he lived, no.

Q. Do you know Jim Mayo, did you know him?

A. Not by name; he might have some nickname.

Q. You never heard of Walter Banks in your life, did you?

A. Not by that name; if he has some nickname I might know him by that.

Q. Did you know George Dale? A. Yes, sir.

Q. Where did he live?

A. Now, I can't tell you that, where he did live.

Q. Did you know Emma Gatewood? A. Sir?

Q. Did you know Emma Gatewood? A. No, sir.

Q. You don't know where she lived? A. No, sir.

Q. Charlie Hutton, did you know him?

A. I don't know him.

Q. Frank Long, you say, and Pomp Graham came to you to get you to come down here, and then who else talked to you? A. No one, I never saw any one.

Q. Didn't you come with them? A. No, sir.

Q. Who did you come with down here?

A. With [] man name *of* Tisher and I came together—Phillip Tisher.

Q. Is he a witness in this case?

A. Yes, sir, he is out there.

Q. Was Minnie in a family way when you saw her out there? A. I don't know, sir, whether she was or not.

Q. You didn't observe it when you drove her up to the Fort? A. I paid no attention to it, no, sir.

Q. Were you ever around Granny Letcher's much?

A. No, sir.

Q. Never visited there at all?

A. No, sir, never visited there in my life.

Q. Did you know where she lived?

A. I know where she lived at that time, yes, sir.

Q. Where?

A. Right up on Seneca between Second and Third.

Q. Do you know what house she was in there?

A. The house is torn down now, I don't know what the number of it was.

Q. What time was she living there?

A. She was living there in '85, I know.

Q. Didn't she live there in '84 when you went to Leavenworth?

A. Yes, I think she did; I don't know how much longer before she had lived there.

Q. She was living there when you went to Leavenworth?

A. Yes, sir.

Q. You didn't know any of the people who lived there at Granny's house, did you? A. No.

By the Court.

Q. Did you say you picked Minnie up on the street when you took her from Leavenworth to the Fort that time?

A. Yes, sir.

Q. How did you happen to do that? Who got you to go there?

A. Judge, it is nothing for a hack driver to be picked up on the street.

Q. Oh, she hailed you on the street? A. Yes, sir.

Q. Now, where did you say that was? What corner?

A. That I got her?

Q. Yes? A. Third and Seneca.

Q. Where was that with reference to where Granny Letcher then lived? A. About a half a block.

Q. You say that was in what year? A. '85, Judge.

Q. What time in '85? A. I think along in the spring.

Q. And was that the first time you had ever seen Indian Minnie?

A. Oh, no, I had seen her several times before that.

Q. Where had you seen her?

A. Down on the streets there in Leavenworth.

Q. How long—for a period of how long before that had you—do you now remember to have seen her around on the streets there?

A. Well, I didn't pay no attention to her until I went to driving the hack and that was along, I think, in January.

Q. You don't remember to have seen her until you went to hack driving?

A. That was the first I paid any attention to her, when I went to hack driving.

Q. Did you ever drive her in your hack at any time before this trip to Fort Leavenworth? A. No, sir.

By Mr. Allen.

Q. What time in the spring was it that you drove her to Leavenworth? A. I went to driving in January '85.

Q. Do you know what time in the spring it was that you drove Minnie up there?

A. I can't say just what time it was; shortly after I went to driving my hack.

Q. Was the grass green?

A. Well, it was getting along warm weather.

Q. Getting warm weather? Do you know what month it was, April, May or June? A. I can't tell.

Q. Late as July?

A. I don't think it was that late but I don't recollect what month it was.

Q. Later than April, though, wasn't it?

A. Well, it was getting warm weather, yes, sir.

By the Court.

Q. Do you remember whether she had any baggage with her? Was she carrying anything?

A. I don't think she was; I don't recollect about that—I don't think she was.

Cross Examination by Mr. Cobb.

Q. This hack that you were running there was a public hack for hire, wasn't it? A. Yes, sir.

Q. When you weren't engaged in transferring people, you kept it in some public place on the street, didn't you?

A. We had a hack stand.

Q. And it didn't take you long, Mr. Bell, to get acquainted with practically everybody around town there, did it? A. Sir?

Q. You weren't long, after you started running this hack, getting acquainted practically with everybody in town, were you?

A. I got acquainted with a good many people, yes, sir.

Q. Now, how long did you run this public hack there?

A. I drove it at that time about a year.

Q. About a year?

A. To the best that I recollect, I think it was about a year at that time.

Q. Then, what business were you engaged in there?

A. I think I went from there to the Bus Company—Leavenworth Bus Company.

Q. You were still running a public conveyance there in Leavenworth at that time? A. Yes, sir.

Q. How long were you altogether in running public conveyances there?

A. Well, I was at that about three different times.

Q. Well, I mean continuously from January '85——

A. About three years.

Q. About three years? A. Yes, sir.

Q. Now, during the time, how far was the Granny Letcher place from the place where you usually kept your hack when you were not at work?

A. I guess about six or seven blocks.

Q. Now, in your hack business there, you made frequent trips to Granny Letcher's place, it was a kind of resort wasn't it? A. I never went up there with a hack.

Q. Now, you say you saw this boy there in Leavenworth, where did you see him, where did you first see him?

A. Well, I first saw him in front of Granny Letcher's place.

Q. In front of Granny Letcher's place? A. Yes, sir.

Q. How old was he at the time?

A. He was probably two years old then.

Q. Probably two years old?

A. Maybe not quite so old.

Q. After you first saw him, you saw him frequently playing around there? A. Yes, in passing by.

Q. This kid had been pointed out to you as being Tommy Atkins, Commodore?

A. I will explain that a little bit. Mr. Crilley ran a livery stable and on Sundays and at idle times we would lounge around there.

Q. And this boy played around Crilley's livery barn, and Letcher's? A. Yes, sir.

Q. Did you say you lounged around Crilley's every Sunday? A. Quite a good bit.

Q. And you saw this boy around there during that time?

A. Yes, sir.

Q. Now, you continued to see him until he got to be five or six years old?

A. I think the last time I saw him he looked to be about six years?

Q. You judged from his size and appearance that he was about six years old, or do you know? A. I don't know.

Q. And then he disappeared? A. Yes.

Q. And you haven't seen him since, that you know of?

A. No, sir.

Q. Now, Mr. Bell, I wish you would describe the physical appearance of that boy to the Court. Give his color, the color of his eyes, the color of his hair?

A. Well, sir, I don't believe I could tell you the color of his eyes.

Q. Well, what was his complexion?

A. He was dark complected.

Q. Kind of a swarthy yellow Indian color? A. Yes, sir.

Q. Was his hair black? A. Black.

Q. Straight?

A. Yes, sir, supposed to be straight, I never saw it straight.

Q. You have seen Indians very frequently, Mr. Bell?

A. Yes, sir.

Q. Judging from his complexion and the contour of his face and his hair and so forth, did he have the appearance of being an Indian or part Indian?

A. Well, to look at the child and to the best of my judgment I would take the child to be about one quarter breed Indian.

Cross Examination by Mr. Allen.

Q. Mr. Bell, can you tell me when it was you first talked to Mr. Graham about this case?

A. Well, I couldn't tell you the exact date.

Q. How long ago? A. About a year.

Q. It wasn't two years? A. No, sir.

Q. Have you talked to Mrs. Cobb? A. No, sir.

Q. Or Mrs. Edwards? A. No, sir.

Q. Have you talked to George Crilley?

A. Not over this subject.

Q. Never talked to anybody about this boy?

A. No, sir.

Q. You saw the boy only there in front of Granny Letcher's once?

A. Oh, I saw him there several times playing around.

Q. Did you see other boys there?

A. Mr. Crilley has some boys.

Q. Did you see other boys playing around there?

A. None only Mr. Crilley's boys.

Q. You never saw Walter Banks there? A. No, sir.

Q. You never saw Sam Nash? A. No, sir.

Q. Mary Lower? A. No, sir.

Q. This Tommy is the only boy that you can tell me you ever saw? A. All that I paid any attention to.

Q. Around Granny Letcher's? A. That is all.

Witness dismissed.

And thereupon, MRS. LUCINDA R. RILEY was called as a witness for and on behalf of the defendant Minnie Atkins, and having been first duly sworn, testified as follows:

Direct Examination by Mr. Hanford.

Q. Will you state your name please?

A. Mrs. Lucinda R. Riley.

Q. Where do you live, Mrs. Riley?

A. I live in Denver, Colorado.

Q. What was your name before you were married?

A. Lucinda A. Schiller.

Q. Your mother's name was Schiller? A. Yes, sir.

Q. You formerly lived in Leavenworth, Kansas?

A. I was born and raised there.

Q. How long since you have lived in Leavenworth?

A. I think it was 1903 that I left there.

Q. Did your mother own the property at 326 Choctaw?

A. Yes, sir.

Q. Did you live there with her?

A. I was born and raised in that house.

Q. When did you move out of that house?

A. We moved out in the spring of 1885.

Q. Where did you move to?

A. On Olive Street near Grand Avenue, second house from Grand Avenue.

Q. Who moved into that house after you moved out?

A. A lady by the name of Lilly White.

Q. Did she lease that property from your mother?

A. Yes, sir.

Q. Do you remember about what month it was that she moved in there? A. I think it was in April, I am not sure.

Q. April, 1885? A. Yes, sir.

Q. But you are sure that it was in the spring of 1885?

A. Yes, sir, I am very sure of that.

Q. Will you state to the Court how you fix that date?

A. Well, I have a neice that was born the 8th of August and we were out there a few months before she was born.

Q. On Olive Street?

A. In 1885, yes, sir, on the corner of Grand Avenue and Olive.

Q. And did you live at the house when she was born?

A. Yes, sir.

Q. You know you were there several months before she was born? A. Yes, sir.

Q. Now, do you remember whether she moved into the house directly after you moved out?

A. She was moving in before we moved out, some of her things were there before we moved out; she was in a great hurry to get in.

Q. How do you remember she was in a great hurry to move in otherwise than that she was moving in before you got out?

A. Well, the house we were building was hardly finished when we got out of there. We had to get out there before it was finished.

Q. You mean she was in such a hurry to get the place?

A. Yes, sir, it seemed like they had orders from the City to get down on that street and they wanted the house very soon?

Q. What kind of orders? A. Oh, I don't know.

Q. You mean a City Ordinance?

A. Yes, City Ordinance.

Cross Examination by Mr. German.

Q. This Lilly White, what kind of a woman was she?

A. I don't know how you mean.

Q. Well, was she married, I will ask you that?

A. Well, I don't know that, I don't think she was.

Q. Was she a woman of good reputation? A. No, sir.

Q. Where did she come from to your mother's place?

A. Well, I think it was some where on Seneca Street.

Q. 217, don't you think it was 217 Seneca Street?

A. Well, I wouldn't know the number.

Q How long did Lilly White live in that house?

A. She lived there for a year.

Q. And how long did she live there?

A. Well, I don't know whether I could state that. Whether she lived there a year or lived there a little longer.

Q. But she did live there though during that year?

A. Yes, sir.

Q. For the year and possibly longer? A. Yes, sir.

Q. And where did Lilly go to from there?

A. I didn't keep track of it.

Q. Did you visit her any? A. No, sir.

Q. You didn't visit her any?

A. No, sir, she used to come down to the house and pay the rent.

Q. She came out and paid the rent? A. Yes, sir.

Q. How is it you fix this time as being in April, 1885?

A. On account of my niece being born in 1885 August 8th.

Q. What is your niece's name? A. Myrtle Anderson.

Q. Where was she born?

A. On the corner of Grand Avenue and Olive.

Q. What was her mother's name?

A. Emma Anderson, my sister.

Q. Was Emma living with your mother? A. No, sir.

Q. Where was she living?

A. On the corner of Grand Avenue and Olive and mother and I lived next door to her.

Q. How long had your sister been living there?

A. Oh, she had been living there quite a few years.

Q. Then you and your mother didn't move up there until after your sister had lived there several years?

A. That is right.

Q. Then you and your mother continued to reside by your sister for several years after that?

A. We lived there until 1888.

Q. Where did you move to then?

A. Well, in the spring of '88 mother had been sick for two years. She took sick right after we moved out there and she used all her surplus money, and then our house was vacant down on Choctaw Street for about three months, and so in the spring of 1888 mother and I moved back there.

Q. On Choctaw Street? A. Yes, sir.

Q. Did Lilly move out so you could move in?

A. Well, the house had been vacant for three months.

Q. Lilly had moved out for three months before?

A. Yes, sir.

Q. So it was the spring of 1888 you moved back there?

A. Yes, sir.

Q. So, Lilly moved out about January, 1888?

A. I couldn't say when she moved out.

Q. Well, the house had been vacant for three months?

A. Three months that I know of.

Q. You say the spring of '88, that covers three months, which one of those months was it you moved there, you and your mother moved back? A. Mother died July 3rd.

Q. In 1888? A. In 1888.

Q. And how long did you live in that house before she died? A. We hadn't been there more than two months.

Q. In July? A. July 3rd.

Q. Then you came there in May probably in 1888?

A. Yes, sir.

Q. And the house had been vacant three months, it having been vacated by Lilly White moving out?

A. Well, I think there was another party lived there after Lilly White moved out.

Q. She came up to your home to pay the rent, didn't she?

A. Yes.

Q. How long had she lived there?

A. Well, I don't know how long she lived there.

Q. About, can't you give some idea; you remember about Lilly so well? Can you answer?

A. I was thinking. I think as far as I can remember Lilly White turned it over to some one else.

Q. Yes, but how long did that some one else stay there, that is what I am getting at, give us some idea about it?

A. Well, she must have stayed until May, because we were there just about three months.

Q. You were in the house about three months?

A. No, the house was vacant about three months.

Q. Then when was it this other party was in the house?

The Court: I suppose the point is when Lilly White left that house?

Mr. Allen: That is the idea.

The Court: If you know, just tell him that as near as you can. You say Lilly White moved in as you were moving out?

A. Yes, sir.

The Court: She lived there a while?

A. Yes, sir.

The Court: Do you remember the fact that she moved out and someone else moved in?

A. Well, I don't remember them moving, it was turned over to some one else and Lilly White kept on paying the rent. She always brought the rent to us but she didn't live in the house.

The Court: The point is, about how long after Lilly White moved in the house until Lilly White turned the house over to some one else?

A. Well, it was after her lease expired.

The Court: And that was at the end of the year?

A. Yes, sir.

The Court: About how long after, have you a judgment on that?

A. Well, no, I haven't.

Q. Wasn't it this way, that that other person lived in the house before Lilly White? A. No, sir.

Q. Well, you spoke of Lilly rushing in, crowding you out, and she moved in because she was in a hurry on account of some City official acts?

A. Yes, and then they wanted to remodel the house some.

Q. What house? A. Our house.

Q. You mean you wanted to remodel it before she moved in?

A. No, she wanted to do that, she wanted to put in a hall.

Q. What was the matter, that you understood made Lilly in a hurry to get down there? A. A City Ordinance.

Q. Well, hadn't the City taken some action about it?

A. I suppose they had, at least we heard they had.

Q. You heard about a petition being circulated to move Lilly White out of Seneca Street? A. Yes.

Q. And the Council taking some action on that? A. Yes.

Q. Did you ever see that petition? A. No, sir.

Q. Would it refresh your memory any if I would call your attention to the date of that petition?

A. No, I don't think it would.

Q. You heard of it, what it was, you heard about that petition?

Mr. Cruce: We object if the Court please as hearsay testimony.

The Court: He is testing her memory on it.

Examination by the Court.

Q. Have you heard of that petition recently?

A. No, sir, I haven't.

Q. When was the last time that you heard of it?

A. I don't know.

Q. A year ago? A. Oh, no.

Q. Two years ago. Has anyone talked to you about that petition?

A. No, sir, I just remember that from the time she moved there.

Q. You remember the fact of the petition? A. Yes, sir.

Q. Has anyone ever mentioned the fact of the petition to you since that time? A. No, sir, not a word.

Cross Examination by Mr. German.

Q. What was it you heard about that petition at that time back in 1885?

Mr. Cruce: We object, if the Court please.

The Court: Overruled.

Mr. Cruce: Exception.

The Court: Answer if you can.

A. We just heard that they were ordered down from that street.

Q. That is what you heard? A. Yes, sir.

Q. You say they moved down on to your street. What character of houses were operated on the street where you and your mother lived at the time Lilly White came down there? A. Well, just people living down there.

The Court: Were there any sporting houses down there near your house at the time?

A. I don't think there was.

Q. Lilly was the first to start there?

A. I think it was the first one started.

Q. Now, you say your mother was ill about two years before she died? A. Yes, sir.

Q. And you moved up on Olive and Grand on account of your mother's health?

A. No, she wasn't ill when we moved out there.

Q. She became ill after she moved out there? A. Yes, sir.

Q. How long after you moved to Olive and Grand was it until your mother became ill—— That is all.

Mr. Cruce: I would like to have her answer that question.

The Court: You may answer that if you remember, Mrs. Riley. You say you moved from the house that Lilly moved into, and after that your mother became ill and subsequently died. How long after you moved out until your mother became ill?

A. I think it was in the fall of 1885 that mother started with her illness.

Redirect Examination by Mr. Hanford.

Q. When were you married? A. I was married in 1890.

Q. And is your husband living? A. No, sir.

Q. You are a widow? A. Yes, sir.

Q. You speak of moving back to Lilly White's before your mother died. You said she had exhausted her resources during her illness; did that have anything to do with her moving back there? A. No, sir.

Q. I mean did she go back there, did she have to?

A. Yes, sir, in order to get some one to rent the other house.

Q. That was your only income? A. Yes, sir.

Q. And there was just you and your mother?

A. That is all, just myself. The other girls were all married.

Q. You had no connection with any of these places or anything like that? A. No, sir.

Q. How old were you about at that time?

A. I was about twenty-three or twenty-four years old.

Q. At that time that you moved back there were there any other of these houses on that block there?

A. Yes, sir, there were.

Q. They still remained there? A. Yes, sir.

Q. You have never had any trouble or any difficulty of any kind? A. No, sir.

Q. Your mother at that time was a widow woman?

A. Yes, sir.

Q. Mrs. Riley, do you know what was meant by petition?

The Court: Let's not go into that.

Recross Examination by Mr. German.

Q. How long after you moved out to Olive and Grand was it until your mother became ill?

A. I just answered that question.

Q. What was your answer? A. In the fall of 1885.

Q. She became ill then about four or five or six months?

The Court: The summer would have come between of course.

Q. Then, she was ill two years?

A. She was ill two years, but at first she was able to get around.

Witness dismissed.

And thereupon, MRS. JOHN WELCH was called as a witness for and on behalf of the defendant Minnie Atkins and having been first duly sworn, testified as follows:

Direct Examination by Mr. Hanford.

Q. Will you please state your name?

A. Mrs. John Welch.

Q. Mrs. Welch, do you live in Leavenworth?

A. Yes, sir.

Q. How long have you lived there?

A. Ever since I was quite a small child.

Q. You are married? A. Yes, sir.

Q. You live with your husband? A. Yes, sir.

Q. Have you any children? A. Yes, sir.

Q. Where do you live at present? A. 219 Osage.

Q. 219 Osage? A. Yes, sir.

Q. Did you ever know a woman in Leavenworth named Indian Minnie?

A. Well, I heard of her when this child, I heard of her through Mrs. Letcher when this child was there.

Mr. Pinson: Objected to as hearsay.

The Court: I will sustain the objection at this time.

Mr. Cruce: Exception.

Q. Your father worked one time at Crilley's? A. Yes, sir.

Q. And did you ever go down there?

A. Yes, we were quite friendly with them.

Q. And what did you go down there for?

A. Carried my father's meals, sometimes I went twice a day, every evening I carried his supper.

Q. Did you see any children around there? A. Yes, sir.

Q. Did you ever see any Indian boys? A. Yes.

Mr. Maxey: If the Court please, I think he should not lead the witness.

The Court: Let the witness do the testifying.

Q. State who you saw there?

A. Well, I saw the Banks boy with one arm off, two other fellows a little darker, one was larger than the other, and then this little Tommy Atkins.

Q. They called him Tommy Atkins, did they?

A. Yes, we lived right next door.

Q. How big a boy was he at that time?

A. Well, he was a child, I couldn't tell about his age, but he was a little fellow.

Q. Just give your best judgment of his age?

A. Well, I couldn't say, I was small myself.

Q. Can you describe how he looked?

A. Well, he had dark skin, dark hair, and dark eyes; he looked very much like an Indian.

Q. You judged him from his appearance to be an Indian?

A. Yes.

Q. Would you say he was a fullblood?

A. Well, no, I couldn't say that, but he looked very much like an Indian.

Q. And did you ever see him after that?

A. Yes, then when we moved into the Feth house he was there then.

Q. When did you move into her house?

A. Well, I couldn't say the year.

Q. You were much older then, were you? A. Yes, sir.

Q. And what part of the Feth house did you live in?

A. We lived in the frame part. There was a stairway going up between the stone part and the frame part. There was a landing here and Mrs. Feth lived in the stone part.

Q. When were you married? A. 1894.

Q. Were you living at that place at that time?

A. No, we had moved out on Fifth and Olive.

Q. Was Granny Letcher living near you, you say?

A. Yes.

Q. How long had she been living there?

A. Quite a while I couldn't say how many years she moved there. She had moved away and she moved in shortly after we moved there again.

Q. She had moved out and then moved back? A. Yes.

Q. And she moved back while you were in the Feth house?

A. Yes.

Q. Did you see this boy around there then? A. Yes, sir.

Q. And what did you notice about him then?

A. That he was a much larger child, he wasn't so large either; I couldn't say his age.

Q. Could you judge about?

A. Well, he might have been seven or eight, might have been that, I couldn't say.

Q. Did you know any other children at her house?

A. Well, *this* two older fellows, this Banks boy and two other darker boys.

Q. What was the one armed boy's name? A. Banks.

Q. To refresh your memory, was it not Sam Nash?

A. Yes, that is it. The other fellow, darker fellow, was Banks.

Q. Which was the oldest?

A. I couldn't say. I noticed them being there. I never spoke to any of those boys in my life.

Q. Do you remember any occurrence between these boys?

A. Well, these darker boys was quarreling with this little Tommy and my mother and I went out and stopped it, and mother and I told them they were too big boys to fight a little fellow.

Q. What kind of people lived in this frame house, I mean white or colored? A. Well, Mrs. Letcher lived there.

Q. She was colored?

A. Yes, but there were a good many different ones.

Q. Did you have anything to do with them? A. No, sir.

Q. And you say that you knew of him there from the time Granny Letcher moved back until you moved away on Olive Street? A. Yes, sir.

Q. And that was just before you married in 1894?

A. Yes, sir.

Mr. Cruce: If the Court please, we don't know what might happen and we would like to read into the record what we expect to prove by this witness; make the offer.

The Court: Well, of course it is clear to me now what your offer will probably be. I am going to let you interrogate this witness on that point subject to a motion to strike. You may ask her that.

Mr. Cruce: I don't know how to ask it. Mr. Hanford will have to ask it.

Redirect Examination by Mr. Hanford.

Q. Did Granny Letcher ever tell you whose child that was? A. Yes, I asked her.

Q. What did she tell you? A. She told me Tommy Atkins.

Q. Did she say whose baby it was?

A. Yes, she told me Indian Minnie.

Q. Did you ever know Indian Minnie? A. No, sir.

Mr. German: Now, we move to strike that testimony on the ground that it is hearsay.

The Court: I will reserve the ruling upon that. During the interim between now and tomorrow I want to examine the Banks and other depositions.

Mr. German: I assume that your Honor will have in mind the fact that when we introduced those depositions we didn't vouch for their truthfulness.

The Court: I have in mind the statement which you made with regard to the purpose for which you offered them.

Mr. Cruce: We don't think we can introduce this lady and say her testimony after it is in cannot be treated except for one purpose.

The Court: Well, I may give you gentlemen a little time upon this in the morning. I want to consider those depositions first.

Cross Examination by Mr. Allen.

Q. What was your maiden name? A. Laura Alexander.

Q. What was the date of your birth?

A. 18th of August.

Q. What year? A. I will be forty one this August.

Q. Forty-one? A. Yes, sir.

Q. This coming August? A. Yes, sir.

Q. Sure about that? A. Yes, sir, I am.

Q. When were you first married?

A. I have only been married once, I was married the 26th of September.

Q. What year? A. 1894.

Q. Where were you living in 1886?

A. Well, I don't remember the years, but I can tell you right where I have lived.

Q. Where have you lived?

A. When we first came to Leavenworth?

Q. When was that? A. Well, I was quite a small child.

Q. Do you know what year?

A. No, I don't know. Mr. Crilley and his family lived in the old Seneca House and we stayed there until we got a house. The first place we got was on Olive. This building was built for a stable and they never used it for a stable and they partitioned it off and we lived in the down stairs part; and from there we moved down on the corner, and then from there we moved out on Fifth Avenue, on Prospect between Fifth and Fourth, and that was our home.

Q. How old were you when you went to Leavenworth?

A. Well, I couldn't say.

Q. Well, were you fifteen or twenty years old?

A. No, I was young.

Q. Five years old?

A. I guess I was older than that. We lived there before.

Q. You went to Crilley's house long before his wife and he separated though, didn't you?

A. I couldn't say they ever separated.

Q. Were they ever separated?

A. No, I never knew they were separated, because they came to our house often and we went to their house.

Q. They were living together at that time then?

A. Yes, I know she went away on a visit and Mr. Crilley brought her out to the house and bid us good bye.

Q. She went away on a visit. And you never saw her after that, did you? A. No.

Q. You learned later she died, was dead? A. Yes.

Q. How long did you live in that house with Crilley?

A. We were not in that house but maybe a week. Mamma wouldn't stay any longer than she could help.

Q. It was during that week you saw Thomas Atkins?

A. Oh, no.

Q. You saw him then didn't you?

A. Yes, but not that week.

Q. You saw him that week, didn't you? A. No.

Q. When was it you saw him after that?

A. When I carried meals to my father.

Q. What year was that? A. I couldn't say.

Q. Did you stop at Crilley's?

A. I played there. I went down there and played, spent the day many a day.

Q. Crilly was very friendly to you?

A. Yes, they were, all of them.

Q. And when you would go there and visit Mrs. Crilley, you would see this boy? A. Yes, sir.

Q. How old was he then? A. Well, I couldn't say.

Q. Seven or eight years old?

A. No, that was when we lived next door.

Q. He was six or seven wasn't he when you first learned his name? A. No, he was a very small child.

Q. How old was he? A. I couldn't say.

Q. He wasn't more than a year old?

A. How could you expect me to tell his age?

The Court: Don't argue with the lawyer. Just answer the question if you can; if you can't just say so.

Q. Just tell me if you can how old he was?

A. He might have been two, I don't know, I couldn't say. He was a small child.

Q. How long would you stay there with Mrs. Crilley?

A. Sometimes I would start down about four o'clock.

Q. You didn't play with these negro boys?

A. Oh, no, I played with Crilley's children.

Q. This was a little mulatto?

A. He looked like an Indian generally.

Q. He didn't show any signs of negro blood?

A. I don't think he did.

Q. Do you know Henry Carter, have you been asked to identify him lately? A. No, sir.

Q. Didn't this boy later go out in the country from Leavenworth, and didn't you learn that he was raised out in the country? A. No, sir.

Q. Granny told you that this was a child of Indian Minnie? A. Yes, sir.

Q. Was Mrs. Crilley there when she told you that?

A. Yes, Mrs. Crilley was there.

Q. How long would you stay there with Mrs. Crilley when you would see this boy?

A. Sometimes I would stay until nine o'clock and go home on the car.

Q. Nine o'clock in the evening?

A. Yes, sometimes my mother would come down and spend the evening.

Q. How long did you continue to go down there and play?

A. It was quite a long while.

Q. Did you continue to go down there as long as two years after you saw this boy?

A. Well, now, I couldn't say how long.

Q. It was more than a year?

A. I couldn't say it was; long while.

Q. This boy would sometimes join with you children in playing? A. No, sir, he played on his side of the street.

Q. Then, you were never thrown in contact or associated with him, were you? A. No, sir.

Q. He was living there with negroes and you didn't associate with them, did you? A. No, sir.

Q. You continued to go there and play with these other children? A. Yes, sir.

Q. As long as Crilley's lived there?

A. Yes, and they came to our house.

Q. Then, Mrs. Crilley finally went away? A. Yes.

Q. Then when did you next see this boy?

A. After that we moved into the Feth house.

Q. After Mrs. Crilley went away you next saw the boy after you moved into the Feth house? A. Yes, sir.

Q. Did Mrs. Crilley come back on a visit after she had gone away and then again leave?

A. I don't remember that part, of anything like that.

Q. When you moved into the Feth house about how old was this boy?

A. Well, I don't know, might have been eight or nine, I couldn't say, seven or eight, eight or nine.

Q. You think——

The Court: You think he must have been as much as seven years old?

A. Well, he might have been, you know I can't always judge children.

The Court: What I want to get at is, some age you know he wasn't under.

A. Well, I guess he was about eight or nine.

Q. That is when you moved back to the Feth house?

A. Yes, sir.

Q. And he was then living with Granny Letcher?

A. Yes, sir.

Q. You never saw him anywhere else? A. No, I never.

Q. You never played with him in your life? A. No, sir.

Q. You never spoke to him in your life?

A. Just spoke to him the time these boys were quarreling with him.

Q. Just the one time? A. My mother and I both.

Q. Did you say Sam Nash, you quit? A. No.

Q. Jim Mayo, you quit? A. No, sir.

Q. And Tommy Atkins you quit? A. No, sir.

Q. You didn't know their names?

A. No, my mother said, you boys must not fight Tommy, he is too small.

Q. Then, you heard his name was Tommy?

A. I heard it.

Q. They nicknamed him Commodore?

A. Yes, I have heard them call him that.

Q. You always heard Mr. Crilley refer to him as Commodore? A. Yes.

Q. When did Mr. Crilley first talk to you about this boy?

A. I guess about a couple or three years ago he brought Mr. Long up there and that is all I spoke to Mr. Crilley about it.

Q. He brought Frank Long to your place? A. Yes, sir.

Q. What did he say to you then?

A. He asked me if I knew of this Tommy Atkins.

Q. Tell us just exactly as near as you can what he first said to you about it; you remember his language, don't you?

Mr. Cruce: We insist that she be allowed to answer, she is reflecting.

The Court: He has asked you to tell as nearly as you can what he said to you when he came up there with Mr. Long?

A. He asked me if I knew Tommy Atkins.

Q. Just use his language as near as you can?

A. And wanted to know if I knew Mrs. Letcher and if I remembered where she lived and if this child was with her at that time, and I told him yes.

Q. Well, when he first came to you he asked you if you knew that boy Tommy Atkins that played around Granny Letcher's, didn't he? A. He asked me just as I told you.

Q. Well, now, what did he say to you?

A. He asked me if I knew Tommy Atkins.

Q. You remember very distinctly now that Mrs. Letcher—that Granny Letcher, way back yonder in the eighties, told you, said to you that child, Tommy Atkins, is the son of Indian Minnie, don't you? A. I asked her——

Q. Now, can't you tell me the conversation that Crilley had with you three years ago?

A. Mr. Crilley didn't have any with me.

Q. Can't you tell me the question he asked you?

A. Mr. Crilley didn't talk with me.

Q. Who did talk to you? A. Mr. Long.

Q. What did Mr. Long say, now? A. I just told you.

Mr. Stuart: Your Honor that is three times he has asked that.

The Court: Let it be answer- again.

A. Mr. Long asked me if I knew Tommy Atkins and I said yes, sir, I knew Tommy Atkins, and if I knew where Mrs. Letcher lived, and I told him.

Q. Everything he said to you was do you know Thomas Atkins? A. Yes, sir.

Q. That used to live at Granny Letcher's, and you told him you did, and that was the language of the conversation?

A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. He didn't ask you anything about who his mother was, did he?

A. He asked me if I had heard, and I said Mrs. Letcher told me Indian Minnie.

Q. He didn't ask you if you knew, did he?

A. Why, no. He couldn't hardly ask me that——

Q. You never saw Indian Minnie there in your life, did you? A. Not that I remember of.

Q. You never saw her at all, did you? A. Yes, I——

Q. In that community?

A. No, not then, but I think I saw her some where.

Q. In the last four years?

A. Saw her, but I never could say that I saw her there; never.

Q. Now, Walter Banks you say was not the one-armed boy? A. No, sir.

Q. Walter was a black boy, wasn't he? A. Yes, sir.

Q. Sam Nash was the—— A. Yellow——

Q. The yellow, one-armed boy? A. Yes, sir.

Q. Sam was a great big strapping fellow, wasn't he?

A. Yes, sir, he wasn't so large, then; he was a good size boy.

Q. Walter was a little runty boy?

A. Well, he was thin.

Q. He is a very small boy? A. Yes, sir.

Q. He was deformed, wasn't he?

A. No, sir, just an arm was off.

Q. Well that was Sam Nash; what about Walter? Was there any deformity about Walter?

A. Not that I ever noticed.

Q. What did they call Walter then?

A. Well, I don't remember their name, only these two, but I know there was two others besides that, but I didn't know their names.

Q. Frank Long asked you if you remembered Walter Banks and Sam Nash? A. No, sir; no, sir.

Q. Did Mr. Crilley ask you that?

A. No, sir; Mr. Crilley didn't ask me anything.

Q. Hasn't Mr. Crilley ever talked to you about this case?

A. Mr. Crilley has not. I told you I haven't *saw* Mr. Crilley to talk to him from the time Mr. Long was there until last August, when my sister came from Ohio, and I 'phoned him to meet her at the depot, in case I couldn't go to the depot. I had a very sick child; and I told him what depot she would come in, and then we didn't talk only just through Mrs. Hoofman and my sister and myself——

Q. About this case? A. No, sir.

Q. Never said a word about this case? A. No, sir.

Q. Haven't you ever talked to him up to now about this case? A. No, sir; no, sir.

Q. How did you happen to know that Crilley called him Commodore?

A. Why I heard him there around the barn call him that.

Q. Did anybody ask you out at the house if the boy didn't have a nickname, Commodore?

A. No, sir, Crilley never asked me nothing.

Q. Can you tell me aproximately how long it was before Mrs. Crilley left? A. No, I can't.

Q. Before you last saw Mrs. Crilley?

A. I know she spent the day at our house, the day before she went away, and had dinner with us.

Q. About how long before that was it that you first saw the boy?

A. I was carrying meals to my father, I can't say.

Q. Two years, three years?

A. I can't say how long it was.

Q. As much as two years? A. I can't say.

Q. As much as a month?

A. I can't say that I know; it was a long while.

Q. Long while? A. Yes, sir; long while.

Q. When you first saw him, I believe you say he was some—how old was he when you first saw him to know who he was?

A. Very small child, I can't say.

Q. Something about two years old?

A. He may have been; I can't say.

Q. Did you ever have many conversations with Granny Letcher? A. No, sir.

Q. She ran a house—a bawdy house, didn't she?

A. I know nothing about that affair.

Q. But she didn't run the sort of house that your people permitted you to go to ,did she?

A. My mother never allowed us to associate with very many people, because she thought she could manage the children better without association.

Q. And especially she didn't let you run around a place like Granny ran, did she?

A. I don't know what kind of place she ran.

Q. Can you tell me anything else you ever heard Granny say, except that Minnie is the mother of Tommy?

A. That is all.

Q. Do you remember any other utterances of hers in your life? A. No, because I never talked——

Q. Ever hear her say that more than the one time?

A. I heard her call him, time and time again.

Q. Would you be around Granny? A. Why I heard him-—

Q. You never heard her refer to his parentage but once, did you?

A. I have heard her talk about Indian Minnie.

Q. Did you ever hear her say but once that Tommy is the son of Indian Minnie?

A. She never told me, only when I asked her whose child it was.

Q. I thought you said a while ago that Mrs. Crilley—that she told Mrs. Crilley in your presence?

A. No, you know I didn't say that.

Q. She told you in the presence of Mrs. Crilley? A. Yes.

Q. You had known Tommy for a long time at that time, hadn't you?

A. Well, from the time we came—no, after my father went to work there——

Q. You had known him several years but didn't know whose child he was, is that right?

A. No, I asked when I first began carrying meals.

Q. That the time she told you his name was Tommy?

A. Tommy Atkins.

Q. Did she say Tommy Atkins? A. Yes, sir.

Q. He didn't go by the name of Indian Tommy, then, did he? A. Once in a while the boys did.

Q. Indian Tommy, Tommy Atkins, and Commodore?

A. You know how boys nickname them.

Q. Which was he called most? A. Tommy.

Q. Nobody called him Commodore but Crilly, did they?

A. I never heard of anyone.

Q. Nobody called him Commodore but Mrs. Edwards, did they? A. I can't tell about that.

Q. How did you happen to ask Granny Letcher whose boy the child was? A. Because he was different color.

Q. Walter Banks was a different color, too, wasn't he?

A. Yes, sir; but this one was more like an Indian; he took your eye, you couldn't help but notice the difference and you know how children are.

Q. This was not a mulatto appearing boy?

A. He was a light, kinder——

Q. Sam Nash was a light complected appearing boy, too?

A. Yes, but he was darker yet than Tommy.

Q. He was darker than Tommy? A. Yes, sir.

Q. You never asked whose Sam's father was?
A. No, I never spoke to these people.
Q. You asked whose Tommy's father was? A. Why, no.
Q. You were not particularly interested in the parents?
A. I just asked because he was so small.
Q. But Walter was the smallest yet? A. Different size.
Q. Walter was the smallest of the three, wasn't he?
A. No, sir.
Q. Sure about that?
A. Well, I can't say their names; I remember them when I see them there, that one was larger than the other.
Q. Sam was just a little larger yet than Tommy, wasn't he? A. He was larger than him.
Q. Sam was larger?
A. But those other boys wasn't there so much, you know; only just a little while at a time, and then they got to staying, my mother and I went out.
Q. Jim Mayo was a little fellow, too, wasn't he?
A. He wasn't so small.
Q. Jim wasn't small then? A. I don't think so.
Q. Jim wasn't over ten years old then was he?
A. Children you can't always come on their age, I will tell you; I had a daughter fourteen years old, and you wouldn't have thought she was five; so you can't go on their size, their age.
Q. Jim Mayo you knew well, didn't you?
A. I couldn't know him well.
Q. You knew Jim Mayo being there?
A. Yes, sir, I knew of their being there.
Q. Which was the older, Jim or Sam? A. How can I say?
The Court: If you can, just say; if you can not, answer that you can not.
Q. Jim, though, was a small boy, not in pants when you first saw him? Did he have on long trousers when you first saw him?
A. Well, they weren't really short, just below his knees.
Q. Did Tommy live at Granny's all the time until you married?
A. They were there when we moved away from there.
Q. Granny lived all the time there, did she?
A. No, she moved away and moved back.
Q. When she did move away, Tommy moved and when she moved back, Tommy moved back, did he?
A. He was with her then, yes.
Q. You were married in 1894? A. Yes.
Q. And Tommy was living right there at Granny's in 1894, wasn't he? A. At Granny Letcher's.

Q. He was a member of that family all of that time, is that right?

A. He was there. I suppose he was a member, if he was there.

Q. Walter Banks was a right jet black boy, wasn't he?

A. Several were dark.

Q. And Granny Letcher was a light complected woman wasn't she? A. Rather, yes.

Q. She was a very light colored woman, wasn't she?

A. No, not really light.

Q. You didn't ask her whose Walter's mother was, did you? A. No, I didn't.

Q. Did you ask her who Jim Mayo's mother was?

A. No, I didn't.

Cross Examination by Mr. Cobb.

Q. Mrs. Welch, you know of any other Indian boy during this period at Granny Letcher's or being around Granny Letcher's? A. No, sir.

Q. Now, you say this boy Tommy played around with Walter Banks? A. Yes, sir.

Q. And Sam Nash, around Granny Letcher's and Crilly's livery barn? A. Yes.

Q. That is where you usually saw them?

A. Yes, there over on their side.

Q. How? A. In the barn and over there.

Q. That place and Crilly's barn were just across the street?

A. Yes, the barn was this way and about like that.

The Court.

Q. Your husband is living, Mrs. Welch?

A. My husband, yes, sir.

Q. What is his business now?

A. He works in the Great Western Machine Shops.

Q. Are you a relative to Mr. Crilly? A. No, sir.

Q. Have you any relatives here, in attendence upon court?

A. No, sir.

Redirect Examination by Mr. Cruce.

Q. You could tell that Walter Banks was a negro boy?

A. Oh, yes.

Q. And Sam Nash? A. Yes, sir.

Q. And Mayo? A. Yes, sir.

Q. And it didn't surprise you to see them in a negro family? A. No, it didn't.

Q. This other boy, Tommy, was an Indian? A. Yes, sir.

The Court.

Q. Mrs. Welch this boy that you speak of as an Indian boy, how long were you familiar with him around Granny Letcher's there, just about how many years, would you say?

A. Well, I was around there from the time I was about —from about six to—I can't say, exactly now how long; I know it was a long time.

Q. It began when you were about six years old?

A. Well, I guess about that age; I can't say exactly.

Q. And what year were you born in?

A. Well, this August I will be 41.

Q. That would make it '76; you were born, then, in '76. You think you were about 6 years old when you first saw that boy around there. Now, after you first saw him there, you were around there and familiar with that neighborhood and those children? A. Yes, sir.

Q. For about how many years, you say? I understood you to say that you saw them up until about '94, is that right?

A. Yes, they were around there then.

Q. And about how many years, just as near as you can tell me, was it that you were familiar with that neighborhood, there, and saw these boys? Just your best judgment on it; think about it, and give me your best judgment on it.

A. I might have been about 15 or 16.

Q. About 15 or 16 when you stopped going around there?

A. Yes, it was; I will take that back, because we lived there until I was married; pretty near until I was married. We moved out on Fifth and——

Q. Until you moved, I take it you were familiar with that neighborhood? A. Yes, sir.

Q. This Indian boy that you saw there, do you know that he lived at Granny Letcher's house and stayed there at nights?

A. I can't say about that; he was there at nights and there in the morning.

Q. With the other children? A. Yes, sir.

Q. And that continued all the time you lived in that neighborhood, up until about '94? A. Yes, sir.

Witness dismissed.

And thereupon PHILIP TUCHER, a witness produced on behalf of the defendant Minnie Atkins, et al., was sworn, and testified as follows:

Direct Examination by Mr. Hanford.

Q. What is your name? A. Philip Tucher.

Q. Where do you live?

A. I live in Kansas City, Missouri.

Q. What do you do? A. I am a livery man.

Q. Did you ever live in Leavenworth? A. Yes, sir.

Q. How long did you live there?

A. Lived there about 30 years.

Q. How old were you when you came there?

A. About 12 years old, I think, as near as I remember.

Q. What did you do in Leavenworth?

A. Worked with my mother as long as I was small, and when I growed up I went to work in the livery barn.

Q. Who did you work——

A. Crilly and Cranston; Van Tyle, and George Waller.

Q. Worked for Crilly & Cranston, did you? A. Yes, sir.

Q. When did you work for them?

A. During the fire, when they were burned out, and I worked for them afterwards.

Q. About how long before the fire did you work for them?

A. Oh, I guess I worked there three or four years.

Q. Who else did you work for in that block?

A. O. B. Lattin.

Q. Crilly & Cranston were on Seneca street, were they?

A. Yes, sir.

Q. Whereabouts on Seneca?

A. Between 2nd and 3d on the north side of the street.

Q. Who else did you work for in that block—let me ask you this: Where was Van Tyle's?

A. He was on the corner of 3d and Seneca, brick stable.

Q. Where was Lattin's?

A. He was in there before Van Tyle's.

Q. Altogether how long were you around in that block?

A. About 18 years.

Q. About 18 years.

A. That is, not in one block, but different blocks; Seneca street runs clean from the river up to 4th street, and I worked for Mr. Ryan there.

Q. Did you ever know Granny Letcher? A. Yes, sir.

Q. Where did she live?

A. On Seneca between 2nd and 3d.

Q. She lived on Seneca street, where?

A. Between 2nd and 3rd, on the south side, about the middle of the block.

Q. Where was Granny's with respect to Crilly's barn?

A. Right across the street on the south side of the street.

Q. Now, who else did you work for besides those you have already named in there?

A. I worked for Doctor Brock after he built a stable there.

Q. He has a stable in that same block? A. Yes, sir.

Q. How far was that from Crilly's?

A. I think there were two lots in between.

Q. Who else did you work for in that block?

A. That was all in that block.

Q. But, altogether you were in that block about 18 years?

A. Very near it, sir, on that street.

Q. Did you ever know an Indian girl there? A. Yes, sir.

Q. What was her name?

A. She went by the name of Indian Minnie.

Q. Did you ever know any other name?

A. No, sir; I don't think I did; never heard any.

Q. Just Indian Minnie? A. That is all.

Q. And where did she live?

A. She lived there with Mrs. Letcher.

Q. How long did you see her around there?

A. Well, I can't exactly say, I seen her there for a year or more.

Q. Little more than a year. Do you know of her giving birth to any children there? A. Yes, sir.

Q. Where?

A. I seen her around there at Mrs. Letcher's on the porch and in that yard.

Q. Did you ever see her when she was in a pregnant condition?

A. Seen her out there in the yard, yes, sir.

Q. I mean, did you ever see her when she showed she was going to have a baby? A. Yes, sir.

Q. And do you know whether she had a baby, or not?

A. I see her nursing it afterwards.

Q. Where did you see her nursing it? A. On the porch.

Q. What porch was that? A. Mrs. Letcher's house.

Q. Did you see her out in the yard? A. Yes, sir.

Q. Did you ever see her doing anything else with the baby?

A. No, sir; I seen her carrying it around in her arms.

Q. Did you ever see that baby afterwards? A. Yes, sir.

Q. How long did you see him?

A. Well, I seen him after he growed up and got to playing around in the yard and coming out on the sidewalk and in the street.

Q. What did you call him?

A. We called him Tommy, and some called him Commodore; had a nickname, called him Commodore, some of us did.

Q. What kind of looking boy was he?

A. Brown skinned, boy; black hair, chunky little fellow.

Q. What kind of boy was he?

A. Well, he was kind of a mischievous, always playing; had to chase him off the street and back in the yard, so he wouldn't be run over when carriages were coming in the barn.

Q. Did he come around the barn? A. No, sir.

Q. How old was he then?

A. I think he must have been about four or five and a half years old, somewheres along there; maybe five.

Q. Did you ever see him after that?

A. Seen him on Cherokee street.

Q. Cherokee street; how old was he then?

A. Well, that was about the same time.

Q. Well, after Crilly's fire, or before? A. After.

Q. After Crilly's fire. Do you remember the date of his fire?

A. 1890, I was there the night the barn burned, sleeping in the barn.

Q. Do you know what year it was that she had this boy at Letcher's? A. No, I don't; I can't say positive.

Q. Well, then he was along about four or five years old the last you saw of him? A. Around there, yes, sir.

Q. And the next time you saw him was down on Cherokee?

A. No, down on Third street and Cherokee with some other boys.

Q. Did you see him around there much?

A. No, that was the only time I seen him down that way.

Cross Examination by Mr. German.

Q. You say you lived on Seneca street and worked there for about 18 years?

A. On that street, up and down that street, yes, sir.

Q. What 18 years?

A. Well, it was in—I started to work before the fire.

Q. What fire? A. Crilly & Cranston's, 1890.

Q. 1890? A. The barn burned down.

Q. How long before the fire?

A. Well, three or four years.

Q. Now you know how long—give us an idea whether it was three or four. A. Well, I will say four.

Q. Four. Alright, then you began there in 1886, didn't you? A. I never kept track when I commenced.

Q. Well, more than four years or less than four?

A. I judge about four.

Q. What time of year did Crilly & Cranston's barn burn?

A. 1890.

Q. What time in the year? A. In the summer time.

Q. In the summer time; then you came there in '86, commenced working in '86. You never saw Indian Minnie around that house before you commenced work there, did you?

A. Yes, sir.

Q. Where were you working?

A. Over there at Crilly & Cranston's.

Q. I say before you commenced work on that street you never saw Indian Minnie around there?

A. She was around there in the yard.

Q. I say, before you went to work on that street, you never saw her around there, did you? A. Yes, sir.

Q. Well, where were you working?

A. Over there at Crilly & Cranston's.

Q. Well, they were on that street, weren't they? A. Sir?

Q. They were on Seneca street? A. Yes, sir.

Q. Where did you work before you worked on Seneca street? A. Mr. C. B. Lattin's.

Q. What street was that on? A. Seneca and Third.

Q. When you commence working on Seneca and Third, about four years before the barn burned?

A. Somewhere around that neighborhood.

Q. Then you commenced working there in '86, is that right?

A. I can't say exactly what year, but I judge it was about four years.

Q. Now, you say when you first saw Indian Minnie at the Letcher's that she was in a family way, is that what you say? A. Yes, sir.

Q. Very pronounced; was it prominent? A. Yes, sir.

Q. Very prominent, eh? A. Yes, sir.

Q. How long did she stay around Granny Letcher's before she got to looking that way?

A. I can't say how long.

Q. Tell the Court about how long.

A. Well, I see her nursing the child.

Q. Well, how long was it between the time you first saw her there in a family way and the time you saw her nursing the child, tell us that?

A. Well, I worked there right along all the time, and I see her out in the yard some days and sometimes I wouldn't see her again [ ] a few days, and I never kept no track.

Q. Well, six months from the time you first saw her there until she had the child?

A. I say it was—I stayed there and worked.

Q. Let's get down to something definite. I suggested six months. I want you to tell us the time, how much time would you say?

A. Well, I worked there right along for four or five years.

Q. Alright. You have stretched it one year now. Go ahead.

A. And I worked for Mr. Van Tyle.

Q. Alright let's get at that time; you worked first at the Van Tyle stable on that street, didn't you? A. No, sir, I——

Q. Who did you work first for?

A. I worked for Mr. Lattin, O. B. Lattin.

Q. Well, was he on that street? A. Yes, sir.

Q. Where was his stable? A. In Van Tyle's stable.

Q. Then it was at the Van Tyle stable that you first worked? A. Yes, sir.

Q. Then who did you next work for on that street?

A. Van Tyle.

Q. Van Tyle, had the same stable?

A. Mr. Lattin moved out.

Q. Van Tyle moved in? A. Yes, sir.

Q. Took the same stable. Who did you next work for on that street? A. Crilley & Cranston.

Q. Right across the street?

A. Catacornered across the street.

Q. How long before the fire was it that you went to work for Crilley & Cranston?

A. Four years, maybe a little longer.

Q. How long did you work for Van Tyle before you went to work for Cranston? A. Not over six months.

Q. How long did you work for them? The other fellow before you went to Van Tyle?

A. About three months, and he moved out.

Q. Well, then, about five years before the fire that you worked on that street; is that right? Tell me this, when you first went to work on that street, was Granny Letcher living on it? A. No, sir.

Q. Where was she living?

A. I don't know where she was living then; living in another part of the city.

Q. Who was living in the house Granny Letcher later lived in? A. Old man Dotter.

Q. Who lived in that house after old man Dotter?

A. Well, several different families moved in and out.

Q. Now, you know who lived in that house after Mr. Dotter, don't you? A. No, sir; I don't believe I do.

Q. Alright. Granny Letcher never lived in there while the Dotters were living there, did she? A. No, sir.

Q. And she moved in later on after some other family had lived in there, besides the Dotters, didn't she?

A. I can't say exactly.

Q. She moved in and when she did move in, she stayed there for about four years, didn't she?

A. Well, I don't know exactly how many years she stayed there.

Q. Alright. Who was living in the house when you first went to work for Crilley & Cranston?

A. I think old man Dotter was.

Q. You ever been to the penitentiary? A. No, sir.

Q. You ever been in any trouble? A. No, sir.

Q. Where do you live right now? A. Kansas City, Mo.

Q. What street address?

A. I live on 16 West Missouri Ave.

Q. 16 West Missouri Avenue. What do you do?

A. I work in the livery business.

Q. Whose livery barn? A. Work for Mr. L. Hyman.

Q. At this time? A. No, sir.

Q. How long since you have? A. Five or six years.

Q. What have you been doing since then?

A. Worked for the Fargo Express Co.

Q. Who are you working for now?

A. Haven't been working the last week or so, been sick; the last month, had the grippe. Working for the Fargo then when I was taken sick.

Q. What were you doing for the Fargo?

A. Working in the stable business.

Q. Taking care of the horses? A. Yes, sir.

Q. Let's see: How long after Granny Letcher moved in that Seneca street house was it that you saw this Indian woman around there?

A. Well, I can't exactly say, because I didn't keep no track of it.

Q. Did you see the Indian woman before Granny Letcher moved into the house? A. No, sir.

Q. Did you know Granny Letcher before she moved into the Seneca street house?

A. Yes, sir, knowed her and her son Jim.

Q. How old was Jim when Granny moved into that house?

A. Grown up young man.

Q. Wasn't Jim about 30 years old then?

A. I don't know whether he was that old or not; I know he was grown up.

Q. Grown man? A. Yes, sir.

Q. Sam Nash, you knew him? A. Yes, sir.

Q. He was one-armed, wasn't he? A. Yes, sir.

Q. What age man was he when Granny moved in there?

A. Good deal younger than James.

Q. Well, how much younger was he when Granny moved into that house?

A. I should judge he was 18 or 19 years old maybe.

Q. About grown? A. Yes, sir.

Q. About a grown man at that time? A. Yes, sir.

Q. Who else was living in that house?

A. Different parties in and out of there, who they were, I don't know.

Q. Any children?

A. Sometimes see some children playing around there, and sometimes not.

Q. Tell the Court the names of the children you would see playing around there?

A. Well I didn't get acquainted with them.

Q. Didn't know any of them, did you? A. No.

Q. Can you tell the Court the name of one child around there?

A. I know Indian Minnie's child, Tommy they called him, but outside of that, I never paid any attention to any the rest of them.

Q. Well, what was there about that child that made you pay attention to it?

A. Well, he was around there every day.

Q. Just because he was around there?

A. He would come out on the sidewalk and they would chase him in and such as that.

Q. Now, wasn't some other child around there?

A. Very seldom see any other around there.

Q. Any other child living in that house at that time?

A. No, sir, not that I know of.

Q. Refresh your memory are you sure of that?

A. Old Granny Letcher was the only lady around there and Indian Minnie, ever I seen.

Q. You mean Indian Minnie's boy?

A. Her and the baby is all I seen.

Q. How long did Indian Minnie stay with Granny Letcher? A. She stayed there until it growed up.

Q. How old was the boy when she quit staying there?

A. Well it got to be quite a run-about around there.

Q. What is your best judgment as to how old he was?

A. Must have been I guess three years.

Q. Do you have a good recollection of Indian Minnie?

A. Well it has been quite awhile since I saw her.

Q. Well just run your mind back. Do you now have a good recollection of the woman that you saw there at that house who stayed there that you are talking about?

A. Well she was a fair made woman, pretty fairly built; black hair.

Q. You remember her well don't you? Do you or not?

A. Pretty well, yes, sir.

Q. All right; now before the child was born and when she was in this pregnant condition you say she stayed at Granny Letcher's? A. Yes, sir.

Q. On Seneca street? A. Yes, sir.

Q. And you knew Granny well at that time? A. Yes, sir.

Q. And tell the Court now whether she stayed there regularly or not up until the time that condition disappeared.

A. Well I seen her there very near every day in the yard and house.

Q. Where did she sleep, in the house?

A. I couldn't say.

Q. And how long before the child was born was it you saw her there nearly every day?

A. I couldn't say exactly how long a time it was. I know I seen her there.

Q. Well was it a month?

A. Might have been a month, might have been longer.

Q. Two months?

A. Might have been a month or in the neighborhod of two months.

Q. Had you seen the woman before she became pregnant?

A. Seen her when she first came around there; heard parties say who she was.

Q. All right, she wasn't pregnant then?

A. I guess she was I couldn't exactly say how much.

Q. She was pregnant when she first came around there, is that your best recollection?

A. Well I couldn't say positively.

Q. Then after the condition disappeared and she was carrying the child around you say she continued to stay there until the child was three or four years old?

A. I seen her around there; well she disappeared from there.

Q. Well, how old was the child when she disappeared from there? A. I should judge about three years old.

Q. Did you say two or three?

A. Two or three years old.

Q. Did she stay there all the time during all that time?

A. I couldn't say; I seen her nursing the child until it growed up.

Q. How did she nurse the child, you mean she was holding it to her breast?

A. Yes, sir, I would see her on the porch; the barn was on the other side of the street.

Q. How old was the baby the first time you saw her with the baby, the first time you saw the baby?

A. Well, little baby carrying it around, in her arms.

Q. Where was she the first time you saw the baby?

A. Outside on the porch.

Q. How close were you to her?

A. Across the street over to the barn; there was a small picket fence and of course you could see over it.

Q. Where was that porch?

A. It was on the west side of the house.

Q. There wasn't any porch in front? A. No, sir.

Q. Was Granny Letcher in that very same house that you have just mentioned at the time that Indian Minnie was around there in this pregnant condition? A. Yes, sir.

Q. That very same two story house?

A. Story and a half.

Q. Well isn't that a picture right there?

A. There is the house right there (Indicating on plat).

Q. Has a tree by the side of it. Witness refers to Government's Exhibit A-91. Now you don't remember where it was Granny Letcher moved into that house from?

A. No, I couldn't say positively.

Q. What year was it you first saw Indian Minnie there?

A. Well I never kept track of the years; I have heard them say there is Indian Minnie over at Granny Letchers. I never paid attention what year it was.

Q. But you are positive that during the pregnancy of this woman Granny was living in that house you pointed out on that map? A. Yes, sir.

Q. Now where did you work before you went to work for Lattin?

A. I worked for George Waller over on Main Street between Seneca and Shawnee.

Q. How long had you worked for him?

A. Oh, I guess I worked six or seven months.

Q. Several months; how old were you then?

A. I was a grown man.

Q. When did you go to Leavenworth, what year?

A. I went there when I was twelve years old.

Q. How old are you now? A. Sixty-three.

Q. And you have stayed in Leavenworth for thirty years?

A. About thirty years.

Q. Until you were about forty-two years old?

A. Yes, sir.

Q. Something like that. You are now sixty-three?

A. Yes, sir.

Q. Been about twenty years ago that you left there, something like that?

A. I have been back to Leavenworth since then but not to stay, back there some times on a visit.

Q. Then you left there about 1895, '6 or '7?

A. I didn't keep track exactly.

Q. About twenty years ago; did you work on Seneca street up to the time you left Leavenworth?

A. Well they moved down on Cherokee. They dissolved Crilley & Cranston and Cranston moved on Cherokee street and I went down there and worked for Cranston.

Q. And you didn't work on Seneca any more?

A. Yes, sir, I worked for Dennis Ryan between Fourth and Fifth.

Q. Was that on Seneca Street? A. Yes, sir.

Q. How did this woman wear her hair?

A. She had it braided down in a braid hanging down her back.

Q. One or two braids?

A. Generally one, that is the way it looked to me.

Q. And her hair was braided? A. Yes, sir.

Q. How did she dress?

A. Well she dressed just like any ordinary woman would around the house.

Q. Did she dress in loud clothes or not?

A. Not very, no.

Q. Well was she known as a prostitute?

A. I couldn't say.

Q. How did she have the baby wrapped up?

A. Well she generally had a shawl around it.

Q. What color? A. I couldn't exactly say what color.

Q. Well was it red?

A. Well, it might have had some stripes in it.

Q. Was it a loud shawl; did it attract your attention much? A. No, sir.

Q. This boy, how old was he when you left Leavenworth?

A. I couldn't say; I never seen him any more after I left there on Seneca street.

Q. Well, you know how old he was don't you when you last saw him?

A. Well I should judge five years, something like that maybe little more.

Q. What year was that?

A. I don't know, I couldn't state.

Q. Where were you working the last time you ever saw the boy?

A. I was working down there on Cherokee street.

Q. For Cranston? A. Yes, sir.

Q. What number on Cherokee was that stable?

A. I don't know whether it is 322 or something like that. Between Third and Fourth.

Q. Is it where Cranston is now?

A. No, he is across the street.

Q. Who was the boy with?

A. He was playing with some other little boys and I didn't pay much attention; I was driving a hack coming from a funeral. He would some times come out in the street and we would chase him away.

Q. You didn't have any trouble with Walter Banks did you?

A. There was lots of children playing around that block; I don't know whose they were.

Q. Name the children that played in that block.

A. Well, there was different families, they were all down in the other block, I never found out their names.

Q. Can you give the Court the name of a single other boy that was in that block besides Tommy?

A. Jim Warren's boys played there.

Q. Give their names?

A. Arthur was one I think, and George I think was another one.

Q. All right name some more?

A. That is all I remember of them boys. The Italian children.

Q. What were their names?

A. One was Tony and I forget the other's name. They were Italians.

Q. Name some more. Did you know Tommy York?

A. Yes, sir. There was lots of children there but I never knowed all their names.

Q. Did you know Tommy Owen? A. Owens, yes, sir.

Q. Tommy Mozee? A. I don't know as I do.

Q. Tommodore?

A. I knowed Owen's children. Mike Owen's children. They called one Pie for a nickname.

Q. Then you knew Tommy Doyle didn't you?

A. There was lots of them there; I never knowed their names.

Q. Didn't you know Tommy Doyle? A. Some Doyle.

Q. They called them Tommy Owen and Tommy Doyle, these other boys, they called their names?

A. I couldn't say I knowed all those boy's names.

Q. You didn't tell them to get out of the way?

A. They was larger, they wasn't around where we drove in.

Q. Didn't they play down there with Walter Banks and those boys?

A. On Seneca street and some times on Third street and some times running in the alley.

Q. All around there? A. Yes, sir.

Q. A lot of colored kids?

A. White children, more white than colored.

Q. Did you know a fortune teller named Mary living in the old Seneca House? A. Yes, sir.

Q. When did she live in that old Seneca House?

A. That was before I ever worked there; a man named Dock Keenan lived in that barn then and used to break horses and I used to go around there with him.

Q. And you knew that Indian Mary that was around with the fortune teller? A. Indian Mary?

Q. Yes?

A. I don't remember a person named Indian Mary.

Q. Who first called the name Indian Minnie to you?

A. I heard it mentioned over from across the street.

Q. Who has talked to you about this case before you came here to testify? A. Nobody.

Q. Well the Court knows somebody has talked to you about your testimony; now come through and tell us who it was? A. I don't understand what you mean.

The Court: Let me ask him.

Examination by the Court.

Q. Somebody in the first place talked to you, wanted to know what you knew about the case and it was all right for people to talk to you. Now who was it that first mentioned the case to you? A. Mr. Crilley.

Q. Where does he live? A. In Leavenworth.

Q. When was that, about when?

A. Well it was about winter before last I think.

Q. About winter before last? A. Yes, sir.

Q. Where was that, up in Leavenworth?

A. No, sir, Kansas City.

Q. He came down to see you there did he? A. Yes, sir.

Q. Was there anybody with Mr. Crilley? A. Yes, sir.

Q. Who was with Mr. Crilley?

A. That gentleman over there.

Q. A man from Leavenworth or Mr. Hanford?

A. Hanford.

Q. And that is the first time that you have been talked to about the case within recent years? A. Yes, sir.

Q. Who did the talking?

A. Well, Mr. Crilley and that gentleman over there.

Q. What did Mr. Crilley ask you?

A. He asked me if I knowed this Indian Minnie; and I told him yes. And when I had seen her, and if I knew when she had the child. And I told him I seen it when she was nursing it.

Q. Well then did they come back and talk to you later?

A. Never seen them any more until here awhile back.

Q. Were you down here at Muskogee as a witness?

A. Yes, sir.

Q. Some time ago? A. No, sir, this is the first time.

The Court: Has this man's deposition been taken?

Mr. German: No, your Honor.

Q. Now, Graham, is that Pump Graham? A. Yes, sir.

Q. Lived there in Leavenworth? A. Yes, sir.

Q. You knew him well, didn't you? A. Yes, sir.

Q. Knew him when you were in Leavenworth?

A. Yes, sir.

Q. How long were Pump Graham and Mr. Hanford with you the first time they saw you about this?

A. Not more than a half hour.

Q. About half an hour. It took that long to tell them all you knew about it? A. Yes, sir.

Q. You knew Lillie White there in Leavenworth, didn't you, a white woman that ran a house of ill repute?

A. Lillie White?

Q. Yes? A. Heard that name, but I can't remember her.

Q. Can't remember her? A. No, sir.

Q. She was a very beautiful woman that lived right across the street there from Crilley's barn in this house that Dotter had lived in, don't you remember her? A. No, sir.

Q. Can't remember her. Did Mr. Hanford or Pump Graham talk to you about Lillie White any? A. No, sir.

Q. Haven't they lately talked to you about that?

A. No, sir.

Q. That name hasn't been mentioned to you until I mentioned it here on the stand?

A. I don't remember that I heard it until I don't know when.

Q. Since when?

A. I can't say that I ever heard it, to be positive.

Q. Isn't it your recollection now, on reflection, that you have heard it back in the olden times?

A. Oh, I might have heard the name and might have heard lots other names; and I may not.

Q. You do remember Dotters, don't you?

A. Yes, sir, he was a baker.

Q. Old German? A. Yes, sir.

Q. And you remember the Feths lived right by the Dotters there? A. Who?

Q. Feths, architect?

A. Lived in the stone house, I think; a lot or two between.

Q. You remember him? A. Well, I seen the young man.

Q. Well, don't you remember the old man and young man's mother? A. I remember the old lady.

Q. Very well, don't you?

A. I wasn't acquainted with them; I just seen them.

Q. But you knew who they were?

A. I knowed he tried to be an architect, or was one.

Q. The boy tried to be? A. Yes, sir.

Q. And became one? A. Yes, sir.

Q. Then you remember that after the Dotters lived in that house, that house where they ran a bakery, didn't you recollect that Lillie White lived there and had some pretty girls around? A. I can't say.

Q. Attractive girls, dressed up beautifully?

A. I don't remember that lady at all.

Q. Sometimes these girls would be in the back yard with those beautiful gowns on, don't you remember that? Attracted your attention across there?

A. I don't remember her at all.

And thereupon Court recessed until 9:30 o'clock A. M.

And thereafter, and at 9:30 o'clock A. M., on May 18, 1917, Court convened pursuant to adjournment, and further proceedings herein were had as follows:

Mr. Hanford: If the Court please, at this time I wish to offer the deposition——

Mr. Cobb: Just a moment; we desire to examine Mr. Tuscher again.

The Court: Let Mr. Tuscher be recalled.

Mr. Hanford: I will have to find him, your Honor. It was understood that he need not come back; will it be agreeable to you to examine him this afternoon?

Mr. Cobb: Yes, sir. We don't want to waive our cross examination.

The Court: Alright call him then.

Mr. Hanford: I wish to offer the deposition of Mrs. Ina Massie McCormick, given before the Special Examiner in this case, beginning at page 2552.

And thereupon INA MASSIE McCORMICK being called on behalf of the defendant, and being first duly affirmed, under affirmation testified as follows:

Direct Examination by Mr. Hanford.

Q. Will you state your name, please?

A. My name is Ina Massie McCormick.

Q. You are the wife of Dr. McCormick?

A. John A. McCormick.

Q. Your husband was formerly a physician and surgeon in the City of Leavenworth? A. Yes, sir.

Q. Practiced here for a great many years?

A. Yes, from—I think Doctor came here in sixty-two, May of sixty-two.

Q. He was practicing here in the year 1865?

A. Yes, well he was practicing in a way, he had retired and was only practicing at odd times and in consultation and in things like that, he hadn't regularly practiced for about a year at that time.

Q. Mrs. McCormick, have you any recollection of Dr. McCormick's attending a child birth of a young Indian girl in that year in Leavenworth?

By Mr. German: I object unless the witness has personal knowledge, on the ground that it is hearsay, incompetent, irrelevant, and immaterial.

A. What do you mean by personal knowledge?

Q. Just answer my questions. He just states that into the record. Have you any recollection of the Doctor——

A. Only what he told me.

By Mr. German: The same objection.

A. That he had waited on an Indian girl at some colored woman's house.

By Mr. German: I move to strike the answer on the ground that it would be hearsay.

A. Well, sir, it was my husband sir, that told me.

Q. Don't pay any attention to him, he is stating that into the record.

Q. Did you know any other Indians in Leavenworth at that time?

A. At that time? Not living here at that time. They had lived here but they were not living here at that time. Old John Ross's niece.

Q. What was his name?

A. John Ross, he was Chief of the Cherokee Indians, and Doctor knew Mrs. Nash and were friends of the family.

Q. What was Mrs. Nash's name? A. Fannie Ross Nash.

Q. And you recollect—— And you recall why the doctor spoke to you of this Indian girl?

By Mr. German: The same objection that was made to the other question.

A. Because he was interested in Fannie Nash and had been her physician. That was the first Indian woman that he had ever had any knowledge of.

By Mr. German: I move to strike the answer on the ground that it is hearsay, incompetent, irrelevant, and immaterial, and not responsive to the question.

Q. Did Doctor McCormick attend Mrs. Nash when she gave birth to any children? A. Yes.

By Mr. German: Just a minute, I object to that on the ground that it is hearsay, incompetent, irrelevant, and immaterial, and that the witness is not qualified.

Q. Did you ever observe this Indian girl after that occasion?

A. I never saw her or knew anything of her excepting once, when she came to the office with some colored woman. Doctor had me in to see the woman.

Q. And you remember the name of that colored woman?

A. I can't remember that, although I have been told—I was told that——

By Mr. German: I object to what the witness has been told on the ground that it is hearsay.

Q. Did you learn at that time who this old colored woman was?

By Mr. German: The same objection.

A. Well, I don't know, I don't think I could say that I did.

Q. Who did you learn this old colored woman was?

By Mr. German I make the same objection.

A. Well, I can't tell you that, she was a woman who took care of girls that were in an unpleasant condition, and I don't know that she was considered anything but what was ordinarily called a mid-wife.

Q. What was her name?

By Mr. German: The same objection.

A. I think it was Fletcher or Flesher.

Q. To refresh your memory, was it Letcher?

A. Yes, and she has always lived here a great many years and she took care of girls and I think she was well paid for her work taking care of girls of that kind.

By Mr. German: I move to strike that *question* as not responsive to the question, and incompetent, irrelevant, and immaterial.

Q. At that time at the Doctor's office, did this woman have a child with her?

A. I don't remember that, I don't remember that.

Cross Examination by Mr. Cruce.

Q. Was that an Indian girl?

A. Was that an Indian girl?

Q. Yes? A. The girl that came there?

Q. Yes?

A. Why, of course she was an Indian girl, because Doctor had a large practice and he wouldn't have brought any girl in——

Cross Examination by Mr. German.

Q. When did the doctor come to this town?

A. He came here in May of '62.

Q. And you say he practiced, he practiced generally for about a year? A. About a year.

Q. How long did you say?

A. Well, he practiced up until in the eighties.

Q. What time in the eighties? A. I don't know, sir.

Q. You don't remember?

A. No, I don't, because I don't think it is material here whether it is one month or another month, it was sometime in the eighties that he decided that he had gotten to the age that he wouldn't practice any more.

Q. That is the reason you wont tell, because it isn't material, is that right?

A. Well, I don't know exactly and I don't think that it is necessary for me to.

By Mr. Cruce: Well, Mrs.—— If you can remember, of course counsel thinks it is material, and if you can remember.

A. Well, I don't exactly. Doctor had a very bad fall and was ill for a long time, and he felt after that that he had rather not practice. It was in the first part of the eighties sometimes.

By Mr. German: I object to counsel's remark to the witness.

Q. Some early part of the eighties?

A. Eighty three or four, along in there, but he had a great many families that he cared for and was their physician right along after that, but he didn't do general practice.

Q. It was in the early part of the eighties you say that he quit the general practice? A. Yes.

Q. When did the Doctor die?

A. The Doctor died in July.

Q. What year?

A. It will be two years ago last July.

Q. At what age? A. He was eighty-seven, sir.

Q. Where did this Nash woman live?

A. You mean Mrs. Nash?

Q. Yes?

A. She lived up on—— What street is that Mr. Bond, back of Fifth Avenue?

By Mr. Bond: I can't help you.

A. Is it West Seventh? The street just back of Fifth Avenue.

Q. Somewhere right back of Fifth Avenue?

A. No, sir, it is not Fifth Avenue.

Q. Somewhere back of Fifth Avenue?

A. Yes, sir, a short street that runs in from Spruce.

Q. Did she have some children?

A. She had, sir, and Dr. McCormick was her physician.

Q. Had some girls, did she?

A. I don't know whether it was girls or boys.

Q. Was she an Indian?

A. Rather, when it was John Ross's niece. Her father was John Ross's brother. Her mother was a lady from Ohio.

Q. She showed her Indian blood quite distinctly?

A. Quite, so, yes, sir.

Q. And you don't know whether she had any daughters or not? A. No, I haven't seen Mrs. Nash for forty years.

Q. You happened to be in the Doctor's office one day when this colored woman came in there?

A. No, I didn't happen to be in the office at all, sir.

Q. Where were you?

A. Because we had a suite of rooms and Doctor's private office was back of the suite of rooms.

Q. Then, you were in the office?

A. He came and asked me if I wanted to see the Indian girl and I simply went in and looked at her.

Q. Now, when did the Doctor discontinue maintaining an office? A. What?

Q. When did the Doctor discontinue maintaining his office?

A. Well, he had discontinued his public office at that time, he only had this private office or sort of a laboratory that his friends came to him.

Q. You say there was a suite of rooms? A. Yes, I did.

Q. And that you lived there?

A. I did, sir, and my mother with me.

Q. When did you discontinue living in the suite of rooms there?

A. Well, I don't know, let me see. We left there in ninety-four.

Q. Ninety-four? A. Yes, sir.

Q. When did you begin to live there, how long before that? A. We bought that place in '81.

Q. And did you commence to live there as soon as you bought the place? A. As soon as we got it in order, sir.

Q. And then you moved out of there in '94 you think? A. Yes, sir.

Q. Now, where was that located?

A. It was located on Delaware Street between Sixth and Seventh, north side, 616 Delaware, if you want to know exactly.

Q. Now, at the time that the Doctor purchased that suite of rooms—— A. He purchased the building.

Q. He purchased the building? A. Yes.

Q. That was the time that he discontinued the general practice? A. No, sir.

Q. He kept it up a while after that?

A. Until after his injury, I don't remember exactly what year that was but it was in the eighties.

Q. There was an Indian girl came up with this colored woman, and you don't know when that was, do you except that it was sometime during the time that you and the Doctor occupied the suite of rooms in that building?

A. Oh, no, not a bit of it. Oh, no, not so long as that, not at all.

Q. It was sometime during that time, I say?

A. Yes, it was in the first part of it, because the Doctor had stopped the general practice. He wouldn't go out to see any one after a few years, and he only had a very few cases at that time, and old friends that he was attending, but when there was any charity business, or anything like that, and he could do a kindness, he did it.

Q. Well, describe the colored woman?

A. I will not because one colored woman, as a rule looks a good deal like another, and I was quite young then and I didn't think I cared what she looked like.

Q. Now, was her name Fletcher or Letcher?

A. I don't know.

Q. Don't know what her name was?

A. No, I don't know, I don't know positively.

Q. You are not sure that it was Letcher or that it was Fletcher?

A. Only that she was a woman that did that kind of work.

Q. She was a mid-wife? A. Yes.

Q. Did she have any family? A. I don't know sir.

Q. Did she come from——

A. I wasn't in the business, so I didn't know.

Q. I see you are stating, Mrs. McCormick, that you understood—

A. That doesn't matter, I am not telling what I don't know.

Q. You didn't know that she was a mid-wife, did you?

A. Yes, I did, everybody in Leavenworth knew it, that was her reputation.

Q. Did she also have a reputation of going to different places where there was occasion for work of that character to be done?

A. I don't know about that. I think she would do that kind of work. She took care of women who were poor, because she took care of a good many colored women.

Q. About what age woman was she?

A. I don't know a thing about that, I think that is irrelevant.

Q. Let's see. Was she an elderly woman?

A. I just told you, sir, you are not going to get me to prevaricate, because I don't know.

Q. You haven't even an idea of how old she was, have you?

A. I am not in the habit of asking people their age.

Q. Was she a large black woman, or was she a mulatto, or was she a light fullblood negro?

A. I know nothing about it.

Q. You don't have any idea?

A. No, and I was used to colored people.

Q. She wasn't a white woman, was she?

A. Most assuredly not.

Q. Now, the Indian girl that you spoke of, can you describe her?

A. No, I can't describe her, she was an Indian girl and I had seen a great many Indian girls, she was just an ordinary Indian girl to me.

Q. About what age? A. I don't know.

Q. Was she fourteen? What is your best judgment as to how old she was?

A. I haven't any judgment about it. It was just as immaterial to me who she was as any person in this room.

Q. You went into the room where she was?

A. I came in to see the Indian girl, because I had lived on a ranch where I saw a great many, and I hadn't seen any for a great many years, and I saw her that day.

Q. And didn't pay enough attention to her to form an opinion now as to whether she was—whether——

A. Whether she was fifty years old, I didn't care. She was not fifty years old, she wouldn't have had the baby.

Q. Was she the mother of the baby?

A. She certainly was, the woman that had the baby.

Q. You were so told?

A. My husband wasn't in the habit of telling what was not true.

Q. You are not swearing or affirming who had that Indian baby except as you were told?

A. My husband told me, and he was the physician attending her, wasn't that quite enough?

Q. For you? A. Well, I suppose not for you.

By Mr. Hanford: Mrs. McCormick, just answer the question.

A. Well, I don't care, I think it is rude.

Q. Now, Mrs. McCormick I don't want to offend you?

A. Well, you do.

Q. I just want to get at anything which you may know, which is competent evidence, that is all that I am doing. Tell me how that Indian girl looked?

A. Why, I can't tell you how she looked, it has been thirty odd years ago.

Q. What size was she?

A. I don't know anything at all about that, I just saw her in the office, in Doctor's chair, one of his chairs in the office, with the colored woman with her who brought her up there to see Doctor; and she came in there, and he said to me, do you want to come in and see the Indian girl, and I went out and saw her and I went back into the other room. That is all I thought about it since.

Q. Was the girl standing up when you saw her?

A. I just told you, sir, she was sitting in the chair.

Q. Did he tell you at that time, that she was the mother of the baby?

A. Is it necessary for me to reiterate. I have just told you that he took me in to see the girl who had the baby. Isn't that quite enough?

Q. What did he say to you when he asked you to go?

A. I just told you he asked me if I didn't—— Don't you want to come in and see the Indian girl who has had the baby? That is all he said to me, and I went in to see the Indian woman who had the baby.

By Mr. Hanford: I object as repetition.

Q. How long before that was it that you had understood that an Indian girl had had a baby in town?

A. I don't know anything about it, I don't suppose it was very many days, or weeks, or more. I was a society woman and I didn't pretend to keep note of time or incidences of that kind.

Q. Did you learn what the baby was?

A. No, I may have known then, but I don't know now.

Q. Whether it was a boy or girl, you don't know whether that Indian girl was large or small in size?

A. I don't remember. Indian girls are generally about the same size, as far as I know.

Q. What is the general size of an Indian girl?

A. Well, they are a little larger than I am and they are stouter than I am.

Q. You have no recollection though as to what size this girl was? A. No, I haven't, positively, no.

Q. Who first talked to you about what you have been testifying here?

A. An attorney came to me and asked me what I knew and I just told him.

Q. What attorney came to you?

A. Is it necessary for me to say?

Q. Yes, ma'am? A. It was Mr. Hanford.

Q. When did he come to you?

A. Last spring, this spring a year ago.

Q. How long was he visiting you that time?

A. Well, I think he was there about five minutes.

Q. And then left? Did he come to see you any more?

A. I don't think so, because I have been in Mexico and Texas for a year, and knew nothing about it excepting what I got since I came home in the hotel; know nothing at all about it.

Q. Who have you seen since you came home, that is have you seen anybody—— Have you seen Mr. Hanford any more?

A. I have seen him once when he came up and asked me to come and give him my evidence.

Q. Have you seen any of these parties connected with the matter?

A. I have seen Mr. Long, he came with Mr. Hanford to ask me and I told him just about the same thing.

Q. So the two came together after Mr. Hanford had been there? A. Yes.

Q. Do you know Mr. Page?

A. No, I do not, I never have seen him.

Q. Has Mr. Lee Bond been to see you? A. No, sir.

Q. Who spoke of the name Letcher to you first?

A. Well, I saw it in the newspapers for one thing, the papers are full of it.

Q. Right lately? The last two years?

A. This last spring it was too.

Q. And you read the articles in the newspapers about this matter?

A. I have never read a single thing about it until I came back and read it yesterday morning and this morning.

Q. It was in the newspapers though about the time that Mr. Hanford came to see you, wasn't it?

A. Well, I don't think that I read it.

Q. Why do you say then that the name Letcher was in the newspapers?

A. Well, because I saw it in the papers before I came home.

Q. Mrs. McCormick, what age are you? A. What?

Q. What age are you? A. I am sixty-seven, sir.

Witness dismissed.

Mr. Hanford: And the deposition of Alexander Ford beginning at page 1726.

And thereupon, ALEXANDER FORD, being called on behalf of the defendants Hanford and Folk, sworn and under oath, testified as follows:

Direct Examination by Mr. Hanford.

Q. What is your name? A. Alexander Ford.

Q. How old are you?

A. I was born in 1842, May 15th, will be seventy-four, some odd years old,

Q. You are a colored man? A. Yes, sir.

Q. When did you come to Leavenworth?

A. I came to Leavenworth from Valley Falls, Kansas, in the year of seventy-five or seventy-six; somewhere in the year of seventy-five or six, I don't know which.

Q. Along in the seventies?

A. It was in the seventies, yes, sir, when I reached Leavenworth.

Q. State whether or not you ever worked for Mr. Atchison?

A. Well, yes, sir, I worked for Mr. Dave Atchison about nine years, lacking about two months of being nine years, steady work without losing time for anybody.

Q. State whether or not you were working for Mr. Atchison in 1885?

A. Why, yes, sir, I were. Yes, sir, I was working for him then sure.

Q. In what capacity were you employed by him? What did you do?

A. Well, he hauled wood from Missouri at that time, with teams, six teams he hauled wood from Missouri, a load a day as nigh as we could make it.

Q. And you hauled wood for him?

A. Yes, sir, I had charge of it, a kind of foreman for him.

Q. Did you have anything to do with the wood yard?

A. Well, in days that I wouldn't go out—would be a bad day or something like that, I usually stayed around the yard, and split wood and attended to the horses and helped load wagons and sometimes delivered wood.

Q. You say you were his foreman? A. Yes, sir.

Q. Did you ever know an Indian or part Indian woman in Leavenworth? A. Well, yes, sir.

Q. Did you ever know an Indian girl they called Indian Minnie?

By Mr. Allen: We object to that as leading and suggestive.

A. Well, yes, sir, I——

Q. Where did you see her?

A. Well, she was around the yard there of Dave Atchison's at times, some evenings; first ever I got to see her that I can remember now, she came there after chips and things in a basket from Mrs. Letcher's that lived down on Seneca or somewhere at that time; that is the first time I ever noticed her; had a papoose baby with her and the child looked like an Indian to me, it was an Indian I know.

Q. How many times did you see her?

A. Well, I disremember now, maybe several times, two or three times anyhow. I wasn't there only late in the evenings, sometime except when I wasn't going out with the teams now mostly in bad weather.

Q. And that was the only times that you saw her?

A. Yes, sir, I did see her once by the house. We used to go up her boy; we belonged to a lodge here called Benevolence.

Q. Whose boy? A. Mrs. Letcher's.

Q. What was his name? A. Jim Mayo, they called him.

Q. Did you ever see this girl with a baby? A. Yes, sir.

By Mr. German: We object to that as leading, and if he answered before the objection was made, I move to strike the answer for that reason.

Q. Where did you see her with the baby?

A. I seen her there in Atchison's wood yard at times.

Q. Did she bring it when she came to the wood yard?

A. She came there with it, yes, sir, she came there with it the first notice of it I ever seed.

Q. Did you ever see the child?

A. Yes, sir, I looked at it with my own eyes, yes, sir.

Q. Did you ever hear the child referred to by any name or nick name? A. No, sir, never did.

Q. Did you ever learn the name of that child?

By Mr. Allen: We object to that as incompetent, irrelevant, and immaterial, leading and suggestive and calling for hearsay evidence.

A. Well, yes, sir, I learned the name that they called it, Tommy is my understanding.

Q. Did you ever talk to Minnie about this child?

A. Never did in my life, no, sir; I did ask her once if it was hers and she said it was, she never had very much to say to us colored people.

By Mr. German: I move to strike the answer all of it except the first clause or phrase, for the reason that it is not responsive to the question.

By Mr. Blakeney: I move to strike all but after the first part of the answer, commencing "where Minnie told me," as not responsive.

Cross Examination by Mr. Allen.

Q. Uncle, where were you born?

A. LaFayette County, Mo.

Cross Examination by Mr. Blakeney.

Q. When did you first learn that the child's name was Tommy?

A. Why, it was Letcher's down at the house where she stayed.

Q. You learned it during the time that you saw and knew the child, did you?

A. That is the only time as I ever heard the name called as I remember it.

Q. Who called it down there?

A. Why, it was Mrs. Letcher, it was three or four months old, six months, older maybe; I don't know, said its name was Tommy there, I don't remember that I ever heard it mentioned any more that I know of.

Recross Examination by Mr. Allen.

Q. Uncle, where were you born?

A. LaFayette County, Missouri.

Q. Did you live all of your life in Missouri until you came here in 1875?

A. No, sir, I left LaFayette County, Missouri, the year of sixty-nine and went to Valley Falls, Kansas.

Q. How long did you live at Valley Falls, Kansas?

A. I stayed at Valley Falls, I think it was six or seven years, I forget which, or eight maybe sometime along about that I presume——

Q. Then where did you go?

A. I went to Leavenworth.

Q. Been here ever since?

A. Yes, sir, except the last seven years I have been in Kansas City.

Q. Do you know Sadie James?

A. Sadie James, no, sir.

Q. Sadie Harris? A. No, sir.

Q. Did she work for Mr. Atchison any time while you were there?

A. I don't know the hired girls he had at the house, I will tell the truth.

Q. Had a number of them there didn't he?

A. Time after time yes, sir.

Q. Name some of them will you?

A. Well, I don't know of any but an Irish girl that used to live in Missouri; they called her Miss Oliver, I believe her name was, a heavy set Irish girl, only one ever I knew and I only knew her by helping to milk some nights when the cows came up late is all I remember.

Q. You say you worked for Atchison's for nine years?

A. Yes, sir, close to nine years.

Q. And during some of that time you saw an Indian woman? A. Yes, sir.

Q. Come to the Atchison house a number of times and pick up chips around the house?

A. Oh, no, in the wood yard, lumber yard.

Q. How many times did you say she was there?

A. I disremember now, I can't say.

Q. Uncle, you saw her there a number of times?

A. No, I didn't see her there a number of times, I was only there sometimes when I wasn't going to Missouri and I would be late in the evening coming in, some nine or ten o'clock at night.

Q. You never saw her except around there picking up chips, did you?

A. Around the house where she stayed at.

Q. You say her name was what?

A. Minnie, called her Indian Minnie, as near as I can remember.

Q. Indian Minnie, or Mary? A. Minnie.

Q. Used to call her Indian Mary at that time, didn't they?

A. I never heard them speak of that.

Q. Molly? A. No, sir, never heard them speak of that.

Q. Where did you hear them speaking of her?

A. Right where she lived, Mrs. Letcher's.

Q. Was that 1885 or 1886, or when?

A. Sometime about eighty-five—eighty, sometime as that.

Q. You don't remember the year, do you?

A. Don't remember the year at all.

Q. They have been talking to you about this case, haven't they?

A. Yes, questioned me and I told them what I knew.

Q. They told you when and where this child was born, haven't they? A. No, sir.

Q. Nobody told you when and where it was born?

A. No, sir.

Q. Who first came to you and asked you about this Indian woman?

A. I was in Kansas City and I came over here to the office, Mr. Judge Bond's office, and I told them where I had seen her and heard about it.

Q. How came you to come over here?

A. They had me to come over here this morning.

Q. Who had you to come over here?

A. That young gentleman told me to come over here.

Q. Mr. Hanford? A. Yes, sir.

Q. Did you ever talk to Mr. Long about this case?

A. Who is Mr. Long, the Judge?

Q. This gentleman here with the glasses?

A. Yes, sir, spoken to him about it.

Q. A number of times, haven't you? A. No, sir.

Q. How many times has he been to see you? A. Once.

Q. You talked to George Crilley, haven't you?

A. No, sir.

Q. And talked to Mr. Bond's father-in-law, the old man, Mr. Atchison, haven't you?

A. Yes, sir, but not on this case.

Q. He told you about an Indian Minnie being around there, didn't he? A. No, just asked me did I remember it.

Q. Uncle, when they first mentioned it to you, you couldn't remember it, could you?

A. Law'd yes, I remembered it before they mentioned it.

Q. Why didn't you tell a while ago about this little boy this Indian woman had in her lap all the time around the Atchison home being named Tommy?

A. I don't know whether it was around the home or not.

Q. Do you know whether his name was Commodore Tommy, or what?

A. I just remember that once, it may have been two or three times but I remember just once.

Q. How old was he when you first saw him?

A. I guess maybe five or six months old, maybe older than that.

Q. When you first saw him? A. Yes, sir.

Q. In the lap of his mother?

A. She had him in her arms, yes, sir.

Q. Then, how old was he when you last saw him in the arms of his mother?

A. I don't know, I never seen him at all but once, I don't think.

Q. I thought you said a while ago that you saw her there two or three times picking up chips?

A. I say it may have been oftener than that, I don't know.

Q. Uncle, who did you ever talk to about this case?

A. That young gentleman and the other men in here.

Q. Did you ever talk to George Crilley about it?

A. No, sir.

Q. Did you ever talk to George Crilley's son? A. No, sir.

Q. Ever talk to Dennis Jones about it? A. No, sir.

Q. You know Dennis Jones? A. Yes, sir.

Q. You never talked to him about it? A. No, sir.

Q. Rube Smith? A. No, sir.

Q. Mr. Long and Mr. Hanford are the only men you ever talked to about it?

A. They are the only two that I ever spoke to, and Mr. Bond, he was present.

Q. Who came to your house when Mr. Hanford came to see you?

A. Wasn't anybody came to my house that I know of. Rube Smith came down there and asked me to come to Leavenworth.

Q. Did Rube Smith come to your house?

A. Yes, sir, and he never said a word to me about what they wanted, said come to Leavenworth, they wanted to see me, that is all he said to me.

Q. You and Rube came all the way to Leavenworth together? A. I came by myself from Kansas City.

Q. Who paid your way here? A. He paid my way.

Q. How much did he give you? A. A dollar.

Q. And you came to Leavenworth? A. Yes, sir.

Q. When was that?

A. Last Monday, two weeks ago, I think Monday.

Q. And you have been staying here on their expense ever since, haven't you? A. No, sir.

Q. Where have you been? A. I came back home.

Q. They have been paying your way back and forth?

A. No, sir, I paid my own way.

Q. They have been paying you anything?

A. Yes, sir, they give me my time.

Q. How much?

A. Give me a couple of dollars one time and five dollars another.

Q. And a dollar another? A. No, sir.

Q. They gave you a dollar the first time they went to see you to come up here, didn't they?

A. Yes, sir, give me a dollar the first time.

Q. And gave you two dollars another time? A. Yes, sir.

Q. And five dollars another time? A. Yes, sir.

Q. And who is paying your board?

A. Paying it myself.

Q. Now then that eight dollars is all you were ever paid?

A. No, sir, that is not all I was paid.

Q. Is that all they have paid you?

A. No, I don't think it is.

Q. How much more have they paid you?

A. I think they have give me—yes, they have give me ten or twelve dollars I think, I forget now which it is.

Q. Besides the eight?

A. No, all together, the whole thing.

Q. And you have talked to Long and to Hanford and to Bond? A. Them three is all.

Q. How much are they going to give you when you get through? A. I don't know, they never said.

Q. They promised to take care of you though, didn't they?

A. No, sir, said they would pay my board, that is all.

Q. They would pay your board? A. Yes, sir.

Q. And they are paying you time? A. Didn't say.

Q. Now, you have been—— How often did you see this Indian woman?

A. Oh, I can't just memorate the time, I never paid much attention to it hardly as I did.

Q. She lived right there in that house a year or two, didn't she? A. I can't say that.

Q. How long did you know that she lived there?

A. Oh, off and on I guess to my remembrance, passing back and forward there by the house, never did pay any attention to her, must have been two or three months.

Q. She was there over two months, wasn't she?

A. I guess she was, I can't say.

Q. You saw her as you passed the house, there in the yard picking up chips?

A. I can't say how many times it was or nothing.

Q. Always had this baby with her when you saw her, wouldn't she?

A. When she came to the yard after chips she would have it.

Q. Granny Letcher told you one time the baby was Tommy, and that is the only time you ever heard the name called until this case came up, wasn't it? A. Yes, sir, she told me.

By Mr. Blakeney: I want to object to counsel shaking his curly locks at the witness and raising his tone so unnaturally.

By Mr. Allen: I want to object and protest to that sort of objection from counsel, and that he ought to be at least to the Court respectful.

Q. Now, Uncle, how many times did you say did you see that baby there?

A. I can't say, I wouldn't say because I might say a dozen times and then it might not have been more than two or three.

Q. The last time you saw him he was about seven or eight months old? A. I guess he was, I judge he was.

Q. You stayed around the Granny home a good deal, did you? A. No, sir.

Q. You went in and out there? A. No, sir.

Q. You lived close by? A. No, sir.

Q. You went up there frequently, didn't you?

A. Well, some Monday nights I would be going to the Lodge and go by to get the young man and go to the Lodge with him.

Q. You and Jim belonged to the same lodge, did you?

A. Yes, sir.

Q. You never saw or heard of that child in your life after he was a few months old, did you?

A. I disremember if I did. If I did, I didn't notice it.

Q. The only time you was there you heard Granny say his name was Tommy or something like that, and that is the only time you ever heard his name called?

A. Never heard his name called except that time, that I know of.

Q. This Indian Minnie never called her name to you, did she? A. Who?

Q. Whoever told you that it was Indian Minnie?

A. She called her name to me; she said my name was Minnie, never had much to say to us colored folks.

Q. You haven't seen or thought of her or either one of these parties since that time until this case came up, have you? A. I don't know as I have, I can't say that.

Q. The next time you ever thought of either one of them was when you talked to Mr. Hanford, Mr. Long, or Mr. Bond?

A. About the only time I ever brought them up to my membrance.

Q. You are a colored man?

A. Yes, sir, my mother was about half Indian too, that is the only thing I asked her.

Q. There were just lots of Indians around Leavenworth in the eighties, wasn't there?

A. I don't know, I can't say as to that.

Q. You saw a good many didn't you?

A. I was out on the plains in the year sixty-six, I seen lots of them.

Q. You say you are part Indian, a good many people here are part Indian, aren't they?

A. I don't know that, I can't say that.

Q. What kind of a looking woman was it you saw?

A. Well, she was a pretty fair girl, yellow skin Indian.

Q. A great large woman wasn't she?

A. No, sir, middled size young lady.

Q. About how large would you say?

A. Well, appeared to me at that time probably a hundred and twenty or twenty-five, maybe more, I can't say.

Q. A very low lady, wasn't she?

A. Not overly low, medium high.

Q. How high? A. Five feet or four and a half.

Q. Four and a half or five feet?

A. Yes, sir, maybe taller, I can't say.

Q. She was a slender woman in size wasn't she?

A. She was apparently a broad made lady but slender.

Q. You saw her before she was in a family way?

A. No, sir.

Q. You never saw her while she was in a family way?

A. No, sir.

Q. You never saw her in your life until you saw her picking up chips around the home of the man that you were working for? A. The only time that I paid any attention to her.

By Mr. Blakeney: Not the home.

Q. The wood yard of the man that you were working for?

A. Yes, sir, that is all.

Q. You have no way in the world of fixing the time or even approximating the date that you saw her, have you?

A. No, sir, I have not.

Q. You don't really know whether it was in seventy-five or ninety-five, do you?

A. No, I know it wasn't in seventy-five, I know it wasn't in ninety-five.

Q. But it could have been any year during the eighties, might it not?

A. No, it was along in the eighty and I lived here during that time and I was buying a lot of property and I know it was pretty high.

Q. All you know about it is that it was during the nine years, that you lived here and worked at the Atchison home, is that not the facts now?

A. It was in the nine years I remember that I was here.

Q. During those years? A. Yes, sir.

Q. How long did you see her?

A. I say it might have been a year or six months, or may have been less time than that to my notice.

Q. But you never saw her except during the time that she was living in and around here?

A. That is all I noticed.

Q. You had a big wood shed there didn't you?

A. Atchison's?

Q. Yes? A. Yes, sir, a big wood shed there

Q. Lots of neighbors were around there, would come there and pick up chips, didn't they?

A. A great many of them, yes, sir.

Q. With baskets? A. Yes, sir.

Q. Was there anything particular about a woman picking up chips there that called your attention to this woman—was there?

A. Nothing particular of course, every man has their friends.

Q. Will you name another woman that picked up chips there during that time?

A. No, sir, I wouldn't dare to do that.

Q. Do you know who else lived at the Letcher home?

A. No, sir.

Q. Can you name a man or woman, Uncle, can you?

A. No, sir, I never paid no attention to them.

Q. With the exception of Jim Mayo, you don't know a man child, or boy that lived there?

A. Yes, she had another child, a one armed small boy.

Q. He didn't live there, did he?

A. Yes, sir, he stayed there.

Q. That is all isn't that? A. All that I remember.

Q. You never saw or heard of anybody else being there?

A. No, sir, I never inquired at all.

Q. But the one armed boy you say stayed there?

A. It was her son.

Q. Where did she live?

A. Across on Seneca between Second and Third.

Q. Where? A. The south side of the street.

Q. What kind of a house was it she lived in?

A. Lived in a frame house—and I think she moved into the old rock house, I am not sure.

Q. Was she in the rock house or frame when you saw her? A. I think she lived in the frame at that time.

Q. Sure of that?

A. No, sir, I am not sure but they were right together.

Q. How many rooms were in that house?

A. I can't say, I never went through the house in my life.

Q. Never went to the house, you say?

A. Never went through the house in my life.

Q. Were you ever inside of the house?

A. Only in the front part of it to get money for wood that I delivered for Atchison.

Q. You never went in the back part of it?

A. Where she washed in the basement?

Q. You never went up stairs, did you?

A. No, I never did.

Q. Was it a two story house?

A. I forget now whether it was or not, I know the rock was a two story building.

Q. Name some other babies around there?

A. I don't know.

Q. Can you name any other babies in Leavenworth?

A. Outside of mine?

Q. Outside of your own, you don't remember any others?

A. Rube Smith, and mine, I don't remember——

Q. Outside of Rube Smith and your babies, you don't remember another baby? A. Well, I don't remember.

Q. What was Rube Smith's baby named?

A. There were several there.

Q. Named Thomas, wasn't it? A. No, sir.

Q. Charlie? A. Wasn't named Charlie, no.

Q. What was its name?

A. He had one or two, named one Rube, Harry, and Ralph.

Q. Which boy was it that was a baby at this time?

A. Now, I can't say for my life and I wouldn't.

Q. You don't know which one was Rube's? A. No.

Q. You visited at Rube's didn't you?

A. I lived right there at him.

Q. He had a baby at that time?

A. I can't say, you asked me if I knew any babies at that time.

Q. Who was Rube's youngest child at the time that you saw this Indian woman? A. I can't say.

Q. You don't know that? A. No, sir.

Q. Yet you knew this boy?

A. Yes, sir, I knew the mother and boy, kinda a curiosity to me.

Q. You had never seen this woman but one time in your life? A. That is all.

Q. Was an Indian a curiosity to you?

A. At that time, yes, sir.

Q. You are part Indian yourself, aren't you?

A. Yes, part of me.

Q. There were no other Indian around Leavenworth, were there?

A. Not as I know of, I can't say that.

Q. What was the color of this boy?

A. About the color of his mother, pumpkin colored—yellow.

Q. Very yellow? A. An Indian girl I can say.

Q. Did he look like he might have had a white man or a colored man for his father?

A. Looked to me like an Indian man to me.

Q. Looked to you like a fullblood Indian, did he?

A. Yes, sir.

Q. He was wearing breeches when you saw him wasn't he?

A. I can't say that either.

Q. A good sized boy though when you saw him?

A. Six or seven months old.

Q. You wont say that you ever saw either he or his mother more than once in your life?

A. As far as I can remember, I may have seen him more than that, I never paid much attention to them; she never paid much attention to colored people anyway.

Q. How long did you continue to live in this community?

A. Eleven years or more.

Q. After that?

A. No, when I first came here all together.

Q. When did you leave here?

A. About eight years ago.

Q. Up until that time, you lived here continually?

A. Yes, sir.

Q. How long did this Indian Minnie stay at Letcher's?

A. Leavenworth, I can't say that.

Q. At Letcher's, Granny Letcher's? A. I can't say.

Q. Two years? A. I can't say that to save my life.

Q. You only saw her there two or three months?

A. I would see her there about the length of time of that it might have been.

Q. Then you saw the boy on until he was fifteen or twenty years old, didn't you? A. No, sir.

Q. Never saw him after he was seven or eight months old? A. Never, if I did I never noticed him.

Recross Examination by Mr. Blakeney.

Q. What did you say was Minnie's type as you recall it?

A. Well as nigh as I can get at it, it would be five foot maybe not so tall, five or something like that.

Witness dismissed.

Mr. Hanford: Also the deposition of William D. Ford, beginning at page 1742.

Mr. German: Your Honor, our understanding was that William Ford was here.

Mr. Hanford: If any of these witnesses are here, we won't offer the depositions, Mr. German.

The Court: I am assuming, so far as you gentlemen are informed, that none of these witnesses are here. If it develops that any of these witnesses are here, call my attention to that and the deposition will be excluded, gentlemen, and the witness called.

Thereupon, WILLIAM D. FORD, being called on behalf of the defendants, sworn, and under oath, testified as follows:

Direct Examination by Mr. Hanford.

Q. State your name, please?

A. I go by William Ford and I go by William D. Ford.

Q. Your full name is William D. Ford? A. Yes, sir.

Q. How old are you? A. Fifty-one.

Q. You are the son of the man who just testified ahead of you here? A. Yes, sir.

Q. What is your business? A. Coal miner.

Q. And where do you live?

A. Well, I am making my home at Lockston, Missouri.

Q. Lockston, Missouri? A. Yes, sir.

Q. You work in the mines there? A. Yes, sir.

Q. Did you live in Leavenworth in 1885? A. Yes, sir.

Q. Along in the eighties? A. Yes, sir.

Q. Did you ever work for Dave Atchison? A. Yes, sir.

Q. Did you work for him continuously or only at times?

A. Only at times.

Q. What time of the year would that be?

A. That would be in the spring and summer, vacation, after vacation of school when I was going to school.

Q. And after you quit going to school did you work in the mines up here?

A. No, sir, quit school and went to working in the mines.

Q. And worked in the mines? A. Yes, sir.

Q. And then did you work for Dave Atchison at times.

A. In the summer time, yes, sir.

Q. At summer time? A. Yes, sir.

Q. The mines are shut down in the summer, are they not?

A. Yes, sir. For the summer they shut down.

Q. And they remain that way until the cool weather comes again? A. Until the fall, yes, sir.

Q. Where did you work for Mr. Atchison?

A. On the corner of Seneca and Fourth.

Q. Around the wood yard?

A. Yes, sir, delivering wood.

Q. State whether or not you ever knew an Indian woman, or part Indian woman called Minnie—Indian Minnie, or Minnie Atkins?

A. Well, there used to be a lady came around there they called Indian Minnie.

Q. Indian Minnie? A. Yes, sir.

Q. Did she ever bring anybody with her? A. Yes, sir.

Q. Who would you see her with?

A. Well, she carried a little baby in her arms pretty near all the time, every time that she came around there that I seen her.

Q. How many times did you see her?

A. I would see her sometimes maybe once a day or maybe twice.

Q. Well, how many times all together would you see her?

A. Oh, I can't say, I can't remember.

Q. Did you ever hear—what the baby was called?

A. No, sir—— Yes, sir, I did hear what the baby was called.

By Mr. German: Now, we object unless—go ahead.

Q. What was it called?

A. Well, I heard the name of papoose.

Q. Papoose? A. Yes, sir.

Q. Do you remember what year that was?

A. No, sir, not exact, but I think it was after eighty-five, I don't know.

Q. About how old were you?

A. I was between twenty-one and twenty-two.

Q. Between twenty-one and twenty-two? A. Yes, sir.

Q. Do you remember it was along about that time?

A. Yes, sir.

Q. Is there anything that fixes your recollection of the year at that time?

A. I don't know, just don't slip my memory, I never give it any study at all.

Q. And when were you born? A. I was born in 1865.

Q. So it was sometime in the middle eighties?

A. Yes, sir.

Q. Did you ever know this woman after that time?

A. No, sir.

Q. Did you know the baby after that time?

A. Well, no more than what I was told.

Q. Did you ever—— Do you know where they lived?

A. Yes, sir.

Q. Where?

A. On Seneca street between Second and Third.

Q. At whose house? A. Mrs. Letcher.

Q. Did you ever go there to that house? A. Yes, sir.

Q. Did you ever see this girl there? A. No, sir.

Q. Did you ever see the baby there? A. Yes, sir.

Q. How old about was the baby then?

A. Well, it was a little bit of a thing crawling around the first time I seen it, and then I left here shortly afterwards.

Q. So, you didn't see either of them any more?

A. No, sir.

Cross Examination by Mr. Blakeney.

Q. You said the first time that you had seen the baby was—or had seen Minnie was when she came over to the yard?

A. Yes, sir.

Q. With the baby? A. Yes, sir.

Q. How many times did you say you saw Minnie and her baby in the wood yard?

A. Sometimes she came there once a day to order wood, and sometimes she would come twice a day for ice.

Q. You mean come once a day for wood, or she came once a day for ice? A. Yes, sir.

Q. Would make twice a day sometimes? A. Yes, sir.

Q. What time of day would she come, if you remember?

A. Well, I can't remember that.

Q. Was she carrying the baby? A. Yes, sir.

Q. How large was the baby?

A. Well, I can't tell that because I just knew that she had a baby in her arms.

Q. Was it summer time or winter time?

A. Summer time.

Q. And how long did you say it continued that she was coming there? A. I can't swear to it.

Q. Could you give us any judgment at all on it?

A. No, sir, I can't.

Q. Then, you say after that you visited Granny Letcher's house and would see the baby there?

A. Carry wood there, yes, sir.

Q. Did what?

A. Carry wood there, yes, sir, and coal.

Q. You delivered coal and wood at the house?

A. Yes, sir.

Q. And you would see the boy there? A. Yes, sir.

Q. How big was he the last time you remember him?

A. Well, after I came back from Iowa, I seen him in ninety-five.

Q. When you came from Iowa you did what?

A. When I came back from Iowa in ninety-five.

Q. How big was he then?

A. I don't know, I judge him to be about ten or eleven years old.

Q. How did you know him to be the same boy?

A. Well, a friend of mine that I run with, my partner, he told me it was the same boy.

Q. That is all that you know, because of what somebody told you? A. Yes, sir.

Q. You didn't know the boy so well so that you would recognize him at ten or eleven years of age? A. No, sir.

Q. You just saw him once there then? A. Yes, sir.

Cross Examination by Mr. German.

Q. When did you leave Leavenworth after you worked for Mr. Atchinson? A. After I worked for Mr. Atchinson?

Q. Yes? A. In ninety-one.

Q. You left in ninety-one? A. Yes, sir.

Q. When did you commence doing any work for Mr. Atchinson? A. Well, I was about sixteen years old.

Q. What year would that be?

A. I can't tell you, I can't remember.

Q. About eighty-one? A. I can't remember.

Q. Well, you were sixteen years old in eighty-one, wasn't you? A. Yes, sir.

Q. You worked for him about ten years at different times?

A. Off and on, yes, sir.

Q. You say this woman would come with her papoose to the wood yard? And get wood and ice?

A. She came there and ordered wood and sometimes she would get ice.

Q. How many different summers did she do that?

A. I can't tell you that.

Q. Well, it was more than one summer, wasn't it?

A. Well, I wasn't here but one summer.

Q. You weren't here but one summer?

A. Not at the wood yard.

Q. How?

A. I say I wasn't at the wood yard but the one summer, the summer that I seen her.

Q. Just one summer? A. Yes, sir.

Q. When did you commence to work at the wood yard that summer? A. I commenced in the spring.

Q. What time? A. Along in April.

Q. And then when did you quit working at the wood yard?

A. I quit in September.

Q. She came to the wood yard frequently that summer?

A. Off and on I would see her there when I came in off the wagon.

Q. You would make deliveries around the town?

A. Yes, sir.

Q. And then you would spend some of the day in the wood yard, wouldn't you? A. No, sir, I would be going all the time.

Q. How soon after you begun working at the wood yard was it that you first saw Minnie?

A. The first time I ever saw her, I came back from Wellington, Missouri, down to see my folks, and I went to work for Mr. Atchinson in eighty-three I think it was.

Q. You saw her then?

A. No, sir, I didn't see her, don't know it.

Q. Go on then with your story?

A. I then went to working in the coal mine in the fall of 1885, I began to work for Mr. Atchinson in the summer, and that is when I knowed her.

Q. That was the summer? A. Yes, sir.

Q. You say you worked for him a little in eighty-three?

A. Yes, sir.

Q. In the summer? A. Yes, sir.

Q. How long that summer? A. Up to September.

Q. So you worked for him two different summers?

A. Yes, sir, I worked for him off and on pretty near ever summer, except the times I would go away.

Q. Didn't you tell me a while ago that you never did work for him but one summer?

A. No, sir, I never told you that, I said one summer is all I worked for him before I went away.

Q. Before you went away where?

A. To Lockston, Missouri—Wellington, Missouri.

Q. Then, I understood you to say that you commenced working for him off and on in eighty-one? A. Eighty-three.

Q. Eighty-three? A. Yes, sir.

Q. And then you left here for good in ninety-one?

A. Yes, sir.

Q. And came back again in ninety-five? A. Yes, sir.

Q. Now, what do you mean when you say you didn't work [ ] him but one summer before you left?

A. One summer I worked for him and I left here in September.

Q. What year?

A. Well, that was in about—well, right after the big strike, I think it was in seventy-nine.

Q. Seventy-nine? A. Yes, sir.

Q. Then, you worked for him in one summer in seventy-nine? A. Yes, sir, after the big strike.

Q. Then, when did you next work for him?

A. In eighty-three.

Q. Eighty-three? A. Yes, sir.

Q. Then, when did you next work for him?

A. I never worked for him any more.

Q. Never did? A. No, sir.

Q. You say you didn't ever work at the wood yard after the summer of eighty-three?

A. No, sir, I would be around there, yes, sir, I worked in the winter.

Q. You worked at the wood yard in the winter?

A. Yes, sir, of eighty-five.

Q. Of eighty-five? A. Yes, sir.

Q. Now, what time did you commence?

A. Well, I commenced along in August.

Q. And when did you quit? A. I quit along in December.

Q. Do you know what year that was?

A. In eighty-five. We had our fuss in eighty-five, Mr. Atchinson and I fell out.

Q. Fell out? A. Yes, sir.

Q. And you never worked for him any more after that?

A. No, sir.

Q. Then, you left the city in ninety-one? A. Yes, sir.

Q. Now, how long before you left the city in ninety-one and went to Iowa that you had worked for Mr. Atchinson?

A. How long?

Q. Yes? A. I can't say.

Q. You had worked for him the winter before that, hadn't you? A. Before I went to Iowa?

Q. Yes? A. No, sir.

Q. You worked for him in 1881? A. No, sir.

Q. You worked for him in 1870 didn't you? A. No, sir.

Q. What year was it you said you worked for him?

A. My first time working for him?

Q. Yes, sir? A. After the strike in seventy-nine.

Q. And you worked for him a long time then didn't you?

A. I worked for him that summer.

Q. That summer, is that the only summer you ever worked for him? A. Well, not the only summer.

Q. Now, you say that you worked for him in the summer of 1880? A. No, sir.

Q. Didn't work for him that summer? A. No, sir.

Q. Well, did you work for him in the summer of 1883?

A. Well, it was in August when I started to work for him.

Q. You started to work in August, 1883, when did you quit? A. When did I quit?

Q. Yes?

A. I quit along in the fall, along in December, went to the coal mines.

Q. Went to the coal mines? A. Yes, sir.

Q. And that was the first time you ever saw Minnie?

A. Yes, sir.

Q. You never saw her after that? A. No, sir.

Q. And it was that winter that she had the baby with her.

A. It was that summer.

Q. That summer, what summer?

A. The summer of—it was in 1885.

Q. Eighty-five? A. Yes, sir.

Q. The summer of eighty-five. Now, you commenced to work for Mr. Atchison in August, 1885, didn't you?

A. Yes, sir.

Q. And worked for him until January, 1886, didn't you?

A. Yes, sir, somewhere along there.

Q. Somewhere along there, and that was the time that you were working for him that you saw Minnie, wasn't it?

A. Yes, sir.

Q. And she had this papoose with her? A. Yes, sir.

Q. She come there for ice you say?

A. Ice and to order wood sometimes, and coal.

Q. Well, it was pretty cold weather then wasn't it?

A. Well, I don't know, it wasn't cold at that time.

Q. Well, it is pretty cold in January, isn't it?

A. Oh, yes, sir.

Q. She came all wrapped up in warm clothes, didn't she?

A. I never seen her in the winter at all, I seen her in the summer.

Q. Only in the summer? A. Yes, sir.

Q. The summer of eighty-three? A. Eighty-five.

Q. Oh, eighty-five? A. Yes, sir.

Q. Now, who have you talked to about this case?

A. Nobody.

Q. Not a soul?

A. Not a soul. I know nothing about the case at all.

Q. You have not talked to anybody about what you knew in this case? A. What I knew in this case?

Q. Yes?

A. Well, I don't know anything in this case to talk about.

Q. Well, who did you talk about what you were going to swear here? A. Who did I talk?

Q. Yes.

A. Well, I told no one only that gentleman over there.

Q. Mr. Hanford? A. Yes, sir.

Q. Anybody else? A. No, sir.

By Mr. Blakeney: He pointed to me.

Q. You mean this man, Mr. Hanford, don't you?

A. Yes, sir.

Q. Anybody else? A. Not yet.

Q. Not yet? A. No, sir.

Q. Did you talk to this man right here? A. No, sir.

Q. This red headed man? A. No, sir.

Q. You talked to the man who wears glasses? A. No, sir.

Q. Did you talk to—— Do you know Rube Smith?

A. Yes, sir.

Q. Talked to him, didn't you? A. No, sir.

Q. Never did?

A. No, sir, he just asked me did I know the boy.

Q. Rube mentioned that to you? A. Rube?

Q. Yes? A. Never did in his life.

Q. Never did in his life? Who would come to the wood yard with Minnie? A. Who would come there?

Q. Yes? A. Well, if anybody come, I didn't see them.

Q. Didn't see them? A. No, sir.

Q. Before Minnie commenced coming there with this Papoose, she would come there in a pregnant condition wouldn't she—big with child?

A. Well, I wouldn't have known it if she had.

Q. You wouldn't have known it? A. No, sir.

Q. You are a married man now aren't you? A. Yes, sir.

Q. You could tell if she was large with child?

A. She wasn't then because she was carrying a child in her arms.

Q. And the child was how old the first time you ever saw it? A. Well, I can't swear it.

Q. What sized woman was this Indian Minnie?

A. Well, she may have been about my height or a little taller.

Q. How high are you? A. Five foot five.

Q. Five foot and five inches? A. Yes, sir.

Q. And she was a very fleshy woman?

A. No, sir, she wasn't.

Q. She was a very slender woman?

A. Well, she was not quite so slender and she wasn't quite so fleshy.

Q. And the little papoose, you have seen it in Granny's house too, haven't you? A. Yes, sir.

Q. Minnie lived there at Granny's house all that summer, didn't she?

A. Well, I don't know whether she was living there or not all that summer.

Q. Where else was she living? A. I don't know.

Q. Where do you say you now live?

A. Lockston, Missouri.

Q. How far is that from here?

A. That is about sixty-two miles, I think, as near as I can get at it.

Q. When did you come over here?

A. I came over here Monday a week ago.

Q. Been here ever since? A. Yes, sir.

Q. How came you to come? A. Well, they came after me.

Q. Who came after you?

A. Why, Mr. Smith, he was asking me some questions.

Q. Rube Smith? A. Yes, sir.

Q. He asked you some questions?

A. Asked me did I know the boy and I said yes, and he said will you come over to Leavenworth with me and I told him yes I would come.

Q. And he asked you if you remembered about the Indian woman coming to the wood yard with the papoose?

A. Yes, sir.

Q. Then, he asked you if you knew she was named Indian Minnie? A. No, sir, he didn't ask me that.

Q. He asked you if you knew what the other name was?

A. No, sir, he didn't say any more to me, just asked me if I knew the boy.

Q. Did he ask you if the boy's name was Tommy?

A. Yes, sir.

Q. And you told him yes? A. Yes, sir.

Q. He paid your way over here?

A. I paid my own expenses over here.

Q. You are paying your own expenses? A. Yes, sir.

Q. How much is he to give you? A. Who?

Q. Rube? A. Rube isn't to give me nothing.

Q. Has anybody given you anything? A. Yes, sir.

Q. How much? A. How much?

Q. Yes?

A. Well, Mr. Bond give me ten dollars when I got here.

Q. Mr. Bond? A. Yes, sir.

Q. How much did he give you? A. Ten dollars.

Q. Ten dollars? A. Yes, sir.

Q. When did he give you that?

A. On the evening I got in, Monday evening a week ago.

Q. When you got here? A. Yes, sir.

Q. How much have you received since that?

A. Five dollars—six dollars.

Q. Who gave you that? A. Mr. Bond.

Q. You say it was six dollars?

A. Yes, sir, five at one time and one last night, night before last night he gave me a dollar, last night.

Q. That makes sixteen dollars in all? A. Yes, sir.

Q. Now is that all? A. That is all he give me.

Q. Have you been promised any before you leave?

A. No, sir.

Q. You say Rube didn't pay your railroad fare over here?

A. No, sir.

Q. You say he didn't buy your ticket?

A. I am bearing my own expense.

Q. I asked you if he bought your ticket?

A. Bought my ticket?

Q. Yes? A No, I don't know, paying my own expenses.

Q. I asked you who bought your ticket to come over here on? A. Oh, Rube bought my ticket.

Q. Rube Smith bought it and paid for it, didn't he?

A. Yes, sir.

Q. Where are you staying over here?

A. At Mr. Cohen's.

Q. They are going to pay your board? A. No, sir.

Q. Who is going to pay your board?

A. Mr. Bond is to pay my board, I bear my own expense.

Q. To pay your board and you bear your own expenses?

A. Yes, sir, while I was here waiting to go on the witness stand.

Q. Now, after you got here, did you see Dennis?

A. I seen him off at a distance, I haven't never talked to him.

Q. Haven't ever talked to him? A. No, sir.

Q. You have talked with Rube since you got here?

A. I spoke to him and passed him sometimes, a few times he would be in a crowd where I was at talking.

Q. You say you saw this boy at Granny Letcher's in 1895? A. Yes, sir.

Q. How long were you here at that time?

A. Well, I wasn't here but about six months.

Q. Six months? A. Yes, sir.

Q. Did you go to Granny's very often then?

A. Not quite often, it would be very seldom that I would be down there.

Q. Who else did you see down there?

A. Well, the friend that I went to see was Mr. Nash.

Q. Who? A. Mr. Nash.

Q. What is his given name? A. Sam Nash.

Q. Anybody else there?

A. That is all I went to see, I didn't go in the house, stand around and wait for him.

Q. Did you see Granny?

A. Yes, sir, she always would come to the door.

Q. So, there was Sam and Granny and this boy?

A. That boy wasn't there, I seen him in the middle of the street, he wasn't in the yard.

Q. You didn't see him in her house?

A. Not at that time.

Q. Did you ever see him in her house after ninety-five?

A. No, sir.

Q. Where did you see him?

A. Seen him out there playing marbles with the other boys. I asked Sam who he was and he said Tommy.

By Mr. Blakeney: Now, I move to strike out all of the last of the statement, "I asked," and all that follows.

Q. Name somebody else that came around to the wood yard to get ice and coal?

A. That is something that I—— Well, there were lots of people came around there.

Q. Lots of people did? A. Yes.

Q. Children and grown ups too?

A. Frank Romena and the Shaws.

Q. Frank Promena? A. Frank Bermenia.

Q. What aged man was he?

A. I don't know, he was a good sized boy.

Q. Where did he live?

A. Just the other side of the baker shop on Fourth street.

Q. Anybody in his family?

A. Only just the two boys.

Q. What two boys? A. Frank and John.

Q. Any women folks there?

A. I guess his mother was there.

Q. Do you reckon? A. Yes, sir.

Q. Did she ever come down to the yard? A. Yes, sir.

Q. Never did? A. No, sir.

Q. Name somebody else now? A. Schotts.

Q. What year was it the Schotts would come down there?

A. Well, I don't know just exactly when, they came nearly every day, sometimes they would telephone for ice and sometimes they would come to the office and order ice.

Q. What year was that? A. That was in the summer.

Q. What year?

A. That was the first summer I worked for them.

Q. What year?

A. Well, I—— I can't think just exactly the year, but it was after the strike in '79, I guess it was in eighty.

Q. Well, that was in 1880 then, wasn't it? A. Yes, sir.

Q. Now, what year was it that these Bermedia boys would come? A. Well, the same year I was working there.

Q. Was that the only year you worked there?

A. The only summer I worked there, yes, sir, that year.

Q. That year?

A. The only time I worked in that year, summer in that year.

Q. That was the only summer that you worked there, was it? A. The only summer that I worked there in that year.

Q. Oh, you never worked there any other summer in that year? A. No, sir.

Q. Well, did you work there any other summer in any other year?

A. Not to say any other summer, no, sir, part of it, about two months of the summer.

Q. What year was that? A. In eighty-five.

Q. In eighty-five? A. Yes, sir.

Q. They came there with wagons to get coal, wouldn't they? A. Who was that?

Q. People? A. No, sir.

Q. Never anybody?

A. Oh, I guess there were a lot of them came in there to get coal in wagons, as far as I know.

Q. Some people came in automobiles, didn't they?
A. No, sir.

Q. They didn't? A. No, sir.

Witness dismissed.

And thereupon, JOHN F. RODERICK, being called as a witness on behalf of the defendants Minnie Atkins, et al., sworn and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. John F. Roderick.

Q. How old are you Mr. Roderick? A. My army age is 75.

Q. How old are you actually? A. Actually 78.

Q. When were you born? A. '39.

Q. Where do you live now?

A. I live in Baine City, about a half a mile south of the city of Leavenworth—the limits.

Q. In what place do you live? A. Baine City.

Q. I know but where do you work?

A. I work in the Soldiers Home.

Q. In the Soldiers Home? A. Yes, sir.

Q. What work do you do at the Soldiers Home?

A. I have charge of the trash wagon; go around and empty cans, just like these that sets on your street here.

Q. Did you serve during the Civil War? A. I did, sir.

Q. How many years? A. Three years and one month.

Q. And you are now at Soldiers Home?

A. Now, at the Soldiers Home unfortunately.

Q. When did you first come to Leavenworth, Mr. Roderick?

Mr. Stuart: Your Honor, he is a little deaf is the reason I speak so loud.

Q. When did you first go to Leavenworth?
A. I first came to Leavenworth in '77.

Q. When did you leave there? A. I left there in '86.

Q. How do you know that you left there in '86, Mr. Roderick?

A. Well, I have no records; there was a cyclone that blew the Sisters Academy down and killed seven or eight girls, and one of the girls, an intimate neighbor of ours, by the name of McMahan.

Q. When did you go to Kansas City as near as you can remember?

A. About the 1st—5th or 6th of July '86.

Q. Kansas City? A. Yes, sir.

Q. You mean July that you went to Kansas City?

A. Yes, sir—May.

Q. May? How do you know it was May? A. What say?

Q. How do you know it was May?

A. Well, I have got that cyclone.

Q. What cyclone?

A. The cyclone that occurred on the last day of May.

Q. Were you in Kansas City at that time?

A. I was in Kansas City at that time.

Q. Was that very much of a cyclone?

A. Well, it blew down several houses; blew down and killed seven or eight employes, and blew down a school house and killed 15 or 16 children.

Q. Now, Mr. Roderick, what business were you in in Leavenworth after you went there in '77, what business did you go in?

A. Well, after my family came, prior to that I was employed in the woolen mills.

Q. Then, what did you do next Mr. Roderick, what did you do next?

A. Mr. Duffy closed the business down and that put me out of a job and I took a hack hauling soldiers from the Fort to the city. I see there was a business there and I organized a company of Roderick, Crilley & Cranston, and we collected what we called a Band Wagon, and then we got a contract and employed four wagons.

Q. And your contract was between the Fort and Leavenworth? A. Fort Leavenworth Depot.

Q. How long did that business continue?

A. That business continued sometime in '79 in the spring of '79 until '85—well, we were permanently until after the freight contract.

Q. When did your freight contract expire?

A. It expired on the first day of July, 1885.

Q. First day of July, 1885? A. Yes, sir.

Q. Then, what did you do between the time that your contract expired until you left for Kansas City in '86?

A. Our contract expired about the last of August, and went to Fort Riley in business for myself.

Q. Went to Fort Riley? A. Yes, sir.

Q. And when did you return from Fort Riley?

A. I returned about the middle of November.

Q. About the middle of November? A. Yes, sir.

Q. And went to Kansas City you say the next spring?

A. Yes, sir.

Q. Now, Mr. Roderick, did you know a girl in that country at that time called Indian Minnie?

A. I did prior to that time.

Q. Prior to that time? A. Yes, sir.

Q. Where did you see Indian Minnie?

A. First time that I remember of seeing her was on the corner of Fifth and Shawnee waiting for a bus to the Fort.

Q. Do you remember whether you ever hauled her from the town to the Fort? A. Time and time again.

Q. You knew her well? A. Yes, sir.

Q. Did you have any sons?

A. I did, I had two adopted sons and two sons of my own on the busses.

Q. Will you tell the Court whether or not you ever stopped her from riding on the busses?

A. No, I never stopped her.

Q. Did you try to do it? A. No, sir.

Q. Did you say anything to your sons about it?

Mr. German: We object to what he said to his sons as hearsay.

Mr. Stuart: I want to show your Honor his means of knowledge of this girl going back and forth and every circumstance connected with it.

Mr. Cruce: The object is not to prove the conversation but not to get any probative force out of the conversation except to emphasize the fact that his attention was directed to this woman.

The Court: If it will lead up to something that has value I will hear it.

Mr. Stuart: We will withdraw it to save time.

Q. Now, Mr. Roderick, you knew her? A. Yes, sir.

Q. She rode back and forth on the bus? A. Yes, sir.

Q. Did you know a woman there by the name of Mollie Peters? A. I did.

Q. Where did she live, Mr. Roderick?

A. She lived on Third and Seneca, three or four doors east on Third and Seneca, in what was known in early days as the Seneca Hotel.

Q. The Seneca Hotel? A. Yes, sir.

Q. What was she, who was she?

A. Well, she was a fortune teller was her total profession.

Q. Fortune teller?

A. Yes, sir. And also waiting on women.

Q. And also waiting on women? A. Yes, sir.

Q. Did you know her well, Mr. Roderick?

A. Oh, I did indeed.

Q. Do you remember of ever going with her anywhere to see a baby? A. I do, sir.

Q. You may state to the Court just what occurred about that?

A. On or about the last of June or first—last of June or first of July, I was down at Crilley & Cranston's barn; I went in Aunt Mollie's. Aunt Mollie told me she just brought a baby to the world and for me to go over with her and see it. I went over there and I see a baby lying by the side of the woman called Indian Mary. Recognized her and we went back home, and in about three or four weeks afterwards I went down again and asked how the baby was getting along and she said it was getting along fine. Asked me to go over there and get the baby. I went over and got the baby, she was nursing at the time. I took the baby over to Aunt Mollie's.

Q. Now, you state Indian Mary, or Indian Minnie?

A. Indian Minnie.

Q. Why did you say Indian Mary?

A. It slipped my tongue.

Q. Did you know it was Indian Minnie?

A. Oh, yes, I knew it was Indian Minnie.

Q. Now, this child, the first time you saw it, was it in bed with its mother?

A. Oh, yes, lying by the side in front of its mother and Aunt Mollie turned the cover over and she showed me the baby.

Q. You say that you went back there in a month after that and carried the baby over to Aunt Mollie's? A. Yes, sir.

The Court: I didn't understand where he got the baby?

Q. Where was it you saw this baby—do you know where Crilley's barn is? A. Yes, sir.

Q. Do you know where the old Seneca Hotel was?

A. Yes, sir.

Q. Where was this house that the baby was in?
A. Right straight across from the Seneca House.
Q. Do you know who lived there—what kind of people lived there? A. Colored people.

Cross Examination by Mr. German.

Q. Mr. Roderick, how old are you?
A. Well, my army age that I can swear to——
Q. Yes?
A. Is 75. I made a mistake when I went in the army and give my sister's birthday in place of my own and I found out that I am—my people were just like myself, uneducated, and they had so many children I don't believe they knew the actual birth.
Q. What age were you when you went in the army?
A. What say?
Q. What age were you when you went in the army?
A. I think I was 22 past.
Q. But you gave your age as 19, is that right?
A. What say?
Q. You gave your age as 19, is that right?
A. I don't understand you?
Q. You were 22 when you went in the army?
A. Well, that is my judgment, yes.
Q. But what did you give your age as?
A. What did I give my age at? I gave my birthday in '42, to the recruiting officer.
Q. Yes? You mean in 1842 you gave your birthday in to the recruiting officer? A. 1842? Who said 1842?

The Court: Gave his birthday to the recruiting officer as born 1842.

Q. But what year were you born in?
A. My judgment is '49.
Q. What is your nationality?
A. My nationality is mixed. I am part Dutch, Spanish and Indian; my greatfather on my father's side was a full blooded Spaniard.
Q. Full blooded Spaniard?
A. Yes, sir; my mother was a half Indian.
Q. Now, Mr. Roderick, you say that you came to Leavenworth in 1877? A. 1877—yes.
Q. Yes? A. Yes, I said so, yes.
Q. Well, you didn't mean to say that though, did you?
A. '77?
Q. Yes, didn't you mean to say '57?

A. No, sir, no, sir; I wasn't in Leavenworth in '57—no ways near it.

Q. How long after the Civil War was it when you came to Leavenworth? A. How long after the Civil War?

Q. Yes? A. That I came permanently?

Q. Alright, permanently, yes?

A. I came permanently in '79—'77.

Q. '77? A. Yes, sir.

Q. And had you before '77?

A. Had I been there before '77?

Q. Yes?

A. Why, sure; I was raised 35 miles west of Leavenworth; 13 years old at the time we landed in Kansas and was in and out of Leavenworth from '52 on.

Q. Now, when was it you went to Fort Riley?

A. Went to Fort Riley?

Q. Yes?

A. What do you mean? Freighting or with my bus?

Q. Well, freighting?

A. Well, freighting, I freighted there when I was a boy.

Q. When was it you went there with your bus?

A. I went there in July—it was August; went down in the middle of August '86.

Q. '86? A. Yes, sir.

Q. '85? A. '85.

Q. '85? A. Yes, I got it right now; '85.

Q. Didn't you go there the 1st of July '85?

A. The 1st of July '85?

Q. Yes? A. No, sir, no, sir.

Q. Didn't you testify a while ago that you did?

A. No, sir.

Q. Didn't you testify at Leavenworth that you did?

A. No, sir, never testified that.

Q. Where was it you first saw this Indian? A. Minnie?

Q. This Indian you are talking about?

A. I first saw Indian Minnie on the corner of Fifth and Shawnee waiting for the bus to go to Leavenworth.

Q. Fifth and Shawnee? A. Yes, sir.

Q. Now, Fifth street is two blocks west of Third street, isn't it? A. Sure.

Q. And Shawnee is one block south of Seneca?

A. That is correct?

Q. Well, had you seen her before that?

A. No, sir, not that I remember of.

Q. You had not? A. I may have seen her.

Q. Yes? Well she was waiting for a bus, you say?

A. Yes

Q. How do you know she was waiting for the bus?

A. That was a stand for the bus; everybody came there to take the busses to the Fort.

Q. Whose bus was she waiting for?

A. Roderick, Crilley and *Cranford*.

Q. Who was driving the bus?

A. There were three boys, Tommy Boles——

Q. What is that name?

A. Tommy Boles and my two sons; Tommy Boles was not my son but adopted, you know.

Q. Did she take a bus that morning? A. What say?

Q. Did she take a bus that time?

A. Undoubtedly she did.

Q. Did you stay to find out?

A. Well, the one that went to Leavenworth, to the Fort, always had to stay there until the other one swung around and when the other one came in I would collect but probably I didn't see her get in the bus to go, but she was there waiting to go.

Q. Who else was there at that time? A. My driver.

Q. Name the driver. Who was there? A. What say?

Q. Name him?

A. Well, this—Roderick, and Edward Roderick, my two sons and Tommy Boles, but they were going and coming.

Q. All three of them there when you saw Minnie there?

A. No, we run our busses every——

Q. Was Minnie the only passenger on that occasion?

A. Oh, no.

Q. Tell us who else was there? A. Soldiers.

Q. Name them? A. Oh, how could I name them?

Q. You can't tell who else was there?

A. I told you my son.

Q. I mean, of people who wanted to ride? A. Oh, no.

Q. You don't remember anybody?

A. I don't remember their names, or seeing anyone I personally knew. How I knew this Indian Minnie; I recognized her; they told me afterwards who she was.

Q. Alright; but you hadn't seen her before?

A. I hadn't seen her before, no.

Q. Well, was she in a family way?

A. I didn't discover it that time, sir.

Q. If she was? A. No, but I did discover it.

Q. What was the next time you ever saw her?

A. Oh, three or four times a week, on an average.

Q. Three or four times a week? A. Yes.

Q. After the time you first saw her? A. Yes.

Q. What year was it that you saw her the first time?

A. '84.

Q. How do you know?

A. Well, in '85, I couldn't take care of both branches of the business and I turned the busses over sometime in January, I think '85.

Q. What has that got to do? How does that help fix the time you first saw this woman?

A. I had no other motive to present to you.

Q. Nothing else that helps you to figure that out?

A. No, sir.

Q. You had been running the bus out to the Fort for four years, hadn't you? A. Three or four years.

Q. Three or four years? A. Yes, sir, yes, sir.

Q. And you quit it in '85, did you say?

A. My judgment is in January '85.

Q. January '85? A. Yes.

Q. What time in '84, was it, that you say that you saw her there?

A. My judgment is the last of October or the first of November.

Q. Now, did you—was she ever hauled any more?

A. What say?

Q. Was she carried in your bus any more?

A. Carried in my bus any more?

Q. Yes? A. Why——

Q. Well, I am asking you whether she was? A. Well, yes.

Q. Well, why didn't you say so?

A. I didn't understand you, what you meant by your question.

Q. Did you drive those busses any?

A. At night, mostly; I never drove only at night, a little ways; when I wouldn't trust my boys with the gang drinking more or less.

Q. You wouldn't trust your boys to drive it?

A. No, and the boys were working—run every thirty minutes of the day along, a short drive.

Q. How did you know she rode in your busses any?

A. I seen her ride in my busses; rode in the bus I was driving, too.

Q. She did? A. Yes, sir.

Q. How did that woman dress? A. Dressed very neatly.

Q. Very neatly? A. Yes, sir.

Q. You say you have been living in Leavenworth regularly since '77? A. Yes, sir.

Q. You knew an Indian woman around there named Indian Mary, didn't you? A. Never heard of her.

Q. Never heard of her? A. Never heard of her.

Q. Don't you know she lived there with that fortune teller Mollie Peters down on Second Street?

A. On Second Street?

Q. Yes, sir, between Shawnee and Cherokee?

A. I never knew of that fortune teller living on Second Street.

Q. You didn't? A. No, sir.

Q. Why, don't you remember the fortune teller lived on Second between Shawnee and Cherokee and Delaware?

A. No, sir.

Q. Right around the first street east of Third and down about two or three blocks?

A. Don't remember anything about it.

Q. You don't remember that? A. No, sir.

Q. And that Indian Mary was with her in the early eighties?

A. Never heard of Indian Mary. That Indian Mary business was a slip of my tongue.

Q. You gave that same slip up at Leavenworth?

A. I did, but I corrected it.

Q. Yes, you corrected it but you made it?

A. Yes, I corrected it.

Q. Now, when was the first time you ever saw this Indian woman at Mollie Peters that fortune tellers?

A. The first time?

Q. Yes?

A. I seen her I believe in 1882 in my judgment.

Q. This child that you saw in the bed when it was ten days old, you saw in a one story house, didn't you?

A. I got it out of a one story house.

Q. A one story house? A. Yes, sir.

Q. Was its mother in bed? A. Sure, seen her in it.

Q. You saw her in bed? A. I did, sir.

Q. Was the child covered up or not?

A. It was when we first went in; the first thing Aunt Mollie done was throw the cover back and show me the baby.

Q. Was the child asleep or awake?

A. It was asleep apparently.

Q. Had its eyes shut? A. Yes.

Q. You recollect that? A. I remember that.

Q. Was that the only baby you ever saw in your life that was ten days old lying in bed? A. No, sir.

Q. You have several children?

A. I have had three of my own and I have raised seven others; I have one today; taint mine.

Q. What was this child wrapped up in there in bed?

A. Wrapped up very neatly in regular baby clothes.

Q. Well, what was the color of the clothes it had on?
A. White.

Q. White? A. Yes, very neat too.

Q. Did it have the cover lying over it?

A. Oh, yes, had the cover over its head.

Q. The cover was over its head? A. Yes.

Q. How did you see its face?

A. Aunt Mollie turned the cover over and exposed its face to me.

Q. Did she uncover its whole body or just its head?

A. Well, now, that is something I couldn't answer correctly not knowing. Sufficient for me to see the baby and see the baby's features.

Q. You saw its features? A. Yes, sir.

Q. And it looked like an Indian baby?

A. It did, looked like an Indian baby; had the resemblance of its mother.

Q. You testified in Leavenworth that the house that child was in was a one story house, didn't you? A. I did.

Q. Was the baby lying in bed with the mother at the time?

A. To be sure.

Q. She was?

A. Lying in bed with the baby by her side.

Q. How old was the baby at that time?

A. My judgment is that it was about three days old or four.

Q. Oh, I thought you said ten or twelve?

A. I said when I went over and got it myself.

Q. Didn't you testify at Leavenworth that the first time you ever saw that child it was ten or twelve days old and that you saw it in bed? A. I think not.

Q. You think not? A. No.

Q. Who has talked to you about this case in the last two or three days? A. Last two or three days?

Q. Yes? A. The lawyers.

Q. Did you find out about that two weeks business at Grodevant's, did anybody tell you about that?

A. Two weeks what?

Q. Two weeks Grodevant item, an item in the Grodevant expense account? A. I don't understand your question.

Q. Did anybody tell you about there being two weeks missing in Grodevant's expense account?

A. Two weeks missing?

Q. Yes? A. What expense account?

Q. You never heard of that before. Did you testify there at Leavenworth that the child, the first time you ever saw it, was in bed and that it was from twelve to fifteen days old?

A. My judgment says no.

Q. Well, we will get back to that again directly.

Q. Now, when was it you say you went to Fort Riley, in August you think? A. Sometime in August, yes, sir.

Q. But you had occasion to go with Aunt Mollie to see this baby again, didn't you? A. The second time?

Q. Yes?

A. No, she was busy when I asked her about the baby, and she said it was getting along fine and for me to go over there and get it, said she wanted it.

Q. Tell me who else lived in the Seneca Hotel at that time?

A. Mr. Crilley.

Q. And who else?

A. Well, I knew the men by features but I never knew their names.

Q. Did you know Mr. Crilley's wife? A. Oh, yes.

Q. She was there? A. Oh, yes.

Q. Listen, didn't you testify this way at Leavenworth: "How old was the baby that you saw that day?" Didn't you answer: "I should judge the baby was ten days or fifteen days old, somewhere along there."

A. My judgment says it is a mistake.

Q. I am asking you if you didn't testify to that?

A. I think not.

Q. You think you didn't, now think?

A. I might have but I don't think so.

Q. You don't think so? A. No, sir.

Q. You don't remember it if you did?

A. Don't I say when I packed it over there it was ten or fifteen days old?

Q. No.

A. Well, the Notary may have written different. I have always said it, still say that the baby was three or four days old when I first saw the baby.

Q. Do you say you so testified when you gave your deposition there in the Court House there in the United States Court House? A. Do I what?

Q. Do you say you testified in the United States Court House in Leavenworth? A. I did.

Q. That it was three or four days old?

A. I did the first time I saw it. Three or four days old, yes, sir.

Q. Now, Mr. Roderick, you went to Fort Riley?

A. Yes, sir.

Q. But before you went you saw this child again, didn't you? A. Oh, yes.

Mr. Allen: May I suggest that we will save considerable time and confusion if they would be kind enough to give us a list of their witnesses.

Mr. Stuart: No. I am not going to do that. Mr Allen, you refused to give us a list of yours.

The Court: Never mind. You gentlemen have your differences on the outside, don't bring them into the Court Room.

Q. Well, you can't say who else lived in the old Seneca house with Molly? A. No, Aunt Molly——

Q. Besides Crilley and his wife? A. Not by name.

Q. How many people lived in [] besides Crilley and his wife? A. I can't say.

Q. Aunt Molly lived there? A. Aunt Molly lived there.

Q. Who lived with her? A. Nobody that I know of.

Q. Where did she live in that house?

A. Over Crilley's department.

Q. Crilley's department? A. Yes, sir.

Q. How many departments did that house have—now Mr. Roderick, you say that you are the father of three children? A. Yes, sir.

Q. And you were at home when they were born, each one of them? A. To be sure.

Q. And was there and saw them from the day of their birth until they grew up? A. Yes, sir.

Q. And you know about the changing colors in a child and the change in its speeches from the day of its birth until it becomes a year or two old, don't you?

A. I am not an expert.

Q. You are not an expert but you have seen your own children. Tell me if you didn't testify this way at Leavenworth, before Mr. Penick up there: "A baby at that age, whether white or black, would be rather red in complexion, wouldn't it?" A. I still say so.

Q. And you said: "Well some is and some isn't," didn't you? A. Yes, sir.

Q. "How was this—that is how was this baby," and didn't you answer "I judge this baby was eight or ten days old, but you take a baby eight or ten days old and it is getting pretty near the natural color. Q. Clearing up at that time? A. Yes, sir. Q. How was this baby, do you recall that it had cleared up? A. I don't think that it had completely cleared up." Now, wasn't that your answer up there?

A. That was correct, yes, sir; I still say so.

Q. Now, you say you saw it again when it was about a month old?

A. I say the next time I saw that baby I was walking up Shawnee street and she was walking up toward's Lange's drug store.

Q. Who was? A. Minnie.

Q. Alright. A. With the baby in her arms.

Q. With the baby in her arms? A. Yes.

Q. Was that the time you went with Aunt Molly Peters and talked about it—the second time you saw Aunt Molly, about the baby?

A. No, when I took the baby across the street was prior to the time of her catching it.

Q. It was? A. Yes.

Q. Now, the time that you took the baby across the street, where did you get it?

A. I got it at this frame house; I can't say for sure whehter it was a frame house or not, but my judgment is, it was a frame house.

Q. Did you get it at——

A. Right square across the street from the——

Q. From the old Seneca House? A. Old Seneca Hotel.

Q. You got it in the house? A. Yes, sir.

Q. Was it in a cradle or bed? A. No, Minnie's lap.

Q. In Minnie's lap, nursing? A. Yes, sir.

Q. What time of day was it?

A. About three o'clock in the afternoon.

Q. About three o'clock in the afternoon?

A. About that time.

Q. How old was the child then?

A. Ten or twelve days old.

Q. Oh, ten or twelve days old? A. Yes.

Q. She nursed the child at her breast?

A. She was nursing it, yes, sir.

Q. At her breast? A. Yes.

Q. Now, did you see Minnie between time that you had seen her in the bed with the baby and the time that you went over and got the baby that time? A. I hadn't seen her.

Q. Hadn't seen her?

A. No, sir, not between them two times.

Q. How long did she stay in bed during that sickness?

A. Well, it was eight or ten days my judgment is, after when I went to see the baby and get it and she was up.

Q. And she was up?

A. Yes, I believe she had been in bed twelve or thirteen days.

Q. That is your judgment? A. That is my judgment.

Q. From the looks of things around there? A. Yes, sir.

Q. How long had this woman been staying at that house before that baby came there? A. That woman?

Q. Yes. Name that woman.

A. Well, you are talking about an Indian; that is what you mean?

Q. Yes, sir.

The Court: Well, the woman that had the baby; you know who you are talking about.

A. Yes, sir. How long had she stayed in this house prior to the baby?

Q. Yes, sir? A. I can't say; I never knew of her resident.

Q. What say? A. I never knew of her resident.

Q. You never knew of her residence?

A. I never knew of the number of her house; never knew where she lived.

Q. Let's see; you never saw her down there, then, before you saw the baby in the bed, is that what you mean to say to this court?

A. No, that is what I mean; I never seen her in this building. My acquaintence with her was on the street; the most friendly acquainted that I got with her was through a gentleman by the name of Black.

Q. Black? He was a soldier, wasn't he?

A. He was a soldier; he often paid her fare.

Q. Paid her car fare? A. Paid her car fare.

Q. You knew Oliver, a soldier? A. What say?

Q. You knew Oliver, a soldier? A. Oliver?

Q. It wasn't him, was it?

A. I never knew a man name of Oliver that I knew of.

Q. You didn't ever see a soldier by the name of Oliver with this Indian woman you are talking about, did you?

A. Name of Oliver?

Q. Yes? A. No, sir.

Q. And you never did see a soldier named Peterkin with this Indian woman you are talking about, did you?

A. No, sir.

Q. Never did? A. No, sir.

Q. Now, you say the first time that you ever—well, let's see; let's pass on now. When was it you saw her on the streets, carrying the child in her arms?

A. When I first seen her on the streets?

Q. Yes? A. In her arms?

Q. Yes?

A. Sometime in July, in August; sometime in July.

Q. Sometime in July?

A. My judgment is about the 8th or 10th, or a few days after I wound up my freight contract with the Government.

Q. You are placing everything by your freight contract now? A. Yes.

Q. Who else did you see with a child about that time, of your freight contract, with a little child?

A. Who else did I see?

Q. Yes, with a child?

A. With a child; that child?

Q. With a child. Some other child.

A. I don't remember.

Q. You don't remember? A. No.

Q. Who else that you knew had a small baby at the time that you closed up your freight contract?

A. I don't know anything about it.

Q. How large was the city of Leavenworth at that time?

A. I can't tell.

Q. Don't you know it was something like 30,000—20,000? A. I can't say, sir.

Q. It was quite a city, wasn't it? A. Yes, sir.

Q. Lots of business and lots of people? A. Yes.

Q. Lots of women? A. Yes.

Q. And lots of children? A. Yes.

Q. And small children? A. Sure.

Q. And you knew a great many of them, didn't you?

A. Yes, by sight.

Q. By sight? A. Yes.

Q. Your own family was living there?

A. My own family was living there.

Q. Yes, sir, and you had neighbors? A. Yes, sir.

Q. Now, tell me some woman in the city of Leavenworth, other than this Indian woman—— A. Yes?

Q. Who was in a family way about the time that your contract closed. A. I don't know of a one.

Q. Don't know of any?

A. No, sir; I may have noticed a dozen of them.

Q. Yes, but you can't name a one? A. No.

Q. Who in Leavenworth was in a family way when you came there in 1877? A. Who was in a family way?

Q. Yes?

A. I wasn't hunting women that was in a family way—well, nobody.

Q. Nobody? A. Yes, sir.

Q. Quite a little city, wasn't it? A. Yes, sir.

Q. Who had a small baby in Leavenworth at the time—the year that you went in with Crilley and Cranston? Name somebody.

Q. Now, if my judgment is right, Crilley had a small one.

Q. Crilley had a small baby? A. Yes.

Q. What was its name? A. I don't know.

Q. At the time you entered into your contract with him?

A. I can't say.

Q. Was it a tiny little infant, or three or four years old?

A. Toddling around.

Q. How old? A. When I first seen it?

Q. Tell us how old it was when you first saw it?

A. Well, I can't say that.

Q. Well, don't you know about it——

A. Well, I should judge from the size of the child probably eighteen months old.

Q. About eighteen months old? A. Yes.

Q. What is the date of your contract with Crilley?

A. I never had no contract with Crilley.

Q. Didn't you go in with Crilley and Cranston?

A. Yes, we organized a company.

Q. Yes, well what is the date of that?

A. That I haven't got.

Q. You don't remember the date?

A. No, sir, I got my books all wet and I destroyed them.

Q. Well, don't you remember the date without your book?

A. Well, it was '81, somewhere in that neighborhood when we first organized, seventy-nine, spring of '79 and summer of '79 I run a hack for a man by the name of Shaplin and Tugood; and I seen it was worthy of my own management, in place of giving them all the money I thought I ought to have some; and I organized a firm and between us we bought what we called the old Band Wagon.

Q. But you don't remember the date?

A. That was sometime in the spring of 1879.

Q. Was that the first time you was ever in business for yourself?

A. The first time I was ever in business for myself?

Q. Yes, sir?

A. I wasn't in business for myself, I was in business with Crilley and Cranston.

Q. Had you been running your own business before that?

A. No, I was working on the share.

Q. On the shares before that? A. Yes, sir.

Q. Then you became the head of the firm of Roderick, Crilley & Cranston? A. Yes, sir.

Q. But you don't know the date? A. No.

Q. What time in the year '77 was it that you came to Leavenworth? A. Seventy-seven?

Q. Yes, sir, for good?
A. My family come there in October.
Q. When did you come there?
A. I was there about six months before.
Q. You say your family came there in October?
A. Yes, sir, we lived in Marshal County, Kansas.
Q. You represented in September a while ago, let's see about that? A. Either September or October.
Q. Well, wasn't it November? A. Well, say it is.
Q. Well, tell us which it was?
A. My judgment says it was in September.
Q. September? A. Yes, sir.
Q. You went over to Fort Riley, didn't you? A. I did.
Q. After you dissolved partnership with Crilley and Cranston? A. Yes, sir.
Q. How long did you stay at Fort Riley?
A. I stayed there a month and a half or two months.
Q. Don't you know just how long you stayed?
A. No, I couldn't give the exact dates.
Q. Where did you go from there?
A. I come back and went to running my busses to the Fort.
Q. And this Indian woman continued to ride on your busses? A. Run backward and forwards at night.
Q. Well, this Indian woman continued to ride with you?
A. I never seen that Indian woman after I came back from Fort Riley.
Q. What time did you come back from Fort Riley?
A. I come back in November sometime.
Q. What year? A. '85.
Q. Did you run your bus to the Fort and back?
A. I did at night.
Q. Beginning in November '85 like you had done before?
A. Yes, like I had done before.
Q. And how long did you continue to run that bus?
A. About four months.
Q. And you never saw that Indian woman any more?
A. No, never come across her.
Q. Well, after that, did you ever see her any more?
A. No.
Q. Never did? A. Oh, I see her around——
Q. Around where? A. Once in Leavenworth.
Q. Once in Leavenworth? When?
A. Pretty near two years.

Mr. Cruce: You mean pretty near two years ago?

Mr. German: Yes, that is what he is talking about when you all had her up there.

Q. Now, after that four months you never saw her again in Leavenworth? A. What four months?

Q. Well, you run the bus four months after you came back from Fort Riley? A. No, I have often heard of her.

Q. Now, did you ever see that child any more?

A. Never did.

Q. Never did? A. No, sir, never did.

Q. Did that Indian woman go around with Aunt Mollie much?

A. I seen her three or four times in company with Aunt Mollie.

Q. Aunt Mollie Peters, the fortune teller? A. Yes, sir.

Q. And she would often go up there to Lange's store and get things?

A. She was on her way when I seen her with the baby in her arms.

Q. This man Black that you were talking about, is he living?

A. No, sir, my judgment is that he is dead; it is hearsay, I heard he got shot.

Q. At the time you took that baby in your arms across to your barn—— A. Not my barn.

Q. Where did you take it?

A. Across to the Seneca House.

Q. Did you take it to the barn? A. No, sir.

Q. I misunderstood you?

A. My barn was up in the northern part of town.

Q. Who all did you show that baby to?

A. I didn't show it to nobody.

Q. What did you do with it? A. I carried it back.

Q. How long did you keep it over there?

A. About an hour.

Q. You did. What were you doing with it?

A. Playing with it as I play with all babies.

Q. Now, let's see, that child's eyes had opened hadn't they? A. Oh, yes, its eyes were open.

Q. And it was talking? A. It was?

Q. I am asking you? A. No, sir.

Q. Well, did it play with you, throw up its hands and play with you? A. Not that I noticed, it wasn't able to.

Q. It wasn't able to, you remember. Well, then you were the only one who did any playing for an hour?

A. Well, Aunt Mollie dressed it.

Q. She dressed it while you were there?

A. That is changed its didy.

Q. What other children were around Aunt Mollie's house at that time? A. There were no children.

Q. Now, are you sure that there wasn't some other children around the house?

A. There was around the house but not in her room.

Q. Tell us what children were there?

A. Well, Crilley's.

Q. Any others? A. Not that I could identify.

Q. What children were around this house that you went across and got the child out of?

A. I remember seeing a couple of colored children in the yard.

Q. What were their names? A. I don't know.

Q. How long had that colored family been living there?

A. I could not tell you that.

Q. You and Crilley and Cranston were running the barn right across the street?

A. No, sir, Crilley and Cranston was, but not me.

Q. Hadn't you stayed at that barn, you were in partnership with them?

A. Yes, but Roderick, Crilley and Cranston, and Crilley and Cranston were two different firms.

Q. How did you know Aunt Mollie Peters?

A. I often had to go down to the barn.

Q. And you got acquainted with Crilley's family?

A. I was acquainted with Crilley's family, and I was acquainted with Aunt Mollie before Crilley & Cranston moved up in that barn. I knew Aunt Mollie when I was working in the woolen mills but I never knew where she lived.

Q. When was the first time that you now remember to have seen this Indian woman with Aunt Mollie?

A. Well, the first time that I seen her—I never seen her in company with Aunt Mollie that I remember only in the house. That is as near company as she and Aunt Mollie could come.

Q. What would be—— These two colored boys that you saw around there, what were their names?

A. I couldn't say whether they were girls or boys.

Q. You saw them across the street? A. Yes, sir.

Q. You don't know whether they were boys or girls?

A. I couldn't say.

Q. Did you know George Dotter? A. George?

Q. Dotter or Gustavas? A. Not by name.

Q. You knew a man there, white man, a baker who lived in that neighborhood somewhere?

A. I might have knowed him by sight.

Q. Did you know Feth? A. No, sir, not by name.

Q. You didn't? A. No, sir.

Q. Did you know of him?

A. No, sir, never heard of him.

Q. Did you know Lilly White? A. Lilly White?

Q. Yes? A. No, sir.

Q. A white woman? A. No, sir.

Q. Who ran a house of ill repute? A. No.

Q. Did you know Stella Forest? A. Yes, sir.

Q. Where was her place? A. Third and Seneca.

Q. Right by the side of Crilley's barn?

A. Yes, sir, on the west side on the corner, two story house.

Q. But you didn't know Lilly White?

A. No, sir, not by name.

Q. Did you know her by sight?

A. I don't think I did.

Q. Did you know of any white folks living in that house that you saw those colored folks in, did you ever know of any white folks living in that house? A. Never did.

Q. So far as you know colored folks lived there all the time? A. So far as I know that is corrocet, sir.

Q. What did they call that baby? A. Tommy.

Q. Tommy? A. Yes, sir.

Q. Anything else? A. Atkins.

Q. Anything else? A. Not that I ever heard of.

Q. Now, let's see, they called it Papoose, didn't they?

A. Well, I called it Papoose.

Q. And that is all you ever heard it called in those days, was Papoose? A. Well, yes, that is about right.

Q. Yes, sir, that is about right?

A. Yes, sir, that is about right.

Q. Now, at Leavenworth, didn't you testify this way: "Did you ever go in after that?" that is into that house where the child was, "After the second time I was in there twice." "I am speaking of the times you saw this baby there the first time? A. I went in once. Q. How many times? A. I went in and got the baby and carried it across the street to Aunt Mollie's. Q. How old was the baby then? A. The baby was about a month and a half, in the neighborhood of that."

A. I might have said so.

Q. You might have said so. Is that the truth?

A. I can't tell.

Q. What is your judgment?

A. My judgment tells me the child wasn't over fifteen days old the next time I saw it.

Q. But you testified the way I read it at Leavenworth?

A. I don't think I did, I think it was a mistake or misunderstanding

Q. You think it was a mistake or misunderstanding, do you? A. Yes, sir.

Q. Didn't you testify this way about that colored woman's house: "Q. That was the only child that lived there? A. She lived there with a colored lady. Q. That was the only child there was there? A. The only one I seen. Q. You didn't see any? A. No, sir." Didn't you testify that way at Leavenworth?

A. No, not in the room that she was in, I would say that.

Q. You testified like I read it, didn't you, at Leavenworth? A. I don't think I did that first.

Q. Well, that last I read? A. I testified——

Q. This last I read? A. I think I did.

Q. Now, who has talked to you since then?

A. Who has talked to me since?

Q. Yes, about this matter? A. About this case?

Q. Yes? A. Since I seen that baby?

Q. No, since you testified at Leavenworth?

A. Oh, been nobody.

Q. Nobody at all? A. No, sir.

Q. Well, where do you live?

A. I am a member of the soldiers' home.

Q. You are at the Soldiers' Home? A. Yes, sir.

Q. Do you know Lee Bond? A. I do.

Q. Hasn't he talked to you since you testified at Leavenforth? A. Not a word, did he in his life.

Q. Never did? A. No, sir.

Q. You know Frank Long? A. Yes, sir.

Q. Has he talked to you since you testified at Leavenworth?

A. No, sir, not since I made that affidavit in the courthouse at Leavenworth.

Q. Now, do you know Mr. Hanford? A. Hanford?

Q. Yes?

A. I formed an acquaintance with him since I have been here.

Q. Since you have been here? A. Yes.

Q. Now, let's see. You have [] with somebody about what you claim to know about this since you testified at Leavenworth——

The Court: He testified he talked with the lawyers.

Mr. German: With the lawyers.

Q. Are they the only ones you talked to?

A. Only ones that I talked to.

Q. Now, before you testified in Leavenworth, who came to see you and talked to you about this? A. Before?

Q. Yes? A. In 1914?

Q. Who came to see you first?

A. Crilley told me that there was——

Q. Crilley?

A. George Crilley told me there would be a man name of Long who wanted to know where I was, and he directed him to come. He made a couple of trips before he found me and he found me on what we call the Pike road and he approached the case to me, and I told him that I knew the girl.

Q. Well, I don't care what you said. He talked to you, didn't he? A. Yes.

Q. And then he told you that Frank Long would come to see you? A. You mean George?

Q. Yes, George told you?

> The Court: He has stated that Crilley told him that Frank Long would come to see him, and stated that Frank Long found him on the Pike road and talked.
>
> Mr. German: I misunderstood.

Q. Crilley told you before that Frank Long would come to see you?

A. Yes, he told me there was a case up in the court about Indian Minnie. Now, I said, Indian Minnie this time.

Q. Yes, Indian Minnie, this time.

A. That a case was up about Indian Minnie and somebody else, and that Mr. Long would come and see me in regard to the case, about what I knowed about it.

Q. Now, you said Indian Mary that time, didn't you?

A. Indian Mary? No, I said Indian Minnie.

Q. When you and George Crilley were talking about it, it was Indian Mary, wasn't it? A. No, sir, Indian Minnie.

Q. Now, had you thought about this thing for 30 years before George Crilley came to see you?

A. Had I thought about it?

Q. Yes, sir?

A. No, I didn't remember any conversation about Indian Minnie, I didn't—I didn't say Mary.

Q. No, I understand. A. For thirty-eight years.

Q. Thirty-eight years?

A. My judgment is that I never talked with anyone about it.

Q. Until you talked to George Crilley, and then after you talked to Crilley you talked to Long, didn't you?

A. Yes, sir.

Q. And then you testified at Leavenworth, didn't you?

A. Yes, sir.

Q. Now, let's get one other thing clear, Mr. Roderick.

A. Alright.

Q. You say George Crilley's wife was living there in that old Seneca house at the time you took this baby across there? A. Yes, sir.

Q She hadn't left George then?

A. No, she hadn't left Georeg then, my judgment is she hadn't.

Q. Yes, she hadn't, and Aunt Molly handled this baby there, didn't she? A. No doubt she seen them.

Q. Yes, sir?

A. Passed right by her door to go up their stairway between the building.

Q. Was it a kind of double house? A. Yes.

Q. And Aunt Molly was up stairs?

A. Was up stairs, over George's apartment.

Q. Who else lived up there?

A. I don't know. I don't know their names.

Q. Wasn't but one stairway to go up there?

A. All that I know of.

Q. And you saw Mrs. Crilley that day, didn't you?

A. Mrs. Crilley?

Q. Yes? A. I think I did, yes.

Q. And talked with her?

A. I hardly ever went down there without talking to her.

Q. Well, you know because you went away to Fort Riley right off, didn't you talk to her that day?

A. Several days before I went to Fort Riley.

Q. Well, can you fix the time by the trip to Fort Riley and know that you did talk to her that day?

A. To Crilley's wife?

Q. Yes? A. No.

Q. Can't fix anything by the trip to Fort Riley?

A. I may have spoke to her and may not. I was no hand to talk to women, if you want to know it.

Q. Now, when you and Crilley talked, you say that you and he—you remember it, about this Indian woman—that you remembered about her when you and Crilley—tell that first conversation? A. Yes.

Q. And then Mr. Long came along and saw you and you remembered it? A. Yes, sir.

Q. Now, listen: Didn't you testify this way at Leavenworth: "You couldn't remember anything about it when you talked to Frank Long that first time? A. Why didn't I? Q. I asked you if you didn't? A. No, sir, I didn't." Did you testify that way at Leavenworth? What do you say as to that?

A. Oh, I didn't.

Q. You never testified that way? A. No.

Q. Describe that man Black to us? A. Black?

Q. Yes? A. What do you want to know about him?

Q. I want his description. What kind of looking man was he?

A. He was a man about five, eight or nine—good looking man.

Q. What age? A. I should judge he was about 30.

Q. What was the color of his hair? A. Oh——

Q. Well, was he a blond or brunette? You know the difference between them? A. Oh, a common color.

Q. Well, which is it, mine, a common color, or Judge Cruce's, or Judge Allen's?

A. I would say yours is a common color.

Q. About my color? A. Yes.

Q. About my height? A. Yes.

Q. Younger than I am but about my build?

A. Yes, your build; a well developed soldier.

Q. A well developed soldier? A. Yes, sir.

Q. Thank you. What was Black's first name?

A. Now, I can't tell you that.

Q. Didn't you ever hear it?

A. Never did; Black is all I ever heard; man that rode up and down; gambler—way I got acquainted with him.

Q. Oh, a gambler? A gambler and a soldier?

A. What is that?

Q. A gambler and a soldier? A. Yes, sir.

Q. Can you tell us the regiment that he belonged to?

A. Not positively, but my judgment is that he belonged to the 7th cavalry.

Q. Yes, belong to the 7th cavalry; you don't know what company? A. No, I don't.

Q. Do you know who his chief commander there was?

A. Chief commander?

Q. Yes? A. You mean of that department?

A. No, of that cavalry—the cavalry?

A. Captain Wink.

Q. W-i-n-k, Wink? A. Wint.

Witness dismissed.

And thereupon, A. L. JOHNSON, a witness produced on behalf of the defendants Minnie Atkins, et al., sworn, testified as follows:

Direct Examination by Mr. Hanford.

Q. State your name, please? A. A. L. Johnson.

Q. What is your occupation?

A. Well, at the present time I am retired from business for some years.

Q. Well, what is your profession? A. Physician.

Q. Physician and surgeon? A. Yes, sir.

Q. Where do you reside? A. St. Helena, California.

Q. What is your age, doctor? A. 72.

Q. Did you formerly live in Leavenworth, Kansas? A. I did.

Q. How long did you live there? A. About 18 years.

Q. Did you live there along in the '80's? A. In what?

Q. In the '80's? A. Yes, sir.

Q. You were living in Leavenworth at that time? A. Yes, sir.

Q. And you were a practicing physician at that time? A. I was.

Q. Did you ever know a woman named Mrs. Edwards? Mrs. Mattie Edwards? A. Yes, sir.

Q. Did you ever attend her in a professional way? A. Yes, sir.

Q. What did you attend her for? A. Confinement.

Q. You confined her at the birth of a child? A. I did.

Q. Do you remember when that was?

Mr. German: Your Honor, we object to that as immaterial—incompetent and immaterial.

The Court: Well, I assume counsel will make some connection of it. I presume so, of course I don't see it now.

Mr. Cruce: It will probably be a little later on; it is a question of fixing of dates.

Mr. Stuart: Your Honor, the depositions already taken in this case show——

Mr. German: I remember now; we may move to strike it when it comes in.

Mr. Hanford: I will state in the record at this time that Mrs. Edwards is now Mrs. Cobb, and her deposition was taken under her present name. This testimony relates to that.

The Court: Alright; you may go on.

Q. You remember when you attended her at the birth of a child?

A. It was in '85—April; I don't know the day of the month.

Q. April '85?

A. Yes, the latter part of April I should say.

Q. What kind of a baby was that? A. It was a girl.

Q. Girl? A. Yes.

Q. Did you ever know its name? A. No.

Q. Where did she live at that time?

A. She lived on Seneca street.

Q. Do you remember what house?

A. Well, she lived in—let's see; I think it was a hotel; there that they called the Washington House; she lived on Seneca street.

Q. Between what street? A. How?

Q. Do you remember what streets it was between?

A. Well, let's see; that was either between Second and Third or Third and Fourth; I wouldn't be positive which now.

Q. Where was it with reference with Crilley's livery barn? A. How?

Q. Where was it with reference with Crilley's livery barn, if you know?

A. Well, I think Crilley's livery barn was down on Cherokee street at that time.

Q. Is that the same house that was the Seneca house? Did yo uever hear it called that?

A. Yes, that was the house.

Q. The Seneca house? A. The Seneca house, yes.

Q. Was this between Second and Third on Seneca?

A. Well, now as I said before——

Q. Second and Third?

A. I don't know whether it was Second and Third or Third and Fourth, but it was in that house.

Q. At any rate, you attended her in that house? A. Yes.

Q. Did you ever know an Indian girl there? A. No.

Q. Did you ever know a girl named Minnie Atkins?

A. No, not of my own knowledge.

Q. Or named Minnie? A. No, sir.

Q. Did you ever see any Indian girl there?

A. Well, now I don't know whether it was an Indian or colored people; there are so many colored people in Leavenworth of all shades.

Q. Well, state the circumstances. A. How?

Q. Go on and state who you did see?

A. Well, the second day after her confinement, Mrs. Edwards' confinement, I called to see her and while I was sitting there a woman came in and went out again and Mrs. Edwards, [] you may have a case there.

Mr. Linebaugh: We object to what Mrs. Edwards said.

The Court: Well, Mrs. Edwards said you may have a case there, so far that is alright. Go ahead.

Q. You didn't learn the name of that woman?

A. No, I didn't.

Q. Did you ever see that woman again? A. Yes, sir.

Q. Where did you see her?

A. I saw her at my daughter's house at St. Helena.

Q. How did you happen to see her there?

A. Came there with Mr. Long.

Q. When was this? A. About two months ago.

Q. Tell what happened there?

A. Well, Mr. Long called to see me and I came down from upstairs and came into the room, and he introduced himself and then he introduced a woman—woman that sets right over there, as Mrs. Folk. I looked at her and said——

Mr. German: Your Honor, we object to this as self serving and incompetent in this case.

The Court: I think so; anything this man may have said at this time, it occurs to me now, after this controversy——

Q. Did you identify that woman? A. I did.

Q. From your own recollection or from——

A. No, from my own recollection.

Q. Without suggestion? A. Without any suggestion.

Q. But you didn't know her name?

A. I didn't know her name.

Mr. Cruce: Identified her as who?

Mr. Hanford: Just a minute.

Q. Was that the same woman you saw at Mrs. Edwards?

A. I told her——

The Court: Never mind what you told her, you were asked if that was the same woman you saw at Mrs. Edwards.

A. Yes, sir, yes, sir.

Q. The second day after the birth of the child?

A. Yes, sir.

Q. At the time you saw her at Mrs. Edwards, did you notice her physical condition?

A. No, sir, just saw her come into the room and went out.

Q. Did you know an old colored woman named Granny Letcher? A. I did.

Q. Where did she live?

A. She lived on Seneca street, south side near Second.

Q. Near Second? A. Yes, I don't know the number.

Q. Were you ever called to her house in a professional way? A. I was.

Q. Who did you go to see? A. I went to see a baby.

Q. What kind of a baby was it?
A. Well, she said it was an Indian baby.
Q. Was it a boy? A. Yes, sir.
Q. Did she tell you its name?
A. No. Well, she told me its mother's name.

Mr. Linebaugh: I object as incompetent, inadmissible and hearsay.

The Court: Just a moment, the objection is sustained as to her telling its name. I have about reached the conclusion that what Granny Letcher said there with regard to this matter of pedigree, is not competent on that general subject.

Mr. Linebaugh: Probably the objection is not clear and that we may make the record clear, we move to strike the witness' answer, as to what she said with regard to its race.

The Court: Well, I have sustained the objection.

Mr. Cruce: You better make offer to prove.

Mr. Hanford: Yes, will your Honor allow us an exception?

The Court: Yes.

Mr. Hanford: And at this time we would like to make offer to prove.

The Court: What I said in regard to the ruling is that anything Granny Letcher may have said as to the relationship of this child to Minnie Atkins.

Mr. Hanford: At this time we offer to prove by this witness that at the time just testified to, that he attended to this baby, Granny Letcher who had called him in attendance, told him that a woman by the name of Minnie Atkins, who was an Indian woman, was the mother of this child, and that she left it in her charge.

The Court: Well, that is your offer to prove read into the record. The Court has sustained the objections to the question which would be offered to bring out that testimony. You have had your exceptions.

Q. Dr. Johnson, when was that you were called to attend this baby? A. Along in February, '86.
Q. About how old a baby was it?
A. I asked Granny Letcher, I says, how old is it?

Mr. Linebaugh: Wait a minute.

The Court: Don't state what she stated; just state if you know from what you saw?

A. My best impression it was about six months old.

Q. It was an infant? A. Yes, sir.

Q. What kind of a looking baby was it?

A. Well, it was a dark complected and straight hair.

Q. What did it look like to you, what race?

A. Well, it didn't look like a nigger and I said to Mrs. Letcher——

The Court: Doctor, just listen a minute. Don't state any conversation, anything you said to Mrs. Letcher about the baby, or anything that Mrs. Letcher said to you. Mr. Hanford has asked you what the baby looked like to you with reference to what race it was?

A. Well, of course, as I saw the baby I didn't know. I couldn't form an opinion just from looks.

Q. State whether or not you were struck by the oddity of seeing this baby there? A. Well, I was, yes, sir.

The Court: That is probably a little leading. Avoid that, Mr. Hanford.

Mr. Hanford: Very well, your Honor.

Q. Dr. Johnson, did you ever attend that baby again?

A. Yes, sir.

Q. How long after this visit?

A. In June, sometime in June.

Q. The same year? A. Yes, sir.

Q. At the same place? A. Yes, sir.

Q. And how old a baby did it appear to be then?

A. About a year old.

Q. About a year old? A. Yes, it run around.

Q. Did you learn the name of this baby?

A. Well, only what Mrs. Letcher said, its mother.

Q. You didn't learn what the baby was called itself?

A. No, I didn't, no, sir.

Mr. Hanford: That is all.

Mr. Cruce: If the Court please, we want to prove now at the first visit he made there that on looking at the baby he made the statement to Mrs. Letcher that this don't look like a nigger baby; Mrs. Letcher says no, it is not, its mother is an Indian.

The Court: That is a part of your offer which Mr. Hanford read into the record, you desire to add that to it?

Mr. Cruce: Yes, sir.

Cross Examination by Mr. Linebaugh.

Q. Doctor, where do you live now?

A. St. Helena, California.

Q. Where did you live in March, 1916?

A. I was living part of the time with my son in Oakland and part of the time with my daughter at St. Helena.

Q. Do you know a place called Ellen Hurst?

A. Yes, sir.

Q. Did you live there in March, 1916?

A. Well, part of the time. I made my headquarters with my son.

Q. What part of Ellenhurst? A. 9240 Cherry street.

Q. Did you know a street called Ninety Sixth Avenue?

A. Yes, sir.

Q. Did you live on that? A. I did, I had a room there.

Q. When did you leave Leavenworth, Kansas?

A. I left Leavenworth, I think it was 1895.

Q. When did you go there? A. 1883.

Q. During all that period of time, did you practice your profession of medicine and surgery? A. I did.

Q. Did you keep a record of your obstetric cases?

A. Not at first.

Q. When did you begin a record?

A. I think we were required by the Board to keep a record, I think about '89.

Q. 1889? A. Yes.

Q. Prior to that time, it was not your habit to keep a record? A. No.

Q. And you did not keep a record? A. No.

Q. How do you fix the time at which you attended this Edwards woman in child-birth?

A. I was living on a place called the Hastian Place south of Leavenworth, two miles from my office, just outside the City limits.

Q. Is that the way you fix the time? A. Yes, sir.

Q. What other obstetric cases did you attend that year?

A. I couldn't tell you.

Q. Why can you remember this one and cannot remember the others?

A. Because I have been asked if I attended this case and jogged my memory in various ways to fix the time.

Q. Tell the court the various ways you refreshed your memory that enabled you to fix the time?

A. Well, if you will allow me to make the explanation, I will do so.

Q. Go ahead?

A. I first received a letter from Mr. Bond at Leavenworth asking me if I attended Mrs. Edwards April 26th, 1885, if I had a record to let him know. I wrote him that I had no record. Sometime after that there was a lawyer called at my son's. At that time I had a room where you stated there and taken my meals with my son. I wasn't there, they gave him my address. He wrote me and asked me to go to the Federal Building at San Francisco at a certain room. I did so, and they asked who I was and a young man come forward. Oh, yes, he says, that man has gone north.

Q. Never mind about the conversation. I just want you to state, Doctor, how you refresh your memory that enables you to remember?

A. That is just exactly what I am getting to; I have to state this in order to tell you. He asked me about the confinement of Mrs. Edwards. He asked me if I knew of an Indian woman. I says no, not that I know of. He says are you sure that it was eighty-five or eighty-four. I says I couldn't swear to it. Is there any way you can fix it? I says I do not know, I will ask my daughter if she remembers when we lived on the Hastian place. I says, what is it all about? "I don't know myself" he says. He asked me—I asked my daughter; she said I don't remember only you and mamma went to Chicago, and I remember when you come home of her telling about a big parade you saw in Chicago. I remembered that was the time Cleveland and Blaine were running for President.

Q. That was in the fall of the year? A. Yes, sir.

Q. And that was in the fall after you attended this confinement?

A. No, sir, the fall before, '84. I went and looked it up. And I wrote to this man telling him I thought it was 1884.

Q. Didn't your daughter tell you you went to Chicago the fall year you lived out on this Hastain place? A. Yes, sir.

Q. And that is true? A. Yes, sir.

Q. And you only lived there a year?

A. I didn't live there quite a year.

Q. Now, the time you went to Chicago you was living on the Hastain place? A. I was.

Q. And that was in the fall? A. Yes, sir.

Q. And the time you attended this confinement case you were living on the Hastain place? A. I did.

Q. And that was in the spring? A. Yes, sir.

Q. Of the same year, is that right? A. No, sir.

Q. Now, you say this man asked you to look this up and write him a letter.

Q. Did you do that? A. I did.

Q. Now, Doctor, is this the letter that you wrote him?

Listen while I read: "Dear Sir; I just returned"—this letter is dated March 22, 1916. "I just returned from Camp Meeker at nine-fifteen P. M., too late to telephone, therefore will write. I went through my papers very thoroughly while at Camp Meeker and failed to find any further record of the birth of the Edwards baby. There is no mistake in the year 1884 as I was in Chicago that fall, and it was the fall Cleveland was elected the first time as President and the month of the birth was April, but I have no way or knowledge whereby I can fix the day of the month. This is the best I can give in the case." Signed Doctor A. L. Johnson. Did you write that letter? A. Yes, sir.

Q. You stated in that letter the facts as you then remembered? A. As I then remembered them, yes, sir.

Q. Was it after then that Mr. Long—— After your writing that letter that Mr. Long came to see you?

A. Mr. Long came to see me about two months ago.

Q. And he brought with him who? A. Mrs. Folk.

Q. Who else? A. Nobody.

Q. For what purpose did he bring Mrs. Folk, do you know? A. I do not know.

Q. Did he state to you? A. He did not.

Q. From where did he come?

A. Came out from Oakland to me.

Q. Do you know where he then lived? A. What is that?

Q. Do you know where he then lived?

A. Where he then lived? I did not.

Q. Do you know where she lived at that time?

A. I did not.

Q. When, was it then, the Edwards woman came to see you? A. I never have seen her.

Q. You never have seen her?

A. Not since her confinement.

Q. When you attended her in this confinement?

A. Yes, sir.

Q. Where did she live? A. She lived on Seneca street.

Q. What place?

A. Well, she lived there in a hotel belonging to Mr. Crilly; as I said before, I don't know whether it was between third and fourth or between second and third on the north side of the street.

Q. What was the name of the hotel?

A. The Seneca house.

Q. The Seneca house?

A. Yes, I believe that was the name.

Q. Do you recall the room of the house she occupied?

A. Yes, she was on the ground floor, corner room.

Q. Do you recall the day of the week that the child was born? A. No, I don't.

Q. Do you recall the hour of the day?

A. In the morning, the child was born I think to the best of my recollection between ten and eleven in the forenoon.

Q. How long were you there before the child was born?

A. Oh, couple of hours.

Q. Who was with her?

A. Well, I don't know. Mr. Edwards and another doctor.

Q. What other doctor?

A. I don't know his name, a stranger to me.

Q. He was assisting you in confinement?

A. Well, Mrs. Edwards engaged me to attend her. She was taken sick in the night and Mr. Edwards wouldn't come out after me and got another doctor. And I got there and found the order on my plate and went right down. And when I got there I see this other doctor. I says, there is no need of two doctors. She says I think it is a shame a woman can't have the doctor she wants. Mr. Edwards spoke up and says you both can stay. I said to the other doctor, is that agreeable to you? And he said yes. He was a stranger to me. I never saw him before and haven't seen him since.

Q. Where was it Granny Letcher lived?

A. On Seneca Street.

Q. Across the street from this place?

A. Yes, nearly so.

Q. You are sure of that, are you?

A. Well, I know she lived across the street.

Q. You saw her over there? A. Yes, sir.

Q. At the time you attended this Edwards confinement case? A. Yes, sir.

Q. How long had she been living there?

A. I don't know.

Q. Sir? A. I don't know.

Q. How long afterwards did she remain?

A. I don't know.

Q. You don't know? A. No, sir.

Q. How long after this Edwards confinement case was it that you were called in a professional way to Granny Letcher's? A. Well, somewhere like seven or eight months.

Q. Seven or eight months? A. Yes, sir.

Q. For what purpose were you called?

A. To see the baby.

Q. How old was the child?

A. Well, I should judge about six months old.

Q. What was its trouble? A. Some stomach trouble.

Q. Where was it? A. It was at Mrs. Letcher's.

Q. What part of the house?

A. Well, I think I went up stairs to see it.

Q. How was the child nourished?

A. Oh, well, I don't know how they were feeding it.

Q. Well, didn't you make inquiry if you were treating it for stomach trouble how it secured its nourishment, whether by breast or otherwise?

A. No, I did not. I don't remember making that inquiry.

Q. You did not? A. No.

Q. How did you diagnose its case?

A. I inquired of Granny Letcher something of its symptoms and she told me what it was doing, vomiting a little, something about the stool as I remember. Why, I says, it has stomach trouble. I prescribed for it.

Q. Who was there besides Granny Letcher at that time?

A. I don't remember.

Q. Were there any other children?

A. I think I saw some children around on the sidewalk as I went in.

Q. Any other children in the house?

A. I couldn't say as to that.

Q. You didn't see any? A. Don't remember.

Q. Was this child a boy or girl? A. Boy.

Q. Then, you were called to Granny Letcher's another time to prescribe in a professional way? A. Yes, sir.

Q. How long afterwards?

A. Well, I should judge about six months afterwards, I think it was in June.

Q. For what purpose? A. To see this child.

Q. The same child?

A. Yes, she thought it was coming down with measles, it had a little cold.

Q. Was it the same child? A. Same child.

Q. Did you prescribe for it? A. Yes, sir.

Q. What was its trouble? A. She had a cough or cold.

Q. I believe you said she had a cough?

A. No, I said the child.

Q. You called twice? A. Yes, sir.

Q. Who was there when you called?

A. Well, I don't remember anybody, it seems there were other people in the room, I didn't pay attention, I don't remember anybody but old Granny Letcher.

Q. Saw no women other than Granny Letcher at that time? A. I wouldn't swear to that.

Q. You mean that you now remember?

A. No, not that I now remember.

Q. Did you see any other children at that time?

A. Yes, I saw some children around there.

Q. In the house?

A. Well, I saw some out on the street, and I think I saw one or two in the room.

Q. What sized children were they?

A. Oh, they were running around there.

Q. Where was that child that you treated, in bed?

A. No, when I went in Aunt Granny had him in her arms.

Q. You mean the second time you called?

A. Yes, the second time I was there.

Q. It was walking about?

A. No, it wasn't walking about; Granny Letcher says he is walking now.

Q. Where were you living then?

A. I was living on Seneca Street.

Q. You was living on Seneca Street? A. Yes, sir.

Q. You, yourself?

A. No, I wasn't, not on Seneca Street. I was living on South Fifth Street. Excuse me.

Q. South Fifth Street? A. Yes, sir.

Q. How long after you moved from the Hastain farm was it that you were called to see the child the next time?

A. About a year.

Q. Did you know where Crilly's livery barn was located?

A. Well, now, Crilly, I won't be positive whether he was on Seneca or down on Cherokee; he had a livery barn down on Cherokee and it strikes me that he was down on Cherokee at that time; I don't think he was on Seneca.

Q. Did you ever know an Indian woman about Leavenworth? A. No.

Q. You never did? A. No, sir.

Q. Of any kind or description? A. No, sir.

Q. You never saw an Indian woman about Leavenworth?

A. Not that I knew that she was an Indian woman.

Q. Did you ever see any women about Leavenworth who had the appearance of being an Indian? A. Oh, yes.

Q. How many? A. I couldn't tell.

Q. There were a large number?

A. Quite a number of people around there you might judge were Indians from their color and looks.

Q. Their face? A. If you thought of it.

Q. Now, where was it you said you saw some woman where the suggestion was made that you might have occasion to be called to that place? A. Mrs. Edwards.

Q. When was that? A. Two days after her confinement.

Q. Two days after her confinement? A. Yes, sir.

Q. Did you notice anything about the woman to whom the suggestion was made concerning, which would indicate to your mind you might be called in an obstetrics case?

A. No, sir.

Q. If she was pregnant she didn't evidence that fact at that time? A. Well, I didn't notice it.

Q. That suggestion of proposed employment didn't attract your attention to the woman?

A. No, she came in and went out of the room. After she went out Mrs. Edwards made the remark.

Examination by the Court.

Q. How long was she in the room?

A. Oh, she came in there and was around about five minutes.

Q. What were you doing at the time?

A. Sitting there by the bed talking to Mrs. Edwards. It was two days after her confinement.

Q. This woman came in and was there about five minutes and walked out? A. Possibly that.

Q. Do you remember what she did in the room while she was in there? A. No, I don't.

Examination by Mr. Linebaugh.

Q. You paid no attention to her at all?

A. Not particularly. I looked up and saw her face and I have a very good memory of faces but not of names.

Q. Now, did you ever see that face afterwards?

A. That same woman?

Q. Yes? A. Yes.

Q. How long afterwards?

A. Well, nearly thirty-two years.

Q. And that is the only time you ever saw it for thirty-two years? A. Yes, sir.

Q. After the lapse of thirty-two years did you recall it?

A. I recognized a face as one I had seen before, yes.

Q. The face had very considerably changed?

A. Yes, not the face so much, but the body. I remembered her at that time, she was quite slim and I said to her the second time, you are much heavier.

Q. Yet you recognized her?

A. I think I know you. I have seen your face before.

Q. And you hadn't seen her for thirty-two years?

A. No, sir.

Q. What was it about the facial appearance that was peculiar to your memory and different from the facial appearance of other women whom you saw about that time?

A. Well, one thing was the shape of her mouth, I noticed that, and the chin at that time of this fact. We had so many colored people there in Leavenworth, and her shade of color varied, which they all do. I didn't know whether she was a colored woman or what she was. Then, I noticed her hair was straight at that time.

Q. How was her hair combed?

A. Oh, I couldn't tell you.

Q. You say you noticed it?

A. Some of it stuck out straight, it wasn't kinky, that is what made me think, brought my mind to the question whether she was a colored woman.

Q. You say that there were other women, a number of them about there who appeared to be Indian women?

A. In Leavenworth, you say?

Q. Yes? A. No, I didn't say so.

Q. Why, I misunderstood you then. Were there other women there who appeared to be of Indian extraction?

A. You mean at Mrs. Edwards'?

Q. In the town of Leavenworth?

A. You mean in Leavenworth?

Q. Yes.

A. No, I don't know; I didn't know of any Indian women there. I said women were there like Indian women, but I couldn't tell.

Q. Now, you observed, then, the physical appearance of this woman very particularly, did you?

A. Oh, I can't say so awfully particularly, but I observed it.

Q. Indellibly impressed upon your memory for a period of twenty-two years? A. Yes, I recognized it——

Q. But you didn't look down at her body? A. No, I——

Q. You can't tell us at that time whether she was pregnant or not? A. No.

Q. Doctor, will you tell us any peculiarity in facial appearance of any other woman, white, red, or black, who you —whose acquaintance you formed at that time?

A. Can I tell you any peculiarity of them?

Q. Yes. A. Well, I don't know that I could go in to——

Mr. Stuart: Talk out so we all can hear you.

A. I don't know that I could go to work and just call to mind some particular person and then tell you their features. If I should meet them, I would recognize them, as I have met people here I haven't seen for 16 years, recognize them when I see them, but can't call their names.

Q. You can't at this time tell us the peculiarities of any facial appearance of any other person whom you met in the whole city of Leavenworth at that time?

A. Oh, yes, I can tell you one person: I met a Mrs. Tarr at that time; a woman about 50 and had coarse black hair, and very regular features; very dark eyes, and some little peculiarity about her ears, that I remember.

Q. What was that peculiarity?

A. Well, the shape of one ear, a little deformed.

Q. That was a deformity? A. A little deformity, yes.

Q. Well, the shape of this woman's mouth and chin was no deformity, was it? A. No, no.

Q. Doctor, give the court a description of Granny Letcher. A. Granny Letcher, I should say——

Q. Her physical appearance.

A. Best of my recollection, now, was a woman, I should judge somewhere between 40 and 50 years of age. Colored people it is hard to tell their age from their looks, at that age. I should judge now she was a woman that would weigh about 135 or 40 pounds at that time, and she was not a real black person, nor was she a very light persons; kind of a brown——

Q. Kind of what? A. Brown.

Q. Kind of a blonde? A. As I remember, yes.

Q. What kind of hair had she? A. She had kinky hair.

Q. Tell us whether there was any peculiarity in her physical appearance. A. I don't remember any.

Q. Tell the court any peculiarity, if there existed any, in the physical appearance of this Edwards woman.

A. Of this what?

Q. Edwards woman.

A. Yes, this Edwards woman was not a stout woman, and I think she had light brown hair.

Q. Are you sure about that?

A. Well, I wouldn't swear to it, now.

Q. Why wouldn't you, Doctor? A. What?

Q. Why wouldn't you swear to it now?

A. Well, 32 years ago is a long time to remember just the color of the hair.

Q. That is the point; but you attended that woman in child birth, didn't you? A. I did, sir.

Q. You sat by her bedside? A. I did.

Q. Looked into her face, talked with her, and prescribed for her? A. Yes, sir, that is——

Q. Yet you wouldn't swear to the color of her hair, would you? A. Not positively, no, sir.

Q. This other woman, you merely glanced at her when she came into the room? A. Yes, sir.

Mr. Cruce: Objected to as argumentative.

The Court: Cross-examination, I think it is proper.

Q. Yet you are willing to swear to the color of the woman's hair whom you just glanced at, is that true?

A. Well, I am willing to swear it was very dark hair.

Q. Well, now, was there anything peculiar in the facial appearance of Mrs. Edwards, contour of her face?

A. No, she had a long—rather longish face, narrow, and quite a pleasant face, but no deformity that I noticed.

Q. Now, Doctor, when did you move, how long after your last call to the Granny Letcher place to see this 12 months' old child you say, was it that you moved from the place you was then living? A. On South 5th street.

Q. Yes. A. How long after that?

Q. Yes. A. I don't remember.

Q. About how long?

A. Well, let's see: I think that was in June; I think it was four or five months after that.

Q. And you moved where? A. I moved over on the Olive street.

Q. How long did you live there?

A. That I don't remember.

The Court.

Q. Now, let me see if I understand: That was the move from two miles out in the country up to Olive street?

A. No, sir, I didn't move from the country to Olive street.

Q. I understood you lived two miles out in the country at the time this confinement case of Mrs. Edwards——

A. I did.

Q. And you lived in the country about a year?

A. Pretty near a year.

Q. Now, between what times, as well as you can remember, Doctor, was it that you lived in the country?

A. I lived in the country between—well, I moved out there I think in the latter part of July or first of August.

Q. What year? A. '84.

Q. '84?

A. After I had looked—studied the matter up considerably, I knew where I——

Q. Well, I am asking you as you now know.

A. And I stayed there until the following year, '85, somewhere the middle of the year.

Q. Somewhere in the middle of the year '85?

A. Yes, sir, about July.

Q. You moved up into the city? A. Yes, sir.

Q. Now, how long before you removed from the country up in the city was it, about, that you had this confinement case with Mr. Edwards?

A. Oh, it was something like four months.

Mr. Linebaugh.

Q. Now, Doctor, where were you living when you was first called to Granny Letcher's to treat this child, who you believe at that time was about 6 months old?

A. I was living on Seneca street.

Q. On Seneca street? A. Yes, sir.

Q. And you moved from the country to 5th street?

A. No, I moved from the country to Seneca street, and then from Seneca street to——

Q. Alright. Now how long did you live at the Seneca street place?

A. Oh, I must have been there 6 or 7 months.

Q. You were a busy physician? A. Yes, sir.

Q. Called frequently in cases of illness; tell the court some other child about 6 months old that you waited on during that period of time.

A. Well, I had one child there, a Mrs. Sullivan's; and let's see; I know I attended her. And there was a pair of twins at the coal mine, I remember that.

Q. Whose twins were those?

A. I don't remember their name.

Q. Don't remember their name?

A. I think their name was Brown.

Q. Well, are you sure about that?

A. Yes, I am sure about it; now since I call it to mind. A colored miner out there by the name of Brown.

Q. Any other? A. Well, not that I know just this minute.

Q. Where did Mrs. Sullivan live?

A. In a house on the corner of 5th and Seneca, upstairs.

Q. What was the trouble with her child? A. Her child?

Q. Yes. A. It was still-born.

Q. Well, that was an obstetric case; some child you were called on to treat, not an obstetric case, that you were called to treat. A. I had a Mrs. Walters.

Q. At that time? A. That was confined.

Q. I am not talking about obstetrical cases. Were you called to treat some other child during the time you lived on Seneca street?

A. Oh, I thought you were talking about confinement; excuse me.

Q. No, sir. A. Oh, yes, I had a good many.

Q. Well, tell the court what child you attended and what the trouble was with the child.

A. Well, I was attending that time the Walters family; they had two or three children.

Q. Don't tell us the family; tell us the children.

A. During that time I attended Mrs. Walter's child; and, let me see——

Q. What was the name of that child you attended?

A. Given name?

Q. Yes. A. I don't remember.

Q. What was the trouble with it?

A. That child was ill-nourished, and finally died from starvation. Her nurse was not sufficient for it.

Q. Well, give me another one.

A. Let me call to mind, if I can.

Q. Well, Doctor, you moved, then over to 5th street, did you? A. Yes, sir.

Q. And during that time you called to see a child at Granny Letcher's about 12 months old? A. Yes, sir.

Q. During that period of time, while you lived on 5th street, were you called to see any other child? A. Oh, yes.

Q. Well, tell us one.

A. Let me see: I had two or three cases out in Sterling's Addition; trying to think of their names.

The Court: Well, if you can't recollect the names just now——

Q. Can't recall the names just now?

A. No, not just this minute.

Q. Did the Walters child, the one you have named, did it live or die? A. It died.

Q. How long after, if you recollect? A. Oh, a few days.

Q. Where was it buried, do you know? A. How?

Q. Where was it buried, do you know? Know where it was buried?

A. No, I don't; they were Catholics, buried it in the Catholic cemetery, but I don't know where——

Q. What was the name of that child? A. I don't know.

Q. What was Mr. Walter's initials? A. Charley.

Q. Charley Walters? A. Yes, sir.

Q. Now, Doctor, when was the first time that you were spoken to about—concerning what information you had with reference to the Edwards confinement case, or the Granny Letcher visits that you made?

A. Well, the first time I was spoken to anything about this Edwards case was when Mr. Bond wrote me a letter.

Q. Have you that letter? A. I haven't it with me.

Q. Have you got it at home? A. Yes, it is there.

Q. When was that? A. Oh, that was a year ago, anyhow.

Q. Was it more than a year ago? A. Might have been.

Q. Was it? A. I don't know; I don't remember that.

Q. You don't remember, do you remember the month that you got it? A. No.

Q. And that was only a year ago?

A. Well, something like a year ago.

Q. You don't know about how long it was ago?

A. No, I didn't pay much attention to it, to charge my mind with it.

Q. You don't know whether it was the first of the year 1916 or the last of the year 1915, is that right?

A. I don't remember that.

Q. And that just happened a little over a year ago?

A. Something like that, yes.

Q. Now, when was the next time you were spoken to about it?

A. When I was called over to the Federal Building in San Francisco, sometime after that, probably a month or six weeks after that.

Q. That was the man to whom you wrote the letter?

A. Yes, sir.

Q. When was the next time?

A. When Mr. Long called to see me.

Q. When was that? A. About two months ago.

Q. About two months ago? A. Yes, sir.

Q. Are those the only persons you have talked to?

A. Yes, sir.

Q. Do you know Mr. E. C. Hanford?

A. I don't know him, only what I have seen of him here.

Q. That gentleman over there? A. Yes, met him here.

Q. Was he out to your place about the 16th of January, 1916?

A. Not that I know of; if he was there, I didn't see him.

Q. You never talked to him? A. No, sir.

Q. Now, you recollect when several parties were out there taking depositions in this case, don't you?

A. No, I never knew anything about any depositions being taken out there.

Q. You weren't there? A. How?

Q. You weren't there, where they were taking depositions?

A. Well, I didn't know anything about taking any depositions.

Q. Nobody talked to you at that time?

A. No, my deposition was not taken or asked for, and I didn't know they had anybody else there.

Q. No one talked to you at that time? A. No, sir.

Q. Doctor, I believe you said you didn't know the name of the physician who assisted you in the Edwards confinement case; will you describe him?

A. Well, he was a man about your build, as near as I can recollect; he was a stranger to me; hadn't been in Leavenworth but a short time; came down from St. Joe, and he didn't stay there but a short time, and I paid very little attention to him, because he didn't assist me; he sat there with his heels on the stove during the confinement, and he was about your build——

Q. *What* a moment; sat there with his heels on the stove?

A. Yes, sir; it was a box stove about that high——

Q. Pretty cold weather, wasn't it?

A. It was cold weather, and he sat there with his heels on that hearth during the entire confinement, as far as I was concerned.

Q. He kept up the fire?

A. No, he didn't keep up the fire.

Q. Who looked after the fire?

A. Mr. Edwards was looking after the fire.

Q. He would bring in wood and keep it up?

A. I don't know how much wood he brought in; I could hear him poking the fire and hear him going away from it and coming back. I sat with my back to it.

Q. What kind of hair did he have? A. Mr. Edwards?

Q. No, that doctor?

A. Well, I think he had dark brown hair.

Q. Do you know?

A. I wouldn't swear to it, but my impression is his hair was dark brown; I paid so little attention to him——

Q. Did he wear glasses or not?

A. I don't think he did.

Q. Don't think he wore nose glasses?

A. I don't think so; I don't remember seeing them on him.

Q. Was there anything peculiar about his facial appearance that you remember?

A. Well, I didn't take enough notice of him to say.

Q. Was he smooth shaven?

A. I think he was smooth shaved.

Q. Do you know? A. I wouldn't swear to it.

Q. Sir? A. I wouldn't swear to it.

Q. Was anything peculiar about that man's mouth, Doctor—that doctor's mouth?

A. When I went in that room my friend——

Q. Just answer my question, please.

A. He sat there by the stove; he didn't turn hardly, and I just saw him sideways. I took off my coat and moved the bed out, and sat there with my back to him most of the time.

Q. You didn't invite him to assist you?

A. No, I didn't need any assistance.

Q. That was rather an embarrassing situation for physicians to be placed in, wasn't it?

A. I would have considered it so if I had been placed there.

Q. You talked to the doctor, did you?

A. I asked him, when Mr. Edwards said you can both stay, I said is that agreeable to you, and he said yes.

Q. Were you introduced to the doctor? A. Yes.

Q. What name was called? A. I don't remember.

Q. You shook hands with him?

A. No, I didn't; he just sat there in the chair, and Mr. Edwards said this is doctor so-an-so.

Q. Did you ever see him before that?

A. No, I never did.

Q. Did you ever see him after that?

A. No, I don't believe I did.

Q. How did you know he came from St. Joe?

A. He said so; I said you haven't been here long, and he said no, I just came from St. Joe.

Q. How long did he stay there?

A. I don't know. I don't think he was there long.

Q. How do you know?

A. He told me where his office was, and I went to see him, and he was gone.

Q. Why did you go to see him?

A. I just called on him to see if Edwards paid him, and he wasn't there.

Q. How did you know who to call on, if you didn't know his name?

A. He told me where his office was, and I went to it.

Q. Where was it Doctor?

A. His office, I think, was on—let me see; I will have to think a minute about that; it has been so long ago. I believe he has his office—I won't be positive whether it was——

Q. You don't remember?

A. I think it was on Shawnee street.

Q. You think you can give the street right, but that is all you remember about it, is it?

A. Well, it was on Shawnee street; my memory now, as I think back about that; I had forgotten all about it; he was between 4th and 5th on Shawnee, upstairs.

Q. Now was there anything peculiar about that Doctor's mouth, Doctor?

A. Well, as I told you before I didn't notice him enough to say.

Q. You don't remember whether there was or not, do you? A. No, I don't.

Q. Was there anything peculiar about his chin?

A. No, I don't know that. As I said, I just saw a side glance of his face, and I sat during all the confinement with my back towards him, and never looked at him.

Q. Don't remember his face well enough to tell the Court whether there was anything peculiar about it or not?

A. No, I don't, because I didn't have a strong enough view of his face.

Cross Examination by Mr. Cobb.

Q. Doctor, you attended this baby at Mrs. Letcher's when it was sick on two different occasions? A. Yes.

Q. Did you make a thorough examination of this baby at either time? A. No, I didn't.

Q. Did you examine its body? A. I did not.

Q. Did you observe any peculiarities about the baby in any way, in the way of marks? A. No.

Q. You did not? A. No.

Redirect Examination by Mr. Cruce.

Q. Doctor, I believe you said that you went out to this Hastings farm sometime in the summer of '84? A. Yes.

Q. And you stayed out there all through the winter of '84 and '85? A. Yes, sir.

Q. And came back to town in the summer of '85?

A. Yes, sir.

Q. Where were you living at the time Mrs. Edwards was confined? A. At the farm, Hastings place, yes, sir.

Q. At the farm? A. Yes, sir.

Q. And you kept an office in town during that time?

A. I did.

Q. Now, this letter, copy of which has been read to you by Mr. Linebaugh, reads: "There is no mistake in the year, 1894, as I was in Chicago that fall." A. Yes.

Q. And it was the fall Cleveland was elected the first time he was President." A. Yes, sir.

Q. "I have no way or knowledge whereby I can fix the date of the month." Now, are you mistaken about that? Were you living in town when that child was born?

A. I was not living in town and I was mistaken about the date. This man requested me to look that up. Am I allowed to make this little explanation?

The Court: Yes.

A. He wanted me to look that up, ask my daughter, and I did so, and when she spoke about Chicago, that flashed over me. I went to the library to find that out. That was when he was elected. Afterwards I was studying that over. I wrote that off, and then it all came to me, and I knew I had made a mistake. I removed to Leavenworth in '83, from Atchison; I had my office right there.

Q. Well?

A. And in the spring of '84 I rented this Hastings place for the benefit of my father-in-law and bought ten cows and set him up a dairy business there. Spring of '84; I remember it all distinctly now and did afterwards. And then I went to Chicago. I moved out there that summer, and I went to Chicago, just as I stated there, with my wife; and it was the following spring that I attended Mrs. Edwards, in '85, instead of '84.

Q. Now, do you remember, to refresh your recollection, anything about on either of these trips going to see Mrs. Edwards, about a snow storm? A. No.

Q. Now, this man came to see you in San Francisco said he was a lawyer?

A. Yes, sir, said he was a lawyer, I didn't see the first man. I didn't see any of the lawyers except the one I saw over at the Federal building.

Q. What kind of a looking man was he?

A. Dark complected something like a Spaniard.

Q. Did he give the name Rathburn?

A. He gave me his card but I don't remember his name.

Q. Did his card show he was a lawyer or detective?

A. The name and attorney.

Q. Didn't claim to be a detective? A. No, sir.

Q. How long was it after he was over there?

A. There was another man came over to my son's.

Q. I am talking about the man that you saw, was he the man that you wrote to? A. He was the man I wrote to.

Q. How long after you saw him was it before you wrote him? A. Oh, it was two or three weeks I should say.

Q. Did that man tell you he was representing the United States Government?

A. Well, he didn't say he was representing the Government, but his card indicated that he was.

Q. Well, what was on the card?

A. I know I read it and made the remark to my folks, this is a Government man. I handed the card to my son.

Q. And you don't remember his name?

A. Peculiar name. I *am* not a good memory of names.

Mr. Cruce: Have you another copy of this?

Mr. Linebaugh: I read it all.

Mr. Cruce: We want the whole thing in.

Mr. Linebaugh: We have no objection but I don't think it is competent.

The Court: Well, now, (referring to Defendant's Exhibit B-2) down to the Dear Sir seems to be a report from some one and the letter is copied but the addressee's name isn't given that appeared on the letter. Now, at the top I see "At San Francisco, California, received the following letter from Dr. A. L. Johnson, 96th Avenue Elmhurst, California." The entire paper may be admitted.

Mr. Linebaugh: We withdraw the objection.

Q. Did you ever get any pay for that child, or did you understand it was a charity patient?

Mr. Linebaugh: We object to that.

The Court: He may answer whether he ever got any pay?

A. No.

Q. At the time Mr. Long came to see you with Minnie Atkins—— A. Minnie Folk, please.

Q. Had you talked with Mr. Long before you saw Minnie Atkins? A. No, sir.

Q. Anything said with reference to identifying a certain woman? A. No, sir, I talked to no one.

Q. Did you see Mr. Long at your office, or where did you see him? A. He came out to St. Helena, California.

Q. Well, I mean whereabouts in town?

A. Saw him at my daughter's.

Q. At your daughter's? A. Yes, sir.

Q. This report seems to have been—— This letter of yours rather seems to have been written March 22nd. Have you ever been subpoenaed by the Government as a witness in this case?

A. Never have been subpoenaed at all by anybody.

Q. After you wrote that letter to that man who claimed to be a lawyer, has the United States ever suggested to you either by subpoena or letter that they desired you as a witness? A. No, sir.

Q. I believe you say you don't remember about Mr. Hanford coming to see you in January?

A. No, I never saw Mr. Hanford until I saw him here.

Q. If he came to your house—— A. I didn't see him.

Q. Did you hear of his being there? A. Did I what?

Q. You know nothing about it if he was at your place, about his being there?

A. No, they said there was some man there inquiring for me and that is all.

Q. Did they say there was some other man shadowing that man that was there inquiring for you?

Mr. Linebaugh: Wait a minute, we object to that as hearsay.

The Court: Well, objection sustained. Now, there has arisen again what arose yesterday. The Court is not only willing but desires and considers it important that in the cross examination by any counsel representing any interest in this case, he bring out from the witness under cross examination all the facts connected with that witness' testimony, and if there has been as he conceives and he conceives the witness to know, anybody representing any other antagonistic interest that was in any way connected with this witness' testimony or in getting it up and inducing him to so testify, that may be brought out on cross examination. I shall assume when counsel asks those questions they conceive that the witness has a knowledge about which they inquire.

Mr. Cruce: I am inclined to think that my question would not be permissible under that.

The Court: You can very readily see if the witness has no information it throws no light on the case.

Mr. Cruce: In the future examination of witnesses it will be our purpose to do that. It is our claim that the Government's case is a fabricated one and that it is working practically in harmony with the Bartlett interest, and we hope to be able to prove that they have——

The Court: I assume that to be the case so far as your cross examination is concerned, and your cross examination may extend, as to any witness, may extend as to any knowledge which he may have relating to those matters or the good faith of any antagonistic interest.

Mr. Linebaugh: Our objection was on the ground that it was hearsay and not cross examination, but redirect examination of his own witness.

The Court: Well, I permit re-direct examination.

Mr. Linebaugh: Yes, but I don't think it has the liberty of cross examination. That is the point.

The Court: No, sir.

Mr. Linebaugh: We have some additional questions to take up with this witness. Shall we adjourn now?

The Court: If you gentlemen will promise to make it short.

Mr. Linebaugh: It will be more than a few questions.

The Court: All right. We will take a recess until one-thirty.

And thereupon, Court recessed until one-thirty P. M.

And thereafter Court reconvened at one-thirty P. M., pursuant to adjournment, and the following proceedings were had:

And thereupon, A. L. JOHNSON was recalled for further examination and testified as follows:

Redirect Examination by Mr. Cruce.

Q. Doctor, I wish you would look at that and see whether that is the letter that you received from Mr. Bond? You say the first knowledge you had of this case was a letter from him? A. As far as my recollection that is.

Q. I wish you would examine Defendant's Exhibit B-4 and say whether that is in your hand-writing?

A. Yes, sir, that is the letter I wrote Mr. Bond in response to that letter.

Q. Examine Defendant's Exhibit B-5 and see whether or not that is a copy of the letter you received from Mr. Bond?

A. Yes, sir.

Q. Examine Defendant's Exhibit B-6 and state whether or not that is your answer to that letter? Is that in your hand-writing?

A. Yes, sir, that is in my handwriting; that is correct.

Mr. Cruce: If the Court please, we would like to introduce these four letters.

Mr. Linebaugh: For what purpose?

The Court: Now, the copy of the letter which he has testified to as the one he got from Mr. Bond, does that materially differ in any way from what his statement in regard to it was?

Mr. Cruce: No, sir.

The Court: Then, there is no controversy here about this statement?

Mr. Cruce: Nothing, except that it appears from the examination that perhaps there was something improper in that letter. Perhaps the suggestion of the making of testimony in that letter.

The Court: Is there any objections?

Mr. Linebaugh: No.

The Court: It may be admitted. I am asking you with reference to all of these several exhibits, any of them objected to?

Mr. Linebaugh: I haven't looked over the letters, but the evidence we do not think is competent, and therefore I do not think they are competent. I object to their admission. I don't see upon what theory counsel considers that they are admissible on re-direct examination.

Mr. Cruce: Our view of it is this: The statement was made that so far as the defendant Page and Minnie Folk was concerned their defense was a manufactured one, a fabricated one. Now, here is a letter written by one of the attorneys for the defendant to a witness. That letter will throw some light at least upon what was in the mind of that attorney when he wrote it. The answer to that letter is clearly competent. I may say to the Court that the letter in answer to that states that he remembers very well the birth of the Edwards child.

The Court: Just hand them up to me.

The Court: Are these objected to?

Mr. Linebaugh: Yes, sir.

The Court: .They may go in.

Q. Doctor, have you ever since you wrote these two letters, have you ever seen them before yesterday? A. No.

Q. Have you ever been talked to by Mr. Long, or any of the attorneys in the case about what was in them?

A. No, sir.

Recross Examination by Mr. Linebaugh.

Q. Doctor, the man to whom you wrote the letter, a copy of which appears in defendants' Exhibit B-2, called at your home at Elmhurst, California, did he?

A. The man that I wrote that to called at my home?

Q. Yes?

A. Well, I want to say to you that that is an exact copy of my letter but if you have got the original letter here I will identify and swear to it. It sounds very much like it but I wouldn't swear to it.

Q. You said this morning that was a copy of it, didn't you? A. Yes, I said that this morning but——

The Court: The question is, Doctor, in regard to the man to whom you wrote that letter.

A. No, he didn't call at my house, the man that called over there got my address. In fact my address was on 96 Avenue but I was taking my meals with my son and he called there and he requested me to come over to San Francisco to the Federal Building, to a certain room, and I went over there and stated who I was and, oh, yes, some fellow says, we are looking for you; and he said the man who requested you to come over, he has gone north, but he got out some papers and began asking some questions about the birth of the Edwards child, and I answered him and he wanted to know what year and I said I think it was in April '85. And he says, well now, are you sure of it, and I said no, I am not sure of it, I wouldn't swear to it, and he said is there any way that you can find out. And I said I don't know, we will see my daughter—we were living on the Hastings place at the time——

The Court: That is much farther than the question called for.

Q. You said this morning, Doctor, that the man to whom you wrote that letter gave you his card on which it appeared that he was a representative of the Department of Justice. Is that true?

A. Yes, his name was written down in the corner; I can't repeat how that was worded; it was either Federal Court or something.

Q. What was that man's name, Doctor?

A. I don't know, I don't remember, a little peculiar name. I remember he was a dark complected man; a small dark man about your size.

Q. Was his name Rathborn?

A. Well, I can't swear to it; it is entirely gone out of my memory.

Q. Did he at that time make any threat against you?

A. Not a thing.

A. Did he offer you any rewards? A. Not a thing.

Q. What did he say to you, Doctor?

A. Well, that is about our conversation. I simply asked him what is all this about, anyhow, and he said well, I don't think I hardly know myself. That was the answer.

Q. He just wanted certain information if you could give it to him as to when the Edwards child was born?

A. That was all.

Q. And at that time you couldn't give it to him?

A. Not positively, no.

Q. You told him you would go back home and try to get the correct information? A. Yes, sir.

Q. That is what you did do, is it Doctor?

A. That is what I did.

Q. Now, *when you* did you do in your endeavor to get the correct information as to the birth of the Edwards child?

A. I interviewed my daughter. She was a little girl at that time. I said, daughter, do you remember——

Q. Don't tell what you said to her; you interviewed your daughter; anyone else? A. No.

Q. Did you talk to your wife?

A. No, my wife wasn't living.

Q. You wife was not living then?

A. No, my wife had been dead since '91.

Q. Now, did you make any other examination or get information from any other source except talking with your daughter? A. Yes.

Q. Where?

A. From the public library. Daughter made the remark, I heard you and mamma discussing after you got back from Chicago about the big parades there; and then I instantly remembered that the big parades were the presidential election of Cleveland and Blaine.

Q. This man that had asked you for that information, you believed a Government officer?

A. Yes, I thought he was some Government man.

Q. You wanted to give him the truth? A. I did.

Q. You went to pains to ascertain that truth as nearly as you could? A. I did.

Q. And when you reached what you believed to be a correct conclusion—— A. Yes.

Q. You wrote him a letter? A. I did.

Q. And your best judgment is that the letter I read to you is a copy of the letter you wrote to him? A. Yes.

Q. Now, you told counsel on re-direct examination that you had subsequently discovered a mistake in that letter?

A. Yes.

Q. Now, Doctor, when did you discover that mistake?

A. Oh, it was probably in the course of two or three weeks after I wrote that letter.

Q. How did you discover it?

A. Why, I got to thinking it over; got to talking to my daughter about certain things and figuring it over and I says —it occurred to me—well, what time did you rent that place, the Hastings place, and I then remembered that I rented it in the spring of '84; took my father-in-law out there in the dairy business, and that I moved out later in the season and went to Chicago just as I stated, and lived there until along—well, I think possibly in July I went back into town, and after *to* that, then I said to myself, well, here I made a mistake now, it was in '85 instead of '84, because it was in April and I was not living there in April '84, and I got the thing clear in my mind now. I know now it is positively the fact.

Q. You discovered this mistake in the letter you had written him? A. Yes, sir.

Q. Did you write him another letter? A. I did not.

Q. Why didn't you?

A. I tell you why; another man went over to my son and wanted to see him. I was up at my daughter's at St. Helena. Left his card and my daughter-in-law sent it to me and says, here they are running after you for something. And his card and address was in Chicago, and there was something about the Federal Service. I threw it in the fire and told my daughter, I am not going to answer any more letters until I know what it is all about.

Q. Before you wrote the letter to the Federal Officer, you knew what it was about?

A. Nothing more than they wanted to try to find out about the birth of that child.

Q. You had a year before that received a letter from Lee Bond telling you what it was about? A. Yes.

Q. Well, then, you knew and had known for a year before the Government officer come to you what it was about, hadn't you? A. No, I didn't know at all.

Q. You knew there was a law suit involving this question?

A. I knew there was a law suit involving it, I didn't know what it was.

Q. Lee Bond told you what it was?

A. He didn't, only said there was a law suit.

Q. He said to you in a law suit which had come up the question of the exact date of the birth of this child had become material?

A. Well, I didn't know what the law suit was about.

Q. Oh, certainly not. But you knew this information you communicated to the Government Officer—— A. Yes, sir.

Q. Was a material question in a law suit?

A. Certainly.

Q. And you sought to get that information to give it to him accurately, didn't you? A. I did at the time.

Q. Now, why didn't you advise him when you discovered your mistake?

A. Just as I told you when I got that second letter, I says to my daughter I will not answer any more questions on this or write any more letters until I know what [] law suit is about.

Q. And you didn't? A. I didn't, no, sir.

Q. When you answered Mr. Bond's letter of November 24, 1915, what investigation did you make, if any, to ascertain whether the information you communicated to him in that letter was correct?

A. I went to Camp Meeker, he sent me a check for five dollars to pay my expenses, I went up there and looked over my old records.

Q. You didn't go to Camp Meeker before you wrote the first letter? A. No.

Q. What investigation did you make before you wrote him the first letter to ascertain whether the information you gave him in that letter was correct?

A. Well, he asked if I remembered. I did remember.

Q. Didn't he ask you if you remembered it, or did he tell you you did do it?

A. Well, he asked if I remember attending a Mrs. Edwards on April 26th, 1885.

The Court: Well, the letter speaks for itself now.

Q. Doctor, when you wrote him on November 27, 1915, that you remembered attending this woman in April, 1885, what investigation if any did you make to ascertain whether that date was true?

A. Well, I didn't. As I say, I didn't have my records and I just took it for granted from what he said.

Q. But when you did make an investigation, you reached the conclusion that the statement of 1885 was wrong and that it was in the year 1884?

A. Yes, sir, from those facts that I have stated.

Q. Now, Doctor, from where did you move to Leavenworth? A. From where?

Q. Yes? A. What do mean?

Q. Well, where did you move from to Leavenworth?

A. Oh, from Atchison.

Q. From Kansas? A. Yes, sir.

Q. Were you a physician and surgeon in Atchison?

A. Yes, sir.

Q. What year did you move? A. In the fall.

Q. What month? A. Well, I couldn't tell you.

Q. To what house did you move there?

A. On the corner of Fifth up stairs; I had rooms up where I had my offices.

Q. Your family lived there?

A. Yes, sir, I moved my family out to the farm the next year.

Q. How long did your family live upstairs there where you had your offices?

A. Oh, I should judge it was eight or nine, maybe ten months.

Q. Well, which was it? A. Beg your pardon?

Q. Which was it?

A. Well, I can't tell you positive, but along about that time we lived there.

Q. Now, when you wrote this letter to Lee Bond of November 27, 1915, you had his letter before you, didn't you?

A. Yes, sir.

Q. And you assumed the statement made in his letter to be true? A. I did.

Q. And that is why you say in your letter of April 27, 1915, that it was April 1885? A. Yes.

Q. And that is the only reason you said that, is that right?

A. Well, yes, I knew along about that time.

Q. Now, Doctor, you say you were not subpoenaed here by anybody? A. I haven't said so, but I wasn't.

Q. I misunderstood you, I thought you said you were not. No one has subpoenaed you to come to Muskogee? A. No.

Q. What did you come for?

A. I come at Mr. Long's request.

Q. When did he request you to come?

A. About two months ago.

Q. Where? A. St. Helena.

Q. What compensation, if any, were you to receive or have you received?

A. Mr. Long came to see me at St. Helena and commenced talking. I said, first, Mr. Long, I want to know what this is all about.

Q. That isn't my question?

A. Yes, but I am telling you, and he told me.

Q. Now, what did he tell you?

A. He told me it was a lawsuit by a woman named Minnie Atkins in regard to some oil lands, some lands that was allotted to her boy. And I told him just as I have testified here what I knew. He said, well are you willing to go to Muskogee and testify, tell what you know? Well, if you pay my expenses and pay me for my time. Well, all right, we will do that. Well, I says, I will go. And he says well if we want you, says, we can't subpoena you—— He didn't say that either, I will take that back—— He says we can't compel you to go—that is what he said. But he says if we want you we will send you a check to pay your expenses from St. Helena to Muskogee and back, all your expenses and then you will be paid a reasonable price for a witness fee. That is what he told me.

Q. Did you receive a check? A. I did.

Q. How much? A. Two hundred and fifty dollars.

Q. What per diem are you receiving? A. I don't know.

Q. Are you testifying as an expert witness?

A. I don't know that.

Q. You haven't inquired?

A. I just have their word that my fee would be decided here and I don't know what I am to receive or anything about it.

Q. From whom did you receive that check?

A. From Mr. Long.

Q. Frank Long? A. Yes, sir.

Q. Did you tell Mr. Long in that conversation that you had made a statement to this Government representative that this child was born in 1884?

A. I did, I told him about receiving that letter.

Q. Just tell what was said about that?

A. I said after receiving that letter, Mr. Long, I have been thinking this matter over and I know I was mistaken, and I told him why.

Q. What did he say about it?

A. Well, he says, that is rather material in the case, but that will all come out in your testimony.

Q. Did he tell you how it was material? A. No.

Q. Did you ask him? A. I did not.

Q. Sir? A. I did not.

Q. You used the date April 26th, a while ago, where did you get that date?

A. Well, I only used it as stating that was what Mr. Bond stated in his letter.

Q. You say that Mr. Bond stated in this letter that this child was supposed to have been born on April 26th?

A. Yes, sir.

Q. Are you mistaken about that? A. I don't think so.

Q. That is where you got the date April 26th?

A. Well, I never have testified that it was my positive knowledge; I knew it was the latter part of April, but I never testified that it was April 26th, because I didn't know.

Q. You say you knew it was the latter part of April?

A. I knew it was the latter part of April.

Q. You say in this letter you thought it was about the middle part of April?

A. I don't think so. I don't think you will find that in that letter.

Q. Didn't you use this expression: "I had been called to see Mrs. Edwards two or three times prior to her confinement and she wanted me to attend her when she was confined, which was in April, I think about the middle, I don't remember the exact day?"

A. Well, I might have made that statement, if it is there I made it sure.

Q. Well, is it true?

A. Well, I don't remember the exact date.

Q. You say now it was the latter part of April?

A. I think it was.

Q. You say then it was the middle of April? A. I did.

Q. Which was correct?

A. I wouldn't swear that was the correct time.

Q. Did you tell Mr.—— When was it you told Mr. Long about the letter to the Government officer before or after your employment by him?

A. When he was there at our house a couple of months ago at St. Helena, about two months ago. I never saw Mr. Long before that and never knew nothing about the case.

Q. Now, what time in the conversation was it, that you told him about writing a letter to the Government officer?

A. Well, after he had explained to me what the case was; I can't say what time in the conversation.

Q. How did it come up about your writing the letter to the Government?

A. Well, he was asking me about the birth of this child, Mrs. Edwards child and I told him that I had received letters so and so from Mr. Bond, I told him then I was interviewed by a man over at the Federal Building, and I wrote this man after looking it up and asking my daughter about it and she stated that all she could tell me about it was the conversation between myself and my mother, about while we were in Chicago about this parade, and then I remembered and went to the public library, and knew and found that Cleveland was elected——

Q. What is the railroad fare from Helena here?

A. Sir? St. Helena?

Q. St. Helena? A. $90.00 and $11.50 for sleeper.

Q. How long have you been here?

A. Well, I got in last Sunday night at 11:30.

Q. Have you been here in Muskogee all the time?

A. Yes, sir.

Q. Did you ascertain before your coming that the Government was a party to this suit? A. Mr. Long told me.

Q. Before you came here? A. Yes, sir.

Q. And all the time since you have been here, then, you have known the Government was a party? A. Yes.

Q. Did you look up any Government officer to tell them the mistake you had made in the information you had communicated? A. No, sir, I did not.

Q. Why didn't you?

A. And I expected everything would come out when I was put on the witness stand. I had been told not to talk anything about the case.

Q. Who told you not to talk anything about the case?
A. That gentleman sitting right there.
Q. Which one? A. That big one at the end of the table.
Q. Judge Stuart, this gentleman? A. Yes, sir.
Q. When did he tell you?
A. Well, he called me into a room and said, Doctor——
Q. No, not where, when was it?
A. I think that was Tuesday evening.
Q. Where was it? A. Over to the hotel.
Q. Told you not to talk to anybody? A. Yes.
Q. Tell you why?

A. He called me into a room and asked me my story and I told him and he said if they call you on the stand, go on the stand and tell the truth and don't tell anything more and don't talk about the case; that is what he told me.

Q. You say the railroad [ ] here from St. Helena is $90.00; is that the round trip?

A. No, it is more than that. It is a round trip from Oakland to Kansas City, and seven dollars and one cent down here one way, or fourteen dollars and two cents two ways; and from St. Helena, the round trip is three dollars from there to Oakland. That is what you have.

Q. Have the attorneys or any other persons talked to you about the testimony of any other witness? A. No.

Q. Have they told you wherein the date of the birth of this child was material in this case? A. No, sir.

Q. Did you inquire? A. No, sir.

Q. That didn't arouse your curiosity at all? A. No, sir.

Q. You made no inquiry as to why they wanted you as a witness? A. No, sir.

Q. Didn't try to find out wherein this fact that you knew was a material fact in the case? A. No, sir.

Redirect Examination by Mr. Stuart.

Q. I never told you not to talk to any of the lawyers in the case, did I?

A. No, you never told me not to talk with lawyers, you said don't discuss this case around the hotel with anybody.

Witness dismissed.

And thereupon, PHILLIP TUSCHER, being recalled for further cross examination further testified as follows:

Cross Examination by Mr. Cobb.

Q. You are the same Mr. Tuscher that was on the stand yesterday? A. Yes, sir.

Q. State your name again? A. Phillip Tuscher.

Q. I believe that you stated that when you were working at Mr. Crilley's barn that you saw this boy, Indian boy Tommy Atkins, playing around there frequently? A. Yes, sir.

Q. Almost daily with other boys there, including Mr. Crilley's boy, that is true, that is correct is it?

A. Several boys around there, several little boys and girls.

The Court: He stated all that; get to what you want.

Q. That was favorite play-ground, wasn't it?

A. The yard.

Q. Around the livery barn? A. And through the barn.

Q. Mr. Crilley was there most of the time, wasn't he, in charge of his business? A. Back and forwards there.

Q. He was in actual charge of the business?

A. Crilley and Cranston were in partnership.

Q. Both of them looked after this business? A. Yes, sir.

Q. Now, did you know a party by the name of Ella Abbott? A. Yes, sir.

Q. You knew where she lived?

A. Down on Delaware street and Seventh.

Q. Well, part of the time, didn't she live on Seneca street, corner of Third?

A. Not as I know of. She lived on Third and Cherokee over Abels drug store for a while.

Q. Over Abels drug store? A. Yes, sir.

Q. Now, this boy was down there at intervals, wasn't he?

A. Well, I have seen him there a few times.

Q. You saw him at Ella Abbott's a few times?

A. Yes, sir.

Q. Now, at the time you first saw this boy playing around there, was he still in dresses or had he put on pants?

A. He had on little short skirts.

Q. Short skirts. Now, did you ever see him with his dress off, so that his body was bare? A. No, sir.

Q. Never did. Did you ever make any examination of his body? A. No, sir.

Q. Never did. Do you know whether he had any peculiar or distinguishing mark on his body? A. I do not.

Q. You don't know? A. No, sir.

Q. Now, Mr. Tuscher, do you remember of an incident of when he had a sore hand, or a sore wrist there?

A. No, sir, I don't.

Q. That was tied up for some time and it was reported that he had gotten burned with an iron down at Ella Abbott's? A. Didn't hear nothing about that.

Q. You have no recollection of any circumstance of that kind? A. Never heard nothing about that, no, sir.

Q. You knew this boy until he was about, you say about four years old?

A. About three and a half or four years old; somewhere in the neighborhood.

Q. That is your judgment? A. Yes, sir.

Q. Then he—you never saw him any more, he disappeared as far as you know? A. Yes, sir.

Q. You continued to live in Leavenworth, didn't you?

A. Yes, sir.

Q. And worked around the livery stables there?

A. Yes, sir.

Recross Examination by Mr. German.

Q. How could you tell whether that was a boy or a girl?

A. Well, his features showed it to me. Just the same as any other child the same as I could judge.

Q. You knew Ella Abbott, what kind of a house did she run? A. She run a——

Q. House of ill repute? A. Yes, sir.

Q. Since thinking the matter over, have you any recollection now about Lillie White? A. No, sir.

Q. Still don't remember. Alright.

Witness dismissed.

And thereupon, MRS. JOHN WELCH, a witness heretofore offered on behalf of the defendants Minnie Atkins et al., being recalled further testified as follows:

Cross Examination by Mr. Cobb.

Q. You are the same Mrs. John Welch who testified yesterday are you? A. Yes, sir.

Q. Have you a vivid recollection of this Tommy Atkins that you saw around Granny Letcher's that you testified about yesterday? A. Yes, sir.

Q. I wish you would describe the appearance of that boy to the Court.

A. Well, he had black hair and straight and he had black eyes, and he was dark and Indian colored.

Q. And Indian colored? A. Yes, sir.

Q. And his eyes were very dark? A. Yes, sir.

Q. The last time you saw him I believe you said he was eight or nine years old? A. I believe he was about that.

Mr. Cobb: I wish you would identify that as Henry Carter's Exhibit A-2.

Q. Mrs. Welch, I hand you photograph marked defendant H. Carter's exhibit A-2 and ask you if you see any resemblance between the boy you saw at Granny Letcher's there as Tommy Atkins, and the photograph that I hand you?
Q. You do not? A. No, sir.

Witness dismissed.

And thereupon, C. R. CARPENTER, was called as a witness for and on behalf of the defendants Minnie Atkins, et al., and having been first duly sworn, testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. C. R. Carpenter.
Q. What is your business? A. Physician.
Q. Where do you live, Doctor?
A. I have been living for the last three or four years in San Diego, California.
Q. Where did you live prior to that time?
A. Leavenworth, Kansas.
Q. Did you ever practice medicine in Leavenworth, Kansas? A. Yes, sir.
Q. How long? A. Thirty years.
Q. How old are you now, Doctor? A. Sixty.
Q. Doctor, I will ask you to state to the Court whether or not you remember of being requested by a man by the name of Peterkin to attend a woman in confinement in Leavenworth?
A. Yes, sir.
Q. What year was that?
A. Why, I think it was '86, about '86.
Q. Who was this man Peterkin that came to you?
A. He was a soldier.
Q. A soldier. What did he say to you?
A. What did he say to me?
Q. Yes?
A. He said he wanted me to go with him to a woman that was having a child, wanted me to deliver a child.
Q. Where did you go?
A. Well, we went on a street car I think up as far as Kiowa Street and across to H, it was somewhere on North H Street.

Q. When you got there, did you find a woman in labor?

A. Yes, sir.

Q. You may state, Doctor, whether or not a physician in an obstetrical case can by physical test determine whether a woman in labor has had a child prior to that time?

A. Yes, sir.

Q. What physical tests and appearance are there from which you can determine that fact? State it to the Court in your own way?

A. There are two main changes that take place in a pregnant woman during her labor. The first is a change that takes place in the skin over the abdomen, in which scar tissue is formed and in the shape of more or less white lines, so that in anatomy they are known as lineae albicates. And the other change is one which almost invariably takes place and is the formation of notches in the edge of the neck of the womb as they are caused by the forcing of the head down through the neck of the womb as it comes out. The neck of the womb comes down in a conical form like that (indicating). The womb in the first place is pear shaped with the small end down. And this conical end fits down into the vagina a variable distance from an inch to probably an inch and a quarter in the first place. The first thing that appears is that that conical point begins to be softened down. When the time for the delivery of the child comes it has spread out more or less by the pressure of the head or the part above, usually the head, so that the point of this is spread out and when the labor commences there is nothing left of it but a rim. Usually about half an inch or a quarter and very soft; but as the labor proceeds the pains of labor are really produced by contraction of the womb which gradually thin out to the neck of the womb until it becomes very thin and broad as the head comes down from the top of it, and spreads out into a thin membrane; but it still remains closed; and as the second stage of this thinning out is what is called the first stage of labor. The second stage begins when the neck of the womb begins to open. It opens gradually under the influence of the pains, contractions of the womb and the force of the head down until finally it slips over the head; but in the vast majority of cases the head is forced down with such force that the membrane ruptures in one or more directions, sometimes two or three directions, and is nearly always ruptured clear back to the walls of the vagina. And after labor as the woman gets well, those tears heal up of course, but the edges never come together so that they are never approximate; so that they leave a notch or scar. And there may be one, two, or three of those.

Q. Well, now, will you state to the Court whether you made this examination of that woman at the time that she had this child to determine whether that was her first child or not? A. Yes, sir.

Q. And after that examination what was your judgment and what is it now as to whether she had had a child prior to that? A. I found the evidences of previous labors.

Q. You found the evidences of previous labors? Doctor, I will ask you whether or not those notches are physical evidences of which you speak can be brought about either by abortion or miscarriage? A. No, sir.

Q. Must be a full birth?

A. Must be a birth, what we call term.

Q. Term birth? A. Yes, sir.

Q. Now, I will ask you if you have any habits or customs in your practice with reference to the examination of a woman whom you first find in labor as to whether she had previously had a child?

A. Yes, sir, when I go to see a woman—— Of course, ordinarily, we see a woman two or three months before hand and know all about it, but frequently we are called to emergency cases, obstetric cases, and when called on an emergency case, my habit is to make an examination. And when I go into a house I look first to see if there are other children. Of course if I see them I know it is not her first birth, first child. If I do not see the children I immediately make an examination for two purposes——

The Court: He states that he has an independent recollection with reference to this case.

Mr. Stuart: I am just simply showing that it is his habit and custom to make these examinations to determine.

The Court: Well, he says that he did in this particular case.

Mr. Stuart: Well, I am satisfied. That is all.

Cross Examination by Mr. Pinson.

Q. Doctor, when did you move to Leavenworth?

A. My father moved there, I believe it was 1865. He was a surgeon in the army and was mustered out there and stayed there and I grew up there.

Q. You were City Physician for a time in Leavenworth?

A. Yes, sir.

Q. When was that, Doctor?

A. Well, I don't know whether I can tell the years. It was I think—— I left there in 1912, must have been in 1909, 10 or 11, or else eight, nine, and ten.

Q. That was just before you left Leavenworth?

A. Yes, sir, shortly before.

Q. Doctor, where was it that you delivered this Peterkin child about which you have been questioned, what home or what house?

A. Well, I couldn't speak from personal knowledge on that. I really didn't know the names of the people. I understand of course that it was the Wood House.

Q. Well, I am getting at more the distance from your office or home; how far was it from your office or the place where Peterkin found you to the place where you delivered this child?

A. Well, we went up on the street car from my office to I think it was Kiowa street, and then across on Kiowa street—Kiowa street was I think the eighth block if I am not mistaken from the center of town. My office is down near the center of town; and then there was two blocks across from that; that would make it about ten blocks.

Q. It was about ten blocks from your office to where you delivered this woman? A. Something like that.

Q. Did you have street car service all the way?

A. No, sir, we had to walk a couple of blocks.

Q. The street car passed by your office? A. Yes, sir.

Q. How long that night did you wait for the car, do you remember? A. No, I have no recollection of it at all.

Q. Peterkin came to you rather excited, of course, did he not?

A. Yes, he seemed to be rather excited; men under those circumstances generally are.

Q. Had he been running? A. No.

Q. What was the first thing he said to you, doctor, when he came in?

A. I wouldn't pretend to remember the conversation. I simply know he came. I can see him now as he stood there in his soldier clothes and asked me to go with him. Of course, he must have asked me to go to see this woman.

Q. Now, about how long did it take you to get to the house from the time he came there?

A. I couldn't tell you that, exactly.

Q. Thirty minutes? A. Possibly thirty minutes.

Q. Now, Doctor, in your direct examination, you stated Peterkin stated to you he wanted you to come with him to a woman that was in labor? A. Words to that effect.

Q. When you reached there, was there any other person present than yourself and Peterkin and the woman?

A. My recollection is that I found some women in the room but who they were and what they were I couldn't tell you; I just remember that there was someone there.

Q. Were you advised at that time of the woman's name that was delivering the child? A. No, sir.

Q. Or any or either of the other women in the room?

A. No, sir, I assumed it was Mrs. Peterkin.

Q. You assumed that from the fact that Peterkin came after you? A. Yes, sir.

Q. What time of the year was this?

A. My recollection is it was in the summer.

Q. July, was it not? A. I think it was July.

Q. What time, in the evening?

A. Well, it must have been in the afternoon I think. I can recall the sun shining if I am correct, I think I am correct. But I couldn't tell you just what time of day it was, I think it was in the afternoon.

Q. To refresh your memory, Doctor, wasn't it very late at night that you delivered this child?

A. Well, it may have been born at night.

Q. Wasn't it about mid-night that you reached the house?

A. I couldn't tell you, but my recollection is it was in the day time.

Q. Your recollection is indistinct about those details?

A. Well, about that detail. My impression it was in the daytime when I went there. Of course it took several hours.

Q. In giving birth to a child it may take some time?

A. Usually does.

Q. Or it may not?

A. Oh, I know it took several hours.

Q. What was the first thing the woman said when you went in? A. I can't remember.

Q. She was in pain when you went in? A. Yes, sir.

Q. She was suffering? A. They always do.

Q. Suffering? A. Why, she had the ordinary labor pains.

Q. She was having her labor pains when you went into the room? A. My recollection is that she was.

Q. Now, do you remember whether that was a difficult labor or an ordinary labor? A. It was a perfectly normal labor.

Q. Do you remember about the presentation?

A. Yes, sir.

Q. The method in which the child appeared? A. Yes, sir.

Q. What was it, Doctor?

A. It was a vertex presentation.

Q. Just what do you mean by that?

A. The head coming first.

Q. The back of the head or the front of the head coming first? A. The top, vertex.

Q. That is a perfectly normal presentation is it not?

A. Yes, sir.

Q. Now, do you recall whether Peterkin said anything to you when he first came to your office about this woman suffering from labor pains then? A. No, sir.

Q. But you are sure she was having the ordinary labor pains when you went into the house?

A. She was in labor, labor had begun.

Q. Doctor, you speak of the presentation of the child; is that a matter of importance to a doctor in an obstetrical case?

A. Ordinarily, yes, it is.

Q. State why it is important to ascertain the method or presentation of the child?

A. Well, in order to guide one's self as to the probability of trouble more than anything else. In a vertex presentation there is usually comparatively little trouble unless there is some discrepancy in the size of the parts.

Q. Or something abnormal about the woman or the child?

A. Yes, sir.

Q. If the presentation is otherwise than head first and the back of the head or top of the head first, there is sure to be trouble?

A. Not always; it always furnishes the opportunity for trouble.

Q. Now, that matter then is an important thing to be determined when a doctor goes to attend a woman in labor, is it not?

A. Well, it is not a vital matter to determine just exactly the presentation, because the vast majority of cases go on normally, but we always do that.

Q. Doctor, you do determine that fact the first examination you make of the woman?

A. Oh, yes, that is one of the things we always determine upon our first examination.

Q. If you see the woman before the time of labor, of course you can examine that from an external examination partly can't you? A. Partly, yes.

Q. The external examination is made with the fingers is it not, pressure, and with the ear listening to the sound?

A. Partly, the ear and the eye are both used.

Q. Now, you spoke of the use of the eye, what method do you adopt?

A. Simply note the conformation of the abdomen and which way the womb is lying, whether to the right or left.

Q. Now, in making an internal examination, what means do you use in ascertaining the facts?

A. I simply use my finger, introduce one or two fingers into the vagina far enough to feel the neck of the womb.

Q. Now, that night, doctor, where was this woman when you went into the room? A. She was in bed.

Q. Do you recall what kind of light you had in the room?

A. Why, my recollection is the light—I can't be positive; my recollection is it was dim.

Q. Dim light? A. Kinder dim.

Q. Did you have a lamp there that night?

A. I can't tell you whether it was or not; I suppose it was; I can't tell you.

Q. You remember whether the child was born while it was still daylight or whether it was born during the night?

A. My recollection is it was born during the night.

Q. After dark some time?

A. That is my recollection of it; I can't say positively.

Q. Now as you went into the room, what was the first step you took toward examination of this woman, if any?

A. Well, as I said, I looked around for children and didn't see any, and then, immediately, I prepared to make my examination.

Q. Now, Doctor, when you look around for children, that is because that is one way of knowing whether a woman had other children before? A. Yes, sir.

Q. And you naturally assume, when you see children running around, that they have had other children, is that right?

A. Yes, sir; naturally.

Q. Generally you ask the mother, don't you?

A. No. Yes, sometimes I do, is my recollection.

Q. Did you ask this woman?

A. I don't think I did. I think my recollection is on not seeing any children, I simply examined to see whether it was the first labor, and then I just proceeded to make my examination, and I discovered that it was not.

Q. Now, Doctor, when you made that examination, what was the primary purpose of the examination?

A. First, as I said, to find out the stage of labor and presentation, and, consequently, to find out whether there were any evidences of a previous labor.

Q. Why did you want to examine to see whether there had been evidences of a previous labor?

A. Well, as I say, it is important; I don't know that I did so there.

Q. You said it was important; why is it important?

A. The first labor is always the hardest for any woman.

Q. But, when it is normal, it does not make any difference, does it?

A. Yes, but you never know whether it is normal or not.

Q. You make the examination to see whether it is normal; explain to the Court why it is important to know whether it is the first labor or the second or third.

A. I started to tell you, the first labor of almost any woman, not always, is the longest and hardest, for both the woman and the physician; and it requires more care for that reason, and more careful consideration, and careful treatment; and it is more liable to be followed by trouble; that is, lacerations, and so on.

Q. There are always lacerations at child birth, are there not, Doctor?

A. No, sir. That is, there are always lacerations I think of the womb, as I was saying a while ago, but not always lacerations of the perineum.

Q. You referred to these notches and lascerations; were they lacerations of the perineum?

A. I don't recall that there was any lacerations of her perineum; I don't remember.

Q. Now, that is referring to the subsequent birth of this child or prior—— A. Subsequently.

Q. You did not see that before the child was born, did you? A. Certainly not.

Q. I am asking you with reference to the time before the child was born, were there any lacerations of the perineum?

A. No, sir; I think not. My reason is the perineum was perfectly normal.

Q. Now what is the perineum, Doctor?

A. The perineum is that portion of the vagina—it forms the floor of the vagina; it is that portion of the anatomy which you might call the lower part, or the fourehette; from there back to the sanus, that is called.

Q. It is an external portion of the body, is it not?

A. Yes, external, but forms also the floor of the vagina.

Q. A supporting base of the whole genital organs, is that right? A. Yes, sir.

Q. There was no laceration there?

A. No. Well, I wouldn't be sure about that; might have been some lacerations, but I wouldn't be sure. I know there were lacerations of the cervix, but the perineum is not always lacerated when the womb is.

Q. You can only make an examination with the fingers into the cervix, is that true? A. Yes.

Q. You could not reach into the uterus or womb with the fingers? A. No.

Q. Just the fingers. What is the substance, what is the nature of the substance there, in which these lacerations occur? A. The ones you——

Q. Have referred to as being present in this case?

A. Womb.

Q. What is the nature of the substance there?

A. Well, it is the tissue of the womb.

Q. Can you refer to some other tissue of the body that is similarly constructed, of any similar nature and substance?

A. Well, it is a muscular tissue, but rather dense in character.

Q. Mucus membrane there——

A. Lined with mucus membrane, but the tissue of the womb itself is muscular.

Q. Now these tears or fissures you speak of, are they tears into the muscular body of the womb itself? A. Always.

Q. What other causes may bring about a similar condition upon the cervix?

A. I don't know of any other condition that can of itself.

Q. There can be an erosion there, growing from any other cause which, from the fingers, would present the same feeling as former lacerations?

A. No, sir, because in case of an erosion you have more or less irregularity in its character, and more scooped; it is a cleft or notch; doesn't form a regular notch.

Q. Do you recollect now how many notches you found in this particular cervix?

A. No, sir, I can't be certain of that.

Q. Doctor, how many stages are there in the ordinary and normal labor? A. Three usually recognized.

Q. You refer to these——

A. First, second and third stages.

Q. What are those stages, what happens in each stage?

A. The first stage is that from the time of the first pain up to the point I spoke of a while ago, when the womb begins to dilate; from the time of the first pain up to the time the womb, the neck of the womb begins to dilate. During this first stage the neck of the womb is thinning out, so that it can dilate; of course when it is thick, it cannot dilate.

Q. Now, Doctor, let's go back a moment. The first pain you spoke of, what do you call those pains; any medical term you apply to those? A. Call those labor pains.

Q. Call them all labor pains after the pains begin, is that true? A. Yes, sir; that is true.

Q. How does a layman, a man not versed in the medicine, know when to go for a doctor?

A. The women tell them when to go.

Q. For what reason? A. *The* get the pains.

Q. And the pains come on and they send for the doctor, is that true? A. Yes, as a rule.

Q. The day before these pains begin there is no more reason for sending for the doctor than a week before, is there? Nothing to signify that the doctor is necessary?

A. Not as a rule.

Q. This woman had reached what stage of labor when you arrived at the house?

A. Well, I can't be positive about that, but I think she was in the first stage.

Q. In the first stage? A. Yes.

Q. Doctor, now tell us just when you say that first stage ends and the second stage begins; what has happened at the time that the first stage ends, about those parts?

A. Well, as I was saying, the first stage ends when the womb, neck of the womb, mouth of the womb, known as the uterus, begins to dilate; when that begins to dilate, the second stage begins.

Q. Doctor, doesn't the dilitation begin with the first stage of labor? A. No, sir.

Q. Isn't that what the premonitory or first stage means, that the first stage is reached? A. No, sir.

Q. Doctor, I believe you say it is not true that diseases or other causes, any other causes, could bring about the condition that you felt was in that cervix at that time?

A. That is my opinion.

Q. You say that you know since you found those that there had been a previous birth of a child to that woman?

A. Yes, sir.

Q. Fully developed child? A. Yes, sir.

Q. Term labor? A. Yes, sir.

Q. You state that as a practicing physician that that is absolutely a fact, do you? A. Yes, sir.

Q. You can not be mistaken about that?

A. I don't think so. Of course a seven or eight months child will produce the same phenomena.

Q. But that is when a child is born naturally; an abortion would not produce that phenomena?

A. Oh, no; an abortion would not produce it, or early miscarriage.

Q. At the time you reached there, what stage of dilitation of the cirvex had progressed?

A. My impression is it had not begun, is my impression.

Q. What was the condition or stage of the woman in regard to coming down of the child, so that by tangible examination you were able to determine presentation?

A. Well, we never attempt to determine presentation until the mouth of the womb is open; the second stage.

Q. The second stage. Then, Doctor, you at the time you made your examination, when you first went into the house, you made it solely for the purpose of determining whether she had had a child prior to that time?

A. No, sir, I made it for the purpose of discovering, as I said before, first, the stage of labor she was in, and, second, the possibility of a previous child.

Q. The stage of labor that she was in? A. Yes, sir.

Q. What did you find there, Doctor?

A. I believe I am correct in saying I found her in the first stage.

Q. What dilitation was present if any? A. None.

Q. None whatever? A. No.

Q. You found the walls of the external and internal os thinned out didn't you, I believe you suggested that?

A. Always thinned out more or less.

Q. When do they begin to thin?

A. They begin to thin during the latter part of labor or latter part of gestation, begin to thin out months before labor comes on; that is the upper, what might be called the base of the neck.

Q. Now, doctor, when does the cervix become soft; at what period in pregnancy does the cervix become soft?

A. Always the first thing that happens when a woman gets pregnant is the tip of the neck begins to soften. You can detect it; a person accustomed to it can detect as one of the first signs of pregnancy, softness of the tip of the uterus.

Q. Isn't it true Doctor that does not occur until about the sixth month of pregnancy?

A. No, sir, I don't think it is.

Q. How many cases of pregnancy and delivery of children have you delivered, Doctor?

A. Oh, I can hardly tell you; several hundred I suppose.

Q. You are familiar with the work of DeLee on Principles and Practice of Obstetrics are you?

A. No, sir, I am not familiar with that author.

Q. Do you know whether or not that is a recognized work on obstetrics?

A. I presume it is, it says so on the book, but I am not familiar with that author.

Q. Doctor, let me just for the purpose of having you explain, call your attention to picture appearing at page 119 of DeLee's Principles and Practice of Obstetrics, which appears to be a cross-section of the cervix at the beginning of labor?

A. Yes.

Q. That is a representation of the cross-section of the cervix at the beginning of labor isn't it?

A. At the beginning yes, sir.

Q. Now, Doctor, this is a thick wall here extending from what is pointed to here as the internal os, to the external os, thick wall to the lower portion of the womb, isn't that true?

A. Yes.

Q. Now when does the thinning process of that wall first begin?

A. Begins when at the—when the beginning of first stage of labor begins or first pain.

Q. With the first pain this begins to get thin, is that a fact?

A. As a matter of fact this is a little misleading, because this neck here begins to get shorter.

Q. In this way as appears in Figure 138 here?

A. Yes, a long time before labor begins.

Q. Now finally, Doctor, during the labor this entire thick wall is effaced and the mouth of the womb, referred to here as the external os, becomes flush with the walls of the vagina, isn't that true?

A. Not flush with the walls of the vagina, no, because the walls stop there; but the head come down here and this supports it; the head comes down and this thins out and forces the walls of the vagina farther and farther apart, and these two edges, instead of being thick like that, are almost as thin as pieces of paper.

Q. Here is what happens—that lower wall becomes thinner? A. Yes, sir.

Q. And finally when dilitation begins, there is no thickness of the lower wall of the womb, isn't that true?

A. Yes, that is dilated some there.

Q. Now then in the normal condition that opening of the womb is practically closed is it not? A. Closed, yes.

Q. Now how far had the dilitation proceeded when you reached this woman's bedside?

A. As I said before my recollection is it had not begun.

Q. But she was having regular labor pains when you reached there? A. Yes.

Q. And dilitation had just begun?

A. No the first stage of labor had just begun, dilitation does not begin until what we call the second stage of labor.

Q. Then when you made the first digital examination you did not find any dilitation at all of the os of the cervix?

A. I say that is my recollection of it.

Q. Found none whatever? A. Yes, I——

Q. Now, Doctor, you understand when Mr. Peterkin came to you, did you not, that this woman was already having her pains? A. Well I did not; he wanted me to go with him.

Q. Well he knew she was fixing to have a child didn't he?

A. Yes, sir.

Q. And he told you so? A. Yes, sir.

Q. And then it took you about thirty minutes to reach there? A. Yes, I think it did.

Q. And when you reached there, there was no dilitation of the os of the cervix at all? A. That is my recollection.

Q. Doctor, there is one other indication that you referred to as bearing upon the question of whether or not this woman had previously had a child, and that is certain scar tissues I believe you said. Now where do these appear?

A. On the abdomen; sometimes begin at the umbilicus clear down to the—not as low down as that either; down pretty low.

Q. Normally you find these marks on every pregnant woman isn't that true?

A. Not every pregnant woman, but every woman after pregnancy.

Q. Now, Doctor, isn't it a fact that these marks appear on not only the abdomen, but on the thighs and on the breasts at times? A. Occasionally yes, sir.

Q. Of a woman during her pregnancy?

A. Well, I have seen them on her breast during pregnancy, but I don't know whether I ever saw them on primopara either; a woman having her first child.

Q. You never saw this on a woman having her first child?

A. I don't think so.

Q. Any where? A. Always have them with——

Q. Always have them with the first child and every other child don't they? A. After labor but not before.

Q. After labor? A. Yes.

Q. Doctor, isn't it a fact that these marks appear on practically every woman during their pregnancy?

A. Not as a rule during their pregnancy.

Q. Isn't it a fact that you are unable to determine whether one of those marks is from present pregnancy or some preceeding pregnancy?

A. Where a person—that is true of course; it is nearly always from the first pregnancy.

Q. Now did you find any such marks upon this woman?

A. I didn't examine for that I don't think.

Q. Oh, you didn't make that examination in this case?

A. No, I was satisfied with the examination in the first case and there was no necessity for proceeding further.

Q. Did you ask Mr. Peterkin whether he had had another child or not?

A. No, sir, I did not according to my recollection.

Q. Your method of determining whether she had had another child was by making this examination rather than by inquiring?

A. Yes, sir, that is true, I do very little talking to my patients.

Q. Or their husbands? A. Yes.

Q. You had thirty minutes to get there? A. Yes.

Q. Did you talk to Mr. Peterkin during that time?

A. I haven't the slightest recollection of what I said on that occasion.

Q. Doctor, if either one of them said anything to you about whether this was the first child or that there had been a former child you would not make the examination?

A. How is that?

Q. You didn't make any examination where a husband or wife told you about a former child?

A. I invariably make examination.

Q. For that purpose?

A. Not for that purpose but to find out the stage of labor; I of course find out two things or three things at the same time.

Q. Doctor, where do these notches appear?

A. In the neck of the womb.

Q. In the cervix you have referred to?

A. That is the cervix.

Q. It is necessary in order to ascertain whether those notches are there or not to carefully examine around below the surface of the cervix, is that true?

A. Oh, yes, it don't require any special care; can't miss them if they are there.

Q. Just can't miss them? A. No.

Q. After labor has begun you stated that as your opinion as a professional man, and are ready to stand by that opinion, that after labor has begun, you are able by digital examination to determine positively whether a woman is prima para, or whether she has theretofore given birth to a child?

A. That is not what I said; I said this; if these notches are present, it settles the matter. Some times things occur where the notches do not occur——

Q. Doctor, will you answer my question yes or no and then make explanation; the question is, are you willing to state as an opinion as a professional man, that after labor has begun, you can by a digital examination of the genital organs ascertain positively whether or not a woman has theretofore given birth to a child? A. In a majority of cases.

Q. In the majority of cases; you won't say that is absolutely true in all cases?

A. I wouldn't say it is an invariable thing but it is almost invariable.

Q. And does not make much difference whether labor has begun or not? A. It depends upon how far it has gone.

Q. How far does it go before it is impossible to tell?

A. Well, I don't think it is impossible to tell at any stage.

Q. At any stage of labor? A. No.

Q. Doctor, it is afterwards possible to ascertain, whether the child's head is presented, it is then impossible to determine whether there are notches on the interior side of the cervix isn't it? A. Yes, would be difficult to tell.

Q. After the bag of water is presented?

A. You have got that a little bit wrong.

Q. All right make your explanation.

A. I was thinking of where the head would come through. It is possible to make diagnosis of presentation, of course while it is still time, and while there is still time to make also diagnosis of previous labor.

Q. Now, Doctor, after the head has become engaged in the cervix, is it possible to make such examination and to ascertain whether there has been a previous labor?

A. Well, I suppose you mean after it has passed through the cervix?

Q. No, sir, after it became engaged, after it passed into the cervix? A. That is the best time to make it.

Q. Best time to make it?

A. Not the best time—yes, a very good time because then the cervix is spread out over the head and you can pass your finger around and feel it without any trouble.

Q. That is insert your finger between the head and the wall of the vagina on the outside?

A. Oh, no not the wall of the vagina.

Q. Well where?

A. Simply pass it up as I was telling you; the head under those circumstances is still inside the cervix and the cervix is plastered around over the top of it, and it is very easy with your fingers in a second to pass around it and see.

Q. Outside of the head and outside of the cervix?

A. Outside of the cervix yes, sir.

Q. That is outside isn't it?

A. Inside of the vagina but outside of the womb of course.

Q. Now, Doctor, let's take a look at our pictures again; Now when the child's head is pressed down against this dilated cervix, or partially dilated os as we should say—isn't that true? A. Yes.

Q. When pressed down against there, where you make the examination is the external wall out here isn't it?

A. Simply put my finger against that os and see whether it is a circular os or notches in it. Wouldn't be any circular os it would be ragged.

Q. Doctor, you mean to feel around this edge here or part that I am referring to, which appears to extend over the whole vagina?

A. Feel over the whole thing and see whether there was a smooth circular opening there or whether it was ragged.

Q. Then you would make examinations of the external os of the cervix?

A. Yes, sir; couldn't reach the internal os.

Q. Inside of the opening or outside wall?

A. Oh, no, outside. You can't get inside; you can but the head is pressing right down against that like that (indicating).

Q. Now there is a little opening there now through which the head is attempting to protrude isn't that true?

A. Beginning to dilate. No such thing as protrusion; has to pull back out of the way; becomes a circular organ contracting over the head.

Q. As it retracts, Doctor, what becomes of the upper surface of the organ; go down with the head or retract over the base of the head? A. The upper surface?

Q. Yes, of the organ?

A. It goes back the same as the under surface, muscular tissue and simply contracts upon itself.

Q. The condition in which the cervix thins out and dilates is to the side and upward, isn't that true?

A. Well, it thins out in all directions nearly.

Q. Well, does it extend downward into the vagina further on? A. No, it has always a condition of retraction.

Q. Drawn backward?

A. Backward to the body of the womb.

Q. And becomes thicker all the time and draws backward, isn't that true? A. Yes, sir.

Q. So that, Doctor, when the head of the child is pressing upon the external os of the cervix, what was originally the cervix, it is drawn back around the child's head, isn't that true? A. Drawn back over the child's head.

Q. Now where did you find these notches in what part of the cervix?

A. Well as I said before my recollection is she was in her first stage of labor and there was no difficulty whatever—none of the difficulties you have presented in what you have been saying, because it was perfectly easy to pass my finger up there and feel of those notches in the remnants of the neck of the womb which is remaining there, as you see in that picture.

Mr. Pinson: Referring to Picture 138, page 120 in this Principles and Practice of Obstetrics.

Q. Now, Doctor, what was the thickness estimated by you of the wall of the cervix remaining there at the time you reached this woman's bedside?

A. Well I could hardly tell now, I simply know that I found the notches of sufficiently—there was sufficient amount of the neck remaining there so that I had no difficulty in feeling the notches.

Q. Did you estimate how long she had been in labor at that time?

A. No, I presume I did at the time but I can't recollect.

Q. Could you estimate how long thereafter dilitation became complete and the effacement of the cervix became complete?

A. No, sir, I can't; I really can't remember how long the labor was altogether; I don't know just how long it was.

Q. Doctor, your memory about these details about the birth of that child is very hazy at this time, isn't it?

A. Well, only the unnecessary details.

Q. What do you consider the most important thing that you ascertained from your examination of that woman that night?

A. Well, the only importants things that I tried to ascertain were estates of labor and whether she had had a previous child.

Q. Now, she didn't tell you that she had had a previous child, did she? A. No, sir.

Q. Did you talk with her? A. I didn't ask her.

Q. You didn't ask her?

A. No, I didn't ask her. I didn't talk very much with my patients.

Q. Did you tell Mr. Bruff one time in conversation that Mrs. Folk had told you at that time that she had had a child?

A. I don't remember that I ever told him anything of that kind.

Q. Well, will you say you never did make that statement, Doctor? A. Sir?

Q. Will you say you did not ever make that statement?

A. If I did, it was a mere conjecture.

Q. A mere conjecture; and you told him also that that child was dead at that time, didn't you?

A. I haven't any recollection of saying that but if I did——

Q. That was conjecture, too, if you said it?

A. Probably so.

Q. She did not tell you anything of that kind before?

A. Not to my recollection.

Q. Peterkin didn't tell you that she had had a child before? A. Not that I remember.

Q. You and Peterkin and Mrs. Peterkin, or whatever her name was, this woman, didn't have any conversation about whether that was the first child or not?

A. No, Mr. Peterkin didn't come into the room as I remember.

Q. He stayed outside? A. That is my recollection.

Q. You didn't have any conversation about it going down there did you? A. No.

Q. Doctor, at the time you first heard of this case, who was it talked to you about this particular law suit?

A. Why, I never have been able to remember, in fact, I don't think I ever knew the first man's name.

Q. Ever know a man named Anderson? A. Yes.

Q. A young lawyer, or a lawyer? A. Yes.

Q. Where was he from?

A. I think he was from Los Angeles.

Q. Did you talk to him about this case?

A. I presume I did, yes.

Q. Wasn't he the first person that you talked to about it?

A. No, the first man that came to me about it, I presume it must have been a detective. I never did know who he was.

Q. Now, Doctor, you told that detective just like you did Mr. Anderson that you could not possibly tell whether a woman had given [ ] before, 30 years after you made the examination, didn't you?

A. I don't think I said anything of the kind, sir.

Q. Did you ever refer to your records in that conversation with Mr. Anderson? A. No, sir.

Q. Did you have any records of this birth?

A. No, I discovered that my records were lost after I went out west and my office was broken up; they were lost in some way, I don't know how.

Q. Now, Doctor, as a matter of fact, you told Mr. Anderson did you not, that you couldn't remember to save your life whether or not that was her first child or not, referring to this occasion, and that you would try to get your records and try to ascertain whether that was the first child or not?

A. Yes.

Q. If you kept such a record.

A. Very likely I told him that.

Q. That is true, isn't it?

A. I can't say it is true; I said very likely I said that. Of course at that time, I was very hazy on the matter and I had not made any attempt to recall the circumstances myself.

The only thing that I could remember was that Peterkin had asked me to come and see this woman.

Q. But you had made no attempt at that time to recall whether this was her first child or not? Is that true?

A. Yes, I was depending at that time on my records.

Q. Where were your records? A. In Leavenworth.

Q. In whose custody?

A. Well, I suppose they were in my wife's custody.

Q. Did you make an effort to find them?

A. Yes, sir, wrote for my records, to send them to me.

Q. That was on account of this conversation you had with Anderson, wasn't it?

A. I don't know whether I did at that time or whether it was when Mr. Allen came to me; I guess I did.

Q. Did Mr. Allen come to you? A. Sir?

Q. Did Mr. Allen come to you? A. Yes, sir.

Q. That is this Allen in this case—R. C. Allen?

A. Yes, sir.

Q. Did you have a conversation with him about this matter? A. Yes.

Q. Didn't you tell him in that conversation that you thought that this was this woman's first child?

A. No, I will tell you, I think I said this——

Q. Well, you say you didn't tell him that? A. No.

Q. Well, go ahead and tell us what you did say.

A. He told me the circumstances in the case from his standpoint, or from the standpoint of the side that he was representing; said they had traced up this woman's history and found that she had this child in Leavenworth, and their contention was that the previous child was a myth and there had not been any such a child, and wanted to know if I did not think so, too, and I said possibly you are right—or something to that effect. I didn't speak in any authoritative manner or give it as my opinion.

Q. But you speak now in an authoritative manner?

A. Yes.

Q. And give it as your opinion, now, that it was the second or third, or *four* child, don't you?

A. Yes, sir, I afterwards recall when I got Mr. Allen's letter telling me—giving me the point at issue clearly, or rather giving me all the circumstances in relation to the case, and I found out that my records were gone and that I had to depend upon my memory for information, why then, I began to say to myself, what did I find during that first examination. I knew I made an examination, and I immediately asked myself what did I find at that time. When I got down to that point, I began to recollect the circumstances and I finally recollected the fact that during this examination I had found evidences of previous labor.

Q. You just kept recalling, and kept recalling circumstances until you finally decided the case, is that true?

A. Well, yes, gradually they came back to me.

Q. What was your first impression about it?

A. Well, my first impression was that it was all in a hazy—it was just so hazy I couldn't tell anything about it, of course.

Q. Wasn't it your first impression that it was her first child, Doctor? A. No, sir, it wasn't.

Q. Let me ask you this question. I am going to read certain questions and answers and I want you to tell me whether those questions were asked you and these answers given when your deposition was taken out there in California. Do you recollect that time, do you? A. Oh, yes.

Q. You recall that your deposition was taken?

A. Yes, sir.

Q. Before Mr. Penick, examiner, in this case?

A. Yes, sir.

Q. You know Judge Allen was there? A. Yes, sir.

Q. Mr. Hanford and Mr. German? A. Oh, yes.

Q. Now, were these questions asked and these answers given: "Q. Mr. Allen and Mr. Cook talked to you at some length about your recollection as to whether or not this was the first child, didn't they? A. Yes. Q. And your only statement to them at that time was that your best recollection was that it was the first child born to her, was it not?" And then after objection by counsel: "Q. I am speaking now, Doctor, of the statement made by you to Mr. Cook and Mr. Allen in your office in East San Diego during the latter part of March or in April, upon the occasion of Mr. Allen and Mr. Cook visiting your office? A. I was under the imprssion at that time that it was the first child, but my attention had not been directed sufficiently to the point at issue so that I was able to recall the circumstances surrounding the case." Were those questions asked you and those answers given? A. Yes, sir.

Q. Now, were these questions asked you and these answers given? "Q. Did you not state to Mr. Cook and Mr. Allen at that time and place that it would be impossible for you to testify with any degree of certainty as to whether or not it was her first child, by reason of the large number of childbirths occurring during your practice attended by you? A. Yes."? A. Oh, I didn't say that.

Q. That is not? A. Let me see, just read that over.

Q. Here is the question: "Q. Did you not state to Mr. Cook and Mr. Allen at that time and place that it would be impossible for you to testify with any degree of certainty as to whether or not it was her first child, by reason of the large number of childbirths occurring during your practice attended by you? A. Yes." A. I never said that in the world.

Q. All right. Was this question asked and this answer given? "Q. While at Leavenworth in the absence of your records?" and then after objections by counsel: "Q. After you had stated to Mr. Cook and Mr. Allen at that time and place that your best recollection was that this was her first child, and that your record would so show, did you not say to them that you had, that you would immediately request your wife to send you your records? A. Yes." A. Well?

Q. And then did you further answer: "I asked my wife to hunt up the records, yes." Is that true? Just answer yes or no?

A. You have two or three questions there and you have made me answer the last one and conclude that that answers them all.

The Court: Doctor, is that what transpired before Mr. Penick?

A. I presume it was.

The Court: You will be allowed to explain, but what we are first trying to find out is whether those questions were asked you and you made such answers?

A. My deposition was taken out there and I presume that is the way they got it.

Q. Well, did you give those answers to those questions?

A. I presume I did.

Q. Did you give those answers to those questions at the time your deposition was taken?

A. I couldn't say from memory all that happened, I suppose it did.

Q. Was this question asked you: "Q. You told Mr. Cook and Mr. Allen at that time and place that—that your best recollection was that this was the first child? A. That was my recollection at that time. Q. You told Mr. Cook and Mr. Allen, did you not at that time and place that your records would probably so show? A. I said I thought they would but that I didn't always note that point in my record." Did you give those answers to those questions?

A. I think I did.

Q. Now, Doctor, I believe you said you did write to your wife and ask her to send you this record? A. Yes, sir.

Q. Have you ever received any records from her?

A. No, sir.

Q. Have you ever had your memory refreshed by any record, statement, letter, or anything of any kind about this childbirth? A. No, sir.

Examination by the Court.

Q. Do you remember the time that your deposition was taken how long before that was the first time that anybody had called your attention to this inquiry about this childbirth? A. I don't know that I could tell.

Q. Was that when Mr. Allen and Mr. Cook were out there, was that the first?

A. You mean how long before the deposition that Mr. Allen was out there?

Q. Yes? A. I can't tell exactly.

Q. Some weeks or months?

A. Oh, it was probably six months I judge.

Q. That was the first time you had your attention called to the matter, when Mr. Allen and Mr. Cook were out there?

A. Well, there was a man there before that, Mr. Anderson, and before him there was a detective, but I didn't find out anything from him or he from me.

The Court: After Mr. Cook and Mr. Allen were there did anybody else talk to you sometime before your deposition was taken?

A. No, sir.

Q. As a matter of fact, somebody did talk to you just as you went to the place where the depositions were taken, didn't they? Let me refresh your memory just a moment. At the time you went over to have your deposition taken, you were subpoenaed by the Government, were you? A. Yes.

Q. On account of what you had said to Mr. Allen and Mr. Cook? A. Yes.

Q. You had never corrected that statement you made to them?

A. No, sir, I wrote them and told them I had recalled.

Q. Doctor, I am going to read you a letter and ask you if this is the letter you wrote Judge Allen, it is dated May 18, 1915. "Dear Sir: I have at last learned definitely that my records were destroyed after I left home. I have decided however that I will come on and testify if you desire it, and will send transportation both ways." Then, there is a postscript: "This is with the understanding that I be paid mileage," and then "P. P. S. I have reopened this letter to say that I have recalled enough of the circumstances to decide the case definitely. C. R. C." That is the letter you wrote? A. I wrote him that.

Q. Did you ever write him a letter in which you told him what you had decided definitely?

A. No, sir, because he told me it didn't make any difference to him, or the Government which way the case went provided they got the truth.

Q. And you were subpoenaed by the Government to testify in that case? A. Yes.

Q. And after you reached there you were talked to by some people? A. Why, Mr. Allen and Mr. German.

Q. Who else? A. Nobody.

Q. Who put you on the stand?

A. Well, Mr. Hanford was there and another gentleman, I went in with Mr. German and Mr. Allen and told them my testimony, what my testimony would be; they asked me about it and I told them, and what I had recalled before I went on the stand.

Q. That was after you had been brought in for the purpose of testifying?

> Mr. Cruce: Please let him finish.
>
> The Court: I understood that the witness had completed his answer. If he has anything to state he may state it.

A. When I went down there, Mr. Allen and Mr. German of course took me into a private room and talked over the matter with me and I told them as I recalled the circumstances they were not the same as we had gone over before; and I went on to tell them plainly that my recollection had been entirely at variance with our correspondence in the matter. I said, after I had begun to recall the circumstances as they had occurred that they presented themselves to me differently than what they had presented to me by Mr. German and Mr. Allen.

Q. Will you please repeat that last statement?

A. I say I told Mr. Allen and Mr. German that my recollection of the matter was different from the circumstances as they had been presented to me by Mr. Allen— Well, it was Mr. Cook that was there the first time—and that I had recalled that in my initial examination of this woman that I found evidences of a previous birth. I told them that before I went on the stand.

Q. Doctor, let me ask you if it isn't a fact that at the time you had the conversation with Mr. Allen and Mr. Cook, that you didn't know which one of those two facts they wanted to prove?

A. You mean the first time they were out there?

Q. Yes, sir?

A. Well, it is quite true, I was hazy in my mind as to what the object of the trial was.

Q. Then, it is not true, as you said a while ago, that Judge Allen said that they wanted to prove that she had had a child?

A. I say I was entirely confused as to the issues of the case.

Q. And as you became unconfused you settled in your mind just what you wanted to testify, is that right?

A. No, as I recalled the circumstances, that is as they occurred, then I found that they did not agree with the story that had been told me before.

Q. Now, as to your confusion about the issues in the case, didn't you confuse your mind as to whether there had been a previous child?

A. Well, it was not so much that I was confused—whether they wanted to prove that child was legitimate. It is quite true they had told me these things before but I got that impression.

Q. But they didn't tell you they wanted you to testify that this was her first child?

A. Well, they may have told me that.

Q. Well, did they or not?

A. I can't answer positively as to that, I presume they did.

Q. Let me ask you whether this question was asked you and this answer given: "Q. We told you that we just wanted you tell us what you recalled about it, and that we weren't interested in having you tell us anything that wasn't the truth, did we not?" and there was an objection made by Mr. Hanford, and then the answer: "You told me, as I remember it, that the Government had no interest in the matter whatever except to find out the truth."

A. Yes, that is the reason I didn't write to him and tell him of my change.

The Court: Now, let's get through with this first. Let the attorney complete reading the questions and answers, and then testify as to whether you made such answers.

Q. "Q. And from the beginning of that conversation to the end, you repeatedly said to us that you were quite certain that this was the first child born to Minnie Atkins, didn't you? A. I am not at all sure I said it that way, because I wasn't at all sure. In fact, I think the burden of what I told you was that I wasn't a bit sure, but that my best recollection that I recalled up to that time was that it was her first child." Did you answer in that way?

A. I presume I did if it is down there.

Q. Well, did you answer that way or not?

A. I can't recall at this time just whether I gave my answer that way, but it wouldn't be my impression I did.

Q. Isn't that true? A. I presume— How is that?

Q. That is exactly what you told Mr. Allen and Mr. Cook? A. I presume it is. They were coming at me from all sides.

Q. Isn't that what you told them out there, that you were not sure but your best impression it was her first child?

A. No, sir. I did answer it in that way at that time, but that is not what I said to them. They put the words in my mouth.

Q. "Q. The first recollection you had of this matter was that this was the first child born to Minnie, wasn't that it? A. Well, that was my first recollection, yes." Did you answer it in that way? A. I presume I did.

Q. Doctor, what is the purpose of the first change of labor, what does that accompliish?

A. Beginning of the thinning out of the neck.

Q. And during the first day the thinning out process is completed and what else?

A. Well, that is practically all.

Q. What is your technical term for the thinning out process? A. Well, I don't know of any technical names.

Q. Did you ever hear it called effacement? A. Yes.

Q. What about the dilation, when does that take place?

A. During the second stage.

Q. What else takes place during the second stage?

A. The head comes down through.

Q. And then what is the third stage?

A. The expulsion stage.

Q. Is there another stage?

A. Well, some people may call it that, but there are three stages to labor.

Q. You treat the first stage as the effacement?

The Court: Mr. Pinson, haven't you covered that fully?

Mr. Pinson: Yes, sir, the purpose, Your Honor, please, is to show that these various stages of labor, I wanted to fix it definitely as possible the exact period at this time for an obvious purpose.

The Court: Well, I thought you had covered that fully.

Mr. Pinson: Possibly I have covered that fully. One other question, Doctor, that I would like to ask you.

Q. In labor does it ever occur that the wall of the vagina becomes wrinkled so that it forms what is termed a false cervix a false fols there in the vagina?

A. No, I never saw any such condition.

Q. You never saw any such condition? A. No.

Q. Did you, at the time that you made this examination of this woman, examine her externally about the abdomen? A. I couldn't say positively, I presume I did.

Q. You didn't see then any of these scar tissues that you refer to? A. I don't think I examined for that.

Q. Well, if you examined the abdomen wouldn't you find those if they were present?

A. Oh, yes, I would; I don't think I did.

Q. Now, did you make an examination with the eye internal, did you use a spectulum? A. No, sir.

Q. Didn't attempt to do that at all? A. No, sir.

Mr. Pinson: If the court please, it may be that we will want to recall the witness for further cross examination. Now, the question has come up about some correspondence; that is something I have not been familiar with.

The Court: What correspondence is that?

Mr. German: Between Judge Allen and Dr. Carpenter.

The Court: All right, go on.

Cross Examination by Mr. German.

Q. Doctor, Judge Allen was out to see you, he and Fred Cook prior to April 20, 1915, at any rate this is true that you never wrote Judge Allen any letter until after he had been to see you, he and Mr. Cook? A. Yes, as far as I know.

Q. Then, as you stated a while ago, the matter of whether this was the woman's first child was discussed and you stated what you told them as to your recollection?

A. How is that?

Q. And you have told your recollection. Didn't you, on April 20, 1915, write the letter which I hand you, which is marked Government's Exhibit 4? A. Yes.

Q. You wrote him that letter? A. Yes.

Q. You have already stated I believe that when they were out there they told you that all they wanted was the truth, but that they believed that she had not had a child prior to the birth you attended? A. Yes.

Q. And you understood that that was their contention?

A. Yes, sir, and you asked me if I didn't think so too.

Q. Yes, but I wasn't there when Judge Allen and Mr. Cook were? A. No, sir.

Q. Now, in this letter you asked Judge Allen— You stated to him you believed you were on the track of your records, and then you wanted to know what the real meaning of the suit was and what difference it would make to the Government and what difference to Minnie and to the Creek Nation, and so forth? A. Yes, I was entirely confused as I say.

Q. All that you knew was what Judge Allen contended in the matter? A. Yes.

Q. Then, on April 26th, *1911*, Judge Allen wrote you a letter, at least you received a letter from him dated April 26th, 1915, in answer to the letter which you wrote him on April 20, 1915, didn't you? A. Yes.

Q. And isn't that a correct copy of it which is marked Government's Exhibit 5, in which he explained to you the issues in answer to the question?

A. Yes, he wrote me a letter explaining the different interests and that was the first clear understanding I had.

Q. All right, then on May 18, 1915, you wrote Judge Allen another letter, did you not which is Government's Exhibit 6, that letter? A. This is the same one I had before.

Q. Yes, this is the one Mr. Pinson asked you about before? A. Yes.

Q. And in this letter you told Judge Allen that you now remembered and your testimony would settle the case, but you didn't tell him you had changed your mind?

A. I didn't tell him, no, and I didn't because he said it didn't make any difference.

Q. I understand. Now, on May 29th, you wrote Judge Allen another letter, didn't you, and isn't that it, which I hand you marked Government's Exhibit 9?

A. I wrote a letter.

Q. That is your handwriting? A. Certainly I wrote it.

Q. And in this you suggested that Judge Allen had stated to you that you would be paid your mileage and per diem, and said nothing about transportation, and then you winded up by saying: "I suppose this will be included." You still didn't tell him your mind had been changed or your memory was different from what it was in the conversation?

Mr. Cruce: I submit the letter will speak for itself.

The Court: The letter is the best evidence, but I presume he is examining with regard to this statement.

Q. On August 21, 1915, you wrote Judge Allen another letter and isn't this it, which is marked Government's Exhibit 7? A. I wrote that letter.

Q. Now, you formerly lived in Leavenworth? A. Yes, sir.

Q. And you have a daughter living in Leavenworth, haven't you?

A. She [] living right there now; that is her home, of course.

Q. *Was* was when you wrote these letters? And your wife is living there now, isn't she? And was at the time you wrote these letters?

The Court: I would like to get some answers in there.

By the Court.

Q. Was your daughter living in Leavenworth at the time you wrote these letters, Doctor?

A. I am not certain whether she was there or working in Kansas City.

Q. Was your wife in Leavenworth?

A. Yes, in Leavenworth.

By Mr. German.

Q. In those letters you spoke about coming to the territory and when it would take place? A. Yes, sir.

Q. Judge Allen wrote this September 9th, 1915, a carbon copy, is it not, which is marked Government's Exhibit No. 8?

A. Yes.

Q. Now, you expected to take a trip to Muskogee to testify in this case, didn't you at the expense of the Government? A. Yes.

Q. And that letter told you that we are going to take depositions, doesn't it? A. Yes.

Q. Then, in January following that, we subpoenaed to appear before the court there and testify, rather before the Examiner at the United States Courthouse, didn't we?

A. Yes.

Q. And when you appeared in the room there to talk to Judge Allen and me, that was the first time you ever told us that you had changed your mind or told—— A. Yes.

Q. Or told any Government representative, wasn't it?

A. Yes, because Judge Allen told me it didn't make a bit of difference to him or the Government what the outcome of the trial was; all he wanted was the truth.

Q. That is true, but he told you in your first conversation that his contention was that there was no child born before that, didn't he? A. Yes, sir, he did.

Mr. Cruce: Do you want to introduce these?

Mr. German: Yes.

Mr. Cruce: We have no objections.

The Court: They may be admitted.

Mr. German: Exhibits 4 to 8 inclusive.

Redirect Examination by Mr. Stuart.

Q. Doctor, now, see if you can listen to my questions so we can get through. You testified at San Diego, California, didn't you? A. Yes, sir.

Q. Who summoned you to that Federal Building?

A. Why, I presume it was Mr. Allen, and——

Mr. German, this gentleman here? A. Yes, sir.

Q. This one? A. Yes, sir, it was a subpoena.

Q. It don't make any difference whether it was a subpoena or not. Did you go there at their instance? A. Yes, sir.

Q. Did they take you in a room and talk with you about this case? A. Yes, sir.

Q. When they got through with you did they tell you they didn't want you? A. Yes, sir.

Q. And you started away? A. Yes, sir.

Q. I will ask you whether or not Mr. Hanford ran after you and called you back? A. Yes, sir.

Q. And put you on the stand? A. Yes, sir.

Q. Now, Doctor, at the time you took the stand at San Diego in this case, had you ever heard of Frank Long?

A. Never.

Q. Had you ever heard of Page? A. No, sir.

Q. Had any living man, including Mr. Hanford, ever talked to you about what you knew about this case? I mean outside of these men? A. No, no, sir.

Q. Had they? A. No.

Q. And when they put you on the stand, did they put you on the stand without talking with you? You didn't tell Mr. Hanford what you knoew before you got on the stand?

A. No. Mr. Hanford, he didn't talk to me.

Q. Not at all? A. No.

Q. And he called you back and put you on the stand?

A. Yes, sir.

Q. And for the first time you told that story to Mr. Hanford on the stand, didn't you? A. Yes, sir.

Recross Examination by Mr. German.

Q. Doctor, isn't it a fact that you were in that room where Judge Allen and I talked to you up to the time that Mr. Hanford or Mr. Blakeney went and asked you to come in and take the witness stand?

A. No, I think I had started out of the building.

Q. Out of the building? A. Yes, sir.

Q. Where had you gotten to, sir?

A. I had gotten to the stairs, I think.

Q. Don't you know, Doctor, at the time you stepped out of that room, Mr. Hanford and I was out there and I said to Mr. Hanford, here he is? A. No, I don't.

Q. We can't use him, here he is?

A. I don't remember that occurring.

Q. You say that didn't occur?

A. I know that Mr. Hanford got me to come back, that is all I can tell you.

Witness dismissed.

And thereupon, E. C. HANFORD, a witness produced on behalf of the defendants Minnie Atkins, *et al.*, sworn and under oath, testified as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Hanford, do you remember at the time that Doctor—what's his name? A. Carpenter.

Q. Carpenter, testified at San Diego in this case?

A. I do.

Q. Were you there? A. I was.

Q. Representing Page and Minnie Folk?

A. No, representing the defendants Folk and Hanford.

Q. Who was representing Page? A. Nobody.

Q. Nobody. Had you at that time ever seen Doctor Carpenter? A. I had not.

Q. Did you know where he lived?

A. I did not. I knew he was in California some place but I had no idea the location.

Q. Had you ever heard what he would swear to in this case?

A. I had not but I had heard this. I had heard that he was a very old man and decrepit, and that his testimony would not be valuable, because he was in a stage of senility that precluded him being a witness.

Q. Well, who did you hear that from?

A. I don't know; that was the information that came in Leavenworth from somebody when we were looking up the case there.

Q. Well, that is utterly immaterial; had you ever heard of this man and what he would swear to with reference to this case? A. I did not.

Q. At the time he was placed on the stand in San Diego had you ever talked with him about this case? A. I had not.

Q. Did you learn whether Mr. Long had ever talked with him about it, of your own knowledge now?

A. I know that Mr. Long had not.

Q. Had not talked to him about it? A. Had not.

Q. Did you have any information as to what he would swear? A. I did not?

Q. Now, tell how come you to call him in that room.

A. We met pursuant to notice at the Federal Building and when we met there, Mr. Allen and Mr. German asked for time before taking—commencing taking depositions, because there was a witness that they had to talk to, and they stated that it was very important, and Mr. Penick told them to go ahead but to hurry up. They went out in the room adjoining the room where the depositions were taken and we had Mrs. Stafford and Major Stafford waiting in this room, waiting to have their depositions taken, and they were out there for a very long time and Mr. Penick went out two or three times and told them that they had to commence taking depositions; I believe that he told them finally that if they did not commence that he was going to adjourn—that we were there pursuant to notice and that he was going to hold them to it; and while they were out there Mr. Blakeney and I began to wonder why they were going to take so long and I don't know which one suggested it, maybe Mr. Blakeney or myself, that maybe the Doctor's testimony was against them, and so we determined to find out, in case they let Doctor Carpenter go; so Mr. Blakeney and I stood at the doorway of the room we were in and pretty soon the doorway to this little room opened and Doctor Carpenter and Mr. German—I don't know whether Mr. Allen, came out that door or not, but Mr. German and Doctor Carpenter did, and Mr. Blakeney and I went down the hall after him and I spoke to Mr. German and asked him if that was Doctor Carpenter and he said yes; and I called to Doctor Carpenter and I told him to wait a minute—he was part of the way down the hall, and I asked Mr. German if they were going to use him, and he said no, they couldn't use him; and so I went on down the hall, Mr. Blakeney went with me, and I said, Doctor, did they dismiss you; and he said, yes they told me I could go; they couldn't use me; and I said you come back here and I am going to put you on the stand, I am going to find out why. Mr. Blakeney told me that I ought to talk to him first because I—that I shouldn't put him on the stand without talking to him, and I told him no, I would take my chance. I put him on the stand and I led up to——

Mr. German: That is immaterial; we object.

The Court: The rest that occurred is in the record?

Mr. Hanford: Yes, Your Honor.

Cross Examination by Mr. German.

Q. You say that you had learned about Doctor and his mental condition, and had learned something about it before we got to San Diego?

A. Why, that was when the case first came up.

Q. I see.

A. And I went to Leavenworth one time and I might find the——

Q. Well, I don't care anything about the details; you say it is a fact that you had.

A. I had learned of his—Peterkin, I believe told me that Doctor Carpenter——

Q. Was the Doctor?

A. Was the one and when I got back to Leavenworth from that trip to Massachusetts——

Q. I am getting at the facts of your finding out that the Doctor was probably mentally—you had learned there was something the matter with him, hadn't you?

A. Yes, that he was not available as a witness.

Q. Yes? Yes, on account of his probable mental condition. Now, Mr. Hanford, you knew that Doctor Carpenter was going to testify for us that this was Minnie's first child and you learned that before we reached Fort Logan on our road? A. I did not.

Q. Don't you remember about us—let me ask you this; as we took that deposition taking trip, that first one, through Denver up to Seattle and down the western coast to San Diego where Doctor Carpenter lived, don't there you remember there at Fort Logan we took the depositions of the men who kept the records or who was the custodian of the records about births, showing births at Fort Logan, and among the records we introduced was the birth of Nancy Peterkin, and that that record showed a certificate of a Doctor there which showed that Nancy was Minnie's first child and that we commented on that as being rather peculiar that we knew that Minnie had had another child named Robert Lee?

A. I don't remember any comment upon it.

Q. And we commented about Doctor Carpenter at the time?

A. Well, if you want me to answer the question, Mr. German, I will give them to you. I don't remember any comments on them. I remember the testimony and incidents of taking the testimony but I have no recollection of commenting upon it. In fact, I don't believe I ever discussed the evidence with you in one particular on that trip.

Q. Didn't we mention Doctor Carpenter and laugh a little about it there? A. Not with me.

Q. Let me ask you this; as we were approaching San Diego on the train, didn't you tell Judge Allen and myself or Mr. Blakeney, or some of us, that Doctor Carpenter, you probably would be able to prove by several physicians that Doctor Carpenter was not very strong minded and that his testimony therefore would do us no good?

A. I have no recollection of telling you that. I may have because that was my impression at that time.

Q. You had been to see Mrs. Carpenter there in Leavenworth? A. I never had.

Q. Didn't you tell either Judge Allen or myself, or Mr. Blakeney, or when we were together, that when we put Doctor Carpenter on the witness stand that you would prove that he was insane? A. I did not.

Q. You did not? A. I did not.

Q. When we got to San Diego, and had Doctor Carpenter up there as a witness, you asked us the night before if we were going to subpoena him, or if we had subpoenaed him?

A. I think his name was on the list of witnesses, Mr. German.

Q. You had seen it in the list filed in court?

A. And I don't remember asking you about that; I remember asking you if you had found Major Stafford, and I think you told me that you had.

Q. Well, you don't remember about asking whether we had found Doctor Carpenter and subpoenaed him?

A. No, I don't.

Q. Alright. On the next morning when we went to the Federal Building there, isn't it true that I talked with Doctor Carpenter and Judge Allen talked to Doctor Carpenter at least we were all in the room?

A. We were all in there together.

Q. And while Mrs. Stafford, or Mr. Stafford was testifying that I, Judge Allen having examined them, that I came out and that you asked me some questions about Doctor Carpenter? A. No, I don't recall about that.

Q. Weren't you passing around there a little and asking me some questions about that Doctor Carpenter?

A. I don't remember your coming out of the room at all, Mr. German.

Q. Don't you remember you asked me what is the matter, is there something wrong with Doctor Carpenter?

A. No, I don't think anything like that occurred.

Q. You asked me something?

A. I don't remember you coming out of the room at all. I remember Mr. Penick going into the room.

Q. And you do remember you said has Doctor gone—don't let him go away until I can see him—don't you?

A. I may have.

Q. And afterwards, Doctor and I walked out of the little room and you and Mr. Blakeney were in the hall and you took him? A. Yes.

Witness dismissed.

And thereupon, MILTON WEBSTER was produced as a witness for and on behalf of the defendant, Minnie Atkins, et al., and having been first duly sworn, testified as follows:

Direct Examination by Mr. Hanford.

Q. What is your name? A. Milton Webster.
Q. How old are you, Milton? A. Fifty-one.
Q. What is your business? A. Express business.
Q. Do you own your own teams? A. I do.
Q. How many? A. Two.
Q. Where do you operate? A. Ninth and State Line.
Q. Kansas City?
A. Kansas City, Kansas, Kansas City, Mo., right on the line.
Q. Did you ever live in Leavenworth? A. I did yes, sir.
Q. Did you live there in the eighties? A. Sir?
Q. Did you live there in the eighties?
A. In the eighties, yes, sir.
Q. Did you ever know an Indian girl there?
A. I did, yes, sir.
Q. What was her name? A. Called her Indian Minnie.
Q. Where did you know her?
A. At Mrs. Letcher's, at Granny Letcher's.
Q. Where was that?
A. On Seneca between Second and Third.
Q. When was that, what year?
A. Well, that is kind of hard to tell what year, but between '85 and '86; about eighty-five or eighty-six.
Q. Did you ever see her in a condition that was not normal? A. I have, yes, sir.
Q. How did she look?
A. Well, she looked like she was about ready to go to bed when I saw her last.
Q. You mean that she was in a family way? A. Yes, sir.
Q. What time of year was that?
A. I tell you the last time I seen her in that condition was on the 30th day of May, '85.
Q. How did she look, far gone? A. Yes, sir.
Q. Did you ever hear of her having any children?
A. I did, yes, sir.
Q. Did you ever see her with any children?

A. I seen the child after it was born.

Mr. German: Move to strike his answer that he had heard of her having children.

The Court: That will not be considered.

Q. Did you ever see her have any children?

A. Why, she had this baby boy there.

Q. How long after you had seen her in this pregnant condition?

A. Oh, I seen the boy, I guess he was about a year old, eleven or twelve months old the last time I saw the boy.

Q. The first time you saw her with this child how old was he? A. I guess he was about four or five weeks old.

Q. And about how long was that after you had seen her in this pregnant condition? A. It wasn't very long.

Q. Did you ever talk to her about this child?

A. I have, yes, sir.

Q. Did you ever ask her whose child it was?

A. I have, yes, sir.

Q. What did she tell you?

Mr. Linebaugh: That is objected to.

The Court: Overruled. Your exception will be noted.

A. Said it was hers.

Q. What did she tell you? A. Said it was hers.

Q. The last time you saw the child you say it was a year or so old?

A. Yes, eleven or twelve months, crawling around all over the floor.

Q. Did you go away from Leavenworth?

A. I did, yes, sir.

Q. When was that?

A. I went away from Leavenworth in '87.

Q. Did you ever see the child after that? A. No, sir.

Q. Did you ever see Indian Minnie after that?

A. No, sir.

Q. When did you come back?

A. I went away in the fall of '87 and come back in the spring, no it was June I went back to Leavenworth, but I came back to Kansas City in the spring.

Q. And did you go around Granny Letcher's any more after that? A. I don't think I did.

Q. Are you married? A. Yes, sir.

Q. When did you marry with reference to the time you came back to Leavenworth?

A. I married in June, along in June in '88 when I married.

Q. You didn't go around Letcher's any more? A. No.

Q. What kind of a looking child was this?

A. Oh, it was a little red looking child, looked like it was kind of mixed.

Q. What name would you say it belonged to from its looks?

A. Well, it looked like it partly belonged to the Indian race, I don't think it was full blood.

Q. Did you ever hear any name given to the child?

A. I don't remember the name they would call the child now, it has been so long ago.

Mr. Hanford: That is all.

Cross Examination by Mr. Linebaugh.

Q. Your name is Newton, who?

A. My name is Milton Webster.

Q. And you left Leavenworth in 1887?

A. I did, yes, sir.

Q. The fall of the year? A. The fall of the year.

Q. What month, do you remember?

A. I think it was November.

Q. November? A. I think so.

Q. How long before you left Leavenworth had it been since you had seen this child?

A. Well, I don't really know, I don't remember now.

Q. About how long?

A. Oh, it might have been a couple of months, or a month, it has been so long I don't remember.

Q. It was in a month or two? A. Yes, sir, I think so.

Q. And that was the last time you saw the child?

A. The last time I seen it.

Q. And it was at that time eleven or twelve months old?

A. It was crawling.

Q. It was not walking? A. No, sir.

Q. That is your best judgment?

A. That is my best judgment, yes, sir.

Q. And the last time you saw the child was either in September or October, 1887?

A. Oh, it was along in the fall sometime, I don't remember what month, it was probably—— Yes, it was in '87.

Q. And you left in November?

A. I think so, I don't remember.

Q. What did you do when you lived at Leavenworth?

A. Hauled rocks, hauled coal, hauled sand.

Q. For whom did you work?

A. Billy Yoakum, Mike Stanton, Kelley.

Q. Where did you live?

A. I lived out on Franklin Avenue, in my young days with my folks.

Q. When you say you saw this woman with the child first where were you living?

A. I was living on Franklin Avenue.

Q. What place on Franklin Avenue?

A. My father's place. There was no number there, it was away out in the edge of town.

Q. Who were you living with?

A. Living with my father and mother.

Q. How old were you?

A. I was about eighteen I guess, or nineteen.

Q. When were you born? A. 1865.

Q. Where?

A. About four or five miles west of Leavenworth.

Q. Where was it you say you saw this woman with the child? A. On Seneca Street.

Q. What place on Seneca Street? A. Mrs. Letcher's.

Q. Granny Letcher's? A. Yes, sir.

Q. The child was then how old?

A. Oh, I guess it was four or five weeks old when I first seen it.

Q. Was she in the house or out of the house?

A. She was in the house.

Q. Where in the house?

A. I think she was in the kitchen, that is where I went.

Q. Was she in the kitchen? A. I think she was.

Q. What was she doing? A. Sitting down.

Q. Where was the child? A. Mrs. Letcher had it.

Q. Then, the child wasn't with this woman?

A. Mrs. Letcher had the child nursing it from a bottle.

Q. The child nursed a bottle did it? A. Yes, sir.

Q. Where was Granny Letcher with the child?

A. She was in the kitchen.

Q. Who else was in the kitchen?

A. Well, I don't remember now, I think there was a boy or two; I think probably Sammy or Walter, and I think another one.

Q. Sammy and Walter? A. Sammy Nash.

Q. How old was he?

A. I guess he was twelve or thirteen years.

Q. Walter, who do you mean?

A. One of the old lady's grandchildren, he was four or five years old, I guess.

Q. What was his name? A. Walter.

Q. Walter, who?

A. Now, I don't know what other name he went by.
Q. What time of day was it?
A. Well, it was in the afternoon then.
Q. What kind of a day was it, clear day or rainy?
A. Yes, I guess it was clear day.
Q. You remember that? A. I think so.
Q. What kind of a day was the day before?
A. Well, now, I don't remember, it is so far back.
Q. Why do you remember the conditions that day?
A. That was decoration day on that day.
Q. What day was that? A. Thirtieth of May.
Q. The thirtieth of May. What did you do that day?
A. I didn't do anything only walked around.
Q. Was this in the morning or afternoon? A. Afternoon.
Q. What had you been doing? A. That day?
Q. Yes?
A. Oh, I went up to the fort and out to the soldiers' homes.
Q. Who with?
A. Went by myself, I think, I most always went by myself.
Q. Well, did you go by yourself that day? A. Yes, sir.
Q. Ride or walk? A. I rode.
Q. How did you go? A. Horseback.
Q. Do you remember all those details?
A. I remember that part.
Q. What did you do the day after?
A. I hauled rocks, I don't know for sure.
Q. You don't know what you did the day after?
A. No, I don't.
Q. What did you do the day before?
A. I don't remember what I did the day after or the day before.
Q. What did you do on Decoration Day, '84? A. 1884?
Q. Yes? A. I most always went out——
Q. No, what did you do that day? A. I don't remember.
Q. What did you do on Decoration Day, 1886?
A. I don't remember whether I did anything or not.
Q. What kind of a day was it on Decoration Day, 1886?
A. That is too far back.
Q. What did you do on Decoration Day, 1887? A. 1887?
Q. Yes, what did you do the 30th day of May, 1887?
A. I don't remember.
Q. Was that a bright day or rainy day?
A. I don't remember that either.
Q. Now, Milton, did you ever see anybody else with a baby about that time? A. Anybody else?
Q. Yes, any other woman with a little baby?

A. Oh, I have seen other little babies, but not in around there.

Q. Where did you see them?

A. I see them often, see a woman with a little baby.

Q. All right, tell us about one that you saw about that time?

A. Oh, I don't remember any certain woman, but then there was lots of babies around at that time.

Q. A good big town? A. No, small place.

Q. How large was it then?

A. About twenty thousand I guess, twenty-two.

Q. And you have seen lots of women with babies about that time? A. Yes, sir, and before too.

Q. Can you tell us the circumstances under which you saw any one of them? A. Any one of the babies?

Q. Yes?

A. No. I see them carrying them on the street.

Q. Just tell us the particular circumstance of your having seen any one woman with a baby about four or five weeks old?

> The Court: Do you remember any circumstance of a woman with a baby about that time, except the one at Granny Letcher's; do you remember any other?

A. No, not around there.

Q. Why do you remember this was May 30th, 1885?

A. Why, because that was Decoration day and I know it happened that day.

Q. There was a Decoration Day happened in 1884?

A. Yes, sir.

Q. And one in 1886?

A. Yes, but things didn't happen on that day.

Q. Now, what happened on this day to make you remember the year on which it occurred?

A. That was the day Broaddus shot Jobson, and I was just across the street when that was did.

Q. Why does that shooting scrape make you remember the year?

A. Well, because it does. I have heard it argued so much about the time it was did, and I was well acquainted with Broaddus at that time.

Q. Well, was there any shooting scrape happened in 1884?

A. Not as I know of.

Q. 1886? A. Maybe they did, I don't know.

Q. Leavenworth was a pretty lively town at that time?

A. Leavenworth was a good town, a good town at that time.

Q. A good many difficulties occurred?

A. Oh, once in a while.

Q. There were other men shot at other than this Broaddus, wasn't there, more shooting scrapes than one?

A. Yes, but I never knew anyone to get killed around there.

Q. Well, tell us one?

A. I don't remember anybody getting shot there.

Q. Were you a witness in this Broaddus case?

A. No, sir.

Q. Do you know Rube Smith? A. I do.

Q. Know him pretty well? A. Yes, sir, I do.

Q. When did he get shot up there?

A. When he got shot at?

Q. Yes, anybody shot at him? A. I think they did.

Q. When was that? A. I don't remember.

Q. He was a pretty good friend of yours? A. Yes, sir.

Q. But you can't remember the year?

A. I don't remember because it has slipped my mind.

Q. This baby, at that time, was how old in your judgment? A. At what time are you speaking about?

Q. When you first saw it?

A. Must have been four or five weeks old.

Q. When you next saw it it was eleven or twelve months?

A. Must have been, it was a good big baby crawling around the last time I saw it.

Q. How many times had you seen that woman that you saw in the kitchen there?

A. What woman are you speaking about?

Q. Well, what woman are you talking about?

A. I thought you were asking about Minnie, asked me how many times I had seen her.

Q. How many times had you seen that woman that you said gave birth to the baby?

A. Oh, God, I don't know, I have seen her lots of times.

Q. You knew her pretty well?

A. I knew her by sight pretty well.

Q. Well, how long had you been knowing her?

A. Now, I don't really know.

Q. About how long?

A. I knew her I expect a year and a half or two years.

Q. Year and a half or two years? A. Something like that.

Q. Where did you first get acquainted with her?

A. Well, the first time I ever seen her I wasn't acquainted with her.

Q. Well, where was she, where did you first see her?

A. I seen her down on Cherokee Street the first time I ever seen her.

Q. Where? A. Granny Letcher's.

Q. At Granny Letcher's on Cherokee Street? A. I did.

Q. And you would see her there continuously?

A. I seen her there once or twice, I think. I know I did.

Q. That was about a year and a half before you saw her with a baby, or two years? A. No, it wasn't that long.

Q. How long was it about?

A. Oh, it might have been nine or ten months, something like that.

Q. You said a while ago you had known her for a year and a half or two years before that. Is that true, Milton? That is what you said, about a year and a half, something like that?

A. About a year and a half, something like that, it has been so long; that has been over thirty years ago you know.

Q. What I want to get at is where you saw her the first time? A. At Granny Letcher's I told you.

Q. You say that was nine or ten months before you saw her with the child?

A. You see it wasn't long after that before Granny Letcher moved up on Seneca Street.

Q. Well, did you say you had first seen her a year and a half or two years before you saw her with the child?

A. No, sir, you asked a while ago how long I knew her and I said a year and a half or two years.

Q. Then, your acquaintance with her all together was a year and a half or two years? A. About that time, yes, sir.

Q. And how long then before you saw her with the child was it that you first saw her? A. I don't remember.

Q. Could you tell us approximately?

A. No, I could not. I wouldn't say because I don't remember. I don't like to say anything unless I know I am right you know.

Q. Did she live there at Granny's?

A. Now, that is another question I won't answer. *Dest* every time I went there she was there.

Q. How long before you saw her with the child was it that you first noticed her staying around at Granny Letcher's?

A. Why, she had the child I think at Granny Letcher's.

Q. How long before she had the child had you first noticed her staying around there?

A. How long before she had the child?

Q. Yes, was it that you first began to notice her staying around there?

A. Let me see: Well, she was— She was around on Cherokee Street, whether she stayed there or not I don't know.

Q. Well, how long was that before you saw her with the child?

A. I had seen her there in the fall of the year and she never had this child until away along next summer or spring.

Q. You saw her around Granny Letcher's in the fall before that?

A. Yes, that was in the fall and she had this child along about June I think when she had this child.

Q. Would you see her around Granny's in the daytime or at night? A. Daytime and night too.

Q. She stayed there apparently? A. I don't know.

Q. Did you ever go there that you didn't see her?

A. Yes, I have.

Q. How many times? A. I don't know.

Q. You would usually see her, is that right?

A. I would usually see her.

Q. Did that continue from the fall before you saw her with the child up until after you saw her with the child?

A. I wouldn't say whether every time, no I have seen her sometimes, and sometimes I would go there and wouldn't see her.

Q. How do you know she gave birth to this child?

A. Well, I couldn't swear she gave birth to it, nobody else but her.

Q. You know whose child that was, do you, Milton?

A. Well, now, I wouldn't swear.

Q. You didn't see the childbirth? A. No, sir.

Q. You never saw her nursing the child?

A. No, I didn't see that.

Q. You never saw her nursing any other child, did you?

A. No, sir.

Q. Now, you told Mr. Hanford, I believe, that you saw her in a pregnant condition once? A. I did, yes.

Q. When was that?

A. Why, she was in a pregnant condition on the 30th of May when I seen her.

Q. I thought you said that day the baby was four or five weeks old? A. No, I did not.

Q. Was it on that day she was in a pregnant condition?

A. Yes, sir.

Q. Then, Granny Letcher didn't have the baby in her arms nursing it out of a bottle? A. No, sir.

Q. What day was that?

A. That was four or five weeks after that I went by the house.

Q. Who else was there?

A. Well, I don't remember who else was there; I know this woman Minnie was there, and I know Jim Mayo.

Q. Where were they?

The Court: He has testified on cross examination that they were in the kitchen.

Mr. Linebaugh: My understanding is he testified that they were in the kitchen on the 30th day of May.

The Court: I understood that the kitchen incident was when he saw this baby?

A. Yes, that is right, too.

Q. Well, what was it you saw on Decoration Day?

A. Why, I seen the woman there and I seen Mrs. Letcher there.

Q. Where was she that day?

A. Minnie, where was she at? She was at Mrs. Letcher's.

Q. Where about? A. In the kitchen.

Q. On Decoration Day?

A. On Decoration Day, Granny was in there, too.

Q. Granny was in there, too? A. Yes.

Q. Who else?

A. No, I don't remember who else was in there; me and her son Jim went there together and I think one or two of the boys were there, maybe one or two of them.

Q. What was Minnie doing that day?

A. Sitting down; wasn't able to do anything else.

Q. What was Granny doing? A. Who?

Q. Granny Letcher?

A. I don't really know *wher* she was doing; working around the kitchen doing something. I never paid much attention to what she was doing that day.

Q. What time of day was it that you saw her in a pregnant condition?

A. In the afternoon, I told you.

Q. What time of day was it you went there and saw her with the child?

A. I am most sure that it was in the evening; I hardly ever worked——

Q. What kind of day was it, a bright day or a rainy day when you saw her with the child?

A. I don't remember.

Q. You don't remember that? A. No.

Q. Milton, how long have you been living over at Kansas City? A. A little over ten years.

Q. Where did you live after you left Leavenworth?

A. After I left Leavenworth?

Q. Yes?

A. When I moved away from Leavenworth, I moved to Kansas City, Kansas.

Q. Well, how long did you live there?

A. Kansas City, Kansas?

Q. Yes? A. I am living there now.

Q. That is over ten years ago, isn't it?

A. Eleven years this fall.

Q. Eleven years this fall since '87 to 1917? You think it is eleven years?

A. Oh, 1887, I went to Tennessee and stayed four or five months after that, and then I came back to Kansas City, Kansas, and then back to Leavenworth and stayed—bought a place in Leavenworth since that.

Q. Well, where did you go when you left Leavenworth in November, 1887? A. Tennessee, Memphis.

Q. How long did you stay there? A. About 4 months.

Q. Then where did you go?

A. Back to Kansas City, Kansas.

Q. How long did you stay there? A. Three.

Q. Then where did you go? A. Leavenworth.

Q. How long did you stay? A. At Leavenworth?

Q. Yes? A. Oh, I stayed after that, I guess I stayed there ten years or something.

Q. Did you see Minnie when you went back? A. No, sir.

Q. Never saw her afterwards? Who did you first talk to about this, Milton? A. Who did I first tell?

Q. Yes? A. I don't know that I told anybody.

Q. Well, have you? A. What?

Q. Well, have you told anybody?

A. Not outside, I haven't, no.

Q. What? A. Not outside I haven't, no.

Q. What do you mean by outside?

A. Outside of the court.

Q. You never told anybody about what you know about this outside of the courtroom? A. Not all of it.

Q. This courtroom? A. Not all of it, no, sir.

Q. When you say outside of the courtroom, do you mean this courtroom? A. Yes, sir, I mean this courtroom.

Q. You never told anybody about what you knew about this case before you came in this courtroom?

A. Oh, I was asked several things; people knew I knew something about it.

Q. Alright, what were you asked first?

A. I didn't tell it all, no; I didn't tell all I knew about it. All I could think about it; I didn't want to have anything to do with it.

Q. Why?

A. Hardly best, running around such things as this.

Q. Why? A. My time is worth more at home.

Q. How much are you getting here? A. I don't know.

Q. Why then, do you say your time is worth more at home?

A. I know at home it is worth four and a half and five dollars a day and I don't know what I am getting here.

Q. How did you happen to come here?

A. They told me to come here, sent me here.

Q. Who sent you here?

A. Mr. Graham and Mr. Long sent me here.

Q. What Mr. Long?

A. Lawyer, I guess, Leavenworth; I don't know his name at all.

Q. A lawyer in Leavenworth, Mr. Frank Long?

A. Maybe that is his name. I don't know.

Q. What Mr. Graham? A. Who?

Q. What Mr. Graham? A. Pomp.

Q. Up there at Leavenworth? A. Yes.

Q. Well, when did they send you here?

A. I got here Tuesday morning; left Kansas City at 9:35 Monday night.

Q. Well, did you tell them what you knew?

A. Well, I didn't tell them all I knew, no.

Q. What did you tell them?

A. Several things they asked me if I knew, that really Pomp knew that I knew, and I told him yes I did know.

Q. Where was you when you were telling him that?

A. I was at my house 41 North First Street, Kansas City, Kansas.

A. When? A. Last fall.

Q. What time last fall?

A. I don't remember what time it was, it was on a Sunday but I don't remember what month or the day of the month. All I know, last fall; I never put it down or thought any more about it. I thought it was all over with and never thought any more about it.

Q. Can you tell us the months anything happened in a year ago?

A. I could if I paid any attention to it. I didn't pay any attention to it, I didn't think there was a thing to it—I think it was in October.

Q. What time of the month?

A. It was on a Sunday; I don't know what day of the month it was.

Q. Milton, what did you do last Decoration Day?

A. Last Decoration Day? Run my wagon, both of them.

Q. Do you remember it pretty well? A. I remember it.

Q. What kind of day was it, Milton, Decoration Day last year? A. Well, part of it I think was cloudy.

Q. What part of it?

A. I think the forenoon if I remember it right.

Q. Did Mr. Long and this man Graham come to your house? A. Yes, sir.

Q. What did they say to you first thing when they came in?

A. Asked if this is where I lived and I said this is where I live, and they said were looking for me all day at the stand where you stand at and I said at Ninth and State line, and they said they wanted to see me bad, and I went outside and talked to them.

Q. Go ahead. A. That is far enough, isn't it?

Q. No, I want you to tell all that was said.

A. Well, he asked me did I remember anything about Indian Minnie and I said yes I remember her alright, and he said do you remember her having a child and I said yes, I remember that; and they said you don't remember just what time and I said no, and I don't just remember what time but I knew her before she had the child and seen her afterwards.

Q. What else? A. That is about all I told them.

Q. That is all you told? A. I think so.

Q. What did they say to you?

A. Well, they said we may need you, we will let you know when we need you, and they waited so long I didn't think there was anything to it. I paid it no kind of mind at all.

Q. When did you next hear from anybody about this case? A. When did I next hear from them?

Q. Well. Q. Well, it was Monday evening about 6:30.

Q. This last Monday? A. Yes.

Q. What happened then?

A. Well, they were on my stand waiting for me when I drove in.

Q. Who was? A. Mr. Graham.

Q. Anybody else? A. I never seen nobody else.

Q. What did Mr. Graham say?

A. Said I want you to go to Oklahoma tonight.

Q. Is that all he said?

A. That is all he said to me. You meet me at the depot at 9 o'clock tonight, be sure and be there, he said, I have got to look after some more men; be sure to meet me there and I will send you down tonight.

Q. Down where?

A. Oklahoma. He hadn't told me what part of Oklahoma; he said Oklahoma, then.

Q. Go ahead.

A. He said you be sure [] be there tonight; and I said I can't be gone over a day or two and he said well, you won't be gone over three days at the longest.

Q. What else happened?

A. That is all I know happened. He went away and got tickets and give me and two other fellows.

Q. What other two fellows?

A. One fellow named Bell, Louis Bell, I believe, and other fellow named Phil something; I know both fellows.

Q. You all came down together?

A. All came down together.

Q. You all talk on the train? A. No, we didn't.

Q. Why didn't you?

A. Well, when I first got on the train, I didn't really know these fellows, I thought I knew them but I wasn't sure.

Q. They negroes also, were they? A. No, sir.

Q. They white men? A. Yes, sir.

Q. Alright, go ahead. Did you get acquainted with them on the train?

A. Come to find out I was acquainted with them before I got on the train, I knew them at Leavenworth.

Q. You all talk?

A. Well, we didn't talk so much; didn't have a chance to talk much.

Q. Why did you talk?

A. Time we got to talking, I had to change cars.

Q. Got down towards Oklahoma? A. Yes, sir.

Q. You got here Tuesday morning, did you?

A. Tuesday morning, yes, sir.

Q. Where did you go to?

A. Well; the first place I went to was down in front of this courthouse here.

Q. Who did you talk to?

A. I hadn't talked to anyone and didn't see anyone I knew and I went down on south Second street and went to a restaurant and got my breakfast and stayed down around there until about half past eleven o'clock that day.

Q. Who have you talked to since you have been here, Milton? A. Where? Here?

Q. Yes.

A. I don't know the people, I am not acquainted here; I am a stranger talking to a lot of people here.

Q. About this case, your testimony.

The Court: Go on Webster, and state who you have talked to about this case, as quick as you can.

A. Well, I talked to a lawyer about it; his name, I don't know.

The Court: Is he in the courtroom?

A. I think he is.

Q. Point him out. A. There he sets right over there.

A. Mr. Hanford. Anybody else? A. No, I haven't.

Q. Were you ever arrested? A. I was arrested, yes, sir.

Q. What for?

A. Oh, I have been arrested for family troubles.

Q. Did you ever serve a term in prison?

A. Never served no term, never served one day, never paid no fine, either.

Q. Never had a trial?

A. I have had trial but I never paid no fines, never had none to pay.

Q. Milton, on Decoration Day 1885, where was Granny Letcher living? A. 1885?

Q. Yes. A. Living on Seneca between Second and Third.

Q. How long had she been living there?

A. Well, she moved there early in the spring; now, I don't really know what month she moved there but I know she moved there early in the spring.

Q. Moved there to that place from Cherokee early in the spring of 1885, is that right? A. I think she did, yes.

Q. Do you know Lillie White? A. Lillie White?

Q. Yes?

A. No, I knew Lillie Evans, maybe that is the one; they called her Lillie White part of the time.

Q. Did you know a woman who ran a sporting house?

A. Yes, down on Choctaw, yes.

Q. Did she ever run a sporting house on Seneca street?

A. Who, Lillie White?

Q. Yes. A. Yes, sir.

Q. Where?

A. On the corner, I think of Third and Seneca; either Third and Seneca or Fourth and Seneca.

Q. That woman's name was Stella Forrest, wasn't it?

A. Stella Forrest?

Q. Stella Forrest that used to run the sporting house on the corner—— A. Stella used to run one there too, yes.

Q. Now, where did Lillie White run her sporting house in the spring of 1885?

A. I really don't know now where she did run it; she had one there alright enough, but I don't remember where she had it now.

Q. She did live in Leavenworth at that time, didn't she?

A. I think she did.

Q. Now, Milton, who else was living in the house there at 217 Seneca street besides Granny Letcher, anybody?

A. Not as I know of, herself.

Q. That is the only person that you saw living there?

A. Her children and this woman she might have lived there as far as I know, but I seen her while she lived there.

Q. You saw her there frequently covering a period of how many months, Milton? Let's condense it, now and see?

The Court: Who was this? Minnie?

Mr. Linebaugh: Minnie, Indian Minnie.

Q. Covering a period of how many months?

The Court: He has stated; made it a year and a half or two years, stated that on cross examination, now, already, the entire period of seeing her there.

Q. Describe that house, Webster.

A. It was an old frame house.

Q. Faced there on Seneca stret?

A. Faced on Seneca street.

Q. Went right off of the side walk, right off of the street right into the house?

A. I don't remember now how it was, I can tell you what house was on the—I think there [] a barn or brick house on the corner and there was an old rock foundation or house right next to the corner. It was the third house from the corner where she lived.

Q. Two-story house? A. Story and a half.

Q. And right on the street line? A. Close to the street.

Q. Faced the street? A. Faced the street.

Cross Examination by Mr. Rosser.

Q. You were married in 1888, you stated? A. Yes, sir.

Q. You are sure about that? It is June '88?

A. I guess it was '88; I think, yes, June '88.

Q. Well, you remember the circumstance of getting married; getting the license and all that don't you?

A. It was in June '88, I know.

Q. You know that? A. Yes.

Q. I believe you stated that you saw this child the previous fall didn't you; you left Leavenworth the fall before you got married, didn't you? A. I left Leavenworth in 1887.

Q. Well, in the fall before you married the next June, wasn't that what you stated? A. Yes, sir.

Q. That is right, isn't it? And you saw the child about the time you left Leavenworth, or shortly before?

A. No, it was quite a while before I left Leavenworth before I seen the child, you know.

Q. *White* a while? A. Yes, probably a month or two.

Q. Month or two, probably a month or two or three months before you left there that you saw the child?

A. Saw the child.

Q. And at that time it was crawling?

A. Yes, it was crawling.

Q. And it was not walking?

A. Yes, they said it was not walking.

Q. You saw it crawling and it appeared to be a child eleven or twelve months at that time, that is right, isn't it?

A. Must be right.

Q. Did you ever see Minnie anywhere except at Granny Letcher's?

A. Saw her on the street several times; seen her in the opera house lots of times.

Q. You saw her at the opera house? A. I did, yes.

Q. Saw her with colored people at the opera house?

A. I did, yes, sir.

Q. You didn't know where she was staying at that time except that you saw her occasionally at Granny Letcher's?

A. No, I didn't.

Q. How many times did you see them feeding this baby?

A. Well, I didn't really live there, Mr. Rosser.

Q. I am asking you how many times you saw them feeding this baby? A. I don't know.

Q. At that time it was four or five weeks old?

A. Yes, sir, nursing the bottle then.

Q. They were feeding it with the bottle? A. Yes, sir.

Q. You never saw Minnie in company of white men on the street, did you?

A. Seen her in the hack with white men.

Q. How often?

A. I don't know; I seen her once, I know; maybe more than once, I don't know.

Q. And you did see her with colored men at the threatre and other places? A. I have, yes, sir.

Q. How often?

A. Oh, I don't know, it has been so long. Seen her more than one time, though, I know that; I can't tell how many times I seen her because I might tell something that isn't so.

Q. Prior to the time and after the birth of this baby?

A. Before and after too.

Q. With colored men? A. Yes.

Q. At the theatre and other places?

A. Seen them on the street with her.

Q. Before and after the birth of this child, but you don't remember seeing her with white men but once or twice and that was in a hack?

A. I remember seeing her going to the Fort with a white man; the hack that went towards the Fort with a white man—I seen that.

Q. Wasn't Granny Letcher the negro house of prostitution and assignation house?

A. I wouldn't say nothing about that; the old lady worked all the time; done washing, you know.

Q. You wouldn't want to injure her character at this late day by testifying to that? A. No.

Witness dismissed.

And thereupon, court takes an adjournment until 10 o'clock A. M., Monday, May 21, 1917.

And thereafter, and on May 21, 1917, at 10 o'clock A. M., court convened pursuant to adjournment and further proceedings herein were had as follows:

ADOLF LANGE, a witness produced on behalf of the defendants Minnie Atkins, et al., sworn and under oath, testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Adolf Lange.
Q. Where do you live, Mr. Lange? A. Leavenworth.
Q. How long have you lived in Leavenworth, Kansas?
A. I came to Leavenworth in '66.
Q. '66? A. April.
Q. Where were you before you came to Leavenworth?
A. Army—United States Army.
Q. Where did you serve? Under whom?
A. I served in the 4th New York Cavalry.
Q. Under whom?
A. Under various commanders; Sherman, Smith and Custer.
Q. Sherman, Smith and Custer? A. Yes, sir.
Q. You served in the Shenandoah Valley command?
A. Yes, sir.
Q. When were you mustered out? A. May 26, '65.
Q. Did you go to Leavenworth then?
A. No, I found employment in the City of New York, traveled for a wholesale drug house.
Q. What has been your business since you came to Leavenworth?

A. When I came to Leavenworth, I found employment in the drug store there, which I own now.

Q. How long have you owned the drug business there?

A. I bought the store in 1880 but before that I was employed in the Commissary department at Fort Leavenworth as clerk and examining chemist.

Q. In the United States Office there?

A. Yes, in the chief commissary.

Q. Where did you live about 1884 and '85 in Leavenworth?

A. Over my store on the corner of Fourth and Shawnee.

Q. Where was your store located?

A. On the corner of Fourth and Shawnee.

Q. Fourth and Shawnee? A. Yes.

Q. Did you live there after you were married?

A. Yes, sir.

Q. Lived there with you wife?

A. Yes; lived there with my wife and children.

Q. Do you remember when you moved in there with your wife over your store? A. Yes, sir.

Q. About when? A. In '81.

Q. '81. Mr. Lange, did you know an Indian woman in Leavenworth by the name of Indian Minnie? A. Yes, sir.

Q. Had you seen her a good many times, or very seldom?

A. Oh, I saw her quite often.

Q. Did you know a woman there by the name of Mollie Peters? A. Yes, sir.

Q. Who was Mollie Peters, Mr. Lange?

A. She was an old woman who made an existence by telling fortunes and making charms.

Q. What kind of looking woman was she?

A. She was a fair woman, with narrow features, and dark eyes; in her younger days she must have been a very good looking woman. She was illiterate.

Q. Illiterate? A. Yes, sir.

Q. Did you ever see a woman known as Indian Minnie with her? A. Yes, sir.

Q. Did they ever come into your store? A. Yes, sir.

Q. What kind of purchases would this fortune teller made in your store?

A. Well, a decoction I prepared for her, a blackberry, blackberry root and blackberries and alcohol.

Q. What for? A. Oh, a small amount of alcohol.

Q. What did you give it to her for?

A. It was for bowel trouble; she was suffering from chronic diarrhoea and dysentery.

Q. Mr. Lange, did you have occasion to make a trip abroad at any time in '84, or '85?

A. I left Leavenworth for a trip to my old home in Saxony, in June '84.

Q. In June '84?

A. Yes. I can tell the date when we left. Here is all I could find of that—Mrs. Lange's little note book.

The Court: What is this man's age?

Q. What is your age, Mr. Lange? A. 73, going on 74.

Q. You think the date was in June, do you?

A. The date is in here (referring to memorandum book).

Q. What steamship did you go on? A. The Servia.

Q. And did you visit various places in Europe at the time? A. Yes, sir.

Q. Name some of them?

A. London, Liverpool; stayed a couple of weeks in London; from there to Dover Town, and we crossed the channel over to Calias; from Calias to Cologne; from Cologne to Leipsic; from Leipsic to Dresden; then we took a trip up the Rhine to Switzerland.

Mr. Stuart: Now, Your Honor, I want the privilege, if I can find those exhibits, of introducing them. We had the receipted hotel bills from London, Dresden, and these places.

The Court: Well, if you find them, the matter can be disposed of.

Mr. Allen: The examiner was supposed to have them.

Mr. Stuart: Did you see them?

Mr. Allen: I saw them at the trial.

Mr. German: I don't think you offered them in evidence, did you, Judge.

Mr. Stuart: I don't know.

Mr. German: You didn't introduce them is my recollection, I don't know what became of them.

Q. Now, what time did you return from Europe, in 1884?

A. In September same year, latter part of September.

Q. Of the same year. Mr. Lange, I will ask you if any time after that you saw Indian Minnie? A. Yes, sir.

Q. I will ask you if after that you saw her in a pregnant condition? A. Yes, sir.

Q. Now, state to the court when it was?

A. That was in the year following, in '85.

Q. What time in '85? A. Well, it was warm weather.

Q. How do you know it was warm weather?

A. Because I waited on the woman myself. She was there with Aunt Mollie, and she was scantily dressed, thinly dressed and I could see that she was highly pregnant. The front doors were open, so it was warm weather.

Q. Is there anything that calls your attention particularly to that— I asked if you made any peculiar purchases when you were in New York?

A. I bought little samples for my store, among them was pocketbooks.

Q. Was there anything peculiar among the pocketbooks?

A. There was two or three peculiar shaped, to open them you pressed at both opposite ends and it would fly open leaving a square opening.

Q. Do you remember whether one of these pocketbooks was purchased by Minnie?

A. Minnie bought one of those pocketbooks.

Q. Did you have that pocketbook when we were at the trial up yonder? A. I had a duplicate.

Q. Where did the duplicate come from?

A. I had that duplicate in my store for sometime, and thinking it was a slow seller I took it out and used it to carry sinkers on my fishing trips.

Q. You used this book to carry your leads in?

A. Yes, cut shot.

Q. Did that pocketbook you say open on the side?

A. From both ends you pressed it from both ends and it would fly open.

Q. State to the court whether you remember selling that to Indian Minnie?

A. Yes, sir. Aunt Mollie was present and she saw it.

Q. Do you recall, Mr. Lange, anything about some change with reference to that pocketbook?

A. Yes, I remember she gave me a half dollar. The price of the pocketbook was thirty-five cents; I went to my cash drawer and got fifteen cents in change and Minnie opened the pocket book and I had the change in my hand and put it in there.

Mr. Stuart: That is all.

Cross Examination by Mr. German.

Q. Mr. Lange, you testified in Leavenworth?

A. Beg your pardon?

Q. You testified in this case at Leavenworth, didn't you?

A. Yes, sir.

Q. What was it you sold to Aunt Mollie Peters, the fortune teller? A. Blackberry juice, we called it.

Q. How long had you known her?

A. Oh, I couldn't say exactly, but been a customer to my store about two years until she died. I know she died there but I don't remember. I don't know whether she died from the effect of blackberry or not.

Q. Where did she live?

A. She then lived, I knew of her on Second Street near Delaware.

Q. In what house?

A. About the second house from the corner of Delaware south on the east side.

Q. How far south of Seneca is Delaware?

A. Two blocks. Before that I think she lived on Seneca Street.

Q. Yes, on Seneca, where?

A. That I don't know exactly, between Second and Third I suppose, in that neighborhood. I lived over my store and didn't get out much.

Q. Well, you know she lived between Second and Third on Seneca?

A. No, I couldn't describe the house, opposite Crilly's livery stable, in that neighborhood.

Q. Didn't you testify at Leavenworth she lived on Seneca with Mollie Peters? A. She may have, yes.

Q. Didn't you say she lived in that old Seneca house, the Seneca Hotel? A. I don't remember.

Q. Right east of Crilly's or in the same house?

A. Did I? I don't think I did. Don't know exactly where she did live at that time; she lived in that neighborhood.

Q. Across the street from Crilly's? A. I suppose so.

Q. You suppose so? A. Yes, sir.

Q. It was across the street from Crilly's that Mollie Letcher lived, a different woman?

A. Well, I know of Mollie Letcher by name.

Q. Oh, you didn't know Mollie Letcher by sight? A. No.

Q. But you knew Mollie Peters very well?

A. Yes, because she came to the store.

Q. What was her nationality?

A. Mollie Peters claimed to be part Mexican, part Indian, part most anything.

Q. Did she dress peculiarly or not?

A. No, she dressed poorly.

Q. She was about what aged woman?

A. Well, I imagine about sixty or seventy.

Q. Rather old woman?

A. She was a rather old woman, yes. Her features were rather furrowed.

Q. She was a fortune teller? A. Yes.

A. And she dressed rather loudly, didn't she? A. No.

Q. She didn't? A. Not when she came to the store.

A. She took dope, didn't she?

A. No, you can't call that dope.

Q. Wasn't exactly dope? A. No, it wasn't intoxicating.

Q. Well, you have seen her intoxicated, haven't you?

A. No, never seen her intoxicated.

Q. She lived on Seneca between——

A. Between Delaware and Cherokee.

Q. On Second Street between Delaware and Cherokee?

A. Yes. I knew she lived there; I have seen her sitting there when I went on hunting trips and passed by there on the way to the depot.

Q. Did you see Minnie there also?

A. No, I didn't see Minnie there.

Q. Well, Minnie was there with her, wherever she lived in the town?

A. Yes, that was the reputation; I don't know of my own knowledge.

Q. Your understanding as to Minnie was that she stayed with this Molly Peters, the fortune teller? A. Yes.

Q. Now, let's see, you say this Indian Minnie—You say you went to Europe—sailed for Europe in June?

A. June, '84.

Q. June, '84, June 12th was when you sailed out of New York wasn't it? A. I don't know exactly.

Q. See if you haven't something there——

A. Well, I have the passenger list; the Servia, but that got away from me. I left it there in Leavenworth in the courtroom. Let me see what my wife says. I looked for that passenger list, I couldn't find it and my wife says, June 18th, '84, on ship Servia.

Q. You were on the passenger ship June 18th?

A. Yes, sir.

Q. That is all I want; that is sufficient for my questions, Mr. Lange. You knew this Indian before you went to Europe, didn't you? A. Yes, I had seen her there.

Q. You saw her around Leavenworth? A. Yes, sir.

Q. You saw her before July 11th, 1884, because you sailed for Europe in June? A. In June, yes.

Q. She would come around your store with Molly Peters, before you went to Europe?

A. She came there before I think so, that is my best recollection. She wouldn't come with Molly Peters all the time, she would come with—on errands for Molly Peters.

Q. On errands for Molly Peters? A. Yes.

Q. How long before you left home on your trip to Europe was it that you first saw this Indian woman?

A. Well, I can't recall it exactly; people would pass in and out, you know.

Q. Can't you give some judgment on that? Wasn't five years was it? A. No, no, the same year.

Q. The same year? A. Yes.

Q. The year of '84? A. The year of '84, yes.

Q. That you first saw her? A. Yes.

Q. What is it that impresses it on your mind that you saw her before you went to Europe?

A. Oh, simply because she would come to get that blackberry decoction.

Q. For—— A. For Molly Peters.

Q. Molly had been coming to get blackberry before?

A. Yes, for Molly.

Q. About how frequently before the time you went to Europe was it that she came to get the blackberry for Molly?

A. Oh, once or twice a week.

Q. You knew her very well? A. Yes.

Q. How did you learn her name?

A. Well, I heard people call her that; say that was Indian Minnie. I never addressed her by her name.

Q. Now, what sized woman was that?

A. Oh, she was pretty near my height; appeared to me at that time about twenty years of age—in that neighborhood.

Q. Pretty near your height? A. Yes.

Q. How much did she lack of being your height?

A. Oh, pretty close to it.

Q. She was about five feet, two or three inches tall, wasn't she? A. Yes, something like that.

Q. Something like that? A. Yes.

Q. You are how tall, Mr. Lange?

A. Five foot, six.

Q. Five foot, six. You testified at Leavenworth that she was five foot, two or three inches tall at that time. Do you remember to have done so?

A. Well, she was a little shorter than I am because I stood along beside of her; I have that recollection.

Q. She was about twenty years old, you say?

A. I imagine about that.

Q. Now, after you returned from your trip to Europe, she would still come to your store? A. Yes.

Q. And come with Molly sometimes? And sometimes, come alone? A. Mostly alone.

Q. About what time did you get back from Europe?

A. Came in September, the latter part of September, '84.

Q. About how often did she come to your store after you got back from Europe?

A. Oh, as I said about once or twice a week; I didn't wait on her every time because I couldn't do it.

Q. A clerk would wait on her sometimes?

A. I had clerks wait on her sometimes.

Q. You owned the store at that time? A. Yes.

Q. How long did she keep that up?

A. Well, the last time I saw her was when she bought that pocketbook; after that I didn't get to see her anymore.

Q. When was it she bought that pocketbook? A. In '85.

Q. What time?

A. Well, in the latter part, the spring it must have been because we had the front doors upon.

Q. Prior to the time that she bought the pocketbook, she would come in once or twice a week to get that medicine?

Q. Yes.

Q. Did she buy anything for herself? A. No.

Q. Wasn't she a little strong on perfumery?

A. Well, she may have bought that when the clerk waited on her.

Q. Well, did she come with regularity, once or twice a week up to the time that she bought the pocketbook?

A. Yes, pretty fair.

Q. Pretty fair? A. Yes, sir.

Q. You never noticed this pregnant condition of hers, though, did you until the time she bought the pocketbook?

A. Not until she bought the bocketbook because I was behind the counter and she was in front of it; at the time she bought the pocketbook, I had to come in front of the counter and wait on her; had a show case where I had pocketbooks in and I had to stand by the side of her.

Q. Your habit was to stay behind the counter unless somebody bought a pocketbook?

A. Yes, sir, unless we had to wait on a customer to get something from the showcases on the side or in front of the store. I had to come from behind the counter to wait on her.

Q. So, every time that she was in the store prior to the time that you sold her the pocketbook, you were behind the counter? A. Yes, sir.

Q. You remember that distinctly? A. Yes, sir.

Q. That time you sold her the pocketbook, you noticed her and she was very large with child? A. Yes, sir.

Q. You had not ever seen her—observed that pregnancy prior to that? A. No, sir.

Q. And you never did see her after that? A. No, sir.

Q. In your life?

A. No, except in Leavenworth in the hotel when she was sick in bed, you know. I couldn't get any good look at her. This morning I saw her again.

Q. She has changed some?

A. Yes, sir, she has changed considerably; appears larger to me and she has grown from east to west.

Q. Yes, sir; and north to south? A. Some.

Q. She is about five or six inches taller, isn't she?

A. Oh——

Q. Don't be looking at Judge Stuart:

Mr. Cruce: Judge Stuart isn't in the courtroom.

Mr. German: Well, whoever it is; I have my back to them.

Q. She is five or six inches taller, now, isn't she?

A. I guess she wears high heels.

Q. Probably that accounts for it?

A. That may account for some.

Q. What kind of shoes did she have on the day she bought the pocketbook? A. I don't know.

Q. You don't know? A. No, I didn't look at her shoes.

Q. Well, had a little talk with her at the time she was in the hotel and she was in bed at Leavenworth about two years and a half ago?

A. No, I simply asked her whether she knew me and she shook her head—had no talk.

Q. Well, she shook her head? A. Yes.

Q. Didn't seem to recognize you?

A. No, didn't seem to recognize me then.

Q. Now, let's see Mr. Lange, did any other woman ever come in your store who was in a family way?

A. Oh, among all those customers, I guess some of those I guess have; I never paid any particular attention.

Q. You never noticed them? A. No.

Q. You don't notice people who come in there in a family way? A. No.

Q. Are you able to tell us any other person that ever did?

A. Well, I was about 40 years of age at that time, I ought to be able to.

Q. Yes, I know you are; who else ever came in there at that time in a family way?

A. I can't recall any particular person.

Q. Refresh your memory now; won't you remember some one if you can, who did? A. I can't; not able to——

Q. Name some one who did. A. Can't, can't name any one.

Q. Well, you were selling drugs a long time? A. Yes.

Q. And sold many outfits to families where there were to be births, haven't you? A. Sure.

Q. And you have been interested in births about to take place in the city because it meant business for you, haven't you? A. Yes.

Q. Now, isn't it true, now, since you think about it, that there have been prospective mothers in your store to buy things in anticipation of a birth?

A. Oh, well there have been but I never paid any attention to that. I would look them in the face and ask them what they wanted, you know, and they would answer.

Q. Well, you would realize their condition?

A. Well, I naturally—except as to the name——

Q. Tell us the name of somebody, now, who was in there in a family way and when it was.

Q. I can't recall any dates, you know. You see, I haven't been tending to customers lately for the *part* three or four years.

Q. Do you know how long it was that this Indian that you saw— Well, I will ask you this: Was that pregnancy of hers low down or high up? A. Well, it was the very commonest.

Q. You don't know whether it was low or high? A. No.

Q. You don't recall? A. No.

Q. She had on a loose dress?

A. Yes, kind of a mother-hubbard.

Q. And it stuck out big? A. Yes.

Q. What thought did you have, Mr. Lange, when you saw that she had been in your store the same week and the week before buying these things and you hadn't noticed it?

A. Well, I said to myself——

Q. Thought it happened pretty quick, didn't you?

A. Well, going to have a baby I thought, yes I guess so, and a few weeks after that she gave birth.

Mr. German: I didn't ask you about that. I move to strike that voluntary statement.

The Court: It may be stricken as not responsive.

Q. About this cash register that you got this money out of, what kind of a cash register was that? A. National.

Q. What color was it? A. Walnut.

Q. Walnut? A. I think walnut. I haven't got it any more. I sold it long ago and got a more modern one.

Q. Did they have cash registers in '85, don't you remember the first cash register was in 1890?

A. It was a register I bought from Jake Lau and it had his name on it.

Q. When did you buy that cash register from Jake Lau?

A. When he quit business.

Q. When did he quit business? A. I don't know.

Q. You don't know? A. I don't know.

Q. But you bought him out, bought a good many things?

A. No, he had that cash register for sometime.

Q. Where was his store?

A. Oh, he was in Kansas City then.

Q. Can't you tell us when it was that you bought it?

A. No, sir.

Q. You don't remember the year?

A. I don't remember the year. Before I had the cash register I had a cash drawer. It may have been——

Q. It might have been the cash drawer?

A. We had a cash drawer with bells on it.

Q. Yes, it might have been that?

A. Might have been that, I think it was the cash register.

Q. Tell us how it is that you fix this time that you saw this Indian woman in this pregnant condition as being in the late spring of '85?

A. Well, because the front doors were open?

Q. Oh? A. Yes, we had the doors open, warm weather.

Q. Is that the only thing that fixes it as being in the spring of 1885? A. It was warm weather.

Q. Warm weather and you fix it by the door being open?

A. Yes.

Q. Do you fix it as being in the spring of '85 by anything else? A. Well, it was in '85.

Q. That is what you fix it by? A. Yes.

Q. What is there about 1885 that makes you fix it as being in '85?

A. Because it was the season following my return from Germany.

Q. What relation is there between your trip to Germany and your seeing this woman?

A. Of course, the pocketbooks I bought in New York.

Q. How many, three? A. I had an assortment of them.

Q. But of this particular kind?

A. Of this particular kind a quarter dozen.

Q. Three? A. Yes, sir.

Q. You had three of those pocketbooks and you fix the time you sold the first one as the spring of 1885. Who did you sell the second one to?

A. I don't know, some of the boys may have sold that.

Q. When?

A. At the time when she bought that pocketbook I only had two left. She bought one and I used the other one myself.

Q. What does that pocketbook and your buying it in New York got to do with your selling it in the spring of '85.

A. Well, I bought it there to sell.

Q. Yes?

A. Pocketbooks don't sell every day; one was sold perhaps by myself or one of the clerks.

Q. Tell us when you sold any other pocketbook that you brought from New York? A. Sold a good many of them.

Q. Who did you sell any of them to besides the woman we are talking about? A. Not to anybody that I remember.

Q. When did you sell any one of them?

A. Sold quite a number of pocketbooks, not that kind.

Q. How many pocketbooks did you send from New York?

A. About a gross.

Q. How many dozen would that be?

A. Twelve; but not that kind.

Q. How many of those pocketbooks did you have left in 1890? A. In 1890?

Q. Yes, five years afterwards?

A. Don't know, might not have been any.

Q. Might not have been? A. No, *1819.*

Q. 1890, five years after you got back from New York?

A. Maybe some around there yet for all I know.

Q. Before you went to Europe on that trip, how long before you went to Europe was it that Mollie Peters was in there buying blackberry from you? A. Oh, several months.

Q. How long was it that this Indian woman was in there buying it from you?

A. She appeared all of a sudden and the boys told me that she wanted it for Mollie Peters.

Q. When you were in Europe, did you figure on bringing this Indian woman anything back as a souvenir? A. No.

Q. You thought of her though? A. No.

Q. When you saw some Indians over there? A. No.

Q. You didn't even think of her?

A. No, I didn't think of her.

Q. What was that Indian woman's business?

A. No business that I remember, except she wanted something for Mollie Peters; I thought she was a house servant, something of that kind.

Q. Wasn't she of ill repute?

A. No, Mollie Peters wasn't.

Q. What about that Indian?

A. That I never inquired into.

Q. She wasn't married at the time that you saw her pregnant that you know of?

A. Not that I know of. I was married.

Q. You say you bought that store in 1880? A. Yes, sir.

Q. How long had you lived in Leavenworth then?

A. Since '67.

Q. You had been there how many years when you bought that store? A. Oh, about, well thirteen.

Q. About thirteen years? A. Yes.

Q. What time in 1880 did you buy it? A. In October.

Q. In October? A. Yes.

Q. Do you know this fellow Fritschie? A. Yes.

Q. He worked in your store?

A. Yes, he was an apprentice.

Q. Right from the beginning?

A. No, I took him in stock.

Q. You took him over in stock?

A. He was working in the store for my predecessor and he continued for me, finished his apprenticeship with me until he went to college.

Q. You were not sure of her name until in 1914 when you saw her in that hotel? A. Well, I had been knowing Indian Minnie.

Q. Well, I say you were not sure of her name until then?

A. Indian Minnie, old Mollie Peters girl.

Q. You never heard the name Atkins attached to her?

A. No.

Q. Now, let's see. What was the color of these clothes that Minnie had on when you saw her in that family condition?

A. I think it was reddish.

Q. Reddish? A. I think so, I am not positive.

Q. Was it a loud red? A. No.

Q. Dull red? A. Yes.

Q. What kind of clothes did she ordinarily wear?

A. Poor clothes, cotton I think.

Q. Cotton? A. Print, cotton.

Q. She was not a very neat looking woman? A. No.

Q. How did she wear her hair?

A. Well, I can't tell that exactly.

Q. Don't recall?

A. No, I don't recall that. It wasn't fluffy I know, slick.

Q. It was braided down her back?

A. No, I don't think so.

Q. Was it loose? A. No, sir, it was ordinary way.

Q. What is the ordinary way?

A. Well, it wasn't hanging down.

Q. Wasn't hanging down? A. No.

Q. You don't remember just how it was, do you?

A. Not exactly I paid so little attention to that.

Q. If you had met her on the street in 1914, you wouldn't have recognized her would you? A. No.

Q. Now, didn't you testify this way at Leavenworth: "Q. Well, just to be frank about it, you just merely remember that that was an Indian looking woman who would come there with Mollie, and come there with Aunt Mollie? A. Yes, yes." Didn't you say that?

A. I guess so. It is down in black and white.

Q. Sounds like it? A. Sounds like it.

Q. "That is the truth about it and you don't know what her name was? A. Well, they used to call her Minnie." You testified to that? A. Yes.

Q. "I thought you said you didn't know whether they called her Minnie, Mollie, or Janie, or Mary. Now, just which is correct? A. Well, I had always known her as Indian Minnie; that has come back to my memory now since this case has come up." You said that? A. Yes, sir.

Q. "Who suggested that to you? A. No one. Q. Who suggested to you that that used to be—— A. Well, I saw it in the newspapers here." Didn't you say that?

A. Don't understand that.

Q. "Who suggested to you that that used to be her name? A. Well, I saw it in the newspapers here." Didn't you answer that that way? A. Probably.

Q. "When? A. Well, about—— Q. About a year ago? A. Yes, about like that. Q. And that is when you remembered that that is her name? A. Yes, sir." You remember that?

A. Yes, yes, yes.

Q. And that is when you learned that that was her name?

A. Well, she was known as Minnie.

Q. You learned that that was true because you had read so much in the news papers?

A. Well, so much had come back to me in talking with my clerks and my son.

Q. And Mr. Bond, Frank Long, and Mr. Hanford?

A. My son waited more on her than probably I did.

Q. There was quite a lot in the newspaper in Leavenworth about two years ago?

A. Yes, I haven't paid much attention to that, it didn't interest me much.

Q. But you did read it? A. I read some of it.

Q. You remember how they told about Indian Minnie, how she used to be around there with her son Tommy?

A. Yes.

Q. And that they lived down at Granny Letcher's?

A. I know that name Granny Letcher's, but I don't know she lived there.

Q. Well, these stories told that?

A. Yes, they told that.

Q. About how many different newspaper stories did you read?

A. I can't recall that. I read the Leavenworth papers. But I never followed it up close because it didn't interest me.

Q. You saw those newspaper articles along in the late summer of 1914, didn't you, for the first time?

A. Yes. Local papers told about it, and saw it in the newspaper, but as I say I didn't follow it up, wasn't sufficiently interested.

Q. And then was when you remembered that her name was Minnie? A. Yes, that came back to me.

Q. Yes, came back to you, about her being in a family way in '85? A. Yes.

Q. The papers told about her being there in '85, didn't they, these newspaper stories; they did, didn't they?

A. Well, as I said, I never followed them up close.

Q. Yes, but weren't there some statements in those newspapers about Minnie being there in '85? A. '85?

Q. I don't mean '85 that the articles appeared; those articles appeared there two years ago or three; they mentioned about Minnie being there in '85?

A. I don't recollect it.

Mr. Hanford: That is objected to——

The Court: This witness is being cross-examined about what he saw in the papers. It is proper to examine him as to what he saw in the papers.

Q. Mr. Lange, how many different articles on this subject did you read in the newspapers? A. I can't recall.

Q. How many did you see? A. I can't recollect that.

Q. Were there several of them?

A. Oh, I read snatches in the newspapers, here and there, but how many and by whom, I don't know.

Q. The Leavenworth Times is a daily paper, isn't it?

A. Yes.

Q. And the Leavenworth Post a daily paper? A. Yes.

Q. The Times is a morning paper and the Post an evening paper? A. Yes.

Q. Which one of those papers did you notice most in about this?

A. I can't say which had the most; frequently when I saw anything about it, I would skip it.

Q. You got tired reading it?

A. Well, I didn't take sufficient interest in it.

Q. You did read the first few articles?

A. I read some of it, yes; but that didn't impress it on my memory.

The Court.

Q. I want to ask this question, just while it is in my mind: When those articles came out in the newspapers, prior to that time who, if anyone, had talked to you about what you remembered about it? Had anyone talked to you about it?

A. No.

Q. That was the first time?

A. No, no; the only thing I—the way my attention was called to it was this: One of your witnesses, Mr. Crilly, kept the livery stable——

Mr. German: *Of* of Mr. Page's witnesses.

A. Yes. Opposite Crilly's stable—Mr. Crilly came to my store and asked me if I had read the article about Minnie; I said no, I haven't, and then he related to me that this law suit was up, about his oil land; said she is here, or some lawyers are here, enquiring about it; don't you remember Indian Minnie, and I stated—and I said, yes, I remember that girl; that was all there was said, and that is the way my attention was called to it.

Q. After that you read the newspapers?

A. I read them occasionally, yes; I didn't pay sufficient attention.

Mr. German.

Q. Prior to that, had you read any the articles about that?

A. Not that I remember.

Q. Had you noticed anything in the papers about this Indian Minnie? A. No, not at that time.

Q. Mr. Crilly, what is his given name? A. George.

Q. George Crilly? A. Yes.

Q. When was it with reference to that time that you went up to the hotel to see some woman?

A. Well, that was about, a few days after Mr. Crilly had told me; then an attorney came around, I believe Mr. Long, and asked me what I knew, and asked me if I wouldn't come down to the hotel and see the woman there. I saw her; she was lying in bed, and she didn't talk.

The Court.

Q. How was that? A. She was lying in bed in the room.

Q. Did you go in where she was?

A. Yes, I went to the room where she was. Some attorneys were present; I don't know what was said; I don't remember that. I simply asked her if she remembered me, and she shook her head.

Mr. German.

Q. Now, before you went up to the hotel, you had been told it was the same woman, hadn't you?

A. Wanted to know whether I would recognize her.

Q. Yes, sir; and you were told that she was up in the hotel? A. Yes.

Q. You were told it was Mrs. Folk who was the Indian Minnie in the earlier days? A. Yes.

Q. And then you went up to see if it was? A. Yes.

Q. You didn't get a line on her height, though, that day, did you? A. Oh, no.

Q. Because she was in bed? A. She was in bed.

Q. And you have since seen her and seen how tall she now is? A. Yes.

Q. Who was it asked you to go up there and see her, Mr. Long wasn't it, just to refresh your memory? A. Who, Long?

Q. Mr. Long? A. Mr. Long, yes, I guess.

Q. Mr. Long; you so testified at Leavenworth.

A. Yes, I think it was Mr. Long.

Q. And did you see her at all there in Leavenworth in 1914, except in the bed? A. That is all.

Q. You went to the courthouse there then and testified for Mr. Long and Mr. Page? A. Yes, sir.

Q. In October, 1914? A. Yes.

The Court: What was his testimony then in regard to recognizing her?

Mr. German: He said that he did.

The Court: That is not in the record.

Q. She was about twice as heavy as she was in the 80's?

A. Yes, yes, apparently.

Q. What did she weigh in the 80's?

A. Oh, I judge about 135 or 40, something like that.

Q. About 135 or 40? A. Yes, yes.

Q. Let's see; you are coming up a little on that, aren't you, Mr. Lange, since your testimony at Leavenworth; didn't you say there about 120? Yes, you said about 130 or 35 there.

A. Well, I don't know what I said.

Q. She was a woman with a small frame? A. Yes.

The Court.

Q. Was she a woman then of a thin build, or——

A. Oh, medium build; she wasn't thin.

Mr. German.

Q. What do you mean by medium build? Let's get your idea as to what you conceive to be medium build.

A. Well, I would say——

Q. Five feet two or three inches tall?

A. Well, she was a little taller than that, I guess.

Q. Well, she was a small frame?

A. Well, medium; she wasn't exactly thin, nor was she heavy.

Q. You testified at Leavenworth that she was a woman of small frame, didn't you? A. At that time, possibly.

Q. Yes, sir, at that time. A. Yes, sir.

Q. Weighed 130 or 35 pounds?

A. That is my recollection.

Q. And that is your recollection?

A. Yes, simply guessing.

The Court.

Q. Now, at that time, as you remember her as a young woman, would you say that she, as a young woman, was inclined to be what you would call thin or plump?

A. No, she wasn't thin; rather plump; at the time that I saw her in the family way, she was heavier.

Q. Well, I am referring to the time you saw her in a normal condition.

A. Well, no; she was a comely girl; pleasant features, and nice to talk, in a way, you know.

Mr. German: Your Honor, I would like for Mr. Lange and Minnie to stand side by side.

The Court: That would be a matter of enlightenment to me probably.

Mr. German: Stand side by side; face, me, Mr. Lange.

The Court: That is alright.

Mrs. Folk: I have got on my new shoes.

Mr. Cruce: Like to suggest that Mr. Lange might do his hair up on top of his head, like Minnie's.

The Court: I will make certain mental notes as to her hair.

Mr. German.

Q. Now, Mr. Lange, one other matter: Some question was raised when you were on the stand, on the witness stand in Leavenworth, and we were all up there, Mr. Penick and the lawyers, about whether you left Leavenworth in June, '84, wasn't there? A. Yes, sir.

Q. And at noon hour, you wanted to prove to us that you had and after the noon hour you brought papers back and showed us that you had left in June, '84, sailed at New York June 18th? A. At New York.

Q. And you testified there, as you did here, that Minnie was around your place before you went to New York, isn't that right? A. We sailed on June 18th.

The Court: I understood the witness to say here that Minnie was around his store before he left.

Mr. Cruce. Yes, sir.

A. We sailed on June 18th.

The Court: And his testimony is that Minnie—Indian Minnie, was around the store several times before he left for this European trip in '84, as I remember.

Cross Examination by Mr. Rosser.

Q. You described the way this woman was dressed when you saw her at the time she was pregnant; how was she usually dressed when she came to your store?

A. Oh, she had the same dress on; calico dress, I call it.

Q. Mother hubbard?

A. Yes, I think it was a mother hubbard.

Q. She was usually dressed in a mother hubbard when you saw her at your store? A. Yes, yes.

Q. What time of day did she come there usually?

A. Any old time.

Q. You saw her there at different times of day? A. Yes.

Q. She was at your store frequently the times you knew her, wasn't she? A. Yes, yes.

Q. And she came at different hours? A. Yes.

Q. How long, Mr. Lange, had you been—how do you pronounce your name? A. You pronounce it right.

Q. I thought so. How long have you been wearing your beard as you do now; ever since the war?

A. No, I used to wear simply a goatee, you know; I used to go on hunting trips in the northwest and down in Mexico, and it was inconvenient to shave, and I let it go.

Q. But around your store you have worn your beard always as you do now? A. Yes, pretty near.

Redirect Examination by Mr. Hanford.

Q. Mr. Lange, you testified that it was your recollection that you saw this girl around your store before you sailed for Europe?

A. Yes. Well, that I wouldn't be so positive about, you know.

Q. When did you return from Europe?

A. In September following; the latter part.

Q. That would be about four months later? A. Yes.

Q. Now you do remember that you saw her around your store after you came back from Europe? A. Oh, yes; yes.

Q. Now, have you anything that fixes your recollection as to when you first began seeing her as to whether it was before or after you went to Europe?

A. Well, I am not positive, about that.

Q. That is simply your recollection?

A. Simply recollection, yes.

Q. You recollect that you saw her along about that time?

A. Yes, sir.

Q. And there is nothing that fixes that sure?

A. No, nothing sure.

Mr. German, Recross Examination.

Q. In your testimony in October, 1914, and in your testimony a year ago, both at Leavenworth, you testified that you saw Minnie several times before you sailed for Europe, didn't you? A. Yes, possibly.

Q. Positively?

Mr. Cruce: He said possibly.

Q. You said possibly; I say positively.

A. Yes, people were coming in the store and going out, you know.

The Court: Mr. Lange, what he is trying to get at is whether you testified at the two times when you testified in Leavenworth that you did see her prior to the time you went to Europe; he asks whether that was your testimony at that time.

A. I think it was.

Mr. German: That is all.

The Court: Anything further with this witness?

Mr. German.

Q. Did she wear a corset when she would come around your store? A. I don't know.

Q. Did she have on one when she was in that pregnant condition? A. I don't think she did.

Q. Skimply dressed then? A. Skimply dressed then, yes.

Witness dismissed.

Mr. German: We may desire to ask Mr. Lange another question or so on cross-examination.

The Court: Well, you want him here at 2 o'clock this afternoon.

And thereupon Court recesses until 2 o'clock p. m.

And thereafter, and at 2 o'clock P. M., Court having convened pursuant to adjournment further proceedings herein were had as follows:

Mr. German: As to this last witness, Lange, among counsel on our side, we have a little difference of opinion as to just what the witness testified in one respect and we would like to wait, if it is agreeable to the Court, until morning so we can look over his testimony before we decide whether we want to examine him further.

The Court: Well, the witness will be in attendance; proceed, gentlemen.

And thereupon, A. W. HOPKINS, a witness produced on behalf of the defendants Minnie Atkins, et. al., sworn and under oath testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. A. W. Hopkins.

Q. Where do [] live? A. Leavenworth, Kansas.

Q. How long have you lived in Leavenworth, Kansas?

A. A little over 40 years.

Q. A little over 40 years? A. Yes, sir.

Q. Do you know a secret order called the Knights and Ladies of Tabor; is that the name of it?

A. I know one named the Knights and Daughters of Tabor.

Q. Knights and Daughters of Tabor; what sort of order is that? A. Why, it is a beneficial.

Q. Is it confined to white people, colored people, Indian or what?

A. Well, there is all kinds of mixed breed in it—colored.

Q. It is a secret association, is it? A. Yes, sir.

Q. Did you ever hold any office of trust in that association in Leavenworth, any office of responsibility?

A. Why, I am grand secretary now.

Q. *Where* you connected with it in any way in 1883?

A. Yes, sir, I was presiding of that number for Leavenworth.

Q. For 1883? A. Yes, sir.

Q. Do you know whether that association met in grand lodge meeting in any place in the United States in 1884?

A. Met in Memphis, Tennessee.

Q. Met in Memphis, Tennessee? A. Yes, sir.

Q. What was that called?

A. Grand Temple and Tabernacle.

Q. Is that where it was held? A. Yes, sir.

Q. Did you go there as a delegate? A. Yes, sir.

Q. Did you serve in any capacity while you were there as a delegate?

A. I was the outside sentinel, what we call the chief sentinel.

Q. What were your duties as outside sentinel?

A. Why, to recognize the people as they came in, as being member.

Q. Was there any inside sentinel?

A. Yes, sir.

Q. Was it a man or woman?

A. Woman, we had as inside sentinel.

Q. What kind of a woman was she?

A. Why, she was an Indian kind of a woman, looked kind of like a mixed breed; big, tall, slender woman looked like.

Q. Did she serve there as inside sentinel during the period that you served as outside sentinel during that organization? A. Yes, sir.

Q. Did you get acquainted with her—talk with her?

A. Yes, sir.

Q. Now, you state to the Court whether she asked you about any person living in Leavenworth.

Mr. Linebaugh: Objected to as hearsay.

The Court: Overruled; I will hear it.

Mr. Stuart: I am going to prove that he hunted this person at her suggestion.

Q. Did she speak to you about any person living in Leavenworth; ask you about any person?

A. Why, she asked about a young woman by the name of Minnie Atkins.

Q. What did she ask you?

A. She asked me did I know of any young woman there by the name of Minnie Atkins.

Q. What did you tell her? A. I told her I did not.

Q. What did she say her name was? A. Jane Anderson.

Q. Jane Anderson. Now, when did you return from that grand lodge—about what time in the year?

A. Well, I took the trip——

Q. Never mind about when you took the trip; when did you get back to Leavenworth?

A. The latter part of September or October, I don't know exactly the date; but I was away a right smart little while.

Q. Now, did you make any inquiry when you got back there?

A. I didn't right away but I did in a week or two, or some time after.

Q. Did you find out where Minnie Atkins was at that time?

A. No, sir.

Q. Well, what was your condition after that? Sick a while?

A. Well, I had taken sick, I was sick some while after I had started to work and I wasn't working for quite a while after that.

Q. When did you get around again after you got home? About what time?

A. I was sick over Christmas; I wasn't able to be out even then; I was around but didn't work—hadn't gone to work yet.

Q. When was the next time you made inquiry about this woman and who from?

A. I don't know just how long but it was quite a while; then I asked someone that didn't know nothing about her.

Q. Yes? Well, did you find anybody that did know?

A. Well, not right away; I didn't ask.

Q. Well, when you did inquire, did you find anybody?

A. Yes, sir.

Q. What was his name? The man you asked about her?

A. Frank Minor was the man that told me he knew her.

Q. Did he indicate where she was to you?

Mr. German: We move to strike——

The Court: Anything this man said to him, the Court will not consider as substantive matter of evidence, only considered, if at all, as one circumstance leading up to this witness' discovery if he did discover.

Mr. Stuart: Your Honor, I think the rule is well settled if a person make inquiry about another person——

The Court: Well, I will let it in.

Q. Well, did you talk with him; did he indicate to you where Minnie was?

A. He told me she was at Granny Letcher's.

Q. Well, you may state whether you went down to Granny Letcher's? A. Yes, sir.

Q. What time of the year do you think it was?

A. It was along in the spring before I seen Minnie.

Q. Did you go to Granny Letcher's? A. Yes, sir.

Q. Did you see a woman there? A. Yes, sir.

Q. And did you deliver this message? A. Yes, sir.

Q. Did you see her after that? A. Yes, sir.

Q. Was she sitting up or lying down or standing up or what when you saw her?

A. Both times I seen her in the house she was sitting down.

Q. Sitting down? A. Yes, sir.

Q. Now, did you see her after that with anybody?

A. Well, I never seen her after that until I seen her in the summer time.

Q. Who did you see her with? A. Granny Letcher.

Q. And about what place in town did you see her?

A. Well, it wasn't very far from where Granny Letcher lived, just on the corner from her house probably sixty or seventy feet.

Q. Who was with the girl when you saw her?

A. Granny Letcher.

Q. Now, I will ask you whether there was a baby there?

A. Why, this girl, Minnie, had a baby in her arms at the time I met the two.

Q. Did you have a conversation with her? A. Yes, sir.

Q. What was it?

A. After speaking to them I walked up to them and she had a baby in her arms and I asked whose baby was it and she said mine. She had a veil over its face and I just laid the veil back and looked at the baby and laid the veil back over its face, and I asked had she heard from her friend. And she said no, and I didn't have any more to say.

Q. Never saw her after that? A. Yes, sir.

Q. See her with this baby?

A. The next time I seen her was about Pawnee and Fourth, she had the baby by its hand; I don't know whether it could walk or not, but it was standing on the ground; she was talking to some woman, I never had any more talk with her.

Mr. Stuart: That is all.

Cross Examination by Mr. Linebaugh.

Q. What do you say your name is? A. A. W. Hopkins.

Q. The Knights and Daughters of Tabor——

Mr. Stuart: Mr. Linebaugh, pardon me just a moment. How much membership did you have when you went to Memphis?

A. About a hundred and fifty thousand.

Mr. Stuart: What is the membership of that order now? A. Five hundred.

Mr. Stuart: Five hundred what?

A. Thousand.

Q. You say this order met at Memphis, Tennessee, in 1884? A. Yes, sir.

Q. When did you join the order? A. June 18, 1876.

Q. Was this the first Grand Meeting you had attended?

A. I had attended the one at home in 1883.

Q. Who was Inner Guard in 1883? A. I don't know.

Q. Was it a man or woman?

A. It was a woman of course.

Q. You know it was a woman because that is a place filled by women is it? A. Yes, sir.

Q. Who was the outside guard or sentinel when it met at home in 1883?

A. I don't remember that, I don't know who was.

Q. Were you present at the Grand Temple and Tabernacle in 1883? A. Yes, sir.

Q. Who was Grand Secretary in 1884?

A. A man by the name of Ellis L. F. Payne.

Q. In 1884? A. Yes, sir.

Q. Sure of that? A. I am pretty sure he was then.

Q. What is the title of the Chief officer?

A. Chief Grand Mentor.

Q. Who was Chief Grand Mentor in 1883?

A. Otis Dickson.

Q. Who was in 1893? A. Ninety three?

Q. Yes? A. You mean in 1893?

Q. Yes?

A. Well, since that time our order has went into district, what we call jurisdictions.

Q. Well, who was the chief officer in your district in 1893? A. Frank Wilson.

Q. Where does he live? A. Topeka.

Q. What time of the year did you meet in 1884?

A. Well, it was along the latter part of August.

Q. The last of August 1884?

A. Sometime in the month, I forget just the date, but our meeting was called in August.

Q. Well, now, do you remember it was in August just because that was the time you usually hold your meetings?

A. Yes, we hold them in the months of August, that meeting.

Q. Have you an independent recollection of that meeting having been held in that month? A. Yes, sir.

Q. What place was it held? A. In Memphis.

Q. Where in Memphis? A. Tennessee.

Q. Where in the City?

A. Oh, I don't remember the name of the hall now.

Q. What hotel did you stay?

A. I stayed with a private family by the name of J. A. Phillips.

Q. Where did they live?

A. I couldn't say their number.

Q. How did you get from their place to the place where the meeting was held; just tell the Court if you walked or rode and if you rode how you rode and if you walked how you walked? A. I walked.

Q. All right, how far and which way?

A. Well, right here I couldn't tell. I don't know what direction it is there and I never counted the blocks.

Q. Can't you tell us approximately?

A. I haven't the directions of this city.

Q. I don't want you to have the directions of this city.

A. Well, I mean there.

Q. Well, which way did you go and how many blocks would you go? A. I don't know the directions.

Q. What was this inside sentinel's name?

A. She called herself Jane Anderson, that is what she told Minnie to write to her by.

Q. Where did she live? A. Chattanooga.

Q. Where, what street address?

A. She said just write her Chattanooga.

Q. Chattanooga, Tennessee? A. Tennessee.

Q. Didn't give you any street address? A. No, sir.

Q. You got pretty well acquainted with her?

A. No, sir, she was inside and I was outside.

Q. How long did your meeting continue? A. Ten days.

Q. What sort of a looking woman was she?

A. She was an Indian looking woman.

Q. Part negro and part Indian? A. I suppose so.

Q. Appeared that way? A. Appeared to me that way.

Q. Well, now, what was it she asked you?

A. If I knew a young woman in Leavenworth by the name of Minnie Atkins.

Q. Did she tell you when she knew her?

A. No, sir, she said she was a relative of hers.

Q. She tell you how long it had been since she had seen her? A. No, sir.

Q. Did she tell you where she knew her? A. No, sir.

Q. You didn't know anything about that? A. No, sir.

Q. Now, where did you live in Leavenworth then?

A. 318 is the number I lived, just across the street—320, just across the street where I live now.

Q. 318 what? A. Dakota Street.

Q. You got back what month?

A. Sometime the latter part of September or October.

Q. 1884? A. 1884.

Q. You immediately made inquiry for Minnie Atkins?

A. No, I didn't right away.

Q. How long after?

A. Well, I didn't think about it until after I got up from being sick. I went to work in a week or two after I went to work I taken sick.

Q. What work were you doing? A. Coal mining.

Q. Where? A. Leavenworth.

Q. Coal mine there? A. Yes, sir.

Q. Now, did you meet anybody else over at this Memphis meeting that was acquainted with anybody at Leavenworth?

Q. Why, they never asked; anybody never asked about them as I remember of now.

Q. Have you been attending the grand tabernacle or encampment regularly? A. Then?

Q. Have you then and since then?

A. Since then I have, mostly.

Q. You have met people at the grand encampment who were acquainted with people in Leavenworth, have you?

A. Yes, sir.

Q. That have told you to see about them and give them their regards for them?

A. That was the only time that I went out of my jurisdiction to the grand lodge, outside of St. Louis; I went there once.

Q. Well, at St. Louis; did you meet any folks acquainted with folks down at Leavenworth?

A. Yes, I know lots of people there. [*Q.*] well, tell the Court who it was who told you up at St. Louis that they knew somebody up at Leavenworth and asked you to see them when you got back home.

A. Old J. W. Wheeler for one; he was a prominent member of our organization there; the man that ran the paper of the organization of course.

Q. At St. Louis? A. Of course I knew him.

Q. He told you to see who? A. Oh, different people.

Q. Name one of them.

A. Head Speth; William Coleman, he is dead now.

Q. Told you to see them when you got back home?

A. Yes, sir.

Q. Did you do that? A. Yes, sir.

Q. Tell the circumstances of seeing William Coleman.

Q. Well, we were all in the organization, I would see them at the meeting.

Q. Anybody ever tell you to see anybody who wasn't a member of the organization? A. I don't remember that.

Q. Now, you wanted to increase the membership, did you, of your organization? A. Did I want to?

Q. Yes? A. Yes, sir.

Q. When you got back to Leavenworth, you told Minnie Atkins when you saw her that you met her relative, a grand officer, did you?

A. I don't remember that I mentioned the grand officer; I told her this woman's name.

Q. Did you try to get her to join your order?

A. No, sir, no, sir.

Q. Why didn't you?

A. I didn't know anything about her.

Q. How how long after you got home was it that you saw Minnie Atkins?

A. Well, I didn't see her until after Christmas, in the spring time; kind of warm weather when I seen her; wasn't cold, at any rate.

Q. Well, was it in the spring time or was it about Christmas time?

A. No, I wasn't out hunting nobody Christmas; I was hardly able to make it about home.

Q. Now, from August to Christmas you didn't see her?

A. From when?

Q. From the time you returned in August until Christmas, you didn't see her? A. No, sir, I didn't see her.

Q. When was it you talked to this man Frank Minor?

Q. That was long after I seen her in a few days, after I seen him to ask him.

Q. Now, when was it you talked to him?

A. Along in the spring.

Q. What time in the spring? How long after Christmas?

A. I don't know but winter was getting over; it was getting kind of warm.

Q. Well, would you say it was as long as three months after Christmas?

A. It might have beer, sometime along in there.

Q. Two months?

A. No, more than that because we have cold weather, hard weather, for two months.

Q. Three months? A. Three months, or such a matter.

Q. And Frank Minor told you, then, that Minnie was over at Granny Letcher's? A. Yes, sir.

Q. And you went over at Granny Letcher's and saw her? A. Yes, sir.

Q. Now, where was Granny Letcher living then?

A. She was living on Seneca street.

Q. 217 Seneca street, wasn't it?

A. I don't just know the number; I know the house though.

Q. Right across from Crilley's barn, though?

A. Right across from Crilley's barn.

Q. Kind of a two story house? A. I think it was.

Q. Facing right there on the street? A. Yes, sir.

Q. Granny Letcher, this colored woman was living right there? A. She was there.

Q. And Minnie was living there with her? A. Yes, sir.

Q. About two months after Christmas?

A. Along in the spring time like.

Q. Your best judgment is that it was in the spring of 1885? A. Yes, sir.

Q. Now, how long had Granny Letcher been living there at that time? A. That I can't tell.

Q. Well, you had known of her living there before of that hadn't you?

A. Well, now, I didn't; I didn't know where Granny Letcher lived at the time until—that is I did know before I went down there that day, yes.

Q. Yes, you knew that?

A. Because you could see her from the house.

Q. You didn't ask Frank Minor where she lived?

A. No, sir.

Q. You knew that? A. Yes, sir, I knew.

Q. How long had she lived there before that?

A. Well, I don't know how long, of course.

Q. About how long?

A. A day or two before I seen Frank I seen her there.

Q. Well, about how long before you went down to her house was it, that you knew she lived at this particular place where you did go? A. Oh, probably a few weeks at any rate.

Q. Three weeks?

A. I said a few weeks at any rate; I don't know just how long.

Q. Well, how many weeks would you say—your best judgment?

A. I can't say that because I haven't it in mind as to any thing about it. I don't know nothing about the girl at all; he told me where to go and I knew she lived there then.

Q. And you went down there and saw her? A. Yes, sir.

Q. What kind of a looking woman was she at that time, Hawkins? A. Why, she was a young woman.

Q. What? A. She was a young woman.

Q. Well, describe her to the Court?

A. Well, she looked like an Indian to me.

Q. How old did she appear to be?

A. Oh, I didn't judge anything like that: I just seen she was a young woman.

Q. Your best judgment?

A. I can't tell nothing about her age; I never suspected anything about the age.

Q. How old did she appear to you to be—just your best judgment? A. I didn't pass on that.

Q. Now, how large a woman was she at that time?

A. Well, she was sitting in a chair; she looked to be quite a large woman at that time; she was in a chair. She didn't get up while I saw her.

Q. She looked to be a large woman? A. Yes, sir.

Q. What in your judgment would she *weight* at that time?

A. Well, I didn't judge her weight either.

A. Was there anything about her appearance that was out of the ordinary?

A. Well, I don't know; she was a kind of large looking woman.

Q. Large looking woman? A. Yes, sir.

Q. Large, broad shoulders? Full faced, is that right?

A. She was a large looking woman.

Q. She had her hat on at that time? A. No, sir.

Q. How was she dressed?

A. She was just sitting there; looked like she had a gown on or something. She was in a rocking chair.

Q. Was it in the day time or night time, or evening sometime?

A. It was in the daytime, evening; not night—afternoon.

Q. Was it after supper? A. Yes, sir.

Q. What kind of gown did she have on?

A. Looked like a kind of red, or something.

Q. Dress was it?

A. She wasn't up, I couldn't tell; the neck of her dress looked like a gown.

Q. Who else was in the room?

A. She was alone when I first went in the room.

Q. Who introduced you?

A. Introduced ourselves. At least I introduced myself and told her.

Q. Who did you see when you first went to the house?

A. Minnie.

Q. She was in the front room, was she? A. Yes, sir.

Q. Let you in did she?

A. She was in the room and told me to come in—didn't get up.

Q. And no other person was in the room at all?

A. At that time.

Q. And how long was this after you talked to Frank Minor?

A. Oh, a few days at any rate; I didn't go down there right then; a few days—I can't say just how long it was.

Q. Now, then, just a few days after you talked to Frank Minor, is that right?

A. Yes, sir. I don't know just how long.

Q. How long after that was it that you saw Minnie with the baby?

A. Oh, I was at the home again before I saw her with the baby.

Q. How long afterwards?

A. Oh, probably four or five or six weeks—something like that.

Q. You saw her with the baby in probably four or five or six weeks?

A. Not after that. I say I was at the house again before I seen her with the baby.

Q. Now, how long after you saw it the first time, was it that you saw her with the baby?

A. Oh, well it was something like three or four months then, before I seen her with the baby.

Q. Well, which time was it?

A. I was trying to tell you the second time I seen her.

Q. That wasn't the question I asked you; answer the question I asked you please.

A. Ask you.

Q. Alright; how long was it after you saw her the first time until you saw her with the baby?

A. Well, it must have been along in July or August.

Q. Now, no—don't give me the month; what period of time? Two months, three months, four months, five months?

A. Say four months.

Q. Well, is that right?

A. Something in there; I can't say exactly.

Q. And how little did the baby appear to be?

A. Well, it was a right young baby; looked like not old enough to take out; it was young.

Q. She was up, was she? A. Sir?

Q. She was up, was she? A. Yes, sir.

Q. Not in bed?

A. She was on the street when I seen the baby.

Q. Where on the street? A. Just a piece from the house.

Q. Which way?

A. She had to come west from [] house to get to the street I saw her, and she had just come west when I met her on the corner.

Q. Was it daytime or night time? A. Day time.

Q. What time of day? A. I don't know.

Q. What kind of day?

A. I can't say that; it was not raining.

Q. Wasn't raining? A. No, sir.

Q. You remember that do you? A. No, it wasn't raining.

Q. How was the baby dressed?

A. I never noticed that; only just noticed something over its face.

Q. A veil over its face? A. Yes, sir.

Q. And you pulled the veil off its face? A. I did.

Q. And what did she say?

A. I asked her whose baby was it and she said it was hers.

Q. What did you ask that for, Hawkins? If you saw a woman carrying a right young baby why would you ask her if it was her baby? A. Why would I?

Q. Yes? A. Why, I wanted to know.

Q. Why did you want to know?

A. Why, she had it and I didn't think there was any harm in asking her.

Q. I understand, but why did you want to know whose baby this was?

A. Why I seen her and I just asked her whose baby it was.

Q. I understand; you said a while ago that you wanted to know. I will ask you why you wanted to know.

A. Why, I generally do that when I see a woman with a baby.

Q. Tell us some other woman you asked if that baby was hers that you saw with a young baby about that time—1885.

A. Do what?

Q. Can you tell us any other young woman that had a baby in 1885?

A. Well, I don't know that I could center on any other case; I hadn't just happened to come in contact with them that way as I did her.

Q. Now, did she say anything else to you when you saw her with the baby there?

A. I asked had she heard of her friend and she said no, that was all that was said.

Q. What friend?

A. The woman that told me to ask her about her.

Q. Now, she was known as Minnie Atkins, was she at that time? A. Yes, sir.

Q. That is who you asked for?

A. That is who I asked for.

Q. And she was known about Leavenworth as Minnie Atkins, is that right, at that time?

A. That is the way I found her out.

Q. Hopkins, do you know Sadie James? A. No, sir.

Q. You don't? A. No, sir.

Q. Sadie Harris? A. No, sir.

Q. A colored woman by the name of Sadie Harris?

A. I just know of her but I don't know her.

Q. Or Sadie Hopkins maybe?

A. I don't know her by that.

Q. Nor Sadie Johnson? A. Well——

Q. You know the woman I am talking about?

A. I know the woman you are talking about and I have heard lots about her, but I don't know anything about her personally.

Q. Now, in April, 1914, on Third and Kiowa street, in Leavenworth, did you have a talk with Sadie James or Sadie Harris—this woman that you and I both know about—and did you tell her that you knew Granny Letcher, about her living in Leavenworth but you never knew Minnie or knew an Indian boy? A. Did I tell her what?

Q. During the month of April, 1914, in Leavenworth, Kansas, at about Third and Kiowa streets? A. No, sir.

Q. In that City when she was talking with you about this case? A. No, sir.

Q. Did you tell her in substance that? A. No, sir.

Q. Did you talk with her? A. No, sir.

Q. Have you ever talked with her at any other time?

A. No, sir.

Q. Didn't you ever tell her at any other time what I have just—— The question I have just propounded. Do you know Dennis Jones? A. Yes, sir.

Q. Do you know Rube Smith? A. Yes, sir.

Q. Have you talked with them about this case?

A. Well, not directly.

Q. You haven't talked with them directly?

A. Not until we come over here.

Q. You have talked with them right down here in Muskogee on Second street?

A. We was all coming over on this case.

Q. How long have you been in Muskogee?

A. I got here Tuesday evening I believe.

Q. Where have you been since you have been here?

A. Mostly down where I stay.

Q. Who stays there with you? A. Well, Dennis Jones.

Q. Who else? A. Rube Smith.

Q. Who else? A. Frank Minor.

Q. Who else? A. Lizzie Casey.

Q. Name the others?

A. Nat Barnes, Harvey Taylor, Joe Lacy.

Q. Milton Webster?

A. He stayed across the street from us.

Q. Barney Clever? A. He didn't stay there either.

Q. You have been down there since Tuesday of last week?

A. Yes, sir.

Q. And all of these parties that you have named have been there too? A. Yes, sir.

Q. You have talked about this case have you?

The Court: Answer the question. If you talked about it, say so.

A. Yes, sir.

Q. Who did you talk with, Dennis Jones?

A. Dennis didn't have much to say about it.

Q. Who was it that did have much to say about it?

A. Well, one would express his ideas, wonder how long we would have to stay here.

Q. About your testimony?

A. No one has ever asked me about my testimony.

Q. No one at all? A. No, sir.

Q. The lawyers did?

A. Well, we met one night, but outside that night nobody here.

Q. Who was down there that night you met?

A. Mr. Bond, and the other lawyers were strangers to me.

Q. Hopkins, you were at Leavenworth in 1914, weren't you? A. Yes, sir.

Q. They were taking depositions up there at that time?

A. There was some men had me see them once.

Q. In 1914? A. Yes, sir.

Q. You didn't testify at that time? A. No, sir.

Q. Why didn't you? A. I wasn't in the Court.

Q. You knew they were taking depositions, didn't you?

A. Where?

Q. In Leavenworth, in 1914, in the month of October?

A. Why, nobody come after me.

Q. You knew they were taking depositions there at that time, didn't you? A. Yes, this one——

Q. Rube Smith and Dennis Jones wanted you to agree to testify that you were the father of that child, didn't they at that time?

A. There was some lawyer that asked me if I understood or did Dennis Jones and Rube Smith understand that I was the father of Minnie's child and I told him I didn't know what they understood.

Q. Who was that, Hopkins?

A. I don't know, sir, some man I don't know who he was.

Q. What kind of a looking man was he?

A. Well, he was a low kind of man.

Q. Do you know his name?

A. No, I don't remember his name.

Q. Did he wear glasses? A. I don't know that.

Q. Do you know Frank Long?

A. Never met him personally that I know of.

Q. Can you tell the Court who that was came to you and said they understood Dennis and Rube said that you were the father of that boy? A. He didn't say it that way.

Q. What did he say?

A. He asked me was it true that Dennis Jones and Rube Smith understood that I was the father of Minnie's child; I told him I didn't know what they understood.

Q. That was while they were taking the depositions or just before they were taking the depositions in Leavenworth in October, 1914, wasn't it?

A. I don't know, it has been a year or two ago.

Q. You remember the incident of taking the depositions, don't you? A. Yes, sir.

Q. Was it before that?

A. It was since that that this man asked me that.

Q. Now, who talked to you about that?

A. I don't know their names.

Q. Well, what did they say?

A. Oh, I couldn't tell you.

Q. Tell us the best you remember?

The Court: Who were they, white men or colored men?

A. They were white men.

The Court: How many of them?

A. Well, there was two.

The Court: Have you ever seen them since?

A. Not that I remember.

The Court: What did they say to you, how did they open the conversation?

A. Why, they wanted to know if I had ever known this Minnie Atkins, and I told them how I knew her.

Q. Well, where were you when were talking to those white men? A. Up in the National Hotel, they sent for me.

Q. They didn't say Indian Minnie, did they? A. No.

Q. You didn't know this woman as Indian Minnie, did you? No, sir.

Q. You never knew of an Indian Minnie being in Leavenworth? A. I didn't know her, no, sir.

Q. You never heard of such a woman about Leavenworth in 1884 and 1885, did you? A. No, I didn't then.

Q. You didn't then? A. No, sir.

The Court: How far was the place you were then living from where Granny Letcher lived at that time?

A. It was about five or six blocks, about six blocks I guess it was, maybe seven.

Q. Now, Hopkins, you say you have been here since last Tuesday with all these other witnesses. These other witnesses you have named have been here since last Tuesday?

A. Yes, sir.

Q. During any of that time, have you and any of the other witnesses been up here in the witness room?

A. I was.

Q. When? A. Thursday, Friday and Saturday.

Q. Were these other witnesses here at that time?

A. Miss Casey, the woman that is out there; I don't think any of the rest of them, but her and me.

Q. Rube Smith and Nat?

A. Well, Rube and Nat were there.

Q. Where were you Friday night and Saturday night?

A. Friday night after I left here I went home and went to bed, I was kind of sick.

Q. Did you have a meeting up there in your room on south Second street? A. No, sir.

Q. Friday and Saturday night? A. No, sir.

Q. Did not? A. No, sir.

Q. How long had you known Jane Anderson when you talked with her over there at Memphis?

A. I had never seen her until then.

Q. Have you ever seen her since? A. No, sir.

Q. Ever heard of her since? A. No, sir.

Q. Now, I believe you say you went to Granny's and saw Minnie there on Seneca street? A. Yes, sir.

Q. Living right across the street from Crilley's barn?

A. Yes, sir.

Q. Now, do you know where she lived before she lived at that place?

A. No, sir, I don't know the number, but I——

Q. You never went to her house any other place except on Seneca across from Crilley's barn? A. No, sir.

Q. You haven't been under the rule, that is come into the Court Room and have the Court put you under the rule since you have been here as a witness? A. No, sir.

Q. You haven't been inside this Court Room? A. No, sir.

Q. Who is the present Chief Officer of your Knights and Daughters of Tabor? A. Frank Wilson.

Q. Who is the present Chief Officer of your Knights and *Ladies* of Tabor? A. In Leavenworth, you mean?

Q. No, the chief officer? A. Rev. Frank Wilson.

Q. Where does he live? A. Topeka.

Q. What is his street address?

A. You want the Chief of the Body that we met then?

Q. Yes?

A. Well, he is dead, but the man in his place lives in Little Rock.

Q. What is his name? A. S. A. Jordan.

Q. Where does he live?

A. I forget his street number.

Q. And who is the Grand Secretary?

A. Well, I am of my jurisdiction.

Q. Who is the Chief Grand Secretary? A. A. R. Chinn.

Q. Where does he live? A. Glascoe, Missouri.

Q. Do you know his street address?

A. No, sir, he would get it if you sent it to him.

Examination by The Court.

Q. Are you still a coal miner?

A. Yes, sir, have been a coal miner ever since this occurred.

Q. Working in the coal mines at Leavenworth now?

A. Yes, sir.

Q. What company do you work for? A. Home Riverside.

Q. Are you a digger or do you have some other work in the mines? A. Well, I have other work and then I dig too.

Recross Examination by Mr. Linebaugh.

Q. When you met Minnie with the baby you asked her if that was her baby? A. Yes, sir.

Q. Did you ask her who her husband was?

A. No, sir, I didn't ask her.

Q. Why didn't you? A. I didn't.

Q. Why didn't you?

A. I don't know whether I didn't think about it or didn't want to; anyhow I didn't ask her that.

Q. Did you ask who the child's father was? A. No, sir.

Q. Why didn't you? A. I didn't.

Cross Examination by Mr. Cobb.

Q. After you first got acquainted with Minnie, how long did you see her around Leavenworth?

A. The last time I remember of seeing her was when the baby had hold of her hand standing on the corner of Fourth Street holding it by the hand.

Q. How long was that after you first got acquainted with her? A. Oh, it must have been about a year, maybe more.

Q. Then, you didn't see her any more? A. No, sir.

Q. You don't know what became of her? A. No, sir.

Q. Did you see the baby after that?

A. Not after I seen her with it then.

Q. That was the last time you ever saw the baby?

A. Yes, sir.

Q. Was the baby sufficiently developed for you to describe it? A. No, sir.

Q. What is its complexion?

A. Bright kind of a looking child.

Q. What was the color of its eyes?

A. Well, I don't know.

Q. Don't remember that?

A. I don't know, it was a bright color.

Q. What was the color of its hair?

A. Well, I just didn't notice. I just looked at its face like.

Q. Well, was it dark hair or light hair?

A. Well, it was dark.

Q. Were the eyes light or dark?

A. I couldn't say that.

Q. You don't remember? A. No, sir.

Recross Examination by Mr. Linebaugh.

Q. I misunderstood you a while ago evidently. The last time you saw Minnie was not the time you saw her with the baby in her arms? A. No, sir.

Q. You saw her about year afterwards with the baby standing on the sidewalk holding its hand? A. Yes, sir.

Q. During that period then where did she live?

A. I don't know, sir.

Q. How frequently did you see her during that period of time? A. I couldn't tell that?

Q. Did you see her frequently?

A. I have seen her a time or two just passing, but I never stopped her after that.

Q. Well, how far from Granny Letcher's then was she when you last saw her? A. Oh, she was eight or nine blocks.

Q. Are you a brother of Sis Hopkins? A. No, sir.

Q. Not related? A. No, sir. Have no sisters.

Q. Now, you examined this little baby with a veil very carefully, did you? A. No, sir.

Q. Well, you looked at it? A. I just looked at it.

Q. Interesting child was it?

A. Fair looking little fellow, yes, sir.

Q. Was it awake or asleep? A. Had its eyes shut.

Q. And what was its name? A. I don't know.

Q. Why didn't you ask its mother its name?

A. No, sir.

Q. Didn't, did you ask the mother how old the child was?

A. No, sir.

Q. Did the child have hair on its head? A. Yes.

Q. Did have hair? A. It had hair.

Q. What color? A. Black.

Q. You remember that do you? A. Yes, sir.

Q. What was the color of its eyes?

A. I didn't look at the eyes, it had them shut.

Q. Now, when you saw her on the street corner she was holding the little child by the hand, that is the way you saw it?

A. About a year after that or such a matter, yes, sir.

Q. She was holding the child by her hand? A. Yes, sir.

Q. And the child was walking then?

A. Standing there when I passed, it wasn't walking when I passed.

Q. But it was standing alone itself?

A. She had hold of its hand there.

Q. How was it dressed? A. I don't know that.

Q. How was she dressed? A. I never noticed that.

Q. How old did the child then appear to be?

A. Well, the child was at that time something like a year old.

Q. Well, was it the same one? A. I don't know that.

Q. You don't know whether it was or not? A. No, sir.

Q. And it appeared to you about a year old at that time?

A. Yes, sir.

Q. Now, Hopkins, did you notice her appearance then?

A. This woman's?

Q. You looked at her and talked to her? A. When?

Q. You saw her standing there with the boy a year old?

A. I just spoke to her, she was talking to a woman there.

Q. Nothing unusual about her appearance?

A. I just spoke to her.
Q. She wasn't pregnant at that time was she?
A. I don't think so.

Redirect Examination by Mr. Hanford.

Q. You have been asked about some lawyers that sent for you to come down to the National Hotel and asked you about what Rube and Dennis understood about the father of that child. I will ask if it wasn't Mr. Allen and Mr. German that you met at that time?

A. That is one of the names, now, German.

Q. Is that the man sitting right opposite you?

A. I don't know, but he called himself German that was up there.

Q. Do you remember Judge Allen, sitting right here, this second man in the Jury Box?

A. I couldn't place the man but I remember one name since you called it; it was German, there was some German in it.

Witness dismissed.

Mr. Hanford: At this time, we offer the deposition of W. P. Gempel, commencing at page 2563 of the transcript of depositions taken before Giles Penick, Special Examiner.

And thereupon W. P. GEMPEL being called on behalf of the defendant, sworn and under oath, testified as follows:

Direct Examination by Mr. Hanford.

Q. Will you state your name please? A. W. P. Gempel.

Q. And what is your business?

A. I am the bookkeeper at the Leavenworth Water Company.

Q. You are the custodian of the books and records of the Water Company?

A. I have charge of the records of the company.

Q. You have with you one of the records of the Leavenworth Water Company? A. Yes, sir.

Q. What is that record called?

A. Well, it is called Contract File.

Q. Turning to page 750, I call your attention to the Contract No. 750, appearing on that page, I will ask you what that shows?

By Mr. German: I object on the ground that it is incompetent, irrelevant, immaterial, and hearsay.

By Mr. Allen: The further ground that it is not properly identified, and we now insist that if it is going to be offered at all, that the entire book be offered in evidence.

Q. Have you a contract made with the Water Company—Made between the Water Company and Max Harris?

A. Yes, sir.

Q. For water installation? A. Yes, sir.

Q. At what place?

By Mr. German: I object on the ground that the instrument is the best evidence, and that the instrument itself has not been properly identified or proven, and that the evidence is hearsay—— The objection is withdrawn.

By Mr. Cruce: Go ahead and read it. He says he has withdrawn the objection.

A. This shows first that the Water service was put in the place in question, at 215 Cherokee Street.

By Mr. German: I move to strike that answer, and renew the objection. State into the record that at the time the objection was withdrawn, it was because of an agreement which perhaps doesn't appear, but since then the agreement is withdrawn.

By Mr. Blakeney: I want to say specially there has been no agreement made with me.

By Mr. German: I will state further that we have no objection to the introduction of those documents about which the witness is talking, or copies thereof.

Q. What is the date of that contract?

By Mr. German: I object on the ground that the contract speaks for itself.

A. October 23rd, 1885.

By Mr. Blakeney: I want the record to show that this contract is a purely collateral matter, and the witness may examine the contract and testify regarding its contents. It is not necessary for the production of the original.

By Mr. German: I save an exception to the order of the Court.

Q. And what does that contract call for?

By Mr. German: I object to that as hearsay, and calling for a conclusion and opinion of the witness.

A. It says: Please furnish water to supply premises indicated by our register 750 for the premises, based upon use herein named, to-wit: Saloon. No hose connection; and upon which the price is fixed amounting to ten dollars for the next twelve months, satisfactory to me, and I hereby promise to pay the Leavenworth and Fort Leavenworth Water Company the sum of ten ($10.00) dollars during the ensuing year, for the purpose above stated and at such time as their rules provide, and hereby acknowledge that the penalties following the violation of rules whereby the supply should be stopped by them, will not relieve me from the obligation hereby voluntarily assumed to pay for the full time.

Q. Is that signed by Max Harris?

By Mr. German: I object on the ground that the witness is not qualified and it is hearsay.

Q. Is there a signature attached to that contract?

A. Yes, sir.

By German: I object on the ground that the document is the best evidence.

Q. What is that signature? A. Max Harris.

Q. And is that accepted by the Company?

By Mr. German: I object on the ground that that is incompetent, and is hearsay, and that the witness is not qualified.

A. Yes, sir.

Q. Does the acceptance appear on the contract itself?

By Mr. German: I object on the ground that the contract is the best evidence, or the acceptance as the case may be.

A. Accepted by the Leavenworth City and Fort Leavenworth Water Company.

Q. Read it please? A. J. R. Jones, Superintendent.

Q. Is there a signature attached to that acceptance.

By Mr. German: I object on the ground that the document is the best evidence.

A. Yes, sir.

Q. What is that signature?

By Mr. German: The same objection.

A. J. I. Jones, Superintendent.

By Mr. German: I think we can save a great deal of time if you agree that we object to every bit of this, on the ground that it is incompetent, irrelevant and immaterial, and hearsay, and calling for an opinion and conclusion of the witness; that he is not qualified to testify concerning them, and that the documents are the best evidence. Are you willing?

By Mr. Hanford: I agree to that.

Q. Is there anything in that record to show that this installation was made? A. The installation, yes.

Q. What is the date of that record?

A. The date of installation, October 22nd, 1885.

Q. And what is that called, that instrument called?

A. Called the Plumber's Return.

Q. Is there a signature attached to that Plumber's return? A. Yes, sir.

Q. What is that signature?

A. G. S. Miller, plumber. He was the person that installed the service, having had a permit from the Water Company.

Q. Is the permit attached to that return?

A. Yes, sir, a part of this instrument.

Q. Read that Plumber's Return, so much as shows what installation was made?

A. Leavenworth, October 22nd, 1885, the following fixtures have been attached as authorized in the above permit: 3-8 inch Corporation cocks——

Q. Just read that.

A. Leavenworth, Kansas, October 22nd, 1885. The following fixtures have been attached as authorized in the above permit.

Q. And following that is a description of the fixtures that were installed? A. Yes, sir.

By Mr. Allen: We object to that as an opinion and conclusion of Mr. Hanford.

Q. And then read from there on?

A. And the water left off. All work done as required by the rules of the Company, reference being made to the Company's diagram; signed, G. S. Miller as plumber.

Cross Examination by Mr. Blakeney.

Q. What position with this company are you now occupying? A. I am book-keeper.

Q. Bookkeeper for the same company?

A. For the Company.

Q. What is that volume that you have here in the Court Room, that you have been reading from?

A. It is the file of permits and contracts.

Q. What has been the rules of the Company with reference to preserving those permits and contracts and so forth?

A. As soon as they are signed up why we preserve them in a file of this kind and have them all on file at the office.

Q. You have been reading from page 750 and you read the first entry, did you? A. Yes, sir.

Q. Or the first contract made in reference to these premises? A. That was the first contract made.

Q. Since that time other contracts have been made?

A. Yes, sir.

Q. And they follow that contract?

A. They follow in their respective order.

Q. This last one seems to have been made on the 9th day of April, 1912? A. Yes, sir.

Q. The first is the one that you attempted to identify?

A. Yes, sir.

Q. The first is the one that you attempted to identify?

A. Yes, sir.

By Mr. Blakeney: I ask that this contract that he has identified be offered in evidence, and I would like to ask that the witness be allowed to—or some counsel allowed to read it into the record. Any objections?

By Mr. German: Not to that one, no.

By Mr. Blakeney: I will read it myself. Contract for Water Supply. To the Leavenworth City and Fort Leavenworth Water Company. Please furnish water to supply premises indicated by your Register No. 750, the rate for the premises based upon the uses as hereinafter, named, to-wit: Saloon, no hose connection. And upon which a price is fixed, amounting to ten ($10.00) dollars for the next twelve months is satisfactory to me, and I hereby promise to pay the Leavenworth City and Fort Leavenworth Water Company the sum of ten ($10.00) dollars during the ensuing year for the purposes above stated, at such time as their rules provide, and hereby acknowledge that the penalties following the violation of the rules, whereby the supply should be stopped by them, will not relieve me from the obligation hereby voluntarily assumed to pay for the full time. Should changes be made in my plans necessitating a larger supply than herein provided for, I agree to report the same for adjustment of rates, and in all respects hereby promise to abide by the rules and regulations of the Company. Signed Max Harris. Accepted, Leavenworth City and Fort Leavenworth Water Company, by J. I. Jones, Superintendent, October 23rd, 1885.

Q. I call your attention now to this instrument I have referred to and ask you to state what it is? And the next instrument that you have referred to?

A. The next is a permit and Plumber's Return. Permit to the Plumber to install service and Return attached.

Q. And on the left hand of this document I notice that it is a plat? A. Yes, sir.

Q. Showing where the water mains are located in that street, and the point of distance from Second Street where the plat was made? A. Yes, sir.

Q. What is that instrument, is it a part of the records and files of your office? A. It is.

Q. And this same book that you have identified?

A. Same, yes, sir.

Q. Can you tell what premises that refers to?

A. Refers to 215 Cherokee Street.

Q. 215 Cherokee Street? A. Yes, sir.

By Mr. Blakeney: I offer to give it in evidence and ask to read it into the record, as it is pasted into a large book, the City and Fort Leavenworth Water Company permit No. 750, Leavenworth, Kansas, October 22nd, 1885. Mr. M. Harris is hereby authorized to have service pipes connected with the mains to supply premises, situated at No. 215 Cherokee Street, between Second and Third Street, with water. J. I. Jones, I. H. Superintendent.

Q. What does that I. H., I just read, refer to?

A. I don't know what that I. H. means.

By Mr. Blakeney: Plumber's Return. Leavenworth, Kansas, October 22nd, 1885, the following fixtures have been attached as authorized in the above permit: 3-8 m Corporation Cocks; 36 in ft. of ½ m Iron pipe; 2 Stop Box and cock; 38 ft. 6½ in Iron Pipe to Stop & Waste Cock at front wall; 1-½ in. plain bibb, and the water left off. All work done as required by the rules of the company, reference being made to the Company diagram. G. F. Miller, Plumber—I have inspected the above described job of plumbing and find it as reported by the plumber, and have left the water on. Leavenworth, December, 14th, 1885, James H. Foley, Inspector. Index hand: Plumbers are required to give street number by premises and number, and make their return as clear and full as possible, taking care to state whether bibs and hydrants are plain or "Hose connections," and always to take out a permit for each stop box where more than one street number is supplied. Ketcheson & Hubble Printing & Engravers, Leavenworth.

Q. What is the custom about the inspector making inspections of premises?

A. Well, after a plumber makes his return, the inspector is given an instrument and he compares whether the installation is made according to his record, and whether it is made according to the rules of the Water Company.

Q. What is the custom or habit in reference to the time that he does it?

> By Mr. German: I object, unless witness shows that such was the custom at that time as well as now.

A. The date shown here is December 14th, 1885, the Inspection was made at that time.

Q. Well, do they still follow the same rule now that they did then? A. Yes, sir.

Q. Did they make inspection immediately after?

A. Well, that depends how soon the Plumbers make their return, sometimes the plumbers don't bring in their permits immediately, but as soon as practicable.

> By Mr. Allen: We object to that and ask that the answer be stricken unless the witness knows what the custom was at that time.

Q. When did you go to work for this company?

A. 1910.

Q. Is Miller, the plumber whose name is signed there, in business in Leavenworth at this time? A. No, sir.

Q. You don't know anything about where C. S. Miller is?

A. No, sir.

Cross Examination by Mr. German.

Q. Mr. Gempel, you say a plumber didn't always make his return promptly? The plumbers don't always make their return promptly, do they after they have finished a job of plumbing?

A. Well, according to the rule of the Company, they are to make their returns, at least now we have the custom that they make their returns as soon as they have finished the work.

Q. But they don't always do that do they?

A. Sometimes they do.

Q. But you don't know what the custom was or the requirements in 1885? A. No, sir.

Q. The inspector makes an inspection of the property as soon as the plumbers return is handed in, doesn't he?

A. Yes, sir.

Q. The water is not turned on until the plumber hands in his return is it? A. No, sir.

Recross Examination by Mr. Blakeney.

Q. Where does the Inspector get the instrument that we have offered in evidence there?

A. Well, the Inspector gets it right at the office.

Q. From your office? A. From the office, yes, sir.

Q. He then gets it after the plumber has turned it in to you? A. Yes, sir.

Q. As a rule they turn it over to the inspector immediately after you receive it? A. Yes, sir.

Q. But he sometimes holds it for sometime before making inspection? A. Sometimes a few days elapse.

Q. Well, I see in that particular case it appears to be from October 23rd until December something?

A. December 14th, I see is the date he signed it, the Inspector.

Q. I notice it seems to be about the same length of time? Is that the custom now? A. Now, sir.

Q. They do it more promptly now? A. Yes, sir.

Recross Examination by Mr. German.

Q. Now, did they turn the water on before the Inspector examined the plumbing?

A. Well, sometimes now it is like this way: The consumer, of course, likes to have the water as soon as possible and no sooner has the plumber finished than they come down and want the water turned on. Of course we can't do that unless we have, either by 'phone or some other way, been instructed that the plumber is through and the job is ready, but to accommodate the customer, we very often turn on the water before we have the instrument returned.

Q. But that is not according to the rules?

A. That is not according to the rules.

Q. The rules are, are they not, that the water is turned on at the time of the inspection—— If the inspector finds that the plumbing and fittings are O. K.

A. The water is turned on more frequently, I should say, as soon as the contract is signed by the consumer. We turn the water on and then leave the inspection if it hasn't been done yet, until we can get to it. Those things sometimes pile up and inspection really may be delayed some days, but when a customer wants the water, we are not going to wait until the inspector gets a chance to inspect it. The plumber makes his return and the papers are ready and the consumer has signed his contract.

Q. But the only time that water is turned on before the inspection is made is when some unusual circumstances there is an urgency for it?

A. I would say that the water is turned on as soon as the contract is signed, that would be a general rule, when a person signs a contract he wants the water, and of course we give it to them.

Q. Don't they sometimes sign contracts before they have even plumbed the house for it?

A. Yes, very seldom, it is not the rule.

Q. What is the purpose of an inspection?

A. An inspection?

Q. By the City Water Inspector?

A. There might perhaps be a wrong impression. You know this is a private company and an inspector signs here as a Company officer, he is not a City Official.

Q. What is the purpose of his inspection?

A. His inspection is for the purpose of seeing whether the plumber has carried out the rules of the company, and whether the plumbing is according to the rules of the Company.

Q. Now, I notice that the plumbers report shows that the water was left off and the inspector's report shows that it was left on. Now, you don't know when the water was left on, do you, you have no knowledge of it? A. Not from this.

Q. Not from those documents nor from any other source you don't know when it was turned on?

A. That is the procedure, as soon as the contract——

Q. You are speaking of the procedure now, aren't you?

A. Yes, I wont say anything about what it was at that time.

Q. You don't know, you don't know who was occupying that house at all, do you?

A. Have no information upon that subject—occupying the house?

Q. Yes? A. No.

Cross Examination by Mr. Cruce.

Q. You don't know except what appears from that record? A. No, sir.

By Mr. German: I object to that as calling for a conclusion and opinion of the witness, and as hearsay. If answered before my objection, I move to strike the answer for that reason.

By Mr. Hanford: Mr. German, do you agree that copies of those record, just certified to by the Secretary of the Company, that they are true copies and may be produced in evidence?

By Mr. German: Yes, sir.

Recross Examination by Mr. Hanford.

Q. Mr. Gembel, will you have copies of those two records that you have testified to made and certified as true copies by the Secretary of the Company? A. Yes, sir.

By Mr. Cruce: We have got them read in now.

(Witness dismissed).

And thereupon, A. W. HOPKINS was recalled for further cross examination, and testified as follows:

Cross Examination by Mr. Linebaugh.

Q. You don't remember the two men you talked to about two years ago? A. No, sir.

Q. You couldn't describe them to the Court? A. No, sir.

Q. You have heard that father story before you saw those two men? A. This German?

Q. Yes, hadn't you heard that story that possibly somebody was claiming that you was the father of Minnie's child before you saw these two men?

A. Well, the way I understood one of the men there was named German.

The Court: The question is, had anybody——

A. No, sir.

The Court: Suggested to you as to whether you were the father of this child before Mr. German and the other gentleman talked to you?

A. No, sir, nobody had.

Q. These men talked with you some little time there at the National Hotel, didn't they? A. Yes, sir.

Q. You were in their room? A. Yes, sir.

Q. That was just two years ago?

A. I don't remember the time.

Q. And you can't describe their appearance to the Court?

A. I don't think I can.

(Witness dismissed).

And thereupon, M. A. HARRIS, a witness produced on behalf of the defendants Minnie Atkins, et al., being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Hanford.

Q. Your name is M. A. Harris? A. Max A. Harris.

Q. You live in Kansas City, Missouri? A. Yes, sir.

Q. What is your business, Mr. Harris?

A. I am a whiskey salesman, traveling salesman for a wholesale whiskey house.

Q. Mr. Harris, you formerly lived in Leavenworth, did you not? A. Yes, that was a good many years ago.

Q. A good many years ago? A. Yes.

Q. State whether or not you ever occupied the premises at 215 Cherokee street? A. Yes, sir.

Q. What did you have in there?

A. I had a saloon in there.

Q. And you had your residence up stairs? A. Yes, sir.

Q. Do you remember of having water installed there for saloon purposes and household purposes up stairs?

A. Yes, sir. When I leased that property, that property was in bad shape and so I had to remodel it and had waterworks put in, and electric lights, and so forth.

Q. You had it remodeled and fixed up? A. Yes, sir.

Q. You had it remodeled, you say? A. Yes, sir.

Q. Now, how much remodeling did you have done?

A. Well, I put in all the flooring up stairs and down stairs, front, and had it plastered inside and painted outside.

Q. Do you remember whether or not the water was installed before or after the repairing?

A. Well, it was I guess before.

Q. You had the repairing done first?

A. No, the water was, I believe; I don't know when they put the water in; I believe they put the water in before I put the flooring in.

Q. Do you know who occupied the premises before you?

A. No, sir.

Q. *Where* they vacant when you rented them?

A. Yes, sir.

Q. Do you know how long they had been vacant?

A. Oh, they may have been vacant a long time; it was all——

Mr. Pinson: Objected to as a conclusion.

The Court: Unless he knows, I will not consider that.

Q. What was the appearance as to whether it had been occupied a short time ago or——

Q. It was kind of wasted, like somebody was not occupying it a good while.

The Court: Is this place you are referring to some place that has been referred to before?

Mr. Hanford: Yes, your Honor, it is the place where Granny Letcher lived before she moved to Seneca street.

The Court: What was the number?

Mr. Hanford: 215 Cherokee, in connection with some record introduced with the deposition.

Q. Do you remember the date that you moved in there? Went in there? A. No, sir.

Q. You have no recollection of that? A. No, sir.

Q. Did you know Granny Letcher? A. No, sir.

Q. An old colored woman? A. No, sir.

Q. Did you ever hear of her there? A. No, sir.

Q. You simply found a place vacant and rented it and moved in there? A. Yes, sir.

Q. Do you know who you rented it from?

A. Mrs. Cranston.

Q. From Mrs. Cranston; you didn't see any colored people in there at the time that you moved in? A. No.

Q. Didn't see any tenant?

A. No, it was all upset; all out, the windows and doors; it was a good location for business is the reason I leased it. I leased it from Mrs. Cranston for three years and had it fixed up.

Cross Examination by Mr. Allen.

Q. You don't know just when you went into that house, do you?

A. No, sir, it was 1885 but I can't tell you just exactly.

Q. It was after the water was turned in? A. Yes.

Q. The water was turned in on October 23, 1885; wasn't it? A. Yes.

Q. And it was after that sometime that you moved in?

A. Yes.

Q. But you don't know who had just occupied it or when they moved out with reference to the time you went in?

A. No, sir.

Redirect Examination by Mr. Hanford.

Q. Mr. Harris, you had water when you moved in, didn't you? A. Yes, sir.

Witness dismissed.

And thereupon, LIZZIE KAZEY, being a witness produced on behalf of the defendants Minnie Atkins, et al., being first duly sworn, testified under oath as follows:

Direct Examination by Mr. Hanford.

Q. Your name is Lizzie Kazey? A. Yes.
Q. You spell it K-a-z-e-y? A. Yes.
Q. How old are you, Lizzie? A. 57 years old.
Q. How long have you lived in Leavenworth? A. '72.

The Court: Talk this way; you have got to make me hear, and all these men all over here, hear you; tell me out loud now, what is your name.

Q. Lizzie Kazey.

The Court: Alright now, talk that loud all the way through.

Q. What is your business, Lizzie? A. Laundry.
Q. You are a laundress? A. Yes, sir.
Q. You work out by the day? A. Yes, sir.
Q. Lizzie, did you know Granny Letcher? A. Yes, sir.
Q. Did you ever visit her?
A. Why, I went to her house to see her.
Q. Went to her house occasionally?
A. To see her, yes, sir.
Q. Did you know her when she lived on Cherokee street?
A. Yes, sir.
Q. And where else did you know her?
A. When she lived on Cherokee street.
Q. And where else did you go to see her? What other street—did you go to see her on Seneca street? A. Yes, sir.
Q. Where was that on Seneca street?
A. Where did she live on Seneca street?
Q. Yes?
A. She lived on Seneca street between Second and Third on the south——
Q. Yes—between Second and Third?
A. On the south side of the street.
Q. Did you ever know an Indian girl there; did you ever see any there at her house?
A. Well, I seen a woman there that they called an Indian—Minnie Atkins.

Mr. Linebaugh: Speak out loud; what did you say?

Q. I said yes, I seen one there.
Q. What was her name? A. Called her Minnie Atkins.
Q. Did you meet her there at the house?

A. I seen her there.

Q. You have seen her there? A. Yes, sir.

Q. How many times did you see her there? How many times did you see her, Lizzie? A. I seen her twice.

Q. Do you know what year that was?

A. Well, I didn't hardly date and *tiem* down the date I was there; I know I seen her there twice.

Q. Did she have any children did you know?

A. Yes, sir.

Q. How many? A. I never seen but one there.

Q. What kind of a child was that? How old?

A. Well, when I seen it it was two years old.

Mr. Linebaugh: How old?

A. Two years old.

Q. Do you know its exact age or are you telling just what you think? A. No, it was two years old.

Q. You think it was two years old? A. Yes, sir.

Q. Do you know its name? A. Tommy.

Q. Know its last name?

A. Called it Tommy Atkins is all I know about it, is all I can tell you.

Q. Where did you see the boy?

A. Just when I was in there the last time.

Q. When you were there the last time?

A. Yes, been quite a while ago.

Q. And you were there twice? A. Yes, sir.

Q. How far apart?

A. It was about a week difference between the time I was and seen the child.

Q. Saw her and the child there? A. Yes, sir.

Q. But you didn't visit Granny very often?

A. Not very frequently, no, sir.

Q. How did you come to be there?

A. I just knew her, an old lady and I went for advice from her.

Cross Examination by Mr. Linebaugh.

Q. You went there twice, Lizzie? A. Yes, sir.

Q. And these visits were two weeks apart? A. Yes, sir.

Q. The first time you didn't see the child?

A. I seen the child both times I was there.

Q. Oh, both times you were there? A. Yes.

Q. And it was about two years old? A. Yes.

Q. What kind of looking child was it?

A. A very bright looking little boy; a very pretty little boy at that time.

Q. Did you see any other boys there?

A. No, I didn't look for any; that was the only one I seen in that room, where I was at.

Q. And it was about two years old? A. Yes, sir.

Q. Now, when was that?

A. As I say, I don't know the day and date, but I know I seen it.

Q. What year was it?.

A. I don't know; I didn't put that down either.

Q. Do you know how old you are now? A. Yes, sir, I do.

Q. How old are you? A. I am 57 years old.

Q. What is it? A. 57 years old.

Q. 57? A. Yes, sir.

Q. How old were you then?

A. I don't know; I don't never put that down, Judge.

Q. Well, about how old were you?

A. I don't know; never counted it up; been quite a while ago.

Q. How long did you live in Leavenworth?

A. I was an old citizen there.

Q. Now, you can talk louder than you are talking. You tell us so I can hear you.

A. I am talking as loud as I possibly can, as I usually talk.

Q. Now, where were you born?

A. Born in Jackson County, Missouri.

Q. How old were you when you moved to Leavenworth?

A. Well, I don't know exactly right at the time.

Q. About how old were you, Lizzie?

A. I was quite a little girl.

Q. Well, what do you mean by that?

A. I don't know exactly how old I was when I came from Missouri.

Q. When did you go to Leavenworth?

A. You mean since I been grown or since——

Q. When you moved to Leavenworth, when was that?

A. I said I was a little girl; don't know the time, at that time.

Q. You said awhile ago '72, didn't you?

A. I asked you if you mean citizen—'72, I'd been a citizen in Leavenworth.

Q. You moved to Leavenworth in 1872?

A. I guess it was.

Q. Your father and mother then living?

A. When I came to Leavenworth—no, sir.

Q. Who did you come to Leavenworth with?

A. A family of white folks.

Q. What were their names? A. Skinner.

Q. How long did you live with them?

A. Lived with them 11 years.

Q. Eleven years? A. Yes, sir.

Q. Now, then when you left Skinner's where did you go?

A. I got married.

Q. You got married? A. Yes, sir.

Q. Now, was it before you got married or after you got married that you made these two visits to Granny Letcher's?

A. After I got married.

Q. How long after you got married?

A. Now, I don't know that time, either.

Q. About how long?

A. You mean after I was married, you mean?

Q. I married May 11th, '82.

Q. May 11th, '82? A. Yes, sir.

Q. Alright; now about how long was it after you got married that you made this visit to Granny Letcher?

A. I don't know that; I don't think I—I never kept that in my memory.

Q. I know, but about how long?

A. I can't say; I wouldn't say because I want to tell the truth.

Q. Was it a year? A. Could have been two years.

Q. What?

A. Could have been two years; I could have been married two years, I judge by that time.

Q. Now, you went to Granny for advice, didn't you?

A. Yes.

Q. What kind of advice were you seeking?

A. I was seeking something for the benefit of myself; how to get along to live—that is what I was looking for.

Q. Were you expecting a baby or something like that?

A. No indeed, no indeed.

Q. You have given birth to children, have you? Have you any children? A. No, never had any children.

Q. When you got married what part of town did you go to live? A. Miami street.

Q. Miami street; how long did you live on Miami street?

A. I don't know.

Q. About how long? You remember about how long you lived at the first home of your own that you ever had don't you?

The Court: Were you living on Miami street when you were—went to see Granny Letcher?

A. No, sir.

Q. Where were you living? A. Living on Osage street.

Q. Osage street? A. Yes, sir.

Q. Now, how long had you been living on Osage street before you went to see Granny Letcher?

A. I don't think—I didn't put that down either; I never kept track of that. I know I was living there.

Q. Well, I am trying, Lizzie, to find out if I can about when it was that you went to see Granny Letcher and that is why I am asking you these questions about how long you lived on Miami street and how long you lived on Osage street.

A. You mean how long I lived on Osage street?

A. Yes.

A. I lived there five years after I moved there; lived there five years.

Q. If you can, tell us how long you lived there; can you tell us about how long you lived on Miami street?

A. I am just trying to think how long I did live on Miami; I think I lived on Miami, where I told you, I think I lived there about a year.

Q. About a year? A. Something along there, yes, sir.

Q. Then you lived over there on Osage Street?

A. Yes, sir.

Q. And how long had you been living in the Osage Street house before you went over to see Granny?

A. I can't tell you that because I don't remember exactly how long I had been living at that time but I lived on Osage Street five years.

Q. I know, but you went over to see Granny for advice?

A. Yes.

Q. What was the occasion for you calling for advice?

A. Like any child that didn't have any mother.

Q. Did you ever go any other place for advice?

A. I had no other place to go at that time.

Q. Did you ever go any other place for advice?

A. No, sir; no, sir.

Q. Anything come up in your home that you wanted advice then for?

A. Nothing only just got married and I didn't know how to go about the house—naturally would want to ask somebody how to do.

Q. You had been married at that time a year hadn't you?

A. That is just what I have been trying to find out.

Q. Can you give us some idea how long you were living at the Osage house when you went to Granny's?

A. Well, it could have been during that year that I moved there but I don't remember exactly what day it is.

Q. I know but is that your best memory now?

Q. Yes, sir.

Q. Your best memory is that during the first year you moved on Osage Street, is that right? A. Yes, sir, I——

Q. Do you move to Miami Street as soon as you got married?

A. Yes, sir, that is where I lived when I got married.

Q. You got married in June, '82? A. I said May.

Q. In May, 1882, and when you went to Granny's this child was about two years old, is that right; is that your best judgment? A. Yes, sir.

Q. Now, let's see. Do you know a woman named Sadie James? A. Sadie James?

Q. Yes? A. Yes, sir, I seen her.

Q. A colored woman? A. Yes, sir.

Q. Small woman? A. Yes, sir.

Q. Did you have a talk with her along in December, 1914, about that time? A. She was at my house.

Q. She was at your house? A. Yes, sir.

Q. Now, what did you all talk about, Lizzie, when Sadie came out there to your house?

A. Well, Judge, I didn't have much of a talk for her because I didn't know what business——

Q. What?

A. I didn't have much talk with her at the time.

Q. Well, what little you did have, what was it about?

By the Court.

Q. Lizzie, look here at me; you will have to tell me about this. I have got to hear; what did Sadie say when she came out there.

A. I was just thinking what she did tell me.

Q. Alright now, think.

A. That is what I was trying to get together.

Q. You don't need to use her exact words, if you can't remember, but just what did she talk about when she came out?

A. She asked me if at that time did I know Mary Letcher, and I told her I did.

Q. Asked you if you knew Mary Letcher? A. Yes, sir.

Q. And you told her you did? A. Yes, sir.

Q. Did she say anything else and what else did she ask you? A. Why, she asked me about some children she had.

Q. Now, what did she ask about that? Just as near as you can remember.

A. Asked me about—did I remember any boys that Aunt Mary had—that she raised around there and I told her I did, and she asked who it was and I told her.

Q. What did you tell her?

A. I told her that I remembered one that she had there named Walter.

Q. Anything else?

A. I remembered Sammy Nash that she had around there; I didn't know whether she raised him or not.

Q. Anything else about anybody else living there?

A. No, sir, I don't think I did.

By Mr. Linebaugh.

Q. Lizzie, you told her that you knew Walter Banks, didn't you?

A. Yes, I seen him—lived on Cherokee Street when I seen him.

Q. Now, you knew that they were taking testimony up there at Leavenworth in 1914, in the month of December, didn't you Lizzie?

A. No, I didn't know what she was after me for when she was asking me. You all asked me for the truth—I don't know what she was after.

Q. About two months before you were talking to her, you knew they had taken testimony of some witnesses there, didn't you?

A. I didn't know what she was after. I am telling you just what I didn't know.

Q. Now, did you tell Sadie James, Lizzie, that they wanted you to swear that you knew Indian Minnie and Tommy and you had agreed to do it but when the time came God wouldn't let you swear that lie; that you were 51 years old and a Christian?

A. I never told her anyone was after me because I didn't know what she wanted with me at that time.

The Court: Now, did you tell her that other?

Q. Did you tell her this other, Lizzie?

A. No, sir, I never told her nothing like that. Some gentlemen was with her, I don't know who it was, but I never told her that, though. I didn't tell her somebody was trying to get me to swear because I didn't know what it was when she came to my house.

Q. Did you tell her anything about God wouldn't let you swear that lie?

A. If I did, Judge, I done forgotten it; I don't remember anything like that.

Q. Well, did they want you to swear to that?

A. No, sir, only someone come and got me a year ago I think it was this month when they had court down at Leavenworth—I don't know who that was either.

Q. What kind of looking person was he?

A. A man not quite as big as you are—I don't know who he was. Man read the subpoena to me and said they wanted me down to the courthouse and I went.

Q. Now, who all have you talked to about your trip to Granny Letcher's? A. I haven't talked to anyone.

Q. You have talked to someone, haven't you, Lizzie?

A. No, I didn't have anyone to talk to.

Q. Well, how come them to find out how you knew?

A. Only ones that came to my house.

Q. Who came to get you to come down here to Muskogee?

A. Mr. Graham.

Q. What Graham? A. Pomp Graham.

Q. Is he a hackdriver up there?

A. Pomp Graham? I don't know.

Q. Well, what did Pomp Graham say to you when he came?

A. Told me to be ready is all I know.

Q. When was that? A. 10th.

Q. 10th day of May? A. Yes, sir.

Q. And you talked to Pomp Graham before then?

A. No, sir.

Q. Talked before that?

A. I hadn't seen him before to talk to about coming down here until that evening I was coming from my work.

Q. Well, now, Lizzie, before you talked to Pomp Graham, they served a subpoena on you to come down to the courthouse in Leavenworth, didn't they? A. Yes.

Q. Now, who served that subpoena?

A. I don't know the gentleman; I just told you I don't know who he was.

Q. Did you go down to the courthouse?

A. Certainly, I went down with him.

Q. Did you testify?

A. Testified just what I am telling here now.

Q. Did you testify?

A. Just what I am telling about here; they asked me did I know them.

Q. Did you hold up your hand? A. No, I didn't do that.

Q. Didn't swear? A. No.

Q. Who talked to you?

A. I am not acquainted with the lawyers there at home and I don't know who he was.

Q. That was in October, 1914, wasn't it, Lizzie?

A. No, fifteen, I think.

Q. 1915? A. Yes, sir.

Q. Well, is there anybody here in the room that you talked to at that time? When you were served with the subpoena?

A. I don't know any gentleman in here; I don't know any of my home folks, only one or two.

Q. What did Pomp Graham say? Tell all that he said to you when he came to find out if you would come down to Muskogee?

A. I can't tell you nothing he said only he told me to get ready to come down here and I told him I couldn't come down here and he told me I had to come.

Q. Why did you tell him you couldn't come?

A. Well, when he first asked me I didn't know what I had to come down here for; I wasn't thinking about the trial.

Q. He explained it to you? A. Yes, sir.

Q. Tell what he said.

A. Told me to get ready to come down here for the trial is all.

Q. He explained to you about the case—what was that?

A. I mean about coming down here.

Q. What was it?

A. He told me the Government would send me down here.

Q. The Government would send you down here?

A. Yes, sir.

Q. What else was that?

A. That is all he said and bid me the evening.

Q. Told you the Government wanted you down here?

A. That is all he told me.

Q. That the Government would send you down to Muskogee? A. Yes, sir.

Q. And you thought that was true, did you?

A. I don't know; I told him I couldn't leave my work, and he told me I had to leave my work and come.

Q. And when you got down to the depot, did you see Pomp again? A. At Leavenworth?

Q. Yes. A. No, sir.

Q. Who got your ticket for you?

A. I never seen Mr. Graham.

Q. Answer my question.

The Court: Who got your ticket for you, Lizzie?

A. Mr. Jones.

Q. What Mr. Jones? A. Mr. Dennis Jones.

Q. Oh, yes. Who else was there, Lizzie? A. When?

Q. When you got your ticket there at the depot?

A. That was coming down here?

Q. Yes. A. Mrs. Brown.

Q. Who else? Name them all. A. And Mrs. Mitchell.

Q. Go ahead; name them all.

A. And Mr. Jones, himself; I believe that is all.

Q. Rube Smith? A. I had forgotten Rube Smith.

Q. Nat Burns? A. And Nat Burns, yes, sir.

Q. Barney Cleveland? A. I don't know him.

Q. Hopkins? A. Yes, sir.

Q. Well, name them all. A. Well, Mr. Jones, and Miss Kazey—that is myself.

Q. Yes? A. And Miss Brown and Miss Mitchell, and Mr. Rube Smith, and Nat Burns, and Albert Hopkins.

Q. Well, you all talked about coming to Muskogee, didn't you; you talked about the case? A. I was coming down there.

Q. And you talked about what you knew about it and the others told what all they knew about it? A. No.

Q. Why didn't you?

A. Well, we could find other things to talk about.

Q. You were all traveling right in a party together?

A. Well, we were but we didn't talk over that matter.

Q. Why didn't you?

A. We had other things to employ our mind.

Q. That was the very thing you were making the trip for?

A. Yes, I know it.

Q. When you got down to Muskogee when was that?

A. Got here in Muskogee.

Q. When? A. Six o'clock Wednesday evening.

Q. Wednesday morning? A. Evening.

Q. You went down here on South Second Street?

A. I don't know what street.

Q. How did you know where to go?

A. I went with Mr. Jones.

Q. And you have been down there ever since?

A. Yes, sir.

Q. You all have been talking about what you knew about this case, haven't you? A. Why, no.

Q. You haven't? Well, why haven't you?

A. Why should I?

Q. You haven't been up to the courthouse, you haven't been here? A. This is my first time in here.

Q. Lizzie, who is going to pay you for coming down here?

A. I don't know.

Q. Didn't you ask about that? A. No, sir.

Q. Didn't you ask Dennis? A. No.

Q. Didn't you ask Pump? A. No, sir.

Q. Well, do you know how much you are going to get for coming down here? A. No, I don't know.

Q. Well, who is paying your expenses?

A. I suppose the Government is paying, they got me down here.

Q. You think the Government has got you down here?

A. Yes, sir.

Q. Who else told you that the Government had you here besides Pump or Graham?

A. Nobody didn't tell me anything.

Q. Well, have you talked to Dennis about that?

A. No, sir, we ain't together.

Q. But you think the Government has got you here right now? A. I think it anyhow.

Q. You think it anyhow? A. Yes, sir.

Q. What lawyers have you talked to since you have been here? A. I ain't seen none.

Q. None at all. Some of these lawyers have talked to you, haven't they, Lizzie?

A. If they are lawyers I don't know.

Q. Any of these men sitting around in the room been talking to you at all? A. I can't pick them out.

Q. You know Mr. Bond, don't you, he lives up at Leavenworth? A. I know Lee Bond, but I haven't seen him.

Q. You haven't seen—have you seen this man over there, do you know him? A. I have seen him out in the hall.

Q. You have talked to all of these men haven't you, Lizzie, they have talked to you about what you knew in this case?

The Court: Well, I will assume that.

Mr. Linebaugh: I was trying to find out why the witness was trying to conceal it.

The Court: If she is trying to conceal it, I doubt if you will be able to find out why.

Cross Examination by Mr. Cobb.

Q. You are pretty well acquainted in Leavenworth, aren't you? A. Yes, sir.

Q. Lived there forty-five years; you knew Granny Letcher pretty well in her lifetime?

A. Yes, I was pretty well acquainted with her.

Q. You knew her well enough to go to her for advice? A. Yes, sir.

Q. You had known her for several years then?

A. I really knew her before I was married.

The Court: I want you to talk up loud so the stenographer and I can hear you. I don't hear very well and you have to talk loud, now talk loud.

Q. You had gotten well enough acquainted with her to go to her for advice? A. Yes, sir.

Q. And you testified awhile ago that she was the only party you knew you could go to for advice? A. I did.

Q. You must have known her pretty well. Now, you continued to know her until she died a number of years afterwards, didn't you? A. Yes, sir.

Q. Now, when you went to her for advice, you say this child Tommy Atkins was about two years old? A. Yes, sir.

Q. Is that right? A. Yes, that is what I said.

Q. There was other children playing around the house and around the yard there? A. Around the house.

Q. Did you see any other children there at the time?

A. No small ones right there.

Q. Well, any a little larger? A. No, sir.

Q. Wasn't Sam Nash and Walter Banks around there?

A. Might have been out playing.

Q. They lived with Granny at that time?

A. They were at that time.

Q. And they lived with her for a number of years?

A. I don't know how long Walter stayed there, I know he was there.

Q. Well, both of them stayed there a number of years; the fact is, Granny Letcher practically raised those boys didn't she? A. Yes.

Q. You also saw this boy Tommy Atkins playing around there with those boys for a number of years?

A. No, I wouldn't say that because I wasn't around there.

Q. Well, for quite a while?

A. When I was there he was running around in the house.

Q. I am not speaking about that one trip, but after that you saw the boy around there frequently, didn't you; you saw this boy Tommy Atkins there with Walter Banks and Sam Nash frequently after that playing around in the yard and different places close to Granny Letcher's, isn't that right?

A. Well, I never seen him playing with Sammy and never seen him playing with Walter.

Q. You have seen them around there?

A. Seen him in the house when I was there he was in the house.

Q. Did you ever see him any other time?

A. I said I seen him twice and every time he was in the house.

Q. You never saw him but twice, just the two times during all the time that you saw Granny Letcher is all you saw him?

A. Yes, sir.

(Witness dismissed.)

And thereupon, **FRANK HEIS**, a witness called and sworn for and on behalf of the defendant Minnie Atkins et al., testified as follows:

Direct Examination by Mr. Bond.

Q. What is your name, age, and residence?

A. Frank Heis, seventy years old April 22nd, last.

Q. Your residence? A. Leavenworth, Kansas.

Q. How long have you lived in Leavenworth?

A. Since 1868.

Q. What is your business, Mr. Heis?

A. I have worked in the marble granite and stone business.

Q. About how many years have you been in that business?

A. Why, ever since '73, 1873.

Q. In 1884, did you have work done at Lansing, Kansas?

A. We had a contract five years and our contract was about expiring.

Q. You spoke of we, who is we, were you in partnership?

A. I was in partnership with S. F. Burdett.

Q. You contemplated, did you, moving your factory into Leavenworth? A. Yes, sir.

Q. Did Mr. Burdett own any property there in Leavenworth at that time, vacant property?

A. Yes, Mr. Burdett owned quite considerable property. This property where we contemplated putting our shop at.

Q. Tell the court where that was?

A. This was on Choctaw Street, the third and fourth lot east of Dels Bottling Works, Dels was on the corner occupying two lots, then there is another lot in there owned by an old German lady named Mrs. Schiller; then Mr. Burdett had the next two lots after that.

Q. Was there a building on the lot owned by Mrs. Schiller? A. Yes, sir.

Q. What was the nature of it? A. Frame house.

Q. I will ask you whether or not in the spring of 1885 you endeavored to get the Schiller property?

A. Why, yes, we were contemplating building there and I insisted that we didn't have enough room and that we ought to have three lots to carry on the stone business and monumental business. Then I tried to negotiate with Mrs. Schiller to see whether we could buy that.

Q. Did you buy that?

A. No, sir, we did not. She asked too much money, more than we could afford to pay for it and that was the reason we didn't buy it.

Q. Did you call upon Mrs. Schiller, did you personally?

A. I personally seen her, went to her house and seen her there.

Q. She was living there then was she? A. Yes, sir.

Q. I will ask you if she moved out of that house?

A. She told me——

Q. No, you can't tell what she told you. Did you see her?

A. She moved away that spring, yes, sir.

Q. And who moved in?

A. What I knew at that time. Lilly White was her name.

Q. After that, what did you do with reference to preparing this lot or measuring it?

A. I had to make my plans for the building and my calculations, if we bought that lot of Mrs. Schiller, we could put up a larger building; and by not getting that lot we had to curtail our building to a smaller size and of course I was getting ready where we wanted the building, we wanted to move ourselves in there, move our stuff in there so we wouldn't have to remove it.

Q. You were then commencing to move from Lansing into Leavenworth? A. Yes.

Q. About what time of the spring would you say your best judgment was that Mrs. Schiller moved out and Lilly White moved in?

A. It was early in the spring. Of course we wanted to get our building up and have it in good shape.

Q. Early in the spring of 1885? A. Yes, sir.

Q. Did you see her then afterwards, Lilly White?

A. Why, yes.

Q. And how long did you remain next door there with your plant?

A. Why, I stayed there from the time we built it up until the year following, 1886.

Q. And then you and Mr. Burdett dissolved partnership?

A. Yes, sir.

Q. You went in for yourself? A. Yes, sir.

Q. And have been in business ever since? A. Yes, sir.

Cross Examination by Mr. German.

Q. How long did Lilly White live there?

A. Why, she lived there from the spring after Miss Schiller moved out and lived there as long as I knew until I left there.

Q. When did you leave there?

A. In the summer of 1886.

Q. She was still living there in the spring of 1886 when you left? A. Yes, sir.

Q. When did you build that building that you and Mr. Burdett occupied there? A. Why, there in 1885.

Q. What time in 1885?

A. Well, it was during the spring, getting ready to put in a foundation and get our building up. Of course we was still running out at the penitentiary but I was there for two or three days to see about.

Q. It was in the spring that you were getting ready to put up that building? A. What say?

Q. Was it in the spring you were getting ready to put up that building? A. Yes, sir, it was in April.

Q. When you put up the building?

A. We put it up that summer.

Q. What time in the summer?

A. Well, towards—during the season.

Q. About what time? A. June or July.

Q. What sized building was it?

A. It was about sixty feet by twenty-five—hold on, a hundred and fifty, yes, seventy-five, I don't remember just exactly the size of the building now. Of course I didn't pay much attention to that part after we got it built.

Q. When did you and Mr. Burdett enter into a partnership? A. In the summer of 1886.

Q. Summer of 1886? A. Yes, sir.

Q. That is when you put up that building?

A. Put it up before in 1885.

Q. You put it up before——

The Court: I understood him to say they dissolved in 1886.

Q. When did you and Mr. Burdett form a partnership?

A. In 1877.

Q. In 1877? A. Yes, sir.

Q. And you continued in partnership for some ten years?

A. About nine years.

Q. Well, how long, tell the court just exactly?

A. Well, nine years.

Q. To a day?

A. Well, it might have been a few days over or month over. Of course I know when I figured it up at that time it was about nine years.

Q. When did you first come to Leavenworth?

A. In 1868 in September.

Q. What was your business then?

A. I was a marble cutter at that time.

Q. A marble cutter? A. Yes, sir.

Q. Where was your place of business at the start?

A. Well, on Cherokee Street next to the Continental Hotel.

Q. Were you in business for yourself or somebody else?

A. I was foreman for Elksburn & Sprague.

Q. How long did you work for them? A. Until 1873.

Q. Seventy-three? A. Yes, sir.

Q. What time in the year?

A. That was in the spring of 1873.

Q. Was it in the spring of '77 you came to Leavenworth?

A. Sixty-eight.

Q. Was it in the spring of 1868?

A. In the fall of 1868, September.

Q. All right, in the spring then— What year was it you went to work?

A. 1873 I went in with Elksburn & Sprague, the men I worked for.

Q. The man you worked for? A. Yes, sir.

Q. In the spring of 1873? A. Yes, sir.

Q. How long did you stay in business with him?

A. Until he sold out to Mr. Burdett.

Q. What year was that? A. In 1877.

Q. What time in the year?

A. Well, now, that I just don't remember but I know it was in 1877, I think it was in the fall or during the summer.

Q. Summer or fall? A. Yes.

Q. But you don't remember distinctly?

A. Well, I never went to work and charged my memory.

Q. Tell the court how you fixed the time you and Mr. Burdett started this building as being in the spring?

A. Because our contract expired in 1885, the latter part of 1885, and we wanted to get our machinery and put it up as we brought it from the penitentiary.

Q. Your contract expired in the fall of 1885?

A. Yes, out at the penitentiary.

Q. What time in the fall? A. Latter part of the fall.

Q. And you wanted a building down town to put your machinery in? A. Yes, sir.

Q. So you could go on with your business? A. Yes, sir.

Q. What sized building did you say that was you put up there?

A. It was about sixty or seventy feet long and twenty-five feet wide.

Q. How high?

A. The front part was high enough so we could put our gang of saws in.

Q. Well, was it a one-story building? A. Yes, sir.

Q. Was it made of brick or frame? A. Brick.

Q. How thick were the walls? A. A foot.

Q. A foot thick? A. Yes, sir.

Q. You mean to tell the Court that you commenced this building, that little building in the spring of 1885 so that you would have it ready by the late fall of 1885 for your machinery? A. Yes.

Q. You do. You got it ready in plenty of time, did you?

A. Oh, well, we kept putting it up, the machinery inside during the winter time.

Q. During the winter of 1885 and '6? A. Yes.

Q. You kept adding to that building and you got it finally finished?

A. No, sir, we were putting up the machinery inside. It didn't take long to put up a building of that kind.

Q. Why, of course not. You didn't need that building until the late fall of 1885? A. No.

Q. Now, when you did need that building you had it ready, didn't you?

A. We had it ready to put our machinery in of course.

Q. How long before you actually needed it did you have the machinery there?

A. We had it finished early in the spring——

Q. Had it ready there for six months?

A. No, sir, I told you we were working all during the winter inside.

Q. Working on what? A. Putting in our machinery.

Q. What winter? A. 1885.

Q. Winter of five? A. 1885.

Q. You mean November and December, 1885? A .Yes.

Q. You were working all the time?

A. We were working putting in our machinery I tell you, and bringing in the material there.

Q. When did you commence putting your machinery in that building?

A. We commenced bringing it in—— You see——

Q. I didn't ask you when you kept bringing it in.

Mr. Bond: The witness is trying to answer.

The Court: I think the witness is taking care of himself all right. Go on.

A. You see we pulled off some of the machinery we didn't need and started putting that in; that is the way we kept working putting it up so as to be ready for business early in the spring.

Q. When was it you discovered you would probably need the three lots instead of two? A. I knew that.

Q. You went out there in the late fall of 1885? A. Yes.

Q. How long before you went out there was it?

A. When we made the calculation to build down in Leavenworth? I told my partner we didn't have room enough, we ought to have three lots.

Q. You considered then, consulted Mrs. Schiller with reference to buying that lot on that street? A. Yes.

Q. Next to yours? A. Yes.

Q. And you didn't buy it? A. No, sir.

Q. You got through out at the Fort on this job?

A. Done what?

Q. You and Mr. Burdett hadn't finished your job—was it at the Fort or prison? A. At Lansing.

Q. And you continued out there until you got that job finished? A. Until our contract run out.

Q. In the late fall of 1885? A. Yes.

Q. Now, when was it that—— Give us as accurately as you can the date when that contract expired?

A. That I couldn't just exactly tell you. I didn't have these papers any more but I know the year it was.

Q. But you do know when you had finished up that job and gone down to this new building of yours on Choctaw that Lilly White was in the Schiller house?

A. Seen her there in the spring of the year, I will tell you the reason why. Mrs. Schiller told me she was going to move out to her son-in-law because she wanted to get her garden and she had a good chance to rent that house and she rented it then to Lilly White.

Q. There wasn't but one Lilly White in that town was there? A. All that I know of.

Q. She ran a house of ill repute? A. Yes, sir.

Q. Did you know about that petition that was circulated July 5, 1885, to get her off of Seneca Street? A. No, sir.

Q. You didn't know about that? A. No, sir.

Q. You never saw it? A. No, sir.

Q. Did you ever hear of it?

A. No, sir, I didn't that I recollect of.

Q. Were you a member of the City Council then?

A. No, sir.

Q. Did you attend the City Council meetings any?

A. No, sir.

Q. You didn't? All right. Did you begin to move your machinery in there before the building was completed?

A. We moved some into the building, but we loaded it on the ground until we got ready to put it up.

Q. What kind of contract was it you had out at Lansing?

A. We had a gang of saws out there and rubbing bed.

Q. I am asking you about the contract?

A. We had a contract to work men out there, to do our work there.

Q. You worked men to do what?

A. To polish marble and cut marble.

Q. Prisoners? A. Prisoners.

Q. In the Lansing State Penitentiary at Leavenworth?

A. Yes, sir.

Q. And you had to use your machinery in order to work those men? A. Yes, sir.

Q. Did you have to work a certain number of men?

A. We had from eighteen to twenty men working.

Q. All the time? A. Yes, sir.

Q. And what was the stuff that you were getting from the labor of those men?

A. Furniture marble, for the furniture dealers and furniture manufacturers around in the vicinity of Leavenworth, and Wash-stand tops for plumber slabs.

Q. How could you carry out your contract with those men and move your machinery away from there before the date on which your contract expired?

A. We had a lot of marble sawed up for that purpose so that we could work them until we got through with them. We got our marble in big blocks and sawed them up, and we sawed them up a car load and had it stacked away.

Q. Well, then, you didn't need the machinery any more, is that what you mean?

A. Well, we still used the machinery for sawing building stone.

Q. Kept on using it until the date of the expiration of your contract?

A. Well, not altogether. Now, there was a big loading bed and some other things that we didn't need, that we took out there. We had a lot of stones sawed up that we hauled down there and put it aside. I had to be there quite a number of times to locate where I wanted it put so it would not be in our way.

Q. Alright; now, after Lizzie White moved in that house on Choctaw she stayed there until you went away in the fall of '86? A. Yes.

Q. Yes. And your best recollection is—and that is all you base this on is your recollection, as to when she moved in?

A. Well, the reason I know is we were——

Q. I am asking you if that is right?

A. Making arrangement that year to make up our building and the reason I went to see Mrs. Schuler——

Q. She was still in that house?

A. She was still in there and she told me——

Q. Now what she told you, that is not competent——

By the Court:

Q. Not what Mrs. Schuler told you but when was it you first saw Lillie White in that house? Now, what time of year—early in the year do you remember having seen Lillie White in that house after you were working around there?

A. Well, she must have been there in May because I went to see Mrs. Schuler early in April.

Q. Have you in mind, now, the first time you noticed Lillie White actually in that house?

A. Why, she was—of course I didn't pay the exact date——

Q. Well, I mean do you remember, now, without the date, do you have in mind now, when you first saw Lillie White in the house? Not the time, but have you in mind the fact that you did see her for the first time, sometime there that year?

A. Sometime there in May I know.

Q. Well, your best judgment is that you actually saw her there sometime in May?

A. Of course, I laid out a foundation for that building.

Q. Now, when you went to *pay* out the foundation for the building, was Lillie White then actually in the house?

A. Yes.

Witness dismissed.

And thereupon, PATRICK DeLANEY, being produced as a witness on behalf of the defendants Minnie Atkins et al., being first duly sworn, testified under oath as follows:

Direct Examination by Mr. Bond.

Q. State your name. A. Patrick DeLaney.

Q. How old are you Mr. DeLaney? A. 53.

Q. Where were you born? A. Leavenworth, Kansas.

Q. *N*ow long did you live in Leavenworth?

A. Well, I lived there all my life except the last 12 years.

Q. You left Leavenworth about 12 years ago?

A. Yes, sir.

Q. Where are you now living? A. Kansas City, Missouri.

Q. What have you done in Kansas City?

A. I was on the force there—police force for a little over four years.

Q. And what are you doing now?

A. Night watchman for Guideman and Harrington, a mule firm.

Q. Guideman and Harrington?

A. Yes, sir, at the stockyards.

Q. What business are they in? A. Mule business.

Q. How many mules do you have usually under your charge?

A. At the present not very many; last summer when the Government was buying a whole lot, we had three or four thousand mules.

Q. Were you ever on the police force in Leavenworth?

A. I was.

Q. When did you go on the force of Leavenworth?

A. I think it was '94.

Q. And how long were you on the force then?

A. I was on about a year and then I was off for about two years; I think I went back on in '96, and I was on in '96, '97, '98, and then, I went in the fire department in '99.

Q. In the fire department, then, up to the time that you left Leavenworth? A. Yes, sir.

Q. And were fire chief there three years of that time?

A. Yes, sir.

Q. Did you [] a woman there named Granny Letcher?

A. Well, I know of her.

Q. I mean did you know of her; where did she live, if you know?

A. She lived on Seneca street between Second and Third.

Q. At that time were you on the police force? A. I was.

Q. Did you ever know a boy around there called Tommy Atkins? A. I did.

A. Where did he live?

A. Well, he—— I think he boarded with her.

Q. At Granny Letcher's? A. Yes.

Q. Did you ever have occasion to arrest him? A. I did.

Q. About what time, if you can remember.

A. It was either '96 or '97.

Q. Did you know where to go—have any trouble arresting him?

A. Well, no—well, yes; I had been after him two or three times and I learned that he had been boarding at this—his aunt, I believe they called her—Aunty—Granny Letcher she was.

Q. Yes?

A. And we learned he was in there one evening and I went there that night and got him.

Q. He was there then, was he? A. Yes, sir.

Q. What kind of boy was he?

A. Why, he was a tall, slender boy; dark, black hair—straight hair; he was not fleshy, good sized face; appeared about 12 years old.

Q. Appeared about 12 years old? A. I think.

Q. Was he a mischievous boy? A. Very.

Q. Now, when you arrested him there, did you have any trouble getting him away from there? A. No, he was in bed.

Q. And what was said there or done by her?

Mr. Linebaugh: Objected to as inadmissible.

Q. Was objection made [] your taking him? A. No, sir.

Q. What did you do with him?

A. Why, I don't think he was tried in our court; I think he was taken to some justice court; I don't know what was done with him; in fact I just arrested him on a complaint.

Q. You had orders from the chief?

A. To pick him up. In fact, all the officers had it.

Q. Had you seen him around there?

A. Yes, he had been back on Third street and Esplanade and around and on Cherokee, and along in there.

Q. Did you ever know an Indian woman named Indian Minnie? A. No.

Q. Knew nothing about that? A. No.

Q. And you knew nothing about who the boy's father and mother was? A. No, sir.

Cross Examination by Mr. Linebaugh.

Q. Out of what court was the warrant issued that you served? A. We didn't have a warrant.

Q. Well, where was the complaint made against him?

A. At the police station.

Q. At the police station?

A. Yes, the chief of police gave the order.

Q. Do you remember the charge preferred against him?

A. Yes, sir, stealing copper wire.

Q. What—stealing copper wire?

A. Three boys were implicated in it, I think.

Q. What sort of boys?

A. I don't know; I did at the time, though, one of them, but I forget his name.

Q. Why is it you remember Tommy Atkins and don't remember the other two?

A. Well, I know him better, and I don't think they lived on the beat I was walking at the time and I know him and I arrested him.

Q. I understand that, but you don't remember either of the other two boys? A. No.

Q. Now, where did you take him? A. Sir?

Q. Where did you take him after his arrest?

A. Taken him to the police station.

Q. Put him in jail? A. He was held over night, I think.

Q. Don't you know about that?

A. Why, we have nothing to do with locking them up, after we fetch him into the station.

Q. Well, he was tried? A. Not in our court.

Q. Well, was he tried?

A. I think by the justice, I don't know.

Q. Did you make any inquiry about that? A. No.

Q. You knew him well and had seen him about there; you were a little interested, weren't you?

A. No, I just made the arrest on complaint was all.

Q. You made a good many arrests on complaint about that time, didn't you Mr. DeLaney? A. Yes.

Q. This was in '96? A. Either '96 or '97.

Q. Who else did you arrest along at that time on complaint? A. Oh, I don't know.

Q. You don't remember anybody? A. No.

Q. Now, you knew Granny pretty well—this Granny Letcher? A. No, I didn't.

Q. She was a negro woman? A. Yes.

Q. When did you go to Leavenworth?

A. I was born there.

Q. You were born there? A. Yes.

Q. You never knew a woman about the town there named Indian Minnie, I believe you stated, A. Sir?

Q. I believe you said you never knew a woman about town there named Indian Minnie? A. I did not.

Q. Did you know one that was called Indian Mary?

A. Why, I did not. I recollect, though of seeing her, but I was not personally acquainted with her.

Q. Indian Mary went around with that old fortune teller, didn't she? A. I can't say.

Q. A fortune teller named Mollie Peters? A. I can't say.

Q. You knew of a fortune teller there named Mollie Peters didn't you?

A. Aunt Mollie, why I don't know as I did.

Q. How old are you Mr. DeLaney? A. 53 years old.

Q. You were a young man in '84 and '85, about 20 years old at that time? A. Yes.

Q. About town a good deal, weren't you? A. Yes.

Q. Weren't married at that time?

A. No, married in '95.

Q. You were going about in the day time and in the evening weren't you? A. Yes, sir.

Q. Now, this boy when you arrested him he appeared to be about 12 years old?

A. I should judge between 11 and 12.

Q. He was in bed there at Granny Letcher's?

A. Yes, sir.

Q. Any other boys there? A. No.

Q. Any other boys lived there that you know of?

Q. Why, there used to be a fellow who stayed around there occasionally; I don't know whether—by the name of—I can't think of his name now.

Q. Jim Mayo? A. No, this fellow was one-armed.

Q. Sam Nash; [A.] he used to go back and forth there. I don't know whether he made that his home; seen him go in and come out frequently.

Q. Sam Nash and one other boy? A. That is the only one.

Q. Only ones you know of? Sam Nash and this boy that you arrested, and they lived with Granny? A. Yes.

Q. Well, Mr. DeLaney, to refresh your recollection, wasn't that Walter Banks? A. Sir?

Q. Wasn't Walter Banks? A. Well, I don't know, sir.

Q. Now, Walter Banks did live at Granny Letcher's and was a nephew of Granny's wasn't he? A. I don't know, sir.

Q. This boy that you arrested was a nephew of Granny Letcher's?

A. That is what I learned; I am not positive of that; I heard that, that is all.

Q. Your understanding is that Granny Letcher was his aunt? A. His aunt; called *him* aunty.

Q. He called her aunty? A. Yes, sir.

Q. And your understanding was that there was a relationship existing between the two? A. Yes, sir.

Q. And that is the boy you arrested? A. Yes, sir.

Q. Now, you don't know at this time, whether that boy was Walter Banks or not?

A. Oh, this Tommy had given me a lot of trouble on the beat; I knew him, that is all the name I ever heard for him.

Q. You just said a while ago that you didn't remember whether it was Walter Banks or not?

A. Oh, I knowed Tommy a good while because he would give me a lot of trouble, because he was very mischievous, but Walter Banks—I can't place Walter Banks.

Q. Can't place Walter Banks? A. No, sir.

Q. If Sam Nash and Walter Banks did live there at that time; those two boys; then Walter Banks is the boy you arrested?

Mr. Stuart: I object to that.

The Court: He may answer that question.

A. State that question, please.

Q. If Sam Nash and Walter Banks did live there at Granny Letcher's at that time, then Walter Banks is the boy you arrested at that time? A. I don't think so.

Q. You don't think so?

A. No, Tommy Atkins is the boy I arrested.

Q. Now, how do you fix this boy you arrested as Tommy Atkins? Have you got any record?

A. Why, I had always heard that as his name and as I said before, he would give me a lot of trouble on the beat; he was a mischievous little fellow.

Q. But had you arrested him?

A. No, I hadn't but he was arrested by others; a mischievous little boy—you couldn't catch him. He was just like a rabbit.

Q. Out ran you? A. Yes, sir.

Q. Did you try? A. I had, yes, sir.

Q. Did you make any record on the police blotter when you brought him in?

A. Usually there was a record of it.

Q. You made a record of it?

A. No, the night captain made that.

Q. Were there any Englishmen on the block at that time, did you know of any Englishman living there?

A. No, I didn't know of any Englishman there.

Q. How did you hear this name Tommy Atkins?

A. It was a frequent thing along Third street.

Q. Well, tell us who you heard call the name Tommy Atkins.

A. Well, I don't [] that I could mention right now; I heard policemen talk about him.

Q. Well, did you? A. Yes, sir.

Q. Who? A. Joe Wagers.

Q. You and Joe Wagers talked about his name?

A. Yes, sir.

Q. How did you get to talking about his name?

A. We walked the beat together at night; used to be that two officers walked the same beat.

Q. You got to talking about his name?

A. Probably something that he had done.

Q. This boy—would you see him in the day time?

A. Yes, sir, when I walked the beat in the day time. I would see him in the day time.

Q. He didn't go to school?

A. He might have gone to school; I don't know.

Q. How long did you know, now, of this boy living at Granny Letcher's house; how many years?

A. Well, about two years.

Q. About two years? You would say you think before you arrested him?

A. Yes, sir, probably long in '96 or '97.

Q. You never saw him there afterwards?

A. Why, I—no, in fact, I left the force, I went with the fire department in '98. I don't know whether it was——

Q. You didn't see anything more of him? A. No, sir.

By the Court.

Q. When did you first join the police force? A. '94.

Q. In '94; in what year was it you first took the beat down there in that neighborhood?

A. It was '95, '96 or '97—yes, I was not on in '95; either '96 or '97, I walked that beat, not steady but those two years I was off and on that beat.

Q. Where was Granny Letcher living then?

A. Lived in the frame house; I don't know the number, the second house from Van Tyle's stable; stone house and then, this frame, I think, was next.

Q. On what street?

A. Seneca street, going towards Third street.

Q. Now, were you familiar at that time with who frequented that house and went in and out as members of the family?

A. Why, no, nothing more than parties I have known.

By Mr. Linebaugh.

Q. Your beat was right there on that street?

A. No, sir, I went clean to the north end of the town.

Q. That was part of your beat?

A. That was part of my beat.

Q. Now, Mr. DeLaney, who did you first tell about what you knew in this case?

A. Why, two or three weeks ago, I met a fellow down where I am working, a fellow named Higgens, a young fellow that I used to know in Leavenworth, and he said—called me by name—said, Pat, I am going down to Oklahoma on a case and I said what case, and he said maybe you know something about it; he said Tommy Atkins, and I said I hope I do, I arrested him on it; and Mr. Graham—he must have told Mr. Graham——

Q. What Mr. Graham was that? A. Pomp Graham.

Q. Pomp Graham, alright.

A. So he come down and talked to me about the case.

Q. How long have you known Pomp Graham?

A. Oh, I have known Pomp Graham all his life.

Q. Did you know him when you were on the police force?

A. Yes, sir.

Q. What did he do then?

A. He pretty nearly always had a job around the courthouse as deputy sheriff or constable. I think he was janitor there once, I wouldn't be sure.

Q. What has he been doing in recent years? A. Sir?

Q. What has he been doing in recent years?

A. I think he has been connected with the sheriff's office; in fact, I don't know—I have been away from there.

Q. And he came and talked to you about two or three weeks ago? A. Two or three weeks ago.

Q. Arranged for you to come down here to Muskogee, did he? A. Yes, sir.

Q. Gave you transportation, did he?

A. Gave me money to buy my transportation, yes, sir.

Q. He told you who wanted you down here?

A. He didn't, only on this case.

Q. And when did you come here?

A. I came here Sunday morning; yesterday morning.

Q. Yesterday morning? A. Yes, sir.

Q. Who came with you Mr. DeLaney?

A. Ten or twelve; Mr. Higgens, Mr. Foley, I don't remember all of them——

Q. Mr. DeLaney, how do you remember that this was in '96 or '97 that you arrested this boy?

A. Well, I went on the force in '94, and then I was off for about a year or a little over and then I went on in—it was either '96—'97 or '98; those three years I was on the force. Then, I was transferred from the police force on to the fire department.

Q. Evidently you didn't understand my question. The question was this; how do you fix the time that you arrested this boy as '96 or '97?

A. Those two years I remember I worked on the north end of town, the latter year on Shawnee street—that was the dividing line and I was up in the south end.

Q. You fix it then, not by the incident but by the place you worked? A. Yes, sir.

Q. Was that right? Was that in the—what season of the year was it you arrested him?

A. Why, I disremember; I know it was warm—it wasn't —it might have been in the spring; it wasn't cold.

Q. He was in bed? A. Yes, sir.

Q. And it wasn't cold enough for him to be covered?

A. He had a spread over him, I think.

Q. Who else was in the house there?

A. Why, nobody but his aunty.

Q. Granny Letcher? A. Granny Letcher.

Q. No one else at all? A. None that I seen.

Q. Can you tell us more definitely than '96 or '97 when it was you made this arrest?

A. I can't; either one of those two years; I wouldn't be positive which year it was.

Q. You think it was in the summer of one of those years?

A. Yes, sir; yes, sir.

Q. You are not sure about that?

A. I wouldn't be positive which year it was.

Q. Did anything particular happen to you in '96?

A. Not a thing.

Q. Did you make any other arrests that you now remember in '96?

A. Oh, no; I made several arrests, but I don't recollect of them.

Q. Can you tell us the name of any man you arrested in '96? A. Well, no, I can't; can't think of their name.

Q. Can you tell us the name of any man you arrested in '97? A. I don't recollect.

Q. Can you tell us who the mayor of Leavenworth was in '96? A. Why, Ryan; Mayor Ryan.

Q. Mayor Ryan? A. Yes, sir.

Q. He was mayor, was he, in '96? A. In '96.

Q. Who was the city attorney, do you remember?

A. I don't know who was city attorney.

Q. Who was the justice of the peace?

A. Why, I think Franks and Plowman.

Q. This complaint you say issued out of the justice of the peace court?

A. It probably was; I never got a complaint.

Q. Is that right? A. Sir?

Q. The complaint, as you remember, was issued out of the justice court? A. I can't say.

Q. He was not tried in the police court? A. No, sir.

Q. What other courts were there misdemeanor cases?

A. Why the justice courts.

Q. Nothing but justice courts?

A. Unless they would make a state case out of it.

Q. And the police court? A. Yes, sir.

Q. Now, when you arrested this boy, the justice courts were running and the police courts, those two courts?

A. Yes, sir.

Q. You are sure of that?

A. Yes, he might have been tried before Judge Bond.

Q. The United States Commissioner?

A. This stuff might have been stolen on the reservation; I really don't know; I just arrested him on——

Q. But you are sure you remember the time you made the arrest that the police court was in operation, justice court was in operation, and the United States Commissioner court was in operation? A. Yes, sir.

Q. Now, if the justice courts were abolished in 1894, then you made this arrest before that time, didn't you? Sir?

A. Yes, sir.

Q. Is Pomp Graham here?

A. I don't know; I haven't seen him today.

Q. Have you seen him in town, in Muskogee, at all?

A. I seen him here Sunday; he was here Sunday.

Q. He was here when you got here?

A. He came with us that night.

Q. Oh, he came with you.

Cross Examination by Mr. Bell.

Q. Under whose administration did you belong to the police force?

A. Under Governor Llewellyn; had police commissioners when I went on.

Q. Yes, but I want to know what mayor.

A. I think Neeley was mayor.

Q. In 1894? A. I think he was, now.

Q. Who followed him? A. Sir?

Q. Who followed Neeley? A. I think Judge Hacker.

Q. Who followed Hacker? A. Sir?

Q. Who followed Hacker? A. Why, I think Hook.

Q. Who? A. Hook.

Q. Who followed Hook? A. I think Ryan.

Q. Who followed Ryan? A. Anthony, I think.

Q. Anthony. What year was Anthony? A. I can't say.

Q. What year were you in the fire department?

A. Why, I went on in either '98, last of '98 or '99.

Q. Who appointed you? A. How?

Q. Who appointed you as chief of the fire department?

A. Why, Spreads, was chief.

Q. I know, but who appointed you on the fire department?

A. Ryan.

Q. And you say near or the last part of 1898. Now, you were policeman in Leavenworth many years, were you not?

A. Probably five or six or seven years.

Q. Then you *went* Leavenworth and went to Kansas City? A. No, I went to the fire department.

Q. Then you went to Kansas City?

A. Went to Excelsior Springs.

Q. Then you went to Kansas City? A. Yes, sir.

Q. You were a policeman in Kansas City, Missouri, several years? A. Seven years, no.

Q. Several years? A. Yes, a little over.

Q. How long were you on the police force in Kansas City? A. Three years now, close.

Q. While you were on the police force in Leavenworth you became acquainted with a great many mischievous boys about the city, didn't you?

A. Yes, sir, a good many of them.

Q. Did you know Hezekiah Johnson?

A. I believe I did.

Q. Who was his father? A. Johnson's father?

Q. Yes. A. I guess Mr. Johnson.

Q. Perhaps so. Did you know Israel Johnson?

A. I didn't know him.

Q. You made a good guess. A. Yes, pretty close.

Q. Did you know Willie Robbins?

A. Willy Robbins? Yes.

Q. He was a mischievous colored boy there?

A. Yes, he was mischievous.

Q. They run in a kind of band together?

A. Yes, quite a few of them up there.

Q. Those boys, when they would do their mischief and didn't want to go home, would sleep down at Mother Letcher's down there, wouldn't they?

A. Well, I don't know of them sleeping down there.

Q. Now, was Mother Letcher living on what we called the middle-east beat, or northeast beat?

A. That was the northeast.

Q. Northeast. Sure? A. Yes, sir.

Q. And you are positive in 1897 there you arrested Tommy Atkins? A. '96 or '*07*.

Q. Who told you it was Tommy Atkins?

A. Why I had known of him before.

Q. Where did you know him before?

A. On Third Street there, along Third.

Q. On Third Street? A. Yes.

Q. What did he ever do before that that caused you to know him?

A. Why, there used to be a gang of them on Sunday would go in between Abernathy's there and shoot craps and I tried several times to catch them; I used to go through a lot, that vacant place there. and I never could catch them.

Q. Do you know where the old John McHale property is on the corner of Seneca Street and Third?

A. Old frame, yes, sir.

Q. Do you know of a big building on northeast corner of Third and Seneca? Right across the street, the northeast corner? A. Yes, sir; I certainly do.

Q. Know the little old frame being used—used to be used as a kind of bakery on the lot back of that building?

A. No, I can't place it now.

Q. Well, that building would only be about a block or half block of where Mother Letcher lived, wouldn't it, or Granny Letcher? A. About half a block, I judge.

Q. Do you know who lived in there for many years, way back in '80 and up to 1900; do you know who lived in that little old building on the lot? A. I don't, sir.

Q. Do you know a woman, colored woman, name of York?

A. Maria York, yes, sir.

Q. Did you know her son? A. I did.

Q. Did you ever arrest her son? A. I never did.

Q. Don't you know as a policeman that he was the most mischievous boy in Leavenworth? A. He was very bad.

Q. Ever hear that? A. Yes, sir.

Q. In the police court every Monday morning, wasn't he, and he would run up there with Walter Banks and Tommy Nash and others, wouldn't he? A. I don't know, sir.

Q. And his name was Tommy York, wasn't it?

A. Yes, sir.

Q. Isn't that the boy you arrested? A. No, sir.

Q. Sure of that? A. Yes, sir.

Q. You never arrested Tommy York?

A. Never arrested Tommy York.

Q. He was the older of the boys on your beat?

A. He wasn't *ony me* beat; he lived on Third Street, beside the jail there; that was another beat.

Q. Yes, I know, he lived over there; he lived over there until a few years ago, didn't he?

A. Well, I don't know how long, but he lived there.

Q. Just about the time that you left Leavenworth, he lived there, didn't he?

A. Yes, about; he was living there, I know, when I changed off the force and went on the fire department.

Q. When you went on the police force in 1894, he lived on Third Street, near the corner of Shawnee and Seneca, didn't he?

A. I didn't know him then; I didn't know of him until he lived there by the county jail.

Q. You served on the middle-east beat, too, didn't you?

A. Yes, walked all those beats; it is just over the line.

Q. Where is the line?

A. That south street is supposed to be the—short street, whatever you call it in there.

Q. Then that was the southeast beat where the jail was?

A. Yes, the southeast beat.

Q. You walked that beat, didn't you?

A. Yes, I walked that beat.

Q. Never arrested Tommy York while you were there?

A. Never did.

Q. Never knew of him being arrested?

A. Yes, I know of him being arrested.

Q. Didn't you know as common knowledge that his name appears on the police court record for 10 years more than any other boy in—who lived in Leavenworth?

A. He was on there, yes.

> The Court: I can't see the materiality of that in this connection. You asked if he arrested Tommy York on this occasion detailed, and he says no.

Q. Now, then, will you describe the boy you arrested?

A. Why, he was a tall, spare built boy; very light; straight dark hair.

Q. Straight dark hair; how old?

A. I should judge he was between 11 and 12.

Q. And you arrested him and you don't know upon what authority, do you?

A. Why, from orders of the chief of police department.

Q. Do you know whether the chief of police had a warrant for him? A. I do not, sir.

Q. You know that whenever you made an arrest for the justice of the peace office they left their warrant with the chief of police, didn't they, and he gave it to the policeman that makes the arrest, didn't he?

A. Yes, sir, but you get orders at roll call, if you see so-and-so——

Q. I am not asking you that. Did he ever give it to you?

A. No, sir.

Q. You never did have that warrant? A. No, sir.

Q. How did you know then you were to arrest him?

A. I was ordered by the chief.

Q. Ordered by the chief, but wasn't it the duty of the chief to give you a warrant if you were to make that arrest?

A. That I don't know, sir.

Q. How is that?

> The Court: He says, I don't know.

Q. Now, then: Do you know what became of that arrest?

A. I do not.

Q. Was he ever tried? A. I can't say.

Q. Were you ever a witness against him after the arrest was made? A. Never was.

Q. You don't know what court he was ever tried in?

A. I don't, sir.

Q. What did you record on the docket at police court the evening you made the arrest?

A. Why, I didn't record anything; I think Taylor was night captain, and he made the record, police record; he put it down.

Q. Taylor was night captain? A. I think he was.

Q. Don't you know that it was a rule and a custom of the police to register their arrest and to register all property taken off before they locked up their prisoner?

A. No, sir, it was not. The night captain used very often to do it. The officer sometimes done it and sometimes the night captain, while very often we had to take the prisoner over ourselves, and if we did the night captain put it on the record.

Q. Who made the record of the arrest? A. I don't know.

Q. All you did was to take him in there? A. That is all.

Cross Examination by Mr. Linebaugh.

Q. Was there a policeman with you when you made the arrest? A. I disremember, I think there was.

Q. Joe Wages? A. I don't think he was.

Redirect Examination by Mr. Bond.

Q. Did you arrest all three of the boys? A. I did.

Q. How many of them did you arrest? A. Just the one.

Q. There has been a great deal of talk about arresting him?

A. Picked him up; same thing is done in Kansas City every day.

Q. You don't know whether he was put in jail or not?

A. Yes, he was put in.

Q. They asked you about the justice court, there was finally a city court established that had jurisdiction over misdemeanors? A. There might have been, yes.

Q. All handled the same way? A. About the same.

Examination by the Court.

Q. I didn't quite understand what you did with him?

A. I don't know what was done with him myself.

Q. The last you saw of the boy was where?

A. I took him over there and put him in the city jail.

Q. After you arrested him, where did you first take him?

A. To the police station.

Q. The night captain was named Taylor?

A. I think that was his name.

Q. You remember taking him and reporting to the city calaboose? A. Yes, sir.

Q. Then you put him in the city jail?

A. Yes, sir, that was the last I saw of him.

(Witness dismissed.)

And thereupon, W. J. COWLING, was called and sworn as a witness for and on behalf of the defendant Minnie Atkins et al., and testified as follows:

Direct Examination by Mr. Hanford.

Q. State your name? A. W. J. Cowling.

Q. What is your age, Mr. Cowling?

A. I will be fifty-seven in October.

Q. Where do you live? A. Leavenworth, Kansas.

Q. And what is your occupation?

A. I am foreman stone cutter at the federal penitentiary.

Q. Foreman stone cutter at the federal penitentiary, how long have you had that position?

A. Two years and a half.

Q. And prior to that you worked as a mason in Leavenworth?

A. Yes, in the contract business quite a number of years.

Q. Did you know Lilly White?

A. I knew a woman that they called Lilly White.

Q. You didn't know her personally?

A. No, I didn't know her personally, no, sir.

Q. Did you ever work for Burdett and Heis? A. I did.

Q. When did you work for them?

A. I worked for them in '85.

Q. Where did you work for them in '85?

A. Well, I worked for them partly on Choctaw Street and partly on Cherokee.

Q. When did you go to work for them on Choctaw?

A. Well, in the spring of 1885.

Q. Do you know the Schiller house next door to the stone yard there? A. Yes, sir.

Q. Do you know if Lilly White ever occupied that house?

A. She moved there that spring.

Q. In the spring of '85? A. Yes, sir.

Q. About the time you went to work for Burdett & Heis?

A. Well, about the time, it was in April, I think.

Q. You think she moved in there in April?

A. Yes, sir.

Q. Are you sure that she moved in there in the spring?

A. Yes, sir.

Q. Did you work for Burdett and Heis out at Lansing?

A. No, sir.

Q. You went to work for them after they moved back from the penitentiary?

A. Well, I was working for them prior to the time that they moved in from the penitentiary. They run a shop on Cherokee Street, I worked for them from 1881 to the summer of '85.

Q. Now, think whether you have a distinct recollection of Lilly White being in that house in the spring of '85?

A. I have.

Q. And can you give the month of your earliest recollection of seeing her there?

A. Well, according to the best of my recollection it was in April, not later than very early in May that she moved in there.

Q. Not later than the first of May? A. Yes.

Mr. Hanford: That is all.

Cross Examination by Mr. Allen.

Q. When did you move to Leavenworth?

A. Why, I moved to Leavenworth in the spring of '61, that is my folks moved to Leavenworth.

Q. Were you born there? A. I was born in Atchison.

Q. Atchison? A. Yes, sir.

Q. What age were you when you commenced working for Mr. Heis? A. About twenty years, or twenty-one.

Q. Twenty-one when you commenced?

A. I would have been twenty-one that fall.

Q. Would have been twenty-one that fall?

A. Yes, sir, in 1881.

Q. And that is the time you saw Lilly White?

A. No, sir.

Q. What is there that causes you to associate the year 1885 with seeing Lilly White?

A. Well, because that was the year we moved down there, and that Schiller house wasn't vacated until that spring; old Mrs. Schiller lived there.

Q. Who moved down there?

A. Why, we moved down there to work, our yard was right next to the place.

Q. Do you know what months it was that you moved there? A. Why ,in April.

Q. Who is we?

A. Well, speaking about the men that was working there in the yard, generally we say we.

Q. We are the people then who worked at that place?

A. Yes.

Q. Who worked there?

A. Well, I can't recall all of them, not at this time, a man by the name of Henry Baney was one.

Q. What day in the month was it you moved down there?

A. I couldn't tell you that.

Q. Have you got any record at all that helps you fix the month you moved there? A. No, sir.

Q. How long did you work there?

A. I worked there until June or July. *A.* '85. That is, that fall.

Q. Do you know how long that firm stayed there?

A. Well, that firm had some little business trouble and they dissolved partnership, I believe that is the reason I quit work there.

Q. They didn't dissolve partnership until several years after?

A. No, I think it was in June or July that they had the trouble.

Q. That was in 1886, wasn't it?

A. I think it was in 1885; well, in fact, I know it was in 1885 I went there, because I got married in the fall of 1885 and I was working for the other firm.

Q. There is nothing connected with working there, no relation between that and your marriage is there that causes you to remember that? A. What is that?

Q. There is nothing of that work that was associated with your marriage that causes you to remember it?

A. Nothing only that I got married that fall, in the fall of '85.

Q. Did you move there when that firm commenced its business at that place?

A. Yes, sir, I moved down there and was running the yard for them, I was foreman of the yard.

Q. When the firm commenced business at that place?

A. Yes, sir.

Q. But you only stayed there for a couple of months?

A. I stayed there until either June or July, I think it was July.

Q. Lilly White was there all that time?

A. Yes, and after that.

Q. You never went about Lilly White's place?

A. No, sir.

Q. Never associated with Lilly White's people there?

A. No, sir.

Q. Did you know Granny Letcher? A. I did not.

Q. Did you ever know of her at all?

A. No, I have no recollection of her.

Q. When is the first time that this matter was ever called to your attention after 1885, whatever year it was you were there? A. Well, I couldn't tell you that.

Q. When did you next think about the fact that you had ever worked there at that place?

A. I have no occasion to think about when I worked there because I know.

Q. You say now you remember it, when was it again called to your attention?

A. Well, when I seen the papers in regard to this Indian Minnie case.

Q. Who first talked to you about the Indian Minnie case?

A. Nobody in particular.

Q. You read it in the newspapers? A. Yes, sir.

Q. You read about the Indian Minnie case in the newspapers and then you thought about having worked at this place? A. No, not exactly.

Q. These articles you saw on the Indian Minnie case didn't say anything about Lilly White did they?

A. I don't know as they did.

Q. Never has mentioned Lilly White?

A. Not to my recollection.

Q. All of these articles that you read said that Indian Minnie or Minnie Atkins, known to the people of Leavenworth as Indian Minnie in 1885 gave birth to a boy at the home of Granny Letcher and his name was Tommy Atkins?

A. I have seen something.

Q. That is the substance of all the newspaper articles you have read practically, you have read a great many?

A. No, I have not, I am not taking any interest in the case.

Q. In 1914 those articles appeared frequently in the papers? A. I couldn't tell you.

Q. Well, you read them, some of them?

A. I have read some.

Q. That firm you were with didn't commence business at this place until they had finished their contract at Lansing, did they?

A. They didn't move their machinery in there.

Q. You worked at Lansing on that job?

A. I never worked at Lansing.

Q. But they had finished the job at Lansing when you went to work for them?

A. I don't know that; they partly finished a good many jobs out there.

Q. But they had moved their tools into this place?

A. They were moving part of them in there; they were getting ready; we were working there before they moved the machinery in.

Q. How long? A. Oh, I don't know how long.

Q. You certainly remember about how long. How long before they moved the tools in there that you commenced working?

A. They was moving the machinery when we were working there.

Q. You say you first read a lot of articles about this Indian Minnie case?

A. I have read some, I haven't taken any great interest.

Q. Will you tell the court why that caused you to remember Lilly White didn't live in some other house?

A. It didn't cause me to remember anything about Lilly White.

Q. You didn't know Lilly White after she lived on Seneca Street, did you? A. No, I did not.

Q. So the fact that Indian Minnie gave birth to a child at 217 Seneca Street didn't cause you to remember about Lilly White living somewhere else?

A. I was asked in the court room.

Q. Who asked you?

A. I was asked right here on the witness stand.

Q. I know, but before that who first talked to you of your knowledge with regard to Lilly White?

A. Mr. Graham asked me if I remembered Lilly White.

Q. Pomp Graham? A. Yes, sir.

Q. When did Pomp Graham first talk to you?

A. Two or three weeks ago.

Q. Where? A. He called me up over the telephone.

Q. Is that the first time you had thought about having worked for Mr. *White* in 1885? A. No, sir.

Q. What caused you to remember that?

A. He asked me at the time if I remembered Lilly White moved in there.

Q. Moved in where? A. The Schiller house.

Q. Where was the Schiller house located?

A. Located on Choctaw just east of Fourth, between Third and Fourth.

Q. You don't know where Lilly White came from to there?

A. No, sir, I do not.

Q. You don't know whether she was the same Lilly White that lived on Seneca?

A. I don't know whether she ever lived on Seneca. I don't know that that was her name, I know that is the name she went by.

Q. Who did you hear call her Lilly White?

A. Why, different parties.

Q. Who did you hear call her that?

A. Why, different men.

Q. Who was one? A. I couldn't recall their names now.

Q. Pomp Graham told you it was Lilly White, didn't he?

A. No, sir, he did not.

Q. He asked if you remembered that woman that moved into that Choctaw house in 1885, didn't he? A. Sir?

Q. He asked you if you remembered that woman that moved into the Schiller house in the spring of 1885?

A. He asked me if I remembered when Lilly White moved into that house.

Q. You remembered instantly all about it?

A. I told him it was in 1885, because that was the year we moved in there, and she moved in the house that spring.

Q. You remembered instantly the name Lilly White as soon as he mentioned the name, didn't you?

A. Why, certainly.

Q. She was no particular friend of yours or associate of yours?

A. She was not, but I worked down in that neighborhood for twenty-five years.

Q. I thought you said one or two months?

A. I said in that yard until July and I went to the other yard and started working.

Q. And you continued working there for twenty-five years? A. Not steady.

Q. All of which time you knew Lilly White?

A. I don't say I knew her all that time.

Q. How many years did you know her on Choctaw?

A. I don't know that.

Q. Did you know that until she left in 1910?

A. I don't recollect what year she left.

Q. She just left a few years ago, didn't she?

A. No, she lived there quite a while ago.

Q. Did she leave there in 1910? A. No, sir.

Q. Where did she move from to that place?

A. I couldn't tell you that.

Q. Don't you know how long she stayed on Choctaw?

A. I guess four or five years.

Q. You know she stayed there four or five years, now how much longer? A. I don't know.

Q. That is the best you will say that you knew her there four or five years?

A. I have no reason to want to know.

Q. Didn't you continue to work around in that community? A. I did.

Q. And the longer you worked there the better you became acquainted with the name, didn't you?

A. Not necessarily; I heard everyone call her by the name Lilly White, men that associated with her.

Q. And she disappeared without anybody paying any attention to her, is that right? A. I didn't say that.

Q. You know Max Harris, don't you? A. I do not, no, sir.

Q. Who came down here with you?

A. Man by the name of John Blass.

Q. Anybody else?

A. There was another man on the train. I didn't know he was on the train—— Well, we were pretty close to Muskogee.

Q. What was his name? A. Albert Rapp.

Q. Pomp wasn't on the train?

A. No, sir, I didn't see him.

Q. You found out later he was on the train?

A. No, sir, I don't think he was.

Q. You have seen him since you have been here, haven't you? A. No, sir.

Q. Did you know he was in town? A. No, sir.

Q. Did he tell you he was coming?

A. He told me he was coming Saturday night.

Q. Have you seen him? A. I got in here this morning.

Q. When did you see Pomp last?

A. I seen Pomp last Friday.

Q. Is Pomp the only man you have ever talked to about this case? A. Yes, sir.

Q. He is the only man that has refreshed your memory about Lilly White? A. He didn't refresh my memory.

Q. He is the only man that has ever asked you about Lilly White? A. Yes, sir.

Q. None of the lawyers here talked to you? A. No, sir.

Q. No one has talked to you before they put you on the witness stand? A. No, sir.

Examination by the Court.

Q. You say you went to work for this firm in the spring of 1885? A. That is when we moved down to that place.

Q. How far along was the building there? Did they build a building there at that place? A. Yes, sir.

Q. What kind of a building was it?

A. One store brick building.

Q. Now, how far along was that when you went to work in the spring of 1885 there?

A. I don't recollect exactly how far advanced it was.

Q. Had it been started? A. Yes, sir, it had been started.

Q. Do you remember whether it was completed or not, that is the building part?

A. Why, yes, it was completed because we sawed stone there.

Q. You sawed stone in the building?

A. Yes, sir, and worked marble.

Q. So, that when you went in there in April or May, 1885, the building was already completed so that you worked inside? A. I think we were sawing stone there in May.

Q. In May? A. Yes, sir.

Q. You have a distinct recollection the building was completed then?

A. Well, I don't know whether it was completed, it was far enough advanced so we could saw stone. The walls were up.

Q. Did you know when that building was commenced of your own knowledge?

A. No, I couldn't, I wouldn't say positively when the building was commenced.

Examination by Mr. Allen.

Q. Did you know Lilly White before you went there to work? A. No, sir.

Q. Had you ever heard of her before?

A. I had heard mention of her.

Q. You know where she lived before that?

A. I do not, no, sir.

Q. Did you see her the day you went to work there?

A. I don't know as I did.

Q. You don't know when it was after that you saw her to know her?

A. Well, I really didn't know her only by other people calling her by that name.

Q. You don't remember who it was or when it was you heard her called that?

A. Oh, men in the yard called her by that name.

Q. You don't remember whether it was the day you started to work or later?

A. Well, I might have heard her spoken of before we started to work down there.

Q. All you remember is you heard of her four or five years? A. Yes, sir.

Q. You never went in her house at all?

A. No, sir, I never went in her house.

Redirect Examination by Mr. Hanford.

Q. Lilly White was a notorious person?

A. It had the name of being that.

Q. It was a sporting house and was notorious about there, talked about? A. Yes, sir.

Q. You were asked about other men that you have heard speak her name or refer to that place; did you know John Roher? A. Yes, sir.

Q. Did you ever see him around there?

A. He was agent for the Schlitz Brewing Company right next to this place; their place was on the corner; they run a bottling works.

Q. Did you ever see him at Lilly White's place?

A. I don't know as I have. I think he done business with her, that is furnished her beer as to that, I think she patronized him in that way.

Q. You don't know?

A. I don't know that to be a fact.

Recross Examination by Mr. Allen.

Q. That was after Mr. Rohr had been District Clerk?

A. I believe it was.

Q. He had formerly been clerk of the District Court I believe? A. Yes, sir.

(Witness dismissed.)

Whereupon, Court recessed until tomorrow morning at nine-thirty A. M.

And thereafter, and at 9:30 o'clock A. M., May 22nd, 1917, court having convened pursuant to adjournment, further proceedings herein were had as follows:

> Mr. Hanford: At this time, Your Honor, we wish to offer the deposition of James M. Allen, beginning at page 1940 of the depositions taken before Giles Penick, Special Examiner.

JAMES M. ALLEN being called on behalf of the defendant, being sworn and under oath, testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. James M. Allen.

Q. Where do you live, Mr. Allen?

A. Well, I live at Leavenworth and Kansas City both. My office is divided; I spend part of the time in both places. Leavenworth is my legal residence.

Q. How long have you lived in the city of Leavenworth?

A. As the Dutchman says, my life long. I was born in Fort Leavenworth in 52 and that has been my legal residence ever since. I have been away a year or two at a time, but this has been my legal residence.

Q. You were one of the first births here, weren't you?

A. Yes, sir.

Q. What has been your business during that period, Mr. Allen?

A. Well, I have been in various kinds of business; up to 1875 I was a printer and engaged in the—as assistant to the various editors in the early days, but since 1875 I have been with the Rock Island road in different capacities, principally as a passenger and ticket agent, etc.

Q. Now, tell us what service you first had for the Rock Island, what was your first service?

A. I was city passenger agent for the Rock Island.

Q. About how long did you remain in that particular service? A. Oh, about 10 years, commencing in '75.

Q. Then what place did you take?

A. I was appointed superintendent and ticket agent at the new Union Depot down here.

Q. About how long did that service continue?

A. Oh, I think about five or six years.

Q. And what business do you do now for them?

A. I am the general agent of the Rock Island at Leavenworth now, representing the passenger and freight business.

Q. Were you here in the years of 1884 and 1885?

A. I was.

Q. I will ask you whether or not during that period you knew a girl by the name of Indian Minnie?

A. Yes, sir, I did, in fact I knew pretty near everybody in town at that time. I was a passenger man and I was on the streets days and nights and between times looking after the business of the road.

Q. Where do you remember to have seen Indian Minnie?

A. Well, I saw her several times, particularly at a house across the street from the Seneca house, North Leavenworth, with an old lady by the name of Letcher, Granny Letcher, I believe they called her in those days.

Q. I will ask you whether or not when you saw Minnie she had a child in her arms?

A. Yes, I saw her with a baby in her arms more than once, two or three times.

Q. At Granny Letchers? A. Yes.

Q. Now, Mr. Allen, how old was the child, as near as you can remember when you first saw it?

A. I should imagine three or four months.

Q. Three or four months?

A. Yes, sir, as near as I can recall it.

Q. Now, what year did you see her with that baby in your best judgment?

A. Well, I can't tell you whether it was '84 or '85, it may have been earlier than '84 or '85, but sometime during that period.

Q. It was sometime during '84 or '85?

A. Yes, because I had no particular interest in her.

Q. You know it was not as late as eighty-six?

A. No, because I left the service of the Rock Island in eighty-five, and I wasn't running around the streets after that time. That is I left that particular kind of service, I was not searching on the streets for passenger business as I was before.

Q. Do you remember what kind of a looking girl this Indian Minnie was?

A. Why, she was a very comely looking girl, nice looking girl in fact, and I can picture her in my mind's eye as I saw her two or three times.

Q. I wish you would do that, what kind of hair did she have?

A. She had black hair, braided down her back in a plait, hanging down her back in a plait, neat looking and a nice looking girl.

Q. Did she show any signs of Indian?

A. Well, I wouldn't have taken her to be a white woman.

Q. Did you ever see the child after those two or three times?

A. No, not after that, because I was on the road traveling.

Q. And you didn't go about?

A. No, sir, after that, it was out of my line of business soliciting the streets.

Cross Examination by Mr. Allen.

Q. Mr. Allen, are you a married man?

A. Not at the present time, I am a widower.

Q. When were you married, were you ever married more than once? A. Twice.

Q. When were you first married?

A. Oh, I believe it was seventy-four—seventy-four.

Q. Are you sure about that?

A. Well, it was either seventy-three or four. My mind has never been reverted to that since. My first wife has been dead a good many years, and my second wife has been dead ten years.

Q. When did your first wife die?

A. Let me see, about ninety-three I think.

Q. Are you sure about the year?

A. No, I wouldn't be sure about it exactly, it is about that time, she died from the effect of an operation in Kansas City for a specific complaint or disease.

Q. That fact is much more impressive than the seeing of this girl once or twice? A. I don't think so.

Q. The fact of the death of your wife with whom you lived for a good many years impresses itself more on your mind than seeing this girl once or twice? A. No, it don't.

Q. There was no intimacy between you and this girl?

A. Oh, no, not the slightest, I was out on the passenger business when I was up in that neighborhood.

Q. How many times did you see her?

A. Oh, I think perhaps three or four times.

Q. When did you first see her?

A. I can't tell you about that.

Q. Was it in eighty-one or eighty-two?

A. No, it was later than that, it might have been in eighty-four.

Q. It might have been earlier than that, might it not?

A. No, I don't think so, eighty-four or five.

Q. You have no way of fixing that, have you?

A. No, except I know at that time I know it was my business to solicit passenger——

Q. You didn't solicit this woman as a passenger, did you? A. No, but somebody at the house.

Q. Whom did you solicit at the house?

A. Some man out there, colored man by the name of—I think his name was Letcher.

Q. How many people were living there at that house at that time?

A. I don't know, I didn't see but two or three.

Q. Who did you see?

A. I saw this colored man that I was looking after to sell him transportation and——

Q. Where was he going?

A. Supposed to be going to Oklahoma.

Q. Did he go?

A. I don't know, I didn't get the business.

Q. Well, is that the only time that you ever remember of seeing her there?

A. No, I passed there once or twice, or maybe three times after that I saw her.

Q. Well, you passed there, whether you were a ticket agent or what not, you lived in town didn't you, didn't you ever pass except when you were ticket agent?

A. No, I wouldn't have any business up there, any other kind of business up there.

Q. Well, you would drive around different streets in town? A. No, I walked.

Q. You never drove around town in your life with anybody?

A. No, not at that time. No, I didn't have the price to buy anything to ride in.

Q. Wouldn't somebody give you a free ride around town?

A. No, I didn't have any intimate friends of that kind.

Q. When did you learn that this woman's name was Minnie? A. Oh, it was commonly known at the time.

Q. Tell me what person told you that her name was Minnie before this case came up?

A. Oh, I heard it from various parties. Heard her mentioned as Indian Minnie.

Q. You have—you had forgotten about her until your memory was refreshed, hadn't you?

A. No, oh, no, it was pretty well remarked here.

Q. What was her size?

A. Oh, I should judge five feet four, or five, something like that, moderate sized girl.

Q. If these other witnesses say a woman five feet high was or was not the woman that you saw——

> By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and improper cross examination.
>
> By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and asking for a conclusion of the witness and as an improper request to compare evidence.
>
> By Mr. Hanford: The same objection.

A. Why, do you want me to give what my opinion was about the size?

Q. Yes, sir?

A. She was an ordinary sized girl, I am only guessing at her height, I suppose I would take it for granted that she was five foot five, just from my recollection, I never had any interest in sizing her up.

Q. She was not an extraordinarily low woman, then, was she? A. Just an ordinary looking girl, nice looking girl.

Q. What was her size?

A. I can't tell you that. I have answered that according to my recollection, about five feet five.

Q. She might have been lower than that or higher?

A. Oh, a half or three quarters of an inch maybe.

Q. What was her size though?

A. Why, she was a plump girl.

Q. A large plump girl?

A. No, I don't think she was a large plump girl.

Q. A slender girl?

A. What I would call a plump girl, a girl of good proportions.

Q. Weighing how much about?

A. I can't tell you about that.

Q. You saw her a number of times?

A. Two or three or four times.

Q. The girl you saw lived at Granny Letcher's?

A. Yes, as far as I know, I suppose so, I saw her there.

Q. You would see her there in the day time? A. Yes, sir.

Q. You took her to be a mulatto didn't you? A. No.

Q. Why did you say to Judge Stuart a while ago that you didn't take her to be white?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and improper cross examination.

A. I just simply knew that she wasn't a white woman, that is all, and she didn't look like a white woman.

Q. Well, what did she look like?

A. She looked to me like an Indian girl, her complexion was muddy, what I call ruddy.

Q. Ruddy? A. Yes, sir.

Q. You didn't know whether she was a mulatto or an Indian did you?

A. No, I wasn't interested in it, only I understood——

Q. How long did she live there at Letcher's?

A. I don't know that.

Q. Did she live there during the two years that you were ticket agent?

A. Part of the time. I think she lived at the Fort a part of the time.

Q. When did she leave there—when did she live there?

A. When I saw her there.

Q. Who lived in the house, Granny Letcher?

A. That was my understanding. At least, I saw her there, I understood that was her house.

Q. And you never saw her until this child was up some size?

A. Well, my attention had never been attracted to her or called to her before that.

Q. You never saw her in a family way?

A. No, when I saw her and as a matter of fact it was this baby and that was three or four months old.

Q. But you saw her there frequently after that?

A. No, not frequently.

Q. Four or five times then? A. Probably three times.

Q. You never saw her before or afterwards in your life, did you?

A. Not to have her pointed out to me, but when I——

Q. Who pointed her out to you at that time?

A. I asked who she was and whose baby that was?

Q. Who told you at that time? A. The girl herself.

Q. She told you her name was Indian Minnie?

A. She didn't have to tell me that, I knew that.

Q. Well, you said a while ago that she told you herself, who told you? A. She told me that was her baby.

Q. And that his name was Tommy?

A. No, sir, she didn't tell me that, anything about its name, I didn't ask her.

Q. You never heard that before?

A. No, I didn't hear anything about that.

Q. You never saw that boy after that in your life, did you?

A. No, I simply knew she had a baby there three or four months old.

Q. That is the first time that you ever saw her?

A. The first time that I had ever seen the baby.

Q. Had you ever seen her before?

A. Well, not to know her definitely, no.

Q. You didn't see her in a family way, did you? A. No.

Q. You didn't see her after eighty-five?

A. No. Not after eighty-six, I think I saw her during eighty-five, but I don't remember what month.

Q. You remember that you didn't see her after eighty-five, because it was in eighty-five that you quit as the passenger agent of the Rock Island?

A. Yes, I didn't have any business running around among the people after that.

Q. What day in eighty-five did you quit as passenger agent for the Rock Island?

> By Mr. Hanford: I want to object to that other question as a misstatement of the evidence and move to strike the answer.

Q. What day in 1885 did you quit as passenger agent of the Rock Island? A. I can't tell you that.

Q. But you know you never saw her in your life after that?

A. Not after eighty-six, no. I wouldn't say but what I have seen her sometime during eighty-five, but as to eighty-six, I was away from here for some several years on the road.

Q. You might have seen her during eighty-four, five and six? A. No, not six.

Q. You never saw her after eighty-five then?

A. Well, not after January, 1886, I don't know——

Q. Do you know when you quit as passenger agent of the Rock Island? A. No, sir.

Q. Have you searched your memory about it? A. No.

Q. Have you asked anybody about it? A. No.

Q. With reference to the time that you quit as passenger agent of the Rock Island, when was it you saw Minnie Atkins?

A. I didn't see her after that at all, never seen her since.

Q. When was it with reference to that time, before that that you saw her?

A. It was sometime during eighty-five, I don't remember just when.

Q. You said a while ago eighty-four or five?

A. Well, I saw her in eighty-four and I think eighty-five too, I haven't got the dates marked down.

Q. You are quite positive you saw her in eighty-four?

A. Yes, I think——

Q. And the child was three or four months old when you saw her to know——

A. I am not sure about that. I said when I first saw the baby it looked like it was about three or four months old.

Q. You said a while ago that you had never seen her until then?

A. I said eighty-four or five. I am not going to swear to any special time because I don't remember.

Q. You never saw her until you became passenger agent of the Rock Island?

A. I was passenger agent of the Rock Island ten years before that particular one.

Q. It could have been any one of the ten years that you saw this woman at Granny Letcher's? A. No, sir.

Q. She was a slender woman about——

A. I wouldn't call her a slender woman, a plump woman.

Q. A hundred and sixty or seventy pounds?

A. I wouldn't think so.

Q. A hundred and twenty?

A. I think maybe a hundred and thirty at the time.

Q. She was just a plump girl and not very high?

A. No, I don't think she was so very high.

Q. And not quite white?

A. No, she wasn't a white woman.

Q. You wouldn't judge she was as much as five-five, you say? A. Yes, I would, I think she was about five-five.

Q. Wasn't she five ten or twelve?

A. No, not according to my opinion, she might have been five-five or five-five and a half, something like that.

Q. When, with reference to the time that you quit as agent of the Rock Island, did you see this woman there?

A. I never saw her after that.

Q. And she told you that she was the mother of this child?

A. That that was her baby.

Q. Where were you when you asked her that?

A. At Granny Letcher's.

Q. When? A. Well, I don't know that.

Q. What year? A. I think it was eighty-five.

Q. Why do you say eighty-five, you said a while ago it might be eighty-four?

A. Well, I said I had seen her several times there during eighty-four and five, the latter part of eighty-four and the early part of eighty-five.

Q. She lived at Granny Letcher's all the time that you saw her? A. I don't know whether she did or not.

Q. That was your understanding? A. I saw her there.

Q. You were not there at nights were you? A. No.

Q. Every time that you went there in the day time you saw this woman? Didn't you?

A. Along in these evenings.

Q. Evenings or afternoon? A. I think the evenings.

Q. I thought you said you weren't there at nights?

A. I wasn't there at night, didn't have any business there at night.

Q. What do you mean by evening?

A. Why, five o'clock, say late in the afternoon.

Q. What period of time would you say now that you saw her there covering what period, whether four, five or six months, twelve months, two years or what?

A. Well, it is pretty hard for me to answer that, I haven't given it any thought, and besides that I have no interest in it. As near as I can remember it was the latter part of eighty-four or possibly the early part of eighty-five.

Q. Was her name Indian Minnie, Indian Mary or Indian Mollie? A. Indian Minnie is the only name ever I knew her by.

Q. Was it Indian Minnie, Indian Mary or Indian Mollie?

A. Why, I understood it to be Indian Minnie, that is the name she went by.

Q. You have read a good deal about this case since it came up? A. Very little.

Q. You knew about this case involving a very large amount of money, didn't you?

A. Very little until quite recently I heard something about it.

Q. What period of time now would you say was covered by the time that you saw Minnie there at that place that you say she lived there?

A. As near as I can figure it running back over it in my mind, I would state it was early in eighty-five, I don't know positively about it, but I can't tell you about that.

Q. How long did she live there?

A. Why, that was her home as I understood it at that time.

Q. But you know how long she lived there? A. I do not.

Q. To your knowledge? A. I don't know.

Q. Well, was it a month?

A. Why, I knew that she was there covering a greater period than that, I knew of her being there several months.

Q. Would you say six months?

A. Five or six months, yes, I should think so.

Q. At least five or six months?

A. I should think so. It is pretty hard for a man to go back that far and give you the details.

Q. You say it was early in eighty-five that you first saw her there?

A. I would think it was in the spring of eighty-five, that is my——

Q. It wasn't later than that was it?

A. I don't think so, might have been in the summer time.

Q. And the child was three or four months old?

A. I think so.

Q. It wasn't as late as July, was it?

A. I wouldn't want to say about that.

Q. July is the seventh month in the year?

A. Well, it was during the first part of the year.

Q. You are sure of that? A. I think so.

Q. And the child was three or four months old at that time? A. That was my opinion.

Q. And this woman lived there continuously after that for at least four or five months? A. I don't know.

Q. That is your best recollection of the woman that you saw there?

A. Well, I saw her there during several months, during the spring of eighty-five and how long she lived there I don't know, I saw her there that is all that I know about it, several times, two or three times.

Q. How long did she live there, tell us at least how long to the best of your recollections, whether a month or six months?

By Mr. Blakeney: I object to the constant repetition of the questions that the witness has constantly answered that he can't say that she ever lived there.

By Mr. Allen: I just want one answer and then I will quit.

A. Read the question and I will answer it.

(Question read). A. I can't answer that very definitely, I know that she was there during the early part of eighty-five, whether it was three or four months or longer, I can't tell.

Q. Was she there a week? A. Oh, yes.

Q. Was she there a month?

A. There two or three months.

Q. There at least two or three months?

A. That is my recollection.

Q. Then, you want to correct your statement of a while ago that she was there at least four or five months?

A. Well, I am not going to trace answers in that way, I can't tell you. It was the early part as I told you before, it was during the first part of eighty-five and it will have to stand at that, because I can't get any other answer than that.

Q. And then it was at least two or three months you saw her there from the time that you would go around the place, and you understood she lived there?

A. Yes, during the early part of eighty-five was my understanding.

Q. You understood she lived there since the child was born, did you? A. I understood that was her home.

Q. She was there with the child two or three months old at that time? A. That is my recollection.

Q. Mr. Allen, there isn't a thing in the world connected with your knowledge of this woman that impresses itself on your mind, is it?

A. Nothing serious, just the passing acquaintance, that is all.

Q. You never had a thing in the world to do with it, never talked to her except—that she was the mother of the child?

A. I asked her if she was the mother of the baby.

Q. How many times did you talk to her? A. Once.

Q. You think that was—— What part of the house was that conversation in? A. The front room.

Q. How many rooms were there in the house?

A. I don't remember, I wasn't through the house.

Q. And how many stories did the house have?

A. My recollection is, looking backward the best I can state, it was a story and a half house.

Q. How many rooms up stairs?

A. I don't know, I never was up stairs.

Q. Who lived in the house besides Granny Letcher and Minnie?

A. If anybody did, I didn't know it, unless this girl was there.

Q. Did you ever see a white woman there in your life?

A. In that house?

Q. Yes?

A. I don't remember that I did, I don't think I did.

Q. Any other negroes living around there? A. Yes.

Q. Who?

A. I saw several. Oh, I saw several there, but I don't know their names.

Q. Any white people living there in the house?

A. Not that I saw.

Q. How many women were living there?

A. Well, I don't know that any were living there except Granny Letcher and this girl, I supposed they did.

Q. How many men lived there?

A. I don't know that any lived there.

Q. How many boys lived there? A. I didn't see any.

Q. Were there any other children that lived there?

A. I didn't see any.

Q. Not a one? A. Not one that I ever saw.

Q. What did you go there for, you say that you sold tickets? A. Went there to——

Q. To see a man? A. Yes, sir.

Q. What man was that?

A. I understood his name was Letcher, but I don't know his front name.

Q. What did he do?

A. I don't know, we didn't go into any of those things with any one that we would go after for passenger.

Q. Had he a brother there?

A. I don't know whether he had a brother or son.

Q. You know a man named Spense Letcher who lives here in town now, don't you?

A. I think I would know him if I would see him.

Q. Wasn't that the man that you saw there?

A. No, I don't think so. The man that you are talking about now is not the man that I saw there.

Q. Sir?

A. You say a man in town named Letcher, a young fellow?

Q. No, an old man?

A. I don't think that was the same man. Wasn't a man named Terry Letcher who lived here in the other early days?

Q. You think it was *Mary* Letcher?

A. It seems to me that was his name, but I wouldn't swear to it. I wasn't interested in his name.

Q. What were you there for before that time?

A. I wasn't there for any specific purpose, I just passed there.

Q. You never was there before, was you?

A. Never was there before inside of the house.

Q. Did you ever stop there before?

A. I was up there and stopped in front of the house.

Q. What for?

A. Just like you stop anywhere and pass the time of day with somebody, I think I met Crilley in front of the house there and had a little chat with him about his business or something like that.

Q. Who is Crilley?

A. George Crilley, the livery barn across the street there.

Q. Is he the Crilley who is a witness in this case?

A. I don't know whether he is or not, I haven't met him here, I think he would have been though because he was a neighbor there.

Q. Did you see anybody else there around Crilley's house? A. No.

Q. And any children? A. No.

Q. Any woman?

A. I used to hear of some woman across at the old Seneca House occasionally.

Q. When did you see her? A. Oh, years before.

Q. Did you see any babies?

A. No, I didn't see any babies.

Q. Did you know any babies that were born in Leavenworth during eighty-five? A. Lots of them.

Q. Tell me one?

A. I don't know anything about their names, but I know there were some born here during that time.

Q. Where were they born?

A. All over town. This was a prolific town in those days.

Q. Tell us one?

A. I can't tell you one, I am not interested in any.

Q. Tell us some woman that you say in eighty-five had a baby except Minnie Atkins, just one?

A. I don't know that I know of any particular person, my attention was called to her on account of the fact that—well, her appearance for one thing.

Q. Well, there were other nice looking women here, were there? A. Oh, yes, I suppose there were.

Q. There were other good looking woman here that gave birth to babies?

A. I wasn't in their house looking for business.

Q. This was an assignation house, wasn't it?

A. I don't know, they never assigned anybody to me there. I was not in that line of business.

Q. You were then as you are now, only associating with the business people, weren't you, Mr. Allen?

A. Well, I was associating then as I am now with anybody that has any money to spend for the Rock Island. I go into places where there is business.

Q. What other house in this town did you go to, say that day or week, to sell tickets?

A. Well, I don't know, probably a dozen of them.

Q. Can you tell me one? A. No.

Q. One in 1885?

A. I was in every boarding house and every hotel in town during the week.

Q. This was not a boarding house was it?

A. No, I don't know that it was exactly a boarding house, but then we get traffic from everybody that wants to make a trip; we go to see them at least, in those days we did, regardless of whether it was a boarding house, private house, or what kind of a house.

Q. Tell me another boarding house in that entire year that you went to to sell tickets? A. Hundreds of them.

Q. Tell me one.

A. I just remember this particular incident on account of the incident, that is all.

Q. Because of what incident?

A. Because this girl was there with a young baby.

Q. You remembered it after this case came up?

A. I remembered it before the case came up.

Q. It passed out of your mind for thirty years, didn't it?

A. No, it didn't, lots of things I know that I wouldn't tell, wouldn't do for me to tell everything I discovered in Leavenworth.

Q. Tell us some of it that you discovered in eighty-five?

A. I don't have to.

By Mr. Blakeney: We object.

Q. Tell me everything you knew about Leavenworth?

A. No, indeed I wouldn't about Leavenworth, you are crazy.

By Mr. Blakeney: Objected to as irrelevant, incompetent, and immaterial.

Q. In 1885, tell me one other fact, Mr. Allen that causes you to remember anything that happened in the year 1885, tell me one other happening in Leavenworth in 1884 or five?

A. Ask me what it is about and I will tell you.

Q. Anything? A. You name it.

Q. You name it, tell me one thing that happened in Leavenworth?

A. I could tell you a good many but I don't have to, I am not going to give away any personal history, or anything pertaining to the life of anybody else around here.

Q. There is nothing personal to you about Minnie Atkins, was there? A. Nothing, no.

Q. Now, can you tell me one other house in Leavenworth in 1884 or five that you went to to sell a ticket to anybody, just one, to whom you went to see to sell a ticket?

A. Yes, I can tell you, I went to—I went out here in Cincinnati and sold a European ticket to Carey Dodge to come over from Europe, and various other incidents like that.

Q. Tell me the name of that party?

A. Mrs. Nicholas Durgin.

Q. When did you sell that ticket?

A. I don't know, sometime in eighty-five. This just came up incidentally, I don't charge my memory with those things.

Q. That is the only kind of ticket that you sold of that kind in your life, isn't it?

A. I didn't sell it. I went up there to sell it but didn't sell it.

Q. I am talking about that ticket?

A. Yes, I sold lots of them. I could go to my books and refresh my memory and tell you lots of them.

Q. Have you got any of your books and refreshed your memory about your attempt to sell Letcher a ticket?

A. No, but that was one particular case.

Q. But one particular case that you didn't sell a ticket, wasn't it? A. Yes.

Q. There were hundreds of those, wasn't it? A. No.

Q. Many cases that you didn't sell it?

A. Very seldom that I didn't sell it.

Q. Was the disappointment so great you remembered it through life?

A. I think that has something to do with it.

Q. After you failed to sell a ticket to Oklahoma to some one named Carey Letcher? A. I think that is the name.

Q. Thirty years ago, it caused you to remember that did it? A. Yes, sir, that was the only time I was there.

Q. 1885? A. That is as near as I can fix the time.

By Mr. Blakeney: I object to the constant repetition as immaterial matters, and to matters in which the witness has repeatedly stated that he cannot give the definite date.

Q. The only thing that occurred in the years 1884 or five that you are positive about, Mr. Allen, is the fact that early in the spring of eighty-five, you saw this woman at Granny Letcher's with a child three or four months old?

A. That is my recollection.

Q. Mr. Allen, who did you first talk to about this case?

A. Let me see. I think Mr. Crilley asked me if I had been subpoenaed in the case and I said no.

Q. Did he know about you selling the ticket?

A. We didn't have any talk about that, that was all the conversation.

Q. What did Mr. Crilley ask you?

A. He asked me if I had been subpoenaed in the Indian Minnie case.

Q. And what did you tell him? A. Told him no.

Q. What else did he tell you? A. That is all.

Q. You say he is the first man that you ever talked to about it? A. Yes, sir.

Q. How came him to know that you knew anything about the Indian Minnie case?

A. Because he came here as a kid and I helped to get him started in business and he has been a sort of protege of mine ever since in a business way.

Q. Sort of a protege of yours since he has been here?

A. Yes, always came to me for business advice.

Q. Do you think you ever saw this woman, Indian woman at the Fort?

A. My recollection is that I saw her up there. I think she was working at the officers up there at that time.

Q. What is the name, Stafford? A. No, Grodevant's.

Q. Who told you about that, Mr. Allen?

A. Nobody told me about that. I happen to be personally acquainted with Grodevant and his family.

Q. That is where you knew this woman, isn't it?

A. No, I never did know her there at all, I didn't know this woman except by sight, at that time I wasn't looking at Indian girls, I was a youngster and I had all the friends I needed.

Q. How many times did you see her at Grodevant's?

A. I never saw her there at all.

Q. Never saw her there at all?

A. I understood that she was working there.

Q. You understood that since this case came up?

A. No, nobody said anything to me about it since this case came up.

Q. When did you first talk about it to Crilley?

A. I got something else to think about besides this case, sir. He asked me if I had been subpoenaed in the Indian Minnie case and I said no have you? and he said yes.

Q. He asked you if you had been supoenaed in the Indian Minnie case?

A. Yes, he knew I knew Indian Minnie, knew that I was around in that neighborhood.

Q. How did he know that you knew her, knew Indian Minnie?

A. Because he and I stopped and talked there one day in front of the house as I told you a while ago.

Q. Talked about Indian Minnie?

A. No, not specifically.

Q. Pointed out Indian Minnie? A. No.

Q. Admiring Indian Minnie?

A. No, you are wrong about that.

Q. What were you and Indian Minnie talking about, do you reemmber that conversation well that only occurred thirty one years ago, don't you?

A. Well, no, but I have only had about a thousand conversations about matters relative to that character.

Q. You know about that conversation?

A. No, he simply mentioned something about Minnie's baby and that impressed it on my mind.

Q. He remembered that you had that conversation?

A. No, I remembered it.

Q. He must have remembered it because he came to see you——

By Mr. Blakeney: We object to what he must have known as a conclusion.

Q. Didn't he ever mention that conversation to you?

A. No, I had forgotten all about it, you have refreshed my memory more than anybody else.

Q. About the conversation with Crilley, I have refreshed your memory when I didn't refer to that conversation?

A. You asked me who I talked to and I happened to think that that was the man.

Q. I asked you who talked to you since this case came up?

A. Nobody but him.

Q. But you told me of the conversation that occurred in eighty-five?

A. No, the first you asked me, the first question you asked me was who I had talked to about it, and I said I talked to nobody about it but George Crilley who asked me if I was subpoenaed.

Q. You told me of this conversation and then said it was in 1885, didn't you?

A. Well, I told you that the only conversation I had about the case was that he asked me if I had been subpoenaed.

By Mr. Blakeney: Let my objection show that we both were talking at the same time and the Reporter got the testimony rather than my objection first, and I ask that it be inserted before the answer. I object to the argument between counsel and the witness as to what the record shows and to that form and character of examination as incompetent, irrelevant, and immaterial.

Q. Mr. Allen, you and Mr. Crilley didn't refer to that conversation? A. No.

Q. Crilley didn't refer to it? A. No, sir.

Q. Crilley didn't mention it to you? A. No, sir.

By Mr. Blakeney: We object to the repeated repetition.

Q. What did Crilley say to you?

A. I told you what he said.

Q. Is that all he said? A. That is all he said.

Q. And then when did anybody else talk to you?

A. Well, you have been about the only person talking to me about it, I guess since I can remember.

Q. Have I ever mentioned the case now in my life until you came on for cross examination?

A. Oh, no that is enough, it is a plenty.

Q. I never mentioned the case to you until you took this witness stand and I started to cross examine you, did I?

A. Go ahead.

Q. And I haven't mentioned it to you off the witness stand, have I? A. No.

Q. Who have you talked to about the case before you came into this Court house to testify?

A. I don't remember, some gentleman asked me.

Q. Where is he? Is he here in the room now?

A. This gentleman here.

Q. Pointing to Mr. Long—Frank Long?

A. Yes, he asked me, I don't remember what he said, but he said——

Q. He just talked to you, did he?

A. He just mentioned the fact; he asked me how long I had lived in Leavenworth and how long——.

Q. He didn't ask you a thing about your recollection of Minnie though, did he? A. No, he didn't.

Q. Nor he didn't mention the baby to you? A. No.

Q. He had no idea when he put you upon this witness stand that you would testify that you ever saw or heard of Minnie, did he?

By Mr. Blakeney: We object now to this witness testifying to the ideas of Mr. Long as incompetent, irrelevant, and immaterial.

Q. You talked to Judge Stuart, didn't you—Judge Stuart here, the attorney? A. Indirectly.

Q. Judge Stuart over there, you never talked to him about the facts in the case, what you would testify?

A. Not in this particular case, no. We talked about the Rock Island business, he used to be General Attorney for the Rock Island, we talked about railroad business.

Q. He told you about it again and you talked about it again?

A. Incidentally he asked if ever I knew anything about Jack Lowe and some things like that.

Q. And you talked about the Rock Island and he put you on the witness stand to tell about Tommy Atkins?

A. He never said anything to me about Tommy Atkins, I don't know what you are talking about.

Q. You didn't know the name of the child at all?

A. No, sir.

Q. Never heard it in your life? A. No, sir.

Q. Did Crilley tell you that? A. No, sir.

Q. Crilley didn't tell you the name was Commodore, did he? A. No, nor Tommy Smith.

Q. This child was plainly an Indian looking child?

A. I don't know. I didn't take him up and examine him.

Q. He was a great big, burly boy, wasn't he?

A. He looked like any kid of that age. They all look alike to me.

Q. You knew he was a boy?

A. No, he might have been a boy or girl. I didn't examine it. Just saw it was a baby.

Q. All you know about this girl having worked at the Fort was what you heard?

A. Grodevant told me she was working for him.

Q. Grodevant didn't point to this girl did he?

A. No, but she was in there.

Q. Told you the girl was working for him?

A. Said Indian Minnie was working for him.

Q. When was that in reference to the time that you saw her in the house with the baby?

A. I don't know about that.

Q. She wasn't working for him then, was she?

A. After that I——

Q. Before that Grodevant told you that an Indian girl was working for him?

A. I think so. I am not swearing to that. That is my belief.

Q. Well was it before, after or at the time? Charge your memory Mr. Allen and tell me.

A. I can't do that. It was before that I am very sure.

Q. Tell me exactly what Grodevant said.

A. He just mentioned the fact that she was working for him.

Q. She, who? A. Indian Minnie.

Q. What did he say about her?

A. Said Indian Minnie was working for him.

Q. What Indian Minnie was he talking about?

A. I don't know. I suppose this same Indian Minnie that you are talking about.

Q. You had never seen this woman but once or twice in your life, had you?

A. Yes, I saw her once or twice before that.

Q. But you never heard of her until you saw her in bed with a baby?

A. I didn't see her in bed with a baby. You are drawing on your imagination. You don't have to do that.

Q. You never heard of her until you saw her at Granny Letcher's did you? A. Yes, I heard of her.

Q. Where did you hear of her?

Mr. Blakeney: We object to the repeated repetition of the matters and we figure it is done and we will appeal to the Court to examine the record and see if it is not done merely in an attempt to merely bulldoze the witness.

Mr. Allen: I object to the remark of counsel.

Q. Now, Mr. Allen you say that before you saw her in bed——

A. I didn't see her in the bed. Cut that out.

Q. Before you saw her with the baby three or four months old at Granny Letcher's when you went there to see a chicken to whom you now think was——

A. I didn't say, saw her in bed. Cut that out.

Q. Before Grodevant told you that Indian Minnie was working for her what was said?

A. I told you what was said. What do you want me to repeat it for? You make me tired.

The Examiner: Mr. Witness I will ask you to answer questions of counsel without any side remarks.

Mr. Blakeney: I want you to instruct the witness that he doesn't have to take the browbeating methods that counsel is giving him. He has some rights.

A. Don't worry about me.

Q. Mr. Allen, where were you standing when Grodevant told you that Indian Minnie was working for him?

A. Why I think it was in front of the prison. He was going there and I said: There goes Indian Minnie. And he said: Yes, she is working at our house now.

Q. That was long before you saw her at Granny Letcher's?

A. I don't remember. I don't know whether it was before or after. I simply remember the incident.

Q. Where did Grodevant live?

A. Up about the prison wall.

Q. What were you doing there that day?

A. I was deputy warden at the Federal Penitentiary. I had a right there.

Q. You were serving there as deputy warden, were you?

A. Yes, sir.

Q. You were not ticket agent then?

A. Yes I was. You are getting in deep water. I was both.

Q. You held both offices?

A. I was twins. I represented the Rock Island Road and I was deputy warden at the Federal Penitentiary at the same time. I had an office at the west end of the Fort.

Q. Minnie Atkins, this Minnie, passed there and you said: There goes Indian Minnie, and he said: She is working for me? A. That is my recollection.

Q. Where had you known her before that time, Mr. Allen?

A. O, everybody in town knew Indian Minnie.

Q. That must have been after the time you saw her at the Letcher home?

A. I don't know. I won't testify to that. I don't remember whether it was before or after.

Q. Didn't you testify a while ago that you had never seen or heard of her until you saw her at the Letcher home?

A. No I didn't. I said she was a girl generally known in town by the name of Indian Minnie.

Q. When you saw that woman at the Letcher home you knew it to be who it was, didn't you?

A. Yes, I knew it was Indian Minnie, yes.

Q. You didn't have to be told who she was?

A. Yes, sure.

Q. You knew that woman was Indian Minnie? A. Sure.

Q. You had seen her and known her?

A. Yes, I had seen her to know who she was.

Q. You had seen her to know who she was for a long time?

A. For some time, yes.

Q. You had seen her to know who she was when you pointed her out to Grodevant? A. I guess I did.

Q. What were you doing in front of Grodevant's place?

A. I wasn't in front of Grodevant's place. In front of the prison.

Q. Where is the prison? A. Same place it is now.

Q. The Federal Military Prison?

A. No, sir, Military, and I didn't stutter when I said it before.

Q. Out at Fort Leavenworth?

A. There is not any Federal Military prison in this part of the country except Fort Leavenworth.

Q. She had the baby when you pointed her out to Grodevant, didn't she?

A. No, sir, there wasn't anybody with her or anything with her except herself.

Q. Was she pregnant at that time? A. I don't know.

Q. Well did she look like she was pregnant when you pointed her out to Grodevant?

A. I wasn't looking at her that close. I don't know.

Q. You remember that very distinctly don't you?

A. Not particularly distinctly. I remember she passed there.

Q. You remember that is the very woman that you saw at Granny Letcher's? A. That is my recollection.

Q. You are positive about that, are you, Mr. Allen?

A. Why, as positive as anybody can be, to something that is passed long ago.

Q. When were you appointed deputy warden at the prison? A. I don't remember what year.

Q. You were deputy warden of the prison post—the post prison? A. Yes.

Q. Who was warden?

A. First it was Col. Blunt, then Capt. Pope, then Col. French.

Q. Were you appointed deputy warden before you were ticket agent? Which were you appointed first?

A. I worked for the Rock Island first and then I worked for them while I was up there too.

Q. But you were not on a salary while you held that Government job up there, were you, with the Rock Island?

A. What has that got to do with the case?

Q. Were you or were you not?

A. Do I have to answer that?

Mr. German: Yes.

Mr. Stuart: No, he doesn't if he don't want to.

Mr. Blakeney: You do not. Of course the witness doesn't have to answer an immaterial question?

A. I object to answering the question.

Mr. Blakeney. Relating to his personal business.

A. I can answer that if it is necessary. I don't see that it has anything to do with the case.

Mr. Allen: That is all. If the witnesses are going to be instructed by counsel not to answer our questions, and trying to answer what we regard as legitimate questions, I will not undertake to further cross-examine him.

Mr. Stuart: I object to the question first, because it is immaterial and has no relation to this case and second, because it is going into the private, personal business of a witness which he objects to stating and I further object to a statement made by one of the counsel for the Government that if we are to instruct the witness not to answer questions that he will not further cross-examine the witness, because it is an assumption on his part that our objections are unjust and improper. This objection I have made in the best of faith and suggest to the Examiner and still insist that this gentleman need not answer that question unless he desires to do it.

Mr. Allen: If counsel wants to put a witness upon the witness stand and then upon cross-examination instruct the witness not to regard as a legitimate question— I see no use in undertaking to cross-examine the witness and I now decline to further undertake that task.

Redirect Examination by Mr. Stuart.

Q. Mr. Allen, do you remember whether or not when I first came to this city that I came to your office? Do you remember my coming to your office, the Rock Island office, and talking with you about the Rock Island business? A. Yes.

Q. About how long you had been here? A. Yes.

Q. Do you remember that you were an unwilling witness—— Do you remember whether or not you were an unwilling witness and didn't want to come to testify in this case?

Mr. Allen: We object to that as leading and suggesting, incompetent, irrelevant and immaterial and improper re-direct examination and as suggestive to the witness.

Q. Now will you answer it? A. I certainly objected, yes.

Q. You objected. State whether or not I had to get a subpoena to bring you to this Court House?

Mr. Allen: We object to that for the same reason.

Q. Answer that? A. You bet you did.

The Examiner: Is that all gentlemen?

Mr. Allen: That is all in view of the instructions of counsel to the witness. I will ask the question again.

Recross Examination by Mr. Allen.

Q. Mr. Allen were you agent—— Were you on the payroll, that is drawing a salary from the Rock Island Company as ticket agent at the time that you were appointed and during the time that you served as deputy warden at the Federal Prison, at the post prison?

Mr. Stuart: Now you may answer that or refuse to answer it, just as you please.

A. I object.

Q. You refuse to answer it, do you?

A. I could answer it directly but I don't see that it has anything to do with the case and therefore I object. My private business has got nothing to do with the case.

Mr. Allen: That is all, in view of the attitude of counsel and the witness. I will not further try to cross-examine him.

Mr. Blakeney: I would like the record to show that I don't care to cross-examine the witness because he has not only been examined about everything and matter but everything that the ingenuity of counsel could conjure to try to irritate the witness.

The Examiner: Mr. Witness, as counsel requests it, and calls upon me as Examiner to do so, it will be my duty to certify to the United States District Court for this district your refusal to answer the question propounded to you for such action by the Court as may be proper. I make that statement to you for your information.

A. I will answer that question when it is demanded by the Court. I can do it in a very satisfactory manner but I don't consider it any of his business so far as my affairs are concerned. It was an agreement between the Rock Island and the Government. I don't see what this case has to do with it.

Witness dismissed.

Mr. Hanford: Also the deposition of Mattie E. Cobb, beginning at page 1757.

And thereupon MATTIE COBB, being called on behalf of the defendant, sworn, and under oath, testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Mattie Cobb.

Q. Where do you live, Mrs. Cobb?

A. I live in Missouri; Tracy, Missouri. Platt City is our place, I live in the little town named Tracy.

Q. Did you ever live in Leavenworth? A. Yes, sir.

Q. What years? A. Sir?

Q. What years did you live in Leavenworth?

A. Well, I lived fourteen years here.

Q. Fourteen years? A. Yes, sir.

Q. Where did you live in 1885?

A. I lived on Seneca street.

Q. What house did you live in?

A. I lived in Mr. George Crilley's house, in the old Seneca House.

Q. Did you know a woman by the name of Aunt Mollie, a fortune teller? A. Yes, sir, Mollie Teetors.

Q. Mollie Teeters?

A. Yes, sir, she was a fortune teller, she lived up stairs over Mr. George Crilley's front room.

Q. Did you know a woman by the name of Indian Minnie?

A. Yes, sir.

Q. You may state, Mrs. Cobb, to the Examiner, if you had a child born in the Seneca House?

A. Yes, sir, I did in '85.

Q. What was the name of the child?

A. Grace Edwards, my name was Edwards then. Grace Edwards.

Q. Is your daughter still living?

A. Yes, sir, she lives in St. Louis.

Q. What day was Grace born? A. What day?

Q. What day, what month of the year?

A. She was born the 20th day of April in 1885, right in the City, in the Seneca House.

Q. Now, Mrs. Cobb, who waited on you just before your baby was born? A. Indian Minnie waited four days on me.

Q. What was her condition at the time she waited on you, pregnant or not? A. Yes, sir, indeed she was.

Q. After Indian Minnie left you, did she have a child?

A. Yes, sir, she did.

Q. Where? A. At old Grandmother Letcher's.

Q. How long after your child was born?

A. It was born the last day of May or the first day of June, and I won't be positive which day that was.

Q. Did you see the baby?

A. I did, indeed I have seen it, yes, sir, I have seen it and had it in my own home, in my house, I washed its hands and its face off several times, it played with my children.

Q. What did they call the baby?

A. Called it Commodore, that is the only name I ever knew it to go by.

Q. How often after that did you see Indian Minnie?

A. Oh, I seen her five or six months around there.

Q. And then what became of her?

A. Well, I don't know, she disappeared, and the old lady told me——

Q. Never mind about the old lady?

A. That she didn't know exactly.

Q. Didn't know what became of her. How did you come to get Indian Minnie to wait on you?

A. Well, I was helpless myself, and the lady I had spoke to, she was sick and couldn't come and my husband found this girl and brought her to me to my house and she stayed four days with me.

Q. Did you know whether Indian Minnie went backward and forward to the Fort?

A. Yes, sir, she did, backwards and forwards to the Fort.

Cross Examination by Mr. Blakeney.

Q. Mrs. Cobb, can you hear me here across the table, or had I better come around?

A. You better come around, I can't understand just what you say. I want to tell just what I know.

Q. How long had you lived at the place where you was living at the time this child Grace was born?

A. How long had I lived here?

Q. Lived in the same place, same house?

A. In that same place, I lived there about a year, yes, just about a year I guess that I lived there.

Q. Your name at that time was Edwards, you say?

A. Sir?

Q. Your name at that time was Mrs. Edwards?

A. Yes, sir, my husband's name was Edwards, he is dead.

Q. What was Minnie's condition when she was waiting on you, was she able to do the work?

A. She was in the same condition myself was.

Q. Could she do the work?

A. No, not very much of it, she done no washing or no ironing, she didn't do no washing or ironing for me because she wasn't able to do it.

Q. You say that you had the child in your own hands, when did you have it in your hands?

A. Why, I had it for a year or two there around the house.

Q. I want you to call your attention to the first time now?

A. Well, I had it, it was in long dresses, the old colored lady brought it over to my house when it was in long dresses and I was in the room and seen it when it was not but about four days old.

Q. Where was it when you saw it when it wasn't but four days old?

A. Up stairs in Grandmother Letcher's house in the bed room.

Q. Who was in there with it? A. Minnie.

Q. Did you go up there by yourself?

A. No, sir, I went with Mr. George Crilley's wife.

Q. You and she both went to see the baby?

A. Yes, sir, we went to see the baby, she called us over to see it.

Q. Who called you over? A. Grandmother Letcher.

Q. When you got over, just tell what the mother and baby both were doing, where were they when you got over?

A. Why, she was lying in bed with it.

Q. The baby in bed with the mother? A. Yes, sir.

Q. Was it dressed? A. Yes, sir.

Q. Dressed?

A. Why, it had on its night dress—skirts.

Q. Had on sleeping garments in the bed?

A. Yes, sleeping garments.

Q. Was it asleep or awake?

A. No, it was awake, I took it in my hands.

Q. You took it up in your hands so?

A. Yes, sir, I did.

Q. How long did you stay there with the baby at that time?

A. Oh, we didn't stay but just a little while, we didn't go for a visit or anything of that kind, we just went over to see it.

Q. Did you undress the baby?

A. No, I never dressed the baby.

Q. You didn't see the baby and know it until that day?

A. Just went over to see it was all.

Q. When did you next see the baby?

A. Why, I seen it around there every once in a while; wasn't but a few days at the time but what I seen it.

Q. Were you over there yourself, or did you see the baby out in the yard?

A. Yes, I would run over there every once in a while to see it.

Q. Did you see it any other time except when you would run over to see it?

A. Yes, she would fetch it over to my house, grandmother Letcher would, and when it got so it could run around it was back and forth at my house and Mr. Crilley's house, because our children played with it.

Q. You saw the baby from time to time when it was in the bed with its mother, from the time it was in the bed with its mother until it was running around?

A. Yes, sir, for the next four years I saw it.

Q. You saw it for the next four years? A. Yes, sir.

Q. What was the complexion of the child?

A. Kind of brown Indian colored child, just like the Indians, black eyes and black hair, high cheeks.

Q. You was informed that Minnie was an Indian?

A. Sir.

Q. You were informed that Minnie was an Indian?

A. Everybody knowed that she was an Indian.

Q. Well, was it so distinct that you could tell that she was not a negro? A. Well, I didn't know it was a negro.

Q. I say, was the Indian characteristic so distinct so that you could see that it was an Indian?

A. Well, it favored the Indians when I seen it; I couldn't say it was a full blooded Indian.

Q. Was it light?

A. Yes, light brown colored, high cheek, black eyes, and black hair.

Q. How about its face, did you notice?

A. The face was kind of long.

Q. How was it as to length?

A. Well, I don't remember that.

Q. Nothing striking about the appearance as to whether it was—— A. Sir?

Q. Nothing so striking in the appearance? A. No.

Q. So that you could now remember? A. No.

Q. You say you did see it then? A. Sir?

Q. You saw it from day to day and week to week and month to month until it was four years old?

A. Yes, sir, I did, running around everywhere.

Q. After it could run around you frequently saw it?

A. Oh, I—— It was right there in my house, the children was with it all the time.

Q. Playing with Grace?

A. Oh, no, Grace would stay in the house, they would be out with the little ones, Grace would be playing in the house; they would be out with them on the sand pile and they would dump the little ones, those biggest ones would dump them on the pile.

Q. You have seen them playing with them?

A. All five of them, my two, Mr. Crilley's two, and this littlest one played together all the time.

Q. Now, when was the last time that you saw it?

A. When I moved away from there, I lived there four long years, I saw it after I moved away from there; I went backward and forward to Mr. Crilley's and I seen the child often.

Q. When was the last time that you did see it now?

A. I can't tell you the last time I seen it.

Q. Did you see the child at any time away from the place there? A. Sir?

Q. Did you see the child at any time away from the place there?

A. Why, I used to see it going out in a wagon with an old colored man that hauled vegetables around.

Q. Describe the old colored man?

A. Well, there are so many of them alike, I can't just exactly describe them. He drove a gray horse is all I can remember.

Q. Did he have whiskers?

A. Yes, sir, had whiskers.

Q. Was he a full blood colored man, or did he kind of show—— A. Well, he was a kind of a black——

Q. Do you know that old colored man's name?

A. No, I don't know his name.

Q. You had seen that old colored man several years, hadn't you?

A. Oh, he was around there every week or two with vegetables and things like that.

Q. He brought in his products from the farm?

A. Yes, sir.

Q. And he drove an old gray horse?

A. Yes, he wouldn't keep the child away any length of time, he just had it around in his wagon, would ride it around in his wagon; they would all climb in the wagon with him, all the children.

Q. The child had been climbing in the wagon?

A. Yes, and he would help the littlest in.

Q. And they would go around with him? A. Yes, sir.

Q. And Tommodore, as you call him, had been doing that for sometime while you were there?

A. Yes, sir, running after him.

Q. Did you notice every time he came to town he would go up and get Tommodore and ride him around?

A. Not every time.

Q. You had seen him do that frequently?

A. Frequently, yes, sir.

Q. He would do that when he wouldn't take Grace and the other children?

A. Yes, sir, wouldn't take the other children.

Q. He would take Tommodore and drive around by himself?

A. Yes, sir, I wouldn't let my children go every time.

Q. After you moved away, you would come back and see Tommodore, there? A. Yes, sir.

Q. There came a time when you didn't see Tommodore again, didn't it?

A. I never paid any attention to the boy after I left.

Q. You saw him a lot riding around with the old colored man in the wagon? A. Not after I moved away.

Q. Did you see the old colored man after that?

A. No, not that I know of.

Q. You don't recall that you ever saw the old colored man after you moved away from there?

A. No, not after I moved off that street.

Q. What kind of old vehicle did the old colored man drive? A. A gray horse.

Q. What kind of a buggy or wagon?

A. Just a little old straight wagon, wasn't no buggy at all.

Q. Now, during the time that the child was playing around that place, did you ever wash the child?

A. No, sir, only hands and face.

Q. You never washed its body?

A. No, I wasn't out at that.

Q. Did you see its mother after the child got seven or eight months old?

A. Oh, yes, I seen Minnie a long time after that going backwards and forth, going around there.

Q. How long did you see Minnie after that?

A. Oh, five or six months.

Q. Did you see her after that five or six months?

A. No.

Q. You have nothing to refresh your memory as to how long you saw Minnie there, except after the child was born, have you? A. No, I seen her for five or six months.

Q. The question is you have no data that you know?

A. No

Q. Or anything you can refresh your memory? A. No.

Q. What other members of your family were living with you?

A. Of my family? Why there wasn't no one but myself and husband and my older daughter.

Q. Your older daughter? A. Yes.

Q. What was her name?

A. Her name is Tittle—— Mary Edwards.

Q. Mary Edwards, what is her name now? A. Tittle.

Q. How much older was she than Grace?

A. Six years old.

Thereupon, the witness was excused until nine-thirty o'clock A. M., February 23rd, 1916.

And thereafter, on the 23rd day of February, 1916, at nine-thirty o'clock A. M., further testimony herein was taken as follows:

MRS. MATTIE COBB, being called, further testified as follows:

Cross Examination by Mr. Blakeney.

Q. Mrs. Cobb, while Tommy lived at Granny Letcher's how was he dressed and clothed?

A. Why she dressed him in different garments.

Q. What I mean was he dressed well or poorly?

A. Why, he was dressed in common clothes like any other child that run around in, little calico dresses and little white dresses.

Q. Did you ever make him any clothing? A. No, sir.

Q. Did you ever make him any night gowns? A. No, sir.

Q. You didn't make him any night gowns? A. No, sir.

Q. And you didn't put any night gowns on him, or try any on him? A. No, sir.

Q. Did you ever see a birth mark on his back?

A. No, sir.

Q. And you said, I believe, yesterday, that you didn't see him taken out to the country by old man Carter?

A. Well, I say that he went around with the old vegetable man over the country, and drove around in the wagon with the other children, I don't know whether he was taken out to his own home or not, to this old colored fellows house or not, I can't testify to that.

Q. Did Granny Letcher ever tell you where the boy had gone to? A. No, sir.

Q. And you did a few months or a few years after he disappeared from Granny's, see the boy go riding around in the wagon with this old colored man, this old colored vegetable man? A. No, sir.

Q. Did you know Mrs. Wills?

A. Yes, I knew her a long time.

Q. Did you ever talk to her about this case?

A. Not lately I haven't.

Q. When did you first talk to her about it?

A. When I first remembered it, when we first commenced talking about it, but I didn't since this started out, not late days.

Q. Do you remember when or about when you first talked to her? A. Oh, I guess it has been about a month or more.

Q. About a month ago?

A. Yes, it was after Mr. McMillian was at my house.

Q. About when do you say it was now?

A. Well, I don't know just what day it was, I was over here at my daughter's and I just talked over the fence to her and I asked her what she knew about it.

Q. Was that the first time you ever talked to her.

A. That was the first time I ever talked to her.

Q. Was that the only time that you ever talked to her?

A. The only time.

Q. I will ask you if you didn't tell her that you had made two gowns—— A. I never.

Q. Two gowns for this boy Tommy Atkins?

A. I never told her.

Q. And had tried one of them on and had seen the birth mark on his shoulder?

A. I raise my hand to God and man, I never done it.

Q. But you didn't know which shoulder it was on?

A. No, sir.

Q. Or words in substance to that effect?

A. I don't think he had a mark on him; I have heard several talk about him having a mark, but I never knowed it.

Q. Did you not also tell her in this same conversation that the boy had been taken out to the country by the old vegetable man, and calling his name as old man Carter?

A. No——

Q. And that you had seen the boy later in the old vegetable man's wagon in Leavenworth, or words in substance to that effect?

A. No, sir. I seen him in the wagon with my own two little children and Mr. Crilley's two little children riding around when he was selling vegetables around from house to house.

but I never seen him go to the country, I never watched where he went because I never thought anything about it.

Q. Did you have this conversation that I stated here with Mrs. Wills at any other time? A. No, sir, I didn't.

Q. And you didn't have that conversation over the 'phone with her? A. No, sir.

Q. About a month ago? A. No, sir.

Q. When you came here to visit your daughter in Leavenworth? A. No, sir.

Q. Did you ever talk to Mr. E. W. Bell? A. Bell?

Q. Bell in the hotel in Kansas City? A. Yes, yes, sir.

Q. When did you have that?

A. Why, that was when I was down to Kansas City last week.

Q. It was last Friday week, wasn't it?

A. I think it was Friday.

Q. Friday about the 18th. I will ask you if you didn't on or about the 18th day of February, 1916, in your room in the Federal Hotel, at Kansas City, have a conversation with Mr. E. W. Bell? A. Yes, sir.

Q. In which you stated that you had made two night gowns for this boy Tommy Atkins? A. I never done it, no, sir.

Q. And at the same time and place if you didn't state to him or in substance state that while you was living at the place where you removed from Seneca Street, that you returned to visit Mrs. Crilley and saw the boy get into the—the boy, Tommy Atkins, get into the wagon of old man Carter——

A. I never done it——

Q. And if you didn't at the same time and place, if you didn't in substance state that at some other time later that the old man brought the boy back and he visited Granny Letcher?

A. I never done it.

Q. And that you talked to Granny Letcher about it, and that Granny said that he had been taken out to the vegetable man's to take care of, or words to that effect?

A. I never said it.

Q. And at the time you had this talk with Mrs. Wills, did you mention Mr. Long's name to her? A. No, sir.

Q. Didn't you tell Mrs. Wills in substance that Mr. Long was trying to keep you from telling the truth about it?

A. I never done it.

Q. When you took the stand you were going to tell the truth? A. I never done it.

Q. Or words in substance to that effect?

A. Well, I can testify—stand before any one's face and say so, I never done it. I have come here to tell the truth and nothing but the truth.

Q. What is Mr. Long offering you?

A. He never offered me a penny in his life.

Q. What did he give you?

A. He never give me nothing.

Q. What do you expect him to give you?

A. No, I don't think I am expecting a penny.

Q. What do you expect in any form? A. No, sir.

Q. Did you tell Mrs. Wills in this conversation, in the conversation you have referred to at the time and place that you referred to, the conversation with Mrs. Wills, did you tell her that Long was trying to get you to go away to keep you from coming to Court? A. No, sir.

Q. Or words in substance to that effect?

A. No, sir, I never done it.

Q. How often have you seen Mr. Long?

A. I haven't seen Mr. Long since he was at my house until last night.

Q. You saw him last night? A. Yes, sir.

Q. Where did you see him? A. At Mr. Bond's office.

Q. How long did you stay there?

A. Why I stayed there quite a little bit.

Q. What was said and done there? A. Sir?

Q. What was said and done there, by Mr. Long?

A. Well, we just sit there and talked, wasn't anything done.

Q. Did you talk about the case?

A. Why, not particular.

Q. You mentioned it, didn't you?

A. Why once in a while we did.

Q. What were you talking about if you weren't talking about the case? A. Why, we were just talking.

Q. Just a social visit? A. Yes, sir.

Q. In Mr. Bond's office last night? A. Yes.

Q. You had been on the stand yesterday afternoon when Court adjourned? A. Yes, sir.

Q. And you knew that the examination would be continued this morning? A. Yes.

Q. Where are you stopping in this town?

A. I am stopping at my son-in-law's, Earnest Tittle's.

Q. How did you happen to meet at Mr. Bond's office?

A. Well, I just went out to meet Mr. Bond and that was all, I went there.

Q. You knew Mr. Bond was representing Mr. Page and Mr. Long in this matter, didn't you? A. Sir?

Q. You knew that Mr. Bond was representing Mr. Page and Mr. Long in this matter in this case?

A. Why, I thought he was anyhow.

Q. Did you see Mr. Bond about the matter that you went out to see him about?

A. I had never seen Mr. Bond until I was ready to start, he never came in until I was ready to start, he had been to Kansas City.

Q. Well, did you get any money? A. Did he?

Q. Did you? A. No, sir, never got a cent.

Q. Never got a cent? A. No, sir.

Q. When did you see Mr. Bond just previous to this?

A. Never had seen him since he was over at my home.

Q. When was that?

A. Well, that was about, I don't just remember, just how many weeks it has been, but a month I guess since he was at my house.

Q. At your house where, in Kansas City? A. No, sir.

Q. Where?

A. In Tracy, Missouri, I don't live here.

Q. Did he pay you anything there?

A. No, sir, paid me nothing.

Q. Did you see Mrs. Wills last night? A. Yes, sir.

Q. Did you have a talk with her?

A. No, I didn't talk with her, I sat in that hack with Mr. Crilley's daughter.

Q. You didn't talk with her at all?

A. Well, no, she came to the hack and talked but we were not talking on this subject.

Q. Did you say anything——

A. Of course I had gumption enough to answer questions when any was asked.

Q. Was the case mentioned? A. No, sir.

Q. Didn't you tell Mrs. Wills last night in Leavenworth that this morning that you were going to testify——

A. Yes, I told her that.

Q. Wait a minute; that you had seen the birth mark or scar on Tommy Atkins shoulder? A. I never done it.

Q. But that you didn't know which shoulder it was on?

A. I never done it.

Q. Or words in substance to that effect?

A. I never done it.

Q. Do you know Mr. Page? A. I seen Mr. Page once.

Q. Where did you see him?

A. I seen him at my own home.

Q. Talked to him about this case?

A. Well, he asked me what I knew about it.

Q. And you told him? A. Yes, sir.

Q. Did he make you any offer of financial assistance o any kind?

A. No, sir, he never made me no offer at all, I have never had no offer made to me with nothing.

Q. Do you remember talking to Mr. Bonds about this case, do you? A. Yes, sir.

Q. Do you remember in a conversation with him——

A. Yes.

Q. That you told him of the birth mark and knowing where the boy was? A. No, sir.

Q. And he throwed up both his hands and said "My God, I thought you were my friend!" A. No, sir.

Q. Did you ever tell Mrs. Wills that that incident occurred? A. No, sir.

Q. At the time and place now that you had this conversation with Mrs. Wills that you have referred to, did you tell Mrs. Wills about an incident occurring in Mr. Bond's office in which he threw up his hands as I have stated before?

A. No, sir, I never done it.

Cross Examination by Mr. Allen.

Q. Mrs. Cobb, are you able to hear me now?

A. You will have to speak so I can understand what you say.

Q. Can you hear me now? A. Yes, I believe I can.

Q. Do you have any interest in this case, have you?

A. Sir?

Q. You haven't any interest in this case, have you?

A. No, sir, what do you mean by that?

Q. You simply want to tell us the truth about it, don't you?

A. Yes, sir, I do; I want to tell you the truth and nothing but the truth.

Q. You have taken an oath to do that, haven't you?

A. Yes, sir, I have.

Q. You realize the sanctity of that oath, do you?

A. Yes, sir.

Q. Your memory is good, isn't it?

A. Well, I think so.

Q. Well, I will ask you now just to follow me and we will go over the story of your life and of your residence at Leavworth? A. Well, I ain't an educated woman.

Q. Who was your father and mother?

A. My father was C. G. Monk.

Q. Was he ever married more than once? A. No, sir.

Q. Is your father living? A. No, sir.

Q. Is your mother living? A. Yes, sir.

Q. How long has your father been dead?

A. He has been dead twelve years this coming May.

Q. He died long after you were grown then?

A. Oh, I was married and had children.

Q. How many brothers or sisters have you?

A. I haven't got but two brothers and there are seven sisters of us living.

Q. Who was the oldest of all the children?

A. My brother, my oldest brother.

Q. Where does he live?

A. Well, I don't know, he did live in Kansas City, but they say he has moved from Kansas City and I don't know just where he moved to.

Q. What was the occupation of your father?

A. Farmer, he farmed.

> By Mr. Stuart: We object to that, because it is immaterial and incompetent, not tending to prove any issue in this case.
>
> By Mr. Hanford: The same ground, and on the further ground that is improper cross examination.

Q. Your oldest brother you say lived in Kansas City when you last heard of him?

A. The last I heard of him, I haven't seen him for seven or eight years.

Q. Where was he born?

A. Well, I just can't tell you for I don't know.

Q. You don't remember the date of the birth of your brother?

A. No, I don't, it is set down in my mother's Bible but I have no education and I can't remember anything like that.

Q. But you remember the birth of Tommy?

A. Yes, I was there, I remember that.

Q. You were raised up with your brother, were you not?

A. Why, sure.

Q. And you tell me now that you don't know his age?

A. Well he was born in June, but I don't know how old he is, what year he was born in for he was born in Indiana.

Q. Did he have any children? A. Yes, sir.

Q. How many? A. I think he has got five.

Q. What is the name of his oldest child? A. Jimmy.

Q. When was Jimmy born? A. Well, I can't tell you.

Q. You remember that, don't you? A. No, I don't.

Q. Don't remember Jimmy's age?

A. I never kept track of their ages.

Q. What does Jimmy do? A. He is dead.

Q. What did he do before he died?

A. He died a small infant, a baby child, he didn't do anything.

Q. What does your brother do?

A. He works just at work he can get wherever he can, he works at the stone work most generally.

Q. Stone mason? A. Yes, sir.

Q. Has he ever been married more than once?

A. Yes, sir.

Q. How many times? A. Twice.

Q. What became of his first wife? A. She is dead.

Q. Did she die—were they living together when she died?

A. Yes, sir.

Q. And he afterwards married again?

A. Yes, sir, he married a Smith.

Q. And Jimmy was born of the first marriage, was he?

A. No, sir.

Q. Of the second? A. Second.

Q. Who is the next child? A. Etta.

Q. How old is Etta?

A. She is about nineteen years old I think.

Q. About how old is Jimmy?

A. Well, Jimmy was older than her.

Q. Where did you live when Jimmy was born?

A. I lived in Missouri.

Q. How far from your brother?

A. I lived away in the country, I don't know just how far.

Q. Then, who is the next child?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and improper cross examination.

A. Archie.

Q. How old is Archie?

By Mr. Hanford: Same objection.

A. Well, he must be about——

Q. When was he born?

By Mr. Hanford: The same objection.

A. Well, I don't know what year he was born, I never kept no track of their ages.

Q. You kept no track of your brother's children's age?

By Mr. Hanford: The same objection.

A. No, I didn't keep no track of them.

Q. The next child was who? A. Ida.

Q. Ida, how old is Ida? A. Well, Ida is seventeen.

Q. She is seventeen?

A. They were older than her.

Q. When was she born?

A. I don't know what year, I can't tell the girls, I can tell what year we was born.

Q. You didn't keep up with that either, Mrs. Cobb?
A. No.

By Mr. Hanford: I object to all this line of testimony on the ground that it is incompetent, irrelevant, and immaterial.

Q. Who was the next child? A. Carrie.
Q. How old is Carrie?
A. She is the youngest child, I don't know how old she is, she is the youngest.

By Mr. Hanford: Judge Allen, will my objections go to all this line of testimony, this character of testimony?

By Mr. Allen: Yes, sir, each and every question.

By Mr. Hanford: As incompetent, irrelevant, and immaterial and improper cross examination.

Q. Carrie you say is the youngest? A. Yes, sir.
Q. How old is she? A. I don't know how old she is.
Q. You have visited in your brother's family, haven't you? A. Not lately.
Q. Well, you have since these children were born?
A. Yes.
Q. Were you ever there when any of them were born?
A. No.
Q. Were you ever there when any of them were small children?
A. Oh, yes, I was there when they were small children.
Q. Yet you dressed them, nursed, and held them, didn't you? A. No, I didn't.
Q. Never had your brother's children in your arms when they were little?
A. I had them in my arms, I never dressed them or anything like that. I was only there all day or maybe all night, I didn't do very much visiting.
Q. You were on good terms with your brother, weren't you?
A. Well, some things I was and some things I wasn't.
Q. What were the things you were, and some of the things you were not?

By Mr. Stuart: We object to that as incompetent, irrelevant, and immaterial.

By Mr. Hanford: The same objection.

A. Well, they didn't do quite to suit me.
Q. What did they do?
A. Well, they didn't live a life that I would like to live.

Q. What kind of a life did they live?

By Mr. Hanford: The same objection.

A. Well, he let his children do lots of things that wasn't right.

Q. Did any of them go wrong?

By Mr. Hanford: The same objection.

A. Yes, sir.

Q. Which one? A. Son, Willie.

By Mr. Hanford: The same objection.

Q. Did he go to the pen? A. Yes, sir.

Q. Is he in the pen now? A. No, I don't know that he is.

By Mr. Hanford: The same objection.

Q. Well, what was the crime?

A. Well, he did something, I think about some tools of an automobile.

Q. Did your brother have anything to do with that?

A. No, he didn't have anything to do with it.

Q. Was he tried on the charge? A. Sir?

Q. Was your brother tried on that charge?

By Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. No, not that I know of; I wasn't there when it was done.

Q. Did your brother ever get into any trouble?

A. Yes, sir, he did.

By Mr. German: Your objection *go* to all of this.

Q. Did he go to the penitentiary too?

A. Yes, sir, he did, that is the reason we never went about.

Q. How long did he stay in the penitentiary?

A. Well, I don't know whether it was four or five [].

Q. What was his crime?

A. Well, he taken a horse, I am truthful what I tell.

Q. He took a horse? A. Yes, sir.

Q. Where was he sent to the pen from? A. Kansas.

Q. This town? A. Out at Lansing.

Q. Where was he living then?

A. He was living away out in Kansas.

Q. Near you? A. No, sir.

Q. Did your father ever get into any trouble?

A. No, sir, my father was a good noble man.

Q. Your brother ever in the pen more than once? A. No.

Q. And you visited there before that, didn't you?

A. Yes, I visited there once in a while, but I never visited any more after they been dropped.

Q. Did any of the other children ever get in bad?

A. No, not that I know of.

Q. But they were all bad children you thought?

A. Yes, they was all bad children.

Q. And you had a horror against the pen? A. Yes, sir.

Q. And you didn't want to associate with him because he went to the pen?

A. No, I didn't, because they could do that if they wanted to.

Q. Didn't your husband go to the pen? A. No, sir.

Q. What? A. Not of my knowing.

Q. Your husband never was sentenced to the penitentiary? A. Not that I know of.

Q. Isn't this man the Edwards who was the father of this girl that you say was born on Seneca street?

A. Yes, George Edwards.

Q. Did he go to the penitentiary?

A. Yes, he did; yes, he did. But this husband didn't.

Q. Which husband didn't go? A. This last one, Cobb.

Q. Has he ever been in any trouble? A. No, sir.

Q. Well, going back now to your brother? A. Yes.

Q. You had a brother-in-law in the penitentiary, didn't you? A. Yes.

Q. Grace is now under—is Grace now under any charge?

A. Sir?

Mr. Hanford: That is objected to as immaterial.

Q. Is Grace under any charge now? A. No, sir.

Q. What? A. If he is I don't know it.

Q. What about Mary?

Mr. Hanford: The same objection.

A. Well, I guess you read that in the paper. I am her mother.

Q. Grace was charged with running off with a man and violating the white slave law, wasn't she?

Mr. Hanford: Same objection.

Q. I mean Mary?

A. Yes, that is true enough. You read that in a paper.

Q. That was at a time when she was living with her own husband, wasn't it? A. Yes, sir.

Q. And you raised her, didn't you?

A. Yes, sir, I did, but I raised her better than that.

Q. Yet you complain because this older brother of yours didn't raise his children to stay out of trouble.

A. I tried to raise mine better; they were good children when they married.

Q. Well, don't you suppose your brother did? A. No.

Mr. Blakeney: We object to supposition.

Q. Who was your next brother? A. My brother Willie.

Q. Was Willie ever in any trouble? A. No, sir.

Q. What was his occupation?

A. He run a poultry house in Kansas City of his own.

Q. In the poultry business in Kansas City? A. Yes, sir.

Q. You never knew of him getting into trouble?

A. No, sir, I know he never did.

Q. How many times has he been married?

A. Well, he has been married once.

Q. Just once? A. Yes, sir.

Q. Is his wife living? A. Yes, sir.

Q. Are they living together? A. Yes, sir.

Q. How many children have they? A. They have five.

Q. What is the name of the oldest? A. Mildred.

Q. When was this brother born? A. Why, I don't know.

Q. Why you were raised with him, weren't you?

A. Well, I know I was. He was the youngest child my mother had.

Q. You have seen him a great many times than you ever saw Connie, haven't you?

A. Oh, yes, but I know when Connie was born.

Q. And don't remember when your brother was born?

A. My brother was born in October, but I don't remember just what year it was.

Q. The oldest child is named what? A. What?

Q. This brother you are talking about now? A. Mildred.

Q. How old is Mildred? A. Mildred is 19.

Q. Is she married? A. No, sir, single, at home.

Q. When was she born?

A. She was born in May, but I don't know what year.

Q. Where does she live?

A. Lives at Kansas City with her father and mother.

Q. What street? A. Sir.

Q. What address? A. What is her address?

Q. Yes?

A. Well, I don't know, they moved just lately near the chicken house, but I don't know what number their house is.

Q. Where is the chicken house?

A. They are right by the Market Square.

Q. Where did they live?

A. They lived way out by, why I forget the name of the park. I don't know anything about Kansas City.

Q. Now, Mrs. Cobb, tell me when she was born, that 19-year-old neice of yours?

A. Well, I can't do it, because I can't tell the year that she was born in.

Q. Well, she was born since Connie was? A. Sir.

Q. She was born since Connie was, and you have forgotten that date, have you?

A. Well, I know Connie was born when my child was.

Q. Oh, no, he was born afterwards, wasn't he?

A. Yes, afterwards.

Q. So was this child, wasn't she?

A. I don't know when she was born.

Q. You have been there a number of times since, haven't you? A. I haven't been for eight years.

Q. When was the next girl? A. Wasn't no next girl.

Q. Boy? A. Herbert.

Q. How old is Herbert? A. 15 years old.

Q. What does he do?

A. Works at the office, I don't remember what man's office, a lawyer's office.

Q. He has never been in trouble?

A. No, he is just a 15-year-old boy, he has never been in no trouble.

Q. What about Herbert, how old is he? A. 15.

Q. When was he born?

A. I don't know; I never kept track of their ages.

Q. Where were you living when Herbert was born?

A. I was living here in Leavenworth.

Q. Where was your brother living when Herbert was born? A. Kansas City.

Q. You visited each other frequently, didn't you?

A. No, not very often, I didn't visit with them.

Q. Why didn't you visit with him?

A. Just because I never was able; I am a poor woman, and I work hard for my living, and I don't have time to go and visit; I don't visit very much.

Q. Did you ever live near your brother Monk?

A. No, sir.

Q. Your next brother? A. Second brother?

Q. Your second brother?

A. No, sir; he has always lived in Kansas City.

Q. Then who was the next child besides Herbert?

A. Billy.

Q. When was Billy born?

A. Well, I don't know just what year they were born in; I can't tell you the years.

Q. You visited in the home when Billy was a baby, didn't you?

A. Yes, I visited there at her house, but I never saw their ages, or anything of that kind.

Q. Never paid any attention to your neices' and nephews' ages? A. No, I never.

Q. What does he do? A. Who?

Q. This—— A. He goes to school.

Q. This nephew, what is the next one named?

A. Robert.

Q. How old is Robert? A. He is about 4 years old.

Q. When was he born? A. I don't know.

Q. You have been to their home while he was a baby, haven't you?

A. No, sir, never visited at his home since he was born.

Q. Why haven't you been there since he was born?

A. Because I didn't have the means to go, and it takes money to go.

Q. Why you were in Kansas City a day or two last week in conference with the attorneys in this case?

A. I never was at their house.

Q. I know, you were in Kansas City, weren't you, at the hotel? A. Yes, sir.

Q. Why didn't you go to your brother's house?

A. I didn't want to.

Q. Any particular reason why you didn't want to go to your brother, that you haven't seen for over four years?

A. Well, I don't like his wife very well.

Q. Well, what is the matter with his wife?

A. She is pretty high strung.

Q. The fact is you don't want your brother to know you are mixed up in this case? A. My brother did.

Q. How did he know it? A. I was at the *chicck* house.

Q. And you told him about this case?

A. Yes, I did, and he told me I was silly to be into it.

Q. Did you tell him the circumstances about you getting into it?

A. No, sir, I didn't tell him the circumstances at all.

Q. What did he say about you getting into it?

A. He said I was silly.

Q. What did he say about getting into it himself?

A. About what?

Q. About being a witness himself? A. Well, he ain't.

Q. He wouldn't be, would he? A. No, sir.

Q. He tried to persuade you not to be, didn't he?

A. No, sir, he didn't tell me not to be, he told me if I was a witness to tell the truth, nothing but the truth, and let no one talk to me and tell me to do otherwise.

Q. Will you please explain to us why he thought it was necessary to coach you to tell the truth? A. Sir?

Q. Why did he think it was necessary for him to coach you to tell the truth?

> Mr. Stuart: I object to that as calling for a conclusion, improper cross examination, touching on impertinence to the woman.
>
> Mr. Hanford: The same objection.

Q. What did you say to that question?

A. I say he didn't; what was the last you asked me?

Q. He warned you to tell the truth, didn't he?

A. Yes, sir, he did.

Q. He urged you to do that, didn't he?

A. Well, I am going to do it; I was going to do it.

Q. But your own brother told you to tell the truth?

A. Yes, sir, he did not want me to tell something that wasn't so.

Q. Was this the same day you had the conversation with T. W. Bell? A. Yes, sir.

Q. A lawyer in this case? A. Yes, sir.

Q. And the same day that you met the defendants in this case, or their attorneys in Kansas City? A. Yes, sir.

Q. You saw Long that day, didn't you?

A. I never done it.

Q. Who did you see?

A. I saw nobody but Bob Martin, and Mr. Bell, and that man sitting back here, Mr. Hanford, talking to Mr. Blakeney.

Q. Did you see any of these attorneys here? A. No, sir.

Q. None of the agents? A. No, sir.

Q. When did you see them in Kansas City?

A. I never seen them in Kansas City.

Q. Never saw defendant, or representative of the defendant in this case in Kansas City?

A. I never seen any of these defendants excepting this colored man, and Bob Martin, and Mr. Blakeney, I think they call him.

> Mr. Hanford: One of Mr. Allen's previous questions was objected to, however, as to why it was necessary for her brother to tell her to tell the truth, the witness stated, no, sir, but she being hard of hearing didn't hear Judge Stuart's objection and continued while he was talking. The Examiner took Judge Stuart's objection, and then asked witness what her answer was. She

asked what the question was and it was not repeated to her, so her answer doesn't appear in the record.

Mr. Allen: In view of the insistence of counsel I will ask that question.

Q. Why did you think it was necessary for your brother to insist upon your telling the truth, Mrs. Cobb?

Mr. Blakeney: Objected to as calling for a conclusion.

Mr. Hanford: Objected to as calling for a conclusion of the witness, improper cross examination, incompetent, irrelevant and immaterial.

Mr. Blakeney: Objected to as incompetent, irrelevant and immaterial.

Mr. Allen: I withdraw the question.

Q. What did you say to your brother about testifying in this case that caused him to make the remark that you say he made, urging you to tell the truth in this case?

Mr. Hanford: Objected to as incompetent, irrelevant and immaterial, a conversation not in the presence of the parties.

A. Well, I will tell you. I am going to be plain with you, and tell you the truth. This Mr. Bob Martin was with me, and he followed me all the way to Kansas City. I am going to tell you the truth; that is the truth, and he told me he followed me all the way to Kansas City, and he went with me to this chicken house of my brother, so as—I will change it; he wanted me to testify to this effect that that Indian child had a white spot beneath its shoulder. He wanted me to testify to that and I told him I wouldn't do it, and he told me, my brother says, "that man is going to get you in bad; don't go where that man is; don't talk with that man, sister," he says you tell nothing but the truth. Now the truth goes.

Q. Your brother warned you against this man Martin?

A. Yes, sir.

Q. Mr. Bell and Blakeney; you knew they were together, didn't you? A. No, nobody but Martin was with me.

Q. And you knew that the three of them were associated together?

A. Yes, sir, I did, because they were all three at the hotel.

Q. This man Martin all the way to Kansas City tried to get you to swear that this child had a mark on its back?

A. Not all the way to Kansas City.

Q. You say he followed you all the way down?

A. He followed me, and we got on here at the depot, and when we got out here to Spruce street, he stepped on the car, and I said to him, I made the remark, "Now, where are you going," he said, "I am going with you," and I said, "You are not."

Q. Now what was said in your brother's presence that caused him to make—caused him to warn you to tell the truth?

A. Well, I was trying to get my sister from the chicken house at her home, and I went to him because I couldn't hear through the 'phone long distance, and I went to my brother to get him to call my sister at her home in the country near by Nachawa.

Q. What sister? A. Mrs. Parker.

Q. But what did you say about your testimony in this case that caused your brother to warn you to tell the truth?

A. Well, he knew that I was going to testify; he knew it before that, I had talked with him before that.

Q. Did he fear that you wouldn't tell the truth?

A. No, he wasn't a bit afraid; he was afraid I would look to this man and say something I didn't know.

Q. Did this man in the presence of your brother try to get you to swear to that?

A. No, sir, not there, but he told my brother that he would stand by me as long as he lived if I would testify.

Q. He told your brother that if you would testify to the scar on Tommy's back?

A. No, I told my brother that he wanted me to.

Q. What?

A. I told my brother that they wanted me to testify to the spot on Tommy's back.

Q. I thought you said that Martin told your brother that he wanted you to testify? A. No, I told him myself.

Q. Martin didn't talk with your brother, did he?

A. Oh, yes, he did.

Q. What did Martin say to your brother?

A. I don't know every word that Martin said, he talked with him and said—I think she ought to be—if she knows—a good witness, and that she will testify to the truth, and my brother said I know she will testify to the truth.

Q. Then Martin told your brother that he wanted you to testify to the truth? A. No, sir, he didn't.

Q. Oh, he didn't; I misunderstood you?

A. Well, you misunderstood it because I am the one that told my brother.

Q. Martin, what did he tell your brother?

A. I don't know what all they talked about.

Q. But he did tell your brother that he wanted you to testify to the truth, didn't he?

A. Yes, he said, I don't want her to testify to a lie.

Q. And your brother said if you look to that man Martin you will get into trouble? A. That is what he said.

Q. And the Martin he was talking about was the same man who had told your brother that he wanted you to testify to the truth?

A. He told me that, yes, but I told my brother, understand I told my brother.

Q. What did you tell your brother, that is what I have been trying to get you to do for 10 minutes?

A. Well, I told my brother that Mr. Martin wanted me— of the things he sought, and asked me to testify to was the spot on Tommy's back, that was all, and he did.

Q. Did you go to your brother to consult him, to determine whether or not to testify to that mark on Tommy's back?

A. No, I went there I told you to telephone.

Q. I know but while you were there, didn't you have a conference with him? A. Yes, sir, we talked.

Q. You had a conversation with him upon that question, didn't you? A. Yes, we talked about it.

Q. And he advised you not to do it, didn't he?

A. He didn't advise me not to do it, told me to tell just what I knowed was the truth.

Q. Well, he didn't expect you to do otherwise, did he?

A. No, he didn't expect me, but I told him I didn't know anything about the spot on Tommy's back.

Q. And you asked him whether or not you ought to tell it? A. Sir.

Q. You asked him whether or not you ought to swear to it, not knowing it? A. No, sir, I didn't do it.

Q. How do you account for his warning to you then?

A. Well——

Q. What did you say about your testifying here that caused him to instruct you to tell the truth.

A. Well, I told him I was going to testify about this Indian child, and he said I am afraid you will get bothered and hurried, and it won't do you no good.

Q. Now, what was it you say that caused him to tell you that you must tell the truth?

Mr. Hanford: I object to the question and insist that the witness be asked what she said, the testimony as to what was said and done.

A. Why about the spot.

Mr. Blakeney: I want to object to the many repetitions.

Mr. Allen: If I could get her to answer my question one time I would quit.

Mr. Hanford: She has answered it, told what was said.

Q. Now, Mrs. Cobb, listen to this question and answer it, please? A. Well, I will try.

Q. Tell me just what you said to your brother that caused him to warn you to tell the truth?

Mr. Blakeney: I object to that as repetition.

Mr. Hanford: Same objection.

A. I told my brother that Mr. Martin wanted me to testify to a spot on Tommy's back, and I said, I can't do that brother, because I don't know nothing about that spot on his back, and I can't testify to that fact at all, and he said, don't you do it, you don't know it; don't you testify to anything you don't know. Now that is what I said.

Mr. Blakeney: I withdraw my objection.

Q. In the hotel after that you had a conversation with Bell. didn't you? A. Yes, I did.

Q. You knew that Bell was the attorney for Martin, didn't you? A. Yes, sir, I did.

Q. You knew that Martin had been trying to get you to testify to a lie in this case, didn't you? A. Yes, sir, I do.

Q. You knew that the penalty for testifying to a lie in a government case was serious, didn't you?

A. No, I didn't know anything about that.

Q. You didn't know that if you testified falsely in a government case that you would be prosecuted by the government?

A. Well, I suppose I would, but I ain't going to do that.

Mr. Stuart: I object to that because it is not more of an offense against the law to testify falsely against the government than it is for it.

Q. Do you know that it is a crime punishable under the United States laws to testify falsely, either for or against the United States in any case? A. Sure I do.

Q. You know that this man Martin had been trying to get you to violate that sacred law, didn't you? A. Yes, sir.

Q. You knew then that he was an enemy, and a dangerous man to you, didn't you? A. I thought so.

Q. You knew that Bell and he were working together on that, didn't you? A. Yes, sir.

Mr. Stuart: We want to interpose objection to

Judge Allen—he may not realize it—is gesticulating very strongly in the face of the witness, that she is a woman, and we object to it.

Mr. Allen: I am having to talk loud, Judge Stuart, I don't want to do it.

Mr. Stuart: I understand the loud talk.

Mr. Allen: I am here at her invitation; she asked me to move close to her so she could hear me.

Mr. Stuart: It is not the voice, but the gesticulations.

Mr. Hanford: I object to the attitude of counsel, in close proximity to the witness.

Q. After this man Martin had been trying to get you into this serious trouble—had confronted you and urged you to testify falsely in his behalf, you permitted Bell to come into your room at the hotel and talk to you about it, did you not?

A. No, I didn't permit him to come into my room, he came into another room from my room.

Q. And you went in there, didn't you? A. No, I didn't.

Q. Was he stopping at the same hotel? A. I don't know.

Q. But where did you talk with him at that hotel?

A. I talked with him up there in the room.

Q. In his room? A. No, in our room.

Q. Our, who? A. Mine and my daughter's.

Q. Which daughter? A. Mrs. Tittle.

Q. Is that Mary? A. Yes, sir.

Q. In that room at that time? That was the same day that you had talked with your brother wasn't it? A. Yes, sir.

Q. Didn't you tell Bell in that room at that time that your brother had warned you not to testify until you had received your money?

A. I never done it, I never told Mr. Bell that.

Q. At that time and place? A. I never done it.

Q. Did you tell him that or that in substance?

A. No, sir, I never told Mr. Bell that my brother said for me not to testify to nothing until I had my money, no.

Q. At that time and place? A. No, sir.

Q. Didn't you tell Bell that you would be willing to testify to the scar on Tommy's back? A. I never done it.

Q. And that that was the truth? A. I never done it.

Q. But that you wanted him to pay you for it, or that in substance? A. No, sir, I never done it.

Q. Didn't you tell him there in substance that you washed and dressed this baby when it was a little baby?

A. I never done it.

Q. And put a night gown on it, or dress?

A. I never done it.

Q. And that you saw the scar on his shoulder?

A. I never done it.

Q. Didn't you tell him there in substance that Page came to your home? A. Yes, sir.

Q. And offered you a large sum of money? A. No, sir.

Q. Agreeing to make you comfortable for life?

A. No, sir.

Q. If you would testify to the birth of Tommy and say nothing about the scar on Tommy's back?

A. No, sir, I never done it, I never done it.

Q. Did you tell Bell that or that in substance?

A. No, sir; no, sir.

Q. Did you tell Bell that Page wasn't paying you enough and that you would testify for him if he would pay you more money, or that in substance? A. I never done it.

Q. Page did come to your house, didn't he?

A. He did come to my house, yes, sir.

Q. He talked with you in your house, didn't he?

A. Yes, sir, but he never made me no offer.

Q. Talked to you about this case, didn't he?

A. Well, he wanted to know what I knew about this case?

Q. And you told him what you knew about it?

A. Yes, sir, I did.

Q. He told you he would take care of you, didn't he?

A. No, sir.

Q. He told you he would make you comfortable for life, didn't he? A. No, sir.

Q. He gave you some money, didn't he?

A. No, sir, he didn't.

Q. He gave the children some money, didn't he?

A. He never, I had no children.

Q. Didn't you tell Bell in Kansas City in that room at the hotel? A. No, sir.

Q. That Page told you that if you would care for him that he would make you comfortable for life?

A. I never done it. I lift my hand to God and man, I never done it.

Q. It won't be necessary for you to lift your hand to God and man; you have taken an oath to tell the truth?

[A.] Yes, sir, and I am going to tell the truth, too.

Q. So without lifting your hand any more remember that oath and answer my question? A. Yes, sir.

Q. Now, when was it that Page talked to you at your home? A. Well, I don't know just what month it was.

Q. How long ago? A. Do you know?

Q. Never mind? They are not on the witness stand?

A. Well, I thought he knew the day.

Q. Was Mr. Bond with him? A. No, sir.

Q. Was Mr. Long with him? A. Yes, sir.

Q. About how long ago was it that Page talked with you?

A. Well, I guess about two months ago or more.

Q. Did you tell Long that you wouldn't testify for him, that you wanted to see the head of the concern? A. No, sir.

Q. How long was Page at your home?

A. He wasn't there more than 25 minutes.

Q. How far do you live from town?

A. I live right in town.

Q. What town? A. In Tracy.

Q. How far is that from Kansas City?

A. Why, it is a good ways, it is more than eight or nine miles from here.

Q. Did he come there in an automobile from here?

A. Yes, sir.

Q. They told you that they had been to Leavenworth to see some parties, came out there in an automobile to see you?

A. Yes, sir.

Q. Was Crilly with them? A. Yes, sir.

Q. George Crilly? A. George Crilly.

Q. Were any of the rest of your friends with them?

A. No.

Q. George has been there a number of times, hasn't he?

A. Oh, sure.

Q. George has been talking to you about this case for about a year, most of the time, hasn't he?

A. Oh, no, no, not for about a year, no.

Q. He brought you to town here and drove you all over town seeing the buildings, didn't he? A. No, sir.

Q. He took you around here and had you identified, didn't he? A. No.

Q. He had you down here at the hotel and called McMillan's house, didn't he? A. No, sir.

Q. Told McMillan that *that* he wanted him to meet a witness that they had found that knew Tommy?

A. Mr. Crilly never sent Mr. McMillan to my house.

Q. Here in Leavenworth in front of the National Hotel?

A. No, sir, I never met Mr. McMillan there.

Q. In this room in the hotel in Kansas City didn't you tell Mr. Martin and Bell that your brother being in the other room at the time, that you were willing to talk, to testify for them, but before you did it you wanted to see and talk with the man that had he money? A. No, sir.

Q. Referring to Blakeney? A. No, sir.

Q. Did you tell him that or that in substance? A. No, sir.

Q. What did you bring your brother up there and put him in the next room for?

A. I never brought my brother up there.

Q. Who brought him up there? A. Nobody.

Q. He was up there, wasn't he? A. No, sir.

Q. Wasn't he in the hotel while you were there?

A. No, sir. No, sir, my brother wasn't.

Q. Didn't you tell Bell that you wanted to see the big white man with the money who was running the thing?

A. No, sir.

Q. Or that in substance? A. No, sir.

Q. Then you came back to Leavenworth, didn't you?

A. Yes, I came back Saturday night.

Q. Bell and Martin paid your expenses down to Kansas City, didn't they? A. No, sir, they did not.

Q. Who paid them? A. My daughter paid them.

Q. How came you to go to Kansas City to see them?

A. Just because I wanted to see my sister on some business.

Q. You didn't see your sister though, did you?

A. Yes, sir, I did, she came to the hotel to me.

Q. Which sister? A. Mrs. Foster.

Q. That isn't the one you are not on good terms with, is it?

A. Yes, I am on good terms with her; she is an older sister than me.

Q. And you came back to Leavenworth, didn't you?

A. Yes, sir.

Q. And went up to Bell's office then didn't you?

A. No, I didn't; I went before I went there.

Q. Before you went to Kansas City? A. Yes, sir.

Q. You went up to Bell's office? A. Yes, sir.

Q. In the City of Leavenworth? A. Yes, sir.

Q. And had a conversation with him about this case?

A. No, sir.

Q. What did you go there for?

A. Just because Mr. Martin wanted me to. I will tell you just what was said in the office.

Q. All right, you telephoned Bell that you wanted to see him didn't you? A. No, sir, I never done it.

Q. You sent him word that you wanted to see him, didn't you? A. No, sir, I never done it.

Q. You went anyway to his office, didn't you?

A. I did, with Mr. Martin.

Q. And you talked with Bell there?

A. Yes, sir, he asked me some questions and I answered them.

Q. And you told Bell there in substance that the child you saw at Granny Letcher's you dressed?

A. I never done it.

Q. And that he had a scar on his back?

A. I never done it.

Q. And that Page had told you that if you wouldn't tell that he would make you comfortable for life?

Q. And that they had told you that you must not testify to that scar? A. They never done it, and I never told it.

Q. You told them there in substance that, didn't you?

A. I told him that I——

Q. That you would be willing to testify for them and testify to the scar? A. No, sir.

Q. Provided they would make a substantial financial arrangement with you? A. No, sir. There was no——

Q. If they would give you enough money you would testify to those facts; you told them that, or that in substance, didn't you?

A. I never done it.

Q. Did you tell Bell in that office at that time in the City of Leavenworth in substance that you had told Lee Bond in his office about the scar—— A. No, sir.

Q. And that Lee Bond threw up his [] and said "My God, I thought you were my friend"? A. I never done it.

Q. Did you tell him that, or that in substance?

A. No, sir, I never done it.

Q. After this man Martin and Bell had taken you, they tried to get you in that office that day, you say, to testify?

A. Yes, sir.

Q. What did they want?

A. They wanted me to testify to a spot on Tommy's back.

Q. You did talk to them about the case, didn't you?

A. Sure I did, he talked to me about it.

Q. What did he say to you about it?

A. He asked me did I ever see a spot on Tommy's back and I told him I did not.

Q. Let's commence at the beginning of that conversation. Go ahead and tell what you said. You knew Bell before then, didn't you? A. No, sir, never seen him before.

Q. All right?

A. I went there with Mr. Martin and Mr. Martin introduced me to him, and he asked me did I know anything about where Tommy was and I told him I did not, and he ask me did I know that he had a white spot on his back, and I said I did not and I said I won't tell you anything. I said what I am telling is going to be the truth and I will testify to it on the witness stand, and not nothing else. Now that was the conversation and I got up and walked out of the room.

Q. They didn't say anything to you then did they?

A. Yes, he wanted me to testify to that fact.

Q. What was said about it? A. I said I wouldn't do it.

Q. Did they offer you any money?

A. No, sir, no money was offered me.

Q. What did he say?

A. Asked if I remember that he had a white spot on his back, and could I testify to that, and I told him I couldn't, and he wanted to know if I knew who had the child after old Granny left it there, and I told him I didn't.

Q. Now, after you had had that conversation in Bell's office? A. Yes, sir.

Q. You realized they were trying to get you to tell them that which wasn't true, didn't you?

A. Well, I didn't pay no attention to them at the hotel.

Q. It was the next day you met them at the hotel room, wasn't it? A. Yes, sir, I did.

Q. You had previously told your brother, you say, that they had tried to get you to *permit* perjury against the United States in this case? A. Yes, sir, I told my brother.

> Mr. Blakeney: I object to it being perjury against the United States; I think it would be against Page, if they were trying to [] them to commit perjury. The United States isn't concerned as to which defendant is cornered in this case.

Q. You made an engagement, you and Coody Johnson, Bell and Blakeney—and Bell made an engagement to meet Blakeney at the hotel at 5 o'clock, that evening, and Blakeney didn't come, did he? A. No, sir, I never done it.

Q. You had intended to meet them at 5 o'clock that afternoon at the hotel, hadn't you?

A. I never done it. I didn't know Mr. Page, I didn't know anything about——

Q. I mean that Bell told you that a white man was to meet you there, didn't he? A. No, sir, he never done it.

Q. What were you doing there?

A. I went there to get my sister. I intended to go out to her house that night, and I went to my nephew, her boy, and he told me it was too muddy, I would have to walk, and I went to the hotel and put up.

Q. You were there at 5 o'clock, weren't you?

A. I don't know whether I was there at 5 o'clock or not, I never made no engagement.

> Mr. Bond: I object to the witness not being allowed to answer the last question.
>
> The Examiner: Mr. Bond just for whom are you appearing?

Mr. Bond: I am an attorney of record for Mr. Charles Page, having entered my appearance in the United States Court, in which this action is pending, about 10 days ago.

Mr. Hanford: I make the same objection as made by Mr. Bond.

Q. Now let me see; you just happened to be at the hotel at 5 o'clock that evening?

A. I wasn't there at no 5 o'clock that evening.

Q. Well, you just happaned about there when these people came to see you?

A. I did not know these people were coming to see me.

Q. Didn't you have an understanding when you got off the car with some one—with Bell or some other party, that you were to meet these parties at 5 o'clock at the hotel?

A. No, sir, no.

Q. Didn't you stay at the Owl Drug Store at the station?

A. No, sir.

Q. Where you get on the car to come to Leavenworth and wait there a long time for Mr. Blakeney to come?

A. No, sir, I was waiting for nobody.

Q. I am speaking now of the day that you returned to Leavenworth, the day that you went from Leavenworth to Kansas City?

A. No, sir, I didn't wait for nobody. I didn't have no idea of waiting for anybody.

Q. You were there awhile though, weren't you? A. Sir?

Q. When you got off the car in Kansas City you did wait for awhile at the Owl Drug store? A. No, I didn't.

Q. You stayed there awhile, didn't you?

A. No, sir, I wasn't in there.

Q. Where did you wait?

A. We waited up*on* on the corner right across from Tenth and Main until my daughter went down to my brother's chicken house and got her cousin, my nephew, my sister's boy.

Q. Why did you wait there?

A. Because I didn't want to walk; I didn't feel very good that afternoon, I never went there to wait for anybody.

Q. Who waited? A. With me, nobody.

Q. Who waited with you? A. Bob Martin.

Q. Bob Martin waited there with you?

A. Yes, sir. He stayed right there on the corner.

Q. Did Bell come up while you were there? A. No, sir.

Q. You didn't see Bell at all?

A. Yes, I seen him the next day.

Q. But you didn't see him then? A. No, sir.

Q. Did Coody Johnston come up? A. No, sir.

Q. This man over here? A. No, sir.

Q. Did you ever see him before?

A. No, I never seen him until the next day, he come to the office.

Q. To the hotel, you mean? A. Yes, to the hotel.

Q. And he was in the party at the hotel?

A. He was not up to our room at the hotel.

Q. But you didn't have any of the conversation at that hotel in his presence?

A. Why he talked about it, but I told him what I would testify, what I knowed I was going to testify to on the witness stand. I talked to nobody.

Q. They were trying to get you to tell something else?

A. They wanted to know what I knew and I told them I would tell that on the witness stand, what I knew.

Q. When you knew that those people were trying to get you to commit perjury why didn't you drive them out of your room?

A. Well, I didn't know this gentleman, I never seen him before.

Q. You knew Bell?

A. I knew Bell, but I didn't know what Bell came there for.

Q. You knew Martin? A. Yes, I knew Martin.

Q. You knew Blakeney? A. I give it to him too.

Q. You gave him Hail Columbia, didn't you; what did you say to him?

A. I told him I didn't want him following around after me; I would have nothing to do with him.

Q. Mr. Blakeney was following you around, was he?

A. No, this man, Martin.

Q. What about Blakeney giving him Hail Columbia too?

A. No, I just let him go; I wasn't going to talk to him and tell nothing until I got on the witness stand.

Q. You gave Mr. Blakeney to understand that you wouldn't talk until you got on the witness stand?

A. Yes, sir, I did.

Q. You did tell him all you knew about it, didn't you?

A. No, sir, I didn't.

Q. You told him you knew Tommy, and that he had a scar on his back? A. I told him I knew Tommy.

Q. What did you say?

A. I told him—he asked me if I knew Tommy and I told him that I had seen him, but that there wasn't no scar on his back; that I never *knewed* there was.

Q. Didn't you tell him in substance, that you wanted to know how much a scar on Tommy's back would be worth?

A. No, sir, no, sir.

Q. You didn't tell him in substance that Page had told you that he would take care of you for life?

A. No, sir, no, sir.

Q. Did you tell Bell at any of the times I have mentioned of places—— A. Sir?

Q. Did you tell Bell either in Kansas City at the times and places I have mentioned, or Leavenworth at the time and place I have mentioned, that Grace used to push Tommy around in a cart? A. No, sir.

Q. In a wagon? A. No, sir.

Q. And that they used to fight because she called him a nigger? A. No, I didn't tell that; I said they played.

Q. Did you say that May used to pull Grace and Tommy in a wagon? A. No, I said they all played there together.

Q. And that May would call the boy a nigger and that they had a fight?

A. Yes, they fought. They called him a little nigger, all the children.

Q. He didn't look like a nigger, at all, did he?

A. No, he didn't. He was yellow, brown.

Q. Didn't you get after the children for calling him a nigger?

A. Yes, I told them they ought to be ashamed to call him a nigger, it wasn't right.

Q. What was it about his appearance or conduct that made them call him a nigger?

A. Simply because he stayed over at Letcher's.

Q. Did you chastise your children for calling little Tommy a nigger? A. Yes, sir.

Q. They used to fight about that, didn't they?

A. Yes, sir.

Q. You told Bell that, didn't you?

A. No, sir, I didn't; I didn't tell Bell that.

Q. Didn't you tell Bell that little Tommy would come in and cry because they called him a nigger?

A. No, sir, I didn't.

Q. Who did you tell that to?

A. I never had any conversation in that at all.

Q. With anybody? A. No, sir.

Q. What did you tell Page?

A. Well I never told him much of anything.

Q. He just said Howdy do, and Goodbye? A. No.

Q. What did you say to him, if anything?

A. We talked a little bit, and he asked me where I first ever met Minnie, and I told him.

Q. What did you tell him?

A. I told him I met her at my own house the first time I ever met him

Q. That you were having a child then? A. Yes, sir.

Q. And that Minnie came there to wait on you?

A. Yes, sir.

Q. And that is all you told him, was it?

A. Yes, sir. Oh, I don't know, I might——

Q. He didn't ask you about the boy at all, did he?

A. Yes, he did, he asked me if I had seen the child, and I told him I did.

Q. What child did he ask you about? A. Tommy.

Q. What did he say?

A. Minnie's baby; Minnie's child. He asked me if ever I saw Minnie's child, and I told him yes, sir, I did.

Q. Did you tell him that was in 1900 or in 1885? A. 1885.

Q. That is the only date indelibly fixed in your mind, isn't it?

A. Yes, sir, I knew when my own child was born in that year.

Q. Now, let's go back to your other brother? A. Yes.

Q. The last child you testified about was Billy. What was the next child's name? A. Which brother do you mean?

Q. Well, what is your nephew Billy, whose child is he, he is your Kansas City brother's child, isn't he?

A. Yes. Well, he is about six years old now; he is going to school.

Q. Billy is six years old and going to school?

A. Yes, sir.

Q. You were there around the place when he was a little child? A. No, I happened in there very often.

Q. Well, you have been there a number of times, though?

A. Oh, not very many times.

Q. You played with Billy when he was a baby, and had him in your lap? A. Sure I did.

Q. Now, when was Billy born?

A. I don't know what year he was born in now.

Q. Now, Billy is going to school?

A. Yes, he is going to school.

Q. What is the next child's name? A. Robert.

Q. How old is Robert?

A. Why he ain't over—he is not five.

Q. He is about five? A. No, he isn't quite five.

Q. Isn't Robert older than Billy? A. No, sir, younger.

Q. What does Robert do; does he go to school too?

A. No, sir.

Q. When was Robert born?

A. When he was six years old.

Q. I said when was Robert born?

A. I don't know just the years they was born.

Q. You don't have any idea about the date when Robert was born? A. No, sir, I never kept no *tract* of their ages.

Q. And your sister you say in Kansas City, you don't get along very good with? A. My sister-in-law.

Q. Your sister-in-law? A. Yes.

Q. She is one of those fighty kind of women, isn't she? A. Yes.

Q. Isn't the reason that you didn't go to your brother's house because you wanted to consult with him about this case and didn't want your sister-in-law to hear it?

A. No, sir; no, sir. It was no secret.

Q. Is your sister-in-law got such a bad reputation that you don't want to associate with her?

A. No, she is good and everything but I don't just go there often. I like her and everything that way.

Q. Well, have you ever had any trouble with her?

A. No, I never had no words with them in my life. I just don't go very often.

Q. How long since you have been there?

A. About eight years.

Q. You said a while ago that you had been there and that she visited your house and that you had held the child in your lap when he was a baby. This child you called Billy? A. No.

Q. That is the child you called——

A. I haven't been there for eight years to my brother's, but they have been home.

Mr. Hanford: Object to the statement as a misstatement of the evidence.

Mr. German: I object to counsel's statement because the record speaks for itself.

Mr. Stuart: I object to all this kind of testimony because it is incompetent and immaterial, has no bearing on this case and will be ruled out by the trial judge the moment objection is made.

Q. What did you say about playing— Where did you play with the children and have them on your lap?

A. Here at home.

Q. At your home? A. Yes, sir.

Q. When they were babies your brother would bring them there? A. My sister-in-law would bring them there.

Q. She would come to see you and you would go to see her?

A. Well, I wasn't able to go very much. I am a poor woman and have to work for my living.

Q. Lack of funds, it is then instead of lack of affection?

A. I don't go very much.

Q. Who is paying your expenses now?

A. I pay it myself.

Q. Where did you get the money?

A. I work and wash for it.

Q. Do you mean to tell me that they haven't put up any money for your expenses in this case? A. They have not.

Q. They haven't paid you a dime have they? A. No, sir.

Q. Not since you first saw Crilly? A. No, sir.

Q. You haven't received one penny, have you?

A. I have not.

Q. And haven't received the promise of a cent?

A. No, sir, they never made me no promise. That is, I pledge you, the honest truth.

Q. Now this Kansas City brother. That is the next oldest child? A. My brother's child?

Q. Yes? A. Why the youngest.

Q. The one just next to you? A. Next to Robert?

Q. Yes.

A. Why, his name is— Well I can't tell you the last boy's name. It ain't over four months old.

Q. When was it born? A. It ain't only four months old.

Q. When was it born?

A. Well, I don't know just what month it was borned in. I haven't got very much education. I don't remember everything.

Q. You remember pretty well events in '85, don't you?

A. Well, I remember that because my own child was born there and she stayed with me when she was in that condition.

Q. But your memory slips when it passes before or after '85?

A. Well, I remember that very well. My child ages is in the Bible.

Q. What is the next brother or sister next to the Kansas City brother? A. I haven't got but two brothers.

> Mr. Blakeney: I want to object now. I want to interpose an objection to this evidence which can't be for any purpose except to test the recollection and memory of the witness and it has been carried now as far as any reasonable demand and a further examination in this regard is incompetent, irrelevant and immaterial.

Q. What was that sister's name? Your older sister?

A. Older sister?

Q. Yes. A. Miss Harris.

Q. Where does she live?

A. She works at North Kansas City for Bob Hall.

Q. Did you and she ever live close together?

A. Not of late years.

Q. When did you live close together?

A. Why we lived close together here in Leavenworth, the closest we ever lived.

Q. You both lived at Leavenworth at the same time?

A. Yes, sir, we did.

Q. When?

A. It has been about fourteen years since I lived here. I lived here fourteen years.

Q. Is she living here now?

A. Yes, she lives here now but she is away working.

Q. Is she married? A. Yes, sir.

Q. Was she married when you lived here? A. Yes, sir.

Q. It was her husband who was sent to the pen was it?

A. Yes, sir.

Q. When was he sent to the penitentiary?

A. I don't know.

Mr. Hanford: I want my general objection to apply.

Q. Did you say it was her husband that was sent to the penitentiary? A. Yes, sir.

Q. When was that? A. I don't know.

Q. About how many years ago? A. Oh, a long time.

Mr. Blakeney: I want to move to strike all of this witness' evidence with reference to her kindred being sent to the pen as is no wise going to her credibility and as incompetent, irrelevant and immaterial. I object to any of that class of evidence introduced.

Q. They were living together in Leavenworth when he was sent to the penitentiary weren't they?

A. No, sir, they lived in the country out near Fairmount.

Q. How far is that from Leavenworth?

A. Well, I don't just remember how many miles it is.

Q. All your life until fourteen years ago you lived close to that sister, didn't you? A. No.

Q. During what years was it that you were separated?

A. Separated?

Q. That you didn't live close together?

A. Well after I moved away from here I didn't live close to her.

Q. Now, how old is she?

A. She is the oldest sister. I don't remember how old she is.

Q. When was she born? A. I don't know that.

Q. How much older is she than you?

A. Oh she is— There are three older than me.

Q. Has she any children? A. Yes, sir.

Q. How many? A. She has two.

Q. What are their ages?

A. Her boy, her youngest child, her next to the oldest child— She has three but one is dead and a boy and girl, one girl lives here and one boy in Missouri.

Q. The oldest one is living or dead?

A. No the oldest one is dead.

Q. What was his name? A. Emma Harry.

Q. Where was Emma born? A. In Missouri.

Q. How far were you living from her when that child was born?

A. Well, I guess— I don't remember where I lived at that time.

Q. Well you saw it very frequently didn't you?

A. No, not very often then.

Mr. Stuart: I object to this testimony because this witness is an aged woman and the testimony is not to the case, doesn't tend to prove any issue in the case and is an imposition upon the witness.

Mr. Hanford: The same objection.

Q. When did she come to Leavenworth to live?

A. Well, I don't know what year it was.

Q. You were living here at that time wasn't you?

A. Yes, sir.

Q. That didn't make any impression on you did it?

A. No.

Q. You and your sister are very fond of each other aren't you? A. Yes, sir, we like each other.

Q. Always have been, haven't you? A. Yes, sir.

Q. You always went to her home and she came to yours?

Q. And she moved here to live, didn't she? A. Yes, sir.

Q. And you couldn't tell me now the year?

A. No, I don't know what year she moved here. I don't remember it.

Q. With reference to '85, was it before or after?

A. No, she moved here after '85.

Q. You don't know what year?

A. No, I don't just remember what year.

Q. Did she have a child after coming here? A. No.

Q. Both her children were living then?

A. Yes, they were both living then.

Q. Was the oldest one living then?

A. No, the oldest one was dead.

Q. How old were her children when she moved to town?

A. Well, they was grown children. The youngest one I don't remember just how old she was.

Q. You couldn't tell about the year she came to Leavenworth? A. I don't know.

Q. What is the next sister's name?

A. Mrs. Doyle—Mrs. Evans.

Q. Who did she marry? A. She married Will Evans.

Q. She ever been married more than once?

A. Yes, married twice.

Q. Who was the other husband? A. Doyle.

Q. What became of him? A. He is living.

Q. She is living now with her second husband?

A. Yes, sir.

Q. They never got into any trouble did they?

A. No, no trouble.

Q. Did she have any children by the first husband?

A. Yes, sir, four little girls.

Q. By the second husband? A. No, sir.

Q. Where did she live when she married to her first husband? A. Always lived in Missouri.

Q. How far from you? A. They don't live very far.

Q. Close to you? A. In the same town with me.

Q. Same town? A. Yes, sir.

Q. How long have they lived in the same town?

A. They have lived there all their lives.

Q. You have lived there fourteen years?

A. No, I haven't lived there fourteen years.

Q. How long have you lived there?

A. Haven't lived there more than ten or twelve.

Q. How far did you live from them before that?

A. Well, I just moved down yonder. My husband worked by the month and I had to move where he got work.

Q. Sometimes you lived there did you?

A. Yes, I have lived there now about ten years steady.

Q. Were you living there when any of her children were born? A. No, sir.

Q. Were you with her when any of her children were born? A. No, sir.

Q. Were you with her when any of her children was born?

A. I wasn't with her when the children was born.

Q. After they were born when they were little children?

A. Yes, I seen the last child.

Q. Do you know when any of her children was born?

A. No, I don't remember the date.

Q. What is the next sister's name? A. Mrs. Cobb.

Q. Where does she live? A. In the same town.

Q. Lived there all her life?

Q. Yes, sir, born and raised there.

Q. You have been intimately associated with her?

A. There every day.

Q. Has she any children?

A. Three. One is twenty years old and the other nineteen.

Q. You there when either was born?

A. No—— Yes, I was there with the second girl.

Q. When was she born? A. Yes, the second girl.

Q. When was she born?

A. I don't know what year. Couldn't tell you that.

Q. But you waited on the mother during the illness of the child? A. No, I didn't.

Q. You can't tell me what year that child was born?

A. No, I don't know what year it was born in. I could have got the ages if I knew it was necessary.

Q. How did you get Tommy's age?

A. I knew that woman was in that condition when *Minnie* was born and hers was born the next month after mine was born.

Q. What day was it born on?

A. I don't know whether it was the last day of May or the first day of June.

Q. Either one of those two dates? A. Yes, sir, I do.

Q. You have no independent recollection of that fact except the fact that your child was born some four months before?

A. My child was born the 20th day of April in '85 and Minnie's child was born either the last day of May or the first day of June. I won't be positive, in '85? Now, I know that.

Q. What day of the week was it?

A. What day of the week?

Q. Yes? A. Well, I believe it was on Saturday.

Q. Who was born? A. Tommy.

Q. What day of the week was yours born? A. Sunday.

Q. You are sure Tommy was born on Saturday?

A. I think that was the day. I won't be positive now.

Q. You are sure your daughter was born on Sunday?

A. Yes, sir, I do.

Q. Know that? A. Yes, sir.

Q. Positive about that? A. Yes, sir.

Q. Now, you are referring to your daughter Grace that was born you say on Sunday April 20th, 1885?

A. The 20th day of April on Sunday.

Q. 1885? A. Yes, sir.

And thereupon the witness was excused until 1:30 o'clock P. M.

And thereafter *and* 1:30 o'clock P. M. further testimony herein was taken as follows:

Mrs. MATTIE COBB being recalled further testified as follows:

Cross Examination by Mr. Allen.

Q. When were you first married? A. What is it?
Q. When were you first married?
A. I was—I forget just when I was married. In September the first time.

Mr. Hanford: Mr. Allen you agree to my general objection again?

Mr. Allen: Yes, sir.

Q. You were married when?
A. September, but I forget what year. It is in the Bible.
Q. You don't remember the year?
A. No, sir, I don't but it is in the Bible though.
Q. Tommy's age is not in the Bible?
A. Oh, no. What would I have any right to put his age in the Bible?
Q. You remember that though?
A. Well, I remember that because it was the same year my own baby was born.
Q. That is the only reason you remember it isn't it?
A. That is all. She stayed with me in that condition and I remember that.
Q. You remember your baby's birth?
A. Yes, sir, I think I do.
Q. Who was your first husband? A. George Edwards.
Q. When were you and he separated?
A. Why, we were separated after——

Mr. Hanford: That is *object* to as incompetent, irrelevant and immaterial and improper cross-examination.

A. Well, I just disremember what year we were separated.
Q. Don't you remember what year you separated?
A. No. It was after my little girl, my youngest child was over four years old when we separated.
Q. What is your oldest child's name?
A. Mary Edwards. We called her May but her name is Mary.
Q. When was May born?
A. She was borned the 22nd day of July but I disremember the year but it is in the Bible. I got the Bible right here.

Q. The 22nd? A. The 22nd day of July.

Q. You don't remember the year she was born in?

A. Well, I just can't——

Q. Why can't you? A. Well, I don't know.

Q. Is she older or younger than Grace? A. She is older.

Q. Don't you suppose that is the child you might have had when Tommy was a baby? A. Who?

Q. May? A. No, sir.

Q. How much older is May than Grace? A. Six years.

Q. What day of the week was she born on?

A. Well she was borned on Wednesday.

Q. When you married Edwards where were you married?

A. Smithville, Clay County, Missouri.

Q. Who officiated at that marriage?

A. Brother By Waller.

Q. Waller? A. Byard Waller was the preacher's name.

Q. Who else was present when you were married?

A. His sister and his two daughters.

Q. Who acted as best man? A. Sir?

Q. Who acted as best man?

A. Well, we just went to his house and was married.

Q. None of your people was present?

A. No, none of my people at all.

Q. Did your people know you were going to get married?

A. No.

Q. How old were you?

A. I was nineteen years old in the 12th day of March before I married in September.

Q. And you went to his house and were married?

A. Went to the preacher's house, yes, sir.

Q. Went to the preacher's house and were married?

A. Yes, sir.

Q. Where is the preacher now? A. He is dead.

Q. Who were the brothers and sisters present?

A. No brother at all just his daughters, Mary and Lizzie and his sister. Let's see what her name was. I have forgotten his name.

Q. He was an old widower at that time, was he?

A. Yes, sir, he was a widower.

Q. What had become of his other wife? A. She died.

Q. Did you know her? A. Yes, sir.

Q. What was her name? A. Her name was Fanny.

Q. Was she any kin to you? A. No, sir.

Q. Was he? A. No, sir.

Q. How many children did he have by her?

A. He had two boys and two girls.

Q. What became of the boys?

A. Well, they are living I reckon. I don't know.

Q. Did they ever live with you? A. No, sir.

Q. Did the girls live with you? A. No, sir.

Q. How old was he when you married him? A. Who?

Q. Edwards?

A. Well, he was ten years and more older than I was.

Q. Had he ever been to the penitentiary at that time?

A. No, sir.

Q. What was his occupation at that time?

A. He was barber.

Q. Farmer? A. Yes, sir.

Q. What other occupation did he follow during the time that you lived with him? A. Stone mason.

Q. When did he get in trouble?

A. After my first child was born.

Q. Before Grace was born? A. Yes.

Q. And when Grace was born was he in the penitentiary?

A. No, sir.

Q. He went to the penitentiary after that?

A. No, before I got home.

Q. He had been in the penitentiary and got out and came home? A. Yes, sir.

Q. Where did he serve his term in the pen?

A. Right out here.

Q. You lived with him after that?

A. Yes, sir, lived with him.

Q. When was that he served a term in the penitentiary?

A. Well, I don't just remember that.

Q. Don't you know when he was convicted? A. No.

Mr. Hanford: I object to this line of questioning. It is manifestly discomforting to the witness to be gone into and on the further ground it is repetition.

Q. You say that was over a horse? A. No, sir.

Q. What did he go to the pen for?

A. He got on a drunk and broke the school house door.

Q. How long did he serve?

A. He went and served two years and a half.

Q. Who sentenced him? A. I don't know.

Q. Were you present at the trial? A. No, sir.

Q. You didn't attend the trial? A. No, sir.

Q. Why didn't you?

A. Because I couldn't. I wasn't able.

Q. What was the matter with you? A. I was sick.

Q. You didn't have a young child about then did you?

A. No, sir, I didn't. Never had but two children.

Q. How long after he came out of the penitentiary was it that Grace was born? A. Oh, he was out a year or two.

Q. He was out a year or two when Grace was born?
A. Yes, sir.

(Short recess.)

Q. During the brief recess that we have just had have you talked to any one? A. Sir?

Q. During the brief recess that we have just had have you talked to any one? A. Only my brother-in-law.

Q. Who is your brother-in-law? A. Mr. Harris.

Q. Mr. Harris? A. Yes.

Q. From Kansas City?

A. No, he belongs here. Lives here.

Q. He is out in the hall now, is he?

A. Yes, sir, he is out in the hall.

Q. You talked to him? A. Yes, sir, I just spoke to him.

Q. After your—— How long after your marriage was it when your first child was born?

A. I was married in September and she was born the next July.

Q. What day of July?

A. I think it was Wednesday, no I will take that back. Yes, it was on Wednesday I think. I think that is it.

Q. What day of the month?

A. Well, I just forget what day of the month.

Q. What year?

A. I forget that. It is in the Bible. I have got it down in the Bible.

Q. That was the first child you had ever given birth to wasn't it? A. Yes, sir, that was the first child, yes, sir.

Q. That is an event in your life that you will always remember? A. Yes, sir, I will always remember it.

Q. And that date you have forgotten?

A. Yes, I have forgotten but still I remember, I can remember the ages that is all.

Mr. Hanford: I object on the ground that it is repetition.

Q. And yet you remember the day of the—the day of the week and the day of the month and the year of the birth of Grace?

A. Yes, that has been later and I have looked over that.

Q. That was only six years later, wasn't it?

A. Yes, just six years later but I didn't forget her age.

Q. Has she any children, this older girl? A. Yes, sir.

Q. Who did she first marry?

A. She married Ernest Tittle.

Q. Going back to the time of her birth, where was she born? A. She was borned in Missouri.

Q. What place?

A. East of Platte City two miles on Mr. Hal Davis' place.

Q. Who was present when that child was born?

A. Mrs. Hal Davis and Mrs. Spain.

Q. What Spain? A. Well, she was Bill Spain's wife.

Q. What was her name? A. Her name was Annie Spain.

Q. Was any doctor there? A. Yes, sir.

Q. Who? A. Dr. McDonald.

Q. Where was he from? A. Platte City.

Q. What time of the day was that child born?

A. She was borned at four o'clock in the afternoon.

Q. You are not sure whether it was Wednesday or not?

A. Yes, I think it was Wednesday, positive it was Wednesday. I think it was Wednesday.

Q. But the day of the month and year you don't remember?

A. I don't remember. If I had thought over it I might.

Q. Who else was present besides Mrs. Spain?

A. Mrs. Cal Davis.

Q. And this doctor? A. And my husband.

Q. Your husband was present? A. Yes, sir.

Q. Were there any other children born in that neighborhood about that time? A. Not that I know of.

Mr. Hanford: I object on the ground that all of this testimony has no relation whatever to the testimony that the witness has given in chief. Improper cross examination, incompetent, irrelevant and immaterial.

Q. You can not remember the name of a single child born about the time your oldest child was born?

A. No, I don't remember. I don't remember.

Q. Who played with that girl when she was a little child? A. Sir?

Q. What children did she play with when she was a little child?

A. Well, she didn't play with any children until she was up a big child and we moved way out in Kansas then. She played with my sister's little children and their little neighbor children around, some other little children out at Lyons Station. I lived in Lyons Station.

Q. Well, name some of them will you?

A. Well, Mrs. Broom's children and Mrs.—I just can't call the name—Mrs. Cutchenthalls' children.

Q. You don't remember the name of a single baby born about the time your oldest child was born?

A. No, I don't. We lived in the country and I don't remember

Q. Then when was your child born?

A. It was born in '85. The last children I ever had.

Q. You never had any other children? A. No, sir.

Q. You say this child was born out in the Crilly house?

A. Yes, sir, in the old Seneca house. Mr. George Crilly owned it but it was called the old Seneca house on Seneca Street.

Q. And what did you say about Indian Molly?

A. Indian Molly?

Q. Yes? A. I never said nothing about her.

Q. Did you know her?

A. Old Aunt Molly Peters, the fortune teller?

Q. Aunt Molly, the fortune teller?

A. Yes, sir, I knowed her.

Q. Where did she live?

A. She lived upstairs over Mr. George Crilly's front room.

Q. She didn't live in the same house you lived in?

A. She lived in the same house but she lived upstairs. A hall between our parts of the house and I and Mr. George Crilly lived downstairs and they lived upstairs with the exception of one family that lived back of Mr. Crilly.

Q. Now this Indian Minnie you didn't know at the time she came to wait on you where she lived or where she came from did you?

A. No, that is true, I didn't know.

Q. And if she had ever been in that community before you never had seen her?

A. I never had seen her before that.

Q. What did you say her name was?

A. Indian Minnie.

Q. What other name?

A. I never knowed no other name only Indian Minnie. I always called her Indian Minnie.

Q. Indian Minnie, Molly or Mary?

A. I just called her Minnie.

Q. Did you ever call her any other name?

A. No, I didn't call her no other name.

Q. You never called her Indian, did you?

A. Well, lots of times I did.

Q. What kind of looking woman was she?

A. Well, she was a right pretty girl, had coal black eyes, coal black hair, platted in two tails hanging down her back, high cheek bones, right pretty I thought.

Q. What size woman was she?

A. Medium sized woman. Wasn't big and wasn't little.

Q. Would weigh about two hundred pounds wouldn't she?

A. I don't think she would.

Q. About a hundred and fifty?

A. No, sir, I don't think so. I——

Q. A very tall woman? A. About as tall as I am myself.

Q. How high are you? A. About five foot something.

Q. You ever stood up many times by her?

A. No, I never stood up by her.

Q. In associating with her you could distinguish the size?

A. No, just passing back and forth to my house. I stopped her several times going back and forth after her baby was born.

Q. How much did she lack of being your heighth?

A. Not a great deal.

Q. Five inches? A. No, I don't think so.

Q. Four? A. About four as far as I can remember now.

Q. How tall are you? A. Five foot some inches.

Q. How many inches?

A. I think it is five foot four the last time I measured.

Q. She wasn't a fleshy woman?

A. No, when she stayed with me she wasn't fleshy.

Q. Rather small wasn't she?

A. She wasn't too small. She wasn't very small and she wasn't very high.

Q. About what you call a slender woman? A. Yes.

Q. Now how long did you say you knew her after this baby was born?

A. Well she was around there five or six months.

Q. Well you wouldn't see her around there every day would you?

A. O, no, not every day. I would see her once in a while passing by.

Q. So she might have been there at all, might she, except dropping in? A. Yes, she was.

Q. Every time you went around Granny's you saw her then?

A. Yes, I would see her at the fortune teller's and she was over at my house.

Mr. Hanford: Mrs. Cobb are you ill?

A. My head aches.

The Examiner: Your head aches otherwise you are all right?

A. Yes, otherwise I am all right.

Q. You are not feeling too badly to testify are you and to charge your memory with these things about which I am asking you? A. No, I am safe to do whatever is right.

Q. Aside from a little head ache you feel very well do you?

A. Yes, I can testify. I want to get through. My mother is lying very ill and I want to go home.

Q. Where did you say you were born?

A. I was born in Clay County, Missouri.

Q. Near where you now live? A. No.

Q. How far from Leavenworth?

A. O, it is quite a ways from Leavenworth to Smithville.

Q. When did you first leave home?

A. O, I worked out all my life.

Q. Who did you work for?

A. I worked for Mr. Marshals the first place, I worked out.

Q. What Marshals?

A. Mr. Ben Marshal in Clay County, Missouri.

Q. Where did he live?

A. Lived out in Clay County, Missouri, near Carrin.

Q. When did you commence working for him?

A. O, when I was nothing but a ten year old child.

Q. Was that the first time you had ever been away from home? A. Yes, that was the first time.

Q. How long did you work for him?

A. I worked three weeks.

Q. Where did you go then? A. I went back home.

Q. How long did you stay at home?

A. Well, I had to stay home all that summer and help my father in the field.

Q. Where did you then go?

A. I worked out then at Mr. Broom's.

Q. What Broom? A. Mike Broom.

Q. Did he have any children?

A. No, sir, he had an invalid wife.

Q. When did you commence working for him?

A. Well, I—— After that fall, in the fall after I worked there in the summer.

Q. What year was that?

A. I don't know. I don't remember the years.

Q. How long did you work for him?

A. I worked two months.

Q. Where did you then go?

A. I went to Mr. Lake Thather's in Smithville.

Q. Smithville, Missouri? A. Smithville, Missouri.

Q. How long did you work for him?

A. I worked three years.

Q. When did you commence working for him?

A. Well, I commenced in the spring. I went there in the spring of the year.

Q. What year? A. I don't know.

Q. How long did you work? A. Three years.

Q. When did you quit?

A. Well, I just stayed three years. I know I stayed three years. I don't know just what year it was I quit or nothing like that.

Q. Where did you then go? A. I went home.

Q. How long did you stay at home?

A. I stayed home all that winter and summer.

Q. Do you know what year that was? A. No.

Q. Where did you then go?

A. I worked out from place to place. I don't know, first one place and then another. I don't know. I worked at Mr. Balthid's.

Q. The next place you worked out was where?

A. Mr. Ben Marshal's first.

Q. I know, but after this first time that you went after you went home after you had worked these three years?

A. I went to Mr. Balthrop's.

Q. How long did you work there?

A. I didn't work there over three weeks.

Q. Where did you then go?

A. I went to Mr. Eckton's.

Q. How long did you work there?

A. Well I worked there a month or two.

Q. What year was that that you were working for those people?

A. Well, I don't just remember the year. I will tell you when you aint got no education you can't remember things of that kind.

Q. But you remember events in 1885?

A. Yes, I do remember that. I didn't come here to testify to you all nothing untrue.

Q. All we want you to do is to tell us the truth about it.

A. That is what I want to do as far as I can remember.

Mr. Blakeney: I except to that statement of counsel.

Q. Now after you had worked [ ] Balthid's and this other place where did you then go? A. I went home.

Q. What year was that? A. I don't know.

Q. How long did you stay home?

A. I stayed home all that fall and winter.

Q. What fall and winter was that? What year?

A. Well, I don't know. I stayed at home all winter. I had to stay home nearly every summer and help my father in the field.

Q. Then where did you next go?

A. Well, I just went—I went to—— The next place I worked I went to Mr. Devoe's.

Q. Who was Mr. Devoe?
A. Mr. John Devoe lived there near Smithville.
Q. What did he do? A. He farmed.

Mr. Hanford: I want to repeat my general objection so as to have it appear in the record from time to time. His question is entirely outside of the issue. This whole line of questioning is incompetent, irrelevant and immaterial and is improper cross-examination.

Q. Where did you next go?
A. Well, I don't remember now just where I went. I went so many places.
Q. Did Mr. Devoe have any children? A. No, sir.
Q. Well, don't you remember the next man you worked for? After Mr. Devoe?
A. I think the next man I worked for was at the hotel in Smithville.
Q. What hotel was that?
A. There wasn't but one hotel there.
Q. What was the name of it?
A. His name was—I just know it but I can't speak it.
Q. Can you remember the name of the hotel?
A. I can't speak the man's name.
Q. What kind of work did you do there?
A. I done table waiting.
Q. How old were you then?
A. I was about fifteen years old I guess.
Q. How long did you work there?
A. I didn't work there very long. The work was too hard for me.
Q. What year was that? A. I don't know.
Q. Then where did you go? A. Went home.
Q. How long did you stay at home?
A. Stayed at home about three months and then I went to my sister's.
Q. What sister?
A. My oldest sister Mrs. Harris, and I stayed there until after I was married.
Q. Mrs. Harris? A. Yes.
Q. Is that her husband out here? A. Yes, sir.
Q. And you stayed there until you married?
A. Not all the time. I went home.
Q. What year were you married?
A. I forget what year I was married.
Q. You went home on visits in the meantime?
A. Went home on visits.

Q. Do you remember what year you went home on any of those visits? A. No.

Q. What year did your father die?

A. I don't know what year he died.

Q. What month? A. He died in May.

Q. What day? A. He died the 2nd day of May.

Q. You don't remember the year?

A. No, he has been dead nine years this May. Now you can count it back. He will be dead nine years——

Q. Then you were married and lived how long after you were married? A. Sir?

Q. With your first husband?

A. I married him in the spring, in the fall it was, September.

Q. At Smithville or where?

A. I married him in Smithville.

Q. What County was that? A. Clay County.

Q. What was his name? A. George Edwards.

Q. How long did you and he live at Smithville?

A. Well we lived there pretty near a year.

Q. What year was that? A. I don't know.

Q. Where did you then go to?

A. Went home to my mother's.

Q. Did he go with you? A. Yes, sir.

Q. Did you and he live together at your mother's home?

A. Yes, sir.

Q. What business was he in at that time?

A. He did run a barber shop but he worked just here and yonder?

Q. What doing? A. Farming and done stone masonry.

Q. How long did you live then with your mother?

A. I lived there then—— I just disremember, I lived there until he got into this trouble and I disremember.

Q. Were you living there when he got into this trouble?

A. Yes, sir.

Q. Grace was born then at your mother's house, was she?

A. No, sir. Not Grace.

Q. Not Grace but Mary? A. No, she wasn't.

Q. Where was she born?

A. Born in East Platte City.

Q. Well, now, she was born after you were married?

A. Why, sure.

Q. You said you lived only a year in Smithville?

A. Not quite one year I said.

Q. Then went to your mother's and lived there until he got in trouble?

A. No, that was after my baby was born that we moved to this place, this country, I disremember now; I will take that back, we lived on Mr. Flock Davis's place and he worked for Mr. Fred Krause.

Q. When was that with reference to the time that you were married?

A. That was in July after I was married in September.

Q. Then, where did you—— Were you living on that place when this oldest baby was born? A. Yes, sir.

Q. Then how long—how old was this baby when you went to your mother's home?

A. Wasn't over two weeks—she wasn't a week old.

Q. Were there any other children around your mother there about the age of your girl?

A. No, there was none younger than mine; mine was the youngest.

Q. You say she was not a week old when you went to your mother's? A. Not quite.

Q. Not quite a week? A. Well, just about a week.

Q. That was your first child?

A. Yes, my mother's father came and got me, I wasn't able—for nothing.

Q. How far did you have to travel?

A. We traveled quite a little bit.

Q. How far was your father's place—your mother's place from where you lived? A. Lived in Loren, Kansas.

Q. How many miles from you?

A. Quite a ways from me; I lived in Platte County, and this was out in Loren, Kansas.

Q. They took you all that distance in a buggy?

A. No, sir, they didn't.

Q. How? A. They took me in a wagon.

Q. In a wagon?

A. Yes, sir, they fixed a bed in there.

Q. Forty or fifty miles?

A. I expect it was, I don't know, away yonder on the other side of the prison, I don't know how many miles that is, I don't remember that.

Q. How came you to go at that time?

A. I don't know, I wasn't able and had no one to stay with me.

By Mr. Hanford: I want to repeat my general objection at this time and have it appear in the record to all this line of questioning.

Q. Your husband was living with you at that time, wasn't he? A. Why, sure.

Q. Then, you did have him to stay with you at that time?

A. Yes, but he couldn't do the work, to work and make his living.

Q. Then, how long had you been at your mother's home when he got into this trouble?

A. We had been there about a year, my baby was just about a year old.

Q. And how long after he got into the trouble was it that he went to the Penitentiary?

A. Well, he was—I don't know just how many months he was in prison up here, I don't know.

Q. And then when did you leave your mother's home?

A. Well, I left it when my baby was just a little over a year old.

Q. You left it?

A. After he went to the penitentiary.

Q. After he went to prison? A. Yes, sir.

Q. Where did you then go? A. I worked out.

Q. Where did you then go?

A. First one place and then another.

Q. Who did you first work for?

A. I worked for Mrs. Perry.

Q. Who was she? A. A lady who lives here in town.

Q. What did she do? A. Just house-keeping.

Q. What year was that?

A. I don't remember the years.

Q. You don't remember the year that your husband got into trouble or that he went to the penitentiary?

A. No, I don't.

Q. You can't remember that year?

A. No, I don't, I was so hurt I couldn't.

Q. Didn't that make an impression on you sufficient to remember it?

A. Well, I remember him going, I know that, but I don't remember the year.

Q. That was before 1885?

A. Oh, yes, I guess it was.

Q. Then after you worked for Mrs. Perry, who else did you work for?

A. I went then—I got sick and I went home to my sister's and I stayed there for one year that I wasn't able to work.

Q. Who was that? A. Mrs. Foster.

Q. Who is she now? A. Mrs. Foster.

Q. Is she the sister whose husband got in trouble?

A. No, sir.

Q. That was Harris, was it? A. Yes, sir.

Q. How long did you stay with her?

A. Well, I stayed there a year or two.

Q. What year was that?

A. I don't know, I can't tell you.

Q. Then where did you go?

A. Well, then I went to—— I then went from there, I went to Mr. Carl Brown's.

Q. Did your sister have any children while you were living there?

A. No, not while I lived there, she had children.

Q. Any little children about that time?

A. No, her children were older than mine.

Q. You went then? A. To Mr. Carl Brown's.

Q. Where was that? A. Over in Missouri.

Q. How long did you stay there?

A. Well, I stayed there five or six months.

Q. Is he living now? A. Mr. Carl Brown?

Q. Yes? A. No, his wife is.

Q. Where does she live? A. Kansas City.

Q. What address? A. I don't know.

Q. How long did you stay with her?

A. About five or six months.

Q. What did you do? A. House work and cooking.

Q. Where did you go then?

A. I went back to my sister's.

Q. To this same Mrs. Foster's? A. Yes, sir.

Q. Where was she living then?

A. Right on Mr. Carl Brown's place.

Q. How long did you then stay with your sister?

A. Oh, I stayed quite a while, made my home from then on at my sister's and I would leave my baby with her and go and work out by the day first one place and another.

Q. What year was that? A. I don't know the year.

Q. Did you have any children while you were there?

A. No, sir.

Q. Who did you work for during the time that you stayed there? A. Why, I worked for Mrs. Charlie Johnson.

Q. Who is she?

A. She is a lady and lives in Missouri.

Q. Now? A. Yes, sir.

Q. What did she do then?

A. She did her house work, they farmed.

Q. Where did you then go?

A. Well, I worked several places there in the neighborhood.

Q. Just a day or two at a time? A. Yes, sir.

Q. Where did you move to after you left there?

A. After we left there?

Q. Yes? A. We moved to Tracy.

Q. What year was that?

A. I don't remember that year.

Q. Don't remember that? A. No, I don't.

Q. Summer, winter or fall? A. It was in the spring.

Q. Where—— How long did you live then at Tracy?

A. I have been living there twelve years—no, not quite twelve, I will take that back.

Q. Is this gentleman the Mr. Martin that you have been talking about? A. Yes, sir.

Q. He is the Martin who talked to you in Leavenworth and in Kansas City? A. Yes, sir.

Q. Now, you worked—— You lived twelve years, you say, in Platte County? A. Yes, I have.

Q. Then, where did you go?

A. Then I moved—I have been living right where I was. No, I moved into the country at Mr. Elihu Park's place, and I lived two years there.

Q. What years were they? A. I don't remember.

Q. Then, where did you go? A. I went back to Tracy.

Q. How long did you then live in Tracy?

A. I have been living there ever since.

Q. I understood you to say that during some of these years you lived here in Leavenworth?

A. Well, I did live here before my baby was born, and I lived here in—all together I lived fourteen years here.

Q. What year did you move to Leavenworth?

A. Well, I don't know just exactly the years.

Q. Well about what year?

A. I can't tell you for I don't know.

Q. With reference to the time when your husband was sentenced to the penitentiary, when did you come here?

A. He had just come out.

Q. You moved here just about the time that he came out of the penitentiary?

A. No, I moved afterwards, after he came out.

Q. After he came out? A. Yes, sir.

Q. And lived here then fourteen years? A. Yes, sir.

Q. How long after that was it that Grace was born?

A. She was borned—— Oh, she wasn't borned until eighty-five; I had lived here about—I guess I had lived here about two years or more before Grace was ever born, I don't just remember what year we moved, but I remember that my oldest child was six years old when my other baby was born, so I hadn't lived here a great while.

Q. Didn't you state this morning that George had been out of the Penitentiary about a year when Grace was born?

A. No, sir

Q. How long had he been out?

A. He had been out longer than that.

Q. How much longer?

A. Well, we lived here about three years before Grace was born.

Q. Where did you live during those two years?

A. Well, I lived first one place and then another.

Q. Was it two or three years?

A. It was about two years, I guess, after he came out.

Q. Two years and how many months?

A. Well, I don't know, I can't say.

Q. About two years? A. Yes, it was over two years.

Q. How much over two years?

A. I don't know positive how much.

Q. When was he released from the Penitentiary?

A. He came home in May, I don't know what year and what month. Now, if I had a good education I could remember all sorts of things as that.

Q. He came home in May? A. Yes, sir.

Q. And what time was your girl Grace born, in what month? A. Eighty-five.

Q. What month? A. April, the 20th day of April.

> By Mr. Stuart: Now, we object to that because it has been asked twenty times of this witness, at least twenty times, it is useless repetition.

Q. Where were you living when George got out of the penitentiary? A. I was at my mother's.

Q. At your mother's where? A. Over in Missouri.

Q. What place in Missouri? A. Mr. Jordan's place.

Q. Did he come over there? A. Yes, sir.

Q. And how long did he stay there with you then?

A. Well, he stayed there until in the fall like.

Q. And in the same year in the fall where did you go to?

A. Moved here.

Q. To Leavenworth? A. Yes, sir.

Q. Where did you go to when you came here?

A. I lived on Choctaw street.

Q. Where on Choctaw street?

A. Well, I think it was between Second and Third, I disremember the house we lived in.

Q. Where did you move to then?

A. Then, we moved out on Lynn street.

Q. How long did you live between Second and Third on Choctaw street? A. Oh, four or five months.

Q. Four or five months? A. Yes, sir.

Q. What time of the year did you leave there?

A. I disremember, I don't know.

Q. Who did you rent that property from on Choctaw street? A. Librees.

Q. Is he living now? A. I don't know.

Q. Any of his folks that you know of?

A. I don't know.

Q. What is his name? A. Librees.

Q. How do you spell that? A. I don't know.

Q. Libry? A. Libree.

Q. Libree? What was his other name?

A. I don't know what his other name was.

Q. Was he white or black? A. White.

Q. What nationality?

A. I don't know, a stone mason, marble, tomb-stones.

Q. Where did he live?

A. He lived in the lower part, we lived up stairs.

Q. Is that house standing now?

A. No, sir, I don't think it is, I think they tore it down and got a lumber yard there.

Q. How old was Mary at that time?

A. Why, she was about four years old, I reckon.

Q. She was a little child?

A. Yes, she was a little girl.

Q. Were there any other little girls there in the neighborhood playing with her? A. Lots of children but——

Q. Who? A. I don't remember the children now.

Q. You can't remember a one that she played with then, can you? A. Mrs. Libree's child down stairs.

Q. What was the name of that child?

A. I think its name was Dely.

Q. Is she living now? A. I don't know.

Q. Have you seen her since then? A. No, sir.

Q. Have you seen her since you moved out of that community? A. No, sir.

Q. Any other boys or girls that she played with?

A. No, I don't remember any others being in the——

By Mr. Hanford: I wish to repeat my former objection to this line of examination, on the ground that it is incompetent, irrelevant, and immaterial and improper cross examination; and I wish to call attention of the Court to the great bulk of irrelevant testimony with which this record is filled on cross examination of this witness, and ask that the same be taken into consideration in the assessment of cost.

Q. I don't want to tire you, and when you get too tired to stand the cross examination, I wish you would indicate it and we will take a recess and adjourn until you are able to go ahead with it. These are matters that I want you to think about and I want to inquire about?

A. Sure, that is all right.

Q. And have you tell me the best you can about it?

A. I am going to do the best I can with no aducation, if I had some education——

By Mr. Blakeney: I object to the statement of counsel, there is nothing in the appearance of the witness to justify the statement.

By Mr. Stuart: I object to the admonition of counsel and the suggestion to the witness constantly that she is under oath and expected to tell the truth.

By Mr. German: I desire to cause the record to show that the only suggestion that counsel has made to the witness on the subject referred to appear in the examination and have been taken down by the Examiner.

Q. Can you name another girl in that community at that time that your oldest girl played with?

A. No, not down on Choctaw, there was nothing but colored children there and I never allowed them to play with colored children.

Q. You never allowed your children to play with anybody that had colored blood in them?

A. Oh, yes, they have lots of times.

Q. You were not more partial to Mary than you were to Grace? A. They played back and forth.

Q. Tommy was regarded as a colored child?

A. He was a colored child.

Q. And you let Mary play with him, didn't you?

A. And Grace too.

By Mr. Hanford: I object to the statement of counsel and ask that it be not considered as testimony. The witness replied that he was regarded as a colored child.

By Mr. Stuart: I object to it, because it is not a badge of disgrace for a white boy to play with a colored child.

By Mr. German: I move to strike Judge Stuart's statement on the ground that it forms no part of this kind of a record.

By Mr. Blakeney: I want to insist that it is an admission into the record as a matter of fact. and ought not to be stricken.

Q. So, you didn't object to your children playing with colored children?

A. Oh, no, not altogether, just owing to——

Q. Well, there were lots of colored children in the Choctaw community there, were there not?

A. Yes, lots of colored children there.

Q. Tell me the name of one that your children played with?

A. Well, I don't know their names, I always called them Aunt Jennie, she was the nearest neighbor.

Q. Do you mean you always called all the children Aunt Jennie?

A. No, the old lady that had the children, their names were first one thing and another. One was Mary and one was named Lilly.

Q. Lilly who?

A. Old Aunt Jennie's children, I don't know what their names were.

Q. Well, there were other families there and other small children?

A. I didn't let them play outside of that yard, the cars run right along there you know.

Q. How long did you live on Choctaw?

A. Not very many months, about three months about as many months as I lived there, I had to go up stairs and down with water and I wasn't able.

Q. Then, where did you go to? A. Lynn street.

Q. What part of Lynn street?

A. I don't know, I forgotten.

Q. Between what streets?

A. Between Second and Third.

Q. How long did you live then—— What year was that?

A. I don't know what year.

Q. You don't remember what year you went to Lynn street? A. No.

Q. How long did you live on Lynn street?

A. I lived there about five or—about four months, about four months I lived there.

Q. What year was that? A. I don't know.

Q. Then where did you go?

A. I went to the Seneca House.

Q. Who did you rent the Lynn street property from?

A. From a colored family by the name of Miss Meyers.

Q. Were there any colored children born around there during that time? A. Not that I ever knew of.

Q. Was Miss Meyers owner of the property?

A. Yes, sir

Q. Is she living now? A. No, sir.

Q. Who did you pay the rent to?

A. I think I paid it to her.

Q. Were there any children living around there that your girl played with?

A. Oh, yes, lots of white children lived there, no colored children.

Q. Can you give me the names of any of them?

A. Oh, yes, I can give you the names of—— Let me see ——Miss Jackson—Mrs. Jackson.

Q. Where did she live? A. Lived out on Lynn too.

Q. Is that all? A. No.

Q. Who? A. Steve Mears children.

Q. When were any of them born?

A. I don't know when any of them were born. They didn't have no children born while I was there that I knew of.

Q. Where did you then go? A. Went to Seneca street.

Q. What year was that?

A. I don't know what year that was, I think it was in eighty-four.

Q. Who did you rent that property from?

A. Mr. George Crilley.

Q. What makes you think it was eighty-four?

A. It was just a year before my baby was born.

Q. And your baby was born in eighty-five?

A. Yes, sir.

By Mr. Blakeney: I move to strike that answer that the baby was born in eighty-five as a repetition innumerably into the record.

Q. You have talked that over with George Crilley, haven't you? A. Well, yes, I have talked some, not much though.

Q. Who else lived in that Seneca property when you lived there?

A. Well, I can't tell you; there was myself and Mrs. Crooms, and there was a—— I forget what his name is though, who lived in the back up stairs behind where Mr. Crooms lived, and Mr. George Crilley lived there, and old Aunt Mollie Peters lived up stairs over him, and Mr. Cusheburg lived back of old Aunt Mollie Peters; Mr. Alex Hargrove lived down stairs back of Mr. George Crilley.

Q. Was Mr. Crilley's wife there then? A. Yes, sir.

Q. When did they separate?

A. Well, they separated just in the fall, I think it was in the fall they separated. No, it was in the spring before I moved away from there in the fall.

Q. He has talked to you about that too, hasn't he?

A. No, I remember that, I was right there living.

Q. And you remember independent of talking to him that it was in the spring before you moved away in the fall?

A. Yes, I think it was, I think it was.

Q. Did you talk to him about that date, and you have refreshed your memory from him about it? A. No.

Q. You remember that of your own knowledge?

A. Yes, sir, I remember that.

Q. What makes you remember that?

A. Well, because I worked a great deal for them, you know, and washed and ironed and taken care of the children.

Q. How long was that separation after Grace was born?

A. Grace was about— —She was about, pretty near four years old.

Q. You are sure of that, are you?

A. Sure of that.

Q. Now, Mrs. Edwards? A. Yes, sir.

Q. Who told you that this Indian woman's name was Minnie? A. Why, she did.

Q. Who was it told you about it since this law suit came up? A. Who has told me?

Q. Yes? A. Who has talked to me about it?

Q. Yes?

A. Why, I talked to Mr. George Crilley, Mr. McMillian.

Q. You never knew Minnie Atkins but four months in your life, did you? A. Oh, yes, I did.

Q. How long have you known her?

A. She was around there four or five or six months after her baby was born.

Q. Yes, but you say you never saw her before her baby was born?

A. I never, that is all true, that is right I never done that.

Q. So, you don't know whether that was her baby except from what other people told you, do you?

A. Yes, I do, I have seen it in the bed with her.

Q. You never saw her have the baby did you? A. No.

Q. You never saw it until it was a week old, did you?

A. Yes, sir, it wasn't a week old.

Q. How old was it?

A. It wasn't over three or four days.

Q. And you saw it in the bed with her? A. Yes, sir.

Q. This slender woman you say, who was about four inches lower than you? A. Yes, sir.

Q. Now, Mrs. Edwards, you never saw her but about three or four times in your life after that, did you?

A. Oh, yes, I did.

Q. It sometimes would be a week that you didn't see her at all? A. I seen her every week.

Q. Did you see her there daily for the four months that you say you saw her? A. Yes, sir.

Q. And you remember that fact? A. Yes, sir.

Q. She wasn't then living there, was she?

A. Yes she was, she was working at—out to the Fort—back to the Fort and came backwards and forth.

Q. When would you go to see her?

A. Why, didn't she have to pass my house, stop in my house and go up to the fortune tellers.

Q. What was she doing up at the fortune tellers?

A. Well, I never asked her questions of that matter.

Q. Where did she sleep at night?

A. Slept at Mrs. Letcher's.

Q. Where was she staying in the day time?

A. Worked out, said she was working out, I don't know where she stayed, she said she was working out.

Q. She was at Granny Letcher's any in the day time?

A. No.

Q. Would she be there any time in the day time?

A. No, she would go in the morning and come in the evening.

Q. You remember that distinctly? A. Yes, sir, I do.

Q. And by seeing this woman in bed there and seeing her only at nights, you say you remembered her——

> By Mr. Blakeney: I want to object to that as a misstatement of the facts, she said the woman worked for her four days.

A. Yes, she worked for me.

Q. She worked for you four days?

A. Yes, sir, she did.

Q. That is all, isn't it, you remember that very distinctly?

A. Yes, sir, I do remember that.

Q. She came there the day Grace was born, did she?

A. No, sir.

Q. When did she come?

A. She stayed four days before Grace was born?

Q. As quick as Grace was born she left, did she?

A. No, she didn't stay there until Grace was born, she stayed four days and the other girl came and she went to Mrs. Letcher's.

Q. Who else came? A. Maggie Davis.

Q. Is she living? A. I don't know.

Q. Stayed four days and then Maggie Davis came?

A. Yes, sir, she was the girl that I spoke to first. The reason that Minnie left was because she was so heavy with child that she couldn't—wasn't able to do nothing.

Q. She wasn't able to do nothing? A. No, sir.

Q. And she went over to Mrs. Letcher's and stayed there?

A. Yes, sir.

Q. I thought you said a while ago that you never saw her until after Tommy was born?

A. I said she stayed four days with me.

By Mr. Stuart: I object to the statement because it is putting words into the mouth of the witness that she didn't speak.

Q. When did you say that you first saw her?

A. When she came to my house to stay.

Q. Then, how long after Tommy was born was it that she stayed at Granny's?

A. Well, I don't know just how long. After Tommy was born?

Q. Yes?

A. Well, there much as a week or two, until the woman got able to go.

Q. She was in such a physical condition when Grace was born that she couldn't stay there to wait on you, wasn't she?

A. Yes, sir.

Q. And had to go home to Granny Letcher's to go to bed?

A. No, she didn't go to bed.

Q. She couldn't wait on you though?

A. No, wasn't able to wait on me.

Q. She was very heavy with child then wasn't she?

A. It was born the next month.

Q. She wasn't able to work then was she?

A. No, she wasn't.

Q. Did she do any more work until Tommy was born?

A. I don't know what she done.

Q. She didn't do any work until Tommy was born did she? A. I don't know.

By Mr. Hanford: I object to the question on the ground that it calls for a conclusion of the witness, and that it is improper cross examination.

Q. You say she wasn't able to do any work and had to leave your house?

A. Well, she didn't have to leave but the other girl came and I just let her go.

Q. But the reason the other girl came, you said didn't you that Minnie wasn't able to work?

A. She wasn't able to do my work and I spoke to this girl first.

Q. Four days she stayed right with you?

A. Four days straight with me.

Q. She wasn't out of that house during that four days, was she?

A. Oh, yes, she was over to Granny Letcher's and up stairs and around.

Q. I mean she stayed there with you constantly except just going out for a little while and coming back?

A. Yes, four days yes, sir.

Q. You understood then that she had lived at Granny's for sometime, hadn't you?

A. No, she didn't tell me, she talked very little.

Q. I know, but you understood later from the Letcher's and others that she had been living there?

A. That she had been living there.

Q. And that she had stayed there constantly during these four or five months? A. Yes, sir.

Q. Did you say she wasn't at Granny's more than about a week after the baby was born?

A. Oh, yes, she was there longer than a week, wasn't able to go.

Q. You saw her four or five days afterwards?

A. Yes, sir.

Q. And she hadn't been out of bed had she?

A. No, sir.

Q. Then she was in bed sometime after the baby was born? A. Sure she was, more than two weeks.

Q. How long, a month?

A. No, not a month, confined to the bed two weeks and she then sat up in a chair.

Q. You were around there a good deal during that month?

A. I was right there back and forth and at my house.

Q. You saw her in bed and sitting around there for a month or more after the baby was born, didn't you?

A. Yes, about a month afterwards.

Q. Well, about a month or more than a month?

A. Well, about a month, and then she went away to work.

Q. Where did she go to work?

A. Well, she said she was going to the Fort, I can't tell where she went to the Fort to work.

Q. Who named this boy Tommodore? A. Sir?

Q. Who named this boy Tommodore?

A. Who named it?

Q. Yes?

A. Old Granny Letcher, I reckon, or her; I don't know who named it.

Q. You have a very distinct recollection that they called him Commodore?

A. Yes, we all called him that, all of the barn boys and everybody around Mr. Crilley's and Cranston's barn.

Q. Nobody ever called him by any other name, did they?

A. No, he never went by any other name that I ever heard of only "Minnie's child."

Q. The- called him Papoose?

A. Well, once in a while they called him that, boys out in the barn.

Q. Did Minnie carry him strapped on her shoulder like most Indians do?

A. No, I aint going to say that. I am just saying what I saw.

Q. Everybody around there thought he was a mulatto?

A. Thought he was a little Indian.

Q. Your children did? A. They called him that.

Q. What doctor attended you when Grace was born?

A. Dr. Johnson and Dr. Miller.

Q. Either of them living? A. I don't know, sir.

Q. What were the initials of Dr. Johnson?

A. He was a Homeopathic.

Q. What was the initials of Dr. Miller?

A. I don't know what his name was.

Q. Johnson's initials?

A. I don't know what Dr. Johnson's name was. I had his card at home but I don't remember what his name was.

Q. Who else was present when Grace was born?

A. Mr. George Crilley and Mrs. Hargrove and Maggie Davis.

Q. How long had Minnie left when the child was born?

A. Well, Minnie left—— Oh, she stayed four days and then Maggie came and she left on Tuesday. She left on a Tuesday and Grace was born next Saturday.

Q. You saw her about as much at the fortune tellers as you saw her anywhere else, didn't you?

A. Yes, about as much.

Q. She hung around that fortune teller a great deal, didn't she?

A. Yes, there was—— Yes, she was part Indian herself.

Q. The fortune teller was? A. Yes, sir.

Q. Where did you move to from the Seneca House?

A. Where did I?

Q. Yes?

A. Where did I move to—I moved down on Miami street between Ninth and Tenth.

Q. How long did you live there?

A. I lived there five or six months.

Q. Where did you move to then? A. I moved to Missouri.

Q. Who owned the house you lived in on Miama street?

A. Welcher's I think—— Welch.

Q. How long did you live in the Seneca property after Grace was born? A. I lived four years.

Q. During those four years how many times did you see Minnie?

A. Oh, I seen her several—for several months there.

Q. She was around there off and on during those four years, wasn't she? A. No, not for the four years no.

Q. You never saw her or laid eyes on her for four months, did you?

A. She was around there four or five months, backwards and forth, and then she disappeared and I didn't know what became of her.

Q. You heard she left Leavenworth and the Fort, didn't you?

A. No, I didn't know whether she left the Fort and Leavenworth or not, I didn't know.

Q. You never saw or heard of her after that, did you?

A. No, sir, not afterwards.

Q. Did you ever see or hear of Tommy after that, did you? A. Yes, sir, I seen him after I left there.

Q. Where did you see Tommodore?

A. Up in front of there with Mr. Crilley's two children.

Q. How old was he when you last saw him?

A. I guess he must have been five years old the last I seen him.

Q. Five years old? A. I think he must have been.

Q. During all these five years you had known him, and known him only as Tommodore?

A. Yes, sir, had him in my house.

Q. And he was a little boy that your children always called a negro? A. Yes, sir.

Q. Didn't you ever inquire about his mother?

A. I asked Granny Letcher several times about her?

Q. What did she say?

A. She said she didn't know where she went to.

Q. How long after she disappeared when you asked Granny Letcher? A. She was gone a month or two.

Q. Gone a month or two and naturally you were aroused over the matter of her leaving her little child?

A. Yes, I said where is Minnie and she said she didn't know, and I said what are you going to do with the baby, and she said I am going to keep it.

Q. And you asked her a number of times after that about her? A. Yes, I asked about her.

Q. Granny never knew?

A. No, not that I ever knew of.

Q. Did Crilley ever ask you about that until this law suit came up? A. Yes, occasionally spoke of it.

Q. About Minnie leaving this child four or five years old and never coming back?

A. Yes, we talked about that. We thought it was strange that anybody would get up and leave a child like that.

Q. What about Sam Nash, did you ever talk to him about it? A. Never did.

Q. You knew Sam?

A. No, they said that was the name of the man that hauled the vegetables to our house, but I wasn't personally acquainted with him.

Q. You knew Walter Banks, didn't you?

A. Yes, I have seen him there around Granny Letcher's, she raised him.

Q. He was an orphan boy?

A. Yes, she raised him, he had one arm.

Q. Did you ever talk to him about his mother leaving him? A. No, never heard about that.

Q. Didn't Granny tell you that his mother—when he was about a year or a year and a half old his mother left him there?

A. She said she left, said she raised three orphan children.

Q. Told you that Walter Banks' mother left him when he was a year and a half or two years old, didn't she?

A. No, sir, she didn't.

Q. What did she tell you?

A. She told me they were orphan children, I didn't ask about the mother.

Q. Did you and George Crilley talk, about that time, talk about poor Walter and his mother deserting him?

A. No, never talked about that.

Q. But about a month after Tommy's mother left, when he was—how old was he?

A. He was about three or four months old when she left him.

Q. And when you last saw her?

A. Yes, sir, that is when I last saw her.

Q. When did you—— How long did you know Minnie all together?

A. Well, I don't know just—from a while before the 20th day of April, until two or three months after her baby was born.

Q. You said a while ago three or four? A. Well.

Q. Now, was it two or three, or three or four months when Minnie finally left him for good?

A. I think he was four months old.

Q. So, you want to correct your testimony now that you knew her now more than five months?

A. Well, I don't remember now just how many months it was, but still I know I just seen her four days before my baby was born.

Q. Then, after your baby was born, did Minnie come up there to see your baby?

A. No, she didn't come because she wasn't able to come there, she didn't come over until after her baby was born.

Q. Was she extremely ill? A. Yes, sir, she was.

Q. And so large that she couldn't get around?

A. I don't know what made her not get around, but she didn't.

Q. She wasn't able to do anything, was she?

A. No, sir.

Q. Did you ever know of any white people living at Granny Letcher's house?

A. No, I don't remember of any white people.

Q. At any time did you ever know of any white people living at Granny Letcher's house?

A. She was the whitest one that I remember.

Q. She was the only negro living on that part of the street wasn't she?

A. I don't know of any other negro family.

Q. Do you remember what a racket was caused when she moved in there?

A. No, sir, I don't remember what the racket was.

Q. Do you remember when she moved in there?

A. Yes, I remember when she moved in there.

Q. Who was living there before she moved in there?

A. Well, I don't know the names of the people that lived in there.

Q. They were colored people too?

A. No, I don't believe they was colored, I believe they was white.

Q. Was their name White?

A. They were white people, I think, that lived there.

Q. What was their name?

A. Well, I don't remember. You see we just moved there in eighty-four and I wasn't personally acquainted with the neighbors around there.

Q. But those white people moved out before Granny came there? A. Yes, sir.

Q. How long did Granny move in there before Grace was born?

A. She moved in there in the fall I believe before Grace was born in the spring.

Q. In the late fall?

A. Yes, I believe it was in the late fall, I wont be positive now.

Q. You don't remember the exact year? A. No, sir.

Q. But you do know that?

A. It was the year before my child was borned.

Q. She moved in there in the fall of Eighty-four?

A. Yes, sir.

Q. Whatever year that was, she moved in there late in the fall, did she? A. Yes, sir.

Q. You are sure of that? A. Well, I think so.

Q. It was winter time wasn't it? A. It was getting cool.

Q. Before Granny came there, the white people that you are talking about ran a bad house, didn't they?

A. Yes, sir, they did.

Q. And there was a good deal of complaint about that because they did? A. Yes, sir.

Q. Do you know the names of any of them?

A. I think one of them was Emma Moss, I think that is what they called her.

Q. What was the other? A. I don't know.

Q. Do you know who was running the place? A. Sir?

Q. Do you know who was running the place, who was proprietor of the place?

A. I think Emma Moss, I aint sure, I didn't go about no such places as that.

Q. Do you remember about a shooting that occurred here?

A. Sir?

Q. Do you remember about a young couple that were walking along the street here in eighty-five or maybe in eighty-four——Or May in eighty-four, or do you remember when it was? A. No, I don't.

Q. And a man riding up on horse back and calling the man——

A. No, I don't remember that, I might have heard it and just disremembered it. It was here in the streets of Leavenworth, here?

Q. Do you remember Mrs. Birdell? A. Mrs. Who?

Q. Mrs. Birdell who used to reside on Seneca street, a mid-wife? A. A mid-wife?

Q. Yes, a Mrs. Birdell? A. I don't believe I do.

Q. Do you remember she was arrested for producing an abortion? A. I don't believe I remember.

Q. From the person of one Berlin Werburg who lived on Seneca street? A. I don't remember.

Q. You don't remember any of those occurrences?

A. No, I wasn't out much, you know.

Q. Is there anything in the world that you can remember now except the fact that Tommy was born after Grace, that his name was Tommodore and that he lived on Seneca street?

A. I know that.

Q. Do you remember any other child being born about that time? A. No, not that I know of.

Q. Do you remember any other occurrence about that time?

A. Well, there was lots that happened, I don't know just what there was.

Q. This was a woman that stayed in your house four days?

A. Yes, sir, she stayed in my house four days, that is all true, I am not telling no story.

Q. When you were sick? A. Yes, sir.

Q. And you saw her occasionally thereafter for four months? A. Yes, sir.

Q. Or five? A. Five months.

Q. And then she went away and disappeared?

A. Yes, sir.

Q. And was never seen or heard of in that community again, was she? A. Well, not by me.

Q. Well, Granny didn't know what became of her, did she?

A. I never did hear Granny say that she had seen her.

Q. Granny told you that she had left?

A. Yes, she worried and cried terribly about it.

Q. Worried and cried terribly about it? A. Yes, sir.

Q. When did she worry and cry?

A. That was about two weeks after she was gone.

Q. About two weeks after Minnie had gone when you last saw her? A. Yes, the last time we saw her.

Q. Granny cried and took on terribly because——

A. Minnie was gone.

Q. And had left the child an orphan on her hands?

A. Yes, sir, she did.

Q. And she never was able to find her, was she?

A. Well, not that I ever knew of, she might have found her after I moved away from there and lost track of her.

Q. But during the three or four years that you stayed there, Granny was still unable to find her?

A. Yes, never had found her when I left there.

Q. Was this woman married, this Minnie?

A. I never seen no husband.

Q. Tell me who was that woman, who was it?

A. Who was it?

Q. Yes?

A. Well, I don't know who, only Indian Minnie, that is all I ever knew about her.

Q. Where did she live? A. Lived at Mrs. Letcher's.

Q. She stayed there part of the time, didn't she?

A. Part of the time.

Q. Didn't you hear about then where she lived?

A. Where she lived?

Q. Yes? A. No, I didn't know where she lived.

Q. You had forgotten this incident and it had passed out of your mind until George Crilley came to you, hadn't it now?

A. No, sir, I didn't.

Q. Now, who was the first person who ever mentioned this name to you after 1885? A. Mr. George Crilley.

Q. Where? A. In the hack.

Q. When? A. About three months ago.

Q. He came to your house did he? A. No.

Q. Where did he come to see you?

A. I met him right here at the Electric Car Depot. I was coming up here with my sick child taking it out to Earnest Tittles.

Q. How did he know you were coming?

A. Well, I knew him, knowed him all my life nearly, and I knew him and I passed him and I just spoke to him; he was just sitting up on his hack and he turned around and came up and overtaken me and said get in the hack and I will take you out to May's and I said all right. We were taking Grace out there very sick and I got in, and he said have you forgotten Indian Minnie, and I said well let's see, was it the girl that had the baby at old Mrs. Letcher's, and he said yes. And I said, no I haven't forgotten her, I said I took the shoes off my feet to give them to her.

Q. When did you take shoes off your feet and give them to her?

A. One night she went to Fort Leavenworth and lost her shoes, left them in the bus between Leavenworth and the Fort.

Q. When was that?

A. That was the only time when she stayed with me.

Q. What did she go up there for?

A. I don't know, I can't tell you.

Q. She was staying with you in the day time, wasn't she?

A. Yes, stayed with me in the day time, she came back in the night.

Q. She just went up in the Fort and came back?

A. Yes, sir.

Q. Do you know who she went with?

A. I don't know who she went with I can't say. I knew she lost her shoes all right.

Q. He asked you if you knew Indian Minnie that used to be out at Granny Letcher's didn't he? A. Yes, sir.

Q. Who was at Granny Letcher's in 1885? A. Yes, sir.

Q. He told you about her having a baby there, didn't he?

A. No, sir, he didn't.

Q. And asked you if you knew anything about it?

A. Asked me if I had forgotten Indian Minnie, and I said no sir I haven't forgotten her, and I said was she the mother of the boy borned at Granny Letcher's and he said yes.

Q. But he asked you first if you remembered about her having a child at Granny Letcher's? A. No, he didn't.

Q. Did you mention the child?

A. I mentioned the child myself.

Q. You didn't know anything about her having the child except that you saw the child in the bed with her, did you?

A. I seen it in the bed of course, and never seen her have it. I knew she was in that condition.

Q. Then, what did Crilley say to you?

A. He asked me about it and he said—I stayed out to my daughters that night and I stayed the next night out to my daughters and then I went home to Missouri and Mr. Vermillian came to my house the next morning very early.

Q. Mr. Who? A. McMillian, very early.

Q. I am talking about what Crilley said to you. What did he say to you on that day?

A. He came and asked me did I know Indian Minnie.

Q. What did Mr. Crilley say to you in the hack when you told him about them?

A. Asked me if I had forgotten her, and he said I didn't know whether you remembered her or not, and I said yes I did remember Indian Minnie.

Q. Crilley told you he didn't know whether you would remember her or not?

A. Yes, said he didn't know whether I had forgotten her or not.

Q. When was that, about three months ago?

A. Yes, sir.

Q. Tell us all the conversations you had on that occasion?

A. Who all I talked to?

Q. Yes, what did Crilley say to you?

A. Well, he told me they was looking it up and if I remembered it that I could—that I could tell it.

Q. He told you that he was looking it up?

A. No, he didn't tell me, I didn't ask him who was looking it up.

Q. What did you tell him?

A. I told him that I remembered, that I remembered him and the child.

Q. Well, go ahead and tell us all that you told him?

A. Well, that is all that I told him, that is all we talked about. I got out and went in the house and helped carry my sick daughter in and we didn't talk any more about it.

Q. Do you know a W. H. Bond, who lives on Second and Elm Street? A. Mr. Lee Bond?

Q. Did you know Mr. Lee Bond? A. Yes, sir.

Q. When did you get acquainted with him?

A. Oh, I have seen Mr. Lee Bond several times.

Q. Did you know his parents? A. My father did.

Q. Were they friendly? A. Why sure.

Q. And you have always felt very friendly to Lee, haven't you?

A. Yes, sir, always treated him very nice and he has me.

Q. When did you talk to Lee Bond with reference to the time that you talked to Crilly?

A. I didn't talk to—the second person I talked to was Mr. Vermillion.

Q. I am talking about after you talked to Crilley when did you talk to Bond?

A. Oh, I guess it must have been—I left before I talked to Mr. Bond—a month after I talked to Mr. Crilley before I talked to Mr. Bond.

Q. Had you in the meantime talked to Page and to Mr. Long? A. No, sir.

Q. When did you talk to Page and Mr. Long with reference to the time that you talked to Bond?

A. Oh, Mr. Bond, it has been about two months.

Q. Crilley told you that Mr. Bond was in the case, didn't he? A. No, sir.

Q. What did he tell you about it?

A. He didn't tell me who was in the case.

Q. He said that they would want to use you in the case if you could remember about Indian Minnie and the child, didn't he? A. No, sir, he didn't.

Q. What did he say about them?

A. He just asked me did I remember anything about Indian Minnie.

Q. What did he say about wanting your testimony?

A. He didn't say about wanting testimony, just asked me did I remember it.

Q. What did you say a while ago in the event you remembered it?

A. He asked me did I remember Indian Minnie, and I said yes, sir. I said, let me see, was it the mother of the child born to Mrs. Letcher's? and he said yes, and I said, well I remember Minnie.

Q. Now, he asked you if you remembered Indian Minnie?

A. Yes, sir.

Q. And you said was that the mother of the child who was born at Granny's? A. Yes, sir, I did.

Q. And he said yes? A. Yes, sir.

Q. And you said you remembered her?

A. Yes, sir, I did.

Q. Now, what did he say when you told him that?

A. He said the Government was looking it up.

Q. The Government was looking it up?

A. Yes, sir, the Government.

Q. And did he want you to testify for the Government?

A. He never said who he wanted me to testify for.

Q. Did you think then that he represented the Government? A. I didn't know.

Q. You thought naturally by that remark that he was looking after the interest of the Government, didn't you?

A. Well, I thought so, but I didn't know.

Q. Anyway, you discovered from what he did say, that he wanted you to remember about this matter and this child?

A. Yes, sir, did I remember it?

By Mr. Blakeney: We object as irrelevant, incompetent, and immaterial.

Q. And Crilley had been your old friend, hadn't he?

A. Always been just like a brother to me, him and Mr. Joe Cranston too.

Q. You rented from him when you were in the Seneca House? A. Yes, sir.

Q. Been your brother ever since that? A. Yes, sir.

Q. You want to do him a favor if you could do it, don't you? A. Sure I would.

Q. When did you and George Edwards separate?

By Mr. Hanford: I object as incompetent, irrelevant, and immaterial, and on the ground of constant repetition.

A. My child was just about four years old when we separated, we separated right in Crilley's house.

Q. What brought about that separation?

By Mr. Hanford: I object on the ground as incompetent, irrelevant, and immaterial, and improper cross examination, and improper treatment of the witness; no authority whatever for inquiring into these intimate affairs of the witnesses life.

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, could be of no use or purpose except to disgrace the—except to discredit the witness and is not a proper matter for discrediting of the witness.

Q. You may answer? A. Sir?
Q. What brought about your separation?

By Mr. Hanford: Same objection.

By Mr. Blakeney: The same objection.

A. He got mixed up with some other woman.
Q. He got mixed up with some other woman?
A. Yes, sir.
Q. Did you move to Third and Lynn as soon as you separated? A. No, sir.
Q. Where did you stay?
A. Moved on to Miama, I told you.
Q. Where did he go? A. Well, he went to Missouri.
Q. Did he ever have any difficulty there with Crilley?

By Mr. Blakeney: We object as irrelevant, incompetent, and immaterial.

By Mr. Hanford: The same objection.

A. Mr. Crilley didn't like for him to treat me and the children the way he did, and they had some words.

Q. He thought Crilley was interferring with his domestic——

By Mr. Blakeney: We object now as incompetent, irrelevant, and immaterial, insulting to the witness and an incompetent examination.

By Mr. Hanford: Same objection.

By Mr. Stuart: Judge, you know you couldn't ask that question in a Court of Justice, don't you?

By Mr. Allen: I know I would do it. I have got a right to show her relation with Crilley.

Q. Your husband complained because Crilley was interferring with the management of the children?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial and not proper examination.

By Mr. Hanford: The same objection.

A. No, sir, he was not.

Q. Well, what was then the trouble about?

A. Something happened in the barn among the work——

By Mr. Blakeney: Objected to as incompetent, irrelevant, and immaterial, and improper cross examination.

Q. They didn't like each other very much, did they?

A. Why, yes, Mr. Crilley liked him and he liked Mr. Crilley, only they had little spats.

Q. Did they ever have a fight? A. No, sir.

Q. When did you come to town this time?

A. Over here this time?

Q. Yes? A. Last Tuesday was a week I came here.

Q. Who came with you? A. Mr. George Crilley.

Q. He went for you and brought you here? A. Yes, sir.

Q. Where were you? A. At home.

Q. Where? A. At my own home.

Q. At Tracy, Missouri? A. Yes, sir.

Q. How far is that from here?

A. I guess it is about—well, I don't know whether it is ten miles from here or not, it is ten miles by wagon road.

Q. That is the same George Crilley——

A. Because, I don't think it is that by the car.

Q. That is the same George Crilley who first talked to you in the hack? A. Yes, sir.

Q. And who brought to your home Mr. Page and Mr. Long? A. Yes, sir.

Q. Who afterwards brought Lee Bond?

A. Yes, sir, he brought Mr. Lee Bond before he did Mr. Page.

Q. Before he did Mr. Page and Mr. Long? A. Yes, sir.

Q. What time did Crilley go to your house? A. When?

Q. When he brought you over here this time?

A. He came about four o'clock in the afternoon.

Q. How long ago? A. Last Tuesday was a week.

Q. A week ago last Tuesday?

A. Yes, a week ago last Tuesday.

Q. What time did you and he leave for Leavenworth?

A. Left about four o'clock when the little boy's school was out.

Q. How did you come? A. In the buggy.

Q. What little boy? A. My grandson.

Q. Whose son is he? A. He is Grace's.

Q. How old is he? A. He is nine years old.

Q. When was he born?

A. He was borned in August—in August I forget.

Q. Then you and Crilley came to Leavenworth, where did you go? A. I went to my daughter's.

Q. He took you there? A. Yes, sir.

Q. That night? A. Yes, sir.

Q. When did you see him again?

A. Why, I never seen him then for—I never seen him again until Friday he came out and took me to the train, I went home Friday night.

Q. You went back to your home Friday night?

A. Friday night.

Q. When did you see him again?

A. I never seen him after that until he came out to the house after me.

Q. When did he come out to your house after you?

A. Yesterday afternoon.

Q. And you came in here last night?

A. No, I came last Tuesday here again, I came Tuesday morning here again.

Q. Then, last Tuesday—was that yesterday? A. Sir?

Q. That was yesterday? A. No, sir.

Q. Last Tuesday a week? A. Yes, sir.

Q. And you have been here ever since? A. Yes, sir.

Q. Whom did you first see after you came to town on Tuesday of last week? A. First see?

Q. Yes? A. Why, I seen Lyon.

Q. Who is Mr. Lyon? A. That is that gentleman.

Q. Long, you mean? A. Yes, I call him Mr. Lyon.

Q. Where did you see him?

A. I seen him down here in town at the National.

Q. Did you go down to the National?

A. No, sir, I just stopped there.

Q. Well, you went there? A. Yes, sir, I seen him.

Q. How long did you stay there?

A. I never got out of the buggy.

Q. Who else did you see there?

A. I seen that gentleman right there.

Mr. Hanford: Pointing to Judge Stuart.

Q. Judge Stuart? A. Yes, sir.

Q. And who else did you see? A. No one else.

Q. When did you again see any of the parties here?

A. Sir?

Q. When did you again see—when was the next time that you talked to anybody? A. Well, I think——

Q. Did you come back that night? A. Come back?

Q. That night to the Hotel?

A. No, sir, I didn't go back to the Hotel. As I came over I stopped at the Hotel and Mr. Lyon came out and talked to us, we went on out to my daughters.

Q. Did anybody come out to your daughter's that night to see you? A. Mr. Long and Mr. Stuart.

Q. Mr. Long and Mr. Stuart?

A. Mr. Long and Mr. Stuart.

Q. How long were they with you there that night?

A. Not very long, not more than a half an hour I reckon.

Q. When did you next see anybody?

A. I seen Mr. Bond next.

Q. Mr. Lee Bond? A. Mr. Lee Bond.

Q. When? A. Last Friday.

Q. Between Tuesday and Friday, haven't you seen anybody? A. No, sir.

Q. Haven't seen George Crilley?

A. Haven't talked to George Crilley yet.

Q. You have seen him haven't you?

A. No, I haven't been out in town.

Q. Last Friday you saw Crilley, didn't you?

A. I went home a week before that; I was in Kansas City last Friday.

Q. Last Friday you saw Lee Bond, didn't you?

A. Yes, sir.

Q. Where did you see him? A. Seen him at his office.

Q. How long were you with him?

A. Just a few minutes, I wanted to go home but he said I couldn't go.

Q. But he let you go to Kansas City?

A. I had to go on business to Kansas City.

Q. Then the next day you came back from Kansas City?

A. That was Saturday.

Q. Then, did you see any of them that day?

A. No, I never seen none of them that day.

Q. Never seen Crilley that day? A. No, sir.

Q. Then, Sunday who did you see?

A. Didn't see none of them.

Q. Monday who did you see? A. None of them.

Q. Tuesday, yesterday? A. Yesterday?

Q. Talk to George Crilley yesterday morning?

A. He fetched me out in the hack.

Q. You talked to him some about the case yesterday morning? A. No, I never mentioned the case.

Q. What did you talk about?

A. He just came out and told me they wanted me down here, to get ready, and I came.

(Brief recess).

Q. You can read and write, can't you?

A. No, sir, I can't.

Q. You can't read or write?

A. No, sir, I don't deny nothing I can't do.

Q. You remember the dates of the births of Grace and Tommy? A. Yes, sir.

Q. Very distinctly?

A. Yes, because I looked at the Bible and seen their ages.

Q. Well, could you read it?

A. No, I have my daughter read it to me.

Q. Well, you knew anyway besides that, didn't you?

A. Yes.

Q. The Bible hasn't got the age of Tommy in it?

A. No, didn't put his age in it.

Q. Tommodore, it is. Who was the doctor that waited on Minnie when she was—— A. I don't know.

Q. Do you know who the father of this Minnie's child was? A. No, sir.

Q. Wasn't that talked around there?

A. No, sir, I didn't hear of it.

By Mr. Hanford: I object to that as incompetent, irrelevant, and immaterial.

Q. You never heard of that? A. No, sir.

Q. Did you know Bob Martin, that white man that was in here today? A. Yes, sir.

Q. How long have you known him?

A. I knew him when he was quite a boy over in Missouri. He was born and raised in Missouri, but I haven't known anything about him of late days.

Q. When did you first talk to him about this case?

A. Last Monday—— No, not last Monday, I will take that back, it was Thursday, last Thursday.

Q. Was that the day that you went to Kansas City?

A. No, sir, we went Friday to Kansas City.

Q. Was it Thursday night, or when?

A. Thursday night when we went to Kansas City, he was there in the forenoon.

Q. Where? A. Out at my daughters.

Q. At that time and place, did you tell him this, or this in substance: That you washed and dressed this Tommodore when he was a little baby? A. I never did.

Q. A few days old? A. I never done it.

Q. And that he had a scar on his back?

A. I never done it.

Q. Did you tell him that Page had told you that he didn't want you to recall that? A. No, sir, I didn't.

Q. And that he would make you comfortable for life, or that in substance? A. No, sir, I didn't.

Q. Did you tell him that you weren't getting enough money out of the case? A. I didn't.

Q. And if they would put up enough money that you would remember those things, or that in substance?

A. No, sir, I didn't.

Q. Nothing of that kind was said? A. No, sir, I didn't.

Q. How old is Grace?

A. She is thirty-one years old the 20th day of this April.

Q. You had a conversation the next day in Kansas City with Mr. Blakeney, didn't you? A. Yes, sir.

Q. After you talked to Bell—to Martin you went up to Bell's office and had a conversation with him?

A. That was in Kansas City.

Q. That was in Leavenworth? A. Yes, sir.

Q. That was on the same day that you talked to Martin at your house? A. Yes, sir.

Q. What time of the day?

A. It was about one o'clock, I guess.

Q. Who was present? A. Who was present with me?

Q. At the time this conversation was had with Bell?

A. Mr. Martin and myself and Annie Wills.

Q. And T. W. Bell? A. Yes, sir.

Q. Were they present in Bell's office? A. Yes, sir.

Q. At that time and place in the presence of those parties did you say this or this in substance, that you knew about Commodore, that you had a daughter born on April 20th, 1885, that Commodore was born at Granny Letcher's——

A. Yes, sir, I said that.

Q. And that a man—— That soon after he was born, a few days at least, that you dressed him once or twice?

A. I never done it.

Q. And that he had a scar on his either left or right shoulder? A. I never said it.

Q. Did you say in that conversation that when the boy was four or five years old that a man by the name of Carter who sold produce to Granny Letcher and all of you——

A. Yes, sir.

Q. Took him in his wagon and held him——

A. And hauled him around.

Q. And took him to the country?

A. I didn't say that he took him to the country. I don't know that he did.

Q. Did you say in that conversation in substance this, that the Commodore there at Granny Letcher's had a birthmark on his left or right shoulder because you saw it when you washed him when he was two or three days old?

A. I never done it.

Q. Just a minute. You didn't?

Q. I didn't wash him.

Q. Did you say in that conversation—— You say you didn't? A. I didn't. I didn't wash and didn't dress him.

Q. I am asking you the facts?

A. I will give you the facts.

Q. Whether or not you had that conversation in Bell's office?

A. I never done it. They asked me did I remember that.

Q. Well.

Mr. Stuart: Let her explain.

Mr. Allen: I will let you explain.

Mr. Hanford: I insist that the witness be allowed to tell what she said.

Mr. German: You can do that on redirect.

Q. At that time in Bell's office in the presence of those parties, did you tell them that you ought to have something in this case, that Page had told you that you didn't recollect quite right and that he would—and that they wouldn't ask you anything about the scar and that if you would testify right that he would make you comfortable for life?

A. No, he never.

Q. Wait a minute. Did you have that conversation in that office? A. I didn't have that conversation there.

Q. Did you say that or that in substance?

A. I never said it. I never spoke of Mr. Page's name.

Q. At that time and place? A. I never done it.

Q. Did you have this conversation or this in substance?

A. I never had.

Q. Wait a minute. When this boy was four or five years old Henry Carter took him to the farm?

A. No, I didn't.

Q. Wait a minute. That you afterwards saw him here, that the old man was bringing him back to visit Granny Letcher. *Q.* I say this——

Q. Wait a minute. Did you say that or that in substance?

A. No, sir.

Q. Then the next day you went to Kansas City, didn't you? A. That same day.

Q. That same day? A. Yes, sir.

Q. Bob Martin went with you didn't he?

A. Yes, he got on the car at Spruce Street. He didn't go with me.

Q. The next day you had a conversation with Mr. Blakeney, didn't you? A Yes, sir, a few minutes.

Q. Was that conversation before the conversation with Bell and Coody Johnson and Martin or after? A. Before.

Q. Where was that conversation with Mr. Blakeney?

A. It was up at my room.

Q. What hotel? A. At the Federal Hotel.

Q. What time of day? A. It was after dinner, I think.

Q. In Kansas City, Missouri? A. Yes, sir.

Q. That was before you talked—— Is that the conversation you had with Mr. Blakeney that was in your room?

A. Yes, sir, it was in a room.

Q. Who was present? A. My daughter.

Q. Any one else? A. Bob Martin.

Q. Anyone else? A. No, sir.

Q. In the conversation did you say this, or this in substance, that you knew about this boy, that you dressed him when he was a little baby, that he had a birthmark on his back, that he was afterwards taken to the country by Henry Carter? A. No, sir.

Q. Did you say that or that in substance?

A. No, sir, I didn't.

Q. Did you tell him there in substance this—— When did you next have a conversation with Bell and Martin?

A. I never had any more after Kansas City. I never seen them.

Q. I know, but after talking with Blakeney and Martin there, you met Bell and Martin and who else?

A. My daughter was there. That was all but I only talked——

Q. Where was that?

A. That was down at Kansas City in the room.

Q. Wasn't your interview in the other room? A. No, sir.

Q. Was any of your kin folks in the other room?

A. No, sir.

Q. That was in your room at the Federal Hotel?

A. Yes, sir.

Q. On last Friday? A. Yes, sir.

Q. At that time and place? A. Yes, sir.

Q. Did you say in substance this, that you had talked with Mr. Lee *Brown* and that Bell said why isn't Bond going to use you, and you said that you had told him about the scar and about old man Carter and that Bond threw up his hands and said, good God? A. I never done it.

Q. That would ruin me and I don't want that part of it?

A. I never done it.

Q. And Bell asked what they wanted and you stated they wanted to know if Tommy was Indian Minnie's boy and that he was born there at Granny Letcher's and that was all they did want to know. Did that conversation or that in substance occur?

A. No, sir, that wasn't about Mr. Bond, no, sir.

Q. Did you have that conversation or that in substance there? A. No, sir.

Q. If it wasn't about Mr. Bond who was it about?

A. It wasn't about no one that I have ever mentioned to Mr. Bell.

Q. At that time and place didn't you also say that Bond told you to go on and keep out of the way? A. No, sir.

Q. Of the other side and he would see you again?

A. *Ho,* sir, he never done it.

Q. Did you say that? A. No, sir, I didn't.

Q. Did you also at that time and place say this or this in substance: Now I have never got nothing out of this and I want to see that big white man with the money?

A. I never said it.

Q. And Bell said the big white man hasn't got any money. It is a big black man as black as my shoe and then laughed and then he spoke of getting you to sign a statement and you said, No you wouldn't? A. Yes, sir, I said, No I wouldn't.

Q. Did you say that or that in substance?

A. No, sir, I never said that.

Q. Did you state further at that time and place that you had seen Mr. Page? A. No, sir.

Q. Meaning Page, the defendant in this case and Mr. Long and that Mr. Page had told you that all they want was for you to tell the truth about a boy being Minnie's and being born at Granny's and that that was all they wanted to prove and that if you swore to that that he would take care of you the rest of your life? A. I never did it.

Q. And that Frank Long would see you again?

A. I never said it.

Q. Did you tell him that Page made that statement to you? A. I never done it.

Q. Did you further say in that conversation at that time and place that Mr. Page stated to you that he didn't want you to remember about the scar? A. No, sir.

Q. That if you would remember right he would take care of you the balance of your life? A. No, sir.

Q. Did you say that or that in substance?

A. I never said it.

Q. Did you say this or this in substance, that Mr. Long had told you if you would testify that way he would pay you for it? A. He never did.

Q. Did you tell those people that or that in substance?

A. I never told them. I will pledge you my honor to God I never done it.

Q. You did tell Bell that you wouldn't sign a statement?

A. I told him I didn't have to sign no statement. I said, what I have got to tell you I will tell it on the witness stand, let it be for Tommy or for the Government or whoever it may be. What I tell is going to be the truth and nothing but the truth.

Q. You did talk to—— A. I didn't talk to either man.

Q. You did talk to Martin at your home?

A. Yes, I talked out there but nothing on that.

Q. You did talk to Bell in his office in the presence of Annie Wills and these other people?

A. I did talk up there and he asked me did I ever see——

Q. I didn't ask that. A. All right.

Q. You did talk to Mr. Blakeney in your room in the hotel in Kansas City?

A. I don't deny talking to him in some words.

Q. You did talk to Bell and Martin in your room in Kansas City?

A. I don't deny that. That is all true. I did do that.

Q. What did you state your age was?

A. Fifty-seven years old the 12th day of March.

Q. Your mother is still living?

A. O yes. My mother is very old though and feeble. She is very old and feeble.

And thereupon the witness is excused until 9:30 o'clock A. M.

And thereafter and on February 24th, 1916, at 9:30 o'clock A. M. further testimony herein was taken as follows:

Mrs. MATTIE COBB being recalled further testified as follows:

Recross Examination by Mr. Blakeney.

Q. Mrs. Cobb, you said you were acquainted with Mrs. Annie Wills? A. Sir?

Q. You are acquainted with Mrs. Annie Wills?

A. Yes, sir.

Q. I believe you say you telephoned her? A. Sir?

Q. You telephoned her one day last week?

A. Yes, sir, I did.

Q. After you telephoned her you went down to her house?

A. No, sir.

Q. In a day or two? A. No, sir.

Q. Did you not on the night of the 15th day of February, 1916, with your daughter and your daughter's husband——

A. Daughter's husband?

Q. Daughter's husband, Ernest Tittle, go down to the house of Annie Wills? A. Yes, sir, went with Mr. Martin.

Q. How long did you stay there?

A. Well, we didn't stay very long.

Q. Well, you visited a while?

A. Just a little while. Mr. Martin went to see her on some business.

Q. You had a conversation at that time and place at her house in Leavenworth in the state of Kansas? A. Yes.

Q. Regarding Tommy Atkins? A. Yes, he talked to me.

Mr. Hanford: Object to that question as incompetent, irrelevant and immaterial.

Q. Did you in that conversation say that you would know the boy if he had the throw or walk that he had when he was a child, which was like his mother's?

A. I said I believed I would know the child if it resembled its mother in any way. I believed—I would know him.

Q. Did you say his mother had sort of a throwing walk and the boy had it?

A. Well, it did when it was little. I don't know nothing about it since it is big.

Q. You said that? A. Yes, I said that.

Q. Did you say to her that you had given the boy a couple of night dresses? A. No, sir.

Q. In the conversation at the time and place?

A. I gave it a white dress.

Mr. Hanford: I object to all this as not between the parties to the suit.

A. I gave it a white dress. No night gown.

Q. A white dress? A. Yes, sir, a white dress.

Q. One or more? A. One.

Q. After you had talked there a while you say you left?

A. Yes, sir.

Q. Did you during that day see her again at lawyer Bell's —T. W. Bell's office in Leavenworth? A. No, sir, not that day.

Q. Do you see her there the next day?

A. Yes, sir, on Thursday.

Q. Did you have a conversation there with Bell?

A. Yes, sir, we talked there a little bit.

Q. Who was present?

A. Mr. Martin and hisself and I and Annie Wills.

Q. When you say "hisself", you mean Bell?

A. Yes, sir, lawyer Bell.

Q. Did you in that conversation there now on the 16th day of February, 1916, at about that time, state that the boy had a birthmark on his back below the shoulder but I don't remember which shoulder? A. I did not.

Q. Or anything in substance to that effect?

A. I never did it. They told me about the spot.

Q. Did you also in that conversation at the time and place stated say that an old huckster took Tommy to the country? A. No, I said——

Q. Wait a minute. That this old huckster was a pale faced, long whiskered colored man who sold vegetables?

A. I said that the old colored man would come and take him out riding.

Q. Did you say what I asked you? Did you say it?

A. What did I ask? Yes, sir, I said that.

Q. You may not have understood. I asked you in the same question if you stated that the old colored man of the description that I gave, took Tommy to the country?

A. Well, I don't know whether he taken him to the country or not. He taken him away though.

Q. Did you in that conversation then state that you saw Tommy afterwards? A. Why, sure.

Q. The old man came to your house selling smearcase and Tommy was in the wagon? A. Selling what?

Q. Smearcase? A. No, sir.

Q. After you moved from the livery stable or near there?

A. No, sir, never did.

Q. You said nothing in substance to that effect?

A. No, sir.

Q. Did you in that conversation also state that you had known this old vegetable man four or five years? A. No, sir.

Q. That he had delivered vegetables to your place or sold around town during that time? A. No, sir.

Q. Or anything in substance to that effect?

A. I never said it.

Q. Did you also say to Mr. Bell that the trouble with your case is, that you haven't got any money on your side of it? A. Why, I never asked any money. I didn't say it.

Q. Please answer the question. Did you in this conversation at the time and place referred to also state in substance the trouble with your case is that you haven't got any money on your side? A. I never said it.

Q. And Mr. Bell asked you in this same conversation if Long wasn't paying your expenses and if you didn't answer no? A. I did.

Recross Examination by Mr. Allen.

Q. You did go down to Annie Wills with Martin did you?

A. Yes, sir.

Q. How came you to go? A. He asked us to go.

Q. Had you known Annie Wills before? A. Yes, sir.

Q. When did you first get acquainted with her?

A. When I was nothing but a child in Missouri. She lived at Waldron.

Q. Did you play around her house when a child?

A. No, sir, wasn't close to her. We knowed her, backwards and forth.

Q. You have been in and around her house a great many times during your life though? A. Yes.

Q. When you lived in Leavenworth you visited her?

A. Yes, I was there often.

Q. She was then running a house of ill fame wasn't she?

A. No, sir, she wasn't.

Q. She was regarded as a loose character?

A. No, sir, she wasn't. She lived with her husband and children.

Q. You telephoned her a number of times while you were here last week? A. No, sir, I didn't.

Q. How many times? A. Once.

Q. How many times did you see her? A. I seen her twice.

Q. Once at her home and once at Bell's office?

A. Yes, sir.

Q. You knew at that time that they were trying to get you to identify Henry Carter didn't you?

A. Well, they asked me to.

Q. And you went to her house and later to Bell's office and then saw them in Kansas City?

A. I saw them in Kansas City, that is true.

Q. Who took you home last night after you finished testifying? A. Mr. Crilly.

Q. Mr. George Crilly? A. Yes, sir.

Q. Who brought you to the courthouse this morning?

A. Mr. George Crilly.

Q. He has taken you home and brought you here several times, hasn't he? A. Yes, sir.

Q. Was he out to see you last night? A. No, sir.

Q. Did you see him last night?

A. No, sir, not after I got out of the hack.

Q. Who did you see last night?

A. I didn't see nobody. I wasn't out of the house. I went to bed.

Q. Who did you talk to this morning?

A. Nobody at all.

Q. Nobody except George Crilly?

A. I just talked to him on family affairs. I was just talking about my sick mother being so bad. She is very low.

Q. That is the same George Crilly that you first talked to about this case? A. Yes, sir.

Q. And the first time you have thought about this woman and child in some thirty years?

A. Well, I haven't thought so awful much about her. I have always remembered Minnie and everything that way.

Q. Your daughter Grace was married at Annie Wills' home wasn't she? A. No, sir.

Q. Was either one of your daughters? A. No, sir.

Q. They all visited at the home though?

A. Well, back and forth. Lived close to her. I didn't mistreat nobody.

Q. Didn't May marry one of her husbands at Annie Wills' home?

A. No, sir, not that I know of. She never was married but once.

Q. Never married but once? A. Once.

Q. That was not at Annie Wills' home?

A. No, sir, it was in the court house.

Redirect Examination by Mr. Hanford.

Q. How did you happen to go to Mr. Bell's office?

A. Why, Mr. Martin met me on the street——

Mr. Allen: We object to the redirect examination of Mr. Hanford for the reason that he represents interests identical with the interests with the defendants represented by Judge Stuart and he has waived the right to direct examination and we now insist that the redirect examination be made by counsel who directed the examination in chief.

Mr. Blakeney: I would like to ask a question. How did Mr. Hanford waive it?

Mr. Allen: By announcing that he did not desire to examine the witness. He was present at the table when Judge Stuart made the announcement for him.

Mr. Hanford: I except to the statement of counsel that I made any announcement.

Mr. Allen: I think Judge Stuart will bear me out. I said: Mr. Hanford, do you want to examine her? and Judge Stuart said: No, that is all.

Mr. Hanford: He made no announcement for me nor was he authorized to make any for me nor am I bound by any statement of Judge Stuart's. I insist upon my right to examine the witness.

Mr. Allen: We then ask that this examination be regarded as an examination in chief and we will examine her when he concludes.

Mr. German: We object on the ground that it is incompetent, irrelevant and immaterial.

Mr. Blakeney: I want to object to counsel interposing objection to the same question.

Mr. German: He didn't object to the question. He objected to Mr. Hanford's examining.

Q. How did you come to go to Mr. Bell's office?

A. Well, I had been down in town and I was going out home by the Santa Fe depot and the hack drove up next to the walk to me and he asked me to get in and he said: Now, get in here I want to see if you won't go down in town with me a little while and I said, Yes I will. What for, I said, and he said, Well I want you to go to Bell's with me on a little business, and I said all right, and I said to him, I said, Now Mr. Martin, remember that I put my hands to no papers. I will sign no agreements with nothing and I said, what I know about that Indian Minnie's case I will testify it on the witness stand and if it suits you it is all right and if it don't it is all right, and he said, well all right, I don't want you to swear anything that ain't true, and then we got in the hack and we went out to my daughter's. He had taken Mrs. Wills out to my daughter's and we got her and we went down to Mr. Bell's office. I didn't know where he was going.

Q. You got who?

A. Got Mrs. Wills and we went down to Bell's office and they asked me those questions about this boy going out with that old colored man and I answered it because I had bought vegetables from him.

Q. Did you ever know the name of that old colored man?

A. No, I didn't know what his name was and he asked—Mr. Bell asked me if I had ever washed and dressed this child and I told him that I did not. He said: Do you remember——

Mr. German: I move to strike that answer on the ground that it is not responsive to the question.

A. And he asked me did I remember——

Q. Wait just a minute. How did you come to go to Mrs. Wills' home prior to this?

A. Well, he asked Erny to go and his wife and myself, we all went along together.

Q. Was anything said at his house about this case?

A. Nothing to amount to anything. He asked her if she remembered—had she washed and dressed this child and she told him she had.

Mr. German: I move to strike that answer as not responsive to the question, and being hearsay and a self-serving declaration.

A. And she told him she had.

Q. Who told him? A. He asked her.

Q. Ask who?

A. Asked Annie Wills if this child—if she ever gave him a bath.

Mr. German: I just want the record to show that I am going to move to strike this. Got no way to stop her from telling it.

A. And she said, yes.

Q. Did they ask you anything about the case?

Mr. German: I move to strike the preceding answer on the ground that it is hearsay evidence and incompetent, irrelevant and immaterial, and I would have made the motion before the question if I had known that the witness had finished the answer and I object to the question just put on the ground that it calls for hearsay evidence.

A. And Mr. Martin said to me——

Q. When you said: He asked her, he asked who? Mrs. Wills or your daughter? A. Mrs. Wills.

Q. Mrs. Wills? A. Mrs. Wills.

Mr. German: It is so difficult to object because the witness doesn't hear. May we not have objection to each question and answer here?

Mr. Hanford: Yes.

Mr. German: On the ground that it is incompetent, irrelevant and immaterial, calls for hearsay evidence, and is improper redirect examination.

Mr. Hanford: Yes.

Q. What did they ask you out at Mrs. Wills' house?

A. They asked me if I had ever washed and dressed this child.

Q. And what did you say?

A. I said, no, sir. No Marm. Never did.

Q. Did you ever ask Mr. Martin to take you to Mrs. Wills' house or to Mr. Bell's office?

A. Never in my life.

(Witness dismissed.)

Mr. Hanford: Also the depositions of Richard Nichols, a witness for the complainant, beginning at page 1994; and Charlie Anderson, beginning at page 1975.

Mr. German: Now, Your Honor, with reference to those two witnesses, I desire to object to the introduction of these two witnesses, on the ground that their testimony is incompetent, irrelevant and immaterial.

The Court: The record may show that.

Mr. Maxey: The same objection on the part of Nancy Atkins.

The Court: The record may show your objection also.

And thereupon, RICHARD NICHOLS being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. State your name, age, and place of residence.

A. My name is Richard Nichols; 418 Third Avenue, Leavenworth, Kansas; 56 last December 10th, past.

Q. What is your color? A. Sir?

Q. Are you a colored man? A. Yes, sir.

Q. Dick, did you testify as a witness, and give your deposition on the 7th day of October, or about that day, 1914, in the case wherein Nancy et al., were plaintiff, and Minnie Atkins et al., were defendants, involving the birth of Thomas Atkins?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

Q. At the county court house, in the City of Leavenworth?

A. Yes, sir. I don't know what day it was, but I testified over there.

Q. That was when others were giving their depositions here? A. Yes, sir.

Q. What other witnesses had testified when you went on the witness stand?

A. Why, there were several of them there.

Mr. Hanford: The same objections.

Q. Name some that you knew, that you remembered testified before you did.

A. Well, I seen Charlie Anderson up there. I don't know —they went in the room and come out—I suppose they testified; and Will Parker—several of them.

Q. Who did you hear testify?

A. I didn't hear any of them testify. They went in there and come out; I didn't hear any of them. They had it separate; each one went in by themselves. They was there a day or two before I knowed what was going on.

Q. Were you subpoenaed as a witness in that case?

A. I think I was, I don't remember. I ain't sure; they swore me after I went in.

Q. When did you find out that you were going to be a witness there, with reference to the time that you testified?

A. About fifteen, or a half hour, or a little over—or something.

Q. You gave your testimony then? A. Yes, sir.

Q. When you came off the witness stand, did anybody pay you any money? A. Yes, sir.

Q. Who?

A. Why, I don't know hardly. A fellow told me that he would pay me a couple of days, as a witness fees.

Q. I asked you how much they paid you when you came off the witness stand? A. Five dollars.

Q. Where did they pay that?

A. Right there, after I got through.

Q. Who paid you?

A. Why, I think Rube give it to me, I think.

Q. Who did you see—anybody give it to Rube?

A. Well, no, other fellows around there, I suppose did; I don't know how it is. Anyhow, he give it to me; I just saw I was getting it. I didn't bother very much where I got it from.

Q. Did anybody go over the testimony with you before you went on the witness stand?

> Mr. Hanford: Judge Allen, for the purpose of the record, will you allow my general objection to all this line of testimony?
>
> Mr. Allen: Yes.

Q. Did anybody talk to you before you went on the witness stand? A. No, sir.

Q. Did anybody talk to you about what the other witnesses testified to before you went on the witness stand?

A. No, sir.

Q. No one told you what the other witnesses testified to?

A. No, sir.

> Mr. Allen: Now, I claim surprise at the testimony of this witness, and state in the record, that the statement he is now making is in conflict to the statement he gave to me before going on the witness stand.

Mr. Stuart: I object to that because the attorney is impeaching his own witness.

Mr. Allen: I now ask leave to cross examine him upon that question.

Mr. Hanford: We object to the right of Mr. Allen to cross examine this witness—his own witness—who has been called at his own risk.

Q. Didn't you talk to Mr. German, the Assistant United States Attorney and myself, in Mr. German's room at the National hotel, didn't you, last week, or the week before last?

A. I talked to two or three men there; I don't know what their names were.

Q. Mr. Bagley, the United States Special Agent, was there, wasn't he?

A. Well, I think he said he was; I don't know. I talked to two or three men there.

Q. Didn't you say in that conversation that Rube Smith and Dennis went over the testimony of the other witnesses?

A. No, sir.

Q. With you, before you went on the witness stand?

A. No, sir.

Q. Or that in substance? A. No, I never said that.

Q. Did you say that Rube Smith went over the testimony of the other witnesses with you before you went on the witness stand, or that in substance? A. No, sir.

Q. Did you have a conversation with Mr. Fred Cook and myself in Mr. Codding's office in the City of Leavenworth about a year ago?

A. Yes, I was down there; I don't know the other men, but I was down there.

Q. At that time and place, did you not say in substance, that you knew nothing about the case, that Rube Smith told you that you just as well make some money out of it; that others were making money? A. No, I can't say that.

Q. And that he went over the testimony of the other witnesses with you, and that you went on the witness stand and swore to just what the others were swearing to; did you say that, or that in substance?

A. No, I never said nothing like that. They had a shorthand fellow there taking some stuff—I don't know what the fellow put down. They may have said that they wanted me to sign some statement, but I didn't sign nothing; I don't know what it was. I heard that they said that stuff but I never said that.

Q. Didn't you tell Mr. German and myself ,in the room at the National hotel, that the reason that you didn't sign—

didn't come back and sign the statement after the stenographer got it out, was because Dennis Jones wouldn't let you?

A. No, I didn't say Dennis wouldn't let me.

Q. Told you that you had made one statement and that you had better stick to it, or that in substance?

A. Well, I said that Mr. Codding came up there to the court house for me and while he was up there, the judge of the District Court—he heard a little something about it, and he said, Dick, haven't you made one statement? And I said, yes; and he said, was it true, and I said yes; and he said, well, I wouldn't make another one to contradict it, if you made it true, until it is the same one again. That is all that was said.

Q. Didn't you testify in 1914, that you knew Minnie Atkins? A. Yes, sir.

Q. Did you tell Mr. German and Mr. Bagley, and myself, in the National hotel, in Mr. German's room, that Dennis Jones, or Rube Smith, or both of them, had put up to say that, and that as a matter of fact, you didn't know her at all?

A. Oh, I know her.

Q. Did you say that to Mr. German, Mr. Bagley, and myself—or that in substance?

A. No, sir, I never said that to you.

Q. Were you in Dennis Jones' office yesterday?

A. Yes, sir.

Q. Day before yesterday?

A. No, sir; hadn't been in Dennis Jones' office for two or three weeks.

Q. Have you talked to him in the last day or two?

A. This morning, and I spoke to him yesterday, up at Lee Goff's. I just spoke to him when they came in there, but I was busy myself.

Q. At the pool hall?

A. Lee Goff ain't got a pool hall, but got a restaurant in there, and I was sitting down there—I and some more fellows—and Dennis came in there, and he spoke and I spoke, and he went out. I haven't seen him any more.

Mr. Allen: I will probably recall this witness for further examination when I get the statement.

Cross Examination by Mr. Stuart.

Q. Dick, when did you first meet Mr. Allen here?

A. Well, I don't remember; at the court house, about sometime like he said. That is about the first time I ever seen him.

Q. Who introduced you to him, do you remember?

A. Well, now, I can't tell you who it was but somebody told me that where I got on the stand there—I don't know whether I was every introduced to him.

Q. I will ask you if he didn't tell you that if you didn't change your statement in this case, that he would send you to the penitentiary?

A. They said that I had better get right and I didn't know whether it was——

Q. Is that right, now? Tell it straight.

A. They said because—I didn't know it was a bunch of them—so many of them talking—said that; I didn't—I would get a chance to go to the penitentiary.

Q. And didn't he ask you to change a statement that you had made in this case?

A. Well, they said there wasn't any chance for me to—didn't I know that I had a wrong statement and I had better change it and get right.

Q. What did you tell them? A. Yes.

Q. What did you tell them?

A. I told them that I had made a true statement.

Q. That you had made a true statment?

A. Yes. If I had made a mistake in it, it was more than I knowed.

Q. And what did they tell you what they would do to you, if you didn't change your statement?

A. Well, that is what I said. They said that I had better get right because I would get in trouble; the Government was going to prosecute some of them and send them to the penitentiary.

Q. And didn't you——

Mr. Allen: Let him finish the answer.

A. That the Government was going to send them to the penitentiary for false statement.

Q. You had already made a statement in this case, hadn't you, Dick? A. Yes, sir.

Q. And you refused to change your statement? A. Yes, sir.

Q. And they told you if you didn't change your statement, they would send you to the penitentiary? A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. Before you made that statement, you were sworn by Mr. Fred Cook, a special agent of the Government, weren't you? A. Where at?

Q. As you sat down there in Mr. Codding's office?

A. No, I wasn't sworn, at all, down there.

Q. In the presence of a stenographer? A. No.

Q. At the first time I ever saw you?

A. I was sworn at the court house, I was.

Q. The first time that I ever saw you, was in Mr. Codding's office, wasn't it?

A. No, sir. The first time I ever saw you was up in the courthouse.

Q. When? A. When they were taking that deposition.

Q. I was there, was I?

A. I supposed you was there. I saw some fellow and they called him Mr. Allen. You may not have been there at all.

Q. The first time you ever saw me to know me, was in Codding's office, wasn't it?

A. I had seen you before that but that was the first time I had any talk.

Q. The first time I ever talked to you in my life, was in Codding's office? A. You was up at the courthouse.

Q. I know; but after that, the first time I ever talked to you was in Codding's office? A. I think so.

Q. What you said to me was taken down by a stenographer, wasn't it?

A. I don't know whether it was or not; there was a fellow there, shorthanding; a fellow there telling a fellow what to take down, and I thought he would read it after he had taken it down, but he didn't read it.

Q. You agreed to go back and sign it?

A. I said after they had written and translated it into writing, and if it was right, then I would sign it, and you didn't do that.

Q. You didn't go back to see whether we did or not.

A. I haven't seen it yet.

Q. You haven't seen it yet, have you? A. No.

Q. And you told Mr. German, and Mr. Bagley, and myself, in the National hotel, that the reason that you didn't come back, was because Dennis Jones told you not to come back?

Q. I might have had, but then if I had, Mr. Bond and Mr. Jones, and them—they was on the other side; of course there wasn't no use of me going back there, unless I was going to change that and I can't change that and tell the truth, and there wasn't no reason for me to go back there. Wasn't no reason to care if I could read it; I could tell, but there wasn't no use of my going back. It wasn't worth while.

Q. Did you ever serve a term in the penitentiary, Dick?

Mr. Hanford: Objected to—I withdraw my objection.

A. I have been in the penitentiary but I had a gun on me when I was there.

Q. What do you mean?

A. I get tired of folks asking me that, I never served no term.

Mr. Stuart: Go on and tell it.

A. No, no; I don't know where they get that at.

Cross Examination by Mr. Hanford.

Q. Dick, when you were in the penitentiary, what were you doing? A. I was a deputy sheriff.

Q. You went there for what purpose?

A. Went down there to take prisoners down there.

Q. You are still a deputy sheriff are you not?

A. Yes, sir, and janitor, together.

Q. Where do you work?

A. County Courthouse; been there 18 years.

Q. Is that the same place that those depositions were taken in the state court case, in 1914? A. Yes, sir.

Q. You were around the courthouse at that time, were you not? A. Yes, sir.

Q. You saw them taking depositions there?

A. Yes, for two or three days.

Q. Do you remember how you came to be called as a witness in that case? A. Yes, sir.

Q. Just tell it.

A. Why, they was there for a couple of days; they had the judge of the state court room there, and it had been usual when I fixes up them rooms, a fellow would get a little extra pay around there, so I was wondering who this bunch was—I wasn't getting nothing. So, I said to Rube, what is this going on in here?

Q. You mean a tip?

A. Yes. You know when anybody goes and fixes up a room or anything for lawyers, they usually give him fifty cents, or a quarter, or something—and I was fixing that room every day and I wasn't getting nothing—I seen a fellow, thought maybe he would give me a piece of money; that is what I was figuring on. He said depositions are going on here; Rube Smith said that to me. And I said, what about; and he said, Minnie Atkins, and I said, I know that woman. So, one or two words changed and he said—it may have been you—I was standing not far away—and he said, be careful because——

Q. Don't you rememoer it was me?

A. Yes, I think it was you. He said, be careful, you will be subpoenaed, and sure enough, I don't know whether I was subpoenaed or not; anyhow, they got me into that room and I was sworn and I made a statement.

Q. You said you knew Minnie Atkins, in my presence, didn't you? A. Yes, sir.

Mr. Allen: I object to that as improper cross examination; leading and suggestive.

Q. State whether or not I was present when that conversation took place between you and Rube Smith.

Mr. Allen: We object to that for the same reason.

Q. Was I there? A. Yes.

Q. Then I did call you as a witness? A. Yes, sir.

Q. And how long after that did you go on the stand?

A. Wasn't very long; I think about twenty minutes, or something like that. I went on about my work and in a few minutes, they called me to come in there.

Q. That is all the conversation you had with me there?

A. That is all.

Q. And with anybody else? A. No, sir.

Q. I say that is all the conversation you had with me or anybody else?

Mr. Allen: I object to that for the same reason.

A. That is all the conversation I had.

Re-Examination by Mr. Allen.

Q. You didn't have any conversation there with Rube Smith? A. No, no more than what I said.

Q. In his presence? A. Yes.

Q. Who found out you knew anything about the case?

A. Who found out I knew anything about it?

Q. Yes. A. Rube, I told him.

Q. Didn't you, in the National hotel, in the presence of Mr. German, Mr. Bagley, and myself, at the time stated, say that Rube Smith went over the testimony of several of the other witnesses with you, and that you heard some of their testimony, and that Rube said that you just as well make some money out of this—everybody else is making some money—and you went on the witness stand and testified to just what the others were testifying to, and that they paid you five dollars and promised you some more money, and a trip to Oklahoma? A. If they needed me.

Q. Did you make that statement, or that in substance, to Mr. German, Mr. Bagley, and myself? A. Not that way.

Q. Did you say that in substance to us?

A. Not that way; that wouldn't be in substance, I don't think.

Q. And didn't you say repeatedly there, that you didn't know Minnie Atkins at all? A. Oh, I knowed her.

Q. Did you say to Mr. German, Mr. Bagley and myself, repeatedly, that you didn't know Minnie Atkins? A. No, sir.

Q. Didn't you go over with us the names of the witnesses who had testified and tell us there, that at the time and place that I have mentioned, that Sam Nash told you that he had gotten twenty-five dollars and a restaurant in Oklahoma for testifying? A. No, I didn't know he had a restaurant.

Mr. German: Now, answer the question, Dick.

A. No, I say.

Q. Did you tell us at that time and place that Charlie Anderson told you that he got fifteen or twenty dollars for what he told? A. No, I didn't say that Charlie said that.

Q. What did you say?

A. I think I said Charlie said he got five dollars for a couple of day's witnesses—something like that. I think that is what Charlie told me.

Q. Did you say to us in substance that Charlie said he got fifteen or twenty dollars? A. No, not that much.

Q. Did you tell us at that time and place, that W. H. Parker told you that he got fifteen or twenty dollars for what he told? A. I hadn't talked with Parker at all; no.

Q. Did you say that to us——

A. No, I never said nothing about Parker.

Q. Did you tell us that Mary Smith told you that she was after the money?

A. No; I will tell you why. You had one Mary Smith and I had another one. I thought you were talking about our Mary Smith, here in town, and I didn't know this other Mary Smith that you talked about.

Mr. German: Dick, did you, or did you not tell us that?

A. No, I didn't know Mary Smith.

Mr. German: Well, answer it that way; tell us whether you did or not.

A. No.

Q. Did they say anything to you about giving you some more money when you went to Oklahoma?

A. Yes, sir; said they would pay my expenses down there if I had to go as a witness, and so, I guess they didn't happen to need me, or I would have went down. I was going to make arrangements with the chairman of the board about going off.

Q. Answer my question. Did you tell us that they promised to give you some more money when you went to Oklahoma; and that you wanted that trip to Oklahoma, and the rest of the money that you were going to get, or that in substance?

A. Not in that way, I didn't tell you; not in that way.

Q. Did you tell us that they had done fell down with you on taking you to Oklahoma?

A. I said I didn't get to go, no. They said I was going to get to go but I didn't know whether I would get to go or not.

Q. Did you tell us that they promised to take you to Oklahoma? A. Yes, if they needed me.

Q. Did you say anything about needing you, in that conversation?

A. Common sense teaches me if they needed me; I knew that.

Q. Did you say in substance there, that they promised you some more money and a trip to Oklahoma?

A. That word substance, I don't know what you mean by that.

Q. Did you say anything like that? A. No.

Re-Examination by Mr. Stuart.

Q. Dick, do you know Judge Wendorff, here? A. Yes, sir.

Q. Who is he; District Judge? A. Yes, sir.

Q. When you left Judge Allen's office, you went to consult Judge Wendorff, didn't you? A. Sir?

Q. You went to consult Judge Wendorff after you left this man? After you left Codding's office?

A. Yes, sir. He seen Codding, when he come after me, about it.

Q. And he told you not to make any other statement except a true statement, didn't he?

A. He asked me if I made a true statement of that affair and I told him yes, and he said, then just stay with that one; don't make any more. You have been around here long enough to know that anyhow.

Q. You told him that they were trying to terrify you, didn't you?

A. I told him what they said about that penitentiary affair.

Q. And you asked Judge Wendorff what to do?

A. Yes, sir.

Q. And judge told you if you had made a true statement, to stick to it, didn't he? A. Yes, sir.

Q. You have been a soldier in the army?

A. Yes, sir; twice.

Q. Where?

A. I enlisted here in '81, and went down to Fort Supply, Indian Territory, and stayed down there until the latter part of that, and then I enlisted in '98 again and went over to Cuba.

Q. Was you in the Spanish American War? A. Yes, sir.

Q. Who was you under there?

A. Under Colonel Beck of the 23rd Kansas Volunteers.

Q. How long had you served here as an officer of the court, here?

A. Well, ever since I have been there, sixteen or seventeen years.

Q. What court? A. District Court.

Q. District Court? A. Yes, sir.

Q. What business had you done there with the court; what had been your job there? A. How much pay is in it?

Q. What has been your job? I don't care about the pay?

A. Janitor and deputy sheriff, and all.

Q. What court? A. Of the District Court.

Q. Of this county? A. Yes, sir.

Q. About how many years—seventeen or eighteen years?

A. Seventeen or eighteen years.

Q. Are you still filling that place? A. Yes, sir.

Recross Examination by Mr. Hanford.

Q. Dick, when you had that conversation with Judge Allen, and Mr. German and Mr. Bagley, at the National hotel, that Mr. Allen has just inquired about, didn't they try to get you to say—to testify here that you were mistaken about the identity of the Minnie Atkins that you knew, and that they wanted you to say that you were mistaken?

A. Why yes—one—that other fellow, whatever his name is, he said——

Q. The little one or the big one?

A. The big fellow; he said, isn't there a chance for you to be mistaken about that, and I said I can't make a statement that would contradict the one that I have made. And he said, well, isn't there a chance for you to be mistaken in this and if it is, why you make a statement to that affect, he says, but I didn't go back anymore. I told Mr. Bond something about it and he said, if I was you, I would just stay away from those fellows if you gave a true statement. If they keep sending around, and that was the end of it. Old man Codding got me down there because I thought he was going to pull one of these joints; he was raiding them, and I went down there and when I got down there, he had all this down there.

Q. You thought he called you in an official capacity?

A. He called, and Mr. Codding said come right away, and I thought he was going to raid and I got down there, and he had these men there.

Mr. German: What conversation are you referring to, Dick?

A. At Mr. Codding's office.

Mr. Stuart: We object to that.

Q. Didn't you tell Mr. Bagley, Mr. German and myself in the National hotel, that you had told me the truth in Codding's office? A. No, I didn't tell you that.

Q. Didn't you tell us in the National hotel when you went to Codding's office that you thought—— A. Going to raid.

Q. That Codding was going to raid a joint that you were interested in? A. I don't own no joint, no, sir.

Q. Did you not tell us something about having a partner; that you and the partner was in business and that you thought Codding was going to raid that?

A. No, sir, I might have said that I was manager of a park out here; might have said that but I didn't think he was going to raid there, because there wasn't nothing out there.

Q. Didn't you tell Bagley and German and myself, in substance, that when you were called down there, that you thought they had raided, or was going to raid, that park that you were in partnership with another man in?

A. No, sir, I thought they were going to raid something fraudulent, or something around town here, and we would go along with him—but not nothing that I was in to; I ain't in to nothing; wouldn't let me run them things.

Q. I told you in Mr. Codding's office that all I wanted you to tell here was the truth about the matter, didn't I?

A. Yes, sir.

Q. Mr. German and Mr. Bagley and myself told you that in the hotel, didn't we? A. Well, I know you said that.

Q. You said you would come back up there to see us, didn't you? A. Yes, I said I would come back.

Q. Didn't you meet me on the street, either Saturday or Sunday—I think it was Saturday—near the corner of the National hotel, and tell me that you had been up there four times to see me but couldn't find me in?

A. No, sir, I never seen you Saturday.

Q. When was that you told me that on the street?

A. You *sen* Sad Baker around hunting me Saturday, and all day yesterday he was after me, but I told him I couldn't do that, and he said, well, there would be some money in it; of course, I like to get hold of money but I wasn't going to change that for that money, that is all. I didn't know whether he had anything at all. Of course he *was* have to show me, but I wouldn't change anything, even if he had any money.

Q. You thought the Government would pay you some money, did you?

A. No, he didn't say Government. He said he was hired to go and get Will Parker and me and Charlie Anderson, he said, and one or two other fellows that he called—I don't remember them—and said, they said they want to see you.

Q. You had told Sad, had you not, that you wanted to get out of this? A. No, I didn't tell him nothing.

Q. You told him that Saturday, didn't you?

A. I didn't see Sad until yesterday morning.

Q. You told him that Sunday morning, didn't you?

A. That I wanted to get out of it?

Q. Yes.

A. No, I didn't tell him that I wanted to get out of it.

Q. Did you have Sad tell me that you would telephone?

A. Sad called me up about nine o'clock and said, Dick, I want to see you, and I said, well, I can come out; I am going over to church, I said, but you can come over to my house if you want to see me, if you will be here before eleven o'clock; and about eleven o'clock, he came down, and he said I am hired by—he said, you see Judge Allen—he is the whole cheese, he said, and you see him, he said and he said, of course I and you worked in politics all our lives, he said——

Mr. Hanford: Answer the question. I insist that the witness have that right——

Q. Did you tell Sad Baker on yesterday morning that you wanted to see me and that you would call me up at the National hotel at four o'clock and have me meet you at the courthouse—that you didn't want to come to the National hotel because those fellows were shadowing you?

A. Not that way.

Q. Did you tell him that, or that in substance?

A. I said, I didn't tell him in that way and not at that time.

Q. Did you tell him that you would telephone me at four o'clock yesterday?

A. Yesterday evening, I told him yesterday evening, I would but I had no intention of doing it; I just told him that to get rid of him.

Q. Did you tell Mr. German, Mr. Bagley and myself, in the National hotel, that you knew that Will Parker, Charlie Anderson, and Annie Wills were lying about this case and that you would either get them out at your house, and your brother's house, or some relatives house, out in your neighborhood, and that you were satisfied that they would tell us the truth about it?

A. No, for I didn't know what they testified to.

Q. Did you tell us that, or that in substance?

A. No, sir, because I didn't know what they testified to.

Redirect Examination by Mr. Hanford.

Q. When you were up at the National Hotel, Dick, didn't they try to get you to go and get Will Parker and some other people and bring them up there to see them?

A. Yes, they wanted me to go and get—I don't know, they called off the names there, five or six fellows there and asked me if I thought I could go and get them, and of course I told them yes, but I never bothered them, I never asked them.

Q. Now, Dick, when you were up there in the room, Mr. German, the gentleman sitting right there, and Judge Allen and Mr. Bagley, that big man, were all there, weren't they?

A. They said he was a Government man.

Q. Yes, now that Government man wasn't in there all the time, he left the room for a little while, didn't he?

A. Yes.

Q. Now, when he was out of the room, didn't one of these gentlemen tell you that if you would change your statement they would see that you were well paid, that they couldn't pay you themselves, because they were representing the Government, but that they would see that you were well paid? Didn't they tell you that?

A. One of them said that they would see that I didn't lose nothing but this was a Government affair now and there would be plenty of time for that.

Q. They told you that when Mr. Bag*by* went down the hall, didn't they?

A. Well, I don't know whether he was down the hall or not, but I think there wasn't only one of them in there, I thought they was all the same men. I said, you were here before and said you were a Government man and it didn't seem to me, I thought it was the same bunch of men.

Re-examination by Mr. Allen.

Q. You don't know whether they was all in there at that time, or just one or two?

A. I don't think they was all in there, I think just one was in there.

Q. Nobody ever promised you any money did they?

A. Said I wouldn't lose nothing.

By Mr. Stuart: Said you wouldn't lose nothing?

A. Yes.

Q. Now, Dick, look at me and testify?

A. Yes, I can look at you.

Q. You came up to the National hotel of your own accord, didn't you? A. No, sir; no, sir.

Q. Who brought you up there?

A. You telephoned there, I don't know which one of you it was that telephoned and told me to come to room 17.

Q. You came on up there then did you?

A. Yes, sir, they called three or four times before I came and finally I made up my mind.

Q. And did you tell this court now that anybody in that room incriminated or suggested that you would ever be taken care of, paid, or done anything else or compensated in any way?

A. There was some of them said I wouldn't lose anything.

Q. Who said you wouldn't lose anything?

A. Oh, I don't know which one of you.

Q. This, Dick, was just week before last, wasn't it?

A. I think so.

Q. Tell this court who said you wouldn't lose anything?

A. Well, there was two or three of you talking, I don't know.

Q. Well, this was at a time when there wasn't but one in the room, wasn't it, now tell the court who it was that told you that you wouldn't lose anything?

A. I don't know which one of you it was, some of you said it.

Q. Who did you tell that you had been told that after you got out of that room?

A. I don't know who I told, I might have told one or two folks.

Q. Did you tell Dennis Jones or Rube Smith?

A. I didn't tell Rube, I might have told——

Q. You might have told Dennis?

A. I might have told Lee Bond, I don't know.

Q. Didn't you tell us in that room that you were afraid to testify for the Government in this case, because they would cause you to lose your job, or that in substance, at the courthouse? A. No, they couldn't make me lose my job.

Q. Didn't you tell us that, or that in substance?

A. No, sir; no, sir.

Q. Didn't you tell us that Rube Smith and Dennis Jones were strong here in politics and if you testified for the Government that they would make you lose your job?

A. No, sir.

Q. Did you tell us that in substance? A. No, sir.

Redirect Examination by Mr. Stuart.

Q. Dick, you still say that you knew Indian Minnie, don't you? A. Yes, sir.

Q. And that is the truth?

A. Yes, that is the truth, I seen her.

Q. You ain't scared are you? A. No, sir.

Q. Not a bit terrified? A. No, sir.

Q. You are telling the truth as you understand it?

A. Yes.

Q. Who is this fellow Sad Baker?

A. He is a fellow, a witness, who was raised up here, he has been here his lifetime.

Q. What does he do? Go on and tell it.

A. These other folks, Mr. Bond *her* can tell you?

Q. You tell me what does Sad do?

A. I don't know what he is doing now.

Q. Well, what did he do?

A. I didn't have nothing to do with it.

Q. You are afraid of him ain't you?

A. I ain't afraid of him, but other people here know all about it and can tell it.

Q. What sort of man is he, tell me his name, who is Sad? I just want to know who he is? A. Well, I knew his name.

Q. Go ahead now and tell me about Sad?

A. Well, I ain't going to tell what all about Sad unless questions would be asked question after question.

Q. Did they try to send him to the penitentiary here a little while ago—didn't Codding try to do it?

A. They liked to got him there.

Q. Didn't they try him over there and try to send him to the penitentiary? A. Yes, sir.

Q. In the District Court? A. Yes, sir.

Q. Now, who has got Sad employed, do you know?

A. Well, Sad told me Mr. Allen had him.

Q. Judge Allen here had him employed?

A. That is what he told me, I don't know.

Q. Did Sad run an assignation house here?

A. That is what he was arrested for.

Q. He was the proprietor? A. He was found guilty.

Q. Found guilty too? A. Yes, sir.

Q. And he told you that Judge Allen had him employed?

A. Yes, sir, he told me—he said——

Q. How many times was he arrested, do you know?

A. Oh, lots of times.

Q. Lots of times? A. Yes, sir.

Q. And this man Sad came to you as the agent of the Government, didn't he?

A. Well, he said—he came there, he said he told him to come and see me he said.

Q. Who is he?

A. He said Judge Allen had told him to come and see me and see these other folks also.

Q. Did Sad threaten you in any way?

A. No, he told me he was getting so much, he didn't say how much that was, but he said he expected I would get more, he said.

Q. What did he tell you?

A. He told me he expected I would get more, he was getting so much a day and he expected I would get more.

Cross Examination by Mr. Bell.

Q. Now, Dick, do you mean to say that Sad Baker was convicted? A. You know about the court.

Q. I am just asking you if you mean to say that Sad Baker was convicted?

A. Oh, no, you know he wasn't convicted, found guilty of running that kind of a place.

Q. Was he found guilty by a jury in the District Court of running any place?

A. I don't know what he was found, they fined a woman fifteen dollars there in that place.

Q. Answer the question. Was Sad Baker found guilty?

A. No, he never went before the jury.

Q. Was he tried for it? A. Tried for it.

Q. Was he ever convicted?

A. No, he wasn't convicted. Old man Codding—I don't know what he was tried for.

Redirect Examination by Mr. Stuart.

Q. They got him in the police court?

A. Got him in the police court.

Q. And found him guilty there?

A. And found him guilty there.

Recross Examination by Mr. Hanford.

Q. Dick, do you know John T. Beechler?

A. Yes, sir, I know him.

Q. Has he been to see you?

By Mr. German: I want to object to that question.

A. No, sir.

By Mr. German: He said he had not. Let it go.

Recross Examination by Mr. Allen.

Q. Dick, how long ago was it that Baker ran an assignation house?

A. How long ago was it, how long has it been?

Q. Yes, sir?

A. Well, Sad ran that place, that has been now about two years since he run it, run it about six or seven years when he did run it, been about two years since he run it.

Q. He has been living a clean honorable life since he quit that, hasn't he? A. I don't know.

Q. Is settled down, married, and living at home, isn't he?

A. He settled down and is married and is living at home?

Q. Living at home now?

A. I don't know whether he is living at home.

Q. With his wife? A. His wife ain't here.

Q. Was he ever in partnership with you in any business?

A. Sir?

Q. Was he ever in partnership with you in any business, some kind of business that you are in.

A. Politics was the only business that he and I were ever in.

Q. You and he are in politics? A. Working.

Q. He used to be a policeman here didn't he?

A. Yes, sir, he used to be a city policeman.

Q. Don't you know, Dick, and didn't Sad tell you that Mr. German and myself told him that we would not pay anybody a cent of money in this case? A. Sad never told me that.

Q. Didn't Mr. German and myself both say to you, in the presence of Mr. Bagley in the National hotel, that we would not pay any witness a penny except the fees that the Government allowed as a witness?

A. I know now how that other thing came up there now, just come to me. When you all said something to me about getting this Will Parker and Charlie Anderson and all them folks, I said a person's time is worth something running around looking up these folks, and you said I wouldn't lose nothing if I had to go and hunt up them fellows. I was just thinking now how that came in there.

By Mr. German: That was that lose nothing proposition that you were talking about, was it?

A. Lose——

By Mr. German: Lose nothing proposition?

A. Yes, yes.

Q. Didn't we tell you in the National Hotel that the Government could not and would not pay a cent?

A. Yes, I think you said that.

Q. And didn't we mention anybody else to you that was connected with this case that could or would pay a cent?

A. No, didn't mention anybody.

Redirect Examination by Mr. Stuart.

Q. Who was it that told you you wouldn't lose anything? I want to know who said that?

A. Well, there is three of them was up there, and when I said—that is what I was trying to get at—and when they told me about going and getting these two or three fellows they wanted to see them, I said my time was worth something running and hunting up those fellows, and they said you won't lose nothing. I don't know who said that—would have to put money up in my hands if I went and saw them.

Recross Examination by Mr. Allen.

Q. The reason you didn't do it was because the money wasn't put up?

A. Yes, sir, if you had given me the money I would have told each one of them fellows that you wanted to see them.

Q. You didn't do that?

A. No, sir, I wasn't paid nothing and I didn't get them.

Redirect Examination by Mr. Stuart.

Q. Sad got a divorce from his wife here, didn't he?

A. Yes, sir.

By Mr. German: I object to the question on the ground that it is incompetent, irrelevant, and immaterial, and is hearsay evidence, and if the witness has answered before I made this objection I move to strike the answer for that reason.

A. I know it.

Q. Who was Sad's lawyer?

By Mr. German: The same objection.

A. Mr. Bell there.

Q. Who was her lawyer?

By Mr. German. The same objection.

Q. Who was the wife's lawyer?

A. Mr. Codding—— Young Codding and the old man both I think.

Q. How long nas Sad been back?

A. Well, he has been back—his mother died and he came back to attend her, he has been back here a couple of months. Now, if they want me to tell the whole thing now I will tell it.

Recross Examination by Mr. Bell.

Q. Now, Dick, you say Sad got a divorce? A. Yes, sir.

Q. You was his witness, wasn't you?

A. I was a witness for his wife.

Q. You were a witness for his wife? A. Yes, sir.

Q. And Sad got the divorce?

A. Yes, he asked me to be a witness for her so she could get it, he was going away.

Witness dismissed.

CHARLIE ANDERSON being called on behalf of the United States sworn and under oath testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Charley Anderson.

Q. Your age and place of residence?

A. I am fifty-seven my next birthday.

Q. Where do you live?

A. 807 Walnut, Leavenworth, Kansas.

Q. Charlie, do you remember testifying on October 7th, 1915, or about that day? A. Yes, sir.

Q. As a witness. Giving your deposition as a witness?

A. Yes, sir.

Q. In the case of Atkins et al. against Atkins et al., involving the birth of Tommy Atkins? A. Yes, sir.

Q. Who did you talk to before you testified upon that occasion?

A. I was talking up in the courthouse. Everybody was talking about it down in town. I said I will walk over to the courthouse and see who is going to be the witnesses.

Q. Who did you talk to over there?

A. When I got over there we boys were all talking among ourselves. I didn't know I was going to be a witness at all.

Q. After you got up there they called you on the witness stand and you testified? A. Yes, sir.

Q. You didn't know until that time——

A. No, I didn't know that I was going to be a witness at all.

Q. When you got off the witness stand were you paid any money? A. After I testified?

Q. Yes? A. Yes, sir.

Q. How much? A. I got five dollars.

Q. Who paid you?

A. Rube Jackson—Rube Smith I should say.

Cross Examination by Mr. Stuart.

Q. Now, Charlie, you testified in this case once before didn't you? A. Yes, sir.

Q. You have testified the truth as you understand it? A. Yes, sir.

Mr. Allen: We object to that as improper cross examination. If you desire to make the witness we want to cross examination him.

Mr. Stuart: I want him as my witness.

Q. You testified to the truth as you understood it? A. Yes, sir.

Q. And you gave your testimony in a former hearing of this case, didn't you? A. Yes, sir.

Q. Did you testify truthfully then?

Mr. German: I think that is calling for a conclusion and opinion.

Q. Did you testify truthfully then?

Mr. German: The same objection.

Q. Did you testify truthfully then? A. Yes, sir.

Q. The five dollars that you got, what was that for?

A. Well, I don't know what it was for. When they got me didn't know I was going to be a witness at all until I got over there. I didn't know it.

Q. How many days did you attend court?

A. Attend over there?

Q. Yes? Attend court? A. To the court?

Q. Yes? How many days did you hang around court?

A. Three days.

Q. Three days, and you got five dollars for it?

A. Yes, sir, five dollars.

Q. And who did you say paid it to you? A. Rube Smith.

Q. That is all?

A. That is all he gave me then, yes, sir.

Cross Examination by Mr. Allen.

Q. Charley you didn't know when you went to the courthouse that you were going to be a witness did you?

A. No, sir.

Q. When they called you to the witness stand it was the first time that you knew you were to be a witness, wasn't it?

A. Yes, sir. They got me off.

Q. You hadn't been examined as a witness had you?

A. No, sir

Q. You came right off the witness stand and Rube Smith gave you five dollars didn't he? A. Not right off.

Q. He gave it to you that same day?

A. Gave it to me the same day, yes, sir.

Re-examination by Mr. Stuart.

Q. Charley, who has been trying to terrify you in this case?

> Mr. German: I object to that as calling for an opinion and conclusion of the witness.

Q. Who has been trying to terrify you here? I want to know the name of the man.

A. He was talking to me this morning.

Q. Who has been trying to terrify you?

> Mr. German: The same objection.

A. This man here is the only [] that I was talking to here.

Q. What did he tell you?

Q. He said he knowed everything that had been done and I want you to tell me the truth.

Q. Well, cough up. What did he say to you?

A. He asked me who paid me that money. Did I get some money and I said, yes. He says——

Q. Go on and tell the whole thing.

A. He said who paid you and I said Rube Smith. I told him. He said he knowed it though. He said he knowed it. He was the Government.

Q. Go on and tell what he said about the Government, that is what I want to know. Did he say he represented the Government?

> Mr. German: I object to this as improper cross examination, incompetent, irrelevant and immaterial and hearsay.

Q. Go ahead and tell what you said?

A. He said I want you to tell me. I says, well, I want some of my witnesses here, my men here.

Q. You wanted what?

A. I wanted some of my men here. I was a witness before. I wanted you here because I got acquainted with you and I didn't know you was an attorney in favor of Thomas Atkinson until Friday night and you told me to tell the truth when I first came in there. I didn't know you, Judge, you know.

Q. What was it I told you? I would like to know what I said to you. What did I say to you?

Mr. German: I object to that as incompetent, irrelevant and immaterial, improper cross examination and self serving declaration.

Q. What was it I told you now?

A. You asked me how old I was.

Q. Go on. I want to know just exactly what I said to you. Tell it out.

Mr. German: The same objection.

A. And you asked me who had been talking to me and I named over the men that I could that had been talking to me and I want you to tell the truth and if anybody asked me did I go up there and told to you, to tell them yes.

Q. You've got that straight haven't you? A. Yes, sir.

Q. Now when did Judge Allen approach you about this case? A. This morning in there.

Q. This morning? A. Yes, sir.

Q. What was the first thing he said now? To you?

Mr. German: I object to that as incompetent, irrelevant and immaterial and hearsay and improper cross examination.

Q. I want to hear the whole conversation.

A. The first thing he said to me. He said, Charlie, come in here I want to speak to you. He says, I want to keep you away from those other witnesses.

Q. That is it, go on, what else?

A. He says, now who hired you to be a witness. I said, I didn't know I was going to be hired until I got over to the courthouse because I just went over there to look around and see who was the witnesses because I knowed Minnie and Tommy and when I was in there the boys said, Charlie Anderson he ought to know Minnie and somebody was passing there. Mr. Long was passing there and he said, do you know Minnie.

Q. Who said that?

A. Mr. Long said, do you know Minnie?

Q. When was that? A. October.

Q. I am talking about what you said to this man?

A. What I said to this man? I told him I didn't know I was going to be a witness until I got over there. And he said—and he asked me, how much money did they give you that day for testifying, what money did he give you?

Q. Charley, you haven't told all. Tell everything he said.

A. I said I didn't understand his question then. I didn't know whether he meant for all the time I was over there or not. I says, I got two dollars and a half a day, I says. Two dollars and a half a day, what that lady says for trailing.

You said in the police court she tried to get me arrested because she said I trailed her out to South Leavenworth and had been trailing her for two or three weeks.

Q. Tell it all.

A. And she arrested me and I went in there and they said how much did they pay you that day and who paid you that money? He said, we know. How much did they pay you.

Q. Said we know? A. Yes, said we know. Who paid you?

Q. Go ahead.

A. I said, Rube Smith paid me. How much. I said Five Dollars. He said he knowed. He said you stay right in here now. I don't [] you to talk to these witnesses.

Q. Said what?

A. You stay right in here. I don't want you to talk to these other witnesses. I will call you in a few minutes.

Q. Told you not to talk to anybody else? A. Yes.

Q. Not to any other witness?

A. Yes, sir, and I stayed in that room there.

Cross Examination by Mr. Bell.

Q. You had a talk with somebody last Friday night, who was it? A. Last Friday night?

Q. Yes, didn't you say you talked with Judge Stuart here last Friday night?

A. That is, he telephoned out there and I was afraid to come down town you know. I didn't know who it was. I said, who is it. Judge Stuart telephoned. They came and told me to come to the telephone.

Q. You stated in your direct testimony there and cross-examination to Judge Stuart that you didn't know that he was representing Tommy Atkins until Friday night didn't you?

A. I didn't know it.

Q. How did you learn it then?

A. I didn't know it until I got there to the hotel.

Q. He informed you that he was representing Tommy Atkins?

A. No, he didn't inform me until he said, I sent for you. After they introduced me he said, I want you to tell the truth. I thought he was a United States man like them over there. I seen him talking to a carpenter not on the payroll, that is the reason I bucked against him and thought he was a United States man.

Mr. Allen: Let the record show that he is pointing to the Deputy United States Marshal who served the——

Q. How did you get the impression that Judge Stuart was representing Tommy Atkins?

A. How did I get the impression?

Q. Yes, sir?

A. I didn't know until after I was there and they talked to me, questioned me. I want you to tell the truth he said.

Q. Wanted you to tell the truth?

A. Yes, want you to tell the truth. How old are you?

Q. But did he tell you that he was representing Tommy Atkins?

A. He didn't tell me he was representing Tommy Atkins, no.

Q. How did you get that impression?

A. Well, I seen Mr. Long there and where is that other gentleman?

Q. Is Mr. Long representing Tommy Atkins?

A. I don't know who he is representing. That is the one I have been——

Q. Have you been consulting with Mr. Long?

A. Consulting with him since the first day of October in that trial over there.

Q. You knew Tommy Atkins, did you? A. Yes.

Q. Where? A. In the city.

Q. Where abouts in the city?

A. Here on Seneca Street.

Q. Seneca Street?

A. Between Second and Third on the south side of the street.

Q. At whose home? A. Aunt Mary Letcher's.

Q. When did you know him there?

Mr. Allen: We object to that unless you make him your own witness for that purpose.

Mr. Bell: We don't care to at this time.

Mr. Allen: We object to that as improper cross-examination unless Mr. Bell wants to make him his own witness for that purpose.

Q. What time did you know him there?

Mr. Allen: Let our objection go to each and every question.

Mr. Bell: Alright.

Q. When did you know him there?

A. Well when I knowed him there. The reason I can remember so well that is a long time you know.

Q. Yes?

A. Thirty some odd years ago. I was married in 1883.

Q. Yes, 1883?

A. Yes, sir, and I went to Montana and came back in about—in 1884. Then this Minnie Atkins was in town then. She was in town about a year or two years after I got married and she was a good looking girl. She was the belle of that kind of class down there and I used to go to Jim's house frequently. We were raised up together with him. Sometime when I was not working——

Mr. Stuart: You are making him your witness now I guess, Mr. Bell?

Mr. Bell: No, sir.

Mr. Stuart: What are you doing then? Of course it is improper cross-examination.

Mr. Bell: You said a while ago, go ahead. I just want to ask him when he knew Tommy Atkins. That is all I want to ask him.

Mr. Allen: I object to it. Of course my objection goes to all these questions.

Mr. Bell: We don't want to ask any further questions. We just want to know if he knew Tommy was there.

Mr. Allen: Without waiving any of our objections and still insisting upon the same I want to cross-examine the witness upon the testimony he has just given.

Cross Examination by Mr. Allen.

Q. Charlie you say you were married in '83? A. Yes, sir.
Q. Did you know this woman before then?
A. Know Minnie?
Q. Yes?
A. No, I didn't know her before I married, no.
Q. When did you get acquainted with her?
A. I got acquainted with her at Granny Letcher's. She introduced me to her.

Q. You knew her then for several years while she lived there? A. Several years.

Q. Yes. A. Not so many years now.

Q. Three or four didn't you? Lived around in that neighborhood for three or four years? A. Who?

Q. Minnie?

A. I don't know. She disappeared from there. I know that boy was there.

Q. That boy, he lived there at Granny's until he was fourteen or fifteen years old, didn't he?

A. I don't remember him that long.
Q. How long did you know him?
A. The last time I seen Tommy, to remember now thirty-

one or two years ago is a long time to remember. He was a boy about this high.

Q. Seven or eight years old?

A. No, he looked like he was four or five years old.

Q. You say I talked to you this morning?

A. Yes, you called me in there.

Q. I told you all the Government wanted in this case didn't I? A. You said the Government knows everything.

Q. And all I want you to do is to tell me the truth?

Mr. Stuart: We object to that as leading and suggestive and putting words in the mouth of the witness.

Q. Is that what I told you?

A. You said, we are the Government. We know.

Q. I told you that the Government knew? A. Yes, sir.

Q. About the testimony?

A. Yes, sir, you knowed how much we got.

Q. I asked how much it was, didn't I? A. Yes, sir.

Q. And you told me? A. Yes, sir.

Q. I asked you who paid you and you told me didn't you?

A. I told you. I didn't understand you at first. I said I got Two Dollars a day.

Q. You went on and told me about different sums of money?

A. Two Dollars and a half a day I said. And you said, how much did you get that day for testifying.

Q. For testifying? A. And I said Five Dollars.

Q. I asked you who paid you? A. Yes, sir.

Q. And you said Rube Smith? A. I said Rube Smith.

Q. Did you ever see Minnie drunk? A. Drunk?

Q. Yes? A. No, I never saw her drunk.

Q. Did you ever hear of her being in police court?

A. I have heard she was arrested. I heard the cops went down there to Aunt Granny's one night. I know I wasn't there the night they went there.

Q. In your testimony in 1914 this question was asked you: This other boy was named what? "Tommy, I think." Was that question asked and answer given?

A. No, sir, I don't remember nothing like that. I knowed Tommy.

Q. State whether or not this question was asked and this answer given it at that time: "And this boy, when did you last see him?" "A. He was two or three years old?"

A. I said he was a boy about this high, four or five years—

Q. Did you or did you not answer, give that answer to the question I have read?

A. I don't remember anything like that.

Q. Did you say it or did you not? A. What did you say?

Q. Did you say that or did you not?

A. Now what was the question? I want to see what that is?

Q. Read him the question please.

A. I don't remember saying that. I might have said that, I don't remember it. I don't remember it. I might have said it. He was a small boy you know.

Recross Examination by Mr. Stuart.

Q. You say your name is Charlie Anderson? A. Yes, sir.

Q. You testified in this case before? A. Yes, sir.

Q. Is there anything that has occurred that has terrified you in this case? A. What is that?

Mr. German: I object to that as calling for a conclusion and opinion of the witness.

Q. Are you afraid to tell the truth?

A. No, sir, I aint afraid to tell the truth.

Q. Who has done anything to you to make you afraid to tell the truth? A. Nobody.

Mr. German: I object to that as calling for a conclusion and opinion of the witness and presuming that he is afraid to tell the truth.

A. Nobody said nothing to make me afraid because I know——

Q. When Judge Allen got you in his place this morning—

A. I come up here at nine o'clock.

Q. Did he summon you? A. I got the summons here.

Q. That is what I want to know. You got a subpoena have you? A. Yes, sir.

Q. When did you first meet Judge Allen this morning I mean? A. I met him in here in this room here.

Q. This room or the other room? Which one?

A. This room here and he taken me out there.

Q. Did the Judge tell you he expected you to tell the truth in this case?

A. He said, Charley who hired you? Who summoned you over there?

Q. Who summoned you?

A. Yes, and I said I didn't [] I was going to be a witness when I went over there I was going to be a witness.

Q. Did he tell you, Charlie, that the Government of the United States expected you to tell the truth and if you didn't tell the truth they would get you?

A. He said he knowed who give me the money.

Q. Just tell me exactly what he said now.

A. He said he knowed who give me the money and, how much did he give you? Who was it give it to you?

Q. What else did he say?

A. And I told him Rube Smith give it to me. How much did he give you? And I didn't know—for being over there—and I didn't know what he meant. I thought he meant for working. I told him I got Two and a Half a day for working, trailing that girl. He said, No I don't mean that. How much did you get for that day.

Q. When were you subpoenaed? A. What?

Q. When were you subpoenaed to come here as a witness?

A. Friday.

Q. Friday? A. Yes, sir, afternoon.

Q. You came up to my room in the hotel, didn't you?

A. Yes, sir.

Q. And I asked you what you knew about this case?

A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. And you told me what you knew and you understood it? A. Yes, sir.

Q. Had you ever seen me before?

A. I had never seen you to know you. I didn't know who you was nor nothing. I got introduced to you up there, you and this other gentleman there.

Mr. Hanford: Pointing to Mr. Hanford.

A. Yes, Mr. Hanford.

Q. Mr. Hanford: Who else was there besides me?

A. Mr. Long and Attorney Jones.

Q. Who, Dennis Jones? A. Dennis Jones, yes, sir.

Q. He was there? A. Yes, sir.

Q. Did you tell what you knew about this case?

A. Yes, sir. I told. You asked me questions and I told what I knowed.

Q. Was any inducements held out to you of any kind there to tell what you knew about this case? A. No, sir.

Q. Was any promise made to you? A. No, sir.

Q. Did you tell it as you understood it? A. Yes, sir.

Re-Examination by Mr. Allen.

Q. You are a colored man, are you?

A. Yes, sir, that is what they call me.

Q. Let me see the subpoena that was served on you?

A. This is the one.

Q. On the back of this subpoena is written, "In Montana

1884 and in 1894," "In Oregon in 1882 and in 1882," and married in 1883, February 12"?

A. Yes, sir, I wrote that there myself after I got that.

Q. What did you write that for?

A. I got busy because I wanted to know exactly. I wanted to tell the truth is the reason I done it. I put it right on there so nobody could see it.

Q. Did anybody go over your former testimony with you?

A. No, sir. No, sir.

Q. Charlie they haven't used you as a witness in this case, have they? A. In this case?

Q. Yes?

A. I guess they used me over there at the Court House in October, 1914.

Q. They haven't used you since then, have they?

A. Well I say—— What this lady says. I was trailing her and they tried to arrest me.

Q. When was that?

A. Well that was right after that. Mr. White was in town and Mr. White——

Q. How long did you trail Sadie?

A. I trailed Sadie a good while. Every day she said I was trailing her. I thought I was shadowing her but she said I was trailing her. I used to cook for a cow man what said trailing——

Q. You are a detective by profession?

A. No, sir, that is the first detective work and she caught me too. She is sharp. I was keeping up with her. She walked so fast. She walked same as one of these Texas bronchos, going just this way, and she went around a corner and I thought she was going to get out of sight and she would run a few minutes and throwed her head back that way and she caught me. That is the way she caught me.

Q. Who hired you to do that detective work?

A. I don't know. Jones told me to keep track of Sadie to see where she went to.

Q. Who paid you? A. I don't know. Jones.

Q. Dennis Jones? A. Yes, sir.

Q. *Sallie*, have they promised to take you down to Oklahoma?

A. No, sir, aint promised to take me; I don't know whether I am going down there, or not.

Q. Did they ever talk to you about going to Oklahoma?

A. Said they expected I would have to go down there; didn't know whether I would or not. I don't know whether I have to go or not.

Q. You still think you will have to go down there as a witness in this case?

A. I didn't know whether I will or not. The way they grabbed me Friday, I don't know what they are liable to do to me.

Q. Well, a deputy marshal is the man you are talking about grabbing you Friday? A. Yes, sir.

Q. Just as he started to read a subpoena to you, a young man by the name of Brown, ran up, and told you not to let him serve that on you, until you talked to Mr. Bond—Lee Bond, an attorney in this case—didn't he?

A. He says, go and see Mr. Bond first; he says, before you go with him. He didn't know who he was.

Q. And you started to run away, didn't you?

A. I was going up to see Mr. Bond, and went up there, too.

Q. The marshal had to catch you and hold you to serve the subpoena on you, didn't he?

A. I went up stairs and Mr. Bond wasn't there, and I said I will go down to attorney Jones; I wanted somebody else to see what I said. I didn't know it was a subpoena at first—only what he said; he wanted to read it to me—wanted to sign it; he just wrote something on the bottom of it there—his name, I guess—and he give it to me. I didn't know he was a marshal until Mr. Bond told me.

Q. He went with you to Mr. Bond's office?

A. Yes, he was good enough.

Q. He was good enough to do that?

A. Yes, he was good enough to go there with me.

Q. Then, he had to hold you to serve you, didn't he?

A. Because I couldn't catch him up there, when he was holding me, I was going to go out some other way and he came up to save me, just in the nick of time.

Q. You are pointing to Mr. Bond? A. Yes, sir.

Q. Coming up where? To Mr. Bond's office?

A. He came up and he said he is a United States——

Q. Where did he come up?

A. He come up in his office.

Q. Whose office?

A. Mr. Bond's office, over the Times Building.

Q. Mr. Bond just came up there in time to get you to stop and let the marshal serve you, is that right?

A. Yes, he was grabbing hold of me and I thought it was a big gun he had in there, and he pushed him in there.

Q. He told you he wanted to serve a subpoena on you, hadn't he?

A. Yes, he said I want to go in here and write in the National hotel, and I said, wait a minute, and I seen Brown up there, and I went and asked young Brown——

Q. Who is Brown?

A. Well, he drives an express wagon here.

Q. What is he doing now?

A. He was on the street every day like I was; I was shadowing Sadie, and I don't know who he was shadowing.

Q. He was doing detective work, too, for Mr. Jones, wasn't he? A. I guess so.

Q. Is he a detective by profession, too?

A. Always see him driving that express wagon.

Q. You never saw him following the profession of detective? A. No.

Q. The first detective work that you ever knew of him doing? A. That is the first and the first I ever done.

Q. Brown tell you how much he was getting? A. No, sir.

Recross Examination by Mr. Stuart.

Q. Now, listen, you know Mr. Lee Bond, don't you?

A. Yes, sir; known him a number of years.

Q. You have known him all your life?

A. Knowed him all his life, I am older than him.

Q. Did you ever know him to do anything crooked in your life?

> Mr. German: I object to that as incompetent, irrelevant, and immaterial, and improper cross examination.

Q. Did you?

A. No, sir; I never knowed him to do anything wrong in my life.

Q. Did you ever know him to try to get anybody to tell a falsehood on the stand?

> Mr. German: The same objection.

A. No, sir.

Q. Do you mean to say, or leave the impression here, that Mr. Lee Bond has done anything that is not worthy of a gentleman, in this case?

> Mr. German: I object to that as calling for a conclusion and opinion of the witness, and as argument, and as improper cross examination, and as incompetent, irrelevant, and immaterial.

Q. Go ahead, did you? A. No, sir.

Q. Did Mr. Lee Bond, at any time, any where, ever ask you to tell anything but the truth in this case?

> The German: The same objection.

Q. Answer. A. He never did in his life.

Q. Did Mr. Lee Bond at any time try to get you to do anything that was not right, and proper?

Mr. Allen: The objection for the same reason.

A. He never did in his life.

Witness dismissed.

Mr. Hanford: I move to strike the testimony on direct examination of this witness, on the ground that it is incompetent, and immaterial, and entirely outside of the issues in this case, and relates wholly to a matter of a former suit in the State Court, and on the further ground that the Government appearing in this case, in purely a representative capacity in a civil suit with a private litigant; that the attorneys representing the Government here, are entirely without authority to inquire of the witness in any way relating to his testimony in that case, or as to the witness fees paid.

Mr. Hanford: Also the deposition of Theresa Swoboda, beginning at page 2576.

And thereupon, THERESA SWOBODA, being called on behalf of the defendants, sworn and under oath, testified as follows:

Direct Examination by Mr. Bond.

Q. State your name please? A. Theresa Swoboda.

Q. What position do you now hold?

A. Why assistant bookkeeper and stenographer, and I have charge of the filing of the papers each day.

Q. For what institution?

A. For the Leavenworth Times.

Q. In this City? A. Leavenworth, Kansas, yes, sir.

Q. I will ask you what is the record that is here before you? A. It is the first half of 1886, the papers bound.

Q. Directing your attention to the paper that is found in this volume, headed The Leavenworth Times, Leavenworth, Kansas, Wednesday Morning, May 12th, 1886. I will ask you if that is the copy of that issue?

A. Well, all the copies are bound into the files. Now, that has been on our shelves for five years, you know, all I can swear, that is a paper from our papers, that is the way our papers, that is the way our papers are bound at the end of six months. Each day I put certain number of papers away and then I take one paper and send it to the bindery and it is made into this book.

Q. And that is one of the papers found in one of these bound volumes of which you have testified?

A. Yes, sir, a copy of The Times of that date.

By Mr. Bond: We desire to offer in evidence the article found on—the first three columns on the front page under the heading, "Death and Disaster, and Terrible Tornado Visits Kansas City, Leaving Death and Destruction in its Wake," with numerous other headings.

By Mr. German: We object to the article referred to, on the ground that it is incompetent, irrelevant, and immaterial, and is hearsay.

Q. Directing your attention to another sheet in this same book, headed The Leavenworth Times, Wednesday Morning, May 12th, 1886, is that a copy of the same issue of the paper?

A. Yes, sir.

By Mr. Bond: We desire to offer in evidence the article found on that page, being in the third column and column headed, "The Storm King Pays Leavenworth a Very Destructive Visit, Great Damage by Wind and Rain; The Morris School Building Unroofed. One Man Injured, Three Horses Killed. A General Review of the Storm's Work."

Mr. German: I make the same objection to that. I object to both of them upon the further ground that the paper referred to has not been properly identified.

Mr. Blakeney: Are you offering those four columns now, fine printed matter, with the expectation that they should be copied into the records, Mr. Bond?

Mr. Bond: No, just the headings as I have read them.

Mr. German: Then we object to the introduction of the headings for the same reason that we objected to the article.

Mr. Blakeney: You are just making an offer of the issue of that paper of that date giving an account in four column article of a storm that passed over this city and Kansas City?

Mr. Bond: Yes, sir. Of that date.

Q. Directing your attention to another sheet of this bound volume headed "The Leavenworth Times, Leavenworth, Kansas, Thursday Morning, May 13th, 1886," and article in the first and subsequent column headed "After the storm The Work of Clearing away the Debris Continued. The Total Number Killed Thirty. Tornado Passes On Through Illinois and Indiana and Causes Some Loss of Life and Great Damage to Crops and Stock"—

Mr. German: We make the same objections to the offer.

Q. I will ask you if that sheet referred to containing the article referred to is part of the Leavenworth Times of that date as shown by this record? A. Yes, sir.

Mr. German: I object to the question on the ground that it is incompetent, irrelevant and immaterial and that the witness is not qualified and that the paper speaks for itself and that it is incompetent, irrelevant and immaterial.

Cross Examination by Mr. Blakeney.

Q. I wish you would take the files that you produced into court at the page bearing date of May 12th, 1886, and read the headlines to the first article appearing in that paper.

Mr. German: I object to the question on the ground that it is incompetent, irrelevant, immaterial and hearsay.

A. "Death and Disaster, A Terrible Tornado Visits Kansas City, Leaving Death and Destruction in its Track. The Lathrop School gives away and Scores of Children are Buried in its Ruins. A Dozen or More Children are Taken out Dead and Many More are Fatally Injured. The Courthouse Topples over with a Terrible Crash and Several Inmates Killed. Smith and Murphy Spike Mills are Demolished and Senior proprietor Killed. Fire and—also Discharged and Several of the Operators Hurled to Death. Span of the Railroad Bridge Swept away by the River's Dreadful Flood. The Latest Obtainable Details of the Terrible Casualty and Revised List of the Killed."

Q. Now under that headline there appears to be how many columns devoted to a discussion of that subject?

Mr. German: The same objection.

A. Four and about a quarter I guess.

Q. Four and about two sticks?

A. Yes, I guess it is two sticks. I don't know about that part of it.

Q. On what page of the paper does that appear?

A. We never number the pages.

Q. What you call the first page?

A. Oh, the first page of the paper, yes.

Q. You identified an article, did you not, in that same paper? A. The Storm King?

Q. What page is that article on? A. Page four.

Q. That was the last page of the paper then, was it?

A. Yes, the last page.

Q. I wish you would read the headlines of that article.

Mr. German: The same objection.

A. The Storm King Pays Leavenworth a very Destructive Visit. Great Damage by Wind and Rain. The Morris School and Market Building unroofed. One Man Injured, Three Horses Killed. A General Review of the Storm's Work.

Q. Have you examined the paper now of May 13th, 1886, to see if there is any reference to that storm? A. Yes, sir.

Q. Where do you find any discussion of it?

A. The first column, first page.

Q. I wish you would read the headlines of that.

Mr. German: The same objection.

A. "After the Storm the Work of Clearing away the Debris Continued. The Total Number Killed Thirty. The Tornado passes on through Illinois and Indiana and causes some loss of Life and Great Damage to Crops and Stock."

Q. I call your attention to the body of that article and I will ask you if you find the sub-head in the article say: "The killed and injured."? A. Yes, sir.

Mr. German: I object to that for the same reason.

A. I do.

Q. Following that sub-head does it give what purports to be the names of the persons maimed and injured?

Mr. German: The same objection.

A. It gives the names of those killed.

Q. I wish you would just count under the different subheads the number of those given as being killed and those also being injured, giving it separately the number whose names are given as being killed first?

Mr. German: The same objection.

Q. How many names are given as persons killed?

A. Twenty-nine.

Q. And how many of persons being injured?

Mr. Allen: The same objection.

A: Forty-seven.

Cross Examination by Mr. German.

Q. Where were those killed and injured reported to be killed and injured? A. Killed at Lathrop.

Q. Where? A. Lathrop, Missouri.

Q. Lathrop School in Kansas City, Missouri?

A. I suppose that is it, yes.

Q. And the injured were at the same place weren't they? Or at some other different point not at Leavenworth, is what I am getting at? A. No.

Q. Not at Leavenworth? A. No.

Q. How old were you in May, '86?

A. Let me see. I guess I was about two years old.

Q. You don't know anything about——

A. I know this is the file of the Leavenworth Times which has been on our shelves the last five years.

Q. And that is all you know?

A. I know that is the files and used as such.

Cross Examination by Mr. Allen.

Q. I show you a paper dated May 1st, 1885, and ask you if it is an account in that paper of a storm that occurred on Tuesday night before Friday, May 1st?

A. During the storm Thursday night Several Teams Ran Away causing considerable damage to the vehicles to which they were attached though no person was seriously injured so far as could be learned.

Q. Now in the issue of the paper of May 21, 1885.

Mr. Blakeney: Let the record show now that this gentleman——

Mr. Allen: Let the record show that Mr. Paul Miles is assisting me to find the article I am trying to call the witness' attention to.

Mr. Blakeney: The same gentleman that took the depositions in the Yokum case.

Q. I will ask you to examine that paper and state whether or not there is an account of the departure of the Twentieth United States Infantry? A. Yes, sir, there is.

Q. Read the item, please?

Mr. Blakeney: Now I want to make a record. I am entirely willing to have any article from these papers read but the counsel has objected to the other and if they are sustained of course we insist upon the same objection to the article offered by counsel.

A. Departure of the Twentieth United States Infantry. The Twentieth United States Infantry left Fort Leavenworth Yesterday Morning under command of Colonel Bates for Fort Assinniborne. Transportation of the Troops required Three Trains on the Chicago Rock Island and Pacific Road under command of Mr. H. F. Royce, Assistant General Superintendent for the Road. Dr. Ben Calvert of this City has charge of one of the trains as far as Minneapolis, Minnesota. Troops will go by rail as far as—hence to Coalbanks by boat and overland to Assinniborne.

Mr. Blakeney: I would like to let the record show that Judge Cruce asked me to introduce the same objection to take care of his interests as he is temporarily out of the room and I would like to have the objection considered on his behalf that I interpose.

Mr. German: Oh, yes.

Cross Examination by Mr. Blakeney.

Q. Calling your attention to the articles that appeared on May 1st, 1885, that you read. That item appears in the column called "City News"? A. Yes, sir.

Q. Among a large number of local items. No heading or subheads indicating any storm or any considerable size of that?

Mr. Allen: We object——

Q. In the paper of that date? A. No.

Mr. Allen: We object because the question calls for a conclusion and opinion of the witness and is hearsay.

Q. You do know do you that storms of that importance occur practically every spring in Leavenworth don't you, since you have been old enough to remember?

Mr. German: The same objection.

A. Yes, sir.

Q. I will ask you now if you recall that this storm that we first referred to in '86, while you say you were not old enough to remember, you have heard of that storm all your life, haven't you? Since you have been old enough to know anything about the town?

Mr. German: The same objection.

A. I don't believe I have. Not until this affair came up. This Indian affair. I might have but I don't remember nothing about it.

Witness dismissed.

And thereupon, THOMAS HIGGINS, a witness produced on behalf of the defendant Minnie Atkins, et al., being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Hanford.

Q. State your name? A. Thomas Higgins.

Q. How old are you Mr. Higgins? A. 36 years old.

Q. Where do you reside?

A. Kansas City, Missouri at the present time.

Q. What is your occupation?

A. My occupation is assistant shipping clerk for Peek Brothers Manufacturing Company at present.

Q. How long have you lived in Kansas City?

A. I have lived here for going on thirteen years; since 1905.

Q. You formerly lived in Leavenworth? A. Yes, sir.

Q. Born and raised there, weren't you?

A. Born and raised there.

Q. What year were you born? A. 1881.

Q. Who did you first work for in Leavenworth?

A. I first worked for my father for three years, from the time I was 12 years old, about thirteen.

Q. You learned your trade with your father? A. Yes, sir.

Q. What business was he in?

A. He was in the cooper business.

Q. And you worked for him about three years?

A. Yes, sir.

Q. Then what did you do?

A. I went down and went to work for Mr. McNally—transfer man.

Q. And how long did you work for Mr. McNally?

A. Well, sir, I worked for Mr. McNally off and on up until about 1900.

Q. Well, about when was it when you commenced work for him? A. Well, about 1896 or '97.

Q. What did you do working for Mr. McNally—drive team?

A. Yes, sir, drove team—a one horse quick delivery; first started to work with a one horse quick delivery—one horse wagon.

Q. You drove a one horse wagon until you got large enough to handle a team? A. Yes, sir.

Q. Got experience enough and they put you on to a team, is that right? A. Yes, sir.

Q. You are married? A. Yes, sir.

Q. Mr. Higgins, did you ever know Tommy Atkins?

A. Yes, sir.

Q. Where did you know him?

A. I know him to be around through the alleys and playing around on Seneca street and Third street.

Q. That is in Leavenworth? A. Leavenworth, Kansas.

Q. How old a boy was he when you knew him?

A. Well, sir, I judge him to be about 11 or 12 years old.

Q. What was he called besides Tommy Atkins? Did you hear him called Tommy Atkins?

A. I did hear him called Tommy Atkins.

Q. You knew that was his name? A. Yes, sir.

Q. And what else did he go by?

A. Why, the boys in the alley there used to call him Texas Tommy, or something like that; playing with him around and up and down alleys.

Q. Did you say Texas Tommy? A. Yes, sir.

Q. Did you ever hear him called Indian Tommy?

Mr. Linebaugh: Objected to as leading.

The Court: Sustained; let the witness state.

Q. I don't know whether I ever heard him called Indian Tommy or not.

Q. What kind of looking boy was he?

A. A small—stout built—wasn't so stout built either; high cheek bones and kind of olive color.

Q. What kind of hair did he have?

A. He had straight hair; about straight hair.

Q. Black? A. Black hair, yes, sir.

Q. How old a boy was he at that time?

A. When I first knew him?

Q. Yes?

A. Why, he was a boy I judge between 11 and 12 years old—when I first knew him.

Q. When you first worked for McNally?

A. Yes, sir, when I was driving the one horse wagon.

Q. Was he ever around you—did you ever have an opportunity to see him?

A. Yes, sir, I used to see him in the alleys; he would be around the wagon—the back end of the wagon like the rest of the boys would.

Q. Did he ride any?

A. He rode on the back end; he was never up on the seat.

Q. How long a period did you see him around there, Higgins?

A. Well, I don't know. Never remembered seeing him after 1900.

Q. That is the nearest you can come to fixing the time that you last saw him? A. Yes, sir.

Q. Higgins, do you know——

A. He lived up on Seneca Street with an old lady they called Granny Letcher.

Q. Where was that?

A. Next to Van Tyle's livery Stable in a stone building.

Q. Name some of the other places that you have seen him, Higgins?

A. Why, I have seen him around in the alleys and on Second Street and on Shawnee Street. And see him there in the alley between Delaware and Cherokee and Choctaw, around through the alleys, played with the rest of the boys. That was my main driving and unloading, in the alleys.

Q. Now, what would you say as to the boy's race or nationality? A. Well, he looked to me like an Indian.

Q. He looked to you like he was an Indian, do you know what he was?

A. I never knowed exactly, no, sir, no more than I did any of the rest of the boys running around playing.

Mr. Hanford: That is all.

Cross Examination by Mr. Linebaugh.

Q. You knew him in 1896? A. Between 1896 and 1897.

Q. How do you remember that? A. Sir?

Q. How do you remember that?

A. I remember the time that I quit school and the time that I worked three years with my father.

Q. When did you quit school?

A. When I was twelve years old.

Q. And you went to work for your father? A. Yes, sir.

Q. How long did you work for him? A. Three years.

Q. And how do your remember that it was in 1896 or 1897 that you knew this boy?

A. Well, that was when I first started driving a one horse quick delivery and driving around through the alleys.

Q. What character of delivery did you make?

A. Well, transfer from the depot, boxes, stoves, vegetables, products of all kinds.

Q. Ordinary drayman? A. Yes, sir, ordinary drayman.

Q. You are thirty six years old now? A. Yes, sir.

Q. How much do you weigh?

A. I should judge about a hundred and forty pounds.

Q. How tall are you? A. Five foot nine.

Q. What approximately was your weight when you were fifteen years old? A. I don't remember.

Q. Do you remember about how tall you were at that time? A. I don't remember.

Q. You are under the medium size now aren't you?

A. I should judge you would call a medium sized man a hundred and sixty pounds.

Q. You are under that now? A. Yes, sir.

Q. Anybody on the dray with you? A. No, sir.

Q. How do you remember this particular boy was there? Anything particularly peculiar about him to impress him upon your memory?

A. I remember him the same as the rest of the names of the boys running around playing.

Q. There was nothing peculiar about this boy?

A. Not any more than the rest.

Q. What are the other boys?

A. George Warren, Bully Warren, George Foster, Swipe Smith, Alva Adams.

Q. What kind of looking boy was Swipe Smith?

A. He was a white boy.

Q. They called him Swipe because of his peculiar face?

A. They had nicknames for all of them.

Q. What was the color of his hair?

A. I don't remember now.

Q. How old was he?

A. I should judge he was about the age of the other boys.

Q. George Foster, what color was George's hair?

A. I don't remember.

Q. What complexion did he have?

A. He was a white boy.

Q. About how old was George?

A. I don't remember now, he was about the same as the rest of the boys.

Q. All of the boys about the same age?

A. All about the same age, yes, sir.

Q. All white boys?

A. All except this Ranklin Clay, he was a little colored boy.

Q. He was a negro boy? A. Yes, sir.

Q. All of the other boys except this one were white boys?

A. There was another named Tommy York up on Third Street by the County Jail.

Q. He played with them too, did he?

A. I would see him around with the rest of the boys once in a while, yes, sir.

Q. Where did this boy Tommy live?

A. On Seneca Street.

Q. In the stone house? A. Yes, sir.

Q. And Granny Letcher lived there? A. Granny Letcher.

Q. She lived there in 1896 and 1897?

A. Yes, sir. Somewhere along there, while I was driving, I think it was about 1897.

Q. In that stone house. Well, Higgins, who did you hear call this boy Tommy Atkins? A. Well, I heard Alva Adams.

Q. What kind of a looking boy was Alva?

A. Kind of slim and sandy hair.

Q. You remember the color of his hair? A. Yes, sir.

Q. You know him now, do you? A. Yes, sir.

Q. All right, who else do you recall?

A. Well, I heard Ranklin Clay and Wooley Warren.

Q. Ranklin Clay? A. Colored boy.

Q. What color was his hair? A. Black.

Q. Black Kinky hair? A. Yes, sir.

Q. You know that because that is a peculiarity to that race. Now who else called him Tommy Atkins?

A. Well, I don't remember, I heard all the boys calling him that as I went through the alleys.

Q. You say Alva Adams, what was the color of his hair?

A. Kind of Sandy.

Q. Oh, yes, he is the man you know now? A. Yes, sir.

Q. He is your brother-in-law? A. Yes, sir.

Q. Now, these boys would hang on the back of your wagon?

A. Sometimes hang on the back of the wagon and be around the wagon while I was unloading.

Q. Now, that was covering a period of four years was it, three or four years? A. Yes, sir.

Q. How often did you see him?

A. I don't remember how often.

Q. Who was calling him Texas Tommy?

A. Well, I heard all of the boys calling him. I couldn't say just particular which ones; they were playing there.

Q. That was his nickname?

A. That was what they were calling him. I didn't take any particular pains to remember, I was busy working.

Q. Well, you remember it now?

A. Well, yes, I remember all of the boys there, I remember them very well.

Q. Now, you last saw him in 1900?

A. The last I remember.

Q. How do you remember it was 1900?

A. Because I quit driving around through the alleys and went to work for a grocery company.

Q. You never saw him after that?

A. Not that I remember.

Q. Did you ever see any of these boys after that except Alva Adams? A. I saw George Foster and Swipe Smith.

Q. When was the last time you saw George?

A. I haven't seen George Foster I don't remember just how many years ago; he was staying on Delaware Street with his foster mother, Mrs. Foster,

Q. When was the last time you saw Swipe Smith?

A. I don't remember how long ago it has been. I left there in 1905.

Q. You can't tell us the last time you saw him?

A. No, sir.

Q. This George Foster, did he have any other name?

A. George Foster?

Q. Yes? A. No, not that I know of.

Q. Did you know any other Foster there?

A. He had a sister there.

Q. Did you know a boy named Kitch Foster?

A. I knew a man by the name of Kitch Foster.

Q. This is not the same person that you refer to?

A. No, sir.

Q. Now, you live in Kansas City now? A. Yes, sir.

Q. What was the peculiarity with reference to this Texas Tommy boy, or Tommy Atkins, that impresses itself upon your mind, his facial appearance, anything about his facial appearance that was different from the other boys?

A. No, no more than I just remember his being around there.

Q. Was there anything about his facial appearance which appeared different from the other boys? A. Yes, sir.

Q. What was it?

A. He appeared to be kind of an Indian and was an olive drab and had straight hair, kind of olive color.

Q. Olive color? Ripe or green olive?

A. Well, a green olive.

Q. Was the color of a ripe or green olive?

A. The olive I am speaking of is kind of brown.

Q. Kind of a brownish color? A. Yes, sir.

Q. And appeared to be an Indian? A. Yes, sir.

Q. What made you think he was an Indian?

A. He had straight hair.

Q. You thought he was an Indian because of the fact that his hair was straight? A. Yes, sir.

Q. Anything else about him that made you think he was an Indian?

A. Well, his cheek bones were a little higher than the ordinary colored boy.

Q. You noticed his cheek bones particularly, did you?

A. Yes, sir.

Q. Which one of the boys that played around there had the lowest cheek bones? A. Had the lowest cheek bones?

Q. Yes? A. I should judge the white boys did.

Q. Well, what do you remember about it; which one of those white boys cheek bones were the lowest?

A. I don't remember.

Q. Do you remember which one of the white boys cheek bones were the highest? A. I don't remember.

Q. Do you remember whether this Texas Tommy had any scar on his face? A. I do not.

Q. Do you remember whether any of the other boys had any scars on their faces? A. I do not.

Q. If they had a scar across their cheek, you—either one of those boys, you don't now remember it? A. No, sir.

Q. You can't say whether they did or did not?

A. No, sir.

Q. Now, if any of those boys had a scar, Mr. Higgins, starting here where the hair is parted and coming down over the eye, which one of the boys, do you remember that?

A. No, sir.

Q. If one of those boys had such a scar, you don't remember it now? A. No, sir.

Q. You can't tell the Court whether they did have such a scar entirely across their forehead or not? A. No, sir.

Q. Now, about where in Leavenworth did you live at that time? A. At which time?

Q. The time that you say that you saw this Texas Tommy, or Tommy Atkins?

A. I was living at home with my mother and father.

Q. Well, where in the city of Leavenworth?

A. Living up around what we call Hennessey farm; wasn't no street through there at the time.

Q. How far is that place from Third and Seneca street?

A. Where I was living—it was about a mile or something like that.

Q. And you would drive down there in your wagon would you? A. Drive down?

Q. Yes. You would make deliveries in that part of town?

A. I came there to work from my home, yes, sir.

Q. Would you make deliveries in other parts of town?

A. Yes, sir, make deliveries all over the town.

A. I see. Now, tell us some part of town that you made deliveries.

A. I delivered all over North Leavenworth and south Leavenworth.

Q. Wait a minute; about North Leavenworth—what boys lived up in that part of town—boys about 10, or 11, or 12 years old?

A. Tommy Atkins was living up on Third and Seneca.

Q. That is in the north part of town? A. Yes, sir.

Q. Would you make deliveries in—what other part of town? A. The south part.

Q. What boys lived in the south part of town?

A. Tommy York lived in the south part of town.

Q. I thought you said a while ago that Tommy Atkins and Tommy York lived together and they rode in your wagon in the same part of town? A. No, sir.

Q. That is not right? A. No, sir.

Q. Tommy Atkins and Tommy York lived in different parts of town? A. Yes, sir.

Q. Who else lived in the south part of town besides Tommy York? A. I don't know who lived down in there.

Q. There were boys who lived down in there, weren't there? A. There were boys that lived down there, yes.

Q. What other part of town did you make deliveries in?

A. The west part of town.

Q. What boys was in the part of town about 10 or 12 years old?

A. I don't remember the boys around there; that was the residence district—never was no business district.

Q. Do you know some of them?

A. I remember all the boys around there but I——

Q. Tell us the names of some of them?

A. Well, there was some Newhouse boys lived down on Cherokee street.

Q. What color hair did they have?

A. I don't remember what color of hair they had—they were white, white boys.

Q. Hair wasn't white was it? A. No, sir.

Q. What color was it?

A. It wasn't white—it wasn't brown.

Q. How old was those boys?

A. I don't remember what color their hair was.

Q. How old was that boy at that time—'96?

A. Well, they were boys about 12, 13, or 14 years—13; there were two or three of them—two of them I think.

Q. You work now in Kansas City? A. Yes, sir.

Q. Who did you first tell what you knew about this Texas Tommy or Tommy Atkins?

A. Why, Pomp Graham came to me and asked me about it.

Q. Pomp Graham? A. Yes, sir.

Q. When did he come to you?

A. He came to me last November.

Q. What did he say to you?

A. He asked me did I remember Tommy Atkins of Leavenworth.

Q. Go ahead; just tell all the conversation.

A. And I told him I did; and then he asked me what about him and I told him just exactly as I am telling you.

Q. Go ahead and tell all the conversation.

A. Well, he asked me did I know Tommy Atkins and I told him I did; and he asked me would I come down to Muskogee to court and testify down there if I was called as a witness, and I told him I would; and he says I will pay your fare down there if you will go down, and I said alright sir, I will go down any time that you need me.

Q. Go ahead? A. That is all.

Q. Did he pay your fare down here? A. Yes, sir.

Q. When did you leave?

A. I left there—he never called me until last Saturday.

Q. And he bought your transportation, did he?

A. Yes, sir.

Q. And came down here with you? A. Yes, sir.

Q. You were with Pat De Laney and who else came along?

A. Pat DeLaney and several more of them—I don't recall their names; Hump Larry and Jim Foley, and Bert Farry—well 10 or 12 of them.

Q. Well, which one of those boys in '96 was out there in that north part of town where Texas Tommy played—which one of those boys lost the sight of his right eye?

A. I don't remember.

Q. You don't know whether either one of them did or not? A. No, sir.

Q. You don't remember that now? A. No, sir.

Q. Is your wife here with you? A. Yes, sir.

Q. Is she a witness? A. Sir?

Q. Is she a witness in this case? A. I don't know.

Q. Who paid her transportation?

A. Why, Pomp Graham.

Q. In addition to your transportation what compensation are you receiving? A. Receiving my expenses.

Q. Just your expenses. You are not being paid anything per day? A. I don't know; I haven't received nothing.

Q. Haven't you asked about that? A. Sir?

Q. Haven't you inquired about that?

A. Pomp Graham said he would pay my expenses; I haven't received it.

Q. Aren't you getting something for your work, that is in lieu of what you were earning at home?

A. I am promised that, yes, sir; I don't know.

Q. Who promised you? A. Yes, sir, I am promised that.

Q. Who promised you? A. Pomp Graham.

Q. How much? A. My wages..

Q. How much is that?

A. Three dollars a day I am receiving.

Q. And Pomp Graham is to pay you? A. Yes, sir.

Q. Now, you say Willie Warren played with this Texas Tommy? A. Yes, sir.

Q. What sort of looking boy was Willie Warren?

A. He was sort of a slim little boy.

Q. What was the color of his hair?

A. I think the color of his hair was a little light.

Q. You remember that, do you? A. Yes.

Q. And he played around with Texas Tommy or Tommy Atkins?

A. In '96 and '97 run around the alleys together.

Q. You remember anything else that happened in'98?

A. No, sir.

Q. Anything at all that happened in the year '98? Anything that happened of public importance or private interest to you? A. I don't remember.

Q. You don't? You at present haven't any recollection of anything that happened in the year 1898 of public interest or of private interest to you? A. I don't remember.

Cross Examination by Mr. Cobb.

Q. Mr. Higgins, this party you called Swipe Smith was the son of Mary Smith, wasn't he?

A. He lived on Shawnee street—Mary Smith, I think that was the name of the mother, I am not sure.

Q. She was still living in Leavenworth the last you knew of her, wasn't she?

A. No, sir, not that I remember; I don't know where she went.

Q. You don't remember whether she was still living there or not? A. No, sir.

Q. This boy you called Swipe Smith was playing with Tommy Atkins around in the same neighborhood there?

A. Around in the alleys with the rest of the boys.

Q. And your recollection is that he was the son of Mary Smith? A. My recollection is, yes, sir.

Recross Examination by Mr. Linebaugh.

Q. Mary Smith, she was part Indian, wasn't she?

A. I don't remember what her nationality was.

Q. You have heard of Indian Mary, haven't you?

A. Indian Mary, I don't remember what her nationality was.

Q. But you have heard of Indian Mary up there?

A. Yes, sir.

By the Court.

Q. Well, who was Indian Mary?

A. I don't remember, I don't know anything—who she was—I don't know Mrs. Smith personally at all.

Q. You never saw Indian Mary? A. No, sir.

Witness dismissed.

And thereupon, ALVA ADAMS, a witness produced on behalf of the defendants Minnie Atkins, et al., being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Alva Adams.

Q. Where do you live now?

A. I live at 2008 Belview, Kansas City, Missouri.

Q. Where do you work?

A. Peek Brothers Soap Manufacturing Company.

Q. How long have you been working for them?

A. Seven months; between six and seven months.

Q. [] were you born? A. Leavenworth, Kansas.

Q. When? A. The 17th day of March, 1886.

Q. You are 31 years old? A. 31.

Q. When a child, do you remember where Granny Letcher's place was? A. Yes, sir.

Q. Where was it?

A. It was on Seneca street between Second and Third on the south side of the street, across from Mr. Crilley's livery stable.

Q. And what kind of house if you remember?

A. Frame house.

Q. Was any house next to it? A. Yes, sir.

Q. What kind of house was that? A. Stone house.

Q. Now, will you tell the Court whether when you were a child you played in the neighborhood?

A. Yes, sir I played all around up through there; by Abernathy's Furniture Factory, by Mr. Crilley's livery stable, Van Tuyl's livery stable, and all around in the lumber yards through there; down on Delaware street, down on Third and Cherokee.

Q. Did you know a boy there by the name of Tommy Owens? A. Yes, sir.

Q. Where did Tommy Owens live?

A. Tommy Owens lived on Delaware between Second and Third.

Q. Did you know a boy by the name of Tommy York?

A. Yes, sir.

Q. Where did Tommy York live?

A. Tommy York lived down the hill by the county jail; right across Third street bridge.

Q. Did you know a boy there by the name of Tommy Atkins? A. Yes, sir.

Q. Now, did you ever play with these boys there around Granny Letcher's at any time?

A. Yes, sir, never played with them around Granny Letcher's; we would always play around through the alleys and around through the lumber yards there.

Q. About how long did you play with this boy that you call Tommy Atkins? Do you remember when was the last time you saw him as near as you can remember.

A. As near as I can remember—the last time I saw him, as near as I can remember was between 1897 and 1898.

Q. Now, at that time did you get into any trouble in that neighborhood? A. Yes, sir.

Q. What was it? A. I was arrested for stealing bolts.

Q. Some what? A. Brass bolts.

Q. Brass bolts; where from?

A. From the water works building.

Q. Were you taken up and tried for it? A. Yes, sir.

Q. And what were you given?

A. 60 days in the county jail.

Q. County jail; have you ever been in any trouble since that time? A. Only just a fight is all.

Q. Only a fight? Do you remember any particular game that you used to play with these boys there?

A. Yes, sir, we used to play marbles and played war.

Q. Played war? A. Yes, sir.

Q. I will ask you whether Tommy Atkins played any part in that game? A. Yes, sir, we would choose sides——

Q. Talk a little louder.

A. We would choose sides in the war, and he would be captain of one side and I or somebody else would be captain of the other.

Q. What would he do—what did you call him?

A. Called him Indian Tommy.

Q. I know, but what did he do? In that game?

A. Called him our trailer; he trailed.

Q. And why did you call him your trailer?

A. Why, because he was an Indian I suppose; we took him to be.

Cross Examination by Mr. Allen.

Q. You say you were tried for stealing and convicted in 1908? A. I wouldn't say in '98—between 1897 and '98.

Q. Who arested you?

A. Jack Glenn and Mike McDonald.

Q. Then, Pat Delaney didn't have anything to do with arresting you then? A. Not with me, no.

Q. Sure of that? A. Yes, sir.

Q. If he said he did, he is mistaken about it?

Mr. Stuart: Your Honor, there is no such proof as that in this case.

The Court: I don't remember—it would follow that if this man is telling the truth about that the other man is mistaken, I think.

Mr. Stuart: Your Honor, let me make this suggestion, if you please. The proof has reference to the arrest of another boy.

Mr. Allen: I will——

The Court: Just a moment; I am hearing argument of counsel.

Mr. Stuart: The proof yesterday, your Honor, with reference to the arrest was as to another boy; that is another case.

The Court: Judge Allen, do you remember the testimony of De Laney that he arrested this boy?

Mr. Allen: He said that he arrested Thomas Atkins with some other boy; arrested him about the same time this boy said that he was arrested.

The Court: This is Alva Adams, I don't remember that the record said that DeLaney arrested Alva Adams.

Mr. Allen: I didn't say so.

Mr. Cruce: Didn't that witness say that he arrested Tommy Atkins but didn't arrest the other two; there was a complaint against three but he didn't arrest the other two.

The Court: Well, the record will show. It follows if DeLaney said that he did and this man knows that he did not, it shows that DeLaney is mistaken.

Q. DeLaney ever arrest you? A. No, sir.

Q. Did you ever talk to him or he to you about any arrest there? A. No, sir.

Q. Did you hear him say anything about arresting Tommy Atkins? A. No, sir.

Q. You haven't talked about that since you have been in town? A. No, sir.

Q. How long have you been here?

A. I have been here, come here Sunday morning.

Q. Came here as a witness in this case? A. Yes, sir.

Q. Who have you talked to since you came to town?

A. Nobody but my lawyers.

Q. But your lawyers? A. Yes, sir.

Q. Who are they?

A. Mr. Bond; I can't think of the other gentleman's name.

Q. Hanford? A. Yes, sir, the gentleman right there.

Q. Dennis Jones, have you talked to Dennis Jones?

A. I don't know him.

Q. You don't know Dennis Jones at all?

A. Dennis Jones?

Q. Yes? A. I know a colored man by that name.

Q. Living at Leavenworth? A. Yes, sir.

Q. Do you know Rube Smith? A. Rube Smith? Yes.

Q. Yes, where does he live?

A. I don't know where he lives.

Q. Have you seen him here? A. I think so.

Q. Do you know Pomp Graham? A. Yes, sir.

Q. Did you come here with him? A. Yes, sir.

Q. Where were you raised? A. Raised?

Q. Yes? A. At Leavenworth.

Q. What year were you born?

A. 17th day of March, 1886.

Q. When did you commence playing with Tommy Atkins?

A. Why, I don't know just how old I was, but I was between ten—I was a little boy past ten I guess.

Q. Where did you live in Leavenworth?

A. I lived over the Water Works Building at Main and Delaware across from the Union Station.

Q. How far is that from Seneca? A. Four blocks.

Q. You say Granny Letcher lived in the frame building next to the stone building? A. Yes, sir.

Q. Across the street from Crilley's Barn? A. Yes, sir.

Q. And there is where you saw Tommy live? A. Yes, sir.

Q. All of the time you played with him?

A. Well, all the time I played with him, that I don't know, because I was never inside of the house and we very seldom went around there.

Q. You would go in his house and he would go in yours?
A. No, sir, down in the alley.
Q. But you said on direct examination, didn't you, that you knew where Granny lived? A. Yes, sir.
Q. Did you say that this boy lived there? A. Yes, sir.
Q. You knew he lived there? A. Yes, sir.
Q. He lived there all the time that you knew him?
A. I suppose that is where he lived.
Q. Did you know any of the other boys that lived there?
A. Yes, sir.
Q. Who?
A. I knew Tommy Owens, Tommy York, George Warren, Tommy Warren, George Foster, Ernie Ender, Swipe Smith.
Q. Is this the Minnie Enders in the Court Room?
A. Ernie.
Q. He played with Tommy too?
A. I don't know that he did any more than the rest of us did.
Q. All of you boys played there every day?
A. Not every day.
Q. During the ball season you did?
A. Well sometimes we would and sometimes we wouldn't. The boys was up to devilment.
Q. How long did you continue to live in Leavenworth?
A. Well, it was my home up until 1912, but part of the time I wasn't there.
Q. Did you see Tommy in 1912? A. No, sir.
Q. Where did he go to? A. I don't know.
Q. He was a playmate of yours, you played together a great deal, didn't you? A. Yes, sir.
Q. You knew him for years and years, didn't you?
A. Not for years and years, no, sir.
Q. You never knew him until you were ten or twelve ears old? A. Ten or twelve.
Q. You were ten or twelve when you first knew him?
A. Yes, sir.
Q. Were you ten or twelve?
A. Well, kid like, I don't know, I wasn't giving my age a hought.
Q. Well, you were a great big boy?
A. Not so very big, I wasn't very large.
Q. You didn't play in Leavenworth before you were ten ears old, did you? A. Yes, sir.
Q. Where did you play then? A. Different places.
Q. Didn't play with Tommy though? A. No, sir.
Q. Tommy associated altogether with white boys, didn't
?

A. Almost always, there was two or three colored boys in our gang.

Q. Granny Letcher ran a house of ill fame there, didn't she? A. I couldn't say that she did.

Q. Your people never objected to your going there and playing with Tommy? A. My people never did know it.

Q. Never did object to your playing with Tommy?

A. They never did know it.

Q. Tommy was a white boy, wasn't he?

A. He was a kind of brown.

Q. Had some Indian blood in him?

A. That is what we all supposed.

Q. You had been associated all your life up to that time with Indians, hadn't you? A. No.

Q. You knew an Indian when you saw one? A. Yes, sir.

Q. Where had you seen other Indians?

A. When my father took me on the train with him.

Q. Did you know Indian Mollie at Leavenworth?

A. No, sir.

Q. You heard of her? A. No, sir.

Q. Did you know Indian Mary? A. No, sir.

Q. Never knew Indian Mary? A. No, sir.

Q. What Indian did you know there besides Tommy?

A. I never knew none.

Q. Tommy was the only Indian you saw?

A. I have seen other Indians around there.

Q. What Indians?

A. I don't know, they was just coming and going.

Q. What was there peculiar about this boy?

A. He was our trailer to play war.

Q. Played war? A. Played war.

Q. What was the peculiarity about him, any facial peculiarity about him?

A. No, not any more than there was about anybody else.

Q. He didn't have high cheek bones? A. Yes, sir.

Q. Very high cheek bones? A. Yes, sir.

Q. Any of the rest of the boys there have high cheek bones? A. No, sir.

Q. You remember that very well? A. Yes, sir.

Q. He didn't have any scars on him?

A. Not that I know of.

Q. His hair was very dark? A. His hair was black.

Q. Very black, little kinky?

A. No, sir, straight hair.

Q. Didn't show a particle of negro blood about him?

A. Well, I don't know what you would call that. All I know he had straight hair and high cheek bones.

Q. But you didn't associate with negroes there?

A. Yes, sir, there was one or two negro boys in our gang.

Q. But Tommy wasn't classed as negro boy?

A. We didn't pay particular attention, we were all playing together and were out for fun.

Q. But you thought he was white?

A. Thought he was Indian.

Q. But you thought the other was white?

A. We didn't give a thought, we always considered him an Indian.

Q. Did he look very much like an Indian? A. Yes, sir.

Q. Nearly a full blood?

A. I never gave it a thought.

Q. One of these light red complected Indian?

A. I couldn't say that because I never gave it a thought.

Q. Did he live in the stone house?

A. He lived in the frame house next door to the stone house.

Q. Who lived in the house where Tommy was living?

A. Granny Letcher.

Q. What was the name of the judge who sentenced you to jail? A. Well, I couldn't tell you what his name was.

Q. Don't remember him? A. No, sir.

Q. Didn't that make some impression on you?

A. No, sir, I was too scared.

Q. You were not scared all the time you were in jail, were you? A. No, sir.

Q. You had time to reflect and think about that charge after you got in jail?

A. I never gave that Judge a thought.

Q. He was a long whiskered man or not?

A. I can't remember.

Q. Don't remember a thing about his face?

A. No, sir, I don't remember his face.

Q. Who do you say arrested you?

A. Reddy Mike and Jack Glenn.

Q. Took you to the County Jail or City Jail?

A. County Jail.

Q. Were you tried in the District Court or in a Justice Court? A. I couldn't tell you what Court it was.

Q. Were you tried by a jury? A. No, sir.

Q. Did you plead guilty? A. I never did plead guilty.

Q. You didn't plead guilty? A. No, sir.

Q. They just took you up there and sent you to jail without a trial?

A. No, sir, they had a trial and one of the other boys there told about it.

Q. Who was the other boy that was tried? A. Billy Clay.

The Court: He was the boy that told about it?

A. Yes, sir.

Q. Was he tried? A. Yes, sir.

Q. And sent to jail with you? A. Yes, sir.

Q. Where is he now? A. I don't know.

Q. This man who just left the witness stand, how long have you known him? A. Who was that?

Q. Higgins?

A. Higgins, I have known him almost all my life.

Q. Do you work together? A. Yes, sir.

Q. Are you related? A. Yes, sir.

Q. How? A. He is my brother-in-law.

Q. He is your wife's brother?

A. No sir, my sister's husband.

Q. Did he come to you with Pomp Graham?

A. Pomp Graham come to us.

Q. You were together when Pomp Graham come to you?

A. No sir, I was in one part of the factory and he was in the other.

Q. Which one did Pomp come to first?

A. He come to Higgins.

Q. When was that? A. Last week.

Q. Then Pomp and Higgins came to you? A. Yes sir.

Q. That was last week? A. Last week sometime.

Q. That was the first time you had heard about this case, was it? A. Yes, sir.

Q. The first time your brother-in-law had heard about it?

A. As far as I know it was.

Q. He had never mentioned this to you before?

A. No sir.

Q. And neither had Pomp Graham? A. No, sir.

Q. What did Pomp and your brother-in-law say to you when they came to you?

A. They asked me if I knew Tommy Atkins. Pomp asked me if I knew Tommy Atkins from Leavenworth and I told him yes.

Q. What else did he say?

A. He told me they had a case in Oklahoma and if I knew Tommy Atkins he asked if I would be a witness and I told him I would.

Q. People never called this boy Texas Tommy, did they?

A. Not that I ever heard.

Q. You never heard him called Texas Tommy in his life?

A. No, sir.

Q. Did call Tommy York Texas Tommy?

A. Not that I heard.

Q. What boy that you played with did they call Texas Tommy? A. None that I knew.

Q. They called this boy Tommy Atkins?

A. Tommy, Indian Tommy and Trailer.

Q. Did they call him by all three names all the time?

A. No, some at one and some another.

Q. Who called him Trailer?

A. I principally called him Trailer, and sometimes I called him Tommy.

Q. You never did call him Tommy Atkins, did you?

A. No.

Q. What other boys called him Tommy Atkins?

A. Willie Warren.

Q. Willie Warren always referred to him as Tommy Atkins?? A. He didn't always.

Q. How else did he refer to him?

A. Well, he called him Indian Tommy.

Q. But he always called him Indian Tommy or Tommy Atkins? A. Sometimes Indian.

Q. Who called him Indian Tommy?

A. All of us if it come to your mind we would say Indian Tommy; some would say where is Indian at.

Q. Did you inquire about him after he left there?

A. No, sir, I left myself.

Q. When did you leave?

A. I left right after I got out of jail.

Q. What time was that? A. Ninety-eight sometime.

Q. In 1898 just after getting out of jail you left there?

A. Yes, sir.

Q. And you met Tommy in 1897?

A. Didn't meet him in 1897.

Q. When did you meet him?

A. Between the time I was ten years old and that.

Q. If you were ten years old—— You were ten years old in 1896? A. I never figured the dates.

Q. But you never met him until after you were ten or twelve years old? A. No, sir.

Q. And you never saw him after you got out of jail?

A. No, sir.

Q. And that was in 1898? A. I think it was in 1898.

Q. He was living at Granny's when you left there?

A. Well, that I don't know. I spent the last sixty days in jail, I don't know what become of him in the meantime.

Q. He was living at Granny's when you went to jail?

A. Yes, sir.

Q. And he was living at Granny's when you first knew him? A. Yes, sir.

Q. Have you been back to Leavenworth since then?

A. Yes, sir.

Q. Did you go back recently?

A. I went to St. Joe and was there about a year and eight months.

Q. Then, did you go back to Leavenworth? A. Yes, sir.

Q. Did you see Tommy then? A. No, sir.

Q. Tommy was gone? A. Tommy was gone.

Q. Did you inquire about Tommy?

A. No, sir, my life had changed from then and I had started working and never had the same views.

Q. What did you do at St. Joe?

A. I worked for the National Biscuit Company in the Candy Department.

Q. Did you know any of the other boys there at Granny Letcher's?

A. Why, I knew one that was around up there but he always seemed to me like he was older than I was. He was a negro with one arm.

Q. Did you know a little Indian looking boy there called Walter Banks? A. No, sir.

Q. You knew Sam Nash, the one armed boy, quite well?

A. No, I never knew him very well.

Q. He sometimes played ball with you? A. Not with me.

Q. Did you know him for several years?

A. I knew him seeing him around.

Q. You knew him all your life? A. No, sir.

Q. When did you first get acquainted with him?

A. I never became very much acquainted with him.

Q. But you saw him around Granny's there?

A. Yes, sir.

Q. And he and this Tommy were the only boys you ever saw around Granny's, they were the only boys that lived at Granny's?

A. I don't know that this one armed nigger lived there at all, that I couldn't say.

Q. How old is Sam now?

A. I don't know how old he is.

Examination by the Court.

Q. Sam is the one with one hand? A. Yes, sir.

Q. About how old was he when you used to be around there playing with Tommy? A. Sam Nash?

Q. Yes? A. I don't know.

Q. What was your judgment?

A. I judge at least six or seven years older than me.

Q. When you and Tommy were playing together there, which was the older, you or Tommy?

A. I think Tommy was older than I am.

Q. How much would you think he is older than you are?

A. A year or so.

Q. A year or so older than you are? A. Yes, sir.

Q. Who was it arrested with you? A. Billy Clay.

Q. Tommy Atkins wasn't in that deal, so far as you know?

A. So far as I know he wasn't.

Examination by Mr. Allen.

Q. Do you know that you were born in March, '86?

A. I don't know it, I am just taking my mother's word for it.

Q. And you heard them say Tommy was born in the spring of '85, haven't you?

A. No, sir, never heard that, I don't know that he was.

Q. Now, was he a year or two years or three years older than you? A. I don't know.

Q. He was considerably older than you?

A. He was older than I was, I consider him, yes, sir.

Q. Considerably older? A. No, sir, a year or so.

Q. Now, where did you play in 1891? A. 1891.

Q. Yes? A. That is too far back.

Q. When you were five years old?

A. I can't remember that.

Q. Do you know where you played in 1892? A. 1892?

Q. Yes? A. No, sir.

Q. 1893? A. No, sir.

Q. 1894? A. No, sir.

Q. 1895? A. No.

Q. 1896?

A. 1896, I think I was playing around on Delaware street.

Q. That was when you commenced playing with Tommy?

A. When I first moved down there I didn't get acquainted with Tommy.

Examination by the Court.

Q. When did you first move down there?

A. When we moved down there?

Q. How old were you?

A. I suppose I was about nine or ten.

Q. Where had you lived just before that, where did you live before you moved down there, that is how far away from there as a boy six, seven and eight years old, where did you live, what part of the City?

A. We moved so many times. I *can* tell you the name of the places.

Q. Before you moved down there, how near had you lived to this place before in any of the places?

A. Before, we lived on Second and Pottawatomie and on Miami between Third and Fourth.

Q. That would be about how far from where Granny Letcher's place was? A. About two blocks.

Q. You lived at those places about how long before you moved down in this other place, several years? A. Oh, no.

Q. I mean while you were six, seven, and eight years old, can you tell me about how far you lived from where Tommy lived? A. No, I can't. I can't remember.

Q. When did you start to school, how old were you then?

A. About, well, I couldn't remember.

Q. Five or six? A. Along in there somewhere.

Q. What school did you go to, what was the first school you went to? A. Morris School.

Q. And where were you living then, how far from where Granny Letcher lived?

A. I don't remember where I lived. I remember going to school at the Morris School.

Q. Do you remember how long you went to the Morris School. About how long; did you finally change to some other school? A. Yes, sir.

Q. What? A. I changed to Oak Street School.

Q. About how old were you when you went to the Oak Street School? A. About ten I think.

Q. About ten; that was about the time you met Tommy?

A. Yes, sir.

Q. Do you know whether Tommy went to school or not?

A. No.

Q. No? A. I don't know.

Q. But you never had seen Tommy until you moved down into that neighborhood. Now, where did you move to with reference to where Granny Letcher lived when you were about ten years old and first met Tommy?

A. Where did I move to when I first met Tommy?

Q. Yes? A. To the waterworks building.

Q. Now, how far from Granny Letcher's?

A. Four blocks.

Q. Four blocks. How far had you been living from Granny Letcher's before that? A. Before that?

Q. About how many blocks? A. Oh, quite a ways.

Q. Quite a ways? A. Yes, sir.

Q. A good deal farther than four blocks?

A. Yes, sir, a good deal farther than four blocks.

Q. Had you ever lived within four or five blocks of Granny Letcher's until you moved down to this waterworks building?

A. Yes, sir, when I was just a little bit of tad.

Q. About how old?

A. I don't remember how old but I was just a little bit of thing.

Q. Before you started to school? A. Yes, sir.

Mr. Allen.

Q. Where did you live then when you were just a little bit of boy?

A. Lived down on Miami between Third and Fourth.

Q. Well, that is right there next to 217 Seneca, isn't it? About a block away? A. Yes, two blocks.

Q. You didn't play with Tommy in those days, did you?

A. No, sir, I never got out to play with anybody.

Q. Now, you knew Alex and Joe Friedman, didn't you?

A. Yes, sir.

Q. They played with Tommy, too, didn't they?

A. Well, those boys didn't hardly play with anybody.

Q. They were in your parties there?

A. No, their father wouldn't allow them out with us.

Q. Their father wouldn't? A. No, sir.

Q. But they knew you and you knew them? A. Yes, sir.

Q. Browse, Senny Browse, did you know them?

A. Browse?

Q. Yes? A. Yes, sir, I knew them.

Q. They played with you boys?

A. No, sir, they never played with us.

Q. You all knew them and he knew you, didn't he?

A. Yes, sir.

Q. Solly Browse? A. Sally Browse? Yes.

Q. That a boy or girl?

A. Yes—no, I was thinking it was a boy; there were three boys and one girl; I don't know what the girl's name is.

Q. This Solly, that is a boy *is a boy,* isn't it?

A. Sol, we called him, Sol.

Q. He played with you boys didn't he? A. No, sir.

Q. You didn't play with him? A. No, sir.

Q. He knew you boys and you knew him? A. Yes, sir.

Q. Now, what boys did you play with when you were six or seven years old?

A. Six or seven years old—I can't remember what boys we played with when I was six or seven.

Q. Didn't you play with some boys when you were that old? A. I might have; I don't remember who they were.

Q. What boys did you play with when you were 8 or 9 years old?

A. Eight or nine years old? Well, I played with a boy name of Cotty Conly.

Q. Where is he now? A. I don't know where he is at.

Q. Where did you live then?

A. We lived on Second and Chestnut.

Q. How far is that from Granny Letcher's?

Q. About a mile.

Q. You knew where Granny Letcher lived then, of course?

A. Yes, sir.

Q. She was living then on Seneca street?

A. I knew where Granny Letcher lived then?

Q. Yes? A. When I was living at Second and Chestnut?

Q. Yes? A. No, sir.

Q. You said yes a while ago; you were mistaken about that?

A. I was mistaken about that, when I lived at Second and Chestnut.

Q. You played though, with Tommy, didn't you?

A. No, sir.

Q. And you never saw Tommy or heard of him in your life until 1897 or '98? A. I played with Tommy before 1897.

Q. In 1896 you played with him?

A. I wouldn't say 1896; I played with him up until the time I got sentenced in jail.

Q. Well, how long had you been playing with him when you got sentenced to jail?

A. A couple of years, I expect.

Q. Two years?

A. Probably two years; sometime around there. I didn't give no particular attention to the time.

Q. Prior to the time that you commenced to play with him, you had never seen or heard of him in your life?

A. No, sir.

Q. And haven't seen or heard of him since then?

A. No, sir.

Q. Until Pomp Graham came to you with your brother-in-law? A. No, sir.

Q. You remembered him before he mentioned his name?

A. I remembered all the boys.

Q. Remembered all the boys that you played with in '97, '98 and '96? A. '96, around there; yes, sir.

Q. But you can't remember any of the boys that you played with before then, can you? A. Before that?

Q. Yes? A. Yes, sir.

Q. Well, I am trying to get you to tell me who you played with before '96.

A. Before '96? I just started to tell you.

Q. Alright; tell me? A. Cotty Conly.

Q. When did you play with Cotty Conly?

A. When I lived at Second and Chestnut.

Q. How long did you play with him?

A. We never lived out there very long, until we moved from there to the water-works building.

Q. Then you didn't play with him any more? A. No, sir.

Q. Who else did you play with at that same time?

A. Albert Thompson.

Q. Where is Albert now?

A. I don't know; I don't know where any of the boys are.

Q. Who else did you play with then? A. Carl Sheeps.

Q. Where is he now? A. I don't know.

Q. Who else did you play?

A. A boy named of Prather; Henry Prather.

Q. Is that all you remember now?

A. All I remember out there.

Q. Now, before you went there, who did you play with?

A. With these boys you mean?

Q. Yes, Second street.

A. That is going back too far; I don't remember.

Q. You don't remember who you played with after that?

A. After that?

Q. Yes? A. After this——

Q. Except Tommy and his crowd?

A. I remember after this who I played with.

Q. Pomp Graham asked you if you played with these boys, didn't he? A. Asked me if I knew them.

Q. Asked you if you knew these other boys, too, didn't he? A. No; he asked me if I knew Tommy Atkins.

Q. Asked you there if you knew these other boys, didn't he? A. No, sir.

Q. What did Tommy Atkins call Granny Letcher?

A. I don't know, sir.

Q. He didn't call her aunty, did he?

A. I don't know; we never spoke of——

Q. How did you spell his name?

A. I don't know how to spell it.

Q. Was it A-d-k-i-n-s, or A-i-k-i-n-s?

A. I don't know; A-t-k-i-n-s is my notion now but then I didn't know about it.

Q. That is your notion now? A. Yes, sir.

Q. Have you read much about this in the Leavenworth papers? A. No, sir.

Q. The first time you knew about it was from Pomp Graham and your brother-in-law? A. Yes, sir.

Cross Examination by Mr. Cobb.

Q. What kind of ball was it you played?

A. We never played ball at all; generally played marbles and war was our principal game.

Q. I thought you said that you played ball and called Tommy Atkins trailer? A. No, sir, I said played war.

Q. Played war? A. Yes, sir.

Q. What time of year was it you played?

A. I can't tell what time—the date it was.

Q. Summer or winter?

A. It was in the fall because we used to use the sunflowers for arrows.

Q. This Tommy Atkins that you say was just about a year or two younger than yourself, was that your best recollection? A. No, sir, he was about a year or two older.

Q. A year or two older? A. Yes, sir.

Q. I believe you described him in other ways except his eyes. What was the color of his eyes?

A. Well, pretty near the same color of his hair; they were about black.

Q. About black eyes? A. Yes, sir.

Q. Inclined to be rather large eyes or small eyes?

A. Well, they were not very small.

Q. Large eyes, weren't they?

A. About medium sized, I think; I never paid particular attention to his eyes.

Q. You know they were not small eyes?

A. They were not small eyes.

Q. Did you notice any scars on his hand? A. No, sir.

Q. Anything here, or his wrist, or his arm?

A. No, sir, I never paid no attention to it.

Q. They might have been there and you never known anything about it? A. I didn't know anything about it.

Q. Did you ever notice any peculiar marks of any kind on his body? A. No, sir.

Q. They might have been there and might have not?

A. They might have been there; if they were, I didn't know it.

Q. You didn't know it?

Recross Examination by Mr. Allen.

Q. How much are you being paid for attending here as a witness? A. Well, they are paying me my time.

Q. What is that?

A. Amounts to about seventy dollars a month.

Q. How much? A. About seventy dollars a month.

Q. Well, do they pay you seventy dollars? A. No, sir.

Q. How much do they pay you?

A. They gave me twenty dollars to pay my fare with.

Q. To pay your fare down here? A. And my expenses.

Q. Who agreed to pay you?

A. Mr. Graham—Pomp Graham gave me the twenty dollar bill.

Q. Did he give your brother-in-law a twenty dollar bill also? A. I think so.

Q. And he told you that Mr. Page would take care of you when you got here, didn't he?

A. He said he would have our expenses paid.

Q. And you are staying at the Severs? A. Yes, sir.

Q. Are you married? A. Yes, sir.

Q. Is your wife with you? A. No, sir.

Q. And how much per day are they paying you?

A. My wages.

Q. Your wages? A. Yes, sir.

Q. And all expenses? A. And expenses.

Q. Pomp bought your ticket, didn't he?

A. No, sir, I bought my ticket.

Q. Out of the twenty dollars? A. Yes, sir.

By the Court.

Q. Do you think this boy Tommy Atkins' features were so familiar to you then that you would probably know him now if you would see him?

A. Yes, sir, I think that I would know him if I ever seen him.

By Mr. Allen.

Q. Stand up. Is that the boy you saw? A. No, sir.

Q. That is not the boy you saw? You didn't know Walter Banks by that name at Grammy Letcher's? A. No, sir.

The Court: The record may show that at the—following the question, at the suggestion of the counsel for the Government, the defendant Henry Carter stood up, and that he was the person that the witness was interrogated about in regard to whether he was the Tommy Atkins that he had been testifying about.

Witness dismissed.

Mr. Hanford: At this time, your Honor, we wish to offer the deposition of Eloe Crilley, beginning at page 1592 of the depositions taken before Mr. Penick.

ELOF A. CRILLEY, being called on behalf of the defendants Page and Minnie Atkins, and being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Elof A. Crilley.

Q. Where do you live, Mr. Crilley?

A. Live at 3032 Johnson, Kansas City, Missouri.

Q. Kansas City, Missouri? A. Yes, sir.

Q. How long have you lived in Kansas City? About how long? A. Since the early part of August, 1907.

Q. What business have you been engaged in since you came, starting at the beginning and telling your business now?

A. Since I came to Kansas City, you mean?

Q. Yes, commence at the first and tell the business?

A. I started first to working for the Western Cabinet Company and I worked there about eleven months, in fact it was eleven months; then the Company went on a strike and after that I got employment with the Kansas City Sash & Door Company, and I was there up until the time they failed; it was re-organized under the head of the Federal Sash & Door Company and I was with them up until the—up until I think it was the first of September.

Q. What year?

A. This last year. Subsequent to this I worked for the Kansas City Column & Panel Company.

Q. And where are you now?

A. And at the present time I am working at Independence Missouri Planing Mill.

Q. What Planing Mill? A. The East Side Planing Mill.

Q. Are you a married man or a single man?

A. Married.

Q. Have you any children? A. I have two living.

Q. Here in Kansas City? A. Yes, sir.

Q. Where were you born, Mr. Crilley?

A. Leavenworth, Kansas.

Q. In what year? A. March 20th, 1880.

Q. Did you in your early youth at any time go away from Kansas City? A. Never was in Kansas City——

Q. Leavenworth, Kansas? A. Leavenworth?

Q. Yes, if so, about what year did you go away?

A. In 1889 I was gone right close to a year is my nearest recollection.

Q. In 1889? A. Yes, sir.

Q. Do you know where your father's barn was?

A. Known as 220 and 222 Seneca Street.

Q. Do you know who lived nearly across the street from your father's barn?

A. There were two houses, one was occupied by colored people, and the other one was a stone—part of it stone building.

Q. What colored people occupied the building nearly opposite your father?

A. An elderly lady, colored lady name of Mrs.—we called her Granny Letcher, and others lived with her.

Q. And others? You may state whether or not when you returned in 1889 where your father lived in that community—had a house there?

A. In 1889, he lived on Fourth and Miami.

Q. Did you ever live on Seneca?

A. Previous to that time we had lived in the old Seneca house.

Q. How long did you live at the old Seneca House?

A. Up until I was about six years old, I think.

Q. Do you know whether the old Seneca house was destroyed or not? A. I think it burned down.

Q. By fire? A. I think it burned down.

Q. Do you know whether or not your father rebuilt it?

A. He built another house on the same place.

Q. Now, you may state whether or not after your return you ever lived in the new Seneca House?

A. Yes, sir, lived there up until the time I was married.

Q. What time was that?

A. That was, I think it was built in 1891 or the early part of 1892.

Q. Now, how long did you live there as a boy?

A. From that time up until I was married when I was twenty-two years old.

Q. You may state whether or not while you lived there you knew Granny Letcher? A. Yes, sir, I knew Granny Letcher.

Q. Did you as a boy have any playmates in that neighborhood? A. Yes, sir, had lots of playmates.

Q. You may name some of them, name the boys that you played with big and little?

A. Well, the Eggleston boy and the Seckler boys, Ralph and Harry Seckler, Ed Lanzer, the Dix boy, Busey boy, Madusky boy, John Waidele; and then there was a colored boy named—we called him Otto Jones, I understood his name was Otto Jackamilly, he went under the name of Otto Jones; and then there was Walter Banks and this little boy Tommy, that was over there with Walter Banks; and let me see—

Q. Any boy named Eggleston?

A. Yes, I got the Eggleston boy.

Q. Now, when you boys would play around there, what territory would you cover there in your boys plays?

A. Most of the time we would play around in the lumber yard and back of Granny Letcher's yard.

Q. Where was the lumber yard, Mr. Crilley, with reference to Granny Letcher's? A. Adjoining.

Q. Do you remember whether there were any pear trees in Granny Letcher's yard?

A. Yes, sir, I remember very distinctly there was two.

Q. Do you remember whether there was any railing around the porch at Granny Letcher's house, or lattice work?

A. Yes, sir, a short piece of lattice work and also what we would call a hand rail.

Q. Do you remember whether there was a well at or near this railing? A. Yes, sir, near the end of it.

Q. What part of the lot, back or front?

A. Well, it was right approximately in the center of it.

Q. You may state whether or not you boys went frequently over to Granny Letcher's?

A. Like most of boys did, we did.

Q. What relation, if any, if you know, was Walter Banks to Granny Letcher?

A. Well, I never knew that he was any relation, I always presumed that he was some relation——

By Mr. German: We object to what he presumed.

Q. You didn't know? A. Didn't know.

Q. Did he claim to be any relation?

A. Nothing more than to call her Granny.

Q. Did Walter live at Granny Letcher's? A. Yes, sir.

Q. The boy you called Tommy, where did he live?

A. He lived in the same house.

Q. State whether or not you boys ever went to Granny Letcher's and whether or not you remember of her giving you anything? A. Yes, sir.

Q. What was that, Mr. Crilley?

A. Lots of times she would give us cookies and things like that. I called her Granny like the rest of the boys did.

Q. At that time the white boys and the colored boys all played together on that street?

A. Yes, sir, in a large measure.

Q. This boy, Tommy, how large was he when you first knew him?

A. Well, I judge him to be about what I would think would be a reasonable size for a six or seven year old boy.

Q. Six or seven years old when you first knew him?

A. Yes, sir.

Q. In 1901 and '2? A. Ninety-two.

By Mr. German: I object to the question on the ground that it is leading and suggestive, and as answered before the objection was made, I move to strike the answer, for the reasons stated.

Q. I will ask you whether or not you have already stated that you saw him for the first time in ninety-one or two?

By Mr. German: Object to that again as leading and suggestive.

Q. Answer the question?

A. Just about that time, the best of my recollection.

Q. Now, what kind of a looking boy was this little boy Tommy that you saw there, as near as you can describe him, did he have kinky hair or straight hair?

A. He didn't have kinky hair.

Q. He didn't?

A. No, sir. It was short cropped hair the best of my recollection.

Q. Do you remember whether he was an active boy or a clumsy boy? A. Decidedly active.

Q. Do you remember whether he was—I will try to make myself plain—an undemonstrative boy or whether he was a mischievous boy?

By Mr. German: I object to the question as calling for a conclusion and opinion of the witness and as leading and suggestive.

Q. Answer the question? A. He was very mischievous.

Q. He was a very mischievous boy? A. Yes, sir.

Q. How long did you know the little boy called Tommy that lived at Letcher's, how long do you remember of seeing him there?

A. Well, a space of what I would judge ranged from a year to two years along about that time.

Q. After that time, he disappeared?

By Mr. German: I object to that question as leading and suggestive.

A. I don't know what became of him after that.

Q. You may state whether or not you failed to see him after that around there?

A. I don't remember of ever seeing him any more than that.

Q. And you may state whether or not you have ever seen him since? A. Not to my knowledge.

Cross Examination by Mr. Bell (appearing for Mr. Blakeney by agreement of counsel).

Q. How old are you Mr. Crilley?
A. I will be thirty six next month.

Cross Examination by Mr. Allen.

Q. You say you will be thirty-six next month?
A. Next March.
Q. The first day of this coming March?
A. The 20th day of March.
Q. Mr. Crilley, where were you born?
A. In Leavenworth, Kansas.
Q. At what place in Leavenworth, Kansas, were you born?
A. Born on the street called Choctaw Street near Fifth Street.
Q. On March 20th, 1880, as you have been told?
A. Yes, sir.
Q. You lived then on Choctaw Street how long?
A. A short while.
Q. When did you move from Choctaw Street?
A. I can't say as to that, I was really small, just only a short while that I lived on Choctaw Street.
Q. When did you commence living on Seneca Street in front of Granny Letcher's home?
A. Sometime between—when I was really small, because we lived there for quite a while before—when my mother died.
Q. When did your mother die?
A. I think I was seven years old when she died.
Q. You had been living there with your father sometime before that, had you? A. Before my mother died?
Q. Yes? A. Yes, sir, but she had left home and went——
Q. And went to Ohio?
A. I think she went to Minneapolis, is my understanding.
Q. And you didn't go with her? A. No, sir.
Q. You stayed there with your father and were in his barn nearly all the time, were you not, and around the barn?
A. I think we were living, brother and I, with a gentleman by the name of Pope, a family by the name of Pope.
Q. But you stayed and played around the barn and this lumber yard, didn't you, on Seneca Street?

A. I can't say that I did.

Q. How old were you, do you remember when Granny Letcher moved up there next to your barn, don't you, with all those colored children that you are talking about?

A. Didn't have but the two.

Q. And you remember when she moved over to you, don't you? A. I can't say that I do, not positive.

Q. I don't mean the year, but you know the occurrence of her moving there, don't you?

A. I remember when she came in, but I don't remember anything about the time, in regard to the time.

Q. But you remember that she came there to Seneca Street? A. Yes, sir.

Q. You were a good big boy then, weren't you?

A. Pretty good sized.

Q. It was soon after she came there that you got acquainted with those boys, was it not?

A. It must have been very soon because I liked to play with boys.

Q. And when she moved over there to Seneca Street, this Tommy must have been some six or seven years old, wasn't he when Granny Letcher came there, when you say you remember the occurrence of her coming there, this Tommy that you are talking about was six or seven years old, wasn't he, that is when you got acquainted with him, wasn't it?

A. Yes, when I got acquainted with him.

Q. And you say he was six or seven years old?

A. Yes, sir.

Q. Walter Banks was nearly grown then, wasn't he?

A. No.

Q. You knew the one armed Sam Nash, didn't you?

A. Sam was practically grown though.

Q. And this man Jim Mayo, did you know him?

A. Didn't know him by that name. We all called him Jim Letcher.

Q. Jim Letcher, he was a young man too wasn't he?

A. He was older than Sam Nash.

Q. Older than Sam Nash? A. I thought so.

Q. Wasn't he about the age of Walter Banks?

A. No, decidedly not.

Q. Can you tell me the names of the other children living in that house?

A. There weren't any other children that I know of only Sam Nash, Jim Letcher and Walter Banks and this little Tommy.

Q. You said a while ago, when you named the other boys, you called them white boys and then you said you ran with some colored boys there in the community? A. Yes, sir.

Q. Sam Nash and this Tommy?

A. Yes, sir, also a boy named Otto Jones.

Q. He was the son of Dennis, wasn't he? A. No, sir.

Q. Well, Tommy then was a negro boy, wasn't he?

A. I can't say whether he was a negro or not.

Q. He was always regarded as such by you?

A. At that time I considered him as——

Q. Everybody else did, didn't they?

A. I suppose so, I don't know what the others thought.

Q. You said a while ago in your testimony that you played with certain colored boys and you named him as one of them; he was not white, was he? A. No, wasn't white.

Q. He looked like a mulatto, didn't he? A. Largely.

Q. He was not any lighter than Walter Banks, was he; he was darker than Walter Banks wasn't he?

A. My impression is he was just about the same color as Walter.

Q. What was his nickname?

A. Tommy was all I knew about him.

Q. He went by some nickname didn't he?

A. Not to my knowing.

Q. You never knew him but a year in your whole life, did you? A. A year or a year and a half or such a matter.

Q. He came there to that street when Granny Letcher moved on that street, and you never saw him a year after that, did you? A. He came there.

Q. And you never saw him before Granny Letcher moved to Seneca Street, did you? A. Not to my recollection.

Q. He stayed there about a year and you never saw him afterward? A. I don't think I did.

Q. Do you know Henry Carter? A. Henry Carter?

Q. Yes? A. No, sir.

Q. Hasn't your father told you that the boy that you played with there is now living in Leavenworth and his name is Henry Carter?

A. No, sir, he didn't. However, I would like to ask you a question. I answered your question by saying I didn't know Henry Carter. Is that the undertaker up there you have reference to. I am acquainted with an undertaker named Henry Carter, I don't know what his other name is.

Q. You refreshed your memory, wasn't this boy called Commodore? A. Not that I know of.

Q. You lived with your father all of the time from the time you were born until you were twenty-one years old, except when you were away in eighty-nine, didn't you?

A. No, sir.

Q. Where did you live before then?

A. I stayed with this Pope people.

Q. Where were they living?

A. They lived down on Fourth and Miama.

Q. How long did you live with them?

A. From 1886—that was when my mother went away—up until my father married the second time.

Q. When was that?

A. I don't remember the year, but it seems to me it was about in 1888.

Q. But from 1880, the time that you were born, up until 1886 you lived with your father, didn't you? A. Yes, sir.

Q. And in 1886 you were a good sized boy and playing with other boys in the community, weren't you? A. Yes, sir.

Q. White and colored? A. Yes, sir.

Q. After your father married in 1888 you came back then to live with him, didn't you?

A. Yes, sir, but we didn't live there.

Q. What? A. Didn't live on Seneca Street at that time.

Q. Where did you live?

A. We didn't live in the Seneca house property, lived up on Seneca near the Explanade, almost two blocks distant.

Q. When did you move then to Seneca across from Granny Letcher's again?

A. Well, we moved from Seneca and Explanade down on Miama Street after that next to where the Pope's lived.

Q. How far was that from the barn?

A. Two blocks this way.

Q. Your father supported you and took care of you while you were living at the Pope's, didn't he? A. Yes, sir.

Q. And all of the time from 1886 until you again commenced living in his house, you played and stayed a good deal around the barn, didn't you, and around your father?

A. I have recollection—— Let me see—— No, I don't think we were around the barn much at that time.

Q. Well, you were around there a good deal, weren't you, as a boy playing around the barn and around this lumber yard? A. Not at that time, no, sir.

Q. Didn't you ever go around the barn?

A. Occasionally, but not often.

Q. You played with the children in that community, didn't you? A. Up to what point?

Q. Up to 1886 when you commenced living with the Pope's?

A. I wasn't around the barn scarcely any, because there was an old Irishman there I was afraid of around the barn.

Q. Your father was there, wasn't he? A. Occasionally.

Q. He wasn't around the barn much then was he?

A. No, sir.

Q. Where was he?

A. He was out on his hacks, driving hacks.

Q. When he would be around the barn, you would be there, wouldn't you? A. Once in a while.

Q. You played with children a good deal, didn't you?

A. Not a great deal.

Q. What children was it you played with?

A. Around where I lived.

Q. What children? A. The Pope children.

Q. Who are they, name them?

A. Lula Pope and the Jordan children.

Q. What were the Jordan children names?

A. Harry Jordan and Lula Jordan and Al Goldsmith.

Q. Now, the Jordan's, you played with them a good deal, didn't you?

A. Well, I don't know as I did any more than anybody else.

Q. Well, I know, but they were your regular playmates and associates from along in eighty six up until————

A. There are others there I would like to mention, Leonard—I think his first name was, Tom Leonard had a couple of children who played a good deal with us at that time.

Q. What were the children named?

A. They were relatives of the Pope's.

Q. I know. but what were their names?

A. Dollie Leonard, and I believe the other one was named Lilly, two girls.

Q. Now, the Jordan's lived near where you lived, didn't they? A. Yes, sir.

Q. They lived too in the same block that the barn was in, didn't they?

A. No, sir, they didn't, nowhere's near it, they lived further away than we did when we lived on Miama.

Q. You played with them a good deal and the children around in the community?

A. In the community, yes, sir, mostly that up to the point of 1886.

Q. Up to 1886 where did you live, did you live on Seneca Street then? A. In 1886 I will take that back, 1888.

Q. You were around your father's barn most of the time with the exception of the years part of 1886 and 1887?

A. Yes, sir, I was around it a good deal.

Q. 1888 and 1889 and 1890 you were around your father's barn most of your time, weren't you, playing there in the community of the lumber yard and other places?

A. No, I can't say that I was.

Q. You were there sometime? A. Not often.

Q. How long after Granny came there to that place on Seneca Street was it that you commenced playing with Tommy and Walter Banks?

A. I suppose I commenced playing with them as soon as they came.

Q. And you played with them a year and you never saw him again in your life, did you?

A. Not to have any recollection of him.

Q. You never heard the name called until recently, did you? A. What do you mean by recently?

Q. That happened more than thirty years ago, didn't it? Hadn't that fact and that occurrence passed out of your mind until this case came up? A. No, sir, decidedly not.

Q. Has your father talked to you about this case recently? A. He asked me one day if I remembered him.

Q. What did he say to you about it?

A. He asked me if I remembered those colored boys that lived over there with Granny Letcher and I said, wait a minute and let me see, and I stopped and thought a little bit and then I remembered the occasion and of this little boy pointing his finger at some pears and teasing Walter Banks about it, and I remembered also his throwing rocks and sticks in the well.

Q. Did you tell your father about his pointing his fingers at these pears and somebody told him if he did that that the pears would drop off? A. Yes, sir.

Q. You never heard this boy called Commodore?

A. Might have been, I didn't have—I don't have any recollection.

Q. You didn't get very well acquainted with him in the one year, did you?

A. No, not more than other children.

Q. It didn't create any concern in your mind when he mysteriously disappeared and was not heard of and was never seen again?

A. I didn't know he disappeared, I didn't say he did.

Q. You simply saw him at Granny's and you didn't know he lived there?

A. I said he lived there when I played with him in the yard along with Walter Banks.

Q. Who else lived there? A. Sam Nash.

Q. Who else? A. Jim Letcher.

Q. Who else?

A. I called him Jim Letcher, they got another name for him I believe, Jim Mayo.

Q. Jim Mayo, who else? A. Granny Letcher herself.

Q. Who else?

A. That is the only ones I have any recollection of.

Q. Walter Banks lived there, didn't he?

A. I said Walter Banks.

Q. Who was the oldest Walter or Tommy? A. Walter.

Q. Walter was how much older?

A. I judge Walter to be about the same age I am, maybe a year or so older.

Q. You were a pretty big boy then to be playing with a boy like Tommy, wasn't you?

A. I don't know as I was, I got boys that little playing with my children.

Q. Well, you were a boy ten years old, this boy wasn't but about three or four years old, was he?

A. I didn't see him when I was ten years old.

Q. When you were fifteen or sixteen years old he was a little boy wasn't he?

A. I didn't see him when I was sixteen either.

Q. When was it you saw him?

A. During the year 1891 and 1892, during that time.

Q. Well, you were about eleven or twelve years old, wasn't you? A. Yes, sir.

Q. He was a little boy then wasn't he?

A. Seven or eight years old.

Q. How do you fix that time? A. Judging by his size.

Q. Well, you say he was a good big boy for that age, didn't you?

A. No, I didn't, I said that he was very active.

Q. Do you know anything else that he did except dropping splinters in the well and pointing his finger at the pears?

A. He was a good runner and a good climber climbing over the lumber piles.

Q. You weren't with him all the time during that year that you knew him, were you?

A. I don't think I was all the time.

Q. You went to school along in those days?

A. I think so.

Q. You didn't go around Granny's at night, did you?

A. I might have after school.

Q. You don't remember about that? A. What?

Q. Going there after night?

A. I stayed there after dusk, yes, around the yard, sure.

Q. Did you ever talkto Mr. Long here about this law suit, do you know this gentleman over there?

A. Did I ever talk to him?

Q. Did you ever talk to him? A. Not very much, no, sir.

Q. When did you tak to him the first time?

A. The first time? He came out to my house one time.

Q. Just once? A. Yes, sir.

Q. Where, at Independence?

A. No, sir, at 31 and Jackson.

Q. Kansas City, Missouri? A. Yes, sir.

Q. Mr. Crilley came with him, your father?

A. I don't think he did.

Q. Refresh your memory and tell me whether he did or not? A. I think he did not.

Q. You think he did not? A. No, sir.

Q. He came to see you after Mr. Crilley had asked you if you had seen this boy Tommy around Granny Letcher's?

A. Did he come after that?

Q. Yes, sir?

A. He came to my house subsequent to my conversation with my father.

Q. Have you ever talked to your father any more about this except the one time that he came to see you?

A. In a casual way like we did the first time.

Q. Where did you have that next casual conversation with him? A. When we had our visit to Leavenworth.

Q. How many times did you talk to him about it?

A. Oh, I judge three or four times perhaps.

Q. How many times have you talked to Mr. Long about it?

A. I think the total of about three times; when he first came out to the house and then twice lately; I didn't get to talk to him not to speak of the first time I saw him at all.

Q. Who else has talked to you about it? A. Who else?

Q. Yes?

A. I don't believe I have talked to anybody else about it, without it might have been to say a few words to Mr. Hanford.

Q. When was that?

A. That was one evening I was to make a deposition in Leavenworth and I didn't go up there in time.

Q. Did you ever hear what became of this boy?

A. No, sir, never heard.

Q. Nobody ever told you about what happened to him or what became of him? A. No, sir.

Q. Did you ever hear he was drowned? A. No, sir.

Q. Didn't you ever hear that he is Henry Carter?

A. No, sir.

Q. Didn't your father tell you that?

A. He mentioned that they were trying to put somebody in claiming to be this Tommy, he mentioned that to me.

Q. Didn't he tell you the reason he felt like this fellow was Tommy Atkins was because when he came in there with anything asked him if there was anything about the pear trees, that Henry said yes, I know I used to point my finger at the pears and they told me I must quit that or the pears would drop off; didn't your father tell you about that conversation he had with Henry Carter?

A. He did tell me after I told him about the pear incident.

Q. And then he told you about having this conversation with Henry Carter, didn't he?

A. I didn't know who it was.

Q. He told you that must be the boy, didn't he?

A. No, he didn't say it must be the boy.

Q. What did he say about it?

A. He said he thought possibly it might be him.

Redirect Examination by Mr. Stuart.

Q. Do you know a darkey over there by the name of Tommy York? A. Yes, sir, played with Tommy York too.

Q. Was that the Tommy you were talking about?

A. No, sir.

Q. You know that Tommy York is not the boy you were talking about? A. Yes, sir, I know that.

By Mr. German: I object to that as leading and move to strike the answer.

Q. Did Walter Banks have any nick name over there?

A. Yes, sir.

Q. What did you call Walter? What was his nick name?

A. Called him Maple, and for short we called him Mape.

Recross Examination by Mr. Allen.

Q. Did you know any boy over there called—a boy who was called Commodore?

A. Lots of colored boys, I don't recall any of them being called Commodore.

Q. Did you ever know of any one around there being called Commodore?

A. Daddy said he used to call this little Tommy, Commodore, but I don't recall it.

Q. But do you recall anybody being called Commodore?

A. I don't, no, sir.

Witness dismissed.

And thereupon GEORGE CRILLEY, a witness produced on behalf of the defendants Minnie Atkins, et al., being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Hanford.

Q. Your name is George Crilley? A. Yes, sir.

Q. How old are you, Mr. Crilley?

A. I will be sixty—I was sixty-three the fourteenth of October—I think the 14th of October.

Q. Mr. Crilley, when did you go to Leavenworth?

A. I came to Leavenworth on the last day of June, in 1870, about nine o'clock in the morning. I remember it very well.

Q. What business did you enter into at Leavenworth?

A. Well, I think it was 1880 before I went in the livery business for myself; on the 15th of March 1880. No, for myself I went in on the 24th day of July, in 1878, for myself.

Q. And you have been in the livery business ever since?

A. Continuously, ever since.

Q. You own your own stable? A. Yes, sir.

Q. And teams? A. Yes, sir.

Q. At one time you were a member of the firm of Crilley & Cranston? A. Yes, sir.

Q. When was that, Mr. Crilley?

A. Well, that was in 1880, on the 15th of March that I—when I spoke of, I was going to say that was the first time I started in business; that is when we formed the Company, on the 15th of March 1880.

Q. And how long did that partnerhip continue?

A. Oh, until about 1890—about 12 years.

Q. You also had a term of Roderick, Crilley & Cranston?

A. Yes.

Q. That was in connection with a contract at——

Q. At Fort Leavenworth, yes, sir.

Q. Running buses and freight to Fort Leavenworth?

A. Yes, sir.

Q. How long did that firm exist?

A. *Ph,* three or four years—I don't remember; three or four years, along in there somewhere.

Q. And Mr. Roderick had charge of carrying out that contract principally?

A. He had charge of the Fort, of the handling of the public stores; hauling wood and coal and stuff of that kind out to Fort Leavenworth.

Q. And when was that dissolved?

A. Well, I think it was along—I wouldn't be positive, I never stopped to look that up; but I think it was sometime the latter—some time in '85, or the beginning of '86; I wouldn't be positive about that.

Q. To refresh your memory, wasn't it January, 1885?

A. Well, I don't know——

Mr. Allen: We object to that, if the Court please.

The Court: Yes, let the witness testify.

A. I don't remember; I have no particular reason for recalling it. I think it was along in that time; and as I said before, I don't know.

Q. Mr. Crilley where was your stable located along in the 80s?

A. Well, my stable at the time I speak of was on Seneca street, was at 220 and—that is, my stable was 220, 222 and 224; a portion of lot at 220 was occupied by the stable; about 12 feet, but the other two lots was covered in full by the stable.

Q. Did you live there near the stable?

A. I lived right adjoining it, on the east.

Q. What was the name of the house there you lived in?

A. Why the house, it was called the old Seneca House; a house about, as near as I can remember now, back thinking of the different rooms, I think about 19 or 20 rooms in the house.

Q. How many stories? A. Two stories.

Q. Now, this was between 2nd and 3rd on Seneca street, you say?

A. Between 2nd and 3d on the north side of the street.

Q. Did you know Granny Letcher?

A. Yes, sir, I have known her since 1877.

Q. Who was she?

A. Well, she was an old colored lady; very black, about that age, I should judge 30 or 35 years old, and I first knew her on Choctaw street, back of what was known as the Chaplin and Gleason stable.

Q. Mr. Crilley, you say she was an old woman 35 or 40 years old; when was she 35 or 40 years old, when you first knew her? A. When I first knew her, yes, sir.

Q. And then you knew her continuously until she died?

A. Yes, sir.

Q. When did she die?

A. Well she died in 1900; I think; along about the 8th of July or August, I wouldn't be positive.

Q. Did she ever live near you? A. How is that?

Q. She ever live near you?

A. Right across the street.

Q. What house across the street?

A. Well, what was known as the Dotter property in early days; it was afterwards occupied by a woman by the name of Lilly White, and then occupied by Granny Letcher afterwards.

Q. *Little* White succeeded the Dotters? A. Yes.

Q. And then Granny Letcher succeeded Lilly White?

A. Yes, sir.

Q. Do you know when the Dotters moved out and Lilly White moved in?

A. Well, no, I don't know; I know I sold the Dotters a team when they immigrated way to the south from my stable, and I wouldn't say the exact year, so long ago to think of it; but I don't think Lilly White was there but a short time.

Q. Well do you know when Granny Letcher moved in?

A. Well I know she moved in '85 sometime; well, it must have been about the middle of the year in '85; I wouldn't be positive about that, as to the exact date.

Q. Did you know an Indian girl there?

A. Yes. I knew an Indian girl.

Q. What was her name? A. Indian Minnie.

Q. Did you ever know any other name——

A. No, I never heard her called by what is now spoken of as Atkins; I never knew that name.

Q. You only knew her as Indian Minnie?

A. Only knew that, is all.

Q. About how old a girl was that?

A. Well, I have to guess at that; I imagine at that time in the neighborhood of 22 and 25, guessing at it. I never heard her say.

Q. Did you know her personally?

A. Knew her features as well as I know yours, Mr. Hanford.

Q. Where did you know her?

A. Well, I had seen her around on the streets, time and time again, first one place and then another; afterwards when she—that was a good while before she came to the Granny Letcher property.

Q. Well, when did you know her there?

A. Well I think that was along in, when I first knew her there, was in the latter part of '85, along in there.

Q. Did you see her around there often?

A. Why, I would see her there, she would come in and be around there two or three days at a time, and then she would disappear and wouldn't see her for a week or ten days, and then probably some day she would show up there, and then probably wouldn't see her again for a week or ten days, or maybe two or three weeks. Only guess work on my part, but I know she was not continuously there, but I know she would be absent for a time.

Q. Did you know where she went to? A. No.

Q. Now, how long about did you see her around there?

A. Around the city?

Q. Yes, altogether?

A. Granny Letcher's; oh, that would be guess work; in the neighborhood of two and a half or three years; might have been three or four. Just only guess-work on my part, when she was around Leavenworth city.

Q. Did you ever know of her having *a* children?

A. No, I didn't know only I——

> Mr. German: We object to the general talk.
>
> The Court: Yes, if he states he didn't know.

Q. Just answer my question: Did you ever know of her having any children?

A. I know she had this boy, reputed; that is, the general reputation——

> Mr. German: We object.
>
> The Court: That will not be considered. It is stricken from the record, as to what he heard.

Q. Did you ever see her with any children? A. Yes, sir.

Q. When?

A. Oh, along in '85; say July or August; no later than that, I guess. It must have been the latter part of the year, when I seen her, because I know the child was five or six months old, judging from the short dresses it wore at that time; that is what makes me think it was that late.

Q. Now, what did you see her doing with this child?

A. Dressing and handling it, the same as any mother would handle a child.

Q. Where was she when you saw her with the child?

A. On the back porch, the first time I ever saw her was on the back porch of this house that was built there, occupied by Granny Letcher.

Q. That was the house across the street?

A. Across the street.

Q. What kind of house was it, Mr. Crilley?

A. Well, a two-story house, in front, flush with the street, and on the back portion of it, where Granny Letcher and this Indian Minnie were, was a one-story, that was built probably at the same time the big house was, built up against it; I don't know.

Q. That had a porch, did it?

A. Had a porch facing the west.

Q. And it was on that porch you saw her?

A. That is where I saw her first, I remember well.

Q. Now, how many times would you say you saw her with this child?

A. Oh, I seen her there with this child at different times, probably half a dozen times; I don't remember the exact times.

Q. What did she appear to be doing with it?

A. Simply had it in her arms the same as any person would, nursing and caring for the child.

Q. Did you ever talk to her about the child?

A. No, sir, I don't think I ever did.

Q. Do you know the name of that child?

A. I know he was called Tommy.

Q. Did you see him around there continuously after this, after you saw him there the first time? A. Yes, sir.

Q. About how long did you see him around there?

A. Now, I should judge five or six years, something to that effect, along that line.

Q. Until he got about how big?

A. Oh, he was a boy along about that size. (Indicating with hands about 3½ feet high.)

Q. What kind of looking boy was he?

A. Oh, he was a light—he wasn't what you call dark; he was a kinder light, real light child, and yet he showed signs of some—he had dark features to a certain extent about him; dark appearance.

Q. Well, did he show what race he belonged to?

Mr. Allen: I wish your honor would have the witness indicate by age, instead of measurement. He said about this high.

A. And that is the way I think he put the question to me.

The Court.

Q. For the purpose of the record, Mr. Crilly, about how old in your judgment was this boy Tommy the last time you saw him?

A. He, I would say, was six or seven years old.

Mr. Hanford.

Q. Now you had seen him you say around there all the time up to that age? A. Yes, sir.

Q. Did you ever talk to him?

A. Oh, many and many a time, sir.

Q. Call him by name?

A. I called him Commodore, had my nick-name for him Commodore.

Q. Called him Commodore?

A. Yes, he played in my carriages and would take both hands and lean over the dash board and pretended that he was whipping the horses. I knew him so well, he was a very obedient child. He would stand up between my limbs and I remember often taking his hat off when he was three or four years old and rubbing his head and saying, Commodore that will give me luck. I used to call him that, and he would walk up to me and take his hat off and hold his head over for me to rub his head; he seemed to think that was part of the business.

Q. When was the last time you remember of seeing him, Crilly?

A. Well, the last time that I positive know I saw little Commodore was that I was at the corner of Third and Seneca at a stable of Van Tyle's; Van and I were out there talking when little Commodore was playing around our feet; and Van had to go back in the stable. He took his pipe out of his mouth and laid it in the chair. When he turned and looked for his pipe, little Commodore had his pipe in his mouth; and he made some not very complimentary remarks to the child. And then I remember thinking this boy ought to be older than to do a trick like that. I may have seen him after that but I couldn't say. I might have known him for a year or two.

Q. You remember that incident?

A. I remember that incident and will remember it a thousand years if I live that long.

Q. You had a fire while you were on Seneca street?

A. Yes, sir.

Q. When was that?

A. On the morning of the 11th of April, 1890.

Q. Your stable burned? A. Yes, sir.

Q. And a large number of horses?

A. I lost thirty-six head of horses in that fire.

Q. After that fire where did you go?

A. At this time, I remember Crilly and Cranston had a stable for our light livery down on Cherokee street, I think it was about 324 Cherokee street. I wouldn't be positive as to the number.

Q. Just tell me briefly where you moved after the fire, the business you had up on Seneca street?

A. I sold my interest in Crilly and Cranston to Mr. Cranston but kept one carriage and team and moved down on Miami street and got a stable right back of that and put this carriage in there for the time being.

Q. Were you located part of the time on Shawnee street?

A. Never on Shawnee street.

Q. Or further down on Seneca?

A. Yes, further down on Seneca.

Q. And that was during the time you were out of this place after the fire? A. Yes, sir.

Q. Then, you started building up and moved back later?

A. In a few weeks, not over three or four weeks after the fire, to rebuild a stable on the back end of that property where my old stable had been.

Q. And then later moved back?

A. And then later built a residence and moved back there, yes.

Q. Crilly, you say you remember seeing this boy, this baby in the arms of this Indian Minnie in 1885, I will ask you if you have anything to fix that date?

A. Well, the only thing that I have to fix that date that my wife was away and had been away for some little time——

Q. Do you remember when she went away?

A. She went away along in 1885 just about the time this Indian Minnie was seen around there. I have some papers in my pocket by some parties that took the oath years and years ago.

Q. You know your wife had been away a little while when you saw this child in the arms of its mother? A. Yes, sir.

Q. And that was prior to your wife's death? A. Yes, sir.

Q. She died up in Wisconsin when?

A. On the 4th day of September in 1886 and was buried on the 7th.

Q. How long had she been away at the time she died?

A. Oh, in the neighborhood of a year, about a year.

Q. About a year? A. Yes, sir.

Mr. Hanford: That is all.

Cross Examination by Mr. Allen.

Q. Crilly, I believe you say you moved to Leavenworth in 1870?

A. I came into Leavenworth about nine o'clock in the morning of the 30th day of June, 1870.

Q. You got acquainted with Granny Leicher soon after you went to Leavenworth? A. No, no, sir.

Q. You first became acquainted with her in 1877?

A. Yes, sir, that's right.

Q. From then on until she died you knew her intimately, didn't you? A. I knew her as well as I know anybody.

Q. You knew all of the members of her house, or during all those years, didn't you?

A. I knew those three or four boys, I don't know the rest of them, hundreds of people were in and about her house.

Q. But you saw and knew all the people that lived at her house during all those years?

A. Yes, if I had an opportunity to see them all, yes, sir. Some people would come in and stay two or three days.

Q. Crilly, did you go to school in your early life with some of the relatives of Frank Long?

A. No, sir, not to my knowledge, I never heard of Frank Long until this case came up.

Q. Didn't you know of his people in Indiana or Iowa?

A. No, sir, never did.

Q. You were not acquainted with any of them?

A. No, sir, not acquainted with any of his family.

Q. He met you early in the beginning of this case, didn't he? A. Yes, sir. Yes, sir.

Q. He told you what people he knew in your state, didn't he?

A. Yes, he told me of being acquainted with some of my brothers, yes, sir.

Q. He told you of the friendly relation that existed between the members of his family and the members of yours in Indiana, didn't he?

A. Something on that order of his family, but he knew my brothers in that way.

Q. He talked to you a long time about your old family associations?

A. He mentioned it on several occasions, yes.

Q. He then asked you if you remembered Indian Minnie, Minnie Atkins, didn't he? A. Yes, I think he did.

Q. You had told him that you knew a woman there that they called Minnie or Mollie, but that you didn't know her by Atkinson, didn't you?

A. I never said anything about Mollie, I said I knew a woman named Minnie.

Q. But you told him you never heard of any Atkins or Atkinson?

A. I told him I didn't remember that name, which I repeat now.

Q. So, the first time you associated this name of Atkins or Atkinson with this case was when Frank Long mentioned that name to you at your stable?

A. As far as the Atkins part of it is concerned, yes, sir.

Q. He paid you for the time that you lost, time away from your business discussing this case with him?

A. Whenever I hauled him to any part of the city, Mr. Long always paid fairly and squarely, yes, sir.

Q. About how many times has Mr. Long been to Leavenworth since this case started?

A. Couldn't tell you but I never kept no recollection of it; quite a number of times.

Q. Some fifty or seventy-five times?

A. Oh, no, I think you have that exaggerated; say fifteen or twenty times you will come nearer hitting the mark.

Q. Every time he has been there he has employed your rigs and paid you for them?

A. I can't say every time; he has a few times, several times, yes, sir.

Q. They have used your stable exclusively in all of their drivings, haven't they? A. No, sir.

Q. Who else have they used?

A. They used Cranston's rig once that I know of.

Q. That is when Sadie James used it, wasn't it?

A. I don't know who used it.

Q. Did you get after them about it?

A. No, sir, I never did.

Q. How did you happen to find it out?

A. I don't think he knew I existed when he got this rig of Cranston's.

Q. But since he knew of your existence, since he asked you about Indian Minnie, or Minnie Atkins, he hasn't used anybody else's rig at Leavenworth but yours, has he?

A. I couldn't tell you.

Q. You have hauled him to every witness in this case who has testified on behalf of the Government at Leavenworth, haven't you? A. No, sir, not by a long ways.

Q. Didn't you testify in your deposition at Leavenworth, in 1914? A. Yes, sir.

Q. That you hauled Frank Long to every witness that testified upon the witness stand?

A. Those who probably testified at that time, I might have hauled him to some of them. I was surprised at the number of witnesses that have been in this case.

Q. There were some twenty or twenty-five witnesses who testified on behalf of Mr. Page at that time, wasn't there?

A. No, sir, I never hauled any such a number as that, my friend; never, Judge, not over five or six witnesses at the most at that time.

Q. You testified that you hauled those witnesses to the court room?

A. I hauled a bunch of five or six witnesses there one morning.

Q. You took Long and Page to Mattie Cobb, didn't you?

A. Yes, sir, I went over with them to Mattie Edwards.

Q. You saw her on the street and followed her up?

A. Yes, sir.

Q. And asked her if she knew about this case?

A. Yes, sir.

Q. You communicated that to Page and Long and took them to her?

A. Not until after I had communicated it to Mr. McMillian, your man. I told him first.

Q. Did they tell you to make a practice of meeting these witnesses and talking to them, finding out their story and then giving us their names? A. No, sir.

Q. Why did you give it to Mr. McMillian?

A. I happened to run across him first; I would gladly have told Mr. Long if he had been present.

Q. You knew at that time that she stated she saw Minnie Atkins in a family way at your house?

A. Well, Granny Letcher's house or my house, yes.

Q. You knew she wouldn't change that story, didn't you?

A. No, I couldn't tell you what she intended to do; that wouldn't be fair, Judge, to say so.

Q. You met McMillian in the hotel lobby, didn't you?

A. Yes, I met him somewhere. If you will allow me I will tell you where I met McMillian.

Q. All right?

A. You came by with, I think, the warden of the state penitentiary and Mr. McMillian and one or two other persons; and stopped in front of my stable and put your hand out and asked me if I had some way positive of recalling so I would know positively that this thing occurred at the time, and I told you as willingly as I would Frank Long.

Q. You talked to me in the presence of Fred Cook?

A. I don't know, I know that the warden of the state penitentiary was present.

Q. You told us at that time that Minnie Atkins you saw with this baby before your wife left, didn't you?

A. I think about that time; I saw Indian Minnie before this but whether she had the baby—that is, so I could see the baby, before she died. I am not exactly clear on that subject.

Q. You later came into the hotel at Leavenworth when Mr. Bruff and myself were there?

A. I don't know the gentleman you speak of.

Q. The gentleman back over here? A. Well, probably so.

Q. Do you remember him now?

The Court: Stand up Mr. Bruff.

A. Yes, I guess that was the gentleman with you.

Q. You told me you wanted me to go down to your house so you could let me see the records you had there to show that you were not mistaken about when your wife left Leavenworth? A. Yes, sir.

Q. We then went out to your house, didn't we?

A. Yes, sir.

Q. And you showed the record there? A. Yes, sir.

Q. Showing that your wife died in November, 1885?
A. No, sir.
Q. In 1886, I mean?
A. Not in November at all, in September.
Q. In September, 1885? A. In 1886, that is right.
Q. That you told us that she left you more than a year before that, didn't you? A. Along about that time.
Q. You told us that you saw this boy long before your wife left, didn't you? A. Well, I saw her——

The Court: He is asking you as to a conversation sometime ago; the question now is what did you tell him then?

Q. Did you tell us that you saw this boy with Minnie long before your wife left you?
A. I don't think I did, that is long about that time.
Q. You told us the boy at that time was about two years old, didn't you?
A. Oh, no, I didn't tell you anything of the kind.
Q. Didn't you testify in this case in October, 1914, that the boy was a year or more old when you first saw Minnie?
A. No, sir. Why, no.
Q. Did you testify, give your deposition to be used in a case pending in the District Court, state court? A. Yes, sir.
Q. On October 13, 1914?
A. I don't remember the date, but I gave my deposition in the courthouse at Leavenworth before yourself.
Q. At that time you testified that you knew this boy by the name of Commodore, didn't you?
A. I gave him that name myself. Yes, sir, I always called him that.
Q. You never knew his name was Tommy Atkins until Frank Long told you?
A. I remember calling him Tommy, I remembered that they called him Tommy.
Q. Who called him Tommy?
A. Oh, everybody around there universally by everybody; everybody called him that.
Q. You say Lilly White moved out of this house in the summer of 1885? A. I think she did, I am sure she did in fact.
Q. How do you happen to remember it was the summer of 1885?
A. Well, I remember it as I told you from the petition papers that I found afterwards and I agreed with you to hunt those papers up.
Q. Well, your wife had left you before Lilly White moved out, hadn't she?

A. I don't know whether—— No, I don't think she did, I wouldn't be positive either way.

Q. Well, it was about the same time? A. Yes, sir.

Q. You can't associate those two events together?

A. I can't say, it was thirty years ago I am trying to remember back; thirty off years.

Q. She left there in the winter, didn't she, Lilly White?

A. No, I think not.

Q. You won't say will you positively?

A. I am sure she left earlier than that Judge, I think she left along in June or July, 1885.

Q. Who told you that this child had to be born at Granny Letcher's in the summer of 1885? A. Had to be?

Q. Yes?

A. I never heard such a thing approached me, nobody ever told me anybody had to be born at any time; I am surprised.

Q. How can you remember now the month that Lilly White left there?

A. Well, now, I don't say, I won't be positive.

Q. You don't know whether it was the summer or fall of 1885?

A. I don't know any more than I know Granny Letcher moved in there, it was in the fall, she may have left late in the fall.

Q. Granny moved there in the fall of 1885?

A. I think she was in there.

Q. Didn't Granny Letcher move in there in December, 1885? A. I think she was there before that time.

Q. Well, was she there in the fall of 1884? A. No.

Q. When did she move in there to your best recollection?

A. Well, along in 1885, I wouldn't be positive to which of two months either way.

Q. You think it was in the fall of 1885, you think it was in the winter, Crilly? A. No, I don't think so.

Q. You think it was in the fall?

A. Yes, I think early in the fall.

Q. Lilly White had moved out, hadn't she?

A. I don't know whether she had moved out or not; Granny Letcher first moved in the back portion of that house.

Q. Crilly, you testified positively in 1914 that Lilly White moved out and Granny Letcher moved in?

A. Even now it might be correct.

Q. What has changed your opinion?

A. I haven't really changed it. I know Granny Letcher was in the back portion of that building and that there was where Indian Minnie was, with Granny Letcher. I never Indian Minnie——

Q. You have been in constant association with Lee Bond and Frank Long since depositions in 1914?

A. I saw them once in a while, yes, sir.

Q. You have been out searching the country for witnesses in this case?

A. When I was hired to go and that was a very few times.

Q. You think now that Granny Letcher had moved out and Lilly White—— I mean Lilly White had moved out before Granny Letcher moved in?

A. No, I wouldn't be positive; that is my idea.

Q. One moved out about the time the other moved in?

A. Yes, I think about that time.

Q. Whether just before or just after you don't know?

A. It is a long while ago.

Q. But they didn't live there for any considerable time together? A. You won't allow me to explain why?

> The Court: Mr. Crilly, he has asked you whether you remember that they both lived together in that house at the same time?

A. Well, I think they were for a while at the same time, yes, sir.

Q. Why do you think so?

A. Well, I know that Lilly White wanted me to buy that property. She told me she paid fifty *of* dollars a month rent for that property and she told me if I would buy that property that I could buy it on the installment plan for in the neighborhood of thirty dollars a month and that she would gladly pay me the same rent for that property, and she would be paying the installments and I would be making eighteen or twenty dollars a month. I spoke to my partner, Mr. Cranston, and he wouldn't have anything to do with it. And Lilly White moved out very shortly and suddenly and I was awfully glad I never tied myself up.

Q. And then this nigger came in very suddenly and shortly after she moved out?

A. She was there about the same time; I know Lilly White moved out very suddenly, only a few days after she was trying to get me to buy the property.

Q. Do you remember what time of the year that was?

A. No, sir.

Q. Were you in your shirt sleeves?

A. Oh, I wouldn't remember that.

Q. Was she in her summer robes?

A. I couldn't tell you that.

Q. Where did that conversation occur?

A. At my stable or in my office.

Q. You have remembered that conversation since 1914, haven't you? A. No, I could have told you that before.

Q. You never did tell it before?

A. Never did have reason to.

Q. You have been on the witness stand twice?

A. Yes, sir, that is true.

Q. And both times you testified that Lilly White moved out before Granny Letcher moved in?

A. I testified she was occupying the house and Granny Letcher moved in, and that Granny occupied the whole house afterwards.

Q. You never heard anybody except Frank Long say they lived there together?

A. I never heard Frank Long say that either.

Q. Did you ever hear anybody say so?

A. Well, yes, I believe I have—— Oh, possibly common street talk.

Q. You know the defendants in this case have been trying to prove that recently, don't you?

A. Well, I don't know as they have.

Mr. Hanford: We object to that.

The Court: He may answer.

A. No, sir, I don't know that they have been trying to prove that.

Q. Haven't you been talking to people and asking if they remembered that they lived there together? A. No, sir.

Q. Didn't you hear Frank Long and Lee Bond asking them? A. No.

Q. Will you say you didn't?

A. Yes, I will say I didn't.

Q. Why has your recollection changed about it?

A. I don't think my recollection has changed any, Judge.

Q. Now, Crilly, you say Granny Letcher moved there in the fall, was it in the early fall or late fall of 1885?

A. Couldn't remember, couldn't tell you the exact months, no, sir.

Q. You saw Minnie there? A. Yes, sir.

Q. Granny Letcher never lived in that house until the time she moved there in the fall of '85, did she?

A. I don't think she ever did.

Q. She hadn't, while you were living on that street?

A. No.

Q. You had been living there since seventy-seven, hadn't you? A. No, sir.

Q. Since what time? A. About 1882 or '3.

Q. And during that time, Granny Letcher had never lived in that house, had she?

A. No, I don't think she ever had.

Q. Lilly White never lived there but the one time?

A. That is all I know.

Q. She never moved out and came back?

A. No, she never moved back.

Q. Granny was there the first time you saw this Minnie Atkinson or the Minnie you are talking about?

A. Well, I saw Minnie around the street long before this occurred; she wasn't around Granny Letcher's but I would see her on the streets.

Q. She was regarded by you as a public prostitute, wasn't she?

A. No, all I can say is I had seen her with a girl whose character was questioned, a girl by the name of Foster.

Q. She had the reputation of being a public prostitute?

A. No, sir.

Q. You thought she was?

A. Well, I was inclined to believe that she was a fast girl, yes, sir.

Q. You swore in 1914 that was a woman of the street, a prostitute?

A. Seen her on the streets. I don't know as I ever saw anything wrong in Indian Minnie at the time.

Q. You said you didn't know whether she was living with Ida Foster or not? A. I had seen her with her.

Q. Ida Foster ran a house of prostitution at that time?

A. No, sir, she was only a girl.

Q. Well, she was in a house?

A. No, I can't say she was in a house, but I know she had the reputation of being a fast girl.

Q. Why was it you associated this Minnie with Ida?

A. They associated themselves together, my friend.

Q. Was there anything in her association with Ida Foster?

A. No, no more than I knew Ida Foster was considered fast. I never knew her to live in a house of prostitution.

Q. You said in your testimony in 1914 you didn't know whether Minnie lived with Ida Foster or not?

A. I say that now.

Q. Crilly, don't you know the woman you are talking about is the Indian Mollie that lived in Leavenworth in 1884?

A. I know positively this woman Indian Minnie is the identical girl that I am talking about that I see here every day.

Q. You never heard her name as Atkinson? A. No, sir.

Q. While you knew her in Leavenworth?

A. Never did, no, sir. Never heard the word Atkinson to my knowledge, neved did.

And thereupon, court recesses until two o'clock P. M.

And thereafter, and at 2 o'clock P. M., court having convened pursuant to adjournment, further proceedings herein were had as follows:

GEORGE CRILLY, being recalled, further testified as follows:

Cross Examination by Mr. Allen.

Q. Mr. Crilly, I believe you say that Lillie White left 217 [] street quite suddenly? A. Yes, quite suddenly.

Q. 217 Seneca Street? A. On Seneca Street, yes, sir.

Q. Did you know Phillip Feth

A. Phillip Feth—I knew the old man in his lifetime, if that is the one you have reference to.

Q. Yes. A. Yes, sir.

Q. You remember a petition being circulated there to remove Lillie White from 217 Seneca Street?

A. No, sir, I don't remember of any pettition.

Q. I hand you Government's Exhibit 59 and ask you if you ever saw that petition before?

A. No, sir, not as I know of; I don't have any recollection of it; can't recollect any time that I ever heard of it, or seen the petition.

Q. Did you know M. A. Jordan?

A. Yes, I knew the Jordan family that lived right west of me; yes.

Q. They lived right down there on Seneca, didn't they?

A. Right west of me.

Q. Did you [] George T. Scott? A. Yes, sir.

Q. And John Maduska? A. Yes, sir.

Q. Where was Scott living?

A. Scott lived right adjoining Modaska on Shawnee Street, right south of the alley a little bit; west from the Letcher family.

Q. That was right up against the Letcher property, wasn't it?

A. No, it was across the alley and facing Shawnee, and to come from their house to the Letcher property you would have to cross three lots into the alley and go east two or three lots to get in to the property.

Q. They back together with the properties, against the alleys there?

A. Yes, not exactly against there; one was at a certain point and the other one about three or four blocks farther west.

Q. Do you mean lots—you said blocks?

A. Yes, sir, lots; I beg your pardon, Judge, I meant lots.

Q. George T. Scott then lived facing Shawnee close to the Letcher property? A. Yes, he lived there.

Q. And John Moduska lived out where?

A. Well, he lived—I think, right next to there.

Q. Right next to the Scotts? A. Yes.

Q. And Peter Wilkins, did you know him?

A. There was a Wilkins family there that run a hotel there; yes, I know Wilkins.

Q. That is in the same block also?

A. Yes, sir, right close to there.

Q. Right close to the Letcher home?

A. Still east of the Letcher home and facing the same as the other gentleman you spoke of—facing Shawnee Street, yes, sir.

Q. William Gordon, did you know him?

A. I knew William Gordon, yes, sir.

Q. And where did he live with reference to the Lillie White home?

A. Well, I think he lived in his old home store, and that was Shawnee Street; I think was between the Moduska property and— Where did you just speak of?

Q. That was right back up against the White property, wasn't it—the Lillie White place?

A. I think it is the next lot east of what was backing up against it, yes, sir.

Q. And P. Johnson?

A. P. Johnson—I can't recollect any person by that name.

Q. Did you know a Johnson that lived there in that neighborhood?

A. No, I don't know; I think there was a Swede in the block east of that. I am not sure—I think that was his name. I wouldn't be positive about that; I ain't sure now, about that.

Q. And G. H. Sudolph, did you know him?

A. G. H. Ludolph.

Q. It is Ludolph. J. H. Ludolph?

A. He lived there I think one lot west of Scott & Madusky property.

Q. That was right up against the Lilly White home?

A. Well, faced Shawnee Street across the alley.

Q. In the same block? A. Yes, sir, all in Block 25.

Q. On the south side of the alley?

A. Yes, on the south side of the alley.

Q. M. Roach, did you know him?

A. I don't recall the name Roach, no—— I beg your pardon, Judge, that man Roach lived in the block still west of our block, he lived—— If it is the same Roach, he had a daughter named Lottie. They lived across Third Street on the identical property that afterwards Mrs. Letcher lived in.

Q. Now, are any of these people whom I have named living? A. Read them to me.

Q. Feth, Gordon, Scott?

A. Gordon is dead, Scott is dead, Feth is dead.

Q. Madunsky? A. Yes.

Q. Wilkins? A. Yes.

Q. Gordon? A. Yes.

Q. Johnson?

A. I am not sure about knowing Johnson, I think the old man is alive, but I think his wife is dead. I am not sure about that, Judge.

Q. Ludolph?

A. Ludolph has been dead for years. He has a son living there.

Q. M. Roach? A. M. Roach dead years ago.

Q. E. Sherrons?

A. I don't remember anybody by the name of Sherrons.

The Court: How old are you, Mr. Crilly?

A. I will be sixty-four the 14th day of October, Judge, Your Honor.

Q. Ira Rivard, did you know him?

A. Can't recall him by that name.

Q. John Rippencroger? A. I don't remember that name.

Q. A. H. VanDusee? A. Yes, I know him.

Q. Where did he live?

A. He lived on the corner of Second and Seenca, on the southeast corner of Second and Seneca.

Q. That was right next to the Lilly White place?

A. Five lots.

Q. It was in the same block? A. No, in the block east.

Q. In the vicinity? A. Yes, five or six lots.

Q. F. C. Peck?

A. Well, I tell you I knew Frank Peck in his lifetime, but I don't remember when he lived in that locality; I knew him as a traveling salesman afterwards, I had nothing intimate acquainted with him.

Q. Is he living?

A. He was traveling for a Chicago house the last I heard of him, I think he is dead.

Q. Is VanDusee living?

A. Yes, I think they are both living, the old man and his old lady.

Q. F. C. Peck? [A.] I knew him, he lived in Leavenworth in the early seventies and then became a traveling salesman out of Chicago.

Q. Did you know Mrs. Higgins?

A. Can't recall any person by that name now.

Q. Mrs. H. D. Higgins?

A. Don't know anybody by that name.

Q. Did you know Thomas McNally?

A. Yes, sir, I knew him well, he is dead.

Q. He lived in that vicinity?

A. Well, he afterwards owned this property that you speak of that was owned by Van Dusee; I don't remember which lived in there first. They both lived in that same house.

Q. B. Cranston?

A. Yes, there was an old man by the name of Cranston that lived in that same block.

Q. In that same block?

A. He lived in that same block, he has been dead for years.

Q. J. Media?

A. You haven't it quite right but I know who you mean; he lived on the corner of Second and Shawnee.

Q. Lived in that vicinity? A. Yes, sir.

Q. Is he dead? A. Yes, long ago.

Q. John Ulrich?

A. I knew a man by that name but I don't know where he lived at that time.

Q. Otto Ristenport? Rittenbach, do you remember him?

A. Don't remember him.

Q. John Seckler? A. Knew him well.

Q. Is he living? A. No, sir.

Q. Do you know the signatures of any of those men?

A. Don't know the signatures of any of them.

Q. You don't know whether it was the result of this petition and the order of the city council that caused Lilly White to move? A. Never heard of the petition.

Q. But she moved suddenly?

A. Yes, only a week before she was talking to me about staying there for God knows how long, and then moved out, and I was surprised to see her go so soon.

Q. Did you know a member of the city council at that time by the name of Bond?

A. Bond? I don't remember who was councilmen of the city; I know Mr. Bond's father, here, well; Billy Bond.

Q. What was his name? A. Billy Bond.

Q. Do you know what his initials were?

A. I don't know whether he was—W. H. Bond, I am not sure about that.

Q. He was a member of the city council, wasn't he?

A. I don't know that he was; I don't know anything about that.

Q. Mr. Crilly, you stated this morning that you and Mr. Page, and someone else, who was it—went out to see Mrs. Cobb?

A. Well, I think Mr. Long, and Mr. Page, and I rode out there, and the person who was in the car with us was—no, I don't know whether I drove the car or had a party to drive it. I don't know which.

Q. You had a chauffeur to drive the car that day?

A. Yes, I think I did that day; I wouldn't be positive about that.

Q. Where did you drive Mr. Page and Mr. Long to that day? A. Drove them over to a place called Tracy, Missouri.

Q. Tracy, Missouri? A. Yes, sir.

Q. How far is that from Leavenworth?

A. Ten miles, I judge.

Q. You went in an automobile? A. Yes.

Q. How long were you out there?

A. Oh, twenty or thirty minutes, or fifteen or twenty minutes—it wasn't long, though.

Q. You were out there sometime?

A. Probably twenty or twenty-five minutes; it was not over that, I don't think.

Q. Did Mr. Page talk to Mrs. Cobb on that occasion?

A. I don't know whether he done most of the talking or Mr. Long; they were all conversing among one another.

Q. That the only time you hauled Mr. Page to the witnesses?

A. The only time that I ever hauled Mr. Page there, yes, sir.

Q. You hauled Hanford and Minnie Folk around Leavenworth in the fall of 1914, didn't you?

A. I think I hauled Mr.——

Q. In the summer of 1914?

A. I think I hauled Mr. Long and Minnie together the first.

Q. Hauled Mr. Long and Minnie together?

A. I think so, yes; that is my recollection now.

Q. And then later, you hauled Hanford and Minnie together?

A. Well, I won't be sure now; I have hauled Hanford with Minnie; I know I did Long because that was the first time I had seen her in all those years.

Q. That is the first time that you saw Minnie?

A. The first time for—oh, twenty-odd years; she was with Mr. Long.

Q. That is the first time in twenty-odd years that you had seen her?

A. Yes, sir; that was the time that I hauled Mr. Long and her together from the National hotel—the west door.

Q. They told you that they wanted you to haul Minnie Atkins and Long, didn't they?

A. Well, Mr. Long—I had expressed a desire to see this woman; to see if it was the person I had in my mind.

Q. To see Indian Minnie?

A. Well, they might have put on somebody else and I wanted to be sure what I was testifying to, and he told me to bring my car around and they were going out—I think to the post, or somewhere, and I took a car out to Mr. Long and Indian Minnie came and got into the car and that was the first time I have seen her since——

Q. They told you they were at the hotel and they wanted you to take them out somewhere?

A. Yes, Mr. Long told me.

Q. So, when you got to the hotel there, you and Minnie and Mr. Long——

A. I think that was the two—is my recollection.

Q. You hadn't seen her for twenty-odd years, if you had seen her before?

A. I hadn't seen for twenty-odd years; I had before, yes.

Q. You had not heard her before called Minnie Atkins, had you?

A. I don't think I had ever heard the Atkinson part of her name.

Q. Atkins?

A. Atkinson used to run a store there and I get the name mixed somethimes.

Q. You had before read articles in the Leavenworth papers?

A. I don't [] so, personally, until Mr. Long came to me.

Q. That was the beginning of this controversy at Leavenworth, wasn't it?

A. That is as far as I was concerned, yes; I don't know what was public before; I hadn't seen it.

Q. You knew her there by her features being the same as the features of the woman you saw in the '80's?

A. Isn't a bit of question about it; I knew the person by her features. That was the same party.

Q. You testitfied the way that you knew her, in 1914, was because of her features being the same?

A. Yes, sir, and her general features, yes, sir; testify now to that effect.

Q. She was considerably larger when you saw her the last time, wasn't she? A. Sure, yes, sir.

Q. You testified, I believe, in this court, in the receivership hearing, did you not? A. I was here.

Q. That you first heard the name Tommy applied to this boy that you called Commodore when this controversy arose is that right?

A. No, I remember them calling him Tommy before.

> The Court: The question is what you testified when you were here at Muskogee before; that is the question now.

Q. I don't remember, Judge, testifying to that.

Q. I will ask you if you testified here as a witness at the receivership hearing?

A. I testified before his honor here and I guess it was the same time, yes, sir.

Q. At that time, which was in 1915, did you—was the following question asked you, to which you returned the following answer: "Do you know by what name it was known?", referring to this child; and you said, "Well, of late, why I am satisfied his name was Tommy; I always called him Commodore."

A. That is it.

Q. "I had him nicknamed Commodore"? A. Yes, sir.

Q. This Edwards woman you saw said that this name was Tommodore, didn't she?

A. No, I don't know that she said that.

Q. Don't you remember hearing her say this name was Tommodore? A. Tommodore?

Q. Yes. A. Well, I don't remember hearing her say it, no, sir.

Q. Didn't you hear her testify—— A. No.

Q. That his name was Tommodore?

A. I never heard her testify in my life.

Q. Did you remember that she testified his name was Tommidore? A. No, I didn't.

Q. Did you ever in your life hear him called Tommidore?

A. I called him that.

Q. Did you ever hear anybody call him Tommidore?

A. Com—Commidore, I never heard anybody that I know of.

Q. Tommydore, did you ever hear anybody call him that?

A. No.

Q. He never was known by that name?

A. I don't think I ever called him that myself.

Q. Anybody?

A. I don't think I ever called him that myself.
Q. Did you ever hear anybody call him that?
A. No, sir, I never called him that.

The Court: Mr. Crilly, just answer the question.

A. No, sir. I have answered the question, Your Honor, I have answered the question.

Q. You say, Crilly, that you understood at the time you saw Minnie that she was a woman of the street, that was your impression of her then, wasn't it? A. Why, no.

Q. That she was a common woman at that time?

A. I understood nothing of the kind. Just from general observation. Nobody told me nothing with regard to the matter.

Q. You got that impression because she ran with Ida Foster? A. Yes, sir, that is right.

Q. Crilly, when was it that you first laid eyes on Minnie, the Minnie that you saw at Granny Letcher's?

A. Oh, I don't remember, Judge.

Q. You said it was long, didn't you, before your wife left?

A. Yes, it was a good while before any of this matter came up. I seen the girl on the street at different places.

Q. It was before you and your wife separated?

A. We separated temporarily, yes, sir.

Q. A long time, wasn't it?

A. Oh, I don't know, probably a couple or three months, I don't know, maybe longer.

Q. Was it a couple of years? A. Oh, no.

Q. Was it a year?

A. No, may not have been that much, and it might have been.

Q. Then, it might have been a year?

A. I don't think it was.

Q. At that time how old was the boy?

A. Why, at this time when I first saw her, I don't know whether the child was born or not.

Q. She wasn't in a family way, was she?

A. I never seen her when I thought she was in a family way.

Q. You never saw her in your life when you thought she was in a family way? A. I don't think I ever did.

Q. You tried to get Mollie Peters to make a date for you?

A. Yes, asked her to make an appointment for me to meet the lady.

Q. You watched her critically?

A. I seen her, but that was after the child was born.

Q. After the child was born? A. Yes, sir.

Q. And for years after that, you saw her weekly at Granny Letcher's? A. Oh, I seen her for sometime.

Q. For three or four years, you continued then to see her around Granny Letcher's did you?

A. Might have been two and might have been three years.

Q. It was the next two or three years?

A. From the time I first seen her until she disappeared out of sight all together.

Q. This child you spoke of was six months or a year old, was it a month or year old?

A. Oh, when I first seen the child, I had to guess from across the street, one hundred yards apart, and I know the child was in short clothes. I heard she had had a child.

Mr. Allen: I move to strike the answer that he heard she had had a child.

The Court: I will consider it in connection with his testimony.

A. I had been told she had had a child by the old fortune teller, Aunt Mollie Peters, and when I seen her with this child on the back porch afterwards, it confirmed the statement, otherwise I wouldn't have knowed she had a child.

Q. Crilly, how old was the child when you saw it that time?

A. I wasn't near the child, I was probably a hundred and fifty feet away.

Q. About how old was this child or whatever you call it that you saw you thought might be Minnie's?

A. The mother you mean or the child?

Q. The child?

A. It was in its mother's arms and I was a hundred and fifty feet away from it; I knew it had short clothes on and was told by Mollie Peters it was probably five or six months old.

Q. Then you saw Minnie when this child was five or six months old? A. Yes, sir.

Q. You continued to see her there every week after that, I believe you say, for several years?

A. Oh, she would be there sometimes for two or three days and then she would be away and you wouldn't see her for a month or two months.

Q. Then you would see her again?

A. Then she would be a day or two and then gone again.

Q. But at other times you saw this same woman around town?

A. I saw her at different places before I ever seen her at Granny Letcher's.

Q. She at that time you thought was not a good woman, was a common woman?

A. After I seen her with this Ida Foster I thought she was a little careless about her company.

Q. And weren't you at all aroused about her when you saw her living at this negro place?

A. Yes, I was somewhat surprised.

Q. To know she was staying there? A. No.

Q. You believed she was living there?

A. No, I didn't believe she was living there permanently.

Q. You saw the child there? A. Yes.

Q. You saw this woman there?

A. That was afterwards now that you are talking about.

Q. How long did she stay there at that time?

A. Which time do you mean?

Q. The time that you saw her with the child when the child was five or six months old?

A. I don't remember. I don't know whether she was just there a day or two; she was back there in the neighborhood from one to two years after the child was born, I would see her at Letcher's.

Q. For how long?

A. From one to two years, I don't know how long.

Q. You have never fixed it before this minute at less than two and one-half years?

A. Well, I am talking about after the child was born. I ain't positive about that, Judge.

Q. And you continued to see her there every week or two or month or two at Granny Letcher's?

A. I seen her there more or less.

Q. You were trying to get an engagement with her?

A. I asked Aunt Mollie to make an engagement for me; she flirted with me on the Fort Road one time and that caused me to want to make her friendship.

The Court: Your cross examination has covered this matter two or three times. First he said a year or two and one time he may have put it more than that, but you have covered that very fully. Go to something else.

Q. Did you ever at any of those times see her when she appeared to be in a family way?

A. No, sir, I don't know as I did. This all happened after she had had this child.

Q. Did you see her when she appeared to be in a family way?

The Court: The witness has answered a number of times that he never saw her when she appeared to be in a family way. I have that well fixed in my mind, there is no question about that.

Q. You testified, Mr. Crilly, twice before that this was a mulatto child, didn't you?

A. No, I didn't testify as to the exact color. I testified I thought it probably was tinted with colored blood and I even yet; I probably got that from the fact that the child was living among colored people.

Q. You made that explanation before?

A. I don't know whether I was ever required to or not.

Q. In 1914, when you testified in Leavenworth, were you not asked the following questions to which you returned the following answers: "This child called Tommy was part negro?" to which you answered: "Yes, I classified him with the rest of them, I thought so, yes"?

A. Yes, that was the opinion I had.

Q. You believed then that this boy was a negro?

A. I believed it, yes, from the fact—— That is, from the fact it was raised among the colored people; I thought so, and think so yet, that it must have been tinted with that or it wouldn't have been there.

Q. You have heard it all your life that to rub your hand over a negroe's head would bring you good luck?

A. That's the stuff Judge.

Q. And when you rubbed your hand over that negro's head you thought you were rubbing it over the head of a negro? A. No, I knew it was Indian Minnie's child.

Q. You thought it would bring you good luck to rub your hands over a nigger's head?

A. No, sir, but I made that remark because I felt kindly towards the child and was playing with him. I am not superstitious.

Q. You remember now of rubbing your hand over this boy's head? A. Yes, sir.

Q. And saying that that will bring me good luck?

A. Yes, sir, that is a fact.

Q. Did you ever hear that it would bring you good luck to rub your hand over a white person's head?

A. Oh, I have heard that remark made by lots of people.

Q. But to rub your hand over a negro's head, that would bring you good luck? A. Yes, that was what was said.

Q. Then weren't the following questions asked to which you returned the following answers in your deposition at Leavenworth: "Do you remember the color of this boy Tommy? A. He looked to me kind of mixed like, a mulatto more than anything else." A. Well, he was.

The Court: Now, let's get along. Was that your testimony there?

Q. Yes, that is what I said.

Q. Then, you testified here, Mr. Crilly, did you not as follows. "Q. It was part negro, according to your judgment? A. Well, at that time, that was the way we thought, yes, sir."

The Court: That was your testimony, was it?

A. Why, I probably testified that it was a colored boy.

The Court: Did you testify that way?

A. Perhaps I did, if it says so. I won't deny that; I haven't denied it.

Q. Then was the following question asked you ,to which you returned the following answer: "Q. You may describe the appearance of the child as to its blood. A. Well, I was always under the impression that it had colored blood and Indian blood, that was my opinion—that it was a colored child with Indian blood. Whether I arrive at that conclusion from general observation or whether it was associated [] that class of people so long, altogether, it is pretty hard for me to tell, but we considered it was part Indian and part negro; that is the way we looked at it at the time. I had no particular reason outside of what would naturally come to every other man." You testified to that fact at Muskogee, long after you had testified at Leavenworth?

A. I testify that now, as far as that is concerned; that was the idea I had at that time to the best of my belief. I say the best thing now, to the best of my belief.

Q. If Minnie ever worked at the Fort, you never knew anything about it, did you? A. Not personally, I didn't.

Q. Well, you testified before that you didn't know anything about her working there?

A. Myself, I don't know that she ever worked at the Fort.

Q. You testified that you never heard of her working nywhere, didn't you? A. Yes, sir.

Q. That you thought she was just a prostitute around own?

A. No, I won't say that; I said I never heard of her working anywhere; that last clause you add in there I won't ay that—I say she was with a woman whose character was uestioned.

Q. Did you ever talk to Rube Smith and Dennis Jones bout this?

A. I don't know about any of the details of this; I don't hink I ever did. I don't think they knew what I testified.

Q. Did you ever talk to Lee Bond?

A. I talked to Lee Bond, yes.

Q. Did you know about the time Mr. Bond was employed n the case?

A. Well, not long after; I never heard about him being in the case until after I testified before Your Honor here before.

Q. You knew that Dennis Jones and Rube Smith were employed before then, didn't you?

A. Never knew it until I came down here and found them around this Government building.

Q. You knew they were working on this case?

A. I knew it when we got down and I found them here; I heard they were on the case.

Q. On the Receivership hearing?

A. I think it was in 1914, Your Honor.

The Court: You will have to do the testifying.

A. Well, that was the time, anyway.

Q. After you took Mr. Page and Mr. Long out to see Mrs. Edwards, you took Long and Lee Bond out, didn't you?

A. I don't know whether I took them out or not; I can't remember. I probably did.

Q. Didn't you take them out there just a few days before Mrs. Edwards testified at Leavenworth?

A. I don't remember the exact time.

Q. Mrs. Cobb?

A. Mrs. Cobb is the name; I know who you mean, or meant, all the time. After I learned them of their knowledge, I acquainted any person that was interested in it—in the case, I think the first man I met after I heard of it——

Q. You told all about that—I said did you take them out to Mrs. Cobb's? A. Yes.

Q. A few days before she testified?

A. I don't know how long before she testified, no.

Q. Did they get a Bible there and bring it back that day?

A. I don't think so.

Q. You never saw the Bible? A. I don't think so.

Q. You saw the Bible, though, didn't you?

A. I never saw the Bible; I heard the Bible was there but I never saw it.

Q. Did you see that big Bible that they brought—

A. I never saw the Bible, Judge.

Q. You heard there was a Bible, didn't you?

A. Yes, sir, I heard it.

Q. Who told you about it?

A. Mrs. Cobb's daughter I think first mentioned it.

Q. They claimed that had the record of the age of the Edwards children? A. No.

Mr. Cruce: If the Court please, we object to that, as having no bearing.

The Court: I can't see the bearing on this. I presume there are a lot of depositions with which I am not familiar. Go on, conclude as rapidly as possible, Judge.

Q. Mr. Crilley, did you come down here with Mrs. Welch?

A. Yes, sir.

Q. Who paid her expenses down here?

A. Mr. Long. I don't know that it was Mr. Long; he sent the money to pay her expenses.

Q. Sent it to you? A. No.

Q. Who else did you pay the expense of to come?

A. The expenses of a woman name of Goldberg, and a man named Roderick, and a man—Mrs. Goldberg, I didn't pay hers; John Roderick and myself—three tickets were bought by me.

Q. John Roderick is the same man you said in '85 and '86—what time in '86—January?

A. Some time in '86, I wouldn't be sure.

Q. That he was the man that you said had charge of the wood and coal?

A. The Government storage—transferring that from one part of the reservation to another.

Q. Running a transfer line? A. Yes.

Q. And he worked then for you?

A. He was partly interested in that portion of the firm.

Q. That line? A. Yes, sir.

Q. How much money did he send you to pay these witnesses' expenses?

A. He sent me sixty dollars; a draft for sixty dollars to pay the expenses of all persons down here and any little things they could need while on the way. Sixty dollars was the amount anyway.

Q. You are all staying at the hotel here together, the Severs hotel, here together, are you?

A. No, sir, we went in there the morning—Roderick and I, and I found two other witnesses after I got off at the depot I didn't know had anything to do with the case. Nobody was there—it was so early in the morning, to meet us and they followed us to the Severs hotel and her and another lady went up to a room, and I and him went into breakfast. We had our breakfast and came out and our bill was so enormous, I said this looks pretty rough, and the ladies just had their everyday clothes to wear, had no change——

Q. Well, where are you stopping?

A. Well we are—where are we stopping?

Q. Yes.

A. I am stopping at the Huber house, and there is where they are stopping.

Q. These other witnesses who came with you are stopping there?

A. When they first came, they stopped there a few days.

Q. Have any of them gone home?

A. Yes, all of them have gone home but me.

Q. Roderick is the only one of them who has testified, isn't he? A. No, Mrs. Welch testified I believe.

Q. Mrs. Welch and Roderick?

A. No, Louis Bell testified.

Q. They didn't come with you, though?

A. No, but they came on the same train and went to that hotel with me.

Q. Well, how much are you being paid this time to come here?

A. Well, I haven't been offered a five cent piece but I expect *to* the gentleman to be as fair with me as they were before and I will tell you that if you want me to. They haven't paid me a cent.

Q. Well, you may tell.

A. Five dollars a day and expenses.

Q. You expect them to be that fair with you?

A. They *have* offered me a five cent piece but I am satisfied they will be gentlemen and treat me as they did before.

Q. Are they paying all the witnesses all that?

A. I don't know anything about that. I am only telling you about what I expect myself. I don't know anything about what they are paying the other witnesses.

Q. Now, Mr. Crilley, in November, 1914, Henry Carter came to your house, didn't he? A. Yes, sir.

Mr. Allen: Stand up, Henry Carter.

(Henry Carter stands up in the rear of the court room.)

A. I can point him out where he stands. That is the fellow.

Q. He came to your house, didn't he? A. Yes, sir.

The Court: You may be seated.

Q. That was in November, 1914, wasn't it?

A. I don't remember the time, Judge; I don't remember the month; I remember the time of the day but I don't remember the month he was at my house.

Q. That was about the time that Page took a lease from Henry, wasn't it?

Mr. Cruce: If the Court please, we object to that; there is no testimony that Page took a lease from——

The Court: If this witness knows anything about it——

A. I never knew that he had took a lease; I never heard of a lease being taken by Henry Carter.

Mr. Allen: Counsel evidently doesn't understand the state of the evidence here.

The Court: However, that is immaterial in connection with the cross examination of this witness if he doesn't know.

Q. This man came to your house? A. Yes, sir.

Q. And you went out there and identified him positively as the Commodore that you saw in 1886 there?

A. No, I didn't and you never heard any person say that I identified him as the same person.

Q. Didn't you tell him that you thought he was the same person?

A. No, I didn't; I didn't know who he was. I will relate the conversation and prove it by him.

Q. Well, tell the conversation.

A. My wife told me there was a man outside who wanted to see me and I went to the door and young Mr. Carter was there standing on the outside. He looked at me earnestly and sincerely and said do you know me, and I said why no, I don't know you—who are you? He said I was told—answered me directly—I was told by a party that if I would come to you that you could identify me; I reminded the second time that I didn't know him and asked him who he was and then I think he told me that he was not positive but that he thought he was the Indian Tommy, and I began asking him questions—if he knew me. I said, do you know me; and he wouldn't say that he did know me, but he said he had seen me before. I said well, you knew me in those days *days* he did then; after talking to him I happened to think about how I used to rub his head and the idea occurred to *him* that if I could get him to remove his hat, it might show some signs of it; and I said to him, remove your hat, and he removed his hat, and I couldn't identify anything, and I said, Carter, if you are the man—it has been years ago and I am not surprised if you are the boy, I couldn't identify him as a man—grown to manhood, that I had not seen since he was seven or eight. Then afterwards I knew my boys, I had two boys, one almost the same age of him, well no, probably a little bit younger as he said Tommy's age would be. I asked him if he remembered playing with my boys and I tried in every way to ascertain the facts from him and he didn't seem to know anything about it, and he would keep saying I know lots of things, but he seemed to harp on the fact that he wanted to find his mother; that was the main feature—I want to find my mother; that is the remark he made to me, kept harping on that. So I took him and afterwards my boys wasn't at home; one of my boys was living in Tulsa, Oklahoma—not Tulsa, but Inola, Kansas; the other was living at 31st and Jackson Avenue, Kansas City, Missouri; and quick as I laid eyes on my oldest boy, I asked him if he knew or had any reasons to remember this here little Tommy at that age, because he was a year or two older, or about that size. He said yes, he remembered——

The Court: You needn't to state what your boy said now.

Q. Well, I beg your pardon, then. Judge, I don't want to——

The Court: You have probably answered his question now.

A. Yes, I will answer his question if he wants me—go ahead.

Q. Then, you satisfied yourself that he was Tommy—Commodore, didn't you?

A. No, sir, I never satisfied myself to that effect.

Q. What did you say when you got through with the examination of him?

A. Well, I never said anything particular to him but I did tell Mr. Long shortly afterwards that I wouldn't be surprised if this boy didn't prove to be Commodore—that is before there was any sifting into the matter and I put Mr. Long in a car and took him out to a house where Carter was working on a house cleaning the roof and we called Carter out—it was almost time for him to quit work, and I think Carter rode in my machine down to the hotel. And they got out and went up stairs, it seems to me, and that was the end of it that time. I will tell you the last I seen him if you want me to.

Q. Long was satisfied, too, that it was Commodore that you saw there?

A. Well, you ask Long about that, I don't know what he was satisfied about.

Q. I said did he tell you that?

A. No, sir, he didn't; he went out in the country and came back and I will tell you what he told me if you want to know. He says it wasn't the boy.

Q. Wait a minute; he told you after viewing the boy that it was Tommy, the boy?

A. I never saw him any more that day; they went up stairs—he did not.

Q. Now, Mr. Crilley, when you were down here at the receivership hearing, didn't you have a conversation with C. W. Turner; you know him, don't you? A. Yes, sir.

Q. Didn't you tell Mr. C. W. Turner—— A. Yes, sir.

Q. That you could go back home and in two hours put your hands on the Tommy that these people are talking about?

A. No, sir, I didn't tell him nothing of the kind.

Q. You told him that you knew this boy and that he was living under the name of Henry Carter, didn't you?

A. No, I told him that I knew the boy that might prove to be, this Henry Carter. I was interested about it; I hadn't heard other facts that caused me to change my mind.

Q. Didn't you tell Mr. Turner that you knew the boy that you were talking about here and that these other witnesses were testifying about, and that you could go back home in two hours and put your hands on him? Answer that yes or no.

A. No, sir; I say no, sir, I didn't tell him I could do that.

Q. Didn't you tell him you could go back home and find the boy; that you knew him there—that these witnesses were talking about? A. No, sir, I didn't tell him that——

Q. Wasn't there a peach tree incident that you mentioned?

A. No, I will tell you that. It wasn't no peach tree; it was a pear tree.

Q. Alright; pear tree.

A. There was a tree on Granny Letcher's lot, what caused me to make the remark favorable to Carter I think—I asked my boys if they got anything—could relate any circumstances that I could go to this man Carter that would convince me whether he was the boy or not. My youngest boy didn't know anything about it; had no recollection; my oldest boy said, they throwed rocks in the well, and I said that ain't anything—can't you think of something else. He studied a while and said there was a pear tree on the back end of Granny Letcher's lot and that some of the boys—either Sam Nash or Carter, or Mayo, had got my boy, teasingly to point up to the fruit on this tree, so he said it made one of the boys angry, I think it was Carter, angry to make him think he had pointed at the fruit and he said the fruit would fall off. The next time I seen Carter, because I was anxious to find this little Commodore, I asked him if he had any recollection of this and he emphatically told me no, and I didn't get to tell the whole story until he told me, I said you remember the fruit there on the back end of Granny's lot, and he said no, he didn't remember that. I said did you ever remember of me pointing up to the fruit on that tree and he said no, but I know fruit will fall off, won't do any good, if you point at it. I, all my life had never heard of such a thing, and that is what made me think this boy might be the boy. I never heard of such suspicious things before, and he joining in with my boy with that remark is the only reason that I thought that he might be the boy; outside of the general appearance that he looked like he might have Indian blood in him, there, that boy there.

Q. Acting upon the information that you gave him?

A. Yes.

Q. Mr. Turner telephoned you twice asking you to help him get a lease from this Commodore?

A. I wasn't at home when the telegram came; I stopped to see my son and the message arrived and they notified him that I hadn't arrived home, and then he telephoned my son at Iola and after he telephoned I was then on my way home to Leavenworth. I arrived in Leavenworth and I wasn't there two hours until I got a telephone message in reference to that matter.

Q. Speaking of this boy in 1914, when you were testifying in reference to this matter, was not the following question asked you to which you returned the following answer: "Q. Who had the care of him? A. It seemed to me like Mrs. Letcher." A. Yes, sir, that is right.

Q. Then, was not the following questions asked you and the following answers returned: "Q. Now, as I understand you, he was six or seven months old when you first saw him in Minnies' arms? A. Well, he may have been a year old, but she could pick him up and have him in her arms, yes. You see he lived right across the street and I never was over in that house; my folks would not stand for it."

A. Well, you are right on that, but I don't think I placed it as high as a year old.

Q. Who were your folks that wouldn't stand for it?

A. Well——

Q. Your wife?

A. No, my wife and I had quite a temper. We never parted, we simply lived apart; she came back and visited me and the children for three days and went away again.

Q. "And every once in a while you could see her inside that house? A. Yes. Q. And sometimes she had the child in her arms and sometimes other people had it in their arms? A. Yes, she had it more than anybody else, and I do not know how I got the idea, I got the idea that it was mother and son. I paid no particular attention, I had no particular reason for knowing." Did you answer that question in that way in Leavenworth? A. I don't think so, because I——

Q. I just asked you if you answered it in that way?

A. No, sir.

Q. The last time you ever saw him you say he was seven or eight years old?

A. Yes, I should judge seven or eight years old.

Q. Crilly, you say your barn burned in 1890?

A. Yes, on the 11th day of April, 1890; I have had three or four fires, but that is the fire we have reference to.

Q. Had this boy left there when your barn burned?

A. No, I think it was a year or so afterwards that this Van Tyle affair occurred.

Q. About what time after?

A. I don't know when he left; the last thing I am positive was the time this pipe affair came up and I think he was six or seven years old, because I remember then challenging my memory that the boy ought to know better about putting somebody else's pipe in his mouth. I might have seen him for a year and a half or two years after.

Q. How much younger is your boy that played with Tommy there than Tommy?

A. Well, my youngest boy was born on the 20th of March——

Q. Well, I say about how much younger?

A. The youngest boy I think was about the same age or probably a year younger.

Q. That answers it. How long was that boy—— How old was that boy when your wife left you?

A. Which boy, my boy?

Q. The youngest boy?

A. Well, now, since I come to think about it——

Q. Just answer the question. How old was that boy?

A. Oh, that boy of mine was—the youngest boy must have been four years old.

Q. When your wife left? A. Yes.

Mr. Allen: That is all.

A. I think about that time when my wife left.

Cross Examination by Mr. Cobb.

Q. Mr. Crilly, as long as this boy stayed at Granny Letcher's he played around your place there?

A. Yes, out in the yard and in the barn.

Q. Played with your boys?

A. Played with all the boys as far as I know.

Q. What other boys were staying at Granny Letcher's, Sam Nash? A. Sam Nash.

Q. Walter Banks?

A. Walter Banks. Jim Mayo I think was pretty well along in years at that time, that is he was more of a man and I don't know about Sam Nash.

Q. But they were around there?

A. They had opportunity to play around there.

Q. This Walter Banks and Sam Nash still live in Leavenworth? A. No, I think they live in Tulsa.

Q. When was the last time you saw them?

A. I seen them both I think since I testified before Your Honor on the other date.

Q. Haven't you seen them since you have been here on this trip? A. No, probably a year, either one.

Q. Now, you say Carter came to you and you and Carter talked over his early childhood? A. He didn't have any recollection about his childhood.

Q. He was trying to get you to identify him?

A. Yes, he came for that purpose.

Q. And you recited to him certain incidents that you remembered, among them the fruit tree incident?

A. I got it from my oldest son afterwards and recited that to him afterwards.

Q. You talked with them? A. Yes, sir.

Q. And from your conversation with him raised some question in your mind as to whether he was the Commodore that you knew there as a boy? A. Yes.

Q. You had some doubt then about the matter as to his identity?

A. I thought probably he might prove to be the boy.

Q. Did you believe that so strongly that when you came down here you talked to your old friend Clarence Turner?

A. Yes, I hunted up people, among the first I met was Mrs. George Zufall——

Q. I am talking about Clarence Turner? A. Yes.

Q. You knew Clarence Turner for years before you came down here?

A. I knew of him, wasn't so well acquainted with him as I was with the other parties, yes.

Q. And you had a conversation on that trip?

A. I went in to shake hands.

Q. Wait a minute. I am going to ask you the questions. You had a conversation with Clarence Turner at that time about Carter's claim?

A. Yes, our conversation was about this boy.

Q. About his rights in the premises; about the likelihood of him being the Commodore that you knew?

A. I had a talk with him.

Q. And afterwards Clarence Turner wired you at Leavenworth to get him a lease on this land, didn't he?

A. He wired there twice before when I was on the way back, but I had stopped at Inola to see a son of mine. When I got home he wired to Inola but I had left Inola and gone home.

Q. The object of those telegrams was to get a lease on this land? A. Well, yes.

Q. Now, I will ask you if you didn't state to Mr. Turner upon that trip down here, in substance, while this trial was going on up here at the courthouse, that you didn't believe that the parties engaged in that litigation were trying to find the real Tommy Atkins? A. No.

Q. Wait a minute until I get the question through. That if you were in Leavenworth you could lay your hands on him within forty-eight hours; that he was there going under the name of Henry Carter; didn't you tell him that, or that in substance?

A. No. I told him I thuoght there was a boy there, probably called his name, that may be true. And told him I didn't know but he might prove to be the Henry Carter.

Q. And at that time you believed he was Tommy Atkins?

A. No, I told him I thought he might prove to be. I had no particular proof positive outside of this fruit tree.

Q. But that was your opinion at that time?

A. That was my opinion at that time, yes, sir.

Q. Now, do you know R. E. Martin of Leavenworth?

A. Yes, sir.

Q. You have seen him around the courthouse and you have seen him at Leavenworth? A. Yes, sir.

Q. And you know that he is trying to sustain the interest of the Carter defendants in this case, don't you?

A. That is what I heard, that he is in sympathy with the Carter claim.

Q. You have known that all the time, you have talked with Mr. Martin a number of times about this matter, haven't you?

A. Well, I will tell you——

Q. I just wanted to know.

The Court: Just answer the questions.

A. I have talked to Mr. Bell in the presence of Mr. Martin the first time I ever heard of it.

Q. Now, you talked to Mr. Martin at your livery stable a time or two?

A. No, I don't think he was ever at the livery stable, don't know that he was.

Q. Now, you had a conversation with T. W. Bell and Coody Johnson? A. Yes, sir.

Q. In Mr. Martin's presence in Mr. Bell's office in Leavenworth, didn't you? A. That is right.

Q. Along about 1915?

A. I don't remember the time; Mr. Bell sent for me to come down there and I went down.

Q. I will ask you if you didn't state there in that conversation that your judgment was that Carter was the boy that you knew as Commodore; that you had told Clarence Turner that he was and that you had not made up your mind that he was not the boy; that you had talked to Carter on several instances about things that happened when he was a boy, and that he, Carter, seemed to have a recollection of it and convinced you more than ever that he was the boy you had known as Commodore. Didn't you communicate that statement or that statement in substance? A. No.

> Mr. Cruce: On behalf of Mr. Page, we object to that because it is not cross examination. They can make him their witness on that question if they want to but it isn't cross examination, and as between Page and Carter we are adversaries.

> The Court: Well, now, the witness has answered that he didn't make such a statement. This will come up again when it is sought to prove this statement. Your objection will be noted and for the present overruled, and exception noted, and you will be allowed to renew the objection if it comes up at a later stage in the case.

Q. Now, I will ask you if on two different occasions, at your livery barn in Leavenworth, one of them along about 1915, after your return from Muskogee here at the receivership trial, and later in 1916, sometime in the year 1916, if you didn't state to Mr. Martin that your judgment was that Carter was the boy you had known as Commodore?

A. No, sir, I didn't say anything of the kind.

Q. Didn't you make that statement?

A. No, sir, not my judgment at any time. I merely said that he might prove to be the boy. I was as anxious to find the boy as anybody on earth.

Q. You stated a while ago that you knew the interest with which Mr. Martin was identified; I will ask you if after your arrival here in Muskogee, if you didn't see Mr. Martin and put your hands on his shoulder and say to him that he need have no fear about your testimony; that you was going to tell the truth about the matter according to the dictates of your conscience, either that or that in substance?

A. I don't remember of laying my hands on him, but I will say that I expected to tell the truth at all times.

Q. Did you tell Mr. Martin that?

A. No, I don't remember.

Q. You won't say you didn't tell him that?

A. Probably I might have said something of the kind.

Q. What was your object in telling him that, Mr. Crilly?

A. I don't know if I had any object. In fact, I don't remember telling him at all. I don't remember telling him that.

Q. Before you went to Mr. Beall's office in that conversation you had there with Mr. Beall and Coody Johnson and Mr. Martin, you had already talked to Mr. Long and Page about this matter, hadn't you?

A. No, sir, that is since I ascertained the knowledge I had from Carter, I don't think after I talked to them until I talked to Beall.

Q. I am speaking about this particular conversation. You never talked to them then?

A. No, Bell called me to his office and I went down at his request and there they told me——

Q. I asked you whether you talked to Mr. Long prior to that time? A. Oh, I had talked to him, yes.

Q. You had talked to him before then? A. Yes.

Q. You had talked to Judge Allen and Fred Cook about the matter? A. Yes, probably did.

Q. The fact is, you talked to every interest in the case prior to that time?

A. Everybody that came to me and asked for information, I had nothing to hide.

Redirect Examination by Mr. Stuart.

Q. Mr. Crilly, did people come to you claiming to represent the Government? A. Well, I——

Q. Did Judge Allen talk with you? A. Yes.

Q. Who did he claim to represent, did he talk to you?

A. Yes.

Q. Did Mr. German talk with you, this gentleman here?

A. No, I can't remember him.

Q. Did any of these other gentlemen you see here?

A. Yes, I see Mr. White here, he talked to me about the matter.

Q. Did you tell him what you knew about him?

A. I think I did.

Q. Did Mr. McMillian, the detective in the case, come to see you? A. Yes.

Q. Did you tell him what you knew about it?

A. Yes, sir.

Mr. German: I want to object to Mr. McMillian being called a detective.

The Court: Well, that is in the question.

Mr. Stuart: Well, your Honor, I was perfectly honest. I thought he was a Dawes Commission man. I beg Mr. Robinson's pardon for calling him a detective.

The Court: I don't know who Mr. McMillian is, but I consider the calling of a detective as honorable as any other calling.

Q. Did Mr. Bell talk to you about it? A. Yes.

Q. Did you refuse to tell anybody who came to you what you knew about this case?

A. Never anybody I don't care who it was.

Q. Now, Mr. Crilly, when this young man who called himself Henry Carter came to you, did he say to you, I am Indian Tommy? A. No, he didn't say that.

Q. What did he say?

A. Well, he thought he was, but he didn't say that he was positively.

Q. Indian Tommy, around what place?

A. Well, he thought he was Indian Minnie's child. In other words, he wanted to find his mother.

Q. Did he indicate to you that he was the Indian Tommy that stayed over at Granny Letcher's? A. Yes.

Q. That was the boy he was trying to identify himself as being? A. Yes, sir.

Q. He told you he had stayed over at Granny Letcher's

A. Yes, sir.

Q. Now, when he made that statement to you, you at once talked to your boys about it?

A. As soon as I seen them, yes, sir.

Q. Just answer my questions? A. Yes, sir.

Q. You at once consulted your boys? A. Sure.

Q. And you consulted your boys, why did you consult your boys about it?

A. Well, because they had played with this boy.

Q. What boy?

A. If this boy proved to be the boy. He played with Tommy Atkins.

Q. Where?

A. Around on the streets and there in the yard, and in the buggies and in the hacks.

Q. That is the reason you consulted your boys about it?

A. Yes, sir.

Q. Because you knew they had played with Indian Tommy? A. Yes, sir, Indian Tommy.

Q. Whatever may have been this boy's blood, you say you saw it in Indian Minnie's arms? A. Yes, sir.

Q. And you saw Minnie taking care of him? A. Yes, sir.

And thereupon **DENNIS JONES**, a witness produced on behalf of the defendants Minnie Atkins et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Hanford.

Q. Your name is Dennis Jones? A. Yes, sir.

Q. Where do you live?

A. I live in Leavenworth, Kansas.

Q. How old are you?

A. I will be 60 years old the 9th of November if I live that long.

Q. When did you go to Leavenworth? A. '63—1863.

Q. What is your occupation? A. I am a lawyer.

Q. Practicing? A. Yes, sir.

Q. You are regularly admitted in the State of Kansas?

A. Yes, sir.

Q. How long have you been practicing law?

A. I was admitted to practice in 1892.

Q. And have been continuously in practice ever since?

A. No, sir, not continuously.

Q. You lived in Leavenworth about fifty some odd years?

A. Yes, sir, came there in 1863.

Q. What was your business along in the '80's?

A. Well, from '80 along up to '85, '86 and '87, I was porter at the Continental hotel part *or* the time and part of the time on the police force, special police and part of the time barbering.

Q. When did you go on the police force?

A. Well, I think in 1884.

Q. That was the first time?

A. I think that was probably the first time.

Q. What were you then, special policeman?

A. Yes, sir. I can tell you if you will let me refer to a record I have just exactly when it was.

Q. I won't ask for that now. Your recollection is that you were on the police force *forst* in '84?

A. That is my recollection now.

Q. Then you were let off?

A. Now—no, we were not let off; of course if you will let me explain it——

Q. Go ahead and tell what happened.

A. In the summer of each year they would put on special policemen to collect road tax.

Q. And you were on in '84? A. Yes, sir.

Q. And were you on again in '85? A. Yes, sir.

Q. Were you regularly on the police force?

A. Not at that time.

Q. You were regularly a special man in '85? A. Yes, sir.

Q. Did you know Granny Letcher? A. Yes, sir.

Q. How long did you know her there in Leavenworth?

A. Oh, I knew Granny about 45 or 50 years; I was quite a boy when I got acquainted with her.

Q. Did you know her up to the time that she died?

A. Yes, sir.

Q. Did you know her when she lived on Cherokee Street?

A. Yes, sir.

Q. Do you remember what part of Cherokee Street?

A. 215.

Q. And where is the next place that she lived? After Cherokee Street?

A. She moved from Cherokee Street to Seneca Street.

Q. Between what blocks?

A. Between Second and Third on the south side of the street.

Q. What kind of a house was that she lived in there?

A. It was a framehouse.

Q. How many stories?

A. Well, about two or two and a half—something like that; I don't know whether it was complete two story or not but it had an upstairs to it.

Q. Had an upstairs? A. Yes.

Q. Did you know the members of her family? A. Yes, sir.

Q. Tell who they were.

A. There was Jim, her son, and Sam Nash, and a boy named Walter Banks, and another little boy around there they called him Arch—he stayed there occasionally; a one-eyed boy.

Q. When—were there any other boys around there?

A. Yes, sir, a little boy there *sone* of a woman—Indian Minnie who used to be there.

Q. What was his name? A. Tommy.

Q. What kind of a boy was *her?*

Q. Well, he was a boy—wasn't of an Indian color, lighter complected than a real Indian; he had enough Indian for a person observing to know that he was a white boy; he wasn't colored.

Q. What kind of hair did he have?

A. He had black hair.

Q. Straight black hair? A. Yes.

Q. What did you say his name was? A. Tommy.

Q. Did you know who his mother was? A. Yes, sir.

Q. Who?

A. Well, that is, who was reputed to be his mother——

Mr. German: We object.

The Court: Who was reputed to be?

A. By Minnie Atkins, was his mother.

Mr. German: Wait a minute—the witness knows better.

The Court: He says by Minnie Atkins—did I so understand you?

A. Yes, sir.

The Court: Alright.

Q. You knew Indian Minnie did you? A. Yes, sir.

Q. You know what her other name was—her real name was?

A. Well, at first I did not but quite a while after I found out that.

Q. When did you first——

Mr. German: Pardon, me Mr. Hanford; Your Honor, you understand we are objecting to all the statements of Minnie, as we did to the statements made by Nancy?

The Court: Yes, the record may show your objections, overruled, and exceptions.

Q. When did you first know her, Dennis? Or when did you first see her?

A. In along about the winter of '84.

Q. Where did you see her then?

A. Down at Mrs. Letcher's on Cherokee Street.

Q. And did you know her then?

A. No, I didn't know her then.

Q. When did you come to know her?

A. Well, to know her was at Mrs. Letcher's on Seneca Street—to know her.

Q. And when did you get to know her up there?

A. That was along in the spring of '85.

Q. Do you remember when Granny Letcher moved from Cherokee Street to Seneca?

A. She moved there after I was commissioned as a special policeman in '85.

Q. Did you ever see her in a condition that was not normal—I mean as to being in a family way? A. Yes.

Q. When was that?

A. I seen her there at Granny Letcher's in the month of May, '85.

Q. In the month of May? A. Yes, sir, 1885.

Q. Did you know of her giving birth to any children there? A. Yes, sir.

Q. About when was that?

A. You asked me did I know of it?

Q. Yes.

A. No, I knew a child there she said was hers, but when she gave birth to it, I don't know.

Mr. Allen: We object to that, she said.

A. Yes, the mother said.

Mr. German: For the record, Your Honor, may it be noted that we object to every statement which the witness gives——

The Court: Yes, every question which is asked as to what Minnie said with regard to the parentage of this child, or its kinship to her, or in answer—or any answer which the witness makes purporting to state what she said—told him, is noted as objected to by you and the objection overruled and exception noted.

Q. How old was this child when you first saw him, Dennis?

A. Well, it may have been several months old and it may not have been. I don't know just how old it was; quite a child.

Q. A little infant? A. Yes, sir.

Q. Was it in arms or——

A. I had seen her have it in her arms and have seen her playing with it on the floor, and seen the child up to a chair—pushing it, or attempting to push it around.

Q. How old was the child when you last saw it?

A. The last I saw it, 12 or 13 years old—somewhere along in there. May not have been that old.

Mr. Cobb: I didn't understand the answer.

Q. About 12, or 13, or 14; maybe not have been that old but——

Q. A good big boy? A. Well, quite a chunky boy.

Q. Did you see him almost continuously from that time—from the time he was a child?

A. Well, I would see him around like I would see other boys; no special reason for seeing him continuously. I would see him at times.

Q. I will ask you to state whether you saw him often enough to keep track of him during that time? So you knew it was the same boy?

A. Oh, yes, I think I did. I know I did.

Q. How long did you know Minnie around—to be around there? A. You mean at Mrs. Letcher's place?

Q. Yes, or in Leavenworth.

A. Well, from the time I seen her on Cherokee Street along in '84, until along in '86 or '87 when she left there.

Q. Did you know when she left or——

A. No, I don't know just when she left.

Q. Do you know where she went? A. I do not.

Q. Don't know what became of her? A. No, sir.

Q. Then, you mean that she disappeared? A. Yes, sir.

Q. And how old do you think—how old was the child at that time?

A. The child was probably a year and a half or somewhere along there. He may have been older than that.

Q. Now what kind of looking girl was this Indian Minnie? Can you describe her as she was then?

A. She was a girl that I would describe as being about 5 feet; maybe a little over in height, maybe weighing *a* 120 or 125 pounds and light complected; she had good hair; she didn't dress well, her dressing was not at [] well—she dressed comfortably but not flashily.

Q. Do you remember how she wore her hair?

A. I don't think I can say just exactly how she wore her hair; she had good hair.

Q. Good hair? A. Yes, sir.

Q. What color? A. Black.

Q. Have you seen her since that time, that you knew her in Leavenworth? A. Yes, sir.

Q. Where? A. I seen her in Leavenworth.

Q. Have you seen [] here?

A. I have seen her here since I have been here.

Q. Are you able to state positively or not whether that is the same woman that you knew there—that you see here?

A. Yes, sir.

> Mr. Cruce: He says that he has seen her here; ask him whether it is Mrs. Folk.

Q. Do you know what her name is now?

A. I know what she is called—Mrs. Folk.

Q. How does her appearance compare with what it was like then?

A. Well, it doesn't compare; she is stouter. Mrs. Folk is stouter now, heavier, more developed; has more the appearance of a woman than she did at that time.

Q. Dennis, do you know Sadie James? A. Yes, sir.

Q. How long have you known her?

A. I have been knowing Sadie about 33 or 34 years, maybe longer.

Q. Around there in Leavenworth?

A. Not as that name; I didn't know her as Sadie James that long. I have known the woman.

Q. She has had different names at different times?

A. Yes, sir.

Q. But you have known the same woman? A. Yes, sir.

Q. Do you remember Sadie James coming to your office to see you about this Indian Minnie or Indian Tommy?

A. Yes, sir.

Q. Do you know when she came the first time?

A. Well, I don't know the exact date when she first came; it was in the year 1914, sometime that she came to my office; I think it was in the spring of the year.

Q. In the spring of the year?

A. I think it was in the spring of the year.

Q. Did she come by herself or come with somebody?

A. The first time she came she came alone.

Q. She came alone? A. Yes, sir.

Q. And what did she come to see you about then?

Q. She came to see me about a woman who lived there in the early '80's by the name of—used to call Indian Minnie —Minnie Atkins.

Q. State as near as you can just what she said to you at that time.

A. Well, she came in and addressed me. She had been to my office numerous times before on some other business matters; she said that she had been over to see Mr. Lacy, and she was looking for an Indian woman, an Indian girl that we—using her language—used to know around here, who stayed at Granny Letcher's, that we called Indian Minnie, and asked me if I knew her—remembered her, and I hesitated a minute or so and said Sadie, I believe I do; since you state that much—since you said that much, I remember who you are talking about, and I said she used to live at Granny Letcher's on Seneca Street; she said that is the woman; and I said she had a kid there; and I said I don't know where she is, she is gone from here long ago, I don't think you could find trace of her around here; and she said she thought she could; and she asked did I know anybody who might know; and I said you see George Craig, Rube Smith, and I named over half a dozen other men; I named Browder and John Glenn, and I said if you can find John Glenn, probably you can find out where she is.

Q. Well, what else occurred there?

A. Well, with that, she said alright, and went away. She may have said other things but I can't just remember. At any rate, she left then.

Q. Well, did she seek anything except information?

A. That is all she ask me for.

Q. When did she next come to see you about the same matter?

A. She came a short time after that; it wasn't many days, in company with a woman I afterwards learned was Bettie Mann.

Q. Was it the same day or the next day?

A. I can't recall whether it was the next day or not; I hardly think it was—I think it was longer than the next day.

Q. She brought Betty Mann?

A. Yes, sir, a light complected woman.

Q. Did she—what did she want that time?

A. She wanted more information and wanted the names of some old colored women and I named her several colored women and among them I named a woman called Mrs. Mathews and Mrs. Carver, and Tommy York; I named Tommy York; they lived up in the north part of town and I said you might find some information up there.

Q. Did you tell her on either of those visits that you didn't know this woman? A. No, I didn't.

Q. Did she tell you she was hunting for this boy and she knew there never was such a boy but that they would make one?

A. No, to use her own language, she said we knew folks, and I knew myself, who used to stay at Granny's. She said we know them, to use her own language.

Q. Did she tell you on either of those visits that she wanted to hire you? A. Oh, no.

Q. Did she tell Bettie Mann in your presence that she wanted to hire you to help her manufacture a Thomas Atkins?

A. No, sir, she did not.

Q. Did you tell her on either of those occasions or at any time that you could get bankers and doctors, and lawyers to swear that hell was an ice box? A. No.

Q. Did you ever use that expression?

A. No, sir, I never said any such stuff as that.

Q. Well, when did you next see them?

A. I think it was the following week; I think, now, it was the following week—early in the next week; at this time when she came, I knew it was on Friday—and on Saturday I remember telling her, she wanted to come the next day, and I said no, tomorrow is Saturday, with motions in court, and I have some matters there and you had better come some other time; that is the reason I am sure it was in the following week—wasn't the next day.

Q. What did she want the next time she came?

A. She came in there—the next time she came there, she came with two white men.

Q. What were their names?

A. I don't know their names; Swift, I think was the name of one of the men.

Q. Was Porter the name of the other? A. Sir?

Q. Was Porter the other?

A. Well, I don't know; I wouldn't say as to that.

Q. Was that George Swift or Jim Swift?

A. Well, I never heard the full name—I don't remember what the full name was.

Q. What did she want that time?

A. Sadie came in there with these two men and she said, after bidding the time of day, and my office girl was sitting at the typewriter, and she said I want to see you, Mr. Jones, and I said very well; I said step into my private office, and opened the door and left the door open; I didn't close the door, and I said, well, what is it; and she had a paper and unfolded it and she said I want you to execute this paper—we want to execute this paper and we want you to put your seal on it, and sign your name as if it was done in Leavenworth; and I said, let me see the paper, and see what it is; she handed me the paper, and I looked it over and it was an instrument transferring some land down here in Oklahoma somewhere and I saw—the heading of it was State of Missouri, Jackson County, ss; and I said, Sadie, you will have to go back to Missouri to get this paper fixed up, I can't do that, and I said whose signature is this—yours? And she said no, that is a woman in Kansas City and I said what the thunder do you want me to do; I wouldn't do that for you or anybody else, and she said well, sign your name, it is alright; and I said I won't do it, and she said you wouldn't ever make a living practicing law in Oklahoma; and said you had better stay right here, and I said that is what I am going to do—stay right here; and I said I can give you the name of a man in Kansas City if it is an upright proposition, I will give you the name of a man in Kansas City, Mr. Calloway; I think he is a notary, and they went on out.

Q. Did she say anything to you at that time about Minnie Atkins and Tommy Atkins?

A. Not a word, I am pretty sure she didn't.

Q. On either of those two visits, did she tell you that she was going up to Kansas City with Bettie Mann to meet a man from Oklahoma? A. Yes, but her and Bettie Mann were at my office together before that.

Q. Before that?

A. They came back to my office again.

Q. Well who was it she told you she was going to meet?

A. A man name of Bartlett, I think she said.

Q. Did she ask you to go with her?

A. She wanted me to go down to Kansas City to meet somebody—a man named Buell or Bartlett, or something; and I told her that I didn't have the time—I didn't bother with it; I didn't bother after they came there with that paper, I rather thought something was wrong and I treated Sadie alright; I never let her know I had any suspicions but I didn't bother with it.

Q. You mentioned the name of Buell; was it Buell or Bartlett?

A. Well, she mentioned both names; some man named Bartlett and some man named Buell.

Q. You didn't go with her? A. No, sir.

Q. When was it she came back the next time after that?

A. I just don't remember when she came.

Q. Well, did she come back after she saw Mr. Bartlett in Kansas City?

A. I don't know whether she did or not, but another time she came with Bettie Mann; they had been up in the north end of town.

Q. Did she ever come to your office and tell you she had met this man and that he had a lot of money and that she wanted you to go ahead and help her manufacture Thomas Atkins? A. No, sir, she never did tell me that.

Q. Are those all the dealing that you had with Sadie James with regard to Minnie Atkins or Thomas Atkins?

A. No, sir.

Q. At that time?

A. No, sir, not in the year '14; I had some other talk with her.

Q. When is the next time after these visits of Sadie James that you heard of this case relating to Thomas Atkins and Minnie Atkins?

A. After I had talked with Sadie James?

A. Yes, after you talked with Sadie James.

A. I got a telegram from Mr. Long at Tulsa, Oklahoma, asking me to come down there.

Q. Well, when did you go to work for the Gypsy Oil Company?

A. I went to work for the Gypsy Oil Company on the 4th day of March, 1914.

Q. Well, did you go to work for them before you got in touch with Mr. Long? A. Oh, yes, oh yes.

Q. Then listen to my question; when was the next time that you heard anything—that anybody came to you in regard to this Indian Minnie matter? After the first visits of Sadie James, didn't Mr. Greenslade come to see you?

A. No, Mr. Greenslade didn't; a man name of Adair, or Odair.

Q. Adair? A. I think that is the name.

Q. That is the next time you heard? When did he come to see you?

A. I think it was about the 3rd or 4th day of August 1914

Q. In the meantime you hadn't had any further conversation with Sadie James? A. No, sir.

Q. Hadn't heard anything about her? A. No, sir.

Q. Who sent Mr. Adair to you?

A. Well, I don't know who sent him to me; I was in town —I think it was the 3rd—I was called to Mr. Bond's law office and Mr. Adair talked with me.

Q. In Mr. Bond's office? A. Yes, sir.

Q. Did he tell you he had been referred to you by Mr. Bond?

Mr. Linebaugh: Objected to as leading.

The Court: Overruled.

A. I won't be sure that he said Mr. Bond, but somebody referred him to me; I think he did say Mr. Bond.

Q. Now, what did he want you to do?

A. Well, Mr. Adair talked with me and said that he heard I knew something about an Indian woman that used to be there in the early times, and about a boy she had there some place in Leavenworth, and asked me if I knew anything about it and I told him what I knew; and I further told him that I had heard of a boy of that name that answered that description living in Washington, D. C.

Q. Well, did you have any business dealing with him?

A. Yes, sir.

Q. At that time?

A. No, sir, not at that time, no. The next day.

Q. Well, tell what took place the next day?

A. When I left that evening, he wanted me to accompany him or somebody else representing this oil company to Washington to hunt this boy. I said I have a boy in Washington and we can communicate with him and have him hunt him up; I hardly had time to go. Well, he says, we don't want to send any telegram or letters, if you can go we will pay you for your trouble and make it so you can go all right, so I agreed to go the next day.

Q. Now, you stated that you had heard of a boy by that name being in Washington?

A. A woman by the name of Ray Venerable—I was repairing one of my houses, getting it ready for her to go into.

Q. You heard it from Mrs. Venerable? A. Yes, sir.

Q. She had been away and just come back?

A. She had been in Washington and Maryland.

Q. And you asked her about the boy?

A. I asked her if she knew of a boy in her travels named Tommy Atkins.

Q. What induced you to ask her about the boy?

A. It was fresh in my mind looking for the boy; they said whoever found boy and mother would be paid well for it.

Q. Who said that?

A. Sadie, when she first came to see me she told me that, and somebody else told me.

Q. Did you make a contract with this Adair, who was there representing the Gypsy Oil Company? A. I think so.

Q. Where did you make that contract?

A. At Mr. Bond's office.

Q. Who represented the Gypsy Oil Company?

A. I think Mr. Adair.

Q. I hand you Defendant Minnie Atkins Exhibit B-7, and ask you to state what that is?

A. That is the agreement.

Q. That is the copy of the agreement that you entered into at that time? A. Yes, sir.

Q. That is signed by you? A. Yes, sir.

Q. On the bottom line? A. Yes, sir.

Q. And just above Gypsy Oil Company by Mr. Adair?

A. I don't know whether it is Odair or Adair?

Q. That is his signature? A. Yes, sir.

Q. He signed it in your presence? A. Yes, sir.

Mr. Hanford: Offer that in evidence.

Mr. Allen: I thought we had already offered that in evidence.

Mr. Hanford: You offered the contract with the Gem Oil Company.

Mr. Allen: We have no objection to it.

The Court: It may be admitted.

Q. This contract provides that you was to receive the sum of ten dollars, is that right? A. Yes, sir.

Q. And your necessary expenses? A. Yes, sir.

Q. And that was to continue during the time necessary to locate Tommy Atkins? A. Yes, sir.

Q. It also contains a provision, does it not, that C. E. Crawley representing the Gypsy Oil Company was to accompany you? A. Yes, but he didn't.

Q. And also contains the provision that in case the said Thomas Atkins is located and certain arrangements made with him and said first party, and his identity is established by witnesses, the second party, that is you, is to receive the further sum of five hundred dollars? A. That is right.

Mr. German: We object to it. The contract speaks for itself.

The Court: Well, the only objection is just duplicating it in the record. I will have to read the contract.

Mr. Hanford: Then, I may read the contract?

The Court: You may read it into the record.

Mr. Hanford: Well, I will read it.

"Leavenworth, Kansas, August 3rd, 1914. This Agreement made and entered into this 3rd day of August, A. D. 1914, by and between Gypsy Oil Company, party of the first part and Dennis Jones, party of the second part; Whereas, it is the desire of the first party to locate one Thomas Atkins and it is claimed by said second party that he has reasons to believe that he knows the whereabouts of said Atkins.

It is therefore agreed that the said first party shall pay the second party the sum of $10.00 per day and all necessary expenses during the time necessary to locate said Thomas Atkins and that C. E. Crawley, representing said first party is to go with said second party and in case the said Thomas Atkins is located and satisfactory arrangements are made with him and said first party and his identity is established by witnesses the said second party is to receive the further sum of five hundred ($500.00) dollars. The expenses of the witnesses necessary to establish his identity in Court is to he paid by first party but their names and addresses are to be furnished by said second party.

It is further agreed that upon leaving Leavenworth a round trip ticket to the destination will be furnished to the second party by the first party and an advance payment of fifty ($50.00) dollars will be made.

Witness our hands the day and year first above written.

Gypsy Oil Co.,
By C. E. Crawley
Dennis Jones."

Q. What did you do under that contract, Dennis?

A. Well, I went to Washington in the first place with Mr. Greenslade, went to St. Louis.

Mr. German: Pardon me, this signature is by C. E. Crawley, it is not Adair.

Mr. Hanford: I couldn't make it out. I don't know whether it is or not.

Mr. German: The only point is that they are talking about an Odair whereas it is Crawley.

The Witness: Mr. Adair was there.

Q. Did Mr. Adair come there later?
A. I think Mr. Adair was——
Q. What kind of a looking man was he, bald headed, thin? A. I don't think so.
Q. The man that signed this contract?
A. Yes, he was a thin man.
Q. Bald man? A. I think so.
Q. Light complected? A. I think that is right.

Mr. German: I think the witness ought to be permitted to testify.

The Court: Yes, I would very much prefer to have the witness testify.

Q. What did you do under that contract?
A. Well, we went to St. Louis, and from there to Washington, and we searched and went to the places that we were told to go and we found a fellow there, a man——
Q. Well, did you find Thomas Atkins?
A. We found a Thomas Atkins, yes.
Q. Did it turn out to be the right party or not?
A. No, sir.
Q. Did you continue to search after finding this man?
A. Yes, sir.
Q. And did you get any further information relating to him? A. Yes, sir.
Q. What information did you get?
A. We found—I have the numbers and places in here—We found a woman there in Washington that said she knew Thomas Atkins, and she went on to describe him. Said he was a boy looked to her to be half white and half Indian; said he strayed into Washington and a family had taken him up.

Mr. German: Your Honor, I don't see the materiality of these movements.

The Court: I don't either.

Q. What did you find out regarding him?
A. The Thomas Atkins the woman told me about left for Baltimore and he had left there and gone to New York and then by going back to Washington we found that he had gone to Chicago, and then Mr. Greenslade went to New York City and I came on home.
Q. And that was the last that you did under the contract?
A. Yes, sir.

Q. Then, were you relieved under the contract by the Gypsy Oil Company? A. Yes, sir.

Q. Then, who next came to you?

A. I don't know just how long it was. It was some little time after that.

Q. Who next came to you?

A. I don't know who came to me, but I got a telegram, I think Mr. Long, I wont be sure of that, but at any rate I got a telegram from Tulsa, Oklahoma, to come to Tulsa.

Q. To come to Tulsa? A. Yes, sir.

Q. Who was that telegram signed by?

A. By Mr. Long, I think.

Q. Well, did you go to Tulsa? A. Yes, sir.

Q. Who did you see there?

A. When I got to Tulsa I met Sadie James at the depot.

Q. This is the telegram? A. Yes, sir.

Q. It says "Will expect you Tuesday morning, September 22nd sure," signed Long? A. Yes, sir.

Q. And dated Tulsa, Oklahoma, September 16, 1914?

A. Yes, sir.

Q. That is the telegram? A. Yes, sir.

Q. To go to Tulsa? A. Yes, sir.

Q. You say somebody came to you in Leavenworth before you got that telegram?

A. Yes, sir, and I have been trying to think who it was talked to me.

Q. Was it Sadie James?

A. I am sure I can't say whether it was Sadie James or not.

Q. Well, did they talk to you about going to work for the Gem Oil Company?

A. Yes, let's see—I can call that to my mind just who it was talked to me—— No, I can't, I don't know just exactly who it was talked to me.

Q. Well, you went to Tulsa? A. Yes, sir.

Q. Now, before you went to Tulsa on that trip, I will ask you if Sadie James came to you in your office there and told you that she wanted to hire you for the Gem Oil Company, and that she was going to bring Mr. Long up to see you, but that she didn't want you to do any business with him, but to tell him that you wanted to see the head man, that you wanted to see Mr. Page before you made any arrangements?

A. No, I never had any such talk as that with Sadie.

Q. You never had any such transaction?

A. No, no, no.

Q. Now, who did you see when you got to Tulsa?

A. I met Sadie James when I got to the depot and she said she would show me where Mr. Long was.

Q. You went to see him at his office, did you?

A. Yes, sir.

Q. Who else did you see?

A. I saw Mr. Page and Mr. Rice.

Q. And Mr. Rice? A. Yes, sir.

Q. Did you have any business dealings with them?

A. Yes, sir.

Q. What did you do there? Tell what happened after you arrived at Tulsa?

A. We talked about the whereabouts of Thomas Atkins and I told them what I had found out from my eastern trip; and I entered into a contract with Mr. Page. Mr. Rice drew it up, I have a copy of it if you want it.

Q. Now, Dennis, that contract you made with the Gem Oil Company at that time, with Mr. Rice, was to do the same work that you had been doing for the Gypsy Oil Company under the old contract?

A. Yes, sir, practically the same thing.

Q. Was it upon the same terms? A. Yes, sir.

Q. That you were to receive ten dollars a day and expenses?

A. Yes, sir, the expenses wasn't to exceed five dollars a day.

Q. That is stipulated in it? A. I think so.

Q. Now, Dennis, at that time did you know that Sadie James was working for the Gem Oil Company?

A. No, sir, I didn't know it, I didn't know what Sadie was doing; she was around about I couldn't tell what she was doing.

Q. Did she ever tell you she was going to get you hired by the Gem Oil Company? A. No, sir.

Q. Did you ever ask her to get you hired by the Gem Oil Company? A. No, sir.

Mr. German: Your Honor, we object to his leading the witness so much.

The Court: Well, I suppose that these are all matters about which Sadie has testified and this witness is put on the stand I suppose to interrogate him with regard to those transactions about which she has testified in depositions which I haven't read.

Mr. Allen: If it is for the purpose of impeaching Sadie, he ought to ask the witness the same questions.

The Court: Here is a case where it is the theory of the Government that there is a manufactured case, and a

Government witness has testified with regard to certain details that I understand are relied upon as establishing that. I think his examination in view of that is possibly competent.

Q. I will ask you if Sadie James came to your office and told you she had been on a trip to Omaha, or up into Iowa?

A. Yes, sir.

Q. Or Nebraska?

A. She didn't name the places, she just said she had been out west.

Q. Did she tell you where?

A. Yes, sir, some of the places.

Q. Where did she tell you?

A. Said she was in Seattle, Washington and in Tacoma, Washington, and some other places, in fact she wrote me three postal cards while she was away.

Q. Did she tell you that she had found Minnie?

A. When she come back she said that she had found the mother of Tommy.

Q. She said she had found the mother?

A. Found the mother of Tommy.

Q. What did she tell you about her?

A. Said she found her up in Seattle, Washington; and she related quite a lengthy story about what she had done and about what others done there after she had found her.

Q. Did she tell you that she had framed her up to claim that she had a son named Tommy Atkins? A. No, sir.

Q. Didn't tell you anything about that?

A. No, sir, she told me about her son but that aint what she said to me.

Q. Now, at that time, were you working for anybody?

A. At that time she come back?

Q. Yes? A. When she come back?

Q. Yes? A. Yes.

Q. Who were you working for then?

A. Working for the Gypsy Oil Company.

Q. Did she have any arrangement with you to the effect that she was going to find this boy and then while she worked for Mr. Bartlett, and then you and she were going to switch him over to the Gypsy Oil Company to get more money?

A. No, sir, she never talked to me that kind of talk to me.

Q. Now, Dennis, under that contract you have with the Gem Oil Company, how have you been paid under that contract, ten dollars a day continuously, or ten dollars a day when you worked?

A. Ten dollars a day when there was anything to do, not continuously.

Q. You were just employed at different times?

A. Yes, sir.

Q. And what is the nature of your employment?

A. Well, to attend to things when there was anything to do. During the time they were taking depositions at Leavenworth I was there and taking depositions in Kansas City I was there, and we went out on trips out in the country once or twice out in Jefferson County, and at times they would write me to look up things at Leavenworth and I would do it.

Q. What do you mean by certain things?

A. Well, they would hear about some one, write me about the names of some people that they had information about and ask me to hunt them up and see them.

Q. Did they ask you to look up any records?

A. Oh, yes, Court records and deed records and newspaper records and things of that kind.

Q. Dennis, the first time you talked to Mr. Long about accepting employment from the Gem Oil Company, did you tell him that you could accept?

A. The first time I talked with Mr. Long?

Q. Yes?

A. No, sir, I told him I couldn't because I was working for the Gypsy Oil Company and I had a contract with them.

Q. You were still under the contract with the Gypsy Oil Company? A. Yes, sir.

Q. Then, after you were relieved by the Gypsy Oil Company, did you notify Mr. Long?

A. I don't know whether I notified him by letter, maybe I did write him a letter. It may be I wrote him a letter that caused him to send me the telegram, perhaps I did.

Q. Have you a copy of any such letter?

A. I don't think I have a copy of the letter.

Q. Well, have you a copy of the letter of the Gypsy Oil Company releasing you under their contract?

A. Yes, sir.

Q. This is the letter, Defendant Minnie Atkins Exhibit B-8; I desire to offer that in evidence.

The Court: The letter just offered may be admitted.

Mr. Hanford: I will read it.

"GYPSY OIL COMPANY,
M. M. DOAN, Third Vice-President,

C. E. CRAWLEY, Tulsa, Okla., August 20th, 1914.
Assistant.

Mr. Dennis Jones, Attorney at Law,
Leavenworth, Kansas.

Dear Sir:

I am in receipt of your letter of August 17th and note what you *saw* regarding prospects.

Mr. Greenslade has explained to me the understanding he had with you at the time you left New York and this is the only way in which we would care to continue the search.

Mr. Greenslade who returned home yesterday advises me that he has written you, which letter you have probably received. I am writting Mr. Bond asking him to forward statement of your expense account, etc.

Yours truly,

2-16 (Signed) C. E. Crawley."

Mr. Hanford: I will ask to have this letter marked and will offer it in evidence, Defendant Minnie Atkins Exhibit B-9. I will read this letter, which is as follows:

"GYPSY OIL COMPANY
Legal Department.

JAMES B. DIGGS,
Attorney in Oklahoma:
Henry McGraw, TULSA, OKLA.,
Rush Greenslade,
Assistant Attorneys. August 26, 1914.

Dennis Jones,
Attorney at Law,
Leavenworth, Kansas.

Dear Sir:—

In re Thomas Atkins lease.

Your letter of August 26th at hand. I do not believe it would be advisable to go to Chicago to make further investigation at this time, at least until you have more definite information as to the present address or whereabouts of Thomas Atkins. I have taken the matter up with parties in Chicago as directed by Bud Miner and the Carbi woman in Washington, but to date have had no reply from them.

In event you obtain definite information as to the address or whereabouts of Thomas Atkins please write or wire me at once.

Your expense account received, same was O. K., and voucher will follow in the regular course.

Very truly,
(Signed) Rush Greenslade."

Q. That is the final letter which you received from the Gypsy Oil Company, which I have just read? A. Yes, sir.

Q. And terminated your employment? A. Yes, sir.

Q. Now, I will ask you if it wasn't following the receipt of that letter that you took the matter up with the Gem Oil Company, you entered their employment? A. Yes, sir.

Q. And received a telegram from Mr. Long to come to Tulsa? A. Yes, sir.

Q. Mr. Jones, I am going to read this contract, I want you to tell me just what you did under the contract made with the Gem Oil Company. The contract is as follows:

"THIS AGREEMENT, Made this 23 day of September, 1914, between Gem Oil Company of Tulsa, of the first part, and Dennis Jones of Leavenworth, Kansas, of the second part.

WITNESSETH.

THAT, WHEREAS, The second party represents that he has information valuable to the first party relative to the birth, life and death of Thomas Atkins, the son of Minnie Atkins, and is in a position to obtain definite data relative thereto.

NOW, for the considerations hereinafter set forth the party of the second part agrees and binds himself to give so much of his time as may be necessary for the securing of said data, and to proceed to gather the same on his own initiative, and under such instructions as the first party may see fit to give, and agrees to furnish evidence of the birth and life of the said Thomas Atkins, and particularly of the death of the said Thomas Atkins, son of the said Minnie Atkins. It being understood that the second party will cease his investigation any time at the direction of first party and that all information obtained by second party during the period of his employment by first party, will be deemed confidential and will not be revealed by second party without the permission in writing of first party.

For said services and the furnishing of said proof, the party of the first part agrees to pay all necessary expenses not exceeding Five (5) and no/100——Dollars per day for each day that the said second party shall be engaged in such work, and the further sum of Ten Dollars ($10.00) per day salary for each day that second party shall be actually engaged in said work; and it being in the contemplation of the parties that at least fifteen (15) days of the time of second party will be consumed in said work, it is agreed at the execution hereof second party shall be entitled to fifteen (15) days pay and an advance of Thirty-seven and 50/100 ($37.50) Dollars to cover expenses, and to be pro-rated on the actual amounts expended by second party.

WHEREAS, Party of the first part and his associates have instituted suit in Creek County, Oklahoma, to recover for Minnie Atkins and first party and his associates, certain lands theretofore allotted on account of the citizenship of Thomas Atkins in the Creek Nation.

Now, if second party shall in his efforts afore-described obtain satisfactory proof of the death of the said Thomas Atkins, son of the said Minnie Atkins, and member of the Creek Nation as aforesaid, and first party shall be successful in its litigation afore-described in the trial Court trying said cause, the said party of the second part shall thereupon be entitled to an additional sum of Five Hundred Dollars ($500.00), which shall be due and payable upon rendition of judgment in favor of Minnie Atkins, first party and his associates, by the trial Court aforesaid.

WITNESS Our hands the day and year first above written.

GEM OIL COMPANY,
By Chas. Page,
First Party.
(Signed) Dennis Jones,
Second Party."

Q. That is the contract and agreement that you made at that time? A. Yes, sir.

Q. Now, Dennis, when you were under contract with the Gypsy Company what were you—who were you trying to find?

A. Thomas Atkins.

Q. You were trying to find Thomas Atkins himself, were you not? A. Yes, sir.

Q. And under this contract you were to find evidence relating to Thomas Atkins and especially his death?

A. Yes, sir.

Mr. Cobb: Objected to, the contract speaks for itself.

The Court: Well, that is—go on.

Q. And you set out to get evidence of the death of Thomas Atkins?

The Court: Well, now, let him state what he set out to do.

Q. Well, what did you set out to do?

A. At what time, Mr. Hanford?

Q. At the time you entered into the contract with the Gem Oil Company?

A. Well, I wanted to make the trip where I had information that the boy had died.

Q. Well, then you had had information that the boy had died? A. Yes, sir.

Mr. Cobb: Objected to as hearsay.

The Court: Well, it will not be considered as substantive proof in the case; merely relates to his activities under this contract.

Q. And did you relate that information to Mr. Page and Mr. Rice?

A. Yes, sir. I showed them some letters and things I had, and some grounds I had gone over, and what gave me reason to believe that the boy was dead.

Q. I will ask you to state whether or not that information led to the discontinuance of your employment by the Gypsy Company? A. Yes, sir.

Q. Then you were working for the Gypsy Oil Company to find Thomas Atkins himself, and when you reported to them that you had information as to his death, they terminated your employment?

Mr. German: We object to that on the grounds that those letters——

The Court: Well, merely relating to what the witness has already testified. Objection sustained.

Q. Now, Dennis, what did you set out to do after you made that contract with the Gem Oil Company, that I just asked you about?

Mr. Cobb: If the Court please, wouldn't the better plan be to ask him what he did?

The Court: I think so.

Mr. Hanford: I want to ask what he set out to do.

The Court: I assume he set out to do what he contracted to do, and get this evidence.

Q. Well, Dennis, what did you do?

A. Well, I sought to get more information and more evidence as to the death of the boy; I took up correspondence with a detective agency in Washington. I have a letter from them, and things of that kind. I wrote a letter to a man in Chicago, asking him to go to certain street numbers there for me and ascertain if possible whether or not a boy by the name of Thomas Atkins had lived at that place, and whether he died there or not. To that letter I never got a reply. To the letter I sent to Washington, to the detective agency, I did get a reply.

Q. Did you investigate amongst people that you knew?

A. Well, with reference to this——

Q. Make enquiries?

A. With reference to the death of this boy?

Q. Yes?

A. No, I didn't; I kept that to myself; I didn't tell anybody except the company I was working for; I didn't tell that to everybody.

Q. Well, did you make enquiry in regard to him and try to find out the facts?

A. Yes, sir; I tried to find out whether it was a live boy or not, after I had that death information. I was so satisfied from the information I had received, that I didn't try to find any live Thomas Atkins.

Q. And you reported whatever you found to the Gem Oil Company? A. Yes, sir.

Q. And charged them for your expenses and your time?

A. Yes, sir.

Mr. Hanford: Some correspondence, your Honor, I want to introduce. I haven't it here now. * * Before he leaves the stand I would like to offer it for identification.

The Court: Alright.

Mr. Stuart: I would like to ask him one question, your Honor.

Direct Examination by Mr. Stuart.

Q. Mr. Jones, I will ask you whether or not at any time you, in conjunction with Sadie James or Charley Page or

Frank Long, or any party to the suit, whether you attempted to practice any fraud in this case? A. None whatever.

Q. Did you ever agree to frame-up any Tommy in this case? A. None whatever, at no time.

> Mr. German: We object, your Honor, and move to strike, because it is a statement of a conclusion. The only way to prove that is *the* prove what the witness did; what was said and done.
>
> Mr. Stuart: I don't think so, your Honor: Those gentlemen have charged that this man helped to fabricate a case. Just exactly like trying a defendant for a crime, and you can ask him what his intention was, and what he d——
>
> The Court: Objection overruled.

Q. I will ask you whether or not you ever at any time, in conjunction with Page or Long or Sadie James or any party to this suit, attempted to fabricate a case for this Court or any other Court. A. No, sir.

Cross Examination by Mr. Allen.

Q. Dennis, you are one of the attorneys of record in this case? A. Yes, sir.

Q. For the defendant Charles Page? A. Yes, sir.

Q. Do you remember the occasion of taking testimony before Mr. Penick at Leavenworth, Kansas? A. Yes, sir.

Q. Objection was made there to your presence in the room, was it not? A. Not in my presence it wasn't made.

Q. Isn't it a fact that you were then made an attorney of record in this case in order that you could remain in attendance while the witness testified?

A. I can't tell you that, why I was made an attorney of record in this case.

Q. Telegraphic communication was sent here and returned advice that you had been entered as an attorney of record in this case, is that right?

A. I can't tell that; I don't know anything about that, whether it was or not.

Q. You say that you had a lot of papers, letters and memorandum, and other things, showing—containing information about the birth, life, and death of Thomas Atkins?

A. No, I didn't say that.

Q. What papers did you have?

A. I said that I had some letters that I had received, one from a detective agency in Washington, D. C., and the letters I wrote to the man in Chicago I never got a reply to it.

Q. And have you the letter with you that you wrote to Mr. Long before you received the telegram from him?

A. No, I think Mr. Long has that; it is my custom and rule to take a copy; if I did, I haven't it here.

Q. Can you get that for us, Dennis?

A. I expect I can; I will see. I have some other matters at my room, and I think I have a case like this containing letters; I will look it up and see. I think probably I did.

And thereupon Court recesses until 9:30 A. M.

And thereafter, and on May 23rd, 1917, at 9:30 o'clock A. M., Court convened pursuant to adjournment, and further proceedings herein were had as follows:

DENNIS JONES, being recalled, further testified as follows:

Cross Examination by Mr. Allen.

Q. Dennis, were you raised in Leavenworth?

A. Practically.

Q. How old were you when you went to Leavenworth?

A. About 5 or 6 years old.

Q. You have been there continuously since that time?

A. No, sir.

Q. Where have you been?

A. I have been out in Washington state, in California, Colorado, and have been in Iowa, Illinois, and oh, quite a number of places.

Q. In 1884 or '85, you say that you saw this Indian woman the first time at the home of Granny Letcher on Cherokee street I believe? A. Yes, sir.

Q. That was the first time you saw her?

A. Yes, the first time I saw the woman; yes—that I can remember.

Q. Dennis, you testified as a witness in this case—in the case pending in Creek County in Leavenworth in 1914, didn't you? A. Yes, sir.

Q. Prior to that time you had been engaged in looking for a living Thomas Atkins by Sadie James, and later by the Gypsy Oil Company, hadn't you? A. No, no.

Q. Well, you had upon your own initiative then, looked for a Tommy Atkins before your employment by the Gypsy Oil Company, hadn't you? A. Put that question again.

The Court: Read the question, Mr. Penick.

A. No.

Q. You had made no inquiries?

A. Yes, I had made some inquiries.

Q. In whose behalf were you attempting to locate this Thomas Atkins at that time? A. In my own behalf.

Q. Then you were, before your employment by the Gypsy, seeking to find a living Thomas Atkins?

A. No, I was just trying to inform myself as to the whereabouts of the living Thomas Atkins that I knew.

Q. What was the object or purpose of that investigation?

A. Well, I heard that if he could be found or located there would probably be a reward paid for him; that was my purpose.

Q. A reward paid for him? A. Yes, sir.

Q. Had anybody offered a reward for him?

A. I was simply told by Sadie James when she came in there, if you can find him you will be paid for him; we know he lived here and his mother lived here, and we have got to find the boy.

Q. You say when Sadie James and Bettie Mann first came to you in March 1914 that you hesitated a while after they asked you about Indian Minnie, and then said that you did believe that you did remember her?

A. No, I didn't say that; I said when Sadie James came to me the first time; Bettie Mann didn't come then.

Q. Then you remembered this Indian Minnie?

A. Yes, sir.

Q. Sadie James and Betty Mann came later to see you, that was the following day, wasn't it?

A. Well, I don't remember, I don't recall whether it was the next day, shortly after that.

Q. Sadie told you at that time Betty was in town?

A. No, sir, she never mentioned anybody's name the first time.

Q. When Betty came with Sadie to your office, they had a conversation with you concerning the location of this party, did they?

A. Well, if you want to put it as a conversation, simply asked me if I had found out any more, if I could tell them any more where they could look to find Tommy Atkins.

Q. You say, I believe, that Mr. Swift and Mr. Porter were in the outer office and the door was open?

A. Not at that time.

Q. They were when Betty was there? A. No, sir.

Q. That was at the second visit that Betty made, was it?

A. I don't recall that Betty Mann was ever in the office with Mr. Swift or anybody else. Sadie James was there with two white men.

Q. I believe you stated on yesterday that you thought you knew Sadie James, or when the question was asked you if you knew her, you said, well, yes, I knew her by some other name?

A. I knew her by Sadie Harris, Sadie Carris, Sadie Johnson, Sadie Lane.

Q. Did you want to convey the idea that you were not very well acquainted with her?

A. I should say not; I have known her for years.

Q. You have known her very intimately for thirty odd years?

A. No, sir, I knew her when she was a child and she left Leavenworth and I didn't see her for twenty or twenty five years.

Q. You say you have had some business with her?

A. Yes, sir.

Q. What was the nature of that business?

A. She came into my office. She had been in Leavenworth living on Second and Cherokee street; I had seen her and spoken to her; asked her about her mother; passed her on the street, and one day she came into my office and told me an old gentleman out at the Soldier's home by the name of Lain wanted some papers down in Odessa, Missouri, he wanted to will her that property and she wanted me to fix it up. And she also said he had some papers of some kind in the bank held by the bankers and they wouldn't turn them over to her nor to him, and she wanted me to go down there and look over the matter and see if I could have them upon an order from him turn them over to me. I told her that I wouldn't go down there because that was one of the intolerable places, Missouri, a black man didn't have any show; I could recommend a lawyer that would probably take the matter up for her, and I did so.

Q. The fact is, isn't it Dennis, that in 1912 or 1913 Sadie came to your office? A. No.

Q. And you suggested to her that she marry an old soldier? A. I should say not.

Q. She didn't know that soldier until you told her?

A. Why, she certainly did, she came to my office and had me prepare papers for the old soldier. I never saw the man before in my life.

Q. Didn't you get him into your office and furnish the money to buy the marriage license? A. No, sir.

Q. You paid for the marriage license? A. I say no.

Q. Dennis, didn't you later get this old man into your office and get a power of attorney for Sadie James? A. No.

Q. By which she was to handle his entire estate?

A. No. I never did get the old man into my office at no time.

The Court: How is that related to this case?

Mr. Allen: Your Honor please, it is the contention of the Government that these two people thoroughly understood each other, and that they were aware of the desire of each other to make money in any way they could.

The Court: Has there been testimony in some of the depositions relating to this transaction?

Mr. Allen: He stated in his direct examination, said that he had other business with Sadie.

The Court: All right.

Q. I hand you Government's Exhibit A-108, and ask you if you remember that paper?

A. Yes, that is a power of attorney I made to Sadie.

Q. In this power of attorney, Sadie was authorized to attend to all business for Charles Lane, and write all letters and sign his name to any and all papers, bank checks, and other instruments of writing, and to sell and convey by deed or otherwise all of his property, wasn't she?

A. He told me to put that in the power; Lane himself.

Q. He was an old decrepit soldier, wasn't he?

A. No, he is there on his feet now.

Q. A member of the Soldiers Home at that time?

A. He was old but not decrepit; he is around town there now.

Q. He was an inmate of the Soldiers Home at that time?

A. Yes, sir.

Q. Sadie was married to James at that time?

A. I don't know anything about that.

The Court: What was he, a colored man?

A. Yes, sir.

Q. You took that acknowledgement? A. Yes, sir.

Q. Dennis? A. Yes, sir.

Q. Six days after taking that acknowledgement, didn't you tell Sadie James that she ought to get a good reputable white lawyer, and didn't you send her to Codding and tell her that Codding could do more to get this property away from this old man than you could possibly do?

A. What is the date of that acknowledgment?

Q. The 20th day of November?

A. Well, the 26th day I gave Sadie a letter to Mr. Codding.

Q. On the 26th day of November, 1913?

A. Just wait a moment, I didn't answer your question; I believe you asked me didn't I tell Sadie James she could go and get a white man to do more down there for her than I could?

Q. Yes? A. Yes, I told her that.

Q. The thing that you and Sadie wanted to do was to get this old man's property away from him and divide it, didn't you?

A. Oh, no, I didn't want to do anything more to the old man than to prepare the papers in my office and she paid me for my services.

Q. On November 26th, she went to Codding's office, didn't she? A. I don't know whether she did or not.

Q. Didn't Mr. Codding telephone you and ask you if you knew Sadie?

A. No, not on that date. He didn't telephone me at all about that.

Q. And didn't you then tell him yes, that you knew her?

A. No.

Q. And that you would furnish her a letter to him?

A. No; this is the letter on the 26th.

Q. I am talking about the 26th.

A. Well, this is the letter.

Q. That is the day she went to your office and got the letter to Mr. Codding?

A. Well, Mr. Codding hadn't telephoned me before that.

Q. Well, he did on the 26th, didn't he?

A. No, he didn't telephone me at all.

Q. So, that you wrote this letter to Codding, didn't you—Codding and Codding, lawyers, Leavenworth, Kansas, dated November 26th, 1913, "I have known this woman for many years, dating back to her girlhood days, during which period I have not at any time heard of any wrong act or deed on her part, her maiden name was Sadie Harris, and until her marriage to Charles Lane, her name was Sadie Johnson, and as far as I know she is a worthy woman. Respectfully, Dennis Jones." A. Yes, I said every bit of that.

Q. Dennis, after that letter was written, that power of attorney signed, you and she did [] charge of the property of this old man and divide it, didn't you?

A. I should say not; no, she didn't get a dime's worth of it—nobody got it.

Q. Didn't you try—draw the pension and take it as your commission, that was paid to that old man for a year and a half following the execution of that contract?

A. Nobody didn't draw no soldier's pension; nobody—no sir, I didn't.

Q. And didn't he turn his pension check over to you?

A. You can't do that, no, sir.

Q. And didn't you get that money from the pension for a year and a half after that?

A. No, sir, you can't negotiate a pension check for an old soldier.

Q. He turned the money over to you, though, didn't he?

A. He didn't pay a dime, a cent or a penny. Sadie James paid me ten dollars for my services and that ended it.

Q. After this visit of Sadie and Bettie to your place, to your office in March 1914, was it after or before that that Sadie brought a deed to you? A. After that.

Q. How long after? A. Oh, it was within a week.

Q. Within a week she brought a deed to you and wanted you to put your acknowledgement to that deed without seeing the party and with knowledge that the deed was executed in Kansas?

A. Well, I said a deed; as I said yesterday, my best recollection now is that it was an instrument transferring property. I didn't read the whole business because I couldn't do any good for it.

Q. Well, this instrument transferring property she wanted you to falsely certify? A. She did that.

Q. Had there been anything in your connection with her in this Lane case that caused her to think that she could get you to? A. I don't know what she thought.

Q. And you told her that you couldn't afford to do that?

A. Told her I wouldn't.

Q. It would be a public record and you would get caught—didn't you?

A. No, I didn't; I just told her I wouldn't do it; I didn't say anything about a public record, I just told her I wouldn't do that and didn't do it.

Q. After that you went to work with her looking for a Thomas Atkins?

A. As I said yesterday, I simply treated Sadie right, but I held her with a great degree of suspicion; I didn't do any work with Sadie whatever looking for anybody.

Q. You know that she wanted a false certificate made to that instrument conveying real estate, didn't you? A. Yes.

Q. You told her to go to a party in Kansas City and gave her the name of the party who would furnish that false certificate, didn't you?

A. No, I told her she would have to get that executed in Kansas City if at all; I wouldn't execute it for her under no circumstances and didn't.

Q. You knew she didn't want an honest acknowledgment taken to it?

A. I knew when she came to me I wouldn't do it myself.

Q. You sent her to a man in Kansas City to do it?

A. I said to who ever she went to in Kansas City if he was a notary in Kansas City, and if he would take the acknowledgment it would be alright so far as he was concerned.

Q. At that time you knew, Dennis, whether you were connected with it or not, that she had pulled off this deal with this old soldier there, didn't you?

A. She never pulled off any deal with any old soldier.

Q. You knew at that time that she had married this old soldier when she was married to some one else?

A. That was her own choice; I didn't know she was married until she came to my office.

Q. But you knew it at the time she came to make that false acknowledgment? A. I knew she said so.

Q. The soldier had started a divorce? A. No, sir.

Q. You defended it, didn't you?

A. I should say not.

Q. Who did defend it? A. I don't know.

Q. That was settled for fifty dollars alimony?

A. I don't know about that.

Q. Didn't you get a part of that fifty dollars alimony?

A. I should say not. I had nothing to do with it one way or another.

Q. Well, after the bringing of this suit, you and Sadie continued to negotiate for a living Thomas, didn't you?

A. Now, what suit are you talking about? You were talking about a divorce case.

Q. Divorce case?

A. No, I didn't operate with Sadie at all.

Q. About how many times did Sadie come to your office there in Leavenworth in March and April, 1914, Dennis?

A. I just recall she was there several times.

Q. She was there almost every day, wasn't she? A. No.

Q. She would be there and be out looking for a grave or a picture of some Tommy and come back?

A. No, I don't know what she was looking for, but no such operation as that.

Q. You yourself were looking all over the country for a Thomas Atkins?

A. At one time when I was working for the Gypsy Oil Company.

Q. You and Sadie had agreed if you could find somebody that would answer that description you could make some money?

A. I should say not. Sadie and I never entered into any agreement. After Sadie came into my office with that particular business I simply used her nice, but I treated her with a high degree of suspicion and didn't have anything to do with her.

Q. Dennis, didn't you testify in November, 1914, that the first time you saw this Minnie Atkins was when she came to your church with a negro man?

A. No, I never testified I don't think in November, 1914.

Q. You testified on the 13th of October, 1914?

A. Yes, sir, it was October.

Q. You testified that the first time you ever saw her to know her was not at Granny Letcher's on Cherokee but was at your church? A. No.

Q. And that she came there with a negro man and that it created a commotion in the church?

A. No, I didn't testify to that.

Q. What did you testify? A. Well, get the record.

Q. You tell me?

A. I said the first time I seen Indian Minnie was at Granny Letcher's on Cherokee Street, that is, I said I saw her in the years '84 and '85, and the first time I seen her was at Granny Letcher's.

Q. Yesterday was the first time you ever claimed to have seen her on Cherokee Street in any testimony, isn't it?

A. That is the first time the question was ever asked me.

Q. You found out since you testified in 1914, Dennis, that she couldn't have been living on Seneca Street when she was in a family way?

A. No, I didn't find that out. I just testified what I knew.

Q. But you were asked all about your knowledge of this woman and when you first knew her? A. Yes, sir, I told it.

Q. And you didn't tell you saw her on Cherokee Street?

A. They asked when I knew her and I said eighty-four and eighty-five.

Q. Wasn't the following questions asked you and answers returned, your deposition at Leavenworth October 13, 1914: "Q. You lived four blocks from this Letcher home? A. Just about four. Q. You lived at the same place thirty five years? A. Have lived in one house. Q. The place the Letcher woman ran was a house of ill repute? A. Kind of a tough joint." Is that right?

A. Yes, sir, but I don't think that is the next question following that one

Q. Then, the next question and answer: "Q. How is that? A. How is that? Q. A kind of a tough resort, a place where men and women resorted for immoral purposes." Did you answer that question that way? A. Read it again.

Q. "How is that? A. A kind of tough resort?"

A. Yes, sir.

Q. "A place where men and women resorted for immoral purposes? A. Yes, sir. Q. Yes, a place where men and women resorted for immoral purposes. Do you know how many women stayed at that house? A. Besides Mrs. Letcher and Minnie? Q. Yes? A. No, there was always two or three women there, two or three, sometimes more than that, then again maybe you would not see them. Some one around there all the time. Q. Did Minnie stay there all the time? A. Most of the time she was there when she was pregnant and after the birth of the child, and stayed around there when the child toddled around and crawled pulling two cairs." A. Pulling to chairs, not t-w-o chairs, pulling up to chairs.

Q. You have read this testimony?

A. Before I signed it.

Q. Read it lately?

A. No, sir, I read it in Mr. Thorp's office.

Q. You remember the typographical errors in your testimony? A. I remember reading that much.

Q. And the word t-w-o you recollect?

A. I certainly did.

Q. Was intended to be to "t-o" instead of "t-w-o"?

A. Pulling up to chairs like a child will.

Q. You have made a very thorough and careful study of your testimony?

A. No, I remember what I said. That is, I think I do. As we go along I will find out.

Q. "You did not see her? A. The first time I ever saw Minnie in my life was at Granny Letcher's?" A. That is so.

Q. "The first time you ever saw Minnie she was at Granny Letcher's? A. Yes. Q. You think that was in 1884? A. About that time. Q. And at that time she was pregnant? A. No, well, that time I guess she must have been the first time I ever seen her, but it developed and developed until it became noticeable. Q. But the first time you saw her she must have been pregnant judging from what took place? A. Yes, sir. Q. The child was born at the Letcher woman's and you were not present then? A. No, I know nothing about that." Were not the following questions asked you and answers returned: "When did you find out her name was Atkins? A. I will tell you about that: She came to the colored church on Sixth and Pottawatomie Streets with a colored man and the other darkies wanted to know why he would bring a white to a black church, so I among others begun to inquire about her name and whether that was her husband or not." That is the first time you ever saw her to know what her name was? A. I didn't know then.

The Court: Well, now, let me get an answer. Was that your testimony with regard to this church incident at that time?

A. Yes, sir.

Q. You testified that at all this time you saw her there at the home of Granny Letcher that you lived four blocks from her? A. Within four blocks.

Q. It is seven blocks from your home to Cherokee, isn't it? A. No, I was speaking——

Q. Answer the question?

A. I am speaking of the time she lived on Seneca Street.

Q. Didn't you testify as I read a while ago, that you first knew her at Granny Letcher's and that all of that time that she was living at Granny Letcher's that she was within four blocks of your house. Now, Dennis, how far is it from your house to Cherokee?

A. From my house to Osage is one, Miami two, Cherokee five, and East Fourth, east of Third would be six, about six and a half blocks on Cherokee Street.

Q. It is seven blocks?

A. About six and a half blocks.

Q. It is four blocks to Seneca, isn't it?

A. Counting Miami; Osage is the fourth—counting Miami, Fourth to Osage is one block; Miami to Seneca three blocks, Shawnee to Delaware four blocks; Delaware to Cherokee five blocks, and from Fourth street to Third is six blocks and about half way of the block is where Granny lived.

Q. Four blocks from your house to Seneca where Granny lived?

A. Yes, about that to where Granny lived; about four and a half. I was speaking when I testified to where Granny lived on Seneca.

Q. You didn't know in 1914 about Minnie telling you that she was the mother of this boy, did you?

A. That question wasn't asked me.

Q. You have been sitting here in the courtroom, you found out you had to swear to that in order to answer to it, didn't you?

A. I did not; no, sir, I never took that into consideration at all.

Q. Weren't the following questions asked you and the following answers returned when you gave your deposition in 1914; "Q. Why did you then say that the boy's name was Thomas Atkins that was born at Mrs. Letcher's? A. They all called him Tommy Atkins; I don't know whether that was her husband or not; I began to ask about her and what her name was, and that is when I found out her name was Atkins. Q. About how old was this Tommy when you first saw him? A. He was a baby. Q. Well, about how old? A. Maybe two or three months, maybe four months, maybe six months. Q. That you are not able to state now within a period of six months as to when he was born? A. Well, I said for two or three months maybe longer; within two to six months when I first knew about him, that has been a long time ago." Those were your answers, weren't they? A. Yes, sir.

Q. Weren't the following questions asked you and answers returned: "Q. When did you find out her name was Atkins? A. I will tell you about that. She went to the colored church on Sixth and Pottawatomie street with a colored man—

The Court: Isn't a repetition?

Mr. Stuart: Yes.

The Court: Let's not go over that again, Judge.

Q. Dennis, did you know about a petition to remove Lillie White there—Government's exhibit 59?

A. I have some recollection of that; I was in the police service at that time.

Q. Is that petition—I hand you Government's exhibit 59, is that the petition?

A. Well, I never seen this paper to my own knowledge until I seen it before the Examiner—when it was brought in there before the Examiner up at Leavenworth.

Q. But you have heard about that petition, haven't you?

A. Yes, sir.

Q. Lillie White had moved out of there before that petition was circulated?

A. Yes, sir, I can tell you about it if you want me to.

Q. No, that is all. She couldn't have of been living there—

Mr. Stuart: Your Honor, he wanted to——

The Court: Yes, but he has answered the question, as to whether she moved out of there before that petition and he says yes; if you desire to ask him on re-direct, you may ask.

Q. That petition was circulated signed and filed and an order made on it sometime after?

A. Well, I don't know; I suppose it must have been——

Q. Answer yes or no, if you can.

A. Well, I don't know that it was or not; I never seen it until it was presented to the Examiner there in Leavenworth.

Q. You testified in 1914, did you not, at which time you made the following answers to the following questions: "How do you know Tommy was Minnie's child? A. By seeing her nourishing and cherishing and nursing it around after she had been in a family way to my knowledge; the child was born there and she took care of this child, and naturally I thought it was her child."

A. Yes, I said that.

Q. "You didn't talk with her? A. Just how do you do, and good morning, and where is Jim, and where is Sam."

A. Well, that is along the line of talk.

Q. You didn't say that you asked Minnie if that was her child or if she told you so, did you?

A. The question wasn't asked me; if it had been I would have answered it yes.

Q. Well, they did ask you how you knew it was her child when you were first asked about it?

A. Well, I didn't say that I asked her——

Q. You didn't think it was necessary to make that answer did you?

A. Well, I didn't have that in mind at the time; the competence or necessity of it. I just knew the facts as I stated in there.

Q. How long before this child was born was it that you saw Minnie or this woman that you saw there at the negro church in Leavenworth with a negro man? A. How long before?

Q. Yes?

A. I never seen her there before the birth of the child at the church with a negro man; I saw her there after that.

Q. Oh, you didn't know her name then?

A. No, only her name was Indian Minnie.

Q. You didn't know her name then, not until after you quit seeing her with the child, did you?

A. Yes, I knew her.

Q. Then you were surprised?

A. Well, let me answer the question. I knew her as Indian Minnie. I didn't know her as Minnie Atkins until after I had found out what her name was.

Q. Then you were surprised and a great commotion occurred when you saw at your church the same woman that you had seen on Cherokee street at Granny Letcher's in a family way, that you had known had given birth to a child; that you knew was living with Granny Letcher, is that what you want the Court to understand now?

A. I will tell you what I want the Court to understand is this: at church I didn't see the woman's face, I seen her sitting in the audience with a colored man—I was sitting near the door and she was down among the people. I don't think I remained until they got out but the people were talking about her and I wanted to find out who it was and I did find out and I found out since then who the man was with her.

Q. If you had seen her face there wouldn't have been any commotion at the church would there?

A. My not seeing her face didn't cause the commotion, I didn't know who it was——

Q. I believe you testified that Walter Banks and Tommy Atkins were about the same age?

A. I want to answer the question that you asked me a few minutes ago.

Q. Well, answer this now. A. Did I say that?

Q. Did you say it?

A. I might have said Walter was a little older; I don't recollect now.

Q. Your recollection now is that he was considerably older, isn't it?

A. Well, I don't know how old Walter Banks is. He asked me one question there that I would like to answer——

The Court: You may answer.

A. He asked me about how long after it was I was on the police force that I saw Minnie Atkins—about how long after she gave birth to the child. I don't know when she gave birth to the child but I know how long I seen her before she did give birth to the child; that was about the 17th or 18th day of May, 1885. I was appointed as a policeman on the 13th of May, '85, and went to work, and that ward was part of my territory and I was serving road tax notices and went to the home of Jim Mayo and served two notices—three notices.

Q. Did your appointment of special policeman have anything to do with the birth of this child? A. I didn't say it did.

Q. Wasn't associated with it?

A. Certainly did not, no, sir; but I wanted to answer your question, you asked me when was the last time and I wanted to answer it.

Q. You have found out it was a contention here that this child was born the first two weeks in June?

A. No, sir; I did not.

Q. Don't know that now? A. No, sir, I don't.

Q. You didn't hear Mrs. Edwards testify, did you?

A. No, sir, I didn't; you know I didn't because you wouldn't let me in the courtroom; didn't hear any of the testimony there at all.

Q. Wouldn't let you in the courtroom?

A. Before the Examiner, not until later.

Q. You did finally get in, didn't you? A. Yes, sir.

Q. Why did they let you in——

The Court: Let's not go into that; I have heard about that.

Q. Examine this petition, please, Dennis; Government's Exhibit 59; the Lillie White petition. Do you know any of those names? A. I know most all of them.

Q. They lived in the vicinity there, didn't they?

A. Yes, sir, some of them lived in the immediate vicinity and some did not.

Q. They signed that petition, and circulated it, and presented it to the City Council after Lillie White moved off of Seneca street? A. They did that; they did that.

Q. They were all adults, were they?

A. Those people signed it, yes, sir.

Q. They are all dead now, aren't they?

A. I don't know that.

Q. They were of sound mind of that time?

The Court: That will be assumed until the contrary appears.

Q. And at the time the city council made the order for her to be put out, she had long prior thereto moved out?

A. Quite a while before that she had moved out; she moved out in April.

Q. Dennis, when Sadie and Bettie went to your office the first time you told both of them that you knew Granny Letcher but didn't know any Indian Minnie, didn't you?

A. No, no, I never did tell them that.

Q. You told them that you did know an Indian Mary, didn't you?

A. No, sir, I didn't. Yes, sir, I knew Indian Mary, I may have told them that I knew Indian Mary and Minnie, too.

Q. Told them you would first have to find but whether Indian Mary had any children or not? A. No, I never.

Q. That maybe you could fix it on one of her children, didn't you? A. No, I never talked about that.

Q. You did tell them about Indian Mary, didn't you?

A. No, I told them I knew Indian Mary; she had been dead about 45 years ago at that time.

Q. Dennis, you took the directory there at the Public Library at Leavenworth, didn't you? A. No, sir.

Q. City directories, of the City of Leavenworth, showing that Granny Letcher lived on Seneca street in '85?

A. No, sir, I never took a directory out of the City Library in my life.

Q. What became of those?

A. I don't know; I never took them out of there.

Q. Didn't you tell Sadie James and Bettie Mann that you took them out?

A. No, sir, if you take a book out of there, you have it in the record there; I never took a book out of there at any time.

Q. On the second trip—well, after the first trip that Sadie James and Bettie Mann made to your office, did you telephone Bettie to come up to your office?

A. No, Sadie telephoned to Bettie from my office one time to some hotel in Kansas City.

Q. And she came up?

A. No, she didn't. If she did, she didn't come that day. Bettie Mann was never in my office but twice in her life.

Q. Well, the second time she was there, did you make this statement there in the presence of Bettie Mann and probably Sadie James that you wanted Bettie and Sadie to see Henry Byrd, a negro man living in Leavenworth and have him agree to be the father of Tommy? A. No, sir.

Q. Rube Smith wanted to be this child's father, didn't he?

A. I don't know what Rube wanted to do.

Q. You told Bettie and Sadie that wouldn't do, didn't you? A. I never told Bettie and Sadie any such thing.

Q. You told them that Rube would talk too much, didn't you?

A. No, sir, I never told them that Rube would talk too much; Rube is a good citizen, a good man.

Q. Yes, he has been working with you, working with you on this case, hasn't he? A. Some little bit, yes.

Q. He has been drawing five dollars a day, and you ten?

A. I don't know anything about what he is drawing.

Q. Haven't you heard him say? A. Never heard him say.

Q. You never heard Mr. Page or Mr. Long say?

A. No, sir, I have not.

Q. You have no idea?

A. I do not; that was his business.

Q. You haven't heard him say? A. No.

Q. Rube got a boy living in New York, named Lucien? Hasn't he? A. I don't know where his boy is.

Q. You know Lucien, don't you? A. Lucien, yes.

Q. Rube wanted in that conversation that you and he and Sadie had up there in your office during March and April, when you were looking for a living Tommy——

A. Me, and Rube and Sadie never had a talk or conversation together in [] lives.

Q. Well, did you tell Sadie that Rube wanted to have Lucien for this Tommy—— A. No, sir.

Q. But that everybody in Leavenworth would know who Lucien's mother was?

A. No, sir, no, sir, Mr. Allen; no, sir. Never had any such talk with Sadie or anybody else in my life.

Q. You told the Gypsy Oil Company that you could certainly find this Tommy, didn't you?

A. I thought I could when I told them that, and I done the best I could to find him.

Q. And you didn't go to work for the Gem Oil Company until you had become convinced of the death of Tommy?

A. Well, I thought he was dead, yes.

Q. Well, you felt reasonably certain that he was dead?

A. Well, I was relying upon the information I had received and I didn't get the chance to run it out like I would like to have done.

Q. You were a practicing lawyer in Leavenworth?

A. Yes, sir.

Q. And you, after having been working for some considerable time looking for a living Thomas, you quit the Gypsy and immediately accepted employment by the Gem Oil Company, that was at that time an adversary in the proceedings involving this, is that right?

A. Well, when the Gypsy folks hadn't anything further for me to do I felt at liberty to take up employment with the Gem Oil Company.

Q. For the Gypsy you were looking for a living Thomas and for the Gem a dead Thomas? A. Yes, sir.

Q. The Gypsy didn't tell you that they were through with you, did they? A. Yes, sir.

The Court: I apprehend that all that was said in that regard is in the letter which is before me. I understand from the testimony yesterday a letter was introduced here which was considered by this witness as terminating his employment?

Mr. Allen: Simply leading up to something else, Your Honor.

The Court: Well, all right, get to it. I don't want to prolong this examination longer than necessary.

Mr. Allen: Your Honor, this is a peculiar circumstance.

The Court: Go on, go on. I am willing to give you lots of latitude, but just don't repeat.

Q. You received a letter from the Gypsy people in which they said that they didn't want to pursue the investigation until you could find out something definite? A. Yes, sir.

Q. About Thomas? A. Yes, sir.

Q. You had just taken Mr. Greenslade on a journey to Washington and New York and other places?

A. Mr. Greenslade took me.

Q. Well, he was following you wasn't he?

A. No, sir, we were together.

Q. But you were telling him where to find Thomas?

A. I was following up the places that had been given to me in Leavenworth.

Q. Mr. Greenslade was just simply going along with you to see that you got the right Thomas?

A. Well, he was paying the bills, I thought I was going with him.

Q. You told him your step-son, when he lived in Leavenworth, played with Tommy?

A. Yes, sir, told him I could correspond with my boy, I didn't want to go——

Q. You met your boy in Washington?

A. I wanted to telegraph my boy——

Q. Just answer the questions. You met the boy in Washington? A. Yes, sir.

Q. He told you that he had seen the boy about two months before that he played with in Leavenworth?

A. No, I don't think he said that.

Q. What did he say about it?

A. When he went to where my boy was working I asked him, I says, Robert, have you seen Tommy around here? and he says what Tommy? Why, Tommy Atkins. He says, yes I have seen him but I think he is in New York. I asked him if he knew where and he gave me the name of a man named Ed Jonson up on Third Street somewhere in New York.

Q. So, that the Thomas that your boy played with in Leavenworth your boy told you he had recently seen in New York? A. No, he didn't.

Q. And told you about where you could find him?

A. No, he did not.

Q. Told you he had seen him?

A. Yes, said that Thomas is in New York——

Mr. Cruce: If the court please, if they are introducing that statement to show that the boy is now alive in New York we object to it because it is hearsay testimony.

The Court: I am only considering it in connection with this witness' activities; in determining whether or not the contention upon the part of the Government that they were not in good faith.

Q. Then you took him to find several other living Thomases didn't you?

A. We went to the place that Mrs. Venerable told us to go. I have the numbers in my book here, went there, the barber shop, and he told us that Thomas was around there an hour or two before we got there. And he told us where he thought we could find him. So, we started out and did find him. His mother was also an Indian woman but she lived in Virginia. And I says you are not the man I am looking for. I says to Mr. Greenslade, this is not Tommy.

Q. Did you find out that his mother lived in Virginia?

A. He told us, said his mother was an Indian.

Q. So, he wouldn't do?

A. He wasn't the one, I knew he wasn't.

Q. Then, you went to Chicago, didn't you? A. No, sir.

Q. You wrote to Chicago?

A. Yes, I wrote after I got back to Leavenworth.

Q. You went to Vera Cruz? A. No, sir.

Q. Did you go somewhere in Mexico?

A. No, sir, I never went south I went east.

Q. Yuma? A. No, sir.

Q. When were you employed by the Gem?

A. Along about in September 16, 1914, I think.

Q. The last letter you wrote the Gypsy people was in August, 1914, wasn't it?

A. I don't know just when was the last one. I wrote them a letter—— I don't know the date of the letter.

Q. On August 22nd, you wrote them this letter, didn't you: "C. E. Crawley, Tulsa, Oklahoma. Dear Sir: The other people were here today and had an interview with Ruben J. Smith, the supposed uncle of the missing Thomas Atkins."

A. Yes, go ahead.

Q. "And tried to get him as I understand to say that he knew of the death of the boy some several years ago, but he (Ruben J. Smith), has repeatedly told me that he knew of the boy being a live person and that he knew this to be a fact. I have not seen him since his interview with the other people and cannot tell you just what he said to them but will find out when I meet him. I saw the woman Sadie James as she is known there, she was here yesterday and called at my office and told me she had come to the conclusion that the boy Thomas Atkins was dead and seemed to be interested in the other people but I told her that I knew better, that the boy was still living and that I would produce him in a very short time, she left me and said she would call again but she did not and I have not seen her since. What is the name of the other firm that is on the still hunt for the boy, for if I knew I could look the hotel register over and tell you who *eas* here. Mr. Bond told me that he had sent in my expense account which I trust you'll approve and allow. Very truly, (Signed) Dennis Jones."

A. That is all right. That is the letter.

The Court: Who was that written to?

Mr. Allen: To the Gypsy Oil Company, to Mr. Crawley.

Q. So, on the 22nd of August, after you had returned from your trip north—— A. I never went north.

Q. To Washington and New York? A. East.

Q. You wrote a letter to the Gypsy which I have just read? A. Yes, sir.

Q. And on the 26th you got another letter from them telling you that they didn't want to send you out again until you got definite information? A. Yes, sir.

Q. And that is the letter you say terminated your employment? A. Yes, sir.

Q. Then, you thought they didn't want your services if they wanted definite information about this boy?

A. I never thought about it. I just thought they didn't want me any more.

Q. And that was the end of your services for the Gypsy people was it? A. Yes, sir.

Q. Then, on the 22nd day of September of the next month, when you said in your contract with the Gem people, that you had definite information as to the death of Thomas Atkins, you were not telling them the truth were you?

A. Yes, the information I had was definite as far as I knew.

Q. Then, between August 22nd and September 23rd you obtained definite information as to the death of Thomas Atkins, didn't you?

A. No, I never did obtain definite information.

Q. You obtained some information?

A. I relied upon what information I received.

Q. Tell us what information that was that you received between those dates?

A. I think I have the letter here. I have the letter here that I received from the Detective Agency.

The Court: You say I have a letter here that I received from——

A. From William D. Allen, Jr., in Washington.

Mr. Stuart: What date?

A. September 29th, 1914. I have my letter I wrote him and then I have his answer.

Q. Will you let me see the letter from the Detective Agency? Will you please read this letter?

A. I would rather read mine first.

Q. Well, your letter didn't give you information, I am asking you what information you received, so just read the letter you received.

The Court: Read the letter you received, and then if it is necessary put in yours.

A. "Washington, D. C., September 29th, 1914. Mr. Dennis Jones, Leavenworth, Kansas. Dear Sir: Yours of the 27th instant was duly received this A. M. and contents noted. In reply thereto we will say that we furnished Mr. Greenslade with the names of the people in Chicago, who probably could give the history of the Thomas Atkins, which was furnished by the woman you referred to in your letter. The address in Chicago is Samuel Ambler, Keystone Hotel, Chicago, Ill. I, also, forwarded a letter to Mr. Duvall, which I received from the Pullman Company, stating that they never had a man in their employ by the name of Thomas Atkins. I was just talking to Mr. Viett, the chief terminal detective of this city, and he informed me that they had been unable to locate anybody working for the roads answering the description of Thomas Atkins.

If I should ever have any business at the Leavenworth penitentiary, or if my friends should, I will remember you.

Trusting that this will meet with your favor, I am

Very respectfully,

(Signed) Wm. D. Allen, Jr."

Mr. Cruce: If the court please, it seems to me that the letter that he wrote, that he *illicited* this answer from the detectives, ought to be read in this connection.

The Court: I will hear it.

A. "Leavenworth, Kansas, September 27th, 1914. Thomas D. Allen, Washington, D. C. Dear Sir: You will remember me as the man who was in Washington, D. C., some weeks in re matter of Thomas Atkins, the much wanted Indian boy, or in other words, the mixed breed of Indian descent. What I want at this time is to know the parties in Chicago who gave some information as to the death of Thomas Atkins, because

I am going there in a few days and look into the matter. Mr. Greenslade wrote me that you got from the Carbi woman and Bud Miner the information that Thomas Atkins died in Chicago, so if I *cane* get the names of those who know of the death of Thomas Atkins in Chicago, I will make an investigation. Will you *give you* please give the names of the Chicago people given you by the Carbi woman and Bud Miner, and oblige. P. S. I will be glad to look up any matter at the U. S. penitentiary here that will be of any interest to you and your lawyer friend. Call on me at any time that you desire and I am willing to serve you. D. J."

Q. Dennis, when did you write that carbon?

A. When did I do what?

Q. Write that carbon—that letter?

A. It has its date there.

Q. That was written on September 27th, wasn't it, 1914?

A. Yes, sir.

Q. Four days after you were employed by Page to establish the death of Thomas, wasn't it? A. Yes, sir.

Q. And the reply that you read a while ago from that company that you said gave you the information of his death was written on September 29th, six days after your employment by Page, wasn't it? A. Yes, sir.

Q. Then where did you get the information that you said you had when you made that contract with Page?

A. From Mr. Greenslade.

Q. Mr. Greenslade told you that Thomas Atkins was dead?

A. He got the information; I was sick a day there in New York and Mr. Greenslade dug around—in Washington—and Mr. Greenslade made the rounds himself and he got the information and told me and then when we went to New York, we parted and I came home and Mr. Greenslade told me what he found out from the detective agency in Washington, and I couldn't remember the name of the people and I wrote to Mr. Allen there, to give me the name of the people who gave him the information.

Q. So, Mr. Greenslade is the man who gave you the information that Thomas Atkins is dead?

A. That picked it up there in Washington; it was told him by Detective Allen, who operated there with us several days.

Q. Dennis, we can shorten this if you will just tell us who gave you the information about the death of Thomas. Mr. Greenslade is one, who else?

A. This detective agency there.

Q. This detective agency is another one?

A. That is enough.

Q. You received that after you went to work for Page; who was the other one? A. Mr. Greenslade.

Q. Those two are the only ones?

A. That is enough; I didn't——

Q. Mr. Greenslade told you that in Washington?

A. After we made the rounds in Washington; he told me that in New York.

Q. But before you returned from that trip? A. Yes, sir.

Q. When did you get back from that trip?

A. We were gone about fourteen days from the 4th of March.

Q. From the 4th of March?

A. About 14 days; maybe more; about that.

Q. You were back in Leavenworth, Kansas, on August 17th, were you not?

A. Well, I stayed about fourteen days now; there were 14 days some time in *the* there from the time I left Leavenworth and got back.

Q. After you returned to Leavenworth, and on August 17th, three days—five days prior to the letter I read a while ago that you wrote the Gypsy people, you wrote this letter to Mr. Crawley, of the Gypsy Oil Company, did you not? "Dear Sir: I have been [] the trial of .... since I left Mr. Greenslade, and feel like the condition of our contract will soon have to be carried out——" A. Yes.

Q. "When away from here a few days ago. I heard that the .... had died in Chicago some years ago, but upon investigation I found that to be untrue." A. Yes.

Q. "I talked with a man who knew the object of my search to be living; that is he was sometime ago." A. Yes.

Q. "I have this day handed to Honorable Lee Bond a statement of my expense account and so forth." A. Yes.

Q. "Mr. Crawley, I feel a great degree of confidence in the matter and if I am retained to further my investigation and search for the missing link, I will be successful. I shall meet the Masonic Grand Lodge in Pittsburg on the 25th of this month and will there see and meet several hundred people and among them I may locate the link. Let me know as early as is convenient for you to do so. Very truly, Dennis Jones." So, Dennis, the information you got from Greenslade was found by you to be untrue before you made the contract with Page, wasn't it?

A. Well, I had heard so many different reports and things about it, I had come to the conclusion that——

Q. That is what I am trying to get at—who else did you hear the report from?

The Court: Let him complete the answer.

A. The information I had got about the boy's death I had heard different stories later on; that there was a Tommy Atkins who lived up in Nebraska, somewheres; that is what prompted me to write that letter to Mr. Greenslade; that the information that I had from Chicago proved as I understood to be untrue, and I asked him if he wanted me to make further search and he wrote me the letter that I could not.

Q. You were not disturbed because Roberts' Tommy didn't develop? A. Roberts never had one.

Q. I mean the boy that he played with, that he saw sometime before you went up there, or because this boy Tommy that you saw in the barber shop developed to be the son of a living woman in Virginia, or because you had heard that some other Tommys had died in Chicago, and you were willing to go ahead and carry out the contract with the Gypsy?

A. Certainly.

Q. And told them that you would soon make them fulfill that contract by paying you the money because——

A. No, I never said that; never asked them to pay.

The Court: Oh, well, the letter speaks for itself. Now, come to the point.

Q. Because you had found there was another Tommy living in Nebraska, is that right?

A. I never found it, I heard it.

Q. Did you go up there to see about it?

A. No, sir, I didn't.

Q. Now, what information did you have further than you have given us of the death of Thomas when you made the contract with Page?

A. Well, I don't know that I had any; I think I gave them all I had.

Q. You said in that contract that you agreed in the contract to produce evidence of the death of Thomas, didn't you?

A. Yes, sir.

Q. And you said in your testimony yesterday that that was what you were employed to do? A. Yes, sir.

Q. Now, Dennis, just within a month, to be exact on the 13th of October, after this contract was made on the 23rd of September, you produced 19 witnesses, who testified in Leavenworth, didn't you?

A. I never produced a witness, not one.

Q. Well, a great many you talked to?

A. No, sir, I never talked to but two witnesses before they testified at Leavenworth.

Q. Well, what were you doing between those dates?

A. Well, I was attending that deposition court there.

Q. Well, what were you doing the date your contract was entered into and the date the depositions were taken?

A. Practicing law in Leavenworth.

Q. Weren't you trying to fulfill the agreement you made with Page?

A. They wouldn't let me make this eastern trip; I wanted to and talked to Mr. Long two or three times about it and they thought different.

Q. They didn't want you to find a living Tommy, did they?

A. I don't know what they wanted; they wouldn't send me east again.

Q. They told you that they had found the mother and wanted evidence of his death, didn't they?

A. No, sir, they didn't.

Q. You drew your per diem from that time, didn't you?

A. When I worked.

Q. You drew your per diem from the time that contract was entered into until the depositions were taken in Leavenworth, didn't you?

A. No, sir, no, sir. Lots of days there was nothing to do, and whatever they owed me they paid me.

Q. Page paid you a hundred and fifty dollars in advance the day you signed the contract?

A. He gave me $37.50 the day we made the contract.

Q. And Long went to Leavenworth with you?

A. Gave me $37.50.

Q. The—— and a hundred and fifty dollar salary, didn't he? A. No, sir.

Q. 37.50 expenses, wasn't it? A. Expenses.

Q. And he gave you a hundred and fifty dollars on salary?

Q. You asked me a question a while ago that I would like to answer.

Q. Well, answer the question.

> The Court: He answered as to that. You said he gave you a hundred and fifty dollars on salary and he said, no, sir. Now, that is answered.

Q. You went to Leavenworth with Mr. Long, didn't you?

A. From Tulsa?

Q. Yes.

A. I think I returned by myself—went home alone.

Q. Mr. Long went up there either the next day, didn't he?

A. I don't remember just when Mr. Long got there.

Q. He stayed there most of the time until the depositions were taken, didn't he? A. No, sir.

Q. Who got up the depositions, then?

A. I can't tell you that; I didn't.

The Court: Judge, doesn't the contract recite there that fifteen days were paid in advance?

A. Fifteen days' time within which to carry out this contract.

Mr. Allen: Yes, sir.

The Court: Just read that portion of it.

Mr. Allen: "And it being in the contemplation of the parties that at least fifteen days of time of the second party will be consumed in said work, it is agreed at the conclusion hereof that second party shall be entitled to fifteen days' pay, and an advance of $37.50 to cover expenses, and to be prorated on the actual amount expended by second party."

The Court: Now, you say you didn't get that fifteen days' pay at that time?

A. No, sir, no, sir; $37.50 was all.

Q. You were to work in Leavenworth on this case, weren't you? A. I was to carry out that contract there.

Q. By getting up this proof in Leavenworth?

A. No, sir, I never got up the proof in Leavenworth.

Q. Well, they wouldn't let you go outside, would they?

A. Well, they didn't send me east as I wanted to go.

Q. Well, what was this five dollars a day expenses to be used for Dennis?

A. They never advanced me any five dollars a day expenses.

Q. Wasn't it understood between you that that was to be used in getting witnesses?

A. No, sir, no, sir. I never got a witness; there were two men I talked to before they testified in Leavenworth—just two.

Q. Who were they? A. Frank Miner and Ed Smith.

Q. You have never talked with Dennis Jones?

A. Yes, sir, I have talked with him quite a lot, quite a bit.

The Court: Who?

A. Dennis Jones; I have talked to myself quite a lot; quite often, yes, sir.

Q. Rube Smith, I mean?

A. Yes, Rube and I talked about it, yes, sir.

Q. You never talked to Crilly about it before he testified?

A. Nc, sir.

Q. Never did? A. No, sir.

Q. Didn't know he knew anything about it?

A. Yes, sir, I did know he was a witness.

Q. Crilly testified first when these depositions were taken up there? A. I don't know who testified first.

Q. Who testified first there?

A. Well, Crilly, this record shows.

Q. Who second? A. Dennis Jones.

Q. Who last? A. R. J. Smith.

Q. Was that Rube? A. Yes, sir.

Q. How many witnesses testified there, Dennis? A. 19.

Q. Every one of them testified to the birth of Thomas Atkins and not a one to his death, did they?

A. I never heard them testify.

Q. Well, you know what that testimony is?

A. No, I don't.

Q. Did you ever hear anybody testifying about his dying?

A. They wouldn't let us in the room when they were taking the evidence; I don't know what they were testifying to.

Q. You didn't produce any evidence there of his death, did you?

A. No, they wouldn't let— give me a chance to hunt it up.

Q. They never would give you a chance to hunt it up, would they? A. They *did*, at any rate.

Q. Never gave you a chance to hunt up a living Tommy?

A. No, sir, they never said anything about hunting a living Tommy.

Q. So far as you know, there *was* a particle of testimony offered there about the death of Thomas Atkins, was there?

A. The only testimony I know was offered is what I offered myself.

Q. How many of those witnesses have testified here, Dennis; name them? A. Down here in Muskogee?

Q. Yes; name them. A. I never heard a one of them.

The Court: He probably is not familiar with that. The record will show if you will read the names to me into the record.

Q. Read the names into the record, then. A. Of those?

Q. Who testified in Leavenworth on behalf of Page at that time?

A. George M. Crilly, Dennis Jones, William Grape, Arthur M. Ferguson, Mrs. Arthur Ferguson, Walter Banks, Charlie Anderson, Frank Miner, Madison Burns, W. H. Parker, Samuel Nash, E. C. Murphy, Mary A. Smith, Annie Wills, Adolph Lange, Dick Nichols, Lewis Brown, Elizabeth Dillman, R. J. Smith.

Q. How many of those people have you seen in Muskogee since you have been here as a witness?

The Court: Well, now, the point is how many of those have testified, the Court knows from the record.

Mr. Allen: No, the point I want to know how many he has seen.

The Court: Well, what is the point on that?

Mr. Allen: I don't like to explain it to this witness.

The Court: Well, all right. He may answer.

A. I have seen George Crilly, William Grape, Walter Banks, Frank Miner, Madison Burns, W. H. Parker, Samuel Nash, Annie Wills, Adolph Lange, R. J. Smith.

Q. Dennis, did you ever talk to Walter Banks and Sam Nash? A. Yes, sir.

Q. You say you have seen them here since you have been in the city? A. Yes, sir.

Q. Who were the members of the Granny Letcher household during all the time you knew her?

A. I don't know during all the time.

Q. Well, did any one live with her continuously during all the time you knew her?

A. Sam and Jim that died, Sam was there, Granny died and Jim lived a while and Jim died; and there was a little Indian boy there, Tommy, around about there; and a one-eyed boy they called Arch; and there used to be a fellow around there named Dan Hudson, he was a cook.

Q. Where is Arch? A. I don't know.

Q. Nobody has been able to find him?

A. I haven't looked for him, I don't know.

Q. Is he dead? A. I couldn't tell you that, Judge.

Q. You haven't seen him in years?

A. No, I haven't seen him I guess in twenty years.

Q. Is that Artie Price?

A. I never knew any other name except Arch.

Q. Do you know Tommy York?

A. Yes, sir, I knew him in his lifetime.

Q. Did this Indian Mary have any children that you know of? A. Not that I remember.

Q. You don't remember the child she had?

A. If she had any I don't know, sir.

Q. Then, the only living witnesses that you know that lived with her a considerable time were Sam Nash, Walter Banks, and this Charlie Hudson?

A. Charlie Hudson didn't live there, he roomed there, he was a cook.

Q. Walter Banks and Sam Nash are the only ones that you know living there all the time?

A. They appeared to me to be direct members of the family.

Q. They were direct members of the family?

A. Appeared to me to be so.

Q. You say they testified on behalf of Mr. Page in March, 1914?

A. That is Sam and Walter, I think they did. They were there at any rate.

Q. And you have seen them in the City of Muskogee since you have been here? A. Yes, sir.

Q. Do you know who they are working for now?

A. I think they are working for Mr. Page.

Q. At Sand Springs? A. I think so.

Q. Mr. Page or Mr. Long have told you that?

A. Well, I have seen Sam sweeping around the bank building there, but whether it is for Mr. Page or not I don't know, I think he is working for Mr. Page.

Q. Walter Banks is looking after the freight coming in and going out of Mr. Page's depot at Sand Springs?

A. Well, of my own knowledge I don't know.

Q. He works at the depot? A. I have seen him there.

Q. And Sam Nash works in Mr. Page's bank?

A. I don't know whose bank it is, I know he works at the bank there.

Q. At Sand Springs? A. Yes, sir.

Q. Dennis, you didn't testify in March, 1914, that you knew anything about the death of Tommy?

A. The question wasn't asked me.

Q. If it had been asked you, you would have given the same answer as you gave here?

A. I don't know what I would have said.

Q. You don't claim to know and don't know?

A. Not of my own knowledge.

Q. You didn't produce a witness there and haven't here who knows anything about his death?

A. I haven't produced any witnesses anywhere, Judge.

Q. You haven't furnished the names? A. Two names.

Q. What two men know about his death?

A. No, I haven't furnished anybody that knows about his death.

Q. And you were satisfied then that he was dead when you went to work for Mr. Page?

A. Is that the end of the question?

Q. Yes?

A. I was from the information I received that I had.

Q. You got some more information later on that same year that he was a living person, didn't you?

A. Yes, a person called Tommy Atkins was supposed to be in Nebraska, whether it was the same one we knew in Leavenworth I didn't know.

Q. But you didn't want to find him?

A. They didn't send me after him.

Q. They told you they didn't? A. You read the letter.

Q. I mean you told Mr. Long and Mr. Page about that?

A. I don't just recall whether I did or not, I may have told them.

Q. Do you remember taking the acknowledgment to a deed that Henry Carter signed as Tommy Atkins? A. Yes, sir.

Q. So, you at least come in contact with another living Thomas in 1914, didn't you?

A. Well, I took that acknowledgment all right. Whether there was a living Thomas I don't know.

Q. That acknowledgment was taken just exactly thirty days after the depositions were taken at Leavenworth, wasn't it? A. I don't know.

Q. In that acknowledgment you said that you personally knew him, didn't you? A. Knew this man that signed that.

Q. Who told you that he was Thomas Atkins?

A. I don't think he signed as Thomas Atkins, Thomas Atkins Henry Carter. (Witness examines instrument handed him by counsel.) Yes, he told himself.

Q. Now, you remember he told you? A. Yes, sir.

Q. You didn't know that he even made that representation until I showed you the book that had his name, did you?

A. I never knew him as Thomas Atkins, I was surprised when he said that.

Q. Just a minute ago you didn't know that that representation was made, did you, Dennis?

A. I knowed he signed as Thomas Atkins Henry Carter Thomas Atkins, both of them. It was late at night I was called to take that acknowledgment.

Q. Who called you?

A. Some one at the hotel, I don't know who it was, I was at home.

Q. Frank Long? A. I don't know. My wife told me.

Q. You had told him about Henry being Thomas Atkins before then? A. No, sir.

Q. Who was that conveyance to?

A. Well, I have it in my record at home, I could tell from my books.

Q. I show you page 439 of the printed transcript and ask you if that refreshes your recollection, if you remember who procured that?

The Court: Well, now, let's get this other question answered. Who that assignment or transfer was to.

A. What do you call my attention to on this page?

The Court: Who was the grantee in that instrument which you acknowledged?

A. Well, this is Henry Carter of Leavenworth, Kansas, lessor to Gem Oil Company, of Tulsa, Oklahoma, lessee.

Q. Do you remember who called you to come and take that acknowledgment?

A. No, but I know who I found there.

Q. That is what I want.

A. Mr. Long and Mr. Carter and Mr. Jacominy, a young man there, the hotel keeper.

Q. That is Frank Long? A. Yes, sir.

Q. Is this the certification that you made to that instrument: "State of Kansas, County of Leavenworth. On this 13th day of November, 1914, before me the undersigned, a notary public in and for the county and state aforesaid, personally appeared Thomas Atkins known as Henry Carter, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged that he executed the within and foregoing instrument, and acknowledged that he executed the same as his free and voluntary act and deed for the use and purpose therein *therein* set forth. Given under my hand and seal of office the day and year last above written. Dennis Jones, Notary Public"? A. Yes, sir.

Q. Is the man who signed that in the court room now?

A. Sitting over there.

Q. That is Henry Carter in the court room now?

A. Yes, sir.

Q. That man don't answer to the description you gave yesterday of Thomas Atkins?

A. I know he wasn't; I told him so.

Q. You told Mr. Long right then that that wouldn't do at all? A. I don't know that I told Mr. Long that.

Q. You told him that that was not Thomas Atkins?

A. That that wasn't the Thomas Atkins I knew loafed around Granny Letcher's.

Q. And yet Mr. Long took that lease and filed it for record? A. I don't know what he done.

Q. You knew it was not Thomas Atkins?

A. He said his name was Thomas Atkins, Henry Carter, Tommy Atkins; I always heard that his name was Henry Carter; he said his name was Thomas Atkins too.

Q. You knew it wasn't the Thomas Atkins you knew in Leavenworth?

A. Sure, at least I thought so, I had every reason to believe it wasn't.

Q. You say your first connection with the Gem Oil Company was when you received a telegram from Frank Long to come to Tulsa?

A. Well, now, that was my testimony yesterday, but I was thinking the matter over whether I had talked to Mr. Long prior to that time at Leavenworth or someone else. I just can't get that clear in my mind, evidently some one.

Q. You don't remember realizing any surprise at receiving that sort of a telegram?

A. No, it must have been based on some other talk with somebody, I expect it was Mr. Long; I rather thought I met Mr. Long near the National Hotel.

Q. It couldn't have been Sadie James? A. No, sir.

Q. You didn't talk to Sadie about getting employment from the Gem, did you?

A. No, sir, Sadie wanted me to sign one paper.

Q. Wasn't you a little surprised when the first person you saw when you got off the train at Tulsa was Sadie James there to meet you? A. Rather so, yes.

Q. And she then took you to Mr. Page's office?

A. She showed me where Mr. Page's office was.

Q. And that evening you wanted her to help you cash a check for this thirty-seven dollars and fifty cents?

A. I don't know whether I did or not.

Q. She told you that check would be good in Leavenworth?

A. I don't know, I don't remember whether they paid me in money or gave me a check.

Q. And she took you out to Mr. Page's park for the evening, didn't she? A. Yes, sir.

Q. You certainly told Mr. Page, didn't you, that you knew that Sadie James was *cooked;* that she had had this affair with that soldier up there, and that she tried to get you to make a false acknowledgment to a deed?

A. I think I told him about this paper; but the old soldier business was perfectly straight as far as I know; the old man is there now and has a divorce from her and is a good old soldier.

Q. He is about eighty years old?

A. I don't know how old he is. He is a good old soldier. Our transaction was as honest as with any client you ever had. I have the will and the receipt showing where the will was deposited in the probate court.

Q. Did you have him make her a will?

A. I didn't have him do it.

Q. Did he make her a will? A. He did.

Q. Let's see that. I hand you Government's Exhibit A-110 and A-111, and ask you what they are?

A. Exhibit A-110 last will and testament of Charles Lain.

Q. What is Exhibit A-111?

A. 111 is the certificate of deposit of will with the probate court.

Q. The will is made in favor of Sadie James?

A. This is a copy of the original, yes, sir. Mr. Lain did that voluntarily of his own volition and motion.

Q. Is that your office carbon copy of that will?

A. Yes, sir.

Q. So, you wrote the will yourself? A. My girl did.

Q. You dictated it? A. Yes, sir.

Q. How long after they had married was it that you wrote that will?

A. Well, I don't know just when she married; this is the 21st day of November.

Q. And about how long after the marriage?

A. Well, I don't know whether it was after or before.

The Court: November of what year?

A. 1913.

Q. That was before you and Sadie commenced working on this case?

A. That is when I held Sadie up to be as good as any other woman.

Q. Sadie, during all the time of her marital relations with this old soldier was living in one of your houses?

A. Sadie never lived in one of my houses.

Q. Did you collect the rent from the house she lived in?

A. No, sir, she lived at Second and Cherokee Streets.

Q. You knew where she lived? A. Yes, sir.

Q. You knew she was living there with her other husband, Will James? A. No, sir.

Q. You knew Will James?

A. I saw a big dark man with her on the street.

Q. You knew who he was?

A. I never had any personal acquaintance with the man in my life.

Q. When Sadie brought you from the depot to Mr. Page's office, they let you read the testimony of the witnesses that testified at Sapulpa, didn't they? A. Let me read it?

Q. Yes, you did read it?

A. I don't think I read anybody's testimony.

Q. Were you employed as a lawyer in this case without advising you what testimony had theretofore been offered?

A. They never said anything about that.

Q. They didn't keep you advised of the testimony that they have been offering, have they, Dennis, since your employment?

A. Oh, they have told me some things about it, yes, sir.

Q. And some they have kept from you?

A. Well, I don't know whether they have told me all or not.

Q. You didn't read Minnie's testimony at Sapulpa before the depositions were taken at Leavenworth?

A. Whose testimony?

Q. Minnie Atkins? A. Where at?

Q. Sapulpa? A. I don't know anything about that.

Q. Don't you remember when you met there in Mr. Page's office, that after Mr. Page hired you that you went up to Mr. Rice's office? A. Yes, sir.

Q. And they gave you the testimony that had been produced at Sapulpa? A. No, sir.

Q. And that you went over that?

A. No, sir, all they done at Mr. Rice's office, Mr. Rice wrote out the contract and I signed the contract and sat there a few minutes.

Q. Mr. Rice didn't write this contract?

A. It was prepared at that place.

Q. He prepared one and you didn't like it and prepared another? A. No, Mr. Rice prepared the contract I signed.

Q. Sure of that?

A. Yes, sir. I took a contract with me and they didn't take that contract, and took the contract that I had and prepared that.

Q. When you came down, you brought a contract already prepared? A. Yes, sir; yes, sir. Yes, sir.

Q. You felt reasonably certain you would be hired?

A. I didn't know whether I would or not, but in all my business I prepare.

Q. You thought you would be prepared if they desired your services as a lawyer? A. Yes, sir.

Q. You learned though then, or sometime later before the depositions were given, that Minnie had testified about having this child at the Sister's Hospital?

A. No, sir, the first I knew of that was over here at Muskogee when Mr. Peterkin was talking about that.

Q. The first time you had ever heard that she testified at one time that this child was born at the Sister's Hospital was at Muskogee in 1915?

A. I never heard she testified. I say the first time I ever heard about the Peterkin baby was at Muskogee.

Q. And this is the first time you heard she testified to that?

A. Since you told me. I didn't know anything about what went on down here. The first time I ever heard it.

Q. You don't know whether the child you saw was born at the hospital or not, do you? A. No.

Q. Did you tell Mr. Greenslade all about what you testified about this child when he came to see you?

A. Mr. Greenslade?

Q. Yes?

A. I hadn't testified at the time I was talking to Mr. Greenslade.

Q. I mean did you tell him—— You saw Mr. Greenslade, didn't you? A. Yes, sir.

Q. You told Mr. Greenslade that your boy Robert knew exactly where the boy was?

A. No, I didn't. I talked to Mr. Adair, I remember Mr. Crawley was there at Mr. Bond's office. I didn't want to go to Washington at all. I told them to take up the matter with my boy in Washington and he will locate the boy there. They prevailed on me to go. Mr. Bond will remember that.

Q. Where is Robert now?

A. I really don't know where he is; I haven't heard from the boy for a long, long time; I don't know where Robert is.

Q. He is not here as a witness? A. Sir?

Q. He is not here as a witness?

A. No, sir. I did hear once he was in Van Couver.

Cross Examination by Mr. Cobb.

Q. When did you first learn that Mr. Frank Long was working for the Gem Oil Company or Mr. Page?

A. Well, it was about the time I went to Tulsa. As I said a while ago, it may have been, oh before that; he was working for the Gem Oil Company, he was in Leavenworth quite a little bit.

Q. Well, you knew it along about the latter part of August or the 1st of September, 1914?

A. About that time, yes, sir.

Q. In your work at Leavenworth you worked in conjunction mostly with Mr. Long, didn't you?

A. After I was employed by the Gem Oil Co., yes, sir.

Q. And you knew that he had charge of the interest of the Gem Oil Company and of Mr. Page up there in that matter, didn't you? A. Well, I felt sure he did, yes, sir.

Q. Now, you knew both Minnie Atkins and Tommy Atkins? A. Yes, sir.

Q. Years ago? A. Yes, sir.

Q. When Tommy stayed at Granny Letcher's?

A. Yes, sir.

Q. And you knew him up until he was——

A. 12 or 14 years old.

Q. And a good sized boy? A. Yes, sir.

Q. Now that night when you were called down there to the National Hotel, believe you said that was the place that lease was taken? A. Yes, sir; yes, sir.

Q. You knew who Tommy Atkins was at that time?

A. Yes, it had been so long since I had seen him, it might have come in my mind, the fourteen years that he had growed up to be a man and developed, had changed him some.

Q. You knew him? A. Yes, sir.

Q. You knew Henry Carter, H. Carter, didn't you?

A. Yes, sir; I always called him that.

Q. Knew him for quite a while? A Yes, sir.

Q. You knew when H. Carter represented himself as being Tommy Atkins that he was an imposter and a fraud?

A. He said this——

Q. Well, answer my question, you knew he was not Tommy Atkins, didn't you?

A. I knew he wasn't Tommy Atkins; I knew, yes, sir.

Q. You knew that? A. Yes, sir.

Q. Yet, knowing that, you took the acknowledgment to that instrument under the name of Tommy Atkins, didn't you? A. Yes, sir; yes, sir.

Q. And I believe you said that you didn't inform Mr. Long there, who was negotiating the deal, that this was not Tommy Atkins, did you? A. Mr. Long knew——

Q. Just answer my question.

A. No, he had information; I didn't have to inform him.

Q. He had information about the matter himself?

A. Yes, sir.

Q. And you knew it was not Tommy Atkins and you didn't tell Mr. Long there at that time? A. Yes.

Q. You told him that? A. Yes, sir.

Q. Before you took that acknowledgment?

A. I told Mr. Long all the time I didn't believe that was our Tommy.

Q. Did you tell him before you took that acknowledgment? A. Yes, sir.

Q. And Mr. Long, knowing that, still had you to take that acknowledgment to that instrument? A. Yes, sir; yes, sir.

Q. Now, Dennis, since you have been down here, haven't you had a talk about this matter with Bell here, T. W. Bell, an attorney in this case representing the Carter interests?

A. No, I had a conveysation with Mr. Bell.

Q. About the Carter claims in the matter?

A. No, we haven't talked about no Carter claims.

Q. Haven't had any conversation about it? A. No.

Q. Haven't had some conversation about the identity of Carter and Tommy Atkins? A. No, sir.

Q. None whatever since you have been down here?

A. No, sir; no, sir.

Q. I will ask you if you didn't state to Bell, here in the corridor of the courthouse, since you have been down here, that you wouldn't say that Carter was not the boy Tommy Atkins, that was at Granny Letcher's? A. Oh, no, sir, no; no.

Q. You didn't make that statement? A. No, sir, I didn't.

Q. Or that in substance?

A. No, sir, I didn't say any such thing to Mr. Bell.

The Court: Now just connect with your question the person or persons to whom you conceive the statement was made.

Mr. Cobb: Mr. Bell.

The Court: Alright.

Q. I will ask you if in Leavenworth, Kansas, during the year 1915, shortly after the depositions were taken in this case, if you didn't state to Mr. Bell up there in—or state in substance that you were unable to say that this boy was not the Tommy Atkins that was at Granny Letcher's

A. No, sir.

Q. You didn't make that statement? A. No, sir.

Q. Or that statement in substance?

A. No, sir. I haven't talked to Mr. Bell—I think I said this to Mr. Bell: That if you can land your man, go ahead. I didn't want to discourage him; if you think that is Tommy Atkins, go ahead. I told him that.

Q. Didn't you also state in that same conversation——

Mr. Stuart: Mr. Cobb, will you kindly fix the time?

The Court: He fixed the time as 1915.

Mr. Cobb: After the depositions were taken in Leavenworth, Kansas.

Mr. Stuart: Where in Leavenworth.

Q. In the State District Court room at Leavenworth, Kansas, in the spring of 1915, didn't you make that statement or that statement in substance, that you wouldn't say that Carter was not the boy, Tommy Atkins, that you saw at Granny Letcher's

A. I never talked to Mr. Bell in the District Court room—

Q. Answer my question. A. No, sir; no, sir.

Q. You did not? A. No, sir, I didn't; no, sir.

Q. I will ask you if in the spring of 1916, at your office in Leavenworth, Kansas, if you didn't make the same statement in substance to Mr. R. E. Martin. A. I should say not.

Q. You did not? A. No, sir.

Q. You know Mr. Martin?

A. Mr. Martin never was in my office but once in his life.

Q. You know Mr. Martin? A. Yes, sir.

Q. You never made that statement to Mr. Martin in Leavenworth at any time?

A. No, sir; no, sir, because I knew better.

Q. I will ask you if you didn't state to Mr. Bell in the federal court room, in the spring of 1916, in Leavenworth, Kansas, this: That if you had been permitted to have gone ahead, you would have found the real Tommy Atkins.

A. Found the dead boy.

Q. Wait a minute. And that for you folks to go ahead, speaking to Mr. Bell—and you folks go ahead, as you are; you are on the right track?

A. No, sir, I didn't tell him that.

Q. You didn't make that statement? A. No, sir.

Q. Or that statement in substance?

A. No, sir, I didn't. I never tried to discourage Bell. I told him if you think you got the right man Bell, go ahead. I always said that to him; say it now; if you think you got the right man, keep pushing ahead.

Q. And didn't you also state in that conversation that he, Bell, had taken up Carter where you dropped off, and that he, Bell, was wise in doing so?

A. I never had Carter up; I can't say that——

The Court: Well, did you——

A. No, sir; no, sir.

Q. You didn't make that statement? A. No, sir.

Mr. Cobb: That is all.

Redirect Examination by Mr. Stuart.

Q. Now, did you write this letter (marked defendant Minnie Atkins' Exhibit 9)? Dennis, I will ask you whether or not you ever stated to anybody, at any time, that Henry Carter was the Thomas Atkins you saw at Granny Letcher's?

A. No, sir.

Q. Did you ever have anything to do with Henry Carter's claim in this case? A. No, sir.

Q. Did you ever accept employment from anybody to assist in developing whatever claim Henry Carter had in this case? A. No, sir.

Q. Did you ever have any connection with him, in any way, professionally or personally, in this case?

A. No, sir, not in this case, no, sir.

Q. Now, you know Rube Smith, you say? A. Yes, sir.

Q. Do you know whether Rube Smith holds any position with the courts up there? A. He is a deputy sheriff.

Q. He hold any position with the United States court up there?

A. He is usually one of the deputy marshals there during court time.

Q. Well, what is he, bailiff, or what does he do?

A. Usually takes the prisoners to and from jail and out again; sometimes he stays in charge of the door, and jury room, and other places.

Q. Whose court?

A. Federal court; Judge Pollock's court.

Q. How long has he been in that position in Judge Pollock's court there? A. Several years.

Q. Several years? A. Has been for several years.

Q. Now, Dennis, with reference to your employment in these matters, your various employment thereof, the first employment by the Gypsy then your subsequent employment by the Gem Company, and the contract that was entered into, I will ask you whether or not your requirements under your contracts were carried out by you as best you could?

A. Yes, sir.

Mr. Stuart: Now, Your Honor. In this matter I want to offer this letter.

Mr. German: Do you offer this?

Mr. Stuart: Yes, sir.

Mr. German: We object to it as self-serving and as incompetent, irrelevant, and immaterial.

Mr. Stuart: I don't see how it could be self-serving for a witness.

Mr. Allen: It was written subsequent to the time Sadie James claimed——

The Court: Has the witness identified this and stated this is a letter which he wrote?

Mr. Stuart: Well, I assumed he would do that.

Q. Is this your letter? A. Yes, sir.

The Court: Signed by you and written at the date it purports to bear, December 26, 1914?

A. Yes, sir.

The Court: I might hear the objections which you gentlemen desire to interpose and then I will read it during the noon hour.

Mr. German: We object upon the ground that it is in the nature of self-serving testimony or declaration; that it is hearsay; there isn't any theory upon which it could be admitted at all.

The Court: As I view it, the only theory upon which this letter could be received in connection with this witness' testimony now, would be as throwing light, if it does throw light, as to the question of good faith of this man in this transaction.

Mr. German: This declaration was not made at a time which would bring it within the rule, because it comes after Sadie James' alleged so-called confession to the Government, and at a time when it would be to the interest of the witness and the parties to whom the letter was written to make statements such as the witness made in that letter.

The Court: Now, I have your views and objections.

Mr. Stuart: Now, our view is this; that this letter on its face couldn't have been written for serving any purpose in this lawsuit, none whatever. It was written after Sadie James came to his office. It is claimed here that this man was a party to a conspiracy to put up a job. It has furthermore been developed on cross examination by question after question that this man is crooked; that he knew Sadie James was crooked and that he and Sadie James put up a crooked transaction on this man. Now, this letter written in good faith without any attempt of anybody to influence testimony, and before his good faith as to Sadie James had ever been challenged by anybody, explains that transaction with Sadie James months before this suit was ever begun and while no controversy was in action at all; this man makes this statement to his employer as to his knowledge of Sadie James.

Mr. German: In Sadie James' confession she impugned the motives of this witness in connection with this very case. This declaration contained in this letter is made to the Gem Oil Company with relation to that matter.

The Court: All right. I will read the letter during the noon hour.

And thereupon, court recessed until two o'clock P. M.

And thereupon, court reconvened at two o'clock P. M., pursuant to adjournment, when the following proceedings were had:

And thereupon, **DENNIS JONES** was recalled for further examination and testified as follows:

Examination by the Court.

Q. In regard to this letter of December 26th, Mr. Jones, which you wrote to the Gem Oil Company in Tulsa, you say: "The information that I have received relative to the actions of Sadie James, etc." What information did you refer to? What information did you then have when you wrote this letter as to the actions of Sadie James?

A. Sadie James had said that I and her and Rube Smith and other people in Leavenworth and Mr. Long had framed up, was in a conspiracy to frame up evidence in reference to Tommy Atkins.

Q. Now, from whom did you get that information?

A. I had a letter—— No, I got it from Mr. Long, I met him in Leavenworth. He laughed and told me about what Sadie James had said we were trying to do.

Q. Then, the information you referred to is the conversation you had with Mr. Long?

A. Yes, sir, and then afterwards I wrote a letter to the Gem Oil Company and Mr. Long.

Q. Now, is this the letter?

A. I haven't seen that, Judge.

Q. This is the letter that was offered in evidence?

A. Yes, sir, to the Gem Oil Company.

Q. Now, then, the information which you referred to in this letter was the conversation which you had with Mr. Long at Leavenworth? A. Yes, sir.

Q. Was that all the information you now recall having had about Sadie James' actions when you wrote this letter?

A. No, I think Mr. Cook, a gentleman by the name of Cook.

Q. Fred Cook?

A. I think that was his name. I think he talked about it to me. He was in Leavenworth quite a bit after that.

The Court: Does the record so far in this case show anything with reference to the date that Sadie James made this alleged confession?

Mr. Allen: *He* deposition does your Honor.

The Court: What does that show in regard to that, when did she make this alleged confession?

Mr. German: December 4th, if I am not mistaken. I know this is on record, the so-called immunity paper from Frank Montgomery, which was about the same time, and part of the same transaction, and it is dated December 4th if I am not mistaken.

Mr. Hanford: If the court please, I suggest, however, that that alleged confession was in the possession of the Government and is not in the record when it was disclosed to us.

The Court: Well, that is what I wanted to know is when—— First, let me ask you——

Mr. Hanford: I will state to Your Honor, however, that that letter is written after the proof shows that Sadie James was out to Seattle with Mr. Robinson and later returned to Leavenworth with him.

Mr. German: This is after Mr. Montgomery was at Seattle.

The Court: I appreciate that. What I am trying to get at here is, was that after it had come to the ears of Mr. Long or the others for whom this witness was working, that Sadie James had divulged or made this so-called confession?

Mr. Hanford: I think at that time, your Honor, the only thing——

The Court: Probably I had better ask the witness.

Q. Now, can you tell me about how long it was before you wrote this letter that you had this conversation with Mr. Long in Leavenworth?

A. Your Honor, I can't tell you just how long; I don't remember just how long it was. It strikes me I saw something in the newspaper about that; I won't be sure about that. It seems to me I read something in the newspaper about that, about Sadie James told somebody that there was a conspiracy on the part of some other people and her to do something, I think that was an Oklahoma paper.

Q. You say here the information that you have received relative to the actions of Sadie James does not worry me in the least because whatever has been said by the people here, who gave evidence before the notary public, in the matter of Minnie and Tommy Atkins, was most satisfactory and based on solid facts as they knew them and was not at all in accordance with any frame up with Sadie James if there ever was any such thing as a frame up put on by her, or pulled off in Leavenworth. Now, if you had a conversation with Mr. Long I presume he at that time was representing the Gem Oil Company? A. Yes, sir, I suppose so.

Q. Then, why did it become necessary or what impelled you following your conversation with him about this to write this letter; that is what I am trying to get at?

A. Well, Judge, I don't know. Now, I said that— I wouldn't be positive that it was before or after right now. I wouldn't be positive that it was before or after that I got that information.

Mr. German: May I ask him a question or two?

The Court: Yes.

Examination by Mr. German.

Q. Dennis, you were not talking about anything that Sadie had stated before you learned what she had said?

A. No. Sadie had said evidently what she had said before I wrote that letter.

Q. Evidently? A. Yes.

Q. And did you not learn that she had made a so-called confession to the Government? A. No, not at that time.

Q. What had you learned about it?

A. She was talking around at Tulsa and places over the country.

Q. You had heard she had been to Seattle with Mr. Montgomery?

A. I don't know whether I had at that time or not, I don't know.

The Court: What did you have in mind as to the frame up that she was reported to have pulled off that you referred to in the letter?

A. Framing up evidence to use in the case of Tommy Atkins.

Q. Well, now, who was reporting that or who was giving that out? A. Sadie James.

Q. You had heard at that time—— A. Yes, sir.

Q. That she was giving that out? A. Yes, sir.

Q. Where was she telling that?

A. Down here in Oklahoma.

The Court: Well, I am going to admit this letter together with his statements with regard to what brought it out, and give it such place as it seems to be entitled to if any, together with all the other facts and circumstances.

Mr. German: We except.

Mr. Hanford: Your Honor, may I ask the witness at this time one question?

The Court: Yes.

Redirect Examination by Mr. Hanford.

A. Dennis, didn't you get out a warrant against Sadie James for criminal libel in connection with that?

A. I gave the information to the county attorney there.

Mr. German: Now, Your Honor, we object to that on the ground that it is self-serving declaration and hearsay.

The Court: Well, it was about this time, it will throw some light upon the witness' frame of mind; if it was afterwards, it won't.

A. Yes, sir, I did, I went to the county attorney and consulted him about it.

Mr. Allen: Your Honor, may I ask a few more questions?

The Court: Well, Judge Maxey wanted to cross examine. I permit you either now or later, I will permit you.

Mr. Maxey: Go ahead.

The Court: Alright, Judge Allen, you may go on.

Recross Examination by Mr. Allen.

Q. Dennis, you merely threatened Sadie with criminal prosecution, didn't you?

A. No, I didn't threaten her at all.

Q. Did you say in Kansas City when we were taking the depositions there that if Sadie went to Leavenworth, you would have her put in jail? A. Say that to whom?

Q. To the different people around the courthouse.

A. No, I didn't say it to Leavenworth; [Q.] didn't I tell you then that she was in the city and that you were at liberty to start any prosecution? A. I never said that.

Q. You didn't start any prosecution, did you?

A. I never said that; never told you or anybody else that if Sadie came to Leavenworth——

Q. You didn't start any prosecution of her there, did you?

Q. No, sir, it was months before she came there, too, before I consulted the county attorney it was months before she came there.

Cross Examination by Mr. Maxey.

Q. Dennis, what time did you go to work for the Gypsy Oil Company?

A. Well, the date is in that contract; I don't know just—

Q. Is the contract in evidence?
A. Well, I think it is——

The Court: Yes.

Mr. Maxey: Alright; that will fix the date.

Q. You knew at that time that there had been a trial of the case down at Sapulpa between Nancy Atkins and Bartlett and the Gypsy Oil Company?

A. No, Judge, I didn't at that time.

The Court: Let me ask you; were you here during Judge Allen's cross examination, Judge Maxey?

Mr. Maxey: Part of it.

The Court: I assume, then, that you will avoid as far as possible covering the same ground.

Mr. Maxey: Yes, sir.

Q. You learned afterwards, if you didn't know it then, that there had been a suit down here between Nancy Atkins and Bartlett and the Gypsy Oil Company?

A. Judge, I can't say that I ever learned that until I heard it here today, that there had been a law suit down here about this claim. The only law suit that I know about is what they have here in Muskogee a couple of years ago.

Q. How, how long did you work for the Gypsy Oil Company? A. About 12 or 14 days?

Q. About that? A. About that.

Q. Did you make any trips for them? A. Yes, sir.

Q. Where did you go?

A. Went from Leavenworth to St. Louis, and from St. Louis to Washington, D. C., and then went to New York.

Q. That was the trip with Mr. Greenslade that you spoke of this morning? A. Yes, sir.

Q. How much money did the Gypsy Oil Company pay you for the work that you did for them?

A. Well, expenses and all, probably two hundred dollars.

Q. Two hundred dollars? A. Then you commenced work for the Gem Oil Company? A. Yes, sir.

Q. What was the date of your *contradt* with them? Do you remember?

The Court: That is in evidence.

Mr. Maxey: I thought maybe he remembered it.

A. The 16th of September, I think 1914.

The Court: The 23rd of September, I think it was.

Q. Now, you had been at work for them ever since them?
A. Yes, sir.

Q. You have devoted most of your time since them to this case, haven't you?

A. Well, Judge, I can't say that I have devoted most of my time; whatever time was necessary, I would devote to the case.

Q. Have you made any trips for th[illegible] over the country?

A. Well, around in our own count[illegible] down in Missouri, and Kansas City, and Kansas C[illegible]sas, and out in Jefferson county; I went out, I th[illegible]hison once or twice.

Q. Go ahead. Oklahoma?

A. Well, yes, down here at the trial at Muskogee, two years ago.

Q. How many times have you been to Tulsa and Sand Springs since you have been employed by the Gem Oil Company?

A. Well, I have been there three times, I think, on behalf of the Gem Oil Company. I have been to Tulsa four times but one time I went on my own—went there to take care of a fellow who had been arrested for introducing liquor they said.

Q. Now, when you found out in your investigation anything that you deemed important, why, you would go down to see Mr. Long or Mr. Page, and report, would you?

A. No, sir, I wouldn't go to report. anything that I found out that I thought was important I would write it or communicate it to them in some way.

Q. Mr. Long was at Leavenworth a good deal of the time?

A. Yes, sir, quite a bit.

Q. And you would communicate with him there?

A. Yes, sir.

Q. Mr. Page up there frequently?

A. One time, I think.

Q. Now, what is the Gem Oil Company paying you?

A. When I would serve them, they would pay me at the rate of ten dollars a day.

Q. And expenses? A. Yes, sir.

Q. About how much money have they paid you since you have been in their employ?

A. Well, I expect they have paid me four or five hundred dollars.

Q. Four or five hundred? A. I expect.

Q. No more than that?

A. Judge, I can't say; whenever I worked, they paid me.

Q. Do you know who was living at Granny Letcher's in 1890?

A. In 1890? I think the same family was there; I think she moved away from there at one time in 1890.

Q. What is it?

A. I think the family—Jim and Sam and the boys and Granny——

Q. Now, how old was Granny Letcher in 1890?

A. Oh, I don't know, Judge, just how old she was; when I first knew Granny Letcher she was 40 or 45 years old—50 years old, I guess.

Q. And you knew her back in '84?

A. Oh, I knew her before that.

Q. And she was about 45 when you first got acquainted with her?

A. Yes, I expect maybe older, Judge. I was quite a boy, maybe ten or twelve years old when I first got acquainted with her.

Q. Did you ever know William Phillip?

A. He was a black boy—a black fellow who used to be around there; yes, I knew Will.

Q. He was Molly Letcher's son, wasn't he? A. No, sir.

Q. Did you know Sam Smith?

A. Yes, Sam Nash, they call him now.

Q. Walter Banks? A. Yes, sir.

Q. Fannie Powell? A. I didn't know Fannie.

Q. She was a mulatto girl?

A. I didn't know her by that name.

Q. Walter Johnson?

A. Well, I know a Walter Johnson in Leavenworth.

Q. Now, was Tommy Atkins at Granny Letcher's in 1890?

A. No, sir; oh, in 1890? Yes, he was there until '97, the year of the Spanish American war.

Q. Then if the census taker in 1890 who took the census of the people living with Granny Letcher failed to get him, how do you account for that?

A. They don't take children.

Q. They don't? A. No, sir.

Q. Wasn't Walter Banks and Sam Nash children?

A. Well, they were boys, yes.

Q. Sam was about the age of Tommy, wasn't he?

A. No, Sam is now about 47—46 or 47 years old; ten or twelve years old then.

Q. Walter Banks was about Tommy's age, wasn't he?

A. No, sir, Walter Banks was a little older than Tommy.

Q. Well, he was just a boy then, wasn't he?

A. Yes, sir, just a boy.

Q. Ten or twelve years old then?

A. I don't know how old he was.

Q. Then, they do take children?

A. I never knew them to, Judge, if they did, I never knew them to.

Mr. Cruce: If the Court please, this is not cross examination of anything we drew out.

The Court: Well, I don't think so either, and I don't think that this witness' account of what the census failed to show would help the Court much. There is this, however, in evidence; there is a verified statement with regard to the census, showing certain individuals in the family; this witness testify that Tommy Atkins was in the family at that time. Now, it is proper for the Court to account for that.

Mr. Maxey: Well, alright.

Mr. Cruce: I want to make the further suggestion; it is true Judge Maxey's client is a party to this suit, but not a line of testimony what we drew from this witness, was directed toward his client, and it does not seem to me that the Government has the right to use a half a day in cross examination and then for another defendant to come——

The Court: Here is the thing I suggested a while ago; so far as any field covered by Judge Allen, it will be unnecessary for you to go over that; I will permit you to cross examine this witness on any material matters which Judge Allen overlooked, if he overlooked anything, but we are not going to cover all that field again, certainly.

Cross Examination by Mr. Maxey.

Q. I will ask you, Dennis, if these questions and answers wasn't given by you at Leavenworth when your deposition was taken up there: "Where did Crilly carry on this business along about 1884—'5 and '86? A. On Seneca Street north side between second and third. Q. Were you, during that period acquainted with a woman named Letcher? A. Yes, sir. Q. Do you remember what her name was, how she was designated? A. Known as Granny Letcher. Q. Granny Letcher. Where did Granny Letcher reside at that time? A. She lived just opposite Crilly's stable. I think the number was 217 to the best of my recollection at this time, and in an old shack built probably thirty or forty years." Is that your testimony there? A. Yes, sir.

Mr. Maxey: I will try, Your Honor, not to ask anything that Mr. Allen went over.

Q. This question and answer: "Q. How old was Granny Letcher at the time? A. Well, at that time I would take Granny Letcher to be about thirty-four years old.'' Is that your testimony?

A. I said fifty-four. I told Mr. Tharp about that and he said he would correct it, but I signed it; fifty-four.

Q. These questions and answers—— These questions asked you and answers given: "About how old was the child when Minnie left Leavenworth? A. Well, I don't know, I couldn't tell exactly, the child was a couple of years old. She hung around Granny's for quite a while after the child was born. Q. You may state whether Minnie lived at Granny Letcher's all the time or whether she was there sometimes and other places in the city? A. Well, I couldn't say, I have seen her there quite often, she stayed there and lived around; I have seen her at the table eating and seen her in the wash tub helping wash, and I just supposed she lived there.'' Is that your testimony there? A. Yes, sir.

Q. This question and answer: "The first time you ever saw Minnie she was at Granny Letcher's? A. Yes. Q. That, you think, was about 1884, about that time?'' A. Yes, sir.

Q. Now, under your contract with Mr. Page, have you done anything more than give the names of witnesses or have you talked with the witnesses and communicated to them what they testified to?

A. No, sir, I haven't talked with the witnesses; I have talked with them after they gave their testimony. Those witnesses that testified up there at the state court, I have talked with them since they testified.

Q. Didn't you talk with any of them before they testified?

A. Two.

Q. Who were they? A. Frank Miner and Ed Murphy.

Q. Those were the only two you talked with before they testified? A. Yes, sir.

Q. And what other services have you done?

A. Well, whenever there was Court going on in Kansas City and the Examiner was around I would be there to see if I would know people and do whatever they desired. I was generally pretty well known up there, put in seven years in detective services and seventeen years on the police services and I knew pretty near everybody around.

Q. They would consult you about the different witnesses, whether you knew them or not and what their character was and whether they were to be believed and all of those things?

A. Well, not as to whether they were to be believed, Judge, I don't know as it went that far, but I knew them.

Q. That applies to the Government witnesses as well as their witnesses? A. Yes, sir, everybody.

Q. And to witnesses for any of the other parties to the suit? A. Yes, sir.

Q. You gave your deposition up there in 1914, didn't you?

A. Yes, sir.

Q. And you knew there was a case pending at Sapulpa, didn't you? A. No, sir.

Q. What did you suppose they were taking your deposition up there for?

A. To use here at Muskogee. I knew there was to be a trial here at Muskogee.

Q. This suit hadn't been brought then, had it?

A. Well, I don't know. The only lawsuit——

Q. You was a lawyer in the case and was helping there and didn't know what case it was in?

A. The only case I knew about was the one at Muskogee a couple of years ago. I have heard all about it since then but at that time I didn't know.

Cross Examination by Mr. Cobb.

Q. When you went down to the National Hotel to close up the lease that Carter made to the Gem Oil Company, who did you find there besides Carter and Frank Long?

A. A young man by the name of Romeo Jacomy.

Q. Wasn't Sam Nash there?

A. No, sir, I don't think he was; I don't think Sam Nash was in the room.

Q. Well, wasn't he at the hotel? A. I don't think he was.

Q. Wasn't Rube Smith there?

A. I don't think Rube Smith was there.

Q. Did you ever at any time see Frank Long and Rube Smith and Sam Nash and Carter all together? A. No, sir.

Q. Never did?

A. I don't have any recollection of seeing Rube Smith, Frank Long, and Sam Nash together.

Q. Were you ever present when Sam Nash and Carter and yourself were together?

A. Yes, one time up in North Leavenworth at a restaurant. Henry Carter came in while we were there.

Q. Was Rube Smith there at that time?

A. Well, I couldn't say that, he was in and out.

Q. He hung around there? A. He lived there.

Q. He might have been there at the time?

A. Yes, he might have.

Q. Was Mr. Long there at that time? A. No, sir.

Q. Was there anything said there at that time in regard to the identity of Carter and Tommy Atkins?

A. Not to me and not in my presence.

Q. Not in your presence? A. No, sir.

Q. Were you ever present at any time when an examination was made in the presence of Sam Nash and Rube Smith of the body, the person of Henry Carter? A. No, sir.

Q. Never was?

A. No, sir. I heard about that but I wasn't there.

Q. You heard about that being done? A. Yes, sir.

Q. Who told you about it, Mr. Long?

A. Annie Wills told me.

Q. Annie Wills told about that examination?

A. Told me she heard it.

Q. Was that before or after the execution of this lease?

A. Now, I couldn't tell you as to that.

Q. You don't remember? A. No, sir.

Q. Now, you knew where Carter lived at that time?

A. He lived there in Leavenworth.

Q. Carter lived there in Leavenworth? A. Henry?

Q. Yes? A. I think he did.

Q. Wasn't he out in the country there?

A. No, I think he lived in the city out on High Street in the southwest part of our town.

Q. Before this lease was taken you had been to see Carter a time or two? A. Not I.

Q. You never had gone to see him about the matter?

A. No, sir.

Q. Then, you hadn't talked to him about the matter at all until the execution of this lease?

A. No, I didn't do much talking to him then.

Q. Well, I say you hadn't done much talking to him?

A. No, sir, not that I recall. I don't say I did.

Q. I would like for you to be certain?

A. No, I won't be certain that I did or did not, I can't see any reason why I should talk to him.

Q. Well, you were working for the Gem Oil Company?

A. Yes, but I wasn't considering Carter.

Q. Now, I will ask you if you didn't go with Mr. Long out near McLouth where Henry Carter formerly lived?

A. Yes, sir.

Q. In making an investigation of this matter?

A. Yes, sir.

Q. When was that with reference to the taking of this lease? A. I think it was after.

Q. It was after that time? A. I think so.

Q. Are you sure?

A. No, I am not. Mr. Josey was with us and Mr. Long.

Q. You and Mr. Josey and Mr. Long?

A. Yes, sir, and Henry.

Q. Did you make more than one trip out there?

A. No, sir, I think I only made one.

Q. You just made the one trip? A. That is all I made.

Q. You don't remember whether that was before or after the lease was taken? A. I think it was after.

Q. You think it was after? A. Yes, sir.

Q. But you are not sure. Didn't you go out there at one time when the automobile broke down and you didn't get back until after night?

A. That is the same trip. We had three machines to break down, two to break down and the third took us through.

Q. Now, wasn't that along about the latter part of Sepber or early part of October? A. The weather was cold.

Q. Getting cold?

A. It was cold, we encountered cold weather when we rode out there.

Redirect Examination by Mr. Hanford.

Q. Dennis, when you signed that deposition which you have been questioned about, I will ask you whether or not you read it over first and made certain corrections in your own hand on the original copy?

A. Some of it I did, and then I told Mr. Tharp, I called Mr. Tharp's attention to it.

Q. But you did read that deposition over? A. Yes, sir.

Q. And you did make some corrections? A. Yes, sir.

Q. On the original copy? A. Yes, sir.

Q. And that was the one to which you affixed your signature? A. Yes, sir.

Cross Examination by Mr. Allen.

Q. Dennis, the copy I have been reading from is the copy that has been corrected, isn't it?

A. Well, I don't know that, I don't know whether it is or not, Judge.

The Court: Well, turn to your testimony and see whether you made the corrections there or not.

A. Here is one question.

Q. Won't you please take your time now and correct all these mistakes in that?

The Court: No, we won't wait for that now; he has suggested certain errors in that part to which his attention was called, and that part which has gotten into the record and the part not in the record, are of course, no interest to me now.

Mr. Allen: I will state to Your Honor, that I have been reading over from the certified copy of the deposition of this witness which was filed in the District Court of Creek County, and there does appear there a number of pen and ink changes.

Mr. Cruce: I think probably the witness started to make an explanation that probably will settle it, when the judge interrupted.

The Court: I know, but only a very small portion of this deposition is in the record, and the court is not interested in the part not introduced and will not read it and it is only the portion that is introduced and as to the correctness which is material of course.

Mr. Allen: I think as to all that I have read he has testified it was correct with the exception of one word—to, that should be too.

The Court: You needn't go over it now.

Q. Were you at the Severs last night?

A. At the Severs Hotel?

Q. Yes? A. No, sir.

Q. Did you talk to anybody about this case last night?

A. No, sir, the judge put me under the rule and I didn't break that rule.

Q. Did you and Albert Hopkins have Henry Carter down on South Second Street Sunday? A. No, sir.

Q. Did you introduce him down there Sunday to anybody? A. No, sir.

Q. Can you find out how much money has been paid you by Mr. Page?

A. I said four or five hundred dollars; I don't think it is much more.

Q. Will you try and figure that up?

A. I will give it to you now the best that I can remember.

Q. When did you get here this time?

A. A week ago today.

Q. How much are they paying you now?

A. The same that they paid me before.

Q. You came a week ago today and you were put under the rule yesterday, were you?

A. Yes, sir, and I was in the courtroom part of two days.

Q. You came here from Sand Springs?

A. Tulsa, from Leavenworth to Tulsa.

Q. When did you go to Tulsa? A. On Tuesday.

Q. Tuesday before that?

A. We came over here the same day that we went to Tulsa; I think it was Wednesday; left Leavenworth and got to Tulsa Wednesday and came over here that afternoon.

Q. Who came with you?

A. Well, Rube Smith, Will Parker, Joe Lacy, Mrs. Kayzee, Mrs. Mitchell, Mrs. Brown and one or two others.

Q. Who paid the expenses of the party over here.

A. Money was sent to me to pay the expenses with.

Q. How much was sent to you?

A. Two hundred and forty dollars was sent to me at Leavenworth to bring them down here.

Q. To bring these witnesses? A. Yes, sir.

Redirect Examination by Mr. Stuart.

Q. Dennis, there was one thing that I omitted asking you on the original examination: Did Sadie James ever make a proposition to you to go into the Bartlett matter? A. Yes, sir.

Q. What was it?

A. Along about the 9th or 10th of November, Sadie——

Mr. Cruce: What year?

A. 1914. Sadie was in Leavenworth at the home of Mrs. Yokum on Shawnee Street; she called me up at my office on the telephone and asked me to come down to see her, said that she wanted to see me on some important business, and I tried to get her to tell me on the 'phone what it was but she said come on down and I will tell you, I can't talk it on the 'phone. Well I went down.

Q. Well, now just cut it as short as you can. Tell what she said.

A. I went down and she invited me up there to her room. She got a front *a* room and she said—slapped me on the leg that way, and said, now, sit up close to me I want to tell you something to make some money; she said the Government is going to take hold of this thing and Mr. Bartlett has got a boy named Garrett, and if they can land that Garrett boy for Mr. Bartlett, we can make two or three thousand dollars apiece. She said we will have to turn around now and say what we knew wasn't so, and I said Sadie, I can't make money that way, and she said I know but all we got to do is to say the other was a frame-up and say that the boy was born here—we know that he was and she said I am going to make mine, and I said, well, I can't help you.

Q. What did she say to you?

A. Well, all right; I am going to make mine.

Q. What is the exact words she said to you?

A. She said hell, you would starve to death down in Oklahoma; those nigger lawyers down there would grab at that in a minute; and I said I can't do that, and I met her again on Delaware about half after four o'clock, and Charlie Anderson was standing there and she called me to the corner and she said Dennis come here; why don't you agree with me and let us make some money and she said Mr. Buell is in Kansas City now and you can go down with me and you will get a thousand dollars and it won't be long until you get the other; and I said Sadie, I can't do it and won't do it; and she said alright, I am going to give myself up and I am going in; and I said well, go ahead, I wouldn't do that for you or anybody else.

Recross Examination by Mr. Allen.

Q. You immediately wrote the Gem Oil Company about it?

A. I don't know whether I did or not, Judge.

Q. You didn't say anything about it in that other letter that you wrote?

A. I don't know whether I did or not.

Q. You had heard at that time that Sadie had made a confession, hadn't you?

A. Not at that time. She told me what she was going to do.

Q. You did go up there and talk to her?

A. Yes, sir, I did; November 9th, 1914.

Witness dismissed.

The Court: I haven't tried to keep track of the names of the various witnesses whose depositions have been introduced by the various interests heretofore. Has there been any deposition introduced of William Phillip?

Mr. German: No, sir.

The Court: Sam Smith—Sam Nash?

Mr. German: Your Honor, that William Phillip, I think the evidence shows that was this Mayo.

Mr. Cruce: Well, I don't know of any proof of that kind, Your Honor, please.

The Court: Well, there has not been any deposition of Phillip's introduced offered so far; is it conceded that Sam Smith is the same as Sam Nash?

Mr. Cruce: We don't concede that Your Honor.

Mr. Allen: Let me make that proof by Dennis.

Mr. Maxey: Dennis Jones said when he was on the stand that Sam Smith was Sam Nash.

Mr. Cruce: I believe he did say that.

The Court: Is there any deposition of Sam Nash offered——

Mr. German: This way; we offered the testimony of Sam Nash, given in 1914, the truth of which we will not vouch for, but only in support of our fabrication theory.

The Court: Is Walter Banks the other party?

Mr. German: Yes, sir.

The Court: Fannie Cobell, any testimony like that in the case?

Mr. German: No, sir. May I ask Your Honor a question? Is there a Jim Phillips in that list?

The Court: I am reading from Government's exhibit—the census card—Government's Exhibit A-98, the 1890—what purports to be the 1890 census of the Molly Letcher family.

Mr. German: Possibly I can give Your Honor a little light on one there. Now, William Phillip, Your Honor—you remember we had a witness named Flynt, a colored woman from Spokane—George Flynt, and she is the wife or was the wife of Phillip, and Phillip is dead; he has been dead for some time.

Mr. Hanford: Was his wife at that time?

Mr. German: No, she became his wife October following of the taking of that census.

The Court: Alright.

Mr. German: Now, Your Honor, we have Mr. Merrick, and if counsel desire, we can put him on now.

The Court: You may put him on.

United States Circuit Court of Appeals.

EIGHTH CIRCUIT.

NO. __________

United States of America, - - - - - - - - - - *Appellant,*

vs.

Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as Guardian of Nancy Atkins, an Incompetent, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, - - - *Appellees.*

NO. __________

Nancy Atkins, H. A. Ridgway, Guardian of said Nancy Atkins, an Incompetent, Robert L. Rutherford, and A. L. Ferguson, Administrator of the Estate of James A. Ferguson, Deceased, - - - - - - - - - - - - - - *Appellants,*

vs.

United States of America, Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy,

Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, *Appellees.*

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

Pleas and proceedings before the Honorable Ralph E. Campbell, Judge of the District Court of the United States for the Eastern District of Oklahoma, presiding in the following entitled cause:

UNITED STATES OF AMERICA,
Equity *vs.* No. 2131
MINNIE ATKINS, *et al.*

VOLUME V.

Statement of the Evidence *(Continued).*

And thereupon, EDWARD MERRICK, being produced as a witness on behalf of the United States, sworn and under oath testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Edward Merrick.
Q. Mr. Merrick, you are in the employ of the Superintendent for the Five Civilized Tribes? A. Yes, sir.
Q. What position do you hold?
A. I am a law clerk at the present time.
Q. You reside at Muskogee? A. Yes, sir.
Q. What age are you? A. 55.
Q. You have been ill recently? A. Yes. sir.
Q. You are back at work now?
A. Yes, sir, I came back to the office two or three days ago; I am not very strong.
Q. How long have you been connected with the Indian service at Muskogee?
A. Since the 4th day of March, 1901, except the few

months I was out; I was in the legislature a couple of sessions.

Q. What year was that about?

A. I was in the legislature the year of 1909 and 1910.

Q. Yes, sir? The Oklahoma Legislature? A. Yes, sir.

Q. You began your service in 1901?

A. March 4th, 1901.

Q. In the employ of the Commission to the Five Civilized Tribes? A. Yes, sir.

Q. Had you had connection with the work of the Commission before that date?

A. No, sir, not before March 4th, 1901.

Q. When did you come to Muskogee? A. When?

Q. Yes? A. On March 1, 1901.

Q. You had not been practicing law here at all?

A. No, sir.

Q. Hadn't lived here?

A. I practiced law back in Illinois.

Q. What was your first work with the Commission?

A. The first work I did for the Commission was writing up the dockets in 1896 cases; that was the first work.

Q. Now, you then a little later had to do with the enrollment of Creek citizens, didn't you?

A. Yes, sir, beginning about the 1st of April—along there.

Q. After the 1st of April, 1901? A. Yes, sir.

Q. What was your position then? What position did you hold—what name did you give the position?

A. I was just a clerk in the enrollment division, Creek enrollment division.

Q. Clerk, who was in charge of the Creek enrollment division?

A. Primarily, I think Mr. Hopkins was in charge.

Q. Chief clerk, was he?

A. Well, I don't know whether that was his official title or not but he——

Q. Mr. Bixby was the acting chairman?

A. Mr. Bixby was acting chairman of the Commission, yes, sir.

Q. Which one of the Commissioners had the most to do with the Creek enrollment work? A. Mr. Bixby.

Q. What tribes did the other Commissioners work with?

A. Commissioners Needles and Breckenridge had in charge the Cherokee.

Q. Who had the Choctaw and Chickasaw?

A. Well, I believe the entire Commission handled that.

Q. Who had the Seminole?

A. The Seminole at that time were all enrolled practically except the new borns in 1901; I don't know who had charge.

Q. Now, Mr. Merrick, you remember the occasion of the Creek council meeting at Okmulgee and considering the ratification of the Original Creek Agreement, the Act of Congress approved March 1, 1901? A. Yes, sir.

Q. Were you there? A. Yes, sir.

Q. When did you go over there?

A. Sometime shortly after the first of May, I don't know just what day it was we went over there.

Q. Who else was over there with the Commission?

A. I don't know whether I can name all: Mr. Bixby was there in charge, Mr. Hopkins was there, Mr. Hastain, J. J. Beaver, Mr. Leiber, Miss Mira Young, Mrs. Lane, or Mrs. Brown at that time.

Q. The ones of the party you have named, which ones of them worked in the matter of the enrollment of Creek citizens?

A. Well, Mr. Bixby and Mr. Hopkins and Mr. Beaver and Mr. Leiber, Mr. Hastain and myself.

Q. Well, do you remember the date on which the treaty was ratified by the council? A. Yes, sir.

Q. What date? A. May 25, 1901.

Q. How long had the council been in session approximately before they ratified it?

A. I think the council had been in session more than two weeks.

Q. Why did the parties go over there that you have named?

A. Well, it was for the purpose of trying to ascertain whether or not the names on the rolls unaccounted for were entitled to enrollment. In other words went over there to try and complete as near as possible the Creek enrollment.

Q. What tribal rolls did you have?

A. The 1890 and 1895 rolls.

Q. Now, you spoke of unaccounted for names, what do you mean by that?

A. Well, up to that time, there were certain names on the tribal rolls that application had not been made for their enrollment. No one had appeared asking for their enrollment and they were, up to that time, unaccounted for. The Commission was not advised whether they were living or dead or moved away.

Q. About what stage in the progress of the work of the Commission in accounting for names on those tribal rolls had been reached up to the time you went to Okmulgee?

A. You mean the number?

Q. Yes, sir?

A. I think when we went over there we had approximately seven thousand or sixty-eight hundred.

Q. Already listed? A. Yes, sir.

Q. How many names on the tribal rolls approximately were unaccounted for at the time you went over there?

A. Well, of the Creeks——

Q. That is what I mean?

A. The names on the roll probably there were fifteen hundred or two thousand.

Q. Now, the rest were accounted for and in what way, what do you mean when you say the other names had been accounted for?

A. Well, application had been made or the Commission had obtained information that justified us in placing them on a census card.

Q. Now, were there any names on the tribal rolls which were not placed on the census cards, but which had been accounted for; in other words, the word dead was written by the side of the names on the roll?

A. On the roll, yes, sir. Quite a number were marked dead. They were not listed.

Q. They were not listed but they were accounted for?

A. They were disposed of.

Q. You mean by unaccounted for names, the name that wasn't listed on a card, where there was a name that had no notation by the side of it showing that it had been otherwise disposed of?

A. Yes, sir, there was no card number or other notation that the party was dead.

Q. That was an unaccounted for name?

A. Well, I called them unaccounted for.

Q. Now, I show you the original census card of Thomas Atkins, it isn't marked here, but a certified copy of it has been introduced, and ask you to look at that. Who made that card?

A. I did.

Q. When? A. May 23, 1901.

Q. Two days before the treaty was ratified? A. Yes, sir.

Q. Now, I am going to exclude from any of my inquiry the red ink writing that is on there.

A. I was going to say that was made in the last two or three days.

Q. Let's don't consider that at all? A. No.

Q. The other work that is in pen and ink is in yours?

A. The black ink is my work.

Q. State whether or not that card, the black ink work there, was completed at Okmulgee on May 23, 1901?

A. I would say it was. It seems to be the same color of ink all the way through in my writing.

Q. Now, Mr. Merrick, have you made any investigation to see whether there was any record in the office of the Commission relating to that record other than the tribal roll prior to May 23, 1901?

A. I made an investigation and I was unable to find any record that we have in the office.

Q. What record might have been found if it had existed, what record was sometimes found in such cases?

A. Well, we might have had what we called old census cards made in 1897 and 1898 by field parties.

Q. In taking census of the Creeks? A. Yes.

Q. There was none in this Atkins case?

A. No, sir, not so far as I was able to ascertain.

Q. State whether the name Thomas Atkins as it appeared on the 1895 tribal roll and picked up and used in this case was one of the unaccounted for names at Okmulgee in 1901?

A. Yes, sir, it was one of the names to which was added no notation of any kind at the time we went over there.

Q. Yes, sir. Now, what use if any did you make of the placing of the name on the 1895 roll there at Okmulgee on May 23, 1901?

A. Well, every name that appeared on the 1895 roll unaccounted for was listed on a card before we left there.

Q. Yes, sir, why?

A. The Original Agreement contained a provision to the effect that no person whomsoever shall be enrolled——

Q. Shall be added to the roll?

A. Or added to the roll after the ratification of this agreement.

Q. To the rolls of citizenship of the tribe?

A. And there was quite a number were under the impression that unless these names were enrolled in some manner possibly they would be excluded after the treaty was ratified without getting that name on a card or enrolled or enlisted for enrollment.

Q. Now, that original agreement that you refer to, was that the agreement then pending before the council?

A. Yes, sir.

Q. Well, now, go ahead.

A. And for that reason it was decided by Mr. Bixby, who was in charge, that every unaccounted for name, whether any person appeared on behalf of that person or not, should be listed on a card. So, we made a great many cards there the last three or four days that contained only the name and the tribal enrollment. That is all we could get from the tribal rolls. Of course a great many of those unaccounted for were completed over there, because Town Kings and Warriors and other persons appearing there gave us the other information.

Q. Now, then, it was your purpose to enlist for enrollment either on a completed card or an uncompleted card the name of every unaccounted for citizen appearing on the tribal rolls before the treaty was ratified?

A. That was the intention, yes, sir, and I think it was done.

Q. And you think it was done? A. Yes, sir.

Q. Do you have any recollection about the information, any independent recollection as to the information that was received with relation to Thomas Atkins appearing on census card No. 2774?

A. No, sir, I have no independent recollection.

Q. Now, I will ask you this, what was the tribal roll evidence of to you on that occasion insofar as it related to Thomas Atkins?

A. Well, the tribal roll was the basis for our placing these names on the roll, unless the Commission was advised that they died prior to April 1st, 1899, it was our authority for placing them on a card.

Q. In other words, that name, Thomas Atkins, was used there and considered because it appeared on the tribal roll?

A. Yes, sir.

Q. Approximately how many names were enlisted for enrollment the last three days before that treaty was ratified, per day?

A. Well, I am unable to state, I could guess at it, Mr. German.

Q. What is your best judgment?

A. Including those names that we had no information at all other than the rolls, where we just simply wrote the name and the tribal roll, and most of those cards written the last few days were of that kind, I would say probably five or six hundred a day, but that is only a guess.

Q. Now, how many persons were engaged in making census cards on those three days?

A. I think that Eddy Hastain and myself probably wrote most of them. I found by going through the cards, making an investigation, I found that Mr. Leiber wrote a few of them. I also found that Mr. Beaver wrote a few there, and also one day I think possibly one day Mr. Beall was over there and wrote just a very few of them.

Q. What Mr. Beall is that?

A. W. O. Beall, used to be connected with the Commission.

Q. Now, was it the practice of the Commission to work after five o'clock in the afternoon?

A. Over there we worked several nights quite late.

Q. Was it the practice of the Commission to do that except upon that occasion?

A. Oh, no, it was not the practice, no, sir.

Q. State whether during the course of your work with the Commission, which covered several years, if there was ever an occasion when there was so many names listed for enrollment per day as upon those last few days before that treaty was ratified?

A. Well, I don't think there ever was a time where there were so many names placed upon cards, Mr. German.

Q. Well, did you work hurriedly and rapidly to get through there before they ratified the treaty?

A. Well, I think we put in time there, overtime, yes, sir. We were trying to get the matter done.

Q. You were rushing were you not?

A. I might say we were. Of course there was one other time just prior to March 4, 1907.

Q. That you had another rush? A. Yes, sir.

Q. That was by reason of the Act of 1906 closing the enrollment on March 4, 1907?

A. Yes, sir, we worked then until late.

Q. Those were two occasions, the one just before the original treaty and the other before March 4, 1907, when the work was specially rushed? A. Yes, sir.

Mr. German: That is all.

Cross Examination by Mr. Beall.

Q. Mr. Merrick, you have been continuously employed by the Commission to the Five Civilized Tribes and its successors for the last sixteen years with the exception you were in the Oklahoma Legislature?

A. About five months the two sessions, and probably a short time.

Q. Before you came to the Indian Territory you say you lived in Illinois? A. Yes, sir.

Q. What was the character of work you were doing there?

A. Before I came here I was in bad health and didn't do anything, the year before I came here. But prior to that I was corporation clerk in the Secretary of State's office; and prior to that I practiced law, I practiced law fourteen years.

Q. Your occupation then during your business career has been clerical and in the practice of the legal profession?

A. Yes, sir, altogether.

Q. You came to the Indian Territory on March 1, 1901, I believe you stated? A. Yes, sir.

Q. Mr. Merrick are you married? A. Yes, sir.

Q. What is your wife's name?

A. Her name before she married me was Lona Cummings.

Q. Is she a Creek citizen? A. Yes, sir.

Q. You are still living with her? A. Yes, sir.

Q. You had had no experience in the enrollment of Indians prior to the time you came to the Indian Territory?

A. No, sir.

Q. You were delegated to the Creek enrollment of the Dawes Commission April 1, 1901?

A. Yes, sir, the first two or three weeks I worked for you on those 1896 dockets and after three weeks of that I was placed in the Creek Enrollment Division.

Q. To what particular duty were you assigned upon being transferred to the Creek enrollment division?

A. I assisted in the enrollment of Creek citizens.

Q. That is the hearing of applications, the listing for enrollment and the incidental work of enrollment of Creek citizens?

A. I couldn't say, Mr. Beall, whether before I went to Okmulgee that I personally heard any of the applications in the enrollment division. I think Mr. Hastain did most of that. Probably in a rush I assisted but I couldn't say as to that.

Q. Do you know the time you went to the Creek enrollment division as to about the number of Creek Indian full bloods who had up to that time been enlisted for enrollment?

A. Well, up to that time probably between five and six thousand names on the cards.

Q. Now, you stated in your direct examination that these names were placed upon these so called census cards as being listed for enrollment; that some of them were there by application and others from information. I wish you would state to the distinction you make between the words application and information?

A. I don't remember, Mr. Beall, of making any statement.

The Court: You stated a number of census cards had been prepared prior to the time you went to Okmulgee?

A. Yes, sir.

The Court: That they had been prepared, a part of them—— Well, probably you didn't state in that connection, but you stated accounted for names had been placed on census cards, and that a part of them covered names for which application for enrollment had been made, and a part of them upon information received by the Commission. I so understood it.

A. What I meant to say, at the time we went over to Okmulgee, there was probably something over six thousand names on the census cards. All of those six thousand, if there was that many, were placed there upon information furnished the Commission, because all of those cards gave the parentage and age and postoffice address. That is the census cards that we had up to that time at the time we went over there. Then when we got to Okmulgee there were several hundred names on these rolls that I call unaccounted for, that is that were on no census card, and while over there we placed them all on census cards. Some where information was given and we could complete the card, some where we could get no information we simply noted on the card the name and tribal roll, being all that we could get.

Q. Mr. Merrick, prior to the time you went to Okmulgee, I wish you would state what information was contained on the so called completed census card?

A. Well, a great many of these census cards like this, the information was taken from, that is old Creek Census Cards that were obtained in the field in 1897 and 1898, a great many of them by Mr. Hopkins, that had the complete information relative to that family. Mr. Beavers, you remember, for quite a while copied on this census card the information that was obtained on those old Creek Census Cards. That information had been obtained—— Of course, I am only advised of that—in field parties in 1897 and 1898.

Q. If I understand you correctly, that was the transfer of information that the Commission had received in 1897 or 1898 in making the census of the Creeks before the Commission secured the possession of the tribal roll?

A. Yes, sir. And then there was a great many of these census cards made in which we had no old census cards, but people would come in and make application and they would be heard and the cards completed.

Q. What was the general policy and practice of the Commission in respect to application for enrollment as Creek citizens as to the requirement of personal application?

A. Well, the Commission always required some one to appear and give the information. It wasn't always the person himself, the father and mother would come in and give information relative to the family, and very often we listed for enrollment members of the Creek Nation that refused to come in and we would gather the necessary data from the Town Kings and Warriors.

Q. Then, there was no established policy requiring that application should be made in person by adults, but permitted applications to be made by other persons who were sufficiently well acquainted with them to testify as to the parentage and so forth?

A. No, sir, there were hundreds of Creeks enrolled who never did appear. None of these Snakes appeared, the only way we could get the data to enroll the Snakes was to get it from other people.

Q. That is my question. You got that information from other people? A. Yes, sir.

Q. And did not require their personal application?

A. Oh, no.

Q. Then there was no well established practice or rule requiring personal application to be made? A. No, sir.

Q. Now, at the time you went to Okmulgee in May, 1901, I believe you stated it was about the first of the month, the Creek Agreement—the Original Creek Agreement had been ratified by Congress? A. Yes, sir, I think March 1st.

Q. Section 28 of that agreement had the provision in reference to the termination of the enrollment on the date of the ratification of that agreement?

A. Yes, sir. The first paragraph I think.

Q. Now, was the policy of the Commission in going to Okmulgee to account for the persons whose names were on the tribal rolls who had not been placed on the census cards, or was it with a view to receiving applications of persons who might be there in attendance on the Creek Council?

A. Well, I think the object covered both, to receive applications and try to get information.

Q. At the time you originally went to Okmulgee, had any question been raised in the minds of the Commission or its employees that section 28 of the Original Creek Agreement would terminate the hearing of applications or the placing of the names of persons upon census cards, or the Commission's records, whose names were on the tribal rolls?

A. Don't think I heard the matter discussed when I went over at first, but after we were over there a week or two the question seemed to be raised by somebody.

Q. Wasn't that question raised after the Commission went to Okmulgee by members of the Creek National Council?

A. Well, as I stated a moment ago, I heard nothing about it when we first went over there, but after we were there a week or two that matter was discussed, it was raised by somebody.

Q. You understood the purpose of the Commission in going to Okmulgee was to be present where there was likelihood of a number of Creek citizens being present in attendance upon the Council?

A. Oh, yes, the members of the Council were there, and in addition to that the marshal's office went over there and went out and brought in a great number of Creeks.

Q. But this question of accounting for the names of persons on the tribal rolls was never seriously considered by the Commission until after this field party had been established at Okmulgee during the session of the Council?

A. I never heard that subject discussed prior to that time.

Q. After the question was discussed, Mr. Merrick, do you know what action, if any, was taken by the Commission to account for the names of the persons who were on the 1895 and 1890 authenticated Creek Rolls?

A. If I remember correctly, the Council was asked to postpone action of the ratification of this treaty until we could get every name unaccounted for on a census card and numbered.

Q. What efforts were made to ascertain whether the persons unaccounted for were entitled to enrollment, and if possible to procure their attendance before the Commission?

A. The Commission had before it at all times different members of the House of Kings and the House of Warriors and prominent Creek citizens, trying to ascertain whether or not different persons on the rolls were living and where they lived and all about them. That was the object of the Commission being over there. That character of work was done all the time and there were in the room where we were working at all times with Mr. Bixby and Mr. Hopkins, the men in charge, had before them some members of Council.

Q. Then you inquired of Town Kings and Town Warriors and other tribal officials of the Nation what persons who were on the Creek Tribal Roll and unaccounted for?

A. Yes, sir.

Q. Now, what other efforts were made by the Commission to secure this information or the attendance of these parties?

A. Well, Creek citizens other than members of Council were called in and questioned about the names that appeared on the rolls; and every effort possible was made to get them in. And I know we had two or three wagons there that were sent out and several loads were brought in.

Q. The Commission had at the time had a considerable amount of field equipment located at Okmulgee?

A. Yes, sir, we had several wagons.

Q. Did the Commission use any of its own employees in going into the field to ascertain whether these persons were living on April 1, 1899, or otherwise entitled to enrollment?

A. I think, yes, sir, we had field parties. I don't remember now Mr. Beall who all went out. Of course, there was some members of the marshal's party.

Q. By the marshal's party you refer to the United States marshal? A. Yes, sir

Q. His office was lending equipment and assistance to the Dawes Commission in this work?

A. Yes, sir, Marshal Bennett I believe is the name that was over there with several of his employees.

Q. What, Mr. Merrick, was the general class of citizens whose names still remained on the tribal rolls and unaccounted for by the Commission at the time you went to Okmulgee?

A. Well, generally they were the full bloods because they were hard to get, and refused to come in.

Q. They were the class of Indians that were opposed to the enrollment and allotment by the Federal Government?

A. Yes, sir.

Q. Do you know whether the localities in which these Indians lived were such that they would be accessible—that it could be easily reached?

A. Well, a great many of them are located at quite a distance away from town and some of them were very hard to find and some of them never were found.

Q. In what would the information be furnished the Commission gathered by the employes of the marshal's office—by the employes of the Commission, and by the Creek tribal authorities that would be basis upon which this enrollment was predicated?

A. Well, so far as the Creek Nation was concerned most of the information was in the shape of verbal statements made by persons who appeared before the Commission, there was no testimony taken except in some few cases where there was contests made on the part of the Creek National Attorney.

Mr. Cruce: Just a moment; you mean testimony taken down?

A. Yes, transcribed.

Q. Was that true also as to the investigations that would be made by the men sent into the field by the Dawes Commission? And by the United States marshal's office?

A. I know it is true of parties sent out by the Commission; of course I can't say what the marshal's office did when they were out.

Q. Did the marshal's office in furnishing you any information in reference to these unaccounted for citizens ever furnish you a transcript of any testimony or statement that had been taken down at the time they interviewed these different Indians?

A. I don't recall Mr. Beall, that the marshal's office ever took to secure any testimony with reference to that. They were over there, primarily to bring these Indians in that they found. I don't recall that they ever—some member of the marshal's office might have given information but I don't recall.

Q. But the information that was conveyed to the enrolling officer—that is the person who actually prepared the census cards, by the employes of the Commission who were sent into the field, was not in the form of any written or transcribed testimony?

A. No, sir, only as I stated before in contested cases where the Creek Nation would probably contest the enrollment.

Q. This matter of securing this information continued until the ratification of the Original Creek Agreement on May 25, 1901. I believe you stated?

A. We completed taking the names of the tribal rolls and placing them on the cards before the council acted and as soon as we were through, the council was advised and then they voted upon the ratification of the treaty.

Q. In securing this information and from your personal knowledge, so far as it exists, the Commission used every possible effort that was then available to secure either the attendance of these Indians or such information as they could gather that would protect any rights that they might have, prior to the ratification of the original agreement?

A. I so understood, yes, sir.

Q. The card that you have in your hand, Mr. Merrick, which is the original of Government's Exhibit Number 1, has two numbers in the upper righthand corner, 2707 card number, and field number 2774; I wish you would explain to the court the significance of those two numbers.

A. At the time we went to Okmulgee and prior to making a schedule of an enrolled citizen, the census cards were numbered consecutively from 1 on; that number was called the field number.

Q. May I interrupt you; you mean the blank card—the cards were numbered in blank?

A. Well, we numbered them ahead, yes, sir. Yes, sir; of course when we went over to Okmulgee, we had several hundred and had them numbered before we went over there. That lower number, that field number is a number that runs from 1 consecutively. The card number is the number given at the time the schedule was prepared and a citizen given an enrollment number; the enrollment number and the card number are the two numbers that appeared on the approved roll. This field number was the Dawes Commission number, reference that we had to card and we called that the field number.

Q. Was that the only form of census card you used in listing Creek Indians by blood?

A. It is all that I know of, that they used at this time.

As I stated before, in '97 and '98, there was some old census cards, smaller, on different color paper, but I know of no other cards but these.

Q. Those are the cards that you referred to as having been used in taking the census in 1897 and 1898? A. Yes, sir.

Q. Now, Mr. Merrick, you said that these cards were consecutively numbered with a field number from 1 up?

A. Yes, sir.

Q. Was there any distinction made in those census cards by the Commission in the cases of application made by—in person, applications of—that is applications made in person, or where the citizen was listed from information, or where his name might have been transferred from the tribal roll in eighteen hundred and—from the tribal roll in 1901 at Okmulgee?

A. No, sir, there is no way from an examination of these census cards.

Q. Now, in examining Government's Exhibit 1, is there any way in which *in* you can differentiate that particular census card as having been made from a personal application or whether the name was listed there from information furnished by other parties, or whether it was transferred from the 1895 census roll?

A. Well, as to this Thomas Atkins card, I will have to say that someone furnished information to the Commission *to the Commission* over at Okmulgee on May 23rd——

Q. You didn't get my question.

Mr. Cruce: Let him answer that question.

A. And this card was written and completed over there on that date; possibly I didn't get your question.

Q. Would there be any distinguishing characteristics which would show to the Commission or any employee that that card was prepared from a personal application, or whether the name was listed from information or whether it was transferred from the tribal roll?

A. I didn't quite understand, Mr. Beall, what you mean by transferred. Of course all these names——

Q. Mr. German asked you and I believe you answered in the affirmative, that on the last two days at Okmulgee, it was the purpose to account for all of the names of the tribal roll for whom no application had been made, and that you transferred those names from the tribal roll to the census card?

A. Yes, sir.

Q. You have testified that these applicants were placed upon the census card either by applications made by them or from information? A. Yes, sir.

Q. Now, the cards were consecutively numbered from 1 on up? A. Yes, sir.

Q. Now, is there any way that you can distinguish from this particular card whether that was a personal application, whether the name was listed from information furnished by other parties, or whether it was transferred from the tribal roll?

A. Well, from the data on this card, I would have to say that this listing—this enrollment on this card was from information given.

The Court: Did you say from the data, or date?

A. From the data—I mean the parentage, blood, and age. Of course, I might say it was not a personal application because age here is given as 10, and I don't *we* take any application, of course, ten years of age, so I will have to say that this card was made from information given by some one other than Thomas Atkins to the Commission over there on that date.

Q. Might have been made by some member of the family?

A. It might have been, yes, sir.

Q. In other words, there is nothing that would show you whether the parent or some near relative had not appeared there and made an application for the enrollment of this child?

A. No, sir, there is nothing appears on the card.

Q. And there were no distinguishing characteristics in all of the census cards? A. No, sir.

Q. Now, Mr. Merrick, in the column marked "tribal enrollment" appeared the words "town, 1895, Euchee, 213;" I wish you would state where you secured that information.

A. That information was taken from the 1895 Euchee roll.

Q. I now hand you the original payment roll of 1895 of Euchee Town, copy of which is in evidence, and ask you to identify the notation on the census card from the data on the roll.

A. The Thomas Atkins listed on field card number 2774 is the same person as the Thomas Atkins on the Euchee payroll, an authentic roll, opposite number 213. That is evidence of the fact that after the name of Thomas Atkins on the roll—on the payroll—2774—and that corresponds to the field number of this census card.

Q. Was there any other data upon the 1895 Euchee town roll opposite the name of Thomas Atkins other than appears in the column marked "Tribal enrollment" and which appears upon the census card?

Q. Except from an examination of the authentic 1895 roll; this column—this name opposite 213, Euchee town, appears as short Thomas; or Thos. Atkins; and note of that has been made on this card—this roll, his payroll.

Mr. German: By short Thomas—the word short is not a name.

A. Thos. I call it, short Thomas, on the authentic 1895 Euchee roll.

Q. Mr. Merrick, is the 1895 receipt payment roll of Euchee town the exhibit now before you, the one from which the name of Thomas Atkins, on field card 2774, was identified?

A. Yes, sir, it was taken from that number 213 Euchee town.

By the Court.

Q. Now, let's see if I understand; do you mean to say, Mr. Merrick that the 1895 roll which were used over at Okmulgee at the time that you were there in May, enrolling, is the payroll of 1895 which you now hold in your hand?

A. Yes, sir, this is the payroll and that name is on there as Thomas Atkins.

Q. Now, is this the payroll which you hold in your hand the one which you used at Okmulgee as the 1895 payroll, from which you took the various names?

A. Yes, sir, we took the names from the payroll.

Q. That is, this roll which you hold in your hand?

A. Yes, sir, but we go back to the authentic roll for further identification and as the notation is made on that card that this name appears on the authentic 1895 roll, as Thos.

Q. Now, the authentic roll is that the typewritten roll to which you refer?

A. No, sir, that is the authentic tribal roll; this other roll is the payroll. The other is the authentic roll certified to by the——

The Court: Has that so called authentic roll been before me?

Mr. Hill: I don't know; I was inquiring about that the other day.

Mr. Beall: If the court please, I think Mr. German did offer a photograph of this at the time.

Mr. German: Yes, I think that is in the evidence.

The Court: Alright.

Q. What I was trying to get at was, and I think I understand this now, that the 1895 roll which the witness has testified as being the one from which the names was taken over there at Okmulgee in May, 1901, is the 1895 payroll which has been used here from time to time, in interrogating witnesses?

A. Yes, sir.

Mr. German: As distinguished from the so-called 1895 authenticated roll?

A. Yes, sir. If we had used the authentic roll, probably we would have written that name T-h-o-s., Thomas.

By Mr. Beall.

Q. Now, Mr. Merrick, I present to you the original of the authentic 1895 census roll of Euchee Town, photographic copy of which is in evidence as Government's Exhibit A-30, and will ask you to state if that is the particular roll to which you have just referred as the authenticated 1895 roll?

A. Yes, sir, we always made reference to the authentic roll if we had them; we haven't all of the authentic rolls.

Q. Now, is there any additional information on the authenticated 1895 roll of Euchee Town than there is on the 1895 receipt payment roll, from which the card was prepared?

A. No, sir, there is not as much information on the authentic as there would be on the other roll.

Q. Can you, for the enlightenment of the court, tell the difference between those two rolls while you have the two of them?

A. Of course, I can only tell, Mr. Beall, why the payroll was made just from the manner in which it was handed down to me.

Mr. German: Historical matter?

A. The payroll was copied from the authentic roll on blanks that had lines, so that they could make notations of the payment.

Q. Then, the authenticated roll is the roll of the Euchee Town upon which the council acted?

A. Yes, sir, the council acted upon the authentic roll and I think the payrolls are all certified to, also.

Q. You are not sure of that?

A. Well, I am pretty sure that they are; they are sometimes sometimes some difference in the spelling of the given names.

Q. Then, if I understand you correctly, the only information in reference to the name of Thomas Atkins that you have procured from either the 1895 receipt payment roll of Euchee Town, or the 1895 authenticated roll of Euchee Town, was the notation appearing under the caption "tribal enrollment"?

A. Yes, sir, and the name; the name and the tribal enrollment was all we could get from either those rolls.

Q. Now, Mr. Merrick, on this card appears, after the printed words "postoffice Muskogee, Indian Territory," did you write that? A. Yes, sir.

Q. Where did you get that information?

A. I can't say positively but it could have been in two ways: one, the person who gave the information as to the parentage, age, degree of blood, gave it; the other, by looking up the card that had the name of the mother; this card shows that Minnie Atkins, 1895 Euchee roll, was the mother; by reference to our books, I find that there is an old Creek census card that has Minnie's name—Minnie Atkins' name on it, and that old Creek census card, because—gives her postoffice as *Kuskogee,* and possibly I placed Muskogee there because the name of the mother as given was Muskogee, and it might have been given by the person who gave the other information.

Q. Under column marked "age" appears the figures ten, is that in your handwriting? A. Yes, sir.

Q. You are testifying, now, from the original of Government's Exhibit A, census card number 2707, containing the name of Thomas Atkins?

A. Yes, sir, field number 2774, age 10, is written by me.

Q. Where did you get that information?

A. I don't know.

Q. Did you get it off of the 1895 receipt payment roll of Euchee Town, or off of the 1895 authenticated roll of Euchee town? A. No, sir.

Q. In what other manner could you have secured that information?

A. Someone must have told me or some member of the Commission. I might state here that because this card is in my handwriting, it is not conclusive evidence that any person appeared before me, because there were persons who appeared before Mr. Bixby or Mr. Hopkins and gave information about these members and Mr. Bixby would make a memorandum and sent it to either Mr. Hastain or myself with the necessary data to fill out one of these cards, so I can't say this—any person appeared before me.

Q. But that information was placed on that card by you from the evidence or testimony of some one who appeared before the Commission, and irrespective of the 1895 payment roll, of the authenticated roll?

A. Yes, sir, that information would have to be given by someone.

Q. Now, under the column marked "blood" appear the figures ½; what would be your statement as to the manner in which you secured that information?

A. Well, I would say in this case—I would have to say in this case that that information was probably given to us, because of an examination of Minnie's old census card I think she is marked less than a fullblood on that; that is my recollection, but if there was any card that would show Minnie to be a fullblood and then the father being a half-blood, then the child would necessarily have to be a half-blood.

Q. You could procure that information from the Town King? A. Oh, yes.

Q. Or some other person who might have testified with reference to this child?

A. Oh, yes; people appearing before the Commission often told me the degree of blood.

Q. Now, Mr. Merrick, in the column "name of father" appears the words white man, and under the column "name of mother" appear the words Minnie Atkins, both in your handwriting, I believe. Are they not? A. Yes, sir.

Q. Where did you get that information?

A. I don't know; I can't say who furnished it.

Q. Could you have secured that information from the 1895 payment—receipt payment roll or the 1895 authenticated roll of Euchee Town? A. No, sir.

Q. Then, that information appearing on the card as to the parentage of Thomas Atkins, must have been secured from the testimony or evidence of some other character that was before the Commission outside of these tribal rolls?

A. Yes, sir, it would have to be; someone would have to furnish it, furnish in some manner.

Q. Those notations in pencil were not on this card at the time that you wrote it?

A. No, sir, they were made here after the matter was in the land office.

Q. The card as originally prepared by you are the names and figures in black ink? A. Black ink, yes, sir.

Q. Mr. Merrick, you said that this name was listed for enrollment at Okmulgee on May 23rd, 1901? A. Yes, sir.

Q. And that the information that you secured with reference to the age, sex, the degree of blood, and parentage of Thomas Atkins must have come from some other source which the Commission had before it other than these 1895 rolls?

A. Yes, sir, except possibly the sex; possibly no question was asked about that on account of the name. All that other information would have to be furnished in some manner.

Q. After the conclusion of the field party that you had at Okmulgee and the ratification of the original Creek Agreement, what action, if any, was taken by the Dawes Commission in reference to those persons who you had listed for enrollment during the last few days before the ratification of the agreement?

A. In all cases where the cards were not completed this data as to age, parentage and degree of blood, copies of those cards or in some cases the cards themselves were taken out by field parties; identification parties we called them. These parties were out sometimes three or four months trying to get information about them and copies of those cards were made and taken out on thin paper, and then when Town Kings, or members of the council, or prominent Creek citizens would come into the office occasionally, Mr. Hastain would ask them about different persons, whether they knew them and the Commission was constantly at work for two or three years to try to complete these cards to ascertain whether or not they were entitled to enrollment.

Q. At the time of the ratification of the Original Creek Agreement, had any Creek citizen been enrolled as entitled to an allotment, and his enrollment approved by the Secretary of the Interior?

A. At the time we were at Okmulgee?

Q. Yes. A. No, sir.

Q. When was the actual work for the preparing of the final rolls for the approval of the Secretary of the Interior instituted?

A. I think I commenced that work sometime in 1902.

Q. Did you have the supervision of that work?

A. Yes, sir, I did for practically all the roll, possibly the last few numbers but practically all of it.

Q. On Government's Exhibit A in front of the name of Thomas Atkins and under the caption "Dawes roll number" appears the number 7913; state to the court what that number is.

A. That is the approved roll number of Thomas Atkins.

Q. Did you place that number there? A. Yes, sir.

Q. When?

A. I can't say just when but at the time I prepared the schedule and transmitted the schedule having these roll numbers, before the schedule was transmitted, I noted these roll numbers on the census cards to correspond with the approved roll as prepared.

Q. In preparing the schedule or the approved rolls, would you in every instance submit the census card with the schedule as prepared by you to some member of the Commission or to the Commission as a body?

A. I don't remember of submitting that matter to anybody except Mr. Bixby, but I always had in the schedule—took in the schedule and letter of transmittal, or a draft of it, the census cards and any other evidence that we might have, and with Mr. Bixby and one other person, I believe there were three of us, and Mr. Bixby taken the census card, and sometimes the affidavit, death affidavit in case of death, that were pasted on the back of it, he took the census card and evidence, one reading the roll and one the letter of transmittal, and they were all gone over with Mr. Bixby.

Q. Mr. Bixby was the particular member of the Commission who had charge of the final enrollment of the Creeks?

A. Yes, sir.

Q. Mr. Merrick, the Original Creek Agreement, under which you were preparing the final roll provided that only persons living on April 1st, 1899, were entitled to enrollment, or their children who were born up to May 25th, 1901, the date of the ratification of the agreement, is that correct?

A. Under the original?

Q. Under the original agreement? A. Yes, sir.

Q. Then when you submitted——

A. No, I believe in that also was children born, I think May 21st, 1901, and July 30th, 1901—1900, and living on that date; I believe there was another class.

Q. Yes, I believe that is correct. But, in case of a person born prior to April 1st, 1899, in order to be entitled to enrollment the Commission would inquire whether he was living April 1st, 1899? A. Yes, sir.

Q. Again presenting you Government's Exhibit Number 1, I will ask you to state if when that name was placed upon the schedule you furnished Mr. Bixby or he had before him information outside of the 1895 Euchee Town receipt roll, and the 1895 authenticated roll of Euchee Town, the testimony or evidence of some character, showing that this particular Thomas Atkins was entitled to enrollment, and was living on April 1st, 1899?

A. I don't think we had any information about—other than appeared on this card at the time this information was given; the person taking that information was satisfied that he was living April 1st, 1899.

Q. Both you and the Commissioner who placed the name upon the roll was satisfied at the time that he was living on April 1st, 1899?

A. Yes, sir, I thought so, or I would not submitted it to Mr. Bixby.

Q. And you state, Mr. Merrick, that the information as to the parentage, age, sex, degree of blood, and postoffice address appearing upon the census card could not be secured in any other manner except by evidence or testimony, or some information that was furnished the Dawes Commission upon which it acted in enrolling this name?

A. No, sir, that is the only way.

Redirect Examination by Mr. German.

Q. Now, Mr. Merrick, you completed that card at Okmulgee? A. Yes, sir.

Q. Whatever you got, you got there? A. Yes, sir.

Q. At the time you made the card; and when the schedule was made afterwards, and I believe you said the first schedules of the names were in the fall of 1901, didn't you?

A. I thought it was sometime in 1902, but I am not certain.

Q. Well, you recall, Mr. Merrick that the first approval of any schedule by the Secretary of the Interior was March 2nd, 1901, do you?

A. Yes. Well, then, the schedules were prepared in 1902.

Q. Yes, sir, I misunderstood——

A. That was my understanding.

Q. Now, you would make the schedule from the cards?

A. Yes, sir.

Q. You would take a batch of Census Cards which were in completed form and make the schedule, that is you would make a list of the names which you would take from the census cards? A. Yes, sir.

Q. That list of names with the data appearing opposite each one you would call the schedule?

A. Yes, sir, we prepared a schedule containing approximately five hundred names at a time.

Q. Yes, sir, your different schedules contained approximately five hundred names each? A. Yes, sir.

Q. And then you would take that schedule—— First, after preparing that schedule you would prepare a letter of transmittal? A. Yes, sir.

Q. To the Secretary of the Interior transmitting that schedule and it would be prepared in quadruplicate or quintuple? A. I think the roll was in quadruplicate.

Q. That roll? A. Yes, sir.

Q. Well, that is the schedule? A. Yes, sir.

Q. The roll and the schedule is one and the same thing?

A. Yes, sir.

Q. Only you called it a schedule up until the time the Secretary approved it? A. Yes, sir.

Q. And then you would call it the final roll? A. Yes, sir.

Q. When you would prepare that schedule together with the letter of transmittal, you would take it to Mr. Bixby or some other Commissioner that passed upon it, together with each of the census cards from which you had taken the names to put upon the schedule, together with the tribal rolls, wouldn't you? A. Yes, sir.

Q. And if you had any other data in written or typewritten form, you would take it too?

A. Yes, sir, we took all the evidence.

Q. All you had? A. Yes, sir.

Q. Now, in this Atkins case all you had was the census card which you hold in your hand and the tribal roll, wasn't it? A. Yes, sir, that seems to be all.

Q. Seems to be all you had and you—— Some other commissioner, to either Mr. Bixby or some other commissioner?

A. Well, in this case I took this one and took it to Mr. Bixby because I never compared schedules with any other commissioner.

Q. How do you know you fixed this up?

A. On account of this roll number being in my handwriting.

Q. And when you considered those with Mr. Bixby did the other commissioners also consult them or not?

A. No, sir.

Q. In your experience, Mr. Bixby was the sole commissioner?

A. Yes, sir, he compared them and sometimes if he wasn't satisfied with one——

Q. It would be turned back?

A. Yes, sir, and I would have to get another card and put in that place.

Q. Now, Mr. Bixby then in this case considered the census card and the tribal roll? A. Yes, sir.

Q. And listed this name on the schedule? A. Yes, sir.

Q. And it went forward and has been approved?

A. Yes, sir.

Q. The old census card, you distinguish from the census card like the one you hold in your hand?

A. Yes, sir, we called those old census cards, Old Creek Census Cards.

Q. Now, see if we can't shorten this a little. The old census cards were the cards made up in 1897 and 1898 by the parties that went out in the field and took a census of the Creeks? A. Yes, sir, that is the way I understand it.

Q. And the new are regular census cards, or the regular census cards are the cards like the one you hold in your hand, Government's Exhibit 1? A. Yes, sir.

Q. The new, or regular census cards, like Government's Exhibit 1, technically are not census cards, are they, because they were not made in the field in the course of a canvass?

A. Well, I don't know, we called them census cards.

Q. But they were cards that would be made up, when you would have any name up for consideration and would conclude that it was entitled to go on the final roll you were making?

A. Yes, sir.

Q. And it is the final action, of your final action, isn't it?

A. Yes, sir, this card completed is the final record.

Q. Except transferring to the schedule? A. Yes, sir.

Q. Now, when there was a person—— Well, let's refer to the old census card again. You spoke a moment ago of the old Creek Census Card of Minnie, the mother. I show you Government's Exhibit A-31, is that a certified copy of the card you are talking about of the old census card of Minnie, the mother?

A. Yes, sir, that is the old census card that I had reference to.

Q. Now, the reason that you concluded that that is Minnie, the mother, who is referred to on the Thomas Atkins census card, card Field Number 2774, is because of these 1895 pay roll numbers appearing on Government's Exhibit A-31 prior to the name of the three persons there entered?

A. Well, I used the word mother there because the mother is given as Minnie Atkins here that has Minnie Atkins nee Harris on it, and the identification is the same as on the pay roll.

Q. In other words, No. 210 on the 1895 pay roll, which is the number by the side of Minnie Harris, nee Atkins, on the old Census Card? A. Yes, sir.

Q. The two numbers are the same? A. Yes, sir.

Q. And refers to the old roll now on this census card of Minnie, it contains the name of Harvey and Charlie?

A. Yes, sir.

Q. Not the name of Thomas?

A. No, the name Thomas is not on there.

Q. Now, in a case where there was a personal application for enrollment, either by one who sought enrollment, or on behalf of some one else, prior to the Original Creek Agreement of 1901, you had to find the name on the 1895 Pay Roll or on the 1890 pay roll, did you not, unless it was a new born. I am speaking now prior to the Original Creek Agreement.

A. I might say, Mr. German, that prior to that time——

Q. I might qualify it a little further and save a little time. Unless there was an enrollment made by the 1896 Citizenship Commission, or by the Dawes Commission under its provisions under the Act of 1896?

A. Yes, sir, or by the Colbert Commission, or some special act of Council.

Q. In other words, there had to be citizenship prior to any enrollment?

A. I think from an examination of the cards I made yesterday, I think practically every name on the cards that were completed prior to our going to Okmulgee, that is the tribal enrollment except where there were children born since; of course, since that time——

Q. Tribal roll constituted material evidence there to you on the question of tribal recognition as citizenship; that is the point I am making? A. Yes, sir.

Q. And also examination?

A. Yes, sir. Under the old Curtis Act of June 28, 1898, providing that the Commission should purge the tribal rolls of those not entitled; and if we found a name appearing on the tribal rolls and some person made application and said that they were living, it was considered there wasn't any question if they were living.

Q. And you found the name on the 1895 roll? A. Yes, sir.

Q. Now, over at Okmulgee, in May, 1901, did you swear those town kings and warriors, or did you just take their statements?

A. I couldn't say about that. Mr. Bixby was authorized to administer oaths but I couldn't say whether anybody was sworn.

Q. After that Okmulgee work, you spoke of field parties that took cards *our* and investigated them?

A. They were cards that were not completed as to descriptive data, parentage and age.

Q. That wouldn't include the Atkins card?

A. No, sir. I don't think anything was ever done with the Atkins card for several years.

Q. After May, 1901? A. No, sir.

Mr. German: I believe that is all.

Cross Examination by Mr. Beall.

Q. You stated that in preparing the census card of Thomas Atkins, Government's Exhibit No. 1, that you reached the conclusion that he was half Indian blood. By referring to Government's Exhibit A-31, whereon appears the name of Minnie Harris, nee Atkins, as a full blood, can you show me where you get that information full blood from that exhibit.

A. I don't think, Mr. Beall, I made any statement of that kind. I said possibly I got the post office address by referring to Minnie's old census card showing her post office to be Muskogee.

The Court: He did state in his testimony either that they did or possibly might have referred—— I will not attempt to quote it.

A. I stated, Your Honor, that the degree of blood was given, or possibly by referring to the old Minnie Atkins census card, if it showed that she was a full blood. I didn't know what the old card showed.

Q. Then, you would have access to these old census cards made in 1897 and in 1898 in preparing the census card made under the Act of 1898?

A. Oh, yes, sir, we took those two boxes along.

Q. Would you state whether or not you had access to Government's Exhibit A-31 at the time you prepared the original of Government's Exhibit A-1?

A. Yes, sir, we had all of those cards over at Okmulgee.

Q. In the portion of degree of Indian blood of Minnie Harris, nee Atkins, on Government's Exhibit A-31, I wish you would state to the Court what it is?

A. The old census card shows that this Minnie Harris, nee Atkins, opposite number 210, was a half blood. So, evidently the half blood placed on the final census card was not taken from this card; some one must have told the Commission.

Q. Mr. Merrick, as a general proposition what would be your best judgment as to the number of census cards of Creek Indians enrolled by the Dawes Commission that would be supported by any written testimony or evidence of any character outside of the notations upon the face of the census card?

A. Will you read that question?

(Question read.)

A. I think we had something like eight or nine hundred enrollment cases in which we took testimony.

Mr. Cruce: You mean transcribed testimony?

A. In which we took testimony that was transcribed. And of that number possibly a thousand or fifteen hundred are enrolled and as to the other eighty-five hundred I don't believe we had any written or transcribed testimony. That they were enrolled from information obtained in different ways by the Commission.

Q. Would there be any way of differentiating any one of those eighty-five hundred from the Thomas Atkins on this card? A. No way at all.

Q. Now, Mr. Merrick was there ever any person placed upon the final schedule by the Dawes Commission as entitled to enrollment without information of some character having been gathered by the Commission, aside from the tribal rolls, as to the applicant's right to enrollment and to the fact whether he was living on April 1, 1899, or not?

A. I don't think so. I don't think any person was ever enrolled without some sort of information.

Q. Some sort of evidence exclusive of the tribal roll from which he was identified?

A. Yes, sir, there was quite a number of these unaccounted for cards that we could get no information. They were all dismissed. We had to have some information.

Q. In other words, you couldn't furnish this information appearing upon the face of the census card from the tribal rolls alone? A. No, sir.

Q. The Tommy Atkins that appears upon this card opposite Roll No. 7913, shows in the column "Name of Moather" Minnie Atkins, you say that information must have been gathered from some evidence or statement that was before the Commission exclusive of the tribal rolls?

Mr. German: I object to this upon the ground it is repetition.

The Court: He may answer that question.

A. Yes, sir, that name must necessarily have been furnished the office.

Q. Then the person enrolled as Thomas Atkins, opposite number 7913, was enrolled as the child of Minnie Atkins from the 1895 Euchee Town Roll? A. So identified.

Redirect Examination by Mr. German.

Q. What do you mean by enrollment cases, Mr. Merrick, does the term "enrollment case" have a peculiar significance?

A. Application would be made for the enrollment of certain Creeks or certain persons by attorneys; we would notify the National Attorney and he would investigate, and in a great many cases contest it, so that made an enrollment case.

Q. So, by enrollment case you mean contested cases?

A. Yes, sir, and we would write a decision.

Q. That is cases where there was no contest raised you didn't denominate enrollment cases? A. No, sir.

Cross Examination by Mr. Hill.

Q. Mr. Merrick, you have just testified in answer to Mr. Beall's last question that there was some evidence or information before you that Tommy Atkins on this card was the son of Minnie, and you said there was some certain information before you at that time. That is correct, isn't it?

A. Yes, sir, some one must have given that information.

Q. There was also evidence before you at the time that he was a male aged ten, was there not?

A. Well, it would be necessary to have some evidence as to the age.

Q. Well, you might assume, being named Thomas, that he was a boy, but occasionally you find a girl named Thomas. There was likely information before you that he was aged ten or approximately ten when you made this card?

A. Yes, sir.

Q. And that is not on the tribal roll, there is nothing in the tribal roll that gives—that that is correct as to the age of the party? A. No, sir.

Q. There was like information before you at the time that his father was a white man? A. Yes, sir.

Q. There was like information before you at the time that his mother was a full blood?

A. Yes, sir, I would take it that that information given that Thomas Atkins is given one-half blood.

Q. You have information right before you that his father was a white man? A. Yes, sir.

Q. Necessarily then you had the information that his mother was a full blood?

A. Evidently the informant so told either me or Mr. Bixby or some one that the mother was a full blood.

Q. You have referred to the old Creek card, which I hold in my hand and present to you, it is Government's Exhibit A-31, as a source of information, or rather a possible source of information if I understood you correctly, in making out this card?

A. Only with reference to the postoffice address of Thomas Atkins. I stated a moment ago that the post office address might have been obtained in two ways: Either the person giving the information to the Commission said the post office was Muskogee, or it is possible I might have referred to that old census card of Minnie's and found that her post office was given as Muskogee and for that reason gave the child's post office as Muskogee.

Q. Do you find that this card, which is Field Card No. 193, that is the old Creek card?

A. What we called the Old Creek Census Card.

Q. And that family number 193 here, where is that taken from?

A. I don't know. That is an arbitrary number given by the parties out in the field.

Q. That number is not connected with any of the tribal rolls? A. No, sir.

Q. Now, this card was considered, was it?

A. I don't know.

Q. Well, were the field cards—— Suppose you were examining any family, the Smith family or Jones family, if there are such families among the Creeks, you would trace up all the families from whom they were descended in order to get the correct information?

A. Yes, sir, and no doubt that card was referred to.

Q. This was a proper source of information in making out the list if he was a son of Minnie?

A. Yes, sir. We have indexes to all of those cards, and the mother being named as Minnie Atkins, no doubt somebody looked for the old card.

Q. And you recognize this photograph as being a card such as you would get information from?

A. Well, that is a photographic copy.

Q. I understand you have no personal recollection at this time? A. No, sir.

Q. Of any of those matters.

Cross Examination by Mr. Stuart.

Q. This card lists Thomas Atkins here as the son of Minnie Atkins, don't it? A. Yes, sir.

Q. Minnie Atkins, the census card listed him as Thomas Atkins, age, parentage mother Minnie Atkins?

A. Minnie Atkins, 1895, Euchee.

Q. Now, at the time you wrote out that card as Thomas Atkins and mother Minnie Atkins of the Euchee tribe, you intended to enroll Thomas Atkins the son of Minnie Atkins, didn't you?

Mr. Hill: We object.

The Court: He may answer.

Q. You intended to enroll Tommy as the son of Minnie Atkins, didn't you, as it appears there?

A. Well, as it appears, Minnie Atkins being given as the mother, but primarily the Tommy Atkins is the one that appears on the Euchee Roll No. 213.

Q. I understand, but you put Thomas Atkins' name on there? A. Yes, sir.

Q. And you put Minnie Atkins as the mother of Tommy?

A. That is the information given.

Q. From that information you intended to put Thomas Atkins up to the Dawes Commission as the son of Minnie?

A. That was the conclusion we arrived at from the information the Commission had, that Thomas Atkins was the son of Minnie.

Cross Examination by Mr. Hill.

Q. All you put on the roll itself was Thomas Atkins, age ten, a male and half blood Creek. That is all that went on the roll?

A. I think that is all on the approved roll, yes, sir.

Q. That is what is known as the tribal roll, final roll as approved by the Secretary, that is all that the Creek Final Roll is? A. Yes, sir.

Q. That is all. Excuse me the roll number and then the card number is also on the roll.

The Court: There is a certified copy of the roll in evidence that shows. We will have to go back to that.

Q. That gives the card number you referred to, and that contains this information which was gathered by the Dawes Commission and you gentlemen working for it that resulted in placing that name upon the roll? A. Yes, sir.

Mr. German: That is all.

(Witness dismissed.)

And thereupon, JOHN COUCH, was called and sworn as a witness for and on behalf of the defendant Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Couch is my name.
Q. What Couch? A. John Couch.
Q. Where do you live now?
A. Prior Creek, Oklahoma, Mayes County.
Q. How long have you lived there?
A. Well, right about ten years.
Q. About ten years? A. Yes, sir.
Q. Did you ever live in Muskogee? A. Yes, sir.
Q. Did you ever know a girl here by the name of Minnie Atkins in Muskogee? A. Yes, sir.
Q. I will ask you, Mr. Couch, how long you knew her prior to 1897, about how long? A. 1897?
Q. Prior to 1897, before 1897?
A. Well, as well as I can remember it was about 1895 or '3.
Q. 1905 or 1895? A. 1895.
Q. 1895? A. Yes, sir.
Q. You knew her in 1897? A. Yes, sir.
Q. Did you know her pretty well? A. Well, yes, sir.
Q. Did you get pretty intimate with her?
A. We were friends.
Q. Do you remember whether you took a trip with Minnie Atkins in 1897? A. Yes, sir.
Q. Where did you go with her?
A. Went from here to Denver, Colorado.

Q. Where did you meet her? A. She met me at Wagoner.

Q. And what train did you take?

A. Well, I think the train was due here at nine-forty or fifty, I ain't certain.

Q. Katy train? A. Yes, sir.

Q. Where did she go with you?

A. We went to Kansas City.

Q. What time did you get to Kansas City?

A. Well, I can't be certain but I think something after seven o'clock the next morning.

Q. Did you stop at the depot or go up town?

A. We stopped at the depot.

Q. What time did you get out of the town to Fort Logan?

A. Well, it must have been——

Q. Or Denver, rather?

A. Between probably eight or nine o'clock, somewhere, I can't remember exactly.

Q. Did you go to Denver with her? A. Yes, sir.

Q. How long did you stay with her in Denver?

A. Probably five weeks, four or five weeks.

Q. And where did you go to from Denver? A. Myself?

Q. Where did you go to from Denver?

A. We went to Fort Logan.

Q. How long did you stay there?

A. Well, now, I want to call back one answer, I didn't stay in Denver four or five weeks, I spent part of the time at Fort Logan.

Q. Did you leave there and return here?

A. I did, yes, sir.

Q. Did you have money enough of your own to come back or did you borrow some? A. Well, not exactly.

Q. How did you get the money?

A. She let me have some money.

Q. And you came back home? A. Yes, sir.

Q. Now, I will ask you, Mr. Couch, if when you were at Kansas City on that trip you saw a woman by the name of Sadie James?

A. Might have seen her but I wouldn't have known her.

Q. Did you talk with her? A. No, sir.

Q. I will ask you whether Minnie Atkins left that depot in Kansas City while she was there?

A. No, sir, not that I know of.

Q. Well, how long were you out of Minnie's company?

A. I suppose probably thirty minutes.

Q. And what did you do?

A. I went across from the depot over across the street to get a shave.

Q. When you got your shave, what did you do?

A. I came back to the depot.

Q. Was Minnie there? A. Yes, sir.

Q. She stayed there with you until the train left?

A. Yes, sir.

Q. What is your business now? A. Farming.

Q. Are you a married man? A. Yes, sir.

Q. How many children have you? A. I have six living.

Q. You were not married at that time? A. No, sir.

Cross Examination by Mr. German.

Q. You and Minnie didn't go over to Leavenworth to see her son Tommy did you?

Mr. Stuart: Just a moment. I overlooked a question, Mr. German.

Examination by Mr. Stuart.

Q. What time in 1897 was that?

A. Well, sir, it was in August.

Q. How do you know it was in August?

A. Well, the reason I know my mother made a trip to the mountains.

Q. Mountains where?

A. In California, no Arizona. She got back home and I left. She come back in July and I left in August.

Q. Have you got any way to identify the time your mother returned? A. I did have.

Q. Have you got it now?

A. No, sir, I took it back to my mother.

Q. Why didn't you keep it? A. I showed it to you.

Q. What do you have to identify it with, Mr. Couch?

A. I had a pin, emblem pin that was given to her as an immigrant to that country.

Q. You mean that that emblem was given to the old immigrants? A. Yes, sir.

Q. And this is in the shape of a gold emblem?

A. Yes, sir.

Q. Can you get it and bring it here?

A. Yes, sir, in about ten minutes.

Q. And what date did that have on it?

A. It had 1849——

Mr. German: We object.

The Court: The emblem itself would be the best evidence. Where is that?

A. Over on the corner of Sixth and Elgin.

The Court: We will not wait for it; I will permit you to put him on in the morning.

Cross Examination by Mr. German.

Q. You and Minnie were not married, were you?

A. No, sir.

Q. What relation did you bear to her on that *trial*?

A. Sir?

Q. What relation did you bear to her on that trip?

A. Just as a friend, sir.

Q. Just as a friend? A. Yes, sir.

Q. You went up on the train, did you take a sleeper?

A. No, sir.

Q. In Kansas City did you go to any rooming house or hotel? A. No, sir.

Q. In Denver, did you go to some hotel or rooming house?

A. We went to a rooming house.

Q. You and she occupied the same room? A. Yes, sir.

Q. And out at Fort Logan you lived together?

A. Yes, sir.

Q. How long did you and she live together?

A. I stayed there at Fort Logan I guess about four weeks.

Q. Where was your wife at the time?

A. I didn't have any, sir.

Q. Didn't have any? A. No, sir.

Q. Now, how many times did your mother go to California? A. One time, didn't go to California, Arizona.

Q. Went where?

A. Yes, California, Utah, some call it Utah.

Q. Well, what has your mother coming back got to do with you and Minnie?

A. Hasn't got anything, it only reminds me of the time I went out there.

Q. Where was your mother? A. She was here in town, sir.

Q. In Muskogee? A. Yes, sir.

Q. She came back in August?

A. She came back in July, sir.

Q. In July? A. Yes, sir.

Q. Now, wasn't this in 1894 that you and Minnie went out there? A. No, sir.

Q. Well, it was 1895 then wasn't it? A. No, sir.

Q. How do you remember the year?

A. I just told you what called my mind so plain to the time.

Q. Yes? A. Just exactly.

Q. Now, that has been twenty years ago? A. No, sir.

Q. How long?

A. It will be nineteen years this coming August since I left here.

Q. It will? A. Yes, sir.

Q. What other trips did you take with women like that?

A. No others, sir.

Q. That is the only one? A. Yes, sir.

Q. Now, when you got—— You say she came to you at Wagoner and you all left there?

A. I got on the train here and she taken the same train. I got her a ticket at Wagoner; the train stopped long enough and she was ready to step on.

Q. How long had she been in Wagoner?

A. I suppose two or three days.

Q. Did she have Harvey and Charlie with her?

A. Not that I seen.

Q. You knew Harvey and Charlie?

A. Well, I don't know as I knew them, I have heard them spoken of. I have seen two of the children.

Q. She didn't take them with her on that trip?

A. No, sir.

Q. Did you go on the Katy?

A. From here to Kansas City?

Q. You did? A. Yes, sir.

Q. What time in the day did you get to Kansas City?

A. Something a little after seven o'clock, I suppose, it was in the morning about the time—well, I believe the time now has been changed a little from what it was then. I used to make trips with the prisoners to Kansas City and from there to Fort Leavenworth. We would be due there something like seven-thirty.

Q. How long did you stay with Minnie at Denver?

A. Stayed there about two or three days.

Q. Well, which was it, two or three?

A. No, I can't be positive.

Q. Well, wasn't it four?

A. Well, I wouldn't say it was four at all, no, I don't think it was four. I think we got in there on Friday morning and Sunday evening it was we went to Fort Logan.

Q. How many different times did you take prisoners to Leavenworth? A. I believe I made two trips.

Q. What time in the week did you get to Leavenworth on the first trip? A. Which, with the prisoners?

Q. Yes.

A. Something like nine o'clock; a little after nine o'clock.

Q. Nine o'clock in the week? I asked you what day in the week you got to Leavenworth the first time.

A. I don't recollect.

Q. What day in the week did you leave there coming back the first trip? A. Which, with the prisoners?

Q. Yes.

A. I couldn't say just exactly; I never had no desire to try to keep track.

Q. How long did you stay in Leavenworth the first time you took prisoners there? A. Fort Leavenworth?

Q. Yes.

A. I think we stayed there one time about an hour.

Q. About an hour?

A. Yes, sir, just as soon as we could turn the prisoners to the warden and come back down.

Q. Have you ever been in the penitentiary? A. No, sir.

Q. Never had any trouble?

A. No, sir, no serious trouble.

Q. You think you stayed in Kansas City over a day?

A. When?

Q. When you went there with Minnie?

A. I didn't stay there a day.

Q. How long did you stay?

A. Something like maybe two hours, maybe a little longer, taken the first train out.

Q. You didn't go up town at all?

A. No, I didn't go only across the street to get shaved

Q. Where was Minnie? A. She was at the depot.

Q. Stayed at the depot all the time? A. Yes, sir.

Q. When did you know you were going to testify in this case? A. When did I know it?

Q. Yes.

A. I didn't know about it until yesterday evening.

Q. Who came after you? A. Mr. Long.

Q. Frank Long? A. I don't know his given name.

Q. Where do you live?

A. I live up near Pryor Creek about a mile and a half south.

Q. How long did Mr. Long talk to you?

A. Yesterday evening?

Q. Yes.

A. He didn't talk to me more than five minutes, I don't suppose, until we started back.

Q. You told Mr. Long then, what you would testify to?

A. No, sir, I didn't.

Q. When did you tell him? A. I haven't told him.

Q. Never did tell him? A. No, sir.

Q. What did he bring you down here for?

A. He knew I had been a friend to her and was acquainted with her.

Q. How much a day are you getting for coming down here?

A. I don't know, there isn't no set price; they just said they would treat me fair and pay my expenses; there was no price set.

Q. When you got down here did you tell anybody what you would testify?

A. Yes, sir, I consulted with Judge Stuart.

Q. But you didn't tell Frank Long a thing? A. No, sir.

Q. You thought you were under arrest, didn't you?

A. Why, certainly not.

Q. Well, what did you come for?

A. Yes, ask me a civil question and I will answer.

Q. That is a civil question. A. What did I come for?

Q. Yes, sir? A. To testify in this case.

Q. You and Frank Long talked about it?

A. No, sir; he said they needed me in this case and they would treat me fair about it.

Q. Did you say alright? A. Well, not exactly.

Q. You didn't say that? A. No, sir, I didn't.

Q. Well, did you tell him how much you wanted?

A. No, sir, I didn't; I didn't set no price.

Q. Now, I didn't ask you this; did you and Minnie go over from Kansas City to Leavenworth to see her son Tommy?

A. No, sir.

Q. She never spoke of going over to visit him?

A. No.

Q. Well, how many times did you have intercourse with Minnie before you left Muskogee?

A. I don't think that is a fair——

The Court: We will not go into that.

Q. When you got to Denver, where did you and Minnie stay? A. I never taken the number of the house, sir.

Q. Well, tell us, then, the street.

A. I never taken no street number.

Q. What was the name of the place?

A. Denver, Colorado.

Q. What place in Denver? A. Town of Denver, Colorado.

Q. How far from the depot?

A. Well, I never [] the distance or counted the blocks.

Q. You didn't? A. No, sir.

Q. Well, can't you give us some idea?

A. Well, now, you take a strange man and throw him into a place like that, he might travel a mile and think he didn't go far; and then he might go a block or two and think he was going a mile.

Q. Well, you have been in Denver a great many times?

A. No, sir.

Q. When you stayed at Fort Logan several weeks, you were not far from Denver?

A. I believe I made two trips from Fort Logan back to Denver, what time I stayed there as well as I remember.

Q. Now, can't you tell us where you stayed in Denver?

A. Exactly the number of the house?

Q. Well, close to it.

A. Well, I suppose something like two or three blocks from the Union Depot.

Q. From the Union Depot in Denver? A. Yes, sir.

Q. What direction from the depot?

A. That country was kind of strange, I wouldn't say it was exactly due east but I rather think it was.

Q. You think it was? A. Yes, sir.

Q. Can you describe the house? A. No, sir.

Q. Was it a hotel? A. Yes, sir, it was a rooming house.

Q. Rooming house? A. Yes, sir.

Q. How large a rooming house? A. Now, I couldn't tell.

Q. One story?

A. It seemed to be a two story, we was on the second story.

Q. Who was the person in charge of it?

A. I didn't get any names.

Q. When you got over to Fort Logan where did you stay?

A. We stayed at a house, I don't remember the woman that was running the house; I heard her name called several times but it has been too long I never gave it much thought and the name has passed my memory.

Q. Well, that was a small place, Logantown; you were not in the fort? A. No, not exactly.

Q. You were in Logantown, adjoining the fort?

A. Next to the depot. The fort is southwest from the depot if I have the town located right.

Q. And there was a store or two there?

A. I never counted them.

Q. Well, now, where from the store, did you and she stay?

A. Now, it seems to me like there was one store west, kind of northwest, and seems like there was one right to the north side from the house.

Q. How close were you to *those* store?

A. Probably half a block or may be not so far.

Q. What direction? A. I just told you, sir.

Q. Alright, you said there was another store?

A. I said there was a store, if I ain't mistaken, north from the house and [] other was setting something like west. Say the depot was setting up there, and there was a store over that way, and one down this way, and a little further this way was the house right close to the depot that we stayed.

Q. That right by the side of the railroad?

A. Something like that, yes, sir.

Q. And in half block of the nearest store? A. I guess.

Q. Did you pay the rent on the house? A. I did, sir.

Q. Who did you pay it to?

A. I told you that I couldn't recollect the name of the woman.

Q. Was there a woman running the house? A. Yes, sir.

Q. Then, it was a house where several people stayed?

A. Well, yes, sir, there were several people.

Q. Who else roomed there?

A. I don't know the names; they were all strangers.

Q. How long did you stay there?

A. Something like four weeks as well as I remember.

Q. Four weeks? A. Yes, sir.

Q. But didn't learn the names of any of the people?

A. I learned the names of some of them; I don't remember them.

Q. You can't tell the name of one?

A. No, sir, I can't; you take it back 19 years.

Q. What did you do while you were there?

A. I didn't do nothing.

Q. You didn't do any work?

A. I helped thresh half a day.

Q. Who for?

A. I don't recollect the name of the company, company threshers.

Q. Didn't you have any men associates at all there?

A. I did not, I talked to some of the soldiers around there to pass the time off, but I didn't recollect their names; in fact I am a very poor man to ask a man's name.

Q. There was some other women in that house?

A. Well, not that I know of.

Q. Do you mean that there wasn't any woman in there but Minnie?

A. The woman that run the house. There wasn't——

Q. But there were several men?

A. As well as I recollect there was about two men that stayed there; there wasn't many rooms.

Q. Did those two men stay there all the time?

A. I don't know whether they did or not; I could see them every once in a while. One was a contractor as well as I recollect now; he roomed there.

Q. What was his name? A. I don't recollect his name.

Q. I wish you would think those names up.

A. Well, now, I can't do it; for *ai* don't know as I asked them their names.

Q. You think you talked with them there?

A. Yes, sir, just like I would meet you in the road somewhere and talk to you and never ask you your name.

Q. Ate meals with them?

A. No, sir, I never ate no meals with them.

Q. What did you do before—what was your business before you left to go to Denver? A. Here?

Q. Yes.

A. Well, I used to run what you called a freighter out of this town, teams and mules.

Q. Well, was that your business before you left to go to Denver?

A. Yes, I was working here in town; transferring here in town, hauling around here in town.

Q. For yourself?

A. Well, me and my brother were running teams together and when I left here I turned the teams over to them; let them run them.

Q. What was your brother's name?

A. One was called Frank and one Ben.

Q. Crouch? A. Couch.

Q. Where are they now?

A. One is dead and one is here in town.

Q. How much did your ticket cost in Kansas City?

A. I disremember how much it did; you can tell if you know the fare from here to Kansas City.

Q. I am asking you.

A. I don't recollect; the same fare it is now.

Q. You bought Minnie's ticket too to Kansas City?

A. Yes, sir.

Q. What was the fare you paid for Minnie's ticket?

A. Well——

Q. You say it was the same fare then as it is now?

A. I think it is three cents a mile, if you bought a ticket clear through, but it was five cents when you rode in the Territory; in those days we called it the Territory, and had to pay five cents in the Territory and when you rode out it was a three-cent rate, I think.

Q. You bought a ticket for Minnie and yourself both?

A. Yes, sir.

Q. That was a very good sum wasn't it?

A. Very good sum, yes, sir.

Q. You buy a ticket from Wagoner to Kansas City or from Wagoner to Denver? A. Kansas City to Denver.

Q. Now the ticket from Kansas City to Denver?

A. Yes, sir.

Q. How much did your ticket cost to get back?

A. Well, that is very easily to figure out.

Q. Well, I am asking you what it cost you.

A. I think I left Denver with about ten dollars and when I got back here I think I had fifty cents or sixty cents left.

Q. You left Denver with ten dollars?

A. About ten dollars.

Q. Bought your ticket out of that?

A. No, sir, I didn't buy my ticket.

Q. You didn't?

A. I just rode back as I got the chance and paid the brakies whatever I could get over the division for.

Q. You came back then on freight trains?

A. I did, part the way.

Q. What railroad you come from Denver on?

A. I came to Pueblo on a freight.

Q. How much did you tip the brakey?

A. I tiped the brakey from Pueblo to Denver one dollar.

Q. How did you get out from there?

A. I started out on a road and got something like a hundred miles.

Q. What road? A. Santa Fe I think I came back on.

Q. Where, from Pueblo to where?

A. I disremember the little town where they cut the car off I was in.

Q. You can't call the name of it? A. No, sir, I can't.

Q. What state was it in? A. Colorado.

Q. How long were you in Pueblo between the time you got there and left?

A. I got there somewheres about midnight and stayed there until the next morning at eight or nine o'clock, until I could catch a freight out.

Q. Where did you sleep there? A. Me?

Q. You!

A. I went to a hotel there; I got a policeman to show me a place, and I went there and laid down through the night.

Q. What was its name? A. I never asked the name.

Q. Who did you see there?

A. A lady came up and showed me the room.

Q. Was that the only person you saw?

A. Only one I seen that night, except this policeman who carried me up there.

Q. The only person you saw?

A. Only one I seen that night.

Q. How much did you pay for the room?

A. Twenty-five cents for the bed.

Q. What did you do for something to eat?

A. I bought it.

Q. Where did you buy it?

A. I went down town the next morning to a lunch counter and bought a cup of coffee and some lunch.

Q. What did you pay for it?

A. I paid twenty cents for it.

Q. Let's see, on that hundred mile trip, did you pay your way on the freight train?

A. To where they cut the cars out?

Q. Yes. A. Yes, sir.

Q. How much did you tip the brakies there?

A. I didn't tip him nothing.

Q. Did you steal that ride? A. I guess so.

Q. How long did you stay at that place?

A. I suppose about three hours.

Q. How long were you making that hundred-mile run?

A. I didn't time it.

Q. Did you ride in the caboose or—— A. No, sir, box cars.

Q. On top?

A. No, sir, down in the box cars, you have seen box cars——

Q. Inside of the box cars? A. Yes, sir.

Q. And you don't know how long you were making that hundred miles? A. No, sir, I don't.

Q. Was that a through freight or a local?

A. Supposed to be a through freight, I guess; I never asked him.

Q. How did you get from that place on in?

A. I caught a passenger that night about ten o'clock.

Q. Buy a ticket? A. No, sir.

Q. Beat your way on the passenger? A. Yes, sir.

Q. On the blind?

A. Yes, part of the time and part of the time on the back end; rear of the sleeper.

Q. Where did you go to from there?

A. I can't tell you the town I landed in the next morning; I never asked nobody.

Q. How did you get from there?

A. I kept getting on, tipping the brakies when they would come around, when I was riding.

Q. Have you done any of that kind of work since?

A. Oh, yes.

Q. Frequently do that? A. No, not frequently.

Q. Done it a good deal? A. Done it a good deal.

Q. Beat your way around a good deal?

A. No, sir, I am not no professional bum.

Q. Not a professional? A. No, sir.

Witness dismissed.

And thereupon Court recessed until 9:30 o'clock a. m.

And thereafter, and on May 24, 1917, at 9:30 o'clock A. M., Court convened pursuant to adjournment and further proceedings herein were had as follows:

J. M. COUCH being recalled further testified as follows:

Redirect Examination by Mr. Stuart.

Q. Mr. Couch, did you bring that little emblem that you spoke of? A. Yes, sir.

Q. You got this from your mother, you said?

A. Yes, sir.

Mr. Stuart: We offer this in evidence, Your Honor; any objection?

The Court: It may be admitted.

Mr. Stuart: This inscription—this is a gold emblem which has on it—"Utah Semi-Centennial, Pioneer Jubilee, 1349-1897."

The Court: On the reverse side appears this inscription: "Presented by the State of Utah to Sarah C. T. Couch, Pioneer of 1847."

Recross Examination by Mr. German.

Q. Mr. Couch, you know John Culver, don't you?

A. John Culver?

Q. Yes, sir.

A. John Culver who used to be here several years ago?

Q. Yes. A. Yes, I believe I did.

Q. You and he are good friends, aren't you?

A. As far as I know, sir—Culver? You see, there are lots of these names neighbor, that have slipped my memory it has been so long.

Q. You have a deceased brother, haven't you?

A. Yes, sir.

Q. About when did he die?

A. Well, he died this last February, I think it was, the 14th; I am not certain which—four years ago, no 18th that is.

Q. How?

A. I think it was the 18th of this last February four years ago.

Q. What was his name? A. Frank.

Q. Frank? A. Yes, sir.

Q. Frank Couch? A. Yes, sir.

Q. Where did he live at the time of his death?

A. Well, he was making his home in Porum, there was his home, but he died here at my sister's out here at Garret's Heights. He came up here for a trip and he died.

Q. He was older or younger than you? A. Sir?

Q. Was he older or younger than you?

A. He was something like five years younger than I am.

Q. Did you and John Culver have a talk about your testimony in this case about two years ago?

A. I haven't seen that fellow as I recollect for the last six or eight years, maybe longer; he was a fellow that I never had very much talk with.

Q. You know Harry Folk, the husband of Minnie, don't you? A. Who?

Q. Harry Folk, the husband of Minnie?

A. I have seen the gentleman, since I came to town, yes, sir.

Q. He was sitting here in the courtroom yesterday evening when you testified, wasn't he?

A. I don't know whether he was or not.

Q. You talked with him and Minnie over at the hotel last night, didn't you? A. We talked some to——

Q. And you and he and Minnie were sitting there laughing and talking last night?

A. Yes, sir, we talked to Sam Brown, too; old timers sitting there and having a conversation.

Q. Are you a married man now? A. Yes, sir.

Q. How many children have you? A. Six, living.

Q. Is your wife living? A. Yes, sir.

Witness dismissed.

And thereupon, BETTIE MANN, being recalled, further testified as follows:

Recross Examination by Mr. Stuart.

Q. Mrs. Mann, I understood you to say that it was in the summer time that you told Mr. Page, and Mr. Long, and Mr. Josey that there wasn't any Tommy. Was it in the summer time? A. In the summertime?

Q. Summertime of 1914? A. Yes, sir.

Q. In the summertime. Now, I want to ask you if this is your signature there?

Mr. German: I want to suggest, Your Honor, that I didn't understand the witness to say that she told him——

Mr. Stuart: She says she said it.

Mr. German: Well, you led her that way.

The Court: Well, the record will show, I don't remember distinctly now.

Mr. Stuart: I will ask you now—Your Honor, I don't think it is quite fair to interpolate that after the witness has said she said it.

The Court: I understand that it comes with counsel's question; however, the record will show.

Q. You told them in 1914?

A. Well, I guess it was 1914, when I found Minnie Atkins.

Q. The summer of 1914, is that right?

A. '14, is when it was.

Q. I will ask you if you signed this instrument, whether that is your signature, that is your handwriting?

A. That is my handwriting.

Q. Now, this is a contract between a man by the name of Kirkbride and you and a man named Rogers? A. Yes, sir.

Q. And purports to be an agreement between C. H. Rogers of Tulsa and S. E. Mann and Mr. Kirkbride?

A. Yes, sir.

Q. That is what it is? A. Yes, sir.

Q. And it is dated October 12, 1914?

A. I overlooked the date.

Q. Now, Mrs. Mann, I will read this to you: "Whereas, The West Half (W2) of the Northeast Quarter (NE4) of Section Five (5), and the Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East of Indian Base and Meridian was allotted to one Thomas Atkins as a member of the Creek Tribe of Indians, said Thomas Atkins being enrolled opposite No. 7913 and being, at the time of his enrollment, ten years of age; and

Whereas, There are numerous parties claiming title to said premises as heirs of said Thomas Atkins and as purchasers or lessees of said pretended heirs of Thomas Atkins, it being charged by said pretended heirs and purchasers that said Thomas Atkins died many years ago, as a minor, intestate, without children or descendants of children; and

Whereas, Said spurious heirs and their grantees and lessees have no right, title or interest in and to said premises, though all such rights are claimed adversely to the said Thomas Atkins, allottee; and

Whereas, The Gypsy Oil Company, of Tulsa, Oklahoma, is now, and has been for more than one year past, in the open, notorious and actual possession of said premises; and

Whereas, Said Thomas Atkins, allottee, is now living and his existence and whereabouts are known to said brokers; and

Whereas, The said purchaser is desirous of being put in touch with said Thomas Atkins for the purpose of purchasing said premises from said allottee, said Gypsy Oil Company having agreed to waive all objection which it had or may have, by reason of its possession of said premises, to the making of this contract and to the receiving by said purchaser from said Thomas Atkins of the deed herein contemplated;

Now Therefore This Agreement Witnesseth: That said purchaser, for himself, his heirs and grantees, in consideration of the said brokers producing the said Thomas Atkins in person, allottee of the above described premises, and obtaining from said Thomas Atkins a first valid warranty deed for the above described premises in favor of said purchaser for a sum not to exceed .... dollars, said deed to be procured and delivered to said purchaser within thirty days from the date of the signing of this contract, and further, in consideration of said brokers producing full, true, correct and competent legal evidence, whenever and wherever demanded by said purchaser, sufficient to prove to the Court having jurisdiction of said matter the identity of said Thomas Atkins and his right to the above described premises, agrees to grant, bargain, sell and convey to said brokers, or to such parties as they may designate, subject to an oil and gas mining lease theretofore to be given by the purchaser to the .... Oil Company, by a good and sufficient deed, an undivided one half interest in all right, title and interest in said premises which said purchaser may acquire hereunder, said deed to be delivered to said brokers within thirty days from and after the date the identity of said Thomas Atkins shall be legally ascertained, and the right of said Thomas Atkins to the aforesaid land shall be legally and finally determined," and so forth. Now, then, if you had told them in the summer of 1914 that there wasn't any Tommy Atkins, why did you make a contract in the fall to produce him?

A. Just because they wanted to frame up and wanted a Tommy Atkins.

Q. You mean to say this man Kirkbride——

A. Yes, I say that man Kirkbride.

Q. Wait a minute. This man Kirkbride agreed with you to frame up a Tommy Atkins?

A. Yes, sir, he said the Gypsy people wanted one and Mr. Wrightsman wanted one and he could get it with either one of them, and he wanted to find a Tommy Atkins; that there was lots of them running around.

Q. Now, then, in October of this year you and Mr. Kirkbride and Mr. Rogers agreed together that you would frame up a Thomas Atkins? A. Going to find one.

Q. You knew there wasn't any Tommy, didn't you, real Tommy; that Minnie didn't have any such son?

A. Yes, we knew that Minnie didn't have any.

Q. You knew there wasn't a real Tommy that was heir to this land? A. I didn't think there was.

Q. Therefore, you and Mr. Kirkbride and Mr. Rogers were to frame up a Tommy in October? A. Yes, sir.

Q. Where did Mr. Kirkbride live?

A. Lived in Tulsa I guess.

Cross Examination by Mr. German.

Q. After you had done your work for Mr. Bartlett along up to about the first of March, 1914, you had discovered there wasn't any such boy as Thomas Atkins? A. Yes, sir.

Q. Never was such a boy as the son of Minnie?

A. I knew Minnie didn't have none.

Q. You and Dennis and Rube and Sadie James framed this up to create one in March, 1914?

A. Yes, sir, in Leavenworth.

Q. You knew when you were working for Mr. Long and Mr. Page and the Gem Oil Company, when you took this trip to Seattle, you knew Minnie didn't have any such child?

A. I had never been able to find where she had one.

Q. When you talked to Minnie in Seattle, before Mr. Long got there, you were in the employ of Mr. Long and Mr. Page, weren't you, as well as Mr. Bartlett? A. Well, yes.

Q. All three of them? A. Yes.

Q. Working for both sides? A. Yes.

Q. What did Minnie tell you in the first conversation?

The Court: Isn't that something that has been gone over with this witness?

Q. Anyhow, when you signed this contract here that Judge Stuart has talked about, dated the 12th of October, 1914, you knew there wasn't any son of Minnie?

A. I knew that Minnie didn't have none.

Mr. Cruce: Judge, did you introduce that entire contract?

Mr. Stuart: Yes.

The Court: It may be admitted.

(Witness dismissed.)

And thereupon, F. B. LONG was called and sworn as a witness for and on behalf of the defendants Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Cruce.

Q. What is your name? A. F. B. Long.

Q. How old are you? A. Thirty six.

Q. Where do you live? A. Tulsa.

Q. What is your business?

A. I am employed by Mr. Charles Page.

Q. How long have you been in his employ?

A. I have been in his employ alone about a year and a half; prior to that time from 1912 I was employed by Page and Josey.

Q. Were you ever in the employ of the Government?

A. Yes, sir.

Q. In what capacity?

A. As District Indian Agent, subsequently as Field Clerk.

Q. During what years?

A. 1909, '10, '11 and part of '12.

Q. Now, you say you were in the employ of Page and Josey, when did that employment begin?

A. In December, 1912.

Q. How long did you work for Page and Josey?

A. Until, I think, the month of October, 1915.

Q. Since then you have been working for Mr. Page?

A. Yes, sir.

Q. What are your duties, Mr. Long, in a general way without going into detail?

A. Well, I am in charge of his land, his leases, rentals.

Q. Have you an interest in the Gem Oil Company?

A. I have no stock in the Gem Oil Company; I am Secretary of the Company.

Q. Have you any interest—I mean personal interest in this law suit? A. No, sir; no financial interest.

Q. That is what I mean. When was the first connection that Page and Josey had with this Tommy Atkins allotment?

A. I think probably in the winter of 1914, along very likely in February or March

Q. Of 1914? A. Yes, sir.

Q. What effort if any was made to procure that property, to find out the owners of it?

A. Well, the first information that came to us—prior to that time, we had checked up all the north extension of the Cushing field, and were advised of the litigation on this land. The first information that came to us was that Thomas Atkins the allottee of this land, was living; that information came from Mr. Kistler, I believe, of Muskogee, and that he was in the Army.

Q. That Atkins was in the Army?

A. Yes, sir. We wired Washington, the first steps that was made in this case, we wired Washington; Mr. Kistler wired Senator Gore. We ascertained that there was a Thomas J. Atkins in the Army, and that he was an Indian. In looking him up, however, we found that he was a Comanche, I believe; nevertheless, his home was in Lawton, and from that time on we pursued other inquiries. We investigated the claim of Nancy Atkins as to being his mother.

Q. What conclusion did you come to?

A. We came to the conclusion that Nancy Atkins was not the mother of Thomas Atkins; that conclusion was reached after talking with some of her relatives and after an examination of the records at Muskogee.

Q. The Dawes Commission records you mean?

A. Yes, sir.

Q. Now, what further steps did you take, then, to discover Thomas Atkins?

A. The matter then rested for some time until a man by the name of Rogers came into our office with information.

Q. Who was Rogers? A. C. B. Rogers.

Q. Where does he live?

A. Lives in Tulsa. He is a Cherokee Indian. He came into our office and advised us that he had some information about Thomas Atkins, and wanted to know if we would go into the matter of procuring a lease on the land. I told him that we would. I had that conversation with him myself, at that time.

Q. Were you acquainted with Rogers prior to that?

A. I knew him slightly, not very well.

Q. Go ahead.

A. We told him at that time that if we could get a lease from Thomas Atkins, the allottee of this particular quarter section, we would carry him for an eighth interest.

Q. What do you mean by carrying him for an eighth interest? Give him an eighth interest in the lease?

A. An eighth interest in the property; that is an eighth interest, working interest, after the expenses were all paid.

Q. Alright, go ahead.

A. He was in and out of the office some six or seven times, I don't know how often, but any way he always claimed to have some new information.

Q. Was that in your office at Tulsa?

A. In our office at Tulsa, in the office of the Gem Oil Company, and we didn't pay very much attention to him; didn't take him very seriously but he came in and talked. Finally in the month of May——

Q. 1914?

A. 1914, he came in to the office and said that he didn't believe that they could locate Thomas Atkins; that he had not been able to get any information, that he didn't believe that they knew—that we could find him. He said that he was working, however, with a woman name Bettie Mann, who had been doing some work on the case.

Q. Did you know Bettie Mann at that time?

A. I did. And that Bettie Mann had information as to where *Bettie* lived.

Q. Minnie Atkins?

A. Minnie Atkins; and that he believed then, as did Bettie, that Thomas Atkins perhaps was dead, and that if he were dead, that Minnie Atkins would be his heir. We discussed that in the office at some length. I remember that he came back once or twice after that, still telling us that Bettie Mann would be able to locate Minnie. Finally he came in the office one day and said that he had seen Bettie Mann, and that she knew where Minnie [] and he wanted me to see her, and if we could, make some arrangements for paying her to locate Minnie Atkins for us. I recall that I was very busy that day and I told him that I would go down to Sapulpa to see Bettie Mann, on the noon train, and for him to have her at the station; that I didn't want to take time to go out to her house, or to hunt her up. He said that he would do so. I went to Sapulpa and met——

Q. How long after that do you remember?

A. Oh, that was the next day I think; I am pretty sure it was the next day. I went to Sapulpa and met Bettie Mann at the Frisco Station.

Q. Did you have any conversation with her there?

A. Yes.

Q. How long did you talk to her?

A. Not to exceed ten minutes.

Q. Did you go out of the station any where, or talk to her right in the station?

A. We sat in chairs there by the Harvey House.

Q. What agreement if any did you come to there, and what did she say with reference to——

A. Do you desire me to relate the conversation, Mr. Cruce?

Q. Yes, as nearly as you can, Mr. Long.

A. Bettie told me that she had been working for H. U. Bartlett; she told me that Bartlett had had her make a trip or two, to Kansas City, I believe; whether she mentioned any place else, I don't recall; and that she just about had Minnie located, and that she was going out to see her; that Mr. Bartlett would probably be there also. She asked me what I would give her if she located Minnie so we could make a lease with her. We had previously discussed this matter in the office and had agreed on the price, and I told her if she located Minnie Atkins for us and placed us in touch with her, and she proved to be the Minnie Atkins, the mother of Thomas, and his heir, and we obtained a valid lease on the land, we would pay her two thousand dollars. She said she was going to leave the next day. I tried to get her to tell me where she was going and where Minnie was and that she refused to; but she said, now, you will receive a telegram from me soon, and when you receive that message, why you come. She said when I wire you, I won't sign my own name, but I will use some other name. At that time we didn't take her very seriously; we really—she had—this Rogers had talked so much that we didn't know definitely whether she was telling the truth or not. So, the conversation, had I known that she was sure of what she was going to do, I probably would have gone more into detail, but I wasn't with her there at Frisco station to exceed ten minutes.

Q. Do you remember what name she said she would wire you under?

A. No, she didn't say any name at that time, I don't remember that she did.

Q. Now, when did you next hear from her?

A. I next heard from her some four, five—no, it was a week afterwards; I got a telegram from her at Seattle, Washington.

Q. Have you the telegram? A. Yes, sir.

Q. Let me see it, please. This telegram is dated Seattle, Washington, June 5th, addressed to Frank B. Long, Little Gem Oil Company, First National Bank Building, Tulsa, Oklahoma; and reads "Are you ready to come. Say nothing to Charlie. Answer in care Western Union, Bill Jones." Is that the telegram?

A. That is the first telegram I received from her.

Q. Who was Charlie?

A. Charlie was Rogers, the man who first put me in touch with Bettie Mann.

Q. Now, did you answer that telegram? A. I did.

Q. Let me see that; telegram that you hand me is dated June 6th, 1914, addressed to Bill Jones, Seattle, Washington, and reads "Am ready to go provided you are positive you have right party. Am busy, my time is valuable and do not want to make long trip unless you assure me absolutely that you have right party. Answer immediately, giving your street address, and stating whether you have satisfied yourself you have located party you want. Frank B. Long." Did you send that telegram? A. Yes, sir.

Q. Now, did you hear from her again? A. Yes, sir.

Q. Is this telegram, dated Seattle, Washington, June 8th, 1914, addressed to Frank B. Long, First National Bank, Tulsa, Oklahoma, "Things perfectly identified, come at once. Answer room 425 Wright hotel. Bill Jones." Was that telegram received from Mrs. Mann? A. Yes, sir.

Q. Now, did you reply to that?

A. There were two answers sent to that.

Q. Telegram, June 9th, 1914, addressed to Bill Jones, room 425, Wright hotel, Seattle, Washington, "Will leave tonight or tomorrow night. Will wire you tonight exact time of leaving." Signed Bill Jones. Was that telegram sent?

A. That telegram was sent from my office, but I don't believe that I sent it. We were laughing about that Bill Jones business in the office.

Q. Do you know who sent that?

A. I think Mr. Eberle sent it; I may have sent it myself; I wouldn't have signed Bill Jones to it.

Q. Did you send a telegram that day? A. Yes, sir.

Q. This telegram I have in my hand? A. Yes, sir.

Q. Telegram dated June 19th, "Bill Jones, room 429 Wright hotel, Seattle, Washington; Leaving tonight, arrive Saturday. Frank B. Long."? Paid, charge to form 19—— Is that the telegram you sent? A. I sent that telegram.

Q. Well, now did you leave for Washinton—Seattle?

A. I did, sir, on that evening.

Q. Did you send any telegrams to Bettie Mann on the way to Seattle? A. I did not.

Q. Did you send a telegram from Denver or Salt Lake or any place along the line which you signed as Bill Jones?

A. No, sir.

Q. When did you arrive at Seattle?

A. On Saturday morning June 13th.

Q. Do you remember about what time you got there?

A. A little after eight o'clock.

The Court: That was 1914, was it?

A. 1914.

Q. Saturday morning June 14th?

A. June 13th.

Q. June 13th? A. Yes, sir.

Q. What time that morning did you see Mrs. Mann?

A. About 9:30 or ten o'clock; any way, as soon as I got my breakfast and could get there.

Q. Where did you see her? A. At the Wright hotel.

Q. You went to her room? A. Yes, sir.

Q. Well, now, just in brief, Mr. Long, what conversation did you have there with her with reference to this matter?

A. Well, I went immediately to her room and inquired where I could find Minnie Atkins; that is what I came there for, and she told me that she lived out by the Fort, which was Fort Lawton. I asked her if she had seen her; she said that she had but that she had not talked to her; that she had walked by her house several times, and she was sure that it was the Minnie Atkins that she had known in this country. She told me for the first time, then, that she had a negro woman there with her, named Sadie James.

Q. Did you know Sadie James at that time?

A. I did not. I knew of her but I didn't know her. I knew of her after Bettie Mann told me who she was and different things about her but I didn't recognize her by that name. Bettie Mann said that Sadie James had really located Minnie and had been out to talk to her and had refused to tell Minnie where she was—to tell Bettie where she was; Bettie said that the only way she found where Minnie lived was by hiring a detective to follow Sadie, and the detective saw Sadie going to this house at the Post; then Bettie went out by the same house and saw Minnie sitting on the porch.

Q. But didn't talk to her?

A. Didn't talk to her at the time. I asked her why she hadn't talked to her, and she said that she didn't want to involve herself in any way with Minnie; that she had stayed away from her; and I said now, I want to get away from here just as quick as possible, and I want to see her; and she said I will put you in touch with Mr. Kohler, the man who followed Sadie out there, and I will have him come to your hotel. I was stopping at a different hotel. I went over to the Renier Grand hotel, and waited there a minute when a man by the name of Kohler came in and said that he had been sent there by Mrs. Mann, and would take me to Minnie Atkins, or the woman, I believe he called her; he didn't know her name. We took an automobile and went out to the Fort.

Q. Did you go to Minnie's house? A. I did.

Q. Who did you find there?

A. It was perhaps two or three hundred feet from the street where the car stopped to her house; and I left the automobile and Mr. Kohler in the car. I saw three men, one of them holding three horses, the other two men were sitting on the porch of Minnie's house with her.

Q. Go ahead?

A. I walked up and introduced myself and asked her her name. I didn't know her name was Folk at the time, but I asked her if she was Minnie Atkins. She told me that was her maiden name, her name was Folk now. And she then introduced me to Captain MacNab and Lieutenant McComb. I told them what I came there for, that she was the heir of an allotment in Oklahoma, according to the records and rolls, and that I wanted to go into negotiations for an oil lease on the land; that the land was looking good for oil.

Q. Mr. Long, let me interrupt you a little, do you remember about how far it was in the Cushing field, from the developed portion I mean, the Bartlesville or Deep Sand?

A. I think the nearest Bartlesville Sand well was on the Musselman lease about a mile, perhaps two miles south. We felt that the Bartlesville Sand was going to follow that direction and would get on the west eighty of this property. I told them what I wanted, and Captain MacNab spoke up and said: "Well, are you the white man that is supposed to be here?" I said: "I suppose I am." Well, he says there has been a negro woman around here for four or five days bothering Minnie and telling her a lot of things about this land and wanting to buy it from her. He says is that woman working for you? I told him I didn't know anything about her because I didn't hire her. I said I came out here to buy a lease on the land; we don't want to buy it, because it would be very difficult to fix a price for the fee and that we wanted to lease it. I told him I had brought some papers, the lease form with me, and a contract, and that I would like very much, since he was there to advise Mrs. Folk, to talk it over with him and go over it in detail. Mrs. Folk stepped into the house and I went in with her. I said first I wanted to assure myself that Mrs. Folk is Minnie Atkins. Well, Mrs. Folk said well I am Minnie Atkins. and I can tell you all about myself. Prior to going out there I had talked with Sam Brown and Mitchel Wadsworth and had pretty thoroughly posted myself on Minnie's family history, so I could ask her questions and know that she was the right person. After we went in the house I talked to her about her father, her mother, her brothers and sisters, where she had lived and where she went to school and about her children. She asked me about the children in Oklahoma and she said she was the mother of Thomas Atkins and Charlie and Harvey, but that Thomas Atkins was dead and she hadn't heard from Charlie and Harvey for some years at that time. Captain MacNab and Lieutenant McComb then came to the house.

Q. How long were you in there with Minnie before?

A. Oh, not to exceed five minutes.

Q. Well, go ahead?

A. They came in the house and we then resumed the discussion as to the lease. They asked me a great many questions; I answered them as best I could; I told them that the land was of considerable speculation value; that it was in such shape it would be difficult to find out just what it was worth. They told me this Negro woman had told Minnie that she would give her four thousand dollars for it to buy it. Well, I says, we will give more than that for a lease on it and Minnie will still retain the fee and one eighth royalty. The conversation went along until finally the questions of the employing of an attorney came up, and it was suggested that an attorney who was familiar with oil lease forms should be employed. In the meantime Captain MacNab and Lieutenant McComb had looked over the lease which I had had prepared before I left here.

Q. Who prepared that lease form for you?

A. Rice & Lyons. They had looked over the form and over the contract which was to be a part of the lease and which Minnie was to execute and we was to execute, the terms of which we were to perfect a title as a part of the consideration. Then, when they got into the contract matter the question of an attorney came up and I told them I would much prefer to go into this matter with a lawyer, that there would be some litigations. Very likely there would be some litigation. They told me then—— Oh, yes, in the meantime the question of whether this negro woman was working for me came up, and I noticed a little bit of suspicion on the part of Captain MacNab and Lieutenant McComb.

Mr. German: We object to the conclusion on behalf of this witness.

The Court: Well, in this connection I will let him answer that.

A. I felt that they were perhaps suspicious of me and I suggested to them that before we concluded our negotiations it would be well that they would wire to Oklahoma as to Mr. Page and Mr. Josey and as to me as their employee. I gave them the name of Mr. Kelsey, the Superintendent of the Indian Agency, of the Exchange National Bank of Muskogee, the Exchange National Bank in Tulsa, the Central National

Bank in Tulsa, the National Reserve Bank in Kansas City, and James K. Jones, of Washington. Told Captain MacNab that if he would send telegrams to those places that I would pay for both messages going and coming. He told me then not do anything more with it until they had consulted their attorney, and for me to call him up along in the afternoon sometime. I left. Was there perhaps forty minutes or an hour all together. Went down and went back in the same automobile that I came out in. I had lunch and sometime about one-thirty or two o'clock I called up Captain MacNab at his Quarters at the Post and asked him if he was ready for me to return. He said, well now our attorney is right here or will be here soon and you come on out. I think I took the next car, street car, and perhaps waited a little while. Now, I got out there in the middle of the afternoon, maybe three o'clock. I got off at the station leading up to Minnie's house and started up there. I saw some people there and indications that there were visitors, saw this negro woman on the porch. Well, I didn't go on up to the house. I was to have my conversation with Captain MacNab and I stayed at the little station and walked up and down the Government road for a few minutes, when Captain MacNab and Mr. Hanford came down the walk. We stood in the road and Captain MacNab introduced me to Mr. Hanford, and said Mr. Hanford was to represent Minnie. We then discussed the terms of the lease and the proposition which I had to make, went into it in some detail. Mr. Hanford said that before we concluded the negotiations, that they were having Minnie execute a trustee deed, or a deed of trust of some kind to Captain MacNab so that she would be protected, and we agreed then in that conversation that I would not attempt to see Minnie any more, that I would not talk to her, and that I would have all of my dealings with Captain MacNab and Mr. Hanford. I very readily agreed to that.

Q. Did you see Minnie any more?

A. I did not until the day we left Seattle. After the conversation, I went back to the hotel. In the evening Mr. Hanford called me up and told me that Minnie had executed a deed of trust to Captain MacNab, and that he would see me tomorrow, the next day, which was Sunday. Sunday morning Mr. Hanford came to the hotel and now he said, we are ready to do business. We again talked over the value of the property and its location, the probability that the deeper sand would extend up to this land, and so forth.

Q. What statement did you make to them or to Captain MacNab as to whether or not it would probably be of value, great value?

A. I told them that the probability—— That in my opinion and in Mr. Josey's opinion that the Bartlesville Sand would go over at least the west eighty of this hundred and sixty and that it would be of very great value. I told them that Saturday.

Q. Well, go ahead?

A. Then, Mr. Hanford and I went over the same thing. We drew a little map of the lease. Mr. Hanford then told me that they had concluded that before they would make a lease, that they would go into it more thoroughly and have some investigation made independent of what I had told them. That he had some friends he would write to that would go and look the property over and report to him. I told Mr. Hanford that would require a week or ten days or two weeks and in the meantime I would be waiting in Seattle, and that the expense would be just about the same if he would go with me back to Oklahoma and make a personal investigation. He suggested that he would like to do that. And we agreed that I would pay his expenses both ways, but he was not bound in any way by the expenses which we would advance, that he was free after he got there to do anything he pleased to do. But, that if he didn't make the lease to us he was to reimburse us for whatever money was advanced to him. That agreement was made between us that Sunday and I was to meet him at his bank the next morning at ten o'clock when we were to make the financial arrangements for the trip. That was all the conversation I had with Mr. Hanford that day.

Q. Now, you say you saw Minnie again the day before you left?

A. Prior to seeing Minnie, I saw Sadie James and Betty Mann.

Q. What day did you see them? A. On Sunday.

Q. Where?

A. At the Wright Hotel. Betty Mann phoned for me to come up to her room and I went over there. I had seen her in front of the Renier Grand Hotel Saturday evening and told her then I would see her the next day. I went to her room and went in and Sadie James was there. Betty Mann told me that that was Sadie James and Sadie James flew into quite a rage.

Q. Is that the first time you had ever talked to Sadie James? A. Yes, sir.

Q. In your life? A. Yes, sir.

Q. Go ahead?

A. Sadie James flew into quite a rage over the fact that I was there; accused Betty of double-crossing her and asked what I had done. And I told her I had been out to see Minnie and that I found the army officers there who had taken over

Minnie's business and that Minnie had signed up an agreement to them, and that I was through with my dealings with her; that I didn't know whether we would get a lease or not.

Q. With her, who do you mean?

A. With Minnie. Sadie said in that conversation—— I wasn't up there very long. She said well now we don't want to fall down on getting Minnie; if you will give me six thousand dollars I will go get her right now and take her to Everette, Washington, if you will get me the money. I told her there was nothing to be done with Minnie, that she had turned everything over to Captain MacNab and that I was going home.

Q. Did you state to Sadie James there at that time that you had found a Tommy or would make a Tommy?

A. The name Thomas Atkins wasn't mentioned in that conversation.

Q. Did Betty Mann or Sadie James either one say to you in either one of those conversations that there never was such a person as Tommy Atkins? A. No, sir.

Q. Was anything said about the baby having died at six months old? A. No, sir.

Q. You say Thomas Atkins name was not mentioned in either one of those conversations?

A. Now, I don't think it was. But, nevertheless, the principal thing in that conversation was the identity of Minnie Atkins. I told them I was satisfied she was Minnie; I had talked to her and she was the Minnie Atkins from Indian Territory. If the name Thomas Atkins was mentioned in that conversation it was in a way I don't recall.

Q. I believe you stated that Betty Mann said she had seen Minnie from the porch but had not talked to her?

A. That was in my first conversation.

Q. What did she say in the second conversation?

A. Nothing was said in the second conversation.

Q. When did you next see Minnie?

A. Monday about noon or a little after, just after lunch.

Q. For how long a time did you see her?

A. I will explain why I saw her if you will permit me. I went out to Captain MacNab's and we had lunch: Mr. Hanford was there also; and Mr. Hanford and I had made arrangements for his trip to Oklahoma. I told Captain MacNab and Mr. Hanford that these arrangements were perfectly satisfactory with me but that before we left, I wanted positive assurance from Mrs. Folk that she was satisfied for Captain MacNab and Mr. Hanford to represent her and deal for her. They told me all right; but I didn't see her alone. They called Minnie over to Captain MacNab's Quarters and I had that conversation with her. I asked her if she was perfectly satisfied that Mr. Hanford and Captain MacNab should deal for her and that I would have all of my negotiations with them, and she said she was.

Q. That was the extent of your conversation?

A. Yes, I hadn't seen the deed of trust or agreement that had been made between them; and all I had was her statement, and I wanted that before I went back, because I expected to close the deal with Captain MacNab and Mr. Hanford.

Q. Did Betty at that conversation at the hotel say anything to you as to whether or not she had seen Minnie Atkins or talked with Minnie? A. No, sir.

Q. Have you a copy of that contract that was prepared?

A. Yes, sir.

Q. By Rice & Lyons? A. Yes, sir.

Q. Did you in the talk with Minnie that you had with her on Saturday I believe you say? A. Yes.

Q. Did she say anything to you as to when Tommy was born?

A. No, sir, she said that he was born in Leavenworth, Kansas.

Q. Did you go into a discussion or inquire of her as to when he died, or where? A. No, sir.

Q. Didn't you go into that matter? A. No, sir.

Q. Now, after you came back to Oklahoma with Mr. Hanford what is the next step you took with reference to this matter?

A. Well, Mr. Hanford and I arrived in Oklahoma—— Prior to going to Oklahoma, we went over to Spokane, where Harry Folk, Minnie's husband, was stationed with the band, he was there temporarily; and Mr. Hanford had Harry Folk join in the trust deed to Captain MacNab. And I talked with Harry just long enough to have him reassure me that it was satisfactory for Captain MacNab and Mr. Hanford to represent her. Then, we came to Tulsa and arrived, if I am not mistaken, on Sunday morning, and I placed Mr. Hanford in touch with Mr. Page and Mr. Josey; and then began the negotiations for a lease which finally resulted in our agreeing on a bonus of ten thousand dollars.

Q. Now, Mr. Long, getting back just a little, after you had had your conversation with Minnie in Seattle, what was your belief at that time as to whether or not Thomas Atkins was a genuine person or a myth?

A. Well, I had no reason to believe that he wasn't genuine.

Q. I mean what was your belief?

A. My belief was that he was. I was going more on the record here in Muskogee than anything else, and treated the matter with Minnie, when I talked to her, very briefly, didn't go into the question of birth at all.

Mr. Cruce: Have you any objection to the introduction of this contract, Minnie Atkins Exhibit B-11?

Mr. German: No.

The Court: It may be admitted.

Q. About when was your next step?

A. Two or three days after Mr. Hanford and I arrived at Tulsa.

Mr. Cruce: Shall I read the contract?

The Court: Well, you may.

Q. Is this a copy of the lease?

A. No, that is the carbon copy of the contract.

The Court: This is the contract that Mr. Long carried with him.

Mr. Cruce: I wont stop to read it.

Q. Have you a copy of the contract that was finally executed?

Mr. German: That has been introduced in evidence.

Q. Now, what steps did you next take with reference——

Mr. German: No, not the contract. We have already introduced the lease.

Mr. Cruce: Well, that is what I had reference to.

A. There wasn't any contract at the time. We thought we were dealing directly with Minnie and there wasn't any contract executed. Minnie and Captain MacNab were in Seattle and they executed the original lease which I left there with some changes and alterations.

Q. The contract you have referred to is a contract aside from the proposed lease?

A. To be a part of the lease.

Q. With reference to perfecting the title or something?

A. Yes.

Q. Well, let's get back to our story. What next step did you take as to procuring the lease with reference to finding Testimony as to whether or not Tommy Atkins was alive or dead?

A. The first thing that was done after the lease was signed and when it was on its way from Seattle to Tulsa, which took four days, Mr. Hanford and I made some investigations in Oklahoma. I brought him down to Muskogee, and he of course was unfamiliar with Departmental Records here; and we made a very thorough examination of every record in the Commissioner's Office affecting the Atkins family. We went —— I had made this before and was familiar with the papers. We went into the Minnie Atkins census cards, Thomas Atkins card; into the Chaney Trent family record and into the Nancy records. We went over everything and covered the ground as thoroughly as possible and even down to the letter of E. B. Miller as to the delivery of deed to his heirs, which to us at that time was an indication that he must be dead.

Q. Whose heirs?

A. The heirs of Thomas Atkins. After this examination here, we talked with William Robinson in Muskogee.

Q. Who was William Robinson?

A. A citizen of Muskogee and relative of Minnie's. William Robinson told us that Barney, his half brother, who was a cousin by blood of Minnie, would know more about it than anyone else. We went down and saw him and Carson. We saw Mitchel Wadsworth at that time, who told us considerable about Nancy's baby. We saw an Indian over by Bixby who knew something about Minnie; and we saw Sam Brown; and then went back to Tulsa. In the meantime the executed lease had reached there. The Gypsy Oil Company was in possession of the property and the decree of Court had been, as I remember, executed and filed at Sapulpa in the case between the Nancy Atkins people and the Gypsy. Just what the legal condition was I can't state. But it was agreed that Mr. Hanford and I should return to Seattle. This was along about the first of July. That we should return to Seattle and go over Minnie's life history thoroughly. Get all the facts that we could as to her son Thomas Atkins. As I recall, the purpose of this was so that we could file suit ourselves in Creek County under agreement to perfect the title as against Nancy Atkins and as against the Thomas Atkins leases and deeds which were on record. At that time there was a Nancy Atkins lease, two deeds from Thomas Atkins, and the H. U. Bartlett lease from Minnie Atkins in 1912.

Q. You mean that there [ ] on record two deeds that purported to be from Thomas Atkins? A. Yes, sir.

Q. To this allotment? A. Yes, sir.

Q. Now, go ahead.

A. So Mr. Hanford and I returned to Seattle, arriving there along the first week in July, sometime, to go over all this information with Minnie. When we first reached there Captain MacNab was away and Mr. *Minnie* and did not want to take this up with Minnie until Captain MacNab's return; so we waited some few days, and then we started in our conversations with Minnie with reference to her history, which covered a couple of days.

Q. Who was present at those conversations?

A. Mr. Hanford and myself.

Q. Well, did you at that time after talking to Minnie make a memorandum of the substance of your conversation with her? A. Yes, sir.

Q. Have you that with you? A. Yes, sir.

Q. When was it made with reference to your conversation?

A. It was made during the conversation; Mr. Hanford did most of the questioning and I wrote—we both talked, of course, but I wrote this down on a little table in her house during the conversation.

Mr. Cruce: I wish you would mark this. (Marked defendant's exhibit 12).

Mr. Hill: I want to object——

The Court: Perhaps the record will be in better shape if the record shows it is offered.

Mr. Cruce: Put an exhibit mark on that, please sir.

The Court: Now, I might suggest, that what you are about to offer, from the witness' testimony, there appears to be notations made by him at the time of statements made by Minnie Atkins, when she was being questioned; that is true, I believe?

Mr. Cruce: Yes, sir.

The Court: Now, if it is competent for this witness to testify with regard to those statements, his direct statement, now, refreshed so far as is necessary, by notations made at the time, is the best manner in which to get that into the record, rather than the notations themselves, it appears to me, on that phase of it.

Mr. Cruce: Our idea in introducing this is not to introduce it as substantive testimony, to sustain the statements that are contained in it, but it is for the purpose of answering the Government's contention that the defendant's story here is a fabrication.

The Court: In my judgment, before I have heard the argument, it occurred to me that if this is competent at all, it is competent on the question as to the good faith of these persons who were dealing with Minnie Atkins with regard to this property, and on the question of their notice or lack of notice with regard to what the Government contends to have been the non-existence of this Tommy Atkins.

Mr. Cruce: That is exactly what we offer it for.

Mr. German: Yes, your Honor, if it is competent for that limited purpose.

The Court: Yes?

Mr. German: And while that matter is up, we would like to make this suggestion about the conversation, the witness relates to have had with Minnie on his first trip up there, that we object to that conversation, too, because it is a self serving declaration, and is inadmissible, and hearsay.

The Court: You mean something that he has already related?

Mr. German: Yes, sir, a while ago he testified about a conversation that he had with Minnie when he first met her at the house.

The Court: Now, I thought of that as it was being introduced, and my thought then was that it was competent merely to determine the state of mind of this witness and those who he represented after he related it to them, must have been with regard to the situation; and for that limited purpose, because before Minnie made any statement to him it developed that there had been attempts to get her deal in regard to this land, so in my judgment it is not competent as substantive proof of the facts which Minnie purported to state; but it does occur to me to be competent as to touching the good faith of the parties.

Mr. Hill: I want to state our position in regard to that; I am not of course in any question between the Government and these parties as to the good faith, but your Honor's rule that when we offered statements of Nancy—Your Honor ruled that they were not——

The Court: You offered them as substantive proofs of fact that Nancy purported to relate.

Mr. Hill: Yes, sir. * * * * Now, this statement is further removed than the statement—it further removes than that statement.

The Court: Well, it may be a difficult thing for the Court to do, the Court must distinguish between this evidence as relating to its substantive value and its value so far as it relates to the good faith here, and that I shall attempt to do.

Mr. Hill: And that is what I want to get in the record, that we object to it as substantive testimony.

Mr. German: And now, your Honor, may it be understood that any further conversations this witness relates might be considered for the same limited purpose?

The Court: Yes, and the record may show your objection to it for all purposes, if you desire the exception noted.

Mr. German: Yes, sir.

Mr. Stuart: Your Honor, I would like to make this suggestion; Judge Hill not only offered that class of testimony, but he offered statements, declarations and words of Nancy to prove her parentage. We expect to offer the same thing from Minnie; Mr. German has made a very comprehensive objection here that no statements made by them are competent because they are self serving. Your Honor has already permitted Nancy to testify as to everything she knew about the parentage of this child——

The Court: Except that I excluded what Nancy told other parties. I excluded the testimony of other parties as to what Nancy told them after the controversy arose.

Mr. Stuart: That is right, your Honor, but in view of the comprehensive objection as to what these parties might have said, I still contend that statements made by Minnie are admissible the same as made by Nancy.

The Court: Well, to the extent that I admitted the statements in regard to Nancy, I expect to admit the same statements as to Minnie.

Q. Did you receive a telegram from Mr. Josey while you were there? A. Yes, sir.

Q. Is this the telegram?

Mr. German: On which trip?

Mr. Cruce: On the first trip.

A. Yes, sir, that telegram I received the morning I got there; it was there when I got there.

Mr. German: Are you introducing these messages—you didn't introduce the others.

The Court: I think it is unnecessary to introduce them because they were read.

Mr. German: Your Honor, the dates, I don't think were brought out and the little marks on them which cut some figure.

Mr. Cruce: Well, then I will introduce them, your Honor.

The Court: It occurs to me that the only possible bearing or interest that the Court could have would be as to the date, the contents, the person addressed, and the signature, and that has been read into the record.

Mr. German: Well, we will have them on hand, that is alright.

Q. That telegram is June 12th, 1914, Tulsa, Oklahoma; F. B. Long, Seattle, Washington. "Property looking better; use every effort to close deal. R. A. Josey." You received that telegram? A. Yes, sir.

Q. Now, see whether or not you—was that a letter or telegram that you sent?

A. This is a copy of a night letter dated June 13th, 1914.

Q. Addressed to?

A. It is not a carbon copy; just a copy that I made from my own——

Q. Who was that sent to?

A. That was sent to Mr. Josey.

Mr. German: We object to the telegram—purported copy, because it does not appear to be a copy but a pen and ink notation made on a letter head.

Mr. Cruce: I will ask him about that.

Q. You sent a telegram, did you, June 13th, 1914, to Mr. Josey? A. Yes, sir.

Q. Well, what is this document marked defendant's exhibit 12?

A. That is a copy of a night letter which I sent that night to Mr. Josey.

Q. When did you make the copy?

A. I made the copy at the time I wrote the telegram and then I put a note at the bottom, copy of the letter to R. A. J.

Q. Is that literal copy of the telegram?

A. Yes, sir, yes, sir.

Mr. Allen: We suggest, your Honor, if that telegram was sent at all, it was sent to his firm at Tulsa, and probably they have the original.

By the Court.

Q. Have you the original, Mr. Long?

A. I can't find it; Mr. Josey received it personally.

Q. Did you look for it? A. Yes, sir.

The Court: You may read it.

Mr. Cruce: Party looks to be right one but has been frightened by people already here and has called in advisers——

By Mr. Cruce.

Q. You read that?

A. "Party looks to be right one but has been frightened by people already here and has called in advisers, been with them all day. Am hopeful. Absence of one adviser, however, may be a delay closing until next week, Rogers at Aberdeene hotel, Kansas City. No proof here that boy is dead."

Q. Now, I hand you telegram dated June 16th, signed Long, addressed R. A. Josey. See whether or not that telegram was sent to Mr. Josey.

A. That was sent from Spokane, Washington on the 16th.

Mr. Cruce: "Spokane, Washington, June 16th, 1914, R. A. Josey, Tulsa, Oklahoma, Trust Agreement executed to Army officer. Bring one back with me. Here today to see husband. Leave tonight, arrive Saturday. Army man's trip not known here or in Seattle. Must be kept quiet in Tulsa. If you want wire me address hotel Spokane before 5 today. Are an abstract. Long."

A. That should be order an abstract.

Q. Now, Mr. Long that is all the letters and telegrams you have with reference to that first trip? A. Yes, sir.

Q. Getting back to this second trip now, exhibit 11——

Mr. Cruce: If the Court please, this is short and it is designated—I will let him——

The Court: Well, perhaps inasmuch as it is a statement made by him at the time, and if he refreshed his memory in regard to it, it would be very largely a reading of the statement, and he might just as well read it.

Q. Go ahead and read it.

A. Just read it as it is?

Q. Yes, sir, just exactly as it is.

A. Thomas Atkins, f.——

The Court: Perhaps, Mr. Long, it is just about a shorthand statement of what transpired there, is that so?

A. Yes, sir.

The Court: Perhaps he had better refresh his recollection and make the statement.

Mr. Hill: Let me make a suggestion; I have read about half of it and it is incomplete without his explanation; suppose we have the stenographer copy that into the record and Mr. Cruce may then examine——

The Court: Well if that is satisfactory——

Mr. German: I think I will object to it as being——

The Court: Mr. Long has that in his hands before him; no doubt before he has gone on the stand or sometime in the past he has re-read that; naturally he would have done so. Now, Mr. Long may proceed with that in his hand to state what transpired there. Your objections are already in the record.

By Mr. Cruce.

Q. Now, using that as a basis, and for the purpose of refreshing your recollection, state to the Court what that conversation was with Minnie, in brief.

A. We began the conversation with her birth. She gave us the name of her father, the name of her mother, and names of her brothers and sisters, and the date of her birth. She told us she was 13 years old when her father died, and she was 12 years old when her mother died; she said that she went to Tallahassee Mission to school when she was about 15; that she had been living with her uncle John Davis in Muskogee for a year and she went backwards and forwards to Tallahassee to his home; then about 1879—the way she fixed the date, she went to Carlisle Indian school with about 25 other Creeks, among Almarine McKellop and Betty Crowell; she said that Alice Robertson was her teacher at Tallahassee——

Mr. German: Your Honor, it is apparent that the witness is simply reading from that document; now, if he has any independent recollection about that——

The Court: No, make your objection; I am going to permit him to refresh his memory from this. He testified that he made the notes at the time. That was over two years ago; he may proceed.

A. She stated that she was in Carlisle four years——

Mr. German: We save an exception.

A. That she left Carlisle alone, George Hyde of Leavenworth, Kansas having written to his sister Mary to send out a cook; Miss Mary Hyde was an overseer of the girls at Carlisle; Minnie stated that Miss Hyde picked her out; she also stated that she paid her own fare with money John Davis had sent her, from Carlisle to Leavenworth; she figured that this was 1882; she said she worked two months for Hydes; that she quit there and went to Fort Leavenworth where she worked for four years; she said she worked for a Mr. Grodevant for three years; he was an overseer of the Military Prison; then she went to work for Mrs. Lieutenant Stafford of the Army where she worked for one year; she said that her boy right after she left Mrs. Stafford's. Now, then, I deducted or figured from that that the boy was born in 1886 or 1887, according to the way her years had figured out. She said the boy was born during the summer and that his father was dead as far as she knows; that she never heard anything about him after Harvey and Charlie were born; she first said something about a boy being born in—about a colored place, and changed this quickly and said that the boy was born—she was in the Sister's Hospital when the son was *that* and that that was a slip. She said she was in the Hospital one month afterwards and that she went right from Stafford's to the Hospital. Now, her reference to the boy being born some place other than the Hospital, I didn't write down here, because she said that was wrong.

Q. Said what?

A. Said that the boy was born some place else other than the Hospital. I didn't write that in here, but I do have a distinct recollection of it, because it came back to me afterwards; said she was in a hospital one month after the boy was born; that she went right from Stafford's to the Hospital; then she said after she got out of the Hospital, she worked for some rich Jews who lived on a high hill outside of the Post, taking the boy with her; that she worked there three months; at this time in the conversation she said that Mary Hamilton knew her in Leavenworth; that was the first reference to Mary Hamilton; she said that she named Thomas after her father; that he was illigitimate and couldn't carry his own father's name and she called him Thomas Atkins; she stated that she couldn't get any wages with the boy on her hands, she couldn't make a living, so she had to give him to some one to take care of, and she gave him to a woman in Leavenworth; that Thomas was weaned and able to take care of himself; able to walk or something to that effect; she told us that Mary Hamilton and Claude Hamilton at Fort Logan would remember who she left the boy with; that she didn't expect to leave him permanently and expected to go back and get him, and that the woman she left him with was part colored——

The Court: Does that appear on your note?

A. Yes, sir. She then said that she went to Fort Logan with the 18th Infantry and stayed in Fort Logan for eight years; that while she was in Fort Logan she received a letter to send money to the boy and she sent this money; this was 1888 or 1889; she stayed first at Fort Logan for four years until 1893; she met Biff Harrison there and two boys were born there, and Alice, all having the same father; that Alice, the older, died when she was one year old; that Biff Harrison was the beef contractor; she said that Lee, her brother, in

Oklahoma, had sent for her to come back here; she was in Muskogee, and she went back and took the two boys with her; at that time, Charlie could walk but Harvey had to be carried in her arms but was not nursing, so he must have been about two years old. I have figured and put down the geometrical marks there—that therefore that was about 1894. She said that she went to Lee's house here in Muskogee, and Lee was not married and she stayed several months with him, and then visited other relatives around over the state; she estimated at that time that she was here for two years and that she returned from Lee's house in Muskogee to Fort Logan; she said Lee met the train in Muskogee one afternoon and Kate Holden came in and she had Kate Holden take the two boys with her; she explained that Kate Holden was her half sister; Kate and I had the same father but not the same mother; and that Kate Holden took the boys home with her. The next sheet numbered but is my deductions in figuring the years and I show here—

The Court: Well, you needn't read that.

A. No. In 1895, she told us about going to the payment at Okmulgee and Thomas was alive then. She again repeated about visiting Lee and Kate Holden; that she visited Will Robinson and Cherokee Robinson; she said she was in Checotah when she heard Lee was shot; she was visiting her aunt Susie there. This was after she had drawn the money; she went back to Eufaula, and from there to Checotah; she said Lee was shot in the summer; her recollection was that the payment was in May and that Lee was shot in the summer. She said she stayed with him six days and she nursed him and they buried him in Eufaula; then after that she said that she came to Muskogee and stayed here a week and then went over and visited Nancy in Wagoner for two days and that Nancy about this time had a baby girl that was still born and that Lee had given Nancy some money; she said that Nancy's baby was born before Lee was killed, when he was running a billiard hall in Muskogee; that this was when she was in Fort Logan and Lee told her about the still born child when she came out here; she said that she went to the payment on horse back from Muskogee; she hired a horse in Muskogee; that she remembered that Sam Brown handed her the money; she didn't get it direct; she remembered that Cornelius Carr was there.

Q. Cornelius Carr what?

A. Cornelius Carr was there. She said that it must have been about 1896 when she started to Denver with John Couch; finally landed in Fort Logan the latter part of 1896 or the first part of 1897; the 7th Infantry was there at that time; she said that she was in Logan while the 7th Infantry was in Cuba;

this was in 1898 and that the 7th went to Fort Wayne, Michigan, and we joined them there—that this was in Detroit. There is another page of just memorandum. She went on, and repeating—very likely now, this was the next day—that we went back and went over this again—I can't tell. She said one month after Lee was killed in July, or August, 1895, that she went back to Fort Logan. The day before she had made it a year after. She said she went from Muskogee to Fort Logan with John Couch in July or August 1895; that she spent a year in Logan and then went to Detroit, Michigan with the 7th Infantry; Harrison in the meantime had gone to Arizona; she said that she stayed in Detroit with the 7th Infantry after it returned from Cuba for two years; she said that when she was in Logan the second time after having gone back, she heard from Thomas who was still in Leavenworth; she said that in Fort Logan, she was working for Mrs. Lieutenant Wallace. While the 7th was in Cuba I heard from Thomas by letter and he was sick; I put down there that this was in the latter part of 1899—— she didn't know just when it was. She said that she wrote a letter from Detroit to Mitchell Wadsworth. The rest of this down are all my own figures trying to add up the years and make them come out right. Shall I go into that?

Q. No, I guess not.

The Court: All the Court understood that this witness was going to relate from this data was statements made to him by Minnie at this time. What his conclusions were is another matter.

Mr. Cruce: Yes, sir.

Q. She also stated—I don't have this down here but I think Mr. Hanford took this down—when she was at Fort Logan, no, at Fort Wayne, Detroit, that she received a letter telling of Thomas' death; at that time we were particularly interested in whether he died before or after April 1st, 1899. She said she received this letter after the regiment came back from Cuba. Mr. Hanford had posted himself on the April 1st, 1899 matter and of course he was interested. We went over that matter of that letter, two or three times.

Mr. Cobb: We desire to object to this testimony.

The Court: Your objection will be noted as to this testimony. The Court has already announced the limited extent in which it is received.

A. She said—we went over that with her two or three times and she said that she received that letter after the regiment had returned from Cuba. We then wired the War Department, or Mr. Hanford did, to find out just when that regiment did return so as to fix that date.

Q. Now, had you up until that time received any information from any source that indicated to you that there never was any child named Thomas Atkins? A. No, sir.

Q. Had doubt on that matter arisen in your mind?

A. No, sir.

Q. Now, what did you ascertain that was the time when this——

A. I have forgotten that, Mr. Cruce. Mr. Hanford has that telegram.

Q. Now, have you any letters or telegrams—erase that question. I don't notice any letters or telegrams here to Mr. Page. How did that happen, your communications were all sent to Josey?

A. Well, Mr. Page was not active in the Gem Oil Company; Mr. Josey was the active head of the Company and naturally all communications were to the Gem Oil Company or to Mr. Josey.

Q. Now, have you any more letters or telegrams that you sent to Josey or the Gem Oil Company during this second trip out there? A. Yes, sir.

Q. Let's have them here, please.

A. The first one here was a message in code, a translation is attached to it.

Q. Have you the date of that?

A. Yes, sir, the date is on the message.

Mr. Cruce: The first is a letter written to Mr. Josey on July 7th. I will just read that to the Court.

Mr. German: We object to that letter.

The Court: Yes, your objection goes to this.

Mr. Cruce: July 7th, 1914. Dear Mr. Josey; You will recollect that at the station Saturday evening you remarked upon the matter in which——

The Court: Maybe you had better let Mr. Long read it.

A. "July 7th, 1914. Dear Mr. Josey: You will recollect that at the station Saturday evening you remarked upon the manner in which Shirk, lessee from Harvey Harrison, was stiffening in his position. That remark was occasion by Kenn[illegible]'s statement as to a talk he had had with Shirk. It has since occurred to me that Shirk and his attorneys may be preparing to assert that Minnie Atkins is a non-citizen of the Creek Nation, on account of the fact that she is not on the final rolls. I mentioned this to you once before and also discussed the same question with Rice and Lyons. The supplemental Creek Agreement provides, you know, that where there are citizen heirs, non-citizens can not inherit. Harvey and Charles Harrison are on the final rolls and Minnie is not. Is Minnie a citizen? She is a Creek Indian by blood but not on the final approved rolls. However, with reference to the census card, which should have arrived by this time, will show that she made an effort to be enrolled, but was found to have been out of the state on April 1st, 1899. In 1900 she filed a power of attorney for Thomas Holder, who enrolled her two sons. She was alive on that date, and only had to go to Oklahoma to cinch her rights. I hope this matter has already been thoroughly gone into, but it strikes me that this one question is the only hope which Shirk, Ball, et al., can have. You remarked at one time that Judge Biggs' opinion that if Minnie lived she is the sole heir. It may have been that Bartlett was working on the non-citizen theory when he bought the quitclaim deed from Harvey Harrison. Hanford is still talking right. We arrive in Spokane tomorrow morning at eight. You will have received wire message from me before this letter reaches you. Trusting there is nothing to this non-citizen fear, I am, Sincerely, Long."

Q. Now, get the next communication there in the order, so we can get through with them as quickly as we can.

Q. Here is a telegram of July 8th, from Seattle, Washington, to Gem Oil Company. Did you send that telegram?

A. Yes, sir.

Q. "Seattle, Washington, July 8, 1914, Gem Oil Company, 472 First National Bank Building, Tulsa, Oklahoma. Captain MacNab out of City. Will return tomorrow—— Nothing accomplished today as Hanford desires to see him before going ahead with work—— Long."

Mr. Cruce: Telegram of July 9th, 1914. "Frank B. Long, Care of E. C. Hanford, Seattle. Secure all facts possible about Thomas they are framing to produce one and are going to do everything possible to accomplish it, wire me anything about him which you think needs immediate attention. R. A. Josey."

Telegram Seattle, Washington, July 9, 1914, to the Gem Oil Company, First National Bank Building, Tulsa, Oklahoma. "Woman story clear as to life history and birth of child, but so far she is unable to remember name of people with whom she left him in Leavenworth may recall name by tomorrow—she gives [] can be verified by War Department Records as to location of regiment—

we are doing this by wire will have affidavits executed tomorrow everything looks good. Long."

Q. Did you send that telegram?

A. Yes, sir. This telegram was in code; the translation is attached to it.

Mr. Cruce: (Reading). "Minnie last heard of boy in summer 1899 was alive then but sick thinks he died soon after. Boy born 1886 or '7 Sister's Catholic Hospital, Leavenworth, records there should show."

Q. Did you send that telegram?

A. Yes, sir. This is another message in code with the translation attached to it.

Mr. Cruce: This is July 14, 1914. "Gem Oil Company, First National Bank Building, Tulsa, Oklahoma. After conference today am convinced Minnie does not remember name of people with whom she left child. Will keep after her. Long."

The Court: Is that another code message?

Mr. Cruce: Yes, sir, the code is attached to it.

The Court: What was the occasion of changing to the code at the time?

A. Mr. Eberly, the book keeper in the office, and I had a code which we frequently used. It was not our purpose to have our visit out there generally known.

The Court: I notice at a particular time the change to have been made from sending your messages open.

A. And then returned and sent them the next day open.

Q. How many days did you have code messages?

A. I think only one day and perhaps two.

Q. The first July 9th and the next July 14th?

A. Perhaps two days.

Q. Were there any intervening messages?

A. No, sir. I think you have the original of that, that is the carbon. I think you have the original of that Mr. Cruce, that is the carbon.

Q. Where is it?

A. You have read it, that is July 10th.

Q. Here is one July 10th, 1914, to the Gem Oil Company from Seattle, Washington. "Man named Dr. Thomas representing Williams Robinson of Muskogee tried to see woman today but didn't get to talk to her affidavit executed today am mailing copy to you tonight Minnie gives name of woman on Denver who will remember name of Thomas custodians will see her on my way back Minnie's information is that he died 1900 or 1901 she received letter telling of his death but does not remember who wrote letter will see her again in morning she is trying to recall names needed. Long." Did you send that telegram? A. Yes, sir.

Q. Telegram from Tulsa, Oklahoma, July 11, 1914. "F. B. Long Ranier Grand Hotel, Seattle. Do not leave there until advised by us. Be sure you have right party. R. A. Josey." Did you receive that telegram? A. Yes, sir.

Q. Telegram, July 11, 1914, Gem Oil Company, Tulsa, Oklahoma. "Affidavit which will reach Tulsa Monday gives dates and names for identification. Had woman's photograph taken today. Will mail finished copy Monday. Woman declares she will yet recall name of person who wrote her that boy died says she is sure name will come to her in time. Long." Did you send that telegram? A. Yes, sir.

Q. "Seven-thirteen-fourteen. Am sending photos by first class mail special delivery. They are important. Letter is enclosed with photos. This letter to let you know they are on the way and to look for them. Long." Was that a telegram? A. That is a letter.

Q. Well, now, you say: "Letter inclosed with photos"?

A. That was the letter transmitting the photos.

Q. This was the letter?

A. Yes, sir, that letter was mailed to the Gem Oil Company but was not addressed to any particular individual. Mr. Eberly always opened the mail and saw that it got to the right place.

Q. It is not signed?

A. I think it is signed. It should have been. I wrote it.

Q. You wrote this letter at the time indicated?

A. Yes, sir.

Q. 7/10/14? A. Yes, sir.

Q. Did you mail it? A. Yes, sir.

Q. Where did you get it, Mr. Long?

A. Out of the office file.

Q. "Minnie's affidavit herewith inclosed. I believe it covers her history. Two important points she is shy on memory, she swears she cannot remember the name of the woman in Leavenworth with whom she left the boy. Neither can she remember the name of the person who wrote her that the boy died. However, she stated this evening she would do her level best to remember these names. The most important date in her narrative, when she went to Fort Wayne, which (Fort was after she had been there quite a while, after April 1, 1899—that she heard the boy was dead) is sustained by telegram from Washington, giving date when Seventh Infantry reached

Fort Wayne from Cuba. I did not put in years in every place in affidavit, because she could not be definite. However, I am, on next page, showing a table with all dates, which can be verified."

A. That page is gone. It may have been left in the file, but it is lost some place.

Q. "I would suggest that facts in affidavit be kept secret. I hope to get out of her tomorrow the names of the custodians of the child. Captain MacNab was to have been here yesterday, he will not arrive until next Tuesday, is out on a "hike" with his regiment."

A. This is a letter dated July 13, 1914. "In a recent telegram Mr. Josey admonished me to be sure I had the right party. While I am perfectly satisfied our Minnie is the right Minnie, still I know there have been, in the past, many clever frame ups pulled off in identification. I am therefore transmitting two photographs of Minnie—— One alone on her front porch and the other by the side of her soldier husband, in civilian clothes.

The Court: Now, just let me find out about this letter, will you?

A. The 13th.

The Court: Is that one of your letters?

A. Yes, sir.

The Court: July 13, 1914.?

A. Yes, sir.

The Court: Is that the letter that was written accompanying the photograph?

A. That and the little memorandum; I think I put the photographs under separate cover.

The Court: All right. Proceed.

A. "Both likenesses are good of the woman. I instructed the photographer not to "touch up" the photos, so that they would be natural. Would suggest that, in order to reassure all of us and make identification complete, you have Sam Brown, Mitchell Wadsworth (lives five miles west of Coweta) William Robinson, of Muskogee, or Barney Robinson, of Carson, examine the photos and say whether the woman is Minnie Atkins. Or John Couch of Muskogee. Couch is the man who went from Muskogee to Denver with Minnie in 1896. His brother Frank Couch in Muskogee would also know her. Reference to John Couch is made in the affidavit which you have. And, by the way, he might know something in re Thomas. Will be glad to have you wire me results of identification of photos.

None of these people have seen the woman since 1896—eighteen years. Minnie says she has not changed much in eighteen years, except as to weight. She says she always was large, but that she has gained considerably in the last ten years. There are yet, as stated in previous letters and telegrams, two things which she must come through with—the name of the colored woman with whom she left Thomas in Leavenworth, and the name of the person who wrote her that he was dead. I believe she remembers these names and is withholding them for a reason. MacNab will be home tomorrow and I feel that he will make her come across. My only fear is that she lied as to in telling of his death and that it occurred much earlier than is shown in the affidavit. Am to see her this afternoon and will wire you tonight. I trust the photographs herewith will be of help. As additional means of identification, here are two camera views of our friend Minnie. These, with the three photos I mailed today should be sufficient."

Q. Here is a telegram, dated Seattle, Washington, July 13th, Gem Oil Company, 412 First National Bank Building, Tulsa, Oklahoma. "MacNab has been delayed return tonight with his help hope to get names from woman tomorrow Can't do much more good here Want to see Portland man and Denver woman enroute home Shall I follow instructions in your telegram of the 11th to remain here until you advise me to leave. Long." Did you send that telegram? A. Yes, sir.

Q. You don't give the year, July 13th?

A. That was all 1914.

Q. Who was the man in Portland now you refer to?

A. I went to Portland.

Q. This says "Want to see Portland man and Denver woman." Who was the Portland man?

A. The Portland man was Micco Harjo.

Q. Who was the Denver woman?

A. Mary Hamilton.

Q. Did you see her on your way?

A. No, I saw Harjo, but I didn't see her. The next begins at Portland.

Q. Telegram to the Gem Oil Company, Tulsa, Oklahoma, "Bartlett in Portland. Understand Alice Robertson of Muskogee expected here Saturday to go to Seattle to identify Minnie. Also that Bartlett is looking for Thomas Have not seen Bartlett Will stay away from him Long." Did you send that telegram? A. Yes, sir.

Q. "Portland, Oregon, July 16, 1914. Gem Oil Company, First National Bank Building, Tulsa, Oklahoma. Wired you this afternoon Bartlett is here Sadie has been here for several days She went to Seattle this morning with friend of Minnie's and tried to see her but failed Looks to me either like frame up or fake Thomas or effort to win Minnie away from Hanford, Hanford talked with Minnie's friend and her conversation indicated efforts tending to convince Minnie Thomas is alive—— I will stay here until Bartlett leaves and keep in touch with Seattle by 'phone Arrangements made for holding check as requested Am at Oregon Hotel. Long." Did you send that telegram on that date? A. Yes, sir.

Q. "Portland, Oregon, July 17th, 1914. Gem Oil Company, First National Bank Building, Tulsa, Oklahoma. If you are giving notice of taking depositions include as witness Mrs. A. M. Machack, of Portland, she was with Nancy when her baby was born, says it was a boy but died after birth, was buried in Wagoner I have affidavit Will remain here until something develops in matter Wire you about yesterdays. Long." Did you send that telegram on that date?

A. Yes, sir.

Q. "July 18, Gem Oil Company, Tulsa, Oklahoma. Phone Muskogee ascertain if Alice Robertson left and when Answer. Long." Was that telegram sent by you? A. Yes, sir.

Q. And on that date? A. Yes, sir.

Q. And likewise this telegram: "F. B. Long, Hotel Ranier Grand, Seattle Washington. Alice Robertson left Muskogee Tuesday night for Seattle. Eberly." Who was Eberly?

A. He was the manager, office manager.

Q. For the Gem Oil Company? A. Yes, sir.

Q. "F. B. Long, Oregon Hotel, Portland, Oregon. Unless absolutely necessary for you to be there come with Hanford and Minnie who are *living* for Tulsa? Charles Page." Is that the first communication you had with Mr. Page?

A. Yes, sir.

Q. "July 19th, Gem Oil Company, First National Bank Building, Tulsa, Oklahoma. Hanford leaves this afternoon. I am leaving this morning meet him in Kansas City B still in Portland You can wire me care Oregon Washington train No. 18. Long." Who is "B"? A. Bartlett.

Q. You sent that telegram did you? A. Yes, sir.

Q. On the date indicated? A. Yes, sir.

Q. Now, Mr. Long, after you got back from your second trip from the west, did you make a trip to Leavenworth?

A. Yes, sir.

Q. How many trips have you made there?

A. In this case?

Q. Yes?

A. It would be very hard to tell. I suspect I have been up there fifteen or twenty times in the last two years.

Q. What have you been going there for?

A. To look up facts about the birth and existence of Thomas Atkins and Minnie's life while she was there.

Q. How many people do you think you have interviewed in Leavenworth in your efforts to find out?

A. A very great number.

Q. Did you see as many as a hundred?

A. Oh, several hundred.

Q. What has been your purpose since you began the investigation of this case with reference to finding out about Thomas Atkins?

A. Our purpose was to find out everything that it was possible to know. We ran down every source of information I have been almost from coast to coast. Sometimes we would have some information that amounted to nothing. We did everything that any one could possibly do to find out all about it. We didn't leave any stone unturned, if we did we don't know it.

Q. Well, was it your effort to find out the facts as they actually existed or to color the facts?

A. We tried to find the facts, the naked facts as they existed.

Q. Have you ever sought to procure anyone to testify falsely in this case? A. No, sir.

Q. Have you ever entered into any agreement with anyone to pay him to get false testimony in the case?

A. No, sir.

Q. When did you first hear about Mr. Long—or Carter, Henry Carter? A. Sometime in the fall of 1914.

Q. You took a lease from him? A. Yes, sir, and a deed.

Q. And a deed? A. Yes, sir, the deed was to Minnie.

Q. The deed was to Minnie?

A. Yes, sir, and the lease was to the Gem Oil Company.

Mr. Cruce: Has that lease been introduced?

Mr. German: Yes, sir.

Q. Now, what effort, if any, did you make to find out about Henry Carter?

A. Made some inquiry around Leavenworth, and on one night Mr. Josey, Dennis Jones, and I, and Henry Carter in a car went to the home of Mrs. Eddie Wright, whom we had heard was the mother of Henry Carter; and we had quite a long talk with her. Then I made a trip to McLouth, Kansas, and Oscaloosa, Kansas, and interviewed quite a few people who had known Henry. And finally came to the conclusion that he was not Thomas Atkins, Minnie's son.

Q. What was your purpose in making those inquiries, were you trying to hunt testimony to defeat Henry Carter's case or find out the facts?

A. At that time I was trying to find the facts. We had taken a lease from him. He had signed a deed to Minnie for a consideration, and I was then looking him up.

Q. What was your purpose in taking that lease?

A. Well, at that particular time the claim of Nancy Atkins was being advanced; we had a fight on our hands. It was commonly reported to us that Bartlett and the Gypsy Oil Company and Sadie James were trying mighty hard to find Tommy Atkins and were about to find him and he was alive. And this young man came along and I had a talk and he told me a plausible story, which I still believe he believed himself; and he had some indications that he might be the Thomas. There were some things in his story which were reasonable. He was very frank and honest about everything; gave the names of everybody that ought to know him; told me about things in Muskogee down there; told me he came to Mr. Shoenfeldt's office, the German speaking man he said, trying to establish himself. And that looked to me like he was telling the truth. And then he very frankly and openly gave me the names of all the old Carter neighbors over around McLouth, and told me to go there and see them; and I did go to see them.

Q. But before going you took a lease?

A. Yes, sir, took a commercial lease on the surplus and then I wired Rice & Lyons at Muskogee to send me up a departmental form for the homestead, inasmuch as Thomas was enrolled as a half-blood. I even went so far as to file the notice required by the Indian agent at Muskogee that the departmental lease was taken.

Q. Now, I hand you a letter on the letter head of the Gem Oil Company, Tulsa, dated December 15, 1914, and ask you what that is?

A. That is a letter that I wrote to Mr. Hanford.

Q. With reference to Henry Carter?

A. And some other matters.

Q. "December 15, 1914. Dear Ned: Just came back from a three weeks' absence." Where was this letter written from? A. The letter was written from Tulsa.

Q. "Just came back from a three weeks absence. Spent Thanksgiving back with the homefolks in Indiana, immediately afterwards went to Leavenworth, where White and his bunch were taking depositions. They tried to show that the boy was drawn in 1896, but 'fell down,' as we beat them at every turn. We thought we had located Tommy last week, but he was not, although he had a lot of earmarks. Will write you a long letter in a day or two and give you all the 'dope.' Wrote to Minnie this P. M. Long. Mr. E. C. Hanford, No. 212 Coleman Building, Seattle, Washington." Was that letter written before or after you had made that trip out in the country to investigate the witnesses? A. Afterwards.

Mr. Cruce: I think that is all, your Honor. There is some more correspondence of a later day, I haven't had time to look it over.

Q. Mr. Long, is there anything else you think of now immediately connected with your connection or that will throw any light on your connection with this case, if there is state it?

A. Well, if you wanted me to state, I think that our connection with Sadie James should be gone into.

Q. Yes, I had overlooked that. Tell me your first connection with Sadie James and what you did?

A. That was in the month of August, 1914, I believe it was the 20th. I can get the exact date. Sadie James came to our office and told me that she had quit working for Bartlett; that they had been all over the United States looking for Tommy Atkins and that they had five or six located but that they didn't prove out and that Bartlett was finally through. She says, now, I have got a lot of information that will be valuable to you. This conversation was in the Gem Oil Company's office. Mr. Josey was then out of the city. And I said, well, now Sadie, we had better go in and talk this over with Mr. Page. So we went out around through the hall to Mr. Page's office and I introduced her. She then repeated the same conversation.

Q. Was Mr. Page acquainted with her at the time?

A. No, sir, I told him who she was. She recited the same statements. Mr. Page says, well I am busy this afternoon; and he was. Our conversation was at a little railing just as you go in. He told me to bring her out to the park tonight and I will meet you out there about eight o'clock. He frequently transacted business out at the park; I was out there often and Mr. Page was there every night.

Q. What park?

A. The park at Sand Springs, the park that Mr. Page owns and maintains. I told Sadie to leave town about the seven-thirty car. I went out early and I met the eight o'clock car and Sadie came with her husband. It was necessary for me to meet the car; she wouldn't have been allowed in the park; the negroes are not allowed in the park. I knew Mr. Page was up by the dance pavilion or the lunch stand and we walked up there, and three of us, and found him there and sat down. And Sadie says, now you folks are mixed up about Thomas Atkins; says I know all about him; says I know where he was born and where he lived and I know all his life history and where he died and I can prove it for you; I can get the witnesses. Mr. Page says Sadie that is just what we want—I will say, prior to the time that Minnie had testified at Sapulpa, that in accordance with the statement she made to us in Washington that Thomas Atkins had been born in Leavenworth. I didn't find anything and Mr. Hanford did find where she had been there as Minnie Peterkin. And we at that particular time was just preparing to go to Leavenworth and make a very thorough investigation, when Sadie James came in with this information. And talking over with her our conversation she said I know the people and I know all about him; and she talked as she does, talked a streak. And says I know them better than anybody. Mr. Bartlett has given it up, I can't find him and I know he is dead now and I can prove it. That thing interested us very much, and she said I must be paid for it; Mr. Bratlett was to give me a thousand dollars on my first trip and he has been giving me money right along. Mr. Page says Sadie if you can find this evidence, these witnesses that will prove what you tell us, we will give you a thousand dollars for it. She said, Mr. Page, I want a contract. He said well that is all right, you come to the office tomorrow morning and we will have the contract. That finished the conversation and it began raining and rained pretty hard for a while and we all walked up to the figure eight where there was shelter. Mr. Page and Sadie walked on ahead of her husband and I and they sat down there on the only two chairs; and I sat over some distance from them, not to exceed five minutes; it was just a little shower and it quit raining and they went on down and went to town. The next morning Sadie came to the office about ten o'clock, and I prepared a little agreement on the back of an envelope. Wrote a check for a thousand dollars and put it in——

Q. You wrote the agreement yourself?

A. Yes, sir, I took it up and had it O. K'd. by Mr. Rice, who was our attorney in the same building, and brought it down, and at her suggestion it was placed in the First National Bank with Mr. Bradshaw, the Cashier.

Q. That is the envelope that has been introduced?

A. Yes, sir, the check for a thousand dollars was sealed in the envelope. The check was to be delivered to her when she carried out her contract. We left Tulsa that night. I went on the Frisco and I believe she went on the Santa Fe, got in Leavenworth the next day. I saw her—— No, I got over there sometime a little before noon and couldn't locate her. She was to call me at the hotel. Along in the afternoon sometime I did locate her and she was drinking pretty hard. And she said come down to Martha somebody and she told me where it was; and I went down there and found it was a little one room brick shack in an alley, and I stood in the door and talked to her and she says I will be all right in the morning, she had been drinking. So, the next morning she called me up at the hotel and I went back down where she was and she was there. We stood in the door, I didn't go inside. And she introduced me to Rube Smith as a man who would know all about Thomas Atkins. She had previously told me that Rube Smith was the father of Thomas Atkins. Well, Rube Smith and I went back to the National Hotel to my room and had a talk. Rube never said he was the father of Thomas; Sadie told me that he was; he told me I might be I don't know. He never said he was. The fact is, I questioned him pretty considerably if he was, I wanted him to admit it. Then he went on and told me what he knew about Minnie. That when he first knew Minnie he was running a grocery store and Minnie came by the store, and told *me* about where she worked and about her having worked at the Post and about the birth of Thomas, he fixed the year as 1885 or '6, he wasn't sure which year it was.

Mr. German: Who is this you are talking about now?

A. Rube Smith. That finished that conversation, and later on in the evening I met he and Sadie, and they told me tomorrow we will see a woman who knows more about Minnie than anybody. The next morning I met them and they took me to Kate Logan. She was a very old negro woman. She was ill at the time. Dr. Jackson was there and Dr. Jackson, her physician, said we shouldn't talk very much to her on account of her condition.

Q. Dr. Jackson, where does he live?

A. In Leavenworth. We talked to Kate Logan, however, a little while and she told me when Minnie first came to work for George H. Hyde that she was the laundress, that she did the family washing. That was getting pretty close to Minnie's arrival in Leavenworth. And told me she knew all about Minnie; told me about the birth of the child and how long it lived and that she knew the child for some years around Granny Letcher's house——

Mr. German: The Court understands that we are objecting to all conversations with others as well as with Minnie.

The Court: Yes.

A. She told me she didn't know what became of Minnie, that Minnie left there some year and a half or two years after the baby was born; and she never heard from her any more. Told me where the baby was born and told me that Dr. John McCormick waited on her. Smith was present at this conversation and said that that was right, that Dr. John McCormick was there. That conversation lasted perhaps thirty minutes or more, and the old lady commenced to get pretty weak. But I went back down town and got a stenographer and reduced what she had told me into writing in the form of an affidavit and arranged to go back the next morning. I called Dr. Jackson and told him that Kate had told me everything that was necessary. I went back the next morning and then she told me she was afraid she was going to die. She was a Catholic and the fear of death was hanging pretty heavily on her. But she signed the affidavit by mark, witnessed by Rube Smith and the young lady I had there as a Notary, and by Rube Smith's son. She afterwards died, two or three months afterwards. Then the next person Sadie James told me about, but didn't take me to see, she told me about Sam Nash and where to find him. Prior to this, however—— I am a little ahead of my story. I then, independent of Sadie James went down to look up the Seneca Street location. I walked all around the block and in and around the lumber yard and across the street to Crilly's barn and inquired from Crilly how long he had been there. Crilly told me he had lived in Leavenworth—— Well, without going into his full conversation.

The Court: Well, we will take a recess until two o'clock this afternoon.

And thereupon Court recessed until two o'clock P. M.

And thereafter and at 2 o'clock P. M., Court having convened pursuant to adjournment, further proceedings herein were had as follows:

FRANK B. LONG, being recalled further testified as follows:

Direct Examination by Mr. Cruce.

Q. Mr. Long, just before the noon recess, you were talking about your interview with Mr. Crilley. As briefly as you can, state what that was.

A. Well, I went to Mr. Crilley because he was in the neighborhood of 217 Seneca street where I had been told Thomas Atkins was born to Minnie. I found from Mr. Crilley that he had lived there a great many years and was well acquainted with the neighborhood. I asked him if he ever knew an Indian woman around there that they called Indian Minnie; he replied that he did; that he did know an Indian woman that they called Indian Minnie, about 28 or 30 years ago; that she made her headquarters at Granny Letcher's place across the street from his livery barn; I asked him what he knew about a son she had there and he replied that he knew something about it; it was generally reported that she had a boy—that he didn't know about the birth absolutely but that it was reported that she had a son there along about that time, and that his name was Tommy. We went over—then I said, now, Mr. Crilley, you have lived here a great number of years—you are in the livery business and you know the people have lived in this community and I would like to have you take me around to them. We sat down there and I wrote down some forty or fifty names that he gave me. Then I told him—then I said, that Sadie James had told me about a one-armed boy who used to live there and a relative of Granny Letcher's who would probably know more about Indian Minnie and her son than anyone else, named Sam Nash; and I asked him if he knew him and he said that he did and that he worked for Ed. Blockberger. We got in his car and drove to Blockberger's Meat Market, some six or eight blocks away; and I saw Sam Nash and had the same conversation with him that I had with Mr. Crilley and he made the same statement about Indian Minnie having been at his grandmother's house and about the boy; he also gave me a number of other names.

Q. Who was that—Nash?

A. Sam Nash, to look up; that long late in the evening. That evening or the next morning, I saw a fellow named William Parker who gave me the same information. I can't just remember who took me to William Parker but I talked with him that night—I know it was after dinner in the evening. The next morning then, I engaged Mr. Crilley and his automobile for the entire day and we saw that day, I suspect twenty-five or thirty people. We saw any number of people who lived, both colored and white, who lived in the Granny Letcher neighborhood in 1885, who never heard of Indian Minnie nor of a Tommy; never heard of a boy around there—didn't remember it; we spent that whole day. In the meantime I had been in communication with—talking with Sadie James over the telephone—she called me up a couple of times, and I told her I was working and getting information and she said she was doing the same thing. I had affidavits from Kate Logan and Sam Nash, and William Parker; I then,—that day, then, I employed Rube Smith. I was a stranger in Leavenworth and didn't know around, and I wanted to get this information as quickly as possible. I employed Rube Smith to look up information for me; told him that I was going back to Tulsa and to have as many people located as possible, who were familiar with the Granny Letcher house.

Q. What did you agree to pay him?

A. Five dollars a day; agreed to give him five dollars a day and I also agreed verbally, this was not in a written contract, that if we won the law suit in question, I would pay him five hundred dollars and five dollars a day for each day that he worked. I went to Tulsa that night with the affidavits to consult with Rice and Lyons and Mr. Page and Mr. Josey. I spent probably two or three days in Tulsa; some other business had to be attended to before I could go back; and in the meantime Mr. Hanford, was looking up also some information in Leavenworth and had gone east to Boston to see Peterkin. I went back to Leavenworth and again met Sadie James; she told me that she was working on a place where Thomas Atkins had died; at no time did we *had* even the slightest suspicion that he had not existed because I had seen people who I considered reputable who told me, but we were very much concerned about whether he was dead. The Gypsy Oil Company and Bartlett were still working on the theory that he was alive. After about the second day, Sadie James called me up and said—asked me to come over to where she was rooming. I went over—in the meantime, however, she had made a trip out to Weldon, Missouri, and another trip she had made to Pilot Knob claiming to have had information that that is where Thomas died, and was buried, and she was not getting any place. She called me over—I went over to Ben Samuel's rooming house where she was staying and went up stairs and saw her. I told her that she was not getting any information; I didn't think she was doing anything that amounted to much —she was there on expense; she then made me this proposition; she said, now, I will tell you what I will do—and I can't quote her literally because she talked too fast and said too much; but the substance of her assertion was this—that if I would give her five hundred dollars, she said she fallen down on finding death or indications or proof of death at Weldon or Pilot Knob but she said if I would give her five hundred dollars, she would go over to Kansas City among some people that she knew over there, and she would find the grave and have it all fixed up for me when I got there. That was the first false move she made and I told her no, that I didn't want her to do that.

Q. What did you do in reference in communicating that matter——

A. I immediately went back to the National hotel and telephoned the office; I don't remember who I talked to. I either talked to Mr. Eberle or Mr. Page, and I telephoned the office Sadie James wasn't acting right and I wanted her sent for. I said I don't want to fire her and get her out of town because she is dangerous and I don't want her ill-will up here until I get all this information looked up but I want her out of town and you send her a telegram to come home.

Q. Was that the same day she made this proposition?

A. That was the same evening, that was the night. I says I wish you folks down there would send her a telegram to come to Tulsa, and that would relieve me of having her go.

Q. Did you get any response to that?

A. They said they would wire her and they sent some telegrams.

Q. See if you have a copy of the telegrams?

A. I had them here this morning, they have been misplaced. There is the first message that was sent to her.

Q. This is the telegram, "September 18, 1914, Mrs. Sadie James, 221 Shawnee Street, Leavenworth, Kansas. Unless you have something of importance on would like to see you in Tulsa tomorrow morning, wire answer immediately. Gem Oil Company." Have you any recollection now as to how long after you had talked with your people over the telephone before that was sent?

A. I think that was sent the next morning, the hour will probably be on there.

The Court: That is a carbon copy of the file?

A. Yes, sir, that is a carbon copy from our office files.

Q. You mean from the office of the Gem Oil Company?

A. Yes, sir.

Q. Can you see anything on there about the time?

A. No, not on that carbon.

Q. What other telegrams were sent?

A. She went away the next morning some place, I don't know where she went, because here is the answer to it. I didn't see her any more, I don't know what became of her.

Q. "Leavenworth, Kansas, September 19, 1914, Gem Oil Company. I just got back from the country. Will be there in the morning. Sadie James." Where did that telegram come from?

A. That telegram came from Leavenworth.

Q. Where did you get it? A. Out of the files.

The Court: What is that? Is that the original message?

Mr. Cruce: Yes, sir.

The Court: This seems to be a copy. This isn't a message which came through the telegraph office?

A. Yes, sir.

Q. This first one was a carbon.

The Court: What is the date of the last one?

Mr. Cruce: This is September 19, 1914.

Q. Is there any way you can tell when that telegram was received?

A. Well, that telegram is marked collect 1:15 P. M. at Leavenworth.

Q. Now, what other telegrams have you?

A. Now, that telegram, that is Mr. Eberle's handwriting, that was sent with reference to her seeing Mr. Josey, but apparently she had left, because Mr. Eberly has written on there that they were not able to locate her, that she had gone.

Q. This is a carbon copy is it? A. Yes, sir.

Q. And it is taken from the files of the Gem Oil Company?

A. Yes, sir.

Q. "September 19, 1914. Mrs. Sadie James, 221 Shawnee Street, Leavenworth, Kansas. Postpone coming down until tomorrow night and tomorrow morning at nine o'clock call R. A. Josey, Baltimore Hotel, Kansas City. Gem Oil Company." This notation on there "Not able to deliver, party left town", whose handwriting is that? A. Mr. Eberle's.

Q. Who is he?

A. Office manager for the Gem Oil Company.

Q. What connection if any did you have with Sadie James after she made the proposition to go over to the Missouri Cemetery?

A. Not any more connection. I never talked to her after that.

Q. Do you know whether she was ever sent back to Leavenworth by the Company to perform any further services?

A. Prior to that time, no she wasn't. Now, I can't recall without refreshing my memeory from the records whether she went back again to see Dennis Jones or not, whether that was after this or before. I think, however, that the arrangements for Dennis Jones were made prior to this. The date of his contract would show. I was with her for a very short time in Dennis Jones' office, but I would have to refresh my memory by the day of the contract made by Dennis Jones.

The Court: Wasn't that September 23rd?

A. Well, then, she made another trip to Leavenworth.

Q. That was after this? A. Yes.

Q. Your telephone was apparently the 17th or 18th of September?

A. 19th I think. I didn't go back to Tulsa but I didn't see any more of her. If that contract was dated September 23rd, then she came back to Leavenworth and saw Dennis Jones.

Q. Before you had left? A. Yes, sir.

Q. Repeat again the substance of what you told your office when you called them over the 'phone?

A. I told them when I called them over the 'phone that Sadie James was not acting just right that she had made a proposition to manufacture some evidence and that I wanted her out of town, but I didn't want to tell her to go myself. I didn't want her ill will but I wanted her away from there.

Q. Now, what was the next step you took with reference to this matter?

A. I then stayed in Leavenworth for the next two or three days and saw other witnesses, other people rather. I spent one day in Kansas City at the time to see Elof Crilley.

Q. Who was he?

A. He was a son of George Crilley. I saw a great number of people in the next two or three days. I know I used Mr. Crilley's automobile almost continuously going from one place to another. I went with Rube Smith to see some people. I was very anxious then; I had heard of Dennis Jones' activity toward locating Thomas Atkins for the Gypsy and I was very anxious to get in touch with Dennis Jones. That is when—— I was mistaken when I said I didn't see her any more. That is when Sadie James returned to Leavenworth and Sadie James came back and told me that Dennis Jones was through with the Gypsy Oil Company and to go down to his office and see him. I went down to the office with Sadie and had a very brief conversation with Dennis in which he told me that the Gypsy had written him a letter which he had received that day or the day before that they didn't want him to work for them any longer, that they were dissatisfied with his work or something; and he said I am free to help you folks all I can, but I would rather make my arrangements with your employer than your attorney. And I was willing for that and told Dennis that I would pay his expenses down to Tulsa. I left Leavenworth then that day or the next day and we received a telegram from Dennis Jones that he couldn't come on account of some business in Court. And I think about the third or fourth day afterwards he wired that he was coming down. I know that Sadie James met him at the station, at least I was so told—and took him over into the negro part of town for his breakfast, and they came up to our office between nine-thirty and ten thirty. They came into my office and Dennis and I talked very briefly. He said that he wanted to see our attorney. I took him up stairs to Rice & Lyons and wasn't present during their conversation. I went back down stairs. Sadie James was up there with him part of the time and afterwards went away. Along in the course of an hour or so, Dennis Jones came down and said he had made a contract with Rice & Lyons and Mr. Page, who had been called up there in the meantime. And I read the contract over before it was signed. It was prepared by Mr. Rice. Dennis went back to Leavenworth that night and I went back the next day or so. In the meantime Mr. Hanford had come to Leavenworth, and I told Mr. Hanford that I had found a very valuable line of information. I took Mr. Hanford to see Mr. Crilly and I think perhaps one or two others and he talked with them. He had talked to some other people that I hadn't seen, some names that I had given him. We then agreed after another conference at Tulsa that Mr. Hanford should go out to Seattle and discuss this line of evidence with Minnie. Minnie having previously testified as I stated at Sapulpa.

A. Mr. Hanford left here for Seattle and in about a week or ten days we then determined upon taking some depositions. We had in the meanwhile—the suit had been filed in the Creek County Court in which Minnie Atkins was the plaintiff against the Nancy Atkins' interests, and these different Tommy Atkins who were claiming——

Q. Suit to quiet title?

A. Yes, sir, for Minnie. Mr. Hanford was gone out there—I don't know how long, perhaps a week or two weeks and came back with Minnie. I met them in Kansas City, and Minnie was very much surprised to learn that we had learned the truth about her——

Q. What do you mean by that?

A. The truth about the place of the birth of her son. She had told Mr. Hanford on the way why she had testified at Sapulpa as she did. She didn't want it known and didn't think it was anybody's business where Thomas Atkins was born just so long as he was born and she made that statement down there, thinking that it was perfectly alright that he was born in the Sisters' Hospital and that now that we had discovered the truth, that that was the truth; that Thomas Atkins was born to her at Granny Letcher's house; and she said I will know all those people; let's go to Leavenworth to see them. She immediately wanted to go to Leavenworth.

Q. Now, when was that?

A. That was in the fall of 1914.

Q. What month?

A. Probably September—no, October; it had gotten along pretty well into October.

Q. Go ahead.

A. So Minnie and I went over to Leavenworth. The first person we went to see was Crilley. She and Crilley knew each other and had a talk. We got in Crilley's automobile and we saw——

Q. Wait a moment; did either one of them recognize the other when they met there? A. They did.

The Court: You say she and Crilley knew each other; it would be very much more enlightening to me if you would detail what occurred.

Q. What evidence of recognition was there?

The Court: What happened? Just detail the circumstances of you taking her to Crilley—where you took her, and where you found him.

A. We went over in the morning on the interurban and went to the National Hotel, and I called Crilley over the telephone and told him to come up in his car to the hotel; he drove up——

The Court: Did you tell him anything else?

A. I told him Indian Minnie was with me, yes, sir. He drove up to the side of the hotel and Minnie and I went out. Immediately when she saw him she said, hello, Crilley, and he said Minnie, hello, I haven't seen you for a number of years; and she said you look just like you used to; they used to call you the parson, didn't they? And he laughed and said yes, and that was just about the conversation; and I said we want to take Minnie to two or three other people. Then we turned around and drove down by Dennis Jones' office; I called Dennis Jones down from up stairs and Dennis said, hello Minnie, and came down; I had told Minnie that we were going to see Dennis Jones but Minnie didn't recognize him or remember him until after they had talked for some time.

Q. Wait a moment. Do you know whether Jones knew that you were coming there with Minnie? A. He did not.

Q. As far as you know?

A. As far as I know, he did not.

Q. Well, no, go ahead. A. A I told Jones then——

Q. You say Minnie didn't recognize him?

A. No, not at first but they talked a while, and I don't remember the conversation and they finally did recognize each other.

Q. Go ahead.

A. Then we next drove in Crilley's car—if I remember drove around to Mary Smith—Mary Smith was a white woman; and Mary Smith—— Minnie recognized Mary Smith but Mary Smith didn't reconize Minnie; she said that she was not sure that that was the Minnie that she knew; and so I said, well, perhaps you two can talk together a while and recognize each other; and I had Mary Smith get in the automobile—I got in the front seat with Crilley, and we drove around for perhaps an hour and in the meantime, Minnie was recalling the different places and locations. I didn't hear the conversation between she and Mary—couldn't get all of it—the car was pretty noisy and the streets were rough. We drove back and finally Mary Smith said when we got to her house, that she was confident that she was Minnie. We next went out and saw a woman named Annie Wills, and Minnie and Annie recognized each other.

Q. You say recognized each other; what did they do and say as near as you can remember?

A. Well, as near as I can remember, Mr. Cruce, I followed this practice; Mrs. Wills came out to the automobile——

Q. Had you notified her that you were coming?

A. No, sir, I had told Minnie, however, where we were going. Mrs. Wills came out to the automobile, and I said, Mrs. Willis this is Mrs. Folk, who was formerly Indian Minnie here at Leavenworth, do you know her—do you remember her; Mrs. Willis said yes, I do, Minnie and they talked about different things. We then went back to the hotel and Rube Smith came to the hotel to see Minnie; came to Minnie's room. Rube recognized Minnie and Minnie recognized Rube immediately. There wasn't any introduction necessary there as there had been with Mrs. Wills and a sort of an introduction with Dennis Jones. That afternoon, then, we were going up to see some old lady in the north part of town—I don't remember who she was—but Dennis Jones was taking us up there; nevertheless, she did not know Minnie.

Q. How is that?

A. She didn't know Minnie and I have forgotten her name. But on the way up, we saw an old fellow sitting over on a porch, and Dennis said there is Ed Murphy, he ought to know Minnie; and Dennis called him out. Minnie and Dennis were in the back seat of the car and I was in the front seat, and Minnie said, oh, there is policeman Murphy, I know him and he knew her; we came back and met Dennis and drove out that same day to William Grape's.

Q. Has Murphy testified in this case by deposition?

A. In the Receivership hearing he testified but not by deposition.

Q. Well, go ahead.

A. We went out to see William Grape at his place of business way out by the Post, and we stopped the car in front of his house and I called to him; I had previously talked to him. I told Minnie where we were going, then, and Minnie saw him coming and when he was about thirty or forty feet away, now look here Bill Grape; don't you tell all you know—the recognition was instantaneous there; Minnie and I went back to Kansas City that evening and met Mr. Hanford again, and Minnie told Mr. Hanford about the different people she had seen. Mr. Rice—the next day, Mr. Rice and Mr. Page, and Mr. Josey came to Kansas City, and then went over all of this different information with Minnie. Then, soon after that the day was set for the taking of depositions, and those witnesses all testified in the State case at that time.

Q. The case in the State court, you mean? A. Yes, sir.

Q. That suit is still pending, I believe you said?

A. I think so.

Q. What kind of a contract did you have with Dennis Jones?

A. A contract by the terms of which he was to receive ten dollars a day for each day he worked for us——

The Court: Well now, that is a written contract, isn't it? The contract was in writing? A. Yes, sir.

The Court: That was introduced.

Q. Was there any agreement to pay any compensation outside of the written contract? A. No, sir.

Q. What did you hire him to do? What was your purpose in hiring him?

A. Our purpose in hiring him was to look up these witnesses as to the existence and death of Thomas Atkins.

Q. Had you at that time received information from any source that led you to believe that there never was any Tommy Atkins? A. No, sir.

Q. Well, have you at any time suggested to Dennis Jones that he should get testimony to sustain the case whether true or false? A. No, sir.

Q. I believe that you stated that you had never made—I am not sure whether I asked you so I will ask you: did you at any time in any conversation with Mr. Mann, or with Sadie James, suggest to both of them or to either one of them that you wanted them to get testimony to establish the death of Tommy Atkins, regardless to whether it was true or false?

A. No, sir.

Q. When was the first time, Mr. Long, that you heard the suggestion that Tommy Atkins was a myth—that is had never existed?

A. It was after—very late in the fall, perhaps in the latter part of November or December 1914.

Q. What expenditures if any had the Gem Oil Company made with reference to this lease at that time?

A. The Gem Oil Company had several wells on the lease at that time; I would have to look up the books and records to give you that information but we had spent quite a little money; rather, Page and Josey had—the Gem Oil Company had assigned the lease to Page and Josey.

Q. Will you try to get that up so that we can call you back? A. Yes, sir.

Q. How many wells did you have?

A. Well, I will have to go to the books for that, Mr. Cruce; I can't tell you. I know we had some production and some wells.

Q. You don't know the number of the wells or the cost?

A. No, we had so much of that, I can't tell you.

Q. I have a letter here, dated September 12th, what year was that? A. That was 1914.

Q. In whose handwriting is that?

A. That is my handwriting.

Q. Where did you get this letter?

A. Out of the files.

Q. Is this a copy? A. This is the original.

The Court: Whose handwriting is that?

Mr. Cruce: Mr. Long.

Q. To whom was that letter written?

A. The letter was addressed to the Gem Oil Company on the envelope there was no address on it. Mr. Eberle would open it and give it to Mr. Page or Josey, which ever happened to be there.

The Court: What is the date of this?

Mr. Cruce: September 12, 1914, he says, the year isn't on it.

Q. Do you know whether you have that envelope?

A. No, sir.

Q. "I talked to Sam Nash this evening and spent two hours with Walter Banks (these two boys reared by old lady Letcher called each brothers). They have not been together for more than two years. After refreshing the others memory about many incidents when Tommy was a kid, the result of the conversation was the fixing of the time when Tommy was taken away in the spring or summer of 1897; that a mixed blood woman came to the Letcher's, gave the old lady twenty dollars and said she was going to take Tommy to his mother. 1. Tommy would have been eleven or twelve years of age in 1897. 2. Hamilton told Page's attorney the boy was thirteen years old when he saw him in Denver. 3. Collins said he saw him in Denver in 1897. 4. And Mollie and Sam said he was taken from Letcher's in 1897. Unless Sadie locates this information, and I will see her early in the morning, it looks like Denver was the next move. I found a good white man witness this P. M. who knows all about the birth and rearing of the boy. Long." Do you remember who that white man is you refer to in that letter?

A. No, I don't remember that.

Q. Is there any other telegram or letter? A. No.

Q. Did I ask you this this morning, I think I did, Judge Stuart doesn't remember, whether or not Sadie James or Betty Mann told you or told either Page or Josey in your presence that Tommy Atkins was a myth?

A. No, sir, they never did.

Cross Examination by Mr. German.

Q. Mr. Long, you say you used to represent the Government? A. Yes, sir.

Q. In what capacity?

A. I was appointed first as District Indian Agent at Nowata.

Q. At that time you had resided at Nowata for sometime? A. Yes, sir.

Q. Were you stationed at Nowata as District Indian Agent? A. Yes, sir.

Q. When were you appointed?

A. I think in July, 1909|

Q. You served until sometime in 1912, didn't you?

A. Yes, sir.

Q. At Nowata?

A. No, I was transferred in 1911 to Sapulpa.

Q. And you served at Sapulpa? A. About a year.

Q. And then you were employed by Mr. Page?

A. Yes, sir, Mr. Page—— No, I was employed by the Gem Oil Company.

Q. By the Gem Oil Company? A. Yes, sir.

Q. At the time of your employment, did you become an officer in the Gem Oil Company? A. I did.

Q. What office? A. Secretary.

Q. Now, you held that position of Secretary of the Gem Oil Company for a large number of years?

A. I still am Secretary.

Q. You still hold that position. Who was the president of that company? A. R. A. Josey.

Q. Is he still the president? A. Yes, sir.

Q. What position did Mr. Page hold?

A. Mr. Page was Vice-President.

Q. He has been Vice-President all the time?

A. Yes, sir.

Q. As Secretary of the Gem Oil Company, during the time that you had held that position, you have been as active officer for the company, have you not? A. Yes, sir.

Q. And have represented the company in practically all of its business transactions?

A. Well, not all of its business transactions. I have represented it in some transactions.

Q. In several? A. Yes, sir.

Q. It hasn't been an idle company, has it?

A. It has been for the last year and a half.

Q. It has been since about the time—well, it was active until after the Gem Oil Company assigned the lease which it had covering this Atkins allotment to Page & Josey?

A. Yes, sir.

Q. During the time that you have been an active officer of the Gem Oil Company, have you also been representing Page & Josey? A. Yes, sir.

Q. So far as this Atkins matter is concerned you have represented Page & Josey and the Gem Oil Company continuously have you not? A. Yes, sir.

Q. Whatever you have done, you have done as the agent of either the Gem Oil Company or Page & Josey?

A. Yes, sir.

Q. You have had considerable experience in the matter of searching for evidence haven't you in cases?

A. This was just about my first one.

Q. Didn't you have an experience prior to this in the matter of the Jeffries trial at Nowata?

A. I had nothing to do with searching for the evidence.

Q. Didn't you have something to do with the evidence?

A. No, sir.

Q. Which was produced there in his behalf? A. No, sir.

Q. Now, while you were field agent, is that what they called you?

A. I was District Agent until they changed the title and made it Field Clerk.

Q. During that time did you have occasion to become acquainted with the records in the office of the Dawes Commission, did you become familiar with the records in the office of the Dawes Commission? A. Yes, sir.

Q. And the matters of allotment? A. Yes, sir.

Q. Enrollment and allotment? A. Yes, sir.

Q. And you understood those records pretty well?

A. Yes, sir.

Q. When did you first hear of Sadie James in your life?

A. From newspaper reports of her in Tulsa.

Q. How long ago, about what year?

A. That was when I first came to Tulsa in 1911 or 1912.

Q. She was quite a notorious woman? A. Yes, sir.

Q. Tried for murder a few times? A. Yes, sir.

Q. And she operated what was known as the Bucket of Blood, didn't she? A. That was the newspaper reports.

Q. Yes, sir. Notorious road house outside of Tulsa or in the edge of Tulsa? A. Yes, sir.

Q. Where was that road house located?

A. I don't know exactly.

Q. Did you learn how it obtained the name "Bucket of Blood?" A. No, sir.

Q. Wasn't it on account of the character of the place?

A. I presume so.

Q. Murders that occurred there?

A. I presume so, but I didn't know.

Q. That was a kind of—— What was your information as to the kind of place she ran there?

A. My recollection is that my information was that it was a negro road house.

Q. Where white people resorted to?

A. Well, I didn't know.

Q. Now, you knew Sadie when you saw her?

A. No, sir.

Q. What information—— When did you first hear of Betty Mann?

A. I first knew Betty Mann when I was in the Indian Agent's Office at Sapulpa, she came into the office on several occasions with regard to the land of her children.

Q. Now, she was living in Sapulpa part of the time and in Tulsa part of the time?

A. I never knew at that time that she lived in Tulsa.

Q. She lived in Sapulpa? A. Yes, sir.

Q. You knew her well?

A. Not intimately. I knew her only as she came into my office down there.

Q. You obtained information as to the character and her reputation along in 1911, '12, '13, and '14, didn't you?

A. I knew something about it.

Q. You learned of the fact that she had been tried and convicted for forgery in Tulsa? A. I knew of that.

Q. In 1913? A. I didn't know just when.

Q. Anyhow it was prior to 1914? A. Yes, sir.

Q. Along with Don MacDonald? A. Yes.

Q. You knew this fellow called Rogers, Charlie Rogers?

A. Yes, sir.

Q. Of Skyatook? A. Yes, sir.

Q. He was a Cherokee Indian? A. Yes, sir.

Q. And he and Betty were associates, you knew that?

A. I didn't know it until after, sometime after Rogers had been talking to me about this particular lease.

Q. You knew the character of that fellow, didn't you?

A. I always thought his character was fairly good.

Q. Until after you got into this matter?

A. Until after we were into this matter. I had been of some assistance to him while I was in the Indian Service in procuring some money that was due his son, Jim Huckleberry Rogers. As far as I knew he was a pretty decent sort of fellow.

Q. Well, you knew shortly after you began talking to Rogers that he and Betty Mann were associates?

A. He told me.

Q. And living together? A. No, sir.

Q. He didn't tell you they were living together?

A. No, sir. I assumed he lived in Tulsa, because that is where I saw him.

Q. You say your first attention to this Atkins Allotment was in the early part of the year 1914? A. Yes, sir.

Q. Was it not in January?

A. It may have been, Mr. German.

Q. You at that time desired to obtain a lease on this allotment for your company, did you not? A. We did.

Q. You talked that matter over with Mr. Page and Mr. Josey?

A. Yes, sir. I believe it was not quite as early as January.

Q. It was in the spring?

A. Yes, in the spring of that year.

Q. Not later than the spring? A. Not later than March.

Q. You at that time had ascertained that the land was allotted in the name of Thomas Atkins? A. Yes, sir.

Q. Did you have a copy of the census card?

A. Not at that time.

Q. You were looking for Thomas Atkins, weren't you?

A. Yes, sir.

Q. When and where did you make your first movement in that direction?

A. The first movement in that direction was made by Mr. Kistler.

Q. What did he do?

A. He wired—— He claimed to have some information that Thomas Atkins, the allottee of this land was alive and in the army. Mr. Kistler sent this message himself to Senator Gore to have the War Department records examined and ascertain if there was a Thomas Atkins in the army.

Q. Now, when was that?

A. That was just about the time that we are relating, along in the spring, early spring.

Q. Possibly in the early part of March?

A. Yes, I have that telegram.

Q. Had you at that time talked with Rogers?

A. I think not.

Q. You did talk with him though immediately, didn't you? A. Sometime afterwards.

Q. Well, in March? A. Well, it may have been April.

Q. May have been April? A. Yes, sir, by that time.

Q. Did you go anywhere about that time in March or April working in this matter of this title, or with a view of obtaining a lease, or information as to where you might obtain a lease?

A. No, sir, except that on one occasion when I was down at Muskogee on some other business, I spent an hour or so, looking up the records in the Agency of the Commission, and along about that time I talked to Mitchell Wadsworth.

Q. Now, in the office of the Agency, you examined the census card, and all the papers there relating to Thomas Atkins?

A. Well, I didn't get deeply into it at that time; on that first trip I only examined the census card and I believe that they told me that there was not any—there was no enrollment paper; I think the original census card is as far as I went on that first trip.

Q. Did you look into the Nancy feature of it at that time?

A. Yes, sir, looked at her census card.

Q. At that time you knew there was litigation pending in the District Court of Creek County? A. Yes, sir.

Q. What suit was you then advised was pending over there?

A. I was advised that there was a suit over there between Nancy and her lessees and the Gypsy Oil Company and Bartlett; and I will say that I also looked up, at that time in connection with Nancy, the restriction papers in the restriction division of the Agency. I recall that Nancy had made an application before me for the removel of restrictions and that it was customary and the rule that each applicant for the removal of restrictions should be asked whether they had any interest in any land of any deceased relatives, and I recalled that Nancy had not made any representations about any deceased relatives and I looked up my report in this office at that time.

Q. You were at that time trying to ascertain where the allottee of this land was, weren't you? A. Yes, sir.

Q. And who owned this land? A. Yes, sir.

Q. That is what you were after? A. Yes, sir.

Q. You searched to see if there was anything indicating that Nancy owned it? A. Yes, sir.

Q. And then, who else did you attempt to get any line on as a possible owner at that time?

A. At that time, I was down at Jenks one day; I went out and saw Margaret Parks.

Q. What was she supposed to know?

A. She was a daughter of Richard Atkins, a negro who was enrolled as part Indian, and was a sister of Chaney Trent and of a Thomas Atkins.

Q. A Thomas Atkins?

A. Yes, sir, for whom an attempt was made for enrollment.

The Court: Let me see if I understand that. You said a Thomas Atkins?

A. Yes, sir.

The Court: The name is not A. Thomas Atkins but Thomas Atkins; you refer to a Thomas Atkins?

A. Yes, sir.

Q. You talked to her? A. Yes, sir.

Q. Did you get any line then, on the owner of this land?

A. She told me that she had a brother Thomas Atkins who she claimed then was entitled to enrollment but who had been stricken from the roll. I knew then that that could not be the Thomas Atkins, the allottee of this land.

Q. Well, that ended your efforts there? A. Yes, sir.

Q. Did you inquire of her about who Minnie Atkins was?

A. I don't recollect that I did.

Q. Did you inquire of anyone at that time about who Minnie Atkins was? A. Yes, sir.

Q. Who? A. Mitchell Wadsworth.

Q. Mitchell Wadsworth, and Mitchell told you something about Minnie?

A. Mitchell told me—gave me a pretty thorough life history of Minnie and her children.

Q. Told you what kinship he bore to Minnie?

A. Yes, sir.

Q. What?

A. He told me that he was the son of Minnie's half sister.

Q. A son of Kate Holden? A. Kate Holden.

Q. Who had been Kate Atkins?

A. Yes, sir, and a half sister of Minnie Atkins.

Q. And Kate Holden was a son of old, deceased Thomas Atkins was Minnie was? A. A daughter.

Q. I mean a daughter? A. Yes, sir.

Q. Now, what else did he tell you about Minnie?

A. He told me that Minnie had gone to school in Carlisle and had gone from Carlisle to Leavenworth; he told me that she was supposed to be with the Army someplace; that the last time he had heard from her was when she was stationed at Detroit, and when she was at Detroit that he had a letter from her asking him to enroll her children, and that he came from Wagoner to Muskogee on his way with that letter and that somebody stole his coat and that he never got here with the letter.

Q. Then, he didn't know where she was? A. No, sir.

Q. Or whether she was living?

A. My remembrance is that he was under the impression that she was dead.

Q. He thought probably that she was dead?

A. Yes, sir, at least he had not heard from her until about the time of the allotment.

Q. Did that give you a lead to anybody else?

A. No, sir.

Q. Who did you next see in the spring of 1914 about this?

A. Charlie Rogers.

Q. Charlie Rogers, where? At Tulsa? A. Yes, sir.

Q. That, then, was either the last of March or sometime early in April?

A. Well, by that time I think it was perhaps the latter part of April.

Q. The latter part of April? A. Yes, sir.

Q. Now, what did you talk to Charlie about?

A. Rogers came into our office and told me that he—no, he came in the office and inquired if we were interested in any leases in the north extension of the Cushing field and I told him that we were interested in leases in any place that looked good, and he said well, I have got some information about this Thomas Atkins lease over there and I told him that we had already done some work on that; that we knew something about it, and I said what do you know; and he said, well I think I can find him. The result of that conversation was, I told him that if he could find him and if he was the correct allottee of the land that we would carry him an eighth interest in the lease, if we could buy it reasonably and did buy it.

Q. Now, Rogers told you, didn't he, about his investigation of that matter?

A. No, I didn't attach enough importance to his visit to go into it, as I remember.

Q. He didn't tell you about what he had been doing?

A. Only that he had been looking it up.

Q. Did he tell you where he had been looking it up?

A. No, sir.

Q. Did he say with whom he had been looking it up?

A. No, sir.

Q. Did you send him anywhere, then?

A. No, I don't think so, not at that time. He did go to Kansas City at our expense, and Leavenworth.

Q. About how long after that first conversation?

A. I can't say; I know that we gave him a check for his expenses and I can find the check.

Q. Well, it was in April?

A. No, I think it was sometime later, Mr. German.

Q. Possibly in May?

A. It may have been June, but I don't want to say because I can get the day exactly.

Q. Well, did you not send him up to Kansas City in April or May? A. Well, now——

Q. To see if he couldn't locate a Thomas Atkins?

A. I won't say because I can get the date exactly from the check which we gave him for expenses.

Q. After the first conversation you had with him what did he tell you at the next conversation about what he knew?

A. Well, we had two or three conversations; it ran along there for a couple of weeks; he would come in to the office and said he would get more information. He said, I believe I will be able to locate that Thomas Atkins and I didn't attach a great deal of importance to him because he didn't talk like he was going to have success and I didn't think much of him; I let him do most of the talking.

Q. Now, who else did you see or where else did you go in this matter during that time that Rogers was coming to your office?

A. Nothing; I had nothing at all to do with it until he came and told me about Bettie Mann.

Q. Prior to time, now, that he came and told you about Bettie Mann, he told you that he thought he could find Thomas Atkins, the allottee? A. Yes, sir.

Q. That was interesting to you? A. Very.

Q. Didn't you follow it up? A. No, sir.

Q. Why?

A. Because I had very little confidence in the reports that he was making.

Q. Why did you have little confidence?

A. He didn't give any definite information.

Q. You stated a while ago that you had no reason to regard him as not a good man? A. No, sir.

Q. What did he say that prompted you not to have confidence in him?

A. It would be very difficult for me to answer that. That was just my conclusion from reading the man myself.

Q. He is a pretty bright fellow? A. Yes, sir.

A. Intelligent man?

A. Yes, but I didn't have confidence enough in him to go out with him and look up any one or anybody.

Q. That lease was looking pretty good at that time?

A. Yes, and so were a great many others that we were dealing for.

Q. How? A. So were a great many others.

Q. There was at that time a producing well on the land?

A. A small well in the Wheeler sand.

Q. Did you ask him where he thought this Thomas Atkins was?

A. No, I didn't but I recollect that we talked about Kansas City at that time.

Q. Did he tell you about Bartlett having signed a man in Kansas City and having brought him to Muskogee and attempting to have him identified as Tommy? A. No, sir.

Q. Didn't tell you about that? A. No, sir.

Q. You learned about that later?

A. When I heard Sadie James on the witness stand tell it.

Q. That was the first you heard of it? A. Yes, sir.

Q. Did you tell Rogers that you understood Minnie lived in Leavenworth some time?

A. I think we talked about Leavenworth because I think I obtained that information from Mitchell's wife.

Q. Didn't he tell you about having been to Leavenworth in this investigation? A. No, I don't think so.

Q. Well, you knew he had?

A. No, I didn't know he had at that time.

Q. How soon after that did you find out that he had?

A. I didn't believe I ever knew that he had been up there except possibly the trip he made for us, because he didn't tell me about it.

Q. You found out from him, then, about Bettie Mann, shortly after that? A. Yes, sir.

Q. Up to the time that you found out from him about Bettie Mann, you had not taken any trip in this matter or sent anybody any place except the trips that you have already mentioned that you took yourself?

A. Unless we had sent Rogers to Kansas City; I will get that check and answer as to that. Mr. Josey, I think, was with him.

Q. Mr. Josey, when he did go, was with him, you think?

A. Yes, sir, I can give you that information.

Q. Tell us your first conversation with Rogers relating to Bettie Mann.

A. That conversation was in the last week in May or the first week in June.

Q. 1914? A. Yes.

Q. He came in the office and said that he was just about through with any investigations that he might be making as to locating this allottee, but that he was working with Bettie Mann.

Q. Did he tell you who she was working for?

A. No, not then.

Q. Alright?

A. But that he was working for Bettie Mann who had some information about Minnie, and that their information then was that this Thomas Atkins was dead, and of course Minnie would be his heir.

Q. What did he tell you about their information, that Thomas was dead?

A. That is all he told me; just the assertion; didn't go into the details.

Q. You didn't ask him the details? A. No, sir.

Q. Go ahead.

A. Well, I thought you had another question.

Q. With the conversation.

A. Yes. He told me that Bettie had this information and that if I would see Bettie that we could possibly make some arrangements to locate Minnie Atkins; that Bettie had some information as to where she was. I didn't want to make a special trip down to see her and I was pretty busy but I did tell him that I would go down to see her the next day if he would get her to the Frisco station in Sapulpa; that I didn't want to have to go to her house or lose any time on it; Now, I think he told me then, at the conclusion of that conversation that Bettie had been doing some work for H. U. Bartlett who was holding the fee to the land, and had leased to the Gypsy.

Q. Yes. That is they held this forged deed.

A. Well, we didn't know then that it was forged. We assumed that it was but they had had the trial at Sapulpa and the evidence had been pretty strong—I knew of that trial.

Q. Had you attended that trial? A. No, sir.

Q. Now, let's see, Mr. Long. Did you go to see Mr. Page and Mr. Josey then about this matter? A. Yes, sir.

Q. Of interviewing Bettie? A. Yes, sir.

Q. What conversation did you have with them about it?

A. I repeated the conversation to them that Rogers had had—I think that was with Mr. Josey, not Mr. Page; I am sure of that. I repeated the conversation and told him I was going down to Sapulpa the next day to see Bettie Mann; we discussed what kind of offer I would make her—Rogers had told me we would have to make her a financial offer for locating Minnie—and as we always do in such cases, we fixed a limit and if I could have gotten it any less than that, I would have.

Q. You explained to him that she was working for Bartlett at the time?

A. I explained to him that Rogers had told me that.

Q. That she was?

A. That she had been working for Bartlett. I didn't know right at that time——

Q. Alright.

A. But that she had been working for Bartlett.

Q. Now, you spoke of seeing her and making her a proposition? A. Yes, sir.

Q. And you say you didn't talk that over with Mr. Page or advise him of that?

A. No, I am sure all of the conversation was with Mr. Josey. Our office was separate at the time and Mr. Page was very busy with his private affairs.

Q. You testified at the Receivership hearing that you did see Mr. Page?

A. Well, I may have, but if I did it was very brief; I can't be positive because we talked about our business there very generally and at different times.

Q. Tell me this: Did you have any information about Thomas Atkins or the title to this land at that time or where the title rested other than the information which you have related?

A. No, sir. And I had bought a pencil report from the abstract office and knew all of the instruments that were on record.

Q. Let me see, didn't you testify this way at the Receivership hearing: "Just a minute, let me ask the question. What was the conversation between you and Betty Mann at that time? A. That conversation was very brief she stated that she could locate Minnie Atkins and wanted to know if we would pay her for her trouble. I had previously discussed the matter with Page and Josey." Did you answer that that way at the Receivership hearing?

A. Yes, sir, and I may have discussed it with him.

Q. "I have discussed the matter with Page & Josey and we had agreed what we would pay her?" A. Yes.

Q. That was your testimony there? A. Yes, sir.

Q. So, when you went to see Betty Mann, your information was that Thomas—your information then when you went to see Betty Mann was that they couldn't find Thomas Atkins anywhere and that Huck Rogers—you mean Charlie Rogers?

A. Charlie.

Q. You knew him as Huck Rogers; that Huck thought he was dead, thought he had some information that he was dead, is that right?

A. No, not that he had any information that he was dead, but that he hadn't found him alive and he must be dead.

Q. That is the information you had?

A. Yes, sir, he had no information of any kind.

Q. What did you do after talking with Page & Josey about seeing Betty Mann and how much you would offer her in this matter prior to the time you saw Betty? A. Nothing.

Q. Where did you see Betty?

A. At the Frisco Station in Sapulpa.

Q. In Sapulpa. Well, let me ask you this: Before you went to see Betty at the Frisco Station, Sapulpa, had not Huck Rogers told you that she was about to start on a trip to find Minnie?

A. Rogers told me that he and Betty had been working on the case and had some information as to where Minnie was and that he thought she would locate Minnie.

Q. You understood that Betty was intending to go on a trip after Minnie?

A. Well, I didn't exactly understand it. I didn't know just exactly what was in the air or doing until I saw Betty.

Q. Until you saw Betty? A. Yes, sir.

Q. You saw her at the station at Sapulpa? A. Yes, sir.

Q. And you talked with her? A. Yes, sir.

Q. Did you find out there what her plans were?

A. Yes, sir, very indefinitely.

Q. What did she tell you?

A. She told me she had been doing considerable work for H. U. Bartlett; that Thomas Atkins must be dead, because they hadn't been able to find him; and she told me that she and Rogers were in partnership and that what one knew the other knew. Rogers had never told me. She told me that she thought she knew where Minnie Atkins was and that she could locate her but she didn't tell me where. Now, she said what will you give me if I locate Minnie?

Q. Yes?

A. I told her if she did locate Minnie and put me in touch with her so that I could get a lease from her, and that lease was a valid lease and Minnie was proven to be the owner of the land, we would pay her two thousand dollars.

Q. Did she agree to take it?

A. She said I will take you. She accepted that proposition and says now you look out for a telegram from me in the next four or five days and when you get that telegram you can make your deal with Minnie.

Q. How long were you in conversation with her?

A. A very short time.

Q. Did you not ask her what effort she had made to find Thomas?

A. Only she told me efforts had been made to find Thomas and they had found no Thomas.

Q. Did you ask her if she had searched at Leavenworth?

A. No, sir.

Q. Had you up to that time seen Charlie Harrison about this matter prior to that time?

A. I think not, I think I saw Charlie Harrison between the time of Betty Mann's conversation and when I received the telegram from her in Seattle. I know that I saw Charlie Harrison.

Q. Had you seen Harvey Harrison about this time?

A. No, sir.

Q. Had you seen this man Bailey the guardian?

A. No, sir. I saw Claude Weldon at the same time that I saw Charlie Harrison.

Q. Who resides at Wagoner?

A. And who at that time Charlie was making his home with.

Q. What did Betty say to you in that conversation at Sapulpa about Sadie? A. She didn't mention Sadie.

Q. When did you next see Betty?

A. I saw Betty when she went through Tulsa that night at the station.

Q. That same night?

A. That same night. I went back on that train; I was just at Sapulpa between trains and I saw her at the station that same night as she was going through. She told me she was going to be on that train and I wanted to be sure she was. I saw her at the station but had no conversation.

Q. You had a little? A. Very little.

Q. She told you she would use the name Bill Jones in telegraphing you?

A. My recollection is that she didn't tell what name but she wouldn't use her own name.

Q. Didn't you testify at the Receivership that she then told you in communicating with you that she would use the name Bill Jones?

A. I may have, I know this, that she told me that she wouldn't use her own name; but whether she told me she would use the name Bill Jones I couldn't remember definitely. Immaterial matter anyway.

Q. Did you give her any expense money then?

A. No, sir.

Q. Had you given her any money the day before?

A. No, sir.

Q. You knew she was going on a long trip?

A. I didn't know whether it was long or short.

Q. Did you advance her any fees? A. No, sir.

Q. Salary? A. No, sir.

Q. Paid her nothing? A. No, sir.

Q. Didn't buy her a ticket? A. No, sir.

Q. All right. She went away then and before you heard from her you saw Charlie Harrison, Harvey Harrison?

A. I think not.

Q. Charlie or Harvey? A. Charlie.

Q. And did you have a conversation with him about Thomas? A. Yes, sir.

Q. What was that conversation?

A. He told me he didn't know anything about a brother named Thomas Atkins if he had one. He told me that there had been a lot of people over talking to him about it; and so did Mrs. Weldon—— Mrs. Weldon told me she knew Thomas Atkins—— I didn't see Claude Weldon, I saw Mrs. Weldon. Mrs. Weldon told me there had been a lot of people over bothering Charlie about it, but she didn't know anything about Minnie having a son Thomas. And Charlie said he didn't know anything about a brother of that name except what people had told him recently.

Q. All right. Now, you heard from Betty then, didn't you, a little later? A. Yes, sir.

Q. About how long after Betty left was it until you received your first telegram?

A. In the neighborhood of a week or ten days, some days afterwards.

Q. Now, you say this was the first one that you received: "Seattle, Washington, June 5th, Frank B. Long, Little Gem

Oil Company, First National Bank Building, Tulsa, Oklahoma. Are you ready to come? Say nothing to Charlie? Answer in care Western Union. Bill Jones." You say that is the first one you received?

A. If they are arranged as they were. I would have to have them all.

Q. That is the first one in date?

A. I assume that you are reading the dates correctly and if you are that is the first one.

Q. You look at them will you and tell us whether that is the first one? A. That is the first one, yes, sir.

Q. Had you said anything to Betty about going any where? This message says are you ready to come, say nothing to Charlie?

A. Betty had agreed she was to wire me when she located Minnie and I was then to come. I didn't understand her motive in saying nothing to Charlie.

Q. Charlie was evidently Huck Rogers?

A. I assume it was.

Q. Hadn't she wired you before this stating that she had found Minnie?

A. No, sir. That is the first telegram that came to the office.

Q. And that was signed Bill Jones? A. Yes, sir.

Q. And you knew who it was from the minute you saw it? A. Yes, sir.

Q. So you telegraphed her? Did you send her any money? A. No, sir.

Q. And she had gotten to Seattle, you knew this was from Seattle? A. Yes, sir.

Q. You knew whose expense she had gone on, didn't you?

A. Yes, sir, I didn't know——

Q. First? A. I assumed.

Q. I understand that, you assumed that she had gone on Bartlett's expense? A. I assumed that she had.

Q. And as Bartlett's agent? A. I assumed that she had.

Q. And isn't that the reason that you used the name Bill Jones? A. I can't give you the reason.

Q. You can't?

A. No, sir, it was her statement that she would not use her own name.

Q. Mr. Long, the next day, June 6th, 1914, you advised her as follows by telegram "Bill Jones, Seattle, Washington. Am ready to come provided you are positive you have right party. Am busy, time is valuable and don't want to make a long trip unless you assure me absolutely you have right party. Answer immediately giving your street address and stating where you are satisfied yourself that you have located party we want. Frank B. Long." That is right, isn't it?

A. Yes, sir.

Q. Mr. Long, you said that prior to this you had learned that she had been in Carlisle in school? A. Yes.

Q. And you also learned that Bettie had been in Carlisle with her? A. Yes.

Q. And you also knew that Sadie James had been with Minnie at Leavenworth when Minnie lived there?

A. No, sir.

Q. You hadn't learned that? A. No, sir.

Q. When you talked with Bettie at Sapulpa, she told you that she knew Minnie personally? A. Yes, sir.

Q. And could identify her?

A. Yes. She told me that she went from Tallahassee to Carlisle with her and was in school with her two or three years.

Q. Was in school with her for two or three years?

A. Yes.

Q. Now, referring again to these telegrams, you sent—signed that one you sent Frank B. Long? A. Yes, sir.

Q. Then, on June 9th, three days later—no, June 8th, two days later, you received this telegram from Seattle: "Seattle, Washington, June 8th, 1904, Frank B. Long, First National Bank Building, Tulsa, Oklahoma. Things—" Well, it reads this way—t-h-i-n-g-s—"Things perfectly identified, come at once, answer room 425 Wright hotel, signed Bill Jones." You received that message? A. Yes, sir.

Q. So Bill Jones sent that and received it so far as the face of the message is concerned? A. Yes, sir.

Q. You say that you didn't frame or draft that telegram?

A. I don't remember that I did, Mr. German, and I feel that I did not, because I know that I am pretty sure that I wouldn't have signed Bill Jones to it; but it is there and it was in our files.

Q. You must have instructed the sending of that?

A. I presume I instructed Mr. Eberle to send it and I wouldn't say that I didn't send it; at any rate—at any rate it was sent and it was in our files.

Q. That same night—day, rather, June 9th, and after the message I just read, you sent this telegram: "June 9th, 1904, Bill Jones, room 425 Wright hotel, Seattle, Washington, Leaving tonight, arrive Saturday Frank B. Long."

A. Yes, sir.

Q. Now, before you started for Seattle, you obtained the full history of Minnie?

A. I had procured that before in my different conversations with Sam Brown and Mitchell Wadsworth.

Q. You had learned who her brothers and sisters were? A. Yes.

Q. Who her father and mother was? A. Yes.

A. And that she had two children, one named Harvey and one named Charlie? A. Yes, living in Oklahoma.

Q. Living in Oklahoma. You had learned that her brother was Lee and that he was dead; that she had a sister named Nancy, living at Wagoner, or Nowata, rather? A. Yes.

Q. That her father was Thomas; her mother Mary; and that they were both dead? A. Yes, sir.

Q. And what else had you learned about her? I believe you did state about her being in Tallahassee school, and Carlisle, and in Leavenworth? A. Yes, sir.

Q. And at Fort Logan, had you not?

A. No, I had not learned of her being at Fort Logan at that time. I had learned *at* her being at Detroit, Michigan.

Q. Hadn't you learn*ed* that Charlie and Harvey were born at Fort Logan?

A. Yes, I believe I had; that they were born there, yes, sir.

Q. And hadn't you learned about Alice at that time? A. No, sir.

Q. Then, before you started, you prepared a lease and a contract? A. Yes, sir.

Q. And you have exhibited here as defendants' bill, a copy of the lease—a carbon copy of the lease?

A. No, I beg your pardon, of the contract.

Q. Alright—oh, that is a copy of the contract? A. Yes, sir.

Q. Now, let's take a little notice of this contract. You prepared it in your office there at Tulsa? A. No, sir.

Q. Where?

A. The contract was drawn by Mr. Rice and Mr. Lyons in their office.

Q. One of the other? A. Yes, sir.

Q. At your suggestion?

A. Perhaps so, I can't say; I haven't read the contract, Mr. German, recently; I didn't read it this morning.

Q. You didn't read it this morning? A. No, sir.

Q. At that time you were going to obtain a lease and a contract from Minnie if you could? A. Yes, sir.

Q. On what theory were you going to obtain a lease for Minnie?

A. On the theory that she was the mother of Thomas Atkins, deceased, and his heir.

Q. And his heir? A. Yes.

Q. And your contract contained this provision: "Witnesseth that whereas hereinafter described premises constituted the allotment of Thomas Atkins, a citizen of the Creek Nation, Creek roll number 7913, one-half blood; and whereas said Thomas Atkins was the illegitimate child of the first party"—let me ask you where you got that information that he was an illegitimate child of hers?

A. The only place that we could have obtained that information was by assuming that he was illegitimate, was on account of the fact that he bore the name of Atkins.

Q. And that was her name? A. That was her name.

Q. You had the census card at that time, evidently?

A. I hadn't bought one; I had examined the census card down here.

Q. And you knew it showed Minnie to be the mother?

A. And a white man to be the father and that is probably where the information came from.

Q. Then, you said—the contract provides: "And whereas said Atkins died at ...."—that is two blanks there—— A. Yes, sir.

Q. "on or about the ...... day of ...., ..., leaving surviving him no father and leaving surviving as his sole heir party of the first part, his mother, who is the owner of hereinafter described said premises"—now, in the original were those blanks filled out?

A. Not that I know of; they were not by me.

Q. They were not *but* you? A. No, sir.

Q. You took those with you, this and the lease, when you went to Seattle?

A. Yes, sir, they were in duplicate; there were two copies of the lease and two copies of the contract.

Q. Then you also had in this contract that the Gem Oil Company should advance necessary court costs and employ attorneys at its own expense to carry on litigation or other proceedings necessary to vest the said title of record in the first party? A. Yes, sir.

Q. The first party being Minnie Atkins? A. Yes.

Q. And that the first party specifically represents that the foregoing facts are true as to heirship? A. Yes.

Q. You knew, in *order* words, at that time before you even started to Seattle, that you were buying a law suit?

A. Yes, we however, did not consider it a very serious law suit.

Q. You didn't consider it a very serious law suit?

A. No.

Q. Why?

A. Because I was very well satisfied in my own mind as to the claims of Nancy Atkins.

Q. You were satisfied, too, as to the claims of these living Tommy Atkins?

A. I didn't know very much about them; there happening to be two of them at the same time was a very strong indication that we should worry about them.

Q. You went to Seattle and on the road you didn't communicate with Bettie? A. No, sir.

Q. You finally reached Seattle? A. Yes, sir.

Q. And when you got there was Saturday morning at seven o'clock? A. I think at eight o'clock.

Q. About eight o'clock? A. Yes.

Q. And you went immediately to room 425 Wright hotel?

A. No, sir.

Q. Where did you go? A. To the Rainier Grand hotel.

Q. To the Rainier Grand and registered yourself?

A. Yes, sir.

Q. And then went to the Wright hotel?

A. No, sir, I called the Wright hotel up and talked to Mrs. Mann.

Q. And she came to your hotel, or did you go to hers?

A. No, sir, she told me to come over there and I went to her hotel.

Q. How long did you talk to her?

A. Very, very few minutes.

Q. She told you about finding Minnie? A. Yes.

Q. She told you what Minnie had said?

A. She said she hadn't talked with Minnie.

Q. She hadn't talked with her? A. Yes.

Q. Now, she told you she had a friend who would take you out there, didn't she? A. Yes, sir.

Q. And you knew who that friend was?

A. No, sir, not until I saw him.

Q. Not until you saw him. That friend of hers was a detective named Kohler? A. Yes, sir.

Q. Who she had watching Minnie? A. Watching Sadie.

Q. Watching Sadie? A. So she told me.

Q. Kohler knew where Minnie lived? A. Apparently.

Q. Apparently, he took you to the place? A. Yes, sir.

Q. You talked to Bettie at the Wright hotel, how long after breakfast until you talked to Bettie there?

A. Almost immediately as soon as I could get my breakfast and call her up on the telephone.

Q. And how long did you talk to her?

A. A very few minutes.

Q. And then you went right out to Minnie's? A. Yes, sir.

Q. Now, Mr. Kohler took you to Minnie's? A. Yes, sir.

Q. And there was a chauffeur along? A. Yes, sir.

Q. What was his name?

A. I can't say; I just picked the car up out in the front of the hotel. I made no inquiry.

Q. You wouldn't know his name now if I should call it?

A. No, sir, I didn't hear the name at the time.

Q. You went out to Minnie's and you stayed out until about 12 o'clock?

A. I think it was nearly eleven when we got there and I stayed there until a little before twelve, about forty minutes to an hour I was there.

Q. You went in and found Minnie alone? A. No, sir.

Q. But you went into the room and you and Minnie talked, then, and you found her a pretty affable, loving character.

A. Well, I wouldn't say so, *nor* sir. I found her very affable.

Q. Very affable, congenial? A. Yes.

Q. And you went into considerable conversation with her? A. Yes.

Q. And loved her up considerably, Mr. Long?

A. Indeed I did not.

Q. You say you did not? A. No.

Q. And don't you remember that this Kohler and this chauffeur were the only other persons around that house that morning while you were out there?

A. No, sir, Kohler and the chauffeur stopped in the car, three or four hundred feet from Minnie's house and didn't come any nearer.

Q. And didn't even come for a drink of water during the hour that you were there?

A. If they did, I didn't see them.

Q. You didn't see them?

A. No, sir, they waited for me down at the end of the walk.

Q. Yes, and then you went back in your car to the Wright hotel?

A. Yes, sir, but first Mr. German, Captain MacNab and Lieutenent McComb were there all the time.

Q. Now, you say they were? A. I do.

Q. That morning? A. Yes, sir.

Q. Don't you know that you then went back to the hotel and that when you got there, you passed Sadie in the hallway and went into Bettie's room, and that Sadie then came in and that you and Bettie and Sadie had quite an interesting conversation as to what Minnie had told you?

A. No, sir, that conversation was Sunday following.

Q. Was the next day? A. Yes, sir.

Q. And don't you know that Sadie found out then that you were in the city and were attempting to deal with Minnie and that she went out to Minnie's house and attempted to get Minnie then to change her story from stating that the boy was dead to the story that he was alive and that resulted in Bettie calling upon Mrs. McComb and Captain MacNab?

A. I don't know all about that.

Q. And that therefore when you got down to her house, in the afternoon of that day, you found that Captain MacNab and Lieutenent McComb were at the house? A. No, sir.

Q. You say that is not true? A. I do.

Q. Now, let's see, Mr. Long, you remember that you arranged with Minnie to go to Spokane in an automobile that same night, or immediately—possibly the next day, because her husband Mr. Folk was at Spokane and you needed the signature of both of them on your lease?

A. No, sir; that would have been absurd because in the afternoon she signed the trust deed to Mr. McComb.

Q. I know she did, but didn't you arrange in the morning of that day to take her to Spokane?

A. I made no arrangement but I told her if she signed the lease that day that it would be necessary to have her husband join in the lease but no arrangements were made to take her any place.

Q. And don't you know that at the noon hour of that same day, or shortly after noon, and prior to the time that you went to Minnie's house the second time, that you told Bettie Mann that on that automobile trip she ought to have a heavy coat?

A. No, sir.

Q. You say that is not true?

A. No what automobile trip?

Q. On that automobile trip, taking Minnie to Spokane where she and her husband could sign that lease? A. No, sir.

Q. You say that didn't occur? A. No, sir.

The Court: Isn't Spokane in Eastern Washington?

Mr. German: Yes, sir.

The Court: And this was from Seattle to Spokane?

Mr. German: Yes, sir, quite a distance. I don't know how far.

A. And it is across the Cascade mountains.

Q. You didn't know there was a highway for automobiles between Spokane and Seattle? A. I don't know it now.

Q. You don't know it now? A. No.

Q. Now, Mr. Long, let's see. You say that Captain MacNab and Lieutenant McComb were at Minnie's house that morning? A. Yes, sir.

Q. And you had a conversation with them when you got out there? A. Yes, sir.

Q. How did they happen to be there?

A. I didn't know until they explained to me.

Q. All right, what explanation did they make?

A. They explained that this negro woman had been around there for some three or four days and that she had told Minnie the day before that a white man from Oklahoma was coming out to buy the land, would be there Saturday morning, and Minnie had called them and they were there waiting for him when I came.

Q. Now, did they tell you that Sadie had requested her—That Minnie had requested her to call these men?

A. No, they told me that Minnie had called them in.

Q. Minnie had called them? Yes, sir.

Q. They didn't tell you that Sadie had discovered your presence and had suggested to Minnie that she call them in?

A. No, sir.

Q. It was your understanding that that very day was the day they had been called in? A. Yes, sir.

Q. You say you had a little conversation with Minnie on that morning? A. Yes, sir.

Q. Had Captain MacNab and Lieutenant McComb left the place?

A. No, sir, I said the only conversation I had with Minnie alone was when I went into the house to take the lease and contract which I had out of my pocket; and go over it with her and they stood out on the porch for a few minutes talking and Minnie and I started to go over the matter and they followed us in, perhaps five minutes.

Q. They told you they were there for the purpose of helping Minnie protect herself? A. Yes, sir.

Q. Didn't they tell you—— What did they tell you about Sadie trying to get Minnie to say her boy was alive?

A. They didn't tell me that, they said Sadie was worrying Minnie quite a little.

Q. But they didn't say what about? A. No, sir.

Q. You didn't even find out either? A. No, sir.

Q. But no one else was there, so far as you ever learned, concerning this land except Sadie and yourself at that time?

A. That was all I knew.

Q. Now, Minnie told you something in there when you went into the room with her about herself, didn't she?

A. Yes.

Q. You had her history? A. Yes.

Q. And you asked her about herself? A. Yes.

Q. Who she was? A. Yes.

Q. And from her history and your questioning, you satisfied yourself as to who she was? A. Yes, sir.

Q. Perfectly? A. Yes, sir.

Q. Now, then, you went back to town and you saw the girls, didn't you?

A. No, sir, I saw Betty but I didn't see Sadie.

Q. Betty had a conversation with you?

A. Very brief. I saw her on the street in front of the Ranier Grand Hotel.

Q. What did you talk about?

A. I told her I had been out to see Minnie and I was satisfied she was Minnie Atkins and I was going back in the afternoon.

Q. Did you tell her what you were going back for?

A. Told her I hadn't gotten the lease signed up. It wasn't any of her affair. No, I didn't tell her.

Q. Mr. Hanford wasn't there in the morning? A. No.

Q. But in the afternoon when you went back out he was?

A. Yes, sir.

Q. And you met him? A. Yes, sir.

Q. You didn't talk to Minnie that afternoon?

A. No, sir.

Q. You started to her house and you saw Mr. Hanford and Captain MacNab and didn't go? A. No, sir.

Q. You met them and they stopped you and talked to you? A. Yes, sir.

Q. And it was then that they told you that she was going to make a trust deed to Captain MacNab?

A. Yes, and it was then we agreed that I would not see her any more nor attempt to see her.

Q. Now, let's go back to the conversation with Minnie. What did Minnie tell you about her children?

A. She told me that she was the mother of three children.

Q. Name them?

A. Thomas, Charlie, and Harvey, and that Thomas was dead, but that as far as she knew Harvey and Charlie were living.

Q. Did she tell you about Alice? A. No, not at that time.

Q. Now, you then told her that if she was the mother of a boy named Thomas and if he was dead she was the owner of a very valuable estate? A. Yes, sir.

Q. And you told her that twice in that conversation, did you not?

A. I may have told it to her three or four times.

Q. Three or four times?

A. Yes, sir, I don't think I did however.

Q. And then you told Captain MacNab and Lieutenant McComb that same thing? A. Yes, sir.

Q. On the outside? A. Yes, sir, and on the inside.

Q. And on the inside. They became very much interested in her?

A. Yes, sir, they were very much interested in her when I first got there.

Q. It was after that then you went back and talked to Betty? A. Yes, sir.

Q. Now, you say you told Hanford and Captain MacNab that this land was very valuable?

A. No, I told them that it had a very great speculative or prospective value.

Q. Oh, that is what you told them? A. Yes, sir.

Q. I thought you testified this morning that you told them it was of very great value?

A. Well, I did, but its principal value lay in its prospective value as to whether the Bartlesville sand would extend in that direction.

Q. You went up there to obtain a lease from Minnie for four thousand dollars?

A. No, we had agreed in my office that I would pay as much as five thousand dollars.

Q. As much as five thousand dollars? A. Yes, sir.

Q. As a bonus? A. Yes, sir.

Q. Now, you went up there for the purpose of making this lease? A. Yes, sir.

Q. But you didn't want to deceive those men about the value of the land did you? A. I tried not to.

Q. Tried not to. So, you told them it was of very great value? A. Yes.

Q. Worth as high as five thousand dollars, didn't you?

A. I don't think I used any figures exactly; I don't think I did put an estimate on the value; I am sure I didn't.

Q. And that if Minnie was the mother of a boy named Thomas and if he was dead she owned that valuable land?

A. Yes.

Q. And when you got back to town that evening you saw Betty again? A. No, I didn't see Betty.

Q. Until the next morning? A. Until the next morning.

Q. What did you do that evening?

A. I don't remember just what I did do.

Q. You communicated with Tulsa?

A. Yes, I sent a telegram to Mr. Josey.

Q. On June 12th you received a telegram from Mr. Josey stating that the property was looking better, use every effort to close the deal?

A. Yes, I received that telegram on the morning of the thirteenth.

Q. What day did you get there?

A. The 13th. That telegram was waiting for me.

Q. And on that same day you wrote this memorandum?

A. Yes, sir.

Q. Which is marked Defendant's Exhibit 12? A. Yes.

Q. Where is the rest of that memorandum?

A. That is a copy of a night letter.

Q. That is a copy of a night letter? A. Yes, sir.

Q. "Copy of night letter to R. A. Josey"? A. Yes, sir.

Q. "Party looks to be right one but has been frightened by people already here and has called in advisers; been with them all day; absence of one adviser however may delay closing deal next week." Now, that advisor was her husband?

A. I assume that that was her husband.

Q. Well, you know who that was?

A. He was the only fellow that wasn't there.

Q. "Rogers at Aberdine Hotel, Kansas City. No proof here that boy is dead." Now, why did you make mention that there wasn't any proof there that the boy was dead?

A. Because the only proof was Minnie's statement.

Q. And she didn't know? A. She said he was dead.

Q. Yes, but to you that didn't constitute proof?

A. Well, the other people out there didn't know anything about it, they had never heard about it. And for that reason I put that in there.

Q. Now, you stayed in Seattle the 13th, 14th, and 15th?

A. No, I stayed at Seattle the 13th, Sunday the 14th, and Monday the 15th Mr. Hanford and I left.

Q. On the evening of Monday the 15th?

A. About three o'clock.

Q. Was your talk with Sadie and Betty the next day, on Sunday? A. On Sunday.

Q. In the Wright Hotel? A. Yes, sir.

Q. About Minnie? A. Yes, sir.

Q. Did you interview Minnie on that Sunday?

A. No, sir.

Q. You never interviewed her except on the occasion on Saturday, I mean on that trip?

A. And the occasion I saw her at Captain MacNab's quarters on Monday morning.

Q. On Monday morning? A. Yes.

Q. Now, when you talked with Sadie, you had quite an exciting occasion there at the hotel, didn't you, Mr. Long?

A. Not particularly, Sadie was a little bit excited because I hadn't obtained a lease from Minnie and she hadn't gotten a deed. She was some excited.

Q. She was considerably excited? A. Yes, sir.

Q. Now, is that all she was excited about?

A. Apparently so.

Q. Did you sit on the bed in that room? A. No, sir.

Q. That day? A. No, sir.

Q. You didn't? A. No, sir, I sat on a chair.

Q. Did you and Sadie and Betty talk about Minnie's children that day? A. No, sir, we didn't.

Q. You did not? A. No, sir, we talked about Minnie.

Q. Why didn't you talk about her children?

A. Because I wasn't particularly interested about her children; there was no question in my mind but what Thomas Atkins was her son. I wasn't looking to them for any information all they were to do was to find Minnie.

Q. Yes, I know that. They were to find Minnie?

A. Yes, sir.

Q. But there was some question as to whether Minnie owned that land? A. Yes, sir.

Q. And didn't you talk to them about it?

A. No, sir, I didn't.

Q. You knew they had been there a week? A. Yes, sir.

Q. And you learned that Sadie had been talking with Minnie? A. Yes, sir.

Q. And had been annoying her for several days?

A. Yes, sir.

Q. And yet you didn't talk about that question?

A. No, sir, not with her.

Q. But did you with Betty?

A. No, sir, not with Betty. Betty had not talked to Minnie so Betty told me. Frankly I was very anxious to get out of the Wright Hotel at that time, and didn't want to prolong the conversation, and I didn't stay there very long.

Q. Not very long? A. No, sir.

Q. All right. Did you talk to Betty or Sadie either one any more that day? A. No, sir.

Q. You talked to Betty about Hanford a little?

A. That day?

Q. You pointed Mr. Hanford out to Betty?

A. No, on Monday I think I pointed him out to her.

Q. You said to Betty, there goes that "Mutt" I can handle him? A. No, sir.

Q. Going to take him down to Oklahoma, I can handle him? A. No, sir.

Q. You didn't? A. No, sir.

Q. Did you say anything similar?

A. No, sir, and furthermore, I will go back and change— I didn't point Mr. Hanford out to Betty; neither Betty nor Sadie knew Mr. Hanford was going back with me. If I remember I went down in a taxicab and he came on the street car and Betty and Sadie were at the depot. I don't believe they saw him at the station.

Q. Don't you recall you told Betty that you and Mr. Hanford as a representative of Minnie were going down to Oklahoma to make a deal and you instructed Betty to stay there and interview Captain MacNab and try to hold him in line?

A. No, sir, but I believe that I did tell her that Mr. Hanford was going with me but I didn't tell her any more.

Q. And you instructed her to talk to Captain MacNab as trustee?

A. I told her if she wanted any information to go to Captain MacNab.

Q. Well, didn't you instruct her to attempt to negotiate with Captain MacNab? A. No, sir.

Q. And try to get him to make a lease to the Gem Oil Company? A. No, sir.

Q. What did you leave her up there for?

A. She was working for Bartlett so she told me.

Q. Oh, you were a little afraid Bartlett was coming too, weren't you? A. Yes, sir.

Q. You had Betty frame up the telegram she sent?

A. No, sir, I didn't have her frame it up but I saw her write it.

Q. You were present when she wrote it? A. Yes, sir.

Q. And that telegram requested Mr. Bartlett not to come for a while.

Q. I don't remember just what that telegram said. I believe it did. I can't remember definitely.

Q. Yes, I have it here? A. Yes, sir.

Q. Now, so, you really left Betty there because Bartlett was coming but you took Hanford with you? A. Yes, sir.

Q. What did you say to Captain MacNab about wiring down here about you and Mr. Page?

A. I told Captain MacNab to wire, I gave some banks and individuals to wire to as to Mr. Page and Mr. Josey and myself for references.

Q. Mr. Kelsey, your former employer? A. Yes, sir.

Q. So, that he might get references as to your standing and honor? A. Yes, sir.

Q. And financial responsibility? A. Yes, sir.

Q. Then you came on down and enroute you sent a telegram from Spokane to Mr. Josey, didn't you? A. Yes, sir.

Q. Dated June 16th, in which you said: "Trust agreement executed to Army Officer, bringing one back with me"?

A. One army officer?

Q. That was Hanford? A. Yes, sir.

Q. "Here today to see husband." That was Harry?

A. Yes.

Q. "Leave tonight arrive Saturday. Army man trip not known here"? A. Yes.

Q. You kept that from Harry?

A. No, I meant not known in Seattle.

Q. This is sent from Seattle?

A. That was in Seattle because Harry knew we were coming and what for.

Q. Who was it you concealed from the fact that Hanford was with you?

A. That goes back to Sadie James and Betty Mann and my recollection that I didn't tell them.

Q. You told Betty but you didn't tell Sadie?

A. One of the two. I am a little indefinite in my own mind.

Q. You didn't want anybody in Tulsa to know that Hanford was coming? A. No, sir.

Q. You wanted to get the lease?

A. Yes, sir, and had it been known Mr. Hanford was coming representing Minnie, there would have been a flock of oil men.

Q. "Must keep quiet in Tulsa if you want to wire me address Hotel Spokane before five o'clock. Order abstract"?

A. Yes, sir.

Q. When you got to Tulsa you went to see Mr. Page immediately?

A. I think Mr. Hanford and I went out to his house and Mr. Josey came out.

Q. And you had a long conference? A. I wasn't present.

Q. At that time you didn't have any lease? A. No, sir.

Q. Now, you negotiated there with reference to buying the lease? A. Yes, sir.

Q. And when did you finally agree on the terms?

A. There was considerable correspondence by wire between Mr. Hanford and Captain MacNab and Mr. Hanford's father on Sunday and Tuesday and Wednesday and I don't remember just the date. The date of the lease would show. Mr. Hanford and I reached Tulsa on Sunday morning following the 16th and the agreement was made as to the terms of the lease some two or three days after. The date of the lease would show.

Q. You kept a close eye on Mr. Hanford during those few days? A. Well, Mr. Hanford stayed at the Tulsa Hotel

Q. Stayed at your office principally?

A. Made his headquarters at our office during the daytime.

Q. And you agreed on ten thousand dollars?

A. Bonus, yes, sir.

Q. What was to be done with that ten thousand dollars according to the agreement?

A. Five thousand dollars was to be paid in cash and five thousand dollars at a subsequent date.

Q. How were those payments to be made, by what method? A. By check.

Q. And who was to take those checks? A. Mr. Hanford.

Q. What was he to do with them?

A. I know nothing about that.

Q. Well, don't you know that there was some understanding as to when they might be cashed?

A. No, the second check wasn't to be cashed—— I have that check and I think there was written across the face of it "Payable July 19th or August 19th," I can't say. I could get the exact date if you want it.

Q. And they were both made payable to Mr. Hanford?

A. Yes, sir.

Q. What agreement did you have there as to who should get the money represented by those checks?

A. No agreement of any kind.

Q. None at all? A. No, sir.

Q. What was your understanding as to Hanford's continued connection with the matter?

A. We had no understanding.

Q. You knew there was litigation?

A. We had an understanding after the lease was executed.

Q. That was after? A. Yes, sir.

Q. You and Mr. Hanford went over to Sapulpa and checked up the records?

A. We checked up the records of that trial and the decree which had been entered.

Q. What did you check that up for?

A. To get all the possible information we could about the character of litigation we would be into, Mr. Hanford wanted to do that and I went with him.

Q. At that time you were not in possession of the land?

A. No, sir.

Q. The Gypsy Oil Company was? A. I think so.

Q. Then you came from Sapulpa to Muskogee, didn't you? A. Yes.

Q. Then you went back to Tulsa? A. Yes.

Q. And it was then that you prepared the lease and sent it forward to Seattle?

A. No, the original lease I left with Captain MacNab was out there and that was executed as it was originally drawn with some few alterations.

Q. How did you arrange those alterations?

A. The terms or alterations were agreed upon by wire.

Q. When, with reference to the date was it you went down to Sapulpa?

A. I couldn't tell you whether it was before or after the lease was executed.

Q. You don't remember? A. No, sir.

Q. You and he then came to Muskogee? A. Yes, sir.

Q. Where had he put those checks? A. I didn't know.

Q. What did you do at Muskogee?

A. We came down here and made a very thorough, some three or four hours' thorough examination of the Commission records here.

Q. Why did you do that?

A. To acquaint Mr. Hanford with the conditions in this country as to the allotment of land.

Q. Well, weren't you also investigating the matter of this allotment, the records as shown you there?

A. Well, that is what we were investigating.

Q. You were obtaining all the information you could on the subject? A. Yes, sir.

Q. And at the same time showing them to Mr. Hanford?

A. I had been through them.

Q. When?

A. Along in the spring as I told you when I first made my investigation as to the lease; but I had only seen the census card and had learned there were no enrollment records for Thomas.

Q. But this time?

A. This time we went to the bottom as far as we could get.

Q. What day of the week were you here?

A. I don't remember.

Q. Where did you stop that day?

A. We came in in the morning and went out in the evening.

Q. Now, you got those telegrams concerning and relating to these alterations?

A. Mr. Hanford may have them, I do not.

Q. Well, you would have copies in your files?

A. No, they were all sent by Mr. Hanford and signed by Mr. Hanford.

Q. You would not have any copies? A. No.

Q. Let's see those checks; have you got them?

A. No, I would have to get them, Mr. German. I don't know that I have them in Muskogee, they may be in Tulsa, but I will get them.

Q. Well, were they prepared until after you received the lease from Captain MacNab?

A. Well, I can't tell you.

Q. Naturally you wouldn't prepare and deliver these checks until after that time?

A. They may have been prepared but they wouldn't be delivered until after we received the lease through the mail.

Q. Now, let's get down to this Muskogee investigation. You went to the bottom of the thing here?

A. As near as I knew how.

Q. In the interim you were waiting *of* the lease from Seattle? A. Yes, sir.

Q. Do you remember what the census card showed, Mr. Long? A. Yes, sir.

Q. Did it show anything about this allotment being suspended? A. No, sir.

Q. You say it did not?

A. There is a note on the census card; if you will let me have the card I can refresh my memory as to the letter in 1895 of E. B. Miller.

Q. That prompted you to look for the records on that subject?

A. I looked up the records and bought a certified copy.

Q. You also looked and saw all the records on that subject? A. No, sir, that is all I saw.

Q. All you saw? A. Yes, sir.

Q. Here is the card; read that and see what it brings back to your mind.

A. Yes, sir, this is the copy as I saw it.

Q. Read it, will you?

A. What do you want me to read?

Q. The notation relating to Miller.

A. E. B. Miller, letter of May 9th, 1905. Now, Mr. German, that E. B. Miller, chief clerk, Land Office, has been written on since I saw it. We got the letter of May 9th, 1905, to the Commissioner of the Five Civilized Tribes, Mr. Drew got it out of the vault; the letter of May 9th, 1905, to the Commissioner to the Five Civilized Tribes directing that the matter be suspended as to the issuing of the deeds to the heirs of number 1.

Q. Now, you knew at that time that there had been an order entered in that matter on May 9th, 1905, didn't you?

A. No, I didn't know that there had been an order, only what that said.

Q. You saw that notation? A. Yes.

Q. You run it down? A. I saw that letter.

Q. What other letter did you get a copy of?

A. That is the only letter that I saw and I bought a certified copy of that letter.

Q. On that date? A. Yes, sir.

Q. Have you got it with you?

A. No, sir, but I can get it; that is the same letter that you introduced, Mr. German.

Q. Now, that invited your attention to the fact that this allotment had been ordered held up on account of the question being raised with relation to the citizenship of Thomas Atkins, didn't it?

A. That letter said a question having arisen affecting the citizenship of Thomas Atkins, you are directed to withhold issuing deeds to his heirs until further notified, or words to that effect.

Q. Yes, sir, words to that effect.

A. I had a copy of—took a copy of that letter to Mr. Hanford, and Rice & Lyons, and they considered that as splendid evidence that Thomas Atkins was dead. I knew nothing about the citizenship proposition; I assumed that that had all been closed in 1901. That didn't enter into my mind; I don't believe it entered into Mr. Hanford's either, but it did convince us that there was some evidence some place that Thomas Atkins was dead.

Q. That was your explanation?

A. That was my judgment of it, too.

Q. That is what you believed from it?

A. Yes, sir, I [] very gratified to find that letter; I thought it was valuable.

Q. You were not bothered because some question was raised as to the citizenship rights of Thomas Atkins?

A. No, sir, I didn't think it was possible at that time.

Q. You were pleased because you found something indicating that Thomas Atkins was dead? A. Yes, sir.

Q. Did you find out from the office of the Commission what that information was relating to his death?

A. No, sir, that is all I could find; I asked for any other letters or papers, and Charlie Drew told me that was all he knew anything about.

Q. Charlie is a clerk in the Commission?

A. And it took him an hour or two to find that letter; it was very deep in the vault.

Q. Then, you and Mr. Hanford left? A. Yes, sir.

Q. He was educated as you were in that matter at that time? A. Yes, we went into those things together.

Q. You, went over to Tulsa and finally the lease came?

A. Now, whether the lease had come prior to this or not, I can't say.

Q. Will you get the records on that one?

A. The date of the lease and the date I bought the certified copy of that letter will show, Mr. German, because I have that.

Q. Now, you bought the certified copy the same day that you and Hanford were here? A. Yes, oh, yes.

Q. And you have that certified copy now?

A. I think it is in our files, I am very sure it is.

Q. Now, you said that Minnie did not tell you anything about Tommy not existing? A. No, sir.

Q. Well, what did you ask her for?

A. I ask- her the question if Thomas Atkins was her son, during the course of the conversation; I was pretty well satisfied that he was because the records showed that he was.

Q. Now, tell the court which you relied on, the records or Minnie['s] statement? A. Both.

Q. Both? A. Yes, sir.

Q. You relied upon the records when you bought, too, didn't you? A. Yes, sir.

Q. Because you construed the records to show that Thomas was Minnie's son and that Thomas was dead? A. Yes, sir.

Q. Then are you not prepared to tell this court that you saw this record before you bought?

A. Not the E. B. Miller letter; I saw the census card.

Q. Then what was there on the census card that showed he was dead?

A. This notation about issuing deeds to the heirs.

Q. That notation? A. Yes, sir.

Q. That notation? A. Yes, sir.

Q. Was suggestive *or* issuing deeds to the heirs and that was the source of your information? A. Yes, sir.

Q. You had seen that? A. Yes, sir.

Q. So, that was the source of your information?

A. That was it.

Q. Now, didn't it occur to you, Mr. Long, when you read that, that there was some reason for suspending the issuance of the deeds to the heirs? That is what got Fred?

A. Yes, but the deeds had been recorded.

Q. Not to the heirs? A. Not to Thomas Atkins.

Q. To Thomas Atkins? A. Yes, sir.

Q. But I am asking you didn't it occur to you that there was some reason for the order suspending the issuance of deeds to the heirs?

A. No, it didn't occur to me at that time because I was very busy on some other matters and I hurriedly went through that file, that was before we got into this action——

Q. And the part valuable to you was the part that made an impression on your mind? A. Yes, sir.

By the Court.

Q. That was the first time you had examined that census card? A. Yes, sir.

Q. When was that? A. Early in the spring of 1914.

Q. After Rogers had talked to you?

A. I think that was before Rogers had talked to me; I know it was along during that time, and I was down here on some other business and incidentally examined this census card.

Q. Well, what interest had you in the census card at that time? What had come to you or the Gem Company which caused you to examine that?

A. Prior to that time, we had had the discussion with Mr. Kistler that I spoke about, about Tommy being in the army, and curiosity, I think, more than anything else caused me to look up the census card because I remember distinctly that I did so; so remember that notation on there.

By Mr. German.

Q. Then when you and Hanford were in there, you studied it with care?

A. We went into all that very thoroughly and looked up the letter, feeling that probably that letter would give us some information about where and when he died.

Q. But it was a letter directing to suspend action in regard to issuance to the deeds to the heirs, to number 1, who was Thomas Atkins, because there was a question as to the citizenship?

A. You have got the letter reversed but that is the substance.

Q. Put the question of citizenship first and the other last and we have the letter? A. Yes, sir.

Q. Now, who did you ask there about what the question relating to his citizenship was?

A. That question relating to citizenship did not enter into my mind. I asked no one at that time; I knew nothing about the citizenship—that question was never raised in the case and I paid no attention to the citizenship.

Q. You didn't go into the records further to see whether they had issued deeds to the heirs?

A. No, sir, because I had seen the recorded deeds to Thomas Atkins.

Q. *Anti-dating* the date of that order?

A. Well, I don't think I looked at the deeds either way. I examined the deeds recorded and I assumed the recordation of those deeds was proper.

Q. You examined that? A. Yes, sir.

Q. You had seen the record where it was recorded which you now assumed to be in 1903?

A. I don't know whether that is correct.

Q. But you didn't look to see whether the deed had been issued to the heirs?

A. No, because I didn't go any further in the commission showing the recording of the deeds. I didn't believe at that time that I looked at the deed itself, only I saw the notation where it had been recorded.

Q. You knew, Mr. Long, from your experience in the matter of the work of the Commission that they did not issue deeds to heirs after they had issued a deed in the name of the enrolled person unless they had in their possession the deed which had been previously issued in the name of the enrolled person, didn't you.

A. No, I never had any particular work in the Commission; I didn't know that.

Q. You didn't know that? A. No, sir.

Q. Didn't it occur to you when you saw that to go to the deed delivery book? A. No, sir.

Q. That didn't occur to you? A. No, sir.

Q. And you didn't go and investigate it? A. No, sir.

Q. Alright; you will bring up those checks, won't you?

A. Yes, if I can find them, and I think I can, Mr. German. I believe one of those checks is in evidence now; put in evidence in the receivership hearing; I will look that up and see. I don't know.

Q. Now, you say that you and Mr. Hanford, after the lease came, went back to Seattle? A. Yes, sir.

Q. Approximately how long after the lease arrived until you and he started? A. Some few days.

Q. Can you tell us how many?

A. No, sir, only by the date of the lease and I can't get down to the exact date on it but the date of the lease—we left, I think on the night of—I am very sure on the night of July 4th.

Q. You think it was July 4th?

A. Yes, sir, I don't remember the date of the lease.

Q. What was the purpose of that trip?

A. The purpose of that trip was to go back and get—go over very thoroughly and painstakingly with Minnie and her history, and for further proof on the question of identity; Mr. Josey was very skeptical and Mr. Josey was not convinced she was Minnie Atkins, and he wanted some more identification.

Q. You were contented? A. I was contented.

Q. Bettie was? A. Apparently so.

Q. Bettie had returned from Seattle in the interim?

A. Yes.

Q. And she told them that she was Minnie?

A. Yes, but still Mr. Josey was skeptical.

Q. What made him skeptical, do you know?

A. No, I can't tell you, Mr. German; that was one; there were two purposes; one was for further identification and the other was to get as near as possible an accurate statement from Minnie so as to be able——

Q. Who went with you on that——

Mr. Cruce: Wait until he gets through with that, please.

A. Well, so as to prepare for the suit in Creek County Court to procure title to the land that was contemplated.

Q. Yes, you knew that the Gypsy was in possession?

A. Yes, sir.

Q. And you wanted to prepare yourself for the trial of a lawsuit? A. Yes, sir.

Q. Which you contemplated instituting? A. Yes.

Q. Therefore you wanted to equip yourself in the matter of Minnie's ownership of the land? A. Yes, sir.

Q. That is why you took that trip? A. Yes.

Q. Who went with you? A. Mr. Hanford.

Q. Anybody else?

A. Yes, my father went along on that trip.

Q. But he [] no connection with Minnie?

A. Just a pleasure trip for him; he was visiting me from Indiana at the time and I took him along—I didn't want to leave him.

Q. You didn't take anybody with you who had formerly known Minnie? A. No.

Q. You had no additional data in reference to her history except what you had gathered here at the Dawes Commission?

A. And additional conversations with Sam Brown and Mitchell Wadsworth that Mr. Hanford and I had.

Q. Then you went on up and found Minnie again?

A. Yes.

Q. Did you talk to Minnie the first day that you got there?

A. I don't believe so, I believe we waited a day. Mr. Hanford wanted to see Captain MacNab before we began talking to Minnie.

Q. He did? Where was Captain MacNab?

A. He was at American Lake with the regiment; *there* were up there on a hike as they call it.

Q. Where were you when you wrote this letter which is marked—which has been read but it is not marked—apparently to Mr. Josey dated July 7th?

A. That letter was written on the train.

Q. On the train.

Mr. German: Was this letter read into the record this morning?

Mr. Cruce: Yes.

A. Yes, it was.

Q. In this letter dated July 7th, you stated, after discussing the question of the non-citizenship of Minnie, with Mr. Josey, and a possible contention of Bartlett on that account, you said: "Hanford is still talking right"; what do you mean by that?

A. Well, that will require a brief explanation, Mr. German; Mr. Hanford, when he and I left Seattle was very distant; he held us at extreme arm's length; he demanded that he [] allowed to proceed in his own way without any interference from us, and that he not be under any obligations to us for the money that was advanced. After we got to Tulsa, he maintained a very cold, distant attitude; we couldn't get acquainted with him personally, and after the lease was signed up we made a written agreement—prepared *and* written agreement, prepared and written agreement providing that MacNab as trustee for Minnie, and Minnie were to furnish Hanford's services as attorney and we to pay the expenses and Mr. Hanford still maintained that very distant attitude, and we were trying very hard to—or I was, rather, to get personally close to him, and I had had a hard job doing it, and finally before we left, I thought I had gotten pretty close to him. Mr. Josey admonished me particularly to keep Hanford in the case, that he wanted his services on account of his connection at Seattle, and he had said before he left that he would stay with us; that he would continue as an attorney for Minnie, provided we paid his expenses, and a contract—memorandum which I presume Mr. Hanford has, was prepared and he signed it and it was to be signed by Minnie and MacNab when we got out there, and it was signed.

Q. And on the road he was talking alright?

A. Well, he became [] on the way to Seattle but on the way from Seattle to Tulsa, he was anything but friendly.

Q. He had been gotten into the matter by Captain MacNab? A. Yes.

Q. And Mrs. Folk you discovered was dependent upon the McComb's family and the MacNab family out there?

A. Yes, sir.

Q. And consequently you wanted Hanford kept in the case? A. Yes, sir.

Q. You arrived at Seattle and on July 8th you sent a telegram to the Gem Oil Company—do you remember whether you had been out there a day or so or whether that was the day of your arrival?

A. Well, if we left the 4th of July, we got there about—well, if we left about the 3rd, we got there about the 7th or 8th. That telegram is dated the 8th; we got there probably the morning of the 7th or 8th, maybe.

Q. This is dated 7:22 A. M. A. A night letter then.

Q. You must have gotten there on the 7th?

A. Probably so.

Q. How many days were you out there that trip?

A. From the 7th to the 18th or 19th.

Q. About 12 or 13 days?

A. Yes, there and at Portland. My father was with me and I took several side trips from Portland.

Q. Seattle was headquarters?

A. Well, Seattle and Portland.

Q. July 8th, you advised the Gem Oil Company, according to this telegram, that Captain MacNab was out of the city but was expected back the next day; nothing accomplished because Hanford desired to see Captain MacNab before going ahead with the work? A. Yes.

Q. Do you know what he wanted to see Captain MacNab about? A. No, sir.

Q. He didn't tell you?

A. He didn't tell me and I didn't ask him.

Q. Did you see Captain MacNab that day?

A. I think not.

Q. Captain MacNab was Minnie's trustee at that time?

A. Minnie's trustee at that time and I presume that Mr. Hanford didn't want to take any further steps without consulting Captain MacNab as a matter of courtesy because he was her trustee.

Q. And I suppose, too, that he wanted to take up with Captain MacNab the consideration for the lease and its payment? A. I assumed that; I hadn't seen Captain MacNab.

Q. Before you would be permitted to interview Minnie?

A. Well, I wasn't refused an interview with Minnie; I could have interviewed her if I had desired, but I wanted to work in perfect harmony with Mr. Hanford; that was my aim and desire, and it worked out that way.

Q. When did you first interview her on that occasion, the next day July 9th?

A. Well, I don't know, Mr. German, whether I went out the next day or the next; the memorandum I had here, I didn't write any date on it.

Q. You must have interviewed her on——

A. I could take these telegrams and refresh my memory; I couldn't do it without them.

Q. July 9th you sent this telegram, didn't you? A. Yes.

Q. And in that you said the ["] woman's story is clear as to the life's history and birth of child, but so far she is unable to remember the name of people with whom she left him in Leavenworth; may recall the name by tomorrow. Dates she gives can be verified by War Department records as to locations of regiments. We are doing this by wire. Will have affidavit executed tomorrow. Everything looks good." So you interviewed Minnie quite lengthily that day?

A. Apparently so, yes, sir; that was on the 9th.

Q. When did you make these notes that you produced here? A. During the interview.

Q. Interview on that day or later days?

A. Well, on both days apparently there were two days of notes, the way they run.

Q. Well, let's see how many days now: Here on July 9th, the same day you received a telegram from or a night letter from Mr. Josey—it is a night letter; evidently you received it on the morning of the 10th, as he did the one I just read. A. Yes.

Q. "Gather all facts possible about Thomas. They are framing to produce one and are going to do everything possible to accomplish it. Wire me anything about him that you think needs immediate attention." You received that message? A. Yes.

Q. Then on July 9th evidently you sent this code message before the night letter, which has just been read; or this was a night letter, too, wasn't it?

A. Well, now, this is written on a night-letter blank; I presume it was. No, because code messages go straight messages.

Q. Always go straight. A. Yes.

Q. But it was sent on the same day Josey sent one I just read, and you sent the one to him I just read. A. Yes.

Q. This being interpreted means this: "Minnie last heard of boy in summer 1899; was alive then, but sick. Thinks he died soon after. Boy born 1886 or '7, Sisters' Catholic Hospital, Leavenworth; records there should show."

A. Now, I think perhaps I sent that after I received this letter from Mr. Josey, so that he could look up——

Q. You mean after you received this telegram?

A. Yes, sir; so that he could make that investigation.

Q. Take a glance at that and see if you can figure that out; one from Josey was a night letter, sent the 9th, and evidently received by you on the 10th.

A. Yes, that would be true; both were sent on the same day.

Q. And you received his the next morning?

A. Well, that being the case, Mr. German, I take it for granted this was an answer to that, because I gave him some facts about Thomas.

Q. I see, and consequently you didn't answer that one?
A. Yes, sir.

Q. Now, you regarded it essential to code this message giving the details of it and did so? A. Yes, sir.

Q. You suggest here the Sisters' Catholic Hospital records should so show. A. Yes, sir.

Q. It is a fact, isn't it, that you in your interview with Minnie found out she had been at the Sisters' Hospital?

A. Well, she said she gave birth to Thomas Atkins at the Sisters' Hospital.

Q. She said that to you?

A. Yes, she said that to us, and that telegram was sent so that he could check that up if he so desired.

Q. Now, how long were you and she and Mr. Hanford together that day?

A. Well, I could hardly answer that; we went out there I think possibly in the afternoon; I don't think we were out there at all in the morning; yes, one morning we were, because she cooked us a dinner; one day we were there, and we were never there more than two or three hours at a time.

Q. How many different days were you out there?

A. Perhaps four or five days maybe three or four; I can't say definitely because I have no way of remembering, no data on it. But we were out there sufficient length of time altogether to get the information, and after we procured what information we had, we went back and tried every way to get her to tell us the names of the colored people in Leavenworth where she left the boy, and she never did do that.

Q. July 8th, you adduce from these messages, you first talked to her?

A. Well, I assume that, because I said I did talk to her.

Q. July 9th you talked to her. A. Yes.

Q. And July 10th you talked with her?

A. I may not have talked with her on the 10th; I am not sure. I talked with her three or four or five days; then I had her picture taken.

Q. On the 10th you wrote a letter about her? A. Yes, sir.

Q. Which commences, isn't addressed to anybody; just a memorandum. A. Yes, sir.

Q. Which you mailed to Mr. Josey.

A. No, I mailed it to the Gem Oil Company; at that time I wrote letters without addressing them at the top.

Q. You say here, Minnie's affidavit enclosed.

A. Well, she had signed the affidavit then.

Q. I believe it covers her history thoroughly. Now, let us have that affidavit, Mr. Long. A. I don't have it.

Q. Where is it?

A. The affidavit was mailed to the office and was in the possession of Rice & Lyons, and is now in Mr. Hanford's possession.

Q. Now, in Mr. Hanford's possession?

A. I presume it is; I don't have it myself.

Q. Well, these other telegrams and things that went to the Gem Oil Company have also been in the possession of Rice & Lyons.

A. No, we kept separate files, Mr. German; we kept our office file, regular office business file, and Rice & Lyons kept a file themselves.

Q. You think Mr. Hanford has it now?

A. Yes, sir; I think so.

Mr. German: We ask that counsel produce it.

Mr. Hanford: I don't remember seeing it; if I have got it, I will produce it.

Mr. German: I would like to have it before I cross any further.

The Court: What do you remember about it, Mr. Hanford?

Mr. Hanford: I have been through my files recently, your honor, preparing for this case; and I haven't got that affidavit, I am pretty sure. I know it is not amongst my files.

The Court: Do you remember ever having had it?

Mr. Hanford: Yes, sir, I have.

The Court: Well, if you have it in any of your files, where would it be?

Mr. Hanford: It would be in my file of affidavits.

The Court: Have you that file here in the city?

Mr. Hanford: Yes, sir.

The Court: Over at the hotel?

Mr. Hanford: Yes, sir.

The Court: Then if you have it here in the city in your files, you will be able to produce it in the morning?

Mr. Hanford: Yes, sir. I think the only affidavit that I have of Minnie's is an affidavit that was filed in the receivership hearing.

Mr. German: No, this is——

The Court: This affidavit is the one Mr. Long testified about, taken at the time——

Mr. Hanford: I remember the affidavit, and it is practically the same as his notes that are in evidence.

The Court: If the affidavit is among your files, it may be produced in the morning.

Q. Mr. Long, this letter goes on then, this memorandum of July 10th, to state two important points: ["]She is shy on memory; she swears she cannot remember the name of the woman in Leavenworth with whom she left the baby; neither can she remember the name of the person who wrote her that the baby died. However, she stated this evening she would do her level best to remember these names. The most important date in her narrative, when she went to Fort. Wayne, Michigan (for it was after she had been there quite a while after April 1, 1899, that she heard the boy was dead) is substantiated by a telegram from Washington giving the date when the 7th Infantry reached Fort Wayne from Cuba. I didn't put in the years in every place in the affidavit, because she couldn't be definite. However, I am on the next page showing a table with all dates which can be verified." Where is that table, Mr. Long?

A. That table is not there, Mr. German, and I have on my notes what I copied from the table, but I don't know where the sheet *it;* it was not in the file; I looked through thoroughly three or four times after I read that letter myself, and couldn't locate it.

Q. Don't know where it is now? A. No, sir.

Q. Has Mr. Hanford got it, you think?

A. No, sir; that has been misplaced or torn off; it is on my notes there, the notes I made the table from, and exactly the same thing that I made my table from.

Q. Now, Mr. Long, what was it Minnie told you about Charlie, Charlie Harrison?

A. That he was born at Fort Logan about the early 90's; that he was about twenty-one or two years old at that time.

Q. She told you who she was living with?

A. Yes, sir, Biff Harrison.

Q. And she told you about when Charlie was born?

A. Yes, sir.

Q. And who she was living with then? A. Yes.

Q. And she told you about Lieutenant Wallace there at Fort Logan? A. Yes, sir.

Q. And she told you about Alice being born there at Fort Logan? A. Yes.

Q. And that she died when about a year old something like that shortly after she had gone to Fort Logan? A. Yes.

Q. Then she told you about working for Mr. Hyde didn't she in Leavenworth? A. Yes, sir.

Q. And about Mrs. Hamilton? A. Yes.

Q. And that Mrs. Hamilton could give you some information? A. About Thomas.

Q. About Thomas? A. Yes.

Q. And she told you about the Grodevants? A. Yes.

Q. And she told you about the Staffords? A. Yes, sir.

Q. And about the rich Jew she had worked for? A. Yes.

Q. And she couldn't think where Thomas was left?

A. Yes, she could think where and she says, I know about where it was in town, but I don't remember the woman's name. She was a colored woman part colored and part white.

Q. She remembered very well leaving him there when he was two years old? A. Well, little less.

Q. And how she was in correspondence with this woman?

A. Some person.

Q. In later years but she just couldn't remember the name? A. No, or wouldn't.

Q. Or wouldn't one or the other? A. Yes.

Q. And she told you about the child being born at the Sisters' Hospital and how long she had been there?

A. Prior to that she told us the child was born in some house and then she switched.

Q. You kind of jumped her didn't you?

A. Well, I wouldn't say that exactly.

Q. Mr. Hanford did? A. Well, she switched anyhow.

Q. And went over to the Sisters' Hospital? A. Yes, sir.

Q. And she was oscillating between some place and the hospital?

A. Well, for a brief time yes, sir, and finally she settled on the hospital.

Q. Well, this woman's place was not a white place?

A. Well, now I can't remember whether she said it was or not, but the place where she left the boy was a colored place that she was positive; left him with a colored woman.

Q. Well, didn't she say he was born at some colored woman's house?

A. No, she didn't say that that I recall. Mr. Hanford thought she did afterwards when we discussed it, but I never could get that that she said it that way; but he get's it that she did and we differed on it.

Q. But whatever now was in that affidavit she had told you?

A. That affidavit has the exact facts that were in my written notes because it was written from them.

Q. And you didn't want anybody to know what was in that affidavit?

A. We didn't care particularly about it being known, no, sir.

Q. Well, not even for Mr. Eberly to know it?

A. Why it was mailed to Mr. Eberly.

Q. It was mailed to Mr. Eberly?

A. I am sure it was mailed to the Gem Oil Company and Mr. Eberly opened all the mail and if the letter went to Mr. Josey or Mr. Page he saw it got to the right person.

Q. Now you put in this letter: "I would suggest that facts in affidavit be kept secret." What was your object in that?

A. My idea in that was to not make it public. You know there was a great interest in Minnie Atkins at the time; she had been lost for a number of years and everybody was talking about it. We had some people around our office that liked to get out and talk. My idea was that the fact be not made known until we checked up the dates, until we had checked up the Tullahassee date and the Carlisle date, the arrival at Leavenworth, and so forth, which we could do because she gave us the name of the regiment she was with. The only date we had checked up was the date the regiment with which Lieutenant Wallace was attached went to Fort Wayne.

Q. Now, you went on then to say: "I hope you get out of her tomorrow the admission of the custodian——" No, "the names of the custodians of the child. McNabb was to have been here yesterday but will not arrive until next Tuesday, is out on a hike with his regiment." A. Yes, sir.

Mr. German: Does your honor desire to suspend it is now five o'clock?

The Court: I was waiting until you got through with that letter.

Mr. German: Well, I am through with the letter.

The Court: We will take a recess until nine-thirty tomorrow morning.

And thereupon court recessed until nine-thirty o'clock Friday morning, May 25, 1917.

And thereafter, and on May 25th, 1917, at 9:30 o'clock A. M., court convened pursuant to adjournment and further proceedings herein were had as follows:

FRANK B. LONG, being recalled further testified as follows:

Cross Examination by Mr. German.

A. Mr. Long, did you find that affidavit of Minnie's?

A. No, sir.

Q. Did you search for it? A. Yes, sir.

Q. Among the papers that are in Muskogee? A. Yes, sir.

Q. You have not had a search made in Tulsa for it?

A. Well, that would [] be necessary for all of our office files are here.

Q. Where is the affidavit?

A. I don't know; those affidavits and everything connected with the legal, or with the lawyers' side of the case, where in Rice & Lyons' office.

Q. Well, weren't they turned either over to Mr. Hanford or Judge Stuart?

A. At the time Rice & Lyons ceased to be attorneys, why, those files were turned over to Mr. Hanford; after that, I don't know anything about them.

Q. When was it that Rice & Lyons ceased to be attorneys for Mr. Page? A. Well——

Q. Sometime along in the summer of 1915?

A. Some months after the Receivership hearing.

Q. Sometime along in the summer months of 1915?

A. Well, I am sure about that; maybe it was in the fall—I am not sure about that.

Q. It was then that Stuart & Cruce were employed?

A. Yes, sir.

Q. Judge Stuart had not had anything to do with the case before that? A. Yes, sir.

Q. Or any of his firm? A. No, sir.

The Court: Is it your recollection and information that this affidavit was with the files in Rice & Lyons' office prior to their giving up their work in the case?

A. I have no independent recollection of that particular affidavit; I simply know it was executed and all those matters—affidavits and everything of that character were in their file.

The Court: I assume, Mr. Hanford, that you failed to find it among any of your files here?

Mr. Hanford: Yes, Your Honor, I am pretty sure. I know, in fact, that that was destroyed; the affidavit that she made at that time was destroyed because it was not true and I am sure that I destroyed it myself. I will say though, that the affidavit was written from Mr. Long's notes—I wrote it myself at the typewriter—he read his notes and I wrote it on the typewriter.

Mr. German: Your Honor, as to the details of that I would rather for Mr. Hanford to testify to it.

The Court: Yes. It is clear now, that the affidavit is not in existence. You are sure that it has been destroyed?

Mr. Hanford: I am sure that I destroyed it.

The Court: Alright.

A. I will say, Mr. German, after these notes were written we went to Mr. Hanford's office; Mr. Hanford went to the typewriter and I used the notes which I gave you yesterday in writing the affidavit; he wrote it as I dictated some of the facts to him—I didn't dictate the language, but the facts just as they are in those notes.

Q. Mr. Long, you went down to Portland while you were at Seattle, didn't you, on this trip this second trip?

A. Yes, sir.

Q. Now, I read you yesterday evening the code message dated July 9th, which you sent from Seattle to the Gem Oil Company, which states that Minnie last heard of the boy in the summer 1899, was alive then but sick, thinks he died soon after. Boy born 1886 or '7. Then you conclude by saying, Sisters' Hospital, Leavenworth. Record there should show. She told you that the boy was born in 1886 or '7? A. No, sir.

Q. You deduced that from her narrative? A. Yes, sir.

Q. You figured from the time that she—— You considered the length of time that she worked for the Hyde's and the length of time that she worked for the Grodevant's and the length of time she worked for the Stafford's, and the fact she told you the child was born just after she left the Stafford's? A. Yes, sir.

Q. And you figured that would make it 1886 or '7?

A. Yes, sir.

Q. Now, your note of July 10th, which is not addressed to anybody nor signed by anybody, but which was mailed to the Company—— You remember it? A. Yes, sir.

Q. You again stated that you hoped to get out of her, that is Minnie, tomorrow the names of the custodians of the child? A. Yes, sir.

Q. She was still unable to give them? A. Yes, sir.

Q. And you also stated that Captain MacNab was to have been "here yesterday but will not arrive until next Tuesday, is out on a hike with his regiment." You were desirous, or Mr. Hanford was, I believe you stated, to have Captain MacNab there? A. Yes, sir.

Q. With the hope he would be of assistance in enabling her to remember the names? A. Yes, sir.

Q. Of the custodians of the child? A. Yes, sir.

Q. Then, on the 10th, the same day that you wrote the note we have just been talking about, you sent a telegram to the Gem Oil Company in which you stated that a man named Dr. Thomas, representing William Robinson, of Muskogee, tried to see the woman today but didn't get to talk to her. Tell the Court if you know how it happened that he didn't get to talk to her?

A. Isn't that telegram dated from Portland?

Q. No, sir, that is from Seattle, Mr. Long.

A. Well, then, I couldn't say except as information came to me from either Mr. Hanford or Mrs. McComb. I didn't see the man and wasn't present.

Q. That was your information?

A. That was my information, yes, sir. I sent that.

Q. And he didn't get to talk to her? A. No, sir.

Q. Now, Minnie gave the name, you state in this telegram, of a woman on Denver—it is on Denver but it must be in Denver? A. Yes, sir.

Q. Who will remember the name of Thomas' custodian, will see her on way back. That woman was Mrs. Claudius Hamilton, wasn't it? A. Yes, sir.

Q. She has been here as a witness.

Q. Let me divert a little to ask you if you stopped in Denver on your way back to Tulsa? A. I did not.

Q. You went right on through? A. Yes, sir.

Q. Did you stop in Denver on your way to Seattle? A. No, sir.

Q. Did you stop at Fort Logan? A. No, sir.

Q. On either one of those trips? A. No, sir.

Q. Have you ever been to Fort Logan to investigate this matter? A. Not personally.

Q. Who has? A. Mr. Hanford.

Q. Did he stop at Denver, or Fort Logan enroute to Seattle on that second trip of yours? A. No, sir.

Q. Then you state, that Minnie's information is that he, Thomas, died in 1900 and 1901. She received a letter telling of his death, but does not remember who wrote the letter. Will see her again in the morning. She is trying to recall the names—Mr. Long, where was it she said she got that letter from telling her of Thomas' death?

A. From Leavenworth.

Q. Did she say who wrote it—this same person who was custodian?

A. That is what we were trying very hard to find out; she didn't say, and said she didn't remember who wrote it.

Q. Didn't remember? A. No, sir.

Q. And we questioned her very closely along that line. We had two things to find out; the name of the colored woman with whom she left the boy and the name of the person who wrote that letter.

Q. Who wrote that letter.

A. I remember that she explained to us that she had a lot of old letters in a trunk, and some weeks or months before that her husband and she had cleaned house.

Q. And burned them? A. Burned a lot of old letters.

Q. On July 11th, which is the next day now, you wired the Gem Oil Company again, from Seattle, and you stated this: "Affidavit which will reach Tulsa Monday gives dates and names for identification. Had the woman's photograph taken today. Will mail finished copy Monday. Woman declares she will yet recall names of persons who wrote her that boy died. Says she is sure name will come to her in time." It hadn't come to her on the 11th yet? A. No, sir.

Q. Now, on the day you received a telegram from Mr. Josey sent from Tulsa in which he said: "Don't leave there until advised by us. Be sure you have the right party." Didn't you? A. Yes, sir.

Q. Now, that party was the same party that couldn't remember the name of custodian of the child, or of the person who had written her that he was dead; isn't she?

A. That party was Minnie Atkins.

Q. That party was Minnie Atkins? A. Yes.

Q. You had been advising Mr. Josey and the Gem Oil Company, rather the Gem Oil Company, that that woman you were talking to could not remember the name of the person with whom she had left her first born, hadn't you?

A. Yes, sir.

Q. And Mr. Josey sent you this telegram that I have just read to you, didn't he?

A. Yes, sir, for this reason: that Mr. Josey was still skeptical as to whether——

Q. It was Minnie?

A. This was Minnie Atkins, and for that reason, I had taken these photographs and in the letter transmitting them I had asked him to have some of her old acquaintances in Muskogee see the photograph.

Q. See the pictures. You knew it was Minnie?

A. I felt in my own mind it was.

Q. But you kept sending Mr. Josey or the Gem Oil Company, I mean, information about this woman? A. Yes, sir.

Q. Not being able to tell the name of the woman with whom she left her first born?

A. Yes, indeed; the telegrams speak for themselves.

The Court: Did she ever give you approximately the place in Leavenworth where she left him?

A. She didn't know the names of any of the streets, she couldn't place herself at all in Leavenworth; she didn't even know where Hyde lived; she was absolutely at sea as to those locations and names.

Q. Now, on the 13th, you wrote a little note sending the photograph, and you regarded them as very important and sent them by special delivery. That is true, isn't it?

A. Oh, yes.

Q. Now, on the same day, the 13th, you sent a telegram to the Gem Oil Company from Seattle—now, this was the fifth day you had been up there, wasn't it? A. Yes.

Q. In which you said: "MacNab has been delayed; returns tonight. With his help, hope to get names from woman tomorrow. Can't do much more good here. Want to see Portland man and Denver woman enroute home. Shall I follow instructions in your telegram of 7th to remain here until you advise me to leave. Long." Now, let me see; what good did you think Captain MacNab could do, or did Mr. Hanford state that he thought that Captain MacNab could do?

A. Well, Minnie was very reluctant to talk, that is to be definite; she couldn't remember dates, she couldn't remember names, and I was a stranger to her; Mr. Hanford was a stranger to her. She had never known Mr. Hanford prior to his connection with this case. We felt that she was holding back facts and I think I said so in one letter there, that I believe she knows and won't tell.

Q. Well, we will get to that, what you told your superior.

A. And we felt that Captain MacNab, who she had known a great number of years and in whom we felt she had confidence because she had turned over her business to him in these trust deeds, would probably be able to induce her to give us these names provided she remembered them; there were two things, whether she remembered them or whether she didn't, and we thought if Captain MacNab could explain to her the importance of our having this information she might tell him the things, apparently that she was refusing to tell us. That was our purpose in wanting Captain MacNab to see her.

Q. Now, of course——

A. That was our purpose in wanting Captain MacNab to see her.

Q. Of course, at that time she didn't understand the value of the land nor the importance of her being the mother of Thomas, did she? A. I couldn't say as to that.

Q. She didn't understand that it was necessary for her attorney and her lessee, view of the litigation, to have detailed information? A. We tried to make her understand.

Q. Tried to make her understand that. Did you succeed in making her understand that?

A. I don't think we did because I was never able to get those names from her while I was there.

Q. Captain MacNab, according to this letter—this telegram of the 13th. Now, on that same day, the 13th, you wrote another note, a long one, which must have gone with the photographs, didn't it?

A. Well, now, I think that letter, Mr. German, was written to be inclosed with the photographs and the photographs were very large; they were sixteen or eighteen inches square; and I may not have put that in, but anyway the photograph and that letter went in the same mail.

Q. Now, you in this note state that in a recent telegram Mr. Josey admonished you to be sure you had the right party. Then, while I am perfectly satisfied our Minnie is the right Minnie, still I know there has been in the past many clever frame ups pulled off in identification. I am therefore transmitting the photographs, and so forth. Both likenesses are good, and so forth. And then you suggest that they see Sam Brown, Mitchel Wadsworth and others and have them examine the photographs, or John Couch, of Muskogee. Couch is the man who went from Muskogee to Denver with Minnie in 1896. His brother, Frank Couch, is in Muskogee, and so on. And by the way he might know something in re Thomas. That is Couch? A. Yes.

Q. None of these people have seen the woman since 1896, eighteen years; Minnie says she has not changed much in eighteen years except as to weight. She says she always was large but that she has gained considerable in the last ten years. Now, Minnie told you that, didn't she?

A. Yes, sir.

Q. There are yet, as stated in previous letters and telegrams, two things which she must come through with, the name of the colored woman with whom she left Thomas in Leavenworth, and the name of the person who wrote her that he was dead. I believe she remembers these things and is withholding them for a reason. MacNab will be home tomorrow and I feel that he will make her come across. My only fear is that she lied as to not telling of his death and that it occurred much earlier than is shown in the affidavit. The affidavit I suppose showed the death at the time your note indicated?

A. Yes, when she was at Fort Wayne.

Q. What made you fear that she was lying on that subject?

A. As to just what time, I was afraid that she might have received that letter when she first reached Fort Wayne, on account of the fact that she at no time was definite as to when she received the letter. We questioned her as to the time of year, whether it was spring, summer, fall or winter; as to just where she was; and as to whether the regiment had gotten there, or whether she was still with Mrs. Lieutenant Wallace and her children, and she was indefinite about it. I know that my deductions from the way she talked and so forth led me to believe that maybe she misrepresented a little. Anyway, That is the way I felt about it, because I wrote my own feelings in that letter.

Q. You had received Mr. Josey's message about being sure it was the right person? A. Yes.

Q. And the tenor of that letter, the burden of the song is the question of identification?

A. That and the question of the date of death, when she received that letter.

Q. Now, on July the 14th you sent another code message in which you stated, sent this to the Gem Oil Company, after conference today I am convinced Minnie does not remember any of the people with whom she left the child, will keep after her? A. Yes, sir.

Q. That was on the 14th?

A. Yes, sir, but I don't want you to understand that I was at her house every day. We took quite a few sight seeing trips out at Seattle.

Q. You were up there and not going to leave until you were ordered back? A. No.

Q. You were requested by Mr. Josey not to return until you made sure of the identification? A. Yes.

Q. You had intended to return sooner than you did?

A. Well, I thought I was through; saw no necessity for staying there.

Q. Now, let's see about Captain MacNab just a minute. You learned that Captain MacNab, and Mr. Hanford learned this to your knowledge, that Captain MacNab had come in contact with Sadie James?

A. No, I don't—— Yes, I do. I knew that Sadie James was out there, but I can't say that Captain MacNab had come in contact with her.

Q. It was Captain MacNab who gave you the information that there was a colored woman there bothering Minnie?

A. Oh, that was in the month of June.

Q. Yes, sir, and you and Hanford thought possibly the Captain would be of some assistance to you in getting Minnie to remember the names? A. Yes, sir.

Q. Of the old colored woman? A. That was natural.

Q. Natural, yes, sir. Now, you went to Portland on the

16th, or at least you were in Portland, and you sent a telegram from there to the Gem Oil Company, I believe you stated, and produced it and I have it here in my hand. Now, in this telegram you stated: "Bartlett in Portland, understand Alice Robertson of Muskogee expected here Saturday to go to Seattle to identify Minnie. Also that Bartlett is looking for Thomas. Have not seen Bartlett, will stay away from him." You sent that message? A. Yes, sir.

Q. On the 16th of July, 1914. Then on that same day you sent a night letter, dated July 16th in which you stated this: "Wired you this afternoon Bartlett is here. Sadie has been here for several days, she went to Seattle this morning with a friend of Minnie's." Let me stop reading to suggest that that was Clara Kirk? A. Well, I didn't know.

Q. You didn't know? A. No, sir.

Q. "And tried to see her but failed." You know why she failed?

A. Mr. Hanford called me up and told me over the telephone neither Sadie nor this friend had gotten to see Minnie.

Q. And he told you why too? A. No, sir.

Q. Mr. Long, didn't he tell you he took care of Minnie on that occasion? A. No, sir.

Q. Wouldn't let them see her? A. No, sir, he didn't.

Q. He didn't. "Looks to me like frame up for fake Thomas or effort to win Minnie away from Hanford. Hanford talked with Minnie's friend and her conversation indicated effort tending to convince Minnie Thomas is alive. I will stay here until Bartlett leaves and keep in touch with Seattle by 'phone. Arrangements made for holding check as requested. Am at Oregon Hotel." You had some instructions not to deliver some check did you? A. Yes, sir.

Q. What check is that?

A. That is the check you were inquiring for yesterday.

Q. Did you bring it here this morning? A. Yes, sir.

Q. Let's see it?

A. I will explain, Mr. German, that the first five thousand dollars was paid at the delivery of the lease. The second five thousand was to be paid sometime afterwards and I testified yesterday I thought it was August 19th or July 19th, it seems to be July 29th. And we withheld payment of this check until Minnie was positively identified as Minnie Atkins. Then prior to my going out there, Mr. Josey had directed me not to deliver that check until we were sure that Minnie was Minnie and until she had given us full and complete facts as to the birth of Thomas.

Q. Yes?

A. And she hadn't given those facts, and I felt that we shouldn't deliver that check until she had given those facts. There was the additional five thousand dollars and we wanted to be positive that everything was all right and that accounts for my statement in that letter. July 29th was approaching and I didn't know how long I would be there.

Q. Yes, sir, this is on July 16th?

A. Just a minute. I took up with Mr. Hanford the matter of holding this check. He wouldn't agree to it at first. Finally when he saw the condition we were in and our inability to have Minnie tell us the facts, he tentatively agreed that he would not demand the check; and then I think he consulted afterwards with Captain MacNab, as to their conversation I can't say. Nevertheless, Mr. Hanford did agree that the check would not be demanded at that time.

Q. July 29th, you say was approaching and this was July 16th that you sent the telegram I have just read from?

A. Yes, sir.

Q. We will get to that check and the payment of it later on in your testimony. I want to refer to the other five thousand dollars. There were two five thousand dollar checks?

A. Yes, sir.

Q. Both payable to E. C. Hanford? A. Yes, sir.

Q. You say the first was paid at the time of the execution of the lease? A. As I remember.

Q. That went to Hanford and MacNab?

A. Not that I know of.

Q. You don't know about that? A. No, sir.

Q. But this one was not paid until the 29th?

A. And wasn't paid then.

Q. Wasn't paid then. All right. Stamped paid September 15th, I notice? A. Yes.

Q. But it has prior to that an endorsement "Seattle September 10th." had you noticed that?

A. Well, I hadn't noticed the check.

Q. Now, on July 17th from Portland, you wired the Gem Oil Company again, in which you stated "If you are giving notice of taking of depositions include as witness Mrs. A. M. Mashack of Portland; she was with Nancy when her baby was born; says it was a boy but died day after birth. Was buried in Wagoner. I have affidavit. Will remain here until something develops in matters. Wired you again yesterday." What were you expecting to develop there that was prompting you to stay there?

A. The only—just let me have that telegram, Mr. German, I will explain it more definitely. I think that referred to the activity of Bartlett and Sadie James. Now, I am not sure; that is my opinion at this time after all that time.

Q. You didn't personally come in contact with Sadie or Mr. Bartlett there, did you? A. No, sir, no, sir.

Q. But you had detectives watching? A. I did not.

Q. Now did you keep up with their movements there, Mr. Long? A. Through Mr. Hanford.

Q. Was he there? A. He was in Seattle.

Q. But they were in Portland.

A. As I understood, a moment ago, Sadie had gone to Seattle.

Q. She went on the morning of the 16th and returned on the evening of the 16th?

A. I am not sure of that; and Harjo knew of Bartlett's activity and Harjo was telling me.

Q. Harjo was telling you?

A. Yes, sir, I recall that now.

Q. Don't you recall having two detectives there on Sadie in Seattle and in Portland? A. No, sir.

Q. And that you had them to interview her?

A. I did not.

Q. And didn't you find out about that photograph she had of a supposed living Thomas?

A. I did not. I hired no detectives in Portland.

Q. Alright. Now, on July 18th, the next day, you telegraphed from Portland to the Gem Oil Company as follows: "Phone Muskogee. Ascertain if Alice Robertson left and when. Answer" Signed Long. A. Yes.

Q. What did you want to know about Alice Robertson's movements for?

A. Why, Mr. German, I wanted to know every thing that was going on. I didn't know what she was coming out there for; I didn't know the purpose of her visit.

Q. You knew Miss Alice Robertson well?

A. Knew her well and had a very high opinion of her.

Q. And you also knew that Miss Alice Robertson had been in the school that Minnie had—had taught in the school where Minnie attended? A. Been Minnie's teacher.

Q. Now, you wanted to know when Miss Robertson and Minnie had a conversation if they had one? A. Naturally.

Q. Then, you received a telegram on the 18th from Tulsa, signed Eberle, sent to you at Seattle by way of Portland, which said: "Alice Robertson left Muskogee Tuesday night for Seattle." Now you know about Miss Alice being in Seattle when she got there?

A. Only through information from Mr. Hanford. I didn't see her and didn't talk to her.

Q. You didn't see her; yes sir. You kept track of her enroute, didn't you? A. No.

Q. You figured what time she would reach there?
A. Oh, yes.

Q. Now, on July 18th, the same day of the last message, Charles Page wired you at Portland as follows: "Unless absolutely necessary for you to be there, come with Hanford and Minnie who are leaving for Tulsa." You received that message? A. Yes, sir.

Q. Then, on the 19th instant—on the 19th of July, you wired to the Gem Oil Company from Portland as follows: "Hanford leaves this afternoon. I am leaving this morning. Meet him in Kansas City. B.—"—standing for Bartlett—"still in Portland. You can wire me care of Oregon, Washington train, number 18." So you didn't return from Seattle on that trip by way of Denver?

A. No, sir, I had a round trip ticket.

Q. Down through San Francisco? A. No, sir.

Q. Well, you came back to Kansas City without going through Denver?

A. Yes, sir; by Union Pacific down through Pocatello and Cheyenne, and that way, and I came straight through.

Q. Have you got some more telegrams that passed between yourself and the Gem Oil Company?

A. No, sir, that is——

Q. While you were up there on that second trip?

A. No, not that I know of.

Q. You don't know of them?

A. No, sir—yes, there was a telegram that came up there with reference to filing suit on behalf of Minnie in the Federal Court rather than in the Creek County court; I have that telegram. I remember it but I didn't consider it material in this—I can furnish it to you if you want it.

Q. There are not any other letters or telegrams?

A. That is all.

Q. That you know about?

A. That is all. No, sir. That telegram—I think probably that telegram—I think probably there were two or three of those messages in reference to having our attorneys in Oklahoma authorized to file suit in behalf of Minnie in the Federal court rather than the Creek County court.

Q. Now, Mr. Hanford—Mr. Long, can you tell what day you took this memorandum of what Minnie said while you were up at Seattle at the second trip, or did you take it at different times?

A. Took it on different days, Mr. German, but all prior to the execution of the affidavit and I think we can find from these telegrams the date of the affidavit because I say there in one message affidavit executed today. And those notes were all made prior to the——

Q. To the date of that affidavit?

A. To the date of that affidavit, yes, sir.

Q. Well, I will help you out a little on the date of the affidavit—Mr. Long, did you look for that little table of facts that is referred to in one letter? A. Yes, I did.

Q. Did you find that?

A. No, I didn't but it is an exact duplicate of the table that is on there.

Q. Now, these are the only two papers you couldn't find; that table and that affidavit? A. Yes, sir.

Q. I notice, referring to that affidavit, that your telegram of July 10th, states that her affidavit—this is a night letter—"her affidavit executed today; am mailing copy to you tonight." That must have been in triplicate then, or in duplicate?

A. I think so; I think I sent both copies—sent two copies.

Q. You state there you are sending copy?

A. Well, I can't be sure, I have no independent recollection.

Q. Well, did Mr. Hanford keep one?

A. Well, if he did, I don't know; he wrote the affidavit on the typewriter; wrote it himself.

Q. I understand; naturally you would send one to the Company because they were supposed to be investigating a little bit.

A. They were very much interested in knowing these facts.

Q. You and Mr. Hanford were doing the investigating and you think you didn't keep one?

A. Not that I remember—not in my file.

Q. Let's see. During the several days that you were there; in fact you got there on the 8th or the 7th?

A. 7th or the 8th.

Q. And this affidavit was made on the 10th, evidently?

A. According to the telegram, yes, sir.

Q. The second day after you had arrived? A. Yes, sir.

Q. And you had gathered the information contained in it during those two or possibly a third day? A. Yes, sir.

Q. Now, during that time, Minnie told you the name of her father; told you that her father was Thomas Atkins?

A. Yes.

Q. That her mother was Mary Jane Atkins, formerly Davis, didn't she? A. Now, it is all right there.

Q. That is what she told you? A. Yes.

Q. She told you about Kate somebody—Holden?

A. Yes, sir.

Q. A half sister? A. Yes, and Ellen.

Q. Ellen, another half sister? A. Yes, sir.

Q. She recalled the name of her brother Lee who had died in '96, and of Nancy, still living? A. Yes, sir.

Q. Now, she told you that her father was—that she was about 13 years old when her father died and about 12 years old when her mother died? A. Yes.

Q. She recalled being at Tallahassee when she was about 15 and that she was living with John Davis for one year—1879, and back to Muskogee with John Davis and then went to Carlisle? She remember all of that? A. Yes.

Q. And with a man named Almarine McKellop; that was at school, wasn't it? A. Yes.

Q. She remembered him; twenty-five of them she mentioned, Betty Crowell—who was Betty Crowell?

A. Betty Crowell was Betty Mann.

Q. Betty Mann. She mentioned Miss Alice Robertson?

A. Now, Mr. German, out of the twenty-five that went with her to Carlisle, she could only remember two names.

Q. Two names? Alright; this Almarine McKellop?

A. And Betty Crowell are the only two names she could remember, and there were twenty-five of them, so she said.

Q. Then she told you she was in Carlisle for two years and she left Carlisle alone and went to George Hyde's—was sent to George Hyde's to——

Q. No, you are reading that wrong, Mr. German.

Q. Am I reading that wrong? George Hyde sent to his sister Mary Hyde, that is what she told you? A. Yes, sir.

Q. And Mary Hyde was the overseer of the girls?

A. Yes.

Q. For an experienced cook from the girls?

A. That means from among the girls.

Q. And Leavenworth—that means he wanted her to be sent to Leavenworth? A. To Leavenworth.

Q. And Miss Hyde picked Minnie out and sent her—what is that word? A. Paid.

Q. Paid her own fare to George Hyde's at Leavenworth?

A. Yes.

Q. She said that she worked two months for Hyde's and quit and went to Fort Leavenworth and was there for four years? A. Yes.

Q. That she worked for Mr. Grodevant for three years?

A. Yes.

Q. He was an overseer of the Military Prison she told you? A. Yes.

Q. Then she told you that she worked for Mr. Lieutenant Stafford for one year? A. Yes.

Q. That he was in the Army? A. Yes.

Q. She told you that her boy was born right after she left Mrs. Stafford's? A. Yes.

Q. Then you figured that it was in '86 or '87. She told you that it was born during the summer and that its father was dead as far as she knew; is that right? A. Yes, sir.

Q. That she never after Harvey and Charlie were born about her father—about his father? A. About his father.

Q. Then she told you that it was in the Sisters Hospital where the child was born, didn't she? A. Yes.

Q. That she was in the Hospital one *one* month?

A. Yes.

Q. And that she went right from the Stafford's to the Hospital?

A. Yes, she also said now—we talked about that yesterday——

Q. Yes, sir?

A. She also made the remark about the boy being born in some house——

Q. Yes? A. And then she changed that.

Q. And went to the Hospital?

A. And went to the Hospital.

Q. Now, that is where you and Mr. Hanford had your little difference in recollection?

A. In recollection in to just how she switched it, Mr. German.

Q. Switched it? A. Yes, sir.

Q. And your memory was that she said a white house that he was born at and Hanford's was that she said a colored house?

A. No, I don't remember that she said any house, as I remember it now. I have tried very hard to remember just the circumstances and how she said that.

Q. I understood you to testify yesterday——

A. I thought of it since.

Q. That that was your recollection while you and Mr. Hanford differed on it, your impression was that she said that he was born at a white house and Mr. Hanford insisted that it was born at a negro house.

A. Well, I depended absolutely on my notes as put down and things said outside of those notes, I don't remember and I am still hazy on it. I have tried to make myself believe it both ways and argued with myself and can't do it.

Q. Can't succeed? A. No, sir.

Q. You didn't write down here anything about her having stated about its being born in a house and then switched?

A. No, because she was very positive about the hospital afterwards.

Q. Then she told you about working for a rich Jew outside of the Post, on a high hill, and that the boy was with her and that she worked there three months?

A. Yes. She couldn't remember the name of the Jew.

Q. No? And then she told you about Mary Hamilton, that Mary had known her at school and at Leavenworth, didn't she?

A. No, I don't recall that she said that Mary had known her in school; she did recall that Mary had known her in Leavenworth and that Mary Hamilton, should know the name of the people with whom this boy was left.

Q. And that Mary Hamilton lived in Denver?

A. Yes, sir.

Q. She told you that she had named Thomas after her father? A. Yes.

Q. And that she couldn't get any wages with the boy on her hands and that Thomas was weaned when she left Leavenworth? A. Yes.

Q. That she gave the boy away in Leavenworth to a woman; she also mentioned Claude Hamilton's name, and told you that he lived at Fort Logan, and told you that he would remember who received the boy? A. Yes, sir.

Q. That she didn't give the boy away but that she simply left him, expecting to go back and get him? A. Yes.

Q. Now, what does part colored mean right there?

A. That means that the person with whom she left the boy was a part colored woman.

Q. Part colored? A. Yes, sir.

Q. That she then went to Fort Logan with the 18th Infantry, 8 years; that is she was there 8 years, and while there one year received a letter to send money to the boy. Did she say whether she sent the money?

A. She said she sent money at one time.

Q. And sent money?

A. Yes. I think that is down there.

Q. And could she remember who it was requested her to send that money? A. No.

Q. Did she say whether that letter contained any statement about the health of her boy?

A. Not at that—not the first letter.

Q. She told you about staying [] Logan from '88 to—or '89 for four years until '93? A. Yes.

Q. She told you about meeting Biff Harrison there?

A. Yes.

Q. And that the two boys that were born there, and Alice, all had the same father, and she told you that Alice died when she was a year old, and she told you that Alice was born at Logan, did she? A. Yes.

Q. Did she tell you where in Logan, Alice was born?

A. If I don't have it down there, she didn't.

Q. Well, you don't have it down here.

Q. Then she told you that Harrison was the father of Harvey and Charlie? A. Yes.

Q. Did she tell you who was the father of Alice?

A. Not that I remember. Don't I say there——

Q. Well, you do put it this way; that she said Harvey—no; two boys born there, and Alice—all same father.

A. Well, then, that is what she said then.

Q. Then, she told you about Lee sending for her to come back; that he was in Muskogee, and that she went back and took the boys with her, and that at that time, Charlie could walk, she recalled that, and that Harvey had to be carried; she told you that? A. Yes, sir.

Q. That he was not nursing. Then you noted: "So, about two years old, 1894;" that *you* went to Lee's in Muskogee but he was not married; she told you that, didn't she?

A. Yes.

Q. And stayed months? A. Yes.

Q. Didn't say how many? A. No.

Q. Visited relatives; to Lee's from Fort Logan?

A. That is Lee.

Q. Lee met *me* at the train at Muskogee? A. Yes.

Q. She told you that?

A. No, I think that refers to this, that Lee met the train in Muskogee one afternoon.

Q. Oh, yes, Lee met the train.

A. Kate Holder came in and took the boy.

Q. Isn't this in—— Lee met the train at Muskogee, isn't that it? A. Yes.

Q. And that in Muskogee one afternoon, Kate took the boys? A. Yes.

Q. Kate was her half sister; Kate and I had the same father? A. Same father but not the same mother.

Q. She took them home; then——

A. Now, there is a part of that—my deductions, Mr. German, from which the table was made.

Q. Then, you deducted this—you deduced from the various facts that you had? A. Yes.

Q. That he was born in the summer of '87? A. Yes.

Q. That he was weaned in '88 when Minnie left Leavenworth; that she went to Fort Logan, and one year after Alice was born in '89? A. Yes.

Q. Eighteen months after, made Charlie about the first of '91 or the last of '90? A. Yes.

Q. And two years after came Harvey in 1892 or '93? A. Yes.

Q. Then, you substracted here, 1888 from 1893, leaving 5? A. Yes.

Q. So that, you figured from that that Harvey was 5 years younger than Alice? A. Yes, apparently so.

Q. Apparently so? A. Yes.

Q. Now, she told you about being at the 1895 Okmulgee payment and that Thomas was then alive? A. Yes.

Q. The only information, though, that she had had about Thomas prior to that, so far as she told, was the letter in 1889 or '90? A. Yes.

Q. Asking for some money which she sent? A. Yes.

Q. Now, she stated that she visited Lee and Kate and Will Robinson and Cherokee Robinson, didn't she?

A. Yes, sir.

Q. And in Checotah when—— A. Heard.

Q. Heard that Lee was shot, visiting; she was visiting Annie? A. Aunt Susie.

Q. Susie? Who was that?

A. She couldn't remember her last name; just Aunt Susie.

Q. A distant relative? A. A distant relative.

Q. And after she drew the money it was that she heard about Lee being shot? A. Yes.

Q. And she went back then to Eufaula, and from there she went to Checotah? A. Yes.

Q. Told you all about that. She said Lee was shot in the summer; the payment was in May?

A. She was mistaken about the month.

Q. Yes, because you know the payment was in September? A. Yes.

Q. Lee was shot in the summer; stayed with him six days and nursed him; buried in Eufaula? A. Yes.

Q. Then went to Muskogee one week and visited with Nancy two days and Nancy about this time had the baby girl still born; Nancy's baby——

A. This next notation I believe corrects that. I understood her to say then Nancy had this baby while she was there visiting.

Q. Nancy's baby born before Lee died, when he run billiard hall in Muskogee. This when I was in Logan and Lee told me when I came of the still born child? A. Yes.

Q. She told you that. Then, you wrote down here, payment, May 1895, Lee killed three months, August 1895?

A. Yes.

Q. Those were your deductions? A. Yes.

Q. Then, Minnie told you, went to payment on horseback from Muskogee, hired horse there. Remembers Sam Brown handed me the money. Cornelius Carr—— Now, Cornelius Carr I believe she stated to you was the Clerk at the payment?

A. She said Cornelius Carr had something to do with it, she didn't know what.

Q. I did not get the money direct. She recalled that perfectly? A. Yes.

Q. Now, I find on the back of one sheet, one of these various sheets, I find that on the back of just one of them there is something written? Oh, that is this John Couch matter. Payment 1895; one year in Indian Territory; 1896 started for Denver with John Couch? A. Yes.

Q. One month, finally landed in Fort Logan in latter part 1896 or first part 1897, Seventh Infantry. In Logan with seventh. Was in Cuba fighting fall 1898. Seventh went to Fort Wayne, Michigan, and we joined them there at Detroit?

A. Yes.

Q. Then, here is some more of your deductions?

A. Yes.

Q. This is practically the same as the other. Then, she told you some more, that one month after Lee was killed, July or August '95 she went back to Logan?

A. One months after payment.

Q. Then she told you that from Muskogee to Logan she went with John Couch July or August, '95. One year in Logan; Logan to Detroit with Seventh; Harrison had gone to Arizona; he was a beef contractor of the Post at Fort Logan?

A. Yes.

Q. That then she went to Detroit in 1896; that she cooked there and stayed at Detroit two years, and then to Van Couver Barracks? A. Yes.

Q. That when at Logan the second time she heard from Thomas who was still in Leavenworth. Did she say who gave her the communication?

A. That was another thing she couldn't remember.

Q. Now, she said then that she was in Fort Logan——

A. That is the regiment she was with at the different times. We expected to look up the whereabouts of those regiments.

Q. Then, we will just pass them and go down to the next. That in Fort Logan she was with Mrs. Lieutenant Stafford while the Seventh was in Cuba?

A. No, Lieutenant Wallace. You had the wrong name.

Q. What name did I call? A. You called it Stafford.

Q. I meant Wallace. Heard from Thomas by letter, he was sick. This was in the latter part of '99. Now, I believe you have already explained she couldn't remember who it was wrote her about it? A. Yes.

Q. Wrote letter from Detroit to Wadsworth. What did she write Wadsworth, did she tell you?

A. Yes, sir, she said she wrote Wadsworth as to the enrollment of her children and her own enrollment. She had heard from some one that they were enrolling the Indians.

Q. Did she tell you about authorizing John Holden to enroll them?

A. Not at that time, she didn't mention him to me as I remember.

Q. Then she went from Cuba to Detroit. She told you about being married in 1907, March 13th, to Harry? A. Yes.

Q. Harry Folk? A. Yes.

Q. And in 1908 she was at what island?

A. Philippine Islands.

Q. And that she stayed there five months?

A. Now, those figures there we were very particular about this 1912 date on account of that forged deed which was dated October 1913.

Q. She said then that she was where?

A. Fort Harrison.

Q. Where is that? A. That is at Helena, Montana.

Q. Now, Mr. Long, then she remembered that she worked for Hyde's at Leavenworth? A. Yes, sir.

Q. She remembered that she went out to the Fort from the Hyde's? A. Yes.

Q. And stayed four years? A. Yes.

Q. She remembered that she worked for Stafford, the carpenter? A. Yes.

Q. She remembered—— No, I meant Grodevant, the carpenter? A. Yes.

Q. And she worked for Stafford the Lieutenant?

A. Yes.

Q. And she remembered that she went from the Stafford's to the Hospital and gave birth to the child? A. Yes.

Q. Then, she remembered that she worked for the rich Jew? A. Yes, but not the name.

Q. But not the name. And she remembered that she went to Fort Logan and that she had Alice over there and that Alice died within a year? A. Yes.

Q. And she remembered about this man Mike Harrison?

A. Biff Harrison.

Q. And she remembered about the birth of Charlie and the birth of Harvey? A. Yes.

Q. And their approximate ages? A. Yes.

Q. And about coming to Muskogee to the payment? A. Yes.

Q. But she couldn't recollect the name of the woman with whom she left the child and she oscillated a little bit in where he was born? A. Yes.

Q. She didn't tell you about but one child in Leavenworth?

A. Let me correct you. I used the expression she couldn't or wouldn't?

Q. Couldn't or wouldn't? All right, one or the other. Did she tell you about Mr. Rice who associated with her at the place she went to after she left Fort Logan?

A. Not at that time.

Q. She did later on? A. Yes, sir.

Q. You were not much interested?

A. Well, I was interested in everything that she did at Fort Logan, but she didn't mention Rice; that came through another party.

Q. She attempted to give you the name of every person with whom she had associated in her life to a sufficient extent to make an impression on her mind?

A. We attempted to get those things from her.

Q. From her? A. Yes, sir.

Q. You attempted to do so? A. Yes, sir.

Q. Mr. Long, don't you know that she gave you the name of Robert Lee Peterkin?

A. I do not, she did not.

Q. She did not? A. No, sir.

Q. And told you that he was the child born to her just after she left the Staffords in the home of a white woman?

A. That is a misstatement on your part, Mr. German, she did not.

Q. She did not? A. Absolutely she did not.

Q. And don't you know that she told you the name of the man who associated with her as her common law husband from Christmas eighty five until in the year 1899?

A. She did not.

Q. His name being Charles Peterkin?

A. She did not. I never heard the name Peterkin until a year or so afterwards.

Q. Don't you know that she told you that Alice was the child of Charles Peterkin, and that Charles Peterkin was living with her when Alice was born? A. She did not.

Q. Don't you know, sir, that she told you that she went under the name Peterkin? A. She did not.

Q. For several years? A. She did not.

Q. And that this child of hers that was born after she left Staffords was born as a child of Peterkin?

A. She did not.

Q. And that it died when it was a few weeks old?

A. She did not.

Q. You say those things——

A. I say I never heard the name of Peterkin until Mr. Hanford went to see him sometime afterward.

Q. She did tell you the name of John Couch?

A. Yes, sir.

Q. Who was with her just a month?

A. And Biff Harrison.

Q. And Biff Harrisom, who was her common law husband at Fort Logan for a few years? A. Yes, sir.

Q. She gave you the name of Mary Hamilton? A. Yes.

Q. And she said Mary would know who took the child at Fort Leavenworth? A. Yes, and Claude Hamilton.

Q. She gave you the name of the Hyde's, for whom she worked three months?

A. Yes, and the name of Grodevant, and the name of Stafford, but she did not mention the name of Peterkin. Had she done so it would have been written down.

Q. You wrote down everything she told you?

A. Absolutely.

Q. Yes, sir. Now, you came back then from there to Kansas City? A. Yes, sir.

Q. And met Hanford and Minnie in Kansas City?

A. Yes, they came in on the Burlington and I came in on the Union Pacific.

Q. Where did you stop in Kansas City?

A. We didn't stop. We came right through, through to Tulsa.

Q. Took Minnie to Tulsa? A. Yes, sir.

Q. What day did you get there?

A. I couldn't tell you what time, during the month of July, 1914.

Q. Where did you take Minnie when you got there?

A. I think that the first day Minnie and Mr. Hanford went to the Oklahoma Hotel.

Q. What hotel? A. The Oklahoma Hotel.

Q. And registered? A. I presume so.

Q. Now, how long after that was it until Minnie testified at Sapulpa? A. A day or so, or two or three days.

Q. She testified on about the 21st of July at Sapulpa?

A. Yes.

Q. Did you talk with Minnie any between the time she came to Tulsa and the time she testified at Sapulpa?

A. No, sir.

Q. Did you go down to Sapulpa when she testified?

A. Yes, sir.

Q. You heard her testify? A. Yes, sir.

Q. Well, let's see a minute. When you got to Kansas City you or Hanford, or both of you, went over to Leavenworth, didn't you?

A. Not at that time. We got in Kansas City in the evening and went down on the Frisco.

Q. You found out there in Tulsa before Minnie testified that Mr. Josey and Rogers had gone to Kansas City and checked up those records of the hospital?

A. No, they hadn't been to the hospital at the time.

Q. They hadn't?

A. No, sir, Mr. Josey and Rogers had been in Kansas City, I stated yesterday I thought they went up before I went east, but I looked up the payment of expenses to Rogers and the first trip he made was in July.

Q. Tell the Court what investigation you made between the time you reached home from that second Seattle trip and the time that Minnie testified?

A. Personally I made none.

Q. Did you have anybody else make any?

A. No, sir.

Q. And Minnie went on the stand at Sapulpa and testified, how many times did she break down?

A. Well, I think perhaps once; I don't remember, once or twice, I believe only once.

Q. She testified there that she came from Carlisle school to Leavenworth and worked for Hyde's about five or six months; then went to Stafford's house at the fort and worked about a year?

A. I believe she testified there substantially along the line of these notes.

Q. And that she was carrying Robert Lee at the Staffords and went to the Sister's hospital and gave birth?

A. Very likely that is true.

Q. You mean carried Thomas?

A. Yes, I hadn't heard of Robert Lee Peterkin at that time.

Q. And she said she just had one child born to her in Leavenworth in that testimony substantially? A. Yes.

Q. Now, she told there about Alice, and Harvey and

Charlie having been born to her, and she told about Harrison I believe?

A. I can't answer questions as to what she testified to.

Q. She told her story?

A. My impression it was what was in that affidavit.

Q. The check was paid I believe about the 15th, it seems to have been presented on the 10th?

A. No, Mr. German, if you are going into that check, you are all wrong about that and I will explain that to you.

Q. All right. I will give you an opportunity directly. Now Mr. Long after Minnie testified what work did you do on this case?

A. If I remember rightly, the testimony was on Saturday, I believe it was. Anyway, we went to Leavenworth that night.

Q. Yes, sir. A. With a letter to Father Heiring.

Q. You had had a little talk before you left for Leavenworth with Rogers, hadn't you?

A. No, sir, not that I remember.

Q. Don't you remember about Rogers saying something to you about letting Minnie tell that lie on the witness stand?

A. No, I didn't talk to Rogers. Rogers and Mr. Josey made the trip up there. I went to Leavenworth on Sunday, the Sunday following her testimony, and I believe her testimony was on Saturday, and went to the Sister's Hospital and looked over the—— Well, the first thing I discovered at the hospital was that maternity cases were not taken at the hospital until sometime after 1890. I thought that was rather queer, and then I asked to see all the records for 1885, 1886, '87 and '88. I went through those records very thoroughly and I couldn't find that Minnie Atkins had ever been there. And I came back and so reported to Mr. Hanford and Mr. Rice and Mr. Lyons and Page and Josey, that I couldn't find any Minnie Atkins at the Hospital at all. And I went over to the Cushing Hospital and there was no Minnie Atkins there. That was the extent of my investigation.

Q. Then, how long after that until Mr. Hanford went up there?

A. Well, Mr. Hanford and Minnie went up there the next day or so.

Q. Did you go with them? A. No, sir.

Q. Where were you while they went up there?

A. I was working at the office at home.

Q. Then, did Mr. Hanford and Minnie return from there?

A. No, I don't think that they did. I think that Minnie went directly back to Seattle and Mr. Hanford went East to see Peterkin.

Q. Went to Boston? A. Well, yes.

Q. To see Peterkin?

A. Because they discovered the name Peterkin, possibly that I didn't know anything about. I never heard the name.

Q. Did Hanford tell you about that name flying up and hitting him in the face?

A. Well, he called us up over the telephone I believe. He may have come down to Tulsa before he went east.

Q. Then he went east and while he was gone what did you do? A. I was at the office at home.

Q. What investigation were you making while he was gone east? A. None whatever.

Q. About when did he get back?

A. He was gone perhaps a week. I wouldn't say.

Q. He come back then sometime the early part of August?

A. I presume it would be.

Q. Then, what did you next do on the case?

A. The next step on the case was when Sadie James came into our office. Mr. Hanford, I think, was in Leavenworth in the meantime.

Q. And he was reporting what he had found?

A. He was reporting to Rice and Lyons what he had found. At that time I was pretty busy on some other matters. We had quite a few leases pending and was drilling this lease, and I was very busy. And Mr. Hanford, we left all of that to him at that time.

Q. And was Minnie a witness, what other witnesses did you have at that time?

A. Witnesses as to what, Mr. German?

Q. Anything relating to that case?

A. We had no witnesses. Do you refer to that?

Q. Up to the time Sadie came in?

A. The only witnesses that we had were those that testified at Sapulpa.

Q. That was Sam Brown and Ben Marshal? A. Yes, sir.

Q. They lived here in Oklahoma? A. Yes, sir.

Q. They were Indians and were on the question as to identification? A. Yes, sir, as to identification.

Q. So, Sadie then came in one day?

A. Yes, that was in the month of August.

Q. Yes, sir, and you were not looking for her? A. No.

Q. During the—— Do you know, between the time you had found Minnie and the time Sadie came in, Betty was still around?

A. Yes, Betty was going in and out and talking with everybody that would talk to her. But I am not real sure that Betty didn't go to Leavenworth with Mr. Hanford, I can't say positive as to that.

Q. Anyhow, they hadn't reported any witnesses?

A. Oh, no.

Q. That you recall? A. No, sir.

Q. Now, you also knew that Bartlett had been hunting for a living Thomas?

A. Yes, we had reports of that continuously that Bartlett was scouring the country for this allottee.

Q. And you knew that others were looking for a living Thomas, didn't you?

A. No, I don't believe so, I don't know of any others at that time that we knew was looking for this allottee other than Mr. Bartlett.

Q. When Hanford returned from Boston, where he had been to see Peterkin, he reported I suppose what Peterkin said? A. Yes.

Q. And you learned about Robert Lee?

A. No, Mr. Hanford reported that Peterkin had told, as I remember, that Minnie had a girl in Leavenworth, but didn't make any report about Robert Lee Peterkin. The first intimation I had of that name was just prior to the Receivership.

Q. Well, don't you remember Mr. Page got after Hanford considerable over the result of his work with Peterkin?

A. No.

Q. You didn't know it happened? A. No.

Q. Well, Sadie came in?

A. I do remember Mr. Josey was in the east at the time and we wired him we thought he ought to go to see Peterkin. But Mr. Hanford went down. Mr. Josey was in New York City. I think probably he saw Mr. Josey in New York on his way back.

Q. Now, Sadie came in the office and you were not looking for her—— Well, what was the conversation?

A. Well, that conversation is pretty hard to relate a conversation, Mr. German.

Q. Well, in substance?

A. The substance of it was this: She said that she had been all over the country with Bartlett and in his employ looking for this allottee; that they had made thorough investigation and hadn't been able to find him and they were through; Bartlett and she had quit.

Q. Go ahead.

A. And that she was no longer in Bartlett's employ and that while working for him she had discovered a great many facts about Thomas; that she knew where he was born; that she knew all about his life and when he died and where he died and where he was buried. Well, I hadn't had very much to do on the matter for sometime and that was very interesting information. And I took her around through the hall to Mr. Page's office. Called Mr. Page to the railing and told Mr. Page who that was—— By the way, that is the first time I had ever talked to her since that Sunday in Seattle. Told Mr. Page who she was and related to Mr. Page what she told me.

Q. She had told you of her trip?

A. No, except she had been all over the country, she didn't give me any details.

Q. Did she give you any definite information about Thomas? A. Not at that time, no.

Q. All right?

A. And then the agreement was made that we would talk the matter over with her out at the park that night.

Q. You introduced her you say, you had Mr. Page become acquainted with her? A. Yes, sir.

Q. And how long did you talk with her?

A. Oh, just long enough for me to repeat what she had said to me and the arrangements that she was to come out to the park that evening about eight o'clock.

Q. All right, she went to the park that night?

A. Yes, sir.

Q. As you related yesterday on the witness stand?

A. Yes, sir.

Q. And met her out there, and at the park who talked with her first at the park, you or Mr. Page? A. I did.

Q. Very long?

A. Just long enough to meet the car that she stepped off of and on through the park with her up to where Mr. Page was, where I had left him.

Q. You didn't talk with her about the case though?

A. Not after we met Mr. Page.

Q. And then you talked about the case? A. Yes.

Q. What did she say in the conversation?

A. She repeated——

Q. Substantially?

A. She repeated what Sadie said in the office that morning.

Q. Well, relate that conversation, will you, as best you can.

The Court: Well, now, will any good purpose be accomplished——

Mr. German: Well, I will leave that off, then.

The Court: I am willing, Mr. German, now—you are going over the whole matter yesterday; I am permitting that, because I believe you conceive that some good purpose will be served, but if a good deal of that can be * * *

Mr. German: Yes, sir, I will. * * * *

Q. Well, did she tell you what information she had about the boy? A. No, sir, only that she had information.

Q. That is as far as she went?

A. Yes, I think she knew the people who knew all about it; she had seen them and talked to them.

Q. She called their names?

A. Not in that conversation; no names were mentioned.

Q. Did she mention Rube as being the father, didn't she?

A. Not in that conversation.

Q. Well, was that, the next morning or in the office?

A. No, sir, not until we were in Leavenworth. Yes, I believe she did. That was the next morning in the office at the time that the contract was signed.

Q. About Rube Smith being the father?

A. Yes, I refreshed my memory about that because I wrote a letter to Mr. Josey about it at that time.

Q. Have you that letter? A. I think so.

Q. Let me see it. A. I haven't it with me.

Q. If you are still on the stand at noon, will you try to get it? A. I will try to get it.

The Court: He will be required to get it whether he remains on the stand or not; so it will not be necessary to keep him on the stand for that purpose.

Mr. German: Yes, your Honor.

A. I have it, I am very sure, and I will bring it over for you to see.

Q. Now, Mr. Long, the contract is the contract introduced in evidence here, which contains the check for a thousand dollars in an envelope? A. Yes, sir.

Q. You typewrote that on the typewriter, yourself, didn't you? A. Yes, sir.

Q. Out there in the park, let's recur to that, quite a little shower came up, didn't it? A. Yes.

Q. And Will James, Sadie's husband was out there?

A. Well, I didn't know him by name but Sadie's husband was there.

Q. A large black negro? A. Yes.

A. In the office, Hanford showed up in the office, didn't he, on the day the contract was signed? A. Yes.

Q. And Sadie met him? A. Yes.

Q. And they were not feeling very kindly toward each other?

A. Well, now, just a moment—yes, I believe Mr. Hanford came into the office while the contract was being written, while I was writing it on the machine.

Q. Did you bring Sadie and Hanford together on that occasion? A. Yes.

Q. Did you encounter any difficulty? A. No, sir.

Q. Well, Sadie expressed some displeasure?

A. Not that I saw.

Q. In coming in contact with him? A. Not that I saw.

Q. Didn't hear it? A. No, sir.

Q. Didn't somebody speak about their differences?

A. Not that I remember.

Q. They held a conversation there?

A. They did. Sadie was in there, sitting in one room, while I wrote that contract, or rather that little agreement on the envelope and while I took it upstairs to Mr. Rice to get his approval on it. That probably took thirty or forty minutes.

Q. You learned the name of the woman with whom Minnie had left the boy from Sadie, didn't you?

A. Yes—no, I don't believe I learned it from Sadie Mr. German; I believe I learned that first from Rube Smith.

Q. From Rube?

A. Yes. Now, I won't answer your question positively there because I don't remember but I learned it from either one *of* the other.

Q. Either one or the other and about that time?

A. Yes, sir; well, that day in Leavenworth.

Q. Leavenworth? A. Yes, sir.

Q. And you also learned from Sadie or Rube, one or the other where the child was born? A. Yes.

Q. That it was born at Molly Letcher's? A. Yes.

Q. On Seneca Street? A. Yes.

Q. Did you telegraph Minnie or not? A. No.

Q. You didn't wire her? She at that time was back at Seattle? A. Back at Seattle.

Q. Now, as soon as you closed up this contract with Sadie, you became active in searching for proof? A. Yes.

Q. Prior to that you had been very busy?

A. No, I became active in seeing the people she was telling me about—well, yes; active, yes.

Q. That is correct?

A. Yes, I was in search of proof.

Q. You went with Sadie—no, you didn't go with her to Leavenworth, but you and she both went to Leavenworth?

A. Yes.

Q. She went by Coffeyville, didn't she?

A. I don't know how she went.

Q. Did you go to Coffeyville?

A. No, she went direct—straight through, because we left that night and I saw her in Leavenworth the next day; she couldn't have gone by Coffeyville.

Q. You saw her in Leavenworth the next day? A. Yes.

Q. This Coffeyville trip was on another occasion?

A. I don't recall—yes, yes.

Q. Where was Mr. Hanford while you and Sadie were on this trip to Leavenworth?

A. I don't remember just where Mr. Hanford was on that trip. It seems to me that he came up there with Betty Mann, I am very sure he did the next day or so.

Q. The next day or so? A. Yes.

Q. Wasn't it planned that he was to go with Betty and you with Sadie?

A. He was to go with Betty and I was to be with Sadie and we were to check one against the other for fear of misrepresentation or something of that kind.

Q. You didn't trust them? A. We did not.

Q. You didn't trust them?

A. No, sir, neither one of them.

Q. You didn't trust Sadie nor Betty and neither did he?

A. No, sir.

Q. And you wanted to know that their representations would jibe?

A. We wanted to see whether there was any collusion.

Q. Yes? Betty claimed that she could produce some witnesses there too?

A. Well, I didn't talk to Betty, I don't know what she——

Q. You didn't talk to Betty? A. No.

Q. You wanted to see if their work would be in unison?

A. Yes; well we wanted to check one against the other—that is the way we expressed it.

Q. Hanford went to Kansas City with Betty, and in a day or so—now, Sadie had gone to Leavenworth, and he and Betty came over to Leavenworth from Kansas City?

A. Well, I didn't see him over there at all; I think he came over after I left—yes, I saw him at Leavenworth.

Q. Now, prior to the time that you saw Hanford at Leavenworth and prior to the time that you saw Betty there, and on the day that [] and Betty got there, you went with Sadie to Martha Smith's, didn't you first?

A. I went down to Martha Smith's to see her that day.

Q. That day? A. Yes.

Q. How came you to go to Martha's?

A. I was telephoned from the National hotel where I was waiting to hear from her.

Q. Waiting to hear from Sadie?

A. Yes. And then I saw Sadie and some other colored girl on the street there and they told me, that is where I got my information—they told me where to go—where I could see Sadie, and subsequently there was a telephone message—I was in a hurry to get through with it—that she had seen certain people and for me to come down there and that was in the evening.

Q. And when you went down to Martha's, you saw Rube?

A. No, I didn't.

Q. No, you didn't see Rube then; you didn't see Rube until after you came over to Kate Logans, did you?

A. I don't believe so, Mr. German.

Q. And you talked to Martha?

A. No, I didn't talk to Martha; I talked to Sadie. Sadie had been drinking and Sadie wasn't in any condition to talk, and I told her that I would see her the next day.

Q. Wasn't it in the evening that she did the drinking?

A. No, Sadie was drinking right then and I didn't go in to the house; I didn't like *to* looks of the place very much—it is back there in an alley and I got away from there as quick as I could.

Q. You went over to the Letcher place and looked around, and met Crilley?

A. No, I didn't go around there until after I had seen Rube Smith.

Q. It must have been that you saw Rube at Martha Smith's?

A. No, I believe this—yes, Rube came up to the hotel that afternoon, after I had been down to see Sadie. I don't believe Sadie was present when I first saw him but he told me who he was and she had told me about him, and he and I had quite a long conversation, and it was after that conversation—that conversation was pretty late in the evening. I didn't do any more that evening. It was the next morning after I talked with Rube Smith and found Seneca street.

Q. You looked at the locality where it used to be—where the lumber yard was——

A. He explained all that to me.

Q. And it was then that you met Crilley at his barn?

A. Yes.

Q. Found out that he and your mother were old schoolmates?

A. No, not Crilley and my mother; Crilley and my family were old friends. Crilley left my home years and years ago but I recognized Crilley by his brother James Crilley, who I had known very well as a boy, and they looked very much alike.

Q. Then you went pursuant to an engagement, down to Kate Logan's? A. Yes.

Q. Sadie had been down there and came back and told you that Kate was there? A. Yes.

Q. And at Kate's—Sadie was at Kate's? A. Yes.

Q. And you talked to Kate, and while you were there Albert Smith came in, didn't he—the son of Rube?

A. Well, now, I don't know what his name is, but Rube's son and Doctor Jackson also came in; Doctor Jackson was there during the entire conversation and admonished me several times not to worry the old lady too much as she was very sick.

Q. Now, this is a different Kate Logan from the one down in Indian Territory, the half sister of Minnie's?

A. There wasn't any Kate Logan the half sister of Minnie's in Indian Territory, that was Kate Holden.

A. Kate Holden? A. Yes.

Q. Oh yes. Now, while you were at Kate's, Rube came in, I think you stated yesterday?

A. Yes, either came in or was there when I got there.

Q. And you talked with him a little? A. Yes.

Q. Now, when was it you made your contract with Rube?

A. The evening before.

Q. And you were to pay him five dollars a day when he worked? A. Yes.

Q. And his expenses? A. Yes.

Q. And five hundred if you won the case?

A. Yes, sir, that was a verbal agreement; never was in writing.

A. Did Sadie take you to anyone else on that trip?

A. I am unable to remember whether Sadie took me to William Parker or not; I procured an affidavit from William Parker on that trip.

Q. He is a colored man?

A. Yes, and I am unable to remember whether Sadie took me to him or whether Rube Smith did.

Q. But you did not meet Dennis Jones on that trip?

A No, sir, Dennis Jones at that time was away in the employ of the Gypsy Oil Company, looking for Thomas Atkins.

Q. Looking for a live Thomas; he was hunting for a Thomas on the theory that Thomas was alive?

A. Well, I don't like to put it in your way, Mr. German—

The Court: Well, this man only knows what the Court knows; let's not go into that.

Mr. German: Alright, sir.

Q. Along the third day after you were there, Betty came?

A. Well, now she came.

A. And Hanford?

A. Yes. It may have been the second day.

Q. What did Betty do?

A. I don't know; I had nothing to do with Betty at all; I didn't talk to her.

Q. How long were you there on that trip?

A. Not to exceed three or four days; two or three days.

Q. Hanford and you returned together back to Tulsa?

A. Hanford and I then sat down after—when I first saw him, I told him what I had learned, and we congratulated ourselves that we had at last learned the place where this boy was born and the colored woman that Minnie had left it with and we both suggested that Hanford should immediately go to seattle to see Minnie.

Q. To see Minnie?

A. And to put these facts up to her.

A. And he went?

A. Yes, sir; now, I don't know how soon after he went but I remember—I know he went.

Q. What did you do next thing in the case?

A. I don't think I did anything until we heard from Hanford.

Q. You went back to Tulsa? A. Yes, I believe so.

Q. Where did Sadie go? A. I can't tell you.

Q. Did she make reports to you of her work? A. No, sir.

Q. What was Sadie employed to []?

A. Sadie was employed to locate these witnesses and put us in touch with them and give us all this information and we had hopes that she would be of great value to us but when I learned—I learned what she intended to do at one time, I quit Sadie.

Q. I understand; that is later on? A. Yes.

Q. Let's stay back here in August for the present.

A. That, I think, was in September.

Q. That was in September that this other occurred?

A. Yes.

Q. About when was it and by what means did you hear from Hanford when he went back to Seattle? A. By letter.

Q. Have you the letter?

A. I don't know; I haven't looked for that letter.

Q. Will you look for it?

A. Yes, sir. Now, that correspondence, Mr. German, again was between Mr. Hanford and our people—was between Mr. Hanford and Rice & Lyons, the attorneys and I don't believe that I have that letter. Now, it may be in the files; I will make a search for it; I haven't seen it but nevertheless I can tell you, that Mr. Hanford said that Minnie admitted that these were the facts and true facts, but all that correspondence was as between, I think, Mr. Hanford and Rice & Lyons.

Q. Did Mr. Hanford in that communication—you say he had been to see Peterkin? A. Yes.

Q. Did he give you any explanation after he talked with Minnie, about what Minnie said about Peterkin's story?

A. No, that letter, that correspondence then was very brief for the reason that Hanford immediately *stated* back with Minnie.

Q. Started back this way? A. Yes.

Q. Where did he bring her to? A. Kansas City?

Q. You met him there? A. I did.

Q. Had you interviewed any witnesses in the interim?

A. Yes, sir.

Q. Who? A. I interviewed Sam Nash and——

Q. Now, will go to the other correspondence that you offered yesterday——

Mr. Stuart: Let him tell that.

A. Interviewed Mr. Crilley, the first man that I talked to and he and I then interviewed probably a hundred people. Then with Mr. Crilley I saw Sam Nash, Sam Parker, and Louis Brown at that time, and I saw, I remember one other fellow named Collins, and I believe that I saw Annie Wills and William Grape at that time; but I had seen them and then I went to Kansas City and after two or three days' search, found Walter Banks and saw him.

Q. That is when you took Sam over there with you?

A. That is when I took Sam over there with me because Sam's recollection and Walter's were very close together at that time and I was particularly interested in when they last heard of Tommy Atkins, or Tommy they called him.

Q. You learned this too, didn't you, that Sam and Walter were the only two persons living who grew up in that Letcher family?

A. Yes, in that house, that the other members of the family were all dead. Then when I had the statement of Sam, I took Sam's statement and Walter's statement, and as I said in that letter, I wanted to get them together and see how they would check up with the conversation.

Q. Now, in this letter of September 12th, written at Leavenworth, not addressed to anybody but signed by you?

A. That is the same practice followed in that letter as all the correspondence.

Q. You stated that you took Sam Nash to Kansas City this evening and spent with Walter Banks; that is the two boys reared by old lady Letcher, who called each other brothers, you mean? A. Yes.

Q. They had not been together for more than two years; each refreshed the other's memory about many instances when Tommy was a kid. The result of the conversation was the fixing of the time when Tommy was taken away in the spring or summer of '97; that a mixed-blood woman came to the Letcher's and gave the old lady twenty dollars and said she was going to take Tommy to his mother. First, Tommy would have [] 11 years of age in 1897. Second, Hamilton told Mr. Page's attorneys the boy was 13 years old when he saw him in Denver. What was your information about Hamilton seeing the boy in Denver?

A. Now, you are opening up a new avenue now, and I will tell you about it.

Q. Alright.

A. You remember I didn't stop in Denver on my way home because they wanted to come straight through with Mr. Hanford and Minnie. After we got back to Tulsa, we wired Mr. Mannox who represented Mr. Page in Denver to see Hamilton and find out from Hamilton all he could about a Thomas Atkins who was the son of Minnie, and Hamilton was supposed to know something about it. Mr. Mannox saw Mr. Hamilton and wired us that Hamilton said he knew all about Thomas Atkins and that he saw him in Denver when he was 13 or 14 years old and that he was going west; that was the substance of that message.

Q. Now, third, Collins said he saw him in Denver in 1897; who was Collins?

A. Collins was the man that Smith took me to up there, a negro, that I afterwards learned—that was kind of half-witted, or demented; he sold hot weinies, or as they called them, hot dogs on the street, and he had a long dream about this boy; he knew all about his birth and his existence in Leavenworth and he told me all about having seen him in Denver, and related certain instances of having seen him there and so forth.

Q. Now, that boy—isn't that boy—that is the boy called Arty Price?

A. Well, I never heard of Arty Price at that time.

Q. You did later?

A. Yes, I don't know now that that was the boy because Collins was so irresponsible and I didn't return to him and I never saw him—saw Hamilton myself.

Q. You learned afterwards that Artie Price was raised partly by Granny?

A. Yes, we tried to find Arty Price and learned he was dead.

Q. And also learned that he had gone to Denver?

A. That is where he died; he would have been a valuable witness—and we tried to find him.

Q. You learned that he went out to Denver and died there?

A. That is our information, that he died in Denver.

Q. Fourth, Walter and Sam say he was taken from Letcher's in 1897; then you presumed unless Sadie locates new information, I will see her early in the morning, it looks like Denver was our next move, going after this boy.

A. Yes, at that time—you remember Mr. German, the Gypsy Oil Company and Bartlett and Dennis Jones were combing the world for Thomas Atkins and if he were alive we wanted to find him too.

Q. Then, you say you found a good white man witness who knows all about the birth and rearing of the boy. Who was that?

A. I don't remember; I think that was William Grape.

Q. Is he a white man? A. Yes, sir.

Q. William Grape is?

A. Yes, sir, I can't remember that it was him; it might be and it might not.

Q. The expression good white man witness, you mean——

A. Mean of good character.

Q. Mean of good character? A. Yes.

Q. How come you to think that about William Grape?

A. Well, I didn't know anything about his character.

Q. Didn't know he was a pretty tough character?

A. No, sir. I had no way of knowing. I was a stranger in Leavenworth.

Q. Then, the only source as to his character was the witness himself? A. That was all.

Q. Now, regarding this telegram, sent you there in the early part of September—September 12th—I mean recurring to this check, I call your attention to the fact that it is stamped on the back—there is a stamp of the National Bank of Commerce——

A. Mr. German, I beg your pardon, you don't know anything about this at all; I will be very glad to explain it.

Q. No, I will be glad for you to explain it.

A. About the date of this check, Mr. Hanford and Mr. Josey and probably Mr. Page can tell more about this than I can, and you should ask them.

Q. Your knowledge is not first-hand?

A. No, my knowledge is not first-hand. That check was not paid, I know that, and another payment was subsequently made. I don't know a great deal about that check except what I was told.

Q. That is you do know the cash was not had on that check prior to the time Minnie Atkins testified at Sapulpa?

A. Yes.

Q. You know that? A. Yes.

Q. Now, on September 15th, this other note, this note of September 12th, and it was written from Leavenworth along about that time, and prior to that time that Minnie reached Kansas City with Hanford from Seattle, you had met Dennis Jones?

A. No, I don't think so—— Oh, yes, yes. I had met Dennis Jones.

Q. Sadie had introduced you?

A. And the Dennis Jones contract had been made.

Q. How did you meet Dennis?

A. I think I went down to his office, I don't remember the exact circumstances; I know I met him and I know I met him through Sadie James, but whether it was on the street or at his office or how, I couldn't tell you.

Q. At that time he told you he wanted to see Mr. Page?

A. No, he didn't mention Mr. Page.

Q. Well, to see the company?

A. He wanted to see the Company and our attorneys.

Q. Before he would contract? A. Yes.

Q. Did he show you the letter he had from the Gypsy?

A. No, he told me he had a letter from the Gypsy telling him his services had been satisfactory but that they didn't want to pursue the inquiry any further. I never have seen those letters.

Q. Did he tell you what his information was about Thomas?

A. Yes, he said he had traced him around different places in Washington and some place else, New York perhaps, and he believed he was dead and he believed if he was permitted to go on further with the inquiry, take it up where the Gypsy left off, that he could run it down and find him.

Q. Well, you returned to Tulsa of course, because on September 15th Dennis telegraphed you from Leavenworth to Tulsa? A. Yes.

Q. And he stated to you that he had a divorce case to try and that he had the motion docket coming on and that he couldn't come down until Monday? A. Yes.

Q. And on the 16th you telegraphed you would expect him Tuesday morning? A. Yes.

Q. Then, on the 18th the Gem Oil Company sent the telegram to Sadie at Leavenworth, stating to her that unless you have something of importance on would like to see you in Tulsa tomorrow morning. Wire answer immediately. You recall that? A. Yes.

Q. Now, what day of the week would the next day be?

A. Well, I don't remember the days, Mr. German, but here is Jones telegram September 16th. I would have to figure that out, I don't know what that would be. I know I went back to Leavenworth the same night that Jones went back and Sadie James went back.

Q. September 18th was Friday, wasn't it (handing calendar to witness)? A. Yes.

Q. Now, you desired then to see Sadie James Saturday morning? A. Yes.

Q. And Dennis was to come the next Tuesday morning?

A. No, let's get the dates right. I don't remember those dates. September 16th was Friday. Dennis was to come on the next Tuesday morning which would be the 18th.

Q. September 16th was Wednesday, wasn't it? Look at the calendar again and see.

A. Yes, September 15th was Tuesday and the 16th was Wednesday. Then the following day, September 16th, was Wednesday. Then, I wired him "we will expect you in Tulsa tomorrow morning" September 22nd, that was later on.

Q. But on Friday, the 18th, you wanted Sadie to come the next morning unless she had something of importance on?

A. Yes, I was back in Leavenworth at that time.

Q. Now, Mr. Long, the trip that Sadie took over to Pilot Knob and the trip that she took to Mattern?

A. Weldon, Missouri.

Q. Was taken by her before the occasion we are now talking about, wasn't it?

A. Well, now, the dates, you had Mr. Cranston's livery bill that I paid, that date will show.

Q. On the 19th, Saturday, you wired Sadie again to postpone coming? A. Those telegrams were sent by the Company.

Q. Oh, I thought you knew about them?

A. I knew about them, I asked that they send them.

Q. Then, on the same day, the 19th, you received a telegram from Sadie James, "Got back from the country. Will be there in the morning"? A. Yes.

Q. That 19th was Saturday? A. Yes.

Q. Then, on the 21st, which was Monday, you had a telegram from Dennis Jones saying, "Will be there Tuesday morning by Sante Fe"? A. Yes.

Q. And on the same day, the 21st, you wired Jones, "Expect you tomorrow. Answer immediately." So, evidently the last one was sent before the one he sent? A. Yes, sir.

Q. Now, Dennis came and who all came to your office on that occasion? A. Sadie.

Q. Sadie and Dennis? A. Yes.

Q. And you talked with Dennis?

A. Well, I talked with Dennis only briefly. I took them in Mr. Rice's office, and then he and Mr. Rice had an extended conversation.

Q. Dennis understood the nature of the case. He was a lawyer and was being employed because he was a lawyer?

A. Yes, but as to what he understood I couldn't say.

Q. Wasn't it explained to him?

A. I presume so, but not in my presence.

Q. Didn't he look over the transcript taken at Sapulpa in July? A. Not that I know of.

Q. What representations did he make there that you know about?

A. Practically the same representations that had been made to me in our short conversation at Leavenworth. That he had a line of information that could be run down as to the death of Thomas Atkins. We were perfectly satisfied as to his birth and to his existence.

Q. Why did you contract with him then to furnish evidence on the birth, life, and death?

A. Because we expected to at that time prove in the state case all those facts. We hadn't taken any depositions.

Q. You didn't employ him to find evidence on the birth, life and death merely because you were going to take depositions?

A. We wanted all the witnesses we could get as to the birth, life, and death.

Q. So he was employed to find evidence on all three of those subjects? A. Yes, sir.

Q. Were you present when his contract was drawn?

A. No, I don't believe I was. I think I went back down stairs to our own office.

Q. After he was employed he went on back to Leavenworth? A. Yes, sir.

Q. Now, I call your attention, since Judge Allen has produced it, that this testimony, that in his testimony Mr. Cranston mentions, "Under date of September 12th, 1914, Frank B. Long of Tulsa, Oklahoma." He is reading from his statement, "Time out 2:30, time returned 6:30. Name of horse Madge, buggy." And then remarks, "Gem Oil Company, amount $2.00." That Gem Oil Company is in that—probably.

The Court: What is the date?

A. September 12th. If that is his testimony that is the date, but I have no independent recollection of it.

Q. It was a day or two after that that Sadie wanted to go to Kansas City to prove the death there?

A. Sometime after.

Q. And stated if you would give her money enough she could prove it? A. Yes.

Q. At Kansas City? A. Yes.

Q. And that didn't suit you? A. No, sir.

Q. Mr. Long, isn't it a fact that at that time you believed that you had a line on Tommy in Denver and therefore that you didn't want him proven dead at Kansas City?

A. Why, no, Mr. German, if we had had a line on him in Denver we would have gone after him. It was about that time she said she could prove him dead in Kansas City and I commenced to get afraid of her.

Q. That was just a little bold?

A. That was a little too bold and I didn't want any work of that character done and I told her. I tried very hard to keep away from that. I ran into a great many snags in this investigation, a great many offers and I tried to steer clear of them; and for that reason I wanted to get rid of her and I did; I had no more dealings with her after that personally.

Q. When you found out the name of the house where Tommy was born and where he was reared, you and Mr. Hanford introduced several witnesses without communicating with Minnie to verify?

A. Well, we interviewed these witnesses so Mr. Hanford could familiarize himself.

Q. And then go back and talk to Minnie? A. Yes.

Q. After Dennis was employed, what was the next thing you did?

A. I went back to Kansas City with Dennis, or rather to Leavenworth.

Q. And about how long after that was it until Hanford came with Minnie? A. Oh, very shortly.

Q. Did you advise Hanford that you had employed Dennis?

A. Well, I couldn't say, I am pretty sure I did, naturally that would be done, I can't remember that I did or did not; I know that would have been a natural thing for me to have done.

Q. At that time, were you planning to take depositions?

A. That was our intention.

Q. And you went back to Leavenworth and you did some more work?

A. I went back to Leavenworth one day with Minnie and we drove around and saw several people.

Q. Do you remember the date when you made that drive?

A. No, but it was the day after Mr. Hanford and Minnie arrived in Kansas City. They left Kansas City on the Burlington in the evening and we went over the next morning.

Q. You say when you took Minnie there to Leavenworth, you took her to several persons? A. Yes.

Q. And you took her to Crilly and she recognized Crilly and Crilly recognized her? A. Yes, sir.

Q. Did Crilly say you have grown considerably in height, Minnie?

A. Well, now, I don't remember, he may have and he may not. The one point I remember about their conversation was, she said: "Why, they used to call you the parson, didn't they?" That is distinct in my mind; those other things I can't attempt to recall.

Q. Did Minnie say, "Crilly how long since you have seen my boy?" A. No.

Q. She didn't ask that question?

A. No. She said: "Hello, Crilly"; I remember she must have known him because she dropped the mister. No, the boy wasn't mentioned.

Q. Dennis you think was the next person?

A. That is my best recollection, Mr. German.

Q. And he recognized her but she didn't recognize him?

A. Yes.

Q. Where was it that you had Dennis and Minnie to meet?

A. We drove down in front of Dennis' office and Dennis came down stairs and Minnie sat in the car. Minnie didn't get out of the car at any of those places we went around to.

Q. Crilly was driving you around? A. Yes, sir.

Q. Then, you say you took her to Mary Smith?

A. Yes, that day, but whether that is the next one coming in the order.

Q. And Mary didn't know Minnie?

A. Well, she wasn't positive; she knew her and she didn't know her.

Q. But Minnie recognized Mary? A. Yes.

Q. Now, you told her that you were then going to take her to Annie Wills? A. Yes.

Q. And you did and she recognized Minnie? A. Yes.

Q. And Minnie recognized her? A. Yes.

Q. Then, you told her, I am going to take you to Rube Smith, and that she recognized Rube promptly?

A. Yes, sir.

Q. Very promptly? A. Yes.

Q. And she and Rube talked about when Tommy was begotten in your presence? A. No.

Q. I suppose Rube wasn't the father then?

A. Well, Rube never claimed to me to be the father. He claimed he might have been; now, that was the assertion made to me. Sadie James claimed that he was, but he never did say that he was. He said that he might have been and I dropped that because I didn't think he was the father, so I didn't care much.

Q. So, you took her to Ed Murphy that day? A. Yes.

Q. And she recognized him and he recognized her?

A. Yes, sir.

Q. The time you were going to William Grape out at the Soldier's Home—— A. No, out toward the Post.

Q. She said: "Now, Bill Grape, don't you tell all you know"? A. Yes, she shouted that at him.

Q. Minnie had gotten to feeling pretty good?

A. Well, I don't know.

Q. All of these people recognizing her?

A. She made that remark.

Q. Things were clearing up? A. She made that remark.

Q. What else did she say?

A. That was about all that conversation I remember, that was about three years ago. I was in quite a big hurry that day and we didn't go into details.

Q. What day were you to take depositions after that?

A. The records will show.

Q. You began taking depositions on the 13th day of October?

A. Well, now, it was sometime after this before we took the depositions.

Q. Yes, you found some more witnesses?

A. Well, I don't know, I think perhaps we did.

Q. Did you take any trip anywhere other than to Leavenworth and close around there before you took depositions?

A. No, I think not; no, I didn't unless it was back to Tulsa.

Q. When was it you came in contact first with Henry Carter? A. The date of the lease will show.

Q. Was that the very day?

A. It was perhaps the day before but I know I took that lease as soon as possible after I met him.

Q. Now, where did Minnie stay between the time that she came to Leavenworth on that trip that we have been talking about and the time you took the depositions?

A. She stayed part of the time at the National Hotel and part of the time at Captain Ferguson's house, and the remainder of the time at the Cushing Hospital.

Q. You took many persons to see her or took her to see many persons? A. Both ways.

Q. During that time?

A. Both ways. Mr. Hanford and I both.

Q. And numerous people recognized her? A. Yes, sir.

Q. It was advertised in the paper that she was in the city? A. I don't recall.

Q. It was mentioned in the news items?

A. I don't recall, it may have been, I don't know.

Q. What did Dennis do during all that time?

A. Dennis was very busy.

Q. What did he do?

A. Dennis furnished us the names of some witnesses that I went to see.

Q. Well, he interviewed witnesses too?

A. I presume so, I didn't go with him very much. Dennis stayed at his office and most of the outside work was done by Rube Smith.

Q. Dennis was working on the case? A. Yes.

Q. He was very active?

A. Yes, we were all active. We were getting ready for these depositions.

Q. Then, where was Minnie staying at the time you began taking the depositions?

A. I think that the day we began taking depositions, Minnie was at the hotel in bed sick. She had gone out to Captain Fergusons and she was taken sick while she was out there and came back and was in bed sick at the hotel.

Q. Why did you have her in Leavenworth at the time?

A. We expected to take her deposition along with the rest of the witnesses.

Q. You also had her there in order that the witnesses should see her and identify her? A. That was proper.

Q. That was one of the reasons?

A. That and to take her depositions. She wasn't able to be present.

Q. She was taken sick?

A. She was taken sick some two or three days before.

Q. The testimony was to begin? A. Yes, sir.

Q. And she was sick in the hotel—— How many days were you taking testimony? A. I think two or three.

Q. During the taking of the testimony, was Minnie taken to the hospital?

A. Now, just when she was taken to the hospital I couldn't tell you.

Q. It was either then or shortly afterwards? A. Yes, sir.

Q. Well, you were unable to take her testimony then?

A. Yes, sir.

Q. Do you recall who your first witness was there?

A. I will have to have the transcript; I think perhaps Mr. Crilly was, but I don't go on record of saying that positively. The transcript will show.

Q. And don't you remember Dennis Jones was the second?

A. No. You can refresh my recollection if you want that in the record. You have looked it up.

Q. That is the situation according to that record. Jones is the second? A. I will take your word for it.

Q. And Rube was the last of twenty-one witnesses in all?

A. I don't remember.

Q. You remember this, do you not, that those witnesses attempted to fix the time of birth first as being in 1884, '5, or '6?

A. Well, most of them did, but if you will notice on cross examination they nearly always pinned them down and it became 1885. We didn't know definitely ourselves, because Minnie hadn't been able to enlighten us. On cross examination those witnesses nearly all fixed it in 1885.

Q. And all of those who pretended to know fixed it at Molly Letcher's? A. Oh, yes.

Q. On Seneca street? A. Yes, sir.

Q. Now, after these depositions were taken, you came back to Tulsa, didn't you? A. Yes.

Q. And did Mr. Page *do* back to Tulsa?

A. No, Mr. Page wasn't present at the taking of the depositions.

A. No, but he was in Kansas City?

A. No, sir, he was not.

Q. Where was Sadie? A. I don't know.

Q. Well, when was it that Mr. Page was in Kansas City with relation to the time the depositions were taken?

A. Some three or four days before hand, Mr. Page and Mr. Josey and Mr. Rice, all came up and we had Minnie before them there, and Mr. Rice went over her——

Q. Story?

A. Story with her, and Mr. Page, and Mr. Josey, in Mr. Hanford's presence. I know that they spent practically the entire day in Kansas City.

Q. How many days did Mr. Page stay there?

A. Just the one day.

Q. Just the one day. Where was Sadie at that time?

A. I don't know.

Q. Where was Betty? A. I don't know.

Q. During the time you were taking depositions, where was Sadie? A. I answered that twice, Mr. German——

Q. I know I was speaking of the last time that Minnie was——

A. I don't know, I beg your pardon, I knew nothing about Sadie.

Q. Well, do you know about that deed Sadie had that she was suppose to try to get from Minnie? A. No, sir.

Q. During that time? A. No, sir.

Q. For Mr. Page? A. No, sir.

Q. How long after the depositions were taken at Leavenworth was it until Minnie was able to go out of the Hospital?

A. Well, I don't remember; perhaps three or four days.

Q. You didn't know what caused that sickness?

A. Something that she ate out at Captain Ferguson's I believe. She ate some peaches as I remember from what Mrs. Ferguson said—that Minnie ate two or three dishes of peaches and drank some buttermilk, or something, on top of the peaches—something of that kind. I know Mrs. Ferguson had a distinct recollection about it and she was talking to me about it last spring.

Q. Was Harry Folk there? A. No, sir.

Q. Well, he had been there?

A. No, he hadn't been east at that time.

Q. Wasn't he in Leavenworth some time before this time when Minnie was there?

A. No, he was not in Leavenworth with Minnie until the Receivership—just prior to the Receivership hearing.

Q. Now, why was Minnie taken down to the hotel instead of being left out at Ferguson's?

A. Mrs. Ferguson had no accommodation for her. Prior to her going to the hotel, the Post Surgeon had prescribed for her and it was thought she was alright and after she got back to the hotel she became sicker and we had a local physician come up.

Q. You remember, don't you, that some of the witnesses there at Leavenworth who gave their depositions there on that occasion, testified that this boy of Minnie's was a mulatto?

A. Well, they testified that he was of mulatto appearance.

Q. Yes?

A. As I remember, Mr. German; I don't want to say just what they testified to, I can't tell you. I could read it over and I know that is right, if you want me to do so.

Q. But that bother Minnie?

A. Why, Minnie didn't know anything about that at that time, I don't believe.

Q. You don't think she did? A. No, sir.

Q. Was that statement that Minnie made at Kansas City in the presence of Mr. Page, and Mr. Josey, and Mr. Hanford, and Mr. Rice—were you there?

A. I was there a portion of the time.

Q. And yourself and others,, was it typewritten?

A. I think so.

Q. Where is it?

A. I don't know; Mr. Rice had all of those papers.

Q. It must have been turned over to Mr. Hanford, then, when Rice went out of the case?

A. Well, that I know nothing about.

Q. Have you seen it since? A. No, I never did see it.

A. After Minnie came down to Tulsa, from Leavenworth, where [] she stay?

A. She stayed a portion of the time at Mr. Page's home and a portion of the time at the Oklahoma hotel. She was —I think, well—no, the Brady hotel; she had a nurse with her, the nurse who was in attendance with her at the Cushing hospital came down with her—she was more of a companion to her, and she and this old lady stayed at the Brady hotel until Minnie was pretty strong and after the nurse went away, I think Minnie went over to Mr. Page's house and she was there a few days.

Q. Where were you in the meantime?

A. I was attending to my business.

Q. At Tulsa? A. Yes, sir.

Q. Now, out to Mr. Page's house, was Minnie ill, or not; do you remember?

A. I think she was convalescing; she was getting better and getting stronger.

Q. You took her testimony shortly afterwards?

A. Yes, that was taken in Rice and Lyons' office.

Q. In that case *case*? A. Yes, sir.

Q. All these depositions we are talking about were for use in the state court case? A. Yes.

Q. The Government case hadn't been filed then? A. No.

Q. Now, did you talk with Minnie any before she went on the witness stand? After she had come to Tulsa?

A. No, I didn't have any conversation with Minnie during that period about any testimony.

Q. But Mr. Page did?

A. Well, I presume so, and so did Mr. Rice and Mr. Hanford.

Q. And Mr. Hanford? A. Yes.

Q. You were present when she testified?

A. A part of the time; I was called out on the telephone two or three times during her testimony.

Q. You know what she testified to in a general way?

A. Well, I read it over afterwards, yes, sir.

Q. And you know that she testified that she worked for Hyde's in Leavenworth and then stayed for about a year around Mollie Letcher's?

Mr. Stuart: Your Honor, in the interest of time, I am going to object to this further testimony as to what she testified to, as not——

The Court: Mr. German, what purpose will that serve in this cross examination?

Mr. German: Well——

The Court: Now, let me see. It occurs to me and occurred to me all morning that you are bringing out matters here, or seeking to bring out matters of this witness that are already in the record to impress upon the Court that when the record is considered together with this man's testimony it will in a measure sustain your contention. Now, I will get that all from the record; what this man knows will go in the record; what is in the record already I don't consider and you will be permitted to call my attention to those things at the argument or in the brief, as the case may be.

Mr. German: Well, I will frankly say to the Court this; I am attempting to show what this witness learned from time to time and the way in which events occurred; that is my object.

The Court: Now, so far as is necessary, to interrogate him, do that.

Mr. German: I will not ask that question.

The Court: Alright.

Q. Do you know what she testified? A. Yes, sir.

Q. And you do know that she didn't tell about Robert Lee Peterkin? A. I don't think so.

Q. Now, after that, what [] your next work in the case?

A. I don't think that I did anything about that until that was in—I think her testimony was in November perhaps.

Q. The early part.

A. Of November. I don't think I did any more work on the lease until the—yes, I made a trip to Omaha, but in the meantime, Mr. German, the Nancy Atkins interests had gone to Leavenworth; you have failed to cover that. The Nancy

Atkins interest had gone to Leavenworth—had gone up there and had taken some——

Q. Drowning depositions?

A. Now, let me tell you: they had taken depositions from 10 or 15 people who absolutely proved the birth and existence of Tommy Atkins and then said he was drowned, the witnesses that we knew nothing about.

Q. You haven't used them since?

A. Well, we took some other testimony soon afterwards to establish the boy that was drowned at the time they claimed Thomas Atkins was drowned was another boy. Now, that was done after Minnie's testimony—I had almost forgotten that.

Q. Now, let's see, Mr. Long. You did know that Minnie changed her story in her testimony at Tulsa from the story she told at Sapulpa? A. Yes, sir.

Q. You knew that she had changed from the Sisters' Hospital to Granny Letcher's? A. Yes, sir.

Q. In fixing the place of the birth, and you knew she changed the time of birth from the time following the Stafford's, to a time intervening her work at Hyde's and her work at Grodevant's?

A. Well, that is a rather long question, Mr. German. I knew this—let me state what I knew instead of answering the question.

Q. Alright.

A. I knew she testified at Sapulpa that the baby was born at the Sisters' Hospital and I knew that she testified at Tulsa that the baby was born at Granny Letcher's.

Q. And you also knew that she testified at Sapulpa that the child was born after she worked at Stafford's and she testified at Tulsa that it was born between the time she worked for Hyde's and the time she worked for Grodevant's?

A. Well, I wouldn't be positive about that: I would have to refresh my memory on the unimportant points; I am positive——

Q. I think that is an important point——

The Court: He testified he didn't remember that.

Q. Now, Mr. Long, did you know how she came to change that testimony? A. I do not.

Q. Did you have anything to do with her changing it?

A. I did not.

Q. Who did?

A. Well, I think it was probably all toegther; you are getting back over the same thing again.

Q. No.

A. I told you that Mr. Hanford went to Seattle and put these facts to her, and she admitted that that was the truth; that she came back—she and Mr. Hanford came back to Kansas City, and then she told me the new facts were the truth and I took her over to Leavenworth and she met people known to her at Granny Letcher's and that we had a conversation at Kansas City in which Mr. Page and Mr. Josey and Mr. Rice were present and we covered them all, that is all I know.

Q. You don't know whether it was voluntary on her part or whether—— A. Well, I know it was voluntary.

Q. You know that? A. Yes, sir.

Mr. Hanford: If the Court please, I want to move to strike from Mr. Long's answer there what Minnie told me at Seattle, I want to testify to that myself.

A. Well, I only testified——

Mr. Hanford: He said I know that Minnie told Mr. Hanford at Seattle——

The Court: I concluded that the witness was stating that he was merely stating what he heard, to be given no consideration as substantive proof in the case, except what information he had and as bearing upon his activity.

A. That is all I had.

Q. Now, Mr. Long, you went to Omaha, what—when was it you made that trip?

A. Well, now, I would have to refresh my memory as to that.

Q. Did you introduce somebody there?

A. Yes, made two trips to Omaha.

Q. Who did you see there?

A. The first trip there I saw a man named Bowdry; that was along about that time.

Q. Had he known Minnie?

A. He told me about Minnie and about the birth of the child and that he had seen the boy in Chicago and he thought he had been killed by a street car. I subsequently went to Chicago and spent a week running that down, if you want that.

And thereupon, court recessed until 2 o'clock P. M.

And thereafter, and at 2 o'clock, court having convened pursuant to adjournment further proceedings herein were had as follows:

FRANK B. LONG, being recalled further testified as follows:

Cross Examination by Mr. German.

A. Mr. Long, during the noon hour, did you find a statement which Minnie had made in Kansas City? A. No, sir.

Q. Did you find out where that statement is? A. No, sir.

Q. Did you find that letter that we talked about?

A. Yes, sir.

Q. Let's see that, will you?

A. Now, this is the letter, Mr. German, as I understand that I said I refreshed my memory from; the letter that I had written to Mr. Josey.

Q. Written, at Tulsa, dated August 20th, 1914?

A. Yes, sir. That is a carbon; the original of course was mailed to him.

Q. Where was Mr. Josey at that time?

A. On the reverse sheet here, I think at the Waldorf Astoria hotel in New York City. It doesn't state on that letter, but I am very sure that is where he was.

Q. Now, have you read it over, since you signed it at the noon hour? A. Yes.

Q. Refreshing your memory from it, would you not now say that it was Sadie who gave you the name of the woman with [] Minnie left the Fort?

A. That may have been the case; I said, you know, she might have, or it might have been Rube Smith; I can't remember.

Q. Now, after refreshing your memory from this letter, will you not say that in the park, Sadie went into considerable detail?

A. No, I don't think she went into any more detail than I testified about, Mr. German, except the statements that I made that she told us that she knew.

Q. Now, she proposed to you and for this consideration of a thousand dollars in case you won, to produce witnesses, reputable people who would swear [] was born and lived until 1899, and that his father was a negro? A. Yes.

Q. And you agreed to give her a thousand dollars if her dope won out? A. Yes, sir.

Q. And she wasn't to get anything if it did not?

A. Yes, sir.

Q. Now, Mr. Long, you testified yesterday about a deed which you said Henery Carter executed to Minnie at the time you had the last—— A. Yes?

Q. What became of that deed? A. I have that deed.

Q. It was not recorded? A. No, sir.

Q. Did you deliver that to Minnie? A. I did not.

Q. You just took it and kept it? A. Yes, sir.

Q. That was before Minnie gave her deposition at Tulsa, wasn't it?

A. No, I think that was subsequent to her deposition at Tulsa.

Q. You think it was? A. Yes, sir.

Q. Well, on the date that she gave her deposition at Tulsa you had the deed—took a deed from her to Mr. Page?

A. Well, that may not have been that date, Mr. German, I can't tell you about the date; the date of the deed and the day she gave her deposition will show that.

A. Well, she gave her deposition the 22nd of October, and that is the date of her deed, isn't it?

A. Well, that done the same time; I don't have any recollection of the date but I know she signed a deed. That was a deed which at that time was taken for her protection.

Q. Well, the deed speaks for itself.

A. It speaks for itself.

Q. As to the terms of the payment?

A. Yes, sir. It is recorded.

Q. And the conditions under which she is to continue to receive payment from Mr. Page? A. Yes, sir.

Q. Conveyed him the fee to the land? A. Yes, sir.

Q. That has been introduced in evidence? A. Yes, sir.

Q. Now, while Minnie was there at Leavenworth at the time you took these depositions, you gave her a check, didn't you—someone did? A. Not that I remember.

Q. Don't you remember about a five thousand dollar check she was to receive there which she did not get the cash on? A. That was the check you had this morning.

Q. Oh, it was merely handed to her?

A. No, it was not. Subsequently five hundred dollars was given to her in cash, and she wanted to save the rest of the money and it was placed on six months' time deposit in the Central National Bank.

Q. At Tulsa?

A. At Tulsa. I told you this morning that the other gentlemen had a clearer recollection of that than I do, but I remember that much.

Q. I am speaking of Minnie getting a check in Leavenworth at the time she was up there and sick. A. She did not.

Q. Well, what was it she received? You said that was the check I had this morning.

A. I said the deposit was represented by that check; that check was not paid.

Q. Was not paid? A. No, sir.

Q. The check I had this morning? A. Yes, sir.

Q. That had the September endorsements on it?

A. Yes, sir.

Q. The stamp—bank stamp dated in September?

A. Well, it shows September.

Q. Yes, sir. That was not paid?

A. That was not paid; that is my recollection.

Q. She got this money, this five hundred dollars, about the time of the depositions at Leavenworth, didn't she?

A. She did not. She didn't get that money—I think she probably had it before hand; before she came to Leavenworth.

Q. Well, he got the forty-five hundred dollars placed to her credit in Tulsa about the time she testified?

A. That was after she testified; the date of that deposit will show and we can get it for you.

Q. When was Lee Bond employed in this case?

A. Mr. Bond was employed in the case after you got into it.

Q. After the Government filed suit?

A. After the Government and Pinkerton Detective Agency and the rest of you got into it, Mr. Bond was employed.

Q. I see. Now, you knew about the time Sadie made her so-called confession to the Government?

A. I don't think of that until we heard from Mr. Hanford about Mr. Montgomery.

Q. Being in Seattle?

A. Yes, being in Seattle. That was our first intimation.

Q. Now, Sam Nash and Walter Banks were witnesses on your side of the case in the depositions taken in October, 1915?

A. They were.

Q. At Leavenworth. When was it that Sam came to Tulsa to get a job? A. That was later on in the fall.

Q. Alright. What time?

A. I can't tell you; perhaps November.

Q. When did he get a job?

A. Well, he came down there to take a job with Mr. Page and there wasn't any work for him at the time he first came there, and he stayed around Tulsa for perhaps a week before he went to work.

Q. He reported daily to your office?

A. Well, I wouldn't say daily; I didn't see him every day.

Q. He reported to your office?

A. Well, I wouldn't say reported; he came there.

Q. He was up there? A. Yes.

Q. And you paid his expenses to Tulsa, didn't you?

A. Yes.

Q. And he received $15 a week before he got work to do?

A. No, I don't think he received so much per week; we paid his expenses and paid him probably some spending money.

Q. And finally he got a restaurant, didn't he?

A. Finally he located a place he could buy and we furnished him the money, I think a hundred and fifty dollars to buy the restaurant and took a chattel mortgage from him. We have the mortgage.

Q. You have the mortgage. Then he ran that restaurant?

A. He did.

Q. Now, when did you go to Sheridan, Wyoming, to see the Grodevant's expense account?

A. I believe that was along in January or February, perhaps March, 1915.

Q. Prior to the receivership hearing?

A. Yes, it was prior to the receivership hearing.

Q. The receivership hearing, you recall, to have been the last days of February and the first days of March?

A. No, I didn't go to—yes, Sheridan, Wyoming, I went to Mr. Foy's prior to that time. Will you permit me to explain?

Q. Alright.

A. I had been to see Mr. Frank Grodevant himself at Chattanooga, Tennessee, and Mr. Grodevant was unable to give me any definite information upon that first occasion and sent me to see——

Q. Mrs. Foy?

A. No, let me go ahead and finish; sent me to see Mrs. Herbert Grodevant's mother-in-law, Mrs. Julia West and Mrs. McClain, a sister of Mrs. Harry Carr, formerly Mrs. Nellie Blunt, who lived at St. Johnsberry, Vermont, and also sent me to see Mrs. Grodevant, his step-mother in Detroit, Michigan. I was unable to get any definite information from any of these people and returned to Chatanooga, and saw Mr. Grodevant the second time, and it was upon that occasion that he told me that his brother had always kept a book and subsequently he wrote me that he had corresponded with Mrs. Foy, and she had the book, and I went out to see it.

Q. Mrs. Foy was Herbert Grodevant's daughter?

A. Yes, sir. That gets that clear, as I remember.

Q. So it was sometime probably in February, 1915, that you went to see Mrs. Foy? A. Yes.

Q. And saw this——

A. It may have been in January, Mr. German.

Q. Along there sometime? A. Yes.

Q. Then, when was it you went to Harrisburg, Pa., that you went to the Carlisle school?

A. I went to Harrisburg on that same trip; went to Harrisburg and Pittsfield, and Danville, and St. Johnsburg, Vermont, and also to Philadelphia.

Q. So, you went to Harrisburg, to the Carlisle school before you saw Mrs. Foy? A. Yes.

Q. At Sheridan, Wyoming? A. Yes.

Q. So, it was sometime in January or February that you were at Pittsfield or Harrisburg?

A. Yes, it strikes me I can refresh my memory that it was warmer weather. I believe that trip was made after the receivership hearing.

Q. At any rate, you went there?

A. At any rate, I went up.

Q. Then if you think it was afterwards, we will recur to it again in a moment. A. Yes?

Q. Now, you remember the fact that the receivership hearing was in the last days of February or the early days of March, 1915? A. Yes, sir.

Q. Here in this court in this case? A. Yes, sir.

Q. When did you find out, Mr. Long, that the Government was going to produce Charles Peterkin as a witness at that trial?

A. I don't remember when I found that out, Mr. German.

Q. You found it out prior to the Receivership hearing?

A. Well, I believe my information came from Mr. Josey, he heard down here somewhere about it.

Q. Now, you also learned, did you not, that the Government had obtained the record relating to the birth and death of Robert Lee Peterkin?

A. At that time, yes, sir, I remember that information came from Mr. Josey, at Kansas City.

Q. Yes, sir? A. Yes, sir.

Q. You learned too, did you not, that Mrs. Allen, a daughter of Mrs. Woods, and that Mrs. Morton, a daughter of Mrs. Woods, would be witnesses?

A. Well, I didn't know that they would be witnesses, but I learned at that time that the Peterkin baby was born at their house.

Q. Did you not, about a week before the receivership hearing, go to see Mrs. Morton?

A. I don't believe I saw Mrs. Morton. I remember clearly of seeing Mrs. Allen.

Q. You saw Mr. Morton, the husband of the witness?

A. I believe I did at their hotel in Kansas City.

Q. And did you not suggest to them that the child born at the Woods house was a child of Mrs. Allen?

A. Yes, sir—no, I didn't suggest that.

Q. You asked him?

A. No, was the child of some other woman other than Minnie, for this reason: When we heard of this information as to the Peterkin baby, Mr. Rice and I don't know who else talked to Minnie about it, and she denied it; she first denied the birth of the baby; and she denied she was ever at the Woods house; and denied it very strongly, so strongly that it made us believe that that must be a mistake. And for that reason I worked out that theory. I also went to see Father Hill and got the same record that you have, and that convinced me that Minnie had again misrepresented to us. That was after I had seen Mrs. Allen and after I had seen Mrs. Morton and her brother.

Q. Minnie never did deny the birth of Charlie, Alice, and Harvey? A. No, sir.

Q. She did, as you say, the reports of the birth of the Peterkin baby? A. Yes, sir, she finally did admit it.

Q. At the receivership hearing?

A. Well, it was sometime prior to the receivership.

Q. After it was learned we were going to prove it?

A. No, after I learned it myself by my own investigation.

Q. She, at the receivership hearing, did testify about the child? A. Yes, sir.

Q. Robert Lee Peterkin? A. Yes, sir.

Q. Who talked with her about that before she gave that testimony? A. I couldn't tell you.

Q. Did you? A. I did not.

Q. Do you know who went over that with her?

A. I do not, I presume that Mr. Rice did or Mr. Lyons. I didn't and I was not present.

Q. You were not present when her affidavit was prepared that was filed in the receivership hearing?

A. No, sir, I was not.

Q. Well, let me ask you whether Sam Nash and Walter Banks were at the receivership hearing? A. I think so.

Q. They didn't testify? A. I don't believe so.

Q. What became of Sam after that?

A. Sam stayed in Tulsa for sometime after that and then went back to Leavenworth.

Q. He ran the restaurant from the time you have mentioned until after the receivership hearing?

A. Up until he returned to Leavenworth, yes, sir.

Q. You went to Harrisburg Pa., just after the receivership hearing? A. Before or after.

Q. One or the other, I don't care which one. Now, you looked at the records there at Harrisburg? A. Yes, sir.

Q. In the office of the superintendent of the school keeping those records? A. Yes, sir.

Q. Relating to pupils in the school there in the eighties? A. Yes, sir.

Q. And you found the record relating to Minnie?

A. Yes, sir, and all the other pupils that went there with her.

Q. You also found this post card or postal card from George H. Hyde? A. Yes, sir.

Q. Dated July 11, 1884? A. Yes, sir.

Q. At Leavenworth to his sister Mary? A. I did.

Q. At the school? A. Yes, sir.

Q. You borrowed that, didn't you?

A. I think I kept that for sometime and then returned it to Mrs. Denny.

Q. You also looked at the books or records kept by the school there relating to the menstration period of the girls? A. No, sir.

Q. You didn't?

A. No, sir, I didn't know there was any book of that kind there.

Q. You didn't find those books, you didn't know there were such books?

A. No, sir, I looked at the book there showing girls being farmed out at different places and found out Minnie had only been in the school a portion of the time. And I went to see one of the men she had been farmed out to, Mr. Penrose near Philadelphia.

Q. But you didn't see the menstration book? A. No, sir.

Q. And you didn't get such a book? A. No, sir.

Q. And take it away from there?

A. No, sir, I didn't know of such a book.

Q. You later returned this post card by giving it to Mr. Hanford to produce it when the depositions were being taken in the spring of 1916?

A. My recollection is I returned that post card to Mrs. Denny. I don't remember, I may have given it to Mr. Hanford.

Q. You took that and went to see a Mrs. Collins about it, didn't you?

A. Yes, and there was another letter from Miss Mary Hyde, written from up in Massachusetts, to Captain Pratt, and I went to see Captain Pratt in Washington and had a long conversation with him.

Q. You went to see Mrs. Collins at Pittsfield, Massachusetts? A. Yes.

Q. She was a daughter of George H. Hyde? A. Yes, sir.

Q. The family in Leavenworth for whom Minnie had worked? A. Yes, sir.

Q. You are aware that her deposition has been taken in this case? A. Yes, sir.

Q. Didn't you tell Mrs. Collins when you went to see her—— You showed her the post card, didn't you?

A. I don't know that I did. I told her the date that I had learned at Carlisle some distance from Harrisburg.

Q. You told her there that Minnie Atkins gave birth to a child at a negro woman's home between the time she worked for her father, Mr. Hyde, and the time that she worked for the Grodevant's, didn't you?

A. Well, I may have told her that, that was perhaps our theory at the time.

Q. And you explained to her that Minnie had a big estate which was at stake and that Minnie's suit depended on her ability to prove the birth of this child at the negro woman's house at that time?

A. I don't remember saying that, but I probably did, that would have been the natural thing for me to have said.

Q. Now, you knew that the Government served notice and that depositions were going to be taken for use in this case. You knew that the plans were being laid for taking depositions in the fall of 1916?

A. Well, I didn't know—— If you are asking me about the plan of the Government to take depositions, when I saw Mrs. Collins I don't think I did at the time.

Q. No, I don't mean at the time you saw Mrs. Collins. I am passing over to the fall of 1915?

A. Yes, I knew depositions were to be taken.

Q. At the time we were planning to take depositions?

A. Yes, sir.

Q. Where was Walter Banks at that time?

A. Walter Banks, as I remember, was in Kansas City.

Q. Yes, did he come to Tulsa?

A. After the depositions were taken I believe or while they were in progress.

Q. He did?

A. He came to Tulsa sometime in the spring or summer of 1916.

Q. Did he get employment there? A. He did.

Q. Where?

A. He first worked on the section for the Sand Springs Railroad and then was employed at the Third Street Station where he is still employed.

Q. He is a colored man? A. Yes, sir.

Q. What are his duties there in connection with the operation of that railroad?

A. His duties are to load and unload freight, check the freight loaded into cars, and he has charge of the switch lights or system; he cleans them and changes them and lights them at night and takes them down in the morning.

Q. He has charge of the freight that goes back and forth on the railroad?

A. He doesn't have entire charge, there is an agent.

The Court: He checks it in and out, I understand.

Q. Now, Mr. Long, he has held that position there now for about a year and a half, hasn't he?

A. Well, not hardly a year and a half.

Q. That is Mr. Page's railroad, isn't it?

A. Yes, sir. The records will show that.

Q. Where is Sam Nash working now?

A. Sam Nash is janitor in the bank and the office and at the hospital.

Q. Mr. Page is stockholder in the bank?

A. Yes, sir, and also Sam has charge of the up stairs offices.

Q. How long has Sam held that position?

A. Sam came down there sometime before Walter came.

Q. He has been in that business ever since?

A. Yes, and he is a very good man.

Q. You didn't go on this trip when we were taking depositions for use in this case? A. No, sir.

Q. Beginning in December, 1915? A. No, sir.

Q. You didn't go on our western trip, I mean?

A. No, nor your eastern trip.

Q. No, but you were present at Leavenworth?

A. Yes, sir.

Q. You did learn that on our western trip we went through Sherridan, Wyoming, where we took the deposition of Mrs. Foy, where we offered the Grodevant's expense book?

A. Yes, sir.

[Q.] Following that and in the spring of 1916, you were present at Leavenworth when we were taking depositions?

A. Yes, sir.

Q. Do you know the witness, Mrs. Cobb, formerly Mrs. Edwards? A. Yes.

Q. How long before she testified there at Leavenworth, before Mr. Penick, was it that you went to see her?

A. Oh, two or three weeks.

Q. Who went with you?

A. The first trip I think—— Now, I made two or three trips to see her, Mr. German. I don't remember whether I went to see her alone first with Mr. Crilley or whether Mr. Page was present. I believe Mr. Page and I were up there one trip and Mr. Page and Mr. Crilley and I went out together. Subsequently I went out with Mr. Bond. Mr. Bond and I made the trip first—— Mr. Bond had been to see her alone; that is the first trip I made, was in company with Mr. Page and Mr. Crilley in a car. Mr. Bond had been to see her and had taken an affidavit from her.

Q. She fixed the exact time of the birth of Thomas, didn't she? A. She did, yes, sir.

Q. And is the only witness who has fixed it almost to a day? A. Well, she came nearer than most anyone else.

Q. The other witnesses that you produced at Leavenworth before Mr. Penick also fixed this birth as in the spring of '85?

A. Yes, sir, I think Mr. Allen fixed the date very close.

Q. Now, at that time, Mr. Long—— What I should say is this, it was following that that the Government introduced its testimony relating to Lilly White, wasn't it?

A. Well, now, whether your testimony was introduced before or after I can't remember, Mr. German.

Q. Don't you recall it was?

A. It may have been, it may not, I don't remember that. It may have been and may not have been. We were very busy and I couldn't tell you without referring to the record and that will show.

Q. At any rate, you didn't know about the Lilly White proof when those witnesses for you were placed on the stand?

A. We knew something about the Lilly White. We knew about the Dassler books; I had seen them before you did. The only thing we didn't know about at that time was the petition and we didn't know about John Rohr's testimony.

Q. Joe Malone and those fellows? A. No, sir.

Q. Now, you knew Ella Witt? A. Yes, sir.

Q. Formerly Ella Abbott? A. Yes, sir.

Q. You have had her down here, down to this trial?

A. Yes, sir, she is here now.

Q. She is here yet?

A. As far as I know, I haven't seen her.

Q. You have talked with her many times? A. Yes, sir

Q. Isn't it a fact that by her and some others you have contemplated proving that Thomas was in her house of ill repute in the early nineties at Leavenworth, and that she, Ella Witt, was going to produce Thomas' clothing in this Court and a slate on which his name was written?

A. No, Mr. German, I can't say we expected to do that.

You will have to ask the attorneys. I know what she told me.

Q. Let me ask you where it was that you got this Betty Mann, Kirkbride contract?

A. I don't know anything about that.

Q. You don't know where that came from? A. No, sir.

Q. When did you first see that?

A. I first saw it yesterday.

Mr. German: That is all.

Cross Examination by Mr. Cobb.

Q. When you first started to investigating this Atkins matter, you got all the information you could from the Dawes Commission and the members of the family and those who knew them, did you?

A. I worked out every possible source of information, Mr. Cobb.

Q. Your object and purpose in getting that information, I believe, was to be sure that you were dealing with the right person? A. Yes, sir.

Q. When you made any deals? A. Yes, sir.

Q. You would not, if you knew it, make any deals with spurious persons about the matter? A. No, sir.

Q. And when you dealt with Minnie Atkins at Seattle, you felt sure in your own mind that you were dealing with the real Minnie? A. I did.

Q. That is true. When you dealt with H. Carter at Leavenworth, Kansas, at that time you felt sure that you were dealing with the real Thomas Atkins, didn't you?

A. No, I wasn't positive, Mr. Cobb; I was partially convinced and there were so many angles to the matter and so many different claimants—persons who claimed to be Thomas Atkins and Henry Carter told me such a plausible story that I just felt that I had better cinch that, if you will pardon that expression and take a lease from him.

Q. You felt at that time, of course you were not positive—— A. No, sir.

Q. But you felt that you were dealing with the right Tommy Atkins there?

A. Well, there was a period of two or three days there that I was almost convinced but not entirely.

Q. Now, you had seen Carter before you made that deal, hadn't you? A. Once or twice.

Q. Where did you first see him?

A. I think the first place I ever saw him, he was working down in the south part of Leavenworth some place on a roof, and I went out there, and called him off the job and talked with him in the yard where he was working. That is the first time I ever saw him.

Q. Do you know whether anybody had seen him in regard to the matter prior to that time?

A. I understood Mr. Crawley had seen him about the matter for the Gypsy Oil Company.

Q. You didn't know?

A. I inquired from our office, for them to ask Crawley if he didn't believe that he was Tommy Atkins.

Q. You had a conversation with him at that time?

A. Yes, sir.

Q. And went over the whole matter with him?

A. Yes, sir.

Q. He told you all he knew about his childhood and where he lived and people that could tell you all about him?

A. Yes, sir, gave me a number of names.

Q. Gave you a number of names out at McLouth and where he was raised? A. Yes, sir.

Q. You made a trip to McLouth in this—to investigate this matter, didn't you?

A. I made one trip to McLouth and one trip to Oskaloosa.

Q. And you made inquiry there at Leavenworth about him of several witnesses?

A. Yes, I think I went to see the Yokums about him.

Q. Of whom did you inquire near McLouth about him?

A. Well, these names I don't recall; I have a memorandum about it but I inquired of some man by the name of Harding. If you can give me the names of those persons whose depositions were taken I can remember.

> The Court: Judge, just let me understand what light now, by way of cross examination of this witness, so far as the Henry Carter contention is concerned, will be thrown on the case by going over again what Mr. Long discovered, what people told him, which, of course, as substantive proof, must be first-hand evidence, in relation to Carter?
>
> Mr. Cobb: I understand but he has testified about this matter in an unfavorable light as to the Carter interests. I think I have the right to cross examine him and bring out the real fact of the matter without letting it go in in that shape.
>
> The Court: Well, of course, the facts as to the title of the defendant Henry Carter must be established so far as this case is concerned, by competent proof, and cannot be established by hearsay by this witness as to

what somebody told him; presumably that somebody will be here.

Mr. Cobb: I understand so far as the Carter interests are concerned we are in the same position as the Government on that matter. Now, here he has taken a lease and deed from this man which he has retained——

The Court: Yes, that is all true but the question here is the title of this defendant Henry Carter.

Mr. Cobb: Of course we will undertake to show that by substantive evidence when we get to that.

The Court: On that phase of the case, the Court is not considering any statement which this witness makes with regard to what some witness of yours, that you may produce, told him. The Court must get that proof first hand. I just want to confine this matter as far as the cross examination is concerned to its legitimate scope.

Mr. Cobb: We don't intend to take but a short time.

Mr. Stuart: Your Honor, we object to it as to any opinion of Long in regard to this matter of what he found out on that——

The Court: It has no bearing on this phase of the case whether or not he believes Carter was Tommy Atkins when he took the deed, and it would be a matter of no interest to this Court so far as to the question of whether or not Carter was that party in my judgment. Now a long cross examination has been permitted here by the Government on the theory, the Government theory and contention——

Mr. Cobb: The Government did not cross examine on this phase of the case, however.

The Court: Well, go on; I will see where you are drifting.

Q. Now, you made inquiry of a number of witnesses that he gave you out there at McLouth? A. Yes, sir.

Q. When was the second time you saw Carter, Mr. Long?

A. Well, I saw Carter frequently along during the month of December.

Q. I mean when you talked to him about it?

A. Well, I talked to him perhaps every two or three days, or maybe every day for a period of a week or two.

Q. Where did you find him?

A. I found him at work.

Q. You went to see him at work?

A. Yes, sir, he was working in a tin shop or a roofing shop, or something of that character.

Q. Now, when you made that deal with him at the National hotel who was present?

A. Dennis Jones and Romeo Giscomini.

Q. Anybody else?

A. When the first lease was taken, I think the first lease was taken—was signed in Dennis Jones' office. The second lease covering his homestead allotment was signed in the National hotel and Romeo Goacomini was present. That department lease required two witnesses and I think someone else was present—I don't remember who it was. I know two witnesses were there to the signature.

Q. Wasn't Sam Nash there?

A. Sam Nash was there on one occasion.

Q. And Mr. Josey?

A. Mr. Josey was there upon one occasion.

Q. Now, at that time, Mr. Long, did you take any steps to identify Carter? A. I did.

Q. What did you do then?

A. Well, I took every possible, step, Mr. Cobb. I think the first person——

Q. I know but what did you do there at that time?

A. No, I am trying to tell you——

Mr. Stuart: Your Honor, in the interest of time, I object to this as utterly immaterial as to what he did there.

The Court: It occurs to me, Judge Cobb, that you and the Government are not at one on this proposition, so far as Henry Carter's identity is concerned. The Government says there is not any Tommy Atkins, therefore Henry Carter could not possibly be Tommy Atkins and never was. Now, you of course, do not agree with them on that proposition. You agree with the Page, Hanford interests that there was a Tommy Atkins; you insist as I understand it, that his history was very much what the Page, Hanford interests contend he was, from Granny Letcher on up, but you insist that instead of being now dead, he is still alive in Henry Carter, who is now a defendant in this case.

Mr. Cobb: That is it exactly.

The Court: Now, however, of what interest is it to the Court here, or of what competent value is it as to what Mr. Long—what conclusion he may have reached in investigations he may have made in regard to the identity of Carter?

Mr. Cobb: Now, if it please the Court, now, we don't agree with the Government as the Court stated to the extent of saying that Henry Carter was a myth, or that Mr. Long together with others had fabricated a case in its entirety, but the indications from the testimony is Carter may have been eliminated at this point after he had taken the deed and the lease, for some reason.

The Court: Well, suppose he was eliminated? Here you agree with them to the point that there was a Thomas Atkins?

Mr. Cobb: Yes, sir. And up to this point this is a hostile witness so far as we are concerned.

The Court: Yes, but all Mr. Long knows now with regard to the identity of Henry Carter with Thomas Atkins is what somebody told him. His testimony on that point would not be competent because it is hearsay; those somebodies that told him you can have here as witnesses and presumably you will.

Mr. Cobb: It occurs to me, if the Court please——

The Court: I just want to get at your view.

Mr. Cobb: It seems to me the details of this transaction when the deeds were executed and the extent of the identification of Henry Carter should be shown as a matter of cross examination on the matter.

The Court: On what phase?

Mr. Cobb: If for no other purpose than to test his credibility and his memory on the matter.

The Court: He has not testified to a thing that the Court considers competent on the question as to whether Henry Carter was Tommy Atkins and the Court must have first-hand information on that point.

Mr. Cobb: Alright then; give us an exception, please.

The Court: Exception noted because I don't believe the cross examination is bringing out anything that is throwing any light on your interest in this case.

Mr. Cobb: Now, may it please the Court, it appears to me like this; this is the position I take; they have Dennis Jones and Sam Nash and Mr. Josey, and Mr. Long, present when this matter is there executed; they had a lease from Carter and there at that time the identification of Carter is made such, that they take his lease, upon which they rely, and place it of record, and they take a deed *that* retain.

The Court: Now, that is in evidence that they did do that.

Mr. Cobb: Yes, sir.

The Court: Now, that is a separate circumstance in the case, that is in evidence; the Court has that to consider. Now, what further may the Court legitimately consider on the question?

Mr. Cobb: Well, it looks like that ought to cover the matter.

The Court: What Mr. Long thought would not——

Mr. Cobb: Just one more question.

The Court: Alright.

Q. How long, Mr. Long, was it after the commercial lease was taken on the surplus until you took the departmental lease on the homestead? A. Two or three weeks.

Q. Two or three weeks afterwards? A. Yes, sir.

Q. You still had faith in the claims of Carter when you took the commercial lease? A. Some faith, yes, Mr. Cobb.

Redirect Examination by Mr. Hanford.

Q. Mr. Long, you were asked on cross examination by Mr. German, if Walter Banks was in Tulsa at the time the depositions were taken at Leavenworth in this case.

Mr. German: In October 1914, you mean in October 1914? Or in this case?

Mr. Hanford: In this case.

Mr. German: 1916.

Q. I will ask you if it is not a fact that at the request of the Government you had Walter Banks *had* summoned from Kansas City where he then lived, to Leavenworth to testify or be examined by them?

A. Yes, sir, yes; he was in Kansas City at the time.

Q. And he had not—— A. Gone to Tulsa yet.

Q. At that time?

A. That is true and he did come over to Leavenworth and was over there two or three days at Mr. German's request.

Q. And he was notified by Government attorneys that he was not wanted and allowed to return?

A. Yes, sir.

Q. And it was sometime after that that he went down to Tulsa? A. Yes, sir.

Q. And went to work? A. Yes, sir.

Q. In regard to Miss Robinson being at Seattle, you were asked whether or not you learned that she was going to Seattle; isn't it a fact that you telephoned over the long distance telephone from Portland to Mr. Hanford at Seattle and told him that Miss Robinson was coming, that she was a very estimable lady, to see that she had every opportunity to see Minnie and identify her, and show her every courtesy possible? A. Yes, I had that conversation.

Recross Examination by Mr. German.

Q. How was it I asked you to bring Walter?

A. Well, I didn't say you asked me to bring Walter Banks; I said it was at your request, maybe made perhaps to Judge Stuart or Mr. Hanford, I don't know which. It might *have* not have been your personal request Mr. German. It might have been Judge Allen or someone else but the request was made that he be brought over to Leavenworth.

Q. And he was brought? A. And he was brought, yes, sir.

Mr. German: As a part of the cross examination of this witness, I would like to offer the carbon of the letter the witness produced, dated August 20th, 1914——

Mr. Stuart: I am going to offer it, Mr. German.

Mr. German: Alright, then.

Mr. Stuart: I wish you would mark this, please. (Marked defendant's exhibit B-13). I want to read this into the record: "Tulsa, Oklahoma, August 20th, 1914. Mr. Dear Mr. Josey: I just wired you to disregard long letter of yesterday which will reach you in the morning, and advising you that we are working on a new line of information. Yesterday afternoon, Sadie James, the nigger woman who has been working for Bartlett and the Gypsy came up to see us. I had a talk with her and took her in to see Mr. Page. We met last evening at the park and went over the ground in detail. This afternoon I have had Sadie with Rice and Mr. Page. She may be setting a trap; she may be double-crossing us and still working for the other people, but we are going to give her a trial, cautiously. Her story is this: That the Gypsy and Bartlett have had her looking for a Thomas; that they found several but none of them would do; that a deed was signed by one of them but, that they finally decided not to use any of the fake boys; and now that we have Minnie and they can't find a Tommy to use, she is out of the running and she has no chance to make money. Had they had Minnie, they could have had her identify a Tommy and then put it over, but without her, they are powerless. She therefore proposed to us that, for a consideration, she would produce witness, reputable people who would swear that Tommy was born and lived until 1899, that his father was a negro. Her story is plausible. We agreed in writing to pay her one thousand dollars if her dope wins the case for us and gets us a valid lease. She is not to get a cent except a limited amount of expense money until we are finally declared the valid lessees. All of her witnesses except two are at Leavenworth, I am going up there tonight with her, and will have them brought before me one at a time. Will tie them up in every way possible and then we will see what there is to her dope. Gave us the names of the people to whom Minnie gave Tommy; how long they kept him; the names of people who knew him in Leavenworth, and the names of people who know that he is dead. It is the best sounding story I have heard yet. Now, we are ging to play out Betty's string also, and let Hanford work with her. I am going to stay in the background in Leavenworth and not let Sadie know *Minnie* is working for us and vice versa. In this way we can ascertain who is lying. Will write you from Leavenworth the developments. With best wishes, I am sincerely yours."

The Court: Now, let's see, that was written to whom?

Mr. Stuart: To Mr. Josey, August 20th, 1914.

The Court: Where were you at that time?

A. I was in Tulsa.

The Court: And Mr. Josey was——

A. In New York.

Redirect Examination by Mr. Stuart.

Q. Now, Mr. Long, you have stated to the Court that you traveled practically from Maine to California in this law suit? A. Yes, sir.

Q. Sir? A. Yes, sir.

Q. Now, I will ask you to state to the Court what your purpose was in making those trips?

Mr. Hanford: Look at that, please.

A. That letter was not dictated; I wrote it myself and made a mistake in the name.

Mr. Stuart: Well, change that to Betty. (Referring to sentence of letter above quoted, which sentence reads "I am going to stay in the back-ground at Leavenworth, and not let Sadie know Minnie is working for us, and vice versa;" and asking that the word Minnie be changed to Betty.)

Q. What was your purpose in going all over the country?

A. Well, our purpose was, Judge, to run down every source of information to get the truth. We went to see every one possible; we would see one person and that person wouldn't know anything but would give us the names of some people who would know, they thought; then we would go to those people, and our hope was to get the truth of the matter.

Q. That is all?

A. We had several stories told us——

The Court: I think that is all in.

Mr. Stuart: I understand that; I just wanted to ask him that one question.

Q. This card, this census card that you got; let me have that. I want to use that on another witness, the one that was sent to you, the one you had the controversy about. This was the certified copy of the card that was sent to you, the enrollment card? A. Census card.

Q. Sent to you? A. Yes, sir.

Q. Who sent it to you?

A. I order- that through Mr. Bynum.

Q. Who did you get it from, Mr. Long, the office here or—

A. It came from the office here.

Q. In the mail? A. In the mail.

The Court: Has that been identified?

Mr. Stuart: I think it was used——

Q. Look at the date of that? A. July 6th, 1914.

Mr. Stuart: Identify that, I will use it later. (Identified as defendant's exhibit B-14).

Witness dismissed.

And thereupon, EDWARD C. FUNK, was called and sworn as a witness for an on behalf of the defendant, Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Edward C. Funk.

Q. What is your business, Mr. Funk?

A. Government Clerk, Superintendent to the Five Civilized Tribes.

Q. Superintendent to the Five Civilized Tribes. In whose office are you? A. Mr. Parker's.

Q. Park's? A. Superintendent Parker.

Q. What is that document that you have in your hand there? A. Census card, Creek Census Card.

Q. Whose Creek Census Card? A. Tommy Atkins.

Mr. German: Is that the one that has been offered in evidence here, about which testimony has been given?

Mr. German: I will agree that it is.

Mr. Stuart: Is it agreed that it is?

Q. How long have you been in that office, Mr. Funk?

A. Sixteen years.

Q. Sixteen years. I notice on this card, written in lead pencil these words: "E. B. Miller, Chief Clerk Land Office, letter May 9, 1905, from the Commissioner to the Five Civilized Tribes directing action to be suspended the matter of issuing deeds to heirs of No. 1." Who wrote that on that card?

A. I wrote this top notation.

Q. Which top notation?

A. "E. B. Miller, Chief Clerk."

Q. When did you put that on there?

A. Well, I put that on there when Mr. Kennedy was chief clerk; that has been two years and some months.

Q. Who directed you to put that on the card?

A. Mr. Kennedy the Chief Clerk.

Q. Who told Mr. Kennedy to put that on there?

A. I couldn't answer that.

Q. You put that on there at Mr. Kennedy's instance about two years ago? A. A little over two years ago.

Q. And nine years after that card was made out, didn't you? A. I don't know how many years, no nine years.

Q. How many—— Nine years after the date of the letter?

A. Yes.

Q. Now, Mr. Kennedy told you to put that on there?

A. Yes, sir.

Q. And you put that on that, "Letter of May 9, 1905, from Commissioner to the Five Civilized Tribes directing action to be suspended" and so forth? A. I don't know.

Q. Do you know that handwriting? A. No, sir.

Q. Does anybody in your office know?

A. Not that I know of.

Q. You have made inquiry as to who put that on there and you can't say now who did?

A. I personally myself don't know.

Q. When you sent this census card out you put that in pencil also, didn't you, instead of ink?

Mr. German: What card?

Mr. Stuart: The one I have identified.

The Court: What is the identification, Judge?

Mr. Stuart: Defendant's B-14.

Q. You sent that out, didn't you, that is your handwriting there?

A. No, that is the man that at that time copied those names. No, I didn't make this myself, I worked there at the time.

Q. On this card, which speaks for itself of course, the same notation on here is in pencil?

A. That shows the same notation.

Q. I say it is in pencil? A. Yes, this is in pencil.

Mr. Stuart: That is all.

Cross Examination by Mr. German.

Q. Mr. *Kennedy*, this defendant's Exhibit B-14, whose handwriting is that pencil work in?

A. I suggest that is Mr. Drew's.

Q. That is your judgment? A. Yes, sir.

Q. Now, take the original census card—— Let me ask you when was this certification made on Defendant's Exhibit B-14? A. July 6th, 1914.

Q. 1914, and the pencil work that appears on that certified copy included the words "E. B. Miller, Chief Clerk Land Office?" A. Yes, sir.

Q. So, that on the original census card of which Defendant's Exhibit B-14 is a certified copy, the words "E. B. Miller, Chief Clerk Land Office" were on there before this certified copy was made?

A. Must have been.

Q. Must have been; then, you must have written those words on the original census card July 6th, 1914?

A. Yes, sir.

Q. Now, the other writing, lead pencil writing, "Letters May 9, 1905, from the Commissioner to the Five Civilized Tribes directing action to be suspended in matter of issuing deed to heirs of No. 1" was on that original census card before you inserted the words above it "E. B. Miller, Chief Land Office"? A. Yes, sir.

Q. They were. That is all. Who is Mr. Drew?

A. Mr. Drew is the man who made the certificate of the work at that time.

Q. He was a clerk in the land office? A. Yes, sir.

Q. Of the Superintendent to the Five Civilized Tribes?

A. Certified Copy Department.

Q. According to the practice of the office, would not the notation "Letter of May 9, 1905, from the Commissioner to the Five Civilized Tribes *direction* action be suspended in matter of issuing deed to heirs of No. 1" have been entered on that original census card shortly after or on May 9, 1905, according to the practice of the office?

A. I would judge so, yes, sir.

Mr. German: That is all.

Redirect Examination by Mr. Stuart.

Q. Tell me that again. How is that? I didn't understand? A. You will have to have him repeat the question.

(Record read).

Q. Why, Mr. Funk, you know that that was entered down there in the last two years, the whole thing?

A. No, sir, only as to the top notation. I don't know anything about this.

Q. The top notation was made when?

A. I said about two years and a little over.

Q. And this other is under the top notation?

A. That was put on there before I put mine on.

Q. How long before, do you know?

A. As I said, the practice of the office probably in that year, the same month.

Q. Of that same year, 1905?

A. That notation probably.

Q. What did you put this on there in pencil for?

A. To identify this letter here.

Q. Why wasn't that "E. B. Miller," if it was put on there away back there put on like the other? A. I couldn't answer.

Mr. German: Your Honor, I object to Counsel cross examining his own witness.

The Court: We are trying to get at it.

Q. I suppose according to the practice of your office, they generally put everything on in ink in those days, didn't they?

A. No, sir.

Q. They didn't? A. No, sir, not always.

Q. Now, you say that in your judgment that "E. B. Miller, Chief Clerk Land Office" was put on there at the same time that right above it was put on there?

A. No, I didn't say that.

Q. The writing below it?

A. No, I say this was put on two years and a little over, and this probably about 1905, I couldn't say.

Q. Well, take the original card, does that pencil notation "Letter of May 9, 1905," was that put on there in 1905?

A. I said probably.

Q. If you send out a census card before this without that on there, then you know that wasn't put on there in 1905, don't you? A. Might have been an exception.

The Court: That is if a certified copy of a census card was sent out since 1905 without that notation.

Q. Then, you are quite satisfied that wouldn't have been on there. In other words, you are generally correct in your certification? A. Yes, sir.

Recross Examination by Mr. German.

Q. Let me ask you this: Wasn't it the practice of the Commission in issuing certified copies of census cards up to about the year 1910 or '11, not to put on the copies which they were issuing pencil notations?

A. Well, now, I couldn't say about the date. They did put the notations on and then they stopped, but I don't know just exactly when they did stop.

Q. And then later they commenced again?

A. I couldn't say as to that.

Q. Let me see if you understand me I think I understand myself; when you would prepare a copy, make up a copy of a census card, you would put on the copy that you were making all that was on the census card except pencil notations, and for a long time certify to the copy as a true copy; then later because of some trouble that had arisen about doing that you adopted the practice of putting on the certified copy not only the pen and ink work but the lead pencil work?

A. That was the practice, but I don't know when it was started or begun.

Witness dismissed.

And thereupon, J. C. KENNEDY was called and sworn as a witness for and on behalf of the defendants, Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is the name? A. J. C. Kennedy.

Q. Where do you work, Mr. Kennedy?

A. In the office of the Superintendent of the Five Civilized Tribes.

Q. Mr. Parker's office? A. Yes, sir.

Q. How long have you worked in that office?

A. Well, in the Commissioners office and in the Superintendent's office since 1905.

Q. You have been familiar with the records in there?

A. More or less, yes, sir.

Q. Familiar with census cards? A. Yes, sir.

Q. I exhibit to you what is admitted to be the Thomas Atkins census card. Will you look at it please? A. Yes, sir.

Q. Now, on that card, Mr. Kennedy, the words appear "No. 1, on '95 authenticated roll, No. 213, as Thomas Atkins." That is in writing, isn't it? A. Yes, sir.

Q. Under that in pencil "E. B. Miller, Chief Clerk Land Office" in pencil, do you know when that was put on there?

A. No, sir. I do not.

Q. You don't know, Mr. Kennedy? A. No, sir.

Q. Now, under that in lead pencil— —Say, is that in a different handwriting in your judgment? A. Yes, sir.

Q. That is a different handwriting, is it—— Now, Mr. Kennedy, who put that on there "Letter of May 9, 1905, from the Commissioner to the Five Civilized Tribes directing action be suspended in the matter of issuing deed to heirs of No. 1"? A. I don't recognize that writing.

Q. You don't recognize that writing. Do you recognize it as the writing of any one in your office?

A. I am not connected with that office now.

Q. Well, do you recognize the writing of any man that was in your office?

A. I recognize the writing just above.

Q. But you don't recognize that other as the writing of any man that was ever in your office? A. No, sir.

Q. And you don't know who put that on there?

A. No, sir.

Cross Examination by Mr. German.

Q. Mr. Kennedy, what time in 1905 did you enter that office? A. January 4.

Q. How many clerks were employed in the Land Office at that time where the census cards were kept?

A. I couldn't tell you that, Mr. German. I was first connected with the Choctaw Land Office.

Q. Where were you stationed?

A. At Muskogee; and then from November 21, 1906, I was connected with the Cherokee Land Office, and it was not until along in the first of April, 1914, that I had charge of the Creek Land Office.

Q. So, prior to 1914 you had no personal knowledge of who made entries on census cards in the Creek Land Office or enrollment office? A. No, sir.

Q. You don't know. Now, if the letter dated May 9, 1905, was written by the Commissioner to the Five Civilized Tribes to E. B. Miller, Chief Clerk of the Land Office, and delivered to Mr. Miller or to his office, what, according to practice of the office, would have been done with reference to that if it related to suspending the issuance of patents to the heirs of Thomas Atkins, enrolled opposite No. 7913; would there or not have been any entry made on the census card?

A. Well, I couldn't say as to the practice at that time.

Q. You were not acquainted with the practice at that time? A. No, sir.

Q. Now, you don't know which one of the clerks in that office made that entry? A. No, sir.

Q. State whether from your experience and acquaintance with the work of the office such entries as appear upon census card similar to this one would be made at or near the time of the writing of the letter, the receipt of the letter?

A. Well, there would have been a pencil notation put on the card.

Mr. German: That is all.

Witness dismissed.

Mr. German: I would like to ask the Court to notice that writing, this notation, the age on the original census card. That is the original census card.

The Court: Made in 1897 or 1898?

Mr. German: No, sir, there was no old census card. That is the census card of Thomas Atkins.

And thereupon, W. H. ANGEL, was called and sworn as a witness for and on behalf of the defendant, Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Beall.

Q. Your name is W. H. Angel? A. Yes, sir.

Q. You have heretofore testified in this case as a witness for the Government? A. Yes, sir.

Q. Have you identified the exhibits, Mr. Angel?

A. No, sir.

Q. I will hand you Government's Exhibit A-3 and ask you to state what that is?

A. That is a certified copy of pages 320, 324, and 339 of the letter press copy book No. 1, and transmitting Creek Roll of citizens by blood to the Secretary of the Interior for approval.

Q. That is not a photographic copy of the original letter? A. That is not, no, sir.

Q. I will ask you from what that photograph was made?

A. That is made from the letter press copy of the original letter of March 1, 1902, addressed to the Secretary of the Interior transmitting a partial roll of citizens by blood of the Creek Nation, No. 7825 to No. 8312, in so far as it relates to pages 320, 324, and 339.

Q. Mr. Angel, the letter press copy from which this photograph was made does not contain any impression of a signature of any person over the typewritten words "Acting Chairman" is that correct? A. Yes, sir.

Q. Who was the acting chairman of the Commission at the time that letter was press copied? A. Tams Bixby.

Q. Do you know what became of the original?

A. Transmitted to the Secretary of the Interior.

Q. Well, before it went to the Secretary of the Interior. after the press copy had been made?

A. Transmitted to Mr. Bixby direct who was in Washington at the time.

Q. I will read to you a letter from the letter press copy book, a letter dated March 1st, 1902. "Hon. Tams Bixby, Raleigh Hotel, Washington, D. C. Dear Sir: Enclosed you will find in duplicate schedule and decision letter of Creek Indians by blood as of March 1, 1902, No. 7343 to 7824 inclusive; March 1, 1902, No. 7825 to 9312 inclusive. These have been carefully compared by me and the decision letters have been signed by Commissioner Breckenridge and me. If you concur kindly affix your signature and deposit the same with the Commissioner of Indian affairs, advising this office in order that the impression copy book may be made to correspond. Yours very truly, T. B. Needles, Commissioner in charge." Is that the letter you referred to as transmitting the letter of March 1, 1902, to Mr. Bixby in Washington? A. Yes, sir.

Q. You don't know whether Mr. Bixby signed that in Washington or not? A. No, sir.

Mr. Beall: That is all.

Witness dismissed.

And thereupon, THOMAS E. KIRKBRIDE was called and sworn as a witness for and on behalf of the defendant Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. Have you been sworn? A. Yes, sir.

Q. What is your name? A. Thomas E. Kirkbride.

Q. I wish you would look at that paper and tell me if you ever saw it before? A. Yes, sir.

Q. This paper purports to be a contract between you and a man by the name of Rogers and S. E. Mann. I will read to you a portion so as to direct your attention to the question which I shall ask. "Whereas, the west half of the northeast quarter of section five and the southeast quarter of the northwest quarter of section four, all in Township Eighteen, north range Seven east of Indian Base Meridian was allotted to one Thomas Atkins as a member of the Creek Tribe of Indians, said Thomas Atkins being enrolled opposite No. 7913 and being, at the time of his enrollment, ten years of age; and Whereas, there are numerous parties claiming title to said premises as heirs of said Thomas Atkins and as purchasers or lessees of said pretended heir of Thomas Atkins, it being charged by said pretended heirs and purchasers that said Thomas Atkins died many years ago, as a minor, intestate, without children or descendants of children; and whereas, said spurious heirs and their grantees and lessees have no right, title, or interest in and to said premises, though all of such rights are claimed adversely to the said Thomas Atkins, allottee; and Whereas, the Gypsy Oil Company, of Tulsa, Oklahoma, is now, and has been for more than one year past, in the open, notorious and actual possession of said premises; and whereas, said Thomas Atkins, allottee, is now living and his existence and whereabouts are known to said brokers"; I will ask you to state to the Court what Betty Mann and Rogers said to you when you made this contract about Thomas Atkins?

Mr. German: I object to that as hearsay, your Honor, he hasn't laid any predicate.

Mr. Stuart: Why, your Honor, Betty Mann swore that she had the frame up with this man and he knew it.

The Court: Overruled.

Mr. German: Exception.

The Court: He may ask him.

A. She told me that she knew that Tommy Atkins was living and where he was and could reach him.

Q. Did you believe her?

Mr. German: I object to that as calling for a conclusion.

The Court: He may answer.

Mr. German: Exceptions.

A. I did.

Q. Now, I ask you Mr. Kirkbride, whether or not you entered into any conspiracy or combination with Betty Mann, or Rogers to manufacture a Thomas Atkins? A. No, sir.

Mr. German: We object to that.

The Court: Let me see—this contact was brought out yesterday, I don't remember, probably on cross examination?

Mr. German: They produced it.

The Court: Just refresh my memory, Judge, as to how this contract came into the Long transactions that were gone into.

Mr. Stuart: You remember, your Honor, I called Betty Mann back on cross examination and asked her if in the summer of 1914, the summer, she didn't tell Long, and Josey, and Page, that there was no Thomas Atkins—that he was a myth; she said she did. Then I presented this cantract and asked her why it was that she made a contract in October in which she declared that she did know Thomas Atkins, and she said she did it because it was a frame up with this man, Kirkbride. It is a clear contradiction.

The Court: He may answer.

The Court: We except.

Q. Well, I will ask you to state to the Court whether or not you entered into any combination or conspiracy to frame up a Thomas Atkins with Betty Mann? A. No, sir.

Mr. German: We object to that as incompetent.

The Court: Overruled; exceptions noted.

Mr. German: Exception.

Cross Examination by Mr. Allen.

Q. Mr. Kirkbridge, how long have you lived in Tulsa?

A. Four years last March.

Q. You knew of the controversy involving this allotment when you entered into this contract with Betty Mann and Hook Rogers?

A. I knew it undecided who owned it; that it belonged to Thomas Atkins; that was my version of it.

Q. You knew at that time that Betty Mann had been sentenced to serve a term in the penitentiary?

A. No, I didn't know it at that time.

Q. You knew her, though? A. Yes.

Q. Knew her very well? A. Not very well at that time.

Q. You knew Hook Rogers, didn't you?

A. No, I had never seen *her* before the time that I——

Q. You had heard the character of man he was?

A. No, I didn't know a thing about him until he came to my office telling me that he and Betty knew——

Q. Rogers first came to your office?

A. No, Betty first came.

Q. You were present at the trial in July, 1914, wasn't you, at Sapulpa? A. Yes.

Q. You heard Minnie testify there, didn't you?

A. Yes, sir.

Q. You knew of her contention then, didn't you?

A. Yes; she said that she had a child at such and such a time.

Q. And you knew then that Betty Mann had been formerly working for Page? A. Yes, sir.

Q. And you knew that she had also worked for Bartlett?

A. No, I didn't know that she had done anything for Bartlett.

Q. You knew that Hook Rogers had formerly worked for Page, didn't you?

A. No, I didn't know anything about Rogers.

Q. You found that out about the time of this contract?

A. Yes.

Q. And you knew that he had formerly worked with——

A. No, I didn't know anything about him until that time.

Q. You delivered this contract to Mr. Page?

A. Yes, I mailed it to him.

Q. You mailed it to Mr. Page? A. Yes.

Witness dismissed.

And thereupon, D. N. HODGE, a witness produced on behalf of the defendants Minnie Atkins, et al., sworn and under oath testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. D. M. Hodge.

Q. How old are you, Mr. Hodge? A. 76.

Q. Of what race are you? A. Creek.

Q. Creek Indian? A. Yes, sir.

Q. Where were you born, Mr. Hodge?

A. I was born at Choska.

Q. Choska? A. Creek Nation.

Q. In the Creek Nation? A. Yes.

Q. And have you lived here all your life? A. Yes, sir.

Q. Were you a member of the Creek Council? A. Yes, sir.

Q. What positions have you held in the Creek Council?

A. I was at one time a member of the House of Kings and another time the House of Warriors.

Q. How long have you served in one of those capacities for the Creek people? A. Several years.

Q. When did you commence, as near as you can remember? A. 1868.

Q. In 1868? A. I think it was about that time.

Q. Have you been either a Warrior or a King ever since that date? A. Yes, sir.

Q. Mr. Hodge, do you remember when the roll of '95 was made up by the Creek Council—you remember the fact that it was?

A. It was made up but just what date, I can't tell you.

Q. Yes, but you remember the fact that it was made up—the incident? A. Oh, yes.

Q. Were you present when they were making up that roll? A. Yes, sir.

Q. Now, I ask you the different—taking into consideraiton the different towns in the Creek Nation, who would bring in the roll of citizens from each Town?

A. The members of the House of Kings and Warriors, both.

Q. Would bring in the last?

A. The list of the members of their Town.

Q. Now, when that list was brought in by the various Kings, and Warriors, those particular lists covering all the Towns, were those lists submitted to a committee out there?

A. Yes, sir.

Q. To investigate? A. Yes, sir.

Q And did the Council afterwards act on the report of the Committee? A. Yes, sir.

Q. Mr. Hodge, I will ask you whether or not the Kings and Warriors in Council there, exercised great or little care in fixing up that roll? A. Very great care.

Q. I will ask you whether or not you for—where did you get your information from to make up this roll?

A. Why from the Dawes Commission.

Q. Well, but I mean the roll of '95?

A. Oh, the roll of '95. It occurs to my mind that we got that from——

Q. The roll of 1895 I am talking about—the Creek roll of 1895 that you Creek people made up. You have told me that the Kings and Warriors breught it in from the different Towns? A. Yes.

Q. Now, Mr. Hodge, when the Dawes Commission came out there to examine and correct and make up the final roll, were you there then? A. Yes, sir.

Q. Will you tell the Court whether or not the Dawes Commission consulted people about making up their roll?

A. They certainly did.

Q. Who did they consult in making up their roll?

A. The members of the Council.

Q. And who else?

A. The members of the Creek Council and then——

Q. Suppose they couldn't get any information from the Warriors or Kings, where would they go?

A. Well, then they sent out to get the members of these two Houses to come there to them with whom they consulted.

Q. Did you have any difficulty between clansmen out there, and people by blood?

A. We did for a while but it soon had to vanish away because there was no such a thing as making out a correct citizenship roll of these people, because the orders was to make out citizens by blood, not by families.

Q. In other words, do you mean, were there members of certain families who were not members by blood?

A. Not members by blood at all.

Q. Now, state to the Court whether or not in making up that roll, you attempted to confine it to members by blood?

A. We attempt to members by blood alone.

Q. Members by blood alone. Will you tell the Court whether—that is all.

Cross Examination by Mr. German.

Q. You don't know anything about Thomas Atkins, do you? A. Thomas Atkins?

Q. Yes. A. I knew the old man Thomas Atkins.

Q. The old man. He was the only one you knew?

A. I knew Wyley Atkins.

Q. I am speaking of Thomas? A. Well, I knew him.

Q. Old man Thomas?

A. He was not the only one, you know; I knew him.

Q. Yes. Now, you say that you exercised care in making those rolls in '95? A. Yes, sir.

Q. But regardless of the care you exercised, there were some fraudulent names got on, weren't there, Mr. Hodge?

A. Oh, sometimes, occasionally.

Q. Occasionally? A. Yes, sir.

Witness dismissed.

And thereupon, R. A. JOSEY, a witness produced on behalf of the defendants, Minnie Atkins, et al., being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. R. A. Josey.

Q. Where do you live, Mr. Josey?

A. Tulsa, Oklahoma.

Q. How long have you lived there?

A. Seven or eight years.

Q. Sir? A. Seven or eight years.

Q. Seven or eight years? Were you ever a stockholder in the Gem Oil Company? A. I was, yes, sir.

Q. Was Mr. Page your associate in the Company?

A. Yes, sir.

Q. Mr. Josey, do you remember acquiring a lease on what is known as the Thomas Atkins property? A. I do.

Q. Did Mr. Long work for your Company? A. He did.

Q. Who were your attorneys? A. Rice & Lyons.

Q. At that time. Now, Mr. Josey, I will ask you when was the first time after you acquired that lease that you ever heard anybody say or claim that Thomas Atkins was a myth, as near as you can remember?

A. Well, as near as I can remember, at the time of this confession that was made in Seattle.

Q. Of Sadie James' confession?

A. Of Minnie's confession.

Q. Of Minnie's confession? A. Yes, sir.

Q. In Seattle? A. In Seattle.

Q. And you say that is the first time you ever heard of any claim of that sort?

A. That is my best recollection.

Cross Examination by Mr. Linebaugh.

Q. Mr. Josey, the Gem Oil Company was a corporation?

A. Yes, sir.

Q. Who were the owners of its capital stock in June 1914?

A. I think Mr. Page and myself, and I think there was one share of the stock in the name of Mr. King, J. F. King.

Q. That was for formal purposes? A. Yes, sir.

Q. You and Mr. Page at that time were the sole owners of the capital, owners of that Company? A. Yes, sir.

Q. That condition as to ownership continued how long?

A. Well, it continues up to date.

Q. Mr. Long, you are acquainted with him?

A. Yes, sir.

Q. You knew of his going to Seattle? A. Yes, sir.

Q. Did you know of the preparation of any papers before his going that he took with him? A. I did at the time.

Q. You knew of his returning from Seattle? A. I did.

Q. You knew someone was returning with him? A. I did.

Q. That was before you had secured any lease on this property?

A. My recollection is that the lease was up in escrow to be held subject to investigation.

Q. Who did you think was returning with Mr. Long?

A. Mr. Hanford.

Q. You didn't know that it was Mr. Hanford—you thought it was some Army man, didn't you?

A. My recollection is that it was Mr. Hanford.

Q. Mr. Long sent you a telegram advising you that he was returning with an Army man, did he not?

A. Well, I can't remember as to that, Mr. Linebaugh.

Q. Prior to his return, had you gotten acquainted with Mr. Hanford? A. Mr. Hanford returned with him.

Q. Well, before that time had you ever met Mr. Hanford?

A. No, sir.

Q. Up to that time did you know what Mr. Hanford's business was? A. I think so.

Q. How did you receive that information as to what his business was? A. By letters or telegrams from Mr. Long.

Q. That is your present memory, is it?

A. That is my present memory, yes, sir.

Q. Did you know anything about Mr. Hanford's legal attainments or ability at that time? A. No, sir.

Q. You knew nothing about his antecedents at all, knew nothing about the man, except the information that had communicated to you by Mr. Long? A. No, sir, I did not.

Q. Why, Mr. Josey, were you anxious that Mr. Hanford be retained and employed in the case?

A. Well, I didn't know Mr. Hanford and those details were left to Mr. Long.

Q. Just answer my question, please.

A. State the question, please.

Q. Just read the question. (Question read).

A. I wasn't anxious that he be retained or employed.

Q. You was not. Before the trip, Mr. Hanford and Mr. Long came down to Tulsa and stayed for a few days, did they? A. Yes, sir.

Q. How long did they stay?

A. Several days; I don't remember, Mr. Linebaugh.

Q. And they returned together to Seattle, did they?

A. I don't remember.

Q. At that time, Mr. Josey, were you skeptical of the title?

A. I was skeptical as to the identification of Minnie Atkins, whether she was Minnie Atkins, the mother of Tommy Atkins.

Q. What made you skeptical?

A. Well, I had investigated this title just around before this; it was generally talked of in oil circles and I had heard that Minnie Atkins had not been heard of in a long time and that she lived here and had gone away, and had not returned, or something, for some number of years, I believe something like twenty years, and I didn't have much faith in finding her.

Q. But Mr. Long before that had been to Seattle and had communicated the information to you that he had found Minnie Atkins?

A. I thought you were talking about the first trip?

Q. No, I am talking about the second trip. Did you want Mr. Long to take that second trip because you were skeptical of the title or of that situation in Seattle?

A. I wanted to be sure that she was Minnie Atkins as appears on the rolls—the mother of Tommy Atkins.

Q. At the time of taking the second trip by Mr. Long to Seattle, accompanied by Mr. Hanford, were you skeptical of that Seattle situation?

A. In what respect skeptical, Mr. Linebaugh?

Q. Were you doubtful? A. In what respect?

Q. Well, that is the question I asked you?

A. I wanted to be sure that Minnie Atkins was the mother—that Mr. Long had Minnie Atkins who was the mother of Thomas Atkins; I had that in mind at that time.

Q. At the time of the second trip, then, you were not sure of that fact were you?

A. I can't say that I was sure, but I wanted to be as sure as possible to be by making as much examination as possible.

Q. You had communications with Mr. Long from Seattle during the first and also the second trip? A. Yes, sir.

Q. On the 7th of July, did you receive from Mr. Long, a letter, and among other things it stated—there was stated in the letter: "Hanford is still talking right"; what did you understand by that statement? A. I don't remember.

Q. It was a matter of considerable interest to you, was it not, the acquiring of this title? A. It was at that time.

Q. You conceived the property to be large value?

A. Not at that time.

Q. You were in telegraphic communication with Mr. Long, almost daily along about that, weren't you?

A. Probably so.

Q. You had talked with Mr. Hanford when he was down here? A. I had.

Q. And your entire conversation with Mr. Hanford so far as this concerned business matters was with reference to this particular title? A. It was.

Q. You had no occasion to talk any other business matters with him?

A. I don't remember talking with him about others.

Q. Now, that expression "Hanford is still talking right" —can you state to the Court what you understood that to mean? A. I can not.

Q. That was in a person- letter from Mr. Long to you, wasn't it? A. I don't remember the letter at all.

Q. Examine this letter and see if you remember it. Have you read enough to determine you whether you——

A. No, sir, I don't remember it.

Mr. Linebaugh: May it be agreed that the letter the witness is reading is the same letter read by witness Long on examination?

Mr. Stuart: I don't know; I presume it is.

Mr. Linebaugh: Do you agree?

Mr. Hanford: I suppose it is.

Mr. Linebaugh: We offer the letter then, and ask that it be marked for identification.

The Court: There is no question in the Court's mind but what it is the same letter.

Mr. Hanford: It is agreed to, your Honor.

The Court: That letter has been read in evidence and is the letter to which you called the witness' attention.

Q. Mr. Josey, I show you a telegram dated June 16th from Long to you—June 16th, 1914; since refreshing your memory from that telegram, were you of opinion that Mr. Long was bringing back with him an Army officer?

A. I don't remember.

Q. The telegram says: "Trust agreement executed to Army Officers. Bringing one back with me"—now did you receive any letter or telegram from Mr. Long in which he stated that he was bringing with him Mr. Hanford, a lawyer?

A. I don't remember Mr. Linebaugh; I haven't seen these letters or telegrams since I sold out of this case a year and a half ago and I tried to forget it; tried to talk to no one about it. I have forgotten these matters, I have had a lot of business since and this is the first time I have seen it.

Q. July 9, 1916, you lived at Tulsa? A. Yes, sir.

Q. Have you ever been to Leavenworth, traveling there?

A. Since that time?

Q. Yes? A. Yes, sir.

Q. On July 9th, 1914, I should have said? A. Yes, sir.

Q. There was railroad communication between the two towns at that time? A. Yes, sir.

Q. Telegraphic communication or connection?

A. Yes, sir.

Q. And telephone connection? A. Yes, sir.

Q. How far is it from Tulsa to Leavenworth, Kansas?

A. I would guess about three hundred miles.

The Court: Probably the Court will take judicial notice of the distance and that there were telephones and railroads and so forth.

Mr. Linebaugh: I knew the Court would take judicial notice of the townsite but I didn't know about the telephone and telegraph, so I thought I would prove it.

The Court: I think so.

Q. You received, did you, a letter from Mr. Long from Seattle under date July 10th, 1914, a portion of which I hand you for your inspection?

A. I don't remember receiving it.

Q. Do you remember of having received an affidavit that Minnie Atkins was supposed to have executed at Seattle?

A. I don't remember having received it.

Q. You don't have any recollection of having received that? A. Not at this time.

Q. Do you know what became of the table, or did you ever see a table which accompanied the letter of July 10, 1914? A. No, sir.

Q. Were you in Kansas City, subsequent to the time at a time when Minnie Atkins made a written statement in the hotel in your presence of the presence of Mr. Page, Mr. Long, Mr. Hanford and Mr. Rice? A. Where was that?

Q. At Kansas City in the fall of that same year?

A. I made two or three trips up there.

Q. Were you ever present when Minnie Atkins made a written statement, a statement which was reduced to writing and signed?

The Court: Do you remember Mr. Josey being in Kansas City together with the other parties and Minnie Atkins was there and you had a conversation?

A. I do.

The Court: You remember that circumstance?

A. Yes, sir.

Q. Now, did Minnie Atkins at that time make a written statement? A. I don't remember.

Q. If she did you don't know what become of it?

A. I don't remember.

Q. When did you first know about Sadie James?

A. Well, I was in the east when Sadie James was employed in the case.

Q. I understand, but had you heard about her before you went to the east?

A. I think that I had in connection with her work for Mr. Bartlett or somebody else interested.

Q. In this case? A. I think so.

Q. Now, when did you receive that first information?

A. I think that Mr. Long wrote me a letter.

Q. Do you know where that letter is that he wrote you?

A. No.

Q. But your recollection is that he did write you a letter telling you about Sadie James?

A. I don't remember what was in it.

Q. Having been at Seattle? A. I don't remember.

Q. Now, before July 16, 1914, you had heard of Sadie James in connection with this case, hadn't you?

A. Wouldn't be positive that I had.

Q. Now, on July 16, 1914, Mr. Long wired you a night letter as follows: "Portland, Oregon. Wired you this afternoon Bartlett is here, Sadie has been here for several days." Now, did the use of merely the Christian or given name of Sadie in that telegram convey to your mind who he was talking about? A. It did.

Q. Then, prior to that time you had received some information from him with reference to Sadie James' activities in this case, hadn't you?

A. I must have had since you have that telegram.

Q. Now, can you tell the Court what that information was that you received? A. I cannot.

Q. It was by letter?

A. I couldn't just get that, you say information had been sent to me?

Q. No, what information had you received prior to the receipt of the July 16th telegram with reference to the activity of Sadie James in this matter?

A. I don't remember unless it was her connection with other parties in trying to secure this lease.

Q. Now, do you know how you received that information?

A. I do not.

Q. In that same telegram the following statement is made: "She went to Seattle this morning", referring to Sadie, "with a friend of Minnie's and tried to see her but failed, "looks to me either like frame up for fake Thomas or effort to win Minnie away from Hanford. Hanford talked with Minnie's friend and her conversation indicates efforts to convince Minnie Tommy is alive. I will stay here until Bartlett leaves and keep in touch with Seattle by phone. Arrangements made for holding check as requested. At Oregon Hotel. Long." Now, the employment of Sadie James by your company was after the receipt of that elegram, wasn't it?

A. Sir?

Q. Of your employment of her?

A. I never employed her, I didn't know she was employed until I received this letter; and when I returned from New York she had been discharged. I don't remember of ever talking to her.

Q. How long did you remain in New York?

A. About two months.

Q. Did you know of the employment of Dennis Jones?

A. Yes, sir.

Q. Why was he employed?

A. As I remember it he had been working for the Gypsy Oil Company and knew a good deal about this case.

Q. Knew a good deal about it in what way?

A. Well, the Gypsy Oil Company had made some investigation about him in Leavenworth.

Q. What did you employ him to do, do you know?

A. Well, I didn't employ him, I think Mr. Long attended to that.

Q. Were you present at the time of his employment?

A. I don't think so.

Q. Were you in Tulsa at that time?

A. I was in Tulsa at one time when he was there.

Q. Sadie James was with him, wasn't she?

A. Not that I remember. No, she wasn't there, no, sir.

Q. Do you know Betty Mann? A. Yes, sir, I do.

Q. When did you first get acquainted with her?

A. After I returned from New York—— No, after she returned from Seattle.

Q. Yes. How long after her return?

A. I don't remember.

Q. About how long, your best judgment?

A. Probably a day or so.

Q. A day or so? A. I imagine.

Q. It was before Mr. Long and Mr. Hanford returned from Seattle? A. I don't know, I don't remember.

Q. Where did you see her?

A. According to my recollection, in my office.

Q. Who was there when she came in or when you came in? A. I don't remember.

Q. Do you know whether Mr. Page was there or not?

A. I don't remember, I don't remember the first time I ever met her.

Q. Do you remember when the lease come from Seattle?

A. Well, I remember in a general way.

Q. You remember the incident? A. Yes, sir.

Q. How long after that was it that this corporation assigned that lease to yourself and Mr. Page?

A. I don't remember.

Q. Why was the assignment made? A. I don't know.

Q. Well, it was being made to you and Mr. Page as individuals can't you tell us why you made it?

A. My recollection is that Rice & Lyons suggested it.

Q. Why? A. I don't know.

Q. Didn't you inquire? A. No, sir.

Q. You and Mr. Page were the sole owners of the capital stock of the corporation at that time?

A. They was Mr. Page's private attorneys and I thought probably they had done it at his suggestion, I never asked any questions.

Q. You didn't know very much about this yourself, you weren't looking after it very particularly yourself, you were depending on Mr. Page and his private attorneys?

A. Yes, sir. I couldn't see anything wrong with it if they wanted it done that way.

Q. Well, didn't you inquire why they wanted it done that way? A. No, sir.

Q. Why didn't you pay for the lease when it come in?

A. I think we did pay for it.

Q. You do? A. We paid ten thousand dollars for it.

Q. You drew two five thousand dollar checks, isn't that the way you paid for it? A. I think so.

Q. But the checks were not cashed, were they?

A. I think so.

Q. Your recollection is that both of those checks were cashed?

A. My recollection is that we paid ten thousand dollars for the lease.

Q. Do you know who drew the checks?

A. Probably I did.

Q. If they were drawn to E. C. Hanford, why were they delivered to him?

A. He was representing Minnie Atkins from whom we had secured the lease.

Q. You had understood before that, had you not, that Captain MacNab had received a trust conveyance conveying in trust this property? A. I think so.

Q. You didn't make this check to him? Why?

A. I don't remember, I haven't paid any attention.

Q. I show you that check. Do you remember the fact that that check was drawn now that you have seen it?

A. I remember in a general way.

Q. Was that check cashed?

A. Do you want me to examine it? I think so.

Q. You think it was? A. I don't remember about it.

Q. Were you at Leavenworth in October, 1914, when depositions were being taken?

A. I was there at one time when depositions were being taken.

Q. Was any payment made to Minnie Atkins at Leavenworth? A. I don't remember.

Q. Sir? A. I don't remember if there was.

Q. Do you remember her having been in the hospital there? A. I think she was.

Q. Do you remember of a payment having been made to her while she was in the hospital? A. I do not.

Q. Sir? A. I do not.

Q. Do you remember the employment of Rube Smith?

A. I do not.

Q. You saw him? A. Yes, sir.

Q. You knew your company was paying him? A. Yes, sir.

Q. Did you know why they were paying him?

A. Because he was employed in the case.

Q. Do you know what he was to do?

A. Mr. Long attended to those details and I don't just remember, Mr. Linebaugh.

Q. Did you know Betty Mann was employed?

A. Yes, sir.

Q. Why was she employed? A. To locate Minnie Atkins.

Q. Did you know at the time of her employment she was also employed by Mr. Bartlett? A. Yes, sir.

Q. Were you informed about that?

A. I expect I was at the time.

Q. Do you know whether anybody was to use names other than their own in communicating?

A. I think Mr. Long was but I have forgotten.

Q. Do you remember the name? A. No, sir.

Q. Does Bill Jones sound familiar to you in that connection? A. I don't remember.

Q. Mr. Long was the secretary of your company?

A. Yes, sir.

Q. He was looking after these matters for you and the company and for you and Mr. Page? A. He was.

Q. Do you remember what information you received from Mr. Long which made you doubtful, Mr. Long or any other source, which made you doubtful of that fact, situated as you say you were doubtful?

A. I do not except that I wanted to be sure that she was Minnie Atkins.

Q. You say, I believe, that you didn't express any desire to have Mr. Hanford particularly retained in the case?

A. That is my recollection.

Q. You didn't express that to Mr. Long?

A. I don't remember that I did.

Q. Were you in Tulsa at the time of Sadie James' discharge from employment?

A. Well, I was—— No, sir, I was not.

Q. How long before the Dennis Jones employment was it that you had returned from the east to Tulsa, about how long?

A. I don't remember.

Q. Don't remember. Can't you tell us approximately, were you there a week or two weeks, give us some idea?

A. No.

Q. I notice that this check is dated July 3rd, 1914, but written across its face in red ink are these words "Not to be paid until July 29, 1914." Do you know why payment was held up for that period of time?

A. I do not, I do not remember.

Q. Have no recollection about it. Were you present at the trial at Sapulpa in July, 1914? A. I was.

Q. You heard Minnie Atkins testify? A. I did.

Q. That suit was pending in the month of June and July of that year? A. I don't remember.

Q. That is a suit was pending there involving the title to this particular property? A. I think so.

Q. You knew of that? A. Yes, sir.

Q. During the month of June and July, 1914, the Gypsy Oil Company were in possession of this property under a lease or some title that they claimed to hold? A. I think so.

Q. And the litigation at Sapulpa in the State Court was with reference to that possession by the Gypsy and involved the title to this property, is that right?

A. There was a suit in Sapulpa.

Q. That was your understanding?

A. I think people claiming Nancy was the mother of Tommy were also interested in that suit and the Gypsy Oil Company.

Q. Who sent Mr. Long to Seattle?

A. The Gem Oil Company.

Q. That is your company as its secretary and representative? A. Yes, sir.

Q. And during that period of time and all subsequent times he has represented either the Gem Oil Company or you and Mr. Page or Mr. Page?

A. Up to the time I sold out as I told you about a year and a half ago.

Q. About a year and a half ago? A. No, sir.

Q. At this time you have no interest?

A. No interest at all.

Q. You have sold that interest to Mr. Page? A. Yes, sir.

Q. Did you know of the employment of Sam Nash at Tulsa in the fall of 1914?

A. I remember something about it.

Q. Why was he employed? A. I don't know, I think Mr. Page gave him a job.

Q. Do you know why he did? A. No, sir.

Q. Do you know of the employment of Walter Banks by Mr. Page in the spring of 1915? A. I don't remember that.

Q. Do you know Walter Banks?

A. I may have met him, I don't remember of having met him, but probably I did.

Q. I believe you said you don't remember anything about an affidavit accompanying one of these letters?

A. I do not remember it.

Q. Would it refresh your memory to suggest to you that the letter transmitting the affidavit said that the facts in the affidavit should be kept secret? A. It would not.

Q. Do you ever remember of having disposed of any affidavit in this case? A. I do not.

Q. By giving it to any person? A. No, sir.

Q. Do you remember of having disposed of any other written statement or table in this case by giving it to any other person which related to Minnie Atkins, information concerning her alleged son Tommy? A. I do not.

Q. You have no information at all with reference to those matters? A. I do not remember it.

Q. You do have an interest in the result of this trial, don't you Mr. Josey?

A. I assigned my interest to Mr. Page.

Q. But in the event Mr. Page should lose this law suit, you would lose a considerable sum of money?

A. No, sir, Mr. Page paid me a hundred and forty thousand dollars for my interest, and it provided in the contract I am to pay him twenty thousand dollars back if he loses.

Q. Well, then, you have got twenty thousand dollars' worth of interest in it?

A. Well, in that light, yes, sir, but I have assigned all my interest in the land to Mr. Page.

Q. If Mr. Page loses this law suit you have got to pay Mr. Page back twenty thousand dollars? A. Yes, sir.

Q. Now, Mr. Page, Mr. Long—— Kill that, please—— Do you know who employed Sadie James? A. I do not.

Q. Do you know who employed Dennis Jones or arranged for his employment? A. I think Mr. Long did.

Q. Did you talk with Dennis yourself, or did Mr. Long and Mr. Page do that talking?

A. Now, the best of my recollection is that Dennis Jones came down there, was in the office of Rice & Lyons and the matter was taken up with him there.

Q. Who employed Betty Mann?

A. Mr. Long employed her.

Q. And Rube Smith, if he was employed, was employed by Mr. Long? A. Yes, sir.

Q. Well, you knew of those employments at the time they were made?

A. Yes, sir, but Mr. Long attended to all of the details.

Q. Who would he advise with when he came into the office?

A. After we secured that lease, Mr. Page and myself and Rice & Lyons were consulted about everything of importance.

Q. But I mean as to the employment of these people to hunt up evidence and things of that sort, you didn't have anything to do with that your self?

A. I don't remember about that, Mr. Linebaugh. Mr. Long was working on the details and he had authority to go ahead and do what he thought was necessary.

Q. Mr. Page was active in the matter at that time, as he was at all times, you and he were equally at interest?

A. We were.

Q. And equally active? A. Yes, sir.

Q. Now, you say you sold out to Mr. Page?

A. I think it was September a year ago, about a year and a half ago.

Q. You are a practical oil man, aren't you? A. Yes, sir.

Q. That is your business?

A. Well, I never—— I know something about producing oil, but I never worked in the oil field.

Q. You are acquainted with this particular oil field where this land is located? A. Yes, sir.

Q. What, in your judgment, was the fair reasonable market value of that property at that time?

A. At the time I sold out?
Q. Yes?

Mr. Stuart: Objected to as incompetent, irrelevant, and immaterial.

The Court: He may answer.

A. I don't remember just the improvements or what it was producing. I would have to refresh my memory.

Q. Just your best judgment?

A. What the production was I have forgotten, I don't remember what the production was.

Q. Well, now, you were selling at that time. Now, tell us what in your opinion was the fair reasonable market value of that property at the time you sold it, considering the improvement, the production and everything in connection?

A. I don't remember what production there was or what improvements there were.

Q. Can't you give us some idea as a practical oil man, I want your judgment?

A. I told you a while ago I made it a point not to talk with anyone about this case. I haven't talked to either Mr. Long or Mr. Page and I have tried to forget those things. I have had a lot of business.

Q. Why have you made it a point not to talk to anybody about this case?

A. I had a lot of business and just didn't want to know about it, and I was out of it.

Q. I will ask you this, Mr. Josey, in your opinion as an oil man, last September a year ago, wasn't this property worth at least a million and a half dollars?

A. To the best of my recollection, I should say yes, Mr. Linebaugh.

(Witness dismissed.)

And thereupon, BEN COUCH was called and sworn as a witness for and on behalf of the defendant Minnie Atkins et al., and testified as follows:

Direct Examination by Mr. Hanford.

Q. What is your name? A. Ben Couch.
Q. Where do you live, Mr. Couch?
A. 619 Elgin Avenue, Muskogee, Oklahoma.
Q. What is your business? A. I drive a livery car.
Q. How old are you? A. Forty-two years old.
Q. How long have you lived in Muskogee?

A. Twenty-six years.

Q. Are you a brother of John Couch? A. Yes, sir.

Q. That is the same John Couch who was a witness here the other day? A. Yes, sir.

Q. Did you ever know Indian Minnie, or Minnie Atkins? A. Yes, sir.

Q. How did you know her, what name did you know her by?

A. Went under the name Minnie Atkins, is the only name I knew her by.

Q. Minnie Atkins? A. Yes, sir.

Q. When did you know her?

A. Well, I have been knowing her I guess about twenty-three or four years.

Q. When did you first get acquainted with her?

A. Here in Muskogee.

Q. What year?

A. Along, as well as I remember, 1894 or '95.

Q. And how long did you know her continuously at that time? A. I knew her up until she left here again.

Q. When did she leave? A. She left in 1897.

Q. Do you remember the incident of her leaving?

A. Well, I don't know, don't just remember the day, but I remember pretty close to the month.

Q. About what time was it?

A. As well as I remember it was in August.

Q. August of what year? Ninety-seven? A. 1897.

Mr. Linebaugh: There was one question I wanted to ask Mr. Josey that I overlooked, and he desires to get away on a train.

The Court: Tell Mr. Josey to step inside the door.

And thereupon, R. A. JOSEY was recalled for further cross examination and testified as follows:

Cross Examination by Mr. Linebaugh.

Q. Mr. Josey, while you were in the east and during the month of August, you received a letter from Mr. Long, didn't you? A. Yes, sir.

Q. Did you receive more than one letter?

A. I don't remember, I expect so.

Q. Look over the letter marked Defendant's Exhibit B-13 and state if you remember having received it?

A. I don't remember receiving it, I expect I did.

Q. The first paragraph of that letter reads: "I have just wired you to disregard long letter of yesterday." Now, did you receive the long letter of yesterday referred to in this letter? A. I expect I did but I don't remember it.

Q. Have you any recollection about it? A. No, sir.

Q. Did they want you to do anything while you were in the east or go to any place? A. I don't remember.

Q. When did you first hear the name of Peterkin?

A. I don't know.

Q. Did that long letter, which you were advised by wire to disregard, did they want you to go to Boston, Mass.?

A. Well, I remember that they wanted me to go to Boston, Mass.

Q. For what purpose, Mr. Josey?

A. I don't remember whether I was to go or Mr. Long was to go. I never went.

Q. In connection with Peterkin?

A. I don't know, I don't remember as to that.

Q. Do you have now the letter referred to in this letter? A. No, sir.

Q. Anywhere in your files do you know what you did with it?

A. Probably destroyed it. I never kept those letters.

Q. Do you now remember anything of the contents?

A. No, sir.

Q. Not a thing? A. No, sir.

Q. Do you now recall when you first heard the name Peterkin? A. I do not.

Q. Do you now remember when you first heard the name of the child Robert Lee Peterkin? A. I do not.

Mr. Stuart: Mr. Josey, you remember that you really did have an interest in this company?

A. Yes, sir.

(Witness dismissed.)

And thereupon, BEN COUCH was recalled for further direct examination and testified as follows:

Direct Examination by Mr. Hanford.

Q. Do you know who, if anybody, Minnie went away from Muskogee with?

A. I don't remember of her leaving Muskogee with anyone.

Q. Well, you do know that she was joined by someone; state who that was?

A. She was joined by my brother, John Couch.

Q. And how long after she left did he go?

A. The best that I remember was some two or three or four days.

Q. You don't know where he joined her?

A. No, sir, I do not.

Q. How long was he gone?

A. Well, he was gone something like five, six, seven or eight weeks, along close to that time.

Q. And do you know where he went?

A. He went to Denver, Colorado.

The Court: Well, he gets that all from hearsay, what his brother says I suppose.

Cross Examination by Mr. Allen.

Q. Was that in 1895 or 1896? A. 1897.

Q. How do you know?

A. My mother went to Salt Lake City, Utah, to the reunion.

Q. She didn't go with these people did she? A. No, sir.

Q. She didn't come back with them? A. No, sir.

Mr. Hanford: I suggest he be permitted to answer.

The Court: If you have anything further to say in connection with your mother going to Utah, you may state it.

A. That is how I remember it was in 1897, she went to Utah and come back in August, 1897.

Q. She went there and came back in August, 1897?

A. Yes, sir.

Q. She didn't go with your brother—— Was it your brother John or Frank she went with? A. John.

Q. Sure of that? A. Yes, sir.

Q. And they met each other in Kansas City?

A. I couldn't say where they met.

Q. But she was gone sometime and then your brother left?

A. She was gone I think the best I remember some two or three or four days.

Q. All you know at all about her going with your brother is what your brother told you? A. Yes, sir.

Mr. Allen: We move to strike all of this witness' testimony if the court please on the ground that it is hearsay and incompetent.

The Court: It will be allowed to remain in the record. The court will consider all that is hearsay, the court will so consider it.

Q. Where were you when they left?

A. I was in Muskogee.

Q. You didn't see them together at any time on that trip?

A. No, sir.

Q. Where were you when someone came to see you to get you to testify in this case? A. Where was I?

Q. Why, someone came down to my house after me and I was up town and my little boy came and told me there was someone up at the Severs Hotel who wanted to see me up there and to go up there.

Q. Was that John Culver that came to see you?

A. I don't know who it was came down to the house.

Q. You know John Culver, don't you? A. Who?

Q. John Culver? A. Yes, sir.

Q. He has talked to you recently about this case?

Q. No, sir, he hasn't.

Q. You don't know who that young [] was? A. No, sir.

Q. According to your understanding, just how many days was it that Minnie left here before your brother left?

A. The best that I remember was some two, three or four days.

Redirect Examination by Mr. Stuart.

Q. You don't know whether it was Mr. Hanford that came down to your house to get you?

A. I don't know who it was.

(Witness dismissed.)

And thereupon, SAM W. BROWN, being recalled as a witness on behalf of the defendants Minnie Atkins et al., and under oath testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. S. W. Brown.

Q. You the same Brown that testified in this case before?

A. Yes, sir.

Q. Mr. Brown, when you were at the payment of '95 and the money was paid over to Minnie Atkins, and some children, and Nancy Atkins and Ed Skrimpsher, who got Nancy's and Ed Skrimpsher's money? A. I did.

Q. You did? A. Yes, sir.

Q. And Minnie got the balance? A. Yes, sir.

Q. Now, Judge, I will ask you at the time you made up the Euchee roll and put these names did you—had you ever heard any member of Nancy's family mention that Nancy had a boy named Tommy? A. No, sir, I never did.

Q. Did you as a kinsman of Nancy, ever know or hear of her having a boy by the name of Tommy? A. Never did.

Cross Examination by Mr. Rosser.

Q. Mr. Brown, you testified at the hearing of the case at Sapulpa, in 1914, didn't you? A. Probably I did.

Q. Well, don't you remember that you did testify there?

A. I don't recollect.

Q. Don't you recollect testifying at the hearing on the application for a receiver and to dissolve the injunction before Judge Stanfield about 20th or 25th of July, 1914, at Sapulpa, in the District Court of Creek County, at Sapulpa?

A. I don't remember at all.

Q. Don't you remember that? A. No, sir.

Q. Don't you remember Mr. Rice and Mr. Lyons were there representing Mr. Page and that Mr. Hanford was there representing Minnie Folk, or Minnie Atkins and that Mr. McGraw was there representing the Gypsy Oil Company, and that I was there representing the Nancy Atkins interest; don't you remember your examination there and that Mr. Gresham was there also, and that Mr. Gresham cross examined you?

A. Probably he did; I don't recall.

Q. You have no recollection of it at all?

A. No, sir, been so long ago; since I have been sick, I have been a little absent-minded.

Q. And don't you remember that you testified in that hearing that you were paid all the money that was coming to Ed Skrimpsher, Minnie Atkins, Harvey and Charlie Harrison, Thomas Atkins and Nancy Atkins to Minnie Atkins herself?

A. No, I might have said something like that but I didn't.

Q. Well, you testified to that at that time?

A. I might have at that time but I know I didn't because she received for four.

Q. I will ask you now in reference to your testimony, don't you remember that you testified to that?

A. I don't recollect that at all.

Q. You don't recollect? A. No, sir.

Q. Do you say you didn't testify to that?

A. Well, I might; I don't recollect.

Mr. Rosser: Your Honor, we have sent for the record.

The Court: Now, you may do this; if you are satisfied, Judge, you have examined the record and it shows, and if you are correct in your questions that it does show that, then that portion of it may be introduced.

Mr. Rosser: I am sure, Your Honor, that it does do that.

Cross Examination by Mr. Maxey.

Q. Mr. Brown, you have stated that it was your impression that Thomas Atkins was Nancy's child, haven't you?

A. No, sir, I never did.

Q. Didn't you tell me that?

A. I might have told you that sometime—there have been so many talked about it but I never knew Nancy had any child——

Q. I know, but didn't you tell me here in the hall, since this trial has been going on when you were here before, that it was your impression that Thomas was Nancy's child?

A. No, if I did—if Nancy had a child, it was a little girl.

Q. Well, did you ever see it?

A. I understood it was a little girl and the girl died while it was small; that is the only thing I knew about Nancy's affair.

Q. I didn't ask you that.

Mr. Maxey: I move to strike it out.

The Court: It will not be considered as to what he understood and it will be stricken out. He asked you with regard to a statement which you made to him out here in the hall.

Mr. German: If it please the court on that statement of the witness, if he seeks to have it excluded because it is hearsay, or anything of that sort, he is a member of the family.

The Court: If he understood it from some member of the family and that appears, but if he as a member of the family understood it from some other source, that would not be *excepted*.

Q. You remember that conversation, don't you, Mr. Brown? A. I can't answer that question at all.

Q. You don't remember saying that to me?

A. No, I don't.

Mr. Rosser: Now, Your Honor, I have the copy here which has been in Judge Allen's possession. I understand it is in the case which is in the possession of the stenographer.

The Court: You may examine him from that assuming that is correct. You may interrogate this witness here as to how he testified in regard to certain things shown and if necessary to produce the record later, you may do so.

By Mr. Rosser.

Q. Mr. Brown, you say that you don't remember about—
A. No, I don't.

Q. Now, weren't you present in court at the time and place that I suggested to you awhile ago? And weren't you asked this question: "Who was that?" and didn't you answer "John Davis, he run across me there and I asked him about those people; he said there was part of them living and he would give me the list. So he give me the list and I took their names. The first one was Ed Skrimpsher?"—and then was the question asked——

The Court: Ask him if he made that answer.

Q. Do you remember making that statement?
A. I made that statement here; if I did, I done the same thing.

Q. Then wasn't the question asked you, "State what you did," and didn't you answer, "He gave me a list of other names; stood there, and named them, and he said—;" then there was an objection made to what he said and the objection was sustained. Do you remember that? A. I do not.

Q. And do you remember then the question was asked—that you went on and answered anyway, "Ed Schrimsher was the first one I put down; his mother was Rebecca; the next one was Minnie." You remember making that statement?
A. So I stated right here.

Q. And then you remember this question: "Who were the others?" and didn't you answer that question, "Ellis, Susie, Thomas, and Nancy." A. I am mistaken there.

Q. And do you remember this question asked, "Do you know what relation Nancy was to Minnie?" and didn't you answer "full sisters." A. If I did, they are full sisters.

Q. And wasn't this question asked, "Do you know what relation Thomas was to Minnie," and you answered, "I can't tell you that, because he never said anything to me about their kinship, except I knew Ed Schrimsher?" A. If I did, I was mistaken. I couldn't answer that question, because I knew him pretty well.

Q. Then wasn't a question asked you: "Do you know where and when the money was paid and payment was made for these Atkins people," and didn't you answer that "yes, sir, I was there,"? A. Yes, sir.

Q. And do you remember that this question was asked you: "Do you know who received the money for Nancy Atkins?" and did you answer "Yes." You remember that question being asked and that answer being made?
A. I answered that same question here.

Q. And do you remember the question being asked "Who received it?" and did you answer "The money was paid over to Minnie Atkins,"? A. The money was.

Q. Do you remember that this question was asked——

The Court: Did you answer that way over at Sapulpa?

A. Well, he has got it wrong; he might misunderstood me, because I can't make two or three talks out of it.

Q. Do you remember that question was asked you and you answered it that way, or do you not?

A. I said Minnie Atkins got for her four, and two of them were turned over to—all were turned over to me.

Q. Do you deny then that this question was asked you and that you made that answer? A. I do.

Q. Was this question asked you "Who received the money for Nancy Atkins?" and didn't you answer "I did and it was paid over to her, every dollar"? A. Yes, sir.

Q. You said that? A. Yes.

Q. And this question "paid over to Nancy?" and didn't you answer "Minnie, I think I have the receipt at home." Didn't you answer that?

A. Now, I recollect about the receipt; I think I have it.

Q. Then was this question asked you, "Is that your signature, receipting for Nancy Atkins' payment; I am asking you about Nancy, not Minnie?" and didn't you answer "let me see, that is it;" do you remember that? A. Yes, sir.

Q. And then the question was asked "Is it?" and you said "that is mine"? A. Yes, sir.

Q. I will ask you now at the time these questions were asked and these answers made that you admit, weren't you showed at that time the 1895 roll, showing these payments, in connection with this examination? A. Yes, sir.

Q. And wasn't this question asked "You received the money for Nancy Atkins?" and you answered "Yes"?

A. Yes, sir.

Q. And this question was asked "Did you pay it to Nancy Atkins?" and didn't you answer "Everything was paid over to Minnie"? A. No, that was a mistake.

Q. You deny that? A. I couldn't do that.

Q. And then was this question asked, "Do you know this signature of Minnie Atkins?" and didn't you answer "Yes"?

A. Yes, sir.

Q. And the question was then asked "This is her signature?" and you answered "Yes" to that? A. Yes, sir.

Q. Then the question was asked this is this woman sitting in the courtroom, and you answered that "Yes" didn't you? A. Yes, sir; I guess so.

Q. Then this question was asked, wasn't it, "Do you know that she received the money there that day for Charley, Alice, Thomas and Nancy Atkins?"?

A. That I think was mistaken, because the money was paid to me for all of them.

Q. You deny that that question was asked?

A. Well, might have been asked, but I want to correct it.

Q. Now, didn't you answer "She received all of them?" "Yes, all of them"; and wasn't the question then asked "Do you know whether or not she was there to receive the money and receipted for it at that payment, Minnie Atkins?" and didn't you answer that "Yes, sir, she was there and received the money for all of them"?

A. Before I got off from the pay-table.

Q. And then wasn't this question asked, "Did she receive the money for Thomas?" and didn't you answer that "Everyone you see on the list"?

A. I didn't say I received for Thomas; I said——

Q. Do you deny that these questions and these answers were propounded—these questions were propounded to you and those answers made as I read to you?

A. I deny in one sense.

Mr. Rosser: Now, Your Honor, we offer this evidence.

The Court: You better get the original; get that tomorrow.

Mr. Rosser: In connection with that, when we get the case made, this follows now the statement in the record from the attorney: "I now offer Exhibit D in evidence, if Your Honor please;" I want to offer in connection with this cross examination the record showing that Exhibit "D" of that case-made.

Mr. Stuart: I don't know what it is——

The Court: It is not being admitted now. When you get the original record, if this is correct, then you may offer such portions of the record as you desire, and I will consider it at that time.

Redirect Examination by Mr. Stuart.

Q. From the questions read here, you answered that you got Nancy's money, did you?

A. Yes, sir, I answered that I got Nancy's money.

Mr. Stuart: Where was this record taken?

The Court: In 1914 in the State District Court at Sapulpa.

Q. Now in that case that has been read to you, you said that you got Nancy's money? A. Yes, sir.

Q. Now, as a matter of fact, did you or did you not draw Nancy's money?

A. I did draw it; I drawed it for all, and I turned four of those $14.40 payments to Minnie Atkins and also I held Ed Schrimsher's money.

The Court: The statements made by the witness in that record indicate that Minnie got all the money; the witness so testified, if he made those answers. He now states that he didn't make the answers to that effect, and, as a matter of fact, has testified here that Minnie got the money for certain ones and he got it for Nancy and someone else.

Mr. Stuart: He did state that he drew Nancy's.

Mr. German: Your Honor, pardon me; I didn't so understand.

The Court: I understood from the answers incorporated in Judge Rosser's questions that that purports to show that Minnie drew for all of the Atkins in the list there, including Nancy.

Mr. Rosser: That is the purport of his examination, Your Honor, but read in connection with the exhibit, it will show that he drew for four, and drew for the other two and paid the money over.

(Witness dismissed.)

And thereupon court adjourns until 9:30 a. m.

And thereafter, and on May 26, 1917, at 9:30 o'clock A. M., court convened pursuant to adjournment and further proceedings herein were had as follows:

The Court: Proceed gentlemen.

Mr. Rosser: Your Honor, before proceeding with the evidence, I have a case-made on this testimony concerning which I examined Mr. Brown yesterday; beginning at page—at pencil mark that I am making on page 85, and ending on page 88 at the pencil mark, is the testimony concerning which I examined Mr. Brown yesterday afternoon.

The Court: This is the case-made?

Mr. Rosser: This is the case-made, yes.

The Court: I announced that you might introduce that and that it would be admitted in connection with the witness Brown's cross examination.

Mr. Rosser: Yes, sir.

Mr. German: Your Honor, yesterday Mr. Beall introduced Judge Angell and proved some records relating to the transmission of the schedule of 1902, in March, to Mr. Bixby at Washington, for his signature. By telegraphic communication Judge Allen has learned that the original at Washington shows Mr. Bixby's signature, and Mr. Beall ask- that we agree that it did, and we will do so.

The Court: The record may show that agreement.

Mr. Beall: Government's Exhibit A-3.

Mr. German: Yes, we are willing to agree that it was signed by Mr. Bixby in Washington pursuant to letters which Mr. Beall introduced yesterday.

The Court: Alright.

And thereupon, EDWARD C. HANFORD being called as a witness on behalf of the defendants Minnie Atkins, et al., and having been heretofore sworn, testified as follows:

Direct Examination by Mr. Stuart.

Q. State your name. A. Edward C. Hanford.

Q. Where do you live, Mr. Hanford?

A. I live at Seattle, Washington, that is my home.

Q. How long have you lived in that country?

A. I lived there all my life. It has been my home all my life; I was born there.

Q. Were you ever connected with the United States Army? A. I was.

Q. In what capacity?

A. Well, my first connection with the Army was in the volunteers at the time of the Spanish-American War in the Philippines, and then when I came back from the Philippines, I went to the military academy and graduated and served two years as an officer in the regular service in the cavalry.

Q. What military academy did you attend?

A. West Point, New York.

Q. Wait a minute. How long did you remain at West Point? A. Four years.

Q. And you graduated there? A. I did.

Q. And got your diploma? A. I did.

Q. And then what service did you take with the United States Army? A. The cavalry.

Q. Are you on the reserve list now? A. I am.

Q. Now, Mr. Hanford, when did you commence the practice of law in Seattle? A. In October, 1898.

Q. 1898; was your father a lawyer? A. Yes, he was.

Q. Formerly United States Judge there?

A. Yes, he was United States Judge for twenty-five years.

Q. Now, Mr. Hanford, when was it that you ever—when did you first meet Minnie Atkins?

A. I first met Minnie on Saturday June 13, I believe it was, 1914.

Q. 1914. Now, will you state to the Court, the circumstances of that meeting and what occurred as briefly and as concisely as you can.

A. I was called on the telephone I think shortly after noon of that day by Captain MacNab, Alexander J. MacNab, of the Fourteenth Infantry stationed at that time at Fort Lawton near Seattle. He asked me if I knew anything about oil matters, oil leases; and I told him that I had incorporated several oil companies and had drawn forms of leases, etc., and that was the extent of my knowledge. He told me there was a matter come up out at the Fort, that they were going to make a lease on some oil land and he wanted me to come right out. He first told me that he had some telegrams he wanted sent asking for references. He gave me the name of three or four banks and some individuals and asked me to wire them and inquire about Charles Page and R. A. Josey. He said that these references had been given him by some man that was out there. I sent the telegrams and directed that the answers be returned to Captain MacNab. I went to the Fort some time after one o'clock and I saw Captain MacNab at Lieutenant McComb's house and he joined me and we went right to his quarters just beyond Lieutenant McComb's. Went to his office and he had some papers. One was a form of lease and the other was a form of contract. He told me that there was an Indian woman who was quite an army character and had been for a great many years who had come into good fortune and it was all very amusing and they were all very much amused over it. He told me briefly about this woman whom they called Indian Minnie; that she was married to a musician in the band and that he was a very good man, etc.; and that now some people had come out there and offered her four thousand dollars for this land and she had gone to Lieutenant McComb in regard to it, and Lieutenant McComb had asked Captain MacNab to look after it. She said that there was a negro that was offering four thousand dollars for the land and Lieutenant McComb had arranged to look after the signing of the deed for this land when Mrs. McComb decided that her husband hadn't ought to tend to business matters as he had no experience and she called in Captain MacNab. And another man, or a man named Long had shown up from Oklahoma that day asking for a lease; and he left these forms with me to show to you, and had told them that it was oil land and that they wanted a lease on it to pay a royalty. I told Captain MacNab if it was oil land it was probably very valuable and that they couldn't enter into any arrangement to lease it without knowing the proper terms to lease it upon, and without knowing everything in regard to it. And that it might be possible to develop it themselves without leasing it. He told me this man was coming out there and was due out there now and he was coming to Minnie's house. I told the Captain that we must then hurry to Minnie's house, we didn't know anything about them and they might have her sign a lease or something and her interest would be sacrificed, but that until it was looked into there was one thing sure she couldnt' sign any papers. We went down to Minnie's house and found Minnie sitting on her porch. Captain MacNab introduced me to Minnie as his lawyer and that he had called me in to look out for her interest in the matter. Minnie said that she didn't want to have any interest looked out for, that she had been offered four thousand dollars for the land for a deed to it, and that that was more money than she had ever had in her life and that she was going to sell it and take that money. We told her that she shouldn't do that, that we would do everything we could to prevent her from doing that unless it wasn't worth any more than that, and we discussed several schemes for trying to keep her from selling the land, and tried to jolly her out of it, but she was determined that she wanted four thousand dollars and she could live on that for the rest of her life and wouldn't have to work any more. And while we were talking there, Minnie told us about this colored woman that she said knew her. She had never known she was coming out there and was bothering her, and said that she was afraid of her, she talked too fast and she talked too much, and she didn't want her around at all; said that she was going to drive her out of house and home. And while she was telling us about her, the car stopped out opposite Minnie's house and Minnie said there she is now, and got up and went in the house. And Sadie James got off of the car and started up towards Minnie's house. An automobile followed her up with two men in it and Minnie noticed that first. She stood on the inside of her house and watched through the screen; and Sadie

James didn't come to the house. She went on up the hill past about two hundred feet from the house the street is. So, we sent Minnie up to see what was the matter. We saw these people were following her. Minnie went up and brought Sadie down to the house. Sadie said that they were detectives that had been following her all that day, chasing her all around town; told us how she had given them the slip and that they had kept on following her, and one thing and another. And Captain MacNab told Sadie that I was his lawyer and he called me in to look after the matter and there was nothing further to be done in regard to it until it was looked into. And Sadie wanted to know who this man Long was. Minnie had told her about this man, Mr. Long, up the hill.

Mr. German: We move to strike what Minnie evidently told her as a conclusion.

The Court: Yes, I appreciate that. You move to strike that?

Mr. German: Yes, sir.

The Court: It will be stricken and not be considered by the Court, as a conclusion.

A. She said that she didn't know this man Long and didn't know who he was. Captain MacNab asked her if she knew Page and Josey. She said she didn't know Mr. Josey but she knew Mr. Page. He said, well, Mr. Long is working for Mr. Page and wantes to get a lease on the property. And Sadie was excited anyway and she became more excited at that. She said something that she didn't want any lawyers in on this and told Minnie she wanted to see her in the house. She went in the house and Sadie was in command of the situation and she tried to shut me out. Captain MacNab threw the door open and said come in Hanford, and we went in the house. Then Sadie started telling about Mr. Page; she said she knew Mr. Page and that she knew all about him; that he had taken Betty Mann up to Lawrence, Kansas, and gotten a forged deed to this property. She said she was in court when he came in there and stood up before the court and said, I own this property, here is my deed signed by Minnie Atkins. She was very graphic in describing this court scene and how Mr. Page had got up before the court and exhibited this deed and gotten Minnie's property, and that they weren't to have anything to do with him. And she asked Minnie if she had signed any papers. Captain MacNab had the papers in his hand that Mr. Long had left. Sadie wanted to see them. He showed them to her. Sadie told Minnie that if she signed those papers that she would get seven years in the penitentiary, because they had decided that Minnie was the heir of Thomas Atkins deceased. And that was saying that Thomas was dead and Minnie didn't know that he was dead. And she tried to exercise an awful lot of influence over Minnie to make her say that she didn't know that Thomas was dead, and stood up and pointed her finger at her and said, he may be dead but you don't know that he is dead and you shouldn't say that he is dead and you don't know it. Minnie kept repeating that he was dead. So, Sadie turned to us and told us that she knew more about Thomas than Minnie herself; that she had seen him when he was five years old in 1899.

Mr. German: Now, Your Honor, I assume that all the statements of this witness, as to what anybody said as to the existence of Thomas, will be admitted for the limited purpose that Your Honor admitted some of the statements of Mr. Long?

The Court: That alone.

A. Well, Sadie, then, went on to say that she was the trusted and confidential representative of the Dawes Commission; that she had been working for them a great many years. I forget how many years she said, and they employed her on all their difficult and confidential work. She said that she had four members of the Dawes Commission and Mr. Fred Cook coming to town that afternoon, and that they were going to pay Minnie four thousand dollars for this land, and that she had been sent out by the Dawes Commission to get the land. She said that they arranged—they had telegraphed her to have the bank stay open, and keep out five thousand dollars and to have a blank deed ready; so she had gone to the First National Bank, she said, and had them keep that money out and have a blank deed there for Minnie to sign, and she was going to sign it that afternoon; and I had gotten word from Captain MacNab to let Sadie talk, he started to speak several times and I stopped him so as to let her go on, and so when she mentioned that she was a Government officer of the Dawes Commission and was going to buy this land, Captain MacNab wouldn't stop when I signaled him, and he asked Sadie when the Government had gone into the real estate business and was buying Indians' land for four thousand dollars; and that caused Sadie to fly into a terrific rage; she was almost insane, and made no answer but turned on Minnie again to say that she didn't know that Thomas was dead. So I got Captain MacNab out of the house—I told him we had better go up and see about those detectives, and we went up the hill and I told him that she was a dangerous woman and he agreed with me that Sadie was evidently after that land and it must be very valuable, and we had to get rid of her in some way. So, we went on up and spoke to the detectives and asked them who they were working for and they said that they couldn't tell, and we came back down to the house, and Captain MacNab told Sadie that she would have to leave, that nothing further was going to be done because we were going to look after the matter and told her that he wanted her to stay away from Minnie; Minnie had been bothered enough and he didn't want her bothered any more. So Sadie left, and went on down to the car, and we waited until she got away and then started to the Post, and on the way to the Post, I told Captain MacNab that something had to be done to keep Minnie from signing this property away for four thousand dollars, that she seemed determined to do it, and thought that was a lot of money; she was evidently ignorant of business matters, and that the only plan that I could conceive at that time, on the spur of the moment, was to have her deed it in trust to someone, and that he should be the one to take that property in trust. He objected to that on the ground that he was an officer in the army and he was apt to be called away at any time, and he didn't want to——

Mr. Pinson: Objected to as immaterial.

The Court: Sustained.

Q. But I continued to urge him and we walked across the bridge—across a little valley, and came across the bridge and met Mr. Long; he was standing there waiting for us, and told us that he had seen that there was something doing over at the house, something going on at the house, and for that reason he had stayed away. Captain MacNab introduced me to Mr. Long as his attorney, and he told me that he was glad that they had called an attorney into the case, and Captain MacNab told him that we were going to look into this matter, and that he didn't want him to go to see Minnie or to have anything to do with her, but to do everything through us; and Mr. Long asked him, "Well, how about the other people; there are other people here," and he said he ought to have an even chance to get this lease with anybody else, and Captain MacNab told him that he would deal through him and he assured him that he could have a fair chance. I told Mr. Long that my plan at that time was to have Minnie not only have Captain MacNab look after her affairs but to actually deed the property to him in trust and to keep anybody else from getting it, as well as himself; and he was very much pleased at that and told us that that arrangement was perfectly satisfactory, and he was glad that it had been brought about and that he would not attempt to see Minnie any further, and he started up the hill. Mr. Long called us back once or twice and asked us if we were sure the matter was in our hands and I told him that I would assure him of that. So, he went on—got on the car and went back to town, and we walked up the hill to the Post, me continuing to urge Captain MacNab to accept this trust. We got to the McComb's house and stopped on the porch and talked to Mrs. McComb and her husband Lieutenant McComb, and they joined me in urging Captain MacNab to accept this arrangement and act as Minnie's trustee.

Q. Mr. Hanford, let's *illiminate* a lot of that; did MacNab accept the trusteeship?

A. He did. We went to the house and he finally accepted it with Minnie's—after we got Minnie up to the house and she agreed to it.

Q. Alright; well, commence after that——

A. I wanted to relate briefly that I met at Captain MacNab's quarters——

Q. Alright, do that.

A. When Minnie came there and we were discussing this arrangement, Minnie still wanted four thousand dollars; she didn't seem to understand about the value of the land, thought that she could get four thousand and thought that was a great deal more important than a great many more later. So we finally told her that we would see—we would take a chance on the value of the lease, and see that she got forty-five hundred, five hundred dollars more for the lease, by waiting until I could go down to Oklahoma and investigate it; and upon that she agreed to the trust, and I drew up a short memorandum of a trust agreement and deed of trust, to Captain MacNab, and a defeasance by him, and had them execute it here; had a notary come out. I later drew up a complete trust agreement on Monday. But while we were there discussing this Minnie—Mrs. McComb told us that Minnie had other children and said that Minnie had——

Mr. Pinson: Objected to as hearsay.

Mr. Stuart: Just leave that hearsay out.

Q. You learned from some source that it was claimed that she had other children?

A. Yes, and Minnie was present and admitted that she had five children.

Mr. German: We object to that as hearsay statement of a third person.

By the Court.

Q. Now, what was that Mr. Hanford, I will have to hear you, I don't quite follow you. Where was this?

A. This was testified to by Mrs. McComb in her deposition.

Q. I mean——

A. In Captain MacNab's quarters.

Q. At the time the trust memorandum was entered into?

A. Yes, Your Honor.

Q. Who made the statement about the children?

A. Mrs. McComb made the statement that Minnie had told her and we asked Minnie if that was so and Minnie said it was.

Q. That she had five children?

A. That she had five children.

The Court: That statement as coming from Minnie is admitted for the limited purpose.

Mr. German: Yes, sir, I didn't understand that Minnie was there.

By Mr. Stuart.

Q. Go ahead.

A. And after the memorandum or trust agreement was entered into that night or Saturday, I returned to my home and I called up Mr. Long at his hotel. He had given me his address and I told him that the trust arrangement had been entered into and that from then on, he would have to deal with Captain MacNab through me. The next day, Sunday, Mr. Long called me up, or I called him, I don't know which, but an arrangement was made to meet at the Rainier-Grand hotel, and I went down to see Mr. Long and went to his room, and he started telling me about the delays that he would be put to on account of having to wait for this lease, and delays while I was investigating the property, and that that was very unsatisfactory to him; and I saw where he was drifting and I brought the matter to a head about my going to Oklahoma to investigate it personally, and we were both of the same opinion and agreed that that should be done to save time and for better service. So I agreed with him to go to Oklahoma on condition that I should have a free hand to make my investigation, without interference, and that I should not be approached by him or urged in any way to enter into a deal, and that I should be free to deal with whomsoever I saw fit, and make the best arrangement that I could. He agreed to pay my expenses of my trip in making this investigation, with the understanding that if the lease—if I entered into a lease with any other person except his Company, that I should pay back the expenses that he was put to in taking me to Oklahoma. So we made a memorandum of that, I don't know whether Mr. Long put it in evidence or not, but we entered into a short agreement to that effect. The next day—— No, that night I went to Captain MacNab's quarter and told him of this arrangement I had made and that was satisfactory to him. So, I went back to my office and worked all night that night drawing up the trust agreement and getting my other affairs in shape so I could start the next day. I met Mr. Long the next day at the bank and he gave me a ticket to Oklahoma, and a berth ticket and one hundred dollars to cover my expenses; and I gave him a receipt including it this agreement to pay it back. And we went to the Fort. Mr. Long wanted to be sure about this trust agreement, that this trust agreement was with Minnie's free will and that it was all understood and agreed to by everybody, so that he could report that to his company. We went on out to the Fort and he asked Captain MacNab some questions in regard to it, and then he asked Minnie—we had her at the house——He asked Minnie if she understood it and she told him she did, and he explained it to her, and she told him that was satisfactory and the best arrangement for herself yet. And then Mr. Long said he wanted to have one privilege, he wanted to ask Minnie to write her name, that is write Minnie Atkins on a piece of paper, and he didn't tell us what for at first. So we wouldn't let him do it. We heard about this forged deed business and were a little afraid, we had had Sadie James to stir up too. Finally he pulled out a photograph showing the signature of Minnie Atkins on a card. Said he wanted to compare it with that card. Then, we told Minnie to write Minnie Atkins on a piece of paper, and he compared it and was very much pleased about somethng. He didn't tell us what this card was. But we left the house then and went down town, took the train for Oklahoma. At the depot when we got down to the depot, Mr. Long met me and told me that there was somebody at the depot that he didn't want me to see, or didn't want to see me going to Oklahoma. And so I went around the outside through the train shed and went aboard the train. I didn't understand what it was all about. We started back. It was on the train that he told me about this signature—— I won't be sure about that, whether he told me what that signature he was comparing——

The Court: Well, I think that is probably immaterial.

Mr. Stuart: Yes.

Mr. German: We regard it as rather important.

The Court: All right. I don't see the bearing now.

A. I believe Mr. Long did tell us at the house that Minnie did sign this Indian roll and that that was the signature he was comparing it with, because that served to identify her, and connected her with this particular land. But I was not familiar with Indian affairs at that time and haven't much recollection of what he told us then. But on the way back, Mr. Long explained to me the probable value of this land for oil. He had told us that it was oil land and might turn out to be valuable, but he hadn't explained anything about the sand and Cushing Pool. And made a sketch for me as he related at that time. That was done on the train on the way back, and he explained to me how the Wheeler sand had curved off to the left and the Bartlesville sand might follow that and leave that sand out, but the present indications were the Bartlesville sand would take in about the south forty or the west eighty, cut the corner; the east eighty wasn't considered of any value at all, and neither was the northern part of the west eighty. On the way back that is about the only discussion we had except I allowed Mr. Long to read the trust agreement that we had drawn very fully. When we got to Tulsa on Sunday I went to the hotel and Mr. Long came up there before—it was very early in the morning—Mr. Long came up before I had myself cleaned up and had my breakfast, and told me he wanted me to see Mr. Page right away. And I went out to Mr. Page's house with him. Mr. Page came down and I met him and sat there and talked to him, and I believe had breakfast with him. He tried to get Mr. Rice, his attorney, but we couldn't get Mr. Rice until along about noon. And we sat there and talked about making a lease, and I told him of my agreement with Mr. Long that I shouldn't be under obligations to enter into negotiations until I saw fit. Mr. Long told Mr. Page that was the agreement that I had come under. We sat there and waited until Mr. Rice came. Mr. Page had made several offers for the lease. When Mr. Rice got there he talked it over with him and Mr. Rice said that the lease might turn out to be pretty valuable; that if they got the Bartlesville sand that they would get a heavy production and it would be very valuable. Mr. Page then spoke up and said: "I will tell you what I will do; I will give you ten thousand dollars for the lease with the usual twelve and one-half per cent royalty." I told him I didn't know anything about the royalties but I might be able to get a higher royalty. Mr. Rice told me that that was the usual royalty and that was the royalty that was paid in fullblood matters on Indian land under the supervision of the Government. But I told Mr. Page at that time that that price I thought would be satisfactory if I decided to make the lease to him he could consider it a tentative agreement as to the price that was to be paid as a bonus, but I would reserve further before deciding whether to make him the lease or somebody else. So that was agreeable to him and he sent us down town in his car; Mr. Rice went to his home and I went back to my hotel. The next day Mr. Long and I went to Sapulpa—— I don't know whether it was the next day or not, but the next thing that was done, Mr. Long and I went to Sapulpa. Mr. Rice had told me there was a suit involving Nancy Atkins' claim to this land down there and I told him I wanted to see that the first thing. We went down there and were looking through the records and I noticed that there was no journal entry of a judgment having been rendered, so I wrote out in longhand an appearance in behalf—not an appearance, but a request to the judge asking him not to take any action in that matter until I could appear and intervene on behalf of Minnie Atkins. And while I was working a man named Rutherford came up from down stairs and introduced himself and wanted to know what I was doing there; and I told him I was attorney for Minnie Atkins and was looking into this matter; and he wanted to know what I expected to do about it; and I told him I was making a request of the judge not to take any action until I could decide what to do and that that was all that could be done at the time. He told me he would speak to the judge and see that nothing was done in regard to the matter. Said the judge was in Okmulgee and I believe suggested that I call the judge up. So I did call the judge up over the telephone and told him that I was then looking in this matter and the judgment hadn't been rendered yet and I wanted him not to take any action until I could see him. So, he said I will come right up; I will meet you at the Frisco station. I met him at the Frisco station, and told him what I wanted to do. He asked me if Minnie Atkins was alive; and I told him that she was and I was her attorney. He threw up his hands and said: "Good night, I will never sign that judgment." I left him with that understanding. I think it was the next day he rendered judgment in that case. So, I didn't do anything further with it because Minnie Atkins was not a party to the suit and it was not binding on her and we had to quiet title against Nancy anyway. So, nothing further was done in regard to it. Then, in regard to the claim of Nancy Atkins, Mr. Long told me that he could satisfy me that Minnie Atkins—that Nancy Atkins was not the mother of Thomas and that Minnie was. So, we came over to Muskogee from Sapulpa and he took me up to the Indian Office and called for all the papers in the Atkins family. He showed me the census card of Minnie Atkins and then he showed me the census card of Nancy Atkins, Cherokee Robinson, and a lot of other members of the family and explained them to me. And satisfied me that Nancy Atkins was not the mother of Thomas. So, we gave no further attention to that. Then, we went back to Tulsa and I got some oil maps and got explanations from the mapping companies in regard to the Cushing oil pool, and opinions as to the probable extent of that sand and one thing and another. And I had several conferences with Mr. Page and Mr. Rice in regard to the terms of the lease, and I had a form of lease of my own that covered every possible thing that could possibly arise in the oil field and I insisted that that form of lease be made. They satisfied me that all those things were covered by statute or by custom or by regulation of the State Commission in some form or another, and that the usual Government form lease, commercial form of lease, took in all of those matters. So, we agreed on the form of lease and the terms of the lease, that is as to the consideration for the lease, except one thing; in the contract I provided that the lessee should pay all costs of quieting title in Minnie Atkins against the adverse claimants. And they insisted that I should cooperate with them and should render my services. And I didn't feel that that should be done, that the whole burden should fall upon them, I should simply have the privilege of supervising, see that they acted in good faith. I didn't want any connection with it at all. And it took us sometime to agree on that, and they insisted that that be put in the contract. So, it was put into the contract that Captain MacNab and Minnie should furnish my services free of cost except that they should pay all necessary expenses that I should be put to. And that contract was entered into. I received a telegram from Captain MacNab just after I got here in which he told me that Mr. Bartlett was in Seattle and wanted me to see the Gypsy Oil Company, that they wanted the lease. But, before I went to see the Gypsy Oil Company I went down to Sapulpa and I found the record of that suit there, and found that Mr. Bartlett had this forged deed of Minnie's and he was a claimant adverse to Minnie, and that the Gypsy Oil Company had a lease from Mr. Bartlett under that forged deed, so I never went near the Gypsy Oil Company. I felt that they were adverse claimants and I couldn't deal with people who were claiming under a forged deed, and I think that that one thing influenced me more than anything else in giving the lease to Mr. Page; as well as the fact that he was an individual and I was dealing with him rather than a corporation where I would have officers to deal with. So, finally I sent word to Captain MacNab, I believe I sent him a night letter or telegram, that I had made arrangements to have this lease executed; that it was necessary to begin drilling at once and that other people were in possession of the property and that we should act quickly to get possession; and I wanted him to execute the lease and send it on and I would wait there until it came. He sent the lease on and I waited. And when the lease got there I had requested them to pay the ten thousand dollars in two checks of five thousand dollars each. And they wouldn't do that until they knew what arrangement I had in mind why I wanted that. So, I finally told them that if I had to co-operate with them in the conduct of this suit, that until the property was producing there would be no income and no way of receiving any compensation to carry myself along while this litigation was going on, and while I would be in Oklahoma; so, that, the only way that I could arrange was to make a part of this bonus money go to cover those expenses and that what I intended to do was to turn over one check of five thousand dollars to Minnie and then I notified them that Captain MacNab and I had set a price of five thousand bonus for that lease up in Seattle and that I had succeeded in getting double that amount out of Mr. Page, and that we would have the five thousand dollars to turn over to Minnie and we would have this other five thousand dollars to carry us along on our end of this thing, due to these delays on account of litigation. So that was satisfactory to them and when I turned the lease over to them, they handed me the check and across the face of one of them was written not cashable or payable until July 30th, or something of that kind, and I objected to that.

Q. Do you know that it was July 30th or was it about that time?

A. Well, about that time; I know it was not to be paid right away, and not until the last of July; and we had some disagreement over that and I told them that I was going to turn the checks back and take back the lease, that the agreement was for five thousand cash, and that payment in thirty days was not cash, and furthermore that gave them the privilege of stopping payment on the check and *depaying* it, and I wouldn't take it. Finally they told me what the trouble was; they were not satisfied as to the identity of Minnie. I already knew that because I had heard them questioning Mr. Long very severely about *now* he knew it and if he were sure.

Mr. German: Now, Your Honor, we object to this witness stating his conclusion; he says they were not satisfied. He should tell what was said.

The Court: He followed that up by saying that he heard them questioning Mr. Long; I assumed that is what he—go on.

Q. Well, they told me, Mr. Page and Mr. Josey, both, told me that they were not satisfied that *thi* was the Minnie Atkins, at least that they were not sure, they had no proof, and they wanted Mr. Long to go back to Seattle with me, and talk to her and assure himself absolutely that she was Minnie Atkins; and they said that they would send him back with me and I could take the matter of this delayed check up with Captain MacNab, and if Captain MacNab did not agree to that arrangement that then they would pay the check at once if I sent it in. And so, I finally had that agreement. I went over to the bank and tried to get the bank to certify the check and they would of course wouldn't certify it because it was not payable and if they certified it, it would be the same as payable because they would hold the money up that long. I started back to Seattle with Mr. Long and his father. When I got back to Seattle I left Mr. Long there and I went over to American Lake where the regiment was encamped; they were in camp in summer maneuvers, and I turned these checks over to Captain MacNab and I explained to him why they had held up this payment of the check, but that Mr. Long was there with me and he would satisfy himself as to her identity, and then the check could be cashed. I went back to Seattle——

Q. Wait a minute; did Captain MacNab agree to that arrangement?

A. He said that he would take the matter up with Minnie and he would agree to it subject to her approval. So, I went back to Seattle and Captain MacNab had to march with his regiment from American Lake to Seattle, and we were going to wait for him over there——

Mr. German: Now, Your Honor, if he is stating some arrangement Captain MacNab had while the witness was here in Tulsa and Captain MacNab was in Seattle, I think that is hearsay. If they have the correspondence on it——

The Court: I don't understand what it was, Mr. German.

Mr. German: He said, the witness stated that Captain MacNab said he would take up something with Minnie.

The Court: Yes, but he hasn't said what he did; he stated he would do it.

Mr. Stuart: That he would do it after he saw him that day.

The Court: He hasn't stated anything that resulted with that taking up with Minnie.

Mr. German: He made the statement that he would take it up with Minnie. The witness being in Tulsa and Captain MacNab at American Lake.

The Court: He had returned to Settale at the time.

A. I was at American Lake, Mr. German, and talking to Captain MacNab, and I went from American Lake to Seattle.

Mr. German: Oh, I beg your pardon.

A. And there I met Mr. Long and we went out to Minnie's house and Mr. Long had a little knowledge of Minnie's family or her history, and we went out to talk to her so that he could get a statement from her so as to check up against her relatives and ascertain whether or not she was the real Minnie Atkins; and he made arrangements to take photographs; I didn't attend to the taking of the photographs; but he had that done. So we sat down at the table in Minnie's house and asked her some questions, just to tell her story, and got her started and she told us. Mr. Long made notes, *and* she *wrote* and I made a few notations of dates——

The Court: You say as she wrote or as he wrote——

A. As she talked——

The Court: You said as she wrote.

Q. Mr. Long was making notes and she told us her history, how she was born down here and her father died—her father and mother died a year apart, I remember she was along 11 or 12 years old at that time, and at her father's death, her uncle, John Davis, looked out for her, and sent her to Tallahasse Mission that burned, and she went from there to Carlisle and from Carlisle she went to work for George H. Hyde.

Q. At Leavenworth?

A. At Leavenworth. And while she was there she had given birth to Thomas Atkins and stated that the boy was born at the home of an old colored woman. I had already asked her before what became of Thomas, where she last had seen him and where she had left him, and she had told us that she had left him at the home of this old woman at Leavenworth because she couldn't take care of him, and they were good to him. When she told us in her narative that the boy was born at the house of this old colored woman, Mr. Long asked her if that was the same woman that she had left the boy with, when she went away, and she said it was; he said, now, that is what we want, what is the name of that woman; he was very quick in asking for that, in his impetuous way, and Minnie said, oh, my God, do you have to know that, too, and Mr. Long said yes, don't you *can* that we can then go there and find Thomas and find out what became of him and trace him down and find out if he is really dead, and Minnie said well, wait a minute; she got up and left the table, and came back and sat down, and said no, I will tell you, I am wrong about that; she said he was not born at the home of this old colored woman, he was born at the Hospital.

Q. What Hospital?

A. And he asked her what Hospital, and she said the Sisters Hospital, and from then on, I took no further part in the conversation, because I felt that Minnie was telling something wrong——

Q. Never mind.

A. Deceiving us; she had never told Captain MacNab, the first day she told him her story, that this boy was born at the home——

Q. Told it in your presence?

A. No, he repeated it to me.

Q. Well, I don't think that that——

The Court: You needn't state that.

A. I have my notes that I made from Captain MacNab's conversation, made that night.

The Court: Well, that is hearsay.

A. So, she told us the story as related by Mr. Long, and we went back down and wrote up an affidavit; Mr. Long gave me the data and I wrote the affidavit on the typewriter. It was after nightfall; the next day——

Mr. Allen: If it please the court, I think it would be well for the witness himself to tell what she said instead of telling what someone else said she said.

The Court: I have ruled that out.

Mr. Allen: He said Minnie made the statement testified to by Mr. Long. I'd rather that this witness himself detail what was said.

The Court: That may be brought out on cross examination. You may proceed.

Q. Go ahead.

A. The next day we went out to Minnie's home and read the affidavit——

(Short recess.)

Whereupon, court took a short recess and thereafter, having resumed, the following proceedings were had:

Q. Mr. Hanford, resume your statement where you left off?

A. I think I left off before the recess, that the next day Mr. Long and I had Minnie sign this affidavit, and we waited for Captain MacNab to come back from American Lake Encampment. When he got back he went to see Minnie himself and took these two checks and talked to Minnie about them.

Mr. Pinson: Just a moment, Your Honor, unless the witness was present it wouldn't be material.

The Court: Well, he is not going to relate, I apprehend, what the conversation was.

A. And after he talked with Minnie he told me that the arrangement was satisfactory.

The Court: Well, you needn't to state that conversation with Minnie.

Mr. Stuart: He says that after he talked with Minnie, Captain MacNab told him it was satisfactory.

The Court: Yes.

A. And it was satisfactory for us to use this other five thousand dollars for the purpose of looking out for her interest. And Captain MacNab asked me to cash that check, that five thousand dollar check. So, I gave him I think twenty-eight hundred dollars. We agreed that the best arrangement was to take two thousand dollars of that to use now, to use from then on, and that the three thousand dollars should be held by him, turned over to him absolutely to use as he saw fit for anything that might come up in the future. I told him that I thought two thousand dollars would cover all of my expenses in connection with this litigation in Oklahoma. And Mr. Long then went back to Oklahoma—— I don't remember when he went, but I stayed out there. I got a message from Rice and Lyons later on in the month that a hearing had been set at Sapulpa for a certain day to have Minnie there to be identified. And I just had time to get there. I got this message on Saturday——

Mr. German: Now, Your Honor, the message is the best evidence.

The Court: Well, it is merely the message asking him to bring Minnie there. Have you the message, Mr. Hanford?

A. I don't know whether I have that one or not, Your Honor, I will look for it. I will say that I have some messages that were exchanged, but I kept no file. I have been living in suitcases and a trunk for the last two years and I have never had files.

The Court: Well, you may proceed without stating the contents of the message. What did you do?

Mr. German: Your Honor, we make this objection: He said that the message contained not only some reference to the hearing, but also about bringing Minnie that she might be identified.

The Court: Well, that will not be considered by the court; the court will merely consider the circumstance of the message pursuant to which she was brought to Oklahoma.

A. I don't know whether the message states that she was to be identified, but stated that she was necessary to be there; I got a message to that effect. That was on a Saturday. I went to the safe deposit box to get this five thousand dollar check, which payment was held up on, but it was after twelve o'clock and it was closed. I had to leave that day in order to get to Sapulpa at the time set and I telephoned George Tilden and asked him to come down and let me into the vault to get that check out.

Q. Who is Mr. Tilden?

A. He is the owner of the Safe Deposit Company where the check was deposited. And he told me that it would be impossible, that the lock was set for Monday and that it would be impossible to get the check. So, I explained that to Minnie, and Captain MacNab was in Glacier Park at the time. I think I have the message that I sent to Captain MacNab telling him that I was leaving for Oklahoma and taking Minnie with me and asking him to meet me at a certain point, but I got no answer from him; he was out in the mountains. So, I went on back with Minnie. When we got to Sapulpa we attended that hearing there, and after the hearing I went with Minnie——

Q. Mr. Hanford, just pardon me, what hearing was that?

A. That was the hearing at which Minnie was to be identified; was to be produced and give her testimony so that our possession of the property would be confirmed by the court against the Gypsy Company and others.

Q. Well, was it a suit, or what was it?

A. It was I believe an injunction suit, it was brought by Rice & Lyons while I was away and it was an injunction suit I believe against the Gypsy Company and others to prevent them from interfering with our possession of the property.

The Court: Was it in that suit that Minnie gave the testimony about which reference has been made at various times in this hearing, the Sapulpa hearing?

A. Yes, your Honor.

The Court: All right.

A. After that hearing, I started back to Seattle with Minnie, and on the way I stopped at Leavenworth and went to the Sisters' Hospital, to see if I could find the record of the birth of Thomas Atkins at that hospital.

Q. Now, who was with you?

A. Minnie. I asked the Sister Superior for the book and explained to her what I wanted to find. She told me that she didn't believe that this boy was born in a hospital, because in those days the hospital didn't take confinement cases. And she was sure it wasn't at the hospital and there was no use looking. But she gave me the record book and I looked through the years 1884 and 1885. At that time we didn't know exactly the date of the birth of Thomas but we thought it was either 1884 or 1885, as well as we could gather from her story and the estimate of her age, and so forth. And I found no Minnie Atkins. And the Sister Superior told me that she thought that was right, that they didn't take confinement cases, and left the room. When she left the room, Minnie said to me, "Did she say I never was in this hospital?" I said, yes, that is what she said. Well, she said: "I was," and she was so positive that in the face of my not finding the record that I decided to look further. I told the Sister Superior to let me see the books and I would go through every year both before and after 1885. And I started going through those books. And while I was looking through the books I came across the name, Minnie Peterkin. Before we left Tulsa Mr. Page had tried very hard to find out from Minnie who the father of this child was.

Q. Now, wait Mr. Hanford, before you left Tulsa to go to Sapulpa, or before you left Tulsa to go to Seattle?

A. Before we left Tulsa to go to Seattle. We had no time to talk to Minnie before the Sapulpa hearing. When we got to Tulsa we got right in the automobile and went to Sapulpa and she gave her testimony that day. So, I found that name Peterkin, and I recognized that name of Peterkin.

Q. You started to say before that that Mr. Page had said something about Peterkin? A. Yes.

Q. Where did he get that name?

A. Well, Mr. Page was questioning Minnie; Mr. Page was trying to find out who the father of the child was and Minnie wouldn't tell him. She stuck to that, that she wouldn't tell who the father of the child was. But asking about different people that she had known and one or two names that she mentioned, she mentioned the name of Peterkin being the father of Charlie Harrison. So, we questioned her as to whether or not he was the father of Thomas. So denied that and said that Peterkin didn't know anything about

Thomas; that Thomas was born before she ever knew Peterkin. But when I found this name Minnie Peterkin, I think I also found the notation that it wasn't for childbirth, or didn't show it was for childbirth or something, so I knew that that wasn't the time that Thomas was born. So, I took Minnie back to the hotel and I think that I abused her pretty severely, that is, I talked to her pretty severely about telling us that the child was born in the hospital when he wasn't. And Minnie cried. And she told me that she had lied. Said she didn't want to tell where he was born and that she didn't think that made any difference. But that the child was born at the home of an old colored woman there in Leavenworth. So, I told her we would go and find that old colored woman. She couldn't tell me the name of the woman, or wouldn't tell me the name of the woman, one or the other, and we set out to see if we could find her. So I went down to the livery stable, Mr. Cranston's livery stable and got a rig and drove around town. She gave me the general direction to go and I drove around town. I found out since, since learning, that I drove all around that part of town where Granny Letcher was, up and down the same street, two and three times, but she couldn't find the house; sometimes she would see a house she thought looked like it, but when we were—would get up to it and she would look at it, it was not the house. But I will state, we have since learned that the house has been destroyed and swept away. We went up to where it was a good many times. That is the reason we couldn't find it. Minnie got tired; she recognized places that she had been; places that she had known and told me about them and instances that happened there; she recognized one old colored woman; she said that she had known her and I tried to talk with the old woman, and she seemed to be out of her mind, and her face was eaten with cancer, and Minnie said it had been *even* a good many years; but couldn't get anything out of her, she kept mumbling in an incoherent way; but Minnie wouldn't tell me anything, wouldn't tell me the name of any people, so I decided to give her up and send her back to Seattle. So, I took her to Kansas City, put her on the train and went back to Tulsa, and I told them what I found there at the hospital, and how Minnie had told me about the birth of this boy at this old colored woman's but that we couldn't find the place, and I wanted to go back there and start in and find it myself; find people that knew Minnie. In talking in the office of Mr. Rice or Mr. Page, I don't know where the conversation was now, but we decided to go and take a try and see if Peterkin had known about it. Minnie was very emphatic in telling us that Peterkin wouldn't know about it, wouldn't know a thing, but we decided to take a chance, that he might know something. So I sent a telegram to *ome* of my classmates who was on duty at the War Department, and asked him to wire me where this retired soldier could be located; and he gave me his address, that he had looked up, and I started at once for Boston, and I went to the address given me and it was Peterkin's sister that lived there, and I told her that I wanted to see him and she asked me what I wanted to see him about, and I didn't tell her, and I left word for him to come to see me at the Puritan hotel.

Q. Where was this now?

A. This was in Boston. But he didn't come and I waited two or three days, I think I went back to see this woman, and she told me that she would have him come and see me. After I had been there about a week, Peterkin came to see me. I introduced myself and told him that I was formerly connected with the Army, and he laughed and told me maybe I was somebody from Washington to check him up to see if he was still alive, because he was drawing his retired pay, and was going to put him on some duty, or something like that, and he hesitated to come. I took him up to my room and I told him that I wanted to find out if he knew anything about a boy that was born to Minnie in Leavenworth, and he said that she didn't have any boy in Leavenworth; it was a girl, and I had him sit down and asked him about it. He told me that he was a soldier there and that he met Minnie in the spring of 1886, he thought, about the month of March and that she was working for Lieutenent Stafford and that she had been going with a man named Oliver previous to that and that when Oliver—that Oliver had deserted; *tha* Minnie was in a family way and that Oliver skipped out and he said he took up with her the day that Oliver left; and a few months later she gave birth to a girl that lived a couple of weeks and was buried there in Leavenworth. He gave me the name of Doctor Carpenter and told me how he had gone and gotten Doctor Carpenter and told me that he had given Minnie twenty-five dollars to pay the Doctor the night the baby was born and when he went to get him, Minnie didn't have this twenty-five dollars, and some other deals; and he said that after the baby was born, Minnie stayed there in Leavenworth, and she became afflicted with some trouble, with excessive flowing or something relating to ovarian trouble, or menstruation.

Q. Mr. Hanford, right there, did he tell you the place where this child was born, or do you recall whether he did or not?

A. Yes, he told me that Maggie Woods would remember about the birth of the child and I afterwards tried to find Maggie Woods and couldn't find her, and he told me that it was at a house near some rich people and that the man was the father-in-law of Shaffer, the billiard expert, and I went to a billiard hall there in Leavenworth when I got back and tried [ ] find out the name of that party so I could find that house.

Q. Well, let's go back.

A. And he said that he *gone* with his regiment to Fort Logan in the fall of 1887, and left Minnie there in Leavenworth; that she had been going with other soldiers. I believe he mentioned the name of a man Burk, or some other name that I don't remember, and he left her there; but in the spring of '88, she showed up again at Fort Logan and she was pregnant again, and he said that somebody in Leavenworth was responsible for her condition at that time, because he had been away too long for him to be responsible. But that she had come to him because he had taken up with her when this Peterkin baby had been born. He said that they lived in a—the Post was not finished, and they lived in a tent for a while, for a few weeks, and then she went to work for a Doctor—I think Doctor Richardson, and later this girl Mabel, he called her, was born and she lived so that he got to enjoy her; he said she was a sweet little thing, and he was awfully sorry when she died. She was buried there in the Post Cemetery. Then, that *went* the regiment was ordered to Texas, he went with the Regiment and Minnie stayed in Fort Logan. He said that he had sent her some money to come to Texas on, and she never came and he had never forgiven her for that yet, and never would. He was very much incensed over that. He said that just nine months after he left, she had a boy named Charlie and he said there was some question, he learned about this later—he said there was some question as to whether he or Harrison was the father of Charlie because he ascertained that he was born just nine months after he left. So after my conversation with Mr. Peterkin I left Boston. I came back to Tulsa and I reported to them that I thought there was something that Peterkin was holding back; that he was not telling me the truth; that he feared some complication and I particularly avoided telling him that this was litigation over oil land or anything so as to get his unbiased story, but that I was satisfied that there was something that he was afraid of on account of that girl in Leavenworth, but I was satisfied that he did not know anything about Thomas and Minnie was right in assuring us on that. Then it was about that time I was—I don't know whether I was going to Leavenworth or not, but I think that it was agreed that they would have an investigation made at Leavenworth, to find out where Thomas was born, and find this woman that he was left with, and try to find out if he was dead. The Gypsy Oil Company at that time were very active in trying to find Thomas Atkins himself and we thought that we had proof of his death, and it was possible they might, so that we should trace him from the beginning and see if we would find where he had died and when. At about that time that I came back it was that Sadie James showed up. I was in Mr. Long's office, the adjoining entrance office, when Sadie James came in and asked the bookkeeper if Mr. Long was there. Mr. Long went out and shut the door, I didn't hear what was said but there was just a minute until Mr. Long came back and said that was Sadie James and I said yes, I recognized her voice; and he said that he had taken her in to let Mr. Page see her because he,—we had told him what a character she was and he wanted to see her; and I went into the office, into Mr. Page's office, next door, to see Sadie but she was gone. She was only there a minute; I asked Mr. Page if he saw her and he said that he had; he said that I told her to come out to the Park and I would talk to her out there. And I asked Mr. Page, you are not going to talk to her are you Mr. Page. and he said why, yes; He says I want to find out what she knows—she has been working for these other people, and he said I am going to find out. And I warned him against talking to her, either then or the next day, I don't know when, and the next day Mr. Page told me that Sadie James knew all about the death of Thomas Atkins and that she could prove where he was buried and every thing about it, and that while she was working for these other people, she had found the proof of his death and that they had quit; and so I think it was then I think that I warned him against having anything to do with her because she was a dangerous woman but he was sure that she could find it and he said I won't have to pay her a cent unless she finds the proof. he said, she won't get a cent, and she said is sure of it and she could prove it in a week. And then, either that day or shortly afterwards, Mr. Long came to me and said that he had arranged to go to Leavenworth with Betty Mann—that Mr. Josey thought that Betty Mann might be able to find something; had told him that she knew the whole thing and he wanted her to investigate and see what she did know about the birth and death of Thomas Atkins. So he had intended to go to Leavenworth with Betty, but now on account of Sadie James showing up and they thought that they would find out so much more from her, he was going up there to Leavenworth with Betty but he couldn't put Betty off but he wanted to know if I would go to Leavenworth with Betty and I told him I would and probably that would be a good scheme to catch Sadie up, and if Betty knew anything we could check one against the other. So it was agreed between us that we would not let either one know that the other one was there; either Sadie or Betty, that the other was there. So, he told me to go to Leavenworth and Betty would met me there. So I went to Leavenworth and when I got there Betty wasn't there but she came from Kansas City, and I told her that I wanted to go with her every place that she went and see everything that she did. So, I hired a rig, the same rig that I hired when Minnie was there, and had a driver and drove all over town. And Betty would pick out the places that were old; she would go in and talk to everybody and ask them if they knew about Thomas, and Indian boy or Minnie Atkins. And she would sit down and talk to them and they wouldn't know. She would see and old negro on the street and she would get out and talk to them and question them on the street. Tired me out. I got tired listening to tales of slavery days and details like that from these old negroes; they would all go off on something like that. But when I got there with Betty I went out to find Mr. Long, and I met Mr. Long on the street and he had just come from Crilley and he told me that he was on the right track at last; that he was sure that now he would find everything relating to Thomas. And he told me of one or two people that he had talked to, told me of Kate Logan and what she had told him; and told me how he had found Crilley who lived right across the street and knew Granny Letcher and knew Minnie and knew all about it. And from what he told me I was satisfied that he had found the right ones. I told him I would continue to follow Betty, but I didn't tell her anything Mr. Long had told me. I think after we had been there a couple of days Mr. Long had told me about Granny Letcher, when Betty came to me very much excited and wanted me to go and see an old lady Letcher that some one had told her about this boy being at Granny Letcher's; she had found this old colored woman and talked to her without my knowledge and I hadn't heard it. And she gave me the name Letcher, that was the first check I had of Mr. Long's statement, and Betty told me where this old lady Letcher lived. So, I got in an automobile and went right out there and found this Letcher woman; and she told me she thought it was old Granny Letcher who had lived in Leavenworth a number of years before that I was looking for; that they had only recently come to Leavenworth and knew nothing about this Indian boy. I came back and told Betty that.

Q. Told who?

A. Told Betty that the woman didn't know anything. And she continued to try and find them, and finally I got tired following her and I decided to go out and find something myself. And I had a number of names that she had given me that I thought might put me on something but they didn't know anything. One place she gave me was away out on the edge of town and I hired Mr. Crilley and his automobile to take me out there. We started out and as we were passing a little brick house on the street there Mr. Crilley pulled his car up in the middle of the street and said: "Here is a woman that ought to know something." He said: "I have seen her around Letcher's a great many times." I got out and went and talked to this woman; her name was Smith, Mary Smith. She said that she remembered Minnie, and said that she remembered the boy and didn't remember much about the boy, but she remembered Minnie and remembered Minnie had given birth to this boy at Letcher's place. And then I asked her to go in the house and talk to me further. We sat down in the house and she told me that she wanted to know why I wanted to know and everything, and I told her. She said somebody else had been there to see her about this, but that she had told them she didn't know anything about the matter for a reason. I told her that anything she told me would be confidential. She said that she had a boy of her own and that he was a good boy and that she didn't want to have anything come out regarding herself, and she thought people were trying to find out about her and what she knew and where she had been around this place and it would become known and she didn't want it known. So, I made a note of her name and went on. Mr. Long had come to me in the meantime, I don't know whether the day after I got there or the same day, and he told me that he was going to Kansas City. And he said that he had to get rid of Sadie James and said that she hadn't been able to find anything about the birth of Thomas and that now, she had made a proposition to him that she would get some Kansas City niggers [] that some deserted grave was Thomas Atkins if she could find one; and that he was afraid that she would do that and would get some niggers and talk to them and get them to do that and he had to get rid of her at once. I told him that he should do this, should get her out of there. And he suggested that I go to Sadie and tell her that she was wanted in Tulsa right away; and then he said I had better not, that she was down at a place in an alley, that I had better not go there; if she didn't go to Tulsa that she would know I was in Leavenworth and she might find out that we suspicioned her and that we had Betty there. So, he decided to go to Kansas City and talk to the office and have them send for her. So, I didn't see any more of Mr. Long. I didn't see Sadie at all. I didn't see any more of Mr. Long on that trip. And finally I went back to Tulsa and left Betty there so they could send for her in the same way they had Sadie. I don't know how she come back.

Q. Now, before you go any further, you were stating you and Mr. Crilley started out to find some woman and that Crilley pulled up for you to see Mary Smith?

A. I went on out to see some old man. He lived in a shack but I couldn't get him to come out and talk to me. And some other people that lived near him told me that he was non compus and that there was no use talking to him. So, I left him and he was lying in a corner in the shack.

Q. All right, you went back to Tulsa?

A. Yes, sir, I went back to Tulsa.

Q. Go ahead. What was the first thing you did when you got back to Tulsa with reference to this case?

A. After I got back to Tulsa I started at once, immediately for Seattle to talk—— I am not sure that I went back to Tulsa, Judge Stuart, but when I left Leavenworth the next thing that I did was to go right straight to Seattle to see Minnie and try and get from her her story and see if this information we had gathered in Leavenworth was correct. And I set out at once and when I got to Seattle I went right away to see Minnie and I told her that she had deceived us as to the Hospital and wouldn't deceive us any more, and that now we had information about her past and knew enough about it so that there was no use of her concealing it any further, and that she had to tell us the truth. And I told her we even knew the name of the place where this boy was born and the woman she left it with. And she wouldn't believe me and wanted me to tell her, but I wouldn't tell her. And I asked her about one or two—I asked her if she knew Rube Smith. That name had been given to me by Mr. Long. I asked her if she knew Mr. Crilley. I had met him myself.

Q. What did she say about them?

A. She knew them and I could see that the information that we had was correct but Minnie wouldn't tell me anything. She kept insisting that she wanted to go down to Leavenworth right away, she could tell what she knew down there. And I couldn't get Minnie to tell voluntarily. She insisted that she wanted to go to Leavenworth. I talked to her for two or three days and became more and more convinced that the information I had was correct and that she knew it. So while I was there on this trip seeing Minnie I deposited that five thousand dollar check for collection with the Bank of Commerce in Seattle, and they sent it for collection. And I went up there one day and they had a telegram that the check was not paid. So, I sent a wire to Tulsa to find out why it wasn't paid and got the telegram back that they felt, that Mr. Rice had advised Mr. Page not to pay the check until Minnie——

The Court: Now, Mr. Hanford are those telegrams available?

A. I think I have them, your Honor.

The Court: If you have the telegrams they should be here.

Mr. Stuart: Well, you can get them.

The Court: Yes, if counsel for the Government desires them you may furnish them to them for cross examination.

Mr. German: We object to his stating the contents of them if he has them.

The Court: Well, we will go on now. I apprehend you are getting away from the telegram on something else.

A. Yes, sir, I wont mention that. So, I started back to Leavenworth. They sent word to me that they were going to take depositions and to bring Minnie at once. And I started back with her. When we were on the train, I think it was when we were away from Seattle a day or two, Minnie one day told me on the car that she had something to tell me. So, I rented the drawing room between the stations and I sat down with Minnie and her conversation was very short. She said that the information we had was correct, but she said I didn't want to tell you out there in Seattle. She said that is why I wanted to go to Leavenworth. She said I will tell my story when we get down there; and you are on the right track and I know now I have to tell it; and told me again the reason she hadn't told it was she didn't want the people to know up there in Seattle. When we got to Kansas City I met Mr. Rice there and I think Mr. Page came up and I told them what Minnie had told me on the train. So, we questioned her, Mr. Rice and myself, and I believe Mr. Long talked to Minnie at the Coast House after arriving, and Minnie wouldn't tell them anything. And she finally indicated that she wanted me to leave the room. So, I left the room, stepped out in the hall, and one of them came to me, I don't know who it was, I think it was Mr. Rice, and told me that Minnie was afraid that if she told her story that I would repeat it to Captain MacNab and Mrs. McComb and that she wanted me to promise that when all of this Leavenworth business came out that I wouldn't tell anybody up there in Seattle, her friends. So, I went in and assured Minnie that I was her friend and everything I learned would be kept to myself and I wouldn't tell anybody up there in Seattle, and that I hoped that she would tell the truth. So, she told us that she had the baby there at

Granny Letcher's and that this was where Thomas was born and that was the woman she had left him with; and she had known all of the colored people but that she associated mostly with soldiers but she had to have some place where she could go when this baby was born, and that was where she had gone and taken refuge. So, when she told us that then they decided to go ahead and take the depositions. And they took the depositions at Leavenworth on that trip. I think that was in the month of October. When we went over to take the depositions Minnie got sick. She went out to Captain Ferguson's house at the Post and was taken sick. And it looked like she was going to be very sick. So, we had her brought in to the National Hotel and got a doctor and she became more and more sick. So, we took her to the hospital and she was there——

Q. Who was the physician that was summoned do you know? A. I don't know.

Q. A Leavenworth physician?

A. Yes, I think he was called by the hotel people, and we took the deposition I think while she was still in the hotel, and after the depositions were taken, one or two days, maybe only one day, we took Minnie out to the hospital; and Frank Long and I stayed there in Leavenworth until Minnie could get well enough to travel and take her back to Tulsa. And we took her back to Tulsa and got a trained nurse to take on the train. When we got to Tulsa we took her to the Brady Hotel, but the very walls and rooms and ugliness of the place made her worse and worse; and the nurse told us we would have to get her out of there. So, we telephoned Mr. Page and asked where else to take her. And he told us the best thing to do was to bring her out to his house where she could get the air and be comfortable. So we took her out to the house and Minnie and the trained nurse stayed at Mr. Page's house until Minnie got better, and then she came down to a hotel, the Oklahoma I believe. We had missed taking Minnie's deposition at this time, but as soon as she was well enough we gave notice and took—I say we, I took no active part in giving notice at that time, I was not familiar with the statute—— Rice and Lyons gave notice and had her deposition taken in Rice & Lyons office. The different parties to the litigation in the State Court case I think were all represented there at that time. After that deposition was taken I went back to Seattle with Minnie. I think the next thing that happened was I got the bill of complaint on the part of Quinton Garrett suing for cancellation of these patents and for this allotment, asking to have this allotment allotted to him.

Q. About what time was that and in what year?

A. That was in October, 1914. I am not sure about the month but I think it was in October. That was the next thing that occurred in this so far as I was concerned. While I was in Seattle at this time I went on attending to my other business there and it was about that time that I received word from Rice & Lyons asking for auhority to dismiss the suit in the State Court and institute suit to quiet title in the Federal Court—— No, I should have related that before, that was when Mr. Long and I were out in Seattle together at the time we interviewed Minnie and he had the photographs taken, but nothing became of that. The next time I heard anything about that. They decided to go ahead with the suit in the State Court because they thought it would take a shorter time to get their suit tried, and in case of an appeal it would take less time by going to the Supreme Court of the State, and that they could get a quicker hearing at Sapulpa than they could in the Federal Court. So nothing was done.

Mr. Stuart: Your Honor will permit me to sit down.

The Court: Yes, sir.

A. I heard nothing in regard to Quinton Garrett, except receiving a copy of the petition and I left that in the hands of Rice & Lyons. I continued to tend to my business and I don't think I went to see Minnie for sometime.

Mr. German: What time are you talking about now?

A. Well, I have come back, Mr. German, to the time I was in Seattle at the time I received notice of Quinton Garrett's suit after the taking of the depositions in Leavenworth. And I was very busy in Seattle and didn't get to see Minnie or do anything in regard to this matter at all. In fact I gave no attention to it during this time. The next thing that occurred was when I finished business I was working on and went to Olympia, the State Capital, and filed a petition before the legislature and came back on Tuesday morning, and then I went out to see Minnie. When I got to her house I found Mr. Montgomery there. Minnie introduced me to Mr. Montgomery and he told me he had been to my office the day before to see me but that I was in Olympia. He told me that he represented the Government and that he had come out to investigate Minnie's claim to this land; and that some question had arisen to her title and that he was investigating it to decide whether or not her title was good, or whether suit should be brought by the Government to quiet title against her, cancel the patents of Thomas Atkins. He said that he wanted to find out the true facts and whatever they were that was all that he wanted, but that he wanted to talk to Minnie and wanted to talk to her alone. Minnie said: "No, I have got nothing to say that I don't want Mr. Hanford to hear and he can stay." I asked her first if she wanted me to withdraw, said if she wanted to talk to Mr. Montgomery alone. She made that reply so I sat down. And Mr. Montgomery seemed to be at about the end of his interview. He had been out there for sometime and it was about noon when I got there. Minnie seemed very much excited about something and wanted to know if I knew that the people down in Sapulpa had had witnesses trying to prove that the father of her child was a negro. Said Mr. Montgomery had read something to her that said that. I told her that that wasn't so that I was present at the taking of those depositions and I heard them and I knew that that wasn't so. And I asked Mr. Montgomery what it was he had read to her and if he would let me see it. He said that he probably would later on but that he wouldn't let me see it now. He told me he had shown it to Captain MacNab but had requested Captain MacNab to treat it confidentially and not disclose it to me for the present. He told me that I had been very much deceived by those people down there and that he was satisfied that they would all be sent to the Penitentiary. And I told him that was not so, that I was present at the taking of those depositions and I had talked to those witnesses and I knew what they stated there was the truth, and we had checked them up in every way possible. Minnie was very much excited about this statement that he had read to her, and I think she told me it was what Sadie James had said. I got the idea that it was a statement of Sadie James. And Minnie went on about that matter of proving her child was a negro. So, we weren't there very long at that time and Mr. Montgomery said he had to go now and he would come back and see her the next day. So, the next day I went back again and I found Mr. Montgomery there at her house then. I think we arrived about the same time. And Minnie was further excited then. Mr. Montgomery asked me if I knew that Minnie had made a deed of her property to Mr. Page. I told him that I knew she had not. And he said well she had. He said, isn't that so, Minnie? And she said yes, that is another thing for you to look into Mr. Hanford. She said I told you I wouldn't sign anything, but she said when I got mad at you down there I did it, I signed something. And she said Mr. Montgomery said it was a deed and wanted to know what I thought about that. But I didn't believe her even then. I thought that was something Mr. Montgomery had been telling her the same way he told her they had been trying to prove the father of her child was a negro. She was very much disturbed, asked me if I knew that they had been trying to prove that Thomas was drowned when he was six years old. I asked Mr. Montgomery what that was.

He said that that was another thing that they had done, that they had gone up to Leavenworth and had taken the testimony of witnesses to prove that Tommy was drowned up there when he was six months old. I think that same day or the next day I got a letter from Mr. Long telling me that the Nancy Atkins interest had been taking depositions to prove that Thomas Atkins was drowned but that they hadn't succeeded in proving it, that it turned out to be another boy. And Mr. Montgomery showed me a letter that Minnie had handed him from Mr. Page in which he told her that they thought they had found Thomas Atkins for a while, but that it turned out it wasn't. But he said that it would have been all right because they had taken a lease from him as a precaution and had taken a deed from him to her, which she could pay him for out of her royalty, but that he turned out not to be the right one, although he said he had us believing it for a while. That second day, Mr. Montgomery asked Minnie several times if she was the mother of Thomas Atkins and she told him that she was; said, oh yes, she was the mother of Thomas Atkins but that his father was not a nigger and that she knew who his father was. But she wouldn't tell that, but that he wasn't any nigger. And Mr. Montgomery told her that they had proven that she never had a Thomas Atkins; that the whole thing was a frame up by the crowd down at Tulsa; that the Government had absolute proof of that fact. But Minnie insisted that that was not right, that she was the mother of Thomas Atkins. So, then, he asked her—— She asked me why it was that she hadn't heard those depositions, why they had taken those depositions at Leavenworth and hadn't allowed her to hear it, and I reminded her that she was sick at the time the depositions were taken, sick in the hotel and the hospital, but that didn't satisfy her they hadn't testified that the father of her child was a negro. She was greatly wrought up about it and very nervous. So, Mr. Montgomery had a transcript of those depositions with him and he asked her if she knew George Crilley. She said yes, she knew George Crilley, he was a little fellow. And he said, well I will just read you what he said, and he sat down and read Crilley's deposition to Minnie. And Minnie corrected him once or twice. I remember she corrected him as to her age. Crilley said she was twenty or a little over twenty and she said, no she wasn't that age. And in Crilley's deposition there was things that reminded her of something, she would say she remembered that and tell something regarding it. When he got through she said, well Crilley remembered it better than any of them. So, Mr. Montgomery didn't read any more depositions to her, closed the book and left. Said that he would come back and see her the next day. But Minnie told him that she didn't want him to come back the next day, that she had had too much; that she had been worried about those things and she was all nervous anyway and she had had too much excitement; that she didn't want to see him the next day, she wanted some rest; and that she couldn't get over what he had told her about the father of her child being a negro. Now, while we were leaving her husband came in and he also requested Mr. Montgomery not to come back the next day. I think that she wanted to go down to do some marketing. So, Mr. Montgomery said he wouldn't come back the next day, that he would wait until Friday. And I went in to town with him on the street car. The next day was Thursday. I hadn't seen Captain MacNab, Mr. Montgomery told me that Captain MacNab had arranged for him to see Minnie; that he had brought letters from the War Department directing Captain MacNab to give Mr. Montgomery what he wanted, what he wanted to do, and I went to see Captain MacNab at his house on Thursday. When I got there I found Mr. Montgomery there. And the first thing Captain MacNab asked me was if I knew that Minnie had made a deed to Mr. Page. I told him I knew she had not. So he handed me a telegram addressed to Mr. Montgomery from the abstract company at Sapulpa showing that deed was recorded there on a certain date from Minnie to Mr. Page; and I went to the telephone and telephoned a telegram into the office in Seattle asking Rice and Lyons if that was true and what it meant. Captain MacNab told me that Minnie was on her way to the house. He was called to the telephone and when he came back from the telephone he said that Minnie was on her way to the house and would be there shortly. There were some other officers in the room. Captain MacNab said that he had to attend a court of inquiry and that he had to leave at once but before he left Minnie came in. Captain MacNab told her that. Asked her about this deed and she told him that she had signed it; and Captain MacNab lectured her pretty severely; he told her that Mr. Montgomery was there to find out if she was the mother of Thomas Atkins; that he claimed to have proof that she had never had a son named Thomas Atkins and he told her, Minnie, if you have [] deceiving us, he said, you should tell it; he said that Mr. Montgomery came here to find out the true facts and wants to get a statement and he has to go away; he has to leave and if you have claimed this falsely, you should tell it now. Now is the time to do it, and we will have nothing further to do with it, pointing to myself, including me in his statement; and Minnie sat down on the settee and Mr. Montgomery stood up and I stood near the fireplace and Captain Mac-

Nab went out in his office. Minnie just stood there in one of her stoic moods and Mr. Montgomery—Captain MacNab told her that if she had claimed this land falsely, that Mr. Montgomery was a Government officer and he would give her full immunity but that she should tell him the truth and stop her deceit, if she was deceiving anybody, and Mr. Montgomery when Captain MacNab left, told me that he had not—couldn't promise to give Minnie immunity, that the only thing he could do was to agree to try to get her immunity; that he believed that she had been imposed upon by those people down in Tulsa, and that she was not responsible but that he was going to send all of them to the penitentiary. I told Mr. Montgomery that I thought he had no right to talk of immunity and sending people to the penitentiary, that I thought that was only done to influence Minnie and that he wanted to get a statement from her, Captain MacNab had told her to give him a statement and should ask her what he wanted to know, and he asked her if she was the mother of Thomas Atkins and she told him that she was, and said nothing can ever make me change that; I am the mother of Thomas Atkins; and Mr. Montgomery walked up and down the floor in front of her and he told her that he knew that she never had any children except those three children born at Fort Logan; she never had any child named Thomas Atkins, and he told her several times that he only wanted her to tell the truth and he wanted her to tell him here now, that he had to go away, that he couldn't stay any longer and that he had to get a statement from her here and now; that he was through and that if she didn't tell him now, that she could take the consequences. Mr. Montgomery and I had some altercations, that is arguments, about his talking about immunity and about his telling her that he knew that he only knew that she only had three children and knew that she never was the mother of Thomas Atkins. I know that he only represented that in that way to—by way of suggestion—to influence her, and I asked him why he didn't leave if he had to go, that he had her statement, she had told him she was the mother of Thomas Atkins, and that was all he seemed to want to know, and he said well, I am going to get the truth before I go, and then I told him again to ask her and he went to Minnie and pointed his finger at her and said, I know you never had any children except those three children born there at Fort Logan, the little one that was born, and Charlie and Harvey, and Minnie bobbed her head, and he said you never had any boy named Thomas Atkins, did you Minnie and Minnie bobbed her head; and just about that time Captain MacNab came in. Mr. Montgomery told Captain MacNab that Minnie had just made a statement to him and he said I want to get it in writing; and Captain MacNab looked at me and looked at Minnie, and he said alright, you can go right up to my office. So, Mr. Montgomery went up to Captain MacNab's office, Captain MacNab and I went with him, and he couldn't find any paper. He found a lot of scrap paper that had been torn off of a sheet there, and he sat down and wrote out a statement with pen and ink and Captain MacNab called Minnie to come up and she came up and sat down in the room and Captain MacNab went down—went down stairs, and Mr. Montgomery asked Minnie to sign it and she wouldn't say anything and she wouldn't sign it. She just sat there in the chair. She would look at it and she would look at Mr. Montgomery and she would laugh and he smiled and she asked him, she said you look at me so funny; he joked with her about it, made some remark—I don't remember, and I went to the head of the stairs and called Captain MacNab to come back; I told him I wanted him to see what Minnie was signing and I handed it to him and he read it and laid it back on the table. Minnie spoke up and said, do you want me to sign it, Captain—oh, I forgot one very important thing; in the room down stairs when Mr. Montgomery was talking to Minnie, I told her that Mr. Montgomery was representing the Creek Nation and that it was his purpose to try to get her to make a statement upon which he could bring suit to cancel these patents and the land would go back to the Creek Nation, and she asked if she said if she was not the mother of Thomas Atkins, if her boys who were down here would get some of it, and he told her yes, they would get their share; and another time she asked Mr. Montgomery what they would do to her if she said something that was not true, and he said that they would not do anything to her but all he wanted her to do was to tell the truth; that was all he wanted. Coming back to the room, when Captain MacNab was called up by me, Minnie asked Captain MacNab if he wanted her to sign it and he told her that she should not sign it, if it was not true but that if it was true she should sign it. She asked him well, do you want me to sign it, and he said I don't want you to do anything Minnie, I have washed my hands of the whole matter, but he said, if it is the truth, you should sign it and be done with it, and we stood there quite a while and waited. I didn't say anything to Minnie at all. I didn't think that she would sign it as a matter of fact, and finally Minnie said—well, she got up and took the pen, Mr. Montgomery dipped it in ink and showed her where to sign it, and she signed it. We had had some conversation before she signed it in which Mr. Montgomery repeated that he would try to get immunity for her if she did sign it and he said that what he would do if she signed the paper would be to leave it with Captain MacNab and if he didn't get the immunity, then the statement should not count against her and that Captain MacNab was to hold the statement as custodian to be turned over to Montgomery only in the event that he should get immunity for Minnie. The statement was to the effect that Minnie was not the mother of Thomas Atkins and that the only children that she was the mother of was Alice, and Harvey and Charlie; those three.

Mr. Allen: I suggest that the witness has the statement?

A. Well, I will tell about that, Judge.

The Court: Have you the statement?

A. I haven't the statement, your Honor.

The Court: Mr. Montgomery testified in regard to the contents of the statement. I don't remember that it was at serious varience with Mr. Hanford's statement?

A. Yes, I want to contradict Mr. Montgomery on one point; Mr. Montgomery said that the statement included a recital that Minnie had—that the grass money she had drawn was for her father Thomas Atkins——

The Court: As to that—if that so-called confession is available, it is the best evidence itself of what was really said; that is my judgment about this case.

Mr. Stuart: Well, it is a fact your Honor, that I have never seen it and don't know where it is. I assumed that Mr. Montgomery had it, I don't know a thing about it.

Mr. German: He gave it to Captain MacNab to keep until he should produce the immunity papers, he didn't produce the immunity papers and never saw it any more.

The Court: I understood from Mr. Montgomery's testimony, at least it didn't develop that he got this, so far as what she said is material in this case the best evidence of that is the statement itself, and if it is available, I want to see that rather than counsel's statement in regard to it.

A. Yes, sir, I only wanted to testify that because Mr. Montgomery had testified——

The Court: Let me ask you, is that available?

A. It is not available, your Honor. I know what was done with it, your Honor.

The Court: What was done with it?

A. Captain MacNab gave it back to Minnie the next day and she burned it. I was not present but I know that. Captain MacNab went to her house and gave it back to her—Minnie and her husband were there and Minnie burned it.

The Court: That was the result of your investigation as to what became of it?

A. They just told me, I didn't investigate.

The Court: You only learned that.

A. I learned it the next day.

The Court: Well, if that is the case, of course it is not available, and secondary evidence will be proper.

A. Well, the result of that was that Minnie signed the statement and she went out and *Minnie* went with her.

Q. Mr. Hanford, you didn't finish there. You started to tell the Court what your recollection was, that there was nothing in there about grass money.

A. The statement said nothing about grass money or nothing about Minnie's father.

The Court: I wish Mr. Hanford, that you would state now, just as nearly as you can the contents of that so-called confession as you remember it.

A. Your Honor, the statement was very short——

Mr. German: Your Honor understands that until proof is made that the instrument is not available, we object to this. I assume your Honor is admitting it upon the theory that that proof will be made. He had no personal knowledge.

The Court: He has no personal knowledge of it. I assume there is no one here but the defendant Minnie Atkins who knows about it?

Mr. Stuart: And her husband; he is here.

The Court: Will that proof be made, Judge?

Mr. Stuart: Yes, sir, it will be made.

The Court: On the statement of counsel this will be received subject to that proof.

A. You permit me to state?

The Court: Proceed.

A. The statement contained very few words and it said this: I Minnie Folk, nee Atkins, hereby state in presence of Frank L. Montgomery and E. C. Hanford, her attorney, that I am not the mother of Thomas Atkins, and that the only children that have been born to me are—I don't know where he used the word Alice or Mabel—I will say Mabel—Mabel and Harvey and Charlie; and then her signature. After Minnie left I went down stairs with Captain MacNab and I asked Captain MacNab what he thought of it and he told me that he knew that Minnie was not telling the truth.

Mr. Pinson: Objected to if the Court please as hearsay and incompetent.

The Court: What is that?

Mr. Pinson: The witness said that Captain MacNab said—a statement of Captain MacNab as to the truthfulness of Minnie's statement * * *

The Court: I think that would not be material, I will not consider that. You may proceed now, Mr. Hanford.

Q. I would like to ask this: has Captain MacNab testified in reference to that matter?

A. He has testified in reference to this transaction but I don't know whether he mentioned that—yes, he did mention that.

The Court: Let's see; the conclusion which Captain MacNab may have reached, I think is hardly of any theory of the case—would throw any light on it.

Mr. Stuart: I *would* try to sustain their objection if Captain MacNab had spoken of it, made it less——

The Court: Yes, I will not consider it.

A. So, after the short conversation with Captain MacNab I went back to Seattle. The next day, I think it was pretty close to noon, I went out to Minnie's house and when I went in Minnie jumped me; I didn't even get my hat off before she wanted to know where Mr. Montgomery was; wanted me to go and get Mr. Montgomery. She said he was a devil, that he had made her sign that paper and made her sign something that was not true; that she wanted me to go and get Mr. Montgomery and bring him there. I told Minnie that I didn't want her to tell me anything; I wanted to get Mr. Montgomery and Captain MacNab. I said don't tell me a thing, and I turned down the steps and I ran, and I ran all the way to Captain MacNab's quarters. When I got there I found Mr. Montgomery and Captain MacNab and I told them that I wanted them both to come with me at once, that Minnie had told me that that statement wasn't true and that she wanted Mr. Montgomery to come down there at once; so, he started out with me, Captain MacNab said that he would—could not go, that he would see her later. Mr. Montgomery and I walked—I think we walked—but we went down to her house, and when we got there Minnie was not there; Minnie's husband was there. I told Minnie's husband that we had to see her at once, that a mattter had come up and that we had to see her immediately; I asked him if Minnie had told him anything about what she had done; he said no, but he said that she did not sleep any all night——

Mr. Pinson: Objected to as hearsay.

The Court: Sustained.

Q. You say that Minnie said that?

A. No, Harry. Well, we waited there for Minnie and in the meantime, some woman, one of her neighbors, some visitor, came to call so Mr. Montgomery and I were introduced to her by Harry and we stepped out side and waited for Minnie, and Minnie came up—she just spoke to us and went on in the house and saw this woman and then she came out the back door and called Mr. Montgomery and I from in front of the house, and we went around and she leaned over the fence, she said Mr. Montgomery I just had to tell you that what I said yesterday was not true; that I have told a lie to the Government now, and if I have to go to jail for that, why I will just have to go, that is all; but that I can't let you go away without telling you that I have not told you the truth. I am not pretending to repeat verbatim, because I can't right at this time, but I will state that I have a memorandum that I wrote up immediately this time, at my office. I requested Mr. Montgomery to come with me while I wrote I——

The Court: State it as far as you remember it, Mr. Hanford.

A. And she said I am the mother of Thomas Atkins and nothing can ever make me change that; she said I wish they would take land and be gone with it, so that Harry and I could have some rest. She said I don't want it; she said this thing has bothered me until it will drive me crazy; and Mr. Montgomery told her that—well Minnie I am sorry that you told me that yesterday, he said she had made him a lot of trouble because he had sent some telegrams and one thing and another in regard to it, and now he would have to take that all back, and she went on and told him again that she was the mother of Thomas Atkins and she had lied to the Government and she would have to tell him that it was not so, and he said, well, Minnie, I am sorry that you told me that; he said that I guess the land is yours or I am satisfied that the land is yours. I don't know what it is, but I don't want to quote him too strongly; and he said I hope to see you get it; he said but you have deeded it away to Mr. Page; Mr. Hanford says that he can get that back but I doubt it. But he was sorry she had told him that and we turned and went away. Minnie's statement was very plain and simple—it is the first time that I seen her really speak freely and convincingly and open up and tell anything——

Mr. German: Your Honor, we move to exclude the witness'——

The Court: Yes, it will be excluded as to the witness' conclusion with regard to that being the first time that she had spoken openly and convincingly. Just proceed, Mr. Hanford, and state what occurred.

Q. So, we left the house and I asked Mr. Montgomery what he was going to do now, and he said that he didn't know; that he had to communicate with Washington.

Mr. Pinson: We object to that.

The Court: Who was this now?

A. Mr. Montgomery.

The Court: As to what Montgomery said he may answer.

Mr. Pinson: Exception.

A. Said that he didn't know; that he would have to communicate with Washington. We went in on a car together and I told Mr. Montgomery that I was going to my office and that I was going to write up at once while I could remember it, a statement of what transpired and I wished he would go to my office with me and we would make that up together; and he told me that he had to go to the hotel, that he had to send telegrams at once on account of the telegrams that he sent on the day before, and that he couldn't go but that he would see me later. He asked me to come to the hotel with him but I told him I wanted to do this immediately so that it would be done as quickly as possible after the occurrence. He got off the car to go to the hotel and I went to my office and sat down at the typewriter and wrote off a statement of what took place there which I have at this time, and I had just about finished it when Mr. Montgomery called me on the telephone and asked me to come to the hotel. I supposed he wanted to see me in regard to making up the statement and I told him I had just about finished this statement and I would be right up. So I took it off and went to the hotel and went to Mr. Montgomery's room. I knocked at the door and was told to come in; I came in and Mr. Montgomery met me and closed the door and there were two other men seated over by the windows of the room. He introduced them to me as Mr. Robinson, of the Secret Service, and Mr. Buell; he said that they were gentlemen who were cooperating with him in this case. I told Mr. Montgomery that I had come there to meet him in good faith and I felt that it was improper for him to ask me to come up there and to bring me into a room where there were two other men to ask me questions; I told him that I had no regard for members of the Secret Service and I would not make any statement in their presence. Mr. Buell spoke up and said that Mr. Montgomery is the only one here representing the Government and that we are simply cooperating with him. He said Mr. Montgomery—I asked Mr. Buell who he was, and he said that he was simply a private party who was interested in this case, and I asked him if he was interested in the Quinton Garrett claim and he said that he was, and I said that, that I see then is the purpose of this investigation, to Mr. Montgomery, to bring this suit and then have Quinton Garret get the land for these people; Mr. Buell said maybe; he said that will come later; that is for future litigation. And Mr. Montgomery; there is one question we want to ask you Mr. Hanford and that is this: we want to find if you have communicated with the Page people about our being out here. I told him that that was our business and I didn't intend to answer it, and I didn't intend to answer any question, especially there in front of these two men who gave them free to say anything that they wanted to about what I said; and I told him, now, I am going to do this: I said I haven't made any statement here to you about anything and I don't intend to and I am not going to leave until I have witnesses to bear me out on that. And they said well, can't you get somebody, and I told them yes, that I could call somebody up, and I went to the telephone and I called up Mr. Garvin; he was a young law clerk in the office of a firm that I had previously been connected with, and I asked him to come up there. While—before he got there, they had some consultation between themselves, I think Mr. Buell and Mr. Montgemory together and when I turned from the telephone, they said, just a minute, and they opened a door leading into an adjoining room and Sadie James stepped out into the middle of the room and faced me; said how do you do, Mr. Hanford; I said hello Sadie; she said where did you see me last; I said, Sadie, the last time I saw you was on the streets of Tulsa. And I don't know who it was, Mr. Buell or Mr. Montgomery said, Sadie—said Hanford won't talk, says he hasn't got anything to say; and Sadie said is that so; and she said well, we will then go right out and see Captain MacNab, and I said I think that is a good thing to do, and I want Captain MacNab to see this bunch, see what is up, see what is being done. We waited there until

Mr. Garvin came and I introduced Mr. Garvin around and told him—I had asked him to come up there as a witness and the only thing that I wanted him to witness was my statement, made in their presence to him, that I had not had anything to say regarding these matters or anything at all, and I wanted to tell him that in their presence, because he had not been there before and hadn't anything but my statement. I stated I am to go with you, we are going out to the Fort. So Sadie left and got herself wrapped up in a big veil and we went down stairs and Mr. Buell called a taxicab, he and Sadie and Mr. Montgomery got in that taxicab and I called another one and Mr. Garvin and I started to get in that one and I told the taxi driver to follow the one ahead. And Mr.Robinson came back and got in our taxicab with us. We went out to the Fort and on the way out I asked Mr. Robinson if he knew Tom Foster. Tom Foster is the Secret Service Agent at Seattle, told him he was a very good friend of mine. He said no he didn't know him. I asked him if he knew Tom Fisher, and he said that he didn't know him. I asked him if he knew the Agent of the Department of Justice.

The Court: I don't think that is material, Mr. Hanford.

A. Well, I just mentioned that because in the taxicab Mr. Montgomery stated to me that he didn't know Mr. Robinson; and that was the first time I learned that he was not a member of the United States Secret Service. When we got out to the Fort—— I would like to state in that connection your Honor, Mr. Robinson didn't state that that he was a member of the Secret Service, but he did not tell me he was a Pinkerton or anything about himself.

The Court: Your first impression was he was a member of the Government service?

A. Yes, your Honor, not from telling me so. I told Mr. Robinson I would make that correction because it was gathered from my testimony at the Receivership that he said he was a member of the secret service. When we got out to the Post, the taxicab ahead of us stopped at the place below Minnie's residence and we pulled up along aside of them and they were out of their taxicab. And I asked Mr. Montgomery what they were getting out for and he said that Captain MacNab had told him over the telephone that he was going to be at Minnie's house that evening and that he was going up to see if he was there. So, I told him that I would go with him and that the others should stay back. We walked up the path ahead and went into the house. When we got to the house they all crowded up, followed us up and followed us in the house. And Harry, Minnie's husband, got very mad and wanted to know what this meant. And Sadie when she came in rushed out to Minnie, said Minnie come out here I want to talk to you a minute. I said, no you don't, none of that. And Mr. Robinson or Mr. Montgomery grabbed Sadie and pulled her back into the other room where everybody was. We sat down there and I said nothing is to be said here. I said I don't want anybody to talk to Minnie or anything to be said, I want Captain MacNab to be here and hear everything that transpires. And Mr. Montgomery said he would go and see if he could find Captain MacNab, that maybe he was on his way. And he went out and came back shortly. And Minnie stayed in the kitchen. Minnie's husband came in and wanted to know what it meant, said he was going to fire the whole bunch out and called them a lot of epithets; and then Minnie broke into the room and gave them an awful tongue lashing; called them crooks and robbers; said they had come out there and made her tell a lie; say something that wasn't so. She said she was the mother of Thomas and they couldn't make her say she wasn't. That they had made [ ] tell a lie to the Government and now she had to go to the penitentiary. She said that she had a mind to get a gun and drive them all out. She was in a rage and nobody could stop her. Her husband tried to stop her and I tried to stop her. I told them there is nothing to do except to get out of here, and I asked Harry if he wanted them to leave, and he said he did. I told them there was nothing for us to do then except leave and go to Captain MacNab, he doesn't seem to be coming here anyway. Mr. Montgomery spoke to Minnie's husband, says just a minute Harry, I want to show you something. He had a port folio that he opened and took out a telegram and showed it to Harry. Said this is not for you Hanford, says I just want to show it to Harry. I never have learned what that telegram was. Harry told me afterwards he was so mad he couldn't read it himself he didn't know what it did say. But we left the house and as we left the house that is where I had my conflict with Sadie James. I don't know whether you want me to tell about that.

The Court: Don't go into that unless it is material.

Mr. Stuart: I don't care about it unless the Court wants it.

A. It was in the dark——

Mr. German: We don't care for that.

The Court: All right, if counsel don't want it the Court don't care for it, so you may pass over that.

A. When we left and got out to the taxi cab, Mr. Montgomery got in one taxi cab and started to the Post up the hill to the Post. When he started up, I think some of the others may have been in with him, but anyway the taxicab he was in went up to the Post and I started on foot, the other taxi cab had gotten away. I got out and started on foot and ran up to the Post and when I got there I saw a taxi cab stopped in front of Col. Wilson's quarters. And I ran across lots and came in across Col. Wilson's lawn and I got up to the door and rang the door bell. And somebody got out of the taxicab and came up the steps and struck a match looking at the door place. I says, yes, Mr. Montgomery, this is the place come on in. He says, hello, Hanford, are you here? I said yes I am here. And Col. Wilson came to the door himself. He said, the first thing he said: "What is the matter Ned?" my face was all covered with blood and my nose was swollen out and teeth were out and one thing and another, and I told him I would tell him about that later, that there was a gang out here and they were after Minnie and I didn't know what they were going to do, but it was a very desperate gang; and I said Mr. Montgomery is coming here to make some representations to you from the War Department and try and get Minnie away from me. And I said that the War Department has nothing to do with this and no authority at all. And I said now I am going to assert myself as Minnie's attorney. Captain MacNab is no longer Minnie's trustee; and while you people are Minnie's friends I am going to insist that you do not interfere with her any longer because I don't know what these people will do. I told him about Mr. Montgomery getting Minnie to sign this statement, and about her statement in the morning taking it back. And he said that I should be assured that he would not interfere in my province as Minnie's attorney. That he had every confidence in the world in me and that he would back me up in whatever I thought best; and he said now this man is here waiting to see me, do you want me to talk to him? And I said yes, but I just wanted to talk to you first and let you know what is going on. I explained to him about the Quinton Garrett suit and that this was all in connection with that suit to get Minnie's land. And I left Mr. Montgomery with him there. And I went next to Captain MacNab's quarters and Captain MacNab was very much surprised at my appearance, my physical condition from the fight, and he told me——

Mr. German: Now, we object to that as hearsay.

Mr. Pinson: Isn't all of this incompetent, if the Court please?

The Court: Oh, as to his being surprised, yes, but I thought he would get away from that.

Mr. Pinson: Well, as to the visit to Col. Wilson.

The Court: I don't see how that throws any light on the point.

Mr. Pinson: It is hard to object in this narrative form.

The Court: Now, go on Mr. Hanford with relation to going to Captain MacNab.

A. Well, Captain MacNab said that he found Mr. Montgomery had deceived him, that he had told him over the 'phone——

The Court: What Captain MacNab said will not be considered.

A. Well, he said he had learned over the telephone——

The Court: Well, never mind what he told him. Did they talk with you at Captain MacNab's there?

A. No.

The Court: Well, then, let's not go any further with that. Judge, I think you had better interrogate Mr. Hanford about what points you want brought out.

A. I will state, your Honor, it is very hard for me to come to the material matters when I have to follow the sequence in the narrative form this way and I have tried to cut it out as much as possible.

The Court: I have permitted a lot of this to go in because of the latitude that was given Mr. Montgomery in his statement with regard to this conversation. It is all woven around this so called confession of Minnie Atkins. Now, this witness has gone over a great deal of ground covered by Mr. Montgomery. He has gone past the point of the confession and he has gotten up to the place where Mr. Montgomery and Mr. Buell and Mr. Robinson and he had the meeting at the hotel, then they have gone to the quarters. Now, you know that situation, do you conceive that there is anything further out there that is material or proper?

Mr. Stuart: I don't recall anything more.

Mr. German: May I ask a question. Mr. Montgomery in his testimony didn't go beyond the meeting with Mr. Hanford in the hotel. Didn't go out to the house that evening.

The Court: His story as I remember it, covered the hotel incident with Sadie James, but past that I do not remember.

Mr. German: Well, I think the rest is immaterial.

The Court: Well, we will not go any further with that.

Mr. German: Unless we may have the privilege of bringing Mr. Montgomery on with reference to these other questions, we would like to move now to strike as immaterial.

The Court: I am free to say that I have failed to see how it would throw any light on this transaction afterwards, except that it would be in relation to Mr. Montgomery's activities out there and his good faith and so forth.

Mr. Stuart: I only asked to put it in in narrative form for two reasons: First, because we made no objection to anything covered by Mr. Montgomery but permitted him to follow his story, Mr. Hanford having been present at all of these meetings. Now, he has stated his story, of course if I had asked questions it would have taken me a day. I assume that whatever is immaterial in his statement your Honor will discard, as you will in the others, it is just simply to save time.

The Court: We will not go any further now with that excursion out at the Post.

Mr. German: The only reason I made the inquiry I did, if the Court is not going to exclude Mr. Hanford's testimony with relation to events following the hotel incident then we want to know it so we may have Mr. Montgomery on those matters.

The Court: I will not exclude it now, and perhaps you had better get Mr. Montgomery.

Mr. Stuart: I will say as far as I am personally representing the defendant in this case, I don't care anything about what happened after.

The Court: If there is any matter not covered by Mr. Montgomery that is conceived he should cover in rebuttal, that will be presented at the proper time.

Mr. Stuart: I think after conferring with Mr. Hanford, I will be able to conclude with him in thirty or forty minutes.

The Court: We will take a recess then.

And thereupon, Court recessed until ten o'clock Monday morning, May 28th, 1917.

And thereafter, and on Monday, May 28th, 1917, and at 10 o'clock A. M., court having convened pursuant to adjournment, further proceedings herein were had as follows:

J. H. WENDORFF, being produced as a witness on behalf of the defendants Minnie Atkins, et al., and being first duly sworn, testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. J. H. Wendorff.

Mr. German: Your Honor, Mr. Hanford was on the witness stand.

Mr. Stuart: Your Honor, these gentlemen are simply character witnesses and desire to leave, and we desire to put them on at this time.

The Court: You may proceed.

Q. Where do you live, Judge?
A. Leavenworth, Kansas.
Q. How long have you lived there?
A. Most of the time for the last thirty years.
Q. Most of the time for the last thirty years? A. Yes, sir.
Q. What offices have you held in that city?
A. Well, I was county attorney for six years, and I was city attorney for two years, and I have been judge of the District Court for the past six years.
Q. Do you know Dennis Jones? A. Yes, sir.
Q. How long have you known Dennis Jones?
A. Well, twenty-five or thirty years.
Q. Do you know his reputation in that vicinity for truth and veracity?

Mr. German: We object, Your Honor, on the ground that it is incompetent, irrelevant, and immaterial. They have no right to support the testimony of their witness in this way.

Mr. Stuart: Your Honor, we just took the trouble to run down the authorities, so as to be prepared for this. We don't find any authorities that are to the contrary. * * *

The Court: Do you wish to be heard further gentlemen?

Mr. German: If Your Honor, has any doubt on this question, we would like to look it up.

The Court: I will receive this testimony at the present time, the objection will be overruled and exception noted, and I will receive the testimony and if you convince me later that it should not be considered, I will strike it out.

Q. Do you know his general reputation in that community, Judge, for truth and veracity? A. I do.
Q. Is that good or bad? A. It is good.
Q. Do you know his general reputation for professional probity and uprightness? A. Yes, sir.
Q. Is it good or bad? A. It is good.
Q. Have you been paid anything for coming down here? A. My expenses.

Mr. German: Your Honor, we would like to have until afternoon to determine on the cross examination of this witness.

The Court: You may cross examine him—I will keep him until afternoon. I will let you cross examine these witnesses afternoon, inasmuch as they are put on out of order.

(Witness excused.)

And thereupon, STANCE MEYERS, being called as a witness on behalf of the defendant Minnie Atkins et al., and first being duly sworn, testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Stance Meyers.
Q. Where do you live? A. Leavenworth, Kansas.
Q. How long have you lived there? A. Fifty-one years.
Q. What positions of trust have you held in that country?
A. I was under-sheriff for 5 years, and sheriff of Leavenworth County, Kansas, for 4 years.
Q. What position do you now hold, if any?
A. I am now a member of the State Board of Control of the State of Kansas and treasurer of said Board.
Q. Do you know Dennis Jones? A. I do.
Q. How long have you known Dennis Jones?
A. Twenty-five or thirty years.
Q. Do you know his reputation in his community for truth and veracity?

Mr. German: We make the same record on this.

The Court: The same objection may be noted, the same ruling and exception as to the witness Wendorff.

Q. Do you know his reputation for truth and veracity in that community? A. Yes, sir.

A. Is it good or bad? A. It is good.

The Court: This witness may be examined afternoon.

(Witness Excused.)

And thereupon, O. B. TAYLOR, Jr., was called and sworn as a witness for and on behalf of the defendant Minnie Atkins et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. State your name? A. O. B. Taylor, Jr.

Q. Where do you live, Mr. Taylor?

A. Leavenworth, Kansas.

Q. How long have you lived there?

A. Forty-nine years.

Q. About as long as you have lived?

A. Yes, sir, born there.

Q. What business are you in there?

A. Banking business, cashier of First National Bank.

Q. Cashier of the First National Bank; how long have you held that position? A. Two years.

Q. How long have you been connected with the bank?

A. About twenty-five.

Q. Twenty-five. Do you know Dennis Jones?

A. Yes, sir.

Q. How long have you known Dennis?

A. Well, there never has been a time that I didn't know him.

Q. Do you know his general reputation for truth and veracity in that community?

Mr. German: We make the same objection.

The Court: Same objection and same ruling and your exception noted.

Q. Do you know his general reputation for truth and veracity in the community? A. Yes, sir.

Q. Is it good or bad? A. Good.

The Court: You may stand aside Mr. Taylor, you will be cross examined after the noon hour.

(Witness excused.)

And thereupon, E. C. HANFORD was recalled for further direct examination and testified as follows:

The Witness: There are a number of errors in transcribing my testimony, I suppose they ought to be corrected. I can tell what they are, in the transcript made up so far. Probably it would be better to wait until afterwards. There are one or two things I want to add to my testimony. I didn't state that after I was in Boston and saw Mr. Peterkin on my way home I came by way of Pittsfield, Mass., and went to see George H. Hyde, for whom Minnie had worked in Leavenworth; and he told me what he knew regarding Minnie and the birth of this child, what he told me would be hearsay but I will say that what he did tell me was very important and led me to confirm our understanding of the facts.

The Court: I suppose the deposition of Mr. Hyde is in the record?

Mr. German: No, sir, he is dead and his deposition was never taken.

The Witness: Mrs. Hyde testified and his daughter, Mrs. Collins, and their depositions are in the record.

Mr. German: Mr. Hyde was not dead when we were taking depositions?

The Witness: No, sir, but Mr. Hyde failed very fast there.

Mr. Allen: If the Court please, we took the deposition of these people at Pittsfield, Mass., and an opportunity was there given the defendants in this case to take the deposition of Mr. Hyde.

The Court: The witness is not stating anything stated by Mr. Hyde.

Mr. Allen: He is stating his conclusion from that.

The Court: Well, his conclusion will have no bearing on this case except as it relates to his good faith in the transaction, so far as he is concerned.

The Witness: I will state, the complainant took the deposition of Mrs. Hyde and the defendants called Mrs. Collins, her daughter, and took her testimony; and we intended to call Mr. Hyde but Mrs. Collins informed us that he was failing very fast.

The Court: I think that is immaterial. Let's get to the real testimony in the case.

The Witness: On my way back I also stopped in

Leavenworth and interviewed a number of old soldiers, or retired soldiers, not a number, but two or three whose names were given me by Mr. Peterkin; and it was then that I also made an effort to find Dr. Carpenter and was told he was an old man ninety years old and was in his doty, instead of the vigorous man that he was; and we made no further effort to find him or get his testimony.

Q. Now, Mr. Hanford, you have about finished your narrative up there, including the Montgomery visit to Seattle. Now, tell us what was said about the Peterkin child if anything? A. Well, I want to state another matter.

Q. All right, get through with it as soon as you can because time is material.

A. On my way back to Seattle after being at Leavenworth with Betty Mann, I went by way of Denver to see a Mr. and Mrs. Hamilton, but they had gone to Los Angeles with Sadie James and I didn't get to see them; but I did see a Mr. Mannix, an attorney there, who had interviewed Mr. Hamilton and who had forwarded to us an affidavit as to what Mr. Hamilton had told him. I have that affidavit. I also said that it was at the Coats House when Minnie cried and didn't want me to hear her testimony in Kansas City when we brought her back from Seattle. I should have said that that was at the office of a public stenographer where we were interviewing her and having her statement transcribed by the stenographer.

Q. A public stenographer where? A. In Kansas City.

Q. Alright.

A. It was in some building there—about the Peterkin child, I didn't hear about that child until just before the receivership hearing when I brought Minnie down here to attend that hearing at Muskogee in February of 1915; and I heard about it then in this way: Mr. Rice and Mr. Josey came to me and asked me to tell them again what Mr. Peterkin had told me in Boston, and I told them about Mr. Peterkin telling me that it was a girl and my conversation, and they said that there was a rumor that that child was a boy, and they wanted to ask Minnie about it, so they went up to Minnie's room in the hotel and I went with them, and they asked Minnie about it and she told them that she did not have any child at all at that time, and they questioned her about it and she fought them on it and stuck to it, and insisted. So, I thought they still would be able to get more out of her if I withdrew, and I withdrew; but Minnie stuck to it and they didn't—couldn't learn any more. On the way down to Muskogee that night, we were talking about it on the train——

Mr. German: Who is we, Mr. Hanford?

A. The attorneys, Mr. Rice and Mr. Lyons, and myself, and I think Mr. Long was there; and it was suggested that I send a telegram to Major Stafford. Major Stafford had previously written me that he knew nothing regarding Minnie except that she had worked for him in 1885 and 1886; and suggested that we send another telegram to Major Stafford, so I got off the train at a little way-station up the road, and I sent a telegram to Major Stafford and asked him about—if he knew anything about this child, and he replied, I got the telegram at the Severs hotel the day the receivership hearing commenced I believe, and he told me that Minnie left their employ——

Q. Have you got the telegram? A. I think I have.

Mr. Allen: Also would like to see that letter, too.

A. I haven't the letter but I have a letter that I wrote to Mr. Rice in regard to it; I think I may find the letter amongst some other files.

The Court: What letter is it now?

Mr. Allen: From Major Stafford, about which he testified as to the contents of that letter.

The Court: Oh, yes; the first letter.

A. The telegram that I sent, I have no copy of, I got out and wrote it at a little railroad station.

Mr. German: Well, the original is in evidence, I think. You know we took it, Mr. Hanford, at San Diego, when he was on the stand, we had him produce that original.

Mr. Allen: Government's Exhibit 2.

A. I guess that is in evidence at his end of the line. There are two telegrams here from Major Stafford—I don't know which is the first—the one in answer to my telegram is addressed to me, care of the Severs hotel——

Q. Well, did you send that telegram Paoli, Kansas?

A. I don't know the name of the town, it was a little town where I got out and sent it.

The Court: What is the date of that telegram?

A. February 25th——

The Court: What is the date of the one you hold?

Mr. Stuart: This is February 24th—*mys* be——

Mr. Cruce: Read that one.

The Court: You may read the telegram to Stafford and then I will get the connection.

Mr. Stuart: Yes, sir, this is the message: "Major John Stafford, U. S. A. Retired, 3592 Front Street, San Diego, California. Please wire me collect at Severs hotel, Muskogee, Oklahoma, your best recollection of date Indian girl Minnie Atkins came to work for you and left you, and especially whether she was with you July and August eighty-six, and I must know this today. Please oblige with this helpful information and *sne* me day message."

Q. So there is nothing in this telegram about Peterkin?

A. That is right; this is the telegram I sent them—the answer to that is dated February 25th, 1915, and addressed to me at the Severs hotel. He says: "Can't state positively, employed Minnie Atkins about nine months from October 1st, 1885," that is signed J. Stafford, Major United States Army.

Q. Now, have you got another one, Mr. Hanford?

A. I did send another telegram.

Q. You got another answer?

A. I got another answer at any rate.

Q. What date is it?

A. Febry. 25th, nine three P. M.

Mr. German: Well, Your Honor, another message comes in there.

The Court: That is identified as the one that he sent.

Mr. German: I beg your pardon, that is the one that he previously sent.

A. That says: "When Minnie Atkins left my employment in 1886, her physical condition indicated pregnancy. Cannot recall other injuries." I think that means inquiries.

Mr. Cruce: Incidents.

Q. Incidents?

A. Signed, Major Stafford; that was in answer to another telegram that I sent; I don't know whether that is in evidence or not.

Mr. Stuart: Well, they are read in, Your Honor.

A. My first letter to Major Stafford was written at the suggestion of Mr. Rice, of Rice and Lyon; I had suggested to him that I go to California and see Major Stafford; he wrote me November 21, 1914, saying: "Dear Sir: I have your letter relative to Major Stafford's testimony—" no, I should have read first: October 29th, 1914, in which he said: "Dear Sir: I am wiring you today pursuant to the enclosed copy. I think it would be a good idea to take up with Major Stafford by letter his recollection of Minnie's working for his people at Fort Leavenworth. If you can get him to write you fully, we will advise you as to the taking of his deposition. With best wishes, Sincerely, Rice & Lyon." That was in regard to taking depositions in the State Court case. On November 2nd, I wrote to Major Stafford as follows—I have the carbon copy here——

Q. Well, go ahead and read it, Mr. Hanford; we assume it is alright.

A. "Major John Stafford, United States Army, Retired, 3592 Front Street, San Diego, California. Dear Sir: I wired you sometime ago in regard to Minnie Atkins, a part Indian girl who worked for you at Fort Leavenworth a time in the middle eighties. At the time I telegraphed there were certain parties in this part of the country working adversely to her interests, and that I feared they would call upon you to your annoyance. As evidence of my good faith, I believe that I mentioned that I was Minnie's attorney and am myself a former *office* of the Army. It was through my Army connections that I became retained in this case. Members of the First Cavalry who were with the regiment in 1905-6 will identify me to you. Minnie is now the wife of a bandsman in the Fourteenth Infantry, stationed at Fort Lawton. As to the case I mention a brief statement as follows: Minnie was born of Indian parentage in Indian Territory. When a very young girl she was sent to Carlisle Indian School in Pa. Finishing her course there, she was sent to Leavenworth, Kansas as a domestic in the home of George H. Hyde, a banker of that place. She remained with Hyde a few months and then took up residence in the town of Leavenworth, working out by the day. During her stay in Leavenworth and due to maidenly indiscretion, she became the mother of a boy child. Some time after the birth of this child, she was engaged to work out at Fort Leavenworth. She worked first, we are informed, for Mr. Grodevant, an overseer in the Military prison; after leaving the Grodevant's she was employed by your wife and worked for you some months before leaving Leavenworth to go to Fort Logan, at Denver. By reason of his Indian blood, this boy of Minnie's was enrolled on the Creek Indian rolls and was allotted a parcel of land in Oklahoma. The boy has not been heard of for some twenty years and is supposed to be dead; in fact Minnie was notified of his death about the year 1901. His allotment of land is now supposed to be valuable for oil and Minnie as his sole heir had been sought and found to assert her title to it. She has given an oil lease to the land and we are now in litigation to dispossess the false claimants who have sought to obtain title through various fraudulent claims put forward in the belief that Minnie was also dead. In order to get a complete history of Minnie from the time she left Carlisle, I have interviewed all of the people that knew her that I could find. It has taken much time and labor and caused much expense. I intended to call upon you at San Diego, but desired to avoid the cost of such a trip by asking you to oblige with a letter informing me of all that you know regarding her. When she came to work for you, how long she remained, what her habits were so far as you knew; her affinities, that you know of; where she went from your house, and who with; what her condition of health was at the time; what she may have told you or Mrs. Stafford of her history and so forth and so on; everything in fact, that you can think of regarding the girl. The more intimate I can become as to her affairs, the surer I am of conducting her case safely and successfully and of eliminating the many frauds that have been imposed to defeat her rights. I have talked with Charles Peterkin, one of her affinities at the time she worked for you, and he gave me much information, but it is necessary to get additional, as well to check up his story. Minnie told her story on the witness stand but due to her Indian reticence or lack of memory, there is still a great deal to be learned. We have had Minnie down in Oklahoma and Leavenworth for two months since summer and people that have known her, especially Army people, have helped us greatly. I ask for your assistance in the matter because of its great importance and I do hope that your kindness will help us out. Respectfully Yours."

The answer to that was very short and said he had a remembrance of an Indian girl working for them at that time, but that he had no other recollection of her. On November 16, 1914, following the receipt of that letter, I wrote Rice & Lyons as follows: "I received a letter this morning from Major John Stafford, retired, San Diego, California, in which he says that he remembers that a Minnie Atkins worked for him at Leavenworth for several months in 1885 and '6, but that he has no recollection of any incident relating to her employment that would be evidence. I related the circumstances of the litigation, in my letter to him, and tried to offer suggestions that might refresh his memory. I did not tell him that I wanted his testimony, but simply that I was trying to put myself in full possession of her history, that, as her attorney, it was necessary for me to have her story continually from the time of her birth and that there was several months which I had knowledge of only in an indefinite way. I knew, however, that she worked for him during some of that time and now found it imperative to ascertain from him the exact time and length of time that she worked for him, also, any other facts regarding her, that he might know, as to her connection both in the Post and in the town of Leavenworth. The Major states that he merely recollects that a Minnie worked for him but cannot help me out otherwise. Please advise me as to whether or not you wish his testimony." Rice & Lyons replied November 21 as follows: "Dear Sir: I have your letter relative to Major Stafford's testimony. As his recollection is so indistinct I do not believe that his deposition would be of value to us. Sincerely, B. F. Rice." That is all I have relating to Major Stafford. After we got to Muskogee for the Receivership hearing, and received that telegram from Major Stafford, stating that Minnie had left his employ in a pregnant condition, we took that telegram to Minnie in her room over at the hotel and told her that she had been deceiving us. And she broke down and cried and admitted it. She sent for Mr. Josey and Mr. Rice and wanted to apologize to them for telling a lie there and did so. And she was very much afraid that her husband would never speak to her again. We went to her husband and told him what we had found out and asked him to go and tell Minnie that everything would be all right with him; and he did, and she got all right and she testified to the Peterkin child at the Receivership hearing. But that is the first time that we had learned that Minnie had had that Peterkin child. Betty Mann had told me at Leavenworth when I was up there working with her that she had heard that Minnie had had a child almost every year for the first five years after she left Carlisle; and told me that she believed Minnie had a child buried in the cemetery out at Leavenworth. But I paid no attention to that at the time, discredited Betty so much, and were working on the Tommy end, so that I never took any notice of it.

Q. Well, now, Mr. Hanford, relate whether the Peterkin grave was found?

A. I do not know whether it was ever found or not, Judge Stuart. The facts in regard to the Peterkin baby came out at the Receivership hearing and I do not think anything was ever done.

Q. Well, just for my own satisfaction, did the records show the burial?

A. The records were put in at the Receivership hearing showing the burial.

The Court: Is that record in this case now?

A. Early in August, 1886.

Mr. German: He was born July 30th, at the home of Mrs. Woods on Eighth Street in Leavenworth and died at the age of about three weeks.

The Court: In the summer of 1886?
Mr. Stuart: July, 1886.
The Court: That is Peterkin?
Mr. German: Robert Lee Peterkin.

A. When I went home to Seattle, from Leavenworth, after being up there with Betty Mann, I stated in my testimony given heretofore that I sent that five thousand dollar check for collection to Tulsa. I was able to get it out of the safe deposit box and send it in for collection. The Gem Oil Company had refused to give me another check and let me cash it while I was down here and then turn over to them the one I had previously gotten. I sent it in for collection and the bank got notice that the check was not paid.

Mr. German: Now, when was that, Mr. Hanford?

A. That was in September, 1914, Mr. German. You asked me about the telegrams in regard to that and I want to put those telegrams in. I don't know the first message that I sent but it was a very mean telegram to Rice & Lyons telling them that the check was unpaid. And I remember that after I got back to Oklahoma, Mr. Page wouldn't speak to me for ten days or two weeks on account of the telegram that I had sent them telling them about not paying this check. But I have the telegrams that were sent me in regard to that. The first I have is dated September 15, 1914. "Tulsa, Oklahoma, E. C. Hanford, Seattle, Washington. If MacNab insists on payment of forty-five hundred we must have truth out of Minnie before check you have deposited is paid. We advise that you leave with Minnie at once for Kansas City and Rice will meet you there. Draw on us for expenses and wire when you will reach Kansas City. Gem Oil Company."

The Court: What is the date of that?

A. September 15, 1914, just prior to the time they were taking depositions. And I think I told them that I would not allow Minnie to come down there or give her testimony or do anything further until that check was paid. The next one that I have is dated September 17, 1914: "E. C. Hanford, Coleman Building, Seattle, Washington. You know result of Sapulpa hearing and its cost to all of us. Absolute good faith on Minnie's part is essential to her right to payment. So far she is guilty of perjury. On good faith payment should not be made on that account. We will have deposition taken as soon as practicable after you arrive with Minnie in Kansas City, and will make part payment to you there. These matters must be plain to MacNab, and Minnie must keep faith. Draw for expenses and come as soon as possible. Gem Oil Company." The next is September 18, 1914: "E. C. Hanford, Seattle. Your message September 18th at hand. We are entitled to truth from Minnie before payment. If you will not bring Minnie to Kansas City, we will give notice to take deposition in Seattle. Minnie unquestionably in wrong and we think it your duty to have her tell truth. Much prefer taking deposition in Kansas City. Gem Oil Company." The next one I have is dated September 18, 1914: "E. C. Hanford, Coleman Building, Seattle. Your wire to Gem Oil Company is not consistent with our talk while here and we have advised Gem Oil Company not to pay until we get the truth. You understand we agreed on this when you were here and when five hundred was paid. Rice & Lyons." I remember now, they did send Minnie or give Minnie five hundred dollars on her check when he went down there. They wouldn't give me a new check but they advanced her five hundred dollars to be deducted from the check when I sent it for collection. I have a telegram written in long-hand that I sent to Captain MacNab after we got to Kansas City. It is marked "copy" but it is not a carbon copy. It says: "Captain A. J. MacNab, Salmon, Idaho. Minnie wants bank draft made out to you delivered to her personally. Is that agreeable to you? It will require your endorsement before cashable but I am sure she will want the amount put into the check account. May be necessary arrangement although not to her permanent advantage. We are getting straight dope apparently but many difficulties still trouble us. Glad you have nothing to worry about except me. Sherman Hotel here for few days but you can always get me Gem Oil Company, Tulsa. Shall I pay fifty dollars accumulated interest money to Minnie? Am writing but wire answer collect. E. C. Hanford." I will say that the Gem Oil Company, when they wouldn't pay that Five Thousand Dollars to me in another check, agreed that during the time payment was delayed that they would pay her interest on the money, and that up to this time fifty dollars had accumulated, which was paid to me.

Q. All right, just proceed now.

A. On September 10, 1914, I sent a letter to the Gem Oil Company, Tulsa, Oklahoma, as follows: "Gentlemen: This morning I deposited the five thousand dollar check with National Bank of Commerce, Seattle, and they accepted the same for collection. They will have this go directly to the Exchange National Bank of Tulsa, Oklahoma, instead of sending it through various clearing houses. This will require MacNab to give you his check for five hundred dollars by reason of the five hundred dollar draft which you have previously paid on account of this check. This was the most feasible way of putting through the transaction to eliminate as many complications as possible. I will have something further to write you in regard to Minnie this afternoon. Very truly yours." On September 21, 1914, I received a letter from Rice & Lyons as follows: "Dear Hanford: I received your night letter dated September 19, 1914, relative to the payment to Minnie Atkins. As I have stated to you frequently I am opposed to permitting Minnie to have the money due her until she has testified to the truth. I understand, as you do, that the lease was given by Minnie without guarantee or warranty of title, but I am of the opinion that the sale by her of her interest entitles the purchaser to fair dealing from her. In other words, I do not believe that it can be successfully contended that Minnie could take the purchasers' money and then by perjury defeat the very right for which she had been paid. I note you say Captain MacNab will hold the money in his possession. I cannot see why it is necessary that this money should be delivered to Captain MacNab and he bear the burden of withholding it from Minnie. I also note that you state that Minnie has now stated to you that the information obtained at Leavenworth is correct. There is therefore, no reason for a delay in the taking of her deposition. I think, therefore, that it would be best for you to bring her to Kansas City without delay. When she has given testimony in conformity with the truth, I see no objection to paying her a certain portion of the balance, but I do not think it advisable to pay all of the money until she has appeared at the trial and testified. You will understand it is not the fault of the purchasers that this procedure is necessary—Minnie's own acts have brought about the present condition. I note your statement that Captain MacNab and Minnie have threatened to repudiate the lease for failure of consideration and that they threaten to make a deal with the Gypsy. I do not fear this, as at the proceeding before Judge Poe at Sapulpa, in which you represented Minnie, judgment was taken against Minnie, and I think her right, if any she had, to contest the lease given by her, is defeated. I think that Mr. Page has acted fairly with you and Minnie in this matter, and as you know, he has expended large sums of money in ascertaining the truth, and much of this expense was rendered necessary by the false statements of Minnie. I will ask you to show this letter to Captain MacNab and explain to him the position of the purchasers as you understand I see it. I cannot advise my clients under the circumstances to release this money. I fear that if they do release it will be without Minnie's aid in the trial of the cause—I think we might win it without her but as you well know, it would be more difficult. I sincerely trust that you will wire me that you will bring Minnie to Kansas City. With best wishes and personal regards, I beg to remain, Sincerely, B. F. Rice."

Q. Now, Mr. Hanford, when was the first time that you ever heard that the Government claimed that Tommy was a myth?

A. The first time I ever heard that was from Mr. Montgomery himself in Seattle, in December, 1914.

Q. Now, these various trips that you took over the country, in what capacity were you acting?

A. I was acting as one of the attorneys.

Q. Attorneys for whom? A. Minnie Folk.

Q. And you appeared at these various hearings in that capacity? A. Yes, sir.

Q. Examined the witnesses? A. Yes, sir.

Q. At those hearings who was present? For instance, at the California hearing?

A. Mr. German, Special Assistant to the United States Attorney; and Mr. Allen, Creek National Attorney; Mr. Blakeney as attorney for Henry Carter; Mr. Meserve, as one of the attorneys for Bartlett and Buell interest; J. Coody Johnson, I think he was one of the attorneys for Henry Carter.

Q. Attorneys for Henry Carter?

A. Attorneys for Henry Carter. Mr. Penick was Special Examiner and Mr. Robinson, a Pinkerton Detective working for Bartlett and Buell. There was a young man named Martin—Bill Martin—I think he was stenographer for Mr. Allen.

Q. That is about all, was it? A. And myself.

Q. Who was present when you took the Leavenworth depositions—the same people?

A. The same people when we took the Leavenworth depositions—there were Mr.——

Q. Well, just tell me who in addition to those you named?

A. Mr. Maxey and Mr. Rosser, attorneys; they were not present at the Leavenworth depositions, those that I have named.

Q. Weren't they?

A. That is the state court depositions?

Q. No, I am talking about the depositions in this case; this very case.

A. Well, there were no others except those that were at Leavenworth at different times.

Q. You mean not others besides those that you mentioned at California?

A. I don't know of any others; I can't remember.

Q. Was Mr. Buell ever there?

A. No, Mr. Buell was at Kansas City when we left for Denver but he wasn't at the taking of the depositions.

Mr. German: Wasn't Judge Stuart there, and Judge Cruce? And a whole lot of us?

A. They were at Leavenworth.

Mr. German: Yes, sir, and at Kansas City, too.

A. I guess I misunderstood your question.

The Court: I suppose the depositions would show the appearances.

A. At Kansas City and Leavenworth, Mr. Buell was there and Mr. Rosser was there I think once *and* twice a short time, and Judge Maxey was there.

Q. Was anybody there outside of the attorneys, Mr. Hanford? That is what I want to know.

A. Yes, Mr. Buell and Mr. Robinson.

Q. Alright.

A. Were there aside from the attorneys and there was a man from Kansas City—another Government detective, and Mr. Robertson, the United States Attorney for Kansas was there once or twice; Mr. Harvey, the Assistant United States Attorney, was at Leavenworth and Kansas City most of the time.

Q. I don't care a thing about that. Where did you take depositions, in New England?

A. Yes, we took depositions at Pittsfield and Boston.

Q. Was anybody there besides the attorneys——

Mr. German: Your Honor, I can't see the relevancy of this. We will agree that no attorneys were there for Mr. Page if that is what they want.

The Court: I don't see what bearing it will have on the case. You may state whether or not parties outside of the attorneys or anybody else was there representing the parties.

A. Mr. Robinson I think I mentioned before, the Pinkerton Detective was there——

Mr. German: Well, I move to strike that because he is not a party and he didn't represent a party.

The Court: He is indicating who was present outside of counsel. I said he may show what interests were represented there.

Mr. Stuart: I think we will show the materiality, Your Honor.

A. And Mr. Dawson was with us in New England; he went to assist Judge Allen.

Q. Well, I don't care anything about that; Mr. Robinson was there, was he?

A. Yes, and Mr. Dawson was there, the man who rendered the opinion cancelling the enrollment——

Mr. German: Your Honor permitted him to do it and Judge Stuart stopped him; who was Mr. Dawson?

The Court: He may state.

Q. Tell who he was.

A. Mr. Dawson is in the Commissioner of Indian Affairs Office, I don't know what he is—an attorney, and he is the same Mr. Dawson who came to Oklahoma and rendered the opinion upon which the Secretary has attempted to cancel the name of Thomas Atkins from the roll.

Q. Alright; did you go to Texas?

A. Yes, we went to Texas.

Q. Were the same people there?

A. The same people that were with us on the coast were with us in Texas.

Q. Now, you went to New York and went to El Paso, Texas, did you? A. Went to Sweetwater, Texas.

Q. You went to California? A. Went to California.

Q. And you went to Washington? A. Yes, sir.

Q. And you went in the Senate? A. Yes, sir.

Q. So, you practically covered the United States, didn't you? A. Practically a figure 8 of the United States.

A. Is there anything else that you want to testify about? And then I am through unless there is something material.

A. There are some corrections in my testimony: there is one very important—oh, yes: I testified that when I was in Leavenworth with Betty Mann that it was then that Mr. Long told me about Sadie James making a proposition to him about finding a deserted grave. At the time I was in Leavenworth, Mr. Long came to me and told me about Sadie James being drunk down in this hovel, and wanted me to go down and send her back to Tulsa; and then I thought that I ought not to go down there because it was dangerous; and I suggested to him having her sent for from Tulsa, and getting rid of her. I also wanted to get rid of her so as not to have her find out that Betty Mann was there. Mr. Long was going to Kansas City and leave Sadie James there. When we got back shortly afterwards, I think in the next month, to take the depositions, Mr. Long, in almost the identical situation, the same circumstances, told me about Sadie James having made this proposition to him. In that way I testified that he told me about the grave business at the time we were talking the first time, and it was not then, and it is due to that suggestion that I told about that.

Q. Well, how long was it? A. Oh, it was a few weeks.

Q. Few weeks; that is all?

A. I will say that Mr. Long—I was talking this matter over with Mr. Long last night——

The Court: Well, I don't care to go into that. It was a mistake in regard to two or three weeks there?

A. It is due to the suggestion of the two instances occurring.

By the Court.

Q. Listen, Mr. Hanford, I understood you to suggest that the stenographer's transcript had some mistakes in it in regard to your testimony?

A. They are mostly typographical mistakes but *the* make a mistake in the sense——

Mr. Stuart: I suggest, to save time, that you suggest it to the stenographer.

The Court: If there is any mistake now of importance you may state what it is now for the benefit *on* counsel on cross examination, anything of importance. I don't care for typographical errors.

A. The first one is 2574: it says: "And while we were talking there Minnie told us about this colored woman that she said knew her; she had never known she was going out;" that should be: "But that she had never known."

Mr. German: In other words, insert the words "but" there?

A. Yes, he didn't punctuate correct.

Mr. German: Have I inserted it at the right place?

A. Yes. On page 2576, it says that: "She had seen him when he was five years old in 1899;" that should be, "'89." 2577, it says, "And I have gotten word from Captain MacNab to let Sadie talk;" that should be: "I had gotten word to Captain MacNab to let Sadie talk." I kicked him. 2585——

Mr. German: You say I kicked him?

A. I kicked Captain MacNab under the table, Mr. German, not to say anything.

The Court: Let's not go into——

Mr. Stuart: That is not in the record?

A. 2585—at the bottom——

Mr. German: There wasn't anything about I kicked him in the record.

A. It says "the Bartlesville sand might follow that leave that sand out;" it should be "That land out." 2589, it says, "I didn't want any connection with it all;" that should be, "I didn't want any connection with them at all." That is about the tenth line. 2591, it says, near the bottom, about the fourth line from the bottom, "that the agreement was for five thousand cash;" that should be, "ten thousand cash." 2592, it says, about the fourth line, "about now he knew it;" that should be, "about how he knew it." 2595, about the fifth line from the bottom it says: "Q. Never mind;" A. "Deceiving us; she had never told Captain MacNab;" that is probably the way I stated that, but that "never" should be crossed out, because there is dash after "never" to show that I started to say something and changed, to be correct. 2601, the context will show these corrections at 2601——

Mr. Allen: On that last, I understood it to show that you had told?

A. Yes, Judge, if you will read the balance of the answer, you will see the sense. On page 2601, it said: "when we came to Tulsa we came in the automobile and went to Sapulpa and she gave her testimony that day;" we didn't go to Sapulpa that day; we went the next day by automobile, and during that day we have a number of people go up to identify Minnie; Ella—Mr. Wadsworth——

Q. Mr. Hanford, let's wait there a minute; do you want to correct your testimony or change that?

A. I want to correct my testimony.

Q. Well, that is your own fault, not the stenographer's.

A. I want to make that additional to my testimony: We had Mitch Wadsworth and Ben Marshall, and a man named Robinson, a brother of Will Robinson, and I think some others come up there and identify Minnie. The hearing at Sapulpa had been originally set for that day, but I had wired Rice & Lyons that I couldn't get there by that time; I think we either made it a day ahead of time or they had it changed; at any rate we had that date laid over, so we didn't have to make the trip direct. Mr. Long held the train for us at Kansas City; he paid the cost of holding the train——

The Court: Well, let's not go into the details, Mr. Hanford, there was that delay?

A. Yes, there was that delay. 2607, about the 12th line from the bottom, it says, "and we thought we had proof of his death;" it should read: "we thought that since we had no proof of his death." 2608, it says, "he says that I told her to come out to the park and I would talk to her out there;" that should be that: "he would talk to her out there." 2609, about the fifth line reads: "would be a good scheme to catch Sadie up;" that should be, "to check Sadie up."

The Court: Well, if it is just that character of corrections, it is apparent and you needn't go into that.

A. They are all that.

The Court: Well, we will not take further time on that.

Mr. Stuart: All right, take the witness.

Cross Examination by Mr. Pinson.

Q. Mr. Hanford, you have made a careful perusal of your testimony given on Friday and Saturday, have you not?

A. Not a careful perusal.

Q. Are you able to say at this time that there are no matters that you desire to change in the substance of that evidence, except those changes which you have suggested this morning?

A. Why, no, Mr. Pinson, I have read my testimony over in part and I found those one or two mistakes, one which Mr. Long called my attention, and then I started to read my testimony through and I made corrections for typographical errors but I think that aside from those corrections that I made, that is all the errors that I found.

Q. Will you during the noon hour make further examination and be prepared to make the further corrections that you desire immediately after the recess?

A. I don't think it is necessary.

The Court: We will now assume that the transcript as now corrected, is correct.

Mr. Pinson: Yes, sir.

Q. Mr. Hanford, you first met Minnie Atkins, I believe you say, at Fort Lawton, near Seattle, in the summer of 1914, or Minnie Folk? A. Yes, sir.

Q. Had you known Captain MacNab prior to that time?

A. I had.

Q. For how long?

A. Oh, I can't say; I had known him for some time. I met him when he first came to Seattle with the Fourteenth Infantry, whenever that was.

Q. Had you known Captain, or Lieutenant McCombs prior to that time?

A. Yes, I met him when he first came to Seattle.

Q. Now, are you familiar with the testimony of Minnie Folk in all of her various statements, including the one at Seattle, the one at Tulsa, the different affidavits and statements that she has made and the testimony at the receivership heraing, and her testimony in the depositions taken before Mr. Penick?

A. Why, Mr. Pinson, I can't say that I remember her testimony.

Q. But you heard each one of those particular statements and are familiar, were familiar at the time with the contents of those depositions? A. Yes.

Q. How many written——

A. Except the testimony that she gave at Tulsa. I was out of the room during a large part of her testimony there.

Q. Who examined her there?

A. Mr. Rice, and Mr. *B*iggs of the Gypsy Oil Company.

Q. Well, you read her testimony afterwards, didn't you, after it was reduced to writing?

A. I won't say that I have read it, Mr. Pinson, I don't remember of having read it.

Q. You don't remember that you ever read it. Did you ever talk to her before she gave that deposition at Tulsa?

A. I hadn't talked to her about her testimony; at that time Minnie believe- I was the cause of her not receiving her five thousand dollars.

Q. You and she had some little disagreement about that?

A. Yes, and I told her that I had agreed to have the money held up first until she was identified, but the*m* after that it was held up by the Gem people and I didn't tell her that it was her fault; she believe- that it was my fault and I let her believe that and I think that she still believe- it until this day.

Q. But you finally made up with her about that little disagreement, didn't you? A. Yes.

Q. You and she became friendly again?

A. Became friendly, yes.

Q. Now, before the Tulsa deposition was taken, you were together at a notary's office and she made a complete statement at that time, didn't she?

Q. Yes, they—Mr. Rice questioned her and her statements were taken down in shorthand.

Q. You saw that statement?

A. I never read that statement.

Q. You heard it made? A. No.

Q. You didn't?

A. No. Minnie, during the giving of that statement, whenever they got on subjects that she didn't want to discuss, would break down and cry and say they were disgracing her, and she didn't want all that stuff taken down so people would know it and she objected to my hearing it, so I left the room and waited out in the hall.

Q. Then, how was it determined that she should go on and give her deposition?

A. Why, she was brought down for that purpose, Mr. Pinson.

Q. But the statement so taken, was it not for the purpose of determining of whether her deposition should be taken at that time?

A. The statement was given for the purpose of getting her testimony, finding out what she knew and what she didn't know.

Q. And ascertaining whether or not it could be made to correspond with testimony which you had received outside of Minnie, isn't that true?

A. Well, it was perhaps to serve as a check on testimony.

Q. Well, isn't that true, Mr. Hanford, that you asked for the statement from Minnie, in order to find out whether she would testify according to the testimony you had already received?

A. Well, Mr. Pinson, that arrangement was entirely Mr. Rice's, and I had nothing to do with it. She came down to give her testimony and Mr. Rice had always insisted that in interviewing every witness that a court reporter be employed——

Q. Well, I understand, it is immaterial to go into that, Mr. Hanford. Before you reached Kansas City on that trip, Minnie had disclosed to you on the train that you were on the right track and that she would tell the story as you had learned it, didn't you?

A. That is what she told me but I knew that from her admissions. She remembered certain people, names that I mentioned to her, but she told me on the train on the way down, that we were on the right track, and had correct information as to her past.

Q. Now, did she tell any of the facts, or did she just intimate that you were on the right track?

A. No, she wouldn't tell me anything further than that we were on the right track and I wanted to question her and she said she would tell her story when she got on the stand; that she wanted to be put on the witness stand and tell her story there.

Q. And she told you that she would tell the facts at Tulsa?

A. Yes—at Leavenworth.

Q. At Leavenworth? A. Yes.

Q. Now, let's go back a moment to that statement that was taken before the notary public in Kansas City. Who took charge of that statement?

A. You mean who got the thing from the stenographer?

Q. Yes.

Q. Well, I don't know. I suppose that Rice & Lyons did.

Q. Did you ever see it?

A. I have never read it, Mr. Pinson, I don't know what the cover looks like. I suppose I have seen it amongst their files, must have seen it, but I don't——

Q. Do you know *whether* it is now?

A. No, I haven't seen it for a long time; it may be in the files.

Q. Do you think it can be produced?

A. I think so if it is there.

Q. Will you produce it?

A. If it is there I will produce it.

Q. Now, that statement is not the one you represented as having been destroyed because it was false, is it?

A. No. No, that was an affidavit, Mr. Pinson.

Q. Made at Fort Logan, wasn't it?

A. Made at Minnie's house, yes. There were two or three affidavits.

The Court: It is clear to me that the affidavit destroyed was the one taken at Seattle.

Mr. Pinson: Yes, sir, I wanted to distinguish between the two statements.

Q. Now, when was that affidavit taken at Seattle destroyed?

A. Well, that was destroyed some time ago, Mr. Pinson. I have destroyed bushels of papers and I don't know when that particular one was destroyed.

Q. Was it destroyed before or after the Sapulpa deposition? A. Oh, it was long after.

Q. Long after the Sapulpa deposition?

A. It must have been, I didn't have it at that time and it was long after that.

Q. Now, at the taking of the Sapulpa deposition, Minnie was questioned about that statement, was she not?

A. About that affidavit?

Q. Yes?

A. I don't think she was questioned about that affidavit, I think she was questioned along the same line.

Q. Now, to refresh your memory, Mr. Hanford, didn't you, upon a question being propounded to her as to the contents of that affidavit, object on the ground that it was a privileged communication, a matter that concerned only you and your client Minnie Folk?

A. I don't remember any question regarding the affidavit. I remember that she was asked as to the father of the child and I objected on the ground that that was privileged and she wasn't compelled to answer, but I don't think that was a question in regard to the affidavit.

Q. Will you ascertain whether or not that is true from your transcript of the evidence at Sapulpa, so you can advise us this afternoon?

A. If you have the transcript there, Mr. Pinson, I would be glad to tell you right now.

Q. I refer—— Well, these pages are not numbered properly—there is the page (handing transcript to witness)?

A. Yes, Mr. Pinson, it appears from the transcript she was asked if she had signed a written statement and I objected on the ground.

Q. Now, that was the written statement you had in mind when you objected, wasn't it? A. Yes.

Q. And it was in your possession at that time?

A. Not in my possession, no.

Q. It was available?

A. Yes, I suppose it was in Rice & Lyons possession, whether they had it there or not I don't know.

Q. Now, you have consulted with Mr. Long before you testified and since in regard to your testimony?

A. Not before, but last night I consulted with Mr. Long.

Q. You were present in the court room when Mr. Long gave his evidence?

Q. Part of it, a large part I was absent.

Q. And a large part you were absent? A. Yes, sir.

Q. You heard his testimony in the Receivership hearing?

A. Yes, I think I heard his testimony.

Q. And you are familiar with all of the evidence in the Receivership hearing. are you not?

A. Oh, I don't remember it, I don't pretend to remember it

Q. Did you hear Captain MacNab's testimony when it was given in the deposition? A. Yes.

Q. You are familiar with Major Stafford's testimony?

A. You asked me if I am familiar; Mr. Pinson, I can't remember their testimony at this time; I heard it when it was given.

Q. And you have not read the evidence of these persons since it was given?

A. I have not—— Oh, yes, I have. I read it some time ago about the time the proceedings came up in Washington; I was engaged in making a digest of the testimony as it was transcribed and sent to me. And I think those first depositions, as fast as I got them before we became engaged in those proceedings—and I never had time to read any others. That was in August or September last year.

Q. Mr. Hanford, you have referred several times to the fact that you had memoranda concerning different phases of this case. Have you made at any time a complete written history of this case from which to refresh your memory?

A. No, nothing as complete except the brief.

Q. But of your connection with this case you have not made a complete written statement or story? A. No.

Q. From which you can refresh your memory?

A. No, never had time.

Q. When you reached the MacNab—reached Minnie's residence in response to the 'phone call from Captain MacNab, you found who at Minnie's house?

A. Well, I found Minnie there. Captain MacNab and myself and a little girl called Margie went down to Minnie's house.

Q. Now, what was Minnie's frame of mind at the time you reached there, Mr. Hanford?

A. Why, Minnie—— Well, I didn't know Minnie very well then and I can't describe what her frame of mind was. She was very quiet. She sat on the porch and didn't say much until Captain MacNab told her that I was a lawyer and was going to look out for her interest in the matter in making this lease.

Q. Now, Minnie had not known before that time that she was to have a lawyer, had she? A. I don't know.

Q. Well, you ascertained that fact while you were there, didn't you? A. No, sir.

Q. Whether Minnie had expressed any desire for an attorney?

A. No, I never ascertained that fact. I don't believe she did because she objected to having her interest looked out for in regard to making a lease. She said that she didn't want to make a lease; that she could get four thousand dollars in cash for the land and that was more money than she had ever had in her life.

Q. Well, briefly, Mr. Hanford, she didn't want any interference, she was perfectly satisfied?

A. Well, I didn't say she didn't want any interference in the matter, Mr. *Hanford;* what she wanted to do was to sell her land for four thousand dollars.

Q. Yes, sir, and she didn't want anybody to prevent it in any way, is that right?

A. Well, I don't know about that. That is what she wanted to do.

Q. It appeared then from the conversation that she had had an offer of four thousand dollars for this land?

A. Yes, she had had an offer of four thousand dollars.

Q. She considered it a bona fide offer for this land and she was elated over the prospect of having so much money. Now, what was the first thing she said about this negress to whom you referred?

A. I don't know the first thing that she said, Mr. Pinson, she didn't say very much. She said this negress had been bothering the life out of her and was going to drive her out of house and home and she wanted her kept away from there.

Q. Now, that is the particular person with whom she was to make this deal for four thousand dollars, wasn't it?

A. Somebody that this negro was to bring that afternoon was the one that was going to pay her the money.

Q. And you understood that this negro woman was connected with the transaction and that Minnie wanted to deal with them?

A. Yes, she was going to bring the person there that was going to pay the four thousand dollars.

Q. I see. Now, Mr. Hanford, when did Minnie first agree to your employment as an attorney?

A. Well, she agreed right then.

Q. Was an arrangement entered into there between you and Minnie as to your contract of employment and your fee?

A. None at all.

Q. What was the arrangement that was entered into there and between whom?

A. There was no arrangement made at that time, Mr. Pinson.

Q. Well, when was it?

A. The arrangement was made that night at Captain MacNab's office.

Q. Arrangement was made between whom?

A. The arrangement was made between Minnie, Captain MacNab and myself and Lieutenant McCombs and Mrs. McCombs.

Q. All of you were there?

A. We all discussed it and talked it over there and there was another woman, Mrs. Savage.

Q. And Margie was there? A. And little Margie.

Q. Now, what was that contract, oral or written?

A. The contract was—it became written on Monday, we entered into a full and complete trust agreement and contract and it became written at that time.

Q. Pardon me——

A. I want to state that the Saturday night before we made a memorandum trust agreement that I wrote out there on Captain MacNab's tyuewriter, and I don't know whether that included the compensation that I was to receive or not.

Q. Now, where is that memorandum trust agreement?

A. I don't know, Mr. Pinson, I think that was destroyed when we made it full and complete.

Q. Now, the final trust agreement is the instrument that was recorded, is it not?

A. I say that Captain MacNab has a copy of that. There were only two copies made, one was given to Captain MacNab and the other to Minnie.

Q. Is there any written memorandum which defines your services and fixes your fee? A. Yes.

Q. Where is that? A. That trust agreement does that.

Q. The one which was recorded?

A. Yes, I don't know whether the trust agreement has ever been recorded.

Q. But if that is the only thing, the only contract of employment you had with Minnie is embodied in that trust agreement wherever it is?

A. No, I made a contract after I came back from Seattle—— Not a contract, but I gave her a stipulation to do all things necessary as her attorney in quieting title to this land, and I agreed in that contract that I was to get ten per cent——

Q. If the contract was written we would like to have it, that is why I am asking you?

A. Well, I haven't it, Mr. Pinson.

Q. Is it possible to obtain a copy of that agreement or the original?

A. If Minnie has a copy it is possible.

Q. Well, where is the copy which you had, you had two didn't you?

A. The copy that I had is in this safe deposit box in Seattle.

Q. Mr. Hanford, was the agreement you referred to separate from the trust deed which was executed?

A. Yes, it was made after I came back from Oklahoma at the time Captain MacNab was released by Minnie as her trustee.

Q. Well, now, let's go back to the time the trust deed was given; that was just a trust deed, a conveyance to Captain MacNab?

A. No, Minnie made a deed to Captain MacNab and I remember the only form I could lay my hands on was a bargain and sale form. And she gave him that deed and I had him execute a declaration of trust and agreement.

Q. Well, now, did that contain any stipulation as to the terms of your employment and compensation? A. Yes, sir.

Q. And that is the one you refer to? A. Yes, sir.

Q. That was executed long before you came to Oklahoma?

A. Yes, but you asked me if in addition to that there was any contract, and I stated to you that I had given Minnie a stipulation in which I agreed to pay her——

The Court: That stipulation is in the record.

Q. Then, there are two papers?

A. A second supplements the first and is simply an agreement to pay back the two thousand dollars that she advanced to cover my expenses in connection with this litigation. If my compensation should ever go above ten thousand dollars.

Q. Mr. Hanford, will you make an effort to obtain for us either a copy or the original of either of those two instruments?

A. Yes, Mr. Pinson, if Minnie has a copy here I can get it, otherwise I couldn't get it without going to Seattle.

Q. Now, your understanding with Captain MacNab as to the trust ageement was all completed before you consulted Minnie about it, isn't that true?

A. It was agreed that he would assume the trust but as to any terms and conditions nothing was agreed upon until that evening at Captain MacNab's office.

Q. You had a general understanding with Captain MacNab as to what should be done before you consulted Minnie?

A. Yes.

Q. Now, at the time you went there and Minnie was excited and elated about the prospective sale of the land, you told her that you would take steps to prevent her selling the land, didn't you?

A. She was excited and elated she was determined.

Q. Well, at the time she was determined, did you tell her you would take steps?

A. No, we tried to jolly her out of it, and talked about their—— Yes, we told her in a joking way that we would load her on an express wagon and send her away to Canada where these people couldn't get at her, but that was only in a joking way.

Q. Mr. Hanford, you testified about that in the Receivership hearing, did you not? A. Yes, sir.

Q. And I will ask you if you didn't testify in substance that you told Minnie at the time that you would take steps to prevent her selling that land, without explaining that it was in a jovial way? A. I think so, Mr. Pinson.

Q. What steps did you contemplate taking besides the trust agreement?

A. We suggested one scheme that I do not remember exactly, but it was in the nature of a trust arrangement, and that was to satisfy Minnie that she would receive at least four thousand dollars for the land, by putting up four thousand dollars in escrow to guarantee her that amount; that if through our investigation she should lose the four thousand dollars that we would make it good to her.

Q. You finally did agree, tell her you would guarantee her forty-five hundred dollars and then five thousand dollars, you and Captain MacNab?

A. Yes, after talking to Mr. Long at the station and his telling us that it was oil land, and that it was liable to turn out to be very valuable, we thought we could safely do that and we told her that we would give her instead of forty-five hundred dollars, we would guarantee to get five thousand dollars for her lease.

Q. Now, you had never seen Mr. Long before that day?

A. Never had.

Q. You hadn't received any answer to your telegrams with reference to him, had you? A. Yes.

Q. At the time you made these statements to Minnie?

A. Oh, I don't think the answers had come, but we did receive answers.

Q. Now, you mean to tell the Court you were willing on Mr. Long's statement personally to guarantee Minnie that she should receive five thousand dollars for this lease?

A. Well, we did do it.

Q. You did do it? A. Yes, sir.

Q. In good faith? A. In good faith.

Q. Now, you had met Mr. Long down there and he had told you, hadn't he that this was merely prospective oil land and not oil land, isn't that true?

A. Yes, but he always stated to us that we had done exactly right in telling Minnie she shouldn't sell the land. He told us that he wouldn't even want to take a deed to it; that he wanted a lease, and that we under no consideration should sell it at any price.

Q. Well, you were very much impressed with Mr. Long and believed just what he said?

A. Yes, he looked to be just what Captain MacNab had told me, a very straightforward man.

Q. And so you were willing to rely upon his statement and to personally guarantee Minnie five thousand dollars, is that true? A. Yes.

Q. You had had some experience before that with oil land, so that you understood about fluctuating value?

A. Well, I understand so much more now. I thought all oil lands were absolutely of very great value.

Q. And you haven't had the experience you detailed in your testimony at the Receivership hearing?

A. I had had only experience in regard to making oil leases and things of that kind, and drawing up articles of incorporation for oil companies; and some friends of mine had become very wealthy in Southern California in the oil lands, and Mr. Poe had been down in Oklahoma.

Q. And he had talked to you about it?

A. He had told me about oil matters down in Oklahoma.

Q. Did Mr. Long ever fix any price in his first conversation with you that this land would probably bring for a lease or deed? A. He did not.

Q. The only person who mentioned any probable value of that land at that time was Sadie James, wasn't it?

A. I didn't hear that. That was the only price that was mentioned.

Q. Well, Minnie told you about the four thousand dollars that she was going to get for the lease?

A. Yes, Mr. Long told us it was worth very much more.

Q. After you got to Tulsa and as you were coming on the train to Tulsa, Mr. Long told you it was probable that the low sand wouldn't touch this land but they hoped it would?

A. No, he told me it was probable that the Bartlesville sand would cut the south forty of the west eighty, and he made an outline, a little sketch and drew a line there showing me how he expected it to extend.

Q. He told you how far production was from this property at the time?

A. Yes, there was production south of it and they thought it might go up that far, but he also thought it might take a turn and follow the Wheeler sand and go up along the river.

Q. Mr. Hanford, assuming that we will not be able to get a copy of those contracts, what was the contract with reference to the amount of fee that was to be paid you by Minnie Atkins? I understand you have no objection to testifying about that?

A. No. I was to get ten per cent of the royalty.

Q. Was that all? A. That was all.

Q. Was any mention made of the expenses in connection with that contract? A. None at all.

Q. It was not contemplated at that time that any expenses would be incurred, was it?

A. Yes, it was contemplated that expenses would be incurred, but we also contemplated that there would be an income right away from the royalty on this land, and that I would then be required to pay my expenses out of what I was to receive.

Q. Out of your fee? A. Yes.

Q. Yes, have you ever been employed by Mr. Page as attorney in this case or in any capacity?

A. No, I have never been employed by Mr. Page as an attorney.

Mr. Stuart: Your Honor, I don't care much about that, but I think that this is utterly immaterial.

The Court: Well, I am going into this thing to the limit, you may go on.

A. I will say I have attempted at times to assist Mr. Page in matters of advice and things like that, but just purely because I was available, but I was never available to do any services for him because I was so busy I couldn't do the things he asked me to do.

Q. Well, now, have your expenses and fees been paid by Mr. Page? A. I will tell you about that.

Q. Well, just answer yes or no and then make your explanation.

A. Mr. Page has advanced me my expenses that were of a personal nature, to a limited extent, after Rice & Lyons became disconnected with the suit. He has paid the expenses I was put to in connection with the suit. But I made an arrangement with him that during the pendency of the suit, while I was engaged on this and had no income, that he would advance me a hundred and twenty-five dollars a month and he has been doing that.

Q. Now, Mr. Page, of course, has paid all of the expenses of the suit and all the expenses of investigation and of the depositions?

A. All of those things have been taken care of by him.

Q. Have you any understanding with Mr. Page about a fee in the event Minnie should lose this law suit?

A. I know nothing about the fee that Mr. Page is paying at all.

Q. No understanding between you and Mr. Page?

A. None at all. I will state, Mr. Pinson, and I would like to have the privilege of stating, that after I used up that two thousand dollars, or just before we used it up, I wrote Captain MacNab and told him that I was about to go broke; and I asked him to allow me to draw on him from time to time on the three thousand dollars that he holds. And I told him that I thought the two thousand dollars would be sufficient and that was not what the three thousand dollars was held by him, but it became necessary if I was to continue my connection with the suit; and he wrote back and told me that he thought it over very carefully, but if that three thousand dollars was consumed, and anything came up in regard to Minnie's interest that was not covered by the agreement with Mr. Page to pay all expenses of this suit, we would have nothing to work on. I wrote back and told him that that was right, that I would have to go in the practice down here and do the best I could. And then I went flat broke. I was busy in taking up the appeal and the receivership. And Mr. Rice helped me borrow two hundred and fifty dollars at the First National Bank which I still owe. I paid up a small amount but my note is there and over due now. Then, I used that up and went broke again. Then, Rice & Lyons made an agreement that they would take me in there and let me help out in their office; and I went in there and wrote briefs for them. I briefed a large number of cases, and Rice & Lyons both went away and I ran their office for five or six months and they paid me a hundred dollars a month. Then, when they severed their connection with the case and discontinued as Mr. Page's attorney, then I was out and I was broke and in debt and I went to Mr. Page and told him I had to stay there and he agreed to advance me a hundred and twenty-five dollars a month.

Q. Now, at the time you and Mr. Long started away from Seattle, you had understood that he was to pay your expenses and that you were to repay them in the event you didn't make the lease to him or his company?

A. Yes, I went better than that agreement, although I made the lease to them, I insisted that we should pay back the money I had cost them and I paid back out of that five thousand dollars, four hundred dollars; and that is why Captain MacNab holds twenty-eight hundred instead of three thousand dollars, because it took two hundred dollars out of that three thousand dollars and I took two hundred dollars out of the two thousand dollars I got.

Q. You had that understanding before you left Seattle?

A. That I would pay back the money if I didn't make the lease to them.

Q. Was the incident ever explained to you about why you had to slip around the station to the train in Seattle?

A. Yes, Mr. Long told me after we got on the train that there was somebody there from Oklahoma that he didn't want to see me.

Q. He didn't tell you who that was, did he?

A. No, he didn't tell me who it was. I know though now.

Q. That of course aroused your suspicion, did it not, about that trip?

A. No, there had been so many strange things happening out there at the house and between Sadie James and these detectives and Mr. Long. And when I was talking to Mr.

Long Sunday morning down at the Ranier Grand Hotel, somebody called him up on the telephone, and I knew he was there alone, and that was very strange, so I was used to strange things at the time.

Q. The whole case had a peculiar atmosphere from the first time you were connected with it? A. Yes, it did.

Q. When Sadie came to the house that morning there were some detectives following her?

A. Yes, two detectives in an automobile, they were following her open.

Q. And she was excited about it when she went in the house? A. She was mad.

Q. And she told you those detectives had been trailing her all over town? A. Yes, sir.

Q. You made an effort to find who those detectives were employed by did you not?

A. Well, we didn't make an effort. We asked them, Captain MacNab and I.

Q. You did ask the detectives who they were employed by? A. Yes.

Q. And they refused to tell you?

A. They said they couldn't tell us.

Q. The next person who met you was a man named Frank Long? A. Yes.

Q. Sadie, you knew was from Oklahoma?

A. She said she was.

Q. Frank Long was from Oklahoma? A. Yes.

Q. Did it occur to you that those detectives were Frank Long's detectives?

A. Yes, I believe he told us that he knew about those detectives.

Q. Yes, so you understood that Frank had detectives following Sadie, didn't you?

A. Yes. Just when I learned that I don't know, but he did tell us that he had them following Sadie.

Q. Now, Mr. Hanford, you understood there, of course, that Sadie was probably representing some other person, didn't you?

A. No, Sadie told us she was representing the Dawes Commission and Government, and we didn't believe that she was representing anybody. The first I knew of who Sadie was representing was when I think I received a telegram from Captain MacNab about Bartlett.

Q. Well, you assumed that Sadie was there on business, didn't you? A. We assumed that she was.

Q. To get that land?

A. We thought she was just a thief.

Q. That was your understanding. Now, did you make any effort to find out who she represented at that time, did you ask her?

A. No, I may have asked Mr. Long. I suppose I made an effort.

Q. To find out who Sadie represented?

A. Yes, but I don't recollect of it.

Q. But you know she was offering four thousand dollars for this land?

A. She said somebody was coming there who was going to pay four thousand dollars for the land. I knew *her* wasn't offering it.

Q. And of course, you knew Minnie was a married woman living with her husband and that he was there to protect her against any theft?

A. Well, he wasn't there, he was in Spokane, but I knew that.

Whereupon, Court recessed until two o'clock P. M.

And thereafter, and at 2 o'clock P. M., court convened pursuant to adjournment and further proceedings herein were had as follows:

> The Court: Do you now desire to cross examine those witnesses?
>
> Mr. Linebaugh: I would like to suggest at this time that we desire to cross examine them.
>
> The Court: Let them be called; Mr. Wendorff, Mr. Meyers, and Mr. Taylor. Just let Judge Wendorff come in now.

And thereupon, J. H. WENDORFF being recalled, further testified as follows:

Cross Examination by Mr. Linebaugh.

Q. What is your name? A. J. H. Wendorff.

Q. You are the Judge Wendorff, you gave testimony in this case this morning? A. Yes, sir.

Q. You have known Dennis Jones for a number of years?

A. Yes, sir.

Q. During all of which time he has lived at Leavenworth, Kansas? A. Yes, sir.

Q. During that time he has been quite active, has he not, in Leavenworth?

A. Well, I would say yes; I don't know in what sense you mean active.

Q. Active for a negro citizen and lawyer? A. Yes, sir.

Q. And he formerly was on the police force? A. Yes, sir.

Q. Has been active in politics in Leavenworth?

A. To some extent, yes, sir.

Q. He is [] *shrew,* clever, negro lawyer, in your judgment? A. Well, he is a pretty fair, good lawyer.

Q. Yes? A. Yes, sir.

Q. Judge, I assume you have never heard anything about his connection with the marriage of a negro woman named Sadie James to a negro soldier name Lane? A. No, sir.

Q. I assume you have never heard anything about a divorce suit pending in the court of proper jurisdiction at Leavenworth, where he represented Sadie James?

A. When was it?

Q. Sadie Lane? A. When was it?

Q. Well, I don't recall the date. Do you recall the incident?

A. Well, I can't recall it now; I might know of it if you would tell me the case and date.

Q. In 1913 or '14.

A. I was on the bench up there, I expect I ought to know something about, although I can't recall it to mind just now.

Q. Now, do you recall his having appeared in your court representing a negro woman named Sadie Lane in a divorce where the adverse party was an old negro soldier who was an inmate of the Soldiers' Home?

A. I can't call it to mind. There are a good many cases there and I can't call it to mind just now.

Q. I assume also, Judge, that you have not heard anything about his activity under his employment first with the Bartlett interests—with the Gypsy interests, Gypsy Oil Company's interests, and subsequently with the Page oil interests in connection with the Tommy Atkins allotment matter?

A. Well, I knew he was employed in the case but just who he represented or whose side he was for, I didn't know.

Q. You haven't heard the purpose of his employment nor what he was expected to do, or did do?

A. No, there are a number of Leavenworth lawyers employed and I don't know which side they represented or who they were for, or what they were expected to do, or anything.

Q. You don't know or never have heard anything about the detail of his activity with either the Gypsy interest or the Page interest? A. No, sir, not in detail, no, sir.

Redirect Examination by Mr. Stuart.

Q. Judge, you know him as well now as you did a year ago? A. Yes, sir, I do.

Q. And knew him as well a year ago as five years ago? A. Yes, sir.

Q. And your testimony is that during all of that time, his reputation was good? A. Yes, sir, very good.

Q. If he had represented the sensational divorce case in favor *oa* negro woman against an old soldier, you probably would remember it?

A. If there was anything very sensational about it, I think I would.

Q. You don't remember it?

A. I don't recall it now, no, sir.

Recross Examination by Mr. Linebaugh.

Q. You don't know whether that would have been in your court or not.

A. If it was 1913, I was on the bench; I had been on the bench since 1911.

Q. You can't recall it now?

A. I don't remember. If you tell me something about it, I might remember it. There are a good many cases against the members of the Home—it is a Military Home, there, a National branch, and we have a good many cases in which soldiers are parties, one side or the other.

Q. The details of these cases you do not recall?

A. I do not recall this one; some of them I do.

Q. If this was not a contest in court and one of the parties did not appear and it was not contested in court, probably you wouldn't recall it? A. That might be.

Q. You don't now recall any particular suit that he was interested in that year or the year before or the year after, do you? A. Who, Mr. Jones?

Q. Yes.

A. Oh, he has been involved in a good many suits, I can't tell you exact time.

Q. You don't recall the date of the case or the year of the trial?

A. Of that particular case, no, I do not.

Q. Or any other particular case that he appeared in, do you? A. I will think a few minutes and see.

The Court: Well, that detail as to the trial—I believe you stated he had been engaged in a number of cases?

A. Oh, yes, he has had quite a number of divorce cases; he is an active practitioner, Judge; involving members of the Home and some not members.

(Witness dismissed.)

And thereupon, STANCE MEYERS was recalled for cross examination and testified as follows:

Cross Examination by Mr. Linebaugh.

Q. You are the identical person who gave testimony in this case this morning? A. Yes, sir.

Q. I believe you said you were at present Treasurer of the Board of *Comptrol* of Kansas?

A. Yes, sir, member and Treasurer of the Board.

Q. You are a white man? A. Yes, sir.

Q. I believe you said you had known Dennis Jones for a long number of years? A. Yes, sir.

Q. He is a negro lawyer? A. Yes, sir.

Q. How many years have you known him?

A. Oh, I should judge twenty-five or thirty years.

Q. During that time he has lived in Leavenworth?

A. Yes, sir.

Q. During a portion of that time he was on the police force, was he?

A. Yes, sir, I think at one time he was a city detective.

Q. And did detective work? A. Yes, sir.

Q. He has been engaged in the practice of law for sometime? A. Yes, sir.

Q. As a colored lawyer, he is known as a clever, shrewd lawyer, is he? A. Yes, sir.

Q. I assume that you have never heard anything about his connection, if he had any, with the marriage of a negro woman, named Sadie James, to an old negro soldier who was an inmate of the Soldiers' Home? A. No, sir.

Q. You heard nothing about it one way or another?

A. No, sir.

Q. Have you ever heard anything about the detail of his activity or connection with the Gypsy Oil interest or the Page Oil interest with reference to the Tommy Atkins allotment?

A. No, sir.

Mr. Linebaugh: I believe that is all.

Redirect Examination by Mr. Stuart.

Q. The colored population of Leavenworth is about four or five thousand?

A. Well, I hardly think it is that large.
Q. Three or four?
A. Probably three thousand I should judge.
Q. Three thousand? A. Yes, sir, in that neighborhood.

Recross Examination by Mr. Linebaugh.

Q. They are not your associates? A. No, sir.
Q. There is one other question I wanted to ask you. Dennis has been rather active in business affairs up there, that is politically, hasn't he? A. Yes.

(Witness excused.)

And thereupon, O. B. TAYLOR, Jr., was recalled for cross examination and testified as follows:

Cross Examination by Mr. Linebaugh.

Q. What are your initials? A. O. B.
Q. O. B. Taylor, Jr.? A. Yes, sir.
Q. You are the identical person who gave testimony this morning? A. Yes, sir.
Q. I believe you are cashier of what Bank at Leavenworth? A. First National.
Q. You are a white man? A. Yes, sir.
Q. You have lived in Leavenworth a great number of years? A. Yes, sir.
Q. Said you have known Dennis Jones as far back as you can remember? A. Yes, sir.
Q. During that time he served on the police force?
A. Yes, sir.
Q. Did some detective work?
A. Well, I don't know. He was on the police force and connected with the police department.
Q. He is a negro man? A. Yes, sir.
Q. A lawyer now? A. Yes, sir.
Q. And has been practicing law for a number of years?
A. A number of years.
Q. As colored lawyers go he is a shrewd, clever lawyer, that is the way he is looked upon is it? A. Yes, sir.
Q. Mr. Taylor, I assume you never heard anything about his having any connection, if he did have, with the marriage of an old negro soldier, inmate of the soldier's home, to a negro woman who was at that time married?
A. I have no recollection of it, no knowledge of it.
Q. Never heard of that? A. Not that I remember.
Q. To refresh your memory, you have heard about that, haven't you? A. I don't recall it, no, sir.

Q. Didn't that old negro man have a deposit in your bank, and didn't Dennis Jones and Sadie James come to you at your bank for the purpose of drawing out that deposit?

A. I don't think so, I don't recall it if he did.

Q. That negro man's name was Lain, an old soldier, inmate of the Soldier's Home. To refresh your memory, there was some difference of opinion expressed between you and them as to the amount of deposit, they contending that the deposit was two hundred and seventy dollars, and you stating that it was only a hundred and eighty-five?

A. I don't recall it, if I had it with them I don't remember it.

Q. That was in 1913, and this negro woman who was a small negro woman got very much excited in your bank and said some rather sharp words with reference to the amount of the deposit, claiming to have the deposit slip or bankbook that this old soldier had given her, showing the amount of deposit in your bank to have been two hundred and seventy dollars?

A. No, I don't think I handled that if they had that.

Q. Do you remember an account with a negro soldier named Lain, who was an inmate of the Soldier's Home, in your bank? A. No, sir.

Q. Do you have a recollection of that account being closed and how it was closed and why it was closed? A. No, sir.

Q. Do you know anything, or have you heard anything about Dennis Jones' activity for the Page Oil interest or the Gypsy Oil interest with reference to the Tommy Atkins allotment in the Creek Nation?

A. Only that I saw his name was connected with it.

Q. Never heard anything about it in detail at all?

A. No, sir.

Q. Do you know what he was supposed to do, or what he did do? A. I don't know, no, sir.

Q. Mr. Taylor, did you ever hear that Dennis Jones had stated that he could prove by bankers, lawyers, doctors, and business men in Leavenworth that hell was an ice box?

A. Did I ever hear that he said that?

Q. Yes?

A. Well, I don't know just how to answer that; I heard that remark made by some one this morning in a joking way.

Q. This morning is the first time you ever heard that he said that?

A. That remark was made that they could prove hell was an ice box.

Q. Did you hear that he made that remark before you gave your testimony this morning? A. Yes.

Redirect Examination by Mr. Stuart.

Q. You didn't believe that Dennis had said it, did you?
A. No, sir, I didn't; didn't sound like Dennis at all.
Q. And Mr. Linebaugh asked you if he wasn't a shrewd, clever kind of lawyer, I will ask you if he wasn't regarded as an honest colored lawyer?

Mr. German: We object to that as leading.

The Court: Overruled.

Q. I will ask you if he wasn't regarded as an honest colored lawyer as well as a shrewd and clever lawyer?
A. Yes, sir.

Recross Examination by Mr. Linebaugh.

Q. Mr. Taylor, in giving your testimony are you expressing, and did you express this morning, your personal views of Dennis Jones, or were you seeking to express the views of him that you have heard other people express?
A. Well, my personal views.
Q. Then, your testimony was altogether—— You were expressing to Judge Stuart what you knew about him yourself?
A. What was the question from Judge Stuart this morning please?
Q. Don't you remember?
A. He asked me if he was considered an honest man.
Q. No, he asked you if you knew his general reputation for his truth and veracity in the community where he resided?
A. Well, he meant for me to answer what I knew myself.
Q. I don't want to argue with you. Were you answering it in giving your personal view? A. Yes, sir.
Q. And your answer was based upon your personal knowledge? A. Yes, sir.
Q. And that altogether? A. Well, yes.

Redirect Examination by Mr. Stuart.

Q. That is your personal view of it? A. Yes, sir.
Q. I also asked you if you know what the people thought about him generally? A. His reputation is good.
Q. Well, that you know what the people know about him, not what they said but what they thought about him, how he was considered in the community independent of your own view?
A. I think his reputation is good, considered so by the people.

Recross Examination by Mr. Linebaugh.

Q. You know where he does his banking business?

A. I do not.

Q. Who have you heard discuss [] being a truthful man?

A. My father.

Q. When? A. Oh, a number of years ago.

Q. Who else?

A. Oh, I don't know that I could recall anybody else.

Q. How many years ago was it that your father discussed it?

A. It might have been within the last ten years, I can't tell you.

Q. Well, was it within the last ten years?

A. Well, I don't know.

Q. What is your recollection?

A. Well, I think it was the last ten years, maybe fifteen, when he was connected in politics a little bit.

Q. Dennis has been active in politics, hasn't he?

A. He has some few years ago.

Q. And that is the only person you ever heard discuss the question as to whether he was a truthful man?

A. Well, last night on the sleeper I heard Judge Wendorff say he considered him a very honest man.

Q. And heard this other gentleman—what is his name?

A. Mr. Meyers?

Q. Yes. A. Well, he probably said so too.

Q. Anybody else?

A. No, we hadn't discussed it with anybody.

Q. Those two gentlemen, are the gentlemen who preceded you on the witness stand? A. Yes, sir.

Q. You don't know of anyone else who discussed it?

Q. I don't, no, sir.

(Witness dismissed.)

Mr. Linebaugh: If the court will pardon me just a minute, in view of this last witness' testimony, I would like to call Meyers back for just one question.

The Court: Call Mr. Meyers.

And thereupon, STANCE MEYERS, being recalled further testified as follows:

Recross Examination by Mr. Linebaugh.

Q. Mr. Meyers, one question I wanted to ask you that I failed to ask you. In the answers to the questions that you have—that have been asked you, were those answers based upon your personal opinion of Dennis, or otherwise?

A. My personal opinion of him.

Q. You were then expressing, altogether, your own personal views of this man Dennis Jones? A. Well, yes.

Redirect Examination by Mr. Stuart.

Q. I ask you if you knew how people considered him up there; do you know that? A. Yes, sir.

Q. How do people consider him in Kansas?

A. Well, good reputation, a man of good character.

Recross Examination by Mr. Linebaugh.

Q. Who did you ever hear discuss him?

A. Well, quite a number of people around Leavenworth there.

Q. Will you name them?

A. Well, I can name Mr. Thomas J. Brown who was the sheriff of our county.

Q. Now, they were discussing the fact that he was a truthful man, were they? A. Yes, sir.

Q. In what connection, now, did Mr. *Thompson* make that statement? A. How is that now?

Q. In what connection did Mr. Brown the sheriff make that statement?

A. Well, discussed it in a general way as to the character of Mr. Jones.

Q. How did the question arise?

A. Well, there in discussing his character at times.

Q. I understand, but why were you discussing his character?

A. Why, I suppose it came up during our time in the sheriff's office, Mr. Jones at times had cases in the court there, and he had a——

Q. Did you discuss whether or not he was a truthful man there? A. I think so, yes, sir.

Q. Now, anyone else that you know of?

A. Oh, I could—— Mr. Ed. Murphy.

Q. How did Mr. Ed Murphy—was he policeman Murphy?

A. No, sir.

Q. How did Mr. Murphy—how did that subject come up for discussion between you and Mr. Murphy?

A. Why, in talking about Mr. Jones on matters pertaining to matters in the court there, and in a business way.

Q. That was in the court work while you were sheriff?

A. Yes, sir.

Q. Now, is that Mr. Ed Murphy?

A. Mr. E. E. Murphy.

Q. Known as Mr. Ed Murphy is he? A. Yes, sir.

Q. He is one of the witnesses who has testified in this case by deposition?

A. Well, I don't know as to that.

Q. Do you know of any other E. E. Murphy in Leavenworth? A. No, sir.

Redirect Examination by Mr. Stuart.

Q. This man Murphy of whom you speak, is one of the general managers of the Woodmen of the World and America, isn't he? A. Yes, sir.

Q. Gets about seventeen thousand dollars a year salary, doesn't he?

A. Well, I don't know what his salary is; it is very large.

(Witness dismissed.)

Mr. Linebaugh: May we recall Mr. Taylor?

The Court: Call Mr. Taylor.

And thereupon, O. B. TAYLOR, Jr., being recalled further testified as follows:

Recross Examination by Mr. Linebaugh.

Q. Mr. Taylor, is Dennis Jones doing any business at your bank at this time? A. No, sir.

Q. Why, did you decline to state whether he was or not when you were off the witness stand?

A. Well, we never tell anybody who does business with us unless there is some special reason.

Q. Someone had told you not to?

A. I was stopped and they asked me whether Dennis Jones does any business with me and I said what is that for, do you want to know it for the Court or——

The Court: I think he was interrogated on the witness stand he testified that he did not. You may stand aside. The whole matter has been covered already.

Witness dismissed.

And thereupon E. C. HANFORD, being recalled, further recalled, further testified as follows:

Cross Examination by Mr. Pinson.

Q. Mr. Hanford, during your testimony this morning, you were requested to ascertain whether you could find certain documents; did you make search for those, make an effort to find those during the noon hour?

A. I only remembered one, Mr. Pinson; I only looked for one.

Q. What was that one?

A. That was the interrogations of Minnie by Mr. Rice at Kansas City.

Q. Did you find it? A. Yes.

Q. Will you produce it, please?

(Witness hands file of paper to attorney).

Mr. Stuart: Now, your Honor, I want to serve notice on the gentleman now, I don't want to appear to keep any of this evidence out, but all these communications here between attorney and client, I shall object to every statement between Minnie and her attorneys. I do it on principle. I have never seen these at all. I objct to every communication.

Mr. Pinson: I would like to make just one suggestion: it is true that these statements passing from client to attorney are privileged communications, but where an attorney himself is on the witness stand take, takes advantage of his client's communication to him, and testifies to that in order to sustain good faith of himself and his associates——

The Court: I will tell you gentlemen: In this case I am inclined to be very liberal and not to regard with any degree of consideration those matters of privilege, which in other cases control, and I [] disposed in this case, so far as transactions and statements made by Minnie Atkins to Mr. Hanford are concerned, to permit them to go into the record.

Mr. Stuart: Alright, your Honor, we will except to that, but of course we are not going to agree, and continue to except, that their entire private files be put in this case.

The Court: I am not prepared to say that they are all going in. If counsel exhibits what the Court seems to consider will encumber the record——

Mr. Pinson: A portion of the files have already been introduced and we may consider it material to ask as to those.

The Court: It will be unnecessary in my judgment to inject into the record anything that Minnie Atkins may have said to Mr. Hanford that does not pertain to the matters here. I shall depend upon you gentlemen to confine that.

Mr. Hanford: Your Honor, may I leave the witness stand to add my objection as Minnie's attorney? I have not read this and don't know what is in there, and I have not undertaken to testify what was in it. I object to furnishing counsel our private files and communications.

The Court: You may be noted as entering the same objections *are* Judge Stuart to the cross examination, the same objection, the same ruling on the objection and your exception noted.

Q. Mr. Hanford, you testified this morning that there were probably some copies of your contract of employment; did you make an effort to locate those? Did you find those or make an effort to?

A. Mr. Pinson, I didn't make an effort to find those because I haven't even a copy of the contract—of the trust agreement that was drawn at that time. I have it in Seattle but am not able to get it.

Judge Stuart: Your Honor, I am going to object to that, too. It is utterly immaterial what his contract was with Minnie. Whatever contract he had with Page, I don't object to. Minnie is not charged with fabricating any lawsuit here.

The Court: The only bearing it occurs to me that this may have, this line of cross examination, on this case, would be in determining the interest of Mr. Hanford as a witness in this case, and probably determining his good faith as a party charged with having fabricated this case.

Mr. Pinson: Why, if Your Honor, please, he is a defendant, and his interest in the lawsuit is one of the things to be determined by the court.

The Court: Now, he has testified in regard to his contract with Minnie Atkins; he made statements as to what portion was written and what portion was oral. If he is able to produce that contract, he may say so.

The Court: Is that contract in writing?

A. There is a contract in writing, Your Honor, and I would be very glad to produce it, but I am sure that there is no copy in Oklahoma.

The Court: Is that the one that you referred to as being in the safe deposit box?

A. Yes, Your Honor, all those files, those papers relating to my fee and that trust agreement are in the safe deposit box in Seattle. I have never made any effort to get them out.

The Court: You stated I believe that Minnie might have a copy of one of these papers?

A. Yes, Your Honor, I thought she might have, but I didn't ask her about it because I forgot it; I don't believe it would be any use because I don't believe she has it.

The Court: Well, we will not go into that any further.

Q. Your statement with reference to the payment made to Minnie and Captain MacNab is that Captain MacNab received from you two thousand dollars or three thousand dollars out of that five thousand dollar check?

A. I don't remember the exact amount, Mr. Pinson, but it was about twenty-eight hundred dollars, probably twenty-eight hundred and something.

Q. You mean to say that he was paid three thousand dollars and then he paid out two hundred dollars for expenses; is that what you want the court to believe?

A. Yes, that is the arrangement, first to take about four hundred dollars that I paid back to the Gem Oil Company, and then gave him a check for three thousand dollars less one-half.

Q. I refer you to page eighty-four of the transcript of deposition before Mr. Penick, and ask you to refresh your memory from Captain MacNab's statement and then state whether it is true that Captain MacNab received only two thousand dollars and that you received three thousand dollars from the first check?

A. That may be correct, Mr. Pinson.

Q. Well, is it correct, Mr. Hanford?

A. I guess it is.

Q. Then, you mean now to say that Captain MacNab received two thousand dollars and you three thousand dollars out of the first five thousand dollar check?

A. Well, I don't know whether Captain MacNab is right or I am right; but he has the money in the bank so he knows better than I do, so I will say that it is correct.

Q. Now, let's follow those checks just a minute. There was two checks given to you at first, weren't there? A. Yes.

Q. Both made payable to you?

A. Both made payable to me.

Q. Five thousand dollars each?

A. Five thousand dollars each.

Q. Now, one check was dated ahead about thirty or sixty days, wasn't it?

A. No, it was dated at the same time as the others.

Q. But made payable later?

A. But they wrote across the face of it not payable or cashable until about July 30th.

Q. Now, let's follow that check. That was immediately payable, when was it cashed?

A. It was cashed after I got back to Seattle.

Q. Who cashed it? A. I cashed it.

Q. Who endorsed it? A. I did, I endorsed both.

Q. What did you do with that first five thousand dollars?

A. I put it in my bank and gave Captain MacNab a check on my account.

Q. For two thousand dollars. Now, Mr. Hanford, did Minnie then, to your knowledge, receive any of that first five thousand dollar check?

A. I don't think she received a cent.

Q. Hasn't yet, has she? A. No.

Q. The second check stayed in the bank for quite a long while awaiting the period when it was due, is that correct?

A. Yes, sir.

Q. When it was due, you sent it down to Tulsa and it was returned unpaid, is that correct?

A. No, when it was due I couldn't get it. I left Seattle before July 30th and it was locked up in the safe deposit box and the time lock on, on Saturday afternoon, and I couldn't get it. It wasn't sent down until I got back to Seattle. Later on then it was unpaid.

Q. Then, when was the first time that Minnie received any money as a part of that consideration for this lease?

A. Well, she received five hundred dollars, Mr. Pinson, as an advance on when the check should be paid and I don't remember when she received that.

Q. Was that paid by a check?

A. Well, I don't recollect how that was paid. In fact, I had forgotten about it until this morning when I saw a reference to that in one of those letters or telegrams.

Q. Is there any record whereby we can ascertain definitely just what date that money was paid, that five hundred dollars? A. I don't know. That might be.

Q. Were you present when it was paid?

A. Some banking record or something like that.

Q. Were you present when it was paid? A. To her?

Q. Yes?

A. No, I don't remember of seeing her get that money.

I think—— No, I don't know when she got that. I was present and gave her the forty-five hundred dollar balance.

Q. At a later date? A. Yes, at a later date.

Q. Had she received any money up to the time she went to testify at Tulsa?

A. She had received it all at that time. She got the forty-five hundred dollars before that; five hundred dollars in a checking account and she asked to have the balance made in a certificate of deposit, something that she could carry back to Seattle herself.

Q. Then, she got the whole five thousand dollars at once?

A. She got the whole five thousand.

Q. But it was simply divided into a cash payment of five hundred and the forty-five hundred certificate of deposit?

A. Yes, sir.

Q. Now, did she receive that after she had made the statement in Kansas City? A. Yes.

Q. That is when she got it?

A. She got it when she was sick in the hospital in Leavenworth.

Q. At Leavenworth? A. Yes.

Q. She didn't get sick until she had made this statement, is that true? A. Yes.

Q. After she made her statement. Had she stayed in Leavenworth during all that time? A. Yes.

Q. Now, let's go back to the time when Sadie came in again just for a minute. Pardon me just a moment. The statement that was made in Kansas City bears date September 29th, that is correct, isn't it?

A. I don't remember the date, I think that is right. Because I think I started back from Seattle about the 25th.

Q. And the depositions were taken in October?

A. I believe they were about the first week in October.

Q. During the first week in October? A. Yes.

Q. Now, when Sadie and you and Minnie and Captain MacNab were together on this first trip when Sadie—or on the second trip when Sadie found out that Long had been there—you recall that meeting do you not and what happened there?

A. I don't know what you mean by the second trip.

Q. Well, that is the first trip?

A. That is the first time I ever saw Sadie.

Q. She was advised then that Long had been there, by some person? A. Yes, Minnie told her.

Q. Minnie told her. The burden of Sadie's story at that time was that Tommy Atkins was not dead?

A. She wanted Minnie to say that—she didn't know that Tommy Atkins was dead.

Q. Well, didn't she even threaten Minnie that Minnie would be put in the penitentiary if she said he was dead?

A. Yes, she said if she signed that contract in which it recited Thomas Atkins deceased, that she would get seven years in the penitentiary.

Q. Now, Minnie was not overjoyed at the news that her son was alive, was she?

Mr. Cruce: If the court please, we object. That is purely a conclusion.

The Court: Well, that would be a conclusion. What did Minnie say about it.

Q. Well, I will ask you that. What did Minnie say about the news that her child was not dead?

A. She simply said that she wouldn't say that. Sadie wanted her to say that she didn't know, and Sadie said she knew more amout him than Minnie herself. She had seen him when he was five years old and that Minnie didn't know he was dead. Minnie wouldn't say that she didn't know that Thomas was not dead.

Q. No, Sadie insisted, didn't she, strenuously that Thomas was living?

A. No. No, *he* said that he may be dead but you don't know it. She didn't insist that Thomas was living and didn't try to.

Q. She didn't attempt to lead Minnie or you in the belief that Thomas was living, is that true?

A. No, didn't make any claim to have any knowledge.

Q. You didn't understand that when she said Minnie would be put in the penitentiary that she ment to lead you to believe that Thomas was living?

A. Well, I wasn't influenced by anything that Sadie said, Mr. Pinson. I got the correct impression of Sadie at first.

Q. That she was a dangerous woman? A. Yes.

Q. And you found out subsequently that she was a very dangerous woman?

A. Absolutely. I didn't get her drift at that time as to why she wanted Minnie to say she didn't know that Thomas was dead, but I knew that she had some reason for it.

Q. Well, did you ever get it?

A. Yes, I got it very quickly after I learned of Sadie's movements for Mr. Bartlett.

Q. Well, let's just explain what that was, what you afterwards found, Mr. Hanford, as to Sadie's drift about Thomas being alive and not dead?

A. I didn't get it at that time. I say I subsequently saw what she was trying to do. She was trying to find Tommy Atkins himself; and afterwards testified that she tried to find some fake Thomas that she could put over on Mr. Bartlett.

The Court: Let's not get away—— You will get through with your cross examination quicker if you will follow the logical sequence. Now, let's not get off on Sadie James.

Mr. Pinson: The witness has testified Sadie was there making strenuous effort to get a deed from Minnie; and now he testifies she had no interest in Minnie because the child was not dead.

The Court: Let him explain the circumstances.

A. Sadie very quickly abandoned her idea of getting a deed, after she encountered Captain MacNab and I.

Q. What was her next step?

A. She was informed that she would have to deal through us and that nothing was going to be done at this time.

Q. You never gave her an opportunity to deal through you, did you? A. Certainly not.

Q. Now, Sadie, at that time. you testified at the Receivership made some reference to Rockefeller and said she had four members of the Commission behind her?

A. No, the stenographer made some typographical errors. I didn't say Rockefeller, and how that word Rockefeller got in there I don't know. I think I said this: That Sadie talked very graphically and I think that they wrote that up as Rockefeller.

Q. That is your explanation?

A. That is the only explanation I can give. She stood up and held a paper in the air and said that Mr. Page had gone before the court and says "Here I have a deed."

Q. Your recollection is that Sadie told you and Minnie together that Mr. Page had a forged deed?

A. Yes, she told us that Mr. Page had done exactly what Bartlett himself had done.

Q. Is that what led you to believe at first that Sadie was a dangerous woman?

A. No, Sadie's entire action, and especially her action in representing that she was a special agent of the Dawes Commission, and that the Government had sent her out to buy this land for four thousand dollars. and her evident attempt to try and get Minnie to say something she wanted her to say about not knowing that Thomas was dead.

Q. Sadie's story, neither Sadie's story nor the fact that she may have represented some other party never led you to look up that matter or take any steps in that direction?

A. In what direction?

Q. In what direction, Mr. Pinson?

A. In the direction of investigating her possible bid for the property or her employer's bid?

A. I made no investigation at that time and didn't intend to. After I got back to Oklahoma and began my investigation, I then learned of this Bartlett connection with the forged deed matter, and that was investigation enough for me to absolutely preclude any dealing with Mr. Bartlett or the Gypsy Oil Company.

Q. Alright. Now, how did you learn about the Bartlett forged deed transaction?

A. I learned a little about it at the time I looked up the record in the clerk's office and Judge Stanfield told me further about it at the Frisco station.

Q. Did you have a telegram from Captain MacNab while you were in Tulsa at the first trip, explaining to you about the Bartlett end of this transaction?

A. He told me that Mr. Bartlett——

Q. Well, did you have such a telegram, first.

A. Well, it didn't explain anything to me; I had a telegram.

Q. Well, what was in it?

A. He simply asked me—told me that Mr. Bartlett wanted me to see the Gypsy Oil Company; that they wanted a lease.

Q. And that they would pay as much as anybody?

A. No, didn't say that.

Q. That wasn't in it. Where is that telegram?

A. I don't know if I have got it, or not; I will see.

(Witness hands attorney paper.)

Q. Now, when you found out about the Bartlett forged deed transaction, you found out that Betty Mann had obtained that forged deed, didn't you?

A. I found that out from Judge Stanfield.

Q. Well, you did, then, find out when you found out about the Bartlett transaction? A. Yes.

Q. And had you met Betty Mann at that time?

A. No, I didn't know who Betty Mann was.

Q. Now, to refresh your memory, Mr. Hanford, didn't Mr. Long introduce you to Betty Mann in the hotel at Seattle?

A. I didn't see Betty Mann in the hotel at Seattle.

Q. You didn't meet her while you were up there at all, did you? A. No.

Q. When was the first time you met her?

A. The first—well, I saw her for a long time before I ever met her. She was around the office of the Gem Oil Company a number of times when I was in there and I didn't learn who she was until some time after I had seen her around there in the office. I believe that Betty spoke to me and I just talked to her there in the office some; didn't even know who she was or——

Q. Then the first time you really knew her personally was after she was employed and you met to go to Kansas City?

A. No, I knew her in the office. You said Kansas City, you mean Leavenworth?

Q. No, I mean Kansas City.

A. I met her at Leavenworth, that time that I went up there?

Q. Yes.

A. No, met her in Leavenworth, she came over to Leavenworth.

Q. Let me ask you this, Mr. Hanford: isn't it a fact that you and Mr. Long, and Mrs. Mann, and her daughter met in a hotel in Kansas City and had a conversation before you and Mrs. Mann went over to Leavenworth?

A. I don't think so, Mr. Pinson; that may have been, but I went over to Leavenworth on that trip; I was to meet Betty in Leavenworth and when I got off the car in Leavenworth, I know I was by myself and I met Mr. Long coming down the street; he was coming from Crilley's then—he had just met Crilley.

Q. I just want to know whether you did meet her in Kansas City at a hotel, with her daughter and Mr. Long; whether the four of you had a conversation, in which you first came in the hotel and found Mrs. Mann when she was looking for Mr. Long? A. I don't remember about that.

Q. Don't recall that? When you and Mr. Long went down to Tulsa, going over to Sapulpa, you discussed the possibilities of the Tommy Atkins land, on the road didn't you?

A. Very little, because I was very finicky and I wouldn't let Mr. Long talk to me very much, but he told me—drew a little map and told me in a general way why he thought that it would be valuable and I allowed him at that time to read the trust agreement that was drawn between Minnie and Captain MacNab.

Q. You hadn't assured him that he should have an opportunity to buy this lease before you entered into the trust agreement? A. I had not.

Q. You didn't at any time lead him to believe that he was the person to be considered, and his company, did you?

A. I did not.

Q. Now, when you reached Tulsa, and I am going to ask you to refer to this calendar of 1913-14 and '15 combined and see if by tracing the calendar you can advise us just what day of the week and the month you and Mr. Long reached Tulsa together.

A. I think it was June 15th, Monday, that would be that we left Seattle.

Q. Well, let me *reached* your recollection; wasn't it Sunday when you reached Tulsa? Didn't you testify that it was Sunday? A. Yes, it was Sunday.

Q. Yes, because you couldn't get Mr. Rice at the office that morning?

A. Yes, it was Sunday that we got to Tulsa, that would be——

Q. June, what date?

A. Oh, just a minute, it was Monday the 15th that we left Seattle; I was looking at 1913. It was June 22nd on Monday—June 21st on Sunday that I reached Tulsa.

Q. Alright. Now, that was on Sunday morning and you went directly to the hotel of course? A. Yes.

Q. How long did you stay there before you had a call from Mr. Long?

A. Well, it wasn't very long, Mr. Pinson. I had started to get myself cleaned up and change my clothes.

Q. Well, you hadn't been out of the hotel, had you?

A. I hadn't been out of the hotel, no.

Q. Now, Mr. Long came to you and took you out to Mr. Page's home, didn't he? A. Yes.

Q. You had breakfast there? A. Yes, sir.

Q. Then you tried to get Mr. Rice and couldn't get him until along about noon, is that true? A. Yes.

Q. You stayed at Mr. Page's house until noon and talked with him about this matter; this lease matter? A. Yes.

Q. He made you some offers, didn't he during that time?

A. Yes, he made me several offers during that time.

A. Yes, now, when Mr. Rice came, you talked with him about this lease matter, didn't you?

A. Yes, Mr. Rice didn't talk very much; he listened mostly.

Q. He gave you his idea about the value of it, didn't he?

A. No, he told Mr. Page that if they should get the Bartlesville sand up there that it would be very valuable.

Q. Well, you discussed among *yourself* about what the value of the property probably was, didn't you?

A. Not in amounts; not in sums of money; just in that general way, that it might be very valuable.

Q. Mr. Page offered you ten thousand dollars along about noon?

A. Yes, it was when—Mr. Rice, I think was the one that induced him; he came out with offer of ten thousand dollars on Mr. Rice's suggestion.

Q. Now, upon the making of that offer, you accepted it subject to the possibility that you might turn the lease to somebody else at the same figure, isn't that true?

A. I told Mr. Page that I would accept that amount as a bonus if I decided to give him the lease.

Q. That is it. You had agreed then, upon a bonus except that you hadn't agreed upon a lessee, is that right?

A. That is it; I know that Mr. Page was very well satisfied. He said that he had it then because nobody else would offer that much. I told him that I might advertise it——

Q. He suggested that you not advertise it, did he?

A. No, sir, he told me that he didn't believe that I would get more and that he was satisfied that he would get the lease on the offer of ten thousand dollars.

Q. Mr. Rice told you the same thing and Mr. Long told you the same thing did he?

A. No, Mr. Rice didn't tell me the same thing.

Q. Mr. Long? A. No.

Q. Now, what was done that afternoon, if anything?

A. Sunday afternoon?

Q. Well, if it wasn't a matter connected with this lease I don't care anything about it.

A. No, nothing was done in regard to the lease.

Q. In a business way?

Q. I don't know; I may have talked to Mr. Long but I didn't talk to Mr. Page.

Q. You had lunch there at Mr. Page's that Sunday?

A. No, after Mr. Rice had been there, Mr. Page sent Mr. Rice to his house in his machine and I went with him and went to the hotel.

Q. Went back to the hotel? A. Yes.

Q. Now, you talked to Mr. Long, you think, in the afternoon?

A. I think I must have; I can't say because I don't remember.

Q. No further business was transacted relative to this lease?

A. I may have looked over the maps—the oil maps in the office, or something like that but I don't want to——

Q. Well, did you go to Mr. Page's office that afternoon, or anyone else's office? A. Well, I don't remember.

Q. Now, the next morning was Monday. Where did you go Monday morning?

A. Monday morning, I believe it was we went to Sapulpa.

Q. Now, you went to Sapulpa to investigate the court records over there, didn't you, and see what kind of shape those suits were in, is that true?

A. Yes, to investigate this Nancy suit.

Q. Now, over there you found Nancy's side of the case presented in affidavits in a motion for a new trial, didn't you?

A. Well, I didn't—I didn't go into that, Mr. Pinson; I looked to see what had been done in the case, whether the judgment had been entered, and I think I hurriedly looked at some of the testimony in regard to Nancy being the mother of Thomas Atkins.

Q. Now, the condition of that case at that time was that Nancy had obtained a judgment, hadn't she?

A. It must have been affidavits that I looked at because I saw some of them there.

Q. They were in connection for a motion for a new trial, wasn't it, Mr. Hanford?

A. I don't know; I think they must have been from a knowledge of the trial obtained since then.

Q. Anyhow, you found numerous affidavits showing that Nancy was the mother of Thomas Atkins, didn't you?

A. I found some that showed me that they had testimony that Nancy Atkins was the mother of Thomas Atkins.

Q. You found that the court had rendered judgment to that effect, didn't you? A. No, the court hadn't.

Q. Well, why was the motion for new trial pending, Mr. Hanford?

A. I have no knowledge of that that I obtained at that time, but I can tell you from what I learned since.

Q. Alright, go ahead, tell us what you——

A. The case was tried I think in February, and there was some defendants whose case the court was not ready to pass upon and he deferred passing upon them and in the meantime a motion for a new trial had been interposed.

Q. Well, you know there was a motion for new trial that had been filed there, don't you?

A. I know from the state of the record now but I don't recall from anything that I saw at that time.

Q. Now, how long did you stay in Sapulpa?

A. Very short time; I had a conversation there with Mr. Rutherford, and I went over there across the street—oh, somebody came up, some clerk came out and told me that Mr. Lytle wanted to see me.

Q. One of the attorneys in that case?

A. One of the attorneys in that case.

Q. Alright.

A. And I went across the street and saw Mr. Lytle and he asked me if I had a telegram from Captain MacNab.

Q. Wait just a minute; I think that is all immaterial. How long did you stay in Sapulpa? A. A very short time.

Q. What time did you take a train out from there and where did you go?

A. I don't know what time I took a train, and I don't know whether I went from there to Muskogee, or back to Tulsa and then to Muskogee; but I think I went from there to Muskogee, because I know I went by way of Okmulgee.

Q. And you came back—came over to Muskogee and spent the day Tuesday in Muskogee, didn't you, looking over these records?

A. I looked over those records but whether it was Tuesday or not, I don't know. I believe that it was.

Q. Well, if you came to Muskogee direct or if you came back by Tulsa by Muskogee, that is what you came to Muskogee for, wasn't it? A. Yes.

Q. Long came with you? A. Yes.

Q. And your idea was to come over here and satisfy you—Mr. Long, to satisfy you that Minnie was the mother of Thomas and not Nancy, isn't that true?

A. Well, he didn't come to satisfy me that Minnie was the mother of Thomas.

Q. Isn't that what you testified to on direct examination?

A. Well, I testified, I believe—if I didn't, I want to testify now——

Q. Alright, sir.

A. That he came to satisfy me that there wasn't anything in Nancy's claim of being the mother of Thomas.

Q. Alright, now, he did that by Minnie's census card and Thomas' census card, didn't he?

A. No, he showed that from a comparison of Minnie's census card and Nancy's census card.

Q. Now, then, Mr. Hanford, the reason that he advanced to you why Nancy couldn't be the mother of Thomas was because Thomas' census card showed the son of Minnie Atkins, isn't that true? A. Yes.

Q. Then he showed you Minnie's census card which contained a number corresponding with the number given to the mother, didn't he?

A. Well, I don't know anything about the number. He simply showed me that Nancy Atkins had no—that there was nothing in Thomas Atkins' census card showing him to be related to Nancy Atkins, and there was nothing in Nancy Atkins' card relating to Thomas Atkins; but that all through the Minnie Atkins and Thomas Atkins files, it did relate to Minnie Atkins as the mother.

Q. That is what you came over here to find out, wasn't it? To satisfy yourself about it? Now you did learn on Tuesday that judgment had been rendered over there, didn't you?

A. No, I didn't—I don't know when I learned that; I learned that sometime afterwards; I think it was when we had Minnie down at Sapulpa.

Q. You didn't learn that right away?

A. No, I don't know when I learned that.

Q. Now, Mr. Hanford, when the trip was made to Seattle, did you talk to anybody about this lease besides Mr. Long?

A. Yes, I talked to Mr. Lytle and Judge Brown. Judge Brown told me that he had an interest on the Nancy side and wanted to know if it was true that Minnie Atkins was alive.

Q. Well, did you talk to anybody about making a lease to them?

A. Only to Mr. Lytle, not to deal with—Mr. Lytle asked me to see the Gypsy Oil Company in compliance with their telegram. I told them I had received from Captain MacNab.

Q. Yes. Now on Tuesday while you were over in Muskogee, did you talk to anybody about the possibility of making a lease to them? A. No.

Q. Now, how long did you stay in Muskogee?

A. I think only one day or a part of one day?

Q. You went back to Tulsa, the trains left the same time they do now, didn't they, about five o'clock in the afternoon?

A. Well, I didn't know much about them then, and I don't know what train I went on.

Q. Well, do you remember what time you got back to Tulsa?

A. I don't remember how I got back to Tulsa.

Q. Well, after you got back to Tulsa, what was the next thing you did in relation to this affair?

A. I think the next thing I did was to go and see Eugene Lorton; he is the owner of the World.

Q. Did you offer the lease to him?

A. No, I didn't offer the lease to him. I went there to see him and talk with him and he took me out in his automobile.

Q. Newspaper man over there, is he? A. Yes.

Q. Did you talk with him about this lease?

A. Well, I told him I was down here in regard to an oil matter for a client of mine.

Q. Well, I don't care anything about that, Mr. Hanford.

A. And I told him that I contemplated making a lease to Mr. Page.

Q. That is all the conversation you had with him in regard to it?

A. Yes, in that way, I told him about it; I went to him to talk to him and to find out what he knew. I didn't sit down and ask his advice but I wanted to get in conversation with him and talk with him.

Q. Fnd out what he knew about what?

A. Just about people and matters.

Q. Just a friendly conversation you were going to have with him? A. Yes.

Q. Now, who did you next see with reference to selling this lease?

A. I want to say that Mr. Lorton advised me at that time not to make a lease to Mr. Page.

Q. Yes, sir. Did you know Mr. Lorton before?

A. Yes, sir, I knew Mr. Lorton before.

Q. Had known him before you came to Tulsa? A. Yes.

Q. Who did you next see in regard to this lease?

A. I don't know just when it was, Mr. Pinson, that I went to one of the mapping companies, the Oil Mapping Company there and went over a map, an oil map, of the territory in the Cushing District that was being developed at that time.

Q. To refresh your memory a moment, Mr. Hanford: you didn't do that Sunday afternoon, did you, because the mapping companies were closed Sunday, weren't they?

A. Well, I don't think it was Sunday afternoon but nothing closes in Tulsa on Sunday; it might have been.

Q. It wasn't Monday in Sapulpa was it? A. No.

Q. It wasn't Tuesday at Muskogee?

A. No, it wasn't at Muskogee.

Q. Now, Mr. Hanford, the lease was signed on Wednesday, June 24th, what time did you wire that that lease should be signed?

A. I suppose on Tuesday.

Q. Did you wire from Muskogee, or did you wire from Tulsa? A. I suppose from Tulsa.

Q. Now, the lease that was signed was the lease that was up there, or that Long had left?

A. Yes, no; that wasn't the lease, the lease that was signed was a copy of that.

Q. Well, it was a duplicate of it, it was the same lease that he had started up there to have signed, wasn't it?

A. With this exception: the lease that *he lease that* he left provided for a consideration of a dollar an acre and the lease that was signed I told them to put in a consideration, I think of a thousand dollars or a hundred dollars or something.

Q. Now, you had that lease signed by reason of a telegram that you sent, didn't you? A. Yes, sir.

Q. Have you that telegram or a copy of it?

A. I don't know; I haven't seen it; no, I haven't that telegram, Mr. Pinson. I have here, though, those telegrams you asked for this morning, with regard to inquiries we made of the banks as to the Gem Oil Company.

Q. That telegram was probably, you say, sent on Tuesday?

A. I suppose so, because I told them to act quickly and get the letter in the mail.

Q. It was a long night letter, wasn't it? That telegram?

A. I don't know whether it was or not; I suppose it was a straight message though, because I know I was in a hurry.

Q. And what changes did you have made in Mr. Long's copy or lease? Only such changes as were made by the telegraphic message? A. I think that was all.

Q. Now, the result of your trip to Tulsa then——

A. I think there may have been other changes than that. It seems to me I remember a letter from my father in which he said——

The Court: Well, so far as any changes you indicated, that was all in the telegram?

A. Yes, sir.

The Court: Because you were only there three or four days.

A. Yes, sir.

Q. Was your father connected with this in any manner, Mr. Hanford?

A. No, he only had somebody copy the lease and forward it to me. I told Captain MacNab to go to his office and have it done.

Q. Are you prepared to say at this time your father did not receive a fee from either the Gem Oil Company or some other such person? A. He never has.

Q. As a result of your visit to Tulsa to negotiate this lease, did you offer the lease for sale to any person other than Page and Josey or their company? A. I did not.

Q. Why?

A. Because I wanted to lease it to Mr. Page.

Q. Any particular reason for that, Mr. Hanford?

A. Yes, this reason: I didn't want to lease it to a company.

Q. Who was this lease made to?

A. It was made to the Gem Oil Company.

Q. Is that a corporation? A. Yes.

Q. You wanted to lease it to Mr. Page? A. Yes, sir.

Q. You didn't want to lease it to a corporation? A. No.

Q. But you did?

A. Well, I did. The Gem Oil Company was a private corporation between Mr. Page and Mr. Josey and I was dealing with individuals; and I explained that to Mr. Page, and I believe that it was largely to that that Mr. Page transferred the lease to himself and Mr. Josey.

Q. I see.

A. But I had the idea and ascertained that the Gem Oil Company was simply a partnership concern between Mr. Page and Mr. Josey, and that they managed it and didn't have officers.

Q. Well, Mr. Hanford, you knew as an attorney that a corporation had to be managed by officers, didn't you?

A. Yes, but Mr. Pinson, I mean this: That I didn't have to deal with a Pittsburg corporation or a pipe line company, or something of that kind, where the matter would be entirely in the hands of hired employees.

Q. You learned while you were in Tulsa that the Gypsy Oil Company was a strong and wealthy concern, did you not?

A. Yes.

Q. You were down there to secure the most money possible for your client, were you not? A. Yes.

Q. You didn't want to deal with the Gypsy Oil Company?

A. Not only to secure the most money, I was down there to secure her interest in every possible way I could.

Q. You found that the Gypsy Company was entirely responsible and financially responsible?

A. Well, I didn't investigate that.

Q. Did you find any other corporation or partnership in Tulsa that you took the matter up with or any individuals?

A. No, I learned of lots of them, but I wasn't taking the time to go any further.

> The Court: Well, now, he stated that he didn't make any effort with other people. I know, as a matter of fact, and will take judicial knowledge that there were others there.

A. I was anxious to get possession of the property and get the Gypsy out of possession as quickly as possible and I had an idea——

Q. Let me go just one question further, if the court please. You have explained to the court that your reason for not dealing with Bartlett and the Gypsy was that they were adverse claimants; do I understand that you didn't want to sell the property into litigation?

A. Well, what I didn't want to do was turn the property over to adverse claimants and give them an opportunity to get possession and attend to the quieting of title against themselves. We had to quiet title against the Gypsy Oil Company and the Nancy Atkins' interest, and I wasn't going to turn the case over to either of those interests, especially the Gypsy Oil Company which was in possession under Bartlett under a forged deed

Q. I see?

A. I think in regard to my selling to Mr. Page, that Rice & Lyons had as much as anything to do with influencing me to sell to Mr. Page, because I was very favorably impressed with Mr. Rice and Mr. Lyons.

Q. Now, then, the Gypsy was an adversary of Nancy?

A. Yes.

Q. The Gypsy was claiming under a forged deed from a Minnie *Ad*kins? A. Yes.

Q. And what the Gypsy wanted was a title from the real Minnie Atkins, wasn't it? A. I suppose so.

Q. That was your understanding at that time? A. Yes.

Q. Now, before you and Mr. Long came down to Tulsa, had you had any written statement from Minnie or any written statement of any kind from Minnie?

A. Not in regard to the facts of the case.

Q. In regard to Tommy and her life history?

A. No, I only had what Captain MacNab told me and she told me, and the conversation we had at Captain MacNab's office at the time the temporary trust agreement was signed.

Q. That was simply the statement that she had had five children, is that it?

A. Yes, and the fact that she gave birth to Thomas in Leavenworth and had left him there.

Q. She told you that that night at Captain MacNab's office? A. Yes, she told us all there.

Q. Now, let's go on then, Mr. Hanford, you say she told you all. Tell us what else she told you all there in the office at that time?

A. I have no recollection, Mr. Pinson, there was no questiton in my mind as to the facts, and I didn't attempt to question her.

Q. Was there any question in Mr. Long's mind about the facts?

A. Mr. Long wasn't there, but there never did appear to be any question in Mr. Long's mind as far as I have known him.

Q. You learned that night where Tommy died and how long he lived? A. No.

Q. When was the first time that you learned from Minnie how long Tommy lived there and where he died?

A. The first time that I learned anything in regard to that was after Mr. Long and I came back to Seattle and we were interrogating her at her house. That was in July, and she said that she had a letter which she received at Fort Wayne in which she was told that Tommy Atkins was dead.

Q. Now, had you ever had that information before that from some one else aside from Minnie?

A. Minnie's husband told me sometime—— Well, it was after that, about that letter.

Q. But that was after that and he corrected Minnie as to where she had received it.

Q. Well, had you heard anything before that Mr. Hanford? A. No.

Q. You had not. Were you with Mr. Long pretty continuously during that time, the second trip to Seattle?

A. I don't think I was with him pretty continuously. I left him before we got to Seattle. I left him at the junction going to Tacoma, and went out to American Lake to see Captain MacNab, and then went over to Seattle and joined Mr. Long. I was only gone a part of that day. I think I joined Mr. Long about noon and went out to Minnie's house.

Q. And the second visit to Seattle, what was the effort that was being made, what did you go back out there for?

A. Well, I went back there to wait until suit was started and it was necessary to do anything further in regard to the litigation.

The Court: You mean when he went back out to Minnie's house?

Mr. Pinson: Mr. Long and he went back out to Seattle together.

Q. You and Mr. Long had understood about why he was going back out there with you?

A. Well, I understood why he was going back out there and I didn't think that it was necessary for him to go back out there because I thought——

The Court: Mr. Hanford, the question is why did Mr. Long go back?

A. Mr. Long went back to have some photographs taken to show to Minnie's relatives and to interrogate her in regard to her family, so that they could prove by her family that she was actually Minnie Atkins.

Q. Now, Mr. Hanford, as I understand, you testified in your direct examination that that was the reason why the second check was delayed, because Minnie hadn't been sufficiently identified, is that true?

A. That is true. That is the reason they gave me for not paying her.

Q. After they gave you that reason, they delayed paying the check because they couldn't get Minnie to tell the story you wanted to?

A. Well, they thought Minnie had been guilty of bad faith and they felt she was going to be in regard to this five thousand as she was to Sadie's four thousand, she would consider herself wealthy with five thousand dollars and wouldn't give her story so as to assist in quieting title to the land.

Q. And it wasn't at that time contemplated that her evidence could be taken in Seattle, anyhow, was it?

A. How is that?

Q. It wasn't at that time contemplated or understood that her evidence could be taken regardless of her desire, was it?

A. Oh, there was no discussion or contemplations in regard to that.

Q. Well, what was it they feared Minnie would do?

A. They thought Minnie would get five thousand dollars and go off to Japan or Alaska or something of that kind, and they wouldn't be able to get her to testify and have her identified and get title to the land.

Q. Then, the reference in one of these letters to the fact: "That you know what this Sapulpa trial cost us," after the testimony down there, means what?

A. Well, it simply means danger to the case I suppose.

Q. Well, she had testified then, hadn't she, Mr. Hanford?

A. Yes.

Q. And they had her testimony at that time?

A. Yes, and they also found out that her testimony was not true in regard to the child being born in the hospital.

Q. Then, they wanted her at the time you refer to now, they wanted her to tell a different story, is that right?

A. They wanted her to tell the truth.

Q. Now, Minnie was advised about the fact that they wanted her to tell a different story, wasn't she at that time?

A. At what time?

Q. At the time I am now referring to, prior to the taking of the Tulsa deposition?

A. Yes, she was advised, we knew she had told a lie and that she had to tell the truth.

Q. Now, Mr. Hanford, you never did suggest that to Minnie, during the course of your employment, what her testimony should be, did you? A. No.

Q. You just told her that you knew she had told a lie and that she must tell the truth? A. Yes.

Q. And then you told her what the other witnesses had sworn to and asked her if it was the truth?

A. No, I didn't tell her what the other witnesses had sworn to; I asked her many questions about things that I learned from other witnesses and had her tell me about them to see if the other witnesses were telling the truth and if Minnie recollected it.

Q. All right, now let's see. In the first conversation you had with Minnie in the presence of Mrs. McCombs, Minnie told you she had had five children, did she not?

A. Well, Mrs. McCombs told us that she had trapped

Minnie into a confession that she was the mother of five children.

Q. And Minnie admitted it?

A. And we asked Minnie if that was so and she said that it was, and we all had an understanding amongst ourselves that we wouldn't tell that on her.

Q. Well, that could all have been answered by yes. Then, Minnie at that time stated to you that she did have five children? A. Yes.

Q. At the Sapulpa hearing how many did she say she had?

A. She said she had four.

Q. All right, did you correct her? A. No.

Q. Call her attention to the discrepancy? A. No.

Q. How many did she say she had in that affidavit that you took that was false all the way through?

A. Said she had four.

Q. How many did she say she had when in Tulsa in her deposition? A. Said she had four.

Q. How many did she say when Mr. Montgomery took her confession? A. Said she had three.

Q. Did you correct her then? A. No.

Q. How many did she say she had when she testified in the Receivership hearing? A. Said she had five.

Q. And that is the first time she ever mentioned the Peterkin child, isn't it?

A. That is the first time, with the exception of telling us before the hearing.

Q. Then, when she told about Peterkin, she admitted the birth of five children? A. Yes.

Q. That is what she had admitted to Mrs. McCombs and you? A. Yes.

Q. Now, at the time that her deposition was taken when Mr. Penick was examiner, she then testified that she had four children and a miscarriage, didn't she?

A. Well, she said miscarriage but she went on in her testimony and explained that was the child that died. She said the Peterkin child was not healthy.

Q. And she explained it as being a sort of miscarriage?

A. I believe she used the word miscarriage in one part of her statement and explained it afterwards.

Q. And then in another place in her testimony she named over the other four children and didn't mention Robert Lee then, the miscarriage, isn't that true?

A. I don't remember that.

Q. You don't remember that. Now, let's go back just a minute and let's see how these different statements were made. In the testimony at Sapulpa, didn't you have knowledge of the dates when Minnie was at Carlisle? A. No.

Q. In the testimony at Tulsa, did you have that knowledge?

A. I don't know when that knowledge was obtained, I don't recollect.

Q. About the Carlisle records? A. Yes.

Q. Did you ever see that book from Carlisle in which accounts of the condition of the girls was kept?

A. No, I never have seen that.

Q. Do you know whether Mr. Long had it or not?

A. No.

Q. Did you know about the Carlisle dates at the time that the deposition was taken—the affidavit made in the Receivership hearing?

A. Mr. Pinson, I don't know when that information was obtained.

Q. Well, now, let me ask you this, Mr. Hanford?

A. It wasn't obtained by me. I know that, and whether I was ever told I don't know now.

Q. Let me ask you this: Wasn't the fact that Minnie told you during your and Mr. Long's visit to her on the second trip that Mr. Long made to Seattle, that the child was born in '86 or 7?

A. No, Mr. Long I think figures out when the child was born, and I don't remember what year he figured it out at that time; but he guessed at it from what she said about her age.

Q. What is this which I hand you, and which I will ask the stenographer to identify as Government's Exhibit A-112?

A. I don't know. This is Mr. Long's handwriting and appears to be a schedule of dates relating to Minnie Atkins.

Q. Don't you recognize it, have you never seen it before?

A. I think this is the schedule that Mr. Long could not find. He told me he found it but didn't show it to me.

Q. You have never seen it before?

A. I don't think I have.

Q. Have you ever seen the notes which Mr. Long took and which were introduced in his testimony last week?

A. No, I never examined those outside of his possession, but I have seen them in his possession, and he read to me from those notes at the time I wrote up Minnie's affidavit.

Q. And you were present when he took the notes?

A. Yes.

Q. And your recollection when he read them to you was that he had taken them correctly?

A. I suppose he did.

Q. Isn't it true that in those notes and this table and your personal recollection that Minnie told that that boy was born in 1886 or 1887?

A. No, Mr. Long figured that out.

Q. Tell how it happened when you went to the hospital in Leavenworth you looked at the records for 1884 and 1885?

A. Mr. Pinson, we guessed up and down and all around at the time that that boy was born and at that time I suppose I thought it was 1884 and 1885; and I had stopped looking for the record of Minnie's being in the hospital, when she was so positive that she had been in the hospital that I started in again.

Q. And commenced looking at other years? A. Yes, sir.

Q. Then, when you had looked in 1884 and 1885 you stopped? A. Yes.

Q. And asked Minnie and she was so positive that you went back and looked at the later years? A. Yes.

Q. And that is when you found it 1886? A. Yes.

Q. Can you state where you got the information that led you to look at the years 1884 and 1885 for that child?

A. No, I suppose—— Now, this is a guess, but I think that I probably got the information to look at 1884 and 1885 from Benny Marshal who had been to Carlisle with Minnie and had some recollection about when they left.

Q. When was the first time you now recall that you were advised of the Carlisle dates? A. In regard to Minnie?

Q. Yes?

A. Well, I suppose that that was the first time but I didn't keep track of the time from that.

Q. Now, that was from Betty Marshal?

A. I suppose, am just guessing.

Q. When did Mr. Long tell you about it?

A. I don't know whether he ever told me, Mr. Pinson. I think this: I think that Mr. Rice was the one that found out the date when Minnie was at Carlisle. Minnie and Benny Marshal disagreed as to whether they left before or after the other children. I don't think I ever got a clear idea of the date prior to the time I learned it in connection with the lawsuit. It was after I got interested in the lawsuit, after the Receivership hearing, that I began to take definite notice of dates and facts.

Q. Now, then, Mr. Hanford, the first testimony that Minnie gave put this child born immediately after leaving the Staffords, isn't that true?

A. Yes, that is what she told us.

Q. That was at Sapulpa. In other words, she described the child now known as the Peterkin child, didn't she?

A. Well, no.

Q. Why didn't she, in what particular was it different?

A. Because the Peterkin child died, Mr. Pinson, and she told us that Thomas Atkins was left with an old colored woman and stated to us that he had passed that period that the Peterkin child died at; he was a year or two old; I remember we asked her if he had been weaned, and she was sure he had been weaned when she went away.

Q. When did you first learn of the Peterkin child that she actually did have a baby at that time?

A. I learned that from Mr. Peterkin in Boston, I think, in August, 1914; but while I learned that from Peterkin, I also will say that I thought that I didn't believe him because I afterwards interviewed George H. Hyde and George H. Hyde gave me facts——

> The Court: Now Mr. Hanford, if you will just answer these questions and let your explanations be made later.

Q. You learned from Peterkin she had a girl baby?

A. Yes, sir.

Q. And that is when you wired something about Thomas is a girl?

A. I don't know what I wired then; he told me she had a girl.

Q. That was the substance of your wire?

A. I don't say that was the substance of my wire, because I don't know what I wired.

Q. Well, have you a copy of that wire, or can you find the original?

A. No, I don't believe I have seen that telegram since it was sent. If I kept a copy I don't know. I went down and sent a telegram I know.

Q. You had found out about Peterkin before those depositions were taken in October, hadn't you? A. Yes.

Q. When the depositions were taken in October, hadn't you? A. Yes.

Q. When the depositions were taken in October, Minnie put Thomas' birth before the Stafford's didn't she? A. Yes.

Q. In that testimony Minnie said she was at Hyde's five months and that at Granny Letcher's two and a half *years*, and that she had Thomas in that length of time, didn't she?

A. She said that she was around town after she left Hyde's and that he was born at that time.

Q. Well, she mentioned Granny Letcher in the Tulsa testimony, didn't she? A. Yes, I believe she did.

Q. Well, was that Tulsa testimony after Sadie was brought into the case?

A. How do you mean brought into the case?

Q. I mean after she had become connected with Page and you and Mr. Long?

A. She never was connected with me.
Q. Who was she connected with?
A. She was working for Mr. Page.

The Court: We know that she was working Mr. Page.

Q. Was it then after Sadie was employed by some person connected with this case? A. Yes, employed by Mr. Page.

Q. The first time you ever heard of Granny Letcher was after Sadie was employed? A. Yes.

Q. That name had never before been suggested to you?
A. No.

Q. Now, then, do you want the court to believe at this time—I will ask you if it is true that the finding out about Robert Lee had nothing to do with the change of date as to the birth of this child that Minnie testified to at Tulsa?

A. Well, it probably did, Mr. Pinson.

Q. Well, you knew that unless these children was twins that one of them had to be born eleven or twelve months before the other one, didn't you? A. Yes, sir.

Q. So that probably you talked to Minnie about this Peterkin child at this time, hadn't you?

A. No, I hadn't talked—you mean at the time I found out about it?

Q. Yes. A. No, I hadn't talked to her about it.

Q. And Minnie never had been told that Peterkin said that she had a girl child, had she?

A. What time are you talking about?

Q. Before the Tulsa depositions, after you had seen Peterkin?

A. Yes, I told Minnie about that when I went back to Seattle, before she came down.

Q. And at that *she time side* put the birth of Robert Lee back prior to this girl? A. Yes.

Q. Did she tell you it was a boy?
A. Peterkin's child?
Q. Yes.
A. She denied that she had any child at all at that time.
Q. Yes, but she changed the date, didn't she?
A. Well, she never fixed the date, Mr. Pinson, as to the birth of Thomas.

Q. She changed the circumstances and place where he was born so that it would be before the Peterkin child, didn't she?

A. No, she didn't tell me any facts at all.

Q. Let me ask you this question. She has always testified that she went first to Hyde's, then to Grodevant's, and then to Stafford's—put them in that way?

A. Yes, when she testified about them at all.

Q. Then she put Tommy back before Stafford's, and at Hyde's?

A. At the time that she gave her testimony, she did, but the only thing that [] did personally was to deny having had any girl child while she was living with Peterkin, but didn't tell me that she had any child, and she didn't tell me any facts at all. She simply told me that she knew Rube Smith, and she knew Crilley and she would laugh when I would mention the name Granny Letcher, and then on the train on the way back, told me that we were on the right track.

Q. On the way back?

A. On the way back to Leavenworth.

Q. Now, Mr. Hanford——

A. So she never did tell me any facts.

Q. Now, we have got that time changed, now, back, so that it does not conflict with Robert Lee or with the girl baby. Now, the next time she testified was at the Receivership hearing, wasn't it?

A. After Tulsa, yes.

Q. Yes; and the Receivership hearing was the first time that she mentioned Robert Lee, wasn't it?

A. The first that she testified to it, she mentioned it up at the hotel when she admitted, the first——

Q. She had mentioned it before that time? A. Yes.

Q. Now, her mention of Robert Lee was brought about by the telegrams you had sent to Major Stafford, weren't they?

A. Yes.

Q. Now, you want the court to understand, I assume, that the telegrams to Major Stafford at that time were brought about by the fact that you had found out that Peterkin was going to testify in his case?

A. I didn't find out that Peterkin was going to testify in the case until I——I think until he testified.

Q. You will just state now, how you came to wire Stafford?

A. Why, Mr. Josey and Mr. Rice had been informed that Minnie had had this child and they had questioned her about it, and she still denied it, and on the way down here in talking that over, they decided to make a further effort and suggested sending a telegram to Major Stafford, and they asked me to send it because I had been in previous communication with Major Stafford.

Q. Now, that was in February, 1915, wasn't it?

A. Yes, sir.

Q. Now, what was the previous communication that you had had with Major Stafford?

A. That letter that I testified about this morning and a telegram—no, that was afterwards, I guess; I sent a telegram about Sadie James, and Buell and Robinson, but it was that letter that I had written him.

Q. Which was it, before or after you sent that telegram?

A. It was before I sent that telegram about Sadie, and Bartlett and Buell, and after I had written that letter.

Q. Now, when was the telegram about Sadie, Bartlett and Buell, that you refer to sent?

A. Well, that was sent when they were out in Seattle.

Q. When who was in Seattle?

A. Sadie, and Bartlett, and Buell, in December.

Q. And you had wired Stafford about them at that time?

A. I sent him a telegram about that time, Mr. Pinson; just when it was, I don't know.

Q. Well, had you ever sent him any telegrams before that time?

A. Hold on, I don't think I sent him a telegram about Buell and Robinson; I think that there was a telegram about Sadie and Bartlett when they were trying to find Thomas Atkins, or something of that kind. I don't remember. If you have the telegram there, I can explain it to you.

Q. Well, where were you on July 15th, 1914?

A. I was in Seattle.

Q. Who was there with you from this country? Frank Long?

A. He—That was when we returned to Seattle, I think, after being down here. I don't know that he was there July 15th, or not.

Q. That was the time? A. But he had been there.

Q. That was the time when you were making these constant trips to Minnie's house, and these various conversations between you and Long and Minnie about this case, wasn't it?

A. Well, I don't know what time that was, Mr. Pinson; whether Mr. Long was there that late or not.

Q. Have you any way of fixing the time?

A. I might fix it.

Q. Mr. Hanford, in July, 1914, at the time while you and Mr. Long were making your investigations in connection with Minnie Atkins and her relationship to Tommy, was there any reason in your mind why any information relative to Minnie should not be disclosed?

A. Yes, for the Gypsy Oil Company and Bartlett were trying to find Thomas Atkins, and if he was to be found we wanted to find him first.

Q. Then, you hadn't been advised——

A. I thought that Page and Josey were entitled to that information before anybody else.

Q. Then at that time you were not advised as to whether Thomas Atkins was living or dead?

A. No, only Minnie's statement and we had grown not to place much reliance upon her statement and that was so indefinite that we were not sure.

Q. Did you place any reliance upon her statements as to having had a Thomas?

A. Yes, we never had any reason to doubt that, Mr. Pinson. So many things confirmatory of that, besides that, we never had any reason to doubt it.

Q. Now, I hand you Government's Exhibit 3, as testified to by Major Stafford, and offered in evidence in the Receivership hearing—offered in the taking of the depositions, you will notice that the telegram is dated in typewriting 1915, and that the 5 has been marked over and changed to 4, which Major Stafford testified was done before he received the telegram, and was the correct date.

A. That was the correct date, 1914.

Q. You recollect sending that telegram in July, 1914, do you? A. Yes, sir.

Q. Where did you get that information as to Stafford and the child at that time?

A. In regard to an Indian going to you and working for you at Leavenworth in the eighties——

Q. Let me read you the telegram and ask you about portions of it: "Major John Stafford, United States Army, Retired, 3592 Front Street, San Diego, California. You may remember an Indian cook working for you at Leavenworth in the Eighties named Minnie Atkins, a Carlisle student. In event any one, especially a colored woman should approach you in regard to her, please disclose no information or make any affidavits. If you are approached, please wire me at once collect. Letter follows. E. C. Hanford, formerly, Lieutenant First Cavalry, attorney for Minnie Atkins." Now, you had been advised by Minnie that she had worked for the Stafford's, hadn't you? A. Yes.

Q. You had been advised by Minnie that she had left there in order to have a child, hadn't you? A. Yes.

Q. And this telegram was an effort to ascertain whether these facts were true?

A. No, that was a telegram for him to look out for Sadie James.

Q. This telegram was to prevent him from disclosing any information that he had?

A. Yes, to Sadie James or Bartlett; I didn't mention Bartlett——

Q. Any one, didn't you? A. Yes, anyone.

Q. And especially a colored woman? A. Yes.

Q. Now, Mr. Hanford, at this time, did you write the letter to the major?

A. No, it was sometime after that that I wrote the letter.

Q. Have you a copy of the letter that you then wrote him?

A. It is read into the record.

Q. During the morning? A. Yes.

Q. Now, have you a copy of your answer that you wrote —that you received from him?

A. No, I haven't a copy of that, Mr. Pinson. If that isn't in evidence—wasn't put in evidence at San Diego, I don't know where it is.

Q. Mr. Hanford, I think you are mistaken about the letter having been read into the record this morning, the letter read into the record this morning was dated considerably later in the year. Will you not make an effort to find the letter sent shortly after this telegram, pursuant to your suggestion that letter follows, to Major Stafford, and the answer which you received from him at that time?

A. I sent nothing further in regard to that letter.

Q. Well, how long after that did you write a letter to Major Stafford?

A. Well, I will have to find out what the date of that letter was.

Q. Approximately how long?

A. Oh, it was a long time.

Q. Six mouths?

A. Now, during the fall of that year.

Q. Before you ever interviewed Stafford or had any communication with him further than this telegram, is that true?

A. Yes.

Q. Now, when you next had communication with him, you advised him again not to disclose any information, didn't you?

A. I don't think so.

Q. You don't think so?

A. I think I asked him for information only and gave him a brief outline of Minnie's history as we then understood it.

Q. You pursued that same policy with regard to Peterkin, did you not? A. No, I only talked to Peterkin.

Q. Well, you pursued the same policy with regard to suggestion that he not disclose any information?

A. Oh, I told Peterkin this: he had received a letter from Judge Rosser asking for information regarding Minnie, and I wrote Peterkin that what happened to Minnie after the birth of this child Thomas was not material and they had no right to inquire into her affairs not relating to the birth of Thomas Atkins, or subsequent to the birth of Thomas Atkins. That is the way that I felt at that time—at that time there was no connection in my mind between the Peterkin child and Thomas.

Q. Now, you didn't object to Peterkin talking to you about that child, did you?

A. Well, he told me about it and I questioned him to find out what he knew before he met up with her, and he told me that he knew nothing about her.

Q. About the child?

A. Nothing about Minnie prior to the time that he had met up with her.

Q. Oh, yes; but Mr. Hanford, it was necessary that the child's birth—that Thomas' birth should be placed at least 10 or 11 months prior to this child's birth here, wasn't it?

A. The Peterkin child?

Q. Yes? A. Yes.

Q. Couldn't be born in less than that time, could it?

A. No.

Q. And therefore the change was made between Sapulpa and Tulsa, wasn't it? A Yes.

Q. Although Minnie didn't admit having the Peterkin child at that time? A. No.

Q. Now, then, you say that you in July 1914, had not had any information about this Peterkin child; then what was it that you didn't want Stafford to talk about?

A. Well, I just didn't want him to—I thought he might know something about the boy or the child, or his description, or something of that kind, and I dind't want them to get that ahead of us.

Q. You didn't want that information divulged? A. No.

Q. Now when you wrote to Peterkin——

A. We didn't want them to get any information at all.

Q. Did you make any effort then immediately to ascertain whether Stafford had any information or not? A. No.

Q. Now, that was in July, wasn't it? A. Yes.

Q. In October, Minnie gave her deposition; you hadn't been to see Stafford, then, had you? A. No.

Q. You hadn't written to Stafford, had you? A. No.

Q. Had made no effort to ascertain what he knew but only to conceal what he knew, isn't that true? A. That is all.

Q. Now, in the letter you wrote Peterkin you said this, did you not: ["]This man Rosser is attorney for some people who lay claim to Minnie's land in the belief that she was dead or at least that she would never be found. She set up a fictitious claim in behalf of Minnie's sister by asserting that she was the mother of Minnie's child." When you suggested to Peterkin that he not disclose any information to Rosser, that was not any matter with regard to the colored woman or Bartlett or Buell, was it? A. No.

Q. That is a different set entirely, isn't it? A. Yes.

Q. You suggested to Peterkin—now, Mr. Peterkin didn't know anything about Thomas at all, did he? A. No.

Q. And yet you told Peterkin not to tell anything about what he knew, didn't you? A. Yes.

Q. And to let you know if any of those people down there, keep butting in? A. Yes.

Q. Mr. Hanford after the Carlisle date was first fixed in your mind, what was the first public testimony that Minnie gave, or statement?

A. I don't know, I don't know when we learned the Carlisle date.

Q. Alright. Now, then, at the Tulsa deposition taken in Rice & Lyons office, Minnie put Thomas' birth anywhere within the two and a half years that she roamed about Leavenworth, didn't she, and fixed it at Granny Letcher's? A. Yes.

Q. And the next public testimony that she gave was here at the Receivership hearing, wasn't it? A. Yes.

Q. Now, at the receivership hearing, there is no question but that you had the Carlisle information, is there?

A. I think that we must have but I don't know.

Q. And there is no question but what you had the Peterkin evidence about Robert Lee, is there?

A. No question about that.

Q. Because that is contained in her affidavit, isn't it?

A. Yes.

Q. Now, the date of the birth of Robert Lee Peterkin was in July '86?

A. I don't remember; I know it was in July.

Q. 1886? A. Yes.

Q. You realize that at that time then, that Thomas if he was born before Robert Lee couldn't have been born earlier than say, August '85, could he? A. No.

Q. You realize that he could not have been born after Robert Lee because you knew Minnie's history out at Fort Logan? A. Yes.

Q. Within the years succeeding that time, didn't you?

A. Yes.

Q. Now, you realize furthermore that the child—that she went to Leavenworth in 1884, didn't you?

A. Well, I don't know when we learned that, Mr. Pinson.

Q. Well, doesn't her affidavit so state in the Receivership hearing, Mr. Hanford?

A. If it does, we had learned it previous to that time.

Q. To refer you to page 368 of the Receivership testimony, where Minnie was cross examined—I am not referring to the affidavit because I found this first and refreshing your memory, isn't it a fact that she testified that she went to Carlisle in 1884?

Mr. German: Left Carlisle.

Q. Left Carlisle in 1884? A. Yes, sir.

Q. Now then, the birth of Robert Lee if fixed at Leavenworth at all must have been fixed between the middle of '84, and the middle of '86; there was only a period of three years, wasn't there?

The Court: Birth of Robert Lee?

Q. The birth of Thomas? A. Yes.

Q. So, that at the Receivership hearing Minnie testified that she had been at Hyde's for six or seven months and that Robert Lee was born there then, that she went to——

A You mean that Thoma.s was not born there?

Q. Thomas was not born there and then she went to Grodevant's about a year and Thomas was born within that year?

A. Yes.

Q. And she fixed the date of his birth in about a year did she not? A. Yes.

Q. Alright; at that time, had the Grodevant expense account been found either by Mr. Long, or the Government employes or anyone else that you know of?

A. I think not. I don't know when the Government employes found that Mr. Pinson, but I know that we didn't know about it.

Q. Well, my information is that you had it first; that Mr. Long had it first, but that is immaterial. The Grodevant was, however, found before the depositions were taken before Mr. Penick—before Minnie's deposition was taken before Mr. Penick, wasn't it? A. Yes.

Q. That was taken on the way out to Seattle when you went out to take Minnie's deposition, wasn't it? A. Yes.

Q. Now, that in deposition of Minnie's, she placed Robert Lee as a sort of miscarriage, didn't she?

A. Mr. Pinson, I wish that you would read that testimony, because I submitted to that because I am sure that she went on to explain that and show that it was not a miscarriage, it was simply a misuse of the term by her.

Q. Alright, I will read it to you—we will just pass that for a moment, Mr. Hanford. Did there exist in your mind at the time Minnie's deposition was taken at Seattle before Mr. Penick, any reason for changing her testimony from the testimony she had given at the Receivership hearing?

A. Well, we knew the facts to be different. There was no reason in my mind for changing her testimony.

Q. Well, did you change it? Did you suggest to her that she change it? A. I did not.

Q. Did anybody in your knowledge?

A. Not to my knowledge. I will state that I had no opportunity to talk with Minnie until before she gave her testimony.

Q. Was Minnie present when the evidence was taken about the Grodevant expense account? A. No, she was not.

Q. Sure of that? A. Yes.

Q. Now, her age was changed at that time at the taking of the depositions before Mr. Penick, so that it could be corroborated by the Grodevant expense account, wasn't it?

A. I don't know.

Q. Regardless of who was wrong? A. I don't know.

Q. Well, you do know that the deposition can be made to fit that now, don't you?

A. I don't know whether it is in conformity to the facts as we know them from the Grodevant book or not.

Q. Let me read to you about Robert Lee?

A. I wish you would.

Q. "Q. Had you given birth to more than four children at that time? A. I had five but the other was not big, wasn't born, kind of a miscarriage. Q. You had had a premature birth? A. That was after Tommy. Q. Tom was the first child? A. Of all yes. A. And then you had had a miscarriage and a child had been born, what was the name of that child? A. Robert Lee."

A. Yes, that is her testimony. On the next page, Mr. Pinson, it was brought out that the child lived two or three weeks and other places in the deposition.

Q. Yes, lived ten days or two weeks?

A. I don't know sir how long he lived.

Q. "Q. About how long do you say he lived? A. I can't say. Q. Now, Minnie, think a minute and tell us just how long that child lived; you know about how long? A. Well, he didn't live very long, but I don't think it was a week, he didn't live very long." A. Yes, that is correct.

Q. And she was using the term miscarriage and your idea it was indicating a premature birth?

A. Well, there are other places to show that the child was sickly.

Q. She was using the term and you put it to indicate that it wasn't a healthy child?

A. She didn't know what miscarriage meant.

Q. And didn't know what premature birth meant?

A. I don't know, but her testimony shows that she didn't.

Q. Going back for a moment to the matter of the contract that was entered into between you and Mr. Page and Mr. Long in connection with your services being rendered free by Minnie, what were the terms there in regard to that particular proposition?

A. Those were the only terms; the agreement was between Minnie and her trustee and Page and Josey and myself then to furnish my services free except all necessary expenses I should be put to should be *deferred* by Page and Josey.

Q. Now, you are clear on the proposition that Page & Josey were to defray all your expenses and that only your fee was to come from Minnie? A. Yes.

Q. Then, why did you hold up three thousand dollars of Minnie's money?

A. To pay my way as I went along. They were only to pay my necessary expenses incident to the suit, Mr. Pinson, and I had to have money to live on and to cover expenses that were not considered necessary expenses.

Q. Then, you treated the three thousand dollars as an advance on your fee from Minnie?

A. Yes, and gave her a stipulation to that effect.

Q. Then, why did you hold up two thousand dollars and put it in MacNab's hands?

A. That was simply an arrangement that Captain MacNab and I felt should be made; that we should have some money in case anything should turn up not incident to quieting title in her, in case it was necessary in case of other litigation or other expenses or matters relating to traveling expenses, looking out for the lease and things of that kind; and so that Minnie couldn't spend her five thousand dollars and then claim this money that Captain MacNab had—— I thought it was three thousand, but I guess it was only two thousand—when he relinquished his trusteeship, she agreed that that money should remain in his hands absolutely just as his own; that that was to be paid to him and turned over to him and put in his name and nobody should have anything to say in regard to it.

Q. He was to receive it, that was to be a gift to him?

A. If he wanted to. I think I suggested to Minnie that if that money was never used that that should belong to Captain MacNab as his compensation during the time he had acted as her trustee. And that was agreeable to her, but Captain MacNab only took it so as to hold it in that way. What he intends to do with it I don't know, unless it should be necessary to look out after Minnie's interest. I think that he is entitled to it and ought to have it. He doesn't feel that he ought to take any compensation at all.

Q. And you had Captain MacNab to hold up two thousand dollars to cover expenses and you held three thousand dollars to protect you on your fee, and the other five thousand which was to go to Minnie wasn't paid at all at that time?

A. No.

Q. So, Minnie didn't get a cent for some months?

A. No, we thought she was better off without it, and she was.

Q. And Page and Josey and Long understood that the money was to be paid out in that way?

A. They didn't know what arrangements we would make except that before they would pay Minnie the money in that way they asked me what the arrangement was, and I had contested the requirement on their part that they should have my services furnished in the law suit; I thought that they ought to have their attorneys attend to all of it, but I told them that since that requirement was put into the contract where they were to quiet title and my services be furnished, that that arrangement would have to be made. Because I felt it would take time until the property was producing and I could obtain any compensation out of a royalty.

Q. Then, in addition to that, I believe you have during a great part of the time drawn a salary from Mr. Page, so as to protect yourself in each one of those ways you have mentioned?

A. Yes, I will state that none of those people knew what arrangement Captain MacNab and I made about that. I think Mr. Page learned that over in the hotel the other day.

Q. Mr. Josey didn't know anything about that at all?

A. No.

Q. He wasn't even concerned in your negotiations?

A. Oh, yes, *she* was and I conferred with him, and he was at the meeting when we discussed the making of the lease and this contract.

Q. And he was very anxious to retain your services as an attorney in the case, was he? Was he the man that suggested that?

A. I don't know whether he suggested it or not, but I know he wanted the arrangement that way.

Q. He wanted it arranged that way?

A. Yes, I know he testified he knew nothing about it, but he did.

Q. Mr. Hanford, what is your explanation of the fact that they were willing to risk five thousand dollars to be turned over to you and Captain MacNab on Minnie's identity, but were not willing to risk ten thousand dollars?

A. Well, they were, Mr. Pinson. They were not to get the lease until I got ten thousand dollars, and when I got the ten thousand dollars that check had that written across the face of it. I delivered the deed to them and got the ten thousand dollars in the checks.

Q. It is a fact, isn't it that they complained about delivering the second five thousand dollars check, or paying it because they were not satisfied with the identity? A. Yes.

Q. What kind of an understanding did they have about risking the other five thousand?

A. They were risking ten thousand dollars because if that check hadn't been paid I certainly would have sued them.

Q. You didn't have any understanding?

A. And I would have cancelled the lease too.

Q. You didn't have any understanding that this five thousand dollar payment was to be held up until Minnie was identified to their satisfaction?

A. No, when I got the checks and then made the mistake of going to the bank to have it certified to make sure that it would be paid, at that time they asked me to do it, Mr. Rice and Mr. Page and Mr. Josey; and I went over to the bank to have it certified and they wouldn't certify it because it wasn't due. I came back and protested further, and then we had the understanding that that arrangement should be satisfactory to Captain MacNab and I would explain their views to him. They felt that they ought to have that protection, and if Captain MacNab did not consent that then the check should become immediately payable and they would pay it.

Q. Well, you don't know really why it is that they held up payment on that other check?

A. I understood——

Q. Well, what was it?

A. Simply because they wanted to be sure that she was Minnie Atkins and that they could be sure to have her identified.

Q. That is your explanation of why they were willing to risk five thousand dollars but not ten thousand. All right. Then, these letters that passed between you at a later date that the five thousand dollar check wouldn't be paid because Minnie wouldn't testify right, that is not the proper explanation in your opinion?

A. No, that came up afterwards, Mr. Pinson. They wanted to get a statement from Minnie in connection with her identity, and they wanted to get that statement before the five thousand dollars was paid, but that had nothing to do with her testimony; and after they found that she had testified falsely I still sent the check in to be paid, and they refused to pay it, and then they sent me the telegrams that I have shown here this morning.

Q. Then, the proposition was that they didn't want her testimony, but they wanted a certain statement?

A. Yes, they wanted that and they sent Mr. Long out to get it.

Q. Now, I want to ask you about one or two other matters, Mr. Hanford. I want to ask you whether before the testimony that was put on through the witness, Minnie Folk, at Sapulpa was substantially what you and Mr. Long had understood from Minnie up to that time?

A. I think it was.

Q. And yet these telegrams were sent after that testimony was taken, wasn't it? A. Yes.

Q. At the time you and Mr. Long left Minnie after making the trust agreement and came down to Tulsa together, had you known that Thomas was an illegitimate child, or been so advised?

A. Yes, Captain MacNab had told me that that was the statement she made to them; she didn't come out and say illegitimate but he said it was very amusing the way she explained the circumstances to him.

Q. Did you know the child was never recognized by its father?

A. Well, I didn't know it at that time; I probably supposed it, but Minnie told Mr. Long and I that when we took that statement from her. I think that they cross examined her in regard to that at Sapulpa, and I think she told that; I think Mr. Rice brought that out if I am not mistaken.

Q. Well, now, before she testified, I am talking about before she testified at Sapulpa, I am talking about when you and Mr. Long first came down after that first conversation with her? A. Yes.

Q. Did you know anything about the fact that he had never been recognized by his father?

A. When Mr. Long came down with me?

Q. Yes? A. No.

Q. Did you know at that time, or had you been told that in the year 1890 he was given by his mother to a woman residing in the vicinity of Leavenworth?

A. At that time?

Q. Yes? A. Yes.

Q. Who had told you that?

A. Minnie and Captain MacNab.

Q. Before you left Seattle the first time? A. Yes.

Q. All right, had you been told that this woman had agreed with Minnie to communicate with her from time to time as to the condition of the child? A. I don't remember.

Q. Had you been told in 1901 or 1902 that Minnie was informed that the child died? A. No, sir.

Q. Had you been so informed at that time that Minnie had received information that Tommy died?

A. That Minnie had what?

Q. Received information that Thomas had died?

A. The only thing I knew, Minnie said he was dead.

Q. You didn't know anything about the time? A. No.

Q. Had you been advised then——

A. That may have been brought out, Mr. Pinson, at Minnie's house at the time Captain MacNab and I went down and interviewed her but I don't recollect that it was.

Q. The time Sadie was there was the only time you were there?

A. Yes, and we had a discussion about his being dead at that time, and that is why I say it may have been brought out at that time.

Q. She didn't say anything in Sadie's presence about having a letter from anybody telling that he was dead?

A. No, not that I remember, but I said we may have found out that Minnie didn't know.

Q. The only thing that occurred there with reference to his death, Minnie said that she knew he was dead and Sadie said no you don't? A. That is my recollection.

Q. Then, had you heard prior to the time you and Mr. Long went back to Tulsa together that about thirteen years had intervened since Minnie had heard of the boy? A. No.

Q. Now, Mr. Hanford, I want to talk to you just a little while about the Montgomery trip, during the time when Mr. Montgomery was having these interviews with Minnie, you continually warned her, as your duty was, not to make any statement at all, didn't you? A. No.

Q. Did you ever warn her not to make any statement at all?

A. No—— Oh, I have done this: People have been out there——

The Court: He means when Mr. Montgomery was there?

A. No.

Q. During the time Mr. Montgomery was there, in regard to him? A. I never did.

Q. You never told her what the purpose of Mr. Montgomery's statement would be if secured, did you? A. Yes.

Q. You explained to her that it would be used against her in a civil suit?

A. No, I told her this: That Mr. Montgomery's object in interviewing her was to get a statement from her adverse to her interest so that he could cancel the patent and have the land revert to the Creek Nation.

Q. And she understood clearly that that would be the result of making such a statement?

A. I suppose she did, but I would never count on Minnie understanding anything.

Q. You explained it to her in English? A. Yes.

Q. She understands English? A. Yes.

Q. Now, Mr. Montgomery told her that he was going to have the truth and didn't want anything but the truth, didn't he? A. Yes.

Q. Now, the only pressure he brought to bear on her was that there had been an effort made to prove her child a negro, wasn't it?

A. Well, that and the fact that she had deeded her land to Mr. Page and had lost it anyway, and that they had tried to prove somebody that they had found to be her son Thomas, and then tried to prove that he died, all of those statements that he had told her.

Q. Then, the only thing that was disclosed was that proposition about the negro child?

A. Yes, that was the thing that rankled most.

Q. And you told her that that had not happened?

A. Yes.

Q. And you still say that, do you, Mr. Hanford?

A. Say what?

Q. That that was not the testimony of witnesses at Leavenworth? A. Yes.

Q. Did you hear Crilly's testimony here on the stand?

A. Yes.

Q. Did you hear it when he gave his deposition in Leavenworth?

A. I don't know whether I heard him in Leavenworth or not.

Q. Well, you heard him here? A. Yes.

Q. And you heard him testify here that that was a negro child? A. No, I didn't hear it.

Mr. Stuart: He didn't say that.

Mr. Pinson: If the Court please, he said that it was a mulatto.

The Court: Was that his testimony on the stand?

Mr. Pinson: Yes, sir, and I have his testimony also in the Leavenworth depositions.

The Court: All right. I remember whatever he may have said, and later in his testimony there was that which led me to doubt—I got the impression that his impression was that it was a negro child, but I didn't remember he specifically stated that.

Q. You heard Mr. Montgomery read Crilly's deposition that was taken at Sapulpa, didn't you? A. Yes.

Q. Are you familiar with this document and are you able to say—— That is a part of Mr. Crilly's testimony, page 18, of what is said to be a certified copy of transcript of deposition of Jones, Nash, and others, in Case No. 3772 in the District Court of Creek County, State of Oklahoma. I will ask you to examine page eighteen of that transcript and say if that is a part of Crilly's testimony? A. Yes.

Q. Do you recall Mr. Montgomery reading to Mrs. Folk the portion of hearing at page 18?

A. No, but I think he read the whole deposition, at least the whole direct examination.

Q. Well, follow me at page eighteen as I read and see if you recall that he read to Mrs. Folk: "This child you called Tommy, was it any part negro? A. Yes, I classified him with the rest of them; I thought so, yes. Q. Did he show any negro? A. Well, being with these marked I kind of figured them all together. Q. You didn't make close observation to see how black he was? A. No." That evidence appears in that deposition, does it not? A. Yes.

Mr. Stuart: There isn't anything there that says he was a negro.

The Court: I will get that from the record. That is the testimony Mr. Montgomery was using with Minnie Atkins at the time that this transpired at Seattle and when it is contended that it was brought to her notice?

Mr. Pinson: I haven't asked Mr. Montgomery what part he read to her.

Q. Now, you do know, Mr. Hanford, don't you, that the letter Mr. Page wrote Minnie saying, "I have taken a lease and a deed from a man I thought was Thomas Atkins," was the man referred to as Henry Carter? A. I do now.

Q. And he is a negro, isn't he?

A. So the testimony shows.

Q. And so your contention is in this case? A. Yes.

Q. Now, were you familiar with the letters which passed between Mr. Long and Mr. Josey in which Rube Smith was referred to as the uncle of Tommy?

A. I never heard of such a thing.

Q. Did you ever hear of Rube Smith referred to as his father? A. No.

Q. You never heard that?

A. No, except Mr. Montgomery.

Q. You saw the letter from Mr. Long to Mr. Josey, which referred to Rube Smith as the uncle?

A. I don't remember that letter.

The Court: If I understand the point is as to whether or not it was or was not true that it appeared from the depositions taken at Leavenworth that this was a negro child. Mr. Hanford, according to the testimony, told Minnie that that was not the truth.

Mr. Pinson: Mr. Montgomery told Minnie not only that the depositions so showed, but those people down there were trying to frame up a negro child on you; and then he offered the deposition and read a part of it and then read a part of Sadie James confession to prove it. Now, I want to show Mr. Hanford had knowledge of that and actually at that time considered that the father and uncle of this child was a negro.

The Court: I understand it all revolved around what Mr. Hanford had in mind when Mr. Montgomery was in Seattle, when Mr. Montgomery told Minnie that the depositions tended to show that it was a negro child.

Q. At the time you were with Betty Mann in Leavenworth and Sadie was over there with Mr. Long, or had just gone back, you then knew about the name Granny Letcher, didn't you?

A. Yes.

Q. And while you were there and Betty Mann came in and said something to you about a Letcher woman, didn't she?

A. Yes.

Q. That then confirmed your suspicion that Sadie and Betty had been working together, didn't it?

A. No, no, it tended to confirm in my mind the information that Mr. Long had and had repeated to me about this child being born at the home of Granny Letcher, and Betty had picked that up from somebody that she had interviewed and came to me and told me to go and look up that woman.

Q. That was the construction you put on it? A. Yes, sir.

Q. You went up and saw the woman?

A. Yes, sir. Betty didn't know the name before. When I told her this woman didn't know anything about it, she dropped it.

Q. And this woman was not Granny Letcher nor any kin to her? A. I don't know whether she was any kin.

Q. She had only been there in Leavenworth a few months?

A. She had been there a number of years.

Q. Was she a white woman or a negro?

A. She was a negro and told me that she knew of Granny Letcher but that she knew nothing of the child and thought it must be Granny Letcher who had died, and stated I believe that they had only been there a few years.

Q. When, Mr. Montgomery was talking to Minnie about this negro child proposition, she naturally believed him because the story was that the child was born in a negro house——

Mr. Stuart: Your Honor, we object to that.

A. I can't answer that question what she believed.

Q. And she discussed the matter of the child having been born in a negro house but not being a negro?

A. No, she didn't discuss it.

Q. Did she ever at any time display any reluctance in telling you that she had left this child with a negro woman to raise?

A. I don't think so.

Q. Now, the only time that you ever jumped her and made her change the story by asking suddenly what the name of the woman was, when you asked her for the name of the woman where the child was born?

A. I didn't do that. Mr. Long did.

Q. You were present? A. Yes.

Q. And that was the only time she changed her story during those conversations you had?

A. I think so. I remember that particularly, and I remembered it more after we found out the true facts, Mr. Pinson. And then I have a distinct recollection of it. It impressed me at the time, so much so that I had been anxious to stop off at Leavenworth on the way to Sapulpa, but we had to get there on a certain day and couldn't do it.

Q. Now, then, Mr. Hanford, isn't it a fact that what made Minnie sick and the reason she became ill in Leavenworth was the fact that you were there intending to have her identify a negro child as hers, a negro man?

A. That is not true, Mr. Pinson. The matter of the father of her child being a negro originated from some other source and I don't know where the story originated. The first time I heard it referred to definitely was Sadie James' testimony in the Receivership hearing.

Q. Well, now, at Leavenworth, you took the deposition of Dennis Jones, who testified she came to church with negroes and went to the theater? A. Yes.

Q. Was Minnie horrified about that did that have anything to do with her sickness?

A. I don't think Minnie knows about it unless she heard Dennis Jones giving his testimony while he was here.

Q. Mr. Montgomery didn't take advantage of that fact in talking to her out there?

A. No, not in my hearing. I don't know what he did the first day he was there.

Q. Mr. Montgomery told her the truth and read her these depositions truthfully and accurately, didn't he?

A. He read Mr. Crilly's deposition, at least the direct examination of Mr. Crilly, I don't say he read his whole deposition, but I suppose he read it correctly, I will say yes.

Q. Now, Mr. Montgomery—— Did Mr. Montgomery harrass and threaten her anyway?

A. No. He simply did this, Mr. Pinson, he would—— He had the appearance of trying to keep Minnie worked up when she would get worked up over the fact that they had tried to prove—or his statement that they had tried to prove that the father of her child was a negro, and at the time he interviewed her in Captain MacNab's office, he would couple the statement that he wanted her to give him a statement now and tell him the truth, that he knew there never was a Thomas Atkins and he referred quite often to the fact that he was going to send a whole bunch of them to the penitentiary and things of that kind.

Q. Now, Mr. Hanford, at that time you were there and at all times while he talked to her either you or Captain MacNab was present, isn't that true?

A. No, he talked to her at least one day, Monday.

Q. During the time he did talk to her while you were present or Captain MacNab or both, both interfered to make the facts plain to her so that she might not be unduly alarmed?

A. We tried to. Captain MacNab, the day Mr. Montgomery got the statement I believe influenced Minnie as much or probably more than Mr. Montgomery himself. He I think was the cause of putting Minnie into the state of mind she got into while Mr. Montgomery talked to her after Captain MacNab left.

Q. And then Minnie said to Captain MacNab, do you want me to sign it, and he said I don't want you to sign anything?

A. Captain MacNab?

Q. Yes? A. Yes.

Q. He says: "I wash my hands of the whole business"?

A. Yes.

Q. Now, it was understood by Minnie clearly that what she was going to sign, if she signed it, would take this land away from her and make it revert to the Creek Nation?

A. Yes.

Q. That was clearly understood? A. Yes.

Q. And not two minutes before she signed it, she and Mr. Montgomery were laughing and joking with each other?

A. No.

Q. That isn't true? A. No.

Q. Well, now, in your testimony Friday and Saturday, didn't you say when Minnie went to take up the pen she was laughing and Mr. Montgomery was joking with her?

A. No; Minnie laughs, Mr. Pinson, in a very peculiar way; not because there is anything funny, but she did laugh and asked Mr. Montgomery why he looked at her so funny, and he made some remark, like, I always look that way, or something, and passed it off.

Q. Jokingly? A. Yes.

Q. There was no feeling at that time displayed by him toward Minnie, was there?

A. No, he was—he had let down then and was very pleasant to her at that time.

Q. I see; and that was the time when Minnie signed this statement? A. Yes.

Q. Now, what were you doing at her house the next day? It was over, wasn't it?

A. You mean this agreement had been signed, but I was satisfied, Mr. Pinson, that the statement was not the truth, and that it simply was an added difficulty on Minnie's account in the case.

Q. Now, Mr. Hanford, you were as much interested in Minnie's freedom from prosecution for perjury, if she had been guilty of perjury, and in her immunity, if she had been guilty, as in her financial interest, wasn't you? A. Yes.

Q. You wanted the facts? A. Yes.

Q. Now, Minnie had made this statement voluntarily, hadn't she?

A. I didn't feel so, and I felt that she had made the statement under the influence of Mr. Montgomery and Captain MacNab, and I know that is the facts.

Q. Now, you went out there, then, to see if she wasn't ready to retract that statement and to assist her to retract it in any way you could? A. No, I did not.

Q. Well, what did you go for?

A. I went out there to see Captain MacNab and Minnie, and just talk the matter over, as to what was to be done on account of it, and tell them what I was going to do.

Q. You went to see Minnie, not Captain MacNab.

A. I was going to see Captain MacNab.

Q. Now, when you went in, you said Minnie I didn't think you would feel very good this morning, didn't you?

A. I asked for—I think I told her I came out to see how she felt; may have said I didn't think she would feel very good, or something.

Q. And then you told her not to tell you anything else?

A. Yes.

Q. And then you ran all the way up to Captain MacNab's quarters? A. Yes, I did.

Q. You were very much pleased to learn she had repudiated the statement, of course?

A. Well, I was not pleased; I felt it was a matter that should be attended to at once, and that I ought to get word to Captain MacNab as quickly as possible and to get Mr. Montgomery there, so that Minnie could tell him. I wanted to get Mr. Montgomery and the witnesses.

Q. Now, Mr. Hanford, you didn't sit down then and talk with Minnie quietly, as her attorney, and ask her whether she had told the truth or not?

A. I didn't; I wanted her to tell Mr. Montgomery the same as she told me.

Q. Now, Mr. Hanford, that statement she made in the presence of Captain MacNab, and, as you say, at the instance of Captain MacNab and Mr. Montgomery, cleared up what—would have cleared up all these peculiar discrepancies in her testimony in your mind? A. How is that, Mr. Pinson?

Q. If she never had a son, then you could understand why all those peculiar circumstances in her testimony occurred?

A. I don't know that I would have attributed them to that or not, but it might have been the logical conclusion.

Q. That would account for it, wouldn't it?

A. I don't know whether it would or not.

Q. Wouldn't it have accounted for all the various suspicions you had raised in your mind since the beginning of this suit? A. I suppose it would, Mr. Pinson.

Q. Yet you made no effort to ascertain kindly and confidentially from Minnie whether that was the truth?

A. No, I wanted her to tell Mr. Montgomery; to satisfy him and satisfy me at the same time.

And thereupon Court recessed until 9:30 o'clock A. M., May 29, 1917.

And thereafter, and on May 29th, 1917, at 9:30 o'clock A. M., Court convened pursuant to adjournment, and further proceedings herein were had as follows:

E. C. HANFORD, being recalled, further testified as follows:

Cross Examination by Mr. Pinson.

Q. Mr. Hanford, after you had made the trip to Leavenworth, and then the trip to Boston, you went back to Tulsa, didn't you?

A. I came back from Boston by way of George H. Hyde's at Pittsfield, and then back to Leavenworth, and I think I was in Leavenworth one day.

Q. You had a conversation there with Mr. Page at that time about the result of the trip?

A. I don't know, I don't remember talking to Mr. Page; I remember talking to Mr. Rice.

Q. You don't remember talking to Mr. Page at that time?

A. No, I probably did, though.

Q. You remember whether you talked to him in the presence of any other persons or not? A. Mr. Rice?

Q. Yes, or Mr. Page?

A. I don't remember my conversation at that time. I remember telling Mr. Rice about my conversation with Mr. Hyde, which we considered very important, in fact it was important.

Q. Now, do you remember whether Mr. Page was satisfied with the result of your trip—whether he wanted you to make another trip to Boston?

A. No, he didn't want me to make another trip to Boston. I think that I was present at a conversation between Mr. Long and Mr. Rice, or Mr. Long and Mr. Page, in which it was suggested that Mr. Josey go up and see Mr. Peterkin. They were not satisfied with my interview with Mr. Peterkin, because about the only thing that was considered that I had gotten from him was that he knew nothing about Minnie before he met her, and I didn't tell him anything and didn't go into any details with him, and I know that they were very much dissatisfied and thought that Mr. Josey ought to go and talk to him further, and I really thought that Mr. Peterkin was deceiving me because he told me how he was married and had three children, and this matter coming up seemed to make him very ill at ease. And they discussed having Mr. Josey go up and see Mr. Peterkin; I know Mr. Long wrote Mr. Josey but I think that I have learned that since.

Q. Now, you testified once or twice about a telegram to Mr. Page in regard to this five thousand dollar check; a telegram which made Mr. Page very angry. Did you make a search for that telegram or a copy of it?

A. I didn't make a search, Mr. Pinson, but I know that I haven't that telegram because I think if I had it I would have seen it and recognized it.

Q. You are sure you haven't it yourself?

A. I am sure. I don't think I saved a copy of the telegram because I went direct from the bank to the telegraph office and wrote out my telegram and sent it. I didn't send it from my office, so I don't think that I had any copy.

Q. Now, you spoke of your trip to Leavenworth with Betty Mann, in which she drove from place to place all over the town with you to find every old house and every old citizen in an effort to produce some further evidence?

A. I don't say every one, she went to a great many.

Q. A great many?

A. She would pick out places where she would see old colored people and would go in and talk to them, but they always went off on a tale of war or something like that and wouldn't give her any information. They were all suspicious of her and suspicious of me.

The Court: Mr. Hanford, you have made that plain to me in your direct examination.

Q. You didn't get any information of value on that trip yourself, did you? A. None at all.

Q. You refered to a person by the name of Mary Smith, with whom you had an interview. Has she testified in this case? A. No, I think——

Q. Well, has she testified, Mr. Hanford, or not?

A. Mr. Pinson, I am not sure, but I want to say that I think she was one of the witnesses that testified in Leavenworth and gave her deposition but I didn't see her and hear her testify.

Q. And she admitted to you at the time you interviewed her that she had been interviewed by other persons before?

A. She told me somebody had been to see her before.

Q. All right. Now, then, in your discussion with Mr. Montgomery and Minnie in connection with the confession——

A. Mr. Pinson, on that trip I also did get other information of value on my way back from Kansas City, I stopped off at Kansas City, Kansas, and saw a man by the name of Woods——

Q. Just a minute. Now, you got information from him, did you? A. Yes, very good information.

Q. Well, has he testified?

A. No, he died before the deposition was taken.

Q. Now, you told Minnie in connection with Sadie's confession, that you had procured some of those Leavenworth witnesses and you knew their story was true, who were they?

A. I didn't tell her I procured any witnesses. I didn't procure any witnesses.

Q. That was not your testimony on direct examination?

A. No, I said that I had heard those witnesses.

Q. Before Minnie gave her deposition at Tulsa you and Mr. Long took her to Rice & Lyons' office, that is the day before, and had a conversation among you four, did you not?

A. Did not.

Q. That is not true? A. That is not true.

Q. Mr. Hanford, you have left the Court the impression that Sadie James had injured you in a conflict at the Post at Minnie's home after the confession was written and after the meeting between yourself, Mr. Buell, Mr. Montgomery, Mr. Robinson, and Mr. Garvin at the Hotel? A. Yes.

Q. That is true, isn't it? Now, that was a very slight injury, it wasn't a broken nose and broken out teeth as you have testified, was it? A. Yes, it was broken——

Q. Beg pardon? A. I say it was.

Q. Was what?

A. I say it was a serious injury, not to put me in bed but so that I have had to have pieces of bone removed from my nose and from the bridge of the teeth that was broken.

Q. Now, Mr. Hanford, in fairness to Sadie, you were not struck by her until after you had cursed her, assaulted her and threatened to kill her, that is true, isn't it?

A. That is true.

Q. Now, let's talk just a minute about the trip over to Col. Wilson's house?

A. I will say though, that I thought Sadie was getting behind me to do some damage to me, Mr. Pinson.

Q. But you didn't believe that Sadie was trying to get back to the house to Minnie?

A. Well, I might have believed that.

Q. Which did you believe?

A. I just had the impression that she was sneaking behind me and I was keeping them in front of me so they couldn't get back to the house.

Q. Going on now to the incident that occurred at Col. Wilson's house, I understand you to say that you ran from Minnie's house to the Post and was standing at Col. Wilson's door when Mr. Montgomery came up and struck the match to look at the door place?

A. No, he was there first but he didn't get out of the taxicab until I got up on the porch.

Q. The two of you were together when Col. Wilson came out of the house? A. That is true.

Q. Now, you made to Col. Wilson certain representations to the effect that a very dangerous gang were out there and that they were trying to get Minnie away from you, isn't that true?

A. I told him that, that I believed that was what they were trying to do.

Q. You told him you wanted his help didn't you?

A. No, I told him I didn't want his help but I didn't want any interference.

Q. Now, Mr. Montgomery was standing right by you when you made those representations to Col. Wilson?

A. No, he was not.

Q. Where was he?

A. Mr. Montgomery was out in the hall and I went back to Col. Wilson's office and talked with him, and after I got through he even asked me to wait and hear his interview with Mr. Montgomery; but I told him I was satisfied to leave that matter to him; that I just wanted him to be informed and to be on his guard against Mr. Montgomery, and I left. At that time I believe——

Q. Mrs. Wilson opened the door, didn't she, the Colonel's wife?

A. No, Mr. Pinson, I think Col. Wilson came to the door himself.

Q. Well, his wife and daughter were there, weren't they?

A. I didn't see them.

Q. Well, his wife and daughter were there, weren't they, during the interview? A. I didn't see them.

Q. Didn't see them at all? A. No, I didn't see them.

Q. Didn't Mr. Montgomery talk to them in the library while you and the Colonel talked to them in the adjoining room? A. That may have been.

Q. Didn't you see them there when you came out of the adjoining room?

A. I don't remember seeing them, Mr. Pinson.

Q. Then, you now say that you didn't make any statement derogatory of Mr. Montgomery in Mr. Montgomery's presence, is that true? A. I did not.

Q. Now, at the hotel, let me understand you about this one thing: Mr. Buell, and Robinson, and yourself, and Mr. Montgomery were in the room together when someone told you at the very beginning of that conversation that Mr. Montgomery was the only Government man present, isn't true?

A. Yes, not right at the beginning but after I had told them that I had nothing to say, or wouldn't say anything, and especially in the presence of——

Q. A Secret Service man?

A. A member of the Secret Service, yes.

Q. You said you had no regard for the Secret Service?

A. Yes, I said they would simply misconstrue any statement that I would make and that I wouldn't——

Q. And then you led the Court to believe that the first you learned that Robinson was not a Secret Service was when you interviewed him about certain friends of yours in the Secret Service, isn't that true?

A. Yes, that is true, in the taxi cab going out to the Post. He may have told me that he was not in the Secret Service. I learned it, however, at that time.

Q. You do not want to leave the impression with the Court that anyone tried to impress you with the fact that they were representing the Government or were in the Government Secret Service? A. I thought so at that time, yes.

Q. Who do you accuse of leaving that impression upon you?

A. Mr. Montgomery was the one who introduced Mr. Robinson to me as a member of the Secret Service.

Q. Yes, and made no exception?

A. No exception, except later I believe it was Mr.—— yes, it was Mr. Montgomery that explained to me that he was the only one that was there that was representing the Government but I didn't connect that so as to be relieved of the impression that Mr. Montgomery was a member—that Mr. Robinson was a member of the Secret Service at that time.

Q. Well, your understanding of the Secret Service as you used the term, was the Government Secret Service?

A. Yes, I will tell you, I afterwards discussed that——

> The Court: Well, let's not go into that any further. I can't see what difference it makes whether he was a private Secret Service or Government Secret Service; at any rate it is in the record sufficiently.
>
> Mr. Pinson: Your Honor, it is merely to correct the impression if it is an impression that Mr. Montgomery practiced any deception on him in making the statement.

Q. In the letter which you introduced in evidence during your testimony and which is dated September 10th, 1914, there is a statement that reads something like this: "I shall have something further to write you about Minnie this afternoon." The letter is addressed to the Gem Oil Company. Did you write something further about Minnie that afternoon?

A. I don't know.

Q. Do you recall at this time what you had in mind?

A. No, I do not.

Q. Did you ascertain whether—could you ascertain whether there is a letter which is of the same date in which you did write them something further about Minnie?

A. This letter is addressed to the Gem Oil Company, I will look and see.

Q. You kept carbon copies of your letters, didn't you?

A. No, I didn't, Mr. Pinson; sometimes when I wrote when I dictated letters, I think I would have carbon copies but many times I wrote letters myself in the evenings. I always worked nights, and if I did, I never saved copies of those. I wouldn't make carbon copies.

Q. Alright. Mr. *Pinson* will you make an effort to secure that telegram which you sent to Mr. Page and that letter to the Gem Oil Company if there is one; and if there is one it may be necessary for me to further cross examine you on those matters. A. Yes, I will look for them.

Q. Mr. Hanford, letter to Peterkin referred to which has been offered in evidence as Government's exhibit A-84, this is a letter which you wrote, is it not? A. Yes, this is the letter.

Q. Now, at the time that you wrote this letter you had—November 23rd—you had made two trips to Leavenworth, had you not with Minnie?

A. Yes, the first time to look up the Hospital record and the second time when the depositions were taken, and Minnie was sick.

Q. Now, Mr. Hanford, I want to ask you about certain matters contained in this letter; you say here "the child was born in the town of Leavenworth before she ever got acquainted with the Army Post;" you believed that at that time, did you? A. Yes, we believed that at that time.

Q. "She was quite a character about Leavenworth for a couple of years and after she came away from there she stayed away in so far as she allowed other people to find out;" you believed that, did you? A. Yes, believed that.

Q. You believed that from information and evidence which you received that she was a character about town a couple of years? A. Yes.

Q. And that was your understanding? A. Yes, sir.

Q. Before she ever went out to the Post?

A. Yes, that was to some extent but we assumed it from the information we got from people in Leavenworth.

Q. "In the same way, while you were connected with her, she had a little son playing around in Leavenworth; he was about a year and a half old before Minnie ever went out to the Post;" you believed that at the time? A. Yes.

Q. And had that information?

A. Not that information; we assumed that because the witnesses we had at the depositions testified that the child was about a year and a half or two years old when Minnie disappeared and they didn't seem to know anything about her working out at the Post and we assumed she disappeared when she went out to the Army Post.

Q. Now, you did know that Oliver took her out to the Army Post, didn't you? A. No, he didn't.

Q. Let me read you this: "It seems that it was Oliver who got Minnie to go out to the Post;" that is in your letter, isn't it?

A. Yes, I don't know; I suppose I guessed at that. Minnie may have said that—she never would say who the man was who took her out to the Post.

Q. You understood when you wrote to Minnie that Oliver had been Minnie's common law husband, friend, or paramour? A. Before Peterkin.

Q. Before Peterkin? A. Yes, sir.

Q. And you understood Oliver was the man who took Minnie to the Post? A. Yes.

Q. Then you didn't understand that Minnie had disappeared when she went to the Post, did you?

A. That is what we thought, that she disappeared to the Leavenworth people; they said they didn't know her after the child was a year and a half or two years old, and we supposed when she went out to the Army Post, that is when she disappeared to them.

Q. Now, are those two places so isolated or the one from the other, that a person living in one place would have no communication with a person in the other?

A. Why, not at all, Mr. Pinson; but there is a very great distance between people living in an Army Post and a town adjoining it very closely, and probably never see each others—

Q. Now, of course, the means of conveyance you understand are different at this time from that, didn't you?

A. Yes, sir.

Q. "We have taken the depositions of about forty people in the town of Leavenworth who knew Minnie, knew the child, and knew all about the time it was born." How many witnesses have you ever introduced who proved the time that this child was born?

A. Well, I don't know how many Mr. Pinson, but we have —besides the depositions we have taken affidavits of a great many people that we have never used as witnesses.

Q. Then, you have one witness at this time before the Court who has testified as to the time of the child's birth, haven't you?

A. I don't know how many we have just now. I will state that I was always under the impression that a great many more depositions were taken at Leavenworth than actually were taken.

Q. "Minnie's friends kept the child in Leavenworth until he was about twelve years old. He was known by the name of Thomas Atkins and every one knew that he was part Indian and that Minnie was his mother." That was your belief and understanding? A. Yes, sir.

Q. "Every one about the town of Leavenworth," is that about that section of the town?

A. No, I was talking about those depositions that we took there at Leavenworth.

Q. "We had Minnie in Leavenworth again since I saw you, dozens of people knew her there and know all about her and the child. People recognize her on the street. She was better known in the town than she was out at the Post." You believed that, did you?

A. I believed it. I couldn't find anybody out at the Post that knew her at all, but we were finding new people in the town all the time that knew her.

Q. Mr. Hanford, the first time you went to Leavenworth with Minnie, you drove all over town for two days until you thought you had completely covered the town?

A. Yes, I had completely covered a large part of it, the part that Minnie directed me to drive in and I stuck to that part of town.

Q. And you spent two days in that part of town, didn't you?

A. Yes, not two days, but probably had the rig out a couple of hours at a time on those two days.

Q. And you walked about some during the remaining portion of the time?

A. No, I don't think that Minnie walked at all. I may have walked——

Q. Was Minnie recognized by or did she recognize a single person during those two days?

A. Yes, she recognized a great many people and she recognized one person that I remember. That was an old woman.

Q. That is the old cancer eaten woman? A. Yes.

Q. Half wit? A. Yes.

Q. Did that woman recognize her?

A. No, that woman seemed to be out of her head and I don't think she got close enough to Minnie to recognize her, whether she did or not.

Q. Now, when you went back to Leavenworth on the second trip you found the situation as you have outlined it in this letter, that dozens of people would recognize her there, and people would recognize her on the street?

A. Yes, I found dozens of people that knew her. I didn't say they recognized her on the street through, but many people did recognize her on the street.

Q. Now, how long was she up there, about, in Leavenworth, at that time?

A. Well, she was over there I think a couple of days before she was taken sick.

Q. After that she was confined to her bed, wasn't she?

A. Yes, sir.

Q. And during those two days people recognized her on the street?

A. Yes, I think that that was largely hearsay on my part, because Mr. Long had her recognized by people; I remember he told me about Policeman Murphy recognizing her, Crilley, and others that recognized her at once.

Q. Now, that situation became apparent after Sadie James, Dennis Jones, and Rube Smith, and Betty Mann were employed, isn't that true? A. Yes.

Q. Mr. Hanford, what was the matter with Minnie up there at Leavenworth when you referred to her as being sick?

A. Well, I could never—I could never find out, Mr. Pinson, what was the matter. I think it was supposed to be from overeating, something of that kind. I think the nearest I ever got to it, that sounded most probable, was Mr. Ferguson telling us about her eating too many peaches.

Q. Now, why did you write Peterkin there, "We had her in the hospital for a week at Leavenworth suffering from nothing but nervousness"?

A. Well, that was what one doctor said was the matter with her, and she was highly nervous at that time.

Q. And you were as ready to believe that as the other theory of her sickness?

A. Well, probably a little bit more; I think that she was suffering from nervousness and probably was put down by overeating, something of that kind.

Q. Referring again to your explanation of the Stafford matter, you wired Major Stafford to conceal his knowledge of Minnie, because as you say you didn't want any person to find a living Thomas Atkins before you people found him?

A. Yes, I didn't want them to get any information at all regarding him.

Q. And the purpose was to find the living Thomas if he was living first?

A. Yes, we were afraid that he might turn up any time.

Q. Now, then, explain to the Court, please, why you wrote the following paragraph to Peterkin: "The details of Minnie's history after she went out to the Army Post in Leavenworth do not concern these people that wrote to you and they have no business inquiring into that part of Minnie's history. She is certainly entitled to keep private anything that is not involved in the case, but it is just like those people to try to nose into something that does not concern them. If you reply to their letters at all I wish you would just tell them that

Minnie did not inform you of the instances of her life prior to the time you met her, and that you consider what took place afterwards a private matter which you do not intend to have them inquire into"?

A. I think that explains itself, Mr. Pinson. That is exactly the way I felt, that the only thing that they were entitled to was what he told me and that was that he knew nothing prior to the time that he met her, and that that related to Thomas Atkins, and that after that I didn't believe they had a right to know her secrets; and I felt those were secrets.

Q. You had investigated those secrets had you not?

A. Yes, and I had a right to.

Q. Why? A. I was her attorney.

Q. And if you couldn't find them out from Minnie, you got on the outside to find them out? A. Yes.

Q. The world was advised at the time by records prepared before a court that Minnie had three illegitimate children at Fort Logan? A. Yes.

Q. You never made any objection to that being disclosed?

A. No, I thought it was all unnecessary to go into that and bring it out.

Q. You had been advised by Peterkin that this was a girl, had you not, this child?

A. He told me that she had a girl at Leavenworth.

Q. While he was living with her? A. Yes.

Q. Then, the child that you refer to was a girl child, wasn't it?

A. No, I wasn't referring to that at all. He also told me—Mr. Peterkin told me a great many things about her that I wouldn't want anybody to know today about Minnie, things that he had no reason to tell me at all, and I felt that he would go into all those.

Q. You didn't mind at all about his telling them about the birth of this child, though?

A. Well, if it was true. I wasn't thinking about that so much as I was I thought he would tell them all about Minnie and I thought they were not entitled to know it.

Q. And therefore, you observed: "Don't forget to write me if these people down there keep butting in," and wound up "Yours for the Army and Navy forever." That is all.

A. I want to state that last little sentimental phrase was adopted from a piece of poetry that Mr. Peterkin sent me with the letter.

Redirect Examination by Mr. Stuart.

Q. Mr. Hanford, the attorney who has just taken his seat asked you if it wasn't a fact that you didn't have but one witness that knew about the date of this child's birth.

Now, just a minute we will save a lot of time. Did Mr. Roderick testify about that child's birth? A. Yes.

Q. Did Jim Allen, the general agent for the Rock Island——

Mr. Pinson: We object to that as leading.

The Court: Overruled. We will clear that up right now. I thought at the time that a reference by the court to the records would clear that up.

Q. Did Jim Allen, the general agent for the Rock Island, testify to it? A. Yes.

Q. Did Mr. Fritchie testify to it? A. Yes.

Q. Did Mrs. Cobb testify to it? A. She did.

Q. Did Mr. Crilly testify to it? A. He did.

Q. Did Walter Banks? A. He did.

Q. Sam Nash? A. Yes.

Q. Mrs. Welsh? A. She did.

Q. And did Dennis Jones testify to it?

A. He did, and there may be others if I could run over the records.

The Court: Now, I will say, gentlemen, right now, with reference to the cross examination along that line that I shall determine from an examination of the testimony what those witnesses— as to what they testified and what will be the effect of that testimony; and I think it is only prolonging the record to inject anything of that kind into this cross examination or direct examination.

Mr. Stuart: Your Honor, I hope this is not intended as a criticism to me.

The Court: It was started on cross examination but I think it was entirely unnecessary.

Mr. Pinson: May I offer an explanation of this examination.

The Court: Gentlemen, I am going to assume that it was done in the utmost good faith. This is merely a suggestion on the part of the court in regard to it.

Mr. Stuart: That is all, Mr. Hanford.

(Witness dismissed.)

Mr. Hanford: At this time, if the court please, I want to offer the deposition of Captain Alexander J. MacNab, Jr., commencing at page 198 of the depositions taken before Giles Penick.

Thereupon, ALEXANDER J. MacNAB, being recalled on behalf of the defendants, further testified herein as follows:

Direct Examination by Mr. Hanford.

Q. Your name is Captain Alexander J. MacNab, Jr.?
A. Yes, sir.
Q. You are a Captain in the United States Army?
A. Yes.
Q. Stationed at Fort Lawton, near Seattle, Washington?
A. Yes.
Q. You have previously been sworn in this case?
A. Yes.

Q. As a witness in this case, Captain MacNab, you acted for a time as trustee for Minnie Folk, in connection with the land involved in this case? A. Yes.

Q. Prior to your assuming responsibility as trustee, you advised her personally? A. Yes.

Q. This whole matter of this land and her interest in it was brought to your attention at the time the colored woman, Sadie James, came out and found Minnie here at Seattle?
A. Yes, at that time.
Q. Did you ever see Sadie James? A. Yes.
Q. Where did you see her?
A. I saw her in the house that Minnie Folk lived in at that time, and still lives in, near Fort Lawton.

Q. What was the occasion of your seeing her at that time, that is how did you——

A. I was at Mrs. Folk's house when Sadie James came there on the afternoon of this day when I first learned about this land.

Q. Who else was there at that time?
A. Mr. Hanford was there, and myself, and I believe Harry Folk; I am not sure whether Harry Folk was there at that time, I think he was.

Q. That was the occasion that you have testified to as a witness on behalf of the complainant, when Sadie James came out there with detectives following her? A. Yes.

Q. And you at that time persuaded Minnie Folk not to do anything in the way of signing away her land for any sum of money, and arranged to have Mr. Hanford act as her attorney? A. Yes.

Q. Did you ever see Sadie James after that?
A. No, I don't think I ever saw her.
Q. Did she ever come to your quarters at the Post?
A. No, not while I was there.
Q. Did she ever come to your quarters with a man named H. U. Bartlett? A. No.
Q. Did she ever have any conversation with you at your

house in the presence of Mr. Bartlett after the time you first saw her? A. No.

Q. Or at any time in the course of which she told you that Minnie was not telling the truth? A. No.

Q. Did you ever tell her——

A. I never spoke to Sadie James after that one afternoon, and I don't remember ever seeing her again, if I ever saw her again it was passing on the street, she certainly never came to my house and I certainly never held any conversation with her except that one afternoon when you yourself were present.

Q. Did she ever state to you in words or substance that Minnie Folk was not the mother of Thomas Atkins?

> By Mr. Allen: We object to that for the reason that it is leading and suggestive and incompetent, and if it is laying a predicate for impeaching the witness, Sadie James, the time and place are not fixed.

A. No, the only statement she ever made about Thomas Atkins was that Minnie was the father of Thomas Atkins—the mother of Thomas Atkins, and that was made that afternoon, that first afternoon. That first afternoon was the only afternoon that I ever talked to Sadie James or that she ever talked to me, when you, Mr. Hanford, was present.

Q. Did she state to you that she had known Thomas Atkins?

A. Stated that she had known Thomas Atkins and that she knew him much better than Minnie did, that she had seen him long after Minnie had seen him.

Q. Did she say where?

A. She said she saw him in Leavenworth but just how long afterwards I don't remember whether she stated definitely, but she impressed on us by her definite statements to that effect that she knew Tommy and knew more about Tommy than Minnie did, and that Minnie was the mother of Tommy.

Q. Did she state to you that she had—at Minnie's house on that afternoon that you speak of—that she had known Minnie previous to that time?

A. Yes, she said that she had known Minnie previous to that time.

Q. Did Minnie, at her house that afternoon, tell you whether or not she had ever known Sadie James previous to that time?

> By Mr. Allen: We object to that as leading and suggestive, incompetent, and as hearsay, and a self-serving declaration.

A. I don't remember whether it was at her house that afternoon or not, but sometime, either that day or that evening, Minnie said: "That woman claims to know me, she says she knows me, but I don't remember her." She says: "I don't remember that woman," and she added——

Q. Did you ever take Minnie to the Post and keep her under guard, or put her in the guard house? A. No.

Q. Did any other woman, subsequent to that afternoon, come to your house in the Post to talk to you about Minnie?

A. Yes.

Q. Who was that?

A. There was two that I recall, one was——

Q. Well, I am asking you along about that time?

A. Along about that time was Bettie Mann, I believe her name was Bettie Mann.

Q. State in substance what, if any, conversation you had with her at that time?

A. My conversation with her was not very long. I think she come to see if Minnie had appointed me trustee for her, and I gave her to understand that the entire matter had been turned over to me to handle and I think that is about all, that is about as far as the conversation went.

Q. Did she tell you whether or not she had seen Minnie?

A. I think she said she had not seen Minnie.

Q. Did you have any conversation with her at all relative to the merits of this case, that is to whether or not Minnie Atkins—Minnie Folk was the mother of Thomas Atkins?

A. None whatever that I can remember of; I am quite sure I did not discuss the case with her at all.

Q. Did Mr. Bartlett come to your house to see you?

A. Yes.

Q. How long after you were appointed trustee?

A. Well, it was not more than a week or two, as I remember it, it was sometime immediately following that, within a week I should say.

Q. State the substance—state the conversation—your conversation with Mr. Bartlett at that time?

By Mr. Allen: We object to that for the reason that it is incompetent and hearsay.

A. Mr. Bartlett wanted to know if Minnie had made me trustee in the case, and I told him that she had; he wanted to know if we had tied up to anybody as to a deal—as to a deal for a lease, and I told him that we had not at that time, and he said that he was in a way representing the Gypsy Oil people in that they held a lease that he had given them; that he was then convinced had been given them on a *forced* deed that he had, or a deed given by a Minnie Atkins that he was then convinced was not the real Minnie Atkins, and I told him I thought from what I had seen that there was not any doubt about this Minnie Atkins being the Minnie Atkins borne on that roll, a photographic copy of which I had seen and had compared it with the signature on that roll with the signature on the marriage certificate and the identification in other ways had been complete so far as I was concerned, and I thought that the Minnie Atkins that was here was the Minnie Atkins that was on that roll; and he said—acquiesced in that. I don't know whether in so many words or not, but said, I think, he believed so too. At any rate, he wanted to be given a chance to have his company, or the company he was supposed to be representing, a chance to make a bid for the lease, and he asked me to wire Mr. Hanford to see the Gypsy Oil people and get their proposition before making any deal, and he said he would pay for that telegram; and I said: "If you will write out the telegram that you want to send to Mr. Hanford, I will sign it and let you take it down and send it." And he wrote out a telegram himself, or dictated it, I have forgotten which; at any rate, the telegram was personally satisfactory to him and it was what he wanted sent to Mr. Hanford, and I signed it and he took it away and I understand that he sent it and that Mr. Hanford received it. He also stated that he thought that we would do better to deal with him and the Gypsy Oil people, and that he felt that he could materially aid in clearing up the case in getting the title for Minnie, but that he would want to get something out of it if he did. That is all of the conversation that I recall at this time that applies to this case.

Q. What did you understand him to mean by clearing up the title of Minnie to this land?

By Mr. Allen: We object to the question for the reason that it is incompetent, hearsay, and calls for the conclusion of the witness.

A. Well, I understood it to mean dealing with the identification of Minnie Atkins as the mother of Thomas Atkins, because to my understanding, that was the only question involved at that time to acquire title to the land.

Q. Did he tell you whether or not there were any other claimants to the land?

A. Yes, he told me there were other claimants.

Q. Did he tell you that he was a claimant himself, or the claimant of an interest?

A. No, he stated that he had given the Gypsy Oil people a lease on that land, thinking it was his, because he had a deed from a Minnie Atkins, and that he was up there purely to try and make good the deal that he had made with the Gypsy people, but he admitted to me that he felt that that deed that he had was not given by the real Minnie Atkins, so I considered that he was not a claimant at that time for the land.

Q. Did he question you at all as to whether or not Minnie Atkins, the mother, had given birth to a son named Thomas Atkins?

A. No, he asked me no questions about that. It was taken for granted by—— At that time there was no questions of that. It was conceded by everybody concerned in the case at that time that there was a Thomas Atkins and that the Minnie Atkins that was borne on that roll was the mother of him; it was only a question of identifying Minnie Atkins as the Minnie Atkins of Oklahoma who was borne on that roll of 1895; at least that was the only phase of the case as I understood it at that time.

> By Mr. Allen: We move to strike the answer of this witness for the reason that it is not responsive to any question, and is leading, is a conclusion of the witness, and is testifying with reference to a conversation had with a party not a party to this suit.

Q. Did anyone else come to see you in regard to Minnie Folk subsequent to Mr. Bartlett's visit?

A. There was a woman whose name I believe was Robinson, a Miss Robinson of Oklahoma, a school teacher.

Q. That Miss Alice Robinson? A. Miss Alice Robinson.

Q. When did she come to see you?

A. Well, that was after Mr. Bartlett had been there, but just how long after, I don't know, it seems to me it was in—within a month, but as to that I am not sure, it was about that time.

Q. What did she come to see you about?

A. She came up to ask me if I would get Minnie up so that she could talk to her; she came, she said, to see if she could identify this Minnie Atkins as the Minnie Atkins who had gone to school to her in Oklahoma, and I asked her who she represented here and she said she was not at liberty to state, and I didn't know then and I don't know now, but she convinced me that she was a person of standing in her own community, and I sent for Minnie and Minnie came up there, sent for her down to her house, she was living down close to the Post. Minnie came up to my quarters and quite a conversation took place between Miss Alice Robinson and Minnie, and she identified her during this conversation as being the Minnie Atkins who had gone to school to her, and whom she knew in Oklahoma. I remember one thing, she asked Minnie if she remembered the words of the hymn they used to sing in the Indian language and I think she started the first line of it and Minnie took up the second and they sang it together, and Minnie described to her a fire that took place in the school house when she was a little girl, how she first [ ] to go to Carlisle school; and they talked about little things that happened when Minnie was a school child before she went to Carlisle; but the main thing that fixed in my mind the conversation was that Indian song that Miss Robinson started and Minnie took it up and they sang it together in the Indian language.

Q. Miss Robinson had luncheon at your house at that time, did she not?

A. Yes, she was at luncheon when Minnie came in, and I remember one statement that Minnie made that struck because Miss Robinson had told me before Minnie got there, she said: "If this is Minnie Atkins and she finds out who I am, she will say 'My how fat you are, how fat you have grown,' " and Minnie talked to her and she remembered Miss Robinson, but she said: "You are much fatter than when I knew you."

Q. Did Miss Robinson call your attention to the occurrence?

A. Yes, and Miss Robinson looked at me and said: "I told you," or words to that effect.

Q. Was there any discussion with Minnie by Miss Robinson, or at that time, in her presence, as to whether or not she was the mother of Thomas Atkins?

A. No, that question was not brought up at all.

Q. Then, it was purely——

A. Purely a question of identification of Minnie as being the Minnie Atkins.

Q. How soon after lunch did Miss Robinson leave?

A. I don't remember, she stayed a little while, however, just how long I don't remember.

Q. Do you remember who went with her when she did leave?

A. No, I don't remember that, I don't remember whether she and Minnie went away together or not, or whether she went alone.

Q. Was Mr. Hanford present at the time that Miss Robinson and Minnie were there together at your house?

A. Yes.

Q. That is the Miss Alice Robinson who was formerly Post Mistress at Muskogee, is it not?

A. I believe she told me that she had been appointed Post Mistress by President Roosevelt, and I think she had a letter from President Roosevelt, that is my remembrance of it.

Q. Captain MacNab, a lease was made to the Gem Oil Company of this land under your direction as trustee, was it not? A. Yes.

Q. What was the consideration for that lease?

A. Well, the consideration paid was ten thousand ($10,000.00) dollars; I don't remember what was stated in the lease, but there was ten thousand dollars paid.

Q. How much of that ten thousand dollars did Minnie Folk take over for herself?

A. Five thousand ($5,000.00) dollars.

Q. The other five thousand dollars, you previously testified, was devoted to the expenses incident to the case and the—including the two thousand dollars that was turned over to you as trustee? A. Yes, sir.

Q. Did Minnie receive the cash on the five thousand ($5,000.00) dollars that went to her immediately after it was paid, immediately after the check was received? A. No.

Q. That check was dated for a subsequent date, was it not?

A. That check was dated for the end of July. I have an idea that it was the 29th of July, but it might have been the 30th or 31st, but I think it was the 29th; it was dated the latter part of July, about the last of July.

Q. Do you remember about what date of the month of July Mr. Hanford returned to Seattle with that check?

A. No, I don't remember, but it was after I got back to Seattle from the Manœuvre Camp at Tacoma, and that was sometime after the month of July, because I was down there during the month of July, I should say somewhere about the 10th of July.

Q. Do you know why that check was dated ahead?

A. Well, as I have stated before, it was explained to me that the oil people wanted to get their evidence in shape before this money was paid.

Q. What do you mean by evidence in shape, Captain MacNab?

A. Well, at that time I didn't think that there were—well they were convinced that she was the Minnie Atkins that had been—that they had been looking for, but they apparently wanted to make the proof positive of that fact, they were convinced enough to make that payment but they requested that the money be held; it was my understanding, it was the object of making the identification more complete. At that time, the only evidence that we had any idea of being necessary was the establishing of this, the identity of this Minnie Atkins.

Q. Captain MacNab, you now understand that in this suit of the Government, in behalf of the Creek Nation, to cancel this allotment, it is sought to be establish- that the defendants are involved in a conspiracy, while that was not directly charged, but I can use the word, involved in a conspiracy or an attempt to manufacture a case and secure evidence that a child was born to Minnie Atkins and that he was named Thomas Atkins, and that this allotment was made to him and through him she obtains her title. Does your statement, that that money was to be delayed in payment to Minnie until they could get their evidence in shape, in any way relate any—did you agree to that for any such purpose?

By Mr. Allen: We object to the question for the reason that it is suggestive, leading, hearsay, and calling for a conclusion of this witness, and incompetent.

A. No, I didn't know that any such charge was made until you made the statement here, although I gathered as much from the line of questioning yesterday.

Q. Did you know of any such conspiracy, or attempt to manufacture a case or procure evidence? A. No.

By Mr. Allen: We object to that for the same reason and ask that the answer be stricken. We also object to both of these questions, and ask that the answers be stricken, upon the further ground that it is self-serving.

Q. Did anything come to your information that would tend to in any way indicate that there was any such conspiracy or attempt to manufacture evidence?

A. None whatever.

By Mr. Allen: We ask that that answer be stricken for the same reason.

Cross Examination by Mr. Blakeney.

Q. Captain, when Minnie first came to you regarding this interest that she claimed in the Tommy Atkins land, it was after Sadie James had been talking to her?

A. I understood that Sadie James had been there before, yes.

Q. You understood from Minnie that Sadie had been there?

A. From Minnie, yes, that Sadie had been there before.

Q. Could you see that she was merely claiming to be the mother of Tommy Atkins because it had been suggested to her by Sadie?

By Mr. Allen: We object to the question as leading and suggestive and improper, and calling for the conclusion of this witness.

A. No.

Q. Didn't she appear to be under the influence of Sadie when she was talking to you?

By Mr. German: We object to that as incompetent and irrelevant and immaterial, and calling for a conclusion.

A. She was not under the influence of Sadie when she first told me that she was the mother of Tommy Atkins, because Sadie was not present and I had no reason at that time or since to think that she made that statement to me because it had been suggested to her by Sadie James.

Q. During these negotiations up to the time that the lease was made, was it suggested to you that there was no Tommy Atkins, but that Minnie had been induced to claim that she had had a child which had borne that name? A. No.

By Mr. Allen: We object to that for the reason that it is incompetent, hearsay, suggestive and leading, and for the further reasons that is calling for a conclusion of the witness and we ask that the answer be stricken for the same reason.

Q. Then you had no knowledge that any claim was being made that Minnie's assertion of the fact that she was the mother of Thomas Atkins had been subrogated?

By Mr. Allen: We object to that for the same reasons, the reasons last stated.

A. No. I knew that there were other claimants who might endeavor to dispute the identity of this Minnie Atkins, but I have no knowledge that it was ever disputed—that any endeavor was ever made to fabricate evidence that she was the mother of a Thomas Atkins.

Q. It was your understanding that there was, or had been a Thomas Atkins?

A. That there was a Thomas Atkins and that there was.

Q. That there was a Thomas Atkins?

A. That there was a Thomas Atkins, yes.

By Mr. Allen: We move to strike the questions and answers for the reasons last stated.

Q. It was your understanding that there was a Minnie Atkins——

By Mr. Allen: We object to that, for the reason that it calls for a conclusion of the witness, incompetent, and hearsay.

A. Yes.

Q. The question that seemed to be—that seemed at that time to be in doubt was whether this was the Minnie Atkins that was the mother of Thomas Atkins allotted——

By Mr. Allen: We object to that for the reason that it is leading, suggestive, hearsay, and incompetent, and calling for a conclusion of the witness.

A. That was the only question in the case that I knew of.

Q. The agreement by Long that five thousand ($5,000.00) dollars would be deposited to be paid sometime later in July was in order to give Long an opportunity of establishing that fact, that this Minnie was the mother of Thomas Atkins allotted——

By Mr. Allen: We object to that for the same reasons last stated.

A. That was my understanding of it, the establishing of the identity of this Minnie Atkins, and which, however, we were thoroughly convinced at the time and had no objection to allowing them time to satisfy themselves on that point.

By Mr. Allen: We move to strike the last part of the witness' answer as not responsive to the question and as stating a conclusion of the witness.

Q. Would you have gone into a conspiracy to establish a fact that Minnie Atkins had had a child, of which you had knowledge that she did not have?

By Mr. Allen: We object to that as incompetent and immaterial, and calling for a conclusion of the witness.

A. Certainly not.

Q. Did you have any knowledge that this money was being deposited for the purpose of offering it as an inducement to Minnie to give her testimony claiming that she was the mother of a child, which as a matter of fact she was not the mother of?

By Mr. Allen: We object to that as incompetent, irrelevant, and immaterial, leading and suggestive and calling for the conclusion of the witness.

A. No.

Q. It was your intention and your understanding that this payment was deferred to allow the parties making the payment to establish to their satisfaction the identity of Minnie Folk as Minnie Atkins, the mother of the allottee Tommy Atkins?

By Mr. Allen: We object to that as incompetent, irrelevant, and immaterial, as leading and suggestive, as hearsay, and as calling for a conclusion of this witness.

A. That was my understanding.

Q. How many times did you say you talked to Sadie James? A. Once.

Q. Are you sure of that? A. Quite positive.

Q. That was the day which I understand you say that she claimed that she had a party coming who would pay two thousand ($2,000.00) dollars for this land?

By Mr. Allen: We object to that as leading, suggestive, and incompetent, and irrelevant, and immaterial.

By Mr. Blakeney: I am crossing examining the witness.

A. Yes.

Q. And you never, to your recollection, had any other conversation with her? A. No.

Q. In that conversation with Sadie James was Minnie Folk there? A. Yes.

Q. In that conversation Sadie James and Minnie both took a part? A. Yes.

Q. Who was present?

A. Mr. Hanford and myself, and I don't remember whether Harry Folk was there or not.

Q. Where was it?

A. It was in Minnie Atkins' house—Minnie Folk's house.

Q. Minnie Folk's house in the City of Seattle?

A. In the City of Seattle.

Q. What county is this? A. King County.

Q. King County, State of Washington? A. Yes, sir.

Q. About what time? A. Of the year or——

Q. Yes, what time of the year?

A. Well, it was when this first came up, I think it was early in June.

Q. Of 1914? A. Of 1914.

Q. Did Sadie James state to you, to Minnie or Mr. Hanford, or in your presence, at the time and place now referred to, that the baby Tommy—Thomas Atkins, or referring to Thomas Atkins died when it was two months old, or words in substance to that effect? A. No.

Q. Did Mr. Hanford or yourself or anybody else state to Sadie in this conversation at the time and place referred to, "You don't know what you are talking about, Sadie," or words in substance to that effect?

By Mr. Allen: We object to that question and ask that the last question and answer be stricken for the reason that it is incompetent, leading, and suggestive, and calling for a conclusion of this witness, and hearsay.

A. No.

Q. Did you hear Sadie, in that conversation, say to Minnie, "You always swear that you had a Tommy now," or anything in substance to that effect? A. No.

By Mr. Allen: We move to strike the last question and answer for the reasons last stated.

Q. Did Sadie in this conversation tell you that Minnie didn't have any child named Tommy, but was merely claiming that she had such a child because she, Sadie, had suggested it to Minnie, or anything in substance to that effect?

By Mr. Allen: We object to that question for the reasons last stated.

A. No. On the contrary, she said Minnie had had a child named Tommy, and that she knew more about him than Minnie did and that she had seen him since Minnie had, a period of years, the period I don't remember, but she had known him for a number of years after Minnie had lost track of him.

Q. Did Minnie state in this conversation referred to, or make any statement contained in my last question in your presence and hearing?

By Mr. Allen: We object to that for the same reason.

A. The last question was——

Q. Read him the last question. A. No.

Q. Did Sadie ever make that statement to you at any time or place? A. No.

By Mr. Allen: We object to that for the reasons last stated.

Q. Did she ever make any statement in substance to that effect at any time or place in your presence?

By Mr. Allen: We object to that for the reasons last stated.

A. No.

Q. In this conversation that you had with Minnie, did she tell you how old a child Tommy was the last time she had seen him?

By Mr. Allen: We object to that as not proper cross examination, incompetent, and hearsay, and a self-serving declaration.

A. I don't remember exactly how old the child was. According to Minnie's statement when she, Minnie, had last seen him, but the child was only a baby when Minnie had last seen him, very young.

Q. Minnie was in the guardhouse there during the time that Sadie was out here, wasn't she?

By Mr. Allen: We object to that as incompetent, leading, suggestive, and improper cross examination.

A. In the guard house, no.

Q. You had her under a guard, didn't you? A. Never.

Q. You say that you didn't have Minnie under guard to keep Sadie from getting to her? A. No.

Q. Did you have her under guard to keep anybody else from getting to her? A. No.

Q. Did you have her under guard for the purpose of influencing her in her action in this matter in any manner?

A. No.

Q. So far as you know then, Minnie was not in the guard house or under any guard during this transaction?

A. It would be impossible to put her in the guard house. That phase of it is ridiculous, and as far as I know she was never under any guard at any time.

Q. Did Sadie, ever in the presence of a man by the name of Bartlett, tell you that in substance that she had fabricated the theory that Minnie had a child named Thomas Atkins?

A. No.

Q. Captain, I think I asked you, but I want to be sure that it is in the record. You said that when Montgomery was here that the question whether or not Thomas Atkins was the father of Minnie—was the name of the father of Minnie, was never suggested in the conversations in your presence?

A. I don't believe I made that statement.

Q. What do you say about it then, now?

A. I don't remember it's being mentioned in any conversation when Mr. Montgomery was here.

Q. Can you tell us about how many detectives and would-be detectives, and self-claiming detectives have been to see you about this matter, and so far as you can tell us, who they claimed to represent?

A. I only remember one man who claimed to be a detective by profession, and that was a man I think his name was Koehler.

Q. Who did he claim to represent?

A. At that time he came to see me he claimed to be representing himself; that is, that——

Q. I will ask you that in this form: Did any representative of the boy or man named Henry Carter, one of the defendants in this case now claiming to be the Tommy Atkins, did any representative of him ever talk to you about this case before you took the witness stand?

> By Mr. German: I object, unless the witness *knows* knows whether any person who talked to him in reality represented Henry, or claimed to do so.

A. I don't remember anyone claiming to be a representative of Henry Carter talking to me about the case.

Cross Examination by Mr. Allen.

Q. Captain MacNab, from the very inception of *this* claims, you have acted in the capacity at times of a friendly advisor and at others as a legal trustee of Minnie Atkins, haven't you? A. Yes.

Q. You brought Mr. Hanford in the case upon your own initiative, didn't you, feeling at the time a friendly interest in Minnie's welfare?

A. Yes, he was first called into the case by me and was—and the matter was given into his charge with Minnie Atkins' consent.

Q. And every stage and step of this case has been directed, so far as the operations of Minnie Atkins at the Fort are concerned, upon your advice, haven't they?

A. I don't know what you mean by the operations of Minnie Atkins.

Q. I mean the employment of counsel, the signing of all papers by Minnie Atkins?

A. All that she has signed in my presence have been with either my advice or consent or acquiescence. I don't know what other papers she has signed.

Q. You say you became convinced of Minnie's being the mother of Tommy Atkins who was allotted this land?

A. Yes.

Q. You had known Minnie for years before this thing came up—this controversy arose, had you not?

A. I knew her first in December of 1912, saw her first, have seen her around the Post off and on since.

Q. Where did you first see her?

A. I first saw her in Fort Harrison, Montana.

Q. And she came here with your regiment?

A. Came here with the regiment to which I belong.

Q. Captain, you never knew in your life, until Sadie James appeared on this scene that Minnie Atkins ever claimed to be the mother of Tommy Atkins, or ever claimed any interest in the lands in Oklahoma did you? A. No.

Q. But you became convinced during the stay of Sadie James here of the identity of Tommy Atkins and of the parentage of Tommy Atkins, didn't you?

A. There was no question brought up by anybody at that time as to the question as to whether there was a Tommy Atkins, of whom the Minnie Atkins who signed that roll in 1895 was the mother.

Q. Didn't you base your conclusion at that time upon the fact that Sadie James and Minnie Atkins said that Minnie was the mother of Thomas Atkins? A. Yes.

Q. Now, Captain, Minnie saw Sadie before you did, didn't she? A. I understood that she had seen her.

Q. Well, you were there in the room talking to Minnie the first time that you ever talked to her about this Tommy Atkins claim when Sadie came into the room, wasn't you?

A. I don't know that that was the first time that I had ever talked to her, it was certainly the first time I had ever talked to her about this case.

Q. It was the first time you had ever known of any claim—had ever known anything of the claim that Thomas Atkins existed, or that he was a child of Minnie, wasn't it? A. Yes.

Q. From the manner of their greeting, didn't you know that that was not the first meeting between Sadie James and Minnie Atkins?

A. As I stated before, I don't know of my own knowledge that she had ever seen Sadie before, but I understood from Minnie that she had.

Q. They knew each other there and spoke to each other when Sadie came there when you were present, didn't they?

A. Yes.

By Mr. Blakeney: I want to put into the record an objection that counsel is standing over the witness talking in a high tone of voice with some purpose of intimidating him, I feel, in justice to the witness and the court finally hearing the case, that that ought to be in the record.

By Mr. German: I desire the record to show that counsel's statement is erroneous, for the fact is that counsel is at least twelve feet from the witness and is talking in what is his ordinary conversational tone when he is examining a witness.

By the Examiner: The examiner here states to the witness that he will undertake to see that no witness here is intimidated by any attorney.

By Mr. Allen: I want the record to show the statement of the examiner, the examiner and table is between me and the witness.

By Mr. Blakeney: Counsel, in dictation of this objection to the Commissioner, talked in the tone of voice that was natural, and was in comparison in a whisper to the tone of voice that he was using in addressing the witness.

Q. Captain MacNab, you do know, as a matter of fact, that the person who put the suggestion that Thomas Atkins ever existed, that he was ever allotted, that he ever died, into the mind of Minnie Atkins, was Sadie James, don't you?

By Mr. Hanford: I object to the question on the ground that it is leading, argumentative, calls for a conclusion of the witness, and is incompetent, irrelevant, and immaterial.

By Mr. Blakeney: I insist that the witness be required to answer.

A. Read the question.

Q. Well, you may recall that question.

By Mr. Blakeney: I insist that it be answered.

By Mr. Hanford: I withdraw my objection.

By Mr. Allen: I withdraw the question.

A. I would like to answer that question.

Q. Until Sadie James came here, until she saw Minnie, you say that you had never heard of the Thomas Atkins claim?

A. Before I answer that, I would like to know if I have the privilege of answering that other question?

By Mr. Allen: No.

By Mr. Blakeney: You may make any statement into the record, the court may strike it out, but the court may not permit it to be read as evidence.

By Mr. Allen: Read the question I asked him.

By Mr. Hanford: Let him make his statement first.

By Mr. Blakeney: Any witness can make any statement that he desires.

By Mr. German: I have this suggestion: That if the witness insists upon answering the questions, you permit him to do so over our objection.

(Question read.)

A. The first time I ever heard of the claim of Minnie Atkins being the mother of Tommy Atkins was in that first interview, at which time, as I have stated before, I believe that Minnie had already seen Sadie James.

Q. Now, Captain MacNab, you didn't know at that time, did you, anything about the requirements of the laws of Oklahoma entitling a Creek Indian to an allotment of lands in the Creek Nation? A. No.

Q. You didn't know at that time whether it was material whether this child died at the age of one day or twenty years, did you, but you thought that the only question of death was fixing Minnie's right to inherit as against the living child, was that your impression? A. That was my impression.

Q. You did gather from what was said there that this child was dead, did you?

A. Yes, I gathered from what was said there that the child was dead.

By Mr. Hanford: I object to the question and move to strike the answer on the ground that it is incompetent, irrelevant and immaterial, and does not involve—not involved in any of the issues of this case.

By Mr. Blakeney: I join with Minnie Atkins and move that that be stricken for the reasons obvious that the child was not dead, and the understanding does not make any difference.

Q. Did you ever have Minnie watched at all, at her request, or the request of anybody else, to guard her against the interviews of other people?

A. I never had Minnie watched at any time.

Q. Did you ever seek to protect her in any way at her request or at the request of anyone else?

By Mr. Blakeney: We object as indefinite. The testimony is that he was appointed trustee for that purpose, or accepted the trust for that purpose.

A. I never took any action at any time that didn't leave Minnie Atkins a perfectly free agent to see whoever she desired to see and without coming to me to see her.

Q. She stayed awhile at someone else's home didn't she to get away from people who were following her? A. Yes.

Q. That was upon your advice, was it?

A. That was at her own suggestion.

Q. But you concurred with her in the opinion that that was the proper thing to do, didn't you? A. I did.

Q. Where did she stay then?

A. She stayed at the house of Sergeant Everlynn.

Q. You say that Bettie Mann came to see you?

A. Yes, Bettie Mann came up there once, I think it was once.

Q. Where was Minnie staying at that time?

A. I don't remember.

Q. How long did she stay at Sergeant Everlynn's home?

A. I don't know just how long she stayed there. I didn't know when she moved back to her own house.

Q. When was it she went there with reference to the time that Sadie James was here?

A. Well, it was not very long after I had seen Sadie James at Minnie's house, not very long after this first came up, just how long I don't remember, possibly a week or something in that vicinity.

Q. But that was before Sadie left town, wasn't it?

A. I don't know when Sadie left town.

Q. But that was the reason she went there, to get away from Sadie, wasn't it?

A. I don't know, but it was to get—Minnie went there in order to get away from people who were annoying her, and I believe at the time that Sadie James was here, I am not sure, that is only a matter of belief.

Q. That occurred though, subsequent to the negotiations that you and Hanford and Long had had, that ultimately resulted in a lease being made to the Gem Oil Company?

A. Yes, but it was before any lease had been made or any arrangements of any kind that bound us to make a lease, or anything else, or any other deal with any one person.

Q. You had arranged at that time for Mr. Hanford to come to Oklahoma with Long? A. Yes.

Q. And to negotiate with the Page interest for the lease on the land? A. No.

Q. What did he go to Oklahoma for?

A. He went to Oklahoma to investigate the question of this land and to make the best bargain possible with the highest bidder for the lease.

Q. He went there as Long-Page's agent though, didn't he?

A. As far as I know Mr. Long went with him, but it was with the distinct understanding that he was under no obligation to deal with the Page interest or any other interest.

Q. But at that time there had been concluded the trustee—the executing of all papers making you the trustee of Minnie Atkins? A. Yes.

Q. You say Bettie talked to you some about this claim?

A. She came to the house once, I don't think she talked to me about the claim, as I remember it, the only thing that she asked me was about the trusteeship.

Q. Bettie was representing, as you understood at that time, the Page interest?

A. I didn't know who she was representing.

Q. You said the only question at that time, as you understood it, was the identity of Minnie? A. Yes.

Q. Don't you know at that time that Harvey and Charlie Harrison were claiming to be the owners of this allotment that Nancy Atkins claimed to be the mother Thomas Atkins, the owner of this allotment, and that litigation was waging in Oklahoma between these disputed claimants?

A. Why, I was given to understand that Charlie and Harvey had made some claim to it as being the heirs of Thomas.

Q. You understood Nancy had too, didn't you?

A. I understood that Nancy had, but I was informed that Nancy was an incompetent, that she was not mentally sound, and who had had a guardian appointed over her to take care of her.

Q. You had never heard the mental capacity of her guardian questioned had you? You understood she had leased it to oil interests who were waging the litigation?

A. No, I hadn't heard that. The claim that I had heard Charlie and Harvey made was on the ground that Minnie was dead and that they were heirs to the land.

Q. Miss Alice Robertson, you say, came to see you?

A. Yes.

Q. She went to your home and said that she wanted to see Minnie, didn't she? A. Yes.

Q. All of the conversation that she had with Minnie was in your presence, wasn't it? A. I don't know.

Q. Who else was present?

A. Mr. Hanford was there, and there was some other people there at lunch; this conversation occurred at lunch, there was some other officers of the regiment who took their meals in my quarters that were there at the time.

Q. She was not permitted to talk to Minnie alone, was she?

A. There was no objection to her talking to Minnie alone, I don't know whether she did or not. She came to my house and said she preferred to have her interview with Minnie in my presence.

Q. As she asked different questions, Captain MacNab, she was interrupted at times and Minnie was advised not to answer was she not, by either you or Mr. Hanford?

A. I never advised Minnie, and I don't remember of anybody else advising Minnie not to answer; as I remember it, she was given an absolute free hand with Minnie and there was not any endeavor to keep her from seeing Minnie either before that or afterwards, and she was not interfered with in any way.

Q. Minnie was not told that she must not ask this question or that question?

A. I don't remember her being interrupted at all.

Q. Minnie was not advised at any time in the conversation not to answer questions that were asked her by Miss Robertson?

A. I don't remember of her being interfered with at all.

Q. Miss Robertson told you at the time that her interests, and that her employment only involved the question of identifying Minnie? A. Yes, sir.

Q. And determining whether or not she was the mother of Thomas Atkins?

A. Well, I don't know that she stated whether she was the mother of Thomas Atkins, but it was taken for granted at that time that if she was the Minnie who was a member of the Creek Nation and the daughter of Thomas Atkins, she was the mother of Tommy. The question of whether she was the mother of Thomas Atkins was not brought up that I remember of.

By Mr. Allen: We move to strike the last part of the witness' answer as not responsive to the question, and as stating a conclusion of the witness.

Q. You are not able at this time, Captain, are you, to repeat in detail the conversation that occurred between Minnie Atkins and Sadie James, are you?

A. No, I am not able to repeat it in detail.

Q. She talked quite rapidly and excitedly, you say?

A. Yes.

Q. At that time, and the only thing that would have impressed itself upon your mind was the— would have been the statement that Sadie (Minnie) was the mother of Tommy and that Tommy was dead?

A. There was one other thing that impressed itself upon my mind, that she said that she was a representative of the Dawes Commission and that there was a Government man who was coming here to pay Minnie Two Thousand ($2,000.00) dollars for her claim, and I asked her what the Dawes Commission was and after she had explained it and I asked her how it was the Government was paying Minnie two thousand dollars for land that the Dawes Commission was apparently purchasing; then she, in a way, hedged, just what language she used I don't remember, but that is the only, besides what I have already repeated, that is the only thing that I remember of her conversation.

By the Examiner: Captain MacNab, I want to offer at this time an opportunity to you to make any statement into the record that you may desire.

A. I desire to hear that question read.

By Mr. Blakeney: Referring to the question as to one that was withdrawn, so as to make the record complete.

The Examiner: The question to which you refer is as follows: "Captain MacNab, you do know, as a matter of fact, that the person who put the suggestion, that Thomas Atkins ever existed, that he was ever allotted, that he ever died, into the mind of Minnie Atkins was Sadie James, don't you?" Is that the question you desired read?

A. That is the question. I wish to state in answer to that question which was withdrawn, that I knew no such thing, that the mere asking of that question is an insult and if asked out of court would be resented in the proper manner.

The Examiner: Is that all, Captain, that you desire to say?

A. That is all.

(Witness dismissed.)

Mr. Hanford: Also the deposition of Mrs. Katherine Sisk McComb, commencing at page 173.

MRS. CATHERINE SISK McCOMB being called on behalf of the defendants, Folk and Hanford, and being duly sworn, testified as follows:

Direct Examination by Mr. Hanford.

Q. Will you state your name please?
A. Catherine Sisk McComb.

Q. You are the wife of Lieutenant McComb, of the United States Army? A. Yes.

Q. What are your husband's initials, please? A. J. G.

Q. Mrs. McComb, you are acquainted with Mrs. Folk, one of the defendants in this case, are you not? A. Yes.

Q. I believe that she worked for you at one time, is that not true? A. Yes.

Q. State whether or not whether she ever came to you for advice, or to consult you in regard to matters involved—that is in regard to the land involved in this case? A. Yes.

Q. Did she tell you the facts about which this—her interest in this property arose, that is about her son or any son that she claimed to be hers? A. Yes.

Q. Mrs. McComb, did she ever tell you how many children she has had altogether? A. Yes.

Q. How many did she tell you?

By Mr. German: I object to that on the ground that it is incompetent, irrelevant, and immaterial, and a self-serving declaration and hearsay.

By Mr. Hanford: The relevancy of this question and the answer will be demonstrated in the course of the proceedings in this trial, the manner of taking testimony by depositions, and of the witnesses as they are found, require certain facts to be brought out in advance of the disclosure of their bearing.

A. Five.

Q. Do you remember the occasion when Minnie Folk signed a trust deed to Captain MacNab?

A. Do I remember the occasion?

Q. Yes? A. Yes.

Q. State whether or not at that time you stated to those present that Minnie had told you that she was the mother of five children? A. You mean the first night?

Q. Yes? A. No.

Q. When was it?

A. When did she state that she was the mother of five children?

Q. No, when did you state to this person there in the room that she had told you that?

A. They were in the room that night from down town, you and Groton and Sandy and myself.

Q. Yes?

A. Well, I haven't stated to all of those people that she had as many as five children.

Q. But didn't you state here in the room that night that Minnie had told you that? Isn't that when you told me in the presence of all of those? A. I don't remember.

Q. When was it that Minnie told you that she had five children, with reference to the time when this case first came up?

A. I can't tell you when, Minnie has talked to me many times.

Q. Was it prior to the time that I was called into the case that she told you that or afterwards?

A. Told me what?

Q. That she had had five children? A. It was after.

Q. Do you know how long after? A. No, I am not sure.

Q. Do you know how long? A. No, I am not sure.

Q. Will you state how long it was as near as you recall?

A. I don't have any memory as to how long ago it was, but we were up at Sam's that night.

Q. I mean how long after——

A. I don't know how long after it was that Minnie told me that she had five children, she told me things from time to time.

Q. Do you recall when Minnie first came to you and told you about this case? A. Yes.

Q. And told you about this child? A. Yes.

Q. You don't know how long after she told you that when she told you she had five children?

A. No, I don't know just how long.

Q. It was less than a year after though, was it not?

A. It was less than a year after.

Q. Less than a year after? A. Yes.

Cross Examination by Mr. Blakeney.

Q. You say Minnie worked for you, Mrs. McComb?

A. Yes, sir.

Q. Can you tell us about when she worked for you?

A. Well, she never worked for me steadily, she came to help when at different times I dismissed servants, she has worked for me off and on for the last three years.

Q. For the last three years when you were without other assistance?

A. Yes, and sometimes she spent a longer time in the house than others, as she has always looked out for me and done my service.

Q. She has whenever you lost a servant you notified her and she always came? A. She always came?

Q. And procured you some other servant? A. Yes.

Q. She has been evidently talking with you, has she?

A. Yes.

Q. She ever tell you anything about her history during the time she was working for you?

A. She worked for me too after this started, she had never told me before.

Q. How long had she worked for you prior to the starting of this case? A. This started a year and a half ago.

Q. In June. Well, was this 1914?

A. I came here three years ago next month. Well, she worked for me almost since the time I came here at different times.

Q. About a year and a half?

A. I don't mean she worked steadily.

Q. I understand, during the period of a year and a half she worked occasionally for you? A. Yes.

Q. Prior to the commencing of this controversy, do you know why she came to you? A. Yes.

Q. Why?

A. Because I was ill and needed some one.

Q. I don't mean to work for you, why did she come to you to talk to you about her family affairs?

A. She first asked my husband and he told me.

Q. Asked your husband to render her some assistance?

A. Asked my husband to come down there.

Q. To come down and advise her?

A. No, not exactly to advise her.

Q. What did you understand that she wanted?

A. I understood that she wanted my husband to witness the signing of some paper.

Q. Merely to act as a witness? A. Yes.

Q. And your husband told you that he was going down to act as a witness? A. Yes, and I hoped——

Q. And what then?

A. I asked him to ask Captain MacNab, who had taken the army law course, and who was my good friend, to go with him.

Q. Do you know whether or not they went?

A. I know they went.

Q. They went? A. Yes.

Q. Then, how long after they went was it before you had this talk with Minnie?

A. It might have been the next day, it might have been that night. What talk that I mean, that I saw her?

Q. Yes, when you next saw Minnie?

A. Perhaps the next day.

Q. Where did you see her?

A. She came here or came to Captain MacNab's, I don't know which.

Q. Where does Captain MacNab live with reference to your home?

A. There is a double house next, and it is the next house.

Q. He lives in the next house to your home?

A. No, there is one set of quarters here and then the next house.

Q. Have you any idea of distances so you can tell us?

A. No.

Q. Two or three or four lots will you say, would you?

A. I really don't know.

Q. Now, if she came here, Captain MacNab came over and you had the conversation, whatever conversation you had with Minnie was in the presence of Captain MacNab?

A. Not necessarily, no. Perhaps I talked to Captain MacNab any time, I know I talked to him first after he came back with my husband.

Q. After he came home with your husband, did he stop here? A. He probably did.

Q. What is your recollection?

A. I don't know, because he is in the habit of coming here every day.

Q. You don't know whether he stopped that time or not?

A. No, I can't say.

Q. But your recollection is that you did talk to Captain MacNab before you saw Minnie?

A. I am not sure about that but I think I talked to him first.

Q. Then you saw Minnie soon after and you don't know whether it was in your home or Captain MacNab's residence?

A. I can't ask you any questions, may I?

Q. I just want your best recollection.

A. I think I saw Captain MacNab before I saw him.

Q. Now, after thinking it over, why do you think you first saw Minnie after your husband went down to witness the transaction?

A. I can't be sure, but I think I first saw her first at Sandy MacNab's.

Q. What was said by any of the parties there in reference to the controversy about the land?

A. Why, I don't remember, I was interested in other things.

Q. Do you recall any mention of Minnie's affairs there?

A. Yes, I know we talked it over, but I was interested in other things and only the things they asked me that I paid much attention to.

Q. The things—— A. Only the things.

Q. Only when a matter was referred to you, you mean?

A. Yes.

Q. You participated in the conversation?

A. Yes, other times I would be reading.

Q. Do you remember what particular matter, if any, was referred to you? A. It was all talked over with me.

Q. What do you recall now that was talked over in which you took a part?

A. Well, there was so much, I don't remember.

Q. I will call your attention to it. Did you make any suggestions about appointing a trustee there? A. I did.

Q. Who did you recommend? A. Captain MacNab.

Q. Did you advise Minnie in reference to that matter?

A. I did.

Q. I will ask you to state if it was agreed there that Captain MacNab would act? A. Yes, it was agreed.

Q. Who was there now during this conversation?

A. Well, I don't understand. I asked that Captain MacNab be brought into it first.

Q. You made that suggestion first? A. Yes, sir, I did.

Q. Who was present at that time?

A. My husband and my mother.

Q. And who else?

A. And myself, when my husband came and told me about this.

Q. Wasn't Mr. Hanford present? A. No.

Q. Mr. Hanford wasn't present? A. No.

Q. You had made the suggestion to Captain MacNab before Mr. Hanford had ever—— A. Yes.

Q. Talked to you about the case?

A. Yes, before I saw Mr. Hanford.

Q. Now, just to feel that you are not mistaken, you are sure are you that Mr. Hanford and Captain MacNab didn't walk up together to Mr. MacNab's headquarters, or come up to your residence together, and that Minnie came up shortly afterwards?

By Mr. Blakeney: I withdraw the question.

A. What does trusteeship mean?

Q. The conversation you refer to, you were merely advising Minnie to act on Captain MacNab's advice? A. Yes.

Q. You didn't advise any legal proceeding? A. No.

Q. Or have any legal trustee appointed? A. Oh, no.

Q. Minnie is a married woman, isn't she?

A. I don't know.

Q. She assumes to be? A. Yes.

Q. She lives with a man that she claims to be her husband, does she? A. Yes.

Q. She associates with white people? A. She does.

Q. Are there any negro families about the Post?

A. None that I know of.

Q. You never knew of Minnie associating with negroes?

A. I never did.

Q. She has been reputed to some extent an Indian?

A. She has always been called "Indian Minnie" in the regiment.

Q. Indian Minnie at the regiment? A. Yes.

Q. I will ask you, Mrs. McComb, if there prevailed a bias or a raised prejudice among the soldiers that you have known about the camp against the man or woman who would associate—a white man or white woman who would associate with negroes?

By Mr. Hanford: The defendants, Hanford and Folk, object on the ground that it is incompetent, irrelevant and immaterial, and calls for a conclusion of the witness.

By Mr. Blakeney: It is improper cross examination. I make the witness my own to ask the question.

By Mr. Hanford: The further objection that it presupposes that the witness knows the custom of soldiers and is acquainted with soldiers that hasn't been stated.

A. Well, as far as I know in this Regiment, among the soldiers and soldiers' wives there would prevail a feeling against the person who is associated with negroes.

Q. How long have you been married?

A. I will have been married four years next April.

Q. Four years? A. Yes.

Q. During that time, have you lived with your husband at the Post?

A. Yes, and before that I lived near Army Posts.

Q. You have been acquainted with a large number of officers and privates connected with the United States Army?

A. Yes.

Cross Examination by Mr. Allen.

Q. Mrs. McComb, at the time that Minnie Atkins first talked with you about this claim, was there a negro woman with her by the name of Sadie James? A. No.

Q. Did you know or hear of Sadie being here at that time?

A. I heard of her, I didn't see her, I didn't know her.

Q. Did you see Sadie any of the time while she was here?

A. No.

Q. Did Minnie tell you about Sadie? A. Yes.

Q. And that Sadie had told her about this allotment and about this child?

A. I don't remember what Minnie said that Sadie told her.

Q. You understood that Minnie had brought glad tidings to her didn't you—that Sadie had? A. Yes, I——

By Mr. Hanford: I object on the ground it is irrelevant, incompetent, and immaterial and hearsay, and move to strike the answer.

Q. It was your understanding that Sadie brought the information to Minnie from what Minnie said to you?

A. No, not necessarily, I haven't any idea how the message came.

Q. What did you hear about Sadie?

A. I heard a number of things, most of them were amusing incidents.

Q. But Sadie was here, wasn't she?

A. I understood that she was here.

Q. Minnie told you that? A. Yes.

Q. And Minnie, you say, sometime within a year, as you remember now, after that occurred, Minnie told you that she was the mother of five children?

A. I don't say that it was within a year.

Q. It might have been longer than that?

A. It might have been longer.

Q. Within what time after you got that information was it that you told Mr. Hanford? A. That what?

Q. How long after Minnie told you about having five children that you told Mr. Hanford?

A. I don't know, I don't know that I told Mr. Hanford that Minnie had five children.

Q. Did you tell Captain MacNab, the trustee of Minnie?

A. I didn't say anything about Minnie, we discussed all the things that came up, all of us talked them over, I made no statement for——

Q. You never told Mr. Hanford that Minnie had five children?

A. I didn't say to Mr. Hanford that she had five children, no.

Q. Did you ever tell Mr. Hanford that Minnie said she had had five children? A. I don't know, I might have.

Q. Do you have any idea as to about when you told Mr. Hanford what Minnie had said with reference to the time that Minnie told you about having five children?

A. I never talked about the legal matter of this business to Mr. Hanford.

Redirect Examination by Mr. Hanford.

Q. Mrs. McComb, do you remember how it was that Minnie came to tell you that she had five children, did you ask her how many she had, or did she just volunteer the information?

A. I undoubtedly asked her.

Q. Do you remember the occasion where she was and where you were? A. No.

Q. Have you talked to Minnie to any great extent about the affairs in this case since the time when it first came up?

A. Yes.

Q. Can you fix the time by taxing your memory a little bit, so as to fix the time that she told you that, a little more definitely than less than six months?

A. I haven't been so interested and I have had so many things to take my time, and I have been in a hospital twice, and I don't remember. I have been thinking about other things.

Q. Well, isn't it a fact, Mrs. McComb, that she told you that within a day or two after you first heard about this matter?

By Mr. Allen: We object to that as incompetent and leading and suggestive and improper redirect examination.

A. No.

(Witness dismissed.)

Thereupon, the same witness, Mrs. McCOMB, being recalled on request of Mr. Hanford, further testified as follows:

Redirect Examination by Mr. Hanford.

Q. Mrs. McComb, I have just discussed this matter with you after the closing of your testimony and refreshed your memory. Can you state now, on being recalled for further direct examination, about when it was that Minnie told you that she had five children?

A. Directly after this had come up.

Q. But have you any recollection now as to how soon after she told you that that you told me? A. Yes.

Q. How long after?

A. Well, it might have been the same day.

Recross Examination by Mr. Blakeney.

Q. Did she explain to you whether they were born, in what lots or otherwise?

A. She didn't explain in words no, she did later.

Q. Later? A. Yes.

Q. What do you mean?

A. Minnie has never absolutely told me she was married to anybody but Harry Folk, I presumed that she was.

Q. Did you inquire as to how often she had been married?

A. Why, I have gossipped about it as everybody did.

Q. With her? A. No.

Q. Did you have any conversations with her now?

A. No, I never asked her.

Q. Did she tell you who was the father of her son Tommy? A. She did not.

Q. Did she give you any information regarding the life birth—the life or death, if he died, of Tommy Atkins?

A. Did she what?

Q. Did Minnie, during any of the conversations she had with you, give you any history, or did she attempt to detail any of the incidents of the life or birth of Tommy Atkins?

A. Yes.

Q. Did she tell you where he was born? A. Yes.

Q. When did she tell you that? A. I don't know.

Q. In the conversations, did she tell you that in the conversation in which she told you that she had five children?

A. Did she tell me where he was born?

Q. Yes?

A. She probably did, I talked it over with Minnie many, many times.

Q. You talked it over with Minnie many times? A. Yes.

Q. When Minnie told you she had had five children, you probably asked her how many she had? A. Yes.

Q. Did you ask her where they were born? A. No.

Q. Did you ask her where they were? A. At that time?

Q. Yes?

A. I don't know, I know where the two sons are.

Q. You had learned previous to that that she had two sons?

A. Until this thing came up, I didn't know that she had any children.

Q. You didn't? A. No.

Q. You then learned that she had two that she admitted to be her children living?

A. No, she said she had had five children.

Q. Had had five, tell you how many were living?

A. She said Tommy was dead.

Q. She told you then that Tommy was dead? A. Yes.

Q. What did she tell you about the others?

A. Well, she told me that two boys, whose photographs I had seen, were down there in Oklahoma.

Q. Did you ask her why she had abandoned those boys? A. Yes.

Q. Did you ask her where Tommy had died? A. Yes.

Q. Where did she say Tommy died?

A. I am not sure that she told me exactly where Tommy died.

Q. To refresh your memory, did she not tell you that when Tommy was practically an infant that she had placed Tommy in the custody of some other person? A. Yes.

Q. And had abandoned Tommy?

A. She didn't say that she had abandoned him, she said she had helped towards his support as much as she could.

Q. Did she tell you what town that was in?

A. I think she said it was in Leavenworth.

Q. Didn't she also tell you she finally left——

A. Yes, she told me that she left Tommy with some one else.

Q. And left Tommy there when she left Leavenworth?

A. Yes.

By Mr. German: Let me have the same objection.

By Mr. Blakeney: I consent that you may have any objection. Since we are in the home you may introduce any objection, and the same for me.

By Mr. German: Yes.

Q. You recall that she told you that she left and went to

Fort Logan, near Denver, and left Tommy with an old negro woman at Leavenworth, Kansas?

A. I recall that she said she left Tommy with the old negro woman, I don't recall that she told me she went to Fort Logan.

Q. You don't recall that she told you where she went to?

A. She did tell me I think, and I have forgotten.

Q. Did she tell you when Tommy had died?

A. No, but I assumed that it had been many many years ago.

Q. You didn't assume from anything she told you, but from her indifference toward the child?

A. No, I never considered Minnie indifferent toward the child.

Q. You did not? A. No.

Q. She had told you that she had taken care of the child after she had left it with this old negro woman, didn't she?

A. That she had to go, and contributed as much as she could toward the support of the child.

Q. Did she tell you she did that up to the death of the child?

A. No she didn't do it up to the death of the child.

Q. How long did she do that, did she tell you?

A. Minnie didn't tell me.

Q. Minnie didn't tell you that she had learned that the child had been given to a negro family by the old negro woman with whom she left it and that she never heard of the child since she left Fort Logan? A. No.

Q. She never told you anything about the incident or transaction of that child of that kind?

A. Yes, she told me something, but I have forgotten, I wasn't much interested.

Q. Did she tell you in any of your conversations that the negro woman with whom she left the child had made any disposition of the child? A. I don't remember.

Q. Did she explain to you why she had left it with a negro woman instead of a white woman?

A. She told me why, I think because this was a good old woman and was good to the child, and I believe she said that she herself was doing day work then.

Q. She told you that?

A. I think that was the reason I assumed she left the child with the negro.

Q. But I am trying to get Minnie's statement, rather than the conclusions you drew from her statements, Mrs. McComb? A. I can't give Minnie's exact statements.

Q. I know, but the substance, did she tell you that it was a good old negro woman? A. I think she did.

Q. And was good to her child? A. I think so.

Q. Did she tell you what the old negro woman was doing?

A. No, she did not.

Q. She did not? A. No.

Q. She never said anything to you about the means of support that the old negro woman had?

A. She might have told me the old negro woman worked, but she never told me anything about her means of support that would leave me to believe that it was not a beautiful means, if that is what you mean?

Q. She never told you that she was engaged in keeping a rooming house exclusively for girls? A. Never did.

Q. During her young life she was engaged in doing that?

A. Minnie never told me that.

Recross Examination by Mr. Allen.

Q. Mrs. McComb, you talked to Minnie a good many times during a year and a half about this case? A. Yes.

Q. Since the time that Sadie James was here? A. Yes.

Q. And you don't know at which one of those times that she told you about the child being left with a negro woman in Leavenworth, do you? A. No.

Q. It might have been recently, or it might have been sometime ago?

A. It was undoubtedly sometime ago, but she has told me many times.

Q. She didn't tell you that at the time she told you she had five children? A. I don't remember.

Q. Now, on direct examination and cross and re-direct examination, you testified positively that Minnie did not tell you until a long time after the time that Sadie was here, and fixed the time as within a year or probably longer, that she had had five children. After the adjournment, Mr. Hanford, is it a fact that Mr. Hanford stated to you in substance this: "I will tell you the truth about it; Minnie told you about those five children immediately after the deed of trust was signed and you told me about it that night," and that you then said· "Yes, I remember that is true?"

A. I can't say that he said it in exactly that words, but he said that to me.

Q. Then, you remembered that it was on that occasion that Minnie told you, and you told Mr. Hanford? A. Yes.

Q. Where did Minnie tell you that Tommy was born?

A. Leavenworth.

Q. Did she tell you that he was born in the Sister's Hospital, Catholic Hospital? A. I don't remember.

Q. Did she tell you that at the time he was born that she was working for Lieutenant Stafford? A. I don't remember.

Q. She told you that she was working at the Post when Tommy was born at Leavenworth, didn't she? A. No.

Q. Where did she tell she was?

A. She didn't tell me, I never asked Minnie the harrowing details of any of this.

Q. She told you that he was born at Leavenworth, but didn't tell you where, you say?

A. I don't think she told me where.

Q. Didn't tell you that he was born in the Sisters Hospital, to refresh your memory, see if that is not true?

A. I don't remember.

Q. All that she ever told you about it, you have told Mr. Hanford at different times, haven't you? A. No.

Q. Or Captain MacNab? A. No.

Q. You say you are a very good friend of Captain MacNab, and that he is your neighbor? A. Yes.

Q. And how long have you known him?

A. Three years since we came here.

Q. And Mr. Hanford?

A. I have known him—I don't know—since we have been here, perhaps at the beginning of this case, I don't remember.

Q. And Minnie has talked with you off and on during the last year and a half? A. Yes.

Q. But you don't remember when during that time that it was that she has told you any of the things that you have testified to? A. No.

Redirect Examination by Mr. Hanford.

Q. Mrs. McComb, when I spoke to you after the adjournment, isn't it a fact that I didn't mention the time that Minnie told you that she had five children with respect to the deed of trust, but that I merely stated to you, or started to state to you that it was when Minnie first told you about Thomas and you questioned her and she said something about her children, about abandoning then, and that then it refreshed your memory and at that time you recalled and said: "Oh, yes," and that I further said that you said but Minnie——

A. You said, "children, how many?"

Q. Did she have, and she said five. Isn't it a fact that the mere suggestion refreshed your recollection before I made any statement to you of the facts?

By Mr. Allen: Of course we object to that as leading and suggestive.

By Mr. Hanford: I am cross examining on your direct.

Q. Aren't those the facts, Mrs. McComb?
A. I will have to have that read to me.
Q. Mrs. McComb, you have not answered that question, have you?

By Mr. Allen: Just let her say what was said.

Q. Mrs. McComb, is your testimony as to the time when Minnie told you that she had five children influenced in the least by my refreshing your memory in conversation?
A. Yes, by your refreshing my memory.
Q. Now you mean to say, Mrs. McComb, by saying that your testimony was influenced, that you are in any way controlled by my statements to you?
A. I most distinctly am not controlled by your statements in any way.
Q. Is there any intention on your part to lend yourself to any purpose that might be served by your testimony given here this afternoon?
A. All I want to do is to tell the truth about what I remember, and if there was any purpose I would remember more clearly the dates, and it would have impressed itself more vividly upon my mind, the conversations at different times.
Q. Is there desire on your part to testify in any way that I might wish in regard to the truth?

By Mr. Allen: We object to that.

By Mr. Hanford: What did you put that in the record for. It was a beastly thing to do.

A. I suppose I cannot refuse to have any of this testimony appear at all, can I?

By Mr. Blakeney: The conversation that Mr. Hanford had with you was in the presence of Judge Allen, Mr. Hanford, Mr. German and the officer taking the evidence, wasn't it?

A. Yes.

Witness dismissed.

And thereupon, EUGENOLA HUNT, being produced as a witness on behalf of the *witness* Minnie Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Hanford.

Q. What is your name? A. Eugenola Hunt.

Q. Where do you live? A. Leavenworth, Kansas.

Q. What is your occupation?

A. Stenographer for Dennis Jones.

Q. You are employed by him in his law office? A. I am.

Q. How long have you worked for Dennis Jones?

A. About eight or nine years.

Q. Were you employed by him in the spring of 1914?

A. I was.

Q. In March, and April, and May? A. I was.

Q. Were you present in his office in the spring of 1914 when Sadie James came to see him about some matters?

A. I was.

Q. Did you hear what was said between Dennis Jones and Sadie James? A. I did.

Q. I will ask you if you ever heard any conversation between Sadie James and Dennis Jones in regard to framing up a Thomas Atkins or about procuring proof of a Thomas Atkins to be imposed upon anybody? A. I did not.

Mr. Allen: We object.

The Court: Just a minute.

Mr. Allen: We object if the Court please, let her give the conversation if she heard one there.

The Court: I believe the best way is for this witness to testify what the conversation was as far as she remembers.

Q. Tell as near as you can what took place the first time that Sadie James came there.

A. Sadie James asked Mr. Jones and Mr. Smith about a boy by the name of Tommy Atkins being born at Granny Letcher's house, and many of the old residents there; asked them did they know the old residents there, and the location of different people that could remember when Granny Letcher lived on the street, where Granny Letcher was born, and she said she wanted to get these old people because she wanted to prove when Tommy was born, and all about him being born at Granny Letcher's house; that was about all. The first time she came there, she was hunting the old residents who lived around Granny's and had gone to Granny's.

Q. Was anybody with her that first time?

A. I think she came by herself the first time.

Q. And the next time, who did she come with?

A. She was with Betty Mann.

Q. What took place at that time?

A. She asked about Tommy Atkins—one time—let me see—no, that time she brought Betty Mann up when she didn't say anything about the Tommy Atkins case. She wanted Uncle Dennis—that is Mr. Jones—to sign some papers and he told her no he wouldn't sign those papers because they were made out in Jackson County, Missouri, and he was a notary in Leavenworth County, Kansas, and he wouldn't sign those papers; and she said if you was a negro lawyer down in Oklahoma, you would starve to death.

Q. Did Sadie James ever come back to Dennis Jones' office in regard to this matter?

A. Yes, Sadie James has been to the office many a time.

Q. How many times did she come about this time?

A. Well, I can't say altogether how many times because I never kept it in mind how many times; lots of times when I would be there by myself and she would run up and she would talk to me, and she has said to me many a time, your uncle Dennis is just a fool, that he could make money if he would, but she said I can't do anything with that old man.

Cross Examination by Mr. Allen.

Q. You say that Sadie, you think, first came up to the office by herself? A. Yes, I think she did.

Q. At that time she wanted Dennis to put his—to acknowledge a deed that had been signed somewhere else?

A. No, I don't know—I didn't say that.

Q. But there was some crooked transaction she was trying to get——

A. I didn't say that the first time she came there, no, I said the time that she brought Betty Mann there.

Q. Before this deed transaction she had talked to Dennis about this—— A. Tommy Atkins?

Q. Tommy Atkins? A. Yes.

Q. You were in the room all the time?

A. I certainly was.

Q. You don't remember much about the conversations do you?

A. I certainly do, I was right there listening at it.

Q. Sadie said that she wanted to prove that Tommy Atkins was born at Granny's?

A. She wanted to find the old residents there who had been around Granny's so that she would have easy proof of it.

Q. The thing that she wanted to prove was that Tommy Atkins was born at Granny's?

A. No, she wanted people around there that visited at Granny Letcher's and she knew that these old residents there would know all the facts.

Q. Where did she want to have the child born at?

A. The child was born at Granny's and she wanted to find the old people there.

Q. You don't know whether the child was born at Granny's or not?

A. No, I didn't—I don't, because I am not that old.

Q. You went down and talked to Eliza Lavallie?

A. No, I didn't talk to Eliza Lavallie, I talked to the Paire woman.

Q. You told her there was some money in it?

A. No, I didn't.

Q. You are a neice of Dennis?

A. I am by marriage.

Q. And you are a daughter of Bill Hunt?

A. No, I am a daughter of James Hunt.

Q. James Hunt. He has been working for Mr. Page, hasn't he?

A. I don't know whether he has or not been working for Mr. Page any more than you tried to get him to work for you.

Q. He has been working for Mr. Page?

A. You tried to get him to work for you, too.

The Court: Never mind; answer the question.

A. I don't know.

Q. Did you ever see me before today? A. I have.

Q. Where? A. Leavenworth.

Q. Where at? A. On the street.

Q. Did you ever talk to me? A. No, I haven't.

Q. Don't you know whether your father has been working for Mr. Page or not? A. If I had I would say it yes.

Q. Then you say later Betty Mann and Sadie came back there? A. They did.

Q. And that they had a conversation then about this child being born at Granny Letcher's? A. I didn't say that.

Q. What did they talk about?

A. I said that she wanted Uncle Dennis, Mr. Jones, to sign a paper.

Q. Betty did? A. I said that.

Q. Do you know what the paper was?

A. I said a document, I don't know what it contained.

Q. Well, you were there, weren't you?

A. I certainly was, but I didn't take the paper and read it.

Q. Those were the only two times Sadie was up there?

A. No, I didn't say that.

Q. How many times was she up there?

A. Many times, I don't know how many.

Q. How many times was Mrs. Mann up there?

A. Twice to my knowledge that I can remember now.

Q. How many times has Long been up there?

A. I don't know.

Q. He makes that office his headquarters in Leavenworth, didn't he?

A. He doesn't any more than the rest of the officers, I don't guess.

Q. Did you see anybody else up there at the time that Mrs. Mann and Sadie were up there?

A. I think if I am not mistaken that Rube Smith was in the office at the time; I am not sure, I won't say for sure.

Q. Well, Mr. Swift and Mr. Porter were there, too, weren't they? A. Not at the time, this first time I speak of, no.

Q. Well, they were there some other time, weren't they?

A. I don't know what their names were, two men.

Q. White men?

A. Yes, I guess they were white, or Indians—I don't know what.

Q. Now, from the time that Sadie went there the first time, did you ever hear her talk to Dennis about this Tommy Atkins and Granny Letcher until you last saw her at Dennis' office? How long a period of time was it, that she kept coming there?

A. Well, she came there before she talked about the Thomas Atkins matter and she came there, well, not such a long time afterwards because she seen that she couldn't handle Uncle Dennis the way that she wanted to and she quit coming and we didn't hear or see any more of her until after we received a card from her out in Washington, I think it was; in one of the cards she mentioned that we would be surprised to know that she was out there. She came several times afterwards and after she found out she couldn't handle him to suit herself she quit coming.

Q. She was continuously trying to handle Dennis wasn't she? A. No, she wasn't continuously trying to handle him.

Q. That is what she was doing up there, trying to handle Dennis?

A. No, not at the first, she came to see about the old people in the neighborhood where Tommy Atkins was born.

Q. She tried to get him to establish that?

A. She knew he had been around there all those years.

Q. What was she trying to handle Dennis about?

A. Toward the last I told you, when she had been west and came back, she had changed then to another side—I don't know whether it was your side or another side; she changed and wanted him to do crooked work.

Q. She hadn't handled him up to that time?

A. She couldn't. She only used him to get honest information.

Q. You know this Thomas Atkins, do you? Is——

A. No, I don't know anything about *I* because I wasn't born.

Q. What did you say that for?

A. Say what? I wasn't born.

Q. Tell me how many times she came there up to the time that she went west on that Seattle trip?

A. She came there in the spring and she went west in August, I think, when we received the letter.

Q. During that time from early spring to August she was frequently in Dennis' office?

A. No, she wasn't frequently, because she was down here in Oklahoma.

Q. When she would be in Leavenworth, she would come in Dennis' office?

A. Not frequently, she would come by, yes.

Witness dismissed.

And thereupon, GRANT FOREMAN, a witness produced on behalf of the defendant Minnie Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Beall.

Q. What is your name? A. Grant Foreman.

Q. Where do you live, Mr. Foreman? A. Muskogee.

Q. What is your occupation? A. Attorney at law.

Q. How long have you been engaged in the practice of law in Muskogee? A. Since 1903.

Q. Who were you associated with in the practice of law in Muskogee in 1903-4-5? A. Judge John R. Thomas.

Q. Where were your offices?

A. At that time we were in the Turner Building.

Q. Do you know—I will ask you first is John R. Thomas living? A. He is dead.

Q. Did you know Pleasant Porter? A. I did.

Q. What official position did he occupy in 1903-4-5?

A. He was chief of the Creeks, Principal Chief of the Creek Nation.

Q. Is he living? A. He is dead, too.

Q. Do you know—did you know John Adams?

A. I knew him *you?*

Q. What official position did he occupy in 1903-4-5?

A. I believe his position was called chief clerk to the Principal Chief.

Q. Is he living? A. No, he is dead, too.

Q. Where was the offices of the Principal Chief of the Creek Nation, in 1903-4-5?

A. It was in the Turner Building.

Q. Where was the offices located with reference to the offices of your firm Thomas & Foreman? A. Next door to us.

Q. What was the relationship existing between your firm and Pleasant Porter and John Adams?

Q. Why, we were all very good friends.

Q. Did members of your firm ever have access to the records in the office of the Principal Chief of the Creek Nation during those years? A. Yes, sir.

Q. I wish you would state to the Court, Mr. Foreman, the interchange of visits between the members of your firm and the Principal Chief and the clerks during those years.

A. Judge Thomas and I frequently were in the Chief's office and the Chief and Mr. Adams were often in our office; we had occasion to go into the Chief's office a good many times to examine his records for information concerning citizenship cases in which we were interested.

Q. In 1903-4-5 did the firm of Thomas and Foreman represent any members who were applicants for enrollment before the Dawes Commission?

A. Yes, we represented several.

Q. Was your firm *was* the attorneys for Chaney Trent and the members of her family? A. We were, yes.

Q. Who was Chaney Trent?

A. Chaney Trent was a woman who had been enrolled on the Creek Tribal Roll and transferred, and the Chief and the Dawes Commission questioned her right to enrollment and she was only enrolled after prolonged litigation.

Q. Do you know the name of her father?

A. Her father's name was Dick Atkins.

Q. Did you know the name of the father of Dick Atkins?

A. His father was reputed to be Thomas Atkins.

Q. Did you know of any other Thomas Atkins connected with any citizenship or enrollment case that the firm of Thomas & Foreman ever represented?

A. No, I don't recall any now.

Q. You stated the right to enrollment of Chaney Trent and the other members of his family was contested?

A. It was, yes.

Q. Was there a number of hearings before the Dawes Commission in that case?

A. Yes, there were several as I remember; I didn't take part in them.

Mr. German: Your Honor, we don't see the materiality of any of this and we desire to enter objections to all of it.

The Court: Alright; the objection is overruled; I am assuming counsel conceives it to be material and I am expecting it to develop.

Mr. German: Exception.

Q. The taking of testimony in that case occupied a number of years, didn't it, Mr. Foreman?

A. I think so, I didn't take part in the conduct of that case very much; Judge Thomas looked after it mostly.

Q. I place before you page 16 of the index and record of delivery of deeds of the allotted land in the Creek Nation, photographic copy of which is in evidence as Government's Exhibit A-16, and call your attention to the line where appears the entry Atkins, Thomas; notation H-13662, A-13663, under the column headed deed number, and I read a notation appearing opposite that name Thomas Atkins: "Hold for investigation; said to have died in 1878; is relative of Chaney Trent; reported by Judge J. R. Thomas." Do you know anything in reference to the notation that is placed upon that record?

A. I don't know a thing about it except what I stated, that we represented Chaney Trent.

Q. Did the record in the Chaney Trent case show that Thomas Atkins' grandfather Chaney Trent died in 1878?

A. As I remember the testimony it seems to me that that testimony showed that he died in the seventies sometime, but I am not sure about the year.

Q. Did the firm of Thomas & Foreman in 1903, '4 and '5 ever represent as an applicant for enrollment one Thomas Atkins, a Euchee Indian, who was born about 1885?

Mr. German: We object to that as incompetent, irrelvant, and immaterial.

The Court: Overruled.

Mr. German: Exception.

A. I don't remember any such case.

Q. The only Thomas Atkins that your firm ever represented or had any knowledge of in reference to the enrollment cases that you had pending before the Dawes Commission was the grand father of Chaney Trent who died in 1878, is that correct? A. That is the only one I remember.

Q. Mr. Foreman can you identify the handwriting on this record? A. I don't think I can, no.

Mr. Beall: That is all.

Cross Examination by Mr. German.

Q. You became very familiar with the family history of Dick Atkins, to whom you have referred?

A. Why, yes, I was familiar with it. It has been a good while. I am not so familiar now as I was at one time.

Q. You learned of the fact that Chaney Trent was the child of Dick Atkins? A. Yes, that is my recollection.

Q. And that Dick Atkins was reputed to be the son of Thomas Atkins and Mary Jane Atkins who died in the seventies?

A. That is the way I remember the testimony in the case, I don't recall about the father and mother.

Q. Didn't you also learn of the fact that there was also a Thomas Atkins, a son of Dick Atkins, the brother or a half brother of Chaney Trent?

A. It seems to me there was a Thomas Atkins, another Thomas Atkins who was said to be a son of Dick Atkins.

Q. Yes, who was born probably in 1885?

A. Well, I don't remember about that.

Q. Now, Dick Atkins was the reputed brother or half brother of Minnie Atkins and Nancy Atkins? A. I don't know.

Q. Well, you learned of Nancy Atkins in the course of that case? A. I don't recall in that connection.

Q. Then, Thomas Atkins and Mary Jane Atkins, the reputed parents of Dick Atkins were the parents of Nancy Atkins, you understood that? A. No, I don't recall that.

Q. Now, this Thomas Atkins, the son of Dick Atkins, didn't you attempt—didn't your firm attempt to obtain enrollment for him?

A. I think we did, Thomas Atkins as the son of Nat Atkins, his son.

Q. Thomas Atkins and Nat Atkins his son? A. Yes.

Q. You mean Nat, the son of Richard?

A. No, Thomas Atkins.

Q. Thomas was just a boy who died when he was about twelve years old and the question as to getting Dick Atkins on the roll was whether or not Thomas lived April 1, 1899?

A. No.

Q. Did you handle the case where he was denied on the ground that he died too soon? A. I don't remember.

Q. What tribal town or band was Dick Atkins a member of?

A. I don't remember that.

Q. It wasn't Euchee?

A. I don't recall. I haven't refreshed my memory about this whole case.

Q. What place in the Indian Territory did this Dick Atkins family live?

A. My recollection is that Chaney Trent was born in Missouri where Dick Atkins had removed from Indian Territory, but I don't recall now where he went from.

Q. Well, didn't he live up north of Wagoner when they were living in Indian Territory?

A. Well, I think quite likely, that is where Chaney Trent lives now.

Q. Didn't you learn in that litigation she had lived in that country practically all the time since she came to Indian Territory, since about 1890? A. I think that is true.

Q. Mr. Foreman, you say Judge Thomas is dead, when did he die? A. He died the 19th of January, 1914.

Q. When, with reference to 1905 was it that your office and the Chief of the Creek Office were separated, I mean became—— When did you move away from near his office or when did he move away from near your office?

A. I don't remember the year, I think it was after 1905, but I am not certain.

Q. Was it very long after?

A. I don't recall now just what year.

Q. Do you remember 1907, when Statehood came, the Creek Chief was officing in the Metropolitan Building, wasn't he?

A. I didn't think he moved in there that soon, possibly he did.

Q. Did he move in there shortly after?

A. Well, I don't know. I don't recall the year.

Q. What time in the year did Judge Thomas die?

A. January 19th.

Q. January 19th. Do you recognize any of this handwriting on these entries? Do you recognize any of it as John Adams? A. No, I am unable to identify it.

Q. Do you recognize the entry "Return to D Commission, right to citizenship pending?"

A. I suppose that is John Adams, because he generally made those entries there, but I don't know.

Q. When did Mr. Adams die, about when?

A. I think he died after P. Porter died, I think five, six, or seven years ago.

Q. Well, didn't Chief Porter die about 1908 or 1909?

A. I think quite likely about that time.

Q. And about how long after that was it until John Adams died?

A. Well, I don't know exactly. He survived him a few years I think.

Q. It has been more than—— It wasn't later than 1910 when John Adams died was it?

A. I don't know, it might have been.

Q. Well, it was along there somewhere? A. Yes, sir.

Redirect Examination by Mr. Stuart.

Q. Mr. Foreman, when you were next to the Chief Office there—— Now, these red letter notations here, did you see the Chief in his office and his people making notations from time to time in this book?

A. I have seen Mr. Adams make notations.

Q. In Red Ink and black ink too? A. Yes, sir.

Q. From time to time? A. Yes, sir.

Q. Now, this notation "Held for investigation, said to have died in '78, is relative of Chaney Trent, reported by Judge John R. Thomas," what date is that put on there—"5/10/05 messenger. Rights to enrollment pending." Now, this Chaney Trent that you people represented her matter was in litigation at that time was it, in 1905?

A. I am not sure, of course the records will show.

Q. Can't you tell when you concluded your matter up at Washington City, did you finally wind up that litigation?

A. I am unable to state.

Q. Didn't you have a record, Mr. Beall, in that matter? You did prosecute that matter to a final determination before the Secretary, didn't you? A. Yes, sir.

Q. Some years after this? A. Yes.

Q. And succeeded in getting Chaney Trent on the roll?

A. Yes, got her on the roll.

Mr. Stuart: It may be admitted that the letter to E. B. Miller referred to on the census card was written as of the same date that this appears on here.

Mr. Beall: The day before I believe.

Mr. German: Some letters the day before and some the day after.

The Court: Well, it was about that time.

Mr. Stuart: About that time.

Cross Examination by Mr. German.

Q. Now, Mr. Foreman, you don't mean to try to convey the idea to the Court that these entries were made with reference to citizenship pending, referring to Chaney Trent?

A. I am not expressing any opinion about that, Mr. German.

Q. Well, you know they don't, don't you?

A. I don't know.

Q. They are talking about Thomas' citizenship pending, that is a fact, isn't it?

A. I don't know; I didn't see that notation made.

Q. It is talking about the Thomas Atkins patent right there? A. Apparently.

Redirect Examination by Mr. Stuart.

Q. One thing I wanted to call your attention to, Mr. Foreman: You notice that these red notations are all in red printing instead of red writing, do you? A. Yes, sir.

Q. Was that the way that Mr. Adams generally entered those things?

A. Well, I remember that I have seen him enter those things in printing.

Cross Examination by Mr. German.

Q. Similarly the black ink notation is also in printing?

A. Yes, sir.

(Witness dismissed.)

And thereupon, CHARLES PAGE was called and sworn as a witness for and on behalf of the defendants Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Charles Page.

Q. Where do you live, Mr. Page?

A. Tulsa, Oklahoma.

Q. How long have you lived in this country?

A. Around thirteen or fourteen years.

Q. What business are you in?

A. Well, I am in the railroad business and oil business.

Q. Mr. Page were you ever connected with the Gem Oil Company? A. Yes, sir.

Q. Stock holder in that company?

A. Yes, sir, owned half interest in it.

Q. Do you remember, Mr. Page, the circumstance of that company, I am not asking for the dates, the incident of that company getting a lease from Minnie Atkins of certain property? A. I do.

Q. Who was in your employ at that time who was looking after that matter if anybody? A. Frank Long.

Q. I will ask you whether you gave much personal attention to it yourself? A. I did not.

Q. Did you leave the matter almost entirely to Mr. Long?

A. Entirely to Mr. Long and my lawyers.

Q. And your lawyers?

A. Yes, sir, and Mr. Josey looked after it a little.

Q. Now, Mr. Page, when you got the lease from Minnie Atkins what amount of money were you to pay?

A. Ten thousand dollars.

Q. Do you remember how it was to be paid?

A. Well, we was to give him ten thousand dollars cash and then we put him off with five, because we wanted to have her identified a little better, and so Mr. Hanford finally agreed to it. We made it in two checks I remember that distinctly.

Q. Did you pay the second check when it was due?

A. No, sir, we did not.

Q. Why didn't you do it?

A. Because Minnie, in the meantime, had been there and had told us some stuff that on checking it up we found that it was not true, and we was considering very seriously of throwing it up and not going any further with it; so Mr. Hanford brought her out if I remember right, or maybe Mr. Long went and got her, I wont say which. We discovered in the meantime——

> Mr. German: Your Honor, I desire to move to strike the statement of the witness that we were considering seriously of throwing it up, as a conclusion.
>
> The Court: It will not be considered by the Court as evidence in this case.

Q. Go ahead?

A. She was brought from Seattle and we had her to stop off at Kansas City, and we had learned in the meantime that the child was born at Granny Letcher's, that is the best evidence that we had at the time; and we thought we would confront her then with some of the Leavenworth people. So, I went to Kansas City and Mr. Josey I think went along, I wouldn't say for sure; and we took her up in a lawyer's office, it was to get a statement and have her meet these people and see if it wouldn't refresh her, or bring it out of her; and we thought we got it at that time, although Mr. Rice said "There is something yet I believe she is holding back." From that time on, after we had taken her down there and got that statement out of her admitting that she had had a baby at Granny Letcher's, I didn't pay much attention to it after that, and we paid the five thousand dollars.

Q. Mr. Page, at the first stage of negotiations with reference to Minnie, what were you doing, what were you trying to do with reference to Minnie?

A. I was trying to find out if I had anything, trying to get the truth out of it.

Q. With reference to the identity of Minnie, were you trying to establish her identity?

A. We were trying to establish her identity, certainly yes.

Q. With reference to Tommy Atkins, her son, will you please state what you were trying to do with reference to Tommy Atkins?

A. Well I was afraid that Tommy was alive, and I knew if he was alive my lease from Minnie wouldn't amount to very much, and at least I was afraid it wouldn't; and I wanted to find out of course if possible as soon as anybody if he was alive or if he was dead.

Q. When did you hear for the first time that the Government or anybody else claimed that Tommy Atkins never existed at all?

A. Well, the first time I ever heard that was—— That confession of Minnie's I believe.

Q. Confession of Minnie's? A. Yes.

Q. Out at Seattle? A. Yes.

Q. Mr. Page, did you get some sort of information that a suit was going to be brought to cancel this patent?

A. Yes, we heard they were going to start suit, and parties would come to us and tell us——

Q. Well, that they were going to bring a suit?

A. That they were making a tentative filing and so on, and getting ready to bring a suit. But we had no fear of that because we didn't think the Government would lend itself to anything of that kind with Mr. Buell and those people.

Q. Now you have some telegrams in your pocket. Did you send any telegrams to Mr. Sells at Washington City?

A. Yes, sir, we did.

Q. Just one minute until I get through. About the time that this Government suit was brought?

A. Yes, sir, we did, the office did.

Q. Is that a copy of that telegram?

A. Yes, I have looked over that.

Mr. Stuart: They are the telegrams, do you want to see them?

Mr. German: Yes, sir.

Q. While they are looking at them, Mr. Page, I will ask you if Sadie James at any time ever told you that Thomas Atkins was a myth, that there wasn't any Thomas Atkins?

A. Never at no time Judge did she ever tell me that he was a myth, never that I remember of. Although, after we had let her go I don't know what she might have said to me, because she came in my office once or twice there——

Mr. German: We object to his speculation what she might have said, that is not proper.

A. Well, she never told me it was a myth.

The Court: The answer in my judgment was responsive to the qeustion.

Mr. German: Exception.

Q. Did Betty Mann ever tell you that Thomas Atkins never existed, that there was no Tommy?

A. Never in the world to my knowledge.

Mr. Stuart: I offer this telegram in evidence "January 18, 1915, Cato Sells, Commissioner of Indian Affairs, Washington, D. C., we are advised Creek Attorney Allen has been authorized to bring suit to set aside Creek Deed issued to Thomas Atkins. Allen is working on false statements. He has been misinformed. We have not been permitted to submit facts. We are mailing you full and complete statement of facts and request that action be deferred until statement reaches you. We Court the fullest investigation. Charles Page. R. A. Josey."

A. We will mail.

Q. We are mailing you a full and complete statement of facts.

Mr. German: We object, your Honor, to those telegrams. They are all dated after the suit by the Government was filed. They are incompetent.

Mr. Stuart: We didn't know it was filed.

The Court: Overruled. I will hear this.

Mr. Stuart: The answer came back: "Charles Page and R. A. Josey, Tulsa, Oklahoma. Your telegram January 18th, suit instituted on January 18th against Minnie Atkins and others. Case in charge of Department of Justice and Creek Tribal Attorney. Cato Sells, Comissioner." I also read the letter of January 20th, 1914.

Mr. German: We object to the letter.

The Court: Objection overruled.

Mr. Stuart: "Honorable Cato Sells, Commissioner of Indian Affairs, Washington, D. C. Dear Sir:—Please refer to our telegram of January 18, 1915, with reference to proposed suit in the United States District Court for the Eastern District of Oklahoma, by the United States, for and on behalf of the Creek Nation of Indians, to cancel the deed issued to Thomas Atkins, in which telegram we stated we would submit to you a complete statement of facts. Our purpose in wiring you was to be given an opportunity to present our side of the case prior to the filing of the suit. Now, that the suit has been filed, we feel that it would be presumption for us to present any statement of facts, unless requested to do so by your office or the office of Creek Attorney Allen. We are ready and willing at any time to furnish you or Mr. Allen with any information desired. As stated in our telegram, we court the fullest and most complete investigation of our case. Yours truly."

Q. Mr. Page, I will ask you this, if prior to the time that Minnie Atkins made that confession you entertained any doubt of any kind that Thomas Atkins once existed? Did you have any doubt about it?

A. I never thought—I always believed that Tommy existed at all times after getting the record.

Cross Examination by Mr. German.

Q. What age are you, Mr. Page?

A. 56 years old; I will be 57 years old the 2nd day of next June.

Q. How long have you lived in Tulsa?

A. I think I came here thirteen or fourteen years ago.

Q. To Tulsa?

A. Well, Tulsa—first I lived in Red Fork for about six months or such a matter until I could get a house in Tulsa.

Q. When did Frank Long first enter into your employ?

A. Well, now, I think around about 5 or 6 years, I can't say.

Q. Sometime the early part of 1912, wasn't it?

A. Well, I wouldn't say; Frank has been with me——

Q. Well, it was a couple of years before you got into—found Minnie? A. Found money?

Q. Found Minnie? A. Found Minnie?

Q. Yes.

A. Oh, he was with me sometime before I found Minnie, yes.

Q. The Gem Oil Company, Mr. Long was secretary of it?

A. I think he is.

Q. And you are Vice President and Mr. Josey, President?

A. Now, I think that is right.

Q. Been that way ever since it was organized?

A. I wouldn't be surprised.

Q. That Company was organized about the time that you took Frank in, wasn't it? A. I can't say as to that.

Q. Wasn't it organized and Frank taken in with a view of his running it? A. No, sir.

Q. Now, when was your attention first called to this Atkins land?

A. The Atkins land—now, R. A. Josey, if I can explain this a little to you, is that what you want to know——

Q. I asked when your attention was first called to this Atkins land?

A. Well, I can't remember when it was unless it was when Long brought in the telegram to me and asked me about going in on it but I think my attention was called to it prior to that time; I think so, I can't say positively.

Q. You understood prior to that that Nancy Atkins was claiming title to this land?

A. I don't know now, I can't say positive.

Q. You knew about the Gypsy being out there in possession of it? And having a lease from Bartlett—Bartlett having a forged deed?

A. I learned of that afterward, I think.

Q. Afterward?

A. I learned of the forged deed and a lot of stuff.

Q. At the very time you became interested in Minnie Atkins didn't you know of the fact that there was a deed on record purporting to be from Minnie Atkins?

A. No doubt Mr. Long explained that to me but I was pretty busy and I didn't pay much attention to it; in fact I didn't want to go into it.

Q. You didn't want to have anything to do with it?

A. I didn't want to have anything to do with it.

Q. Because of the character of Betty Mann?

A. Because of the character of Betty Mann one reason.

Q. You knew her character was pretty bad?

A. I never had known Betty Mann to my own knowledge until Frank told me about her and I knew old man Crowell and one of the boys.

Q. Crowell was her father? A. Her father.

Q. A pretty tough outfit?

A. Bad, very bad, yes, sir.

Q. The first time you knew anything about it was when Frank brought you the telegram?

A. No, I don't say that was the first time.

Q. You think that was the first time?

A. No, I won't even think, but it was the first time I can positively remember of it, but Frank was hustling around, getting stuff around every pool that came in but no doubt we had hustled on this and spent money prior to that.

Q. And you don't remember what you knew about it?

A. No, I don't.

Q. At that time that Frank Long brought that telegram in, what did he say and what did you say?

A. Well, now, you know I can't tell you that because I——

Q. Don't remember?

A. Can't even repeat what you might have said in the half hour, because it would be nothing in it for me to remember.

Q. Didn't interest you?

A. No, it did interest me a little at first; he told me about her and so on—and I said I don't want nothing to do with it.

Q. Who was that message from, Mr. Page?

A. Well, now I can't say that; it is likely in evidence and that would be the best proof.

Q. Well, wasn't it from Bill Long—Bill Jones, I mean

A. I don't believe that he showed me the telegram.

Q. Just told *me* about it?

A. You see, the Gem Oil Company, we have seven rooms there in the First National Bank, and the Gem Oil Company —we didn't even have the door open between—if we wanted to go in, we would go around through the hall and when we started the Gem Oil Company, Josey agreed to look after it because I was busy on other affairs and I didn't pay much attention to the taking of leases in the Gem Oil Company.

Q. Alright. You said that you didn't know about Betty Mann until before this?

A. I have stated that to you; I have stated, just exactly what I stated to you is what it was; no need of repeating it.

Q. You say you didn't talk with Frank Long about Betty Mann before she went to Seattle?

A. I say I don't remember of ever talking, if you ask me that in that way, I don't know that I ever talked with Betty Mann or with Long about Betty Mann until he said that he had a telegram from her, or showed me the telegram and told me what the purpose of it was.

Q. Did you make any inquiries of him then about how expensive that trip was that she was on?

A. No, I don't think I did.

Q. So you gave Frank some instructions, though, didn't you about that matter?

A. About going——

Q. About the telegram, information contained in the telegram? A. I don't think so.

Q. You don't think you did? A. I don't think I did.

Q. Did you just drop it then?

A. I did until they brought a second telegram to me confirming it.

Q. How long after the first one?

A. Well, I think they sent one to Washington and then they got an answer, how long that was—the telegram is in evidence and would show.

Q. You meant to Washington State?

A. Yes, to Washington State; they are in evidence.

Q. You looked at that telegram?

A. I don't know whether I did or not, or they told me.

Q. That was about the next day; then what did you agree to do? A. I agreed to go in with them.

Q. That message was from Betty Mann, the same as the other, so you understood? A. I believe so.

Q. You agreed to go in with them? A. Yes, sir.

Q. Now, you agreed that the Gem Oil Company should attempt to get that lease, didn't you from Minnie? A. Yes.

Q. You learned there that Betty had gone to school with Minnie?

A. No, I don't have time to remember that stuff, I don't think; I don't think I even went into that stuff.

Q. That was looking pretty good. Didn't you make some inquiries about that? A. I don't think I did.

Q. What did you do then?

A. We sent Frank Long to Seattle.

Q. What for?

A. Now what for? Naturally for this lease, wasn't it?

Q. That is what I thought. A. Yes.

Q. But I wanted you to say so, Mr. Page. A. Yes.

Q. Did he bring it back?

A. He didn't bring it back at that time, he brought Mr. Hanford back as the evidence shows here.

Q. When Mr. Hanford came back—when he and Mr. Hanford got to Tulsa, they ate breakfast with you that morning, didn't they?

A. I hope they did, I don't know whether they did or not; if they did, they were welcome.

Q. Don't you remember that they did? And stayed all morning at your house that morning?

A. I don't remember that they did. I heard Mr. Hanford say so, and I suppose they did.

Q. Did you talk to Mr. Hanford at all during the time that he was here?

A. Mr. Hanford, when he came, I was out to get this lease from him.

Q. You talked to him but you don't remember where?

A. I am the man that made the trade with Mr. Hanford when he got here; when he landed here I——

Q. You don't know where you talked to him—at your house?

A. I talked to *me* at my house. I think I had him out to breakfast, I think I took him out to the Orphans Home possibly; I always eat dinner there every night—six o'clock dinner. We, no doubt I had him there eating with the kids that night.

Q. You were with him there practically all day?

A. I don't know; no doubt I was.

Q. What time that day did you make the trade with him?

A. I don't know that—I think I learned this since I been here, freshed my self up; I haven't even read my testimony that I had over here since I have been on the stand. I think we had Ben Rice to go out to the house to tell me—I have a faint recollection of that; I think I no doubt turned him over to them and everything but I made the trade.

Q. Did you make it that day?

A. I think I made the trade that day. I think we agreed on what we were to pay that day providing he accepted of it. I don't think possibly that he closed it but agreed to take ten thousand but I thought I was doing pretty well; I had it pretty well along that day.

Q. Well, you—at that time, you, Mr. Page, knew this title was in litigation? A. Yes, sir, yes, sir.

Q. At Sapulpa? A. Yes, sir, at Sapulpa.

Q. You then knew that Nancy Atkins and her lessees or grantees were suing Bartlett and the Gypsy? A. Yes, sir. I knew that.

Q. And that the Gypsy was in possession of the land?

A. I did.

Q. And were claiming the title?

A. And were claiming the title under a forged deed.

Q. You at that time knew that Nancy was claiming the title under the assertion that she was the mother of Thomas Atkins? A. Yes, sir.

Q. And that he was dead and that she was his heir?

A. What is that?

Q. Well, the last part I am not particular about. She was claiming that she was the mother of Thomas? A. Yes.

Q. And that she owned the land?

A. Well, she was the mother of Thomas?

Q. Yes. You at that know—did you at that time know that Bartlett's deed was forged?

A. Why, at that time—at that time, I think we knew that Bartlett's deed was forged—wouldn't say positively but I think we did.

Q. And that therefore——

A. Because I think that Betty Mann had told Frank Long about that. I think so, I don't know.

Q. Any how, Mr. Long—— Betty was not there when Hanford was there that first trip, in the early days of it, at least?

A. No, Betty came along afterwards, I believe.

Q. Frank, during the first days that Hanford was there, told you what Betty had told him? A. Possibly.

Q. Yes, possibly. Now, the next day—Monday, the second day that Hanford was here, what did you do about this matter?

A. Why, now, I can't tell you. I hustled to get that lease and I got it.

Q. You got it? A. Yes.

Q. Frank brought you sometime there, a signature of Minnie on a piece of paper?

A. Frank Long had the signature of Minnie on a piece of paper and we compared it with the enrollment card where she drew her grass money in '95 as I remember and I relied upon my attorneys and they claimed the signature was right.

Q. It was the signature of the same person?

A. The signature of the same person and we believed it was.

[Q.] Now, Frank also told you that he had made some inquiries of Minnie when he was in Seattle, didn't he?

A. No doubt he did.

Q. What did he tell you she said? A. I can't tell you.

Q. Did he tell you anything that she had said that you can now recall? A. No, I can't.

Q. Did he tell you that he had talked with her?

A. Oh, yes, no doubt.

Q. He told you that he talked with her?

A. He had to, yes.

Q. Then Tuesday, do you remember what you did on Tuesday following Hanford's arrival here with Long?

A. Why, I can't. Why should I remember what happened any certain day?

The Court: Just answer Mr. Page; if you don't, you don't.

A. No, I can't; no, I don't remember.

Q. You don't remember? A. No, I don't.

Q. Now, when was it— do you know about Frank and Hanford coming over to Muskogee at that particular time, either on Monday or Tuesday?

A. I know this: no—I don't, but I know this: that we wanted Frank Long to keep Hanford away, we were satisfied that we had the right party and I didn't want anybody to get to Hanford and run the price up on me or anything of that kind, and Frank Long's duty was to keep Hanford kiting around the country—that would be a business man's way of doing it.

Q. Because you wanted that lease?

A. I wanted the land, naturally Frank would keep him busy some way until we could get the lease here.

Q. Don't you remember that Frank and Hanford went down to Sapulpa on Monday to check the records on the Nancy part of it and see how *a* strong a case they had?

A. No, I don't remember.

Q. And didn't they come back and make a report to you on what they found?

A. If they did, I don't remember.

Q. Don't you remember that they came to Muskogee, and came back and made a report to you?

A. If they did I don't remember; have no recollection of it.

Q. Now, you get any telegrams from MacNab at Seattle about that time? A. I don't know that I did.

Q. Wasn't Betty up there trying to handle MacNab for you? A. They likely came to the Gem Oil Company.

Q. Do you remember anything about such a message?

A. I don't remember anything about any such a message, no.

Q. What day and by what method did you obtain the execution of that lease? A. What method?

Q. Yes.

A. That was left entirely to my lawyers, you see. I would probably see Frank Long in the morning and say what are you going to do today and what how is so and so, and Frank, he would attend to it.

Q. Finally Betty came back from Seattle?

A. Yes, she returned.

Q. And you had a conversation with her? A. Yes.

Q. You didn't meet her personally?

A. Never met her before that I know of.

Q. That was while Hanford and Long were still here—still at Tulsa? A. Mr. Long was here.

Q. That was before they had gone back?

A. I don't know.

Q. Well, you remember that finally Frank——

A. I know Frank—I know Betty, they telephoned me into my office or sent somebody in to say that Betty was there if I wanted to look at her and I went in and seen her and talked with her.

Q. Talked with her? A. I remember that.

Q. You remember that. Now, you knew about the fact that searches had been made for Thomas Atkins, didn't you?

A. I was learning pretty fast along about that time.

Q. Yes, sir, learning pretty fast, that they had searched the country over and couldn't find him, didn't you?

A. Well, I wouldn't say that I did just then, but I was keeping up to date about these things, I was becoming interested and I was keeping up to date on those things.

Q. And you learned that they neither found him alive or dead at that time? A. I certainly did.

Q. Because that was true? A. Because that was true.

Q. Did they bring you a copy of that census card and show it to you? A. The census card of Thomas?

Q. Yes, sir. A. I don't think they did.

Q. Now, Betty continued to stay around the office there, after she came back from Seattle, didn't she?

A. Well, you see the Gem Company's office—maybe I wouldn't go in there for two weeks at a time.

Q. Well, you passed right by it?

A. Well, there was a door—we never opened that door; we had something up against it—I think a picture.

Q. What floor were you on? A. The fourth floor.

Q. The First National Bank Building?

A. The First National Bank Building—been there for years.

Q. The Gem Company's office is adjacent to yours?

A. Right along there—I have six or seven rooms.

Q. How many rooms did you have?

A. I think we at that time, before we moved to Sand Springs, three, four, five, I think about seven rooms, and the Gem Oil Company, I think had three rooms.

Q. Who was Mr. Eberle?

A. Mr. Eberle was *to* bookkeeper.

Q. For you? A. For the Gem Oil Company.

Q. Who was your bookkeeper?

A. Mr. *Bookkeeper,* I have several bookkeepers.

Q. At that time?

A. At that time, my bookkeeper in that office there—you see a part of my books are kept out at Sand Springs.

Q. At that time they weren't though?

A. Yes, part at that time kept at Sand Springs.

Q. Was it somebody beside Eberle? A. Yes.

Q. I don't care who it was. A. Yes, yes.

Q. Now, Betty was around there from the time she returned from Seattle, wasn't she continuously around there—around your office or the Gem office?

A. I believe she was around the Gem office but I don't believe she ever talked to me very much until after she had been back a month or such a matter. I saw her with a little girl—young girl, who had just come from school.

Q. Her daughter?

A. Her daughter, and then I sent for her to come in my office and then I took an interest in her and wanted her to do something with the girl and talked to the girl because I knew of the reputation she had.

Q. She continued to be around there from the time she returned from Seattle for several months?

A. Well, I wouldn't say that; quite a while.

Q. Quite a while? A. For quite a while.

Q. Finally Long and Hanford went back to Seattle?

A. They made two or three trips to Seattle.

Q. You remember distinctly, don't you, that they did take a trip to Seattle, leaving Tulsa about the 3rd of July?

A. Oh, no, I don't remember that. I don't remember when they went, what date they went or what month they went. Now, I didn't pay much attention to the Minnie proposition after I had paid the second ten thousand dollars.

Q. You mean the second five thousand dollars?

A. Second five thousand dollars, because I was convinced that there was a Tommy.

Q. But between the time you entered into the matter you kept up to date until you paid the second five thousand?

A. Kept up to date until I paid the second five thousand.

Q. Alright. We will find out when you paid that.

A. The second five thousand?

Q. The second five thousand.

A. I paid that after Minnie——

Q. After Minnie had testified at Tulsa?

A. After Minnie had made a statement to us and had identified and talked with some Leavenworth people. Rube Smith, I think was one of them and they brought over several from Leavenworth to Kansas City.

Q. And she saw them?

A. She saw them and they identified her as the Minnie and talked over the Tommy proposition, and after that Mr. Rice says there is no question, Charlie, but what we are alright, and that she had this child at Granny Letcher's—we paid them the other five thousand dollars.

Q. Now, that was September 29th, 1914, wasn't it?

A. I don't know; the record will show better.

Q. Three months exactly after you got your lease?

A. Well, sir, that is the time we paid the money; I don't think we paid it until then.

Q. After that you paid the money. Let's see what happened in the meantime, Mr. Page; in July or rather in June, when Hanford and Long came back from Seattle, there was some sort of contract made with Hanford besides the one that related to the purchase of that lease by the Gem Oil Company, wasn't there?

A. What is that? Some kind of contract made with Hanford? If there was, I don't know.

Q. Well, what about Hanford's expenses?

A. Now, that was made by the lawyers up stairs and Josey likely had something to do with it.

Q. But you didn't know nothing about it?

A. I likely knew about it; I don't remember.

Q. The lawyers represented you and the Gem Oil Company and Mr. Josey?

Q. Mr. Josey was there. Mr. Josey, you know, is very careful about those things and Josey no doubt knew all about it, and I was depending upon them.

Q. Did you make the trade in relation to the ten thousand dollars? A. I did.

Q. Why was it that you didn't pay the ten thousand dollars down?

A. Because I wanted to defer paying as much of it as possible until I was positive Minnie was identified by some of the natives down here in Oklahoma.

Q. Then, when Mr. Rice told you in Kansas City after these witnesses came there from Leavenworth, and looked at Minnie, that there is no question but that Minnie is the mother of Thomas, that statement wasn't the statement that controlled you in making the payment, was it?

A. Why, that—I don't know that Rice said it in that many—in that language.

Q. Well, that is substantially what he said?

A. Or, even in the language that I used, but after my lawyers——

The Court: Mr. Page, you are asked whether that statement was the one that caused you to make the payment; let's get at that.

A. Well, the meeting that we had at Kansas City was——

The Court: The payment was made shortly after that?

A. The payment was made shortly after that, yes, sir.

Q. Alright. Now, Long and Hanford back in July, or rather Mr. Hanford, after they had been up to Seattle, brought Minnie back to Tulsa and she testified at Sapulpa?

A. She did.

Q. Let's see about that first five thousand: Mr. Hanford, I believe was to get that?

A. Well, if he was, I knew nothing about that. I had bought the lease for ten thousand dollars through her attorney and whatever they did with the money, I don't know, but maybe I did at the time, but I don't remember it now.

Q. Have you got that first check? A. Have I?

Q. Yes, sir.

A. It showed here—that is in evidence here in the Receivership case.

Q. The first check was?

A. The first check, as I understood someone to say.

Q. Didn't you withdraw it from the court if it was?

A. I don't remember.

Q. You think it was introduced at the Receivership?

A. Well, I wouldn't——

Mr. German: I would like to ask counsel if they know *whether* that check is.

Mr. Stuart: Well, I don't, but if it was not left with the Receivership papers, I will get it for you.

Mr. German: Well, alright.

Q. Now, you made that so-called second check, or the other five-thousand-dollar check, you had an endorsement put on it, not payable before September 29th, 1914—July 29th, I beg your pardon?

A. Possibly, I wouldn't say; I don't know.

Q. Now, Mr. Hanford came down with Minnie and she testified July 26th, didn't she, or the 27th?

A. I can't say.

Q. Some where in there?

A. Shortly before that check was due, I know, because that—that is the reason it kind of rattled us a little bit. She claimed the Peterkin kid was born at a certain place or one of those children at that hospital, and we got mixed up there, and then I wanted to quit, you know.

Q. Just drop it?

A. I was considering it very seriously, we were.

Q. Now, Mr. Page, when Minnie came down from Seattle that first time, she—you met her at Tulsa in your office, or in the Gem office? A. The first time?

Q. Yes, sir.

A. The first time, I don't know where I did meet her. I know I had her out at my house.

Q. Yes, and talked with her? A. Yes.

Q. And she went down to Sapulpa and testified about the child being born at the Sisters' Hospital? A. Yes.

Q. Then that Thomas was born to her and that she had heard he was dead?

A. Well, I don't know—I can't say that; in fact I don't know; I know after she came, she went to Sapulpa and testified, I know that.

Q. Weren't you present? A. I think I was.

Q. Where was Sam Brown the day she testified?

A. No, Sam Brown, the day she testified, I don't know; Frank Long could likely tell you.

Q. Well, he was in Sapulpa? A. Maybe he was.

Q. Wasn't he? A. I don't know; maybe he was.

Q. Did he see Minnie that day? A. I don't know that.

Q. Didn't he see Minnie the day before?

A. I don't know that.

Q. Did Wadsworth see Minnie that day or the day before, or Robinson—Bill Robinson?

A. I think we had people come—we had her over there, and had people come, paid their expenses in from around here, for *the* [] identify Minnie and see if they knew her, and see if she was the real Minnie.

Q. Where was it you had them come to identify Minnie?

A. Why, on the porch at my house, some of them, and likely some at the office—I can't say.

Q. Before or after you went over to Sapulpa?

A. I don't know whether it was before or after. I think it was before we went over.

Q. You didn't have her at your house after she testified at Sapulpa, did you?

A. Why, I think I did, I wouldn't say for sure; I think I had her there over night.

Q. Anyhow, these parties came and identified Minnie; they remembered she was Minnie, at your house?

A. Yes, out on the front porch.

Q. You think that was before she went to Sapulpa?

A. I think that was before she went to Sapulpa.

Q. Because that was the big thing that you were interested in?

A. Well, yes; we wanted to have her identified.

Q. How long was she in Tulsa before she went to Sapulpa to testify? A. Now, I can't say that.

Q. You don't remember? A. No, I don't remember.

Q. Who identified her there at your house?

Q. Now, I can't tell you that; Frank Long could tell you, because I am a very poor hand to remember names, anyway.

Q. No question about who she was when they saw her and identified her? A. I didn't think so.

Q. You were entirely satisfied that it was Minnie, weren't you? A. I was entirely satisfied it was Minnie.

Q. Then, Mr. Page, why didn't you go up to the bank that day and pay her that five thousand dollars?

A. We were ready to.

Q. But you didn't? A. We were ready to.

Q. Ready to?

A. Yes, we would willingly paid it, if it had been due.

Q. Wasn't she asking for it?

A. Now, I don't know whether she was or not but we were ready to give it to her, but when she told us about the hospital, somebody hurried right down there—Frank Long, possibly, and found that she hadn't been in the hospital, it disgusted me with the proposition very much.

Q. Because she had deliberately falsified?

A. Yes, sir, I thought so.

Q. She told you out at your house that——

A. Well, it was on the witness stand.

Q. It was after that that Frank Long went to the hospital? A. It was after that if I remember right.

Q. Nancy Atkins' lawyers were at Sapulpa and cross examined her when she testified there?

A. I presume they did. Mr. Rosser was there.

Q. The attorneys for the Gypsy Oil Company were there and cross examined her? A. Yes, sir.

Q. It was an important question there as to whether Minnie was the mother of Thomas Atkins, wasn't it? A. Yes, sir.

Q. And then, you after she had testified, how come you to shoot Frank Long up to Leavenworth so rapidly?

A. You know we didn't know whether Tommy was dead or alive; we were running down every clue.

Q. What would the records at the Sisters' Hospital in Leavenworth have had to do with whether he was alive or dead?

A. It is hard to tell, you might have got a clew there.

Q. From the records made up in 1886?

A. You might have learned something.

Q. And that is why you sent him up there?

A. We run down everything we possibly could.

Q. What I am asking you is why you sent Frank Long to Leavenworth so soon after Minnie testified?

A. To check up her testimony.

Q. Why didn't you send him before?

A. I don't think we knew about the hospital before.

Q. You knew she was going to testify about the hospital?

A. How did I know?

Q. I am asking you? A. I don't think so.

Q. Hadn't Mr. Long told you that she was going to say that the child was born at the Sisters' Hospital?

A. Not that I knew of.

Q. Before she testified?

A. Not that I know of. Not that I know of.

Q. Mr. Page, what did you put her on the witness stand for at Sapulpa?

A. My recollection is my lawyers was tending to that case and they likely went over the testimony with her, and I likely went over the testimony with her, but as to what she said to me prior, I couldn't tell you; but it developed after the trial, that is after the hearing at Sapulpa, that her child was born at the Sisters' Hospital, and we immediately went to checking it up.

Q. Don't you know, Mr. Page, that you found out right after she testified at Sapulpa, from Rogers, Betty's co-worker——

A. Rogers? There is a man, my boy, I never talked to very much.

The Court: Finish the question.

Q. That the Sisters' Hospital story wouldn't stand up; didn't you learn that Rogers told Frank Long that?

A. What do you mean by the hospital story wouldn't stand up? What do you mean to insinuate that the hospital story wouldn't stand up?

Q. You understand my question, don't you?

The Court: Do you understand what he refers to?

A. We didn't try to make anything stand up only the truth.

Q. You know what I mean, Mr. Page?

(Thereupon record was read by the reporter.)

A. No, I didn't learn that from him.

Q. Anyhow, Frank went immediately to Leavenworth?

A. I wouldn't stay, him or Hanford.

Q. And sent word to you that there wasn't anything there about it?

The Court: I assume what you mean as to whether the hospital story would stand up, is that the story was not true?

Mr. German: Yes, sir.

The Witness: Now, that is all right.

The Court: It would be better for counsel to use that.

The Witness: Thank you.

Q. Mr. Page, you had a little talk with Minnie after she had testified, after you had found out what the record did show, didn't you?

A. I wouldn't say for sure, quite probably I did.

Q. When was the first time that you heard the name Peterkin? A. I couldn't say when I heard that.

Q. Don't recall? A. I don't recall, no.

Q. Mr. Hanford went to Boston, didn't he, shortly after that? A. Mr. Hanford went to Boston.

Q. And finally upon his return you talked to him?

A. Yes, sir.

Q. He reported to you what Peterkin had told him?

A. Yes.

Q. Then, you wrote or had Frank Long write Mr. Josey a letter, he being in the east at the time, did you not?

A. Well, I couldn't tell just how that was, I know he was in the east, he was in Boston, I believe.

Q. You remember the circumstance?

A. I remember we wrote Mr. Josey, I insisted on Mr. Josey going down and seeing—learning something about this.

Q. From Peterkin?

A. From Peterkin, and I wasn't satisfied with the explanation that I had got from Mr. Hanford, and I wanted Mr. Josey to go down and see him, because I wasn't really satisfied with the explanation that I got from him.

Q. At that time you knew that Bartlett was still making a search for a live Thomas, didn't you, and that the Gypsy was? A. Well, I think so, yes.

Q. And you knew that the Gypsy, or Bartlett was using Sadie James, and the Gypsy was using Dennis Jones in that effort?

A. Not at that time, but I knew that the Gypsy was using Dennis Jones, and I knew we were trying to get Dennis, but he wouldn't got to work for us until he got a clean slate from the Gypsy.

Q. You wanted Dennis in your employ? A. Yes.

Q. And Sadie was working for Bartlett trying to find a live Thomas and you were aware of that?

A. Well, was she working for him at that time?

Q. Shortly before that, after you had found Minnie, you knew?

A. Yes, I knew she had worked for him before and after I believe.

Q. And you knew, did you not, at that time, that Nancy Atkins was still claiming that she was the mother of Tommy, and owned the land?

A. Oh, yes, we had known that from the time we started, still know that.

Q. And you realized that you would have a fight with her? A. Not serious after I had investigated it.

Q. I understand, but you hadn't carefully investigated it at that time?

A. I think I investigated very carefully after I talked with Judge *Hanford*—the judge that was on the bench there.

Q. Judge Stanfield? A. Judge Stanfield, yes, sir.

Q. Mr. Page, who else within your knowledge was searching for a living Thomas besides Bartlett and the Gypsy?

A. Well, I think Charlie Wrightsman was.

Q. At that time?

A. Well, maybe it was later, I couldn't give the dates of any of that stuff. I know there was quite an opposition in the field to find a Tommy.

Q. Well, who else, if anybody, was searching for a living Thomas in the summer and early fall of 1914?

A. I couldn't tell you.

Q. You knew of no others?

A. I might have known but I can't recall it.

Q. But you did know that the Gypsy and Bartlett were actually searching for a living Thomas?

A. At one time I know they were.

Q. Now, you succeeded—— You didn't get Mr. Josey to interview Peterkin, but Mr. Long had written him, you remember that? A. No, I don't.

Q. It was your idea that he should do it?

A. Well, I don't know what my idea was then, whether he should have done it. I know we wanted to get Mr. Josey to go down and see Peterkin and I wasn't just satisfied.

Q. You complained with Mr. Hanford because he hadn't a better report from Peterkin, didn't you?

A. Complained to him?

Q. Yes?

A. No, sir. No, I don't think I complained to him about not having a better report.

Q. Talked a great deal about it?

A. I did complain. I wasn't satisfied—— Mr. Rice, my attorney, wasn't satisfied with the sort of indefinite reports we got from Hanford. And we thought Mr. Josey or somebody should go down and see Peterkin.

Q. You remember the fact that he did report Peterkin had told him that Minnie had had a child in Leavenworth, you remember that fact? A. I think so.

Q. But that it died when it was very young?

A. Well, I believe so.

Q. Now, Mr. Page, about that time, Sadie came around, didn't she?

A. About that time Sadie James came in, just about.

Q. Now, you had known what character of woman she was prior to that time?

A. Never had known of her or heard of her that I know of.

Q. Now, you met Sadie in your office there, or the Gem Oil Company's office there, which was it?

A. Mr. Long brought Sadie into my office and I was busy.

Q. And then you made an engagement to meet her in the park that night? A. Yes, sir.

Q. With Mr. Long?

A. Well, not necessarily with Mr. Long; Mr. Long was to meet her when she got off so she could get up to the park. Yes, I was to meet her in the park.

Q. Colored folks are not allowed in your park?

A. They are, but they have their days and the white people have their days.

Q. So, Mr. Long was going to permit Sadie to come in, although she was a colored woman, on that night?

A. Yes, sir.

Q. Why was it that you didn't trade with her or talk with her in your office, instead of waiting until that night at your park?

A. Why, because possibly I was busy, or possibly it was a better time to sit down and talk. It was in the summer time, it was warm, and there might be lots of reasons in regard to that. Maybe I wanted to say lots of things to her and didn't have time up there. I couldn't tell what was going to run through my mind at that time.

Q. Well, you were desirous of employing her at that time?

A. Why, if I remember it clearly, she gave me to understand that I needn't worry about a live Tommy; that she could prove that Tommy was dead and buried. I says if you can——

Q. You are the person?

A. Yes, sir, you have a job right now, yes, sir.

Q. Now, you stated, I believe, at your Receivership testimony, that you knew what kind of woman Sadie was by reputation but you didn't know personally?

A. Well, I haven't read my testimony, but I know I didn't say that. I might have stated that I had heard of her, what her reputation was after this case had started, after we had found out about this Sadie James, but I never saw her or I don't think I ever knew who she was until after this case started. Until after we had found that she was in Seattle.

And thereupon, Court recessed until two o'clock P. M.

And thereafter, and at 2 o'clock P. M., Court having convened pursuant to adjournment, further proceedings herein were had as follows:

CHARLES PAGE, being recalled further testified as follows:

Cross Examination by Mr. German.

Q. Mr. Page, at the Receivership hearing, did you not testify as follows, referring to Sadie James: "Q. When Mr. Long brought her there"—that is, your office—"did he tell you anything about her? A. Why, he says Sadie tell me—— Q. Did he tell you anything about her character, the sort of woman that she was? A. I don't think he did; I think I had learned prior to that. Q. You had learned prior to that the sort of woman she was? A. I think so; that is the reason I was careful with her;" you testified that way?

A. I have no doubt I did, I believe I did.

Q. Further testifying: "Q. You knew then the sort of woman she was at that time? A. I think I did, without question." A. I do, I think I did, without question.

Q. That is true as to your testimony, is it not?

A. That was true a year and a half ago, it is more likely that I would remember it then than now.

Q. Now, referring to the time when you paid Minnie that money, isn't it a fact that you paid her forty-five hundred dollars of that five thousand after she had given her deposition at Tulsa? A. At Tulsa?

Q. Yes, sir?

A. Now, I don't know when that was paid, but I do know this—I do know this—that it was not paid until after we had talked with her, and had her identified and talked with some Leavenworth people in Kansas City.

Q. To refresh your memory I will ask you if you didn't testify this way at the Receivership hearing: "Q. When did you pay her that additional five thousand? A. I know this, I am—it comes to me—I am, oh, we didn't pay her until the day, I think a day or two before—no, hold on, I am mistaken there; we paid her because she went down to the bank and drew money—she said she wanted this money in the bank to her credit, and it was put in the—part of it, the five hundred dollars, and forty-five hundred dollars as I remember was put on time deposit check in the Central National Bank —forty-five hundred dollars, and I think five hundred dollars was placed to the open account of herself but after the law suit—after she had given her deposition. Q. After she had given her deposition? A. Yes, sir."

A. That would be right there.

Q. Now, referring to the time when you *find* out that the Government was figuring on a lawsuit here, don't you know that Judge Allen recommended the institution of a suit to cancel this allotment in the middle of October 1914, and that it was several days after that before Quinton Garrett made application to select this land?

A. If you will put—no, I don't; but if you will ask me what I know about the filing of the Quinton Garrett and of starting of this suit, I can tell that to you.

Q. Well, it is hearsay to you, isn't it?

A. Part of it is, what is hearsay, I can call them in here.

Q. You had Mr. Josey to come over to see Judge Allen, did you not? To persuse him not to file the suit?

A. No, sir, I had him to come over here to see Judge Allen but not to commence the suit until he had investigated our title, and we told Judge Allen, if we were wrong we would positively quit claim and quit, and Judge Allen told him—Josey is in the city, you can get him up here.

Q. Josey told you what he told—— A. Yes, sir.

Q. You didn't talk to Judge Allen? A. No, sir.

Q. Alright. Now, Mr. Page, on the same day that Minnie testified at Tulsa, in Rice & Lyons' office, you took a deed from her, didn't you?

A. I knew nothing about that, as you might say; that was done by advice of attorney—by Ben Rice. That was done unbeknownst to me.

Q. You signed that instrument, though?

A. I signed a letter.

Q. Didn't you sign that contact there drawn up with her and signed by you, and acknowledged by you and her both, on the date she testified at Sapulpa?

A. Well, I signed a letter or something; I knew that I didn't own the property or the deed didn't amount to anything; it was some protection my lawyers were taking—what it was, I don't know.

Q. You don't know? A. No.

Q. I will ask you why this provision was inserted in that contract: "It is further provided that this instrument is subject to the following conditions, namely: that in the event Thomas Atkins, the son of the first party"—that would be the son of Minnie—"and the person described in the allotment of said land, or the rightful heirs of the said Thomas Atkins, shall successfully maintain a title to said land, and the estate above described, as against the first party, the payments hereunder shall cease and second party shall be released from all liabilities hereunder, except that upon the confirmation of this conveyance and the release for payments theretofore made, the said payments shall be due and payable to the said Thomas Atkins or his heirs, during the lifetime of the said first party and on her death the unpaid difference between the amounts paid up to the time of the death of the said first party, and the said ten thousand dollars if any ascertained as aforesaid, shall be payable to the said Thomas Atkins or his heirs." Why did you put the provision in there, statement in there, or reference in there to the rightful heirs of the said Thomas Atkins?

A. Mr. German, it is likely that I never read that article, I know I never read it in the world.

Q. Who prepared that? A. Ben Rice.

Q. He was the same attorney for you who examined Minnie when she gave her deposition? A. Yes.

Q. He was the same attorney who was with you in Kansas City? A. Yes.

Q. When Minnie gave her statement?

A. Yes, maybe Ben didn't, maybe Mr. Lyons did that, or some of his men, I didn't know that contract or deed was signed until after it was signed.

Q. Do you know why the following provision was inserted in that contract?

A. I wouldn't know a thing about it; that was done by the lawyers and not by me.

Q. Mr. Page, you know Mrs. Mattie Cobb, formerly Mrs. Edwards, who lived at Stacy, Missouri; you went out with Frank Long and Crilly to her house?

A. I went out to see one old lady out in the country; I never was in Leavenworth I think but once in my life; and Mr. Long wanted me to go down there, and I wanted to go. He said they had now the evidence connected up with positive proof in regard to the birth of the child and he wanted me to see one dear old lady he said down there that had it in the Bible when her babies were born, and so on, and I was interested.

Q. Did you see the Bible?

A. I never have looked at the Bible, although we have it right here I think in town.

Q. Now, did you go down to that old lady's home?

A. I did.

Q. That was Mrs. Cobb?

A. I think they called her Mrs. Cobb; it was eight or ten miles out in the country; Mr. Crilly took us out in the country in his automobile and she was washing.

Q. You know Ella Abbott? A. Very well.

Q. She lives at Leavenworth?

A. She is in the city now.

Q. You knew about the slate and clothes that she is supposed to have?

A. Well, I don't know so much about the clothes, I know that we have books, school books, and we have what is supposed to be Tommy's slate, and we have checked that up and had chemical analysis on it, and so on.

Q. Ella is the person that produced it for you?

A. Ella is the one that produced them for us, yes, in a way.

Q. She has been here in the city during this trial?

A. She has been here right along. She was up at my hospital at Sand Springs for a while; she was sick with pneumonia.

Q. Ella was supposed to know about the death of Thomas, wasn't she?

A. Well, now, I never went over the testimony with anybody, with any of the witnesses, I don't think one of them with the exception of this old lady you spoke of.

The Court: As to her, you don't know?

A. No. No.

Q. You have talked with her a great deal?

A. Only in a nice friendly way; tried to keep her happy and make her happy and so on.

Q. Mr. Page, you say that you employed Sadie, and Dennis, and Rube too, Rube Smith; have you ever produced any witness, or has any one for you obtained any witness to swear to the death of Thomas Atkins?

A. I think we have some people who are willing to swear to it.

Q. You have never put any witness on the stand?

Mr. Cruce: We object, if the Court please. The records will show.

The Court: The records will show.

Mr. German: It will in this Court.

The Court: The records will show as to what is here.

Q. Did you put any witness on in the state court who testified as to the death of Thomas Atkins?

The Court: Is that record in the state court in evidence?

Mr. German: Just a little.

Mr. Cruce: We object to it because it is immaterial.

The Court: He may answer if he knows.

Mr. Cruce: Exception.

A. I don't think we ever did.

Mr. German: That is all.

The Court: Any further questions?

Mr. Stuart: That is all, Mr. Page. I may need Mr. Page for a few questions later.

Mr. Allen: If the Court please, we have one witness here from Kansas City, a very short witness; counsel have agreed we may put on now.

Mr. Hanford: I would like to ask Mr. Page one question before he leaves the stand.

The Court: All right.

Redirect Examination by Mr. Hanford.

Q. Mr. Page, you were asked on cross examination if the forty-five hundred dollars, five thousand dollars paid to Minnie was paid after her deposition at Tulsa. I would like to ask you if it is not a fact that that money was paid to Minnie at Leavenworth before she came to Tulsa and she went down to the bank and put it in the bank by herself after she got to Tulsa?

A. Mr. Hanford, I don't know whether it was paid to her in Leavenworth or not. Now, you would know, and Frank Long would know, but I know Minnie came to me with the check and wanted me to go to the bank with her and arrange for interest and a certain amount to check on, and I was instrumental in doing that.

Q. Isn't it a fact, Mr. Page, at the time she went to the bank, at that time she had a certificate of deposit for forty-five hundred dollars and money in her hands to put in the bank?

Mr. German: I object to counsel leading the witness.

The Court: Mr. Page has testified he has no personal knowledge with regard to this.

A. I couldn't tell you about that, but I knew that Mr. Rice tried to keep us from paying Minnie for a long time.

The Court: We will not go into that.

(Witness dismissed.)

And thereupon, **STUART BREWSTER** was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name? A. Stuart Brewster.

Q. Where do you live?

A. I live in Leavenworth, Kansas.

Q. What is your age? A. Thirty-two.

Q. What business are you engaged in?

A. I am with the Claim Department of the Travelers Insurance Company.

Q. You are a lawyer by profession? A. I am.

Q. Do you know Alva Adams? A. I did.

Q. Were you raised in the same community that Alva Adams was raised in?

A. Well, I don't know whether, I was raised in Leavenworth, I have lived there for some time.

Q. Did you play with Alva Adams in Leavenworth, and the boys with whom he played in 1897 and 1898? A. I have.

Q. What were the names of some of the boys with whom you played at that time?

A. Well, there was Alva Adams and a boy we called Skinny Warren, his name was—I don't know his first name; and a boy called Pied Owens.

Q. What was his name?

A. I don't know his first name.

Q. To refresh your memory, was his name Tommy Owens?

A. Tommy Owens, yes, sir. Then, there was a boy by the name of Earnest Endress, and a boy by the name of George Foster, and a boy there that we called Sheeney Browser, I think his name was Solly.

Q. Was George Warren in that crowd?

A. I don't remember.

Q. Swipe Smith, did you know Swipe Smith?

A. I never knew Swipe Smith at that time, not until later years.

Q. Tommy York? A. Yes, sir.

Q. Was he in that crowd? A. Yes, sir.

Q. Was there any boy in that crowd that you played with, or did you know any boy at that time by the name of Tommy Atkins or Indian Tommy? A. No, sir.

Q. Did you ever hold any official position in the City of Leavenworth? A. I was police judge for two terms.

Q. Have you held any other official position? A. No, sir.

Q. When was you police judge there?

A. I think I went out of office in 1914; I had been in office four years previous.

Mr. Allen: That is all. Take the witness.

Cross Examination by Mr. Stuart.

Q. Were you ever engaged by anybody to do any work in this case? A. Yes, sir.

Q. Who employed you?

A. Mr. White came to Leavenworth and I was associated with Judge Harper; and he wanted Judge Harper to look up some witnesses for him and Judge Harper turned him over to me and I did look up some witnesses for Mr. White.

Q. You knew that he was representing the Nancy Atkins interest, did you?

A. I did not; I did not know who he represented. I don't know now.

Q. Well, how came you to look up witnesses if you didn't know what it was about?

A. Well, he had the names of the witnesses.

Q. Well, what did he say it was about? A. Beg pardon?

Q. What was it all about? What did he tell you he wanted the witnesses for?

A. Well, he had the names of the witnesses and I located them and it seems to me that one evening he had some witnesses in the office and I took some statements from these witnesses; I think I acted as a notary.

Q. Do you know what the names were?

A. I remember one old colored man by the name of Ira—I don't [] what his last name is. He has been the janitor there at the First National Bank for years.

Q. Ira somebody, a janitor at the bank? A. Yes.

Q. Now, what other did you take?

A. I don't remember.

Q. What witnesses did you see for him?

A. A lot of colored people.

Q. What were their names? You have lived there all your life, haven't you? A. No, sir.

Q. How long have you lived in Leavenworth?

A. Since 1895.

Q. Since 1895?

A. And then lived there previous to that.

Q. Well, you lived there for twenty-five years?

A. Yes, sir, about.

Q. You ain't over 50 are you?

A. Not quite that old.

Q. You lived there a good while and during that time you were well acquainted there? A. Yes, sir.

Q. And you knew these colored people that you were talking about? A. Yes.

Q. Now, who were they?

A. I don't remember the names of those people.

Q. You don't remember their names? A. No, sir.

Q. Do you remember what part of town they lived in?

A. Up in north Leavenworth.

Q. North Leavenworth, what street?

A. Up around north Third street.

Q. How many of them told you that Tommy Atkins never lived at Granny Letcher's?

A. How many of these witnesses?

Q. Yes, and who were they?

A. I don't remember that that was a part of the statement; these witnesses I think made a statement to the effect that there was a Tommy Atkins, and that he was drowned up in the creek in north Leavenworth.

Q. Yes, you found one that was drowned and you stopped at that, didn't you?

A. I think that is what their statement contained.

Q. And that was the Tommy Atkins that satisfied you that the Tommy Atkins that was in Leavenworth was no more, wasn't it? A. Well, I was never satisfied about that.

Q. You never were satisfied about that?

A. I don't know anything about it.

Q. Now, what year were you born? A. 1885?

Q. 1885; that makes you how old? A. 32.

Q. 32? A. Yes, sir.

Q. Do you remember Tommy York? A. Yes, sir.

Q. Remember the Crilley boys?

A. I remember Mr. Crilley, I don't remember his boys.

Q. Didn't know his boys?

A. I think he has a son by the name of George Crilley.

Q. But you don't remember his boys?

A. Not as a boy, no, sir.

Q. You never played with his boys? A. No, sir.

Q. The Crilley boys? A. No, sir.

Q. And you never was around Crilley's barn as a boy?

A. No, sir, I never was up in that neighborhood

Q. That part of town? A. No, sir.

Q. Now, all those people told you about the Tommy that was drowned, told you it was Tommy that was at Granny Letcher's? A. I don't remember that they did.

Q. Well, don't you remember that they did?

Mr. German: Your Honor, we object to that as improper cross examination and as hearsay evidence as to what these people he interviewed for Mr. White told him.

The Court: I hardly see how it is proper cross examination following the direct examination of this witness. I believe he did testify that he never heard of the Tommy Atkins.

Mr. German: He said that he never knew one back in Leavenworth.

A. In those days when I used to play with those boys, I never heard of him.

The Court: He was asked if he knew Tommy Atkins and he said no, not back at that time.

Mr. German: But not recently.

Q. Where if you remember, did you first live in Leavenworth; name the place.

A. I remember living on Vine street; 213 Vine street.

Q. Vine street. How far is that from Seneca street?

A. Oh, that is ten or twelve blocks.

Q. What did you say? A. Ten or twelve blocks.

Q. Ten or twelve blocks? A. Yes, sir, south.

Q. South. Alright; now what is the next one?

A. The next place that I lived?

Q. Yes. A. I remember living on Olive street.

Q. Well, you never lived down on Seneca, did you; down on Seneca street?

A. Well, I lived about—at the time I testified I played with these boys, I lived in the Ryan Building, cata-cornered from the National Hotel and that is about three blocks from Seneca.

Q. But you never played down with the Crilley boys in the Seneca neighborhood?

A. Never played on Seneca street.

Q. Never played on Seneca street in your life?

A. Played on Cherokee.

Q. You heard of the Tommy Atkins, didn't you?

A. Lately I have, yes, sir.

Q. Well, you didn't then? A. Beg pardon?

Q. Well, you told the Court, didn't you, that you heard of a Tommy Atkins that was drowned, didn't you?

A. Lately, yes, sir.

Q. When you were getting up these witnesses?

A. That was about two years ago, I guess; three years ago.

Q. Now, when you heard that, they told you it was the same Tommy Atkins that had been at the colored woman's, didn't they? A. I don't remember that they did.

Mr. German: We move to strike that.

The Court: He says that he doesn't remember, and the only *please* it could have would be something I thought counsel had in mind, I thought it might be brought out, but he doesn't remember.

Redirect Examination by Mr. Allen.

Q. Tell the Court exactly what your connection was with the Nancy Atkins case.

The Court: I think I understand it fully. Mr. White went up there and employed *with* firm with which he was to look up some evidence and he has testified with regard to it. He got the witnesses and took some statements.

Mr. Stuart: Your Honor, understands I am not criticising——

The Court: Certainly.

Mr. Allen: Your Honor, I don't think that is what the witness said.

The Court: That is not going to influence me a bit in this case.

Mr. Allen: I think the witness stated that he merely introduced Mr. White to the witnesses.

The Court: He was given the names of some witnesses and looked them up and possibly took a statement; that is all there is to it.

Q. Where did you play with these boys?

A. On a vacant lot near Second and Cherokee streets.

Q. How far is that from Seneca?

Mr. Hanford: Seneca and what, Judge?

Q. From Third and Seneca?

A. Well, about four blocks to Seneca.

Recross Examination by Mr. Stuart.

Q. Four blocks from Third and Seneca?

A. Let's see; yes, about four blocks.

Redirect Examination by Mr. Allen.

Q. Where did the these boys live that you played with?

A. Well, Alva Adams lived at Main and Deleware street, up over the waterworks office, and the Warren boys lived close to this vacant lot, and the Browse boy I think lived across the street from the vacant lot, and the Friedman boy lived across the street, and Tommy York lived on Third street, and I don't remember where George Foster lived.

Q. Did you know the Crilley boy?

A. I didn't know him at that time.

Q. Was he—did you know later?

A. I think I know a George Crilley, who is the son of Mr. Crilley, the liveryman.

Q. Older or younger than you? A. I think he is older.

Q. Did you know Elos Crilley? A. No, sir.

Q. How far did Alva Adams live from Third and Seneca?

A. Well, he lived 5 blocks.

Q. What did you play there?

A. Played baseball on the vacant lot.

Q. Did you play war?

A. I don't remember playing war.

Witness dismissed.

And thereupon, DENNIS JONES, a witness heretofore produced on behalf of the defendants, Minnie Atkins, et al., being recalled further testified as follows:

Direct Examination by Mr. Stuart.

Q. Dennis, did you ever serve on the police force?

A. Yes, sir.

Q. In Leavenworth? A. Yes, sir.

Q. Have you your commission with you?

A. I have two of them.

Q. Sir? A. I have two of them.

Q. Well, let's see them. (Witness hands attorney papers.) I see a commission seems to be dated here——

Mr. Stuart: Do you gentlemen want to see this?

The Court: You desire to fix some date, Judge?

Mr. Stuart: Yes, sir. (Referring to Exhibit 19.)

The Court: Merely to fix the date; why can't you gentlemen agree as to the date this service was performed?

Mr. German: I don't see any reason, Your Honor, why the witness may not refresh his memory and fix the date.

Mr. Stuart: That is all I am after.

The Court: He may refer to that, Judge.

Q. When did you get that commission, that one?

A. The 13th of May, 1885.

Q. The 13th of May, 1885? A. Yes, sir.

Q. Where were you working at the time you got this last commission?

A. I had worked the winter before that at the Continental Hotel, part of the winter, and part of the winter I worked in my own barber shop.

Q. Where were you working in May, 1885, when you got that commission?

A. I quit my barber shop to take that commission.

Q. Working in your barber shop when you got that commission? A. Yes, sir.

Q. Now, Dennis, I will ask you whether or not, Lillie White moved from Seneca street before you got this commission?

A. Yes, sir, she did; she wasn't *ehre* after I had the commission to work.

Q. Was Lillie White in the Seneca house when you commenced on the police force? A. No, sir.

Q. Do you remember whether anybody moved her?

A. A man named White with whom I had some business relations, helped to move her.

Q. Helped to move her? A. Yes, sir.

Q. This petition that was put in here, you saw it?

A. Yes, sir.

Q. With reference to Lillie White and so forth?

A. Yes, sir.

Q. This makes a statement here with reference to Lillie White and also with reference to Stella who? A. Forrest.

Q. Stella Forrest, and states that Stella Forrest lived where? I can't remember that. A. 305 Seneca street.

Q. Where? A. 305.

Q. Did Stella Forrest ever live at 305 Seneca street?

A. No, sir.

Q. Where did she live, Dennis? A. 230.

Q. What? A. Seneca street.

Q. Never lived at 305?

A. No, sir, across the street; lived at the northeast corner of Third and Seneca, 230.

Cross Examination by Mr. Allen.

Q. You say you have two commissions? A. Yes, sir.

Q. When did you commence working on the police force?

A. I served a little while in 1880, I think; road tax service.

Q. In 1880? A. Just a short time.

Q. And you were appointed special policeman when?

A. Well, when I was served in 1880, I was called a special policeman.

Q. And did you continue in that service from year to year until '85? A. No, sir.

Q. When were you first appointed—when were you again appointed there a special? A. In 1884.

Q. And you served the year 1884 and then you were appointed again in '85?

A. I served during the year '84; I didn't serve during the whole year.

Q. Served again during the year 1885? A. Yes, sir.

Q. And again during the year '86? A. Yes, sir.

Q. And again during the year '87? A. Yes, sir.

Q. And again in '88? A. No, I went away in '88.

Q. You have two commissions here, one dated 25th of July, 1884, and the other the 13th of May, 1885? A. Yes, sir.

Q. Lilly White, you said at one time lived at 217 Seneca Street? A. Yes, sir.

Q. She ran a white house of prostitution, didn't she?

A. Yes, sir.

Q. You didn't visit her house did you? A. Yes, sir.

Q. Ella Foster ran a white house, didn't she?

A. Stella Forest, you mean?

Q. Stella Forrest? A. Yes, sir.

Q. You visited her house too?

A. I can tell you how I visited; yes, I was there occasionally; I can tell you how and why I was there.

Q. Lilly White never lived at but one place on Seneca Street? A. Not to my knowledge.

Q. Well, you know?

A. Well, she may have lived on Seneca street at some other place, but I didn't visit those houses as a guest; I was porter at the hotel and went there at times to take messages for men while I was portering.

Q. Lilly White never lived on Seneca street but one time, did she? A. Not to my recollection.

(Witness dismissed.)

And thereupon, MINNIE FOLK was called and sworn as a witness in her own behalf and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Minnie Atkins.

Q. What is it now? A. Minnie Folk.

Q. Minnie Folk. Your husband's name is Harry Folk, isn't it? A. Yes, sir.

Q. Where have you lived for the last few years, Minnie?

A. Seattle, Washington.

Q. Seattle, Washington. Where were you born?

A. L Creek.

Q. L Creek? A. Yes, sir.

Q. Where is L Creek, Minnie, in the Creek Nation?

A. Yes, sir, near Honey Springs.

Q. You mean you were born in the Creek Country?

A. Yes, sir.

Q. What was your father's name?

A. My father was named Tom Atkins.

Q. What was your mother's name?

A .Mary Jane Atkins.

Q. Did you have any brothers and sisters? A. Yes, sir.

Q. Name them?

A. Lee Atkins, Nancy Atkins, and myself and three dead.

Q. Three dead? A. Yes, sir.

Q. Who was the oldest?

A. The oldest living is my brother.

Q. And the youngest? A. Is Nancy Atkins.

Q. After you grew up to girlhood then, Minnie, did you go to Carlisle School? A. Yes, sir.

Q. Went to Carlisle School. Do you remember whether anybody from this country went with you to Carlisle?

A. Betty Crowell.

Q. Is that Betty Mann that we see here? A. Yes, sir.

Q. Now, while you were at Carlisle School, were you farmed out any, sent to other places?

A. Yes, sir, I was sent out in the country near Philadelphia by a family by the name of Penrose.

Q. Penrose? A. Yes, sir.

Q. Staid there a while? A. Yes, sir.

Q. And did you finally go to Leavenworth, Kansas?

A. Well, I went back to Carlisle and then George H. Hyde wanted a cook while I was at school, so George Hyde's sister picked me out to go to Leavenworth for a cook for her brother, so I went.

Q. You went to George Hyde's? A. Yes, sir.

Q. Now, Minnie, while you were at George Hyde's did you become pregnant there? A. Yes, sir.

Q. At George Hyde's? A. George Hyde's.

Q. Will you tell who the father of that child was?

A. He was——

Q. What was his name

A. Well, I can state his first name but I don't remember his last name, his name was Lee.

Q. Where was he from?

A. He was from Fort Leavenworth.

Q. From Fort Leavenworth? A. Yes, sir.

Q. What did he do?

A. He was some general's coachman, but I don't know just which one.

Q. Somebody's coachman? A. Yes, sir.

Q. Well, now, when you became pregnant at the Hyde's, where did you go to from Hyde's?

A. I went to Grodevant's.

Q. Where was that? A. Back of the prison.

Q. At the Fort? A. Yes, sir.

Q. How did you come to go there, Minnie?

A. Well, I got in with Lee while I was working at Hyde's and he asked me wouldn't I go up to the Fort to work; that he would get me a place at Grodevant's, and I told him yes I would go.

Q. Well, now, while you were at Grodevant's, while you were working at Grodevant's, were you still pregnant then?

A. Yes, sir.

Q. Now, if you had a child anywhere that summer, tell the Court where you had it?

A. Well, I worked at Mrs. Grodevant's as long as I could and tried to hide it, and then I left Mrs. Grodevant and went to a colored woman by the name of Granny Letcher.

Q. How came you to go there, Minnie? A. Well——

Q. What made you go there, just tell why you went and what was said to her, if anything, what arrangement was made if any?

A. Well, I told her I had got with this child and I wanted some place where nobody would know about it and I went there to have it.

Q. Went there to have it? A. Yes, sir.

Q. Was the child born at Granny Letcher's?

A. Yes, sir, born at Granny Letcher's.

Q. What was its name?

A. I named it Tommy Atkins after my father.

Q. How long were you sick with this child, Minnie?

A. Well—— I——

Q. About how long, as near as you can remember?

A. Well, after I was sick, I stayed there about three weeks as far as I can remember.

Q. Did you go back to Grodevant's from there, did you go to Grodevant's again?

A. Yes, I went back to Mrs. Grodevant.

Q. You may state to the court whether you came back to town to see the child?

A. Yes, I used to come down every night.

Q. Every night? A. From my work.

Q. Did you agree to give Granny Letcher anything for keeping your child?

A. I told her if I could make enough I would give it to her. And she said well, if you can't make enough I will keep it anyhow. I says I will do the best I can. I would give her what I could when she would ask me.

Q. Now, Minnie, how long, about how old was the boy when you left it, about how old?

A. When I left for good?

Q. Yes?

A. Well, I guess Tommy was about two or three years.

Q. Where did you go from—— Where did you go to from Fort Leavenworth? A. I went to Denver, Colorado.

Q. Went to Denver, Colorado? A. To the Fort.

Q. Now, Minnie, how many children have you had?

A. I have five all told.

Q. Tell the court their names and the order in which they were born?

A. Tommy Atkins was the first child I had of all. Then came Robert Lee Peterkin; then came Alice; then came Charlie; then came Harvey.

Q. Those are your children? A. Yes, sir.

Q. Minnie, did you have an uncle by the name of John Davis? A. Yes, sir.

Q. Was he your mother's brother?

A. My mother's brother, yes, sir.

Q. He was your mother's brother. Do you remember whether you ever wrote to him about your children?

A. Yes, I wrote to him once in Leavenworth to send me some money for Tommy, but he didn't answer that letter; then I went to Fort Logan, Denver, Colorado, I wrote to him again and he sent me a little money but I don't know how much.

Q. You told him about Tommy, didn't you?

A. Tommy is what I asked the money for.

Q. Minnie, at the time that you came down here and drew money at the '95 payment, did you go up to the payment?

A. Yes, sir.

Q. Where did you go from to the payment?
A. Muskogee.

Q. Muskogee, how did you go? A. I went a horseback.

Q. When you got out to the payment did you draw any money, did you get any money out there?

A. Well, when I went out there, I went in where they were going to pay; there was some man sitting there but I don't know who he was. I says let me see the books, and he just shoved the book over to me and I looked and there was five of us on the book to draw, and that was myself and Tommy and Harvey and Charlie and Alice. Well, I say, Alice is dead, I couldn't draw for her. Well, he gave me the money for the four of us, that was Charlie, Harvey, myself, and Thomas. It was about fifty-seven dollars I think.

Q. Who got Nancy's and Ed Schrimpsher's?
A. I don't know.

Q. You don't know who got that? A. No, sir.

Q. Minnie, when you left there where did you go to, Muskogee, did you come back to Muskogee?
A. I come back to Muskogee.

Q. Did your brother, Lee, get hurt any time during that period, was he hurt or shot?

A. Yes, he got shot out at a horse race near Eufaula—Checotah, not Eufaula, Checotah.

Q. You may tell the court whether you went down there to see him?

A. Well, yes, when he got hurt I was down at Eufaula and he had somebody telegraph me to come at once at Checotah, that he was shot, and I went immediately and stayed with him until he died.

Q. Minnie, when you left here, had you been to Fort Logan before that time, you had been to Fort Logan before the payment, before your brother got hurt?

A. Oh, yes, I went from Fort Logan and came to Muskogee.

Q. Did you go back to Fort Logan?
A. Yes, sir, a second time.

Q. Who went back with you?
A. I went back with John Couch.

Q. With John Couch. When you got to Kansas City on your way, did you stay at the depot or did you go up town?

A. No, we got off the train and I sat in the depot, and John says you wait here I am going to get a drink and a shave; and I sat in the depot and John went and got a shave and a drink, and that time the train came and we got on the train for Denver, Colorado. We didn't stop in Kansas City but a few minutes.

Q. Did you see Sadie James on that trip?

A. No, sir, I didn't see Sadie.

Q. Did you have any talk with Sadie about robbing the Government out of some money? A. No, sir, not me.

Q. Did you ever tell her you had put up a job on the Government and was trying to get away? A. No, sir; no, sir.

Q. Now, Minnie, when you were out at Seattle, who was the first person that ever came to your place about this claim of Thomas? A. Sadie James.

Q. Now, I want you to tell the court what Sadie James said to you just as near as you can?

A. When she first came she was all stewed up and excited, and she talked so fast I couldn't exactly understand what she was trying to drive at. She says, you know me; I says no. She says I went to Carlisle school with you, it is mighty funny. I says, no they didn't allow colored people to go to Carlisle when I did. Well, she says, I want to come in I want to talk to you. I says all right. So, she came in and she talked and then she wanted to know about my children. Well, I knew I had Tommy but I didn't want to express my business to Sadie, I couldn't tell what she was after, I couldn't tell what she was driving at. I says, yes, I have a Tommy; and she says what is his name, and I says his name is Tommy Atkins. She says, I—— I don't just remember how she did say that to me about him now.

Q. As near as you can, go ahead?

A. Oh, I says, Sadie but my Tommy is dead. Well, she says, that's all right we will make a Tommy; she says I am working for the Government now, I am working for Mr. Bartlett and the Dawes Commission, Mr. Cook, and she mentioned four men and she says—— Oh, she mentioned several, but I don't just remember any. I says, no you can't make no Tommy, because my child is dead. I kept saying my child is dead. Well, she says, we are going to make a Tommy because I am working for the Government now, I am going to make a Tommy, I am going to produce a Tommy. I say, I can't help what you produce, my child is dead. I says that is all I can do.

Q. Now, did you ever hear of a woman out there named DeVal? A. DeLaval, yes, sir.

Q. Now, Minnie, I want you to tell the court when Mrs. DeLaval first came to your place?

A. Well, she first got in with a dressmaker that I had sewing for me, a few things; and she hung around the dressmaker, and I went down one afternoon and the dressmaker gave me an introduction to Mrs. DeLaval; and we were talking, not on the case, but a week after that, I always noticed she wanted to come around my house, but she didn't know how to get around. So, my husband he got sick in the hospital and Mrs. DeLaval came the very afternoon he was in the hospital. And I says, how would you like to stay over night here, I am by myself, maybe you get tired staying at the hotel. Well, she picked that right up, don't you know, but I says wait I have got to go up to Mrs. McCombs and take her washing, and I says I will be back and call you on the telephone if I let you stay. I come pretty near forgetting it, but while I was at Mrs. McCombs, I says Miss DeLaval is going to stay over night with me. She says, Oh, Minnie, don't you ever do that; she is up to something, she says you go down and get your night dress and come back up and stay with me. You mustn't let that woman in your house. So, I took Mrs. McComb's word. She says, Minnie you will never live to morning if you let that woman in your house, she is up to something.

Q. Well, now when she came to your house, did she ever ask you to stay all night?

A. No, she didn't ask me to stay all night; she told a dressmaker that if she could get me to get her to stay all night she would give her five hundred dollars, she said to the dressmaker.

Mr. Linebaugh: We object to the statement of——

The Court: The question is whether this witness was apprised of that at the time.

Mr. Stuart: Yes.

Q. Did the dressmaker tell you in the presence of Miss *Dlabal*? A. No, she didn't; no, she didn't.

Mr. Stuart: It is not admissible.

The Court: I will not consider it.

Q. Now, Minnie, Miss *Dlabal* did come out there to your house?

A. Yes, she came out there three or four times.

Q. And you talked together? A. Yes, we talked together.

Q. Now, in the case of this dictagraph, did you know the dictagraph was in your house at the time—at the time that it was going on?

A. No, this is the way they done when they come out. The man come out and told me, this electrician she was working with, he come out and said Mrs. Folk, there is a complaint in the city about too much juice being used in the valley and I believe it is at your house. And I didn't know what to do, and I said examine my lights and see about it; and he did, and I said I have ten lights all told, one in the cellar, and one in the yard, and he went up through there and I gave him permission to go in the attic, and he was boring these holes and I was sitting there talking to him and I said what are you doing, destroying this man's house—I am paying rent here, and the man makes me take care of this house; and he said, oh, we have to do this, and he had to put this other thing that he wanted right over the porch where I was sitting, and I said, O, no, you can't destroy this house—you can't put nothing up on this porch, and he whispered to this fellow—young fellow, and he said, she won't let me do this, I will have to take it and run it on the side next to the cellar button, which he did do, and he then took it straight down and straight back between my ash pile and my garage, he run this wire out.

Q. Now, when was this photograph taken, Minnie?

A. Well, these pictures were taken the day after, or maybe a couple of days after, I don't remember.

Q. You can't remember about that?

A. No, sir, but they were taken.

Q. Now, Minnie, you remember Mr. Montgomery coming out there? A. Yes, sir, I remember it.

Q. You remember the conversation you had with him?

A. Yes.

Q. You remember signing a paper for him? A. Yes.

Q. Now, did you at any time tell him that you wanted to take that back?

A. I told Mr. Hanford that I had done wrong and I wanted to see Mr. Montgomery to tell him that because he worried me so, and had me worried and he talked all kinds of talk to me, you know; that he was sent from Washington, D. C., to protect me and oh, he talked so much that I just got unstrung and didn't know what to do, and when I went up to Captain MacNab's he was there and he just snapped his hands at me, just like a bulldog in his house, you know, and said you just got to tell me you ain't got no Tommy, or I will send you over the road; and I got stewed up and I said I just got to get rid of him—I had to get rid of him, he tortured me and I couldn't stand him any longer.

Q. How came you to take it back?

A. I just took it back because I knew I was storying, and I told Mr. Hanford that I was storying.

Q. What did you say to Mr. Montgomery when you told him that you had told a lie about it?

A. I said to Mr. Montgomery that I told him a lie at Captain MacNab's about Tommy; I got a child named Tommy and I just got to take it back, that is all, and I just threw that in the fire; well, he couldn't do any more about it then.

Q. Mr. Hanford told you to take it back?

A. No, Mr. Hanford, didn't tell me.

Q. Did anybody persuade you to take it back?

A. No, I just took it back because I knew I was in the wrong and I took it back.

Q. Now, Minnie, when you testified down here at one of these places, it is immaterial to this question which it was, you said that you had Tommy at the Sisters Hospital; now, I want you to tell the court whether you said that—why did you say it?

A. Well, I told them that I had Tommy at the Sisters Hospital because I didn't want anybody to know where I had him, when I had him at Granny's. I just told them that I had him at the hospital but I had him at Granny Letcher's and not the hospital.

Q. Why is it Minnie, that you will tell for the first time now, the father of your child, why will you do it when you refused heretofore to, why do you do it now?

A. Well, I just refused this way, because they all just wanted to hang it on to me that my father was a colored child——

Q. Not your father.

A. That my son was a colored child and that his father was colored and I simply wouldn't have it, for it wasn't colored.

Q. And you say you tell that now because they charged you with having a colored baby? A. Yes.

Q. Minnie do you remember anybody who was around Granny Letcher's when you had that baby?

A. Well, there was quite a lot of people out and in; some I can remember and some I can't remember, but of course I remember distinctly of one woman, was the fortune teller, she was in there a great deal, and then there was a lot of boys around there; a lot of other women came in to see the baby, but I just can't tell all the names.

Q. Do you know any boys that were around Granny Letcher's? Name some boys that you knew there at Granny Letcher's. Can you call the names of any of them?

A. Well, Walter Banks he was around there, and Sam Nash, he was around Granny's, and Granny's son.

Q. Granny's son? A. Jim Mayo.

Q. Jim Mayo, he was around? A. Yes.

Q. Now, Minnie, before you had this baby, did you know the fortune—the old fortune teller? A. Yes, sir.

Q. Did you go with her sometimes?

A. Sometimes we would run around together.

Q. Sometimes. Do you remember ever visiting Mr. Lange's store with her?

A. Yes, I used to go in Mr. Lange's.

Q. Did you know Mr. Lange at that time?

A. Yes, I knew Mr. Lange.

Q. What kind of a store did he run?

A. What kind of a drug store did he have?

Q. Yes; was it a drug store? A. Yes, sir.

Q. Drug store. Do you remember Minnie, whether you ever purchased a pocketbook from him?

A. Yes, he had a couple there, kind of odd ones, and I said to Mr. Lange, I said Mr. Lange, could I buy this, and he said yes; so, I took and bought one of those little odd pocketbooks he had.

Q. Were you pregnant at that time? Do you remember whether you were or not?

A. Well, I just can't say; it seems I was. Yes, I was but not enough to show, you know.

Q. Minnie, did you attempt in any way to conceal your condition from the public, or keep it from the public?

A. Oh, yes, I done all I could; I wore my corsets up to last and didn't want to show it.

Q. When you were at Mrs. Grodevant's, did Mrs. Grodevant ever speak to you about your pregnancy—about your being pregnant?

A. Well, only thing, I wore corsets so much when I worked for her and the only thing she said to me, why are you sick so much every morning, Minnie; and I said oh, I am sick is all.

Q. Yes? Why you were sick at the stomach?

A. Yes, she asked me; I said I am sick, that is all. I didn't want her to let me go, you know, and I was trying to hide it.

Q. Do you know whether any of your children were ever in Wagoner?

A. Yes, my sister Nancy had Harvey there in Wagoner awhile, and he used to run in the grocery store, Charlie told je—that is my boy.

Q. Never mind; that is hearsay. But did you leave your children there, or either one of them?

A. No, I left Charlie and Harvey with Kate Holden.

Q. Kate Holden? A. Yes, sir.

Q. Who was Kate Holden? A. A half sister of mine.

Q. Now, Minnie, when you left Leavenworth, what did you do with Tommy? A. I just left him there at Granny's.

Q. Did you have any talk with Granny about leaving the child there?

A. Just asked her would she keep him and look after him for me because I couldn't; I couldn't get work with him. I just wanted him to have a home and I just left him there.

Q. Now, Minnie, after you went to Seattle, did you stay at the soldier's homes the most of the time; you were with the soldiers, were you? A. Yes, working for the officers.

Q. Now, I will ask you whether or not you ever spoke to anybody in Seattle at the soldiers' barracks out there, quarters, or whether you ever told your husband about your past life until this case came up?

A. No, sir, I didn't want anybody to know it.

Q. You didn't want anybody to know it? Did you write to anybody in this country? A. No.

Q. Did your people know where you were?

A. No, they did not know where I was.

Q. You weren't put on the roll by the Dawes Commission so far as you know? A. No, sir.

Q. You have got no rights yourself?

A. No, sir, I haven't any rights.

Q. Did you ever know anything about the Dawes Commission, Minnie? A. No, sir.

Q. Did you ever hear of it until this case came up?

A. No, sir, it is the first time.

Q. Never knew there was any such thing as a Dawes Commission? A. No, sir.

Q. Until this case came up? A. No, sir.

Q. Minnie, were you ever at St Joe, Missouri?

A. No, sir, I never was away from the army.

Q. Did you ever see a man by the name of Charlie Bailey at St. Joe, Missouri?

A. No, sir, I don't know Charlie Bailey.

Q. Do you know him when you see him?

A. No, sir, I don't know him when I see him.

Q. Did you ever see him to know him? A. No, sir.

Cross Examination by Mr. Linebaugh.

Q. Mrs. Folk, you are about 53 years old now, aren't you?
A. Yes.

Q. You were a good girl when you attended Carlisle School, weren't you? A. Yes, sir.

Q. You never had any improper relations with men until after you left there, at Leavenworth?

A. Not until I went to Leavenworth.

Q. The overseer of you girls at Carlisle was a Miss Hyde?
A. Yes, sir.

Q. At this school they had no boys and only girls of Indian blood?

A. Yes, they had boys, but the boys were on one side and we were on the other. We couldn't get to the boys, they kept the boys on their side.

Q. They had no girls of negro blood?
A. No, they had none there.

Q. You never associated with negro girls up to that time?
A. No, not at Carlisle.

Q. Now, this Miss Hyde chose you among the girls to go out to her brother's home in Leavenworth, Kansas, as a domestic? A. Yes, sir.

Q. You traveled alone, did you?

A. Yes, I traveled alone.

Q. From Carlisle to Leavenworth. You reached Leavenworth in the daytime or at night?

A. It was towards evening.

Q. Towards evening. Mr. Hyde knew you were coming, and Mrs. Hyde, did they?

A. Yes, she wrote and told them.

Q. She wrote and told them; did they meet you at the station and take you to their home?

A. I don't know whether it was them or not; some one met me.

Q. And took you to Mr. Hyde's home?

A. Home, yes, sir.

Q. Mr. Hyde was in the banking business at that time?

A. Yes, sir.

Q. Were you the only domestic at his house?

A. Yes, I was the only one working there.

Q. They provided sleeping quarters for you there at the house, did they? A. Yes, I slept up stairs.

Q. You slept up stairs? A. Yes, sir.

Q. They had a two-story house? A. Yes, sir.

Q. Now, you continued that relation for a little while?

A. Yes, sir.

Q. Did they have any members of the family other than Mr. Hyde and his wife?

A. Why, I don't know as they did.

Q. Was there any children?

A. Yes, sir, they had three children.

Q. You helped the mother take care of the children, some times, did you?

A. No, I didn't have anything very much to do with children; she did that. I had enough to do to keep the house clean and do the cooking.

Q. You were then a girl 17 or 18 years old?

A. About along there.

Q. Now, Minnie, who was your first sweetheart?

A. In Leavenworth?

Q. Yes. A. It was Lee.

Q. He was a white man?

A. Yes, he was a white man.

Q. Now, how long after you was at Mr. Hyde's until you got acquainted with Lee?

A. Well, I think I was there about 2 or 3 weeks, about 3 weeks before Lee came down, but I had seen Lee before on the streets, you know.

Q. Yes, what kind of a looking man was he?

A. He was a nice looking man.

Q. Black hair or light hair?

A. Yes, he had black hair.

Q. Black hair; black eyes or blue eyes?

A. I think his eyes were brown as well as I can remember.

Q. Did he have a mustache or was he smooth shaven?

A. No, smooth shaved.

Q. Well, a while ago I expect I was in error myself and possibly got you into error as to your age; you perhaps were older than 17 or 18 at that time—you were perhaps 20 years old when you got to Leavenworth?

A. Well, I don't know how old I was.

Q. You think you are about 53 now? A. Yes.

Q. Now, Minnie, you have been called upon a good many times to tell your story about your relations with Tommy Atkins since this controversy arose and since the matter of the value of the Tommy Atkins allotment has been known, haven't you? A. Yes, sir.

Q. You have been greatly annoyed because you have had to tell it so frequently, haven't you?

A. Yes, I have been annoyed lots of——

Q. You have told that story—this time you are now telling it is the fifth time you have told it in court, isn't it? The first time is when you gave your testimony in July, 1914, in the District Court at Sapulpa you testified?

A. Well, now, I am telling nothing but the truth about everything.

Q. Well, this time; you first gave testimony in court at Sapulpa, in July, 1914? A. Yes.

Q. Then you were called upon in October, 1914, in Rice & Lyons office in Tulsa, to give your deposition which was to be used in the state court of Creek County, at Sapulpa, didn't you? A. Yes.

Q. Then in this court when the Receivership hearing, you were called upon to give testimony at that time, weren't you?

A. Yes, sir.

Q. And then when the depositions were taken before Mr. Penick the Examiner appointed by this court, you were called upon again to give your testimony, weren't you? That was in Seattle, Washington? A. Yes, sir.

Q. So this is the fifth time that you have been called upon in court to tell this story, is that right? A. Yes, sir.

Q. Now, out of court you have been called upon to make written statements about what you knew about Tommy Atkins, haven't you? A. Yes, sir.

Q. The first time was up at Seattle when Mr. Long and Mr. Hanford were there, wasn't it? A. Yes.

Q. The second time was when you come down from Seattle to Kansas City, you and Mr. Hanford, and in the hotel there with Mr. Page, and Mr. Rice and Mr. Long and Hanford, you told your story again? A. Yes, sir.

Q. Then, the next time you were called upon to make a written statement was when Mr. Montgomery came to see you at Seattle, wasn't it? A. Yes.

Q. Now, have you made any written statements other than the ones that I mentioned to you that you remember?

A. No, not that I remember.

Q. Now, Mrs. Folk, in all of these statements and each time that you have testified, no person has ever talked to you who was against you or against your interest before you made a statement except the one time that Mr. Montgomery was there, isn't that true?

A. Oh, there was lots after me but I wouldn't talk to them.

Q. I understand. You have never made a statement or you have never talked to them in reference to the Tommy Atkins matter that you felt at the time you did the talking was opposed to your interests except the time that you talked to Mr. Montgomery, have you?

A. Well, Mr. Mongomery—he was there for no good.

Q. I understand, he was there against your interests.

A. He was there against me.

Q. Now, have you ever talked to any other person?

A. No.

Q. Who was against your interests, who you thought and knew to be against your interests? A. No.

Q. So, everybody to whom you talked since this matter arose has been one that you believed at the time that you talked was friendly to your interests except when Mr. Montgomery talked to you, is that true?

A. No other talked to me that wasn't just right, either.

Q. I understand, but did you know they wasn't right when you talked to them?

A. No, I was innocently of it all the way through, you know.

Q. So far as you knew you thought they were your friend?

A. I thought they were my friends; I treated them as friends.

Q. Now, going back to Leavenworth, you got acquainted with Lee after you went to work for Mr. Hyde?

A. Yes, I got acquainted with him at Mr. Hyde's.

Q. You were never in Leavenworth before you went there from the school at Carlisle?

A. No, that was my first time.

Q. You had never seen that city before. Now, this man

Lee—that was his given name, was it, or was that his surname?

A. I can't remember his last name but that was his first name—Lee, I think.

Q. Now, you knew his last name at that time?

A. I did, but can't state it now.

Q. How long did you know him?

A. Well, I went with Lee until I went out to the Fort. I ran around with him until I went out to the Fort.

Q. Now, among your people, the Creek Indian people, it was not uncommon for them to have common law marriages, that is, I mean for a man and a woman who like each other to go together and live together as husband and wife without a necessity or formality of a marriage license, isn't that true at that time? A. I didn't know that.

Q. When you lived down here in Indian Territory?

A. I didn't know that; I was a young girl and wild; ran around and had no one to tell me any different.

Q. And you kept company with Lee because you liked him, didn't you? A. Yes, I liked him.

Q. And he told you he liked you? A. Yes.

Q. And you were sweethearts, weren't you? A. Yes.

Q. And you kept company with him until you went out to the Fort, didn't you? A. Yes.

Q. Now, he was what girls might call your steady, wasn't he? A. Yes, until I went to the Fort.

Q. Now, the Fort is about three miles away from the City of Leavenworth? A. Yes, three miles from Leavenworth.

Q. And you would go out with him frequently, would you? A. Yes.

Q. Now, Minnie, in this time, did you ever keep company with negro men? A. No, sir.

Q. You had nothing to do with them, did you?

A. No, I had no steady company with these colored men.

Q. You never would go to public places with negro men as your escort, would you? A. No, not to my knowledge.

Q. You have no negro blood in you, so far as you know, have you? A. No, not that I know of, I haven't.

Q. You are an Indian woman, part Indian blood, and part white blood, that is your understanding is it?

A. That is the way I was told.

Q. You speak English fluently and have since your girlhood days, haven't you? A. Yes, sir.

Q. You really can't speak the English language now at all, can you? A. Yes, I can speak a little bit.

The Court: Do you mean the Indian language?

Q. I mean the Indian language.

A. Yes, I speak a little bit.

Q. Speak well enough to carry on a conversation?

A. No, I can't speak that well.

Q. Just some few Indian words? A. Yes.

Q. Now, you never had any relatives that you know of that were part negro, did you? A. No, sir.

Q. And you never kept company with negro men up there as your escort that you know of? A. Not that I know of.

Q. You didn't go around theatres or other public places about town there with negro men as your escort, did you?

A. Not that I know of.

Q. You kept company regularly with Lee?

A. Yes, until I went to the Fort.

Q. Until you went to the Fort. Now, Lee you say was a coachman for somebody; who was that somebody?

A. Well, I thought his name was Colonel Blunt but I might be mistaken. He was a coachman for some colonel out at the Fort, that I know.

Q. Now, about how long do you think that you worked for Mr. Hyde?

A. Well, I used to work for Mr. Hyde for over three months—three or four—yes, about that.

Q. Now, during that period of time, did you get acquainted with any other young men?

A. Well, I would see lot around town; when I would go to town, I would talk to them like any other young girl would talk to men.

Q. Well, I mean to keep company with you—for them to come to see you? A. No.

Q. How frequently did Lee come to see you?

A. Well, I was with Lee every night.

Q. Every night? He was pretty regular in his calls upon you and very attentive to you, was he? A. Yes.

Q. Now, that was continued over how long?

Q. Until we went to the Fort.

Q. How long was that? A. When I went out to the Fort?

Q. Yes.

A. Well, it was after—I went from the Hyde's to the Fort; I went from George H. Hyde's to Mrs. Grodevant's at the Fort.

Q. And you went directly from the Hyde's out to work for Mrs. Grodevant? A. Yes, sir.

Q. You didn't stay in town a part of the time, that is in the town of Leavenworth? A. No, I went out there.

Q. You didn't stay there in the town of Leavenworth any time? A. No.

Q. Now, did you get acquainted with any women at that time? A. Yes, I used to know some women out there.

Q. You knew Mrs. Mary Hamilton?

A. Yes, I knew Mary in town.

Q. You knew Grandma Baine? A. Yes.

Q. You knew a man named Jackson, he used to take you sleigh riding? A. Yes, I went sleigh riding with Jackson.

Q. You knew a man named Oliver?

A. Well, I didn't know Oliver until after I had Tommy.

Q. Now, you didn't have any woman associates there in Leavenworth, did you, Minnie?

A. Well, I will tell you I wasn't much for having women company and I am not yet.

Q. You didn't at Leavenworth have any women associates?

A. No, I went around a good deal by myself or some fellow would be with me.

Q. Some fellow, usually a man would be along; you preferred the company of men to that of women at that time, did you? A. Well, I don't care much about women yet.

Q. Were you an errand girl or run errands for any woman there that you know of?

A. Well, I don't remember if I did.

Q. If you went to run errands for any women in Leavenworth you don't now recall it? A. No.

[Q.] Now, then, you moved out to the Fort to Mr. Grodevant's, and we will pass over that for a little while, probably refer back to it after a while, and go out to Seattle. You lived there at the Fort in Seattle?

A. No, I didn't live at the Fort, I lived in the valley.

Q. You were married to your present husband, Mr. Folk?

A. Yes, sir.

Q. You say you have had several children?

A. Yes, I have had five.

Q. You never gave birth to any child except out of wedlock, did you? A. What?

Q. That is you never gave birth to a child from a man to whom you was married? A. No.

Q. They were all born out of wedlock? A. Yes.

Q. Mr. Folk is the only man to whom you was ever married? A. Married.

Q. And you married him when?

A. I married him in Van Couver Barracks.

Q. I will revert back to Leavenworth just for a few minutes now. You got acquainted with a man named Jackson, there, didn't you? A. Yes.

Q. And how long did Lee keep company with you altogether, Minnie?

A. Well, I never kept company with him what time I was working at Hyde's, and then he kept company about a month or so when I went up to Grodevant's, and then I just quit him.

Q. You quit him? A. Yes, he didn't quit me.

Q. You quit him. Now, Minnie, why?

A. Well, I just seen some soldiers around I liked better.

Q. You liked the soldiers better than you did a civilian, is that right? A. Yes, sir.

Q. Then you transferred your affection to the soldiers, or to some particular soldier, is that right?

A. Yes, but I had already had Tommy before I kept company with the soldiers.

Q. Well, we will get to that after a while. Now, I believe you said in about two months after you went to Grodevant's, why, you quit Lee? A. Yes, about that.

Q. And after you quit him, who was your next sweetheart?

A. Well, I just didn't have any right regular sweetheart.

Q. Well, who went with you?

A. Well, I don't just remember now.

Q. Well, can't you remember back now and tell us some of those soldiers that you permitted to go with you, keep company with you? A. After I left Grodevant's?

Q. No, after you threw Lee overboard; what I want to find out if I can, who was then your sweet-heart after Lee?

A. Well, I went with a fellow called Oliver.

Q. Now, you went with Oliver; what was his given name?

A. I don't know. That was all I knowed.

Q. And how long did you keep company with Oliver?

A. I didn't keep company with him long.

Q. Well, about how long?

A. Oh, about a couple of weeks.

Q. And then who was the next sweet-heart?

A. I don't remember.

Q. Well, you had a sweet-heart named Peterkin at one time, didn't you?

A. Well, I didn't have him until I was working for the Staffords.

Q. You didn't have him until you were working for the Staffords. Now, you are sure of that?

A. Well, I just don't remember.

Q. Can't you tell us, I want you to be definite as near as you can, when it was that you got acquainted with Peterkin and began to permit him to go with you?

A. Well, I don't remember just when it was, but I went with him, but I don't just remember when it was.

Q. Now, you knew Peterkin and liked him well, didn't you? A. Yes, I liked him.

Q. He was your sweet-heart for sometime, wasn't he?

A. Yes.

Q. By him you had children, didn't you?

A. Yes, I had Robert Lee by him.

Q. You took his name, didn't you?

A. Well, he told me I could.

Q. Certainly, that was agreeable to him. You were really living with him as man and wife, weren't you? A. Yes.

Q. Now, can't you tell us when it was after Oliver was your sweet-heart that Peterkin began to be your sweet-heart?

A. That must have been about a year afterwards.

Q. About a year afterwards, and not until after you had quit working for the Stafford's, is that your testimony?

A. Well, as far as I can remember.

Q. Now, how long when you moved to Seattle, do you remember how long you lived at Seattle from this time back?

A. I think we were in Seattle pretty near four years.

Q. Pretty near four years?

A. I think that is, I don't know how long the regiment was there.

Q. How long had it been when you moved to Seattle since you had lived at Fort Logan which is near Denver?

A. Ask me the question again.

Q. Well, how long had it been since you lived at Fort Logan near Denver, when you moved to Seattle?

A. Well, I went from Denver to Michigan, Fort Wayne.

Q. And how long did you stay there?

A. We were there about two years before the regiment was moved to Van Couver.

Q. And how long were you at Van Couver?

A. Well, we were there quite a little while, I don't know just how long.

Q. Just your best judgment?

A. I don't just know how long.

Q. Well, was it as much as two years, or three years, or one year?

A. I think I was there about six years, something like that.

Q. About six years? A. In Van Couver Barracks.

Q. And then from Van Couver you went where?

A. From Van Couver we went to the Philippine Islands.

Q. And how long were you there?

A. I was there five months.

Q. And then from the Philippine Islands you went where?

A. And then from the Philippines they sent me back to the states.

Q. Then, where were you located?

A. I went back to Van Couver Barracks again.

Q. How long did you stay there?

A. I stayed there until my husband came over from the Philippines.

Q. About how long?

A. Well, he had three years to do over there, so he stayed there altogether—two years to do there and I stayed there from that time.

Q. And then from Van Couver you went where?

A. Helena, Montana.

Q. And how long did you stay there?

A. Well, I think we were there about two years, something like that.

Q. And from Helena, you moved where?

A. To Seattle, Washington.

Q. Then, it had been over ten years since you had lived at Denver, Fort Logan? A. Yes.

Q. During that period of time, had you kept in communication with anybody at Denver or Fort Logan by letter?

A. No, I didn't get——

Q. Did you hear from Fort Logan during that time?

A. From Leavenworth?

Q. No, when you were up at Fort Wayne and Van Couver Barrack and in the Philippines and back to Van Couver Barracks, and Seattle, during that period of time, did you hear from Fort Logan? A. No.

Q. And that had been for a period of over ten years since you had heard from Fort Logan. Now, the first time that you knew anything about the value of Thomas Atkins allotment, was when Sadie James told you out there at Seattle?

A. Yes.

Q. She come out to see you? A. Yes.

Q. Now, you told counsel that at that time you were not acquainted with Sadie, you didn't intend it that way?

A. No, I didn't know her.

Q. Well, you had known her before?

A. No, I never did know Sadie. I never knew Sadie at any time.

Q. You knew Sadie when you lived down at Leavenworth, didn't you? A. No, sir.

Q. She worked right across the street from the Banker Hyde's didn't she? A. I didn't know.

Q. Minnie, if the question was asked you when you was a witness at Sapulpa about your acquaintance with Sadie, did there exist in your mind any reason why you should deny having known her?

A. No, I don't deny it because I didn't know her; I didn't know Sadie at any time.

Q. When you gave your testimony at Sapulpa, in July, 1914, were the following questions asked you and answers returned: "Q. Who told you? A. Well, they don't have to tell me, they came to me. I didn't want to see them. Q. Who told you? A. Sadie James. Q. Who is Sadie James? A. Working for Bartle. Q. Do you know where she lives? A. I only know she lived on the corner on the street from George H. Hyde."

> The Court: You are asked if you testified that way at Sapulpa, that you knew she lived on the corner of the street from George H. Hyde's?

A. I don't think I did, because I didn't know Sadie James.

Q. Now, when you were at Leavenworth, you went by the name of Minnie Atkins? A. Yes, sir.

Q. Mrs. Brown and Minnie Peterkin?

A. No, I didn't go by the name, Mrs. Brown.

Q. You never went by that name; you went by the name Minnie Peterkin? A. Yes.

Q. And Minnie Atkins? A. Yes.

Q. And that is all? A. That is all.

Q. Now, Sadie James, this negro woman, went to Seattle to see you and told you about the value of Thomas Atkins' land, didn't she? A. Yes.

Q. And that is the first person from whom you ever learned about that land and its value, is it?

A. No, Mr. Long came afterwards.

Q. Well, but before Mr. Long came?

A. Sadie was the first, yes.

Q. Now, you learned at that time that Sadie was working for Mr. Bartlett?

A. She said she was working for Mr. Bartlett.

Q. She wanted to buy the land from you?

A. Yes, she wanted to get them to come there to buy the land from me.

Q. Wanted to get Bartlett to come? A. Yes.

Q. And she wanted to pay you four thousand dollars, didn't she?

A. Yes, she said that Bartlett would, she didn't offer to do it.

Q. But that Bartlett would pay your four thousand dollars? A. Yes.

Q. You wanted to take that, didn't you?

A. Well, I didn't know any better, I thought I would take it.

Q. Yes, that was agreeable to you? A. Sure.

Q. Sadie stayed there some little time, didn't she?

A. Well, she stayed there about a week, but she didn't see me every day.

Q. She come out more than once?

A. She was there about two or three times.

Q. Now, she told you in a part of that conversation, part of the conversation that she had with you, that we will make a Tommy? A. Yes, she said we will make one.

Q. Well, did she tell you how?

A. No, she just said she would send to New York or some place and get a Tommy.

Q. Now, you told Mr. Long, he came along pretty soon and you had a talk with him? A. Yes.

Q. And you told him that there was a woman in Denver named Mary Hamilton that could tell him where you had left Tommy, didn't you? A. No, I didn't tell him that.

Q. Well, didn't you tell him that there was a woman in Denver that knew the woman you had left Tommy with?

A. No.

Q. Did you use the name Mary Hamilton in talking with Mr. Long? A. I know Mary Hamilton, yes.

Q. You just didn't understand my question. Did you use the name Mary Hamilton in talking to Mr. Long and Mr. Hanford? A. Yes, I think I did.

Q. Now, where did you get that name?

A. Mary Hamilton?

Q. Yes? A. I always knew her.

Q. Certainly you knew her back in Leavenworth, but it had been over ten years since you had heard from her, now how did you find out where Mary Hamilton was, who told you?

A. Sadie.

Q. Sadie James?

A. Sadie James came and told me that she was living in Denver.

Q. Tell the Court in what connection Sadie James told you about Mary Hamilton being in Denver?

A. Well, she told me she was out to see Mary Hamilton in Denver and Mary Hamilton told her that I had buried my Tommy at Fort Logan; and I said my boy is not buried out at Fort Logan, he died in Leavenworth; Mary must have got it wrong I says.

Q. Minnie, was it in the same conversation where Sadie told you we were making Tommy that she told you about Mary Hamilton? A. Was that——

Q. In the same conversation?

A. I can't remember. She said so much that I can't remember.

Q. She also told you about Mary's husband? A. Yes, sir.

Q. She told you she had been by to see him?

A. Yes, she had been there.

Q. She knew they were there but you didn't and she told you about it, and now then, refreshing your memory, didn't you tell Mr. Long when you talked to him and Mr. Hanford, that's the woman that knew you and told Mr. Long to go by Denver and see her; and Mr. Long told you he was going to do it, didn't he?

A. I don't remember, I might have.

Q. You might have done that. Now, the first time that you talked with Sadie, tell the Court as nearly as you remember just how the conversation with reference to this land and Sadie wanting to buy it for Bartlett came up, just as nearly as you remember?

A. Well, she said so much about it that I just can't tell.

Q. I understand she said a good deal, but now you were interested in getting this money and you had heard about it before, now can't you tell us just how it came up?

A. Well, she told me the first time not to deal with anybody except her and Bartlett. Well, I said, Sadie I am going to deal with a person that I know I am right with, I am going to tell the truth about this; I said I have a Tommy; you don't look right to me Sadie the way you are going on. Well, she got a little vexed at me.

Q. What did she say that made you think that she didn't look right?

A. Because she didn't want me to speak to Mr. Long or have anything to do with Mr. Long.

Q. That was after Mr. Long had come? A. Yes.

Q. Let's don't get over there, let's stay to the time that you were talking to Sadie before Mr. Long come. You and *and* Sadie virtually had made a trade?

A. No, we hadn't made exactly a trade. I didn't know what she was driving at.

Q. But she told you that Bartlett was coming and would give you four thousand dollars for the land and you wanted to take it; that was before Mr. Long come?

A. Yes, she had made arrangements before Mr. Long come.

Q. Now, that first time when this conversation between you and Sadie James took place, when you first got that four-thousand-dollar proposition, tell the Court what was said between you and Sadie?

A. Well, that was where she said that Mr. Bartlett was coming down at five o'clock; that she had made arrangements for the bank to be open; Mr. Bartlett and the Dawes Commission and Mr. Cook and several others she mentioned, I don't remember now, was coming down to pay me the four thousand dollars at five o'clock. I said, no I have got to wait and see. And I told my husband to go up and tell Lieutenant McCombs—— No, he told Captain MacNab and Captain MacNab said no you ain't going to accept that money at all from Sadie James.

Q. That was after Sadie had been there several days?

A. Yes.

Q. Let's stay with the first day, the first conversation you had with her, tell the Court what Sadie said and what you said that first day in the first conversation you ever had with her?

A. Well, she just asked me if I had a child named Tommy and I told her.

Examination by the Court.

Q. Minnie, where were you now the first time you saw Sadie out there? A. I was at my home.

Q. What time of day was that?

A. She come in the morning.

Q. And she came in the morning? A. Yes, sir.

Q. Were you in your house when she came? A. Yes, sir.

Q. Did you see her before she got into the house?

A. No, sir, I didn't see her until she was up there at the door, rapping on the door.

Q. And then you went to the door? A. Yes, sir.

Q. Tell me, if you can, the first thing that Sadie said?

A. She says, hello there, don't you know me? And I says why no I don't know who you are. She says I am Sadie James from Leavenworth.

Q. Then, what happened?

A. Then, she says I want to come in, and I let her in, and then she says to me, why, she says, you have some land, she says, land belonging to your child Tommy. And I said, well I had a child Tommy. The first time I didn't want to tell her and I didn't tell her right away, I kind of sawed her off; and finally I owned up and says yes, I have a child named Tommy Atkins. And she says well you have a valuable piece of land in Oklahoma; and she says I was sent down here she says to try and get it from you by Mr. Bartlett and Mr. Cook for four thousand dollars.

Q. That was the first time?

A. That was right in the start.

Q. What else happened that first day between you and Sadie after she told you about Bartlett?

A. Then, she went away from the house and stayed over night.

Q. Now, she said Bartlett or somebody was coming to give you four thousand dollars for the land. Was there any arrangement between you and Sadie as to when the man would come or when the money would be paid?

A. No, sir, I didn't recollect anything else but she said that she had wired to Bartlett and he would be down right away.

Q. Then she went away? A. Then she went away.

Examination by Mr. Linebaugh.

Q. Now, Minnie, did you ask Sadie, or did the question arise in your mind, as to how Sadie located you out there?

A. Well, she had been all over, she had asked everybody she knew.

Q. How do you know? A. That is what she told me.

Q. You asked her how she located you? A. Yes.

Q. And she told you that she had been looking all around for you and finally located you. And the screen door was latched when she first came up and she asked if she could come in, and you unlatched the screen and she came in?

A. Yes, she came in the house.

Q. She took her hat off did she? A. No.

Q. And then what occurred as you have told the Court; now, then, she come back the next day, did she? A. Yes.

Q. Tell the Court what she talked about the next day?

A. Well, she just talked on that one subject all the time, she wanted Bartlett to get the land and wanted to give me the four thousand dollars.

Q. Was it that day that she told you we will make a Tommy on the first day? A. She said it all the time.

Q. That was what you all talked about? A. Yes.

Q. And then she also said I am going to produce a Tommy? A. Yes.

Examination by the Court.

Q. Did she say anything about making a Tommy the first day she was there? A. Yes, she did, Judge.

Q. Well, now, tell me, Minnie, how that came up, what you said that caused Sadie to say we will make a Tommy?

A. Because I told her that my Tommy was dead. She says, never mind about your Tommy being dead, we will make a Tommy. That is what she said to me.

Examination by Mr. Linebaugh.

Q. She wanted then to make a live Tommy, did she? A. Yes, that was my understanding with her.

Q. And how did she figure out she was going to buy the land from you then if your child was alive?

A. I don't know how they had it framed up, I couldn't tell you.

Q. Now, you knew and had been told that in order for you to get this land you would have to be the mother of Thomas Atkins and he would have to live and die, is that right?

A. I always knew I would have to be the mother of him and I was the mother of him.

Q. And he would have to live and then die?

A. He had lived and died.

Q. And he would have to be dead for you to get it, didn't you? A. That is the way I had it.

Q. And that is the way you understood it at that time, didn't you? A. Yes, sir.

Q. And after that conversation you had with Sadie, then Sadie told you Bartlett would come and pay you four thousand dollars? A. Yes, sir.

Q. And you was to sell the land, is that right?

A. Yes, sir.

Q. Now, the next day she came and you talked some more about the same matter, did you?

Q. No, the next day—— I just can't remember how many days she was there, and I don't like to state anything that I can't remember, and I don't remember how many times she was there.

Q. I don't want you to state anything that you don't remember? A. She was there.

Q. Now, in which conversation was it, Minnie, that you had with Sadie that you read that letter, you read the letter that you had gotten from somebody, didn't you? A. No, sir.

Q. Had you received a letter from anybody at that time?

A. Not when Sadie was there.

Q. You hadn't gotten that? A. No, sir.

Q. You had received correspondence hadn't you, you write to people? A. Yes.

Q. And you don't remember having shown Sadie any letter? A. I didn't show Sadie any letter at all.

Q. Well, now, what was it you did talk about the second day, tell the Court?

Examination by the Court.

Q. First, Minnie, just let me see if you remember. You have told me about the first time she came there, then you say after telling you about Bartlett she went on her way. Now, can you remember the next time that she came back?

A. The next time—— I will study.

Q. Well, take your time. I want to know just what you remember about it? A. Ask me the question again, Judge.

Q. You told me about her being there the first day?

A. Yes, sir.

Q. Her coming there and you finally let her in and she talked to you, and she told you about Bartlett and the four thousand dollars. Now, do you remember the next time she came back?

A. Well, she went away that day, she didn't stay very long and she went to town and I suppose, I don't know, I suppose she must have telegraphed Bartlett, because he was to come that Saturday to pay me the four thousand dollars; but she couldn't get connections with him or something.

Q. Well, did she come back the next day and tell you that?

A. Yes, sir, that she couldn't get connections with Bartlett.

Q. What time of day was that?

A. She came in the morning.

Q. You were at your house? A. Yes, sir.

Q. She told you she couldn't get connection with Bartlett? A. Yes, sir.

Q. How long did she stay that time?

A. This was on a Friday she said she couldn't get connections with Bartlett.

Q. She didn't stay very long that time? A. No, sir.

Q. Do you remember anything she told you that day, or any talk you had further that she couldn't get connections with Bartlett, on that second trip?

A. Then, Saturday morning.

Q. Well, that was Saturday morning? A. Another day.

Examination by Mr. Linebaugh.

Q. Let's don't refer to Friday yet. I want to ask you what day of the week it was that Sadie first come to see you?

A. I believe it was on a Monday.

Q. Now, on Tuesday did she come?

A. No, I think she skipped a day.

Q. Then, she came out to see you on Wednesday, what time Wednesday? A. Always in the morning.

Q. Always in the morning. Now, how long did she stay Wednesday? A. She never stayed very long that time.

Q. About how long? A. About an hour I guess.

Q. Now, during that hour you all talked about Tommy Atkins' land?

A. No, I didn't talk much. I just let her do the talking, I didn't have much to say.

Q. What was she talking about?

A. Trying to get it for Bartlett.

Q. Now, what did she say in that conversation, as nearly as you can remember now?

A. Well, that is all she said; that she would wire Bartlett and have him come down and give me four thousand dollars for the land.

Q. That was on Wednesday. Well, she was there an hour, she talked more than that, didn't she?

A. Well, she talked to me lots, but I can't remember all that she really did say; some things I do and some things I can't.

Q. Did she say anything to you that day about making a Tommy?

A. Yes, after that she said they would make a Tommy, she didn't say she would.

Q. Did she tell you who would help?

A. She was going to have me do it, I told her my Tommy was dead.

Q. All you had to do was tell the people when they come was you had a Tommy Atkins?

A. I told them I had a Tommy Atkins.

Q. That was the understanding between you and Sadie, was it? A. Yes.

Q. Now, on Thursday, did she come out to see you?

A. Well, I don't know whether it was or not, I couldn't say who was there.

Q. Did somebody come to see you?

A. Mr. Long came while she was coming.

Q. No, on Thursday did Mr. Long come?

A. I don't know whether it was Thursday or not, but I know he came. You see, the idea was this: Sadie tortured me and run after me so about this land that I could not tell the dates, because I was all unstrung and didn't know what to do, was just upset so.

Q. But you said Sadie came out Friday?

The Court: I was trying to get at it, the days in the week—Minnie, I want to ask you one more question. How long was it after Sadie first visited your house there before Mr. Long came, about how many days.

A. I think Sadie was at my house about—I think she was out there about three days before Mr. Long came.

The Court: All right.

Q. Now, you said she came out Friday and told you Bartlett couldn't come; now, was that before or after Long came that Sadie told you? A. Before Long came.

Q. That was before Long came? A. Yes, sir.

Q. Now, Long came how many days after that?

A. He didn't come but one day.

Q. Well, but how long after Sadie told you she couldn't get connections with Bartlett? A. I don't remember now.

Q. Now, when Mr. Long come was Sadie there?

A. No, when Mr. Long came Sadie didn't come in; Sadie was walking up and down on the sidewalk with the detectives.

Q. Oh, there were detectives following her?

A. She had them to watch my house I guess.

Q. You think she had them? A. Yes, sir.

Q. You thought she had them?

A. Well, she was talking to them.

Q. Oh? A. She told me they were detectives.

Q. They were following Sadie around?

A. No, Sadie went over to them.

Q. She was a little excited about them and kind of mad?

A. She was kind of worried.

Q. And Mr. Long or somebody went up there to see who they were, didn't they, Mr. Hanford or Captain MacNab?

A. No, I don't know—— I told them Sadie was up there. I told the Captain that Sadie was up there on the hill, but I didn't know who they were.

Q. Had you known Mr. Long before he came there that time? A. No, sir.

Q. You had never seen him before? A. No, sir.

Q. Did you know any of the people that he was representing? A. No, sir.

Q. Now, when Mr. Long come, was that in the morning or afternoon? A. It was in the morning.

Q. Was there anybody at your house?

A. Captain MacNab was there and the two orderlies, and I won't say whether Mr. Hanford was or not, I just can't remember, but I know Captain MacNab and two orderlies were there.

Q. Did you and Mr. Long go in the house and have a little talk?

A. He was in the house there in front of everybody. He was in the front room.

Q. All of them were in the house there?

A. Yes, he didn't sneak around about it.

Q. But, I mean did you have a conversation where other people didn't hear you?

A. Yes, they all heard it in the front room.

Q. What was it Mr. Long said to you?

A. He just walked in and he said, are you Minnie Atkins? I said yes, I am Minnie Atkins. He said something else but I don't just remember. But anyhow, he asked me if I was Minnie Atkins.

Q. Then, did he ask you anything else?

A. I don't remember what that was.

Q. Well, did he ask you anything else?

A. I don't think he did, just asked me if I was Minnie Atkins.

Q. How long did Mr. Long stay there?

A. He didn't stay very long.

Q. Well, about how long did he stay?

A. Well, a few minutes, he was talking with the Captain, I didn't time him while he was there.

Q. The only question Mr. Long asked you then was "Are you Minnie Atkins?"? A. That is what he asked me.

Q. And you told him you were?

A. Yes, sir, Minnie Atkins.

Q. And then he left?

A. No, talked with Captain MacNab.

Q. But he never talked with you any more? A. No.

Q. You never talked with him any more on that trip, is that right? A. No.

Q. You never said another word to him on that trip, is that right? A. Not to my recollection, I might have.

Q. Then, he and Captain MacNab were talking out on the porch were they? A. Yes.

Q. Now, Mr. Long come to your house that afternoon?

A. Well, I couldn't say whether it was in the afternoon or the morning, but it seems to me like it was the morning.

Q. Did Mr. Long make two trips to your house?

A. No, just the once.

Q. Now, did anybody come to see you after Mr. Long had been there? A. No.

Q. Sadie James come, didn't she?

A. No, not after Mr. Long, Sadie didn't come no more because I didn't want to talk to her.

Q. Wasn't Sadie mad because Long was there?

A. She was when she was up on the sidewalk.

Q. She didn't want you to trade with Long?

A. No, sir, she didn't want me to have any dealings.

Q. How do you know she didn't?

A. I went up to her on the sidewalk and she says, who is in the house? And I says, Mr. Long. Well, she says, for heaven sake don't have any dealings with Long, I want to make a deal with Bartlett. I says I am going to deal with the man that is right with me.

Q. And you thought Mr. Long was the right man?

A. I thought Mr. Long was the right man and I just left.

Q. But all Long said to you was, "Are you Minnie Atkins?"? A. Are you Minnie Atkins.

Q. Then, did Sadie come back to see you the next day, which was Sunday?

A. Well, I can't just state how many times, I don't know.

Q. Did she come *our* there on Sunday?

A. Yes, she was there on a Sunday.

Q. Stayed with you quite a while?

A. She stayed quite a while I guess.

Q. Your husband was at that time away?

A. Yes, he was, was at Spokane.

Q And what did Sadie talk with you about now on Sunday?

A. Well, the same old thing. The same old thing, trying to get that land for Bartlett.

Q. That was after Mr. Long had been there, that Sunday?

A. Yes.

Q. And she stayed with you two hours, is that right?

A. Yes.

Q. And it was the same old thing, she wanted to talk to you and get you to sell the land to Bartlett? A. Yes, sir.

Q. She didn't want you to make the trade with Long?

A. No, she didn't want me to make the trade.

Q. Did she tell you she had been double crossed?

A. No, I don't remember.

Q. What did she say about Betty Mann?

A. She said Betty was helping her hunt me up.

Q. Did she say anything about Betty treating her unfairly and having gotten Long up there before she could get Bartlett? A. No, I don't remember.

Q. You knew Betty Mann was there?

A. She told me she was down town but I had never seen her.

Q. She wasn't known as Betty Crowell at Carlisle; she was known as Sarah Crowell?

A. Sarah Crowell when we went to school; I didn't go from here to Carlisle, I went from Tullehassee.

Q. Sadie had told you that Sarah Crowell, then Betty Mann, was there at Seattle helping her?

A. No, she said Betty Mann was in Seattle helping her.

Q. Helping her do what? A. To locate me.

Q. For what purpose, did she tell you?

A. For Bartlett. They were both working for Bartlett.

Q. Sadie told you that they were both working for Bartlett. Well, did Long tell you, or did he say it in your presence how he found out where you were?

A. I just can't remember what he did say to me about it.

Q. He said something about how he found you?

A. Yes, but I don't remember how he found out.

Q. Do you know whether he used the name Betty Mann at the time?

A. I don't know, I think he did, but I ain't sure.

Q. Now, then, who did come to see you between the time Long was there and the Sunday that Sadie was there?

A. Nobody didn't saw me.

Q. Mr. Hanford did, didn't he?

A. The Captain.

Q. Captain MacNab come with Hanford? A. Yes.

Q. Had you met Mr. Hanford before that?

A. No, I never did.

Q. You didn't know him at all? A. No, sir.

Q. Well, you didn't want any lawyer, did you?

A. Well, I said I didn't at the time.

Q. Well, that was the fact about it? A. Yes.

Q. Why didn't you want a lawyer?

A. Well, I don't know why.

Q. The reason you didn't want a lawyer is because you wanted to trade with Sadie?

A. No, I didn't want to trade with Sadie.

Q. You told Hanford you wanted to take that four thousand dollars, that was all the money you would need, that Sadie had offered you, didn't you?

A. I said she offered it to me, I didn't say I was going to take it.

Q. Told him you were going to take it?

A. I told him she offered it to me.

Q. You told him you didn't need the services of a lawyer, didn't you? A. Yes, I guess I did.

Q. Then, at that time, you wanted to trade with Sadie, and Sadie's man Bartlett?

A. Well, I thought she was dealing straight.

Q. And that was after Long had been to see you and had left? Is that right? A. Yes.

Q. Now, then, on that trip Long never came to see you any more? A. Yes, he came another time.

Q. Was that after he had been down to Tulsa? A. Yes.

Q. Now, did you talk about Hanford going down to Tulsa with Long? A. Yes.

Q. Who told you about that?

A. I knew he was going, the Captain told me he was going.

Q. What did the Captain tell you he was going for?

A. To look after my land, to see that I wouldn't get robbed out of it and everything.

Q. And then Hanford and Long came back from Tulsa?

A. Yes, sir.

Q. And then what did Mr. Hanford tell you about the land when he got back?

A. Well, just told me, I don't just remember what he did tell me about it.

Q. Did you ask him about it? A. No, not very much.

Q. Did you ask him how much it was worth?

A. No, I didn't.

Q. Did he tell you how much he had been offered for it?

A. He said it was pretty valuable land.

Q. Did he tell you how much he had been offered for it?

A. Well, I don't think he did.

Q. Did you ask him? A. No, sir.

Q. Did you ask Captain MacNab?

A. No, I didn't ask Captain MacNab about it.

Q. Do you remember anything Mr. Hanford told you about his trip to Tulsa? A. No, I don't just remember now.

Q. Now, then, Mr. Long come out to see you with Mr. Hanford did he? A. Yes.

Q. What did Mr. Long come for?

A. Well, he just come because he wanted to know my whole detail.

Q. That was the time then he asked you the details and asked you about Thomas Atkins?

A. Yes, he just wanted to know the truth about it.

Q. That was on the second trip?

A. That was on his second trip.

Q. He wanted to know the whole detail about it?

A. Yes, he wanted to know the whole truth.

Q. Did you try to tell him the whole truth?

A. Well, I didn't exactly tell him all that was the truth, because I didn't want anybody to know about my business.

Q. You didn't want to tell him where the child was born?

A. No.

Q. Was there anything else that you wanted to conceal at that time?

A. I wanted to conceal everything if I could.

Q. Well, did you want to conceal at that time the season of the year in which Tommy was born? A. No.

Q. And you told him that Tommy was born in the summer time, didn't you?

A. Well, he was born somewhere's in the summer.

Q. You told him that Tommy was born—— No, just kill that question. Was there any reason, Minnie, at that time, in your own mind, why you should conceal from Long the people for whom—the names of the people for whom you were working just before Tommy was born?

A. Well, I don't know, I can't state any reason, I just didn't want them to know how I got him.

Q. You just didn't want them to know how you got him, but it didn't make any difference to you at that time whether you got him at Hyde's or Grodevant's or Stafford's, or where you got him, just so they didn't know where you got him?

A. That was the idea.

Q. Now, you told Mr. Long that you had to quit Stafford's because you were pregnant with Tommy?

A. No, I didn't.

Q. You didn't tell him that?

A. No, I didn't tell him that.

Q. Didn't you tell him and he asking you about your life history that you first worked for Hyde, then worked for Grodevant, and then worked for Stafford, and quit Stafford because you were pregnant with Tommy? A. No, I didn't.

Q. You didn't tell him that?

A. No, I didn't tell him that.

Q. *How*, did you tell him that the last time that you ever heard from Tommy was in 1899 when he was living but sick?

A. No.

Q. If on the 9th of July, 1914, he sent a telegram to the Gem Oil Company at Tulsa, in which he said among other things: "Minnie last heard of boy in summer 1899, was alive then but sick; think he died soon after," he didn't get that information from you, is that right? A. No, I didn't tell him.

Q. You didn't tell him that? Now, you did tell him that the boy in your judgment was born in 1886 or '87 at the Sisters' Hospital, didn't you? A. Yes, I told him that.

Q. And that, at that time was your best judgment except as to the hospital part of it?

A. Well, I knew he wasn't born at the hospital but I just said that to him.

Q. At that time, was it your best judgment that Tommy was born in 1886 or '87?

A. He wasn't born in the hospital.

Q. I understand, but at that time when you were talking to Mr. Long, was it your best judgment——

A. Well, I was just——

Q. That Tommy was born in '86 or '87, and in the summertime?

By the Court.

Q. How is that? At that time I understand you thought that Tommy was born in '86 or '87?

A. No, he wasn't born in the hospital.

Q. Well, he wasn't born in the hospital but you told Mr. Long that he was born in the hospital?

A. Yes, but he wasn't born in the hospital.

Q. You told Mr. Long, also, that he was born in '86 or '87, do you remember about that?

A. I don't know just what month I told him because I don't remember the month, Judge.

Q. Well, I know, but do you remember the year, whether you told him in '86 or '87—what I am trying to get at is when you did tell him, the year you thought Tommy was born; did you try to tell him what you thought was the truth about the year?

A. Yes, about the year but he wasn't born at the hospital.

Q. What you told him about the hospital wasn't true?

A. Yes.

By Mr. Linebaugh.

Q. You told him what you believed to be true about the season of the year; in the summer time?

A. Yes, he was born in the summer.

Q. Now, Mr. Long told you too, didn't he that Tommy would have to be dead for you to have any interest in the land?

A. No, Mr. Long never said that to me in his life.

Q. Didn't Mr. Long tell you that if Tommy was your child, lived and died, *the* you would be the owner of the land?

A. I told Mr. Long, myself, that Tommy was dead.

Q. I understand, but didn't Mr. Long tell you three or four different times that if Tommy was born to you, lived and died, you would be his heir and would own the land?

A. Yes, that is what he told me.

Q. Now, when was it that Mr. Long told you that with reference to the 9th of July, if you remember the date that I have read this telegram that he sent?

A. I don't remember when he told me.

Q. Now, after that and on July 10th, which is the next day, did you tell Mr. Long that there was a woman in Denver who would remember Tommy's custodian and that Thomas died in 1900 or 1901? A. No.

Q. If on the 10th of July he sent a telegram to his company in which he said among other things that: "Minnie gives name of woman in Denver as remembering the name of Thomas' custodian. Will see her on the way back. Minnie's opinion is that he died 1900 or 1901," then he didn't get that from you? A. No, I don't know when Tommy died.

Q. Now, Mr. Long asked you at that time who you knew in Leavenworth, didn't he? A. Yes.

Q. And you told him all that you knew? A. Yes.

Q. Who were they? A. You mean the people?

Q. Yes, that you told Mr. Long about, not the ones you remember now, but the ones you told Mr. Long of up there at Seattle.

A. Well, I just remember those that I did tell you that I remembered.

Q. Well, who were they? A. I just told you.

Q. Well, I didn't catch the names; will you tell me again?

A. What people was around me when I was at Granny's, is that what you want?

Q. Oh, no. I want you to tell me who you told Mr. Long you remembered having known in Leavenworth.

A. Well, I knew Mr. Atchison, and I knew policeman, and I knew Bill Grape, and I knew quite a lot of people around there.

Q. Did you tell those to Mr. Long up there?

A. I told him that I knew those people.

Q. You told him at that time, did you? A. Yes.

Q. Now, aren't you mistaken, didn't you tell him at—subsequent to the time when you were down in Kansas City that you knew them?

A. I told him when I went to Leavenworth who I knew.

Q. Yes, when you went to Leavenworth but I mean up there when Mr. Hanford and Mr. Long came back from Oklahoma?

A. I don't just remember who all I told him I knew.

Q. Now, did you tell him anything about, or had you told anybody at that time, anything about the negro house, about the colored house, or were you trying to conceal that?

A. No, I told him that I used to go to Granny's.

Q. You told him at that time that you used to go to Granny's? A. Yes.

Q. You used that expression, did you? A. Yes.

Q. Granny Letcher's? A. Yes, I did.

Q. You told Mr. Hanford that, did you? A. Yes.

Q. At that time? A. Yes.

The Court: What time was that, Minnie? When did you tell them that?

A. I told them that when I was in Leavenworth, when they came out to—the second time they came out to Seattle when Mr. Long and Mr. Hanford came out to Seattle to see me, I told Mr. Long that is where I knew Granny Letcher at; that is where I had Tommy.

The Court: That was the second time?

A. Yes.

Q. Now, Minnie are you sure of that. Are you sure when

Mr. Long and Mr. Hanford came back from Oklahoma and when Mr. Long was talking to you getting your life's history, are you sure that you told him that this child was born at Granny Letcher's?

A. Well, it is either that—I either told him there or when I went to Leavenworth, I don't know; but I think I told him there.

Q. You think you told him there. Had you ever told anybody else? A. No.

Q. Now, you knew Granny Letcher pretty well, did you?

A. Yes, sir.

Q. What kind of looking woman was she?

A. Well, colored.

Q. Colored; well was she light, or dark or medium?

A. She was so dark, she was kind of brownish; not very black.

Q. She wasn't a coal black negro—that is, all negro?

A. No, I don't think so.

Q. Well, was she pretty nearly white?

A. No, she wasn't pretty nearly white, but she wasn't black; kind of a yellow like.

Q. Could she read and write?

A. I don't know; I never asked her.

Q. You never got a letter from her, then, did you?

A. I got a letter telling me Tommy was dead but I don't know that it was from her.

Q. But you didn't know; it wasn't signed Granny Letcher, was it? A. Yes, it was from Granny.

Q. It was from Granny? A. I think it was.

Q. Now, when did you remember that that letter was from Granny? A. When did I remember?

Q. Yes, when did you remember that that letter was from Granny Letcher?

A. I don't remember now, it has been so long.

Q. You told Mr. Long that you didn't know who you had left your child with, didn't you?

A. Well, I told him that because I didn't want to tell any of them where I had left him, and when I found that I just had to tell I told them the truth.

Q. You said a while ago that you thought you told Mr. Long that you gave birth to him at the negro house—Granny Letcher's?

A. Well, I knew I gave birth to him at Granny Letcher's.

Q. Well, did you tell Mr. Long that?

A. Yes, I think I did.

Q. Then, at that time you made that fact public to the world, didn't you? A. Yes.

Q. Then, why, when you went on the witness stand at Sapulpa, did you say he was born at the Sisters' Hospital?

A. Simply because I wanted to hide it if I could and when I seen I couldn't, I told them where I had it.

Q. But you had already told it to Mr. Long?

A. Sure.

Q. So, at the time, there existed when you gave your testimony at Sapulpa, no reason why you should conceal the place of that child's birth, was there?

A. No, but he wasn't born in the hospital.

Q. I understand, but why Minnie, did you swear in the court at Sapulpa after that, that he was born in the hospital?

A. I didn't swear.

Q. Didn't you give that testimony?

A. Yes, I gave it but I am just telling you why I gave it.

A. Well, you were under oath when you gave it, weren't you? A. I don't know.

Q. Ma'am? A. I don't know.

Q. Do you know that you are under oath now?

A. Yes, I know that I am under oath.

Q. Now, then if Mr. Long telegraphed to his company that you didn't remember the name, or description of the woman *of* person with whom you left Tommy, he was mistaken, was he? A. Yes.

Q. Ma'am? A. Yes.

Q. Now, did you tell Mr. Long about all the children that you had given birth to? A. Yes, I told him.

Q. You are sure of that, are you? A. Yes.

Q. Had you told anybody else before that about all the children that you had given birth to?

A. Yes, I told several others but I don't just now remember who.

Q. Then, Minnie, in July, 1914, I will ask you if the following questions were asked and the following answers returned by you at Sapulpa: "Q. Minnie how many children are you the mother of? A. Thomas, Harvey, Charlie and Alice. Q. You never gave birth to another child? A. No, sir"; did you give that testimony?

A. I don't remember saying that I did have another one.

Q. You say now that you don't remember whether those questions were asked and those answers returned?

A. I don't remember.

Q. Did there exist in your mind at that time any reason why you should conceal the birth of a child to which you had given birth? A. No, I don't know as I had any reason.

Q. If that question was asked you, did you want to answer the truth?

A. Well, I said when I had five, I did answer the truth.

Q. Just answer my question. Now, if that question was asked you, did you want to answer it truthfully?

A. I don't remember that was asked me.

Q. I understand, but if it was, did you want to answer it truthfully?

A. I wanted to answer the truth and tell them that I had the five, if I did have them.

Q. Minnie, did you tell Mr. Long about Robert Lee Peterkin? A. No.

Q. Why? A. Well, I just didn't tell him.

Q. Have you any reason? A. No.

Q. For not telling him to assign?

A. No, just didn't tell him.

Q. Ma'am? A. Just didn't tell him.

Q. Did you tell Mr. Hanford about Robert Lee? A. No.

Q. Why? A. I don't know; I just didn't tell him.

Q. Robert Lee was born in the summer time, wasn't he?

A. I don't just remember when he was born.

Q. In the month of July, wasn't he?

A. I don't remember.

Q. Robert Lee was born in 1886, wasn't he?

A. I don't know.

Q. Did you tell them down at Sapulpa where you gave the testimony there, anything about Robert Lee? A. No.

Q. Why? A. I don't know why I didn't.

Q. He was a boy child that was born to you, lived, was named and died, didn't he? A. Didn't live long.

Q. But he lived a while and you named it, and he died?

A. I didn't name him; Peterkin named him.

Q. Now, he died in Leavenworth, didn't he, and was buried in Leavenworth? A. Yes.

Q. You said a while ago that you told Mr. Long that Tommy was buried in Leavenworth, is that true, did you tell that? A. No.

Q. Now, did you tell Mr. Long out there—I don't know whether I asked you this or not; I am trying not to repeat: Did you tell Mr. Long out there and Mr. Hanford, or either of them in that second visit that you didn't remember the name or the description of the woman that you left Tommy with? A. Yes.

Q. Well, did you tell them also that you had left Tommy with Granny Letcher?

A. Well, I left him with a colored woman, but I didn't tell them who.

Q. You didn't use the name Granny Letcher, then?

A. No.

Q. When you said a while ago that you did, you were mistaken then, were you? A. Yes, I reckon I was.

Q. Now, since you have made that correction, did you tell—do you now remember of telling Mr. Long that the last you heard of Tommy was in 1899, when he was sick?

A. No, I don't remember telling him.

Q. You don't remember of telling him that? Now, Minnie, you testified down at Sapulpa that you worked for Hyde's and then went to Fort Leavenworth and worked for Grodevant, and went from Grodevant's to Stafford's, and left Stafford's because you were pregnant with Tommy, didn't you?

A. No, I don't think I did.

Q. Were the following questions asked and answers returned by you at that time, in that testimony:

The Court: Where is that now?

Mr. Linebaugh: Sapulpa, in July, 1914.

Q. "Where did you *from* from Carlisle? A. I went to George H. Hyatt's"—the record here has it HYATT; I understood the name to be HYDE—"the banker in Leavenworth, Kansas. Q. How long did you work for him as cook? A. I stayed there three months. Q. Where did you go from there? A. From Leavenworth? Q. Who did you work for there? A. George Grodevant, the overseer or carpenter. Q. He was overseer of what? A. Do carpenter things for people. Q. Of what? A. Military prison. Q. Kind of a repair man? A. No, he seen that the prisoners done their work well; when they done things, he seen that it was well done; that is what they paid him for. Q. How long did you stay at Grodevant's? A. A year and six months. Q. Where did you [] from there? A. Lieut. Stafford's, a school officer there. Q. How long were you there at Stafford's? A. I was there about a year. Q. And how did you come to leave the Stafford's? A. Because I was with a baby by the name of Tommy Atkins." Was that your testimony there?

A. Well, I didn't leave the Stafford's to have Tommy.

Q. I understand that you don't say that now; but did you say that then? A. Yes, as far as I can recollect.

Q. Now, that was the very same thing that you had told Long in Mr. Hanford's presence that second trip that he took up there, wasn't it? A. Yes.

Q. Now, you told Mr. Long also that you was working for Stafford's just before you gave birth to Tommy, didn't you? He asked you about that? A. No, I didn't say that.

Q. But you testified to that also down at Sapulpa, didn't you? A. I don't remember.

Q. Was the following question asked you and the following answer returned by you at that time: "Q. With whom were you—with whom were you working immediately before you went to the hospital to give birth to the child? A. I just repeated it once before, who I was working for. Q. What was his name, again? A. His name was Lieut. Stafford." That is the testimony you gave at Sapulpa, wasn't it?

A. Yes, but I didn't have Tommy after leaving Stafford's.

Q. I understand, but——

The Court: She says yes, she gave that testimony.

Q. Now, that is what you told Mr. Long, isn't it?

A. Yes.

Q. Now that is true as to Robert Lee Peterkin, isn't it; you did have Robert Lee right after you left the Stafford's, didn't you? A. Yes.

Q. Now, Minnie, when did it first occur to you to say that this child, Tommy Atkins, was born in the Sisters' Hospital? A. What did you say?

Q. When did it first occur to you to say that this child was born in the Sisters' Hospital?

A. I said that when Mr. Long and Mr. Hanford came down to Seattle to see me.

Q. I know, but why did you say it?

A. Why, I said it because I didn't want them to know that he was born in Granny's house.

Q. In a negro's house? A. Yes, that is why I said it.

Q. Well, why didn't you say he was born in some white woman's house, or over at the Fort, why did you say the hospital? A. Well, I was trying to hide it.

Q. Well, what was it you knew in reference to the hospital that prompted you to tell them it was in the hospital?

A. Because I was in there.

Q. That is it. You knew that you had been in there, didn't you, and you told them that fact, didn't you? A. Yes.

Q. And therefore when you went down to testify at Sapulpa you knew that you had at one time been in the hospital, didn't you? A. No, I never had any baby in the hospital.

Q. I know you didn't give birth to a child, but you had been there for other purposes, is that right? A. No.

Q. Well, you had been to the hospital?

A. Yes, I had been in the hospital.

Q. Now, you stated at Sapulpa, testified there, that on four or five different times the question was asked you four different times, that you had given birth to this child at the Sisters' Hospital? A. Yes.

Q. You knew that to be false?

A. Yes, I knew it was false.

Q. Had you before that time ever told anybody any story except the hospital story? A. No.

Q. As to the place of birth of Tommy? A. No.

Q. Then before that time you never had told Mr. Hanford that this child was born at an old negro woman's house, had you?

A. Yes, I had told Mr. Hanford it was born at Granny Letcher's.

Q. I know, but did you tell him before you gave your testimony at Sapulpa? A. No, I didn't tell anybody.

Q. You didn't tell anybody before that testimony, did you? A. No.

Q. Before you gave that testimony you were concealing from everybody the place of the birth, wasn't you? A. Sure.

Q. Now, the father of this child recognized him, didn't he, as his child?

Mr. Stuart: Which child?

Mr. Linebaugh: Tommy Atkins.

A. No, I had quit him when I had Tommy.

Q. Did you give this testimony at Sapulpa: "You don't know whether the father ever recognized the child or not? A. Sure he did." A. I never said that.

Q. You didn't say it. Now, you had to—after your Sapulpa testimony you had a trip, didn't you?

A. I went back home.

Q. Well, you went somewhere else before you went home, didn't you? A. I don't think so.

Q. Didn't you go up to Leavenworth?

A. Yes, I think I did.

Q. Who went with you?

A. Myself and Mr. Hanford; myself and Mr. Hanford, I think.

Q. What did you go for?

A. Oh, I don't remember whether I went or not after Sapulpa.

Q. Well, you did go, didn't you, you remember that you were in the hospital up there, weren't you?

The Court: Well, my recollection of the evidence is that that time she was in the hospital she was brought by Mr. Hanford from Seattle to Leavenworth.

Mr. Linebaugh: No, that was when she was an inmate of the hospital; illness.

The Court: Do you understand what he is asking you? You remember when you came to Sapulpa, don't you?

A. Yes, sir.

The Court: Now, when you left Sapulpa where did you first go?

A. I went to Leavenworth, to the Sisters' Hospital.

Q. That is it; now why did you go?

A. Well, I told Mr. Hanford that Tommy *had* born in the Sisters' Hospital, and he went to see if he *had* born in the Sisters' Hospital.

Q. He tell you before you started from Sapulpa that was what he was going for? A. No, he didn't tell me.

Q. Well, he told you why he wanted you to go along, didn't he? A. Well, I don't know but——

The Court.

Q. Minnie, what did Mr. Hanford tell you going to Leavenworth, or when you went from Sapulpa up by way of Leavenworth. what did he tell you?

A. He just said he was going to the Sisters' Hospital to see if I was telling the truth that he *had* born in the hospital.

Q. And then you went on up to Leavenworth?

A. Yes, sir.

Q. Did you go out to the hospital with Mr. Hanford at that time? A. Yes, sir.

Q. And he looked at the records then? A. Yes, sir.

Q. And where were you when he told you he was going there to see if you had told the truth about it, where was that; that down at Sapulpa, or on the way up there, or where?

A. No, I can't just remember that, Judge, when he told me that; that is what he went for.

Q. That is what he told you? A. Yes.

Mr. Linebaugh.

Q. Do you remember when he told you that was what he was going there for, whether it was on the road or before he got there, or when?

A. I don't remember what he told me, but I know he went to see if I was telling the truth.

Q. And he went to a good deal of trouble looking over the records, didn't he, to see if you gave birth to the child?

A. Yes.

Q. You knew you had not?

A. I knew I had not given birth to a child in the hospital, but I knew I gave birth to a child.

Q. Why didn't you tell Mr. Hanford before he went to the trouble to look over the records?

A. Well, I just didn't tell him.

Q. Just didn't tell him and that is the only reason you want to state. Now, did Mr. Hanford go anywhere after that?

A. Not that I know of.

Q. Do you know of his going up to see Mr. Peterkin, did he tell you about going over to Boston, Massachusetts, to see Mr. Peterkin? A. Yes, he said he seen Peterkin.

Q. Well, do you know whether he went to see Mr. Peterkin? A. No.

Q. Do you know who gave him any information in reference to Mr. Peterkin? A. I did.

Q. You did. Now when did you give that to him?

A. When we was in Tulsa.

Q. Before the testimony or after the testimony at Sapulpa? A. I told him in Tulsa.

Q. Well, before you went to Sapulpa or after you came back from Sapulpa?

A. After I came back from Sapulpa.

Q. And before you had gone to Leavenworth, is that right? A. Yes.

Q. Now, what did you tell him about Peterkin at that time?

A. Oh, I just stalled him off again. I told him—I don't remember what I told him.

Q. Who was present when you did the talking?

A. Just I and Mr. Hanford, I guess.

Q. Just you and Mr. Hanford? A. Yes.

Q. Well, did you tell him about Peterkin being your sweetheart? A. Yes.

Q. Ma'am? A. Yes.

Q. And what else did you tell him?

A. Oh, I don't just remember now.

Q. Well, do you know how he found out where Peterkin was? A. No.

Q. How long was he gone over there to Boston before you saw him?

A. I don't know how long; I don't know anything about that.

Q. You knew he was going?

A. Yes, I thought he was going; I didn't exactly know.

Q. Now, then when he came back what did he tell you?

A. Well——

The Court.

Q. If you remember what Mr. Hanford told you, when he got back, after he saw Peterkin, you may state.

Mr. Linebaugh.

Q. Tell us what he told you.

A. When he got back he said what made you tell me that

Peterkin was Tommy's father. I said I just said it to be saying, I knew I wasn't telling the truth.

Q. Go ahead. Anything else?

A. That is all he said to me.

Q. He said what made you tell me that Peterkin was Tommy's father, when you knew it was not true. Then where were you when he told you that?

A. He came back to Seattle.

Q. He came back to Seattle? A. Yes, sir.

Q. Then did Mr. Hanford go anywhere?

A. I don't know where he went after that.

Q. Well, now, when was it, Minnie, that you had told Mr. Hanford that Peterkin was Tommy's father? A. Tulsa.

Q. Tulsa, and who was present at the time you told him?

A. Just I and Mr. Hanford.

Q. Where were you in Tulsa? A. In the hotel I think.

Q. How come you to tell him that, just tell the court about how the conversation arose and why you told him?

A. Just because I wanted to tell him; just wanted to tell him to stall him off.

Q. Tell him to stall him off; stall him off of what?

A. Didn't want to tell the truth about Tommy, about his father.

Q. Now, Minnie, Mr. Hanford came back to Seattle and how long was he there before you came down to—oh, I am getting a little ahead. Now, when you went up to Leavenworth with Mr. Hanford, did you go about town any?

A. I don't remember.

Q. That time you went up there to look at the records in the hospital? A. No, we went back to the hotel.

Q. Well, didn't he get a buggy and drive you around town?

A. Oh, yes, he drove me around for me to show him where Granny lived.

Q. And you had told him then at that time about Granny, had you?

A. I told him I could tell him where she lived, if I went around to see in Leavenworth, I could remember that much.

Q. Well, when had you on that trip?

The Court: I want to ask Minnie a question right there. Had you told Mr. Hanford at that time what the name was of the colored woman that you left the child with?

A. Yes, I think I did.

The Court: You had told him before the first trip to Leavenworth?

A. I told him after we had been to the hospital.

The Court: After you had been to the hospital. All right.

Q. Who did you get that name from, Minnie?
A. Granny Letcher? Q. Yes. I always knew her.
Q. You knew her as somebody's granny?
A. Well, we all called her Granny that is all; but her right name was Molly Letcher, but we just called her Granny.
Q. You knew her as Sadie's granny?
A. No, I don't think she was anything to Sadie.
Q. Well, Sadie called her Granny?
A. I don't know what Sadie called her.
Q. You have heard that? A. No, sir.
Q. Never heard that.

And thereupon court recessed until nine-thirty o'clock A. M., May 30, 1917.

And thereafter, and on May 30, 1917, at 9:30 o'clock A. M., court convened pursuant to adjournment, and further proceedings herein were had as follows:

MINNIE ATKINS being recalled, further testified as follows:

Cross Examination by Mr: Linebaugh.

Q. Minnie, from the time that you left Carlisle School and went to Leavenworth, you have had to work for a living, haven't you? A. Yes, sir.
Q. You never had any surplus money during that time, have you?
A. No, I always had to work for a living.
Q. When you married Harry, Harry was an employee in the band, in the army? A. Yes.
Q. His salary wasn't very great, was it?
A. Thirty-six dollars a month.
Q. And you and him had to live on that thirty-six dollars? A. No, I worked out and helped him.
Q. Now, that was the condition of your finances in July. 1914, wasn't it? Harry was getting thirty-six dollars a month and you were working out to help him? A. Yes.
Q. Now, Minnie, did you get any money when you signed this lease? A. Yes, sir.
Q. How much money did you get?
A. Five thousand dollars.
Q. Well, they didn't pay that money to you, did they?

A. My lawyer got it for me.

Q. Hanford got three thousand of it and MacNab two thousand, and you didn't get any, did you?

A. I got my five thousand, yes.

Q. At that time? A. Yes.

Q. Now, you are mistaken about that, aren't you? You didn't get any money at that time, did you?

A. Not just right away but I got it.

Q. When you signed this lease, you didn't get any money, did you? A. No, not right away.

Q. Now, you needed money worse than Mr. Hanford needed it, didn't you? A. Well, I don't know.

Q. You needed it worse than Captain MacNab needed it, didn't you? A. Well, I don't know what they got.

Q. Well, didn't you want some of that money?

A. Sure, I wanted it.

Q. You needed it, didn't you Minnie?

A. Yes, I needed it; that is why I gave them the lease.

Q. And they wouldn't give it to you, did they?

A. Yes, they gave it to me.

Q. Not at that time, did they?

A. No, but they gave it to me.

Q. Well, why didn't they give it to you at that time, Minnie?

A. Well, the reason I guess—the reason they didn't give it to me right then, I didn't tell right out everything, you know.

Q. Well, now Minnie, that was before you had ever told them any story in court, wasn't it? A. Yes.

Q. And there was five thousand dollors up there that they [] give you a cent of, did they?

A. Well, I don't know how that was.

Q. Well, you didn't get any?

A. I don't remember how.

Q. Why didn't you get any? Didn't you ask them about it, Minnie? Didn't you talk that matter over with your husband?

A. I don't remember whether I did or not.

Q. But you can't tell us why you didn't get any of the money at that time? A. No.

Q. It was your money, wasn't it?

A. Yes, it was my money.

Q. Well, have you ever gotten any of that five thousand dollars, the first five thousand dollars?

A. Why, yes, I got the five thousand.

Q. Well, did you think the lease was made for five thousand dollars?

A. No, the lease was made for ten thousand; Mr. Hanford got five thousand and I got five thousand; that made ten thousand dollars.

Q. Well, what did Mr. Hanford get five thousand for?

A. To look after it for me as far as I know.

Q. Did you have anything to do with that part of it, Minnie? A. No, I didn't have anything to do with it.

Q. Who did have anything to do with that part of it, Minnie? A. I don't remember.

Q. But somebody besides yourself? A. Sure.

Q. Now, Minnie, they didn't pay you any money for a long time, did they?

A. Well, they didn't pay me for a month afterwards, any way.

Q. Well, it was several months, wasn't it?

A. No, it wasn't several months.

Q. Well, now, what did Mr. Hanford tell you when he came back from Oklahoma, about you part of the money?

A. I don't just remember what Mr. Hanford told me about that money.

Q. Well, you asked him about it, didn't you? A. Yes.

Q. Now, can you tell us what he told you?

A. Well, when he came back, he just told me that he had got ten thousand for the lease.

Q. You asked him for your part, didn't you?

A. Yes, I asked him.

Q. Now, what did he say?

A. He said he would get it after—he would give it to me.

Q. When?

A. Well, he didn't state when—he said he would give it to me.

Q. But he didn't give it to you at that time; you hadn't told the story, is that it? A. I guess that is it.

Q. That is what you said a while ago, is that true?

A. Yes.

Q. They were waiting for you to tell your story before they gave you any money, that is a fact, isn't it? A. Yes.

Q. Now, Minnie, you had been here at court all the time during this trial, haven't you? A. Yes.

Q. You have heard almost all the witnesses testify, haven't you? A. Yes, I heard them.

Q. Now, you didn't hear Mr. Long testify, did you? You wasn't in the courtroom when he gave his testimony, was you?

A. Well, I could have been in.

Q. I understand, but you wasn't was you?

A. Well, I just got tired of coming in and sitting.

Q. Did anybody tell you not to be in the courtroom when Mr. Long testified?

A. No, nobody didn't tell me; they told me to come over every day if I wanted to.

Q. Now, Minnie, if Mr. Long wrote to his company that somebody was proposing to make a negro of the father of your boy, he didn't get that information from you did he?

A. I don't know anything about Mr. Long doing that.

Q. Well, if he testified that he had written a letter which contained the statement that somebody was figuring on making a negro the father of your child, he didn't get that information from you did he?

A. No, he didn't get it from me.

Q. If he wrote a letter saying that Rube Smith was the uncle of your child, he didn't get that information from you. You never co-habited with a negro man in your life, did you?

A. No.

Q. Now, Minnie I believe you said yesterday that you never had any negro blood in you that you know of?

A. Well, I haven't that I know of, if I have I don't know it.

Q. Now, if you were referring to a gentleman, you would mean a white man or an Indian, wouldn't you?

A. If I was referring to a gentleman?

Q. Yes, using that expression, the gentleman did so and so, you would refer to a white man or an Indian? A. Yes.

Q. Now, if you used the expression a lady, you would refer to a white woman or an Indian woman? A. Yes.

Q. You wouldn't refer to a negro woman using that expression, would you? A. No.

Q. Now, Minnie, in Sapulpa when you gave your testimony there, were the following questions asked you and answers returned: "Who is the lady you left Thomas with? A. I don't remember."

Mr. Stuart: Who was it asked that question, Mr. Linebaugh, please?

The Court: Who was conducting the examination?

Mr. Linebaugh: Well, I want to beg the court's pardon, I want to start in ahead of this, I will get to that presently.

The Court: It doesn't appear who was interrogating.

Q. Now, when Mr. Hanford was interrogating you, was the following questions asked and answers returned by you: "Q. Minnie, where did you go after you left the Sisters' Hospital? A. After I left the Sisters' Hospital I carried him to a lady to take care of him in Leavenworth by the day and I went out to work. After work I would always come back to him."

The Court: Was that your testimony at Sapulpa Minnie?

A. Yes, sir.

Q. Now, also this by Mr. Hanford while he was examining you was the following question asked and answer returned: "Q. Minnie where did you go from Leavenworth? A. I gave Thomas Atkins to a lady to keep for me; now, at the time I couldn't get work, and the Eighteenth Infantry left there and I went to Denver, Colorado, and then to Fort Logan."

The Court: Was that your testimony at Sapulpa, Minnie?

A. Yes, sir.

Q. Now, then, on cross examination by Mr. Gresham, was the following question asked and answer returned: "Q. Who is the lady you left Thomas Atkins with? A. I don't remember"? A. I said that.

Q. And then also to Mr. Gresham, was the following question asked and answer returned: "Q. What kind of a looking woman was she? A. That's too far back. Q. You remember all these things that occurred at that time? A. I can remember, yes, but I don't remember that. Q. That is one of the things you have forgotten? A. I may not have forgotten it, it has been sometime, it may come to me, if it does I may have the pleasure of telling you."? A. Yes, sir.

The Court: That was still at Sapulpa?

Mr. Linebaugh: All of these questions that I am asking until I tell you were at Sapulpa.

Q. Now, was the following question asked and answer returned, when Mr. Lytle was cross examining you: "Q. You say you don't know with whom you left Tom Atkins? A. I don't remember the lady's name."? A. Yes, sir.

Q. And then, to Mr. Lytle further, did you say: "Q. And yet you drew a payment for him the same as if he was alive, is that right? A. Yes, and I drew for four of us I knew he was dead then. Q. How did you know it, you had not seen him for five years, had you? A. Well, I was corresponding with the lady."? A. Yes, sir.

Q. Was that question asked and answer returned?
A. Yes, sir.

Q. Was this question asked and answer returned, you were asked about getting work from Thomas: "Q. And who did you get that work from? A. That lady I can't tell you about. Q. You don't know where the lady is now? A. No, she is dead."? A. Yes, sir.

Q. Now, was the following question asked and answer returned: "Q. I believe you stated that while you were at Fort Wayne, near Detroit, you learned that this lady had died? A. Yes. Q. How did you obtain that information? A. I got a letter from another lady." Were those questions asked and answers returned? A. Yes, sir.

Q. Then was the following question asked and answer returned: "Do you know the address of the lady at Leavenworth who had the care of your child? A. No."? A. No.

Q. That was not your testimony, is that correct?

A. Yes, I didn't know.

Q. You did answer that question as it was asked, as I have read it to you? A. Yes.

Q. Now, Minnie, was Granny Letcher a married woman if you knew her in 1885, was she married at the time?

A. Now, I can't remember if she was married.

Q. You don't know if she had a husband or not at that time? A. No, I don't know.

Q. If you knew Granny Letcher in 1885, you knew that there was some children in her home?

A. Yes, children were there.

Q. There was Walter Banks, Sam Nash, and *Jim Mayo*?

A. Yes.

Q. Now, Minnie, if you testified at Sapulpa that the lady that you left Tommy with had a husband but didn't have any children, you didn't have in mind Granny Letcher at that time, did you? A. What did you say?

Mr. Linebaugh: Just read the question to her.

The Court: Did she so testify?

Mr. Linebaugh: Yes, sir.

Q. Were these questions asked and answers returned by you: "Q. Do you know what street she lived on? A. Oh, maybe I could find it. Q. What was her occupation? A. She taken in washing for a living; worked around. Q. Did she have a husband? A. Yes. Q. What was his occupation? A. I don't know. Q. Did she have any other children? A. No."?

A. No, she didn't take in no washing that I——

Q. Wait a minute; were those questions asked you and those answers returned by you when you were giving your testimony at Sapulpa?

A. Well, I don't know; I don't remember saying that.

Q. You don't know whether you said that or not? A. No.

Q. If you did say that, Minnie, you didn't have in mind Granny Letcher at that time, did you?

A. Well, I always knew about Granny Letcher but I didn't say much about it.

Q. But you didn't know whether she had a husband and you did know she had children?

A. Well, she must have had a husband.

Q. Now, Minnie, you had a friend over at Fort Wright, when you lived at Seattle, named Mrs. Richardson, didn't you?

A. Yes, she wasn't no friend of mine; I just knew her.

Q. You just knew her. You found out that she was fixing to sail for Alaska about that time, didn't you?

A. Well, I don't know whether she was going to go to Alaska or not.

Q. Somebody told you that she was, didn't they?

A. I don't know about that.

Q. Did Sadie and you talk about Mrs. Richardson?

A. She said that she found out from Mrs. Richardson where I was living in Seattle, Washington.

Q. Sadie told you she found out from Mrs. Richardson where you were living in Seattle, Washington? A. Yes, sir.

Q. Now, how did Sadie find out what house you lived in, Minnie?

A. She found my husband in the Post and he directed her to my house.

Q. And she came down to your house pursuant to that direction? A. Yes, sir.

Q. Now, Minnie, after Mr. Hanford came back from Boston, you and Mr. Hanford came down to Leavenworth, didn't you—Kansas City? A. Yes.

Q. You were traveling alone, that is, there were no other persons with you from Seattle?

A. Just I and Mr. Hanford.

Q. You talked about the case, did you, coming down?

A. Well, not very much.

Q. You talked a little? A. Yes.

Q. Minnie, did Mr. Hanford accuse you on that trip of having testified to lies down at Sapulpa and tell you that you would have to straighten it up and change that story?

A. No.

Q. Didn't he tell you on that trip, coming down on the train, that you had lied in your testimony and that you had to straighten up those lies? A. No.

Q. He didn't tell you that? Didn't he take you into the drawing room of the Pullman car and tell you that?

A. I never was on the drawing room in the Pullman car.

Q. You wasn't in the drawing room of a Pullman car with Mr. Hanford any where on that trip from the time you left Seattle, until you got to Kansas City?

A. Never was in a drawing room in my ife with Mr. Hanford at any time.

Q. At any time? A. At any time.

By the Court.

Q. Now, Minnie, that means in the day time, whether at any time, on any trip, during the day time, you went in the drawing room, and talked with Mr. Hanford, in a perfectly respectable way; do you remember ever having done it?

A. I wasn't in no drawing room.

Q. Never was? A. No, sir.

By Mr. Linebaugh.

Q. Now, Minnie, when did you first hear that they had gotten witnesses to prove about the birth of Tommy at Granny Letcher? A. I don't know.

Q. Do you remember who told you?

A. Nobody didn't tell me; nobody didn't tell me.

Q. Well, what did you and Mr. Hanford talk about on the trip from Seattle down to Kansas City?

A. Well, we just talked about different little things.

Q. Did he tell you about having been down to Leavenworth and getting some witnesses?

A. No, I don't think he did.

Q. Well, you heard that after you got down, didn't you, that there was some witnesses? A. Yes.

Q. Now, who told you?

A. Well, he said to me, if you go to Leavenworth, will you know some of the people around? And I said yes.

Q. Now, who did he mean when he said that?

A. I don't just remember now all he named.

Q. Can you name any of them that he told you? Asked you if you would remember?

A. Well, he just asked me would I remember some of them and I said yes, if I seen them I would remember them.

Q. Now, who was it you told him you would remember if you saw them?

A. Well, I would remember Mr. Atchison, and I remembered——

Q. Mary Hamilton?

A. I told him I knew Mary Hamilton.

Q. And Grandma Spain? A. I remembered her.

Q. And that was all you would remember wasn't it?

A. No, quite a bit I would remember if I seen them.

Q. Now, when they got you down there, who took you over to Leavenworth?

A. Who took me over to Leavenworth?

Q. Yes. A. From Kansas City?

Q. Yes. A. I think Mr. Long did.

By the Court.

Q. Minnie, you say you remembered Mr. Atchison; what do you remember about him when you lived in Leavenworth? Where did you see him?

A. He was just in the drug store.

Q. Mr. Atchison?

A. Not Mr. Atchison—yes, it was Mr. Atchison.

Q. He was the druggist? A. Yes.

Q. Who was Mr. Lange, or Lange?

A. I believe he worked for Mr. Atchison as far as I can remember.

By Mr. Linebaugh.

Q. Now, what did Mr. Hanford tell you as to why he wanted you to go to Kansas City before you left Seattle for Kansas City?

A. When we left Seattle to go to Leavenworth?

Q. Yes, what did Mr. Hanford tell you that he wanted you to go down there for—what reason?

A. Well, he told me he wanted me to go to Leavenworth with him and *the* tell him the exact place where I had Tommy and I told him I would.

Q. Well, you and he had been to Leavenworth before that, hadn't you?

A. Well, I had just kind of forgotten; I didn't want to tell right out, that was the reason.

Q. What made you remember—what had happened in the interim to make you remember, if anything?

A. Well, I just remembered. I just studied it out, and studied, and studied, and remembered.

Q. Let's see; then you got down to Kansas City, and Mr. Long took you over to Leavenworth? A. Yes.

Q. Now, you went around there at Leavenworth and met people, Mr. Long took you around, and met people, didn't you? A. Well, the people knew me as soon as they seen me.

Q. Yes, they knew you just as soon as they saw you, and then after that Mr. Long took you back to Kansas City, didn't he? A. Yes, we went to Kansas City.

Q. Then, Mr. Long, Mr. Hanford, Mr. Page, and Mr. Josey and Mr. Rice all got in a room there at Kansas City and brought a stenographer in and asked you to tell them what you knew about it, didn't they? A. Yes.

Q. And you had several sessions there about telling them what you knew, you didn't finish it all at one sitting, did you?

A. Yes, I finished it.

Q. That is, you would talk a while and they would ask you to think about it, think about certain matters, and then you would come back, or after a while they would talk again and then you would think about something more, some more matters, and then they would talk again? A. No.

Q. They told you there that they wanted you to tell the truth, didn't they, about this matter? A. Yes.

Q. And then they proceeded to tell you what the truth was?

A. No, they didn't tell me I told them myself, they didn't tell me what to say.

Q. No, they didn't tell you what to say. Now, they asked you there who you remembered at Leavenworth, didn't they, and the only persons you could tell them without suggestion on their part was Mary Hamilton, and Grandma Spain, isn't that right? A. Yes.

Q. And they would suggest to you, why you knew Rube Smith, and then you would say yes, is that right?

A. Yes, I knew him because he used to hang around Letcher's all the time.

Q. I understand. Now, you didn't know Crilly very well then, did you? A. I used to get rigs from Crilly.

Q. When you were talking over there at Kansas City, you didn't know even the name of that livery stable, did you?

A. Oh, yes, I did.

Q. Didn't they ask you this question, were these questions asked you and answers returned there at Kansas City: "Q. Was there a livery stable near there"—— Talking about Granny Letcher's place on Seneca Street. "Yes, I can't think of the name. Q. Was it Crilly? A. Some such name as that." Is that what you told them at that time? A. Yes.

Q. Now, Minnie, you didn't have, down there at Leavenworth, any women or girl associates, did you?

A. I used to run around some with Ida Foster.

Q. You did? A. Yes, sir.

Q. Now, you testified in your deposition before Mr. Penick, that you ran around with Ida Foster, didn't you?

A. Yes.

Q. And you testified in that deposition that Ida Foster and you were running around together at the time Tommy was conceived, didn't you?

A. I don't remember saying that.

Q. You testified there in that deposition that you and Ida Foster would go to a certain hotel and do things at that hotel, didn't you? A. I don't remember.

Q. Now, you do remember Ida Foster, don't you?

A. I remembered her right along.

Q. And you testified in the deposition out at Seattle last year that you knew Ida Foster well and ran around with her, didn't you? A. Yes.

Q. Now, they asked you something about Ida Foster there at Kansas City, didn't they? A. Yes.

Q. Did you tell them this: "Q. Do you remember a girl named Ida Foster? A. Well, that is the girl that Mr. Smith said I went around with, you know; I might have went around with her, but I don't remember. Q. You don't remember her at this time? A. No."

A. I said that, but I remembered her.

Q. You told them that, but you did remember? A. Yes.

Q. How come you, between that time, and the time you testified before Mr. Penick, to remember Ida Foster so well, what happened in the interim?

A. Well, I just went around with her.

Q. To recall it to your mind?

A. I just went around with her.

Q. Between this time at Kansas City and the time you testified before Mr. Penick, who had you talked to about it, Minnie? A. Nobody had talked to me about it at all.

Q. Now, Mary Smith, they asked you about her, didn't they; they took you over to Leavenworth to see her? A. Yes.

Q. She was one of your witnesses that testified for Mr. Page and you at Leavenworth?

A. I don't know whether she testified or not.

Q. Well, now, Mary Smith didn't remember you when she saw you, did she? A. She said she did.

Q. They asked you about Mary Smith there at Kansas City, didn't they? A. Yes, sir.

Q. Now, didn't you say this: "Q. Could you hear Granny talking to her?" That is Mary Smith. "A. Yes, this Mrs. Smith, it wasn't a brick building you know, and she come up and she went down stairs and she said, why this is a white woman you have up stairs, and when anybody is sick they look white, you know, and Granny said no she isn't a white woman, she has got some Indian in her; and this lady says, oh, no, she hasn't. And when I saw her afterwards she was telling me about that, and I said, well that was me, and she said, well, you weren't that stout, and I said well, I was just a kid then." Is that what you told them at Kansas City?

A. Yes.

Q. You were trying to tell them the truth, were you?

A. Yes.

Q. Well, now, what had happened between that time and this, that has made you remember Mary Smith so well?

A. Oh, I don't remember that so well.

Q. Now, Minnie, they asked you about Rube Smith there, didn't they? A. Yes.

Q. Now, I asked you a while ago about your testimony taken before Mr. Penick in the deposition, with reference to Ida Foster. Were these questions asked you and answers returned by you with reference to Ida Foster: "Q. I hope now that you will be able to answer this question and not have any more scenes. Did you ever go up to this hotel with Ida Foster there with two men? A. I think I and her was up there but I don't know about two men, we used to go up there and get something to drink a good deal at the hotel." And furthermore did you say, was this question asked: "Q. Minnie, I will quit asking you about your men associates and ask you about a girl or two if you will calm down. What girls did you see there in Leavenworth? A. I ran around with a girl by the name of Ida Foster a good deal. Q. Do you know where Ida Foster is now? A. No. Q. When was the last time you ever heard of Ida Foster? A. I haven't heard of her since I left Leavenworth. Q. Was she married at that time? A. She was a young girl running around. Q. Was she an Indian girl? A. No, she had some color in her. Q. Where did she live? A. She used to hang out at Granny's too, I don't know where her home was." Were those questions asked and answers returned? A. Yes, sir.

Q. Now, was there anything happened between the time you told these gentlemen about Ida Foster in Kansas City, and the time you testified that made you remember her better, that you can state to the Court? A. No.

Q. Now, I believe I had asked you before referring to that deposition, if they asked you about Rube Smith up there at Kansas City. They did ask you about Rube Smith, didn't they? A. They asked me if I knew him.

Q. Yes, you didn't know him very well at that time, did you? A. I knew him.

The Court: Now, get to the questions, Mr. Linebaugh.

Q. Was this question asked and answer returned by you: "Q. Well, do you remember seeing Rube around there about the time the child was born"—talking about Rube Smith. "A. Well, I think the day I was sick, he came there and delivered some groceries to Granny Letcher; I don't know much about Rube." A. Yes, I said that.

Q. Now, Minnie, you didn't want to testify to that story that they were talking about in Kansas City, did you?

Mr. Stuart: Now, I object to that, Your Honor, that story covers a vast field. If there was a fact that she was asked to testify to and did not testify to, I think he ought to present it.

The Court: Well, if the witness understands the story——

Mr. Linebaugh: I will ask this question.

Q. I will ask you if you didn't understand at that time the Leavenworth story, did you? A. Yes, I understood that.

Q. You did. Well, didn't this happen: weren't these questions asked and answers returned: "Q. Do you remember the name of John McCormick, yourself or did you say that because it was suggested to you? A. No, I remember I said it yesterday. Q. You remember that yourself? A. Yes. Q. Now, after you left Leavenworth, you went to Denver? A. For Fort Logan. Q. And who did you go with to *from* Fort Logan? A. Gee, do I have to go over all that again? Q. Yes. A. What was it? Q. Who did you go with to Fort Logan? A. Does that come in about Thomas Atkins? Q. Yes. You will have to tell the whole story; there is no question about that and you will have to tell it on the stand. A. I ain't going to court. Q. Well, that is up to you but that is what you will. A. I will tell all about that part of it; what I want to have upon my mind is the Leavenworth affair." Were those statements made there in Kansas City?

A. I don't remember.

Q. You don't remember? A. No.

Q. Do you remember telling them that you wouldn't go to court? A. I knew I would have to go to court.

Q. Just answer my question, please.

A. No, I don't think I did tell them that.

Q. Now, Minnie, you had told Mr. Long that this boy was born in the summertime; hadn't you? testified to that?

A. Yes, he was born in the summer.

Q. Now, when they were talking to you at Kansas City, you changed the season of the year, didn't you, and told them there that the child was born in the winter time?

A. No, I didn't.

Q. Didn't you? "Q. What time of the year was this child born? A. Some where in 1885, I think. Q. Was it in the summer or in the winter? A. It was in the winter." And further did you say: "Q. Now the child was born in the winter time? A. Yes, in the winter like; she had to buy lots of wood and coal, it must have been in the winter." Did you answer those questions? A. I can't remember.

Q. Well, if you did, why did you change the season at which the child was born?

A. Well, I just thought it over and it was somewheres in the summer. It was right in the winter.

Q. Now, you also changed the season and put it in cold weather when you testified before Mr. Penick and gave your deposition there, didn't you, at Seattle? Were the following questions asked and the following answers returned by you at Seattle when you gave your deposition: "Q. Minnie, what time of the year was Thomas born? A. It was between warm and cold; I think it was getting summer but it was cold yet. Q. Still cold, yet? A. Still cold." Is that right, did you give that testimony?

A. Well, I don't remember whether I did.

Q. Now, did you tell them up in Kansas City, that he was born in the winter?

A. In the summer, towards winter but it was in the summer as far as I can remember.

Q. Now, Minnie, did you nurse Tommy at the breast?

A. Yes, I nursed him a while.

Q. How long did you nurse him?

A. Well, I nursed him when I was in Leavenworth as long as I was around there.

Q. For how long? A. I don't just remember how long.

Q. In the receivership hearing when you testified in this court, were the following questions and answers returned by you: "Q. Did you stay at Granny's after he was born and stay with him there also? A. Yes, I nursed him while he was there. Q. How long? A. I just can't say. Q. About how long? A. I don't know. Q. A month? A. I can't say. Q. Less than a week? A. Well, I nursed him quite a while. Q. Six months? A. Yes, about that." Is that right?

A. Yes, I said that.

Q. You nursed him then about six months; that is your recollection, is it? A. That is my recollection.

Q. Baby at your breast and nursing, you remember that, don't you? A. Yes.

Q. Now, Minnie, you didn't have intercourse, or permit any man to have intercourse, sexual relations with you while you were nursing your baby, did you?

A. Well, I don't know if I did.

Q. Well, you know whether you did or not? A. No.

Q. You didn't. You told these gentlemen at Kansas City that too, didn't you; that you didn't have intercourse with any man while you were nursing your baby—Tommy; is that right? A. I don't remember that I did.

Q. Let's see if you did. Were the following questions asked: "Q. Did Tommy nurse? A. Yes. Q. During the time that he was nursing did any man come to see you? A. No." A. I don't remember that.

Q. Now, Minnie, you told them at Kansas City, that your first child was a boy, didn't you?

A. My first child is a boy; I said that and that is right.

Q. And that is the truth, isn't it? A. That is the truth.

Q. You further told them there that your second child was a girl, didn't you? A. I didn't tell them anything.

Q. Now, let's see: "Q. Your first child was a boy, was it, Minnie? A. Yes, Thomas Atkins. Q. That is your first child? A. Yes." A. Yes, sir.

Q. Now, was the following questions asked and the answers returned: "Q. You never lived with Peterson"—I presume that refers to Peterkin—"at Leavenworth? A. No. Q. Now, where was your second child born? A. At Denver, Colorado, and her name was Mabel. Q. That was a girl? A. Alice was her right name. Q. That was a girl? A. Yes."

A. Yes, I said that.

Q. Now, you also testified to that in Mr. Rice & Lyons' office in October, 1914, a little while after you were talking to these gentlemen at Kansas City, didn't you? Over there when they were taking your deposition in Mr. Rice and Lyon's office wasn't this question asked you: "Q. When was Alice born with reference to the time that Thomas was born? A. Alice was born in Fort Logan, and Thomas in Leavenworth. Q. Alice was born afterwards? A. Thomas was first and then Alice."? A. I said that.

Q. You said that? A. Yes.

Q. Now, Minnie, did you hear of Mr. Hanford writing a letter to Mr. Peterkin, asking him not to tell anybody what he knew concerning you? A. No, I never did.

Q. Never heard. Now, Minnie, up there at Kansas City, they told you that it was going to be pretty hard to get over that hospital story, didn't they?

A. No, they didn't tell me nothing.

Q. Let's see. They were talking about your Sapulpa testimony: "Now, you testified at Sapulpa that you left Lieutenant Stafford's because you were with a baby, Tommy, that wasn't true, was it? A. No, because—— Q. And you testified that you went from there, from Lieutenant Stafford's to the Sisters' Hospital, that isn't true, is it? A. No, I had him in town. Q. Now, why did you testify that way down at Sapulpa? A. Now, I just can't remember you know, Mr. Rice, how they get at you. I don't know how to tell you, what to say. Q. Well, now, was it because you didn't—— A. I didn't want them to know right out. Q. What kind of a place Granny Letcher's was? A. Exactly. Q. Well, that is what you must say because it is difficult to explain that testimony, and I want you to tell the reason why you testified that way at Sapulpa." Did that happen? A. I didn't want to tell them.

Q. Did that happen? Did that happen at Kansas City, what I have just read to you? A. I don't remember.

Q. Now, Minnie, you told Judge Stuart yesterday that you remembered the father of Thomas Atkins?

A. I always knew the father.

Q. You always knew?

A. I always knew the father of my child.

Q. You was asked that question at Sapulpa when you gave your testimony, and Mr. Hanford your attorney objected to your being required to answer, didn't he?

A. Well, he just objected because I told him I wouldn't tell him.

Q. Told him you wouldn't tell him and he objected. Now, he was your first sweetheart?

A. Yes, my first sweetheart.

Q. Did he ever make you any present of things?

A. Yes, he used to give me things.

Q. Well, now, do you remember any present he ever gave you?

A. Well, he didn't give me any present, he used to give me money once in a while.

Q. But, when you first got to going together and he was making up to you? A. No.

Q. Did this man Oliver ever make presents to you?

A. No, sir.

Q. Mr. Peterkin, did he ever make you any presents?

A. No.

Q. Well, did you buy things about town for your own pleasure, these little trinkets? A. Yes.

Q. Now, tell us some things you bought back there in 1884? A. Sometimes I bought beads and breast-pins.

Q. You bought some beads, did you, when did you buy them? A. I don't remember.

Q. Where did you buy those beads? A. In the store.

Q. What kind of beads were they, Minnie, do you remember? A. I think they were red.

Q. And then did you buy anything else?

A. Breast-pins, handkerchiefs and things that way.

Q. Now, where did you buy the breast-pin?

A. I don't remember the stores it has been so long.

Q. Do you remember the store where you bought the beads? A. No.

Q. Do you remember the store where you bought the breast-pin? A. No.

Q. Well, did you buy anything else for yourself that you now remember? A. No, I don't remember.

Q. Now, Minnie, you didn't know who the father of Tommy was? A. I always knew the father of my child.

Q. Now, just wait a minute. But you didn't know who to say the father of Tommy was when you were up at Kansas City? A. I knew all the time, I just didn't say it.

Q. Well, they was wanting you to say that you didn't have any steady company at that time when Tommy was conceived, didn't they? A. No, sir.

Q. And didn't you say that?

A. No, I don't remember saying it.

Q. Well, now, let's see. First, I will ask you if this happened when they got to talking about the men that would come to see you; was this statement made to you in the form of a question: "Did you take men there with you, or did men come there to see you, that is what I mean, how about that, Minnie, go ahead, it will all be over with in a little while."

A. No.

Q. Minnie, when you were talking there at Kansas City, did the following occur: "Q. Did you get with child after you left Hyde's? A. Yes, after I left Hyde's, I was around town. Q. Minnie, you left Mr. Hyde's—were you going with any man particularly? You had no sweetheart or lover particularly? A. No, I didn't want any. Q. And you were going with a number of men, were you? A. No, I wasn't going with a number, either. Q. Well, what were [] doing? A. Oh, I was just around. Q. Running around pretty well? You weren't going with any particular man, you say, when you left there. Were there two or three men going with you particularly when you left Hyde's? A. About two I guess. Q. Do you remember their names? A. No." That happened?

A. No.

Q. That didn't happen at all. Now, this is the first time when you have ever given a written statement or given testimony when you have named or have undertaken to name the father of the child you claim to have had named Tommy, isn't it? A. Yes. I always knew the father of the child.

Q. But this is the first time that you have ever undertaken to tell it?

A. Well, I just made up my mind to tell the father of the child and I just told it.

Q. He was your first sweetheart?

A. Yes, my first sweetheart, at George H. Hyde's.

Q. And the father of your first child?

A. Father of Tommy Atkins.

Q. And you don't know his name, is that right?

A. His name is Lee.

Q. Lee what?

A. Well, I can't remember his last name; I did know his full name but I can't remember it.

Q. Now, Minnie, you told them there at Kansas City, that Mary Hamilton knew nothing at all about Tommy, didn't you?

A. No, she didn't.

Q. And that is what you told them at Kansas City?

A. She doesn't know anything about it.

Q. But you told Mr. Long up there in Seattle that Mary Hamilton, in Denver, could tell him where and who you left the baby with, didn't you?

A. No, I didn't tell Mr. Long that.

Q. You didn't tell him that? Now, you didn't get any letters from anybody about Tommy, did you, Minnie?

A. Yes, I got a letter.

Q. Now, did this happen in Kansas City? They were talking about your trip down here to the Territory and they asked you this question: "Q. Well, I mean the first trip. Now, the only letter you had from the Territory, when you made this first trip, was from Lee?"—that was your brother— "A. To come down. That was the first. Q. Up to that time had you had any letters from Granny Letcher about Tommy? A. No. Q. Did you get any letters at all from anybody about Tommy? A. No." Did that happen up there at Kansas City?

A. I don't remember if I said I didn't get any letter about Tommy.

Q. Now, the only letter that you ever did receive about Tommy was a letter from Wadsworth, inclosing a deed that he wanted you to sign that you got just before Sadie was up there, wasn't it?

A. No, I don't know nothing about that.

Q. When you gave your deposition at Seattle was the following question asked and answer returned: "The letter that you had telling you that Thomas was dead, you received that when you were at the Fort, just before you came to Fort Lawton, didn't you? A. Yes, sir. Q. There was a deed with that letter, was there? A. Yes. Q. And somebody wanted you to sign that deed, whoever wrote that letter, didn't they? A. Cad Wadsworth wrote the letter. Q. From Oklahoma? A. No, it was my sister's husband. Q. How? A. My sister's husband. Q. Where did he live? A. Out in the country. Q. Where from, out in what country? A. Thirty miles from Muskogee."?

A. I got a letter, but I don't know who wrote it.

Q. Did it contain a deed?

A. Yes, there was a deed to it.

Q. Now, what did you do with that letter that you got?

A. Well, I had it in my home and my husband burnt a lot of letters and I suppose it was burned up as I have tried hard to get it.

Q. Why did he burn it up?

A. Well, he was just burning up his own letters. We had a fuss.

Q. What did you fuss about?

A. Well, I don't remember now.

Q. Minnie, when did you first tell your husband about these children?

A. I never told him anything about my children.

Q. Well, when was the first time that you ever told your husband that you had been the mother of children and that you was the mother of children? A. I never told anything.

Q. Well, you have told sometime, haven't you?

A. He didn't know I had any children.

Q. Sure, he didn't know it when you were married?

A. No, sir, I didn't say anything then.

Q. And you didn't tell him until when, Minnie, when did you tell him?

A. Well, I just told him after this thing came up.

Q. After Sadie came to see you, then it was that you told your husband about your children?

A. Well, I don't know it was when Sadie came to see me.

Q. Well, it was that time or afterwards?

A. I don't remember just when it was.

Q. And then you had a fuss?

A. Never had no fuss about the children.

Q. Well, what did you fuss about?

A. Well, I don't know, I can't just remember, didn't amount to anything.

Q. Now, when was it you received this letter with the deed with reference to the time that you first told your husband about the children?

A. Well, that was a long time that he burned up the letters when we was in Seattle.

Q. He burned them in Seattle? A. Yes.

Q. Now, after you had told them at that time in Kansas City, that you had never received any letters about Tommy, they had an adjourned session, didn't they?

A. Not that I know of.

Q. And called you back and talked to you some more, isn't that right? A. No.

Q. And then, didn't this happen. You had in the meantime refreshed your memory in some way to remember that you did get a letter from somebody, saying that Tommy was dead? A. Yes.

Q. And then they said to you: "Q. Now, where was it you got a letter saying that *Granny Letcher* was dead? A. Detroit, Michigan. Q. What is the name of the Fort there? A. Fort Wayne. Q. And was it there that you got the letter saying that Tommy was dead? A. Yes, that is the place. Q.

Do you remember anything about that letter saying that Tommy was dead? What it said? A. It just says, I write to you as a friend to let you know that your baby was dead, that Granny Letcher had. See? Q. Yes. A. And a few other words, a few things besides that before she closed, you know. Q. It didn't say how it died, or anything? A. No, it didn't explain anything.""? A. Yes.

Q. Now, Minnie, you never told any of your relatives, except John Davis, about Tommy, did you?

A. I told my brother and him.

Q. You told your brother and John Davis?

A. Yes, I had those children.

Q. You wanted Harvey and Charlie—you wanted Harvey to be put on the roll because he was of Indian blood, and you wanted him to get his rights as a Creek Indian?

A. I just told them I didn't know how they was put on the roll.

Q. I know, you just told them because you wanted them to have their rights as Creek Indians?

A. I told them about Tommy, too, as well as Harvey and Charlie.

Q. So they could have their rights as Creek Indians?

A. Sure; I couldn't get anything; I wanted them to get something.

Q. You wanted them to have their rights as Creek Indians? A. Nobody didn't give me anything.

Q. You told them up there about coming down to the Territory, didn't you? A. Yes.

Q. You told them that you were down here for about a year, didn't you? A. Well, I judge that long.

Q. And that is your best judgment? A. Yes.

Q. How long before the payment, was it, that you came here?

A. Well, I don't remember just how long—the date.

Q. I understand; about how long had you been here before you took that horseback ride over to Okmulgee to get your money?

Q. I must have been here about three or four months as well as I can remember.

Q. And you stayed here altogether about a year?

A. Yes, I think it was.

Q. Now, after talking with you up there at Leavenworth—at Kansas City, they asked you how old Tommy was when you left Leavenworth, didn't they? A. Yes.

Q. You told them that he was about a year, or a year and a half old? Didn't you? A. Yes.

Q. Now, that is what you testified to down at Sapulpa, wasn't it? A. Yes, I think I did.

Q. And you left Leavenworth in January, 1888, didn't you?

A. I don't know what month it was that I left; I don't remember months or dates.

Q. Well, it was in the early part of the year, wasn't it?

A. Yes.

Q. Now, you testified then at the Receivership hearing that Tommy was about two years old when you left Leavenworth?

A. Well, I can't exactly remember how old he was. I just give my best judgment about it; I didn't know.

Q. You were telling them as near as you could remember, there at Kansas City?

A. That is as I could tell—as near as I could remember.

Q. And you told as near as you could remember at Sapulpa? A. I don't know whether I did or not.

Q. That was about a year and a year and a half old when you left; now, Minnie, you now say to Judge Stuart, that it was two or three years—he was two or three years old when you left. Why do you make the change, Minnie?

A. Well, I studied it out more and more, and it come to me.

Q. Who helped you to study, Minnie?

A. I studied it myself; nobody made any suggestions to me.

Q. Well, you have been talked to a good deal, haven't you, Minnie?

A. Well, if I was talked to a good deal, I wasn't talked to for me to say something that I shouldn't say.

Q. What did they talk to you about, Minnie?

A. Different things.

Q. About how old Tommy was when you left Leavenworth, did they talk to you about that? A. No.

Q. Never did, is that right?

A. Well, I think they did ask me how old he was.

Q. Well, what did you tell them?

A. Well, my best recollection, I think he was about two or three years old when I left. I don't know; I just was judging.

Q. When you gave your Sapulpa testimony, Minnie, you had talked to fewer of your friends then than at any other time that you had made the statement in this transaction?

A. I don't remember.

Q. When you talked to Mr. Long and made a sworn statement to him, you had talked to fewer of your friends about Thomas Atkins than at any other time?

A. I don't remember.

Q. You told Mr. Long that Tommy was about a year and a half old when you left Leavenworth?

A. I don't remember if I did.

Q. Now, Minnie, you didn't work right up to the time that you gave birth to your baby did you? A. Why, sure not.

Q. Certainly not. How long was it before you gave birth to that baby that you quit work?

A. Well, I went from Hyde's to Grodevant's to work, I was with Tommy, and I was only away all during that time just three weeks.

Q. Before you gave birth to the baby, how long had it been before you had done any work?

A. When I gave birth?

Q. Yes? A. It was about three weeks before I worked.

Q. It was two or three months, wasn't []; you couldn't work for two or three months? A. No, I worked around.

Q. You worked around where?

A. Went back to Mrs. Grodevant's after he was born.

Q. I know—— A. I don't remember though.

Q. You remembered that at Kansas City, didn't you Minnie? Didn't you tell them in Kansas City that you didn't do any work for two or three months before your baby was born?

A. I don't remember of telling them that.

Q. Did this happen up at Kansas City? "How long were you there off and on before your child was born?" They were talking about Granny's place. "A. Oh, about three months, two or three months, I guess." Did that happen there? A. I don't remember if I said that.

Q. Now, didn't you testify in your deposition at Seattle as follows: "Q. How long did you think you worked up to the time that the child was born? A. I worked up to two months before I had it, because I laced down so tight it would always make me sick like, I know that much."

A. Yes, I said that.

Q. So then that was the truth, was it? A. Yes.

Q. And for two months before that baby was born you didn't do any work for anybody? A. I don't remember.

Q. Now, where were you staying for those two months before that baby was born?

A. I don't remember where I was staying, down to Granny's sometimes and all around.

Q. Now, then, you were confined, that is in bed, for how long with the child? A. About two weeks.

Q. Then, you nursed him for about six months?

A. Yes, I nursed him.

Q. The little fellow had to nurse quite frequently?

A. Well, when I wasn't there they had a bottle for him and when I went down I nursed him.

Q. When did that bottle idea occur to you, Minnie?

A. Well, I always knew we had a bottle.

Q. You never have sworn to it before, have you?

A. Well, I always knew it though.

Q. You say there at Kansas City you nursed the baby did you then?

A. Well, I nursed him at my breast, yes, sir.

Q. You said in your deposition at Seattle that you nursed the baby at your breast? A. Yes, I nursed him.

Q. And this is the first time right now that you have ever said anything about that baby being fed with a bottle, isn't it? A. Yes.

Q. Now, how come you now just at this time to think about that?

A. Well, I think of lots of little things.

Q. I know, but who has refreshed your memory?

A. Nobody didn't refresh it.

Q. Where were you the two months, Minnie, before this baby was born?

A. I worked at Grodevants pretty near time for that baby to be born.

Q. Yes, but there was two months that you didn't work, you went over and stayed at Mrs. Edwards?

A. I didn't stay there, I was just out and in.

Q. And that was before the birth of your baby? A. Yes.

Q. Now, you told them at Kansas City that you didn't remember the name of any girls that you went with at all, didn't you, at Leavenworth?

The Court: I think you have gone over that.

Mr. Linebaugh: I believe so. I beg the Court's pardon for repeating; there is so much of this it is difficult for me to keep it in mind.

Q. Now, Minnie, they were talking to you there at Kansas City a little something about a live Tommy, weren't they?

A. I don't know of them talking to me about a live Tommy.

Q. Didn't they have some conversation there with you about some boy that might be brought up to you to be identified? A. Not to me.

Q. Did this happen: "Q. Did you ever see Tommy after you left Leavenworth? A. No, but nobody will ever bring him in and tell me it is him." A. No, I never said that.

Q. If you did say that, do you now remember why you said it? A. Yes, I remember why I said it.

Q. Alright; why did you say it?

A. Simply because they wanted to bring in a colored child to me for Tommy Atkins and I said I wouldn't stand for it.

Q. That is what you said? Who wanted to bring that colored child in to you?

A. Sadie James and all of them.

Q. They wanted to frame up a colored child, didn't they?

A. Yes, and I said I wouldn't have it; that is all.

Q. And you had a fuss with them, right there, didn't you?

A. And you got mad, and you got so mad and nervous that you got sick and went to the hospital, didn't you?

A. Yes, went to the Cushing Hospital.

Q. They had negro boy right down there in the hotel, didn't they? A. I don't know where they had him.

Q. They wanted you to let them bring him up to your room?

A. That was that nigger Carter and I said that wasn't my kid.

The Court: What else was said, Minnie?

A. I said, no, no colored kid is my kid; and someone called up while I was in the hotel at Leavenworth, and said that Henry Carter wanted to come up and see me, that I was his mother, and I said no, no Henry Carter is a child of mine; and I wouldn't stand for it; and I said my child that I had when I was at George Hyde's—and Henry Carter is no child of mine. And Mr. Long telephoned for Henry Carter to come up in the office and see me and he said no, I won't come up unless somebody will come with me; and Mr. Long said, no, you come by yourself; come up and prove to us that Minnie is your mother; and he wouldn't come.

By the Court.

Q. You said someone wanted to bring up some colored boy; where was this—at the hotel? A. Yes, sir.

Q. At Leavenworth? A. Yes, sir.

Q. Who was it there who wanted to bring up a colored boy? A. I don't know who.

Q. Who told you about it? How did you come to know that they wanted to do that?

A. I think it was Mr. Long told me that somebody was trying to frame up a colored boy on me.

Q. He told you that?

A. Yes, sir, and I said Mr. Long, nobody won't frame up no colored boy on me because I know the father of my child.

By Mr. Linebaugh.

Q. You got mad about that?

A. Yes, I got mad and got sick.

Q. And got sick and went to the hospital? A. Yes.

Q. That is what made you sick, isn't it? A. Yes.

Q. And you wouldn't give your deposition there at Leavenworth because they brought that nigger story up on you?

A. No.

Q. And they came up to the hospital and paid you some money, didn't they?

A. I don't know whether—yes, I got some money.

Q. Paid you some money out at the hospital? A. Yes.

Q. And then they took you down to Tulsa, didn't they?

A. Yes, I went to Tulsa.

Q. And after that you agreed to give your deposition, didn't you? A. I don't remember.

Q. What? A. I don't remember.

Q. Now, when they took you from the hospital, after paying you that money in the hospital, they took you to Tulsa, and took you out [] Charlie Page's home, didn't they?

A. No.

Q. What?

A. I didn't go to Charlie Page's home right away.

A. I was stopping down town in a rooming house.

Q. Didn't Mr. Hanford call up to Charlie Page's home and they arranged for you to go right out there, and you went right out there with your nurse?

A. No, I didn't go out there to stay.

Q. You brought a nurse down from Leavenworth, didn't they?

A. Yes, a nurse was with me because I was sick in the hotel there.

Q. Who paid the expenses of that nurse?

A. I don't know.

Q. Who paid her railroad fare?

A. She just stayed one day and one night.

Q. Who paid her railroad fare down there?

A. I don't know.

Q. You didn't do it, did you? A. No.

Q. Who paid her for the services at Tulsa?

A. I don't know.

Q. You didn't do that, did you? A. No.

Q. Now, who was it that came up to the hospital to talk with you and get you in a good humor, Minnie, there at Leavenworth, when you had gotten mad?

A. Nobody didn't come up and talk to me and get me in a good humor.

Q. Well, who came there and paid you the money; who did that? A. What you say?

Q. Who came there and paid you the money at the hospital at Leavenworth?

A. Nobody didn't pay me the money, I got the check.

Q. I understand, but who gave it to you, Minnie?

A. I think it was Mr. Hanford.

Q. Mr. Hanford, came to the hospital and gave you the check, and that was the check for five thousand dollars, wasn't it? A. Yes.

Q. And that was the first cent you had ever gotten out of this transaction, wasn't it?

A. No, it wasn't the first cent I got out of it either.

Q. When did you get anything out of it?

A. I got five hundred dollars out of the five thousand.

Q. Where did you get that money?

A. I got it at Seattle, out of the bank.

Q. You did? Now, was that check made payable to you that they gave you out in the hospital at Leavenworth?

A. Yes.

Q. You didn't cash it, did you? A. I didn't need to.

Q. I understand; somebody else was paying all your expenses were they? A. I suppose.

Q. Do you know who was paying your expenses?

A. Mr. Page.

Q. Mr. Page; and so you took that money down to Tulsa and put it on time deposit right there at Tulsa, didn't you?

A. Yes.

Q. What did you do that for, Minnie?

A. For it to draw interest.

Q. Well, you lived up at Seattle?

A. Well, that was alright.

Q. Banks up there pay interest, don't they?

A. Well, I just wanted to put it in there and I put it in there.

Q. That was Mr. Page's bank, wasn't it?

A. No, that wasn't Mr. Page's bank.

Q. Whose bank was that? A. I don't know.

Q. Who told you what bank to put it in there?

A. I don't remember.

Q. Well, how did you find out the bank to put it in there?

A. I think I asked Mr. Long what would be the safest place for me to put my money in the bank and Mr. Long told me about that bank.

Q. And you put it in on time deposit? A. Yes.

Q. How long did you leave it there on time deposit?

A. I left it there about four months, I guess.

Q. And the- you agreed to give your deposition, didn't you, and did give it in Rice & Lyon's office in Tulsa? Is that right? A. I don't remember.

Q. Now, Minnie, when you told Judge Stuart on direct —no; now, Minnie, in July at Sapulpa, in July, 1914, at Sapulpa, and also prior to that time, you had stated that the child was born after you left Stafford's; in your October testimony that you gave at Rice & Lyon's office, you stated that the child was born after you left Hyde's, is that right—before you went to Grodevant's?

The Court: I think that matter was covered in cross examination yesterday.

Mr. Linebaugh: Not as to the October——

A. I didn't have Tommy after I left Stafford's at all.

The Court: You asked her about her various statements, you went over all of that.

Q. Now, then, was—— I am pretty sure I haven't asked you this. If the Court please, I don't think I have—— In your Receivership testimony—— That is in the testimony you gave in this Court in March, 1915, you testified that Tommy was born before you worked for Grodevant's, didn't you? A. No, I don't think I did.

Q. Was the following questions asked and answers returned by you—— Now, then, in your depositions before Mr. Penick—— I will refer back to that place when I find the place—— In your deposition before Mr. Penick, you testified that you was carrying Tommy, in answer to a question from Mr. Hanford, while you were working for Grodevant's, didn't you? A. Yes, I did.

Q. Now, what happened between the two times that refreshes your memory as to where you was working when Tommy was born?

A. Well, I knew all the time, there was nothing to refresh my mind.

Q. I understand; then, why did you say in March, 1915, the following, if you did say it: "Q. Then, you went from Hyde's to Grodevant's? A. No, I didn't just go right off. Q. Now, how long until you did go? A. Well, I did not go up to Grodevant's until I had Tommy Atkins. When I left Hyde's I was with him. Q. How long from the time that you left Hyde's until you went to Grodevant's? A. I don't know just how long. Q. Give the Court some idea? A. Well, I was there, I was down about a year in the city." A. No.

Q. You didn't give that testimony. Didn't you also give testimony to that effect in your deposition in Rice & Lyon's office? A. I might have, I don't remember.

Q. Now, did you in your testimony at Seattle testify that you was carrying Tommy when you worked for Grodevant's? A. Yes.

Q. Now, what had happened in the meantime to refresh your recollection?

A. Nothing had happened, I just knew all the time.

Q. Had anybody talked to you?

A. Nobody had talked to me.

Q. Nobody had made any suggestion. Now, Minnie, how old was Tommy when you come down to the Indian Territory? A. I don't know just how old he was.

Q. You stated in your Sapulpa testimony that he was about five years and six months old, didn't you?

A. Well, I was guessing.

Q. That was your best judgment at that time, wasn't it? Now, did you sleep at Granny's for a period of a year?

A. No, sir.

Q. Did you testify before this Court in March, 1915, did you testify as follows: "Q. Well, you had to have some place to sleep during that year? A. Well, I stayed the most at Granny Letcher's. Q. Slept there quite a lot, did you? A. Yes."

A. No, I didn't say that. I could always get a place to sleep.

Q. Now, Minnie, when was Tommy born, the time of day, was it in the night time or in the day time?

A. Well, I couldn't say whether it was day or night. Now, that is too far back for me to remember.

Q. Do you remember, Minnie, when the pains begun, when you began to feel the pains of child birth?

A. Well, they commenced in the day.

Q. In the day. In the morning or afternoon?

A. Oh, I don't just remember when it was.

Q. How long were you in pain before the delivery of the child? A. I don't know how long.

Q. Don't you remember about how long?

A. Well, it was about as long as anybody would be in pain for a child.

Q. I understand, how long were you in pain before you delivered this child?

A. I don't know, I don't remember.

Q. Did you have a doctor? A. Yes, I had a doctor.

Q. Who was the doctor? A. Dr. McCormick.

Q. You was asked at Sapulpa, weren't you, who the doctor was and you told them then that you didn't know, didn't you? A. Well, I had to study all those things out myself.

Q. Well, has anybody helped you in your study?

A. No, I had to study; that was a long time for me to remember, and I was only a child like, and I had to study. I might have got some things wrong not meaning to do it.

Q. The question was asked you, was it at Sapulpa, if you remembered the doctor: "Who was present at the birth of Thomas Atkins? A. I don't remember that. Q. What doctor waited on you? A. I don't know that."

A. Well, I didn't at that time, but I studied it out.

Examination by the Court.

Q. Who paid the doctor, Minnie, do you remember that?

A. He didn't get any money that I know of, Judge.

Q. Who sent for him? A. I don't remember that.

Q. Had you ever seen Dr. McCormick before that?

A. Well, I heard of him, I knew of him.

Q. How do you remember how you knew of him, Minnie?

A. No, this is what I said to Granny; I said, well I have to have a doctor, I am pretty sick; and she suggested you had better go and get Dr. McCormick.

Q. Who got him?

A. Someone around the house there, I don't know who.

Q. And how long after that until he came?

A. He wasn't very long I don't think coming.

Q. Minnie, what time of day was that, if you remember?

A. Seemed like to me he came in the evening as well as I can remember.

Q. And then he was there until the boy was born?

A. Yes, sir.

Q. Did he come back any more?

A. I think he did to see if I was all right; I couldn't say for sure, but I think he did.

Q. Did you know at that time where Dr. McCormick lived?

A. No, I didn't know.

Q. Had you heard about him before this?

A. Granny just suggested that she would get him.

Q. Well, was that the first you heard of Dr. McCormick?

A. Yes, sir.

Q. When she suggested it? A. Yes, sir.

Q. Now, Minnie, while we are on that point. Now, after the baby came how long was it, just tell me as nearly as you can how long it was after Tommy came until you went back and went to work at the Fort?

A. Well, I think just a little over three weeks.

Q. Little over three weeks? A. Yes, sir.

Q. Then, you went back to work where?

A. To Grodevant's.

Q. To Grodevant's? A. Yes, sir.

Q. Now, you say you would come down to see Tommy at Leavenworth? A. At night, yes, sir.

Q. Every night? A. Yes, sir.

Q. How did you go back and forth from Leavenworth? A. It was a bus.

Q. And you come down, what time in the evening would you come down?

A. Well, just as soon as I could get through with my work I would come down. Sometimes they would get through about eight o'clock, and sometimes half past seven, just according what time Mrs. Grodevant's brother-in-law would get there, Frank Grodevant, I had to wait on him.

Q. You say you had to wait on him?

A. He was boarding there with them.

Q. And he didn't eat with the rest of the family?

A. No, he was always late; he worked in town.

Q. Now, then, how long would you stay in town on those occasions?

A. Well, I would stay down there with Tommy, sometimes catch the last bus going back up again.

Q. About what time would the last bus usually go?

A. Half past twelve.

Q. And then you would go back? Now, about how long, Minnie, did you continue to go down to see him that way, every night on the bus?

A. Well, I just couldn't state how long it was, Judge, that I would go down that way.

Q. What did the bus charge? A. 10 cents.

Q. Ten cents each way? *A.* And you say you would nurse the baby when you made the trips?

A. When I made the trips, and when I wasn't there, of course they gave him the bottle.

By Mr. Linebaugh.

Q. Minnie, right in that connection, did you tell those gentlemen up at Kansas City, the following: "Q. You stayed there at Granny Letcher's for about a year after he was born? A. Yes, around in Leavenworth. Q. Where did you leave Tommy? A. There at Grandma Letcher's; he never left at all this time, you know—he was merely going on—— Well, some said he was pretty near 14 when he left Granny's but he left Granny's in this way; there was a woman came there and told Granny that I had told her to take him, and that is how he come to disappear, but I didn't. Q. Well, you stayed there for about [] year then; did you pay Granny for taking care of the boy? A. No, she took care of him herself."

A. I didn't stay there a year.

Q. Well, I know, but did that happen in Kansas City?
A. I don't remember.
Q. Did you say that at Kansas City? A. Yes.

The Court: How is that, Minnie? Did you say that at Kansas City?

A. Yes, but I didn't stay with Granny a year.

The Court: Sometimes you don't make it plain where the place *it*.

Q. Now, in that connection, in Rice & Lyon's office, when you were giving depositions there, were the following questions and answers returned by you:

"Q. Minnie, state whether or not there was a child born to you in Leavenworth? A. Thomas Atkins. Q. Your answer is the, yes, there was a child born and you named him Thomas Atkins? A. Yes. Q. Where was he born? A. He was born at Granny Letcher's. Q. At Leavenworth? A. Yes. Q. After Tommy was born, how long did you remain in Leavenworth? A. Well, after he was born I must have stayed about a year. Q. And when you left Leavenworth, where did you go? A. I went up to the Post. Q. That is the Fort? That is the Fort about three miles from Leavenworth? A. That is the Fort."

The Court: You are asked, Minnie, if that was your testimony in Rice & Lyon's office when your deposition was taken.

A. Yes, as far as I could remember, that was *t*hat I said.
Q. Now, Minnie who went for this doctor that you had?
A. I don't know.

Mr. Stuart: She stated twice she didn't know.

The Court: I covered that; she said she didn't know.

Q. You told in Kansas City who went, didn't you?
A. I told them who waited on me.
Q. Who paid the doctor's bill?
A. I don't know who paid it.
Q. You told them in Kansas City who paid the doctor's bill, didn't you?
A. Well, I wasn't sure whether he paid it or not.
Q. Did this negro man Rube Smith pay the doctor's bill?
A. I can't say that he did for I don't know.
Q. Now, did this happen in Kansas City, were these questions asked you and answers returned: "Q. Do you remember the name of the doctor? A. No, I don't exactly remember it because I just told Granny Letcher to get a doc-

tor, and I think she sent a colored man for the doctor; I don't know his name. Q. What colored man was that? A. Rube. He came there with some groceries. Q. And was the doctor a white man or a colored man? A. I don't just remember that either; he must have been a white man. Q. How many times did that doctor come, do you know? A. No, I was awfully sick, I don't remember. Q. Did you pay the doctor? A. I borrowed the money. Q. Who did you borrow it from? A. I don't know where Granny got it. Q. You got the money really from Rube Smith? A. Yes. Q. You got the money from him to pay the doctor? A. Yes." Were those questions asked you and answers returned by you at Kansas City?

A. Yes.

By the Court.

Q. Now, was that true, Minnie?

A. No, it wasn't true. I was just guessing at it. I was just guessing I got the money from Rube and all; I couldn't remember about Rube paying it. Some of the statement is true and some I just made a guess.

Q. Now, which part is true, Minnie, tell me that; which part did you guess about and which part is true?

A. Well, I was only guessing about Rube paying it, and my borrowing the money—I don't remember about borrowing any money.

Q. You were guessing at that?

A. I was guessing about that as far as I could, because it was so far back.

Q. Now, which part were you not guessing about? Were you guessing about the doctor?

A. No, Granny said that she was going to send for Doctor McCormick, I remember that.

Q. You can remember that?

A. Yes, sir. I wasn't guessing about that.

Q. Well, you know that you did have a doctor?

A. Yes, sir; but the paying and things that way, I was just kind of guessing, I don't know for sure how he got his pay or anything that way.

By Mr. Linebaugh.

Q. Minnie, did you ever go up to this Doctor McCormick's office? A. No, sir.

Q. You remember there was—to refresh your memory, don't you remember there was a man named Doctor McCormick whose office you did go to about some other matters?

A. No, sir.

Q. Now, when you left Leavenworth was this baby walking around? A. Yes, sir.

Q. How was he dressed the last time you ever saw him?

A. Tommy?

Q. Yes.

A. Always kept him in white—little white dresses.

Q. Did he have a little white dress on the last time you remember seeing him? A. I don't remember, I can't say.

Q. Now, tell the Court, Minnie, how that baby of yours looked, and how he was dressed, if you can, the last time you ever saw him.

A. Well, I just can't remember how he looked the last time, but he was always around in little white slips.

Q. Minnie tell the Court where the boy was the last time you ever saw it.

A. I left him at Granny Letcher's when I went to Fort Logan.

Q. What time of the day was it, the last time you ever saw him?

A. I left for Denver, Colorado, that—for Fort Logan that evening—that night, in the night.

Q. But what time of the day was it, the last time you ever saw your baby?

A. I don't just remember the day.

By the Court.

Q. What time of the day, do you remember you left for Fort Logan in the evening?

A. Yes, I went in the evening.

Q. Then, how long before you left, was it, before you saw your baby? A. I saw him in the morning.

Q. Of that day? A. Yes, I left that night.

By Mr. Linebaugh.

Q. You had a mother's love for this baby, didn't you?

A. Sure.

Q. Where was he about the house that last time that you saw him? A. He was playing about the house.

Q. Where was he when you bid him goodbye?

A. In the house.

Q. Where in the house? A. At Granny's.

Q. I know; where in Granny's house?

A. Down stairs in the room.

Q. Who was there?

A. Granny and several people; I don't just remember who the people were.

Q. Can you remember any of them?

A. No, I can't remember.
Q. Could he talk to you at that time?
A. I don't remember whether he talked or not.
Q. Minnie, don't you remember whether your baby could talk? A. I guess he could say a few words.
Q. Could he? Could he? A. I guess he could.
Q. Did he? A. I think he did.
Q. What few words?
A. I don't remember the few words that he said.
Q. What were the first words you ever heard him say?
A. He called me Mamma.
Q. And what was the first word other than Mamma that you ever heard him speak?
A. When I would go around there to see him or anything, he would ask for titty.
Q. That meant he wanted something to eat, did he?
A. Sure.
Q. He called your breast titty; now what words did he speak that last time you saw him? A. I don't remember.
Q. Did he speak any words when you bid him goodbye? Do you remember? A. I don't remember.
Q. You came back to Indian Territory in 1906, didn't you?

The Court: Yes, that is plain. That has been gone over.

Q. Did you go from Kansas City to Leavenworth?
A. I don't know.
Q. Did you telephone over to Leavenworth?
A. I don't know.
Q. Minnie, when did you hear first that Sadie James was on your side? A. Sadie James never was on my side.
Q. Didn't they tell you up there at Kansas City that Sadie James was now helping them get evidence?
A. No, they didn't tell me.
Q. When did you first hear that Betty Mann was on your side? A. I didn't know Betty Mann was on my side.
Q. Dennis Jones, did you know about him being on your side? A. No.
Q. Babe Smith, did you know about him? A. No.
Q. You didn't know whether they were on your side or not? A. I didn't ask about that.
Q. Now, when you came down to Tulsa, the day you gave your deposition, you also made a deed to Mr. Tiger to your royalty interest in this land, didn't you? A. Yes, sir.
Q. What did you do that for?
A. Simply because I was in the right.

Q. But you were selling him, deeding him your whole interest in this land, weren't you?

A. I don't know whether I did or not.

Q. You signed that, didn't you? A. I think I did.

Q. Did you advise with anybody before you signed it?

A. No.

Q. You read it over before you signed it, didn't you?

A. Yes.

Q. Now, why then did you put this in there, Minnie: "That in the event Thomas Atkins, the son of the first party —referring to you—and the person described in the allotment of said land, or the rightful heirs of said Thomas Atkins shall succeed in maintaining a title to said lands"; what was that put in there for? A. I don't know.

Q. Well, when you read it over, didn't you inquire to find out? A. No.

Q. Now, why was this put in there, Minnie: "That upon the commencement of any suit or suits by the United States, the Creek Nation, or Thomas Atkins, or persons claiming under him, or by any other person or persons presenting a bona fide case, all payments shall stop," do you know why that was put in there? A. No.

Q. When you read that over did you ask anybody?

A. No.

Q. Did you in talking with your lawyer, Mr. Hanford?

A. No.

Q. Minnie, do you know why you wasn't in the court room when Mr. Hanford gave his testimony?

A. Yes, I just didn't want to come over.

Q. You didn't want to hear his testimony?

A. Yes, I didn't say I didn't want to.

Q. Why didn't you come over and hear it then?

A. Well, I just didn't come over, had no reasons.

Q. Now, you had a little falling out with Mr. Hanford, didn't you? A. No.

Q. Now, Minnie, you didn't get acquainted with this man Peterkin—— When did you get acquainted with this man Peterkin? A. When I was out at the Fort.

Q. You didn't meet Peterkin until you had begun to work for Stafford, you testified in the deposition, didn't you?

A. That is right.

Q. Well, now, that is right is it? How long did you work for Stafford? A. I think I worked for him a year.

Q. That is your best recollection?

A. Yes, my best recollection.

Q. You were in Leavenworth all together about three years? A. I think I was there pretty near four.

Q. About three and a half years, weren't you all together?

A. I don't know, I don't remember just how long I was there.

Q. Well, you worked for Hyde's how long?

A. Well, I judge I was there about three months or a little over.

Q. And for Grodevant's how long?

A. A year and six months.

Q. And for Stafford you say about a year, maybe a little longer? A. Maybe a little longer, I don't remember.

Q. But when you left Stafford you went to work for a rich Jew, didn't you? A. I don't remember.

Q. Well, you have testified heretofore that you did work for a rich Jew in every testimony that you have given, didn't you?

A. Well, there was some rich Jew there I worked for, but I don't know much about him.

Q. How long did you work for this rich Jew?

A. I don't know.

Q. About how long? A. I don't know.

Q. Well, just your judgment?

A. I have no judgment how long it was.

Q. After you left the rich Jew, where did you go to work?

A. I don't know where all I worked.

Q. Do you remember any other place that you worked in Leavenworth except the places that you have named?

A. No, I think when I quit there is when I went to Denver.

Q. When you quit where? A. The rich Jew.

Q. You went then to Denver? A. I think that is it.

Q. Well, you left Stafford to go to the rich Jew did you, ma'am? A. I don't remember.

Q. Now, Minnie, tell the Court the circumstances of your get acquainted with Granny Letcher?

A. Well, she was a woman there that anybody could go in and out and go around and I just went there.

Q. Well, the first time you got acquainted with her, do you remember that incident?

A. When I first knew her?

Q. Yes, the first time you ever saw her?

A. The first time I ever saw her she lived on Choctaw Street.

Q. Cherokee Street you mean?

A. Choctaw, I think, I don't remember.

Q. Well, were you at her house then?

A. I had seen her yes.

Q. What was the occasion of your meeting, just tell the Court?

A. No occasion. Just like I would see anybody else.

Q. Now, you told them up there in Kansas City that Granny Letcher was pretty near white, didn't you?

A. Well, she wasn't black.

Q. Well, was she pretty nearly white?

A. Well, as far as my recollection.

Q. That is as far as your recollection goes, now was there anybody, Minnie, around there that you went with pretty frequently that you now remember?

A. No, I don't remember.

Q. Was there any one that you now remember that was your companion that you went with frequently?

A. Oh, I went with different women, I don't know who. I didn't have any steady companions.

Q. Can you name some of those women?

> The Court: That was all gone over yesterday. She testified she never had much to do with women.

Q. While you were working for Hyde's you worked all the day, did you? A. Yes.

Q. That was true at Grodevant's? A. Yes.

Q. True at Stafford's was it?

A. Well, I just don't know how long I worked at Stafford's.

Q. I understand, but while you worked you worked during every day, did you?

A. No, I was off every afternoon at Stafford's.

Q. What time?

A. Well, I would get through with my dishes about half past one or two o'clock, and then I would go to town.

Q. Then, you would have supper to get?

A. At half past six o'clock.

Q. You had to get back to cook it?

A. I would always get back at half past four or five o'clock.

Q. That was the only time you had off at Stafford's, was that time in the afternoon, was it? A. Yes.

Q. Now, when you worked for the rich Jew, did you stay at his house and work during the day time?

A. Yes, I would work in the *say* and do up my morning work and then go back and get supper just like anybody working out, they have some time off.

Q. During the days you were out at the Fort, you were nursing Tommy, did you have anything for your own service, your own use, breast pump, anything like that? A. No.

Q. Well, how did you manage your breasts during the day, they would fill up so you would have to relieve them some way? A. Well, I would pump it out.

Q. You just told me you didn't have a breast pump?

A. I didn't. I pumped it with my hands.

Q. You remember that, do you? A. Sure I remember it.

Q. Did Robert Lee nurse?

A. I don't know. He didn't live long after he was born.

Q. But the time he did live, did he nurse?

A. I don't remember.

Q. Now, when you come down here to Indian Territory or to Oklahoma the first time before you gave your Sapulpa testimony, where did you stay?

A. Down town in the hotel.

Q. Did you stay at Mr. Page's home any time?

A. No, I would just go out there at Mr. Pages, I never lived with Mr. Page.

Q. Before you were put on the witness stand, did you talk with Mr. Page or anybody else about what you were going to testify?

A. Mr. Page didn't know what I was going to testify.

Q. You had talked to the lawyers? A. Yes.

Q. You had told them what your testimony was going to be? A. Yes, as far as I could remember.

Q. That was true before you testified at Tulsa, wasn't it?

A. I don't know.

Q. Did Mr. Hanford ever tell you, Minnie, that you had made a mistake in any of your testimony about saying four children and that you should correct it and say five?

A. I told him myself, I told him I made a mistake, I should have said five at the beginning.

Q. You said four at the beginning, didn't you?

A. Yes.

Q. When you left the witness stand down at Sapulpa, did Mr. Hanford step up to you and say, now you have made a mistake, you have said four and you had five?

A. I knew all the time I had five.

Q. I understand, but did Mr. Hanford say that?

A. I don't remember.

Q. You didn't tell anything about Robert Lee down there?

A. I wasn't asked about him.

Q. Is that the reason you didn't tell about him?

A. Yes, sir.

Q. You were asked as to the children, Charlie, Harvey, Alice and Tommy?

A. Robert Lee didn't live hardly any.

Q. Alice didn't live either did she?

A. Yes, she did, she lived to get on the rolls.

Q. Was there any difference in the complexion of Charlie and Harvey? A. What?

Q. Is Charlie a light complected boy and Harvey dark?

A. Well. Charlie is a little lighter than Harvey.

Q. Charlie is a little lighter than Harvey? A. Yes.

Q. Do you know how to account for that?

A. Well, I suppose it came about this way: Harvey took after me being dark; and Charlie took after his father, being a white man. In fact, both children's father was a white man.

Q. Every child you have had, the father was a white man?

A. Yes, sir.

Q. And every child you have had, you have named for some man, haven't you except this one that you say you had named Tommy Atkins?

Mr. Stuart: Well, she said she named him for a man.

The Court: Named him for her father.

Q. Well, I mean the man who was your paramour at the time you conceived the child? A. Yes.

Q. When did you tell about having five children, Minnie, the first time? A. I don't remember.

Q. You never have testified to that, have you, until the receivership hearing?

A. Well, I knew I just had to tell the truth about my child and I told—my children and I up and told about my children as far as I knew.

Q. Now, down at Kansas City, when they were talking there, and Mr. Hanford was present, that was in a room there, did you tell them anything about the Peterkin child? A. No.

Q. Did Mr. Hanford tell them anything about the Peterkin child? A. No.

Q. How did they know it? A. I don't know.

Q. Mr. Page had learned about Peterkin down at Tulsa, hadn't he?

A. I don't know nothing about what Mr. Page had learnt.

Q. Now, when you gave your deposition in Rice & Lyon's office, did you testify anything about the Peterkin child?

A. No.

Q. Why didn't you?

A. Well, the business didn't come up on the Peterkin child. it come up on Tommy Atkins.

Q. The business didn't come up on the Peterkin child?

A. No, it come up on the Tommy Atkins.

Q. Now, Minnie, you didn't name Tommy Atkins until you came down here in 19—?

A. He was always named Tommy Atkins. When he was born I named him Tommy Atkins.

Q. When you gave your deposition in Sapulpa, following questions were asked and the following answers returned: "Q. How about the other names that were on there in the family containing your name? A. Well, I had Tommy put on because that was in my name; I hadn't named Tommy Atkins and I had my uncle put him on there as Tommy Atkins."

A. I didn't say that.

Q. You didn't give that testimony?

A. I don't remember of giving it.

Q. That was the time you had your uncle put him on the roll, wasn't it?

A. I don't know whether my uncle put him on or not; I don't know who put him on.

Q. Didn't you say in your deposition at——

A. Well, I was just guessing, I don't know.

Q. At Seattle, didn't you give the following testimony: "Q. You put him on the pay roll"—talking about Tommy—"A. I had my uncle put him on. Q. When? A. When I was in Muskogee. Q. Did you tell your uncle you had a child by the name of Tommy, did you? A. Yes. Q. You didn't know whether he was dead or not, did you? A. I knew he was dead then." Did you give that testimony? A. Yes, sir.

Q. And further did you give this testimony: "Q. Relying, I said just relying on the fact that he had been living and you had not heard that he was dead and you therefore presumed he was alive in 1905"—I presume that is intended for 1895—"A. I told my uncle I had a baby in Leavenworth named Tommy Atkins, would he put him on the roll and he said he would." That was your testimony there, wasn't it? A. Yes.

Q. Now, Minnie, when were you sick in your pregnancy?

A. I don't remember.

Q. When you were sick at the start and not at the conclusion, weren't you? A. I guess so.

Q. Then, the times that you were sick was just after you became pregnant and not just before the child—not just before the birth of your child, wasn't it? A. I don't know.

Q. Did you know a man at Leavenworth, named Dennis Jones? A. Yes, I knew him.

Q. Now, in your Tulsa deposition, did you give the following testimony with reference to Dennis Jones—did you testify there, that you knew Dennis Jones but wasn't acpuainted with him? A. Yes.

Q. That was the truth? A. Yes, I knew him.

Q. At that time, was it? *A.* Now, Minnie, you had never gone with any soldiers, or had you gone with any soldiers when Tommy was born?

A. No, I didn't go with any soldiers.

Q. Until after Tommy was born? After Tommy was born —that is what you told those people up there in Kansas City wasn't it? A. Yes.

Q. They were asking you if a railroad man didn't come to see you and you told them that they did, didn't you?

A. I don't remember telling them anything like that, no.

Q. Ma'am? A. No.

Q. Now, did you write back to Leavenworth after you left there? A. No.

Q. You never wrote a letter to anybody; did you ever send any communication of any kind back to Leavenworth after you left?

A. I can't remember whether I did or not; I might have.

Q. Now, in your deposition in Seattle, did you give the following testimony——

And thereupon, court recesses until 1:30 o'clock P. M.

And thereafter, and at 1:30 o'clock, court convened pursuant to adjournment and further proceedings herein were had as follows:

Mr. Linebaugh: Before I turn over the witness might it be agreed, gentlemen, that the statements she gave in Kansas City, this record which Mr. Hanford gave us shows that this statement was taken on the 29th of September, 1914, may it be agreed as to the date?

Mr. Stuart: I think so; of course that is in subject to our objection.

The Court: I presume it is agreed then that all the testimony incorporated in questions relating to these—this Kansas City testimony of Minnie, put to her here, all that testimony appears in the transcript where she——

Mr. Linebaugh: Your Honor, I was just going to come to that now. For the purpose of shortening this record, I wanted to ask counsel if they will take the daily transcript and those statements made at Kansas City by the witness, and if it appears that I have in each instance, when I have interrogated her about something that was asked her here, that that interrogation was correct, that is, that I read correctly——

Mr. Stuart: I assumed that of course.

Mr. Linebaugh: May it then be agreed that that portion of the record about which I interrogated her, may be offered as a part of the cross examination of this witness?

The Court: That may be admitted and considered by the Court as to what that shows in answer to your questions, whether she so testified or not.

Mr. Linebaugh: I ask if the same will be true as to the testimony given by this witness at Sapulpa, at Tulsa, in Rice & Lyon's office in 1914, in the Receivership hearing before this Court, and in the depositions given before the examiner at Seattle, Washington, in the interest of shortening the matter.

Mr. Stuart: In the interest of shortening the matter but not in the interest of justice—— Your Honor, I hate to agreed *to agreed* to any thing of that sort; you can't tell what the witness said unless you find out all that she said. I haven't read this at all, but the other one I have read some of and I don't know just how to do that; however, I believe I will agree for it to go in, Your Honor.

The Court: Then it will be understood in relation to her hearing at Sapulpa, and the depositions taken at Tulsa, and the hearing had at Kansas City; now w*h*ere there any others?

Mr. Linebaugh: The receivership hearing.

The Court: And the testimony in the receivership hearing.

Mr. Linebaugh: And her deposition before Mr. Penick in Seattle, in January; and so far as the testimony of Minnie Atkins has been referred to by counsel in cross examination and quoted by him in his questions, will be considered, now, as offered in evidence and admitted in evidence as being the testimony appearing at Sapulpa, Tulsa, Kansas City hearing, and the Seattle deposition, and on the receivership hearing.

Mr. Stuart: I would like to have the record show subject to such exceptions as the witness has already made.

The Court: Certainly

Mr. Cruce: Except also—and subject also to objections that we made to any portion of the Kansas City statement.

The Court: Yes, of course, if that were not done, counsel would take time to offer in evidence the various things, then counsel for the other side might, if they desired have all or certain other parts if they desired.

Mr. German: Twice Your Honor spoke of the Kansas City statement as being taken at a hearing; you understand that was a private inquiry?

The Court: I understand what that was and probably it would be of some interest to me if I had it all, but I have that part in here.

Mr. Linebaugh: It is agreeable, if counsel desire that it all may go in.

MINNIE FOLK being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Minnie Atkins.
Q. You are now Mrs. Folk?
A. I am now Mrs. Folk, but I was Minnie Atkins.
Q. What age are you? A. I am about fifty.
Q. What was your father's name? A. Tommy Atkins.
Q. What was your mother's name?
A. Mary Jane Atkins.
Q. Are they living or dead? A. They are both dead.
Q. About how old were you when they died?
A. Well, when my mother died I was about——well be close to eleven, about eleven as far as I can remember.
Q. And when your father died?
A. They died a year apart.
Q. Your father Thomas, and your mother, Mary Jane, died about a year apart? A. Yes, sir.
Q. You had a child by the name of Charlie Harrison, didn't you? A. Yes, sir.

By Mr. Hanford: The defendants object.

Q. And another by the name of Harvey Harrison?
A. Yes, sir.
Q. When were those two boys born?
A. Charlie was born in Fort Logan in May.
Q. What year? A. I don't remember what year.
Q. About how long was it after the death of the little girl of yours that died in Fort Logan?
A. Before Charlie was born?
Q. Yes?
A. Why, I don't just remember, it was—I don't remember.
Q. Was it as much as three years?
A. No, it wasn't quite that long.
Q. About two? A. Well, I don't just remember.

Q. Which was born first, Charlie or Harvey? A. Charlie.

Q. About how long after Charlie's birth was it until Harvey was born?

A. Charlie was going on about—Charlie was nearly three years old.

Q. When Harvey was born? A. Yes.

Q. How old was Harvey—How old is Charley now?

A. He is twenty-four.

Q. Twenty-four now, this is January, 1916, then he was twenty-four last May? A. Yes, he was born in May.

Q. In 1895 you went to the Indian Territory, didn't you?

A. Yes, sir.

Q. Did you draw any of the Tribal payments that was made in the year 1895 by the Creeks?

A. Yes, I was there at the payments.

Q. You drew money there at that payment?

A. We drew for four.

Q. Four people. Do you know how the names of the four people for whom you drew, or the names of the family in which your name appeared, got on that roll?

A. Well, I had Tommy Atkins, my first boy, put on by my Uncle.

Q. What was your uncle's name? A. John Davis.

Q. How did the others get on?

A. Well, they wrote to me and I had them put on.

Q. I am speaking of the 1895?

A. Oh, well, I told them too because I had them down there.

Q. In 1895?

A. The children were there when the payment was, the children were in Muskogee when the payment was made.

Q. Harvey and Charlie? A. Yes, sir.

Q. How about the other names that were on the '95 roll?

A. Well, Mabel was too put on, I was not to have that, she was dead and I couldn't draw for the dead.

Q. How about the other names that were on there in the family, containing your name?

A. Well, I had Tommy put on because that was not my name, I hadn't named Tommy Atkins, and I had my Uncle put him on there as Tommy Atkins.

Q. How about the others in your family that were put on? A. They were put on as Charlie and Harrison.

Q. Charlie and Harvey, you mean? A. Yes.

Q. Were there any other names of the members of your family put on? A. No, not that I remember.

Q. Do you know how the name Nancy came to be put on in the same family?

A. Well, I suppose she had her own name put on, I didn't worry much about Nancy.

By Mr. Hanford: I wish to strike the questions and answers relating to the 1895 payment and enrollment as incompetent, irrelevant, and immaterial, and I will state that my motion to strike is made at this time, as I didn't object to the questions to avoid the continuity of the examination.

By Mr. Blakeney: We want to object to any examination of this witness upon any grounds because of action attempted to be alleged regarding the fraudulent enrollment for the reason that the same is incompetent, irrelevant, and immaterial; this objection not of course appearing at this time as the Government has not pleaded its record or pleaded its evidence, but we will insist that this evidence will never be made by anything relevant or material under the issues and pleadings in this case.

By Mr. Hanford: I want to make an objection and want to ask her a preliminary question: Minnie, is it your intention to be in Muskogee at the time this case is on for trial?

A. Yes, sir, I will be there.

By Mr. Hanford: On the question and answer preceding, the defendants Folk and Hanford object to the taking of the testimony of the witness at this time, and move to strike the previous questions and answers, and further move to strike the deposition of the witness taken at this time.

By Mr. German: We will not cover as much detail then, Mr. Hanford, as we would have.

By Mr. Hanford: She is going to be there.

By Mr. Blakeney: I don't expect this statement in any way to abridge any matters I desire to cross examine her about.

Q. When did you receive the second five thousand ($5,000.00) dollars, or the consideration for the oil lease which you executed to the Page interests?

By Mr. Blakeney: We object, as assuming that she received any five thousand.

Q. I will ask this question then: Did you receive five thousand ($5,000.00) dollars from either the Gem Oil Company or Page & Josey, as a part of the consideration of an oil and gas lease which you gave them, as the last payment of the consideration of ten thousand ($10,000.00) dollars?

A. Do you mean did I receive it from Page & Josey?

Q. Yes?

A. Yes, I received the ten thousand—five thousand ($5,000.00) dollars.

Q. When did you receive that five thousand—the last five thousand?

By Mr. Hanford: Object to that on the ground that it is incompetent, irrelevant, and immaterial.

Q. That is, did you receive it before or after you testified?

A. After.

Q. At Tulsa? A. After.

Q. After you had testified?

A. I didn't receive it first.

Q. You didn't receive it first? A. No, sir.

Q. You testified at Tulsa in the fall of 1914, didn't you —this last fall, a year ago, in October or November? Do you remember, Mrs. Folk? A. Why, I testified in Sapulpa.

Q. But I am speaking of the time that you testified in Tulsa at the office of Rice and Lyons, was that this fall a year ago? A. It was in the summer.

By Mr. Hanford: I don't think she understood your previous question.

By Mr. German: I will waive that, we can prove the date of that testimony from another source.

Q. Mrs. Folk, state whether or not Mr. Hanford saw you between the time that you signed the admission when Frank Montgomery was here and the time that you withdrew that admission and took it back? A. I don't understand you.

By Mr. Blakeney: I object to the question as assuming that she signed any admission and assuming that she took it back.

By Mr. German: Well, I will withdraw the question. That is all.

Cross Examination by Mr. Hanford.

Q. Minnie, you received that five thousand ($5,000.00) dollars at Leavenworth, didn't you? A. Yes.

Q. You were sick in bed? A. Yes.

Q. And in the hospital? A. Yes.

Q. And after you got out of the hospital you went to Tulsa, didn't you? A. Yes.

Q. And it was while you were in Tulsa that you gave your deposition in Rice & *Long's* office? A. Yes.

By Mr. German: I want to ask her redirect one question.

By Mr. German.

Q. You say you received that five thousand ($5,000.00) dollars at Leavenworth? A. Yes.

Q. And it was about how long after that until you testified in the office of Rice & Lyons at Tulsa?

A. It was about a week after.

Q. After the time you received this five thousand dollars at Leavenworth, a number of witnesses had testified there, hadn't they, at Leavenworth? A. Yes.

Q. And did you hear them testify? A. No, I was sick.

Q. You didn't hear any of them? A. I didn't hear——

Q. You were sick in the hospital? A. Yes, I was sick.

Q. At the hospital?

A. No, I was at the hotel a day, and I went to the hospital.

Q. You went on the witness stand there at Leavenworth, didn't you, for the purpose of testifying?

A. Yes, I went, but I was sick.

Q. You fainted on the stand at Leavenworth, didn't you?

A. No, sir.

Q. You collapsed, didn't you?

A. I didn't collapse at Leavenworth, I collapsed in Kansas City.

Q. On the road from Leavenworth to Tulsa?

A. Yes, Kansas City to Leavenworth.

Q. All right, on the road from Kansas City to Leavenworth. How long before you went on the stand at Leavenworth was it before you collapsed in Kansas City?

A. I didn't go on the stand at Leavenworth.

Q. All right, I thought you went up to give your testimony there?

A. I took sick and they couldn't have me, and they had it in Tulsa.

Q. When you received this five thousand ($5,000.00) dollars at Leavenworth, how was it paid to you? A. In a check.

Q. Check, did you get the money on the check there in Leavenworth? A. No, sir.

Q. Who gave you the check, who was it signed by, I mean?

A. I didn't notice who had signed it.

Q. It was planned for you to go on the stand there at Leavenworth, wasn't it?

By Mr. Hanford: Objected to on the ground that it is hearsay, and calls for a conclusion of the witness, is incompetent, irrelevant, and immaterial.

By Mr. Mahoney: And very leading.

Q. Do you know whether you were to take the witness stand at Leavenworth? A. I don't remember.

Q. Was it your intention to give your testimony there?

A. I can't say.

Q. Why did you go on to Tulsa from there?

A. Because I was still sick.

Q. Did you not go on to Tulsa for the purpose of giving your testimony at Tulsa as soon as you got so you could?

A. As soon as I was able, but I was still sick.

Q. When you received the five thousand dollar check at Leavenworth, was that before or after you was taken ill?

A. I was sick when I got it in the hospital.

Q. How long were you in the hospital at Leavenworth?

A. A week.

Q. Was it during that time while you were in the hospital that other witnesses were giving their testimony, or had they already testified? A. I can't say.

Q. Did you go from Kansas City to Leavenworth—as—at the time that you went from Kansas City to Leavenworth, or that day, did you understand that the witnesses at Leavenworth had already testified? A. No, I don't understand.

Q. You didn't know whether they had or not?

A. No, sir.

Q. You weren't informed about that?

A. Yes, I think I was.

Q. What information had you received about it?

A. Just going to Leavenworth for testimony or something.

Q. Did the witnesses at Leavenworth see you?

A. I can't say whether they did or not.

Q. Did you go in the room where the notary was taking that testimony any at all while you were in Leavenworth?

A. What did you say?

Q. Did you go in the room where the notary public was taking that testimony at Leavenworth any at all, at any time?

A. Yes.

Q. When you went in there, were they taking the testimony of anybody? A. No.

Q. What did you go in there for?

A. To see people if they knew me.

Q. Were there very many people in there?

A. Quite a few.

Q. Do you know whether anybody had given any testimony up to the time that you went in that room?

A. I don't remember.

Q. When was it that you received the five thousand ($5,000.00) dollar check, with reference to the time that you went into that room, before or after, or at the same time, or when?

A. I don't remember how that is, how that was, I don't remember so good how that was.

Q. What is your best recollection on that subject?

A. That when I drew the five thousand is what you are after?

Q. Yes, whether it was before or after you went into the room? A. Oh, I don't know.

Q. You don't remember? A. No, sir.

Q. When you went to Tulsa from Leavenworth, where did you stay?

A. When I went to Tulsa to Leavenworth?

Q. From Tulsa to Leavenworth? A. Where did I stay?

Q. Yes?

A. When I left Leavenworth and went to Tulsa, where did I stay?

Q. That is the question. A. In the hotel.

Q. How long? A. The whole time that I was there.

Q. You went out to Mrs. Page's home, didn't you?

A. I visited her during the day, I didn't visit——

Q. How many different days did you visit her?

A. I don't know, a couple of days in the week if I got lonesome.

Q. You were not confined in your bed? A. Where?

Q. At Tulsa?

A. I was sick in the hospital at Leavenworth.

Q. I mean when you went to Tulsa?

A. I was still sick, but I wasn't sick enough to go in the hospital, but I was sick.

Q. How came you to visit the Page home?

A. Well, I just visited them because I knew them and I went there.

Q. Did Mr. Page or Mrs. Page invite you out there?

A. No, I just said I wanted to go out to Mr. Page's when I went to Tulsa.

Q. And you did? A. I went out there.

Q. How long after you reached Tulsa was it until you gave your testimony at the office of Rice & Lyons?

A. How long was it?

Q. Yes?

A. Oh, I was in the hotel, I guess, about a week.

Cross Examination by Mr. Hanford.

Q. Minnie, when you got sick in Leavenworth and went to Tulsa a nurse went down on the train with you, didn't she?

A. Yes, a nurse went with me.

Q. And you went to the Brady Hotel, didn't you, from the train? A. Yes, from the train.

Q. I was with you at the time, was I not, Mr. Hanford was with you? A. Yes, sir.

Q. Don't you recall when you got to the hotel, Mr. Hanford called up Mr. Page and told him that you were still sick?

A. Yes, I remember.

Q. And asked him about a hospital? A. I remember.

Q. And then you didn't stay at a hotel, but went out and stayed at his house?

A. Well, I wasn't there very long.

Q. But when you first got there, that is what took place, isn't it? A. Yes.

Cross Examination by Mr. Blakeney.

Q. Minnie, you know what you did at Tulsa, don't you?

A. What?

Q. You know what you did at Tulsa on that trip, don't you? A. What I did?

Q. Yes, ma'am, what you did?

A. What do you want me to tell you what I did for?

Q. You told counsel that you didn't go out to Page's house in the night time, and in a minute afterwards, you admitted that you did go out and stayed at Page's house, and that transaction occurred about a year ago, didn't it? Now, do you mean to tell us that you don't know what you did at Tulsa, or that you do know?

A. Well, when I say the other, I mean I went out there.

Q. Why did you say the first then?

A. Well, I don't know why I said. I have said so much to you that I ain't altogether——

Q. You have had so much said to you in the last few months you are rattled?

A. I know what to say at the time when I study and think it out, but not at the minute.

Q. Minnie, please study and think out now, and answer to every question I ask you and let's get it right. You went to Okmulgee in 1895, didn't you, to the Indian payment?

A. Yes, I was there at the payment.

Q. First came to Muskogee and visited there a few days, and from there you went to Okmulgee? A. Yes.

Q. You rode horse-back to Okmulgee, didn't you?

A. Yes.

Q. Who did you go with?

A. Well, I don't know, I just—I have been studying out to see who I went with there, I don't know just who it was.

Q. You went with a crowd, didn't you?

A. I think it was a woman and a man, but I am not sure, I think that there was three of us went on horse-back.

Q. Your recollection now is that three of you rode from Muskogee to Okmulgee on horse-back?

A. I am sure I rode from Muskogee to Okmulgee to the payment on a horse, I am sure about that.

Q. Your recollection is that two others rode with you?

A. I wouldn't swear, but that is my recollection.

Q. You could only swear as to recollections as to occurrences in the past, so give us your best recollection. Now, Minnie, when you got over there, what did you find out as to how much money you was entitled to draw?

A. Well, I asked how much I was to draw but Grayson, in Eufaula, had taken it up.

Q. Now, before you went over there, you had made an application?

A. No, they didn't take it all up, it wasn't all.

Q. Wait a minute. Before you went to Okmulgee, you had had Grayson, of Eufaula, to get your children on the roll, on the pay roll, is that right or not? A. I guess so.

Q. Well, we won't guess now. How did your children get on that pay roll. If you don't know, say you don't know?

A. I don't remember.

Q. You found they were on the pay roll when you got over there? A. Yes, they were on it.

Q. When you got over there, Minnie, you found three of your children on the roll?

A. That was Harvey, Charlie, and Thomas.

Q. You found those three on the roll, did you?

A. Yes, sir.

Q. You found another child had been put on the roll——

A. But was dead, that was Mabel.

Q. What was Mabel known by besides Mabel?

A. Mabel Peterkin.

Q. Wasn't she sometimes known by Alice?

A. Well, they called her Alice, but her name was Mabel.

Q. Mr. Peterkin wanted a child named Mabel and you named it Mabel because he wanted it, and you always called the child Alice, didn't you? A. Yes.

Q. I hope you will be careful in answering questions not to answer the last part of it, but to answer the whole question, keep in mind the whole question. Then, you had at that time given birth to four children, one of which had died?

A. Yes.

Q. Had you given birth to more than four children at that time?

A. I had five but the other was not big, wasn't born, kind of a miscarriage.

Q. You had had a premature birth?

A. That was after Tommy.

Q. Tom was the first child? A. Of all, yes.

Q. And then you had a miscarriage and a child had been born, what was the name of that child? A. Robert Lee.

> By Mr. German: I object to that question on the ground that it is incompetent, irrelevant, and immaterial, and improper cross examination.
>
> By Mr. Blakeney: Any questions that I ask that are not proper cross examination, I will make the witness my own for the purpose of that question.
>
> By Mr. German: Then, Mr. Blakeney, may we not have it understood that I object to any question that you may ask that does not pertain to the questions that I inquired about, and that all of those are your examinations —direct examinations.
>
> By Mr. Blakeney: Yes, they may be so treated. I just want to examine the witness—cross examine her where I can, redirect where I can, and make her my witness where I cannot cross examine her.

Q. This child, Robert Lee, lived about a week or ten days, or two weeks, did it?

A. I don't know, sir, how long it lived.

Q. About how long do you say it lived?

A. I can't say.

Q. Now, Minnie, think a minute and tell us just how long that child lived, you know about how long?

A. Well, he didn't live very long, but I don't think it was a week, he didn't live very long.

Q. Minnie, how old was you when your first child was born? A. I can't remember how old I was, old enough to——

Q. Well, about how old, you remember the occurrence, now? A. Sixteen.

Q. You were about sixteen. What Indian blood have you? A. Euchee and Creek.

Q. What is Euchee blood, what do you mean by Euchee blood? A. I don't know.

Q. Don't you know that Euchee was the name merely of a band or sort of a village?

A. Well, I know I have got Creek in me.

Q. You know you have Creek. Minnie, if you had any negro blood in you, would you admit it?

A. No, I have no colored blood in me and I won't admit it.

Q. If you did have, would you admit it?

A. I don't know.

Q. You think now that you cannot say whether you would admit it if you had any?

A. Well, if I had it, it is no disgrace if you got it you got it, is all.

Q. Well, if you had it, feeling as you feel, you believe you would admit it if you had it?

A. Well, I don't feel that I have it. I have no symptoms to show you that I have it.

Q. That is not the question. The question is, is your surroundings in life such, and your residence with whites—association with whites during your life and your standing at this time such, if you had it would you admit it?

> By Mr. German: I object to that as calling for a conclusion and opinion of the witness and as argumentative.
>
> By Mr. Hanford: Object on the ground that it is incompetent, irrelevant, and immaterial.

A. I don't know.

Q. You went to school to Alice Robertson a little while, did you? A. She was a teacher at Tallahassee Mission.

Q. How long did you go to school to her?

A. I went to school with her until Tallahassee School burned down.

Q. How long was that?

A. I can't say, for I don't remember.

Q. Minnie, how long did you go to school at Tallahassee?

A. Well, I don't exactly like to say for I don't exactly know whether it was a year or two years or what, I can't remember.

Q. You can't remember whether it was one year or two years? A. No, my memory is very poor.

Q. Your memory was poor in recalling incidents of your girlhood. Tell us whether you went to school one year or two years?

A. It was pretty near two years before it burned down.

Q. Then you went nearly two years at Tallahassee, I just wanted to get the facts, and am not trying to confuse you, it is your best recollection that you went there about two years, is it?

> By Mr. Hanford: I ask for a request at this time. The witness is very nervous and is unable to go on, which is manifest from her appearance at this time that a recess is necessary.

The Examiner: A recess of ten minutes.

By Mr. Hanford: She is ready to go on now.

Q. Minnie, I am not trying to mix you up now, I am just trying to get the facts. The Tallehassee School burned down and from there you went to Carlisle, is that correct? A. Yes.

Q. Did you go immediately to Carlisle after the Tallehassee School burned down?

A. It seemed like they sent up a week after it burned or something like that, it wasn't very long, I know.

Q. Were you boarding at the Tallehassee School?

A. Yes.

Q. How old were you at that time?

A. About fifteen years old, I guess.

Q. Then, how long did you stay at Carlisle?

A. I was there two years.

Q. You were there about two years and half, were you not? A. Two years is as much as I can recall.

Q. Have you ever been to school anywhere else except at Tallehassee and Carlisle?

A. That was the first school that I went to.

Q. Tallehassee. What did you do at Carlisle, were you studying the school books or were you learning domestic science?

A. Oh, we had a little of everything to do, learning sewing and studying, and everything.

Q. When you left Carlisle you had obtained all the education you have ever obtained from school and school books?

A. Oh, I know some yet.

Q. Minnie, I asked you if that was all of the schooling you had?

A. Yes, I had no more schooling after I left Carlisle.

Q. How far advanced were you in your books?

A. Oh, I wasn't very much advanced because I wouldn't pay much attention to my books.

Q. Were you studying arithmetic?

A. Yes, arithmetic and geography.

Q. Reading and spelling, were you? A. Yes.

Q. How far were you in arithmetic?

A. I wasn't very far because I wouldn't study very much.

Q. How far were you Minnie? A. I don't know.

Q. Well, you know about how far—— you know about how the arithmetic commenced, don't you? A. Yes.

Q. The first it commenced teaching you the addition, didn't it? You had to study addition, learned addition?

A. I didn't study very much arithmetic, because I didn't learn it and they couldn't do *with* much with me on arithmetic, so I didn't study very long.

Q. You mean that you didn't like the arithmetic?

A. No, I didn't like it. I would hide it every chance I got.

Q. And didn't study it because you didn't like it? A. No.

Q. What reader were you in? A. Fifth.

Q. You were in the Fifth Reader?

A. I wasn't much good in school because I took no interest in it.

Q. What did you take interest in?

A. Oh, having a good time.

Q. That was your—— A. That was my hobby.

Q. That was your spirit and feeling when you were at Carlisle? Did they allow at Carlisle boys and girls to go to school together?

A. No, we were separate, they had their quarters, and we had ours.

Q. Was your good time that you referred to association by you with the boys that—— A. No, the girls and things.

Q. Your pleasures were confined to your association with girls or boys?

A. The girls, and sometimes we would write to the boys.

Q. You left Carlisle about how old? I believe you said about sixteen before, didn't you?

A. I said I left Carlisle about fifteen, when I was fifteen.

Q. Then you were mistaken when you said that you left Tallehassee when you were fourteen?

A. You say my age, I don't remember so good, I was a big girl, I know that.

Q. You were then about eleven years of age, wasn't you when you started to Tallehassee and about twelve when you went to Carlisle, and about fifteen when you left?

A. I guess so, I can't remember my age so good.

Q. Quite a big girl when you left Carlisle?

A. I was big enough to look after myself, I had to work out for a living.

Q. You were grown then were you? A. Yes.

Q. You came to Leavenworth and went to work in a family by the name of Hyde? A. George H. Hyde.

Q. You were sent to Leavenworth by the sister of Mrs. Hyde, were you not? A. Yes.

Q. To do what kind of work in the Hyde family?

A. Well, she wanted the cooking done, and I done the cooking.

Q. You studied cooking in school, hadn't you?

A. No, they didn't teach me cooking. It was a sort of talent for me to know how to cook. I watched my mother cook.

Q. You did cook for the Hyde's? A. Yes.

Q. About how long? A. I was at Hyde's about——

Q. Now, be careful? A. Three months or a little over.

Q. You were there then three or four months? Where did you sleep when you were working for Hyde's?

A. Up stairs.

Q. In the Hyde house? A. Yes, in the Hyde house.

Q. Where did you work when you left the Hyde house?

A. Oh, I worked all over, at different places.

Q. Well, now, commence and tell us in the order in which you did your working. Take your time and get it accurate now? A. Well, I have said it so much that——

Q. You never said it to me before?

A. Said it to a thousand of others.

Q. Now, commence and tell me where you worked—commencing right at the place where you went to work?

A. I worked at the house, and from the house I went to Grodevant's, and from Grodevant's to Stafford's, and I then came to town again.

Q. How long did you work for the Grodevant's?

A. Oh, I was there off and on all the time.

Q. How long? A. Two or three months.

Q. When was Tommy born?

A. He was born when I was in Leavenworth. I had Tommy with me when I was at Ide's.

Q. Did you have Tommy with you when you came to Leavenworth?

A. No, I got Tommy at Hyde's at Leavenworth.

Q. Tommy was conceived at Leavenworth? A. Yes.

Q. Do you remember the occasion on which Tommy was conceived?

> By Mr. Hanford: We object on the ground that it is incompetent, irrelevant, and immaterial, and an improper question.

A. No.

Q. You don't know the day or night or place on which you became pregnant with Tommy?

A. No, I don't know just that minute or that day or that night.

Q. You don't know at the identical time, you don't know. Do you recall the first knowledge that you had that you were pregnant? A. No.

Q. You discovered that you was pregnant from the fact that you had missed your mensturations, didn't you? A. Yes.

Q. Do you recall now the occasion that you discovered that? A. No.

Q. Did you consult a doctor about it?

A. I didn't have to consult a doctor, I knew I was that way.

Q. You was then about sixteen years of age, wasn't you?

A. About that.

Q. This was your first child? A. Tommy was my first.

Q. You had had no experience in matters of that kind, and you discovered that you had become pregnant and you say you didn't consult any doctor as to whether he could produce a miscarriage or abortion or anything of that kind?

A. I didn't know enough to do it, or I would have done it.

Q. You didn't know enough to do that. What sized woman were you at that time?

A. Well, I was quite a woman, quite a girl.

Q. You are fleshy now, you wasn't so fleshy then were you?

A. I wasn't so fleshy then, no. I got this flesh on me in Denver, Colorado, but I wasn't in any way then.

Q. What do you say was your weight then?

A. I don't know because I never had myself weighed.

Q. You couldn't give us an estimate of about how much you weighed? A. No.

Q. What was the color of your hair? A. Black.

Q. There was no tinge of gray in your hair at that time, was there? A. No.

Q. You was a young, healthy, strong, black-eyed girl?

A. Yes.

Q. Can you tell us what man you knew at that time in Leavenworth?

A. Oh, I knew lots of men, I couldn't give you all the names of men that I knew.

Q. Tell me those that you associated with?

A. Well, sometimes I would go around with Mr. Crilly.

Q. Who was Mr. Crilly?

A. He run the stable there in Leavenworth.

Q. And who else did you run around with?

A. Oh, I can't say, there was different ones.

Q. When did you—— Can you give the name of any other man? A. Yes, I could give the names of lots of them.

Q. That you ran around with?

By Mr. German: What time are you inquiring about?

By Mr. Blakeney: Inquiring about the time of the conception of this child, Tommy.

A. Oh, I knew quite a lot of men, I don't know, I don't just remember.

Q. Do you know who is the father of Tommy?

A. Sure I know.

Q. Will you tell us who his father was? A. No, sir.

Q. Why won't you tell us?

A. Simply because I won't, I object to telling it.

Q. Tell us why you object? A. No, I won't.

Q. Is the man living now? A. I won't tell it.

Q. If the father of Tommy was a white man you wouldn't object to telling, would you?

A. If he was a colored just the same, I wouldn't tell it.

Q. Minnie, where were you when Tommy was conceived?

A. I was staying at Granny Letcher's.

Q. How were you staying at Granny Letcher's?

A. Simply because she always let us girls come there any of the time.

Q. You understand what I mean by conceiving, don't you?

A. Having him.

Q. No, I am not talking about having the child, I am talking about where you were when the child was conceived, when you became impregnated? A. Oh, some hotel.

Q. Some hotel, do you remember the name of the hotel?

A. No, I don't remember the name of the building.

Q. You do have in mind a picture of the hotel but you have forgotten the name. Do you remember the man that was with you? A. Sure I know.

Q. How many times did you go to that hotel with that man? A. I don't know.

Q. About how many times? A. I don't know.

Q. Did you ever go more than once—— Minnie, I am not trying to—— Oh, well——

> Mr. Hanford: I object on the ground that it is incompetent, irrelevant, and immaterial, and an improper question.

> By Mr. German: I want the record to show that a recess is taken for a couple of minutes for the witness to calm herself and recover from crying.

Q. Minnie, I will quit asking you about any of your men associates, and ask you about a girl or two, if you can calm down. What girls did you know there when you were in Leavenworth?

A. I ran around with a girl by the name of Ide Foster a good deal.

Q. Do you know where Ida is now? A. No.

Q. When was the last time you ever heard of Ida Foster?

A. I haven't heard of her since I left Leavenworth.

Q. Was she married at that time?

A. She was just a young girl running around with me.

Q. Was she an Indian girl?

A. No, she had some colored in her.

Q. Where did she live?

A. She used to hang out at Granny's too. I don't know where her home was.

Q. Minnie, you feel that I cannot go into this matter of asking you about your life there without causing you nervousness?

A. Well, I am nervous and I can't stand it, I went through it so much, you know. If it was my first time, it would be different, but I have went over this a million times.

Q. I hope now that you will be able to answer this question; not have any more scenes. Did you ever go up to this hotel with Ida Foster and with two men?

A. I think I and her was up there, but I don't know about two men. We used to go up there and get something to drink a good deal in the hotel.

Q. Who run that hotel?

A. I don't remember now, it was too long for me to put it through my mind.

Q. White or black? A. It was a white hotel.

Q. I would like to know what other places you ever met men, but I don't want——

A. I met them at Granny Letcher's and I met them in this hotel.

Q. Did you ever meet any colored men in either?

A. Yes, there was some colored men around there, working around for Granny.

Q. Did you ever occupy apartments with a colored man at Granny Letcher's? A. No, no, no.

Q. Anywhere else? A. No.

Q. You are sure of that, are you, Minnie? A. Yes.

Q. If you had, would you admit it?

A. Yes, I would admit it if I had.

Q. Why is it you smile when you say that? Are you saying that sarcastically? Would you honestly admit that you had occupied a bed with a colored man?

A. No, I didn't occupy a bed with——

Q. I say, would you admit it if you had? A. If I had, yes.

Q. Tommy was very much darker than you were, wasn't he?

A. Tommy isn't no colored man child, I want everybody to know it.

Q. Tommy was very much darker than you were, wasn't he? A. Well, he wasn't no colored child just the same.

By Mr. Blakeney: Read her my question, will you, please.

A. He is not much darker than me, Tommy isn't.

Q. When was the last time you ever saw Tommy?

A. I left Tommy with Granny when he was about two years old, I think.

Q. How often did you see Tommy?

A. I never seen Tommy after that.

Q. During the time that you stayed out at the Fort?

A. I would always be down around there with him.

Q. Minnie, when you used to go and get drinks at the hotel, did you ever get intoxicated?

A. No, I didn't get intoxicated in the hotel.

Q. Did you get intoxicated at Granny's?

A. No, sometimes we would be that way on the streets.

Q. You have been intoxicated on the streets, have you?

A. Sure.

Q. Where would you go then when you would get intoxicated? A. I would run up to Granny's.

Q. When you gave birth to the child you named Tommy, how long did you stay in bed? A. It was about two weeks.

Q. Were you in bed two weeks at that time?

A. I think it was two weeks.

Q. You was a strong healthy woman at that time, were you? A. Sure.

Q. Who was the doctor attending, if any doctor attended when Tommy was born?

A. I know him, but I can't say his name now.

Q. You do know him? A. The doctor?

Q. Yes? A. Yes.

Q. Give us a description of him now, tell us where we might find him, or where you last knew——

A. Well, you would have to dig him out of the ground.

Q. He is dead is he? A. He is dead.

Q. When did he die? A. I don't know.

Q. How do you know he is dead?

A. He is dead, because I wanted to find him.

Q. He lived at Leavenworth? A. Yes, sir.

Q. Who was the first person that you saw that you recalled who visited you after the birth of the child besides the doctor? A. Mrs. Witt washed and dressed him.

Q. Mrs. who? A. Witt.

Q. Do you know whether Mrs. Witt is now living?

A. She is in Leavenworth.

Q. Still living in Leavenworth? A. I think so.

Q. Did you see her when you went over to Leavenworth?

A. Yes.

Q. Did you talk to her about it?

A. No, I didn't talk very much about it.

Q. Who was with you when you saw Mrs. Witt?

A. I was there just in Leavenworth.

Q. Who went with you over to Mrs. Witt's place?

A. Mr. Long.

Q. You and Mr. Long went over to Mrs. Witt's house?

A. Yes.

Q. And you talked to Mrs. Witt about it?

A. She knew me as soon as she saw me.

Q. Did she recall that? A. Yes.

Q. She had washed your baby?

A. I used to go up to Mrs. Witt's lot too, when I was living there.

Q. Was Mrs. Witt married or single at the time?

A. She was single.

Q. At the time she dressed the baby? A. Single.

Q. How old was she? A. I can't say.

Q. Compared with your age?

A. Mrs. Witt is pretty old now, not very old either, I was the oldest.

Q. You frequently visited her—— Mrs. Witt, then, was it?

A. No, I didn't know her by Mrs. Witt. All I knew was Ella.

Q. Ella? Ella, then, dressed your baby? What time was the baby born, day, night, or daytime or nighttime?

A. It was in the evening, night.

Q. Early?

A. I can't say whether it was night or morning, I won't say what hour, can't remember.

Q. How long did Ella stay?

A. She would come in and out to see me, couldn't stay.

Q. What was Ella doing there?

A. I can't say what she was doing there.

Q. What had she been doing when you associated with her before you got down with a child?

A. She had a little place up there, had a little home.

Q. She lived there? A. Yes.

Q. Who lived there with her? A. I don't know.

Q. Who did you see about the home when you went there?

A. Wasn't nobody in particular in her place that I wanted to see, I just knocked around anywhere there.

Q. What I want to get at, was Ella living there by herself, or with parents or husband? A. No, she had a——

Q. Was girls living with her? A. Yes.

Q. Is that what you mean?

A. Yes, that is what I mean.

Q. Then, I understand. She was merely a keeper of a house of ill fame, is that what you mean to infer? A. Yes.

Q. And was she at that time, at the time that you used to go up there and see her?

A. Oh, I can't swear that she kept a bad house or anything. We used to just go there, you know.

Q. What would you go for, what would you do when you got there?

A. Drink beer and carouse like anybody does.

Q. Drink beer and carouse and associate with the men?

A. Yes, and get back to the men again.

Q. You would go back to the men again. Do you object to my getting back to the men? A. I don't want to hear it.

Q. Who was the next woman you saw, or person that you saw after Ella came and dressed the baby?

A. The next day I think it was a woman came by the name of Mrs. Smith.

Q. Was that her name then?

A. Yes, she was always Mrs. Smith, to my recollection.

Q. Who was Mrs. Smith?

A. She was a half-breed woman there or something.

Q. Half breed what? A. Dressmaker.

Q. What was her breed? A. I don't know.

Q. What do you mean by half-breed?

A. She had some Indian in her.

Q. Part Indian, you understood?

A. What I call half-breed.

Q. She came, you say, either that day or the next day?

A. The next day at noon, I think.

Q. Were you in bed when she came? A. Yes.

Q. What did she do?

A. Oh, she just asked Granny who was upstairs, and Granny said "Some white woman is up stairs," and she came up.

Q. You heard her ask Granny? A. No, they told me.

Q. What did you hear her say, if anything? Not what they told you?

A. When she came in, she said: "I hear you got a white woman up stairs with a baby and I would like to see it." I heard her asking down stairs "A white woman up stairs with a baby, I would like to see it."

Q. And she came up?

A. She came up and didn't stay but a minute and she went back.

Q. What did she do when she was up there?

A. Just looked at me.

Q. Talked to you? A. No.

Q. Do you recall that the baby was crying and that she tried to stop the baby from crying? A. I don't recall.

Q. You don't recall that she told you the reason the baby was crying? A. No.

Q. And that she changed some of the clothing of the baby to try to prevent it from crying? You don't recall anything like that? When you went to Leavenworth, you saw Mrs. Smith, didn't you? A. Yes, I seen her.

Q. Who did you see her with?

A. She was there by herself at her home.

Q. Who was with you when you went over to see her?

A. I was with Mr. Long.

Q. Mr. Long took you over to see Mary? A. Yes.

Q. What conversation did you have there?

A. I didn't have any. Wanted Mrs. Smith to know if she could identify me and Mrs. Smith said: "Oh, yes, it was me."

Q. Mrs. Smith—— You knew Mrs. Smith fairly well before you got confined over in Granny Letcher's, didn't you?

A. I knew her, but they wanted to know if she knew me.

Q. But way back in the eighty's, before Tommy was born, you did know Mrs. Smith? A. Sure I did.

Q. And she knew you? A. Yes.

Q. And you went up there to see whether or not she could identify you as being the same woman?

A. Yes, that is what I wanted.

Q. What did Captain Long say to her in your presence?

A. He never said much of anything.

Q. Who did she say anything——

A. She just said that she knew me.

Q. That is the first and only thing she said?

A. That is all she said in front of me.

Q. Was Mr. Long trying to keep you from going to these witnesses? A. What?

Q. Mr. Long had you and exhibited you to the witnesses, but was trying to keep the witnesses from talking to you, wasn't he? A. I don't think so.

Q. Did you have a conversation with this old friend of yours there?

A. I talked to her what little I had to talk about, I didn't care much about talking to her.

Q. Why didn't you care about talking to her? Were you trying to keep concealed your life and experiences at Leavenworth during that time?

A. Yes, I was trying it but it seems I couldn't keep it anyway.

Q. You didn't want to voluntarily discuss that you had made the mistake when you were a girl, did you?

A. I didn't want it ever to be brought up to me again.
Q. Well, you were trying to conceal it, wasn't you?
A. I just can't stand for all that to be said to me.
Q. I am trying to be considerate of your feelings now.
A. You have no feeling.
Q. I was trying to——
A. I want to go, Mr. Hanford, I just can't stand it any longer and I won't.

By Mr. Hanford: Do you consent to another recess?

By Mr. Blakeney: Yes.

Thereupon, a brief recess in the taking of the testimony of this witness is had because of the inability of the witness to proceed on account of weeping.

By Mr. Blakeney: I made the statement in the record that I was not going to permit any promise that Minnie would be present to curtail my examination, but I will accept that statement now, as I believe that I can have no satisfactory examination without the assistance of the court, and I am going, however, to object to the use of any of this evidence unless she is produced as a witness, because I have been unable to cross examine her about matters that are material in this examination in chief—material to the examination in chief.

By Mr. German: I want to say in the record that I don't concur with counsel in thinking that he is compelled under the circumstances to discontinue his examination. The only thing that has occurred is that the witness has three times broken down due to nervousness, but that each of the two preceding times she has revived and the examination has been continued and it can be done again. She is now composed and I can see that he can now continue his examination. It has only been about three minutes ago that she broke down this time.

By Mr. Hanford: The purpose of this portion of the record relating to Minnie's nervousness, I would like to ask her a question.

Mr. Hanford.

Q. Minnie, what is the cause of your nervousness? Is it natural, or is it just the reviving of the past?

A. Well, I don't just like to have them talk right down on those things about the man and everything, it just works me up.

By Mr. Blakeney: Let the record show her emotional outbreak after the asking of that question.

Mr. Blakeney.

Q. Minnie, can you now calm yourself and let me inquire into the past transactions of your life and answer truly without any hesitation?

A. Well, of course, I will answer them.

Q. Minnie, how long had you known this Foster girl?

A. I didn't know her so very long, I didn't run around with her very much.

Q. What did you say her name was, Ella? A. Ida.

Q. Ida Foster, what is she doing in Leavenworth now, what was she doing when you were there last summer?

A. She was just well, like I was, running around.

Q. Did you get my question? What was she doing last summer?

A. I didn't see her last summer, I haven't seen her since I left Leavenworth. I just say that I run around with her.

Q. When did you commence that wild life?

A. I always had it, it was born in me.

Q. Had you been wild when you were at Tallehassee?

A. Yes.

Q. And at Carlisle?

A. Oh, I wasn't so wild at Carlisle as I was at other places.

Q. What other girls did you know when you were living at Leavenworth and used to run with?

A. Oh, I don't know just what girls I ran with, I can't say.

Q. Can you name any other now, besides Ida Foster?

A. Well, I went with her a good deal more than anybody else, that is the way I remember her.

Q. Do you know what finally became of Ida?

A. No, I don't know, I didn't ask when I was down there.

Q. You don't know where she is now, have you ever heard where she was? A. No.

Q. Did she finally go into a house of prostitution?

A. I don't know.

Q. You never heard. What other girl did you know now, just tell us the ones you ran with?

A. Well, I didn't run in particular with any girl. Do you want to know what woman and people I knew?

Q. Yes, take the women first. I am referring to all females as girls, what female associates you had is what I mean?

A. I didn't have any particular associates with women, I always traveled pretty much by myself.

Q. Did you room with anybody?

A. Yes, I wouldn't be rooming with any girl though.

Q. When you say "working," you would work at Hyde's —you would stay up at Hyde's, Minnie?

A. No, I didn't stay to Hyde's lots of times.

Q. While you were working, you didn't stay at Hyde's place?

A. Not all the time, sometimes I would and sometimes I wouldn't.

Q. You left Hyde's to go to the hotel sometimes and to Granny Letcher's, as you stated? A. Yes.

Q. Whenever you got intoxicated, you say you would go to these places and stay all night and carouse with men, would you? A. Yes.

Q. Can you name anybody that you saw in Leavenworth that you saw when there last summer, that you knew during that period of time?

A. Oh, there was quite a few around that I knew.

Q. Name them now for us?

A. I can't remember their names now.

Q. Have you any information in your possession that you could get their names from and give us the names of them?

A. Lots of people in Leavenworth I know.

Q. I am talking about those that you knew, those that were real associates of yours?

A. Oh, I never seen anybody that was really my associates, I never seen them any more.

Q. Did you see any men?

A. No, I think that they are all dead.

Q. You didn't see any men that you had associated with during your girlhood? A. No, I seen Mr. Crilly.

Q. Why, Minnie, do you object to telling us the father of Thomas? A. Well, I don't just want to.

Q. Is that the only reason that you have? It would be no more reflection on you, would it, to admit now the name of the father than your admission that you had the illegitimate child?

A. Well, I just always said I wouldn't and I don't want to.

Q. Well, now, isn't it a fact that you in admitting that you are not giving the name of Thomas' father——

A. I am giving Thomas' name after me, he is not named after the father, he is named after me, Tommy Atkins, and I am Minnie Atkins.

Q. Isn't it the fact that you are unwilling to give the name of Thomas' father because you think it would be an additional reflection upon you?

By Mr. Hanford: I object to the question and all this line of interrogation regarding the father of Thomas Atkins on the ground that it is incompetent, immaterial and irrelevant, and not pertinent to the issues in the case, and the further ground that that question has already been ruled upon by this court, the witness has been excused from answering.

By Mr. Blakeney: Not on the issues we have presented, however, to this court.

A. I don't just want to tell it.

Q. Minnie, when you had Tommy, you had quit working for—who did you say you quit working for to have Tommy?

A. The Hyde's.

Q. You quit working for Hyde's and had Tommy, that is your recollection now is it?

A. Yes, I had Tommy when I left the Hyde's.

Q. When you worked for Hyde two or three months or four months——

A. Well, I had him in me when I left Hyde's.

Q. You went on working for whom?

A. Oh, well, I worked around for a while until I was ready to have him.

Q. Did you say you were pregnant?

A. Oh, I didn't show much, I kept my corset laced down, I didn't want to show it.

Q. You were able to conceal it?

A. Yes, as long as I could.

Q. How long before you had the child were you compelled to quit working to avoid disclosing it?

A. Oh, I had to quit about three months I think, I would work around town though with him—with it.

Q. You quit Grodevant's, you mean, about three months?

A. I don't just remember how long I quit there.

Q. You commenced working in September for the Grodevant's didn't you, and worked there on up to the following July, which would be practically ten months. Now, how did you have a child in that—during that time?

A. Well, I had him.

Q. Well, Minnie, tell us when—just that?

A. If I could only think, you wouldn't have to ask me, I know I had him.

Q. You know you had a child in Leavenworth? A. Sure.

Q. And you know you had a child resulting from your dissipation you just mentioned, running around, and your associations with men. Can you tell us the time you quit working?

A. That is how I am bothered in between them, couldn't get it quite as I should.

Q. You can't tell the order in which you went to work.

A. Sure, couldn't get it in my mind how I ought to tell it, you see.

Q. Isn't it a fact that you had this child before you went out to Grodevant?

A. Well, that is how I have got it, but I don't like to say, but I am in between the time, you see.

Q. Isn't it a fact that you worked up within a few days before you had the child? A. No.

Q. Minnie, are you sure you didn't? A. Yes.

Q. How long did you think you worked up to the time that you had the child?

A. I worked up to two months before I had him, because I know I laced down so tight it would always make me sick like, I know that much.

Q. How long did you stay at Granny Letcher's now, after you had Tommy there?

A. Well, I was just out and in all the time, I would go down to see him and work around in town and see what I could do.

Q. Now, Minnie, just refresh your memory, let me ask you: Grodevant's lived out at the Fort, didn't he? A. Yes.

Q. Now, after you had Tommy, you stayed around Leavenworth a year or more, didn't you? A. Yes.

Q. You didn't go out to the Fort, you stayed around so you could go to Granny's and nurse your baby, didn't you?

A. Sure I did.

Q. Then, don't you know that you had Tommy after you left Grodevant's? A. Yes, that is when I had him.

Q. That is your recollection now?

A. That is my recollection now.

Q. Now, Minnie, about how old was Tommy when you left Leavenworth? A. Leavenworth for good?

Q. Leavenworth for good?

A. He was about two years old.

Q. Did you see Tommy a day, or the day before you left?

A. I seen him, yes.

Q. Why didn't you take Tommy with you?

A. I asked Granny to keep him, and if I could make money enough I would send it to her. I was young and didn't have work half the time.

Q. What did you let your child, whose father you say was a white man, a child of yours, remain with a colored woman for?

A. Well, I just wanted him left there because she was good to me when I was carrying him.

Q. You felt perfectly congenial with Granny, didn't you?

A. Yes, I liked Granny.

Q. Did you regard it any humiliation to associate with Granny and live with her? A. No, I just liked her.

Q. You felt that was just as good as living with a white family?

A. Well, I thought if I could put him at Granny's they wouldn't know so much about it how I got him. I left him there to hide it.

Q. Well, did you ever send any money to her for Tommy after you left? A. I had nothing to send.

Q. You never did send any money after you left Leavenworth, did you leave Tommy—— A. Yes.

Q. You gave it a mother's affection did you? A. Yes.

Q. Did you have that feeling when you left Leavenworth?

A. Yes, and I told her I would send her money if I had it to get him clothes.

Q. You went to Fort Logan? A. Yes.

Q. You found it difficult to make a living out there?

A. Well, I made a little living, yes.

Q. You found it impossible to send any money back to Granny to help support Tommy, did you?

A. I just didn't send any.

Q. Well, did you not send it because you didn't want to?

A. No, it wasn't because I didn't want to, if I had it she was welcome to it.

Q. You didn't send it because you didn't have it to send?

A. Didn't have it to send.

Q. Did you write to Granny about Tommy?

A. No, Granny didn't know—didn't know where to locate me I guess.

Q. Did you tell Granny when you left?

A. I didn't say anything to any of them.

Q. You ran away from Leavenworth without letting anybody know where you were? A. Yes, I just went away.

Q. And abandoned your child?

A. Well, I didn't exactly abandon him.

Q. You never afterwards wrote to inquire about him, and you never afterwards sent it anything for its support, is that right? A. I didn't have it to send.

Q. But it is a fact that you didn't send any money to Granny or Tommy? A. No.

Q. Do you remember a man giving Tommy a little pair of boots?

A. I remember of a man—ain't a man—some clothes.

Q. What clothing did he give?

A. I didn't see him give them to him, he just said he gave them to him.

Q. You saw the clothing didn't you?

A. No, I haven't seen it.

Q. When did he tell you that he gave him clothing?

A. When I was down there the first time

Q. About how long ago?

A. That was summer before last.

Q. Who was that man that told you that?

A. Sam Nash told me he gave him clothes.

Q. Didn't Sam Nash tell you that he had given the little child a little pair of red topped boots and he had one of the boots about his place?

By Mr. Allen: We object to that as hearsay and incompetent.

By Mr. Hanford: We object on the same ground.

A. I don't remember him saying about the boots, I do the clothes.

Q. You don't remember yourself that Sam Nash or anybody else gave any clothing to Tommy while you were keeping him?

A. No, well—— While I was around there I clothed him myself.

Q. Minnie, when did you next hear anything of or from Tommy after you left Leavenworth? A. What?

Q. When did you next hear anything of or from Tommy after you left Leavenworth? A. When did I hear from him?

Q. Yes, or of him?

A. Well, I heard from him but I just can't tell where it was, what place I was at.

Q. What did you hear?

A. Some one wrote and told me he was dead.

Q. Who wrote you?

A. I don't know, can't remember it now.

Q. Have you got that letter now?

A. No, I did have it though.

Q. You did have it when? A. When I got here.

Q. When you got here at Fort Logan? A. Yes.

Q. You had it, got the letter after you got here?

A. No, I didn't hear it after I got here, I had the letter after I got here.

Q. Where is it now?

A. Well, I and my husband had a set to, and he burned up all my mail.

Q. Since you came here? A. Yes.

Q. You don't know who wrote that letter?

A. No, I just was trying to study.

Q. You can't remember who wrote it?

A. I was just studying, I can't remember.

Q. Was it somebody you knew?

A. It seems like to me it was.

Q. Can you tell us who it was? A. No, I can't remember.

Q. Did that grieve you?
A. Yes, I felt it bad, but what could I do.
Q. Did you make any inquiry as to what he died with?
A. No.
Q. Or where he had been buried? A. No.
Q. You never made any inquiry at all? A. No.
Q. Don't you love your children?
A. Of course, I love my children.
Q. Why didn't you have any affection for Tommy?

By Mr. Hanford: Object to the question on the ground that it is a misstatement. She has just stated that she cared for her children.

By Mr. Blakeney: I object to counsel coaching.

Q. You didn't care enough for Tommy to even tell the people keeping him where you were going, you never wrote about him or sent anything for his support; you received a letter some years later of his death, you have never made any inquiry about how, where, or when he died, is that true?

By Mr. Hanford: Object to the question on the ground it is argument, incompetent, irrelevant, immaterial and a misstatement.

A. Yes, I loved him and everything, but what was I going to do.

Q. You had two other illegitimate children with you, didn't you, Minnie, Charlie and Harvey?
A. Well, I had a little more sense when I had them.
Q. Well, how old was Tommy when you had Charlie?
A. Tommy would have been about—when I had—— No, it would be Mabel first—— Alice.
Q. Mabel died, didn't she?
A. Alice was before Charlie, she died, but——
Q. How old was Tommy when Charlie was born?
A. I can't say how much between them.
Q. Give us about, he was a little infant boy at the time?
A. Yes.
Q. And you got sense by the time that you had gotten Charlie, why then didn't you try to get Tommy and bring him to your home to live with you?
A. I had no home to live, I had to work out all the time.
Q. What did you do with Alice?
A. Alice didn't live very long, she died in Logan.
Q. And Charlie?
A. I had to pay people to look after him when I worked.
Q. You maintained a home, didn't you?
A. They didn't have anything for you with children to work.

Q. You did maintain a home, and you were living with a soldier by the name of Harris, wasn't you?

A. No, he wasn't no soldier.

Q. What was he?

A. He was a man, Lee wasn't a soldier.

Q. Well, what did he do?

A. He was the Government contractor for the beef.

Q. He ran a butcher shop there in Fort Logan, didn't he? A. Yes.

Q. He supported you?

A. Yes, he helped me with my children.

Q. Did you ask him to let you bring Tommy?

A. I didn't want to let him know I had any more.

Q. What? A. I didn't want to let him know.

Q. You wanted to conceal from him the fact that you had Tommy, is that true? Minnie, did you want to conceal the fact from this man that you had Tommy because you wanted to conceal the fact of your reckless life?

A. That was it exactly, that was it.

Q. Or was it because of some peculiar objections you had to Tommy? A. No, that was it.

Q. Or was it the fact that Tommy is so dark?

A. Why, no, Tommy isn't dark, why do you think he is dark?

Q. Why do you think he is not?

A. Because I know he is not.

Q. When did you last see him?

A. I never seen him but I know he is not dark.

Q. Why, because you know he was not very dark when he was an infant?

A. No, he is not dark, he is not very dark.

Q. You are saying he is not dark, because you want to emphasize the fact that his father is a white man, that is the reason, isn't it? A. His father is a white man.

By Mr. Hanford: I object to the question as argumentative, incompetent, and irrelevant and immaterial.

A. His father is a white man.

Q. Well, now, you got this letter telling you that Tommy was dead, how old do you say Tommy was at that time?

A. Well, I ought to judge Tommy at that time had to be about eight or nine years old, order than that.

Q. Older than that? A. I just can't say how old he was.

Q. Well, let's see how old he was. Tommy was living when you went over to get this money for him, wasn't he?

A. Yes.

Q. You hadn't heard he was dead then?

A. He wasn't dead then.

Q. Why?

A. If he was dead he couldn't be on the payroll.

Q. You put him on the payroll?

A. I had my uncle put him on.

Q. When? A. When I was in Muskogee.

Q. Did you tell your uncle you had a child by the name of Tommy, didn't you? A. Yes.

Q. You didn't know whether he was dead or not then did you? A. I knew he was not dead then, yes.

Q. Now, Minnie, that was some eleven years after Tommy was born you were putting him on the roll? Tommy was approximately eleven years old then and you hadn't heard from him in eight or nine years and you didn't know whether he was dead or alive, did you? Isn't that right?

A. Well, he was living when he was on the roll.

Q. Isn't it a fact that you did know that he was alive, that you frequently heard from him and of him, isn't that a fact?

By Mr. Allen: We object to that as argumentative, irrelevant, incompetent, and immaterial, leading and suggestive.

A. I won't answer, I don't know.

Q. Minnie, there is nothing to disturb you there?

A. No, it doesn't disturb me, but I knew he wasn't dead when he was on the roll.

Q. Just tell us why you knew it, what ways had you of knowing it except to see him?

By Mr. Hanford: We object to the question, she says she doesn't know.

By Mr. Blakeney: She says she did know.

Q. What ways did you have of knowing that he wasn't dead when you put him on the roll? A. Well, I don't know.

Q. Were you just relying on the fact that he had been living? A. No, I am not lying at nothing.

Q. Relying, I said, just relying on the fact that he had been living and you hadn't heard that he was dead, and you therefore presumed he was alive in 1905?

A. I told my uncle I had a baby in Leavenworth named Tommy Atkins, would he put him on the roll, and he said he would.

Q. You told him then who the child was living with?

A. Told him I had him there at Granny's.

Q. You told him that Granny was dead or alive then?

A. I didn't know that Granny was dead.

Q. You didn't know what Granny did with the boy when she died, did you? A. No.

Q. You didn't know whether Granny was alive or dead when you was talking to your uncle?

A. I knew I had a child and I wanted him enrolled.

Q. Now, had you heard from men going to Leavenworth from time to time that Tommy was still alive, did men tell you they had seen Tommy?

A. I just knew he wasn't dead then, that is all.

Q. Didn't they tell you? Had you never received any information that Granny had sent the child out of town?

A. Granny didn't know where to write to me.

Q. What? A. She didn't know where to write to me.

Q. Didn't soldiers moving around tell you that Granny sent the child out of town for a family to raise? A. No.

Q. Minnie, did you expect Granny to raise and support your child?

A. No, I didn't expect her, I would have went back sometime and got him and looked after him when I could be able to do it.

Q. Well, why did you think Granny would take your child and feed and clothe him? A. She did it.

Q. Because you promised to pay her for it?

A. Yes, but I had nothing to pay her.

Q. And when she did it, you expected her to do it for charity? A. Yes.

Q. You tell us that, you just expected Granny to take your child and raise it, feed it, clothe it, and care for it in its tender years, did you? A. No, I expected to get it.

Q. Isn't it a fact that you thought Granny ought to do that because it was a colored child?

A. Tommy isn't a colored child.

Q. You don't know where you received that letter announcing Tommy's death do you? A. No.

Q. Was it before you went to Muskogee to draw that money?

By Mr. Hanford: I object to the question, she has stated that she doesn't know.

A. I just can't remember where.

Q. Well, you know it was after you went down to draw this money, don't you?

A. Oh, it was after I drew the money, of course, when I heard he was dead.

Q. You wouldn't have drawn the money——

A. I wouldn't have drawn the money if he had been dead.

Q. How long did you stay at Okmulgee when you drew this money?

A. I went in the morning and stayed and came back that night.

Q. Did you go up to Leavenworth when you were down?
A. No.

Q. Why didn't you, Minnie? A. I don't know.

Q. Why didn't you stop at Leavenworth to see Tommy when you went down to Oklahoma?

A. I intended to come back through that way and stop off and see him.

Q. Why didn't you stop when you came back?

A. Well, I didn't.

Q. Well, why?

A. I don't know. My intentions was good enough, but I didn't.

Q. Did you ever hear where Tommy was buried? A. No.

Q. Did you ever know Tommy was dead until Mr. Long or some of these parties mixed up in this suit——

A. I told Mr. Long myself that Tommy was dead. Mr. Long didn't know nothin'.

Q. Did Mr. Long make any inquiry about how you knew it? A. I don't remember, I told him.

> By Mr. Hanford: I object to the question and move to strike all this testimony relating to the death of Thomas Atkins, on the ground that it is incompetent, irrelevant, and immaterial, and not involved in the issues in this case.
>
> Mr. Blakeney: Well, I think that is true. Well, it is involved. I think it is true it is not competent evidence if he was dead.

A. Mr. Long didn't tell me that he was dead.

Q. Did Mr. Long tell you that he wanted to try to prove that he was dead?

A. I don't remember of his telling me that.

Q. Minnie, you know you wouldn't have any right to this land if Tommy was living, don't you?

A. I know I wouldn't have any right to it if he was living.

Q. You know that? A. Yes.

Q. And you have made leases and deeds and conveyances to this land, haven't you, isn't that right? A. I just leased it.

Q. You have leased it and you have made a trust deed of this land to Captain McNab, haven't you? A. Yes.

Q. You have exercised ownership and control of this land, haven't you? A. Yes.

Q. And you have done it upon the theory that Tommy was dead, that is true, and the only information that you have that Tommy is dead is that somebody, whose name you don't know, had somebody write you a letter telling you he was dead, is that right? A. Know he is dead.

Q. Why, how, when? A. I can't explain or tell you.

Q. What? A. I can't explain or tell you.

Q. Well, how do you know it? A. I just know it.

Q. Well, you have no other way of finding out things except by the five senses, have you?

A. No, I just know he is dead.

Q. You wouldn't claim your son is dead just to get his land, would you, Minnie?

A. No, I wouldn't claim that he is dead just to get his land, no, but he is dead. I will know my own child if he is produced to me, I will know him at any time anybody brings up a Tommy Atkins to me when it is Tommy Atkins, I will admit that is Tommy Atkins.

Q. How will you know? A. I will know my own child.

Q. How will you know him?

A. I haven't forgotten how he looked.

Q. You think there will be such a resemblance in the man thirty four or five years of age, or thirty one years of age to an infant that you will recognize him?

A. Yes, I will know him.

Q. Have you made any effort to try to find your son?

A. I have asked lots of people if he is living or anything.

Q. Who have you ever asked?

A. I asked people in Leavenworth if they thought they knew where the baby was.

Q. Who did you ask in Leavenworth?

A. I asked Mrs. Smith if she thought she knew where he would be.

Q. What did she tell you? A. Said she didn't know.

Q. What? A. Said she didn't know where he was.

Q. But she said she had seen him in the last few months, didn't she? A. No, she didn't tell me that.

Q. How long did she tell you it was before she had seen him? A. I don't just remember what she did say.

Q. Don't you remember she told you she knew exactly where he was raised, and that she had seen him in Leavenworth a few months before you talked to her?

A. She said that, but that wasn't the Tommy that she knew.

Q. How do you know? Did Long tell you that wasn't the Tommy? A. No, Long had nothing to do with it whatever.

Q. But she did tell you that, didn't she? A. Yes.

Q. Mary Smith now, did tell you, when you were talking to her there, that she knew where Tommy was, where he was raised, and had seen him but a few months before?

A. No, she didn't tell me that.

Q. What did she tell you?

A. She said she knew where Tommy was and where he was living, but that wasn't the Tommy.

Q. How do you know?

A. Because I asked for him to come to me while I was in Leavenworth and see me but he didn't do it, the one she had reference to.

Q. You did ask?

A. Yes, and why did he refuse if he wasn't my child.

Q. That is the reason you say he isn't your child? A. No.

Q. Don't you know that he did come up and try to see you and Long wouldn't let him see you? A. No, Mr. Long did.

Q. Did Mary tell you why she knew this was your child?

A. No.

Q. Now, Minnie, didn't she tell you why? A. No.

Q. Didn't she tell you that she had made an examination of this boy for a mark on him? A. No.

Q. Didn't she tell you that—— Think a minute.

A. I am thinking. Mary didn't tell me that, Mary Smith didn't tell me that.

Q. Didn't Mary Smith tell you about a mark on Tommy Atkins and about her making an examination of this other boy to see whether he had the same mark or not? A. No.

Q. You are sure of that—— Mary Smith didn't tell you that? A. Not that I can remember.

Q. Didn't you tell her about the mark that was on Tommy? A. Me?

Q. Yes? A. No, sir, I didn't.

Q. Wasn't you trying to help identify your son?

A. He had no marks on him anywhere's when I had him.

Q. None at all? A. No, not a mark.

Q. Not a mark of any kind, what do you mean by a mark, what do you think I am talking about?

A. You think a mark he had on him is where he fell over on a flat iron and marked his arm with a flat iron.

Q. That is what you are referring to and he had no such mark as that on him?

A. No, not when I left him with Granny.

Q. What did they call Tommy? Did they call him Indian Tommy? A. I don't know whether they did or not.

Q. Was he walking when you left Leavenworth?

A. No, he was just about two years old when I left him.

Q. Well, he was walking around the place, wasn't he?

A. Trying to walk.

Q. Which was he doing?

A. I don't know. I don't know whether he was walking at two years or not, I don't know whether they called him Indian Tommy or not.

Q. Didn't Mary tell you in this conversation: That about a month or so ago, one morning about seven o'clock before she had gotten up, that some one rapped on her door, that she opened the door and there stood a man, a young man who I immediately recognized as Tommy Atkins and I was able to recognize him—which I recognized as Tommy Atkins and I exclaimed, "My God, isn't this Tommy Atkins"?

By Mr. German: We object to that as incompetent, irrelevant, and immaterial, and hearsay.

A. She didn't tell that to me.

By Mr. Allen: That is objected to as leading and suggestive. We want to move to strike all of the questions of this witness—all the questions propounded to and answers given by this witness calling for or relating any conversation had between this witness and any other party.

Q. You knew Jim Mayo, didn't you?
A. I knew a Jim Mayo.
Q. How old was he when Tommy was born? A. Just a kid.
Q. How old? A. He was a baby too.
Q. A baby. Was Jim Mayo—— You mean that Jim Mayo was a baby? Now, I want you to think. Don't you know Jim Mayo was married at that time, running a base ball club or team there in Leavenworth?

By Mr. Allen: We object to that as contradicting his own witness and leading.

Q. Don't you remember that?
A. I said that he was a kid running around there, big fellow.
Q. Don't you know he was married? When Tommy was born, don't you know Jim Mayo was married and living two or three blocks from this house, don't you, Minnie?
A. I don't know he was married.
Q. Didn't you know that some of his—that he had two or three other women boarding there with him who worked up there sometimes at Granny Letcher's?

By Mr. Allen: We object to that for the same reason.

Q. Well, let's see, you knew Walker Banks, didn't you?
A. Yes.
Q. Isn't he the boy you had in mind instead of Jim Mayo?
A. It is Walter Banks.

By Mr. Allen: We object to that question.

A. There was other boys that stayed there—Jim Mayo and Nash—Sam.

Q. Sam Nash was a big boy, wasn't he? A. I guess so.

By Mr. Allen: We object to that question as leading and suggestive.

Q. Minnie, did you know Burns that run with Jim Mayo?

A. No.

Q. You are very sure of that, are you?

A. I say sure I don't remember.

Q. Don't you know that Burns is a colored man that lived there in Leavenworth, and that you run with him?

A. No, I didn't run with no Burns.

Q. Do you know Burns now?

A. No, I don't know him, and I didn't run with him I said.

Q. Tell us all the colored people you knew in Leavenworth, commencing with the girl? I don't mean those that you actually know, but those that you drank with or visited with?

A. I knew those but I didn't drink with them, I knew them by going around Granny's.

Q. Tell us all you knew coming around Granny's?

A. Well, I knew a fellow used to bring wood there by the name of Bill, I can't think of his other name now.

Q. Describe them to us. Now, was he a yellow one?

A. What?

Q. You knew a young man there, a sort of a yellow boy?

A. Oh, I can't remember.

Q. Did you ever see anybody bring any vegetables there at Granny's and stay all night.

A. A fellow there run a grocery store.

Q. I mean from the country?

A. Yes, but I don't remember who he was.

Q. Describe him as you remember him?

A. I said I didn't remember who he was.

Q. I know, but I want you just to describe him the best you can remember, you don't remember his name?

A. I can't describe him.

Q. He was rather a heavy set or short fellow, wasn't he?

A. That must have been the fellow, if he was yellow it must have been Bill.

Q. Don't you remember one that came in from the country and stopped there, had whiskers, not very long, but came there and would stay at night with Granny?

A. I can't remember.

Q. Do you remember a man of that kind, drove a spring wagon I think, named Carter?

A. No, that is not his name, I know who you mean, that ain't his name.

Q. What is his name?

A. I think his name was—— Oh, I don't know what his name was.

Q. Minnie, you have been told about the claim of this Henry Carter, haven't you, that has been explained to you hasn't it? A. No.

Q. And you have been warned whereas you must not admit things that would benefit Henry Carter's claim?

A. No, I haven't been warned anything like that.

Q. Hasn't Long warned you? A. No.

Q. Hasn't Long and these men explained to you that if your son recovers that you will have to give up this land?

A. Well, I know if he recovers, I will have to give it up. Long wouldn't have to tell me, I know it myself.

Q. You know that and you are interested in not having him recover? A. No, I wish he would recover, I wish they would find him tomorrow.

Q. You don't wish it hard enough to try?

A. Sure I can't help.

Q. When you were at Leavenworth trying to find it out, you had Mr. Long with you, didn't you?

A. Trying to find him?

Q. Did you ever talk to anybody that you wasn't talking in the presence of Long?

A. Oh, lots talked to me and Mr. Long wouldn't be there.

Q. Anybody that knew anything about you having a child there? A. Yes, they knew I had the child there.

Q. Long let you talk to somebody now at Leavenworth when he was not present? A. No.

Q. He did not, you never talked to anybody at Leavenworth while Long was not present?

A. I talked to anybody I wanted to talk to.

Q. You didn't want to talk to anybody when Long wasn't present?

A. Nobody around for me to talk to, I would talk to them

Q. You went down to the Federal Court to testify for Page, didn't you, in the Receivership hearing at Muskogee?

A. Yes, I was in Muskogee.

Q. You knew, didn't you, that they had taken Mary Smith down to testify? A. No, I didn't know it.

Q. Did they take Sam Nash down to testify, did you see Sam Nash there? A. No.

Q. Did you see Bishop there? A. No.

Q. Was George Crilly there? A. Yes.

Q. You saw him. Did you know why George Crilly wasn't put on the stand? A. No.

Q. Don't you know that George Crilly told you and the lawyers in your presence that he knew where Tommy Atkins was at that time, and they said, "Well, you can go on home, we don't want to prove that." Did you hear that? A. No.

Q. Was a man by the name of Cox there?

A. No, not that I know of.

Q. Minnie, you intend to go down, do you? A. Yes.

Q. To the Court? A. Yes.

Q. George Crilly saw Tommy Atkins there at Granny Letcher's when you were keeping him there, didn't he?

A. Yes.

Q. He was up to your apartments and saw you and Tommy there together, didn't he, a number of times?

A. I don't know how many times.

Q. I said a number, several times, didn't he? A. Yes.

Q. You have taken this child over to his stable, haven't you? A. I don't remember.

Q. Well, Judge knew the child very well, didn't he?

A. Yes, he knew him.

Cross Examination by Mr. Hanford.

Q. Minnie, when you first came to Leavenworth, you worked first for the Hyde's didn't you? A. Yes.

Q. Do you remember who got you to go out to the Fort from the Hyde's—to go out to the Fort from Leavenworth?

A. Yes.

Q. What was that man's name?

A. His name was Lee.

Q. And who did you go to work for first out there?

A. When I first went out to Leavenworth?

Q. Yes? A. The Grodevant's.

Q. Did you work there steadily? A. No.

Q. Were you the—— Who did the work?

A. Mrs. Grodevant sometimes, and I did.

Q. Did you stay out there only part of the time, did you stay at the house?

A. I slept up stairs sometimes and sometimes I didn't.

Q. What kind of a room did you sleep in?

A. It wasn't finished overhead.

Q. While you were working for the Grodevant's, Minnie, were you carrying Thomas at any of that time?

A. I think I was, I don't know.

Q. Well, did Mrs. Grodevant ever say anything to you about your condition? A. She said I looked funny.

By Mr. German: I object to that question and answer on the ground that it is a self serving declaration, and move to strike the answer for that reason.

Q. Well, Minnie, how did you go out to the Fort from Leavenworth? A. The first time?

Q. Yes? A. In a buggy with Lee.

Q. In a buggy with Lee? A. Yes.

Q. What mode of transportation was there between Leavenworth and the Fort, were there street cars or trains?

A. Yes.

Q. Street cars? A. No, a bus.

Q. What kind of a bus?

A. A bus with four horses that they had to use.

Q. Do you know who drove that bus?

A. No, sir, I can't remember that long who it was that drove it, it was an employee in town.

Q. Did you ride in it very much?

A. Yes, I was up and down a good bit.

Q. Minnie, what time of the year was Thomas born?

A. It was between warm and cold, I think it was getting summer, but it was cold yet.

Q. Still cold? A. Still cold.

Q. That is as near as you can tell?

A. As near as I can tell it.

Q. Where did Granny Letcher live at that time?

A. On Seneca street.

Q. Did you ever know of Granny living at any other place?

A. I think it was Cherokee, I can't think of that street, I know where she lived before, I can't think of the street now.

Q. Was that before or after she lived on Seneca?

A. She lived there first and then she moved on Seneca.

Q. Did you go to her house any when she lived at that other place? A. Yes, we used to go there.

Q. Do you remember anything about that house—the first house she lived in, what kind of a house it was?

A. Well, it was pretty near like the other one, she would allow us girls to come there, you know.

Q. Well, can you tell what it looked like, can you picture it? A. Not exactly.

Q. Do you know when she moved?

A. No, I don't remember when she moved.

Q. It was before Thomas was born?

A. Thomas was born in the other house on Seneca.

Recross Examination by Mr. German.

By Mr. German: I desire to cross examine on Mr. Blakeney's direct examination.

Q. Minnie, you say that Thomas was born at which house, do you say on Seneca, or that other street?

A. I think it was Seneca.

Q. How long had Granny been living on Seneca street?

A. I don't know just how long.

Q. What kind of a looking woman was Granny?

A. She was fleshy and kind of dark—fleshy.

Q. Tall, medium, or short?

A. She was kind of—well, I can't give you the exact height of her.

Q. Well, would you say tall, medium, or short, or what?

A. Wasn't so very tall.

Q. Then, you would say she was a little above the average in height? A. Yes.

Q. Was she thin or heavy?

A. Kind of heavy, Granny was.

Q. What would you have judged she weighed?

A. I don't know that.

Q. Was she as large as you are now?

A. I don't think so.

Q. Was she pretty nearly as large as you are now?

A. I don't remember just how large she was.

Q. How did she generally dress?

A. She always, a good deal, wore a mother hubbard with an apron on.

Q. What was the color of her hair?

A. I don't know, just black.

Q. How? A. Black, I guess.

Q. Don't you remember, you say she was pretty dark?

A. Not very.

Q. Well, would you call her a mulatto?

A. Yes, something on that.

Q. Was she a dark mulatto or a light mulatto?

A. I just can't remember good how Granny looked, it has been so long.

Q. Did she have very much hair? A. Yes.

Q. How did she wear it? A. I don't know.

Q. You don't have any recollection about that?

A. I don't know.

Q. Describe the house that she lived in on Seneca street?

A. Well, it was a kind of a good sized house with, I think it was painted white, as well as I can remember.

Q. Was it on the street or was it back from the street?
A. It was back in front of Crilly's there.
Q. How far from the sidewalk? A. Not very far.
Q. Ten feet or something like that? A. I don't know.
Q. How many rooms was there down stairs?

A. I think there were four down and two up, is my recollection.

Q. Was there any halls in the house?

A. I don't know, it seems like to me there was, some way to get up stairs.

Q. Did the house have any porches?
A. Yes, it had a porch.
Q. In front?
A. I think it had a porch half way running around.
Q. Partly in front and partly on the side?
A. That is what I think it was partly.
Q. Partly what?

A. I would just say a porch in front, I don't know whether it run around or not.

Q. Did it have any other porches?
A. I don't remember.
Q. How were the rooms arranged down stairs?

A. I don't remember that, it has been too long for me to remember about them rooms.

Q. Don't you remember whether there was two rooms in front, or just one down stairs, and how it was arranged?

A. Well, she had a parlor and bed rooms and kitchen.
Q. Now, the kitchen, was the kitchen in the rear?
A. I don't remember that, how they were arranged.
Q. How many rooms up stairs? A. There was two.
Q. Any hall up there? A. The rooms were divided off.

Q. These rooms up stairs, there was just two rooms, just one partition wall up there, is that right?

A. I can't just remember now how them places were laid out.

Q. Well, are you sure whether there was a hall and two rooms or whether it was different from that?

A. I can't say at all, because——
Q. Which room was Tommy born in? A. The last room.
Q. Where? A. Up stairs.
Q. Which is the last room? A. The room that faced north.
Q. Faced north? A. Yes.

Q. Which way does that house face, do you mean that the house faced north, which way did Seneca street run?

A. This way.
Q. Which way is that, east and west, or north and south?
A. I don't know.

Q. You were not turned around in Leavenworth, were you?

A. Yes, I was turned around considerable in Leavenworth.

Q. What way did you think it faced, the house?

A. Well, I think it faced that way.

Q. Now, which direction did it face, which direction is that way, you say that way?

A. I can't remember about how that house was now.

Q. Now, Thomas was born in the room that was on—in the front of the up stairs or in the back?

A. In the upstairs, I think—I won't say, I don't remember whether it was the back or the front, I won't say, it was one of those rooms up stairs.

Q. Now, wasn't there any more to the upstairs but the four rooms? A. As much as I can remember.

Q. How were they arranged, in two's or how?

A. Well, it looked like when we got in, we come on a porch, and we went in the door, first we hit the parlor as far as I can——

Q. And then what?

A. Oh, I can't remember, it's too long ago for me.

Q. You were there quite a good deal, weren't you?

A. Sure I was.

Q. But don't remember how it was arranged? How long did you stay there at any one time?

A. Well, the longest I stayed was when I was sick with Tommy.

Q. How long do you think that was?

A. Well, I was about two weeks sick, I think more; I used to go there all the time I didn't make it my home.

Q. You say you had this child after you left the Grodevant's, is that correct?

A. Well, I can't exactly figure how, when I had him in that time, because I had him in town I know.

Q. Well, what is your best recollection now?

A. After I went to town—back to town.

Q. Back to town. You didn't go to the Fort any more to work after you had Tommy? Did you or not?

A. I think—— I don't know whether I did or not.

Q. You went over from the Grodevant's to a family by the name of Stafford, didn't you, to work—Lieutenant Stafford's?

A. No, I think I had Tommy before I went there, I can't *saw* how, I kind of get mixed up some way; I worked around so many places, I can't give no definite answer to that.

Q. You left Hyde's with a soldier to go to Grodevant's, didn't you? A. No, sir, I didn't.

Q. Well, with a man named Lee?

A. Yes, but he wasn't a soldier.

Q. He was a white man? A. Yes.

Q. Where did he work?

A. He was the Colonel's coachman.

Q. Colonel, who? A. Colonel——

Q. You don't remember? Some Colonel in the army there at Leavenworth, at Fort Leavenworth?

A. Yes, he was his coachman.

Q. And the Hyde's were away from home at the time you left there? A. No, they were home.

Q. Did they know you left with him?

A. Yes, they knew I left with him.

Q. He took you to Grodevant's?

A. Took me up there to see them.

Q. And you were employed by them?

A. Well, I just didn't go right that day, I went back the next day to see them again.

Q. And then were employed, is that right? A. Yes.

Q. So, you don't remember where you were working when Thomas was born?

A. I wasn't working much of anywhere, I was just here and there, wasn't steady anyway.

Q. Wasn't working steady for anybody at that time? Then it must have been either after you left Grodevant's or after you left Stafford's, wasn't it? Well, I will ask you this, Minnie: You worked steady for Grodevant's while you worked for them, didn't you?

A. No, I didn't work steady there.

Q. You worked steady for Lieutenant Stafford, while you worked there, didn't you?

A. I wasn't so very steady there either.

Q. How long at a time would you be away from Lieutenant Stafford's, do you recall?

A. No, I don't know how long it would be at a time.

Q. You don't remember how long at a time you would be away from Grodevant's? A. No.

Q. Were you away from Grodevant's more than a week at any one time from the time that you commenced to work for him until you quit? A. I don't remember.

Q. The letter that you had telling you that Thomas was dead, you received that when you were at the Fort just before you came to Fort Lawton, didn't you? A. Yes.

Q. There was a deed with that letter, wasn't there?

A. Yes.

Q. And somebody wanted you to sign that deed, whoever wrote that letter, didn't they?

A. Cad Wadsworth wrote the letter.

Q. From Oklahoma? A. No, it was my sister's husband.

Q. How? A. My sister's husband.

Q. Where did he live? A. Out in the country.

Q. Where from, out in what country?

A. Thirty miles from Muskogee.

Q. That is the letter that you referred to that is burned up isn't it?

A. No, the letter that is burned up—all those letters are burned up.

Q. Was the boy that Mary Smith referred to, summer before last, who she claimed was Thomas Atkins, was he this man H. Carter?

A. I don't know anything about that Smith business, I don't know.

Q. Mary Smith referring to some boy and you say it was not Thomas?

A. Well, I said it wasn't Thomas, I don't know what his name was.

Q. You don't know what his name was? A. No.

Q. Now, what is the name of that half breed Indian that you referred to as having been at Granny Letcher's, or having been in Leavenworth when you were living there?

A. Half breed?

Q. Yes, you spoke of a half breed Indian coming in one day when you were at Granny Letcher's?

A. That was Bill, that wasn't Tommy.

Q. Oh, it was a man was it? A. Yes.

Q. I thought there was a half breed Indian woman there?

A. That was Mary Smith, she has got Indian you know, I think.

Q. She has got Indian in her?

A. I don't know, I just took it by the looks.

Q. What is the rest?

A. She would be white, I guess.

Q. White and Indian, did you see her summer before last? A. Yes.

Q. She lives in Leavenworth now? A. Yes.

Q. Your child that was born and died at Fort Logan, Colorado, was born at the Post hospital, wasn't it?

A. No, sir.

Q. Did it die at the Post hospital? A. No, sir.

Q. Did you have a child that was born and died at the Post hospital? A. No, sir.

Q. Named Mandy Atkins?

A. Mandy Atkins, that is my sister.

Q. I know, but I am speaking of the Fort Logan Colorado Hospital?

A. No, my child didn't die in the hospital at Fort Logan, or it wasn't born in the hospital, Mabel—— I mean Alice.

Q. Did you have a child at Fort Logan named Nancy that was born and died?

A. No, that is the only children I had: Thomas, Harvey, Charlie and Alice.

Q. Minnie, the records in the hospital at Fort Logan Hospital show that a child was born to Minnie Peterkin and it lived about ten months and died in the hospital?

A. No, it wasn't in the hospital.

Q. The records of the hospital show the birth and death of a child?

A. I never had it in the hospital and it never died in the hospital. They come down to my home and got the child and took it to the Post Cemetery and buried it, it wasn't born in the hospital.

Q. The records in the hospital show a child of Minnie Peterkin named Nancy. Now, it may be true that it wasn't born or didn't die there, but you gave the name Nancy?

A. There is nothing there belonging to me by the name of Nancy Atkins, I don't know nothing about that, because they all knew there in Fort Logan that my name was Minnie Atkins, it wasn't my child.

Redirect Examination by Mr. Hanford.

Q. Minnie, you were asked just now about a letter at the last place before Fort Lawton, that was Fort Harrison, Montana, was it not? A. Yes.

Q. Did you ever receive a letter there with a deed in it, or any paper? A. No, I got it at Montana.

Q. At Montana?

A. That is the letter I got at Montana, Fort Harrison.

Q. That is the letter that you spoke about? A. Yes.

Witness dismissed.

Mr. Hill: I want to ask Mrs. Folk some questions in regard to her statement at Kansas City.

Cross Examination by Mr. Hill.

Q. Mrs. Folk, before you had this conference with Mr. Page, Mr. Josey, Mr. Long, Mr. Hanford, and Mr. Rice at Kansas City, you had been to Leavenworth twice had you not?

A. I think so.

Q. You had talked to quite a number of people there and with your counsel and was doing the best you could to remember the facts inquired about? A. Yes, sir.

Q. You intended to answer truthfully all the questions that were put to you in that conference, were you not, Mrs. Folk? A. I was trying to answer all I could remember.

Q. And were trying to answer them truthfully?

A. Yes, sir.

Q. I want to read you from page 31 and see if these questions and answers were put to you, if these questions were put to you and answers returned by you: "Q. How did you happen to go to the Territory? A. I went back because my brother sent for me and wanted to see me. Q. Who was your brother? A. Lee Atkins. Q. Did he write to you? A. Yes, sir. Q. Had you written to him before that? A. No, he found out where I was. Q. Had you written to any of the folks in the Territory? A. No, I didn't want them to know."

A. Yes, sir.

Q. Now, I will ask you to listen to this from page 33 of the record, questions and answers: "Q. Now, when you went from Fort Logan down to the Territory, now, while you were at Fort Logan before you went down to the Territory and while you were living with Peterkin before he was ordered away, did you get any other letter from the Territory that you remember of, from the folks in the Territory? A. Charlie used to write to me all the time. Q. Charlie, who? A. Charlie Peterkin. Q. Well, I mean any of the others in the Territory? A. I got this letter from the Territory, at Detroit, Michigan, when we were up there about Tommy. Q. Now, when did you go to Detroit? A. When the Seventh Infantry came back from Cuba, they were ordered to Detroit Michigan, to Fort Wayne Q. Now, that was all after you had been down to the Territory, wasn't it? A. I made two trips you know. Q. Well, I mean the first trip, now, the only letter you had from the Territory when you made your first trip was some letters you got from Lee to come down? A. That was the first of the whole thing." Is that true? A. Yes.

Q. Now, continuing on page 34: "Q. Up to that time had you any letters or correspondence about Thomas? A. No. Q. Did you get any letters at all from anybody about Tommy? A. No. Q. Did you make any inquiry of anybody about him? A. Not after I went away." Did you give those answers to those questions? A. I don't remember.

Q. How is that? A. I don't remember.

Q. "You didn't see anybody from Leavenworth from the time you went down to the Territory? A. I only seen the

Hamilton's when they came. I left them there and went to Muskogee to see my brother." Was that true?

A. No, that ain't right.

Q. Did you say in this conference at Kansas City—— You shake your head, the stenographer don't get that? A. No.

Q. You did not say that. Now, page 35: "Did Mary Hamilton tell you about Tommy? A. No, sir. Q. Did you ask her? A. No, sir. Q. Did she know anything about Tommy being dead? A. No, I kept away from her. Q. You kept away from her in *Muskogee*? A. Yes, I didn't want her to know. Q. Did her husband know? A. Oh, Claude, no he didn't know nothing." Did you make those answers to those questions? A. Yes.

Q. Page 37 this question and these answers: "Now, you wrote John Davis about your having the children, did you, that is what children that you had? A. I didn't tell him about Tommy. He knew about Charlie and Harvey because he saw them." A. No, I didn't say that.

Q. You didn't say that. "Now, did you not tell him about Tommy and Alice? A. Well, I don't remember." Did you say that? A. Yes, I told him about Tommy and Harvey.

Q. The question is did you make this statement in this way in this conference at Kansas City? A. No.

Q. Page 39, I will ask you these questions and answers—

Mr. Cruce: Couldn't we shorten that by just considering it all in?

Mr. Hill: You admit that these were the statements made by her at that time?

Mr. Cruce: Yes, just let the whole thing in.

The Court: All right, the whole transcript of the Kansas City conference, which counsel have referred to will become a part of the record by agreement of counsel.

Mr. Linebaugh: One portion of it we do not think it would be competent to be offered by the Minnie Atkins —Page interests.

The Court: What portion is that?

Mr. Linebaugh: That is the portion with reference to the manner of the enrollment of Thomas Atkins.

The Court: Was the statement made by her?

Mr. Linebaugh: Yes, sir, or any testimony—— We do not think it would be competent for them to offer any testimony by this witness as to the manner of his enrollment.

The Court: I may not understand just what that contains. I have the impression that this only contains statements made by Minnie Atkins in answer to questions which were put to her?

Mr. Linebaugh: That is right.

The Court: Am I right about that?

Mr. Linebaugh: Yes, sir.

The Court: Well, then, in my judgment, this whole matter should be before the court, all the questions asked and all the answers made.

Mr. Linebaugh: I think so too as to questions asked and answers made at Kansas City.

The Court: Yes.

Mr. Linebaugh: Not subject to proof here in affirmative proof.

The Court: It will be in the record for comparison with statements made elsewhere, the one portion to the other.

Court's Ex. A.

Office of
GEORGE WILLIAMS SNYDER
203-4 First National Bank Building,
Kansas City, Missouri.
September 29, 1914.

Present: Messrs. B. F. Rice, Frank B. Long, E. C. Hanford and R. A. Josey.

Mrs. H. B. FOLK, in answer to interrogatories propounded by Mr. Rice, made the following statement:

Q. Will you state your name please? A. My name?
Q. Yes. A. What my name is?
Q. Yes, your present name? It's Minnie Folk, isn't it?
A. Yes, sir, my name is Minnie Folk.
Q. What was your name before you were married to Mr. Folk? A. Minnie Atkins.
Q. Where were you married?
A. I was married in Vancouver, Washington.
Q. How long ago? A. I don't remember how long ago.
Q. How many years, about seven or eight?
A. We have been married eight years.
Q. Your present husband is living? A. Yes, sir.
Q. Where does he live? A. Fort Lawton, Seattle.
Q. About how old are you? A. About fifty.

Q. Where were you born?

A. I was born in, well, I was born in El Paso but I was raised on "L" Creek.

Q. You were born in El Paso, Texas? A. Yes, sir.

Q. You moved from El Paso to "L" Creek in the Indian Territory? A. Yes, sir.

Q. Near what town? A. Muskogee.

Q. How far is "L" Creek, where you were raised, from Muskogee? A. A day's ride on the train.

Q. Which way do you know, north or south?

A. I don't know.

Q. What is "L" Creek, is that a town or a settlement?

A. Its just a few people that live there and the Creek is named that.

Q. Its an old Indian settlement, is it?

A. Yes, there was a few around there but it wasn't a town.

Q. What was your father's name? A. Tom Atkins.

Q. And who was your mother? A. Mary Jane Atkins.

Q. And they were citizens of the Creek Nation?

A. No, my mother was a white woman.

Q. And your father was an Indian? A. Yes, a Creek.

Q. Is your mother and father living? A. No, sir.

Q. When did your mother die?

A. She died when I was twelve and my father when I was thirteen.

Q. Were you living there on "L" Creek when they died?

A. *Mr.,* mother died at Muskogee and my father died at a little place called—well, I can't think of that little town but he didn't die right at home, and mamma didn't either.

Q. Your mother and father both lived with you on "L" Creek, did they? A. Yes, sir.

Q. For how many years?

A. Why, I was that age, you know.

Q. How young were you when you came there?

A. I wasn't so awful young. I can remember.

Q. Four or five or more than that? A. I don't know.

Q. You remember coming from El Paso to "L" Creek?

A. We went to El Paso at the time my father kept the slaves.

Q. And then you came back from there?

A. We didn't stay in El Paso long. That is, only me was born in El Paso and another one that is dead, I think.

Q. Were you the first child?

A. No, it was a boy ahead of my brother.

Q. What was his name?

A. He was only a tiny little kid and he died.

Q. And then you were the next child?

A. No, there was another one. There were three dead and three living.

Q. I know, but who was born first, the young boy who died?

A. Yes, he would have been the oldest but he died and then there was a girl.

Q. And did she die?

A. Yes, and then another. There were three that were older.

Q. There were three that were older than you? A. Yes.

Q. You mean then, there were three older than you?

A. Yes, and then me and then Lee and then Nancy.

Q. Was Lee born on "L" Creek? A. Yes.

Q. And where was Nancy born? A. She was born there.

Q. She's younger than you? A. Yes, she's the baby.

Q. How much younger is Nancy than you?

A. Three years difference in our ages.

Q. Lee is dead, isn't he? A. Yes, sir.

Q. He was killed at Checotah? A. Yes.

Q. Were you there?

A. No, I was in Eufaula but they telegraphed me to come up.

Q. And your father and mother died when you were about twelve and thirteen years old?

A. I was twelve and they died a year apart.

Q. Who did you live with after that?

A. Let's see. Well, when they died, why my uncle, John Davis, took us for a while. He was my mother's brother.

Q. John Davis? A. Yes, he's dead.

Q. Where did he live?

A. Well, I just exactly can't say where he did live.

Q. Was he a white man?

A. Yes, the same as my mother. He was my mother's brother. I don't know whether he had Indian in him or not but they said they were white. I suppose he had Indian because they had land. He had a big farm.

Q. You lived on his place for a while, didn't you?

A. No, we didn't live with my uncle. We didn't live on my uncle's farm. I don't just remember what he did with Nancy, you know, but I was with him the longest. He brought me to Muskogee to go to school.

Q. What school was that? A. Tallahassee Mission.

Q. Did Nancy go to that school too?

A. No, Nancy didn't go anywhere with me.

Q. How young were you when you separated from Nancy, just a few years after your father died?

A. Yes, I was just a kid.

Q. Did Lee go to school?

A. Yes, Lee went to school, where I am trying to tell you that my father died, at that time, you know.

Q. Did your father die a natural death or was he killed?

A. No, I think my father was poisoned because he died suddenly at the table.

Q. Were you there when he died?

A. No, they sent for us. When he went away he left some old lady looking after us, you know.

Q. Who was that old lady that was looking after you, Minnie, do you remember who looked after you after your father went away? After you went to school at Tallahassee where did you go? A. I went to Carlisle.

Q. Do you remember—did the Tallahassee school burn?

A. Yes, sir.

Q. And you were in the school when it burned?

A. Yes, sir.

Q. And after the fire you went to Carlisle, did you; did any of the other children go with you? A. Yes.

Q. How many?

A. Well, there was—there were a number of us went but I can't mention but a few of them.

Q. Was there ten or twelve of you went?

A. There was more than that went.

Q. Can you remember the names of any of them?

A. Bennie Marshall.

Q. Anybody else? [A.] Robert Stewart and Almarine McKellopp. I don't remember but a few of the girls.

Q. What's Betty Marshall's name now?

A. His name is "Bennie."

Q. That's a boy? A. I didn't speak of any girls.

Q. Is Bennie Marshal at Sapulpa?

A. He's at Muskogee, I think.

Q. Did you see him at Sapulpa when you were there?

A. Yes.

Q. Do you remember any of the girls?

A. Well, Sarah Crowell was one. We always called her "Betty." At Carlisle she was called Sarah.

Q. Have you seen Betty Crowell since? A. No.

Q. How long were you at Carlisle?

A. I was there over three years.

Q. Do you remember the names of any of the teachers or the people around the school?

A. No, I don't know of any of the teachers but I can tell you the lady's name that took care of us.

Q. Who was that? A. Mary Hyde.

Q. And what's her name now, do you know?

A. That was her name, she was never married.

Q. Was there any other name of any person that you can remember? A. Miss Robinson was there.

Q. Have you seen Miss Robinson since?

A. Yes. Alice Robinson.

Q. You stayed there three years?

A. I think it was quite that because then you see I came to Leavenworth.

Q. You came to Leavenworth, did you, after you were at Carlisle? A. Yes, sir.

Q. Then you must have been how old when you left Carlisle? A. Well, that I can't just exactly say.

Q. Sixteen or seventeen?

A. No, I wasn't that old, I don't think.

Q. Now, your father died when you were thirteen and you were at Tallahassee a year or so, were you? A. Yes.

Q. And that would make you fourteen or fifteen and then you were at Carlisle about three years?

A. I didn't put in the full three years.

Q. That would make you about seventeen or eighteen years old. Does that seem about right to you?

A. I don't think I was that old.

Q. Is that so? Well, what would you say?

A. About sixteen, going on seventeen, I think.

Q. Now, why did you leave Carlisle?

A. Why Miss Hyde's brother sent for one of the girls at the school as a cook.

Q. And you had studied cooking?

A. Yes, I took cooking lessons in Philadelphia while I was at school, during the vacation, you know.

Q. In Philadelphia, Pa.? A. Yes, sir.

Q. How long were you in Philadelphia?

A. They sent for us right in again. I didn't——

Q. (Interrupting) You went in there during the holidays?

A. Yes, and we had to come right out again.

Q. Now, Miss Hyde's brother sent for one of the girls to come to Leavenworth?

A. Yes, to cook, and I was the one.

Q. You had never been in Leavenworth before? A. No.

Q. And did anyone go with you? A. No, I went alone.

Q. And you went from Carlisle to what town before you went to Leavenworth?

A. Well, I just went to Leavenworth from Carlisle.

Q. Did you go through any other cities?

A. Oh, I remember the cities that I went through traveling but I didn't take much stock in them you know.

Q. Did you go through St. Louis? A. I couldn't say.

Q. You don't remember particularly any of them?

A. No, because I was alone and I didn't get out and I didn't ask, you know.

Q. Who met you in Leavenworth?

A. I think nobody met me. I think I asked the hack driver to take me up to George H. Hyde's.

Q. Did you know George H. Hyde before then?

A. No, just from letters to his sister.

Q. And was he a white man or an Indian?

A. He's a banker at Leavenworth.

Q. A white man? A. Yes.

Q. And you went to work at his place?

A. At his place on the Esplanade.

Q. And were there any other people working there besides you?

A. I was the only one at that time; I was the cook. They wanted me to nurse but I didn't want to nurse, it kept me in too much.

Q. Did they have a number of children? A. Three.

Q. Now, did anybody else, live in the house or around the Hyde residence besides you, any other help?

A. Well, there was a laundress there, but I don't remember her name. I know the laundry was done at the house. I didn't do the laundry and I didn't bother about who did it.

Q. Have you any recollection now about this laundress?

Q. Yes, it came to me later that they had a laundress, you know.

Q. Do you remember this laundress, Kate Logan?

A. Yes, I remember of her after they told me about it, I knew they had one in the house.

Q. Do you remember now this Kate Logan?

A. Yes, she hasn't been dead so very long.

Q. She died a week ago last Saturday. Now where was the Hyde home relative to the rest of the town, do you remember where it was; can you tell about where it was?

A. They Hyde building?

Q. Yes.

A. Well, it was up facing the river, you know, the Esplanade ran across the front and it was up back among some trees. There were big trees in the yard and you came out by the side of the kitchen and went out the gate again.

Q. Now, Leavenworth was the United States Fort, wasn't it? A. No, the Fort is up above Leavenworth.

Q. How far? A. It's called three miles.

Q. What was the name of that Fort then?

A. Fort Leavenworth.

Q. Now, do you remember the name of any of the girls that you were acquainted with at that time, while you were living at the Hyde house?

A. Well, I will tell you. I was a person that was a great deal to myself. I didn't mix up much with women and up to yet, I don't mix up with them. I don't know why. It's a way that I have myself.

Q. You don't remember the names of any of them.

A. No. One that I went with around in Leavenworth, her name was—I can't tell you her name now. The women I know in Leavenworth, is that what you want?

Q. Yes.

A. I knew Mrs. Hamilton and Grandma Spain; I couldn't tell but I couldn't help but know them because they all came from Carlisle.

Q. Did you know Mary Hamilton at Carlisle?

A. Yes, she was the government laundress.

Q. And she moved afterwards to Leavenworth?

A. Yes, for her health.

Q. And this Mrs. Spain?

A. That was her mother. There was three of them traveled together before she married Jim Hamilton.

Q. Claude Spain, the old lady and the daughter. What became of Claude Spain, do you know?

A. Well, the last time I heard of him he was in Colorado at Fort Logan.

Q. How long ago was that?

A. That's been quite a while ago.

Q. You haven't heard of him lately?

A. No, I never corresponded with them.

Q. Old Mrs. Spain is dead? A. Yes, she was old.

Q. And Mary Hamilton, you don't know, you haven't seen her lately? A. No, she moved to California.

Q. How long ago was it that you saw Mary Hamilton?

A. I haven't seen Mary Hamilton since the Seventh Infantry went to Cuba, to fight.

Q. That's about 1898, about sixteen years ago?

A. I haven't seen her since.

Q. Where was that that you saw her?

A. She was at Fort Logan, she was living there.

Q. You never saw Mary in Denver?

A. Not when she lived in Denver, no, sir. This was a town just like this is Kansas City, you know.

Q. And Claude Hamilton, have you seen him since?

A. No, I haven't. I would know Claude Hamilton. I don't want to know him.

Q. What was the matter with him?

A. I just didn't care for him.

Q. He wasn't in the army?

A. Yes, he was in the Army once but he isn't in it now. He was a Government painter but he's not in the Government now, he's for himself.

Q. Was he in the army at Leavenworth?

A. No, he used to paint inside the Fort but he painted in Denver at Fort Logan.

Q. How long did you stay at Mr. Hyde's?

A. Pretty near three months, or about three months.

Q. And then where did you go?

A. Then I just—when I went from there knocking around and stayed a good deal at Grandma Letcher's.

Q. You didn't work anywhere else after you left Mr. Hyde's before you went to Grandma Letcher's?

A. Oh, I just worked—I worked at a place but I can't tell just now; I worked there just a few weeks or a couple of weeks, I don't remember, at a rich Jew's but I don't remember their names.

Q. You were only there a short time? A. Yes.

Q. Grandma Letcher, was she colored or white?

A. She was pretty near white but she was a colored woman.

Q. Where was her house, do you remember the street?

A. On Seneca street.

Q. On Seneca street? A. Yes.

Q. And what other buildings do you remember now that were in that neighborhood?

A. There was a corner saloon that I remember with a rooming house up stairs.

Q. Was there a livery stable near there?

A. Yes. I can't think of the name.

Q. Was it Crilly? A. Some such name as that.

Q. Do you remember any other houses in the neighborhood of Grandma Letcher's or any other businesses?

A. There was a grocery store.

Q. Do you remember whose grocery store it was?

A. Yes.

Q. Whose?

A. It was Rube Smith's; he ran the grocery store.

Q. Now, Mr. Crilly was a white man wasn't he?

A. Yes. He ran the livery stable and I used to go there and get rigs.

Q. And Rube Smith was a colored man? A. Yes.

Q. And who ran the saloon, do you remember?

A. No, I couldn't tell you that.

Q. And do you remember who ran the rooming house over this saloon?

A. No, I never was up there in the rooming house.

Q. And who was in business with Mr. Crilly, do you know?

A. No, I don't know. He had a partner but I don't know who he was.

Q. Where did Crilly live?

A. Kind of close to the stable.

Q. Now, did this stable face Grandma Letcher's house?

A. It was across the street and we used to go in the alley and Mr. Crilly's house, where he lived, faced Letcher's also.

Q. And Mr. Crilly's house was across the street, was it?

A. Yes, sir.

Q. How many girls was at Mrs. Letcher's?

A. Well, they were out and in, you know, all the time.

Q. Would you say four or five girls there most of the time?

A. Sometimes more than that. They were out and in you know.

Q. How many rooms in the house, do you remember?

A. I couldn't say.

Q. A two-story house? A. Yes.

Q. How far were the railroad yards from Letcher's?

A. The railroad yards?

Q. Yes. A. Where the train ran?

Q. Yes. A. Not so awful far; down towards the river.

Q. And was the depot near there?

A. I can't say much about the depot.

Q. Do you remember the repair shops where the trainmen worked? A. Yes, I remember them.

Q. Was that in the neighborhood of the Letcher house?

A. Yes.

Q. And did a good many of these trainmen come around this place? A. I don't know.

Q. And was there any—how many while girls lived there?

A. I don't know who all the girls were there, you see, I didn't know all of them. I know they were there and I seen them and that's about all I know.

Q. Do you remember whether there were any white girls there besides you?

A. I don't know whether they were there to stay but I know there were white girls but I can't say that they stayed there. I can't say that.

Q. Were there any other girls of Indian blood there besides you? A. No.

Q. You were the only one? A. The only one I know of.

Q. Do you remember the names of any of the girls that were down there at that time?

A. No, I couldn't tell you a name.

Q. Do you remember a girl named Ida Foster?

A. Well, that's the girl that this Mrs. Smith said I went around with, you know. I might have went around with her but I don't remember.

Q. You don't remember her at this time? A. No.

Q. Do you remember hearing her name at all?

A. Yes, her name is familiar to me.

Q. But you can't place her? A. No.

Q. Do you remember the names of any of the men that were there at that time?

A. Oh my, no. I didn't ask their names, you know. I remember the man that brought wood.

Q. What was his name?

A. His name was—he lived away on the other side and a good ways from Grandma Letcher's.

Q. Bill Grape? A. Yes, he brought coal and kindling.

Q. Do you remember that being his name now?

A. Oh, I knew the man as soon as I saw him.

Q. I say, do you remember him by that name?

A. Yes, he remembers me.

Q. He used to bring coal and wood there to the house?

A. Yes.

Q. Now, this Rube Smith, did you know him pretty well?

A. No, I didn't know him so well, Grandma Letcher used to get groceries there and sometimes I would go and get the groceries but I don't know much about him.

Q. Did Grandma Letcher have any children around the house at that time? A. She had a one armed boy.

Q. What was his name do you remember? A. Sam Nash.

Q. Sam was a colored boy, wasn't he?

A. Yes, he's colored.

Q. Do you remember any other colored boy being there?

A. Well, there was another one that they called "Walter."

Q. Who was Walter, do you know his last name? A. No.

Q. Do you know Walter Banks? Do you remember that name? A. They just called him Walter.

Q. Do you know whose child Sam Nash was?

A. I think he was just left there.

Q. Do you know whose child Walter was?

A. No, he was just left there.

Q. And Granny just took care of them?

A. She was a woman who just took care of the kids when you leave them there.

Q. How long did you stay there before your child was born? A. I stayed there long enough until it was born.

Q. Were you carrying this child when you went there?

A. Yes.

A. About how long would you say, after you went there that the child was born?

A. Well, I wasn't just exactly staying there all there time. But I would go other places, don't you know. I wasn't there just steady.

Q. How long were you there, off and on, before your child was born?

A. Oh, about three months, two or three months, I guess.

Q. How long was it after you left Hyde's that the child was born? A. How long?

Q. Yes, after you left Mr. Hyde's place?

A. I don't know how long it was.

Q. Did you get with the child after you left Hyde's?

A. Yes, after I left Hyde's. I was around town.

Q. Minnie, when you left Mr. Hyde's, were you going with any man particularly, you had no sweetheart or lover particularly? A. No, I didn't want any.

Q. And you were going with a number of men, were you?

A. No, I wasn't going with a number either.

Q. Well, what were you doing?

A. Oh, I was just around.

Q. Running around pretty well? You weren't going with any particular man, you say, when you left there. Were there two or three men going with you particularly, when you left Hyde's? A. About two, I guess.

Q. Do you remember their names? A. No.

Q. Your first child was a boy, was it, Minnie?

A. Yes, Thomas Atkins.

Q. That is your first child? A. Yes.

Q. Now where was Tommy born?

A. At Grandma Letcher's, up stairs.

Q. Did you have a doctor? A. Yes.

Q. Did you remember the name of the doctor?

A. No, I don't exactly remember because I just told Granny Letcher to get a doctor and I think she sent a colored man after a doctor. I don't know his name.

Q. What colored man was that?

A. Reub. He came there with some groceries.

Q. And was the doctor a white man or a colored man?

A. I don't just remember that either. He must have been a white man.

Q. How many times did that doctor come, do you know?

Q. No, I was awfully sick, I don't remember.

Q. Did you pay the doctor? A. I borrowed the money.

Q. Who did you borrow it from?

A. I don't know where Granny got it.

Q. You got the money really from Reub Smith? A. Yes.

Q. You got the money from him to pay the doctor?

A. Yes.

Q. What time of the year was this child born?

A. Somewhere in 1885, I think.

Q. Was it in the summer or in the winter?

A. It was in the winter.

Q. About the time that this child was conceived, what man—were you going with more than one man?

A. I don't know. I did tell you that I went around. I can't tell you any more.

Q. And there was quite a little whiskey then in Leavenworth wasn't there?

A. I can't remember about those things.

Q. Now, at the time the child was conceived, were you going with more than one man?

A. No, there was more than one.

Q. Were you living at Granny Letcher's at the time the child was conceived?

A. I was staying there when it was born. It was born at her house up stairs. I used to go there, not steady to stay, but if I wanted to have it there I had arrangements so I could have it there.

Q. Well, when the child was conceived, were you going to Granny Letcher's at that time? A. Yes, I was going there.

Q. And were you staying with more than one man?

A. I don't know.

Q. Do you know whether you had one steady sweetheart at that time or not? A. Yes, I know that.

Q. You had more than one? A. No, I had one.

Q. At the time the child was conceived you had left Hyde's residence?

A. I wasn't at the Hyde's when the baby was born. I had left Hyde's. They don't know nothing about it.

Q. I mean, when you begun carrying the child?

A. I had left Hyde's.

Q. During the time that you were carrying the child, you lived at Letcher's a good deal of the time?

A. Off and on I would go there most of my time.

Q. And just before the child was born, you were living regularly at Letcher's, were you? A. Yes.

Q. Well, were you there two or three months before it was born? A. I was rooming there off and on you know.

Q. Now, did you see men there or go there with men?

A. No, I just went there to be there.

Q. You went there with men or did you see men after you got there? A. No.

Q. Did you take men there with you or did men come there to see you, that's what I mean. How about that, Minnie? Go ahead. It will all be over with in a little while.

A. Well, they came there. They knew I was there.

Q. And about the time you started to carry this child, had men been coming there to see you?

A. Well, I didn't see them after I knew it was pretty near time for it to be born, I didn't see them.

Q. Well, I mean about the time you began carrying the child, did men come there to see you? A. Yes.

Q. A number of men? A. No, not a number.

Q. How many, two or three or four, did the soldiers come there more at that time?

A. No, there wasn't no soldiers, it was the citizens of the town.

Q. The railroad men? A. No.

Q. Any railroad men at all? A. I don't know.

Q. You don't remember any now? A. No.

Q. Now, the child was born in the winter time?

A. Yes, in the winter like, she had to buy lots of wood and coal. It must have been in the winter.

Q. Do you remember anybody that was in the house at the time the child was born?

A. An old lady called "Betsy"—I had a nurse, an old lady called—I told Mr. Long her name but I have forgotten it.

Q. She was a nurse? A. She nursed me.

Q. White or colored? A. Colored.

Q. And who else was in the house?

A. Granny was there. She had a lot of girls down stairs.

Q. And Sam Nash?

A. Yes, and this Walter was there too.

Q. Do you remember the names of any of the girls that were there? A. No, sir.

Q. Do you remember the names of any of the men that used to come to the house about the time the child was born?

A. Well, this man Grape used to bring the wood and Reub used to bring the groceries. He was there with the groceries and things.

Q. Who else, do you remember? Do you remember anybody else?

A. I know another man but I don't know whether he was out and in or not. He lived away down by the river.

Q. Who was that?

A. I can't think of his name. Mr. Long knows it.

Q. Was he a white man?

A. No, he was a colored man, you know. You know *noe* colored people are, they will hang around a place and the reason I went there to have Tommy I didn't want the white people to know about it. I thought it was a good hiding place and I went there but I guess it was about the worst place I could get into.

Q. After Thomas was born, did you ever see his father?

A. No, I know his father but I am not going to tell.

Q. Did you see his father after Thomas was born?

A. In Leavenworth?

Q. Yes. A. Yes, I know who he is.

Q. Did he come to see the child after it was born? A. No.

Q. He never did? A. Not the father of the child, no.

Q. Did any of the other men that you were going with at that time? A. No.

Q. Did Granny Letcher know who the father was?

A. I don't know whether she did or not.

Q. Do you know whether any of the people around there knew who the father was? A. I don't know that either.

Q. Did the father ever give you any money after the child was born?

A. Yes, this fellow used to give me some money.

Q. Did he ever do anything for the child?

A. No, I don't know as he did.

Q. Did he admit that it was his child? A. I don't know.

Q. How long did you stay there after the child was born?

A. Why, Tommy could get around quite good.

Q. He was a year or so old?

A. About a year old, not quite one year old because I went to Denver then from Leavenworth.

Q. You stayed there at Granny Letcher's for about a year after he was born? A. Yes, around in Leavenworth.

Q. Where did you leave Tommy?

A. There at Grandma Letcher's; he never left until this time, you know. He was nearly going on—well, Sam said he was pretty near fourteen when he left Granny but he left Granny's in this way. There was a woman came there and told Granny that I told her to take him and that's how he come to disappear, but I didn't.

Q. Well, you stayed there about a year then, did you pay Granny for taking care of the boy?

A. No, she took care of him herself.

Q. Did Tommy nurse? A. Yes.

Q. During the time that he was nursing, did any men come to see you? A. No.

Q. The father was never around there after the child was born? A. No.

Q. Where did you see him when he gave you this money, you said he gave you some money and where did you see him when he gave you the money?

A. Oh, around town—down town.

Q. He didn't come to Grandma Letcher's to see you?

A. No.

Q. Now, while Tommy was nursing, was Reub Smith ever around the house?

A. He came in and out with the groceries and saw him.

Q. He saw him all the time he was with you?

A. All the time he was at Granny Letcher's.

Q. Did he ever see Tommy with you?

A. Yes, he saw him around the house when I was there.

Q. Did your room have a stove in it?

A. I don't know how it was heated.

Q. Did Reub ever come into your room when Tommy was in bed with you? A. No.

Q. He never saw Tommy in bed with you? A. No.

Q. Well, do you remember seeing Reub around there about the time the child was born?

A. Well, I think the day I was sick he came there and delivered some groceries, to Granny Letcher's. I don't know much about Reub.

Q. You say the child nursed at the breast, did he? A. Yes.

Q. And Reub would come in with the groceries while the child was nursing? A. I don't know how that was.

Q. And who was this man who delivered the wood and coal?

A. Grape. And then another man was hanging around Granny Letcher's was Sam Parker or Bill Parker.

Q. Who was the hot tamale man?

A. Chinie, he was the hot tamale man. And there was Sam Parker, Will Parker it was.

Q. Who was Chinie? A. He was the hot tamale fellow.

Q. What did he look like?

A. He had a yellow skin and looked like a chinaman and talked like one but he wasn't a chinaman, I don't think.

Q. Was he around there while the child was nursing?

A. I used to get hot tamales from him. He was there around. I guess, though, there were so many around that I can't say, you know. There was three or four other fellows there that knew Tommy.

Q. Now, after Tommy was born, you stayed in and around Leavenworth there for about a year, who did you go with during that year, anybody in particular?

A. Oh, I couldn't tell you that.

Q. Well, was there any white woman around there at the time Tommy was born? A. A white woman?

Q. Yes.

A. Mrs. Smith. A woman by the name of Mrs. Smith, you know. She came to Granny and Granny told her that there was someone sick, not to be so noisy so she said: "Can I go see" and she said: "Well, yes, you can." So she came up stairs.

Q. Could you hear Granny talking to her?

A. Yes, to this Mrs. Smith. It wasn't a brick building, you know, and she came up and she went back down stairs, and she said: "Why, this is a white woman you have up stairs," and when anyone is sick they look white, you know, and Grandma said: "No, she isn't a white woman. She has got some Indian in her." And this lady said: "No, no, she hasn't." And when I saw her yesterday she was telling me about that and I said: "Why that was me." And she said: "Well, you weren't that stout," and I said: "Well, I was just a kid then."

Q. Who was the mid-wife?

A. It began with a "B"—you know I can say it to myself but I forget—Betsy, she was an old lady. She nursed me.

Q. Then the doctor that waited on you was a white man?

A. Dr. John McCormack.

Q. Did you say that or do you remember it?

A. Well, I remember now that he waited on me.

Q. What I want to know is what you remember yourself.

A. No, I don't tell anyone to tell me what to say. I can talk for myself, you know.

Q. Do you remember the name of John McCormack yourself, or do you say that because it was suggested to you?

A. No, I remember it. I said it yesterday.

Q. You remember that yourself? A. Yes.

Q. Now, after you left Leavenworth, you went to Denver?

A. To Fort Logan.

Q. And who did you go with to Fort Logan?

A. Gee, do I have to go over all that again?

Q. Yes. A. What was it?

Q. Who did you go with to Fort Logan?

A. Does that come in about Thomas Atkins?

Q. Yes, you will have to tell the whole story. There's no question about that and you will have to tell it on the stand.

A. I won't go to court.

Q. Well, that's up to you, but that's what you are.

A. I will tell all about that part of it. What I want to have impressed on my mind is the Leavenworth affair.

Q. Now, you went with whom, Peterson, to Fort Logan?

A. I never said at the beginning, that I went with him there.

Q. Well, who did you go with?

A. Who was my steady company?

Q. Yes. A. Deb Harrison, when I was in Fort Logan.

Q. Who did you go from Fort Leavenworth to Fort Logan with? A. I went with Peterson.

Q. Where did you meet Peterson? A. At the Fort.

Q. Were you working at the Fort? A. A little while.

Q. Who did you work for?

A. Lieutenant Stafford. Now do you want the Fort story?

Q. Yes.

A. Well, the Fort story is, that I first worked for Mr. Grodevant. He was the Carpenter's Superintendent at the prison and from there I went to Lieutenant Stafford's in the Kindergarten.

Q. What's the Kindergarten?

A. The officers' school and then from there the Eighteenth was ordered to Fort Logan. Well, then, I went from there then——

Q. (Interrupting) Peterson was in the Eighteenth?

A. Yes.

Q. How long did you live with Peterson before you left Fort Leavenworth?

A. No, I didn't live with him. He was my sweetheart.

Q. Didn't you keep house for him? A. No, not there.

Q. You are sure about that?

A. No, I didn't keep house in Leavenworth for Peterson.

Q. Who did you work for there at the time you were going with Peterson?

A. I just said Lieutenant Stafford. He tells him I was at another place that I wasn't.

Q. You never lived with Peterson at Leavenworth?

A. No.

Q. Now, where was your second child born?

A. At Denver, Colorado and her name was Mabel.

Q. That was a girl? A. Alice was her right name.

Q. That was a girl? A. Yes.

Q. And did that child die there? A. Yes.

Q. How long after her birth?

A. Oh, she lived to be about a year old.

Q. Did you take care of the child during its lifetime?

A. Yes.

Q. Now, who were you living with after you went to Fort Logan, did you live with Peterson out there? A. Yes.

Q. And this child was born in Denver, or Fort Logan?

A. Fort Logan and is buried in the cemetery there.

Q. And then you went with Deb Harrison after that?

A. Yes, after he was ordered to Cuba.

Q. After Peterson was ordered to Cuba? A. Yes.

Q. Let's see how long you were at Fort Logan before you went back into the Indian Territory?

A. After the 18th was ordered—no the 18th wasn't ordered to Cuba. The 18th was ordered to Fort Clark, Texas.

Q. The 18th was ordered to Texas? A. Yes.

Q. Now when the 18th was ordered to Texas, you took up with Deb Harrison? A. Yes, that's Harvey's father.

Q. And Harvey and Charley were born before you went to the Territory? A. Yes.

Q. How did you happen to go back to the territory?

A. Well, I went back because my brother sent for me and wanted to see me.

Q. Who was your brother? A. Lee Atkins.

Q. Did he write to you? A. Yes.

Q. Had you written to him before that?

A. No, he found out where I was.

Q. Had you written to any of the folks at the Territory?

A. No, I didn't want them to know.

Q. And Lee wrote to you about how long before you went back into the Territory, I mean, how long after you got this letter was it, that you went back?

A. I got the letter right away and Harrison gave me the money to go and see him.

Q. Do you know *whether* that letter is?

A. Yes, in the stove.

Q. Burned up, is it? A. Yes.

Q. About how long ago? A. After we came to Lawton.

Q. Do you remember the contents of that letter?

A. He just said that he hadn't seen me for many many years and he would like to see me and he said I was out there and he would like for me to come down and see him, was all.

Q. Did he say anything about any Creek payments or anything like that?

A. No, I got that after I was down there; I got that in Muskogee.

Q. Now, where did you put that letter when you got it?

A. Where did I put it?

Q. Yes. A. It was with all my other letters.

Q. Now where did you keep your other letters, in the trunk? A. No, I had a whole suit case full.

Q. Whatever letters you got you put in this suit case?

A. No; that was letters I carried for years and years and years; I never destroyed any of my mail, you know.

Q. Now, this letter that you got from Lee, did you put it in this old suit case?

A. Yes, *will* all my other letters.

Q. Did you have any letters when you were in Colorado at that time?

A. Just that one letter from Lee to come to Muskogee to him.

Q. Did you have any other letters that you received at that time? A. Yes.

Q. Who were they from?

A. From other people—different people.

Q. And you put that letter in with those other letters?

A. Yes, sir.

Q. Now, this suit case of letters that was burned, was that a lot of letters from old sweethearts?

A. Yes, from old sweethearts and letters about Tommy —about his death.

Q. And your husband got tired of seeing them around, did he?

A. No; whenever we had a scrap he would burn up my mail. I made him get out of there and pack his grip and go to the Bend.

Q. He had never burned up your mail before?

A. No, he just took that streak that day.

Q. Now, when you went from Fort Logan down to the Territory you took Harvey. Now, while you were at Fort Logan, before you went down to the Territory and while you were living with Peterton, before he was ordered away, did you get any other mail from the Territory that you remember of, from any of your folks in the Territory?

A. Charlie used to write to me all the time.

Q. Charlie who? A. Charlie Peterton.

Q. Well, I mean any of the others in the Territory?

A. I got this letter from the Territory in Detroit, Mich., when we were there, about Tommy.

Q. Now, when did you go to Detroit?

A. When the 7th Infantry came back from Cuba, they were ordered to Detroit, Mich., to Ft. Wayne.

Q. Now, that was sometime after you had been down to the Territory, wasn't it?

A. I made two trips, you know.

Q. Well, I mean the first trip. Now, the only letter you had from the Territory when you made this first trip, was from Lee?

A. To come down, that was the first of the whole thing.

Q. Up to that time had you had any letters from Granny Letcher about Tommy? A. No.

Q. Did you get any letters from anybody at all about Tommy? A. No.

Q. Did you make any inquiries from anybody about him?

A. Not after I went away.

Q. You didn't see anybody from Leavenworth from the time you left there until you went down to the Territory?

A. I only seen the Hamiltons when they came. I left them there and went to Muskogee to see my brother.

Q. So the Hamiltons were at Leavenworth when you left there?

A. I left them in Leavenworth, the Hamiltons, and they came to Ft. Logan.

Q. Now, how long was that after you went to Ft. Logan that they came out? A. I don't know.

Q. A year, would you say?

A. I don't know; I don't like to say a thing I don't know.

Q. Do you know how long you were at Ft. Logan before you went down to the Territory?

A. All told, I was there eight years.

Q. You were there about three or four years probably before you went down to the Territory the first time?

A. Yes. The very first time I left Logan and went down to Muskogee, I was with Bev Harrison.

Q. Now, during the first five years that you were at Ft. Logan the only people you saw from Leavenworth were the Hamiltons?

A. Yes; but they didn't talk to me anything about Leavenworth.

Q. Now, did Mary Hamilton tell you anything about Tommy? A. No, sir.

Q. Did you ask her? A. No, sir.

Q. Did she know anything about Tommy being born?

A. No, I kept away from her.

Q. You kept away from her in Leavenworth?

A. Yes; I didn't want her to know.

Q. Did her husband know?

A. Old Claude? No, he didn't know nothing.

Q. Did Claude ever say anything to you about Tommy?

A. Those people never spoke to me about my kid—those Hamiltons.

Q. Now, after you left Fort Logan to go down to the Territory, did you come through Kansas City?

A. Yes, I came through Kansas City.

Q. Now, you came back through Kansas City?

A. I had to come through here to go to Muskogee.

Q. And you came through with the two children?

A. Yes, I took them with me.

Q. That was Harvey and Charlie? A. Yes.

Q. And did you go to Leavenworth on that trip?

A. I never put my foot in Leavenworth after I left.

Q. And you went on down to the Territory and went to Muskogee? A. Yes, to Muskogee.

Q. Now, who did you see at Muskogee, of your people?

A. Well, I didn't see anyone just exactly, you know. Lee knew I was coming and he run a billiard hall and pool table in Muskogee and run Monte games; that's the way he earned his living. He was in a game or something and happened to be a little late at the train and I didn't stand around and wait for him. I went up and inquired for Miss Alice Robinson. I stayed there and then telephoned Lee that I would see him in the morning. Alice had some girls there teaching and didn't have very much room and I made a bed for Charley on the floor and had Harvey in the bed with me. I stayed there that one night with Alice and then the next day I came down to my brother's.

Q. And how long were you in Muskogee before you went over to Okmulgee?

A. I don't know how long I was there but the payments wasn't very long before that, I know.

Q. You had never attended one of those payments?

A. No, sir, that's the first one I ever was at.

Q. Did you know Sam Brown?

A. I met him at the payments.

Q. He took you to the payments?

A. No, sir, I took myself on a horse.

Q. Did Lee go with you?

A. No, sir, I and a woman went out on horseback but I don't know who she was.

Q. You went out on horseback?

A. Yes, across the prairie.

Q. And who told Sam Brown who you were?

A. Well, I suppose my brother told him that I was his sister.

Q. Your brother was there when you got there?

A. Well, I don't know so much about what did happen to Lee that day.

Q. Do you remember whether or not, before you went to this payment, you saw your uncle, John Davis?

A. I don't think my uncle had got killed before the payment so I did, you see. He used to come—I used to——

Q. He was living at the time of the payments? A. Yes.

Q. Now, were you at his house, do you remember?

A. Yes, I used to ride out to his house. He lived quite a ways out from Muskogee, in the country like, and he used to come in town to see me a great deal with the two horses and we used to go horseback riding.

Q. Now, you told John Davis about your having the children, did you, that is, what children you had?

A. I didn't tell him about Tommy. He knew about Charley and Harvey because he saw them.

Q. Now, did you not tell him about Tommy and Alice?

A. Well, I don't remember.

Q. Now, do you remember whether John Davis was at the payment at Okmulgee when you went over there?

A. No, I and this woman went to the payment on our horses and I went in and signed for four kids.

Q. Did you see anyone of your relatives there before you went in?

A. No, I didn't see any of my relatives. I simply got off, hitched my horse and went up the stone courthouse steps and Sam Brown pushed out a paper and said: "Sign your name and how many you sign for."

Q. Did you know Sam Brown?

A. Yes, I knew Sam at that time, he wasn't so old.

Q. How did you know Sam at that time? Where did you see Sam before you saw him there?

A. I never saw him until I saw him at the payment.

Q. I mean, when you and this woman hitched your horses there and went in to this stone courthouse and went into this room, did you know who was sitting there at the table?

A. I knowed it was Sam Brown but he was younger.

Q. How did you know it was Sam Brown then?

A. Well, they told me around there who he was.

Q. Now, did John Davis, tell you, do you think?

A. No, uncle didn't come up with me to the payment.

Q. Well, was he there at the payment?

A. Not when I was there.

Q. Now you went in there and there was a man sitting at the table when you went in there. Did you know who this man was?

Q. I asked when I came back and they said it was Sam Brown.

Q. What did you say?

A. I said: "I am going to sign for five of us, four kids and myself."

Q. And what did he say? A. He said, "Alright."

Q. And did you sign for all of them? A. Yes.

Q. The dead child and all? A. Yes.

Q. They didn't pay you for the dead child, did they?

A. No.

Q. Who called your attention to that?

A. I don't remember.

Q. Somebody said something about whether they were all living or not, did they? A. Yes.

Q. Did Sam Brown call your attention to that?

A. That I couldn't tell you. About the dead child.

Q. Now, did Sam Brown know anything about your children and about who your children were when you went in?

A. No, I don't think he had ever seen my children.

Q. You just told him what children you had had? A. Yes.

Q. Did he ask you where they were?

A. No, he didn't ask me much questions. He just simply paid me and I signed my name.

Q. How did they happen not to pay you for the dead child?

A. I couldn't tell you anything about that. I gave him the names of five, four children and myself.

Q. What was your idea about telling him about the child that was dead, did you think they would pay you for that child?

A. Well, somebody told me they would but I found they didn't. I was told they paid for the dead as well as the living, and I said: "Well, I have one more to put in then. I will put in Alice."

Q. Did Sam Brown ask you how many children you had?

A. No, Sam didn't ask me about any children.

Q. Now, do you know Ed Schrimpser?

A. Well, they spoke a whole lot about him and I suppose I do. He didn't go there with me.

Q. Do you remember a woman named Janetta Brooks?

A. I know a woman named "Janetta" but I don't know whether it's Brooks or not.

Q. Was Janetta there that day?

A. I don't know whether she was or not.

Q. Was Nancy there that day?

A. I didn't get Nancy's money.

Q. Well, do you remember seeing her there? Lee got her money? A. No, not while I was there.

Q. Well, do you remember seeing her there at all?

A. We rode down there in the morning and got back there at half past twelve that night.

Q. You didn't ride to Okmulgee from Muskogee and back in a day?

A. We certainly did. We got back at twelve o'clock that night. We made it in that day and a night. We rode fast. We didn't creep along the road and the roads were good

Q. Do you remember how much money you got, Minnie?
A. It wasn't very much.
Q. Did you sign anything when you were there?
A. I signed for the money after he paid me.
Q. What did you sign, do you remember?
A. Minnie Atkins.
Q. Did anybody else sign while you were in there?
A. There was a lot of people signed for the money.
Q. Did you know who else signed about the same time that you did? A. No, I don't remember.
Q. Was anything said while you were there about Nancy?
A. Not to my recollection.
Q. Now, Minnie, did John Davis ever ask you who was the father of Tommy? A. No.
Q. Did you ever tell him? A. No.
Q. Did you ever tell anybody down there?
A. I never told nobody.
Q. I don't *mean* his name. I mean did you ever tell anybody down there who the father of Tommy was?
A. I didn't tell anybody.
Q. Didn't you tell Davis that his father was a white man and that Tommy was afterwards enrolled down there?
A. I might have, I can't say.
Q. Do you have any recollection of talking with Davis? You think that over, we will take it up after a while.
A. I will think about that, of course. I used to talk to my uncle lots. He used to try to pump things out of me and I didn't say much either.
Q. Now, after you went back to Muskogee, after the payment, what did you do with Harvey and Charley?
A. Well, I went after the payment, I left Charley and Harvey a few days in Muskogee but then I came back from Eufaula after the payment and I let Kate take Charley out.
Q. Kate who?
A. Kate Holder, my half sister. She took Charley but I took Harvey back with me and where I got this other business mixed up. You see, it was Harvey I took out to Elmira's but I had him there with me and I left him out there about a week or so until I went to camp meeting and then Jimmy and I went back and got him.
Q. Who is Jimmy?
A. He is Eddie Walker's first cousin.
Q. Was he in the army? A. No, he wasn't no soldier.
Q. Now after the payment then, you took Charley where?
A. Not Charley.
Q. I know, but what did you do with Charley?

A. I left him while there with some lady in Muskogee. I couldn't take them both but I took Harvey because he was the baby. Then this camp meeting came up and I wanted to go and the only way I could go was on horseback. Well, I asked Jimmy if he would go with me and carry him a while and I would carry him a while until I got to my half sister Elmira.

Q. Now, what was her name?

A. Her right name was Ellen and her husband was Jim Bruner.

Q. *How* where does Elmira Bruner live?

Q. She lives quite a little ways from Eufaula in the country. We crossed the creek.

Q. What creek was that; was that Deep Ford, do you remember?

A. It was just a Creek and where they lived was White Woods.

Q. Was it a settlment?

A. No, I couldn't see very many houses. She was quite a ways out in the woods by herself.

Q. And you left Harvey there?

A. Yes, just until the camp meeting was over and then I went back and got him. I had him still at Eufaula when Lee was shot.

Q. Then you went to Checotah?

A. No, I left Harvey with Aunt Susie and for a week until I went to attend to Lee. She lived across the little ravine in the woods.

Q. That's at Eufaula?

A. Yes. Then after we buried Lee I went back and got Harvey and brought him to Muskogee and give the two of them together [] Kate Holder and that's the last I had to do with the children.

Q. Now, did you know where Nancy was at that time?

A. While all this was going on?

Q. Yes? A. She was in Wagoner.

Q. Did you see her?

A. Well, when Lee died, the morning that Lee died, they telegraphed for her to come; but something happened; I don't think she came.

Q. There were trains running—railroads?

A. There was a railroad through all those three places then.

Q. Now did you see Nancy at all when you were down there this time? A. I saw her in Wagoner.

Q. You were in Wagoner a while yourself? A. Yes.

Q. Did you have the children there?

A. No, my children—Kate came into Muskogee and got my children in Muskogee.

Q. And where did she take them?

A. She took them out to her home where she lived on the farm, in the country.

Q. Where was that? [A.] I never was there.

Q. Who was her husband?

A. I think it was Cad Wadsworth; I think that was her husband.

Q. Now, did Kate ever write to you about these children?

A. Well, some one wrote to me about *this* children with land but I don't know who; I fixed a paper out for them to get it and everything, but I don't remember what I did do.

Q. You signed up some papers?

A. I wrote back and asked them—no, I don't think I did.

Q. Did you sign up any papers? A. No, I didn't sign any.

Q. You said just now that you fixed up a paper?

A. Well, now, I don't know that I did; it will have to come to me better.

Q. They—did they write to you about Tommy?

A. They didn't know nothing about Tommy; I didn't tell them anything about Tommy.

Q. 1895; this was, wasn't it, do you remember the date?

A. I don't remember any dates.

Q. Now, after the payment, about how long was it before you left Muskogee and that country—went out of the Territory—six months or so, or a year, or how long was it?

A. Oh, I must have hung around there a good year, because I went up and saw Nancy a week in Wagoner, and I and her had a falling out.

Q. What did you have a falling out about?

A. Oh, I just had a falling out with her; she didn't do to suit me, so I just left her.

Q. Was that over a man? A. No, sir.

Q. Did Nancy have any children at that time?

A. No; Nancy never had any children but the one; Lee told me about her, but she never had any when I first saw her; that's the only one Nancy ever had in her whole life.

Q. Did she tell you anything about her child?

A. She told me about her having this baby, but she didn't tell me what it was; but Lee told me it was a girl.

Q. Did Nancy say whether it was a boy or girl?

A. I didn't ask her anything about the child.

Q. She told you she had had a child?

A. Yes, but that it didn't live but a day or something like that; but Lee told me, as soon as he saw me that she had

had a little girl, but it didn't live. They had it in Wagoner, I think he said.

Q. What did Nancy say about the child, anything?

A. Nothing to me.

Q. Did you tell her anything about having Tommy?

A. No, Nancy don't know nothing about me having Tommy.

Q. How did you happen to name Tommy, Tommy?

A. I wanted him to have my name.

Q. How did you happen to name him Tommy?

A. After my father; that's what I thought about—my father's name was Thomas.

Q. Well, the boy's name was Thomas, too, wasn't it?

A. Yes.

Q. And you left—was it after the Creek payment that you went to Wagoner and visited Nancy?

A. Yes, it was after the payment, because I was in Muskogee around quite a little while, you know, and I knew all the Couch boys, you know, and a lot of them around there, and Frank and all of them; and I said to myself one day: "I will just run out and see Nancy for a week," and I did and come right back.

Q. What was Nancy doing?

A. I think she was boot-legging.

Q. She hadn't been in the penitentiary then, had she?

A. She had been, but my brother got her out. She had been and he was trying to get her out. He said she had always caused him so much trouble, and he was going to disown her. She was always storying and getting him into trouble, and he said to me, "Don't you say that's your sister, either," and I said, "Well, I couldn't do that."

Q. Where was Nancy living?

A. She was stopping at a little house out on the edge of the prairie.

Q. Did you stay there with her?

A. I wasn't there very long with her; I stayed mostly at a lady's down below her there.

Q. Then you went back to Muskogee after that?

A. Yes, and then I went back to Muskogee after that, and then I and John Couch came to Denver, Colorado, and then I never hit the Territory any more. I sent him back and then I didn't go back.

Q. John Couch was a man, was he? A. Yes, sir.

Q. An Indian?

A. No, he's a white man; there [] three brothers of them, John, Frank and Bennie.

Q. You gave John the money to get back?

A. I sent him back.

Q. I mean you gave him the money to go back home?

A. Sure. Now, I will tell you how he come to go back with me to Denver. I thought I kind of liked him and I thought, "Well, I will settle down and get married," and when I got *ehre,* I seen others and changed my mind, and I told him to go back to his mother.

Q. Now, after you went to Denver, did you live with Bev Harrison again? A. Yes.

Q. And did you live with Harrison clear up to the time you left Ft. Logan? A. Yes, sir.

Q. And you left Ft. Logan and went to Detroit? A. Yes.

Q. And who did you go with there?

A. I went with Lieutenant Wallace and took care of the twins.

Q. But you lived with Harrison then up to the time you left Ft. Logan?

A. He went first; he went to Arizona for his health. When the second contract came on, he bid too high and he lost it, and he told me if he lost the bid on the contract for the meat that he would go to Arizona for his health. So he did, there were two bidders for it and the other fellow was lower so he got it. He gave me about $300, or something—I know he gave me a pile of money and he said, "I think I have consumption; I haven't very good health, and it worries me, and I'll go away for my health," and I said, "All right; I will knock around and some day I may get tired of knocking around and I will settle down."

Q. Was it very long after that that you went to Detroit?

A. We went to Detroit as soon as the 7th came from Cuba.

Q. And you were in Ft. Logan a year or so after you came back from Muskogee?

A. Nearly two; I went to Detroit with Mrs. Lieutenant Wallace to take care of her twins; then he was sent—let's see how is this—well I went out with them and I worked with them a while and I got tired nursing the kids for her and I took another place with Lieutenant Breckinridge; but anyhow we went from Detroit to Vancouver Barracks.

Q. Now, when you were in Detroit, did you get any mail at all from the Territory—around Muskogee and that country? A. No, I got this letter——

Q. (Interrupting) You didn't get any letters from any of your people about the registration of the Indians for allotment, etc., while you were in Detroit?

A. No; I got a letter from Helena, stripped out for land, you understand. I sent a paper back to tell them to give the children land, you know. He sent me a paper to sign and send it back for the children.

Q. You got that in Detroit? A. Yes, sir.

Q. Now, did you get any other letters in Detroit, any letters relative to Tommy?

A. I only got this letter about Tommy's death.

Q. Now while you were in Detroit, you got this letter from Tom Holder about Charlie and Harvey? A. Yes, sir.

Q. Now, did you write any letters to anybody in the Territory relative to Tommy? A. Never.

Q. Did you write any letter to Mrs. Wadsworth? A. No.

Q. Now, you got a letter relative to Tommy. Now, who was the letter from?

A. Well, that's what I have been trying to study and I can't, you see.

Q. Now was that from Granny Letcher?

A. No, it wasn't from Granny Letcher. Granny Letcher was dead; this woman said Granny Letcher was dead and Tommy had left and that he was dead.

Q. Now, before that did you ever get a letter from anybody asking you to send some money to take care of Tommy?

A. Yes.

Q. Who was that from?

A. Oh, I don't know who that was from.

Q. Now, where did you get that letter, where were you?

A. In Detroit.

Q. Before you got this letter saying he was dead; you don't know who that letter was from? A. No.

Q. How long was that before you got the letter saying he was dead? A. It wasn't very long.

Q. Was it from the same person?

A. I just can't remember how that was; they asked me to send some money for Tommy.

Q. Was that the first letter you ever got asking you to send money? A. *Ues.*

Q. And the last?

A. No, I have no recollection; I don't know.

Q. What town was it from? A. Leavenworth.

Q. It was from Leavenworth, you are sure of that?

A. Oh, I am sure it was from Leavenworth.

Q. Now, this letter saying he was dead, where was that from?

A. The letter that this woman, whoever wrote to me he was dead, was from Leavenworth, but I can't say who.

Q. Were you writing to any men in Leavenworth at that time? A. No, I didn't write; I didn't answer.

Q. Did you have any other letters from Leavenworth, any of your old sweethearts write you and so on?

A. No, I didn't want to know them, so I didn't answer.

Q. Did you get any letters? A. No.

Q. The only two letters that you got from the old country, or Leavenworth, or Kansas, were these two letters about Tommy? A. That's all.

Q. And the letter you got from Holden about Harvey and Charlie? A. Yes, sir.

Q. When you left Detroit, you went where?

A. We went to Vancouver Barracks.

Q. Vancouver Barracks? A. Yes, sir.

Q. And from there to the Philippines? Is that right?

A. We went to the Philippines and back from the Philippines to Vancouver Barracks again.

Q. Did you ever see Tommy after you left Leavenworth?

A. No; but nobody will ever bring him in and tell me it's him.

Q. You never saw him yourself?

A. Well, I saw him enough to know that nobody couldn't run in somebody and tell me it's Tommy.

Q. Well, you never did see Tommy after you left him in Leavenworth? A. No. And now he's dead.

At one thirty o'clock P. M., Wednesday, September 30, 1914, Mrs. MINNIE FOLK, further answered interrogatories propounded to her as follows:

Q. Now, Minnie, you testified down at Sapulpa—you remember when they had the hearing down there—that you went from Lieutenant Stafford's, where you were then working, to the Sisters Hospital. Now is that true?

A. Yes; I went to the Sisters' Hospital but not for that child, you know.

Q. I know, but did you go there from Lieut. Stafford's?

A. No.

Q. Where did you go from Lieut. Stafford's?

A. I went to Colorado.

Q. Did you work at Lieut. Stafford's after Tommy was born? A. Yes, just a——

Q. Just a few weeks? A. Yes.

Q. You didn't work at Lieut. Stafford's before Tommy was born? A. No.

Q. Are you sure?

A. I worked for Lieut. Stafford, but I can't say, you know, now.

Q. You don't know whether you worked at his place before Tommy was born or afterwards?

A. I can't remember, but I worked there, you see, and I went from there to Denver.

Q. Were you working for Lieut. Stafford when you left Leavenworth to go to Denver? A. Yes.

Q. Well, that was after Tommy was born?

A. Yes, a good while.

Q. So you are pretty sure that you were working for Lieut. Stafford after Tommy was born?

A. I am sure of that, yes.

Q. Well, that's what I am trying to get at. Now, then, why did you leave Lieut. Stafford's? A. To go to Denver.

Q. Now, you testified at Sapulpa that you left Lieut. Stafford's because you were with a baby by the name of Thomas Atkins. That wasn't true, was it? A. No, because——

Q. And you testified that you went from there, from Lieut. Stafford's to the Sisters' Hospital. That isn't true, is it? A. No; I had him in town.

Q. Now, why did you testify that way down at Sapulpa?

A. Now, I [] just kind of rattled, you know, Mr. Rice, how they get at you; I don't know how to tell you or what to say.

Q. Well, now, was it because you didn't——

A. (Interrupting) I didn't want them to know right out.

Q. What kind of a place Granny Letcher's was?

A. Exactly.

Q. Well, that's what you must say because it's difficult to explain that testimony, and I want you to tell the reason why you testified that way at Sapulpa.

A. That I didn't want them to know it?

Q. That you didn't want them to know it was at Letcher's, is that the idea?

A. I didn't want them to know I went there or what kind of a place it was—see?

Q. How long were you at the Sisters' Hospital the time you were there? A. About three weeks.

Q. Was that after Tommy was born?

A. Oh, yes, he was born.

Q. It was after that that you went to the Sisters' Hospital? A. Yes.

Q. That's all right; just tell the facts, because there's nothing in the world to conceal. Now you testified that you had a baby there at the Sisters' Hospital. That's not true, is it?

A. No, I had him at Granny's; but I was there; I was at the Hospital.

Q. Well, Minnie, when were you first married?

A. At Vancouver Barracks.

Q. And what year was that, about—you were married at that time to your present husband?

A. Yes; I am married to him eight years.

Q. You were not married at the time Tommy was born?

A. No. Did I say in there I was?

Q. No. Now, Minnie, at Sapulpa you testified that you left Tommy at Fort Leavenworth with a lady whose name you couldn't remember. That's not true, is it?

A. No; I remember her; I knew her name.

Q. And you left the baby with Granny Letcher?

A. That's the truth.

Q. Now why didn't you tell the truth at Sapulpa?

A. Oh, I don't know, Mr. Rice, why I didn't; I didn't want them to know.

Q. What kind of a place it was and what kind of a woman Granny Letcher was, is that the idea?

A. Yes, I didn't want them to know. They know it all right, so what am I going to do?

Q. Now, going back a little bit, when you went down to Muskogee and Ft. Logan and you saw your uncle John Davis, didn't you tell John all about Tommy and Alice and Charlie and Harvey? A. I didn't tell him anything.

Q. Well, now, you must have told him something.

Q. Oh, I told him I had the children, you know.

Q. You told him about Alice being dead?

A. Yes, but I didn't tell him just all the particulars, you know.

Q. I know; but you told him about Tommy being born and Alice being born? A. Oh, yes, he knew that.

Q. Well, you told him that? A. Sure.

Q. Did you tell him where you had left Tommy?

A. I just told him I left him in Leavenworth, but I didn't mention the place—not to my uncle.

Q. Where did Alice die? A. Fort Logan, Colorado.

Q. She's buried there, is she? A. Yes.

Q. Now, at the time of the payment, when you went in there to the payment, you started to draw money for Alice and they told you you couldn't?

A. Well, I put down for four; I don't know whether they took it as a fact or not; they said the dead drew and I put down four.

Q. Do you remember whether they paid you for Alice or not?

A. I don't remember whether they paid me for Alice or not; but it seems to me they said they didn't pay for the dead.

Q. Can you remember now who it was that wrote you for some money for Thomas?

A. No, I never can remember the name.

Q. Did you know the person that wrote to you?

A. She just wrote as a friend would be writing to a friend, but I can't remember.

Q. Well, was it somebody you knew?

A. I must have known them, or they couldn't have known my name, you know.

Q. Well, do you remember now that the letter was from some one you knew?

A. Well, it was from someone I knew, and someone that knew about Tommy, or they couldn't have wrote to me.

Q. Who knew about Tommy besides your uncle? Have you any idea of anybody that knew about Tommy of your folks besides your uncle?

A. No, I didn't tell them much about them.

Q. Did you tell Nancy?

A. No; Nancy don't know anything, and Nancy can't say she does, because she don't.

Q. Were you ever in St. Joe, Missouri?

A. St. Joe—no.

Q. Were you ever in the hospital there, twelve or thirteen years ago? That would be a year or two after the Spanish-American War? Were you in this country at that time?

A. The only hospital I was ever in in my whole life was the Sisters at Leavenworth; that's the only hospital I was ever in.

Q. Minnie, did you ever sign—on October—in October, 1912, where were you? That's about two years ago?

A. I was in Helena, Montana.

Q. And you weren't in Kansas?

A. No, I never was in Lawrence, Kansas, no.

Q. You didn't sign any deed in Lawrence, Kansas?

A. No; I had no cause to.

Q. Well, you didn't sign it? Is that a fact?

A. No, I didn't sign any deed.

Q. Who were you working for in October, 1912?

A. I was working for Captain Ferguson at Ft. Leavenworth.

Q. He is now at Fort Leavenworth, but he wasn't at Fort Leavenworth two years ago?

A. I was working for him at Helena, but he is now at Fort Leavenworth.

Q. You were working for Captain Ferguson at Helena, and that's the same Capt. Ferguson who is now at Fort Leavenworth? A. Yes, sir, at the school of instruction.

Q. And you were there during the whole of October, 1912?

A. I was there until he went away.

Q. How long were you in Helena?

A. A little over two years, going on three.

Q. When did you leave, do you remember what month?

A. We left in January.

Q. 1913? A. Yes.

Q. And you were all there during the fall, you weren't away from there, say six months before you left?

A. Well, no, from the time I went from Vancouver Barracks to Helena, I never left there until the troops were ordered away.

Q. You weren't away for a week, even?

A. No, sir, I was never out a day even; I had no place to go, only to town.

Q. Now, where was it that you got a letter saying that Granny Letcher was dead? A. Detroit, Mich.

Q. What's the name of the Fort there? A. Fort Wayne.

Q. And was it there that you got the letter saying that Tommy was dead? A. Yes, that's the place.

Q. Do you remember anything about the letter saying that Tommy was dead, what it said?

A. It just says, "I write to you as a friend to let you know that your baby was dead that Granny Letcher had"—see?

Q. Yes.

A. And a few other words, a few things besides that before she closed, you know.

Q. It didn't say how he died or anything?

A. No, it didn't explain to me.

Q. Did you write to her? A. No.

Q. You never answered her letter? A. No.

Q. Now what became of that letter? You saved it for quite a while and then it was burned up by your husband this spring, is that right? A. Yes.

Q. From Fort Wayne you went to Vancouver—where did you go from Fort Wayne? A. Michigan?

Q. Yes? A. Vancouver Barracks.

Q. And from Vancouver you went to the Philippines? A. Yes.

Q. And then you came back from the Philippines to Vancouver Barracks again?

A. Yes, to Vancouver Barracks, again.

Q. And then from Vancouver Barracks to——

A. Helena, Montana.

Q. The name of the Fort at Helena, Montana, is what?

A. Fort Harrison.

Q. Now, you said the last time you saw Nancy was at Eufaula at the time that Lee was shot, is that true?

A. Well, I can't say that Nancy came when they telegraphed her or not; they telegraphed her and whether she came or not I can't say.

Q. Now, do you remember whether you went up to Wagoner to visit her after that time or before that time?

A. Lee was dead when I was in Wagoner.

Q. Did you ever know a man named Charlie Bailey?

A. No; they say that name to me so much, but I can't locate him.

Q. He's the man that says he saw you in St. Joe, Missouri.

A. He never saw me there—not that man.

Q. Well, you never was there, were you, Minnie?

A. No, I never was in St. Joseph.

Q. Did any of your relatives ever write to you about your applying for an allotment?

A. For Harvey and Charlie?

Q. No, for yourseif? A. I don't think so.

Q. Now, how did you ever hear that you had stayed away too long to get one? A. How did I ever hear it?

Q. Yes. [A.] They told me when I was up there.

Q. Who told you that? A. I don't know.

Q. When you came this time? A. No; the other time.

Q. When was that, when the payment was made?

A. I don't understand you.

Q. Here's what I mean; when did they tell you that you had been away too long to get an allotment?

A. An allotment for the money I got?

Q. No, I mean land.

A. I knew I couldn't get land; I knew I was away too long my own self.

Q. Well, how did you know it?

A. Well, my brains told me I couldn't get any land when I was away so long; I wasn't here to tell anyone to get it for me, and I didn't ask for any. I asked for Harvey and Charlie.

Q. So far as you can recollect now, nobody ever explained to you that you were away too long?

A. I don't know what you are getting at.

Q. Well, now, I am trying to find out, if you don't, if you didn't have some other correspondence, some other letters from your relatives that you have forgotten?

A. Nobody wrote and told me I couldn't get any land.

Q. Well, how did you figure it out?

A. Well, I figured it out this way; I figured when you go away and never return to your own home or anything like that, you feel that you are not entitled to anything. That's the way I figured it out in my own mind.

Q. How did you know that Harvey and Charlie had a right to land? A. I am their mother.

Q. Well, how did you know they had a right, how did you know that?

A. I knew it myself; I am their mother and I have Indian in me and I have a right to have land in the Indian Territory.

Q. Did some of the letters that you got from your relatives tell you that or did you write and ask them?

A. I wrote and asked them to put them on for land.

Q. Did you tell them to put Tommy on, too?

A. No, I didn't speak for Tommy.

Q. Why didn't you?

A. Well, I will tell you why I didn't speak of Tommy. You see after I spoke about Harvey and Charley, I think that's after I got the letter about Tommy being dead. See?

Q. That's all right, and you thought that Tommy wouldn't be entitled to an allotment, and because Alice didn't get any money, you figured that Tommy wouldn't be entitled to anything, he being dead?

A. Yes, that's the way I figured it for myself, you know.

Q. Now, you said in answer to a question here—they were pounding you along about Charlie Bailey and you weren't feeling very strong and they said this, now: "Do you know whether or not Charlie Bailey was guardian for one of your children" and you answered, "No." "Q. You don't know? A. I left my children with my half sister Kate Holder, and I understand, I don't know how it came up, Nancy came to take possession of my children later on, and I don't know how she came to get possession of my children; I never could learn. Q. You were well acquainted with Charlie Bailey, weren't you? A. I guess I was."

A. I don't know Charlie Bailey and I ain't going to say on the stand that I do, because I don't.

Q. Well, what did you say it there for?

A. I don't know, because I don't know Charlie Bailey; he don't come in my mind—that name Charlie Bailey; I hear that so much, you know.

Q. Well, when you don't know, why you just say you don't know. Don't let them worry you into saying you were acquainted with him.

A. Well, I hear that name so much—Charlie Bailey—I can never located that Charlie Bailey and I never have located him yet.

Q. Now, they asked you this question: "You don't know whether the father ever recognized the child or not?" And you answered, "Sure he did." Now yesterday you said that he didn't. Now did the father ever pay any money for the support of the child? A. I don't know.

Q. Now, you testified that Tommy was about six months old when you left Leavenworth, and yesterday you said he was about a year and a half old. As a matter of fact he was about a year and a half, wasn't he?

A. Yes; he was a year and a half.

Q. Minnie, at the time that you drew the money at Okmulgee, for Tommy, you hadn't got this letter saying he was dead. Is that right? A. No, I hadn't.

Q. When did you last see the letter saying that Granny Letcher was dead and that Tommy was dead?

A. When was that?

Q. When was the last time, where were you when you last saw these letters?

A. He burned them up in Fort Lawton, Seattle.

Q. Now, when did you last actually see those letters?

A. When I was in Denver, I was just looking over my mail, you know. Not Denver, you see that's where the trouble is—I said Denver, I meant Helena.

Q. Now, Minnie, when did you first learn that Tommy had had land in the Indian Territory? About how long ago was it when you first learned that? A. That he had land?

Q. Yes? A. Well, I didn't figure on him having it.

Q. Well, when did you first learn that he did have it?

Q. Why I knew he must have had land if I was his mother.

Q. No. Now, somebody came to you some months ago and they told you that Tommy had some land down in the Indian Territory that was valuable, and so on, didn't they?

A. Well, the first I knew of it was from Sadie James.

Q. And about how long ago was that?

A. That's when she was trying to locate me.

Q. That was several months ago?

A. I guess it was that long; it was when she was in Seattle.

Q. That was in the spring and summer of this year?

A. Yes, sir.

Q. Now, when you left Leavenworth to go to Fort Logan and before you left, now, did you go down to Granny Letcher's and say anything to her about Tommy?

A. I just said I was going away.

Q. What did you tell about Tommy?

A. I told her if I could keep him there and if I could get any money or anything, I would send to help her.

Q. Did you ask her to write to you? A. Yes.

Q. Did you ever send her any money?

A. Well, she wrote, or some one wrote for her to send her some money, but I didn't have any to send.

Q. Well, did you ever send any before you got that letter? A. No.

Q. Well, where was it you got that letter?

A. It was in Ft. Wayne.

Q. How long were you in Ft. Wayne?

A. Oh, I guess the troops were there nearly two years or over two years.

Q. First you got a letter from somebody saying to send some money for Tommy, is that it? A. Yes, sir.

Q. Do you know who that letter was from?

A. I think that letter was from Granny Letcher.

Q. Do you remember what the letter said?

A. That was all—just asking for some money.

Q. Did she give you any news about Leavenworth?

A. No.

Q. And how long after that was it that you got the letter that Granny was dead? A. About a year.

Q. And how long after that that you got the letter that Tommy was dead?

A. That was another year afterwards.

Q. How long had you been in Fort Wayne when you got the first letter asking for money?

A. Well, I had been in Fort Wayne, I guess, over two years because I was there until the troops were ordered out you know.

Q. Which letter did you get first?

A. Granny Letcher's.

Q. You got that first? A. Yes.

Q. And then you got the letter that Tommy was dead?

A. Yes.

Q. The first one you got was asking for money?

A. Yes, from Granny Letcher.

Q. Did Granny Letcher say anything about being sick in her letter to you? A. No; she just asked for money.

Q. What was Granny's name, do you remember, besides Granny?

A. Something like Lowe—we always called her Granny Letcher, you know.

Q. Well, I know; but if you wanted to write to her, how would you address her letter? A. I didn't write to her.

Q. Well, how would you have addressed it?

A. I would have just said, "Mrs. Letcher, Ft. Leavenworth."

Q. You don't know her first name?

A. No, not for me to tell you, I don't.

Mr. Long: It was Molly or Mary.

Q. Now, Minnie, when you came back from Fort Logan to go to Muskogee, you came through Kansas City and you knew that Tommy was in Leavenworth, only a short distance from Kansas City. Now, why didn't you go over to see him?

A. Well, I can't explain why I didn't, but I didn't.

Q. Well, now wait. Was it because you had been—because you had quit a good deal of your rough play?

A. Yes; I didn't want to go back to Leavenworth, and when I left it was with the understanding that I wouldn't go back.

Q. Was it because of the rough character of this house, that you didn't go back? A. Yes, I didn't want to go back.

Q. You said you left there with the understanding that you wouldn't go back. Was that understanding with yourself?

A. Yes, I made up my mind that I wouldn't go back, and when I left there, I was going to change my name and not come back.

Q. What name were you in the Sisters Hospital under?

A. Minnie Peterkin.

Q. Now, Minnie, when did you first hear that Harvey and Charlie had land in the Indian Territory?

A. I always knew they would have land.

Q. When did you first hear that they actually had it?

A. Sadie James told me.

Mr. Page: Did you ever get Tommy's deed for his land?

A. No, I don't think so.

Mr. Page: Did you write a letter to anybody telling them to be sure and enroll Tommy and the other two boys?

A. No.

Q. Now, she wrote a letter telling them about Harvey and Charlie, but because Alice didn't get any money, she figured that Tommy wasn't entitled to any land, because he was dead. How old was Harvey and Charlie when you took them down to Muskogee from Fort Logan?

A. Well, Charlie must have been going on five or over five; he could go around; he could walk everywhere and help himself, and Harvey was just a baby about a year old—in short clothes; I think he was just kind of crawling around.

Q. He was two or three years old, wasn't he?

Q. I wrote to either Cad or Mitch to put Harvey and Charlie out for land.

Q. Now, I didn't get that very clear down there. (Reading) "Minnie, when did you get this letter from Tom Holder about the land—then what did you do? A. I asked him to put Harvey and Charlie——" and then somebody interrupted. "Q. How did you do it, by letter? A. Yes, by letter. Q. Who did you write to? A. We wrote to him. Q. Well, Minnie, did you write to anybody down there about putting—what did you do about having your family and yourself and your children enrolled? A. I asked him to put us on; I asked him to put four of us on, which called for Thomas Atkins, Harvey Atkins, Charlie Atkins and Minnie Atkins, but I guess he didn't do it." Now Minnie, a little while ago you said you didn't ask him to put Tommy on because Tommy was dead at the time you got the letter about Harvey and Charlie. That's right, isn't it? Tommy was dead when you got the letter about Harvey and Charlie, is that right? A. Yes.

Q. Now, before that you had written down there to Holder about putting you all on the roll?

A. Not on the roll for payment, but for land.

Q. That's the idea exactly. You wrote that letter down there and told them to put you and the three children, Tommy, Charlie and Harvey on the roll for land? A. No.

Q. Well, what about it then? A. No, I didn't do that.

Q. Well, what did you do?

A. Well, I didn't do that with Thomas, because I heard he was dead and I asked for those two——

Q. Well, before you heard he was dead, did you write a letter down there about putting you and him on the roll, or putting him? [A.] No, she didn't because Charlie and Harvey were not living. [Q.] Did you write a letter down there asking them to put Tommy on the roll before you heard he was dead?

A. I can't understand now. Now you have got me kind of mixed up.

Q. Now, Minnie, to go back now to Ft. Wayne, what time of the year was it in 1900 that you left for Vancouver?

A. I don't know the years or the times; I can't tell.

Q. Well, was it winter or summer? Did you leave in the winter or leave in the summer for Vancouver, can you tell?

A. It must have been in the summer we went, because we went on the boat.

Q. Now, how long was it before that, about that you got the letter saying that Tommy was dead? A. Before we left?

Q. Yes?

A. Well, it was a year before *you* left when I heard that, you know—we were there a year.

Q. It was nearly a year before that that you heard that Tommy was dead?

A. Yes, before we went to Vancouver from Fort Wayne.

Q. Yes. Now—— A. I got that kind of wrong.

Q. Now, how long was it before you got the letter that

Tommy was dead that you heard about enrolling Tommy and Charlie and Harvey? A. How long was he dead did you say?

Q. No. Now, you left Vancouver in the summer of 1900 and about a year before that you had got a letter saying Tommy was dead? A. Yes.

Q. Now, was it before that or after that that you got this letter about enrolling Harvey and Charlie?

A. For land?

Q. Yes?

A. Well, I just can't say whether it was before or after; but I know I got the letter that Tommy was dead; but I can't say whether I got this letter afterwards about Harvey and Charlie or not.

Q. Now, did you write a letter to one of the Wadsworths?

A. Yes; but I don't know whether it was Cad or Mitch.

Q. Now, why—what did you say in that letter?

A. I just asked him to put them on the roll so they could get land.

Q. Put who on the roll? A. Harvey and Charlie.

Mr. Page: And didn't you say for yourself and Tommy?

A. Well, Tommy was dead—I couldn't say for him because I didn't.

Mr. Page: Where were you when you got that letter from Wadsworth, in Vancouver?

A. Yes—no, it was in Detroit, at Fort Wayne.

Mr. Page: Well, didn't you——

A. (Interrupting.) This letter that I got from either Cad or Mitch was in Fort Wayne before I left.

Mr. Page: Where was that signed?

Mr. Rice: It's Fort Wayne.

Mr. Page: You want to freshen your memory on that, Minnie, because we want it just as it is, you know.

Adjourned until Thursday, October 1, 1914.

The Court: Perhaps that had better be identified now; has it been marked?

Mr. Cruce: I don't believe it has.

The Court: Mark it the court's exhibit if you want to, by agreement of counsel. (Marked Exhibit A.)

Cross Examination by Mr. Cobb.

Q. When you brought Charlie and Harvey to Oklahoma, where did you bring them from?

A. I brought them from Denver, Colorado, to Muskogee.

Q. Did you bring them by the way of Kansas City?

A. No, sir.

Q. What way did you bring them?

A. Yes, I guess I did.

Q. You came through Kansas City? A. Yes.

Q. How long did you stop in Kansas City on this trip?

A. Just got off of the train and got on the other one to come to Muskogee.

Q. Was the bringing of those children to Oklahoma, the object of your trip? Was that the reason why you made that trip? A. No, I came to see my brother.

Q. You also came on a visit?

A. On a visit to see my brother.

Q. Now, on this trip you left your children in Oklahoma and they have resided there ever since? A. Yes.

Q. That is correct? Leavenworth is only a short distance from Kansas City, isn't it? A. Yes.

Q. Why didn't you pick up Tommy on your way down here?

A. Well, I had all I could do to—I couldn't hardly make a living for those two and I didn't stop to get the other one for I couldn't make a living for the two I had.

Q. Now, wasn't this the reason that you didn't care about the circumstances of Tommy's birth, where he was born, where he had lived, and so forth—— A. Oh, yes, I cared.

Q. Being known to your people in Oklahoma, or in the Indian Territory? A. I cared about him.

Q. What? A. I cared about him.

Q. Well, did you want your people in Oklahoma to know those circumstances? A. No, I didn't tell them.

Q. Did you ever tell them the circumstances surrounding the birth and life of Tommy? A. No.

Q. You never did? A. No.

Q. Because you didn't want them to know? A. No.

Q. Now, you had known Granny Letcher for some little while before Tommy was born, hadn't you?

A. Yes, I had known her.

Q. And had been to her place a number of times?

A. Well, not so many times, but I knew and went there two or three times.

Q. You had been there several times; you knew Mary Smith back in those days, didn't you?

A. Well, not so very well but I seen her.

Q. You were acquainted with her and remembered her?

A. Yes, I remembered her a little.

Q. She did some sewing for you at that time, didn't she; along about that time?

A. Well, I can't say that she did; I don't know whether she did or not.

Q. You don't remember about that? All you remember is that you know her? A. Yes, sir.

Q. Now, when you got to Leavenworth, two or three years ago, hunting for old acquaintances, you saw Mary Smith there, didn't you? A. Yes, I seen her.

Q. And you and Mary Smith, and some others went over the town to find what old acquaintances you could in an auto, or in a hack, or something, didn't you Minnie? A. No.

Q. You didn't ride around over town with her?

A. Not to my remembrance, I didn't.

Q. Who were you with when you recognized policeman Murphy? A. I think I was with Mr. Long.

Q. Who else? A. I think just I and Mr. Long.

Q. Just Mr. Long? A. I think so.

Q. No one else? After you left Tommy at Mother Letcher's when he was two or three years old, you never saw him any more? A. No.

Q. And all you know about him from that on is what you have heard? A. Yes.

Q. From third parties.

Mr. Cobb: That is all.

Redirect Examination by Mr. Stuart.

Q. Minnie, you said that before you came to the Territory you wrote your uncle that you had a boy named Tommy?

A. I did.

Q. And asked you to send him some money? A. I did.

Q. That was before '95, before that payment, before you came down here? A. Yes, sir.

Q. Had you ever seen Mr. Long at that time? A. No, sir.

Q. Had you ever seen Mr. Hanford? A. No, sir.

Q. Did you know Mr. Page? A. No, sir.

Q. Did you know Mr. Rice? A. No, sir.

Q. Did you know anything about the land?

A. No, sir, I didn't know anything.

Q. Now, Minnie, where did you have the Peterkin—Robert Lee Peterkin?

A. I had him at the Wood house—the Wood's house.

Q. Where did you have Tommy?

A. At Granny Letcher's.

Q. You remember, do you, distinctly, both of those places?
A. Yes, I had him at Granny Letcher's.

The Court: My mind is not quite clear about the two trips referred to to Oklahoma—to Indian Territory. Maybe the record is clear on that.

Redirect Examination by Mr. Hanford.

Q. Minnie, when you came to Oklahoma from Fort Logan at the time you got the money down at Okmulgee, had you ever been to Oklahoma from Fort Logan before that?
A. No, that was the first time.
Q. Did you stay down in Oklahoma for some time after you got the money?

Mr. Cruce: Mr. Hanford, that was the Indian Territory.

Q. The Indian Territory?
A. I came from Fort Logan to Muskogee.
Q. And you stayed here for some time?
A. Yes, I stayed here I guess for pretty near a year.
Q. And then you went back to Fort Logan?
A. Yes, I left the two children with my half sister and then went back to Fort Logan.
Q. And who did you go with? A. John Couch.
Q. Did you ever make another trip to the Territory from Fort Logan? A. No, that was my last.
Q. Did you ever make more than that one trip when you came down at that time? A. No.
Q. In other words, I want to ask you how many times did you come from Fort Logan to the Territory?
A. I only made that one trip when I came down to see my brother, to Muskogee from Fort Logan.
Q. And *they* you stayed here——
A. Then I stayed here with the children and then asked my half sister if she would take [] of my two boys for a while and she said yes, she would take care of them as long as I wanted her to keep them, and then I made a trip back from Muskogee to Denver again with John Couch.
Q. Minnie, you were asked why you came down to the Territory from Fort Logan; why did you come here? Did you leave Fort Logan and come to the Territory?
A. Well, I——
Q. Let me ask you this, if I may lead her a little bit——

The Court: Hasn't she testified that she got a letter from her brother?

Mr. Cruce: Testified that three times.

By the Court.

Q. I want to ask you this, Minnie; you got the letter I understand from your brother Lee, is that right?

A. From Lee Atkins.

Q. He was your brother? A. Yes, sir.

Q. Well, while you were down here, he was shot and died?

A. Yes, sir.

Q. Now, just tell me again, as near as you can, what he said in that letter—why he wanted you to come.

A. He just wrote to me and said—said, well, sister, I have heard where you are at now, and he said will you come down to see me, and I think I answered it and said I would if you could meet me. I know I answered it but I can't remember what I said; and then I was going with a fellow in Fort Logan by the name of Harrison and his health was poor, so he went to Arizona, and I said, Well you give me money to go down and see my brother; I said to him, I am going down to see my brother; and he said alright, how much do you want, and I said *wil* my two children, I reckon five hundred dollars, and he give it to me.

Q. And you came down to see him? A. Yes, sir.

Q. Had you heard of the grass payment before?

A. No, sir, I didn't know anything about it.

Q. When was the first you heard about that?

A. I didn't know anything about the payment at all until I went down to Okmulgee.

Q. How did you happen to go to Okmulgee?

A. Well, a lot of the people in Muskogee, young people—boys and girls—were saying there is a payment at Muskogee.

Q. Out at Okmulgee?

A. Okmulgee; and I had a girl friend here and I said I believe I will go out to—just for fun I said, if I can hire a horse. So I went down to the livery stable and I got a horse, so I went out there, and when I went out I hitched my horse, and I said, oh, by the way, I guess I will go in and see who are getting money; and there was a man there with a book and who it was I can't remember; and he shoved the book over to me, and I seen where Harvey, and Charlie, and Alice, and Thomas and myself were on the book, too, and I said I am down here for some money, and you will have to pay me——

Q. You went over that yesterday. That was the first you knew when you went over there? A. Yes, sir.

Q. You didn't expect the money when you went over there? A. No, sir.

Examination by Mr. Hanford.

Q. Now, can you tell what time of year it was when you come to Muskogee? A. It was in the summer.

Q. Do you remember whose house you went to?

A. Alice Robertson's.

Q. And what makes you remember it was summer?

A. They had some kind of entertainment for the children and they were in white.

Mr. Linebaugh: There was one matter I entirely overlooked. I would like for this witness' true height to appear in the record and I want to know would it be agreeable to you that she be measured?

Mr. Stuart: Yes, we will measure her at the hotel.

The Court: You will agree on that.

(Witness dismissed.)

Mr. Stuart: Your Honor, I have a certified copy of judgment in the case of Charles Lain against Sadie Lain, that I want to submit to counsel on the other side.

Mr. Hanford: If the court please, yesterday I offered the deposition of Captain MacNab and named the page at which it would be found. Captain MacNab was recalled once or twice and I want all the references to his testimony.

The Court: It all appears in the index.

Mr. Hanford: It appears in the index.

The Court: Just let the record show all of Captain MacNab's testimony as appears in Mr. Penick's report is admitted.

Mr. Hanford: Both for the Government and the defense.

The Court: Both for the Government and for the defense. Now, this judgment is offered in evidence. I hear no objection.

Mr. German: We object to it as incompetent, irrelevant and immaterial.

The Court: That is in relation to this divorce transaction?

Mr. German: Yes, sir.

The Court: It may be admitted.

ALEXANDER J. MacNAB being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. State your name. A. Alexander J. MacNab.

Q. Your age and residence?

A. Age 37; residence, Fort Lawton, Washington.

Q. What was your home originally, Mr. MacNab—Captain? A. Salmon, Idaho.

Q. How long have you been in the army?

A. Since the spring of 1898.

Q. Where did you enter?

A. I entered the Regular Service at San Francisco. I was in the Idaho Volunteer Regiment at that time.

Q. What is your present title? A. Captain.

Q. How long have you been captain in the army?

A. I have been a captain eleven years.

Q. Where have you been stationed during that time?

A. During that eleven years?

Q. Yes, sir.

A. I was at Fort Lawton when I got my captaincy; since that time I have been stationed at Fort Sheridan, Ill.; Havana, Cuba; Fort Slocum, New York; Fort Wayne, Detroit; Fort Douglas, Salt Lake; San Antonio, Texas; Galveston, Texas; Pittsburg, Pa.; New Orleans, San Francisco; Fort Harrison, Montana and Fort Lawton, Washington.

Q. How long have you been at Fort Lawton?

A. I have been here a little over three years.

Q. Where did you go from—when did you go to Fort Logan, Colorado?

A. I went to Fort Logan in September of 1904, I believe.

Q. When did you leave there? [A.] And I left there—during the winter; I think it was in the month of February—I am not sure of that but I was only there a few months.

Q. Was Minnie Falk or Atkins there then?

A. Not that I know of.

Q. When did you first get acquainted with her?

A. Well, I first saw her at Fort Harrison, Montana, that I remember, but I didn't know her there.

Q. When was that? A. It was in December of 1912.

Q. Was she married at that time?

A. Well, I don't—she was supposed to be the wife of the drummer of the band—the bass-drummer—and was, as far as I know, was at that time.

Q. Who was he? A. Corporal Folk.

Q. Harry Folk? A. Harry Folk.

Q. Did they both come here?

A. They both later came here with the regiment.

Q. With what regiment?

A. With the 14th Infantry that is stationed here now.

Q. Who commanded that regiment—you?

A. No; Colonel Wolfe—only part of the regiment came here.

Q. They with Colonel Wolfe, then, at Fort Harrison?

A. Yes.

Q. You seemed to hesitate when I asked you if she was married at Fort Harrison—have you since learned that they were not?

A. No, I have since learned that they had been—that they were married. I have seen the marriage certificate in which the signatures were her's. At that time I merely saw her and didn't know her at all but I was speaking at that time, so far as I knew at that time, she was married, and since then I have learned she actually was married, for I have seen the marriage certificate.

Q. When was she married to Harry Folk?

A. Well, if I remember correctly, it seems to me that it was in 1907 but I am not sure of that. It was sometime previous—a number of years previous—to the time I first knew her.

Q. Do you remember the occasion of Sadie James coming out here to see Minnie Atkins?

A. I remember seeing her once or twice; I remember the first time I saw her, very distinctly.

Q. With reference to the time that you first saw Sadie, when did you first learn—when did you learn that Minnie claimed to be the mother of Thomas Atkins?

A. Well, it was at the time that Sadie James was here—if that is what you mean, in reference to the time she was here. It was at the time that she was here that I learned anything whatever of Mrs. Folk's affairs, including the claim that she was the mother of the child named Thomas Atkins.

Q. Who suggested that you act as trustee for Minnie?

A. Mrs. McComb.

Q. Was Sadie present? A. No.

Mr. Hanford: I don't think that he understood your question.

Mr. Allen: Yes, read the question.

Mr. Hanford: I mean the one before that.

A. Are you speaking about the legal trustee?

Q. That Minnie turn over her property to you to manage for her?

A. I believe it was on the advice of Mr. Hanford that I was made the trustee; it was made—I first took up an interest in Minnie's affairs on the request of Mrs. McCombs who felt that Minnie needed somebody to take some——

Q. I was not inquiring about that.

A. Some legal experience, I wanted to explain. I believe, however, the actual trusteeship was taken upon the advice of Mr. Hanford and Mrs. McCombs—they were both present.

Q. Why did you happen to call Mr. Hanford into the case? A. Because I knew him as a lawyer.

> Mr. Hanford: I object on the grounds that it is incompetent, irrelevant and immaterial and not a matter involved in the issues of this case.

Q. Who employed Mr. Hanford?

> Mr. Blakeney: Object to the question for the same reason.

A. Well, I got Mr. Hanford into the case; he was employed by Minnie Folk.

Q. Captain MacNab, did Sadie—had you talked to Sadie James and Minnie together at the time you called Mr. Hanford into the case? A. Yes.

Q. And Sadie, in Minnie's presence, had told you of the claim, had she?

A. I don't remember distinctly, whether Sadie had told me of the claim or not.

Q. After——

> Mr. Blakeney: Wait a minute—let him answer. He started to give an explanation—you interrupted.

> Mr. Allen: You may cross examine him when you have him.

> Mr. Blakeney: I want him to answer the question.

Q. Captain MacNab, at the time that Sadie was here, this trustee arrangement was agreed upon, wasn't it, by which you were to become her trustee?

A. It was—I don't know whether she was still here. She was here all the morning of that day.

Q. And a deed of trust was signed by Minnie to you?

A. To me?

Q. And Mr. Hanford was by you later sent to Oklahoma?

A. Yes, he was sent there by me as trustee.

Q. And you made a lease to Charles Page, or the Gem Oil Co.?

A. Yes, it was signed by me as trustee, as I remember it.

Q. What was the consideration paid for that lease?

Mr. Hanford: I object on the ground that it is irrelevant, incompetent and immaterial—not involved in the issues of this case; purely a private matter.

A. The consideration for the lease was $10,000.00 as I remember it. I am not sure but that the lease might have been made out for $1.00 but as a matter of fact, I think it over. I believe the lease itself, did not state the amount for—the actual consideration.

Q. How much was agreed to be paid?

A. $10,000.00 for the lease.

Q. Is that all?

A. Well, a one-fourth interest in the oil.

Q. Is that all of the money?

A. That is all the money, yes.

Q. Was there any agreement that they were to pay any attorney's fees of the trustee—that is in addition to that?

A. Nothing in the lease.

Q. I mean outside of the lease.

A. Not that I remember of—not that I know of.

Q. How much was you paid as trustee? A. As trustee?

Q. Or otherwise? A. They were paid $10,000.00.

Q. How much outside of that $10,000.00 were you paid?

A. Nothing.

Q. You never received anything for your services as trustee or otherwise growing out of this transaction?

A. No, when I——

Mr. Hanford: Mr. Allen, may I ask the purpose of this examination?

Mr. Allen: Just to show the interest of the witness is all.

Mr. Hanford: I object on the ground that it is incompetent, irrelevant and immaterial.

Mr. Blakeney: We object as incompetent, irrelevant and immaterial.

Q. Now, Captain MacNab, how was that $10,000.00 paid—the ten thousand that went to Minnie?

A. Now was it paid?

Q. Yes, sir. A. Why, it was paid by check.

Q. One, or two checks? A. There were two checks.

Q. For how much each? A. For $5000.00 each.

Q. To whom were they made payable?

A. Why, I think they were made payable to Mr. Hanford.

Q. Both of them? A. Both of them, as I remember it.

Q. What was done with both of them?

A. Well, there was $5,000.00 of that was cashed for attorney's fees, and expenses, etc., and the other five was to be turned over to Minnie at a later date, sometime at the end of the month and it was put in a safety deposit bank down town by Mr. Hanford, and he was away at the time this was to be paid over to Minnie and later on I was away on leave; some other arrangement was made, I don't—Minnie got the $5,000.00 to be turned over to her; whether it was that same check that was cashed or another one made out, I don't know —I was away at the time.

Q. Why was it agreed that it was to be paid at a later date?

A. The people asked that this money be not turned over to Minnie for a few days, something less than a month it was at that time, because they wanted to get her testimony before it had been paid; not knowing Minnie, they said, their experience which had been unfortunate and that when they got money they went to pieces and they requested for safety on their side, that until they could get the case straightened out, that this not be paid until the end of the month. That was my understanding and the way it was explained to me also explained to Minnie and it was satisfactory to her.

Q. And your understanding is, after she had testified, she was paid the $5,000.00?

A. No, and it was not the understanding that she was not to be paid this until she had testified.

Q. What did you testify to a while ago?

Mr. Hanford: I object to his cross-examining his own witness.

Mr. Allen: I thought he misunderstood himself.

Mr. Blakeney: I thought you misunderstood him.

A. Will you read the answer to the question before that for me? (Previous answer read.) I would like to add there when I stated until they could get her testimony, I didn't mean when she testified before the court because they had no hope to bring that case to trial within the time stated that money should be turned over to her.

Q. Do you know as a matter of fact or not, whether they did get her testimony before they paid that $5000.00?

A. I do not.

Q. Where was that $10,000.00, or any part of it, deposited and to whose credit? A. Of that $10,000.00?

Mr. Hanford: I object on the ground that it is incompetent, irrelevant and immaterial and purely as to private affairs.

Q. Just sir.

A. You mean all of it that I have personal knowledge of, or any part?

Q. Any part that you know anything about or heard anything about.

Mr. Blakeney: We object to what he heard as hearsay and incompetent.

Q. Any part that you know anything about.

A. That was $5000.00 turned over to Mr. Hanford and to myself by Mrs. Folk; of that, Mr. Hanford took $3,000.00 for the expenses to which he had been put and to carry on the case. $2000.00 of it was taken by myself, of which $2000.00, two hundred ($200.00) has since been expended for expenses in the case and the other eighteen hundred is on deposit in the National Bank of Commerce in Seattle as a fund upon which I can draw at any time for any purpose that I see fit in this case. This money, however, was turned over by Mrs. Folk to me as a commission for my services rendered and as I have explained to Mr. Hanford, I could accept no commission under those circumstances and I keep that money to expend for the benefit of Minnie, herself, in case I should need it for legal purposes or any other purposes, and that money is now deposited there in the bank to my personal credit; in a separate account, however, from my personal account.

Q. When did you make up your mind in reference to the time she paid you this commission that it would be improper to receive it? A. At the time it was turned over.

Q. You took it then as a commission, didn't you?

A. You are putting words in my mouth. I did not consider it was improper to accept that as a commission for services rendered. I merely said that I as an officer and this woman being the wife of a soldier, I did not feel, personally, like taking a commission from her.

Q. Why did you take it?

Mr. Hanford: I object to that as cross examination.

Mr. Blakeney: We object to it as cross examination.

Q. Please state why, and for what purpose, you did take it at the time it was taken.

A. I took this as a method of having some way of protecting Minnie's interests in case it became necessary for me to take some legal action involving the expenditure of money.

Q. Have you any knowledge of what became of the other $5000.00?

A. No statement has been rendered and none was required; I knew indirectly the expenses have gone far beyond that amount representing Mrs. Folk's interests.

Mr. Hanford: May I inquire, Judge, did you ask about the other five thousand or the rest of this first five thousand?

Mr. Allen: I am speaking of the other five thousand.

Q. You have testified about the other three thousand that Mr. Hanford received and of two thousand that you received; what became of the other?

A. I only know what Mrs. Folk told me, that that had been turned over to her personally and that was acceptable to me as trustee. The other five thousand was not handled through me because I was away at the time.

Q. The only duties involving upon you, then, as trustee of this woman, as I understand your testimony, was making a lease to the Gem Oil Company and receiving the $2000.00 in trust for her, is that the extent of your——

Mr. Blakeney: We object to his distortion of the evidence as incompetent, irrelevant and immaterial.

Mr. Hanford: We object on the ground that the question included a misstatement of the evidence; incompetent, irrelevant and immaterial.

Q. Was any other service performed by you, Captain MacNab? A. Is that first question withdrawn?

Q. No. Was any other service performed by you up to the time that you resigned the trust?

A. That is the part I am to answer?

Mr. Blakeney: Put that in the record—I am answering the last part.

Q. Go on.

A. Both Minnie and her husband had come to me for advice and counsel a number of times.

Q. Captain MacNab, has anything else been paid to you directly, or indirectly, by Page, *Lang*, the Gem Oil Co., Mr. Hanford, or anyone else connected with this case? A. No.

Q. Other than the $2000.00 you have testified about?

A. No.

Q. Has anybody promised you anything? A. No.

Q. You remember Mr. Montgomery coming here in December, 1914, and having a conversation with Minnie in your presence and in the presence of Mr. Hanford?

A. Yes, I remember his coming here—a little over a year ago as I remember it—I don't remember the month.

Q. Did Mr. Montgomery have a conversation with Minnie Folk in the presence of yourself and Mr. Hanford about the 17th of December, 1914? A. Yes, about that time.

Q. Where? A. In my office in my quarters.

Q. Did Minnie make any statement at that time in regard to Thomas Atkins?

A. She signed a statement that had been prepared in reference to that.

Q. Do you know substantially what that statement contained? A. Well, I only remember its general affect.

Q. What was done with the statement she signed?

A. The statement was first turned over to me and later, I gave it back to her—what she did with it, I do not know.

Q. Who turned it over to you?

A. It was turned over to me—I don't remember who did the actual turning over; I think I picked it up myself, if that is what you mean—it was on the desk. It was understood that I was to keep the statement.

Q. Understood by whom?

A. By Mrs. Folk, Mr. Montgomery, Mr. Hanford and myself.

Q. That you were to take the statement and keep it for how long? A. Keep it until——

> Mr. Blakeney: I want to object to the question as leading; let it be told what the conversation of the parties was without calling for a conclusion.

Q. Go ahead.

A. To keep the statement until Mr. Montgomery——

Q. I will strike that. State the conversation; the conversation on that subject that occurred at that time as to you keeping the statement.

A. It was to the effect that this statement was different from testimony that Minnie had already given before the court of Oklahoma and that Mr. Montgomery was to wire his superiors or the authorities at Washington to obtain immunity for her from prosecution for statements to the contrary that she had made before the court, and that when this immunity was granted, which he felt sure it would be, the statement was to be turned over to him—Mr. Montgomery.

Q. Was that the condition upon which it was delivered to you?

A. That was the condition as understood by all of us, by which I took charge of it.

Q. What did you do with that statement?

A. I turned that back the following day, I believe it was, or certainly within two days, to Mrs. Folk.

Q. And have you seen it since? A. I have not.

Q. Do you remember what that statement contained?

A. I remember the main point of it.

Q. The substance of the statement?

A. The substance of the statement.

Q. Will you please relate the substance of that statement?

A. The substance of the statement was that she had never had a son named Thomas Atkins and that she had only had three children; a girl that had died, and two boys, Charlie and Harvey.

Q. Was that all of the statement?

A. That was all the statement that had any bearing on this case and it was all that I remember.

Q. To refresh your memory, did that statement contain a statement that Thomas Atkins, appearing upon the roll, was placed there by her and that it represented the name of her father? A. It did not.

Q. And that she put it there to draw the grass money in 1895? A. It did not.

Q. Did it contain the statement that the Thomas Atkins for which she drew the grass money was her father?

A. It did not; if there had been any such statement as that, I would have remembered it—there was no such statement as that in that paper she signed.

Q. Did Mr. Montgomery agree for you to turn the signed statement over—back to Minnie?

A. He did not; he objected to my turning it back to her.

Q. You turned it back to her over his objection?

A. I did.

Q. State whether or not, he told you at the time, he could procure immunity as he agreed to do, for her.

A. He had shown me a telegram that he had gotten in answer to one that he had sent to Washington and this telegram did not grant immunity, as I remember it. It in a way, dodged the issue granting immunity and he felt, however, that he could still get it, as I remember it.

Q. State whether or not, he asked you to return the statement until he could secure immunity.

A. I don't remember whether he asked me to or not; it would have made no difference if he had.

Q. Was that statement signed by Minnie Atkins in your presence? A. Signed by Minnie Atkins in my presence, yes.

Q. In your office? A. In my office.

Q. Where was this written?

A. I don't remember that—I don't remember whether it was written there or not; I am not sure on that point. My impression is, however, that it was prepared before Minnie was brought up there but I am not sure on that point.

Mr. Blakeney: I would like to examine this witness before Mr. Hanford, as he would probably want to cross-examine him.

Mr. Hanford: I object upon the ground that I am entitled to cross-examine the witness upon his direct examination on each side.

Mr. Blakeney: So may I.

Mr. Hanford: You have filed a cross-petition.

Mr. Blakeney: I don't care—go ahead if you prefer.

Mr. Allen: Let me ask one more question.

Q. Captain Mac Nab, with reference to the time that you accepted the trust, how long before you resigned it? To make myself plain, you stated that Minnie Atkins gave you a deed of trust to manage her property for her. A. Yes, sir.

Q. When did you relinquish that trust?

A. I don't remember the date, it was, however, after the deed had been signed and the necessity for my acting as trustee had passed.

Q. And you have not been acting in the capacity of trustee since that? A. No.

Q. Was that relinquishment of your trust filed for record in Oklahoma?

A. It was turned over to Minnie to be sent there to be filed.

Q. About how long after you received your deed of trust from her was it that you executed the relinquishment?

A. I don't remember just how long but it had been several months—just how long, I don't remember.

Q. Had it been as much as six months?

A. Oh, I think it had been a little more.

Cross Examination by Mr. Blakeney.

Q. Captain, how long did you say you knew Minnie?

Mr. Hanford: I withdraw my objection to the examination of this witness on the part of Mr. Blakeney, as attorney for Henry Carter, at this time, he being unfamiliar with the case and with the matters testified and to be testified to by Captain MacNab, and can best bring out the evidence in the case before cross examination.

Mr. German: I want to enter one thing in the record. The Government expresses surprise at the testimony of the witness to the—substantially to the effect that a signed statement did not contain any reference to the name of Thomas Atkins having been placed upon the rolls in order to draw the grass money and that it was the name of her father.

Mr. Blakeney: We object to this statement being put into the record. There is nothing to justify it in this examination and the statement itself is improper.

Q. The question was, how long have you known Minnie?
A. I have known her by sight since I first saw her in——

Mr. German: One other thing, if you please, Mr. Blakeney; we will probably want to cross examine the witness on the proposition of the substance of the signed statement.

Mr. Blakeney: Which, when that is *tended,* we will object to you cross examining your own witness.

Mr. Hanford: The defendants, Folk and Hanford, object on the same ground.

Q. What year would you say it was that you first met Minnie?

A. I first saw her in December of 1912 at Fort Harrison.

Q. Fort Harrison where?

A. Fort Harrison, Montana—and I have seen her off and on since then.

Q. During that entire time she has been married to Mr. Folk? A. Yes.

Q. Who did you say Mr. Folk was?

A. He is corporal in the band of the 14th Infantry.

Q. He is a white man? A. Yes.

Q. About what aged man is he?

A. Well, I should judge he is not over 45—just estimating.

Q. During that time has Minnie had any children born to her, or living with her, that you know of?

A. None that I know of.

Q. Your acquaintance with her and her family relations have been more intimate during the last year—I will say, since you have been acting as her trustee? A. Yes.

Q. What members of her family has she living with her besides her husband?

A. None that I know of.

Q. When did you say that you met Mr. Montgomery?

A. It was about a year ago.

Q. The date placed by the Government in the question, about December of 1913—1914, I mean, is about correct?

A. I should think so—about correct.

Q. Where did you first see him?

A. Why, at Fort Lawton.

Q. Did you see him first alone, or did you and Minnie see him together first?

A. No, he talked to me first.

Q. What did he say to you, Captain, in that conversation?

A. He said that he represented the Government; that he represented the Government and had come out here to *rey* to get this matter straightened out, and that he was a representative of the Indian Department, as I remember it.

Q. Did he say anything to you about Minnie being subject to prosecution?

Mr. Allen: We object to the question as not proper cross-examination of this witness.

A. I don't remember whether he did or not.

Q. You say that he promised during the period of his visit, to attempt to get immunity for Minnie; immunity from what?

A. Immunity from prosecution from any testimony that she might have given before the court, that varied from that signed statement that she made, or was about to make at that time.

Q You mean by that that he would attempt to get immunity preventing Minnie being prosecuted for perjury?

A. Yes.

Q. For the testimony she had given? A. Yes.

Q. Did he have a copy of that testimony? A. I don't know.

Q. Did he have what he claimed, a purported copy?

A. I don't know.

Q. Do you recall that he did start to read some evidence that he had, and as he would read it Minnie would say, yes that is right?

Mr. German: We object to that as improper cross examination.

Q. Do you remember anything of that kind?

A. No, I don't remember that.

Q. You don't remember, then, any evidence being read to Minnie, or exhibited to her in your presence? A. No.

Q. Mr. Montgomery did tell you that he was working for the Interior Department of the United States Government?

A. Yes.

Q. Did he tell you that her evidence which she had given had been given in the State Court in which the Federal Department had no jurisdiction? A. He did not.

Q. Didn't explain anything to you? A. No.

Q. He did, however, leave the impression on Minnie that he could give immunity? A. Yes.

Q. For her testimony before the State Court? A. Yes.

Q. What was Minnie—what was the apparent affect on Minnie of the statement of Mr. Montgomery as to her having committed perjury in her testimony and his efforts to obtain immunity?

Mr. German: I object to that as improper cross examination and for calling for a conclusion and opinion of the witness.

A. As I remember it, Minnie did not seem to be much interested in the immunity; I don't think it had any affect on her one way or the other. She seemed to be mainly interested in the fact that if she signed that statement, she would not have to have anything more to do with the case; the other side of it, she didn't seem to consider very strongly at all—she was so possessed with the idea that if she signed that paper she would be through with all this business that the question of immunity did not seem to enter very strongly into her mind.

Q. Minnie did not seem frightened by the statement about her committing perjury in the former testimony?

> Mr. Allen: We object to that as improper cross examination and calling for a conclusion.

A. No, I don't think she did.

Q. What did she say in the presence of Mr. Montgomery and the other parties who were present, as to her desire to get away from the annoyance, or annoyances, to which she had been subjected to in this matter?

A. Why, in my opinion, that was her only idea.

Q. The question, Captain, what did she say, if anything, to convey that idea to you?

> Mr. German: I object to that as improper cross examination.

A. I remember she asked him if she signed that paper would she be through with the case—would she have to go down to Oklahoma any more; would she be all through with it, or words to that effect.

Q. What did Mr. Montgomery say?

A. Mr. Montgomery, as I remember it, I think I remember his words were—your troubles will be over; I think those were the words he used.

Q. Did Minnie in this conversation with Mr. Montgomery, relate any of the experiences she had had with persons who had been trying to get leases or statements from her?

A. I don't [ ] that she related any of them at that time—I don't remember that she did.

Q. I don't mean for you to detail them but didn't she state that they had been annoying her about these matters?

A. Yes.

Q. You say you gave it back to Minnie—gave the statement back to Minnie? A. Yes.

Q. Why did you give it back to her?

A. Because Minnie had made the statement to me——

> Mr. German: Wait a minute, we object to that as

improper cross examination and calling for an opinion and conclusion of witness, and move to strike the answer so far as given.

Q. Go ahead, Captain. (Reads part of the question already given.)

A. That this signed statement was false; that he had persuaded her to sign it and that she had been thinking it over, and she had come to the conclusion that it was very wrong for her to have signed it; that it was not true, that she did have a son named Thomas.

Q. When did Minnie make that statement to you?

Mr. German: Just a moment; I want to make a motion in reference to that answer. I move to strike that answer on the ground that it is not responsive to the question and that it is hearsay evidence, and incompetent, irrelevant and immaterial.

A. I believe it was the day following the evening on which she signed it.

Q. What time of the evening had she signed it?

A. If I remember it, it was early in the evening. I am not positive of the exact time, but as I remember it was in the evening.

Q. Do you mean in the evening after dinner? A. Yes.

Q. Six o'clock evening?

A. There had been a number of conferences and meetings in my office, and had been before that; I don't remember positively which one of those it was, but as I remember it, that particular meeting was in the evening but I don't state that as a positive fact.

Mr. Allen: We move to strike the answer of the witness as not responsive to the question, and as improper cross examination.

Mr. Blakeney: Counsel has moved to strike out one of the answers just preceding, or the second preceding answer, on the ground that it was not responsive and to avoid that objection I want to ask you this.

Q. Now, to state what Minnie said to you about this statement after she had signed it——

Mr. Allen: We object as improper cross examination, hearsay, incompetent, and irrelevant and immaterial.

A. She stated that this paper that she had signed was not so; that we had misled her in some way to get her to sign it, and she had been thinking it over and she had come to the conclusion that she had done very wrong; that it was not true

—these statements she made in there, in that written statement; that she did have a son named Thomas and that she signed a statement saying that she had not had a son named Thomas, and that that statement was not true.

Q. What did you then do with the statement, if anything? A. I then took the statement and turned it over to Mrs. Folk.

Q. You say that this conversation that you have just related now, was in the afternoon of the day following the evening that it was signed?

A. As I remember it, the statement was taken down to me in the evening—I remember that very distinctly. It was in the evening that this paper was taken down to me.

Mr. Allen: We object as improper cross examination and as incompetent.

A. And it was in the evening, as I remember it, following the signing of the statement by her.

Q. Where was she when she signed the statement?

A. She was in the office in my quarters.

Q. When was the first time, now, that you saw Minnie or talked to Minnie with reference to her interests in this land in Oklahoma?

Mr. Allen: We object as improper cross examination.

A. The first time that I talked to her was some time I think in June, a year and a half ago—June of 1914, that would be.

Q. Is that the conversation that you referred to in your examination in chief, in which—related by Mrs. McCombs, was it? A. Yes.

Q. Mrs. McCombs had spoken to you about the matter?

A. Yes, Mrs. McComb had asked me to go down and assist Minnie.

Mr. Allen: We object as improper cross examination, and as hearsay as to what Mrs. McComb said.

A. By advice.

Q. Go ahead and answer.

Q. Assist Minnie by advice, in regard to some matter that had come up or about which Minnie didn't know very much; that she was going to make a business deal with somebody concerning land or something, in which she didn't know what interest she had in it, and without knowing, she was going to sign this over. Minnie had been a servant for Lieut. and Mrs. McComb, and she felt very kindly towards her, and she got Lieut. and Mrs. McComb and I to go down there to do what we could to assist Minnie in this business deal, whatever it should be.

Mr. Allen: We move to strike the answer of the witness for the reason that it is not responsive to the question. It is relating a conversation with Mrs. McComb, and it is hearsay and incompetent.

Q. In response to this request did you go down?
A. I did.
Q. Where did you go to?
A. I went to the house where Mrs. Folk had lived.
Q. Who did you find there?
A. Think Minnie was there alone—I don't believe her husband was there at that time.

Q. I wish you would state the conversations and transactions that occurred from that time on, during the remainder of that visit, as best you can remember.

Mr. Allen: We object as incompetent, as hearsay, and as improper cross examination.

A. Well, as I remember the conversation, the gist of it was that Minnie had had a son named Thomas she told them. The conversation with her was, as she had explained it, that she had had a son named Thomas; that that boy had some claim on some land down in Oklahoma, and I think she said at the time that the boy was dead, or supposed to be dead—I have forgotten which; that she was entitled to the land and that there was some people coming to get her and give her two thousand dollars for it and that she was going to take it. Now, there was a lot of other conversation while I was there, and some other people arrived.

Q. Did you make any inquiry of her as to her knowledge of this land, or knowledge of its value?

Mr. Allen: Mr. Blakeney, before that last question, we move to strike the answer of the witness.

A. Yes, she knew nothing whatever about what it was or about what its value was.

Mr. Allen: We object to that question as improper cross examination, incompetent; it is hearsay and we move to strike that part of the answer already given for the same reason.

Q. Who came in, during the time of this visit?
A. A Mr. Long with some man who was with him.
Q. Do you know his name?
A. I don't know the name of the man who was with him.
Q. I wish you would just state what Mr. Long said there.

Mr. Allen: We object.

Mr. Blakeney: Kill the question.

Q. I wish you would state the conversation that occurred after Mr. Long came, between any of the parties then present.

Mr. Allen: We object as incompetent, improper cross examination and hearsay.

A. Minnie had asked me to represent her; do the dealing with the people who would come, and she had agreed to rest on my advice. When Mr. Long came, Minnie told Mr. Long that he was to talk to me. Mr. Long, after finding out who I was, and who Mr. McComb was, who was with me, stated that they wanted to get a quit claim deed to this land of Minnie; he also stated that the land was very involved there with a number of claimants to it. He wanted to pay a definite sum for a quit claim deed to the land. I believe the first sum mentioned was $2000.00, and that was the only sum mentioned at that time.

Q. Captain, to refresh your memory, did not Long only want a lease—that it was Sadie James who wanted a deed?

A. Well, Mr. Long—it may have been that Minnie told me that the man was coming up to get a quit claim deed. I know as soon as Mr. Long found out that I was to handle the case, at that time I explained to him that any deed or lease, or anything, was to be not signed until an investigation had been made as to what the land was—what title she had to it—and what other offers were made to it by other firms. Now, as to whether Mr. Long himself stated that he wanted that for a lump sum, a quit claim deed, or whether Minnie had told me he was coming up to offer this amount, I am not definite, but I know it was during the same conversation that the lease was talked of.

Q. Was any lease made or agreed to be made there?

A. No, sir.

Q. Did Mr. Long leave papers with you? A. Yes.

Q. What did he leave?

A. He had a blank form prepared for signature and I don't now remember whether it was for a lease or a deed. He had a blank form prepared for signature—he left that with me, and he walked up to the Post with me—or part of the way, anyway—he left that with me and he gave me some references of people that he telegraphed to in various states of the United States, Tulsa, Oklahoma, and Kansas City, as to the reliability and responsibility of the people that he was representing.

Q. What did you do with the instruments that were left with you?

A. I sent for Mr. Hanford and firm—that I think, was kept by us, and a copy of it made—I forget which, because it did describe the parcels of land that this paper dealt with, and we either kept that one in order to get that one to get the information, or made a copy of it, I don't know which.

Q. Was that the first time, now, that you consulted Mr. Hanford?

A. The first time that I consulted him was when I telephoned him concerning this matter and he came right up. I think I telephoned him about noon and he came up that afternoon.

Q. About what time of day was it that you were talking to Mr. Long?

A. It was in the morning, I think about ten o'clock.

Q. I understand now, that you talked with Mr. Long in the morning and he left the paper with you? A. Yes.

Q. And you came on up to your Post and had your lunch and telephoned to Mr. Hanford? A. Yes.

Q. Did he come on that afternoon?

A. He came out that afternoon.

Q. What did you do then?

A. I sent these telegrams and got satisfactory answers back from the bank that had been referred to me as to the reliability and responsibility of Mr. Page and Mr. Josey. That afternoon, I went back down to see Minnie.

Q. Who went with you, Captain, if anybody?

A. Mr. Hanford was with me.

Q. Who did you find there?

A. I would like to state that I don't—I am not quite sure whether Mr. Long walked up with me in the morning or whether it was in the afternoon. I believe it was not in the afternoon, because Sadie James comes in there some place in the morning after Mr. Long had left. Then, in the afternoon when I went down, I——

Q. Just a minute now, Captain. With that explanation I am not clear yet. A. Yes.

Q. You are not sure whether Mr. Long was there in the afternoon and Sadie came the following morning?

A. No, my understanding is this—that Sadie James came there that morning after Mr. Long had left.

Q. That Mr. Long came in the early morning? A. Yes.

Q. And Sadie James came later in the morning? A. Yes.

Q. And you telephoned to Mr. Hanford?

A. After I got back.

Q. And you then went down with Mr. Hanford in the afternoon?

A. In the afternoon, and Sadie James was still there and

Mr. Long didn't come to Minnie's house that afternoon but he met me down near the gate near the car line and he walked up with me—that is where he walked up.

Q. What did Sadie James say with reference to her business there?

A. Sadie James said that Mr. Long was not the man she was supposed to bring out to make this deal with Minnie at all; that he was somebody else and that they had had her followed by detectives, so she would not come to Minnie's house —I don't know. She told a wild story about being followed and that was the reason she had not arrived on time, and that the other man that was to have come and pay Minnie the $2000.00 had not come from Oklahoma yet; that the man she was representing had not arrived and that this other man, Long, Minnie was not to have any dealing with him at all because Long was not her man and that Minnie had to deal with her—Long was not her man.

Q. Do you remember who Sadie James claimed to be representing?

A. She claimed to be representing a man named Bartlett.

Q. Who was she expecting, if she stated?

A. She was expecting, as I understand it—she was expecting Mr. Bartlett himself.

Q. Have you stated substantially all that was stated by Sadie there, now, that you can remember?

A. Sadie was very excited and rather incoherent.

Q. If not, state all that you can remember.

A. She was very excited and rather incoherent but she was very firm in her determination to keep Minnie from signing any papers for anybody until her man got there.

Q. About how long did this visit continue?

A. Well, it continued for quite a while; it continued over an hour, that I am sure of—I don't know how much longer than that.

Q. Did anybody else, now, come in besides yourself, Minnie, Mr. Hanford and Sadie James? A. While we were there?

Q. Yes.

A. No, I don't remember. Mr. Long came up there but he didn't come in—he started up toward the Post and when I was starting home, I met Mr. Long at the gate—that goes into the Post—and we walked at least a part of the way up.

Q. What did Mr. Long say to you?

Mr. Allen: We object as improper cross examination, incompetent, and hearsay, and move to strike out the testimony of this witness relating to Mr. Long for the reason that it is incompetent, improper cross examination.

A. Mr. Long, among things that I remember he stated, said that he was glad it was to be handled by some responsible people; that they much preferred to do business that way—with somebody that could put it on a business basis and in answer I told Mr. Long that the thing was going to be handled on a business basis, and there was going to be no rushing of any body through to signing papers in a hurry, until we found out what was being signed, and what other firms of equal interest was willing to pay for a lease and the property was valuable, and it was going to be a question of making a lease to people who had the best offer. Mr. Long said that all his firm asked was to be given the same chance as others.

Q. Had Mr. Long up to this time offered you ten thousand dollars for the lease? A. No.

Q. Was Mr. Hanford with you during this conversation that you had with Mr. Long as you came up through the Post?

A. I don't remember whether he was with me just at that time or not.

Q. When did you next see any of the parties in connection with the matter?

A. Well, it was in the afternoon that I went down to Minnie's quarters—Minnie's house again—and found that she had made up her mind to go to Spokane with Mr. Long, where her husband was at that time temporarily stationed with the band and sign over a lease to him, the consideration being about four thousand dollars. Did I say a lease?

Q. Yes.

A. As I remember it, it was a deed—she was to sign over whatever right, title or interest she had to it for four thousand dollars—that is my understanding of it. She was quite convinced that she was going to do that; that that four thousand was all the money that she would want in the world and it would keep her all her life, and I am not very sure it was a deed which she was going to sign for Mr. Long and was going to Spokane. Her husband was there and they were going to sign it. She had an idea that four thousand dollars was all she could use in her lifetime.

Q. Did she so state?

A. She so stated to me at the time.

Q. Was Mr. Long there? A. Mr. Long wasn't there.

Q. Did she go to Spokane then? A. She did not.

Q. Can you state why she didn't go?

A. Yes, Mr. Hanford and I decided——

Mr. Allen: We object as improper cross examination, hearsay and as incompetent.

A. Mr. Hanford and I decided that it would be very foolish for her to sign over a deed for her property to anybody without knowing what it was, especially when there seemed to be so many people anxious to get it and to get it as soon as possible, and we tried to dissuade Minnie from going and finally did succeed in getting her to agree to come up here to the Post and talk it over with Mrs. McComb who was responsible for our being in there in the first place.

Q. Did you go up and talk it over with Mrs. McComb?

A. We came up and talked it over with Mrs. McComb.

Q. Did Minnie go with you? A. Minnie came with us.

Q. As as result, now, of the advice of yourself and Mr. Hanford and the conversation with Mrs. McComb, Minnie decided she would not go over, did she?

Q. She decided she would not go over to Spokane.

> Mr. Allen: We object as incompetent, hearsay, and improper cross examination. We ask that the answer be stricken for the same reason.

Q. What then, if anything, did you do, or did Minnie regarding the land?

A. Well, it was then decided and I believe, on the legal advice of Mr. Hanford and backed up by the personal advice of Mr. and Mrs. McComb, and the consent and willingness of Minnie that this property should be deeded over to me in trust to prevent Minnie from doing the very thing that she had been contemplating doing that after noon, deeding it over to somebody for a small sum without knowing what it was, acting under the instruction of somebody—Minnie is rather susceptible to suggestions, and in the morning she agreed to let me handle the case, and in the afternoon we found her all ready to go, I had an idea, through somebody else without consulting any of us who were trying to handle her interest, and we decided the best thing to do was to fix it so that Minnie herself could not handle it. Minnie thought it was a good idea, and the action on her part was absolutely free and uninfluenced, except by the people she thought were her friends.

Q. During any of the conversations up to this time now, had any mention been made as to where Minnie's interests came?

A. No, except that Minnie herself had told me that she had had this son Thomas.

> Mr. Allen: We object.

A. And that she was entitled to some land in some way—just how it was, at that time we did not know. What information we got about it, we got from Mr. Long later.

Mr. Allen: We move to strike the answer given by this witness as not responsive to the question, and as incompetent and as hearsay.

Q. Do you remember about when she made that statement to you that she had had a son named Tommy?
A. She made that——

Mr. Allen: We object to the question because it is improper cross examination, self-serving declaration, and hearsay.

A. She made that statement, first, to me when I went down there in the morning when Minnie was alone and before I had seen Mr. Long or any of the others connected with the case.
Q. She had made this statement to you that *he* had a son named Tommy before you had met Sadie James or Mr. Long at her place? A. Yes, sir.

Mr. Allen: We object for the same reason.

Q. Did she tell you anything about when, how, or where, she had had a son by that name?
A. Well, she told me that it had been in Leavenworth.

Mr. Allen: We object to this question for the same reason.

A. And that her explanation as to her being very young at the time and inexperienced and foolish and getting into trouble, and the way she explained it, I understood she was trying to—what she was trying to get into my mind was that this was an illegitimate child that she had had and that she kept very quiet about it because of its being an illegitimate child, and it took quite a while for her to get to telling me that she had had this son—a great many explanations.
Q. I wish you would state now, substantially, the best you can, that conversation, commencing at the first of it. I do this because you say it lead you to the conclusion—I will get you to state because we can see then what conclusion can be drawn.

Mr. Allen: We object to the question as hearsay and calling for a conclusion of the witness, as a self-serving declaration of Minnie Atkins, and as incompetent.

A. She gave the explanation that she was young at the time and inexperienced; that she was working in Leavenworth and that she had some bad luck there; said that she got into trouble and that she had a child and that this child's name was—had been named Thomas; called Thomas Atkins.

That is the substance. Those remarks she did make during this long conversation and those were the ones that lead me to the conclusion that it was an illegitimate child. She didn't use the word illegitimate and didn't say that she was married at the time; she said that she was a young girl and inexperienced, and that she had gotten into trouble and had a child.

Q. Did she—where—that is, the particular place in Leavenworth where she had that child? A. No.

Q. What, if anything, did she say became of the child?

Mr. Allen: We object for the same reason.

A. Well, she didn't have him very long as I remember it. She turned him over to somebody but who it was it was rather indefinite in my mind—now—it was at the time.

Q. Did she talk to you at length about it?

A. Not about the boy.

Q. Or was her statement brief?

A. She talked to me at length about her affairs but she said very little. I think I have repeated the substance of her conversation. I didn't know at the time what had become of the boy and I understand that she didn't know. She had turned this boy over to somebody else to raise, or take care of, and who it was I didn't understand.

Q. Captain, excuse me, you say I understand; we must have what was said about it or the substance of her statements.

A. Well, I cannot give you exactly what she said but she said what she told me was all to the effect that she had turned that boy over to somebody when he was only a year old, or three years old, I forget which, but she didn't know his present whereabouts, or what had become of him. I remember that very distinctly.

Q. Did she say anything to you about the father of the child?

A. She did not. She did tell me that she understood the boy—she did tell me that she understood that the boy was dead and I believe at the time that she told me, this Sadie James was there, that she told me that the boy was dead, but she said nothing whatever about the father of the boy, as to who it was.

Q. Now, we were talking about this first conversation now, in which you say was discussed that she had had the child in her young years? A. Yes.

Q. Sadie James was not present at that time?

A. No, not at first, no.

Q. The statement she gave you about the child being dead was in a later conversation when Sadie James was present?

A. No, she told me that morning. I remember distinctly that she had two things that seemed to be on her mind. She said I am the mother of that child; I remember her stating that in that many words, and I asked her what had become of the boy and she told me she had given him away or somebody had taken charge of him when he was one or three years old, I forget which, and that the boy was since dead.

Q. Did she tell you how she ascertained his death?

A. No, I asked if she knew of her own personal knowledge whether the boy was dead or not and she said she did not—that she heard that he was dead.

> Mr. Allen: We want our objections to go to all the questions calling for a conclusion of this witness, and especially as to the conversation had as to Minnie Atkins as being incompetent, hearsay, self-serving declarations, without making those specific objections to each question—may they go, Mr. Blakeney?
>
> Mr. Blakeney: Yes, sir. I am not asking for any conclusions.

A. I would like to explain that the indefiniteness of my answers are a good deal due to the indefiniteness of her statements at the time. She was trying to conceal as much of her past as possible and she made her statements rather indefinite, is the reason that my idea of the circumstance was rather hazy at the time, due principally as I figured it at that time to conceal as much as possible of her past.

Q. How long was it after this conversation that you first saw Long?

A. It was not very long—I was still there when he came.

Q. You had this conversation with Minnie the morning that you first saw Long? A. Yes.

Q. Who was there with you, if any body, at that time?

A. Mr. McComb.

Q. Mr. McComb?

A. Yes, Lieut. McComb; I don't remember if he was in the room when this conversation with Minnie took place. I am rather under the impression that he was out on the porch but Minnie told it to me herself—to me alone—but he was there; had gone down with me and came back with me and he was there at the house. I don't believe he was in the room at the time that Minnie told me this.

Q. When did you see Sadie James, now, with reference to the conversation?

A. Well, Mr. Long had come and gone when Sadie James appeared and unless I am mistaken, Sadie James came that afternoon while Mr. Hanford and I were there.

Q. That is your recollection is it?

A. My recollection is that she came there in the afternoon when Mr. Hanford and I were there, because I remember that Mr. Hanford and I went up—the reason I can place her visit a little more definitely, as I remember Mr. Hanford and I went up and spoke to the detective who had been very palpably following Sadie to keep her from coming to Minnie's house and that was why Mr. Hanford was there, and they were still very palpably shadowing the house.

Q. Let's talk about these detectives a while; who were they? A. I don't know.

Q. Did you ever meet them?

A. Except to come up there—we joked a little with them. I think we said two or three words as to whoever they were following still being there, or words to that effect but I never met them that I remember of—never have met them since or have seen them since.

Q. Did they tell you who they were?

A. No, I didn't know who they were.

Q. Didn't they tell you they were detectives?

A. They did not.

Q. Did you get the information that they were detectives from Sadie?

A. From Sadie James who said those men were following her all morning was the reason she had not gotten there, so as not to lead them to Minnie's house, but that they had hung to her trail all morning and that she hadn't come.

Q. But you went on after talking to the detectives to Minnie's house and found Sadie there?

A. No, it was after Sadie had come into the house and told us that these men had been following her that we saw them up there and went and spoke to them, and went back to the house.

Q. Where were those men in reference to the house?

A. Just on the hill in front of the house, about 34th Avenue; there were some trees there and they were sitting, or standing by them.

Q. What distance? A. Not over 75 yards.

Q. The house was in plain view from that point, was it?

A. Yes, and they were in plain view from the house; they could be seen peering around these bushes from time to time.

Q. Did you talk to Mr. Long about these men?

A. No, except—I don't remember that I talked to him about them—I don't think I did ever say anything to Mr. Long about them.

Q. Mr. Long never told you that these were his detectives or detectives working for his principal?

A. No, not that I remember of; I don't remember of his mentioning them, or of my mentioning them to him.

Q. Now, when you went on back to the house, how long did Sadie stay there?

A. I think she was still there when I left.

Q. What time do you say that you left?

A. Oh, about 4 o'clock in the afternoon.

Q. Mr. Hanford leave with you? A. Yes.

Q. Was anything said in the conversation there, while Sadie was there, about Tommy?

A. Sadie James did a good deal of talking and her conversation was to the effect that Minnie was not to sign any papers at all until her man got there.

Q. I mean, Captain—— A. About Tommy?

Q. I mean about the birth, life or death of Tommy. Was that discussed by any of the parties?

A. There was a statement made by her that the child was dead—by Sadie James.

Q. Sadie said the child was dead? A. Yes.

Q. Did she say where the child died? A. No.

Q. Did she attempt to give Minnie any of the details of the death of her son?

A. No, we didn't pay much attention to Sadie at the time; I considered her rather an excited negro, whose conversation was rather incoherent—I didn't see just where she came in on the case at all, except that she had been hired by somebody to find Minnie, and she had found Minnie. I didn't consider any statement that she made of any value. She was very excited from being followed.

Q. She was excited from the detectives having followed her? A. Yes.

Q. And you say she talked considerably and incoherently?

A. Yes, excitedly.

Q. But so far as you know, Sadie said nothing about the birth, or life, or death of Tommy except the fact that he was dead? A. That Minnie said that?

Q. No, Sadie.

A. No, that is the only thing that I remember—that is the only statement that I remember that had any bearing on the case at all.

Q. Well, now, Captain, just to get this fixed in your memory again, don't you recollect that Sadie represented many times that Tommy was dead?

A. Yes, she repeated a number of times that Tommy was dead; that was the only statement that she made that had any bearing on the case that I remember.

Q. Then in this long conversation with Minnie, you do remember that she repeated several times that statement?

A. You mean Sadie James?

Q. Yes, Sadie James repeated several times that statement?

A. Yes, it was my impression at the time that she was trying to impress on Minnie that one fact.

Q. Did Minnie make any statement so far as you remember?

A. No, I don't remember Minnie making any statement that afternoon.

Q. Now, you didn't make the lease that day or make any conveyance, or any sale of the land that day—to Long or anybody else? A. No.

Q. Mr. Hanford left with you, did he?

A. As I remember it, he left with me, yes.

Q. That is your recollection? A. Yes.

Q. You had received telegrams from the banks that you had wired to, had you? A. Yes.

Q. You had from those telegrams been advised that Page and Josey were responsible oil men? A. Yes.

Q. I believe you said the next morning Long offered you four thousand dollars?

A. No, it was that afternoon that Minnie told me that she was going to Spokane with Mr. Long and sell the property for four thousand dollars.

Q. You and Mr. Hanford, now, left Minnie's, leaving Sadie James there?

A. I think Sadie James was there when we left Minnie's.

Q. You were later advised in the same afternoon by Minnie that she was going to Spokane?

A. No, as I remember it—of course it is a long time ago, as I remember it Sadie James didn't arrive until after we—Mr. Hanford and I had gotten there, and found Minnie all ready to go to Spokane, already fixed to go, and that it was while we were there that Sadie James came in on the scene and that Mr. Long came up while Sadie was there and didn't come to the house.

Q. I want to get this clear—then having learned that Minnie intended going to Spokane, you went down to Minnie's house to get her to come to Lieut. McComb's place?

A. That was in the evening—that was later on.

Q. When you left Minnie then, in the afternoon, she had not finally decided not to go to Spokane?

A. Yes, she had decided it, as I remember what we said and what Sadie James said when she showed up, that had a bearing on the case. As I remember, Mr. Hanford and I hadn't had much influence on Minnie and while we were there Sadie James came up and she had something to do with Minnie changing her mind, Mr. Long didn't come to the house

Q. Did she decide not to go with Mr. Long before you and Mr. Hanford left or did she finally decide in the evening after you had the conversation with Lieut. McComb?

A. No, decided to go before we left there.

Q. Then why did you have the visit with her at Lieut. McComb's place?

A. It was to get her up there to persuade her to turn the matter over to me.

Q. Mr. Hanford had suggested that she do something of that kind before coming to Mrs. McComb's house?

A. No, when we got over there—to Mr. McComb's residence and talked it over with Mrs. McComb.

Q. Did you bring Minnie with you?

A. I don't think so; I think I walked up the hill with Mr. Long.

Q. Don't you recall that on your way up you had a conversation with Mr. Long and made the request and he promised he would return to the city without attempting any further to influence Minnie until such time as you all could advise him?

A. Oh, I don't remember that—I don't remember that; lots of those details that are not distinct in my mind—I don't remember that.

Q. You went to Lieut. McComb's place to see his wife, Mrs. McCombs? A. Yes.

Q. For whom Minnie had worked? A. Yes.

Q. You went there to induce Mrs. McCombs to assist you in influencing Minnie so as to prevent Minnie from squandering whatever interest she had in this land?

A. Yes, it was to get Mrs. McComb to talk to Minnie, to persuade to allow us to handle the case entirely and not to take any action herself.

Q. Did you exhibit to Minnie the telegrams that you had received from the banks regarding the responsibility of these gentlemen who attempted to deal with her?

A. I don't remember whether I did or not; very probably not.

Q. Not after you got up to Mrs. McComb's, you talked to Mrs. McComb and then you sent for Minnie, did you?

A. Yes, that is the way I remember it.

Q. And finally you reached the agreement?

A. Yes, when that was supposed and how it was brought about I don't remember exactly but it was that same evening and the deed of trust was executed that same evening.

Q. Now, Captain, did you ever receive any correspondence from Messrs. Josey and Page?

A. No, I never received a letter from either one of them.

Q. Did Minnie ever receive a letter from them that was exhibited to you? A. No.

Q. Or any part of which was read to you? A. No.

Q. Did Minnie ever receive a letter from anybody regarding this land, or interest in this land, or regarding her relationship to Tommy Atkins, which you read or saw, or had read to you?

A. *A* don't remember a single one and I don't think there is one that was ever exhibited to me.

Q. Don't you recall that Minnie received a letter, soon after these conversations that you have stated and showed it to you, from Mr. Page in which Mr. Page stated, Minnie I have found your son Tommy; he was taken out and raised by an old negro family, named Carter, and known as Henry Carter? A. No.

Q. You say you never did or don't remember?

A. No, I never did.

Mr. Hanford: I object to the question and move to strike the answer on the part of the defendants Folk and Hanford, on the ground that it is improper cross-examination.

Q. You say that you never knew that Minnie had received such a letter?

A. No, that is what I say, I don't know. I know that she never showed me such a letter and I didn't know that she ever received such a one.

Q. Don't you remember that in the presence of Judge Allen, Minnie exhibited to you a letter?

Mr. Allen: No, I never was here before.

Q. Did Minnie exhibit any letters in the presence of Montgomery when he was her- and some Government officer?

A. No.

Q. Has any other Government officer ever visited you besides Montgomery?

A. I don't believe so—I don't remember. There have been a great many people from different firms and different companies that have come up here and interviewed me but I don't remember of only one that represented the Government, or claimed to represent it and that was Mr. Montgomery.

Q. Are you acquainted with a gentleman by the name of Cook? A. I don't remember him.

Q. Claimed to be a special agent for the Department of the Interior? A. I don't remember him.

Q. You saw Mr. Robinson, did you not, in the room this morning; Robinson, the gentleman who was in here with us early this morning?

A. I don't remember which one was Mr. Robinson.

Q. Have you ever met a man named Robinson, connected with this transaction? A. You mean this same one?

Q. Yes. A. Not that I remember of.

Q. What special agents, or detectives, have you ever talked to regarding this matter? A. Well, I can't tell you.

Q. I didn't ask you to tell all of them, Captain, just those——

A. I remember one named Koehler who came up here a time or two and tried to get me to take an interest in somebody that he felt—and the reason that he rather impressed himself on my mind, he was a man employed first by Mr. Long, told me he had been, and that he was now endeavoring to promote the interest of some other claimants. There have been so many that have come to see me on this thing that I don't remember who they all are. In fact, I turned them all away with the statement that I knew nothing whatever about the case and my only advice to Mrs. Folk to do nothing except through her lawyer, and my conversation was not long enough to impress it on my mind.

Q. Referring to the other question, did you ever see any letter written to Minnie about this land or about Tommy Atkins?

A. I don't remember ever seeing any letter that was written to her concerning it.

Q. You never saw any letter that had a picture of a child in Minnie's possession?

A. I don't remember seeing one and I think if I had of seen it, if it had any bearing on the case, it would have impressed itself on my mind, or if I had thought it had any bearing on the case.

Q. Captain, you have no interest, financially or in any other form, in this litigation, have you?

A. None whatever.

Q. You intend to use the $2000.00 to promote the interests of Minnie's rights to the land? A. Naturally.

Q. And have no interests, directly or indirectly, in the result of this controversy? A. None whatever.

> Mr. German: I move to strike each and every answer and all the answers to the interrogatories propounded by Mr. Blakeney, on the ground that they are not responsive; that they—that the questions elicited conclusions, opinions, and self-serving declarations. That they were—that the answers that they called for are immaterial, incompetent and inadmissible, and irrelevant, and upon the ground that the questions and inquiry was improper cross examination.

Cross Examination by Mr. Hanford.

Q. Captain MacNab, you stated *that* on cross examination by Mr. Blakeney, that Sadie James stated that Thomas was dead. Is it not a fact that Minnie stated that the child was dead, that Sadie James used her best efforts to try to persuade Minnie not to say that the child was dead?

Mr. Allen: We object to that as improper cross examination, as incompetent, and as a self-serving declaration.

Mr. Blakeney: And we object for the same reason, incompetent, irrelevant and immaterial and not proper cross examination.

Mr. Hanford: For the purposes of the record, I will state that my cross examination of Captain MacNab goes both to the evidence brought out on the part of the complainant and to that of the defendant and cross-complainant Henry Carter and others.

Mr. German: Now, Mr. Hanford, may we not have an understanding that we make the same objection to all your questions and save the record?

Mr. Hanford: That *was* be an objection to cross examination at all——

Mr. German: No, it would only apply to such questions that we desire to press it to when the testimony was offered.

Mr. Hanford: I prefer that you make your own record.

Mr. Blakeney: I want to further object there, Captain MacNab stated repeatedly that Sadie James had stated in this conversation that Tommy was dead and that Minnie made no expression in regard to it and this was done on my cross examination.

A. My remembrance of Sadie James' statement was that Sadie stated that the boy was dead—that was the way that I remembered it.

Q. Didn't Sadie repeatedly point her finger at Minnie and state but you don't know that he is dead? A. Yes.

Q. He might be dead but you don't know that he is dead?

Mr. Allen: We object to the question as improper cross examination, incompetent and self-serving declaration of Minnie Atkins.

Mr. German: Can we have this understanding Mr. Hanford, that all questions that you propound to him concerning the conversations on the occasion that you are now inquiring about, may be treated as objected to by us on the same grounds that Judge Allen has just now announced?

Mr. Allen: And upon the further ground that the witness has shown himself to be an interested witness, and the question is leading.

Mr. Hanford: He is your witness.

Q. Answer, Captain.

A. Yes, I remember Sadie telling Minnie that she, Minnie, didn't know that Tommy was dead, and Minnie said that she didn't know that Tommy was dead. I asked her, as I stated before, if she knew of her own knowledge that Tommy was dead and she did not known of her own knowledge that Tommy was dead. I believe that is why I came to ask Minnie that Sadie told Minnie, that she, Minnie, didn't know that Tommy was dead.

Q. Going back to the beginning of this case, Captain MacNab, what was your first conversation with me in regard to it?

Mr. Allen: We object for the reason that it is incompetent, calling for hearsay evidence, and improper cross examination.

A. You mean over the telephone or after you had come up?

Q. I mean over the telephone if it was.

A. Well, I don't remember exactly the conversation.

Mr. Blakeney: We object to that as a self-serving privilege and as incompetent.

A. I don't remember exactly the conversation but it was to the effect that these people were trying to get this woman to sign a deed, as I remember it was a deed, to certain property down there that she did not know anything about. They were trying to rush her through to sign it; it looked as though there were several trying to get the paper signed in their favor and that I wanted Mr. Hanford to come out and look the thing over and give me some advice on it.

Q. And I came out? A. You came out.

Q. That afternoon, immediately following this conversation? A. Yes.

Q. Who sent the telegrams inquiring as to the reliability and standing of Mr. Page and Mr. Josey?

A. I don't remember. Do you mean as to who wrote them out or who took them to the office?

Q. Who delivered them to the office?

A. I don't remember.

Q. Well, did the answers come to you?

A. I don't remember that, whether they came to me direct; I know I got the answers, though.

Q. Where was your conversation with Mr. Hanford when he came out that afternoon?

A. I believe the first conversation was in my quarters.

Q. Was that a long conversation?

A. I don't remember just how long it was.

Q. Did you relate to him the story Minnie had told you regarding the birth of this son?

A. Yes, I gave him all the circumstances that I knew during this conversation.

Q. And you went, then, direct to Minnie's house?

A. Yes.

Q. And found her there? A. Yes.

Q. And that was where you learned that it was her intention to go to Spokane? A. To go to Spokane.

Q. To join her husband and sign a deed, as you say?

A. A deed as I remember and I still think it was a deed that she was to sign, and if a quitclaim deed, she was to be through with it.

Q. Well, were you there when Sadie James arrived?

A. Yes.

Q. With the detectives following her?

A. With the detectives following her.

Q. Did you or Mr. Hanford participate in the conversation after Sadie James arrived?

A. In what way do you mean?

Q. You stated that Sadie James did a lot of talking—do you remember that? A. Yes.

Q. Do you remember whether anybody else did any talking at that time?

A. No, I don't remember any other conversations, or the conversations of any of the others except what I have already stated.

Q. You remember Sadie James discussing Mr. Page, or any discussion on her part of a forged deed? A. No.

Q. You went up the hill with Mr. Hanford, you said, to interview the detectives—wasn't that on the suggestion of Mr. Hanford for the purpose of getting private conversation concerning Sadie James?

Mr. Allen: We object to that as incompetent and improper cross examination and as calling for the conclusion of the witness.

Mr. Hanford: I will withdraw the question.

Q. You stated that yourself and Mr. Hanford left the house after Sadie James arrived. When did you leave with respect to Sadie James leaving?

Q. Why, I am not quite sure that she left at the same time we did, or whether she was still there at the house—I don't remember.

Q. Isn't it a fact that you and Mr. Hanford stayed there at the house until you saw her depart and then went down by the bridge and stayed there and watched until you saw her get on the car and saw her pay her fare and leave?

Mr. Allen: We object to that as improper cross examination and as incompetent.

Q. No, I don't remember when she left. I don't remember whether, as I stated before, whether she left at the same time we did, or whether she was still there when we left.

Mr. Allen: I want this record to show this, that counsel for the Government takes the position that this witness is an interested party and by his testimony has himself shown that he was appointed trustee for Minnie Atkins and negotiated these transactions, and employed counsel for Minnie Atkins, and that he is hostile to the—

Mr. Blakeney: We except to that statement.

Mr. Allen: To the Government in this case and therefore object to counsel for Minnie Atkins asking him leading questions.

Mr. Blakeney: We object now, to any such statement made by counsel as improper and as no objection that the examiner is required to place in the record, and we insist that it be stricken from the record, being merely part of counsel's argument in this case.

Mr. Hanford: Defendants Folk and Hanford object to the statement of counsel on the ground that it is argumentative, on the ground that it is testifying on the part of counsel and on the ground that it [] a misstatement of the evidence.

Q. Then where did you encounter Mr. Long after leaving? A. Somewhere in the vicinity of the gate which leads up from Pleasant Valley to the Post.

Q. You had a conversation with him there such as you have related? A. Yes.

Q. Do you leave Mr. Long there after that conversation?

Mr. Allen: We object as incompetent and improper cross examination.

Q. I don't remember whether Mr. Long walked all the way up into the Post, or whether he left us part of the way up. I remember his walking part of the way up the hill.

Q. Isn't it a fact that he started to leave and came running back and made some other suggestion after the statement you had made and left and went back to town?

Mr. Allen: We object as incompetent and improper cross-examination and as calling for a conclusion of the witness.

Q. I remember starting to leave once and going back to where we were but I don't remember whether he left then or whether he walked on into the Post with us.

Q. Isn't it your recollection that it was on your way up the hill into the Post with Mr. Hanford that the matter of the trusteeship was first discussed?

Mr. Allen: We object as incompetent and improper cross examination and as calling for a conclusion of the witness and as leading.

A. I don't remember when that matter was first discussed.

Q. Did you agree at once to accept that trusteeship when it was proposed? A. No.

Mr. Allen: We object as improper cross examination.

A. No, I did not.

Q. Then, you mean to say that you were reluctant to accept it?

Mr. Allen: We object as improper cross examination, leading and putting the words as suggested to the witness in the answer.

A. Very much so.

Q. Was it urged upon you?

Mr. Allen: We object as incompetent and improper cross examination.

A. It was.

Q. Was there any agreement, or any understanding, between you and Minnie Folk and Mrs. McComb, or any of the parties that any compensation was to be paid to you for your services as trustee? A. No.

Q. Did you expect any compensation or remuneration?

A. I certainly did not, and I objected to stating in the lease that a certain per cent would be given the trustee in case of the—well, a certain per cent of the profits from the lease, and that was explained to me by the counsel, Mr. Hanford, that there must be an interest carried in that lease to make it irrevocable; saying that if there was no interest in it, she could revoke it at will. It was explained afterwards to her that that interest was only put in there to make it legal and it was understood by counsel and myself that it was only put in there to make it legal, and that is the only place where it was stated, the deed in trust—not the lease.

Q. And that was put in there to prevent her from being able to deed away her interest regardless of the trusteeship?

A. Explained to me by counsel.

Q. So as to prevent it from being only a nominal trusteeship?

Mr. Allen: We object to that as calling for a conclusion, and as improper cross examination, and as suggesting the answer.

Mr. Blakeney: I want to object to the record—I am perfectly willing that my examination be treated, any part of it, in cross examination, to make the witness my own for that purpose, so that any part of my cross examination so far as is competent——

Mr. Hanford: The defendants, Minnie Folk, Harry B. Folk, and Edward C. Hanford, agree to the statement of counsel, and by this agreement stipulate that the testimony on the part of Henry Carter be considered as direct examination.

Mr. Allen: In view of the statement of counsel for Mr. Hanford and Minnie Folk, and counsel for Henry Carter, counsel for the Government now object to each and every and all the questions propounded to this witness upon the further ground that they are leading and ask that the questions and answers be stricken for that reason.

Q. Then, after your leaving Minnie Folk, when did you next see her—that is, after this conversation in the afternoon when Sadie James was there?

A. I don't remember the exact hour but later on in the day she was up in the Post.

Mr. Allen: Let me understand you Mr. Hanford, are you now making this witness your own witness?

Mr. Hanford: I am cross examining as to both of your testimony.

Mr. Allen: Alright. Then you don't make him your witness.

Q. Did she rejoin you and Mr. Hanford about the time that you met Mr. Long near the entrance to the Post?

Mr. Allen: We object to that as improper cross examination, as suggestive and leading, and as incompetent.

A. I don't remember.

Q. Didn't Minnie come running across the bridge, waving to you and Mr. Hanford to wait, crying——

Mr. Allen: We object to that as incompetent, improper cross examination, and as suggestive and leading.

A. I don't remember that circumstance.

Q. Did Minnie ever tell you about a brother of hers that was killed?

A. It was about that time—at that time, I believe it was that same day she said something about a brother being killed and it was while we were standing, while we were in the vicinity of the gate there. I don't remember whether it was the same day or not; I remember her standing on the hill there, saying something about somebody killed her brother—that they had something to do with this case and she didn't want to have anything to do with them, or see them, and I don't recall what those circumstances were but I remember her telling the story about her brother being killed and we were standing by the gate when she told us that. I don't connect it with that day, it was about that time; whether it was that day or not I don't remember, but as I remember it was it was something that Sadie James had told her that somebody was connected with this killing of her brother.

Q. Then, after you met with Mrs. McComb and Minnie and Mr. Hanford to arrange for the trusteeship, a trust deed was executed to you? A. Yes.

Q. Do you remember who was present at the time it was executed?

A. Well, there were those that you have mentioned and I believe Lieut. McComb and a notary public from town, and if I do not mistake—if I remember his name, it was Carver, I think—am not sure of that, it was a notary public who had come up from town to stamp the deed.

Q. To acknowledge the deed?

A. To acknowledge the deed, yes; someone to whom Mr. Hanford had telephoned to, I believe, who was in the same office building there—his name has escaped me now.

Q. Was he present at the time the deed was executed?

A. He was present there at the time the deed was executed because he had come out to attest to the deed.

Q. At that meeting do you recall Mrs. McComb telling what Minnie had told her about how many children she had had? A. No, no, I don't.

Q. Do you recollect Mrs. McComb ever stating in your hearing what Minnie had told her, if anything, about how many children she had had?

Mr. Allen: We object.

Mr. German: Answer that yes, or no, please, sir.

A. I don't remember any statement she ever made.

Q. Did Mrs. McComb ever tell you that Minnie had told her that she had five children?

> Mr. Allen: We object to that as hearsay, incompetent and immaterial cross examination, leading and suggestive.

A. No, I don't remember her stating that, telling me that Minnie had told her that. It is my understanding that she did have five and if it was ever mentioned it has escaped my mind. I don't remember any such statement.

> Mr. Allen: We ask that the answer be stricken as not responsive to the question and as a conclusion arrived at by the witness.
>
> Mr. German: Particularly that last statement of the witness as to his understanding.
>
> Mr. Allen: I desire to limit my motion to strike the last part of this answer.

Q. When was it understood—when did you decide, rather, to authorize Mr. Hanford to go to Oklahoma to investigate this matter with the view of making a lease?

A. Why, I believe it was the day following.

Q. Did you have any understanding with Minnie as to what you would endeavor to get for her for the lease?

A. Yes.

> Mr. Allen: We object to that as improper cross examination and as incompetent.

Q. What was that understanding?

> Mr. Allen: We object to that as improper cross examination and as incompetent.

A. Minnie was to have gotten $4000.00 for a quit claim deed if she went to Spokane, and we agreed to Minnie—the circumstances looked so strong to us that we agreed with Minnie, or made the voluntary agreement with her—statement to her that we would see that she got at least $5000.00 for the lease so that she got more for a lease than she would for a deed and still have the one-fourth interest in anything that was produced on this land, and it was understood when Mr. Hanford went down there that Minnie must receive in cash, at least as much money as if she would have gotten in cash if she had deeded this over, and we raised it a thousand dollars in order to make it just so much better than a deed would have been, so the sum of five thousand dollars was to be obtained for Minnie in cash for her lease.

Q. Then a lease was executed by you and forwarded to Oklahoma?

Mr. Allen: We object to that as improper cross examination and as leading, and as incompetent.

Mr. Hanford: He so testified on direct examination.

A. Yes, I believe after Mrs. Folk and Harry Folk also signed the lease.

Q. And when did you first see those checks that you spoke of, two checks for five thousand dollars?

A. Well, it was late—about a month later, I think; it was in the month of July, if I remember it; either when I was up at Morgan Lake for manoeuvre or after I returned here, I don't know.

Q. Did Mr. Hanford bring them back with him? A. Yes.

Q. You stated that one of those checks was not to be paid later; wasn't that payment to be delayed until Minnie Folk could be identified as Minnie Folk?

Mr. Allen: We object to that as improper and incompetent cross examination, and as leading and suggestive.

A. It was to be delayed until—it was my understanding it was to be delayed the Page people had made some further investigation and had their testimony lined up, so to speak—that was my understanding of it. The check, if I am not mistaken, was dated the 31st of July.

Q. I show you this photograph and ask you if you ever saw that? A. Ever saw this photograph?

Q. Yes, before. A. I don't remember ever seeing it.

Q. Do you remember when that photograph was taken?

A. Why, I remember—it seems to me Mr. Long said he had taken a photograph of Minnie to take back to Oklahoma with him.

Q. Then, when Mr. Long returned to Seattle with Mr. Hanford, he brought these checks, did he?

Mr. Allen: We object.

A. He returned about that, whether he returned with him or not I am not sure.

Mr. Allen: We move to strike the answer of the witness about what Mr. Long stated for the reason that it is improper cross examination.

Q. At that time, Captain MacNab, was not the sole question on the part of the lessees in regard to Minnie's title to this land as to whether she was the real Minnie Atkins?

Mr. Allen: We object to that as incompetent and improper cross examination, and as for calling for a conclusion of the witness.

Q. I will withdraw that question and ask you first if at that time, had any suit been commenced by the Government on the part of the Creek Nation to cancel that allotment?

A. None that I know of.

Q. When did you first hear of that suit or anything relating to that suit?

Mr. Allen: We object to that as incompetent and improper cross examination.

A. From Mr. Montgomery when he was here in December, a little more than a year ago.

Q. At the time Mr. Long——

Mr. Hanford: I will ask to have this photograph marked for identification as defendants Folk and Hanford's Exhibit No. 1.

Q. At the time Mr. Long told you that he had had a photograph taken, did he not tell you that was taken for the purpose of having Minnie Folk identified?

Mr. Allen: We object to that as incompetent and improper cross examination and hearsay.

A. I don't remember his telling me so; I understood that was why it was taken but I don't remember his saying so.

Mr. Allen: We move to strike that part of the witness' answer in which he states what his understanding was.

Q. Captain, who is that photograph of? A. Minnie Folk.

Q. You recognize where it was taken?

A. It was taken on the front porch of the house in which she lived.

Q. In Seattle?

A. In Seattle, I should say from the looks of the house and the back-ground.

Mr. Hanford: I will offer that in evidence. Any objection?

Mr. Allen: We object to it as incompetent, improper cross examination, and not properly identified.

Q. That five thousand check that was to be paid to Minnie Folk was locked in the safe deposit vault, you say? A. Yes.

Q. And it was not cashed in July because Mr. Hanford was out of the city? A. Was away.

Q. Do you recall when Mr. Hanford went to Oklahoma after his return with those checks?

Mr. Allen: We object to that as incompetent, and improper cross examination.

A. Very shortly afterwards. I don't remember how long.

Q. And when he left, he left hurriedly?

A. He left hurriedly. It seems to me it was a Saturday afternoon.

Q. That would be after banking hours, wouldn't it?

Mr. Allen: We object to that as incompetent and as improper cross examination and for calling for a conclusion of the witness.

A. Yes, it was after the deposit boxes in which this check was kept was locked and couldn't be gotten out until Monday morning; at any rate, the bank could not be gotten into and I believe it was a time lock, and Mr. Hanford expected to be gone only a short time and the check was left there with the understanding that it would be cashed when he came back.

Q. After Mr. Hanford had gone to Oklahoma, did you see anything further of Sadie James?

Mr. Allen: We object to that as improper cross examination and incompetent.

A. I don't remember whether I saw her again after Mr. Hanford left for Oklahoma or not.

Q. Did Sadie James ever come to your house with Mr. Bartlett?

A. She was up there once but I don't believe she was with Mr. Bartlett, I don't [] she came to my quarters with Mr. Bartlett. I think he came alone when he came to my quarters.

Q. Captain MacNab, when Mr. Montgomery first came to you, what did he tell you was his object in coming here to interview Minnie Folk?

Mr. Allen: We object to that as incompetent, and improper cross examination. In this connection I want to say that was merely inquired about the concession of Minnie Atkins as to its signing and the circumstances; we don't want to be technical. We would prefer that you go in this evidence but we desire you to make him your witness for that purpose and give us an opportunity to cross examine.

Mr. Hanford: But you did inquire, Judge Allen; I have the privilege of cross examining the witness.

Q. Answer the question.

Mr. Blakeney: I insist that that is proper cross examination of the matters that I inquired about.

A. He told me that the Government had decided to take a hand in this thing, as the case seemed rather involved and he was here for the sole purpose of getting at the facts concerning the case for the benefit of the Government.

Q. Well, did he give you any impression of his interestedness, or disinterestedness?

A. He gave me the impression that he was not interested in the case in any way but as an employe of the Government, hired to get up the facts of the case; that he had not any interest in the matter at all—in fact he gave me positively the impression that he had no interest in the case.

Q. That is as to his personal interest?

A. That is to his personal interest.

Q. But as to the position of the Government with regard to this case, did he give you any impression as to the Government's attitude?

A. I don't remember that he made any statement as to the Government's attitude.

Q. Well, did he state to you that he had come for the purpose of investigating the facts of the case, to obtain the facts of the case, or did he give you the impression that he had with knowledge of the facts preconceived?

> Mr. Allen: We object to that as incompetent, improper cross examination, as calling for a conclusion of the witness.

A. I don't remember as to his making any definite statement as to the Government's stand in the case.

Q. Relate as you remember it what he stated to you when he first arrived.

> Mr. Allen: We object to that as improper cross examination and as incompetent.

A. That there had been a great deal of testimony given down there that was absolutely not so; that the Government had become interested in the case and that he came to establish—to get at certain facts—get at the truth of certain facts that the Government felt had been misrepresented before the court and to get up the entire proof concerning the matter. That the statements made down there before the court by various witnesses were not in conformity with the facts and he came up here to establish—to find out what the facts were, and to verify certain data that he had.

Q. Did he read to you from any paper or document relating to that matter?

A. I have an indistinct remembrance—he had a lot of papers with him—I was not particularly interested in the case—

Q. Isn't it a fact that he read to you from a statement made by Sadie James; an affidavit signed by Sadie James?

A. Yes, he read, I think, the affidavit of Sadie James. He read several things to which I didn't pay much attention because I wasn't interested in that phase of the case, I didn't know anything about the legal side of the case; I had never taken any interest—didn't know what testimony had been given, and didn't care, and it was merely after I had done what I could for him and was waiting for him to report, he insisted on going into the case further than I cared to go into it, and he did read some papers which I don't remember now. It didn't make any impression on my mind; he did read the affidavit of Sadie James, I remember that distinctly.

Q. How long was he here altogether?

A. I don't think it was over four or five days at the outside.

Q. How many times did you see him during those four or five days?

A. Well, he came up to my quarters several times, just how many I don't know. I kept trying to tell him that I didn't desire to take any interest in the case, or for him to state to Mrs. Folk that he was in any way coming from me or took my evidence, that I had given him all the help I could but I didn't want to influence Mrs. Folk in any way, because I knew she was susceptible. He insisted on operating through me, coming to me first and going down there and saying he came from me; he saw me several times, I think principally for the purpose of saying that he had just come from me when he went to Mrs. Folk.

By Mr. Allen: I move to strike the answer of the witness for the reason that it contains a conclusion of the witness and is improper cross examination, and incompetent.

Q. When was the last time that you saw Mr. Montgomery?

A. Why, I believe the last time I saw him was when I—— I believe the last time I saw him was when Minnie signed that paper, I don't remember whether I saw him after that or not; I talked with him on the telephone I know.

Q. Did he come to your quarters alone at that time?

A. At the time that Minnie signed that paper?

Q. Yes?

A. I don't remember. As a matter of fact, I believe I did see him once after that when he had a telegram from some representative of the Interior Department.

Q. Isn't it a fact, that on that day Mr. Montgomery came to your quarters and requested you to have Mrs. Folk come there, and you telephoned for her to come to your house?

A. I don't remember whether it is or not.

By Mr. Allen: We object to that as improper cross examination and as incompetent.

Q. And isn't it a fact that while you were waiting for her to come there I came to your house and found Mr. Montgomery there, and you stated to me that Minnie Folk was on her way up there to the house now?

A. I don't remember whether he came up there and we sent for Minnie, or whether we brought Minnie up, I know that they was there at the house and the statement was signed, but the circumstances of their arriving I don't remember; I do remember that you came in while Mr. Montgomery was there and that your arrival there was, so far as I knew, accidentally.

By Mr. Allen: We move to strike the answer of the witness for the reason that it calls for a conclusion of the witness and is improper cross examination and incompetent.

Q. Did Minnie ask you anything about that statement before she signed it?

A. I remember of Minnie saying there to myself or Mr. Montgomery, "What would happen if I sign that thing and it isn't true." and I remember both Mr. Montgomery and myself told her that if ever there was a time when she could get down and tell a truth it was then, and if it wasn't the truth she should not sign it; I remember asking that or words to that effect.

Q. Did she sign it readily or what was her attitude?

A. No, she fooled around a good deal before she signed it.

By Mr. Allen: We object to that as calling for a conclusion of the witness and improper, and we move to strike the answer for the same reason.

Q. She appeared to be acting from an impulse?

A. I don't know.

By Mr. Allen: We object to that as calling for a conclusion of the witness.

Q. In signing that statement, was there anything peculiar in her state of mind, or attitude?

A. I know she asked me two or three times——

By Mr. Allen: We object to the question for the reason that it calls for a conclusion of the witness and is improper cross examination.

Q. Answer the question.

A. I remember her asking me two or three times if she should sign that statement, if I wanted her to sign that statement.

Q. Who wrote out that statement?

A. I don't remember that, my impression is that Mr. Montgomery wrote it, but I don't remember that even.

Q. Did he write it in your office?

A. I don't remember whether he wrote it or had it prepared, I think that he wrote it there, but I am not sure as to that, I am not sure as to that, whether he had it when he came up there or whether he wrote it while he was there.

Q. Was it written in pen and ink or in pencil?

A. I don't know, I don't remember distinctly enough now, I think it was written in pen and ink.

Q. Did Mr. Montgomery take any copy of that statement?

A. Not that I know of. If he did, he didn't take it while he was in there. There was no copy made of that statement there in that room.

Q. Now, Captain MacNab, isn't it a fact that you came into your house and Mr. Montgomery stated to you in the lower hall that he wanted to write out a statement and to ask Minnie to sign it, and that Mr. Montgomery and Mr. Hanford and yourself went up stairs to your office and left Minnie sitting in the front room, and there you gave Mr. Montgomery a scrap of paper and found a pen and he sat down and wrote the statement there?

A. I don't remember the circumstances of the matter, I don't recall whether it was written in the office or whether he had it prepared. My impression has been that it was written up there, but I am not positive on that point.

Q. Did counsel for the Government interview you prior to your testifying this morning regarding that statement—that statement that Minnie signed?

A. You mean Judge Allen?

Q. Judge Allen or Mr. German, or both? A. Yes.

Q. Did you state to them then your recollection of what that statement contained? A. Yes.

Q. Did you tell them that that statement contained any reference to Minnie's father?

A. No, they didn't ask me that question.

Q. Captain, did you take any pains to try to determine whether or not Minnie Folk really had signed a statement that was untrue before you gave it back to her?

By Mr. Allen: We object to that as incompetent, improper examination, and calling for a conclusion of this witness.

A. Yes, I went down and had an interview with Minnie, I questioned her very carefully.

Q. Did she convince you that she had signed a statement that was untrue?

By Mr. Allen: We object to that as calling for a conclusion of the witness, and as improper cross examination, and incompetent.

Q. Were you satisfied in your own mind?

A. I was satisfied in my own mind that she had, or I never would have turned that paper back to her.

By Mr. Allen: We move to strike the answer of the witness as unresponsive and as a conclusion.

Q. Isn't it a fact, Captain MacNab, that Minnie Folk stated several times to Mr. Montgomery in your presence and in the presence of Mr. Hanford in your quarters, prior to signing that statement, that she was the mother of Thomas Atkins and that he could never make her change that?

By Mr. Allen: We object to that for the reason that it is improper cross examination.

A. Prior to the time she made that statement?

Q. Yes?

A. No, not if I remember rightly, I never saw Minnie in Mr. Montgomery's presence prior to that time, I refused to go down there with him.

Q. At that time I speak of?

A. Prior to the signing of the statement?

Q. Yes, in the house?

A. No, I don't remember of making any such statement as that at that time, I don't remember her making it to him at all.

Q. You left the house shortly after Minnie's arrival, and left her there with Mr. Montgomery and Mr. Hanford, did you not? A. I might have, I don't recall that.

Q. And you were gone a short time?

A. I don't recall that.

Q. And before your leaving, didn't Mr. Hanford charge Mr. Montgomery with misrepresentation as to his statement as to constitution and immunity, and that he was only there as an attorney for the Creek Nation, which was an interested party seeking to get her to make a statement against her own interests?

By Mr. Allen: We object to that for the reason that it is an improper cross examination, that it is an erroneous statement of the facts, in that it presupposes that the witness afterwards left the room, which is not a fact as shown by his testimony.

A. Yes, I remember Mr. Hanford telling him that he had misrepresented his status, and that he was merely an attorney of an opposing interest.

Q. And didn't Mr. Montgomery reply that he only wanted to find out the truth, and that if she was the mother of Thomas Atkins, that was all he wanted to know, and if she wasn't that he wanted to find that out?

A. Yes, or words to that effect.

Q. And then didn't Mr. Hanford tell Mr. Montgomery that she had told you many times, if you want to ask her again, ask that again and satisfy yourself?

By Mr. Allen: We object to that for the reason that it is incompetent, improper cross examination, a self-serving declaration of the defendant Hanford.

Q. You have attempted to prove that statement, and that is the facts surrounding the signing of that paper, and they all go in to prove the whole transaction and to cover the question of whether or not it is a concession or a misstatement on her part?

A. I don't remember Mr. Hanford stating that in so many words to Mr. Montgomery.

Q. Was that statement sworn to? A. No.

Q. You remember of Minnie's asking Mr. Montgomery or you whether or not if this land reverted to the Creek Nation whether or not her boys would get some of it?

By Mr. Allen: We object to that as improper cross examination and incompetent and leading and suggestive.

A. Yes.

Q. And didn't Mr. Montgomery reply: "Yes, they would get their share?"

A. Yes, as I remember, he either answered that, or to that effect; that they—— Minnie wanted to know if her boys would get their share of that and his answer was to give her the impression that they would.

By Mr. Allen: I move to strike that part of the witness' answer wherein he states his impression of the answer given.

Q. What did Mr. Montgomery say with reference to that matter, Captain? State what his answer was in words, as near as you can.

A. Why, I don't remember the words. I know he said that this would revert to the Creek Nation and that all the members of the Creek Nation would have equal interest in it when it reverted, or words to that effect, I don't remember exactly, but it was to the effect that Minnie's boys being enrolled as members of the Creek Nation would get a share of it, that was the impression that I gathered and I was present when the question was answered.

Q. Captain MacNab, going back, at the time this matter first came—at the time of the execution of the trust deed and discussion of the leases and so forth, did you have any knowledge of the matters of the enrollment and the matters relating to the allotments of Indian lands? A. No.

Q. Anything of that kind? A. None whatever.

By Mr. Allen: We object to that as incompetent and improper cross examination.

Q. You stated that Mr. Montgomery requested you to turn over that written statement to him sometime after it came into your possession? A. Yes.

Q. Did you inform him that you intended to turn it over to Minnie Folk?

A. I informed him that I intended to turn it over to Minnie Folk.

By Mr. Allen: We object.

Q. Was that conversation with Mr. Montgomery in person or was it over the telephone?

A. It was over the telephone.

Q. What did you tell him in that conversation?

A. I told him I was convinced that the statements were not true in this signed statement; that he himself had in a measure been unfair; that he had used my name and had sort of gotten at Minnie through me indirectly, and I had distinctly told him from the start that I didn't wish him to do that, that I didn't wish to have anything to do in the case, that he got, through misrepresentation in a way—had gotten Minnie up to my quarters to sign this statement, and that all the time directly opposed to my wishes he had operated on Minnie's sympathies through his apparent influence with me and his apparent standing with me, and I felt that he had been unfair, that he had gotten me into this case again where I didn't wish to be, and that he had used my influence over Minnie to get this statement signed, and that I felt thoroughly convinced that it was untrue; that he hadn't gotten the immunity that he promised and if he had it would have made no difference; I was thoroughly convinced that the statement was not true and I was going to turn it back to her.

By Mr. Allen: We move to strike the answer as a self-serving declaration, and a conclusion of this witness; that it is hearsay and incompetent.

Q. Do you remember what day of the week that conversation occurred? A. No, I don't.

Q. How long after the signing of the statement, did that occur?

A. Well, it is my impression now that it was the next evening, but I am not sure about that. It was in the evening that I took the statement down there and turned it over to her I know.

Q. Did Mr. Montgomery call you or did you call him?

A. I think I went to the 'phone and called him and told him I intended to give that statement over, but I am not positive on that point.

Q. Is that the only telephone conversation that you ever had with Mr. Montgomery?

A. No, I remember of his calling me up at other times, I don't remember what it was about, I remember his calling me up at least once before or after that, but I don't remember what it was about.

Q. Did you have any other telephone conversation with Mr. Montgomery regarding the matter of turning over that statement to Minnie and your reason for so doing?

A. He told me to the effect that I couldn't turn that back to Minnie, I think he said "You can't turn that back to Minnie."

Q. You didn't get my question, Captain. Did you have any other telephone conversation?

A. Not at any other time that I remember concerning that.

Q. Why did you call him and get him on the telephone?

A. He was at the Hotel Washington.

Q. Where were you, Captain?

A. I was in my quarters at Fort Lawton. He was in the Washington Hotel at Seattle and I was in my quarters here at Fort Lawton.

Q. You stated, Captain, that you didn't want to be concerned in this case. Why didn't you want to be in this case?

A. Well, I had taken it up in the first place merely to assist the wife of one of the soldiers in the regiment, who had to have somebody to help her. She was not capable of handling her own affairs and the most natural thing, she came to get one of the officers of the regiment and I had carried the thing forward as far as I intended to, and it was a great deal of trouble and worry to me and I felt she was secure in her possession and not likely to be bilked out of this property, and I gave it over and deeded it back.

Q. Was there any understanding between you and Minnie Folk at the time that you took the trusteeship that it was to extent only until that stage should be reached?

A. The understanding was: I told her over and over again that as soon as this thing was on a business basis I intended to deed this thing back to her.

By Mr. Allen: I want to move to strike the two last answers to questions, for the reason that they are not responsive to questions and state a conclusion of this witness, and that they are incompetent and hearsay.

Q. Captain MacNab, from whom did you first learn Mr. Montgomery's exact position with regard to this case as probate attorney for the Creek Nation?

By Mr. Allen: We object to that as calling for a conclusion of the witness, improper cross examination, and incompetent.

A. From Mr. Hanford.

Q. Did Mr. Hanford tell you that it was Mr. Montgomery's object to seek to cancel the plats to this land and have it revert to the Creek Nation?

By Mr. Allen: We object to that as incompetent, improper cross examination, and as a self-serving declaration.

A. It was my understanding at the time that the understanding given to me by Mr. Hanford, that this land, if it reverted to the Creek Nation, had been filed on by somebody else, and that this was merely a preliminary to a furtherance of that claim. That was my understanding whether it was given at that time or a little later, but it was through Mr. Hanford that I first learned that Mr. Montgomery was not a merely disinterested official of the Interior Department, that is what I inferred from Mr. Montgomery; and it was Mr. Hanford that informed me that he was representing a special interest that was a co-claimant for the property.

Q. Did Mr. Hanford tell you about the Quinton Garrett—your statement refers to the land—filing on the land?

A. I believe that is the name.

By Mr. Allen: We object to that as incompetent and as improper cross examination.

Q. And that if the patent were cancelled by the Creek Nation, that then the filing of Quinton Garrett would be thought to be established to obtain the land as an allotment?

A. That another claim that had no allotment—that another claimant that had no allotment had filed on this land

and if it reverted to the Creek Nation then they would attempt to establish that filing on that land to acquire the title to it.

Q. Now, Captain what I want to ask you about is when did you first learn that it was Mr.—that Mr. Montgomery's object was to seek to obtain from Minnie a statement against her own claim so as to have it revert to the Creek Nation? When did you first learn of the Creek Nation's interest in the land apart from the Government itself?

A. I don't remember, I don't remember. It was sometime after Mr. Montgomery arrived here.

Q. Then, when Mr. Montgomery first arrived, you understood that he represented the Government at large?

A. I understood that he represented the Interior Department and I didn't understand that he was representing a rival claim to Minnie Folk.

Q. Did Mr. Montgomery inform you that he was corresponding with the Interior Department or with Washington?

A. Yes.

Q. Did he state with who in Washington, or did he merely state Washington?

A. He didn't state who in Washington. I remember his stating that by working through Washington War Department he could have the Commanding Officer here to produce Minnie Folk or take any such action as that that was necessary, but that he didn't want to do that unless it was necessary. In other words, he told me that if he could get to interview Minnie and see me and get our information it would not put him to the necessity of requiring these things done through the Government at Washington and the War Department, and there was nothing—— No way that I could assist him any further than I did. I told Mr. Montgomery the same things that I told anybody else, who apparently had any right in this case to know anything about it. It was not very much—I refused to go with him to see Mrs. Folk for the reason that it would look as if he had my approval in the endeavor he was making, and I felt that impression in the state of mind that she was in would undoubtedly be influenced by my presence there with Mr. Montgomery, especially with the fact that he was bringing out the points—that he was representing all the Government and could get anything that he wanted to through the War Department by working through the authorities at Washington; he told me that in so many words.

By Mr. Allen: We move to strike the answer of the witness for the reason of its stating a conclusion, improper cross examination, and incompetent.

Redirect Examination by Mr. Allen.

Q. Captain MacNab, you stated a while ago that Mr. Montgomery left the impression with you that he could get immunity for Minnie Atkins?

A. He stated that he felt quite positive that he could do that.

Q. You knew that it would take him some time to get that, didn't you?

A. He said that he could get it by telegram.

Q. And you concluded his effort to get immunity by telling him that you intended to return the concessions to Minnie?

A. He had already made one effort and he had not obtained immunity.

Q. And you knew that he was working on that then?

A. Yes, he wanted to proceed to obtain a definite statement of immunity.

Q. He requested you to obtain the signed statement to be turned over to him? A. Yes.

Q. Captain, do you remember all that was in that signed statement?

A. I remember all of the essentials that were in the signed statement.

Q. It was considerably longer than what you have testified to would have contained, wasn't it?

> By Mr. Blakeney: We object to this redirect examination as no reference was made to the conversation or contents, no reference made to the contents of the signed statement in anything on cross examination.
>
> By Mr. Allen: I am cross examining him upon the predicate that I made and also upon the examination of Mr. Hanford.

Q. Who did he say in that signed statement that this name Thomas Atkins on the roll represented?

A. He didn't say.

Q. Are you sure of that? A. Positive.

Q. You are not prepared to say exactly what that statement contained, are you?

A. It contained the facts—the statements—the facts——

Q. Just answer the question. You have stated the substance of what you remember it contained?

A. Yes, I am prepared to state the essentials of that letter that has any bearing on this case.

Q. Tell us now exactly what that statement contained, Captain McNab?

A. The statement contained a declaration of the fact that she had never had a son named Thomas, that she had only had three children, a girl who had died and two boys, James and Harvey—Charlie and Harvey. The girl that had died, I think the name was Alice, the girl that died, I think it was Alice, and two boys, Harvey and Charlie.

Q. How long was that statement?

A. I think it was contained all on one sheet of business letter paper in ordinary long hand writing.

Q. Did it cover practically a business sheet of paper?

A. With the heading and the signature it just about took in the sheet of paper as I remember it.

Q. Then, what else was in that statement besides what you have stated?

A. That was all the essentials of the statement.

Q. You don't remember the balance of the statement?

A. There was nothing else in there that had any bearing on this case, there was nothing in that statement as to who was carried on those rolls as Thomas Atkins.

Q. Why do you say that now?

A. Because I remember very distinctly there was no expression as to how the name came on there.

Q. Had you heard how it came on there?

A. Yes, sir, Minnie told me I think.

Q. I mean in connection with the confession?

A. No, I don't know, I didn't know.

Q. What did Minnie tell you?

A. Minnie had told me that she had drawn the allotment for these children of hers.

Q. Which children?

A. Thomas, Harvey and Charlie, and I don't remember the names of all of them, there was one of them left off, but Thomas name was on there, I have seen a photographic record of the roll.

Q. How could she tell you that Thomas' name was on the roll——

> By Mr. Hanford: I object on the ground that it is improper redirect. There is no reference to the roll on the cross examination.

A. My remembrance of it was that she told me that she had drawn an allotment for these children of hers when she was passing through Oklahoma a number of years ago.

Q. Did she tell you she had drawn allotments or money?

> By Mr. Hanford: The same objection.

A. Well, I believe it was an allotment of money.

Q. An allotment of money? A. Yes.

Q. For Tommy, Charlie, Harvey, and the girl?

A. Well, I don't remember whether all of the children were all there, it seems to me that it was either Charlie or Harvey, Tom and Alice, as I remember it, but I know the name of Thomas was the only one that I was interested in on there; there was two or three others I think on there, I remember the name Tommy was there and I think Alice was on there; she said they were her children.

Q. She told you she put them on the roll to get that money for them?

A. That is my recollection how it came on there; whether she told me at the time of this record, I don't know.

Q. Told you it was some four——

A. Yes, while she was going through Oklahoma, that she had drawn the allotment.

Q. Captain, you say that Frank Long proposed to buy the allotment for two thousand ($2,000.00) dollars, and left with you a blank form of quit claim deed?

A. I don't remember the amount stated in that.

Q. Where did you get the two thousand dollar impression?

A. Well, the two thousand dollars is what Minnie was originally to get, and it may be as I say, that she was to have gotten that from Bartlett, or from the man that Sadie James was representing and whom she wanted him to wait for; whether Mr. Long's first statement was two thousand ($2,000.00) dollars, I don't know, but his second statement, the one in the afternoon, the one that Minnie was going to accept as she told us, was four thousand ($4,000.00) dollars.

Q. You stated on cross examination to Mr. Hanford that he left with you a quit claim deed for two thousand ($2,000.00) dollars?

A. No, I don't think I stated definitely that it was two thousand dollars.

Q. And that Sadie James came in and objected to signing same, saying that the man had not come yet?

A. I didn't make any such statement as that.

Q. What did you say?

A. I said that Sadie objected to her signing any paper for anybody until her man came.

Q. Then, that deed for two thousand dollars was not to Sadie's man, was it? A. Apparently not.

Q. With that deed, there was a statement, either a statement or a blank affidavit for Minnie to sign, was there not, to the effect that she was the mother of Thomas Atkins and that he was dead?

By Mr. Hanford: I object to that on the ground that it is improper redirect examination.

A. I believe there was, I believe there was a statement to that effect, I don't know whether it was in the form of an affidavit or not.

Q. Now, was it about that time, or before or after, that you discovered the detectives *failing* Sadie, that the deed and affidavit was left?

A. I am not sure just when that was, whether he left that with me in the morning before these detectives and Sadie James showed up, or in the afternoon after they had shown up, and I am not positive that that statement of the four thousand dollars was included in the deed, whether it was written in there or not, that was a statement of him concerning this deed however.

Q. When was the four thousand ($4,000.00) dollar proposition made with reference to the deed carrying the two thousand ($2,000.00) dollar consideration and the affidavit left with you? A. What was that question?

Q. When was the four thousand dollar proposition made to Minnie with reference to the time that the deed, carrying the two thousand dollar consideration and the affidavit, was left with you?

A. You keep insisting on saying that this deed carrying the two thousand dollar consideration was left with me. I didn't state at any time that this deed definitely carried a two thousand ($2,000.00) dollar consideration; it was my impression that the first proposition by Mr. Long was two thousand ($2,000.00) dollars, and I know definitely that that was the amount that Sadie James had agreed that Minnie Folk was to get from her man. The proposition that was made to Minnie by Mr. Long, according to Minnie's statement, was that she was to go to Spokane and was to get four thousand dollars ($4,000.00) from Mr. Long for signing over the deed.

Q. Who was with Minnie when she told you about that proposition? A. Mr. Hanford.

Q. Was Sadie James there too?

A. No, I don't think she was, I don't think Sadie came in until afterwards.

Q. Did Sadie come there while Minnie was there, or did she come to you with Minnie?

A. Sadie had been there to Minnie's house a number of times before we got there, before we got into the case at all, but Sadie didn't come to the house while we was there until after Minnie had told us about this, my impression is, I am quite sure we had gotten down there and Minnie had told us that she was going to Spokane and sign over a deed for four thousand ($4,000.00) dollars, and while we were there that Sadie came to the house.

Q. And then Sadie James insisted upon Minnie making you a trust deed, didn't she?

A. No, no, she didn't. In fact, she didn't know anything about it until after it was done.

Q. You don't know of the conversations that occurred between Sadie and Minnie? A. No.

Q. Now, in reference to that conversation occurring there about the four thousand ($4,000.00) dollar deed and going to Spokane? A. Yes.

Q. And which Sadie, you say, was there objecting to her signing any papers to Frank Long, when was the statement made by Sadie that Tommy Atkins was dead? Was it at that time, or before, or afterwards?

A. Well, it was while Sadie was there at the house that first afternoon and while we were there.

Q. Now, when did you first learn that Minnie had had a Tommy?

A. Minnie told me that herself before Mr. Long came, the first morning I went down there, and I talked to Minnie alone.

Q. Who told you before that that she had had the child?

A. Nobody had told me that she had a child named Tommy, I didn't know anything about her affairs.

Q. Had Sadie talked to you at that time?

A. No, I hadn't seen her at that time.

By Mr. Hanford: I object to that on the ground that it is improper redirect examination.

Q. Had Sadie James talked to Minnie Atkins before Minnie Atkins first told you about having a Tommy Atkins?

A. Well, I don't know whether she had talked to her or not.

Q. Did Minnie tell you, at the time that she told you of having a Tommy, of having talked to Sadie?

A. She told me that she was offered—was going to get two thousand ($2,000.00) dollars for this property and that the man was coming up later during the day to talk it over and to complete the deal.

Q. Whom did she say she had talked to about it?

A. Well, it was somebody that had come up from Oklahoma to look her—I gathered the impression and made quite sure it was Sadie James she had talked to before and had brought the message that she was to get two thousand ($2,000.00) dollars.

Q. You say it took Minnie a long time to come to the point of telling you about Tommy? A. Yes.

Q. Do you want us to understand by your testimony that she hesitated a long time to tell you about having a child that you didn't know at the time anything about her having?

A. Yes.

Q. You were not inquiring about a child, were you?

A. No, I didn't know anything about the case. She was trying to put me in possession of enough knowledge to be able to advise her and assist her in making a business deal, and was trying to give me as much information as she could applying to the case without telling me any more about her affairs than she had to.

Q. But the first time you knew the child was dead was when Sadie told you, or told Minnie that in your presence?

A. No, Minnie had told me that this child had died and I asked her, I think it was a little later, I asked her if she knew the child was dead of her own knowledge and she said "no, that she knew he was dead," she hung to that; I asked her if she had seen him with her own eyes or only had some one else's word for it and she said she only had some one else's word, that she didn't know of her own knowledge that the child was dead.

Q. Did Sadie later tell you in her presence that he was dead? A. That is my remembrance.

Q. Sadie told you where the boy died? A. No.

Q. Or where Minnie had him? A. No.

Q. Did you learn at that time where the child was born?

A. My remembrance was that the child was born in Leavenworth.

Q. But what place? A. No.

Q. To refresh your memory, did you learn that the child was born in the Sisters Hospital in Leavenworth? A. No.

Q. Five thousand ($5,000.00) dollars of this money that was to go to Minnie, you say was held up a while, the check was to be returned on some contingency about locating the—about providing the information that they had, or something of that kind? A. Yes.

Q. The other five thousand was immediately disbursed, Hanford receiving three thousand ($3,000.00) dollars and you two?

A. That was turned over to us by Minnie Folk herself, that money was given to Minnie Folk.

Q. But it was given to her through you as trustee?

A. Yes.

Q. She merely indorsed the check, didn't she? A. Yes.

Q. This other five thousand ($5,000.00) dollars was deposited on time deposit in the Central National Bank in Tulsa, wasn't it? A. Not that I know of.

Q. When Mr. Montgomery was here and when that statement was signed by Minnie, wasn't it suggested by either you or Mr. Hanford that ought to immediately draw that money out of the Tulsa Bank and get it in Seattle?

A. It wasn't suggested by me because I didn't know anything about Minnie's affairs, I didn't know where she had this money.

Q. You heard that discussed there that day, didn't you?

A. I have an impression that there was something stated about drawing some money from a bank.

Q. And at Minnie's request, wasn't it agreed there that Mr. Montgomery was to go to the First National Bank of Commerce of this city——

> By Mr. Hanford: I object on the ground that it is improper redirect examination and move to strike the previous question and answer.
>
> By Mr. Allen: Kill it.

Q. State whether or not at Minnie's request, upon the advice of some one present, Montgomery either agreed to go with Minnie to the First National Bank of Commerce of Seattle and draw a draft on the bank at Tulsa, so as to get that money out of Tulsa so that it could not be tied up by Page upon hearing of this concession?

> By Mr. Hanford: I object on the ground that is improper redirect examination.

A. No, I don't remember that circumstance.

Q. What do you remember about the proposition there to transfer that money there from Oklahoma to Seattle?

A. I didn't even remember that it was to transfer money from Oklahoma to Seattle, I had no interest in Minnie's personal affairs, I didn't know that she had this money deposited down there. When you mentioned that, I remember something being stated, something being talked over about where Minnie had this money deposited, but what it was I don't know, I had no interest in it because it didn't concern me in any way.

Q. There was something said about the money on deposit though?

A. There was something said about money on deposit.

Q. You say the deed of trust Minnie gave you provided for a present to you? A. Yes.

Q. And it was later understood that you were to receive a commission of two thousand ($2,000.00) dollars out of the ten thousand ($10,000.00) dollars that was paid?

A. It was understood—— Yes, it was later understood; not later understood—it was later done.

Q. And after it was done, you decided that you were not to take the commission?

A. No, it was at the time it was done, I didn't see that there was anything improper in taking it at all for the services rendered; it was only a matter of my own personal feelings in the matter as to the acceptance of this.

Q. So then later you decided to convert it into a fund for the purpose of aiding her in recovering this allotment?

A. No, I decided at that time that Minnie had already spent—been rather extravagant; I knew she was incompetent to handle her own affairs, knew if she only got a little money out of this she would run through with it very rapidly, and it occurred to me at this time if her affairs didn't go as I saw that they ought to go concerning this case, there was a certain amount of responsibility attached to me and I would have no fund upon which to draw in representing Minnie's interest.

Q. Well, the other thousand ($1,000.00) dollars that was paid to Mr. Hanford was to go as a trust fund for the purpose of paying costs of this litigation, wasn't it?

A. It was turned over to Mr. Hanford for the expenses and service that he had incurred.

Q. Up to that time——

A. And would incur in carrying out the case.

Q. If the two thousand ($2,000.00) dollars was to be used in the same way, why wasn't it also turned over to Mr. Hanford?

By Mr. Blakeney: We object as a misconstruction of the witness' evidence.

By Mr. Hanford: The defendants Folk and Hanford object on the ground that it is improper redirect examination.

By Mr. Allen: This witness may be regarded as called for further redirect examination.

A. As I have stated before, this money was turned over to me for personal services rendered to Minnie Folk, the disposition of it, the expenditure of it, or the use of it was as decided by me was for my own personal reasons; I thought there was no reason why I should not accept it if I felt so personally inclined, and I accepted it as a personal fee paid to me; that is understood by Mrs. Folk, and as far as she knows today it was personally paid by her to me for services rendered. The further disposition of that two thousand ($2,000.00) dollars is a matter which concerns me personally only; if I spend it on my own personal affairs it would be perfectly legitimate, it was turned over to me for services rendered and my further disposition of it to her further interest was only a matter of my own desire.

Q. You are not under any obligation now to pay any part of that money in furthering this litigation?

A. None whatever.

Q. You made a trip to Oklahoma, didn't you, in connection with this case, Captain MacNab? A. No, sir.

Q. You have never been down there?

A. I was in Oklahoma in 1903 and 1904, at Fort Reno, Oklahoma, the only time I have been in the state, except passing through, more than ten years ago.

Q. You say that after Minnie signed this concession in your office, you went down to her house and had an interview with her? A. Yes.

Q. Was Mr. Hanford with you? A. No.

Q. Did you call up Mr. Hanford that day when you found that Mr. Montgomery was going to bring her to your office for an interview?

A. No, I don't think I called up Mr. Hanford I am quite sure I didn't call him up.

Q. How did he happen to know about it and come to your office?

A. He didn't know about it, he happened to come in there accidentally at that time, he came in quite often to my quarters to confer over the case with me and it was accidental that he was there at that time.

Q. Did he ask you to come down and see Minnie after the concession had been signed?

A. I don't remember whether he did or not.

Q. You know you did go down?

A. I went down to see her.

Q. And there you talked to her, did you? A. Yes.

Q. You told her there that concession would lose her the allotment, did you?

A. You mean when I was talking to her?

Q. Yes? A. No.

Q. Mr. Hanford had at that time told you that Mr. Montgomery was representing Buell, had he?

A. Why, he had told me—— No, he hadn't told me that he was representing Buell, as I remember the name, but he told me that he was representing *and* opposing case to Minnie, whether he told me that after the concession or not I don't remember.

Q. He told you that Montgomery was not representing the Government of the Creek Nation, but a rival claim?

A. Yes, I don't know that he told me he was not representing the Creek Nation.

Q. What about Quinton Garrett?

A. Well, as I understood at the time, Quinton Garrett interests had filed on the land and if they succeeded that this action by the Creek Nation to have the Tommy Atkins claim cancelled, then this Quinton Garrett claim would be taken up to acquire the title to the land.

Q. And you had understood from Mr. Montgomery—Mr. Hanford that Mr. Montgomery was representing this rival Quinton Garrett claim?

A. No, I had not understood that directly but that is that he was representing, as I understood it, the Creek Nation, which is merely a preliminary to the filing for title by the Quinton Garrett interests.

Q. With that information then, you went to see Minnie and talked to her about this concession?

A. No, it wasn't upon that information at all.

Q. But had that information when you talked to her after she had made the concession?

A. Yes, I had that information then, and I think I had it before Minnie signed the document, I am not sure; at any rate, that had no bearing upon my action.

Q. Mr. Hanford also came out that night to see Minnie, didn't he?

A. Yes, he came out and I think I met Mr. Hanford after I left Minnie's quarters, I am not sure, I don't know that Hanford was here at all while I was in the house.

Q. Mr. Hanford was with her some that night, wasn't he?

A. I don't remember.

Q. After leaving Minnie he went back to see you that night, didn't he? A. I believe he did.

Q. Then, the next morning you came back to see Minnie, didn't you? A. No.

Q. Did you talk to her the next morning? A. No.

Q. Did you talk to Harvey Folk the next morning—— The next morning Mr. Hanford came back to see Minnie, didn't he?

A. I don't know, when I turned this statement over to Minnie Folk, I was very much disgusted with the entire affair and I told her not to come to me any more for assistance or advice because she had deceived me and I had done all I could to help her out and she had made a mess of things and that I was through, and I told her not to come to me any more, that I was very much disgusted.

Q. You stated you called Mr. Montgomery to tell him that you were going to turn over this concession. Isn't it a fact that Mr. Montgomery called you after having been unable to find you at the Post?

By Mr. Hanford: I object to the question on the ground that it is improper redirect examination, and I move to strike the questions and answers previously recorded as to these transactions on the ground that they are improper redirect examination, and on the further ground that they are leading.

Q. To refresh your memory, isn't it a fact that Mr. Montgomery called you from the hotel, the New Washington, the following day after this concession was signed, after having been unable to find you at the Post and talk to you with reference to this concession?

By Mr. Hanford: Objected to on the ground that it is improper redirect examination, and the further ground that it is leading and suggestive and the further ground that it is hearsay.

A. I don't know of any endeavor of Mr. Montgomery to find me at the Post, and as I stated originally, it is my impression that I called up Mr. Montgomery on the 'phone. I was not positive on that, I am not positive now as to whether I called him or not. It is my impression I called him up. At any rate, I informed him over the 'phone that I intended to return this statement, and told him my reasons.

Q. You stated that you deeded this property back to Minnie because you had become tired of the fuss. Is it not a fact that Minnie had become distrustful of you and Mr. Hanford and that she desired or requested you to deed it back?

By Mr. Hanford: I object on the ground that it is improper redirect examination, on the further ground that it is leading and suggestive, on the further ground that it is a misstatement of the evidence. The witness testified that he relinquished his trusteeship—— The witness did not testify that he relinquished the trusteeship because he was tired of it.

By Mr. Blakeney: We object to the question because it is wholly incompetent, irrelevant, and immaterial.

Q. State whether or not it is a fact that you relinquished this trust because Minnie Atkins had become distrustful of you and Mr. Hanford?

By Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and can serve no purpose except to impeach the witness, and is an improper method of impeaching a witness, and particularly a witness called by the Government.

A. I deeded this back because the object for which the trusteeship had been accomplished—— It was deeded back at that particular time because it was desired—not definitely expressed, but it was desired, however, by Mrs. Folk, because

I felt that she had become distrustful of me, of my interest in the case.

Q. You say Mr. Montgomery didn't tell you who he was receiving—who he was communicating with in Washington?

A. He didn't tell me by name, I understood that he was communicating with the Interior Department.

Q. Didn't he show you some telegram- that he received from there?

A. Yes, he showed me a telegram from there, and I understood from the signature that it was from an official of the Interior Department.

Q. Didn't you understand—— State whether or not you understood—to refresh your memory, that it was Mr. Sells, Commissioner of Indian Affairs?

A. Yes, Sells was the name I think.

Q. And to refresh your memory, didn't he tell you he was also communicating with R. C. Allen, attorney for the Creek Nation?

A. I don't remember his telling me that. I don't recall that.

And thereupon the witness is dismissed.

ALEXANDER MACNAB, being recalled for further examination testified as follows:

By Mr. Allen.

Q. Captain MacNab, at the hour of adjournment yesterday, you were upon the witness stand in this case, I believe?

A. Yes.

Q. You had related during the course of your examination that the facts in regard to the signing of the confession by Minnie Atkins—at the time that confession was signed, was Mr. Hanford present? A. Yes, sir.

Q. Just before the confession, in the presence of yourself and Mr. Montgomery, did Mr. Hanford warn Minnie that *is* she signed this confession that it would mean that she would lose the right in this allotment?

A. I don't remember Mr. Hanford's doing that directly, I know that Minnie understood that because she asked if that was the case, she was told that it was, I don't remember Mr. Hanford telling her so.

Q. Mr. Hanford was there advising her during the time you were discussing the signing of this confession, was he?

A. Well, he was there.

Q. Did he have any conversation with Minnie?

A. Nothing—— He had no conversation with her while he was there except in the presence of all of us.

Q. I mean in the presence of all of you?

A. Why, he took part in the general discussion that was there, I suppose that he had general conversation with her during that time.

Recross Examination by Mr. Blakeney.

Q. When Minnie discovered that she could get four thousand ($4,000.00) dollars for her interest in the land, she insisted, I understand you to say, that she wanted to do it, as that was all the money that she would need?

A. Yes, she had an idea that four thousand ($4,000.00) dollars was more money than she would ever be able to spend.

Q. When you say she had the idea, I want you to tell us how you know she had it, did she say so?

A. Yes, she said so. She apparently had no idea of how much money four thousand ($4,000.00) dollars was.

Q. Captain, just let me interrupt a minute. When you give your opinion it is not evidence. In the trial of a case, we must not get the opinion of witnesses, but the facts, and for that reason I would like to have you confine yourself to what Minnie said about these matters.

A. Yes, Minnie said that four thousand ($4,000.00) dollars was all the money she ever would be able to spend.

Q. At the time she signed this statement that Montgomery prepared, or did prepare, she had received five thousand ($5,000.00) dollars?

A. Yes, I don't know that of my own knowledge either. That transaction, she told me she received that much, she didn't receive it through me, I never saw it, but I don't think there is any doubt but that she had received five thousand dollars at that time.

Q. She was being annoyed by a number of parties about the case?

A. She was being very much annoyed, so much so that she was hardly rational—through a mental nervous state—from this annoyance. And I would like to add right here that I told Mr. Montgomery that Minnie was hardly rational when he first came there, and before he got the statement from Minnie or had any interview with Minnie.

By Mr. Allen: I move to strike the answer of the witness because it is improper cross examination and states a conclusion of the witness, is not responsive to the question, and the witness has not shown himself to be qualified to testify as an expert, and the testimony is incompetent.

Q. You told Mr. Montgomery in one of the first conversations that you had with him, that on account of her being so much worried, that Minnie was scarcely rational or responsible? A. Yes.

Q. And unable or incompetent to transact business—attend to and transact business?

A. I didn't say that in those words, no.

Q. What did you say?

A. I told Mr. Montgomery that due to Minnie's state of mind, through the annoyances and nervousness brought around by this case, that I would not have any confidence in the statements that she made; that I felt if—that if I took any action there, Minnie was likely to say anything that she thought would be what I wanted, or any statement that might get her relieved from the difficulty that she seemed to be in at that time, due to the annoyance of various claimants of various kinds; shadowing by detectives and other annoyances that had gotten her to such a state of mind that I had no confidence in her ability to testify. I told Mr. Montgomery that, or words to that effect.

Q. What was Minnie's condition at that time?

A. She was very nervous and very easily excited. She had an idea that some of these people were trying to put her out of business, as she expressed it; in other words, to kill her.

> By Mr. Allen: We move to strike the answer of the witness as not responsive and not proper cross examination, stating a conclusion of the witness, and incompetent, and as hearsay.

Q. Now, I understand you to say that Frank Montgomery assured Minnie that if she would execute this statement that he would procure or attempt to procure immunity for Minnie from prosecution for perjury growing out of her testimony formerly given in the trial or hearing of some case?

A. Yes.

Q. Did he refer to any other criminal act that Minnie had committed, or for which she was liable?

A. Not in my presence that I remember of.

Q. Did he say anything about Minnie's testimony having been given in a proceeding in a state court?

A. No, not that I know of.

Q. Did he make any explanation of how he expected the Interior Department or Federal Government to give any immunity for any offense committed in the State Court?

A. He did not.

Q. Did you, or any of the parties present, mention that matter?

A. I know I did not, because it did not occur to me, and if anybody else mentioned it, I do not remember it.

Q. Mr. Montgomery referred frequently and with considerable emphasis to the fact that she would be liable to criminal prosecution perhaps in this matter? A. Yes.

Q. Mr. Hanford told Mr. Montgomery there in that conversation that that was all bunk, or words to that effect, didn't he?

A. I remember Mr. Hanford entering into a discussion with Mr. Montgomery, in which he said "This talk of immunity has nothing whatever to do with this case, that is all aside from this case, or that cannot be done," or words to that effect. I remember his entering into a discussion with Mr. Montgomery and saying, "That has nothing whatever to do with this, the immunity side of this case has nothing to do with it," or words to that effect.

Q. Did Mr. Hanford say in that conversation that Minnie had done nothing to need any immunity?

A. Yes, I believe he did, that was a conversation between Mr. Hanford and Mr. Montgomery, and I remember that Mr. Hanford did take issue with Mr. Montgomery over the question of immunity as to whether it was necessary or as to whether it could be gotten.

Q. Now, Mr. Montgomery, you say, sent some telegrams to Cato Sells, the Indian Commissioner?

A. Yes, he sent—I don't know that he sent telegrams——.

Q. He told you he sent telegrams?

A. He told me he sent them, yes, sir.

Q. Got answers?

A. I saw the answer, and I am quite sure it was signed "Sells"; I think that was the name, I think it was the Indian Commissioner.

Q. Can you tell us just what that telegram stated?

A. No, but it was to the effect that he proceed with the case and get the evidence as far as possible, that the question of immunity could be taken up later, or words to that effect. At any rate, I know positively that it did not grant any immunity.

Q. That telegram was exhibited to you?

A. It was exhibited to me, yes.

Q. There was nothing in that telegram that stated that the Federal Government has to—nothing to do with any immunity? A. No, it didn't state so.

Q. Did it state what the immunity referred to?

A. No, I don't think so, I don't remember.

Q. Did you ever know that Montgomery wired to the Secretary of the Interior, or the Indian Commissioner, asking that immunity be granted to Minnie for drawing money from the United States, or the Creek Nation in 1895? A. No.

Q. Was that ever referred to? A. Not in my presence.

Q. Captain, how long have you been around the Army Post? A. Army Post?

Q. Yes? A. Since 1898, seventeen years.

By Mr. Blakeney: I withdraw that question.

(Witness dismissed.)

By Mr. Hanford: I wish to call Captain MacNab as witness on behalf of the defendants, Minnie E. Folk, Harry B. Folk, and Edward C. Hanford.

And thereupon, DENNIS JONES was recalled for further direct examination and testified as follows:

Direct Examination by Mr. Stuart.

Q. Dennis, you were asked several times by the attorneys for the other side, Government attorneys, whether you represented Sadie James in the divorce suit there of Charles Lain against Sadie Lain. I now hand you a paper and ask you what that purports to be?

A. This is the decree, copy of journal entry, certified copy.

Mr. Stuart: We offer this, your Honor.

The Court: For the purpose of showing merely this man wasn't noted as counsel?

Mr. Stuart: Yes, sir.

The Court: It may be admitted.

Mr. German: That journal entry shows another lawyer was, J. K. Codding.

The Court: I think it would be unnecessary to encumber the record with that record. It may be admitted that the certified copy of this journal entry in the case of Lain vs. Lain recites that J. K. Codding was attorney.

Mr. Stuart: And that Dennis Jones had no connection?

Mr. German: No, we don't admit that.

The Court: And that Dennis Jones' name does not appear in the body of the judgment. Does it appear anywhere?

Mr. German: I don't say anywhere in the record up there.

The Court: I am talking about this judgment.

Mr. Stuart: Here is the decree reciting the judgment and he is not in it.

Q. Do you know this man Codding? A. Yes, sir.

Q. Do you know whether Mr. Allen had him employed to assist him in the investigation at Leavenworth?

A. Mr. Codding told me he was.

Q. Do you remember whether he was acting with Mr. Codding up there? A. Yes, sir.

Cross Examination by Mr. German.

Q. This man, J. K. Codding is the warden of the State Penitentiary at Leavenworth? A. Yes, sir.

Q. Has been for several years? A. Yes, he has.

Q. Prior to that he practiced law in Leavenworth with his son?

A. Well, I think he was warden and then after a time he, during different administrations, he come to Leavenworth and practiced law for a while, and at the election of Capper for Governor he went back as warden.

Q. Now, Mr. Codding, you knew as the lawyer who was appointed by the State, represented the State in the matter of cleaning up the whiskey situation there in Leavenworth?

A. He was one of them; he was Assistant Attorney General.

The Court: I don't assume that Mr. Codding is anything but a man of the utmost probity.

Mr. Stuart: We do not either.

Mr. German: I am leading to another point, I have a design.

The Court: All right. Go on.

Q. Now, then, Dennis, you wrote a letter to Mr. Codding recommending Sadie James to Mr. Codding in the matter of this divorce suit, didn't you? A. No, sir.

Q. In some matter?

A. In some matter but not the divorce suit.

Q. What was it?

A. In 1913, when Sadie James came to Leavenworth, she came to my office, as I related on the stand the other day, and said some old soldier, a friend of hers, had some property down in Odessa, Missouri, and she wanted me to go down there and see if I could recover it. I said to Sadie, that is an intolerable place down there for a black man——

The Court: Is this the same that you told before?

A. Yes, sir.

The Court: This matter has been gone over with this witness, Mr. German.

Q. Well, that is the same J. K. Codding?

A. That is the only J. K. Codding I know of.

(Witness dismissed.)

And thereupon, GEORGE KINNEY was produced and sworn as a witness for and on behalf of the defendants Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Cruce.

Q. What is your name? A. George Kinney.

Q. Where do you live? A. Tulsa.

Q. What is your business? A. Oil business.

Q. Were you employed by Mr. Page and Mr. Josey to represent them in drilling of wells on this Thomas Atkins allotment? A. Yes, sir.

Q. When did you begin, Mr. Kinney?

A. Well, I don't remember just——

Q. In what year? A. Well, 1914.

Q. About what time of the year, your best judgment?

A. Well, I think it was about November, my recollection.

Q. Have you a statement—— Are you able to state from memory, without refreshing your recollection, of the expenditures made and when they were made? A. No, sir.

Q. Well, have you made a statement that will enable you to do that? A. Yes, sir.

Mr. German: Your Honor please, if that is what counsel is eliciting, we have on file with this Court full details and itemized statements of all expenditures in the matter of the operations of this property.

The Court: Giving dates and everything?

Mr. German: I think so.

The Court: I think there is an order providing for reports from time to time, is there not: If they have been complied with, I think that will give all the details.

Mr. Hanford: That is up to the date and time that the Receiver was appointed?

Mr. Cruce: This is just a statement up until the date of the bringing of this suit. Why not agree that this may be filed as an exhibit.

Q. Is this a correct estimate, this report that you have here? A. Yes, sir.

The Court: Is this a matter with regard to which you are familiar, all these details?

A. Yes, sir.

The Court: You had them in charge?

A. Yes, sir.

The Court: What did you make this statement up from?

A. The books.

The Court: Kept by whom?

A. Kept by Mr. Curtis.

The Court: Who is he?

A. He is the bookkeeper for Mr. Page.

The Court: You are Mr. Kinney?

A. Yes, sir.

The Court: And what is your connection with this work all during this time?

A. I was superintendent.

The Court: For what company?

A. Page and Josey.

The Court: You were the superintendent?

A. Yes, sir.

The Court: I take it that his testimony is gone into with result in this statement here.

Mr. German: Your Honor, Mr. Curtis, as I understand it, is in the city; he is here, as I understand it, he is the man that kept all the books.

The Court: Is Mr. Curtis here?

Mr. Pinson: He is under subpoena subject to call.

The Court: Under whose subpoena?

Mr. Pinson: The Government.

The Court: Will Mr. Curtis probably be here?

Mr. Pinson: I understand he will be in rebuttal by us.

The Court: Now, when Mr. Curtis comes, this may be admitted now subject to your examination of it with Mr. Curtis, and if Mr. Curtis says it isn't correct, it may be corrected. I think it is very important to show what was done in the early stages of this case right from the beginning up to the time this litigation arose and particularly the dates at which the various things were done.

Mr. Cruce: I believe that is all.

Q. Do you know anything about the purchase of any field tanks that appear on that statement?

A. Well, I know we built five steel tanks.

Q. Do you remember when you bought those tanks?

A. Well, it was in the winter of 1914 and '15 that they were built.

Q. But you can't give the exact date? A. No, I can't.

Q. What do those tanks cost a piece?

A. Well, my recollection is that they cost about fourteen thousand five hundred dollars a piece, fifty-five thousand barrel steel tanks.

Mr. Cruce: We may be able after Mr. Curtis comes to fix the price.

The Court: Well, I think, then, before this is admitted in evidence, you gentlemen had better get a little bit more definite data in regard to it. I think it is important to show these things and it is important that the Court know that the dates given are correct, and that the Court has the proper dates.

Mr. German: One question I would like to ask about——

The Court: Alright.

Recross Examination by Mr. German.

Q. Mr. Kinney, were you first—the first person to drill any wells on this property? A. Yes, sir.

Q. You drilled the first well that was drilled for Mr. Page?

A. Yes, sir.

Q. And do you know when you begun that well?

A. Well, I don't remember; I don't recollect. It is on there I believe. I believe number two was the first well.

Q. Will you refer to that if it will refresh your memory and tell us when you began the well?

A. It was spudded in November 3rd, 1914, and showed the Bartlesville sand on January 15th, 1915.

Q. Now, that was the first well completed?

A. Yes, that was the first well completed.

Q. What date in January? A. It was completed?

Q. Yes. A. January 15th.

Q. January 15th. When was the second well started for Mr. Page?

A. Well, the second well that was completed was the well that was on the property when we got it that we drilled deeper; it was finished February 4th, 1915.

Q. When did you commence drilling it deeper?

A. Well, I don't remember; this doesn't show but I think we had probably sixty days work on it.

Q. When did you first go on this property for the purpose of taking any timbers on it, or anything of that sort?

A. Well, I think it was along about June, I am not sure; the fore part of the summer; I don't remember.

Q. How did you get on the property when you entered on it? A. We just moved a rig on it.

Q. Moved a rig on it? A. Yes, sir.

Q. Through the fence?

A. I don't know whether there was a fence around it then or not, I know there is not now.

Q. You knew about that well you completed being on the property at the time you entered on it? A. Yes, sir.

Q. Do you know whose well that was?

A. That was the Gypsy Oil Company's I supposed.

Q. Who was attending to that well at the time?

A. I don't know who was.

Q. Somebody was? A. Yes, sir.

Q. It was then producing from the Wheeler sand was it?

A. Yes, sir.

Q. Did they have any tankage there?

A. Yes, sir, there was two two hundred and fifty barrel tanks.

Q. Who did [] consult if anybody about entering on to the land?

A. I didn't consult anyone at all; I was ordered to move the rig in.

Q. Who ordered you to move the rig on? A. Mr. Page.

Redirect Examination by Mr. Cruce.

Q. Mr. Kinney, one thing I forgot to ask you; what do these wells cost to drill, just a rough estimate?

A. Well, about ten thousand dollars what they cost then.

Q. A piece? A. Yes, sir.

Q. Now, this well, the Gypsy well; it was the Gypsy well, you say? A. Yes, sir.

Q. That you drilled on down to the Bartlesville sand you finished that the 9th of February? A. The 4th of February.

Q. The 4th of February? A. Yes, sir.

Q. And you had been drilling you think about sixty days?

A. Yes, sir.

Q. Now, when did you begin the third well? Does that show?

A. Yes, sir; spudded in December 25th, 1914, and completed February 24th, 1915.

Q. Does that show when the fourth well was started?

A. Yes, sir. It was started on December 10th and completed on February 20th.

Mr. Cobb: 1915?

A. Yes, sir.

Mr. Cruce: Now, I understand that on the Receivership hearing, wasn't this matter gone over then?

Mr. German: No, very loosely.

Mr. Cruce: I was going to say, if the matter was gone into then——

Mr. German: *I* was very loosely gone into.

Recross Examination by Mr. German.

Q. Those steel tanks, where were they placed, were they not put on this property? A. No, sir.

Q. Was there ever any plan to put them on this property?

A. Well, we made a survey one time, but the grades were so heavy that we changed them and got a property right north a half mile.

Q. When was it now that you made that survey?

A. Well, I don't remember about the time we started to build them on the other place, I don't remember.

Q. When was it you started to build them on the other place? A. Well, in the winter of 1914 and '15.

Q. Do you remember the time of the Receivership hearing, don't you, you knew of that? A. Yes, I guess I did.

Q. The last days of February, 1915, was this before or after that, that you made your plans to put them on this adjacent property, this other property? A. It was before that.

Q. Now, at this time, how many tanks had been ordered then? A. At what date?

Q. At the time—— Well, say of the Receivership hearing? A. And that was in—— When was that?

Q. That was the last of February, 1915?

A. Well, I don't know, but I rather think they were all ordered before that time. I am not so sure about that.

Q. When did you receive your first tank, do you remember?

A. Well, no, I think it was sometime in January, I know we had one almost completed on the first of the year, and the tank builders went on a strike, that is the way I remember that so well.

(Witness dismissed.)

And thereupon, HARRY B. FOLK, being produced as a witness on behalf of the defendants, Minnie Atkins, et al., and being first duly sworn, testified as follows:

Direct Examination by Mr. Hanford.

Q. Your name is Harry B. Folk? A. Yes, sir.

Q. You are a musician, first class, in the band of the Fourteenth United States Infantry? A. Yes, sir.

Mr. Linebaugh: May I ask the witness a question: Are you the husband of Minnie Folk?

A. I am, sir.

Mr. Linebaugh: We object to the witness testifying, if the Court please.

The Court: This is a civil case; in criminal cases the husband or wife is not allowed to testify for or against each other, but in a civil case it is controlled by State Statute.

Mr. German: We have a State Statute which precludes them.

The Court: If there is a State Statute which precludes them, that would have to be sustained.

Mr. Cruce: He might testify as to the other parties.

The Court: Let's see. Here are the Page interests and the Carter interests; he may testify, I will hear it.

Mr. German: We except.

The Court: Exception noted.

Mr. Hanford: Judge Stuart announces that he will recall the witness as a witness for the defendant, Charles Page, and that will clear up the matter.

The Court: Well, I assume that he was being put on by the Page interests now.

Mr. Stuart: Being put on by both, Your Honor.

The Court: All right. I understand he is appearing now as a witness for the Carter interests, the Page interests, and the Minnie Folk, and on the theory that these other interests are involved in this case, I am going to permit him to testify.

Mr. Maxey: If Your Honor please, we will make the same objection and the same exception as the Government.

The Court: Exception noted.

Q. Your present station is Yuma, Arizona—— No, the regiment has been transferred? A. Yes, sir.

Q. And is now stationed at Van Couver Barracks, Washington? A. Yes, sir.

Q. You are the husband of Minnie Folk, the defendant in this case? A. Yes, sir.

Q. How long have you been married to her?

A. The 31st of March, 1907.

Q. Since the 31st of March, 1907? A. Yes.

Q. And you and she have lived together continuously during that time except a period when she was sent back from the Philippines sick and you remained over there?

A. Yes, sir.

Q. That was in what year?

A. That was in—— We left Van Couver in 1908, and she was over there with me five months and the doctor ordered her back on account of——

Q. Well, that is the time that she was away? A. Yes, sir.

Q. You were with her—— She was with you when you were stationed at Fort Harrison, near Helena, Montana?

A. Yes, sir.

Q. I will ask you if you recollect a letter that she received at that time in regard to some private matter? A. I do.

Mr. German: We object to that as assuming that she received a letter, which is an issue in the case.

The Court: Well, the question is if he recollects that she received the letter.

Mr. Hanford: Whether or not she received such a letter.

The Court: Read the question.

(Question read.)

The Court: Overruled.

Mr. Linebaugh: Might we object further on the ground, and call the court's attention, on the ground that it is inadmissible and incompetent, that they are now inquiring as to something that occurred between husband and wife not related to any matter of agency between either or for either, but a private matter occurring in the home between the two.

Mr. Stuart: Your Honor, this testimony, I might suggest he is seeking to elicit will not in any sense develop any communication between husband and wife at all.

The Court: The question is with regard to whether a letter was received from someone; the witness has answered that he remembers the receipt of such a letter. I assume that counsel now has in mind to attempt to prove by this witness the contents of that letter. That is what you are trying to do I assume?

Mr. Hanford: I am going to prove the fact that she received a letter, but I don't believe that I can prove the contents by this witness.

The Court: Well, then, you have gone as far as you propose to go in regard to this letter.

Mr. Hanford: I will prove something in regard to the contents. Let me ask one more question.

The Court: All right.

Q. Did you read that letter? A. I did not.

Q. Do you know what was in it? A. I do not.

Q. Was there anything accompanying that letter?

A. Nothing, just simply a large envelope with a large sheet of paper in it; I brought it down from the Band Quarters, we lived about a mile from the Band Quarters outside of the Post and I brought the letter down and I handed it to my wife. I never open none of her mail, never did before or never did since; and I handed her this letter and when she opened it, she told me to go away, and I walked away and came back and kind of looked over her shoulder and saw it in her hand, marked all at the top and at the bottom in this way and this way, and at the corner of it it was marked in red ink. That is all I saw of it.

Q. What would you call that ruling of lines?

A. Well, it appeared to me like a surveyor's map or something like that.

Q. And you asked her what it was in regard to?

A. I did. She wouldn't tell me.

Q. You have since learned what it was in regard to?

A. I have not.

Q. You haven't learned? A. No, sir.

Q. You were in Spokane, Washington, were you not, in June, 1914? A. I was.

Q. You were ordered there with your band?

A. Yes, sir.

Q. For duty? A. Yes, sir.

Q. How long were you there? A. Four days.

Q. Did anyone come to see you there? A. Yes, sir.

Q. Who? A. Why, Mr. Hanford and Mr. Frank B. Long.

Q. Do you remember what day that was?

A. That was on the 16th of June, 1914.

Q. And what did they come to see you in regard to?

Mr. Linebaugh: Just a minute. We object to that, if the court please, as incompetent, and inadmissible.

The Court: Why?

Mr. Linebaugh: For the reason that this would be offered, as I take it, for no purpose except to support the testimony of somebody that has heretofore testified, and that portion of that somebody's testimony has not yet been called into question.

The Court: What is the purpose of this anyhow?

Mr. Hanford: The purpose of this examination, if Your Honor please, is to show that Mr. Long and myself went to Spokane and took the matter up——

The Court: You needn't state what transpired. You propose to show what you said to this man about that transaction?

Mr. Hanford: Yes, sir.

The Court: And you and Mr. Long have testified with regard to that feature of this Seattle transaction; that you stopped and saw him there.

Mr. Hanford: Well, if your Honor please, the Government contends, it is charged, but it is not charged in the bill, but by argument, they have asserted that they charge the defendants with bad faith and with fabricating a case, and I want to——

The Court: You want to show what was said there?

Mr. Hanford: What was said there.

The Court: I don't care for you to state what you propose to show by him, what you propose to establish by his statements.

Q. What did they take up with you at that time?

A. Why, they took up my wife's allotment, or some land that she was supposed to get down here in Oklahoma. And it appears that she agreed with yourself, and Mr. Long, and Captain MacNab and Lieutenant McCombs, in Fort Lawton, and you brought it down there for me to agree, for me to sign it, and to have it read over thoroughly so I would understand it. I don't know anything about land and I don't know yet. It was brought down there and they held a conference and Lieutenant Winton, his father is from McAlester down here, I believe it is McAlester; he knew something about this oil land. He was adjutant at Fort Wright at the time. I got a telegram before you started to remain there. We were supposed to be there a month, and the troops were ordered to Butte, Montana——

The Court: Let's not go into that.

Q. Was anybody else there besides those you have mentioned? A. Captain Wright and Major Stokes.

Q. Which one of those officers, if any was a lawyer?

A. Lieutenant Winton was a lawyer.

Q. Who? A. Lieutenant Winton.

Q. What was the name of the Captain that was there?

A. Captain Wright.

Q. And they explained everything in regard to this matter to you at that time? A. Yes, sir.

Q. And how long did that conference last?

A. Three hours.

Q. And after that you were satisfied with the arrangements that had been made? A. Yes, sir.

Q. And exhibited to you the trust agreement?

Mr. German: I object to counsel leading.

The Court: I don't question for a minute but what you and Mr. Long did just what you say there. I don't see the necessity of this testimony now.

Mr. Hanford: It goes to controvert the charge that they made that everything was in bad faith.

Q. Mr. Folk, you recollect the time that Mr. Montgomery was in Seattle? A. Yes, sir.

Q. Were you present at any of the interviews that he had with your wife?

A. Well, the way that came about——

Q. I am asking, were you present at any of the interviews she had with him?

A. Well, two of them that I know of, yes, sir.

Q. And did you remember of anything that she had done in the way of signing statements or anything like that?

A. No, sir, that is I did, it was on a Thursday; he arrived on a Monday and he had an interview with Captain MacNab it seems and we were going over some dance music, and Captain MacNab and Captain Miles was down at the Band Quarters hearing some of it, and he told me——

Q. Well, did you learn that she had signed any statement or made any statement to Mr. Montgomery? A. No.

Q. During the time he was out there? A. No, sir.

Q. Did she tell you? A. No, sir.

Q. Did she tell you that she had done anything for Mr. Montgomery?

A. No. I can explain myself better, I can't answer that question.

Q. Without going into details, did you have any—— Do you remember the time that Mr. Montgomery and Mr. Hanford came down to the house one time and found you there and not your wife? A. Yes, sir.

Q. And what did you tell Mr. Montgomery at that time?

A. Well, I told him——

Mr. German: We object to that, if the court please.

The Court: Was that testified to by Mr. Montgomery?

Mr. Hanford: No, Your Honor.

The Court: Objection sustained.

Q. I will ask you if your wife told you anything that she had done the night before that day?

A. She told me she told a bald-faced lie in signing what she signed at Captain MacNab's quarters.

Mr. German: We object to that as hearsay and self-serving, self-serving declaration.

The Court: Objection sustained. What she told him as a matter of substantive proof as to what she had done of course has no place in this case, it is merely hearsay from her to this man.

Mr. Stuart: That letter that you saw, did your wife read you that letter?

A. No, sir.

Mr. Stuart: Did she refuse to let you read it?

A. She did.

Cross Examination by Mr. Maxey.

Q. How old are you?

A. I will be forty-one next November, 23rd.

(Witness dismissed.)

Mr. Stuart: Now, Your Honor, I think we are through, except this: We want to put in the detailed statement with reference to these improvements; and one witness from Leavenworth who will probably be here tomorrow morning and he will take about five minutes.

The Court: The detailed statement you refer to, is that the one that was offered this afternoon?

Mr. Stuart: The statement from Mr. Curtis.

And thereupon, court recessed until nine-thirty A. M., May 31, 1917.

And thereafter, and on May 31, 1917, at 9:30 o'clock A. M., court convened pursuant to adjournment, and further proceedings herein were had as follows:

Mr. Stuart: Here is that Five thousand dollar check that you asked me for; let that be marked as defendant's Exhibit (marked defendant's Exhibit B-21).

The Court: Let this check now be identified. It may be admitted.

Mr. German: As defendant's Exhibit B-21.

And thereupon, E. O. CURTIS, being produced as a witness on behalf of the defendants Minnie Atkins et al., and being first duly sworn, testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. E. O. Curtis.
Q. Where do you live, Mr. Curtis? A. Tulsa.
Q. What is your business?
A. I am the auditor for Mr. Page.
Q. Auditor for Mr. Page—Charles Page?
A. Yes, sir.
Q. Are you familiar with the books of Mr. Charles Page?
A. Yes, sir.
Q. I will ask you whether or not you have a book that treats of the Tommy Atkins lease? A. Yes, sir.
Q. Have you drawn from those books a detailed account of the expenditures commencing in August and ending in January? A. Yes, sir.
Q. August, 1914, and ending in January, 1915?
A. Yes, sir.
Q. Please examine that and see if that is the statement that you prepared from the books? A. Yes, sir, that is it.
Q. You made it in triplicate, did you?
A. Yes, sir, an original and four copies.
Q. Now, Curtis, please take this paper which I hand you and tell me when those expenditures on the Tommy Atkins' lease commenced.

Mr. German: Now, Your Honor, this is secondary evidence; this is not the best evidence.

The Court: If we are relying on the books to determine this, and I think the books may be relied upon, I think the books are the best evidence. In a case of this kind where books are resorted to, if they consist of a number of entries, one familiar with the books, such as the bookkeeper, may make a detailed statement as to what the books show; that may be testified to on the condition that the books are in court subject to the examination on cross examination. Are the books here?

Mr. Stuart: No, they are not here. I will state to Your Honor, that before Judge Sanborn, this is the exact system we followed.

The Court: In the Receivership hearing; the Circuit Court of Appeals has announced the method of admitting these things. Is the objection still urged to this statement?

Mr. German: Yes, sir, Your Honor, we have not examined the books and know nothing about them. We don't want to be captious about that but the statement that Judge Stuart refers to I think begun about March, 1915——

Mr. Stuart: We will bring the books if necessary.

The Court: Well, I am merely passing upon this objection; the objection is made. If the books were here subject to examination, then you have complied with all the conditions necessary to make this statement admissible.

Mr. Stuart: Now, Your Honor, I have also the vouchers here, the vouchers for each one of these items paid by vouchers.

Mr. German: Will you produce the books here, Judge?

Mr. Stuart: Well, we will do it if the court requires us to do it.

The Court: Now, these vouchers, tell me about those, Judge.

Q. Explain what they are?

A. They are the original entry carried through the journal and ledger.

Q. What are they?

A. They are checks paid through the bank and also credit vouchers.

Examination by the Court.

Q. And you have those paid checks here which correspond, as you say, to the items mentioned in this statement? A. Yes, sir.

The Court: Those receipts then are subject to your examinatiton, gentlemen. Why may they not be a check against this statement? Now, as I understand it, the material facts here are what were those expenditures made for and what were the expenditures by Mr. Page or his interest upon this property?

Mr. Stuart: Yes, that is what those are for.

The Court: And your inquiry will relate to a period before the suit and about that time?

Mr. Stuart: Yes, sir.

The Court: You don't propose to cover from that period down to this?

Mr. Stuart: No, just that anterior to December, 1914, and anterior to the suit. We have everything prior, Minnie Atkins' confession and everything prior to the suit January 18th, and no more.

The Court: Those statements as I understand purport to set forth the various expenditures, the amounts and dates.

Mr. Stuart: Yes, sir.

The Court: As shown by the books?

Mr. Stuart: Yes, sir, and the vouchers are here to check it up receipted and paid vouchers.

The Court: I will permit the statement to be used in evidence. The counsel for the Government and conflicting interests may examine the vouchers and if they deem the books should be in court, the court will, upon their application, pass upon that matter.

Examination by Mr. Stuart.

Q. Now, are these the vouchers here in these five or six packages, which are a check against the items in that account? A. Yes, sir.

Q. Which you have drawn off from the books? A. Yes, sir.

Q. Did you draw them off correctly? A. Yes, sir.

Mr. Stuart: We offer defendants Minnie Atkins et al., Exhibit B-22 and 23, in evidence.

Cross Examination by Mr. German.

Q. Have you two exhibits?

A. One is to December 17th, and the other is from December 17th to January 18th.

Q. Is this in quadruplicate? A. Yes, sir.

> Mr. German: Can I have one of them?
>
> Mr. Stuart: Certainly.

Q. Mr. Curtis, this item, this *one thousand six hundred* dollars ($51,600.00), appearing in the itemized statement of expenditures up to December 17, 1914, there are two items for fifty-five thousand barrel tanks? A. Yes, sir.

Q. Now, those two items are dated November 25, 1914?

A. Yes, sir.

> The Court: Mr. German, let me suggest this: Inasmuch as this has gone into the record and it is a long list and you haven't examined it, this witness will be here all day; perhaps you can shorten this if you examine it during the noon hour and let him be examined later in the day.

Q. Those two tanks weren't put on this Atkins property, were they?

A. They were put on the tank farm that was owned by the Atkins lease.

Q. How far north of this Atkins property?

A. I think it is about a half a mile. It was owned by the Atkins lease.

Q. Owned by the Atkins lease? A. Yes, sir.

Q. What do you mean by that?

A. Well, they stored their oil there.

Q. Also stored oil from other properties too?

A. No, sir.

Q. Wasn't there a lease south?

A. Well, they stored some in there and paid twelve hundred dollars storage, but they didn't own any interest.

> The Court: You say owned by the Atkins lease, what parties owned it?

A. Mr. Page and Mr. Josey.

Q. And do you mean that it was stored oil that was run from the Atkins lease? A. Paid for by the Atkins lease.

Q. What property was it on?

A. Carthena Richards tank farm.

Q. Carthena Richards? A. Yes, sir.

> Mr. German: Now, we will wait, Your Honor, until after lunch on that.

Q. Do you know when that tank farm was bought?

A. It is put right there; it is on the statement.

Q. Not the tank, but the tank farm.

A. That is what I mean.

Q. Is there—is that charged up to this lease?

A. Oh, yes, paid by this lease.

Q. Show me the item and tell me what it is by reference there.

A. The original payment was made there December 4, 1914, to C. B. Walker, voucher 1902 on schedule A.

Q. What page of the schedule?

A. Schedule A, first page.

Q. December 4th? A. 1914.

Q. To C. B. Walker apply on price tank farm hundred dollars?

A. Yes, sir, the rest is paid there under voucher 2000 on the same page, thirteen hundred and ninety-six dollars and forty cents.

Q. C. B. Walker, balance purchase of tank farm site?

A. That is the land.

Cross Examination by Mr. Hill.

Q. Now, on the item 2000 there, that seems to have been put on the 12th—28—14? A. Yes, sir.

Q. This statement purports to be to December 17th?

A. Well, they were examining the title of the tank farm before they paid that balance; the original hundred dollars bonus paid there—the surety was paid December 4th.

Q. But this item thirteen hundred and ninety-six dollars and forty cents wasn't paid until December 17th?

A. Yes, sir, but the obligation was assumed before that.

Q. For the reason that it was assumed before that you put it in payments prior to December 17th? A. Yes, sir.

Q. Some other items were paid after December 17th on this statement; no—some other items paid on December 17th; Republic Supply Company material twenty-eight hundred, six dollars and five cents?

A. Well, that was a credit voucher; the cash wasn't paid at that time but that was the time they shipped the material to the lease.

Q. Then this doesn't represent actual cash expense to December 17th? A. No, credit vouchers don't.

Q. This statement I am speaking of, it doesn't represent actual cash expenditures to December 17th?

A. No, represents cash paid prior to that time and also obligations assumed to that time.

Mr. Hill: It seems to me this statement should be actual cash expenditures.

The Court: Well, you gentlemen can point out to me; the prior statements will be admitted, and the Court can determine for himself whether it was before a payment or afterwards, if it is determined finally there is some date in there which divides the two sets of items.

Mr. Cruce: I might state to the Court that he made the statement exactly like we instructed him to; we assumed that obligations contracted prior to December 17, were obligations whether paid for or not.

The Court: It appears now that the statement as drawn, that the Court can determine when each payment was finally paid in cash.

Q. Now, Mr. Curtis, this represents expenditures on physical properties; it doesn't represent any purchase price of the Tommy Atkins lease or expenditures thereto?

A. Absolutely not, no, sir.

Q. Does your books show the expenditures, the purchase price and expenses? A. On the leasehold account?

Q. Yes? A. Not on the Tommy Atkins book.

Q. Does it show it anywhere? A. Yes, sir.

Q. Other book? A. Yes, sir.

Q. This is merely a statement kept separate from——

A. These items represent material when received.

Redirect Examination by Mr. Stuart.

Q. Mr. Curtis, I understand you to say that this represent the actual money paid out on the Atkins lease for material and work and development? A. Yes, sir.

Q. And you put on here the actual cash paid prior to December 17th, and the money paid on obligations incurred prior to December 17th? A. Yes, sir.

Recross Examination by Mr. German.

Q. But the payments were not made until after December 17th? A. Some of them were not but the cash shows them.

Redirect Examination by Mr. Stuart.

Q. Now, these two tanks here; one 55,000 barrel tank, on the 25th of November, 1914, eleven thousand two hundred and fifty dollars; was the tank bought exclusively for the Thomas Atkins lease? A. Yes, sir.

Q. Was that farm site bought for the Tommy Atkins lease? A. Yes, sir.

Q. And for the other tanks also? A. Yes, sir.

Witness dismissed.

Mr. Hanford: If Your Honor please, at this time we wish to offer the deposition of Mike Stanton, a witness for the Government at page 2254.

And thereupon, MIKE STANTON, being called on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Mike Stanton.

Q. What age you, Mr. Stanton?

A. I will be seventy-four the 15th of next August if I live that long.

Q. Where do you live, Mr. Stanton?

A. I live on Kiowa Street between Sixth and Seventh, 610 Kiowa.

Q. Leavenworth, Kansas? A. Yes, sir.

Q. How long have you resided in Leavenworth?

A. About fifty-seven years.

Q. Does that cover your residence at Fort Leavenworth too? A. Yes, sir.

Q. You lived at Fort Leavenworth sometime?

A. Yes, sir, I lived there off and on about twenty-two years.

Q. When did you move out of the Fort the last time?

A. I think it was 1886.

Q. Eighty-six? A. 1886 I moved back to town.

Q. Well, while you were residing in the Fort did you know an Indian woman there called Indian Mary or Indian Minnie?

A. Yes, sir, I knew both.

Q. You knew both, where did you know Indian Minnie?

A. The first that I remember of seeing her was on the corner of Shawnee and Main Street.

Q. When was that?

A. I think that was in 1867 or eight.

Q. Did you ever see her again?

A. When I moved to the Fort in sixty-nine or along in seventy, I seen her along the avenue there and she recognized me.

Q. Do you mean the avenues in the Fort? A. Sir?

Q. You mean the avenues in the Fort?

A. Yes, I think she was employed in the Fort at that time, this Indian Minnie, not Indian Mary now.

Q. And she recognized you? A. Yes, sir.

Q. Now, do you know when that was that you saw her in the Fort or how—for how long a time, I will ask you that, was it? A. I don't think it was at the Fort.

Q. For how long a time?

A. Probably about a year, not quite a year. We were grading around the Fort extension, and I had seen her with this buggy—baby buggy.

Q. Baby buggy?

A. Going along the side-walk, that was sometime in the seventies.

Q. Sometime in the seventies? A. Yes, sir.

Q. You have seen her with a baby buggy?

A. I think she was working for some officer at the time.

Q. Now, this Indian Mary that you spoke of, where did you know her?

A. I knew her out at the Reservation by being ordered to drive her off of the Reservation.

Q. What kind of a character was she?

A. Well, she was considered a pretty rough character, she was ignored at least by most of the people I think. Mr. Wilson, he ordered me that whenever I would find her anywhere on the Reservation, on account of being around with the men so much in fixing the roads, be sure if I taken it to attend to it to notify the patrol to drive her off, and that is how I got to know her.

Q. Now, when was the last time that you ever saw her as near as you can remember? A. I think it was about eighty.

Q. When was the last time, so far as you know, that you ever saw Indian Minnie that you referred to?

A. I don't think I remember seeing her since seventy.

Q. Did you hear anything about either one, Indian Mary or Indian Minnie, after you moved off of the Reservation the last time?

A. No, sir, I did not. I didn't know which was which.

Q. You didn't know which was which? A. No.

Q. Well, did you hear anything about either one of them after you moved off of the Reservation?

A. No, sir, I never heard anything about them.

Q. What became of them, if you know?

A. Well, this Indian Mary was, to the best of my recollection, was found in a ditch east of the Rock Island Depot. The Rock Island Depot was on the north of Sixth Street at that time.

Q. She was found in a ditch?

A. Found in a ditch and I don't—that is the woman that we had to drive off; the other one I have never heard any bad account of her.

Q. Found in a ditch, what do you mean, drunk or what?

A. Found dead.

Q. Found dead? A. Found dead.

Q. Do you remember when you heard that; when was it that you heard that, Mr. Stanton?

A. Oh, that was—it was a year or so after I came from the Fort; I came from there in eighty-six.

Q. A year or so after you moved out of the Fort?

A. Yes, sir.

Q. Out of the Reservation? A. Yes, sir.

Cross Examination by Mr. Bond.

Q. When you first saw Indian Minnie at Shawnee and Main street she was about thirty-five years old? A. No, sir.

Q. Fifty?

A. I think not. I don't think she was, I wouldn't judge that she was over seventeen or eighteen.

Q. That was 1868? A. About sixty-eight.

Q. Then you lost track of her until you saw her with a baby buggy in 1870 up at the Fort? A. Yes, sir; yes, sir.

Q. Then you lost track of her completely?

A. Yes, sir, completely.

Q. Indian Mary, how old was she when you first saw her?

A. Well—— She was such a rough person that I never did go close enough to know exactly what age she would be, she looked so rough and desperate that I couldn't tell you very well.

Q. Was she stout? Powerful woman?

A. Yes, always had a black eye or a broken nose.

Q. And a dark skinned disreputable looking Indian?

A. Yes, sir.

Q. And did you ever have an opportunity to put her off the Reservation up there? A. Yes.

Cross Examination by Mr. Blakeney.

Q. You say an Indian Minnie twice? A. Yes, sir.

Q. And that was all? A. How is that?

Q. And that was all? The only times that you ever saw her?

A. I only remember of seeing her the time that I was doing this improvement down here, first on the corner of Main and Shawnee, that was the first place at that time.

Q. And you did that in 1868?

A. She was working in that hotel that we were repairing then.

Q. You were repairing a hotel and she was employed in the hotel? A. Yes, sir.

Q. What was she doing—— I mean by that, was she a chamber maid?

A. I don't know whether she was a chamber maid or had charge of the business there; the boys would want to get a bucket to water their horses, we had to water our horses in the river at that time, the water was pretty scarce, and I found her so obliging, willing to accommodate them and direct them where they would get something convenient, it attracted my attention.

Q. Have you any way of fixing that date as 1868?

A. Sir?

Q. Have you any way of fixing the date at 1868? You have fixed the date at 1868, do you have to depend on memory entirely for that?

A. No, 1868 was when I first met her.

Q. Do you have to depend on memory to fix that date?

A. We were fixing the building.

Q. Well, do you have to depend on memory as to the year that you fixed the building? A. Yes, sir.

Q. You have no other way of fixing that date with any more certainty? A. No.

Q. And after some forty-eight years your recollection is that you saw her in 1868? A. Yes, sir.

Q. You don't know whether she had any children or not?

A. No, sir, I don't.

Q. You don't know whether she had a husband or not?

A. No, sir, I don't.

Q. You were then some two years later up at the Fort, was you? A. Yes, sir.

Q. And you saw this same woman out with a baby buggy?

A. With a baby buggy.

Q. Had a baby in the buggy? A. Yes, sir.

Q. Do you remember whether the baby was laying down or sitting up?

A. No, I don't know which. I was riding along the street and she was on the side walk and she recognized me and then I thought where I had seen her last, and that I think was the last that I have ever seen of her excepting along in that direction.

Q. And you don't have any impression as to whether the baby was a mere infant or whether it was old enough even to walk from what you saw?

A. No, I don't know whether it was able to walk.

Q. And then you saw her and you continued your way until you passed out of sight and she passed out of sight, and you never saw her after that?

A. Oh, I have seen her in the same direction.

Q. After that? A. Sometime after that.

Q. How long after that?

A. Oh, probably a month or two.

Q. A month or two after that, in 1870? A. Yes.

Q. You never saw her after 1870? A. I did not.

Q. She married—— Whether she was married and alive or was married at that time, you don't know?

A. No, sir, I do not know.

Q. She was a woman of good repute?

A. So far as I knew she was.

Q. You never heard anything to the contrary?

A. No, sir.

Q. What hotel was it she seemed to be running?

A. This building I had the contract to fix it from a man by the name of Bartholamew Cranson, he owned the property.

Q. Is he dead or alive?

A. He is dead. He had two places down here on the corner of Second and Shawnee. I built that building for them, and on the corner of Main this was known as the, called Baxter Hotel, the Baxter Hotel is the one that I had been fixing under me.

Q. Is the building still standing?

A. No, sir, not for years.

Redirect Examination by Mr. German.

Q. Mr. Stanton, did you look at that baby in that baby buggy or not? A. How?

Q. Do you remember of looking at the baby in the baby buggy? A. Well, I just simply noticed it coming up, you know.

Q. Did you know whose baby it was? A. I did not.

Q. Do you remember whether it was a white baby or an Indian baby? A. I don't know that, Judge.

Witness dismissed.

And thereupon, CHENEY TRENT, a witness being produced on behalf of the defendants Minnie Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Beall.

Q. What is your name? A. Cheney Trent.

Q. Where do you live?

A. I live west of Wagoner in Wagoner County.

Q. How far from the town of Wagoner? A. Ten miles.

Q. Are you a Creek citizen? A. Yes, sir.

Q. Enrolled as an Indian or a freedman? A. Indian.

Q. What is your father's name? A. Dick Atkins.

Q. What is your mother's name? A. Lettie Shannon.

Q. What was your father's father's name?

A. Thomas Atkins.

Q. Is Thomas Atkins living?

A. Well, I don't know which one you mean.

Q. Your grandfather *Dick* Atkins.

A. No, sir, he is not living.

Q. Do you know when he died? A. No, sir.

Q. Do you remember the last time you saw him?

A. I never did see him.

Q. How old are you?

A. Well, I really don't know; I only can tell you when I was born—I was born the last year of the Civil War; the following spring.

Q. Who represented you in your application for enrollment? A. Judge Thomas.

Q. Was that Judge John R. Thomas? A. Yes, sir.

Q. Did you have a brother named Thomas Atkins?

A. Yes, sir.

Q. Is he living? A. No, sir.

Q. When did he die?

A. He died the year of the filing commenced, the fall of the filing commenced.

Q. How old was he when he died?

A. He was 13 years old.

Q. Did he live with you? A. He lived with my father.

Q. How far did you- father *life* from you?

A. About a mile.

Q. Did you see your brother Thomas Atkins every day or two up until the time of his death? A. Yes, sir.

Q. Did you know Nancy Atkins? A. Yes, sir.

Q. Did Nancy Atkins ever visit your father's house?

A. Yes, sir.

Q. Would she be a frequent visitor there?

A. Oh, sometimes.

Q. About how often?

A. Well, probably about three or four times a year.

Q. Where was Nancy Atkins living at the time she would visit your father's house?

Q. She was living at Wagoner.

Q. Did you ever see your brother Thomas Atkins in and about Wagoner with Nancy Atkins? A. Yes, sir.

Q. About how often?

A. Well, I can't tell for I don't know. I seen him a good deal but I can't tell exactly every time.

Q. How would your brother happen to be in Wagoner?

A. Why, my father hauled wood there all the time; furnished the town with wood, and he would drive a wagon for my father.

Q. That is your brother Tommy would drive a wagon with your father going in to Wagoner? A. Yes, sir.

Q. How often would he make those trips?

A. If it wasn't raining or snowing, he would make it every day.

Q. Tommy would go with him on most of those trips?

A. Yes, sir, yes, sir; pretty near every time.

Q. How many times have you personally seen Tommy Atkins around the town of Wagoner with Nancy Atkins?

A. Well, I just can't tell that because I didn't keep the correct time.

Q. That would be frequently?

A. Yes, sir; when I would go to town. I never went so very much like some peoples goes to town.

Q. Do you know Minnie Atkins?

A. No, sir, I am not so personally acquainted with her like I am with Nancy Atkins.

Q. Did you know Harvey and Charlie Harrison?

A. No, sir, I don't think I did.

Q. How long was your citizenship case pending before the Dawes Commission before you were finally enrolled?

A. Well, I don't really know exactly but it must have been about two or three years.

Q. Judge Thomas and his partner Grant Foreman represented you all of that time? A. Yes, sir.

Cross Examination by Mr. Hill.

Q. Was your brother Thomas a full brother of yours?

A. No, sir.

Q. Whose son was he? The same father or the same mother? A. The same father.

Q. Who was his mother? A. Sallie Atkins.

Q. Sallie? A. Sallie, yes, sir.

Q. Describe Tommy.

A. Well, he is near my color; he was tolerably small for his age.

Q. About your color, was he?

A. Yes, sir; might be a shade lighter.

Mr. Hill: I would be glad if the court would give a description for the benefit of the record.

The Court: You mean as to this color?

Mr. Hill: Yes.

The Court: Well, I have made a note here that this woman, rather light color, that her features show considerable Indian, and in the judgment of the court, a mixture of the African race.

Cross Examination by Mr. German.

Q. You now live north of Wagoner, don't you?
A. West of Wagoner.
Q. West of Wagoner, how far? A. Ten miles.
Q. How long have you lived there?
A. Lived there about 25 years.
Q. Now, is your husband living? A. No, sir.
Q. Where did you father Dick Atkins live with reference to where you lived at during his lifetime—or is he now living? A. No, sir, he is not living.
Q. He is dead, is he? A. Yes, sir.
Q. Where did he live? A. He lived north of me.
Q. North of you how far? A. About a mile.
Q. Was this half brother of yours, Thomas, living with you and your husband, or with your father up to the time of his death? A. Living with my father.
Q. About a mile from you? A. Yes, sir.
Q. When did he die?
A. He died at my father's house.
Q. You say you used to go to Wagoner very frequently?
A. Yes, sir.
Q. Was Wagoner the trading point of your family and your father's family? A. Yes, sir.
Q. Did you go to Wagoner very often?
A. No, I didn't go so very often.
Q. Did you know the Jones and Davis Store?
A. Yes, sir.
Q. At Wagoner? A. Yes, sir.
Q. Did you know of that store in the early nineties and on through the nineties? A. Yes, sir.
Q. Did you ever see your half brother, Thomas and Nancy in that store together? A. Well, I really don't know.
Q. Did your father drink considerably or not?
A. Yes, sir.
Q. Did you ever know of him and Nancy drinking together? A. Yes, sir.
Q. State whether or not Nancy would come to your father's house sometimes? A. Yes, sir.
Q. On account of getting whiskey?
A. Yes, sir, she would come there sometimes and he would bring her in the wagon.
Q. Would they have Thomas with them? A. Yes, sir.
Q. Now, you say he died the year the land office opened?

A. Yes, sir.

Q. And was thirteen years old at that time? A. Yes, sir.

Q. Where was he born, Chaney, if you know?

A. Born in Sheridan County, Missouri.

Q. Sheridan County, Missouri? A. Yes, sir.

Q. Were you there, or not, when he was born?

A. Yes, sir; I was there about the place; wasn't right there at the present hour.

Q. You were on the place at that time? A. Yes, sir.

Q. Had you prior to that time ever been in the Indian Territory? A. Yes, sir.

Q. About how long had you been in the Indian Territory on your first trip down here, how long did you stay, about?

A. I had been here two years.

Q. About how long did you stay in Missouri when you went back there? A. I stayed two years.

Q. Stayed two years in Missouri? A. Yes, sir.

Q. Was it during that two years that Thomas was born?

A. He was born the two years.

Q. That you was back in Missouri? A. Yes, sir.

Q. Now, you lived down in the Choctaw country a while, didn't you after you came back that second time? A. Yes, sir.

Q. About how long did you stay in the Choctaw country?

A. Well, to the best of my knowledge near two years.

Q. What was your husband's name? A. Name?

Q. Yes? A. Jim Trent.

Q. Where did you live when you married him?

A. Missouri.

Q. You married him before you ever came down here?

A. Yes, sir.

Q. And you have some children? A. Yes, sir.

Q. Did you know the Childers family? A. Yes, sir.

Q. Ellis Childers? A. Yes, sir.

Q. And his brother Jim Childers? A. Yes, sir.

Q. And old Napoleon Bonepart Childers? A. Yes, sir.

Q. They called him Pole, didn't they?

A. Yes, sir, Pole Childers.

Q. Where did Pole Childers' family live with reference to where you lived over near Wagoner?

A. Northeast, a little northeast.

Q. About how far?

A. About two miles and a half to the best of my knowledge.

Q. So, they lived in the same general community or vicinity where your father and Tommy lived? A. Yes, sir.

Q. Sally Atkins was not your mother? A. No, sir.

Q. But she was your father's first wife, is that right?

A. My father's last wife.

Q. Yes, Sally was your father's wife, Sally was not your father's first wife, your mother was your father's first wife?

A. Yes, sir.

Q. When did your father come to the Indian Territory about?

A. Well, he come about three months after I did to the best of my knowledge.

Q. After you did the first time? A. First time.

Q. Then, did he go back? A. Yes, sir.

Q. And came again? A. Yes, sir.

Q. He was living here then in 1890 at the time the payment was made, or did he get on the 1891 omitted roll?

A. Well, I don't understand the rolls but he got the twenty nine dollar payment.

Q. So did you? A. Yes, sir.

Q. All of you? A. Yes, sir.

Q. Now, Chaney, did you have a sister named Mary?

A. Yes, sir.

Q. Was she older or younger than you?

A. She is younger.

Q. Where was she living in 1895?

A. You mean when the payment was?

Q. Yes, the 1895 payment?

A. She was living in Missouri.

Q. Had she lived in the Indian Territory? A. No, sir.

Q. Did she ever come here? A. Yes.

Q. When did she come?

A. She come the fall before the filing commenced.

Q. Dick was her father? A. Yes, sir.

Q. And was Sarah her mother or your mother?

A. Her mother.

Q. Which one was her mother? A. Sally.

Q. Sally was her mother? A. Yes, sir.

Q. Dick, your father, lived in the Indian Territory from the time he came here the second time on continuously?

A. Yes, sir.

Q. Never did go back? A. No, sir.

Q. To live? A. No, sir.

Q. Now, did you have a sister named Nancy?

A. Yes, sir.

Q. So you had a sister—— Did you have a sister named Susan, or was there anybody in your family named Susan?

A. I had a daughter.

Q. You had a daughter named Susan? A. Yes, sir.

Q. Did I ask you about Mary?

A. Yes, sir, you asked me about Mary.

Q. Where did you get the coffin, if you know, in which Thomas was buried when he died?

A. Well, it come from Wagoner.

Q. Whose store? A. I don't know about that.

Q. Come from Wagoner?

A. Yes, sir, come from Wagoner.

Examination by the Court.

Q. How far did your father live from Wagoner at the time Thomas Atkins lived with him? A. Ten miles.

Q. When you went to Wagoner while Nancy was living there, would you see Nancy every time you went there?

A. No, sir, I wouldn't see her every time but I would see her sometimes.

Q. Did you see her most of those times you went there or not? A. Well, yes, I would see her a great many times.

Q. Where do you remember to have seen her there when you were in Wagoner and she was living there, what places?

A. Well, she worked at a hotel and my father carried wood there.

Q. And how did you happen to be there?

A. Well, I would go on trading.

Q. Trading in the store?

A. Yes, trading in the stores.

Q. Well, were you down at the hotel?

A. Well, I would go on the wagon with my father lots of times.

Q. And you saw Nancy at this hotel? A. Yes, sir.

Q. Do you remember the name of the hotel—— Well, it was a hotel anyhow? A. Yes, sir.

Q. Where else did you ever see her?

A. Well, I have seen her at Aunt Betsy Birney's.

Q. How did you happen to be there?

A. Well, I knowed Aunt Betsy and I would just go there to visit her.

Q. And you saw Nancy there? A. Yes, sir.

Q. Did Nancy have any children with her?

A. Not that I seen.

Q. Did you see any children with her at the hotel?

A. No, sir, I didn't see none.

Q. Did Nancy ever tell you about any children that she had? A. No, sir.

Q. Now, you saw her at Aunt Betsy's and you saw her at this hotel; do you remember of being at Wagoner and seeing her and talking to her at any other place?

A. Sometime I would meet her on the street.

Q. When you were there? A. Yes, sir.

Q. When you went to Wagoner, did you go to see Nancy with your father? A. Oh, no, sir.

Q. How far did you live from your father?

A. Lived about a mile.

Q. And when you went to town and he was hauling wood you sometimes went on the wagon? A. Yes, sir.

Q. Would this brother of yours, Thomas Atkins, be along on those trips?

A. Yes, sir, he had a wagon, my father run two wagons.

Q. And on those trips you would see Nancy sometimes?

A. Sometimes, yes, sir.

Q. Now, do you remember about when it was that Nancy first went to Wagoner; you remember not the year, but do you remember now at one time she went to Wagoner to live?

A. No, sir.

Q. You don't remember when she went there?

A. No, sir, I don't remember.

Q. You don't remember the years? A. No, sir.

Q. Well, when you first knew of Nancy living at Wagoner, about how old was your brother, Tommy?

A. He must have been near eleven years old.

Q. When you first knew of Nancy being there?

A. Yes, sir.

Q. He died the year the land office opened? A. Yes, sir.

Q. And how old was he when he died?

A. Thirteen years old.

Q. Then, you only knew of Nancy being there about two years before your brother Tommy died?

A. Yes, sir, to the best of my knowledge.

Examination by Mr. German.

Q. Chaney, let's get at the details of those matters just a little more. When was it, with reference to the 1890 payment that you came back from the Choctaw Nation up here near Wagoner, with reference to the twenty-nine dollar payment, was it before or after the twenty-nine dollar payment that you came back from the Choctaw Nation?

A. It was before the payment.

Q. How long before?

A. I come in the fall, I just really couldn't tell you just exactly.

Q. But was it very long before the payment?

A. No, sir, not very long.

Q. And you had been down there about two years?

A. Yes, sir.

Q. Then you had moved from Missouri where you had stayed two years before you went to the Choctaw Nation?

A. Yes, sir.

Q. Then you stayed there two years and came up near here? A. Was the same year.

Q. Same year of the payment?

A. Same year, yes, sir.

Q. How long after you moved there from the Choctaw Nation was it until you found out Nancy was living in Wagoner? A. Well, I just don't know.

Q. Did you find it out—— When did you first know Nancy personally? A. Well, she come out to my father's.

Q. Do you remember how long that was after you come from the Choctaw Nation about?

A. No, sir, I just don't know.

Q. Well, did you know her to be around Wagoner a good deal or not? A. Yes, sir.

Q. For about what length of time did you know her to be around Wagoner, about how long?

A. Well, I couldn't tell, didn't keep no memories.

Q. Did you know her to be there when they had the '95 payment? A. Was that the fourteen-dollar payment?

Q. Yes? A. Yes, sir.

Q. How long before that was it that you knew her to be around Wagoner or to be in Wagoner?

A. I just couldn't tell.

Q. Was it before that that you first knew her there?

A. I really couldn't tell. I come up when the payment was that fall.

Q. Did you have any little children about that time of your own? A. I had three children was all at the time.

Q. Were they small or not? A. Yes, sir.

Q. You were taking care of your folks at home?

A. Yes, sir.

Q. But you would come to Wagoner sometimes?

A. Yes, sir, sometimes.

Q. You never knew Nancy to be in a family way?

A. No, sir.

Q. When you first knew Nancy where was the main part of the business part of Wagoner?

A. On the west side of the tracks.

Q. West side of the tracks? A. Yes, sir.

Q. When you first knew Nancy what store was there in Wagoner? A. They called it Davis and Jones.

Q. Was there any other when you first knew Nancy?

A. I don't know.

Q. She worked in this hotel? A. Yes, sir.

Q. You don't know whether it was McAnally's or Brown, or Barnard Hotel? A. McAnally's.

Q. Betsy Birney, you say you went to Betsy and saw Nancy there? A. Yes, sir.

Q. You don't know what year Betsy moved out of Wagoner, do you? A. No, sir.

Q. Well, do you, I just assumed you didn't?

A. No, sir.

Q. How many different times did you see Nancy at Betsy Birney's?

A. Well, I couldn't tell that, because I just didn't keep no account.

Q. Did you see her there more than once?

A. Yes, sir, I seen her there more than once.

Q. Now, were there any children around Betsy Birney's house? A. No, sir, I didn't see any.

Q. You didn't see any at all?

A. Well, Aunt Betsy had a little boy.

Q. Do you remember what its name was?

A. I don't know his name exactly, seems like his name was Joe.

Q. Did you know Elnora Williams? A. No, sir.

Q. What kin are you and Nancy? A. She is my aunt.

Q. Nancy is your aunt? A. Yes, sir.

Q. I mean this Nancy Atkins that lived in Wagoner?

A. She was my aunt.

Q. She was your aunt? A. Yes, sir.

Q. You say you didn't know Minnie Atkins? A. No, sir.

Q. Did Davis and Jones' store sell coffins? A. Yes, sir.

Q. What other house in town sold coffins, if any, at the time your brother, Thomas, died? A. I don't know.

Cross Examination by Mr. Beall.

Q. You say you drew the twenty-nine dollar and ninety cent payment? A. Sir?

Q. You drew the twenty-nine dollar and ninety cent payment in 1890? A. Yes, sir.

Q. Did you draw the fourteen dollar and forty cent payment in 1895? A. Yes, sir.

Q. In what town?

A. I drawed the twenty-nine dollar payment in Arkansas Town.

Q. That is a colored town? A. Yes, sir.

Q. Where did you draw the fourteen dollar forty cent payment?

A. Well, I really don't know. I was moved to Cheaya Town.

Q. That is a colored town? A. No, sir.

Q. Well, at the time you and your brothers and sisters attempted to be enrolled by the Dawes Commission, they always contended, the Creek Nation contended you ought to be enrolled in the colored town and be put on the freedmen roll, didn't they? A. No, sir.

Q. Did you draw the twenty-nine dollar ninety cent payment in 1890 yourself?

A. No, sir, I didn't draw it myself, I got Mr. Ellis Childers to get it for us.

Q. Do you know whether your brothers and sisters got that payment? A. Yes, sir.

Q. What town did they draw in? A. In Arkansas Town.

Q. Well, were you or Dick Atkins or any member of Dick Atkins' family ever enrolled among the Indians in Euchee Town? A. Not that I know of.

Q. Richard Atkins was your father? A. Yes, sir.

Q. Now, name the other members of your family. You were the oldest one of Richard Atkins' family? A. Yes, sir.

Q. What was the next one? A. Will Atkins.

Q. And the next one? A. Mary Atkins.

Q. And the next one? A. Henry Atkins.

Q. And the next one? A. Margie Atkins.

Q. And the next one? A. Alex Atkins.

Q. Who was Geneva Atkins? A. She is my sister.

Q. They were all enrolled in Arkansas Town? A. Yes, sir.

Q. And drew their payments their payments as members of Arkansas Town, and to your knowledge none of them were ever enrolled as Euchees?

A. No, sir, not that I know of.

Mr. Cobb: We desire at this time to offer the deposition of Charles H. Steeper, shown at page 3064 of the report of Mr. Penick, as Special Examiner.

CHARLES H. STEEPER, at the residence of Charles H. Steeper, being first duly sworn, and under oath, testified as follows:

Direct Examination by Mr. Blakeney.

Q. State your name and place of residence, Mr. Steeper.

A. Charles H. Steeper, McLouth, Kansas.

Q. How old are you? A. 58.

Q. You are, at this time, sick are you? A. Yes, sir.

Q. Did you know old man Henry Carter during his lifetime? A. I did.

Q. How long did you know him? A. 25 years.

Q. When did you first become acquainted with him?

A. 1879.

Q. Where were you living then?

A. Four miles north of here—you might say McLouth—

there was no McLouth at that time. There was no McLouth until '82.

Q. What business were you engaged in then?

A. Farming.

Q. And how long did you continue farming?

A. Well, until '82.

Q. When did you move to the town of McLouth?

A. I moved there in '82, the first time.

Q. How far were you living from Henry Carter when you was out on your farm near McLouth?

A. Well, two miles and a half.

Q. Did you know him then? A. Yes, sir.

Q. What year did you become acquainted with him?

A. 1879.

Q. How frequently were you about his place, or was he about your place in the two or three years following '79?

A. Oh, I can't say that I was ever about his place, or him about mine.

Q. Did you know the members of his family?

A. Yes, pretty well.

Q. During the time that you was living out on the farm, what members of the family did you know?

A. Members of his family?

Q. Yes.

A. Well, I knew his son, Shannon, and I knew Mrs. Yokum, and I knew Adis, and Susie—well, I guess that is all.

Q. During that time, did you know of Adis having any children out there? A. No, I don't know that I did.

Q. You drew his will, did you? A. Yes, sir.

Q. Do you remember when you drew that?

A. No, I can't say that.

Q. It bears date the 13th day of August, 1895?

A. That is the date of the will?

Q. Yes. A. Well, that is when it was drawn, then.

Q. Did you do the writing yourself? A. Yes, sir.

Q. In long-hand? A. Yes, sir.

Q. And you dated it the date that you drew it, did you?

A. Yes, sir.

Q. How did you happen to draw it? At whose request?

A. On Henry's.

Q. What business were you engaged in at that time?

A. Banking.

Q. How long had you been in the banking business at McLouth at that time? A. Since '87.

Q. I will ask you, to call your attention, now, specifically to the statement in the will, which reads, I give and bequeath unto my grandson, H. Carter, for his sole use, the following described real estate, the west twenty acres of the southwest quarter of the northwest quarter of section 27, township 9, range 20, in Leavenworth County, Kansas, and ask you if you wrote that clause in the will? A. Deeding him that land?

Q. Yes. A. Yes.

Q. Just state what old man Henry Carter said to you, if anything, about H. Carter.

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial, and hearsay testimony.

Mr. German: The same objection.

A. Why, he said—he went ahead and enumerated this other land that he wanted to leave to—left one forty to a boy and girl with the home place on it, and another to two daughters, and then, he left this twenty—he said I want to leave that twenty to H—and I said H what? And he said, H is all we call him. I don't remember well how I did put it down. He was always called H—like the capital letter H.

Q. Did he make the statement to you at that time as to whether or not he was the grandson?

Mr. Hanford: I move to strike the latter part of the witness' answer as not responsive to the question. (Question read.)

Mr. Hanford: Objected to as hearsay testimony.

Mr. Stuart: The same objection.

A. Why, not that I know of; I should say not. The old man hardly knew what a grandson, or nephew, or anything like that was. I am satisfied in a clerical way, that he was a nephew; he was is what is commonly called an illegitimate nephew.

Mr. German: Do you mean nephew?

A. Grandson; illegitimate grandson.

Mr. Blakeney: I move to strike out what was generally known as not responsive.

Q. Mr. Steeper, could H Carter read and write?

A. Yes, he could write; he could read—write pretty good letters.

Q. Could write, could he? A. Yes, sir.

Q. And could read? A. Yes, sir.

Q. After you read the deed, did he read it?

A. Excuse me, did you say the old man?

Q. Old man Henry Carter?

A. No, sir, he could neither read or write.

Q. You say, then, old man Carter could neither read nor write? A. No, he was an old plantation negro.

Cross Examination by Mr. German.

Q. Mr. Steeper, you say you were never around the old man Carter's house, and his place?

A. Well, I used to pass along the road; I maybe was in on the premises; I can't tell you, I know I was passing there when the old man hollered to me to *road* and said he wanted me to do some writing for him. That is about the way they generally come at you when they want a will made. He said I want you to do some writing for me; wanted to leave this land to the children, and I said alright, when you get ready, come to town to the bank and I will fix you up.

Q. That was about the time the will was drawn?

A. I can't tell how long; might have been a month and might have been six months.

Q. The bank you were connected with in 1887, was that the first bank that McLouth ever had? A. Yes, sir.

Q. You have been connected with it ever since?

A. Yes, sir.

Q. Did old man Carter do business with that bank?

A. Yes, sir.

Q. All the time from the time it was started until the time he died?

A. There was very little banking done here in '87; started a little along in '90, you know. It was slow work here; very little money in this country, then.

Q. Did you help the old man to keep his business affairs straight in any way?

A. No, the old man was very close about his business affairs. They were a very secretive family.

Q. The old man was a right successful farmer?

A. Old Henry?

Q. Yes.

A. Oh, yes; he was always credited with having money, you know. Loaned a little money.

Q. He kept his account with your bank? A. Yes, sir.

Q. Did you hear him discuss his family affairs very much?

A. No.

Q. Did he ever discuss them with you before you prepared his will?

A. No, I don't know that he ever did, or after, either.

Q. You knew the names of his children, I believe you say?

A. Yes, sir.

Q. How did you get to learn their names?

A. Well, country neighbors like these, we usually get to know the names of the boys and girls of the neighbors.

Q. It was in that same way that you learned what it was claimed what H—rather learned what the claim was with reference as to who H was?

Mr. Blakeney: We object as to asking for hearsay, and incompetent.

A. Now, what is that? I learned the same way who H was? In a common neighbor's way, you mean?

Q. Yes. A. Yes.

Q. What was the general repute here in the neighborhood, as to whose child H was?

Mr. Blakeney: We object as incompetent, and hearsay; irrelevant and immaterial.

A. The repute was—it was commonly believed, it was Adis' child.

Q. Adis, the daughter of Henry Carter?

A. Of Henry Carter.

Mr. Blakeney: Move to strike out the last answer as incompetent, irrelevant, and immaterial.

Q. How large a child was H when you first remember to have seen him? A. About eight years old.

Q. Do you know about when that was? A. No.

Q. About when was it that you first saw this boy, what is your best recollection as to that?

A. Well, now, I can't give much idea as to that. I would ride up and down this road all the time; I saw the boy riding a mule, the latter part of the time from '90, he used to ride the mule in, pretty often. '87.

Q. Was that before? A. I can't tell you.

Q. Do you remember whether it was before or after you started your bank that you first saw him? A. No, I don't.

Q. What business were you in before you started your bank after you came to McLouth?

A. Well, I left farm in '82, and came down to McLouth here, and I was in the store business until '85, and then, I went back on a lot of land up north and I lived up there. My family did, until '91. I started a bank in '87, and I used to ride to and fro every morning and evening from '91. I was on this road a great deal.

Q. Were you on the road a good deal before you started your bank?

A. Yes, when I was on the farm, you know—three or four times a week, I should say.

Q. H was a favorite, was he, of old man Carter? A. Yes.

Q. He was his favorite boy around the place?

A. Yes, I think so. He only had one other around the place—Tom.

Q. He made kind of a pet, didn't he, out of H?

A. I think he did.

Q. Do you know how it happened that you wrote in the will, the statement that Mr. Blakeney read a while ago—my grandson, H Carter—why did you write the words grandson?

A. I presume I would do it as any ordinary notary public, or clerk would do it.

Q. Where did you get the information that he was the grandson? A. Common hearsay in the neighborhood.

Q. Just common hearsay? No, after you had drafted that will, you say you read it over to the old man Carter?

A. Yes.

Mr. Blakeney: We object as not a correct statement of the evidence.

Q. Or did you do that?

A. Well, I could only answer like this; he asked me could I take an acknowledgment to a deed. I would say, as to personal recollection about it. I never did make a will in my life unless I was very careful to call the party in privately and read it over carefully to them before I called the witnesses in.

Mr. Blakeney: I move to strike that last statement as incompetent, irrelevant, and immaterial, and not responsive.

Q. Have you written very many wills?

A. Yes, sir, a great many.

Q. Had you written very many up to 1895?

A. Well, several.

Q. Now, what was your practice with reference to reading the wills over before they were executed, after you had drawn them, to the person who was making the will?

A. What was my practice?

Q. Yes, sir.

Mr. Blakeney: Objected to as incompetent, irrelevant, and immaterial.

Q. As to reading it over to the party who was about to sign it? A. You mean my practice, don't you?

Q. Well? A. I read it over to them.

Q. Well, that is what I mean. Did you invariably do that? A. Yes, sir.

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. I never wrote a will for a man but what I would read it to him.

Q. Then, you remember, do you of his having signed it by mark? Carter having signed this will by mark?

A. Yes, he signs by mark.

Direct Examination by Mr. Blakeney.

Q. T. J. Minney, isn't it? A. Yes, sir.

Q. Is he here now? A. Yes, sir.

Q. What does he do?

A. He lives down there at the hotel—hotel just below the bank.

Q. Daniel W. Blair? A. He has moved to Chanute.

Q. Kansas? A. Yes, sir.

Q. You say you have no recollection of reading this will to Henry Carter? A. No particular recollection, no.

Q. I will ask you if it isn't a fact that after drawing an instrument, or a will, as you say, wouldn't you merely state all the parts you had given to the different children, or the different persons named?

Mr. Stuart: Object to that because it is leading and suggestive.

Q. To see if it was given correctly?

A. No, I read them from the top to bottom; always got hold of what and make a rough draft, after getting what they want; then, go and write the will and after they come in, read it to them, and if it is alright, call a couple of witnesses and take it.

Q. But you don't remember anything about this transaction? A. No.

Witness dismissed.

Mr. Cobb: We also desire to introduce the deposition of Mr. T. Dick, shown at page 3125 of the report of Mr. Penick, as Special Examiner in this case.

And thereupon T. DICK being called on behalf of the defendant Henry Carter, sworn, and under oath, testified as follows:

Direct Examination by Mr. Blakeney.

Q. State your name, age, occupation and residence.

A. My name is T. Dick; I live in McLouth; I am 69.

Q. What is your occupation?

A. I ain't doing anything.

Q. What has been your occupation in life?

A. Well, sir, I was a farmer up until about twelve or fourteen years ago, and then, I had the Post Office, here, for twelve years.

Q. Were you acquainted with old man Henry Carter during his life time? A. Yes, sir.

Q. When did you get acquainted with him?

A. The first year I was in Kansas—'71.

Q. Are you acquainted with, you say, old man Henry Carter—during his life time? A. Yes, sir.

Q. And how far was your farm from the Carter farm?

A. Two miles, I think it is; a mile to the county line—yes just two miles.

Q. And you went on that farm, you say, in '71?

A. '71, yes, sir.

Q. And how long did you live on that farm?

A. I lived on that farm until McKinley was elected president.

Q. That was 1896?

A. Yes, I guess it was about that time; and I lived here in McLouth since then.

Q. Mr. Dick, did you know the members of Henry Carter's family? A. Why, I knew two girls and two boys.

Q. What girls?

A. One of them they called Susan, and one of them they called Adia.

Q. And what were the boys?

A. Why, Shannon and Tommy.

Q. Did you ever see a boy around Carter's known as H Carter? A. Yes, sir.

Q. When did you first see him?

A. Why, I first seen him in '88. The *wasy* I know it, is I was running a thrashing machine at the time, and we thrashed for Higgins, and he sold out that year and went away.

Q. Didn't he sell out in '89?

A. '89, yes; but it was '88 we thrashed for him.

Q. It was the last year you thrashed for Higgins?

A. Yes, sir.

Q. It was the last crop Higgins raised on that land?

A. Yes, sir.

Q. If he received the crop when he sold and shared——

A. He didn't, though.

Q. Do you know the facts?

A. Yes, sir, we thrashed there and thrashed for a man named Barney Rich.

Q. Just tell, *how*, just when you first saw him, just what sized boy he was?

A. Well, when I first seen him, I was there at old man Carter's and we were talking there in the yard and I think four children were playing there in the yard, and I asked him who they were, and I think he said three of them belonged to his son-in-law Yokum, and one of them was a boy he had gotten in Leavenworth; he said he took him to raise.

Q. Had you frequently been to the Carter place before that? A. Oh, yes, I was around there; would pass.

Q. How often would you be around the place?

A. Oh, I can't tell you; pass there a lots of times.

Q. Did you ever stop?

A. We stopped when the old man was out where I could talk to him.

Q. Did you ever see any boy about there—had you ever seen H about there before? A. No.

Q. You knew H from that time on, up until he was grown, did you? A. Yes, sir, seen him, off and on.

Q. You had never seen him before that time?

A. I had never seen him before that time.

Q. About how big a boy was he?

A. Oh, he was a child, I judge, between three and four years old; somewhere along there. He might have been five, but then, I don't think he *we*—could have been five years old then.

Q. You knew Adis, did you? A. Yes, sir.

Q. You had known her for several years previous to that?

A. Yes.

Q. Did you ever know of her having a child?

A. Heard talk of it.

Q. Well, did you ever see her when she [] pregnant?

A. No.

Q. How often would you see her?

A. Oh, I would see her very often when I was going by there; I don't know how often.

Q. Well, prior to the time that you saw this child there, of five years of age, had you seen her several years at intervals? A. Yes.

Q. You had never seen her pregnant? A. No.

Cross Examination by Mr. Hanford.

Q. Where did you see Adis? At the farm? A. Yes.

Q. Was she there all of the time?

A. No, part of the time she worked in Leavenworth, was my understanding.

Q. Did you see her in Leavenworth? A. No.

Q. So, you didn't see her continuously, then?

A. Oh, see her probably once a year, or oftener than that, too, but she worked quite a while in Leavenworth.

Mr. Blakeney: I want to move to strike out the statements of the witness as not responsive to any question about what he heard about Adis having a child, as hearsay, incompetent, and not responsive.

Mr. Hanford: I move to strike out also, what Mr. Carter told—what the witness says Mr. Carter told him regarding the child that was pointed out to him on the place, on the ground that it is hearsay and incompetent.

Mr. Blakeney: I want the record to show whether or not he desires to embrace the whole—that would be hearsay, also, under his contention.

Cross Examination by Mr. German.

Q. Mr. Dick, when did you first do any thrashing—that is, with your own machinery?

A. With the thrashing machine?

Q. Yes.

A. Well, after—he was up there—I went down to Mr. Steeples, and I asked him if he could tell me when Higgins sold out. We run that thrashing machine three years; the third year, thrashed on Higgins place again.

Q. Higgins had sold out?

A. Yes, and that is where I got my date.

Q. What date was that? A. He sold out in '89.

Q. You say you started your thrashing in '87? A. Yes.

Q. And thrashed for three years? A. Yes.

Q. This boy was around old man Carter's when you thrashed the second——

A. Yes, we deviled *Higgins* about him when we were thrashing there, the first ever I seen of him.

Q. Deviled Higgins in what way?

A. Telling him how much it looked like him.

Q. Was there any common talk in the community as to whose child it was? What woman's child it was?

Mr. Blakeney: Objected to as incompetent, hearsay, and immaterial.

A. Yes.

Q. What was that talk?

Mr. Blakeney: We object for the same reason; incompetent, irrelevant and immaterial.

A. Why, it was—the supposition was that it was Adis'.

Q. Was that the talk in the community?

A. That was the talk around.

Q. Was there another child there called Pink?

Mr. Blakeney: We object as not proper cross examination.

A. Yes.

Q. That child was also at old man Carter's?

Mr. Blakeney: Object as not proper cross examination, incompetent, irrelevant, and immaterial.

A. Yes, she was at the old man Carter's.

Q. Now, how old was Pink at the time you were threshing there the second year, or in the year '88?

A. I don't know whether Pink was there at that time or not.

Q. You are not sure about that?

A. I am not sure about that. Pink was not there—I don't know whether Pink was there that time or not; she was the one, I guess, they never denied but what that was Adis' child.

Mr. Blakeney: We object as to what they never denied and move to strike it out as not responsive, incompetent, irrelevant, and not material.

Q. Mr. Dick, you lived within two miles, you say, of old man Carter's? A. Yes, sir.

Q. While you were living on the farm? A. Yes, sir.

Q. And up until the time McKinley was elected?

A. Yes, sir.

Q. And you would see his family more or less during all those years that you lived on the farm, wouldn't you?

A. Yes, sir.

Q. Before you commenced to run your own thrasher, you would help the thrashing of the wheat in the neighborhood, wouldn't you? A. Yes, sir.

Q. And you helped thrash wheat?

A. Thrashed for fourteen years but they never run *team* thrashing machines then. I run a horse power for a good while, and then after we quit that, why, I did not thrash for three or four, or five, years, maybe and we got steam thrashing machinery. The first one that ever was in the country.

Q. Whose was this horse power thrashing machine?

A. Belonged to me and my partner.

Q. So it was five years between the time you quit running your horse power thrashing machine?

A. Must have been five years.

Q. And the time you got your steam thrashing machine?

A. Yes.

Q. It was in '87 that you got your steam thrashing machine? A. Yes.

Q. You say it was in '81, or '82 that you quit running that horse power? A. Yes.

Q. How long had you run your horse power thrashing machine?

A. Well, I owned three different horse power thrashing machines.

Q. And you thrashed on the Carter place with horse power machinery and on the other neighbors——

A. I never thrashed for Carter's with a steam thrashing machine.

Q. But you did with horse power?

A. I did with horse power.

Q. And you thrashed for all the other neighbors around?

A. Yes.

Q. With the horse power? A. Yes.

Q. And with the steam, except Carter? A. Yes.

Q. Now, might it not have been when you were running the horse power machine that you noticed this boy H?

A. No.

Q. Quite sure it was not?

A. I am quite sure it was not then, you know. Higgins, you know, didn't live on that place only four or five years. I didn't own a thrashing machine while he lived there.

Q. You didn't thrash for him at all with the horse power? A. No.

Q. Where did he live before he came on that place?

A. I don't know where he came from; he was a stranger in there.

(Witness dismissed.)

And thereupon, a recess is had until 3 o'clock P. M.

And thereafter, court reconvened at three o'clock P. M., pursuant to adjournment, and the following proceedings were had:

Mr. Stuart: Mr. German, do you want to cross examine Mr. Curtis?

Mr. German: Not at this time. We have him here under process as our witness too.

The Court: He is under process for the Government?

Mr. German: Yes, sir.

The Court: And you may want him in rebuttal?

Mr. German: Yes, sir.

The Court: He may be excused now until Tuesday morning.

Mr. German: Your Honor, I think we will want the books too, and want him to bring the books.

The Court: Well, let him bring the books of original entry.

Mr. Stuart: Your Honor will let us know what books, there are so many of them?

Mr. Long: We can bring the books.

And thereupon, MARY A. SMITH was called and sworn as a witness for and on behalf of the defendant, Henry Carter, and testified as follows:

Direct Examination by Mr. Cobb.

Q. What is your name? A. Mary A. Smith.
Q. Where do you live? A. Leavenworth, Kansas.
Q. How long have you lived in Kansas?
A. Lived in Leavenworth fifty-one years.
Q. I will ask you if you ever knew a party in Leavenworth by the name of Mollie Letcher? A. Yes, sir.
Q. How long did you know her?
A. I knew old Mollie Letcher for twenty or twenty-five years, maybe longer than that.
Q. Did you ever know an Indian woman around her place?
A. I saw her there, yes.
Q. Do you know what name she went by?
A. Indian Minnie.
Q. How old did Indian Minnie appear to be when you first saw her?
A. Well, between nineteen and twenty-one or twenty-two years, I judge that.
Q. Just a young woman? A. Yes, sir.
Q. When you first knew her, Mrs. Smith, did she appear to be abnormal in any way? A. No, sir.
Q. She didn't appear——
A. Not when I first knew who she was.
Q. She didn't appear to be pregnant. Did you afterwards notice any abnormal condition in her?
A. Saw her once while in that condition.
Q. In your judgment, in what stage of pregnancy was she at that time?
A. Well, I saw her about one month before the birth of the child.
Q. Did you know about a child being born to this Indian girl? A. Yes, sir.
Q. Were you there at the birth of the child? A. No, sir.
Q. Did you see the child or the Indian Minnie after the child was born? A. The next morning.

Q. The next morning after it was born? A. Yes, sir.

Q. Where was that?

A. They were at Granny Letcher's up stairs in the north room.

Q. Did you see—— How long from that time did you see this Indian girl around there?

A. Well, about a month or two.

Q. Did she have the child with her? A. Yes, sir.

Q. Do you know whether she nursed that child or not?

A. Yes, sir.

Q. You saw that yourself? A. Yes, sir.

Q. What became of Indian Minnie after a month or two?

A. Well, she worked from place to place, around Fort Leavenworth and in the city.

Q. And did you see her back at Granny Letcher's?

A. No, I never saw her there.

Q. You never saw her there?

A. Not after the child was about a month old.

Q. You just saw her around town? A. Yes, sir.

Q. How long did you continue to see her around the town there, Mrs. Smith?

A. Well, from three to four years.

Q. In other words, three to four years after the boy was born? A. The birth of the child.

Q. Birth of the child? A. Yes, sir.

Q. During that time, did you see the child with her on any occasion? A. I saw her with him once.

Q. Where was that, Mrs. Smith? A. At my house.

Q. At your house? A. Yes, sir.

Q. What was the occasion of her coming to your house?

A. I had some little clothing that a lady gave me and I wanted to give them to her for her baby; I left word at Granny Letcher's and she came after them.

Q. You say that you never saw Indian Minnie after the child was three or four years old you say?

A. No, never seen her.

Q. Do you know what became of her? A. No, sir.

Q. How long did you see the boy around there?

A. I saw the boy until he was between four and six years old, I don't remember which, but he was big enough to toddle around on the street.

Q. Play around on the streets? A. Yes, sir.

Q. Do you know what became of the boy?

A. Well, I heard he went into the country to live with a colored family that was on a farm.

The Court: What she heard will not be considered. That will be stricken from the records.

Q. Is Granny Letcher living or dead?

A. She is dead.

Q. From whom did you hear of this matter?

A. From Granny Letcher.

Q. How long was it after this time until you again saw this boy if you saw him again?

A. I met him once on the street I guess he was about thirteen years old.

Q. Did you recognize him as the same boy? A. Yes, sir.

Q. Did you have any conversation with him at the time?

A. Just a few words.

Q. You are sure it was the same boy? A. Positively.

Q. I wish you would state to the court just what that conversation was at that time?

A. Well, when I was going down the street I met him in the street playing with a ball.

Mr. Cruce: If the court please, we object to that as hearsay.

The Court: Anything he said or what he did wouldn't be competent.

Mr. Cobb: Just on the question of identity.

The Court: Question of identity?

Mr. Cobb: Yes.

The Court: Well, this woman knew him?

Mr. Cobb: Very well, I will not insist on it.

Q. Mrs. Smith, do you know what the boy was called there in Leavenworth when he was around Granny Letcher's?

A. He was called Tom, Tommy Atkins, and had a nickname Commidore.

Q. Now, have you again seen that party, that boy?

A. Yes, sir.

Q. When did you next see him, Mrs. Smith?

A. Well, I saw him I guess it was a couple of years ago, probably not quite that long.

Q. Where did you see him then, Mrs. Smith?

A. Well, I sent for him. I heard about an Indian boy and I sent for him to come and see me. He come to my house one early morning and when he knocked on the door I opened the door and I recognized him.

Q. How did you recognize him?

A. Well, I knew his features, knew his face.

Q. You recognized him from his appearance and from his features? A. Yes, sir.

Q. Did you have any other way of identifying him, Mrs. Smith? A. Yes, sir.

Q. Just state to the court what it was?

A. Well, there had been three or four there trying to say they were him, and I knew they were not him. When they came, I said: Now, listen, before you go any further——

Q. Now, I don't care for the details.

A. I knew him—— I asked him if he had a mark on his back and he said yes.

Q. Did you make an examination to see if he had a mark on his back? A. No, sir, I took his word for it.

Q. Have you ever made an examination to see whether the mark was there? A. I saw the mark, yes.

Q. Describe that mark to the court.

A. Well, it is a mark just below the shoulder blade. It is not a red mark nor a brown mark, but it is more white then when he was a baby.

Q. When you examined him, did you find that mark on him? A. Yes, sir.

Q. Now, you say it was more of a white mark than when he was a baby? A. Yes, sir.

Q. Did you notice that mark on him when he was a baby?

A. Yes, sir, the morning after he was born.

Q. How come you to notice that mark on him the morning after he was born?

A. Well, when I was a younger woman I used to practice nursing and when I went into Granny Letcher's she told me that the baby had cried all night and would I go up and see what was the matter, and I guess maybe his clothes are too tight on him, and she asked me to examine him; and I did, and I found the mark and I asked her what she had been doing to him to cause those marks and she [] nothing—they were there when he was born.

Q. Recognized some marks when you dressed the baby the next morning? A. Yes, sir.

Q. When you saw when he came to your house——

A. I didn't see them when he came to my house.

Q. Well, when? A. When I saw them, yes.

Q. You merely asked him about them then?

A. I asked him, yes, sir.

Q. Now, Mrs. Smith, you say this Indian girl went by the name of Indian Minnie? A. Yes, sir.

Q. Have you ever seen her since she disappeared from Leavenworth? A. Yes, I saw her a couple of years ago.

Q. You didn't see her until a couple of years ago?

A. No, I never saw her.

Q. When you saw her, Mrs. Smith, did you know that she was the same woman that went by the name of Indian Minnie? A. Well, I was positive, yes.

Q. In what way did you recognize her? A. Well, she had the resemblance and everything, and then she recognized the color of some sewing that I done for her.

Q. Now, just state to the court what was said about the sewing that made you recognize——

A. Well, we went to the Fort—Fort Leavenworth, in a taxicab, a automobile, and while going out we got to talking to get acquainted and she mentioned herself about the red calico dress that I made her.

Q. Now, when she gave—in *order* words, you recognized her as being the same party? A. Yes, sir.

Q. From her appearance and then from the conversation you had with her? A. Yes, sir.

Q. Now, you say you drove around with her in an automobile when she was there? A. Yes, sir.

Q. What was the purpose of driving around with her?

A. Well, I guess no individual purpose at all; she was going to the Post to see somebody that she had worked for, and asked me go along.

Q. It was to find people that she knew? A. Yes.

Q. Now, did you she recognize you when she came to your place there? A. I don't know.

Q. Did she appear to remember you?

A. Not until I had a talk with her.

Q. Now until you had a talk with her? A. No, sir.

Q. And then you went with her to the Fort?

A. To the Fort, yes.

Cross Examination by Mr. Stuart.

Q. Where did you see this Indian Minnie two years ago?

A. At my own home.

Q. Who was with her? A. Mr. Long.

Q. And it was the same Indian Minnie that you saw at Granny Letcher's? A. Yes, sir.

Q. You know that? A. I know that, yes, sir.

Q. Now, did you testify in that case that Granny Letcher told you that this boy was dead?

A. She did, yes; when he went to the country, she said she heard he was dead.

Q. Now, let's see; was this question asked you: "Do you think that you would be able to recognize the boy if you saw him? Well, I don't know; you see that has been twenty-nine years ago and he was only a baby when I saw him but I think I could draw off the resemblance if I would see him, but I heard afterwards, I used to do a great deal of reading and writing for this old lady Letcher, and I heard afterwards that the boy was dead; she let someone take it and she said he was dead."? A. Yes, sir.

Q. That is correct. So, the boy you saw at Granny Letcher's was the baby that Minnie had? A. Yes, sir.

Q. And you saw the baby with this Indian Minnie?

A. Yes, sir.

Q. And Granny Letcher told you that that baby was dead? A. Yes.

Q. Now, Mrs. Smith, when it was a baby, it had a red spot under its shoulder? A. Kind of pink—pale pink.

Q. Sort of a strawberry, wasn't it?

A. Well, not so deep as a strawberry.

Q. Well, sort of a strawberry, and now it is a grape colored—white grape?

Mr. German: We object to the statement of the witness that Granny Letcher told her that the boy was dead.

The Court: Merely a part of the cross examination——

Mr. Stuart: That is all.

Q. The scar you talk about now looks like a bunch of California grapes, doesn't it—white grapes?

A. No, didn't look like grapes; looked like a spot.

Q. Did you say it looked like grapes? A. No, sir.

Q. Well, it is like a spot——

A. No, sir, it is like a blister or something on him.

Q. It was pink then? A. Yes, sir, pink.

Q. And it is white now?

A. Yes, sir. It gradually grew white because I dressed him many a time.

Q. How fast did it grow white? A. I don't know that.

Q. Don't you know how fast it grew white?

A. No, I never measured it.

Cross Examination by Mr. Allen.

Q. Mrs. Smith when did you first have this matter called to your attention and by whom?

A. I disremember but the first time anybody ever talked to me was by a colored lady.

Q. Sadie James?

A. I think that is what her name is; I learned afterwards.

Q. How long after Sadie James talked to you was it that you talked to Mr. Josey? A. About a month.

Q. What was Mr. Josey's name, initial?

A. I don't know?

Q. Was it R. A. Josey?

A. I think so, I'm not positive.

Q. Who was with Mr. Josey when he talked to you?

A. Nobody

Q. Then after Mr. Josey talked to you, when was it you first talked to Long—Mr. Long?

A. I don't remember; not very long.

Q. You talked to all of those people before you saw Minnie? A. I didn't talk to very many.

Q. I know, but you talked to those three before you saw Minnie Atkins? A. Yes.

Q. And they told you all about her life, didn't they?

A. No, they didn't say a word about Minnie; their business with me was to find the boy. That is what they wanted to do.

Q. They told you about the boy born at Granny's didn't they?

A. No, they didn't have to; they told me who he was.

Q. Told you who he was. Will you tell the court please, why you didn't testify in 1914 that Henry Carter was a boy? Just tell the court why it was you didn't testify in 1914 that Henry Carter was a boy?

A. Any time that I have testified I recognized the boy and if anybody got the testimony wrong, why I didn't give it.

Q. Just tell the court, frankly, why it was that you didn't say anything about the boy in 1914?

A. Where was that, Leavenworth?

Q. Yes.

A. Why I certainly did, if I was on the stand; I certainly did.

Q. Did Mr. Long tell you not to say anything about Henry Carter? A. No, sir.

Q. Did Mr. Josey? A. No, sir.

Q. Well, you didn't say anything about him did you?

A. Why, they didn't give me time; you didn't give me time.

Q. I wasn't there.

A. You dismissed me there in the postoffice in our town before I could say anything.

Q. 1914 when you testified? A. 1914—1915, I guess.

Q. When you testified in the courthouse in Leavenworth?

A. I don't know when it was but you know very well when it was, I was there. I know you dismissed me mighty quick.

Q. You were produced as a witness on behalf of Mr. Page at that time, weren't you?

A. I don't know anything about Mr. Page; I never met him, that I know of.

Q. You were produced by Mr. Long? A. Mr. Long, yes.

Q. And you were examined on that occasion by Mr. Rice, the attorney for Mr. Page and Mr. Long?

A. I met Mr. Rice, yes, sir.

Q. He examined you on the witness stand that day, asked you questions? A. I think so.

Q. You told Mr. Long and Mr. Josey and Sadie when you talked to them about making this red calico dress for Minnie, about remembering her by that?

A. No, sir, I did not. When I met this Sadie and the first of them I didn't see Minnie either.

Q. I know, but you told them?

A. No, sir, I never mentioned it.

Q. Didn't you tell either one of them about making a dress for Minnie? A. Afterwards I did.

Q. When?

A. After I had met Minnie and talked to her. Minnie recognized me and remembered the dress.

Q. She didn't recognize you at first?

A. I think she did, yes.

Q. I thought you said she didn't recognize you at first?

A. Well, of course being away from her so long, we couldn't recognize each other on the spur of the moment, we have grown stouter.

Q. Sadie James told you all about this boy born at Granny's? A. No, sir, because I didn't give her time.

Q. Well, you told her about it? A. No, I did not.

Q. Who did you tell about it?

A. I knew it because I was there, I don't have to have anybody tell me.

Q. His name was Commidore?

A. No, his name was Tommy Atkins, but George Crilly nicknamed him Commidore.

Q. Had George Crilly been talking to you, Mrs. Smith?

A. No, sir.

Q. Mrs. Smith, didn't some one tell you not to remember anything about that scar? A. Not that I remember.

Q. Is that the reason you didn't testify to it?

A. I have always testified to it. If you have got any testimony that that isn't in, I didn't make it.

Q. When were you married, Mrs. Smith?

A. Married, I was married forty-three years ago, you can count that up for yourself.

Q. To Mr. Smith? A. Mr. Smith, yes, sir.

Q. You were then living with your husband when you saw this child? A. Yes, sir, living with my husband.

Q. You saw this woman a month before she gave birth to a child?

A. Oh, I saw her quite frequently before that, but I saw her in that condition a month before she gave birth to the child.

Q. She was in a very large condition at that time?

A. Yes, sir.

Q. You had known her before that time?

A. I had seen her on the street but never knew her.

Q. You knew she was staying at Granny's?

A. No, I knew she was a girl called Indian Minnie.

Q. And she was living at Granny's when you first saw her in this pregnant condition?

A. She was sitting there I suppose she was living there.

Q. You saw her frequently at Granny's until after the child was born? A. No, I never saw her but once.

Q. You saw her in the daytime? A. Yes, sir.

Q. All the times you saw her at Granny's was in the daytime? A. Just that one time, yes, sir.

Q. But you saw her when the child was how old?

A. The next morning after the child was born.

Q. That was in the daytime?

A. Yes, sir, in the morning.

Q. You saw her frequently thereafter? A. Oh, no.

Q. How often?

A. Maybe once every two weeks; I sewed for this Mrs. Letcher.

Q. And you saw her in the daytime when you did see her?

A. Yes, sir.

Q. And she was staying then at Granny's?

A. Always seemed to be there, I suppose she was staying there.

Q. How long did she seem to stay there?

A. Don't know.

Q. Until she went out to work? A. Don't know.

Q. Well, about two months? A. About a month.

Q. So, it was about two months you saw her at Granny's?

A. One month.

Q. One month before and one month after?

A. Just about that time, might have been a little more and might have been a little less.

Q. Then, after that you saw her how often at Granny's?

A. I didn't see her any more at Granny's.

Q. She was working in town?

A. Yes, sir, and at the Post, Fort Leavenworth.

Q. Where, in town? A. Don't know.

Q. But she was working in the town?

A. She was working in town, yes, sir, some place.

Q. And when did she go to work at the Fort?

A. Don't know.

Q. But afterwards she went to work at the Fort?

A. Think so.

Q. Mrs. Smith, what sized woman was Minnie at that time?

A. Well, a very well built woman, I don't know exactly.

Q. Would she weigh a hundred pounds at that time?

A. Yes, and more.

Q. She was small of stature? A. No, she was stout.

Q. Do you remember the occasion when Mr. Cook and myself went out to your house about 1915 and *1915*? A. I do.

Q. After you had testified? A. I do.

Q. Did you tell us there that this woman you saw at Granny Letcher's couldn't be the Indian Minnie you later saw?

A. No, I did not.

Q. Did you tell us there that Mr. Long had suggested to you that you say nothing about the scar on the boy's back?

A. Did not, because Mr. Long never suggested such a thing to me.

Q. But you didn't say anything about the scar on Tommy's back? A. I did, yes, sir.

Q. You did when you testified at Leavenworth?

A. I did. If you haven't got it that way you misrepresented it.

Q. I didn't transcribe these notes, the stenographer did.

A. Yes.

Q. What year was it that you saw her there?

A. Don't know.

Q. You said in 1914, it was 1885 or 1886?

A. I don't know, it was between twenty-eight and thirty years ago, thirty-two or thirty-three years ago might have been.

Q. How long had Granny Letcher been living on Seneca Street when you saw her?

A. Don't remember, don't remember quite a long time.

Q. She had been living on Seneca Street some two or three years you testified in 1914? A. I think so.

Q. Is that right, had she been living there for two or three years when you first saw Minnie there?

A. I don't know that long ago.

Q. But she had been living there a long time?

A. Granny lived there, yes.

Q. Before you ever saw Minnie there. You say she worked some place in the town of Leavenworth, do you know where she worked? A. I don't know, not whose house.

Q. But you don't know where in the city she was working? A. No, sir.

Q. But she was working down in the city some place?

A. Worked some place, at least she said she was.

Q. This boy you saw at Granny Letcher's was a negro boy, wasn't he? A. He didn't look it to me.

Q. Didn't he look like an Indian boy with negro blood in him? A. No, sir, didn't look like negro to me.

Q. Well, he was fully as dark as Henry Carter?

A. Well, I couldn't tell you, because a baby has never got its natural color.

Q. But you thought he was the son of a negro father, didn't you?

A. No, I didn't have no thought like that; I never waste time to think.

Q. Never stopped to think about it? A. No.

Q. Mrs. Smith, you say—— Did Dennis Jones ever talk to you about this case? A. Don't think he did.

Q. Rube Smith? A. No, sir.

Q. You have never talked to either of them? A. No.

Q. Sure of that?

A. I might have passed the time and said something, but never had a conversation.

Q. Then, the only people you have talked to before you testified in Leavenworth, was Sadie, Mr. Josey, Mr. Long and Minnie?

A. No, naturally suppose that I would speak to other people about that, not no attorneys though.

Q. But you talked to those four you remember? A. Yes.

Q. And you talked to Crilly?

A. Well, not on this subject.

Q. You gave your deposition in Leavenworth on the 13th of October at the Court House?

A. I don't remember when it was.

Q. It was in the fall of 1914. At that time was this question asked you and this answer returned: "Q. And was this Minnie Atkins colored or white or Indian, so far as she appeared to you? A. Well, she was fair enough but she did not look like a white person to me"? A. I said that.

Q. "Q. How old was the baby when you saw it at that time? A. The first time? Q. Yes. A. Just about a day old"?

A. Well, a night old would be about a day old.

The Court: You said that?

A. I said the next morning after it was born.

Q. Then were these questions asked and these answers returned: "Q. Were you at that time acquainted with Indian Minnie?" speaking about 1885 and 1886——

A. I don't remember if that question was asked.

Q. Wait a minute, "Not personally acquainted with her, I met her though"? A. Yes.

Q. "Q. Where did you first see her? A. I first saw her at this old lady Letcher's. Q. What were the circumstances occurring at the first time you first saw Minnie Atkins at old lady Letcher's? A. Well, I taken some sewing home that I had been doing for the old lady, and she said that she had a sick woman there and I asked her what was the matter with her and she said—— Q. Leave out a little of what she said. A. I said could I go up stairs and she said yes and I went up stairs. Q. Whom did you see? A. I saw a girl looked to be about a quarter grade Indian. Q. Where was she? A. She was in bed. Q. Who was with her when you saw her? A. There was no one with her only the baby when I saw her." Were those questions asked and those answers returned? A. My answer was not that I asked to go up stairs.

The Court: Was the rest of it all right?

A. Yes, they asked me to go up stairs and see what was the matter with the baby.

Q. Were these questions asked you and these answers returned: "You saw the mother around for about a year after the baby was born? A. Seemingly that long."

A. I didn't see her at Granny Letcher's.

Q. But you saw her around?

A. Knew she was in town but I didn't see her anywhere. That was only when she came to my house to bring a little sewing that she wanted me to do.

Q. How old was the baby then?

A. Oh, I saw her with the baby when he could stand alone.

Q. You saw her frequently until the baby could stand alone? A. Once or twice I saw her but not frequently.

Q. Did you ever see her in a family way after that baby was born? A. Saw her frequently after that?

Q. Yes. A. No.

Q. Were these questions asked and answers returned: "What kind of a looking boy was it at the time he was four or five years old? Was he light or dark? A. Well, he was just about what you call half grade. Q. Might have been Indian, might have been negro? A. He looked more like a colored boy than he did an Indian."

A. I never have said that he looked like a colored boy.

Q. "Of course he had straight hair; he didn't have no curly hair but he was rather brown." Did you make those answers?

A. Not that he looked like a colored boy; I never have said it.

Mr. Allen: May it be agreed that I am reading this right?

Mr. Cobb: We will take it for granted that you are reading it right.

The Court: We will take it for granted that you are, Judge.

Mr. Stuart: What page is that?

Mr. Allen: Page 270, Judge. The last answer was 270. I would like to read that answer over again—she interrupted.

The Court: Read the question and answer.

Q. "Might have been Indian and might have been negro? A. He looked more like a colored boy than he did an Indian; of course he had straight hair; he didn't have no curly hair, but he was rather brown."

The Court: Did you make that answer at Leavenworth?

A. No, sir.

Q. Were these questions asked you and answers returned: "Do you think you would be able to recognize that boy if you saw him? A. Well, I don't know; you see this has been twenty-nine years ago; he was only a baby when I saw him but I think that I could draw off the resemblance if I would see him; but I heard afterwards, I used to do a great deal of reading and writing for this old lady Letcher, and I heard afterwards that boy was dead. She let someone take him and I think she said he was dead."

A. Yes, that is what she said.

The Court: That was your answer at Leavenworth?

A. Yes, but I didn't say that he was a negro boy.

Q. Was this question asked you and answer returned: "Q. When did Granny Letcher tell you that the boy had died? A. Well, it must have—he must have been seven or eight years old then." A. Yes, sir.

The Court: Now, was that your testimony at Leavenworth?

A. Yes, sir.

Q. You talked to Mr. Long within two days before you testified at Leavenworth, didn't you? A. I don't remember.

Q. To refresh your recollection I will ask you if this question was asked and answer returned: "Have you talked to Mr. Long within the past two days with reference to this matter? A. I believe I did," refreshing your recollection from that do you say now whether or not you talked to him just before you testified at Leavenworth? A. I don't remember.

Q. But you did talk to him shortly before you testified? A. I think I did.

Q. You were living right next door to the Letcher home, wasn't you at the time this child you saw was born?

A. I was about two blocks away.

Q. Were these questions asked and answers returned by you: "Where were you living at the time that you went to this Letcher woman's house? A. I was living right next door."

A. No, sir, because I wasn't living right next door and I couldn't testify to that.

Q. "Next door to her? A. Yes, sir. Q. How long did you live there? A. I lived there about a year."

A. No, not at that time; I did live there once upon a time but not when the baby was born.

Q. When did you live there Mrs. Smith?

A. Well, I disremember but I know I lived there.

Q. In after years, was it? A. Yes.

Q. And you lived next door on Seneca street, at one time, to Granny Letcher's?

A. West of Granny Letcher's—east of Granny Letcher's.

Q. Wasn't it Mary Lower that you saw there at Granny's at one time, and isn't that the child that you are now testifying about? A. No, sir.

Q. State whether or not a picture was brought to you of Mary Lower during the early stages of this case?

A. No, sir, never have seen her picture.

Q. Wasn't a picture of a baby brought to you? A. No.

Q. Were these questions asked you and answers returned: "How much sewing did you do for her"—speaking of Granny Letcher. "A. Well, I don't know; I have sewed for Mrs. Letcher for about ten years. Q. You have sewed for Mrs. Letcher for about ten years. A. Yes, sir. Q. Did a good deal of sewing for her? A. Yes, sir. Q. Now, at what time do you say you lived next door to her about a year, about that part of that year; what time in the year were you living there was it that you first saw that child? A. I disremember. Q. You don't remember that? A. I know it was not cold enough that I wrapped up when I went over there."

A. That was at the time of the birth of the child.

The Court: Was that your testimony at Leavenworth?

A. Well, not while the child was there I didn't live next door to them. It was after the child was taken away.

The Court: How about the rest of it?

A. It is alright.

Q. Was it cold weather? A. No, sir.

Q. What did you mean when you said it was not cold enough that you wrapped up?

A. Well, I suppose they must have meant what time of year that boy was born. That question was asked me and I said I didn't remember the month but it wasn't cold enough for me to wrap up. This is the only question that I gave that answer to.

Q. Now refreshing your recollection, you saw a baby there at Granny's when you lived next door, didn't you?

A. No, sir.

Q. That is the baby you are talking about, isn't it?

A. No, I didn't see no baby there.

Q. Well, it was a little cold, wasn't it?

A. Oh, it wasn't cold, no; I didn't have nothing around me and I came two blocks away.

Q. Well, it wasn't summertime, you remember that?

A. Oh, no, it wasn't hot. I wasn't hot going down or coming back.

Q. Were these questions asked you and these answers returned: "Q. How long since you and your husband separated? A. Four years ago in February. Q. You were living with him at the time that you lived next door to this woman? A. Yes, sir."

The Court: Was that your testimony at Leavenworth?

Q. Was that your testimony? A. Yes, sir.

Q. Has anybody ever asked you not to say anything about this scar on Tommy's back? A. Never that I remember.

Q. You don't remember that? Sure of that?

A. Don't remember who it was or when it was.

Q. But somebody did, didn't they? A. No, sir.

Q. When Mr. Cook and myself talked to you about the very first thing you told us was that the boy that you saw with a woman at Granny Letcher's is now Henry Carter, wasn't it? A. Well, that is what they called him then, yes.

Q. You said Henry Carter is the boy I saw at Granny's, didn't you? A. The boy that call Henry Carter.

Q. And you told us also, did you not at that time, that the Minnie Atkins who was brought to your home by Mr. Long, was not the woman that was stopping at Granny Letcher's at the time you stated you saw the baby and the woman in bed?

A. No, sir, I don't think I made that statement to you.

Q. You say Indian Minnie remembered you?

A. I think she did.

Q. She didn't at first though?

A. Well, she had to—of course we are both broken, a few years on our heads; we didn't look like we did when we were young.

Q. Dennis Jones with her when you saw her? A. No, sir.

Q. Who was with her? A. Mr. Long.

Q. Who else?

A. I don't think anybody else was; I don't remember.

Q. Was Mr. Crilley?

A. Oh, he was driving the car, yes.

Q. And it was some little time before you recognized her, wasn't it, Mrs. Smith? A. No, sir.

Q. You had been told she was coming there?

A. No, sir, I never knew she was coming until she got into the house.

Q. Who introduced you to her? A. Mr. Long.

Q. You knew she was in the city, though?

A. No, I didn't know that.

Q. Well, they told you they were going to bring her down there though? A. How do you know they did?

Q. Didn't they? A. No.

Q. Didn't Sadie tell you so?

A. Why, Sadie never said only a few words to me and I chased her out of my house.

Q. What did Long say when he introduced her to you?

A. Just said—introduced me, said this is Mrs. Smith, and this is Minnie.

The Court: How long was Sadie in your house, Mrs. Smith?

Q. She was there twice; came the first time and asked about this boy and I told her——

The Court: How long was she there the first time?

A. About five minutes the first time.

Q. And then how long was Mr. Josey there?

A. Mr. Josey talked to me about a half hour.

Q. What did he ask you about?

A. Asked me did I remember that boy and I told him yes.

Q. Then how long after that was it when Mr. Long was there? A. I disremember.

Q. What did Mr. Long say to you about it?

A. I don't know; asked me if I would recognize the boy or if I knew he was dead or alive.

Q. You paid any money when you *were* testified in Leavenworth in 1914?

A. Why, I got my witness fees, that is all I ever got.

Q. How much? A. A dollar and a half a day I think.

Q. Didn't you give five dollars? A. Who?

Q. Mr. Long?

A. Give me expenses back and forth, that is all.

Q. How much? A. Give me five dollars.

Q. You testified there that you knew this child, and knew Minnie and never said a word about Henry, did you?

A. Henry? I didn't know Henry.

Q. Do you know Mr. Hanford? A. No, sir.

Q. This gentlemen here sitting down?

A. I don't think I do; no.

Q. Never saw Mr. Hanford?

A. I might have seen him; I have seen about fifty.

Q. Did he ever come to your house to talk to you?

A. I don't remember.

Q. Did he come there with Minnie?

A. I don't think anybody ever been there with Minnie but Mr. Long.

Q. Mr. Crilley wasn't with Minnie?

A. Oh, he was always driving the car or the cab.

Mr. Allen: Henry; stand up please.

(Henry Carter stands up in rear of court room.)

Q. Is that the boy you say you saw at Granny's?

A. Positively sure he is the boy.

Q. Positively sure he is the boy? A. Yes, sir.

Q. You have seen him off and on from the time you saw this boy there until the present time, haven't you? A. No, sir.

Q. How old was he when you last saw him?

A. When I last saw him?

Q. Yes?

A. Well, I saw him a couple of years ago, the first time I saw him since he was about 13 years old, and from four to six I saw him every day, sometimes three and four times a day, because I almost took care of that child.

Q. You knew about old man Henry Carter coming in there and getting him and taking him out to his home, didn't you?

A. I knew someone came in from the country and took him out.

Q. Oh, he is the boy you saw at Granny Letcher's?

A. Yes, he is the boy.

Q. And do you know Adis Wright? A. No.

Q. Did you have a boy about this age, Mrs. Smith?

A. My boy was about two years older, about two years.

Q. Did he play with Henry? A. No, sir.

Q. Why didn't he play with Henry?

A. Well, I lived too far away and didn't allow my boy out in the streets, he was too young.

Q. You didn't allow your boy to play with negroes?

A. Well, I didn't consider Henry a negro.

Q. Henry lived with a negro woman?

A. Yes, sir, and a thorough-bred one too.

Q. What? A. A thorough-bred one.

Q. What do you mean?

A. Well, real nigger, she was a real nigger.

Q. Was she light complected? A. No, sir.

Q. Was she jet black?

A. No, not jet black, she was a common dark negro.

Q. She didn't have any white blood at all?

A. I don't know about that.

Q. She was a real nigger? A. I think she was, yes.

Q. What was your boy's name that was two years older?

A. Percy W. Smith.

Q. Where does he live? A. I hope he lives in Heaven.

Q. He is dead now? A. Yes.

Q. What was his nickname? A. Swipe.

Q. Swipe Smith? A. Yes.

Q. He never played with Tommy?

A. No, I don't think he ever did, no.

Q. What year was he born in?

A. Well, my boy would be thirty-four years old if he was living now.

Q. He played with boys his age, did he?

A. Well, in those times he didn't, he was too young to play with anybody then.

Q. But up to the time that this boy disappeared from Granny's he was too young to play with boys, wasn't he?

A. Well, he used to run around in the streets wild, like a wild animal anywhere and everywhere.

Q. But, before he got very wild and while he was still young he was taken to the country?

A. Well, between four and six years old he disappeared from me.

Q. Well, you continually saw him at Granny's for years?

A. No, not years. After just a little while.

Q. But you know he disappeared?

A. I know he went away and I asked her for him because I was interested in the little fellow.

Q. He wasn't at Granny's home? A. No, sir, he wasn't.

Q. After he was four or five? A. No, sir.

Q. That you are sure of?

A. No, I am not sure how old he was.

Q. But you didn't see him again?

A. Until he was about thirteen years old.

Q. Then he come back again?

A. No, I met him on the street in front of Mariah Yokum's.

Q. But he didn't live there any more from the time he was four or five years old until he was thirteen?

A. He didn't live there that I know of.

Q. Did you know Aunt Mollie Peters, the fortune teller?

A. No, sir.

Q. Did you know an Indian girl there called Indian Mary?

A. I didn't know her, but I know of her.

Q. She was a common character? A. I don't know.

Q. Street woman?

A. Don't know that. I was a home woman and wasn't supposed to know those things.

Q. Where did she live?

A. Don't know anything about it.

Q. She lived down in that part of town, you understood where or about where?

A. Well, reading the papers, never saw her in my life.

Q. She was a bad character? A. I don't know.

Q. Her name appeared in the paper?

A. Police character generally, I never saw her do anything.

Q. Did you know Ida Foster?

A. Yes, sir, my mother raised her.

Q. Did this Indian Mary run around with Ida Foster?

A. I really don't know, I know nothing about that.

Q. You heard so? A. No, I don't know.

Q. Indian Minnie didn't?

A. I think she did, I am not sure of that.

Q. You never saw them?

A. No, sir, I was a married woman and had my children all in a bunch, and I stayed with them and didn't have those people in my house.

Cross Examination by Mr. Stuart.

Q. You testified in 1914 at Leavenworth, and last year you were subpoenaed in Leavenworth again were you?

A. I don't think so, I might have been. I dismissed all of those things because they don't interest me enough to put them down, make a memorandum of them.

Q. When you got there, you remember this gentleman here, don't you? A. I certainly do, I think I do.

Q. And the gentleman behind him?

A. No, I don't remember him.

Q. This is the gentleman here that talked to you?

A. Yes, sir, I remember him.

Q. And you told him what you knew about the case?

A. I might, yes, I didn't have time hardly to tell him anything.

Q. Didn't you go into an office with him?

A. Certainly, yes, sir.

Q. And you told him what you knew about it, he asked you some questions? A. Yes.

Q. And he didn't put you on the stand?

A. Well, he let me get up there, but he got me away right away.

Q. Dismissed you? A. Yes.

Q. Do you know the Yoakums? A. I know them, yes.

Q. Do you know Lilly Yoakum, now Lilly Williams?

A. No.

Q. Did you know Angus? A. Yes, sir.

Q. Where does Angus live?

A. She lives with her mother on Shawnee Street.

Q. She was old man Carter's daughter?

A. No, granddaughter, I believe.

Q. Did you know Bertha Yoakum?

A. I know them of late, yes, sir.

Q. Did you know them in those days? A. No.

Q. Never heard of them?

A. Yes, I heard of them but I didn't know them.

Q. Never heard of them at all?

A. Heard of them, yes, sir.

Q. Now, this scar business you talk about, you didn't testify to that, you weren't asked about that when you testified in 1914? A. Pardon me, about what?

Q. When you gave your testimony in Leavenworth, you weren't asked about the scar then? A. Why, sure.

Q. Now, you think it over?

A. I have given my evidence, whenever I gave it I mentioned that spot on that boy's back.

Q. Are you certain of that?

A. I am positive, sure. If you haven't got it in my testimony somebody has knocked it out.

Q. Who was it asked you that question?

A. Everybody that ever come to me.

Q. No, but when you were on the stand, who asked you about the scar? A. I didn't get on the stand.

Q. You know what testifying is, don't you, Mrs. Smith?

A. Well, I am testifying now, ain't I?

Q. You are testifying under oath. You testified in Leavenworth under oath?

A. I certainly did, but I didn't get to say nothing.

Q. You testified once in Leavenworth under oath?

A. Why, certainly.

Q. When you gave your testimony that Judge Allen asked about, that was the testimony you gave under oath?

A. Some of it.

Q. But what he read you, that was under oath?

A. Not all of it.

Q. You did testify under oath? A. I did.

Q. And nobody asked you about that scar, did they?

A. They wanted to know how I knew this was the boy and I told them about the scar on his back.

Q. When you testified in Leavenworth under oath?

A. Yes, sir.

Q. You are certain of that? A. I was certain.

Q. You are sure, you are as sure of that as you are that the scar was red? A. No.

Q. You are more certain the scar was red? A. No.

Q. You are more certain you testified it was red?

A. No.

Q. Did you know a boy up there by the name of Tommy York? You remember Tommy, don't you?

A. No, I have heard of him.

Q. You have heard of that bad Tommy Owens up there, didn't you? A. No.

Q. Did you know Alva Adams?

A. No, sir, I wasn't out among the boys, the tough boys like those.

Q. But you lived next door to Granny Letcher?

A. She wasn't no tough boy.

Q. Well, she was a tough lady?

A. Well, not apparently to me, never was tough when I was around her.

Redirect Examination by Mr. Cobb.

Q. Mrs. Smith, mention was made of the fact that you were separated from your husband years ago; how long did you live with Mr. Smith? A. Live with Mr. Smith?

Q. Yes?

A. Well, I have been separated from him seven years and I have been married to him forty-three years, so you can figure that up.

Q. That would be thirty-six years you lived with him?

A. About.

Q. How many children have you raised? A. Six.

Q. Mrs. Smith, when you gave your deposition in Leavenworth, that is the first time, in October, 1914, was that before or after H. Carter had come to you to be recognized?

A. I think it was after.

Q. You think it was after he came to you?

A. Yes, sir.

Q. Now, to refresh your memory, you stated that Carter, you first saw him recently about two years ago?

A. Well, two or three, I haven't set down the dates of these things you know, because it didn't interest me that far.

Q. You don't remember whether that was before or after Carter came to you? A. I think it was after.

Q. When you gave that testimony? A. I think so.

Q. Now, at Leavenworth, when you were called to the Federal Court House there to give your deposition, who did you first see there?

A. Don't remember, I saw everybody, went right in the room where they all were.

Q. You saw Mr. Allen and he took you off in a room and talked to you I believe you said, is that right?

A. I don't remember whether he did at the County Court House or not, he did in the Federal Court.

Q. In the Federal Court? A. Yes, sir.

Q. After you had talked to him did he use you as a witness or not? A. No.

Q. Told you you could go? A. He didn't want me.

Cross Examination by Mr. Allen.

Q. Mrs. Smith, you never saw me when you testified in the County Court House?

A. I said I didn't remember. I know I saw Mr. Rice.

Q. I wasn't there, was I?

A. I don't know that you was.

Q. The first time you saw me was long after you testified, at your home?

A. Well, don't remember that. There has been so many bothering me, but I remember you. But I do remember you.

Q. I was there with Mr. Cook, don't you remember?

A. Who you were with there, I think a short stout man.

The Court: Well, I understand, Judge, that you were not there in 1914.

(Witness dismissed.)

And thereupon, BENJAMIN ENGLISH was called and sworn as a witness for and on behalf of the defendant, Henry Carter, and testified as follows:

Direct Examination by Mr. Cobb.

Q. State your name? A. Benjamin English.

Q. Where do you live?

A. Jefferson County, Kansas.

Q. How long have you lived there? A. Forty years.

Q. How old are you? A. I am seventy-two years old.

Q. Where were you born?

A. LaPlatte County, Missouri.

Q. Were you a slave before the Civil War? A. Yes, sir.

Q. I will ask you if you were acquainted with Mollie Letcher or Granny Letcher in her lifetime? A. Yes, sir.

Q. Where did you know her, Ben?

A. Knowed her in Leavenworth.

Q. Leavenworth, Kansas? A. Yes, sir.

Q. How long did you know her?

A. Oh, I guess for twenty years, along about that time, I wouldn't say for certain.

Q. I will ask you if you ever saw an Indian girl or woman around Granny Letcher's? A. I did.

Q. By what name did she go?

A. Called her Indian Minnie, that is all the name I ever heard.

Q. Never heard of any other name except Indian Minnie?

A. No, sir.

Q. How long did you see her around Granny Letcher's?

A. Some three or four years, I think, about that.

Q. Did you ever see her with any child there at Granny Letcher's? A. Yes, sir.

Q. How old did the child appear to be when you first saw it? A. It was about a month old, I think.

Q. About a month old? A. Yes.

Q. How long had you seen Indian Minnie around there before you saw her with this child?

A. I guess about two years, a year and a half, I wouldn't say for certain, it has been a long while.

Q. So, you saw her at Leavenworth at Granny Letcher's?

A. Yes, sir.

Q. I wish you would state to the court the circumstances under which you saw this child with Indian Minnie?

A. Well, old man Shinn and me was very good friends; we used to live close there; whenever I was down town I would go around to his shop.

Q. What kind of a shop did he run?

A. Blacksmith. The house was right back of the blacksmith shop.

Q. Well, how come—— Where did you see her with the child? A. In the house over at Granny Letcher's house.

Q. What was she doing there?

A. When I seen her first she was nursing the child.

Q. Nursing the child? A. Yes, sir.

Q. Did you see her with this child after that?

A. Oh, yes. Yes, I seen her several times with it.

Q. How long did you see her around there with the child?

A. With the child about two years and a half or three years.

Q. Until the child was two and a half or three years old?

A. Yes, sir.

Q. Where did she go to then? A. I don't know.

Q. She disappeared?

A. Disappeared they said, I never seen her any more.

Q. Did you continue to see the child at Leavenworth?

A. Yes, sir, I seen it every time I would go down there to old man Shinn's.

Q. Where did it stay?

A. Stayed there at Granny Letcher's.

Q. How long did you continue to see that child around Granny Letcher's?

A. I guess the child must have been about three or four years old, maybe five, three or four anyhow, somewhere along about that; I wouldn't state for certain.

Q. What did they call the child?

A. They called it Tommy, all I know about it.

Q. Did you know of any other name that it went by besides Tommy? A. I did not.

Q. They called it Tommy? A. Called it Tommy.

Q. Do you know what became of that child when it left Granny Letcher's?

A. Yes, sir, it went to Henry Carter's. I didn't exactly see it go out to his house; I saw it in his wagon at Stranger.

Q. Where is Stranger? A. Not far from his house.

Q. Just state to the court the circumstances under which you saw this child with old man Carter at Stranger?

A. I was going down to Leavenworth and he was coming out with the child.

Q. How was you going? A. I was going with a team.

Q. How was he coming? A. He was coming with a team.

Q. Both of you in wagons?

A. Yes, sir, both in wagons.

Q. Did you afterwards see this child *and* more?

A. Yes, sir, I seen the child every year but three, every year but three years four months—— I seen it once or twice a year ever since then, I was in California then.

Q. Where did you see this child during that time?

A. Carters.

Q. Old man Henry Carter's?

A. Seen it part of the time at Carter's, part of the time at Oscaloosa.

Q. What name did this child go by after it was taken to old man Henry Carter's? A. After he was taken there?

Q. Yes? A. H. Carter, I think.

Q. Called him H. Carter?

A. Called him H. Carter, I think.

Q. Were you at old man H. Carter's place, you and old man H. Carter were good friends? A. We were friendly.

Q. You visited him now and then?

A. Just passed by, that is all; I never made any visits to his house, stopped and got a drink of water or something and go on.

Q. Is old man H. Carter living or dead? A. Dead.

Q. Now, to go back to when you met the old man with this boy at Stranger, did you have any conversation there with old man Carter about the boy?

A. I just asked him why he was taking the boy riding?

Q. What did he say?

A. Said he was taking him home, that he had been forsaken; somebody had to tend to him and it fell to his lot he guessed.

Q. Did he say where he had gotten the boy?

A. He did not.

Q. You knew? A. I knew the boy.

Q. Knew where he had formerly lived? A. I did.

Q. I wish you would state to the court who that boy is?

A. Who is he?

Q. Can you point him out in the court room?

A. If I can see him I can. It is pretty dark in here.

Q. You have seen him around here?

A. Yes, sir. I know him if I see him.

Q. Well, if you can't see good enough step down the aisle here and see if you can pick him out. Look all over on this side also? A. There he sits.

Q. Point him out to the court?

A. That man sitting on the corner there.

Mr. Cobb: Stand up.

The Court: Well, that is all right. I see who it is.

A. My eyes are hurting me so I can't see good.

Q. You have known this boy ever since he was a baby at Granny Letcher's? A. I have.

Q. Have you got any other way of identifying him than by knowing him? A. Yes, sir.

Q. I wish you would state to the court just how you identify him otherwise? A. He got a birthmark on his back.

Q. When did you first notice that mark?

A. I noticed it at Granny Letcher's when he was a little—I guess he could walk, little tad. She called my attention to it when she was washing him. She was giving him a bath in a washing tub; I wouldn't noticed it then if she hadn't called my attention to it.

Q. Have you examined this mark recently?

A. I seen it today.

Q. Noticed it today? A. Yes, sir.

Q. Is it the same mark?

A. Same mark that was on him.

Q. What business are you engaged in? A. Farming.

Q. Been a farmer all your life?

A. No, sir, I have been farming fifteen or sixteen years though.

Q. Ever been arrested in your life? A. One time.

Q. What for? A. Playing cards.

Q. Just the one time is all you have been arrested?

A. Yes, sir, that is all. They said they arrested me for that, never fined me.

Examination by the Court.

Q. How far did you live from H. Carter?

A. About twelve or thirteen miles.

Q. Were you a farmer then? A. Yes, sir.

Q. When you say you have been farming about sixteen years——

A. Yes, I mean thirty. I always have twenty-five or thirty acres in, but I have farmed ever since I have been in the county, little patches.

Examination by Mr. Cobb.

Q. You say that this woman that you saw there at Granny Letcher's was called Indian Minnie?

A. Called Indian Minnie.

Q. I wish you would describe her to the court as she appeared then? A. Sir?

Q. I wish you would describe her to the court as she appeared then?

A. Well, she was a pretty good-sized woman; very likely looking woman.

Q. Appeared to be white or Indian?

A. Well, she appeared to me to be a half breed Indian, to me.

Q. Have you seen this woman since? A. Yes, sir.

Q. Where did you see her?

A. I see her sitting right over there now.

Q. Over here in the Court House? A. Yes, sir.

Q. Are you able to say that that is the same woman you saw at Granny Letcher's? A. That is the same woman.

Cross Examination by Mr. German.

Q. Where was it Granny lived in Leavenworth?

A. Lived on Seneca Street.

Q. Where was it Shinn lived with reference to where Granny lived?

A. Right there in front of it was a blacksmith shop; I don't know where he lived, but it is where he kept his shop.

Q. You spoke of somebody living back of the shop, who was that?

A. Granny Letcher lived back in the opening there.

Q. Back in the opening?

A. Yes, sir, right across from a barn.

Q. Which side of the street did Granny live on?

A. Well, I just couldn't exactly say from here, wouldn't undertake to say, it has been a long time ago and my age is beginning to tell.

Q. Whose barn was that? A. Brock's I think.

Q. Did you know a house there known as the Seneca House? A. Sir?

Q. Did you know a house there known as the Seneca House close by? A. I did.

Q. How? A. I did.

Q. Did you know a family living in that community, right in that close neighborhood there, called Feth? A. Called who?

Q. Called Feth? A. I don't remember.

Q. Don't remember that? A. Wouldn't say.

Q. You knew Creilly, didn't you? A. Sir?

Q. You knew Mr. Crilley?

A. Yes, sir, I knowed of him, that is all; I knowed him when I see him.

Q. How did you happen to be around Granny Letcher's so much?

A. I was there; saw her in the shop—Shinn's shop.

Q. What was Shinn's name, given name?

A. I never knowed in my life.

Q. Had a son named Asa? A. Had son named Asa.

Q. Asa is living now? A. Yes, he was not long ago.

Q. He was a minister of the Gospel? A. Yes, sir.

Q. They were colored folks too?

A. Yes, sir, old man partly colored; about as white as anybody.

Q. You don't know when it was that you were over there and saw this Indian Minnie?

A. I wouldn't undertake to place the year; sometime in the '80's.

Q. You know Adis Wright, don't you? A. Who?

Q. Adis Carter? A. I just do know them is all.

Q. She was a daughter of old Henry Carter? A. Yes.

Q. You knew Maria Yokum, Henry Carter's daughter?

A. Just do know them is all; just do know them when I see them.

Q. Now, how did you know that the boy that was around Mollie Letcher's was the same boy as H Carter?

A. Well, I noticed the boy every time I seen him just as I did my own boy; I had two children down there and I would go down to see them.

Q. You had two children where? A. In Leavenworth.

Q. Were your children young at that time?

A. Well, pretty tolerable young.

Q. How come your children to be in Leavenworth and you out in the country?

A. I left my first wife—broke up, and I left the children with the grandmother.

Q. Where was your wife living in town?

A. My wife? Wasn't living at all; her mother was keeping the children.

Q. Where in Leavenworth was that?

A. She was living on Dakota Street.

Q. How did you happen to go around the Shinn shop?

A. It was my way in, on a straight road.

Q. Did old man Carter come to town much?

A. Yes, he went a good deal.

Q. How far out of Leavenworth you farmed? A. Me?

Q. Yes.

A. Twenty-four miles—twenty-eight miles where I farmed.

Q. What did old man Carter go to town for; to sell any vegetables or anything of that sort? A. Yes.

Q. Did you ever see him around the Letcher's there? The street where the Letcher's lived?

A. I would see him selling groceries several times when I would happen in; sometimes we would meet on the road and go down together.

Q. When you saw this boy in the wagon at Stranger with Mr.—with Carter, you recognized it as the same boy that you had seen in town there at the Letcher's?

A. Why I know it was the same boy.

Q. You know it?

A. I know him; I become acquainted with him the same as I would my own boy. I had a boy along about the same age.

Q. You knew him as well as you did your own children?

A. I knew him about as well.

Q. Had you formed any special attachment for him?

A. Sir?

Q. You played with him on your lap?

A. I picked him up lots of times, lots of times.

Q. There around Letcher's?

A. Around the house lots of times, and around the shop lots of times.

Q. You had never seen this Indian Minnie right lately until in the '80's had you?

A. Never seen her until the last week or week before when I come up here.

Q. You think she is the same woman?

A. She is the same woman; I don't think nothing about it.

Q. She is the same woman? A. Yes.

Q. And isn't any question about this boy being the same boy? A. None at all, sir.

Q. Now, this boy went out to Carter's and Carter raised him after he was about four or five years old?

A. Yes, I took him to be about that old.

Q. He was known as H Carter and he went to school out there, didn't he?

A. Well, I never seen him at school; I can't say.

Q. There never was but one boy in old man Carter's family called H? A. Among his own children?

Q. No, only one boy who lived in his family who was called H?

A. That is the only one I knowed of. I didn't know they called him H until after he had been there some time.

Q. After he had been there some time you found it out?

A. Yes; they called him Tommy.

Q. You knew Viola, that little girl there? A. I did not.

Q. You didn't? A. No.

Q. This boy here, Henry Carter, you knew of him marrying Ada Sampson there in Leavenworth? A. Who?

Q. You knew of him marrying Ada Sampson there in Leavenworth several years ago? A. No, I didn't.

Q. Now, that Indian Minnie that you saw in Leavenworth, who had this boy and who grew up as H Carter, you say she stayed around—you knew her around there for about three or four years?

A. Something like that, I would say just what it was.

Q. You knew her before she had the child? A. I did.

Q. You knew her before she was in the family way?

A. I think so.

Q. And then you saw her while she was in a family way?

A. I seen her once only.

Q. Then how old was the baby when you first saw it?

A. I took it to be about two months old, or a month, somewheres along there; I can't tell exactly to be sure.

Q. Was Indian Minnie there at that time?

A. She was there and had him in her arms nursing it.

Q. Then you saw her there with the child several times after that? A. Oh, yes.

Q. How long would you say it was that she stayed around there with the child?

A. I think she stayed there with the child about until—until it was about two and a half or three years old.

Q. And then she went away?

A. Yes, I reckon she did; I never seen her.

Q. Brock's barn was by the side of Crilley's barn?

A. Which?

Q. Brock's barn?

A. I can't tell you much about them houses, because it has been a long time ago and my mind isn't as strong in thinking as it used to be when I was a young man. It is on Seneca street I know, and I wouldn't locate the barn just where it is.

Q. You knew Granny Letcher before you ever knew Indian Minnie? A. Yes, sir.

Q. You knew of her living down on Cherokee street, didn't you? A. Yes, sir.

Q. Well, are you sure it was on Cherokee street or on Seneca, that you saw the Indian woman with H Carter?

A. It was on Seneca street.

Q. It was on Seneca; now, this blacksmith shop of Shinn's was in next to the alley, wasn't it—back of Brock's barn?

A. I don't remember where it was there. I ain't been in there for a good many years.

Q. And you don't remember how it was then?

A. I don't remember just how it was only I know it sat back—the house sat back in the yard, is all I can say about it.

Q. Do you know what direction the barn faced?

A. No, I don't.

Q. Whether it faced *sotu* or north?

A. No, sir, I can't say, looking at it every day when I went through there.

Q. Granny didn't live back of Brock's barn did she?

A. She lived back of the shop more—my understanding, my recollection; she didn't live out on the street.

Q. She didn't live out on the street? A. No, sir.

Q. Now, did you know Crilley's barn?

A. Yes, I think I do; it is hard work for me to place barns of any kind, or houses only just them that——

Q. Do you recall whether Brock's barn and Crilley's barn were side by side? A. No, I don't.

Q. Then is this the case that the blacksmith's shop was back of Brock's barn on the alley, is that true?

A. The blacksmith shop was on the street.

Q. Was nearly on the street?

A. Yes, sir, and the house was back—behind the barn.

Q. Then the house that Granny was in was behind the barn? A. Yes, sir—behind what?

Q. Behind the shop, more?

A. Yes, sir, more behind the shop.

Q. That was on Seneca street. What was Granny Letcher's color? Was she a black woman, or was she a light woman or what?

A. Well, she wasn't to say neither one; she wasn't black; she was a pretty fair color.

Q. Well, she was an ex-slave wasn't she? A. Yes, sir.

Q. You knew her and you knew that she was an ex-slave?

A. No, sir. I never asked her a thing about it.

Q. You didn't know that?

A. I didn't know she was or not. I never asked her about being a slave.

Q. Did you know Walter Banks, a boy that played around Granny's there? A. Little boy?

Q. I knew two little boys but I didn't know their names. Seen all three of the boys together and didn't know their names; two other women were there; I didn't know their names—only one.

Cross Examination by Mr. Stuart.

Q. You say you lived at that time about from thirteen to fifteen miles from Henry Carter? A. How?

Q. Thirteen to fifteen miles from Henry Carter?

A. Somewhere along there.

Q. What county did you live in? A. Jefferson county.

Q. And what county is McLouth in?

A. Jefferson county.

Q. Carter lived near the line of two counties, didn't he?

A. Yes, sir.

Q. What two counties? A. Leavenworth and Jefferson.

Q. Now, did he have a daughter name of Adis?

A. I see since he has.

Q. What? A. I see—learned since he have.

Q. Didn't you know his daughter Adis? A. I did not.

Q. Didn't you know any of the children?

A. I knowed one or two of the boys.

Q. Wait a minute; didn't you know any of the daughters?

A. No, knowed there was some boys is all; didn't know none of their names.

Q. Never knew a girl there named Bertha Yokum?

A. Who?

Q. Bertha Yokum? A. No, sir, I heard of them.

Q. Did you know Angie Yokum? A. No.

Q. Ever hear of Lilly? A. No.

Q. Never heard of them at all? A. No.

Q. Did you ever hear that one of old man Carter's daughters had a baby before she married? You heard that didn't you Benjamin?

A. Well, there was such a rumor as that; I never knowed anything about it. I heard that conversation.

Q. What time was it you were away in California?

A. Five years ago last September.

Q. Five years ago? A. Yes, back in September.

Q. Let's see; five years ago last September would make —let's see, you went there in 1911, did you? A. I think so.

Q. Or came back in 1911? A. Back.

Q. Back in 1911?

A. I went the year that Wilson was elected.

Q. Yes, five years ago from 1916 is 1911? A. Yes.

Q. Now, did you come back in 1911, or go to California in 1911? A. I have been back two years last September.

Q. Been back two years last September? Then you went in 1911 and came back in 1914, didn't you?

A. That is correct, sir.

Q. Three years, from 1911 to 1914 you say you didn't see this young man? A. I did not.

Q. Didn't see him. He come to the Territory after he married, to the Indian country? A. Sir?

Q. Did he come to the Indian country after he married?

A. I never knowed he had been married until I come here.

Q. And did you ever know he lived in the Indian country after he married?

A. No, sir, I never knowed nothing about it.

Q. Did you ever know that he was down here for years after he was married? A. No, sir.

Q. Didn't know that? A. No, sir.

Q. Never heard of that?

A. No, sir, never heard of him living down here at all.

Q. Now, have you seen the girl called Adis since you have been here? A. Yes, sir.

Q. You have talked with her about old times, haven't you?

A. About all the time?

Q. About old times? A. No, sir, I haven't.

Q. Talked to her about new times?

A. Talking about the present time.

Q. Didn't talk any about this case, you and Adis?

A. This case?

Q. Yes, this case, the testimony in——

A. Sure, spoke of the case lots of times, about when it was going to come off.

Q. You and she talked about the case?

A. Talked about when we were going to get on the witness stand.

Q. Now, one thing, you said that you saw this woman sitting over here in the court house with that red dress on at Granny Letcher's? A. I did.

Q. On Seneca street? A. I did.

Q. And you saw her nursing the baby at the breast?

A. I did, yes, sir.

Q. Is that so? A. Yes, sir.

Cross Examination by Mr. Rosser.

Q. You say you have a son the same age as Henry Carter, this boy back here?

A. No, I don't know that they are the same age.

Q. Well, pretty close to the same age?

A. I don't know whether they are close or not; they were both small.

Q. How old was your boy when you saw this boy the first time? A. I can't tell you.

Q. You were going in there to see your children at Leavenworth? A. Well, my boy was by my second wife at home.

Q. Well, how long had you been married at the time you saw this—married to your second wife the time you saw Henry there?

A. I married that woman in Missouri, don't know how long I'd been married. Been married 41 years now; will be 41 years in June.

Q. Well, how many children have you? A. I have eight.

Q. Now, which ones were living at the time, which ones had been born at the time you saw Henry Carter the first time? How many children did you have by your second wife at that time? A. I don't remember how many.

Q. You don't remember?

A. No, sir; pretty tough for an old man to recollect that much except he had something to recollect it for.

Q. Now, the mother of Henry Carter, you saw her, did you? A. Who?

Q. Henry Carter's mother; the one you call Minnie—Indian Minnie? You saw her frequently?

A. Yes, well not so often; once or twice a year.

Q. What time of day would you be at Granny Letcher's when you saw her?

A. Well, it would be about 12 o'clock; along about that time. It took about half a day to drive down town.

Q. And it was about that time of day, then, that you saw this woman there?

A. Yes, would be along about that time; sometimes I stayed there about a couple of hours.

Q. And you saw her nursing this child about that time?

A. I seen her nursing the child when the child was quite young.

Q. I say you saw her nursing him?

A. Yes; I never seen her nursing the child but once, that was the only time.

Q. That was immediately after it was born, wasn't it?

A. Yes, small fellow.

Q. Well, how old was the child when you saw her nursing it?

A. Well, I took it to be a year or somewheres along about that.

Q. Would you see her there when you were there?

A. Sometimes I would.

Q. When you first got there, was she there?

A. No, I fed my horses and things before I went in.

Q. But when you went in she was there?

A. Setting there nursing the child.

Q. You remember how she was dressed?

A. No, sir, I don't; that would be a long memory for me.

Q. You weren't in Leavenworth, or at Granny Letcher's except at the middle of the day, were you? A. No, sir.

Q. And that was the time you saw this woman there?

A. I seen the woman there, yes, sir.

Witness dismissed.

Mr. Cobb: We offer the deposition of *Eliza* Fowler, which appears at page 3073 of Mr. Penick's report as Special Examiner.

ELIJAH FOWLER being called on behalf of the defendant Henry Carter, sworn and under oath, testified as follows:

Direct Examination by Mr. Blakeney.

Q. State your name, age and residence.

Q. My name is Elijah Fowler; I live in Jefferson County, Union Township; I am 65 past.

Q. Mr. Fowler, have you resided in this county during the last thirty years? A. Since 1870.

Q. 1870. What business are you engaged in, and have you been engaged in since 1870.

A. Oh, farming, and running a thrashing machine; only kind of business in the way of farming.

Q. Were you acquainted with old man Henry Carter during his lifetime? A. I was.

Q. Where did you get acquainted with Carter?

A. I got acquainted with him soon after I came here in '70.

Q. How far did you live from him in '70?

A. Oh, something like a mile, when I first got acquainted with him.

Q. And how long did you live within a mile of him?

A. Oh, two or three years.

Q. Then, where did you move to?

A. Well, then, I moved up on the place where I live now.

Q. And how far is that from the place Henry Carter lived?

A. About two and a half miles.

Q. State what acquaintance you had—what association you had with H. Carter? A. With who?

Q. Old man Henry Carter, during his lifetime?

A. Well, not anything more than in business. I run a thrashing machine and I thrashed for him a good many times. Of course, in a business way; they were colored people and we didn't neighbor back and forward, anything more than business. I thrashed for him at different times and was there.

Q. Was his place on your route to town or did you frequently pass his place?

A. No, it wasn't on my route to town but I seen the old man right often, and was passing there quite often.

Q. What members of his family did he have living with him during the '70's when you knew him?

A. Oh, I can't tell you now, it has been a good while ago. There was quite a bunch of kids around there; some of them pretty well grown, some of them grown and gone. He had a boy that came back there, I seen him once or twice; I think his name was John. For ten years after I came back, he was *gwoen* and gone when I came here. I seen the girls Adis and Susan, and the one that married Yokum; saw them quite often.

Q. You saw Adis quite often did you?

A. Yes, frequently in passing there.

Q. How frequently could you say that you saw Adis during '79 and '80? What is your best recollection about it?

A. I can't say that—nothing but memory, and I am getting at an age where my memory is not very good any more. Probably saw her a time or so but to say how many times, I can't do that.

Q. What is your best judgment in the years '70 up to '85 that you saw Adis?

A. Two or three times each year, anyway.

Q. Did you ever see Adis pregnant during that period? A. Sir?

Q. Did you ever see Adis pregnant? A. No, sir.

Q. Do you remember when she married John Wright? A. Yes, sir.

Q. Up to that time, had you ever seen her pregnant? A. No.

Q. Now, did you know a boy named H Carter? A. Yes.

Q. When was the first time you ever saw him at old man Henry Carter's place?

A. Well, I have nothing but memory. It would be around some place, twenty-seven or eight years ago.

Q. How old was he at the time you saw him?

A. Well, a kid about so high; four or five years old. Big enough to run after the old man and ride a mule.

Q. The first time you saw—ever saw H Carter about old Henry Carter's place, he was four or five years old?

A. Somewhere around there; four or five years old—big enough to run around after the old man, and run after the mules—the first time I knew of him.

Q. How frequently had you been around the place before you saw H Carter the first time when he was four or five years old?

A. Oh, I have been up there and at the place, several times, but to say definite, I can't.

Cross Examination by Mr. German.

Q. Mr. Fowler, what direction did you live from old man Carter's, the first two or three years?

A. I lived northwest.

Q. Then, what direction did you live when you moved from there?

A. I moved up on the road here; I was southwest of him then.

Q. Southwest of him?

A. Yes, when I moved from over there.

Q. You were between him and the schoolhouse? The Brown schoolhouse, wasn't you then?

A. Yes, there was a road over that way to the Brown schoolhouse, but I very seldom went that way because it was a better way to go south, and not go that way.

Q. Did you have any children going to school along in the '80's? A. Yes.

Q. How many children have you?

A. I have 9 children; that is, I had 9 children; two of them are dead.

Q. And they went to school at the *Brwoen* schoolhouse, did they? A. No, sir.

Q. What schoolhouse did they attend?

A. They went to the Grove.

Q. You didn't live in the school district that——

A. I lived in the Grove district; they lived in the Brown district.

Q. Do you remember when Maria Yokum moved away from the old man Carter's farm over on to—you remember when old man Yokum moved off of the Carter farm and went over on to some creek—Big Stranger Creek, I think it was?

A. When he left the old man Carter farm, didn't he go to Leavenworth?

Q. Well, what is your recollection about it?

A. Well, I can't say definite. It was in the '80's.

Q. He went there to Leavenworth, or Big Stranger?

A. Yes, he went away from there. My recollection is he went to Leavenworth but he might have went to Stranger.

Q. This Yokum—Maria Yokum's husband you are talking about?

Q. Did you see H around the Carter place about the time the Yokums moved away from there?

A. No, it was quite a time after that.

Q. Quite a while after that?

A. Yes, before I seen him.

Q. When did you commence the thrashing business?

A. About '76.

Q. About '76? A. 1876.

Q. Did you have any partners in the thrashing business?

A. Yes, a man by the name of Everett.

Q. How long did you thrash small grain in this community?

A. Oh, we run a machine together a couple of years.

Q. Did you do any thrashing after that?

A. Oh, I have been thrashing ever since.

Q. Now, did you always thrash old man Carter's wheat?

A. Most always, there was probably not a time that I thrashed four or five years at different times that I was out of the business. I almost always thrashed for old Henry Carter when he had any thrashing; sometimes, he didn't have any.

Q. Now, the first time you ever noticed this boy H, was when he was big enough to ride a mule around? A. Yes, sir.

Q. If he was around old man Carter's before that, you don't remember seeing him? A. No, sir, I didn't see him.

Q. You say that was 27 or 28 years ago?

A. Around about that; might have been a little more or little less. Nothing only memory.

Q. Did you see him then, a great deal after that?

A. Oh, I seen him quite often.

Q. Where would you see him riding a mule?

A. Oh, he was generally around the yard when I would pass there, or out with the old man. He was generally with the old man.

Q. What name did he go by? H what?

A. Well, he always run by the name of H Carter.

Q. What did the old man Carter call him? Did the old man ever say to you or in your presence what kin they were?

A. No, he just told me—I twitted the old man—asked him the first time I seen him, if that was one he had gone out and brought in and he said no, it was a little boy he brought to raise. That is all I know about it; what the old man told me.

Q. What was the general repute in the community as to whose child he was?

Mr. Blakeney: Object as incompetent, irrelevant and immaterial, and asking for a conclusion.

A. Well, I know nothing only what I heard.

Q. What did you hear it? A. What?

Q. When did you hear what you know?

A. Oh, soon after that I seen him there. It wasn't long. I don't remember—a year or two. They began to talk it around that it was Adis' kid. I heard that he was, and I heard that he wasn't. Some said it was Adis' kid—circulation, I suppose—and some said he wasn't.

Q. Was there very much talk along that line?

A. Not a very great deal.

Q. You didn't see any other children around old man Carter's place at all, did you? A. No, sir.

Q. Wasn't any little girls there? A. What?

Q. Wasn't any little girl around there?

A. No, not that I seen.

Q. Never did see one?

A. Well, later on there was one they called Pink; I don't know where she came from, and I think maybe she stops around there yet.

Q. Pink? A. Yes.

Q. Now, that was a nickname, wasn't it?

A. I don't know that either.

Q. Did you ever hear her called Viola? A. I think not.

Mr. Blakeney: We object as not proper cross examination.

A. No, not that I know of.

Q. How old was Pink when you first saw her around there?

Mr. Blakeney: We object as improper cross examination, and immaterial.

A. Oh, she was quite a girl.

Q. How old do you suppose?

A. Ten or twelve years old.

Q. The first time you ever saw her there? A. Yes, sir.

Q. You never had seen her there before that, had you?

A. Not that I know of.

Q. Was she riding a mule? A. No.

Q. Did you ever see her riding a mule?

A. Not that I mind of.

Q. Did old man Carter ever tell you anything about whose child she was? A. No.

Q. Did you ever hear in the community in those days, whose child she was?

A. Oh, later on, I heard that she was Adis' child.

Q. How late after you first saw the girl? A. What?

Q. How long was it after you first saw the girl, that you first heard that? A. Oh, a year or two.

Mr. Blakeney: We move to strike out the last statement about what he heard about Viola, as not proper cross examination, improper, irrelevant, and immaterial.

Cross Examination by Mr. Stuart.

Q. Mr. Fowler, about the time, or soon after, you saw this boy H, I will ask you whether the general talk among the community and among the neighbors was that Adis had had *a* illegitimate child? A. I heard that talk, yes.

Mr. Blakeney: I object as incompetent, irrelevant, and immaterial.

Q. Heard that talk? A. I heard that talk among the neighbors, yes.

Redirect Examination by Mr. Blakeney.

Q. You had heard also, that it was not Adis' child?

A. Yes, I had heard that it was not.

Q. Heard it both ways? A. Heard it both ways.

Q. You said that when you first saw H, he was about four or five years of age? A. Yes, sir.

Q. Then, some two or three years after that—or maybe a year—you heard some talk that it was Adis' illegitimate child, and some, that it was not? A. Yes, sir.

Q. Adis was married at that time, wasn't she, when the talk had begun to be circulated?

Mr. German: I object to the question as leading.

A. I think that if my memory serves me right, that the talk was circulated before she married Wright.

Q. About the time that she was marrying Wright, wasn't it? A. Yes, or about that time; maybe a little before.

(Witness dismissed.)

Mr. Cobb: Also offer the deposition of C. J. POST, which begins at page 3081 of Mr. Penick's report as Special Examiner in this case.

And thereupon C. J. POST being called on behalf of the defendant Henry Carter, sworn and under oath, testified as follows:

Direct Examination by Mr. Blakeney.

Q. Mr. Post, your name is C. J.? A. C. J. Post.

Q. You are the same C. J. Post who testified formerly on behalf of the Government in this case, at Leavenworth?

A. Yes, sir.

Q. Mr. Post, you knew Henry Carter? A. Yes, sir.

Q. And you knew H Carter? A. Yes, sir.

Q. How long had you known Henry Carter before you knew H Carter?

A. Oh, a good many years; I don't remember just the number.

Q. When did you become acquainted with Henry Carter?

A. I was acquainted with Henry Carter I guess a few years—I don't know just what year he came there. I had lived there since 1865 and it was several years after when old man Carter came there.

Q. You said '85? A. '65.

Q. '65, and he came there a few years later? A. Yes, sir.

Q. And how far did you live from him? A. Just a mile.

Q. Did you continue to live just a mile from him up to the time you left? A. I live there yet.

Q. Did you know his family?

A. Yes, sir; went to school with them.

Q. You went to school [] them. What members of his family, did you go to school with?

A. Why, Adis and Mary—I forget the others' names now. Three or four that went to school.

Q. Which quit school there first? Adis or you?

A. I don't remember exactly, I think I quit first; I wouldn't say right certain. I think she went to school after I did, though.

Q. Now, did you know his family well? Were you about his place occasionally or frequently?

A. Oh, occasionally, yes; not so very much there, that is, about the house. Of course, old man Carter worked for us a great deal—a day's labor for my father—and different kinds of farm work—hired him by the day.

Q. During the year '79 and '80, did you live there?
A. Yes, sir.

Q. Have you any way of fixing those years in your mind?
A. No.

Q. You remember when Babe was married?
A. No, I heard, but I don't remember just what year.

Q. I don't mean the year, but you remember the circumstance? A. I remember the circumstance.

Q. Did you know the family at that time?
A. Well, I knew the family, yes.

Q. Did you ever see Adis Wright pregnant at any of the time you lived there? A. Never have.

Q. About the time that Babe was married, did you ever see her pregnant? A. Never have no time.

Q. When was the first time you ever saw H Carter?
A. Well, that I can't say exactly—what year it was—but as near as I could remember, it seems like he was a boy around four or five years old; something like that, if I remember right when I first seen him.

Q. A boy between three and five years of age?
A. Well, somewhere along there; a little tot of a boy running around.

Q. Did you have a talk with Henry Carter about the boy?
A. Some, yes.

Q. Where did you ever have any talk with him, or hear any statement? A. When he was working there at our place.

Q. About how big was the boy then?
A. Why, he was about four, or five, or six—something like that.

Q. How long would you say that you had this talk, after the boy had been first seen there by you?
A. How long after that?
Q. Yes.
A. Why, I can't say. Maybe it was a year, and maybe not a year, and maybe over a year.

Q. Just state the conversation you had with Carter regarding that boy.

Mr. Stuart: Objected to as incompetent, irrelevant, hearsay, and self-serving.

A. I don't remember how it come up. He said something about he got the boy at Leavenworth to raise.

Q. Got the boy at Leavenworth to raise?
A. Yes. I don't remember him saying whose boy it was,

as I remember of, but I remember him saying he got the boy to raise.

Mr. Hanford: I move to strike that answer as hearsay and incompetent.

Cross Examination by Mr. German.

Q. Mr. Post, of course, you didn't live in the Carter home any? A. No, though I had been there.

Q. And you didn't stay there in the day time any?

A. Not any length of time unless I happened to be there at different times—be up there—something like that; never stayed any time, except to thrash there—eat there.

Q. You would eat there when you worked there?

A. Yes, sir, the only time that I remember, when I worked there and helped thrash. I have cut his wheat five or six different times, and his oats with a——

Q. Now, what time of the year did they harvest wheat?

A. The latter part of June or the first of July; them days, we had later wheat. About the first of July.

Q. What time in the season, did they generally thrash the small grain? A. Along about Septehmber.

Q. Do you remember the first time you ever helped thrash there? A. No, I don't.

Q. Did you always help them thrash their small grain?

A. Why, I guess I did, most of the time. They helped us and we helped them—kind of swapped work; we all done that through the neighborhood, not only with him, but with others. Of course, I had a machine, and I cut his grain; he had no machine.

Q. You say of course you never stayed all night there?

A. No, I never did.

Q. And you would only be there at the house at meal time when thrashing season was on?

A. Thrashing season, cutting season, harvesting season; would eat dinner there, then, in the harvest season.

Q. But that is the extent of your being around the house?

A. Yes.

Q. You don't know where this boy H came from, do you, yourself? A. No, I don't.

Q. And you simply heard old man Carter say it was a boy he had got to raise? A. Yes.

Q. Say where he got him? A. Leavenworth.

Q. Did he say where in Leavenworth?

A. No, not as I remember of. I don't think he said.

Q. No. Adis Carter was old man Henry Carter's daughter? A. Yes.

Q. What kind of a man was old man Henry Carter?
A. What do you mean?
Q. Well, he was not an educated man, was he?
A. No, he wasn't educated.
Q. Did they attend church? A. Not that I remember of.
Q. Were they respectable colored people?
A. Respectable colored people. Never heard a word against the old man when he died, or any other time; straight.
Q. He was very particular about his family's reputation?
A. He was particular about his family, and he was honest and square. I never heard any one say of him anything the other way. Whatever he said or promised was good, and if he signed a piece of paper, it was good. I don't know if he signed one, but he would put a mark there, and it went.
Q. You say you never saw Adis pregnant? A. No.
Q. Did you know about her having a child named Viola?
A. No.
Q. You knew Pink, didn't you?
A. Yes, neighborhood talk that would come up.

Mr. Blakeney: We object now, and move to strike out as not responsive.

Q. You knew Pink? A. Yes, sir.

Mr. Blakeney: We objert as not proper cross examination.

Q. And Pink and Henry, I believe you testified before, would go through your yard going to school?
A. Going to school, yes.
Q. Was there a neighborhood talk about whose child H was?

Mr. Blakeney: We object as incompetent, and asking for hearsay, and improper conclusions.

A. Yes, there was a talk; neighborhood talk.
Q. In those days, when H was young? A. Yes.
Q. What was the neighborhood repute as to who the mother of H was?

Mr. Blakeney: We object as incompetent, hearsay, irrelevant and immaterial.

A. Well, there was talk. Of course, there was some talk that it wasn't and talk that it was.
Q. That what was? A. That it was Adis' child.
A. That H was Adis' child? A. Yes.

Cross Examination by Mr. Stuart.

Q. You saw this girl, Pink, and Henry there together, didn't you? A. Yes.

Q. They were reputed to be brother and sister, weren't they?

> Mr. Blakeney: Objected to as incompetent, irrelevant, and immaterial.

A. That was the talk of the neighborhood.

Q. That they were brother and sister?

A. Of the neighborhood.

> Mr. Blakeney: We object to the last question as hearsay.

Q. And they were both understood by the neighbors and so reputed, to be Adis' children, weren't they? A. Yes.

Redirect Examination by Mr. Blakeney.

Q. You state that the neighborhood talk was by some of them that it was Adis' child and by some that it was not Adis' child? A. Yes, that is what they claim.

Q. Just a discussion?

A. Just a discussion between the neighbors. There was none who knew, I suppose; it was guess-work.

Q. Nobody knew whose child Henry was?

A. No, or Pink, either.

Q. Some had a sort of matter of suspicion that it was Adis' child, and some, that it was not? A. Yes, sir.

> Mr. Stuart: Object to that last as leading and assuming—the answer.

Q. So, when you use the word the general repute, you just merely discuss in the neighborhood? A. Yes.

Witness dismissed.

> Mr. Cobb: Also offer the deposition of Asa Y. Chinn, which begins at page 3088 of Mr. Penick's report as Special Examiner in this case.

And thereupon, ASA Y. CHINN, being called on behalf of the defendant Henry Carter, sworn, and under oath, testified as follows:

Direct Examination by Mr. Blakeney.

Q. State your name, age, residence, and occupation.

A. My name, is Asa Y. Chinn; I am now in the horseshoeing and black-smith business in Oskaloosa, and paster in a church. Act in the capacity of a pastor. I will be 66 years old the 10th day of August, should I live to see it.

Q. Did you ever live in Leavenworth?

A. I lived there since '65; 10th of August '65, I came there.

Q. During the '80's, did you live there? A. I did.

Q. Who were you living with? A. My father.

Q. What business during the '80's were you engaged in?

A. Horse shoeing and blacksmithing.

Q. What business was your father in?

A. Horse shoeing and blacksmithing, and general repair.

Q. When did you go into the blacksmithing business?

A. Me?

Q. Yes. A. With my father?

Q. Yes.

A. I went in in '68; I was at school until '68, though I worked around there all the time, and after school hours, stayed at the shop with my father.

Q. How long did you work in the blacksmith shop?

A. Worked in it ever since.

Q. How long in Leavenworth with your father?

A. Oh, I worked with father about twenty years, and then I was in business there, myself, about ten or fifteen years—straight out.

Q. Worked with your father about in '88 then?

A. Yes, sir, I was with father until '89. April 26th, I went into business.

Q. By yourself?

A. No, sir, I went in business—my father bought another place, prior to the one where I was at, then, and I carried on that shop until father got out from the lease he had at the time I went in with him.

Q. Up until 1888, when you and your father were in the blacksmithing business, where was your shop?

A. The second building from the corner of Seneca and Third, on Seneca street, east of Third.

Q. The second building east of Third, on Seneca street?

A. Yes, sir.

Q. Facing south? A. Yes, sir.

Q. Where was Crilly's barn with reference to your blacksmith shop? A. At that time?

Q. Yes. A. It wasn't there.

Q. When Crilly's barn—when did Crilly come in now?

A. The livery business, there on Seneca?

Q. In the livery business.

A. Along about, as near as I can recollect, it was along about '90, or——

Q. Had Crilly worked in any livery business prior to that time?

A. Yes, sir, up to this time. That was a hotel, though; before Crilly moved in there, it was a hotel—this barn on Seneca.

Q. Do you remember about when Crilly moved in there?

A. Yes, sir.

Q. Commenced the livery business?

A. Yes, the best I judge, along about '89, or maybe '90; I am not positive, but I have knew him ever since he has been there.

Q. Did you know Minnie Atkins? A. Indian Minnie?

Q. Yes. A. Yes, sir, I know Indian Minnie.

Q. Did you ever hear her last name? A. Yes, sir.

Q. What was her last name?

A. Well, Minnie Atkins.

Q. Minnie Atkins? A. Yes, sir.

Q. Known as Indian Minnie, was she?

A. Called her that.

Q. Where did you know or see her?

A. I got acquainted with her across the street from father's shop.

Q. About when?

A. Well, that was about the first of '85; along there, or earlier. It might have been the middle of '84.

Q. Somewhere in '84 or '85, you got acquainted with her?

A. Yes, sir, yes, sir.

Q. Did she have a child there?

A. When I first knew her?

Q. No, not when you first knew her; at any time?

A. Yes, sir.

Q. Where and about when did she have a child?

A. Well, she had a child around there where I stayed.

Q. *Were* did you stay?

A. I stayed at Mrs. Mayo's—Mrs. Letcher's, some called her.

Q. Some called her Granny Letcher?

A. Yes, sir. I roomed there and had taken my meals, often, there. I was a young man running around. I had a sister growing up—16, then; I stayed outside mostly, and made my home at my father's.

Q. Made your home at your father's but stayed over at Letcher's? A. A good deal, yes, sir.

Q. You knew Minnie Atkins, then, did you there?

A. Yes, sir.

Q. About when do you say she had this child?

A. Well, to the best of my knowledge, it was along in '85. It was getting warm weather when I first seen her bring it there, along April or May—somewhere along there. I was staying there pretty near altogether, then.

Q. You say you think along in April or May, and you think it was '85? A. Yes, sir, most positive.

Q. Any way to fix the date?

A. Only by knowing about her business at my father's place across from it, and the tearing up of our business, brings it to my memory.

Q. When was your business torn up? A. There?

Q. Yes.

A. Along about the latter part of '93, or '93 my father moved from there.

Q. Do you know what her child's name was?

A. No, around the house they called him several names, but his name was Atkins—Tommy Atkins. We called him Dump—some called him Dump. Crilly named him a name. I just can't think it; I know it, if I heard *heard.* George named him that. He hung around his barn with several little children —but Crilly called him a name.

Q. Did you ever hear him called *T*ommodore?

A. That is the name—Commodore.

Q. Who gave him that name?

A. Crilly; Crilly was the first one called him that.

Q. How long did the boy stay around there?

A. Oh, I seen him two or three years; maybe four— pretty near four.

Q. Saw him around there you say, probably four years?

A. Yes, Mrs. Letcher's.

Q. Yes, Mrs. Letcher's.

A. Yes, anyhow, fully three years he was around there.

Q. Did you see the boy do anything?

A. Around Mrs. Letcher's?

Q. Yes.

A. No, sir, only playing around with other boys; with Sam. She had another boy—raising him—named Sam Nash. I don't know where he is; haven't seen him for several years. He played around with him a good deal; he went around and played around Crilly's barn with Sam. I never paid this child much particular mind, only I told her—I was very familiar with old Mrs. Letcher, because she was getting my change—

of course, I don't need to explain, I wasn't no church man, then—and I told her——

Mr. German: I object to this on the ground that it is not responsive.

Mr. Blakeney: I consent that it all be stricken.

Q. Did you ever see this boy doing anything else there, with anybody else, besides the children?

A. Around Mrs. Letcher's?

Q. Yes. A. No, sir.

Q. Did you ever see any man having the child around Mrs. Letcher's?

A. Oh, I seen him with Mr. Carter, riding on his wagon.

Q. You knew old man Henry Carter?

A. All my life, most.

Q. Where did you see Henry Carter have this child?

A. He would come up to Mrs. Mayo's every time he came to town; he brought in vegetables—cabbage and potatoes—and would peddle them around, and he would go there and sell stuff to her, and he would take this little fellow, and ride him around, but he brought him back there.

Q. You had seen him take the child out during the day and ride him out? A. All over town.

Q. During the time that he was peddling? A. Yes, sir.

Q. Did you ever see the child when the child was not around Granny Letcher's? A. Gone?

Q. Yes. A. Yes, I knew of him to be gone.

Q. About when did you find out that the child had disappeared, had left there?

A. Oh, that was a couple of years after old man Carter had him—carrying him around in his wagon. He had taken him to the country and kept him there.

Q. How do you know that? A. I was there.

Q. Where was you when Carter had taken him to the country? A. I was on Fifth Street and Oak.

Q. What did you see there?

A. He would bring him to town with him. We done blacksmithing after he had taken him away from Mrs. Letcher's and was keeping him.

Q. About how long after you quit seeing the child at Mrs. Letcher's until you saw the man Carter coming to town and bringing the child with him?

A. Probably the second week, or maybe three. I don't know as he ever came to town without bringing him along, and one of the girls, or the little fellow. He would always bring some of the children. He was old, and would always have this boy, or one of the girls.

Q. Were you ever at old man Carter's place? A. Me?

Q. Yes. A. Well, once, is all.

Q. When was that?

A. Oh, that was when I was a young man growing up.

Q. Before or—— A. Before.

Q. Before?

A. Yes, sir, before he took this little boy, Commodore, out there.

Q. Did you ever talk to old man Carter about the boy?

A. Just spoke to him in regard to the little fellow living at Mrs. Letcher's, and I asked him once, I said, how come you to take him and he said——

Mr. Stuart: We object to that as hearsay.

Mr. Hanford: The same objection.

Q. Commence again, and go over that statement.

A. Regards to saying to Carter?

Q. Yes.

A. I said to him, how come him—just asked him how come him to have him.

Q. What did he say?

A. Well, he has never answered me; that is, really true, and I didn't insist on him to know any further.

Q. He didn't say anything when you asked him that?

A. No, sir.

Q. Did you know that the child that he had there was the same child that you had known as Commodore, or Tommy Atkins? A. Yes, sir.

Q. The same child?

A. Oh, yes, I had never missed seeing him, you know; same boy.

Cross Examination by Mr. Stuart.

Q. You say you are 65 now?

A. The 10th day of August, I will be 66 years old.

Q. If you live that long? A. Sir?

Q. If you live that long? A. If I live, yes, sir.

Q. How long have you lived in this country?

A. In this state?

Q. Yes. A. Since 1865.

Q. Where did you come from to this country?

A. I came from Fayette County, Kentucky—nine miles from Lexington.

Q. When did you first get acquainted with Granny Letcher?

A. I got acquainted with Granny Letcher, I guess, along in the '70's.

Q. Along in the 70's? A. Yes, sir.

Q. Where was she living when you first got acquainted with her?

A. She was living down at the west end of town, on Pottawatomie Street, between 7th and Broadway, when I first got acquainted with her.

Q. How long did she live there after you got acquainted with her? A. Several years.

Q. How many years?

A. Two or three years, I don't know exactly.

Q. Well, give it as near as you can.

A. Well, I judge she lived there to my knowledge, three years.

Q. Three years? A. Yes, sir.

Q. Where did she move to from that place?

A. She moved into the alley back of Harvey Edgerton's, between Seneca and Shawnee, on Third Stret; known as Vantuyl's barn, now.

Q. Do you *moved* she moved down to Seneca Street from that Pottawatomie—

A. I think she did, yes, sir.

Q. What year, was it, she moved there?

A. Well, it was along in between '79, or '78 and '80.

Q. She moved there in '79 or '80, in that place?

A. Some where near that.

Q. Was that the place where Minnie's baby was born?

A. I don't know.

Q. Was that the place where you first saw Minnie's baby?

A. On Seneca?

Q. Yes. A. Yes, sir.

Q. Now, Granny didn't live at but two places in Leavenworth, after you knew her, did she? A. Not that I know of.

Q. Lived out on Pottawatomie, and down on Seneca?

A. Yes, sir. I knew of pretty near every place she lived, but I really know her better living in those two places. She might have lived down on Cherokee once, near Second, but I wouldn't be positive about it—which of the three places she went first. I knew her pretty near every place she lived.

Q. Well, tell me, where, just where, she lived in Leavenworth. Tell me the places.

A. I am not positive of those two places.

Q. And you don't know any other, do you?

A. I can't just place now.

Q. How old were you when you first began going around Granny Letcher's?

A. I was a man about thirty—near thirty—twenty-five or thirty; twenty-four, or something like that.

Q. And you commenced going around there just as soon as Granny moved to Seneca?

A. No, I had been to Granny Letcher's house before she moved.

Q. You went to see her on Pottawatomiee?

A. Yes, I went there to dances then.

Q. How old were you then?

A. I was a man twenty-three or four years old.

Q. About twenty-three of four years old? A. Yes, sir.

Q. What kind of looking boy was this boy Tommy you saw? Describe him as near as you can?

A. Well, he was a round faced; light, sandy hair, and real fair, you could hardly tell him from a white child.

Q. Pretty fair, and had sandy hair?

A. His hair was light.

Q. He talk Indian? A. Who?

Q. Tommy. A. Talk Indian?

Q. Yes, did he know any Indian words?

A. Not then, no, sir. He was a little fellow.

Q. Afterwards?

A. I don't know about afterwards. Then, he didn't know.

Q. You played with a boy named Sam Nash? A. Yes, sir.

Q. Did you know a fortune teller there? A. Who?

Q. An old fortune teller? A. A man or woman?

Q. Woman. A. I knew everyone around there.

Q. I am satisfied you knew them all. Tell me if you knew one around there.

A. Yes, sir. Knew an Indian woman fortune teller.

Q. What was her name? A. Mary.

Q. Mary what? A. Indian Mary.

Q. Where did she live? A. Any place and every place.

Q. Where did she generally stay, this Indian?

A. That is something I never could locate—Mary's general staying place.

Q. Didn't she have a place where she slept?

A. She of course did, but I never——

Q. Did you ever see Minnie with her? A. With Mary?

Q. Yes. A. No, sir, never saw her.

Q. How often saw Minnie at Granny Letcher's?

A. How often?

Q. Yes.

A. Some nights I would go there every night and change clothes—I kept my change there, to dress up, and I wouldn't go back there until pretty near day, or middle of the night, or something, and I would go to my room. When I got there, I would go to bed, but I would see Minnie, off and on, about twice a week.

Q. When did you first commence seeing Minnie there? Tell me of the year as near as you can.

A. Well, I judge I saw Minnie there along at the rise of '85.

Q. I believe you said just now, you saw her in there in '84 or '85, didn't you?

A. I didn't see her around Mrs. Letcher's; I saw her before I saw her at Mrs. Letcher's.

Q. You saw her at Mrs. Letcher's the first time in '85?

A. Yes, sir, along in there.

Q. How long did Minnie stay around there?

A. Minnie stayed around there to my best knowledge—I just won't be positive—for say three—say four years. I can't be positive; I just don't know when Miles left for the—oh, I could tell you, she left with the soldiers when she left.

Q. Well, is it your impression that she stayed there three or four years?

A. I think it comes to me very favorably that she left there sometime along in '93.

Q. '93?

A. I believe that is pretty near the time when General Miles left—in '93. I ain't positive; I wouldn't say positive.

Q. That is about eight years after Tommy was born?

A. Yes.

Q. '93? A. Yes.

Q. You said Tommy was born in '85?

A. Yes, sir; now, I am not positive to it being that time, but if I knew when General Miles went off on his expedition, I would know, because I had a sister-in-law went with them.

Q. You don't know whether she left there in '88, or not?

A. No, I think I saw her there in '88.

Q. You think you saw her there as late as '93?

A. I believe; I am not positive now, about '93.

Q. Minnie was a pretty well known character there, wasn't she? A. Not with everybody. Quite notable with everybody.

Q. That is what I mean. Known as Indian Minnie?

A. Yes, sir.

Q. About the only Indian around there? A. No, sir.

Q. Indian girl?

A. Well, she was the youngest one of the other two; there was two others there. Indian Minnie was the youngest girl.

Q. How old was she?

A. I don't know but I judge Indian Minnie to be a woman about twenty-two or three, or maybe twenty-four.

Q. Twenty-four?

A. Yes, sir; along about that—just from her looks, a woman in her twenties

Q. You seen her since then?

A. No, sir, not since she left there, I never seen her since.

Q. When did you first communicate what you knew about this to anybody in the case?

A. Why, I was talking to a man, Monday, in the hardware store down home, and then it came out and I was *to* notified to come up here.

Q. Was Monday the first time you ever spoke to anybody about it? A. Yes, sir; yes, sir; didn't interest me at all.

Q. Never spoke to anybody until last Monday?

A. No, sir.

Q. Who was it you spoke to about it?

A. Two or three men in the hardware store.

Q. Name one.

A. Ben English was one. I was talking to him, through other men.

Q. Who else? A. Alexander, the hardware man.

Q. What Alexander? What is his first name?

A. I just can't think. If you will allow me—Mr. Jones will tell his first name. I talked with him. The first name, I can't tell you.

Q. What is the other man's name? A. That was in there?

Q. Yes. A. Oh, there was several.

Q. How came you to tell what you knew about it, Mr.——

A. About what?

Q. How came you to tell what you knew about this case?

A. Oh, I will tell you how. I stepped in there to get some bolts, and they were in there talking about it, and I said, this to the men, at large; I said, a lot of men know Indian Minnie, now, and talk about Indian Minnie, now, that didn't know Indian Minnie and English spoke up there, and said, do you know her? And I said, how do you know I know her, and he said because I seen you running around there where she hung out, and I said that is my business.

Q. That all you said? A. Yes, sir.

Q. When did you tell here what you told, to anybody?

A. Didn't tell it.

Q. Never told anybody at all until you told it here?

A. I told a man I knew, of it.

Q. When? A. Yesterday.

Q. Who were those men?

A. Why, I told lawyer Bell for one.

Q. You have known lawyer Bell all your life, haven't you?

A. No, sir.

Q. How long have you known lawyer Bell?

A. I guess I have known him ever since he came to Leavenworth but the amount of years—I don't know when he came to Leavenworth.

Q. How long has that been?

A. Well, I think I have known lawyer Bell twenty-two or three years—might be longer.

Q. You have been good friends during that time?

A. He and I, yes, sir. Yes, good friends.

Q. Well acquainted? A. Just men friends.

Q. You know lawyer Bell was in this lawsuit, didn't you?

A. I know nothing about it.

Q. Didn't know he was one of the lawyers?

A. No, sir, I didn't know this case was coming on, until Saturday.

Q. Never heard of it until last Saturday?

A. Oh, I have heard talk of it; never read a word of it, and never meddled in regards to it. Never interested in it at all, and very little now, please. Never meddled in a lawsuit—never did in my life.

Q. Where was you educated?

A. I never was educated; I went to school at Pittsburg, Penn.; went to school at Frankford. Ky.—Sam Clay school.

Q. You are pretty well educated?

A. Just limited learning.

Q. You are a correct reader?

A. Yes, sir, read a good deal.

Q. Read newspapers a good deal?

A. No, sir, don't never read—don't take any.

Q. Never read any? A. No, sir.

Q. What is your big prejudice against newspapers? Don't tell the truth?

A. It isn't that. I have taken the Leavenworth Times all my life until five years—just because it keeps me disturbed, in one way, and there is nothing in it that seems to digest properly on my thinking capacities that causes me to seem to desire to have them. I don't take them because I can't pay for them.

Q. Pretty hard to digest?

A. I can't get it off my brain at all.

Q. What is your course and style of reading? What do you read generally? A. In the English?

Q. In the English, yes? Classics?

A. Well, I am not—I just read right straight along a course.

Q. What is your course? What is it that you read straight along? You say you have eschewed newspapers?

Mr. Blakeney: I want to insist that the Judge has had levity enough, now.

Mr. Stuart: Just testing his intellectual capacity.

A. Judge, I haven't any particular course. The course I pursue most, is that as to the department of the human condition at large.

Q. In other words, you are a humanitarian and philanthropist? A. I want to be.

Cross Examination by Mr. German.

Q. You say you came to Leavenworth in 1865?

A. Yes, sir.

Q. What age were you? A. When I came there?

Q. Yes, sir.

A. I was 14—on the rise of 14. And the knowledge I have of it, you like to know of my age? My father was a Cherokee born, and reared down here at Tahlequah, and my mother died when I am five days old. My father in leaving Kentucky, willed me to my mother's young mistress, and the only thing I have identified as being my age, 66, this coming August 10th, is by which she gave me, August 10th, in '65, to go to Leavenworth, Kansas. That is all I have to go by.

Q. What blood have you beside Cherokee Indian?

A. Negro blood.

Q. What per cent of Indian blood, have you?

A. A quarter.

Q. You say that your father ran a blacksmith shop on Seneca street, between Seneca and Third?

A. Yes, sir, near Third.

Q. On the north side of Seneca street? A. Yes, sir.

Q. At the same place on the same lot where Crilly's livery barn was later established?

A. No, sir, I didn't so think. Where my father had a blacksmith shop, Doctor Brock has a barn on the lot; Doctor Brock bought the lot and built a barn there. Crilly's barn was on the lot west of the barn. That is now occupied by Doctor Brock, deceased.

Q. Then, your father's shop was west of the place where Dr. Brock's barn was? A. No, sir.

Q. East?

A. No, sir, my father's shop, I said, was on the lot where Dr. Brock's barn stands now.

Q. Then, Dr. Brock's barn was built there after your father moved away—away to another place in Leavenworth?

A. Yes, sir.

Q. Did Crilly start his livery barn on Seneca street, before your father moved away from Seneca street? A. No, sir.

Q. How long afterwards?

A. A couple of years, I should judge, I don't know much about that. I think maybe—yes, about a couple of years because the old hotel run a year afterwards.

Q. The old hotel? A. Yes.

Q. Now, did Dr. Brock have a livery barn? A. No, sir.

Q. Just his private barn? A. Just his private barn.

Q. How long after your father moved away from Seneca street, was it, that Dr. Brock's private barn was built there?

A. Three years.

Q. Now, was your father moved away from Seneca street on April 26, 1889? A. Yes, sir.

Q. How do you know that?

A. Why, I kept books for my father. I have my father's books and his business transactions at home.

Q. At home?

A. Yes, sir, and I looked last night to see where we have been all this time. I declared myself to know nothing but what I know, and we moved away April 26th, 1893.

Q. 1893? A. Yes, sir.

Q. April 26th? A. Yes, sir.

Q. You said '89 a while ago.

A. Excuse me, please, sir, I mean '89.

Q. How does that book show you moved off of Seneca street in '89?

A. Why, I mean—why, we—my father had those lots listed, where Brock built his barn, and at that time we went into negotiation with Mr. Buck to buy those lots where we built our shop on.

Q. And your books show that, do they?

A. Yes, that we had this transaction?

Q. Yes.

A. Oh, yes, they had to. Talking of my father and Mr. McFarland, yes, show the deal with him.

Q. Where was it your father started the shop after moving away from Seneca?

A. On Fifth and Oak; between Fifth and Walnut.

Q. Regardless of the year when your father moved to Fifth and Oak, did you know that Crilly's barn had not been started when your father moved? Crilly had not started to operated a barn? A. Oh, no.

Q. On Seneca street? A. No, sir.

Q. Was he operating a barn somewhere else?

A. He was in partners with another man.

Q. Where?

A. Down on Cherokee street between Third and Fourth.

Q. Partners with Joe Cranston? A. Yes, sir.

Q. Yes, sir. Joe Cranston was in partnership with him, on Seneca street when he started that barn there?

A. I never knew of his being interested in it. I shod for both parties.

Q. You said there were three Indian woman in Leavenworth? A. Yes, sir.

Q. Give their names.

A. Indian Mary, Indian Leddie, and Indian Minnie.

Q. Which was the oldest one of the three?

A. Indian Mary.

Q. When did you first know Indian Mary there?

A. Oh, I knowed Indian Mary there when I first came there—the next year when I was there—knew her along in '67.

Q. When did she leave there, or what became of her?

A. She got killed there, I believe; I heard of her getting killed there on the reservation, I believe, and I am not positive. I think she did, though.

Q. Do you know how long that was after you came there?

A. From the time I came to Leavenworth?

Q. Yes.

A. Oh, that was some 10 or 12 years, about 10 years; maybe more.

Q. Indian Leddie come there at the time Indian Mary was killed? A. Had she been there?

Q. Yes. A. Yes, sir.

Q. When did you first know Indian Leddie?

A. I knew Indian Leddie about five or six years after I knowed Indian Mary.

Q. What became of Indian Leddie?

A. I understood she went—well, I bid them goodbye—they went down in to the—Creek Nation. She went off with the fellow she married, a painter there, and went away. Claimed to be married to a painter and went down to the Territory. I don't know just where now. Married a man named Williams, a painter, or took up with him, or something.

Q. Indian Mary stay out to the Fort much?

A. She would come in and out; stayed mostly around town but she went in and around the Fort. Had a good deal to do with the soldiers, you know. Would go down town, telling fortunes—or tried to. I knowed about that better, as a fortune teller.

Q. Did she use any opiates that you know of? A. Which?

Q. Use any opiates?

A. Not as I know of. Allow me to explain the meaning of your word?

Q. Dope?

A. No, sir, not as I know of; she drank a good deal.

Q. Indian Leddie—how long did she live in Leavenworth?

A. Indian Leddie, she stayed around there, I guess, about six years.

Q. What aged woman was she?

A. Indian Leddie was about thirty-seven or eight years old; she wasn't forty.

Q. Where did she live?

A. She lived around different places. She made dresses for people there. Lived at a place I lived for a while; lived with Mrs. Miller.

Q. On what street?

A. Ottawa, between Third and Fourth, north side of Ottawa.

Q. About what sized woman was she?

A. A woman who weighed about a hundred fifty-nine or sixty pounds; very poorly woman.

Q. What height was she?

A. A woman about five three or two.

Q. Did she have any children? A. Indian Leddie?

Q. Yes.

A. Never as I know of; she went away from there without any.

Q. Indian Mary have any? A. Not as I know of.

Q. About what year was it that Indian Leddie left Leavenworth?

A. Indian Leddie left Leavenworth somewhere about ninety-four or five, I guess. I am not just positive. She must have left there about '95 or '96.

Q. Where was your father's shop when you first knew Indian Leddie? A. My father's shop was on Seneca street.

Q. Where was it when Indian Leddie left there?

A. My father's shop was on Fifth and Oak streets.

Q. Where did your father live when his shop was on Seneca street? A. Between Third and Fourth, on Pawnee street.

Q. At Mrs. Miller's? A. No, my father owned property.

Q. You didn't live with your father all the time, did you?

A. Yes, lived with my father until after I married.

Q. When was it you lived with Mrs. Miller?

A. Mrs. Anna Miller's, where Leddie was?

Q. Yes.

A. I didn't live there; I kept care of the horses, waited on her. Her husband was a store-keeper in town and he got to be guard at Lansing, and he got me to go down there and leave at night, and Leddie, she stayed there with her to make dresses.

Q. Was that Leddie's home? A. No, sir.

Q. Where was her home?

A. Where ever she was working for white folks. She was a dressmaker. I don't know of her having any home.

Q. When did you first know Indian Minnie?

A. I know Indian Minnie for years later—three years later.

Q. Where was Indian Minnie living when you first knew her?

A. When I first met Indian Minnie first—when I ever heard of her—she was working out on South Esplanade. I don't know whether she was working—I wouldn't say positive she was working for Judge Hyde; or Paul Havens, but she was in that block there, working for Paul Havens or Hyde.

Q. Now, how long was it after you knew her there, at either Hyde's or Haven's, that you saw her at Molly Letcher's?

A. Oh, it was a year, I guess; eight or nine, or ten months. She might have come there before, but I never saw her.

Q. How big was this boy Tommy when you saw him? What age? A. When I first saw him?

Q. Yes.

A. Well, Tommy, I judge he was between eleven and twelve months. I just judge; I didn't have much knowledge of him.

Q. When was it you first saw the boy with reference to the time Minnie came to the Letcher home?

A. I would like for you to say it again.

Q. Was it before or after Minnie came to the Letcher's that you first saw the boy?

A. I saw Minnie at Letcher's before I saw the boy at Letcher's.

Q. How long before?

A. Oh, I saw her there several times; just visiting in there at night.

Q. Well, how long, now, was it before you saw the boy, that you saw her there?

A. I saw her two or three months—I judge about two months.

Q. And then you saw the boy? A. Yes.

Q. And then the boy was ten or eleven months old?

A. When I got acquainted with him, yes.

Q. Yes.

A. But I saw Minnie lots of times before I saw the boy.

Q. You had seen Minnie on South Esplanade?

A. No, sir.

Q. Where abouts was it that you seen her?

A. I seen her on the street but I never knew where she worked, direct, but I never seen her at different places.

Q. You just understood where she lived?

A. Yes, sir, but I knew she worked for Hyde's or Paul Haven's; not positive which one, but she was in that block.

Q. Now, you finally saw her at Molly Letcher's and after you had been seeing her around Molly Letcher's about two months, you saw the boy? A. Might have been longer.

Q. Well, how much longer?

A. I wouldn't say but that long.

Q. And the boy was eleven or twelve months old?

A. When I first saw him?

Q. Yes. A. Wasn't that old when I first saw him.

Q. How old was he?

A. He could just set alone; crawl around and fall over. That is why we called him Dumpy.

Q. Now, who took care of that boy when he was just big enough to be alone?

A. Mrs. Letcher took all the care of him that I seen; sometimes there would be other women there and they would handle him around but Mrs. Letcher did the most caring for him.

Q. You don't know where that boy was born?

A. No, he was born there in Leavenworth but I don't know which place.

Q. You suppose he was? A. Yes, I will say that.

Q. You have heard where he was born? A. No, sir.

Q. How old would you say he was when you first saw him?

A. Well, I first saw him he was from—oh, my idea of him he would be—maybe about—I don't know; I don't like to say.

Q. Well, was he eight months? A. Oh, yes, he was older.

Q. Six months?

A. He was a child about ten, looked like nine or ten months old. He might not have been; he was an awful poorly child. I guess he was about seven or eight months to come right down and sum him up. I don't know positively; I have not got him in my head to say. He might have been older.

Q. Well, that is sufficient; I am satisfied. Let's see, your father was operating a shop right across the street from Molly Letcher's? Is that correct? A. Yes, sir.

Q. Where did Molly live with reference to the VanTuyl Barn?

A. East of it on the alley; the house set along here on the alley.

Q. What kind of house? A. Barn—frame house.

Q. How many stories high? A. One.

Q. One story and porch? A. Yes, sir, a long house.

Q. You lived in that house some? A. No, sir.

Q. You changed your clothing over there, didn't you?

A. No, sir, not in that house.

Q. I misunderstood you awhile ago?

A. You didn't misunderstood me to say I changed clothing, but not in that house.

Q. Molly Letcher live in any other house on Seneca street? A. Yes, sir.

Q. Where?

A. In the front part; the baker shop was there and moved out.

Q. Who was it ran that baker shop?

A. I am not positive but either a man by the name of John Schott, or Frank—either—Schott Bakery.

Q. Did you know a man named Feth? A. No, sir.

Q. A Dutchman that lived next door to VanTuyl's stable, immediately east of it in the stone house?

A. Oh, yes, that is the stone house I spoke of where Mrs. Letcher lived.

Q. That is where Mrs. Letcher lived? A. Yes, sir.

Q. Wasn't there another house still east of that—stone house? A. A little house, yes, sir.

Q. What sized house was it?

A. A house about four or five rooms; I don't know exactly because the lumber yard was in there. I think a story and a half; might be two story.

Q. Who lived in that? A. I just can't tell you.

Q. Do you remember Gustav Dotter? A. Who?

Q. Gustav Dotter?

A. No, I don't yes, because I can't think of the name of that party.

Q. Did you know a man who ran a bakery in the back end of that story and a half house?

A. I would if I heard his name.

Q. Dotter? A. Dotter?

Q. Dotter? A. Yes, sir.

Q. You know him? A. Yes, sir.

Q. He ran a bakery in the rear end of that house?

A. Yes, sir, that is the one that Mrs. Letcher lived in.

Q. That is the house Mrs. Letcher lived in?

A. Yes, sir, that is the same house, I spoke to you about, where I kept my things once in a while. That is Mr. Dotter.

Q. That is the same house Molly lived in? A. Yes, sir.

Q. Now, let me see if I understand you. Did she live in two houses on Seneca street? A. Yes, sir.

Q. One of them immediately east of Van Tuyl's barn?

A. Both of them.

Q. And the other was the second house east of Van-Tuyl's barn?

A. No, sir, first house. Both of them were east of VanTuyl's—Edgerton's barn.

Q. Immediately east? A. Yes, sir.

Q. Any house between that house and VanTuyl's?

A. No, sir.

Q. These two houses were built on top of one another?

A. No, sir.

Q. Well, which one was east?

A. Both east; built houses in Kansas sometimes in front of a lot, and one on the back. I said before Mrs. Letcher lived in the house, that on the alley, and when she moved out, she lived in the front one.

Q. How long did Indian Minnie stay around the Letcher house?

A. Well, she didn't stay there so very long, around there; she was in and out.

Q. In and out for how long?

A. Oh, she never *ever* did—didn't make no practice of staying there.

Q. Never did?

A. Not that I know of but then, I am not there all the time. I am out and in.

Q. Well, for what period of time, now, was she in and out—how many years?

A. Well, I judge about two years; a year and a half—something like that.

Q. Wasn't four, then, like you said a while ago to Judge Stuart? A. Well——

Q. Did you not tell Judge Stuart it was about four years?

A. That I knew her around there.

Q. It was that way?

A. Sure, and you asked me if I seen the little boy around, didn't you?

Q. Now, you say Minnie was around the Letcher home about four years? A. Yes, sir.

Q. That is correct?

A. I saw her around; in and out that amount of years, but not to stay there.

Q. Did you ever talk to her?

A. Just to pass the time with her—how-do-you-do, Mrs. So-and-so.

Q. Well, what do you call her?

A. I called her sometimes Miss Minnie and sometimes called her Mrs. Atkins. That is all I heard, but I had no familiarity with her.

Q. Where did she stay besides the Letcher home and South Esplanade?

A. I believe I—don't want to be sure—but after she left out there on Esplanade, South Leavenworth, I will say, she went to the Fort. I know her; I have seen her going, mostly, down from the Fort. I didn't watch her much.

Q. And when she went away from Leavenworth, she went with General Miles? A. She went off that time.

Q. With General Miles?

A. They all got steamboat at the Fort and went up the river; I thought they were going to Denton.

Q. In Wyoming, you——

A. Yes, they went up to Helena, I think.

Q. Helena, Montana?

A. Yes, sir—either Butte, or Helena.

Q. Where was the boy when she left there?

A. When Minnie left?

Q. Yes. A. The boy was out to Carter's.

Q. Out to Carter's? A. Yes, sir, Carter had taken him.

Q. How long had he been out to Carter's when Minnie left? A. Oh, I don't know how long Carter had him.

Q. A year or two, or three, or four?

A. He hadn't had him no three or four years; couldn't have been over a year.

Q. Now, you don't know whose boy that was, do you?

A. Oh, no, I don't.

Q. He went by the name of Tommy, you say?

A. Tommy Atkins.

Q. And Crilly named him Commodore? A. Commodore.

Q. Where was Crilly's place of business when he named him Commodore?

A. Crilly's was just then taking possession and fixing sheds; he hadn't moved in there yet. At the old barn—the Seneca Hotel was fixing to move in there.

Q. Were you around there when Crilly named him?

A. I was in and out, yes, sir; I didn't live there. Now, I didn't hear Mr. Crilly name him that name.

Q. Alright, but you learned that he did?

A. I heard the boys all saying—we had a dozen names for him, as boys do.

Q. Give us some of the other names.

A. I never called him anything but Dumpy.

Q. Who nicknamed him Dumpy?

A. Different boys around there called him.

Q. Why did you nickname him Dumpy? A. I don't know.

Q. What other names did he have? A. I don't know.

Q. Commodore and Dumpy?

A. Yes, sir; different names they called him around there.

Q. Whose child was that?

A. You mean, who was the mother of him?

Q. Yes, that is what I mean. A. I can't say that.

Q. Now, didn't you hear somebody say in those days, whose child that was?

A. Yes, sir, I did then, but I don't know.

Q. You didn't know?

A. Yes, I heard it was Minnie's but I didn't know it to be. She took a great deal of pains in it's clothes there. She would bring clothes to it there, and she seemed loving toward it, but I can't say it was Minnie's. It was brought there when I wasn't there.

Q. Molly Letcher kept the child? A. Yes, sir.

Q. It was brought there when you wasn't there? Where was you?

A. I was maybe at the shop, or somewhere else around town, and when I got there that child had been there three nights—when I turned there to put up that night.

Q. And it never had been there before that night?

A. Yes, sir, never had been there before.

Q. You were there frequently?

A. Yes, sir, before it was there, and after it was brought there.

Q. You know it was possibly nine or ten months old?

A. Well, I don't know the age of it, I wouldn't say.

Q. And did you hear where they brought it from?

A. No, sir, I never.

Q. Never heard nobody say? A. No, sir, never.

Q. Describe Indian Minnie.

A. Well, when she was around there, she was a slim, very fair complected woman; looked to be—weigh about a hundred, or a hundred and eight or ten pounds—that was when I first met her. Very long, straight hair, and she was quite a good looking girl—about as good looking a girl as we had up in Leavenworth at that time.

Q. What height was she?

A. She was a woman of about average height; she was about 5 foot, or maybe five-two or something like that, I judge her to be. I have been up side of her.

Q. She could have been five-three, couldn't she?

A. Yes, she could have been; I don't know exactly. I stood up and talked to her and of course, she wasn't as tall as I would be.

Q. How tall are you? A. I am about five-six.

Q. You are taller than that?

A. No, sir, I have never been called it in the government business.

Q. Aren't you about five feet ten inches?

A. I am five feet nine and a quarter.

Q. Minnie was about five feet and two inches tall?

A. I don't know exactly.

Q. Well, about that? A. Minnie?

Q. Yes.

A. Well, she looked to me about that, yes—five feet.

Q. Five or five two? A. Or a little over that.

Q. She wasn't quite as high as an average sized woman, was she?

A. Yes, what I called an average sized woman; young lady—young woman.

Q. She wasn't above an average of build very much?

A. Not when I first knew her.

Q. She wasn't unusually tall, or unusually low?

A. You can't say that a person would take a direct height or weight——

Q. What age was she when you first knew her?

A. I would guess her to be a woman in or about twenty. Or coming twenty—something like that, when I commenced seeing her.

Q. You never saw Minnie in a family way, did you?

A. No, sir.

Q. Never saw her in a pregnant condition?

A. Not that I ever know of.

Q. You saw her pretty frequently from the time that you first saw her on the street, until she left Leavenworth, didn't you?

A. Oh, I would see her, maybe once every week, or something like that, and then for a while I was away from home—she was there while I was away from home a while.

Q. Was that before or after you saw this boy around Mollie Letcher's that you were away from home?

A. That was before.

A. I was away from home about three months.

Q. How long before you saw this boy around, was it that you were away from home about three months?

A. Well, I came back home—when I came back to Leavenworth?

Q. Yes.

A. He was there at Mrs. Letcher's. I was not right there immediately when I come on down to Mrs. Letcher's, but he was there the first time I went to Mrs. Letcher's after coming from Atchison—I seen him there.

Q. You stayed in Atchison about three months?

A. Yes, sir.

Q. Well, prior to the time that you went to Atchison, you saw Minnie about once a week?

A. Well, not regularly; mostly I saw her, just happened to be in the route. I would be Sunday afternoon down town —I would see her; never see her on the street regularly through the week. Nothing *likt* like. It would be mostly Sundays and afternoons.

Q. You knew Jim Mayo, didn't you? A. Well.

Q. And you knew Sam Nash? A. Yes, sir.

Q. This boy Tommy played with Sam Nash a good deal —played with Sam?

A. Around the house there; he was all the boy around there—he was larger.

Q. The only boy around there? A. Except Jim.

Q. Did you know a woman of the name of Annie Banks that stayed at Molly Letcher's?

A. She had several women stayed there. No, I can't say I knowed Annie Banks; I may have known her.

Q. Did you know a boy named Walter Banks—a little child that stayed at Mrs. Letcher's? Or was this the boy called Walter, sometimes—this Tommy?

A. I never heard of him called that and I couldn't place no Walter Banks that stayed around there—might. Mrs. Letcher was a very peculiar woman; she would take anybody that came along. People would leave their children for her to look after; she wasn't a woman to turn anybody away, and yet, I never paid any attention to those around. There was always several around there, mostly at night. When I didn't want to go up in the north part of town, home, I would go there and go to bed.

Q. And you would sleep up stairs?

A. No, sir, I would sleep down stairs.

Q. Were you very intimate with the Letcher's?

A. Yes, sir.

Q. And you knew everybody that stayed there regularly?

A. When I would go there, yes; know pretty nearly all. but people would come in there but I wouldn't see them. I would hear them talking but I wouldn't see them.

Q. Do you remember about a woman bring[] clothing over to Molly Letcher's? A woman by the name of Nash, bring clothing over to Molly Letcher's for a little boy?

A. No, sir.

Q. Didn't know about that?

A. I didn't know a thing about it.

Q. You say that Minnie seemed to take a great deal of interest in this boy Tommy? A. Yes, sir.

Q. What did she do, now, that say showed she had an interest in him?

A. She would do like others that came there would do of course, but she would pick it up and caress it and so forth but she seemed to have more of an affection feeling toward it.

What I noticed; I didn't care nothing about it, but Minnie had a deeper interest in him. She would bring little dresses and skirts there—I would see them— give them to Mrs. Letcher. I never seen anybody else do it. She could did it and I not seen it, and I just judged the way she took an interest.

Q. She was kind to him? A. Yes.

Q. Did you know Mrs. George Edwards who lived in the old Crilly—Seneca house?

A. Had been acquainted with them.

Q. Did she have any children? A. Yes, sir.

Q. How many?

A. That I can't say; I think, though, she had two or three. A baby came there.

Q. What was *there* names? A. I can't tell you.

Q. Can't give the names of the children?

A. No, sir, I can't. Just got acquainted in passing.

Q. Did you know the Wood family? Colored folks who lived there on Seneca, the south side between Second and Third? A. Wood?

Q. Yes.

A. No, I never knowed any that lived there; might have before I come there, I guess.

Q. Nowhere on Seneca. Did you know Walter Woods, a little boy who lived next door to the VanTuyl house? VanTuyl barn?

A. No, sir, I didn't know him; if I knowed him, I don't remember him.

Q. Did you know Estella Forest who ran a bawdy house on the corner of Third and Seneca? A. Stella Forest?

Q. Yes. A. Yes, sir; boarding house.

Q. Bawdy house. A. Yes, sir, knew her well.

Q. Did you know Lillie White who ran a bawdy house? A. Yes, sir.

Q. Where was her bawdy house?

A. Lillie White had a boarding house, Third and Seneca, Shawnee and Seneca—Second street.

Q. Second street between Shawnee and Seneca?

A. Yes, sir, and I think after Emma Williams moved out of this house, Third and Seneca, Lillie White had taken it.

Q. Lillie White lived in the house that Molly Letcher lived in, didn't she?

A. That was before—next to the lumber yard.

Q. A little east of the Van Tuyl barn? A. Yes, sir.

Q. And didn't Molly Letcher move into that Lillie White house after Lillie moved out?

Q. Yes, sir, but she never moved in; she had lived in this stone basement house, first.

Q. But I am saying, after Lillie White did move out of that house, Molly Letcher moved in there?

A. I don't know and won't say whether Lillie White lived in it before Mrs. Letcher had taken it or not, but my mind was positive on Mrs. Letcher living somewhere else that I know of, but I can't place it.

Q. Wasn't it on Cherokee? A. Where Mrs. Letcher lived?

Q. Yes.

A. No, Mrs. Letcher did live in this White house; two houses here—here is the stone basement and there is the next one—east of it.

Q. Story and a half?

A. Yes, sir. This is one where she did live after living here. That is where Mrs. Letcher lived.

Q. You spoke of the Dotter's?

A. We called them Henry Dolter.

Q. Dotter, he lived in that story and a half house a good while? A. Yes, sir.

Q. After he moved out Lillie White moved in?

A. I don't know where she—I think it was occupied by Mrs. Letcher first.

Q. And she moved out?

A. When I left Mrs. Letcher was still living there.

Q. Then when did Lillie White live in it?

A. That is what I say, I am not positive *where* she lived in it first or Mrs. Letcher. I just am not positive about that and wouldn't say.

Q. Have you seen Henry Carter lately? A. No, sir.

Q. How long has it been since you have seen him?

A. It has been, I guess, about twenty years.

Q. Where was it you last saw him?

A. Well, I last saw him—I saw him in Leavenworth.

Q. Who with? A. He was on the street when I saw him.

Q. Did you ever see him out at old man Henry Carter's, here in the country? A. No, sir.

Q. You never did? A. No, sir.

Q. Did you now the boy pretty well?

A. When he was growing up?

Q. Yes.

A. Yes, sir, I never seen him out there, because I never been out there. I knew him pretty good by him coming to our shop with old man Carter.

Q. About how frequently do you say you saw him after old man Carter brought him to the country, until twenty years ago?

A. I would see him once a week, or every other week, when he would come in.

Q. For several years? A. Yes, sir.

Q. And you know that is the same boy that you saw around Molly Letcher's?

A. No, sir, the only one the way I know it.

Q. How?

A. Knowing to take that boy out there, that is the only boy I knew him to have out there, because he was coming to my place all the time with this boy.

Q. And you do know that that is the same boy that was at Molly Letcher's by the name of Tommy? A. Yes, sir.

Q. And is the same boy that old Henry Carter brought to your shop? A. Oh, yes, sir.

Q. For a period of several years? A. Yes, sir.

Q. Sometimes once a week, and sometimes, once in two weeks? A. Yes, sir.

Q. What was he called after old man Carter took charge of him?

A. They hardly ever called him any name. They would call him H, sometimes; have different names. I knew him as H Carter; when he come to grow up, he went by old man Carter's name.

Redirect Examination by Mr. Blakeney.

Q. You knew that the same boy that you learned later was H Carter, was the same boy they called Tommy Atkins?

A. Oh, yes, sure; they didn't change him.

Recross Examination by Mr. German.

Q. Did you know Mary Anthony who was around Granny Letcher's some? A. Yes.

Q. Did she have any children there?

A. None that I know of.

Q. Did you know Etta Lower?

A. Laury? I don't think I knowed her.

Q. You didn't know her? A. No, sir, I don't think I did.

Q. You spoke of a fortune teller? A. Yes, sir.

Q. Where did that fortune teller stay?

A. Who? Indian Mary?

Q. Yes. A. I don't know.

Q. Did she stay at the Seneca house some?

A. She would stay any place—around different places.

Q. Did stay at the Seneca house some?

A. Well, if Indian Mary made a practice of staying there, I never did know of it, or hear of it.

Q. Did you know a fortune teller who stayed at the Seneca house? A. No.

Q. Never did?

A. I may have, I heard the name, but I don't [] it at that time.

Q. Did you know a fortune teller named Molly Peterkin?

A. No, sir.

Q. Did you know an Indian woman who carried a child on her back, there in Leavenworth?

A. Why, I know lots of them that carried the children on their back—Indians.

Q. In Leavenworth? A. Yes.

Q. When was that? A. The latter part of '65.

Q. Where were those Indians staying?

A. Staying out on the reservation; Pilot Knob, and around out there.

Q. There were a lot of Indians there when you first came there, weren't there?

A. Not so very many; quite a few though. They went away in two years; '79, I think, but I don't know an Indian fortune teller that carried a child around on her back.

Q. How did Indian Minnie dress?

A. Dressed very neat; didn't dress so very fine.

Q. Did she wear any striped clothes, any red color in her clothing?

A. Well, not to any excess. She dressed like any other colored woman. Some times would be more red ribbon sticking on, but not any desire to show any.

Redirect Examination by Mr. Blakeney.

Q. You said you had a talk in the hardware store and mentioned the conversation that you had, did you?

A. Down in the hall?

Q. Yes. A. Yes, sir.

Q. You had a conversation you say? A. Yes, sir.

Q. And you have given that conversation. Now, after we brought you up to Kansas City, to talk to you about it, I asked you to give it, didn't we? A. Yes, sir.

Q. Did I examine you there? A. No, sir.

Q. Talk to you any about it? A. No, sir.

Q. The first time you ever attempted to tell the story?

A. Yes, sir.

Q. Was since you have been on the stand?

A. You say——

Q. The first time you attempted to tell the whole story is here on the stand? A. Yes, sir.

Q. And you refreshed your memory the best you could from the circumstances as you recollect them?

A. Yes, sir, and some things I referred to at home by looking over my father's doings.

Q. Mr. Bell asked you to find out when you engaged in business there, from information that you had at home?

A. Yes, sir, I can tell everything I did since I have been twenty-one years old, most.

Witness dismissed.

Mr. Cobb: Also offer the deposition of T. W. Bailey, which begins at page 3133 of Mr. Penick's report as Special Examiner.

THOMAS W. BAILEY being called on behalf of the defendant Henry Carter, sworn and under oath, testified as follows:

Direct Examination by Mr. Blakeney.

Q. State your name, age and residence.

Q. Thomas W. Bailey, going on 60, Leavenworth, Kansas.

Q. How long have you lived in Leavenworth?

A. Me? I have been here since 1872—8th day of December—off and on.

Q. You were living here during the '80's?

A. Yes, a while.

Q. What business were you engaged in? A. Collector.

Q. What part of Leavenworth did you live in?

A. I lived on Osage street—218, north side, between Second and Third.

Q. Do you remember when Granny Letcher moved up on Seneca street? A. No, not exactly; no.

Q. Along in the '80's sometime?

A. Along in the '80's; I know, but not exactly.

Q. When she moved up there, where did she first live?

A. Well, I think she lived in a house on the alley—story and a half house, with a lattice work around it, and I think she moved then in the old Dotter house that fronted on Seneca street; used to be formerly a bake shop. It was a long house.

Q. Were you acquainted with a woman—an Indian woman, named Minnie, or Minnie Atkins?

A. Yes, sir, I seen her around there and talked with her many times.

Q. Do you remember when you became acquainted with her?

A. No, I don't exactly but somewhere along about the '80's; about the first of the '80's.

Q. Have you any way at all of fixing the dates in your mind? Have you any records, or anything, that will fix them or not?

A. No, not exactly. I think it was along in '80 or '81 that I first got acquainted with her. She was then—she used to be with what they called the Procter girls here.

Q. Did you ever know of her having a child?

A. Yes, she had a child; whether it was hers or not, I couldn't swear or not, you know.

Q. About how old was the child when you first saw it?

A. Oh, it was about—I seen Mammy Letcher carry it around there—I guess about six or seven months old.

Q. How long did you continue to see that child?

A. Oh, I don't know; as long as I continued to work for Van Tuyl's. About a year and a half around the stable—I was collector. I seen it every once in a while; this little fellow we used to call Tommodore. He run around there—I suppose it was the same child by the looks of him.

Q. Did you know him by any other name besides Commodore? A. No, that is all we called him.

Q. Do you know what became of that child?

A. Well, I think he went——

Q. Not think—just tell what you saw.

A. Well, as I told you a while ago, we were unloading hay, one morning, and this man Carter used to fetch vegetables here; he had taken the kid in the wagon, when I got down stairs from unloading the hay, seen the—when I got down, this man Carter was driving down Seneca street in the wagon with this little fellow standing in there, and I never seen him after that.

Q. You haven't seen him until this time? A. No, sir.

Q. You knew old man Carter, did you?

A. Yes, he lived out on Little Stranger, I think. The girls used to fetch Mrs.—what's the name—vegtables once or twice a week.

Q. Mrs. who? A. Mrs. Letcher.

Q. You had seen him frequently and knew him?

A. Yes, a short heavy set fellow; kind of stubby whiskers, and grayish hair. He wasn't very——

Q. Short, stubby, heavy set fellow with whiskers? You put your hand up on your chin, do you mean by that whiskers, did you? A. Yes, sir.

Q. His hair was rather gray? A. Grayish.

Q. What age man was he? A. I don't know.

Q. Well, a young man or old man?

A. Well, he was about a man's age when he is beginning to turn gray, you know; pretty hard to tell them fellow's ages.

Q. But you say that he was not a very dark man? A. No.

Q. What do you mean by that? Was he a colored man or light man? A. Light colored fellow.

Q. About how old was the boy at that time?

A. Well, he was running around. I judge him to be four, or five years old. I know he used to come and dirty our buggies all the time, when we got them washed, climbing in and out of them.

Q. You say you have no way of fixing the date but it was some time during the '80's? A. No.

Q. You made a statement, did you, and signed a statement, and you gave it to Mr. Cook, representing the Government in this case? A. Mr. who?

Q. Mr. Cook. Do you know Mr. Cook? A. No.

Q. You don't remember him? A. No, sir, I don't.

Q. You don't remember Mr. Cook calling on you?

A. No, sir.

Cross Examination by Mr. German.

Q. You say your name is Thomas Bailey? A. Yes.

Q. How long have you lived in Leavenworth, Mr. Bailey?

A. Lived here since 1872.

Q. '72. What has been your occupation?

A. Well, collector, and so forth.

Q. Collecting, principally?

A. Yes, sir. I done that for about 20 years here.

Q. Did you ever do anything else?

A. Yes, I done lots of other things.

Q. Did you ever follow any other particular line of business? A. Worked in club rooms at night time.

Q. Club rooms? What do you mean by that?

A. I mean a gambling house.

Q. Gambling house. Did you work in club rooms a great deal?

A. I worked for one man for about six years, and another one about nine.

Q. What age are you?

A. Me? I am going on 60—past my 59 mark—the 19th of this last May.

Q. Where were you working in the '80's? A. In '80?

Q. Yes. [A.] I was working for Cory A. Van Tuyl, the southwest corner of Third and Seneca, running a livery stable.

Q. During all the '80's? A. No, sir.

Q. During what part of the '80's were you there?

A. I was in Kansas City and I came down there, and I came up here, and I worked for him about '83, I think it was.

Q. How long had you been in Kansas City?

A. I worked down there three months.

Q. You had gone from here to there? A. Yes.

Q. Then, how long did you work for Van Tuyl?

A. I worked for him for three or four years.

Q. Three or four years. After you quit working for him, what did you do? A. Me?

Q. Well.

A. Well, I worked for him—I stayed at the stable at night, and I collected in the day time. I was collecting all the time; every day in the week.

Q. What did you do at night, you say?

A. I would stay there in the evening for him.

Q. At Van Tuyl's barn? A. Yes, sir.

Q. How long did you stay there in the evenings, after you quit working for him, collecting?

A. I was still collecting but I stayed at the barn in the evening. He was sick for about a year and a half.

Q. Worked for him for about three years? A. Yes.

Q. Beginning, probably, in '83, is that right?

A. The last time I think I went there in '83, yes.

Q. And you had worked for him before that? A. Yes.

Q. Before you had gone to Kansas City?

A. Kansas City, yes.

Q. For how long?

A. I worked for him for about ten months.

Q. Just before you went to Kansas City? A. To the city.

Q. And after you came back from Kansas City, you worked for him for three years? A. About three years, yes.

Q. That three years included the night work you did for him, that you mentioned?

A. I stayed there at night for him, yes.

Q. After that three years, you never worked for him any more? A. No.

Q. Were you around that place, much, the last three years?

A. I used to be around there in the day time, an hour at a time, maybe two hours at a time.

Q. You spoke of Molly Letcher living on Seneca street; where did you say she lived first on Seneca?

A. If I am not mistaken, a story and a half frame house stood on the lot, I think she lived in that first, and then, she moved on the front—Seneca—the old Dotter house; used to be a big house.

Q. What sized house was that?

A. A long house; story and a half.

Q. Story and a half? A. Yes.

Q. Then, there were two story and a half houses in there?

A. Yes, but this other one set on the alley.

Q. Where on the alley?

A. Back of the stone house on the alley.

Q. You are referring to the Feth house when you mention the stone house? A. Yes.

Q. Where now, right straight back of the Feth house, was this other one?

A. The other one set behind the stone house; the house was the Dotter house, set over here in the other lot right next to—our corn crib.

Q. Now, let's see. Let's locate that carefully. The Dotter house was the first house east of Van Tuyl's stable?

A. No, sir, the second house east. The stone house was in between Van Tuyl's stable and the Dotter house.

Q. Then, the stone house between the stable and and the Dotter house—was the Feth house? A. Yes.

Q. Now, where was the other house that you mentioned?

A. One set back on the alley, setting behind the stone house in the alley of the lot.

Q. Which way did it face? A. It faced to the north.

Q. How close to the alley was it?

A. It set right on the alley.

Q. What sized house was that?

A. Well, they called it a story and a half.

Q. Were you ever in it? A. Was I ever in it?

Q. Yes.

A. No, I have been around it a number of times, though.

Q. But never it in. Now, you say, it is the first house Granny lived in?

A. I think it is; moved from there to the Dotter house.

Q. How long did she lived in that first house?

A. I don't know how long she lived there?

Q. You ought to know.

A. I suppose I ought to know but I never give it no thought. I said she lived there but I don't know how long, and she moved from that into the other one.

Q. Who lived in that house on the alley before Mrs. Letcher? A. I don't know; it was vacant for a long time.

Q. And after Molly Letcher moved out, who lived in it?

A. I don't know; it was tore down a short time afterwards.

Q. How many rooms did that house have?

A. I don't know. Not knowing, I can't say, because I never was in it.

Q. What was the dimensions of it?

A. Well, I don't know; pretty hard for a man to tell unless he has been inside and looked around it.

Q. You saw it outside. How many rooms, was there, east and west, and north and south?

A. Two rooms down stairs, and porch with lattice work around it.

Q. Lattice work around it? A. Yes.

Q. Where was that porch—on which side of the house?

A. Well, it faced on the north side, the same as the building faced.

Q. It was in the front of the house, then? A. Yes.

Q. Now, that house was on the same identical lot with the Feth house, was it? A. With the stone house? Oh, yes.

Q. Yes, that is the Feth house, isn't it? A. The——

Q. Stone house? A. Yes, sir.

Q. And you haven't the slightest idea how long Molly Letcher lived there? A. No, because I was——

Q. Where did she come from to there?

A. She came off of Choctaw street, if I am not mistaken.

Q. Had you known her before she came there?

A. I used to go down that way collecting; used to see her down there.

Q. On Choctaw? A. Yes, sir.

Q. Had you ever been to her house on Choctaw?

A. No, sir.

Q. Where on Choctaw? A. Between Third and Fourth.

Q. Did she move from Choctaw to the house on the alley, on Seneca? A. Yes, sir.

Q. She did?

A. She lived there a little while and then she moved in the other one.

Q. In the Dotter house? A. Yes.

Q. The Dotter house. You knew old man Dotter, didn't you? A. I did, yes, certainly.

Q. And you knew his boy? A. Yes.

A. And his girl?

A. And his girl married one of the Thormans, right here.

Q. The girl married?

A. The girl married, what is his name—lives here in town—Feth.

Q. Feth? A. Feth.

Q. The Dotter's girl did? A. Yes.

Q. William Feth? A. Yes.

Q. The man who is here now? A. Yes.

Q. He married Dotter's daughter? A. Yes.

Q. Now, you are sure of that? A. I am, yes.

Mr. Hanford: I object to it as incompetent, irrelevant, and immaterial.

Q. Did you know when the marriage took place?

A. No, sir, I don't.

Mr. Hanford: Objected to as immaterial.

Q. Did the Dotters move out of that house?

A. Yes, and went west.

Q. West. Who moved into the house?

A. Went to California, I think.

Q. Then, Lillie White moved into the house, didn't she?

A. Some white woman moved in there; I don't know who it was.

Q. You don't know how long—— A. No.

Q. And when that White moved out, Molly Letcher moved in? A. Yes.

Q. The white woman ran a house that didn't have a very good reputation, didn't she? A. I presume she did.

Q. That was your understanding, was it?

A. I saw lots of folks going up that way evening when I would be around the stable.

Q. Didn't any colored folks live in that house with Lillie White? A. Not that I know of.

Q. Well, you were working at Van Tuyl's barn at the time?

A. Well, I can't be out doors, and be inside at the same time.

Q. Where was Molly Letcher living when you first knew Indian Minnie? A. On Seneca street.

Q. Which house? A. In the Dotter house.

Q. Dotter house.

A. That is when I used to talk to her, but I knew her before that.

Q. You knew Indian Minnie before that? A. Yes.

Q. But how was it she was first around Molly Letcher's place?

A. Where was Molly Letcher living? Living up there in the Dotter house.

Q. How long had Molly Letcher been living in the Dotter house before you saw Indian Minnie around Molly's?

A. Well, I can't say.

Q. Well, how long?

A. Well, about, I guess, four or five, or six months.

Q. You were working for Van Tuyl before Molly Letcher moved into the house on the alley, weren't you? A. Yes.

Q. And you worked for Van Tuyl regularly until after Minnie was around Molly Letcher's in the Dotter house?

A. After I came back, yes.

Q. After you came back? A. From Kansas City.

Q. From Kansas City. Well, you had come back from

Kansas City before Mollie Letcher moved on the alley, hadn't you? A. Yes.

Q. So, you were there, then, before Molly Letcher moved on the alley, and was working for Van Tuyl?

A. Collecting, yes, but I wasn't around the stable all the time during the day. I was there during night time.

Q. Alright; you were there sometime during the day time?

A. Of course, at noon-time, I would stay there until he would go to his dinner.

Q. And you were there at the time Molly Letcher moved into the Dotter house? A. Yes.

Q. Now, how did Indian Minnie—how long a period of time, was it, that Indian Minnie was in and out of the Granny Letcher place? A. That would be hard to tell.

Q. What is your best judgment?

A. Oh, I guess, I judge about two or three months. You see, I wasn't there all the time; I couldn't watch them people, and watch my horses, too. I got to judge those things; it has been a long time ago.

Q. I see. You stated the boy was six or seven months old when you first saw it?

A. Yes, seen Mammy Letcher carrying it around in her arms.

Q. Seen Granny Letcher?

A. Yes, or Mammy Letcher, that is what we used to call*ed* her.

Q. And where was Mammy Letcher living when you first saw this boy? A. Living in the Dotter house.

Q. How long had she been living in the Dotter house when you first saw this boy?

A. She had been there about a month, I guess.

Q. It was after that that you saw Indian Minnie around the Letcher house? A. Yes.

Q. How long did this boy stay around the Molly Letcher house?

A. Until he was—I guess—four or five years old. He stayed there long enough—to get big enough to *rub* around.

Q. What color was that boy? A. What?

Q. What color was that boy?

A. Well, he was a kind of a redish color when he was a little fellow. You couldn't call it a white and you couldn't call it a black.

Q. Well, what would you call it? What nationality?

A. Well, if I had been going to call it, I would have called him a half breed of some kind; between white and black. You know young kids like that, when they are first born, usually take more after their mother than they do after their daddy.

Q. What sized woman was Indian Minnie?

A. Oh, she was medium in size for her age.

Q. What would you—what was her age?

A. Oh, I should judge her about 18 or 19 years old.

Q. How tall was she?

A. She was a little taller than I am now, and I haven't growed none.

Q. How tall are you?

A. Me? I am about five feet, and a little over; two or three inches, I guess.

Q. How much taller than you was she?

A. She was about a half a head taller, I guess, than I was.

Q. Half a head. Was she slender or fleshy?

A. She was a slender woman; she wasn't like she is now—a big, fat, sloppy thing.

Q. You have seen her, have you?

A. Did I see her? I should say so.

Q. How often did you see her lately?

A. It has been about ten months.

Q. Where was it you saw her? A. Here in Leavenworth.

Q. At what place here in town? A. National Hotel.

Q. Where in the National?

A. Room—I forget the number of the room.

Q. Up stairs? A. Yes.

Q. Who was there when you saw her? A. What?

Q. Who was there when you saw her, then, besides yourself and Minnie? A. Why, her and her husband.

Q. Who else? A. Yes.

Q. Who else?

A. That is all I seen around there at the time.

Q. How came you to go up there?

A. I had seen her before that when she was here about a year ago.

Q. And that is how came you to go up there? A. Yes.

Q. You went up there to talk with her, about a year ago when she was here? Where did you see her?

A. Seen her at the National Hotel.

Q. Up stairs? A. Yes.

Q. How came you to go up there then?

A. Because I was sent for.

Q. Who sent for you? A. A man.

Q. What man? A. His name is Long; do you know him?

Q. Yes. Mr. Long sent for you, did he? A. Yes.

Q. And who was with Minnie when you went up to see her then? A. Her husband.

Q. And who else? A. Long.

Q. And who else?

A. That is all that I seen around there that was in the room.

Q. After you saw her there, did you go to Oklahoma.

A. What?

Q. Did you go to Oklahoma? A. Yes, I went to Oklahoma.

Q. Who took you? A. Page—Long.

Q. Mr. Page or Mr. Long?

A. I guess they are both the same party.

Q. You told them the story that you testified to here today? Hadn't you, before you went down there? A. Yes.

Q. About Mr. Carter taking the boy out?

A. Well, not exactly all that.

Q. Oh, you hadn't told them all that? A. No.

Q. Why hadn't you told them that?

A. All they asked me, did I know her, and how long I had known her, and everything, and I told him and they took me down what I supposed as one of the witnesses and I never was on the stand.

Q. Why didn't they put you on the stand?

A. I don't know; never asked them the reason, or nothing.

Q. How much were they paying you?

A. Paying my expenses and five dollars a day.

Q. For what length of time did they pay you five dollars a day? A. Well, court adjourned—I believe it was a week.

Q. A week?

A. Yes. I think it adjourned on Friday, if I ain't mistaken, or Thursday. Thursday or Friday; I forget which now.

Q. They paid you five dollars while you were in Oklahoma? A. I was there a week, yes.

Q. While you were going and coming? A. Coming.

Q. Did they pay you for any of your time after that?

A. No, I went to work for them, then, down in Tulsa.

Q. How long were you working there?

A. Three weeks, I think.

Q. Who for? A. Page.

Q. What kind of work?

A. Well, collecting and working in the water office he has got there.

Q. At Sand Springs?

A. It goes from Sand Springs; the office is in Tulsa.

Q. How long did you say you worked for him there?

A. About three weeks, I guess.

Q. What did he pay you per day?

A. Well, I was getting at the rate of ten dollars a week, I think; seven or ten dollars a week. He had me doing everything.

Q. How come you to go there to work for him?

A. Well, when court adjourned there, he told me to go back over there and he would be home, and he would give me a job.

Q. Mr. Page told you that himself? A. Yes.

Q. How came you to quit working for him there?

A. Well, he had a man working in the office that I couldn't agree with, and I told him, and he said, well, did I want to go home. I told him I didn't care; I just as soon go home as stay here.

Q. During any of the time, did you tell him anything about the old man Carter story?

A. No, never said a word to him about anything.

Q. Ever tell Mr. Long about the Carter part of your story? A. No.

Q. Mr. Hanford? A. No, nor Mr. Rice, or none of them.

Q. They had you down there for the purpose of testifying to seeing Tommy around Molly Letcher's, didn't they?

A. I suppose so; if I had got on the stand, but I never was put on the stand—not even asked.

Q. What different names did that boy go by while he was around the Letcher home?

A. All I know him to go by the name of—we called him Tommodore. I never heard no other names for him.

Q. None at all? A. No.

Q. Do you know how he got to be named Commodore?

A. No, I don't.

Q. Was it Tommodore, or Commodore? A. Tommodore.

Q. Did you ever hear the name Atkins attached to——

A. Not until after they had me down there; got me down here at the National. I seen him around there a good many times and I always knew him by the Tommodore. I never knew what his other name was.

Q. When was it *was* you first learned the name Atkins was attached to it? A. When Long came after me.

Q. Well, who was it told you that the name Atkins belonged to him? A. Long did.

Q. Mr. Long? A. Yes.

Q. There in the National Hotel? A. Yes.

Q. Did they tell you there it was Minnie's child? A. No.

Q. When did you first—did you ever hear whose child that was supposed to be? A. No.

Q. Never did? You didn't hear that in the '80's, when you knew the boy around there? A. No.

Q. Did you ever talk to Molly Letcher about that boy?

A. No.

Q. Did you ever talk to Minnie about it? A. No.

Q. You didn't know where the boy came from to Molly Letcher's?

A. No, I didn't; I supposed he came from a woman.

Q. Yes, but I mean what place here in town? A. No.

Q. The boy was not around Molly Letcher's until you first saw him there when he was a——

A. A baby; I supposed it was the same one which after he got big, he run around there.

Q. Well, he was the boy that old man Carter took out in his wagon? A. Yes.

Q. Wasn't he? A. Yes, sir, he was.

Q. Now, did you ever see this same boy around Ella Abbott's?

A. He used to go down there, and Ella Abbott used to come up to Granny Letcher's and take him down there. I have passed along there many a time and seen the kid on the sidewalk, and up in the window; whether he came there that way, or not, I don't know. Seen him there when out collecting; sometimes go to her house to collect a bill.

Q. Was that before or after old man Carter took the boy in his wagon? A. Before.

Q. Was that at Ella Abbott's assignation house?

A. *Hoar*-house, assignation house.

Q. Where was Ella Abbott's house?

A. Northwest corner of Third and Cherokee, over Abel's drug store, now.

Q. Was there a—what other boys were around Granny Letcher's house during the time that you were working for Van Tuyl?

A. Sam Nash was about the only one I knew, and four or five others used to loaf around there in the day time, and night.

Q. Was Walter Banks there?

A. Yes, used to see him there a good deal, too.

Q. What other boys? Name then.

A. I don't know their names.

Q. Was there any other boy there named Tommy?

A. Not that I knew of.

Q. You knew all the boys there, didn't you?

A. About all of them; knew them by sight but didn't know their names.

Q. Did you ever see Minnie having anything to do with this boy Commodore? A. I seen her nursing him.

Q. What do you mean by nursing him?

A. Have him in her lap.

Q. Holding him in her lap? A. Yes, holding him.

Q. You don't mean that you saw him nursing her breast? A. No.

Q. Now, how frequently did you see Minnie with this boy in her lap? A. Oh, I don't know; about once or twice.

Q. Did you ever see Minnie there with any other boy in her lap? A. No, not that I took notice of.

Q. Was there any other baby boys there?

A. I never seen any other baby boys around there.

Q. Walter Banks was older than this boy Commodore?

A. Yes, he was the smallest kid there.

Q. Do you remember the Woods family that lived back of Feth's a while? A. Sir? Where?

Q. Back of the stone house a while—the Woods family; colored folks.

A. Not that I recall of—not Woods.

Q. Didn't you know Walter Woods, and Lucien Scott? Didn't you ever know him?

A. Might know him by sight but not by name.

Q. Did you know Rats Woods?

A. Yes, I knew Rats; we called him Rats—never called him Woods.

Q. All the time? A. Yes.

Q. Who was he? A. I don't know who he was.

Q. Where did he live when you were working for Van Tuyl? A. God, I don't know; I don't know where he lived.

Q. What was his complexion?

A. He was light—wasn't quite so black.

Q. How does his age compare with Commodore's?

A. Oh, lots of difference; as much difference as between day and night.

Q. How much older?

A. I can't say for certain how much difference.

Q. Which one was the oldest? A. Rats was the oldest.

Q. Did you ever see Rats around Granny Letcher's?

A. Oh, once in a while; he used to be up in the street playing with the rest of them. I would happen out doors and look up that way and he would be playing down the street.

Q. Have you seen Henry Carter lately?

A. Henry Carter?

Q. H Carter, I mean.

A. No, I haven't saw him since he worked here for Varney.

Q. When was that? A. Over a year ago.

Q. You saw him about then? A. Yes.

Q. Is that the same boy you knew as Tommodore around Granny Letcher's?

A. Well, I should judge it should be; yes, from the looks of him. Of course, he was a little fellow when he went away from there. It is hard to tell a man when he grows up, you know.

Q. Any other boy around Granny Letcher's named Commodore that you——

A. He was the only one around there that I knew of.

Q. Did he have any scars on him? A. Not that I knew of.

Q. Did he have a birth mark on his back?

A. I don't know; only what Ella Abbott said. She said he had a blackberry, or something, here between his shoulders here.

Q. Ella Abbott told you?

A. She used to wash and undress him.

Q. When was it you talked to Ella Abbott and found that out?

A. When she was keeping the house on Third and Cherokee.

Q. Why back yonder in the '90's?

A. Yes, '80's—whatever you call it.

Q. When the boy was small?

A. When he was a little fellow, she used to wash and dress him. I suppose she used to go down there, and take him up there, and take him back in the evening. I wasn't around there all the time, I was at work; collecting.

Q. Do you know a man here by the name of Jim King? Don't you? A. Yes.

Q. Isn't Jim King the man that gave that boy the name of Commodore at Ella Abbott's?

A. Not knowing, I can't say.

Q. Don't you know that as a fact?

A. I don't know whether Jim King named him or who named him.

Q. Do you know where this boy was staying when they named him Commodore? A. Up there at Letcher's.

Q. Now, didn't you see this boy with Kid Billings, and Jim King? A. Who?

Q. That boy named Commodore?

A. No, not that I know of.

Q. The day that old man Carter took that boy off, you heard Molly Letcher tell old man Carter something about the boy, didn't you? About taking care of him?

A. I heard her talking to him but I couldn't say what it was because I was a long distance away from them. I was fully the length of the lot.

Q. Didn't you hear what was said—some of it? Something about taking good care of my boy?

A. She was talking to him. I don't know what she did say, and when he drove off, I suppose when he drove away, she might have said goodbye to him, or something like that.

Q. Didn't she holler out and say take good care of my baby? A. Not that I recollect of.

Q. And then, what direction did old man Carter drive after he left there? A. Drove west.

Q. Old man Carter lived southwest of the City of Leavenworth, didn't he? A. Over in here; southwest, yes.

Q. Let's see, Mr. Bailey. When was it that Crilley commenced to operate a livery barn on Seneca street between Second and Third? Do you know? A. No, I can't tell you.

Q. Was he running that livery barn there when Molly Letcher moved up onto Seneca? A. Yes, he was there.

Q. Already there?

A. Him and Joe Cranston were partners.

Q. Where were you working when the Kelley-Lysle Mill burned in February, '89? A. Me?

Q. Yes. A. I don't believe I was working at that time.

Q. How long had it been since you were working for Van Tuyl? A. Oh, it had been quite a number of years.

Q. When the Kelley-Lysle Mill burned?

A. No, I wasn't working for them, then.

Q. How long since you had been working for him?

A. Oh, it has been quite a while.

Q. How long between the time you quit working for Van Tuyl, and the time the Kelley-Lysle Mill burned?

A. I can't tell you.

Q. Two years? A. Longer than that, I guess.

Q. Was it there?

A. Somewhere along three or four years, I guess.

Q. Well, while you were down in Tulsa, they furnished you pretty good whiskey, didn't they, Mr. Bailey?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial; insulting, without any justification or excuse.

Mr. German: I will put it this way.

Q. Didn't Mr. Page, or Mr. Long, furnish you with pretty good whiskey down there? Expensive drinks while you were working down there?

Mr. Blakeney: I object for the same reason.

A. Long never bought me a drink of whiskey in Tulsa, or Muskogee, either. I bought it my own self, with my own money. You are damn right I did.

The Examiner: Now wait a minute. Don't talk that way here.

A. Excuse me, I forgot. I thought I am down here at that garage when I am talking.

Q. Now, how long—what time in the '80's was it, when you first knew Indian Minnie? You said you knew her before she was at Molly Letcher's—how long before she was at Molly Letcher's was it, that you knew how? About how long?

A. Oh, about '83.

Q. About '83? A. Yes.

Q. When you first knew her, then after you first knew her, how long was it until she was at Molly Letcher's? Some time? A. Oh, quite a time.

Q. How many years? A. Oh, I judge about two years.

Q. Then, did she stay at Molly Letcher's, or did she just call there now and then?

Q. Well, she used to work up at the Fort and come down there at night. Worked up at the Fort a while.

Q. Did she ever live at Molly Letcher's regularly at all?

A. Yes.

Q. Lived there?

A. She slept there; she must have lived there, didn't she?

Q. I am asking you. Did she ever live there—make it her home?

A. That, I can't say; I wasn't there at night, myself.

Q. You were working there? A. I was working there, yes.

Q. Did she live there and not work somewhere at the same time?

A. I seen her going there every evening and coming away in the morning.

Q. Would come away in the morning? A. Yes.

Q. That is all you saw. You don't know whether she made it her home regularly or not? A. No, I don't.

Q. Well, if she had, wouldn't you have known it?

Q. Didn't I just say that I seen her go there at night and go away in the morning? Must have slept there, I suppose.

Q. Let me ask you this, Mr. Bailey. You did know of the fact that she stayed there about three months?

A. Yes, that is what I said, didn't I?

Q. Off and on at night?

A. If she stayed there, she must have lived there, didn't she?

Q. You knew she did stay there off and on at night for about three months? A. Yes.

Q. You know that, don't you?

A. I wouldn't swear it was three months.

Q. Or how long? A. Quite a while.

Q. How many months?

A. I couldn't say because I never kept track of it.
Q. Three or four months?
A. It might have been five months.

Mr. Blakeney: I object to the examination. The witness has made it very clear that he cannot state the period and the examiation is incompetent.

Q. It might have been five months? A. Yes.
Q. You do know too, that she had not stayed there before that, don't you?
A. Well, she used to come there and visit; whether she stayed or not, I know of her staying this time, because I was regular at the stable at night, but in the say time, I was out collecting, and I couldn't be out collecting and there watching her to come——
Q. No, but she never stayed there any time that she was not working somewhere?
A. Well, that I can't say. She worked at three or four different places.
Q. You never saw her pregnant in your life, did you?
A. No, sir, I didn't.
Q. You heard about her having a child that died, didn't you?
A. I heard about that, but whether it did or not, I don't know. I heard she had another boy; born up here in the Two Mile Creek.
Q. When did you hear that?
A. I heard that many a time.
Q. Wasn't that Indian Mary's child?
A. Well, there was a Mexican Mary, there at the old Chadwick hotel, called Seneca House—Mexican Minnie looked very much like this woman, only heavy. She might have had a boy—kid turned up there, or something like that.
Q. This Mexican Minnie looked a good deal like this Indian Minnie?
A. Yes, only darker—heavier; big, fat, sloppy thing.
Q. What was she called?
A. Mexican Minnie. She was a fortune teller by trade, I guess. That is what she had her sign out.
Q. Did she ever have an Indian woman staying with her?
A. Not that I know of because I never visited that place.
Q. Was that Mexican Minnie living at the old Seneca House when you worked for Van Tuyl?

Mr. Hanford: Objected to as immaterial.

Mr. Blakeney: I object as not proper cross examination.

A. Yes.

Q. She bought her drugs at Lange's store, didn't she?

Mr. Hanford: Objected to as immaterial, and incompetent.

Mr. Blakeney: I object as improper cross examination.

A. I don't know whether she did or not. I seen her come this way. I never followed her to see whether she bought her drugs, or nothing.

Q. Was she a dope fiend? A. Well, they say she was.

Mr. Blakeney: I object as improper cross examination.

Mr. Hanford: Objected to as immaterial and move to strike.

Mr. Penick: Does the record [] Mr. Endress, and who he appears for? I ask to have the record show in the appearances.

The Examiner: Mr. Endress, for whom do you appear?

Mr. Endress: A gentleman by the name of J. Garfield Buell.

The Examiner: Benjamin F. Endress.

Mr. Hanford: I would like to show that a big part of this examination is examination on the part of Mr. Endress through Mr. German.

Mr. German: I would like for the record to show that no part of this examination is an examination on the part of Mr. Endress through me.

Q. You don't know who brought that boy to Molly Letcher's home, do you? A. Who brought him there?

Q. Yes. A. I suppose Indian Minnie did.

Q. You don't know, I say? A. No, I don't.

Q. Why do you say I suppose Indian Minnie did?

A. Well, I never seen no young baby around there before until that one, so I suppose it must be her's.

Q. That is just a supposition on your part? A. Yes.

Q. The child was—I thought you said the child was there—you first saw it there a month after Mollie Letcher moved up there? A. Well, so I supposed she fetched it there.

Q. I asked you if you knew how it came there. Do you?

A. She must have brought it there, if it got there.

Q. No other way that you know of that it could have got there?

A. No I know there ain't no stork around in this country to fetch them.

Q. Now, Mr. Bailey, didn't that boy have the strawberry birthmark on his back?

A. Didn't I tell you a while ago I heard Ella Abbott say so?

Q. Have you seen the birthmark on the back of Henry Carter recently? A. No, sir, I haven't.

Q. Have you talked with Ella Abbott lately—within the last year?

A. No, sir. I haven't talked to Ella Abbott—I spoke to her when we were down at Tulsa and went to Muskogee.

Q. Oh, she was at Muskogee?

A. And I spoke to her—never talked to her. Bid the time of day when I would see her around about the court house, you know.

J. Jim Mayo ran a restaurant at the corner of Third and Seneca, didn't he?

A. He run something there; I don't know what it was—saloon, or restaurant—I don't know what it was.

Q. Which corner?

A. Back of Abeles' drug store, where the barber shop is.

Q. Speaking of Third and Seneca?

A. Third and Seneca; Jim Mayo?

Q. Yes. A. Oh, not that I know of.

Mr. Hanford: Objected to.

Q. Didn't Molly Letcher live on the alley—not on the alley but on Third street, between Seneca and Shawnee at one time? A. Seneca and Shawnee?

Q. Yes, on Third Street?

Mr. Hanford: Objected to as immaterial.

A. Unless she lived on the west side; if she did, I didn't know it.

Q. Didn't Molly Letcher live on the alley between Third street and Fourth street? A. On the alley?

Mr. Hanford: Objected to as immaterial.

A. There is no alley—that would be fronting Seneca street; the alley runs east and west. It would be on Third street. She didn't live on Seneca street.

Q. Get this in your mind—get this block in your mind. This is between Third and Fourth street? A. Yes, sir.

Q. And between Seneca street and Shawnee street?

A. Seneca and Shawnee.

Q. Now, you have that in your mind, haven't you?

A. Yes.

Q. Now, didn't Molly Letcher live on an alley in that block, one time?

A. She lived on the alley the only time I knew of her living on the alley was when she lived on Seneca street between Second and Third.

Q. You never knew her to live on the alley between Third and Fourth?

A. No, if she did, it was a good many years before I knew her.

Witness dismissed.

United States Circuit Court of Appeals.

EIGHTH CIRCUIT.

NO. ____________

United States of America, - - - - - - - - - - *Appellant,*

vs.

Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as Guardian of Nancy Atkins, an Incompetent, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, - - - *Appellees.*

NO. ____________

Nancy Atkins, H. A. Ridgway, Guardian of said Nancy Atkins, an Incompetent, Robert L. Rutherford, and A. L. Ferguson, Administrator of the Estate of James A. Ferguson, Deceased, - - - - - - - - - - - - - - - *Appellants,*

vs.

United States of America, Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy,

Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, ***Appellees.***

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

PLEAS AND PROCEEDINGS BEFORE THE HONORABLE RALPH E. CAMPBELL, JUDGE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF OKLAHOMA, PRESIDING IN THE FOLLOWING ENTITLED CAUSE:

UNITED STATES OF AMERICA,

Equity *vs.* **No. 2131**

MINNIE ATKINS, *et al.*

VOLUME VI.

Statement of the Evidence *(Continued).*

And thereupon, ANDERSON CHILDERS, a witness produced on behalf of the defendant Minnie Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Beall.

Q. What is your name? A. Anderson Childers.
Q. Where do you live, Mr. Childers?
A. Northwest of Wagoner.
Q. Are you a Creek citizen? A. Yes, sir.
Q. How long have you lived *on* and around Wagoner?
A. About 25 years.
Q. Do you know Nancy Atkins? A. Yes, sir.
Q. You know Minnie Atkins? A. I have seen her.
Q. Do you know what relationship there is existing between Minnie and Nancy Atkins?
A. Sisters, they are supposed to be.
Q. Same father and same mother?
A. Why I can't say whether they have the same father and same mother or not.

Q. Did you know the father and mother of Minnie and Nancy Atkins? A. No, sir, I don't.

Q. Did you know when Nancy Atkins first moved to Wagoner? A. Yes, sir.

Q. What year was it?

A. I can't say just what year it was; I know about.

Q. About what year? A. Oh, it was about '91 or '92.

Q. About how frequently would you see her in and about Wagoner after she first moved there?

A. Average about once a week.

Q. Did you know Dick Atkins? A. Yes, sir.

Q. Did you know a boy that he had by the name of Thomas Atkins? A. Yes, sir.

Q. Who was the mother of Thomas Atkins?

A. Sallie Atkins.

Q. Where did Thomas and Dick Atkins live?

A. They lived west of Wagoner—northwest of Wagoner, about two miles of my place.

Q. Would you see Thomas Atkins and Dick Atkins, his father, in Wagoner at frequent intervals? A. Yes, sir.

Q. How old a boy was Thomas Atkins when you first knew him? A. He was about five or six years old.

Q. Do you remember what year that was?

A. Somewheres about '90, I suppose.

Q. Is Thomas Atkins alive or dead? A. He is dead.

Q. Do you know when he died?

A. I know about the year he died.

Q. About when was it? A. About 1898.

Q. Did you ever see this Thomas Atkins, the son of Dick and Sallie Atkins, in and around Wagoner with Nancy Atkins?

A. Yes, sir.

Q. State to the Court how often you would see Thomas in company with Nancy in and around Wagoner?

A. Why, what caused me to notice it, his father told me that his son Tommy——

> The Court: Perhaps you had better not tell what his father told you; you are asked how often you saw them there together. Don't make any difference what caused you to notice it; how often did you see this Tommy Atkins with Nancy Atkins there at Wagoner?

A. Well, I never saw them more than twice.

Q. When did you see them together?

A. What year you mean?

Q. What year and what places?

A. Why, I seen them there in Wagoner around what was called the Davis & Jones store then, at that time.

Q. About how old a boy was Thomas when you saw him around Davis & Jones store?

A. I suppose somewheres about 7 or 8 years old; six or seven—somewheres along there.

Q. Did you ever see Nancy Atkins in and around Wagoner with any other children? A. Yes, sir.

Q. What other children? A. Minnie Atkins children.

Q. Who were they?

A. One of them was named Lee and the other is named Harvey.

Q. What were their last names?

A. Called them Lee Atkins and Harvey Atkins is all I know.

Q. Did Lee Atkins have some other name?

A. He had some other name but I don't recollect what it was.

Q. Did you ever hear him called Charlie?

A. Yes, sir, I believe so.

Q. When did these children first come to Wagoner?

A. I don't know when they first come there.

Q. How long were they with Nancy Atkins in Wagoner?

A. Well, I don't know that.

Q. Did you see them frequently around the town of Wagoner with Nancy? A. Very often.

Q. To the best of your recollection when was that—what year?

A. Why, they were there the same time that this Tommy Atkins was there—that I seen Tommy Atkins there; that was about '93—'92 or '93.

Q. You said that Thomas Atkins you knew he——

A. Died.

Q. Died in 1898? A. Yes, sir.

Q. Did you see him continuously in and around Wagoner with his father Dick Atkins, up to the time of his death?

A. Yes, sir.

Q. What became of his mother Sallie Atkins?

A. She is in Canada.

Cross Examination by Mr. Allen.

Q. Mr. Childers, did you work a while at the Davis & Jones store? A. No, sir.

Q. Your brother did? A. Yes, sir, my brother Jim.

Q. He is here now? A. Yes, sir.

Q. Were you there frequently during the time that Nancy lived in Wagoner?

A. Yes, sir, I was there from one to three times a week.

Q. Did you know very intimately this Dick Atkins family? A. Yes, sir.

Q. Lived out west of town? A. Yes, sir.

Q. Was there a Mary Atkins in that family?

A. Well, she——

Q. Married a man by the name of Wilson, later?

A. Yes, sir, well, she was Mary Wilson then.

Q. She was a daughter of this Richard Atkins?

A. Yes, sir.

Q. Was there a Nancy Atkins in that family? A. Yes, sir.

Q. She later married a man by the name of Tabor?

A. Tabor, yes, sir.

Q. There was a Susie Atkins in that family? A. Yes, sir.

Q. There was a Thomas Atkins in that family?

A. Yes, sir.

Q. Do you know about how old this boy was when you last saw him? A. What was that question?

Q. Thomas Atkins? A. When he died?

Q. Do you know how old he was, yes, when he died.

A. He was about 12 or 13 years old.

Q. Were you there when they buried him when he died?

A. I was at home but I didn't go to the burial.

Q. Don't know where they purchased the coffin?

A. No, sir, I don't.

Mr. Allen: If Your Honor please, throughout the Nancy Atkins testimony repeated reference has been made to the Thomas Atkins in the family of Richard Atkins, it must leave some confusion in the mind of Your Honor as to the family. I therefore offer as a part of the examination of this witness, Government's Exhibit A-13, which is the testimony in relation to the enrollment case given by Sallie Atkins, the mother of this Richard Atkins' children.

The Court: Is that objected to?

Mr. Hill: Yes, sir, we object.

Mr. Cruce: I don't know what it is; we would like to examine it before——

Mr. Hill: It occurs to me that no matter what it is, any testimony in an entirely different proceeding——

The Court: It occurs to me, too, unless there is some peculiar phase of this case that will make it admissible.

Mr. Allen: She is now dead. This was upon the enrollment case of her children and is a public document on file in the office of the Dawes Commission here. This is a certified copy of the files.

Mr. Stuart: Judge, you got the census card here which has got all those names on it of this Richard Atkins.

The Court: I think the objection is well taken to the statement made by her even at that other hearing before the Commission, for at most it is hearsay as far as this case is concerned.

Mr. Allen: We then offer as Government's Exhibit A-114, a certified copy of Departmental letter dated December 18th, 1905, relating to the enrollment of members of his family.

Mr. Maxey: We object to that.

The Court: This is the Departmental letter? Let's see that.

Mr. Allen: It is a Departmental letter in which they take action upon the application.

The Court: Judge, let me understand you more clearly as to what light this throws in your judgment on this case.

Mr. Allen: This proof shows, Your Honor, that there was a Thomas Atkins in this Atkins family, and these rights have been adjudicated and these rights to enrollment have been determined adversely to him by the Secretary of the Interior. I follow that up by a very short letter from the Secretary of the Interior approving the latter——

The Court: Let's see; there is first hand proof here by witnesses on the stand of a Thomas Atkins as a member of this Dick Atkins family; the rolls will show I assume pursuant to these letters, etc., that Thomas Atkins was—no, the rolls won't identify him as a member of the family——

Mr. Allen: No, sir; this is the only record that will and I feel that it is——

Mr. Hill: He is identified as being in two other towns—the testimony is he was never in the Euchee town.

The Court: Now, I have excluded the statement, but I will admit the other two as documents——

Mr. Allen: The exhibit—which Your Honor has admitted is the certified copy of Departmental letter of December 29th, 1905, approving Departmental letter of September 5th, 1905.

Mr. Hill: Our exceptions will be noted as to that.

Mr. German: To distinctly show that his case has been disposed of.

The Court: Now this relates to the Thomas Atkins who lived with Dick Atkins as a son of Dick Atkins, nobody is claiming here under him, however?

Mr. German: We are simply showing that that Thomas Atkins who we claim was the child associated with Nancy more or less and who this witness testified that Nancy had confused as Nancy's boy; simply showing that he is another Thomas and we think that important here, showing that his case was disposed of and denying his enrollment.

The Court: Alright; you have your exceptions, gentlemen. Any further question of this witness?

Q. Anderson, did you know Richard Atkins, the father of Cheney Trent? A. Yes, sir.

Q. He was admitted to citizenship in the tribe by a resolution of the Creek Council? A. Yes, sir.

Q. Are you familiar with the contest that was brought against the enrollment of his family? A. Yes, sir.

Q. It was there contended that he was not the original Dick Atkins? A. Yes, sir.

Q. Did you later see the original Dick Atkins who this family impersonated? A. That question again?

Q. Do you know the original Dick Atkins who lived at Sapulpa? A. Yes, sir.

Q. Do you know whether or not this Cheney Trent's father is in a fact a brother—a half brother of Minnie and Nancy Atkins? A. No, sir, I don't.

Mr. German: Your Honor, in connection with this testimony and these exhibits that have been offered, we desire as soon as we can put our hands on it the final action of the Commissioner, an action of the Secretary denying this Dick Atkins and his son, denying his enrollment——

The Court: I was thinking about that testimony; that testimony purports to be given by the mother——

Mr. German: Yes, sir, Sallie Atkins, the mother of this deceased Tommy Atkins and she is dead.

The Court: Now, this relates to pedigree of this Thomas Atkins, his family relations, etc.?

Mr. German: Yes, sir.

The Court: Now, it is suggested that she is dead?

Mr. German: Yes, sir.

The Court: And this is statements made by her to the Dawes Commission while she lived——

Mr. German: Yes, sir, and as to who he was——

The Court: Well, if her death is shown, that under the rule in this case would be—I am assuming for the purpose of this consideration that it is—that the identity and pedigree of this Thomas Atkins in the Dick Atkins family has some connection or throws some light on this case here.

Mr. German: That is our contention, yes, sir, and think it is extremely important——

Mr. Stuart: Your Honor, we make no objection to the judgment of the Secretary refusing this Thomas Atkins citizenship.

The Court: Those are admitted. The only question now is whether the testimony by this mother of Dick Atkins shall be received.

Mr. German: Well, it is in——

The Court: I will not encumber the record with it.

Mr. German: It is important on this theory that distinctly identifies that Thomas Atkins whose enrollment was denied.

The Court: Well, I think he has been identified by first hand proof.

Mr. Allen: It also has this purpose, Your Honor; it gives the original names of all the members of her family and the nickname of all those members, shows the similarity of names there with the names in the other branch of the Atkins family.

The Court: Is it in evidence here further than the statement of counsel that she is dead.

Mr. Maxey: Cheney Trent testified she is dead.

Q. Do you know whether she is dead?
A. Sallie Atkins?
Q. Yes. A. She is living.
Q. Sallie is? A. Sallie is, yes, sir.

Mr. German: I want to say to the Court that that is news to us, and I want the record to show that.

A. She is living unless she died lately; we got a letter from her last winter.
Q. Do you know where she is? A. She is in Canada.

Mr. German: She is in Canada. Your Honor, I knew there was a reason; she is out of the reach of this court.

The Court: I think we had better not pass on this until we can locate her a little more definitely.

Q. Where did you say Sallie is living?
A. She is in Canada.
Q. What place in Canada?
A. She is in the western part of Canada; I don't remember just the postoffice.

Mr. Allen: Your Honor, I think under that ruling this is admissible.

The Court: I will exclude it; a little later I will see. I am going to resolve the doubt against you now.

Witness dismissed.

Mr. Stuart: Your Honor, here is Charlie Harrison. Mr. Cobb asked us to make proffer of him; here he is.

The Court: What is his name?

Mr. Hanford: Sometimes called Lee Harrison.

The Court: Now, Judge, I understand that closes—

Mr. Stuart: We close, Your Honor, except as to one witness; we have been—we have not been able to get him here—he is a witness in Leavenworth, and we probably can't get him here for several days. * * * We are going to bring him here to swear that his name on this petition is a forgery; this Lillie White petition was a forgery. They took the deposition of Mrs. Van Duzee at Leavenworth, and she denied there that she signed it for him. Mr. Van Duzee at that time was not available. Since that time we have found out that was not his signature.

The Court: Then you understand gentlemen, the extent of this evidence?

And thereupon, T. HOWARD MORTON was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. T. Howard Morton.
Q. You live in Wagoner? A. Yes, sir.
Q. What is your age? A. Forty-six year

Q. How long have you lived in the city of Wagoner?
A. Twenty-six year.
Q. What year did you go to Wagoner?
A. Went there in the year 1891.
Q. Did you know Nancy Atkins about that time?
A. I did.
Q. What were you doing at that time?
A. I was in the mercantile business.
Q. For yourself?
A. No, with a company, with the Davis & Jones Mercantile Company.
Q. You were a member of that company at that time?
A. No, I wasn't a member of the company at that time.
Q. You were working for the company?
A. Working for the company.
Q. How long did you continue to work for the Davis & Jones Store? A. As long as they were in business.
Q. During all that time did you know Nancy Atkins?
A. I knew her when I first went there; she left there before *the* went out of business; I don't know how long.
Q. Well, during the time that she was there, did you know of her having any boy by the name of Thomas Atkins?
A. I did not.
Q. Or any living child? A. No, sir.
Q. Did you know Thomas Atkins in the family of Chaney Trent?
Q. Did you know Thomas Atkins in the family of Chaney Trent, Richard Atkins? A. I did.
Q. What relation was he to Chaney Trent?
A. I think he was a brother or half brother, I don't know which.
Q. And to Richard Atkins? A. Son of Richard Atkins.
Q. Where did he live?
A. He lived northwest of Wagoner about ten mile.
Q. Do you know about when he died?
A. I know something about when he died, I couldn't state, I don't remember the year he died in.
Q. About how old was he?
A. If I remember right, he was between ten and twelve years old.
Q. Did you ever see him around Davis & Jones' Store?
A. Yes, sir.
Q. How frequently?
A. Well, very frequently, I don't know just how frequently.
Q. Did you ever see him with Nancy Atkins?
A. I don't know as I ever did, couldn't recall that now.

Q. What did this boy do?

A. Why, he was just a farmer boy out there with his father; he was around out there with his father.

Q. Did his father do any work in town?

A. He hauled wood to town.

Q. Would this boy be with him?

A. The boy was with him often, yes, sir.

Q. Did this boy ever work for you, Mr. Morton?

A. He hauled wood for me.

Q. Where? A. In Wagoner.

Q. In the town?

A. No, hauled wood from the country to my house.

Q. During all the time that you have lived in Wagoner is that the only Thomas Atkins you knew there? A. Yes, sir.

Q. Did you know Charlie and Harvey Harrison?

A. Yes, sir.

Q. Who did they live with? A. I don't remember who they lived with.

Q. Do you know whether either one of them ever lived with Nancy or not? A. No, I don't know.

Q. When did Davis & Jones store go out of business?

A. Davis and Jones—— I believe Davis and Jones dissolved partnership about 1902 or '3.

Q. Were you a member of that firm when it went out of business?

A. I was a member of the firm when it went out of business.

Q. You have since engaged in the mercantile business in Wagoner on your own account? A. Yes, sir.

Q. You are now in the mercantile business in Wagoner?

A. Yes, sir.

The Court: Cross examine.

Mr. Stuart: No cross examination.

(Witness dismissed.)

And thereupon, JIM CHILDERS was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Jim Childers.

Q. What age are you, Mr. Childers?

A. I am forty-two years old.

Q. Where do you live? A. I live in Kusa, Oklahoma.

Q. Where is that?

A. That is on the M., O. & G. south.

Mr. Maxey: Near Henryetta.

A. Five miles of Henryetta.

Q. When did you move to Kusa?

A. I moved there the first of March a year ago.

Q. Did you ever live close to Wagoner or in Wagoner?

A. Yes, sir, I lived at Wagoner.

Q. When did you last move away from Wagoner?

A. I moved away from Wagoner in 1912.

Q. Where were you raised?

A. Principally in and around Wagoner.

Q. And you are forty-two years old you say?

A. Yes, sir.

Q. Are you a citizen of the Creek Nation? A. Yes, sir.

Q. What blood? A. Creek.

Q. How much Indian blood? A. Three quarters.

Q. Who was your father, Mr. Childers?

A. Pole Childers.

Q. Napoleon Boneparte Childers? A. Yes, sir.

Q. Known as Judge Childers? A. Yes, sir.

Q. You and Ellis Childers are brothers? A. Yes, sir.

Q. Where did your father live up to the time of his death, well the last several years of his life, where did he live?

A. Lived about nine miles northwest of Wagoner.

Q. About when did he die, seven or eight years ago?

A. 1909.

Q. You are a married man? A. Yes, sir.

Q. Were you married when you lived near Wagoner?

A. Yes, sir.

Q. When did you marry, Jim?

A. Married the first time in '95.

Q. 1895? A. Yes, sir.

Q. Were you living with your father up to the time of your marriage? A. Yes, sir.

Q. Then, where did you live after your marriage?

A. I moved on a place about a mile and a half south of where my father lived.

Q. Did you know Dick Atkins? A. Yes, sir.

Q. How far did they live from your father?

A. About a mile and a half.

Q. Out in the country northwest of Wagoner?

A. Yes, sir.

Q. Where was the trading point of your father's family and the Dick Atkins family? A. Wagoner.

Q. Prior to your marriage, did you know Nancy Atkins?

A. Yes, sir.

Q. About how long did you know Nancy?

A. I first knew her in 1890.

Q. When she moved to Wagoner?

A. She was in Wagoner when I first knew her.

Q. Did you know Nancy Atkins when she was in a family way? A. Yes, sir.

Q. You were living out in the country with your father at that time? A. Yes, sir.

Q. Did you have any kin folks living in Wagoner at that time? A. Yes, sir, I had an uncle.

Q. What was his name? A. Bob Childers.

Q. Did you know Betsy Birney? A. Yes, sir.

Q. Where did she live at that time? A. Wagoner.

Q. Did you know Elnora Williams? A. Yes, sir.

Q. She lived in Wagoner? A. Yes, sir.

Q. Did you know Mandy Barnett? A. Yes, sir.

Q. She lived in Wagoner too? A. Yes, sir.

Q. Were you acquainted with these colored families that I have named prior to 1890? A. No, sir.

Q. Before 1890? A. No, sir.

Q. They all moved there about the time the railroad came in there, the Iron Mountain, is that right?

A. They were there when I first knew them, I don't know when they moved there.

Q. Now, it was your uncle, you say?

A. My uncle, yes, sir.

Q. What was his given name? A. Bob Childers.

Q. Where did he live with reference to where Betsy Birney and Elnora Williams lived?

A. Well, it must have been something like a quarter of a mile north and west.

Q. On which side of the railroad track?

A. On the west side.

Q. Where was the town of Wagoner at that time, on which side of the railroad track?

A. Well, the most of the town was on the west side, the business.

Q. And you say you knew Nancy when she was in a family way? A. I knew her in a family way, yes, sir.

Q. Did you have any personal knowledge, not hearsay, any personal knowledge of Nancy having a baby, of your own personal knowledge? A. No, sir.

Q. Did you see her after this condition disappeared, this condition of pregnancy? A. Yes, sir.

Q. Where was Nancy living at the time this condition of pregnancy existed? A. Well, she was in Wagoner.

Q. Do you know who she was living with?

A. Living at the Birney's.

Q. How long after this condition of pregnancy disappeared, was it, until you saw her again if you remember?

A. I don't remember just how long, several months, something like two or three months.

Q. How frequently then did you see her after that?

A. Well, I saw her something like every two or three months up until along in '94. I was going to school at that time, of course I didn't come home only every two or three months.

Q. Where were you going to school?

A. Well, I went to school at Coweta Mission and at Fort Smith.

Q. The Coweta Mission was about how far west of where you lived? A. About twelve miles.

Q. Did you ever work in Davis & Jones Store?

A. Yes, sir.

Q. When did you commence working there, about when?

A. In '94, I think it was.

Q. How long did you work in the store?

A. I worked there something like a year.

Q. Then, what did you do?

A. I moved out in the country; I left town after I quit working for Davis & Jones.

Q. Where did you go? A. I went out to my father's.

Q. Then, how long was it until you married?

A. Married in '95.

Q. I mean how long after this was it until you married, well it wasn't long? A. No, sir.

Q. I am not particular about the date of your marriage; you lived out near your father's? A. Yes, sir.

Q. How long did you live there near your father?

A. I lived there until 1912.

Q. Did you know Nancy Atkins intimately from the time you first knew her until she left Wagoner?

A. Yes, sir, I knew her.

Q. Did you talk with her? A. Yes, sir.

Q. When you were in Davis & Jones Store would you see her very often? A. Yes, sir.

Q. State whether or not there was any body around Wagoner or that you knew in the country, or in Wagoner, by the name of Thomas Atkins? A. Yes, sir.

Q. What boy was that? A. Dick Atkins' son.

Q. Did he ever come to Wagoner? A. Yes, sir.

Q. Was he ever in the store? A. Yes, sir.

Q. What would be the occasion of him coming to Wagoner or being in there?

A. Come there, his folks would bring him to town.

Q. Now, did you see him with Nancy? A. Yes, sir.

Q. About how often would you see him with Nancy?

A. Oh, something like two or three days at a time.

Q. Would he sometimes stay with her? A. Yes, sir.

Q. Do you know whether Nancy and Dick Atkins claimed kin? A. They claimed half brothers and sisters.

Q. Dick Atkins and Nancy? A. Yes, sir.

Q. Did Dick and Nancy associate together any?

A. Yes, sir.

Q. Do you know whether Nancy would go out to Dick's house? A. Yes, sir.

Q. About what aged boy was this Thomas Atkins when you were working in the store?

A. Well, I judge he was four or five years old maybe, I never did know how old he was.

Q. When did you first know him?

A. I knowed him when the folks first moved to this country.

Q. Where from? A. Missouri.

Q. That is the Dick Atkins family? A. Yes, sir.

Q. He was a little child in the family? A. Yes, sir.

Q. Do you know what became of him? A. He died.

Q. Was there any other Thomas Atkins in Wagoner?

A. Not that ever I knowed.

Q. Not that ever you knew? A. No.

Q. When you were in Wagoner when you were working in the store or before you worked in the store and after you worked in the store were you well acquainted with people in Wagoner? A. Yes, sir.

Q. At the time you worked in the store, state whether you knew every person that lived in Wagoner?

A. I knew the majority that had been there any time.

Q. And you say there was no Thomas Atkins there?

A. No, sir.

Q. Except this Thomas that you were talking about?

A. Dick's Thomas.

Q. Was there any children in the Betsy Birney family?

A. Yes, sir, Betsy Birney had several.

Q. Were there any other colored children around town?

A. Yes, there was quite a number.

Q. Now, Jim, do you know Harvey and Charlie, Minnie's children, Harvey and Charlie?

A. I know Harvey, I don't know Charlie by that name.

Q. Do you know him by the name of Lee?

A. I knew one boy by the name of Lee, brother to Harvey.

Q. Do you know this young man sitting over here by Minnie? A. Yes, sir.

Q. Who is that? A. Lee.

Q. That is Minnie's child? When did you first know him?

A. It was '95.

Q. Did Nancy ever have anything to do with Harvey and Lee? A. Kept them.

Q. About how long?

A. Well, I couldn't say how long, I don't know how long she had them.

Q. It wasn't a great while, it wasn't any large number of years? A. Oh, no.

Q. Now, did you ever have anything to do with Charlie?

A. Charlie?

Q. Yes? A. No, sir.

Q. I mean with Harvey? A. Yes, sir.

Q. What did you have to do with Harvey?

A. Well, I taken Harvey and kept him.

Q. Who did you get Harvey from?

A. I got him from Nancy.

Q. What was his condition as to being taken care of when you got him?

A. Well, he didn't look like he had been taken care of.

Q. How was he garbed, how was he dressed?

A. Well, he didn't hardly have any clothes.

Q. What time in the year was it you got him?

A. In the winter time.

Q. How did you happen to take him?

A. Well, Nancy sent for me to come down where she was staying. I went down to see what she wanted and when I got down there she told me she had a couple of boys that belonged to her sister, and that she wasn't able to take care of them, make a living for them, and she wanted me to take Harvey, and said another gentleman out in the country had promised to take Lee.

Q. Who was that other gentleman?

A. Charlie Bailey. And asked me if I wouldn't take Harvey and take care of him.

Q. Where was it that you had this conversation with her if you remember?

A. The time I got the boys she was at Eliza Barnett's.

Q. That is Eliza Sterling now? A. Yes, sir.

Q. Colored woman? A. Yes, sir.

Q. Well, was Lee there then, Minnie's child Lee, was he there with Nancy at the time?

A. I don't remember whether he was or not.

Q. Did you take Harvey at that time?

A. Yes, sir, taken him that evening. I told her I would be back that evening.

The Court: You got him that evening?

A. Yes, sir, I got him that evening.

Q. What kind of weather was it then? A. Cold weather.

Q. Did you get him any clothes?

A. Yes, sir, I had to get some clothes before I could take him out.

The Court: How old was he then, about?

A. I judge him to be four or five years old.

Q. You took him out to your home? A. Yes, sir.

Q. How long did you keep him?

A. I kept him until '98.

Q. Then, what was done with him?

A. I turned him over to a woman that claimed to be her aunt, Kate Holden.

Q. Where did she get him?

A. She come to my house and got him.

Q. Where did Kate live, if you remember?

A. She lived on the west side of the Arkansas River close to Choska.

Q. Choska was on the north side of the Arkansas?

A. Just across the river from Choska.

Q. She lived on the other side of the river?

A. West side, yes, sir.

Q. How long after that was it until you saw Harvey again? A. I couldn't say.

Q. Well, you have seen him off and on since then?

A. Yes, sir.

Q. Did you ever keep him any more? A. No, sir.

Q. How long did you keep him, about how long?

A. I took him in the winter and kept him until that summer.

Q. So, you didn't keep him as much as a year?

A. No, not quite a year.

Q. And this aunt come and got him, this alleged aunt, the next summer after you got him in the winter? A. Yes, sir.

Q. And she got him you say in 1898? A. I think so.

Q. You think so. Was there any child that Nancy took care of there in Wagoner outside of these two boys that you know of? A. Taken care of?

Q. Yes? A. Not that I know of, no, sir.

Q. State whether these colored children that you mentioned as living in Wagoner, including these Birney children, would be around with Nancy, whether they would run around with her some or not?

A. Yes, sir, I have seen them together a number of times.

Q. State whether or not they would come in the store together sometimes when you were working there?

A. Yes, sir, pretty often.

Q. And prior to that time, before you were working in the store, would you see her around with the children?

A. Yes, sir.

Q. And afterwards too? A. Yes, sir.

Cross Examination by Mr. Rosser.

Q. Mr. Childers, you say you are forty-two years old now?
A. Yes, sir.

Q. Then you were about fifteen years old in 1890 when you first got acquainted with Nancy, in 1890, I believe you say? A. Yes, sir.

Q. Where were you living at that time?

A. Living with my father.

Q. And how far did he live from Wagoner?

A. Nine miles northwest.

Q. Northwest. When was it that you moved to Wagoner, started to work in a store? A. '94.

Q. What is that? A. '94.

Q. You were then about eighteen years old. Do you remember what time in '94 you went there? A. No, I don't.

Q. Can't you fix the time of year that you went to work for Davis & Jones? A. Sir?

Q. Can't you fix the time you went to work for Davis & Jones, about the time? A. I don't recall the dates.

Q. I am not asking for the exact date, but about the time, can you state the season of the year you went there to work for Davis & Jones?

A. I think it was in the spring.

Q. You think it was in the spring? A. Yes, sir.

Q. You had never lived in Wagoner until you went to work for Davis & Jones, had you? A. No, sir.

Q. You had been going to school prior to the time you went to work for Davis & Jones, hadn't you? A. Yes, sir.

Q. Had you been through the school year and finished a school year at the time you went to work for them?

A. I never finished a school.

Q. You went through a whole school year? A. No, sir.

Q. Where had you been attending school just prior to the time you went to work for Davis & Jones? A. Fort Smith.

Q. What school? A. Commercial College.

Q. And had you finished the course? A. No, sir.

Q. So that you can't fix the time that you quit school to go to work for Davis & Jones?

A. I never finished school. Just came home and didn't go back.

Q. At the time you got acquainted with Nancy you were not living in Wagoner at all? A. No, sir.

Q. You were living out with your father? A. Yes, sir.

Q. Do you remember what time of the year it was you got acquainted with her? A. No, sir.

Q. You were then a boy about fifteen. How old was Nancy apparently, at that time? A. I don't know.

Q. Did you notice that she was pregnant at that time? A. Yes, sir.

Q. Now, did you actually get acquainted with her then, or did you just see her on the street and find out who she was?

A. I didn't say she was pregnant when I first got acquainted with her.

Q. Well, was she? A. No, sir.

Q. How long after that was it that you noticed that she was in a family way? A. Something like a year maybe.

Q. About a year. Now, was it you say a year during that time before you noticed that she was in a pregnant condition?

A. Oh, I don't know, two months, two or three months.

Q. You were attending school, were you, during that time?

A. I was going backward and forwards.

Q. What school were you attending?

A. I was attending the Coweta Mission when I first got acquainted with her.

Q. You were attending the Coweta Mission in 1890, the school you went to was the Coweta Mission? A. Yes, sir.

Q. Did you go there the following year? A. I went in '91.

Q. How far is Coweta Mission from Wagoner?

A. I think they call that sixteen miles.

Q. Then you didn't live in Wagoner during that time and didn't attend school in Wagoner during that period?

A. No, sir.

Q. When was it you say you got acquainted with the Richard Atkins family?

A. When they first come to the country.

Q. Do you remember about when that was?

A. About the latter part of '90 or the first part of '91.

Q. That was when Richard Atkins came? A. Yes, sir.

Q. How far did he live from you?

A. He lived about a mile and a half from my father.

Q. I believe you stated that; I beg your pardon. Now, you acquainted with all the members of his family at that time did you? A. No, sir.

Q. You didn't? You don't know how many were in his family at that time? A. No, sir, never did know.

Q. Never did know? Well, now, your father was a man of considerable means wasn't he? That is true, isn't it? Your father was a man of considerable means? A. Yes, sir.

Q. Sent his children away to school and all that; that is true? A. Yes, sir.

Q. Nancy Atkins lived with colored people, didn't she, the early time that you knew her? A. Yes, sir.

Q. You ascertained when, at the time that you first noticed that she was pregnant, you ascertained that she was not married, didn't you? You knew that she was not married?

A. I didn't know anything about her marriage.

Q. Well, I say, didn't you at the time that you ascertained of her condition of pregnancy, when you first noticed that, you knew that she was not a married woman, didn't you?

A. I never knew of her marrying.

Q. Well, you knew she was not married, didn't you?

A. Yes, sir.

Q. During that period and at that time you went to work for Davis & Jones, you didn't visit where she was; you didn't have anything to do with that sort of people at that time, did you? A. No, sir.

Q. When you went to work for Davis & Jones, you were working in the store, that is you were selling goods in the store? A. Yes, sir.

Q. Your acquaintance with Nancy at the time you went there was simply a passing acquaintance such as you would have with any other customer of the store, wasn't it?

A. Yes, sir.

Q. You were then, I believe you stated, about 18 or 19 years old? A. I didn't say.

Q. Well, how old were you when you went to work in the store? I believe you said you went to work there about '94, didn't you? A. Yes, sir.

Q. Well, then as a matter of fact, you were about 18 or 19 years old, weren't you? A. Whatever it would make me.

Q. Well, you were just a boy, weren't you—weren't a grown man, were you? A. No, sir.

Q. You had associates in Wagoner of your own age about that time? A. Yes, sir.

Q. That you were acquainted with and that you associated with? A. Yes, sir.

Q. Now, you weren't making any particular investigation as to the small children as to families there in Wagoner, were you?

A. No, sir, I never investigated anything of that kind at all.

Q. And especially of colored people and associates of colored people—you weren't making any investigation at that time were you?

A. I never made any investigation in matters of that kind because it wasn't nothing to me.

Q. All that you know about this is that you simply don't remember a child of Nancy's at that time, that is it?

A. No, sir, I don't remember a child of hers.

Q. I say that is all you know about it; you didn't make any investigation to find out? A. No, sir.

Q. You stated that you went, after you were married and took this child Harvey Harrison to your house—— A. Yes, sir.

Q. And you kept him about a year or little less than a year? A. Yes, sir.

Q. And he was then how old?

A. I judge him to be four or five years old.

Q. Four or five. At that time you stated a while ago that you don't remember whether Lee was there or not?

A. No, sir.

Q. You don't remember that? A. No, sir.

Q. You don't remember seeing any child there except Harvey with Nancy? A. Yes, sir.

Q. And did you go to where she was living to get him, you said you did, didn't you?

A. Well, I can't say whether she was living there or not, but she was there.

Q. Well, you went to a place where she was to get him?

A. Where she was, yes, sir.

Q. Where was that? A. Eliza Barnett's house.

Q. Eliza Barnett's? A. Yes, sir.

Q. And you took him home with you from Eliza Barnett's? A. Yes, sir.

Q. You couldn't say now what other children you saw there at that time?

A. Because she was sick in the bed in the room; wasn't no other children there in the room then this little boy was there that I took.

Q. Now, what time of the year was that?

A. Wintertime.

Q. Wintertime. And about a year after that then, you took him to Kate Holden? A. Yes, sir.

Q. You stated a while ago that was in 1898, why do you say it was in '98—what fixes that in your mind as to the time?

A. Well, they commenced filing in the spring of '98 as well as I remember and they wanted to file him on some land over there, why she came to get him, is what she told me.

Q. That is the reason you turned him over to Kate Holden; they were making this first filing at the time you turned him over to Kate Holden?

A. Well, they were filing; I don't know whether it was the first or not. I know they were filing.

Q. That fixes it as to the time, when the filing—you gave him to Kate Holden? A. And other instances.

Q. But you are sure it was 1898? A. I think so.

Q. And he was boy four or five years old?

A. When I got him, yes, sir.

Q. Well, how old was he at the time you gave him to Kate Holden? A. Couldn't have been very much older.

Q. Sure you didn't have him more than a year?

A. I can't say; I don't know the date of his birth; might have perhaps been over another year. I don't remember; don't know anything about that.

Q. Well, you can't state whether he was a boy seven or eight years, or nine years old when you turned him over to Kate Holden? A. He wasn't eight or nine years old.

Q. Well, was he six years old, or seven years old?

A. He might have been somewhere between five and six.

Q. Somewhere between five and six. Now, did you know Lee Atkins, the brother of——

A. I knew Lee Atkins, that Charlie Bailey had taken from Nancy.

Q. Well, I am talking about the brother of Minnie and Nancy? Did you know him, who used to run a pool hall here in Muskogee; got killed down here at Checotah, or Eufaula somewhere?

A. I knew him when I seen him; wasn't personally acquainted with him.

Q. Knew him when you saw him? A. Yes, sir.

Q. Do you remember when he was killed? A. No, sir.

Q. You don't remember that?

Recross Examination by Mr. German.

Q. What other store was in Wagoner at the time you clerked in Davis & Jones' store, if any?

A. There was I think, about two more stores besides——

Q. Where were they located?

A. One of them was Dunlap & Taylor, was just a little west from the Davis & Jones store, and the other two was across the track.

Q. Now, where did these colored folks that you mentioned, with whom Nancy stayed, live—where did they live?

Q. They lived just back of Davis & Jones' store.

Q. That was the nearest store to which they lived?

A. Yes, sir.

Q. What kind of store was that?

A. General merchandise.

Q. Groceries, hardware, and everything? A. Yes, sir.

Q. Would these colored folks trade there *was* a rule?

A. Yes, sir.

Q. Were they around the store much?

A. Yes, sir, pretty near every day.

Q. Was Nancy around the store very much?

A. Pretty near every day.

Q. Nancy you said had no child of her own around there?

A. Not of my knowing.

Witness dismissed.

The Court: Is this all the witnesses the Government has along this line at present?

Mr. Allen: We have some that we haven't talked to.

Mr. Cobb: We desire to recall Dennis Jones.

The Court: Dennis Jones may take the stand.

And thereupon, DENNIS JONES being recalled, further testified as follows:

Recross Examination by Mr. Cobb.

Q. You are the same Dennis Jones who has testified before in this case? A. Yes, sir.

Q. I will ask you if one of the newspapers published in Leavenworth, Kansas, is not the Leavenworth Times?

A. Yes, sir.

Q. I will ask you also if along about December, 1914, or the early part of January, 1915, there wasn't considerable comment in the various newspapers in Leavenworth about the Tommy Atkins matter? A. Yes, sir.

Q. You were at that time actively engaged in investigating the Tommy Atkins matter? A. Yes, sir.

Q. The newspaper reporters and representatives of the newspapers frequently came to you for information and talked to you about the matter?

A. Yes, I talked to them but they didn't come to me direct.

Q. You talked to them about the matter? A. Yes, sir.

Q. I will ask you if you remember an article appearing in the Leavenworth Times of the issue of December 6th, 1914, reading as follows:

Mr. Cobb: Now, I will state to the Court here that we were not able to get a copy of that paper itself and that we are indebted to Mr. Endres of counsel for the Government for the typewritten copy which we have here.

The Court: Let me see what you are moving to. You propose to interrogate this witness as to whether or not he was responsible for that statement?

Mr. Cobb: Yes, sir.

The Court: And then you propose to offer that as a statement made by him in regard to some feature of this case?

Mr. Cobb: Yes, sir.

The Court: Alright.

Q. Reading as follows: "Believe Carter is Minnie's heir. Dennis Jones who remembers much of his early life relates story of his life. Dennis Jones, a colored attorney who has been acquainted with the gossip in this city for thirty years, believes Henry Carter, 1115 High Street, is the son of the Indian Minnie Atkins, and incidentally heir to a small fortune through inheritance to a claim on the Indian Reservation, which is rich in oil. Mr. Jones bases this belief on the similarity of dates——

Mr. Cruce: If the Court please, we didn't know what was in that article.

The Court: Well, is it very much longer?

Mr. Cobb: Three or four paragraphs.

The Court: Well, if that is the character of it, I don't think the statement of this witness in regard to it would be competent even on cross examination. If that is a conclusion, the Court must determine. How would it be competent?

Mr. Cobb: If Dennis Jones gave a statement to the newspapers, the basis of this article, it goes to impeachment of him. He testified positively that H Carter was not the—— * * * It is a matter that goes to his credibility.

Mr. Cruce: I am inclined to think, Your Honor, that—my objection to the testimony is that it is not competent as substantive testimony. Counsel is probably right that it goes to effect his credibility.

The Court: Yes, I think so; go on.

"and places surrounding the birth and first twelve years of the life of Tommy Atkins and Henry Carter. Henry Carter, so far as is known, was born at Granny Letcher's place on Seneca street and so was Tommy Atkins. Carter never had anybody inform him that he was born any where else than at the famous old rooming house, and it was there that his first memories of early affairs came to him. The Carter family with whom Henry Carter went to live and whose name he took, is related distantly to Mrs. Dennis Jones. Neighbors of hers state that Henry Carter was a son of Mrs. Carter but when the youth asked Mrs. Carter this, she denied it, saying that his mother was an Indian woman named Minnie. My wife has told me that Carter called at our home one day and endeavored to learn something of his mother, said Mr. Jones yesterday. She also was unable to tell him anything. He said that he asked Mrs. Carter and she could tell him little. Then he went to Oklahoma and spent several years searching for his parents, offering rewards to any one who could give him definite information. Sam Nash who lived at Granny Letcher's and knew Indian Minnie's child, declares there are marks on Carter's body similar to those he has seen on Tommy Atkins' body. Both left Granny Letcher's about the same time, and Tommy Atkins, the same as Henry Carter, looked much like a white child.'' Do you remember seeing that article?

A. No, I didn't tell anything——

The Court: The question is, did you remember seeing that article?

Q. That article was in the paper? A. Yes, sir.

Q. Had you talked to a representative of the newspaper about the time of the appearance of this article?

A. Yes, sir, and he misquoted me altogether and I went the next day and called his attention to it.

Q. Did you have correction made in the paper about that?

A. No, they wouldn't correct it—wouldn't re-write it; wouldn't say anything about it. I did make some statements about him coming to my house and asking some questions.

Q. Who did you go to representing the newspaper?

A. I went down to the Times office.

Q. Who did you see there?

A. And they told me to see some boy sitting back in there that wrote the article and I went back to see the young fellow at the typewriter who said Mr. Biddle wrote it; Biddle said he didn't write it, and I never could find out who wrote the article.

Q. You didn't make any statement in the newspaper for correction? A. No, sir.

Q. All you did was to go down there and see some one at the newspaper?

A. No, I didn't go to the newspaper office; some fellow was asking about Tommy Atkins and Henry Carter and different thing and I remember talking to some Times reporter.

Q. Where did you see them?

A. On the street; about the bank there.

Q. You didn't go to the Times office?

A. No, I didn't go there to give them the article.

Q. You never went there to have it corrected, did you?

A. I certainly did.

Q. Who did you see there?

A. I went there and spoke to Mr. Seckler, I think, and he said he had charge of the advertising, and I would have to go into the other room, and I went in there and tried to see the boy that I talked to on the street, and I didn't see him in there, and I asked another man sitting at the typewriter about the article and he said he didn't write it, and I said, No, I don't think that you are the boy I talked to, I talked to another boy, and he said see Mr. Biddle, and Mr. Biddle said he didn't write it.

Q. And you never did have any correction made in the paper of that article?

A. They wouldn't correct it, no, sir.

Mr. Allen: I wish to ask the witness a question or two.

The Court: Proceed.

Recross Examination by Mr. Allen.

Q. Dennis, have you a contract at this time by which you are to receive twenty-six hundred dollars or about that sum in event of recovery in this case by Mr. Page? A. No.

Q. Have you that understanding? A. No, sir.

Q. Oral or written? A. No, sir.

Q. Have you any contract other than the written contract introduced in evidence? A. No, sir.

The Court: Wasn't this all covered in cross examination?

Mr. Allen: Not about this twenty-six hundred dollars.

Mr. Cruce: He testified that he had no other agreement either expressed or implied outside of the written contract.

The Court: I think so, yes.

Mr. Allen: I won't go further in regard to that.

Q. You say Mr. Codding represented Sadie Lane in the divorce proceeding?

A. Copy of journal entry said so; I didn't know who represented her. I wasn't in court and had nothing to do with Sadie Lane.

Q. You knew about her marriage to this old soldier Lane? A. I did when she told me.

Q. You knew subsequent to that about her marriage to James? A. I knew it when she told me.

Q. The way Codding happened to meet Sadie and become employed by her was by virtue of your letter to Codding?

A. That was——

Mr. Stuart: Your Honor, he has covered that entirely.

The Court: Never mind answering; that is all covered.

Q Was it this soldier's property that Codding was to look after when you wrote the letter to Codding?

A. Which soldier's?

Q. Lane. A. I think it was.

Recross Examination by Mr. Cobb.

Q. Wasn't a Mr. P. C. Powell, the reporter of the Leavenworth Times at this time? A. I don't know.

Q. December, 1914?

A. I don't know whether he was or not.

Q. Did you see Mr. Powell about this?

A. I don't think I know him; I might know him. I might ask if he is the son of old man William Powell.

Q. Did you know a newspaper reporter named Powell?

A. No.

Q. You didn't know him? A. No.

Q. Didn't see anybody by that name?

A. No, I might have seen somebody by that name but I didn't know him.

Witness dismissed.

And thereupon SUSIE SMITH, a witness produced on behalf of the defendant Henry Carter, being first duly sworn, testified as follows:

Direct Examination by Mr. Bell.

Q. State your name to the court. A. Susie Smith.

Q. Where do you live, Mrs. Smith?

A. I live in Leavenworth County, Kansas.

Q. How long have you lived in Leavenworth County, Kansas?

A. Well, that is my home; I have lived there more or less all my life.

Q. More or less all your life. Were you a daughter of Henry Carter? A. Yes, sir.

Q. I will get you to state whether or not that you were a school teacher? A. I was.

Q. How long did you teach school? A. Four terms.

Q. Where at? A. Missouri.

Q. Have you taught school in the last twenty or thirty years? A. No, sir.

Q. I will get you to state whether or not that you know H. Carter. A. I do.

Q. State to the court when you first saw H. Carter or about when.

A. Well, when I came home to nurse my mother in her last illness, he was there.

Q. When you came home to nurse your mother?

A. Yes, sir.

Q. In her last illness? A. Yes, sir.

Q. Do you know what year that was?

A. I don't know that I do, no, sir.

Q. Do you know what year your mother died?

A. It must have been in '91 or '92, somewhere along there.

Q. '91 or '92? A. Yes, sir.

Q. How long were you home before your mother died?

A. She was sick nearly two years or more.

Q. Two years or more, after you came home? A. Yes, sir.

Q. And she died in '91 or '92?

A. Something like that, yes, sir.

Q. Was H Carter at your father's and mother's home when you came? A. He was.

Q. Where had you been living? A. Missouri.

Q. Several years prior to that? A. In Missouri.

Q. Who with? A. My aunt.

Q. Taught school there? A. I didn't teach——

Q. What was your purpose in coming home at that time?

A. I came home to nurse my mother.

Q. Why did you come home to nurse your mother?

Q. All the other children were married and gone.

Q. All the other children were married and gone?

A. Yes, sir.

Q. Was your sister Adis at home or was she married?

A. She was married.

O. Your sister Susan? A. Adis, you mean?

Q. Where was your sister Mary?

A. She was in Montana.

Q. Montana, and your mother had no one to care for her?

A. No, sir.

Q. Now, when you taught school in Missouri, how often did you come home? A. Every year within two years anyway.

Q. Every year? A. Yes, sir.

Q. Now were you home the year before you came home to take care of your mother? A. Year before?

Q. Yes, ma'am.

A. I don't remember whether I was or not.

Q. Well, was you home two years before you came home to take care of your mother? A. I think so.

Q. Was Henry Carter at your mother's home then?

A. No, sir.

Q. Did you ever leave your father's home to stay after you came home to take care of your mother? A. I did not.

Q. And have been there on that farm ever since?

A. Yes, sir.

Q. Do you know who H Carter is? A. I do not.

Q. Do you know where he came from?

A. I know where they told me he came from.

Q. Where did they tell you—— I will ask you, is your father dead? A. Yes, sir.

Q. I will ask you now, did your father tell you where he came from?

Mr. Stuart: We will object to that, Your Honor.

The Court: Well, the father is dead. Now, here was a boy living in the family. He is not a relative, according to the contention of the party now offering this evidence, he is not a relative of this Henry Carter. It doesn't appear that all witnesses who might know these facts are not available. I don't believe a case is presented here where a statement on behalf of Henry Carter, deceased, is admissible.

Mr. Cobb: If the Court please, there has been some depositions introduced in this case where the contention is made that old man Henry Carter was the grandfather of this child, and my recollection is there are some statements purporting to come from him, that are given in those depositions, concerning this boy. Of course if Henry Carter, old man Henry Carter is the grandfather of this child, his statement would be admissible under that theory of the case. I think under that theory of the case we have a right to refute those statements they have already made, by contrary statements. I think, also, where a party is brought into the family, and into the home and raised as the child of the party, as a member of the family, that any statements coming from those foster parents are to be received in likewise as if they were their real parents. • • •

The Court: Well, I have very serious doubts as to whether it is admissible or not, but of course the court knows now, if this witness is permitted to testify, or you offer proof by this witness that Henry Carter made a statement as to where he got this boy, it sustains your theory. I am going to let that statement go in over objection, and I will determine whether I will give it any weight.

Q. State where he told you the boy came from?

A. He said he got him in Leavenworth, from a woman in Leavenworth.

Q. How is that?

A. Said he got him from a woman in Leavenworth.

Q. Did he give you the name of the woman?

A. He did not.

Q. Did not. Now I will get you to state, after H Carter lived with your father there in the home, if he often went to town with your father. A. Yes, sir.

Q. About how often?

A. Well, I can't say; sometimes oftener and sometimes—

Q. How is that? A. I can't say how often.

Q. Well, sometimes as often as once a month?

A. Yes, sir, sometimes oftener.

Q. Your father hauled produce to town and sold it?

A. Yes, sir.

Q. Went in town about how often each week?

A. He didn't go—you asked me if he didn't go more than once a week?

Q. Once a week, now how often did Henry go in with him?

A. Every time he went.

Q. You had a sister by the name of Adis Carter, did you not? A. Yes, sir.

Q. Is she married? A. Yes, at that time.

Q. When did she marry, if you know?

A. In January, 1885.

Q. January, 1885. Where did she live when you came home from Missouri to take care of your mother?

A. Lived on the same 160 acres that my father lived.

Q. How is that?

A. Same 160 acres my father's farm is on.

Q. About how far from the family home?

A. Well, he lived on one 80 and she lived on the other.

Q. Your sister Adis have any children? A. When?

Q. Then? A. Yes, I think she had one.

Q. Was it a boy or girl? A. A girl.

Q. And you had a sister Susan? A. That is my name.

Q. Mary? A. Yes, sir.

Q. Were you home at the time that your sister Mary married? A. No, sir.

Q. Were you home any time that year?

A. I was home a month after her marriage.

Q. Month after her marriage. Know what year that was?

A. 1879.

Q. Tell the court why you recollect it was 1879.

A. Because I was going to Chicago then; I was chief receptress of the grand lodge.

Q. That a lodge you belonged to? A. Yes, sir.

Q. And you went to Chicago as a delegate? A. Yes, sir.

Q. Now, what month did you go to Chicago?

A. August.

Q. August, 1879? A. Yes, sir.

Q. What month was your sister married?

A. The same day she was married.

Q. In 1879? A. Yes, sir.

Q. Now, when you got home a month after, was Adis at home? A. Yes, sir.

Q. I am going to ask you, did your sister Adis at that time have any children? A. No, sir.

Q. Was she a young woman, single? A. Yes, sir.

Q. Did she appear to be in a delicate condition?

A. No, sir.

Q. Was your sister Susan still at home, sister Mary?

A. She was in Leavenworth.

Q. Did you visit her in Leavenworth? A. I did.

Q. Then, did you visit the family——

A. I visited my sister first and then went out home.

Q. How long did you stay at home at that time?

A. I left about the last of October.

Q. Last of October? A. Yes.

Q. About how old was your sister Adis at that time?

A. I don't know her age, I couldn't tell.

Q. Did you ever go to town along with H. Carter or have him go along with you? A. After he got big enough I did.

Q. Where did you go with him? A. To my sister's.

Q. To your sister's? A. Yes, sir.

Q. Where did your sister live in Leavenworth with reference to where Mrs. Yoakum lived?

A. Mrs. Yoakum is my sister.

Q. You had another sister in town, didn't you?

A. Not at that time.

Q. You went to Mrs. Yoakum's did you to take Henry to Yoakum's with you? A. Yes, sir.

Q. Or he taken you there? A. Yes, sir.

Q. About how old was he?

A. That was after my father's death, he must have been fifteen or sixteen years old.

Q. Did he stop at the Yoakum home? A. Yes, sir.

Q. Did you know Granny Letcher, known as Mary Ann Letcher? A. I knew her when I was a child.

Q. Do you remember of seeing her that day when you were at Yoakum's? A. Yes, sir.

Q. Was there anything that day said relative to Henry?

A. Yes.

Q. State what it was.

The Court: Who said it?

Mr. Bell: Mrs. Yoakum was asked this question——

The Court: You are asked to state something that was said; now, before you state what it was, state who said it.

A. My sister Mariah Yoakum.

Q. Now, tell what she said.

Mr. Allen: We object to that unless they lay the proper predicate.

The Court: What about Mrs. Yoakum, is she living?

Mr. Bell: Mrs. Yoakum is living as I understand. I was going to state to the Court that she gave her deposition here and she was asked at the time of the deposition about this conversation, she admitted of saying it—admitted of having the conversation about the boy, but not using the words that we say she used.

The Court: Was she interrogated at the time about this particular matter?

Mr. Bell: Yes.

The Court: It isn't as she said it?

Mr. Bell: Yes.

The Court: And denied saying it?

Mr. Bell: Denied saying it.

The Court: Do you agree that that is the record?

Mr. Allen: Before they asked this witness about that conversation, they would have to lay the predicate by asking her sister whether or not she said this.

The Court: I understand from counsel that that is already laid in the deposition.

Mr. Bell: That was asked Mrs. Yoakum at the time she gave her deposition.

Mr. Allen: Then, it would be only proper to ask this witness the exact question.

The Court: Yes, that is true.

Q. I will get you to state if Mrs. Yoakum didn't say at that time that that boy was out there, that he was born in a sporting house at Mary Ann Letcher's?

A. If you will let me tell it, I will tell it just as she said it.

The Court: You are asked if she made that statement.

A. No, she didn't say anything about sporting house. She said do you remember Mary Ann Letcher, I said yes. She said who is that boy playing with your girl? And I said an Indian from Indian Territory. And she says, I know him, he was born right in my house, Mary Ann Letcher's house; and I would like to get to talk to him.

Q. Did she talk to him?

A. I think not, not that I heard of.

Mr. Stuart: Your Honor, we object to that because this is double hearsay.

The Court: Yes, of course I would have to see the depositions to say just what predicate was laid here.

Mr. Bell: That is all.

The Court: It may be considered that your objection is in the shape of a motion to strike and when I get the deposition I will determine the motion.

Cross Examination by Mr. German.

Q. Who was it married in 1879?

A. Mary Elizabeth Carter, my sister.

Q. That is not Mary Yoakum? A. No, Mary Carter.

Q. Well, that is Mary Yoakum now?

A. Mary Yoakum and Mary Carter is two different people.

Q. Was Mary Yoakum your sister? A. Yes, sir.

Q. She had married long before that?

A. Before I could remember.

Q. Who was it that Mary Carter married?

A. Elias Simington.

Q. Where do they live?

A. She is living in Montana, he is dead.

Q. Adis married in January, 1885? A. Yes, sir.

Q. She was another sister of yours? A. Yes, sir.

Q. You say she was another sister?

A. She was another sister.

Q. In the fall of '79, you say you went to Chicago to attend a lodge? A. No, sir, I didn't.

Q. What was it you said? A. I said I went in August.

Q. And was gone about a month?

A. No, I didn't say I was gone a month.

Q. Well, how long?

A. Well, the session was over during that week.

Q. You were not gone so very long, and when you came back your sister Adis showed no evidence of being in a family way? A. No, sir.

Q. Now, when did Adas have her first child?

A. I don't know that.

Q. Before she married in January, 1885, she had had a child named Viola, hadn't she? A. Not that I know of.

Q. Well, there was a little girl there known as Viola that your father raised, wasn't there? A. Yes, sir.

Q. You don't know whose child that was? A. I do not.

Q. Was that child born when you were around home?

A. No, sir.

Q. You were over in Missouri?

A. I don't know anything about when the child was born. When I came there the child was there.

Q. And that child's name was Viola? A. Yes.

Q. And this child called H. was there too?

A. Both of them.

Q. When you got back from Missouri?

A. When I came to wait on my mother they were both there.

Q. Had this child Viola been there on any previous trip you had made home? A. No, sir.

Q. They both appeared at the same time so far as you know?

A. I saw them both there the same time, I don't know when they appeared.

Q. The first time you ever saw one you saw both?

A. I saw them both.

Q. They went to school out there?

A. For a short time, yes.

Q. They attended Brown School House? A. Yes.

Q. Went to school together, didn't they? A. I said yes.

Q. When was it with reference to the time your sister married, that is your sister Adas married, which was in January, 1885, that you first saw H. when with reference to that time was it that you first saw H. was it before that or after?

A. Make that plain, I want to know what you are talking about.

Q. Well, did you see H before or after your sister married? A. After of course.

Q. About how long? A. I don't remember how long.

Q. When was it you returned from Missouri to take care of your mother? A. I disremember the date.

Q. Was it sometime in the eighties? A. Yes.

Q. Sometime in the eighties, but you don't remember what year, is that right? A. That is right.

Cross Examination by Mr. Stuart.

Q. Do you know John Yoakum? A. I do.

Q. Who is John? A. John who?

Q. Yoakum? A. He is my sister's husband.

Q. And what is your sister's name who is married to John? A. Mariah Yoakum.

Q. You heard her testify in this case, did you?

A. I did not.

Q. You knew she testified, didn't you that this H. Carter was Adas' child? A. I wasn't there.

Q. But you know your sister testified that?

A. I heard she testified.

Q. And you knew her husband, John Yoakum, testified to that? A. I know that too.

Q. And you know your father's grand children testified to that? A. I heard that.

Q. And you know they all testified that they nursed this baby and it was Adas' boy? A. I heard that.

Q. This boy was named H.?

A. That is what they called him.

Q. Your father called him H.? A. Yes, sir.

Q. Called him H. because your father's name was Henry to distinguish them from Henry? A. That might be.

Q. Your father told you that these children were Adas'?

A. He did not.

Q. Did he tell you they were not Adis'?

A. He had no occasion to speak of Adas whatever.

Q. How did you account for those children being there?

A. I didn't account for them at all.

Q. Did anybody say whose they were? A. Not to me.

Q. Not to you? A. No, sir.

Q. You thought it was strange when you found those children there? A. I did.

Q. But you never asked for an explanation?

A. Yes, I asked for an explanation.

Q. What did he say about Viola?

A. Said that he got those children in Leavenworth.

Q. Viola? A. Both of them.

Q. How big were the children when you got back from this trip this first time?

A. They were small children both of them.

Q. How big, point down?

A. Something like that (indicating).

Q. How many years old would you say they were in your judgment?

A. I don't know anything about the age by looking at the children.

Q. Have you ever had any children of your own?

A. No.

Q. You have taught school, haven't you? A. Yes.

Q. And you have been all your life a school teacher?

A. No.

Q. How long have you been a school teacher?

A. Taught four terms.

Q. You have been accustomed to seeing children?

A. Yes, sir.

Q. And the law required you to put their ages down in a book?

Examination by the Court.

Q. You have some judgment as to how old Viola and H. were when you first saw them at your father's house. Now, about how old was H.?

A. He might have been five or six years old.

Q. How old was Viola? A. I couldn't tell.

Q. Was she older or younger? A. I did not know.

Q. Did she appear to be older or younger?

A. She was larger.

Q. Did she appear to be older than H.?

A. Yes, looked older.

Q. About how much older?

A. Well, I don't know, she might have been a year, and might have been younger, and might have been more.

Q. More than two years?

A. No, I think not. Something like that.

Redirect Examination by Mr. Bell.

Q. Mrs. Smith, you seen two children there when you came home to take care of your mother? A. Yes, sir.

Q. And your mother died about 1892, 1891 or 1892?

A. Yes, something like that.

Q. And you were home you say about a year or two years before she died? A. Yes.

(Witness dismissed.)

And thereupon, Court recessed until nine-thirty, A. M., June 1, 1917.

And thereafter, and on June 1, 1917, at 9:30 o'clock A. M., Court convened pursuant to adjournment, and further proceedings herein were had as follows:

Mrs. MARY ELIZABETH SIMINGTON, a witness produced on behalf of the defendant Henry Carter, being first duly sworn, testified as follows:

Direct Examination by Mr. Johnson.

Q. What is your name? A. Mary Elizabeth Simington.
Q. Where do you live, Mrs. Simington?
A. Butte City, Montana.
Q. How long have you lived at Butte, Montana?
A. About thirty-five years.
Q. About thirty-five years; where did you live before you went to Butte? A. Leavenworth County, Kansas.
Q. Leavenworth County, Kansas. What was the name of your father? A. Henry Carter.
Q. Henry Carter? A. Henry Carter.
Q. What was the name of your mother?
A. Jeanette Carter.
Q. Jeanette Carter; where did they live?
A. Leavenworth County, Kansas.
Q. How far from the city of Leavenworth did they live?
A. About eighteen miles.
Q. About eighteen miles; what was the name of the settlement where they lived, or town? A. Springdale.
Q. Springdale. Did you ever have any brothers or sisters? A. Yes, sir.
Q. How many brothers have you?
A. I have two living brothers.
Q. What are their names?
A. James Shannon and Thomas Jefferson Carter.
Q. James Shannon and Thomas Jefferson Carter; where does Shannon Carter live now? A. In Oklahoma.
Q. You understand that he is in Oklahoma? A. Yes, sir.
Q. Where does Thomas live?
A. He lives at the home place.
Q. At the home place. Have you any sisters?
A. Yes, sir.
Q. How many? A. Three living.
Q. Three living; what are their names?

A. Maria Yokum, Susie Smith, and Adis Wright.

Q. Maria Yokum, Susie Smith, and Adis Wright?

A. Yes, sir.

Q. Which of these sisters is older? A. Maria Yokum.

Q. Which is the younger? A. Adis Wright.

Q. Adis Wright. When were you married, Mrs. Simington? A. 1879.

Q. 1879? A. Yes, sir.

Q. Who did you marry? A. Elias Simington.

Q. Where were you married?

A. At my father's home.

Q. At your father's home? Well, had you been living at your father's home all the time up to your marriage?

A. No, not all the time.

Q. Where had you been part of the time?

A. In Leavenworth city.

Q. How long was it before your marriage that you had lived in Leavenworth? A. About six weeks.

Q. About six weeks. Then where did you go after leaving Leavenworth? A. I went to Butte.

Q. No, you don't understand me; before your marriage?

A. Ask me the question again, please.

Q. Where did you go from Leavenworth before your marriage?

A. Oh, I went home.

Q. You went home? A. Yes.

Q. What did you go home for?

A. To prepare for my wedding.

Q. When you got home what brothers and sisters of yours were living at the home then?

A. My brother Tom, Thomas and my sister Adis.

Q. Your brother Thomas and your sister Adis? Now, what preparations did you make for your wedding?

A. I did some sewing and other things.

Q. Yes, well, now did you sew exclusively for yourself?

A. No.

Q. Who else did you sew for?

A. I did some sewing for my sister Adis.

Q. What sewing did you do for your sister Adis?

A. I made a dress for her.

Q. Did you complete that dress for her? A. Yes, sir.

Q. Fitted it on her? A. Yes, sir.

Q. After you were married where did you go to live?

A. I went to Leavenworth.

Q. You went to Leavenworth, what time after your marriage was it that you went to Leavenworth?

A. The same day.

Q. Was Adis at your wedding? A. Yes, sir.

Q. Was she one of the assistants at your wedding?

A. She was.

Q. Now, after you went to Leavenworth, how long did you live in Leavenworth before you went to Butte, Montana?

A. Well, about three years I think.

Q. Did you ever go back to the old home place after you left there and went to Leavenworth to live? A. Oh, yes.

Q. About how often would you go to the old home place?

A. Well, I managed to make it about once a month.

Q. About once a month. Who was living with your father and mother, that is of your brothers and sisters after your marriage? A. Thomas——

Q. When you would make these trips back home?

A. Thomas and Adis.

Q. When was the first time that you remember after your marriage that you visited the old home place?

A. Well, I think it was in November.

Q. You think it was in November? A. I think it was.

Q. Do you remember what the occasion was of your going back home? A. Thanksgiving.

Q. Who was there at the Thanksgiving?

A. My father and mother, Thomas, Adis and myself.

Q. Did your husband go back on that trip? A. No.

Q. Now, have you any children? A. Yes.

Q. How many? A. I have two.

Q. Two children? A. Living children.

Q. How many children have you had altogether?

A. Three.

Q. What was the name of your oldest child?

A. Carrie Mary Elizabeth.

Q. Where was she born?

A. She was born in Leavenworth.

Q. How long after your marriage was it before your first child came? A. Well, about eighteen months I guess.

Q. About eighteen months. Then, how long did you live in Leavenworth after the birth of your child, the birth of your first child before you went to Butte?

A. My child was a year and three months old when I went to Butte.

Q. Your child was a year and three months old when you left for Butte. Now, you said a while ago that you have been a mother. You are familiar with a woman's condition when she is pregnant, are you? A. Why, yes, certainly.

Q. I will ask you to state whether or not at the time of your marriage with Simington, Adis showed any signs of being pregnant? A. I should say not.

Q. Did she show any signs of pregnancy at the time when you went back home for Thanksgiving? A. No, sir.

Q. Did she have a child at that time? A. No, sir.

Q. Did she have any children up to the time that you left Leavenworth for Butte, Montana? A. No, sir.

Q. She did not? A. No, sir.

Q. Now, did you ever go back home from Butte? Make a trip back to Leavenworth? A. Yes.

Q. About how long after you moved to Butte, was it before you came back to Leavenworth? A. About 10 years.

Q. About 10 years? A. Yes, sir.

Q. What was the occasion of your returning to Leavenworth?

A. The sickness of your mother; what was the matter with your mother? A. She had a stroke of paralysis.

Q. What condition did you find your mother in when you got home?

A. I found her helpless in every way; speechless.

Q. Speechless. Who was living with your father and mother when you came back home?

A. Susie Carter and Thomas Carter.

Q. Now, were they all the people that were living there at your father's house?

A. No, I think there were some youngsters there.

Q. Some what?

A. I think there were some youngsters there.

Q. Some youngsters there? A. I think so.

Q. What were those youngsters—boys or girls?

A. A boy and a girl.

Q. A boy and a girl; what were the names of those two youngsters, as you call them?

A. Well, they called the boy H, and called the girl Viola.

Q. Which of those children appeared to be the older?

A. Well, they seemed to be near the same age.

Q. Seemed to be about the same age? A. Yes, sir.

Q. Which one of them was larger?

A. The boy was taller but the girl was stoutest.

Q. The girl was the heaviest? A. Yes, sir.

Q. Did you ever learn where those children came from?

A. I think I asked my father once where they got them and he said that he got them in Leavenworth.

Q. Your father said he got them in Leavenworth?

A. Yes.

Q. Was that the only information you ever got about those children? A. Yes, that is all.

Q. How long did you stay at your father's house on that trip? A. About six weeks.

Q. About six weeks; did you ever inquire of anybody else about those children? A. No, sir, no one.

Q. Why didn't you make some inquiry about those children?

A. Well, I had asked my father and I thought that was sufficient; my mother was speechless.

Q. So your care for your mother occupied all of your time is that what you meant to say? A. Yes.

Q. Now, whatever became of that boy?

A. I have seen him since I have been here.

Q. You have seen him since you have been here? A. Yes.

Q. Is he in the courtroom now?

A. Yes, there he sits over there. (Pointing to Henry Carter.)

Q. Where? A. Back there.

Q. Across the *isle*? A. Yes, that is the boy.

Q. Is that the boy that was at your father's home?

A. Yes, that is the boy.

Q. When you came back? A. Yes.

Q. You had been to Butte, Montana and lived there for ten years after your marriage? A. Yes.

Q. And you went there about three years after you married in Leavenworth, and removed to Butte? A. Yes, sir.

Q. And stayed there about ten years, and on your return saw this boy? A. Yes.

Q. About how old was this boy when you came back?

A. Oh, he seemed to be a boy about seven or eight years old.

Q. About seven or eight years old? A. Yes.

Q. About how old do you think the girl was?

A. She wasn't very much younger, I don't think.

Q. She wasn't very much younger? A. No.

Q. *Sis* you ever go back—you stated a while ago that you visited the old home during the illness of your mother; did you ever go back to Leavenworth after that? A. No.

Q. Never have been back there since? A. No.

Q. Your father is dead, is he not? A. Yes, sir.

Q. And mother? A. Yes, sir.

Q. You were not at home during the death of your father? A. No.

The Court: What do you say was the year of your marriage?

A. 1897—1879.

The Court: In the summer time?

A. Yes.

Q. What was the name of the man that you married?

A. Elias Simington.

Q. You speak so low I can't understand you. Elias Simington? A. Elias Simington.

Cross Examination by Mr. Allen.

Q. When did you go to Leavenworth to work?

A. I worked there all my life.

Q. Your name is Mary? A. Mary Elizabeth.

Q. You had been working at Leavenworth for sometime before your marriage in 1879? A. Yes, sir.

Q. And immediately after the marriage you moved back to Leavenworth and went to work there?

A. No, I didn't go to work. I moved back.

Q. But you lived there? A. Yes.

Q. Where did you live when you first went to Leavenworth? A. On Third Street I think it was.

Q. Third and Seneca? A. Oh, no.

Q. Third and what?

A. On Third Street *it* think it was near Kiowa.

Q. That is close to Third and Seneca?

A. I don't remember the streets there at all.

Q. Mary, at that time you were not as fleshy as you are now? A. No.

Q. The Carter family to which you belonged had Indian blood in it, didn't it? A. Not as I ever heard.

Q. Had you ever heard that you are part Indian?

A. No, sir.

Q. It was the Yoakum family that had Indian blood in them?

A. Not that I ever heard. All one father and mother.

Q. Did you marry a colored man? A. Yes, sir.

Q. Your sister, Adis married a white man? A. Yes.

Q. How long did you say that you were at home before you went out to get married, I mean were you at home when you went to get married?

A. About six weeks or a month, about a month or six weeks.

Q. Had you been home recently before that time?

A. No, sir.

Q. Were you home again afterwards for sometime?

A. Well, I was home off and on after I was married, sure.

Q. You say that you made a dress for your sister, Adis?

A. Yes, sir.

Q. You know what kind of a dress that was?

A. It was light material.

Q. Was it a wrapper or close fitting dress?

A. No, it was a wrapper.

Q. She later did give birth to a child, didn't she?

A. What did you say?

Q. She later did give birth to a child before her marriage, didn't she? A. Why, no.

Q. Viola was born in lawful wedlock?

A. I don't know anything about Viola, sir.

Q. Viola is an illegitimate child?

A. I don't know anything about that.

Q. You knew Viola, though?

A. When I was there I saw her, yes, sir.

Q. She wasn't much younger than Henry?

A. Didn't look to be.

Q. How much younger, one, two, three, four, or five years?

A. I couldn't say.

Q. As much as three years? A. No, I don't think so.

Q. How much smaller than Henry was she?

A. She wasn't quite as tall as Henry but she was heavier.

Q. She was apparently younger, but you can't say how much? A. No.

Q. Who was Johnston Carter?

A. He was one of my brothers?

Q. Do you know when he was born?

A. Old a man as I am a woman; I can't say; can't tell that.

Q. James S. Carter—when was he born?

A. He is a older man than I am a woman; I don't know when he was born.

Q. Thomas is living, isn't he? A. Yes, sir.

Q. Did he ever stay around Leavenworth with you?

A. No, always home with the people.

Q. Did he ever visit you in Leavenworth?

A. No, he never come to town.

Q. Never did come to town?

A. Not as I know anything about.

Q. Mary is your name, and when were you born?

A. I can't tell that.

Q. The way you know you were married in '79 is by your marriage license? A. I can't tell even by that.

Q. Susie is a younger sister of yours, is she? A. She.

Q. Nancy Viola is a younger sister? A. She is the baby.

Q. She is the baby of your family?

A. She is the baby of my father and mother, yes.

Q. Maria Yokum was the oldest of the family, was she?

A. Yes, sir.

Q. She was the oldest girl in the family, wasn't she?

A. No, sir.

Q. Who was? A. Emily Jane.

Q. Emma Rogers? A. Yes.

Q. Is she living? A. No, she is not living.

Q. Then Maria Yokum is the oldest living girl in that family? A. Yes, sir.

Q. She is a full sister of yours? A. Yes, sir.

Q. Full sister of Adis Wright? A. Yes.

Q. You have no idea where they got Henry from?

A. I heard my father say he got him in Leavenworth.

Q. When did you go back home after you had been away for a number of years?

A. About ten years after I had left there.

Q. You went back then in about '89?

A. Ten years, whatever it would be.

Q. You hadn't been away more than ten years? A. No.

Q. You say at that time that Henry looked to be some seven or eight years old? A. He looked to be to me.

Q. And Viola from five or six? A. Five or six.

Q. They had been going to school for some time, then, had they?

A. I never heard of them going to school while I were there.

Q. And you don't know anything about who was the mother of either of those children? A. No, I don't.

Q. They were regarded, though, in the Carter family as brother and sister?

A. They were children—what is that?

Q. Regarded in the Carter family as brother and sister?

A. I never heard anyone say so.

Q. Did you ever hear that they were not?

A. Never heard anyone speak on the subject either way.

Q. Where did you live after you went back to Leavenworth after your marriage to Simington?

A. What do you mean?

Q. You say you stayed home about a month?

A. Well, I lived in Leavenworth.

Q. What part of Leavenworth?

A. North part, on Third Street. Now, wait; Fourth Street I reckon—was it—I think it was Fourth Street.

Q. You lived around in that vicinity both before and after your marriage, didn't you? A. Yes.

Q. Have you had any children? A. Yes.

Q. When was your first child born? A. Born in '80.

Q. Eighty what? A. 1880.

Q. 1880? A. Yes.

Q. What was his name? A. It wasn't a he at all.

Q. What was her name? A. Harry Mary Elizabeth.

Q. Simington? A. Yes.

Q. And your second child, did you have any more children? A. Yes.

Q. How many? A. Two.

Q. This girl was the only child that was born to you in Leavenworth? A. Yes, sir.

Q. How old was she when you left Leavenworth?

A. She was a year and three months old.

Q. And where was she born, on Third or Fourth Street?

A. Well, where I was living, whether it was Third or Fourth she was born there.

Cross Examination by Mr. Stuart.

Q. You say you were married in 1879? A. Yes, sir.

Q. Where did you go to live after your marriage?

A. I went to Leavenworth.

Q. How long did you stay there?

A. I think it was about three years.

Q. Three years? A. I think so.

Q. Well, can't you give us something positive about it, when you moved away? A. No.

Q. Well, about what year did you go away after your marriage? A. I can't give the dates.

Q. Give us an estimate, do you think it was four or five years? A. I think about three years.

Q. That would make it 1882; wouldn't it; where did you go to? A. Butte, Montana.

Q. How long did you stay out at Butte, Montana?

A. About thirty-five years.

Q. Did you go home between the time of your marriage and the time you left for Butte, Montana? A. Yes, sir.

Q. What time was it you went home?

A. I went home about ten years after I went to Butte.

Q. Well, you were at Butte then? A. Yes, sir.

Q. I mean did you go home between the time you were married and the time you left for Butte, that three years?

A. Yes, sir.

Q. You were in Leavenworth three years after your marriage? A. Yes, sir.

Q. Did you go home at all? A. Yes, sir.

Q. Well, what time did you go home?

A. I went home in November.

Q. November of the year you were married? A. Yes, sir.

Q. Did you go back again? A. Very frequently.

Q. Then, you were at home frequently between 1879 and 1882? A. Yes.

Q. Did you see any children there? A. No.

Q. No children there at all. Then, you went away to Butte, Montana? A. Yes, sir.

Q. Nobody there but your father and mother?

A. Father and mother and Tom.

Q. Tom who? A. My brother Tom, Thomas.

Q. And you went back when to see your father and mother from Butte? A. Well, about ten years later.

Q. About 1889; when you got there, you found a boy and girl there that you never saw before?

The Court: That would be 1892.

Q. You left in 1882?

Mr. Stuart: She said she came back in '89.

The Court: I thought she said ten years after she went away.

Mr. Stuart: No, ten years after you married, that is what you said? Well, the record will show.

Q. Now, when you went back you found two strange children there? A. Yes, sir.

Q. What were their names?

A. They called one H., the boy.

Q. What did they call the other?

A. They called the girl Viola.

Q. Now, your father had several grandchildren, didn't he, at that time? A. Yes, sir.

Q. Living there not far from him?

A. They were in Leavenworth part of the time I guess.

Q. Did they live out there next to him? A. They did.

Q. How many grandchildren did he have?

A. I can't tell that.

Q. Tell some of their names?

A. One was Mary, and there was Emma, and there was an Ethel and Bertha; I think one Anna.

Q. Now, when you got there and found the children—— First, how tall was the boy, just indicate?

A. Oh, he was a little fellow, just a little fellow.

Q. About how old?

A. Well, about seven or eight years old.

Q. About seven or eight years old? A. Yes.

Q. And the girl looked a little younger? A. Yes, sir.

Q. Were they going to school then?

A. I never heard of them going to school; I don't know.

Q. Do you know whether there was a school near there or not?

A. I think there was a school there some where.

Q. And you found these children there; one about seven or eight years old, and the other a little younger? A. Yes.

Q. Was your mother living then? A. Yes, sir.

Q. When did you mother die?

A. Now, I don't know the year because I wasn't there.

Q. Let's figure it out. A. '90 or '91.

Q. What? A. '90 or '91 I don't know which.

Q. Your mother died in 1890 or '91, that is your best recollection? A. Yes, sir.

By the Court.

Q. How long after you made that visit there, did she die?

A. It might have been five, or six, or eight months; I didn't get any word right when she passed away.

By Mr. Stuart.

Q. Well, about how long was it after you made that trip, was it that your mother died?

A. It might have been eight or nine months; I don't know.

Q. Eight or nine months?

A. It might have been; I don't know—I didn't get the word right away.

Q. After your father died, you girls all claimed that Henry was an illegitimate child of Adis, didn't you?

A. No, sir.

Q. And fought for the property?

A. I don't know, I——

Q. He had a little legacy in the will, didn't he?

A. I don't know anything about that.

Q. Don't you know that your sisters all fought him for the—— A. I don't know anything about that; I didn't do it.

Q. You didn't do it?

A. I didn't do it; I wasn't there.

Q. Your sister Adis, you know had an illegitimate child before she married, don't you?

A. I don't know anything of the kind.

Q. Do you know that she did not?

A. I know that she did not.

Q. Will you swear that your sister Adis never had a child before she was married? A. Yes, I will.

Q. Absolutely? A. Yes, sir.

By the Court.

Q. How old was Adis when you married?

A. I don't know; I reckon maybe about 17.

Q. About 17? A. Yes.

Cross Examination by Mr. Hanford.

Q. Between the time that you were married and the time that you went out to Butte, that is in the three years that you were in Leavenworth, you say you visited your father's place frequently? A. Yes; sir.

Q. Where did you visit—at his house? A. Oh, yes.

Q. On the farm? A. Yes.

Q. Visit any place else? A. No.

Q. Just went to the home? *A.* How long would you stay?

A. Well, sometimes longer than others; sometimes I would stay a day or two, and sometimes I would stay a day.

Q. Sometimes a day and sometimes a day or two?

A. Yes, and sometimes a week.

Q. You just stayed there at his house?

A. Right at his house.

Q. Didn't go to see anybody else? A. No.

Q. You were just out there to see your father and mother?

A. To see my father and mother.

Q. You helped around the house, did you? A. Yes.

Q. Did you visit any of your sisters or anybody else?

A. No, I didn't.

Q. You were just out there to see your father and mother?

A. Yes.

Q. Didn't go to see Maria, or any of the others?

A. No, I didn't.

Q. You say no? A. No, sir, I didn't.

Recross Examination by Mr. Allen.

Q. Did you know Granny Letcher in Leavenworth?

A. No, I don't.

Q. Did you know Aunt Molly, the fortune teller?

A. No, sir.

Q. Did you know Mr. Crilly, the livery stable man?

A. No, sir.

Q. You knew who he was though? A. No, sir.

Redirect Examination by Mr. Johnson.

Q. What class of people were your father and mother's neighbors who lived around them?

A. Why, they were white people.

Q. All white people? A. Yes.

Q. There were no colored people living in that settlement except your father?

A. I don't know of any; can't remember of any living around there.

(Witness dismissed.)

And thereupon, ADAS WRIGHT was called and sworn as a witness for and on behalf of the defendant, Henry Carter, and testified as follows:

Direct Examination by Mr. Johnson.

Q. What is your name? A. Adas Wright.

Q. Where do you live?

A. I live in Leavenworth County.

Q. Leavenworth County, Kansas? A. Yes, sir, Kansas.

Q. How long have you lived in Leavenworth County, Kansas? A. About all my life.

Q. About all your life? A. Yes, sir.

Q. Who were your parents? A. Sir?

Q. What were the names of your parents?

A. Henry Carter and Janetta Carter.

Q. Henry Carter and Janetta Carter? A. Yes, sir.

Q. Where did they live in Leavenworth County?

A. Near Springdale and McLouth.

Q. How far is that from the City of Leavenworth?

A. They call it eighteen miles.

Q. Did you ever have any brothers and sisters?

A. Yes, sir.

Q. How many brothers did you have?

A. I have Shannon Carter and Thomas Carter.

Q. They are both living? A. Yes, sir.

Q. Where does Shannon Carter live?

A. He lives in Muskogee.

Q. Muskogee? A. No, Boynton.

Q. Where does Thomas live?

A. He lives at the old home place.

Q. How many sisters have you? A. Three.

Q. What are their names?

A. Mariah Yoakum, Susan Smith, and Mary Elizabeth Simington.

Q. Which of your sisters is the oldest, which is the eldest sister? A. Mary Yoakum.

Q. Where does Mrs. Yoakum live?

A. She lives in Leavenworth City.

Q. Where does Susan Smith live?

A. She lives in Leavenworth County at the old home place.

Q. Where does Mary Simington live?

A. Butte City, Montana.

Q. Butte City, Montana. Where were you living when Mary Elizabeth married?

A. I was living at home with my father.

Q. Living at home with your father? A. Yes, sir.

Q. At that time, who were the members of your father's family? A. My mother and father and Tommy, Thomas.

Q. Your mother, father, and Thomas? A. Yes, sir.

Q. And yourself? A. Yes, sir.

Q. Do you know when your sister Mary was married?

A. Yes, sir, I was at home.

Q. You were at home? A. Yes, sir.

Q. Had she been living at home continuously before her marriage?

A. No, sir, she worked out in Leavenworth but she come home once in a while.

Q. How long was it before her marriage that she came home? A. Well, it was about six weeks.

Q. About six weeks? A. Yes, sir.

Q. What did she come home for?

A. To prepare for the wedding.

Q. To prepare for the wedding? A. Yes, sir.

Q. What did she do?

A. She made clothes for herself and she made my dress to stand up with her and cleaned house and prepared for the wedding.

Q. You say she made you a dress? A. Yes, sir.

Q. She was married at your father's house, was she?

A. Yes, sir.

Q. How long did she stay there after her marriage?

A. She went away the same day.

Q. Went away that day? A. On Sunday.

Q. Where did she go to? A. Went to Leavenworth.

Q. Went to Leavenworth? A. Yes, sir.

Q. Now, after her marriage when was the next time that you saw your sister?

A. Well, I expect two or three weeks probably, might have been a month.

Q. Two or three weeks or it might have been a month?

A. I don't remember just to the day how long it was.

Q. How long did your sister stay in Leavenworth before she went to Butte? A. Oh, she was there over two years.

Q. She was there over two years? A. Yes, sir.

Q. During the time that she stayed at Leavenworth, would she come back to the old home place? A. Yes, sir.

Q. Visiting? A. Yes, sir.

Q. Did you ever go to Leavenworth to visit her?

A. Yes, sir, stayed with her a week at a time.

Q. Stayed with her a week at a time. Do you remember how often she visited your father's home during the year that she was first married?

A. She come quite often until about the last and she wasn't able to come then and we went to see her.

Q. Then you all went to see her? A. Yes, sir.

Q. Did she give birth to any child before she left Leavenworth for Butte Montana? A. Yes, sir, one child.

Q. One child? A. Yes, sir.

Q. About how old was this child when she moved to Montana?

A. Well, it was a little over a year old, I don't remember just how much.

Q. A little over a year old? A. Yes, sir.

Q. Now, you are married, are you not? A. Yes, sir.

Q. Is your husband living? A. He is dead.

Q. He is dead. When did you marry?

A. I married in 1885.

Q. In 1885? A. Yes, sir, the 6th day of January.

Q. 6th day of January; what was the name of your husband? A. John Wright.

Q. Where were you married?

A. I was married in St. Joe, Missouri.

Q. Married in St. Joe, Missouri. Have you any children?

A. I have seven.

Q. Seven children; what is the name of the oldest of your children? A. Nettie.

Q. Nettie; how long after your marriage, was it, before Nettie was born? A. Well, it was about two years.

Q. About two years? A. Yes, sir.

Q. Where were you living at the time Nettie was born?

A. I was living on the same 160 acres that my father lived on; the place was divided in two 80's.

Q. Lived on one quarter section? A. Yes, sir.

Q. Did you ever know a boy by the name of H Carter?

A. Yes, sir.

Q. Just a moment; let me go back to the children. What are the names of the rest of your children?

A. Nettie is the oldest; then Henry, Maude, Johnnie, Ada, Gertrude and Willie is my family.

Q. They are living, are they? A. Every one.

Q. Now, where did you first see this boy H Carter?

A. I seen him at my father's house.

Q. You saw him at your father's house? A. Yes, sir.

Q. How long after your marriage, was it, before you saw this boy at your father's house?

A. Oh, it was quite a while, several years—I had one child that was beginning to walk around when I first seen him there at my father's.

Q. What was the name of that child? A. Nettie.

Q. Nettie; and this child was able to walk around when you first saw this boy? A. My child, yes, sir.

Q. About how old did this boy appear to be when you first saw it?

A. Well, he was—I expect five or six year old and maybe more— I can't say——couldn't say.

Q. Was there any other child there at your father's house besides this boy? A. When he came there?

Q. Yes. A. No, sir.

Q. There was not? A. No, sir.

Q. Was there later any other child?

A. Yes, sir; in a short [] my mother and father went and got a girl.

Q. Went and got a girl? A. Yes, sir.

Q. What is that girl's name? A. Viola.

Q. Now, with reference to the boy, how old did the girl appear to be?

A. Well, I don't hardly know; she was a pretty good sized girl; she wasn't very tall, but she was broad but she appear- to me to look at her, that she was older than the boy.

Q. You thought that she was older than the boy?

A. Yes, sir, but I don't know this.

Q. Now, this all occurred after your first child was able to walk? A. Yes, sir, around the floor.

Q. And your first child was born about two years after your marriage? A. Yes, sir.

Q. Mrs. Wright are you—did you ever give birth [] a child before you were married? A. No, sir, I didn't.

Q. Are you the mother of H Carter?

A. No, sir, I am not.

Q. Are you the mother of Viola?

A. No, sir, I told you my children, one and all.

Q. Did you ever learn where this boy H Carter was brought from? A. Only what I heard.

Q. From whom did you hear?

A. Mary Ann Letcher's house.

Q. From whom did you hear this talk?

A. My mother and father were talking.

Q. Your mother and father are both dead now, are they?

A. Yes, sir, they are both, but I have heard my father say so.

Q. Now, you say that Maria Yokum is your sister?

A. Yes, sir.

Q. She has some children, hasn't she?

A. Yes, sir, quite a number of children.

Q. Quite a number of children? A. Yes, sir.

Q. Do you know the names of Maria Yokum's children at the time when you first saw this boy H at your father's house?

A. Yes, sir.

Q. Name them, please.

A. Well, Mary, and Emma, Lilly, Ethel, Bertha, and Annie.

Q. Now, did either of those children of Mrs. Yokum ever live at your mother's house during the time that you lived at home? A. No, sir.

Q. They did not? A. They did not.

Q. Did they ever come over there to do the house work while you lived at your father's? A. No, sir, they did not.

Q. Did Mary Yoakum ever attend you during the birth of any of your children?

A. No, sir, she never was at the house when I was sick any time in my life.

Q. Who attended you when you gave birth to your first child? A. My mother.

Q. When did your mother die?

A. She died in 1881 or 1882, I can't hardly remember.

Q. How long after the death of your mother was it until your father died? A. He died in 1902.

Q. 1902? A. Yes, sir.

Q. Did your father ever make a will? A. Yes, sir.

Q. Did you know that he had made a will before his death?

A. No, sir, I did not.

Q. Who wrote that will for your father?

A. The banker, Charlie Steeper.

Q. You were not present? A. No, sir.

> Mr. Johnson: All right, I will withdraw that. I agree that it is not competent.

Q. You were present when this will of your father's was read? A. Yes, sir.

Q. State if you were present at the reading of the will?

A. You mean who was there at the house?

Q. Yes? A. Charlie Steepers, Dan Blair.

Q. Who else?

A. Lawyer G. ....; Mary Yoakum, Susan Carter, Shannon Carter, Mary Simington, my husband and myself and H. Carter and Viola Carter.

Q. H. Carter and Viola Carter? A. Yes, sir.

Q. What disposition did your father make of his property?

A. Well, he willed them all twenty acres; and he willed Viola one hundred dollars and H. Carter, he willed him twenty acres.

Q. Now, how did the children of the family appear to take this will?

A. None of them said anything but Mariah Yoakum.

Q. None of them said anything but Mariah Yoakum?

A. That was all.

Q. What did she say?

A. Well, she said she didn't see how come her father to give H. Carter twenty acres and no kin to him and leave out his own grand-children, and him a bastard out of a sporting house. That is the way she spoke the words.

Mr. Stuart: This is objectionable, your Honor, but we will let it go in.

The Court: Well, I didn't hear any objection.

Mr. Cobb: I will state to the Court in that connection, that the impeaching question is asked Mariah Yoakum in her deposition.

The Court: This goes in without exception anyhow; I will find that when I come to examine the records.

Mr. Johnson: That is all.

Cross Examination by Mr. Allen.

Q. You say you have always understood——
A. What is it?
Q. You say you have always understood that Henry was an illegitimate child of some one?
A. Yes, sir, I have always heard it.
Q. He was six or seven years old when you first saw him at your father's home?
A. I don't know his age, I just supposed he was about that.
Q. Viola was there then? A. When I first seen him?
Q. Yes. A. No, sir, she was not.
Q. Viola, you say was older than Henry?
A. I don't know, but she looks to be older, I don't know either one of their ages.
Q. Did you understand that your father got them from the same place? A. I never heard that.
Q. Well, they have always been regarded as brother and sister?
A. I never heard anybody call them brother and sister.
Q. Do they look alike? A. They don't to me.
Q. Your sister lived a while in Leavenworth?
A. Which one?
Q. Mary?
A. Yes, sir, she lived there over two years after she was married.
Q. And you stayed there with her some?
A. Part of the time I would go there and visit her.
Q. And where were you living?
A. I was living at home at my father's at that time.
Q. And *when* were you staying when you would go and visit her? Where was she staying?
A. She lived at her own house in Leavenworth.

Q. But before she was married?

A. Oh, she worked out for different people.

Q. And you would go there where she was working and visit her? A. And visit her, yes, sir.

Q. She stayed right close to Seneca street, didn't she, down on Third?

A. Oh, I don't know; she worked at different places, I don't remember the names of the streets.

Q And Henry Carter you say was born in Leavenworth?

A. Yes, what I heard.

Mr. Allen: I really never looked at these two people to see whether they looked alike or not, Your Honor; I would like to see them together.

The Court: Well, when we get through with the examination, I am going to have them sit down together, for my information and examination.

Cross Examination by Mr. Stuart.

Q. You say you heard the will read? A. Yes, sir.

Q. And when you heard it read, there was a clause in there in which your father gave his grandson, Henry Carter, so many acres of land, didn't he?

A. He didn't call him no grandson.

Q. Didn't he? A. No, sir, nobody else didn't.

Q. Didn't the will read this way: "I give *an* bequeath to my grandson H Carter for his sole use, the following described land."

A. Yes, but Charlie Steeper was the man that wrote that will and said that.

Q. No matter about Charlie Steeper, didn't that will say—— A. I never heard it.

Q. You were there, weren't you? A. Yes, sir, I was.

Q. You heard it say to my grandson?

A. I might have but I don't remember it.

Q. You thought it strange when he said my grandson, didn't you? A. I might have but——

Q. Who did you hear talking about it?

A. The family, Mary Yokum said she didn't see why father give him, H, twenty acres and left out her children.

Q. Because he was a bastard? A. Yes, sir.

Q. Your sister Maria said right there that he was your father's grandson but he was a bastard?

A. She didn't say it that way; I spoke it as near as I could remember her say[ing] it.

Recross Examination by Mr. Allen.

Q. Are you a member of the colored race; you are a colored woman? A. Sir.

Q. You are a member of the colored race, are you? A. Yes, sir.

Q. Your father, of course, was a colored man? A. Partly.

Q. Part Indian?

A. Well, he is Irish—Scotch Irish, partly. You mean my father?

Q. Yes. A. Yes, sir, he is Scotch Irish.

Q. Was there any Indian blood in your family? A. Not that I know of.

Q. Did you ever hear of that? A. I don't know as I ever heard it.

Q. Haven't heard it? A. Not that I remember of.

Q. But he was assoiated with the colored race? A. Yes, sir.

Recross Examination by Mr. Stuart.

Q. Did you ever know a man, when you was a young girl, there with your father, by the name of Kessner, or Kessenburg, or something like that—Kessenger?

A. No, sir, I never heard of anybody by——

Q. Do you know the name under which H Carter married when he was married?

A. No, sir, I don't know anything about that at all.

Q. You didn't know a young man near your father's place there name of Kessenger or Kessingler, or Kesselring?

A. I never did.

Q. Did you ever hear of a name anything like that—a person who lived in Leavenworth—a young man?

A. No, sir, I didn't.

Q. You don't know what name Henry married under?

A. No, sir, I didn't.

The Court: (To the witness:) I wish you would take off your hat just a minute (witness removes hat); now just sit down in that second chair back there; just sit there a little bit. Henry Carter, I wish you would take that chair right beside this witness over there; sit down there for a little while. (Henry Carter takes chair next to witness.) Go on and examine this witness.

Mr. Cobb: We offer in evidence, the defendant Carter's Exhibit A-3, being a certified copy of the marriage license and certificate of marriage of Elias Simington and Mary Carter.

The Court: It may be admitted; I suppose the only purpose is to establish the date, isn't it?

Mr. Cobb: Yes, sir; shows the 10th day of August, 1879.

Mr. Stuart: I think it is conceded in the record already.

The Court: It may be conceded that the date of this marriage of the witness Simington with her husband, was the 10th day of August, 1879.

Mr. Cobb: Yes, sir.

And thereupon, T. W. BELL was called and sworn as a witness for and on behalf of the defendant, Henry Carter, and testified as follows:

Direct Examination by Mr. Cobb.

Q. What is your name? A. T. W. Bell.

Q. Where do you live? A. Leavenworth, Kansas.

Q. How long have you lived in Leavenworth?

A. Past thirty years.

Q. What business are you engaged in there?

A. Practice law.

Q. Practicing law; how long have you been a practicing lawyer in Leavenworth? A. Past thirty-one years.

Q. Right there in Leavenworth all the time?

A. Thirty years in Leavenworth.

Q. Where did you practice before that?

A. In Oscaloosa, Iowa.

Q. Have you any connection as an attorney in this case?

A. Yes, sir.

Q. You are one of the attorneys representing the Carter interest? A. Yes, sir.

Q. You are a colored man? A. Yes, sir.

Q. I will ask you if you know George Crilly? A. I do.

Q. Of Leavenworth, Kansas; I will ask you if you had a conversation with him in the presence of Coody Johnson and R. E. Martin in your office in Leavenworth along about the latter part of 1915? A. Yes, sir.

Q. I will ask you if in that conversation if Mr. Crilly didn't state——

Mr. Stuart: Who did?

Q. If Mr. Crilly didn't state, or state in substance, that his judgment was that Carter—referring to the defendant Carter—was the boy that he had known as Commidore; that he had told Clarence Turner that he was and that he had not made up his mind that he was not the boy; that he had talked to Carter on several instances about things that happened when Carter was a boy; and that Carter seemed to have a recollection of it, and that convinced him more than ever that Carter was the boy he had known as Commidore?

A. That was the statement.

Q. I will ask you if you know Dennis Jones? A. I do.

Q. How long have you known Dennis Jones?

A. About thirty years.

Q. He is also an attorney there in Leavenworth?

A. Yes, sir.

Q. A colored attorney? A. Yes, sir.

Q. Did you ever have a conversation with Dennis Jones in State District Court Room in Leavenworth, Kansas, in the spring of 1915? A. I did.

Q. I will ask you if in that conversation he didn't make this statement or this statement in substance, that he, Jones, wouldn't say that Carter was not the boy Tommy Atkins that he saw at Granny Lecher's?

A. He made that statement, yes, sir.

Q. I will also ask you if you also had a conversation with him in the Federal Court Room in Leavenworth, Kansas, in the spring of 1916? A. I did.

Q. I will ask you if he didn't make this statement or this statement in substance in that conversation: That if he had been permitted to have gone ahead he would have found the real Thomas Atkins and for you folks—speaking to you—to go ahead as you are; you are on the right track?

A. He made that statement to me.

Q. And I will ask you if he didn't also in that conversation say that you had taken up Carter where he dropped off and that you were wise in doing so? A. Yes, sir.

Q. I will ask you if you had a conversation with Dennis Jones at Leavenworth, Kansas, during the year 1915, shortly after the depositions were taken by Mr. Penick as special examiner in this case?

A. I did. I would suggest that was in 1916.

Q. In which Dennis made this statement or this statement in substance: That he was unable to say that this boy, referring to Carter, was not the Thomas Atkins that was at Granny Letcher's? A. He did, yes, sir.

Cross Examination by Mr. Stuart.

Q. He made that statement. At this time they were taking depositions in this case up there? A. Yes, sir.

Q. And Dennis Jones, was he employed by anybody at that time?

A. The first time I spoke to him they were not taking depositions.

Q. But the last time they were taking depositions?

A. Yes, sir.

Q. Was he employed by anybody at the time?

A. I think he told me that he was employed by somebody down here.

Q. Who was it?

A. I do not know; because he came into the Court room and it was objected to because he wasn't representing anybody and I think you telegraphed and had him filed as attorney for somebody, I don't know who.

Q. But you knew he was connected with the case at that time? A. I knew he had been working, yes, sir.

Q. And you knew you and he were working on opposite sides?

A. No, sir, because I had not been in the case only in February or March, 1915.

Q. But this conversation that you had with them was in 1916? A. Yes, sir.

Q. And you knew at that time that Dennis and you were working on opposite sides of the case, of course?

A. Yes, sir, I knew he wasn't working with me.

Q. And you knew also at that very hearing, this woman's sister here had sworn that Henry Carter was her child, didn't you? A. No, not at that hearing.

Q. Well, that was 1916, last year, wasn't it?

A. It was 1915, if I recollect right.

Q. Well, you knew that they had sworn it, didn't you?

A. Yes, sir.

Q. That they had sworn it? A. Yes.

Q. When Dennis told you that? A. Yes, sir.

(Witness dismissed.)

And thereupon, HENRY THOMAS CARTER, a defendant herein, and duly called as a witness in his own behalf, being first duly sworn, testified as follows:

Direct Examination by Mr. Cobb.

Q. State your name? A. Henry Thomas Carter.

Q. Where do you live? A. Sir?

Q. Where do you live? A. Leavenworth, Kansas.

Q. Are you the defendant Henry Carter in this case?

A. Yes, sir.

Q. One of the defendants in this case? A. Yes, sir.

Q. Do you know how old you are, Henry?

A. No, sir, I don't.

Q. Where is the first place you ever remember of living?

A. Mrs. Letcher's.

Q. In what place? A. Leavenworth, Kansas.

Q. Do you remember what street it was on? A. Yes, sir.

Q. What street was it? A. Seneca Street.

Q. Sir? A. Seneca Street.

Q. What kind of a looking woman was Mrs. Letcher?

A. She was a black woman.

Q. What size?

A. Well, she was pretty good sized woman.

Q. Member of the negro race? A. Yes, sir.

Q. Was she also known as Granny Letcher?

A. Mrs. Letcher is all that I know.

Mr. Stuart: Your Honor, we object to his——

The Court: Don't lead the witness.

Mr. Cobb: It is not my intention, Your Honor.

Q. What other members of the family were there at that time that you remember?

A. Sam Nash and Walter Banks, Jim Mayo and a girl named Hattie Nash.

Q. Which was the largest of those—were these all children? A. Jim Mayo was a good big fellow.

Q. About what age did he appear to be?

A. Oh, I don't know; he was a big——

Q. A good sized boy? A. Yes, sir.

Q. Who was the next larger of the boys?

A. Walter Banks.

Q. And who was the next in size? A. Sam Nash.

Q. Was Sam Nash larger than yourself? A. Yes, sir.

Q. Do you remember the other places around Mrs. Letcher's?

A. Well, there was a barn across the street; a livery barn.

Q. Do you remember whose barn that was?

A. Mr. Crilley's.

Q. Mr. Crilley's. Were you large enough to play with the boys in the neighborhood before you left that place?

A. Yes, sir.

Q. I wish you would state to the court what you remember about that; when you played and who you played with.

A. Well, we played around on the street and would go over to Mr. Crilley's barn, and around the house there.

Q. Do you remember any other person around there; a child or man in the neighborhood?

A. Mr. Crilley had a boy and he had a fellow stayed around the barn—a one-armed man, Tom Dailey.

Q. Was Tom Dailey a man or a boy?

A. Well, he was big fellow; a man, I guess.

Q. One armed man? A. Yes, sir.

Q. About how big were you, Henry—just one other question: Do you remember what you were called when you stayed with Mrs. Letcher? A. Tommy.

Q. Called Tommy?

A. Yes, sir, sometimes they would call me Commodore.

Q. How big were you when you left Mrs. Letcher's place?

A. Oh, I was a little fellow.

Q. Well, were you walking around?

A. Yes, sir, I played around there at that time.

Q. Wearing pants? A. Yes, sir.

Q. Where did you go from there, Henry?

A. Out in the country.

Q. To what place? A. Mr. Carter, Henry Carter.

Q. Who took you out there?

A. Mr. Carter took me out in a wagon.

Q. Where were you raised from then on, Henry?

A. Out at the Carter farm.

Q. By old man Carter? A. Yes, sir.

Q. After you went to the Carter place, were you ever back to Leavenworth?

A. Yes, sir, I went back every once in a while with him in the wagon.

Q. Were these trips—— How frequent were these trips?

A. Well, I went back with him every couple of weeks for a short time afterwards.

Q. Well, after that were you—— How long would you stay upon these trips usually?

A. Sometimes a day and maybe a day and a night.

Q. Well, you say you made these trips back there for a little while? A. Yes, sir.

Q. Did you stop making them?

A. Yes, sir, I started to school then, then I quit going to town.

Q. Well, after school was out from year to year, did you afterwards go back to Leavenworth? A. No, sir.

Q. You didn't go back there? A. No, sir.

Q. In other words, after the first year you were out at Carter's, you didn't go back to Leavenworth visiting any more, is that correct?

A. Not until I got pretty good size.

Q. Well, were you back again then? A. Yes, sir.

Q. Well, how big were you?

A. Well, I was a good big fellow then.

Q. I wish you would indicate—— Ten or twelve or fourteen years old, about that age?

A. Well, I guess I was somewhere along in there.

Q. What did you do when you went back on these trips?

A. Went to Mrs. Yoakum's.

Q. How long did you usually stay on these trips?

A. Just a day.

Q. A day and a night, or a day and a night? A. Yes, sir.

Q. Now, Henry, on these trips back to Leavenworth, did you ever see Mrs. Letcher any more? A. One time.

Q. One time? A. Yes, sir.

Q. Where was she then? A. At Mrs. Yoakum's.

Q. The first visit you made back there that you referred to?

A. I seen her then, yes, sir, when I was a little fellow.

Q. You saw her then. You say you started to school, how long was it after you went out to the Carter place was it that you started to school?

A. I don't remember, it was quite a while.

Q. A year or two?

A. Yes, sir, I guess it was a year or two.

Q. Who was the—— What was the name, if you remember of the first teacher you went to school to? A. Miss Davis.

Q. Miss Anna Davis? A. Anna Davis.

Q. How long did you go to her? A. Three days.

Q. What was the reason you didn't go any longer?

A. Well, she said I was too young. I didn't know anything at all and she said I was too young.

Q. And you only went to her three days? A. Yes, sir.

Q. What was the name of—— Did you go any more that same term? A. No, sir.

Q. What was the name of the next teacher you went to?

A. Miss Mamie Byron.

Q. How long did you go to her?

A. I went through the warm weather in the fall and in the spring.

Q. Do you remember what you studied when you went to school to her?

A. Yes, sir, she learned me to make my A. B. C.'s and figures.

Q. Did you know your letters or how to count when you started to school? A. No, sir.

Q. Do you know what year you went to Miss Byron?

A. No, sir, I don't remember.

Q. Don't remember. Who was the next teacher you went to Henry?

A. Mr. Hall, Jesse Hall—— No, I will take that back, it was Miss Denny, Mary Denny.

Q. Did you go the whole term to Miss Denny?

A. Yes, sir, through the warm weather.

Q. Through the fall and winter. Do you remember what you studied when you went to school to her?

A. Well, it was nearly the same as when I went to Miss Byron.

Q. Had—— Well, did you learn your letters the first term? A. Yes, sir, I had me a little primer then.

Q. A little primer? A. Yes, sir.

Q. Who was he next teacher you went to school to?

A. Mr. Jesse Hall.

Q. Did you go the whole term to him? A. Yes, sir.

Q. What were your studies the term you went to Mr. Hall?

A. A little primer and a little arithmetic. First reader and a little arithmetic.

Q. You went the whole term? A. Yes, sir.

Q. Did you study your first reader, use your first reader the whole term? A. Yes, sir.

Q. You were not promoted to the second grade during that term? A. No, sir.

Q. To whom did you next go? A. To Mr. Joe Kelsey.

Q. Did you go the whole term or not to him?

A. Yes, sir.

Q. You went the whole term? A. Yes, sir.

Q. What did you study the terms you—the term you went to him?

A. I bought me—— I finished up with Mr. Hall, that little first reader; the next year I bought me a second reader.

Q. That is when you went to Mr. Kelsey? A. Yes, sir.

Q. After you went to Mr. Kelsey, who did you next go to?

A. Mr. Jesse Hall.

Q. That was the second time you had gone to Mr. Hall?

A. Yes, sir, he taught two terms.

Q. Not consecutively?

A. No, sir, Mr. Kelsey was between.

Q. What were your studies during this last term to Mr. Hall? A. Well, I was in the third reader then.

Q. Did you study anything else besides the third reader?

A. I had me a little arithmetic and speller.

Q. Did you go to school any more after you went to Mr. Hall this time? A. No, sir.

Q. I will ask you, Henry, if you told these teachers your age during the time you went to them?

A. No, sir, I did not.

Q. Did you know your age? A. No, sir, I did not.

Q. You know Adis Wright? A. Yes, sir.

Q. When was the first time that you remember of seeing Adis Wright? A. When I was living with Mr. Carter.

Q. When you was living with Mr. Carter? A. Yes, sir.

Q. How long was it after you were taken out to the Carter home before you saw her?

A. Well, I don't know exactly; it was a short time.

Q. Was she living in the Carter home at that time?

A. No, sir, she was not.

Q. I wish you would just state to the court the circumstances under which you saw her?

A. Mrs. Wright and Mr. Wright, and a child came over to visit the Carters, and I seen them there.

Q. You saw them there? A. Yes, sir.

Q. You have seen her off and on ever since that time?

A. Yes, sir.

Q. Where was she living at that time?

A. Living on the 80 acres adjoining the Carter farm on the east.

Q. How long did you continue to live in the Carter family, Henry? A. I lived there up until his death.

Q. Who else lived in the Carter family at this time?

A. Tommy Carter, Susie Carter and Viola Carter.

Q. Now, with reference to Viola, when did you first see her, Henry? A. She was at the Carter home when I seen her.

Q. Was she there when you went there?

A. Now, I don't remember whether she was there or not but she was there shortly afterwards; I remember seeing her there.

Q. Old man Carter and his wife are both dead?

A. Yes, sir.

Q. Did you ever have a conversation with old man Carter in which the question of who your mother was was mentioned?

A. I asked him several times who my parents were.

Q. Do you know who your mother was?

A. No, sir, I don't.

Q. What did old man Carter tell you when you asked him this question?

A. Oh, he says your mother is an Indian woman; he says you are my boy now.

Q. Did he ever tell you any more than that? A. No, sir.

Q. He never told you what your mother's name was?

A. No, sir.

Q. After the death of old man Carter what did you then do? A. I helped to make one crop after he died.

Q. On the old Carter place? A. Yes, sir.

Q. Where did you then live? A. At the Carter farm.

Q. But did you continue to live at the Carter farm then?

A. Yes, sir, I made one crop after he died.

Q. Then where did you go?

A. I went to Leavenworth, Kansas.

Q. What did you do there?

A. Well, I stayed in a hotel two weeks, and then I went to Fort Leavenworth to join the Army.

Q. Did you join the Army at the Fort? A. No, sir.

Q. Did you make application? A. Yes, sir.

Q. I wish you would state to the court why you were not permitted to join the Army?

A. Well, I made application and I was examined but I was alright in every way but my age. They said that I looked too young; asked me my age and I told them I was 21, and the man told me he said you may be 21, but you look too young.

Mr. Cruce: If the court please, it occurs to me that what was said——

The Court: Yes, it is hearsay evidence; it would be the judgment of somebody on the outside, if material at all, the court would have to determine.

Mr. Cobb: I think so; I thought he might state why.

The Court: Well, because in the judgment of the officers he was too young.

Q. Where did you then live, Henry?

A. I went back then to the Carter farm.

Q. How long did you stay there?

A. I stayed there I don't know how long; a short time.

Q. Well, where did you next go to live? I mean; I don't care about these little trips of a week or two.

A. Well, I came to Indian Territory next.

Q. What was the object of your visit to the Indian Territory? Why did you come down here?

A. Well, I had always heard my mother was an Indian woman and I thought I would come down here and maybe I could find some trace of her some way.

Q. Where did you go? A. To Okmulgee.

Q. How long did you stay in Okmulgee?

A. Three or four days.

Q. Where did you go then? A. Muskogee.

Q. How [] did you stay here at Muskogee?

A. I stayed here a little better than a year.

Q. Something more than a year? A. Yes, sir.

Q. Were you making any investigation as to your parentage during that time? A. Yes, sir.

Q. What did [] do; what investigation did you make?

A. Well, I would always [] anybody that I would see that I thought would tell me anything about where my parents were, my mother was.

Q. Did you make any inquiry of the Dawes Commission?

A. I went one time, yes, sir.

Q. While you were at Muskogee were you married?

A. I married in Muskogee, yes, sir.

Q. During that trip? A. Yes, sir.

Q. Whom did you marry?

A. I married Lela Shoemaker of Webbers Falls.

Q. Under what name did you marry?

A. Henry Kessinger.

Q. Why did you use that name Kessinger?

A. Well, my friends around McLouth, Kansas, they used to tell me they wouldn't go by that name, they said it was a nigger name, so when I got away I changed my name.

Q. That was the only reason you had for changing your name? A. Yes, sir.

Q. Did you marry by license?

A. Yes, sir, I bought a license at Muskogee.

Q. A certified copy of which has been introduced in evidence in this case?

A. Well, I haven't seen this, I don't know.

Q. Do you remember what age you gave yourself as being when you applied for license?

A. No, sir, I don't remember.

Q. Do you remember what age——

A. Yes, I remember now. My wife was twenty-two and I believe I gave twenty-four if I ain't mistaken.

Q. Well, did you know your age at that time?

A. No, sir, I didn't.

Q. Why did you give your age as being twenty-four years old then?

A. Well, I wanted to be a man and she was twenty-two; I thought I would make it twenty-four, be older than she was.

Q. Now, you lived in Muskogee here about a year. What business were you engaged in at that time, if any?

A. I waited table in a hotel.

Q. What hotel?

A. Hoffman House on Third and Broadway.

Q. Who ran that place?

A. Anderson; the man who runs the garage over here across the street.

Q. Now, when you left Muskogee, where did you go?

A. Well, I went to Fayetteville, Arkansas, during that year one trip.

Q. How long did you stay at Fayetteville?

A. Three or four days.

Q. You just made a visit over there. I don't mean the little side trips?

A. Well, I left here and went back to Leavenworth, Kansas.

Q. How long did you stay at Leavenworth?

A. I made one crop.

Q. Made one crop? A. Yes, sir.

Q. Whereabouts? A. Out at the old Carter farm.

Q. After you left the old Carter farm that second time, where did you go? A. I come back to Indian Territory.

Q. Where abouts? A. South McAlester.

Q. How long did you stay at McAlester?

A. About two weeks.

Q. Where did you go from there?

A. Went back to Leavenworth, Kansas.

Q. What was the object of your trip to McAlester?

A. Well, I began to get acquainted with different parties and from different points and I would go back from one to the other thinking maybe I would find trace of some one that would know my mother.

Q. Did you make any inquiries at McAlester?

A. Yes, sir.

Q. With any results? A. No, sir.

Q. Where did you go from McAlester then?

A. Went back to Kansas.

Q. Leavenworth? A. Yes, sir.

Q. How long did you stay at Leavenworth on that trip?

A. About six months.

Q. You left Leavenworth again? A. Yes, sir.

Q. Where did you go this time?

A. Howe, Indian Territory.

Q. What was the object of your visit to Howe?

A. Well, I had a divorced wife over there and I went over to see her and maybe find out through some one about my mother.

Q. Well, did you obtain any results from your inquiries over there? A. No, sir.

Q. Where did you then go from Howe?

A. Went back to Kansas, Leavenworth, Kansas.

Q. How long did you stay at Leavenworth?

A. About two years.

Q. Where did you live during those two years?

A. I lived out in Jefferson County, across the road from the Carter farm.

Q. What did you do? A. Farmed the Carter farm.

Q. Farmed the Carter farm for two years?

A. Yes, sir, part of the farm.

Q. Part of the farm? A. Yes, sir.

Q. Then where did you go?

A. I went back to Oklahoma City.

Q. To Oklahoma City? A. Yes, sir.

Q. What was the object of your trip to Oklahoma City?

A. Well, I thought maybe I could find some trace there from someone that would know my mother.

Q. Did you make inquiry there? A. Yes, sir.

Q. How long did you stay at Oklahoma City?

A. Three or four days.

Q. Where did you go from there? A. Back to Kansas.

Q. Leavenworth? A. Yes, sir.

Q. And have been living at Leavenworth ever since?

A. Yes, sir, I was married there.

Q. Married the second time at Leavenworth?

A. Yes, sir.

Q. When was the first time you heard of this Tommy Atkins matter? A. About three years ago.

Q. Who came to you about the matter first?

A. I don't know his name. A man, he said he was from Washington, D. C.; said he was a Government man.

Q. Did you make a statement to him of what you knew about yourself? A. I told him what I knew, yes, sir.

Q. You don't remember his name?

A. No, sir, I never heard his name.

Q. Have you seen him around the court room since the trial has been in progress?

A. Well, I don't know, I wouldn't know the man if I would see him. I didn't pay much attention; but he came in the factory and said a few words and I didn't give him much attention; I didn't know what it was he meant anything about it.

Q. Now, after you went back to Leavenworth, Kansas, this last time, what kind of work have you engaged in during that time?

A. I farmed one year and then I moved to Leavenworth.

Q. Well, what did you do in Leavenworth?

A. I drove a team for Hessey Manufacturing Company.

Q. Anything else?

A. I worked for Varney Heating Mfg. Co.; and from there I went to Helmers Furniture Factory, and from there back to Varney's.

Q. Back to where? A. Varney's.

Q. Did you do anything else during that time? A. No, sir.

Q. You were working for wages during this time?

A. Yes, sir.

Q. Were you working most of the time?

A. I worked steady all the time, only lost five days.

Q. After this Government representative had visited you and had this conversation with you, who was the next person that saw you about the matter? A. Mr. Long.

Q. Mr. Long? A. Yes, sir.

Q. You told him what you knew about it?

A. Yes, sir, same as I told the first man.

Q. And the various parties you could get information from? A. Yes, sir.

Q. How long was it until you saw Mr. Long again?

A. Oh, I believe it was about ten days or two weeks.

Q. Well, was anybody with Mr. Long when he came to you on this first trip? A. Yes, sir.

Q. Who was with him? A. Mr. Crilly.

Q. Did you talk to both Mr. Long and Mr. Crilly?

A. I talked to both of them, yes, sir.

Q. They were both present during the conversation?

A. Yes, sir.

Q. You say you didn't see Mr. Long any more for ten days or two weeks? A. Yes, sir.

Q. Where did you next see him?

A. In Leavenworth, Kansas. He came out to Varney's Factory where I was working.

Q. Did you talk to him there? A. Yes, sir.

Q. Did he leave you there or did you go with him somewhere?

A. I stayed there and he told me to call and see him after

Q. Well, did you go? A. Yes, sir.

Q. Where did you find him? A. At the National Hotel.

Q. What time of day was it you went to see him at the National Hotel?

A. It was after six o'clock, we quit at six o'clock.

Q. Had it gotten dark? A. No, sir, it wasn't dark.

Q. Between six o'clock and dark? A. Something like that.

Q. And when you got to the National Hotel did you find Mr. Long there? A. Yes, sir.

Q. Who, besides Mr. Long, was there?

A. He was by himself at the time and some other parties came in afterwards.

Q. Who came in afterwards? A. Mr. Jones.

Q. Dennis Jones?

A. Dennis Jones, Rube Smith, and Sam Nash.

Q. Anybody else?

A. Mr. Josey, I believe he introduced him as Mr. Josey.

Q. Now, when they came in there, do you know what Dennis Jones, Sam Nash and Rube Smith were called in for, what they were there for? A. Yes, sir.

Q. What?

A. To identify me as the boy that they were looking for.

Q. Did they identify you as the boy they were looking for at that time? A. Yes, sir, they did.

Q. Just state to the Court how these parties identified you?

A. Well, Sam Nash said that the boy had a mark on his back, birth mark; and some gentleman, I don't remember which, stood up and Sam Nash pointed to his coat and said it was right at a certain place, and then they asked me to show the mark and I did.

Q. Did you show the mark? A. Yes, sir.

Q. Was anything else done to identify you at that time?

A. Well, I told them that I had a little boot that I was wearing when I left Mrs. Letcher's, and Sam Nash asked me if I knew who bought it; and I told him I did not, and he said he bought it. And I gave the boot to Mr. Long.

Q. To Mr. Long? A. Yes, sir.

Q. I will ask you if at that time Dennis Jones also identified you as being the boy?

A. Yes, sir, he said, Mr. Long, he says, you have got the right boy.

Q. Henry, was that the occasion when the lease was taken, was it taken there at that time?

A. Yes, sir, they had made two trips to see me before I signed the papers.

Q. Well, you signed them on that trip to the National Hotel? A. Yes, sir.

Q. And Dennis Jones took your acknowledgment?

A. Yes, sir.

Q. When you lived at the Carter home, what name did they call you?

A. Well, they called me Tommy some, and called me H, called me Commodore, and——

Q. I mean at the Carter home when you lived there.

A. Yes, sir.

Q. They called you those names there? A. Yes, sir.

Q. What did you call old man Carter? A. Mr. Carter.

Q. You always called him Mr. Carter? A. Yes, sir.

Q. What did you call his wife during her lifetime?

A. Well, she was sick when I went there; I don't know as I ever called her anything.

Q. You don't remember about that? A. No, sir.

Q. I will ask you, Henry, if you were ever recognized by the Carter family as being related to them in any way?

A. No, sir, I was not.

Q. Were you relation that you know to Viola?

A. No, sir, not that I know of.

Q. Do you know where Viola came from?

A. No, sir, I don't.

Q. Did you ever hear old man Carter say where she came from? A. No, sir.

Q. Never did? A. Never did.

Q. She was there and you saw her there?

A. Yes, sir, I seen her there and we went to school together, and that is all I know about her.

Cross Examination by Mr. Allen.

Q. Henry, you went to school after you went out to the Henry Carter home? A. Yes, sir.

Q. Viola was in school with you? A. Yes, sir.

Q. You were the only two children who were classed among the colored children who attended that school?

A. No, sir.

Q. Who else? A. The Harveys, and Bells, and Carsons.

Q. Of the—all the schooling you ever had was at that school house, wasn't it?

A. Yes, sir, I never went to any other school.

Q. You say you were born at the home of—or when you first remember anything that you were living at the Granny Letcher home? A. Yes, sir.

Q. And you lived there until you got to be a good big boy and played around? A. I was walking around, yes, sir.

Q. The Granny home? A. Yes, sir.

Q. You knew at that time George Crilley?

A. I knew him, yes, sir.

Q. Do you remember the incident of smoking Van Tuly's pipe at Van Tuly's barn? A. No, sir, I don't remember.

Q. Do you remember pointing your finger at fruit, or getting after some of the boys for pointing at fruit on the fruit trees in Granny's yard? A. No, sir, I don't remember.

Q. Has anybody asked you about that recently?

A. Yes, sir, I think they have.

Q. Mr. Crilley did? A. Mr. Crilley, yes, sir.

Q. You told that that would make fruit drop off, didn't you? A. Well, I have always heard that but—yes, sir.

Q. Who was the first person you talked to about the names you mentioned a while ago, Mr. Crilley, Mr. Long, and the representatives of Mr. Page?

A. Mr. Long and Mr. Crilley came out together to see me.

Q. They are the first persons you talked to, were they, representing Mr. Page? A. Yes, sir.

Q. Where were you at that time?

A. I was putting in a furnace out on Third Avenue and Spruce; I was in the cellar when they came out.

Q. Was that at a hospital?

A. No, sir, it was in a private family.

Q. Had you formerly known some of the people at the hospital there?

A. I had knew some of the nurses around at different hospitals, yes, sir.

Q. Miss Hanna at the hospital?

A. I have seen her, yes, sir.

Q. Had you worked for her at the hospital there?

A. Yes, sir, we put in a pipe out there at the furnace at the Cushing Hospital; she was the matron there.

Q. Matron there. What did Mr. Long and Mr. Crilley say to you at that time?

A. Well, Mr. Crilley came to the cellar door, I was in the cellar—it was just about the noon hour—and he says, Henry, he says, come out here; and I came out; and he said, a gentleman out here in the car wants to see you. I walked out and he introduced Mr. Long, and Mr. Long, said God; anybody *came* see he is part Indian; and he said there is the boy I want; and he asked me then——

Q. He said here is the boy I want? A. Yes, sir.

Q. Go ahead.

A. And they came out after me then in the afternoon, and taken me down to the hotel.

Q. When was that with reference you signed the lease to the Gem Oil Company? Do you remember the occasion of signing a lease in the National hotel in Leavenworth?

A. Yes, sir.

Q. When was it you talked with Mr. Long and Mr. Crilley with reference to that time; was it before?

Q. I had seen them twice or three times; I can't remember exactly which; but it was two or three days before I signed anything.

Q. Now, they came down in a car that same day?

A. That was the day they came out to see me first. Mr. Long, the first time I had seen Mr. Long.

Q. Did they come back in the car to get you that day?

A. No, sir, I don't think they did.

Q. About how long was that before you signed the lease, Henry?

A. Well, I can't say exactly but it was quite a while afterwards.

Q. Several months or weeks?

A. Well, it was quite a while afterwards; I don't remember how long. I had seen them two or three times before I signed the paper.

Q. When Mr. Long said that, did Mr. Crilley say anything? A. He said you have got the right boy.

Q. Have you known Mr. Crilley all your life?

A. Yes, sir, nearly all my life.

Q. Have you seen him at frequent times since you lived at Granny Letcher's?

A. No, sir, I was in the country and I didn't see him then for quite a while, and then I was back in Leavenworth—I would see him at times, of course; never did talk to him, but I knew him when I would see him.

Q. You have seen him and he has seen you grow up from infancy? A. No, sir, I think not.

Q. About how long a period in your life would you say, Mr. Crilly hasn't seen you at all?

A. Well, I don't remember of him ever seeing me at all who I was from the time I was a small boy until the last two or three years. I worked right close by him and seen him every day when I was working at Varney's, but he never noticed me.

Q. You don't know whether he noticed you or not?

A. No, sir.

The Court: When was that?

A. That was two or three years ago.

Q. After Crilly says you have got the right boy, did Mr. Long say anything more? A. He said I know I have.

Q. Did Crilly talk to you at that time before he said you have the right boy? A. No, sir, he didn't.

Q. It was later than that that he talked to you about the fruit tree episode wasn't it?

A. Yes, sir, I had signed these papers when he talked to me about the tree.

Q. So, he didn't identify you by the tree at the time, fruit tree, at the time he told Mr. Long in your presence that you were the right boy?

A. No, sir, I had signed the papers before I talked to Mr. Crilly about the tree.

Q. Had you, before you talked with Mr. Long or Crilly, seen or talked to Rube Smith or Dennis Jones? A. No, sir.

Q. When was the next time you talked to Mr. Long after he and Crilly came to the place where you were working?

A. I don't remember, it was a short time though.

Q. Where did you see them then?

A. I was at Varney's at work.

Q. At where? A. At Varney's.

Q. How long was that after the first conversation?

A. I don't know how long it was.

Q. Well, was it a week or month, or how long?

A. Well, I couldn't say, it was a short time, I don't know how long.

Q. Who was with Mr. Long then? A. Rube Smith.

Q. Anyone else?

A. He came in the shop and him and Rube Smith was there, that was all.

Q. What did Mr. Long say at that time?

A. Well, I don't remember what he did say.

Q. Did you know Rube Smith at that time? A. Yes, sir.

Q. What did Rube say?

A. He didn't say anything, he just stood there with Mr. Long.

Q. Didn't either one of them say a word to you?

A. Mr. Long was talking to me.

Q. What did he say to you, Henry?

A. Well, I couldn't say what he did say.

Q. Did Mr. Long say at that time that you were the right boy?

A. Well, he always said that every time I seen him he said that.

Q. Did Rube Smith agree with him? A. Yes, sir.

Q. And at that time, did they talk to you about taking a conveyance from you, lease, or deed, or anything of the kind?

A. Well, I had signed the papers then, they had been there several times.

Q. I am talking about the first time you saw Mr. Long after this time that he and Crilly were there to see you, and before you signed the papers, where were you then?

A. Well, I have seen Mr. Long two or three times and talked with him and told him people that I knew, and he made investigation around there among people that knew, and out at McLouth, and then when he came back I made these papers to him and I saw him several times from then on.

Q. He went out to McLouth and made investigation there and came back and took these conveyances from you?

A. Yes, sir, he had made a trip to McLouth.

Q. You told him that some people accused Adas Wright of being your mother? A. No, sir, I didn't.

Q. He found out out there—— Did he tell you that he found out out there that Adas Wright denied being your mother? A. No, sir, he never told me anything about that.

Q. Did you talk to Dennis Jones and Rube Smith or Crilly at any other time or place after the first conversation you had with Mr. Long before you signed this lease?

A. No, sir, I never was in their presence only when Mr. Long was present.

Q. Well, was Dennis Jones to see you with Mr. Long any other time before you signed the lease? A. Yes, sir.

Q. Who was present at that time?

A. Mr. Long and Dennis—I mean Mr. Long and Rube Smith.

Q. That was before you signed the lease? A. Yes, sir.

Q. When you talked to Dennis Jones before you signed the lease? A. Yes, sir.

Q. Where? A. In his office.

Q. Did you go down there?

A. Yes, sir, Mr. Long taken me over there.

Q. How long before you signed the lease was that?

A. Well, I can't say, Mr. Allen, because I never paid enough attention to it then to remember the days, but it was quite a while after.

Q. Did Dennis Jones tell you then that you were the right boy? A. Yes, sir.

Q. What did he say about it, if you can remember?

A. He says, Mr. Long, we have got the right boy.

Q. It was after that that he took your acknowledgment at the hotel?

A. Yes, sir, I signed nothing until after they visited me two or three times.

Q. Did they bring Sam Nash or Walter Banks to you at any time before you signed the lease?

A. Sam Nash, I never seen Walter Banks until I met him here in the Court House.

Q. Did you recognize him here? A. Yes, sir, I knew him.

Q. Was that the same boy that was at Granny's when you would go back from time to time there with old man Henry Carter? A. Yes, sir.

Q. Sam Nash you saw here? A. Yes, sir.

Q. Had you seen him before you saw him when they brought him to identify him, had you seen him before that time? A. No, sir, I didn't.

Q. For a number of years?

A. I didn't see him for quite a while until they brought him to the hotel.

Q. Did you recognize him as the Sam Nash you played with at Granny Letcher's? A. Yes, sir.

Q. What did Sam say when they brought him to you?

A. Well, he spoke to me and asked me where I was living and I told him in town. And he says, Mr. Long, says I believe you have got the right boy, and then he went and explained about this mark that I had on my back.

Q. Now, who else did Mr. Long bring to you before he signed the lease?

A. I seen Mr. Jones and Mr. Smith, Rube Smith, Sam Nash, and another man he said was Mr. Josey. Those were the men that I was with nearly all the time. I never was with anybody else.

Q. Now, you saw them the time you signed the lease? A. Yes, sir.

Q. At the National Hotel? A. Yes, sir.

Q. Where did they take you, Henry, to sign that lease? A. National Hotel.

Q. What consideration were they to pay you for it? A. Gave me an eighth.

Q. Did they say anything about contesting the case or settling with your mother? A. No, sir, they didn't.

Q. They didn't tell you they would have to pay her something to quiet her?

A. No, sir, they never said anything about paying anybody.

Q. And they took that lease and recorded it and then took a deed from you, didn't they? A. Yes, sir, I think so.

Q. They later took the deed, didn't they?

A. Well, I signed all these papers about the same time.

Q. Did they tell you why they took that deed?

A. No, sir. They didn't.

Q. They took that to Minnie?

A. I don't know where they took it.

Q. Took it from you but they were conveying the land to Minnie Atkins now Mrs. Folk? A. I don't know.

The Court: Is that deed in evidence, Judge?

Mr. Allen: No, sir, Mr. Long testified about it.

The Court: All right, I thought if it was in evidence.

A. I took Mr. Long to be honest and I signed the papers in order to find my mother, that is all I knew about it.

Q. In order to find your mother?

A. Yes, sir, I thought he was working in my interest and I put confidence in him and made him a lease.

Q. He told you you would have to sign a lease and deed in order to get this property? A. No, sir, he didn't.

Q. Later did you have any conversation with George Crilly's son?

A. No, sir, I haven't seen him since I left Leavenworth.

Q. Did you have any conversation, any further conversation with Dennis Jones and Sam Nash?

A. No, sir, only just pass them on the street and speak like I would to you or anybody else, passed them by and speak to them.

Q. Did Mr. Long talk to you afterwards about being the son of Minnie?

A. Yes, sir, whenever he would come to Leavenworth, he would always come and see me and ask how I was getting along. He says, Henry, we are working awfully hard to get everything in shape.

Q. For you? A. Yes, sir.

Q. Then finally Mrs. Folk came to Leavenworth just before the taking of depositions there, didn't she?

A. I don't know anything about the depositions at all.

Q. Well, she came to Leavenworth in the fall of 1914, didn't she? A. I don't know.

The Court: When did you first see her there, Henry?

A. I never seen her but one time, that was at a distance and I don't remember when it was.

The Court: How many years ago, two or three years ago—— Oh, well, never mind.

A. Yes, sir.

The Court: What I was getting at, we will not take up time with matters that he doesn't know definitely about.

Q. To refresh your recollection, did you write Mr. Bagley this letter, on October 17th, 1914: "I write to inform you that my address is care of Varney Manufacturing Company, 210 Dallas Street. My mother is here sick in the hospital"?

A. No, sir, I didn't.

Q. Did you know about Mrs. Folk being sick in the hospital?

A. No, sir, not until I was here and heard her state here that she was in the hospital.

Q. If anybody wrote that to the Department of Justice, you don't know who did it?

A. Don't know, I never wrote it.

Q. Well, you did see her there sometime after you signed this lease to Mr. Long?

A. Seen her on the street from a distance; and they said there goes Minnie and I looked and I seen some ladies and gentlemen in a bunch and I didn't know Minnie from anybody else.

Q. Did Mr. Long ask you to come down to the hotel and see Minnie? A. No, sir, he didn't.

Q. Didn't you go down there to see her?

A. No, sir, I didn't.

Q. They didn't keep you up there at the hotel one night until late trying to see Minnie? A. No, sir.

Q. Did Mr. Long talk to you about the time Minnie was there?

A. Well, now, I don't remember. He talked to me every time he was in Leavenworth, Mr. Allen.

Q. Did he ever tell you why she wouldn't see you?

A. No, sir, he never.

Q. Did he ever tell anybody else why she wouldn't see you? A. I don't know.

Q. Didn't you go up there to see her?

A. No, sir, I didn't.

Q. With your lawyers? A. No, sir.

Q. Never went up there?

A. I never was in the National Hotel with any lawyers outside of Mr. Long's crowd.

Q. At the time that Minnie was there, did you still believe they were trying to establish your claim to this land?

A. Yes, sir.

And thereupon, Court recessed until two o'clock, P. M.

And thereafter, and at 2 o'clock P. M. court convened pursuant to adjournment and further proceedings herein were had as follows:

Mr. Cobb: If the Court please, Mr. Turner is here now.

The Court: You may call Mr. Turner, then, if you want to dispose of him now.

Mr. Cobb: Yes, sir; he will be short.

And thereupon, C. W. TURNER, being produced as a witness on behalf of the witness Henry Carter, and being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Cobb.

Q. State your name. A. C. W. Turner.

Q. Where do you live, Mr. Turner? A. Muskogee.

Q. How long have you lived in Muskogee?

A. Since 1882.

Q. How old are you? A. 59.

Q. You have been in business here most of the time?

A. Yes, sir, until *you* three years ago.

Q. What business were you engaged in?

A. Hardware business.

Q. What business are you in now? A. Real estate.

Q. How old are you? A. 59.

The Court: He said 59.

Q. I will ask you if you are acquainted with one George Crilley who now lives in Leavenworth, Kansas?

A. I met him here a couple of years ago.

Q. I will ask you if you saw him at the time there was a hearing in this case on the Receivership matter?

A. Yes, sir, it was during one of those hearings.

Q. Did you have a conversation with him about this Atkins matter, Carter matter at that time? A. Yes, sir.

Q. I will ask you, Mr. Turner, if in that conversation, Mr. Crilley stated to you, or stated to you in substance that if he were in Leavenworth he didn't believe that the parties engaged in that litigation, referring to the Atkins litigation, were trying to find the real Tommy Atkins and that if he were in Leavenworth he could lay his hands upon him within 48 hours? Did he state that or that in substance in that conversation?

A. Why, he stated that it seemed like they didn't want him to tell all he knew; that he wanted to tell up to a certain period and that if he was in Leavenworth, he could place his hands on him in 48 hours.

Q. If he was in Leavenworth, he could place his hands on him in 48 hours? A. Yes, sir.

Q. The real Tommy Atkins?

A. On the real Tommy Atkins.

Q. I will ask you if he also in that conversation—if he didn't state in substance that the real Tommy Atkins that he referred to was in Leavenworth and was going under the name of H Carter—Henry Carter, did he state that or that in substance? A. Yes, sir, yes, sir.

Cross Examination by Mr. Stuart.

Q. Where did you see him, Clarence?

A. In my office up stairs over the——

Q. What was he doing up there? A. Sir?

Q. What was he doing up there?

A. Why, he came up there—he told me how he came to come here, he was subpoenaed as a witness in——

Q. No, what was he doing up in your office?

A. Why, he came up there to see me.

Q. What for?

A. Just to meet me as one of the old timers here.

Q. Just came up there to meet you? A. Yes, sir.

Mr. Maxey: I want to ask Mr. Turner a question; it may be a little out of order, while he is here, I would like to ask him.

The Court: Alright.

Examination by Mr. Maxey.

Q. Did you know John Davis? A. Yes, sir.

Q. Do you remember about what time he died, or what became of him?

A. He was killed over here near Seventh and Emporia.

Q. Do you remember about the date?

A. No, I don't; it was sometime after 1895, though.

Q. About how long after that do you think it was?

A. Well, it might have been a year or two; something like that—I don't know.

Q. You think it was before 1890?

A. No, it was after 1895.

Q. I say you think it was before 1900 I mean? A. Yes, sir.

Q. It was between 1895 and 1900?

A. Yes, sir, he married Jim Niggerhead's widow, and he was killed at that—down here at the Al Jennings bunch and Bud Ledbetter. Niggerhead was killed down there and John Davis took up with his widow after that, and that occurred in 1894 or early part of 1895.

Q. And how long do you think Davis lived with Niggerhead's wife before he was killed?

A. I don't remember, it might have been a year or so; I don't remember now.

Q. What?

A. Might have been a year or so, I don't remember.

Q. What is your best recollection as to the time?

A. Perhaps a year or so, such a matter.

Q. Where did that John Davis live before he came here?

A. Well, I couldn't say where he lived. He lived in the Creek Nation here somewhere first one place and then another.

Q. Do you know what town he belonged to?

A. He was a Euchee.

Q. Do you know what relation he was if any to the Atkins? A. No, I don't.

Q. You don't know the relation? A. No, sir.

Cross Examination by Mr. German.

Q. Now, you say he was killed a year or so after 1895?

A. To the best of my recollection, yes, sir.

Q. Referring to Mr. Crilly, he claimed to you didn't he that he had been down here to Muskogee years ago?

A. Yes, sir.

Q. And did you know him then away back yonder?

A. No, sir.

Q. But he was looking up some of the old timers?

A. Yes, sir.

Q. That is what he claimed and how he came to come to your office?

A. Yes, sir, he found Mrs. Zufall and she told him about me.

Mr. Stuart: You had no interest in the case?

A. No, sir.

Mr. Stuart: Nothing at all?

A. No, sir.

Q. Mr. Turner, after Crilly had left here, talked to you in your office and had gone back home, state whether or not you communicated with him with a view of having him get a lease for you from Henry?

A. Yes, sir, I wired him and called him on the telephone.

(Witness dismissed.)

And thereupon, HENRY CARTER was recalled for further cross examination and testified as follows:

Cross Examination by Mr. Stuart.

Q. Henry, you married in Muskogee, did you?

A. Yes, sir.

Q. Married in 1904, didn't you? A. In 1904, yes, sir.

Q. And you got your license here? A. Yes, sir.

Q. Got your license in the name of Kessinger?

A. Henry Kessinger.

Q. Now, why did you take that name?

A. Well, people always told me where I was living that that was a nigger name and when I left I changed it.

Q. Now, why did you take the name Kessinger?

A. I just picked it up.

Q. Where did you pick it up?

A. Well, I used to know a fellow by that name.

Q. Where? A. Jarbalo, Kansas.

Q. Henry, there is a family of Kessingers living in Leavenworth, Kansas? A. I don't know.

Mr. Allen: May it please the Court, we expect to use Mr. Cook as a witness; there is no objection to his remaining in the room?

Mr. Stuart: No, I guess not.

Q. You say you don't know a family there by the name of Kessinger? A. No, I don't.

Q. Don't you know there is a family of men, several brothers? A. No, sir.

Q. By the name of Kessinger? A. No, sir.

Q. You took this name Kessinger from a fellow in Jarbalo, Kansas? A. Yes, sir.

Q. Did you ever hear of a town by the name of Tonganoxie? A. Yes, sir.

Q. Where is that? A. Southwest of Jarbalo.

Q. Right southwest of Jarbalo. Do you know some Kessingers living there? A. I don't know.

Q. You don't know?

A. No, sir, I am not acquainted in Tonganoxie.

Q. What kind of a looking man was he?

A. He was a young fellow.

Q. Young fellow, was his father living there?

A. No, sir, he told me his parents were dead.

Q. Just another young fellow about your size?

A. Yes, sir, he was merely a young man that I knew.

Q. About your size? A. No, sir, he was a big fellow.

Q. Older?

A. I don't know, sir, he wasn't much older.

Q. Wasn't he older? A. I don't think he was.

Q. Did he live in Jarbalo?

A. No, sir, I didn't live there.

Q. But you knew this fellow at Jarbalo?

A. Yes, met him with part of the family that he married the girl.

Q. Had you ever been in this town Jarbalo? A. Yes, sir.

Q. You have been in Tonganoxie?

A. I have been through there on the train is all.

Q. And you just picked the name Kessinger because you had a young friend by the name of Kessinger?

A. He wasn't any friend of mine.

Q. You just picked it up because it was a peculiar name?

A. Yes, sir, I couldn't get anybody by the name and I would be all right.

Q. You just thought that name would fit you. Now, Henry, when did you first—— How long did you stay here after you married in the Indian Territory? A. Not very long.

Q. Not very long. Well, how long did you stay?

A. About four months.

Q. Where did you go to then? A. Leavenworth, Kansas.

Q. Now, where were you living in Leavenworth after you went back? A. I made a crop.

Q. Where, in Leavenworth?

A. No, sir, at the Carter place.

Q. At the Carter place, and then did you go back to the Territory?

A. Yes, sir—no, I will take it back; I made one crop.

Q. Made one? A. Yes, sir.

Q. Now, the first person you ever went to school to was Annie Davis, wasn't it? A. Yes, sir, Miss Annie Davis.

Q. You remember her? A. Yes, sir.

Q. Now, how old were you when you went to school to Annie Davis? About how old were you? A. I don't know.

Q. How big were you? A. I was a small boy.

Q. Well, you knew you couldn't go to school in Kansas if you were under six years of age, didn't you? A. No, sir.

Q. You don't know that? A. No, sir, I don't.

Q. You were as much as six when you went to school, though, weren't you? A. I don't know how old I was.

Q. Well, how big were you?

A. I don't know, a small fellow.

Q. About this big? A. I don't know.

Q. You went to Annie Davis? A. Yes, sir.

Q. You did go to Mr. Jesse Hall, didn't you?

A. I went to Miss Byron.

Q. Well, you went to a man named Jesse Hall, a school teacher? A. Yes, sir, I went to a man——

Q. Alright. Now, did you ever see that picture before, Henry? A. Yes, sir, that is my schoolmate.

Q. And that picture was taken when you went at Hall's, wasn't it? A. Yes, Jesse Hall.

Q. Took that picture? A. No, sir.

Q. Well, he had it taken of the group at the school?

A. No, sir.

Q. Well, who had the school taken?

A. This is Mr. Kelsey.

Q. But it was taken while you were going to school to Jesse Hall?

A. No, sir, Jesse Hall taught the second term; Jesse Hall taught one term, and then Mr. Kelsey—this was taken when he was teaching school.

Q. Now, you say this wasn't taken when Jesse Hall was teaching? A. Here is Mr. Kelsey, in the picture right here.

Q. Who is this one? What year was it taken?

A. That was after Mr. Kelsey taught.

Q. That was—that was another teacher? A. Yes, sir.

Q. Now, let's see, Henry, isn't that exactly the same picture, Henry? A. No, sir.

Q. It isn't? A. No, sir.

Q. This was taken how much later? A. The next term.

Q. The next term? A. Yes, sir.

Q. The next term; now, when was this one taken?

A. That was taken the same year.

Q. The same year? A. With Mr. Kelsey.

Q. With Mr. Kelsey? A. Yes, sir.

The Court: Now, the record, Judge, will not be clear, unless——

Mr. Stuart: Your Honor, these are already in the record.

The Court: I can't tell the ones that you are referring to.

Mr. Stuart: The last one is Government's Exhibit 19, and the other one was—the Hall picture is——

The Court: Let me have those a minute, Judge; I want to straighten it out to my satisfaction.

Mr. Stuart Yes, sir, most anybody can beat me at that.

By the Court.

Q. Henry, here is a picture marked Government's Exhibit 19, who was the teacher at the time that was taken?

A. Mr. Joe Kelsey; this is him.

Q. That was the man who taught between the two terms? Taught by whom? A. Mr. Hall.

Q. Mr. Hall? A. Yes, sir.

Q. Now, Government's Exhibit 23, who was the teacher when that was taken?

A. This is Mr. Hall; this is my last teacher.

Q. Was that taken while Mr. Hall taught the term following Kelsey? A. Yes, sir.

Q. Now, Government's Exhibit 20, who was the teacher when that was taken?

A. Mr. Joe Kelsey: this was taken the same year that this was taken.

Q. The same year exhibit 19 was taken? A. Yes, sir.

Mr. Allen: If Your Honor please, those school teachers were on the witness stand, and their depositions are in this case.

By Mr. Stuart.

Q. Now, Henry, after you grew up to be a considerable boy, did you stay at old man Carter's?

A. I made one crop after he died.

Q. How old were you? A. I don't know.

Q. When you made the crop? A. I don't know.

Q. Well, were you a grown man? A. I was a big boy.

Q. Big boy? A. Yes, sir.

Q. Now, do you remember old man C. J. Post that lived there? A. Yes, sir.

Q. And do you remember Mr. Rice? A. What Mr. Rice?

Q. W. H. A. Yes, sir, William H. Rice.

Q. Do you remember A. J. Ridgeway?

A. No, sir, I don't know him.

Q. You remember old man Garret Smith well, don't you; old man—old colored fellow? A. I know him, yes.

Q. Know him well? A. Well, not so well, but I know him.

Q. Know Garret Smith's wife, in her lifetime—old Mrs. Smith? A. No, sir, I didn't know her.

Q. She died before you knew her? A. Yes, sir.

Q. That is died before you recollect that you ever did know her? A. Yes, sir.

Q. How far did Mr. Post live from Mr. Carter—old man Carter? A. One mile.

Q. How far did Mr. W. H. Rice live from him?

A. Just across the road.

Q. Just across the road? A. Yes, sir.

Q. And how far did Mr. Ridgeway live from him?

A. I don't know Mr. Ridgeway.

Q. And how far did Garrett Smith live from him?

A. He lived in McLouth, Kansas, when I knew him; four miles and a half.

Q. Do you know where he lived when you were very small? A. No, sir.

By the Court.

Q. Henry how long after you went to Carter's place before you began to go to school?

A. I was there about a year and a half; maybe two years.

Q. Before you started to school? A. Yes, sir.

Redirect Examination by Mr. Cobb.

Q. In regard to Government's Exhibit 23, I will ask you if these pictures, the individuals there shown in the back row of the picture were standing on anything or were they standing—— A. Yes, sir.

Q. What were they standing on?

A. Our old school building had a step down out in front, a little platform and the smaller children, we stood on the back, up on the platform and the others stood down in front of us.

Q. In Government's Exhibit 20, I will ask you as to the same matter?

A. Same thing, yes, sir. Our teacher stood on the ground.

Q. Henry, you were asked about this mark that was on your back, have you that mark on you? A. Yes, sir.

Q. I wish you would pull off your coat and show the Court that mark on your person; pull up your shirt and exhibit it to the Court; go ahead. (And thereupon witness exhibited mark on back to the Court.)

Q. Has that mark been on you ever since you can remember? A. Yes, sir.

Cross Examination by Mr. Cruce.

Q. Henry, do you remember when you went out to old man Henry Carter's? A. Yes, sir.

Q. How did you go out? A. In a lumber wagon.

Q. Do you remember what was pulling the wagon?

A. He had two horses.

Q. Two horses? Do you remember the color of the horses? A. No, sir, I don't.

Q. Now, you were about— How did old man Carter— About what age were you before you started to school— You were out there about a year and a half before you started?

A. I think so, yes, sir.

Q. And the first time you started you were too young and only went three days?

A. Well, now, I couldn't say, Mister, whether it was two years or two and a half.

Q. But that is your best judgment?

A. Yes, sir, I can't be certain.

Q. I believe you said when you started you only went three days because you were too young to go to school?

A. Yes, sir.

Q. So that would make you about four years old when you went out to Henry Carter's?

A. I don't know how old I was.

Cross Examination by Mr. Allen.

Q. Henry, you say Sam Nash pointed out the place on your back that that mark would be if you were the boy that he knew at Granny Letcher's? A. Yes, sir.

Q. Did he correctly describe that mark? A. Yes, sir.

Q. Did he correctly point to the location of it?
A. Yes, sir.
Q. That was before he had seen it since you were boys together? A. Yes, sir.
Q. Did you strip in the presence of Mr. Long?
A. Yes, sir.
Q. And showed that mark? A. Yes, sir.
Q. Mr. Long saw it? A. Yes, sir.
Q. Did Mr. Crilly see it? A. He wasn't there, no, sir.
Q. Did Rube Smith see it? A. Yes, sir.
Q. Did Dennis Jones see it? A. Yes, sir.

(Witness dismissed.)

Mr. Cobb: We rest.

And thereupon, R. O. LARKIN was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. R. O. Larkin.
Q. Mr. Larkin, what age are you?
A. Seventy-three years old.
Q. Where do you live? A. Platte County, Missouri.
Q. What is your Postoffice?
A. Platte City, Platte County.
Q. How long have you lived there?
A. I have been born and raised there on the same farm where I am now.
Q. You are a married man?
A. Yes, sir, married in sixty-four.
Q. What year were you born? A. Forty-four.
Q. Was your father a slave owner? A. Yes, sir.
Q. Did he own a slave by the name of Mary Ann?
A. Yes, sir, Mary Ann Larkin, they always went by the name of the older family.
Q. Did she afterwards become Mary Letcher or Mollie Letcher?
A. She first married a Billy Mayo, he belonged to the Hunt family, about two miles from our place.
Q. Mayo did?
A. Yes, sir, that is he went by the name of Hunt, but when he went over to Leavenworth he changed his name to Mayo.

Q. To Mayo? A. Yes, sir.

Q. And this slave woman of your father's became Mary Mayo? A. Yes, sir.

Q. What did you call this woman, what name did you folks give her at home? A. Mary Ann.

Q. Mary Ann? A. Yes, sir.

Q. What name did she afterwards have, she married Mayo or Hunt who changed his name to Mayo, then what name after that?

A. I don't know. They claimed she married a Fletcher, I don't know anything about it?

A. Letcher? A. Yes, sir.

Q. Did you know her when she lived in Leavenworth?
A. Mary Ann?

Q. Yes? A. Yes, sir.

Q. When did she first live in Leavenworth?

A. They moved over there during the war, in the fall of sixty-two or sixty-three, I don't recollect exactly.

Q. They were among the slaves that were freed?
A. Yes, sir.

Q. Did you see her very often in Leavenworth?
A. Seen her several times during life.

Q. How far is Platte City from Leavenworth?
A. About nine miles from the house.

Q. Did you have occasion to go to Leavenworth much during the lifetime of this colored woman?

A. Why, I went there to do the marketing and sold eggs and butter and chickens and turkeys.

Q. Did this Molly Ann have anything to do with the rearing of you or caring for you when you were young?

A. Yes, sir, I was turned over to her when I was very young, when I was first born. My mother was a widow woman—— Well, she wasn't a widow at that time, but she was when I was three years old; my father got killed in the Mexican war. I never had the chance that lots of them had. I missed my education, I ain't got no education much.

Q. Now, Mr. Larkin, after this Mary Ann became a Letcher, after she acquired that name, did you see her in Leavenworth now and then? A. Yes, sir.

Q. How did you happen to see her in Leavenworth?

A. Well, I was in Court there in '84, during the time of Cleveland's administration, she wanted to prove her marriage by me.

Q. Her marriage to this Hunt?

A. Yes, sir, she was trying to get a pension. I didn't know nothing about his war record though, I just testified to their marriage.

Q. Well, that is one occasion when you saw her. When you would go over to Leavenworth to carry your vegatables and to get groceries, would you have occasion to go see Mary?

A. Oh, yes, I have seen her several times.

Q. Do you remember what street, what different streets she lived on? A. Well, she lived on Cherokee street.

Q. What other streets, do you remember?

A. Well, she lived north of that, Seneca street, I think; that is way north, I don't know but one street or two there in Leavenworth as much as I have been there all my life.

Q. Now, tell the Court what color that woman was.

Q. She was very dark; black.

Q. Take Dennis over there, how does she compare with that man sitting at the end of that table—standing up?

A. Oh, she was darker than that.

Q. Take Coody Johnson there; how does she compare with his color?

A. She was equally as black as him, or a little blacker.

Q. She was just as black as she could be? A. Yes, sir.

Q. She was as black as your hat there?

A. Yes, she was black—she was slick black; just as black as the hat.

Q. Do you remember Jim Mayo? A. Yes, sir.

Q. Her son? A. Yes, sir.

Q. Do you remember a one-armed boy around her house?

A. Yes, sir.

Q. What was his name?

A. Sammy, that was her grandchild.

Q. Did you know of any boy around her house called Tommy? A. No, sir, I didn't.

Q. Did you ever know of any boy around her house that was an Indian boy? A. No, sir.

Q. Did you know of a boy around her house they called Indian Tommy? A. No, sir, I didn't.

Cross Examination by Mr. Stuart.

Q. You are 73? A. Yes, sir.

Q. How old would Granny be if she was living?

A. Well, sir, she was about—she was older than me.

Q. Just about three years, wasn't she?

A. No, she was more than that; she was more than that. She was seven or eight years more than me.

Q. Well, you are 73? A. Yes, sir.

Q. Sure of that? A. Yes, sir.

Q. You were born in '44, weren't you? A. Yes, sir.

Q. How far did you live from the town of Leavenworth? Nine miles? A. Yes, sir.

Q. What was your business at that time?

A. Well, I went to Leavenworth trading.

Q. What did you do, though? A. Me?

Q. Yes, sir.

A. Well, sir, I hauled marketing there; hauled wheat there.

Q. What was your business—farming?

A. Yes, sir, farming there, that was my business.

Q. Are you farming yet? A. No, sir, not lately.

Q. Farming then about nine miles away? A. Yes, sir.

Q. And you would go occasionally to Granny's house, wouldn't you? A. Yes, sir.

Q. You went to her house on Seneca street, didn't you?

A. Yes, sir, that is where she——

Q. Yes, on Seneca street?

A. Yes, I think that is the place, yes, sir.

Q. And the people there on Seneca street, all called her Granny Letcher, didn't they? A. Annie Letcher?

Q. Granny Letcher?

A. They might have called her that; I never heard them call her that.

Q. Didn't you ever hear her called Granny Letcher?

A. No, sir.

Q. You never heard her called Granny?

A. That is the one the white man claimed married?

Q. Oh, I don't know but did they call her Granny Letcher? A. Well, I don't know that.

Q. Did you ever know of her ever being called——

A. Yes, sir, I heard of a Letcher, yes, sir.

Q. What was her name after she was a Mayo?

A. Well, she got her pension as a Mayo.

Q. Who was *seh* after she was a Mayo?

A. I never heard her say nothing only that she was married to him.

Q. Married to who? A. Letcher or whatever they call her.

Q. Didn't you and all of the people call her Letcher?

A. No, sir.

Q. You were told her name was Letcher?

A. No, sir, was not.

Q. The woman you knew was never known as Letcher?

A. Well, her nephew called her Granny.

Q. Did you ever know her as Letcher? A. No, sir.

Q. You never heard her called that? A. No, sir; no, I will take that back——

Q. Well, let's get it straight.

A. Well, you get as old as I am, you can't be so quick either.

Q. Well, I am pretty near as old as you; I am sorry to say. A. I don't think you are.

Q. Well, I am getting along. When did you ever hear her called Granny Letcher?

A. I can't tell you; after they claimed she was married, I reckon.

Q. Well, did you hear her called Granny Letcher after you were there about that house? A. No, sir.

Q. Did not? A. No, sir, I did not.

Q. You never knew for years about her being called that?

A. No, sir, I was 'round down there, her son told me Fletcher; her son Jimmy——

Q. How many people were living in the house there? There were people living in the house with her?

A. No, sir, not as I know of. When I knowed her she carried on sort of a laundry.

Q. What kind of a place did you see her in?

A. A frame I think.

Q. A two story or a one story? A. I can't tell you that.

Q. Was it a barn or a dwelling house?

A. Well, it was a dwelling house on Cherokee street.

Q. You say you saw her on Seneca? A. Yes, sir.

Q. What sort of a place on Seneca?

A. I can't tell you that now.

Q. What did it look like?

A. Well, I can't tell you; I am not going to lie to you about it.

Q. Well, how long ago, was it when you saw her there?

A. '84 and along there, and past that.

Q. You saw her there, didn't you—— A. Yes, sir.

Q. When Cleveland went in as President?

A. Yes, sir; I don't know what year it was.

Q. You know Cleveland was nominated in 1884, wasn't he? A. Elected in '84, wasn't he?

Q. And took his seat the following year—'85?

A. Yes, sir.

Q. It was one of those years, wasn't it; either when he was elected or inaugurated?

A. He was elected and the postmistress at Platte City—she was a democrat, was put in there.

Q. Then it was in '85, wasn't it?

A. Yes, sir, I reckon it was; I think it was.

Cross Examination by Mr. Hanford.

Q. Did you say her name was Letcher or Fletcher?

A. I think she was called Fletcher.

Q. Think it was called Fletcher?

Q. People said she was Fletcher; I never knowed she was married.

Q. And you knew Jim Mayo you said? A. Oh, well.

Q. And you knew this one-armed boy?

A. Yes, and if he came in I could show him to you any where in the State.

Q. Did you ever know of any other children around there?

A. No, sir, I didn't.

Q. Didn't know anybody around there? A. No, sir.

Q. You say you saw her several times?

A. Yes, sir, I have.

Q. How many times?

A. I can't tell you, thirty-five or forty years that I have been to Leavenworth. This is the first year I have missed in Leavenworth since '68 or '69, and I have been there during that time; I was there during the war time.

Q. There during the war time?

A. Yes, delivered cattle there.

Q. And did you see her then?

A. Yes, sir, I seen her once then.

Q. Now, about how many times, did you see her altogether in Leavenworth?

A. No, I ain't going to tell you that; I ain't going to do that—you are asking me something I can't answer; I told you I couldn't.

Q. Was that the last time you ever saw her up there on Seneca street? A. No, sir.

Q. You saw her after that? A. Yes, sir.

Q. Was she still at the same place?

A. Yes, sir, I think so.

Q. The same place? A. Yes, sir, I think so.

Q. And that is about the time that Cleveland took his seat? Went in as President?

A. It was during his administration, it was along there somewhere, I think—right there.

Q. Right close; you remember the postmistress had taken her seat?

A. Yes, sir, I took her up with me just like I am here.

Q. That was the new postmistress at Platte City?

A. Yes, sir, a widow woman.

Q. A widow woman? A. Yes, sir.

Q. And she was put in as postmistress, and shortly after that you took her over to Leavenworth?

A. Yes, sir, she was a witness because the colored man belonged to her family and the widow woman belonged to ours, and they was proving up their marriage license.

Redirect Examination by Mr. German.

Q. Mr. Larkin, it was sometime during Cleveland's administration that you had occasion to help her out on this pension business? A. Yes, sir.

Q. And it was after the postmistress—democratic postmistress, had been appointed?

A. Yes, sir, couldn't get it no other way. That was the first thing that the Democrats got.

Q. Now, you don't remember, do you, how long it was after Cleveland was inaugurated that that postmistress was appointed? A. No, I don't.

Q. And you don't remember how long after the postmistress was appointed that you had to do with being a witness to her marriage? A. I can't tell you that.

Q. It was sometime during Cleveland's administration?

A. During that four years; I know the next time he was elected my brother-in-law got it—Tom Cole; he is dead now.

Witness dismissed.

And thereupon, EARNEST ENDRES was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Earnest Endres.

Q. You are a brother of Ben Endres? A. Yes, sir.

Q. Where do you live? A. Wichita.

Q. How long have you lived at Wichita?

A. About seven years.

Q. How long since you have seen your brother Ben?

A. About three months ago.

Q. When were you subpoenaed to come down here?

A. I got the subpoena Decoration Day.

Q. This week? A. Yes.

Q. Did you ever live in Leavenworth? A. Yes.

Q. Where were you reared, I mean what city were you reared in? A. Leavenworth.

Q. What age are you? A. Thirty.

Q. Then, you were born in 1887? A. Yes, sir.

Q. 1886 or 1887? A. 1887.

Q. What time in the year? A. January 4th.

Q. January 4th, 1887. Where in Leavenworth were you born? A. I was born on Cherokee Street.

Q. Do you know what number? A. 220.

Q. How long did you live on Cherokee?

A. About a year or two years.

Q. Then where did you live? A. 215 Delaware.

Q. Where is Delaware with reference to Cherokee?

A. One block north.

Q. Then, where is Shawnee with reference to Delaware?

A. One block north.

Q. Then, where is Seneca with reference to Shawnee?

A. One block north.

Q. How long did you live on Delaware in the two hundred block?

A. Well, I lived there I guess from the time I was——

Q. About how old were you when you moved off of there?

A. About two years.

Q. Then, when did you move away from Delaware street from the two hundred block, about how old were you?

A. I was about twenty-three.

Q. You lived there then until you were grown? A. Yes.

Q. Now, as a boy growing up, did you play with other boys? A. Yes, sir.

Q. Where did you play?

A. Well, played mostly all around town.

Q. You know a boy named Alva Adams? A. Yes, sir.

Q. He is a man now? A. Yes, sir.

Q. Was he one of the boys you played with? A. Yes, sir.

Q. Did you know Tommy York? A. Yes, sir.

Q. What other boy did you play with?

A. Well, Willie Warren, Robbie Conradt, Alva Adams, Ed Baker.

Q. Where did Alva Adams live, if you remember?

A. He lived at one hundred Delaware.

Q. Did he ever live over the water works?

A. That is 100 Delaware street.

Q. What did you boys play when you were eight, nine, ten, eleven, twelve years old, thirteen?

A. Well, played "Sal Folks" and "Run sheep run," base ball.

Q. All sorts of games? A. Yes, sir.

Q. Did you chase around town a good deal in the business part? A. Yes.

Q. What different streets did you chase around on?

A. Well, from Choctaw street north I guess, about five or six blocks.

Q. That would include Seneca? A. Yes, sir.

Q. Did you know any boy there in town at any time since you can remember by the name of Tommy Atkins? A. No, sir.

Q. Did you know any boy there since you can remember by the name of Indian Tommy? A. No, sir.

Q. Did you know any Indian boy there in town when you were a youngster growing up? A. No, sir.

Cross Examination by Mr. Stuart.

Q. Did you know Alva Adams, you say? A. Yes, sir.

Q. Did you know Tom Higgins?

A. Not personally, I have heard of him.

Q. Tom was there with Alva Adams, wasn't he?

A. Well, he might have been, I didn't know him.

Q. He was a boy at the same time Alva was?

A. Well, I don't know.

Q. Well, when did you know him?

A. Well, I just heard Alva speak of him as his brother-in-law.

Q. Do you know Elof Crilly? A. No, sir.

Q. You heard of him? A. Yes, sir.

Q. Played with him? A. No, sir, he was too old.

Q. How old do you say you are? A. Thirty.

Q. And Elof was a little too old for you? *A.* Well, you didn't play then down about Crilly's barn, you played up on Cherokee?

A. No, we played from there—— Well, we played practically all over town.

Q. But you didn't know Elof Crilly to play with him?

A. Not to play with him.

Q. Who else did you play with in Crilly's neighborhood?

A. Well, one boy by the nickname of Swipe Smith.

Q. Swipe was tough, wasn't he? A. Yes, sir.

Q. You played with Swipe? A. Yes, sir.

Q. Alva Adams played with Swipe? A. Yes, sir.

Q. Both of you played with Swipe. Now, you are a brother of Mr. Endres, one of the attorneys in this case?

A. Yes, sir.

Q. For the other side? A. Yes, sir.

Cross Examination by Mr. Cobb.

Q. Leavenworth was a city at that time of about twenty-five thousand people wasn't it?

A. Well, it might have been twenty-five.

Q. About as big as it is now?

A. Well, Leavenworth is about twenty thousand now.

Q. Lots of people in Leavenworth even now that you don't know, isn't there? A. Oh, yes.

Redirect Examination by Mr. German.

Q. You say you are a brother of Ben Endres?

A. Yes, sir.

Q. Have you talked to him about this matter? A. No, sir.

Q. Where were you when this subpoena was served on you? A. At Wichita.

Q. Where you reside? A. Yes, sir.

Q. Did you at that time know what was wanted with you? A. No, sir.

Q. Did you communicate with your brother Ben to find out? A. No, sir.

Q. Did you talk to anybody in Wichita to find out what they wanted with you? A. Yes.

Q. Who? A. A man with the Carter Oil Company.

Q. What is his name if you remember. To refresh your memory was it a man named Eberly? A. Yes, sir.

Q. Did he know?

A. He didn't give me any information in regard to it at all.

Q. Since you have been here has your brother been here? A. No, sir, he is out of town.

Q. How much older than you was Elof Crilly?

A. Well, I judge he was about again as old as I am.

Q. At that time? A. Yes, sir.

Q. About how many years older than you was he?

A. Well, I should judge he is about sixty years old.

Q. We are not speaking of George Crilly, the liveryman?

A. That is who I was referring to.

Q. Did you know a son of George Crilly by the name of Elof? A. No.

Q. He was about grown in 1890, did you know him at that time? A. No.

Q. Now, did you know any boy that they called Trailer? A. No, sir.

Q. Do you remember of Alva Adams getting into any trouble over some copper, stealing some copper? A. Yes, sir.

Q. You remember that occasion, do you? A. Yes, sir.

Q. Did you know about his being arrested over that?

A. Well, that is how I come to know about that, through the papers.

Q. At that time, did you know Alva? A. Yes, sir.

Q. He was one of your playmates? A. Yes, sir.

Q. He was one of the boys that played in the crowd with all of you? A. Yes, sir.

Q. And there was no boy named Tommy or Indian Tommy in that crowd? A. No, sir.

Recross Examination by Mr. Stuart.

Q. This boy Alva was arrested for stealing some brass, wasn't he?

A. Well, I can't say whether it was brass or what it was.

Q. Stealing? A. Yes, sir.

Q. And what time was that, what year was it?

A. Well, it was I judge about ninety-six or '97.

Q. Ninety-six or ninety-seven? You think that was about when it was. Now, how old was Alva when he was arrested, about how old do you think?

A. I judge about fifteen or seventeen years old.

Q. Fifteen or seventeen years old. Did you know Arthur Crilly? A. Well, if that is the old gentleman, yes.

Q. I am not talking about the old gentleman, I am talking about Crilly's boys. You said just now Elof Crilly was twice as old as you are?

A. I thought you referred to him.

Q. Then, you didn't know the Crilly boys then?

A. No, sir.

Q. And they stayed right there in old man Crilly's house, didn't they, in that barn on Seneca?

A. Well, as to that, I don't know.

Q. You knew them, didn't you? A. Knew of them, yes.

Q. You knew that old man Crilly had some boys when you played there; you knew of the Crilly boys?

A. Well, I can't say that I do.

Q. You say you never heard of the Crilly boys?

A. Of the Crilly boys.

Q. Never heard he had some boys in the Seneca House?

A. No, sir.

Mr. Stuart: And yet you played all over town.

(Witness dismissed.)

And thereupon, FLOYD HUNT was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Pinson.

Q. What is your name? A. Floyd Hunt.

Q. Where do you live? A. Thornton and Fifth.

Q. Where? A. Leavenworth, Kansas.

Q. How old are you? A. Thirty-one.

Q. What place in the city did you say you live?

A. Fifth Avenue and Thornton.

Q. How long have you lived there? A. Four years.

Q. Do you remember where you lived back in 1898, '97, and '96, about what place in the city? A. 210 Olive.

Q. Do you know when you moved there, what year?

A. At 210 Olive?

Q. Yes, sir? A. No, I couldn't remember the date.

Q. Do you know about how old you were at that time?

A. I judge about eight years old.

Q. Now, from the time you were eight, did you play about with other boys? A. Yes, sir.

Q. Tell the Court at the age of eight, nine, and ten years, along in there, what is the names of some of the other boys that you played with?

A. Lee and Charlie Warren, and Earnest Endres.

Q. That is the man that just left the stand?

A. Yes, Cotter Collins, Carl Sheets.

Q. Is he living or dead? A. He is living.

Q. Where does he live? A. Well, I couldn't say.

Q. All right, name some more? A. Swipe Smith.

Q. Where is Swipe Smith?

A. He has been dead for about three years, I think.

Q. All right, any others that you know of?

A. Alva Adams.

Q. Mr. Hunt, where did the boys that you have named when you played together, where did you play?

A. Well, there wasn't any particular place chosen, we played most in playing ball on Second and Walnut.

Q. Do you remember where Alva Adams lived at that time?

A. Why he lived on Delaware Street between Main and Second.

Q. You lived at that time at 210 Olive? A. Yes, sir.

Q. Where did you move from to that place?

A. To 229 Olive.

Q. When did you move?

A. Well, lived at 210 Olive for about twelve years and then moved down there.

Q. During all the years you lived there—— You say you are thirty one? A. Yes, sir.

Q. You were born in 1885? A. Yes, sir.

Q. And 1894 you were eight years old?

A. I lived there from that time until I got married.

Q. What year were you married in? A. 1908.

Q. Now, before you moved to Olive, where did you live?

A. Lived in the north part of town.

Q. Do you remember the street and number?

A. Kiowa Street.

Q. These boys that you referred to that played along there, where did they mostly live? Between what streets?

A. Well, I judge between Seneca Street and Spruce.

Q. From Seneca to Spruce? That is north and south?

A. Yes, sir.

Q. Between what streets east and west?

A. Fifth and Second.

Q. Did you have a dividing line? A. Well, Fifth Street.

Q. Another bunch of boys on the other side of that line?

A. Yes, sir.

Q. Where did Swipe Smith live, if you know?

A. I think he lived at Third Street between Miami and Osage.

Q. These boys, what would you boys play there?

A. Well, we played marbles, tops and base ball, and at night paper chase and run sheep run, something like that sort.

Q. Paper chase and run sheep run? A. Yes, sir.

Q. Now, in playing together there, did the boys in that bunch as a general rule play all in a bunch?

A. Yes, we were all together; probably two sides; in paper chase there would be two with the paper and the rest would follow you know.

Q. The same bunch played together a good long while, did they? A. Yes, sir.

Q. Do you remember when Alva Adams disappeared and left that crowd?

A. Well, I left the crowd when I was seventeen years old, I should judge. In fact, I haven't seen him from then on.

Q. Did you know the time when Alva left town, or do you recall anything about that? A. No.

Q. Mr. Hunt, was there any boy in that crowd that played with you there that you know of that was an Indian?

A. Not that I know of.

Q. Was there any boy among you that looked like an Indian?

A. No, not that I could say. There was a colored boy that was kind of dark color, Tommy York.

Q. You mean a colored boy, a negro boy of the African race? A. Yes, he was kind of light.

Q. Was there any other colored boy except Tommy York?

A. No, sir.

Q. Now, Tommy was a light colored boy, was he?

A. Yes.

Q. And evidently a negro boy? A. Yes.

Q. Was there any boy that played with you that you used to call Tommy besides Tommy York? A. No.

Q. Did you ever hear in that bunch of a boy called Indian Tommy? A. No, I didn't.

Q. Did you ever hear of a boy called Commodore, or Tommodore? A. No, sir, I didn't.

Q. Do you remember any boy that the boys nicknamed Trailer? A. No, sir, I don't.

Q. Ever hear of that nickname? A. No, sir.

Q. Ever hear of a boy by that name? A. No, sir.

Q. Did you ever know one by that name? A. No, sir.

Q. Did you ever hear of a boy named Tommy Atkins ever playing with that crowd? A. No, sir.

Q. Now, about how many years did you play along with different boys of that same bunch that you have named?

A. I should judge about seven years, seven or eight years.

Q. Did you know a boy named Higgins? A. No, sir.

Q. He wasn't in that bunch of boys that you referred to?

A. Not in that crowd, no, sir.

Mr. Stuart: Your Honor, I don't believe there is a map in this record that shows this town at that time by streets and blocks; here is one prepared by the city engineer.

The Court: Now, you have an exhibit in the record that gives those locations, I understand?

Mr. German: Yes, sir.

The Court: I understand the purpose of this is merely to show the relative location of streets and blocks?

Mr. German: If that is the purpose, why there is no objection. If their object is also to fix the relative location of these houses, the Crilley house, and Letchers and so on, then we will object to that feature of this map.

The Court: Do you care anything about that feature of this map?

Mr. Stuart: No, Your Honor, but I assume this is correct. I don't know whether it is correct or not; do you know, Mr. Bond?

The Court: Just have that identified.

And thereupon, LEE BOND, being sworn, testified as follows:

Examination by Mr. Stuart.

Q. Have you examined this map, Mr. Bond? A. I have.

Q. How long have you lived in Leavenworth?

A. All my life.

Q. Is this a correct map of the City of Leavenworth by blocks and streets as far as you know?

A. Yes, sir, so far as it shows.

Q. So far as it shows? A. Yes, sir.

Witness dismissed.

The Court: It may be marked as an exhibit, and it will be admitted in evidence, chiefly with reference to the general location of the blocks and streets and alleys, and parts of town that it refers to. (Marked defendants exhibit A-24.)

Mr. German: Then it is understood that the description of that map that Judge Stuart has just introduced of the relative locations of the houses there on Seneca street between Second and Third is not to be considered?

Mr. Cruce: Why not?

The Court: * * * I will let them both in.

The thereupon, FLOYD HUNT, further testified as follows:

Cross Examination by Mr. Stuart.

Q. Now, this is a map of Leavenworth, we will say?

A. Yes.

Q. Now, will you point me out what street you lived on —where you lived?

A. Olive street; this is Spruce street; that would be Olive street.

Q. That is marked Olive on this map? A. Yes, sir.

Q. You lived on Olive street right here?

A. Coming this way, would be about here.

Q. You lived on this street over here? A. Yes.

Q. In that direction. Now, let's see; Seneca is down here, isn't it? A. Yes, sir.

Q. How many blocks is that, counting them there?

A. Eight blocks—seven—eight blocks.

Q. Nine blocks; you lived nine blocks from Seneca street, didn't you? A. Yes, sir.

Q. Did you know a boy there name of Osy? A. No, sir.

Q. What was his other name, Osy Mitchell? A. No, sir.

Q. You didn't know Osy Mitchell? A. No, sir.

Q. But you did know Alva Adams? A. I did.

Q. Don't you know Osy Mitchell and Alva Adams run together all the time? A. Not that I know of.

Q. You knew Tommy Owens, didn't you?

A. I knew Tommy Owens, yes, sir.

Q. That is another Tommy, you heard of? A. Yes.

Q. You knew Tommy York, didn't you? A. Yes.

Q. Where did Tommy York live?

A. Why, he lived on Third street, I should judge, about in there, right next to the county jail.

Q. Now, where did Tommy Owens live?

A. Well, I don't know because I never run with him.

Q. You never run with Tommy Owens? A. No, I didn't.

Q. Tommy York and Tommy Owens would play together? A. Not that I knew of.

Q. Alva Adams and Tommy Owens ran together?

A. I can't say.

Q. When you would play with boys down on Seneca street, you would have to go across town eight blocks unless——

A. Well, if they came to Walnut street——

Q. Unless they met you half way, you had to go to Seneca? A. Yes, that is just what they did.

Q. What they did; then you never did play in the Seneca neighborhood, did you? A. No, sir.

Q. Never did? A. No, sir.

Redirect Examination by Mr. Pinson.

Q. But you did play with the boys that you mentioned in the—— A. Yes, sir.

Mr. Stuart: Objected to as leading.

The Court: That is repetition.

Q. Were you ever on Seneca street in those days?

A. Yes, sir, but there was no place where a boy could play on Seneca, Deleware, Choctaw, or Shawnee either—had to go out some other place to play.

Q. To play what? A. To find room.

Q. And play what? A. Play base ball.

Q. That was one of the favorite games, was it?

A. Yes, sir.

Witness dismissed.

Mr. Hill: Your Honor, on the Nancy branch of the case, Mr. German tells me that he has some additional witnesses that he understood will be brought on; we have some additional witnesses. Two of those are matters reserved. * * *

The Court: Well, so far as the rebuttal goes in the case, it is proper. I will hear that but I am not going to open up this case again. Go on.

And thereupon, W. D. WARREN, being called as a witness on behalf of the United States in rebuttal, and being first duly sworn, testified as follows:

Direct Examination by Mr. Pinson.

Q. What is your name? A. W. D. Warren.
Q. William D. Warren? A. Yes, sir.
Q. Where do you live, Mr. Warren?
A. Leavenworth, Kansas.
Q. How old are you? A. 31.
Q. Do you know Floyd Hunt? A. Yes, sir.
Q. Do you know Charles Warren? A. Yes, sir.
Q. Did you have any nickname when you were a boy in Leavenworth? A. Yes; called me Skinny.
Q. Skinny Warren? A. Yes, sir.
Q. Is Charles your brother? A. Yes, sir.
Q. Did he have any nickname?
A. Yes, they called him Steamboat.
Q. Steamboat Warren? You know Alva Adams?
A. Yes, sir.
Q. How old are you, Mr. Warren? A. 31.
Q. When did you first know Alva Adams? A. 1894.
Q. How long from that time on did you know him?
A. Knew him in 1903, I think it was.
Q. Did you play with Alva Adams? A. Yes, sir.
Q. Now, let me ask you to tell the Court what was the occasion of Alva ceasing to be a friend of yours and leaving that community? Do you know anything about that?
A. Why, Alva Adams' family moved away from town, and he went with them, or he got married, one of the two I don't remember which.
Q. You don't remember anything about trouble that he got into?
A. I remember about him having some trouble over stealing some brass.
Q. Did you connect that in anyway with his leaving town?
A. I did not.
Q. Now, from the time in '94 and then on to '98 during those four years, mention the names of some of the boys who played with you and Alva Adams, during the afternoons after school.
A. Well, a fellow named Baker had a couple of boys; Floyd Hunt and his brother, Earnest Endres; Robert Conrad; Tommy Owen; Charlie Owen; Tommy York; and a family of colored boys by the name of Clays; and Brewsters.
Q. Was the Brewster boy in the crowd? A. Yes, sir.

Q. Where did you live along about that time?
A. 220 Cherokee.

Q. Cherokee? A. Yes, sir.

Q. Now, as a general thing where did the boys live, in what section did the boys live that played together?

A. Well, they all lived from Main street to Third street, and from Shawnee to Cherokee outside of Brewster and Hunt.

Q. Where did Brewster live, if you know?

A. In the Ryan Building when we used to play together.

Q. Where did Hunt live at that time?

A. Hunt lived on Olive street.

Q. That is all the boys, some of them were out of that community but they played with you just the same?

A. Yes, sir.

Q. What did you play down there?

A. Oh, we played ball, boyhood games.

Q. Did you know a boy named Conly?

A. Hoddy Conly, yes, sir.

Q. When did you first know him?

A. Well, we played ball and played together during that time.

Q. Now, from about what age to about what age did you play along there with those boys?

A. From about 8 years old on up.

Q. When was the last time you were there, left that group or the group broke up? A. 1903.

Q. Now, did you know a boy named Smith? A. Yes, sir.

Q. Know what his nickname or first name was?

A. Well, we played with a boy named Swipe Smith, Percy was his name.

Q. His name was Percy? A. Yes, sir.

Q. Did you know his mother? A. Yes, sir.

Q. What was her name?

A. I don't know her first name.

Q. Where did she live?

A. I didn't really know where she lived at the time but it seems to me about 217 Shawnee.

Q. The streets along there run Seneca street, from Seneca on down to Cherokee, run through the names of the streets along there.

A. Seneca, Shawnee, Delaware and Cherokee.

Q. Now, between what streets that ran north and south mostly, did those boys live?

A. Between Third street and Main street.

Q. Between Third and Main, and between Seneca and Cherokee? A. Yes, sir, out side of three or four of them.

Q. Did you ever know a young [] named Higgins in those days? A. Yes, sir, two or three of them.

Q. Well, is there a Higgins related to Alva Adams in any way by blood or marriage?

A. Yes, sir, Tom Higgins married his sister.

Q. What was Tom Higgins doing the day you are referring to now? A. Driving a team and wagon.

Q. Do you recollect*ion* the boy had with Tom Higgins and that wagon?

A. We rode around with him is all I reckon.

Q. He permitted you to ride?

A. No, sometimes he would and sometimes he wouldn't.

Q. Was there any other colored boys besides those you mentioned, Tommy Owens and——

A. Tommy Owens was a white boy.

Q. Tommy Owens was a white boy? A. Yes, sir.

Q. What was Tommy York, you mentioned that name?

A. He was a colored boy.

Q. Light or dark? A. Light.

Q. Did you know a boy that played with you there during any of those years that you considered an Indian?

A. No, sir.

Q. Did you know any boy that looked like an Indian that played with you? A. No, sir.

Q. Did you know any light colored mulatto boys other than those you mentioned? A. No, sir.

Q. Or part negro boys? A. No, sir.

Q. Did you ever know a boy that played with that bunch named Tommy Atkins? A. No, sir.

Q. Did you ever know any other Tommy than those you named?

A. No colored boy played with us but Tommy York, named Tommy.

Q. Did you ever know a boy named Commodore, or nickname Commodore who played around with you? A. No, sir.

Q. Or Tommodore? A. No, sir.

Q. You remember ever playing a game called war?

A. No, sir.

Q. Did you ever have a boy in the bunch that you nicknamed the Trailer? A. No, sir.

Q. Did you ever have a boy named Trailer that played with you? A. No, sir.

Q. Now, did you boys ever play up around on Seneca street? A. I have, yes, sir.

Q. You have? Who did you play with up around Seneca street? A. One named McDuska, Johnny Widley, and Eli.

Q. Now, at what place on Seneca street was it that you played?

A. We played over at the *De*Duska's yard and Widley's yard.

Q. In the yards? A. Yes, sir.

Q. Where is that house located?

A. One is 208 Shawnee and the other 222.

Q. Shawnee? A. Yes, sir.

Q. Did you ever play on Seneca street? A. Yes, sir.

Q. What place on Seneca?

A. Around Crilly's barn and Van Tuyl's barn.

Q. What years was it you played around there if you can remember? A. It was just about the same time.

Q. Along the same time? A. Yes, sir.

Q. Were there any other boys who played around Crilly's barn there which you can think of besides those you named? A. Outside of George Crilly's two boys.

Q. What was those two boys names?

A. Elof and the other Arthur.

Q. Were Elof and Arthur older or younger than you?

A. Both were older than me.

Q. How much?

A. I can't say; probably two or three years.

Q. Did you know George Crilley? A. Yes, sir.

Q. Know his partner at that time, a man in business with him?

A. I didn't know of him having any partner at that time.

Q. Do you know Mr. Cranston?

A. I know Mr. Cranston, yes, sir.

Q. What business was he in at that time?

A. Livery business.

Q. There with Crilley? A. No, sir.

Q. He was in another place at that time, was he?

A. Yes, sir.

Q. Do you remember an old colored woman living over on Seneca street across from Crilley's barn?

A. I know of an old colored woman, yes, sir.

Q. By what name? A. Granny Letcher.

Q. Do you know anything about her family, who lived around in the house there with her? A. No, sir.

Q. Did you know any boys who lived around in there?

A. No, sir.

Q. Did you ever see any boys, or play with any boys, connected with Granny Letcher there? A. No, sir.

Q. You did play, though, around Crilly's barn, in this bunch? A. Yes, sir.

Q. Did you ever play in Granny Letcher's yard?

A. No, sir.

Q. Never had anything to do with that particular house?

A. No, sir.

Q. Did you know her personally? A. No, sir.

Cross Examination by Mr. Bond.

Q. How old did you say you were? A. *A* 31.

Q. Haven't you heard your father talk about Granny Letcher's place, about Indian Minnie and Indian Tommy? Did you ever know of your father talking about them?

A. I have heard my father talk about them, yes, sir.

Mr. Pinson: Objected to, if the Court please.

The Court: If it is sometime later, it is objectionable.

Mr. Pinson: That is the reason; the time is not fixed.

The Court: No.

Q. Now, the Crilley boys were a little older than you?

A. Yes, sir.

Q. In fact they were kind of leaders of that gang, weren't they?

A. No, sir, they wasn't leaders, they herded cattle for their father; herded cattle on the reservation.

Q. You boys played in that neighborhood?

A. Played on Shawnee then.

Q. Hunt played with you then?

A. No, Hunt wasn't playing up there.

Q. Hunt didn't play with you in that part of town?

A. No, sir.

Q. When your gang was going north, you didn't play with Hunt? A. Wasn't going north.

Q. Seneca street is north, isn't it? A. Yes, sir.

Q. You say your gang was composed of boys made up from boys from Fifth street east and Seneca street south, is that right?

A. I said the boys lived in the neighborhood of Main street and Fourth street and Seneca street south.

Q. How far south? A. Well, Hunt lived on Olive.

Q. Well, that takes about a third of the city, then, the district of which this gang of yours was in?

A. Third—I don't know whether it does or not.

Q. Hunt though—you never remember of him playing up there when you played with the Crilley boys? A. No, sir.

Q. You remember that distinctly? A. Yes, sir

Q. Now, you played with Osy Mitchell, didn't you?
A. Yes, sir.
Q. You hadn't thought of him before had you?
A. No, I didn't think of him.
Q. How about Will Clay? A. The Clay boy?
A. Yes. A. Played with him.
Q. And Peter Baker? A. Yes, sir.
Q. You knew Alva, of course? A. Alva Adams?
Q. Yes. A. Yes, sir.
Q. He played with your gang? A. Yes.
Q. You remember his being arrested? A. Yes, sir.
Q. What year was it? A. I don't remember what year.
Q. Well, what is your best judgment?

A. I can't say; the same time that us boys were going to school; we quit going to school in 1902.

Q. Two years before you quit school, or six years or eight years, or what? A. I can't tell that.

Q. Can you come within ten years of it?
A. Yes, I can come within ten years.
Q. Well, give us your best judgment?
A. Well, it was between that time I moved on Cherokee.
Q. You moved on Cherokee in 1894? A. Yes, sir.
Q. And moved away in 1903? A. Yes, sir.

Q. And you played with Alva Adams every year between those years? A. Sir?

Q. You played with Alva Adams every year between those years? A. Between ninety-four and 1903.

Q. Yes, and you are sure of that?
A. Yes, sir, I played with him at that time.

Q. And you are just as sure of that as any other fact you have testified to here, are you?

Mr. German: That is objected to as argumentative.

The Court: Overruled.

A. I remember playing with him.

Q. I asked if you played with him ever year from 1894 to 1903? A. I couldn't say I played with him every year.

Q. How many years didn't you play with him between that time? A. I don't know.

Q. You didn't play with Alva after 1899, he didn't go with you at all, and wasn't there, isn't that the truth?

A. No, sir.
Q. He didn't go to St. Joe?
A. I didn't say he didn't go to St. Joe.

Q. He didn't go there and live for a year and eleven months between the dates you have mentioned?

A. I don't know.

Q. Do you remember of him going up there? A. No, sir.
Q. Who was arrested with him?
A. I think it was Ed Baker and Clay.
Q. And Clay? A. Will or Clay.
Q. Can you give the Court an idea about how many times that you have served sentences in the city and county jail?
A. Yes, sir.
Q. How many? A. Seven months.
Q. How many different times have you served in the city and county jails? A. Four times in the county jail.
Q. How many in the city jail?
A. I never served there, I was in there three days getting bond.
Q. How many bonds are you under now?
A. About eight or nine.
Q. For appearance in the District Court? A. Yes, sir.
Mr. Pinson: Is Tommy York living or dead?
A. He is dead.

(Witness dismissed.)

And thereupon, ANANIAS ATKINS was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Ananias Atkins.
Q. Where do you live?
A. I live two miles north of Preston, Oklahoma.
Q. Were you born in Missouri? A. Yes, sir.
Q. You are a son of Dick Atkins? A. Yes, sir.
Q. Did you have a brother named Thomas Atkins?
A. Yes, sir.
Q. Was he born in Missouri? A. Yes, sir.
Q. Did he come down to this country with you?
A. Yes, sir.
Q. What year was that, about what year?
A. Well, I couldn't say, I was quite young myself.
Q. That was when your father moved down here?
A. Yes, sir.
Q. How much older are you than Thomas?
A. Well, I am about—— Well, I would have—— I have never given it close attention.
Q. Well, are you any older?
A. Yes, sir, I am a right smart older than he is.
Q. Is he living or dead? A. He is dead.

Q. About when did he die?

A. He died in the fall in 1898.

Q. During the last years of his life where did he live?

A. At Wagoner. That is, ten miles northwest of Wagoner.

Q. About how old was Thomas when your father and mother brought you down there?

A. Well, I couldn't hardly say.

Q. Was he a small child?

A. Yes, sir, he was a small child.

Q. Did your brother Thomas go to Wagoner very often during the time he lived in the country?

A. Yes, sir, he went there very often.

Q. Do you know where your family traded during that time? A. Yes, sir.

Q. Where? A. At Davis & Jones.

Q. Do you know Nancy Atkins?

A. I have known her, yes, sir.

Q. What kin is she to you?

A. My father said she was my aunt.

Q. Your aunt? A. Yes, sir.

Q. Did Thomas do any work around Wagoner?

A. Well, yes, sir, he hauled wood to Wagoner all the time.

Q. Who would go with him?

A. Well, most of the time he would go with his father.

Q. About how old was Thomas when he died?

A. As near as I can remember my brother, his age at the time that he was buried, he was thirteen years old three months and some days, I can't remember the days just now.

Q. When he died? A. Yes.

Cross Examination by Mr. Rosser.

Q. You and this Thomas Atkins you speak of are children of the same parents, that is you have the same father and same mother? A. Yes, sir.

Q. When was it you came down from Missouri?

A. I couldn't say, I don't recollect.

Q. How old are you now? A. I am past thirty-six now.

Q. How old were you when you came down to this country? A. Oh, I don't remember that.

Q. Well, do you know about how large you were, you remember coming down? A. Oh, yes, sir.

Q. How did you come through, in a wagon?

A. No, sir, on a train.

Q. Give us your best judgment as to how old you were when you came down here?

A. Well, as near as I can gather it was near eight or nine years old, but I am guessing at it.

Q. Your brother, Thomas, how old was he?

A. Well, he couldn't have been—— I am not positive of this, I am guessing now—— He couldn't have been over I don't know, I just couldn't say.

Q. How much older are you than he?

A. Well, I couldn't say.

Q. You were older? A. Oh, yes, sir.

Q. Do you remember your trip down here? A. Yes, sir.

Q. Don't you remember how much older or how much larger you were than he was at that time?

A. I was quite a little bit larger.

Q. Was he old enough to walk and talk? A. Oh, yes, sir.

Q. Could walk around by himself? A. Yes, sir.

Q. Didn't have to be helped on the train?

A. Just had to see after him.

Q. You say you know Nancy Atkins?

A. I have known her.

Q. How long have you known her?

A. Only just to see her is all.

Q. Now, your brother lived at your father's house, didn't he? A. Yes, sir.

Q. All the time? A. Yes, sir.

Q. You have known of him hauling some wood to Wagoner, but you never knew of him going there to stay a long period at a time?

A. Well, not no time, two or three days at a time. I have knowed him to be there two or three days at a time.

Q. That would be when some member of the family would go over there? A. Yes, sir.

Q. Your father made you and your brother work?

A. Yes, sir.

Q. Now, where was your brother when he died?

A. He was at home.

Q. How far was that from Wagoner? A. Ten miles.

Q. Where was he buried?

A. He was buried about a mile and a half or two miles south of our place.

Q. Where you lived? A. Yes, sir.

Q. Your father was a pretty well to do man, he made a living for his family?

A. Yes, sir, he provided a living for them.

Q. You *are* your brothers didn't have to live around among people to live, you lived at home with the family, did you, your father's family? A. Yes, sir.

Q. You are of African blood, you are a negro? What degree blood, you are fullblood aren't you?

A. Well, I think they say I am an eighth Indian blood.

Q. Say you are an eighth Indian blood and the balance is negro blood? A. Yes, sir.

Q. Your hair has the ordinary appearance of an ordinary African colored people's hair, hasn't it?

A. I suppose so, yes, sir.

Redirect Examination by Mr. Allen.

Q. What was your mother's name? A. Sally Atkins.

Q. She was the mother of Thomas? A. Yes, sir.

(Witness dismissed.)

And thereupon, MARY WILSON was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Mary Wilson.

Q. Was your name, Mary Atkins?

A. Mary Wilson, I said.

Q. I know, but before you were married, what was your name? A. We went by Harris or Atkins.

Q. What was your father's name? A. Richard Atkins.

Q. What was your mother's name? A. Sally Atkins.

Q. Is your father living? A. No, sir.

Q. Is your mother living?

A. Yes, sir, they say she is, I don't know exactly.

Q. Do you know where she is?

A. They say she is in Canada, I don't know exactly.

Q. Do you have a brother Thomas Atkins? A. Yes, sir.

Q. Where was he born? A. In Missouri.

Q. Did he come down here with you? A. No, sir.

Q. Who came first? A. My daddy.

Q. And who came first of you and Thomas, which one of you came first? A. Thomas.

Q. When did you come down to the Indian Territory?

A. I don't know exactly. They was here a good while before I come.

Q. Do you know what work Thomas did when he was working out there near Wagoner?

A. He was plowing and hauling wood.

Q. Hauled wood where to? A. Wagoner.

Q. Is he dead? A. Yes, sir.

Q. About how old was he when he died?

A. About thirteen.

Cross Examination by Mr. Rosser.

Q. Which was older, you or Tom? A. I was.

Q. How much older?

A. I don't know, sir, how much.

Q. Well, do you remember when he was born?

A. No, sir, not exactly.

Q. Not the date, but do you remember the fact of his being born? A. Yes, sir.

Q. Well, how old were you then? A. Forty-six.

Q. How old were you when your brother, Thomas, was born? A. Well, I don't know, sir.

Q. You say you remember when he was born, were you three or four or five years old, about how old?

A. Well, I reckon I was about seven or eight, may have been older, I don't know.

Q. How long—— Thomas came down here with your father, did he, before you came? A. Yes, sir, before I come.

Q. Do you remember how long he had been here before you come down? A. No, sir, not exactly.

Q. How old were you when you come to this country, were you a grown woman? A. Yes, sir.

Q. Were you married? A. Yes, sir.

Q. Well, how old were you when you married?

A. I don't know that.

Q. You don't know that? A. No, sir.

Q. Do you know how long you had been married when you came here? A. No, I don't know that.

Q. About how long?

A. Well, I reckon I had been married—— I don't know, I had three children.

Q. You had about three children when you came here?

A. Yes, sir.

Q. Well, how old is your oldest child now?

A. Twenty-five.

Q. And how old is your second child?

A. I don't know exactly.

Q. You don't know how far apart those children came?

A. No, sir.

Q. And you don't know how long it was until the third one came? A. No, sir.

Q. But you had three children when you came here?

A. Yes, sir.

Q. About how old was the youngest child when you came?

A. About a year old.

Q. Well, how long had you been married when your father came to this country, or about how long? You married before your father left Missouri? A. Yes, sir.

Q. How long had you been married when he come down here?

A. I think I had been married about two years if I make no mistake.

Q. Did you live with your father's family after you came here? A. I stayed on their place?

Q. You didn't live in the family?

A. No, I stayed in the house a while.

Q. That was when you first came? A. Yes, sir.

Q. How many children did your father have at the time he moved down here, that he brought with him?

A. How many did he bring?

Q. Yes? A. He didn't bring but one with him.

Q. Who was that? A. John Henry.

Q. Well, didn't he bring Thomas with him?

A. Thomas come with Ma.

Q. How many did your Ma bring? A. I don't know.

Q. You don't remember how many there were of you?

A. Yes, sir, there was thirteen of us.

Q. How many of you remained in Missouri when your father came—— Well, I don't know that that is very important if you can't remember.

Q. Your father was a working man? A. Working man.

Q. And he made a living for his family, did he?

A. Yes, sir.

Q. The children that were not married lived at home with him? A. Yes, sir.

Q. And your brother Thomas lived with your father up to the time of his death? A. Yes, sir.

Q. And he was living there when he died? A. Yes, sir.

Q. And was buried near where your family lived?

A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. You were all working boys and girls were you?

A. Yes, sir.

Mr. Rosser: I wasn't through with my examination.

Cross Examination by Mr. Rosser.

Q. You are of African descent, that is you are colored people, your father's family, your brother Thomas was a colored boy and you are a colored woman of African blood, that is right, isn't it? I say that is right, you are of that race of people? A. I reckon.

The Court: You are of the negro race, aren't you?

A. Yes.

Q. And you and your brother Thomas were of the same father and mother? A. Yes, sir.

Q. You say your mother is now in Canada?

A. Yes, sir, they say, I don't know.

Q. Now, do you know when your brother Thomas died, did you say it was in 1898—— Well, do you know about when he died, about what year?

A. No, he died in the fall.

Q. You don't know what year? Do you know whether your father tried to get him on the rolls of the Creek Nation?

A. No, I don't know.

Q. You don't know anything about that? A. No, sir.

Cross Examination by Mr. Stuart.

Q. You live at Bristow now, don't you? A. Yes, sir.

Q. When did you go up there, many years ago or recently?

A. About a month ago.

Q. You have been living down in this country before you went over there? A. Down where?

Q. Near Wagoner? A. Yes, sir.

Q. And your brothers and sisters all of you used to do what work you could around the place? A. Yes, sir.

Q. Your father raised you to work, didn't he?

A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. Is your sister in town? A. Which one?

Q. Nancy? A. Yes, sir.

Q. Is she sick today? A. Yes, sir.

(Witness dismissed.)

Mr. German: Your Honor, we want to get Adas Wright's height into the record.

The Court: All right. Let Adas Wright come in.

Mr. German: Now and then on both sides in cross examining witnesses who have testified previously, we have asked them with reference to whether they testified to certain things in their former testimony. And as a rule, Your Honor will remember, they have admitted it, but now and then they have denied it. As far as our side is concerned we are willing to agree that they testified according to the way the testimony was read to them in making those inquiries and save all sides the necessity of making affirmative proof.

The Court: I thought that was covered by the agreement the other day.

Mr. German: It was with the agreement as to Nancy and Minnie, but I don't remember if it was to cover the other witnesses.

The Court: It is suggested by counsel that in addition to the examination of Minnie and Nancy Atkins, there is the examination of other witnesses wherein was read to them certain testimony that they gave at certain other times and in some instances they said they had so testified and others that they hadn't. May the agreement that was made with reference to Minnie and Nancy Atkins apply to all other witnesses?

Mr. Cruce: I think so. I don't think that agreement was that each party was to agree that the witness at the former time had testified. I think the agreement should be that the stenographic report shows that they gave the testimony on the different occasions.

The Court: That is what I had in mind before. Of course, we have the stenographic report, but the stenographer is not here and I probably will have to understand the stenographer took it down as he understood it.

Mr. German: So that will save us making that proof on both sides.

The Court: I will consider it as if at some period of this case you had offered that point of the stenographer's transcript and the court had admitted it as such parts of the stenographer's transcript from various other cases.

Mr. Beall: If the court please, in the enrollment of the Dick Atkins family, there has been some question as to the town on which they were enrolled by the Creek tribal authorities. The Government will agree that the Dick Atkins family, who have testified here, Chaney Trent, Mary Wilson, Ananias Atkins, and the other members of the Dick Atkins family, were enrolled by the Creek tribal authorities on the Arkansas Colored Town on both the 1890 and 1895 payrolls; that they were never enrolled on the Euchee Town.

Mr. German: And that those surviving the date April 1, 1899, have been enrolled by the Commission and allotted as coming from Arkansas Town.

The Court: Are they enrolled as Freedmen?

Mr. Beall: They are enrolled upon the Indian roll.

The Court: And as coming from the Arkansas Town?

Mr. Beall: Coming from Arkansas Colored Town.

Mr. Allen: And that those who died before April 1, 1899, have been so adjudged by the Commission and the Secretary.

The Court: Mrs. Wright, they want to get your height. Just take off your veil and hat and stand over there by the door and let them get a straight edge and mark it.

Mr. German: Her height is five feet three inches.

And thereupon, ADAS WRIGHT was recalled for further redirect examination and testified as follows:

Redirect Examination by Mr. Allen.

Q. I would like to ask one question.

The Court: All right.

Q. How long after your sister married and went to Leavenworth to live was it that you went there to visit her?
A. About two or three weeks after she was married.
Q. You went there and stayed sometime with her?
A. I stayed a week.
Q. You were there off and on afterwards? A. Yes, sir.

(Witness dismissed.)

And thereupon, J. K. McCLAREN was called and sworn as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Hill.

Q. State your name, age, and residence?
A. J. K. McClaren, forty-three years old, I live at Warner.
Q. What is your business?
A. I am farming and stock raising.
Q. Did you ever live at Wagoner? A. Yes, sir.
Q. When? A. From about 1885 to 1891.
Q. Do you know when you left there?
A. Yes, I left there in the summer of '91.
Q. About what age were you then in the summer of 1891?
A. Seventeen or eighteen years old, nineteen years old, something like that.

Q. Just prior to leaving there, the last two or three years, what were you engaged in doing?

A. Well, my folks were there, and the work I did, I worked in the Davis & Jones Store in the winter time most generally and would work out on a ranch in the summer time. I was just a boy.

Q. How long did you work in the Davis & Jones store in the winter time?

A. I probably worked in there two winters, previously I worked in there, off and on at different times.

Q. The two winters you worked there then was the winters of 1889—'90 and 1890—'91? A. Yes, sir.

Q. Were you acquainted with Nancy Atkins there?

A. Yes, sir.

Q. When did you get acquainted with her about?

A. Well, I knew her off and on there when I was just a young fellow at the time practically from probably 1887 to the time I left in 1891.

Q. You knew her up to the time you left? A. Yes, sir.

Q. Do you know definitely when you got acquainted with her? A. No, not the first time, I don't remember exactly.

Q. Do you know where she was living the last two years you were there when you were at Davis and Jones store?

A. I couldn't say just how long at different places; she lived I couldn't tell you to tell the places.

Q. Well, just mention the places you knew of?

A. Well, she lived in a tent in the back part of the mercantile establishment lumber yard at one time. She stayed with some darkies by the name of Birney and she stayed with some darkies by the name of Williams I think, several places about there, she didn't seem to stay at one place very long.

Q. Do you know where she was working?

A. Well, she worked at various places; she washed for my mother at the hotel there.

Q. At what hotel?

A. It was the Bernard Hotel at that time.

Q. And she worked there?

A. Yes, she worked there, washed dishes sometimes but most of the time in the laundry.

Q. Any other places you knew of her working there?

A. Well, I think she worked at several other places and hotels; my understanding that she washed most of the time.

Q. Do you know whether Nancy had a child?

A. Yes, sir, she had a child.

Q. Tell the Court what you know about it, when you first saw it and how long?

A. I don't remember very much about it when it was right little; the most distinct recollection I have it must have been about ninety or ninety one, there was a little child probably not more than a year and a half old, couldn't talk. It was in dresses; as to whether it was a boy or girl, I couldn't say, but I saw it on hundreds of occasions living right there close; see her come in the store and be about.

Q. Constantly with it?

A. Well, she left it when she would go out to work, but I have seen her many times come to the store with the little fellow. They lived probably not more than a couple or hundred yards from the store and I would see it on the street and see it with the Birney children.

Q. Do you recall its appearance?

A. Yes, I remember just about how it looked.

Q. Well, tell the court how it looked?

A. It looked like it might be pretty badly mixed blood; rather yellow colored, not exactly kinky hair but rather stringy like hair.

Q. State whether the appearance was of African race, Indian race or white race?

A. That would be pretty hard for me to say; it looked like it might be of a mixed blood of all, I couldn't tell about that.

Q. You don't know whether it was a boy or girl? A. No.

Q. I suppose you knew at one time but don't now?

A. I am quite sure I did.

Q. I don't suppose you would know its name?

A. No, sir, I wouldn't know.

Q. Do you know about Nancy being sent to the penitentiary about 1890, do you remember that event?

A. No, sir, I do not. I left there in the spring of '91, might have seen her there after that time. I meant to say when I left then I went out in the country and worked on a ranch, I might have seen them after, but that is my recollection now.

Q. I wish you would describe its face to the Court in the summer of 1891 when you left there in your last distinct recollection?

A. The last distinct recollection I have of the child was that it was possibly a year and a half old, not to exceed two years; if it could talk it didn't. That is, in my presence. It possibly could have said a few words, but it wasn't big enough to be talking.

Q. About—— How about walking?

A. Oh, yes, it could run around, but it seemed like to my recollection it was about a year and a half old.

Q. You have a distinct recollection of it at that time, and none absolutely since then?

A. If I ever saw it I don't remember.

Q. Mr. McClaren, do you know whether there was a general understanding in the community of Wagoner as to who was the mother of that child you have described to the Court?

The Court: You may answer that yes or no.

A. Yes, sir.

Mr. Hill: Your Honor, I am going to lay the same offer, but before I ask the next question I want to suggest this additional to Your Honor.

The Court: Well, Mr. Merrick's testimony, that is very plain to my *kind*. that the initial circumstances that caused the placing of this name on the roll at all, was the fact that it appeared on the 1895 roll; that started the investigation.

Mr. Hill: Unquestionably.

The Court: Now, Nancy Atkins contends that that name on the 1895 roll represented her son Thomas Atkins. You are attempting now to establish the fact that Nancy Atkins did have a child; that you are starting out to do as a foundation for, after she establishes that she had a child, that that was the child put on the roll. Now, the question here is as to the pedigree of this particular child and its relation to Nancy. I don't think the fact that the Commission gave greater latitude * * * I am inclined to adhere to the ruling heretofore made.

Mr. Hill: We offer to prove by Mr. McClaren that he had lived in that county six or seven years prior to leaving it in the summer of 1891; he was well acquainted with Nancy Atkins and frequently saw the child which he has described here and the general reputation in that community and the general understanding of the people in that community was that that child which he has described was the child of Nancy Atkins.

Mr. German: We object.

The Court: Objection will be sustained and your exceptions noted, Judge Hill.

Cross Examination by Mr. German.

Q. Mr. McClaren, you remember—you realize that it has been about twenty-seven years since 1890, don't you?

A. Yes, sir; yes, sir.

Q. And yet you say to the court that you are able to describe that child? A. Yes, sir.

Q. Did you know any other children in Wagoner at that time?

A. Yes, I probably knew all the children there; it was a very small town at that time.

Q. Yes, sir, how many children were there at that time?

A. Well, there was but very few about that age; it was a very small town.

Q. What other child was there about that age?

A. Well, the Birney children were there, darkies.

Q. How many? A. Two or three of the Birney children.

Q. Now, were there two or three?

A. There were three and probably more than that. I remember two boys and one girl very well.

Q. Two boys and one girl? A. Yes, sir.

Q. What were the ages of those three children?

A. Henry, I think was the oldest one staying at home at that time; he was probably—he was probably ten years old—possibly twelve.

Q. What was the color of his hair?

A. Well, he was black from head to foot.

Q. He was black all over? A. Yes, sir.

Q. Was his hair kinky or straight? A. Yes, sir, kinky.

Q. Kinky? A. Yes, sir.

Q. And his eyes were black, of course? A. Yes.

Q. Now, what was the name of the other one of the three Birneys?

A. I think there was a younger boy close to him in age; his name was Richard.

Q. Richard, and he was black?

A. He wasn't quite so black as Henry.

Q. Do you remember just what shade he was?

A. He wasn't what you would call a right black darky, yet he was a little light. He had a sister about his age, I think probably a year younger—I am not sure about her age, but about the same size; she was still lighter than he was.

Q. Just describe her color. [A.] Well, she was what you would call a chocolate yellow.

Q. Chocolate yellow? A. Yes, sir.

Q. Now, how old was the little girl when you left there?

A. Well, I guess she was seven, maybe eight years.

Q. Seven or eight?

A. Yes, sir. Of course, that is guessing.

Q. How old was the second boy Richard?

A. He was a little older.

Q. And the other one was still a little older than——

A. Still a little older, probably the oldest might have been twelve years old.

Q. What was this girl's name? A. I can't tell you.

Q. Don't you remember?

A. I don't remember what her name was.

Q. Well, did you know her name?

A. I probably did, yes, sir.

Q. Well, can't you tell us just exactly how old she was?

A. No, sir, I can't tell you how old this child was; just a good guess is all.

Q. What time in 1891 did you leave Wagoner?

A. I left there in the spring but I was back during the summer of '91; I worked on a ranch, our probably ten miles from town, and I was back at different times during the summer, but that fall I left there—went to Pine Bluff, Arkansas, and I wasn't there much after that.

Q. You were just there off and on in the summers?

A. Yes, just off and on.

Q. You left there for good—that is, you discontinued your permanent residence there in the spring of 1901? A. Yes, sir.

Q. Well, you understand mother and father live there, and I just was a young boy and I was working out on the ranch, just a rise of grass, probably about the first of April I went out to work on the ranch.

Q. How old were you at that time?

A. Well, I would have to figure it up a little bit.

The Court: When were you born—in what year?

A. Born in '74.

The Court: '91 you were about 17 years old?

A. Yes, sir.

Q. What is your birthday? A. The 19th of April.

Q. Then the 19th of April, '91, you was 17 years old?

A. About that.

Q. So you were 16 years old in the spring of '90?

A. Yes, sir.

Q. Did you have any sweethearts at that time?

A. Well, I never did have very many.

Q. You did have a girl, though, didn't you?

A. I don't remember.

Q. Don't you remember that you did?

A. It was a little bit early for me to start out.

Q. Well, did you go to school?

A. Yes, sir, I went to school there one term.

Q. One term at Wagoner? A. Yes, sir.

Q. While you were in school who was your teacher?

A. I am not sure but I think a lady by the name of Spriggs.

Q. Spriggs? A. Yes.

Q. You went to school all that winter?

A. Well, I can't tell you; I didn't go to school very much.

Q. What year was it you went to school?

A. I can't tell you exactly the last winter I did go.

Q. You don't remember? A. No, sir, not exactly.

Q. What kind of looking woman was the school teacher you mentioned.

Q. Well, she was—I understood that she was an unmarried lady and probably thirty years old; rather tall. She had relations that lived there in town.

Q. She had relatives living there in Wagoner?

A. Yes, sir.

Q. What was their names?

A. Well, she had a brother who was there; his name was Spriggs.

Q. What was the color of that school teacher's hair?

A. I can't tell you. I can't recollect.

Q. Was there any mark on her face of any sort, any mole or anything of that kind?

A. I probably wouldn't know her if I would see her today.

Q. You wouldn't know her if you would see her today? You went to school to her all that school session that winter?

A. Well, I went to school very little.

Q. But you would know this little child if you would see it today, wouldn't you? A. No, sir.

Q. You never did see Nancy in a family way did you?

A. If I did, I don't recollect it now.

Q. You don't recollect it if you did? A. No, sir.

Q. You left there in the spring of '91 and that child was from a year to a year and a half old?

A. Something like that; toddling around.

Q. Toddling around? A. Yes.

Q. How old, now, was that child the first time you ever saw it?

A. I was there when the child was born but I don't remember—the most distinct recollection that I have of the child was after it got big enough to run around town and was continuously on the street. It was a little country town with wooden sidewalks that everybody's kids played on the sidewalks, and I came in contact more or less with the child in front of the store, or on the sidewalk passing.

Q. You have some children of your own? A. Yes, sir.

Q. What time was the first time—how long before the spring of '91 was it, that you first noticed this child running around on the street?

A. Well, it was probably—I can't say that I saw it in the spring of '91; I say somewhere around '90 and '91 was the last time that I saw it.

Q. Sometime possibly in '90? A. Possibly in '90.

Q. Was it warm weather?

A. Well, it was warm and cold, I expect, both; it was continually on the sidewalk there.

Q. A little child a year old was running around in cold weather of '91?

A. It probably would not be—some of the coldest days we had, there were probably some warmer days.

Q. You knew Nancy from '85 on up until you left there, didn't you? A. Well, I knew her several years.

Q. Several years? A. Several years.

Q. And when you left there in the spring of '91, she was taking care of this child? A. Yes, she was there.

Q. You remember that? A. Yes, sir.

Q. Now, Mr. McClaren, you didn't know that she went to the penitentiary in 1890 and stayed eight months, did you?

A. If she went to the penitentiary, I didn't know it, no, sir.

Q. You didn't know about that? A. No, sir.

Q. The woman you are talking about didn't go to the penitentiary in the winter of '90 or '91.

A. I don't know; she might have.

Cross Examination by Mr. Stuart.

Q. What time did you go there to Wagoner?

A. We went there just a few months before the Iron Mountain Railroad went in there.

Q. Well, what year was that?

A. Well, I can't tell you sir.

Q. Well, was it '89? A. No, it wasn't '89.

Q. Was it '88?

A. I can't say; it was some where to the best of my recollection, somewhere about '84 or '85.

Q. About '84 or '85?

A. That is my best recollection.

Q. Then you were there when Nancy Atkins came to Wagoner, weren't you?

A. I don't know when she came.

Q. If she came in '89 or '90, you were there?

A. I was there, yes, sir.

Q. You were there in '88 and '87?

A. Yes, sir, I was there.

Q. And you never saw her pregnant while you were there?

A. If I did, I don't remember it.

Q. Well, now, you know you didn't see her pregnant, don't you? A. No, sir.

Redirect Examination by Mr. Hill.

Q. Mr. McClaren, Mr. German asked you if the woman you saw went to the penitentiary. I believe you said you didn't know whether Nancy went there or not. Did you know Nancy Atkins well?

A. I knew her well, very well.

Q. You knew her there from the time you came until you left? A. Yes, sir.

Q. No question in your mind that this woman that had this child that you describe was Nancy Atkins?

A. For a period of at least three or four years, I saw her nearly every week at least. I might have been in the country part of the time—my folks lived in town and I worked out any place that I could get work; worked in a store maybe a week or so, and would work out at the——

Q. The point I want to get at is, that you know Nancy Atkins? A. Oh, yes, I know her.

Q. You are not mistaken about that? A. No, sir.

Recross Examination by Mr. German.

Q. You were not present at the birth of any child to her, were you? A. No, sir.

Q. Now, you haven't any personal knowledge as to whose child that was, have you? I am not talking about reputation; you don't know whose child that was, do you? Now, just be frank about it, Mr. McClaren, if you know.

A. I know that she claimed it.

Q. Well, that is different. I say you don't know, you have no personal knowledge as to whose child that was?

A. Not more than what—her claiming, not more than that.

(Witness dismissed.)

And thereupon, J. H. ANDERSON, a witness produced on behalf of the defendants Nancy Atkins et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. J. H. Anderson.

Q. How old are you Mr. Anderson? A. 55 years old.

Q. Where do you live?

A. Live six miles east of Wagoner.

Q. Have you ever lived in Wagoner? A. Yes, sir.

Q. What years did you live in Wagoner?

A. Well, I have lived in Wagoner more or less ever since '83.

Q. '83; you went there first in '83? A. Yes, sir.

Q. And then how long did you live there then?

A. Why, I lived there—my home, as far as that goes; I made that my home for about 15 years; of course, in and out.

Q. You went there in '83, now how long did you live there before you moved away?

A. As I say I made that my home there about 15 years, would be out at work but I would make Wagoner home.

Q. Well, what year did you leave there to go somewhere else?

A. Well, I left there and went to Coweta in '92, if I ain't mistaken.

Q. '92; that is 1892? A. 1892, yes.

Q. Now, did you know Nancy Atkins when you lived in Wagoner? A. Yes, sir.

Q. When did you first know her?

A. Well, I hadn't been around there for, oh, probably a year or two before I seen her around there; worked at——

Q. Did you ever see her in a pregnant condition?

A. Well, I don't remember whether I did or not see her while she was in that shape.

Q. Did you ever know of her having a child?

A. I seen her leading one once and she said it was hers.

Q. About when did you see that?

A. Well, that was sometime about 1900 as well as I remember.

Q. You mean 1900 or 1890? A. 1890, I mean.

Q. About how old was the child, would you think it was?

Q. Well, I taken it to be probably two or three, or three or four months old at that time.

Q. You say it was nursing the breast? A. Yes, sir.

Q. Now, you stayed there you say until 1892? A. Yes.

Q. Did you see the child after that? A. Oh, yes.

Q. You remember of Nancy going to the penitentiary?

A. Yes, sir.

Q. Do you remember when she returned?

A. Well, no, I don't remember just when she did come back.

Q. Well, did you see her after she came back?

A. Oh, I seen her after she came back, yes, sir.

Q. Do you know where this child was while she was gone?

A. Well, as well as I remember, old lady Betsy Birney took care of this child.

Q. You saw it around there?

A. Saw it around with Betsy's children.

Q. Now, after she came back, did you see the child with her? A. I seen it going around with her, yes.

Q. Now, after you went away from there and went to Coweta did you see it any more?

A. No, I never seen it any more after I went to Coweta.

Q. When did you go back to Wagoner?

A. Well, I came back there to stay in 1903.

Q. 1903; did you see the child?

A. No, I didn't see it.

Q. Did you see Nancy? A. I seen Nancy, yes.

Q. Did you learn what had become of the child?

A. Well, I asked her where the kid was and she said it was dead, and I never asked any more questions about it.

Mr. German: We move to strike that on the same ground, Your Honor, that we object to any statement as a self-serving declaration.

The Court: Well, I have admitted these statements; the objection is noted and exceptions.

Q. You asked her where it was and she said it was dead?

A. Yes.

Q. Now, Mr. Anderson, did you know the Dick Atkins family? A. Yes, sir.

Q. Did you know a boy of Dick's named Thomas Atkins?

A. Yes, sir.

Q. Now, is the Thomas Atkins you have been talking about the child of Nancy's, the Dick Atkins Tommy?

A. No, sir, Dick Atkins' Tommy is a different child altogether.

Mr. German: They haven't been talking about a Tommy yet.

The Court: I appreciate that; merely talking about a child called Nancy's child.

Q. Do you know what Nancy's child was named?

A. No, I don't know; I never asked about the name, and never paid no attention to the name.

Q. Now, what was the color of this child that Nancy claimed?

A. Well, it was a kind of a mixed breed looking child.

Q. Well, you say mixed breed; what would you say?

A. Well, looked to me like it might be mixed a little with white, Indian and colored, all mixed up together, the way I had it from his looks.

Q. What was it, yellow?

A. Well kind of a brown yellow, or some kind of mixed breed color; can't hardly tell you the color of it.

Q. Well, what was the color of its hair?

A. Well, its hair would be called light; wasn't dark and wasn't light, but what we term as light hair.

Q. Well, what was the description of Dick Atkins' Tommy's? A. Well, he was dark skinned, curly headed.

Q. Kinky head, you mean? A. Yes.

Q. Well, he [ ] would *you* call a negro child? A. Yes.

Q. Now this child you described as Nancy's child was not the child known as Dick Atkins' Tommy?

A. Oh, no, different child altogether.

Q. How much older was Dick Atkins' child than this one of Nancy's?

A. Oh, I can't hardly tell you that; it must have been five or six years older.

Q. Did you know two boys around there, Charley and Harvey Harrison, said to have been Minnie Atkins' children?

A. Well, no, I didn't; might have seen them, but then I paid no attention to them.

Q. Do you remember a boy that Charley Bailey had?

A. I remember Charley having a boy there.

Q. Do you remember one that was at Jim Childers'?

A. Yes, I remember Jimmy having a boy out there; I don't know what their names were.

Q. Well, now was either one of those two boys the boy you saw with Nancy? A. No, sir.

Q. They were different boys?

A. Different boys altogether.

Cross Examination by Mr. German.

Q. You never saw this child you say was nursing Nancy after it was nursing, did you?

A. Yes, I seen it running around playing.

Q. How old? A. Oh, I can't hardly tell you exactly.

Q. How old was it the last time you ever saw it?

A. It must have been two or three years old.

Q. Had on dresses? A. Which?

Q. Had on dresses? A. Yes, had on dresses.

Q. Had on dresses and you don't know whether it was a boy or girl?

A. Well, no I can't say whether it was a boy or girl.

Q. No. Now if afterwards you saw a boy out there with Jim Childers, because it had on boys' clothes, of course you would say that is not the same boy, wouldn't you?

A. Well, it was a different complexion altogether, and different colored hair.

Q. Now describe that child that was with Jim Childers.

A. Well, little dark skinned, black headed.

Q. Dark skin and dark headed?

A. And I can't hardly describe him.

Q. What kind of blood was he?

A. Well, he was mixed blood, Indian and darkey.

Q. Indian and darkey? A. The way I pronounced him.

Q. Well, now that child Charley Bailey had what was he?

A. Well, he was mixed blood, too.

Q. He was Indian and darkey too?

A. Well, now from his looks, now, judging from his looks.

Q. Yes, you judged that from his looks.

A. Yes, of course I don't know that that was his blood.

Q. I thought you left Wagoner in 1892. A. I did.

Q. And went over to Coweta? A. Yes.

Q. Then didn't come back to Wagoner any more until 1903? A. Well, I didn't go there to stay.

Q. And you were over there a good deal?

A. I was in and out.

Q. The only Tommy Atkins you knew in or around Wagoner was this Dick Atkins' Tommy, wasn't it?

A. Well, only one I knew his name, and he wasn't in Wagoner.

Q. Well, he was there off and on; well you have seen him in Wagoner several times, haven't you?

A. I have seen him at his daddy's house; I don't remember that I saw Tommy in Wagoner, Tommy Atkins.

Q. Never did see Tommy Atkins in Wagoner, did you?

A. Yes, seen different Tommy Atkins in Wagoner.

Q. Tell us who they were.

A. An Indian fellow there at Coweta, seen him there in Wagoner.

Q. What was his name? A. Tommy Atkins.

Q. Who was his father? A. Billy Atkins.

Q. What other Tommy Atkins have you seen in Wagoner?

A. Cherokee fellow who lives over close to Tahlequah, he had a Tommy in Wagoner.

Q. What was that Tommy's father's name?

A. Sam Atkins.

Q. Sam Atkins; those negroes or Indians?

A. All Indian.

Q. And those were the only Tommy Atkins you have ever seen in Wagoner? A. That I remember, at that time.

(Witness dismissed.)

And thereupon M. J. PHILLIPI, a witness produced on behalf of the defendants Nancy Atkins et al., being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name. A. M. J. Phillipi.
Q. How old are you, Mr. Phillipi? A. 54 years old.
Q. Where do you reside? A. Inola, Oklahoma.
Q. Did you ever reside in Wagoner? A. Yes, sir.
Q. What year did you go to Wagoner?
A. I went to Wagoner the first of October, 1892.
Q. What business were you in there?
A. Newspaper business.
Q. What was the paper you ran?
A. It was called the Wagoner Record.

Q. Where was your place of business located when you first went there?

A. Well, it was at the foot of Main Street, on the west side, at the crossing on the east side to the west side of town.

Q. How long were you located at that place with your paper? A. Well, let's see; sometime in 1894.

Q. From 1892 to 1894 you were down there?
A. Yes, sir.
Q. How near Davis and Jones' store was that?

A. Well, their store was across the railroad and my office was—the back end of a lot was against the M., K. & T. right-of-way and their store abutted the right-of-way on the west side.

Q. Yes, sir, right across the right-of-way? A. Yes, sir.
Q. Did you know Nancy Atkins?

A. Yes, sir, I knew a woman there by the name of Nancy Atkins.

Q. Do you know whether or not she had a child?

A. She had a child at that time, looked like it was three or four years old, to me.

Q. Now, how often did you see that child?

A. Well, I didn't see it very often. Really the first time I ever paid any attention to it was a woman, name of Manuels did my washing, a colored woman, and she came over and delivered my washing one day, and I had to go out to town to get the change for her, and while I was gone this Atkins woman and her kid came along, and they stopped and talked there with her until I got back, and the Manuel woman spoke to her and called her Nancy and asked her how the child was, and she said it was well.

Q. Now, how often did you see it after that?

A. Well, oh, I just would see it passing around town occasionally and meet her occasionally on the streets; not very often.

Q. Now, how long did you continue to see it around there with her? A. Oh, for two or three years.

Q. Then after you said you had your office there until 1894? A. Yes, sir.

Q. Where was your office moved to then?

A. Moved on Cherokee Street, about half way between Main, I was on Main before, you know; about half way between Main and the court house on the north side of Cherokee Street.

Q. Now, after you moved up there did you see Nancy and the child any more?

A. Well, met them occasionally down town but hardly ever saw them up that way at all.

Q. You don't remember so much about them after you moved up there? A. No, sir.

Q. What kind of a looking child was this?

A. Well, it was rather dark and had rather light hair, it was a peculiar looking child, its hair was stringy, didn't look like it was ever combed very often.

Q. And what would you say about its blood, whether it was white, Indian or negro?

A. Well, it looked like it was Indian and negro, probably some white blood with it.

Q. About how large was the child the last time you saw it? A. Well, I judge four years, old, just a small child.

Q. And that was about '94?

A. Yes, probably 1894 or 1895.

Cross Examination by Mr. German.

Q. And you have been living in Wagoner ever since then?

A. Yes, sir, I left Wagoner in 1906.

Q. But you did live there from 1892 up to 1906?

A. Yes, sir.

Q. You saw a child there with Nancy when you first came there?

A. Well, probably the second year I went there in 1892.

Q. Your place was on the west side of the tracks?

A. No, it was on the east side of the tracks.

Q. Near the railroad tracks?

A. Near the railroad crossing. The main crossing between west and east was at my office, they turned the corner there.

Q. You had been there probably a year and it was then about three years old?

A. When I noticed it. I related to you the circumstances.

Q. The last time you saw it it was about four years old?

A. I judge four or five.

Q. Now, you don't know whose child that was, you have no knowledge about whose child that was of your own knowledge? A. No, I couldn't swear it was her child.

Q. There were lots of other children there in town, several other children there in town, weren't there?

A. Yes, sir.

Q. And you saw these other children around the streets, didn't you? A. Yes.

Q. Different people? A. Seen her.

Q. This was the only one you ever saw with her?

A. Well, I have seen her a time or two at Dick Birney's place of business on the west side.

Q. With Dick's children?

A. Yes, they were all there in the family.

Q. You don't know whose children those were?

A. Which children?

Q. Any of those children there in town of mixed blood?

A. I knew some of them.

Q. You knew who they were said to be? A. Yes, sir.

Q. You don't know who any of them were?

A. No, I couldn't swear to it.

Q. Do you know Harvey Harrison and Charlie Harrison?

A. No, I don't believe I do.

Q. Didn't you see some boys with Nancy there away back in the nineties? A. Two boys?

Q. Light colored boys?

A. I don't remember of seeing them.

Q. You don't recollect seeing them? A. No, sir.

Q. Instead of just one, didn't you see two?

A. Not at that time, no, sir.

Q. Well, did you ever at any time?

A. Well, I don't remember that I ever did.

Q. Don't remember that you ever did?

A. No, sir.

Q. Did that child have on dresses?

A. It did at that time, yes, sir.

Q. Had on dresses? A. Yes, sir.

Q. And you don't know whether it was a boy or girl?

A. Well, they called it Tommy, that is all I know.

Q. Who called it Tommy? A. This Indian woman.

Q. That is the first time you have spoken of that, isn't it, in your testimony here today? A. Yes, sir.

Q. Who have you talked to about this case lately?

A. Well, I haven't talked to anybody except Judge Maxey and Mr. White

Q. When did Mr. White first see you?

A. About this case?

Q. Yes? A. Last Tuesday.

Q. And you talked with him up at Wagoner? A. No, sir.

Q. Where do you live now? A. I live in Inola.

Q. You talked with him up there?

A. No, sir, I came down here with my wife, brought her down for medical treatment and she is here now; and I went to the Katy Depot and he was there, and he spoke to me about this case.

Q. You and he had a conversation about it? A. Yes, sir.

Q. And he arranged for you to come here and testify?

A. He asked me what I knew about the case and I told him.

Q. Your name is what? A. M. J. Phillipi.

Q. Is that the first time anybody ever talked to you about this matter at all? A. Yes, sir.

Q. First time?

A. First time anybody said anything to me about this case.

Q. And you left Wagoner fourteen years ago? A. No.

Q. When did you leave there? A. I left in 1906.

Q. You left there eleven years ago? A. Yes, sir.

Q. And you haven't seen this child since it was four years old? A. Four or five years old.

(Witness dismissed.)

Mr. Stuart: I would like to offer this marriage license of Henry Carter in 1904.

The Court: Well, it may be admitted now, and if there is a duplicate——

Mr. Stuart: I want to call Your Honor's attention to this marriage license of 1904, it gives Henry Carter's age as twenty-four years old in 1904. He married subsequently in 1908 and he gave his age as twenty-eight.

And thereupon, LIZZIE M. MILLER was called and sworn as a witness for and on behalf of the defendant, Nancy Atkins and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. Lizzie M. Miller.

Q. How old are you? A. Fifty-two.

Q. Is your name Miller now? A. Yes, sir.

Q. It used to be Beck? A. Nee Beck.

Q. Where do you reside now? A. Okemah, Oklahoma.

Q. Did you ever reside in Wagoner? A. Yes, sir

Q. What years did you reside in Wagoner?

A. Well, about sixteen years I think, I moved there the latter part of 1900 or 1897 as well as I remember, in December, 1897, as well as I remember.

Q. And lived there about fifteen years, you say?

A. Fifteen or sixteen years, I have been away four years.

Q. Did you ever know Nancy Atkins? A. Yes, sir.

Q. Where did you know her? A. In Wagoner, Oklahoma.

Q. Did you know her before you met her there and after you went to Wagoner? A. No, sir.

Q. You got acquainted with her about 1897?

A. Well, might have been 1898, I didn't know Nancy in 1897, but it was the early part of 1898, as well as I remember.

Q. Where did you first meet her?

A. Well, she was staying with a family named Birney.

Q. Betsy Birney?

A. Betsy Birney and Dick Birney I believe was the name.

Q. Now, do you remember whether she had a child?

A. She had a child there that they claimed to be hers.

Mr. German: We object to that.

The Court: Yes, that will be stricken from the record.

Q. Did she ever tell you it was her child?

A. Well, she didn't exactly tell me that he was her child, but she called him Tommy and ordered him around and Betsy said——

Mr. Stuart: Well, we object to this, it is not responsive.

The Court: You needn't state what Betsy said.

A. Well, the child was known to be Nancy's child.

The Court: Never mind.

Q. Now, how long did you see that child around there, Mrs. Miller?

A. Well, he was there about—— I remember him being there as much as eight or nine months, maybe a year after I knew him. And they called him Tommy.

Q. Now, what relation, business relation had you with the Birney's?

A. Well, I bought a little house from Birney's and some lots, and after we bought them we decided that we wouldn't build on it, and we just rented them the little house.

Q. And did you go there frequently?

A. Yes, when she would get behind with the rent, I would take my laundry there and get her to do it to help with the rent.

Q. What were you doing there at that time?

A. We were running a rooming house there.

Q. What was it called? A. McAnally Rooming House.

Q. Now, how often did you go to Betsy's there?

A. Some months I would go maybe once or a couple of times, and then again maybe I would take my lanudry every week, it was a good deal to the amount of rent she paid in.

Q. Well, did you see Nancy around there?

A. Yes, she was there.

Q. Did you see this child around there?

A. Yes, sir, he was there.

Q. Do you know what became of the child?

A. Well, the child died.

Q. Were you there when it died?

A. No, I wasn't there just when the child died, but I went there the day that they had taken him to the funeral, that is the reason I know. I went to get my rent. And Betsy had told me before that she was paying in the money on this boy—

Mr. German: We object to that and move that it be stricken from the record.

The Court: It will be stricken.

Q. Do you know anything about the child being sick there?

A. Yes, sir, he was sick there.

Q. For how long before he died?

A. Well, I don't just remember that.

Q. You remember that from going to Betsy Birney's?

A. From going there, but I don't remember just how long he was sick.

Q. And you learned that he was dead?

A. Yes, sir, he died there.

Q. You were there you say the day they were burying him? A. Yes, I was there the day they had gone to bury him.

Q. What kind of a looking child was this, Mrs. Miller?

A. Well, he was what I call a kind of scrubby looking boy, but I couldn't say just how old he was by him being kind of scrawny; he was kind of between an Indian—looked kind of like an Indian and I thought kind of mulatto, but I guess it was Indian and white.

Q. About how would you think he was the last time you saw him?

A. Well, from his face and looks I judge seven and a half or eight year old, something about that age, he might have been older.

Q. Can you say what year it was that he died?

A. Well, let's see. It was in the spring of 1899 I believe that he died; I am pretty sure it was either 1898 or 1899 but I am pretty sure it was 1899 when he died.

Cross Examination by Mr. German.

Q. Why do you think he must have been white and Indian? A. Well, I have been raised here and I usually can tell.

Q. Yes, but you say he looked to you like he was part negro, why do you say he must have been something that he didn't look like to you? A. Didn't look like to me?

Q. You say he looked to be part negro and part Indian?

A. I knew he was Indian from his mother.

Q. You are assuming that Nancy was his mother? And you knew she was an Indian? A. Yes, sir.

Q. But the boy looked to you like he was part negro and part Indian? A. Yes, he did.

Q. Why did you say a while ago that he must have been part white and part Indian? A. I don't know.

Q. Has somebody been saying something to you?

A. No, I don't know anything about this case.

Q. You don't know why you said that?

A. No, but I said he looked kind of like a mulatto like.

Q. So that was a negro boy according to your idea?

A. No, I didn't say that, I couldn't say what the boy was, only I know he was Indian but I couldn't say what else he was.

Q. Well, you regarded him as a mulatto?

A. No, I don't know as he was mulatto.

Q. Well, was he a white boy? A. Well, not exactly.

Q. Well, he was nearly white?

A. Well, I wouldn't think he was. It has been so long and I paid so little attention I couldn't say. But I know he was Indian and I know it was Tommy Atkins.

Q. What do you know about the other children?

A. I don't know anything at all, only Charlie Bailey had one out there with him that they claimed was either his brother's or something.

Q. Charlie had a brother of this child?

A. Well, I saw some little Indian children out there when I would pass but I couldn't say whether they were his or not.

Q. You thought it was that boy's brother?

A. No, I never knew about that at all.

Q. Well, Nancy didn't have but two children there that you knew about?

A. Well, I don't remember any of them but Tommy. He used to come down with Betsy's boys to bring me in kindling.

Q. And you don't know anything about that child Charlie Bailey had?

A. Not a thing on earth only he had some little Indian children out there.

Q. Charlie lived in the country? A. Yes, sir.

Q. Tell the Court why you mentioned Charlie Bailey?

A. Well, they said that that was Nancy's boy, but I don't know it to be.

Q. Said that about them?

A. Yes, that is what they said in town. They just said that Charlie had those children.

Q. Those children of Nancy's?

A. Had one or two of them, I don't know.

Cross Examination by Mr. Stuart.

Q. What was the color of this child's hair you saw with Nancy, what was it?

A. Well, his hair, as well as I remember was kind of light.

Q. Was it a molasses color?

A. Yes, kind of molasses color, what I call molasses color.

Q. There is a black molasses, isn't there? A. Yes, sir.

Q. Well, it was a black molasses color? A. No, sir.

Q. Then, there is a light molasses color?

A. Well, it was kind of between the black and the light kind, like the yellow molasses.

Q. Then, you say he had a yellow molasses hair?

A. Yes, sir.

Q. Do you know what a chocolate yellow is? A. No, sir.

Q. Did you ever see any yellow chocolate? A. No, sir.

Q. Most chocolate you saw was brown? A. Yes, sir.

Q. The fact is, you know he wasn't chocolate yellow colored hair?

A. He wasn't the kind of chocolate I am thinking of. I am thinking of that dark.

Q. You never saw any yellow chocolate, did you?

A. No, sir.

Q. And you wouldn't know what a chocolate yellow was would you? A. No.

Q. You say he was betwixt black molasses and a very light molasses?

A. Well, kind of a sandy, we call them dishwater blonds.

(Witness dismissed.)

And thereupon, Court recessed until nine-thirty A. M., Saturday, June 2, 1917.

And thereafter, and at 9:30 o'clock A. M., June 2nd, 1917, court convened pursuant to adjournment, and further proceedings herein were had as follows:

Mr. Hill: I have a rebuttal witness that is anxious to get away.

Mr. Maxey: The sheriff of Wagoner County.

The Court: Alright.

And thereupon, J. W. RUBLE, a witness produced on behalf of the defendants Nancy Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Hill.

Q. Mr. Ruble, state your name, age, residence and occupation.
A. J. W. Ruble, 42 years old, sheriff of Wagoner County, Oklahoma.
Q. How long have you been sheriff of Wagoner County?
A. Since the first of January.
Q. How long have you lived at Wagoner?
A. A little better than twenty-one years.
Q. When did you move there? A. December, 1896.
Q. What business were you engaged in the few years that you were there? A. Drug business.
Q. With whom?
A. I was a drug clerk for the Wagoner Drug Company.
Q. Are you acquainted with Charlie Harrison, or Lee Harrison sometimes called? A. Yes, sir.
Q. How long have you been acquainted with him?
A. Well, most all his life.
Q. Where was he when you first knew him?
A. Living with Charlie Bailey at Wagoner.
Q. At Wagoner or near Wagoner? A. Near Wagoner.
Q. Are you acquainted with his brother Harvey Harrison? A. Slightly, yes, sir.
Q. How long have you known him?
A. Well, I have seen him four or five times in his life; I never knew him like I knew Lee.
Q. You know his appearance and you know him?
A. Yes, sir.
Q. Do you know Cheney Trent? A. Yes, sir.
Q. Do you know the members of her family?
A. Yes, sir.
Q. The Dick Atkins family? A. No, sir, I do not.
Q. She is the only one you know?
A. She is the only one I knew, yes, sir.
Q. How long have you known her?
A. About 18 or 20 years.
Q. Are you acquainted with Nancy Atkins?

A. Yes, sir, I have seen her.

Q. How long have you known Nancy Atkins?

A. Well, I knew Nancy Atkins in 1896 or '97.

Q. Not later than that?

A. Well, I don't think I have seen her since she left there in '97.

Q. Left Wagoner? A. Yes, sir.

Q. Do you know whether she left there in '97, or did you quit noticing her?

A. Well, I noticed her quit coming around the store; I don't know what became of her.

Q. As far as you know you didn't notice her beyond '97 or something like that? A. No, sir.

Q. Were you acquainted with the boy who was with her during the time you knew her in Wagoner? A. Yes, sir.

Q. State what you know about it.

A. Well, it was just a chap about five or six years old, going around with her and supposed to be Nancy Atkins' boy.

Mr. German: We object to the supposition.

The Court: That will not be considered what was supposed; it is stricken from the record.

Q. State about it going around with her; how often would you see them together, and what relation did they seem to occupy to each other?

Mr. German: Let him state the fact; I object to the conclusion.

The Court: I assume that he will state what he saw.

Q. Well, this child would come with Nancy Atkins to the store, I can't say how many times but a number of times; I would say from one to seven months—some where in that neighborhood; I don't know how many months. I would see them every two or three days together.

Q. Did you see the boy at times when he was not with her and get acquainted with him and know him? A. Yes, sir.

Q. I wish you would describe that boy to the court?

A. He was a boy five or six years old I judge. The best I remember now he was a sandy haired boy and freckle face, few freckles, very dirty child playing with the negro boys around in front of our store.

Q. Do you know his name?

A. No, sir, never heard his name.

Q. Now, do you know the general reputation in that community as to who his mother was? A. Yes, sir.

Mr. Hill: I make the same offer.

The Court: Same offer may be made as indicated in similar instances as to other witnesses.

Mr. Hill: Don't answer this question. I want to prove by this witness that for a period of approximately a year he knew this woman and child at Wagoner, and it was generally understood in that neighborhood that this boy whom he has described was her son.

The Court: Same record in regard to it.

Mr. Hill: That is refused? And exception.

Q. Mr. Ruble, state whether this boy that you have described and seen associated with Nancy was either Charlie or Harvey Harrison? A. No, sir, it was not.

Q. Was he such a boy that could have been a brother of this Trent woman, Chaney Trent?

Mr. German: We object to that.

The Court: That will be a conclusion so far as this witness is concerned, I take it.

Mr. Hill: I believe he would be entitled to draw a conclusion, but I will put the question a little differently.

Q. How did his appearance compare with that of this Trent woman, particularly, I call your attention as to the blood or race?

A. Well, the Trent woman was a negro and he looked more like an Irishman.

Mr. German: Are you referring to the Trent woman?

A. That is what he said.

Mr. Hill: She testified, Your Honor will recall, that she was a half sister of this Thomas Atkins and described him as a little lighter than herself. He don't know any of the family except this one woman.

Q. What did this boy of Nancy, what blood did he appear? A. He looked like he was Caucasian blood.

Q. What else? A. Indian.

Q. Did you see any other indication of any other blood than Caucasian and Indian? A. No, sir.

Cross Examination by Mr. Allen.

Q. You went to Wagoner, I believe you say, Mr. Ruble, in 1895 or 1896? A. Ninety-six.

Q. You never saw or heard of Nancy Atkins before that time, you never knew any of the members of the family, Minnie, Nancy, or any of the Atkins family? A. No.

Q. Where did you go from to Wagoner, where did you come from to Wagoner? A. Harrison, Arkansas.

Q. And you say Nancy passed out of your mind after 1906 or during the year 1907? A. 1907.

Q. You have no recollection of ever seeing her after that time? A. 1897.

Q. So, there was only how long that you knew her?

A. Well, I judge it was not more than a year, and I think less than a year.

Q. During that time she was in your store you say something like once a month?

A. Oh, more than that, I think every two or three days I believe I said.

Q. But there wouldn't be a child with her every time you would see her? A. No.

Q. You saw this child a number of times? A. Yes, sir.

Q. And you have no idea, no definite idea now as to just how he looked? A. Just how he looked?

Q. Yes? A. Oh, yes.

Q. Did you ever see this child after Nancy left?

A. No, sir.

Q. When did you get acquainted with Harvey and Charlie Harrison?

A. I got acquainted with Charlie Harris, that is we called him Lee Harris, well I think I saw him in 1898 and 1899 and I have known him ever since; and Harvey Harris I have never seen but three or four times in my life.

Q. That is in recent years? A. Yes, sir.

Q. And if you saw him during that time you don't remember? A. Harvey?

Q. Yes? A. No.

(Witness dismissed.)

And thereupon, SID JOHNSON, a witness produced on behalf of the defendants Nancy Atkins et al., being first duly sworn testified as follows:

Direct Examination by Mr. Hill.

Q. Mr. Johnson state your name, age and residence, and occupation. A. Sid Johnson.

Q. Age, residence and occupation?

A. Age 45; occupation is Special Agent for the M., O. & G., a railroad here.

Q. Your residence?

A. Residence is Fort Smith, Arkansas.

Q. What positions have you occupied, Mr. Johnson?

A. Well, I was deputy United States Marshal for Judge Parker's court in the early days.

Q. Speak out loud.

A. I was deputy United States Marshal for Judge Parker's court, the Fort Smith court in the early days; and I was Chief of Police at Fort Smith, Captain of Police and Patrolman.

Q. You have been a peace officer practically all your life?

A. Yes, sir, for twenty-five years.

Q. Did you at any time run as a special officer on a Katy train in then the Indian Territory? A. Yes, sir.

Q. At what time? A. That was in November, 1894.

Q. Can you recall the date and the occasion that—you got anything to fix it specifically in your mind as that time?

A. Yes, sir.

Q. What is it?

A. Well, at that time I was living at Vinita, and I was guard on a train for the American Express Company; we go on at Vinita, somewheres about 5 o'clock every evening and went to Checotah, there we met the northbound train number 2, and we always were in a hurry to get off there and catch that train to keep from delaying it.

Q. Well, was that the time of the train robberies here that you run as a guard for the Express Companies?

A. Yes, sir.

Q. Mr. Johnson were you acquainted with Lee Atkins?

A. Yes, sir.

Q. Where did you know him?

A. I knew Lee here and I knew him at Checotah, and knew him for quite a while.

Q. Do you know what business he was engaged in at Muskogee? A. Pool hall.

Q. Had you ever been in it? A. Yes.

Q. Did you know his sister Minnie Atkins? A. Yes.

Q. Did you see her at Muskogee, along about the time that you are referring to now, in '94 and '95?

A. Yes, sir, that time when I seen her.

Q. Did you know of the death of Lee Atkins?

A. Yes, sir.

Q. When did it occur, state the circumstances that fixed it in your mind.

A. Well, I worked this month, the month of November, for the American Express Company——

Mr. Maxey: November of what year?

A. 1894; and as I was telling you, as I got off of this train I was running on up to catch the other train and some one at Checotah told me that Lee Atkins was killed—shot.

Q. Told you who killed him, or anything? A. Yes, sir.

Q. Who was it? A. Amos McIntosh.

Mr. German: I don't know the object of this proof; let me ask counsel a question?

The Court: The effect of this evidence is that Lee Atkins was killed in November, 1894.

Mr. Hill: It just merely fixes the sequence of events. You remember that Minnie testified that she came here in response to a letter from Lee Atkins and that she stayed here so long after his death. Not especially important other than it fixes the sequence of events.

The Court: Now, this man's testimony is that he heard in 1894, someone told him that Lee Atkins had been shot.

Mr. Hill: By Amos McIntosh.

Q. Just one other question, Mr. Johnson: Did you ever see Lee Atkins in life after that time? A. No, sir.

Q. And you were well acquainted with him before that time? A. Yes, sir.

Mr. Hill: I don't know what Your Honor ruled as to the general understanding——

The Court: The death is admitted. Here is a circumstance this man relates establishing the date of the death.

Cross Examination by Mr. Stuart.

Q. You say Minnie was here at that time? A. Yes, sir.

Q. '94 and '95? A. Yes, sir.

Q. And you don't know whether she attended on her brother when he was sick or not? A. No, sir.

(Witness dismissed.)

Mr. Hill: Now Your Honor, in this connection we introduce testimony of Mr. Turner that he was uncertain about the date, and we want to prove definitely the date of John Davis' death. We are having some investigation made to see if we can get more definite on that and we would like to reserve our testimony on that until next week

The Court: Alright; that is the date of Davis' death?

Mr. Hill: John Davis' death.

The Court: Mr. Turner testified it occurred here in the city sometime?

Mr. Hill: Yes, sir, occurred right here in town; he was murdered here in the outskirts of Muskogee. I think we can get it definitely if you will give us a little time.

The Court: Alright.

And thereupon, T. W. BELL was called as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. You have been sworn as a witness in this case?
A. Yes, sir.

Q. What is your name? A. T. W. Bell.

Q. Residence? A. Leavenworth, Kansas.

Q. Do you know what year Rube Smith started the grocery business in Leavenworth? A. The spring of 1897.

Q. Did you have anything to do with financing him when he started into the grocery business? A. No, sir.

Q. Did you have any connection with his entry into that business?

A. I helped him purchase his bill of groceries, figured it up for him.

Q. You are acquainted with Mrs. Mattie Cobb, who testified as a witness on behalf of the defendant Page and others at Leavenworth on February 23, 1916? A. Yes, sir.

Q. Before Giles Penick, the Examiner? A. Yes, sir.

Q. Did you have a conversation with her at your office on or about February 16, 1916?

A. Yes, sir, sometime in February, I wouldn't give the date, that year.

Q. State whether or not in that conversation she stated to you in substance that the child she saw at Granny Letchers she dressed, that he had a scar on his back and that Mr. Page had told her that if she wouldn't tell that he, Page, would make her comfortable for life?

Mr. Stuart: She did what, told him that?

Mr. Allen: Yes, sir.

Mr. Stuart: I don't know whether they laid that impeaching question or not.

The Court: I was assuming that that appeared in the deposition.

Q. Did she, at that time, in your office in the City of Leavenworth, say to you in substance that she would be willing to testify for you and testify to the scar on the boy's back provided you would make a substantial financial arrangement with her? A. She did.

Q. Did she, at that time and place, say to you, in your office, say to you that she had told Lee Bond in his office about the scar, and that Mr. Bond threw up his hands and said: "My God, I thought you were my friend"? A. She did.

Q. Did she say to you at that time that Mr. Page had gone over her testimony with her and that he told her that he wanted her to testify to the birth of this child at Granny Letcher's and to nothing else, and that he would make her comfortable for life? A. She did.

Q. Did she say to you at that time and place, in substance, that Mr. Long had told her that if she would testify right he would pay her for it? A. Yes, sir.

Q. Did you subsequently have a conversation with her in the Federal Hotel in Kansas City? A. I did.

Q. How long was that after the conversation at your office? A. About two or three days after.

Q. And how long before she testified at Leavenworth?

A. Must have been thirty or sixty days.

Q. Were we taking depositions at that time in Kansas City? A. Yes, sir.

Q. To be used in this case? A. Yes, sir.

Q. Did she at that time and place say to you in substance the same things that she had said to you in the office at Leavenworth? A. She did.

Q. Did she further, at the Federal Hotel in Kansas City at the time mentioned, say that she would be willing to testify for you but before doing so she wanted to see the big man with the money? A. Yes, sir.

Q. Referring to Mr. Blakeney? A. Yes, sir.

Q. Did you at that time say to her that the man with the money was a big black man and not a big white man, but you were not paying anything for testimony? A. I did.

Q. Did she at that time and place, in Kansas City, say to you in substance that the trouble with your side of the case is that you haven't got any money on your side of it?

A. She did.

Q. Who was present at this conversation when you had this conversation at your office in Leavenworth?

A. Mr. Morton, my stenographer, and her daughter.

Q. Mrs. Cobb's daughter? A. Mrs. Cobb's daughter.

Q. Who was present when you had this conversation with her at the Federal Hotel in Kansas City?

A. Her daughter was present.

Q. Was Mr. Morton there?

A. Mr. Morton was there, but I think he had stepped out of the room; he was there part of the time, I won't say he was there all of the time. He had brought them to Kansas City by my request, I expected to take their depositions there.

Q. Did you know Granny Letcher in Leavenworth?

A. I did.

Q. What was her color?

A. About the color of Dennis Jones.

Q. What is that color?

A. We call him a colored man, we don't call him a black man.

Q. Full blooded colored man?

A. No, I don't say that, Mr. Allen, there is very few full blooded colored men.

Q. Was she black? A. We called her black, yes, sir.

The Court: The deposition of this Cobb woman I assume has been offered in evidence on behalf of the Page interests?

Mr. Stuart: Yes, sir.

The Court: I would suggest, Judge, that you defer cross examination of this witness until you have been supplied by the stenographer with today's transcript and then you can examine the record in connection with that?

Mr. Stuart: Well, I think I can examine him now, Your Honor; I got the substance of it.

Cross Examination by Mr. Stuart.

Q. Now, you say this testimony, this impeaching question was asked her at Leavenworth last year? A. Yes, sir.

Q. And you were there that time representing who, as a lawyer? A. I was representing the Tommy Atkins interests.

Q. The Tommy Atkins interests? A. Yes, sir.

Q. But you were representing this Henry Carter horn of Tommy? A. Yes, sir, which every way you care to put that.

Q. And your claim is that when the child was born it had a spot on its back, is that right?

A. Not always, it was after I had heard so by——

Q. Alright, but your claim after you had made up your mind about the truth of your case was that the child that was born to Minnie Atkins at Granny Letcher's house had a spot on his back? A. Yes, sir.

Q. And you went out to find out if it was true about that spot, didn't you? A. No, she came to my office, Judge.

Q. How come she to come to your office?

A. I heard of her——

Q. Well, you sent for her, didn't you? A. I did.

Q. You sent for her to come up into your office?

A. Yes, sir.

Q. And there had this conversation with her? A. Yes, sir.

Q. And she told you that the baby was born there, had a spot on his back? A. She did.

Q. And that the reason she couldn't testify for you was that the other people put up more money? A. She did.

Q. And that if you would put as much money as they did, that she would testify for you? A. Certainly, yes, sir.

Q. That is what she said? A. Yes, sir.

Q. Alright. And she said when she went into Lee Bond's office and spoke about the scar, that Lee threw up his hands?

A. Yes, sir, she did.

Q. Now, Lee Bond was practicing law in Leavenworth at that time, wasn't he? A. Yes, sir.

Q. And you had known him all his life? A. Yes, sir.

Q. Did you ask Lee Bond about that? A. No, sir.

Q. Did you go to him and ask if this woman made that statement to him?

A. I never said nothing to Lee Bond until at the Federal Building when we were taking the depositions there in May or June.

Q. What did you tell Lee Bond in the Federal Building?

A. When she testified there, I said, Lee, that old lady came to my office and gave me a great big story which I believed but she has gone back on it now, and gone back to you, or something like that.

Q. But you didn't tell Lee that she told you that this child had a scar on his back? A. I don't know that I did.

Q. You never intimated it to him?

A. I don't know that I said that.

Q. Now, when she was examined up there, you were present in court? A. I was.

Q. And those questions were put there and you heard her deny it? A. Yes, sir.

Q. You didn't then take the stand, did you?

A. I didn't but I was surprised.

Q. You were surprised—why didn't you take the stand then and impeach her? A. I wasn't called on to take the stand.

Q. She was swearing against your client wasn't she?

A. Yes, but——

Q. Answer my question. She was swearing against your client? A. Yes, sir.

Q. You knew that she swore a lie against your client? A. Yes, sir.

Q. You knew that she told a different story? A. Yes, sir.

Q. Why didn't you take the stand and impeach her?

A. We cross examined for that purpose of impeaching her.

Q. I know, but why didn't you take the stand?

A. Because I expected to be here.

Q. Alright; you kept it to yourself? A. Yes, sir.

Q. Did you cross examine her there?

A. I don't know whether I did or Mr. Blakeney.

Q. The questions about this detail were asked by Mr. Allen, weren't they?

A. We asked them also; you will find them in the record.

Q. Now, was that the first time you had seen the Cobb woman?

A. The first time I had seen the Cobb woman was in my office.

Q. How much did she say the Page people offered her to take her testimony back?

A. She just said Mr. Page would make her comfortable for life.

Q. Did she say Mr. Long said anything about it?

A. She said Mr. Long told her they would take care of her and she would never want, or something like that.

Q. Alright; now, did she say any other people connected with the Page interest promised to take care of her?

A. I don't know that he mentioned anybody else's name so far as the money consideration was concerned.

Q. Now, how long was this before the trial that she told you this—before she gave her evidence?

A. It was in Leavenworth in February; I think we had taken the depositions in either May or June at Leavenworth—that she gave her deposition I am not sure—one of those months. We were there off and on them three months and when she told me this story in Leavenworth, we were taking depositions then at Kansas City. I immediately took she and her daughter over to Kansas City for the purpose of putting them on the stand. They stopped at the Federal Hotel, and I talked with them, and when she told me this story and demanded money, and demanded five hundred dollars from me, I told her I didn't have the money to give her but paid her expenses down there which was all I could do.

Q. Do you know Mr. McMillian here, this gentleman over here? A. I do, sir.

Q. You know he was the first man that ever talked to the Cobb woman in this case? A. No, sir, I don't.

Q. You don't know that? A. No, sir.

Q. She swore that on the stand up there, the first man she saw was Mr. McMillian? A. I don't recollect it now.

Mr. Allen: I object to that testimony, because I don't think that is the testimony; I think she said the first person she talked to was Mr. Crilly.

The Court: He is asked if Mr. McMillian is the first man that talked to the Cobb woman, now if he knows he may state. If he doesn't he will not answer. As to what the testimony is, I will get that from the record.

Mr. Allen: He answered that and then Judge Stuart said, don't you know she testified.

The Court: I will get that from the record.

Q. I didn't get it just how long before the hearing at Leavenworth she told you this?

A. Judge, we were taking depositions from February clear up to June, in Kansas City and Leavenworth. We were in Kansas City in February I know; we was in Leavenworth in both the months of May and June.

Q. Then, she told you this in February?

A. It was February I saw her in Kansas City.

Q. I thought you said she came to your office in Leavenworth?

A. Well, I had her in Kansas City—— She came to my office in Leavenworth; two days afterwards I had Mr. Martin bring her to Kansas City.

Q. What Mr. Martin? A. Mr. R. E. Martin.

Q. Who is R. E. Martin?

A. He is a gentleman in Leavenworth.

Q. Fix that date when Mr. Martin brought her?

A. Well, the date he brought her to Leavenworth when we were taking depositions.

Q. No, you say Kansas City?

A. Somewhere between the 10th and 20th, maybe the 15th or 16th; I can look at my records.

The Court: What month?

A. Of February.

Q. You had her over in Leavenworth on what date?

A. About two days before that.

Q. And then Mr. Martin brought her over to Kansas City between the 10th and 20th of February?

A. Yes, sir, I went to Kansas City the next day, and the next day I telephoned to Mr. Martin to bring her down there, we would take her deposition.

Q. And she was in Kansas City while you were taking depositions? A. Yes, sir.

Q. And then you had another talk with her in Kansas City?

A. I went to the hotel.

Q. One at the office and the other at Kansas City?

A. Yes, sir.

Q. Then, after that the depositions were taken in Leavenworth? A. Yes, sir.

Q. Did you intend to call her yourself?

A. Not after she told me she wouldn't testify unless I gave her five hundred dollars.

Q. After that you didn't intend to call her?

A. Yes, sir, she told me she wouldn't testify.

Q. When she did testify in Leavenworth you went to Lee Bond and told him you were surprised at her testimony?

A. I told Lee Bond I see you have the old woman. She told me you folks wanted her to testify to what wasn't true. I will say to you, Judge, that Mrs. Cobb——

Q. Never mind. I don't want your explanations, you can give them to your counsel. As a matter of fact, didn't you say a minute ago that you told Lee Bond at Kansas City when she testified that you were surprised at her testimony?

A. No, sir, I said at Leavenworth at the Federal Building.

Q. She told you at Leavenworth she wanted to testify?

A. She told me in Kansas City in the Federal Hotel.

Q. What did she tell you at Leavenworth she wanted?

A. She told me at Leavenworth she would testify for us because she wanted to tell the truth and the Page interests wanted her to testify up to the time that Tommy left and leave off the balance and leave off the scar.

Q. She told you in Leavenworth that she would testify for you? A. Yes, sir.

Q. Then, you took her to Kansas City? A. Yes, sir.

Q. When you got to Kansas City she refused to testify for you? A. Made a demand for money.

Q. And refused to testify? A. Yes, sir.

Q. Because she didn't get it? A. Yes, sir.

Q. And then she went back to Leavenworth and testified?

A. And testified for you.

The Court: Are you through with the cross examination?

Mr. Stuart: One question.

Q. Mr. Bell, what was the first place you saw this woman in Kansas City? A. Mrs. Cobb?

Q. Yes. A. At the Federal Hotel.

Q. Federal Hotel? A. Yes, sir.

Q. Now, who was with her at the Federal Hotel—what woman? A. Her daughter, Mrs. Tittle.

Q. Mrs. Tittle was at the Federal Hotel? A. Yes, sir.

Q. Now, who went up there with you? A. Not any one.

Q. Were you by yourself?

A. I was by myself when I went up there.

Q. Did anyone come there while you were there?

A. No, sir.

Q. Was anyone in the hotel while you were there that was associated with you? A. Yes, sir.

Q. Who was it? A. Robert Martin.

Q. Robert Martin? A. Yes, sir.

Q. Now, Robert was on the outside, was he, of the room?

A. They had two rooms there and they came over to the Federal Building where we were taking depositions and told me where the rooms where they were stopping at the hotel, and when we adjourned at noon, why I went over there.

Q. Did you have any difficulty about getting in?

A. No, sir.

Q. Not a bit? A. No, sir.

Q. Was Mrs. Tittle present when you had that conversation with Mrs. Cobb?

A. Mrs. Tittle, I think, sat in the other room and talked to Robert Martin.

Q. Mrs. Tittle wasn't in there at all?

A. She wasn't in the room.

Q. Robert Martin was talking to Mrs. Tittle in the other room? A. Yes, sir.

Q. Now, that was all who went with you to the Federal building (hotel)? A. Yes, sir.

Cross Examination by Mr. Allen.

Q. You say she told you upon that occasion that she wanted to see Mr. Blakeney? A. She did.

Q. Did you convey that information to Mr. Blakeney?

A. When we convened at 2 o'clock I had Mr. Blakeney to go over there.

Q. And he went over and saw her and talked to her?

A. Yes, sir.

Q. You say that——

Mr. Allen: If Your Honor please, I don't understand just what counsel for the defense is getting at in Judge's cross examination of this witness upon the fact of the conversation——

The Court: Simply bringing out the details.

Mr. Allen: In view of the fact that Your Honor has not read the deposition, she stated * * *

The Court: I understand that you laid that predicate; she denied having this particular conversation. I will not go into what her testimony showed, because I will get that from the record.

Q. Now, this conversation in Kansas City in the Federal Hotel, was after you had the conversation with her in your office? A. Yes, sir.

Q. Had you formerly represented any of the members of Mrs. Cobb's family? A. I had.

Q. Who?

A. Her brother, and you might say the whole of her brother's family.

Q. In criminal cases? A. Criminal cases.

Mr. Stuart: Your Honor——

The Court: I will not consider that; what her brother and his family had done casts no reflection on her testimony.

Mr. Allen: None on earth. I did not intend it to, except to show his acquaintanceship.

The Court: All right, I will appreciate that part of it.

Q. Had you during that service talked in connection with Mrs. Cobb?

A. Mrs. Cobb was in my office several years ago when her nephew was being tried for burglary.

The Court: Well, now, don't go into those details. Now, you knew Mrs. Cobb before this occurrence?

A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. Bob Martin got on the car between Leavenworth and Kansas City after Mrs. Cobb got on the car?

A. I don't know.

(Witness dismissed.)

And thereupon, W. T. HUTCHINGS was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. Your name is W. T. Hutchings? A. Yes, sir.

Q. You are an attorney here in Muskogee? A. Yes, sir.

Q. Major, I wish you would refresh the Court's memory as to what day of the week April 20th came on in the year 1885? A. Monday.

Q. I wish you would refresh the Court's memory as to what day of the week April 20th came on in the year 1884?

A. Sunday.

Q. What day of the week did it come on in the year 1886?

A. Tuesday.

Mr. German: That is all.

The Court: Any cross examination.

Mr. Stuart: Can't cross *examination* about dates when he is looking at the almanac. I guess you have correctly stated it, Colonel?

A. Yes, sir.

(Witness dismissed.)

And thereupon, R. E. MARTIN was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name? A. R. E. Martin.

Q. Your age and residence?

A. Seventy-four the 8th day of this month.

Q. Where do you live, Mr. Martin?

A. I am working out of Kansas City, Leavenworth is my home.

Q. Are you one of the lessees or interested in the lease from Henry Carter?

A. I am interested in the lease, yes, sir.

Q. T. W. Bell is also interested in that lease? A. Yes, sir.

Q. Who represented you in 1916 during the time the depositions were being taken before Mr. Giles A. Penick at Kansas City and Leavenworth in addition to Mr. Bell?

A. The attorneys interested in the Henry Carter case.

Q. Who?

A. The attorneys interested in the Henry Carter case.

Q. Who are they?

A. Mr. Blakeney was there at that time and Mr. Johnson and Mr. Bell.

Q. Mr. Blakeney of Muskogee? A. Yes, sir.

Q. Were you present in the office of T. W. Bell in the City of Leavenworth a short time before Mrs. Mattie Cobb testified at Leavenworth at which time she had a conversation with yourself and Mr. Bell and others? A. Yes, sir.

Q. Did she say, at that time and place, in substance, that Mr. Page had stated to her that if she would testify to the birth of Thomas Atkins at the home of Granny Letcher, and nothing more, he would make her comfortable for life?

A. She said that Mr. Page over there——

Mr. Stuart: Let him answer that yes or no.

The Court: Did she say that?

A. Yes, sir, she made that statement.

Q. Did she say anything in that conversation—— Well, I will ask this question: Did she say in that conversation in substance that Mr. Long had told her that if she would testify that she would be well paid for it?

A. I don't remember her making that statement.

Q. You don't remember that. Did she say at that time in substance that Mr. Page had further stated to her that he didn't want her to remember anything about a scar on the back of this boy, and that if she would remember right he would take care of her the balance of her life?

A. I don't know, I didn't hear all of that conversation; I was in and out of the hall, I was in there part of the time while she was doing this talking.

Q. Were you present at the time she had a conversation in the Federal Hotel in Kansas City?

A. I was at the Federal Hotel, yes, sir.

Q. Did you hear her make a statement of that kind in substance, that Mr. Page had said that if she would remember right about this boy that he would take care of her for life?

A. They talked to her in an opposite room from where I was at.

Q. You didn't hear that? A. No, sir.

Q. Were you present when she had a conversation about seeing the big white man, did you hear any conversation?

A. Yes, she wanted to see the big white man.

Q. Did she say in your presence that she wanted to see the big white man with the money?

A. She wanted to see the big white man that was interested in the case.

Q. That was in the Federal Hotel in Kansas City?

A. Yes, sir.

Q. Did she say at either of those times or places, say in your presence, that she would be willing to testify for you but before doing so you would have to make a substantial financial arrangement with her, or that in substance?

A. She was looking after the money end of it.

The Court: Well, now, I don't want your conclusion. You are asked whether she made a certain statement of a certain kind in substance, did she or not?

Q. Did she say that? A. Yes, sir.

Cross Examination by Mr. Bond.

Q. Now, what did she say in Bell's office?

A. That was in the Federal Building.

Q. What was said in Bell's office—that was several days before? A. The day before if I remember right.

Q. She was up in Bell's office because you went out with a hack and brought her up there? A. Yes, sir.

Q. And in Bell's office she said Mr. Page had seen her and told her he was going to make her comfortable for life?

A. Well, she told me what they wanted to do, that is she told Mr. Bell in my presence.

Q. And at the same time she told you that if you would make a substantial money proposition to her she might change her testimony? A. She said that in the Federal Hotel.

Q. Did you just now say she said that in Bell's office too?

A. She said in the Federal Hotel in Kansas City.

Q. I am asking you what she said in Bell's office now. Didn't you just now testify that in Bell's office she told you and Bell that if you would make a substantial money consideration to her she would change her testimony?

A. She was talking to Bell.

Q. Well, she told that to Bell in his office, didn't you just now say that, Mr. Martin? A. I don't think I did.

Q. Well, now, what is your recollection whether she did or not in Bell's office?

A. She said it in the Federal Hotel in Kansas City.

Q. We are not there yet, we are in Bell's office in Leavenworth. I want to know whether you heard her say in Bell's office to him in substance or fact, that if they would make a substantial money consideration to her she would change her testimony; didn't you stand there and hear her say that to Bell?

A. I wasn't present at all of the conversation.

Q. Well, when you were present, did you hear her say that in Bell's office? A. I don't believe I did.

Q. But you did hear her say in Bell's office that Mr. Page had promised her to take care of her if she would testify the way he wanted her to?

A. If she stayed with him he would make her comfortable for life.

Q. How did you happen to be at the Federal Hotel in Kansas City when she was?

A. Mrs. Edwards' daughter called me and said they were leaving Leavenworth on a certain car to meet Mrs. Edwards' sister, and asked me to catch that car at Fourth and Spruce, about two blocks and a half from my place; I live at 708.

Q. And you got on the car out there and then took them up to the Federal Building in Kansas City?

A. Yes, or they taken me.

Q. What is this lease you are interested in?

A. Henry Carter lease and a contract covering the Henry Carter lease.

Q. To whom?

A. The lease, if I remember right, is made to Coody Johnson and J. C. Stroud.

Q. Is your name in it?

A. Not in the least, no, sir.

Q. You then have been getting evidence in this case on your own behalf?

A. I was employed by Coody Johnson as a detective to ferret out this evidence, yes, sir.

Q. Did you hear her say up there in Bell's office that she had told Lee Bond in his office that the boy had a scar on his back and he threw up his hands and said "My God, I thought you were my friend"?

A. I didn't hear all the conversation at Bell's office.

Q. You were out in the hall when that was being said?

A. Part of the time, yes, sir.

Q. And if such a remark as that was made you were not there then?

A. I wasn't in Bell's office all the time.

The Court: What is your business, Mr. Martin?

A. Conductor on the Interurban between Kansas City and St. Joe.

Q. After your talk in Kansas City, you went over to Platte City to see her again?

A. I went over with Mrs. Tittle for some letters that Mr. Long and Mr. Page had written to Mrs. Edwards.

Q. And you talked with her then, didn't you?

A. Not much. She didn't have much to say to me.

Q. You never made the money proposition to her?

A. No, sir.

Q. That you say she mentioned?

A. No, sir, had none to offer.

Cross Examination by Mr. Cobb.

Q. In that conversation in Bell's office, did Mattie Cobb mention anything about the scar on the boy's back?

A. Yes, she said she could testify to the scar, seeing it.

Cross Examination by Mr. Stuart.

Q. How long had you been seeking Mrs. Cobb to get this scar testimony, how long had you been after her?

A. It hadn't been long. George Crilly told me about this.

Q. How long? A. I couldn't say just how long.

Q. How many conversations had you had with her before she told you about the scar?

A. Well, the first one I ever had with her.

Q. Well, where was that?

A. The first conversation I had with her was out at Mrs. Tittle's house.

Q. Who was present when that conversation was up?

A. There was nobody but Mrs. Cobb and I, Mrs. Tittle was in the other room.

Q. Mrs. Tittle didn't come in at all while the conversation was going on?

A. Well, she was in and out too, but she didn't hear the conversation.

Q. You are sure of that? A. I am sure of that.

(Witness dismissed.)

And thereupon, BENJAMIN B. BLAKENEY was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Benjamin B. Blakeney.

Q. You are an attorney practicing law at Muskogee, you are located I mean at Muskogee? A. Have been.

Q. You are now located at Tulsa? A. Tulsa.

Q. Mr. Blakeney, you have been one of the attorneys for the Henry Carter interest in this Atkins case, have you not?

A. Yes, sir.

Q. Do you know a white woman by the name of Mrs. Mattie Cobb? A. Yes, sir.

Q. In the early part of 1916, did you have a conversation with her anywhere? A. Yes, I can't just say the time.

Q. It was while depositions were being taken in this case?

A. Taking of depositions in Kansas City, whether it was February or March, or the little trip we made in May—— It was just a few days before she testified; I can fix it that way.

Q. The record shows, Mr. Blakeney, if I am not mistaken, that she testified February 23rd at Leavenworth, so it was before that?

A. I would say that it was during the month of February prior to that time; it was just a few days unless we took a recess. I think we left Kansas City after I talked to her.

Q. Where was it you held the conversation with her?

A. At the Federal Hotel.

Q. In Kansas City?

A. Kansas City, Room 505 is my recollection.

Q. State whether or not in that conversation she stated this or this in substance: That she knew about this boy, referring to Thomas Atkins, that she had dressed him when he was a little baby, that he had a birthmark on his back, and that he was afterwards taken to the country by Henry Carter.

A. Yes. Of course she didn't say it in that connected order. I had a long conversation with her.

Q. In what way did she say it?

A. Well, Mrs. Cobb is very deaf as you remember.

Q. Yes.

A. I can't—— I found one night at my room a telephone notice that I had been called from that place.

Q. Your room was at the Muehlebach?

A. My room was at the Muehlebach. I think it was the same night Judge Allen and I went out in town one night, I think on my return I found it. The next morning I called up the number and the room and there was nobody in there and I asked them—— I didn't know it was a hotel, they just told me the number. I asked the party who it was that called me and they said it was two ladies. And so as I went down to the Court Building, Bell I think stopped me.

Q. That was the next morning?

A. The next morning Bell stopped me and told me—— Well, advised me that the parties were there and I went up.

Q. Into the Federal Hotel?

A. I went up to the Federal Hotel and when I went up they were eating breakfast and I waited around a while; and as soon as they came out—and Mr. Martin came in the meantime and Mr. Martin and I went up with them to their rooms, they had large double rooms up in the hotel. And I went very fully into the matter with the daughter, Mrs. Tittle, with whom I could talk without difficulty.

Q. Because she could hear well?

A. Because she could hear well, and I discussed the matter very fully and the daughter suggested that I talk to her mother. Then, I talked to her mother and the conversation with Mrs. Edwards.

Q. That is Mrs. Cobb? A. Mrs. Cobb, yes.

Q. Mrs. Cobb you understand was Mrs. Edwards?

A. Yes, I always called her Mrs. Edwards until she got on the stand. I talked to her and I talked to her substantially by just telling her what I had learned from her daughter that she knew. And she would affirm it. I would say now your daughter says you remember so and so and she would say yes.

That was substantially the way the conversation was conducted. She told me some things more than had been inquired about. She told me, if you will remember the examination that I conducted there, you can see some other matters that she told me.

The Court: Let's confine it to this impeaching testimony.

Mr. German: Your Honor, may I turn this over to Judge Allen? He is more acquainted with it than I am.

The Court: Yes.

Examination by Mr. Allen.

Q. Mr. Blakeney, in that conversation in Kansas City, did Mrs. Cobb say to you in substance that Mr. Page had agreed to take care of her the balance of her life if she would testify as to this boy and say nothing about the scar on his back? A. I don't think so, Judge, I don't think——

Q. Did she say anything to you——

Mr. Stuart: Well, let him get through with that answer. I want it in the record. What was your answer, Mr. Blakeney?

A. I said I don't think so.

Mr. Allen: I didn't know Mr. Blakeney was in town and I hadn't searched through this examination for impeaching questions.

The Court: Well, cross examine him to the extent you desire.

Mr. Hill: If the Court please, while they are waiting for another witness, we are not through——

The Court: Well, I don't like to mix this up.

Q. Mr. Blakeney, during this conversation that you had with Mrs. Cobb in the Federal Hotel in Kansas City, did she say to you in substance that she remembered the scar on this boy's back, and that she remembered as a little boy that old man Henry Carter, a vegetable huckster, came to Granny's and took him to the country and that he would return with him frequently and permit him to visit around there?

A. Yes, sir.

Q. And she continued to see him at Granny's?

A. Yes, sir, substantially that.

Cross Examination by Mr. Stuart.

Q. Now, Mr. Blakeney, who was up there with you when you went there?

A. I think Martin was but I am not sure, Judge, that Martin went up with me or not, now.

Q. Now, you didn't go up by yourself did you?

A. No, I think Martin went up and showed me the room, and I think when I was talking to the daughter that Martin was in the room with us.

Q. Where was Bell?

A. Oh, Bell wasn't with us at all that day. Bell met me as I went up and told me that the women were up there—wanted to see me, but Bell didn't go with me that day at all.

Q. Then you and Martin went together you think?

A. Yes, I think Martin waited down stairs and joined me——

Q. Have you related all the woman said to you?

A. Oh, no.

Q. On the impeaching proposition, she said to you that this boy had a scar on his back and that she saw him with a scar on the back and so forth?

A. Well, it didn't come up that way, Judge.

Q. It came up this way, it was a deaf woman, wasn't she?

A. Yes, sir.

Q. And you were asking her a leading question, embodying what you wanted her to say, yes or no, and would she say yes or no?

A. Embodying the subjects that I was suggesting, I probably said to her, introducing this subject, your daughter tells me you remember about Henry Carter taking him out from the town; and then she would say yes, and then she would start out and tell me, I remember old Henry Carter coming there and getting the boy when he was just a kid and putting him in the wagon and driving him around town and finally taking him out in the country, and the boy came in sometimes, and I saw him after I moved away from there, saw him bringing the boy back as he brought vegetables and so forth.

Q. What did she tell you about Page buying her?

A. So far as I can recollect, I don't think that the subject was mentioned between us.

Q. What did she say about Frank Long buying her? That wasn't mentioned either, was it?

A. Well, I don't think that the word buy—I believe that somewhere I got the information that she had received a consideration which I regarded reasonable—I don't remember what it was, for coming to testify.

Q. From what you got from her, what she had received didn't excite any suspicion on your part at all?

A. None at all; none at all.

Q. And she didn't there at any time, Mr. Blakeney, accuse Page or Long, or any of his crowd of trying to buy her, did she?

A. I don't think either Page or Long was mentioned in that conversation. I was trying to get my own evidence.

Recross Examination by Mr. German.

Q. Mr. Blakeney, you were not with—if Martin and Bell had a conversation with her at Leavenworth a day or so before that, you were not present? A. Well, I——

The Court: I think I understand that thoroughly; I understand that Mr. Blakeney was not at Leavenworth when the first conversation was had; that afterwards she came to Kansas City a day or two afterwards. First Bell went up and talked to her, and then after that, Mr. Blakeney.

Q. Mr. Blakeney, you had declined to go and see this woman for a while, hadn't you? A. Well, yes, I suppose so.

Q. At least you didn't go? A. I avoided her.

Q. You avoided her? A. Yes.

Q. You were the so-called big white man, is that right?

A. Well, that is my own judgment of myself.

Cross Examination by Mr. Stuart.

Q. You mean to say, then, Mr. Blakeney, when she was referring to the big white man, she was referring to you and not to Page at all?

A. Well, my understanding of it was that every time she would meet Coody, or Mr. Bell, she would say, well now I don't want to talk to you. I want to talk to the big white man that has the money; and as I didn't have it I avoided her.

Mr. German: Judge, we didn't mean to indicate that she referred to Mr. Page in the conversation.

Mr. Stuart: Well, I don't know what it meant, and I suppose the Court didn't.

The Court: Well, I had the impression that it was some big white man at the head of this particular interest.

Mr. German: That is it.

Witness dismissed.

And thereupon, IRWIN DONOVAN, being produced as a witness on behalf of the United States, sworn and under

Direct Examination by Mr. German.

Q. What is your name? A. Irwin Donovan.

Q. What is your profession, Mr. Donovan?

A. Attorney at law.

Q. Practicing at Muskogee? A. Yes.

Q. What age are you? A. Nearly 38.

Q. Mr. Donovan, were you ever in the employ of the Dawes Commission?

A. Yes, sir, from September 25th, 1904, to January 8th, 1905.

Q. In what division of the Commission were you employed? A. Creek enrollment.

Q. What was the title of the office you held?

A. Law clerk.

Q. Law clerk. What was the practice of the Commission in the enrollment division with relation to the making of entries on census cards when an order was issued for the holding up of the patents which had been prepared, executed, approved and recorded but not delivered?

A. It was made at once.

Q. On the census card?

A. Yes; as a general rule, the letter comprising the order was written in Creek enrollment division by the chief clerk, or by me—that is, it was prepared and typewritten there, and then sent to the head office where it was signed by the Commissioner and delivered to us. When that letter was signed, we made a notation on the card.

Q. Now, take as an illustration this, Thomas Atkins case; I don't know whether you have seen this card or not. I haven't got it at hand to show you just now, but there appears a letter, written May 9th, 1905, addressed by the—signed by the Commissioner Tams Bixby, addressed to E. B. Miller—no, addressed to Heiny Haynes, I believe it is, H. G. Haynes, chief of the enrollment division, or substantially that, stating that in substance, that in as much as a question has arisen as to the citizenship of Thomas Atkins, enrolled opposite number 7913 on the Creek Indian roll, you are directed to suspend action in the matter of the issuance of patents to the heirs of Thomas Atkins; that is substantially the letter. Now, if that letter was received by the enrollment division, what action would be taken with relation to making a note on the census card?

A. If such a letter were received a notation would be made at once but that sort of a letter I don't think would come to the division; it would be written from the Creek enrollment division to the Creek Land Office to E. B. Miller, but we would make the notation when we wrote the letter.

Q. I see, the letter then would probably be written to the Land Office?

A. Yes, it would originate in the enrollment division.

Q. It was in the Land Office that such patents as I just referred to if issued, would be issued? A. Yes, sir.

Q. Then, at the time the letter would go out, what notation would be made on the census card?

A. Well, I don't know the exact form of it but it would be in substance your office is directed to hold up patents.

Q. And it would indicate why, as a rule?

A. As per letter, or see letter. It might give the reason.

Q. It might give the reason and would identify the letter by reference to its date? A. Yes, sir.

Q. And probably by reference to the party to whom it was addressed? A. Yes.

Q. And by whom signed? A. Yes, sir.

Witness dismissed.

Mr. German: Now, Your Honor in the matter of Mrs. Cobb's testimony at Leavenworth, when her testimony was taken, they had a Bible there which was not exhibited, which I was informed was the Bible showing the record of the birth of the Edwards family. Mr. Page stated on the witness stand that they had that Bible here. It has never been introduced, or used in connection with the testimony of any witness, and I would like to call upon counsel to permit us to inspect that Bible.

Mr. Stuart: Do you want the Bible?

Mr. German: Yes.

The Court: They want to inspect this.

Mr. Stuart: We will produce it.

Mr. German: We now reoffer in evidence what we have termed the hold-up records in the office of the Commission, they are the letters and the certified copies of the letters written in 1905 and of the entries made on the record in 1905 in the office of the Commission relating to the holding up of the Thomas Atkins patents, and relating to the holding of the issuance of these to the heirs.

The Court: Were they not offered in your case in chief?

Mr. German: Yes, sir, we offered them once and they were objected to and Your Honor sustained the objection; and then we offered them again later on and Your Honor held up action in the matter of the offer.

Now, in view of the testimony of Mr. Frank Long for the defendants, and of the testimony of Mr. Foreman, and other witnesses, we think they are clearly competent evidence on the question of notice to the defendant.

Mr. Stuart: We object to them, Your Honor, for two reasons; first because they are incompetent, irrelevant and immaterial, and because the identical question was raised in the Thlocco case, and the Supreme Court of the United States held that the delivery was not necessary of those patents and it could not be material in this case.

Mr. German: Now, it is not upon the question of delivery especially that we make that offer but it is to show that the defendant had notice that question was raised with relation to the citizenship of Thomas Atkins; knew that before they dealt in relation to the land, before they dealt with Minnie. They had notice of all this, constructive notice of all of them, and actual notice of part of them.

The Court: The objection will be sustained and exceptions noted.

Mr. German: Then we especially offer, Your Honor, letter of May 9th, 1905, to E. B. Miller signed by the Commissioner, which Mr. Long states that he saw and read.

Q. Is that objected to?

Mr. Stuart: No, I don't care about that.

The Court: It may be admitted. I am inclined to think that that is properly a part of your case.

Mr. Hill: That would only be introduced as to the Page interests, I take it under Your Honor's ruling?

The Court: Yes; it is offered for the purpose as counsel for the Government suggests, as he conceives, of tending to prove that the Page interests had notice of a question with regard to——

Mr. Hill: Mr. Long testified he read that letter himself.

Mr. Stuart: Yes, but he read it after the lease was executed.

Mr. Hill: I am not objecting on account of that but not as to our client.

Mr. German: We want to state that we don't agreed to Judge Stuart's statement as to when he read it.

The Court: Alright.

Mr. German: Now, we offer in evidence again, Defendant's Exhibit Number 14; Your Honor will recall that that exhibit was a certified copy of the census card which on its face shows that it was certified on July 6th, 1914, and Mr. Long testified that he purchased that certified copy and it contained these pencil notations with reference to the suspension order in the matter of the issuance of the patents to the heirs of Thomas Atkins.

The Court: Now, that is already in the record by the defendant?

Mr. German: They identified it, but did not introduce it.

The Court: There is offered in evidence Defendant's Exhibit Number 14, which is a certified copy of the census card testified to by Mr. Long; is there any objection to that going into the record as evidence on rebuttal?

Mr. German: That should be B-14, Your Honor.

Mr. Stuart: We have no objection to it.

The Court: It may be admitted.

And thereupon, FRANK KERSTEN, a witness produced on behalf the complainant, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Frank Kersten.

Q. Mr. Kersten, where do you reside? A. Sir?

Q. Where do you reside? A. Leavenworth, Kansas.

Q. What age [] you?

A. 34 years of age the last of April.

Q. What position if any do you hold in the City of Leavenworth? A. City detective.

Q. Mr. Kersten, how long have you been engaged with the enforcement of the law in Leavenworth?

A. A little over five years.

Q. Are you familiar with the police records? A. I am.

Q. Of that city? A. Yes, sir.

Q. State whether or not whether you ever made a search through the police records to see whether in the '90's, there was a boy or any person arrested and incarcerated, or tried. by the name of Thomas Atkins, or Tommy Atkins?

A. No, sir.

Q. I asked whether you have made search?

A. I have made search, yes, sir.

Q. Did you find any record by that name at all?

A. There is no record shown of arrest of Tommy Atkins in the '90's or up to '97.

Q. Did you look beyond '97? A. Yes, I looked in 1900.

Q. You looked to 1900?

A. I looked to 1901, I think it was.

Q. Looked up to 1901? A. Yes.

Q. And did you find a record of his arrest at all?

A. There is no record of any arrest of Tommy Atkins.

Q. Did you find any record relating to the arrest of Tommy York? A. I did, sir.

Q. Very frequently?

A. I think he was arrested four times.

Q. Four times; in what year?

A. I think it is in the year of '97, if I ain't mistaken.

Q. Do you recall what the record shows you he was arrested for? A. He was arrested twice——

Mr. Hanford: Your Honor, I object to that as incompetent, irrelevant and immaterial.

The Court: The record will be the best evidence.

Q. Have you the record there, Mr. Kersten?

A. I have the record here, yes, sir; police court record.

Q. For what period of time?

A. Beginning July 21st, 1896.

Q. And ending? A. And ending October 30th, 1897.

Q. Will you refer to that and tell us what record you find on Tommy York?

Mr. Hanford: Now, Your Honor, I object on the ground that it is improper rebuttal, and on the further ground that it is incompetent, irrelevant and immaterial what arrest was made of Tommy York or anybody else.

The Court: What is your contention in regard to this as being rebuttal?

Mr. German: Simply this, Your Honor, some witness testified that he was a policeman in 1896 and '7, and I think that he arrested Tommy Atkins, as I remember it —Pat DeLaney.

Mr. Hanford: At Granny Letcher's house.

Mr. German: And we find no record relating to the arrest of Tommy Atkins.

The Court: It has been shown that——

Mr. German: But we do find Tommy York arrested several times on different offenses including as I believe an arrest for larceny.

Mr. Bond: The witness also said that he knew Tommy York and knew Tommy York was a bad boy and had been arrested; what is rebuttal in that or impeaching in that?

The Court: Well, the witness may show. I don't know whether it will show any light on this, I will hear it.

A. This is the record from 1897 to——

The Court: Well, now, you were interrogating about 1897, and prior dates. Let's stick to that, now, until we get through with it.

Mr. German: Well, if there is no record there about Tommy York——

Q. Is there, Mr. Kersten?

A. No, not in the first; this is the beginning of November 1st, 1897.

Q. That is where you find the record relating to Tommy York? A. Yes, sir.

The Court: My recollection of the evidence is that the period covered by the witness relating the testimony, that it was almost all, if not all, prior to 1898, anyhow.

Mr. German: Yes, sir, as I remember it was 1897, or—but he was on the police force during all this time.

The Court: Now, you have a record there that runs up to some date in '97; whatever that shows in relation to Tommy Atkins or Tommy York, I will let go in.

Mr. Hanford: Give us an exception, Your Honor please.

The Court: Exception noted. We will not go into that '98 record. I am satisfied that the '97 record will cover all the period in this case.

Mr. German: Your Honor, we have a record here of Pat DeLaney, arresting Tommy York in 1898 for petit larceny.

The Court: You may interrogate witness about that.

Q. Mr. Kersten, what record have you there on Tommy York in '98?

A. Do you mean the year of the beginning of the record?

Q. No, sir, that page 268-269? A. 269; Murphy——

Mr. German: Mr. Pinson read it upside down; it was Pat DeLaney, instead of petit larceny, so I beg the court's pardon.

Q. Mr. Kersten, you knew Tommy York did you?

A. I did, sir.

Q. What kind of a looking boy was he?

A. Well, he was a colored boy; black, straight hair; I knew him at one time when he grew a mustache. His mustache was straight.

Q. That was when he was much older?

A. Well, that was in the last two years I would say.

Q. He is not living now, is he? A. No, sir, he is not.

Q. Did he have any appearance of an Indian when he was young?

A. Well, he had some features I could see, to the best of my judgment.

Cross Examination by Mr. Bond.

Q. Your best judgment is that Tommy York had straight black hair and didn't have kinky hair? Is that what you want to tell the Court? A. I know his mustache was straight.

Q. I am not talking about his mustache, Mr. Kenton; do you want to tell the Court that he had straight black hair and not kinky hair like a nigger's?

A. My best judgment is that his hair was straight.

Q. And not kinky or wavy? A. Not wavy.

Q. Didn't have even any kink in it?

A. I didn't see him with his hat off.

Q. Oh, you didn't see him with his hat off? Isn't it a fact that that boy was known as a negro around there all his life? A. I have known Tommy York in the last five years—

Q. In the last five years did you know him as anything but a negro? A. He is always known as negro.

Q. What is your position on the force?

A. I am city detective at the present; I was motorcycle policeman.

Q. Yes, before you were injured? A. Yes, sir.

Q. You knew Tommy York's mother, too, didn't you?

A. No, I didn't.

Q. Didn't know Cassie York? A. No, sir.

(Witness dismissed.)

Mr. Stuart: Your Honor, in this connection I want to offer a census card certified out of this office in [illegible].

The Court: Is that identified by number?

Mr. Stuart: Yes, sir.

The Court: I mean for the purpose of this record?

Mr. Stuart: I am going to offer that; I want for Mr. Humphrey to identify that.

The Court: Well, while he is coming, let it be marked as an exhibit in this case.

(Marked defendant's Exhibit B-25.)

Mr. Stuart: Before we commence this matter, we offer the testimony of Tommy York taken in Leavenworth in one of the state cases. Tommy York is now dead.

Mr. German: We object to it as hearsay, and incompetent, irrelevant, and immaterial; it wasn't taken in this lawsuit.

Mr. Stuart: No, it was taken at Leavenworth and he is now dead.

The Court: I think I have excluded evidence of that character already in this case.

Mr. Stuart: You did because the party was not dead, but out of the jurisdiction. But we now make the formal offer of Tommy York's testimony taken in Leavenworth to matters the same as now in controversy in this case.

Mr. Maxey: We object to that too, Your Honor. We offered the testimony of Henry Birney taken in the same case and that was ruled out.

The Court: The objection will be sustained and your exception noted. And the record may show your offer of that testimony.

And thereupon, THOMAS HUMPHREY was called as a witness for and on behalf of the defendants Minnie Atkins et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Humphrey, is this your signature? A. Yes, sir.
Q. You certified to that paper, did you not?
A. Yes, sir.
Q. And at the time you issued that paper, what was the period? A. April 2, 1912.
Q. 1912. That is a certified copy of Thomas Atkins' census card as it then existed in your office which you issued in 1912? A. Yes, sir.

The Court: I understand for the purpose of the record that the only portion of this exhibit offered is that other than lead pencil marks. Now, what exhibit is this?

Mr. Stuart: Defendant's Exhibit B-25.

The Court: I understand defendant's Exhibit B-25 if offered, it will be admitted.

Q. Now, that paper there contains every notation that was on the census card in your office when you certified to it? A. Supposed to be.

Mr. Stuart: That is all.

Cross Examination by Mr. German.

Q. These lead pencil marks, Mr. Humphrey, that we have been talking about, that are on this defendant's Exhibit B-25 are written up at the top of the card and are these words: "Charlie Harrison, Harvey ditto, Number 5638," and some figures opposite the other name, and Charles Bailey and Mitchel Wadsworth, Guardians, Wagoner; are they not; I have read the pencil marks except the word "Dead" opposite the words "Atkins, Thomas"? A. Yes, sir.

Q. State whether the lead pencil word "Dead" written opposite the words "Atkins, Thomas" what you know about that?

A. I couldn't swear that was on there at the time it was made or wasn't. It has been so long ago since I certified to it. I imagine though it was on there.

Q. Now, you haven't seen the original—I think it is agreed that the original doesn't show that even yet?

Mr. Stuart: No, I don't agree to anything.

The Court: Mr. Humphrey, do I understand that you are uncertain as to whether this word "dead" in lead pencil immediately following the name Thomas Atkins on this certified copy, defendant's Exhibit B-25, you are uncertain as to whether that was on in lead pencil when you issued this certified copy?

A. Yes, sir.

The Court: Was it the practice in issuing certified copies of this character to note on the certified copy any portion in lead pencil, or was it all made in ink?

A. As a rule we made it in ink.

The Court: Under the practice then obtaining if the original card from which you made this certified copy had borne the notation "dead" following the name Thomas Atkins, would you, in making the certified copy, have written the word "dead" in ink or pencil?

A. Had I made the copy myself, I would have written it in ink. I didn't make the copy, I just certified to it.

The Court: Do you know what the practice was at the time?

A. The practice was to make it all in ink.

Q. Mr. Humphrey, you didn't do the work of making up that certified copy, did you? A. No, sir.

Q. All you did was to sign it. It was brought to you by some clerk in the office as a true and correct copy?

A. Yes, sir.

Q. You didn't even compare it with the original census card? A. Not myself.

Q. You just took somebody else's word for it that it was a copy as you always did? A. Yes, sir.

Q. It was a physical impossibility for you to make those comparisons? A. I couldn't do it.

Q. Now, you can't say to your own knowledge, whether that is a correct certified copy or not, because you didn't compare it? A. No.

Q. Now, Mr. Humphrey, when was it that you went out of the office of the Commissioner? A. 1914.

Q. What time in the year?

A. First of April, I think.

Q. Prior to the time you went out of the office, wasn't there a rule established that in making certified copies all lead pencil notations appearing on the census card should also be put into the copy?

A. They were supposed to be, put in everything on the card.

Q. But for a long time in making certified copies lead pencil work on cards was not put into the copies?

A. Not that I knew of.

Q. You didn't know about that practice?

A. I didn't know about that. I supposed everything that was on the original card was on the certified copy or it wouldn't be a true copy.

Q. Now, don't you remember, Mr. Humphrey, that some serious questions arose out of the fact that in sending out certified copies, you didn't put lead pencil notations that appeared on the census card on certified copies?

A. I don't remember of any special instance.

Q. Do you not for instance remember the Stephen Grayson case that I had something to do with, where there was a notation in lead pencil on Stephen Grayson's card that he had died in 1902, but that was put on in lead pencil, and when some party bought a certified copy of that that they didn't get a copy of that because it was not put on the certified copy; and that I raised some complaint about it?

A. I believe I remember.

Q. And shortly after that the rule was established that thereafter you would put in not only the typewritten and ink work but also the pencil work?

A. Well, it was supposed to be established then, he didn't think it belonged on there. As soon as it was discovered he was instructed to put it on.

Redirect Examination by Mr. Stuart.

Q. Mr. Drew OK'd this didn't he? A. Mr. Drew?

Q. What did he do there?

A. Mr. Drew is the man that made out the certified copy.

Q. What was Mr. Drew, what was his business there?

A. Making certified copies.

Q. He made the certified copy which somebody requested and brought it to you? A. Yes, sir.

Q. And you certified to it? A. Yes, sir.

Q. Where is Mr. Drew?

A. I couldn't tell you, I think he is down at Holdenville.

Q. And on Mr. Drew's O.K. you certified to that paper?

A. Yes, sir.

Q. Now, you didn't have anything to do with the certification then, except to put your certificate on?

A. That is all.

Q. You—— Did you ever examine any of those yourself?

A. Oh, yes, I have examined some of them.

Q. You gave certificates to some that you have examined yourself? A. Yes, sir.

Q. And whenever you examined one and sent it out, you put on everything that was on the one in the office?

A. Yes, sir.

Q. You didn't leave a thing off, whether it was in writing or in pen. If you examined and found some notations in ink and some written under in pencil, you put them all on when you sent them out?

A. I either put them on or had them put on.

Q. That was your custom when you made these examinations and made these certificates, wasn't it? A. Yes, sir.

Cross Examination by Mr. German.

Q. But you say you don't have any recollection to have made such an examination in this case? A. No, sir.

Q. And that numerous cases you did not make a personal examination? A. Yes, sir.

> Mr. Hill: If the Court please, there is some mention about pencil entries that I want to make it clear. These entries which have been read as pencil notations at the top about Charlie and Harvey Harrison were not on the card when he got it from the Dawes Commission, but a mere memorandum which has been added since.

Mr. Stuart: I think so. I make no claim to that whatever.

(Witness dismissed.)

And thereupon, ELIZABETH DILLMAN was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Elizabeth Dillman.

Q. What age are you, Mrs. Dillman? A. Forty-nine.

Q. Where do you reside? A. Fort Leavenworth.

Q. Fort Leavenworth, Kansas? A. Yes, sir.

Q. Speak out a little louder please, Mrs. Dillman. How long have you resided at Fort Leavenworth?

A. Off and on for the last thirty years.

Q. Off and on for the last thirty years? A. Yes, sir.

Q. Do you know Minnie Folk, nee Atkins? A. Yes.

Q. Where did you know her best?

A. Well, at Fort Lawton and Fort Wayne, Michigan.

Q. When did you go to Fort Lawton?

A. About ninety-four or five, ninety-four I think, 1894.

Q. But you knew Minnie well there? A. Yes.

Q. And without going into details, you also were at Fort Wayne when she lived there? A. Yes.

Q. And you knew her well there? A. Yes.

Q. Now, did you have any personal acquaintance with her at Fort Wayne and Fort Lawton? A. Yes.

Q. Talked with her lots of times? A. Oh, yes.

Q. Did you have a personal acquaintance with her at Fort Leavenworth? A. Well, no.

Q. Did you know her by sight? A. Yes.

Q. Where were you—— When was it you knew her by sight at Fort Leavenworth?

A. Well, about 1885 along there.

Q. Where were you born? A. Leavenworth, Kansas.

Q. You understood where Minnie was employed at Fort Leavenworth? A. Yes, sir.

Q. Where? A. By a Mr. Grodevant.

Q. Carpenter?

A. An Architect I think, something of that sort.

Q. Did you know where the Grodevant's lived there?

A. Yes.

Q. Where was it with reference to the prison?

A. Well, we called it back of the prison, called it Bluntsville.

Q. Where were you living at that time?

A. I was living directly in front of the prison on the main parade.

Q. In order for Minnie to go down town, state whether she would pass where you lived? A. Yes.

Q. Did you ever attend a Decoration Day service at the Post at Fort Leavenworth? A. Oh, yes.

Q. State whether or not you saw Minnie at the Decoration service at any time? A. Yes. Yes, I saw her there once.

Q. Did you notice her especially?

A. Just looked at her, yes, just noticed her as she passed.

Q. Was there anything that attracted your attention about her on that day? A. Nothing except her dress.

Q. What was peculiar about her dress?

A. She had a very bright gay colored dress on.

Q. Who was you with? A. I was with a friend.

Q. What was his name? A. His name was Purcell.

Q. Is he now Captain Purcell? A. Yes.

Q. You were then about what age?

A. About sixteen or seventeen, somewhere along there.

Q. Captain Purcell was your sweetheart? A. Yes.

Q. Now, Mrs. Dillman, did Minnie show any evidence of being in a family way at that time?

A. No, I can't say that she did.

Q. What Decoration Day was that, in what year?

A. That was about eighty-five.

Q. During those times that you would see Minnie, on other times when you would see her, where would you see her there in Fort Leavenworth?

A. Oh, off and on, just going around the Post.

Q. Did you know of her working at the Staffords?

A. No.

Q. You didn't know? A. No.

Q. Where did the Staffords live with reference to where you lived? A. Just a few doors away.

Q. What direction? A. South.

Q. Now, in order for Minnie, if she worked at Staffords, to go to town she would not pass where you were working?

A. No.

Q. Did you ever see Minnie there at the Fort when she appeared to be in a family way? A. No, I did not.

Q. Mrs. Dillman, you testified at Leavenworth in the County Court House there? A. Yes.

Q. In October, 1914, didn't you? A. Yes.

Q. And you stated that you didn't know Minnie out at Fort Leavenworth? A. Yes.

Q. And that—I don't remember just how you put it, but substantially that you only knew her by reason of people saying that she was there? A. Yes.

Q. That is substantially the way you put it. State to the Court how long before you gave that testimony that your attention was called to the matter of Minnie Atkins?

A. Well, just a matter of a few days.

Q. Under what circumstances?

A. Well, now, I can't just recall who the person was, but somebody came to see me. I can't remember who it was, but there was several different men came to see me, asked me what I knew about this Minnie Atkins.

Q. How long before you gave your testimony before the first person spoke to you? A. Three or four days.

Q. Had you given any thought to this matter?

A. Not the slightest. In fact, I had almost forgotten.

Q. Now, you were brought on the stand there because Minnie was in town? A. Yes.

Q. And they wanted you to identify her? A. Yes.

Q. You had known her well at Fort Lawton and at Fort Wayne? A. Yes.

Cross Examination by Mr. Stuart.

Q. You didn't know her at Fort Leavenworth at all? Did you? A. Not personally.

Q. The fact is you had no acquaintance of any kind with Minnie Atkins in Leavenworth? A. No.

Q. You never had spoken to her personally? A. No.

Q. You never had had a conversation with her?

A. No, sir.

Q. And all you know of her was that you would see her occasionally? A. Yes.

Q. And she afterwards moved from Leavenworth to Fort Logan, Fort Wayne, was it? A. Fort Logan, Colorado.

Q. And there you got acquainted with her? A. Yes, sir.

Q. And that is the first time you had ever spoken to her in your life? A. Yes.

Mr. Stuart: That is all.

(Witness dismissed.)

And thereupon, J. C. KENNEDY was called as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. You have been on the witness stand before in this case. What is your position in the office of the Superintendent for the Five Civilized Tribes?

A. Chief clerk of the royalty division.

Q. You were formerly chief clerk of the enrollment division were you?

A. Well, the land office division, but it included the enrollment department also.

Q. That was after the two were combined? A. Yes, sir.

Q. The enrollment division and the land office?

A. Yes, sir.

Q. Placed under one head? A. Yes, sir.

Q. You were at the head of that division? A. Yes, sir.

Q. When were you at the head of that division?

A. Well, there was a time when the Cherokee Land Offices and the other land offices were separate. I was at the head of the Cherokee Land Office from about September 15, 1911, up until January 28, 1915, and about April 7, 1914, the Choctaw, Chickasa, Creek and Seminole Land Offices, and the Cherokee, were all put under one head.

Q. Mr. Kennedy, do you remember what the practice of the Commission used to be with reference to entering on certified copies of census cards pencil notations?

> The Court: Now, you have here a question relating to 1912, I take it, that is the point?
>
> Mr. German: Yes, sir.
>
> The Court: Well, let's get to that.

Q. In 1912, what was the practice in the matter of putting on copies, which were to be certified, certified copies of census cards, pencil notations that appeared on the original census card? A. Well, we didn't put them on.

Q. Did you later adopt the practice to put them on?

A. Yes, sir.

Q. Do you know about the adoption of that practice?

> The Court: Isn't that all covered in the evidence? This witness or some witness testified I am sure with reference to that.
>
> Mr. Allen: If the Court please, this witness was in charge of that division, it was by his direction.
>
> The Court: All right. I thought he had testified about it.

Q. When was it you started the practice of putting on pencil notations that appeared on original census cards when you made a certified copy if you recall?

A. Well, it was undoubtedly in 1914.

Q. Do you know what time in the year?

A. No, sir, I don't.

Q. Did you have anything to do with the direction of that thing, in making orders changing the practice?

A. I don't recall it—— You mean with changing the practice?

Q. Yes? A. Yes, sir, I did.

Cross Examination by Mr. Stuart.

Q. If you were to come across a census card now in that office and if a man would ask for a certified copy of it, and you found a notation in ink and right under it, said ordered not to be delivered because party found to have died prior to April 1, 1899, wouldn't you put that on that certified copy?

A. Now, I would.

Q. Wouldn't you have done it in 1912? A. No, sir.

Q. Will you tell me why, who started that rule?

A. Not to put it on?

Q. Yes? A. I couldn't tell you.

Q. Who ever told you not to put on a census card a notation there that a man's deed hadn't been delivered and that he died prior to April 1, 1899?

A. I don't recall that we ever had any orders of that kind.

Q. If that hadn't been there you wouldn't put it there?

A. No, sir. W. S. D. Moore was at one time in charge of the Cherokee Land Office and his instructions were to me not to put them on there, that they were simply notations for the office and that after it had been established it would be put on there in ink.

Q. Well, suppose the fact that it was put on there had already been established, what about that?

Mr. German: He is not talking about the entry, he is talking about the facts.

Mr. Stuart: I thought I understood him.

Q. There would be a notation and when those facts were established that would be put on in ink? A. Yes, sir.

Q. Then, it didn't make any difference what there was in pencil, you didn't put it on the certified copy? A. No, sir.

Q. And if it did say, "Party died prior to April 1, 1899, deeds withheld and returned to the Choctaw, or Chickasaw, or Cherokee, or Creek Chief," as the case might be, you wouldn't put it on? A. No, sir.

Q. Now, you have examined that before, haven't you?

A. I have seen it before.

Q. In your judgment, when was that pencil notation put on? A. I told you the other day I didn't know, Mr. Stuart.

Q. Well, I would like to know your judgment?

A. I wouldn't attempt to say.

Q. Is that first pencil notation there in the same handwriting as the second? A. No, sir.

Q. It is not? A. No, sir.

Q. Now, you have the ink notation up here, "No. 1 on 1895 Authenticated Roll No. 213 as Foss Atkins"? A. Yes, sir.

Q. Then somebody else wrote E. B. Miller, Chief Clerk? Do you know whose handwriting that is?

A. Yes, sir, Mr. Funk's.

Q. But this below there, is it a different handwriting and you have never seen anybody in that office that wrote that kind of a hand? A. I couldn't say as to that.

Q. You don't recognize it as the handwriting of anybody in that office?

A. I have been out of that office for three or four years and I have dismissed the handwriting of all except Mr. Funk.

Q. That of Mr. Funk stuck to your memory?

A. Well, Mr. Funk stuck.

Q. As a matter of fact, you don't recall any clerk that was ever in that office whose handwriting was similar to that?

A. I don't recall it, no, sir.

The Court: I would like for the record to show what exhibit is now being inquired about.

Mr. German: It is the exhibit of which Government's Exhibit A-1 is a certified copy.

Mr. Hill: You mean the original?

Mr. German: Yes, it is the document that the witness has been talking about and is the original of Government's Exhibit A-1.

Redirect Examination by Mr. German.

Q. Mr. Kennedy, you were not in the Creek Land Office in 1905, were you? A. No, sir.

Q. Where were you at that time? A. In the Choctaw and Chickasaw Land Office in Muskogee.

Q. In Muskogee, but in the Choctaw and Chickasaw Land Office. At that time, in 1905, approximately how many employees did the Dawes Commission have?

A. In the general office I should say about a hundred and fifty.

Q. Then they had employees located at sub-offices?

A. Yes, sir, land offices scattered throughout the country in the various nations.

Q. Now, there was a Creek Land Office separate from the office you were in in 1905? A. Yes, sir.

Q. You were in the Cherokee Land Office?

A. I was in the Choctaw-Chickasaw.

Q. And other people were in the Creek? A. Yes, sir.

Q. And you don't know in whose handwriting this notation is "E. B. Miller, Chief Clerk Land Office"? A. No, sir.

Q. Now, what was the practice—— You stated that notations would be made in ink instead of lead pencil after a matter was decided? A. Yes, sir.

Q. But when a question with relation to the enrollment was pending and undecided a lead pencil notation would be made on a card? A. That is true.

Q. With reference to the matter? A. Yes, sir.

Q. Now, this lead pencil notation on this census card of Thomas Atkins indicates that in 1905 a question was raised with reference to his citizenship and for that reason the matter of issuing——

Mr. Stuart: I object to that question, because it calls for a conclusion.

The Court: It seems to me that this is being smothered in a lot of matter that will make it more difficult for me.

Mr. German: Just one question.

Q. Until right lately—— And the notation I am about to talk about isn't in evidence—— But until right lately the lead pencil matter that appears on this Atkins card was not taken the place of by any ink work until right lately?

A. I haven't examined the card.

The Court: Do you know, Mr. Kennedy, whether now the notation that appears on that document is reduced to ink?

Mr. German: I don't mean to contend that it is. Judge Stuart developed that they put a lead pencil notation on until the matter was determined and then put it in ink. I am asking him pursuant to that lead pencil mark there has been an ink notation.

The Court: The card shows there hasn't. The card shows that that pencil notation is still a pencil notation. According to the witness' testimony it is not yet established.

Mr. German: I want to ask the witness if it hasn't been followed up and become established. I am not trying to disregard the Court's ruling in excluding the cancellation order.

The Court: You contend that as to this particular card what was originally lead pencil is now established by evidence which the Court has excluded.

Mr. German: And that a notation has been put on the card with reference to that matter.

Mr. Stuart: And that that is in red ink on the card reciting the judgment of the Secretary of the Interior.

(Witness dismissed.)

Mr. German: That is what I wanted to establish.

Mr. Allen: I think this is important. The witness' testimony shows that a pencil notation just for the benefit of the office is made. When a matter is pending——

The Court: I understand that thoroughly, Judge.

Mr. Allen: And that finally when action is finally taken on that, that the final action of the Secretary is noted in ink.

The Court: I understand that, Judge, thoroughly. That was his testimony.

And thereupon, Court recessed until nine-thirty A. M., June 6th, 1917.

And thereafter and on Wednesday, June 6, 1917, at ten o'clock A. M., Court reconvened pursuant to adjournment and the following proceedings were had:

And thereupon Dr. FINIS W. EWING was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Pinson.

Q. State your name, age, business and place of residence.

A. Finis W. Ewing; thirty-eight years of age; physician by profession; 317 North Fifteenth.

Q. Are you associated in the practice of medicine with any other physician?

A. Doctor F. B. Fite and Dr. J. L. Blakemore.

Q. Doctor, where did you take your line of study in the medical profession?

A. I had two years in Kansas City and two years in Baltimore.

Q. How long have you been engaged in the practice of medicine?

A. With the exception of two years, that is two school years, I have been engaged since March, 1899.

Q. Continuously?

A. With the exception of these two school years; I began practicing before I graduated.

Q. Doctor, have you during the period of your practice of your profession been frequently engaged in obstetrical cases? A. Yes, sir.

Q. Can you estimate or give approximately the number of obstetrical cases in which you have either officiated or assisted? A. Roughly speaking a thousand or eleven hundred.

Q. Have you made a study of the laws governing pregnancy and childbirth as a special study?

A. Well, I am not a specialist in obstetrics.

Q. What I was trying to get at doctor, is it necessary for you in the line of practice in which you are engaged to make a study of those particular branches of the medical science? A. Yes, sir, it is.

Q. Doctor, into what periods or stages is childbirth, or labor as we may term it, divided?

A. Well, the accepted periods or stages of labor are first, second and third distinct stages.

Q. Now explain those three stages to the court giving an idea of the process that takes place in each stage.

A. The period—included in what is called the first stage of labor is that stage in which the uteris is beginning to contract with an effort to expel the contents of the organ and is a more—possibly better understood by the term, the dilating period; the dilating of the mouth of the womb or uteris.

Q. Now, before we leave that stage, doctor, what is the dilatation of the uteris; what is the function of that dilatation, why is it necessary?

A. It is necessary for the mouth of the uteris to dilate to permit the passage of the infant.

Q. During the period of gestation prior to the expiration of the term what is the normal condition of the mouth of the uteris, that is of the cervix, open or closed?

A. Well, it is closed during the pregnancy up to the term.

Q. The mouth of the uteris is closed?

A. The mouth of the uteris is closed.

Q. Does that constittue a support for the foetal body?

A. Yes, sir, it is necessary for the mouth of the womb to be closed to retain the contents.

Q. The contents? A. The contents.

Q. During the first period or stage of labor, as I understand you, there is a contraction of the uteris, which forces the contents of the uteris down upon the cervix and causes or creates a dilatation at that point? A. Yes, sir.

Q. At the same time that the action of the muscles force the contents of the womb downward, Doctor, is there any other muscular action that has any effect upon the walls of the cervix?

A. Well, the walls of the uteris is a muscular body, a mass of muscles, and in the contraction of those muscles they are so arranged that—to dilate the cervix or the mouth of the womb they thin out in the contraction of those muscles, they thin at the cervix or the mouth.

Q. Now, in the normal stage the cervix is in what shape?

A. Round, just a round opening.

Q. A round opening? A. Yes, sir.

Q. What is the thickness of the walls at the cervical aperture approximately? A. At term you mean?

Q. Well, I mean prior to the time that any dilation has taken place or any thinning of the walls has taken place?

A. Well, the cervix is composed, the opening is composed of two rings or mouths; the internal and the external.

Q. Now, betwen those two what is the distance?

A. The distance is very short at term. When pregnancy first begins, when conception takes place, this is about an inch and a half, about an inch in the normal uteris as labor —that is as pregnancy progresses that distance becomes shortened until at term the length of the cervix is shortened to almost one neck or one os, is almost in contact with the other.

Q. Now, during the pressure downward from the fundus, I believe the contractions begin at the base of the uteris do they not? A. Yes, sir, the body.

Q. Body. And during those contractions downward is there at the same time a drawing upward of the muscles or the substance on those thickened walls does that draw upward in the direction of the head or body of the foetus?

A. Well, the effort of the muscular contraction of the body of the womb is to pull up and widen or open the ring of the cervix into a wider opening.

Q. Then the thickness which exists there of approximately an inch and a half in the beginning, does the substance which forms that thick wall extend down into the vagina or outward? A. No, sir, out into the pelvis.

Q. Doctor, illustrate to the court what is the consistency of the crevix during the normal stage when there is no pregnancy or at the beginning of pregnancy?

A. Well, the cervix before conception begins is hard; it is not hard it is not cartilaginous but it has—it is firm.

Q. To illustrate is it a good deal like the tip of the nose?

A. Pretty much, about as cartilaginous as the extreme tip of the nose.

Q. Through pregnancy what changes take place in the consistency of the cervix?

A. Immediately after conception there is a softening, a velvety sensation to the touch; that is one of the first signs of conception; and as labor progresses under normal conditions this cervix becomes possibly somewhat more softened all along during the different periods.

Q. Now you use the expression at term to indicate the final day or—— A. The end of pregnancy.

Q. End of pregnancy? A. Yes.

Q. So that at term time the cervix in any case of pregnancy is of what consistency? A. Soft.

Q. What is the second stage then of labor, Doctor?

A. The second stage—now the first stage of labor terminates when the dilation of the mouth of the womb is complete, and the second stage begins then, or at the time the head or the presenting part of the foetus becomes engaged in the bony part of the pelvis.

Q. What is the second state?

A. That is the beginning of the second stage, and the second state continues then during the passage of the foetus through the bony parts and the expulsion of the foetus.

Q. And the third stage is?

A. The third stage is simply the expulsion of the afterbirth or placenta.

Q. Doctor, what is the function of the first pain which a woman feels at the beginning of labor, what causes it?

A. The purpose of that pain is the opening—the opening of the cervix to permit the passage of the foetus.

Q. Then that pain is caused by the muscular contraction of the uteris in an effort to force its contents out?

A. Yes, sir.

Q. And that brings about the dilation I believe you say?

A. Yes, sir, it has the double action; the muscular pain has the double action of drawing out the cervix into a thinner membrane and also of pushing down the body that is within the womb too; it has the double purpose of thinning out, pulling out from above, and pushing down from within.

Q. Yes, sir. Now, the result of those pains then is that eventually the opening reaches a stage where it is practically flush with the vagina, at which time the head passes through and engages? A. Yes, sir.

Q. Doctor, what is caused as a rule in the cervix by the birth of the child, what injuries?

A. As a rule there is some laceration of the cervix at the passage of the child.

Q. That is ordinarily found in all cases where the child arrives at full term is it not?

A. That is usually yes, usually the result of labor.

Q. Are those lacerations ever caused by child—by an abortion or early miscarriage? A. Yes, sir.

Q. In your experience what is the earliest period of pregnancy at which an abortion or miscarriage produced laceration of the cervix?

A. I have known of—where instrumental methods were used to relieve the uteris of its contents, of lacerations at the end of—just immediately after conception began, where they was some—it is not the act of abortion that produces that laceration; it is the instrumental interference, but I have known a recent occurrence in my practice where a woman, a young married woman aborted from some unknown cause at about the middle of the third month of conception and had a very severe laceration.

Q. Now, doctor, when those lacerations heal what is the nature of the structure left at the point of the laceration?

A. Well, a scar tissue of course and the presenting portion presents a notched or nodular appearance on the cervix of the womb; there might not be much of a notch but more cartilaginous knobby body presenting itself.

Q. In making an examination of the cervix during labor, state whether or not in your opinion is possible to determine whether or not such lacerations or the scar tissue resulting therefrom existing upon the cervix are from a former pregnancy, or from some former cause prior to the present labor?

A. Well, I don't think it would be possible to make a very positive diagnosis or positive finding from an examination—from a simple manual examination.

Q. Doctor, after dilatation has begun what do you say—after the normal dilatation of labor has begun, what do you say as to the possibility of making such diagnosis?

A. After dilatation has become pretty well established I think it would be impossible.

Q. Impossible; what is the purpose of the examination, an internal or digital examination made by a physician, if he makes one at the time of labor, is called in, what is the purpose of making such an examination?

A. The primary purpose is to determine whether or not the presentation of the foetus is normal; and, second, to determine if the bony parts of the mother is sufficient in size

—opening is sufficient in size through the pelvis to permit the transmission of the foetus. Those are the cardinal elements.

Q. Now, in making that examination, Doctor, do you recall ever having made an examination at the same time to ascertain whether there were evidences upon the cervix of previous laceration? A. I never did.

Q. Did you ever know of anyone making such examination? A. I did not.

Q. How is that fact if it is determined, how is that ordinarily determined, the fact of previous birth?

A. By questioning the patient.

Q. Of what importance relatively is the fact that a previous birth has occurred, or more than one?

A. The information obtained in that way could only be for the purpose of determining the likely length of time the labor would continue.

Q. Now, in connection with that do you ascertain whether any abnormalities occurred in connection with the previous birth?

A. That would be the thing; in making—asking the question whether or not there had been previous labors, if the answer was affirmative, it would be immediately followed by the question whether the previous labor was normal, and that would be for the purpose of determining whether you had a normal condition likely to deal with.

Q. Now, Doctor Ewing, you use the term primipara to designate a woman giving birth to a first child, and multipara to one giving birth to prior children, before? A. Yes, sir.

Q. What is the difference betwen the primipara and the multipara as to the rapidity of dilatation at the beginning of labor?

A. Under ordinary condition the dilatation of the primipara passes through a much longer stage.

Q. Now, what has been your experience with regard to the external os as to its being open or closed in the multipara at term?

A. My observation and experience has been that in the multipara at the end of term and beginning of labor even the pains have been—become hard or permanent, and external os is usually dilated and soft.

Q. And is it possible to introduce the finger into the opening if any prior to labor? A. Usually yes, sir.

Q. In multipara? A. Yes, sir.

Q. That is not the case in primipara? A. No, sir.

Q. Then, Doctor, suppose you were called to a case where the woman was in intense pain, appeared to be a normal woman, a normal presentation; and the woman appeared to be in intense pain, and that the pain had been in progress for approximately an hour, and you found that no dilatation of the cervix had taken place, what would be your diagnosis as to whether that woman was a primipara or multipara?

A. Acting on that basis I would say—and from other evidence, I would say she was a primipara.

Q. In the absence of other evidence? A. Yes, sir.

Q. Now, Doctor, the examination as to the—is the examination for previous lacerations, as an indication of prior birth, ever a satisfactory—does it ever bring about a satisfactory diagnosis? A. An examination?

Q. Yes, sir, that alone?

A. Oh you mean a manual examination?

Q. Yes, sir. A. No, sir.

Q. What examination is necessary in order to determine that accurately?

A. It is necessary to determine that by a digital examination, by examination with a spectulum actually look at the organs.

Q. In that case the examination is made with the eye itself, is that true? A. Yes, sir.

Q. Doctor, what about the possibility of a similar scar tissue or knobule being caused by any disease of any character?

A. Disease could readily produce scar tissue or appearance of the cervix that would readily deceive almost any examiner.

Q. That is with the fingers? A. Yes, sir.

Q. That wouldn't deceive the eye?

A. Might deceive the eye.

Q. Might even deceive the eye?

A. Might deceive the eye; the same observation might occur from erosions or ulcers that would be apt to occur from a tear.

Q. Now the common method of producing an abortion is by means of an instrumental manipulation of the womb isn't it? A. That is the most successful way.

Q. That is what I mean. Now, an unsuccessful handling of those instruments is it possible for them to cause a tear or laceration? A. Yes, sir.

Q. That might be a similar laceration to that caused by pregnancy or childbirth? A. It might be.

Q. Doctor, about the length of time that pregnancy remains concealed; let's assume that a woman is approximately five feet six inches tall; weighs from a hundred thirty-five to 150 pounds and is of a voluptuous form; is not a well tailored or well groomed woman, in your opinion how long would pregnancy in such a woman be successfully concealed even from a casual observer?

A. I think it would be hard to conceal at six months.

Q. Did I understand you to say it would be pretty hard to conceal at six months? A. Yes, sir.

Q. What do you think of the possibility of a woman of that build that I have described concealing pregnancy, the woman being an ordinary household servant, concealing pregnancy during the seventh, eighth and ninth month?

A. I don't think it would be possible.

Q. In case of the birth of a child, Doctor, in the normal woman, lactation begins shortly after birth isn't that true?

A. About the third day, yes, sir.

Q. Now how long normally does that lactation continue?

A. The course of lactation continues very indefinitely with different women; some women will continue nursing their babies for a period of two or three years; others only a few months.

Q. Now what does the continuance of lactation depend upon?

A. Well, the continuance of lactation depends first on the nourishment of the patient or mother, the woman who is lactating; proper nourishing is necessary for her to lactate; regular emptying of the milk vessels is necessary.

Q. Now, Doctor, that emptying of the milk vessels, if done by manual manipulation without the use of a breast pump at any time, would take about how long at each emptying or each time when the breast became full?

A. Oh about fifteen minutes.

Q. The necessity would arise for emptying the breast about as frequently as a baby would nurse would it not?

A. Yes, sir.

Q. Now about how frequently during the first six months does a baby require nourishment?

A. The baby requires nourishing about every two hours in the greater portion of the twenty-four; the practice is to order the baby to nurse at a period of fifteen minutes during every two—during sixteen hours of the day; that would be eight nursings; and then about every three hours during three or four months.

Q. Then during the first three or four months the baby would nurse from ten to eleven or twelve times a day?

A. Yes, sir.

Q. Now, in your opinion would it be necessary where a woman was apart from the baby except for one nursing, say during the day, would it be necessary for that woman to expel the milk from her breast at each period at which the baby naturally normally would nurse? A. Approximately, yes, sir.

Q. You say the baby nurses fifteen minutes; that means that it requires approximately fifteen minutes for it to empty the breast? A. Yes, sir.

Q. The baby is constructed for emptying the breast more skilfully and quickly than the hands are, is it not?

A. That is true.

Q. Doctor, what is the period of gestation in human beings? A. Two hundred eighty days.

Q. What is approximately the shortest interval that can occur between the giving birth of one child and the giving birth of another? A. Theoretically about ten months.

Q. Well in practice what is the shortest time it has ever been your observation?

A. My recollection is right now about sixteen months.

Q. About sixteen? A. Yes, sir.

Q. There are customary cases running around twelve and thirteen months?

A. Yes, I have heard of but I don't recall having had in my practice any children that were closer together than about sixteen months.

Q. Now, Doctor, what normally is the relation between lactation and a subsequent pregnancy; what is generally the rule about that?

A. The general rule of lactation is the absence of ovalation and of course the absence of ovalation prevents conception.

Q. In ordinary cases during the time a woman is nursing a baby she does not become pregnant again? A. No, sir.

Q. There are exceptions are there not?

A. There are exceptions.

Q. Can you give the court an idea of the exceptions in the thousand or eleven hundred cases that you have been familiar with? A. I don't think to exceed a half dozen.

Cross Examination by Mr. Stuart.

Q. Doctor, you say your practice is here in this city?

A. Yes, sir.

Q. Whose office are you in?

A. I am in my own office; I am associated in the office with Doctor F. B. Fite and J. L. Blakemore.

Q. Did you ever talk with Doctor Fite about this subject? A. No, sir.

Q. Do you and he agree on this?

A. I have never talked to Doctor Fite about this at all.

Q. You physicians reason inductively altogether, you don't deduce anything? A. Sir?

Q. You reason inductively figure a hundred cases go a certain way, you reason the hundred and first would go the same way, that is the theory of reasoning, you reason from the given cases based on past experience don't you, that a certain thing will happen under given conditions?

A. Yes, sir, largely.

Q. Now, you know, Doctor, don't you, that the first labor of a woman is the most difficult, the most trying and the most dangerous don't you? A. Yes, sir.

Q. That is always true? A. Yes, sir.

Q. That is always true?

A. You can say, Judge, it is always true.

Q. Well, that is the general rule?

A. General rule, yes, sir.

Q. First because it is the first time that the parts are forced to the necessity of giving birth and second because you can't tell just what is going to happen can you in the first pregnancy?

A. Well, the principal reason, the first reason you gave is the predominating reason.

Q. Now, Doctor, lacerations occur more frequently in the first pregnancy than in any other the child being the same size in each pregnancy? A. More apt to yes, sir.

Q. More apt to occur in the first pregnancy? A. Yes, sir.

Q. And during the first pregnancy the lacerations are more apt to occur near the mouth of the womb, which you call the cervix. than any where else in the womb aren't they?

A. Well, that is where the lacerations, difficult lacerations always occur.

Q. Always will occur? A. Yes, sir.

Q. You spoke of erosions of the womb, those erosions and ulcers or anything of that sort usually have scooped out appearance to the touch, they are not like the notches?

A. Well, you might have a notch or a large opening depending on the extent of your lacerations or the erosions, the nature of it.

Q. But to the sense of touch the *the* last results of an erosion are not the same as the ordinary notches are they?

A. Under ordinary conditions they are not the same.

Q. Are not? A. No, sir.

Q. Now, if you went to a woman in pregnancy and you examined her womb and did it with your hands or fingers through the sense of touch and you were inside of the neck of the womb and find certain pronounced *notes* there, would you say that they were caused by that pregnancy or caused by a prior pregnancy?

A. They wouldn't be caused by that pregnancy.

Q. Then they must have been caused by prior pregnancy, Doctor, if they are in pronounced form?

A. If you have a laceration you would have it produced by some previous condition.

Q. Some previous condition and it would ordinarily be produced by child labor? A. That is the most common.

Q. The most common thing. And that laceration occurring in that particular labor would be followed normally by these notches as the last results of the lacerations would it?

A. Yes, you have the scar tissue resulting from any laceration.

Q. Now, then, if you went to a woman in labor and by the touch you didn't know whether it was her first child or not, and by the finger manipulations you discovered pronounced notches inside and near the cervix, you would conclude at once that they could have been caused [] a prior labor?

A. Naturally that would be the conclusion.

Q. Naturally that would be the conclusion. Now, Doctor, this thing of concealing pregnancy is one of the mysteries of obstetrics, isn't it? A. Well——

Q. You know as a practitioner that you have known hundreds of cases where the ordinary man could not tell a woman was pregnant at eight months if she laced and protected herself against it? A. Well——

Q. It depends upon the physical formation of the woman generally? A. Some.

Q. The way she dresses? A. Yes, sir.

Q. All those things help to conceal pregnancy don't they?

A. Yes, sir.

Q. And as a matter of fact as a practicing physician you have seen woman after woman in your life, compared to mine, whose pregnancy was not discovered with the naked eye at six and seven and eight months? A. I don't know that I could.

Q. I am not talking about the eye of a doctor now, I am talking about the eye of a layman?

A. Well, I haven't been a layman since I reached my majority.

Q. Well, then you can't testify as a layman. Now, then you say the period lactation, when a woman's milk is running, that ordinarily that is not consistent with a new pregnancy?

A. What is that?

Q. If a woman—a woman's milk, period of lactation when her milk is running from a present child, ordinarily pregnancy did not follow again until that milk is somewhat exhausted?

A. No, that is true as long as the period of lactation is continued.

Q. But as a matter of fact you haven't got any certain rule on that subject have you?

A. No, there is—the rule is that they do not become pregnant, but the rule of course is not positive.

Q. That is it *it*. A. Exceptions.

Q. In other words you have seen case and case and case, Doctor, where a woman is absolutely nursing another child and running freely of milk get pregnant haven't you?

A. Not case after case.

Q. But you have seen lots of them? A. Well, several.

Q. Yes, several.

A. Possibly half a dozen I don't think to exceed that.

Q. Now, then you say that sometimes they get pregnant ten months after child but the ordinary rule is six months; you have seen that vary all the way from ten to sixteen haven't you? A. Sir?

Q. You have seen that vary all the way from ten to sixteen months? A. No.

Q. You have seen women become pregnant from ten to sixteen months after the child?

A. No, I didn't say ten months, I think about sixteen months. Theoretically it is possible.

Q. Theoretically ten to sixteen. You of course when you go to wait on a woman, especially a young woman, the good practice would require you at once to satisfy yourself in some way if you could whether it was her first child?

A. Yes, sir.

Q. That is always true? A. Yes.

Q. It is wise to do it and it is proper to do it? A. Yes, sir.

Redirect Examination by Mr. Pinson.

Q. You accept a woman's statement for that fact that it is her first child don't you, Doctor? A. Yes, sir.

Q. In the case of a first pregnancy where it has been ascertained that the parts, the bony parts, are sufficiently large to permit the head to pass, and that the woman is in a normal condition of health, what other dangers exist in the first pregnancy than in any subsequent pregnancy?

A. Well, of course the danger of lacerations and tearing of both the mouth of the womb and perineum, the vaginal walls are in greater danger in the first than subsequent pregnancy, and hemorrhages that attend such injuries as that.

Q. However those are matters that the doctor can not well control aren't they? A. No, sir.

Mr. Stuart: Well, now, I don't think he ought to lead this witness he is an expert.

The Court: Let the witness testify.

Q. I am tryig to get at this, Doctor: Judge Stuart asked you whether the first pregnancy was the most dangerous. Explain to the court wherein the danger is greater in first pregnancy than subsequent pregnancy.

A. Well, the danger in first pregnancy is greater because of the fact that the patient has not the—you might say the experience of a labor. If she has been through one, if the patient has been through one labor, she would have that experience to guide her and assist during this time. Also the tear or lacerations are more likely to be attendant on the first labor than a subsequent labor would be more great.

Q. Now, Doctor, on the other hand as to a woman in her second or some subsequent labor the dread that is present creates an unsatisfactory nervous condition does it not?

A. Yes, that is one of the things of course to be contended with that we possibly don't have to contend with so much in the other labors.

Q. Now if the bony parts are sufficiently large and if the presentation is normal, so far as the life of the child and the woman are concerned, you don't fear for them any more in the first pregnancy, except for the lacerations, than you do in the second do you? A. No, sir.

(Witness dismissed.)

Mr. Hanford: If the Court please, in connection with the testimony of Elizabeth Dillman who testified last Saturday, it was agreed with counsel for the Government, that I might offer certain questions and answers from her deposition taken in the State case at Leavenworth where she formerly testified, so that it will be unnecessary to hold her here during the three of four days recess. I would like to just read these questions and answers with the understanding that she would admit if she were still testifying that she had testified as the deposition reads, if she were here. This deposition was taken in Leavenworth in October 1914.

Mr. German: The witness testified about it.

The Court: I think so; I understand at any rate that this former testimony of hers is in relation to the same matters about which she testified on the stand.

Mr. Stuart: And that she was testifying at Leavenworth, remember that, to get the contexts.

Mr. Hanford: Reading from page 339 of the transcript that is in evidence as an exhibit: "Q. In your life time, have you ever been acquainted with a woman by the name of Minnie Atkins? A. Yes. Q. About how long ago did you become acquainted with her? A. Twenty-one years ago. Q. Where was it that you first met her? A. At Fort Logan, Colorado." And on cross examination by Mr. Lytle, at page 341: "Q. You don't know of your own knowledge I take it where this Minnie Atkins came from? A. She came when I first met her, she came from Leavenworth. Q. She came from Leavenworth? A. She was in Leavenworth before she went to Fort Logan. Q. You never knew her? A. No, I didn't know her. Q. All you know about her coming from Fort Leavenworth is what someone told you? A. Yes, I knew she was here. Q. You didn't see her here? A. No, sir, but I know she was here. Q. You know that because someone told you.

"Mr. Rice: Just answer the question; if someone told you; tell him yes.

"A. Why, several people knew her here and told me. Q. Yes, several people knew her here and told you? A. Yes, sir. Q. Did you see her working here? A. No, sir, I didn't see her. Q. That is what someone told you is it not? A. Well, I suppose it was but I have no reason to doubt the truth of it."

Mr. German: Your Honor, we offer the deposition of Thomas Mozee, appearing at page 3218 of Mr. Penick's transcript.

And thereupon, THOMAS AUGUSTUS MOZEE, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Thomas Augustus Mozee.
Q. Where do you live, Thomas? A. St. Joseph, Missouri.
Q. What do you do at St. Joseph? A. Team; Teamster.
Q. Did you ever live in Leavenworth, Kansas?
A. Yes, sir.
Q. How old are you? A. Twenty-eight years of age.
Q. Where were you born? A. In Platte City, Missouri.
Q. When did you go to Leavenworth, how old were you?
A. I don't know, very small.
Q. So *your* you don't remember?
A. No, sir, don't recollect.
Q. How old were you when you left Leavenworth?
A. Between the age of eight and ten.

Q. Who did you live with in Leavenworth?

A. Julia Doyle and a while with my mother.

Q. What was your mother's name?

A. Mary Rice at the time.

Q. What name did you go by in Leavenworth, what did they call you?

A. Well, they called me Thomas Doyle, Tom Doyle.

Q. Where did you get the name Mozee?

A. Well, that is my father's name.

Q. What did they call you? A. Tipp.

Q. That was a nickname you had? A. Yes, sir.

Q. Where did you—Did you play around with any other boys in Leavenworth while you were there?

A. Yes, sir, I played with quite a few.

Q. Where would you play?

A. Well, I played all over town.

Q. Did you ever play any around Ella Abbott's place over Abeles Drug Store?

A. Yes, sir, I played around there.

Q. Whom were you playing with, name some of the boys?

A. Well, I played with Tommy Owens, and Willie Owens, and a family—two little white boys named Dix. I disremember their first names now.

Q. Were the Owen boys white or colored? A. White.

Q. Where all did you and those boys play?

Mr. Hanford: Objected to on the ground that it is immaterial.

A. I have played all over, all around from the west end of town clean to the Missouri river.

Q. Did you ever play any around Crilly's Livery Barn on Seneca Street, between Second and Third?

A. Yes, sir.

Q. Who were you playing with around there?

A. Tommy Owens.

Q. What did Thomas' father do at that time?

A. He was a carriage driver.

Q. For whom? A. For Crilly.

Q. Would you and Tommy Owens be around Crilly's barn much? A. Once or twice a day, not very long at a time.

Q. Besides Tipp, what were you called? A. Tom.

Q. Did they ever call you by calling your whole name?

A. Only some of the children and my folks.

Mr. Hanford: Objected to as immaterial.

Q. What would they call you when they called you your own name?

A. When my folks would call me, they called me Tom Mozee.

Q. Your folks? A. Yes, sir.

Q. Who do you mean by your folks?

A. I mean my aunt and my cousins.

Q. Well, would other people around where you were playing call you your full name? A. No, sir, very seldom.

Q. Well, when they did, what would they call you?

A. I don't remember.

Q. Did they ever call you Tommy Doyle?

A. No, sir, not that I know of; just the boys and girls called me Tommy Doyle.

Q. The boys and girls would call you Tommy Doyle?

A. Yes.

Q. Where would you be when the boys and girls would call you Tommy Doyle? A. Out playing somewhere.

Q. You were called that around at the different places where you were playing?

Mr. Hanford: Objected to as immaterial.

A. Well, no, not at all the places, no.

Q. But at some of the places?

A. Just some of the places they would call me that, just some of the places when we would get excited over something they would say, "Why, Tommy Doyle."

Q. Was there any other boy that you played with by the name of Tommy? A. Yes, sir.

Q. Who? A. Besides a Tommy Owens?

Q. Yes? A. Tommy York, yes, sir.

Q. Was he a colored boy or white? A. A colored boy.

Q. How does his age compared to yours, which was the oldest, you or him?

A. I expect he was the little oldest, I expect.

Q. Which was the oldest, you or Tommy Owen?

A. I don't know. We were both about the same age.

Q. Was there any boy up on Seneca Street, that either lived around there or played around there by the name of Tommy, except you and Tommy Owen, and Tommy York?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. Not that I know of.

Q. Did you play with all of the children who were around on Seneca Street between Second and Third? A. No, sir.

Mr. Hanford: Objected to as calling for a conclusion, and immaterial, and I move to strike if the answer was made before my objection.

Q. You knew all of the boys though, didn't you, and their names?

Mr. Hanford: Objected to as incompetent, and calling for a conclusion of the witness.

A. I do not.

Q. You didn't know all of the boys? A. No, sir.

Q. Was there any boy that lived at the Ella Abbott place, while you were there in Leavenworth?

Mr. Hanford: Objected to as incompetent, and it not being shown that he knew them.

Mr. Bell: The same objection. He has not shown that he knew Ella Abbott.

Mr. German: I withdraw that question.

Q. Where was Ella Abbott's place?

A. Why, the name sounds familiar, I don't know correct, but I think it was on Third and Cherokee.

Q. Where with reference to Abeles Drug Store? A. On Third and Cherokee.

Mr. Hanford: Objected to on the ground that it is leading, and I move to strike the answer. I have difficulty in making my objections prior to this witness' answers.

Q. You say Ella's place was up stairs or down stairs?

Mr. Hanford: Objected to as leading. The witness stated he didn't know.

A. The drug store was down stairs and the people were living up there over the drug store.

Q. Now, did you play any up stairs?

Mr. Hanford: Objected to——

A. No, sir.

Q. Was there a stairway leading up stairs to that place over the drug store?

Mr. Hanford: Objected to. The witness has not shown that he knows, and it is leading.

Mr. German: I object to counsel's manner. I protest against counsel's manner of objecting. The witness was asked to state whether there was and counsel injects a suggestion that it is not shown that the witness knows, for the purpose of suggestion of answers that he does not know.

Mr. Bell: We wish to make objection for the reason that it is leading and suggestive of the answer, and witness ought to be directed to describe the building.

A. Yes, sir, there was.

Q. Where was it?

A. On the west side of the building—on the east side of the building.

Q. Did you ever go up that stairway?

A. I played in the stairway.

Q. How was it arranged at the top of that stairway?

A. There was a porch, as far as I know.

Q. Were you ever on that porch? A. No, sir.

Q. But you did play up the stairway? A. Yes, sir.

Q. Was there any boys at—— No—— Did you know where the different boys that you played with lived?

A. Yes, sir.

Q. Was there any boy that you played with who lived up stairs over that drug store?

A. There was none as I knew of.

Q. Did you know any boy in town by the name of Commodore? A. No, sir.

Q. Did you know any boy by the name of Tommodore?

A. No, sir.

Q. You knew Mr. George Crilly, didn't you?

A. Well, as a boy.

Q. That Livery——

A. Just as a boy playing around would know some man, that is the only way I knew him.

Q. You knew the Mr. Crilly who ran that livery stable?

A. I knew Mr. Crilly, because they called him Mr. Crilly.

Q. What did Tom Owens call you?

Mr. Hanford: Objected to as immaterial.

A. He called me Tom.

Q. Would he call you that around the Crilly barn?

A. Yes, he called me that every place.

Q. What is your color, can you describe it?

A. So far as I know, but I can't describe my color only as yellow.

Q. Do you know what blood you have, what your blood is?

A. No, I know my mother is yellow and my father is yellow.

Q. You said they called you Tom Doyle, and some of the folks did around the different places you played, do you know whether anybody called you Tommy Doyle around the Crilly barn.

Mr. Hanford: Objected to as immaterial.

A. No, sir.

Q. You don't remember whether they did or not?

A. No, sir.

Mr. Hanford: I withdraw my objection.

Q. Do you recollect where it was that they did call you Tom Doyle, at what places that you played? A. No, sir.

Cross Examination by Mr. Hanford.

Q. You are a negro, are you not?

A. Yes, sir, I guess I am.

Q. Your hair is short, isn't it? A. Yes, sir.

Q. And kinky? A. Yes, sir.

Q. As far as the general appearance goes, you bear the appearance of any other member of the negro race?

A. Yes, sir.

Q. Where did you live in Leavenworth?

A. I lived several places.

Q. Name them?

A. I lived between Fourth—Fifth and Sixth on Choctaw, Fifth and Sixth on Walnut.

Q. Where else?

A. Fifth and Pottawatomie, Third and Chickapoo, Fourth and Chickapoo, Third and Dakota. That is as far as I remember the places that I lived at.

Q. Who did you live with?

A. My Aunt Julia Doyle, except on Choctaw.

Q. Who did you live with on Choctaw?

A. My mother, Mary Rice was her name then.

Q. You were a small boy when you lived in Leavenworth?

A. Yes, sir.

Q. All the time? A. Yes, sir.

Q. You left there when you were eight or nine years old?

A. Yes, sir.

Q. Now, in playing in Leavenworth, you played around where you lived in those different places?

A. Yes, sir, why I played all over town.

Q. As a child of that age, you played in the neighborhood where you lived, mostly, did you not?

A. No, sir, not much, only in the evenings.

Q. Only in the evenings? A. Yes, sir.

Q. Where did you play mostly?

A. Well, in the day time when I was playing, I played —run around the depot and down at the river and riding wagons.

Q. Riding wagons? A. Yes, sir.

Q. Was the depot and the river your usual place?

A. Well, around there as far as—— Up as far as Edward's place, down that way around the Foundry; that is the places where I played mostly.

Q. Where did you move from Leavenworth?

A. To St. Joseph.

Q. To St. Joe? A. Yes, sir.

Q. Who did you go with? A. I went by himself.

Q. Who did you live with in St. Joe?

A. I lived with my mother.

Q. With your mother? A. Yes, sir.

Q. Was she going to St. Joe—— Did she go to St. Joe before you did? A. Yes, sir.

Q. Did your aunt take you to her? A. No, sir.

Q. Did she send you? A. No, sir, my mother sent for me.

Q. Your mother sent for you? A. Yes, sir.

Q. Sent to Julia Doyle? A. To Julia Doyle.

Q. Sent to Julia Doyle? A. Yes, sir.

Q. And she sent you up to your mother? A. Yes, sir.

Q. When you played around that stair way who did you play with? A. I played with Tommy Owens and Willie Owens.

Q. Tommy Owens and Will Owens?

A. Two brothers, yes, sir.

Q. They were the only ones? A. Yes, sir.

Q. The only ones that you played with around there?

A. Yes, sir.

Cross Examination by Mr. Bell.

Q. Where did the Owens boys live?

A. They lived between Chickapoo and Kiowa on North Third.

Q. What relation are you to Nathan Doyle?

A. Nathan Doyle that lives here?

Q. No, sir, Nathan Doyle that lives in Leavenworth?

A. That is my uncle.

Q. Were you living in Leavenworth when he died?

A. Yes, sir.

Q. What? A. Yes, sir.

Q. How long did you live there after he died?

A. Why, I lived there quite a while, I don't remember how long.

Q. About how many years?

A. I can't tell you just exactly.

Q. Did you live with him a while?

A. I lived with him all the time.

Q. Did you live on Pottawatomie and Fourth?

A. And Fifth.

Q. An old frame house right on the southwest corner?

A. Yes, sir.

Q. Were you living there when you left Leavenworth?

A. No, sir

Q. Where did you live? A. North Third Street.

Q. Whose house did you live in up there?

A. I think it was the Kermeyer house.

Q. Which one, where abouts on Third?

A. It was on the east side of the street between Chickapoo and Kiowa.

Q. I believe you lived on Third and Chickapoo?

A. That was the house I have been speaking of.

Q. Whose house? A. Kermeyer's.

Q. Whose house did you live in at Fourth and Chickapoo?

A. I don't know.

Q. Whose house did you live in at Third and Decater?

A. I think it was O'Daff's place, I believe. I am not sure.

Q. That was away up on North Third? A. Yes, sir.

Q. You lived on Walnut between Fourth and Sixth?

A. Yes, sir.

Q. Who did you live with there?

A. Lived there with my aunt.

Q. What was her name? A. Doyle.

Q. Did you live in those old frame houses there?

A. They called it the Lima Block.

Q. That is where you lived with Tommy York?

A. No, sir.

Q. Did Tommy York and his mother live right around the corner?

A. No, sir, not as I know of, I played with Tommy York in North Leavenworth.

Q. You never played with Tommy York any place else except North Leavenworth? A. No, sir, we were school boys.

Q. He lived on——

A. I think he lived between Fourth and Fifth on Pawnee, I am not sure.

Q. Tommy York is a boy about forty years old now, isn't he?

A. No, sir, I don't think he is that old, Tommy York I am talking about is about my age, or maybe a year or two older.

Q. Have you got a sister in Leavenworth?

A. No, sir, I have no sisters at all, no sisters or brothers.

Redirect Examination by Mr. German.

Q. What was the name of your uncle, Doyle, his given name? A. That time?

Q. Yes, sir? A. Nathan.

Q. What kin was he to Julia Doyle?

A. My aunt's husband.

Q. Nathan Doyle and Julia Doyle were husband and wife? A. Yes, sir.

Q. Which one was kin to you by blood, Julia or Nathan?

A. Nathan.

Q. And you called Julia your aunt? A. Yes, sir.

Q. Do you know where Van Tyle's barn was, don't you, at the corner of Third and Seneca?

A. I don't know what the name of the barn was there, but I knew there was a barn on the southeast corner.

Q. On Third and Seneca?

A. Third and Seneca, yes, sir.

Q. Across the street from Crilly's barn and a little west?

A. Yes, sir.

Q. How many different times were you in that barn?

A. Very few.

Q. You were there sometime?

A. Yes, sir, playing around through there.

Recross Examination by Mr. Bell.

Q. You never lived in that neighborhood? A. No, sir.

Redirect Examination by Mr. German.

Q. You knew a boy named Walter Banks, didn't you?

A. Yes, sir, I heard that name, yes, sir.

Q. How did you—— What did you know him as?

A. Why, I——

Q. By what name did you know him?

A. Walter, as far as I know of.

Q. Where did he live?

A. I don't know exactly where he lived at, but I think he lived on Seneca.

Q. Between what two streets?

A. Between Second and Third.

Q. Was he older or younger than you?

A. He was older than I am.

Recross Examination by Mr. Bell.

Q. Say you were eight or nine years old when you left Leavenworth?

A. Between the age of eight and ten, yes, sir.

Q. And the time that you played on Seneca Street, you were living then in North Leavenworth? A. Yes, sir.

Q. And living from six from five to six or eight blocks from Seneca Stret? A. Yes, sir.

Q. And the majority of the boys—the colored boys that you played with lived up in the north part of town where you lived? A. Yes, sir.

Q. And to play on Seneca Street, they would have to come five or six blocks down there to play? A. Yes, sir.

Redirect Examination by Mr. German.

Q. Was Seneca Street a part of North Leavenworth?

A. Yes, sir, there was two or three blocks the dividing line I believe.

Q. Two or three blocks north of the dividing line?

A. I guess so, I don't know what was the dividing line.

Q. Anyway, you do know Seneca Street was a part of North Leavenworth? A. Yes, sir.

Q. The main dividing line of property of the city, was the city line between North and South Leavenworth?

A. Yes, sir.

Q. To refresh your memory, wasn't Shawnee Street the dividing line? A. I don't know.

Recross Examination by Mr. Hanford.

Q. Where did you live in Platt City, what street?

A. There was no street. I lived in North Platt City.

Q. North Platt City? A. Yes, sir.

Q. What kind of a house? A. I don't know.

Q. You don't remember? A. No, sir.

Q. Did you say it was North Platt City or north of Platt City? A. Well, it is North Platt City.

Q. North part of the town? A. Yes, sir.

Q. What kind of a looking boy was Walter Banks?

A. A dark boy.

Q. A dark boy. How old was he? A. I don't know.

Q. How much older than you?

A. I don't know that either, he was older than I was.

Q. Did you play with him? A. No, sir.

Q. You played with boys your own age mostly?

A. Near, yes, sir.

Redirect Examination by Mr. German.

Q. As I understood you, you left Platt City when you were so little you don't remember? A. Yes, sir.

Cross Examination by Mr. Johnson.

Q. You say you played around Van Tyle's barn?

A. I was running around through there, didn't stop to play much, they didn't allow you in that barn.

Q. No boys were allowed around that barn at all?

A. Not as I know of.

Q. You remember any of the men that worked around that barn? A. No, sir.

Q. Don't you remember a one armed man who used to work there? A. No, sir, I don't.

Redirect Examination by Mr. German.

Q. You knew a one-armed man in Leavenworth, didn't you? A. A colored man?

Q. Yes?

A. Yes, sir, I disremember his name now, but I remember a one-armed man that washed windows around there.

Recross Examination by Mr. Johnson.

Q. Windows? A. Yes, sir, washed windows.

Q. Around Van Tyle's barn? A. No, sir, around town.

Q. What street did you see him washing on?

A. I seen him washing windows on Delaware.

Q. On Delaware Street? A. Yes, sir.

Q. He was a colored man, wasn't he? A. Yes, sir.

(Witness dismissed.)

Mr. German: Now, Mr. Pennick, I don't think we will have occasion to come back and take any more within our ten days, but I don't want to say we will not.

And thereupon, an adjournment is taken.

Mr. German: We offer the deposition of Angy Yoakum, appearing at page 821, and again at page 849 of Mr. Penick's transcript.

And thereupon ANGY YOAKUM being called upon on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. State your name, age, and place of residence.

A. Angy Yoakum; 705 Shawnee Street, Leavenworth, Kansas.

Q. Where were you born?

A. In the country, on Big Stranger.

Q. How long have you known Henry Carter?

A. Ever since I can remember.

Q. Is he older or younger than you? A. Older.

Q. About how much older?

A. Oh, I can't say because I don't know.

Q. What year were you born in?

A. Oh, I don't know about that; I know I am about 31 or 32—I never did think about that. I know I am 31 or 32; that is something I never think about.

Q. Are you married? A. No, sir.

Q. Who is your father and mother?

A. Maria and John Yoakum.

Q. Are they living? A. Yes, sir.

Q. They are witnesses in this case? A. Yes.

Q. About how old was H Carter when you first knew him?

A. Oh, I can't say, but he was a young man when I first knew him.

Q. Where was he when you first knew him to know that he was H Carter?

A. Well, at grandfather's, Henry Carter.

Q. Your mother had moved away from that country before your birth, had she?

A. Yes, sir, to my grandpa's place.

Q. Did you visit the Carter home after you grew up to be a good sized girl?

A. Oh, yes, I used to go out there lots of times.

Q. And later, did Henry visit your home?

A. Yes, sir, he used to come there and stay weeks and weeks at a time.

Q. When was that—about how many years ago?

A. Oh, that has been a good many years ago.

Q. Did you know about him going away from here?

A. Yes, sir.

Q. Where did he go? A. To Oklahoma.

Q. About how long did he stay down there?

A. Oh, he stayed down there quite a bit and he came back and brought his wife and they came there and stayed about two or three days, too, before they went out in the country.

Q. Do you know what his wife's name was?

A. Her name was Lelia, was all I know. He called her Lelia Shoemake—that is all I know.

Q. What was the color of her?

A. Oh, I don't remember.

Q. Do you remember how her eyes were?

A. Yes, sir, she was cross-eyed.

Q. Now, before Henry went to Oklahoma, about how long had you known him?

A. Oh, I had known all the time. He came there and stayed before he went to Oklahoma.

Q. Did he give you any pictures before he went to Oklahoma? A. Yes, sir.

Q. Have you those pictures now? A. Yes, sir.

Q. Let me see them, will you; just the first picture he gave you? A. This is one.

Q. I now hand you Government's Exhibit No. 24 and ask you what it is.

A. It is a picture of Henry Carter—H Carter.

Q. When was that picture taken?

A. Well, I can't say but I have had it for a long time.

Q. Who gave it to you? A. H Carter.

Q. About how long ago, did he give that to you?

A. Oh, it has been every bit of ten or fifteen years, anyway.

Q. In reference to the time when he went to Oklahoma, before he married his first wife, how long had you had that picture?

A. Oh, I had it—I can't say—I don't know—but I had it before that.

Mr. Allen: We offer Exhibit No. 24 in evidence.

Mr. Blakeney: We have no objection.

Q. I hand you Government's Exhibit No. 25 and ask you what it is. A. It is the picture of H Carter.

Q. When did he give you that with reference to the time he gave you the first picture introduced.

A. Oh, this was quite a bit afterwards.

Q. About how long afterwards?

A. Oh, I can't say just how long.

Q. That was given you by Henry Carter? A. Yes, sir.

Q. Was that before he went to Oklahoma the first time?

A. Yes, sir.

Mr. Allen: We offer Government's Exhibit No. 25 in evidence.

Q. I hand you Government's Exhibit No. 26 and ask you what it is. A. A picture of H Carter.

Q. Who gave you that picture? A. H Carter.

Q. When did he give it to you with reference to the time he went to Oklahoma the first time, and before he was married the first time?

A. He gave me this one a little bit after he gave me that one.

Q. You refer to Government's Exhibit 25? A. Yes, sir.

Q. Referring again to Government's Exhibit 26, how long before he went to Oklahoma was it that he gave you that picture?

Mr. Blakeney: We object as leading and suggestive.

Q. Was it before he went to Oklahoma that he gave you this picture? A. Yes, sir.

Q. Was it before he was married the first time?

A. Yes, sir.

Q. About how long before?

A. Well, I don't know; I can't say.

Q. Was it Oklahoma or Indian Territory that he went to?

A. Down in the Territory somewhere—Oklahoma or Territory, I don't know which. I know he went to Oklahoma; I thought it was Oklahoma—down in the Territories.

Q. When he came back from that trip did he bring his wife with him? A. Yes, sir.

Q. Is that the time you have reference to?

A. Yes, sir, but he gave me that picture before he was ever married.

Mr. Allen: We offer in evidence Government's Exhibit 26.

Q. Do you know Viola Carter? A. Yes, sir, I do.

Q. Is she older or younger than you? A. She is older.

Q. How much older? A. Oh——

Mr. Blakeney: We object as asking for conclusion, and incompetent, irrelevant, and immaterial, and we move to strike out the preceding answer as asking for incompetent, evidence, and an improper conclusion.

Q. When did you first know her?

A. I have known her quite a bit. We used to go out in the country—out there and play together.

Q. Did you play with her when you were girls?

A. Yes, sir, when I would go out there sometimes, sure.

Q. Did she ever come here to see you?

A. Oh, she hasn't ever been in town but two or three times, I don't think—yes, sir, she has.

Q. Do you know who her mother is?

Mr. Blakeney: We object as asking for a conclusion; incompetent, irrelevant, and immaterial, seeking for hearsay evidence in an attempt to ask her if she was at the birth of the child.

Mr. Allen: I withdraw that.

Q. Did she ever tell you who her mother was?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. No, sir.
Q. Did you ever hear any members of the Carter family say who was the mother of Viola?
A. Who do you mean—who do you mean said so?
Q. Any of his sisters, or aunts, or uncles?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial; indefinite and hearsay.

Q. Or brothers?
A. Never heard her sisters or brothers say so.
Q. What is your relation to Viola and Henry Carter?
A. Cousins; sister's children.

Mr. Blakeney: We move to strike out that answer, sister's children, as incompetent, irrelevant, and immaterial.

Q. Have you all your life understood in the family who was the mother of Henry and Viola?

Mr. Blakeney: We object as asking for hearsay; incompetent, irrelevant, and immaterial, and indefinite.

A. Yes, sir.
Q. Who? A. Adis.

Mr. Blakeney: We object as incompetent, irrelemant, and immaterial, and indefinite, and asking for a hearsay statement; it doesn't show what family she is referring to that she had learned it.

Q. Answer——

Mr. Blakeney: I interposed my objection immediately upon the question being asked but the witness replied before I had filed it, and I ask that it be considered as previous to the answer, and that the answer be stricken out for the same reasons.

Q. Did you ever have any conversation with Henry with reference to his parentage? A. No, sir.
Q. Has he talked to you since this case came up?
A. Lately, you mean? How long?
Q. Yes, within the last two years. A. Oh, yes, sir.
Q. What, if anything has he said to you about it?
A. Oh, he came to our house the day before this case—two years ago—maybe one or two years ago——
Q. In Leavenworth?
A. I had been away and I got home, and he come by and

said, I got something to tell you all, and I said, what; he said, I heard who my mother was; and we said, who; and he said, Minnie Atkins; and so, I said, is that so; and he said, yes. So mamma said, there ain't no truth in that——

Mr. Blakeney: I object to what her mother said as not responsive, incompetent, hearsay, and immaterial.

Q. Go ahead.

A. And so he said, he said he saw the lady that just washed and dressed him, and my mother said, well, if you did, you saw something that wasn't so.

Mr. Blakeney: We object to what the mother said as incompetent, irrelevant, and immaterial.

Q. He was present at that time? A. Yes, sir.

Q. Go ahead and recite all the conversations at that time.

Mr. Blakeney: We object to any part of the conversations except that Carter made.

A. Answer?

Q. Yes.

A. That is what she told him, and he said, oh, you all don't know what you are talking about.

Mr. Blakeney: Who said that?

A. He did; and he said he saw the woman that washed and dressed him but he didn't call the lady's name.

Q. Was there anything else said?

A. Oh, yes, sir, and then another time he came by there and was showing me some kind of a paper, and said he had the lease on the land. Said he was Tommy Atkins.

Q. Did he say who told him that he was the son of Minnie Atkins?

A. He said that she did; said that she had owned him.

Q. She—who?

A. Minnie Atkins—that is what he said; that he saw his mother for the first time.

Q. When and where was this last conversation?

A. At 705 Shawnee.

Q. About what time?

A. Oh, it was about two or three——

Q. Did he tell you where he was born?

A. No, he didn't say.

Q. Did he tell you where Minnie had recognized him?

A. No, he didn't say that; he said he was getting letters from her all the time.

> Mr. Stuart: We object to that because it was made outside and not in the presence of Minnie Atkins and being in any way self serving.

Cross Examination by Mr. Stuart.

Q. How long have you known this boy that you call H Carter? A. All my life.

Q. All your life. How old did you say you were?

A. 31 or 32.

Q. 31 or 32. You said you played with him when he was a boy? A. No, sir.

Q. You did not?

A. No, sir, I didn't; I said I went out there at times.

Q. Well, you went out there and saw him when you were out where?

A. Out to grandfather's. We played when we were out there.

Q. Well, that is what I mean—you didn't play with him all the time but you played with him a little? A. Yes, sir.

Q. Out at grandpa's? A. Yes.

> Mr. Blakeney: We object to the leading method of counsel, as this is part of their case in chief and not cross examination.

Q. Well, you say you saw him out to your grandfather's?

A. Yes, sir.

Q. Will you state whether or not you were a large girl or a small girl when you first saw him.

A. Oh, I was a little bit of a kid.

Q. Little bit of a kid. Will you state whether or not you saw him out there when you were a little kid? A. Yes, sir.

Q. At your grandfather's?

A. Yes, sir, as far as I can remember.

Q. Is that the same boy whose photograph you have identified here with whom you played when you were a small child at your grandfather's? A. Yes, sir.

Q. The same boy? A. Yes, sir.

Q. You may state whether or not you have seen him from time to time since you were a small child.

A. Oh, I can't say that, because we lived in town.

Q. I don't mean all the time, but had you seen him from time to time, now and then? A. Yes, sir.

Q. Since you were a small child? A. Oh, yes, sir.

Q. And you now say recognize this boy as the same boy as you played with when you were a little child?

A. Why, yes, sir, that is the same picture—he gave it to me.

Q. Did you see him from time to time as he grew up?

A. Oh, yes, sir, at times; we were together out in the country—he never came to town.

Q. Did you lose entire sight of him—what I mean did he pass from your recollection and sight? A. No, sir.

Q. At any time? A. No, sir; no, sir.

Q. Whose daughter are you?

A. Maria and John Yoakum.

Q. Maria and John Yoakum? A. Yes, sir.

Q. Are you a sister of Mrs. Williams?

A. Yes, sir, I am the youngest girl—the baby girl.

Q. What do you say your name was? A. Angy Yoakum.

Q. You are the youngest of your father's children?

A. Yes, sir.

Q. This boy ever come to your sister's house?

A. To which one do you mean?

Q. H Carter. A. Which one? I got so many.

Q. The one Mrs. Williams. A. Oh, yes.

Q. That is where you saw him mostly, is it?

A. No, at our house—my own mother's house.

Q. Did you ever see him at your sister's house?

A. Oh, yes.

Q. Your sister Mrs. Williams? A. Oh, yes.

Q. Did you ever see him at the other sister's house?

A. Mrs. Green's?

Q. Yes.

A. Oh, yes, once or twice when I was out in the country.

Q. I will ask you whether or not he visited as he came in, the members of the family? A. Yes, sir.

Q. From time to time?

A. Yes, sir. He used to come to our house and stay week in and week out at the time.

Redirect Examination by Mr. Allen.

Q. You say that Henry brought a woman back with him after he had been down—when he returned from the Territory, and that he called her Lela Shumake? A. Yes, sir.

Q. Do you know what became of that woman?

A. Well, I know she went out into the country, and didn't stay out there very long and went back. Where she is now, I don't know.

Q. Did he later marry anyone else? A. Yes.

Q. Who did he marry?

A. A girl by the name of Ara Simpson. I think that is her name.

Q. Are they living together now?

A. I think so, I don't know.

Q. Were they, the last time that you knew of them?

A. Yes, sir.

Q. Where were they married?

A. Up here in Leavenworth, I think—I don't know.

Mr. Blakeney: We move to strike that out as to her thinking.

Recross Examination by Mr. Blakeney.

Q. Angy, you say that you are 30 or 31 years of age?

A. I said 31 or 32.

Q. 31 or 32 years of age. Have you been married?

A. I have.

Q. How often? A. Once.

Q. How long ago?

A. Oh, I don't know; I never paid any attention to it.

Q. Well, about how long ago, Angy? I am not trying to go into any unpleasant details at all.

A. Well, there ain't no unpleasant about it.

Q. Well, about how long ago?

A. Well, I don't know; that is something I never think about.

Q. You don't know when you were married?

A. I don't never think about it; that is one thing I never think about.

Q. Is your husband living or dead? A. I don't know.

Q. Are you divorced from him? A. I am.

Q. How long ago was you divorced?

A. Quite a little bit ago.

Q. Several years? A. Oh, yes, I think so.

Q. Ten or fifteen years? A. Oh, no, I don't think so.

Q. Several years anyhow?

A. Because I would be mighty old to be that old.

Q. Have you ever had any children?

A. No, I should say not.

Q. Where did you get your divorce? A. Kansas City.

Q. Kansas or Missouri?

A. Missouri, I think; I didn't get it at all.

Q. What was your husband's—he got it? A. Yes.

Q. What was your husband's name? A. Albert Filtager.

Q. Spell the name for us, please. A. The last part?

Q. Yes. A. F-e-l-d-h-a-g-e-r.

Q. Now, what have you done to make a living? Done physical labor?

A. No, I stay home with my mother and father.

Q. You do household work?

A. I do the work around the home, yes.

Q. Do the household work? A. Yes.

Q. You are practically the housekeeper of your home? A. I am.

Q. Both your father and mother are old? A. Yes, sir.

Q. And you have done the hard work about the place the last ten years? A. Yes, sir.

Q. What is your weight now? A. I don't know.

Q. What was your weight the last time you weighed?

Mr. German: I object to that as incompetent, irrelevant and immaterial.

Q. What is your height?

A. I don't know; I never paid any attention to it.

Q. Well, you are what is called a small woman, aren't you? A. Yes.

Q. And you always have been a small child?

A. Oh, I used to be fat.

Q. Fat? A. Yes.

Q. Independent of that, you were always a little child and you grew up to be a short woman?

A. I wasn't tall but I was fat.

Q. You weren't tall but you were fat? A. Yes.

Q. What I am trying to get at *it* whether or not you have always been a small person when you were a child—small for your age—and when you were grown a small person?

A. Oh, no, I was fat.

Q. When you were fat, you think you were a large person?

A. Oh, I don't think nothing about it.

Q. Henry Carter has always been a large boy, hasn't he? A large man?

A. Oh, he is tall; I don't know about the largeness.

Q. Always been rather tall?

A. Been tall, but about his largeness, I can't say.

Q. Tall for his age?

A. I don't know about for his age—just tall.

Q. Viola has always been large for her age?

A. I don't know anything about that.

Q. She is a large woman isn't she?

A. I don't think she is so large, I might——

Q. Very much larger than you?

A. Yes, but that don't make her large; I don't call it large.

Q. She is a woman that would weigh 145 to 150 pounds, isn't she? A. I don't know.

Q. And about 5 feet, 5 or 6 inches high? A. I don't know.

Q. You are just scarcely over 5 feet, aren't you; do you know what your height is?

A. No, I never paid no attention to it.

Q. Angy, you are the girl, when we were having the examination of your mother that had possession of the Bible, aren't you? A. Yes, sir.

Q. The Bible has been in your custody and you had the care of it? A. You mean all the time?

Q. *We*, no, not all the time but the last few months you kept it locked up in your trunk?

A. No, I didn't keep it locked up; it is in my trunk. Mother had no other place to put it.

Q. You have taken care of it?

A. No, I ain't taken care of it. I put it away.

Q. When this examination is closed, will you go down and bring that Bible up? Q. If somebody will carry it.

Q. We will have somebody to carry it for you. I would like to ask you a question about that Bible.

A. Do you want it right away?

And thereupon the witness is excused until 9:30 o'clock A. M.

And thereupon adjournment of the taking of testimony herein is had until 9:30 o'clock A. M.

And thereafter and on February 10th, 1916, at 9:30 o'clock A. M., further testimony herein was taken as follows:

ANGY YOAKUM, being recalled, further testified as follows:

Recross Examination by Mr. Blakeney.

Q. Angy, during the recess, did you get a measurement of your height? A. No.

Q. Will you take your hat off, and let us place it in the record?

> Mr. German: I object to that as incompetent, irrelevant, and immaterial, and improper cross examination.
>
> The Examiner: Will you let the gentleman measure you?

A. Yes.

Q. You saw this measured, did you? A. I wasn't looking.

Q. Well, I want you to look. I will ask you to look and see if that shows about 61 and a quarter inches?

Mr. German: We will agree on what it shows but object to it as incompetent, irrelevant, and immaterial, and improper cross examination.

Mr. Blakeney: But agree that the measurement shows *16* and one-fourth inches?

Mr. German: Yes.

Redirect Examination by Mr. Allen.

Q. You stated on cross examination that you had been married and divorced? A. Yes, sir.

Q. Were you married before or after Henry Carter went to the Indian Territory? A. Before, I think.

Q. Were these pictures given to you before, or after you were married?

A. Well, I don't remember that; some may have been before and some afterwards.

Q. To refresh your memory, think about that and tell us whether or not you were married at the time those pictures were given to you.

Mr. Blakeney: We object as not proper redirect examination.

A. I know that one of them was.

Q. One was given to you after you were married?

A. No, sir, not at the same time—after I had married—that little one—one of the little ones.

Q. When was the big one given to you with reference to the time when you married?

Mr. Blakeney: We object as not proper redirect examination.

A. Oh, I can't say.

Q. Was the big picture given to you before or after you were married?

Mr. Blakeney: We object as repetition and as not proper redirect examination.

A. After.

Q. After you married but before Carter went to the Indian Territory? A. Yes, sir.

Mr. Blakeney: We object as not proper redirect.

Q. Were you *a* small, as a child, for your age, as you *you* grew up?

A. Why, I can't say that; I don't think so—I thought I was fat. I didn't think I was so little.

Q. You were not regarded as small for your age as you grew up?

Mr. Blakeney: We object to what she regarded as incompetent, irrelevant, and immaterial, and asking for an improper conclusion.

A. No, sir.

Q. You say that all of your life you played around at different times when you were a child, with Henry Carter?

A. No, sir, I didn't say that—I said——

Mr. Blakeney: We object as not proper redirect examination. The question was not referred to in cross examination.

Q. You say that you played with him as a child when you went out there during your childhood?

Mr. Blakeney: We object as not proper redirect; leading and suggestive.

A. I played with him when I used to go out there.

Q. Was he older or younger than you?

Mr. Blakeney: We object as asking for a conclusion, an opinion of the witness and object to the competency of the witness.

A. Older.

Q. Do you know? A. Older.

Mr. Blakeney: And not proper redirect.

Q. Was Viola older or younger than you?

Mr. Blakeney: We object now, as not proper redirect examination, no reference being made to Viola in any cross examination. Her name was not called, and we further object as incompetent, irrelevant, and immaterial, and the competency of the witness, and the question seeks to draw out a conclusion.

Mr. Allen: We make this question a part of our direct examination.

Mr. Blakeney: We object.

Q. Do you know whether or not Viola was older or younger than you?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and object as not proper redirect.

Q. Just answer that yes or no. A. She was older.

Mr. Blakeney: We move to strike the answer as not responsive.

Q. Do you know whether she was older?

Mr. Blakeney: I want to object to two counsel examining the witness if both counsel insist in going over the same parts of the evidence.

Q. Just answer that yes or no—do you know or not.
A. Yes.
Q. Was she older or younger than you?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and to the competency of the witness, and improper redirect.

A. Older.

Recross Examination by Mr. Blakeney.

Q. You didn't know the age of either Henry Carter or Viola Carter—you are judging of their ages by their size and appearance?
A. No, I am not because I know they are older than me.
Q. Well, you know that because of their appearances?
A. No.
Q. Because they was born before I was.
Q. Were you there when they were born?
A. No, I couldn't have been—that is impossible.
Q. Then you don't know that they were born before you, except that they appeared when you played with them?
A. No, they always said they were older than I was and I knew they were older.
Q. Your mother always said so?
A. Mother and grandmother, and father, too.
Q. They would tell you how old each one of you were?
A. No, they didn't say that.

Witness dismissed.

Mr. German: We offer the deposition of Mrs. Ada Van Duzee, taken before Mr. Penick, appearing in his transcript beginning at page 3046.

And thereupon Mrs. ADA ARMERLY VAN DUZEE being called on behalf of the United States, sworn and under oath testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name?

A. Mrs. Ada Armerly Van Duzee.

Q. Mrs. Van Duzee, how long have you lived in Leavenworth?

A. 32 years, I believe; '84 and '86—1916 now—32 years.

Q. When did you move to Leavenworth?

A. In the spring of 1884.

A. I came here in April of 1884.

Q. Where did you come to Leavenworth from?

A. Minneapolis, Minn.

Q. What was the occasion of your coming to Leavenworth?

A. My husband had a position with the Great Western Manufacturing Company.

Q. When you moved to Leavenworth, where did you first live?

A. With Mrs. Sawyers. I first went to the Planters House; stayed there probably a week, and took rooms on the Esplanade, corner of *Seventh* and the North Esplanade.

Q. How long did you continue to live at Mrs. Sawyer's?

A. Well, I can't just remember. I took Mrs. Neely's furnished house; she leased, and I took her furnished house and kept it until October. I rented it for four months, so I must have gone in there sometime in July or June.

Q. And up until the time that you took this furnished house, you lived at Mrs. Sawyer's? A. Yes.

Q. Then, in October, when you gave up this furnished house, where did you go?

A. I went to Mrs. Roberts, on the corner of Ottawa and Fifth, over Mr. Cool's bakery, new bakery.

Q. How long did you live there?

A. Mrs. Roberts bought a place on Pottawatomie street, between Third and Fourth, and I went there with her—I can't tell you absolutely what month it was, but it was in the spring.

Q. Then, you stayed at this place, over the bakery, was it? A. Through the winter.

Q. Through the winter, until the spring of '85? A. Yes.

Q. Then how long did you stay at this home on Pottawatomie?

A. Until I moved into this house on Second street; I can't tell you what month that was.

Q. Was that during the same spring?

A. Yes, of that year.

Q. Where on Second street, did you move to?

A. The second house from the corner—it is on an alley—the corner house was on an alley, and I took the second one, and Mr. Peck was living in the corner one at that time.

Q. What direction was that from 217 Seneca street?

A. Well, it was east.

Q. How far were you in your new location from 217 Seneca street?

A. Well, I was on Second and they were on Seneca. They were near the corner of Third and I was right on Second street.

Q. Did you know who lived in the frame house across the street from Crilly's barn?

A. I did not; I knew nothing about the people who lived on Seneca street.

Q. Did you know of a family living there in that community across the street from Crilly's barn, who were running a house of ill-fame?

A. Well, I knew there was such people, who occupied those premises but I paid no attention to them whatever.

Q. What attracted your attention to that house and the character living therein?

Mr. Cruce: We object; she said she didn't pay any attention to them.

A. Well, they were in the rear of me, and of course, I didn't spend much time in the rear of my house, so I couldn't tell you anything about which house it was—that is, positively—I can't tell positively which house it was.

Q. Which way were they from the Abernathy's lumber yard?

A. Well, I suppose if they were across from Crilly's barn —the lumber yard, you mean?

Q. Yes.

A. Well, the lumber yard was between they and me— would be, if that was the situation.

Q. Well, do you know how the situation was? Did you see them there?

A. I suppose I did; I can't swear positive I did. This woman went by my place—those characters went by my place and that is all I know about that. I didn't interest myself.

Q. Did you know that they were living there in that community, though?

A. Well, I hear they did; I couldn't positively swear to it.

Q. Where they white or colored people?

A. Well, the women who passed by my house and made themselves conspicuous were white women.

Q. Did you ever see them sitting around the yard at the house where they lived?

A. I don't think I did; I didn't even go by that street. When I went down town, I went Shawnee street.

Q. Were any colored people living on that street?

A. Not on Second street where I lived.

Q. Was any living back of you there? A. I don't know.

Q. Do you know whether or not there were any protests by any of the neighbors concerning the conduct of those women?

A. Well, I know they talked it over—we people who lived in that block—that it was very obnoxious for them going by; making offensive remarks, and we all had small children and we didn't think the surrounding were very——

> Mr. Blakeney: I move to strike out what the neighbors talked about as hearsay, incompetent, irrelevant, and immaterial.

Q. Where did you understand at that time that they lived?

> Mr. Blakeney: Objected to as incompetent, and asking for hearsay.

A. Well, I——

> Mr. Hanford: The same objection.

A. I don't have to answer?

Q. Yes.

A. I don't know anything about legal technicalities; you will have to coach me. Well, it seems to me, that I heard people say that they lived near Van Tuyl's barn, but I can't tell you positively that they lived there because as I said, I paid no attention to them and I didn't interest myself particularly in them.

Q. How long did they continue to live in that community?

A. I can't tell you.

> Mr. Blakeney: We object. The witness shows that she had no knowledge.

A. I didn't pay any attention to them, I told you.

Q. I know you didn't visit them.

A. I know it, but I was a very young woman at the time and I had always lived in large cities and I didn't pay any attention to that class of people; never have, in my life.

Q. You were attracted, though, by these characters in that community?

> Mr. Cruce: We object as leading.

A. When they passed by our house and made the remarks, then I knew that these people lived in that vicinity.

Mr. Blakeney: I object to counsel cross examining his witness and trying to make the witness testify to characters that she shows she knows nothing about.

Witness dismissed.

Mr. German: We offer the deposition of Joseph Voorhees, taken before Mr. Penick, appearing in his transcript beginning at page 3038.

And thereupon, JOSEPH E. VOORHEES, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. State your name. A. Joseph E. Voorhees.
Q. What age are you, Mr. Voorhees? A. 29.
Q. You live in Leavenworth? A. Yes, sir.
Q. What official position, if any, do you hold?
A. County clerk, Leavenworth County.
Q. How long have you held that position?
A. Elected in 1914, held it about 18 months.
Q. Mr. Voorhees, is there a record kept of appointment of deputy sheriffs of this county, and which it can be told the time of the entry upon the performance of duty, and the time of the end of the term of a deputy sheriff?

Mr. Hanford: Objected to as calling for a conclusion; irrelevant, and immaterial.

Q. We have an election record—record of the election of the various officers in the county, and we have a record that you speak of, of the election of the sheriff—the sheriff makes their appointments.
Q. Of deputies?
A. Yes, sir, appointment of deputy sheriffs. These appointments are made on blank form—that is, I hereby appoint John Jones a deputy sheriff, etc., without pay, it usually says; these appointments are filled in and kept on books. We had a fire in 1910, and all the record- were burned.
Q. Prior to that? A. Yes, sir, of deputy appointments.
Q. What about the records pertaining to the salaries of deputy sheriffs?
A. Well, as I said, the salary of deputy—appointed by sheriff—they are paid by the sheriff, himself, and of course, no record is kept in the office. For instance, if a deputy appointed by a sheriff, the deputy you speak of, I suppose, if he

went out on a certain case, he was to be paid by the sheriff on that particular case.

Q. Where are the records of the sheriff, pertaining to his deputies for the years 1887, 1888 and '89?

A. They burned up.

Mr. Hanford: I move to strike the testimony of this witness as irrelevant, and immaterial, and incompetent, and move to quash the deposition.

Cross Examination by Mr. Blakeney.

Q. Why do you say it was burned up? You don't know anything about whether it had been destroyed in 1887 or not, do you? A. Well, all records were burned.

Q. What you mean is, all records were burned?

A. All records were burned and they were supposed to be—the file in my office. That is, all records of that are kept in my office.

Q. All records since 1910 are kept in your office?

A. Yes, and all records of appointments previous to that time were supposed to be kept in the county clerk's office.

Q. That is, if they were kept, they were kept in the county clerk's office? A. Yes, sir.

Q. That is, where the records were made in '87—you don't know anything about it?

A. Yes, sir, the records were made in '87.

Q. You knew it personally?

A. Yes, sir, we have certain boxes to put appointments in, and when that box gets full, we wrap them and place them in a file outside of the vault.

Q. That is the way you do now?

A. That is the way they did then—because we found records back to '89, previous to that time—boxes had been filed.

Q. Well, evidently you didn't find them.

A. Didn't find them?

Q. But you merely assume that if they were kept, they were kept that way? A. Yes, sir, that is all.

Witness dismissed.

Mr. German: Now, in this connection, I would like to see if we can't have an understanding, I don't know that it is necessary for us to reintroduce the deposition and witnesses which we put on as a part of our case in chief, relating to Lilly White, relating to Lilly White's occupancy of this house at 217 Seneca Street from the summer '84 until the fall of '85. Also the depositions of some twenty-five to thirty witnesses who were occupants of the home at that place with Granny Letcher, and who testified to the effect that there was no such person as Thomas Atkins there, and running clear through from about 1884 up to about 1890, no such person as Thomas Atkins living with her. We offered all those depositions in support of our proposition that they showed that the defendant had fabricated a case.

* * * * * * * *

The Court: Were those twenty-five or such number of depositions that you refer to, introduced at the time you referred to for the limited purpose, did I exclude them?

Mr. German: No, sir, Your Honor received them.

The Court: Oh, well, they are in the record and without any limit.

Mr. German: That is true, except I just wanted an understanding that they would be treated that way. If that is the case we would have no occasion to reoffer them.

The Court: If I understand you then, they were offered—aside from the three or four that were introduced for the limited purpose, the others were introduced as a part of your case in chief?

Mr. German: Yes, but they would have found no place except for the three or four for the limited purpose.

The Court: But they are in the record for all purposes.

Mr. German: Yes, sir, that is what we want to understand.

The Court: As to introducing them again in rebuttal I see no reason why the record should be encumbered.

Mr. German: Now, there seems to have been a little confusion in the course of the trial as to the deposition of Sam Nash and Walter Banks. We didn't vouch for the integrity of the statements made in their depositions. Those two depositions, you know, were taken in October, 1914, before any Government case arose and they are in for the limited purpose that we have just been talking about.

The Court: I had the impression that the depositions of Sam Nash and Walter Banks, which were introduced by you, were depositions taken by the defendants in this very case.

Mr. German: No, Your Honor. They were depositions taken by these defendants in the state court case. Now, you see these two witnesses, Walter Banks and Sam Nash, they are in this district and have been throughout this trial. They were in the court house and around the City of Muskogee here and were in the court house possibly at the very time we offered their depositions for that limited purpose. They have never been produced as witnesses. Now, we understand that *thos* two depositions, and likewise Dennis Jones and Rube Smith, are to be considered only upon the proposition as to whether or not the defendants fabricated a case; and if it should be found that the defendants fabricated a case, then of course it would follow that what those four persons testified to is not true. Now, if it should be found that the defendants did not fabricate a case, then the testimony of those four persons would not be found to be false, but the testimony of Sam Nash, Walter Banks, and Rube Smith, and I refer especially to Sam Nash and Walter Banks because they were in the jurisdiction of this court, now they would simply be discarded and wouldn't be considered as evidence in this case on the question as to whether Thomas Atkins was born at Granny Letcher's and lived there.

The Court: Well, Mr. German, I never have I guess entirely grasped your theory with regard to the fabrication of this case which you seem to disassociate from the other questions in the case as to whether there ever was a Thomas Atkins in existence. * * * If I reach the conclusion from all the evidence in the case that there was a Thomas Atkins, or that the evidence is not sufficiently clear to make a finding to the contrary, then what difference does it make whether the defendants attempted to fabricate a case or not?

Mr. German: Your Honor, but Your Honor couldn't consider the testimony of the deposition of Sam Nash and Walter Banks, which we introduced as substantive evidence upon the question as to whether or not Thomas existed, that is the point we are making. * * *

The Court: Well, let me see; it will be a part of your argument or brief in the case. You have submitted these two depositions for the limited purposes which you express; you contend that the Court may not consider them for any other purpose, but do want them and purpose to leave them in the record for that purpose.

Mr. German: That limited purpose.

The Court: The defendant Page probably does not agree with you that they are in for that limited purpose. He has probably conceived that the Court must examine them for every purpose, and therefore has not put them on the stand. It is probably unnecessary for me to determine that question now. You gentlemen take opposite positions on that question. You are trying the case, you are putting the record up to the Court. If counsel for the defendant Page see fit to take the stand that the Court must examine it for all purposes, and you take the opposite position, the Court takes the case as it is presented.

* * * * * * * *

Mr. Stuart: I am perfectly willing to rest on my views of the matter.

The Court: I haven't reached a conclusion on that matter yet; but I am letting you gentlemen take the different horns of the dilemma, and stand on it, and I will take the case when it comes to me.

Mr. German: Now, Your Honor, in case they are not going to be treated for the limited purpose, we will want to withdraw them; and we have authorities on the matter. * * * I don't know whether the Court would like to bother with it at this time, but unless they are going to be treated and considered for that limited purpose, then we desire to withdraw them.

Mr. Stuart: If Your Honor please, we will not consent to that. The gentleman can't make his case in chief and allow us to put on our evidence and these other defendants, and then say they will withdraw part of the case.

The Court: Well, you may read into the record your motion for leave to withdraw and I will take that together with other questions in the case, reserve ruling, and make that ruling together with other rulings in the case.

Mr. Allen: Here, Your Honor, is why it is necessary for us to determine this question before this case is closed. We, upon the theory of fabrication only, offered the direct evidence, the evidence solicited by counsel for the Page interests, upon the direct examination of these witnesses. Now, of course, if those depositions are to go in for all purposes, we conceive that they should be treated or would be treated, that they should be treated or would be treated for all purposes, then we might desire to introduce the cross examination of those witnesses.

The Court: Well, wouldn't——

Mr. Allen: We think it is clear inasmuch as they are in the jurisdiction of the Court that the depositions would be incompetent for any purpose——

Mr. Hanford: We don't object to the testimony on that ground, Your Honor.

Mr. German: You did as to one and to the other you did not.

The Court: I don't remember that there was any objections to those depositions but there was an objection to their going in for the limited purpose.

Mr. Hanford: We objected to the whole depositions, in going in, Your Honor, and it was specifically understood that the whole deposition would go in, cross as well as direct.

Mr. German: No, this was the understanding: that you would have the privilege of introducing the cross if you desired, so far as it related to the direct which we had introduced. Of course we would not deliberately—I started to say, would not stullify ourselves by introducing testimony deliberately which we have read that would support a case which we conceive to be a fabrication. Now, we introduce it for the limited purpose, under the authorities, and they all agree, numerous authorities, for that sole purpose, of proving the fabrication, and we limited it when we introduced it and we have limited it in numerous references made to it further on, and so far as I am personally concerned I am willing to let it stand, because I know what the law is on the subject; but at the suggestion of my associates, Your Honor, unless it is understood that they are to be used for that limited purpose, we desire to withdraw them.

Mr. Stuart: I desire to say now, Your Honor, that we have made examination of this question and we are satisfied that they cannot be introduced for the limited purpose; so we agree now, if we are wrong, we lose; if they are wrong, they lose.

Mr. Cobb: Objection was made to those depositions according to my memory, and they were introduced over objections of the defendants in the case as being incompetent, irrelevant and immaterial.

The Court: Well, the record will show. There has been so much that I can't carry it all in my mind; they are in the case.

Mr. Cobb: If there should be any question, I desire the record to show that the Carter interest object to them as incompetent, irrelevant, and immaterial, and hearsay.

The Court: Have you anything further?

Mr. German: Yes, Your Honor.

And thereupon, CHARLES R. WARREN, a witness produced on behalf of the complainant, being first duly sworn, testified as follows:

Direct Examination by Mr. Pinson.

Q. State your name, age and postoffice address.

A. Charles R. Warren, Leavenworth, Kansas, 305 Seneca.

Q. I understand your name is Charles R. Warren, you live at 305 Seneca street, Leavenworth, Kansas, is that right?

A. Yes, sir.

Q. How long have you lived at Leavenworth?

A. All my life.

Q. All your life? A. Yes, sir.

Q. What year were you born in? A. 1890.

Q. Where did you live in the city prior to the time that [] moved to 309 Seneca street?

A. Well, I lived at—born at 202 Shawnee.

Q. How far is that from 309 Seneca?

A. A little better than a block; a couple of blocks.

Q. Where did you move from to Shawnee, 202 Shawnee?

A. Well, I was a baby then; I guess I moved out on Broadway some place; I don't remember that.

Q. When you were a baby you moved to 202 Seneca and lived there ever since?

A. Born at 202 Seneca and lived at 201 Shawnee.

Q. Now, these three places, Cherokee, Shawnee and Seneca, how far apart, how far is the greatest distance between them? A. Oh, about three blocks.

Q. When you were six or seven years old, do you recall those times? A. Yes, sir.

Q. You remember where you played and who you played with in those days? A. Yes, sir.

Q. Now, just name to the Court, some of those boys you played with around in those days.

A. Well, I played with the Adams boys; Alva Adams and Ray Adams; Conrad boys, and the Endres boys.

Q. What Endres?

A. Endres, the youngest one is Earnest, I believe.

Q. Alright; name some more of them.

Q. And some colored boys by the name of Clays.

Q. Clay? A. Yes, sir.

Q. Now, who else? Do you know a man named Brewster?

A. Yes, sir.

Q. Did you know a boy named Brewster?

A. I knew Stewert Brewster, but he was a little older than me.

Q. Did he play around there with that bunch sometimes?

A. I can't swear whether he did or not.

Q. Well, did you know a boy name of Hunt? A. Yes, sir.

Q. Where did he live? A. Olive street.

Q. What was his name?

A. I can't call his name; one boy got drowned and one was named Al, and another one I don't remember his name.

Q. Lived on Olive? A. Yes, sir.

Q. How far is that from the place you boys played?

A. Five or six blocks.

Q. Where did most of the boys come from that you played with around that community—where did they live, I mean?

A. Most of them lived around there; Seneca to Cherokee, and two or three families lived at Second and Olive and Second and Market.

Q. Do you remember a young fellow named Higgins at that time? A. Yes, sir.

Q. What was he doing back there the first time you remember playing?

A. He was teamster; I think he drove a team for Bittman and Todd, in those days—grocery.

Q. Did you boys ever have anything to do with him in any way?

A. No, sir, not much; he was quite a little older than me.

Q. Older? A. Yes, sir.

Q. Was he acquainted with Alva Adams?

A. Yes, sir, a brother-in-law.

Q. Did you boys steal any rides on the wagon, do you remember? A. Yes, sir.

Q. Do you remember the names of any of the boys that you remember that lived in that community?

A. Some boys lived at 224 Shawnee; I think that is the number, by the name of Maduska.

Q. Maduska?

A. Yes, sir; they are all dead but one, I think.

Q. All dead but one? *A.* Now, did you know Tommy York? A. Yes, sir.

Mr. Stuart: Now, Your Honor, I object to this; he ought to be made to state the names of those boys. You have already suggested the names, we object to your suggestion. Let him remember if he can.

Mr. Pinson: Alright; I thought he mentioned the names of all the boys he remembered.

The Court: He has answered that he remembers Tommy York. Now, let him as suggested, name the boys right around there; I think I could do it if I were on the witness stand.

Q. Alright; name any other boys who you remember who played with you? A. Well, I know Tommy York.

Q. Well, name any other that you played with.

A. Well, a lots more colored people lived around that neighborhood; I can't recall the names.

The Court: You have mentioned all now, that you have in mind, have you?

A. No, sir, I know the Holmes boys, all of them, and also York.

Q. You remember any others?

The Court: Well, now, you may suggest if there has been testimony here of which this is rebuttal about certain boys being there, you may ask him in regard to their names.

Mr. Pinson: I can probably shorten it this way, Your Honor.

Q. How long did you play around there with that group of boys, or with any group of boys around in that community?

A. Well, ever since I was old enough to run around, from six to seven years old, pretty [] to 1893, about.

Q. You mean 1903? A. Yes, sir, 1903.

Q. Then, for a period of seven or eight years, you played around there with those boys in that neighborhood?

A. Yes, sir.

Q. Now, where did you boys play mostly?

A. Well, we played mostly in back of one hundred and something—Second and Cherokee, Conrads used to live there in those days and there was an empty lot in back of it.

Q. Now, Warren, was your brother in that crowd?

A. Yes, sir.

Q. What is his name?

A. Well, one is named Willam; there is another brother that I ain't never heard from.

Q. The one named William was here? A. Yes, sir.

Q. You heard he was here. Have you seen him or talked to him since you were subpoenaed as a witness?

A. Never seen him.

Q. In your playing around there, did you ever go up to Crilley's barn? A. Yes, sir.

Q. You know where it is? A. Yes, sir.

Q. Where is it? A. Between Second and Third, on Seneca.

Q. Did you boys play around there? A. Yes, sir.

Q. Did you know the Crilleys—the family of Crilleys?

A. Yes, sir, I knowed—yes, sir, I knowed the boy and girl; the girl, I guess, she is here.

Q. What was the age of the younger members of the Crilley family with respect to you, older or younger?

A. One boy I know, he is an undertaker, he is quite older than me, but the girl is younger, I expect.

Q. I am speaking of just the boys. Do you know any other members of the Crilley family; know the old man?

A. I knew the father, yes.

Q. Now, did you play around Van Tuyl's barn?

A. Yes, sir.

Q. In the years that you played there, from the time that you were six years up until you were twelve or thirteen, did you ever play with any boy that was an Indian? A. No, sir.

Q. Did you ever play with any boy*s* that looked like he was part Indian? A. No, sir.

Q. Did you know a boy during those years and in that community named Tommy Atkins? A. No.

Q. Did you ever hear of such a boy? A. No, sir.

Q. Did you know a boy named Indian Tommy?

A. No, sir.

Q. Commodore? A. No, sir.

Q. Tommodore? A. No, sir.

Q. Was there any boy who played with you that you boys called Trailer? A. No, sir.

Q. Did you know any boy that was named Trailer?

A. No, sir.

Q. What did you boys play down in that community mostly?

A. Well, we played pretty near everything that boys could play, such as war, and run sheep run, and all such games like that.

The Court: What did you say you played? War?

A. Well, all such games as boys played, like run sheep run and——

Q. Just regular boys' games? A. Yes, sir.

Q. You boys were in school in those days? Were you in school?

A. Yes, I started to school I reckon when I was about six years old.

Q. When did you play these games you are talking about, up and down the streets?

A. After school, after four o'clock, and Saturdays, I reckon.

Q. Did you ever know the house that sits across the street from Crilley's barn, right up flush with the street—a two-story frame house there? A. What?

Q. Did you ever know of a two story frame house that stood across the street from Crilley's barn, opposite side of Seneca street; a two story frame house?

A. I don't know that I did.

Q. What did you say?

A. I don't remember whether I did or not.

Q. Do you remember a stone house over there?

A. Yes, sir, I remember the stone house.

Q. What kind of house was next to it?

Mr. Stuart: He has not answered whether there was or not.

Mr. Pinson: I understood him to answer; the judge probably didn't hear him.

Q. Do you remember a stone house there? A. Yes, sir.

Mr. Pinson: He had answered that.

Q. Now, where was that stone house with reference to Seneca street?

A. Well, it set, used to set right where Abernathy's got a dry kil*m* there now; couple of lots from Van Tuyl's barn.

Q. Now, how close was that to Second or Third?

A. Well, it is closer to Third.

Q. Closer to Third? A. Yes, sir.

Q. Now, next to that house, was there any house over there?

A. Well, I can't say; used to be little house- all along in the alley, in them days.

Q. In the *eye*? A. Yes, sir.

Q. I am talking about on Seneca Street, on the street itself, do you recall the description of a house next to a stone house?

A. No, I don't. The stone house and Van *Tyle* house I remember on that street.

Q. But you don't recall the description of the other houses? A. No, sir.

Q. Now, along in that particular neighborhood, do you know whether there were any boys, younger boys?

A. No, sir.

Q. Well, were there any boys somewhat older than yourself? A. Yes, sir.

Q. Mention the names of some of those boys that lived right in there close?

A. Well, I just recall one, I guess quite a lot older than me, that is Sam Nash, one-armed negro fellow.

Q. Sam Nash? A. Yes, sir.

Q. He was a one-armed negro boy? A. Yes, sir.

Q. What is his age with reference to yours?

A. I judge him around forty-five.

Q. Now, you mean, or then? A. Now.

Q. And your age at present is twenty-seven?

A. Twenty-seven.

Q. Now, did you know any other boys in that neighborhood there? A. No, sir.

Q. Do you know where Sam Nash lived?

A. No, I just used to see him around that corner sometimes.

Q. You don't know what house he lived in? A. No.

Q. Did you know any younger boys than Sam Nash that lived around that neighborhood? A. No, sir.

Cross Examination by Mr. Stuart.

Q. Your brother testified down here the other day, didn't he? A. Yes, sir.

Q. His name was Warren? A. Yes, sir.

Q. He is the one that is under eight different bonds to go back, isn't he?

Mr. Pinson: That is objected to as incompetent.

A. I don't know——

The Court: That appears in the record.

Q. How many bonds are you under?

A. Oh, I couldn't tell about Kansas, I might be under a thousand there.

Q. You say that because you think you ought to be under a thousand?

A. No, I shouldn't be under none I don't think.

Q. Now, you were born in 1890, were you? A. Yes, sir.

Q. 1890, and what boys were your age when you played there, tell me some that were your age?

A. Well, the Adams boy, Alva Adams' brother Ray.

Q. How much younger was he than Alva?

A. Well, he was about my age.

Q. And how old are you now? A. Twenty-seven.

Q. Twenty-seven years old? A. Yes, sir.

Q. And how far back can you remember?

A. Well, I can remember back when I was about seven years old.

Q. Then, you were born in 1890? A. 1890.

Q. And you can't remember back any further than about 1897? A. When I was seven years old.

Q. That would make it 1897 and then of course you don't remember anything in between 1885 and 1897, twelve years, couldn't remember that, could you?

A. Well, I might, I don't know.

Q. Did you ever know a boy there called Sheeney Paul?

A. I don't think I did, I wouldn't say I did.

Q. You think you did? A. Yes.

Q. He was quite a boy there?

A. Well, I don't know. There was lots of fellows around there I can recall when I think about it.

Q. Do you remember Tom Livingston, a red-headed little fellow? A. No, sir.

Q. Don't remember him? A. No, sir.

Q. Do you remember Swipe? A. Yes, sir.

Q. How much older was he than you?

A. Swipe Smith, he is quite a little older than me.

Q. You didn't play with Swipe, he is too old?

A. Well, I run around with all of them.

Q. The truth of it is you played with the younger boys?

A. No, sir. I run around with all of them.

Q. When they were ten and you were five you tagged after them? A. Well, yes, when I was seven.

Q. When you were seven you played with twelve-year-old boys? A. Yes, sir.

Q. You never heard of Granny Letcher, did you, never heard of her? A. Not until——

Q. This case came up? A. I read it in the papers.

Redirect Examination by Mr. Pinson.

Q. The trouble you have had up there is on account of whiskey, isn't it? A. Yes, sir.

(Witness dismissed.)

And thereupon, FRED S. COOK, was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Fred S. Cook.

Q. Where do you live? A. Muskogee, Oklahoma.

Q. What is your age, Mr. Cook? A. Forty-two.

Q. Were you formerly in the Government service?

A. Yes, sir.

Q. What position do you occupy at this time?

A. Employee of the Prairie Oil & Gas Company.

Q. When were you in the Government service?

A. Resigned 31st day of July, 1915.

Q. Up to that time how long had you been in the service?

A. About nine years.

Q. Mr. Cook, immediately prior to your severance of your relation with the Government, you were detailed to investigate the Atkins case? A. Yes, sir.

Q. Do you remember during the month of March, I believe it was 1915, having a conversation at which I was present with Dr. Carpenter at San Diego?

A. I remember the conversation, I don't know the date.

Q. Did you ever have more than one conversation?

A. No, sir.

Q. That was the time that I was present? A. Yes, sir.

Q. Did Dr. Carpenter at that time say that he attended Minnie Atkins at the birth of Robert Lee Peterkin and that that was the first child that she gave birth to?

Mr. Hanford: Objected to as leading, Your Honor.

The Court: I assume that this predicate was laid in these words.

Q. Did he say that or that in substance?

A. He didn't say Minnie Atkins, he knew her as Peterkin. He attended her at a place owned I believe by a woman by the name of Wood; and in the conversation the question was asked if this was her first child; he said so far as he could remember it was, but that his records would bear him out whichever way it was; his records were at Leavenworth, Kansas.

Q. Did either of us at that time, during that conversation, or at any time, intimate to him that we wanted him to testify that this was the first child born to Minnie Peterkin?

A. No, sir.

Q. Was any suggestion made to him at that time that we believed that this was her first child? A. No, sir.

Mr. Stuart: Your Honor, I haven't heard any such claim in this case.

The Court: There was some interrogation of this doctor along that line.

Mr. Stuart: Well, I will withdraw the objection to save time.

Q. Do you remember a conversation that we had with Mary Smith at her home in Leavenworth, Kansas, during the winter of 1914-15, at which time she made some statements to you concerning the birth of a child at Granny Letcher's?

A. I have had perhaps three conversations with her, but I had only one when you were present.

Q. At that time did she say in substance that the child—that the woman she saw with a child at the home of Granny Letcher's during the eighties was not the woman that she afterwards saw and knew as Minnie Atkins, or Minnie Folk?

A. In substance, yes, sir, that is what she said.

Q. Did she say in that conversation that Henry Carter in this case is the boy that she saw there at Granny Letcher's as a baby? A. Yes, sir.

Q. Did she say in that conversation that she was told not to say anything about the mark on the boy's back before she testified in 1914?

A. I don't remember that part of it.

Q. What do you remember, if anything, about what she said?

Mr. Stuart: We object to that, because of he don't remember the impeaching question he can't remember anything.

The Court: Sustained.

Q. Do you remember meeting Sam Nash on the streets of Leavenworth one day during your investigation of this case, sometime during the spring of 1915? A. Yes, sir.

Q. Did you have a conversation with him there on the street?

A. The same day as we talked to Mary Smith, in fact we were on our way to her house when we met Sam.

Q. Did Sam say in that conversation from whom Granny Letcher rented the house 217 Seneca Street?

A. From whom?

Q. Yes.

Mr. Stuart: Objected to. No predicate laid, Your Honor.

The Court: Sam hasn't been a witness except as his testimony appears offered by you gentlemen for what you intended to be the limited purpose.

Mr. German: Your Honor, the record shows this fact——

Mr. Stuart: We withdraw the objection.

Mr. German: We understand he didn't testify, Sam Nash hasn't been put on here as a witness.

The Court: The objection is withdrawn. Proceed with your question.

Mr. German: I was wanting to suggest to the Court that there isn't any question put to Sam on this subject because he has never been brought here as a witness.

The Court: That is a part, gentlemen, of what I will have to determine eventually. You gentlemen want this witness to answer this question and there is no objection. He may proceed to answer it.

Mr. Stuart: But he wants him to answer with the distinct understanding that he don't impeach Sam Nash.

The Court: Oh, well, this witness is on for all purposes. This question is admitted for all purposes which the Court finally conceives it should have in the case.

Mr. German: If counsel will bring Sam on the stand we will raise the predicate.

The Court: If you want the witness to answer this question let him answer.

Mr. Allen: Your Honor please, I want to be fair with the Court and counsel. This witness has not been interrogated about this matter at all.

The Court: I know, Judge, but there is no objection to Mr. Cook's testifying to it if you want it.

Mr. Cobb: We object to it as hearsay.

Mr. Allen: Your Honor, on that subject I want to say that there is not evidence in this case——

The Court: The objection will be overruled and exception noted.

(Question read to witness.)

A. He did.

Q. Who did he say she rented it from? A. Mr. Dassler.

Q. Did he say whether or not that was before they moved in there?

A. I don't remember that distinctly, I can state what he said about the rent.

Q. He did say that she first rented it from Mr. Dassler?

A. Yes, sir.

Q. Mr. Cook, you know Ellis Childers? A. Very well.

Q. Who has testified in this case? A. I wasn't here when he testified, but I know an Ellis Childers, I presume it is the same.

Q. Did he work for a while on this case getting up testimony for the Government on the Nancy Atkins side of this case—— I will ask you was he employed by my office for a while? A. Yes, sir.

Q. During the time that he was employed and before he interviewed any witnesses in this case, did you have a conversation with him?

Mr. Hill: We object to that.

The Court: Well, I suppose that Ellis was interrogated upon some feature of the case.

Mr. Allen: Yes, sir, I will withdraw that.

Q. Did you have a conversation with Ellis Childers during the early part of 1915? A. Yes, sir, several of them.

Mr. Hill: You asked him if he made the statement to you and Mr. Cook which he identified and admitted.

Q. Do you remember a statement in writing that he made?

Mr. Hill: We object to that. That was admitted by Mr. Childers.

Mr. Allen: I am just getting at the time.

The Court: He may answer whether he remembers that a statement in writing was made?

A. Yes, sir.

Q. Before that statement in writing was made, did you have a conversation with him with reference to his knowledge of a child born to Nancy Atkins? A. Yes, sir.

Q. Did he in that conversation, in substance, say that Nancy Atkins never had but one child; that it was a girl born or died in infancy?

Mr. Hill: We object to that.

The Court: Is it your contention that that particular predicate was laid?

Mr. Allen: Yes, sir.

The Court: Look it up in the record during the noon hour and proceed with something else. Mr. Cook will be available. I want to be assured that the predicate was laid.

Mr. Allen: That is all with Mr. Cook now.

Cross Examination by Mr. Stuart.

Q. Mr. Cook, you were formerly engaged in the Government service in this particular case, were you not?

A. Yes, sir.

Q. And your function at that time was to gather together as much evidence as you could to find out what the truth was in this controversy? A. Yes, sir.

Q. Did you collaborate with the Pinkerton detectives in this case? A. I don't understand the meaning of that.

Q. To collaborate means to work together?

A. No, sir, I did not.

Q. You did your work separately and they did their work separately? A. I did my work separately.

Q. Well, you know they didn't do it in conjunction with you, don't you? A. I know that.

Q. Now, Mr. Cook, when you were in the service, Mr. Long, who represented the Page interest, complained to you about the activity of the Pinkerton interest and Sadie James in this case, didn't he?

> Mr. German: We object to that as improper cross examination.
>
> The Court: Overruled.

A. Yes, sir.

Q. He complained to you about that, didn't he?

A. Yes, sir.

Q. You know Fred M. Tate? A. I know who he is.

Q. He is a United States Secret Service man?

A. Yes, sir.

Q. Do you know E. B. Linnen? A. Very well.

Q. You know Mr. Linnen?

A. He is Chief Inspector of the Indian Service.

Q. And has been for a great many years?

A. He has been in the Indian service for a great many years.

Q. He is a secret service man?

A. They are not designated as that, but the same thing.

Q. Well, he performs that function? A. Yes, sir.

Q. I will ask you if Mr. Long didn't tell you, after he complained about the Pinkerton's activity and Sadie James, he didn't tell you and Mr. Linnen that he would turn over everything he had in the way of evidence to you and permit you to investigate what you had and that after an examination you said he was wrong he would quit?

> Mr. German: We object to that as improper cross examination.

The Court: To what point *is* this witness' chief examination does that refer?

Mr. Stuart: Well, if there is technical objection, I will make him my witness.

Mr. German: Then, we object to it as leading.

The Court: Overruled.

Mr. German: Exception.

A. He did.

Q. I will ask that again: Mr. Long, you say, told you and Mr. Linnen that he would turn over everything in the way of evidence to you that he had and after an examination if you were satisfied he was wrong he would quit? A. He did.

Mr. Stuart: That is all, Mr. Cook.

Redirect Examination by Mr. Allen.

Q. Mr. Cook, at that time, no suit had been brought by the Government?

A. At this particular time there had, Judge.

Q. There had been?

A. Yes, sir. I want to state, however, that I hadn't been assigned on the case at that time.

Q. You subsequently told me what he said?

A. Yes, sir. Pardon me, I think I had told you on different occasions about that.

Q. And I immediately had you detailed to this case?

A. Yes, sir.

Q. Mr. Long didn't turn over to you the information, did he?

A. No, sir, because as Judge Stuart said I wouldn't collaborate with him.

Q. And you went to Leavenworth then to investigate the case? A. I did.

Q. And isn't it a fact that every time you went up there to investigate this case that agents or detectives employed by Mr. Page followed you around from place to place?

A. Now, I don't know who employed them, Judge, that is pretty broad. On different occasions I have had men follow me around in Leavenworth.

A. Well, did someone?

A. On different occasions I had had men following me around in Leavenworth, yes, sir.

Q. That occurred every time you went up there, didn't it?

A. A number of times, not every time. I wouldn't want to say that; I was there so many times.

Cross Examination by Mr. Stuart.

Q. You say Page had some people up there looking out and watching? A. Pardon me, Judge?

Q. You say Page had some people up there following——

A. I didn't say Page, Judge.

Q. Well, that is all they did do, was to watch, wasn't it?

A. That was all I know of, I don't know what they did.

Cross Examination by Mr. Johnson.

Q. Mr. Cook, did you at any time reduce to writing statements made by Mary Smith to you, relative to this suit?

A. Only notes.

Q. Those notes were——

A. I made pencil notes; pencial notations of what each witness told me and sent it out in my report to the Government.

Q. Did you afterwards reduce any part of that to a written statement?

A. Not her statement, but in substance what she told me. Each day I would interview people, I would make notation of it and have it typewritten in the form they gave it to me, and incorporate it in my report.

Q. I will ask you if you ever gave T. W. Bell, a statement or substance of Mary Smith's statement? A. In writing?

Q. Yes? A. No, sir.

Q. You never did? A. No, sir.

Witness dismissed.

And thereupon, CHARLES HARRISON, a witness produced on behalf of the complainant, being first duly sworn, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Charles Harrison.

Q. Charles Harrison? A. Yes, sir.

Q. You are the son of Minnie Atkins? A. Yes, sir.

Q. And brother of Harvey Harrison? A. Yes, sir.

Q. Charlie, do you remember when you came to the Indian Territory? Do you remember back that far? A. No, sir.

Q. How old are you now, about? A. 27.

Q. You were born at Fort Logan, Colorado? A. Yes, sir.

Q. Who did your mother give you boys—you and Harvey—to when you were brought here? A. Kate Holden.

Q. Where did she live?

A. Across the river from Choska.

Q. The south side of the river, or the west side of the Arkansas? A. The west side.

Q. Of the Arkansas river? A. Yes, sir.

Q. What town is near that place now?

A. Haskell, I think.

Q. Do you remember how you stayed at Kate Holden's that first time?

A. I stayed there one summer and one winter as well as I can remember.

Q. Then where were you taken? A. Wagoner.

Q. Who had you in charge in Wagoner? A. Nancy Atkins.

Q. Was Harvey with you? A. Yes, sir.

Q. How long did you stay at Nancy's?

A. About four weeks.

Q. Did you or Harvey either one, go back to your Aunt Kate's—Kate Holden's? A. No, sir.

Q. After that? A. No, sir.

Q. Did your Aunt Kate come over and get you or Harvey over at Wagoner? A. No, sir.

Q. Where was it that your mother gave you to your Aunt Kate, if you know? A. Where were we?

Q. Yes, where was it? At your home, or in Wagoner, or where? A. It was here in Muskogee.

Q. Now, while you and Harvey were at your Aunt Kate's, was there any other boy out there? A. No, sir.

Q. Was there ever any boy there by the name of Thomas Atkins? A. No, sir.

Q. Do you know Tom Way? A. Yes, sir.

Q. The postmaster out at Haskell now?

A. I haven't seen him for a number of years.

Q. Well, he is a cattle man, a tall slender man?

A. Yes, sir.

Q. You know him well?

A. Yes, sir, I did when I was a kid.

Q. Where was it you know him?

A. He had a ranch about three miles from Tom Holden.

Q. Had a ranch? A. Yes, sir.

Q. Did he ever come over to your aunt's? A. He did.

Q. Do you remember anything particular about him? Did he pay any attention to you in any particular way?

A. Yes, he used to play with me and cut up, just like a man would be with a little boy.

Q. Did you ever open gates for him? A. Yes, sir.

Q. Did he ever give you anything for doing it around there? A. Yes, sir.

Q. Twenty-five cents quite a number of times.

Q. Now, during the time that you were at your Aunt Kate's, you saw no boy there by the name of Thomas Atkins, at any time? A. No, sir, we were the only children there.

Q. Your Aunt Nancy ever come over to your Aunt Kate's while you were there that you remember? A. No, sir.

Q. Charlie, if *have you* ever had a brother named Thomas, did you ever know about it? A. Not as I remember of.

Q. When you were there with your Aunt Nancy, was she taking care of any other boy? A. No, sir.

Q. Did you know any boy there in town by the name of Thomas Atkins? A. No, sir.

Q. You and your brother Harvey, then, were the only boys that she was taking care of while she was living there?

A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. How old were you *were you* when your mother turned you over to your Aunt Kate? About how old were you?

A. I was about eight years old as well as I can remember

Redirect Examination by Mr. German.

Q. Did your mother write to you now and then?

A. She written to me about four years ago.

Q. Prior to that and when you were a younger boy?

A. No, sir.

Q. Staying at your Aunt Kate's and at Wagoner, did she write to you? A. No, sir.

By the Court.

Q. How long did you say you were at your Aunt Kate's, after you went there before you went to your Aunt Nancy's?

A. I was there one summer and one winter, and in the spring we went to Wagoner. My aunt taken us and left us with Aunt Nancy.

Q. Where was she living then?

A. She wasn't living—she was staying with some niggers across over the Iron Mountain.

Q. And did you stay with her? A. Yes, sir.

Q. And stay with the negroes? A. Yes, sir.

Q. And you were there how long?

A. There about a month.

Redirect Examination by Mr. German.

Q. Where did you go to then?

A. Went to Charlie Bailey's.

Q. Where from Wagoner?

A. About a mile and a half west of town.

Q. And then you lived with him until you were grown, did you? A. Yes, sir.

Q. You would go back to Wagoner now and then?

A. Yes, sir.

Q. Would you see Nancy now and then?

A. I haven't seen Nancy since we left her at Wagoner.

Q. Since you left her home? A. No, sir.

Q. Do you know where she went to *she* from Wagoner?

A. I heard she went to Coffeyville.

Q. And then, did you learn where she went to from there?

A. Nowata.

Q. So she must have left Wagoner, then, about the time you were taken out to Bailey's? A. Yes, sir, right after.

Q. Right after? A. Yes, sir.

Mr. Hill: We object to that; he said he didn't know.

The Court: Yes, it is apparent that he only knows by hearsay.

By the Court.

Q. Was your brother Harvey still at Nancy's when you went out to Bailey's? A. No, sir.

Q. Did he leave Nancy's and go somewhere else?

A. Ellis Childers came and got him and taken him out to his house.

Q. About the time you went to Bailey's?

A. Before I went.

Redirect Examination by Mr. German.

Q. To refresh your memory, wasn't this Jim Childers?

A. Yes, sir.

Q. Instead of Ellis? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. Charlie, while you were there with Nancy, did you ever go over to Davis & Jones' store? A. I did.

Q. Did you go with her? A. I did not.

Q. Go by yourself? A. Yes, sir.

Q. How many times? A. Well, I can't say.

Q. Well, many or few? A. Well, a good many times.

Q. *Wne* there a good many times? A. Yes, sir.

Q. Did you ever *go* of Nancy having a boy named Tommy Atkins? A. No, sir.

Q. Did you ever know of her having any boy?

A. No, sir.

Q. How long did you live there in the edge of town at Charlie Bailey's—wasn't it? A. Yes, sir.

Q. How long did you live there?

A. About fifteen years.

Q. That is your present allotment? A. Yes, sir.

By the Court.

Q. Have you in mind now what year it was when you were with Nancy, or month? A. No, sir.

Q. Don't remember? A. No, sir.

And thereupon, court recesses until 2 o'clock P. M.

And thereafter and at 2 o'clock P. M., upon the same day, June 6th, 1917, court convened pursuant to adjournment and further proceedings herein were had as follows:

CHARLIE HARRISON, being recalled, further testified as follows:

> Mr. Allen: If Your Honor, please, the defendants the other day said that they wanted Mr. Drew, who is now in the Government service; I have had him brought to town and he is here if they desire to use him.
>
> Mr. Stuart: I believe I would rather have Mr. Baugh, if he is here.
>
> Mr. Allen: Mr. Baugh is also here.
>
> The Court: Alright; cross examine this witness.

Cross Examination by Mr. Hill.

Q. Mr. Harrison, I believe you stated that you were born in 1890? A. No, sir

Q. Didn't you state that? A. No, sir.

Q. What year were you born? A. I can't say.

Q. You don't know? A. No, sir.

Q. Do you remember when you came to Muskogee with your mother and brother?

A. I remember about when it were.

Q. Do you know about how old you were? A. Yes, sir.

Q. How old were you then? A. About seven years old.

Q. When you first came to Muskogee? A. Yes. sir.

Q. That is when you came from Ft. Logan here?

A. Yes, sir.

Q. You had never been in the Indian Territory before that time had you? A. Yes, sir.

Q. When? A. Well, before that time.

Q. Before you came from Fort Logan here? A. Yes, sir.

Q. Well, at what time had you been here before?

A. Well, it was right after—we would come backwards and forwards all the time.

Q. Backwards and forwards from Fort Logan here?

A. Yes, sir.

Q. How many times? A. Oh, I can't remember.

Q. You remember being backwards and forwards over here? A. Yes, sir.

Q. You remember that yourself? A. Yes, sir.

Q. And you think that when you came here you were about seven years old? A. Yes, sir.

Q. Do you know where you went when you got here?

A. Yes, sir.

Q. Where did you go? A. Went to Kate Holden's.

Q. Went direct to her place from Muskogee?

A. How is that?

Q. Did you go direct to her place? A. Yes, sir.

Q. Didn't stay here in Muskogee a while?

A. Yes, sir, I stayed here a while.

Q. How long?

A. Oh, I don't know, we were here a good while.

Q. Living with your mother and brother? A. Yes, sir.

Q. Do you remember your uncle Lee Atkins?

A. I just barely can.

Q. Was he here when you lived in Muskogee with your mother and brother? A. No, sir.

Q. That was after his death, was it? A. I think so.

Q. Then your memory is that you stayed here a while and then went to your Aunt Kate Holden's? A. Yes, sir.

Q. How old were you when you went there?

A. I was about seven years old.

Q. About seven years old when you went *ehre;* did you live at any other place than here in Muskogee, and your Aunt Kate Holden's before you went to Charlie Bailey's?

A. No, sir.

Q. How long had you been at your aunt Kate Holden's before you went to Charlie Bailey's?

A. I was there one summer and one winter.

Q. With your aunt? A. Yes, sir.

Q. Then where did you go from there? Directly to Charlie Bailey's? A. No, sir.

Q. Is that when you went to your Aunt Nancy's?

A. Yes, sir.

Q. I believe you stated you lived there about—a month, didn't you? A. I think so, the best I can remember.

Q. Where did you live with her?

A. Nancy Atkins was living with some nigger people across the Iron Mountain Railroad and I stayed there with her.

Q. Did you know a negro woman named Patsy Jenkins?

A. No, sir.

Q. Probably called Patsy Overton at that time?

A. No, sir.

Q. Did you ever live with your Aunt Nancy at a negro woman's house, called Patsy Overton or Patsy Jenkins?

A. I can't [] those names.

Q. Can't remember; well, do you remember living in any family about thirteen miles from Wagoner? A. No, sir.

Q. A negro family? A. No, sir.

Q. Then you were about six years old? A. No, sir.

Q. You and your brother Harvey living there from the fall to the next spring? A. No, sir.

Q. You have no recollection of any such event as that occurring? A. No, sir.

Q. And you think the time that you lived with your Aunt Nancy for about a month was when you were about seven years old as you best remember? A. Yes, sir.

Q. How old was Harvey at that time?

A. He was about five.

Q. You are two years older than Harvey? A. Yes, sir.

Q. How long did you live with Charlie Bailey after you went to his place?

A. About fifteen years, I think.

Q. You lived there until you were a grown man?

A. Yes, sir.

Q. Now, the only places you remember of living are Muskogee, Kate Holden's, and about a month with your Aunt Nancy, and the balance of the time with Charlie Bailey?

A. Yes, sir.

Redirect Examination by Mr. German.

Q. Charlie, you say you went back and forth from here to Fort Logan several times; I thought I understood you to say that? A. I did, sir. I can't remember it.

Q. You don't remember it? A. No, sir.

Q. You have that impression from what you remember when you were a child?

A. Yes, sir. All I can remember is traveling on the train.

Q. You have no independent personal recollection of ever making any trip from here to Fort Logan or from Fort Logan to Muskogee, except you remember riding on the train?

A. No, sir.

Q. When you were a very young child? A. Yes, sir.

(Witness dismissed.)

And thereupon, FRED COOK was recalled for further examination and testified as follows:

Redirect Examination by Mr. Allen.

Q. Mr. Cook, prior to the time Ellis Childers went to Nowata did you hear a conversation I had with him in which he made certain statements with reference to going to see Nancy Atkins? A. Yes, sir.

Q. Did he at that time say to me that if we would let him go and see Nancy Atkins that he was sure that Nancy would tell him the truth about this child?

Mr. Hill: We object, the proper predicate has not been laid.

The Court: Was he interrogated about that?

Mr. Allen: I will read your Honor the question.

The Court: I mean, Judge, when Mr. Childers was on the stand, was what you are going to read asked him?

Mr. Allen: Yes, sir, at page 1395 at the bottom.

"Q. Then, you told me didn't you, that you believed if you could get Nancy away from that crowd that she would tell the truth about this boy? A. I may have, I don't recollect."

Mr. Hill: There is two objections to that; one is, he hasn't dated it, and the other don't show that Mr. Cook was present.

Mr. Allen: "Q. Didn't you state if you could get her away from that crowd that you could get her to tell the truth? A. You said it and I sanctioned it; you asked if I didn't think so and I said yes."

The Court: Well, now where did you place this conversation when you were asking Mr. Childers?

Mr. Allen: Prior to the time he went to Nowata.

The Court: Did you show Mr. Cook to be there?

Mr. Allen: I didn't in the examination; I didn't remember Mr. Cook heard the conversation.

The Court: You may answer.

A. What is the question? (Question read) He said this——

Mr. Maxey: Well, let him answer the question first.

The Court: Did he say that or that in substance?

A. He did in substance.

The Court: All right, you may answer.

A. He said if Judge Allen or myself would go with him that Nancy Atkins would tell us that she never had a child named Thomas Atkins.

Q. Mr. Cook, you made a report of your work in this case to me under date of July 30, 1915, did you? A. Yes, sir.

Q. In which you gave me the information that you had collected? A. Yes, sir.

Q. I will ask you to refresh your memory by page 13 of this report and say whether or not Mary Smith, at the time and place I have stated this morning, said to you in substance, in my presence, that she was advised not to state on the witness stand that the Tommy Atkins she was testifying about was Henry Carter? A. She did in substance.

Q. You remember that she said that? A. Yes, sir.

Q. What testimony was she referring to?

A. To the case of Tommy Atkins.

Q. The testimony she gave in 1914 at Leavenworth?

A. Yes, sir.

Cross Examination by Mr. Hill.

Q. Mr. Cook, you did send for Nancy Atkins and have her to make a statement in your presence and that of Mr. Allen after this conversation with Ellis Childers?

A. I did not.

Q. Weren't you present when she made the statement?

A. Never talked to her in my life; never saw her that I know of.

Q. You know that she did make a statement?

A. I do not.

Q. In Judge Allen's office? A. I do not, no, sir.

Cross Examination by Mr. Stuart.

Q. Do you know, Mr. Cook, you were speaking of the time that Mary Smith testified at Leavenworth? A. Yes, sir.

Q. In the state case? A. Yes, sir.

Q. At that time as a matter of fact, Henry Carter hadn't been heard from had he?

A. I couldn't tell you that.

Q. Nobody had ever spoken of Henry or heard of Henry in connection with this case?

A. I couldn't tell you.

Cross Examination by Mr. Cobb.

Q. Mr. Cook, either you or Judge Allen took a statement from Mary Smith?

A. I never took any signed statement from her in my life.

Q. You transcribed a statement you took from her?

A. I don't know whether I did or not, or whether Judge Allen did.

Q. You was present when that statement was dictated?

A. When he dictated it?

Q. Yes? A. No.

Q. Well, I mean when the statement was given?

A. The way I recollect it, Mr. Hill, is this: We would talk to her and make notes of it.

Mr. Hill: That is Mr. Cobb.

A. For fear we would forget what they would say, we would go back to the stenographer and dictate it.

Q. She made a statement to you?

A. In our presence, yes, sir.

Q. Now, in that statement that she made to you, she told you that this Minnie Atkins was the same Indian woman that was there at Granny Letcher's?

A. When she talked to Mr. Allen and I?

Q. Yes, sir?

A. She said the Minnie Atkins Mr. Long introduced to her was a larger woman than the woman she saw at Granny Letcher's.

Q. Did you ever talk to her more than once?

A. I have talked to her two or three times.

Q. She afterwards told you she was able to identify this woman as the same Indian girl; didn't she make the statement to Judge Allen and Judge Allen had the stenographer to transcribe the statement?

A. I never heard her make it in my presence.

Q. You heard about that statement being made, didn't you?

Mr. German: We object to that as hearsay.

The Court: Sustained.

Mr. Cobb: That is all.

Mr. Stuart: In as much as Mr. Cook's memory has been refreshed by the reports he made, we would like to see the report.

Mr. Allen: Your Honor. I would be very glad to let them examine any part of the report that refers to any of the testimony of Mr. Cook; and as far as I am concerned I have no particular objections to it being examined, but it is Mr. Cook's private report to me concerning the general investigation of the case.

The Court: Well, they have asked to examine it. Now, I am not going to require you to furnish it to them except so far as it relates to Mr. Cook's testimony here and might be beneficial for the purpose of cross examining if necessary.

Mr. Allen: I would be glad to read into the record all of Mr. Cook's report applicable to Mary Smith.

The Court: All right. Go on. I will not require you to turn it over to them.

And thereupon, JOHN HUTCHINGS WHITE was produced as a witness for and on behalf of the government in rebuttal who having been first duly sworn testified as follows:

Direct Examination by Mr. Pinson.

Q. State your name, age and post office address and profession, please sir.

A. John Hutchings White; forty-four; Muskogee, physician and surgeon.

Q. Doctor how long have you been engaged in the practice of medicine and surgery? A. Twenty-one years.

Q. With what institutions of learning were you affiliated in your medical research and study?

A. I studied at the University of Virginia, New York Polyclinic, and old Marion Street Maternity, and Hudson Street Hospital New York.

Q. You refer to the Overmeyer Institute of Maternity?

A. The Old Marion Street Maternity.

Q. Where is that institution located?

A. All in New York City.

Q. What connection did you have with the maternity institution that you have just referred to?

A. I was medical superintendent of it.

Q. For how long? A. About eleven months.

Q. Is that an institution which has a large number of maternity cases, obstetrical cases?

A. We handled from twenty to thirty cases a month there at that time.

Q. Doctor, in your practice as a physician and surgeon have you come in contact with many obstetrical cases?

A. Yes, a good many.

Q. Could you in any way approach an estimate of the number of obstetrical cases in which you have officiated, or in which you have been concerned?

A. Why no I can't; there has been over a thousand easily.

Q. Doctor as a practicing physician I will ask you in cases of childbirth into what stages as generally recognized is labor divided? A. Three stages.

Q. Now mention each of the stages and just explain to the court what takes place in each of those stages.

A. Well the first stage of labor begins with the pains or uterian contractions, and that stage of labor is complete with the complete dilatation of the neck of the uteris or cervix. The second stage is complete with the birth of the child. The third stage is complete with the delivery of the placenta and contraction of the uteris.

Q. The first stage begins with the first pains, the first contractual pains, do I understand you?

A. Well the contraction produces the pains.

Q. Then the contraction of the uteris produced or brings about a pain which is the first indication that a woman is in labor, is that true? A. Yes, sir.

Q. What is the function, physiological function, of those first pains, what do they serve to do?

A. To dilate the cervix.

Q. The cervix in its normal condition, Doctor, resembles what or what is its structure and the substance, nature of the substance?

A. Composed of non-striated muscle tissue and is lined with mucus membrane.

Q. Now in its normal condition is it open or closed, is the orafice open or closed?

A. Well that would depend upon whether it was a primipara or multipara.

Q. Now explain what you mean by that doctor, depending upon whether primipara or multipara?

A. Well, it would depend whether it was the first child or second, third or fourth child.

Q. Well, I mean explain what you find in case of a woman with first child and what in case of a woman that has had one or more children?

A. Well, the usual thing a woman with the first child the cervix is nearer the condition in which there has been no children; in other words, it is about an inch long, has a distinct internal and external os. In the case of multipara, during the pregnancy and especially late in pregnancy, the internal os is very often obliterated entirely and you have a very small thinned out neck to the uteris.

Q. Now what is the condition of the opening in that small thinned out neck in the multipara at about the beginning of labor as a rule?

A. Well, it is generally large enough to get from one to two fingers in it.

Q. There is an opening in the multipara as a rule?

A. Yes.

Q. Doctor the birth of a child ordinarily brings what injuries if any to the cervix?

A. Why very often produces lacerations to the cervix.

Q. Now, as those lacerations heal what is formed there if anything?

A. Well, they don't always heal they form scar tissue.

Q. They heal or form scar tissue. If they do not heal, what is the nature of the substance at the laceration?

A. There is a gap in this ring or notch.

Q. Just an opening? A. A gap in this ring or notch.

Q. Upon being called to the bedside of a woman in labor, what is the first matter about which the physician gives himself concern in making an examination?

A. To ascertain the position of the child and the size of the pelvis.

Q. Why is that important doctor, before we leave that one point, why is the obtaining of information as to the position of the child important?

A. Because if there is a mal-position of the child you have to correct it before labor is passed——

> Mr. Stuart: Your Honor, to save time, I object to this I can't see that it is throwing any possible light Your Honor knows, and we all know that the presentation of the child is a serious matter.
>
> The Court: Well, I suppose the point he is getting at has relation to your doctor's testimony in regard to what he did there when he visited this woman. Now, I don't think what the doctor is testifying to now is in contravention of any testimony he gave on that particular phase of the case. I think that is established by the evidence.
>
> Mr. Pinson: If Your Honor please, here is the point: The doctor who testified as to the things which he found there, testified that examination was made for the specific purpose of ascertaining this particular fact. Now I am offering to prove by Doctor White that the examinations are made primarily for an entirely different purpose, and offering now to prove the importance of establishing the things which the doctor does seek to establish by that examination. The purpose is to show that

an examination should be made for a specific reason which is of prime importance.

The Court: Well, now if both doctors made the same examination, what difference does the purpose make? Well, go on I take it we will get through with that very quickly anyway.

Q. You may explain the importance of ascertaining the presentation or the position in which the child lies in the uteris, Doctor.

A. To if possible correct that position before labor has advanced and make it easier for the delivery of the child, and make it more certain of the delivery of a normal child, and to make it easier on the mother by correcting the mal-position.

Q. Now how is that position determined by what kind of an examination?

A. By both a vaginal and abdominal examination.

Q. Now is the vaginal examination made by introducing the finger into the cervix, or is it made by an examination of the exterior of the cervix?

A. Well, I invariably introduce my finger into the cervix if I can get it in there.

Q. Into the cervix. Doctor, in ascertaining whether or not the child is in the proper position, do you also make any examination as to the bony structure?

A. Determine the size of the pelvis.

Q. What is the purpose of that examination?

A. So as to see the proportions between the child's head and the woman's pelvis and know whether or not you can deliver a head of that size through a pelvis of that size.

Q. Now, Doctor, is it customary to ascertain whether or not a woman has previously given birth to a child?

A. I beg your pardon.

Q. Is it customary to ascertain at the time of the birth of a child, whether the woman has previously given birth to another child? A. Yes.

Q. Now, what is the method customarily used in obtaining that information?

A. Well, I usually ask the mother the first thing.

Q. Are there any matters connected with the history of previous pregnancy, if there have been any, which you make it your duty to find out? A. Yes, indeed.

Q. What are those matters?

A. Everything pertaining to prior births; whether she had a difficult time; whether instruments were used; whether she had fever following birth of this child; what complications ensued.

Q. Then do I understand you to say it is a matter of importance if there has been a previous birth to ascertain the history of that birth?

A. Yes, sir, I think it is important.

Q. In the midst of labor, Doctor, is there a period at any time when the presence of lacerations can not be determined possibly by digital examination?

A. When the cervix is dilated.

Q. I understand there is a period, such a period then, and that is when the cervix is dilated? A. Yes, sir.

Q. Now, when does that dilatation of the cervix occur; during the first, second or third stage of labor?

A. First stage.

Q. Is there any well defined time that may be fixed as to the time, after the first pains, when the dilatation becomes complete?

A. No; it varies a little. You have an average time for the first birth and for the succeeding birth.

Q. What is the average time as to first births and what is the average time as to the succeeding births in which the first period or stage of labor is terminated, completed?

A. Well, that is rather a wide range.

Q. Well, I understood you to say you had an average is the reason I asked you, Doctor?

A. Well, I mean the entire period. Multipara, or woman who have had babies, usually take from eight to twelve hours; with the first child it runs from fourteen to twenty hours; usually about sixteen or seventeen hours.

Q. That covers the entire labor? A. Yes.

Q. Now in multipara as a rule, Doctor, is the dilatation more or less rapid than primipara?

A. Much more rapid.

Q. If you were called to the bedside of a woman in labor, who had been in labor for an hour, in the case of a perfectly normal birth, as it developed, a woman of good health, a large strong woman in about her nineteenth or twentieth year and you ascertained from a digital examination that at that time no dilatation of the external os of the cervix was present, what to your mind would that indicate as to whether she was primipara or multipara?

A. Well, it would rather indicate a primipara.

Q. Now, if you found, Doctor, at about that time of labor, if you found indications of notches appearing in the cervix without any other indications, the symptoms of a former pregnancy, and without any information on the subject of either parent, as to former pregnancy, would you consider that one fact a sufficient basis for you to make a diagnosis of a former pregnancy?

A. Well, I should say that something had happened to the neck of that uteris.

Q. What could have happened, Doctor, to cause an injury of that kind?

A. Well she might have had an operation and might have had an abortion and might have had a dilatation of the cervix to produce abortion and might have had expulsion of a fibroid.

Q. Any of those things would have caused that tearing?

A. Yes, sir.

Q. Would you then, Doctor, upon that one fact alone, base a diagnosis of a previous pregnancy?

A. No, I couldn't say there had been a previous pregnancy.

The Court: It is a condition which would arise alike from a previous child birth is it?

A. Yes, sir.

Q. In your experience what is the smallest interval of time which you have known to elapse between the birth of one child and the birth of a succeeding child to the same woman? A. Generally it has been about a year.

Q. That is the lowest time, that means twelve months. Are there any questions on record of earlier births?

A. I don't recall any.

Q. In connection with the feeding of a child, Doctor, you may state whether or not a child might be nursed for a period of three weeks, and then the nursing continued over a period of six months, one nursing a day without an expulsion of the milk by pressure of some kind during the day?

A. I should say that it would not continue that way for that length of time.

Q. What in the normally healthy woman is the length of time required to remove the milk from the breast without the assistance of the breast pump, by the assistance of the hands alone?

A. Well, I should say it would take fifteen or twenty minutes of good work.

Q. What number of milkings of the breast would be required during the period of a day, where the child was from three weeks old on to the fourth, fifth or sixth month, approximately how many milkings of the breast would be required where the baby would only nurse once during the day?

A. In order to keep up the secretions of that milk I should say three to five times a day.

Q. A period of fifteen or twenty——

A. At least that fifteen to twenty minutes.

Q. At each time? A. Yes.

Q. Doctor, can you recall now in your experience having made an examination of a woman after being called to her bedside, and while she was in labor, for the purpose of ascertaining whether or not she had had a child previous to the one under which she is now laboring?

> Mr. Stuart: Oh, we object to that, Your Honor, because it is not general in its character.
>
> The Court: Objection sustained.

Q. Is it customary for physicians to make such examination as to determine that particular fact, or is it customary to ascertain it by questions? A. Ascertain what?

Q. To ascertain the existence of a previous pregnancy and labor? A. Why, it is much easier to ask.

> The Court: It seems to me it is a self-evident proposition. What one doctor does might not be what another doctor does. It is self-evident that the parents are to be relied upon and it probably would be the easier way to ask them.

Cross Examination by Mr. Stuart.

Q. If there are no parents there, and no children, Doctor, it would be pretty hard to find out from the parents wouldn't it? A. What?

Q. If there are no parents in the room and no children in the room it would be pretty hard to find out whether a woman had any children or not would it?

A. I should think not.

Q. All right, so if you went into a room where a woman was and no children there and no parents there, and this woman was in labor, and you by a hand manipulation examined her womb and found certain fixed notches inside, near the cervix or in the cervix, that is an indication you say of half dozen things that may be? A. Of a number.

Q. But childbirth is one of the things that could have caused it, isn't it, doctor? A. Yes, sir.

Q. One of the things which could have caused it. So therefore if you had gone there, Doctor, and inserted your fingers in the cervix to determine whatever was necessary to determine there, and you found those notches there perfectly apparent to the touch and fixed, you would say that unless she had had some other trouble, that childbirth caused it wouldn't you? A. Yes, sir, that would be my conclusion.

Mr. Stuart: That would be your judgment. I think that is all, Your Honor.

(Witness dismissed.)

Mr. German: We now offer the deposition of Trent G. Anderson, taken before Mr. Penick, appearing in transcript of depositions beginning at page 481.

And thereupon, FRANK L. MONTGOMERY, being recalled in rebuttal, further testified as follows on behalf of the complainant:

Direct Examination by Mr. German.

Q. Mr. Montgomery, you are the Frank L. Montgomery who testified in this case before? A. I am.

Q. On the occasion in Seattle in December, 1914, when you were at Captain MacNab's quarters and when Minnie Atkins or Minnie Folk, at the time on the occasion, when she made the confession—so-called confession, state whether at the time or at any time during that morning on that occasion you said to her: "You are not the mother of Thomas Atkins, are you," and she bobbed her head; that she *she* bobbed her head in answer?

Mr. Stuart: We object to this, Your Honor, because he has already testified to it on direct examination. Mr. Montgomery stated when he made that statement that she nodded her head; wasn't that your statement, Mr. Montgomery?

The Court: Some witness for the defendant has stated on the stand that Mr. Montgomery made a similar statement to Minnie, in response to which Minnie bobbed her head.

Mr. German: That was Mr. Hanford, Your Honor.

The Court: Now, he may be interrogated as to whether he made that statement to Minnie Atkins, the direct charge to her that Thomas Atkins was not her child.

Mr. German: That is what I am asking.

Q. I didn't make the direct assumption to Minnie Atkins that she was not the mother of Thomas Atkins—of Tommy Atkins, on that occasion, nor anything like it.

Q. Did you propound the question to her or state to her in substance: "You are not the mother of Thomas Atkins, are you?" In answer to which, or in response to which she bobbed her head; did that occur between you and her?

A. No, not in that form at all.

Q. In what way did the matter come up?

A. The matter came up in response to my desire for her to make a statement as to whether or not she was the mother of Thomas Atkins.

> The Court: In short, Mr. Montgomery, you, when you were on the stand, under direct examination, stated everything as you then remembered or as you now remember it, that transpired between you and this other witness?

A. Yes.

> Mr. German: Alright, alright.
>
> The Court: We have his and have the other now.
>
> Mr. German: Alright.

Q. Now, Mr. Montgomery, your testimony when you were on the stand before, you were not taken beyond the time on the day following the making of this so-called confession when she repudiated it to you, and the occurrence at the hotel. Now, let's see what happened after that. At the hotel—no, first I want to ask you to relate just what occurred at the home of Minnie on the day following the day on which she made this so-called confession to you; how did you happen to be at her home, or come in contact with her that day, first?

A. At the invitation of Mr. Hanford.

Q. Was that on the occasion when she retracted the confession? A. It was.

Q. I believe you told before about Mr. Hanford having come to Captain MacNab's quarters and asked you to come down there? A. Yes.

Q. Now, when you got down there, what did you say and what did Minnie say?

A. I wouldn't attempt to detail the actual words——

> Mr. Stuart: Your Honor, he has already told every word of that.

A. I think I have covered that ground.

> Mr. German: Well, we will pass on from that.

Q. At the hotel then, on that same day, as I understand it, you and Mr. Hanford were at the hotel on that same day?

A. Yes, sir.

Q. Now, state whether or not at the hotel when Mr. Hanford came in, if any statements were made by you with relation to persons representing the Government and if so what statement.

Q. I introduced Hanford to Buell and Mr. Robinson, and stated to Mr. Hanford that Buell was representing the Quinton Garret side of this case; that Mr. Robinson belonged to the secret service and the best of my recollection is that I also stated that Mr. Robinson was working with Mr. Buell, and that they had no authority under the Government whatever, and that I was the sole representative of the United States Government in that conversation, or audience or meeting.

Q. Now, by secret service, what did you mean?

> The Court: That will be immaterial here. Any view of the term Mr. Hanford says he drew and a certain conclusion, whether that is warranted or not, is immaterial.

Q. Now, what time in the day was this, Mr. Montgomery?

A. It was in the latter part of the afternoon; I don't remember the hour.

Q. That evening did you go to Minnie's house?

A. I did.

Q. About how long after this meeting in the hotel that you have just been talking about?

A. Well, the departure from the hotel was the culmination of this meeting.

Q. At Minnie's house?

A. No, the departure for Minnie's house I should have said, was the culmination of the meeting at the hotel—the audience at the hotel lasted perhaps three-quarters of an hour.

Q. At whose suggestion did you go to Minnie's house?

A. I think it was at the suggestion of Mr. Buell, perhaps.

Q. Had you communicated with Mr.—Captain *McComb* with reference to meeting at Minnie's house? A. I had.

Q. When did you communicate with him?

A. That was after Minnie had repudiated her confession.

Q. Now, had the Captain or not—had he or not, agreed to meet you at Minnie's?

A. He had, at five o'clock in the afternoon.

Q. Five o'clock in the afternoon; was Mr. Hanford with you at the time you made the arrangement to go down to Minnie's house?

A. You mean arranged with Captain MacNab to go to Minnie's house?

Q. Yes. A. I don't remember whether he was or not.

Q. At the hotel was the matter of going to Minnie's house spoken of? A. It was.

Q. Was any mention made of the fact that you had talked with Captain MacNab about it?

A. I think I stated that I had an appointment with Captain MacNab to meet him at Minnie's house at five o'clock.

Q. Now, a party of you went, then, to Minnie's?

A. Yes, sir.

Q. How did you go? A. Went in a taxi.

Mr. Stuart: Your Honor, we object to this; it has all been gone over with.

The Court: To what point is this rebuttal?

Mr. German: Your Honor, I am driving at the purpose—— Your Honor was interested to know the various occurrences as related by Mr. Hanford. Now, I have never gone over this with this witness; he has not touched upon this point. We objected to the testimony of Mr. Hanford relating to the meeting at Minnie's house that afternoon, and the incident at Colonel Wilson's house following it, on the ground that it was immaterial.

The Court: Well, then, do you propose to show that this is rebuttal for this witness' testimony—that this witness' testimony will be at variance in some material feature with what another witness has said has occurred?

Mr. German: That is true, that is what I am driving at.

The Court: Alright.

Q. Mr. Hanford went with you out to Minnie's house?

A. He did.

Q. Now, was his friend, this lawyer there, who came to the hotel, also, with you? A. I think he was.

Q. When you got to Minnie's house was Captain MacNab there? A. He was not.

Q. Did you take any steps to get him? A. I did.

Q. Was you successful? A. I was not.

Q. Now, did you go in the house at Minnie's?

A. I think I did.

Q. Tell what occurred there?

A. I think about the first thing that happened when I walked into the room was a little abuse upon the part of Minnie towards me for having Mr. Robinson out the morning before, an incident which I related on direct examination; I showed Minnie's husband a copy of the telegram whereby I was authorized to grant immunity to Minnie. That is practically all that occurred as concerned me in the house at that time. Now, there was quite a good deal of conversation between Sadie

James and Hanford and Minnie, but I didn't give any particular attention to it.

Q. Now, weren't—as you were leaving the house, did you have anything to do with an assault that Sadie made on Mr. Hanford?

A. Yes, I made Sadie let him alone.

Q. Where were you in reference to Sadie and Mr. Hanford at the time of that assault?

A. I was immediately in front of them; Sadie struck Hanford and I turned around and took hold of her and made her behave herself.

The Court: The Court has not gotten the slightest impression that this witness had anything to do with what Sadie did there.

Mr. German: Alright, Your Honor.

Q. Now, Mr. Montgomery, after this occurrence, where did you go? A. I went to see Colonel Wilson.

Q. For what purpose?

A. I had a letter from the Department—the War Department, to Colonel Wilson, and had called on him on several previous occasions and had been unable to see him and desired to leave Seattle just as quick as possible and wanted to see him that evening, so that I could leave on the next train; and I got in a taxicab after leaving Minnie's home and drove up to Colonel Wilson's quarters.

Q. Now, was it dark? A. It was.

Q. Did you know where Mr. Hanford was going to from Minnie's house? A. I did not.

Q. When you got to Colonel Wilson's, was Mr. Hanford there? A. He was.

Q. Who was on the porch first, you or he?

A. I take it that he was on the porch first because he was in the house when I got there.

Q. Oh, he was in the house? A. Yes, sir.

Q. He was not on the porch then, when you got there?

A. He was not.

Q. State whether you struck some matches there to find the door plate and see whose house it was?

A. Mr. German, I don't know; I took it to be Colonel Wilson's house from the location as I——

Mr. Stuart: I object to that because it is an impeachment on an immaterial matter whether the man struck matches or not.

The Court: For the life of me I can't see how it enlightens me.

Mr. German: Here is the reason, Your Honor; it seems from Mr. Hanford's testimony that Mr. Montgomery followed him up there and was trying to do some——

The Court: I didn't get that impression; I got the impression that Mr. Hanford by going across lots, got there before the witness did, and they had started out without any thought of him; and when I said I got no impression that this witness had anything to do with what Sadie did, I meant in regard to that particular encounter.

Mr. German: I understand, yes, sir.

Q. Now, Mr. Montgomery, you talked with Colonel Wilson there on that occasion? A. I did.

Q. In the presence of Mr. Hanford or not?

A. I had a formal meeting with Colonel Wilson in the presence of Mr. Hanford, and at the suggestion of Mr. Hanford, I went into the sitting room and talked with Mrs. Wilson and her daughter until after the audience had been had with Colonel Wilson and Mr. Hanford, after which Mr. Hanford retired and I presented my compliments to Colonel Wilson, and told him what I had done there in a general way, and bid him goodbye.

Q. Were you expecting to see Mr. Hanford there before you reached there? A. I certainly was not.

Q. Mr. Montgomery, while you were up there, you were working in conjunction with Mr. Buell and Mr. Robinson, were you, co-laborers in the field?

A. I started out with that intention, Judge, yes.

Q. You were directed to do so, were you not?

A. I instructed the office at Washington and Judge Allen that these parties would accompany me and co-operate with me. I had no instructions to the contrary.

Q. You did collaborate with them?

Mr. German: Your Honor, I object to this on the ground it has all been gone into.

Mr. Stuart: I never asked him that question in my life, because I didn't know he did collaborate.

Mr. German: Substantially that.

The Court: Go on.

Q. Mr. Montgomery you have related this matter as you can remember all these conversations? A. Yes, sir.

Q. As you remember?

A. But there is one thing, Judge, I would like to modify, the impression perhaps to my answer to your first question. In my work at Seattle up to the time that Minnie had repudiated her confession, there was not appearance upon the part of Mr. Buell and Mr. Robinson or Sadie James, other than the time I sent Mr. Robinson out to cover the house that morning about which I have related.

Q. Well, now, you knew Sadie James' characteristics pretty well, didn't you; you learned them?

A. I was not as well acquainted with Sadie at that time as I am now.

Q. Why did you take Sadie with you?

A. Sadie was taken by Mr. Buell.

Q. Mr. Buell had Sadie in tow? A. Yes, sir.

Q. And they went with you every time you went?

A. Went where?

Q. Went to these different places, I mean on their own hook?

A. They were there, yes, sir.

Q. I don't mean they went in the same carriage with you, but they were there? A. They were in the community.

Q. I am talking about these times they went to Minnie's house? A. No.

Q. How many times was Sadie with you at Minnie's house? A. One time.

Q. What time was that?

A. That was the Saturday evening during the time that Mr. Hanford received his so called injuries.

Q. Well, now, when your party representing one side of these belligerents retired from the field, you didn't expect to see Mr. Hanford back at the Colonel's when you got up there?

A. No, indeed.

Q. He never indicated he was coming? A. No, sir.

Cross Examination by Mr. Hanford.

Q. Mr. Montgomery, did I understand you to say that you had an audience with Col. Wilson in my presence at his house?

A. I stated that I met Col. Wilson in your presence and after a few conventional remarks that I retired and you and the Colonel had a conference in private.

Q. You had a conference with him in private after I retired? A. Yes, sir.

Q. And that was all?

A. No, Mr. Hanford, I met Col. Wilson in your presence and was very probably introduced to him by you, and after a few formal remarks, and I think at your suggestion, I retired to the sitting room and you had a private audience with Col. Wilson, and then you left and after that I went in and talked to Col. Wilson myself. That is my recollection of it.

Q. Mr. Montgomery, you have referred to the altercation between Sadie James and myself; you said you made Sadie James let me alone; what do you mean by that?

A. I turned around and got hold of Sadie and made her behave.

Q. That occurrence all happened there in the yard?

A. It was just as we were leaving Minnie's house out in the yard.

Q. You know that I had first struck Sadie James and then she struck me with her bag? A. I don't know.

Q. You didn't see that? A. No.

Q. At the time you came back there and got Sadie James I was talking to Harry Folk, Minnie's husband?

A. No, she was coming down a path and you and Sadie were back of me and you got into an altercation.

Q. You did see me talking to Harry Folk, you saw him come down there and hand me his gun? No, I didn't.

The Court: Gentlemen, I think you have taken enough time for this. I am not considering it as casting any reflection on your, Mr. Hanford.

(Witness dismissed.)

Mr. German: Now, Your Honor, we would like to re-offer Government's Exhibit A-15, which consists of a certified copy of that page of the Creek Deed delivery book which contains entries relating to the Thomas Atkins family. We offered that as part of our case in chief, and on account of objections it was not admitted, and since then, and as a part of the case for the defendants, they have made some proof concerning that record; put Mr. Foreman on the stand and had him testify concerning that record, and Judge Thomas' knowledge of the Atkins family, and we therefore now re-offer it.

The Court: Is it objected to? He is offering the page of the deed delivery book about which you interrogated Mr. Foreman on the stand.

Mr. German: Page sixteen of the Creek Deed Delivery Record, which contains entries relating to the Thomas Atkins family. It wasn't in evidence until they put Mr. Foreman on the witness stand.

The Court: You may put it in. If you desire an objection and exception, gentlemen, you may have it. There has been some interrogation about it and I will let it go in.

And thereupon, ROBERT L. BAUGH was called and sworn as a witness for and on behalf of the defendants, Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Robert L. Baugh.

Q. Where do you live? A. Muskogee, 720 Capital.

Q. Where did you work in 1914?

A. I worked for the Dawes Commission.

Q. In whose office?

A. Well, I worked in the Land office.

Q. Who was your immediate superior? A. Jim Kennedy.

Q. And right above him, Mr. Drew?

A. Mr. Drew, yes, sir.

Q. You worked there helping Mr. Drew out when he got crowded with work? A. Yes, sir.

Q. And you did whatever was necessary? A. Yes, sir.

Q. I want you to examine this card and tell me who wrote that down there in pencil?

The Court: That is the original card?

Mr. Stuart: Yes.

A. That is my writing.

Q. When did you put it on there?

A. Well, sir, I don't remember.

Q. You didn't commence working there until the spring of 1914, did you Mr. Baugh?

A. I went to work for the Dawes Commission the 19th of October, 1913.

Q. Yes, but you didn't commence working on these records like that in Mr. Drew's office until the spring of 1914, did you?

A. Well, it must have been sometime early in 1914.

Q. Now, you don't know whether you put that on there between the spring of 1914 and the fall of 1915, do you—when did you quit?

Mr. German: We object to counsel leading his witness, your Honor.

The Court: Yes, don't lead your witness.

Q. Well, all right, Mr. Baugh?

A. The best—I can't remember, I was going to say when I quit work there. I didn't do any work in the Land Office I don't think——

Q. But you put it on between the spring of 1914 and the time you quit? A. Yes, sir.

Q. But you don't know the date?

A. I don't remember, I might figure up just when I quit.

Q. Who told you to put it on there?

A. Well, Mr. Kennedy.

Q. You are certain of that?

A. Well, I am not sure, but I usually went to him about things of that kind, I have an idea Mr. Kennedy did. I usually went to the head man.

Q. You know Mr. Drew didn't, do you?

A. I couldn't say, he might have, but I don't think he did; usually went to the head man.

Q. You put that on there you say between the spring of 1914 and the time you quit?

A. I wouldn't say between the spring of 1914; I put it on sometime after I went to work; I went to work there in October 1913.

Q. You know it wasn't on there in 1912?

A. I don't know whether it was or not; if I put it on it wasn't.

Q. Didn't you say you put it on, that is your handwriting?

A. Yes, sir.

Q. You didn't commence working you say until 1914?

A. 1913.

Q. Was it on there in 1912 then? A. No, sir.

Q. Was it on there in 1913?

A. Not unless it was on there after October 19th, 1913.

Q. You put it on there, didn't you?

A. I put it on there.

The Court: Which?

A. This commencing "Letter of May 9, 1905."

Mr. German: Now, Your Honor, the reason that we haven't objected to this testimony is this: We have no objection to the facts with reference to how that entry came to be on there and when it was put there, being developed, but we think it is immaterial in this case, and just want to suggest that to the Court. We think it is immaterial because the defendant—the witness, Frank Long, examined this card in the spring of 1914 and found that entry on there, and on the 6th of July 1914 they bought a certified copy of that card, which is defendant's Exhibit B-14, and it is on it.

Mr. Hanford: If the Court please, I would like to call attention to what is an evident unintentional misstatement by Mr. German: Mr. Long didn't testify he examined that card in the spring of 1914.

Mr. German: Well, the record will show. I think it supports me.

The Court: Well, I will go to the record.

Examination by Mr. Allen.

Q. Mr. Baugh, when did you first see that card with that notation on it, lately? A. This morning.

Q. Tell the circumstances under which you saw it.

The Court: Is there any doubt about that being his handwriting?

Mr. Allen: Your Honor, Judge Stuart intimated that this witness told me this morning that he wrote this on this card. Now, here are the facts——

Mr. Stuart: I didn't intimate at all. I told you I was informed that he came to your office and told you about it this morning.

The Court: There is no question about this witness having written this?

Mr. German: I think in view of the way this has been referred to from time to time, and questions asked witnesses about it, that it is only proper that it should be shown that Mr. Baugh this morning for the first time had it called to his attention; otherwise we could have furnished him the man sometime during this trial.

The Court: The Court hasn't the least intimation that there is any dereliction on your part regarding it. It is now in the case.

(Witness dismissed.)

Mr. Allen: Now, if the Court please, Charles H. Drew, who was in charge of the office at the time, and who is now in the Government employ, is in the city now and we would be glad to tender him to the defendants if they desire him.

Mr. Stuart: Your Honor, we accept the tender with a great deal of gratitude, but we don't need Mr. Drew.

The Court: We will not encumber the record with Mr. Drew.

Mr. German: Nor with a photographic copy.

And thereupon, J. B. WHITE was called as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Hill.

Q. You have testified heretofore in this case? A. I have.

Q. Do you know Henry Anderson? A. I do.

Q. Did you have a conversation with him in Wagoner, when you were investigating the evidence in this case, and as a result of that conversation carry him to an office and have a statement made? A. I did.

Q. In that conversation, did Mr. Anderson tell you that he knew that Nancy had a child and that it was a boy and that it was named Tommy? A. He did.

Mr. Allen: May it please the Court, I don't remember that testimony.

Mr. Hill: This is Mr. Anderson's testimony I am reading from.

Q. Did he state it lived to be quite a big boy?

A. He did.

Q. Did you take him up there to get an affidavit and after you got the affidavit ready he said that he wouldn't sign it unless you would give him a hundred dollars then and three hundred dollars when the case was over?

A. He had that conversation but it was two hundred dollars, he wanted one hundred for himself and a hundred for a fellow by the name of Phillips, a barber. He got Mr. Phillips for me. I never talked to him. And went up to Senator Sutherland's office, and when we got up there Mr. Sutherland had them about completed; Henry Anderson taken me off back out of the office and wanted to know what about the money. I says, Henry I will pay you for your day's work. He says, we can't do that, because if we give any affidavits we have to have a hundred dollars down and three hundred dollars after the case is decided. That was the conversation word for word—meaning him and this barber Phillips.

Q. Did you tell him that you wanted him to testify that they boy lived and that he told you no, that he did not?

A. I did not.

Q. Or anything in substance like unto that?

A. No, sir.

Cross Examination by Mr. Allen.

Q. Mr. White, you had this conversation with Henry Anderson, you say, at Wagoner? A. I did.

Q. Was anything said about money when he first told you about the boy?

A. No, sir, no, sir, there was not.

Q. He went up in the office to make the affidavit?

A. He did, him and Phillip both.

Q. And when he started to sign the affidavit, he declined to sign it until it was paid?

A. He taken me off a little piece out of the office and asked me what about the money, when would they get the money.

Q. Phillip then refused?

A. Yes, sir, I had a very few words with Phillip.

Q. And you had an affidavit prepared for Phillip, too?

A. I won't be positive, Mr. Allen, whether Sullivan and Dick made a statement for them both or not; he was talking to both of them.

Witness dismissed.

Mr. Hill: Now, Your Honor, I want to offer this testimony of Mr. R. F. Day. We want to offer it, it begins with page 443 of the present record; he was put on out of time, and it has never been formally offered as a part of our direct case.

The Court: Mr. *Davis,* the Court remembers, was put on while the Government was putting on its case with the understanding that it was to constitute a part of your case. Now, it will be a part of your case when the Court comes to consider it.

Mr. Hill: Mr. German has a portion that he wants to ask, to strike out.

Mr. German: Mr. Davis was asked this question: "Q. Mr. Davis what was the general reputation among the people at Wagoner at that time as to whose child that was?" We objected and at that time Your Honor overruled the objection and we excepted; now we move to strike his testimony in regard to that. I am unable to specify, because there are several questions and answers——

The Court: The motion is to strike all the answers of this witness Davis in which he testifies to what is the general reputation in the vicinity of Wagoner with regard to that being Nancy's child?

Mr. German: Yes, sir.

The Court: The motion to strike is sustained and your exception noted.

Mr. Hill: Now, we expected to have two witnesses tomorrow, they are out of pocket now, and they will be very short, in rebuttal.

Mr. Stuart: Your Honor, before you adjourn, I would like to ask Henry Carter a couple of questions.

And thereupon, HENRY CARTER being recalled, further testified as follows:

Recross Examination by Mr. Stuart.

Q. When you married the first time, what did you give your age in at? A. 24, I believe.

Q. 24, and you were married what year? A. In 1904.
Q. 1904; that would have made you born when?

The Court: That is a matter of calculation.

Mr. Stuart: Well, Your Honor, I thought he could tell that.

Q. It would make you born in 1880, wouldn't it? Born in 1880?
A. Well, I could figure back and tell you; I am not very good.
Q. It would make you born in 1880 and when you married the second time in 1908, what did you give your age in at?
A. 28, I think.
Q. Four years later. Now, where did you get that age from?
A. Well, I got my age—gave my age in as 24 the first marriage and I——
Q. Where did you get that age from? Who told you about it? A. No one at all.
Q. What did you give it in 24 for?
A. Well, my wife was 22 and I wanted to be a man and I gave it at 24.
Q. Is that it? A. Yes, sir.
Q. And you gave it in as 24?
A. Yes, sir, I never knew my age.

Redirect Examination by Mr. Cobb.

Q. Then how came you to give your age in 1908 when you were married the second time as being 28?
A. Well, it was four years after my first marriage and I couldn't go back any, and I had to say 28 years of age.
Q. Since giving it as 24 the first time, you counted——
A. Yes, sir, I counted from that, and it made 28; it was four years afterwards.
Q. Did you really know your age?
A. No, sir. I never knew my age.

Witness dismissed.

Mr. German: One thing, in looking over the record, Your Honor, Sam Brown's little book in which he listed those names, has been talked about and was left with the Court, and has never been offered in evidence. I think owing to the nature of it it ought to be in evidence.

The Court: What is the exhibit number?

Mr. German: Government's Exhibit A 32.

The Court: The record may show that Government's Exhibit A 32 is now offered in evidence and admitted as a part of the record. I suppose it is just what page?

Mr. German: Yes, sir, just that page.

The Court: Anything further?

And thereupon court takes a recess until 7:30 o'clock this day.

And thereupon Court reconvened at 7:30 P. M., pursuant to adjournment, and the following proceedings were had:

And thereupon, C. B. MALCOM was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. C. B. Malcom.
Q. How old are you Mr. Malcom? A. Thirty two.
Q. Where do you live? A. I am in Tulsa at present.
Q. How long have you lived in this country?
A. Twenty-two years.
Q. Where were you born? A. Born in Nebraska.
Q. What is your business?
A. I have farmed the last two or three years.
Q. Have you had anything to do with the oil lease business? A. Some, not very much.
Q. Off and on for about how long?
A. Three or four years.
Q. Do you know Frank Long, Mr. Malcom?
A. I have met him a few times, two or three times.
Q. Do you know Charles Page? A. Yes, sir.
Q. Mr. Malcom, when was the first time you ever met Mr. Long, about when?
A. About January, 1914, I believe.
Q. At that time, did you have any conversation with him relating to the Atkins lease or relative to the Atkins property?
A. I did.
Q. Where was it that you met him?
A. I met him sometime the first time somewhere between Second and the Sand Springs Inter-urban station I believe, or the Frisco Station, some where on Main Street.
Q. In Tulsa? A. Yes, sir.
Q. What was the conversation?

A. W. W. Fox, of Tulsa, introduced me to him, and I had talked to Mr. Rogers, Mr. Rogers before that.

Q. Huck Rogers? A. Yes, sir.

Q. Yes. It was through Mr. Rogers that you were attracted to Mr. Long? A. Yes, sir.

Q. Now, you knew somewhat then about the Atkins property? A. Yes, sir.

Q. Now, what was the conversation you had with Mr. Long at that time on the street?

A. Why, we didn't have very much of a conversation. I told him I thought I could be of some assistance to him in finding these parties, and he said for me to see what I could do. And that was about all. He seemed to be in quite a hurry.

Q. What parties do you refer to? A. To Minnie Atkins.

Q. Did he suggest that you see him at any later time?

A. He said to see what I could find out about it and let him know and drop up to the office.

Q. Did you see him again? A. I did.

Q. Where? A. At the office.

Q. Did you have any conversation there about the Atkins matter? A. I did.

Q. What was it?

A. I told him that I had found out nothing about Minnie Atkins or this boy Tommy Atkins.

Q. All right?

A. And he said I needn't matter about Tommy Atkins, that he supposed he died before the war. To go ahead and see if I could find Minnie Atkins.

Q. Now about when was this conversation?

A. I will say about March, maybe, the best I recollect.

Q. In what year? A. 1914.

Q. Well, what did you do then in the matter of finding Minnie, if anything?

A. I couldn't find out anything about her.

Q. Did you have any other conversation after that with Mr. Long or Mr. Page about this matter?

A. That was the last conversation I had with Mr. Long.

Q. Did you have a conversation with Mr. Page after that?

A. Yes, sir.

Q. Do you know of Minnie having been found in the summer of 1914? A. I have heard of it, yes, sir.

Q. You have heard of it. Now, when was it you had a conversation with Mr. Page, was it before or after Minnie was found, the first one you had?

A. Before or after Minnie was found?

Q. Yes?

A. About the first conversation that I recollect of having with Mr. Page was probably in April.

Q. What was that conversation?

Q. Sometime you think in the summer? A. Yes, sir.

A. I had went there to see Mr. Long to tell him I couldn't find out anything about Minnie and Mr. Page asked if I was pretty well acquainted in that country; and I said I was, I had lived down there quite a while, and he asked if I knew about a child that had been dead there a good while and that nobody knew much about. And I told him I couldn't remember at that time. He said find out what you can about it and let me know.

Q. Now, where had you lived?

A. I had lived in the south part of Tulsa County.

Q. What did you do then?

A. I went back up to the office again later.

Q. Did you go out and make any investigation between the time that you went to the office that you have just referred to and the time that you had this first talk with Mr. Page?

A. Yes, sir.

Q. Where did you go?

A. I went to Bixby and south down on Snake Creek to one of the oldest Indians that I knew of in that country.

Q. Without going into details, did you find out anything about an Indian that had been dead for a long time that they didn't anybody know about much?

A. I found out one that had been dead for a good while.

Q. State whether you reported to Mr. Page about that?

A. I did.

Q. What did you tell him?

A. I told him I had found out about a child down on Duck Creek that had been dead for several years.

Q. Did you tell him its name? A. Yes, sir.

Q. What name? A. Big Pond.

Q. What all did you tell him about that?

A. He asked me who knew about it.

Q. Well, did you tell him? A. Yes, sir.

Q. What did you tell him?

A. I told him who knew about it. I remembered the name after old man Buck had told me and there were some other people there by the name of Wills, they are Indians about sixteenth, that they knew about it.

Q. What if anything did you tell him about whether the father of that child was living?

A. I know that I told him that he was dead.

Q. What, if anything, did you tell him about the mother of that child?

A. I didn't know anything about that.

Q. What did Mr. Page say when [ ] got through reporting about that child?

A. He said that wouldn't do, to go ahead back and see if I could find out anything else about another one.

Q. Did Mr. Page tell you that that day or a later day that tnat wouldn't do?

A. I believe it was a later day; a couple of days, maybe, afterwards.

Q. How come you to go back and see him at this late a day about the matter?

A. As soon as I—when I told him about that he told me to come back to the office again in a day or two and I did so.

Q. And then when you went back he told you that that wouldn't do? A. Yes, sir.

Q. To go back and look for another one? A. Yes, sir.

Q. Now, did you go and look for another one? A. I did.

Q. Where did you go and look for it?

A. I went down about the same country and over to Coweta and over to Wagoner.

Q. Did you find another one? A. I did.

Q. Did you report that to Mr. Page? A. Yes, sir.

Q. What did you report to him then?

A. I told him I had found another one over there.

Q. Over where? A. Over about Wagoner.

Q. Did you tell him the name of that one? A. Yes, sir.

Q. What name? A. Told him Atkins.

Q. Did that one have a given name?

A. I don't believe that it did; it was not the one that I was looking for.

Q. What did he say to you when you told him about that one?

A. He said, you needn't bother any more about them I have *goy* a live Tommy now and he is able to take care of himself.

Q. Now, when was it that you were doing this work looking for the dead child?

A. That was along in the summer and fall of 1914.

Q. What if anything did Mr. Page say to you with reference to what he would do for you, if anything, in case you found a dead child that would suit alright?

A. I would be taken care of.

Q. How much—about how much were you paid for what you did?

A. Mr. Page, or Mr. Long never did give me a cent themselves.

Q. *How* did?

A. There was someone in the office gave me some money, two or three different times.

Q. For expenses? A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. What did you say your name was? A. Malcomb.

Q. Malcomb? A. Yes, sir.

Q. You say you live in the southern part of Tulsa County?

A. Most of the time for 22 years.

Q. Most of the time for 22 years. How did you get into this law suit? Who put you here?

A. I got subpoenaed here.

Q. No, I mean to start off with; how did you ever get connected with this case?

A. I met Rogers at Sapulpa.

Q. Which Rogers? A. Hook Rogers.

Q. Hook? A. Yes, sir.

Q. What did he say he wanted you to do?

A. Well, he said this man Long had employed him to find a Minnie Atkins and he said you have been around in the country a long time, maybe you can help me a little bit.

Q. Let's see, how much Indian blood have you got in you?

A. Not a bit.

Q. Proud of it? A. No, sir.

Q. Well, how could you help?

A. I had been among them for twenty years.

Q. Did you know the Atkins family? A. I did not.

Q. Did you know Dick Atkins *d*amily at Wagoner?

A. No, sir, but over at Sapulpa——

Q. Well, did you answer my question; did you know the Dick Atkins family? A. No, sir.

Q. Did you know the Tommy Atkins family? A. No, sir.

Q. Did you know any Atkins? A. No, sir.

Q. You never heard of them before? A. No, sir.

Q. Yet they employed you to find out where Minnie Atkins was? A. If I could.

Q. You say that was in April 1914?

A. I didn't state positive; about——

Q. Well, about when was it? You said April; March, April or May—well, March we will put it then, was that it?

A. No, sir, I won't say positive.

Q. Was it either March or April?

A. Sometime along there.

Q. 1914? A. Yes, sir.

Q. And you saw Frank Long in January 1914?

A. Yes, sir.

Q. And talked with him about Minnie Atkins and Tommy Atkins? A. I didn't talk to him about Tommy.

Q. Well, what did you talk about? Minnie?

A. Yes, sir.

Q. Why, didn't he tell you that Tommy had been dead before the war? A. He told me afterwards that he had.

Q. He told you where, and when?

A. In the next conversation.

Q. Now, Mr. Malcomb, let's start this right. Where did you first see Mr. Long? Name the place.

A. Well, sir, I met him between Second Street and the Sand Springs inter-urban line on Main street in Tulsa.

Q. You said Mr. Long, I want to talk to you, didn't you?

A. No, sir, I didn't.

Q. Did he say that he wanted to talk to you? A. No, sir.

Q. Did you say Mr. Long, do you want me? A. No, sir.

Q. What did you say?

A. I had got Mr. Fox to give me an introduction to him.

Q. Oh, you had? A. Yes, sir.

Q. What Mr. Fox was that? A. He introduced me to him.

Q. What Mr. Fox—what did Mr. Fox say?

A. He said, this is Mr. Long, Mr. Malcomb.

Q. Say here is the man who can find Minnie Atkins?

A. No, sir, he didn't.

Q. What did he say?

A. He said this man may be able to do you some good.

Q. He said you could do him some good?

A. No, sir, just said talk to him.

Q. Now, before you started down there, Hook Rogers told you to hunt up Frank Long, didn't he?

A. Yes, he told me who it was.

Q. To hunt up Frank Long?

A. No, he said he would make me acquainted when I got back there.

Q. Hook didn't do it though? A. No, sir.

Q. How did Fox get onto it? A. I told Fox myself.

Q. Where is Fox? A. He is in Tulsa.

Q. What does he do?

A. He leases land and buys some, and deals in horses and mules once in a while.

Q. You and Fox met Long there about January 1914, and had this conversation? A. Yes, sir.

Q. Alright now; then, you say that Long said to you that you needn't bother about Tommy, that he died before the war?

A. Yes, sir.

Q. He died before the war, and the only thing that he wanted you to do was to find Minnie? A. Yes, sir.

Q. You didn't find Minnie? A. No, sir.

Q. Did you report that matter to Frank Long?

A. No, sir, I didn't, that was the last time I saw Frank.

Q. You saw Page after that?

A. Yes, sir, I seen him at the office.

Q. What did you see him about?

A. I told him my business up there.

Q. You went to see Page?

A. No, sir, I went to see Long.

Q. And Long wasn't there and you saw Page?

A. Yes, sir.

Q. Who was that who was paying you this money? What kind of looking man was it that paid you this money?

A. That paid me this money?

Q. Yes, who was it?

A. A young light fellow, hardly as heavy as I am; probably as tall.

Q. Do you remember what kind of *occie* you went in?

A. Yes, sir.

Q. What did it look like? Give a description of it.

Q. I went in the fourth floor of the First National Bank of Tulsa.

Q. Went up stairs? A. Yes, sir.

Q. Went in the room? A. Yes, sir.

Q. This man was sitting down when you went in?

A. Who?

Q. This man who gave you the money there?

A. I didn't notice him any at that time.

Q. Did anybody tell him to pay you any money?

A. I never heard anybody tell him to.

Q. Mr. Page say pay this man money?

A. No, sir, he didn't.

Q. Did anybody tell him? A. They did not.

Q. He just came in and gave you so much money?

A. Yes, sir.

Q. How much did he give you?

A. Fifty dollars the first time.

Q. How much the next time?

A. I got seventy-five or a hundred the next time.

Q. You never had brought in any information had you?

A. I was trying to bring in some; well, I did bring in some. I found that dead child down here.

Q. Let's see about that dead child. Where did you find that dead child?

A. I said John Buck was the first man.

Q. John Duck? A. No, sir, John Buck.

Q. Where did he live? A. South of Bixby.

Q. He told you the child died where?

A. Out on Duck Creek.

Q. How far is that from Snake? A. Not very far.

Q. It empties into Snake, doesn't it? A. Yes, sir.

Q. Out here near the Concharty mountains? A. Yes, sir.

Q. And that he drowned on Duck?

A. No, sir, died down there.

Q. What time did he die? A. I don't know.

Q. At whose house did he die at?

A. I didn't find out.

Q. Didn't find out? A. No, sir.

Q. Just a boy died on Duck is all you found out?

A. Yes, sir, I remembered at the time, too, because I was there, after the old man told me about it.

Q. What was his name? A. Big Pond.

Q. Big Pond? A. Yes, sir.

Q. Well, how in the world did you expect to make Tommy Atkins out of Big Pond?

A. Well, I was looking for a boy that was dead.

Q. You were looking for a boy that was dead, didn't make any difference what kind of a boy it was, you picked him up and brought him in, is that right? And when they told you Big Pond died up on Duck, you passed this Big Pond up to Page, didn't you? A. Yes, sir.

Q. Did he pay you for it?

A. He didn't pay me for it.

Q. Did you quit Big Pond, give him up as the wrong man?

A. Yes, sir.

Q. Wasn't the boy at all? A. No, sir.

Q. Now, who was the next boy you found to fit the matter?

A. The next boy was through an old lady over here by Coweta by the name of Byrd.

Q. Well, what was that boy's name?

A. His name was Atkins.

Q. Atkins? A. Yes, sir.

Q. What kind of Atkins, Tommy or Johnny?

A. I don't know, that was all I found out.

Q. Where did you get him?

A. Somewhere over in the neighborhood of Wagoner.

Q. Somewhere in the neighborhood of Wagoner? Did you report him? A. I did, sir.

Q. Did he pay you for that? A. No, sir.

Q. Didn't pay you for that? A. No, sir.

Q. Why didn't he pay you for that?

A. I don't know, he said he didn't need him any further.

Q. Didn't need him. Didn't need him; What else did you find out about the boy? A. That is all.

Q. You just found Big Pond? A. Yes, sir.

Q. And a boy up near Wagoner named Tom Atkins?

A. Yes, sir.

Q. Did you find out where Minnie was?

A. No, sir, I did not.

Q. Did you ever hear of Minnie through anybody?

A. Yes, sir, I have heard of her.

Q. Who did you talk to about Minnie, give me some of the people? A. Who did I talk to?

Q. Yes, about Minnie?

A. When I was trying to find her? Is that what you want to know?

Q. Yes, that is what I want to know?

A. I told you the old man Buck.

Q. The same fellow that found Big Pond on Duck?

A. Yes, sir.

Q. What did Buck tell you?

A. He didn't know a thing about her.

Q. And you gave that up. They paid you fifty dollars one time and seventy-five dollars at another, and how much did they pay you the last time?

A. I think that all together I got about two hundred dollars.

Q. About two hundred dollars for that information?

A. Yes, sir.

Q. Did anybody agree to pay you the two hundred?

A. No, sir.

Q. Did you ever speak to Mr. Page about the two hundred dollars? A. No, sir.

Q. Or Mr. Long? A. No, sir.

Q. Then, some fellow just got up in that office and gave you two hundred dollars? A. Not all at one time.

Q. Seventy five at one time, fifty at another and seventy five at another, makes two hundred dollars? A. Yes, sir.

Q. They just came and gave it to you and you never had any understanding about what you were to get? A. No, sir.

Q. Not a word? A. No, ,sir.

Q. Never had any conversation?

A. I am working for a man in Tulsa the same way now, getting up leases for him, he pays me when I get them.

Q. That is the way you work is it? A. Yes, sir.

Q. Have you ever been arrested for anything?

A. Yes, sir.

Q. What was it?

A. Unlawful possession of whiskey once.

Q. Anything else, tell it all? A. Yes, sir.

Q. What else?

A. I have been arrested for being drunk two or three times.

Q. Well, what else? Tell it all.

A. I was never convicted of anything.

Q. Oh, well, are you a man of a family?

A. My wife is dead.

Q. Got no children?

A. Yes, sir, got one girl ten years old.

Q. How came you to come down here to testify in this case?
A. I was subpoenaed.

Q. Who was the first man you ever talked to about what you knew in this case?

A. I have talked to Dr. Linkhart at Broken Arrow about it.

Q. Anybody else? A. Yes, sir.
Q Who else?
A. C. Lipscomb, of Tulsa, he is an ex-banker from Bixby.

Q. But when did you first talk with the Government counsel about this case? A. Today.

Q. Do you know how they found out you were a witness?
A. I don't.

Q. Do you know how they found out you knew about the case? A. No, sir.

Q. You don't know that? A. I do not.
Q. And you never mentioned it here until today?
A. No, sir.

Mr. Stuart: That is all.

Redirect Examination by Mr. German.

Q. When were you subpoenaed, Mr. Malcom?
A. I believe I was subpoenad about Friday last week.
Q. And when did you first come to Muskogee?
A. I came Saturday.
Q. Saturday? A. Yes, sir.
Q. Have you been here since then? A. Yes, sir.
Q. Have you been sick in bed since you have been here?
A. Yes, sir, I have.
Q. Been in bed some today? A. Yes, sir.
Q. And prior to today? A. Yes, sir.

Mr. German: That is all.

Recross Examination by Mr. Stuart.

Q. Did you ever talk to Betty Mann about this case, you know Betty, don't you? A. I know her.

Q. Yes, you talked to her about it, didn't you when you and Huck talked about it?

A. No, I didn't talk to her.
Q. Well, you have talked to her since then, Betty Mann?
A. Yes, I remember her.
Q. You have talked to her?
A. They wanted me to go and talk to her but I wouldn't approach her.

Q. Who wanted you to?
A. Mr. Page, I forgot about that.

Q. Well, let's have it?

A. He asked me if I knew Betty Mann and Mr. Rogers.

Q. Betty Mann and what?

A. Huck Rogers and then Mr. Page said she can fix the birth and death of this child, will you go and talk to her; and I told him I didn't know whether I would or not, because I wasn't very well acquainted with her.

Q. What was the reason you wouldn't go to her, you weren't afraid of her?

A. I wasn't well enough acquainted with her for that.

Q. You could ask her about the birth and death of the child, you wasn't afraid she would bite you?

A. I didn't do it.

Q. To approach her about the birth and death of the child?

A. To see if she could fix it.

Q. You didn't know old man Buck?

A. I knew him eighteen or twenty years.

Q. You know old man Buck is dead don't you? A. Yes.

Q. Yes, you know he is dead. Did you know Bartlett?

A. No, sir.

Q. Did you know Buell?

A. No, sir, not by name. I might know them if I could see them.

Q. What kind of a looking man was Buck, describe him?

A. He was about six feet high and would weigh three hundred pounds.

Q. Part nigger?

A. I have heard that he was half nigger.

Q. Now, you have told all you know about this case?

A. Yes, sir.

Q. And after you got your last seventy five dollars, who released you from your work, why didn't you keep working on?

A. Mr. Page, he didn't need this Tommy I had found, he had found a live one.

Q. Oh, you didn't tell that?

A. Didn't I tell that before? I think I did.

Q. You say Mr. Page said he didn't need this one?

A. Yes, he said he had a live one that could take care of himself.

Q. You had a dead one? A. Yes, sir.

Q. Where was your dead one?

A. About Wagoner some place.

Q. And he had a live one that could take care of himself?

A. Yes, sir.

Q. Did he tell you where that live one was? A. No, sir.

Q. Didn't tell you about that at all? A. No, sir.

(Witness dismissed.)

And thereupon, E. O. CURTIS was recalled for further cross examination and testified as follows:

Cross Examination by Mr. German.

Q. Mr. Curtis, since you were on the stand the other day you have obtained the account book showing the record of accounts, receipts and disbursements, and so forth, with reference to this Atkins property? A. Yes, sir.

Q. Mr. Curtis, I wish you would—Can you tell from your books how much money was realized from the sale of oil, actually collected from the sale of oil up to January 18, 1915?

A. I will have to get that ledger for that. You say up to January, 18th, 1915?

Q. Yes, sir.

A. We hadn't sold any up to that date.

Q. Hadn't sold any? A. No, sir.

Q. How much had been paid out up to that time on account of equipment on the lease?

A. Well, now, that statement has that, I haven't got the exact figures, I didn't take off any balance at that date.

Q. Take the statement that you have, you say you have the copy, take that copy. How much has been paid out on account of equipment. A. Equipment and labor?

Q. Actually disbursed, just on account of equipment?

A. Actually disbursed?

Q. Yes, sir?

A. This includes the amount contracted for.

Q. That is what I am driving at, what was contracted?

A. You will have to take the difference between the cash vouchers and the credit vouchers.

Q. Let's take the itemized statement that was introduced and tell us how we can find that?

A. The understanding I had that they wanted to find the amount of equipment in the lease and contracted prior to January 18, 1915.

Q. And a separate statement up to December 17, 1914?

A. Yes, sir.

Q. You have done that you say? A. Yes, sir.

Q. How can we tell from the itemized statement whether an item has been paid for, whether the items that you have listed has been paid for?

A. All of this has been paid for.

Q. I know it has now, but how can we tell whether this was on December 17, 1914, on your schedule A, whether an item had been paid for up to, or at a time prior to December 17. 1914?

A. Well, that is just a cash voucher prior to that time and what was not is a credit voucher.

Q. All right, the words Credit Voucher and Cash Voucher do not appear on this statement; that is all heiroglyphics, that is all Greek to me?

A. They are referred to as check numbers.

Q. Where the item begins with the letters "C V," that is two letters of the alphabet? A. Yes, sir.

Q. What do those letters stand for?

A. Credit voucher.

Q. Where the items begin with those two letters, it is an item that is not paid for on the date indicated on this statement? A. No, sir.

Q. But where the item begins with a number, such as 1633, that means that the item is paid for on the date shown on this voucher? A. Yes, sir.

Examination by the Court.

Q. Now, what is the credit voucher, why a credit voucher?

A. In case on an account where we buy equipment and don't pay for it, we set it up on the books as accounts payable; although the money may not be paid for as a general rule for thirty or sixty days.

Q. To what does the credit voucher relate, to that item on the book?

A. Well, the credit, if we buy pipe it is charged against the lease and credit is given the concern to whom we owe the money.

Q. Is that credit to this concern that sells you material what you refer to as the credit vouchers?

A. Yes, sir, that is what we set up the credit with.

Examination by Mr. German.

Q. Then, that would be paid later on?

A. Yes, sir, or no certain date, you know, at any time.

Q. It simply shows that you owe the party from whom you purchased that equipment, that amount of money?

A. Yes, sir.

The Court: A credit voucher stands for a liability incurred but not paid?

A. Incurred, but not paid, yes, sir.

Q. Now, Mr. Curtis if you will look at this account you will notice that prior to the month of October—No, prior to the month of November, with the exception of one sixty-five-cent item, the only item incurred, whether paid for or not, appeared to have been incurred in August, isn't that true?

A. Prior to what date?

Q. Prior to the month of November, 1914?

A. That is the only one I see here.

Q. There are two items in here dated October 25th, 1914, credit voucher items, for a tank, *stell* tank, fifty-five thousand steel tank? A. Yes, sir.

Q. I don't know whether I asked you where those tanks were placed or not. I believe I did, too, and you said that tank farm north of this property? A. Yes, sir.

Q. Do you know where that farm is, don't you?

A. I can give you a description of it.

Q. You have been on it? A. I haven't been on it, no.

Q. Now, Curtis, were you acquainted with this matter in 1914? Were you keeping books at that time?

A. I started the first of December.

Q. December 1914? A. The first of December, yes, sir.

Q. Where was oil run from to these tanks at the start?

A. Run from the Thomas Atkins lease and run one tank, I believe, from the Dewey Hawkins.

Q. Where was the Dewey Hawkins lease?

A. South of that.

Q. South of the Atkins—that is the Gem Oil Company lease? A. No, that is owned by the trustee.

Q. Who is the trustee? A. Mr. Page.

Q. Trustee for whom?

A. Trustee for Mr. Kinney and Mr. Kingsbury and Mr. Josey and Mr. Delaney and himself.

Q. That property was producing oil and had several wells on it at the time you began to keep these books, wasn't it?

A. At the time I went to keeping these books, they were drilling in number one, and number two wells.

Q. Then they discovered oil and drilled other wells?

A. Yes, sir.

Q. In other words they started the operation of the Dewey Hawkins lease about the time they did the Atkins lease?

A. Just about the same time, yes.

Q. And they run oil from both leases in this tankage?

A. Yes.

Q. You said they run oil from the Hawkins lease into only one of these tanks?

A. The best I remember; I think it was only one tank.

Q. Don't you remember on reflection that they run oil into two of those tanks from the Atkins property after the tanks were put up, and run oil into all three of the tanks from the Hawkins property?

A. I don't remember just exactly as to that but I think the total that the Hawkins run was about fifty-thousand barrels

Q. What did they do with the Hawkins then?
A. Ran it into the lines.
Q. When did they begin running it into the line?
A. I can't give you those dates.
Q. Well, do you remember about when it was, don't you?
A. I think about 1915, I am not sure.

Q. I notice items in this account charged up to the Atkins lease, the price of that tank farm? A. Yes, sir.

Q. Well, when did you decide that should be charged to the Atkins lease and not charged to the Hawkins lease?

A. They decided that when they got the tank farm.

Q. What was to be done for taking care of the Hawkins lease oil?

A. We were to pay storage on it and did pay storage.
Q. The Hawkins lease paid storage to the Atkins lease?
A. Yes, sir.
Q. On your account books? A. Yes, sir.
Q. When was that arrangement started?

A. Well, as I say I don't remember the date when they started running it in there but the first, the trustee I think, was going to buy a two-fifth interest.

Q. In the tank farm?

A. In the tank farm, but didn't do it, and the Tommy Atkins afterwards took the whole farm and they paid storage.

Q. Now, when was that arrangement made?

A. I can't give you the exact date but shortly after the property was purchased.

Q. After the deed was obtained, do you mean?
A. Yes, sir.
Q. When was that deed obtained?

A. I think it was December 18th, I am not sure; 1914—December 16th, 1914.

Q. Who is the deed to?
A. Frank Long—F. B. Long as trustee.
Q. Trustee for whom?
A. F. B. Long had it there, trustee for the Atkins lease.
Q. Does the lease specify who the trustee is for?
A. Specified the Atkins lease.
Q. Well, who was he trustee for?
A. I don't know; I never made the deed.
Q. Well, wasn't he trustee for the Gem Oil Company?
A. No, sir.

Q. Wasn't he, then, to be trustee for whatever interest might use that tank farm?

A. Well, I suppose he would yes.

Q. Now, the deed to the tank farm is to Frank B. Long but you charged the cost of it upon this account against this Atkins lease? A. Yes, sir.

Q. These steel tanks placed on there were placed on the farm which was deeded to Frank Long, trustee, aren't they?

A. Yes, sir.

Q. Yet you charged the cost of them up to the Atkins lease?

A. Yes, sir, when we subsequently sold them they were credited to the Atkins lease.

Q. Oh, you have sold the tank farm? A. Yes, sir.

Q. How long since?

A. Sold it a tank at a time. I think the last one was sold in August 1916, I wouldn't be sure about it.

Q. You mean you sold seperate tanks? A. Yes, sir.

Q. With the acreage on which they were situated?

A. Yes, sir.

Q. Have you still any of those tanks? A. No, sir.

Q. All sold? A. All sold.

Q. Do you know whether they brought approximately the cost of them?

A. They brought more than the cost of them.

Q. Brought more than they cost? A. Oh, yes.

Q. Now, Mr. Curtis tell us when the tanks, the first tanks that were put on this tank farm, when the first item of payment was made on account of the purchase of those tanks? I don't care for the amount at this particular time, but the first item of payment?

A. For the steel tanks themselves?

Q. Yes?

A. Now, the first charge against them was on December 28th, but that was charged against the Petroleum Iron Works for freight.

Q. Yes, but when was the first item of payment made?

A. The first cash payment was May 14th, 1915.

Q. May 14th? A. Yes sir.

Q. Mr. Curtis, that is about twenty-two thousand five hundred dollars of the fifty-one thousand dollars of items you have listed in your schedule A here— those tanks are?

A. I believe it is twenty-two thousand five hundred, isn't it?

Q. Yes, sir, twenty-two thousand five hundred; and the rest is for labor and incidental equipment on the lease?

A. Yes, sir.

Q. You have not figured, have you so that you are prepared readily to testify to it, as to how much was paid out on account of this other equipment and labor prior to the 18th of January 1915?

A. Well, it will be the difference; you mean between those——

Q. A matter of computation, isn't it? A. Yes, sir.

Q. The way you explained a while ago. Now, this rig, the first item in this account, credit voucher 55, August 6th, 1914, to one rig from C. B. Wertzberger, eleven hundred and sixty-five dollars? A. Yes, sir.

Q. Did you know where they *ot* that rig?

A. I suppose Mr. Wertzberger built it; he is a rig builder.

Q. Wasn't there a contract made for the drilling of that well?

A. Well, the well was drilled by contract, all of them.

Q. Well, how come *to* rig to be charged in the lease?

A. That is not included in the drilling contract.

Q. Does the owner furnish the rig? A. Oh, yes, always.

Q. Always? A. Yes.

Q. You don't know where they got that?

A. Why, Mr. Wertzberger built it.

Q. Built it? A. Yes, sir.

Q. Now, do you know when it was paid for? A. Yes, sir.

Q. Will you tell us?

A. Yes, sir, that rig was paid for October 10th, 1914.

Q. October 10th, that eleven hundred and sixty-five-dollar item? A. Yes, sir.

The Court: Just what is the point you have in *k*ind?

Mr. German: There is just one other question I will ask and will have covered the whole matter. If I may ask this question before I answer Your Honor, please sir?

The Court: Alright.

Q. The payments that were made on account of this equipment and labor, were made out of the production from the lease, were they not?

A. Why, not at that time, no; the lease didn't have any production.

Q. Up to the time the lease began to produce all payments were made out of the production were they not?

A. Not up to the time.

Q. Well, as soon as you got any production?

A. Oh, yes.

Q. Have you any way of telling us when you made your first sale?

A. Yes, sir, the first sale was made February first to the Texas Company.

Q. 1915? A. Yes, sir.

Q. How much was realized from that sale?

A. Forty seven hundred and eighty dollars and thirty-four cents.

Q. Up to the time of the Receiver's appointment, March

8th, 1914, how much oil had been sold or how much had been realized from sale?

A. Up to the time that you mean the receiver was appointed?

Q. Yes, March 8th?

A. Eighteen hundred six dollars and ninety cents, the only check we had in at that time.

Q. I mean the total.

A. That is the only one we had at that time; that was carried on my books at the time because we turned that check over to the receiver.

Q. I understood there was a four thousand item there?

A. There was only one that we got credit for.

Q. Only one between that time and March 8th? A. Yes, sir.

Q. Approximately, wasn't it about eight thousand, a hundred and ten dollars?

A. Eight thousand one hundred and ten dollars and thirty-one cents.

Q. Yes? A. Yes, sir.

Q. Isn't it a fact that on account of the equipment on this property there has been paid only the sum of seven thousand three hundred and seventy-six dollars up to March 8th, 1915?

A. Well, I can't say as to that.

Q. And that it was all paid out of the production—out of saled from the productions?

A. I can't say as to that because the entire statement there, I haven't looked that up.

Q. Can that be figured—the question I asked, may it be arrived at from the data you have filed? The itemized statement? A. No.

Q. Can you figure that for us?

A. It will take a good little qhile to do that; I have to go through all my books; I can figure it though.

The Court: What is the point?

Mr. German: The question is this; that this lease cost the defendants after they obtained it, nothing except what they paid out of production from it.

The Court: Well, how does that affect this case? This phase of this case?

* * * * * * * * *

The Court: Well, I am not determining, I am not passing upon that matter now; I am not determining to what extent if any it will affect the decision of this case. I just wanted to find out what counsel had in mind.

Q. Will you figure that out for us, Mr. Curtis?

A. The exact amount spent up to January 18th, or December 17th?

Q. Well, January 18th; on both dates, December 17th and January 18th. A. Yes, sir.

Q. Actually paid out for equipment and labor.

A. Yes, sir.

Q. Separate equipment and labor, too, will you?

A. Yes, sir.

Mr. Stuart: You mean cash paid out and that portion paid out of the production of the lease?

Mr. German: Yes, sir.

Redirect Examination by Mr. Stuart.

Q. Mr. Curtis, now, I want the Court to clearly understand the methods of doing this business. When you order a piece of goods out there, whether a tank, tubing, casing, or whatever it may be, from somebody, we will say an eastern firm, and order it shipped in, when the invoice comes in, what do you do as bookkeeper? What do you do with that invoice?

A. Well, the first thing I do is to send it out to the field so that we may have him check the material.

Q. Alright, but when you put credit on the books?

A. After it has gone to the field and been O K'd by the superintendent and as soon as I can get to it.

Q. Why do you send the invoice to the field?

A. To check it up and show that it is there.

Q. To check up the shipment and see if it got there or not?

A. Yes, sir.

Q. Then they send in this back to you? A. Yes, sir.

Q. And then you enter it? A. Yes, sir.

Q. Now, you keep the date of every order you make, do you? A. Yes, sir.

Q. Every order of material? A. Yes, sir.

Q. And how long have you been out there?

A. Since the first of December 1914.

Q. If a man purchases a tank, has he either got to pay cash or have guilt edge credit, hasn't he? A. Yes, sir.

Mr. German: I object to that.

The Court: Now, it is perfectly clear to me that so far as these defendants who took charge of that lease are concerned, if they incurred liability whether they paid it at once or paid it six months in the future, they incurred the liability and it amounted to the same thing as cash, there is no question about it and it is just as much evidence of good faith if they incurred the indebtedness that they had to pay as if they paid cash.

Q. Then these liabilities that you have shown on your books prior to December 17th, 1914 and January 18th, are liabilities incurred and entered as such? A. Yes, sir.

Q. Even though they had not been paid for? A. Yes, sir.

Witness dismissed.

And thereupon, court recesses until 9:30 o'clock June 7th, 1917.

And thereafter, and at 9:30 o'clock A. M., June 7th, 1917, court convened pursuant to adjournment and further proceedings herein were had as follows:

Mr. German: Your Honor, while we are waiting, yesterday evening Mr. .... and I went over to the hotel and Minnie had on her low heeled shoes, and we measured her and she measured five feet six inches. I just want to state that in the record.

Mr. Stuart: How much taller were you than Minnie, Mr. German?

Mr. German: With her low heeled shoes on, about an inch.

Mr. Stuart: How much taller with your high heel shoes on?

Mr. German: I didn't have them on, Judge. You can measure her now again, if you care to.

The Court: Well, we haven't Mr. German in the record, that is the trouble.

Mr. Stuart: If Your Honor please, I understood that he measured the difference between himself and——

Mr. Linebaugh: Is it agreeable to counsel for the record to show that Minnie Atkins is five feet six inches tall with low heeled shoes on?

Mr. Stuart: And in as much as Mr. German is pointed out by one of the witnesses, will it be admitted that Mr. German is five feet seven?

Mr. German: No, sir, because I am not.

The Court: Well, we can get at this without encumbering the record with so much—Minnie's exact height in ordinary low shoes, Minnie is five feet six inches?

Mr. Hanford: That is right, Your Honor.

The Court: Alright.

And thereupon, C. H. (HOOK) ROGERS, a witness produced on behalf of the complainant, being first duly sworn under oath testified as follows:

Direct Examination by Mr. Linebaugh.

Q. You may state your name. A. Hook Rogers.
Q. What are your initials? A. C. H.
Q. You are commonly known as Hook Rogers?
A. Yes, sir.
Q. How old are you? A. 35.
Q. Where do you live? A. Collinsville.
Q. Are you acquainted with Mr. Frank B. Long?
A. Yes, sir.
Q. Are you acquainted with Betty Mann? A. Yes, sir.
Q. How long have you known Betty Mann?
A. Oh, for the last 20 years, I guess; or more—twenty-five.
Q. Your relations with her are friendly are they?
A. Yes, sir.
Q. Did you make or begin any investigation with reference to the allotment in the Creek Nation known as the Tommy Atkins allotment? A. With her?
Q. Well, did you begin any yourself with any other person; did you make any investigation concerning the Tommy Atkins allotment? A. Yes, sir.
Q. Who, if any person, did you first associate with in the investigation?
A. The first one in the Tommy Atkins case? The first ones I done work for or with in the Tommy Atkins case, you mean?
Q. Yes, who did you first associate with in that investigation?
A. I don't hardly understand you—the first one or the last ones?
Q. Well, did you associate at any time in that investigation with Betty Mann? A. Yes, sir.
Q. Now, was she the first person you did associate with in that investigation? A. Yes, sir.
Q. You may state why you associated with Betty Mann with particular reference to this Tommy Atkins allotment?
A. I don't hardly understand what you want.
Q. Well, do you know whether Betty Mann was a former student at Carlisle School? A. Yes, sir.
Q. Do you know whether Minnie Atkins was a former student at Carlisle School? A. Yes, sir.
Q. Now, in company with Betty Mann did you make any trip to Leavenworth, Kansas? A. Yes, sir.

Q. In Leavenworth, in your trips to Leavenworth, Kansas, when do you remember when they first begun to be made, when you went there the first time?

A. In January, 1914, I believe it was.

Q. Who went with you, if any person? A. Betty Mann.

Q. What investigation did you make?

A. Well, we went to the City Physician, I believe, there.

Q. What did you find out?

A. Well, we found out where Minnie had a child.

Q. Did you find the name of that child? A. Yes, sir.

Q. What name was it? A. Robert Lee, I believe.

Q. Robert Lee Peterkin? A. Yes, sir.

Q. Did you make any effort to locate the man named Peterkin? A. Yes, sir.

Q. What efforts did you make to locate him?

A. Went out to the old fort and inquired of one of the old sargeants I believe it was——

The Court: Speak up loud enough for us all to hear.

A. Fort Leavenworth, the old fort where the soldiers were, and found one of the old sargeants, I suppose it was a sargeant.

Mr. Stuart: We object to this. It is not rebuttal.

The Court: Well, we will see what it is.

Q. Were you able to locate Peterkin? A. No, sir.

Q. What other places did you go to if any in Leavenworth?

A. Oh, we went to a number of places there.

Q. Well, name some of them?

A. Well, we went to the Court House, one place, and we couldn't find no records there.

Q. Any other place?

A. Yes, we went to the undertaker's office, I believe it was.

Q. Any other place?

A. Went to lots of places, I can't remember all where we did go, we went up to all old families we could hear of.

Q. Did you find out anything on that trip about Minnie having been there sick at any place? A. Yes, sir.

Mr. Stuart: Your Honor, we object to this because it is not rebuttal.

The Court: Well, I suppose this is leading up to a conversation which this witness had with probably Mr. Long.

Mr. Stuart: Well, he can ask the impeaching question.

The Court: Now, he stated that he went to places in Leavenworth and didn't find out anything.

Mr. Linebaugh: There is one other place I am seeking to show that the witness went; I am asking if he found out about Minnie being anywhere sick.

A. We found that at the hospital.
Q. Found that at the hospital? A. Yes, sir.
Q. Did you learn at the hospital——

Mr. Linebaugh: Mr. German just called my attention to the fact that the witness testified he did find out one place, that is that Minnie gave birth to a child named Robert Lee Peterkin.

The Court: Yes.

Q. State what you found out by inquiry or otherwise at the hospital with reference to whether Minnie was there in childbirth or for some other trouble?

Mr. Stuart: Your Honor, this is not rebuttal.

The Court: We will see where it is leading. He may answer.

Mr. Stuart: Exception.

A. No, sir, I found out she didn't give birth to a child at the hospital.

Q. Now, after that time, did you have any dealings with Mr. Frank B. Long concerning this Tommy Atkins allotment?

A. Yes, sir.

Q. What were those dealings, that is what trade if any did you and Mr. Long make with reference to this allotment?

A. Well, Mr. Long agreed to give me a fourth interest in it if I could find Minnie Atkins for him.

Q. State when that conversation with Mr. Long was had with which that trade was made with you?

A. Well, my first conversation with him was in March, I believe, 1914, March or April.

Q. Now, state whether or not you talked with Mr. Long at that time with reference to your and Betty Mann's visits to Leavenworth, Kansas?

A. Yes, sir, I talked to him about it.

Q. You may state whether or not you told him at that time what you had learned at Leavenworth with reference to Minnie Atkins.

Mr. Stuart: We object to that because it is not the proper impeaching question.

The Court: Mr. Long is one of the parties here whom it is charged by the Government were involved in what they contend was a scheme to manufacture testimony, and I suppose it is upon that theory that it is being offered;

Mr. Long having testified with regard to transactions with this man. Now, they seek to show by this man what those transactions were. I presume that is the purpose.

Mr. Stuart: Well, I can't see how it can be admissible, Your Honor.

The Court: This would only be rebuttal if this witness' testimony controverts some statement which Mr. Long has made in evidence here with regard to his transactions with this witness, and it will be confined to that.

Mr. Linebaugh: Our judgment is that this testimony does controvert it.

The Court: Mr. Long has been interrogated about what he did with this witness?

Mr. Linebaugh: Yes, sir.

The Court: Now, I assume that you propose to show by this witness that something different transpired between them.

Mr. Linebaugh: And also we expect to show that Mr. Long, prior to the making of his memorandum in Seattle, prior to his association with Betty Mann, knew the facts with reference to the birth of Robert Lee Peterkin and with reference to the fact that Minnie Atkins was a patient in the hospital, but at that time did not give birth to a child, all of which Mr. Long has denied.

Mr. Stuart: Well, the difficulty about that is this, Your Honor——

Mr. Linebaugh: All of which Mr. Long has denied.

Mr. Stuart: I see where this may lead to and keep this case on for a week and for that reason——

The Court: Why wasn't this man put on in chief?

Mr. Linebaugh: For this reason, if the Court please: the Court will recall, I will just mention a portion of Mr. Long's testimony that now recurs to me: that is at the time of the making of the memorandum, he believed the information which he said Minnie Atkins then communicated to him, to be true, and acted upon that, that he believed that that was the correct information. Now, this is proper rebuttal it occurs to us of that portion of Mr. Long's testimony. Further, if the Court will recall, Mr. Long negatived any knowledge whatsoever or any information that he had obtained prior to his Seattle trip with reference to Robert Lee Peterkin, with reference to any information concerning a child named Robert Lee Peterkin. He never had heard of that child if I recall his testimony correctly, until after the Seattle testimony, and that he assumed that the information communicated to him by Minnie Atkins, which he says was not communicated with reference to giving birth to the child in the hospital, was not true; in reference to these two points we offer to show by this witness that Mr. Long, long prior to that time, had received information to the contrary.

The Court: The objection is overruled and exception noted.

Mr. Stuart: We except.

Q. I believe the last question I asked you was whether or not in this conversation you communicated to Mr. Long the information that you had obtained at Leavenworth with reference to the birth of the child Robert Lee Peterkin and also with reference to Minnie Atkins being in the Hospital, and the fact that she was in there for child birth? A. Yes, sir.

Q. Now, Mr. Rogers, do you know who brought Betty Mann and Frank B. Long together? A. I did.

Q. You did? A. Yes, sir.

Q. State the circumstances of your getting them together. What Mr. Long said to you with reference to her activity and what you said to him.

A. Well, Frank told me if I could get Betty——

Mr. Stuart: The same objection, Your Honor, and the same exception.

The Court: Well, we will not go over that. This witness is now going in to some matter that might have been gone into in chief. Now, you have shown that he procured certain evidence there, or information in Leavenworth. Previous to showing that he stated that to Mr. Long. You may do that; we are not going to open up this case now.

Mr. Linebaugh: No, there is one expression *ised* in this conversation that I take it is clear- rebuttal, and I would like to state to the Court not in the presence of the witness unless the Court desires.

The Court: Well, it is not necessary to go over all that conversation.

Mr. Linebaugh: No, just simply what Mr. Long said to him with reference to procuring the services of Betty Mann.

The Court: Well, the objection is overruled and exception noted; go into it to that extent.

Q. Just state that conversation between you and Frank

Long in reference to procuring the services of Betty Mann for Frank Long.

A. When I and Frank and her got together on this deal?

Q. Yes.

A. Well, I told Frank I could find Minnie Atkins; that I couldn't find her myself but I had a party that was going to get her; had her located. Then is when he offered me a fourth interest in the deal if I could turn Minnie Atkins to him, so I taken Frank Long to Betty Mann.

Q. Now, what statements if any were made in that conversation? A. How is that?

Q. What statements if any were made in that conversation as to Betty Mann's then employment?

A. Well, she was working for H. U. Bartlett.

Q. No, just tell the conversation between you and Frank Long in reference to her then employment, if anything about her employment was said.

A. I don't understand the question.

By the Court.

Q. What passed between you and Mr. Long as to what Betty Mann was then doing? What was said between you? Did you tell him what Betty was then doing? A. Yes, sir.

Q. What did you tell him?

A. I told him she was then working on this case.

Q. What did he say——

Mr. Linebaugh: Will the Court permit me to ask a question just there?

By Mr. Linebaugh.

Q. Did you tell him who she was working for? A. Yes.

Q. Tell the conversation.

A. I told him she was working for H. U. Bartlett.

Q. Then what did he say?

A. He wanted to know if I could get her to turn the deal to him if she found Minnie Atkins, and I told him I could.

Q. How long had you known Mr. Frank B. Long before this? A. Up to that time?

Q. Yes?

A. Why, I don't know, a year or two or three or four, I don't know; I knew him when he worked in the Department.

Q. Were you well acquainted with him? A. Yes, sir.

Q. How long had you been working for him? Had you done any other work for him? A. Up to that time?

Q. Yes? A. No, sir, not until the Atkins case.

Q. Not until the Atkins case came up? A. No, sir.

Cross Examination by Mr. Stuart.

Q. Mr. Rogers are you under arrest now for counterfeiting? A. Yes, sir.

Q. Where, in what court? A. In the Federal court.

Q. This court here? A. Yes, sir.

Q. Now, when you went to Leavenworth, you say—did you go with Josey?

A. I went with Josey one time, yes, sir.

Q. Did you take Josey around to any of these places that you speak of? A. No, sir.

Q. Why didn't you? A. Because there was no use.

Q. No use? Well, he didn't go with you then. You went up there with Josey to find out about these parties, didn't you?

A. He taken me up there and he didn't tell me what we were going up there for until we got to Leavenworth.

Q. Well, you never *shoed* him any of these places?

A. No, sir.

Q. You took Josey to Mary Smith, didn't you?

A. No, sir.

Q. You didn't take Josey to Mary Smith?

A. Never went to talk to anyone.

Q. Are you certan of that now; certain that you didn't take Josey to Mary Smith and talk to her?

A. If I and Josey ever talked to anyone in Leavenworth, I don't know, unless it was someone there in the hotel—some man.

Q. How was Minnie registered at the hospital?

A. I don't know; I suppose she was registered as Minnie Atkins. I didn't look at the records there; I talked to the Sisters.

Q. You didn't look at the register?

A. No, sir, I didn't.

Q. You didn't tell Josey about Robert Lee Peterkin?

A. Well, I talked to him——

Q. You never; you went up there with him and he paid your way, didn't he? A. Yes, sir.

Q. Did you tell him anything about Robert Lee Peterkin?

A. No, sir, I told him there was no use to go over that evidence, I had a wire——

Q. Never mind about the wire; did you tell him anything about Robert Lee Peterkin? A. No, sir.

Q. You say you were entitled to one-fourth interest in this property? A. That is what he was to give me.

Q. But you didn't get it? A. No, sir.

Q. But you did sign this receipt, didn't you?

A. Yes, that is my signature.

Q. That is a receipt in full for everything you had done or might do now, or after, isn't it? A. Fifty dollars.

Q. Yes, look at it, and see how it reads.

A. I see how it reads up there; this is fifty dollars they give me but I don't know what it is for.

Q. You signed that receipt?

A. Certainly, a man wouldn't sign a receipt for fifty dollars in a case like that.

Q. You signed it, didn't you?

A. Certainly I signed it.

Q. And you read it before you signed it?

A. I didn't understand it was for fifty dollars full receipt.

Mr. Stuart: Just identify this please.

And thereupon letter referred to by counsel was marked for identification, Defendant Minnie Atkins Exhibit B-26.

Mr. Linebaugh: This is immaterial.

Mr. Stuart: Your Honor, he is claiming a fourth interest and I am impeaching him.

The Court: It is entirely material on cross examination; if he made full receipt that may be shown.

Mr. Stuart: (Reading) Gem Oil Company, Tulsa, Oklahoma, Gentlemen:—Receipt is hereby acknowledged of fifty dollars in full payment for all claims I have, or may have in future, in any way of commission, or claim of any other character, for work done and for information furnished on oil and gas lease executed in your favor by Minnie Folk, et al., covering—and then follows a description of the land. In addition to this receipt, you are hereby authorized and empowered in consideration of payments heretofore made me, to make settlement with Mrs. S. E. Mann——

Q. You scratched that out, didn't you? A. Yes, sir.

Q. And then you signed that instrument?

A. Yes, that is my signature.

Q. What kind of a looking place was this Sister's Hospital? A. I couldn't tell you.

Q. Describe the building?

A. I couldn't describe the building.

Q. Well, but I want you to describe it?

A. There wouldn't be any use for me to try.

The Court: Did you go to the hospital up there?

A. Yes, sir.

The Court: Well, what did the hospital look like?

A. Well, I have been to a number of hospitals and I couldn't describe the hospital.

Mr. Stuart: Well, that is all.

Redirect Examination by Mr. Linebaugh.

Q. Mr. Rogers, what has been your relations—I will ask you this: Have your relations with Betty Mann been extremely friendly for some time?

A. Yes, sir, she is a relation of mine.

Q. State whether or not Mr. Long was acquainted with that situation? A. Why, yes, he was sure.

Q. Now, who prepared this receipt and offered it to you for signature?

A. I believe that was—I disremember his name, he was a clerk in the Gem Oil Company.

Q. Mr. Maddox? A. Maddox, seems to *be* it was Everly.

Q. Is the F. B. Long, who witnessed your signature to this receipt, the same F. B. Long about whom you have given testimony? A. F. B. Long, I guess it is the same one.

Q. That is the only Mr. Long that you knew

A. Yes, sir.

Q. The only F. B. Long that you know, is it?

A. Yes, sir.

Q. Now, just state to the Court, if you will, what your relations were and had been with Mr. Frank B. Long up to the time that he went to Seattle, as to whether or not they had been friendly, extremely friendly?

A. Why, yes, had up to that time.

Q. Up to that time they had been extremely friendly, had they? A. Yes, sir.

Q. Judge Stuart has inquired about your trouble, here, you have been unfortunate in having had charge*d* lodged against you prior to this time, haven't you? A. Yes sir.

Q. A good many of them prior to the time you had any relation with Mr. Long, hadn't you? A. Yes, sir.

(Witness dismissed.)

And thereupon, D. G. ELLIOTT was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. You may state your name? A. D. G. Elliott.

Q. Where do you reside, Mr. Elliott?

A. Tulsa, Oklahoma.

Q. What is your profession? A. Attorney.

Q. How long have you resided at Tulsa?

A. Three years last January.

Q. Where did you reside before that?

A. Claremore, Oklahoma.

Q. At Claremore? A. Yes, sir.

Q. How long have you lived in Oklahoma, or Indian Territory? A. Eighteen years.

Q. Were you at Claremore all the time before you went to Tulsa?

A. No, sir, I was at Chelsea, went from Chelsea to Claremore.

Q. Mr. Elliott, do you know Charles Page, of Tulsa?

A. Yes, sir.

Q. When did you first know him personally?

A. I think it was in February, 1914, when I first met him, either February or March.

Q. Did you have occasion to have some business transactions with him? A. Yes, sir.

Q. Relating to some Sand Springs matters?

A. Sand Springs Machine Company.

Q. Sands Springs Machine Company? A. Yes, sir.

Q. Without going into any details, about how long from the time you began the negotiations relating to that matter until you closed it?

A. The last of February or first of March until about the middle of September, 1914.

Q. In the summer of 1914, did you have occassion to take up with him any matters relating to this machine works?

A. Yes, sir.

Q. You saw him very frequently as I understand it from February until September with reference to the matter?

A. Yes, sir.

Q. Did he in the summer make any statements to you with relation to the Atkins case? A. Yes, sir.

Q. Where was that? A. At Sand Springs.

Q. Where at Sands Springs?

A. It was where they serve ice cream and drinks.

Mr. Stuart: Mr. German, did you lay the impeaching question for this?

Mr. German: No, sir. Statement merely of Mr. Page.

The Court: Has he been interrogated about it?

Mr. German: No, sir.

The Court: Is there any evidence of the witness which you propose to controvert?

Mr. German: Merely we expect to show by this witness statements of Mr. Page which we contend constitute declaration showing what Mr. Page was doing with relation to this Atkins case.

The Court: And which you contend, I assume, tends to establish your charge that he was fabricating a case?

Mr. German: Yes, sir.

The Court: It therefore would be a part of your case in chief.

Mr. German: No, I think this, your Honor, we could as well have introduced all our evidence with relation to the fabrication in rebuttal. We had a right to introduce it as a part of our case in chief or in rebuttal. We had no way to know whether the defendants would put on any evidence in this case. We, under the authorities, had a right to introduce it as a part of our case in chief, but could just as well reserved it all for rebuttal. Now, this is a short witness.

The Court: Well, proceed. Go on and ask your questions.

Mr. Stuart: I will except to the ruling.

The Court: Well, I want to get the record. There has been no question asked.

Mr. Stuart: He has asked the question if he had any conversation—I will wait until he asks the question.

Mr. German: Your Honor, we will pass over this conversation and pass to one that is distinctively rebuttal.

The Court: All right.

Q. Mr. Elliott, we will pass that conversation I was asking you about. Did you later on have a conversation with Mr. Page with reference to the Atkins case? A. Yes, sir.

Q. When was that?

A. That was sometime in the summer of 1915, possible a year afterwards.

Q. Possibly a year after the first conversation?

A. Yes, sir.

Q. Where was it?

A. Mr. Page's office in Tulsa, First National Bank Building.

Q. State whether about that time you were again taking up the matter of this Machine Works proposition?

A. Well, that was about the time it was practically closed.

Q. Who bought that out, Mr. Page?

A. Mr. Page bought the machinery, his men did.

Q. Now, did you go to his office on account of the Atkins case, when you went there in the summer of 1915, did you take up with him the Atkins case in any way?

A. During that trip—I was there a couple or three times, and during the times I took up the Atkins case with him.

Q. Did you know Mr. Trueman Nixon at the time?

A. Well, I just knew him, I had met him a number of times.

Q. What did you take up with Mr. Page with reference to the Atkins case at that time, state the conversation between you and him?

A. I stated to Mr. Page—At that time Mr. Wrightsman was in the deal and I asked Mr. Page if he would buy Mr. Wrightsman out or would sell out, and he said he would not; and the same conversation we talked probably fifteen or twenty minutes.

Q. Yes?

A. Something was said about Trueman Nixon having a Tommy Atkins, and he said he had one of his own, he could win it with the Tommy he had. I said—I think he used the words, "He wouldn't give a damn cent to sell out or buy out."

Mr. Stuart: How was that? I didn't catch that.

Q. State it over again.

A. He said that he understood that Trueman—that Mr. Nixon had a Tommy Atkins, and he said he had one and he wouldn't give a damn cent to give out or buy out.

Q. Now, did he say whether it was a live Tommy or not?

A. No, sir, he didn't say.

Q. He simply said that he had a Tommy? A. Yes, sir.

Q. And the other that you have stated? A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. What is your name? A. *B.* G. Elliott.

Q. Elliott? A. Yes, sir.

Q. How did the Government ever know that you had this conversation with Page?

A. Well, sir, I don't know.

Q. What?

A. I don't know; I only talked to one man about it.

Q. You were there in business with Page, trying to get the money from him in the machinery work that—machinery business?

A. No, I was representing a machine company.

Q. Well, you had a business dealing with him?

A. Yes, in 1914.

Q. And it turned out to be a losing venture, didn't it?

A. Well, I guess it did.

Q. Your stuff is piled up out there now?

A. I don't know.

Q. And you went to Page and tried to get him to advance some more money and he wouldn't do it, didn't you?

A. No, sir, I didn't.

Q. He wouldn't advance any more?

A. I don't know; I didn't have anything to do with that part of it.

Q. Where was this conversation you say you had your various talks with Page about your client going in business with him? A. In 1914.

Q. What was that business—let's have it.

A. Organizing a machine company.

Q. A machine company where? A. At Sand Springs.

Q. Now, who did you represent?

A. I represented Mr. George B. Swope.

Q. George B. Swope; did George want to start a company, a machine company?

A. He owned the machinery and the patents for a gasoline engine and wanted——

Q. Did he want to start a company?

A. No, he didn't particularly want to start it, he just wanted to bring what he had——

Q. Wanted to plant what he had at Sand Springs?

A. Yes, sir.

Q. And he wanted Mr. Page to go in with him, didn't he?

Q. He didn't ask Page to put up some money?

A. Not at that time, no, sir.

Q. Didn't he ask at any time to put up some money?

A. No.

Q. Don't you know that Page did put up some money?

A. That was after he had taken——

Q. It don't make any difference whether it was after or before, did he put up some money?

A. Yes, he put up some money.

Q. And the venture did not prove a success, did it?

A. I don't think so.

Q. And he wouldn't put up any more money?

A. I don't know about that.

Q. You know the stuff is piled up out there now?

A. I don't know.

Q. Haven't you been out there to see it? A. No, sir.

Q. You were negotiating this matter with Page, you were representing George Swope? A. Yes, sir.

Q. And you were talking with him about putting up this business, starting it in Sand Springs? A. Yes.

Q. And while those negotiations were going on you had this conversation with Page?

A. Which conversation do you speak of?

Q. This conversation about he would give a—I don't know what it was.

A. No, that was long afterwards.

Q. How long after? After you quit Sand Springs business? A. Possibly a year.

Q. Possibly a year? You just dropped in his office at random? A. No, only when I had occasion to go there.

Q. Well, how did you happen to drop in there on this particular day that you had this conversation?

A. That was after the Sand Springs company had closed out——

Q. It don't make any difference whether it was after or before, tell me——

The Court: Well, let him answer.

A. The fact is, I first called Mr. Page up and made an appointment with him to meet him in his office and in that conversation I had taken up the matter—I brought it up myself, whether he would sell out or buy out in the Tommy Atkins deal.

Q. Now, tell exactly what he said.

A. He asked me if I knew Trueman Nixon and I said no, that I wasn't particularly acquainted with him, I knew him; and Nixon has got him a Tommy, and I have got one that I know I can win with; I wouldn't give a damn cent to buy out or to sell out.

Q. He didn't say whether his Tommy Atkins was a live one or a dead one? A. No, sir.

Q. Just said he had the true Tommy Atkins?

A. No, just said he had a Tommy Atkins.

Q. And he didn't give a damn about buying out or selling out? A. That is all.

Q. Who is it you reported that to?

A. This man who just [] the stand a while ago.

Q. Hook Rogers? A. Yes, Hook Rogers.

Q. You went and told Hook Rogers about it?

A. No, it was three or four months ago, around up here, we were talking about it.

Q. And you first communicated it to Hook Rogers?

A. Yes, sir, I did; how it ever got any further, I don't know about.

Witness dismissed.

Mr. German: Your Honor, I think that is all.

Mr. Hill: If the Court please, we have one witness here that won't take but a few minutes.

The Court: Alright.

And thereupon, AUGUSTUS A. DAVIS, a witness produced on behalf of Nancy Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Hill.

Q. State your name and residence.

A. A. Davis—Augustus Davis, Wagoner, Oklahoma.

Q. How long have you resided at Wagoner, Mr. Davis?

A. Since 1893.

Q. What business are you engaged in?

A. Now, in the present time, I am in the shoe repair business.

Q. What did you do when you were there in 1893?

A. Along the latter part of '93, I commenced a Secondhand store, in '93 and '94.

Q. General second hand line of goods? A. Yes, sir.

Q. How long had you been in the general second-hand business there, Mr. Davis?

A. Until about seven years ago.

Q. Until about seven years ago? A. Yes, sir.

Q. You lived at Wagoner all that time? A. Yes, sir.

Q. From '93 on and were in the second hand busines from about '94 on, is that it? A. Yes, sir.

Q. Speak out loud, I can't hear you very well.

A. Yes, sir.

Q. Did you know a boy named Charles Harrison, or Charles Lee Harrison?

A. Well, now, you are asking the name, I don't know his name.

Q. Well, did you know a boy that was with Charlie Bailey, an Indian boy? A. Yes, sir.

Q. Did you see that boy here yesterday—a young man?

A. Well, I wouldn't be positive to that being the man.

Q. You saw the man, a witness here yesterday?

A. No, I wasn't in here.

Q. Well, he was pointed out to you as Charles Lee Harrison yesterday in the courtroom—as Charles Lee Harrison?

A. Yes, sir.

Q. You say you knew a young boy that was at Charlie Bailey's; now tell the Court all you know about him, and when you saw him there, and describe him.

A. Well, he was a young boy, I suppose seven or eight years old when I first saw him; perhaps that old or maybe not so old, at Charlie Bailey's residence, out on the farm there where we went a fishing on a little creek.

Q. What kind of looking boy was *he*?

A. An Indian boy.

Q. How was his hair?

A. His hair was straight and black.

Q. Did this man that was pointed out to you yesterday resemble him or could you recognize him?

A. Well, he is much larger than I expected to see him but some features about him seem similar to those I saw at that time.

Q. How long did you know about this boy being at Charlie Bailey's?

A. Well, the exact date, I can't tell you; it has been seven or eight years ago when Mr. Casper rented the Bailey farm and this boy I speak of was there on it.

Q. Well, that was when he was left on it; how far back do you know of him being there; how many years ago?

A. It might have been in '95 or '96.

Q. That you first saw him—'95 or '96, somewhere along there? A. Yes, sir.

Q. Do you know Nancy Atkins?

A. I saw her several times.

Q. Knew who she was? A. From the description.

Q. I said did you know her at the time you lived in Wagoner?

A. Yes, sir.

Q. Did you know a boy that was with her? Did you ever see a boy with her? A. One time.

Q. Well, state that one time that you saw the boy with her.

A. She came into my shop.

Mr. German: Is this rebuttal?

Mr. Hill: Yes, sir, here is the point I want; he was asked to identify this boy, and I want to lead to the point, is this Charlie Harrison.

The Court: He states that he cannot be positive, he saw him yesterday, and can't be positive; Charlie Harrison has some features of this boy who he saw out there at Charlie Bailey's.

Mr. Hill: I don't care whether he identifies this boy in Court but the boy at Charlie Bailey's.

The Court: I appreciate your point; you desire to show that the description of Charlie Harrison when a little boy was entirely different from the description which your witnesses have given.

Mr. Hill: Yes, sir. and I want to have him describe that boy.

Mr. Hanford: I—Your Honor please, I think he ought to fix the time when Charlie Harrison was there.

Mr. Hill: He said ninety-six or seven.

Mr. Hanford: He said about a month during the time he was seven or eight years old.

Mr. Hill: I think you mis-understood him.

The Court: Well, go on.

Q. Now, go ahead, Mr. Davis.

A. A man by the name of Snow and her came in there, and the boy was with her.

The Court: Now, I don't understand what boy he is referring to; Charlie Harrison?

Mr. Hill: No, sir, Nancy's boy.

The Court: Well, alright.

A. He came into my store there to buy some shoes.

Q. He came—well, go on and tell everything that occurred there.

A. I don't think I had the size of the shoes for him; anyway they were there quite a little bit, and talked, but I had seen this boy before.

Q. Well, now tell us what took place between you and Nancy about the boy, if anything?

A. Well, she said this is my boy; I want to get him a pair of shoes.

Q. Well, now had you seen that boy before?

A. Yes, sir.

Q. How long before had you seen that boy?

A. It might have been a year.

Q. Had you seen him more than once or how often had you seen him?

A. I had seen him two or three times; perhaps four times. I wouldn't say the exact number of times.

Q. Had he ever been in your store before?

A. Him and two other boys.

Q. Well, who were the two other boys?

A. They were a couple of colored boys by the name of—the name has slipped me now, I can't call their name, where he lived.

Q. What? A. Where he lived.

Q. Where he lived? A. Yes, sir.

Q. Did you know those colored boys?

A. I had seen them around.

Q. Knew who they were? A. Yes, sir.

Q. This I believe you say was sometime after you had first seen this boy that you saw with Nancy, and she told you he was my boy? A. Yes, sir.

Q. Was anything said about his name there when Nancy was there, or when he was in your store with the colored boys?

A. When he was in my place before that, he picked up something on the counter and one of these boys said to him, you had better let that alone, you will let it break—says, Tommy, you had better let that alone; and I said Tommy, how much, and he says Tommy Atkins; that is all I know.

Q. That is the first time you ever remember seeing him?

A. Yes, sir.

Q. Then how long after that before he was in the store with Nancy? A. I can't say.

Q. Well, maybe a year, two years, three years, how long?

A. It might have been a year, or six months.

Q. It wasn't any short time? A. No, sir.

Q. Now, describe that boy at the time he was in there with Nancy; describe him to the Court.

A. He was a sandy complected boy; his hair was sandy complected, or red; I called him a red headed nigger. He was very dirty, looked like he had never been washed and his clothes was tattered and torn.

Q. You are familiar with the people around there, you have been there a long time; what in your opinion was his blood?

Q. White and Cherokee.

Q. Well, an Indian anyhow? A. Yes, sir.

Q. Did you think he was a negro?

A. No, sir, I couldn't see any negro about him, only he was dirty.

Q. Now, at the time he was in there with Nancy, about how old do you think he was?

A. He must have been about six or seven years, somewhere in that——

Q. And do you know what became of that boy?

A. Well, I understood he died there——

Mr. German: We object to that and move that it be stricken.

The Court: It will be stricken what he understood.

Mr. Hill: Well, I think we will connect it; my question is what he knew about him, I would like for him to answer and then they may move to strike.

The Court: Alright.

Mr. Hanford: This is still rebuttal?

Mr. Hill: I think so.

Q. If you know anything about his death, state it.

A. Mr. Hall, Mayor Hall, we called him, I don't know whether he was Mayor at that time or Marshal; he came around, passed my place, he lived east of me—he came in my place and stopped one day and said he was going to bury a nigger over there in nigger town, and I said who, and he said that Tommy Atkins who runs around here.

Q. Did you contribute? A. No, sir, I didn't contribute.

Q. He told you about that? A. Yes, sir.

Mr. German: I move to strike that as hearsay and not rebuttal.

The Court: The motion to strike this will be sustained and the exceptions noted as to what Hall told him about the death of this boy.

Q. Mr. Davis, state whether or not this boy that you saw with Nancy and that you saw in your store as you have described, and the boy you saw at Charlie Bailey's were the same boy or a different boy.

A. They were different boys.

Cross Examination by Mr. German.

Q. You say this boy looked a good deal like a red-headed nigger? A. I didn't understand your question.

Q. Did you say that this boy looked to you like a red-headed nigger? A. I did not.

Q. I understood you to say that a while ago.

A. I said he was dark and dirty.

Q. But didn't you say that he looked like a red-headed nigger?

A. I said he looked like an Indian, and white.

Q. I thought you said Cherokee Indian a while ago?

A. Cherokee.

Q. You know the difference between a Cherokee and white, you have been living in that country a long time?

A. Yes, sir.

Q. He looked to you like a Cherokee Indian and white?

A. That is what I said.

Q. He looked to you like a Cherokee Indian and white?

A. Yes, sir, that is what I said.

Q. Now, you never saw him with Nancy but once in your life, did you? A. The only time I remember.

Q. Just once? A. Yes, sir.

Q. That was in the store? A. In the store.

Q. And a man by the name of Snow was in there at the same time? A. Yes, sir.

Q. Snow lived there?

A. I think she was staying with Snow.

Q. She was staying with Snow? A. Yes, sir.

Q. And what was this man Snow's name?
A. Well, we always called him Nigger Snow.
Q. Nigger Snow. He was a Nigger?
A. Cherokee Nigger.
Q. Cherokee Indian Nigger? A. Yes, sir.
Q. Did you know Snow's wife?
A. I have seen her several times.
Q. She was a Cherokee Indian Nigger too?
A. I don't know, no, sir.
Q. Well, what color was she? A. Dark.
Q. You went to Wagoner in 1893, did you see Nancy there often after you went there until she left there?
A. Not until that time Snow brought her in; I had heard of her.
Q. And you saw her from that time on very frequently, didn't you? A. I may have seen her two or three times.
Q. Where was your store?
A. It is across from the Court House, south of the Court House.
Q. Where the Court House is now?
A. Yes, sir, on Cherokee Street.

(Witness dismissed.)

And thereupon, MITCHELL WADSWORTH was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name? A. Mitchel Wadsworth.
Q. Where do you live?
A. About five miles west of Coweta.
Q. How old are you? A. Forty-eight.
Q. Mr. Wadsworth, are you a son of Kate Holden?
A. Yes, sir.
Q. Do you know Minnie Atkins? A. I used to know her.
Q. Is she related to you? Minnie and Nancy Atkins?
A. I guess so.
Q. They are related to you? A. Yes, sir.
Q. In 1898 or 1899, did you receive a letter from Minnie Atkins, asking you to enroll any of her family?
A. Yes, I received a letter from Minnie Atkins from Detroit, Michigan, and in this letter she said for me to file for her and Harvey and Charlie, them two boys. That was all there was in that letter.
Q. Did you apply to the Commission to file for those?
A. I applied to the Commission. I went down here to file

for the boys. I thought it would be all right to file for them and Bixby wouldn't let me file.

Q. What did you do then?

A. I didn't have the letter with me and I went back up to Wagoner—put the letter in my pocket, I just hung the coat up in Davis & Jones Store and somebody had taken the coat and I lost the letter.

Q. Why wouldn't he let you file?

A. I don't know why he didn't want me to file for them.

Q. Then, what did you do?

A. I never done anything only I told my step-father that I couldn't file for *the,* he might have to file for them or get in touch with them.

Mr. Hanford: If the Court please, I object to this on the ground it is not proper rebuttal.

Mr. Allen: Minnie Atkins testified on the witness stand she wrote a letter to this party.

The Court: All right, go on; overruled, exception noted.

Q. Mitchel, during the nineties or up to 1902 or 1903 did you know who lived in the home of your mother, Kate Holden?

A. Why, up to ninety-eight, Charlie and Harvey was kept there from the time Minnie Atkins turned them over to my mother until '98, and then they was taken away, but there wasn't but one Indian boy by the name of Edmund Bear that staid there.

Q. Was there any Indian boy by the name of Tommy Atkins ever staid there?

A. No, never was; I don't guess there was ever a Tommy Atkins staid all night at that house.

Q. How long did Edmund Bear stay at your mother's home? A. About six years.

Q. Was he enrolled under some other name? A. No.

Q. Where did he live? A. Eufaula.

Q. Did you know his people? A. Yes, sir.

Q. Was he an enrolled citizen of the Creek Nation?

A. He was a full blood Creek.

Q. How old was he when he was at your mother's home?

A. He was about twelve years old.

Q. Mr. Wadsworth, how long have you known Nancy Atkins?

A. I knowed her ever since we was little children, ever since I can recollect.

Q. Did you see her frequently during the time she was at Wagoner? A. I seen her off and on there.

Q. Did she give birth to any child at Wagoner?

Mr. Hill: That is not rebuttal, Your Honor, we object.

The Court: Hardly rebuttal. It will be rebuttal anything that this witness can testify to with regard to whether or not Nancy had a child with her there in Wagoner at the time he saw her.

Q. You saw Nancy, you say, frequently while she was in Wagoner? A. Yes, sir.

Q. Was there ever any child with her by the name of Thomas Atkins? A. Not that I know of.

Q. Did you ever hear of any Thomas Atkins in the family, in the Nancy Atkins family?

Mr. Hill: We object to that.

The Court: Overruled.

A. No, I never heard of none.

Q. Did you know the Dick Atkins Tommy?

A. No, I didn't know them niggers.

The Court: What relation are you to Nancy, what kin are you to Nancy?

A. I am Nancy Atkins nephew, Nancy Atkins and Minnie Atkins are my mother's half sisters.

Cross Examination by Mr. Stuart.

Q. In this letter that you got, she mentioned Tommy Atkins, didn't she, Minnie?

A. No. No, there wasn't but three names on that, that was herself and the two boys she stated.

Q. Now, don't you remember going over to Mr. Page's office to identify Minnie?

A. I didn't identify her either, did I?

Q. Well, she is the same woman then?

A. That is the woman I seen, but I didn't say that was her.

Q. But you do say it now?

A. That is the woman we seen.

Q. Is that Indian Minnie, she is your cousin, the true Indian Minnie?

A. I have heard that she said she wasn't no kin.

The Court: Look here, I want you to tell me now whether or not that is Minnie Atkins?

A. Yes, that is Minnie Atkins.

Q. That is your cousin?

A. She is my aunt, I think sne is my aunt but she says she is no kin to me, I have heard. If that is the case I don't want to claim any relation

The Court: If she disavows you you disavow her.

Q. Well, you did go there to identify her, didn't you? A. Yes, sir.

Q. And wouldn't do it? A. No, sir.

Q. Said she wasn't the woman?

A. No, I never said that.

Q. Now, what did you refuse to identify her for?

A. This is how come me not to identify her. She left them two kids on my mother you know and never even wrote but one letter in the meantime, fifteen or sixteen years, and then come back here talking big to me.

Q. Made you mad, didn't it?

A. Made me hot too just the same as it did her.

Q. How many times have you been arrested?

A. I have never been convicted of anything.

Q. How many times have you been arrested?

A. Don't make any difference how many times I have been arrested, never been convicted.

Q. How many times have you been arrested?

A. Are you trying me?

Redirect Examination by Mr. Allen.

Q. What year was it your received that letter? A. '99.

Recross Examination by Mr. Stuart.

Q. Didn't you, when you went over to identify Minnie, tell Mr. Page and Mr. Long that in that letter to you Minnie mentioned Tommy? A. No.

Q. Didn't you do that? A. No, I didn't.

(Witness dismissed.)

And thereupon, C. B. MALCOM was recalled for further cross examination and testified as follows:

Cross Examination by Mr. Hanford.

Q. You are the same J. E. Malcom that testified last night? A. C. B. Malcom.

Q. Have you got the subpoena that you say was served upon you? A. Yes, sir.

Q. Let me see it. Who served that subpoena on you? A. John Moran.

Q. You come down here with whom? A. Come by myself.

Q. Where did you meet Huck Rogers?

A. I never met Huck Rogers until yesterday.

Q. Where did you meet Betty Mann? (Witness looks through papers and is unable to find subpoena.)

Q. Never mind, I wanted to know if you had a subpoena served on you? A. I did.

Q. Where did you see Betty Mann?

A. I saw her yesterday.

Q. After you got here? A. Yes, sir.

Q. You didn't see her up in Tulsa?

A. Not right recently that I remember of.

Q. Didn't you see her in Tulsa Sunday?

A. No, sir, I was here Sunday.

Q. What day was it that you were up there in Tulsa with Betty Mann?

A. I weren't in Tulsa with Betty Mann any time, I might have seen her in Tulsa.

Q. You weren't talking to her Sunday in Tulsa?

A. No, sir.

Mr. Allen: Who is John Moran?

A. He is United States Deputy Marshal.

Examination by Mr. Stuart.

Q. Do you know a man by the name of John McDonald?

A. I don't know him personally.

Q. Where did you know him? A. I never did meet him.

Q. Where did you hear of him?

A. I learned of him in the papers for forgery.

Q. You never saw him? A. I never saw him in my life.

(Witness excused.)

And thereupon, SUSAN SMITH was called as a witness for and on behalf of the defendant, Henry Carter, and testified as follows:

Direct Examination by Mr. Cobb.

Q. Your name is Susan Smith? A. Yes, sir.

Q. You are the same Susan Smith that has testified in this case before? A. Yes, sir.

Q. I will ask you if your father and mother, or either of them during their life-time had a Bible in which a record of births were kept? A. Yes, sir.

Q. Have you that Bible with you? A. Yes, sir, I have.

Q. I wish you would let me have it. When did you first see this Bible?

A. Well, I don't know when I first seen it.

Q. Well, where was it when you first saw it?

A. In my mother's trunk.

Q. While you were staying at home? A. Yes, sir.

Q. Living there? A. Yes, sir.

Q. Now, when did this Bible come into your possession?

A. When my mother took sick and she has been dead twenty odd years.

Q. Two or three years before her death? A. Yes, sir.

Q. And has it been in your possession? A. Ever since.

Q. I ask you to examine this record here on these two pages in that Bible and ask you if they are in the same condition that they were when that Bible came into your possession?

A. Yes, sir.

Mr. German: Your Honor, we object. This is not rebuttal evidence?

The Court: No, it doesn't constitute rebuttal; it is part of your case in chief. I suppose the purpose you have in view is to show that the name H. Carter doesn't appear in that Bible. Is that it?

Mr. Cobb: Yes, sir, now here is the condition: In the testimony of Mariah Yoakum, a record purporting to have been made from this Bible, using a piece of paper and then transcribed to the Yoakum Bible contained the name of Carter in the Yoakum Bible which was introduced. Now then, we seek to rebut that testimony by showing the original Carter Family Bible didn't contain that name.

The Court: Now, that deposition was offered by the Government in chief?

Mr. Cobb: Yes, sir. I am in the position of having to ask the indulgence of the Court. It is a matter of discretion I understand with the Court.

The Court: Well, I will permit it.

Mr. Hanford: I want to join in that objection if the Court please. They had that Bible in their possession for a long time and there is no reason for not introducing it.

The Court: All right.

Q. You say that record is in the same condition as it was when it came to you? A. Yes, sir.

Mr. Cobb: We offer in evidence the pages of the Bible, marked Defendant Henry Carter's Ehibit A-4.

The Court: Was that Bible here the other day when this witness was on the stand?

Mr. Cobb: Yes, sir, it was here but I didn't know about it.

The Court: I wish you would state again about the Yoakum Bible, is the Yoakum Bible in evidence?

Mr. Cobb: Yes, sir, a copy of the records in the Yoakum Bible, and the Yoakum Bible contains the name of H. Carter among the records of the births. The testimony of Mariah Yoakum, and possibly some of the other members of the family, in the depositions shows that the record from the Carter Family Bible was transcribed on a piece of paper and from that piece of paper afterwards they were transcribed on the Yoakum Bible; and then the copy of the Yoakum Bible was introduced in connection with the Yoakum testimony.

The Court: Well, now, then the evidence doesn't show whether there was more than one Bible in which records of births were kept, and deaths were kept or not?

Mr. Cobb: I will ask that question.

Mr. Allen: Your Honor please, I think an inspection of this Bible will show that the same party wrote the names.

Q. I will ask, did your father and mother have any other Bible than that one? A. No, sir.

The Court: Well, from a general inspection of it it is apparent that this was not a record made from time to time as the event transpired, that is clear.

Mr. Cobb: Yes, I concede that is true, may it please the Court, but it would be admissible to rebut the Government's testimony upon this proposition that the testimony they introduced purports to be a copy of that Bible. The Bible itself when introduced shows that the Government's testimony is not true, that it is not a copy, or tends to prove that.

Mr. German: I don't think there is a word of evidence in this case that our Bible purports to be a copy of this.

Mr. Cobb: Oh, yes, that is the testimony, I read the deposition yesterday.

The Court: Well, I want to see that testimony before I admit this.

Mr. Cobb: I will call the Court's attention to the fact that the second page shows different handwriting.

The Court: Yes, I see. Get through interrogating her with regard to the history of this book and I will determine that matter when I see what the other evidence is.

Mr. Cobb: At this time, we desire to make the offer, and the Court will pass on the admissibility when he goes over the testimony?

The Court: Yes.

Q. You say your father and mother had no other Bible than this? A. No, sir.

Q. Do you know of your own knowledge who made these entries in this Bible? A. No, sir, I do not.

Q. Were they in the Bible at the time it came into your possession? A. Yes, sir.

Q. There has been no change in it from that time to this? A. No change whatever.

Mr. Cobb: At this time we offer in evidence the two pages showing the births in the Carter Bible.

The Court: Let the Bible be marked and that portion of it will be offered in evidence and the Court will reserve ruling as to the admissibility of it. Leave the Bible with the stenographer. The record may show that this offer of the pages from the Bible is objected to and the Court reserves ruling as to the admissibility of the Bible.

Cross Examination by Mr. Hanford.

Q. You say that Bible has been in your possession ever since your mother gave it to you? A. It has.

Q. Who did you give it to? A. J. Coody Johnson.

Q. When?

A. About a couple of years past, maybe that long, maybe not so long.

Q. Were you up in Montana?

A. No, I don't live in Montana.

Q. Where were you living? A. I was living in Kansas.

Q. What place? A. The old home Carter Farm.

Q. Carter farm? A. Yes, sir.

Q. You don't remember what year that was?

A. I said something about two years ago.

Q. He has had the Bible ever since?

A. I couldn't say that.

Q. You haven't had it? A. No.

Q. You gave it to him and haven't seen him since?

A. No, sir.

Q. Do you know Adas Wright's handwriting? A. I do.

Q. Is that her handwriting?

A. Her handwriting is not in that book.

Q. Do you know your mother's handwriting?

A. My mother couldn't write.

Q. Do you know your father's handwriting?

A. My father couldn't write.

Q. Do you know Mrs. Simington's handwriting? A. I do.

Q. Is that her handwriting? A. No, sir.

Q. Do you know Viola? A. I do.

Q. Do you know her handwriting? A. I do.

Q. Is that her handwriting? A. No, sir.

Q. Do you know Mrs. Yoakum's handwriting?

A. I didn't know she had any.

Q. She can't write? A. No, sir.

Q. Have you tried to find out who wrote that in there?

A. No, I had no cause to try to find out.

Q. What year did your mother die?

A. Ninety one or two, something like that.

Mr. Hanford: That is all.

Cross Examination by Mr. German.

Q. How old do you say you are?

A. According to that Bible I must be past sixty.

Q. I didn't ask you that, I asked you how old you are?

A. I don't know how old I am.

Q. You understood what your age is, you have been a school teacher?

A. I say according to that Bible, I am past sixty.

Q. Well, you have taught school? A. Tried to.

Q. Yes, for about four years in Missouri; don't you know what your age is?

A. I know the age that I gave in; no, I don't know exactly.

Q. It doesn't agree with that Bible there, does it?

A. Yes, sir, I think so.

Q. The age which you just now gave me; you say you returned from Missouri—you testified the other day that you returned from Mssouri in the '80's and took care of your mother you say? A. Yes, sir.

Q. In the '80's. What year in the '80's do you say that was? A. I don't know that I said at all.

Q. Well, you did say it was some time in the '80's, didn't you? A. Yes.

Q. This Viola was there when you went there finally from school, wasn't she? A. I said so, I think.

Q. And this record is wrong as to Viola's age?

A. There is no Viola there; you don't see any Viola in that book.

Q. What is this—Violet?

A. That is my younger sister.

Q. That is a different girl, then, is it?

A. It must be.

Q. They never put Viola's age in here either?

A. I don't see why they should.

Q. You don't [] what book Maria Yokum, your sister, testified about when she was giving her deposition, do you?

A. I do not.

The Court: I understood the name H. Carter appeared here?

Mr. Johnson: It does not, Your Honor.

Mr. German: That must be the point they are making.

Mr. Cobb: The purported copy of this Bible shows the name H. Carter.

Mr. German: That is counsel suggest this is the Bible the copy was made from. It does not appear.

The Court: From Maria Yokum's testimony, deposition, it gives a purported copy from a Bible, and in that copy appears the name of H. Carter.

Mr. German: No, that is not quite the record, Your Honor; Maria Yoakum has the Bible of the entire Carter family and it was got up years ago and it contains H. Carter and Viola both, and gives the birth of them, and it was made up years ago; the copy was taken from some Bible, I don't recall distinctly. It is very old at any rate.

The Court: Alright.

Witness dismissed.

The Court: Now, the matter of sur-rebuttal if there be any, in the Page and Hanford interests.

Mr. Stuart: I want to recall Mr. Malcomb.

The Court: You offer him now as your witness?

Mr. Stuart: No, Your Honor, I want to question him on cross examination, again.

The Court: Alright; call Mr. Malcomb.

And thereupon, ... MALCOMB, being called, further testified as follows:

Recross Examination by Mr. Stuart.

Q. Mr. Malcomb, how long has it been since you talked with Mr. Page about the Atkins case?

A. Well, the last time I talked to him was in the fall of 1914, or in the summer.

Q. How long since you talked with Frank?

A. I believe I said in March or April.

Q. 1914? A. Yes, sir.

Q. You had a talk with Mr. Lipscomb, a banker, three or four days ago, didn't you?

A. Might have been three or four days ago, longer than that I think.

Q. A short time ago? A. A short time ago.

Q. You told him you had a chance of making five hundred dollars to testify in this case, didn't you?

A. No, I didn't say that.

Q. Didn't you tell him you had a chance to make five hundred dollars to swear in this case, but it was too risky?

A. No, sir.

Q. You didn't say that? A. No, sir.

Q. Now, Mr. Malcomb, did you have what you were going to testify in this case, written down? A. What is that?

Q. Did you have what you were going to testify to, written down? Haven't you got a statement in your pocket about your evidence in this case? A. Why?

Q. Sir? A. Have I got a statement in my pocket?

Q. Yes, about what you were going to testify to.

A. I will show you everything I have got in my pocket if you want me to.

Q. I asked you; if you haven't, that ends it; if you have got the statement as to what you were going to testify to in this case.

A. I had some kind of statement in my pocket but I don't think I have got it now.

Q. Where is it? A. I don't know where it is.

Q. Did you throw it away or give it away?

A. I don't know.

Q. You don't know? A. No, sir.

Mr. German: Your Honor, we don't want to excuse the witness yet, I don't know anything about the matter asked about.

The Court: Well, you can find out right now.

Redirect Examination by Mr. German.

Q. Who is this man Lipscomb?

A. He is an ex-banker at Bixby.

Q. Where does he live now? A. He lives in Tulsa now.

Q. What conversation did you have with him?

A. Well, I told him I knew something about this case.

Q. Yes?

A. And that was about the size of the conversation.

Q. Was the matter of making any money out of your testimony spoken of at all? A. No, sir, it was not.

Q. Where was it you had the conversation?

A. It was, I believe, by the Bliss building.

Q. In Tulsa? A. In Tulsa, yes, sir.

Q. Has anybody offered you any money to testify in this case? A. No, sir, have not.

Q. Has the matter of your getting money for testifying been discussed with anybody? A. No, sir.

Q. About that statement, was there any statement, Mr. Malcomb, that you had anything to do with, tell us all you know about that or anything of that kind?

A. I don't believe I understand the question.

By the Court.

Q. Here, I will make you understand it; I want to talk to you: you told Judge Stuart you had some sort of statement in your pocket which you have lost. Now, who wrote that statement? A. I don't know.

Q. Who handed it to you?

A. I picked it up in the office down there.

Q. In what office?

A. In the—in the, not the marshal's office but the County Attorney's office.

Q. United States Attorney's office? A. Yes, sir.

Q. Now, what was it? Typewritten? A. Yes, sir.

Q. A typewritten statement? A. Yes, sir.

Q. What did it say?

A. It said something about me having a conversation with some woman, Betty Mann, and I hadn't had any conversation.

Q. And you hadn't had the conversation?

A. Yes, sir; and something about a fellow name of Dewitt, trying to frame up to get a Tommy Atkins that was at the Brown Hotel two years ago out of the way, and that I knew how it was, and was the cause of my being arrested over there; and that wasn't true.

Q. Now then what else did it have on it?

A. That I had talked with this woman.

Q. Now, you say you picked it up there; who gave it to you?

A. Someone in the office there handed me that and told me to look over it.

Q. You looked over it? A. Yes, sir.

Q. What else did they say to you about it?

A. Then I came back that evening and talked to them and that was yesterday, I believe, and came back this morning.

Q. Well, what did you tell them about that statement?

A. I told them that statement was not true and that I didn't know anything about that.

Q. What did you do with the statement?
A. I don't know; I may have it in my pocket.
Q. Well, let me see. A. Yes, sir, there it is.

The Court: He says this is the statement.

Mr. German: I know all about that now; I didn't know what he was talking about. This is simply some information furnished to us as to what this witness probably knew; that is all.

Mr. Hanford: Who by, Mr. German?

Mr. German: By Betty Mann, she speculated on it and she missed it in some places and some places she did not.

The Court: You have the statement now, do you want to cross examine him any more on it?

Mr. Stuart: No, sir, I don't want to ask any more questions myself.

Q. Now, there are some things in that statement that you don't know anything about? A. Yes, sir.
Q. And some things that you say are not correct as to what you do know? A. Yes, sir.

Recross Examination by Mr. Stuart.

Q. Did you say you got it from Betty Mann?
A. No, sir, I didn't get it from Betty Mann.
Q. Who did you get it from?
A. I don't know whether it was the gentleman there with the paper in his hand, or somebody else in the office.
Q. Well, identify the gentleman that handed it to you?
A. Well, there was three or four in there.
Q. Well, who was it handed you the paper?
A. I don't know.
Q. Now, it wasn't this gentleman, was it, or this one? Wasn't any of these lawyers that handed it to you?
A. I believe that it was.
Q. Which one was it?
A. I believe that is the man sitting there the second from the end.
Q. Mr. Linebaugh?
A. Yes, sir, I am not sure; I will not be positive about it.

Mr. German: I will state in the record, Your Honor, that this was simply statement of what this witness probably knew. We have been crowded for time, and it may be that it was handed to him to say what he know about it.

Mr. Linebaugh: Just a suggestion, Your Honor please. The witness evidently is mistaken in identifying me because I was not present.

The Court: I understand that counsel says that that this is a statement furnished this witness for him to look over, purporting to state what he knew about the case.

Mr. Linebaugh: However, I will further state to the Court that I do not make that correction because I think there was any impropriety because——

Mr. Stuart: I wouldn't have believed it any how.

Cross Examination by Mr. Hanford.

Q. Did you testify last night that you hadn't talked to Betty Mann about this matter?

A. About this case? Yes, sir, I did.

Q. You never had told her what you knew? A. No, sir.

Q. Hadn't told anybody? A. No, sir.

Q. You don't know how they got you to come here and testify? A. I don't know.

Q. You didn't even tell Hook Rogers, even?

A. I hadn't told Hook Rogers what I knew about it.

Q. Now, in this statement, it contains here: "And then sometime along later in the same month—no, in April, along in April, Frank Long asked me—I don't know how he came to me, Frank—but Frank asked him if he found out anything about Minnie and he said he had not; couldn't find out anything about Tommy Atkins, and he made a remark about not trying to find out anything about Tommy because he thought Tommy had died before the war." Do you [] where Betty Mann got that? A. No, I don't.

Mr. German: Your Honor, I haven't the slightest objection to filing this statement in connection with the witness's testimony.

The Court: Oh, we will not go into that any further.

Witness dismissed.

The Court: Now, you may proceed, gentlemen.

Mr. Allen: If Your Honor please, on yesterday, right on the spur of the moment we were called upon for the report of Mr. Cook from which he refreshed his memory. I declined to give it because I didn't want to do it until I went over it with counsel associated with me. I now tender it to them for their inspection.

Mr. Hanford: We don't want it now when the witness is gone.

Mr. Stuart: Call Mr. Lipscomb.

And thereupon, C. LIPSCOMB, being called on behalf of the defendants, Minnie Atkins, et al., being first duly sworn testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. C. Lipscomb.

Q. Where do you live, Mr. Lipscomb? A. Tulsa.

Q. How long have you lived there?

A. Since last September.

Q. What business were you in before you went to Tulsa?

A. In the banking business.

Q. Where were you in the banking business? A. Bixby.

Q. How long? A. A little over five years I believe.

Q. You know a man name of Malcomb, that was on the stand today? A. Yes, sir.

Q. Did you have a conversation with him a few days ago?

A. Yes, sir.

Q. I will ask you whether or not in that conversation he told you—now listen, answer my question yes or no—whether in that conversation he told you that he had a chance to make five hundred dollars as a witness in this case, but he thought it was too risky? A. Yes, sir.

Mr. Stuart: That is all.

Cross Examination by Mr. German.

Q. Did he tell you who was making him that kind of proposition?

A. No, sir, he didn't say; we were just merely——

Q. Just merely as a witness——A. Spoke about the case, something on the sidewalk.

Q. Did he say that he had a chance to make five hundred dollars as a witness in this case if he would swear the way certain parties would like for him to, or anything of that kind?

A. He said that he—it was too risky, he wouldn't do a thing like that.

Q. Did he say about anything if he was brought on the stand he was going to tell the truth?

A. No, he didn't say.

Q. Didn't make any remarks at all?

A. No, he wasn't a witness—I don't suppose he knew he was going to be a witness.

Q. You didn't know about that? A. No, I don't know.

Q. Who was there besides you and him?

A. Well, no one—well some people were standing—I was waiting for my car when we were talking about this.

Q. When was this? A. One day last week.

Q. Where? A. It was on Third street.

Q. In Tulsa?

A. Yes, right at the corner of Third and Main, just off a little from the corner.

Q. Corner of Third and Main? A. Yes.

Q. *Now* come you to be talking to him?

A. Well, I was going up the sidewalk, I believe it was Boston, and he took up with me and he walked along that far with me, and just talking about first one thing and then another.

Q. Well, how did he speak about this case?

A. I don't know what brought it about now.

Q. Well, he said in some law suit, didn't he? Tell the conversation in so far as it related to the testimony—testifying.

A. Well, something was said about the case.

Q. What case? A. This Tommy Atkins case.

Q. Who said anything about it?

A. Well, I don't [ ] whether he first mentioned it or I, now, I can't say.

Q. Well, what was said about the case?

A. Well, during the conversation, he made the remark about he had a opportunity to make five hundred dollars as a witness but he declined to do so.

Q. But what? A. But he wouldn't do so.

Q. Wouldn't do so. What else did he say, now; what did you say to that, tell us what you said to that.

A. I told him I didn't blame him, I wouldn't do anything like that; I told him anything in this case, I thought that was crooked would certainly be prosecuted and I advised that he took the right stand in the matter.

Q. And he agreed with you that that was the way to do?

A. Yes, I don't know that he made any remarks about that or not at the time.

Q. You understood from his remarks that he could swear against the Government if he would, didn't you?

Mr. Stuart: We object to that Your Honor as to what he understood; let him state what was said.

The Court: Objection sustained; state what was said.

Mr. German: That is right, I think.

Q. Now, what else was said about the matter?

A. Well, that is about all that was said about it.

Q. About all that was said?

A. Yes, sir, about this case; he went on talking about other personal matters, yes, sir.

Q. Who else was there? Wasn't Doc Linhard there?

A. No, sir, he wasn't there at that time.

Q. Doc Linkhart?

A. Linkhart; I don't know whether I saw him the same day or not; I saw him once or twice last week.

Q. A good many people were passing on the street?

A. Yes, sir, a good many.

Q. And you were standing right out in the open?

A. Well, *stanind* up by the railing, that pool hall down below.

Q. Right by the Bliss building?

A. No, there by the Palace of Sweets.

Q. Where is that in reference to the Bliss Building?

A. Right across the street from it, right east.

Q. Mr. Lipscomb, didn't some bystander there speak up and say Malcomb, as long as you have known as much about this case, there is a chance for you to make money out of that?

A. I didn't hear it.

Q. Didn't hear that? A. No, sir.

Q. Tell the Court the exact words, he, or either one of you used when this Atkins case was spoken of.

A. I told as near as I can speak it.

Q. You haven't told any words about that; you simply said the Atkins case was spoken of.

Q. What was said about it, I can't say now—for sure I can't state.

Q. Well, who spoke next, who spoke next?

A. Well, I can't say which one did mention it first.

Q. Well, what words do you remember were spoken by you or him, the first words that were spoken that you remember. You can't recollect?

A. No, I can't; I was just trying to recollect.

Q. You can't give the language used or substantially the language used at all in that conversation?

A. No, sir, I don't believe I could.

Q. Except as you already stated? A. No, sir.

Q. Who did you first tell this to after you and Malcomb separated?

A. I never told it to anyone until Mr. Long asked me about it.

Q. When did he ask you about it?

A. He 'phoned me last night, sir.

Q. Do you know how he came to 'phone you? How did he find out to 'phone you, do you know?

A. Well, he 'phoned me in regard to——

Q. What did Long say to you? A. He called me up and asked me if I had had a conversation with Mr. Malcomb and wanted to *mnow* what it was; he *tole* me in 1914, but I told him I didn't remember having any conversation in regard to the matter of this case then.

Q. Well, did he tell you where he got his information that you might have had one?

A. No, not about this one; not this conversation, and then he called me again this morning and wanted to know if I would come up and I told him I was awful busy and expecting a wire from Bartlesville, and then he said he would like to have me come up and try to get me back on the motor.

Q. Did you tell him this morning, or last night, either one about——

A. I told him this morning about this.

Q. About this conversation? A. Yes, sir.

Q. After you got here? A. Yes, sir.

Q. After you came to Muskogee? A. Yes, sir.

Q. He didn't learn from you until you got to Muskogee that you had this conversation you are telling now?

A. He knew we had a conversation a day or two ago, but he didn't know the contents of it.

Q. How did he know?

A. I told him I was not talking to him then but I was talking to him a day or two ago.

Q. What business are you in now?

A. Well, I am handling oil leases more than anything else now.

Q. Who for? A. For myself; taking oil leases.

Q. Have you had any business dealing with Mr. Long or Mr. Page? A. No, sir, none at all.

Q. Never had?

A. No, sir, I knew Mr. Long during the time he was field clerk only. He used to pay the Indians off there at my bank; that is all the acquaintance I knew of him; never had any dealing personally with him.

Redirect Examination by Mr. Stuart.

Q. Who was it called you up on the 'phone?

A. Mr. Long.

Q. Is your name A. C. Lipcomb? A. No, sir, C. Lipscomb.

Q. Of Tulsa? A. Yes, sir.

Q. Ex-banker over at Bixby? A. Yes, sir.

Witness dismissed.

And thereupon, F. K. TAYLOR, a witness, produced on behalf of the defendants, Minnie Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Bond.

Q. What is your name? A. F. K. Taylor.

Q. Where do you reside, Mr. Taylor?

A. Leavenworth City, Kansas.

Q. I believe you have been connected with the police force of Leavenworth and have been patrolman, night sergeant and day sergeant, at different times, have you? A. Yes, sir.

Q. And on three different occasions have been police judge of Leavenworth? A. Yes, sir.

Q. As day sergeant you prepare the court's dockets as used in the police courts by the police judge A. I did.

Q. I will ask you Mr. Taylor, if the sheriff should telephone to police headquarters that he had a warrant for the arrest of a party and the chief should notify the policeman, patrolmen, if they found the party to bring him in, and this man was found by a policeman in the evening, and brought into the police station then put in the city jail, and that is all the connection the patrolman ever had with the case, whether under those circumstances the arrest of that person is docketed on the regular police court docket?

Mr. Linebaugh: Objected to if the court please as incompetent, and inadmissible and not proper sur-rebuttal.

The Court: On the rebuttal, the police docket has been offered in evidence and a witness has testified that there appears upon that docket no record with regard to the arrest of Tommy Atkins; there was evidence in the case by a witness to the effect that at one time when he was patrolman he arrested Tommy Atkins on direction of the chief and took him to police station and that he was afterwards put in jail. I assume this question now is asked with the purpose on the part of counsel to show that there was some such transaction connected with the Tommy Atkins case.

Mr. Bond: I want to show if Your Honor pleases, that the fact that his name does not appear upon the docket is not evidence that Mr. DeLaney, the patrolman, did not make the arrest.

The Court: You want to show that the practice was if the sheriff called the attention of the police there would be no record.

Mr. German: The witness, Your Honor, as I remember it, did not say that this was a state case; he said he made the arrest pursuant to the order of the chief.

The Court: Well, I am going to permit it because it will merely show if it shows anything, that there might possibly have been an arrest of this boy by the police, and the bringing of him to the police station without it appearing on the docket.

Mr. Stuart: We want to justify it on the testimony in the case.

The Court: I think probably it is justified.

"A. I don't think he was tried in our Court; I think he was taken to some Justice Court; I don't know what was done with him; in fact I just remember him on a complaint." Now, at the first he says there was a warrant for him.

The Court: Never mind, what is your objection?

Mr. Linebaugh: That the witness has not been qualified.

Q. "Out of what Court was the warrant issued that you served on him? A. We didn't have a warrant. Q. Well, was there a complaint made out? A. I think the complaint was made at the Police Station."

Mr. German: I want to make this suggestion, the books that we had here we have returned now, because we thought this phase of the case had been concluded, and showed, as Your Honor remembers, we offered to prove by the witness and your Honor excluded it, the arrest of Tommy York for larceny, which obviously was not a City case.

The Court: I will note your objections, and hear this in connection with all the rest of the evidence and give it whatever it is entitled to, if any, in my consideration. This man has testified that he has served as Police Judge several times.

Mr. Linebaugh: I make this point if the Court please, if I may, that the witness for a custom to be admissible, it must first be established that that custom was in vogue at the time of the entry inquired about; and therefore, they haven't qualified this witness as to whether that was the custom at that time.

The Court: When were you Police Judge, when did you first become Police Judge?

A. Commencing, I think, with the year 1897.

The Court: And how long did you serve then?

A. Two years.

The Court: From 1897 to 1899, that was along about the time of this arrest. Admitted. Exception noted.

Q. What was your answer to that question, whether or not under those circumstances that arrest would have been docketed? A. It would not have been docketed.

Cross Examination by Mr. German.

Q. Where would that case be found, Mr. Witness, now? Where could you find the record of that case, the illustration he gave? A. The case of York?

Q. No, he gave you an illustration and you said in that kind of a case there wouldn't be any record on the Police Court docket; where would there be a record?

A. There would be no record.

Q. Anywhere in Leavenworth?

A. Not necessarily. It is possible that it might have been entered on the Blotter, a sheet that is kept in the drawer to enter cases from time to time, but it would not be entered on the Police Docket.

Q. Well, would it be entered on any other Court Docket?

A. No, sir.

Q. You have made a search through all of those dockets for the name of Thomas Atkins? A. No, sir.

Q. Through either your own or any other Court docket up there? A. No, sir.

Q. Do you mean to say if a telephone message or other communication is sent over to Police Quarters that a complaint has been made against somebody and they want him arrested, that there wouldn't be a record made of it somewhere if it was coming from any other Court?

A. That would be the case if a warrant was issued and we were asked to make an arrest there would be no further record in our court.

Q. Well, if a man were arrested and put in the City Jail?

A. I should have said picked up as we term it.

Q. Well, if a man were picked up and put in the City Jail, wouldn't there be a record made of it?

A. No, sir, nothing further than I have mentioned.

Q. Wouldn't there be a record of that case in some other court, not the City Court but some other court?

A. If he was turned over, if he would be turned over to the State authorities there would be a record at the Court House in the court in which he was tried.

Q. Yes, and it could be found, couldn't it?

A. It should be, yes, if there was a record there.

Q. Well, when you would incarcerate a person in the City Jail for the purpose of later turning him, say the next day, to the State or County authorities, wouldn't there be some record of the fact that he was put in the City Jail somewhere?

A. No, sir, not in writing, unless it should be put on the blotter docket that he was picked up.

Q. Suppose he ate a meal in the jail somebody had to pay for it? A. Yes, sir.

Q. Well, wouldn't there be a record showing that that party had eaten a meal there?

A. Not necessarily. I don't know as to that case. That is the jailer's duty and business.

The Court: Would there be any record—Well, never mind.

Q. What did you ever have to do with the Jail record?

A. Nothing.

Q. Nothing at all? A. No, sir.

Q. What did you have to do with keeping the Police Blotter and other records in the Chief's Office in 1897 and '98?

A. Keeping the records, I had nothing to do whatever with keeping the Docket.

Cross Examination by Mr. Cobb.

Q. There is some one at all times in charge of the City Jail or City Prison, isn't there? A. Yes, sir.

Q. Now, when a party is arrested and brought in, some record by the Prison Keeper is made of his incarceration and of his imprisonment, isn't there?

A. I do not know if there is.

Q. You don't know about that?

A. No, sir—Well, I am not presuming.

(Witness dismissed.)

And thereupon, Court recessed until 1:30 P. M.

And thereafter, and at 2 o'clock P. M., on the same day, court convened pursuant to adjournment and further proceedings herein were had as follows:

WILLIAM A. DOIDGE being produced as a witness on behalf of the defendants, Minnie Atkins, et al., and being first duly sworn, testified as follows:

Direct Examination by Mr. Bond.

Q. What is your name [? A.] William A. Doidge.

Q. Spell the last name please. A. D-o-i-d-g-e.

Q. Where do you live, Mr. Doidge?

A. Leavenworth, Kansas.

Q. What business are you now engaged in?

A. On the police force.

Q. When did you first go on the police force? A. '97.

Q. Do you know about what date? A. February 4th.

Q. Do you know Mr. DeLaney—Pat DeLaney?

A. Yes, sir.

Q. Was he on the police force at the time you were?

A. He went on shortly after.

Q. Was that the first time he had been on the police force or was it his second time?

A. His second as I understood it.

Q. And when did he go on?

A. Along about the 8th I think it was.

Q. Of February? A. Yes, sir.

Q. What was he. what position did he hold on the police force? A. Patrolman.

Q. What position did you hold?

A. I was what they called Sergeant then; now Captain, they called them in the office.

Q. How long did you have that position?

A. Well, I was there six years, and two months; the first two years there was a captain and day sergeant that was the title then for two years and I afterwards filled both positions.

Q. I will ask you whether or not the day sergeant and captain prepared the docket that is sent to police court for the cases to come up before the police judge?

A. Yes, sir. I did.

Q. I will ask you Mr. Doidge, while you were sergeant preparing this docket in a case where a complaint had been issued from a Justice court and given to the sheriff and the chief of police had given orders to pick up a man whoever he might be, and the man had been arrested in the evening by a patrolman, and put in jail to be held for the sheriff, whether or not that would be docketed on your docket, that goes to the police court? A. No, sir.

Q. Did you know a boy there in Leavenworth there that was known as Tommy Atkins, the son of Indian Minnie?

Mr. German: Your Honor, we object to this as not rebuttal.

Mr. Bond: It will be Your Honor; it is leading up to a question that I want to ask him.

Mr. German: It is not thorough rebuttal.

The Court: Well, so far as to his knowledge whether this boy lived there one time or not is your case in chief.

Mr. Bond: Just want to know if he knows such a boy.

The Court: *The Court:* Well, he may answer.

Mr. German: We except.

A. I did.

Q. Did you know Tommy York? A. I did.

Q. I will ask you to look at that picture and see if you know whose picture that is? A. Tommy York.

Q. The picture you saw in the hotel this morning? A. Yes, sir.

Mr. Bond: I desire to have the stenographer mark this. (Marked Defendants Exhibit B-27.)

Mr. Bond: I desire to offer this in evidence.

The Court: Any objections?

Mr. German: Yes, sir, it is not proper sur-rebuttal.

Mr. Stuart: Your Honor, this in rebuttal of the statement that Tommy York looked like an Indian, had straight black hair and looked like an Indian.

The Court: It may be admitted.

Mr. Allen: They brought that out on cross examination.

The Court: Well: I will admit it.

Mr. German: We except.

Q. You examined some records there at Leavenworth, did you, made an examination there not long ago at Leavenworth? A. Yes, sir.

Q. Do you know a man named Reed?

A. I met him twice.

Q. He is a Government man? A. So I was told.

Q. I will ask you if you were called in the office of the Chief of Police and told by Mr. Reed that they wanted you to come down here and identify some records as being in your handwriting, and if he then stated to you in substance and asked, do you know Tommy Atkins; did you answer him yes; and did Mr. Reed then say, well we can't take you because the Government is trying to prove there is no Tommy Atkins?

Mr. German: That is leading and improper rebuttal, not sur-rebuttal, leading and immaterial.

The Court: To what is this rebuttal?

Mr. Bonds: The only thing is, they had Mr. Kirsten here to identify some record; that was not the man who made the records.

The Court: This declaration of Reed's though?

Mr. Bonds: It seems to me, Your Honor please, it is proper to show the statement was made to Mr. Reed at the time that this man knew Tommy Atkins, told it to this Government officer that he knew him.

The Court: Well, he has been permitted to testify on the stand what he knew about Tommy Atkins; what he told the Government officer in connection with it, in my judgment, is not admissible.

Mr. Stuart: We offer it in this connection, if Your Honor please, you will remember Mr. Cruce made the statement for our side in the early stages of this case, that much of the Government's case was fabricated and we were going to show it. This gentleman has made a statement as to what a representative of the Government said to him with reference to this particular witness.

The Court: I of course can't carry all this record in my mind. What does the record show was Mr. Reed's connection with this case?

Mr. German: This is the first time his name has been called, Your Honor, and he hasn't been a witness.

The Court: I don't remember anything in the evidence which identifies Mr. Reed as a Government officer. The objection will be sustained and your exception noted.

Q. I will ask you, Mr. Doidge, whether or not this is the same boy you spoke about, Tommy York and Tommy Atkins are not the same? A. No, sir.

Mr. Allen: We object to that as leading.

The Court: Overruled.

Examination by Mr. Hanford.

Q. How does that (referring to photograph) compare in features and resemblance?

A. No comparison in my estimation.

Q. What kind of hair did Tommy York have?

A. Curly kinky hair like a colored person.

Q. What kind of hair did Thomas Atkins have?

Mr. German: We object to that.

The Court: Overruled.

A. Straight hair, rather coarse black hair.

Q. How did they compare in color?

A. The Atkins boy was lighter than the York boy.

Q. How long did you know him? A. Who?

Q. Well, Tommy York? A. Well, since he was a baby.

Q. How long have you known Thomas Atkins?

A. About two years, possibly three.

Cross Examination by Mr. German.

Q. Now, how long did you say?

A. About two or three years.

Q. How long have you lived in Leavvenworth?

A. Fifty years.

Q. All your life? A. No, sir, not quite.

Q. When did you come there, how old were you?

A. Not quite a year old.

Q. You lived there all your life since then? A. Yes, sir.

Q. What was your business before you became a Police officer? A. Painter.

Q. Painter? A. Yes, sir.

Q. You were around town a good deal? A. Yes, sir.

Q. All the time? A. Yes, sir.

Q. You only knew that boy two years?

A. Well, I would say two years, that is acquainted with him.

Q. You don't know where he came from nor where he went to? A. No, sir.

Q. You don't know whose boy he was nor anything about him?

A. Well, I understood he was Indian Minnie's boy.

Q. When did you understand that? A. 1897.

Q. You knew Indian Minnie well? A. No, sir.

Q. You were there in Leavenworth all the time?

A. Yes, sir.

Q. And you didn't know Indian Minnie?

A. I didn't know her personally, no, sir.

Q. Where would that record be about that boy?

A. What boy?

Q. That arrest you spoke about in case one was made in the way Mr. Bond has illustrated?

A. Where would the record be?

Q. Yes?

A. In the Police Station. Any particular case?

Q. The hypothetical case that Mr. Bonds gave to you, where would the record about that arrest be, or incarceration?

A. Whatever court issued the writ.

Q. What courts were there to issue writs?

A. Justice of the Peace and the District Court.

Q. And the District Court. Do you know—Do you mean that you would incarcerate a person arrested under those circumstances and not make any record on your blotter or anywhere about him? A. Yes, sir.

Q. Keep him over night? A. Yes, sir, sometimes.

Q. Give him a couple of meals? A. Yes, sir.

Q. And there would be no record of it? A. Yes, sir.

Q. Well, how would you get compensation for those meals?

A. Wouldn't get any.

Q. You mean to say you fed those prisoners free of charge? A. Yes, sir, the City did, I didn't.

Q. The City did, I understand. And no account kept of it at all? A. No, sir.

Q. No way to tell how many prisoners were in a jail any night? A. No, not any night.

Q. Any particular day?

A. Any committed prisoners, there was a record kept of those.

Q. If you had a half dozen that were not committed prisoners you couldn't tell about them? A. No, sir.

Q. By committed prisoners, you mean placed in jail?

A. No, sir, under arrest, for instance sentenced by the Court.

Q. But you might have a number of arrested persons who had not been committed and you wouldn't have a record?

A. They might not be under arrest for us. If the warrant was issued or wasn't issued and the Sheriff would telephone us to look out for so and so and if you see him pick him up. The officer would bring him in if he found him and notify whatever officer this was.

Q. That wouldn't happen with boys who lived right there in town who were easily found, would it? A. Yes, sir.

Q. You mean the County officers would enlist the services of the Police officers to arrest a person who was right there in town and easily found? A. Yes, sir.

Q. Did the County officers in those days ever make any arrests themselves, or would they have the Police officers make the arrests for them?

A. Oh, no, just a matter of accommodation.

Q. Did you have the County officers make arrests for you?

A. Yes, sir, if we had anything like that.

Q. Anything like what?

A. Have them look out for anybody for us.

Q. That would be somebody that was not apt to be found easily? A. Oh, not necessarily, no, anybody.

Q. When did you first talk to Pomp Graham about this case? A. Three weeks ago, about.

Q. And it was after that that you saw Mr. Reed, wasn't it? A. Yes, sir.

Q. How did you happen to come down here to testify?

A. I was requested to come down by Mr. Bond and Mr. Graham.

Q. Who came with you? A. Mr. Bonds.

Q. Didn't Mr. Graham come too, on the same train?

A. No, sir.

Q. Well, he is here? A. Yes, sir.

Q. He wasn't here yesterday?

A. No, sir, if he was I didn't see him.

Q. He was in Leavenworth yesterday? A. I don't know.

Q. Don't you know he came on the same train you did?

A. No, sir, he did not, if he did I didn't know it.

Q. When did you come?

A. I came, left Leavenworth Tuesday night and the storm kind of delayed us, we got in here Wednesday morning—Well, we left Kansas City at two o'clock and got in here about 11:45.

Q. When did Pomp get here?

A. I don't know, the first I seen of him was this morning myself.

Q. When was the last time you saw him in Leavenworth before you left there? A. Monday.

Q. Monday, and had a talk with him? A. No.

Q. How many different times have you talked to Pomp about your testimony here? A. Twice.

Q. What are you getting for coming down here?

A. I was told I would be paid for my services and all expenses.

Q. Is there any agreement as to what your services are worth? A. No, sir.

Q. You are to get what is reasonable after you get through testifying? A. Yes, sir, that is the understanding.

Q. You had that understanding with them before you came?

A. Yes, sir.

Q. How much did they pay you in advance? A. Ten dollars.

Q. And they purchased a ticket for you? A. Yes, sir.

Q. And they are to pay you whatever is reasonable after you get through testifying? A. Yes, sir.

Q. Now, tell us what Justices of the Peace were in Leavenworth in 1897 and '8?

A. There was three at the time; Jimmy Franks, Tom Plowman, and I think White was the other one at that time. They changed around there a great deal.

Q. Are those records still there, the records that they kept? A. I don't know anything about their records.

Q. Didn't you go to investigate? A. No, sir.

Q. Well, Graham had you to investigate these records didn't he at Police Head-quarters? A. No, sir.

Q. Did Mr. Bond? A. No, sir.

Q. Have you looked through these records lately?

A. Yes, sir, Mr. Reed had me look at the records.

Q. You couldn't find anything there relating to Thomas Atkins? A. I couldn't, no, sir.

Q. You didn't go over to the Justice Court to see what was there? A. No, sir.

Redirect Examination by Mr. Bond.

Q. How many years were you under-sheriff?

A. Four years, five years—four years and nine months rather.

Q. How many years were you connected with the sheriff's office all told? A. Thirteen.

Q. Mr. Graham that was spoken about is the Juvenile Officer there? A. Yes, sir.

Q. And has been ever since there was one, for about ten years? A. Yes, sir.

Q. You came down here on the train with me?

A. Yes, sir.

Q. Leaving Leavenworth at nine o'clock, and so far as you know no one else was with us? A. No, sir.

Mr. Hanford: Before this witness leaves the stand, I would like to make a record on that question. I would like to make an offer to prove as to what was intended to be shown with regard to the question that was asked.

The Court: All right.

Mr. Hanford: We offer to show by this witness that he was subpoenaed on behalf of the Government and was prepared to make the trip to Oklahoma to testify in regard to the Police Record not showing any record of an arrest of Thomas Atkins——

Mr. Allen: I would rather you would bring out the question of being subpoenaed.

The Court: Go on and state your offer.

Mr. Hanford: And that before he started Mr. Reed, who is representing himself as working for the Government in Leavenworth on this case, asked him if he knew what he was coming down here to testify to, and asked him if he knew what the case was, and he told him that he knew something regarding the case, when he explained to him that it was to prove that there never was a Thomas

Atkins and asked him if he knew Thomas Atkins, he stated that he did. Whereupon, the expense money that had been advanced to him was taken back and he was never sent down by the Government.

The Court: Now, the record will show whether this man was subpoenaed by the Government. Is it denied that the Government subpoenaed this man?

Mr. Allen: If the Court please, I don't know whether he was or not. I haven't had any information that he was until Mr. Hanford's statement.

Mr. Hanford: Mr. Bond informs me he was called——

Mr. Allen: I think the truth is that we wired Mr. Reed to have someone come on who could identify the record.

Mr. Hanford: Well, we will concede that, Mr. Allen, that he was called by telegram.

The Court: You have your offer in the record, gentlemen; I have already ruled on that. From the colloquy here I am satisfied the record will not show that any subpoena was not issued for this man. It is suggested that Mr. Reed was asked to have someone here who would identify the records, or testify with regard to them. That is in evidence here.

Mr. Stuart: I want to state this, to be frank with the Court, I am not insisting on Mr. Reed's statement. I think it would be error to admit it.

* * * * * * * *

The Court: The objection will be sustained and exceptions noted, if you desire it.

Mr. German: Well, this witness' testimony about his knowledge of Thomas Atkins was not admitted as sur-rebuttal, yet the connection in which it was brought in, Your Honor, throws this matter in such shape that we have to cross examine him about it.

Cross Examination by Mr. German.

Q. Mr. Doidge, when did you say you first knew a boy named Thomas Atkins?

A. Oh, along from '96 and '97, along in there.

Q. Where were you living at that time?

A. *Mr.* residence number do you mean?

Q. Yes? A. In '96?

Q. Yes? A. 720 Dakota.

Q. 720 Dakota? A. Yes, sir.

Q. How many streets was that north of Shawnee?

A. Nine.

Q. How many streets west of there?

A. Four, four blocks.

Q. Four blocks? A. Yes.

Q. What age are you now? A. 51.

Q. Where was it you saw any boy by that name?

A. Saw him on Third street, running around the street there.

Q. What were you doing?

A. I was on the police force part of the time.

Q. I thought you were at the police headquarters?

A. Well, I was.

Q. Where were police headquarters located?

A. Fifth and Shawnee.

Q. Fifth and Shawnee? A. Yes, sir.

Q. Two blocks west of Third and one block south of Seneca? A. Yes, sir.

Q. What were you doing around Third and Seneca?

A. Oh. business brought me around there.

Q. What kind of business?

A. I don't know exactly what it was; at the time I was not in the office solely from morning until night— possibly you may get a call out yourself, some thing important that you go out on yourself.

Q. In 1897 that was? A. Yes, sir, when I first went on.

Q. This boy, who was with him?

A. Well, one of the boys that I remember he run with a great deal was a fellow they call Cheney Paul—I don't know what his last name was.

Q. He a negro? A. No, he was a white boy.

Q. Where is he now? A. I don't know.

Q. Was he a bad boy?

A. No, little mischievous as all little boys are as a rule.

Q. What age boy was Cheney Paul?

A. I judge about 13 years old, at that time.

Q. What was the age of this boy you called Thomas Atkins along about that time?

A. He was about 11 or 12 years, along about that.

Q. What color was this Atkins boy?

A. He was rather a light color; the only thing noticeable about him with me was his hair; rather coarse black hair, real black.

Q. Real black coarse hair? A. Yes, sir.

Q. What was the complexion of the boy?

Q. Well, a sallow complexion.

Q. A sallow?

A. Yes, that is what we call sallow, a yellow complexion.

Q. And white? A. Yes, that is what we considered him.

Q. Now, did you see him anywhere else besides Third and Seneca?

A. Oh, I may have seen him a dozen times on different streets.

Q. Might have, but I want to know if you did?

A. Yes, sir, I did, but I didn't pay any particular attention at the time.

Q. Why did you ever pay any attention to him?

A. Seeing him around and hearing of him as boys are at the——

Q. That the way you heard of him?

A. Yes, sir, I knew of him before that.

Q. What did you hear of him before that?

A. It, was rumored there as Indian Minnie's boy—Indian Minnie's kid, is the word they used.

Q. Yes, sir, Indian Minnie's kid? A. Yes, sir.

Q. And that is what you heard before? A. Yes, sir.

Q. And then it was after that that you saw him?

A. Oh, no, I had seen him before.

Q. You had seen him before? A. Yes.

Q. You were present at his birth, weren't you?

A. No, sir.

Q. Oh weren't you there Mr. Doidge? A. No, sir.

Q. He was about a year old the first time you ever saw him, wasn't he? A. Who?

Q. Indian Minnie's kid? A. No, sir, no, sir.

Q. Well, was he two? A. No, sir.

Q. Three? A. No, sir.

Q. Four? A. No, sir.

Q. How old was he?

A. About ten or eleven years old, or twelve.

Q. Twelve, maybe? A. Possibly, that is I knew him for two or three years there—*tne* or eleven or twelve years old.

Q. And where did he—what age was he, I mean what year was it that you first knew him?

A. Oh, I would say along about ninety-five or six when I first knew him.

Q. First knew him about ninety-five or six. Now, when did you last see him?

A. Well, I suppose the last I can remember of, along about '97, the latter part of '97.

Q. What became of him? A. I am sure I don't know.

Q. Just disappeared?

A. Yes, sir, as far as I knowed; that is with me he disappeared.

Q. And you were still on the police force after that?

A. Yes, sir.

Q. How long?

A. I was there for six years and three months from '97.

Q. '98? A. From February 4th, '97.

Q. And this boy disappeared? A. Yes, sir.

Q. Now, didn't you make some inquiry to see what had become of him? A. No, sir.

Q. So it has been 20 years since you have seen the boy?

A. Yes, sir.

Q. And you remember about him?

A. Yes, sir; well this is what makes me remember Indian Minnie's kid running with this Jew boy, is what makes me remember that boy—do you wish me to explain?

Q. Yes, sir.

A. He had his legs cut off by the train there.

Q. What was his name?

A. Cheney Paul they called him.

Q. What was—when was it he had his legs cut off?

A. I think that along about '99, I think now.

Q. And that helped you to remember this boy Indian Minnie's kid?

A. Yes, sir, he used to run with this Indian Minnie's kid, as they called it.

Q. When this boy had his leg cut off, I suppose you immediately thought of Indian Minnie's kid, didn't you?

A. Well, I don't know as I did.

Q. What became of the boy who had his legs cut off?

A. I don't know that.

Q. When did he disappear?

A. Well, I don't remember that; he was around there two or three years on a crutch.

Q. Well, what became of him? A. I don't know.

Q. How old was he when he had that accident?

A. I judge the boy to be about 14 years old.

Q. What kind of looking boy was he?

A. He was a white boy.

Q. What color was his hair? A. Dark brown hair.

Q. Dark brown hair; what was the color of his eyes?

A. I don't remember that.

Q. Don't recollect that? A. No.

Q. What other boy was with this boy that you ever saw in your life with him?

A. I don't remember any other particular boy.

Q. Don't you remember any other boy that you saw with him? A. I don't recall any.

Q. Unable to recall any? A. Yes, sir.

Q. The only boy you ever saw him with was this Jew?

A. Yes, sir, that I paid any attention to; I guess I seen him with lots of others maybe.

Q. What attracted your attention to this Jew?

A. The boy getting his legs cut off afterwards.

Q. That is what made you remember him? A. Yes, sir.

Q. Was Tommy with him when that accident happened?

A. I don't know who was with him at the time.

Q. Where did the Jew live?

A. I think on Seneca street; Shawnee or there somewhere.

Q. Who with? A. Who with?

Q. Yes. A. I don't know.

Q. Now, Mr. Doidge, you want us to understand that in case an [] arrested under the circumstances detailed by Judge Bond, that there is no record made or was not in those days of the fact of the arrest, nor of the incarceration on the police records any where? A. No, sir.

Q. You say there was not? A. There was not.

Redirect Examination by Mr. Bond.

Q. They asked you something about paying for the meals, the city pays for all the meals, don't they?

A. Yes, sir.

Q. And the city jail is where they feed tramps?

A. Sometimes, yes, sir.

Q. And the city jailor makes a list of the meals furnished by him? A. Yes, sir.

Mr. Bond: That is all there is to the meals.

Recross Examination by Mr. German.

Q. Did the city have jurisdiction in larceny cases, Mr. Doidge? A. Have jurisdiction?

Q. Yes?

A. Yes, they would make arrests in them, yes, sir.

Q. But they didn't have jurisdiction to try them did they?

A. No, sir.

Q. And didn't try any larceny cases? A. No, sir.

Q. And when anybody was arrested when he was charged with larceny a warrant issued out of the state court—Justice court or the County Court, when he was arrested by the police, there wouldn't be any record made of it?

A. No, sir, not if they—if the police knew of this larceny and got the man prior to the warrant being issued or anything, they would arrest him and bring him in.

Q. Bring him in? A. Yes, sir.

Q. And make a record on that?

A. Yes, sir, make a record on that.

Q. Then they would try him and convict him, wouldn't they?

A. No, sir, they would hold him to give them a chance to get a state warrant out for him.

Q. Now, you are sure about that are you? A. Yes, sir.

Witness dismissed.

Mr. German: Now, Your Honor, in connection with the testimony—in connection with his testimony, we re-offer the police records that we had here, showing the arrest and conviction of Tommy York in the city court for Leavenworth.

The Court: Is it here now?

Mr. German: No, sir, but we made the offer of it and it was read into the record; we had it here at the time.

The Court: You read it into your offer so that it appears?

Mr. German: Yes, sir.

Mr. Stuart: Your Honor, I don't believe, so far as Page is concerned, that I will object to that.

The Court: Alright; the offer of the police record heretofore offered and objection sustained by the court, is now admitted in evidence, the objection being withdrawn.

And thereupon LEE BOND, being called on behalf of the defendants Minnie Atkins, et al., and being duly sworn testified as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Bond, I believe you testified that you practiced law in Leavenworth, Kansas? A. Yes, sir.

Q. How long have you practiced there?

A. Since '99.

Q. Were you police judge at any time there? A. Yes, sir.

Q. Police judge; did this man Doidge ever serve under you? A. Yes, sir.

Q. Mr. Bond, I will ask you whether or not under the laws of Kansas at that time, the city had jurisdiction of larceny cases? A. It did not.

Cross Examination by Mr. German.

Q. You didn't make up any of those records of conviction for larceny in the city court then? A. No, sir.

Q. While you were police judge? A. No, sir.

Q. You are one of the attorneys for the Page interests in this case? A. Yes, sir.

Redirect Examination by Mr. Stuart.

Q. Have you been offered anything for coming down here except your fee? A. No, sir.

Recross Examination by Mr. German.

Q. Mr. Bond, you are United States Commissioner at Leavenworth, aren't you? A. Yes, sir.

Q. And have been for a number of years?

A. Yes, sir, since 1907, I think.

Witness dismissed.

And thereupon, FRANK B. LONG, being called on behalf of the defendants Minnie Atkins, et al., and further testified as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Long, were you in the court when this man Malcomb testified? A. Yes, sir.

Q. I will ask you whether you ever had a talk with this man Malcomb about this case?

A. Never in my life that I remember of.

Q. Did you ever promise him anything in this case?

A. Never.

Q. Do you remember ever to have seen him before?

A. Never.

Q. Mr. Long, I will ask you whether or not you ever at any time offered any money or made any promise to Mrs. Cobb with reference to this case? A. I did not.

The Court: Who is Mrs. Cobb?

Mr. Stuart: That is the woman, Your Honor, about whom they asked when Mr. Blakeney was on the stand about the mark, you remember.

The Court: Oh, yes, I remember.

Mr. Stuart: Mr. Bell testified that she said Long and Page had promised to make her comfortable for life.

Cross Examination by Mr. German.

Q. You say you never saw this man Malcomb before in your life?

A. Not that I remember of until he was on the witness stand last night.

Q. Don't recollect it if you ever did? A. I do not.

Q. You have been living in Tulsa all these years have you not, for several years? A. Yes, sir.

Q. You have talked to a great many people about this case, haven't you? A. Yes, sir, very few in Tulsa, however.

Q. Very few in Tulsa. You have talked to several at your office and several on the streets? A. Oh, yes, yes.

Q. And a number of people about evidence, haven't you? A. Yes, sir.

Q. You know W. W. Fox of Tulsa? A. Yes, sir.

Q. How long have you known him?

A. Well, I knew him—he has only been in Tulsa perhaps a year; he used to live in Bixby. I knew him when he lived there.

Redirect Examination by Mr. Stuart.

Q. Mr. Long, I will ask you whether or not you ever saw anybody in Mr. Page's office pay Malcomb any money?

A. No, sir.

Witness dismissed.

And thereupon, CHARLES PAGE, being recalled, further testified on behalf of the defendants Minnie Atkins et al., as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Page, you saw Mr. Malcomb on the stand today? A. I did.

Q. I will ask you whether or not you ever had a talk with Mr. Malcomb about this case?

A. I don't never remember seeing the man in my life.

Q. Mr. Page, I will ask you whether or not you ever paid Mr. Malcomb any money in this case?

A. Never in the world.

Q. Did you ever see anybody in your office pay him any money? A. Never, and I know he never did get any.

Q. Mr. Page, I will ask you whether or not at any time you ever offered any money or made any promise to Mrs. Cobb to testify in this case?

A. No, nor nobody else.

Cross Examination by Mr. German.

Q. You did go to see Mrs. Cobb, though?

A. I never saw Mrs. Cobb but once; I drove over there to see her.

Q. You drove over to her home at Stacey, Missouri?

A. Yes, sir, the only time I was ever in Leavenworth.

Q. You talked to a large number of people in Tulsa about different features of this case, haven't you?

A. I don't think I have.

Q. You don't think you have talked to people there?

A. I have talked about it, yes; talked about the case considerable to different ones.

Q. In your office?

A. Well, in my office, naturally would.

Q. You can't now, state all the names of all the people you have talked to, could you, about it?

A. I *am* never have talked to that man, I am positive, about this case.

Q. I ask you if you could now state the names of all the people you have talked to about the case?

A. No, I can't.

Witness dismissed.

And thereupon, MINNIE ATKINS FOLK, being recalled on behalf of the defendants Minnie Atkins, et al., further testified as follows:

Direct Examination by Mr. Hanford.

Q. Minnie, I will ask you whether or not your boy Thomas Atkins had any birth mark? A. No, sir.

Q. On him? A. No, sir.

Mr. Cobb: Objected to as incompetent, irrelevant, and immaterial, and not proper rebuttal.

The Court: Overruled.

Mr. Hanford: That is all.

Cross Examination by Mr. Cobb.

Q. Now, you testified in this case at Seattle, Washington, didn't you? Your deposition was taken there, wasn't it?

A. Yes.

Q. Mr. Blakeney cross examined you while you were testifying there, didn't he?

A. I don't know who it was.

Q. You remember this white haired man that was here the other day?

A. Well, I couldn't say whether it was him or who it was.

Q. I will ask you if Mr. Blakeney didn't ask you in that testimony about your recollection of the birth mark on the back of your baby, Tommy Atkins? A. No.

Q. He didn't ask you that? A. No.

Q. I will ask you to state if he didn't ask you to state if there wasn't a birth mark on the back of your baby and if you didn't state that you didn't remember whether there was or not, either that or that in substance? A. No.

Q. You didn't make that statement?

Mr. Cobb: If the Court please, I would like to get hold of the transcript of the testimony.

Mr. Stuart: I will agree to this, Mr. Cobb, if it is there you may put it in.

The Court: Yes, you may refer to the deposition and if there is that in the deposition which is incorporated in your question, you may put it in in connection with this witness' testimony.

Mr. Cobb: I may not have it in the exact language.

The Court: Well, if it is in substance.

Cross Examination by Mr. German.

Q. Minnie, in your testimony in Seattle in January, 1916, when Mr. Penick was there, you remember that Mr. Blakeney cross examined you, didn't you testify as follows: I am reading from page 269 of Mr. Penick's transcript, "Or was it because of some peculiar objections you had to Tommy," he was questioning you about why you concealed him. "Or was it because of some peculiar objections you had to Tommy," did you not answer to that: "No, that was it." Then another question: "Or was it the fact that Tommy is so dark? A. Why, Tommy isn't dark, why do you think he is dark? Q. Why do you think he is not? A. Because I know he is not. Q. When did you last see him? A. I never seen him, but I know he is not dark." Didn't you testify that way? A. Yes.

Mr. Stuart: Why, Your Honor, that is not what Mr. German had reference to when he picked that up; he said to impeach Minnie on the point of the scar.

Mr. German: That is it, that she never saw him in her life.

The Court: Well, let's get this record. You have asked this witness if that was her testimony.

Mr. German: She said yes.

Redirect Examination by Mr. Hanford.

Q. Minnie, I will ask you if you did not testify at the same time and same place—I am reading from page 276 of the record——

Mr. German: Your Honor please, we object to him interrogating her about her former testimony.

The Court: Well, she has been interrogated now on cross examination with regard to certain testimony which she gave in Seattle, which it is conceived is contrary to what she testified here; now, anything in connection with that I think is competent.

Q. "Wasn't you trying to help identify your boy? A. He had no marks on him anywhere when I had him. Q. None at all? A. No, not a mark."

The Court: Was that your testimony in Seattle?

A. Yes, sir.

(Witness dismissed.)

Mr. German: Your Honor, at Leavenworth, when Mr. Penick was there taking depositions, the deposition of Richard Nichols, a colored man there in Leavenworth, was taken, and it was taken by us, Judge Allen questioned him and he was cross examined and then they introduced that deposition here, the defendants have, the Page interests, and while Judge Allen and I don't like to take the stand on a matter of impeachment I guess we will have to, Judge Bond laid the predicate a while ago and set a good example, so, Judge Allen and I will have to take the stand on that.

The Court: Let's get the case closed first.

Mr. German: I thought they were waiting.

Mr. Stuart: I am willing for them to break in.

And thereupon, W. P. Z. GERMAN was called as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. Mr. German, you are the same W. P. Z. German who was on the witness stand before? A. Yes, sir.

Q. One of the attorneys in this case? A. Yes, sir.

Q. Did you have a conversation in Leavenworth in 1915, just before the taking of depositions in Leavenworth in this case, with Dick Nichols in the National Hotel?

A. I think it was 1916, Judge.

Q. 1916, yes, sir? A. Yes, sir.

Q. Anyway just a few days before he testified as a witness?

A. I think it was a few days before we had the conversation.

Q. Was that the conversation at which Mr. Bagley and myself were present? A. Yes, sir.

Q. State whether at that time and place Dick Nichols stated, said in substance, that Rube Smith said in reference to his testimony in 1914 in the State case at Leavenworth, that Rube Smith went over the testimony of several of the other witnesses with him, and that he heard some of their testimony, and that Rube Smith said you just as well make some money out of this, everybody else is making money; and he went on the witness stand and testified to just what the others were testifying to, and that they paid him five dollars and promised him some more money and a trip to Oklahoma?

A. He stated that in substance, except that I do not remember that he stated that he heard some of the witnesses testify, but he did state that Rube Smith went over the testimony of the other witnesses with him, and the rest that you read.

Q. Did he state in that conversation repeatedly that he didn't know Minnie Atkins? A. He did.

Q. Did he further say in that conversation that he had talked to a number of witnesses who had testified in Leavenworth in 1914; that Sam Nash told him that he had gotten twenty-five dollars and a restaurant in Oklahoma for testifying? A. Yes.

Q. Did he further say that Charlie Anderson told him that he received fifteen or twenty dollars——

Mr. Stuart: Now, Your Honor, I couldn't tell what they were after until he got his evidence in. This Dick Nichols testimony was taken by the Government. You took the deposition yourself and took it at Leavenworth. It didn't suit the Government and we introduced it in evidence. Now, they are attempting to impeach the testimony of a witness they took at Leavenworth.

The Court: Now, how was the ground laid for all of this?

Mr. Allen: Your Honor please, we, after this conversation with Dick Nichols, we put him on the witness stand at Leavenworth.

The Court: Yes, and you have his testimony there now, did you ask him with reference to these things?

Mr. Allen: I am reading from it.

The Court: And did he deny those statements?

Mr. Allen: He denied those statements.

The Court: Now, so far as those statements relate to the other witness, in my judgment, it is bringing something in under the guise of impeachment which is probably more.

Mr. Allen: I will not inquire about those other matters.

Cross Examination by Mr. Stuart.

Q. You put him on the stand?
A. Yes, Judge, and we were surprised at his testimony.
Q. And examined him for the Government?
A. Judge Allen did.
Q. Judge Allen examined fully for the Government?
A. Not very fully, as fully as he could in the way he proceeded to testify.
Q. As fully as you could when you found out he wouldn't testify in your favor?

Mr. Allen: I object to the question.

A. We will not argue that Judge.

Mr. Allen: The testimony is in here and shows we did plead surprise at the outset of his testimony and laid the predicate.

The Court: Mr. Allen. I will take your word for it when you say it is there.

Redirect Examination by Mr. Allen.

Q. Mr. German, was any intimation given there by any one representing the Government that we desired him to change his testimony from what he had testified in 1914?

The Court: That would depend upon what was said. There is no suggestion here that you tried to make him.

Q. Did either of us, or anyone representing the Government there, say to him in substance that unless he did change his testimony that he would be sent to the penitentiary?
A. We did not.
Q. Was there any suggestion made about him being sent to the penitentiary?
A. No, sir, he talked very voluntarily and freely with us about the whole matter.

Cross Examination by Mr. Stuart.

Q. And made a sudden and mysterious flop on the stand? A. Well, judge, you are a better describer than I am. The record shows what he did on the stand.

(Witness dismissed.)

And thereupon, R. C. ALLEN was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. Judge Allen, were you present at the time Dick Nichols was in the National Hotel with Mr. Bagley, Arthur T. Bagley, Special Agent for the Government, located at Kansas City, and myself? A. I was.

Q. When we had a conversation with Dick. State whether in that conversation Dick stated to us frequently, several times, that he had never known Minnie Atkins? A. He did.

> Mr. Stuart: You understand, Your Honor, we are objecting to all of this, because it is incompetent, because the testimony was taken by the Government and they had an opportunity then and there in that deposition to impeach this witness.
>
> The Court: Well, I am receiving this on the statement of counsel for the Government that they pleaded surprise and asked this witness if he didn't make these certain statements and that they are tracking those statements. If they are not, it is not supported by the record.
>
> Mr. German: That is true, we are following this record, Your Honor.
>
> Mr. *German:* Well, assuming they are, Your Honor, they can't impeach their own witness in this way.
>
> The Court: Well, I have your objection. Objections noted, overruled, and exception.

Q. Did Richard Nichols state to us there on that occasion in the hotel, either what I shall now read, or this in substance: That Rube Smith went over the testimony of several of the other witnesses with him, referring there to the time he testified or just before he testified in October, 1914, in Leavenworth in the State Court case, and that he heard some of their testimony and that Rube said to him that he just as well make some money out of this, that everybody else was making some money, and that he went on the witness stand and testified to just what the others were testifying to and they paid him five dollars and promised him some more money and a trip to Oklahoma?

A. He did.

Cross Examination by Mr. Stuart.

Q. You had taken Nichols up to Codding's office, hadn't you Judge? A. Yes, sir, before that.

Q. Mr. Codding was the Warden of the penitentiary?

A. He was not at that time, he was subsequently appointed.

Q. What was he doing at that time?

A. Practicing law.

Q. Well, you had taken Nichols up in Codding's office?

A. Yes.

Q. Did you say anything to Dick there about what would be done with him if he didn't tell the truth?

A. Not a word; he was brought up there by Mr. Codding.

Q. Just answer my question. Did you say anything there about going to the penitentiary if he didn't tell the truth?

A. I don't think I ever mentioned the word penitentiary.

Q. Did you ask him if he knew what would become of him if he didn't tell the truth? A. No, sir.

Q. Did you exhort him to tell the truth?

A. I urged him to tell the truth after he told me he had testified falsely.

Q. Now, you have been the attorney for the Creek Nation, have you? A. Yes, sir.

Q. Been in their service all the time? A. Yes, sir.

Q. And been active in getting all the evidence you could in the case? A. Yes, sir.

Redirect Examination by Mr. German.

Q. Judge, I forgot to ask you: In the hotel when Dick Nichols was there, with you, Mr. Bagley, and myself, did either one of us make any statements to him with reference to his going to the penitentiary?

A. The word penitentiary was not mentioned in the conversation.

Recross Examination by Mr. Stuart.

Q. Judge, do you know in round numbers how much money of the Creek Nation has been spent in this case?

Mr. German: We object to that as improper, irrelevant, and immaterial.

A. I would like to answer that, Mr. German.

The Court: The witness wants to answer. I think the Court will decide with the witness and let him answer.

Mr. German: May I save an exception.

A. I am not able to give you the figures, Judge Stuart, but every cent that has been spent has been attached to my expense account by vouchers and those vouchers show for what the money was spent.

Q. I understand that?

A. And they are all on file with the Superintendent.

Q. But I asked if you could give me the approximate sum that you have spent? A. No, sir, it has been small.

Q. Has it been five thousand dollars? A. No, sir.

Q. Ten thousand dollars?

A. Why, no, it has been, I think outside of my personal expenses it has been considerably under two.

Q. What are your personal expenses?

A. The hotel and expenses to my own services in the case, I would be unable to give you.

Q. Well, has the whole expense been as much as twenty-five thousand dollars? A. Oh, no.

Q. Twenty? A. No, not five.

Q. Where are those vouchers, Judge, filed?

A. With the Superintendent to the Five Civilized Tribes, and the purpose for which every dollar was spent is shown by those vouchers.

Q. And in the conduct of this case, Bartlett and Buell have co-operated with you in the procuring of evidence, haven't they?

A. I don't know just what you mean by co-operating, Judge.

Q. Well, I mean that they have found witnesses and brought them to you?

A. They have reported to us from time to time the names of witnesses whom we have subsequently investigated.

Q. And you have asked them to furnish you whatever witnesses they could, didn't you?

A. No, what they have furnished have been voluntarily.

Q. But you invited the furnishing of witnesses didn't you?

A. We have received from them such information as they have turned over to us and made investigation.

Q. And they have been very active in procuring evidence also? A. I think so.

Q. Do you know who employed Sadie James and Mr. Robinson?

Mr. German: Your Honor, I think that all appears in the record from their cross examination.

The Court: The Judge can tell very quickly.

A. I don't know only what I have heard her say on the witness stand.

Q. Don't know personally. Do you know whether any statement was filed by Bartlett and Buell in Washington, showing the amount that they had expended in this particular case?

A. I understand they have.

Q. Do you know the amount? A. No, sir.

Q. Wasn't it about sixteen thousand and some odd dollars?

A. I don't know, Judge Stuart, I never read the statement. They told me they had filed it with the Secretary of the Interior.

Q. But you have forgotten the amount?

A. I never read the statement, Judge Stuart.

Redirect Examination by Mr. German.

Q. Judge Allen, have you had any investigators in the field in this case?

A. Not particularly confined to this case, I had Mr. McMillian; he has devoted the greater portion of his time to the Atkins case. Before Mr. McMillian went on it Mr. Cook was detailed to me by the Commissioner of Indian affairs. He was not paid out of Creek fund.

Q. He was paid out of other funds?

A. He was in the service of the Department of the Interior and was detailed to me for this work.

Q. Now, Mr. McMillian has made considerable investigation? A. Yes.

Q. And you know James L. Bruff? A. Yes, sir.

Q. He is special agent for the Bureau of Investigation of the Department of Justice?

A. Yes, sir, he has been working on the case.

Q. How long? A. I think nearly a year.

Q. Since sometime possibly in May, 1916, hasn't he?

A. Yes.

The Court: I don't think that will help me any.

Mr. German: I would like to ask the witness one other question. Your Honor may see fit to ask me not to inquire about this.

Q. Judge, what action if any have you taken with relation to the Quinton Garrett application to allot this land, this Thomas Atkins allotment?

A. I will say, Mr. German, when I brought this suit I had never heard, when I recommended the bringing of this suit, I had never heard of the Quinton Garrett interest, it hadn't developed. Afterwards as soon as Quinton Garrett filed and about that time, others filed on the Thlocco allotment and the River Bed, and other allotments in the Creek Nation. I immediately went to Congress and sought to get action——

Mr. Hanford: Objected to as not responsive to the question.

The Court: Just a moment; your activities Judge, with regard to the Quinton Garrett case—you say——

A. I went to Congress and sought legislation that would withdraw this land from allotment to Quinton Garrett. I was unsuccessful at the first session of Congress and then had an order prepared, and the President of the United States signed it, withdrawing the land by executive order, pending enactment of legislation by Congress, and during the session of Congress—the last session of Congress, I procured the passage of a bill withdrawing the land from allotment.

Q. Did that bill contain any express reference to Quinton Garrett?

A. It did; provided for payment of eight hundred dollars to him in lieu of allotment.

Q. Now, it is the Quinton Garrett you are referring to, is the same Indian Buell and Bartlett are claiming under in this matter? A. That is true.

Cross Examination by Mr. Hanford.

Q. Isn't this a fact that M. L. Mott, one of the attorneys for the *W*uinton Garrett interests assisted you in getting the passage of that bill?

A. Oh, no, he fought it vigorously.

Q. Isn't it a fact that he represented to you many times that the bill would be of an advantagge to him because of the prior filing and would shut out other attempted filings?

A. Why, Mr. Hanford, the committee records, that is the committee hearings for the year ending June 30th, 1915——

Q. Well, just answer my question, Judge.

A. Well, I am answering it.

The Court: That is not helping me any in this case.

A. He opposed it in a long argument before the Indian Committee on Indian Affairs.

Witness dismissed.

And thereupon, TAMS BIXBY, a witness produced on behalf of Minnie Atkins, et al., further testified as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Bixby while you were at Okmulgee enrolling Creek citizens with your clerks, was the Creek Attorney there?

A. Yes, sir.

Q. Did he frequently appear before your commission?

A. Yes, sir.

Q. Did he have an opportunity to appear when he desired?

A. Oh, certainly.

Q. Representing the Creek Nation? A. Yes, sir.

Cross Examination by Mr. German.

Q. Who was the Creek Attorney at that time, Mr. Bixby?

A. Mr. McKellop.

Q. Arthur? A. A. T.

Q. Yes, A. T. McKellop. Did he have any assistant there?

A. I don't know; there were several members of committees there, I don't know whether they were Mr. McKellop's particular assistants or not.

Q. The time you are referring to is the time when you were taking care of these unaccounted for names on the tribal rolls just before the original treaty was ratified?

A. Well, we were there at other times and he was there at other times.

Q. Yes, but he was there at that time? A. Yes, sir.

Q. Now, you say he had an opportunity to appear before you and any of the other force that were there?

A. Yes, sir.

Q. He did appear in cases before the Commission where there were contests, did he not, contests in the matter of enrollment?

A. Well, he appear- whenever he felt like it.

Q. Whenever he desired?

A. Whenever he desired, yes, sir.

Q. And in cases where they were contested enrollments where you would swear the witness and take their testimony down in shorthand, and so on, he as a rule conducted cases on behalf of the Creek Nation, didn't he?

A. That was his duty.

Q. Did Mr. McKellop do much of that kind of work?

A. Well, I wouldn't say it was much from my standpoint, but I expect it was much from the standpoint of an Indian officer.

Q. Yes, sir; he was an Indian?

A. Yes, sir, I understood so

Q. He had the appearance of being an Indian?

A. Yes, sir.

Q. And the Commission itself tried to do the very best it could in the matter of these enrollments, protecting the Government and the Indian and the tribes, didn't it?

A. That was our best endeavor, yes, sir.

> The Court: Who initiated the contests that were had, Mr. Bixby? Any particular official that did that?

A. No, sir, anybody was permitted to make a contest.

Q. When the Creek attorney appeared for those contests, contested enrollment cases, the record made up would show his appearance, would it not?

A. If it was taken down by a stenographer, yes, sir; not necessarily if it was not taken down. Of course, we had a good many cases where there was appearance by the tribal officials where there was no testimony taken.

Cross Examination by Mr. Hill.

Q. Mr. Bixby, was Mr. McKellop, a Creek Indian by blood?

A. I understood so, I don't remember now.

Q. He was well acquainted with the Creek people was he not?

A. I understood he was very well acquainted, yes, sir.

Q. And he had a committee of the Creek council serving with him whose duty it was to examine this roll as you were preparing it, was it not?

A. There was such a committee, yes, sir.

Q. That committee was made up of Creeks by blood, was it not? A. I think it was, sir.

Q. Men supposed to be very [] acquainted in the Creek Nation with the people who should go upon the rolls?

A. That is the theory as we understood.

Q. Did your officials and people working under you give Mr. McKellop every facility to see what you were doing—what work you were doing?

> Mr. Allen: We object to that; this matter was gone over.
>
> Mr. Stuart: Not this particular matter.
>
> The Court: Overruled.

A. Oh, yes.

Q. So that he knew what you were doing when you had a name under consideration, knew what you were doing?

A. Always had an opportunity to know.

Q. And you gave them what facilities you had for knowing? A. Yes, sir.

Recross Examination by Mr. German.

Q. Of course, Mr. Bixby, you handled a great many enrollment cases I believe you testified about that before?

A. Yes, sir, a great many.

Q. Yes, sir, and there was quite an office force engaged in assisting the Commission in this work? A. Yes, sir.

Q. And the tribal attorney and the committeemen that you referred to, were in and out of the office now and then and when they desired to take up any enrollment case with you, they did so? A. Yes, sir.

Q. But you are not prepared to say that they examined every enrollment case, are you, every card?

A. No, sir, I wouldn't say that; I couldn't say it.

Q. Mr. McKellop, or whoever was the Creek Attorney, at any particular time during the course of your work, did not stay with you and go over these cards, did they?

A. No, sir.

Witness dismissed.

And thereupon, F. B. FITE was called and sworn as a witness for and on behalf of Minnie Atkins, et al., in sur-rebuttal and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. F. B. Fite.

Q. Where do you live? A. I live in Muskogee, Oklahoma.

Q. How long have you lived in this country?

A. Since 1883.

Q. What is your business?

A. I am a physician and surgeon.

Q. How long have you been such? A. Since eighty-six

Q. Since '86. Graduate of any medical university?

A. Graduated from the Southern Medical at Atlanta, Georgia, it is a branch of the university, Emery University.

Q. Doctor, have you had any experience in obstetrics?

A. Yes, sir.

Q. Now, doctor, if you were to attend a young woman in child birth and there were no persons around from whom you could get information, would you make an examination of your patient? A. Yes, sir, do that anyway.

Q. Do that anyway? Now, Doctor I will ask you whether or not the first or subsequent labors are the most trying and dangerous, which is?

A. Well, the first labor is the most trying.

Q. The first labor is the most trying? A. Yes, sir.

Q. I will ask you whether or not the prudent physician endeavors to ascertain whether the child that the woman is having is the first child?

Mr. Pinson: Objected to as leading, if the Court please.

The Court: Overruled.

Mr. Pinson: Exception.

A. Well, it is his duty to find out the condition of the patient, whether or not she can give birth and the stage of labor she is in; and in doing that it is his duty to find out whether or not it is a primipara, that is first child, or what we call a multipara, one that has had children before; and second, it is his duty to find out the position of the child and find out the condition of the soft part as well as the bony part, see what trouble if any he is to encounter other than a normal labor.

Q. Now, Doctor, the laceration of the servic and the uterus more frequently occurs in first labors than they do in the second and third ordinarily?

A. They are unless there has been an operation, sewing up the servic of a previous labor.

Q. Unless there has been an operation? A. Yes, sir.

Q. Now, Doctor, suppose you were to attend a young woman in labor and you were to find by hand or finger examination of the uterus certain pronounced notches near the mouth of the servic and inside, what would you say had produced that?

A. I would reach a conclusion that she had had some lacerations of the servic and that in healing they had produced those notches; that would be my first mission.

Q. That would be your first mission?

A. And that she had given birth before.

Q. And that she had given birth before? A. Yes, sir.

Q. Doctor, are these notches in the servic indications to an expert physician that in the absence of some disease or some practice with instruments that a child has been born prior to that time?

A. Certainly, that something had come out of the uterus and naturally you would think it was a child.

Q. And do those notches follow lacerations from child birth?

A. Yes, sir, they follow lacerations unless they are repaired.

Q. Unless they are repaired? A. Yes, sir.

Mr. Stuart: That is all

Cross Examination by Mr. Pinson.

Q. Doctor, the question first asked you by Judge Stuart presupposed that there were no persons around to make inquiry of. Upon whom is that inquiry or to whom is that inquiry usually addressed as to whether a woman has had a child? A. Usually to the patient.

Q. You ordinarily accept her statement as true?

A. Well, it is worth something to the doctor.

Q. The purpose of ascertaining whether or not a previous labor has been had is then to elicit the history of that labor, is it not, in order that you may tell in advance whether you will probably encounter trouble in this labor?

A. Yes, sir, along that very line, that you would want to know whether she had had trouble before, and if she had had children and if there had been any trouble at that time; and if she had had an operation and if it had been instrumental, and things of that kind.

Q. Yes, sir, now Doctor, if you found that a woman had theretofore given birth to a child before or by any means, your next inquiry would be naturally the history of that particular labor wouldn't it?

A. Well, I might proceed—I am just judging from my own record, that I do—is to make an examination to see the stage of labor that my patient is in and the position of the child.

Q. Now, that examination, if made during labor, would naturally be made first for the purpose of ascertaining the position of the child and the stage of labor, wouldn't it?

A. Yes, sir.

Q. Now, if you had an opportunity to ask the patient or the husband of the patient, or the man you supposed to be the husband of the patient, whether there had been a prior child, would you naturally make a physical examination to determine that fact?

A. Yes, sir, I would make a digital examination to ascertain the stage of labor.

Q. But I mean to determine the particular fact as to a prior birth?

A. No, I wouldn't necessarily do it for that. That isn't very material whether she had had a child or not, because you have got to go through with whatever is there anyway, and the most important thing is to find the position, is to find out any obstruction and the condition of the child and stage of labor.

Q. Now, if there had been a peculiar history connected with the first labor, if there has been a prior labor, or if there has been any abnormal labor, that is the thing you want to know, isn't it?

A. Yes, you want to know about that.

Q. The examination that is made is primarily for the purpose of determining the bony structure, the condition of the soft part, and the position of the child, isn't that true?

A. Yes, sir.

Q. Is it natural, Doctor, in making that examination to ascertain, I mean in making that examination, do you naturally move the fingers in such a way as to ascertain whether or not there are notches on the servic?

A. Well, in examining a case, if you are in the first stage of labor and the servic isn't thinned out, the first stage of labor extends from the time the labor begins, dilation begins until there is full dilatation, that is the first stage of labor. And if you examine it before that time you naturally run up against the notches more distinctly than you would during the second stage when the womb itself has spread out thin, and before any tears have taken place in the servic, which usually occurs if there has never been a servic tear before.

Q. Now, if the fingers, Doctor, are put into the servic it is then that those notches are not as perceptible, as readily as if the fingers were run around the outside of the servic, isn't that true?

A. Well, these tears begin in the servic, the womb has a neck to it, you know.

Q. Yes, sir?

A. And we call those lacerations because in passing of the child's head it gives way; that will leave little notches there, leave four or five maybe on one side; unilateral, but they always leave little notches there, notches where the tissues tear and little places are left there which you afterwards sew up.

Q. Now, Doctor, where you feel those notches are in the mouth of the service?

A. Yes, right on the mouth of the servic.

Q. What I am getting at, if the fingers are inserted in the servic, or one finger, the tactical nerves do not come in contact with the notches themselves, the tip ends of the fingers?

A. Not unless you struck them as you went in. You probably would feel around to see what the condition is.

Q. You would be making that examination for the purpose of determining whether the notches were there or not?

A. Well, for anything that might be wrong.

Q. Would you ascertain that when the finger was inserted for the purpose of determining where the fontanelle was in determining the position of the child?

A. In the first stage of labor, ordinarily, you could hardly reach the fontanelle.

Q. The first stage of labor is the period of dilatation, is it not? A. Yes, sir.

Q. During the first stage of labor dilatation takes place at the mouth of the uterus, is that true? A. Yes, sir.

Q. The multipara dilates more rapidly at that point than the primipara?

A. Unless there has been bands to tie it down.

Q. I am speaking of the ordinary case?

A. Yes, they have easier labor.

Q. Now, Doctor, what has been your experience as to the development of the external os in the multipara, as to whether it is open ordinarily at the beginning of labor?

A. More so than a primipara.

Q. Doctor, the diagnosis of previous labor by mere digital examination while the woman is in labor is not a satisfactory diagnosis, is it?

A. Beg pardon, I didn't understand that.

Q. The diagnosis of a previous labor made from a digital examination of the servic, and that alone, while the woman is in labor, is not a satisfactory diagnosis, is it?

A. Well, I think you could tell, I believe I can, always have been able to tell whether or not to my satisfaction, as far as my recollection goes now as to whether or not a woman has been confined by the soft tissues.

Q. You mean to say you can determine whether there had been lacerations?

A. You will find the servic more open, and you don't get the fine particles of mucus membrane and feather edge condition that you do in primipara, because some of it has been torn away by child birth.

Q. I understand that there are numerous changes which take place at the birth of the first child apparent to the eye of the trained physician, or finger of the trained physician?

A. Yes.

Q. But the mere fact that the finger detects certain notches upon the servic and no other symptom whatever, would you immediately make the diagnosis of a previous labor without any other symptom?

A. Well, it would raise my suspicion that something had come out of that uterus, I wouldn't swear positively that she hadn't been——

Q. You wouldn't make a positive diagnosis on that one point?

A. If I should find this there and she had not had a child before I would look for tumors in that womb.

Q. This might be caused by an operation?

A. Yes, it could do that.

Q. And again the same condition might be caused by disease?

A. I can hardly imagine disease causing it unless it would be something of a cancerous character or specific disease that destroyed tissue.

Q. That would leave a similar condition?

A. It would be somewhat similar, there would be a loss of tissue there.

Mr. Stuart: That is all, Your Honor.

(Witness dismissed.)

The Court And that ends the testimony.

Government's Exhibit A-1.

C.T.D.

[See insert herewith for reproduction of photostatic copy of Creek Census Card No. 2707.]

Government's Exhibit A-2.

C.T.D.

[See insert herewith for reproduction of photostatic copy of page of 1895 Creek Pay Roll, Euchee Town.]

Government's Exhibit A-3.

320

Muskogee, Ind. Ter., March 1, 1902.

The Honorable,
The Secretary of the Interior,
Washington, D. C.

Sir:

The Commission transmits herewith, for your approval, partial roll of citizens by blood of the Creek Nation, numbered 7825 to 8312, inclusive, whose names have been regularly listed for enrollment on Creek Indian cards, numbered 2665 to 2877, inclusive, who were living on the first day of April, 1899, or born to citizens so entitled to enrollment, up to and including the first day of July, 1900, and then living, as provided by Act of Congress, approved March 1, 1901, and are found either upon the 1890 or 1895 authenticated Creek Rolls, or who are descendants of persons whose names are found upon said rolls, born since said rolls were made; or were ad-

Muskogee Ind Ter

CREEK Nation. CREEK Roll.

Card No. 2707
Field No. 2774

13	Atkins Thomas	10	M	1/2	1895	Euchee	213	White man		Minnie Atkins	1895 Euchee

[illegible]

([illegible] Office)

(Letter of May 1 1905 from the Commissioner to the Five Civilized Tribes directing action to be suspended in matter of issuing deed &c. heirs of No 1)

No. 7913 HEREON

[illegible] March 28, 1902.

CITIZENSHIP CERTIFICATE ISSUED FOR NO 1
JUN 17 1902

DATE OF APPLICATION FOR ENROLLMENT
May 23rd 1901

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Indian Census Card No. 2707.

Gabe E. Parker,
Superintendent for the
Five Civilized Tribes.

Feb 11 1915 CHD

Euchee TOWN.

NUMBER. Last.	Present.	NAME.				SIGNATURES AND MARKS.	SIGNATURE OF WITNESS.	DATE OF RECEIPT. 189
2	1	Nar-hee- Mungo	922	1337	5760	Nar-hee Mungo his x mark	Cornelius Carr	Sept. 24th ✓
6	2	Ka-la-wee	1337	1583				
7	3	Harlee		[illegible]				
8	4	Wiley		Dead ~~[illegible]~~				
9	1	Ed Scrumaker	507	2414	1440	S. W. Brown	Cornelius Carr	Sept. 24th ✓
10	2	Minnie Atkins	2015	√2055	5760	Minnie Atkins	Cornelius Carr	Sept. 24th ✓
11	3	Charlie Atkins	1659	2055				
12	4	Eliza (Atkins) error						
13	5	Thomas Atkins ~~[illegible]~~						
14	6	Harvey Atkins	1559	2055				
15	7	Nancy Atkins	2032	3466	~~[illegible]~~ 1440	Samuel W. Brown	Cornelius Carr	Sept 24th ✓
16	1	John Davis Det. [illegible]		1558	~~1440~~ 1440	S. W. Brown	Cornelius Carr	Sept. 24th ✓
17	1	N. G. Gregory	714	1823	7200	N. G. Gregory	Cornelius Carr	Sept. 24th ✓
18	2	Carrie Gregory	714	1823				
19	3	One Gregory (Error 2058 [illegible])						
20	4	Two Gregory						
1	5	Ara N. Gregory	714	1823				
2	6	Susie G. Gregory	714	1823				
3	7	Foster Gregory	714	1823	~~[illegible]~~ 1440	M. H. Brown	Cornelius Carr	Sept. 24th ✓
4	1	Jim Crow	~~2027~~	1822	~~1440~~ 5760	M. H. Brown	Cornelius Carr	Sept. 24th ✓
5	1	Jennie E. Quaque	917	1804				
6	2	Jennie E. Brown	917	1804				
7	3	Betsy Brown	917	1804				
8	4	Alice Brown	917	1804	~~5760~~			
9	1	Reese Harrison	~~2064~~	1801	1440 ~~1440~~ 843	Reese Harrison his mark	Cornelius Carr	Sept. 24th ✓
30	1	Nancy Drake		√1800	2880	Reese Harrison his mark	Cornelius Carr	Sept. 24th ✓
1	2	Benj. H. Drake	2716	1800	~~2880~~			
2	1	Rosa Warner	915	1803	2880	Reese Harrison his mark	Cornelius Carr	Sept. 24th ✓
3	2	Lucas Colbert	915	1803	~~2880~~			

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of page 1895 Creek Pay Roll, Euchee Town, covering Nos. 205 to 233, inclusive.

Gabe E. Parker,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

mitted to citizenship by the Commission to the Five Civilized Tribes, or by the United States Court on appeal under the provisions of Act of Congress approved June 10, 1896, or who are descendants of persons so admitted, born since such admission; or were duly and lawfully admitted to citizenship by the Creek National Council, or by the legally constituted Commissions and Courts of said Creek Nation, or who are descendants of persons so admitted, born since such admission.

Here follows, in same order as roll, table showing tribal enrollment (if found on rolls), and such other data as will enable complete identification of all:

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No.	Name.	Roll.	Roll.	Town.	Remarks.
7908	McGilbra, Annie	1890	1895	Tulmochussee	
7909	"De-con-sac"	1890	1895	Euchee	
7910	"Ja tah ko con cah ney"	1890	1895	Euchee	
7911	"Nicey"			Euchee	Dau. of 7909-7910
7912	Berryhill, Geo. Franklin	1890	1895	Broken Arrow	
7913	Atkins, Thomas		1895	Euchee	
7914	Ah la ah co ta ney	1890	1895	Euchee	
7915	Co ah	1890	1895	Euchee	
7916	Yar star co con thla ney	1890	1895	Euchee	
7917	Nettie	1890	1895	Euchee	
7918	Do saw cher		1895	Euchee	
7919	Cah co ke thlon	1890	1895	Euchee	
7920	Ar tar kin nay	1890	1895	Euchee	
7921	Bennett, Gertrude	1890	1895	Hitchete	
7922	Bennett, Lonie	1890	1895	Hitchete	
7923	Bennett, Leo E.		1895	Hitchete	
7924	Stidham, Clifford	1890	1895	Hitchete	
7925	Stidham, Albert P.	1890	1895	Hitchete	
7926	"Co yar kah"	1890	1895	Euchee	
7927	"Nellie"		1895	Euchee	
7928	"Lar-we-saw"		1895	Euchee	
7929	"San-nor-ka"	1890	1895	Euchee	
7930	Bonbee	1890	1895	Euchee	
7931	She qua bee	1890	1895	Euchee	
7932	Com me see	1890	1895	Euchee	
7933	Shar shon tey		1895	Euchee	
7934	Harjo, Chitto	1890	1895	Arbeka D. F.	
7935	Unussee, Barnosee	1890	1895	Okfuske D. F.	

339

The Commission, after having thoroughly examined the rolls of the Creek Nation and such evidence as has been submitted, touching the identification of the persons on roll herewith submitted, is of the opinion that all are entitled to enrollment as Creek citizens by blood, and should be so enrolled.

Respectfully submitted,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
....
Acting Chairman,
T. B. Needles,
Commissioner,
C. R. Breckenridge,
Commissioner.

Through the Commissioner of Indian Affairs.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Pages Nos. 320, 324 and 339 of letter press copy book No. 1. Transmitting Creek Roll Citizens by blood to the Secretary of the Interior for approval.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.
JRP Apr 25 1917

Government's Exhibit A-4.

(Blank 731.)

CREEK ROLL INDIANS BY BLOOD.

Number, 7913; Name, Atkins, Thomas; Age, 10; Sex, M; Blood, ½; Card No., 2707.

Department of the Interior, United States Indian Service, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the approved rolls of the citizens or members of the Five Civilized Tribes of Indians, and that the above and foregoing is a true and correct copy of that portion of one of said rolls as above described, covering the persons enrolled opposite the numbers indicated.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.
JRP Apr 25 1917

Government's Exhibit A-5.

29. Application No. ....

Department of the Interior, Commission to the Five Civilized Tribes.

CREEK NATION.

To the Clerk of the Land Office at Muskogee:

This is to certify that the name of Thomas Atkins (Roll No. 7913) Age 10 appear- on Creek Census Card of the Creek Nation, Field No. 2774 of record in the office of the Commission to the Five Civilized Tribes.

Muskogee, Indian Territory, June 27th, A. D. 1902.

W.H.A. Tams Bixby, Acting Chairman.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land in said tribes, and that the above and foregoing is a true and correct copy of Creek Citizenship Certificate issued for Thomas Atkins, Roll No. 7913.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

JRP Apr 25 1917

Government's Exhibit A-6.

Muskogee, Indian Territory, May 24, 1902.

A session of the Commission to the Five Civilized Tribes was held at its general office at Muskogee, Indian Territory, on the above date, there being present Commissioners Bixby, Needles, and Breckenridge.

* * * * * * * * *

Whereas, section three of the Act of Congress approved March 1, 1901 (31 Stat. 861), known as the Creek agreement, provides that:

> "All lands of said tribe except as herein provided shall be allotted among the citizens of the tribe by said Commission so as to give to each citizen an equal share of the whole in value as nearly as may be,"

And that

> " * * * There shall be allotted to each citizen one hundred and sixty acres of land,"

and

> " * * * each citizen shall select from his allotment forty acres of land as a homestead,"

and that

> " * * * if for any reason such selection shall not be made for any citizen, it shall be the duty of said Commission to make selection for him,"

and

> "Whereas, numerous citizens of said nation have made no selection of land for allotment and others have made selection of only a portion of the land to which they are entitled, and,
>
> "Whereas, after due notice given, many citizens of said nation have failed to make a selection of a homestead, therefore, be it
>
> "Resolved, That the acting chairman is hereby authorized and empowered by and on behalf of the Commission to allot to each citizen out of the lands of the Creek Nation not heretofore allotted or selected such an amount of land of at least average quality as will make the total allotment of each citizen one hundred and sixty acres, and to select a homestead for such citizens in all cases where a selection of a homestead has not been made by or on behalf of said citizen:
>
> Provided, That the allotment and selection of homestead so made for a citizen shall include improvements shown by the plats or records of the office to belong to said citizen."

On motion of Commissioner Breckenridge, duly seconded, the same was unanimously adopted.

* * * * * * * * *

There being no further business before the meeting the Commission on motion was adjourned.

(Signed) Tams Bixby, Acting Chairman.

Attest: A. L. Aylesworth, Secretary.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

(51)

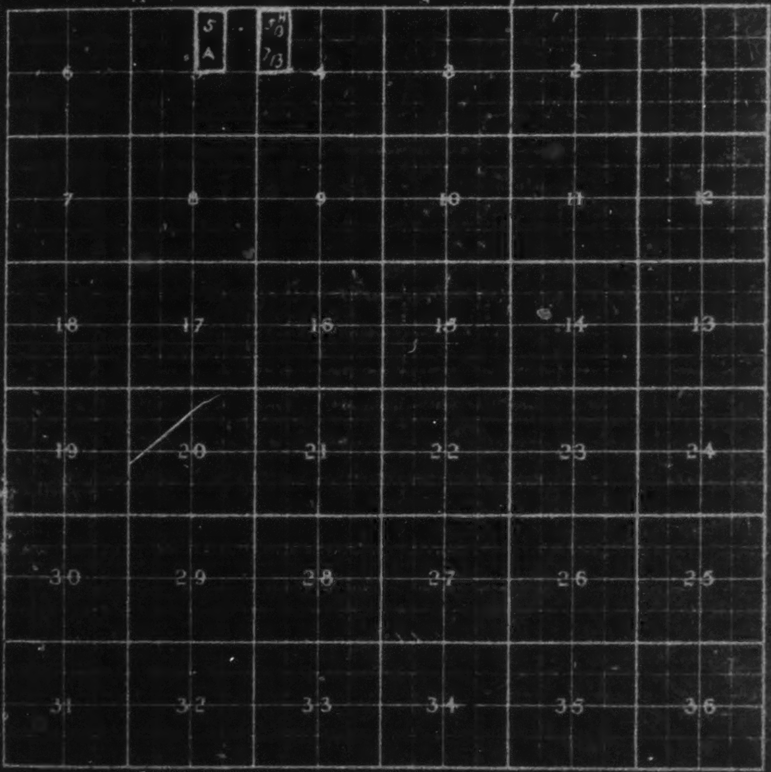
DEPARTMENT OF THE INTERIOR.

Commission to the Five Civilized Tribes.

Lot 2 40.15

Lot 4 41.16

Township No. 18 Range No. 7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Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes and that the above and foregoing is a true and correct copy of Memoranda Plat designating the land arbitrarily allotted to Thomas Atkins.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

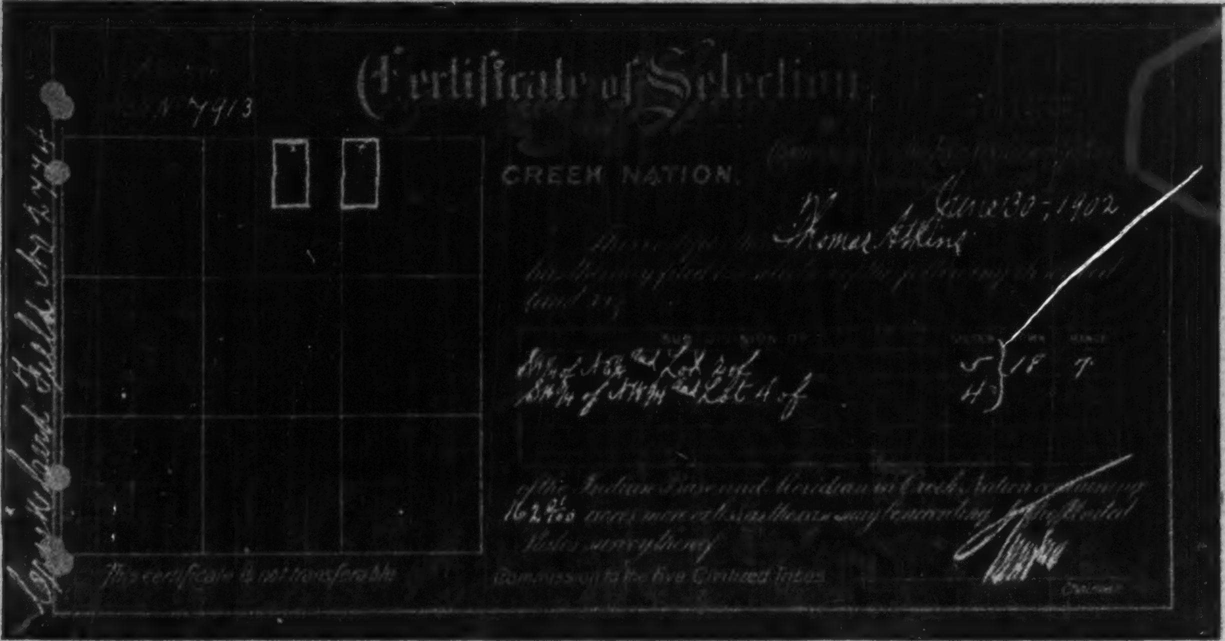
April 25 1917 JRP

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Allotment and Homestead designation of land in the Creek Nation for Thomas Atkins.

Gabe E. Parker,
Superintendent for the
Five Civilized Tribes.

Jul 10 1916 J.S.H.



Superseded Field No 2745

N° 7913

Certificate of Selection

CREEK NATION.

June 30 - 1902

This certifies that Thomas Atkins has this day filed for selection of the following described land viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
SW1/4 of NE1/4 and Lot 2 of	5	18	7
SE1/4 of NW1/4 and Lot 4 of	4		

of the Indian Base and Meridian in Creek Nation containing 162 91/100 acres more or less as the case may be according to the United States survey thereof

This certificate is not transferable

Commission to the Five Civilized Tribes

Chairman

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Allotment Certificate No. 16983.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

Department of the Interior.

Allottee's Roll No. 7913

Commission to the Five Civilized Tribes.

Selection No. 16983.

Muskogee, Ind. Ter. 6/20 1902

Thomas Atkins

Sub Division of	Section	Town	Range
[illegible]	5	18	7
[illegible]	11		

Original delivered to

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes and that the above and foregoing is a true and correct copy of Creek Allotment Certificate Stub Selection No. 16983.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

April 25 1917 JRP

Ret by P.M.	[illegible] [illegible], Wetumka	16957	5-8-03
Returned by P.M.	[illegible] Harjo, to him in person Jany 5-06	16958	〃
〃 〃 〃	[illegible] [illegible], Bristow	16959	[illegible] Bristow 4-26-05
	by Eufaula [illegible]	16960	5-8-03
	Johnson Harjo Holdenville	16961	5-8-03
	David Knight Morse	16962	〃
	Johnson Sampson Okfuskee	16963	〃
	Lulu Bowlegs, Wewoka	16964	〃
	Barney Marshall Morse	16965	〃
	[illegible] [illegible]	16966H	Returned by Postmaster
		16967H	〃
Deliv in person 12-27-05	to "John"	16968H	〃
	Delivered in person 12-30-05 to	16969H	〃
	Jersey.	16970H	〃
Retd by P.M.	[illegible] [illegible], Thurman	16971	〃
	[illegible] Holuby, Eufaula	16972	〃
	〃 〃 〃	16973	〃
	〃 〃 〃	16974	〃
	〃 〃 〃	16975	〃
	〃 〃 〃	16976	〃
	[illegible] [illegible]	16977H	Returned by Post master
	[illegible] Bristow	16978	〃
	[illegible] [illegible] [illegible]	16979	〃
Deld in person to 2-7-04	Millie Jones Bush Hill	16980	Retd by P.M. 5-7-03
	[illegible] Harjo, Senora	16981	Returned by P.M. 5-8-03
	[illegible] Yargee, Indianola	16982H	Returned by P.M.
	[illegible] [illegible], Muskogee	16983H	〃 〃 〃
	Amy Thurman	16984	〃
Deliv in person 4-6-04	Mollie Lucas	16985H	〃
9-5-04	Barney Thlocco Arbeka	16986	〃
Returned	Thomas Connor, Eufaula	16987	〃

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of page No. 193 Mailing Book of Creek Allotment Certificates.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

Creek Nation Exhibit No. 12.

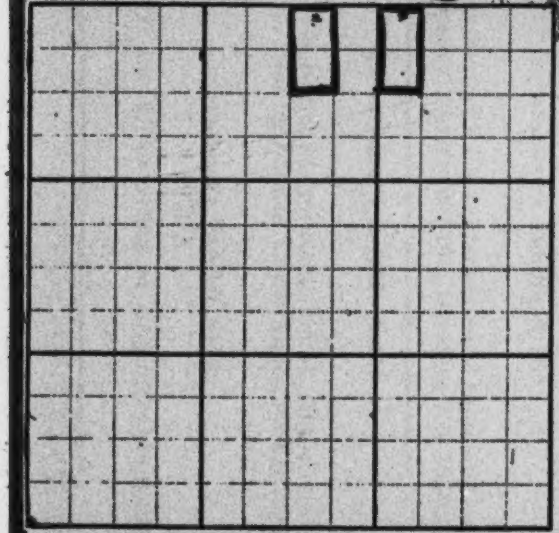
Allottee's
Roll No. 7913

Certificate of Selection.

Selection
No. 16983

CREEK NATION.

Commission to the Five Civilized Tribes.
Muskogee Land Office.
June 30th, 1902.



This certifies that Thomas Atkins has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
SE¼ of NE¼ and Lot 2 of	5	18	7
SW¼ of NW¼ and Lot 4 of	4		

of the Indian Base and Meridian in Creek Nation containing 162 61/100 acres more or less as the case may be according to the United States survey thereof.

Commission to the Five Civilized Tribes.
Chairman.

This certificate is not transferable.

Gov Ex 9-12 ETD

the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of excerpts from the minutes of a session of the Commission to the Five Civilized Tribes held May 24, 1902, at its general office at Muskogee, Indian Territory.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

JRP Apr 25 1917

Government's Exhibit A-7.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Memoranda Plat designating Thomas Atkins allotment.]

Government's Exhibit A-8.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Allotment and Homestead designation of land for Thomas Atkins.]

Government's Exhibit A-9.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Creek Allotment Certificate No. 16,983.]

Government's Exhibit A-10.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Creek Allotment Certificate Stub, selection No. 16,983.]

Government's Exhibit A-11.
C.T.D.

[See insert herewith for reproduction of photostatic copy of page No. 193, Mailing Book of Creek Allotment certificate.]

Government's Exhibit A-12.
C.T.D.

[See insert for reproduction of original Certificate of Selection, No. 16,983.]

Government's Exhibit A-13.

C.T.D.

Homestead Deed. (39) Creek Indian Roll, No. 7913.

THE MUSKOGEE (CREEK) NATION, INDIAN TERRITORY.

To all Whom These Presents Shall Come, Greeting:

Whereas, By the Act of Congres approved March 1, 1901 (31 Stats., 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, should be allotted among the citizens of said tribe by the United States Commission to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, The said Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of Thomas Atkins, a citizen of said tribe, as a homestead,

Now, Therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and authority vested in me by the aforesaid Act of the Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz:

Lot Four (4) of Section Four (4), Township Eighteen (18) North, and Range Seven (7) East,

of the Indian Base and Meridian, in Indian Territory, containing Forty One & 16/100 (41.16) acres, more or less, as the case may be, according to the United States survey thereof, subject, however, to the conditions provided by said Act of Congress and which conditions are that said land shall be non-taxable and inalienable and free from any incumbrance whatever for twenty-one years; and subject, also, to provisions of said Act of Congress relating to the use, devise and descent of said land after the death of the said Thomas Atkins; and subject, also, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200)

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation, have hereunto set my hand and caused the Great Seal of said Nation to be affixed this 14th day of April, A. D. 1903.

(Seal) P. Porter,

Principal Chief of the Muskogee (Creek) Nation.

Department of the Interior, Approved May 8 1903. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk. LRS

(Endorsed on back:) Commission No. 13662 Homestead Deed—(39) Muskogee (Creek) Nation to Thomas Atkins. Indexed. Compared. Filed for record on the 16 day May, 1903, at 4 o'clock P. M., and recorded in Book L, page 310. Commission to the Five Civilized Tribes, T. B. Needles, Commissioner. File No. 7017 Department of the Interior, Received. May 4 1903 Enc. No. .... of No. .... Indian Territory Division. Department Received Apr 27 1917 Encl. to No. 2666 Supt. Five Civilized Tribes.

Government's Exhibit A-14.

C.T.D.

Allotment Deed. (40) Creek Indian Roll, No. 7913

THE MUSKOGEE (CREEK) NATION, INDIAN TERRITORY.

To all Whom These Presents Shall Come, Greeting:

Whereas, By the Act of Congres approved March 1, 1901 (31 Stats., 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, should be allotted among the citizens of said tribe by the United States Commission to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, The said Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of Thomas Atkins, a citizen of said tribe, as an allotment, exclusive of a forty-acre homestead, as aforesaid,

Now, Therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and authority vested in me by the aforesaid Act of the Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz:

> The South West Quarter of the North West Quarter of Section Four (4), and the South West Quarter of the North East Quarter, and Lot Two (2) of Section Five (5), Township Eighteen (18) North, and Range Seven (7) East,

of the Indian Base and Meridian, in Indian Territory, containing One Hundred and Twenty and 85/100 (120.85) acres, more or less, as the case may be, according to the United States survey there thereof, subject, however, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200).

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation, have hereunto set my hand and caused the Great Seal of said Nation to be affixed this 14th day of April, A. D. 1903.

(Seal) P. Porter,

Principal Chief of the Muskogee (Creek) Nation.

Department of the Interior, Approved May 8 1903. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk. LRS

(Endorsed on back:) Commission No. 13663 Allotment Deed.—(40) Muskogee (Creek) Nation to Thomas Atkins. Indexed. Compared. Hold up see index Filed for record on the 16th day of May, 1903, at 4 o'clock P. M., and recorded in Book 12, page 310. Commission to the Five Civilized Tribes. T. B. Needles, Commissioner. File No. 7017. Department of the Interior, Received. May 4 1903 Enc. No. .... of No. .... Indian Territory Division Department Received Apr 27 1917 Encl. to No. 2666 Supt. Five Civilized Tribes.

Government's Exhibit A-15.

C.T.D.

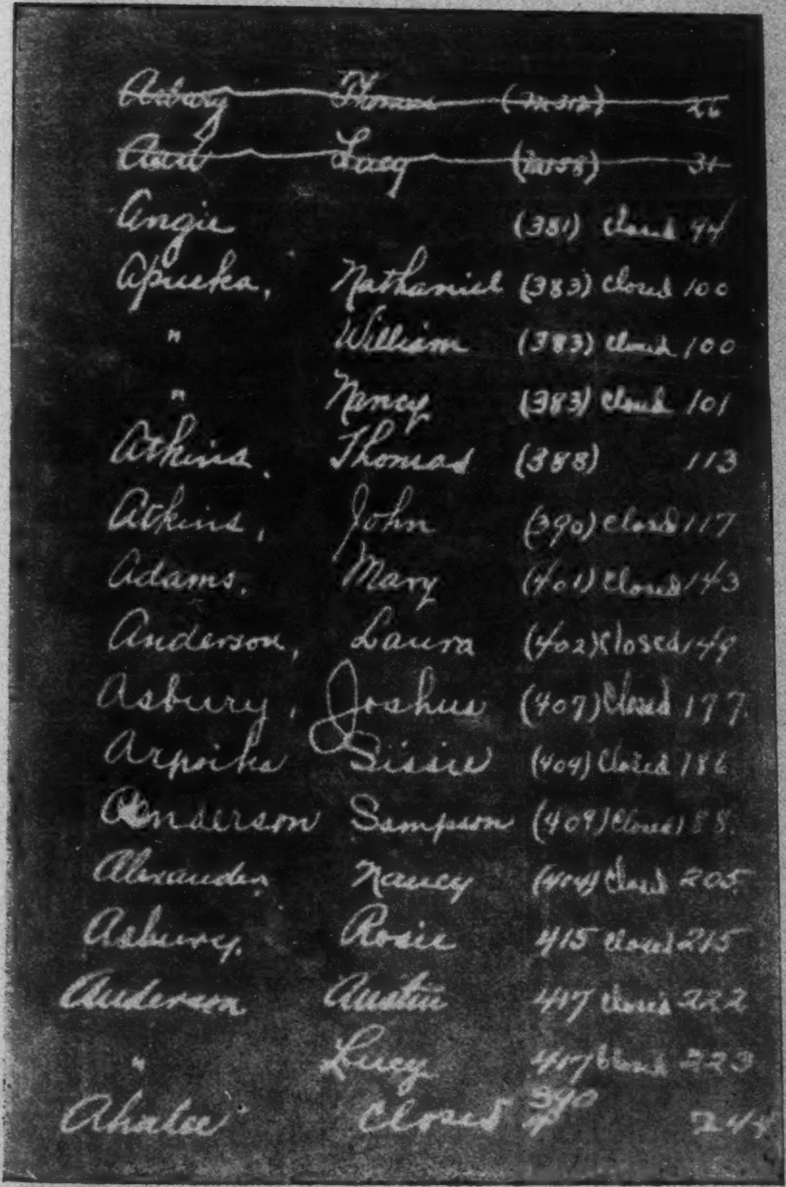
[See insert herewith for reproduction of photostatic copy of page 16, Index and Record Book of Delivery of Deeds for lands allotted in the Creek Nation.]

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Page 16, Index & Record Book of Delivery of Deeds for land allotted in Muskogee (Creek) Nation.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916



~~Asbury~~	~~Thomas~~	~~(m312)~~		~~26~~
~~[illegible]~~	~~Lucy~~	~~(m358)~~		~~31~~
Angie		(381)	closed	94
Apueka,	Nathaniel	(383)	closed	100
"	William	(383)	closed	100
"	Nancy	(383)	closed	101
Atkins.	Thomas	(388)		113
Atkins,	John	(390)	closed	117
Adams.	Mary	(401)	Closed	143
Anderson,	Laura	(402)	Closed	149
Asbury,	Joshua	(407)	Closed	177.
Arpoika	Sissie	(404)	Closed	186
Anderson	Sampson	(409)	Closed	188.
Alexander,	Nancy	(404)	closed	205.
Asbury,	Rosie	415	closed	215
Anderson	Austin	447	closed	222
"	Lucy	447	closed	223
Ahalee	Closed	390 4		244

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of One page Index Book to "M" Journal.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916 J.S.H.

Government's Exhibit A-16.

C.T.D.

Refer in reply to the following: M-388 EBM

Commissioners: Tams Bixby, Thomas B. Needles, C. R. Breckinbridge. Wm. O. Beall, Secretary.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Address only the Commission to the Five Civilized Tribes.

Muskogee, Indian Territory, May 11, 1905.

H. G. Hains,
Chief Clerk Creek Enrollment Division,
General Office.

Dear Sir:

Your File Cr. I. 2774. Deeds covering the allotment to Thomas Atkins, Creek Indian Roll No. 7913 are held by the Creek Allotment Division pending further instructions. This office has no notification of the death of said Thomas Atkins.

Respectfully,

Tams Bixby, Chairman.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of A letter from the Commissioner to H. G. Hains dated May 11th, 1905.

GABE E. PARKER,
Superinendent for the Five Civilized Tribes.

P.H. Jul 10 1916

Government's Exhibit A-17.

C.T.D.

[See insert herewith for reproduction of photostatic copy of one page Index Book to "M" Journal.]

Government's Exhibit A-18.

C.T.D.

[See insert herewith for reproduction of photostatic copy of page No. 113 of "M" Journal.]

Government's Exhibit A-19.

C.T.D.

[See insert herewith for reproduction of photostatic copy of one page of Index to Special Creek Memorandum Book.]

Government's Exhibit A-20.

C.T.D.

[See insert herewith for reproduction of photostatic copy of page No. 124 Special Creek Memorandum Book.]

Government's Exhibit A-21.

C.T.D.

Refer in reply to the following: Cr I-2774 HGH

Commissioners: Tams Bixby, Thomas B. Needles, C. R. Breckinridge. Wm. O. Beall, Secretary.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Address only the Commission to the Five Civilized Tribes.

Muskogee, Indian Territory, May 9, 1905.

Will Robison,
Muskogee, Indian Territory.

Dear Sir:

The Commission has been informed that you know the present address of one Minnie Atkins, whose testimony is desired in a matter pending before the Commission.

You are requested to inform the Commission as to the present address of said Minnie Atkins, if the same is known to you.

Respectfully,

T. B. Needles,
Commissioner in Charge.

Dont know W. R. Robison 9/10/1905

(Endorsed on back:) Commission to the Tribes. No. 24111 1905 Received May 11 1905 Entered Book .. page ..

7-124

C.7912 388 Thomas Atkins 769 1862-3.

[illegible]

[illegible] and [illegible]

[illegible] McKennon [illegible]

[illegible] 5-11-03

7-125

C 7205 388 Hyman Bruner 3418-19

Retn Chief FOD, 23466 d 5-10-08 reporting allottee

deceased Deeds in delivery filed Closed

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Page No. 113 of "M" Journal.

Gabe E. Parker,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916 J.S.H.

Anderson	Narto	Cld	2	127
"	Alma	Cld	"	128
"	Lottie	Cld	"	128
"	Charles	Cld	"	129
Asbury	Thomas		4	108
Artussee	Mary	Cld	"	121
Ard	John	Cld	5	14
Annie		Cld	"	95
Asbury	Mary	Cld	"	125
Anderson	Austin	Cld	"	133
"	Richard	Cld	"	[illegible]
Angie			7	[illegible]
Apueka	Nathaniel		"	93
"	William		"	94
"	Nancy		"	95
Atkins	Thomas		"	124
"	John		"	135
Adams	Mary		8	42
Anderson	Laura		8	41

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of One Page of Index to Special Creek Memorandum Book.

Gabe E. Parker,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916 J.S.H.

124

969

Opak 388 Atkins Thomas [illegible]
ordered by Ex Dean letter of 5/9/05
[illegible] copy letter filed hereunder
Slide 746 by Ch (McDermott missing)
5-10-05 Notified Ex Dean 5/11/05

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes and that the above and foregoing is a true and correct copy of Page No. 124, Special Creek Memorandum Book.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916 J.S.H.

Indexed N. A. Robison, W. R., Muskogee, I. T., May 10, 1905. States he does not know present address of Minnie Atkins. Creek enrollment.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of A letter from Commissioner in Charge to Will Robison dated May 9th, 1905.

GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

P.H. Jul 10 1916

Government's Exhibit A-22.

C.T.D.

Indexed Cr I-2774 371

. Muskogee, Indian Territory, May 9, 1905.

Noah Gregory,
Sapulpa, Indian Territory.

Dear Sir:

The Commission has been informed that Thomas Atkins is dead.

The law provides that in case of a deceased citizen, the lands and moneys to which such citizen would be entitled, if living, shall descend to his heirs and be allotted and distributed accordingly.

It is desired that you cause the enclosed form of death affidavit to be filled out and properly executed by some person, near relative preferred, who knows the date of said Thomas Atkins' death, and return it to the Commission in the enclosed envelope.

Respectfully,

....

1 D A Commissioner in Charge.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Page No. 371 of Letter press book No. 540.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

P.H. Jul 18 1916

Government's Exhibit A-23.

C.T.D.

M 388 HGH

Refer in reply to the following: Cr. I-2774

Commissioners: Tams Bixby, Thomas B. Needles, C. R. Breckinridge. Wm. O. Beall, Secretary.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Address only the Commission to the Five Civilized Tribes.

Muskogee, Indian Territory, May 9, 1905.

E. B. Miller,
Chief Clerk Creek Land Office.

Dear Sir:

A question having arisen affecting the citizenship rights of Thomas Atkins (deceased), on Creek Indian card, field No. C7913 2774, you are hereby directed to suspend action in the matter of issuing deeds to the heirs of said Thomas Atkins (deceased) until you are further advised.

Respectfully,
T. B. Needles,
Commissioner in Charge.

Deeds C13662-3 M 388—5/11/05

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter from the Commissioner in Charge to E. B. Miller, Chief Clerk Creek Land Office dated May 9th, 1905.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

P. H. Jul 10 1916

Government's Exhibit A-24.

C.T.D.

DF

DEPARTMENT OF THE INTERIOR

Office of Indian Affairs.

Washington, April 24, 1917.

I, C. F. Hauke, Acting Assistant, Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are true copies of the originals as the same appear in the files in this office.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, on the day and year first above written.

(Seal)

C. F. HAUKE,

Acting Assistant Commissioner.

(Stamps:) Office of Indian Affairs Received Aug 4 1916 83856 Received Supt. 5 Civ. Tribes Aug 11 1916 Enclosure to Dept. No. 5193 Gt. JSD 4. 16 1 C 30

Moty Tiger, Principal Chief; Maude D. Roberts, Private Secretary; G. W. Grayson, Interpreter. Probate Attorneys: Frank L. Montgomery, Muskogee; Wm. M. Harrison, Muskogee Joe H. Ford, Wagoner; Nat Ligon, Sapulpa; Alex. Johnston, Okmulgee; Lafayette Walker, Holdenville.

R. C. ALLEN
National Attorney for Creek Nation
Muskogee, Oklahoma
Room No. 209, Indian Office,

Washington, D. C., August 4, 1916.

Hon. Cato Sells,
Commissioner of Indian Affairs,
Washington, D. C.

My dear Mr. Sells:

I have the honor to report to you the recent finding of the allotment certificates and patents issued to and in the name of Thomas Atkins, together with certain records of the Commission to the Five Civilized Tribes showing the initiation of proceedings in 1905 looking to an investigation into the citizenship of Thomas Atkins and to suggest that the Secretary of the Interior has at all times since then, and now has, jurisdiction to complete said investigation, and in the event it is found by him that Thomas Atkins was not entitled to be enrolled and allotted, to strike his name from the rolls and refuse a patent to him or his alleged heirs.

On the 17th day of October, 1914, I reported to the Department of the Interior the facts upon which the Department of Justice was requested to, and did, bring an action in the United States Court for the Eastern District of Oklahoma to cancel the enrollment of Thomas Atkins and the allotment certificates and patents issued in his name. At that time the officers in charge of the records of the Commission to the Five Civilized Tribes were unable to find the allotment certificates or patents issued in the name of Thomas Atkins and it was, therefore, believed that they had been inadvertently delivered, and I so reported that they had been delivered. About two weeks ago these certificates and patents were found but out of their proper place, and the notations thereon led to the discovery of other records, not theretofore found, showing that in 1905 the Commission obtained information to the effect that Thomas Atkins was not entitled to be enrolled or allotted as a citizen of the Creek Nation and immediately the patents were recalled from the Principal Chief of the Creek Nation, to whom they had been forwarded for delivery to the allottee and were held up pending an inquiry which was then begun to determine whether or not Thomas Atkins was entitled to be enrolled and allotted. At the same time proper notations were caused to be made upon various records to insure against the delivery of said certificates and patents, and to evidence why they were held up.

For your information I am enclosing photographic copies of records showing the enrollment of Thomas Atkins, the certificates and patents issued in that name, and the proceedings to investigate his citizenship.

The Court in the case of United States vs. Minnie Atkins, et als., above referred to, wherein it is sought to cancel the enrollment of the name Thomas Atkins and the certificates and patents issued in that name, and wherein is involved the issue as to whether Thomas Atkins is a myth, has taken a bond to protect the successful claimant against the extraction and sale of oil from the lands, and, in my judgment, that feature of the case would not be affected by this proceeding. If the exercise of the jurisdiction of the Secretary is resumed for the purpose of completing the investigation begun in 1905, in view of the recent discovery of these records, I feel sure that the United States Court for the Eastern District of Oklahoma, would, upon being advised of the procedure before the Secretary and the consideration prompting him to further act at this time, postpone final action in said cause until the jurisdiction of the Secretary has been exhausted.

I, therefore, recommend that you immediately present these facts to the Secretary of the Interior with the request that he cause a notice to be sent to all parties claiming an interest in this allotment to show cause why the enrollment of Thomas Atkins and the allotment certificates and patents, now in the possession of the Superintendent for the Five Civilized Tribes, should not be cancelled, or, if properly issued, to whom the said certificates and patents should be delivered.

In view of the fact that the parties in possession of this property are under a surety bond of $900,000 to answer to the successful party in said litigation for the proceeds from the sale of all oil and gas taken from same and damages caused to same, I urge that a hearing be granted at as early a date as, under the circumstances, is deemed practicable.

Very truly yours,

R. C. Allen,
Creek National Attorney.

RCA/H.

(Stamps:) Docket Room Solicitor's Office Oct 24 1916 Dept of the Interior Office of Indian Affairs Received Dec 15 1916 128088

21

C 45

Moty Tiger, Principal Chief; Maude D. Roberts, Private Secretary; G. W. Grayson, Interpreter. Probate Attorneys: Frank L. Montgomery, Muskogee; Wm. M. Harrison, Muskogee Joe H. Ford, Wagoner; Nat Ligon, Sapulpa; Alex. Johnston, Okmulgee; Lafayette Walker, Holdenville.

R. C. ALLEN
National Attorney for Creek Nation
Muskogee, Oklahoma

The Honorable,
The Secretary of the Interior.

October 23, 1916.

Sir:

In my letter of August 4, 1916, and the letter of Hon. Gabe E. Parker, Superintendent for the Five Civilized Tribes, of August 12, 1916, to the Commissioner of Indian Affairs, which formed the basis for the proceeding now pending before you in the matter of the application to strike the name of Thomas Atkins from the approved roll of Creek Indians and cancel the allotment certificate and patents issued in his name, attention was called to the recent finding of the original certificate and allotment and homestead deeds issued to and in the name of Thomas Atkins and also the finding of certain other records in the office of the Superintendent for the Five Civilized Tribes, showing that the right of Thomas Atkins to be enrolled and allotted as a member of the Creek Tribe of Indians was questioned by the Commission in 1905, and that said Commission, at that time, received, from a source evidently regarded as reliable, information that Thomas Atkins died in 1879, and was, therefore, not entitled to receive an allotment of lands in the Creek Nation, and thereupon the said Commission directed the Principal Chief to return the allotment and homestead deeds, which had been forwarded to the Principal Chief of the Creek Nation for delivery to the allottee, and said Commission also directed proper entries to be made in the various records of said office which would evidence the fact that an investigation was being made into the right of Thomas Atkins to enrollment, and that the deeds were to be held up until such time as their delivery should be directed by the said Commission.

In both of the letters referred to, your attention was called to the fact, and I now reiterate same, that the original certificate and deeds and the other records above referred to were found in the office of the Superintendent for the Five Civilized Tribes by Mr. James L. Bruff, Special Agent of the Department of Justice, but a short time before your attention was called to the finding of same in my letter of August 4th.

I now desire to invite your attention to the facts upon which we base our contention that Thomas Atkins was not entitled to be enrolled as a citizen of the Creek Nation. In a recent report to the Commissioner I recited the facts with reference to the Creek County cases as follows:

> "On the 23rd day of July, 1913, there was prepared and filed in the Office of the Clerk of the District Court in and for Creek County, Oklahoma, a petition in a certain cause styled
>
> > Nancy Atkins, an incompetent, by Micco T. Harjo, her legal guardian and next friend, Complainant, vs. H. U. Bartlett, A. A. Hammer, Gypsy Oil Company. a corporation, William S. Murphy, Wilbur M. Morris, W. W. Walton and Ellis H. Hammet, Defendants;
>
> that it was alleged in said petition that Thomas Atkins was a citizen of the Creek Nation or tribe of Indians, duly enrolled upon the rolls of the Commission to the Five [], and as such citizen there was allotted to him the

lands described in complainant's bill; that the said Thomas Atkins died in Wagoner, Oklahoma, about the year 1903 or the year 1904, leaving surviving him, as his sole and only heir at law, Nancy Atkins, his mother; that subsequently amended petitions were filed alleging, in substance, insofar as the claim that Nancy Atkins is the mother of Thomas Atkins, the matters and things alleged in the original petition; that in answer to the second amended petition the defendant in said action, the Gypsy Oil Company, for its answer admitted that Thomas Atkins was a citizen of the Creek Nation or tribe of Indians and duly enrolled as such; admitted the execution and delivery of a certain deed purporting to have been executed by Minnie Atkins to H. U. Bartlett, and claimed rights in and to said allotment by virtue of conveyance made to it by said H. U. Bartlett; that further answering said petition the Gypsy Oil Company alleged that Minnie Atkins was the mother of Thomas Atkins and that Nancy Atkins owned no interest in said allotment; that the issues thus joined by the pleadings in said cause presented for determination by the Court the question of whether Nancy Atkins was the mother and heir of Thomas Atkins, or whether Minnie Atkins was the mother; that after hearing all of the evidence in said cause, upon a final trial thereof, and on or about the 26th day of February, 1914, the Court rendered judgment finding that Thomas Atkins was the son of Nancy Atkins, and that the deed purporting to have been executed by Minnie Atkins to H. U. Bartlett was a forgery; that thereafter motions for a new trial were regularly filed and final judgment of the Court overruling said motions for a new trial were entered on June 20, 1914, and thereafter said cause was appealed to the Supreme Court of Oklahoma where it is now pending, and which appeal is being prosecuted at this time, by Charles Page and Minnie Folk; that subsequent to the final determination of the issues involved in the action above referred to in the County Court of Creek County, Oklahoma, various suits were instituted between Nancy Atkins and those claiming under her, and Minnie Atkins and those claiming under her, in which interlocutory orders and decrees have been made and that the right of Charles Page and Minnie Atkins to the possession of said land has been involved in a turmoil of litigation at all times since Minnie Atkins first discovered that an allotment of land was arbitrarily made by the Commission to the Five Civilized Tribes to and in the name of Thomas Atkins."

Upon the question of Thomas Atkins being the son of Minnie Atkins, Minnie Atkins has testified upon four different occasions, and we have taken the depositions of more than a hundred witnesses.

From the investigations heretofore made and the depositions of witnesses taken, we have established the following facts:

First: That Minnie Atkins is not the mother of Thomas Atkins.

Second: That Charles Page, R. A. Josey and Frank Long knew that Minnie Atkins was not the mother of Thomas Atkins when they acquired the lease from her covering the allotment made to and in the name of Thomas Atkins.

Third: That Minnie Atkins told Bettie Mann and Frank Long, Agents of Charles Page and R. A. Josey, that she was not the mother of Thomas Atkins before said lease was executed.

Fourth: That subsequent to the time when Minnie Atkins told both Bettie Mann and Frank Long that she was not the mother of Thomas Atkins Charles Page agreed to take a lease from her and to pay her $10,000.00 as a bonus consideration therefor; that it was understood and agreed that said bonus was to be paid by two checks of $5,000.00 each, and that both checks were to be delivered to E. C. Hanford; that Mr. Hanford was to cash one of the checks, retain $3,000.00 thereof as advanced fee and expenses as Attorney for Minnie Atkins, and pay the remaining $2,000.00 to Captain McNabb, as advanced fee to him as Trustee for Minnie Atkins, and that the remaining $5,000.00 was to be paid to Minnie Atkins after she had testified in a proceeding hereinbefore referred to to being the mother of Thomas Atkins; that in direct compliance with said agreement Mr. Hanford cashed one check, paid Captain McNabb $2,000.00 and retained $3,000.00 and on July 21, 1914, Minnie Atkins went to Sapulpa, Oklahoma, and there gave testimony to the effect that she was the mother of Thomas Atkins; thereafter the check for $5,000.00, which was held by Mr. Hanford, was cashed and the proceeds placed on deposit to the credit of Minnie Atkins in a Tulsa bank.

Fifth: That Minnie Atkins testified at Sapulpa upon the occasion referred to that she gave birth to Thomas Atkins at Leavenworth, Kansas, just after leaving the employ of Major John Stafford, which was in July, 1886, and that he was born at the Sisters' Hospital; that thereupon and immediately Hanford, with Minnie and her husband, Harry B. Folk, went to Leavenworth for the purpose of ascertaining if she could be corroborated; that they found there that there had never been a confinement case in the Sisters' Hospital until long after 1886; they also discovered, in some way, that Charles Peterkin, who was living with Minnie Atkins at that time, was still alive and living in Boston, Massachusetts. His address was obtained and Mr. Hanford went to see him. From the investigations made at Leavenworth and the conversation had with Mr. Peterkin, it was learned by them that Minnie Atkins did have a child just after leaving the employ of Major John Stafford, but that this child was born at the home of Mrs. Woods; that he lived only two weeks and was buried in Mt. Muncie cemetery, and that his name was not Thomas Atkins. Mr. Peterkin recently testified that he told Mr. Hanford all of the facts with relation to the birth of this child and that he was the first child born to Minnie Atkins. Concerning this matter your attention is called to the following letter written by Mr. Hanford to Charles Peterkin, dated November 23, 1914:

"E. C. Hanford,
Attorney-at-Law,
Colman Building.

Seattle, Washington, Nov. 23, 1914.

Dear Peterkin:

I want to thank you again for keeping me informed in regard to the other people writing you. I should have written you long ago but have been in court almost every day since my return to Seattle, or, if not in court, getting a case prepared for trial.

This man Rosser, who wrote you, is attorney for some people who laid claim to Minnie's land under the belief that she was dead, or, at least, that she would never be found. She set up a fictitious claim in behalf of Minnie's sister by asserting that she was the mother of Minnie's child.

Minnie was very much amused when she learned that I had gone to you for information regarding the birth of this child. She had previously told me that you had no knowledge of the matter and that she had scrupulously kept the matter from you and from everyone else that she was connected with after the child's birth. The child was born in the town of Leavenworth before she ever got acquainted with the Army post. She was quite a character about Leavenworth for a couple of years and after she got away from there she staid away in so far as she allowed other people to find out.

It was at that time that she started her system of keeping her past a complete mystery to all who knew her. You know that, until this case came up, she had not for years mentioned your name or the name of Harrison to anyone. No (one) connected with her knew her origin or anything regarding her past. Even her present husband was entirely ignorant regarding her. That she had had children was totally unknown.

In the same way, while you were connected with her, she had a little son playing around in Leavenworth. He was about a year and a half old before Minnie went out to the post.

We have taken the deposition of about forty people in the town of Leavenworth who knew Minnie, knew the child and all about the time it was born. Minnie's friends kept the child in Leavenworth until he was about twelve years old. He was known by the name of Thomas Atkins, and everyone knew that he was part Indian and that Minnie was his mother.

It seems that it was Oliver who got Minnie to go out to the post. She went with him sometime before she met you. Dozens of people knew her there and know all about her and the child. People would recognize her on the street. She was better known in the town than she ever was out at the post.

She is back at home now, here in Seattle, living quietly with her husband and trying to recover from the excitement of her renewing old associations in Leavenworth and trying to again forget it all. She has grown to be of very nervous temperment and to go back over her experiences of thirty years ago and have people find out all about her past is very trying to her. We had her in the hospital for a week in Leavenworth suffering from nothing but nerves.

The details of Minnie's history after she went out to the Army post at Leavenworth do not concern these people and they have no business inquiring into that part of Minnie's history. She certainly ( ) entitled to keep private anything that is not involved in the case. But it is just like those people to try to nose into something that does not concern them. If you reply to their letter at all, I wish you would just tell them that Minnie did not inform you of the incidents of her life prior to the time you met her and that you consider what took place afterwards a private matter which you do not intend to have them inquire into.

How about that cold weather up in Boston? You ought to be having some of it by now. Nothing but rain out here—not pleasant but better than snow and icy cold by a whole lot. Now don't write and tell me that you are having an Italian climate, etc.—I know what winter is in New England. Just the same, I would like to have a little taste of it—only enough to make my blood tingle a bit.

Don't know whether I shall ever get to Boston again or not, but if I should I'll look you up and we can have that lunch time together and a trip out to the beach or something. You turned me down on it last time and I really believe the days vacation would have done you good.

So long Peterkin—be good, and don't forget to write me if those people down there keep butting in.

Yours for the Army and Navy forever.

(Signed) E. C. Hanford.

Could not mail this at time of writing same as I misplaced your address. ECH."

Sixth: Learning that the testimony of Minnie Atkins at Sapulpa could be proven to be false by record testimony, Page and his Agent, Long, conceived the idea of employing Sadie James, who had theretofore worked on the case, in an effort to find Minnie Atkins for H. U. Bartlett and whose occupation was that of proprietress of a notorious dive in Tulsa, commonly known as the "Bucket of Blood," which name was given the place because of so many killings and cutting scrapes taking place there, Sadie herself having killed two men at the place. Page had already employed one of Sadie's working partners, Bettie Mann, who was at the time under a sentence of seven years for forgery. The employment of Sadie after conference with Page at his office and later that night in his private park was by contract entered into August 20, 1914, in the form of an escrow agreement, which is in words and figures as follows:

"No. 362

The within check signed by Gem Oil Company, in sum of $1000.00 payable to Sadie James, to be delivered by undersigned to Sadie James when witnesses furnished by her have testified in land suit wherein Minnie Folk, nee Atkins, is *seeking possession of allotment in Creek Nation of Oklahoma* of her son, Thomas Atkins, and when Minnie Folk has gained possession of said land, and when oil and gas lease held (by) Chas. Page and R. A. Josey has been declared valid, and when Page and Josey are in legal possession of said land; and not until said lease has been declared valid.

In addition to payment of sum mentioned Chas. Page and R. A. Josey are to pay all expenses and fees of witnesses, to be produced by Sadie James, said expenses not to exceed sum of $500.00.

In event that Chas. Page and R. A. Josey are not declared legal owners of oil and gas lease covering land of Thomas Atkins, then the inclosed check is to be returned to them.

The First National Bank of Tulsa,
by E. W. Bradshaw.

The above stipulation is this 20th day of August, 1914, agreed to.

(Signed) Sadie James."

That after her employment Sadie James told Page that the mistake he had made was in having Minnie "go to Sapulpa and tell that lie about Thomas Atkins being born at the Sisters' Hospital; that he might have known that those Sisters would never swear to a lie for him"; that she, Sadie, intended to have him born at the home of Granny Letcher in Leavenworth; that Granny Letcher, during her life time, ran a notorious house of ill fame in Leavenworth where both whites and negroes congregated for immoral purposes; that Granny was dead and there would be no one by whom it could be proven that the child was not born there, except Walter Banks and Sam Nash, and that they, being negroes with the usual traits of character moulded out of such environments as they had been brought up under, could be bribed to say that Thomas Atkins was born at their home and that they knew him; that Page then asked if Sadie James knew a negro lawyer at Leavenworth by the name of Dennis Jones; she told him that Dennis was her side partner; that Page then said that he had been told by a friend of his living at Leavenworth that Dennis had been a constable, policeman, lawyer, and a politician and that he was an awfully shrewd man; that Sadie agreed that she could and would get him, Dennis, and also Rube Smith, who always worked with Dennis. This was done and contracts were entered into with both of them, Dennis to receive $10.00

per day salary, not exceeding $5.00 per day expenses, and $500.00 if it should be shown to the satisfaction of the trial court that Minnie Atkins was the mother of Thomas Atkins. Rube Smith, who is a negro constable, was to receive the same, except that his salary was to be only $5.00 per day. Thereupon, this trio entered upon their duties and in October, 1914, produced about twenty witnesses, who gave their depositions at Leavenworth, in which they all testified that Minnie Atkins gave birth to Thomas Atkins before she ever went to Ft. Leavenworth, that the child was born at the home of Granny Letcher; that Minnie Atkins stayed there until the child was about a year and a half old and then went away; that Thomas Atkins continued to live at Granny Letcher's until he was about twelve or fourteen years old and then disappeared.

Seventh: That Minnie Atkins thereupon, and on October 22, 1914, gave her deposition in Tulsa, Oklahoma, at the office of Rice & Lyons, attorneys for Charles Page, after she had spent sometime at the home of Mr. Page, in which she testified substantially as had all of said witnesses. She said, at that time, that she gave birth to Thomas Atkins at Granny Letcher's before she even went to Ft. Leavenworth; that after working for Hyde she went to Granny Letcher's and stayed there about a year and a half and then went to Ft. Leavenworth, where she worked for a year and a half for Grodevant, then one year for Stafford, then went to Ft. Leavenworth and that Thomas Atkins was the first and only child born to her at Leavenworth or Ft. Leavenworth.

Eighth: That after the taking of said deposition the Government brought this action to cancel the Atkins allotment upon the ground that the allottee never existed, and thereafter made an application for the appointment of a Receiver; that at said hearing we produced record evidence of the birth, baptismal and death of Robert L. Peterkin, after which Minnie Atkins testified again, at that time stating that Thomas Atkins was born to her between the time she worked for Hyde at Leavenworth and Grodevant at Ft. Leavenworth, and that she stayed around Granny Letcher's about a year and a half after she left Hyde's before she went to Ft. Leavenworth.

Ninth: Subsequent to the receivership hearing and before Giles A. Penick, Special Examiner, we took the testimony of Mrs. Foy, a daughter of Mr. Herbert Grodevant, who produced an expense account of her father, showing that Minnie Atkins began working for him at Ft. Leavenworth on October 14, 1884, which was only three months after she left

Carlisle, during which three months she worked at Hyde's; that with the exception of two weeks in June, 1885, she worked continuously for Grodevant from the time of her employment in October, 1884, until September, 1885, after which time she went to work for Major Stafford. Minnie then testified before the Examiner in Seattle that she gave birth to Thomas Atkins between the times she worked for Grodevant and Stafford. We then took the depositions of the Staffords, who testified that Minnie Atkins came to work for them on September 15 or October 15, 1885; that she was the picture of good health and that she was discharged in July of next year, 1886, because she was in a pregnant condition. We then proved by Dr. Carpenter, who attended Minnie Atkins when Robert L. Peterkin was born, by a daughter of Mrs. Ward's and by Charles Peterkin, the alleged father of Robert L. Peterkin, that this child, Robert L., was born July 31, 1886, and was a fully developed child.

Tenth: Having shown conclusively that Thomas Atkins could not have been born between the time Minnie Atkins worked for Grodevant and Stafford, the defendants then put on a number of witnesses at Leavenworth to prove that Thomas Atkins was born on May 31, or June 1, 1885, at Granny Letcher's, while Minnie was working for Grodevant.

Eleventh: Many witnesses testified at Leavenworth that Minnie Atkins was not in a condition of pregnancy at any time during the time she worked for Mr. Grodevant and also that Lillie White was living in the house where Minnie claims this child was born until late in the Fall of 1885 and that Granny Letcher did not live there until after the house was vacated by Lillie White.

More than a year ago Mr. Frank L. Montgomery, United States Probate Attorney, went to Seattle to see Minnie Atkins. In the presence of Captain McNabb, her trustee, and E. C. Hanford, Minnie Atkins, at that time, told Mr. Montgomery that she was not the mother of Thomas Atkins; that the Thomas Atkins, whose name appears upon the rolls, was, in fact, her father, whose death occurred, as we are informed, about 1878. She stated that she caused the name of Thomas Atkins to be enrolled, in order that she might receive his per capita payment that would be due her as his mother when the Creek payment was made in 1895 and that Thomas Atkins, being the name of her father, she gave the name to the Commission as her child. At that time she reduced to writing and signed a statement, embodying the substance of her conversation with Mr. Montgomery and by agreement with Mr. Montgomery this signed statement was turned over to

Captain McNabb, to be delivered to Mr. Montgomery when he could give assurance that Minnie would not be prosecuted for having falsely testified in the Courts of Oklahoma, concerning the birth of this child. On the following day she repudiated this conversation and Captain McNabb declined to turn same over to Mr. Montgomery. Before, however, the repudiation of this conversation, Mr. Montgomery, at the request of Minnie Atkins, went with him to a bank in Seattle, where she drew a draft on a bank in Tulsa, Oklahoma, covering the amount of her time deposit, forfeiting the interest, in order that she might withdraw same from the control and reach of Charles Page.

I feel confident that we will be able to show, by other witnesses, that Minnie Atkins has repeatedly stated that this whole case is a frame-up and that she will have to continue to give false testimony, in order to avoid prosecution for the many false statements she has made under oath concerning the birth of Thomas Atkins.

I have detailed the facts concerning the birth of Thomas Atkins as a child of Minnie Atkins. I now desire to call your attention briefly to the facts with reference to the birth of Thomas Atkins as a child of Nancy Atkins.

In the proceedings hereinbefore referred to in the district court for Creek county, Oklahoma, Nancy Atkins gave her deposition before C. B. Lockwood, a Notary Public at Sapulpa, Oklahoma, on February 9, 1914, wherein she testified that she was not the mother of Thomas Atkins; that the only child born to her was a girl and that she was born dead; that later and on or about February 27, 1914, at Sapulpa, Oklahoma, she testified as a witness in her own behalf in the district court aforesaid in substance and to the effect that she gave birth to Thomas Atkins at Wagoner, Oklahoma, in the Creek Nation, and that he died subsequent to the time of allotment. I am confident that we will be able to establish, conclusively, that the only child Nancy Atkins ever gave birth to was a girl and that she was born dead, or died within a few hours after her birth. I deem it unnecessary to comment upon the claims of Thomas Atkins, Henry Carter, alias Thomas Atkins, or the various other living persons now claiming to be the original Thomas Atkins, as each of these parties claims to be the son of Minnie Atkins and the identical boy whom she claims was born at the home of Granny Letcher in Leavenworth, Kansas, as the facts with reference to the claim of Minnie Atkins apply with equal force to the claims of these people.

I have set out in this letter, which I desire treated as an amended and supplemental application to cancel the enrollment of Thomas Atkins and the allotment certificate and deeds made out in his name, the facts upon which we rely at considerable length, for the reason that the proceeding initiated before and by the Commission to the Five Civilized Tribes in 1905 involves the issue of whether, or not, Thomas Atkins was entitled to be enrolled and allotted as a citizen of the Creek Nation. I am confident of being able to establish to your satisfaction the truth of the statements contained in this letter and I stand ready to make proof thereof.

Concerning the question of the possession of this allotment, I desire to say that I will be able to show that Mr. Page obtained his possession by stealth; that it has been a scrambling one and that his right to possession thereof has been in constant litigation since x x x he acquired same. In fact, the title was in litigation in the Creek county district court sometime before Page even obtained his lease, it being at that time claimed by persons other than Minnie Atkins, and Page obtained his possession only by consent of the court in said litigation, after having stealthily taken possession of one corner of the land away from the Gypsy Oil Company. He obtained his lease from Minnie Atkins in June, 1914, after, as heretofore stated, he had been advised that Minnie Atkins was not the mother of Thomas Atkins.

We will also be able to show that nobody occupied this land prior to 1913, although it was allotted in 1902 and that Pages' occupancy thereof antedates the institution of the Government suit here just six months and it is a fact that up to the time that Page learned the Government would institute this suit and even up to the time of the institution thereof, Mr. Page had spent a very small amount of money.

For your further information, I am enclosing herewith and desire to have treated as a part hereof the motion and supplemental bill of complaint recently filed in the United States District Court for the Eastern District of Oklahoma in the case of United States of America, Complainant, vs. Minnie Atkins, et al., Defendants.

Very respectfully submitted,

R. C. Allen,
National Attorney for Creek Nation.

RCA—FS.
Enclosure.

Government's Exhibit A-25.

C.T.D.

DF

DEPARTMENT OF THE INTERIOR

Office of Indian Affairs

Washington, April 24, 1917.

I, C. F. Hauke, Acting Assistant, Commissioner of Indian Affairs do hereby certify that the paper hereto attached is a true copy of the original as the same appears in the files in this Office.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

C. F. HAUKE,
Acting Assistant Commissioner.

TP 4 C 33

(Stamp:) Office of Indian Affairs Received Aug 18 1916 88343

Gabe E. Parker,
Superintendent.

Make all remittances payable to
W. M. Baker, Cashier.

Local Offices: Vinita, Jay, Nowata, Sapulpa, Okmulgee, Muskogee, Tahlequah, Sallisaw, Poteau, Idabel, Hugo, McAlester, Holdenville, Atoka, Madill, Ardmore, Chickasha, Pauls Valley.

DEPARTMENT OF THE INTERIOR.

United States Indian Service.

Five Civilized Tribes.

Muskogee, Oklahoma.

Land Office D-5193-16 WHA-JMB 8-12-16 Incl. In re enrollment and allotment of Thomas Atkins. Land—Five Tribes 83856-1916 J E D

The Honorable, August 12, 1916.

The Commissioner of Indian Affairs.

Dear Mr. Commissioner:

I am in receipt of your Office letter of August 8, 1916, wherein you refer to the suit pending in the United States Court for the Eastern District of Oklahoma entitled United States vs. Minnie Atkins, et al., in regard to certain land in the Creek Nation allotted in the name of Thomas Atkins, said suit being brought to clear the title of the Creek Nation to said land.

Reference is made to a communication from the Creek Tribal Attorney of August 4, 1916, inviting attention to the fact it has been discovered that the certificate and deed covering said allotment were found in the files of this office, and have not been delivered, and that from the records of this office it appeared that in 1905 the Commission had obtained information to the effect that Thomas Atkins was not entitled to be enrolled or allotted as a citizen of the Creek Nation; that the allotment deeds were withheld pending an inquiry which was then begun to determine the right of Thomas Atkins to enrollment and allotment, and that notation had been made upon various records to insure against the delivery of the allotment certificate and deeds, and indicating the reason why they were withheld.

The above mentioned communication of August 4, 1916, of the Creek Tribal Attorney, and certain inclosures accompanying same were transmitted with your said Office letter, and you request me to report in the matter, accompanying same with my recommendation. You also request me to furnish certified copies of all papers and records in this office relating to the enrollment and allotment of Thomas Atkins, and including the papers and records which relate to any steps that were taken or contemplated looking to the cancellation of the enrollment and allotment, or to the investigation of the right of said Thomas Atkins to said enrollment or allotment or allotment. Also to transmit the original allotment certificate and the original homestead and allotment deeds issued in the name of Thomas Atkins, which are said to have been found in the files of this office undelivered.

In reply you are advised the records of this office show that prior to the Act of April 26, 1906, patents covering the land allotted to said Thomas Atkins were issued and recorded, and transmitted by the Commission to the Five Civilized Tribes, on July 18, 1903, to the Principal Chief of the Creek Nation for delivery, but in 1905 were recalled from said Principal Chief by the Commission for the reason that a question had arisen as to his right to enrollment and allotment at that time. The deeds were thereupon returned by the Principal Chief to said Commission, and were recently found among the files of this office in the jacket of Nancy Atkins, where it is probable that same were inadvertently placed at the time they were returned from the Chief's office.

It appears that the matter of the enrollment of said Thomas Atkins was held up at the time, for the reason that the Commission or the Principal Chief of the Creek Nation had received information that said Thomas Atkins died prior to April 1, 1899. The records show that an effort was made to locate said Thomas Atkins and his alleged mother, Minnie Atkins, but it is evident they could not be found. It does not appear that any testimony was taken in the matter by the Commission, and it is probable that none was taken for the reason that no one could be found at that time who could furnish any material information concerning the whereabouts or death of Thomas Atkins, or the whereabouts of Minnie Atkins.

The allotment certificate covering the allotment of said Thomas Atkins was issued on June 30, 1902, which certificate was mailed to Thomas Atkins at Muskogee, Indian Territory, on May 8, 1903, and thereafter returned by the Postmaster, unclaimed, and has since been held at this office among the regular files of returned Creek allotment certificates. All of the records of this office indicate that the delivery of the patents and allotment certificate covering the allotment of Thomas Atkins was withheld for the reason it had been reported to the office that he died prior to April 1, 1899, and was not entitled to enrollment.

The record book of the delivery of patents in the office of the Principal Chief of the Creek Nation, which record book is kept in the office of the Creek Tribal Attorney, shows thereon, opposite the name of Thomas Atkins, the following notations:

> "Deceased." "Hold for investigation. Said to have died in 1878 (or 1898). Is relative of Chaney Trent. Reported by Judge J. R. Thomas. Retd. to D. Com. (Messenger). Right to enrollment pending."

The Judge Thomas referred to in this notation died several years ago.

There are inclosed, herewith, certified copies of all the records pertaining to the enrollment and allotment of said Thomas Atkins that can be located among the files of this office, after a diligent search having been made therefor, with the exception of the certificate of allotment. The original certificate of allotment and original homestead and allotment patents were delivered to Mr. James L. Bruff, Special Agent, Bureau of Investigation, of the Department of Justice, who, in turn, delivered same to Mr. R. C. Allen, Creek Tribal Attorney, who has possession of same, as per his telegram of August 9, 1916, from Washington, D. C., to the Assistant National Attorney of the Creek Nation. The certified copies inclosed herewith are as follows:

Page 98 of the 1890 Creek Census Roll.
Page 167 of the 1895 Creek Census Roll.
One page of the 1895 Creek Pay Roll, Euchee Town, Muskogee Nation.
Creek Census Card No. 2707.
Pages 320, 324 and 339, Letter press copy book No. 1, (Transmitting Creek Poll.)
Copy of Approved roll as to No. 7913.
Certificate as to appearance on Census Card Field No. 2774.
Memoranda Plat designating land allotted to No. 7913.
Allotments and homestead designations to Creek No. 7913. Arbitrary allotment.
Stub Creek Allottee's Selection certificate No. 16983.
Page No. 193 of Record book, mailing allotment certificates.
Allotment Deed as recorded in Book 12, Page 310, Muskogee (Creek) Deed Record.
Homestead Deed as recorded in Book "L" Page 310, Muskogee (Creek) Deed Record.
Letter of May 9th, 1905, to Will Robison.
Page 371, Letter press Copy Book No. 540.
Letter of May 9th, 1905, to E. B. Miller, Chief Creek Land Office.
Letter of May 11th, 1905, to H. G. Hains, Chief Clerk Creek Enrollment Division.
One page of M. Index Book to Special M. Journal.
Page 113 of Special M. Journal.
One page of Index to Special Memoranda Book.
Page 124 of Special Memoranda Book.
Letter dated Jan. 14, 1913, signed Thomas Atkins.
Letter dated Jan. 16, 1913, addressed to Thomas Atkins, signed by Moty Tiger.

There is also inclosed, herewith, a photographic copy of Page 16 of the Index and Record of Delivery of Creek Deeds for lands allotted in Muskogee (Creek) Nation, certified to by Moty Tiger, Principal Chief of the Creek Nation.

The Special Memoranda Journal and Index thereto were books that were kept in the Office of the Commissioner to the Five Civilized Tribes for the purpose of keeping track of patents and other matters in cases where it appeared that there was some question as to enrollment, or where patents and allotments were held up for various reasons. To make it plain, it is what was termed the "Hold Up Book."

Your attention is invited to a report made to the Indian Office on November 11, 1914, of Dana H. Kelsey, Supervisor in charge, transmitting the application of Quentin Garrett, New Born Creek Freedman, to select in allotment a portion of the land allotted to Thomas Atkins. Also my report of January 25, 1915, to the Commissioner of Indian Affairs transmitting applications of Millard Sanders, Creek by blood, Roll No. 2406, to select certain lands therein described allotted to Emma Coker, Creek by blood, Roll No. 8514, and said Thomas Atkins, copies of which reports are inclosed herewith for your information.

Upon the recommendation of the Secretary of the Interior, a suit was instituted in the United States District Court for the Eastern District of Oklahoma, having for its purpose the cancellation of the enrollment and allotment of said Thomas Atkins, which suit is now pending.

On October 17, 1914, Mr. R. C. Allen, National Attorney for the Creek Nation, submitted a report to the Department in this case, a copy of which was transmitted to the Attorney General, on December 14, 1914, with the recommendation that the papers in the case be forwarded to the United States District Attorney for the Eastern District of Oklahoma, and that he be instructed to confer with Special Supervisor Kelsey of Muskogee, Oklahoma, and R. C. Allen, Creek Tribal Attorney, in regard to the matter referred to therein, and if the evidence obtained indicated that said Thomas Atkins died prior to April 1, 1899, that a suit be instituted on behalf of the Creek Nation to recover for said Nation the land allotted to said Thomas Atkins; that thereafter a suit was brought in said court for such purpose, and is now pending, as above stated.

Inasmuch as it appears that the allotment certificate and patents were not actually delivered, and that the patents were prepared and recorded and transmitted to the Principal Chief of the Creek Nation for delivery prior to the Act of Congress approved April 26, 1906, and that it has never been definitely determined, after the Commission to the Five Civilized Tribes received information that said Thomas Atkins died prior to April 1, 1899, which caused the withholding of the delivery of the certificate and patents, and in view of the holding of the Department of July 3, 1916, (Land Five Tribes, 37953-15 103834-15 J E D), directing the cancellation of allotment certificate and deeds in the case of Narchechar, Creek by blood, Roll No. 9897, which seems to be somewhat similar to this case, it would seem that the Department still has jurisdiction in the matter, and I therefore suggest it might be deemed advisable for the Secretary of the Interior to cause the inquiry as to the right of said Thomas Atkins to enrollment and allotment, which was originally instituted in 1905, to be resumed, and to proceed to hear and determine the question, providing, in view of the suit now pending in the United States District Court, which was brought for the purpose of canceling the patents and restoring the land to the Creek Nation, such action can now be taken consistently, and it meets with the approval of the judge of said court.

The records of this office show that the land involved is producing large quantities of oil. The records of the United States Court show that Judge Campbell made an order appointing a Receiver, but that this order was reversed by the Circuit Court of Appeals for the Eighth Circuit, upon the condition that Charles Page, one of the defendants, give bond in the sum of $900,000.00 in lieu of a receivership, with which condition Mr. Page has complied. In view of this fact, I am of the opinion, should it be determined to resume inquiry into this case, as suggested, it would be inadvisable for the Government to dismiss the pending suit.

In the event the Secretary of the Interior directs that the inquiry of the right of Thomas Atkins to enrollment and allotment be resumed, all parties interested should be notified to show cause why the enrollment and allotment of said Thomas Atkins should not be cancelled, and I am inclined to believe it would be proper, and a courtesy due to the Court, to advise Judge Campbell of that action, and in that event he would probably postpone the trial of the case, and in the meantime hold the property in statu quo, in order that the rights of all concerned may be protected until the Secretary shall have reached his determination in the premises.

The records of this office do not show that the patents in question were ever delivered to Thomas Atkins, or any of his representatives, after same had been returned to this office by the Principal Chief of the Creek Nation, and it was presumed that they were on file at this office, although it appears from report of Mr. R. C. Allen, Creek Tribal Attorney, of October 17, 1914, to the Commissioner of Indian Affairs, that they had recently been delivered. It appears, however, that same were not located until they were found by Mr. Bruff in the files of this office relating to the case of Nancy Atkins, where they evidently had been inadvertently filed. The records in the Principal Chief's office clearly show that these patents were returned to the Commission to the Five Civilized Tribes, for the reason that it had been reported that

Thomas Atkins died prior to April 1, 1899, and was not entitled to enrollment.

The papers inclosed with your letter are herewith returned.

Sincerely yours,

Gabe E. Parker,
Superintendent for the Five Civilized Tribes.

Governmen's Exhibit A-26.

CTD

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs

Washington, April 24, 1917.

I, C. F. Hauke, Acting Assistant, Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are true copies of the originals as the same appear of record in this Office.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

C. F. HAUKE,
(Seal) Acting Assistant Commissioner.

5-1 F.C.T. Creek Suit to Clear Title. R J EBM

Mr. Charles Page, Aug 18 1916
Tulsa, Oklahoma.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom, and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot 4 of Section 4, Township Eighteen (18) North, Range Seven (7), East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Signed) Bo Sweeney,
Assistant Secretary.

(Signed when rec'd in M. & F.) C 1

Miss Nancy Atkins, August 18, 1916.
Nowata, Oklahoma.

Madam:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom, and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,
Assistant Secretary.

C 2

Mr. Harry B. Folk, August 18, 1916.
Mrs. Minnie Folk,
Fort Lawton,
Seattle, Washington.

Sir and Madam:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom, and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly yours,

(Sgd.) Bo Sweeney,

Assistant Secretary.

C 3

Mr. James A. Ferguson, August 18, 1916.

Fayetteville, Arkansas.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom, and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.
C 4

Mrs. Minnie Folk, August 18, 1916.
Sand Springs, Oklahoma.

Madam:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.
C 5

Mr. E. C. Hanford, August 18, 1916.
% Stuart & Cruce,
Oklahoma City, Oklahoma.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the

Creek Nation, should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,
Assistant Secretary.
C 6

Mr. Henry Carter, August 18, 1916.
% J. Coody Johnson,
Wewoka, Oklahoma.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,
Assistant Secretary.
C 7

Mr. H. A. Ridgeway, August 18, 1916.
Guardian of Nancy Atkins,
Nowata, Oklahoma.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,
Assistant Secretary.

C 8

5-1 F. C. T. Creek Suits to C. T.

DEPARTMENT OF THE INTERIOR
Washington

Sep 25 1916

ORDER.

In the matter of enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation.

It is hereby ordered that the hearing set for September 25, 1916, at 10 o'clock a. m., in connection with the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation be and the same is hereby continued to November 15, 1916, at 10 o'clock a. m.

Bo Sweeney,
Assistant Secretary.

Dated at Washington, D. C., this twenty-fifth day of September, nineteen sixteen.

C 9

DEPARTMENT OF THE INTERIOR
Washington
Sep 25 1916

Mr. E. C. Hanford,
% Stuart & Cruce,
Oklahoma City, Oklahoma.

Sir:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W.
C 10

DEPARTMENT OF THE INTERIOR
Washington
Sep 25 1916

Mrs. Minnie Folk,
Sand Springs, Oklahoma.

Madam:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W.
C 11

DEPARTMENT OF THE INTERIOR
Washington
Sep 25 1916

Mr. Henry Carter,
% Coody Johnson,
Wewoka, Oklahoma.

Sir:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W.
C 12

DEPARTMENT OF THE INTERIOR
Washington
Sep 25 1916

Mr. James A. Ferguson,
Fayetteville, Arkansas.

Sir:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 13

DEPARTMENT OF THE INTERIOR
Washington
Sep 25 1916

Mr. Henry B. Folk,
Mrs. Minnie Folk,
Fort Lawton,
Seattle, Washington.

Sir and Madam:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 14

DEPARTMENT OF THE INTERIOR
Washington
Sep 25 1916

Mr. H. A. Ridgeway,
Guardian of Nancy Atkins,
Nowata, Oklahoma.

Sir:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 15

DEPARTMENT OF THE INTERIOR
Washington

Sep 25 1916

Miss Nancy Atkins,
Nowata, Oklahoma.

Madam:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 16

DEPARTMENT OF THE INTERIOR
Washington

In the matter of the enrollment of Thomas Atkins as a citizen of the Creek Nation.

ORDER.

Ordered, This 15th day of November, 1916, that the hearing set in the above-entitled cause at 10 o'clock a. m. of the day last mentioned be, and the same is hereby, continued to December 15, 1916, at 10 o'clock a. m.

Bo Sweeney,
Assistant Secretary.

Copies of the above order were mailed to all interested parties Nov. 15, 1916. C 17

5-1 F. C. T. Creek Enrollment Atkins, Thomas.

IN THE DEPARTMENT OF THE INTERIOR.

In re Enrollment of Thomas Atkins as a citizen of the Creek Nation.

ORDER.

It having been represented that the notice of hearing heretofore issued in the above-entitled cause includes, among other things, a rule to show cause why the allotment certificates and deeds issued in the name of said Thomas Atkins should not be canceled, and it being further represented that on November 20, 1916, the Supreme Court of the District of Columbia, in a cause entitled Charles Page et al. v. The Secretary of the Interior et al., Eq. No. 34,621, entered a decree enjoining the cancellation of said allotment certificates and deeds so issued, as aforesaid, in the name of Thomas Atkins, from which decree an appeal was duly taken and is now about to transfer the issues of law to the Court of Appeals of the District of Columbia there to be considered; and whereas the matter of the enrollment of said Thomas Atkins as a citizen of the Creek Nation is about to come on for hearing in the Department, on, to-wit, the 15th day of December, 1916, and at a time prior to any decision or action that may be had or taken on said appeal by said Court of Appeals: it is now, therefore, this 6th day of December, 1916,

Ordered, That the notice of hearing heretofore issued be, and the same is hereby, modified to exclude any consideration of, or action in respect to, the cancellation by the Department of the said allotment certificates or deeds issued in the name of Thomas Atkins, until and unless the injunction aforesaid shall have been dissolved; but that the said hearing shall be had and proceed on the date already set, to-wit, December 15, 1916, in respect to all other matters and issues set forth in said notice, unless, on said December 15, 1916, it be otherwise ordered; and it is further

Ordered, That notice hereof shall be served on all parties of record in said cause by duly mailing to their last known address a copy of this order.

Bo Sweeney,
Assistant Secretary.

Copies mailed to all parties Dec 6 1916 C 18

IN THE DEPARTMENT OF THE INTERIOR

In re Enrollment of Thomas Atkins as a citizen of the Creek Nation.

ORDER.

Now on this 15th day of December, 1916, the above entitled cause coming on regularly to be heard before the Secretary of the Interior upon the application of the National Attorney for the Creek Nation to strike from the approved roll of Creek Indians the name of Thomas Atkins, uppearing upon said roll opposite No. 7913 for the reasons and upon the grounds set forth in the application of the said National Attorney for the Creek Nation, and other reports and letters filed herein; and it appearing to the undersigned that due, proper, and legal notice of this hearing has been given to all parties interested herein; and it further appearing that some of the parties interested in said matter desire to introduce testimony, oral and documentary, and that the Secretary of the Interior by reason of other duties devolving upon him, cannot devote the time necessary to hear said cause;

Now, therefore, it is ordered that this cause be, and the same is, referred to the Commissioner of Indian Affairs with directions to him, or such person as he may designate to immediately proceed to hear said cause and report his findings and conclusions to the Secretary of the Interior, and that he transmit with his report a full, true, and correct transcript of the testimony produced before him, together with the pleadings in said cause.

It is further ordered that the Commissioner of Indian Affairs, or such person as he may designate, may, in his discretion, hear oral testimony and also receive and consider the affidavits and depositions of witnesses made or given concerning the subject-matter involved herein.

Alexander T. Vogelsang,
First Assistant Secretary.
C 19

27686

5—1100

Address only the
Commissioner of Indian Affairs

Refer in reply to the following:

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Washington

In re Creek Enrollment case of Thomas Atkins.

Feb 19 1917

Mr. John E. Dawson,
Indian Office, Washington, D. C.

My dear Mr. Dawson:

Pursuant to an order of the First Assistant Secretary of the Interior made and entered on the 15th day of December, 1916, in the matter of the enrollment of Thomas Atkins as a citizen of the Creek Nation, a copy of which order is attached hereto, you are hereby designated, authorized and directed to proceed under the authorization granted you on February 17, 1917, to Muskogee, Oklahoma, and hear further testimony in said cause, beginning on the 12th day of March, 1917, and to proceed to such other points in Oklahoma, Missouri and Kansas as may be necessary in the further taking of testimony in said cause and to do and perform all things required to be performed by the Commissioner of Indian Affairs, under the above mentioned order in said enrollment case.

Sincerely yours,

Sells,

Commissioner.

C 20

JED Copy

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. Charles Page,
Tulsa, Oklahoma.

Dear Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

REP

C 2

JED Copy

2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Miss Nancy Atkins,
Nowata, Oklahoma.

Madam:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said

March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,
John E. Dawson.

REP

C 22

JED Copy

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. E. C. Hanford, Attorney at Law,
Care Messrs. Stuart & Cruce,
Oklahoma City, Oklahoma.

Dear Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,
John E. Dawson.

REP

C 23

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

Mr. Harry B. Folk,
Fort Lawton,
Seattle, Washington.

Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,
John E. Dawson.

C 24

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mrs. Minnie Folk,
% Mr. Charles Page,
Tulsa, Okla.

Madam:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,
John E. Dawson.

C 25

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mrs. Minnie Folk,
Fort Lawton,
Seattle, Washington.

Madam:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,
John E. Dawson.

C 26

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. James A. Ferguson,
Fayetteville, Arkansas.

Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,
John E. Dawson.

C 27

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. H. A. Ridgeway,
Guardian of Nancy Atkins,
Nowata, Okla.

Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

C 28

JED Copy

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. Henry Carter,
% Mr. J. Coody Johnson,
Wewoka, Oklahoma.

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

C 29

Government's Exhibit A-27.

C.T.D.
1—480.

United States of America.
DEPARTMENT OF THE INTERIOR

Washington, D. C., April 28, 1917.

Pursuant to Section 882 of the Revised Statutes, I hereby certify that the annexed papers are true and exact copies of the originals as they appear of the records and files of this Department.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of the Department of the Interior to be affixed, the day and year first above written.

(Seal) Bo Sweeney,
6—1991 Assistant Secretary of the Interior.

Address only to the Commissioner of Indian Affairs
Refer in reply to the following:

Department of the Interior
Office of Indian Affairs
83856-16 Washington

Apr 20 1917

My dear Mr. Secretary:

Pursuant to the order of December 15, 1916 entered by the First Assistant Secretary of the Interior in the Creek enrollment case of Thomas Atkins, a hearing was held upon the application of the National Attorney for the Creek Nation to strike from the approved roll of citizens by blood of the Creek Nation, the name of Thomas Atkins appearing on said roll opposite No. 7913. A transcript of the proceedings and of the testimony obtained, and copies of papers and other evidence furnished are transmitted herewith. The correspondence and papers on file in this office relating to the enrollment case of Thomas Atkins are also inclosed.

Upon consideration of the evidence introduced at the hearing, the conclusion has been reached that no such person as the purported Thomas Atkins, Roll No. 7913, on the final roll of citizens by blood of the Creek Nation, ever existed, and that he was, and is, a mythical person, and therefore that notation or entry should be made on said final roll to that effect.

In compliance with the above mentioned order of December 15, 1916 of the First Assistant Secretary of the Interior, there is transmitted herewith a decision in the case setting forth my findings of fact and the conclusions reached.

It is recommended that said decision of even date and transmitted herewith, be affirmed.

Sincerely yours,

Cato Sells,
Commissioner.

Hon. Franklin K. Lane,
Secretary of the Interior.

Address only to the Commissioner of Indian Affairs
Refer in reply to the following:

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
83856-16 Washington

In the matter of the enrollment of Thomas Atkins on the final roll of the Creek Nation and as to striking his name therefrom.

Apr 20 1917

FINDINGS AND DECISION.

Opposite No. 7913 on the final rolls of citizens by blood of the Creek Nation appears the name of Thomas Atkins, and the further information to the effect that the enrollee was ten years of age, a male, and of ½ blood. His census card was stated thereon to be No. 2707. It appears that said name was listed on May 23, 1901, by the Commission to the Five Civilized Tribes for enrollment, and on the above mentioned census card the enrollee was described as ten years of age, a male, and of ½ blood, and Minnie Atkins, whose name appears on the 1895 Creek tribal roll of Euchee Town, is set forth on the above mentioned census card as the mother of Thomas Atkins. The name of Thomas Atkins appears at No. 213 on the above mentioned Creek tribal roll of 1895.

The enrollment of the name of Thomas Atkins at No. 7913 on the final roll of citizens by blood of the Creek Nation, was approved by the Acting Secretary of the Interior on March 28, 1902. Subsequent thereto the Commission to the Five Civilized Tribes made an arbitrary allotment of certain described land in the Creek Nation in the name of Thomas Atkins and an allotment certificate was issued therefor on June 30, 1902. Homestead and allotment deeds were executed on April 14, 1903, by the Principal Chief of the Creek Nation, and said deeds were approved on May 8, 1903, by the Acting Secretary of the Interior, and were recorded on May 16, 1903, in the office of the Commission to the Five Civilized Tribes. Said allotment certificate and deeds were, however, never delivered.

Information having been received that the enrollment and allotment in this case should not have been made, a suit was instituted on January 18, 1915, in the United States Court for the Eastern District of Oklahoma by the United States against Minnie Folk, nee Atkins, and others for the cancellation of the enrollment and allotment above mentioned, and to clear the title of the Creek Nation to the land involved, and said suit is now pending in the above named court. Mr. R. C.

Allen, the Creek National Attorney, in a communication of August 4, 1916, to the Commissioner of Indian Affairs, invited attention to the fact that it had then been lately discovered that the allotment certificate and deeds had not been delivered, they having been found in the files of the office of the Superintendent for the Five Civilized Tribes, and that 2
the records of said office show that in 1905 the Commission to the Five Civilized Tribes had obtained some information to the effect that Thomas Atkins was not entitled to be enrolled or allotted as a citizen of the Creek Nation, and that the allotment deeds in the case were withdrawn from the Principal Chief of the Creek Nation and their delivery withheld pending an inquiry which had then begun to determine the right of Thomas Atkins to enrollment and allotment.

Upon the request of the Creek National Attorney, a hearing before the Department was determined upon and the Assistant Secretary of the Interior on August 18, 1916, notified Minnie Folk, Charles Page and all other parties in interest that on September 25, 1916, at 10 o'clock A. M. in his office the hearings would be resumed to determine whether or not the name of Thomas Atkins appearing opposite No. 7913 on the approved roll of citizens by blood of the Creek Nation should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, and to determine whether or not said certificate and deeds should be cancelled and held for naught. Thereupon a suit was instituted in the Supreme Court of the District of Columbia by Charles Page et al. against the Secretary of the Interior, to enjoin the proceeding in this matter, and to enjoin the cancellation of the allotment certificate and homestead and allotment deeds. Pending the decision of the court, the hearing before the Assistant Secretary of the Interior was postponed to a later date. The Supreme Court of the District of Columbia on November 20, 1916, entered a decree enjoining the cancellation of the allotment certificate and deeds issued in the name of Thomas Atkins. An appeal has been taken in said case of Charles Page et al. v. Secretary of the Interior, and it is now pending in the Court of Appeals of the District of Columbia.

In reference to the hearing which was set to be held before the Assistant Secretary of the Interior, the date for which had been postponed, the Assistant Secretary of the Interior on December 6, 1916, ordered in view of the above mentioned injunction, that the notice of the hearing theretofore issued be modified to exclude any consideration of or action in respect to the cancellation by the Department of the In-

terior of said allotment certificate and deeds issued in the name of Thomas Atkins until and unless the above mentioned injunction should have been dissolved, but that said hearing should be had and proceed on December 15, 1916, in 3
respect to all other matters and issues set forth in the notice unless on said December 15, 1916, it should be otherwise ordered. Due, proper and legal notice was given to Minnie Folk, Charles Page and all others interested in said cause, of the determination of the Assistant Secretary of the Interior and of the date to which said hearing was postponed.

On December 15, 1916, the cause came on regularly to be heard before the First Assistant Secretary of the Interior at the time and place designated in said order and notice and on said date by order of the First Assistant Secretary of the Interior the cause was referred to the Commissioner of Indian Affairs, to be immediately heard before said Commissioner or such person as he might designate. Thereupon on said December 15, 1916, said hearing was begun at the office of the Commissioner of Indian Affairs and testimony was taken relating to the right of the name of Thomas Atkins to be and remain upon the above mentioned final roll of citizens by blood of the Creek Nation, and thereupon a continuance was obtained by the respondents for the taking of further proof, and the hearing after due notice to all parties in interest was resumed and concluded at Muskogee, Oklahoma, on March 12, 1917.

Now, therefore, after due, full and careful consideration of all the evidence which was introduced in this case, the following facts are found:

1. It is found that Minnie Atkins when a mere girl attended the Tullehassee Mission in the then Indian Territory, and that she left there and entered Carlisle Indian School, Pennsylvania, on January 22, 1881.
2. That Minnie Atkins left Carlisle Indian School to go to the home of Mr. George H. Hyde in Leavenworth, Kansas, on July 8, 1884, and arrived at said home on July 11, 1884, and that she worked for said Mr. Hyde for a period of about three months.
3. That Minnie Atkins did not give birth to any child while in the employ of Mr. Hyde.
4. That Minnie Atkins began working for Mr. Herbert Grodevant at Fort Leavenworth, Kansas, on October 15, 1884, and that she worked at the home of said Mr. Grodevant until September 15, 1885.

5. That said Minnie Atkins did not give birth to any child while in the employ of Mr. Grodevant. 4

6. That said Minnie Atkins began working for Lieut. Stafford at Fort Leavenworth, Kansas, either on September 15 or October 15, 1885, and that she worked at the home of Mr. Stafford until June 1886 when she was discharged because of her pregnant condition.

7. That on July 31, 1886, said Minnie Atkins gave birth to a child at the home of a Mrs. Woods in Leavenworth, Kansas; that at said time she was consorting with a man by the name of Charles Peterkin who was a soldier stationed at Fort Leavenworth; that the child just mentioned was named Robert Lee Peterkin; that said child died August 15, 1886, and was buried on the next day in Mount Muncie Cemetery, Leavenworth, Kansas.

8. That Robert Lee Peterkin, the child just mentioned, was the first child born to said Minnie Atkins.

9. That Minnie Atkins was the daughter of Thomas Atkins, a Creek Indian, who died about 1878.

10. That said Minnie Atkins was never enrolled on the final rolls of the Creek Nation and that she was not a resident of the Indian Territory at any time from about 1881 down to the present time, except possibly for the space of about one year in 1895.

11. That said Minnie Atkins in the spring of 1888 went to Fort Logan, Colorado, and later went to and resided in other places.

12. That the only children born to said Minnie Atkins after the birth of the above named Robert Lee Peterkin, were Mabel Peterkin, Charlie Harrison and Harvey Harrison; that said Mabel Peterkin, sometimes referred to as Alice or Nancy Peterkin, was born at Fort Logan or Logan Town, Colorado, in 1888, and died at about the age of one year, and was buried on June 18, 1889, in the Fort Logan cemetery; that Charlie Harrison was born at Fort Logan or Logan Town in 1891; that Harvey Harrison was born at Fort Logan or Logan Town in 1893.

13. That said Minnie Atkins is not the mother of Thomas Atkins whose name appears opposite No. 7913 on the above mentioned final roll of citizens by blood of the Creek Nation.

14. That said Minnie Atkins whose name appears opposite No. 210 on the Creek tribal roll of 1895, Euchee Town, had no child by the name of Thomas Atkins.

15. That the purported person attempted to be enrolled by the Commission to the Five Civilized Tribes as Thomas Atkins opposite No. 7913 on the final roll of citizens by blood of the Creek Nation, never existed, but was, and is, a mythical person.

It is therefore considered and ordered that opposite the name of Thomas Atkins at No. 7913 on the final roll of citizens by blood of the Creek Nation a notation or entry be made as follows:

> "No person of the name and description of this purported enrollee, Roll. No. 7913, ever existed, nor is any person entitled to share in tribal land or money by reason of said enrollment."

Cato Sells,

Apr 28 1917

Affirmed: Franklin K. Lane, Secretary.

Government's Exhibit A-28.

C.T.D.

[See insert herewith for reproduction of photostatic copy of Page of 1895 Tribal Roll, Euchee Town, Creek Nation, showing name of Thomas Atkins.]

Government's Exhibit A-29.

C.T.D.

[See insert herewith for reproduction of photostatic copy of Page 98, 1890 Census Roll, Euchee Town, Creek Nation.]

Government's Exhibit A-30.

[See insert herewith for reproduction of photostatic copy of portion of Page 8, 1895 Census Roll, Euchee Town, Creek Nation, covering Nos. 205-224, inclusive.]

Government's Exhibit A-31.

C.T.D.

[See insert herewith for reproduction of photostatic copy of Old Creek Indian Census Card, No. 2055.]

206 × 204 ×

$\frac{15}{219}$

1 John [illegible] "

2 [illegible] "

3 [illegible] "

4 [illegible] "

+

1 Bonnie Cooper Doubtful 4

1 Ed Atkinson

2 Fannie Atkins & 2 Children

3 Thomas {6 Charlie Atkins,

4 Mary {7 Sussie

5 Nancy Atkins +

1 John Evans +

1 George Bailey +

2 Edward "

3 Rosalie "

~~1 Sallie Simpson~~

~~2 Albia Carter~~

~~3 [illegible] Deegan "~~

~~4 [illegible] "~~

~~5 Willie "~~

~~6 Ethel "~~

~~7 Lemona "~~

~~8 Susan "~~

Arkansas Bu

228 × 219

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of that page of 1895 Tribal Roll Euchee Town Creek Nation whereon appears the name of Thomas Atkins.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Dec 21 1916 JRP

C E N S U S R O L L.

Tuchee Town, Muskogee Nation.

1 ✓ Jackson Barnett, 1137
2 Sarah Barnett, [illegible]
3 George Sofley, 1962

1 Dilly Brown, 114

1 [illegible] Johnson, 332
2 [illegible] 332
3 [illegible] 333

[illegible] Barnett, Dead
[illegible] Barnett, Dead

[illegible] Holland,
Jacob Holland,
4 Peter Holland,
5 Willie Riley,

3 [illegible] Tucker.

[illegible] Wiley, Dead

[illegible] W. Brown 117

1 ✓ Willie Brown, 1231
2 Melissie Brown, 1231

1 ✓ Andrew Johnson, 560
2 ✓ Anderson Johnson, [illegible]
3 ✓ Eliza Johnson, [illegible]
4 ✓ Mary McCoy, 546
5 ✓ Kansas McCoy, [illegible]
6 ✓ [illegible] Johnson

1 ✓ Tom Buck, [illegible]
2 ✓ Rosa Buck, 564
3 ✓ Annie Buck, [illegible]
4 [illegible]
5 [illegible]

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of page 98 1890 Census Roll, Euchee Town, Creek Nation.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

CENSUS OF

TOWN

Muskogee Nation, Indian Territory.

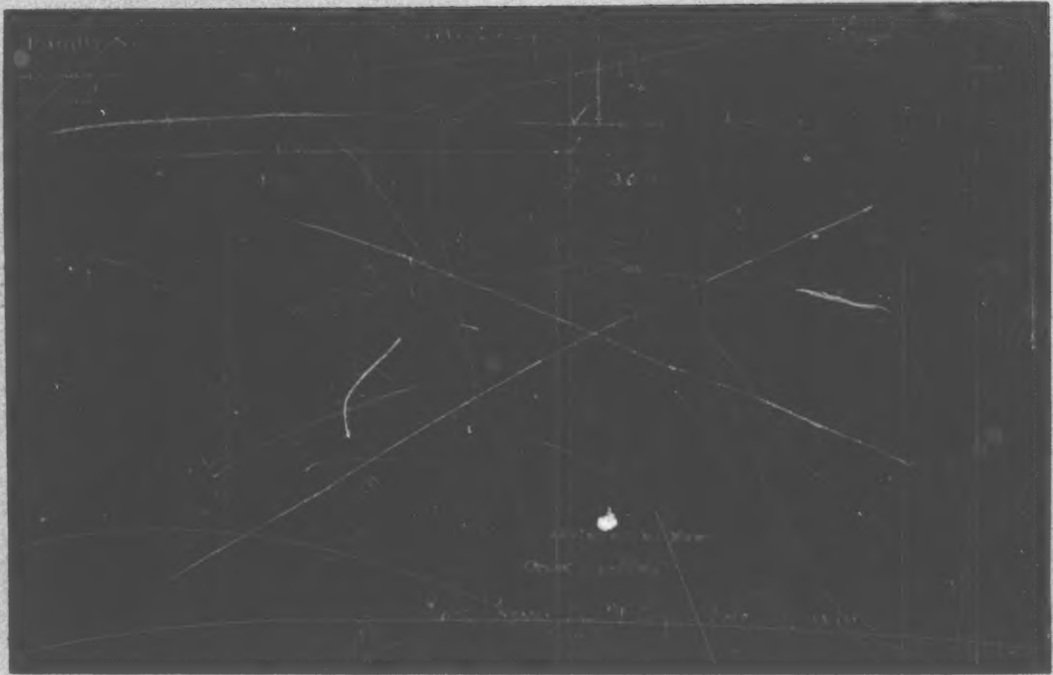
No.		NAME				AGE
205		Nar kee mingo	927		✓	
206		Ka la mee			✓	
207		Har le	Dead	✓		Dead
208	7	Wiley	Dead	✓	✓	
209		Ed Scrimsher	507		✓	
210		Mamie Atkins & 2 Children			✓	
211		Charlie	1654		✓	
212		Lucie			✓	
213		Thos	2774		✓	
214		Mary	1659		✓	
215	7	Nancy	2032	✓	✓	
216	1	~~John Davis~~	14	✓	✓	
217		N. G. Gregory	714	✓	✓	
218		Carrie	714		✓	
219		~~One~~			✗	
220		~~Two~~				
221		Ira N. Gregory	714		✓	
222		Jessie G	714		✓	
223	7	Foster	714	✓	✓	
		Baby	New born 714		✓	
		Sam Crow	2027	✓	✓	

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of the portion of page 8, 1895 Census Roll Euchee Town Creek Nation covering Nos. 205 to 224 inclusive.

Gabe E. Parker,
Superintendent for the
Five Civilized Tribes.

Dec 21 1916 JRP



Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Old Creek Indian Census Card No. 2055.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Feb 17 1915 CHD (10c revenue stamps)

RESIDENCE: [illegible]
POST OFFICE: Okmulgee Ind. Ter.

CREEK Nation. CREEK Roll.

CARD NO. 1655
FIELD NO. 1659

					Tribal Enrollment			Tribal Enrollment of Parents					
Name					Year	Town	No.	Name of Father	Year	Town	Name of Mother	Year	Town
Harrison Charles		2	M	¼	1895	Euchee	211	Harris	Dead	Non Citizen	Minnie Harris	1890	Euchee
Harvey	Brother	7		¼	1895	"	214	"	"	" "	" "	1890	"

No. 1 on 1895 Pay Roll as Charles Atkins.
No. 2 1895 " " " Harvey "
Minnie Harris on 1890 Roll as Minnie Atkins, Page 93
in Michigan
Both on Euchee Census Roll of 1895
[illegible]

Date of Application for Enrollment.
May 12 [illegible]

[illegible] Cert. [illegible]
1901

ENROLLMENT.
[illegible] HEREON
[illegible]
[illegible] Mar [illegible]

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

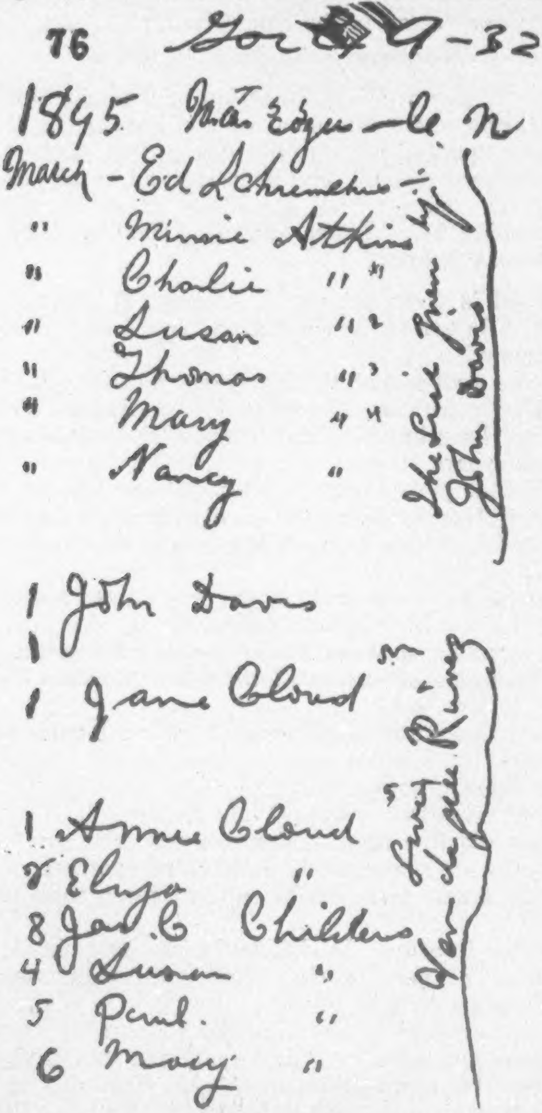
This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Census Card No. 1655.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

Government's Exhibit A-32.

[Page 76, Memorandum Book of S. W. Brown.]



76 Gov A-32

1845 Mar Ezye — le N

March - Ed Schremeher

" Minnie Atkins

" Cholie " "

" Susan " 2

" Thomas " 3

" Mary " 4

" Nancy "

by Lived beside Brown

John Davis

1 John Davis

1

1 Jane Cloud

1 Annie Cloud

2 Eliza "

8 Jas. C Childers

4 Susan "

5 Paul. "

6 Mary "

Living Near Lee Little River

Government's Exhibit A-33.

[See insert herewith for reproduction of photostatic copy of Creek Census Card, No. 1655.)

Government's Exhibit A-34.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muscogee, I. T., May 5th, 1900.

In the Matter of the Application of Thomas Holden, for Harvey Harrison, for allotment as a citizen of the Muscogee Nation, accompanied by a proper description of the land applied for and a certificate that he is entitled to take in accordance with the rules of the Secretary of the Interior, and Thomas Holden, being sworn by Acting Chairman, Tams Bixby, testified as follows:

Q. What is your name? A. Thomas E. Holden.

Q. How do you represent Harvey Harrison? A. By power of attorney.

Q. Is he a citizen of the Muscogee Nation? A. Yes, sir.

Q. What town does he belong to? A. Euche.

Q. How long has he lived in the Creek Nation? A. A. About eight years.

Q. What is your postoffice address? A. Choska, I. T.

Q. Does Harvey Harrison, live with you? A. Yes, sir.

Q. Does he own a home of his own in the Creek Nation? A. No, sir.

Q. Are you in possession of the land named herein, which you wish to select for Harvey Harrison? A. Yes, sir.

Q. You make application for Harvey Harrison, for the north east quarter of section 13, township 16, range 15, is that correct? A. Yes, sir.

Q. Are there any improvements on that tract of land? A. Yes, sir.

Q. Is there a house on it? A. Yes, sir.

Q. Who lives in the house? A. Renter.

Q. Does he live there under contract with you? A. He lives there by my permission; we have no contract.

Q. How many acres under cultivation on that land? A. About seven.

Q. Is the improved land fenced? A. Yes, sir.

Q. Does any one else claim this land or any part of it? A. No, sir, not that I know of.

Q. Has any one else any improvements on it? A. No, sir.

Q. Have you been over and examined this land, intending to make this application for it? A. Yes, sir.

Q. Is it prairie or timber land? A. Both.

Q. Is this land suitable for a home for Harvey Harrison? A. Yes, sir

Q. Are you making this application in good faith in all respects? A. Yes, sir.

Q. Will you accept this land as part of Harvey Harrison's final allotment? A. Yes, sir.

Q. Are there any churches, school-houses, court-houses or burial grounds on this land? A. No, sir.

Thomas E. Holden.

Sworn to and subscribed before me this 5th day of May, 1900, at Muscogee, Indian Territory.

(C) Tams Bixby, Acting Chairman.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated May 5th, 1900, in the matter of the application of Thomas Holden, for Harvey Harrison to take an allotment as a citizen of the Creek or Muskogee Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-35.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, I. T., April 9th, 1901.
Muskogee Land Office.

In the Matter of the Application of Charles Bailey for his ward, Charles Harrison to take an allotment of land in the Creek Nation, accompanied by a proper description of the land applied for, and a certificate showing that he has been listed for enrollment as a citizen of said Nation.

CHARLES BAILEY, being first duly sworn by J. G. Lieber, Notary Public testified as follows:

Q. What is your name? A. Charles Bailey.

Q. Are you a citizen of the Muskogee Nation? A. No, sir.

Q. How do you represent Charles Harrison? A. By letters of Guardianship.

Q. Is he a citizen of the Muskogee Nation? A. Yes, sir.

Q. What town does he belong to? A. Euche.

Q. How long has he lived in the Creek Nation? A. Nearly all his life time.

Q. Has he been outside of the Territory in the last four years? A. No, sir.

Q. What is your postoffice address? A. Wagoner.

Q. Does Charles Harrison live with you? A. Yes, sir.

Q. You make application for your ward, Charles Harrison for the north half and south west quarter of the south west quarter of Section 16, Township 17, Range 18, containing 120 acres, is that correct? A. Yes, sir.

Q. Are there any improvements on this land? A. Yes, sir.

Q. Is there a house on it? A Yes, sir.

Q. Who lives in the house? A. I do.

Q. How many acres under cultivation on this land? A. All of it.

Q. Is it fenced? A. Yes, sir.

Q. Has any one else any improvements on this land? A. No, sir.

Q. Does any one else claim this land or any part of it? A. No, sir.

Q. Do you know where this land is? A. Yes, sir.

Q. Have you been over and examined it with a view to making this application for it? A. Yes, sir.

Q. Is it prairie or timber land? A. Prairie land.

Q. Is this land suitable for a home for Charles Harrison? A. Yes, sir.

Q. Will you accept this land in part as his final allotment? A. Yes, sir.

Q. Have you made this selection in good faith in all respects? A. Yes, sir.

Q. Are there any churches, school-houses, court-houses or burial grounds on this land? A. No, sir.

Chas. Bailey.

Subscribed and sworn to before me at Muskogee, Indian Territory, this the 9th day of April, A. D. 1901.

(Seal) John G. Lieber, Notary Public.

C.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated April 9th, 1901, in the matter of the application of Charles Bailey for his ward, Charles Harrison to take an allotment of land in the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-36.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, I. T., July 17, 1901.
Muskogee Land Office.

In the Matter of the Application of Charles Bailey to take an allotment of land in the Creek Nation for Charles Harrison, accompanied by a proper description of the land applied for, and a certificate showing that he has been listed for enrollment as a citizen of said nation.

Charles Bailey, being first duly sworn by John G. Leiber, a notary public, testified as follows:

Q. What is your name? A. Charles Bailey.
Q. Are you a citizen of the Muskogee Nation? A. No, sir.
Q. What is your post office address? A. Wagoner, I. T.
Q. For whom do you make this application? A. Charles Harrison.
Q. Is he a citizen of the Muskogee Nation? A. Yes, sir.
Q. To what town does he belong? A. Euchee Town.
Q. How long has he lived in the Creek Nation? A. 12 years.
Q. Has he been outside of the territory in the past 4 years? A. No, sir.
Q. How do you represent Charles Harrison? A. By letters of guardianship.
Q. Is this boy, Charles Harrison now living? A. Yes, sir.
Q. Does he live with you? A. Yes, sir.
Q. Does he own a home of his own in the Creek Nation? A. No, sir.
Q. You make application for the S. W. 1/4 of N. E. 1/4 of Sec. 17, T. 17 N., R. 18 E., containing 40 acres, for your ward, Charles Harrison, is that correct? A. Yes, sir.

Q. Are there any improvements on this land? A. No, sir.

Q. Is there a house on it? A. No, sir.

Q. Does anyone else claim this land or any part of it? A. No, sir.

Q. Have you been over this land and examined it with a view to making this application for Charles Harrison? A. Yes, sir.

Q. Is it prairie or timber land? A. Prairie land.

Q. Is this land suitable for a home for your ward, Charles Harrison? A. Yes, sir.

Q. Do you accept this land as his final allotment? A. Yes, sir.

Q. Have you made this selection in good faith in all respects? A. Yes, sir.

Q. Are there any churches, school houses, court houses or burial grounds on this land? A. No, sir.

Chas. Bailey.

Subscribed and sworn to before me at Muskogee, I. T., this 17, day of July, 1901.

(Seal) John G. Lieber, Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indans, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated July 17, *1801*, in the matter of the application of Charles Bailey to take an allotment of land in the Creek Nation for Charles Harrison.

GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-37.

OK T.B. X 25 Delray

POWER OF ATTORNEY.

Know All Men by These Presents,

That I, Mrs. Minnie Harrison, of Delray, Mich., do hereby make, constitute, and appoint Thomas E. Holden, of Choska, Indian Territory, my true, sufficient, and lawful attorney, for me in my name to select and file on such lands as I and my

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Cancel Card Field No. 3718. .

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Mar 13 1915 CHD (10c revenue stamp)

minor children, Charles Harris and Harvey Harris, may be entitled to by reason of our being citizens of the Creek Nation, and to use, lease or rent said lands as he may deem best for the reason that I am not able to attend to the business myself, on account of my temporary absence from the Indian Territory, and to do and perform all necessary acts in the execution and prosecution of the aforesaid business in as full and useful a manner as I might do if I were personally present.

In witness whereof, I have hereunto set my hand and seal, this 2 day of April, 1900.

Mrs. Minnie Harrison.

Signed, sealed, and delivered in the presence of
Louis Edward DeLisle
Charles Grahn

United States of America, State of Mich. ss
Wayne Co. *District.*

I, Peter B. DeLisle, a Notary Public within and for the Wayne County, Mich., do hereby certify that Minnie Harrison named in the foregoing instrument as grantor, appeared before me this day in person and acknowledged that she had signed and executed the foregoing Power of Attorney as her free and voluntary act and deed, and for the purposes and considerations therein mentioned and set forth.

Given under my hand and Notarial seal this 2 day of April, 1900.
Peter B. DeLisle,
Notary Public.
(Seal)
(Revenue stamps.)

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Power of Attorney, given by Minnie Harrison to Thomas E. Holden in the matter of the selection and filing on land in the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.
J.S.H. Jul 10 1916

Government's Exhibit A-38.

[See insert herewith for reproduction of photostatic copy of Creek Cancelled Card, Field No. 3718.]

Government's Exhibit A-39.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.
Muskogee, I. T., August 25, 1904.

In the matter of the application for the enrollment of Minnie Atkins as a citizen by blood of the Creek Nation.

Appearance: M. L. Mott, attorney for Creek Nation.

Fred Bowers duly sworn, testified as follows:

Examination by the Commission:

Q. What is your name? A. Fred Bowers.

Q. How old are you? A. 26.

Q. What is your post office address? A. Tallahassee.

Q. Are you a citizen of the Creek Nation? A. Yes, sir.

Q. Do you, make application for the enrollment of Minnie Atkins as a citizen by blood of the Creek Nation? A. Yes, sir.

Q. What degree of blood has she? How much blood? A. About 1/4 I think.

Q. To what town in the Creek Nation does she belong? A. Euchee.

The 1890 authenticated tribal roll of the Creek Nation examined and Minnie Atkins identified thereon at page 98, Euchee town, under the name of Mamie Atkins; she is also identified on the 1895 pay roll of the Creek Nation, Euchee town, No. 210.

Q. Are you related to Minnie Atkins? A. Yes, sir.

Q. What relation? A. First cousin.

Q. Where is she? A. I don't know.

Q. Where was she when you last heard of her? A. California.

Q. Is she married? A. She was married.

Q. Do you know the name of the man she married? A. No, sir.

Q. How long has it been since she left the Indian Territory? A. Something like 4 or 5 years before the land office opened as near as I can make it out.

Q. Was she here 4 or 5 years before the land office opened? A. Yes, sir.

Q. How long did she stay here then? A. Something like 2 years.

Q. Where had she been before that? A. California.

Q. How long had she been in California before she was here? A. I can't say.

Q. Give me some idea; 10 or 15 years or 5? A. 7 or 8 years I expect.

Q. Where was she born? A. On Elk Creek.

Q. In the Creek Nation? A. Yes, sir.

Q. How old was she when she left the Creek Nation? A. Must have been 17 or 18 years old.

Q. Do you know whether she is living or dead? A. No, I don't.

Q. When did you last hear of her? A. The last I heard of her was when she was here.

Q. 4 or 5 years ago? A. Something like that to the best of my recollection.

Q. You haven't heard of her since that time? A. No, sir, Charley Berryhil- got a letter from her I think since she went to California; something about her father; I will see them about it and get more evidence.

Q. How much time would you like to have to introduce further evidence in the case? A. All I can get; I don't 2 know, how to start out to locate her. She may have left there and went some place else.

The person for whom application is now made has been listed for enrollment on Creek Indian card Field No. 3718, under the name of Minnie Harris; a notation on that card states that she was in Fort Logan, Colorado, in 1894. See Old Creek Card 2055.

This case is continued.

Q. You have no interest in the case other than to see that she gets her rights? A. No, sir.

Henry G. Hains being sworn on his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported the above case and that this is a full, true and correct transcript of his stenographic notes in same.

Henry G. Hains.

Subscribed and sworn to before me this 29 day of September, 1904. (Seal) Wm. T. Martin, Jr., Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated August 25, 1904, in the matter of the application for the enrollment of Minnie Atkins as a citizen by blood of the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J. S. H. Jul 10 1916

Government's Exhibit A-40.

C. 3718.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.
Okmulgee, I. T., October 25, 1904.

In the matter of the application for the enrollment of Minnie Harris as a citizen by blood of the Creek Nation.

Samuel W. Brown, being duly sworn, testified as follows:

By Commission:

Q. What is your name? A. Samuel W. Brown.

Q. How old are you? A. Sixty-one.

Q. What is your post office address? A. Sapulpa.

Q. Are you the Town King of Euchee Town? A. Yes, sir.

Q. Do you know Minnie Harris? A. Yes, sir.

Q. Do you know whether she is living or dead? A. I don't know whether she is living or dead. The last account I had of her she was out of the country but she drew money here.

Q. How long has she been out of the Indian Territory?

A. I think she was here when Judge Moore made the payment here.

Q. Was that the $14.00 Payment or the $29.00 Payment?

A. I think it was the $29.00 Payment.

Q. Has she been here since? A. I don't think she was here but she drew her money and she drew some of her brother's money and she didn't return it and left the country.

Q. Did she leave soon after that payment? A. Yes, sir.

Q. And has never been back since then? A. I nefer heard of her being back.

Q. Is she related to you? A. Second cousin.

Q. How long has it been since you heard from her? A. I have not heard from her for a long time. Ed Schrimpsher and Tom Bowles could tell you something about her.

Q. What is Ed Schrimpsher's post office address? A. Wagoner. He is her first cousin.

Q. What is Tom Bowles' post office address? A. I think it is Muskogee.

I, D. C. Skaggs, on oath state that the above and foregoing is a full and true transcript of my stenographic notes as taken in said cause on said date. D. C. Skaggs.

Subscribed and sworn to before me this 4 day of Nov., 1904. (Seal) Charles H. Sawyer, Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated Oct. 25, 1904, taken at Okmulgee I. T., in the matter of the application for the enrollment of Minnie Harris as a citizen by blood of the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-42.

Creek Indian No. 3718. EK STW

DEPARTMENT OF THE INTERIOR.
Commissioner to the Five Civilized Tribes.

In the matter of the application for the enrollment of Minnie Harris, as a citizen by blood of the Creek Nation.

STATEMENT AND ORDER.

It appears from the records in the possession of this office that on April 24, 1901, the name of Minnie Harris was listed for enrollment by the Commission to the Five Civilized Tribes on Creek Indian card, field number 3718; the name of said person appearing upon the 1890 authenticated tribal roll of Euchee town, which listing was done in order to preserve whatever rights said person might have as a citizen of the Creek Nation. The listing of the name of said person is considered in the nature of an original application for her enrollment as a citizen by blood of the Creek Nation.

Testimony was taken in this case on October 25, 1904.

This office has, *though* its field parties operating in the Creek Nation, and by interviews in this office of prominent Creek Indians of extensive acquaintance, made every effort to ascertain the whereabouts of said person, but no further information has been obtained.

It is considered that this person is not entitled to enrollment either because she died prior to April 1, 1899, or because of non residence, or because she has been enrolled under some other name.

I am, therefore, of the opinion that the application for the enrollment of Minnie Harris, as a citizen of the Creek Nation should be dismissed, and it is so ordered.

Tams Bixby, Commissioner.

Muskogee, Indian Territory, Feb 20 1907.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Statement and Order dated Feb. 20, 1907, in re enrollment of Minnie Harris as a citizen of the Creek Nation.

GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

Apr 25 1917 JRP

Government's Exhibit A-44.

[See insert herewith for reproduction of photostatic copy of Creek Census Card, No. 2032.]

Government's Exhibit A-45.

5-2-17

Farms to Sell and Rent, Houses to Sell and Rent, Stock to Sell, All Kinds of Business Promptly Attended to.

WAGONER REAL ESTATE AND COLLECTING AGENCY.
J. T. Hall, Manager.

Daws Commission, Wagoner, Ind. Ter., June 25, 1901.
Muskogee, I. T.

Gentlemen:

Please send me, by return mail, a statement of my filing papers, as it will be some time before I receive my filing certificate. Respectfully, Nancy Atkins.

P. S. I desire the numbers of my land .... N-A-

[illegible] Roll [illegible] 2022

[illegible]

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Census Card No. 2032.

Gabe E. Parker,
Superintendent for the
Five Civilized Tribes.

May 2 1917 JRP

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter from Nancy Atkins to Daws Commission, Dated June 25, 1901, File No. 9532.

(Seal) GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

W.H.A. Apr 10 1917 JRP

Government's Exhibit A-46.

5-2-17

Farms and Residences for Sale and Rent. Choice Residence and Business Lots Cheap. Teams and Milch Cows and all Kinds of Personal Property bought and Sold. Business Promptly Attended to.

WAGONER REAL ESTATE AND LOAN CO.

J. T. Hall, Manager.

Daws Commission, Wagoner, Ind. Ter., July 29, 1901.

Muscogee, I. T.

Gentlemen:

Please inform me as to the necessary steps to take in filing for my brother, Lee Adkins who was about 37 yrs. old when he was killed at Checotah in Nov. 1898. Also, I have a sister named Minnie Adkins, who went to Colorado two years ago, last June, I received a letter from her last November but have heard nothing from her since. Can I file for her before it is too late? Please send my filing papers by return mail as I am very anxious to receive them at once. I desire to rec. papers so that I can make arrangements at once about other business. I filed on the 11th of June, 1901, I think.

Nancy Adkins.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter from Nancy Adkins to the Dawes Commission, dated July 29, 1901, Letter File No. 11229.

(Seal) GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 10 1917 JRP

Government's Exhibit A-47.
5-2-17.

(Book 63—Page 396. (1901))

Muskogee, Indian Territory,
August 9, 1901.

Mrs. Nancy Adkins,
Wagoner, Indian Territory.

Dear Madam:

The Commission is in receipt of your favor of July 29th, in which you state that your brother, Lee Adkins, was killed in November, 1898.

You also state that you have a sister named Minnie Adkins in Colorado, and requesting that your filing papers be sent you.

In reply to your letter you are advised that the Creek agreement provides that all citizens living on April 1, 1899, entitled to enrollment shall be placed upon the rolls made by this Commission. Your brother having died prior to that date would not be entitled to enrollment.

With reference to your sister's enrollment, you are advised that Act of Congress of June 28, 1898, contains the following provision:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claim citizenship."

Mrs. Nancy Adkins——2

The Creek agreement approved May 25, 1901, contains the following provision:

> "Said Commission shall have authority to enroll as Creek citizens x x x x x such other recognized citizens found on the Creek rolls as might, by reason of nonresidence, be excluded from enrollment by section twenty-one of said Act of Congress approved June 28, 1898."

Your certificate of selection will not be mailed to you until 90 days from the date of your application.

Yours truly,
T. B. Needles,
Commissioner in Charge.

RBE

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter press copy of a letter to Nancy Adkins, dated August 9, 1901, as same appears on pages 396 and 397 in letter press book No. 63.

(Seal) GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

W.H.A. Apr 13 1917 JRP

Government's Exhibit A-48.

5-2-17

Farms and Residences for Sale and Rent. Choice Residence and Business Lots Cheap. Teams and Milch Cows and all Kinds of Personal Property bought and sold. Business Promptly Attended to.

WAGONER REAL ESTATE AND LOAN CO.

J. T. Hall, Manager.

Wagoner, Ind. Ter., August 15, 1901.

Commission to The Five Civilized Tribes,
Muskogee, Ind. Ter.

Gentlemen:

Your favor of the 9th inst. in reply to mine of the 29th ult. at hand and contents noted. Many thanks for information. I failed to state to you that my sister, Minnie Atkins, of whom I wrote you was born in the Indian Territory, and has lived here all her life until a little less than three years ago, when she left temparyly for her health, going to Colorado, and she wrote me from that place on the 12th of last Nov. Of course she has been a citizen of the Indian Territory and enrolled all her life and has drawn Creek money as mysefl— She belonged to the same town as myself. I write this as I failed to state in my last that she was born in the Territory and as I see from yours, which I inclose, that you thought she had not moved to the I. T. *Please write at once* as it is getting late and I am anxious that she has her rights as she is entitled to and needs them.

Respectfully,

Nancy Adkins.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter from Nancy Adkins to the Commission to the Five Civilized Tribes, dated August 15, 1901, Letter File No. 12008.

(Seal) GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 10 1917 JBP

Government's Exhibit A-49.
5-2-17

(No. 65 Page 126.)

Muskogee, Indian Territory,
August 19, 1901.

Nancy Adkins,
Wagoner, Indian Territory.

Dear Madam:

The Commission is in receipt of your favor of the 15th instant, relative to the enrollment of your sister, Minnie Adkins, whom you say has lived here all her life, until about three years ago, when she left temporarily for her health, going to Colorado.

In reply to your letter you are advised that, as stated in the Commissioner's letter to you on the 9th instant, it will be necessary for your sister to comply with the following provisions of the act of the Creek agreement, approved May 25, 1901:

> "Said Commission shall have authority to enroll as Creek citizens x x x x x such other recognized citizens found on the Creek rolls as might, by reason of nonresidence, be excluded from enrollment by section twenty-one of said Act of Congress, approved June 28, 1898: Provided, That such non-residents shall in good faith, remove to the Creek Nation before said Commission shall complete the rolls of Creek citizens as aforesaid."

Yours truly,
T. B. Needles,
Commissioner in Charge.

RBE

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter press copy of a letter to Nancy Adkins, dated August 19, 1901, as same appears on page 126 in letter press book number 65.

(Seal)

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 13 1917 JRP

Government's Exhibit A-50.

5-2-17

(Book 238—Page 152.)

Muskogee, Indian Territory,
March 7th, 1903.

Mrs. Nancy Atkins,
Nowata, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of March 9th, in which you ask that your deed be sent to you.

In reply you are advised that it will be necessary for you to address Hon. P. Porter, Muskogee, Indian Territory, with reference to the delivery of your deed.

Respectfully,

Chairman.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the deposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter press copy of a letter to Mrs. Nancy Atkins, dated March 7th, 1903, as same appears on page 152 in letter press book No. 238.

(Seal)

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 13 1917 JRP

Government's Exhibit A-51.

5-2-17.

Nowata, I. T., Apr. 6th, 1903.

Does Commissioners

Kind Sirs.

I am here by notified to make my appearance at muskogee right a way and I thought that I would write to youal and find out what is going on down there fr the Creeks—are the deeds to be sent out or not. some indian sent this word to me and I dont Know what he means Or who he is It might be crazy snake fr what I Know now please notifie me what are youal doing fr the Creeks

Yours Oblige

Nancy Atkins

Nowata I. T. Box 121

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter from Nancy Atkins to the Dawes Commission, dated April 6th, 1903, Letter File No. 9409.

(Seal) GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

W.H.A. Apr 10 1917 JRP

Government's Exhibit A-52.

5-2-17

(Book 254, Page 412.)

Muskogee, Indian Territory,
Apr. 14, 1903.

Mrs. Nancy Atkins,
Nowata, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of recent date in which you ask with reference to the delivery of the deeds covering the allotment as made to you in the Creek Nation.

In reply you are advised that the deeds covering your allotment have been forwarded to Washington for approval of the Secretary of the Interior, and it is probable that the same will be ready for delivery within the next eight weeks.

Respectfully,

(Signed) T. B. Needles,
Commissioner in Charge.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter press copy of a letter dated April 14, 1903, to Nancy Atkins, as same appears on page 412 in letter press book No. 254.

(Seal) GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 13 1917 JRP

Government's Exhibit A-53.

5-2-17

DEPARTMENT OF THE INTERIOR
Commission to the Five Civilized Tribes
Muskogee Land Office, January 23, 1901

In the matter of the application of Nancy Atkins for allotment for herself as a citizen of the Creek Nation, accompanied by proper description of lands applied for, and a certificate showing that she is entitled to take under the rulings of the Secretary of the Interior. Nancy Atkins being duly sworn by G. L. V. Emerson, a Notary Public, testified as follows:

Q. What is your name? A. Nancy Atkins.

Q. Are you a citizen of the Muskogee Nation? A. Yes, sir.

Q. What town do you belong to? A. Euchee.

Q. How long have you lived in the Creek Nation? A. All my life.

Q. Have you been outside the Territory in the last three years? A. No, sir.

Q. What is your post office address? A. Wagoner, I. T.

Q. Do you own a home of your own in the Creek Nation? A. No, sir.

Q. You make application for yourself for the N. W. ¼ of section 21, township 18, range 18, is that correct? A. Yes, sir.

Q. Are there any improvements on this land? A. No, sir.

Q. Does any one else claim this land or any part of it? A. Josephine C. Barber has filed on it, but I understand that she is a Cherokee citizen, and if such is the case and she is not permitted to take this land as an allotment in the Creek Nation I desire to take the land as my allotment. If Josephine C. Barber is permitted to take this land as an allotment in the Creek Nation, I do not intend to make any claim to it and will withdraw this application for it.

Q. Do you know where this land is? A. Yes, sir.

Q. Have you been over it and examined it with a view to making this application for it? A. Yes, sir.

Q. Is it prairie or timber land? A. Prairie.

Q. Is this land suitable for a home for yourself? A. Yes, sir.

Q. Will you accept this land in part as your final allotment? A. Yes, sir.

Q. Have you made this selection in good faith in all respects? A. Yes, sir.

Q. Are there any school houses, court houses, churches or burial grounds on this land? A. No, sir.

her
Nancy X Atkins
Witness: W. J. Cook, Lono Cummings mark

Subscribed and sworn to before me this 23 day of January, A. D., 1901. (Seal) Guy L. V. Emerson, Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated Jan. 23, 1901, in the matter of the application of Nancy Atkins for allotment for herself as a citizen of the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

APPLICATION FOR ALLOTMENT

Filed on by Josephine E. Baber

Cancelled 2/14/1901

Memo attached

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Application for Allotment for Nancy Atkins.

Gabe E. Parker,
Superintendent for the
Five Civilized Tribes.

Jul 10 1916 J.S.H.

Government's Exhibit A-54.

[See insert herewith for reproduction of photostatic copy of Application for Allotment for Nancy Atkins.]

Government's Exhibit A-55.

5-2-17

DEPARTMENT OF THE INTERIOR
Commission to the Five Civilized Tribes
Muskogee, I. T., June 11th, 1901
Muskogee Land Office

In the Matter of the Application of Nancy Atkins to take an allotment of land in the Creek Nation, for herself accompanied by a proper description of the land applied for and a certificate showing that she has been listed for enrollment as a citizen to said Nation.

Nancy Atkins being duly sworn by John G. Leiber, a Notary Public testified as follows:

Q. What is your name? A. Nancy Atkins.

Q. Are you a citizen of the Muskogee Nation? A. Yes, sir.

Q. What town do you belong to? A. Euchee.

Q. How long have you lived in the Creek Nation? A. All my life.

Q. Have you been outside of the Territory in the last four years? A. No, sir.

Q. What is your post-office address? A. Wagoner, I. T.

Q. Do you own a home of your own in the Creek Nation? A. No, sir.

Q. You make application for the S2 of NE4 and Lots 1 and 2 of Sec. 2, T. 17, R. 15, containing 161.34. acres, is that correct? A. Yes, sir.

Q. Are there any improvements on this tract of land? A. No, sir.

Q. Is there a house on it? A. No, sir.

Q. Does any one else claim this land or any part of it? A. No, sir.

Q. Have you been over this land and examined it with a view of making this application for it? A. Yes, sir.

Q. Is it prairie or timber land? A. It is part prairie and part timber.

Q. Is this land suitable for a home for yourself? A. Yes, sir.

Q. Do you accept this land as your final allotment? A. Yes, sir.

Q. Have you made this selection in good faith in all respects? A. Yes, sir.

Q. Are there any churches, school-houses, court-houses, or burial grounds on this land? A. No, sir.

her
Nancy x Atkins
mark

Witness: W. J. Hastain, W. J. Cook.

Subscribed and sworn to before me at Muskogee, Indian Territory, this the 11th day of June, 1901.

(Seal) John G. Lieber, Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated June 11th, 1901, in the matter of the application of Nancy Atkins to take an allotment of land in the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10, 1916

Government's Exhibit A-56.
5-2-17

No. ......

COMMISSION TO THE FIVE CIVILIZED TRIBES.

APPLICATION FOR ALLOTMENT.

Creek Nation. Muskogee Land Office.

I, Nancy Atkins, do hereby make application to have set apart to me, and to those whom I lawfully represent, lands selected by me, as follows: 88

Roll Number, C6292; Names, Nancy Atkins; Relationship of Persons First Named, ...; Subdivision of S½ of NE¼ and Lots 1 and 2 of Section 2, Town 17, Range 15; Acres, 161; 100ths, 35.

I, Nancy Atkins, do solemnly swear, that I have in person actually been upon the lands so selected by me for myself, as above described, and am fully informed as to the location of the same, and the character of the soil; that said lands are suitable for homes, and that I have in good faith selected such lands, and will accept the same in allotment to myself, and that no part of said lands is lawfully held by any other member of the Creek Tribe.

her
Nancy x Atkins
mark

Witness: W. J. Hastain, W. J. Cook.

Subscribed and sworn to before me at Muskogee, I. T., this 11th day of June, A. D. 1901.

(Seal) John G. Lieber, Notary Public.

Approved and Certificate issued this .... day of ....

...................., Register.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Application for Allotment for Nancy Atkins.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-57.

5-2-17

1261 (44) 161.34
40.71
120.63

C 2032 & CV

Department of the Interior
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muskogee Land Office.

APPLICATION FOR HOMESTEAD ALLOTMENT.

I, Nancy Atkins, do hereby make application to have the lands hereinafter described set apart as homesteads for myself and those whom I lawfully represent, the same being a part of the lands already selected by me as allotments for myself and those whom I lawfully represent, as follows:

Roll No., 6292; Name, Nancy Atkins; Relation to First Named Person, ...; Subdivision of Lot 2 of Sec. 2, Town 17, Range 15; Acres 40; 100ths, 71

Dated at Muskogee, Indian Territory, this 3rd day of May, 1902.

her
Nancy x Atkins
mark

Witnesses to mark:
Anthony Crafton,
Jos. Willoughby.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Application for Homestead Allotment for Nancy Atkins.

Gabe E. Parker,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-58.
5-3-17

Gov. Ex. 2—Eq. 2131—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Quit Claim Deed from Minnie Atkins to H U Bartlett as the same appears on the records of this office. Filed 4 day of Nov 1912 at 8 o'clock A M., and recorded in volume 57 at page 404.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb, 1915.

(Seal)
Gus L. Corey, County Clerk,
By ...., Deputy.

(10c revenue stamp) Jennings Ptg. Co. Sapulpa

12971

QUIT-CLAIM DEED.

Know All Men by These Presents That I, Minnie Atkins, in consideration of the sum of Three Hundred ($300) Dollars in hand paid, the receipt of which is hereby acknowledged, do hereby quit claim, grant, bargain, sell and convey unto H. U. Bartlett the following described real property and premises situate in Creek County, State of Oklahoma, to-wit:

> The West half of the Northeast quarter of Sec. 5, and the West half of the Northwest quarter of Sec. 4, Township 18 North, Range 7 East, containing 160 acres, more or less.

together with all the improvements thereon and appurtenances thereunto belonging.

To Have and To Hold, said described premises unto the said grantee, heirs and assigns, forever.

Signed and delivered this 2nd day of October, 1912.

Minnie Atkins (seal)
Mico T. Hays,
Witnesses: Nowata, Okla.
W. C. Brown, 1120 Com. St., Lawrence, Kan.

ACKNOWLEDGMENT.

State of Kansas, Douglass County, ss.

Before me, the undersigned, a notary public, in and for said county and state, on this second day of November, 1912, personally appeared Minnie Atkins, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal, the day and year above set forth.

W. E. Hazel,
Notary Public.
Mico T. Hays, Nowata, Okla.

My commission expires Oct 11, 1914. (Seal)
W. C. Brown, 1120 Com. St., Lawrence, Kans.

Filed for record at office of register of deeds, Creek County, Oklahoma, Nov. 4, 1912, at 8 o'clock, A. M., recorded in Book 57 at page 404. H. H. Adams, Register of Deeds.

Government's Exhibit A-59.
5-3-17

Gov. Ex. 3—Eq. 2131.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Grant between H. U. Bartlett to Gypsy Oil Co. as the same appears on the records of this office. Filed 3 day of Dec., 1912, at 9 o'clock A. M., and recorded in volume 70 at page 586.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feby., 1915.

(Seal) GUS L. COREY, County Clerk.
By ...., Deputy.

(10c revenue stamp.) Jennings Ptg. Co., Sapulpa.

13770

OIL AND GAS GRANT.

This indenture, made and entered into this, the 29th day of November, 1912, by and between H. U. Bartlett, of Mannford, Oklahoma, party of the first part, and Gypsy Oil Company, a corporation, organized under the laws of the State of Oklahoma, party of the second part, does

Witness: That: For and in consideration of the sum of Sixteen Hundred Twenty & 10/100 ($1620.10) Dollars, this day in hand paid to the party of the first part by the party of the second part, the receipt whereof is hereby acknowledged, the party of the first part has this day granted, bargained, sold and conveyed, and by these presents, doth hereby grant, bargain, sell and convey unto the Gypsy Oil Company, its successors and assigns, all the oil and gas in and under the following described tract or parcel of land, lying and being in Creek County, State of Oklahoma, and described as follows, to-wit:

NW¼ of NW¼ of Section 4, and SW¼ of NE¼, and Lot 2, Section 5, township 18 North, Range 7 East, and Lot 4 of section 4, township 18 North, Range 7 east, containing one hundred sixty two & 01/100 (162.01) acres, more or less, together with the right to enter upon said premises at all times for the purpose of mining, drilling and operating for oil, gas and water and to erect and maintain all buildings, structures, pipes, pipelines and machinery necessary for the production and transportation of oil, gas or water on, upon and across said lands, provided, however, the party of the first part shall have the right to use said premises for farming purposes, except such parts thereof as shall be occupied by the party of the second part, or as are necessary to be used for the proper development of the above described lands by the party of the second part, its successors or assigns.

It Is Agreed on, by and between the parties hereto, as follows:

First. In case no well for oil or gas is commenced to be drilled on said above described premises within one year of date hereof, all rights and obligations secured under this grant shall cease and determine, unless the party of the second part, its successors or assigns, shall elect to continue the same in force as to all of said above described premises by paying an annual rental of One ($1.00) Dollars per acre, payable quarterly in advance for all of said premises for each year until such well is commenced. *b*ut these continuances may not exceed five (5) years from this date, and if by such time party of the second part shall not have commenced a well, all its right hereunder shall cease.

Second. It is expressly declared that if oil or gas be found in paying quantities, then the party of the second part shall become at once vested with an estate in and to such minerals, with the right to produce the same as long as either of such minerals shall be produced in paying *quanties*.

Third. Should oil be found upon said premises in paying *quanties*, the party of the second part hereby agrees to and shall pay to the party of the first part, out of the proceeds of all oil produced and saved from said premises, the one-eighth part of said proceeds as royalty, but is under no obligations to find a purchaser of such oil.

Fourth. Should gas be found in paying quantities in any well, the consideration in full for such first party shall be at the annual rate of two hundred and fifty dollars ($250.00), payable quarterly in advance, for the gas from each well while said gas is being pipe*s* and used off said premises, together with privileges of said party to pipe and use gas from *saud* well or wells to heat and light one dwelling house on said premises so long as said grantee continued to pipe and use said gas from said well, said party making his own connections, but party of the second part does not guarantee against a deficient supply of gas for said dwelling, by pumping said well or wells, or otherwise, nor shall it be liable for any injury or injuries to the person or property of said first party arising out of the use of said gas.

Fifth. Said second party shall have the privilege of excavating, drilling or boring for water, and of using sufficient water, wood, gas, and oil from the premises herein, granted to run all machinery for the prosecution of said business on this and adjoining premises operated jointly as one property.

Sixth. The second party shall have free pipe line right of way over said premises and any other property owned and controlled by the first party, together with all right of ingress and egress for the purpose of laying maintaining, operating and removing, as hereinafter provided, said pipe line and applicances used in connection therewith, but second party shall bury, when requested to do so by first party, all its oil and water lines used to conduct oil, gas or water over said premises.

Seventh. The second party shall have free use of the land herein conveyed for the purpose of erecting and maintaining such tankage as may be necessary for the caring for oil produced by said second party.

Eighth. All rents, royalties and monies due or to become due under the terms of this instrument may be paid to the party of the first part in person, or by check of the second party deposited in the United States mail at Tulsa, Oklahoma, for transmission to the party of the first part, at the post office address of Mannford, Oklahoma. Date of so depositing in mail shall be taken and held as true date of payment and payment so made shall be binding, notwithstanding party of the first part shall have sold, transferred or otherwise conveyed, or disposed of said premises, or his right to such rentals, or royalties, in whole or in part, until actual notice of such change in ownership is given to party of the second part in writing, signed by party of the first part and his grantee, grantees, or assigns, and, after such notice such payments can be made to such grantee, grantees, or assigns in like manner by depositing check in United States mail to be transmitted to him or them at a postoffice address to be designated in the notice above required.

Ninth. The party of the first part shall pay and discharge all liens, taxes and assessments, charges and encumberances that are now against or that may hereafter accrue be levied or assessed against said premises before the same become delinquent or due, and failing so to do, party of the second part is hereby authorized to advance, but is under no obligation so to do, funds necessary to pay and pay off and discharge the same, and, in such event, it shall have a lien upon said premises and all the rentals and royalties accruing hereunder to secure such advancement or advancements, and may retain such royalty and rentals and apply the same on such advancement or advancements until the same is or are discharged and satisfied in full.

Tenth. In event royalties accruing under this instrument to the party of the first part are paid by the pipe line or pipe line companies to whom the oil produced from said premises is sold or run, such pipe line company or companies may pay the same in the same manner and with like effect as such payment is herein provided to be made by the party of the second part.

Eleventh. It is further provided that if oil or gas in paying quantities shall be found, and the party of the second part should conclude that it does not desire to operate longer under this lease, then the right is conferred to surrender the same and such surrender may be made by executing a release and filing it in the office of the register of deeds of the county in which the land is located and giving notice thereof to the party of the first part, his successors or assigns, in writing, deposited in the United States mail at Tulsa, Oklahoma, addressed to him or them at the postoffice address furnished in accordance with the provision of paragraph eight. Party of the second part shall have, during the life of this grant and within ninety (90) [] after the termination thereof, from any cause, voluntary or involuntary, the right to remove all buildings, tanks, structures, pipes, pipe lines and machinery used for or in the production or transportation of oil, *h*as or water, and all fixtures placed on or attached to said land, including the right to pull and remove casing in producing or non-producing oil, gas or water wells, and for this purpose shall have free ingress, egress, and regress upon, over and across said above described lands.

Twelfth. All of the above stipulations agreements and obligations of this grant shall be binding on both parties hereto and they shall apply with equal force to their heirs, successors, assigns and legal representatives.

Witness ou*t* hands this, the day and year first above written.

Witness: C. E. Crain, Jr. H. U. Bartlett.

State of Oklahoma, County of Tulsa, ss.

Before me, T. C. Wilson, Jr., a Notary Public within and for the above named county and state, on this 29th day of November, 191.., personally appeared H. U. Bartlett to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

In witness whereof, I have hereunto affixed my hand and official seal on this, the day and year last above written.

T. C. Wilson, Jr., Notary Public.

My commission expires: October 9th, 1916. (Seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 3 day of Dec., A. D. 1912, at 9 o'clock, A. M., and duly recorded in Book 70 at page 586. H. H. Adams, Register of Deeds.

Government's Exhibit A-60.

5-3-17

Gov. Ex. 4.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Bargain and Sale Deed Statutory Form from Minnie E. Folk to Alexander J. McNab, Jr., Trustee, as the same appears on the records in this office. Filed 22 day of June, 1914, at 1 o'clock P. M., and recorded in volume 103 at page 85.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) GUS L. COREY, County Clerk.
By ...., Deputy.

(10c revenue stamp.) Jennings Ptg. Co., Sapulpa.

11336

BARGAIN AND SALE DEED STATUTORY FORM.

The grantor, Minnie E. Folk, formerly Minnie E. Atkins of Seattle, in the county King, and state of Washington, for and in consideration of One Dollar in hand paid, bargain, sell and convey to Alexander J. McNab, Jr., Trustee of Salmon in the county of and .... State of Idaho, all her right, title and interest, in and to the following described real estate.

The south west one quarter of the northwest one quarter of section four (4), and the southwest one quarter of the northeast one quarter of section Five (5), and Lot numbered two (2) of section five (5), surplus allotment comprising 120.85 acres, and Lot numbered four (4), homestead allotment, comprising 41.16 acres, all in township eighteen (18) North, range seven (7) east, being the allotment, in the Creek Indian Nation, of Thomas Atkins, Creek Roll Number 7913, containing 162.01 acres, more or less, in toto.

situated in the county of Creek, state of Oklahoma.

Dated this 13th day of June, 1914.

Minnie E. Folk (Atkins) (Seal)
Harry B. Folk
(her husband) (Seal)

Witnesses:

To Minnie E. Folk
J. G. McComb
Catherine Sisk McComb
E. C. Hanford
John P. Garvin

To Harry B. Folk
F. B. Donis
O. W. Willtree

State of Washington, County of King—ss.

This is to certify, that on this 13th day of Jund, A. D. 1914, before me, John P. Garvin, a notary public in and for the state of Washington, duly commissioned and sworn, personally come Minnie E. Folk (Atkins) to me known to be the identical person described in and who executed the within instrument and acknowledged to me that she signed and sealed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.

(Seal)

John P. Garvin,
Notary Public in and for the State
of Washington residing at Seattle.

Commission expires June 29, 1917.

The State of Washington, County of Spokane—ss.

I, R. S. Cordiner, a notary public in and the state of Washington do hereby certify that on the 16th day of June, A. D. 1914, personally appeared before R. S. C. me, Harry

B. Folk to me known to be the identical person described in and who executed the within instrument, and acknowledged that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal, this 16th day of June, A. D. 1914.

(Seal) R. S. Cordiner,

Notary Public in and for the State of Washington, residing at Spokane.

Commission expires December 16, 1914.

State of Oklahoma, County of Creek—ss. This instrument was filed in my office for record on the 22 day of June, 1914, at 1 o'clock, P. M., and duly recorded in Book 103, page 85. Huber Hughes, Recorder of Deeds.

Government's Exhibit A-61.

Gov. Ex. 5.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Lease between Alexander J. MacNab, Jr., Trustee, to Gem Oil Co., as the same appears on the records of this office. Filed 29 day of June, 1914, at 1 o'clock P. M., and recorded in volume 101 at page 259.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) GUS L. COREY, County Clerk.

By ...., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

11481

OIL AND GAS LEASE.

This Agreement made and entered into this 24th day of June, 1914, by and between Alexander J. MacNab, Jr., the owner as trustee of the land and property hereby demised, hereinafter referred to as the lessor, and Minnie E. Folk, formerly Minnie E. Atkins, mother and sole heir of Thomas Atkins, deceased, and her husband Harry B. Folk, the parties of the first part, and Gem Oil Company, a corporation, of Tulsa, State of Oklahoma, hereinafter referred to as the Lessee, the party of the second part:

Witnesseth that the Lessor, in consideration of the sum of One Thousand Dollars ($1000.00) to the said lessor in hand well and truly paid by the Lessee, the receipt of which is hereby acknowledged, does hereby grant demise, lease and let unto the lessee, its successors, heirs and assigns, all of the oil and gas in and under the following described tract of land, and also the said tract of land for the purpose and with the exclusive right of entering upon and operating thereon and removing therefrom said oil and gas, and of laying pipe lines, building tanks, powers, stations and structures, thereon for producing, extracting, storing and disposing of said products and with the right to use oil, gas and water therefrom, and all rights and privileges necessary for convenience for such operations; also, the right to remove, at any time, all property, pipes, casing, material, buildings, and improvements placed, or erected in or upon said land by the lessee; said land being all of that certain tract of land situate in Creek County, State of Oklahoma, described as follows, to-wit:

The southwest one-quarter of the Northwest one-quarter of section four (4), and the southwest one-quarter of the Northeast one-quarter of Section five (5), and lot numbered two (2) of Section five (5), surplus allotment, comprising 120.85 acres, and lot numbered four (4) of section four (4), homestead allotment, comprising 41.16 acres, all in township eighteen (18) north range seven (7) East, being the allotment in Creek Indian Nation of Thomas Atkins, deceased, Creek Roll Number 7913, containing 162.01 acres, more or less.

To Have and To Hold the same for and during the term of five years from the date hereof and as much longer thereafter as oil or gas is found therein or said premises developed or operated.

The lessee agrees to deliver to the credit of the lessor free of cost in the pipe line to which it may connect its wells the equal one-eighth part of all crude oil produced and saved from the above described lands.

If gas be found in paying quantities, the lessee agrees to pay to the lessor Two Hundred and Fifty Dollars each year in advance, for the product of each well from which gas only is produced while the same is being sold off the said land.

The lessor to have, free of cost, sufficient gas from any wells drilled on the said land to light and heat one dwelling house upon said land, the same to be taken at the mouth of the well at the lessor's risk and to be used economically.

The lessee agrees to pay to the lessor for gas produced from any oil well and used off the premises at the rate of fifty dollars per year, for the time during which gas shall be used, said payments to be made each three months in advance.

The lessee agrees to bury all pipe lines in cultivated fields below the depth of plow whenever requested to do so by the lessor, and also to pay the lessor for damage done to growing crops while drilling.

No well shall be drilled nearer than two hundred feet to any building now on said premises, without the consent of the lessor.

If a well is not commenced on said premises within one year from the date hereof, this lease shall become null and void, unless the lessee shall pay or tender to the lessor a rental of One Dollar per acre, in advance, for each additional one year such commencement is delayed from the time above mentioned for the commencement of such well until a well is commenced on said land. It is expressly agreed that the right to extend and continue this lease is fully paid for by the consideration above mentioned, and that the said payment or tender when made shall fully and completely extend this lease from time to time until a well is commenced. The drilling of a producing well on said premises shall operate as a full liquidation of all rentals due or payable under this provision during the remainder of the term of this lease.

The completion of drilling operations which result in a dry hole or a well not producing oil or gas in paying quantities shall be in lieu of all rentals accruing from and after the date of the commencement of said operations, for a period expiring one year after the termination of said operations, and this lease shall be in full force and effect for said time as fully as if said rentals had been paid or a producing well completed.

All payments of money under this lease may be made or tendered by valid check direct to the lessor or by registered letter addressd to the lessor at his last known post office address, or deposited to his credit in the Continental National Bank of Salt Lake, Utah.

The lessee shall have the privilege of paying off, or assuming any or all mortgages, taxes, or other incumberances against the leased premises, and upon so doing, will be subrogated to the rights of the holder thereof.

The lessee shall not be bound by any change in the ownership of said land until presentation of abstract satisfactorily showing same.

The benefit of homestead and exemption laws of the state of Oklahoma are hereby expressly waived.

All the terms and conditions herein shall extend and apply to the respective heirs, executors, administrators and assigns of the parties hereto.

It is hereby agreed that this lease shall be in force and effect and that the second party is not bound to conduct drilling operations until title is perfected of record in the lessor.

In witness whereof the parties hereto have hereunto set their hands and seals the day and year first above written.

Executed in triplicate.

Alexander J. MacNab, Jr.,
Trustee, (Seal)
Minnie E. Folk, (Seal)
Harry B. Folk. (Seal)

State of Washington, County of King, ss.

On this 24th day of June, A. D. 1914, before me, the undersigned a notary public for the State of Washington, personally appeared Alexander J. MacNab, Jr., to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

J. A. Cathcart,
Notary Public for the State of
Washington, residing at Seattle.

My commission expires Jan. 4, 1915. (Seal)

State of Washington, County of King, ss.

On this 24th day of June, A. D. 1914, before me, the undersigned a notary public for the State of Washington, personally appeared Minnie E. Folk to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

J. A. Cathcart,
Notary Public for the State of
Washington, residing at Seattle.

My commission expires Jan. 4, 1915. (Seal)

State of Washington, County of King, ss.

On this 24th day of June, A. D. 1914, before me, the undersigned a notary public for the State of Washington, personally appeared Harry B. Folk, to me known to be the identical person who executed the within instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

J. A. Cathcart,
Notary Public for the State of
Washington, residing at Seattle.

My commission expires Jan. 4, 1915. (Seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 29 day of June, 1914, at 1 o'clock P. M. and duly recorded in Book 101 at page 259. Huber Hughes, Register of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-62.

Gov. Ex. 6.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Assignment of Oil & Gas Lease from Gem Oil Co. to Chas. Page et al., as the same appears on the records of this office. Filed 6 day of July, 1914, at 8 o'clock A. M., and recorded in volume 102 at page 75.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feby., 1915.

(Seal) GUS L. COREY, County Clerk.
By ...., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

11613.

ASSIGNMENT OF OIL AND GAS LEASE.

Whereas, Heretofore, on the 24th day of June, 1914, Alexander J. MacNab, Jr., the owner as trustee of the lands and properties hereby demised, herein referred to as the lessor, and Minnie E. Folk, formerly Minnie Atkins, mother and sole heir of Thomas Atkins, deceased, and her husband, Harry B. Folk, made, executed and delivered to the Gem Oil Company an oil and gas lease on the properties hereinafter described.

Now, for and in consideration of the sum of One Dollar ($1.00) in hand paid, the receipt of which is hereby acknowledged, the Gem Oil Company does hereby assign, set over and convey equally unto Charles Page and R. A. Josey the said oil and gas lease and its right, title and interest in and to the oil and gas lying in and under the following described lands, situate in the County of Creek, in the State of Oklahoma, to-wit:

> The Southwest quarter (SW4) of the Northwest quarter (NW4) of Section Four (4) and the Southwest quarter (SW4) of the Northeast quarter (NE4) and Lot Two (2) of Section Five (5) Township Eighteen (18) North, Range Seven (7) East, and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East.

To Have and To Hold unto the said Charles Page and R. A. Josey for the term of said lease.

Dated this 30th day of June, 1914.

GEM OIL COMPANY,
By R. A. Josey, President.

Attest: F. B. Long, Secretary. (Corp. Seal)

State of Oklahoma, County of Tulsa, ss.

Before me the undersigned, a notary public, in and for said county and state, on this 30th day of June, 1914, personally appeared R. A. Josey, to me known to be the identical person who executed the within and foregoing instrument, as president of the maker thereof and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed and as the free and voluntary act and deed of such company for the uses and purposes therein set forth.

Witness my hand and official seal the day and year first above written. A. A. Eberly, Notary Public.

My commission expires June 15, 1918. (Seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 6 day of July, A. D. 1914, at 8 o'clock A. M. and duly recorded in Book 102 at page 75. Huber Hughes, Register of Deeds.

Government's Exhibit A-63.

Gov. Ex. 7.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Deed from Minnie E. Folk to Charles Page as the same appears on the records of this office. Filed 30 day of Oct., 1914, at 8 o'clock A. M., and recorded in volume 107 at page 28.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) Gus L. Corey, County Clerk.
By ...., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

13392

DEED.

This Indenture made this 22nd day of October, 1914, by and between Minnie E. Folk (formerly Minnie Atkins), of Seattle, Washington, of the first part, and Charles Page, of Tulsa, Oklahoma, of the second part, Witnesseth:

That the said party of the first part in consideration of the sum of One Dollar ($1.00) the receipt of which is hereby acknowledged, and the considerations hereinafter set forth, does by these presents grant, bargain, sell and convey unto the party of the second part, his heirs and assigns, all of the oil, gas, coal, and other minerals lying in, and under the following described real estate situated in the County of Creek, and State of Oklahoma, to-wit:

> Southwest quarter (SW4) of the Northwest quarter (NW4) of Section Four (4) and the Southwest quarter (SW4) of the Northeast quarter (NE4) of Section Five (5) and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4) all in township eighteen (18) north, range seven (7) East, containing one hundred and sixty-two (162) acres, more or less.

It being the intent of this conveyance that the surface of the lands above described shall be and remain in the first party subject to this conveyance, and a certain leasehold estate now in Charles Page and R. A. Josey and that there shall be hereby conveyed unto the second party the one-eighth (⅛) interest in the oil and gas remaining in first party under the terms of said leasehold estate in the said Page and Josey and also any other interests in said oil and gas that the said party of the first part may have together with all her right, title and interest in and to the coal and other minerals lying in and under said tract.

To Have and To Hold the above described estate, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, forever.

And the said Minnie E. Folk, for herself, her heirs, successors and administrators, does hereby covenant and promise and agree to and with the said party of the second part, that at the delivery of these presents she is lawfully seized in her own right on an absolute and indefeasable estate of inheritance in fee simple, of, in and to all and singular the above granted and described premises, with the appurtenances, and that she has good right to convey the estate above described, and that the same is free, clear, discharged and unincumbered of and from all former grants, titles, charges, judgments, taxes, assessments and encumbrances of what nature and kind soever, except the oil and gas leasehold estate in the said Charles Page and R. A. Josey, said estate being evident by instruments now of record in the office of the register of deeds of Creek County, Oklahoma, and that she will warrant and forever defend the title to the oil and gas, coal and other minerals as above described, unto the said party of the second part, his heirs and assigns, against the party of the first part, her heirs, and all and every person whomsoever lawfully claiming or to claim the same.

As to the balance of the consideration to be paid by second party to first party for said estate, it is understood:

First: That the rights of the first party in and to the lands and the estate above described while in the opinion of the parties hereto are not subject to successful attack, yet the said title is in litigation and in danger of litigation.

Second: That the first party hereto has not been so situated in life that money in large sums has been invested, saved or handled in a business like manner by her, and it is her desire that such money as may be secured by her for the above described estate shall be secured to her for her maintenance during the remaining lears of her life.

Third: That said lands while in a productive oil field are not producing oil in paying quantities and no well thereon has been drilled to the known paying *said* in said field, and the value of the above described estate is speculative and the assurance of an income therefrom is of value to the first party.

Now, Therefore, as a further consideration for said estate, second party agrees and binds himself, his heirs and assigns to pay unto the first party during her lifetime the following sums, to-wit:

(a) On the first day of each and every month, commencing the first day of October, 1914, the sum of Twenty-five Dollars ($25.00) the receipt of which is hereby acknowledged, and the further sum of Twenty-five (25.00) Dollars on the first day of each succeeding month, until the right of the first party in and to the premises above described shall be finally adjudicated as against the claims of Nancy Atkins, and those claiming under her. It is understood that the sum to be paid as aforesaid, shall not in any event exceed the total sum of Ten Thousand Dollars ($10,000), and the payments thereon made withheld in the event of the *ascertion* of claim, or claims by Thomas Atkins, or other persons, as hereinafter set forth.

In the event the claim or claims of the said Nancy Atkins, and those claiming under her, shall be maintained as against the first party, then the payments thereunder shall cease, but if the title of the first party shall be maintained as against the said Nancy Atkins, and those claiming under her, then.

(b) On the first day of the next month succeeding the final adjudication of the rights to said estate as between first party and the said Nancy Atkins, and those claiming under her, the second party shall pay unto the first party the sum of Two Hundred Dollars ($200.00) and on the first day of each succeeding month thereafter shall pay the sum of Two Hundred Dollars ($200.00) for a period of five (5) years from date hereof, and on the first day of *ten* next month succeeding the termination of the said five (5) years the second party shall pay unto the first party the sum of One Hundred Dollars ($100.00) and on the first day of each succeeding month thereafter shall pay the sum of One Hundred Dollars ($100.00) until the death of the said first party, upon the happening of which event the payments hereunder shall cease and the consideration for the estate above described shall be deemed fully paid and all obligations of the second party consummated.

And it is further provided, and the foregoing provisions for payments are subject thereto, that in the event the said first party shall die before the total amount of the payments hereunder shall equal the sum of Ten Thousand Dollars ($10,-

000.00) then in that event there shall be due from second party to the estate of first party a sum equal to the difference between the amount paid hereunder and the total sum of Ten Thousand Dollars ($10,000.00) if any such difference exists. In the event there shall at the time of the death of the first party, exist any unpaid difference as between the payments made hereunder and the said principal sum of Ten Thousand Dollars ($10,000.00) the second party shall pay to the heirs or devisee of first party, the sum of One Hundred Dollars ($100.00) per month on the first day of each month until the total amounts paid shall equal the said sum of Ten Thousand Dollars ($10,000.00).

It is understood that the heirs and devisees of the first party shall make a satisfactory showing of their rights hereunder, and that all payments made to such heirs and devisee after a reasonable showing of their right thereto, shall release second party from any obligation to reimburse the true heirs or devisees if it shall be determined that a wrongful or improper payment has been made.

It is further provided that this instrument is subject to the following conditions, namely.

First: That in the event Thomas Atkins, the son of the first party and the person described in the allotment of said lands, or the rightful heirs of the said Thomas Atkins, shall successfully maintain a title to said lands, and the estate above described, as against the first party, the payments hereunder to first party shall cease and second party shall be released from all liability hereunder, except that upon the confirmation of this conveyance and a release for payments theretofore made, the said payments shall be due and payable to the said Thomas Atkins, or his heirs during the lifetime of the said first party, and on her death the unpaid difference between the amount paid up to the time of the death of first party and the said Ten Thousand Dollars ($10,000.00) if any ascertained as aforesaid, shall be payable to the said Thomas Atkins, or his heirs.

Second: That in the event it shall be finally determined by any proceeding whatsoever by whomsoever brought, that first party is for any reason unable to convey the estate herein granted and said estate shall fail, second party shall forthwith be relieved from all liability hereunder.

Third: That upon the commencement of any suit, or suits, by the United States, the Creek Nation, or Thomas Atkins, or persons claiming under him, or by any other persons, or persons presenting a prima facie case, all payments herein provided for and then remaining unpaid, shall be withheld by second parties until the final termination of said litigation, and then paid pursuant to the final judgment in said cause, or causes, and this instrument.

Payments hereunder shall be made by depositing to the credit of first party the sums due in the National Bank of Commerce *Bank* at Seattle Washington, or with the successor of said bank.

This instrument is full authority to all purchasers of oil, gas, coal and other material produced on said premises to pay the proceeds thereof to the order of the second party and no liability of any kind whatsoever is on the purchaser of said oil, gas, coal, and other mineral for payment made therefor, it being specifically understood that the transfer of the estate herein described is complete at the date hereof.

In Witness Whereof, the parties hereto have hereunto set their hands the day and year first above written.

Minnie E. Folk, First Party,
Charles Page, Second Party.

State of Oklahoma, County of Tulsa, ss.

Before me, the undersigned a notary public, in and for said county and state, on this 22nd day of October, 1914, personally appeared Minnie E. Folk (formerly Minnie Atkins) and Charles Page, to me known to be the identical persons who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth. E. F. Gester, Notary Public.

My commission expires September 16th, 1915. (Seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 30th day of October, 1914, at 8 o'clock A. M. and duly recorded in Book 107 at page 28. Huber Hughes, Register of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-64.

Gov. Ex. 8.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Conveyances between Finnie Fol*d* and Edward C. Hanford, as the same appears on the record of this office. Filed 7th day of Nov., 1914, at 8 o'clock A. M., and recorded in volume 102 at page 336.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) GUS L. COREY, County Clerk.

By ...., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

13501

CONVEYANCE.

The Indenture made this 30th day of October, 1914, between Minnie Folk (nee Atkins) of Seattle, Washington, party of the first part, and Edward C. Hanford, party of the second part.

Witnesseth: The said party of the first part, for and in consideration of the sum of One Dollar, and other valuable consideration, the receipt whereof is hereby acknowledged, does by these presents, grant, bargain, sell and convey unto the said party of the second part, his heirs, executors, administrators and assigns a full ten per cent of one-eighth (10/100 of 1/8) interest in and to all oil and gas lying in and under all of the following *descibed* real estate, situated in the county of Creek, State of Oklahoma, viz:

> The southwest quarter (SW4) of the northwest quarter (NW4) of Section Four (4), Township eighteen (18) North Range Seven (7) East; Southwest Quarter (SW4) of the Northeast quarter (NE4) and Lot Two (2) Section Five (5) Township Eighteen (18) North, Range Seven (7) East, and Lot Four (4), Section Four (4), Township Eighteen (18) North, Range Seven (7) East, containing in all 161.01 acres, more or less.

To Have and Hold the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining forever.

And the said Minnie Folk for herself, and for her heirs, executors, administrators and assigns, does hereby covenant, promise and agree to and with said party of the second part, that at the delivery of these presents she was lawfully seized in her own right of an absolute and indefeasible estate of inheritance in fee simple, of, in and to all and singular the above granted and described premises with the *appurtances;* that the same are free, clear, discharged and unincumbered of and from all former grants, titles, charges, judgments, taxes, assessments and incumberances of what nature and kind soever; except that certain oil and gas lease given to Gem Oil Company and dated the 24th day of June, 1914, and that she will WARRANT and forever DEFEND the title to the same unto the party of the second part, his heirs, executors and assigns against said party of the first part, their heirs and all and every person whomsoever, lawfully claiming or to claim the same.

In Witness Whereof, the said party of the first part has hereunto set her hand and seal the day and year above written.

Minnie Folk (Seal)
Harry B. Folk (Seal)

Witnesses: John P. Garvin.

State of Washington, County of King, ss.

This is to certify that before me, John P. Garvin, a notary public in and for the said county and state, on this 31st day of October, 1914, personally appeared Minnie Folk and Harry B. Folk, her husband, J.P.G. to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as *J.P.G. J.P.G.* and for their free and voluntary act and deed for the uses and purposes therein set forth.

(Seal)
John P. Garvin,
Notary Public in and for the State
of Washington residing at Seattle.

My commission expires June 29, 1917.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 7th day of November, A. D. 1914, at 8 o'clock A. M. and duly recorded in Book 102 at page 336. Huber Hughes, Recorde*d* of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-65.

Gov. Ex. 9.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Bargain and Sale Deed given by Alexander J. MacNab, Jr., Trustee, to Minnie Folk, as the same appears on the records of this office. Filed 10 day of Nov., 1914, at 8 o'clock A. M., and recorded in volume 102 at page 347.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) Gus L. Corby, County Clerk.
By ...., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

13537

BARGAIN AND SALE DEED.

The grantor, Alexander J. MacNab, Jr., trustee of .... in the county ...... and state of ...... for and in consideration of ten and oo/100 dollars, in hand paid, bargain, sell, and convey to Minnie Folk of Seattle in the county of King and State of Washington all right title and interest in and to the following described real estate.

> The southwest quarter (SW4) of the northwest quarter (NW4) of Section four (4), and Lot Four (4) of Section four (4), also the southwest (SW4) of the Northeast quarter (NE4) of Section Five (5), and Lot two (2) of Section five, all in Township Eighteen (18) North, Range seven (7) east, I. B. M. situated in Creek county, State of Oklahoma, and being the allotment of Thomas Atkins, situated in the county of ......, State of *Washington.*

Dated this 18th day of July, 1914.

Alexander J. MacNab, Jr. (Seal)

Witness: C. H. Hanford.

State of Washington, County of King, ss.

This is to certify that on this 18th day of July, A. D. 1914, before me, B. Roy Anderson, a Notary Public, in and for the State of Washington, duly commissioned and sworn, personally came, Alexander J. MacNab, Jr., Trustee, to me known to be the identical person described in and who executed the within instrument, and acknowledged to me that he signed and sealed the same as and for his free and voluntary act and deed for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.

(Seal) B. Roy Anderson,
Notary Public in and for the State
of Washington residing at Seattle.

My commission expires May 10th, 1916. (In seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 10 day of Nov., A. D.

1914, at 8 o'clock A. M. and duly recorded in Book 102 at page 347. Huber Huges, Recorder of Deeds.

Government's Exhibit A-66.

Gov. Ex. 10.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Lease between Thomas Atkins and Gem Oil Co. as the same appears on the records of this office. Filed 19 day of Nov., 1914, at 8 o'clock A. M., and recorded in volume 107 at page 125.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) GUS L. COREY, County Clerk.

By ...., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

13696

OIL AND GAS LEASE.

This Agreement, made and entered into this 13 day of November, 1914, by and between Thomas Atkins, known as Henry Carter of Leavenworth, State of Kansas, Lessor, and Gem Oil Company, a corporation of Tulsa, State of Oklahoma, Lessee:

Witnesseth: That the lessor in consideration of the sum of One and No/100 Dollars ($1.00) to her in hand, well and truly paid by the lessee receipt of which *us* hereby acknowledged, doe*d* hereby grant, demise, lease and let unto the lessee its successors, heirs or assigns, all of the oil and gas in and under the following described tract of land and also the said tract of land for the purpose and with the exclusive right of entering upon and operating thereon and removing therefrom said oil and gas and of laying pipe lines, building tanks, powers, stations, and structures thereon for producing, extracting, storing and disposing of said products, and with the right to use oil, gas, and water therefrom, and all rights, and privileges necessary or convenient for such operations; also the right to remove, at any time, all property, pipes, casing, materials, buildings and improvements placed or erected in or upon said land by the lessee, said land being all of that certain tract of land situate in Creek county, State of Oklahoma, described as follows, to-wit:

> The southwest one-quarter of the Northwest one-quarter of Section Four (4) and the Southwest one-quarter of the Northeast *one* one-quarter of section five (5), and Lot numbered two (2) of Section five (5), surplus allotment, comprising 120.85 acres, and lot numbered four (4) of section four (4), homestead allotment, comprising 41.16 acres, all in township eighteen (18) North, range seven (7) East, being the allotment in the Creek Nation of Thomas Atkins, Creek Roll Number 7913, containing 162.01 acres, more or less.

To Have and To Hold the *said* for and during the term of five years from the date hereof and as much longer thereafter as oil or gas is found therein, or said premises developed or operated.

The lessee agrees to deliver to the credit of the lessor free of cost in the pipe line to which it may connect its wells the equal one-eighth (⅛) part of all crude oil produced and saved from said above described land.

If gas be found in paying quantities the lessee agrees to pay to the lessor two hundred and fifty and no/100 dollars each year in advance for the product of each well from which gas only is produced, while the same is being sold off the said land.

The lessor to have free of cost, sufficient gas from any wells drilled on said land to light and heat one dwelling house upon said land, the same to be taken at the mouth of the well at the lessor's risk and to be used economically.

The lessee agrees to pay lessor for gas produced from any oil well and used off the premises at the rate of Fifty Dollars per year, for the time during which such gas shall be used, said payments to be made each three months in advance.

The lessee agrees to bury all pipe lines in cultivated fields, below the depth of plow, whenever requested to do so by the lessor, and also to pay the lessor for all damage done to growing crops while drilling.

No well shall be drilled nearer than 200 feet to any building now on said premises without the consent of the lessor.

If a well is not commenced on said premises within one year from the date hereof, this lease shall become null and void, unless the lessee shall pay or tender to the lessor a rental of One Dollar per acre in advance for each additional one year such commencement is delayed from the time above mentioned for the commencement of such well until a well is commenced on said land. It is expressly agreed that the right to so extent and continue this lease is fully paid for by the consideration above mentioned, and that said payment or tender when made shall fully and completely extend this lease from time to time until a well is commenced, the drilling of a producing well on said premises shall operate as a full liquidation of all rentals due or payable under this provision during the remainder of the term of this lease.

The completion of drilling operations which result in a dry hole, or a well not producing oil or gas in paying quantities shall be in lieu of all rentals accruing from and after the date of the commencement of said operation, for a period expiring one year after the termination of said operation, and this lease shall be in full force and effect for said time as fully as if said rentals had been paid or a producing well completed.

All payments of money under this lease may be made or tendered by valid check direct to the lessor or by registered letter addressed to the lessor at Leavenworth, Kansas, or deposited to his credit in the ...... bank ...... of ......—or its successors or assigns.

The lessee shall have the privilege of paying off or assuming any or all mortgages, taxes, or other encumbrances against the leased premises, and, upon so doing will be subrogated to the rights of the holder thereof.

The lessee shall not be bound by any change in the ownership of said land until the presentation of abstract satisfactory showing same.

The benefit of all homestead and exemption laws of the State of Oklahoma are hereby expressly waived.

All the terms and conditions herein shall extend and apply to the respective heirs, executors, administrators and assigns, of the parties hereto.

It is agreed that this lease shall be in force and effect and that the second party is not bound to conduct drilling operations until title is perfected of record in first party.

This lease is executed subject to contract this date executed by the parties hereto.

In Witness Whereof the parties hereto have hereunto set their hands and seals the day and year first above written.

Thomas Atkins, Known as Henry Carter.

State of Kansas, County of Leavenworth—ss.

On this 13 day of November, A. D. 1914, before me, the undersigned, a notary public in and for the county and state aforesaid, personally appeared Thomas Atkins, known as Henry Carter, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

(Seal) Dennis Jones,

My commission expires March 28th, 1915. Notary Public.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 19 day of Nov., 1914, at 8 o'clock A. M and duly recorded in Book 107 at page 125. Huber Hughes, Register of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-67.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Quit Claim Deed from Harvey Harrison to H. E. Whitehead, as the same appears on the records of this office. Filed 22 day of June, 1914, at 3:20 o'clock P. M., and recorded in volume 62 at page 252.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk.

By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

11346

QUIT CLAIM DEED.

Know All Men by These Presents, that Harvey Harrison party of the first part, in consideration of the sum of one dollar in hand paid, the receipt of which is hereby acknowledged, and other good and valuable considerations, does hereby quit claim, grant, bargain, sell and convey unto H. E. Whitehead, all my right, title, interest and claim in *and claim in* and to the following described real property and premises situate in Creek County, State of Oklahoma, to-wit:

> The west half of the Northwest quarter of Section Four (4) and the West half of the Northeast quarter of Section Five (5) all in Township Eighteen (18) North, Range Seven (7) East, being the allotment of Thomas Atkins, deceased.

together with all the improvements thereon and appurtenances thereunto belonging.

To Have and To Hold Said described premises unto the said party of the second part, his heirs and assigns, forever.

Signed and delivered this 20 day of June 1914.

Harvey Harrison.

Signed in the presence of ....

State of Oklahoma, Creek County, ss.

Before me, the undersigned, a notary public in and for said county and state, on this 20 day of June, 1914, personally appeared Harvey Harrison to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my official hand and seal, the day and date above written.

(Seal) Harrison Arnold,

My commission expires July 30, 1915. Notary Public.

Filed for record at office of Register of Deeds, Creek County, Oklahoma, 22 June, 1914, at 3:20 o'clock P. M. Recorded in Book 62 at page 252. Huber Hughes, Register of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-68.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Quit Claim Deed from Harvey Harrison to Minnie Folk, as the same appears on the records of this office. Filed 1st day of July, 1914, at 2 o'clock P. M., and recorded in volume 57 at page 580

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) GUS L. CORBY, County Clerk.

By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

11548

QUIT CLAIM DEED.

Know All Men by These Presents:

That Harvey Harrison, Coweta of the County of Wagoner, State of Oklahoma, party of the first part, in consideration of the sum of Fifty & Natural love and affection Dollars, in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and quit claim unto my mother Minnie Folk, formerly Minnie Atkins, party of the second part, the following described real property and premises, situate in Creek County, State of Oklahoma, to-wit:

> The SW4 of the NW4 of Sec. 4, and SW4 of the NE4 of Sec. 5, and lot Numbered 2 of Sec. 5, and Lot Numbered 4, of Sec. 4, all in Township Eighteen (18) North, Range Seven (7) East comprising 162.01 acres, more or less.

together with all the improvements thereon and appurtenances thereunto belonging.

Signed and delivered this 29 day of June, 1914,

Signed in the Presence of

A. B. Long, Harvey Harrison.

E. C. Hanford.

State of Oklahoma, Muskogee County, ss.

Before me the undersigned, a notary public, in and for said county and state, on this 29th day of June, 1914, personally appeared Harvey Harrison to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and official seal, the day and year above set forth.

(Seal) F. H. Walkup,

My commission expires May 13, 1917. Notary Public.

Filed for record at office of Register of Deeds, Creek County, Oklahoma, July 1, 1914, at 2 o'clock P. M. Recorded in Book 57 at page 580. Huber Hughes, Register of Deeds; By C. K. Maddox.

Government's Exhibit A-69.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil and Gas Lease from Chas. Harrison to Chas. M. Ball, as the same appears on the records in this office. Filed 6 day of Nov., 1913, at 8 o'clock A. M., and recorded in volume 92 at page 629.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk.

By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

6454

OIL AND GAS LEASE.

This Agreement, made this 4th day of November, A. D. 1913, between Charles Harrison, Roll No. 5338, a single man, son and heir at law of Minnie Harrison, nee Atkins, deceased, of Wagoner County, of .... and State of Oklahoma, lessor, and Charles M. Ball of Coffeyville, State of Kansas, lessee.

Witnesseth: That the lessor in consideration of One ($1.00) Dollar the receipt of which is hereby acknowledged, and of other valuable considerations does hereby demise and grant unto the lessee all the oil and gas in and under the following described tract of land for the purpose and with the exclusive right of operating thereon, for oil and gas together with the right of way, right to lay pipe lines over and shall have the right at any time all property placed thereon by the lessee. The first party grant the right to the second party to market all oil saved from said premises, through any pipe line or other conveyance that may be in use by the party of the second part. Said tract of land is situated in the County of Creek, and State of Oklahoma, and described as follows:

> The undivided one-half (½) interest in the West ½ of NE¼ Section 5, Twp. 18 North, Range 7 East, West ½ of NW¼ Section 4, Township 18 North, Range 7 East, consisting of 160 acres, more or less.

To have and to hold the same unto the lessee, for a term and period of five (5) years from the date hereof and as much longer as oil or gas are found in paying quantities thereon.

The lessee paying to the lessor as royalty:

1. The proportionate part of ⅛ of the oil as his interest may appear produced and saved from the premises, delivered free of expense into tanks or pipe lines to the lessor credit.

2. (a) Should gas be found in paying quantities to pay the lessor his proportionate part of the sum of Three Hundred Dollars per year for each well from which gas in being sold or utilized off of the premises.

(b) And allow the lessor the free use of gas for domestic purposes, piped at his own risk and expense. The lessee Agree;

1. To drill no wells within 200 feet of any building now on said premises.

2. To pay all unnecessary damage to fences or growing crops.

It Is Mutually Agreed:

1. (a) Second party agrees to commence well on the above described premises within one year from the date hereof, and in case of failure to do so this lease shall become null and void and without further effect whatever, unless the lessee shall pay for the delay at the rate of Eighty ($80.00) Dollars, or his proportionate part of $160.00 per year thereafter until a well shall have been commenced.

(b) Such payment shall be made to the lessor, his credit in Citizens State Bank, at Wagoner, Oklahoma.

2. That lessee shall have the right at any time to terminate this lease by the payment of one dollar and by surrendering this lease, and shall thereafter be released from all obligations and liabilities under same.

This contract shall extend to and be binding upon the heirs, assigns, successors and personal representatives of the Lessor, and Lessee herein.

Signed and witnessed the day and year first above written.

his
Charles X Harrison (Seal)
mark

Witness:
R. K. Long, C. H. Weldon.

State of Oklahoma, Wagoner County—ss.

Before me, a notary public, in and for said county and state, on this 4th day of November, 1913, personally appeared Charles Harrison, and .... to me known to be the identical person described in who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth (and the said Charles Harrison, having executed same by his mark in my presence and in the presence of R. K. Long and C. H. Weldon, as witnesses).

Witness my hand and seal the day and year above set forth.

(Seal) Gertrude E. Scammon.

My commission expires March 1st, 1915.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 6th day of Nov., A. D. 1913, at 8 o'clock A. M., and duly recorded in Book 92 at page 629. Huber Hughes, Recorder of Deeds; By C. K. Maddox, deputy.

Government's Exhibit A-70.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Lease A J Burchett Thomas Gilcrease et al as the same appears on the records of this office. Filed 17 day of Feby., 1917, at 10:30 o'clock A. M., and recorded in volume 98 at page 322.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk.

By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

8467.

OIL AND GAS MINING LEASE BY GUARDIAN, UNDER ORDER OF COURT.

Know All Men by These Presents:

That heretofore, on the 16 day of February, 1914, A. J. Burchett, as the guardian of the estate of Harvey Harrison, a minor, filed in the County Court, of Tulsa County, State of Oklahoma, his petition for leave to lease for oil and gas purposes, the land hereinafter described belonging to his said ward, and,

Whereas, the said County Court, did on the 16 day of February, 1914, make an order of sale, directing the said guardian, A. J. Burchett, to sell at private sale, to the highest and best bidder, an oil and gas lease on the said land of his said ward, for a period of five years and as much longer thereafter as oil or gas is found in paying quantities, and

Whereas, the said guardian sold said oil and gas lease to Thomas Gilcrease and Robert Wilson on the 16th day of February, 1914, as shown by his report of said sale to said court, and

Whereas, the said County Court, did, on the 16 day of February, 1914, make an order confirming and approving said sale and ordering and directing the said guardian to execute a lease to the said purchasers, Thomas Gilcrease and Robert Wilson, a copy of which order was duly recorded in the office of the Register of Deeds of Creek County, on the 16 day of February, 1914, at page ...... of Vol ...... of ...... records in said office.

Therefore, This Agreement, made and entered into in duplicate, the 16th day of February, 1914, by and between A. J. Burchett, as guardian of the estate of Harvey Harrison, a minor, of Tulsa County, Oklahoma, party of the first part, lessor, and Thomas Gilcrease and Robert Wilson, parties of the second part, lessees.

Witnesseth: That the said party of the first part, for and in consideration of the sum of Seven Hundred ($700.00) Dollars to him in hand well and truly paid by the said parties of the second part, the receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of the parties of the second part to be paid, kept and performed, has granted, demised, leased and let and by these presents does grant, demise, lease and let unto the said second party, its successors and assigns for the sole and only purpose of mining and operating for oil and gas, and of laying pipe lines and of building tanks, powers, stations and structures thereon to produce and take care of said products, for a term of five years and as much longer thereafter as oil or gas is found in paying quantities, all that certain tract of land situate in the County of Creek, State of Oklahoma, described as follows, to-wit:

An undivided one-half interest in and to the West half of the Northwest quarter of Section Four (4) and the West half of the Northeast quarter of Section Five (5) all in Township Eighteen (18) North, Range Seven (7) East, the same being the allotment of Thomas Atkins, now deceased, and containing 160 acres, more or less.

In consideration of the premises the said party of the second part covenants and agrees:

1st. To deliver to the credit of the first party his successors or assigns, free of cost, in the pipe line to which it may connect its wells, the equal one-eighth (1/8) part of all oil produced and saved from the leased premises.

2nd. To pay to first party One Hundred Fifty Dollars each year in advance for the gas from each well where gas only is found, while the same is being used off the premises, and the first party to have gas free of cost from any such well for his stoves and his inside lights in the principal dwelling house on said land during the same time by making his own connections with the well.

3rd. To pay to the first party for gas produced from any oil well and used off the premises at the rate of One Hundred Fifty ($150.00) Dollars per year, for the time during which such gas shall be so used, said payments to be made each three months in advance.

The party of the second part agrees to complete a well on said premises within 12 months from the date hereof or pay at the rate of one hundred sixty ($160.00) Dollars in advance for each additional 12 months such completion is delayed from the time above mentioned for the completion of such well until a well is completed; and it is agreed that the completion of such well shall be and operate as a full liquidation of all rent under this provision during the remainder of the term of this lease.

The party of the second part shall not be bound by any change in the ownership of said land until duly notified of any change, either by notice in writing duly signed by the parties to the instrument of conveyance, or by the receipt of the original instrument of conveyance, or a duly certified copy thereof.

The party of the second part shall have the right to use, free of cost, gas, oil and water produced on said land for its operations thereon except water from wells of first party.

When requested by first party, the second party shall bury its pipe lines below plow depth.

No well shall be drilled nearer than 200 feet to the house or barn on said premises.

Second party shall pay for damages caused by it, to growing crops on said land.

The party of the second part shall have the right at any time to remove all machinery and fixtures placed on said premises, including the right to draw and remove casing.

All payments which may fall due under this lease may be made directly to the lessor, or deposited to his credit in American National Bank at Tulsa, Oklahoma.

All covenants and agreements herein set forth between the parties hereto shall extend to their successors or assigns.

Witness the following signatures the day and year first above written.

Harvey Harrison,
By A. J. Burchett,
Guardian of the Estate of Harvey Harrison, a minor.

Witnesses:

The above and foregoing lease is this 14 day of February, 1914, by the court examined and approved concurrently with the order of confirmation thereof.

(C. C. Seal) Conn Linn,
Judge of the County Court of Tulsa County, State of Oklahoma.

State of Oklahoma, Tulsa County, ss.

On this 16 day of February, 1914, before me, the undersigned, a notary public, within and for the county and state aforesaid, personally appeared A. J. Burchett, guardian of the estate of Harvey Harrison, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal as such notary public, this the day and date last above written.

(Seal) Gayle Pettus,
My commission expires Apr. 1, 1915. Notary Public.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 17 day of Feb., A. D. 1914, at 10:30 o'clock A. M., and duly recorded in book

98 at page 322. Huber Hughes, Recorder of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-71.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Lease between Harvey Harrison and S. D. Shirk, as the same appears on the records of this office. Filed 24 day of Feb., 1914, at 8:20 o'clock A. M., and recorded in volume 90 at page 284.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) GUS L. COREY, County Clerk.
By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

8610

OIL AND GAS LEASE

From Harvey Harrison to S. D. S*k*irk.

State of Oklahoma, Creek County, ss. This instrument was filed in my office on the 24 day of Feb., A. D. 1914, at 8:20 o'clock A. M. and duly recorded in Book 90 on page 284. Huber Hughes, Register of Deeds; By ...., Deputy.

Agreement, Made and entered into the 21 day of Feb., A. D. 1914, by and between Harvey Harrison of Tulsa, party of the first part, lessors, and S. D. Shirk, party of the second part, lessees.

Witnesseth, that the said party of the first part, for and in consideration of the sum of One dollar to me in hand well and truly paid by the said party of the second part, the receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of the party of the second part, to be paid, kept and performed has granted, demised, leased and let and by these presents does grant demise lease and let unto the said second party his heirs, executors, administrators, successors or assigns, for the sole and only purpose of mining and operating for oil and gas, and of laying pipe lines, and of building tanks, powers, stations and structures thereon to produce and take care of said products, all that certain tract of land situate in the county of Creek, state of Okla., described as follows, to-wit:

> The undivided one-half interest of S.W. (¼) quarter of N.E. quarter ¼ and lot two (2) of Sec (5) Five Township (18) Eighteen Range (7) Seven and S.W. ¼ of N. W. quarter and lot (4) Four Sec (4) Four Township Eighteen (18) Range Seven (7)

of Section .... Township .... Range .... and containing One Hundred and sixty acres more or less.

It is agreed that this lease shall remain in force for a term of Five years from this date and as long thereafter as oil or gas or either of them is produced from said land by the party of the second part his heirs, administrators, executors, successors or assigns.

In consideration of the premises the said party of the second part covenants and agrees:

1st. To deliver to the credit of the first party his heirs or assigns, free of cost, in the pipe line to which it may connect its wells, the equal one-eighth part of all oil produced and saved from the leased premises.

2nd. To pay the first *part* one hundred and fifty dollars each year in advance, for the gas from each well where gas only is found, while the same is being used off the premises, and the first party to have gas free of cost from any such well for his stoves and his inside lights in the principal dwelling house on said land during the same time by making his own connections with the well.

3rd. To pay the first *part* for gas produced from any oil well and used off the premises at the rate of Fifty Dollars per year, for the time during which such gas shall be used, said payments to be made each three months in advance.

The party of the second part agrees to complete a well on said premises within one year from the date hereof, or pay at the rate of one hundred and sixty Dollars for each additional Twelve months such completion is delayed from the time above mentioned for the full completion of such well until a well is completed; and it is agreed that the completion of such well shall be and operate as a full liquidation of all rent under this provision during the remainder of the term of this lease.

The party of the second part shall have the right to use free of costs gas, oil and water produced on said land for its operations thereon, except water from wells of first party.

When requested by first party, the second party shall bury its pipe lines below plow depth.

No well shall be drilled nearer than 150 feet to the house or barn on said premises.

Second party shall pay for damages caused by them to growing crops on said land.

The party of the second part shall have the right at any time to remove all machinery and fixtures placed on said premises, including the right to draw and remove casing.

The party of the second part shall not be bound by any change in the ownership of said land until duly notified of any such change, either by notice in writing duly signed by the parties to the instrument of conveyance, or by receipt of the original instrument of conveyance, or a duly certified copy thereof.

All payments which may fall due under this lease may be made directly to Harvey Harrison or deposited by second *part* to his credit in the Exchange Nat Bank of Tulsa, Okla.

The party of the second part, its successors or assigns shall have the right at any time, on the payment of one dollars to the party of the first part, his heirs or assigns to surrender this lease for cancellation, after which all payments and liabilities thereafter to accrue under and by virtue of its terms shall cease and determine provided, this surrender clause and the option therein reserved to the lessee shall cease and become absolutely inoperative immediately and currently with the institution of any suit in any court of law or equity by the lessee to enforce this lease or any of its terms or to recover possession of the leased land, or any part thereof, against or from the lessor his heirs, executors, administrators, successors or assigns, or any other person or persons. All covenants and agreements herein set forth between the parties hereto shall extend to their successors, heirs, executors, administrators and assigns.

Harry Harrison. (Seal)

Witness the following signatures and seals:

C. E. Tunnbo.

ACKNOWLEDGMENT TO THE LEASE.

State of Oklahoma, County of Muskogee, ss.

Be It Remembered, That on this 21, day of Feb., in the year of our Lord one thousand nine hundred and Fourteen, before me, a Notary Public in and for said County and State personally appeared Harvey Harrison and to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that ...... executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

In Witness Whereof, I have hereunto set my official signature and affixed my notarial seal the day and year first above written.

(Seal) W. L. Hughes,
My commission expires July 24, 1915. Notary Public.

Government's Exhibit A-72.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Warranty Deed from Thomas Harris et ux Rufus B. Cobb et al. as the same appears on the records of this office. Filed 26 day of Nov., 1913, at 8 o'clock A. M., and recorded in volume 94 at page 181.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk.
By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

WARRANTY DEED.

6829

Know All Men by These Presents:

That Thomas Harris and Kahookah Harris, his wife, parties of the first part in consideration of the sum of One Dollars ($1.00) and other valuable considerations, in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto Rufus B. Cobb, George C. Conrad, John R. Fields and James M. Brogan, all of Muskogee, Oklahoma, parties of the second part, the following described real property and premises, situate in Creek County, State of Oklahoma, to-wit:

> All my right, title and interest derived by inheritance from ny deceased son, Thomas Atkins in the part of his allotment as a citizen of the Creek Nation, described as follows, The Southwest quarter (¼) of the Northeast quarter (¼) and Lot Two (''2) of section Five (5) and

the Southwest quarter (¼) of the Northwest quarter (¼) and Lot Four (4) of Section Four (4) in Township Eighteen (18) North, Range Seven (7) East, containing one hundred sixty and 1/100 acres, more or less according to the Government survey thereof.

together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

To Have and To Hold said described premises unto the said parties of the second part, their heirs and assigns forever, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and incumbrances of whatsoever nature.

Signed and delivered this 22nd day of November, 1913.

Thomas Harris
Thomas Harris (Seal)
Kahookah her mark Harris (Seal)

Witness to Mark of Kahookah Harris:
J. W. *Hartin* Fannie *Mulley*

ACKNOWLEDGMENT.

State of Oklahoma, Muskogee, County, ss.

Before me, a Notary Public in and for said County and State, on this 22nd day of November, 1913, personally appeared Thomas Harris to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that *she* executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness My Hand and Seal as such Notary Public on the day last above mentioned. (Seal) Thomas A. Scott,
My commission expires May 31, 1915. Notary Public.

State of Oklahoma, Muskogee County, ss.

Before me, a notary public in and for said county and state on this 24 day of November, 1913, personally appeared Kahookah Harris to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and seal as such Notary Public on the day last above written.

(Seal) J. W. Hartin,
My commission expires February 28th, 1914. Notary Public.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 26 day of November, A. D. 1913, at 8 o'clock A. M. and duly recorded in book 94 at page 181. Huber Hughes, Recorder of Deeds.

Government's Exhibit A-73.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Warranty Deed from Thomas Atkins to W. P. Root, as the same appears on the records in this office. Filed 17 day of Aug., 1914, at 9 o'clock A. M., and recorded in volume 100 at page 186.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) GUS L. COREY, County Clerk,

By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

12341

WARRANTY DEED.

State of Oklahoma, County of Creek, ss.

Know All Men by These Presents: That Thomas Atkins (a single person) and ½ blood Creek Indian, Creek Indian Roll No. 7913 and formerly known as Martin Rowe, party of the first part, in consideration of the sum of Sixteen thousand Dollars in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto W. P. Root of Sapulpa, Oklahoma, the following described real property and premises, situate in Creek County, State of Oklahoma, to-wit:

> The Southwest quarter (¼) of the Northwest quarter (¼) of Section Four (4) and the Southwest quarter (¼) of the Northeast quarter (4) and Lot Two (2) of Section Five (5) all in Township Eighteen (18) North, and Range Seven (7) East, containing 120.85 acres according to the United States survey thereof and being the Surplus allotment of said Thomas Atkins.

together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same to said W. P. Root, To Have and To Hold said described premises unto the said party of the second part, his heirs and assigns forever, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and incumbrances of whatsoever nature;

Signed and delivered this 17th day of August, 1914.

Thomas Atkins.

Signed and delivered in the presence of

L. V. Hopkins

J. C. W. Bland

State of Oklahoma, Creek County, ss.

Before me, the undersigned, a notary public in and for said county and state, on this 17th day of August, 1914, personally appeared Thomas Atkins (formerly known as Martin Rowe) to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal, the day and date above written. W. H. O'dell, Notary Public.

My commission expires Mar. 6, 1918. (Seal)

State of Oklahoma, Creek County, ss: This instrument was filed for record on the 17 day of Aug., A. D. 1914, at 9 o'clock A. M., and duly recorded in Book 100 on page 186. Huber Hughes, Register of Deeds; By C. K. Maddox, deputy.

Government's Exhibit A-74.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Real Estate Mortgage from W. P. Root to Thomas Atkins et al., as the same appears on the records of this office. Filed 17 day of Aug., 1914, at 9:30 o'clock A. M., and recorded in volume 72 at page 369.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) GUS L. COREY, County Clerk,

By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

Receipt No. 489. Recording tax paid $16.00 This 17 day of Aug., 1914. J. E. Bruin, County Treasurer, Creek Co. By E. R. Pickett, Deputy.

12342

REAL ESTATE MORTGAGE — with insurance clause

This Indenture, Made this 17th day of August, in the year of our Lord, One Thousand Nine Hundred and Fourteen, between W. P. Root, of Sapulpa, Oklahoma, of the County of Creek, State of Oklahoma, party of the first part and Thomas Atkins (formerly known as Martin Rowe, and Grant Hamlin, both of Muskogee, Okla., parties of the second part: .

Witnesseth: That the said party of the first part, for and in consideration of the sum of Eight Thousand ($8000.00) Dollars in hand paid by said parties of the second part, receipt whereof is hereby acknowledged, have sold, and by these presents do grant, sell, convey and confirm, unto the said parties of the second part, and to their heirs and assigns, forever, all of the following described real estate lying and situate in the county of Creek and State of Oklahoma, to-wit:

> The Southwest quarter (¼) of the Northwest quarter (¼) of Section Four (4) and the Southwest quarter of the Northeast quarter (¼) and lot two (2) of Section Five (5) all in Township Eighteen (18) north, and Range Seven (7) East containing 120.85 acres according tc the United States Survey thereof, and being the Surplus allotment of said Thomas Atkins.

To Have and To Hold the Same, With all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and all rights of homestead exemption, unto the said party.. of the second part, and to their heirs and assigns forever. And the said party of the first part does hereby covenant and agree that at the delivery hereof he is the lawful owner of the premises above granted, and seized of a good *an* indefeasible estate of inheritance therein, free and clear of all incumbrances, except various actions pending in the District Court at Sapulpa, Oklahoma, and pretended conveyances, from disinterested persons, and that he will Warrant and Defend the same in the quiet and peaceable possession of said parties of the second part, their heirs and assigns forever, against the lawful claims of all persons whomsoever.

Provided, Always, And these presents are upon the express conditions: That if the said party of the first part, his heirs and assigns, shall well and truly pay or cause to be paid to the said party of the second part their heirs and assigns, the sum of ....Eight Thousand Dollars with interest thereon at the time and manner specified in one certain written contract, date August 17th, 1914, executed by the party of the first part, payable to the order of Thomas Atkins & Grant Hamlin at Muskogee, Okla., as follows: $8000.00 payable in accordance with said contract (being after title to said premises is cleared of said actions and pretended conveyances). This mortgage is non negotiable, and is a lien according to contract, said contract is given instead of note, and is due one year from date hereof, then and in that case these presents and everything herein expressed shall be void, but upon default in the payment of any part of the principal or interest, when the same is due, or any one of said notes at maturity, or upon the failure to pay any and all lawful assessments and taxes upon said premises when the same shall become due and payable, each and all of the several amounts herein secured shall immediately become due and payable; and if foreclosure proceedings be instituted hereon, the holder shall be entitled to recover $...... Attorney fee, all costs of suit, which sum shall be and become an additional lien and be secured by lien of this mortgage, and said part.... of the first part hereby expressly waive an appraisement of said real estate and all benefits of the homestead exemption stay laws of the State of Oklahoma.

And it is hereby further stipulated that during the continuance of this instrument in force, the said part.... of the first part shall at all times keep the buildings on said premises insured against loss or damage by fire or tornado in a sum not less than $......... loss, if any payable to the said part.... of the second part, as ......interest may appear...

In Testimony Whereof, The said party of the first part has hereunto set his hand and seal, the day and year above written.

W. P. Root.

Signed and delivered in the presence of.

....

State of Oklahoma, County of Creek, ss.

Before me, the undersigned, a notary public in and for said county and state on this 17th day of August, 1914, personally appeared W. P. Root to me known to be the identical person, who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and official seal, the day and year above written. W. H. O'Dell, Notary Public.

My commission expires Mar. 6, 1918. (Seal)

State of Oklahoma, Creek County, ss. This Instrument was filed in my office for record on the 17 day of Aug., A. D. 1914, at 9:30 o'clock A. M. and duly recorded in Book 72 on page 369. Fees $..... Huber Hughes, Register of Deeds. By C. K. Maddox, deputy.

Government's Exhibit A-75.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Release of Mortgage from Grant Hamlin to W. P. Root, as the same appears on the records of this office. Filed 24 day of Nov., 1914, at 10:30 o'clock A. M., and recorded in volume 39 at page 272.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk,
By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

13820

RELEASE OF MORTGAGE.

Know All Men by These Presents, That I, Thomas Atkins, and Grant Hamlin, hereby acknowledge full settlement and satisfaction of a certain real estate mortgage dated the 17th day of August, 1914, for Eight Thousand ($8000.00) Dollars and made by W. P. Root, mortgagors to Thomas Atkins & Grant Hamlin, mortgagee, and recorded in book No. .... at page .... of mortgage records of Creek County, Oklahoma, on the following described lands, to-wit:

> The SW4 of the NW4 of Section Four (4) and the SW4 of the NE4 and Lot Two (2) of Section Five all in Township Eighteen (18) North, Range Seven (7) East.

Given under my hand this .... day of August, 1914.

Thomas Atkins. Grant Hamlin, mortgagee.

State of Oklahoma, Muskogee County, ss.

Before me, the undersigned, a Notary Public, in and for said County and State, on this 29 day of August, 1914, personally appeared Grant Hamlin, and Thomas Atkins (who received the said mtg. as Thomas Atkins, formerly Martin Rowe, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

W. D. Halfhill, Notary Public.

My commission expires May 30/17. (Seal)

State of Oklahoma, Creek County, ss. This instrument was filed in my office for record on the 24th day of Nov., A. D. 1914, at 10:30 o'clock A. M. and duly recorded in Book 39 on page 272. Huber Hughes, register of deeds; By C. K. Maddox, deputy.

Government's Exhibit A-76.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Quit Claim Deed W. P. Root to Thomas Atkins, as the same appears on the records of this office. Filed 24 day of Aug., 1914, at 4 o'clock P. M., and recorded in volume 62 at page 284.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of Aug., 1917.

(Seal) Gus L. Corey, County Clerk,
By ...., Deputy.

Jennings Ptg. Co., Sapulpa.

12427

QUIT CLAIM DEED.

Know All Men by These Presents, That W. P. Root, party of the first part, in consideration of the sum of One ($1.00) Dollars, in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto, Thomas Atkins (a one ½ blood Creek Indian, Roll No. 7913) and being the original allottee, of land hereafter described, the following described real property and premises situated in Creek County, State of Oklahoma, to-wit:

The SW4 of NW4 of Section Four (4) and the SW4 of the NE4 and Lot *Tow* (2) of Section Five (5) all in Township Eighteen, North, and Range Seven East containing 120.85 acres according to the U. S. Survey thereof.

together with all the improvements thereon and appurtenances thereunto belonging.

To Have and To Hold Said described premises unto the said party of the second part his heirs and assigns, forever.

Signed and delivered this 24th day of August, 1914.

W. P. Root.

Signed in the presence of

....

State of Oklahoma, Creek County, ss.

Before me the undersigned, a Notary Public in and for said County and State, on this 24th day of August, 1914, personally appeared W. P. Root, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my Official hand and seal, the day and date above written.

(Seal) J. H. Land,

My commission expires Oct. 23, 1916. Notary Public.

Filed for Record at office of Register of Deeds, Creek County, Oklahoma, 24 Aug., 1914, at 4 o'clock P. M. Recorded in Book 62 at page 284. Huber Hughes, Register of Deeds.

Government's Exhibit A-77.

Jennings Ptg. Co., Sapulpa. (Label)

CERTIFICATE.

State of Oklahoma, County of Creek, ss.

I, Harrison Arnold, Court Clerk in and for Creek County, State of Oklahoma, hereby certify the within to be a true copy of the Petition:— in case Number 3723, Chas. Page et al. vs. Nancy Atkins Inc. Micco Harjo Gdn., in the District Court, as the same appears on file and record in my office.

Dated this 26 day of April, 1917.

(Seal) Harrison Arnold, Court Clerk.

By Maude C. Elliott, Deputy.

State of Oklahoma, County of Creek—ss. In the District Court. Charles Page and R. A. Josey, Plaintiffs, vs. Nancy Atkins, an alleged incompetent, and Micco Harjo, her guardian, Nancy Atkins, H. U. Bartlett, Gypsy Oil Company, A. A. Hammer, William J. Murphy, Wilburn M. Norris, W. W. Walton, Ellis H. Hammett, Micco T. Harjo, J. B. White, E. W. Fowler, A. E. Gardner, A. Seltzer, Charles E. Ball, Charles Harrison, Thomas Harrison, Rufus C. Cobb, George C. Conrad, John R. Fields, James M. Brogan, A. J. Burchett, Harvey Harrison, Thomas Gilcrease, Robert Wilson and S. D. Shirk, Defendants.—No. 3723.

PETITION.

Comes now the plaintiff in the above entitled cause and shows the Court:

One: That Minnie Folk is a resident of Seattle, State of Washington, and Alexander MacNab, Jr., is a resident of ...., State of Washington.

Two: That Minnie Folk's maiden name was Minnie Atkins; that she is now married to Henry Folk and her name is now Minnie Folk.

Three: That Minnie Folk is now, and has been for a long time past, the owner of the lands hereinafter described, and is now in possession of the said lands; that the title to said lands is derived as herein set forth.

Four: That pursuant to the laws of the United States and the Treaties between the United States and the Creek Indians, there was on the 14th day of April, 1903, duly conveyed by patent to Thomas Atkins, the following described lands located in what is now Creek County, State of Oklahoma, to-wit:

> The Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section 4, and the Southwest Quarter (SW4) of the Northeast Quarter (NE4) of Section 5, and Lot Two (2) of Section 5, and Lot Four (4) of Section 4, all in Township 18 North, Range 7 East, containing one hundred and sixty-two (162) acres, more or less,

a copy of said patent being hereto attached and marked Exhibit "A".

Five: That Thomas Atkins was the son of Minnie Folk, then Minnie Atkins, and was born out of wedlock and was never recognized or acknowledged by his father. Heretofore and approximately in the year 1890, Thomas Atkins was given by his said mother, Minnie Folk, into the custody of friends residing in the vicinity of Leavenworth, Kansas, who agreed with plaintiff, the mother of said Thomas Atkins, to care for said child, and from time to time to communicate with the said mother the condition of the said child; that in the year 1901 or 1902, Minnie Folk was informed, and now believes, that the said person to whom she gave said child, Thomas Atkins, died, and about the same period the said Minnie Folk was informed, and now believes, that the said Thomas Atkins died. That Minnie Folk from time to time made inquiries relative to the death and burial place of the said Thomas Atkins, but has been unable to ascertain the exact date of his death or place of burial; that the said Thomas Atkins died and left surviving him as his sole heir, his mother, Minnie Folk, plaintiff in this cause. That although about ten (10) years have inter*nev*ed since Minnie Folk learned of the death of the said Thomas Atkins, as aforesaid, and although many inquiries have been made by the said Minnie Folk and by persons desiring to obtain an interest in the property of the said Thomas Atkins above described, as to his existence date of death and place of burial, and although said inquiries have covered the States of Kansas, Oklahoma, Texas and Washington, no knowledge has been obtained so far as plaintiff can learn of the details of the death and burial place of the said Thomas Atkins, except as herein appears. That at the death of the said Thomas Atkins, aforesaid, this plaintiff was the sole heir of the said Thomas Atkins and became the owner in fee of the lands above described.

Six: Minnie Folk having confidence in Alexander MacNab, Jr., on the .... day of June, 1914, as the sole heir of Thomas Atkins, deceased, did convey said lands in trust to the said Alexander MacNab, Jr., a copy of said conveyance being hereto attached and marked "Exhibit B."

Seven: That thereafter Minnie Folk learned that the oil and gas underlying the tract above described was being unlawfully extracted and learning that said lands were being drained by development for oil and gas in the vicinity, did, for a valuable consideration, together with the said Alexander MacNab, Jr., Trustee, make, execute and deliver to the Gem Oil Company, an oil and gas lease on said premises, for the purpose of developing said lands for oil and gas and protecting the same from drainage, which said lease was thereafter assigned to the said Charles Page and R. A. Josey, and which said lease is now in full force and effect.

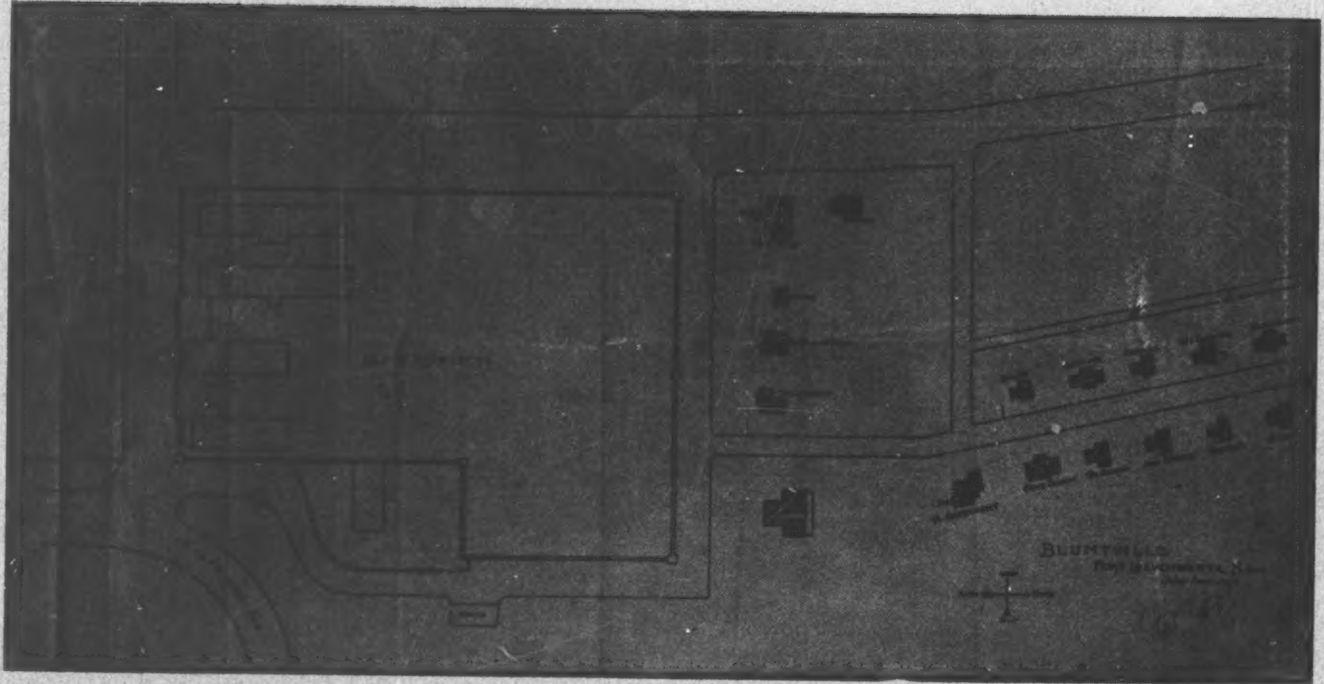
Eight: Minnie Folk is informed and believes that the above named defendants claim some right, title or interest in said premises adverse to her title to said lands; that said defendants have not any estate, right, title or interest whatever in said premises, or any part thereof.

Nine: Minnie Folk, on or about the .... day of June, 1914, learned that a suit had been commenced in this Court by Nancy Atkins, entitled, Nancy Atkins, et al., versus H. U. Bartlett, et al., bearing Number 3120; that on said date the plaintiff learned that the said Nancy Atkins claimed to be the mother of the said Thomas Atkins, deceased, and was seeking to have the title to the lands above described quieted in her as, the mother and sole heir of the said Thomas Atkins. That at the time plaintiff learned of the existence of said suit, the cause had been tried, a decision had been rendered, and a motion for a new trial had been overruled. Plaintiff states that said judgment was obtained fraudulently on perjured testimony, and that plaintiff was not made a party to the said action, and had no knowledge of the same, except as herein appears; that as soon as plaintiff learned of the existence and status of said suit, and before any findings of fact and conclusions of law had been signed and filed, they caused notice to be given to the judge of this Court and the counsel in said cause, that the claims of Nancy Atkins were fraudulent and fraudulently asserted, and that she, Minnie Folk, would forthwith begin suit to quiet her title to said lands against all claimants.

Plaintiffs allege that they held a lease for oil and gas under said Minnie Atkins, now Minnie Folk; that they are in peaceable possession under said lease and under a judgment of this court; that the defendants, H. U. Bartlett and the Gypsy Oil Company, their agents, servants and employees, are threatening by force and arms to dispossess these plaintiffs, and have collected a large number of men with arms and weapons to drive plaintiffs, their agents and employees, forcibly from said premises. The plaintiffs have no plain, speedy and adequate remedy at law, and will suffer irreparable injury unless said defendants are restrained from said wrongful act.

Wherefore, Plaintiffs pray that a temporary injunction issue commanding said defendants to desist from said wrongful and unlawful acts, and enjoining and prohibiting said defendants, their agents, employees and servants, from interfering with the rights of plaintiffs in and to said premises, pending the termination of this action. Plaintiffs pray for such other and further relief as to the court may seem equitable and just.

Rice & Lyons,
Attorneys for Plaintiffs.


BLUNTVILLE
Fort Leavenworth, Kan.

LEAVENWORTH, KANSAS

Remarks

State of Oklahoma, County of Tulsa—ss.

Charles Page, having been first duly sworn, deposes and says that he is the plaintiff in the above entitled cause; that he has read the foregoing petition, and that the allegations of the same are true.

Chas. Page.

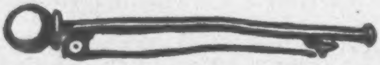
Subscribed and sworn to before me this 6th day of July, 1914.

(Seal) A. A. Aberly,

My commission expires June 15, 1918. Notary Public.

(On back:) 3723 Charles Page et al Pltff vs Nancy Atkins et al Defts Petition Received and Filed on July 7, 1914 W. R. Casteel District Clerk

Government's Exhibit A-78.



[On envelope in which Breastpin is enclosed: Def. Folk & Hanford's Ex. 3.—Eq. 2131.—1/11/16.]

Government's Exhibit A-79.

[See insert herewith for photographic reproduction of Plat showing Grodevant Home and Military Prison, Fort Leavenworth.]

Government's Exhibit A-80.

[See insert herewith for reproduction of photograph of the Grodevant Home at Fort Leavenworth.]

Government's Exhibit A-81.

[See insert herewith for reproduction of another photograph of the Grodevant Home, showing the kitchen.]

(GOVERNMENT'S EXHIBIT A-81.)

[See inserts herewith (three sheets) for reproduction of photostatic copy of Certified Copy of Hospital Register, St. John's Hospital, Leavenworth.]

Government's Exhibit A-82.

Sec. 588-93

UNITED STATES OF AMERICA.

(U. S. Seal)

WAR DEPARTMENT,

Washington, April 18, 1917.

I hereby certify that it appears from the official records on file in The Adjutant General's Office of the War Department that the volume hereto attached sets forth the regulations for the Army of the United States that were issued from the War Department, by direction of the President of the United States, on February 9, 1889.

H. P. McCain,
Brigadier General, United States Army,
The Adjutant General.

I hereby certify that H. P. McCain, who signed the foregoing certificate, is The Adjutant General of the Army, and that to his certification as such full faith and credit are and ought to be given.

In testimony whereof I, Newton D. Baker, Secretary of War, have hereunto caused the Seal of the War Department to be affixed and my name to be subscribed by the Assistant and Chief Clerk of the said Department, at the City of Washington, this 18th day of April, 1917.

Newton D. Baker
Secretary of War—
(Seal)
By John C. Scofiel—
Assistant and Chief C——

Regulations for the Army of the United States. 59

ARTICLE LV.

National, Battle Ground, and Post Cemeteries.

586. National cemeteries, and the records pertaining thereto, are in charge of the Quartermaster General. All correspondence between his office and the offices of his department in charge thereof, and the civil engineers and agents specially employed in connection therewith, will be direct. The monthly reports of superintendents will be forwarded direct to the Quartermaster General.

Battle Ground Cemeteries.

587. In order to secure, as far as possible, the decent interment of those who may fall in battle, it is made the duty of commanding generals to set apart a suitable spot near every battle field, and to cause the remains of the killed to be there interred. Headboards will be placed at the graves, each bearing the number of the grave and the name of the person buried therein. A register of the burial ground will be preserved, in which will be entered the location of each grave and the descriptive numbers and names which appear on the headboards.

Post Cemeteries.

588. The commanding officer of all posts, situated on public lands of the United States, will see that a suitable portion of such land is set apart and properly maintained for the burial of deceased officers and soldiers and their families and of Government employes.

589. The burial ground will be suitably inclosed with a wall or fence of the best material available, and will be maintained by the labor of the garrison. Materials for the construction and repair of fences and headboards will be furnished by the Quartermaster's Department.

590. At each grave will be placed a headboard, plainly marked with a number, and with the name, company, regiment, and date of death of the occupant; the number to correspond with the number in the record of burials. Headboards will be four feet long, ten inches wide, and one and three-eighths inches thick; to stand two feet out of the ground; to be of well seasoned wood, painted with three coats of white paint; the inscriptions in black letters one inch long.

591. The walks will be four feet wide, neatly rounded up, and properly drained and graveled, when the material is at hand. When practicable, a good grass sod should cover the rest of the ground, including the graves; and native trees and shrubs will be preserved or planted for ornament and shade.

592. A record of interments will be kept by the post quartermaster, which will be turned over by him, when relieved, to his successor, or transmitted to the Quartermaster General if the post be discontinued.

593. A report containing the list of the names of the interments, giving in each case number and locality of grave and date of death and burial, and if an officer or enlisted man,

his rank, company, and regiment, or corps, will be forwarded to the Quartermaster General at the end of each year.

PUBLIC PROPERTY, MONEY, AND ACCOUNTS.

Article LVI.

Advertising and Printing.

594. Section 3709, Revised Statutes, requires advertising a sufficient time for proposals for all purchases and contracts for supplies or services, except personal services, unless public exigency requires immediate delivery or performance. The act of July 5, 1884, also requires that purchases of supplies for the Quartermas- [End of page 59.]

Government's Exhibit A-83.

Gov. Ex. 22.—2131.—3-2-15.

This Agreement, Made this 23 day of September, 1914, between Gem Oil Company of Tulsa, of the first part, and Dennis Jones of Leavenworth, Kansas, of the second part.

WITNESSETH.

That, Whereas, The second party represents that he has information valuable to the first party relative to the birth, life and death of Thomas Atkins, the son of Minnie Atkins, and is in a position to obtain definite data relative thereto.

Now, For the considerations hereinafter set forth the party of the second part agrees and binds himself to give so much of his time as may be necessary for the securing of said data, and to proceed to gather the same on his own initiative, and under such instructions as the first party may see fit to give, and agrees to furnish evidence of the birth of the said Thomas Atkins, and particularly of the death of the said Thomas Atkins, son of the said Minnie Atkins. It being understood that the second party will cease his investigation any time at the direction of first party and that all information obtained by second party during the period of his employment by first party, will be deemed confidential and will not be revealed by second party without the permission in writing of first party.

For said services and the furnishing of said proof, the party of the first part agrees to pay all necessary expenses not exceeding Five and no/100 ($5.00)————Dollars per day for each day that the said second party shall be engaged in such work, and the further sum of Ten Dollars ($10.00) per day salary for each day that second party shall be actually engaged in said work; and it being in the contemplation of the parties that at least fifteen (15) days of the time of second party will be consumed in said work, it is agreed that at the execution hereof second party shall be entitled to fifteen (15) days pay and an advance of Thirty-seven and 50/100 ($37.50) Dollars to cover expenses, and to be pro-rated on the actual amounts expended by second party.

Whereas, Party of the first part and his associates have instituted suit in Creek County, Oklahoma, to recover for Minnie Atkins and first party and his associates, certain lands theretofore allotted on account of the citizenship of Thomas Atkins in the Creek Nation.

Now if second party shall in his efforts afore-described obtain satisfactory proof of the death of the said Thomas Atkins, son of the said Minnie Atkins, and member of the Creek Nation as aforesaid, and first party shall be successful in its litigation afore-described in the trial court trying said cause, the said party of the second part shall thereupon be entitled to an additional sum of Five Hundred Dollars ($500.00), which shall be due and payable upon rendition of judgment in favor of Minnie Atkins, first party and his associates, by the trial court aforesaid.

Witness Our hands the day and year first above written.

GEM OIL COMPANY,
By Chas. Page, First Party.
Dennis Jones, Second Party.

(On back:) 2909 Bill Chandler Ralph Dressback Muskogee Wks Bill Chandler Store Worked Choka Trading Co North Katy Hotel

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Government's Exhibit A-84.

Gov. Ex. 23.—2131 Eq.—3-2-15.

E. C. Hanford, Attorney at Law, Colman Building.

Seattle, Wash., November 23, 1914.

Dear Peterkin:

I want to thank you again for keeping me informed in regard to the other people writing to you. I should have written you long ago but have been in court almost every day since my return to Seattle or, if not in court, getting a case prepared for trial.

This man Rosser, who wrote you, is attorney for some people who laid claim to Minnie's land under the belief that she was dead, or, at least, that she would never be found. She set up a fictitious claim in behalf of Minnie's sister by asserting that she was the mother of Minnie's child.

Minnie was very much amused when she learned that I had gone to you for information regarding the birth of this child. She had previously told me that you had no knowledge of the matter and that she had scrupulously kept the matter from you and from everyone else that she was connected with after the child's birth. The child was born in the town of Leavenworth before she ever got acquainted with the Army post. She was quite a character about Leavenworth for a couple of years and after she got away from there she staid away, in so far as she allowed other people to find out.

It was at that time that she started her system of keeping her past a complete mystery to all who knew her. You know that, until this case came up, she had not for years mentioned your name or the name of Harrison to anyone. No *on* connected with her knew her origin or anything regarding her past. Even her present husband was entirely ignorant regarding her. That she had had children was totally unknown.

In the same way, while you were connected with her, she had a little son playing around in Leavenworth. He was about a year and a-half old before Minnie ever went out to the post.

We have taken the depositions of about forty people in the town of Leavenworth who knew Minnie, knew the child and all about the time it was born. Minnie's friends kept the child in Leavenworth until he was about twelve years old. He was known by the name of Thomas Atkins and everyone knew that he was part Indian and that Minnie was his mother.

It seems that it was Oliver who got Minnie to go out to the post. She went with him some time before she met you. We had Minnie in Leavenworth again since I saw you. Dozens of people know her there and know all about her and the child. People would recognize her on the street. She was better known in the town than she ever was out at the post.

She is back at home now, here in Seattle, living quietly with her husband and trying to recover from the excitement of her renewing old associations in Leavenworth and trying to again forget it all. She has grown to be of very nervous temperament and to go back over her experiences of thirty years ago and have people find out all about her past is very trying to her. We had her in the hospital for a week in Leavenworth suffering from nothing but nerves.

The details of Minnie's history after she went out to the Army post at Leavenworth do not concern these people that wrote to you and they have no business inquiring into that part of Minnie's history. She [] certainly entitled to keep private anything that is not involved in the case. But it is just like those people to try to nose in to something that does not concern them. If you reply to their letter at all, I wish that you would just tell them that Minnie did not inform you of the incidents of her life prior to the time you met her and that you consider what took place afterwards a private matter which you do not intend to have them inquire into.

How about that cold weather up in Boston? You ought to be having some of it by now. Nothing but rain out here —not pleasant but better than snow and icy cold by a whole lot. Now don't write and tell me that you are having an Italian climate etc.—I know what winter is in New England. Just the same I would like to have a little tast of it—only enough to make my blood tingle a bit.

Don't know whether I shall ever get to Boston again or not but, if I should, I'll look you up and we can have that lunch time together and a trip out to the beach or something. You turned me down on it last time and I really believe the days vacation would have done you good.

So long, Peterkin—be good. And don't forget to write me if those people down there keep butting in.

Yours for the Army and Navy forever,

E. C. Hanford.

Could not mail this at time of writing same as I misplaced your address E. C. H.

Government's Exhibit A-85.

Jennings Ptg. Co., Sapulpa. (Label)

CERTIFICATE.

State of Oklahoma, County of Creek, ss.

I, Harrison Arnold, Court Clerk in and for Creek County, State of Oklahoma, hereby certify the within to be a true copy of the Petition in Case Number 3719, Minnie Folk (formerly Minnie Atkins. et al. vs. The unknown heirs and devisees of Thomas Atkins, dec., et al. in the District Court, as the same appears on file and record in my office.

Dated this 27 day of April, 1917.

(Seal) HARRISON ARNOLD, Court Clerk.

By H. H. BURNS, Deputy.

State of Oklahoma, County of Creek, ss. In the District Court. Minnie Folk (formerly Minnie Atkins), on behalf of herself, and on behalf of Alexander MacNab, Jr., Trustee, Plaintiff, vs. The unknown heirs and devisees of Thomas Atkins, deceased, Harvey Harrison and Charles Harrison, Defendants.—No. 3719.

PETITION.

Comes now the plaintiff in the above entitled cause, and shows to the court that she is a resident of Seattle, State of Washington, and that Alexander MacNab, Jr., is a resident of Seattle, State of Washington.

That plaintiff's maiden name was Minnie Atkins, and that she heretofore married Henry Folk, and her name is now Minnie Folk.

That the plaintiff, Minnie Folk, is now, and has been for a long time past, the owner in fee simple of the lands hereinafter described, and is now in possession of said lands; that the title to said lands is derived as herein set forth.

That pursuant to the laws of the United States, and the Treaties between the United States and the Creek Indians, there was, on the 14th day of April, 1903, duly conveyed by patent to Thomas Atkins, deceased, the following described lands located in what is now Creek County, State of Oklahoma, to-wit:

> The Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section Four (4), and the Southwest Quarter (SW4) of the Northeast Quarter (NE4), and Lot Two (2) of Section Five (5), and Lot Four (4) of Section Four (4), all in Township Eighteen (18), North, Range Seven (7) East, containing one hundred sixty (160) acres, more or less,

a copy of said patent being hereto attached and marked Exhibit "A".

That Thomas Atkins was a son of Minnie Atkins, and was born out of wedlock, and was never recognized or acknowledged by his father. Heretofore, and approximately in the year 1890, Thomas Atkins was given by his said mother, Minnie Atkins, into the custody of .... a woman residing in the vicinity of Leavenworth, Kansas; that said ...., whose name is not at this time known to plaintiff's attorney agreed with plaintiff, the mother of said Thomas Atkins, to care for said child, and from time to time to communicate with the said mother the condition of the said child; that in the year 1901 or 1902, Minnie Atkins was informed, and now believes, that the said ...., to whom she had given the said child, Thomas Atkins, died, and about the same period, the said Minnie Atkins was informed, and now believes, that the said Thomas Atkins died.

That Minnie Atkins has, from time to time, made inquiry relative to the death and burial place of the said Thomas Atkins, but has been unable to ascertain the exact date of his death or place of burial; that the said Thomas Atkins died and left surviving him as his sole heir his mother, Minnie Atkins, plaintiff in this cause. That although about thirteen (13) years have intervened since Minnie Atkins learned of the death of the said Thomas Atkins, as aforesaid, and although many inquiries have been made by persons desiring to obtain an interest in the property of the said Thomas Atkins above described, as to his existence, date of his death and place of burial, and although said inquiries have covered the states of Kansas, Oklahoma and Texas, no knowledge has been obtained so far as plaintiff can learn of the details of the death and burial place of the said Thomas Atkins, except as herein appears. That at the death of the said Thomas Atkins aforesaid, this plaintiff became the sole heir of the said Thomas Atkins, deceased, and became the owner in fee of the lands above described.

That Harvey Harrison and Charles Harrison, defendants, as plaintiff is informed and believes, are making some claim to said premises, the nature of which is to plaintiff unknown; that said claims are void.

That this plaintiff desires to quiet title against all other persons claiming to be heirs or devisees of Thomas Atkins, deceased, if any there be, and that the names, residences and addresses of all of said persons, save and except said Harvey Harrison and Charles Harrison, so claiming, are unknown to this plaintiff; that such claims, if any there be, are void; that said claimants should be made parties defendant to this suit, and served by publication, and that an affidavit for said service is attached hereto, made a part of this petition, and marked Exhibit "B".

Wherefore, Plaintiff prays judgment against said defendants, Harvey Harrison and Charles Harrison, and against the unknown heirs and devisees of Thomas Atkins, deceased; that the title to said premises be decreed in plaintiff in fee simple; that she be declared the owner thereof; that the claims of defendants and said unknown heirs and devisees, and each of them, be canceled and held for naught, and that the defendants and all persons claiming or to claim by, through or under said Thomas Atkins, deceased, or said unknown heirs or devisees, or said Harvey Harrison or Charles Harrison, subsequent to the filing of this action, be forever barred and enjoined from setting up any claim adverse to the title of plaintiff in and to the premises hereinbefore described.

(Signed) E. C. Hanford,
Attorneys for Plaintiff.

State of Oklahoma, County of Tulsa, ss.

E. C. Hanford, being first duly sworn, deposes and says: that he is the attorney for Minnie Folk and Alexander J. MacNab, Jr., Trustee, in the above entitled action that the said Minnie Folk is absent from the State of Oklahoma, and for that reason he makes this affidavit.

That he has read the foregoing petition, and that the facts therein stated are true, as he verily believes.

(Seal) (Signed) E. C. Hanford.

Subscribed and sworn to before me this Third day of June, (July,) 1914. (Signed) E. F. Gester,
My commission expires September 16, 1915. Notary Public.

Exhibit "B".

State of Oklahoma, County of Creek, ss. In the District Court. Minnie Folk (formerly Minnie Atkins), on behalf of herself, and on behalf of Alexander MacNab, Jr., Trustee, Plaintiff, vs. The unknown heirs and devisees of Thomas Atkins, deceased, Harvey Harrison and Charles Harrison, Defendants.—No. ......

AFFIDAVIT FOR SERVICE BY PUBLICATION.

E. C. Hanford, having been first duly sworn, deposes and says: that he is the attorney of the plaintiff in the above entitled cause; that said plaintiff is a non-resident of the State of Oklahoma, and is absent from the State of Oklahoma at this time. That for said reason, this affiant makes this affidavit.

That affiant states that it is necessary to make the unknown heirs or devisees of Thomas Atkins, deceased, parties defendant to the above entitled cause; that the names of all of said heirs or devisees and the name of any of them and their residences are unknown to plaintiff.

Wherefore Plaintiff prays that service by had on said unknown heirs and devisees, and each of them, by publication, and that this affidavit is annexed to plaintiff's petition for the purpose of obtaining such service.

(Signed) E. C. Hanford.

Subscribed and sworn to before me this Third day of July, 1914.

(Seal) (Signed) E. F. Gester,

My Commission expires September 16, 1915. Notary Public.

(On back:) No. 3719. Minnie Folk, etc., Plaintf., vs. The unknown heirs and devisees of Thomas Atkins, deceased, et al., Defendants. Received and Filed, Jul. 3, 1914; W. R. Casteel, District Clerk. E. C. Hanford, Attorney for Plaintiff.

Government's Exhibit A-86.

Jennings Ptg. Co., Sapulpa. (Label)

CERTIFICATE.

State of Oklahoma, County of Creek, ss.

I, Harrison Arnold, Court Clerk in and for Creek County, State of Oklahoma, hereby certify the within to be a true copy of the Amended Petition in Case Number 3772, Minnie Folk vs. Nancy Atkins, Inc & Micco Harjo, Gdn., in the District Court, as the same appears on file and record in my office.

Dated this 26 day of April, 1917.

(Seal) HARRISON ARNOLD, Court Clerk.

By MAUDE C. ELLIOTT, Deputy.

State of Oklahoma, County of Creek, ss. In the District Court. Minnie Folk (formerly Minnie Atkins) on behalf of herself and on behalf of Alexander MacNab, Jr., Trustee, and on behalf of Charles Page and R. A. Josey and Alexander MacNab, Jr., Trustee, Plaintiff, vs. Nancy Atkins, an alleged incompetent, and Micco Harjo, her guardian, Nancy Atkins, H. U. Bartlett, Gypsy Oil Company, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Micco T. Harjo, J. B. White, E. W. Fowler, A. E. Carder, A. Seltzer, Charles M. Ball, Charles Harrison, Rufus C. Cobb, George C. Conrad, John R. Fields, James M. Brogan, A. J. Burchett, Thomas Gilcrease, Robert Wilson and S. D. Shirk, Defendants.—No. 3772.

AMENDED PETITION.

FIRST CAUSE OF ACTION.

Comes now the plaintiff in the above entitled cause and for her first cause of action shows the Court:

I.

That she is a resident of Seattle, State of Washington, that Alexander MacNab, Jr., is a resident of Salmon, in the State of Idaho.

II.

That plaintiff's maiden name was Minnie Atkins; that she was heretofore married to Henry Folk and her name is now Minnie Folk.

III.

That plaintiff is now and has been for a long time past the owner in fee of the lands hereinafter described and is now in possession of said lands; that the title to said lands is derived as herein set forth.

IV.

That pursuant to the laws of the United States and the treaties between the United States and the Creek Indians, there was on the 14th day of April, 1903, duly conveyed by patent to Thomas Atkins the following described lands located in what is now Creek County, State of Oklahoma, to-wit:

> The Southwest quarter (SW4) of Northwest quarter (NW4) of Section Four (4), and the Southwest quarter (SW4) of Northeast quarter (NE4) of Section Five (5), and Lot Two (2) of Section Five (5), and Lot Four (4) of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East, containing one hundred sixty-two (162) acres, more or less, a copy of said patent being attached hereto and marked Exhibit "A".

V.

That Thomas Atkins was the son of Minnie Atkins and was born out of wedlock, and was never recognized or acknowledged by his father. Heretofore and approximately in the year 1890, Thomas Atkins was placed by plaintiff in the custody of friends residing in the vicinity of Leavenworth, Kansas, who agreed with plaintiff to care for said child and from time to time to communicate with plaintiff the condition of said child; that in the year 1901 or 1902 plaintiff was informed and now believes that the person into whose custody she had given the said child, died and about the same time the said plaintiff was informed, and now believes, that the said Thomas Atkins died; that plaintiff from time to time has made inquiry relative to the death and burial place of the said Thomas Atkins but has been unable to ascertain the exact date of his death or place of burial; that the said Thomas Atkins died and left surviving him as his sole heir, his mother, Minnie Atkins, now Minnie Folk, plaintiff in this cause. That although about ten years have intervened since Minnie Atkins learned of the death of the said Thomas Atkins aforesaid, and although many inquiries have been made by persons desiring to obtain an interest in the property of the said Thomas Atkins above described, as to the exact date of his death and place of burial, and although said inquiries have covered the States of Kansas, Oklahoma and Texas, no knowledge has been obtained thereof except as herein appears. That at the death of the said Thomas Atkins aforesaid leaving this plaintiff as his sole heir as aforesaid, plaintiff became the owner in fee of the lands above described.

VI.

Minnie Atkins having confidence in Alexander MacNab, Jr., on the 13th day of June, 1914, as the sole heir of Thomas Atkins, deceased, conveyed said lands in trust to the said Alexander MacNab, Jr., a copy of said conveyance being hereto attached and marked Exhibit "B".

VII.

That in the year 1914 the said Minnie Atkins and Alexander MacNab, Jr., Trustee, learned that the lands above described were claimed by various persons through alleged deeds and other conveyances. This plaintiff has never executed any conveyance of any interest of any nature in said premises except an oil and gas lease to the Gem Oil Company as hereinafter appears. That the said Thomas Atkins, by himself or by his guardian, has executed no conveyance of any interest in said premises.

VIII.

That about the .... day of June, 1914, plaintiff caused her agent and attorney, E. C. Hanford, to go from the State of Washington to where plaintiff now resides, to Creek County, State of Oklahoma, where said lands are located, for the purpose of investigating the clouds on her title to said lands and of taking possession of same for and on behalf of plaintiff and her said Trustee, Alexander MacNab, Jr., and with authority in the said Hanford to place the lessees of plaintiff in possession of said premises that the said Hanford duly proceeded to Creek County, Oklahoma, and there entered into possession of said premises on behalf of this plaintiff and plaintiff is now in possession of the same.

IX.

Plaintiff alleges that the oil and gas underlying the tract above described is unlawfully extracted and that said lands are being drained by development for oil and gas in the vicinity of said tract; that the only conveyance executed by plaintiff, except the conveyance to her said trustee, was the execution of an oil and gas lease to the Gem Oil Company; that after the said Hanford had taken possession of said premises on behalf of this plaintiff said oil & gas lease was delivered to the said Gem Oil Co. and became in full force and effect; that thereafter the said Gem Oil Company assigned said leasehold, estate to Charles Page and R. A. Josey, and said estate is now in full force and effect. Plaintiff is informed that the above named defendants claim some right, title or interest in the said premises adverse to her title to said lands; that said defendants have not any estate, right, title or interest whatever in said premises or any part thereof.

X.

That plaintiff is informed that the Gypsy Oil Company claims a leasehold estate in said premises by reason of the execution of a deed by this plaintiff to the lessor of the said Gypsy Oil Company. Plaintiff states that she never executed a deed on said premises, except to her said trustee, and that the conveyance under which the said Gypsy Oil Company claims is a forgery and is not the deed of this plaintiff and conveyed no interest in said tract; that plaintiff is informed and charges the fact to be that the Gypsy Oil Company is aware that said deed under which the said Company claims a right in the said premises, is a forgery, and in truth and in fact said deed has been cancelled by this court in an action in which plaintiff was not a party.

XI.

That Nancy Atkins and other defendants claiming under the said Nancy Atkins, claim some interest in said lands by reason of the fraudulent allegations of said Nancy Atkins to the effect that she, Nancy Atkins, is the mother of the said Thomas Atkins, deceased. That on or about the .... day of June, 1914, plaintiff learned that a suit had been commenced in this Court by the said Nancy Atkins entitled "Nancy Atkins, and others, vs. H. U. Bartlett, and others" and bearing number 3120; that on said date the plaintiff learned that the said Nancy Atkins claimed to be the mother of the said Thomas Atkins, deceased, and was seeking to have the title to the lands above described quieted in her as the mother and sole heir of the said Thomas Atkins. At the time plaintiff learned of the existence of said suit, the cause had been tried, a decision had been rendered and a motion for new trial had been overruled. Plaintiff states that said judgment was obtained fraudulently on perjured testimony, and that the plaintiff was not made a party to said action and had no knowledge of the same except as herein appears; that as soon as plaintiff learned of the existence and status of said suit, and before any findings of fact and conclusions of law had been signed and filed, she caused notice to be given to the judge of this Court and the counsel in this cause, that the claims of Nancy Atkins were fraudulent and fraudulently asserted, and that she, Minnie Folk, would forthwith begin suit to quiet title to said lands against all claimants.

XII.

Plaintiff further states that there is no probability of the defendant, the Gypsy Oil Company, being successful in this litigation, or any other litigation adverse to the title of this plaintiff, for the reason that the title of the said Gypsy Oil Company is dependant upon a forged deed as heretofore alleged; that there is no probability of successful determination of this cause in favor of Nancy Atkins, or those claiming under her, for the reason that the claims of the said Nancy Atkins are fraudulent, untrue and based on perjured testimony, and for the further reason that the guardian of the said Nancy Atkins, an alleged incompetent, and instigator of said suit, is a fugitive from the State of Oklahoma, and is subject to prosecution for perjury in the cause of the said Nancy Atkins, et al., vs. Bartlett, et al., before described; that the other defendants in said cause claim an interest through certain brothers of the said Thomas Atkins, deceased, and a successful determination of said cause in favor of the said defendants is improbable for the reason that the Supreme Court of the State of Oklahoma, and the Circuit Court of Appeals of the United States have held that plaintiff is the sole heir of the allottee and that the brothers and sisters have no interest in the property of the allottee.

XIII.

That by reason of the claims of the defendants, particularly the claims of the Gypsy Oil Company, whose deed, as aforesaid, has been canceled by this Court, and who is without right in the premises because its interest in said premises is based on a forged deed, plaintiff is unable to proceed with the development of said land through its lessees, Page and Josey; that said lands have a present value for oil and gas and said lands are being drained; that there are ......

wells within a .... mile of said premises, including a well within three hundred (300) feet of the .... line of said lands, producing two hundred fifty (250) barrels per day; that on account of the improbability of the success of said defendants and a lack of funds, plaintiff does not believe that said lands should be developed by a Receiver and plaintiff subjected to the costs of a Receivership; that by reason of the drainage of said lands, plaintiff is suffering an irreparable damage and has no plain, adequate and speedy remedy at law. That the injury sustained by plaintiff by reason of said drainage is continuing clearly impending, irreparable and not susceptible to ascertainment in damages. That injury is substantial and results in a loss of dollars and cents to this plaintiff every day the present conditions are continued. That the defendant, Gypsy Oil Company, has drilled a well on said premises and is now operating the same at a depth of ...... feet; that the rich sand underlying said tract lies at a depth of ...... feet; that plaintiff should have possession of said well so that she or her lessees may drill the said well to a greater depth and thus obtain the oil from said rich sand; that the continnance of the operation of said well by the said defendant, Gypsy Oil Company, will probably result in many disputed claims and many actions at law against this complainant though said Gypsy Oil Company's rights in and to said well are without foundation as aforesaid. That the repeated trespasses of the Gypsy Oil Co. & the trespasses threatened by Nancy Atkins and the claimants under her are a willful invasion of complainant's rights for which plaintiff has no adequate remedy at law; that the acts of the said defendants are unfair, oppressive and fraudulent for the reason that the claims of descendants are unfounded as is well known to said defendants; that the continuous wrongful invasion of plaintiff's rights and the continuous wrongful operation of said well by the said Gypsy Oil Company constitutes a continuing damage against plaintiff for which plaintiff has no plain, speedy and adequate remedy at law. That the lands described do not lie in one tract, but lie in two divided tracts of eighty (80) acres each; that said lands have a value of approximately Two Hundred Fifty Thousand Dollars ($250,000.00) for oil and gas; that the same are being continually drained; that the Gypsy Oil Company in another suit has given a bond of Six Thousand Dollars ($6,000.00) to which these plaintiffs are not parties; that said bond affords plaintiff no protection; that plaintiff can not recover damages for the drainage of said oil during the pendency of litigation which may be vexatiously continued for a number of years; that this plaintiff and her lessees, Page and Josey, are in peaceable possession of said premises and acquired said possession peaceably; that said plaintiffs have erected a rig for drilling on said lands and have hauled thereon tools for drilling and are maintaining the same at an expense of approximately fifty dollars ($50.00) per day at a location suitable for drilling an off-set well to said well which is now draining said property; that plaintiffs, Page and Josey, are protected in their possession by an injunction but are prohibited from drilling operations thereon; that defendants, Gypsy Oil Company and H. U. Bartlett, are seeking to have said injunction protecting said Page and Josey vacated and have asserted and state that they intend to treat said plaintiffs and this plaintiff as trespassers upon said land; that said Gypsy Oil Company and H. U. Bartlett will, unless restrained by order of this Court, with force and arms and weapons endeavor to destroy the possession of plaintiff by forcibly ejecting plaintiff and said lessees, Page and Josey, from said premises and throwing their said rig and drilling tools forcibly off said land, and will forcibly prevent plaintiffs from extracting oil and gas from said land, and thereby prevent plaintiffs from protecting said lands against drainage, all to the irreparable injury of plaintiffs. That the disturbance of said possession will or may interfere with the legal rights of plaintiff and her lessees pending the event of this litigation, and it is the intent of said Bartlett and Gypsy Oil Company to destroy said possession if possible and thereby unjustly and fraudulently permit said lands to be drained.

SECOND CAUSE OF ACTION.

I.

Plaintiff alleges that heretofore plaintiff was the owner and seized in fee and entitled to the possession of a certain tract of land situated in Creek County, State of Oklahoma, and described as follows, to-wit:

> The Southwest quarter (SW4) of Northwest quarter (NW4) of Section Four (4), and the Southwest quarter (SW4) of Northeast quarter (NE4) of Section Five (5), and Lot Two (2) of Section Five (5), and Lot Four (4) of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East, containing one hundred sixty-two (162) acres, more or less.

II.

That while plaintiff was such owner and so seized and possessed and entitled to the possession of said land and premises, the defendants, Gypsy Oil Company and H. U. Bartlett, did prior hereto and subsequent to the acquiring of the ownership of the fee by plaintiff, without right or title, enter into and upon said premises and since said date have withheld and still withhold the possession thereof from plaintiff to her damage.

III.

That the Gypsy Oil Company has drilled a well on said lands for oil and gas and has heretofore, and is now, extracting the oil therefrom, the value of which and the damage sustained by this plaintiff, is at this time unknown to plaintiff; that plaintiff's title to said lands is derived as set forth in the First Cause of Action in this petition stated, and the allegations thereof showing the derivation of said title, are made a part hereof the same as if herein specifically written. The instruments of conveyance of said title are hereto attached as follows:

Copy of patent to Thomas Atkins, Exhibit "A".

Trust deed from Minnie Atkins to Alexander MacNab, Jr., Exhibit "B".

Lease from Minnie Atkins to the Gem Oil Company, Exhibit "C".

Assignment from Gem Oil Company to Charles Page and R. A. Josey, Exhibit "D".

IV.

That the rights of Alexander MacNab, Jr., in and to said premises are as set forth in the First Cause of Action in this petition, and the allegations made therein are made a part hereof the same as if herein specifically written.

V.

That the rights of the said Charles Page and R. A. Josey in and to said premises are as set forth in the First Cause of Action in this petition and the allegations therein relative thereto are made a part hereof the same as if herein specifically written.

Wherefore, Plaintiff prays as to her first cause of action:

I.

Plaintiff renews her prayer for a temporary injunction and leave of Charles Page and R. A. Josey to drill an off-set well as in the prayer in the original petition in this cause set forth.

II.

That plaintiffs be adjudged the owners of said premises and entitled to the proceeds of all oil produced thereon as their interests may appear.

III.

That an accounting be had.

IV.

That plaintiff's title be quieted against defendants, and all of them, and that defendants and all persons claiming, or to claim, by, through or under them, be forever enjoined from setting up a claim of any character in and to said premises.

As to her second cause of action plaintiff prays:

I.

For restitution of said land and premises.

II.

For an accounting.

III.

For such sum in damages for the use of said lands and the oil extracted therefrom as may be proper in the premises and ascertained by the accounting.

E. C. Hanford,
Rice & Lyons,
Attorneys for Plaintiff.

(On back:) No. 3772 Minnie Folk, et al., Plaintiff, vs. Nancy Atkins, et al., Defendants. Amended Petition. Received and filed on Sep. 16, 1914, W. R. Casteel, District Clerk, Ray McElHinney, Deputy. Rice & Lyons, Lawyers, Tulsa, Okla., Attorneys for Plaintiff. $1.25

Government's Exhibit A-87.

Jennings Ptg. Co., Sapulpa. (Label)

CERTIFICATE.

State of Oklahoma, County of Creek, ss.

I, Harrison Arnold, Court Clerk in and for Creek County, State of Oklahoma, hereby certify the within to be a true copy of the Petition in Intervention "Oil and Gas Lease" being omitted, in this copy & certificate, in Case Number 3719, Minnie Folk (formerly Minnie Atkins) on behalf of herself & on behalf of Alexander MacNab, Jr., Trustee, Plntf., vs The Unknown Heirs of Thomas Atkins, Dec., Harvey Harrison & Thomas Harrison, Def., in the District Court, as the same appears on file and record in my office.

Dated this 27 day of April, 1917.

(Seal) HARRISON ARNOLD, Court Clerk.

By H. H. BURNS, Deputy.

State of Oklahoma, County of Creek, ss. In the District Court. Minnie Folk (formerly Minnie Atkins) on behalf of herself and on behalf of Alexander MacNab, Jr., Trustee, Plaintiff, vs. The Unknown Heirs of Thomas Atkins, deceased, Harvey Harrison and Thomas Harrison, Defendants; Charles Page and R. A. Josey, Intervenors. —No. ......

PETITION IN INTERVENTION.

Come now the intervenors and show the Court that heretofore Minnie Folk (formerly Minnie Atkins) the plaintiff in this cause, made, executed and delivered to the Gem Oil Company an oil and gas lease on the premises described in the petition. A copy of said oil and gas lease being hereto attached, marked Exhibit "A" and made a part hereof.

That thereafter the Gem Oil Company assigned said leasehold to the intervenors, Charles Page and R. A. Josey, who are now the present owners of said leasehold and in peaceable possession thereof. A copy of said assignment being attached hereto and marked Exhibit "B", and made a part hereof.

That Minnie Folk is now, and has been for a long time past, the owner of the fee title to the lands in said petition described; that the title of the said Minnie Folk to said lands is derived as in her petition set forth.

That the said Minnie Folk claims some right, title or interest adverse to the leasehold of these intervenors. The nature of said claim is not well founded in law.

That Thomas Atkins was a son of Minnie Atkins and was born out of wedlock and was never recognized or acknowledged by his father. That heretofore and approximately in the year 1890 the said Thomas Atkins was given by his said mother, Minnie Atkins, into the custody of .... a woman residing in the vicinity of Leavenworth, Kansas; that intervenors have made inquiry but are unable to learn the name of said woman; but are informed by the said Minnie

Atkins that the said woman agreed to care for said child and from time to time to communicate with the said mother the condition of the said child.

That intervenors are informed that in the year 1901 or 1902 Minnie Atkins was informed that the woman to whom she had given the said child, died, and that at the same time said Minnie Atkins was informed that said Thomas Atkins died; that these intervenors have caused inquiries to be made in the States of Oklahoma, Kansas, Texas and Washington, but have been unable to ascertain the exact date of the death of the said Thomas Atkins or the burial place of the said Thomas Atkins.

That many inquiries have been made by other persons desiring to obtain an interest in the property described in the petition, as to the existence, date of death and place of burial of the said Thomas Atkins, but no knowledge has been obtained so far as intervenors can learn of the details of the death *of* place of burial of the said Thomas Atkins.

That although about thirteen (13) years have intervened since Minnie Atkins learned of the death of the said Thomas Atkins as aforesaid, and although inquiries as herein set forth have been made, at no time during said period has anything been learned as to the death or burial place of the said Thomas Atkins.

That on account of the long silence of the said Thomas Atkins, his failure to appear during said period, and the total failure of results from inquiries made as to his existence, a presumption of law has arisen that the said Thomas Atkins is dead.

That at the date at which the said Minnie Atkins was informed of the death of the said Thomas Atkins, the said Thomas Atkins was so young that there is no probability that the said Thomas Atkins left wife or issue surviving him.

That the lands described in the petition have a value for oil and gas and that said lands are now being drained by development for oil and gas in the vicinity, and unless said lands are protected by drilling operations irreparable damage will ensue to the owner of the fee and these intervenors and said lands will be drained of oil and gas.

That intervenors are ready, able and willing to proceed with the development of said lands pursuant to the terms of said lease. That the drilling operations necessary to protect said lands from drainage will entail a large expenditure of money, approximately Fifty Thousand Dollars ($50,000.00), and these intervenors stand ready to hazard said necessary sum in the development of said lands.

Intervenors further show the Court that the lease under which they hold is the ordinary *from* of lease with the usual conditions and stipulations contained in leases for oil and gas in the oil and gas field in which said lands are located.

That the development of said lands without delay is necessary for the protection of the said Thomas Atkins, if he were alive, and is necessary for the protection of the lessor, Minnie Atkins, as well as the rights of these intervenors.

Intervenors respectfully show the Court that in the event said expenditures are made and said Thomas Atkins should at some future time establish his identity and right to said premises, it would be inequitable to permit intervenors to hazard the loss of said money, and further hazard the risk of cancellation of their lease by said Thomas Atkins. That in the event intervenors hazard said sum of money in drilling operations, they are entitled to equitable relief in the protection of said leasehold estate for oil and gas subject to a proper accounting to said Thomas Atkins should he ever appear, for the royalty from said premises.

That an order should be made permitting intervenors to make said expenditures thereunder and protecting intervenors in their leasehold estate for oil and gas in the event the same is found in paying quantities.

Intervenors further show the Court that in the event oil and gas is not found in paying quantities, they do not expect re-imbursement from the said Thomas Atkins for any expenditures for development on said premises should he ever appear, and hereby expressly waive any claim to same.

That intervenors join in the plaintiff's prayer to quiet title against the unknown heirs and devisees of the said Thomas Atkins, deceased.

Wherefore, Intervenors pray judgment quieting their title and for an order protecting their leasehold estate and for such other and further relief as to the Court shall seem equitable and just.

(Signed) Rice & Lyons,
Attorneys for Intervenors.

State of Oklahoma, County of Tulsa, ss.

Charles Page being first duly sworn deposes and says that he is one of the intervenors in the above entitled cause; that he has read the above and foregoing petition in intervention, and that the facts therein stated are true to the best of his knowledge and belief.

(Signed) Charles Page.

Subscribed and sworn to before me this 3rd day of July, 1914.

(Seal)

E. F. Gester,
Notary Public.

My commission expires Sept. 16, 1915.

(On back:) No. 3719. Minnie Adkins, Plaintiff, vs. The Unknown Heirs of Thomas Atkins, Dec'd, et al., Def. Received and filed, Jul. 3, 1914; W. R. Casteel, District Clerk.

Government's Exhibit A-88.

C.T.D.

Leavenworth, Kansas.
August 3rd, 1914.

This agreement made and entered into this 3rd day of August, A. D. 1914, by and between Gypsy Oil Company, party of the first part and Dennis Jones, party of the second part;

Whereas, it is the desire of first party to locate one Thomas Atkins and it is claimed by said second party that he has reason to believe that he knows the whereabouts of said Atkins.

It is therefore agreed that the said first party shall pay to second party the sum of $10.00 per day and all necessary expenses during the time necessary to locate said Thomas Atkins and that C. E. Crawley, representing said first party is to go with said second party and in case the said Thomas Atkins is located and satisfactory arrangements are made with him and said first party, and his identity is established by witnesses, the said second party is to receive the further sum of Five Hundred ($500.00) Dollars. The expenses of the witnesses necessary to establish his identity in Court is to be paid by first party but their names and addresses are to be furnished by said second party.

It is further agreed that upon leaving Leavenworth a round trip ticket to the destination will be furnished to the second party by the first party and an advance payment of Fifty $50.00 dollars will be made.

Witness our hands the day and year first above written.

Gypsy Oil Co.
By C. E. Crawley
Dennis Jones

Jones 2270 W. 4th & Choctaw & 326 Osage Ave

Government's Exhibit A-89.

C.T.D.

Dennis Jones, Lawyer, Leavenworth, Kansas.

Leavenworth Kansas August 17th 1914.

Hon. C. E. Crawley,
3rd Vice Pres. Gypsy Oil Company,
Tulsa Oklahoma.

Dear Sir:

I have been on the trail of .... since I left Mr. Greenslade, and feel like the conditions of our contract will soon have to be carried out.

When away from here a few days ago I heard that the .... had died in Chicago some years ago, but upon investigation I found that to be untrue, I talked with a man who knew the object of my search to be living, that is, he was a short time ago.

I have this day handed to Hon. Lee Bond a statement of my expense account to date together with a statement of the amount received which I trust you will approve.

Mr. Crawley I feel a great degree of confidence in the matter and if I am retained to further my investigation and search for the missing link I will be successful, I shall meet the Masonic Grand Lodge in Pittsburg on the 25th of this month and will there see and meet several hundred people, and among them I may locate the link.

Let me know as earley as is convenient for you to do so.

Very truly,

Dennis Jones

Government's Exhibit A-90.

C.T.D.

Bartlett—Atkins 115450

Dennis Jones, Lawyer, Leavenworth, Kansas.

Leavenworth Kans *ug*, 22nd 1914.

C. E. Crawley,
Tulsa, Oklahoma.

Dear Sir:

The other people were here to day and had an interview with Ruben J. Smith the suppose uncle of the missing Thomas Atkins and tried to get him as I understand to say that he knew of the death of the boy here several years ago, but he

(Ruben J. Smith) has repeatedly told me that he knew of the boy being a live person and that he knew this to be a fact, I have not seen him since his interview with the other people and cannot tell you just what he said to them but will find out when I meet him.

I saw the woman Sadie James as she is known there, she was here yesterday and called at my office and told me that she had come to the conclusion that the boy Thomas Atkins was dead and seemed to be interested in the other people but I told her that I knew better that the boy was still living and that I would produce him in a very short time, she left me and said she would call again but she did not and I have not seen her since.

What is the name of the other firm that is on the still hunt for the boy for if I knew I could look the hotel register over and tell you who was here.

Mr. Bond told me that he had sent in my expense account which I trust youll approve and allow. Very truly,

Dennis Jones

Government's Exhibit A-92.

No. 599½. Leavenworth, Kans., May 16, 1885.

INSLEY, SHIRE & CO. BANKERS,

Pay to the order of Ed Haberlien——————————

Forty —————————————————— Dollars.

$40.00. 100

John Rohr

St. Louis Bank Note Company.

(On back:) Ed. Haberlien.

Government's Exhibit A-93.

State of Kansas, County of Leavenworth, ss. In the District Court in and for Said County. C. F. W. Dassler and L. G. Hopkins, Plaintiffs, vs. Charlotte W. Calkins, John Dotter, Gustav Dotter, Alonzo F. Callahan, Lily White, Emma Darington and James Darington, her husband, and John Mettinger, Defendants.

PETITION.

The said plaintiffs, C. F. W. Dassler and L. G. Hopkins, complains of the said defendants, Charlotte W. Calkins, John Dotter, Gustav Dotter Alonzo F. Callahan, Lily White, Emma Ferrell, now called Emma Darington and James Darington, her husband, and John Mettinger, and allege that heretofore, to-wit, on or about the 1st day of August, 1884, said defendants, Emma Darington, by the name of Emma Ferrell, at Leavenworth, Kansas, duly made her certain promissory note in writing of that date, and duly delivered the same to defendant John Dotter, and thereby for value received promised to pay to the order of said John Dotter in thirteen months from the date thereof, the sum of Fifty Dollars with interest thereon at the rate of eight (8) per cent per annum from date thereof, said note being dated August 1, 1884, that at the same time and place said defendant, Emma Darington by the name of Emma Ferrell, made her four other certain promissory notes of the same date, each for fifty dollars, bearing interest at the same rate, and one due fourteen months after said date, another one fifteen months after said date, another one twenty-one months after date, and the fourth due twenty-two months after said date, all payable to the order of said defendant John Dotter (Copies of all of aforesaid notes, and endorsements thereon, marked respectively "Exhibit B," "Exhibit C," "Exhibit D," "Exhibit E," "Exhibit F" are hereto attached, herewith filed, and made a part hereof).

And plaintiffs further aver that at or about the same time the said defendant Emma Darington, by the name of Emma Ferrell, made her five certain other promissory notes of the same date, each for fifty dollars, bearing the same rate of interest, and due, one in sixteen months after said date, another in seventeen months after said date, another in eighteen months after said date, another in nineteen months after said date, another in twenty months after said date, all payable to the order of John Dotter, and likewise delivered all of said notes to said John Dotter. (Copies of which said five last named notes are hereto attached, herewith filed, and made a part hereof, marked "Exhibit G," "Exhibit H," "Exhibit I," "Exhibit J" and "Exhibit K," respectively.

And plaintiffs further aver that said John Dotter long before the maturity of said ten above described notes, for value, transferred the same to plaintiffs, and that plaintiffs are now the legal owners and holders thereof; that none of said notes have been paid; that there is due plaintiffs on said ten notes the sum of Five Hundred Dollars, with interest thereon at eight per cent per annum from August 1st, 1884.

That said defendant Emma Darington by the name of Emma Ferrell at the same time and place, and of the same date, to secure the payment of the said ten several promissory notes, duly made, executed and delivered to the defendant Gustav Dotter, her certain mortgage deed, (a copy of which is hereto attached, herewith filed and made a part thereof, marked "Exhibit A"), and thereby to secure *tha* payment of said notes and the interest thereon, conveyed to said Gustav Dotter Lots numbered twenty-three and twenty-four in block numbered twenty-four in the City of Leavenworth proper, in the County of Leavenworth and State of Kansas; that among other, said mortgage has a condition thereunder written in substance that if said defendant Emma Darington by the name of Emma Ferrell should fail or neglect to pay any one of the notes secured thereby, or the interest thereon, at the time when due and payable, that then and in that case all of notes to secure which said mortgage was made should at once become due and payable; that said defendant Emma Darington by the name of Emma Ferrell has wholly neglected or refused to pay the notes due September first, 1885 ("Exhibit B") and the note due October first, 1885 ("Exhibit C"); or any interest thereon, or any part thereof; that said mortgage also had a condition thereunder written in substance that said defendant Emma Darington by the name of Emma Ferrell, should keep the buildings on said lots insured in the sum of $1000.00 for the benefit of the holders of the said notes, yet, said defendant, Emma Darington, has wholly neglected and refused to so keep said buildings insured; that the said defendant Emma Darington by the name of Emma Ferrell duly acknowledged said mortgage deed to and before one A. F. Callahan, a Notary Public as shown by said "Exhibit A"; that said mortgage deed was duly filed for record and recorded in Book 90 at page 281, et seq., of the Register of Deeds office of Leavenworth County, Kansas, on July 22, 1884; that said defendant, Emma Darington who went under the name of Emma Ferrell, has wholly neglected and refused to comply with any of the agreements or provisions by her in said mortgage deed made or contained, whereby the said mortgage has become absolute; that the defendants Charlotte W. Calkins, Alonzo F. Callahan, Lily White, Emma Darington, known in said transactions as Emma Ferrell, John Dotter, Gustav Dotter, James Darington and John Mettinger. claim some interest in said premises, the exact nature of which is to these plaintiffs unknown, but said plaintiffs aver that whatever claim or interest if any either or any of said defendants may have, that the same is subject to the claim of these plaintiffs, and that plaintiffs have a first and prior claim over all of said defendants on the said property. Plaintiffs aver that said property is insufficient to pay the mortgage debts thereon.

Wherefore, plaintiffs demand judgment against said defendant Emma Darington, and John Dotter, for the sum of

Five Hundred Dollars, with interest thereon from the first day of August, 1884, at the rate of eight per cent per annum, and for a sale of the above described premises according to law, to pay the said amount, interests and costs, and for a further order, judgment and decree, forever foreclosing and barring said defendants Charlotte W. Calkins, John Dotter, Gustav Dotter, Alonzo F. Callahan, Lily White, Emma Darington, formerly Emma Ferrell, and James Darington, her husband, and John Mettinger, and each and every of them for any and all interest, right or claim in and to said property, or any part thereof, and for such other and further relief as plaintiffs may be entitled to, and for costs, etc., and plaintiffs also pray for the appointment of a receiver herein, etc.

C. F. W. Dassler and
L. G. Hopkins,
Plaintiffs.

"Exhibit A."

This mortgage, made this 16th day of July in the year of Our Lord One Thousand Eight hundred and [] four, between Emma Ferrell (a single woman) of Leavenworth, Kansas, party of the first part, and Gustav H. Dotter, of the same place, party of the second part,

Witnesseth: That the said party of the first part, for and in consideration of the sum of Two Thousand Dollars to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said party of the second part, and to his heirs and assigns forever, all of the following described tract, piece and parcel of land, lying and situate in the County of Leavenworth and State of Kansas, to-wit: Lots numbered twenty-three (23) and twenty-four (24) in Block numbered twenty-four (24) in the City of Leavenworth proper.

To Have and to Hold the same with all and singular the hereditaments and appurtenances thereunto belonging unto the said party of the second part, her heirs and assigns forever. Provided Always and these presents are upon this express condition: That whereas, the said party of the first part has this day executed and delivered her thirty nine certain promissory notes in writing to John Dotter, each bearing the date of August first, 1884, payable respectively in from one to thirty nine months after date, each for Fifty dollars, with eight per cent per annum interest thereon from date until paid, the first note becoming due September 1st, 1884, and one note falling due on the first of each subsequent month until thirty nine are paid with eight per cent interest as aforesaid. Now, if the said party of the first part shall well and truly pay or cause to be paid said sums of money in said notes mentioned, with interest thereon according to the tenor of said notes, then these presents shall be null and void. But if said sums of money, or any part thereof, or any interest thereon be not paid when the same become due, then the whole of said sum and interest shall immediately become payable; or if the taxes and assessments which are or may be assessed against said lands and appurtenances, or any part thereof, are not paid at the time when the same are made payable, then the whole of said sums shall immediately become due, and upon forfeiture of this mortgage the party of the second part shall be entitled to the possession of the said lands, appurtenances, improvements, rents and profits thereof. And the said party of the second part may then, or at any time thereafter, enter upon the lands hereby mortgaged, all buildings and improvements, and remove therefrom every person, forcibly if necessary, take and retain possession, and receive the rents and profits thereof. And the party of the first part shall, at her own expense, from this time until said notes and interest and all liens by virtue hereof are fully paid off, keep the buildings now or hereafter erected on said lands insured to the amount of One Thousand Dollars in some responsible insurance company duly authorized to do business in the state, for the benefit of the said party of the second part, and assign the policy or policies thereof to the said party of the second part; and in default thereof the said party of the second part may effect said insurance in his own name, and the premiums and expenses for effecting the same shall be an additional lien on said property, and may be enforced in the same manner as the principal debt hereby secured.

In Witness Whereof the said party of the first part has hereunto set her hand, the day and year first above written.

Emma Ferrell.

State of Kansas, Leavenworth County, ss.

Be it remembered that on this, 19th day of July, A. D. Eighteen Hundred and Eighty four, before the undersigned, a Notary Public in and for the County and State aforesaid, came Emma Ferrell, who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year last above written. Com. Expires July 24th, 86.

Notarial Seal) A. F. Callahan, Notary Public.

Recorded July 22, 1884, Book 90, p. 281.

"Exhibit B"

[Across face of "Exhibit B":] Protested for non-payment, Sept. 4, 1885, W. H. Chaplin, N. P.

Leavenworth, Kansas, August 1st, 1884.

Thirteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insely Shire & Co., Bankers, Leavenworth, Kas., value received, with interest at the rate of Eight per cent. per annum from date until paid.

$50.00——Due—33681 Emma Ferrell.

Endorsements. John Dotter, J. C. McHale.

"Exhibit C"

Leavenworth, Kans., August 1st, 1884.

Fourteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due—33682. Emma Ferrell.

Seneca between 2" & 3"

Endorsements: John Dotter, J. C. McHale."

"Exhibit D"

Leavenworth, Kans., August 1st, 1884.

Fifteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due 33683 Emma Ferrell.

Endorsements: John Dotter, J. C. McHale."

"Exhibit E"

Leavenworth, Kans., August 1st, 1884.

Twenty-one months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00 Due ...... Emma Ferrell.

Endorsements—John Dotter."

"Exhibit F"

Leavenworth, Kans., August 1st, 1884.

Twenty-two months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due Emma Ferrell.

Endorsements—John Dotter."

"Exhibit G"

Leavenworth, Kans., August 1st, 1884.

Sixteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00 Due ...... Emma Ferrell.

Endorsed—John Dotter."

"Exhibit H"

Leavenworth, Kans., August 1st, 1884.

Seventeen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due ...... Emma Ferrell.

Endorsed—John Dotter."

"Exhibit I"

Leavenworth, Kans., August 1st, 1884.

Eighteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due ...... Emma Ferrell.

Endorsed—John Dotter."

"Exhibit J"

Leavenworth, Kans., August 1st, 1884.

Nineteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due ...... Emma Ferrell.

Endorsed—John Dotter."

"Exhibit K"

Leavenworth, Kans., August 1st, 1884.

Twenty months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due ...... Emma Ferrell.

Endorsed—John Dotter."

PRECIPE.

Clerk will issue summons to Sheriff of Leavenworth Co., Kans., for Alonzo F. Callahan, Lily White and John Mettinger, returnable in 3 days. Amount claimed, $500.00 & eight per cent. interest from Aug. 1st, 1884, and foreclosure of mortgage; also a summons to Sheriff of Ellsworth County, Kans., for John Dotter, returnable in 12 days.

C. F. W. Dassler,
Atty. for Pltff.

Endorsed on back of file: 9295 District Court of Leavenworth Co. Kans. Dassler & Hopkins vs. Charlotte W. Calkins, et al. Petition and Precipe. Filed October 30, 1885, John Rohr, Clerk, by Chas. Crouse, D. C. Dassler.

State of Kansas, County of Leavenworth, ss. In the District Court in and for Said County. C. F. W. Dassler and L. G. Hopkins, Plaintiffs, vs. Charlotte W. Calkins, et al., Defendants.—No. 9295.

AMENDMENT TO PLAINTIFFS' PETITION.

And now come said plaintiffs and amend their petition herein as follows:

Wherever the name "Emma Darrington" appears in said petition by changing it so as to read "Emma Kauffer," and wherever the name "James Darington" appears in said petition by changing it so as to read "Walter W. Kauffer" so that the parties defendant to said action will be

Charlotte W. Calkins, John Dotter, Gustav Dotter, Alonzo F. Callahan, Lily White, Emma Kauffer and Walter W. Kauffer, her husband, and John Mettinger.

C. F. W. Dassler, Atty. for Pltfs.

Endorsed on back: 9295—District Court of Leavenworth County Dassler & Hopkins vs. Charlotte W. Calkins, et al., Dfts. Amendment of Plaintiffs' Petition. Filed November 23, 1885 John Rohn, Clerk by Chas. Crouse, D. C. Dassler.

The State of Kansas, First Judicial District, Leavenworth, County, ss.

I, Grace Fisher, Clerk of the District Court of the First Judicial District of the State of Kansas, sitting within and for the County aforesaid, do hereby certify that the above and foregoing to be a true, full and complete copy of Petition with endorsements thereon and exhibits thereto, in the case entitled C. F. W. Dassler, et al., vs. Charlotte W. Calkins, et al., No. 9295, in the therein entitled cause as the same remains on file in my office.

Witness My Hand, and seal of said Court, affixed at my office in the City of Leavenworth, this the 1st day of March, A. D. 1916.

(Seal)

Grace Fisher,
Clerk of the District Court.
By Dorothy Biddle, Deputy.

Government's Exhibit A-94.

Established in 1857. Office of A. F. Callahan, Attorney at Law

Leavenworth, Kan. ...., 188..

District Court of Leavenworth County, Kansas. C. F. W. Dassler, et al., vs. Charlotte W. Calkins, et al.

Above cause is to be dismissed at plaintiff's costs.

C. F. W. Dassler,
Attorney for Plaintiffs.

A. F. Callahan,
for self, and as Atty. for C. W. Calkins.

Dated Nov. 27/85

Endorsed on back: District Court of Leavenworth County, Kansas. C. F. W. Dassler, et al., vs. Charlotte W. Calkins, et al. Dismissal.

The State of Kansas, First Judicial District, Leavenworth, County, ss.

I, Grace Fisher, Clerk of the District Court of the First Judicial District of the State of Kansas, sitting within and for the County aforesaid, do hereby certify that the above and foregoing to be a true, full and complete copy of Order of Dismissal in the case entitled C. F. W. Dassler, et al., vs. Charlotte W. Calkins, et al., No. 9295, in the therein entitled cause as the same remains on file in my office.

Witness My Hand, and seal of said Court, affixed at my office in the City of Leavenworth, this the 2nd day of March, A. D. 1916.

(Seal)

Grace Fisher,
Clerk of the District Court.
By Dorothy Biddle, Deputy.

Government's Exhibit A-95.

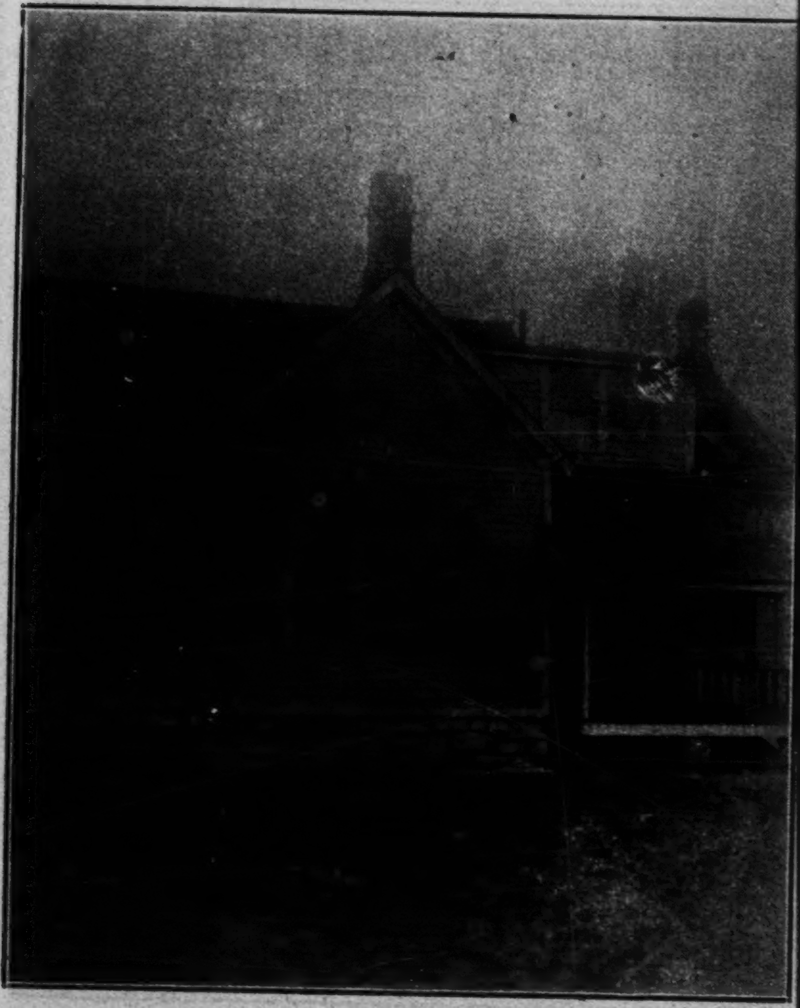
[See insert herewith for reproduction of photograph of the Grodevant Residence.]

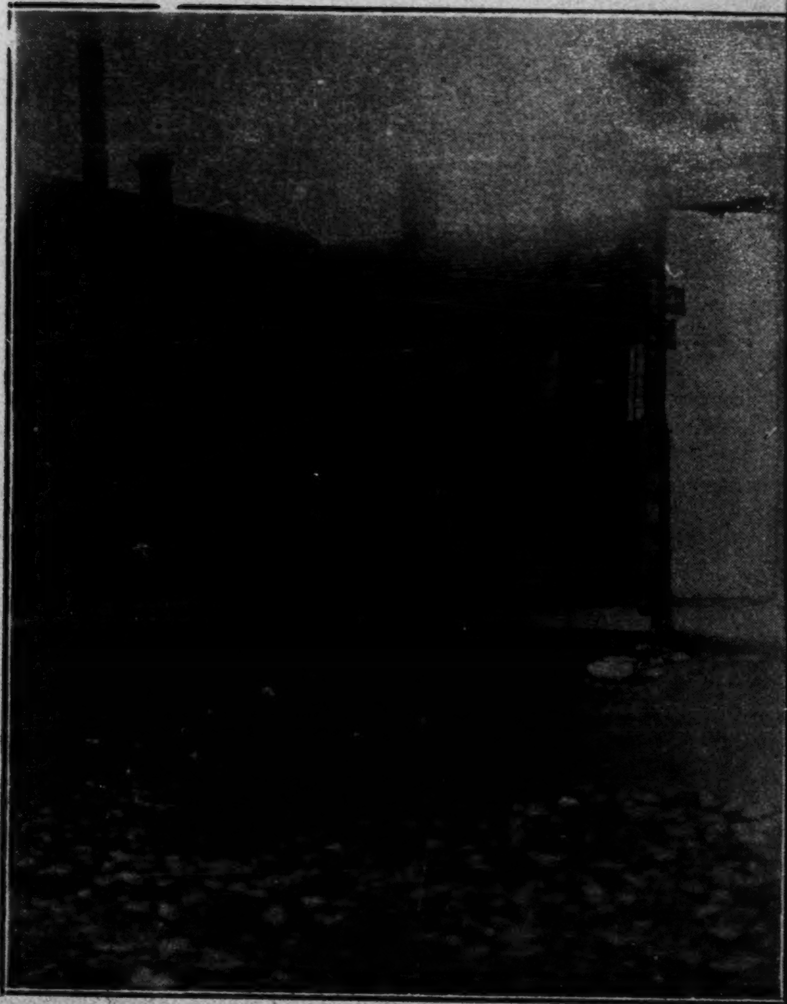
Government's Exhibit A-96.

[See insert herewith for reproduction of photograph of the Front Porch of the Grodevant Home.]

Government's Exhibit A-97.

[See insert herewith for reproduction of photograph of the Woods' Residence.]





FAMILY SCHEDULE—1 TO 10 PERSONS.

[7—369a.]

Eleventh Census of the United States.

SCHEDULE No. 1.

POPULATION AND SOCIAL STATISTICS.

Supervisor's District No. 2

Enumeration District No. 143

Name of city, town, township, precinct, district, beat, or other minor civil division: Leavenworth; County: Leavenworth; State: Kan,

Street and No.: 119 North 3rd St; Ward: 1st; Name of Institution: x

Enumerated by me on the 16 day of June, 1890. William H Hyde, Enumerator.

A.—Number of Dwelling-house in the order of visitation.	279	B.—Number of families in this dwelling-house.	1	C.—Number of persons in this dwelling-house.	6	D.—Number of Family in the order of visitation.	283	E.—No. of Persons in this family.	6

	INQUIRIES.	1	2	3	4	5
1	Christian name in full, and initial of middle name.	Mollie	William	Sam	Walter	Fannie
	Surname.	Letcher	Phillips	Smith	Banks	Carroll
2	Whether a soldier, sailor, or marine during the civil war (U.S. or Conf.), or widow of such person.	x	x	x	x	x
3	Relationship to head of family.	Head	Son	G Son	Roomer	Roomer
4	Whether white, black, mulatto, quadroon, octoroon, Chinese, Japanese, or Indian.	Black	Black	Mulatto	Mulatto	Mulatto
5	Sex.	Female	Male	Male	Male	Female
6	Age at nearest birthday. If under one year, give age in months.	51	32	23	12	29
7	Whether single, married, widowed, or divorced.	Widow	Single	Single	Single	Widow
8	Whether married during the census year (June 1, 1889, to May 31, 1890).	x	x	x		x
9	Mother of how many children, and number of these children living.	6-1	x	x	x	1
10	Place of birth.	Tennessee	Mo	Kan	Kan	Mo
11	Place of birth of Father.	Tennessee	Mo	Mo	Mo	Tennessee
12	Place of birth of Mother.	Tennessee	Mo	Mo	Mo	Tennessee
13	Number of years in the United States.	x	x	x	x	x
14	Whether naturalized.	x	x	x	x	x
15	Whether naturalization papers have been taken out.	x	x	x	x	x
16	Profession, trade, or occupation.	Housewife	Labrer	Labrer	At School	Roomer
17	Months unemployed during the census year (June 1, 1889, to May 31, 1890).	x	x	x	x	x
18	Attendance at school (in months) during the census year (June 1, 1889, to May 31, 1890).	x	x	x	9	x
19	Able to Read.	No	No	Yes	Yes	Yes
20	Able to Write.	No	No	Yes	Yes	Yes
21	Able to speak English. If not, the language or dialect spoken.	English	English	English	English	English
22	Whether suffering from acute or chronic disease, with name of disease and length of time afflicted.	x	x			x
23	Whether defective in mind, sight, hearing, or speech, or whether crippled, maimed, or deformed, with name of defect.	x	x	1 hand amputated	x	x
24	Whether a prisoner, convict, homeless child, or pauper.	x	x	~~[illegible] machine~~ x	x	x
25	Supplemental schedule and page.					

TO ENUMERATORS.—See inquiries numbered 26 to 30, inclusive, on the second page of this schedule. These inquiries must be made concerning each family and each farm visited.

SCHEDULE No. 1.—POPULATION AND SOCIAL STATISTICS.

	INQUIRIES.	6	7	8	9	10
1	Christian name in full, and initial of middle name.	Walter				
	Surname.	Johnson				
2	Whether a soldier, sailor, or marine during the civil war (U. S. or Conf.), or widow of such person.	×				
3	Relationship to head of family.	Roomer				
4	Whether white, black, mulatto, quadroon, octoroon, Chinese, Japanese, or Indian.	Black				
5	Sex.	Male				
6	Age at nearest birthday. If under one year, give age in months.	21				
7	Whether single, married, widowed, or divorced.	Single				
8	Whether married during the census year (June 1, 1889, to May 31, 1890).	×				
9	Mother of how many children, and number of these children living.	×				
10	Place of birth.	Mo				
11	Place of birth of Father.	Mo				
12	Place of birth of Mother.	Mo				
13	Number of years in the United States.	×				
14	Whether naturalized.	×				
15	Whether naturalization papers have been taken out.	×				
16	Profession, trade, or occupation.	Lobrer				
17	Months unemployed during the census year (June 1, 1889, to May 31, 1890).	×				
18	Attendance at school (in months) during the census year (June 1, 1889, to May 31, 1890).	×				
19	Able to Read.	Yes				
20	Able to Write.	Yes				
21	Able to speak English. If not, the language or dialect spoken.	English				
22	Whether suffering from acute or chronic disease, with name of disease and length of time afflicted.	×				
23	Whether defective in mind, sight, hearing, or speech, or whether crippled, maimed, or deformed, with name of defect.	×				
24	Whether a prisoner, convict, homeless child, or pauper.	×				
25	Supplemental schedule and page.					
26	Is the home you live in hired, or is it owned by the head or by a member of the family?				Rented	
27	If owned by head or member of family, is the home free from mortgage incumbrance?					
28	If the head of family is a farmer, is the farm which he cultivates hired, or is it owned by him or by a member of his family?					
29	If owned by head or member of family, is the farm free from mortgage incumbrance?					
30	If the home or farm is owned by head or member of family, and mortgaged, give the post-office address of owner.					

TO ENUMERATORS.—The inquiries numbered 26 to 30, inclusive, must be made concerning each family and each farm visited.

Government's Exhibit A-98.

ERM

DEPARTMENT OF COMMERCE.

Washington, April 21, 1917.

I hereby certify that the annexed is a true copy of the original returns for the family of Mollie Letcher, made by William H. Hyden, Enumerator, in Ward 1, Leavenworth, Leavenworth County, Kansas, at the Eleventh Census, 1890, on file in the Bureau of the Census.

SAM L. ROGERS,
Director. (Official title.) A

OFFICE OF THE SECRETARY.

I hereby certify that Sam. L. Rogers, who signed the foregoing certificate, is now, and was at the time of signing, Director of the Census, and that full faith and credit should be given his certification as such.

In witness whereof, I have hereunto subscribed my name, and caused the seal of the Department of Commerce to be affixed this 21st day of April, one thousand nine hundred and seventeen.

(Seal) WILLIAM C. REDFIELD,
Secretary of Commerce.

Copied ERM K.T.W.

[See insert herewith for reproduction of Government's Exhibit A-98, showing front and reverse sides.]

Government's Exhibit A-101.

Eq. 2131.

(Stamp:) Dep't. of the Interior Received May 17 1916 To Indian Office Secy's Off. Mails & Files

(Stamp:) Interior Dept. Received May 17 1916 Office of the Secretary.

(Stamp:) Office of Indian Affairs Received May 18 1916 54049
Sells
Dft

U. S. Government (Affair)
(Dept. of the Interior)
Washington, D. C.

May 13—

I do not know just exactly who to write to but I take it for granted that Uncle Sam will place this in the right hands.

(I know that *Indian affairs* are managed by the U. S. Government.)

—

The Tommy Atkins case in *Oklahoma*, is a *'fraudulent'* one! I worked on the case just *exactly one year* May 17th "*blind folded* so to speak." I have letters from J. Truman Nixon, the "Indian Record" man in *Tulsa*, which *prove* that I was working in the dark, and which more than *convinced* me —*(at the time,)* that *'our'* cause was *(right)*—or *I* would never have stayed by them, as long as I have. 'Tis true my faith in the case, commenced to slip—as far back as last *August*—but was re-assured—by J. Truman Nixon, *by letter* from Oklahoma City that we were in the right. I saved *all* his letters and telegrams, and am willing to hand them over to the proper authorities *any time*.

Only *two* weeks ago, I learned that the Tommy Atkins, Nixon was parading around is a Jew—from *Texas*,—his name was Tommy *Mooney*, but by Nixon's magical transformation he became Tommy Atkins. Nixon had him registered some where at Sweetwater Texas—as Tommy Atkins and was the *first* to introduce him as Tommy Atkins. *Tommy*—is even *branded*—(tatooed I guess)——"*T. M.*"—(I also learned *this* about two weeks ago.

—

Last August—after working on the case in *Seattle* and after our reports had been *written* and sent to J. Truman Nixon—I learned that, or rather it was told me, in *confidence*, that there was 'no' Tommy Atkins but that *Minnie* did not know the difference—that he was a *cousin*, and used to play around with other children—and when it came to placing the Indians on *roll* or *record*, that they simply—called him *Atkins*, and put him on record as Tommy Atkins. *Why* this should he told me in *confidence* is more, as *has* been more, than I could figure out, unless the party who told me felt that I was by *that* time a co-worker—and in sympathy with anything that spelled "*money*"—(but *not* so). I wrote discouraging letters—to Nixon—and *this* is what he *wrote* me—at the conclusion of his letter from Oklahoma City—

Keep your courage up.
Keep a tight upper lip.
Keep faith in the right and our case.
Keep thinking *twice* before speaking.
Keep thinking we are *right* for *we are*.
We will win.

Yours very truly,
J. Truman Nixon.

—

He *wired* for me to come down here (to Tulsa) to give up my school, that he had a better position for me about Oct. 1st than teaching school. After I arrived here—he told me that my reports and letters made him feel that I was a consciencious sort of a person, and they wanted to know the *truth* about everything *(our work in Seattle)* so I *told* him, all I knew—and *also* that it was told me in *"confidence"* that there was no "Tommy Atkins" etc. He gave me a *very* convincing talk, showed me photograph copies of the enrollment etc.—but still I *argued* and balked—and at one time I heard him mutter to himself, in an undertone, "Some people do not know how to help themselves"—I felt *then*, that it was meant for *my* benefit,—and yet I did not take it that way *then*, but since I learned *two* weeks ago, that Nixon himself arranged this case —himself—transformed Mooneys into Atkins' etc. I feel *certain* it was meant for my benefit *then*. Nixon gave me one of the most *sincere, confidential*, and *fatherly* talks,—when I came down here—that I felt it a *crime* to consider him anything but an *honest man*. He professed to be a Christian Scientist—and altogether he *posed* as a *real saint*. I often asked *questions* about the case, but he would *never* answer them, and I felt that I was asking questions that I had no right to ask, the reason he did *not* answer them. He made me feel cheap. I just put myself down as *not knowing what* was *proper* to *say* and *do*, in the business world, but I worried myself *sick* trying to figure things out for myself.

He had no position for me *at all* and *now* he refuses to pay me for my wasted time.

—

Returning to the Minnie Atkins subject—

"There *aint* no Tommy Atkins but Minnie don't know the difference."

That seems *strange* that Minnie would not know the difference! I infer from the remark, that Minnie was not present when the Creek Indians were being placed on record, and chances are, never knew that this *boy, (cousin)*, was placed on record with the *Atkins* bunch, until the big *oil* discovery brought *Tommy Atkins* into prominence and furthermore, that *Minnie* had some children she *discarded* and they would no doubt be the age of her sisters children, but of course Minnie, having discarded them, would not know them *today* if she saw them—and *really* does *not* know if they are dead or alive—*'and' perhaps does not know*, if some one *found* her child and had him placed on record—because she left this part of the country—and *no* one knew of her where-a-bouts until they commenced the search after the oil discovery and *found* her—after much loss of time—and a big expense,—but of course they *found* her in Seattle. Therefore, Minnie may *not* know—but, the party who told me, must have known—otherwise I do not understand, what the *object*, of telling me could have been. And *stranger still, why Nixon* should *insist*, that there was a *Tommy Atkins*, as it was his *co-worker* who told me that in confidence. Chances are, the party would *never* have told me, had the party felt that I would ever dream of taking the stand I *did* take. It is such a *long* story, and I get *so tired* telling it.

—

I am enclosing you a copy of a letter I wrote Nixon some time ago, in regard to the position etc. but he did not pay me for my '*wasted*' time since November 15th. He *did* pay me my fare money—back to Seattle. I presume he did that just to get me away from here—but I am still here.

I have *photographs* of the operatives who worked on the case in Seattle—showing dictagraph—taken right at *Minnie's home*, and Minnie with the whole bunch of us, in the *pictures*. In my many talks with Minnie—she confessed that her lawyers—*made* her swear to *lies*. That if they had let her have *her* way about it, that all this trouble could have been avoided—the disgraceful stories about *colored* Tommy Atkins and one thing or another. She said that "*now*" she has to do as her '*lawyers*' tell her etc. She said, "*Yes*, Miss Dlabol, it is *hard* when once you've done *wrong* and *lied* about things—it is *awful hard* to try to *right* things again. I have the copies of my reports—and you may have them if you so desire.

I have tried to follow Nixon's instructions out to a letter, but now I *know* he is a *crook*, and as he told me about *Minnie*. It doesn't *hurt* to *catch* a *thief*. It is *not* wrong. I feel exactly the same way toward *Nixon*.

—

That the *whole case* is a fraudulent one is as clear as day. In my many talks (confidential talks) with Minnie, and *she* disclosing to me the fact, that her lawyers tried to make her claim a *(nigger kid)* (as she expressed it)—or else that she would have to go to the "*pen*"—"but" she said they could not *make her do that*. Her words: "God! *Me*, claim a nigger kid for a *little money*—"*Not, me not yet*"*!* She said she never associated nor *lived* with niggers.

—

(I have *learned* since my arrival in Tulsa "*how, that story* was manufactured.)

—

Minnie also said that her lawyers are *smart men*, but they could not make her swallow the "nigger dope." Well since they could not make her swallow the "nigger dope"—they had to get *busy*—and look for a *white "boy"*. She was very much put out about it, and said if they would have let her do as *she* wanted to—to tell the *truth* on the *start*, that all this trouble might have been avoided,—but that *"Page"* would not have it *that way*—that he was *too cute*, to do anything himself but he paid *"Long" big* money to take all these desperate chances. I said, your lawyer, Mr. Hanford, is not much of a lawyer, is he? and she said, No, Mr. *Hanford* is not much of a lawyer, *he'd* make a better *detective* than a lawyer, because whenever they send him out to get a *witness*, he always brings one back with him. I said, *why* don't you get a *good* lawyer, and she said I *did drop* him *cold*, at one time, because he stole some money from me *(her)*—but that he came back and *apologized* to her—that he bought her a $35 *bracelet* etc.—so she forgave him and took him back again. She said, you see, Mr. Hanford worked pretty hard and then he knew so much about the case, and that was the only thing that remained to be done, i. e., take him back.

The money Hanford was to have placed in the bank for her (to her credit) was $5000. *"She"* was to get the *first*, $5000—and *Hanford* was to get the *second*, $5000 (paid by the *government*, I guess)—at any rate, Hanford *kept* the *first* $5000 himself, etc.—and when Minnie went to the *bank*, to draw out some money, she learned she hadn't a *nickel* in the bank. (I think this was the cause of her falling out with Hanford, i. e., when she dropped him cold. Minnie also told me—that Mr. *Page*—had been paying her a *regular salary* before he had any *'right'* to do so, but that the salary had to be *stopped* after the big government man Allen caught them in all those *lies*—at the first trial. She said, the *salary* was paid her, on the *"quiet,"*—that she was *sorry* it had to be *stopped* but it could not be *helped* now.

(I do not know anything about the case *now*, I *mean what* anyone is doing about it,—but it seems to me more like a *dream* than anything else—and that I *just woke up.)*

In one of Mr. *Nixons* letters to me—he states, that Minnie's lawyers, are *stalling her*—about coming to *Oklahoma*, for another trial. (Minnie was always making preparations, for a *trip* to Oklahoma—was expecting word from her lawyers any minute)—that they *mean* to *throw* her when the proper time comes." Her *states* further: "If the *old thing* (referring to Minnie) had a thimble full of *horse sense*—she would come over on *our* side tell the *plain unvarnished truth*, and *save her liberty*."

—

I could write all day—and then not tell *half* I know—and I really do not know, if *this* letter will *ever* be *considered* by *anyone, at all,* so perhaps I better bring it to a close.

Should appreciate hearing from you. I never like to start anything that I cannot *finish,* and with a foundation of *truth,* I am not afraid to *face* the *'Evil One,'* himself. I shall wait in Tulsa, for an *answer,* from you. I *did* expect to leave *Tulsa tomorrow,* but a few more days, will not matter much. I do not like to leave a battle field where I have witnessed so much injustice, without at least mentioning it to *some* one, who I feel ought to know.

Respectfully,
Albina Dlabol.
Tulsa, Oklahoma,
General Delivery.

P.S.—In speaking of *Hanford,* beating her out of the $5000—Minnie also said—God, you can't trust your own *brother* now-a-days.—"It is the *money* that talks." She said, when you've got *money*—you can *buy* all the friends you want. *And,* in speaking of winning her case she said,—We've got the *monied* men back of us, and we *can't lose—we'll win hands down."* She said you can do *anything* with money! She said, 'Page' *owns Tulsa* and *"Josey"* said he would spend his *last* nickel—to *win* this case.

Government's Exhibit A-102.

This Deed, made this 16th day of july Eighteen Hundred and Eighty Four between Gustav H. Dotter (a single man) of Leavenworth Kansas party of the first part, and Emma Ferrell of the same place party of the second part, Witnesseth, that the said party of the first part, for and in consideration of the sum of Three Thousand Dollars, to him in hand paid by the said party of the second part the receipt whereof is hereby confessed and acknowledged, does by these presents Grant, Bargain, Sell, Remise, Release, Alien, Convey and Confirm unto the said party of the second part, and to her heirs and assigns forever all of the following described pieces and parcels of land lying and situate in the county of Leavenworth and State of Kansas, to-wit: Lots Numbered Twenty three (23) and Twenty four (24) in Block Numbered Twenty four (24) in the City of Leavenworth Proper, Together with all the *heredimentss,* improvements and appurtenances thereunto belonging, or in any wise appertaining: To Have and To Hold the said premises unto the said party of the second part, her heirs and assigns forever. And the said party of the first part, for himself and his heirs and legal representatives, does hereby covenant with the said party of the second part, her heirs and assigns, that he is lawfully seized of the premises aforesaid, and has full power to convey the same: that the said premises are free and clear of and from all encumbrances, and that He will forever Warrant and Defend the same, with the appurtenances, unto the said party of the second part, her heirs and assigns forever, against the lawful claims of all persons whomsoever, Except as to a certain Mortgage executed to Charlotte W. *Clarkins* July 11th '84 for $1000 and interest which Party of the 2d part hereby assumes and agrees to pay.

In Witness Whereof, the said party of the first part has hereunto set his hand the day and year first above written.

Gustav H. Dotter.

State of Kansas, Leavenworth County, ss.

On this 19th day of July Eighteen Hundred and Eighty four before the undersigned, a Notary Public, in and for the County and State aforesaid, came Gustav H. Dotter who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year last above written.

(Notarial Seal) My commission expires the 24th day of July, 1886. A. F. Callahan, Notary Public.

State of Kansas, Leavenworth County, ss.

The undersigned, Clerk of said County doth Certify that the property described in this deed has been entered on the transfer record in his office this 21st day of July 1884.

(Seal of County Clerk.) J. W. Niehaus, County Clerk.

By Jas McAuliffe, Deputy.

Recorded July 21st, A. D. 1884, at 10½ o'clock A. M.

C. W. Curtan, Register of Deeds.

State of Kansas, Leavenworth County, ss.

I, M. E. Howard, Register of Deeds in and for said County and State aforesaid, do hereby certify that the attached copy of Deed is a true and correct copy of the Deed Recorded July 21st, A. D. 1884, in Book Number 94 at Pages Numbered 31 and 32, and of which the same remains of record in this office.

In Testimony Whereof I, hereunto set my hand and affix the seal of this office this the 9th day of May, A. D. 1917.

(Seal) M. E. Howard, Register of Deeds.

Government's Exhibit A-103.

United States of America. State of Kansas, First Judicial District, Leavenworth, County, ss.

The State of Kansas, to the Sheriff of Leavenworth County, in said State, Greeting:

You are hereby commanded to notify Alonzo F. Callahan, Lily White and John Mettinger that they together with Charlotte W. Calkins and others have been sued by C. F. W. Dassler and L. G. Hopkins in the District Court, sitting in and for said County of Leavenworth and that unless they answer by the 22nd day of November, A. D. 1885, the petition of the said C. F. W. Dassler and L. G. Hopkins against them and their co-defendants, filed in the Clerk's Office of said Court, such petition will be taken as true, and judgment rendered accordingly.

You will make due return of this Summons, on the 2nd day of November, A. D. 1885.

Witness, my hand and the Seal of said Court, affixed at my office, in the City of Leavenworth, this the 30th day of October, A. D. 1885.

(Seal) John Rohr, Clerk,

By Chas. Crouse, Deputy Clerk.

I received this Summons on the 30th day of October, A. D. 1885, at 4 o'clock P. M. of that day, and I served the same Summons in my County of Leavenworth, Kansas, on the within named defendants Alonzo F. Callahan and Lily White by delivering to each of them personally a true and certified copy of this Summons with all the endorsements thereon.

And on the other within named John Mettinger by leaving a true and certified copy of this summons with all the endorsements thereon at his usual place of residence for him this 31st day of October, A. D. 1885.

D. J. Keller,

Sheriff of Leavenworth County, Kansas.

By W. W. Byers,

Deputy Sheriff.

Fees, $....; Service, $1.00; Copies, 75c; Non-Est, ...; Mileage, 25c; $2.00.

Suit brought for the recovery of Money, amount claimed, $500.00 with interest from the 1st day of August, 1884, at the rate of 8 per cent per annum and foreclosure of Mortgage &c.

C. F. W. Dassler, Attorney for Plaintiffs.

Summons Page 532 No. 9295 Docket 15 District Court Leavenworth County, Kansas C. F. W. Dassler vs. Charlotte W. Calkins et al. Issued October 30, 1885 Returnable Nov. 2, 1885 C. F. W. Dassler, Plaintiff's Attorney Filed this 31 day of October, A. D. 1885. John Rohr, Clerk. By ...., Deputy Clerk.

The State of Kansas, First Judicial District, Leavenworth County, ss.

I, Grace Fisher, Clerk of the District Court of the First Judicial District of the State of Kansas, sitting within and for the County aforesaid, do hereby certify that the above and foregoing to be a true, full and complete copy of Summons and Sheriff's return in the therein entitled cause as the same remains on file and of record in my office.

Witness My Hand, and seal of said Court, affixed at my office in the City of Leavenworth, this the 20th day of March, A. D. 1916.

(Seal)

Grace Fisher,
Clerk of the District Court.
By ...., Deputy.

Government's Exhibit A-104.

District Court of the United States, Western District of Arkansas. November Term, 1890.

Tuesday morning, 8½ o'clock, Dec. 23rd, A. D. 1890.

Court met pursuant to adjournment. Present, the Honorable Isaac C. Parker, Judge of the District Court of the United States for the Western District of Arkansas.

United States versus Nancy Adkins.—No. 813. Indictment for Taking Letters in the Indian Country.

On motion of Wm. H. H. Clayton, Esq., Attorney for the Western District of Arkansas, the said defendant Nancy Adkins was brought to the bar of the court, in custody of the marshal of said district, and it being demanded of him what he has to or can say why the sentence of the law upon the verdict of guilty heretofore returned against her by the jury in this cause on the 10th day of Dec., A. D. 1890, shall not now be pronounced against her, she says she has nothing further or other to say than she has heretofore said:

Whereupon, there being no penitentiary in the State of Arkansas suitable for the confinement of convicts, and the House of Correction at Detroit, Michigan, having been designated by the Attorney General of the United States as a place of imprisonment for persons sentenced by this court, and the premises being seen, and by the court well and sufficiently understood, it is considered by the court here that the said Nancy Adkins for her felony aforesaid, be imprisoned in the House of Correction, situated at Detroit, in the Eastern District of Michigan, for the term and period of Eight (8) months and that he pay to the United States of America a fine of .... Dollars, together with all their costs in and about this prosecution laid out and expended, and that they have execution therefor.

It is further considered, that the marshal of the Western District of Arkansas, to whose custody the said Nancy Adkins is now here committed, receive and safely keep and convey the body of the said Nancy Adkins hence to said House of Correction in the State of Michigan without delay, and deliver him to the custody of the keeper of said House of Correction, who will receive and safely keep the said Nancy Adkins in Jail in execution of the sentence aforesaid, and in conformity with the same, for the full period of the time aforesaid. And it is further ordered that the clerk of this court furnish the marshal of this district with two duly certified copies of this judgment, sentence and order, one of which shall be delivered to the keeper of said House of Correction, and the other returned by the marshal to this court, with a full and true account of the execution of the same.

CERTIFICATE.

I, Wm. S. Wellshear, Clerk of the District Court of the United States for the Western District of Arkansas, certify the foregoing to be a true and correct copy of the Judgment and Sentence in case No. 813, United States vs. Nancy Adkins, as the same appears of record in my said office in the Fort Smith Division of said District.

In Testimony Whereof, I hereunto set my hand and affix the seal of said court at office in the City of Fort Smith, Arkansas, this March 6, 1917.

(Seal) Wm. S. Wellshear, Clerk.

Government's Exhibit A-105.

MARRIAGE LICENSE

No. 1801.

United States of America, Indian Territory, Western District, ss.

To Any Person Authorized by Law to Solemnize Marriage—Greeting:

You Are Hereby Commanded to Solemnize the Rite and Publish the Banns of Matrimony between Mr. Henry Kessinger of Muskogee, in the Indian Territory, aged 24 years, and Miss Lela Shoemake, of Muskogee, in the Indian Territory, aged 22 years, according to law, and do you officially sign and return this License to the parties therein named.

Witness my hand and official seal at Muskogee, Indian Territory, this 3rd day of Nov., A. D. 1904.

(Seal) R. P. Harrison,
Clerk of the U. S. Court.

By Wm. R. Shackelford, Deputy.

CERTIFICATE OF MARRIAGE

United States of America, Indian Territory, Western District, ss:

I, Martin W. Robinson, a Minister of the Gospel, do hereby certify, that on the 9 day of Nov., A. D. 1904, did duly and according to law as commanded in the foregoing License, solemnize the Rite and Publish the Banns of Matrimony between the parties therein named.

Witness my hand this 9 day of November, A. D. 1904.

My credentials are recorded in the office of the Clerk of the United States Court, Indian Territory, Western District, Book C, page 207.

Martin W. Robinson,
A Minister of the Gospel.

Note—This License and Certificate of Marriage must be returned to the office of the Clerk of the United States Court in the Western District, Indian Territory, from whence it was issued, within sixty days from the date thereof, or the party to whom the license was issued will be liable in the amount of One Hundred Dollars ($100.00).

CERTIFICATE OF RECORD.

United States of America, Indian Territory, Western District, ss:

I, R. P. Harrison, Clerk of the United States Court of the Western District, Indian Territory, do hereby certify that the instrument hereto attached was filed for record in my office the 22 day of Nov., 1904, at .... M., and duly recorded in Book ...., Marriage Record, Page ....

Witness my hand and seal of said Court at Muskogee, in said Territory, this ...... day of ...., A. D. 190..

R. P. Harrison, Clerk.

By John Harlon, Deputy.

State of Oklahoma, County of Muskogee—ss.

I, C. H. Shaffer, Court Clerk, within and for the County of Muskogee, State of Oklahoma, hereby certify that the above and foregoing is a true and correct copy of the Marriage license of Henry Kissinger & Lela Shoemake [illegible] in this matter, as the same appears of record in my office.

In Witness Whereof, I hereunto set my hand and affix my official seal at Muskogee, Oklahoma, this 2 day of May, 1917.

C. H. Shaffer, Court Clerk. (Seal)

By Lewis Price, Deputy.

Government's Exhibit A-106.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.
Muskogee Land Office, July 16, 1902.

In the matter of the application of Mary E. Atkins, Margaret Atkins, John H. Atkins, Geneva Atkins, Nancy Atkins, James A. Atkins, Nathaniel Atkins, Annanias A. Atkins, Naoma Atkins, Leola Atkins and Bertie Atkins for enrollment as citizens of the Muskogee Nation.

Appearance on the part of the applicant, P. C. West. Attorneys for Creek Nation notified but make no appearance.

Nancy Atkins Taborn, being sworn and examined, testified as follows, to-wit:

(By Mr. West)

I wish the record to show that permission is given to include the name of Thomas Atkins as one of these applicants, a child belonging to the same woman, which seems inadvertently omitted in the written application, and also the name of Susie Atkins Taborn, daughter of Nancy Atkins Taborn, who was born prior to the original application herein, and

Albert Taborn, who was born to Nancy Atkins Taborn since the original application for enrollment was made in this case.

Permission will be granted as requested.

(By Mr. West)

Q. What is your full name? A. Nancy Jane Atkins.

Q. Nancy Jane Atkins was your name before you married? A. Yes, sir.

Q. Whom did you marry, if you are married? A. Sir?

Q. Whom did you marry, if you are married? A. Married Calvin Taborn.

Q. Then your name now is Nancy Atkins Taborn, is it? A. Yes.

Q. Who was your father? A. Richard Atkins.

Q. Richard Atkins? A. Yes, sir.

Q. Was your mother named Sarah Atkins? A. Yes, sir.

Q. Was she sometimes called Susan Atkins? A. No, sir: Sallie or Sarah: Called Sallie at home, but Sarah was her right name.

Q. Where were you living in 1895—— I will say seven years ago, probably you can't tell by the date. A. I was living at home, eight miles from Wagoner.

Q. Eight miles from Wagoner? A. Yes, sir.

Q. What direction from Wagoner—about what direction? A. West—South-west.

Q. Were you married to Calvin Taborn at that time? A. No, sir.

Q. Who were you living with? A. My mother.

Q. Was your father, Richard Atkins, dead then, or do you know the year in which he died? A. I don't know, my father ain't been dead seven years.

Q. Has not been dead seven years? A. No, sir.

Q. Then seven years ago he was living? A. Yes, sir.

Q. Then were you living with him at that time, seven years ago? A. Yes, sir.

Q. He and Susan Atkins were living together as husband and wife at that time? A. My mother?

Q. Yes. A. Yes, sir.

Q. What was the name of the oldest one of your mother's and father's children? A. Mary.

Q. Mary? A. Yes, sir.

Q. Your mother, when she testified here about three years ago gave Mary's name as Mary E. Atkins; what is that E. for, if you know? A. That's Eliza.

Q. Mary Eliza was her full name? A. Yes, sir.

Q. Has she ever married? A. Yes, sir, she is married.

Q. Whom did she marry? A. She married Julius Wilson.

Q. What was the name of the next child after Mary? A. Margaret.

Q. What did you all generally call her? A. Mag.

Q. Is she married? A. Yes, sir.

Q. Whom did she marry? A. William Parks.

Q. William Parks? A. Yes, sir.

Q. What was the name of the next one after Mag? A. John H.

Q. John H. Atkins; do you know what the H. in his name was for? A. John Henry.

Q. H. for Henry; his full name then was John Henry Atkins? A. Yes, sir.

Q. What was the next one after John Henry Atkins? A. Geneva Atkins.

Q. Is she married? A. Yes, sir.

Q. Who did she marry? A. Oscar Winn.

Q. Who was the next one after Geneva? A. Nancy.

Q. That is your self? A. Yes, sir.

Q. And you married Calvin Taborn? A. Yes, sir.

Q. You and Calvin Taborn are still living together as husband and wife? A. Yes, sir.

Q. Who was the next one after yourself, the next youngest? A. Alex.

Q. Alex? A. Yes, sir.

Q. Did Alex have any other name besides Alex? A. James Alexander.

Q. His first name was James and his middle name was Alexander? A. Yes, sir.

Q. What did you generally call him? A. Alex.

Q. What was the next one after Alex? A. Nathaniel; generally called him Nat.

Q. Nathaniel, and you generally called him Nat? A. Yes, sir.

Q. What was the next one after Nathaniel or Nat? A. Annanias.

Q. Do you know whether Annanias had any other name besides Annanias, any middle name? A. Yes, sir, Annanias Abattam.

Q. What was the next one after Annanias? A. Naoma.

Q. What was the next one after Naoma. A. Thomas.

Q. Who? A. Thomas.

Q. What did you generally call Thomas? A. Tom.

Q. Tom for short; what was the next one after Thomas? A. Leola.

Q. Leola? A. Yes, sir.

Q. What did you generally call Leola? A. Loe.

Q. What was the next one after Leola? A. Bertie.

(By Mr. Bixby.)

Q. Was Bertie ever called by any other name? A. Called Bird.

Q. Ever call her Bertha? A. No, sir, just called her Bird.

(By Mr. West.)

Q. Has Bertie ever married? A. No, sir.

Q. How old is she now; about how old? A. About eight years old.

Q. She is just a little girl, not a grown woman yet? A. No, sir.

Q. Do you recollect who was the town king of the town that your father belonged to out there, west of Wagoner?

A. No, sir, I do not recollect.

Q. Have you any idea; do you think you know of any person? A. No, sir.

Q. Don't know well enough to make any statement about it? A. No, sir.

Q. Now how old is your daughter, Susie? A. She is seven—— She is six years old.

Q. You don't know the exact date of her birth; you cannot give exact date yourself? A. Well this August—— She will be eleven years old this coming August.

Q. Can you read and write? A. I can't write.

Q. And you can't keep up with dates? If I told you a certain person was born in 1895, would you know how old they were just from that? A. No, sir, not without studying a while.

Q. How old is your other child, Albert? A. He is six months old, be seven months old the 19th of July.

Q. Are those the only children you have? A. Yes, sir.

Q. Calvin Taborn is the father of both of these children? A. Yes, sir.

Q. You have never been married to any other person than Calvin Taborn? A. No, sir.

(By the Commission.)

Q. Is your brother, Thomas, living? A. No, sir.

Q. When did he die? A. Been about four years ago or more—five.

Q. Do you know the month in which he died? A. No, sir, I don't know.

Q. Know what time of the year it was, Spring or Winter? A. In the Fall.

Q. Was four or five years ago last Fall? A. Yes, sir, about as well as I can recollect.

Q. Do you remember when the land office first opened here in Muskogee? A. Yes, sir; been about four years.

Q. Was your brother, Thomas, dead when the land office opened here. A. No, sir—— Yes, sir, he was dead.

Q. About how long before that did he die, if you know? A. About five months I——

Q. He died in the Fall before that, did he, before the land office opened? He died in the Fall and the land office opened in the Spring. The land office opened in the Spring after he died; is that correct? A. Yes, sir.

Q. You remember when your mother came down here before the Commission to see about enrolling yourself and your brothers and sisters? A. Yes, sir.

Q. Thomas died before that time, did he not? A. What do you mean, this last time?

Q. Yes. A. Oh, yes, sir, he was dead.

Q. Is your daughter, Susie, living with yourself and your husband at the present time? A. Yes, sir.

Q. You testified that you had a sister called Naoma; did you ever call her by any other name about home? A. Nom.

Q. Any other name besides Naoma and Nom; she never had any other name, did she? A. No, sir.

Q. Is she married? A. No, sir.

Q. Did they ever call Annanias any other name besides Annanias and Abattam? A. No, sir.

Q. You stated a while ago that the names of your brothers and sisters were Mary, Mag, John Henry, Geneva, Thomas, Alexander, Nathaniel, Nancy, Naoma, Leola and Bertie: Are they all living at the present time? A. Yes, sir.

Q. Did you ever have a brother or sister by the name of Amanda, or some such similar name? A. No, sir.

Q. Do you know of any of your brothers or sisters that may have been called by such name as Amanda? A. No, sir.

Cora Moore, being duly sworn, states, that as stenographer to the Commission to the Five Civilized Tribes she reported in full the testimony and proceedings in the above case, and that the foregoing is a full, true and correct transcript of her stenographic notes in said case.

Cora Moore.

Subscribed and sworn to before me this 17th day of July, 1902. Tams Bixby.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land in said tribes, and that the above and foregoing is a true and correct copy of testimony dated July 16, 1902, in re enrollment of Mary E. Atkins et al. as citizens of the Creek Nation.

JOE H. STRAIN,
Acting Superintendent for the Five Civilized Tribes.
May 11 1917 JRP

Government's Exhibit A-107.

Form C 28
145
Tel No.
Account No.
.... Exchange
Mr. .... For Toll, Telegram and Messenger service for .... 191.. $......
.... Collected by ....
Date .... 191..

A

Nowata Exchange.
Mr. Yarbough F
....
Account No. 422
Telephone No. 160

To PIONEER TELEPHONE AND TELEGRAPH CO. Dr.

For Toll, Telegram and Messenger service for the month of Sept. 1914

Date, 21; Party Calling, Yarbough; Party Called, O'Connor; Destination, Tulsa; Pioneer Tolls, 35c; A T & T Co. Tolls, ...; Telegrams, ...; Mesgr. Ser., ...; Total, 35c.

Date, 25; Party Calling, Whitiker; Party Called, 135; Destination, Cofk; Pioneer Tolls, 25c; A T & T Co Tolls, ...; Telegrams, ...; Mesgr. Ser., ...; Total, ...

Date, 25; Party Calling, Yarbough; Party Called, White; Destination, Coweta; Pioneer Tolls, 50c; A T & T Co Tolls, ...; Telegrams, ...; Mesgr. Ser., ...; Total, ...

Date, 25; Party Calling, Whitiker; Party Called, Paige; Destination, Tul; Pioneer Tolls, 35c; A T & T Co Tolls, ...; Telegrams, ...; Mesgr. Ser., ...; Total, $1.10.

Pioneer Tolls, $1.45; Total, $1.45.

Government's Exhibit A-109.

Telephones: Day, Main 6440; Night, North 5953, West 1513 R. H. W. Reed Bonded Reference: Headquarters Metropolitan Police Expert Dictograph Service

REED'S DETECTIVE AGENCY
(Established 1885)
400 Fifth Street N. W.

Washington, D. C., September 29th, 1914.

Mr. Dennis Jones,
Leavenworth, Kansas.

Dear Sir:

Your's of the 27th instant was duly received this A. M. and contents noted. In reply thereto we will say that we furnished Mr. Greenslade with the names of the people in Chicago, who probably could give the history of the Thomas Atkins; which was furnished by the woman you referred to in your letter. The address in Chicago is Samuel Ambler, Keystone Hotel, Chicago, Ill. I, also, forwarded a letter to Mr. Duvall, which I received from the Pullman Company, stating that they never had a man in their employ, by the name of Thomas Atkins. I was just talking to Mr. Viett, the chief Terminal Detective of this city, and he informed me that they had been unable to locate anybody working for the roads answering the description of Thomas Atkins.

If I should ever have any business at the Leavenworth Penitentiary, or if my friends should, I will remember you.

Trusting that this will meet with your favor, I am

Very respectfully,

Wm. D. Allen, Jr.

Government's Exhibit A-110.

LAST WILL AND TESTAMENT OF CHARLES LANE.

I, Charles Lane of Leavenworth County in the State of Kansas, being of sound mind and memory, do make publish and declare this to be my last will and testament, to-wit:

First. All my just debts and funeral expenses shall be first fully paid, then I give devise and bequeath to my son John Lane the sum of Five dollars ($5.00).

Second. I give, devise and bequeath all the rest, residue and remainder of my estate, both real and personal, to my beloved wife Sadie Lane, the said real estate consists of one small house and two or more lots situated thereon in the town of Odessa LaFayette County in the State of Missouri and all other real property owned by me at the time of my death, a part of the personal property above bequeathed herein consists in part of one promissory note secured by a trust deed now in the bank in Odessa Missouri (The Citizen's Bank of Odessa Mo.) and all other personal property and effects owned by me at the time of my death, all of which I give, devise and bequeath as herein before stated to my beloved wife Sadie Lane with the full right to sell and convey any part or all of said estate at will.

Third. I nominate and appoint Dennis Jones, Attorney at Law of Leavenworth Kansas to be the executor of this m*a*y last will and testament revoking all former wills by me made, no bond to be required.

In Witness Whereof, I have hereunto set my hand and seal by mark this .... [illegible] day of November, A. D. 1913.

his

....

mark

Signed, sealed, published and declared as and for his last will and testament by the above named testator, in our presence, who have, at his request, and in his presence, and in the presence of each other, signed our names as witnesses thereto.

....

....

(On back:) Copy of the Last Will and Testament of Charles Lane.

Government's Exhibit A-111.

Saml Dodsworth Book Co., Legal Blank Publishers,
Leavenworth, Kan. No. 10162

CERTIFICATE OF DEPOSIT OF WILL.

State of Kansas, Leavenworth County, ss.

I, Thomas L. Johnson, Probate Judge in and for said County and State, do hereby certify that Sadie Lane did, on the 21st day of November, A. D. 1913, deposit in the office of the Judge of the Probate Court of said County, in the County Court House in the City of Leavenworth, in said County, an instrument of writing purporting to be the Last Will and Testament of Charles Lane of said County.

In Witness Whereof, I have hereunto set my hand and official seal, this 21st day of November, A. D. 1913.

(Seal) Thomas L. Johnson,

Paid $1.00 Probate Judge.

(On back:) Receipt for Will

Government's Exhibit A-112.

File Minnie Atkins XA

THE RAINIER-GRAND HOTEL
Wilson & White Hotel Co.
Chas. Perry, Mgr.
Seattle

1

Born.	1864
To Tallahasse Mission, 15 yrs of age	15
To Tallahasse.	1879
1 year at Tallahasse and 2 yrs at Carlyle	3
Date went to Leavenworth	1882
Worked 4 years	4
	1886
Boy born few mos. later in 1886 or 1887, and Minnie stayed 1 year after birth	1
	1887
Balance of year between Leavenworth and Ft. Logan	1
Around Ft. Logan	1888
At Ft. Logan 6 years	6
Went to Oklahoma	1894

[Page 2—hotel letterhead as above.]

	1894
In Oklahoma 2 years	2
Back to Ft. Logan	1896
2 years there in Ft. Logan	2
Latter part of this year went to Ft. Wayne	1898
3 years and over at Ft. Wayne	4

To Vancouver Barracks	1902
At Vancouver Barracks	8
In Philippines in 1908	1910
3 yrs at Ft Harrison	3
Came Seattle	1913

Government's Exhibit A-113.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.
Okmulgee, Ind. Ter., July 21, 1902.

In the matter of the application of Mary E. Atkins, Margaret Atkins, John H. Atkins, Geneva Atkins, Nancy Atkins, James A. Atkins, Nathaniel Atkins, Annanias A. Atkins, Naoma Atkins, Leola Atkins and Bertie Atkins, Thomas Atkins, Susie Atkins Taborn and Albert Taborn, for enrollment as citizens of the Muskogee Nation.

Appearances: On the part of applicant, P. C. West.
On the part of the Creek Nation, A. P. McKellop.

Sallie Atkins, being first duly sworn, testified as follows:

By the Commission (Mr. Bixby):

Q. What is your name? A. Sallie.

Q. Sallie what? A. Sallie Atkins.

Q. How old are you? A. I am about forty-eight or nine.

Q. Where do you live? A. I live out south of Okmulgee.

Q. Indian Territory? A. Yes, sir.

Q. How long have you lived in the Creek Nation? A. I have been here, I reckon, about going on twelve years.

Q. Where did you live before that? A. I used to live in Missouri.

Q. Are you a member of the Creek tribe? A. Yes, sir.

Q. A slave before the war? A. No, sir; I was just—just about a year, I reckon, I was a slave that much.

Q. Whose slave were you? A. Porter's.

Q. What was Porter's other name? A. William Porter.

Q. Was he a Creek Indian? A. He was a white man.

Q. Where did he live? A. He lived in Missouri. He is dead.

Q. Do you know these applicants? A. Yes, sir.

Q. Whose children are they? A. They are mine.

Q. How many children have you? A. Eleven.

Q. What are their names, giving the oldest first? A. Mary Eliza, short name was Mary. Marget, short name was Mag. John Henry, short name was Henry. Genevia, short name was Nave. Nancy Jane, short name was Nancy. Nathaniel, short name was Nat. James Alexander, short name was Alex.

Q. Well, did Alexander have any other name than Alexander, or Alex- A. Alex. Annanias Abatan, always called him Annanias. Thomas, short name was Tom. Neoma, short name was Nom. Leola, short name called her Lo. Berdie, short name was Bird.

Q. Do you know Susie Atkins Taborn? A. Yes, sir. She was my grandchild, daughter. Daughter of Nancy Taborn.

Q. Your daughter, Nancy, then is married? A. Yes, sir.

Q. Who was she married to? A. Taborn.

Q. What Taborn? A. Calvin Taborn.

Q. Do you know Albert Taborn? A. Yes, sir.

Q. Who was he? A. That was my grandchild.

Q. Who was his mother? A. Nancy Taborn.

Q. Are all these children and grandchildren living? A. All but Thomas.

Q. And he is dead, is he? A. Yes, sir.

Q. When did he die? A. About four years ago.

Q. Did he die before the land office opened in Muskogee, do you remember? A. Well, now I just can't remember whether he did or not.

Q. Is there any other way you can fix it—is there any event that you remember that happened about the same time as his death—you remember when the land office opened at Muskogee, don't you? A. Yes, sir.

Q. Well you are quite sure that he has been dead more than three years? A. Oh Lord, yes.

Q. Do you know who drew the money for these applicants in the payment of '95? A. Dick Atkins.

Q. Did he give the children's names in to the office that was paying out the money and making the roll? A. Yes, sir.

Q. Who is Dick Atkins? A. Well he is dead.

Q. Well, I know, but who was he then? What relation was he to these people—what kin? A. Father.

Q. Your husband? A. My husband.

Q. Was he a Creek? A. Yes, sir.

Q. Did you ever have a child by the name of Amanda? A. No.

Q. Did you ever have a child by the name of Viola? A. (Shook her head indicating "No.")

Q. None of your children have gone by the name of

Amanda or Viola? A. Nothing but Leola and Neome, and the names are pretty near alike, but then they are that much, there is a Leola and Neome.

Q. At the time of this last payment of '95, the $14.40 payment, how many children did you have living? A. They were all living but this boy I told you was dead.

Q. Do you know how many there were? A. Why there was eleven children, I named eleven, but Tom made twelve when he was living.

By the Commission (Mr. Hopkins):

Q. Do you remember when the fourteen dollar payment was made, the last payment of the Creek Nation? A. Yes, sir.

Q. Was Nancy married at that time? A. (No response).

Q. Can you remember whether or not she was married? A. I am a studying.

Q. Well, how old is Susie, her oldest child? A. She is six years old.

Q. Did she have any children other than Susie? A. No, sir; Susie is the baby. She is six years old.

Q. How many of your other children are married now? A. Four.

Q. What are their names? A. Mary, Margaret, Nancy, May, four girls.

Q. Can you remember whether any of them were married at the time the $14.40 was made? A. Well all of three of them was, that was Mary, Margaret and Nave.

Q. You don't know whether Nancy was married at that time or not? A. I was just studying whether she was or not.

Q. They had homes of their own when the fourteen dollar payment was made? A. Yes, sir; if my man was here he could tell all about it.

Q. Is Nancy older than Thomas? A. Yes, sir; Thomas was next to Leola.

Q. You said that Nancy's child, Susie, was about six years old? A. Yes, sir.

Q. Do you know how long she was married when Susie was born, about how long? A. She was married, I think, a very little over two years when Susie was born.

Q. You don't claim to be a citizen of the Creek nation yourself, do you? A. The children does.

Q. But yourself, you don't claim for yourself, do you? A. Yes, claim for myself.

Q. In what way? A. Why by marriage.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of testimony dated July 21, 1902, in re enrollment of Mary E. Atkins et al. as citizens of the Creek Nation. Pages 1 and two.

JOE H. STRAIN,
Acting Superintendent for the Five Civilized Tribes.

May 11 1917 JRP

Government's Exhibit A-114.

Refer in reply to the following: Copy
Land. 72295-1905

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington, December 18, 1905.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated September 7, 1905, transmitting the record of the application for enrollment as citizens by blood of the Creek Nation, by Mary E. Wilson, Geneva Atkins Winn, Thomas Atkins, deceased, Nancy Atkins Taborn, Susie Atkins Taborn and Albert Taborn.

Under no date the Commissioner decided favorably to Mary E. Wilson, Geneva Atkins Winn, Nancy Atkins Taborn and Susie Atkins Taborn and adversely to Albert Taborn and Thomas Atkins, deceased.

The record shows that on November 13, 1902, the Commission to the Five Civilized Tribes denied these applicants enrollment and that on January 24, 1903, the decision was affirmed by the Department; that on May 19, 1904, the Department rescinded its action and remanded the case for readjudication in the light of the Chaney Trent et al. case (a sister of the principal applicants herein).

The record further shows that Mary E. Wilson, Geneva Atkins Winn, Thomas Atkins, deceased, and Nancy Atkins

Taborn are the adult children of Sarah Atkins, a non-citizen, and Richard Atkins, who was recognized as a citizen by blood of the Creek Nation, by Act of its Council; that Susie Atkins Taborn and Albert Taborn are the minor children of Nancy Atkins Taborn; that Mary E. Wilson, Geneva Atkins Winn, Thomas Atkins, deceased, and Nancy Atkins Taborn are identified on the 1890 authenticated tribal roll of the Creek Nation, and on the list of persons stricken from the rolls by the Committee of Eighteen; that on June 8, 1895, the National Council of the Creek Nation passed a resolution that the names of Nancy Atkins (now Taborn) and Susie Atkins (nee Taborn) be added to the roll of Arkansas colored town; that Mary E. Wilson, Thomas Atkins, deceased, Geneva Atkins Winn, Nancy Atkins Taborn and Susie Atkins Taborn are identified on the 1896 Census Roll prepared by the town officers of the Creek Nation, and that the roll was never authenticated by the Council of the Creek Nation.

It further appears that Mary E. Wilson, Thomas Atkins, deceased, Geneva Atkins Winn, and Nancy Atkins Taborn, were residents of the State of Missouri at the time of admission of their father, Richard Atkins as a Creek citizen, and that they did not remove to the Creek Nation until after the preparation of the 1890 authenticated roll. It is further shown that Mary E. Wilson, Geneva Atkins Winn, Nancy Atkins Taborn, and Susie Atkins Taborn were residents of the Creek Nation, June 28, 1898, and that they were living on July 5, 1905; that Thomas Atkins died prior to April 1, 1899, and that Albert Taborn was born subsequent to May 25, 1901, and that he is not the child of a citizen of the Creek Nation, whose enrollment has been approved by the Department prior to March 3, 1905.

In view of the record the approval of the Commissioner's decision favorable to Mary E. Wilson, Geneva Atkins Winn, Nancy Atkins Taborn and adversely to Albert Taborn and Thomas Atkins, deceased, is recommended.

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

M.M.M.—NL.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a copy of Departmental Letter dated Dec. 18, 1905, transmitting record in re enrollment of Mary E. Wilson et al. as citizens of the Creek Nation.

JOE H. STRAIN,
Acting Superintendent for the Five Civilized Tribes.
May 11 1917 JRP

Government's Exhibit A-115.

J.P.

DEPARTMENT OF THE INTERIOR,
Washington.

LLB

I.T.D. 17676-1905.
L. R. S.

December 29, 1905.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

September 7, 1905, you transmitted the record in the matter of the application for the enrollment of Mary E. Wilson, Geneva Atkins Winn, Thomas Atkins, deceased, Nancy Atkins Taborn, Susie Atkins Taborn, and Albert Taborn, as citizens by blood of the Creek Nation.

Reporting December 18, 1905, the Indian Office recommended that your decision, enrolling Mary E. Wilson, Geneva Atkins Winn, Nancy Atkins Taborn, and Susie Atkins Taborn, and denying enrollment to Thomas Atkins, deceased, and Albert Taborn, be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation and your decision dated September 5, 1905, is hereby affirmed.

Respectfully,

Thos. Ryan,
Acting Secretary.

1 inclosure.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Departmental Letter dated Dec. 29, 1905.

JOE H. STRAIN,
Acting Superintendent for the Five Civilized Tribes.
May 11 1917 JRP

Government's Exhibit A-8.

POWER OF ATTORNEY.

Know All Men by These Presents:

That Charles Lane of Leavenworth, County of Leavenworth, State of Kansas has made, constituted and appointed, and by these presents does make, constitute and appoint Mrs. Sadie Lane (my wife) of Leavenworth County of Leavenworth and State of Kansas my true and lawful attorney, for me and in my name, place and stead, to attend to all business for me and in my name and write all letters for me and sign my name thereto and also to sign and attach my name to any and all papers Bank Checks and other instruments of writing and to sell and convey by deed all of my estate both real and personal, and fix and sign my name to such instruments of writing as may be necessary so to do in making such conveyance thereby giving and granting, unto my said Attorney, full power and authority to do all, each and everything not herein mentioned that she may deem necessary in carrying out authority given her by this instrument and to do each and everything as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that my said Attorney or her substitute shall lawfully—or cause to be done by virtue thereof.

In Witness Whereof, I have hereunto set my hand and seal, this 20th day of November, A. D. 1913.

his
Charles X Lane (Seal)
mark

Witness to mark
Sennis Jones.

State of Kansas, Leavenworth County, ss.

Be it remembered, That on this 20th day of November, A. D. 1913, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Charles Lane, who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I have hereunto set my hand and affixed my Notarial seal the day and year last above written.

Dennis Jones,

Commission expires March 28th, 1915. …………

Recorded on the 20th day of November, A. D. 1913, at 3:00 o'clock P. M. J. H. Jeffries, Register of Deeds.

State of Kansas, Leavenworth County, ss.

I, M. E. Howard, Register of Deeds in and for the County and State aforesaid, do hereby certify that the attached and foregoing copy of Power of Attorney recorded in Book 206 at page 432 is a true and correct copy of the records of which the same remains in my custody in this office.

In Witness Whereof I have hereunto set my hand and affixed the seal of this office on this the 14th day of May, A. D. 1917. (Seal) M. E. Howard,

Register of Deeds.

GOVERNMENT'S EXHIBITS TO DEPOSITIONS.

Government's Exhibit 1.

Eq. 2131.—U. S. vs. Atkins et al.

[Portion of Grodevant record of expense covering the period of time beginning with the 1st of October, 1884, and ending with the 1st of October, 1885.]

1884		Forward	754.41	958.65
Oct	1	Nov pay		100.00
"	2	Lettie	5.00	175.00
"	4	Whiskey	2.00	
		2 Pr drawers 1.00 & 3 H'dk'chfs	2.00	
"	8	Draft for deposit	400.00	
		Exchange	.50	
"	4	F J G		20.00
"	9	do.		20.00
		Bary Bowman	4.00	
		Lettie for Sheets 3.50 & House 2.50	6.00	
"	10	K C Times	.25	
		Postage	.50	
		Bale hay	.50	
		Curtains 2	2.30	
"	24	House	3.00	
		To town 10c Marshmallows 60c	2.00	
"	22	Minnie Atkins (Oct 14)	2.00	
"	25	Harness, comb & c comb	15.25	
"	31	Minnie Atkins	5.00	
		Grocery bill	19.95	
		Meat "	3.20	
		2050 lbs. hay 9.00	9.25	
		Oct pay		100.00
			1235.71	1373.65

1884		Forward	1235.71	1373.65
Oct	31	Lettie 5.00 House 2.00	7.00	
Nov	1	Bazar	.50	
		50 Cigars, Home Circle	3.00	
		¼ ream note paper	.50	
"	2	Times	.05	
"	3	To & from town	.30	
"	4	Postage stamps	.50	
"	—	Clarence & Fred, Frank	5.00	5.00
"	15	Minnie Atkins 7.00 & 3.00	10.00	
		4 Pr Stockings	2.50	
		Register & C plate	3.50	
		Whiskey	2.00	
		1 Doz chickens	4.00	
"	21	2 Pr Drawers No 34	4.00	
		2 " Wrappers No 38	4.00	
		Lettie present	1.50	
"		2 lbs. Tobacco	.90	
"	23	Paper	.05	
"	24	Frank		20.00
		10 nest eggs	.50	
"	29	Nov pay		100.00
		Frank		20.00
		Coat, vest, 2 pr pants	57.00	
		Express 1.00, exchange 15c	1.15	
			1343.66	1518.65

1884		Forward	1343.66	1518.65
Nov	29	Minnie Atkins	3.00	
		Meat bill	4.75	
		To town	.07	
		Roast pork	.55	
		Glycerine	.20	
"	27	To town	.10	
		50 Cigars	3.00	
"	29	Lettie	15.00	
"	27	Pr shoes	4.00	
		Onions	.20	
Dec	1	Nov Grocery bill	27.53	
		Bazar	.50	
		Army & Navy Register to April 1st 4 mo	1.00	
"	12	½ Gall whiskey	2.00	
		Hand bag, mother	2.25	
		Minnie Atkins	6.50	

" 14	Leav Times.	.05	
	House.	2.00	
	Carpentry & Building 1885.	1.00	
" 20	2 Pr skates 2.10 1.50.	3.60	
	Shears 65c Scissors 40c.	1.05	
	Lemons 40c Oranges 50c Grapes 40c	1.30	
	To & from town.	.30	
	Minnie Atkins.	6.50	
		1430.11	1518.65
1884	Forward.	1430.11	1518.65
Dec 24	Orphans.	1.00	
	Postage.	1.00	
	Scarf 60c Cologne 75c.	1.35	
	Picture.	9.00	
	Dictionary 12.00, Stand 1.00.	13.00	
	Harpers Magazine & Bazar: Mf'g & B'd 1885.	8.40	
	Thermometer 20c; cards 30c.	.50	
" 27	50 Cigars 3.00 Pipe 50c.	3.50	
	Hat.	2.50	
	To balance.	1.00	
" 30	Lettie, on a bet.	1.00	
" 31	20 bu corn 30c.	6.00	
	Dec pay.		100.00
	Meat bill.	4.74	
	Leav. times 75c Bazar 40c.	1.15	
Jan 2, 85	Grocery bill, Dec.	26.75	
Dec 25	Present, Mrs. B. & Nellie.	3.55	
Jan 1	Cap 3.00 from town 10c.	3.10	
	Lettie.	10.00	
	8 lbs butter 30c.	2.40	
" 5	Lettie.	5.00	
" 6	2 lbs Tobacco.	.90	
" 9	Whiskey 2.00 Sherry 1.00.	3.00	
	Soap.	.40	
		1539.35	1618.65
1885	Cash Jan'y 10.		79.30
Jan'y 10	House.	1.00	
" 12	Lozenger.	.25	
" 14	Frank.		55.00
" 24	No. 271.	10.00	

		1 Doz shirt buttons	.45	
		Laundry	.10	
”	31	January pay		100.00
		Minnie Atkins	12.00	
		Meat 3.90 1 Bu Potatoes 40c	4.30	
		9 lbs. butter 30c	2.70	
Feb	2	Kansas City Times	.75	
		Lettie	10.00	
		Grocery bill	26.55	
		Wood worker, 1885	1.00	
		Pr rubbers	1.00	
		Whiskey	2.00	
”	2	10 Gall Head light oil	2.00	
		Postage stamps	.58	
”	3	To & from town	.30	
		½ Doz Handkerchiefs & house	4.00	
		Bale hay	.55	
		1340 lbs ” 50c per C	6.70	
”	9	2½ Gall wine	2.50	
”		8 lbs butter 30c	2.40	
			91.13	234.30
1885		Forward	91.13	234.30
Feb	24	Binding Picturesque America	11.00	
”	25	½ Gall whiskey	2.00	
		2 lbs. Tobacco	.90	
”	—	Raffle, Ripleys music box	1.00	
”	28	Feb meat	3.17	
		Minnie Atkins	12.00	
		Feby pay		100.00
		Lettie	10.00	
		Grocery bill	24.15	
Mch	2	Cod Liver oil	1.00	
		Kansas City Times, Feb	.75	
”	3	Frank Feby board		15.00
”	4	Postage	.10	
”	6	Stove plates	2.00	
”	7	No. 218	5.00	
”	12	1 Ton bran	12.00	
”	14	½ Gall Whiskey	2.00	
		T. J. G. Mch board		15.00
		Postage	1.00	
”	16	Cigars	2.00	
”	28	Garden seeds	10.00	
		2½ Galls whiskey	10.00	

" 21	H Edwards & self	.50	
	Lettie	2.00	
		194.45	364.30
1885	Forward	194.45	364.30
Mch 31	March pay		100.00
	Meat bill	4.64	
April 1	Grocery "	25.30	
	Butter, 10½ lbs. @ 30c	3.15	
	Minnie Atkins	12.00	
	Lettie	10.00	
	Kansas City Times	.75	
" 10	Mr. Dana on horse	80.00	
" 11	2 fares Leav to Topeka 1.68	3.36	
" 13	Car fare & papers	.30	
" 10	Milk	.30	
" 13	2 fares Topeka to Leav	3.36	
" 18	Laundry	.18	
" 13	Buss fare, 2	.30	
" 11	Cosmetic	.25	
	Suspenders, collars & Lettie	3.00	
" 30	Clover seed	.40	
	Butter 11 lbs 30c	3.30	
	Meat bill	4.13	
	Grocery "	19.90	
	April pay		100.00
	F. J. G. on April board		10.00
	Fort L School house	5.00	
	Minnie Atkins	10.00	
		383.97	574.30
1885	Forward	383.97	574.30
April 30	Lettie	10.00	
	Eggs	.25	
	Kansas City Times	.75	
May 4	Shoes heeled and topped	1.75	
" 6	10 Gall H L oil	2.50	
	Freight on Sugar, 30 P'ls	14.50	
	Plants	.50	
" 10	Sponge 35c & Chamoise 90	1.25	
	Plants	.50	
" 15	Lettie	5.00	

" 16	9 Pails sugar, 4.25		38.25
	Insect powder gun	.15	
	Ft Leavenworth guide	.50	
	Hay		
	Draft & exchange	90.15	
" 18	50 Cigars	3.00	
	1 lb. Smoking tobacco	.55	
	Postage stamps	.50	
	Towards present, Mother	1.00	
" 22	541 Tom Weaver	5.00	
" 23	Lettie, for House—Dishes	2.00	
	14 Eggs B & W Leghins	2.00	
	Lap robe	2.00	
	4 qt measure	.35	
		528.17	612.55
1885	Forward	528.17	612.55
May 22	4 Pails M Sugar Dr Wright		17.00
" 23	Bay rum	.75	
" 30	House	1.00	
	Maple sugar		8.50
	½ doz each knives, forks & spoons, (table)	10.00	
	Glass ware & salt cellar	2.30	
	Straw berries	.15	
	1 Gall Sherry	3.50	
	Postage stamp	.02	
	Minnie Atkins	10.00	
June 1	K C Times	.75	
	Meat bill	3.97	
	Maple sugar		17.00
	Grocery	26.00	
	Lettie	10.00	
" 2	Minnie Atkins	1.00	
	Hat 75c 2 corks 15c	.90	
	House	4.00	
" 1	May pay		100.00
May —	1 Sack oats	1.00	
June 6	Pr shoes	4.00	
	3 Pr. drawers 75c	2.25	
" 13	To town, Dana horse	.20	80.00
		609.96	835.05

1885	Forward	609.96	835.05
June 14	½ Int in horse (Mollie) & Carriage	144.50.	
	Frank ½ bag oats (bot may)		.50
	" 1 Pail M sugar		3.50
	" Bal April May & June bd		35.00
	" ½ Price of Lap robe		1.00
" —	7.	2.00	
	2 lbs. Tobacco	.95	
	Box cigars	3.00	
	2 Steel traps	.50	
" —	Maggie 500 & 150	5.00	
	Stamped wrappers	.24	
" 30	June pay		100.00
July 1	Meat bill	7.62	
	Col Blunt		25.35
	Com's'y bill	10.35	
	Minnie Atkins (5.00 on July)	10.00	
	Lettie	10.00	
	Kansas City Times	.75	
	House	5.00	
	Envelopes	.75	
	Insect powder	.25	
	Mane comb	.25	
	Grocery bill June	20.26	
	Sack oats	1.80	
		833.18	1000.40
1885	Forward	833.18	1000.40
July 7	5 Bu oats 40c	2.00	
" 12	Straw hat	1.25	
" 7	Box cigars	3.00	
	Smoking tobacco	.30	
" 25	House	5.00	
	3 Gall wine	3.00	
	Corks	.60	
" 31	July pay		100.00
" 25	10 Bu oats, 1 Bale hay & F J G	4.70	4.25
" 31	Meat bill	8.12	
	Kansas City Times	.75	
	Minnie Atkins to Balance	5.55	
	¼ ream note paper	.75	
	Repaires on carriage x——x	.30	.15
Aug 1	Grocery bill	20.00	
	1755 lbs Hay (over) Com's'y Bill —Col Blunt	8.16	29.16

		Lettie.	11.00	
"	2	F J G on July board		10.00
"	6	Postage stamps.	.50	
"	7	* Tobacco 90c Harness pad .75 F. J. G. 75	1.65	.75
		House.	10.00	
"	13	2 Night shirts.	1.50	
"	17	Cigars.	3.00	
			924.31	1144.71

*Horse shod

1885		Forward.	924.31	1144.71
Aug	17	Frank, Bal July & Aug bd.		20.00
"	19	"Frankie Wilcox".	125.00	
"	27	4¼ bu oats 25c.	1.10	
"	28	Anchor of Flowers, Gogoo.	2.50	
"	27	Cocoaine 1.00 Cosmetic 15c.	1.15	
"	31	Grant Monument	1.00	
		1755 lbs Hay @ 9.00 per ton.	7.90	
		Meat bill.	4.32	
		Grocery bill.	15.35	
		Kansas City Times.	.75	
Sept	1	Groceries, Brewsters.	12.75	
Aug	31	Aug pay.		100.00
		Minnie Atkins.	10.00	
		Lettie.	10.00	
Sept	5	1000 lbs. Bran.	5.50	
		1000 lbs. Shorts.	6.50	
		500 lbs. Corn meal.	5.00	
"	9	3 Flannel shirts m'tl.	6.75	
		Repairing clock.	1.50	
		2 lbs. Tobacco.	.90	
		Steel trap.	.25	
		Service "Cicero" "Frankie".	2.00	
		Walter Kingsley.	.25	
			1144.78	1264.71

1885		Forward.	1144.78	1264.71
Sept	12	2 bu oats.	.60	
"	15	231 John Gettings.	5.00	
		Minnie Atkins.	5.00	
"	17	Cigars.	3.00	
		House.	2.00	

"	19	Car fare.	.05	
"	17	Mollie shod, Prison.		
"	29	4 bu Oats.	1.00	
		Mollie shod by McGlynn.		
"	26	Charity.	.20	
		2 Pr Suspenders.	1.00	
		House cleaning & washing.	3.00	
"	29	1670 lbs. Hay @ 45c equal 7.51.	7.40	
"	30	Sept Pay		100.00
		Meat bill.	2.68	
		Grocery bill.	10.58	
		K C Times.	.75	
		Scales.	3.25	
		Lettie.	10.00	
		Bossy 35.00 Bran 55 shorts 65 Mr K.		36.20
Oct	1	Mr Kingsley Bran 55c Shorts 65c		1.20

Government's Exhibit 1.

Read 2-24-15.—Eq. 2131.

In the United States District Court for the Eastern District of Oklahoma. The United States of America, Complainant, vs. Minnie Atkins, et al., Defendants.—No. 2131.

AFFIDAVIT OF EDWARD MERRICK.

State of Oklahoma, County of Muskogee—ss.

I, Edward Merrick, being first duly sworn upon oath state: That I am an employee and clerk in the office of the Superintendent for the Five Civilized Tribes and have been since the creation of said office; that prior thereto I was a clerk in the office of the United States Indian Superintendent, Union Agency, beginning August 29, 1911; that prior thereto I was a law clerk in the office of the Commissioner to the Five Civilized Tribes and held said position from the date of the creation of said office; that prior thereto, from March 4, 1901, to sometime in November, 1901, I was a clerk and employee in the office of the Dawes Commission, and from November, 1901, to the time of the discontinuance of the Dawes Commission, I was a law clerk in said office; that on March 4, 1901, I entered upon the discharge of my duties in the office of said Dawes Commission and about three weeks thereafter my work was in connection with the enrollment of citizens of the Creek Nation or Tribe of Indians; that I continued actively in connection with the work of the enrollment of Creek citizens for a period of about two and one half years; that I am the employee of said office who listed for enrollment as a citizen by blood of the Creek Nation, the name Thomas Atkins, who is enrolled opposite roll number 7913, on census card No. 2707, field No. 2774, a true copy of which census card is hereto attached and made a part of this affidavit.

That I listed said name for enrollment at Okmulgee, in what was then the Indian Territory on the 23rd day of May, 1901; that the name of said Thomas Atkins had not previously been listed for enrollment, nor had there been any record made up to that time in the office of said Commission showing the name of said Thomas Atkins in any way as a citizen entitled to be enrolled or otherwise concerning him, and that the evidence had by me at that time on the question of citizenship and which induced the enrollment of the name of the said Thomas Atkins so far as citizenship was concerned, consisted of a certain pay roll which had theretofore been made in the year 1895, the same being what was denominated the authenticated 1895 roll of Creek citizens, which said roll was used and relied upon by said Commission and by myself as the representative of said commission in enrolling the name Thomas Atkins, as aforesaid;

After careful search therefor, I find no memorandum or notation of any sort in the office of the Dawes Commission, where all such matters are kept, indicating in any way that evidence or information was had or received by said Commission on the question as to whether Thomas Atkins was living or dead on the 1st day of April, 1899, and I have no recollection of there having been any evidence produced to or had or received by myself or said Commission on that question, although somebody, who it was I cannot recall, gave me information as to about the time of alleged birth and parentage of said Thomas Atkins. The said listing for enrollment consisted in making the entries on the census card, a copy of which is attached hereto as aforesaid. All the written entries made thereon are in my handwriting and were made by me save and except the entry with reference to a letter of May 9, 1905, the writing of the word "town" as it appears in three places thereon and the making of the field number 2774, and the roll number appearing in the stamped notation as to the date of the approval of the enrollment, and the letter "L" and number "1" forming a part of the notation as to the issuance of citizen certificate; that said things were done by me under the supervision of the members of the Dawes Commission; that the proceedings relating to the enrollment of the said Thomas Atkins were ex parte and without any adverse proceedings and there was no appearance entered by or on behalf of the Creek Nation or any other person adversely or otherwise; that the final roll of citizens by blood of said tribe in so far as the same shows the name of Thomas Atkins opposite roll No. 7913, was made up from the said census card under my personal supervision, and compared and reviewed by some member of the Commission, and the enrollment thus made was approved by the Secretary of the Interior on March 28th, 1902; that no further or additional evidence or information as to the question as to whether the said Thomas Atkins was living on the first day of April, 1899 appears from any records, document, or memorandum in the office of said Commission, to have been produced or had subsequent to the date of said listing for enrollment on May 23rd, 1901, and prior to or on the date of the approval of said enrollment on March 28, 1902, nor have I any recollection of any evidence or information on that question having been produced to or had by said Commission during said time; that in reliance upon said enrollment of the name of Thomas Atkins opposite said roll number 7913 patents were issued and executed by the Principal Chief of said Creek Nation and said patents were approved by the Secretary of the Interior and filed for record in the office of the Commissioner to the Five Civilized Tribes, and that there is no record, evidence or memorandum in the office of said Commission showing or tending to show that subsequent to the approval of said enrollment and prior to the recordation of said patents, whether or not said Thomas Atkins was living or dead on the said 1st day of April, 1899, and I have no recollection of any evidence or information on that question having been produced to or had by said Commission. That said allotment was arbitrarily made without application therefor being made, as is shown by the fact that the letter "L" appears on said census card.

Edward Merrick.

Subscribed and sworn to before me this 25th day of February, 1915.

F. H. Walkup,
Notary Public.

(Seal.)
My Commission expires May 13, 1917.

[See insert herewith for reproduction of photostatic copy of Creek Census Card on which appears the name of Thomas Atkins, Roll No. 7913, which is a part of Government's Exhibit 1.]

(On back:) No. 2131. In the U. S. District Court for the Eastern District of Oklahoma. United States of America, Complainant, vs. Minnie Atkins, et al., Defendants. Affidavit of Edward Merrick.

Residence:
Post Office: Muskogee Ind Ter

CREEK Nation. CREEK Roll.

Card No. 2707
Field No. 2774

Name	Age	Sex	Blood	Year	Town		Name of Father	Year	Town	Name of Mother	Year	Town
3 Atkins Thomas	10	M.	1/2	1895	Euchee	213	White man			Minnie Atkins	1895	Euchee

(No 1 [illegible] Creek land office)
Letter of May 1 1905 from the Commissioner to the Five Civilized Tribes directing action to be suspended in matter of issuing deed to heirs of No 1

No. 7913 [illegible]
[illegible] March 28, 1902

CITIZENSHIP CERT.
ISSUED FOR No. 1
JUN 27 1902

Date of Application for Enrollment.
May 23rd 1901

Government's Exhibit 2.

Eq. 2131.—1-10-16.

Form 2289 K

WESTERN UNION

[Western Union trade mark.]

NIGHT LETTER

George W. E. Atkins, Vice-president   Newcomb Carlton, President   Belvidere Brooks, Vice-president

Received at

A67GSCD 59NL 42EXA

D Paola Kans. Feb 24-1915

Major John Stafford
USA Retired 3592 Front St
Sandiego Cal

Please wire me collect at Severs Hotel Muskogee Okla your best recollection of date Indian girl Minnie Atkins came to work for you and left you and especially whether she was with you July and August eighty six and I must know this today please oblige with this helpful information and send me day message

E. C. Hanford Atty for Minnie Atkins

Feb 25 438 a m 649

(Pencil notation on margin: NC 185 No 8.47 a m No 9.10 a No 9.29 a No 9.50 a No 10.13 a unable raise.

(On back:) Feb 25-15 Cannot state positively—Employed M. A. about 9 months from Oct first 1885 When M. A. left my employment in 1886 her physical condition indicated pregnancy——[Line run through following: Cannot recall where she went but I believe she went to L., cannot recall party's name.] Cannot recall other inquiries.

Government's Exhibit 3.

Eq. 2131.—1-10-16.

POSTAL TELEGRAPH-CABLE COMPANY

[Postal Telegraph trade mark.]

NIGHT LETTER

The Postal Telegraph-Cable Company (Incorporated) transmits and delivers this night lettergram subject to the terms and conditions printed on the back of this blank. Clarence H. Mackay, President.

Received at 951 5th St., San Diego, Cal. Telephones Home
2211 Sunset Main [illegible] Delivery Number 60
Independent Competitive Progressive
4-383
69—Gs. By. 63 N.L. 8 extra 11 50 p. m.

Seattle, Wn., July 15th 1914.

Major John Stafford, U. S. Army, retired,
3592 Front St., San Diego, Cal.

You may remember an Indian cook working for you at Leavenworth in the eighties named Minnie Atkins a Carlisle student in event anyone and especially a colored woman should approach you in regard to her please disclose no information or make any affidavits if you are approached please wire me at once collect letter follows:

E. C. Hanford,
Formerly Lieut. First Cavalry
attorney for Minnie Atkins.

T.S.

[On back: Regular form, giving terms and conditions as to night lettergram, etc.]

Government's Exhibit 4.

Eq. 2131.—1-10-16.

East San Diego, Calif.,
April 20-15.

R. C. Allen, National Atty.,
Muskogee, Okla.

Dear Sir:

Have no further information yet, but believe I am on track of my lost records and may dig them up. In the mean time explain to me in a few words what is the real meaning of this suit? What does it mean to the government? What to Indian Minnie? What to the Creek Nation? What to the other claimants—Mr. Buell for instance? I want to know what the right and wrong of the matter is before I say anything about it.

Yours very truly,

C. R. Carpenter, M. D.

P. S. What difference does it make whether the Peterkin child was Minnie's first or second child? I am not familiar with the Indian laws. C.R.C.

Government's Exhibit 5.

Eq. 2131—(3 pages)—1-10-16.

Thomas Atkins Case.

Dr. C. R. Carpenter, April 26, 1915.
East SanDiego, Calif.

Dear Doctor:

Replying to your letter of April 20th, I beg to advise you that the action brought by the United States involving the allotment of Thomas Atkins was brought in the name of the United States for the use of the Creek Nation of Indians against Minnie Atkins and others claiming to be heirs of Thomas Atkins. The purpose of this suit is to cancel the allotment made in the Creek Nation by the Government to Thomas Atkins. It is the contention of the United States in this case that Thomas Atkins is a myth and never having had an existence was of course, not entitled to an allotment, and not having been entitled to an allotment, the deed made to him should now be cancelled.

Upon investigating the evidence we learn from Minnie Atkins that she had one child in Leavenworth, Kansas; that she had three children at Ft. Logan, Colo., and that these were the only four children she ever gave birth to. She testified positively to this effect upon two occasions. Upon learning that we had positive evidence that she had given birth to Robert Lee Peterkin at Leavenworth, Kansas, which we claim is the only child she ever had in Leavenworth, she changed her story and notwithstanding the fact that she had testified twice before that she had never had but one child before moving to Ft. Logan, she went upon the witness stand in the Federal court here and testified that she did give birth to Robert Lee Peterkin; that Robert Lee Peterkin was her second child and that her first child was Thomas Atkins and that he was born about 1½ years before the birth of Robert Lee Peterkin.

You ask me what this suit means to Minnie Atkins?

Replying to this question I will say that Minnie Atkins is claiming to be the mother of Thomas Atkins, and she contends that Thomas Atkins is dead and that she is entitled to inherit this entire estate.

Another woman by the name of Nancy Atkins is also claiming to be the mother of the alleged Thomas Atkins and two different parties are claiming to be the real Thomas Atkins, so should the Government fail to establish its case, the question would then be decided as to who is entitled to this allotment.

You ask me what interest Mr. Buell has in the case?

Mr. Buell as I understand it has taken a lease from one, Quinton Garrett, who is alleged to be a citizen of the Creek Nation and who has attempted to file upon this allotment. Neither Quinton Garrett or he are parties to this case and should the Government win, it will still be the contention of the Government that Quinton Garrett is not entitled to allot this land, and of course should we be successful in this contention, the interest of Buell would be defeated with the interest of Garrett.

In allotting the Creek lands in severalty among the citizens of the Tribe, each citizen was given 160 acres of land, which was called an allotment. The Government contents that by fraud or otherwise this particular allotment made to Thomas Atkins of 160 acres was either fraudulently or erroneously made and that therefore the Creek Indians are entitled to receive this land.

As stated to you in Los Angeles, this allotment is of great value, but as stated then, the Government only desires to obtain evidence that is absolutely true. If you find your records and they disclose any information concerning the birth of Robert Lee Peterkin, I trust that you will let me hear from you at once.

Yours very truly,

........................,

RCA—L

National Attorney.

Government's Exhibit 6.

Eq. 2131.—1-10-16.

East San Diego, Calif.,
May 18, 1915.

Mr. R. C. Allen,
Muskoogee, Okla.

Dear Sir:

I have at last learned definitely that my records were destroyed after I left home. I have decided however that I will come on *an* testify, if you desire it, and will send transportation both ways.

Yours very truly,

C. R. Carpenter.

P. S. This is with the understanding that I be paid mileage. C.R.C.

P. P. S. I have reopened this letter to say that I have recalled enough of the circumstances to decide the case definitely.—C.R.C.

Government's Exhibit 7.

Eq. 2131.—1-10-16.

C. R. Carpenter, M. D. East San Diego, Cal.
East San Diego, Cal.
Aug 31, 1915.

Mr. R. C. Allen, National Atty. Creeks,
Muskogee, Okla.

Dear Sir:

Please notify me as definitely as possible when I shall be needed for that Minnie Atkins case, so that I can adjust matters here a little before I go. You said the trial would probably be at the Sept term of court.

Yours very truly
C. R. Carpenter, M. D.

Government's Exhibit 8.

Eq. 2131.—1-10-16.

Dr. C. R. Carpenter, September 9, 1915.
East San Deigo, California.

Dear Sir:

Your letter of August 31st came to this office in the absence of Mr. Allen from the city, and, since he is still away, I will state that it has about been decided to get a lot of the evidence in the Atkins case in the form of depositions, and it is expected to take the depositions of several witnesses in San Deigo. This arrangement will obviate the necessity of your making a trip out here, and will cause no neglect of your business.

You will be notified in ample time as to the date and place of the taking of depositions in your city.

Respectfully,
........................, Clerk.

Government's Exhibit 9.

Eq. 2131.—1-10-16.

East San Diego, Calif., May 29-1915.

Mr. R. C. Allen, Nat. Atty Creek Nat.
Muskogee, Okla.

Dear Sir:

I sincerely hope that trial will not be put off until Sept. as I can come now better than I could then. I was anticipating an appointment as medical school inspector in Sept and it would interfere with my work to have the trial at that time. However I may not be appointed, and in any case I guess I'll manage it. You say I will be paid mileage and per diem, but say nothing of transportation. I suppose this will be included.

Yours very truly,
C. R. Carpenter, M. D.

Government's Exhibit 10.

Eq. 2131.—1-11-16.

Dr. C. R. Carpenter, March 5th, 1915.
East San Diego, Cal.

Dear Dr. Carpenter:

In our conversation of yesterday I omitted to state that Mr. Buell, whom I represent, expects to remunerate you for any expense and inconvenience you may go to in securing the records of which we spoke.

This, of course, was the implied understanding between us, as otherwise I could not have urged you to procure the said records.

As this is rather an important matter I will appreciate your promptly informing me upon receipt of these records and after a perusal of the same.

Yours very truly,

Government's Exhibit 11.

East San Diego, Calif.,
March 6-1915.

Trent G. Anderson,
326-331 Stimson Bldg.,
Los Angeles, Calif.

Dear Sir:

I omitted asking you just what the point at issue was in that Peterkin-Atkins case. Is it the legitimacy of the child? Or the fact as to whether there was a child or not? Does illegitimacy bar the claim? You said there was some doubt as to the existance of the child at all, but you did not say whether there was anything more or not. I am beginning to recall faintly some of the circumstances and I want to know just how I can help you.

I have written for the record and will notify you as soon as it comes.

Yours very truly,
C. R. Carpenter, M. D.
Box 293.

Government's Exhibit 12.

Eq. 2131.—1-11-16.

Dr. C. R. Carpenter, March 8th, 1915.
East San Diego, Cal.

Dear Sir:

In reply to your letter of the 6th. inst. I wish to inform you that the principal fact that Mr. Buell is seeking to ascertain is whether or not the child born to Minnie Atkins on July 31st, 1886, was her first-born. There is no question raised, so far as I know, as to the child's legitimacy, nor is there any question as to its being born for I believe there is a birth-record in Leavenworth.

When I said that there was some doubt as to the child ever existing I had reference to a child named Thomas Atkins and not the one at whose birth you officiated.

Thanking you for your interest and your promptness, I remain, with kindest regards,

Yours very truly,

Government's Exhibit 13.

Eq. 2131.—1-11-16.

"Thomas Atkins"

May 8th, 1915.

Dr. C. R. Carpenter,
East San Diego, Cal.

Dear Sir:

Will you kindly advise me as to what progress you have been able to make in securing your records of the year 1886 in regard to the birth in question.

With kind regards, I am,

Yours very truly,

TGA—S

Government's Exhibit 14.

Eq. 2131.—1-11-16.

East San Diego, Calif.,
Trent G. Anderson, May 18-1915.
Los Angeles, Calif.

Dear Sir:

Pardon me for not answering sooner but I could not give a definite answer sooner.

I have ascertained finally that my records were destroyed when I gave up my office. My wife did not realize their importance and I failed to tell her.

I have decided however that I will go on to Muskogee and testify if they want me, and will furnish transportation both ways.

Yours very truly,

C. R. Carpenter, M. D.

Government's Exhibit 14.

2131 Eq.—2-24.

Tulsa, Okla., October 21, 1914.

Receipt is hereby acknowledged of Gem Oil Company of the sum of $2,000.00, being the amount which C. H. Rogers and myself were to receive from Gem Oil Company for services rendrerd as hereinafter set forth: of which amount I acknowledge receipt of $550.00 in cash, the remaining protion of the said $2,000.00 being paid me by delivery of warranty deed executed by Chas. Page, conveying to me certain residence property in Sand Springs, Oklahoma, receipt (A.A.E.) of which warranty deed is hereby acknowledged; said $2000.00 being payment in full for all claims, interest or demand whatsoever nature I have in oil and gas mining leases executed in favor of Gem Oil Company by Minnie Folk et al., covering the SW4 of NW4 of Sec. 4; the SW4 of NE4 and Lot 2 of Sec. 5, and Lot 4 of Sec. 4, all in Twp. 18 North, Range 7 E., and also payment in full for all services rendered Gem Oil Company and Chas. Page and R. A. Josey, and for work done and for information furnished in connection with said lease; and in consideration of the above sum of money and in consideration of the delivery to me of the real estate conveyed in the above mentioned deed, I hereby release Gem Oil Company, Chas. Page, and R. A. Josey from any and all obligations in said lease, and from the payment of any further sum of money.

Signed this 21st day of October, 1914.

(Signed) S. E. Mann.

State of Oklahoma, Tulsa County, ss.

Before me a Notary Public in and for said State and County on this 21st day of October, 1914, personally appeared S. E. Mann, to me known to be the identical person who executed the above and foregoing instrument and she acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and seal this day and year last above written. (Signed) A. A. Eberly,
(Seal) Notary Public.

My commission expires June 15, 1918.

* * * * * * * * *

The above is a true copy of receipt signed in my presence by S. E. Mann.

A. A. Eberly.

Government's Exhibit 15.

Eq. 2131.—1-25-16.

(Stamp:) Leavenworth Jul 12 9 P M Kan.

POSTAL CARD.

(U. S. Postage—one cent.)

Nothing but the address can be placed on this side.

Capt. R. H. Pratt,
Carlisle,
Pa.

(Over:)

Leavenworth, July 11th, '84.

Minnie Atkins arrived safely yesterday and we are much pleased with her appearance. Will be pleased to report further after we are better acquainted.

Yours respy.

Geo. H. Hyde.

Government's Exhibit 16.

2131 Eq.—2-26-15.

In the United States District Court for the Eastern District of Oklahoma. United States of America, Complainant, vs. Minnie Atkins, et al., Defendants.—No. 2131, Equity.

AFFIDAVIT OF FRANK L. MONTGOMERY, PROBATE ATTORNEY.

Frank L. Montgomery, being first duly sworn, upon oath states that he is a United States Probate Attorney, Indian Service, and was such upon the days and dates hereinafter referred to; that on or about the 8th day of December, 1914, I was authorized and directed by the Honorable, the Commissioner of Indian Affairs, to proceed to Seattle, Washington, and investigate the alleged claim of Minnie Folk, nee Atkins, to the allotment of one Thomas Atkins of certain lands in the Creek Nation now situated in Creek County and the subject of controversy in this suit.

I reached Seattle, Washington, on Sunday morning, December 13th, and upon that date called upon Captain Alexander McNab, U. S. A., at Fort Lawton, and explained to him the object of my visit and also explained to him the developments which had arisen in the case insofar as I was at that time informed, and in a general way advised him of the nature of the claims of all parties actively interested in the property. Upon the following Monday morning Captain McNab introduced me to Corporal Folk, the husband of Minnie Atkins, who carried me to his home and introduced me to his wife, Minnie Folk, nee Atkins. At this meeting and in the presence of her husband I explained to Minnie Atkins the purpose of my visit and had a long conference with her that day, reading her the testimony which she had given at Sapulpa and the deposition which she had given at Tulsa, Oklahoma, and also the affidavit of Sadie James. On Tuesday morning I went to Captain McNab, asking that he see Minnie Atkins with me and tell her who I was and my purpose, and in compliance with this request Captain McNab called with me upon Minnie Atkins at 3:30 P. M. of that date and in my presence stated to her that I was a proper representative of the United States Government and that any statement which she made was upon her own responsibility for the reason that he was no longer her trustee and she must act for herself. Thereupon Captain McNab left and I had another talk with Minnie in which we went over many phases of the case.

Upon this occasion and a short time after Captain McNab left, C. E. Hanford, an attorney of Seattle, a party defendant in this case, came in and represented himself as being the attorney for Minnie Atkins. I then explained to him the purpose of my visit, upon which Mr. Hanford in my presence and in the presence of Minnie Atkins advised her that any statement which she might make to me would be taken against her and that if she stated that she never had a son named Tommy she would lose her land in Oklahoma. This audience continued until about 6 P. M. of that date. At this meeting Minnie Atkins and her husband stated that she would talk no further about the matter with me until Friday.

Upon the following morning, being Thursday, I went out to the Post for the purpose of seeing Captain McNab and Colonel Wilson, U. S. A., first going by to call on Minnie

Atkins, with the view of having Captain McNab call on her with me, a matter which we had agreed upon the previous evening. A short time after my having arrived at the Captain's quarters, C. E. Hanford came in and after a few minutes a telephone call was received by Captain McNab and following the telephone call Minnie Atkins came to the Captain's quarters where the Captain, C. E. Hanford and myself were. After Minnie Atkins had come into the quarters of Captain McNab he stated to her that he had been shown a telegram by me to the effect that she had conveyed all of her interest in the Tommy Atkins allotment to Charles Page unknown to him and unknown to her attorney, Mr. Hanford; that the United States Government was prosecuting an inquiry through me into the case and that if she had deceived anybody as to being the mother of Tommy Atkins and if she had not told the truth it was time she was telling the truth about it, that the truth would finally come out and she might be placed in a very embarrassing situation. At this time Mr. Hanford, acting as her attorney, told her emphatically that I was a representative of the United States Government and was about to bring suit for the cancellation of the allotment deeds to Tommy Atkins; that I was representing an interest adverse to hers and that any statement which she might make to me would be taken against her and not for her and that if she was not the mother of Tommy Atkins the property would go back to the Creek Nation and she would lose what right, title or interest she might have in it. I then stated to Minnie Atkins that it was true that I was a representative of the United States Government; that I was there for the purpose of securing the truth about this matter and that if she really did have a child named Tommy Atkins we wanted to know it and wanted to know where he was born, when he was born, with whom he lived, where he died and all about him; that if she had been deceiving these people and she was not the mother of Tommy Atkins we wanted to know it and if she had been telling a lie about this matter that now was the best time for her to tell the actual truth; that I could not promise her any immunity for what she had done by reason of committing perjury or conspiracy to defraud but that I would use my best efforts to keep her from being prosecuted, but that in any event I did not want her to tell me anything but what was the honest God's truth about Tommy Atkins.

Following this conversation she studied the matter over for about 30 minutes, Captain McNab in the meantime leaving and she being in the quarters with Mr. Hanford and myself, whereupon she turned to us and stated that she was not the mother of Tommy Atkins; that Tommy Atkins was never born to her; that she had only three children, Mabel Peterkin who died at Fort Logan, Colorado, Charlie Harrison and Harvey Harrison who are on the rolls and now reside at Wagoner, Oklahoma; that the statement made by her that she had a child named Tommy Atkins was suggested to her by Sadie James and that the story she had told about the birth and death of Tommy Atkins was all framed and suggested to her by Sadie.

In the meantime Captain McNab had returned and I proposed to him that a short memorandum signed by Minnie Folk, nee Atkins, be made, to the effect that she had never had a child named Tommy Atkins and reduced to writing and left in his care; that I would immediately wire the proper authorities and use my best effort to secure immunity for her, whereupon she could then make a full and complete confession, reduce it to writing and swear to it, and that in the event I was unable to secure immunity for Minnie then the written confession as made before Captain McNab could be burned by him. Mr. Hanford, Captain McNab, Minnie Folk, nee Atkins, and myself then went to Captain McNab's private office and I wrote a confession, dated it at Fort Lawton, December 17th, being in substance:

> I, Minnie Folk, nee Atkins, in the presence of C. E. Hanford and Frank L. Montgomery, United States Probate Attorney, do hereby state that no child was ever born to me by the name of Thomas Atkins or Tommy Atkins and that the Thomas Atkins for which I drew the grass money was my father; that I am the mother of only three children, Mabel, or Alice, Pet*ri*ken, Charlie Harrison and Harvey Harrison.

When this statement had been written by me in the presence of the above named parties Minnie Folk, nee Atkins, was then further warned by Captain McNab and Mr. Hanford that she did not have to sign this statement unless she wanted to and that under no circumstances must she sign it unless it was the honest God's truth. After having heard the statements from her attorney, Mr. Hanford, and from Captain McNab, warning her that any confession she might sign would be against her and not for her, that I had no authority to grant her immunity and did not promise immunity except that I would attempt to secure it, Minnie Folk, nee Atkins in my presence and in the presence of C. E. Hanford and Captain McNab signed her name to the confession above referred tc

Upon the following morning, it being Friday, I met Mr. Hanford at Captain McNab's quarters when he told me that he had just come from the residence of Minnie Folk, nee Atkins; that she was anxious to see me and that she had repudiated everything she had stated the day before. I then went with Mr. Hanford to see Minnie Folk, nee Atkins, and she told me at that time that she repudiated the statement made the day before in the presence of Mr. Hanford and Captain McNab and that she would not discuss the case with me any further; that she did not know what she was talking about at the time and she made the statement for the purpose of pleasing me, and that it was not true that she was not the mother of Tommy Atkins.

After Minnie Atkins having signed the statement or confession above referred to I wired the Commissioner of Indian Affairs and also communicated with the authorities in Oklahoma for the purpose of securing immunity for Minnie Folk, nee Atkins, and upon Friday, the day following the confession upon the part of Minnie Folk, I secured what I conceived to be sufficient authority to grant immunity to Minnie Folk. I communicated these matters to Captain McNab and requested that he deliver to me the confession as agreed to, whereupon Captain McNab refused to deliver the confession to me and stated positively that he would have nothing further to do with it and that he would upon that evening deliver back to Minnie Folk, nee Atkins, the confession above referred to.

Frank L. Montgomery.

Subscribed and sworn to before me this the 25th day of February, 1915.
F. H. Walkup,
(Seal)
Notary Public.

Commission Expires May 13, 1917.

GOVERNMENT'S EXHIBIT 16.

Eq. 2131.—1-25-16.

Cap. R. M. Pratt,
Superintendent.

Miss M. R. Hyde,
In Charge of Girls.

U. S.
INDIAN INDUSTRIAL SCHOOL,
Carlisle, Pa., ..., 188..
Ware, Mass., July 18th, '84.

Cap't R. H. Pratt.

I found yours of 15th and 16th here, awaiting my arrival yesterday afternoon, and I was very glad to hear from you.

I have had delightful visits both in Brooklyn and Newton, but have not yet been able to get a good nights sleep. I hope now that I have reached this delightful haven of rest, to make up for lost time. I was glad to hear of Minnies safe arrival at Leavenworth, and that the first impression was so good. Also that Mary Perry would probably return, and of Libbie standings improvement, though I myself have very little hope of her recovery. It is very kind of you to consent to my remaining away for a week or two longer, and I think I shall probably avail myself of your offer. The family here are all very cordial, and seem much interested in Carlisle. I am glad that I brought with me a fair assortment of photographs. Uncle William remarked last night that he had not heard from you this year. I replied that if he had not, I was very sure you would be delighted to hear from him, at which he laughed. While at sister Addus, I saw a book lying on her desk that I thought you would enjoy, and as I was making out a list of books to be bought, I put down an extra copy for you. They were to be sent by express to Lee, and when I get there, I will forward a copy to you. I think you will like to keep it on the desk beside you. I return the Doctor's, and Mary Perry's letters, together with brother George's postal, as I know you are particular about preserving them. With kind regards to Mrs. Pratt and the family, and all friends who may inquire, I remain

Very resp't yours,

Mary R. Hyde.

Government's Exhibit 17.

Eq. 2131.—1-25-16 (3 sheets).

Minnie Atkins; Ent'd 1-22-81; Disch'g'd 7-8-84; Died 1911

Supt Carlisle Indian Institute, Nowata, Okla., Mch 1-13.
Carlisle, Penn.

Dear Sir:

I would like to know where Minnie Atkins went to when she left school. She went from Carlisle to some Post with some Army officers wife. I would like to know & also to have a school record of Minnie Atkins the year she entered the year she left. It is necessary that I should have to ascertain who are the sole and only heirs at law of Thomas Atkins, deceased. So if you can give us this information we will appreciate it very much.

Yours Respt.

Micco Harjo.

No. 304 N. Sycamore St., Nowata, Okla.

Mr. Micco Harjo, March 8, 1913.
Nowatta, Okla.

Dear Sir:

I have your letter of the 1st inst. inquiring of the whereabouts of Minnie Atkins. Our records show that Minnie was enrolled in this school Jan. 8, 1881, and that she was discharged July 8, 1884. Our records also show that Minnie belonged to the Creek tribe of Indians in Oklahoma. Each year we send out circulars to each student of Carlisle, hoping to receive in return something of their life and work after leaving Carlisle, and on the back of one of these circulars is the following:

> "Minnie Atkins has never heard of for number of years. She left a child a boy 10 or 8 years old and left this country expecting to return but no one has *n*ever heard from her. No one knows whether she is dead or not. Her son is a young man and lives near here."

This information was given by Mrs. Childers who does not give her address, so we are unable to find any further information I should be glad to hear if you find anything more about Minnie so that we may complete our records in this office.

Very respectfully,

L F/GIL Superintendent.

Government's Exhibit 18.

2131.—2-26-15.

CERTIFICATE [cross] OF BAPTISM

I Hereby Certify, that Robert Lee (Petegin) Peterkin, Son of Charles (Petegin) Peterkin and Maria Atkins was born on the Thirty-first day of July, 1886, and was Baptized on the fifteenth of Aug 1886 at home.

Lattie Wagoner, Sponsor*s*.

(Seal) Signed M. J. Hill, Rector.

The above is from Cathedral Records Feb 16th 1915.

Bernard S. Kelly, Rector.

Benziger Brothers, New York, Cincinnati, Chicago

Government's Exhibit 18.

Eq. 2131.—1-25-16—(4 sheets)

Gem Oil Company, Febr. 20th, 1915.
Box 597, Tulsa, Oklahoma.

Gentlemen:

Replying to your Mr. Josey's letter of February the 17th, this is to advise you that our records regarding the Minnie Atkins who was formerly enrolled at this school are not quite complete. The information is on file that she came to Carlisle on January the 22nd of 1881 and that she was released from the School on July the 7th of 1884 to go "out West."

When an effort was made several years ago to secure definite information regarding all former students of this school Mrs. Ellis B. Childers, who was formerly enrolled at Carlisle under the name of Millie McIntosh, wrote as follows:

> "Minnie Atkins has never been heard of for a number of years. She left a child, a boy 10 or 8 years old, and left this country expecting to return but no one has ever heard from her. No one knows whether she is dead or not. Her son is a young man and lives near here."

I enclose herewith a letter that was received here in March of 1913 from Mr. Micco Harjo relative to the same matter, together with a copy of the reply that was addressed to him. I would thank you to have the letter and the copy of the reply returned to this office for our files.

It cannot be necessary to add that the Mrs. Childers who wrote regarding Minnie Atkins is the wife of the prominent Mr. Ellis B. Childers.

Regretting that definite information regarding the girl after she left Carlisle is not on file here, I remain,

Very respectfully,

HKM Supervisor in Charge.

(Copy to the Superintendent for the Five Civilized Tribes)

GEM OIL COMPANY
P. O. Box 597
Tulsa, Okla.

February 17th, 1915.

The Honorable Superintendent,
Carlisle Indian School,
Carlisle, Pa.

Dear Sir:

We will thank you to advise us at your earliest convenience, as to the date of enrollment, as shown by the rec-

Allottee's

Roll No. 7913

Certificate of Selection

Selection

No. 16983

Commission to the Five Civilized Tribes.

Muskogee Land Office.

CREEK NATION.

June 30th, 1902.

This certifies that Thomas Atkins

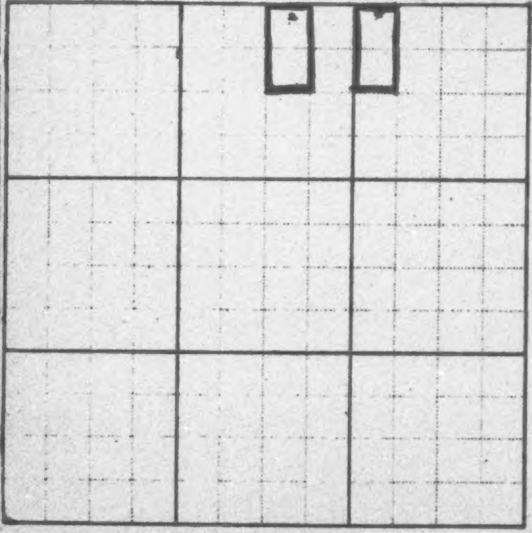
has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
SW¼ of NE¼ and Lot 2 of	5	18	7
SE¼ of NW¼ and Lot 4 of	4		

of the Indian Base and Meridian in Creek Nation, containing 162 81/100 acres more or less as the case may be according to the United States survey thereof.

Commission to the Five Civilized Tribes.

Chairman.



This certificate is not transferable.

Cop-in Card Field No 2.774

ords in the Carlisle School, of Minnie Atkins, from the Five Civilized Tribes of Oklahoma.

We will also thank you to advise us as to the date of her discharge from the Carlisle School and if there is any showing in the records as to whether she returned to Oklahoma from the school. Our information is, that she went from Carlisle to Leavenworth, where she was employed as a servant in the family of George H. Hyde.

We were today advised by Miss Alice M. Robertson, of Muskogee, Oklahoma, who was an instructor in the Carlisle School in the early 80's, that the School established a system of checking up its graduates and that your records should show the whereabouts of Minnie Atkins for a period of not less than five years after she left the School. We desire particularly to know whether the records show that Minnie Atkins became the mother of a son in 1885 or 1886.

For your information in looking this matter up, we will state that Minnie Atkins was enrolled in the Carlisle School, together with 24 other children, from the Five Civilized Tribes of Oklahoma, in the year 1880 and that she left there in either the year 1883 or 1884.

We will be very appreciative if you will mail the information above requested so that it will reach us not later than Tuesday, February 23rd.

Very truly yours,
Gem Oil Company,
By R. A. Josey.

Government's Exhibit 19.

Eq. 2131.—2-9-16.—H. Carter.

[See insert herewith for reproduction group photograph.]

Government's Exhibit 19.

2131.—2-26-15.

[See insert herewith for photographic reproduction of Certificate of Selection, No. 16983.]

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of certificate of selection No. 16983 issued in the name of Thomas Atkins, Creek by blood, Roll No. 7913.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.
Feb 26 1915 C. H. D.

State of Oklahoma, Muskogee County, ss.

I, William H. Angell, state I am a clerk in the office of the Superintendent for the Five Civilized Tribes, and am in charge of the Land Office Division of said office; that the attached copy of a certificate of allotment issued to Thomas Atkins, whose name appears upon the final roll of citizens by blood of the Creek Nation, opposite roll No. 7913, is a true copy of the original certificate issued pursuant to the setting aside and making of the allotment herein designated; that said original of said certificate has never been delivered; and further state that at the time said allotment was set aside, I was a clerk in the office of the Dawes Commission and that said allotment was arbitrarily made without any application being made therefor.

William H. Angell.

Subscribed and sworn to before me this 26th day of February, 1915.

(Seal) Edward Merrick, Notary Public.
My commission expires Mch. 17, 1915.

Government's Exhibit 20.

2131 Eq.—2-26-15.

POWER OF ATTORNEY.

Know All Men by These Presents, Delray

That I, Mrs. Minnie Harrison, of Delray Mich, do hereby make, constitute, and appoint Thomas E. Holden of Choska, Indian Territory, my true, sufficient, and lawful attorney, for me in my name to select and file on such lands as I and my minor children, Charles Harris and Harvey Harris, may be entitled to by reason of our being citizens of the Creek Nation, and to use, lease or rent said lands as he may deem best for the reason that I am not able to attend to the business myself, on account of my temporary absence from the Indian Territory, and to do and perform all necessary acts in the execution and prosecution of the aforesaid business in as full and useful a manner as I might do if I were personally present.

In witness whereof, I have hereunto set my hand and seal, this 2 day of April, 1900.

Mrs. Minnie Harrison.

Signed, sealed, and delivered in the presence of

Louis Edward DeLisle,
Charles Grahn.

United States of America, State of Mich, Wayne Co. *District*, ss

I, Peter B. De Lisle, a Notary Public within and for the Wayne County, Mich., do hereby certify that Minnie Harrison, named in the foregoing instrument as grantor, appeared before me this day in person and acknowledged that she had signed and executed the foregoing Power of Attorney as her free and voluntary act and deed, and for the purposes and considerations therein mentioned and set forth.

Given under my hand and Notarial seal this 2 day of April, 1900.

(Seal) Peter B. De Lisle, Notary Public.

(U. S. Revenue stamps, 25c.)

(On back:) To be filed with Old Creek Card No. 2055. See New Creek Card No. 1659.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Power of Attorney executed on April 2, 1900, by Mrs. Minnie Harrison to Thomas E. Holden relative for an allotment of land in the Creek Nation for Charles Harrison and Harvey Harrison.

Gabe E. Parker,
Superintendent for the Five Civilized Tribes.

CHD Feb 25 1915

State of Oklahoma, Muskogee County, ss.

I, Charles H. Drew, state that I am a clerk in the office of the Superintendent for the Five Civilized Tribes; that I have and have had subordinate charge of the records and files in said office pertaining to the allotment of lands; that the attached copy of a power of attorney constitutes a part of the files in said office relating to the allotment of lands of the Creek Nation to Charles Harrison and Harvey Harrison; that the original of said power of attorney is contained in the files relating to allotments to said citizens.

Charles H. Drew.

Subscribed and sworn to before me this 26th day of February, 1915.

(Seal) Edward Merrick,

My commission expires Mch. 17, 1915. Notary Public.

C

Government's Exhibit 20.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of group photo (illegible).]

Government's Exhibit 21.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's Term Report, Oct. 1, 1894, to April 12, 1895.]

Government's Exhibit 22.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's Term Report, Sept. 14, 1896, to March 10, 1897.]

Government's Exhibit 23.

Eq. 2131.—2-9-16.

[See insert herewith for reproduction of group photograph (endorsed on back, "Jesse A. Hall, 403 Olive St., Leavenworth, Kan")..]

Government's Exhibit 24.

3-3-15—2131 Eq.

[See insert herewith for reproduction of small photograph.]

Gov E
Eq 2131 4/9/16

G. J. Post

No. 12.

Teacher's Term Report to District Clerk.

1. School District No. 53, County of Leavenworth, Kansas.
2. Term opened October 14 1894; closed 19 Apr 1895
3. Length of term, in weeks, 28; length of term, in school days, 140.
4. Teacher's name, Jesse A. Hall; sex, Male.
5. Teacher's certificate Grade 3d, date April 28 1894, expiration April 28 1895

6. Number of different pupils enrolled in school,	(1) White:	Males 22	Females 17	Total 39
	(2) Colored:	Males 1	Females 1	Total 2
	(3) Totals:	Males 23	Females 18	Total 41
7. Total attendance in days,	(1) White:	Males 1774½	Female 1441½	Total 3216½
	(2) Colored:	Males 114	Female 110	Total 225
	(3) Totals:	Males 1889½	Female 1551½	Total 3441½
~~8. Average daily attendance,~~	(1) White:	Males 8 6/7	Females 9 1/10	Total 17 1/10
	~~(2) Colored:~~	~~Males 114~~	~~Female 110~~	~~Total 225~~
	(3) Totals:	Males 19 5/10	Females 20 1/10	Total 39 6/10

9. Number of tardinesses, 330. Number ~~never~~ absent ~~unexcusedly~~, 1.

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES: PRIMARY (Chart to Physiology and Hygiene); INTERMEDIATE (Spelling to Physiology and Hygiene); GRAMMAR (Spelling to Book-keeping)

ALPHABETICAL LIST OF PUPILS	Age	No. of days attending	Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	Spelling	Third Reader	Fourth Reader	Copy Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Spelling	Copy Book	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene	Book-keeping
AUTHOR.			Bells	....	Barnes	Barnes	Ray		....	....	Barnes	Barnes	Ray	Barnes		Reed	Barnes	Barnes	Barnes	Ray	Reed	Barnes	Barnes	Barnes	Steele	Williams	
1 Boot Charles	15	66	X	X	X	X	X	X	X	X	X	X	X	X	97	X	X	90	92	[illegible]	X	X	X	X	X	X	X
2 Bradford Perry	13	74	X	X	X	X	X	X	X	93	92	X	90	95	95	X	X	X	X	X	X	X	X	X	X	X	X
3 Carter Al	14	82	X	X	X	X	X	X	X	X	X	X	X	X			98										
4 Carter Viola	12	107	X	X	X	X	X	X	X	X	X	X	X	92	X	99	94	90	96	X	89	X	X	X	X	X	X
5 Cigar David	16	30	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	Irreg. Attend.									
6 Graves Walter	11	121	X	X	X	X	X	X	X	X	X	X	X	97	99	X	X	97	90	97	X	91	X	X	X	X	X
7 .. .. George	21	8	X	X	X	X	X	X	X	X	X	X	X	X	X	Irreg. Attend.											
8 .. .. Sidney	16	88	X	X	X	X	X	X	X	X	X	X	X	X	X	X	99	95	[illegible]	94	X	96	99	X	X	X	X
9 .. .. Robbie	19	90	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	99	97	X	X	98	91	100	[illegible]	[illegible]	X
10 .. .. Lonnie	6	40	Irreg. Attend.																								
11 Lee Alexander	17	80	X	X	X	X	X	X	X	X	X	X	X	X	X	99	98	X	X	97	99	98	X	99	97	97	
12 .. .. Chester	9	133	X	X	X	X	X	X	X	99	97	X	95	98	95	X	X	X	X	X	X	X	X	X	X	X	X
13 .. .. James	6	93	94	2083	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
14 .. .. Mary	12	130	X	X	X	X	X	X	X	X	X	X	98	97	97	X	98	97	97	97	X	91	X	X	X	X	X
15 .. .. Robert	16	89	X	X	X	X	X	X	X	X	X	X	X	X	X	X	99	99	X	X	97	99	100	X	100	99	95
16 Moore Charley	9	101	X	X	X	X	X	X	X	97	96	X	90	94	90	X	X	X	X	X	X	X	X	X	X	X	X
17 .. .. Mamie	12	127	X	X	X	X	X	X	X	X	X	X	X	95	98	X	X	97	93	90	X	90	X	X	X	X	X
18 .. .. Jesse	6	46	Irreg. Attend.																								
19 .. .. Pearl	15	70	X	X	X	X	X	X	X	X	X	X	X	X	X	X	90	96	91	94	X	80	80	X	X	X	X
20 .. .. Myrtle	17	17														Irreg. Attend.											
21 Scott Alonzo	11	11	Irreg. Attend.																								
22 .. .. Rose	6	63	90	90	98	20	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
23 .. .. Walter	8	110	90	90	90	X	90	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
24 Schafter Lela	8	98	93	90	X	90	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
25 Stephenson Bob	13	118	X	X	X	X	X	X	X	98	X	99	98	98	93	X	X	X	X	X	X	X	X	X	X	X	X
26 .. .. Myrl	10	126	X	X	X	X	X	X	X	X	X	97	95	X	99	99	91	94	X	91	X	X	X	X	X	X	X

30. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES—CONTINUED.

PRIMARY — INTERMEDIATE — GRAMMAR

ALPHABETICAL LIST OF PUPILS

		Age	No. of days attending	
29	Stephenson John	16	76	
30	Thar Charles	12	98	
31	" " Oren	8	120	
32	" " Frank	6	109	
33	Taylor Nellie	8	96	
34	" " Willie	6	64	
35	Tompson Grover	9	107	
36	" " " Lother	7	10[illegible]	
37	Worthington Hazel	19	6	Quit Attend
38	Wright Eddie	12	90	
39	" " Minnie	10	87	
40	" " " Willie	7	98	
41	Duesenbury Anna	10	21	Left School
42				
43				
44				
45				
46				
47				
48				
49				
50				
51				
52				
53				
54				
55				
56				
57				
58				
59				
60				
61				
62				
63				
64				
65				

11. Totals, showing number of pupils using each text-book.

I hereby certify that the above Term Report is correct.

Jesse A. Hall, Teacher

W. J. Tosh

(No. 12.)

Teacher's Term Report to District Clerk.

1. School District No. 53 County of Leavenworth, Kansas.
2. Term opened Sept. 14th, 1896; closed March 10th, 1897.
3. Length of term, in weeks, 24; length of term, in school days, 120
4. Teacher's name, J. A. Hall; sex, male
5. Teacher's certificate—Grade 2d, date April, 1895, expiration April, 1897.

6. Number of different pupils enrolled in school,	(1) White:	Males 22	Females 19	Total 41
	(2) Colored:	Males 1	Females 1	Total 2
	(3) Totals:	Males 23	Females 20	Total 43
7. Total attendance in days,	(1) White:	Males 1629	Females 1041	Total 2670
	(2) Colored:	Males 73	Females 15	Total 88
	(3) Totals:	Males 1702	Females 1056	Total 2758
8. Average daily attendance,	(1) White:	Males $13\frac{92}{119}$	Females $10\frac{81}{119}$	Total 24 [illegible]/119
	(2) Colored:	Males	Females	Total
	(3) Totals:	Males $14\frac{46}{119}$	Females $10\frac{86}{119}$	Total 24 [illegible]/119

9. Number of tardinesses, 110 Number ~~never~~ not absent ~~or tardy~~, 2

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES			PRIMARY.								INTERMEDIATE								GRAMMAR									
ALPHABETICAL LIST OF PUPILS.	Age.	No. of days attending	Chart.	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene		Speller	Third Reader	Fourth Reader	Copy-Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Speller	Copy-Book	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene	Book-keeping Algebra
AUTHOR			[illegible]		" " "	[illegible]	[illegible]	[illegible]	[illegible]		" "	" " "	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1 Bradford Perry	15	67											X	X	X	X	X											
2 Carter H.	16	75														X	X	X	X	X					100			
3 " " Viola	14	70													X	X	X	X	X	X	X							
4 Graves Rooke	20	25																				116	200		180	X	X	180
5 " " " " Hallie	13	66													X		X	X	X	X	X			X	X			
6 " " " Lura	8	97		X		X		X			X																	
7 " " " Sidney	18	6													X				X					X	X			
8 Harris Lizzie	8	9																										
9 Lee Alexander	20	50																				96						106
10 " " Chester	11	105											X	X	X	X	X		X									
11 " " James	9	112			X	X	X	X																				
12 " " Mary	14	89													X			X	X	X	X		X					
13 " " Robert	18	60																				116	96					140
14 Mansfield Hal	11	60													X		X		X	X	X			X				
15 McLaughlin Eva	10	8																										
16 Marshall Nellie	6	85	X	X	X																							
17 Moore Charles	11	10											X	X	X	X	X											
18 " " " Josie	8	75		X		X																						
19 " " " Mamie	15	57															X	X	X		X			X				
20 " " " Pearl	17	88															X	X	X		X			X				
21 Scott Mamie	6	72		X	X																							
22 " " Rosa	8	76		X		X					X																	
23 " " Walter	10	89								X	X	X																
24 Stigleman Bertie	11	117											X	X	140	[illegible]			X									
25 " " " Arville	15	119															X	96	X	X	X			X				
26 " " " John	17	58																	X	X		X		X	X		X	110
27 " " " Viola	19	60																				X			X		X	110

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES—Continued.

	ALPHABETICAL LIST OF PUPILS.	PRIMARY.									INTERMEDIATE.									GRAMMAR.										
		Age	No. of days attending	Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene		Speller	Third Reader	Fourth Reader	Copy-Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Speller	Copy-Books	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene	Algebra	Book-keeping
	AUTHOR.			Bell	[illegible]	" " "	Monroe	Warren	Ray	Smith		" " "	" " "	Monroe	[illegible]	Ray	Warren	Reed & Kellogg	Smith	Monroe	[illegible]	[illegible]	Ray	Reed & Kellogg	Warren	Barnes	Townsend	Hutchison	Wells	
29	Fass Charles	14	53													X	X			X	X	X								
30	" " Floyd	6	38	X	X																									
31	" " Frank	8	18		X		X					X																		
32	" " Orin	9	118									X		X	X	X	X													
33	Taylor Mattie	10	96									X		X	X	X	X													
34	" " Willie	8	91						X			X	X		X															
35	Thompson Mary	8	75						X			X	X		X															
36	" " Willie	6	39	X	X	X																								
37	" " Grover	12	75									X	X	X	X	X	X													
38	" " Lottie	9	35			X	X					X			X															
39	Woolard Clarence	10	40	X	X	X																								
40	Yimmaly Florence	9	23	X	X	X																								
41	" " Fred	7	68	X	X																									
42	Fox Lottie	14	5																											
43	Franke Emma	7	66																											
44																														
45																														
46																														
47																														
48																														
49																														
50																														
51																														
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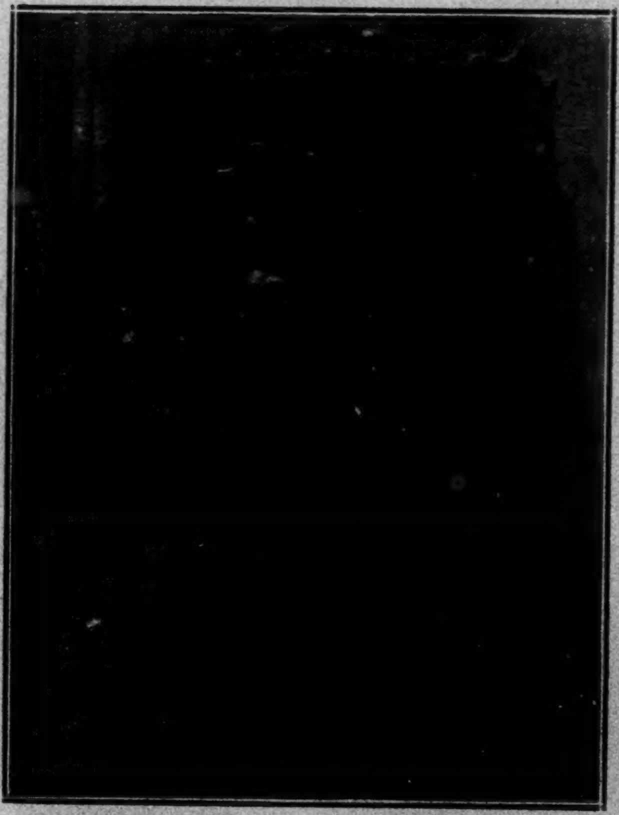
58																														
59																														
60																														
61																														
62																														
63																														
64																														
65																														
11.	Totals, showing number of pupils using each text-book.	[illegible]	6	6	7	6		4	4			10	2	8	11	14	10	11	7	14	9	8	4	3	7	6		2	4	2

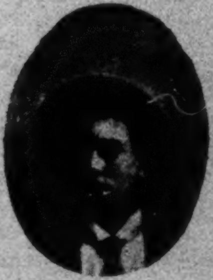
I hereby certify that the above Term Report is correct.

J. A. Hall, Teacher.



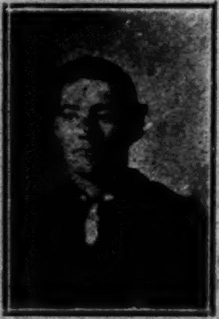
Gov. Ex. 24.
2131 Eq.—2-3-15.

Gov. Ex. 24.
Eq. 2131.—2-9-16.



(Angie Yokum)
(Leavenworth)

Gov. Ex. 25.
Eq. 2131.—2-9-16.



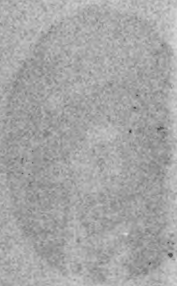
(Angie Yokum)

Gov. Ex. 26.
Eq. 2131.—2-9-16.

(Angie Yokum)

[illegible]

[illegible]



[illegible]

[illegible]

[illegible]

[illegible]

Ser. 6427
Ex 213
7/9/16

C. J. Post

(No. 13.)

Teacher's Term Report to District Clerk.

1. School District No. 53 County of Leavenworth Kansas.
2. Term opened Sept. 13, 1897; closed Apr. 7, 1898
3. Length of term, in weeks, 28; length of term, in school days, 139
4. Teacher's name, Mamie Byron; sex, Female
5. Teacher's certificate — Grade 2nd date Apr 24 1897, expiration Apr 24 1899

6. Number of different pupils enrolled in school,
(1) White Males 22, Females 17, Total 39
(2) Colored. Males 1, Females 0, Total 1
(3) Totals: Males 23, Females 17, Total 40

7. Total attendance in days,
(1) White: Males 1641, Females 1293, Total 2934
(2) Colored: Males 61, Females 0, Total 61
(3) Totals: Males 1702, Females 1293, Total 2995

8. Average daily attendance,
(1) White: Males 11 $\frac{16}{139}$, Females 9 $\frac{31}{139}$, Total 21 $\frac{[illegible]}{139}$
~~(2) Colored: Males $\frac{4}{139}$~~, Females 0, Total $\frac{4}{139}$
(3) Totals: Males 12 $\frac{[illegible]}{139}$, Females 9 $\frac{[illegible]}{139}$, Total 21 $\frac{26}{139}$

9. Number of tardinesses, 75 Number neither absent nor tardy. 0

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES.

girls

		PRIMARY.									INTERMEDIATE.									GRAMMAR										
	ALPHABETICAL LIST OF PUPILS.	Age	No. of days attending	Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene		Speller	Third Reader	Fourth Reader	Copy-Book	Intermediate Arithmetic	Introductory Geography	Language	Physiology and Hygiene	Speller	Copy-Books	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene		
				[illegible]	Supplement	Stickney's	Stickney's	Rand McNally	Supplement and	[illegible]		Stickney's	Stickney's	Excelsior	No. 2	Butfield	Rand McNally	Williams		Stickney's	No. 5	Excelsior	Butfield	[illegible]	Rand McNally	Taylor		[illegible]		AUTHORS
1	Lottie Fox	15	108												/	/		/		/					/					
2	Myrtle Ferris	15	37												/	/	/	/		/		/			/	/				
3	~~Lizzie Fidler~~	~~14~~	~~5~~												~~/~~	~~/~~	~~/~~			~~/~~		~~/~~								
4	May Lee	15	98												/	/				/		/		/	/			/		
5	Stella Lee	7	137	/	/		/		/																					
6	Mamie Moore	15	27												/					/		/	/	/						
7	Josie Moore	9	104		/				/	/		/	/																	
8	Mabel Magill	10	47		/			/	/	/		/	/																	
9	Nellie Marshall	6	76		/				/	/		/	/																	
10	Gertie Masters	9	38	/	/	/			/																					
11	Mabel Stigleman	15	90																	/	/	/	/	/	/			/		
12	Bertie Stigleman	12	108											/	/	/	/	/		/										
13	Berah Stockwell	8	70		/		/		/	/		/																		
14	May Thompson	9	94		/			/	/	/		/		/												/				
15	Ettie Thompson	9	137		/			/	/	/		/	/																	
16	Nellie Taylor	11	86											/	/	/	/	/		/										
17	Eva Taylor	8	48	/	/	/			/																					
18																														
19	Perry Bradford	15	143											/	/	/	/			/										
20	H Carter	16	68												/					/		/	/	/	/		/			
21	Ben Fidler	17	64												/					/		/	/							
22	Chester Lee	12	108											/	/	/	/	/		/										
23	James Lee	9	130		/				/	/		/	/																	
24	Willie Lee	6	25	/	/	/			/																					
25	Hal Marshall	12	111												/	/		/		/	/				/	/				
26	Chas Moore	12	109											/	/	/	/	/		/										

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

		GRADES—Continued.																												
		PRIMARY.									INTERMEDIATE.									GRAMMAR.										
	ALPHABETICAL LIST OF PUPILS.	Age	No. of days attending	Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene		Speller	Third Reader	Fourth Reader	Copy-Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Speller	Copy-Book	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene		
	AUTHOR.			[illegible]	[illegible]	Stickney	Stickney	Rand McNally	[illegible]	[illegible]		Stickney	Stickney	[illegible]	[illegible]	[illegible]	Rand McNally	[illegible]		Stickney	[illegible]	[illegible]	[illegible]	[illegible]	Rand McNally	[illegible]		[illegible]		
29	John Stigleman	15	44																	/	/	/	/	/						
30	Volney Stigleman	13	72											/	/	/	/			/										
31	Joe Stockwell	10	[illegible]		/		/		/	/		/																		
32	Grover Thompson	12	92									/		/	/	/	/	/												
33	Adlai Thompson	5	[illegible]	/	/	/			/																					
34	Willie Thompson	6	87	/	/		/		/																					
35	Chas Tarr	15	57												/	/				/		/								
36	Orin Tarr	10	118							/		/		/	/	/	/	/												
37	Frank Tarr	8	122		/				/	/		/	/																	
38	Cloyd Tarr	6	123	/	/	/			/																					
39	Walter Tarr	4	10	/	/	/			/																					
40	Willie Taylor	9	87					/	/	/		/	/		/															
41	Oliver Woodward	10	22		/		/		/	/		/																		
42																														
43																														
44																														
45																														
46																														
47																														
48																														
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64																														
65																														
11.	Totals, showing number of pupils using each text-book.			9	20	6	9	21	12			13	7	9	16	19	10	9		17	2	7	5	4	6	5		3		

I hereby certify that the above Term Report is correct.

Mamie Byron, Teacher.

Note (a).—The teacher is not entitled to his last month's salary until this report is made as required by law. A duplicate report should be sent to the County Superintendent of Public Instruction, and the Clerk's copy should be carefully preserved for the guidance of the next teacher, and as the basis for the Annual Report.

Gov. Ex. 8/23/31 Ap/16

C. J. Post

[No. 12.]

Teacher's Term Report to District Clerk.

1. School District No. 53, County of Leavenworth, Kansas.
2. Term opened Sept. 13, 1898; closed Apr. 7, 1899.
3. Length of term, in weeks 28; length of term, in school days 140
4. Teacher's name, Mamie Byron; sex, Female
5. Teacher's certificate—Grade Second; date Oct. 29th, 1898; expiration Oct. 29, 1900

6. Number of different pupils enrolled in school,	(1) White:	Males 18	Females 19	Total 37
	(2) Colored:	Males 1	Females 1	Total 2
	(3) Totals:	Males 19	Females 20	Total 39
7. Total attendance in days,	(1) White:	Males 1716	Females 1415	Total 3131
	(2) Colored:	Males 10	Females 43	Total 53
	(3) Totals:	Males 1726	Females 1458	Total 3184
8. Average daily attendance,	(1) White:	Males 12 3/5	Females 10 3/8	Total 22 4/10
	(2) Colored:	Males [illegible]	Females [illegible]	Total [illegible]
	(3) Totals:	Males [illegible]	Females [illegible]	Total [illegible]

9. Number of tardinesses, 51 Number neither absent nor tardy, 1

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

			GRADES.																									
			PRIMARY.							INTERMEDIATE.								GRAMMAR.										
ALPHABETICAL LIST OF PUPILS.	Age	No. of days attending	Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	Speller	Third Reader	Fourth Reader	Copy-Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Speller	Copy-Books	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene	Oral Phys.	Oral Spel.
AUTHOR.			[illegible]	Copy Work	Appleton	Edwards	Rand McNally	Butfield		Watsons	Edwards	Excelsior	Randolph	Butfield	Rand McNally	Tilletson		Students	Randolph	Excelsior	Butfield	[illegible]	Rand McNally	[illegible]		[illegible]		
1 Carter Viola	16	43																/	/		/	/	/	/		/	/	/
2 ~~Fidler Effie~~	~~13~~	~~37~~																/	/	/	/	/	/	/		/	/	/
3 Fox Lottie	16	54												/				/	/				/	/			/	/
4 Graves Hallie	15	15																/	/	/	/	/	/	/		/	/	/
5 " Ellura	10	15					/	/		/	/		/			/											/	/
6 Herries Lizzie	8	19		/		/		/		/																	/	
7 Lee May	16	105												/				/	/	/		/	/			/	/	/
8 " Stella	8	130		/		/		/		/																	/	
9 Moore Mamie	16	10																/	/	/	/	/					/	/
10 " Josie	10	105					/	/		/		/	/			/											/	/
11 " Lucy	6	30	/	/				/																				
12 Marshall Nellie	7	[illegible]		/			/	/		/		/				/											/	/
13 Stockwell Beva	9	[illegible]					/	/		/	/		/			/											/	/
14 Stigleman Mabel	16	[illegible]																/	/		/	/	/			/	/	/
15 " Bertie	13	[illegible]											/	/				/		/		/	/				/	/
16 Thompson May	10	112					/	/		/			/			/				/							/	/
17 " Lottie	10	[illegible]					/	/		/		/	/			/											/	/
18 Winfrey Lottie	10	63		/		/		/		/																	/	
19 " Velna	6	50		/	/			/																			/	
20 Fredenburg Myrtle		26	/	/				/																				
21 Carter H	17	10																/	/		/	/	/	/			/	/
22 Kesinger Calie	6	[illegible]		/	/			/																			/	
23 Kriechurik Chas	11	84		/		/		/		/																	/	
24 Lee Chester	13	137											/	/				/		/		/	/				/	/
25 " James	9	[illegible]						/		/		/	/			/											/	/
26 " Willie	6	[illegible]		/	/			/																			/	

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

ALPHABETICAL LIST OF PUPILS.

	GRADES—Continued.																											
	PRIMARY.									INTERMEDIATE.								GRAMMAR.										
	Age	No. of days attending	Chart.	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	Speller	Third Reader	Fourth Reader	Copy Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Speller	Copy Book	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene	〃	Oral Hist.
AUTHOR			Hill	[illegible]		[illegible]	[illegible]	[illegible]		Standard	[illegible]	[illegible]	[illegible]	[illegible]	Rand McNally	[illegible]		Standard	[illegible]	[illegible]	[illegible]	[illegible]	Rand McNally	[illegible]		[illegible]	[illegible]	
Marshall Wal.	13	77												/				/	/	/		/	/	/			/	/
Stigleman Jno.	17	55																/	/		/		/				/	/
〃 Volney	14	34											/	/				/					/				/	/
Stockwell Jr.	11	22					/	/		/	/		/			/											/	/
Tarr, Orin	11	[illegible]								/			/	/	/					/							/	/
〃 Frank	9	22					/	/		/		/	/			/											/	/
〃 Cloyd	7	22		/		/		/		/																	/	
〃 Walter	5	37	/	/				/																				
Thompson Grover	13	[illegible]								/		/	/	/	/												/	/
〃 Addi	3	12½		/	/			/																			/	
〃 Willie	7	76½		/		/		/		/																	/	
11. Totals, showing number of pupils using each text-book.			4	13	4	6	9	23		17	3	6	12	9	2	7		19	10	10	7	11	13	6		5	34	28

I hereby certify that the above Term Report is correct.

Mamie Byron, Teacher.

NOTE 1st.—The teacher is not entitled to his last month's salary until this report is made as required by law. A duplicate report should be sent to the County Superintendent of Public Instruction, and the Clerk's copy should be carefully preserved for the guidance of the next teacher [illegible]

C. J. Tost

(No. 18.)

Teacher's Term Report to District Clerk.

1. School District No. 53, County of Leavenworth, Kansas.
2. Term opened Sept. 11, 1899; closed Apr. 6, 1900.
3. Length of term, in weeks, 28; length of term, in school days, 138
4. Teacher's name, M. V. Byron; sex, Female
5. Teacher's certificate—Grade 2nd, date Oct. 29, 1898, expiration Oct. 29, 1900

		Males	Females	Total
6. Number of different pupils enrolled in school,	(1) White:	20	18	38
	(2) Colored:	0	1	1
	(3) Totals:	20	19	39
7. Total attendance in days,	(1) White:	1572	1570	3142
	(2) Colored:	0	94	94
	(3) Totals:	1572	1664	3236
8. Average daily attendance,	(1) White:	11[illegible]	11[illegible]	23[illegible]
	(2) Colored:	0	[illegible]	[illegible]
	(3) Totals:	11[illegible]	12[illegible]	23[illegible]

9. Number of tardinesses, 110 Number neither absent nor tardy, 3

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

			GRADES																												
			PRIMARY.							INTERMEDIATE.									GRAMMAR.											
ALPHABETICAL LIST OF PUPILS.	Age	No. of days attending	Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	Penmanship	Speller	Third Reader	Fourth Reader	Copy Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Speller	Copy Book	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene			
			Butler	copy work	[illegible]	Edwards	book work	work & Board	Oral work		[illegible]	Edwards	[illegible]	[illegible]	[illegible]	Rand McNally	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	Rand McNally	[illegible]	[illegible]	[illegible]			
1 Carter Viola	17	98																	/	/		/	/	/			/			
2 Fredenburg Myrtle	9	68	/	/	/				/																					
3 Fidler Effie	13	[illegible]																	/	/	/	/	/	/	/		/			
4 Fox Lottie	17	53																	/	/		/	/	/	/					
5 Graves Halle	16	77																	/	/	/	/	/	/	/	/	/			
6 " Ellura	11	59							/				/	/	/	/	/													
7 Lee May	17	[illegible]																	/	/	/	/	/	/		/	/			
8 " Stella	9	[illegible]		/			/	/	/		/	/					/													
9 Marshall Nellie	8	[illegible]						/	/	/	/		/	/		/	/													
10 Moore Josie	11	[illegible]							/		/		/	/	/	/	/													
11 " Lucy	7	[illegible]	/	/	/				/																					
12 Nodine Flossie	10	7					/	/			/	/		/			/													
13 Stigleman Mabel	17	[illegible]																	/	/		/	/	/			/			
14 " Bertie	14	[illegible]																	/	/	/	/	/	/	/		/			
15 Stockwell Beach	10	52							/	/	/		/	/	/	/	/													
16 " Edna	6	25	/	/	/			/	/																					
17 Thompson May	11	[illegible]							/	/					/	/	/		/	/										
18 " Lottie	11	[illegible]							/				/	/	/	/														
19 " Josie	5	63	/	/	/				/																					
20 Boys																														
21 Fox Frank	8	4					/	/	/		/	/																		
22 Graves Linn	8	63					/	/	/		/	/		/																
23 Klinger Calvin	7	[illegible]		/		/	/	/	/																					
24 " Henry	5	20	/	/	/			/	/																					
25 Lee Chester	17	93							/	/				/					/	/	/	/	/							
26 " James	12	53							/				/	/	/	/	/													
27 " Willie	7	[illegible]		/		/	/	/	/																					

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES—Continued.

	ALPHABETICAL LIST OF PUPILS.			PRIMARY.							INTERMEDIATE.									GRAMMAR.												
		Age	No. of days attending	Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Elementary Physiology and Hygiene	McGuffey Third	Speller	Third Reader	Fourth Reader	Copy Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Speller	Copy Books	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene				AUTHOR.
				[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]				
29	Moore Chas.	14	[illegible]								/									/	/	/	/		/							
30	" Lawrence	7	116	/	/	/			/	/																						
31	" Frank	4	10	/	/				/	/																						
32	Moses Richard	10	[illegible]							/	/	/		/	/	/	/	/														
33	" Thos.	7	92	/	/		/	/	/	/																						
34	" Willie	6	[illegible]	/	/	/			/	/																						
35	Stigleman John	20	[illegible]																	/	/		/		/							
36	" Volney	16	[illegible]													/				/	/				/							
37	Thompson Grover	[illegible]	[illegible]								/			/	/	/				/												
38	" Adlai	6	[illegible]	/	/		/	/	/	/																						
39	" Willie	8	[illegible]					/	/	/		/	/		/			/														
40	Tarr Orin	13	74							/	/			/	/	/	/	/														
11.	Totals, showing number of pupils using each text-book,			16	13	7	4	9	13	26	8	9	5	9	13	10	9	11		14	13	7	11	9	11	5	3	7				

I hereby certify that the above Term Report is correct.

Mamie V. Byron, Teacher.

Note (a).—The teacher is not entitled to his last month's salary until this report is made as required by law. A duplicate report should be sent to the County Superin

Gov. Ex. [illegible]

C. J. Tost

No. 18.

Teacher's Term Report to District Clerk.

1. School District No. 53, County of Leavenworth, Kansas.
2. Term opened Sept 16 1895; closed Apr. 3 1896
3. Length of term, in weeks, 28; length of term, in school days, 140.
4. Teacher's name, J. C. Kelsey; sex, Male.
5. Teacher's certificate—grade 2, date July 27 1895, expiration July 27 1897
6. Number of different pupils enrolled in school, (1) White: Males 27, Females 22, Total 49.
~~(2) Colored: Males , Females , Total~~
~~(3) Totals: Males , Females , Total~~
7. Total attendance in days, (1) White: Males 1781, Females 1508, Total 3289.
~~(2) Colored: Males , Females , Total~~
~~(3) Totals: Males , Females , Total~~
8. Average daily attendance, (1) White: Males 12.8, Females 10.7, Total 23.5
~~(2) Colored: Males , Females , Total~~
~~(3) Totals: Males , Females , Total~~
9. Number of tardinesses, 365. Number neither absent nor tardy, 1.
10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES.

ALPHABETICAL LIST OF PUPILS	Age	No. of days attending	Chart (Primary)	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	Primary Language	Speller (Intermediate)	Third Reader	Fourth Reader	Copy Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Speller (Grammar)	Copy Book	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene	Bookkeeping	Algebra
AUTHOR			[illegible]	Spencerian		Monroe		[illegible]		[illegible]			Monroe	[illegible]	Prince	Warren	[illegible]	Smith	[illegible]	[illegible]	[illegible]	Prince	Reed & K.	Warren	Barnes	Andrews	[illegible]		Wells
1 Borah Chas	16	4																	1.	1.		1.	1.	1.	1.				
2 Bradford Perry	13	93								1.	1.		1.	1.	1.	1.													
3 Bair Grade	10	1.					1.	1.		1.	1.		1.	1.															
4 " Alvah	15	6																	1.	1.	1.	1.		1.					
5 " Chas	12	38					1.	1.			1.	1.		1.															
6 Carter Viola	13	68													1.	1.	1.	1.	1.	1.	1.								
7 " Al	16	75													1.	1.	1.	1.	1.	1.					1.				
8 Graves Hallie	13	62													1.	1.	1.	1.	1.	1.	1.								
9 " Laura	7	24	1.	1.																									
10 " Rashe	19	86																	1.	1.		1.	1.	1.	1.	1.	1.	1.	
11 " Sidney	17	37													1.	1.	1.		1.	1.				1.	1.				
12 Hill Lena	13	25													1.	1.	1.		1.	1.	1.								
13 " Edith	10	20					1.	1.			1.	1.																	
14 " Lawrence	8	2		1.	1.																								
15 " Ewart	6	1.	1.	1.																									
16 Lee May	13	134													1.	1.	1.	1.	1.	1.					1.				
17 " Alek	~~19~~	~~64~~																	1.	1.		1.	1.	1.	1.		1.	1.	1.
18 " Robert	17	61																	1.	1.		1.	1.	1.	1.		1.	1.	1.
19 " Chester	10	102					1.			1.	1.		1.	1.	1.														
20 " James	9	91		1.		1.		1.																					
21 Moore Mamie	13	100													1.	1.	1.	1.	1.	1.					1.				
22 " Josie	7	45		1.	1.										~~1.~~	~~1.~~	~~1.~~	~~1.~~	~~1.~~	~~1.~~									
23 " Pexley	16	16													1.	1.	1.	1.	1.	1.					1.				
24 " Chas	10	06						1.		1.	1.		1.	1.	1.														
25 Magill Mabel	8	100		1.		1.		1.																					
26 " Willie	5	35	1.	1.																									
27 Scott Rosa	7	87		1.	1.																								

10. Schedule showing the name and age of all pupils enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

				GRADES—CONTINUED.																										
				PRIMARY.							INTERMEDIATE.									GRAMMAR.										
	ALPHABETICAL LIST OF PUPILS.						Monroe				Language Reed & K			Monroe																
29	Scott Walter	9	[illegible]		/		/		/																					
30	Stigleman Viola	13	81																	/	/		/	/	/	/		/	/	
31	,, Isabel	14	97													/	/	/	/	/	/					/				
32	,, Bertie	11	[illegible]								/	/			/	/	/					/								
33	,, John	16	67													/				/	/				/	/				
34	,, Volney	12	72					/			/	/		/	/	/														
35	Sexton Lola	9	57						/			/	/																	
36	Tair Chas	13	78								/	/		[illegible]	/	/						/								
37	,, Orrin	9	150					/	/			/		/																
38	,, Frank	7	[illegible]		/		/		/																					
39	Taylor Nellie	9	40					/			/	/		/	/	/														
40	,, Willie	7	[illegible]		/			[illegible]	/			/	/																	
41	Thompson Lottie	8	40		/				/			/	/																	
42	,, May	7	20		/				/			/	/																	
43	,, Grant	10	107					/	/		/	/		/	/															
44	,, Willie	5	131		/																									
45	Woodward Della	11	11		/		/		/																					
46	,, Ollie	9	8		/	/																								
47	Wright Samuel	12	[illegible]								/	/		/	/	/	/													
48	,, Nellie	8	107		/			/	/				/																	
49	,, Eddie	13	63								/	/		/	/	/	/													
50																														
51	Pages of text-book																													
52	at close of Term																													
53			8	2		36	76				30	58	70	16		26		18	42			[illegible]								
54																							[illegible]	6		6	[illegible]	6		
55																														
56																														
57																														
58																														
59																														
60																														
61																														
62																														
63																														
64																														
65																														
11.	Totals, showing number of pupils using each text-book.			6		4	5	9	14		11	15	7	10	12	11	13		17	16	16	4	3	4	7	[illegible]	1	4	4	2

I hereby certify that the above Term Report is correct.

J. L. Kelsey ....Teacher.

NOTE (a).—The teacher is not entitled to his last month's salary until this report is made as required by law. A duplicate report should be sent to the County Superintendent of Public Instruction, and the Clerk's copy should be carefully preserved for the guidance of the next teacher and as the basis for the Annual Report.

GOVERNMENT'S EXHIBIT 24.

Eq. 2131—2-9-16.

[See insert herewith for reproduction of small photograph indorsed on back Angie Yokum, Leavenworth.]

Government's Exhibit 25.

Eq. 2131—2-9-16.

[See insert herewith for reproduction of small photograph endorsed on back Angie Yokum.]

Government's Exhibit 26.

Eq. 2131—2-9-16.

[See insert herewith for reproduction of small photograph endorsed on back Angie Yokum.]

Government's Exhibit 27.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's School Report, Sept. 13, 1897, to April 7, 1898.]

Government's Exhibit 28.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's School Report, Sept. 13, 1898, to Apr. 7, 1899.]

Government's Exhibit 29.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's School Report, Sept. 11, 1899, to Apr. 6, 1900.]

Government's Exhibit 30.

Eq. 2131.—2-10-16.

[See insert herewith for photographic reproduction of Teacher's School Report, Sept. 16, 1895, to Apr. 3, 1896.]

Government's Exhibit 31.

Eq. 2131.—2-10-16.

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school moneys to districts whose reports have not been made out and transmitted, as required by law.

No. 18.

Annual Report of .... *School District No. 53 Count.. of Leavenworth, State of Kansas, for the year ending June 30, 1894. Made under official oath, and transmitted to the County Superintendent, this 27 day of July, A. D. 1894.

(Signed) M. L. Stigleman,
of .... District No. 53,
Leavenworth County, Kansas.

*If the report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

	Names.	Ages. (years)		Names.	Ages. (years)
1	Borst, Charles	15	23	Scott, Walter	8
2	Bradford, Perry	13	24	Scripter, Lola	8
3	Carter, H	14	25	Stigleman, Bertie	10
4	Carter, Viola	12	26	Stigleman, Mabel	12
5	Carr, David	16	27	Stigleman, Viola	16
6	Graves, Hallie	11	28	Stigleman, Volney	12
7	Graves, George	21	29	Stigleman, John	15
8	Graves, Sidney	16	30	Tarr, Charles	12
9	Graves, Rashe	19	31	Tarr, Orin	8
10	Graves, Laurie	6	32	Tarr, Frank	6
11	Lee, Alexander	17	33	Taylor, Nellie	8
12	Lee, Chester	9	34	Taylor, Willie	6
13	Lee, James	6	35	Thompson, Grover	9
14	Lee, May	12	36	Thompson, Lottie	7
15	Lee, Robert	16	37	Worthington, Whital	19
16	Moore, Charley	9	38	Worthington, Mark	16
17	Moore, Maime	12	39	Wright, Eddie	12
18	Moore, Josie	6	40	Wright, Nannie	10
19	Moore, Pearl	15	41	Wright, Nellie	7
20	Moore, Myrtle	17	42	Thompson, May	6
21	Scott, Mamie	4	43	Lottie, Wright	5
22	Scott, Rose	6	44	Viola Tarr	16

In cities of the first or second class, the school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the Board of Education, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

1. Number of persons between the ages of 5 and 21 years residing in district June 30, 1894. Note.—Under Item 1, see note on last page of this report, for Joint Districts.

	Males.	Females.	Total.
(1) White.	22	17	39
(2) Colored. . . .	1	1	2
(3) Totals.	23	18	41

2. Number of different persons attending school this year (see Teacher's Register).

	Males.	Females.	Total.
(1) White.	..	..	41
(2) Colored.	..	..	..
(3) Totals.	..	..	..

3. Number of days of school taught during the year (see Teacher's Term Reports. . . . . .Total 140

4. Total number of days' attendance (see Teacher's Term Reports).

	Males.	Females.	Total.
(1) White.	..	..	..
(2) Colored.	..	..	..
(3) Totals.	..	..	3441 1/6

5. Average daily attendance for year (total days' attendance divided by total days of school).

	Males.	Females.	Total.
(1) White.	..	..	..
(2) Colored.	..	..	..
(3) Totals.	..	..	396 9/10

6. Number of teachers required . . . . . ; Number of different teachers employed. . . . . .Total 1

Names of Teachers, Jesse A. Hall; Grade of Certificate, 2nd; Weeks Employed, 28; Wages per Month, 37½.

---

7. Total salary paid male teachers for the year. . . .$262.50
8. Total months taught by male teachers. 7
9. Total salary paid female teachers for the year. . . . .

10. Total months taught by female teachers	
11. Average salary of male teachers (divide item 7 by item 8)	
12. Average salary of female teachers (divide item 9 by item 10)	
13. Length of school term, in weeks, taught by legally-qualified teachers	20
14. Total levy for school purposes for the year ending June 30, 1895	9 Mills.
15. Estimated value of school property, including buildings and grounds	$400.00
16. Number of schoolbuildings	2
17. Number of schoolrooms	2
18. Number of school houses built in year ending June 30, 1894	
19. Cost of same	rough guess..$1,500.00

FINANCIAL EXHIBIT.

Note.—This Report must balance with the Treasurer's books.

Receipts.	Receipts.
1. Balance in hands of District Treasurer July 1, 1894	$ 7.54
2. Amount received from County Treasurer from district taxes	288.77
3. Amount received from State and County school funds, apportioned to the district	60.65
4. Amount received from the sale of bonds	......
5. Amount received from all other sources	......
6. Total amount received during the year for school purposes	$356.96

Expenditures.	Expenditures.
7. Amount paid out during the year for teachers' wages and supervision	$ 262.50
8. Amount paid for rents, repairs, fuel, and other incidentals	31.15
9. Amount paid for district library and school apparatus	20.00
10. Amount paid for sites, buildings, and furniture	......
11. Amount paid for all other purposes	......
12. Total amount paid out during the year for school purposes	$ 313.65

13. Balance in hands of District Treasurer June 30, 1895.		43.31
14. Total receipts and expenditures, balanced	$	356.96

GRADES.

(School District Clerks are requested to make an accurate report of the text-books used.)

Primary.

Name of Author.	Text-books.
Bells	Chart
	Writing
”	First Reader
Monroes	Second Reader
Warrens	Geography
Rays	Arithmetic
Smiths	Physiology and Hygiene

Intermediate.

Monroes	Speller
”	Third Reader
”	Fourth Reader
Spencer	Copy Book

Grammar.

Monroes	Speller
Spencerian	Copy Book
Monro	Fifth Reader
Rayse	Arithmetic
Reed & Kellog	Grammar
Warner	Geography
Barnes	U. S. History
	Constitution of U. S.
Hutchisons	Physiology and Hygiene

DISTRICT CLERK'S REPORT OF OFFICERS ELECTED AND QUALIFIED.

County Superintendent:

Sir—On the 27th day of July, A. D. 1894, the following persons were duly elected and qualified as officers of .... School District No. ......, County of ...., State of Kansas:

Director, W. T. Moore; Post Office, Ackerland.
Clerk, M. L. Stigleman; Post Office, Ackerland.
Treasurer, Robert Lee; Post Office, Ackerland.

Dated this 27 day of July, 1895.

M. L. Stigleman, District Clerk.

Remark.—The above returns are required by law to be made to the County Superintendent within Two Weeks after the election and qualification of said officers.

To County Superintendents and District Clerks:

This report is required by sec. 60, School Laws 1891. In order to secure correct reports to the State Department, as required of County Superintendents in sec. 16, School Laws 1891, the State Superintendent makes the following suggestions and requests:

1. That the District Clerk require, at the close of every term, a full and correct report, on Form No. 13, of all the facts therein called for. (See sec. 79, School Laws 1891.)

2. That the District Clerk draw all orders, both on the County Treasurer and the District Treasurer, for definite sums, keeping stubs showing date, amount, drawee, and purpose of such orders. By this means there must be absolute accuracy in the financial exhibit required in this report.

3. That the County Superintendent, as required in sec. 20, School Laws 1891, notify each District Clerk of his willingness to assist in completing this report, if necessary; and that then the Superintendent decline to receive any partial report, until fully satisfied by the District Clerk that such report cannot be completed. See note at the head of this blank, regarding the apportionment of school moneys.

4. The annual report of the County Superintendent being based largely on reports of District Clerks, it is hoped to secure correct and prompt returns from the last-named officers, with a view to making a reliable exhibit of the school work of the State.

5. I desire to call special attention to Nos. 1, 2, 4 and 5, on page 2, and urge that County Superintendents obtain complete answers to those numbers from Clerks of cities of the first and second class, so that the public can know what is being done toward educating the colored people of our State.

Very respectfully,

H. N. Gaines, State Superintendent.

(On back:) Annual Report of School District No. .... for the Year ending June 30, 1894. ...., District Clerk. This report should be made out, read to the District Meeting, and immediately forwarded to the County Superintendent. "Whenever a school district shall lie partly in two or more counties, the clerk of such district, in making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district, and shall report to the County Superintendent of Public Instruction of each of the counties in which such district may be partly situated." (Sec. 62, School Laws of 1891.) N. B.—The clerk of each district is required by law to transmit a report in writing of such "facts and statistics in regard to the district school as the County Superintendent may require." (Sec. 60, School Laws of 1891, last clause.)

Filed this .... day of ...., 1895. ...., County Superintendent. Hamilton Ptg. Co.: Edwin H. Snow, State Printer. C. J. Post.

Government's Exhibit 32.

Eq. 2131.—2-10-16.

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school moneys to districts whose reports have not been made out and transmitted, as required by law.

No. 18.

Annual Report of .... *School District No. 53, Count.. of Leavenworth List of all between the age of 5 and 21 State of Kansas, for the year ending June 30, 1895. [Portion marked out with pen] 29 day of July, A. D. 189*3*.5

(Signed) M. L. Stigleman, Clerk

of .... District No. 53,

Leavenworth County, Kansas.

*If the report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

Names.	Ages. (years)	Names.	Ages. (years)
1 Borst, Henry	18	26 Stigleman, Mable	13
2 Borst, Charles	15	27 Stigleman, Viola	16
3 Carter, H	14	28 Stigleman, Volney	12
4 Carter, Viola	12	29 Stigleman, John	16
5 Graves, Hall	11	30 Tarr, Charles	12
6 Graves, George	21	31 Tarr, Orin	8
7 Graves, Sidney	16	32 Tarr, Frank	6

	Names.	Ages. (years)		Names.	Ages. (years)
8	Graves, Rashe	19	33	Thompson, Grover	9
9	Graves, Laurie	6	34	Thompson, Lottie	7
10	Lee, Alexander	17	35	Worthington,Whital	19
11	Lee, Robert	16	36	Wright, Eddie	12
12	Lee, Chester	9	37	Wright, Nannie	10
13	Lee, James	6	38	Wright, Nellie	7
14	Lee, May	12	39	Magill, Mabel	7
15	Lee, Stella	6	40	Magill, Willie	6
16	Moore, Charles	9	41	Parret, Fred	17
17	Moore, Maimie	12	42	Hill, Kenith	12
18	Lee, Josie	6	43	Hill, Edith	10
19	Lee, Pearl	15	44	Hill, Laurence	8
20	Bradford, Perry	13	45	Hill, Evert	6
21	Bradford, Myrtle	17	46	Kessinger, Nellie	19
22	Scott, Walter	8	47	Norris, Nora	18
23	Scott, Maimme	4	48	Tarr, George	18
24	Scott, Rozy	6	49	Viola, Tarr	16
25	Stigleman, Bertie	10	50	Dolla Wright	5

In cities of the first or second class, the school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the Board of Education, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

[Various statistics, memoranda, etc., not filled in.]

To County Superintendents and District Clerks:

[Rules and regulations as to reports same as in Government's Exhibit 31.]

Very respectfully,

H. N. Gaines, State Superintendent.

(On back:) Annual Report of School District No. 53 for the Year ending June 30, 1895. M. L. Stigleman, District Clerk. This report should be made out, read to the District Meeting, and immediately forwarded to the County Superintendent. "Whenever a school district shall lie partly in two or more counties, the clerk of such district, in making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district. and shall report to the County Superintendent of Public Instruction of each of the counties in which such district may be partly situated." (Sec. 62, School Laws of 1891.) N. B.—The clerk of each district is required by law to transmit a report in writing of such "facts and statistics in regard to the district school as the County Superintendent may require." (Sec. 60, School Laws of 1891, last clause.) List of names of all between the age 5 and 21 Filed this thirtieth day of July, 1895. .... County Superintendent. Hamilton Ptg. Co.: Edwin H. Snow, State Printer. C. J. Post.

Government's Exhibit 33.

Eq. 2131.—2-10-16.

(No. 18.)

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school money to districts whose reports have not been made out and transmitted, as required by law.

Annual Report of .... *School District No. 53, Count.. of Leavenworth, State of Kansas, for the year ending June 30, 1896. Made under official oath, and transmitted to the County Superintendent, this 8th day of August, A. D. 1896.

(Signed) M. L. Stigleman,
of .... District No. 53,
Leavenworth County, Kansas.

*If the report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

Names.	Ages. (years)	Names.	Ages. (years)
1 Borst, Henry	19	25 Scott, Walter	8
2 Borst, Charles	16	26 Scott, Maimme	7
3 Carter, Henry	15	27 Scott, Rozy	5
4 Carter, Viola	13	28 Stigleman, Bertie	11
5 Graves, Halla	12	29 Stigleman, Mabel	14
6 Graves, Sidney	17	30 Stigleman, Viola	17
7 Graves, Rash	20	31 Stigleman, Volney	13
8 Graves, Laura	7	32 Stigleman, John	16
9 Graves, Limly	5	33 Tarr, Charles	13

Names.	Ages. (years)	Names.	Ages. (years)
10 Lee, Alexander	18	34 Tarr, Orin	9
11 Lee, Robert	17	35 Tarr, Frank	7
12 Lee, Chester	10	36 Thompson, Grover	10
13 Lee, James	7	37 Thompson, Lottie	8
14 Lee, May	13	38 Magil, Mabel	8
15 Lee, Stella	7	39 Magil, Willie	7
16 Lee, William	5	40 Kessinger, Nellie	20
17 Moore, Pearly	16	41 Norris, Nora	20
18 Moore, Charley	10	42 Tarr Georg	19
19 Moore, Maimie	12	43 Brown, Viola	17
20 Moore, Josie	7	44 Wodard, Dell	7
21 Bradford, Perry	19	45 Wodard, Oliver	5
22 Bradford, Myrtle	18	46 Yonley, Florence	7
23 Marshell, Halla	7	47 Yonley, Fred	5
24 Marshell, Nellie	5		

In cities of the first or second class, the school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the Board of Education, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

---

1. Number of persons between the ages of 5 and 21 years residing in district June 30, 1896. Note.—Under item 1. see note on fourth page of this report, for Joint Districts.

	Males.	Females.	Total.
(1) White.	24	19	..
(2) Colored.	..	..	..
(3) Totals.	..	..	..

2. Number of different persons attending school this year (see Teacher's Register).

	Males.	Females.	Total.
(1) White.	26	21	..
(2) Colored.	1	1	..
(3) Totals.	27	22	49

3. Number of days of school taught during the year (see Teacher's Term Reports)...............Total 140

4. Total number of days' attendance (see Teacher's Term Reports)

	Males.	Females.	Total.
(1) White......	1781	1508	3289
(2) Colored.....	..	..	..
(3) Totals.....	..	..	..

5. Average daily attendance for year (total days' attendance divided by total days of school).

	Males.	Females.	Total.
(1) White.....	12.8	10.7	23.5
(2) Colored.....	..	..	..
(3) Totals.....	..	..	..

6. Number of teachers required 1; number of different teachers employed........................... Total 1

Names of Teachers, J. L. Tkelsee; Grade of Certificate, 2nd; Weeks Employed, 28; Wages per Month, 40.

7. Total salary paid male teachers for the year......$280.00
8. Total months taught by male teachers...............7
9. Total salary paid female teachers for the year.........
10. Total months taught by female teachers...............
11. Average salary of male teachers (divide item 7 by item 8)..
12. Average salary of female teachers (divide item 9 by item 10).......................................
13. Length of school term, in weeks, taught by legally qualified teachers...................................
14. Total levy for school purposes for the year ending June 30, 1896...........................9 Mills.
15. Estimated value of school property, including buildings and grounds..........................$500
16. Number of school buildings.........................2
17. Number of schoolrooms............................2
18. Number of schoolhouses built in year ending June 30, 1896...
19. Cost of same..

FINANCIAL EXHIBIT.

Note.—This Report must balance with the Treasurer's books.

Receipts.	Receipts.
1. Balance in hands of District Treasurer July 1, 1895................	$ 43.31
2. Amount received from County Treasurer from district taxes..........	240.38
3. Amount received from State and Coun-	

Receipts.	Receipts.
ty school funds, apportioned to the district.	41.80
4. Amount received from the sale of school bonds.	
5. Amount received from all other sources	325.49
6. Total amount received during the year for school purposes.	325.48

Expenditures.	Expenditures.
7. Amount paid out during the year for teachers' wages and supervision.	$ 280.00
8. Amount paid for rents, repairs, fuel, and other incidentals.	35.99
9. Amount paid for district library and school apparatus.	
10. Amount paid for sites, and furniture.	
11. Amount paid for all other purposes.	
12. Total amount paid out during the year for school purposes.	$ 315.99
13. Balance in hands of District Treasurer June 30, 1896.	9.50
14. Total receipts and expenditures, balanced.	$ 325.49
15. Outstanding orders (Nos...........) ..Total	$

Grades.

(School-District Clerks are requested to make an accurate and complete report of text-books used.)

Primary.

Name of Author.	Text-Books.
Bells.	Chart
Spencers.	Writing
Monroes.	First Reader
Monroes.	Second Reader
Warren.	Geography
Rays.	Arithmetic
Hutchison.	Physiology and Hygiene

Intermediate.

Name of Author.	Text-Books.
Monroes.	Speller
Monroe.	Third Reader
Monroe.	Fourth Reader
Spencer.	Copy Book

Name of Author.	Text-Books.
Warren.	Arithmetic
Arythemetic.	Geography
. . . .	Language
Hutchison.	Physiology and Hygiene
	Grammar.
Warners.	Geography
Barnes.	U. S. History
Andrews.	Constitution of U. S.
Hutchison.	Physiology and Hygiene

District Clerk's Report of Officers Elected and Qualified.

County Superintendent:

Sir—On the 25th day of July, A. D. 1896, the following persons were duly elected and qualified as officers of ...... School District No. 53, County of Leavenworth, State of Kansas:

Director, ...; Post Office, ...
Clerk, ...; Post Office, ...
Treasurer, Robert Lee; Post Office, Ackerland

Dated this 8 day of August, 1896.

M. L. Stigleman, District Clerk.

Remark.—The above returns are required by law to be made to the County Superintendent within Two Weeks after the election and qualification of said officers.

To County Superintendents and District Clerks:

This report is required by sec. 68, School Laws 1893. In order to secure correct reports to the State Department, as required of County Superintendents in sec. 16, School Laws 1893, the State Superintendent makes the following suggestions and requests:

1. That the District Clerk require, at the close of every term, a full and correct report, on Form No. 15, of all the facts therein called for. (See sec. 89, School Laws 1893.)

2. That the District Clerk draw all orders, both on the County Treasurer and the District Treasurer, for definite sums, keeping stubs showing date, amount, drawee and purpose of such orders. By this means there must be absolute accuracy in the financial exhibit required in this report.

3. That the County Superintendent, as required in sec. 20, School Laws 1893, notify each District Clerk of his willingness to assist in completing this report, if necessary; and

that then the Superintendent decline to receive any partial report, until fully satisfied by the District Clerk that such report cannot be completed. See note at the head of this blank, regarding the apportionment of school moneys.

4. The annual report of the County Superintendent being based largely on the reports of Distrct Clerks, it is hoped to secure correct and prompt returns from the last-named officers, with a view to making a reliable exhibit of the school work of the State.

5. I desire to call special attention to Nos. 1, 2, 4, and 5, on page 2, and urge that County Superintendents obtain complete answers to those numbers from Clerks of cities of the first and second class, so that the public can know what is being done toward educating the colored people of our State.

Very respectfully,

E. Stanley, State Superintendent.

(On back:) Annual Report of .... School District No. ...., for the Year ending June 30, 189.. ...., District Clerk. This report should be made out, read to the District Meeting, and immediately forwarded to the County Superintendent. "Whenever a school district shall lie partly in two or more counties, the clerk of such district, in making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district, and shall report to the County Superintendent of Public Instruction of each of the counties in which such district may be partly situated." (Sec. 70, School Laws of 1893.) N. B.—The clerk of each district is required by law to transmit a report in writing of such "facts and statistics in regard to the district school as the County Superintendent may require." (Sec. 68, School Laws of 1893, last clause.) Filed this .... day of ...., 189.. ...., County Superintendent. C. J. Post.

Government's Exhibit 34.

Eq. 2131.—2-10-16.

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school moneys to districts whose reports have not been made out and transmitted, as required by law.

Annual Report of .... *School District No. 53, Count.. of Leavenworth, State of Kansas, for the year ending June 30, 1897. Made under official oath, and transmitted to the County Superintendent, this 30th day of July, A. D. 1897.

(Signed) M. L. Stigleman,
of .... District No. 53,
Leavenworth County, Kansas.

*If the report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

	Names.	Ages. (years)
1	Borst, Chaley	18
2	Carter, H	16
3	Carter, Viola	15
4	Graves, Sidney	18
5	Graves, Hallie	14
6	Graves, Laura	8
7	Graves, Lynn	6
8	Graves, Rashe	19
9	Lee, Alexander	20
10	Lee, Robert	17
11	Lee, Chester	12
12	Lee, James	8
13	Lee, May	14
14	Lee, Stela	8
15	Lee, William	6
16	Moore, Pearly	17
17	Moore, Charles	12
18	Moore, Mamie	15
19	Moore, Josie	8
20	Bradford, Perry	15
21	Bradford, Myrtle	19
22	Marshall, Hall	12
23	Marshall, Nellie	7
24	*Sott*, Walter	9
25	*Sott*, Mamie	8
26	*Sott*, Rosa	7
27	Stigleman, Bertie	12
28	Stigleman, Mabel	16
29	Stigleman, Viola	19
30	Stigleman, Volney	14

1898

	Names.	Ages. (years)
1	Chas. Borst	19
2	Hal Marshall	13
3	Nellie Marshall	7
4	Lilie Harris	9
5	Robert Lee	18
6	Chester Lee	13
7	James Lee	9
8	May Lee	15
9	Stella Lee	8
10	Willie Lee	7
11	Pearly Mover	18
12	Chas. Mover	13
13	Mamie Mover	16
14	Josie Mover	9
15	Lawrence Mover	6
16	Bertie Stigleman	13
17	Mabel Stigleman	17
18	Viola Stigleman	20
19	John Stigleman	18
20	Volney Stigleman	15
21	Chas. Tarr	15
22	Orin Tarr	11
23	Frank Tarr	9
24	Cloyd Tarr	7
25	Walter Tarr	6
26	Grover Thompson	13
27	Lottie Thompson	10
28	Lottie Fox	16
29	Lizzie Fidler	16

Names.	Ages. (years)
31 Stigleman, John	17
32 Tarr, Chaley	14
33 Tarr, Orin	10
34 Tarr, Frank	8
35 Thompson, Grover	11
36 Thompson, Lottie	9
37 McMagik, Mabel	9
38 McMagik, Wilie	8
39 Tarr, Georg	20
40 Kessnger, Calvan	5
41 Brown, Viola	18
42 Wodard, Della	8
43 Wodard, Oliver	6
44 Yonley, Florence	8
45 Yonley, Fred	6
46 Thompson, Willie	7
47 Thompson, May	9
48 Holliday, Jenny	19
49 Holliday, Nannie	19
50 Fidler, Effie	11
51 Fox, Lottie	14
52 Harries, Lizzie	8
53 Pranka, Emma	8
54 Davis, Mable	15
55 Davis, Richard	7
56 Cooley, Lottie	6
57 Mohan, Josie	6
58 Tarr, Cloyd	7
59 Stockwell, Joseph	8
60 Stockwell, Bevil	6

Names.	Ages. (years)
30 May Thompson	10
31 Adloi Thompson	6
32 Willie Thompson	7
33 Mabel Magill	11
34 Willie Magill	8
35 Sidney Gravs	19
36 Hallie Gravs	15
37 Loure Gravs	9
38 Lynn Gravs	7
39 Myrtel Fredaboy	8
40 H Carter	17
41 Viola Carter	16
42 Richard Mosas	8
43 Thomas Mosas	6
44 Albert Auston	10

In cities of the first or second class, the school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the Board of Education, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

---

1. Number of persons between the ages of 5 and 21 years residing in district June 30, 189... Note.--Under item 1, see note on fourth page of this report, for Joint Districts.

	Males.	Females.	Total.
(1) White.	24	17	41
(3) Totals.	26	18	..
(2) Colored. . . .	2	1	3

2. Number of different persons attending school this year (see Teacher's Register).

1898

	Males.	Females.	Total.
(1) White.	39	..	..
(2) Colored. . . .	1	..	..
(3) Totals.	40	..	..

3. Number of days of school taught during the year (see Teacher's Term Reports).

4. Total number of days' attendance (see Teacher's term reports).

	Males.	Females.	Total.
(1) White.	1641	1239	2934
(2) Colored. . . .	61	0	61
(3) Totals.	..	..	..

5. Average daily attendance for year (total days' attendance divided by total days of school).

	Males.	Females.	Total.
(1) White.	11 112/109	9 42/109	21 15/139
(2) Colored.	61/139	0	61/139
(3) Totals.	..	..	..

6. Number of teachers required 1; number of different teachers employed, 1.

Names of Teachers, Minnie Byron; Grade of Certificate, 2; Weeks Employed, 28; Wages per Month, 35.

1898

7. Total salary paid male teachers for the year. . . . .
8. Total months taught by male teachers. . . . .
9. Total salary paid female teachers for the year. $245
10. Total months taught by female teachers. 7
11. Average salary of male teachers (divide item 7 by item 8). . . . .
12. Average salary of female teachers (divide item 9 by item 10). $35
13. Length of school term, in weeks, taught by legally qualified teachers. 28
14. Total levy for school purposes for the year ending June 30, 1899. . . . . .9 Mills
15. Estimated value of school property, including buildings and grounds. $500
16. Number of school buildings. 1
17. Number of schoolrooms. 2

18. Number of schoolhouses built in year ending June 30, 189...
19. Cost of same...

FINANCIAL EXHIBIT.

Note.—This Report must balance with the Treasurer's books.

Receipts.	Receipts.	1898
1. Balance in hands of District Treasurer July 1, 1897..................	$ 9.50	44.76
2. Amount received from County Treasurer from district taxes...........	281.50	209.89 48.55
3. Amount received from State and County school funds, apportioned to the district.........................	38.66	
4. Amount received from the sale of school bonds...................		303.20
5. Amount received from all other sources.........................		
6. Total amount received during the year for school purposes...............	$ 329.66	
Expenditures.		Expenditures.
7. Amount paid out during the year for teachers' wages and supervision...	24.5	$ 270.00
8. Amount paid for rents, repairs, fuel, and other incidentals..............	22.05	14.90
9. Amount paid for district library and school apparatus................		
10. Amount paid for sites, buildings, and furniture......................		
11. Amount paid for all other purposes..		329.66
12. Total amount paid out during the year for school purposes..........	267.05	284.90
13. Balance in hands of District Treasurer June 30, 1897.....8...1898..	36.15	44.76
14. Total receipts and expenditures, balanced. ....(303.20)	$329.66	
15. Outstanding orders (Nos. ......)......Total		

GRADES.

[Blanks same as in Government's Exhibit 33—not filled in.]

DISTRICT CLERK'S REPORT OF OFFICERS ELECTED AND QUALIFIED.

County Superintendent:

Sir—On the 25th day of July, A. D. 1898, the following persons were duly elected and qualified as officers of Brown School District No. 53, County of Leavenworth, State of Kansas:

Director, James Thompson; Post Office, McLouth
Clerk, ...; Post Office, ...
Treasurer, ..., Post Office, ...

Dated this 28 day of July, 1898.

C. J. Post, District Clerk.

Remark.—The above returns are required by law to be made to the County Superintendent within Two Weeks after the election and qualification of said officers.

To County Superintendents and District Clerks:

[Rules and regulations as to reports same as in Government's Exhibit 33.]

Very respectfully,

E. Stanley, State Superintendent.

(On back:) [Same as in Government's Exhibit 33.]

C. J. Post.

Government's Exhibit 35.

Eq. 2131.—2-10-16.

(No. 18.)

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school money to districts whose reports have not been made out and transmitted, as required by law.

Annual Report of Brown *School District No. 53, Count.. of Leavenworth, State of Kansas, for the year ending June 30, 1900. Made under official oath, and transmitted to the County Superintendent, this .... day of Aug, A. D. 1900.

(Signed) C. J. Post,
of .... District No. ....
............., County, Kansas.

*If report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

	Names.	Ages. (years)		Names.	Ages. (years)
1	Viola Carter	17	22	Hal Marshall	14
2	Myrtel Fredenburg	9	23	Chas. Moore	14
3	Lottie Winfrey	17	24	Laurance Moore	7
4	Halle Graves	16	25	Frank Moore	5
5	Ellurg Graves	11	26	Richard Moses	10
6	May Lee	17	27	Thos. Moses	7
7	Stella Lee	9	28	Willie Moses	6
8	Nellie Marshall	8	29	John Stigleman	20
9	Josie Moore	11	30	Volney Stigleman	16
10	Lucy Moore	7	31	Grover Thompson	14
11	Mabel Stigleman	17	32	Adlai Thompson	6
12	Bertie Stigleman	14	33	Willie Thompson	8
13	May Thompson	11	34	H. Carter	19
14	Lottie Thompson	11	35	Adam Schultz	18
15	Josie Thompson	6	36	Perel Moore	20
16	Linn Graves	8	37	Liddy Brown	17
17	Calvin Kesinger	7	38	Lizzie Harris	8
18	Henry Kesinger	6	39	Josie Mohan	7
19	Cester Lee	14	40	Nell Mohan	5
20	James Lee	12	41	Bessie Strifler	10
21	Willis Lee	7	42	Cliford Strifler	7

The school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the District, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

1. Number of persons between ages of 5 and 21 years residing in district June 30, 1900. Note.—Under item 1, see note on fourth page of this report, for Joint Districts.

	Males.	Females.	Total.
(1) White.	21	19	40
(2) Colored. . . .	1	1	2
(3) Totals.	22	20	42

2. Number of different persons attending school this year (see Teacher's Register).

	Males.	Females.	Total.
(1) White.	20	18	38
(2) Colored. . . .	0	1	1
(3) Totals.	20	19	39

3. Number days of school taught during the year (see Teacher's Term Reports). 138

4. Total number of days' attendance (see Teacher's Term Reports)

	Males.	Females.	Total.
(1) White.	1572	1570	3142
(2) Colored. . . .	0	94	94
(3) Totals.	1572	1664	3236

5. Average daily attendance for year (total days' attendance divided by total days of school).

	Males.	Females.	Total.
(1) White.	11 9/23	11 26/69	23 53/69
(2) Colored. . . .	0	47/69	47/69
(3) Totals.	11 9/23	12 4/69	23 53/69

6. Number of teachers required, 1; number of different teachers employed. . . . .

Names of Teachers, Minnie Byron; Grade of Certificate, 2; Weeks Employed, 28; Wages per Month, 40.

---

7. Total salary paid male teachers for the year.	
8. Total months taught by male teachers.	
9. Total salary paid female teachers for the year. . . .	$280
10. Total months taught by female teachers.	7
11. Average salary of male teachers (divide item 7 by item 8).	
12. Average salary of female teachers (divide item 9 by item 10).	$ 40
13. Length of school term, in weeks, taught by legally qualified teachers.	28
14. Total levy for school purposes for the year ending June 30, 1901.	Mills.
15. Estimated value of school property, including buildings and grounds.	$600
16. Number of school buildings.	1
17. Number of schoolrooms.	1
18. Number of schoolhouses built in year ending June 30, 1900.	0
19. Cost of same.	0
20. Amount for which schoolhouse is insured.	$ 400

21. Amount paid for insuring schoolhouse...........	$ 8
22. Amount received from insurance companies for losses	0
23. Is the state series of text-books used in your district?	Yes

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FINANCIAL EXHIBIT.

Note.—This Report must balance with the Treasurer's books.

Receipts.	Receipts.	
1. Balance in hands of District Treasurer July 1, 1899................	$ .77	
2. Amount received from County Treasurer from district taxes.........	267.44	
3. Amount received from state and county school funds apportioned to the district.......................	18.04	
4. Amount received from the sale of school bonds...................		
5. Amount received from all other sources	3.75	
6. Total amount received during the year for school purposes........	290.00	
Expenditures.		Expenditures.
7. Amount paid out during the year for teachers' wages and supervision................		$ 280.00
8. Amount paid for rents, repairs, fuel, and other incidentals........................		10.00
9. Amount paid for district library and school apparatus............................		
10. Amount paid for sites, buildings, and furniture		
11. Amount paid for all other purposes..........		
12. Total amount paid out during the year for school purposes......................		$ 290.00
13. Balance in hands of District Treasurer June 30, 1900............................		
14. Total receipts and expenditures, balanced..........................	$ 290.00	$
15. Outstanding orders (Nos. ....)....Total		$ 290.00

DISTRICT CLERK'S REPORT OF OFFICERS ELECTED AND QUALIFIED.

County Superintendent:

Sir—On the 26th day of July, A. D. 1900, the following persons were duly elected and qualified as officers of ...... School District No. ...., County of ...., State of Kansas:

Director, ... ; Post-office, ...
Clerk, James A. Mohan; Post-office, Springdale
Treasurer, ... ; Post-office, ...

Dated this ...... day of ...., 1900.

C. J. Post, District Clerk.

Remark.—The above returns are required by law to be made to the County Superintendent within Two Weeks after the election and qualification of said officers.

To County Superintendents and District Clerks:

This report is required by sec. 83, page 35, School Laws 1899. In order to secure correct reports to the State Department, as required of County Superintendents in sec. 19, page 13, School Laws 1899, the State Superintendent makes the following suggestions and requests:

1. That the District Clerk require, at the close of every term, a full and correct report, on Form No. 13, of all the facts therein called for. (See sec. 104, page 42, School Laws 1899.)

2. That the District Clerk draw all orders, both on the District Treasurer, for definite sums, keeping stubs showing date, amount, drawee and purpose of such orders. By this means there must be absolute accuracy in the financial exhibit required in this report.

3. That the County Superintendent, as required in sec. 23, page 15, School Laws 1899, notify each District Clerk of his willingness to assist in completing this report, if necessary; and that then the Superintendent decline to receive any partial report, until fully satisfied by the District Clerk that such report cannot be completed. See note at the head of this blank, regarding the apportionment of school moneys.

4. The annual report of the County Superintendent being based largely on the reports of District Clerks, it is hoped to secure correct and prompt returns from the last-named officers, with a view to making a reliable exhibit of the school work of the State.

5. I desire to call special attention to Nos. 1, 2, 4, and 5, on page 2, and urge that County Superintendents obtain complete answers to those numbers from clerks of cities of the first and second class.

Very respectfully,

Frank Nelson, State Superintendent.

(On back:) Annual Report of .... School District No. 53. For the Year ending June 30, 1900. C. J. Post, District Clerk. This report should be made out, read to the district meeting, and immediately forwarded to the County Superintendent. "Whenever a school district shall lie partly in two or more counties, the clerk of such district, in making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district, and shall report to the County Superintendent of Public Instruction of each of the counties in which such district may be partly situated." (Sec. 8, page 62, School Laws of 1897.) N. B.—The clerk of each district is required by law to transmit a report in writing of such "facts and statistics in regard to the district school as the County Superintendent may require." (Sec. 34, page 71, School Laws of 1897, last clause.) Filed this ...... day of ......, 1900. ...., County Superintendent. W. Y. Morgan, State Printer. C. J. Post.

Government's Exhibit 36.

Eq. 2131.—(2 sheets).—2-10-16.

State of Kansas, Leavenworth County, ss. In the Probate Court of said county and state.

Henry Carter who now here makes application for marriage license addressed to any person authorized by law to join in marriage himself the said Henry Carter aged 28 years, and Ara Simpson aged 32 years, being by me first duly sworn doth say that they are of lawful age.

And they the said Henry Carter and Ara Simpson are not related to each other in the degrees prohibited by law, to-wit: Parent and child, grand parent and grand child of any degree, brother and sister of either half or the whole blood, uncle and niece, aunt and nephew, nor first cousins; that they, or either of them, are not now and never have been epileptic, imbecile, feeble minded, or afflicted with insanity; also, that neither of the parents of the said Henry Carter and Ara Simpson was epileptic, imbecile, feeble minded nor afflicted with insanity at the time of and prior to his or her birth; and that there exists no legal impediment to said marriage No. 14843.

Henry Carter.

In testimony whereof I, the undersigned Judge of the Probate Court in and for Leavenworth County and ex officio clerk thereof have hereunto subscribed my name and affixed the seal of said court, at my office this 22nd day of June, A. D. 1908.

(Seal) Thomas L. Johnson, Probate Judge.

Saml Dodsworth Book Co., Legal Blank Publishers, Leavenworth, Kan. No. 10086.

Certificate of copy.

State of Kansas, Leavenworth County, ss. Probate Court.

I, Thomas L. Johnson, sole Judge and ex-officio Clerk of the Probate Court, within and for the County aforesaid, do hereby certify the foregoing to be a true copy of application for marriage license made by Henry Carter to marry Ara Simpson as the same appears from the records of said Court.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said Court at Leavenworth this 10th day of February, A. D. 1916.

(Seal) Thomas L. Johnson,
Probate Judge and Ex-officio Clerk.

(Revenue stamps—10c)

Government's Exhibit 37.

Eq. 2131.—2-10-16.

MARRIAGE LICENSE.

State of Kansas, Leavenworth County.—No. 14843.

June 22nd, A. D. 1908.

To Any Person Authorized to Perform the Marriage Ceremony, Greeting:

You are hereby authorized to join in marriage Henry Carter of Leavenworth County, Kansas, aged 28 years, and Ara Simpson of Leavenworth County, Kansas, aged 32 years.

And of this License you will make due return to my office within thirty days thereafter.

In testimony whereof, I, the undersigned Judge of the Probate Court of Leavenworth County, and ex-officio Clerk thereof, have hereunto subscribed my name and affixed the seal of said court, at my office, this 22nd day of June, A. D. 1908.

(L.S.) Thomas L. Johnson, Probate Judge.

State of Kansas, Leavenworth County, ss.

I, the undersigned do hereby certify that, by virtue of the within License, I did, on the 22nd day of June, A. D. 1908, join in marriage the parties therein named.

John A. Gregg, Bethel A. M. E. Church.

Returned and filed June 23, A. D. 1908.

Thomas L. Johnson, Probate Judge.

State of Kansas, Leavenworth County.

I, the undersigned, Judge and ex-officio Clerk of the Probate Court of said County, do certify that the above and foregoing Marriage License and Certificate of Marriage of the parties therein named is a full, true and perfect transcript of and from the record of Marriage Licenses and Marriages of said County, of the matter therein specified, as fully as the same appears of record, and that I am the lawful Custodian of said record.

Witness my hand and the seal of said Court, hereto affixed at my office, this 10th day of Feby., A. D. 1916.

(Seal) Thomas L. Johnson,

Probate Judge and Ex-officio Clerk, as aforesaid.

(10c revenue stamp)

(Endorsed on back:) No. 14843 Marriage License Henry Carter to Ara Simpson Filed June 23rd, A. D. 1908 Thomas L. Johnson, Probate Judge. Saml Dodsworth Book Co., Leavenworth, Kansas. No. 6324

Government's Exhibit 38.

(3 sheets).—Eq. 2131.—2-10-16.

WILL.

"This is the last will and testament of me, Henry Carter, of the County of Leavenworth and State of Kansas, made this thirteenth day of August, A. D. 1895.

First. I give and bequeath unto my son, Thomas Carter, and my daughter, Susan Carter, in equal shares, the following Real Estate, viz: The West half of the West Half of the Southwest quarter of Section 27, Township 9, Range 20, in Leavenworth County, Kansas, containing Forty (40) acres.

Second. I give and bequeath unto my daughter Adas Wright and my daughter Maria Yokum in equal shares the following described Real Estate, viz: The East Half of the West Half of the Southwest quarter of Section 27, Township 9, Range 20 in Leavenworth County, Kansas, containing Forty (40) acres

Third. I give and bequeath unto my grandson H. Carter for his sole use the following described Real Estate, viz: The West Twenty (20) acres of the Southwest quarter of the Northwest quarter of Section 27, Township 9 Range 20 in Leavenworth County, Kansas.

Fourth. I give and bequeath unto my son Shannon Carter the following described Real Estate, viz: The East Twenty (20) acres of the Southwest quarter of the Northwest quarter of Section 27, Township 9 Range 20 in Leavenworth County, Kansas.

Fifth. I hereby give, and bequeath the following that is to say:

To my daughter Babe Simington the sum of Two Hundred Dollars.

To my granddaughter Viola Carter the sum of One Hundred Dollars, an organ and a new feather bed.

To my son Johnson Carter the sum of Ten Dollars.

To my grandson, Henry Everett, the sum of Five Dollars.

To my grandson H. Carter, one feather bed.

And I hereby direct that all the sums of money bequeathed as aforesaid shall be paid out of the proceeds of my personal property, my executor hereinafter named having first paid all my just debts.

And I further direct that in case there shall not be sufficient left after paying all my just debts to satisfy the above sums of money as bequeathed aforesaid, then and in that case the same shall be paid and satisfied out of the Real Estate hereinbefore bequeathed to Adas Wright and Maria Yokum, Forty Acres, and the real estate hereinbefore bequeathed to my son Shannon Carter, Twenty Acres, in equal shares and proportions.

I hereby nominate and appoint as executor of this my last will and testament, Charles H. Steeper of McLouth, Kansas.

And lastly, I hereby revoke any and all wills by me at any time heretofore made.

In Witness Whereof I, Henry Carter, the testator, have to this my last will and testament set my hand and seal the day and year first above written.

his
Henry X Carter (L.S.)
mark

Signed, sealed, published and declared by the said Henry Carter as and for his last will and testament in the presence of us who in his presence and at his request and in the presence of each other have subscribed our names hereto as witnesses thereof.

T. J. Minney, McLouth, Kan.
Daniel W. Blair, McLouth, Kansas."

"PROOF OF WILL.

State of Kansas, Leavenworth County, ss. In the Probate Court of Said County.

T. J. Minney and Daniel W. Blair, of lawful age, being by me duly sworn, upon their respective oaths, in open Court, depose and say, that they were present at the execution of the last Will and Testament of Henry Carter, now deceased, that they saw him sign the same as testator, and that they signed the same as witnesses at his request and in his presence and in the presence of each other. That at the time of executing the same the said Henry Carter was of lawful age, and of sound mind and memory, and not under any restraint; that the testator well knew the contents of said Last Will at the time of signing the same.

(Seal) T. J. Minney,
Daniel W. Blair.

Sworn and subscribed to before me, this 2 day of April, 1902. Laurens Hawn, Probate Judge.

Filed and admitted to Probate the 2 day of April, A. D. 1902. Laurens Hawn, Probate Judge.

Recorded this 2nd day of April, A. D. 1902. Laurens Hawn, Probate Judge."

—1128—

Saml Dodsworth Book Co., Legal Blank Publishers, Leavenworth, Kan. 3-50-5.

Certificate of copy, Form 1.

State of Kansas, Leavenworth County, ss. Probate Court.

I, Thomas L. Johnson, sole Judge and ex-officio Clerk of the Probate Court, within and for the County aforesaid, do hereby certify the foregoing to be a true copy of the last will and testament of Henry Carter, deceased, as the same appears from the records of said court.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said Court at Leavenworth this 10th day of February, A. D. 1916.

(Seal) Thomas L. Johnson,
Probate Judge and Ex-Officio Clerk.

State of Kansas, Leavenworth County, ss.

I, Thomas L. Johnson, sole Judge of the Probate Court, within and for said County, the same being a Court of Law and Record, hereby certify that the signature attached to the above certificate, purporting to be that of Thomas L. Johnson is his genuine signature, and that he was at the time thereof ex-officio Clerk of said Probate Court, and as such full faith and credit are due his acts, and that the attestation of said Clerk is in due form of law and by the proper officer.

Witness my hand and the seal of said Court, at Leavenworth, this 10th day of February, 1916.

(Seal) Thomas L. Johnson,
(10c revenue stamp) Probate Judge.

Government's Exhibit 39.

Eq. 2131.—2-14-16.

Gov. Ex. 13.—2131.—2-24.

WARRANTY DEED—Form 801.

This Deed, Made this .... day of .... in the year of our Lord one thousand nine hundred and ...., between Thomas Atkins C7913 of the County of .... and State of Colorado, of the first part, and H. U. Bartlett of the County of Creek and State of Okla., of the second part:

Witnesseth, That the said party of the first part, for and in consideration of the sum of Four Thousand ($4000.00) no/100 Dollars to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, his heirs and assigns forever, all the following described lot or parcel of land, situate, lying and being in the County of Creek, and State of Okla., to-wit:

W2 of NE4 of Sec. 5 and SW4 of NW4 of Sec. 4, Twp. 18 N., Rge 7 E.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

To Have and To Hold The said premises above bargained and described, with the appurtenances, unto the said party of the second part, his heirs and assigns forever. And the said Thomas Atkins C 7913 party of the first part, for his heirs, executors and administrators, does covenant, grant, bargain and agree to and with the said party of the second part, his heirs and assigns, that at the time of the ensealing and delivery of these presents he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance in law, in fee simple, and has good right, full power and absolute authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants bargins, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever; (except as hereinafter specified) .... and the above bargained premises in the quiet and peaceable possession of the said party of the second part, ... heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will warrant and forever defend.

In Witness Whereof, The said party of the first part has hereunto set his hand and seal the day and year ...... above written.

.... (Seal)
.... (Seal)
.... (Seal)
.... (Seal)

Signed, sealed and delivered in presence of

....
....
....

State of Colorado, County of ...., ss.

I, ... a Notary Public in and for the said County, in the State aforesaid, do hereby certify that .... personally known to me as the person whose name...... subscribed to the annexed Deed, appeared before me this day in person, and acknowledged that .... signed, sealed and delivered the said instrument of writing

as..............free and voluntary act for the uses and purposes therein set forth...
....

Given under my hand and .... seal, this ...... day of ...., A. D. 191...

My commission expires................

......................., Notary Public.

(On back:) Date .... 191.. Lot .... Block .... Warranty Deed .... to .... State of Colorado, County of Pueblo, ss. I hereby certify that this Deed was filed for record at .... o'clock ...... M., ... 191.. in my office and duly recorded in Book .... Page ...., Recorder. By ...., Deputy. Fee, $........ The Franklin Press, Pueblo 1517

Government's Exhibit 40.

Eq. 2131.—2-14-16.

Gov. Ex. 12.—2131 Eq.—2-24-15.

I B of C—State, County, City Depository.

INTERNATIONAL BANK OF COMMERCE

42-5

Pueblo, Colorado, Jun 26 1914 No. 21068

Pay to the order of Thos. Atkins..................$100.00

One Hundred & no/100........................Dollars

Not over one hundred 100.

J. T. Greene, Cashier.

To The Interstate Trust Co.,
23-57 Denver, Colo.

Kennedy Ptg. Co., Fredonia, Kan.

Government's Exhibit 41.

Eq. 2131.—2-14-16.

Gov. Ex. 11.—2131 Eq.—2-24-15.

[This exhibit is an empty envelope, letterhead size—opened at end.]

H. U. Bartlett
Sapulpa
Okla.
Box 216

(2c stamp—canceled)

(Stamped:) Pueblo, Colo. Jun 26 [illegible] A. M. 1911
Mrs. Sadie James
Leavenworth
201 Cherokee St. Kansas.

Government's Exhibit 42.

Eq. 2131.—2-14-16.

[Sealed envelope endorsed on back, "Gov. Ex. 42.—Eq. 2131.—2-14-16. Gov. Ex. 15.—Eq. 2131.—2-26-15." On front of which appears the following:]

No. 362

The Within check, signed by Gem Oil Company, in sum of $1,000.00, payable to Sadie James, to be delivered by undersigned to Sadie James when witnesses furnished by her have testified in land suit wherein Minnie Folk, nee Atkins, is seeking possession of allotment in Creek Nation of Oklahoma of her son Thomas Atkins, and when Minnie Folk has gained possession of said land, and when oil and gas lease held by Chas. Page and R. A. Josey has *bee* been declared valid, and when Page and Josey are in legal possession of said land; and not until said lease has been declared valid.

In addition to payment of sum *ment-* Chas. Page and R. A. Josey are to pay all expenses and fees of witnesses, to be produced by Sadie James, said expenses not to exceed sum of $500.00.

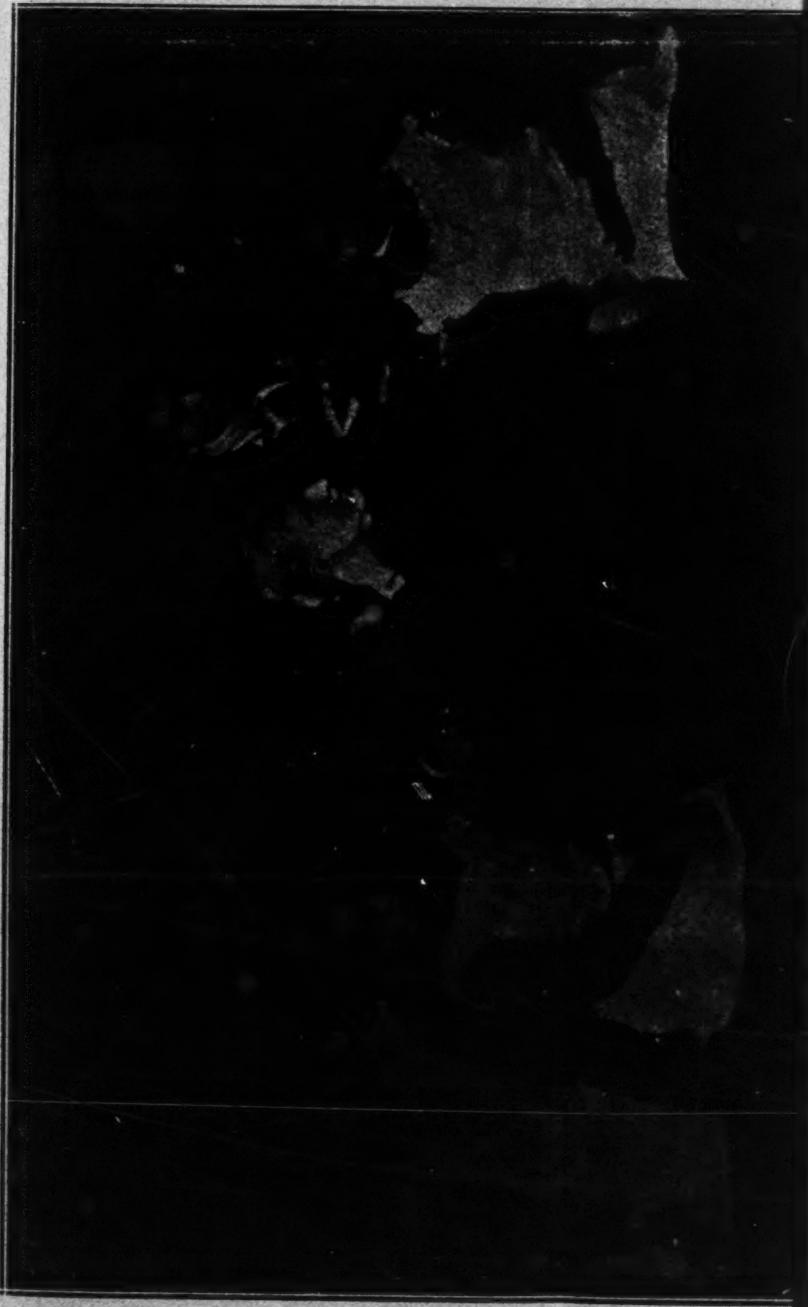
In event that Chas. Page and R. A. Josey are not declared legal owners of oil and gas lease covering land of Thomas Atkins, then the inclosed check is to be returned to them.

The First National Bank, of Tulsa,
By A. E. Bradshaw.

The above stipulation is this 20th of August, 1914, agreed to.
Sadie James.

Nov 10-1914

Received from Gem Oil Company the sum of Two hundred fifty Dollars to apply on the within check. Sadie James.



Government's Exhibit 43.

Eq. 2131.—2-19-16.

Dennis Jones, Lawyer. Leavenworth, Kansas.

Leavenworth Kansas, November 26th, 1913.

Codding and Codding, Lawyers,
Leavenworth Kansas.

Gentlemen:

I have known this woman for many years, dating back to her girlhood days, during which period I have not at any time heard of any wrong act or deed on her part, her maiden name was Sadie Harris, and until her marriage to Charles Lane, her name was Sadie Johnson, and as far as I know she is a worthy woman.

Respectfully,

Dennis Jones.

Government's Exhibit 44.

Eq. 2131.—2-22-16.

[See insert herewith for reproduction of photographic group of pupils at Carlisle School.]

Government's Exhibit 45.

Eq. 2131.—2-22-16.

[See insert herewith for reproduction of small photograph. Endorsed on back: "J. N. Choate, Photographer for Indian Training School, Carlisle Barracks, Pa."]

Government's Exhibit 46.

Eq. 2131.—2-24-16.

Worked for Egendorff Dec 1-1879
Aged 15 years

Worked for Egend. to Oct 1880 then for Lange until 1883 then went to college where I graduated Mch 13-1885

April of 1885 I worked a short while for Egend. then back to Lange until Dec 11-1886 went in business for myself

Molly Peters fortune teller
Page owner of wells
Mr. Lane
Judge Stewart
Ella Abbott — 3 Cher. 138 Del.

Indian Minnie
Minnie Atkins
Tommy Atkins
Mrs Lesher Granny
Jim Mayo
alive

Government's Exhibit 47.

Eq. 2131.—2-29-16.

$300.00 Leavenworth, Nov. 27, 1885
GERMAN BANK
of Leavenworth, Kansas.
Pay to Alonzo F. Callahan——or order
Three Hundred——————Dollars
No. 1027 C. T. W. Dapley
Saml Dodsworth Bank Co. Leavenworth

(Stamped on face of check:) German Bank, PAID Nov 28 1885 Leavenworth, Kas.

(Endorsed on back:) A. F. Callahan.

Government's Exhibit 48.

Eq. 2131.—2-29-16.

$225.00 Leavenworth, Oct. 29, 1885
GERMAN BANK
of Leavenworth, Kansas.
Pay to Henry Rammelt————or order
Two hundred and twenty-five Dollars
No. 1007 C. T. W. Dapley
Saml Dodsworth Bank Co. Leavenworth

(Stamped on face of check:) German Bank, PAID Oct 29 1885 Leavenworth, Kas.

(Endorsed on back:) Hy. Rammelt.

Government's Exhibit 49.

Eq. 2131.—2-29-16.

$151.00 Leavenworth, Oct 27 1885
GERMAN BANK
of Leavenworth, Kansas.

Pay to J. C. McHale————or order
One hundred and fifty-one——Dollars
No. 1005 C. T. W. Dapley
Saml Dodsworth Bank Co. Leavenworth

(Stamped on face of check:) German Bank, PAID
Oct 27 1885 Leavenworth, Kas.

(Endorsed on back:) J. C. McHale

Government's Exhibit 50.

Eq. 2131.—2-29-16.

Register's Form.

THIS DEED, Made this eighteenth day of November in the year of our Lord One Thousand Eight Hundred and Eighty-five Between Emma Kauffer formerly Emma Ferrell and Walter W. Kauffer her husband of Kansas City, Mo., parties of the first part, and Frederick Werner, party of the second part.

Witnesseth, That the said parties of the first part, for and in consideration of the sum of Twenty-five Dollars, to them in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, do by these presents Remise, Release and Quit Claim unto the said party of the second part and to his heirs and assigns forever, all their right, title, interest, claim and demand in and to the following described tract, piece and parcel of land situate, lying, and being in the City and County of Leavenworth and State of Kansas namely:

Lots numbered twenty three and twenty four in Block numbered twenty four Leavenworth City (City Proper) "on final town"

together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining:

To Have and to Hold the Same, To the said party of the second part, and to his heirs and assigns, to the sole and proper use, benefit and behoof of the said party of the second part, his heirs and assigns, forever.

In Witness Whereof, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Walter W. Kauffer (Seal)
Emma Kauffer (Seal)

State of Missouri, Jackson County, ss.

Be It Remembered, That on this 19th day of November, A. D. Eighteen Hundred and Eighty five, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Emma Kauffer, and Walter W. Kauffer her husband, who are personally known to me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal, the day and year last above written.

My Commission expires the 30th day of March, A. D. 1887.

(Seal) Jos. L. Norman, Notary Public.

State of Kansas, Leavenworth County, ss.

I, the County Clerk of the County of Leavenworth, in the State of Kansas, hereby certify that I have properly entered the transfer made by the within deed on the Transfer Record in my office, as such Clerk, on page 79 of Book B thereof, this 20th day of November, A. D. 1885.

(Seal) J. W. Niehaus, County Clerk.

(Endorsed on back:) Quit Claim Deed from Emma Kauffer et al. to Frederick Werner State of Kansas, Leavenworth County, ss. This Instrument was filed for Record in the office of the Register of Deeds, in and for said County, on the 20th day of November, A. D. 1885, at 11 3/4 o'clock A. M. and duly recorded in Book .... of Conveyances at Page .... Fee, $.... C. W. Curtan, Register of Deeds. (Notation, in pencil:) Mail to Frederick Werner Esq., Care A. P. Scheverman, Kansas City, Mo. Dassler

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Government's Exhibit 51.

Eq. 2131.—2-29-16.

THIS DEED, Made this twenty-fourth day of November in the year of our Lord One Thousand Eight Hundred and Eighty-five Between Frederick Werner, a single man, party of the first part, and Charles F. W. Dassler and Laban Gardner Hopkins, parties of the second part.

Witnesseth, That the said party of the first part, for and in consideration of the sum of Twenty-five Dollars to him in hand paid by the said parties of the second part, the receipt whereof is hereby confessed and acknowledged, doth by these presents Remise, Release and Quit Claim unto the said parties of the second part, and to their heirs and assigns forever, all his right, title, interest, claim and demand in and to the following described tracts, pieces and parcels of land situate, lying and *one* being in the City and County of Leavenworth and State of Kansas namely:

Lots numbered Twenty-three and Twenty-four in Block numbered Twenty-four, Leavenworth City (City Proper) "original town"

together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining:

To Have and to Hold the same, To the said parties of the second part, and to their heirs and assigns, to the sole and proper use, benefit and behoof of the said parties of the second part, their heirs and assigns, forever.

In Witness Whereof, The said party of the first part hath hereunto set his hand and seal the day and year first above written.

Frederick Werner (Seal)

Sealed and Delivered in the presence of

N.B. Interlineation on line marked "one" made and noted before execution. Herbert Nicklewicz.

(Pencil notation:) Let notary as *envscv* [illegible]

State of New York, Greene County, ss.

Be It Remembered, That on this 30th day of November, A. D. Eighteen Hundred and Eighty-five, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Frederick Werner, who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I have hereunto set my hand and affixed my official Seal, the day and year last above written.

(Seal) Herbert Nicklewicz, Notary Public.

My Commission expires the 30th day of March, A. D. 1887.

(Pencil notations:) fill in No. Clerk's certificate to notary's [eracier]

State of Kansas, Leavenworth, County, ss.

I, the County Clerk, of the County of Leavenworth in the State of Kansas, hereby certify that I have properly entered the transfer made by the within deed on the Transfer Record in my office, as such Clerk, on page 85 of Book B thereof, this 3d day of Dec., A. D. 1885.

J. W. Niehaus, County Clerk.

(Seal) By J. A. McAuliffe, Deputy.

(Endorsed on back:) Quit Claim Deed from Frederick Werner to Charles F. W. Dassler and Laban Gardner Hopkins. State of Kansas, Leavenworth County, ss. This instrument was filed for Record in the office of the Register of Deeds, in and for said County, on the 3rd day of December, A. D. 1885, at 11 3/4 o'clock A. M., and duly recorded in Book 96 of Conveyances, at Page 324. Fee, $.... C. W. Curtan, Register of Deeds. L. G. Hopkins, Attorney at Law and Examiner of Land Titles, No. 305 Delaware Street, Leavenworth, Kan. (Pencil notation:) Col $1.25 C. F. W. D. Comp.

Government's Exhibit 52.

Eq. 2131.—3-1-16.

Telsa, Okla., 1-22-14.

My Dearest Mother

I am verry sorry I did not answer your letter sooner but I was in douts as to what I was goint to do. Mama I lost Lucy add. please send it to me I Have bought a Cafay and I am doing verry nice at presand I cant say just How weel I like this Place just yet. How is Janes and family and Eva. Chase if nothing Happons I shall be up Home some time next month for a few days they are all very nice to me down Hear especialy my chums girl mirtice she dont allow me to go with any one but you now I dont care well I will close as I am verry Bissie at Presend

from yours

Respt. Sam

Address Nashes Cafey 126 North Greenwood Ave.

Government's Exhibit 53.

Eq. 2131.—3-1-16.

[An envelope:]

(2c stamp—canceled)

(Stamped:) Kans. City & Tulsa IR204 Jan 22 1915 R. P. O.

After 5 days, return to 126 North Greenwood St., Sam Nash Caff, Tulsa Okla.

Mrs. Marrie Nash
Leavenworth Kansas
No. 1223 Kickapoo St.

Government's Exhibit 54.

Eq. 2131.—4-5-16.

[Three checks.]

No. 642 Leavenworth, Kans., July 14, 1885

INSLEY, SHIRE & CO. BANKERS

Pay to John J. Malone—————or order
Two Hundred——————————Dollars.
$200.00 John Rohr
Buxton & Skinner Lith St. Louis.

(Stamped on face of check:) Insley, Shire & Co., PAID Jul 14 1885 Leavenworth, Kans.

(Endorsed on back:) John J. Malone.

No. 604 Leavenworth, Kans., May 28, 1885

INSLEY, SHIRE & CO. BANKERS

Pay to John J. Malone—————or order
Three Hundred——————————Dollars.
$300.00 John Rohr
Buxton & Skinner Lith St. Louis.

(Stamped on face of check:) Insley, Shire & Co., PAID May 28 1885 Leavenworth, Kas.

(Endorsed on back:) John J. Malone.

No. 664
Leavenworth, Kans., August 18, 1885

INSLEY, SHIRE & CO. BANKERS

Pay to John J. Malone—————or order
Five Hundred——————————Dollars
$500.00 John Rohr
Buxton & Skinner Lith St. Louis.

(Stamped on face of check:) Insley, Shire & Co., PAID Aug 18 1885 Leavenworth, Kas.

(Endorsed on back:) John J. Malone.

(Stamped on back:) Leavenworth PAID Aug 18 1885 National Bank.

Government's Exhibit 55.

Eq. 2131.—4-8-16.

MARRIAGE LICENSE.

State of Missouri, County of Buchanan.

This license authorizes any Judge, Justice of the Peace, licensed or ordained preacher of the Gospel, or any other person authorized under the Laws of this State, to solemnize Marriage between Edward L. Bell of Wathena County of Doniphan and State of Kas, who is over the age of twenty one years and Miss Nettie Mabray of St. Joseph County of Buchanan and State of Mo. who is over the age of eighteen years.

Witness, my hand as Recorder with the Seal of Office hereto affixed at my Office in St. Joseph, Missouri, the 31st day of Jany., 1889. (Seal)

By Dan'l T. Lysaght, Deputy. Thomas N. Finch, Recorder.

Note, If the man is under twenty-one or the woman under eighteen, add the following: The Father giving his name (or Mother or Guardian as the case may be) of the said A. B. or C. D. as the case may require, has given his or her assent to the said Marriage.

State of Missouri, County of Buchanan, ss.

This is to Certify that the undersigned a Minister of the Gospel did at St. Joseph in said County on the 31st day of January, A. D. 1889, unite in Marriage the above named persons.

Rev. S. S. Smith.

Filed for record this 31st day of January, 1889. Thomas N. Finch, Recorder.

State of Missouri, County of Buchanan, ss.

I, Harry C. Yates, Recorder of Deeds within and for the County and State aforesaid, do hereby certify that the above and foregoing instrument of writing is a true and correct copy of the Record, of marriage of Edward S. Bell and Nettie Mabray as recorded in book H at page 220 of the Records of Buchanan County.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal at my office in St. Joseph, Mo., this 28th day of March, 1916.

Harry C. Yates, Recorder of Deeds.

(Seal) By C. O. Corneleus, D. R.

(10c revenue stamp)

Government's Exhibit 56.

Eq. 2131.—5-22-16.

Form 3955.

——— 1:45 p m [partly illegible]

Request to Call for Special-Delivery Letter.

UNITED STATES POST OFFICE.

(Date) 5-15-16

To Joe A. Malone

Please call at P. O. presenting this notice, for a special-delivery letter that could not be delivered for the following reason: not in.

If not called for before the carrier begins his next regular delivery, the letter will be delivered by carrier, as addrssed, at 952 So. E St.

No. of Letter 2835 R. Hitchcock, Postmaster.

(This notice should be left at the addressee's residence or place of business, put in his post-office box, or otherwise delivered to him as quickly as possible.) c5—3550

Government's Exhibit 57.

Eq. 2131.—5-22-16.

Leav Kans

Joe A. Malone
Tacoma Wash

Dear Joe

Pardon my writing you, but I ask you for old friendship sake to give no Deposition or to talk to this Oil Co until I talk to you for there might be things come out that neither of us would want the Public to no Can I see you if I ship in there for a couple of hours and out I will not put you in bad in any way a few words with you is all I want wire me and I will leave at once one of our Lawyers a a former Captain Hanford called on you he arrived in 11 worth a couple days ago and the other out fit is a Negro Oil Co fighting, fighting us awaiting an early reply with ever best wishes yours

Ella Witt Dugan

Government's Exhibit 58.

Eq. 2131.—5-22-16.

[Envelope.]

(Special delivery stamp)
[Two canceling stamps, illegible.]

(Stamped:) Leavenworth May 12 3:30 PM Kans
2835 1916

Joe A Malone
Tacoma Wash
find this man
952 So E

(Stamped on back:) Tacoma May 15 1:30 PM Wash
(Canceling stamp:) 1—1916

Government's Exhibit 59.

Eq. 2131.—5-23-16.

Leavenworth Kan July 5th, 1885.

To the Honorable Mayor and City Council,

We the undersigned citizens and tax payers of Leavenworth do pray to your honorable body to have the two houses of illfame known and kept by Lillie White 217 Seneca St. and Stella Forest 303 Seneca street removed from said street on the ground that it is a nuisance of the worst kind no women or child can pass that said street between 2nd and 3rd after dark without being insulted by roughs hanging around said places. It also does damage to property as no respectable people want to live around such places and especially when they have boys and girls growing up to be men and women. It is also impossible for people to sleep nights from there hollowing and stamping noise going on in such places so that if we want to keep tenants in our houses we got to reduce the rent down to allmost nothing.

We therefore pray to your honorable body to remove these said places from said Seneca St. to a place where the ordinace calls for.

Hoping to receive your immediate attention we are yours respectfully Citizens and Tax payers of Leavenworth.

(See other side.)

Name Block Lots
Phillip Feth 24 21 & 22
All. A. Jordan 25 13 & 14
Geo P Scott 24
John Maduska 24
Peter Wilkins
Wm Gordan Block 24 Lots 6 & 7
T Johnson
G. H. Sudolph Block 24 Lot 14

Name	Block	Lots
M. Roche—lots 31 & 32 block 43.		
E. Sharon.		
T. Rivard		
John Ripineroger	block 24	Lots 5
A. H. Van Duzee	"	
F. C. Peck	"	
Mrs. H. D. Higgins	"	
Thomas McNally	Block 17	Lots 16 17
B. Cranston	do 1	do 24
J. Mettier		
John Ulrich		
Otto Ristenpart		
John Seckler		

(On back:) pet. to city mayor with asst to abate nuisance

Government's Exhibit 60.

Eq. 2131.—5-23-16.

Leavenworth, Kan. July 5th, 1885.

To the Honorable Mayor and City Council,

We, the undersigned citizens and taxpayers of Leavenworth, do pray to your honorable body to have the two houses of illfame known and kept by Lillie White, 217 Seneca St. and Stella Forest 303 Seneca Street, removed from said street on the ground that it is a nuisance of the worst kind. No woman or child can pass that said street between 2nd and 3rd after dark without being insulted by roughs hanging around said places. It also does damage to property as no respectable people want to live around such places and especially when they have boys and girls growing up to be men and women. It is also impossible for people to sleep nights from their hollowing and stamping noise going on in such places, so that if we want to keep tenants in our houses we got to reduce the rent down to almost nothing.

We therefore pray to your honorable body to remove these said places from said Seneca st, to a place where the ordinance calls for.

Hoping to receive your immediate attention, we are

Yours respectfully, citizens and taxpayers of Leavenworth.

(Name)	Block	Lots
Phillip Feth	24	21 & 22
M. A. Jordan	25	13 & 14

(Name)	Block	Lots
Geo. P. Scott	24	
John Maduska	24	
Peter Wilkens		
Wm. Gordon	Block 24 lots 6 & 7	
T. Johnson		
G. H. Ludolph	Block 24 lot 14	
M. Roche	lots 31 & 32 block 43	
E. Sharon		
T. Rivard		
John Ripineroger	Block 24 lots 5	
A. H. Van Duzee	"	
H. C. Peck	"	
Mrs. H. D. Higgins	"	
Thomas McNally	Block 17 lots 16, 17	
B. Cranston	do do 24	
J. Mettier		
John Ulrich		
Otto Ristenpart		
John Seckler		

The State of Kansas, City and County of Leavenworth, ss.

I, Fred Metschan, city clerk of the City of Leavenworth, Kansas, do hereby certify that the within and foregoing is a true, correct and perfect copy of a petition as the same appears on file in my office. Witness my hand and the seal of said city, this 23rd day of May, 1916.

(Seal)

Fred Metschan,
City Clerk, Leavenworth, Kansas.

Government's Exhibit 61.

Eq. 2131.—6-21-16.

Leavenworth, Kansas,
Wednesday, August 5, 1885.

Council met in regular session with Mayor Neely in the Chair.

Roll Call: Present—Biringer, Bruns, Bond, Cook, Przybylowicz, Miller and Roche. Absent—Richards.

The Minutes of the last regular and adjourned meetings were read and approved.

Mr. Bond rose to a * * * * * * * * * * * * * * *

The petition of Philip Feth and others to have the two houses of ill fame, occupied by Lillie White, 217 Seneca Street

and Stella Forrest 303 Seneca Street, removed and the nuisance caused thereby abated, was read and referred to City Marshall with instructions to abate the nuisance.

The appropriation ordinance for the month of July * * *

On motion counsel adjourned until Friday evening next at 7 o'clock sharp.

Wm. Shepherd, City Cler

I, Fred Metschan, City Clerk of the City of Leavenworth, Kansas, hereby certify that the foregoing is a true and correct copy and abstract of part of the proceedings of the City Council of August 5, 1885, as it appears on record (M) of said City, in this office.

In testimony whereof I have hereby affixed my hand and the seal of the City of Leavenworth, Kansas, this 21st, day of June, 1916.

(Seal)

Fred Metschan,
City Clerk, Leavenworth, Kansas.

Defendants Folk and Hanford's Exhibit 1.

Eq. 2131.—1-3-16.

[See insert herewith for reproduction of photograph of Mrs. Minnie Folk.]

Defendant Folk's Exhibit 2.

Eq. 2131.—1-10-16.

3592 Front St.
San Diego, Calif.

E. C. Hanford, Esq.,
Seattle, Wash.

Nov 10/14.

Dear Sir:

In reply to your inquiry of recent date.

There was a Minnie (Atkins) who was employed by me at Ft. Leavenworth, for several months in 1885 to /86.

I do not now recall special incidents, by reference to your letter, that would aid you in your suit.

Yours truly,

Jno. Stafford.

Defendant Page's Exhibit 4.

(5 sheets).—Eq. 2131.—1-25-16.—2485.

May 3rd, 1915.

Mr. Fred S. Cook,
Special Agent, U. S. Indian Service,
Muskogee, Okla.

Dear Mr. Cook:

Replying to your letter of the 30th ultimo, this is to advise that our records contain the information that Minnie Atkins was placed in the home of Mr. Wm. Penrose at Neshaminy, Bucks County, Pennsylvania, on the 29th of October, 1883. She remained in that home until the 13th of June, 1884, and on July the 8th of 1884 she was sent to the home of a Mr. Hyde at Fort Leavenworth, Kansas. On the latter date she was discharged as a student of this school and our records go no further.

In this connection I will add that there have been frequent requests lately for information relative to the connection with this school of Minnie Atkins. As has heretofore been the custom such letters have been answered promptly and information on hand has been given. Copies of letters giving information in the case in which you are interested have been mailed to the Superintendent's office at Muskogee.

Hoping that I will be advised how I can be of further assistance, I am,

Very respectfully,

HKM. ____________ Supervisor in Charge.

[Following note written on separate sheet of paper:]

Oct. 29-1883—Minnie Atkins was placed with Wm Penrose, Neshaminy, Bucks Co., Pa. under the outing. She ret'd June 13, 1884. Rem'd at school until July 8, 1884—when she was sent to a Mr. Hyde, Fort Leavenworth, Kans. She was discharged at this time & our records go no further.

DEPARTMENT OF THE INTERIOR
United States Indian Service

Muskogee, Okla., Apr. 30, 1915.

Mr. Oscar E. Lipps,
Supt., Carlisle Indian School,
Carlisle, Pa.

Dear Mr. Lipps:

In the investigation of the alleged birth of a Creek citizen named Tommy Atkins, we are compelled to call on you for some assistance. We are informed that in 1884, a Creek girl was attending school at Carlisle by the name of Minnie Atkins. On June 24, 1884, several Creek pupils with whom she attended school at Carlisle, returned to Oklahoma. Our information is that she, Minnie Atkins, Eliza Bell and Nancy McIntosh did not return with their class as of June 24, 1884; that Minnie Atkins was then and for sometime afterwards employed by a farmer at his home at a small town south of Carlisle. Our informant is not certain of the name of the town, but thinks it was Earlsboro, or some such name.

She informs us that Minnie Atkins stayed in the vicinity of Carlisle for several months after the others left. She also advises that she is positive that there is a record at the school as to whom Minnie Atkins was working for and what place, being what they called "farmed out;" that at regular intervals an employee of the school would make the rounds of the different neighborhoods where the pupils were farmed out and check them up as to whether they were receiving the right kind of treatment.

What I am interested in is I am trying to learn if your records will show if Minnie Atkins was working for someone in the country near Carlisle in 1884 and if so, whom and where and if the records will show the exact time she left such employment.

This may occasion you some trouble in looking up the right records, but it is very important to the Government, in a suit now pending in the United States court which comes up for hearing soon. Outside parties interested in this suit will probably try to ascertain the same information, but in my opinion, they should not be given the same unless authorized by the Commissioner or the Secretary, if you have any such record.

Will you kindly advise me at your earliest convenience relative to the above information?

With personal regards, I am,

Yours sincerely,

Fred S. Cook,
Special Agent.

FSC—L

Defendant's Exhibit 5.

Eq. 2131—2-17-16.

No. 1834 Tulsa, Oklahoma, Nov 10, 1914

EXCHANGE NATIONAL BANK.

Pay to the order of Sadie James, Tulsa, Okla.——$200.00
* *Two Hundred & no/100——Dollars

Checked:
191

GEM OIL COMPANY,
By R. A. Josey

To apply on escrow contract of $1000.00——200.00

Acceptance by endorsement is receipt in full for all items listed hereon.

(Stamped on face of check:) Exchange National Bank Nov 10 1914 Teller No. 1 Tulsa, Oklahoma

(Perforated in check:) 86-3 11-9 14

(Endorsed on back:) Sadie James.

Defendant's Exhibit 5.

2131.—3-2-15.

[Pages of exhibit fastened together with ribbon and sealed with Oklahoma State Seal.]

State of Oklahoma, County of Muskogee—ss. In the County Court. In the Matter of the Guardianship of the Estate of Quentin Garrett, a minor, Charles W. Garrett, guardian.—Probate No. 2309 St.

ORDER CONFIRMING SALE OF OIL AND GAS MINING LEASE.

This cause coming on for final hearing before this Court on this 20th day of November, 1914, the same being a regular day of the October, 1914, term of said Court, on the return of the guardian Charles W. Garrett, and the report of his proceedings under the order of sale heretofore made, and it having been proven that in pursuance of the said order of sale as ordered by this Court, the said guardian sold at private sale to J. Garfield Buell an oil and gas mining lease on the land of his said ward, situated in Creek County, State of Oklahoma, to-wit:

Southwest Quarter of Northeast Quarter of Section Five (5); Lot Two (2) of Section Five (5); Southwest Quarter of Northwest Quarter of Section Four (4); all in Township Eighteen (18) North, Range Seven (7) East, Situated in Creek County, Oklahoma, and containing 120 acres, more or less, during the minority of said ward and as much longer thereafter as oil or gas is found in paying quantities, and it appearing to the Court that the said purchaser J. Garfield Buell has paid no cash bonus of $nothing per acre, or a total of $nothing and as further terms of a contract made by the parties hereto this date to the said Charles W. Garrett, as guardian, and it appearing that the said J. Garfield Buell is the highest and best bidder for said lease, and that said sale was made and conducted fairly and legally and in accordance with the order of this Court, and it further appearing that the said bid of J. Garfield Buell, to-wit: the sum of $——— per acre and a royalty of one eighth of all the oil produced and saved from the premises or its equivalent in money, and the sum of $200.00 per year for each gas well from which gas is marketed, is fair and adequate, and is not disproportionate to the value of said oil and gas lease, and that a greater sum cannot be obtained;

It is therefore ordered and adjudged by the Court that the said sale of the said oil and gas lease to the said J. Garfield Buell, be confirmed and approved, and it is ordered that the said guardian, Charles W. Garrett execute to the said purchaser J. Garfield Buell an oil and gas mining lease and make return to this Court for final action and approval.

Done in open court, this 20th day of November, 1914.

Thos. W. Leahy,
Judge of the County Court in
and for Muskogee County.

Filed: Nov. 20, 1914, in County Court.

OIL AND GAS MINING LEASE BY GUARDIAN, UNDER ORDER OF COURT.

Know All Men by These Presents: That heretofore, on the 20th day of November, 1914, Charles W. Garrett as the guardian of the estate of Quentin Garrett a minor, filed in the County Court of Muskogee County, State of Oklahoma, his petition for leave to lease for oil and gas purposes, the land hereinafter described belonging to his said ward, and

Whereas, the said Court, did, on the 20th day of November, 1914, make an order of sale, directing the said guardian Charles W. Garrett to sell at private sale to the highest and best bidder, an oil and gas lease on the said land of his said ward, during the minority of his said ward, and as much longer thereafter as oil or gas is found in paying quantities, and

Whereas, the said guardian sold said oil and gas lease to J. Garfield Buell on the 20th day of November, 1914, as shown by his report of said sale to said Court, and

Whereas, the said County Court, did on the 20th day of November, 1914, make an order confirming and approving said sale, and ordering and directing the said guardian to execute a lease to the said purchaser, in words and figures, to-wit:

> "This cause coming on for final hearing before this Court on this 20th day of November, 1914, the same being a regular day of the October, 1914, term of said Court on the return of the Guardian Charles W. Garrett, and the report of his proceedings under the order of sale heretofore made, and it having been proven that in pursuance of the said order of sale, as ordered by this Court, the said Guardian sold at private sale to J. Garfield Buell an oil and gas mining lease on the land of his said ward situated in Creek County, State of Oklahoma, to-wit:
>
> > Southwest Quarter of Northeast Quarter of Section Five (5). Lot Two (2) of Section Five (5); Southwest Quarter of Northwest Quarter of Section Four (4), all in Township Eighteen (18) North, Range Seven (7), East,
>
> and containing 120 acres, more or less, during the minority of said ward and as much longer thereafter as oil or gas is found in paying quantities, and it appearing to the Court that the said purchaser, J. Garfield Buell has paid a cash bonus of No dollars, per acre, or a total of nothing to the said Charles W. Garrett as Guardian, and it appearing that the said ...... is the highest and best bidder for said lease, and that said sale was made and conducted fairly and legally and in accordance with the order of this Court, and it further appearing that the said bid of ....., to-wit: the sum of $—— per acre and a royalty of one eighth of all the oil produced and saved from the premises or its equivalent in money, and the sum of $200.00 per year for each gas well from which gas is marketed, is fair and adequate, and is not disproportionate to the value of said oil and gas lease, and that a greater sum cannot be obtained;
>
> "It is therefore ordered and adjudged by the Court that the said sale of the said oil and gas lease to the said ———— be confirmed and approved, and it is ordered that the said guardian, Charles W. Garrett execute to the said purchaser J. Garfield Buell an oil and gas mining

lease and make return to this Court for final action and approval.

"Done in open Court, this .... day of ...., 191..

.....................,

Judge of the County Court in
and for Muskogee County."

Therefore, This Agreement, Made and entered into in duplicate, the 20th day of November, A. D. 1914, by and between Charles W. Garrett as Guardian of the estate of Quentin Garrett a minor, of Muskogee County, Oklahoma, party of the first part, lessor, and J. Garfield Buell, party of the second part, lessee.

Witnesseth, That the said party of the first part, for and in consideration of the sum of One Dollar and other valuable consideration under terms of contract made by the parties hereto this date, to him in hand well and truly paid by the said party of the second part, the receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of the party of the second part to be paid kept, and performed, has granted, demised, leased and let and by these presents does grant, demise, lease and let unto the said second party, his heirs, successors or assigns, for the sole and only purpose of mining and operating for oil and gas, and of laying pipe lines, and of building tanks, powers, stations and structures thereon to produce and take care of said products during the minority of said ward, and as much longer thereafter as oil or gas is found in paying quantities, all that certain tract of land situate in the County of Creek, State of Oklahoma, described as follows, to-wit:

> Southwest Quarter of Northeast Quarter of Section Five (5), Lot Two (2) of Section Five (5); Southwest Quarter of Northwest Quarter of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East, Situated in Creek County, State of Oklahoma,

and containing 120 acres, more or less.

In consideration of the premises the said party of the second part covenants and agrees:

1st: To deliver to the credit of the first party, his heirs or assigns, free of cost, in the pipe line to which he may connect his wells, the equal one-eighth part of all oil produced and saved from the leased premises.

2nd. To pay to the first party Two Hundred Dollars, each year in advance for the gas from each well where gas only is found, while the same is being used off the premises, and the first party to have gas free of cost from any such well for——stoves and——inside lights in the principal dwelling house on said land during the same time by making his own connections with the well.

3rd. To pay to first party for gas produced from any oil well and used off the premises at the rate of Two Hundred Dollars, per year, for the time during which such gas shall be so used, said payments to be made each three months in advance.

The party of the second part agrees to complete a well on said premises within —— from the date hereof or pay at the rate of——Dollars, in advance for each additional——month such completion is delayed from the time above mentioned for the completion of such well until a well is completed.

The party of the second part shall not be bound by any change in the ownership of said land until duly notified of any change either by notice in writing duly signed by the parties to the instrument of conveyance, or by the receipt of the original instrument of conveyance or a duly certified copy thereof.

The party of the second part shall have the right to use, free of cost, gas, oil and water produced on said land for his operations therein except water from wells of first party. When requested by the first party, the second party shall bury——pipe lines below plow depth.

No well shall be drilled nearer than Two Hundred feet to the house or barn on said premises.

Second party shall pay for damages caused by him to growing crops on said land.

The party of the second part shall have the right at any time to remove all machinery and fixtures placed on said premises including the right to draw and remove casing.

All payments which may fall due under this lease may be made directly to the lessor or deposited to his credit in American National Bank or Guaranty State Bank, both of Muskogee, Oklahoma.

The party of the second part,——heirs, successors or assigns, shall have the right at any time, on the payment of ——Dollars, to the party of the first —— heirs or assigns, to surrender this lease for cancellation, after which all payments and liabilities thereafter to accrue under and by virtue of its terms shall cease and determine: provided, this surrender clause and the option therein reserved to the lessee shall cease and become absolutely inoperative immediately and concurrently with the institution of any suit in any court of law or equity by the lessee to enforce this lease, or any of its terms, or to recover possession of the leased land, or any part thereof against or from the lessor, his heirs, executors, administrators or assigns, or any other person or persons.

All covenants and agreements herein set forth between the parties hereto shall extend to their heirs executors, administrators, successors or assigns.

Witness the following signatures the day and year first above written.

Quentin Garrett
By C. W. Garrett
Guardian of the Estate of
Quentin Garrett Minor,
J. Garfield Buell

The above and foregoing lease is this 20th day of Nov. 1914, by the Court examined and approved concurrently with the order of confirmation thereof.

Court copy.

Judge of the County Court of
Muskogee County, Oklahoma.

State of Oklahoma, County of Muskogee, ss.

On this 20th day of November, 1914, before me, the undersigned a Notary Public, within and for the County and State aforesaid, personally appeared C. W. Garrett Guardian of the estate of Quentin Garrett to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal.

(Seal) Minta Harvey, Notary Public.

My Commission expires Feb. 2, 1917.

Filed: Nov. 20, 1914, in County Court.

State of Oklahoma, County of Muskogee, ss. In the County Court. In the Matter of the Guardianship of the Estate of Quentin Garrett, a Minor, Charles W. Garrett, Guardian.—Probate No. 2309 St.

ORDER CONFIRMING OIL AND GAS MINING LEASE.

Now on this 20th day of November, 1914, the same being a regular day of the October, 1914, term of said Court this cause came on for hearing on the return and report of Charles W. Garrett, Guardian of Quentin Garrett, a minor, showing that on the 20th day of November, 1914, he executed an oil and gas mining lease on the lands of his said ward, situate in the County of Creek, State of Oklahoma, described as follows, to-wit:

> Southwest Quarter of Northeast Quarter of Section Five (5); Lot Two of Section Five (5); Southwest Quarter of Northwest Quarter of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East, Situated in Creek County, Oklahoma, and containing 120

acres, more or less, during the minority of said ward, and as much longer thereafter as oil or gas is found in paying quantities, in accordance with the prior order of this Court confirming the sale of said lease.

And the said oil and gas mining lease, presented for approval and shown by the report of said guardian, having been fully examined by this Court, the same is hereby approved, and the said guardian is hereby ordered and directed to deliver the same to J. Garfield Buell, as in said order of confirmation of sale provided.

Dated this 20th day of November, 1914.

Thos. W. Leahy,
Judge of the County Court of Muskogee County.

Filed: Nov. 20, 1914, in County Court.

CLERK'S CERTIFICATE.

State of Oklahoma, County of Muskogee, ss.

I, C. H. Shaffer, Court Clerk within and for the County and State aforesaid, hereby certify that the above and foregoing is a full, true and complete transcript of the Order confirming sale of Oil and Gas Mining Lease; Oil and Gas Mining Lease by Guardian, under order of Court, as per copy on file; Order confirming Oil and Gas Mining Lease, as the same remains of record and on file in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the County Court at my office in Muskogee, Oklahoma, this 2nd day of March, A. D. 1915.

(Seal) C. H. Shaffer, Court Clerk.

(Revenue stamps—10c)

JUDGE'S CERTIFICATE.

State of Oklahoma, County of Muskogee, ss.

I, ..., Judge of the .... Court of Muskogee County, State of Oklahoma, do hereby certify that the above named C. H. Shaffer by whom the foregoing attestation was made, was at the time of so making the same, and is now, Clerk of said Court, to all whose acts as such, full faith and credit should be given as well in Courts of this jurisdiction as elsewhere; that the seal thereto annexed is the seal of said .... Court, which said attestation so made by him is in due form of law, and that he was entitled so do to.

Witness my hand this .... day of .... A. D. 191..

.........................., Judge.

Defendant's Exhibit 6.

Eq. 2131.—2-17-16.

Seattle Wash.
Saturday Dec. 19th, 1914.

Mrs. Minnie Folk. I want to see you meet me at the post office, answer or come with this boy.

Sadie James.

Defendant's Exhibit 6.

2131.—3-3-15.

In the United States District Court for the Eastern District of Oklahoma. The United States of America, Complainant, vs. Minnie Atkins, et al., Defendants.—Equity No. 2131.

AFFIDAVIT.

State of Oklahoma, County of Muskogee, ss.

Minnie E. Folk, being first duly sworn, deposeth and says:

I am Minnie E. Folk, one of the defendants in the above entitled cause. My maiden name was Minnie Atkins. I am about fifty years old and live at this time in Seattle, Washington. I was born at El Paso, Texas, and during my childhood lived at L Creek, in the Creek Nation, Indian Territory, near Muskogee. My father's name was Thomas Atkins and my mother's name was Mary Jane Atkins. I had a number of brothers and sisters, several of whom died when very young; Nancy and Lee lived to be grown. Lee Atkins was killed some time in the early nineties. My father was a member of the Creek Tribe of Indians and I am a Creek Indian of the half blood. My mother and father are both dead. They died when I was quite young.

After my father died, I went to school at Tallahassee Mission, and stayed there in school until it was burned down. After the school was burned down I went to Carlisle to the Carlisle school and stayed there about three years. From Carlisle I went to Leavenworth and went to work for Mr. Geo. H. Hyde, a banker at Leavenworth. This was about the year 1883 or 1884. I do not remember years very well, but Hyde's was the first place I worked after I left Carlisle and I went to work for them just as soon as I got to Leavenworth from Carlisle.

While I was working at Mr. Hyde's I was going around town and a month or two after I was there I got into a family way. When I found I was in a family way I could not work at Hyde's any more and I went to other places in town and to Granny Letcher's, an old colored woman who lived on Seneca Street, and it was where my child was born.

This was my first child, a boy, and I named him Thomas Atkins.

Granny Letcher was part white and part negro blood and most of the people around her were negroes. I didn't want anybody to know I was living at that kind of a house. At Granny Letcher's there was Sam Nash, Walter Banks and Jim Mayo. These were the boys whom Grammy was raising and they were older than my Tommy.

As soon as I got well I left Granny's and after that came there only occasionally to see the baby. I went to Fort Leavenworth about three miles from Leavenworth, and went to work there.

Before Tommy was born I had not gone with any soldiers. I went out to work at the Fort for Mr. Grodevant and I worked for him for awhile and then I went to work for Mrs. Lieutenant Stafford.

I didn't tell anybody at the Fort about my having been at Granny Letcher's or about my having associated with people who were around Granny Letchers; or my having given birth to Tommy. After I was working at the Fort I went into town from time to time and went to Granny Letcher's and helped take care of the baby. I didn't tell anybody about my doing that or about my going to Letcher's.

While I was working at Lieutenant Stafford's I met

Charles Peterkin, a soldier in the 18th Infantry, stationed at the Fort, and became associated with him as husband and wife. I worked for Lieutenant Stafford about a year I think, and left there because I was about to give birth to my second child. This child was born in Leavenworth and only lived a short time. It was a boy child and was buried in the cemetery near Leavenworth. Quite awhile after the birth and death of my second child the 18th Infantry was transferred to Fort Logan, Colorado, and I went there to join Charles Peterkin a little while later. When I left Leavenworth, Tommy was about two years old.

At Fort Logan I gave birth to a girl baby, which I named Alice, but we called it "Mable." This is the little girl whom I wrote about to the Indian Territory when I wrote about Thomas. I do not know how they got her name "Mary." Before Mable died I wrote to the Indian Territory ["to Kate Holden, my half sister, and I told her" marked out with ink, and "G.M.W." written on margin] about Thomas and Mable. Mable only lived a little while and was buried in the Post cemetery at Logan.

While I was at Fort Logan and after the death of Mable, the 18th Infantry was transferred to San Antonio, Texas, but I remained at Fort Logan and became associated with "Bev" Harrison, and lived with him as his wife. He had the Government contract for furnishing meat to the Post. While living with Bev Harrison I gave birth to two children, both boys, whom I called Charlie and Harvey Harrison. When Charlie could walk and Harvey was in short dresses I went down to the Indian Territory and took Charlie and Harvey with me. I talked to my relatives about my children and told them the little girl was dead. I went to the 1895 payment at Okmulgee and saw the pay roll there. They had the little girl and Thomas, and Harvey and Charlie. I saw Sam Brown there. I stayed around Indian Territory for awhile and left my two boys, Charlie and Harvey, with my half sister, Kate Holden.

I saw my sister, Nancy Atkins, at Wagoner, and Nancy told me that she had had a girl child but that it died the day after it was born and was buried near Wagoner. While I was there my brother, Lee Atkins, was killed at Eufaula. After awhile I went back to Fort Logan. From Fort Logan I went to Detroit, Michigan; from there I went to Vancouver Barracks; from there to the Phillipines; from there back to Vaucouver and from there to Helena, Montana, and from there to Seattle, Washington, where I now live.

I have been married about eight years to Harry B. Folk, who is a corporal in the 14th Infantry of the United States Army.

Within the last year people have been coming to me about my boy Thomas. I was always ashamed of where Tommy was born. I didn't want people to know who I was going with when I began carrying him, and at the time he was born. After he was born I tried very hard to forget and have people forget the life I led at that time. I didn't tell people my boy was born at the old colored woman's house until I had to. I thought after they knew he was born and was my son that that was all there was to it.

My husband is a white man and in the army, and I did not want him to know that part of my past.

My boy Tommy was born at Granny Letcher's, up-stairs in the second story. There are lots of people in Leavenworth whom I knew then who are now in Leavenworth, and know about him. After I went to Fort Leavenworth I didn't live in Leavenworth but stayed out at the Fort.

I was sick once when I was living at the Fort and went to the Sister's Hospital for a female trouble.

A little while ago Frank Montgomery and a one-armed man and a negro woman named Sadie James, also a man named Robinson came out to my house in Seattle, and bullied and harassed me, trying to get me to tell that Tommy was not my child. I am an old woman, and my health is not good, and they wore me out pestering me and telling me that I had not told the truth and tried to prejudice me against my friends. I am telling the truth. Tommy was my boy; he was my first child, and he was born at Granny Letcher's. I told them in the Indian Territory that his father was a white man.

Minnie E. Folk.

Subscribed and sworn to before me, this 3 day of March, A. D. 1915. (Seal) Grace M. Wood,

My Commission expires February 8, 1919. Notary Public.

Defendant's Exhibit 7.

Eq. 2131.—2-19-16.

State of Missouri, County of Jackson, ss.

Be it known that I, Frank L. Montgomery, United States Probate Attorney, by and with the authority of R. C. Allen, National Attorney of the Creek Nation, have this day granted immunity to Sadie James for the commission of the crime of falsely and fraudulently representing herself as an agent and officer of the United States government in that certain transaction or transactions wherein she attempted and did discover one Mary Folk, nee Atkins, giving and granting to her full immunity from prosecution for such crime in the representation so made.

Done at Kansas City, Missouri, this the 4th day of December, 1914.

Frank L. Montgomery,
United States Attorney.

Witness: W. C. Adams.

(On margin:) Shorthand Reporting Company, Suite 1 104 Grand Avenue Temple, Kansas City, Missouri.

Defendant's Exhibit 8.

Eq. 2131.—2-24-16.

Dec. 1-1879 when I went to school 66 age 15 years

St. Louis, Mo., Mar. 13, 1885.

Mr. Edward C. Fritsche.

Dear Sir:

I have the honor to announce to you that, having passed a satisfactory examination before the Faculty and Examining Committee, the degree of "Graduate in Pharmacy" will be conferred upon you, at the Annual Commencement, to be held March 18th, 1885.

Yours respectfully,
J. M. Good,
Dean of the Faculty,
St. Louis College of Pharmacy.

Defendant's Exhibit 9.

Minnie

Dennis Jones, Lawyer, Telephone 2270, Leavenworth, Kansas

Leavenworth, Kansas, Dec. 26th, 1914.

Gem Oil Co., Tulsa, Oklahoma.

The information that I have received relative to the actions of Sadie James, does not worry me in the least because whatever has been said by the people here who gave evidence before the Notary Public in the matter of Minnie and Tommie Atkins was truthfully said and based on solid facts as they knew them and was not told in accordance with any frame up of Sadie James, if there ever was any such a thing as a frame up by her pulled off or put on in Leavenworth.

Sadie James came here some time ago and began an inquiry in the matter of the birth of Tommie Atkins and succeeded in finding several people who knew the facts relative thereto, and why she has taken the course she has is a surprise to me because I have at all times thought her honest and upright in her business dealings except as to one thing she attempted to do in the matter of having me as a Notary attach my jurat to a paper purporting to be a bona-fide deed to some land in Oklahoma somewhere, this attempt on her part was some time ago when she and two men came into my office from Kansas City Mo. with a paper and Sadie wanted me to acknowledge a signature that I never saw made nor had any knowledge of whatever, and upon my refusal to do so I said to her after the men had left my office that I considered that an attempt to do some one a great wrong and further it was a criminal intent on her part to ask me to do a thing of that kind, and also told her that I had made my reputation here as an honest lawyer and would not do anything that was not straight and honest she knows this to be true.

You can rely on the truthful statements of the men and women who have given their depositions to be based on just what really happened here in the birth of a baby boy borned to a woman who lived at Granny Letchers about 29 or thirty years ago and who was known as Indian Minnie or Minnie Atkins.

You can rely on me sticking to the interests of the Gem Oil Company as long as my services are of any use and when our relations are severed I shall upon my honor as a man and a lawyer reserve to my self all matters of business formally entrusted to me by said company.

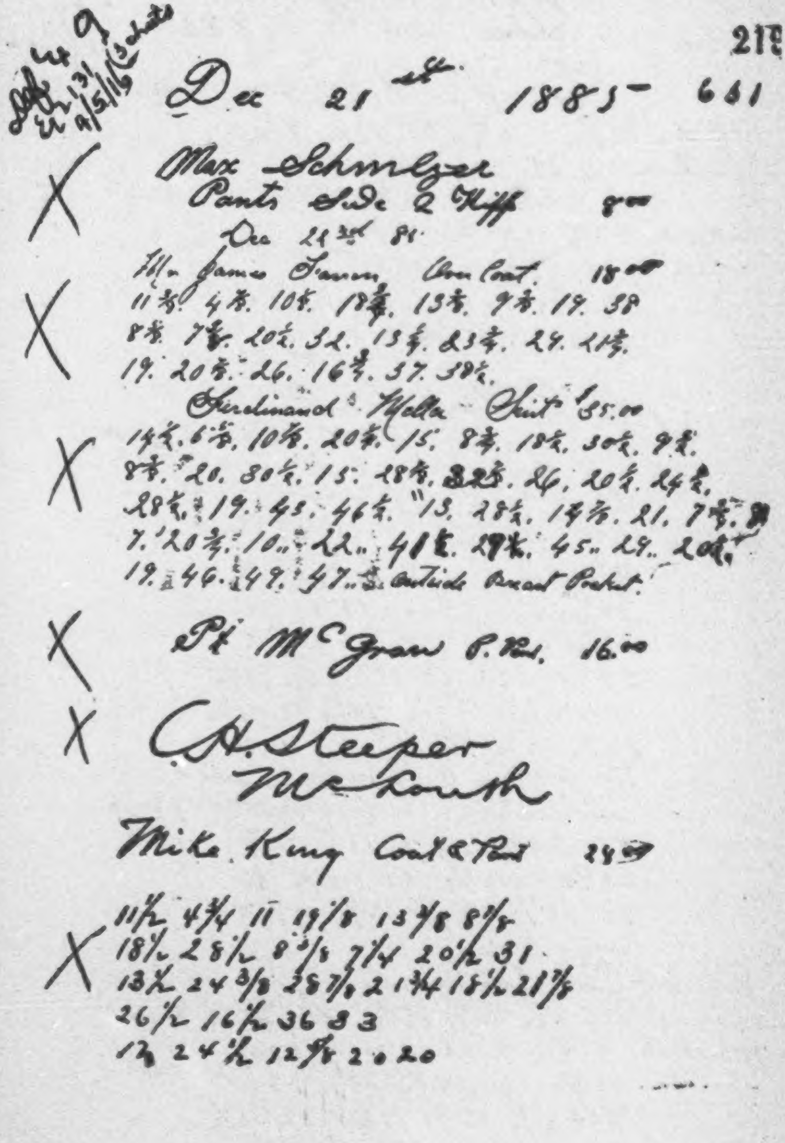
Wishing all a "Happy New Year."

I am Very truly.

Dennis Jones

Defendant's Exhibit 9.

Eq. 2131.—4-5-16.—(3 sheets).



Def Ex 9
Eq 2131
4/5/16 (3 sheets)

21

Dec 21st 1885 661

X Max Schmelzer
Pants Side & Hiff 8.00

Dec 21st 85

X Mr James Farren Over Coat. 18.00
11 3/8. 4 3/8. 10 1/4. 18 5/8. 13 1/4. 9 3/8. 19. 38
8 3/8. 7 5/8. 20 1/2. 32. 13 5/8. 23 3/4. 24. 11 3/4.
19. 20 3/8. 26. 16 3/4. 37. 38 1/2.

X Ferdinand Mella Suit $55.00
14 1/2. 6 5/8. 10 3/8. 20 3/4. 15. 8 3/4. 18 1/2. 30 1/2. 9 1/2.
8 3/4. 20. 30 1/2. 15. 18 3/8. 22 3/8. 26. 20 1/2. 24 1/2.
28 1/2. 19. 45. 46 1/2. 13. 28 1/2. 14 7/8. 21. 7 3/4. [illegible]
7. 20 3/4. 10. 22. 41 1/2. 29 1/2. 45. 29. 20 1/2.
19. 46. 49. 47. outside Breast Pocket.

X Pt McGraw P. Pant. 16.00

X C. H. Steeper
McLouth

Mike King Coat & Pant 24.50

X 11½ 4¾ 11 19/8 13 4/8 8 5/8
18½ 28½ 8 3/8 7¼ 20½ 31
13½ 24 3/8 28 7/8 21¾ 18½ 21 7/8
26½ 16½ 36 33
12 24½ 12 5/8 2·20

220

Dec 26th 885 697
188

Jm. Welsh Suit 72.00

S B Sack 11 3/4 5. 9 3/4 18 1/2 13 1/4 9 7/8
no Outturn 18 1/2 29. 8 1/2. 7 1/8. 20. 32.
B 13. 24 1/4. 29. 22 1/2. 18. 20 1/4
Ticket on 25 1/2 17 1/4 36 33 1/2
inside 11. 24 12 1/2 19 1/2 20 1/2.
X 23 1/2 44 34 35 1/2 22 17 1/2 17
32. 37. 38. Side & 2 Hips

X L C Hongerman
Pants Vest 16.00

Ben Daniels
S B Sack. Suit 21 + C & 2 3/4 72.00
13 1/2 5 1/2 11 20 1/4 4 9 3/4 19
30 1/2 9 1/8 7 1/8 21 33 30 1/4
27 1/4 31 3/4 24 1/2 20 25 1/2 32
20 1/4 42 1/2 40 13 1/2 26 1/2 13 1/2
21 3/4 22 1/2 23 1/2 44 1/2 34 41 1/2
26 1/2 18 1/2 18 39 1/2 43 44 1/2
Top + 2 Hip Outside B. & Ticket
Sheridan P. & Vest 18.00
42 38 1/2 12 1/2 26 13 1/2 21 3/4
22 3/8 . 22 1/2 43 32 1/4 39
25 18 1/2 18 1/2 36 1/2 39 1/2 41
Top + 2 Hip
DB Sack Col Jones
Outturn B 11 1/8 5 1/2 10 1/2 18 1/8 Suit 40.00
H Ticket 3 9 9 31 8 1/4 7/8 20 1/2
32 3/4 3 24 3/4 29 1/4 23 7/8
8 3/4 31 1/8 26 5/8 17 3/4 37 1/4 36 1/2
18 1/2 25 1/2 12 3/4 21 1/2 21 7/8
23 44 1/2 34 1/2 36 22 1/2 17 1/2
18 33 39 39 1/2 Tops 2 Hi
188.00

7

883
182

James Whitelaw
Pants 14.00
X 22 41 1/4 31 39 25 1/2 17 1/2
17 1/2 38 40 1/2 40 top 22 8

C E Milton
S B Frock Suit 48.00
6 5/8 17 1/2 11 1/2 5 10 1/2 19 1/4
X 13 9 1/4 18 19 33 9 17 5/8
5 1/2 8 3/8 7 3/8 22 33 3/4 13 1/2
22 1/4 26 1/2 25 29 1/4 23 1/2
18 1/2 21 1/4 26 1/2 17 36 33 1/2
12 26 1/2 13 1/4 22 21 3/8
23 4 3/4 33 37 22 1/2 19 1/2
17 1/2 33 37 1/2 39

John Rollins
S B Straight Sack Suit 48.00
11 5/8 4 9 17 3/8 12 8 5/8 18
29 5 1/8 7 1/8 19 31 1/2 2 24 29
22 17 20 1/8 29 17 36 32
11 28 11 7/8 19 19
21 42 32 35 22 17 17
30 35 37

X Mal Brown 40.00 52.00
D B Sack Suit & Pants

X James H Kelly
Jeans Pants 6.00

L E Warren
X 24 1/2 46 35 38 Pants 14.00
24 18 18 35 1/2 40 42 1/2 top 22 10

1067
107

1174

Geo Anderson
Pants 14 00
22 41 3/4 31 1/2 38 1/2 24 1/2
18 16 1/2 39 42 1/2 43 2 Hip

Geo Reynolds
D B Sack. Suit 45.00
10^3 4 7/8 10 1/8 17 3/8 12 7/8 8 17.
29.- 8. 6^3 18 29^2 12? 23
27/8 21 1/8 17; 21. 25 16.
34.- 32.
11 24^ 12 20 19 7/8
22.- 43. 33. 34 22: 17.-
17 31 36.- 27

J Jack Collin
S B Frock Suit 48.00
7 1/8 15 ? 11 ? 5- 9 7/8 18 7/8
13? 9! 18 5/8 20 5/8 34 9
20! 6! 8 1/8 7 5/8 19 31 13 5/8
22 1/2 26.- 24 1/8 29 1/8 22!
18 20. 25^2 18^2 38 34.
12.- 25! 12! 21 5/8 21 5/8
22.- 44! 34! 35 22^2 18
17^2 33 38 39.-

Sam Blonger
Suit 28.00
12 5/8 5 1/8 10 3/8 19^2 13 1/8
9. 19 30.- 9. 7 3/8 21 33^2
14 25 7/8 30^2 28.- 19 28 7/8
26^2 18 - 39. 37^2
12^2 26^2 13^4 21^2 21^3
23- 45! 34.- 38 24
18^2 19.- 36 40. 40

115-5 223
1147/8

Dr A. P. Chouteau
Suit 43^{00}

11⅛ 4⅞ 9⅞ 17⅜ 13⅞ 8⅝ 17
28 8 6⅞ 18 29. 12 24 28⅝
22 18 20⅜ 25 ⅝ 16 35 31
10 23½ 12 20 21
21 39 30 34 23 16 17
30 34 37

N. T. Haynes.
DB Sack Suit 40^{00}

11 4⅞ 10 18⅛ 12⅞ 8 18
29 8 7 19 31 12⅛ 23 28⅛
22½ 18 21⅞ 25 ⅜ 16 35 32
11 24 12⅛ 20 20
21 40 31 35 22 17
16 31 34 35

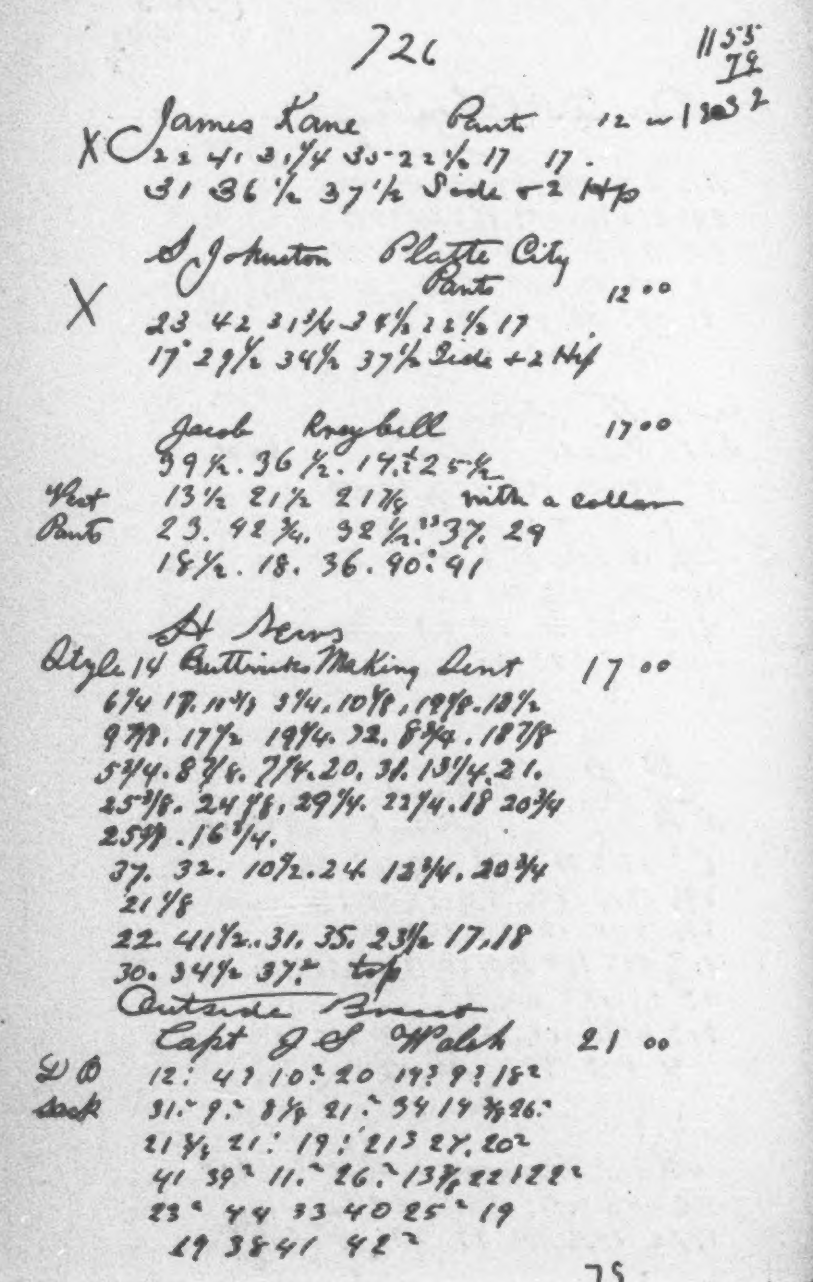
E. R. Garland.
S B Suit 40^{00}

6 16 11 4 9⅞ 17 13⅛
8⅞ 17⅛ 18⅞ 8⅞ 19½ 3⅞ 8⅝
6⅞ 19 30 13 20⅝ 24⅞ 23⅞
28⅝ 22 17 19⅞ 25. 17. 33½ 31
11 25 12 20 2
21 41½ 31 3, 35 22 17 17
31 35 38 D R

Mr Besser Pant 8^{00}

22. 41. 31⅞. 37½ 22½
17½ 17½. 31. 37. 39. Side

224



726 1155
79

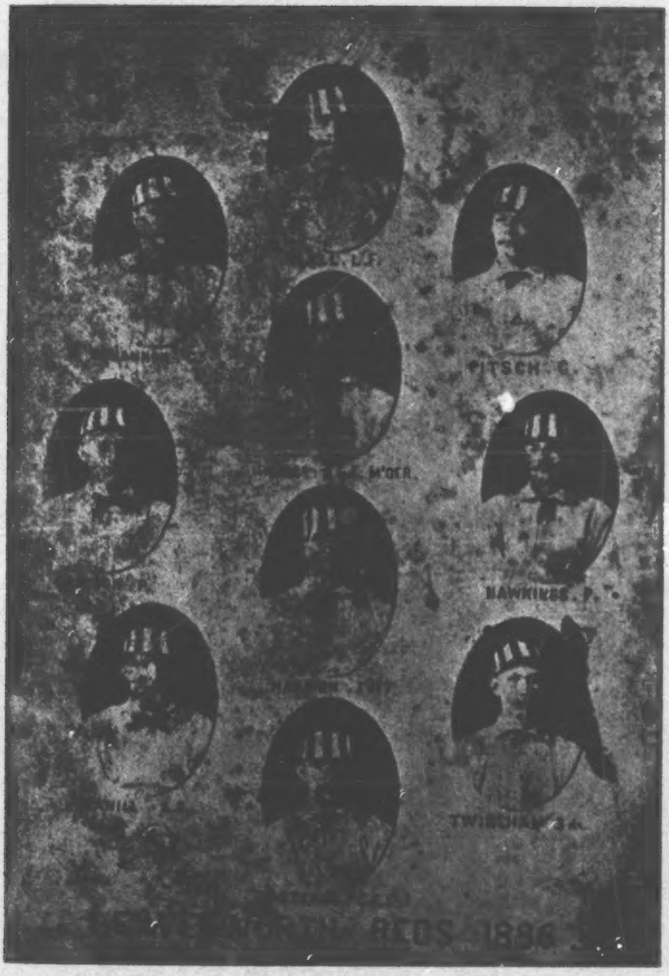
X James Kane Pants 12 — 1803 2
22 41 31 1/4 35- 22 1/2 17 17.
31 36 1/2 37 1/2 Side & 2 Hip

S Johnston Platte City
Pants 12 00
X
23 42 31 3/4-34 1/2 22 1/2 17
17. 29 1/2 34 1/2 37 1/2 Side & 2 Hip

Jacob Kraybill 17 00
39 1/2. 36 1/2. 14 1/2 25 1/2
Vest 13 1/2 21 1/2 21 7/8 with a collar
Pants 23. 42 3/4. 32 1/2. 37. 29
18 1/2. 18. 36. 40. 41

H Sevrs
Style 14 Butterick Making Dent 17 00
6 1/4 17. 10 3/8 3 1/4. 10 1/8. 19 1/8. 12 1/2
9 7/8. 17 1/2 19 1/4. 32. 8 3/4. 18 7/8
5 1/4. 8 3/8. 7 1/4. 20. 31. 13 1/4. 21.
25 3/8. 24 7/8. 29 1/4. 22 1/4. 18 20 3/4
25 7/8. 16 3/4.
37. 32. 10 1/2. 24. 12 3/4. 20 3/4
21 1/8
22. 41 1/2. 31. 35. 23 1/2 17. 18
30. 34 1/2 37. top
Outside Breast
Capt J S Walsh 21 00
D B 12: 43 10: 20 17: 9: 18:
Sack 31.- 9.- 8 1/8 21.- 34 14 3/8 26.-
21 3/8 21: 19: 21 3/4 27. 20:
41 39 11.- 26.- 13 7/8 22 1/2 22
23 44 33 40 25 19
19 38 41 42

75


FITSCH. C.
M'GER.
HAWKINS. P.
TWINEHAM 3d
REDS

8 Deft Ex B-1
27
CTD

1 Thomas Bennett X 10.00
2 Jon [illegible] X 14.00
3 [illegible] Dick 14.00
Pd 4 [illegible] 5.? x 7.50 13.00
5 [illegible] 10.00
6 [illegible] 10.00
7 Alexander 10.00
July 17 8 [illegible] 5.00 X 10.00 91.00
19 Sept [illegible]

1 John Harrison X
Pd 2 Kate
3 Mamie Watson
4 ~~Jessie Watson~~
5 ~~Annie~~
5 Ellen Harrison
[illegible] - 3d

Pd 1 Nathan Mingo X 33.00 dead
2 Tim [illegible] 5.15 X 3.20
3 [illegible] dead X
4 Wiley living X 56.00
'56 ['illegible]

1 Ed Schramel
2 Mamie Atkins
3 Chub "
Pd 4 Susan "
5 Thomas
6 Mary "
7 Nancy "
Pd

Pd 1 John [illegible] X March 1902 B mar

2nd 2 James [illegible]
147
147.00

Defendant's Exhibit 10.

Eq. 2131.—4-5-16.

[See insert herewith for reproduction of photograph of Leavenworth Reds Base Ball Team of 1886.]

Defendant Minnie Atkins' Exhibit B-1.

CTD

[See insert herewith for photographic reproduction of page 8 of Memorandum Book of Sam Brown.]

Defendant Minnie Atkins' Exhibit B-2.

Triplicate

Report Form No. 1

Report made by: Don S. Rathbun; Place where made: San Francisco; Date when made: Apr. 15, 1916; Period for which made: Apr. 16, 1916.

Title of case and offense charged or nature of matter under investigation: In re. Minnie Aitkins, et al. Bureau Letter March 22nd, 1916.

Statement of operations, evidence collected, names and addresses of persons interviewed, places visited, etc.:

At San Francisco, Calif.

Received the following letter from Dr. A. L. Johnson, 96th Avenue, Elmburst, Calif.

Dear Sir:

I just returned from Camp Meeker 9:15 P. M. too late to telephone, therefore will write.

I went through my papers very thoroughly while in Camp Meeker and fail to find any further record of the birth of the Edward's baby. There is no mistake in the year 1884, as I was in Chicago that fall and it was the fall Cleveland was elected the first time as President, and the month of birth was April, but I have no way or knowledge whereby I can fix the day of the month. This is the best I can give in the case.

Resp. (Sgd) Dr. A. L. Johnson.

Copy of this report furnished to: U. S. Atty. Linebaugh, Muskogee, Oklahoma. -12-1 c 7—877

Defendant Minnie Atkins' Exhibit B-3.

Dr. Acy Johnson, Nov. 24th, 1915.
c/o Dr. A. L. Joho*sn*,
9240 Cherry St., Oakland, Calif.

Dear Sir:

It seems that in April 1885, you attended a woman named Mrs. Edwards, who lived in the old Seneca House in this City, which was on Seneca Street, between Second and Third, next door to a livery stable.

She gave birth to a girl baby one night, and you were gotten after considerable delay.

In a law suit which has come up the question of the exact date of the birth of this child has become material. I thought you, perhaps, would have a record of your visit, or have your old books showing your account with Mrs. Edwards, and if you have them, and can testify, I would like to take your deposition.

We are perfectly willing to pay you for all your trouble in looking this matter up, and for your *tile* in giving your deposition.

I wish you would kindly let me know whether you have any of your old records or books, and whether you have any record of the delivery of such a child, and I will communicate with you further.

Mrs. Edwards has married again, and is now living in Platte City, Mo., but Mr. Crille who owned the livery stable at that time still owns it, and is in business at the same place.

Enclosed you will please find a self-addressed envelope for answer.

Yours truly,

Defendant Minnie Atkins' Exhibit B-4.

No. 1324—96 Ave Oakland Calif Nove 27th 1915

Lee Bond
Leavenworth Kansas.

Dear Sir:

Yours of the 24th received and noted, in reply will say that I fully remember attending Mrs. Edwards and that she gave birth to a girl baby, and I further remember I never received a cent for my services; it was in April 1885, but I do not remember the day at that time I was liveing on the Hasting place south of town just out side of city limits.

All of my old books are up at Camp Meeker this state and I may have the record of this birth am not sure. I keep a pretty good record of births while in Leavenworth and say at this writing that I have it of the Edwards baby, however it will cost me $4.00 the trip up to Camp Meeke (my summer home) and back, if you care to pay the $4.00 I will go up and see if I have it and if so will help you all I can.

Resp

Dr. A. L. Johnson

Defendant Minnie Atkins' Exhibit B-5.

Dr. A. L. Johnson,
1324 96 Ave., Oakland, Calif.

Dear Sir:

Your letter received, and enclosed you will please find my check for $5.00 to cover your expenses in trying to locate your records concerning the date of the birth of the Edward's baby.

I wish you would kindly let me know as soon as you have made the trip, as we will want to take your deposition in the near future.

Yours truly,

Defendant Minnie Atkins' Exhibit B-6.

File Dr. A. L. Johnson TA

1324 96 Ave Oakland Calif Dec 8th 1915

Lee Bond
Leavenworth Kansas

Dear Sir:

Your favor of the 1st with check for five dollars was received the 4th. I made the trip to Camp Meeker but am sorry to say I could not find any record of the birth of the Edwards baby. I had a box of books and papers that I had not opened in several years, and when I opened it found the mice had been in the box and nested among the papers, as a result a large amount was destroyed, so I was unable to make them out, and the record I think was among them. However I will give you the details of that birth and it may help out. I was liveing on the Hasting place out side of the city limits south and two miles from my office in April 1885 my office was at the corner of 5th and Seneca over Cusics Saloon. I had been called to see Mrs. Edwards two or three times prior to her confinement and she wanted me to attend her when she was confined which was then in April I think about the middle (dont remember the exact date.) As I came to my office one morning found a call from Edwards and immediately went to the house, when I arived found another Physician there he was a stranger to me, and a new commer to the city I think he was from St. Joe Mo. a man of about 30 years of age. he did not stay long in Leavenworth, and as that was the only time I ever met him I do not remember his name.

There was a box stove in the room and a fire, two other women and Mr. Edwards. Mrs. Edwards was on the bed having nasty crampy pains which was doing her no good, and the doctor was seated with his heels on the stove hearth, and evedently did not know much about such cases.

I took in the situation and told them I guess they did not need two doctors there and I would go back one of the women spoke up and said she thought Mrs. Edwards ought to have the doctor she wanted, then Mr. Edwards said you both can stay. I said to the other doctor is that agreeable to you? He said it was. So I laid off my rubber coat (as it was raining that morning) had the bed pulled out from the wall so I could get to the right hand side, and I got Mrs. Edwards to that side of the bed and in the proper position and went to work with her, and the baby was born about 11 oclock A. M. I fixed up the baby and the mother, and left, the other doctor was still sitting there with his heels on the stove. I paid Mrs. Edwards two visits afterwards, and I never received a cent for my servesis. It was a Girl Baby. I am sorry I cant give you the exact day of the month.

Yours truly,

Dr. A. L. Johnson

Defendant Minnie Atkins' Exhibit B-7.

Leavenworth, Kansas, August 3rd, 1914.

This agreement made and entered into this 3rd day of August, A. D. 1914, by and between Gypsy Oil Company, party of the first part and Dennis Jones, party of the second part;

Whereas, it is the desire of first party to locate one Thomas Atkins and it is claimed by said second party that he has reason to believe that he knows the whereabouts of said Atkins.

It is therefore agreed that the said first party shall pay to second party the sum of $10.00 per day and all necessary expenses during the time necessary to locate said Thomas

Atkins and that C. E. Crawley, representing said first party is to go with said second party and in case the said Thomas Atkins is located and satisfactory arrangements are made with him and said first party and his *idenity* is established by witnesses the said second party is to receive the further sum of Five Hundred ($500.00) Dollars. The expenses of the witnesses necessary to establish his *idenity* in Court is to be paid by first party but their names and addresses are to be furnished by said second party.

It is further agreed that upon leaving Leavenworth a round trip ticket to the destination will be furnished to the second party by the first party and an advance payment of Fifty $50.00 dollars will be made.

Witness our hands the day and year first above written.

Gypsy Oil Co.,
By C. E. Crawley,
Dennis Jones.

Defendant Minnie Atkins' Exhibit B-8.

Form 562-1-8-14 F. P. Burnap Sta. & Ptg. Co. K. C. Mo.

GYPSY OIL COMPANY
M. M. Doan, Third Vice-President.
Tulsa, Okla.
C. E. Crawley, Assistant.

August 20th, 1914.

In Reply Please Refer to File No.

Mr. Dennis Jones, Attorney at Law,
Leavenworth, Kansas.

Dear Sir:

I am in receipt of your letter of August 17th and note what you say regarding prospects.

Mr. Greenslade has explained to me the understanding he had with you at the time you left New York and this is the only way in which we would care to continue the search.

Mr. Greenslade who returned home yesterday advises me that he has written you, which letter you have probably received. I am writing Mr. Bond asking him to forward statement of your expense account, etc.

Yours truly,
2-16 C. E. Crawley.

Defendant Minnie Atkins' Exhibit B-9.

Form 527-6-19-14-2000 F. P. Burnap Sta. & Ptg. Co. K. C. Mo.

James B. Diggs, Attorney in Oklahoma; Henry McGraw, Rush Greenslade, Assistant Attorneys.

GYPSY OIL COMPANY
Legal Department.
Tulsa, Okla.

Dennis Jones, August 26, 1914.
Attorney at Law,
Leavenworth, Kansas.

Dear Sir:

In re. Thomas Atkins lease.

Your letter of August 26th at hand. I do not believe it would be advisable to go to Chicago to make further investigation at this time, at least until you have more definite information as to the present address or whereabouts of Thomas Atkins. I have taken the matter up with parties in Chicago as directed by Bud Minor and the Carbi woman in Washington, but to date have had no reply from them.

In event you obtain definite information as to the address or whereabouts of Thomas Atkins please write or wire me at once.

Your expense account received, same was O. K., and voucher will follow in the regular course.

Very truly,
Rush Greenslade

G/Y

Defendant Minnie Atkins' Exhibit B-10.

This Agreement, Made and entered into on this 12th day of October, 1914, by and between T. E. Kirkbride, of Tulsa, Oklahoma, hereinafter called "Purchaser," and C. H. Rogers, of Tulsa, Okla., and S. E. Mann, of ...., hereinafter called "Brokers," Witnesseth:

Whereas, The West Half (W2) of the Northeast Quarter (NE4) of Section Five (5), and the Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East of Indian Base and Meridian was allotted to one Thomas Atkins as a member of the Creek Tribe of Indians, said Thomas Atkins being enrolled opposite No. 7913 and being, at the time of his enrollment, ten years of age; and

Whereas, There are numerous parties claiming title to said premises as heirs of said Thomas Atkins and as purchasers or lessees of said pretended heirs of Thomas Atkins, it being charged by said pretended heirs and purchasers that said Thomas Atkins died many years ago, as a minor, intestate, without children or descendants of children; and

Whereas, Said spurious heirs and their grantees and lessees have no right, title or interest in and to said premises, though all such rights are claimed adversely to the said Thomas Atkins, allottee; and

Whereas, The Gypsy Oil Company, of Tulsa, Oklahoma, is now, and has been for more than one year past, in the open, notorious and actual possession of said premises; and

Whereas, Said Thomas Atkins, allottee, is now living and his existence and whereabouts are known to said brokers; and

Whereas, The said purchaser is desirous of being put in touch with said Thomas Atkins for the purpose of purchasing said premises from said allottee, said Gypsy Oil Company having agreed to waive all objection which it had or may have, by reason of its possession of said premises, to the making of this contract and to the receiving by said purchaser from said Thomas Atkins of the deed herein contemplated;

Now, Therefore This Agreement Witnesseth: That said purchaser, for himself, his heirs and grantees, in consideration of the said brokers producing the said Thomas Atkins in person, allottee of the above described premises, and obtaining from said Thomas Atkins a first valid warranty deed for the above described premises in favor of said purchaser for a sum not to exceed .... Dollars, said deed to be procured and delivered to said purchaser within thirty days from the date of the signing of this contract, and further, in consideration of said brokers producing full, true, correct and competent legal evidence, whenever and wherever demanded by said purchaser, sufficient to prove to the Court having jurisdiction of said matter the identity of said Thomas Atkins and his right to the above described premises, agrees to grant, bargain, sell and convey to said brokers, or to such parties as they may designate, subject to an oil and gas mining lease theretofore to be given by the purchaser to the .... Oil Company, by a good and sufficient deed, an undivided one-half interest in all right, title and interest in said premises which said purchaser may acquire hereunder, said deed to be delivered to said brokers within thirty days from and after the date the identity of said Thomas Atkins shall be legally ascertained, and the right of said Thomas

Atkins to the aforesaid land shall be legally and finally determined. And as a further consideration for the services of said brokers to be performed as herein set forth, the said purchaser agrees to give, or cause to be given, to said brokers 7½ per cent of the net profits derived from the sale of the oil or gas, or both, from said premises, under the working interest created under and by virtue of the oil and gas mining lease heretofore referred to, said net profits not to begin until after the original costs and current operating expenses of said lease have been liquidated.

It is understood that all expenses of recovering the aforesaid premises by the said Thomas Atkins, and of establishing the identity of the aforesaid Thomas Atkins, shall be borne by the said Thomas Atkins.

This agreement is personal as to the parties hereto, except as herein otherwise expressly provided, and not assignable.

In Testimony Whereof The parties hereto have subscribed their names and affixed their seals in the presence of .... and ...., witnesses, on the day, month and year first above written.

Thomas E. Kirkbride (Seal)
Purchaser.

C. H. Rogers (Seal)

S. E. Mann (Seal)

Witnesses:

J. R. Kline, Tulsa, Okla.

Joseph E. Kirkbride, Tulsa, Okla.

State of Oklahoma, County of Tulsa, ss.

Before me, the undersigned, a Notary Public in and for the County and State aforesaid, duly commissioned and acting, personally appeared T. E. Kirkbride, C. H. Rogers and S. E. Mann, each being to me well known, and each being by me first separately sworn, upon oath states that he has read, understands and signed the within and foregoing instrument, and acknowledged to me that he signed the same as his free and voluntary act, for the uses, purposes and considerations therein set forth, and I so certify.

Witness my hand and official seal, on this 12 day of October, 1914.

(Seal) J. R. Kline, Notary Public.

My commission expires Feb. 9th, 1916.

(Endorsed on back:) No. .... In the .... Court of .... Memorandum of Agreement Between T. E. Kirkbride and C. H. Rogers and S. E. Mann. Haskell B. Talley, Tulsa, Okla., Solicitor for ....

Defendant Minnie Atkins' Exhibit B-11.

This Agreement, Made and entered into this ...... day of June, 1914, by and between Minnie A. Atkins, party of the first part, and Gem Oil Company, party of the second part,

Witnesseth:

That, Whereas, the hereinafter described premises constitute the allotment of Thomas Atkins, a citizen of the Creek Nation, Creek Role Number 7913, one-half blood; and,

Whereas, said Thomas Atkins was the illegitimate child of the first party; and,

Whereas, said Atkins died at ...., ..., on or about the .... day of ...., ..., leaving surviving him no father and leaving surviving as his sole heir, party of the first part, his mother who is the owner of said hereinafter described premises; and,

Whereas, said premises are claimed by various other persons and the title to the same is in dispute; and,

Whereas, said premises have become very valuable for oil and gas and are now producing same.

Now, therefore, the party of the first part has this day executed to the party of the second part an oil and gas mining lease on said premises and party of the second part agrees to use all efforts to clear the title to said premises and vest the same in party of the first part, subject to the said oil and gas mining lease. The party of the second part shall advance necessary court costs and employ attorneys at its own expense to carry on litigation or other proceedings necessary to vest said title of record in first party. First party specifically represents that the foregoing facts are *ture* as to heirship; that she has not executed a conveyance affecting said premises to any other person and that she will not do so.

The premises referred to above are described as follows:

"The Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section Four (4), the Southwest Quarter (SW4) of the Northeast Quarter (NE4) of Section Five (5), Lot Two (2) of Section Five (5), Surplus, Township 18 North, Range 7 East, containing 120.85 acres; and Lot

No. 4 of Section 4, Township 18 North, Range 7 East, homestead, 41.16 acres—all in Creek County, State of Oklahoma."

......................,
Party of the first part.
Gem Oil Company
By ....

Attest: ....

State of ...., County of ...., ss.

Before me, the undersigned Notary Public in and for said County and State, on this .... day of June, 1914, personally appeared Minnie A. Atkins, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal the day and year first above written.

..................., Notary Public.

My commission expires ....

State of ...., County of ...., ss.

Before me, the undersigned Notary Public in and for said County and State on this ...... day of June, 1914, personally appeared ...., to me known to be the identical person who executed the within and foregoing instrument as its .... and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed of said company for the uses and purposes therein set forth.

Witness my hand and official seal the day and year first above written.

..................., Notary Public.

My commission expires ....

(On back:) Copy of Contract Minnie Atkins to Gem Oil Company Not executed

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Defendant Minnie Atkins' Exhibit B-13.

Tulsa, Oklahoma, August 20, 1914.

My Dear Mr. Josey:

I just wired you to disregard long letter of yesterday, which will reach you in the morning, and advising you that we are working on a new line of information.

Yesterday afternoon Sadie James, the Niger woman who has been working for Bartlett and the Gypsy came up to see us. I had a talk with her and took her in*to* to see Mr. Page. We are met last evening at the Park and went over the ground in detail. This afternoon I have had Sadie with Rice and Mr. Page.

She may be setting a trap; she may be double crossing us and still working for the other people, but we are going to give *a her* trial, cautiously.

Her story is this:

That the Gypsy and Bartlett have had her looking for a Thomas; that they found several, but none of them would do; that a deed was signed by one of them, but that they finally decided not to use any of the "fake" boys; and now that we have Minnie and they can't find a Tommy to use, she is out of the running and has no chance to make money. Had they had Minnie they could have had her identify a Tommy and put it over, but without her they were powerless.

She therefor- proposed to us that, for a consideration, she would produce witness, reputable people who would swear that Tommy was born and lived until 1899; that his Father was a negro.

Her story is plusible. We agreed in writing to pay her $1,000.00 if her dope wins the case for us, and gets us a valid lease. She is not to get a cent except a limited amount of expense money until we are finally declared the valid lessees.

All of her witnesses except two are at Leavenworth. I am going up there tonight with her, and will have them brought before me one at a time. Will tie them up in every way possible; and then we can see what there is to her dope.

[Illegible] thoroughly, gave us the names of the people to whom Minnie gave Tommie; how long they kept him; the names of people who knew him in Leavenworth, and the names of people who know that he is dead.

It is the best sounding story I have heard yet.

Now we are going to play out Bettie's string also, and let Hanford work with her. I am going to stay in the background in Leavenworth, and not let Sadie know Minnie is working for us and vice versa. In this way we can ascertain who is lying.

Will write you from Leavenworth the developments.

With best wishes, I am,

Sincerely yours,

Defendants' Exhibit B-14.

[See insert herewith for photographic reproduction of Creek Census Card No. 2707.]

Defendant Minnie Atkins' Exhibit B-15.

MACKAY TELEGRAPH-CABLE COMPANY
Connecting With
Postal Telegraph-Commercial Cables
Clarence H. Mackay, President.

TELEGRAM

The Mackay Telegraph-Cable Company transmits and delivers this message subject to the terms and conditions printed on the back of this blank

Counter No. .... Time Filed .....M Check ......

Main Office Clinton Building 318 So. Boston, Tulsa, Okla. Telephone 3890.

(Design Patent No. 40529) 2M—12233

Send the following Telegram, subject to the terms on back hereof, which are hereby agreed to.

Cato Sells, January 18, 1915.

Commissioner of Indian Affairs, Washington, D. C.

We are advised Creek Attorney Allen has been authorized to bring suit to set aside Creek deeds issued to Thomas Atkins. Allen is working on false statement. He has been misinformed. We have not been permitted to submit facts. We are mailing you full and complete statement of facts and request that action be deferred until statement reached you. We court the fullest investigation.

Chas. Page.
R. A. Josey.

Send PAID Charge to Gem Oil Company.

[On back: Terms and conditions as above referred to —regular form.]

Defendant Minnie Atkins' Exhibit B-16.

MACKAY TELEGRAPH-CABLE COMPANY
Connecting With
Postal Telegraph-Commercial Cables
Clarence H. Mackay, President

Received at .... Delivery No. ....

Residence:

Post Office: Muskogee, Ind. Ter.

CREEK NATION CREEK ROLL

Card No. 2707

Field No. 2774

Dawes' Roll No.	NAME	Relationship to Person first Named	AGE	SEX	BLOOD	Tribal Enrollment Year	Tribal Enrollment Town	Tribal Enrollment No.	Name of Father	Year	Town	Name of Mother	Year	Town
7913	1 Atkins, Thomas		10	M	1/2	1895	Euchee	213	Whiteman			Minnie Atkins	1895	Euchee
	2													
	3													
	4													
	5													
	6													
	7													
	8													
	9													
	10													
	11													
	12													
	13													
	14													
	15													
	16													
	17													
	18													

No 1 on 1895 auth Roll No 213 as "Tho. Atkins"
E.A. Miller Chief Clk Creek Land Office
Letter of May 4 1905 from the Commissioner to the Five Civilized Tribes directing action be suspended in matter of issuing deed to heirs of No 1

CITIZENSHIP CERTIFICATE
ISSUED FOR NO 1
June 27, 1902

ENROLLMENT
OF NOS. 1 HEREON
APPROVED BY THE SECRETARY
OF INTERIOR March 28 1902

May 23, 1901.

DEPARTMENT OF THE INTERIOR
Commissioner to the Five Civilized Tribes
MUSKOGEE, OKLAHOMA

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians and the disposition of the land of said tribes and that the above and foregoing is a true and correct copy of record of CREEK Indian census card No. 2707

J. G. Wright

NIGHT TELEGRAM

The Mackay Telegraph-Cable Company transmits and delivers Night Messages subject to the terms and conditions printed on the back of this blank.

24M—7765 Design Patent No. 40529
85 KS. W. 35 Govt. Night—12K- 38
Washington D. C. Jan 21, 15

Chas Page and R. A. Josey,
Tulsa, Oklahoma,

Your telegram Jany eighteenth suit instituted on Jan'y eighteenth against Minnie Atkins and others. Case in charge of department of Justice and creek tribal attorney.

Cato Sells, Commissioner.

[On back: Terms and conditions as above referred to —regular form.]

Defendant Minnie Atkins Exhibit B-17.

Telegram 3.

5—164a Telegram

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Washington

Land—Five Tribes 7093-1915 J E D
Mail to January 21, 1915.

Charles Page and R. A. Josey,
Tulsa, Oklahoma.

Your telegram January eighteenth. Suit institued on January eighteenth against Minnie Atkins and others. Case in charge of Department of Justice and Creek tribal attorney.

Cato Sells, Commissioner.

Postal 1-FLH-21 T A
Confirmation of telegram 6—2653

Defendant Minnie Atkins' Exhibit B-18.

Hon. Cato Sells, January 20, 1914.
Commissioner of Indian Affairs,
Washington, D. C.

Dear Sir:

Please refer to our telegram of January 18, 1915, with reference to proposed suit, in the United States District

Court, for the Eastern District of Oklahoma, by the United States, for and on behalf of the Creek Nation of Indians, to cancel deeds issued to Thomas Atkins, in which telegram we stated we would submit to you a complete statement of facts. Our purpose in writing you was to be given an opportunity to present our side of the case prior to the filing of the suit.

Now that the suit has been filed, we feel that it would be presumptuous for us to present any statement of facts, unless requested to do so by your office or the office of Creek Attorney Allen. We are ready and willing at any time, to furnish you or Mr. Allen with any information desired.

As stated in our telegram, we court the fullest and most complete investigation of our case.

Yours truly,

Defendants' Exhibit B-21.

No. 1477 Tulsa, Oklahoma, June 29, 1914
EXCHANGE NATIONAL BANK
Pay to the order of E. C. Hanford—$5,000.00
* *Five Thousand & No/100——Dollars
Checked: Gem Oil Company
191 R. A. Josey Frank B. Long
Acceptance by endorsement is receipt in full for all items listed hereon.

(Stamped on face of check:) Exchange Nat'l Bank Exchange Jul 3 1914 Tulsa, Okla.

(Perforated in check:) 86-3 -7 -3 14

(Endorsed on back:) E. C. Hanford

Defendant Minnie Atkins' Exhibit B-22.

EXPENDITURES.

Atkins Lease to December 17th, 1914.

Schedule "A"

CV	55	8- 6-14	To Rig No. 1 from D. D. Weitzbeiger.	$ 1,165.00
1632		8-18-14	To Lester Wheaton, 1 day laying water line.	2.50
1633		8-18-14	To Tom Green, 1½ days hauling calf wheels and 2" pipe. .	9.00
1634		8-18-14	To Roy Miller, 1 day hauling sand reel.	6.00

CV	87	12- 7-14	To expenses of A. A. Eberly in Atkins lease	6.92
1841		11-14-14	To Pioneer Tel. & Tel. Co., *To* October Tolls	.15
1912		12- 7-14	To M. K. & T. Ry. Co., freight on one car 2″ pipe	34.73
1928		12- 7-14	To T. W. Hays, hauling material and casing	15.00
1929		12- 8-14	To W. Earnest, November labor on Atkins	3.00
1930		12- 8-14	To W. T. Carlisle, November labor on Atkins	6.00
1931		12- 8-14	To A. Onetott, November labor on Atkins	30.00
1932		12- 8-14	To W. N. Cue, November teaming on Atkins	27.00
1933		12- 8-14	To C. A. Fugate, November teaming	19.50
1934		12- 9-14	To Toler & Moore, November Livery	7.00
1902		12- 4-14	To C. B. Walker, apply on price of tank farm	100.00
1755		10- 4-14	To D. D. Weitzbeiger, reimburse for telephone tolls paid	.65
1947		12-14-14	To Pioneer Tel. & Tel. Co., November tolls, as charged to phone 771	1.55
1948		12-14-14	To Pioneer Tel. & Tel. Co., November tolls as charged to phone 1952	6.06
CV	96	11-27-14	To D. D. Weitzbeiger, furnishing material and building new band wheel, new calf wheels, pitman, setting real, etc., on Atkins No. 1	570.88
CV	99	11-30-14	To D. D. Weitzberger, boarding and renailing Atkins No. 1, framing calf wheels post and reinforcing Atkins No. 2 and furnishing material and building Atkins No. 3	1.433.63
2000		12-28-14	To C. B. Walker, balance purchase price of Tank Farm Site, accepted 12-4-14	1,396.40
CV	102b	11-20-14	To Gulf Pipe Line Company, surveying Tank Farm	20.39

CV	102a	12- 3-14	To South Chester Tube Company, 171 joints 5 3-16″ pipe.	1,680.18
		12- 2-14	To South Chester Tube Company, 170 joints 5 3-16″ pipe.	1,679.44
		11-26-14	To South Chester Tube Company, 81 joints 8 1-4″ and 26 joints 5 3-16″ pipe	1,303.88
CV	104	12-17-14	To Republic Supply Company, material furnished as per voucher.	2,803.65
CV	118	11- 4-14	To S. E. Johnson, resetting tank.	16.28
		12-10-14	To S. E. Johnson, resetting one tank.	16.92
		12-16-14	To S. E. Johnson, resetting one tank.	16.28
CV	107		To Cunningham Drilling Company, drilling Atkins No. 1.	1,775.00
CV	120	12-17-14	To Parkersburg Rig & Reel Co., 1 new 1600 bbl. tank	500.00
CV	121	11-28-14	To South Chester Tube Company, 113 joints 8 1-4″ casing.	1,419.33
		11-30-14	To South Chester Tube Company, 109 joints 8 1-4″ casing.	1,413.28
		12- 3-14	To South Chester Tube Company, 141 joints 6 5-8″ casing.	1,675.84
CV	123		To Gruber Bros. Drilling Co., drilling Atkins No. 2	4,270.50
CV	125	11-30-14	To McMann Oil Company, gas furnished during month of November.	100.00
			For'd	$23,531.94

[Page 2 of Defendant Minnie Atkins' Exhibit B-22.]

EXPENDITURES——Atkins Lease to December 17th, 1917.

Schedule "A"

			For'd	$23,531.94
CV	128	12- 8-14	To Producers Supply Company, 41′ 10″ pipe.	$ 36.00
CV	129		To H. A. Hodgson, labor as draftsman on Tank Farm, account of Gulf Pipe Line Company.	43.86

			To labor paid by Gulf Pipe Line Co.	9.67
			To material delivered by the Gulf Pipe Line Company in December.	1,234.87
			To property tax for first half of the year 1914.	7.46
CV	130		To Ross H. Rayburn, September and December premiums on policies covering material and stock.	468.00
CV	135	12-15-14	To Tulsa Rig & *T*eel Co., material and building Atkins No. 4.	875.00
		12-15-14	To Tulsa Rig & Reel Co., material and building Atkins No. 5.	875.00
		12-17-14	To Tulsa Rig & Reel Co., material and building Atkins No. 6.	895.00
CV	145 A	11-25-14	To 1—55,000 BBL tank *d*rected on Tank Farm by Petroleum Iron Works.	11,250.00
		11-25-14	To 1—55,000 BBL tank erected on Tank Farm by Petroleum Iron Works.	11,250.00
CV	134	12- 9-14	To 1—25 HP boiler delivered Atkins Lease by Oklahoma Iron Works.	420.00
CV	164	11-26-14	To 79′ 3″ of 10″ pipe delivered from Dewey Hawkins Lease	56.15
		12- 5-14	To 256′ 4″ of 5 3-16″ pipe delivered from Dewey Hawkins Lease.	112.46
		12- 5-14	To 798′ 6″ of 8 1-4″ pipe delivered from Dewey Hawkins Lease.	535.40
				51,600.81

Defendant Minnie Atkins' Exhibit B-23.

EXPENDITURES

Atkins Lease

December 17th, 1914, to January 18th, 1915

Schedule "B"

CV	97	12-22-14	To D. D. Wertzbeiger, material for Atkins Bunk House....	$ 31.15
CV	101½	12-30-14	To A. A. Eberly, 8 days labor in December...............	33.36
1970		12-18-14	To B. M. Kissling, November labor....................	10.70
1982		12-21-14	To Art Hays, November, salary as foreman...........	50.00
2027		1- 5-15	To M. K. & T. Ry. Co., demurrage on pipe...............	6.45
2034		1- 7-15	To J. E. Offea, ditching line pipe to Atkins No. 3.......	13.33
2035		1- 7-15	To T. B. Baker, roustabout, 12 days in December, Atkins..	32.00
2036a		1- 7-15	To W. M. Vinneage, roustabouting in December, 14 days....................	37.33
2036B		1- 7-15	To P. Miller, roustabout, December, 15 days...........	40.00
2037		1- 7-15	To Harry Helms, roustabout, December, 2 days..........	5.67
2038		1- 7-15	To Jim Miller, roustabout, December, 1 day..............	2.67
2039		1- 7-15	To T. W. Hays, roustabout, December, 15 days.........	40.00
2040		1- 7-15	To Fred A. Taylor, December, labor as roustabout....	64.00
2041		1- 7-15	To H. J. Dumont, 1 day laying water line—month of December...................	2.67
2042		1- 7-15	To Jim Miller, December labor as roustabout..........	34.67
2043		1- 7-15	To T. N. Kelley, December labor as roustabout—2 days..	5.33
2044		1- 7-15	To R. T. Albertz, December labor as roustabout.......	49.33
2045		1- 7-15	To C. Heckenberry, December labor as roustabout—6 days	16.00
2046		1- 7-15	To Homer Fugate, December teaming on Atkins lease....	822.00

2047	1- 7-15	To Walter Goodman, teaming during month of December—1 day.	6.00
2048	1- 7-15	To Sam Raper, December teaming on Atkins lease—5 days.	42.00
2049	1- 7-15	To W. Earnest, teaming on Atinks lease month of December.	123.00
2050	1- 7-15	To H. J. Alexander, December teaming.	36.00
2051	1- 7-15	To Robert Denison, carpentering—4 days.	18.00
2052	1- 7-15	To J. H. Billings, carpenter—4 days.	18.00
2053	1- 7-15	To Art Hays, December salary as foreman.	50.00
2054	1- 7-15	To W. E. Hays, roustabout, December—2 days.	6.00
2055	1- 7-15	To C. W. Spangler, hauling pipe to No. 2.	133.33
2091	1- 7-15	To C. A. Fugate, building fence on Atkins lease.	15.00
2092	1- 7-15	To Jennings Hardware Company, 4 spools wire.	9.40
2093	1- 7-15	To T. O. Ham, hauling 2" pipe to Atkins lease.	68.50
2101	1- 7-15	To J. H. Wise, December ferry charges.	66.50
2102	1- 7-15	To Toller & Moore, December livery.	9.00
2103	1- 7-15	To J. R. Mays, December labor.	20.00
2105	1- 7-15	To M. K. & T. Ry. Co., demurrage on pipe.	54.00
1996	12-26-14	To W. E. Plarris, labor on tank farm.	19.50
1997	12-26-14	To J. Newell, labor on tank farm.	10.60
1998	12-26-14	To E. W. Hammons, part settlement for tank farm.	25.00
		Forward	$ 2,026.49

[Page 2 of Defendant Minnie Atkins' Exhibit B-23.]

Schedule "B".

EXPENDITURES—Atkins Lease—December 17th, 1914, to January 18th, 1915.

		Forwarded	$ 2,026.49
2006	12-28-14	To Frisco Railway Co., demurrage on 3 dars pipe........	$ 21.00
2026	1- 5-15	To Frisco Railway Co., demurrage on tank material......	15.00
2056	1- 7-15	To S. M. Thompson, teaming on grades 10 days..........	150.00
2057	1- 7-15	To J. H. Ferrill, teaming on grades 10 days...........	108.00
2058	1- 7-15	To H. T. Smith, teaming in December on grades—10 days.	105.00
2059	1- 7-15	To J. E. Wentworth, teaming on grades in December—9 days.....................	150.00
2060	1- 7-15	To H. R. Parvin, teaming on grades in December—10½ days....................	105.00
2061	1- 7-15	To J. H. Anderson, teaming on grades in December—10 days....................	50.00
2062	1- 7-15	To J. M. Lawrence, labor on grades in December—7 days	21.00
2063	1- 7-15	To S. B. Simmons, labor on grades in December, 11 days 3 hours..................	33.90
2064	1- 7-15	To C. E. Wentworth, labor on grades in December, 10½ days....................	31.50
2065	1- 7-15	To W. D. Richmond, labor on grades in December, 10 days	32.40
2066	1- 7-15	To T. A. Visner, labor on grades in December, 10 days 3 hours..................	30.90
2067	1- 7-15	To J. A. Walker, labor on grades in December—10 days 3 hours..................	30.90
2068	1- 7-15	To L. M. Clark, labor on grades in December—5 days.......	15.00
2069	1- 7-15	To W. E. Pharno, labor on grades in December—1 day	3.00

2070		1- 7-15	To W. B. Robertson, labor on grades in December—4 days 8 hours.	14.40
2071		1- 7-15	To J. M. Patrick, labor on grades in December—3 days 8 hours.	11.40
2072		1- 7-15	To J. M. Watts, labor on grades in December—3 days 9 hours	11.70
2073		1- 7-15	To Joe Carter, labor on grades in December—3 days 9 hours	11.70
2074		1- 7-15	To C. E. Wentworth, labor on grades, balance account of J. Newell—December.	10.00
2090		1- 7-15	To J. H. Cocy, *settment* for damage to farm.	50.00
2100		1- 9-15	To E. W. Hammons, Balance salary on grade foreman for December.	21.00
2103		1- 9-15	To J. E. Mays, checking and roustabouting, December. . . .	22.50
2104		1- 9-15	To T. O. Ham, hauling steel and lumber during month of December.	1,117.65
2107		1- 9-17	To Frisco Ry. Co., demurrage on tank material.	28.00
CV	100	12-31-14	To E. B. Long, 20 days salary	200.00
1943		12-14-14	To John Mayes, reimbursing —fitting on 6″ casing—paid.	9.10
2005		12-28-14	To Frisco Ry. Co., freight on tank material.	118.80
2026		1- 5-15	To Frisco Ry. Co., freight on tank material.	10.84
2106		1- 9-15	To Frisco Ry. Co., freight on tank material.	251.28
CV	112	12-21-14	To Black Sivalls & Bryson, erecting two tanks.	1,000.00
CV	118	12-22-14	To S. E. Johnson, second hand tank.	115.00
		12-27-14	To S. E. Johnson, 1 new 10x16	150.00
		11-16-14	To S. E. Johnson, 2d hand water tank.	120.00
CV	120	12-23-14	To Parkersburg Rig & Reel Co., 1 new 1600 bbl. tank. . .	500.00
		1-18-15	To Parkersburg Rig & Reel Co., 2 new 160 bbll. tanks. . .	1,000.00
			Forward	$ 7,677.46

[Page 3 of Defendant Minnie Atkins' Exhibit B-23.]

Schedule "B".

EXPENDITURES—Atkins Lease—December 17th, to January 18th, 1915.

			Forwarded	$ 7,677.46
CV	121	1- 6-15	To South Chester Tube Co., 169 joints 5 3-16" casing f..	$ 1,621.31
		1-15-15	To South Chester Tube Co., 252 joints 6 5-8" casing....	2,994.29
CV	122	12-22-14	To A. L. Dehner, building bunk house on Atkins lease......	25.00
CV	124	1- 5-15	To Continental Supply Co., 1 No. 10 valve rod link......	.57
		1-13-15	To Continental Supply Co., 896' of 12½" casing........	1,218.—
CV	125	1- 1-15	To McMan Oil Co., gas furnished during month of December....................	185.00
CV	135	12-28-14	To Tulsa Rig & Reel Co., building No. 7.............	895.00
		12-28-14	To Tulsa Rig & Reel Co., material for No. 1............	18.75
		1- 6-15	To Tulsa Rig & Reel Co., building No. 8..................	895.00
		1- 2-15	To Tulsa Rig & Reel Co., building No. 9..................	895.00
CV	134	1-14-15	To Oklahoma Iron Works, 1, 25 H. P. boiler...........	420.00
			Total	$ 15,800.38

Defendants' Exhibit B-24.

[See insert herewith for plat of part of City of Leavenworth, Kan., reduced to one-fourth.]

Defendants' Exhibit B-25.

[See insert herewith for photographic reproduction of Creek Census Card, No. 2707.]

Charley
Harvey

Residence: ~~Harrison~~ 58 38 [illegible] Wagoner
Post Office: ~~Muskogee~~ 58 38 Ind. Ter.

Creek NATION. Creek ROLL.

Card No. 2707
Field No. 2974

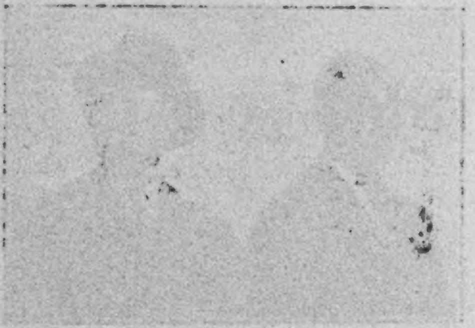
Dawes' Roll No.		NAME	Relationship to Person first named	AGE	SEX	BLOOD	Tribal Enrollment Year	Tribal Enrollment District	Tribal Enrollment No.	Name of Father	Year	District	Name of Mother	Year	District
7913	1	Atkins, Homer		10	M	1/4	1895	Eufaula	218	White man			Minnie Atkins	1895	Eufaula
	2														
	3														
	4														
	5														
	6														
	7						Kn. on 1895 Auth. Roll No. 212 as "Tho. Atkins"								
	8														
	9														
	10														
	11														
	12														
	13														
	14														
	15														
	16														
	17														
	18														

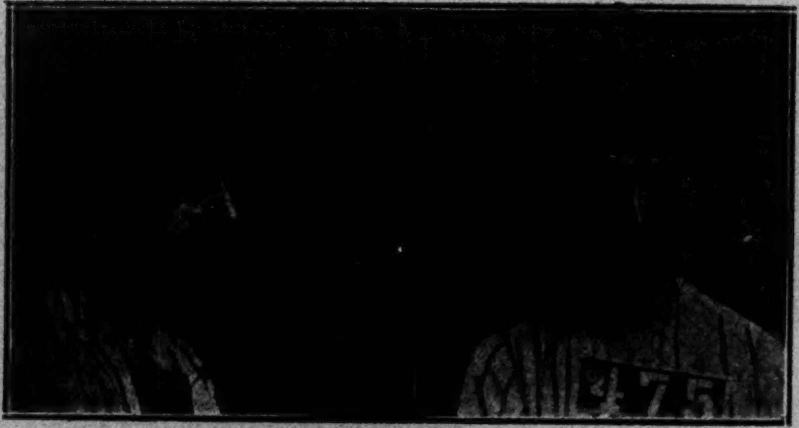
ENROLLMENT
of Nos. 7913 hereon
approved by the Secretary
of Interior MAR 28 1903

Citizenship certificate issued for No. 1
June 27. 1904

May 28. 1901

Commissioner to the Five Civilized Tribes.
card No. 3707
Muskogee, Oklahoma
APR 8 1913




475

[On back of photograph.]

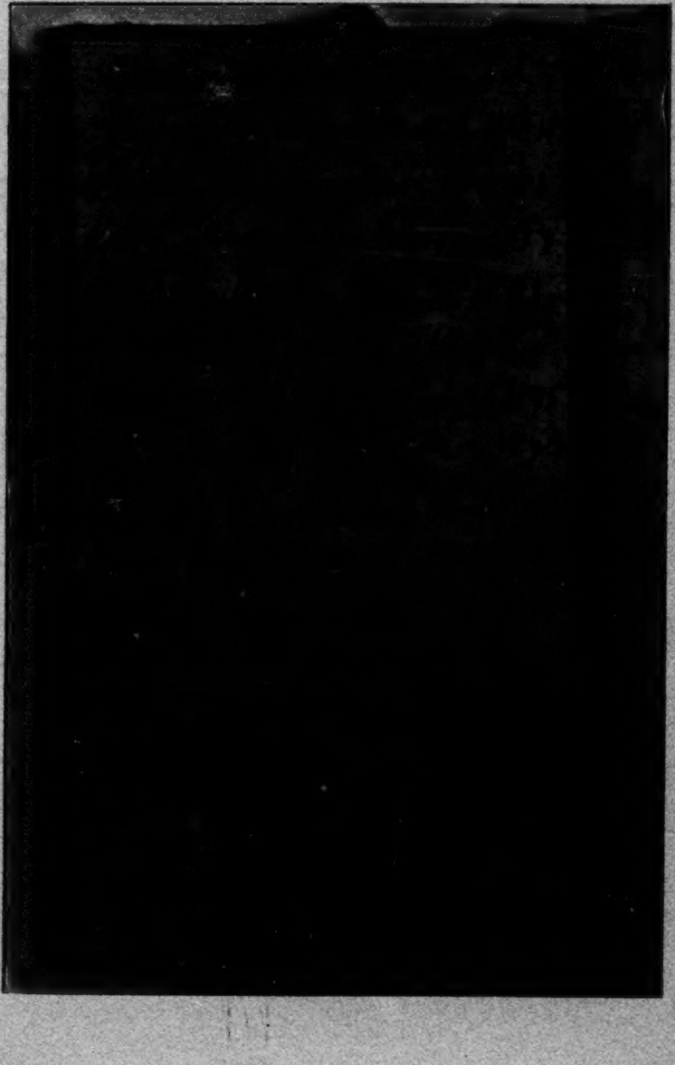
Meyer

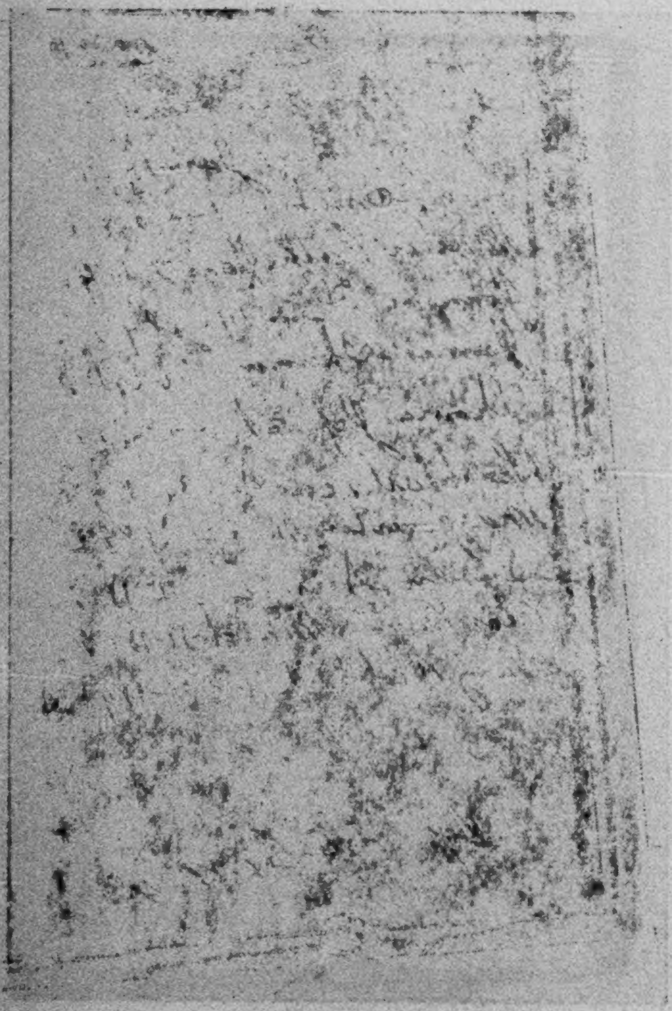
DEPARTMENT OF POLICE
City of Tulsa, Okl'a
BUREAU OF IDENTIFICATION

No. 475

Name, Thomas Atkins
Alias. . . . .
Crime, Investigation
Age, 28 Height, 5ft 5 inch.
Weight, 125 Build, Slight
Hair, Black Eyes. . . . .
Complexion, Sallow Moustache. . . . . .
Born, K. C., Mo.
Occupation, Oil Records
Arrested, 7/14/15
Received from. . . . .
Sentenced, Released No evidence

Remarks: Born at Kansas City, Mo. Arrest at Browning Hotel in room with Danny Daniels, Burglar. Complete record & newspaper clippings.





Defendant Minnie Atkins' Exhibit B-26.

GEM OIL COMPANY
Tulsa, Okla.

Gem Oil Company, October 20, 1914.
Tulsa, Oklahoma.

Gentlemen:

Receipt is hereby acknowledged of $50.00, in full payment for all claims I have, or may have in the future, in the way of commission, or claim of any other character, for work done and for information furnished, on *all* and gas lease executed in your favor by Minnie Folk et al., covering the SW4 of NW4 of Sec. 4; and SW4 of NE4 and lot 2 of Sec. 5; and lot 4 of Sec. 4, all in Twp. 18 N., R. 7. E.,

In addition to this receipt you are hereby authorized and empowered, in consideration of payments heretofore made me, (to make settlement with Mrs. S. E. Mann, and her receipt for the) [words in parentheses stricken with pen and ink] same shall be my receipt therefor.

Signed: C. H. Rogers

Witnesses to signature:
F. B. Long,
H. V. Maddox.

Defendants' Exhibit B-27.

[See insert herewith for reproduction of photograph of Tommy York.]

Defendant Carter's Exhibit A-1.

[See insert herewith for reproduction of photograph of Thomas Atkins.]

Defendant Carter's Exhibit A-4.

[See insert herewith for photographic reproduction of Family Record from Carter Family Bible.]

In the United States District Court for the Eastern District of Oklahoma. United States of America, Complainant, v. *Minnie Atkins, et al., Defendant.—No. 2131 Equity.*

Order Approving Transcript of Evidence to Be Incorporated in Record on Appeal.

It appearing to the satisfaction of the court that in pursuance of the order of court entered herein on the 26th day of July, 1918, directing that all the evidence introduced at the trial of said cause be reproduced and printed in the record on appeal herein in the exact language of the witnesses, without abridgment or reduction, the complainant has this day lodged in the office of the clerk of this court a true and complete transcript of all the evidence admitted, and all the evidence offered and rejected at the final trial of said cause, together with all the depositions, exhibits, orders and rulings of the court, and all the objections and exceptions allowed during the progress of said trial, the opinions of the court announced at said trial, the motions made at said trial, the objections thereto, the action of the court thereon, and the exceptions saved, and all the proceedings had and conducted at said trial; on motion of complainant's solicitors it is

Ordered that the said transcript of evidence be, and the same is hereby approved as true and complete; and,

It Is Further Ordered that the same be filed in the clerk's office and made a part of the record in this cause, for the purpose of the appeal sued out herein.

Done in open court this 28th day of August, 1918.

RALPH E. CAMPBELL, *Judge.*

Endorsed: Filed Aug. 28, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 26th day of July, A. D. 1918, the following proceedings were had in this cause, Honorable RALPH E. CAMPBELL, Judge presiding:

Order That All Evidence Be Printed in Full.

And, to-wit, on the 26th day of July, A. D. 1918, came on to be heard the motion of the defendants, Nancy Atkins, Robert L. Rutherford and Arthur L. Ferguson as administrator of the estate of James A. Ferguson, deceased, to require the evidence in the above entitled action to be printed and reproduced in the exact language of the witnesses, and said defendants appeared by their attorney, Malcolm E. Rosser, and the complainant United States of America appeared by its attorney, D. H. Linebaugh, and the Court heard said motion, and after hearing the same, and being well and sufficiently advised, finds that said motion should be sustained.

It is therefore by the Court considered and *ordered* that the record in the above entitled cause be printed in full, and that the evidence be reproduced and printed in the language of the witnesses without abridgment of reduction;

To which findings and order of the Court the complainant by its said attorney in open court excepted.

Dated this 26th day of July, A. D. 1918.

RALPH E. CAMPBELL, *Judge.*

And, to-wit, on the 26th day of July, A. D. 1918, the United States of America filed Petition for Allowance of Appeal, together with its Assignment of Errors, which Appeal was allowed by the Court. Said Petition for Allowance of Appeal, Assignment of Errors, and Order Allowing Appeal are in words and figures as follows:

Petition for Appeal to the United States Circuit Court of Appeals for the Eighth Circuit.

To the Honorable RALPH E. CAMPBELL, District Judge:

The above named complainant, feeling itself aggrieved by the decree made and entered in this cause on the 29th day of May, 1918, does hereby appeal from said decree to the United States Circuit Court of Appeals for the Eighth Circuit, for the reasons specified in the assignment of errors, which is filed herewith, and it prays that its appeal may be allowed and that a transcript of the records and proceedings in said cause, with all things concerning the same, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Eighth Circuit.

W. P. McGINNIS,
United States Attorney;
ALVIN F. MOLONY,
Special Assistant to the
United States Attorney;
D. H. LINEBAUGH,
Special Assistant to the
Attorney General;
Solicitors for Appellant.

Endorsed: Filed Jul. 26, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Assignment of Errors on Appeal to the United States Circuit Court of Appeals for the Eighth Circuit.

Comes now the complainant, by W. P. McGinnis, United States Attorney for the Eastern District of Oklahoma, Alvin F. Molony, Special Assistant to the United States Attorney, and D. H. Linebaugh, Special Assistant to the Attorney General, its solicitors of record, and show that the final decree entered in the above entitled cause on the 29th day of May, 1918, is erroneous and unjust to the complainant, and complainant now files the following assignment of errors upon which it will rely in its appeal from said judgment and decree for a reversal of the same, to-wit:

ASSIGNMENT OF ERRORS.

I.

The Court erred in finding and deciding, contrary to the facts set forth in the amended bill of complaint and established by the evidence, that the defendant Minnie Folk (nee Atkins) is the owner and entitled to the possession of the land in controversy, subject only to the right, title and interest of the defendants Charles Page and Edward C. Hanford, claiming by, through or under her.

II.

The Court erred in not finding, and deciding that the allotment deeds to the land in controversy made in the name of Thomas Atkins were void, in that it was established by the evidence that said name was fictitious and did not represent any person that ever existed.

III.

The Court erred in not finding and deciding that the enrollment of the name Thomas Atkins, in which name the allotment in controversy was made, was void, in that it was established by the evidence that the Commission to the Five Civilized Tribes in taking such action inadvertently enrolled a name which was fictitious and did not represent any person that ever existed.

IV.

The Court erred in refusing to consider the evidence offered on behalf of complainant for the purpose of establishing the non-existence of Thomas Atkins, which evidence by reason of its volume is not here set out in detail, and which evidence was considered by the court only upon the issues as joined between the two defendants Nancy Atkins and Minnie Atkins.

V.

The Court erred in finding and deciding that the enrollment and allotment of Thomas Atkins by the Dawes Commission precludes any proof on the part of the complainant that no such person as Thomas Atkins ever existed.

VI.

The court erred in finding as a matter of fact as among the defendants that Minnie Atkins, or Minnie Folk, gave birth to an illegitimate male child in the early part of June, 1885, at the home of a negro, known as Grannie Letcher, at 217 Seneca Street, in Leavenworth, Kansas, and that this child was by her called Thomas Atkins, and that this child was subsequently enrolled as a member of the Creek Tribe of Indians and allotted the land in controversy herein.

VII.

The court erred as a matter of fact in finding that the name Thomas Atkins, as enrolled as a member of the Creek Tribe of Indians, by the Commission to the Five Civilized Tribes, represented any person who ever existed.

VIII.

The Court erred in not cancelling the patents issued in the name of Thomas Atkins by the Dawes Commission and signed by the principal chief of the Creek Nation purporting to convey to the said Thomas Atkins, the

> Southwest quarter of the Northeast quarter and Lot Two (2) of section Five (5), and the Southwest quarter of the Northwest quarter and Lot Four (4) of section Four (4), township Eighteen (18) North, Range Seven (7) East of the Indian Meridian.

IX.

The court erred in not holding the enrollment of the name Thomas Atkins void in that it was established by the evidence that said name so enrolled represented no person then or ever in existence.

X.

The Court erred in finding and deciding, contrary to the facts set forth in the amended bill of complaint and established by the evidence, that the Dawes Commission, in enrolling the name Thomas Atkins, in which name the allotment in controversy was made, conducted proceedings which were adversary and not *ex parte,* and that the judgment of enrollment was not subject to attack for fraud intrinsic to the proceedings themselves.

XI.

The Court erred in not finding and deciding that the proceedings of the Dawes Commission, in enrolling the name Thomas Atkins, in which name the allotment in controversy was made, was purely *ex parte,* and the judgment of enrollment therefore subject to attack for fraud intrinsic to the proceedings themselves, as was charged in the amended bill of complaint and established by the evidence.

XII.

The Court erred in not finding and deciding that the facts set forth in the amended bill of complaint, if sustained, entitled the complainant to the relief prayed for.

XIII.

The court erred in not considering the evidence offered by the complainant, showing that the Thomas Atkins found on the Euchee Creek Tribal roll, opposite No. 213, and on the approved roll of Creek Indians, opposite No. 7913, was fictitious, and did not represent any person that ever existed.

XIV.

The Court erred in ordering, adjudging and decreeing that complainant's bill of complaint as amended, be dismissed, and in dismissing same.

XV.

The Court erred in sustaining the motion of the defendants and interveners for the dismissal of the Government's bill of complaint as amended, and the entry of a decree in favor of the defendants, Minnie Atkins, Charles Page and Edward C. Hanford.

XVI.

The Court erred in not ordering, adjudging and decreeing that the complainant do have the relief prayed for in its bill of complaint as amended.

XVII.

The Court erred in rejecting certain evidence offered by complainant as follows:

"Mr. German: We offer as Government's Exhibit A-16, a letter dated May 11, 1905, to H. G. Hains, Chief Clerk in the enrollment division of the Creek Nation, and signed by the Chairman of the Commission, advising that the deeds to this allotment of Thomas Atkins were held up pending further instructions. I will just offer all of these, Your Honor, and then one objection can refer to them all.

Then as Exhibit A-17, a certified copy of one page of the index book to the M Journal, showing the name of Thomas Atkins, and referring to page 113 in said M Journal.

Then a certified copy of, as Government's Exhibit A-18, page 113, of M. Journal, which is a record to the effect that the patents to Thomas Atkins, giving their numbers, have been ordered by the enrollment division on May 9, 1905, to be held account of his citizenship.

Then, as Government's Exhibit A-19, we offer a certified copy of one page of the index to special Creek Memorandum Book. This shows the name of Thomas Atkins and refers to page 124 of said book.

Then, a certified copy, as Government's Exhibit A-20, of page 124 of the Special Creek Memorandum book, which shows that these patents were ordered held on account of the citizenship of Thomas Atkins.

Then a certified copy of a letter, dated May 9, 1905, addressed by the Commissioner in charge to Will Robinson, Muskogee, Oklahoma, making inquiry as to the address of Minnie Atkins, whose testimony is desired and giving the census card number of Thomas Atkins up in the corner of the letter.

A letter, dated May 9, 1905, from the Commission to Noah Gregory, requesting him to furnish proof of death of Thomas Atkins, giving his census card No. 2774, stating that advice had been received that he is dead.

A letter dated May 9, 1905, as Government's Exhibit A-23, from the Commissioner in charge to E. B. Miller, advising that a question has arisen affecting the citizenship of Thomas Atkins and directing a suspension of the issuance of deeds to his heirs.

All of these exhibits coming from the office of the Commission, the Dawes Commission.

Q. Mr. Shanafelt, in connection with the offer of these exhibits, I will ask you whether the records in the office show any response to the letter addressed to Noah Gregory?

Mr. Hanford: Objected to as immaterial.

The Court: Sustained.

Mr. German: We offer to show in this connection by the witness that the records in the office of the Commission fail to show a response to said letter.

Q. In connection with the offer of Exhibit A-21, which is the letter to Will Robinson, we offer his answer thereto, which is written at the bottom of the letter in these words: "Don't know," signed by W. R. Robinson.

Mr. Hanford: Is that all the offer?

Mr. German: No, sir, we are not quite through.

As Government's Exhibit A-24, we offer in evidence a certified copy of a communication to the Commissioner of Indian Affairs, dated August 4, 1916, from R. C. Allen, Creek National Attorney, requesting that the matter of the alleged citizenship rights of Thomas Atkins, as commenced in 1905, be resumed. And, as a part thereof, Judge Allen's supplemental communication dated October 23, 1916, on the subject, setting forth the reasons why the name should be cancelled from the roll.

As Government's Exhibit A-25, we offer in evidence a certified copy of a communication dated August 12, 1916, addressed to the Commissioner of Indian Affairs, signed by Gabe E. Parker, Superintendent of the Five Civilized Tribes, relating to the matter of the proceedings pending before the Secretary of the Interior for determination of the citizenship rights of Thomas Atkins.

As Government's Exhibit A-26, we offer in evidence a certified copy of the notices issued to all the defendants in this lawsuit, and all other persons who have come forth asserting any claim of right, title or interest in the land in controversy, advising them that the Secretary would conduct a hearing on a certain date in the case involving the rights of citizenship of Thomas Atkins. Furthermore, said exhibit contains the order setting said case for hearing before him in Washington, D. C., and continuing the hearing from time to time. And we offer in this connection to prove actual service of all such notice by registered mail.

As Government's Exhibit A-27, we offer in evidence the determination of the Secretary of the Interior, dated April 28, 1917, cancelling the enrollment of the name of Thomas Atkins on the final roll of Creek citizens, and directing that a notice be entered.

The Court: Does that cover all the offers in this connection?

Mr. German: Yes, sir.

The Court: I understand the same objection is offered as to all of them. Objection sustained and exception noted."

Wherefore, the complainant prays that the said decree be reversed and the District Court be instructed to enter a decree in accordance with the prayer of the amended bill of complaint, or that the United States Circuit Court of Appeals for the Eighth Circuit shall reverse said decree and on the record render a decree as prayed for by complainant's bill of complaint as amended, or, if neither of these be deemed just and equitable, that the said decree be reversed and a rehearing and retrial of said action by the District Court be ordered, and for all other proper relief.

W. P. McGinnis,
United States Attorney;

Alvin F. Molony,
Special Assistant to the
United States Attorney;

D. H. Linebaugh,
Special Assistant to the
Attorney General;
Solicitors for Complainant.

Endorsed: Filed Jul. 26, 1918, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Order Allowing Appeal.

It is hereby ordered that the appeal in the above entitled cause be and the same is hereby allowed as prayed, and it further appearing that the appeal herein is being prosecuted by the United States of America, it is further ordered that the said appeal be without bond, and shall operate as a supersedeas of the decree herein made and entered on May 29, 1918.

Done in open court this 26th day of July, 1918.

RALPH E. CAMPBELL, *Judge.*

Endorsed: Filed Jul. 26, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 28th day of July, A. D. 1918, the following proceedings were had in this cause, Honorable RALPH E. CAMPBELL, Judge presiding:

Order Reviving the Action in the Name of Arthur L. Ferguson, as Administrator of J. A. Ferguson, Deceased.

Now on this 28th day of July, 1918, came on for hearing the motion of Arthur L. Ferguson, as administrator, to be substituted as party defendant instead of James A. Ferguson, one of the original defendants in said action, and after hearing said motion the Court finds that same should be sustained.

It is therefore considered and *ordered* by the Court that the said Arthur L. Ferguson be substituted as party defendant instead of James A. Ferguson, deceased.

RALPH E. CAMPBELL, *Judge.*

Endorsed: Filed July 28, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Citation.

United States of America, to Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an incompetent, Charles Harrison, Thomas Harris, Kahooka Harris, Harvey Harrison, a minor, A. J. Burchett, as guardian of Harvey Harrison, a minor, Minnie Hall, nee Atkins, Martin Rowe, Harry Harrison, Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon, and C. J. Wrightsman, Greeting:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the day this citation bears date, pursuant to an appeal filed in the Clerk's Office of the United States District Court for the Eastern District of Oklahoma, wherein the United States of America is appellant and you are appellees, to show cause, if any there be, why the decree rendered against the said appellant, as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable RALPH E. CAMPBELL, Judge of the United States District Court for the Eastern District of Oklahoma, this 26th day of July, A. D. 1918.

RALPH E. CAMPBELL,
Judge of the United States District Court
for the Eastern District of Oklahoma.

The undersigned attorneys of record of the appellees, Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Gem Oil Company, a corporation, Charles Page and C. J. Wrightsman, do hereby acknowledge service of a true copy of the foregoing citation this 2 day of August, 1918.

STUART & CRUCE,
E. C. HANFORD,
Solicitors for said Appellees.

The undersigned solicitors of record for the appellees, Nancy Atkins, Micco T. Harjo, guardian of Nancy Atkins, an incompetent, Robert L. Rutherford, and Arthur L. Ferguson, administrator of James A. Ferguson, hereby acknowledge service of the foregoing citation this 29th day of July, 1918.

JOSEPH M. HILL,
MALCOLM E. ROSSER,
Solicitors of record for said Appellees.

In the United States District Court for the Eastern District of Oklahoma. United States of America, complainant, vs. Minnie Folk, nee Atkins, et al.—No. 2131 Equity.

ACCEPTANCE OF SERVICE OF CITATION.

We, the undersigned solicitors for the defendants shown below, do hereby acknowledge the receipt and service upon us of copies of the citation issued out of the United States District Court in the above styled cause, on the 26th day of July, 1918, for the purpose of appeal to the Eighth Circuit Court of Appeals from the judgment of the court heretofore rendered herein.

This the 29th day of July, 1918.

BLAKENEY & MAXEY,
Solicitor for Henry Carter.

JAMES B. DIGGS,
RUSH GREENSLADE,
WILLIAM C. LIEDTKE,
Solicitor for Gypsy Oil Company.

NIXON & NIXON,
Solicitor for J. Truman Nixon and Thomas Atkins.
by J. TRUMAN NIXON,

The undersigned solicitor of record of the appellee, H. U. Bartlett, does hereby acknowledge service of a true copy of the foregoing citation this 2nd day of August, 1918.

JOHN B. MESERVE,
Solicitor of record of the appellee, H. U. Bartlett.

Praecipe for Transcript.

To the Clerk of the above named Court:

You will please incorporate into the transcript of the record on the appeal taken by the complainant in the case of United States of America, complainant, vs. Minnie Atkins, et al., defendants, No. 2131 Equity, the following portions of the record, to-wit:

1. The Amended Bill of Complaint filed September 17, 1915.
2. The Disclaimer of T. S. Hurst, filed February 9, 1915.
3. The Disclaimer of F. F. Betzer, filed February 9, 1915.
4. The Disclaimer of the Gypsy Oil Company, filed February 22, 1915.
5. The Answer of Gem Oil Company, filed February 15, 1915.
6. The Answer of Thomas Atkins, filed June 10, 1915.
7. The Answer of Thomas Atkins, filed Ocltober 11, 1915.
8. The Answer of J. Truman Nixon, filed October 11, 1915.

9. The Answer of Thomas Atkins to amended bill of complaint, filed October 30, 1915.
10. The Answer of the defendant Charles Page, filed December 14, 1915.
11. The Answer of the defendants Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, filed December 23, 1915.
12. The Disclaimer of R. A. Josey, filed December 23, 1915.
13. The Answer of Nancy Atkins, filed December 29, 1915.
14. The Answer of Robert L. Rutherford and James A. Ferguson, filed December 29, 1915.
15. The Disclaimer of H. U. Bartlett, A. A. Hammer and H. E. Whitehead, filed January 25, 1916.
16. The Disclaimer of William S. Murphy, filed January 25, 1916.
17. The Answer of the defendants Harry B. Folk and Edward C. Hanford to the cross-complaint of Nancy Atkins, filed August 11, 1916.
18. The Answer of Charles Page to the cross-complaint of Nancy Atkins, filed August 11, 1916.
19. The Supplemental Bill, filed September 12, 1916.
20. The Opinion, filed December 1, 1917.
21. The Supplemental Memorandum Opinion, filed May 13, 1918.
22. The Decree, entered May 29, 1918.
23. The Order Reviving the Action in the name of Arthur L. Ferguson, as administrator of J. A. Ferguson, deceased.
24. The Petition for Appeal, filed July 26, 1918.
25. The Assignment of Errors, filed July 26, 1918.
26. The Order Allowing Appeal, entered July 26, 1918.
27. The Citation and Service thereof.
28. The Order that all the evidence introduced at the trial of said cause be incorporated in the record on appeal without abridgment or reduction, entered July 26, 1918.
29. The Order Enlarging the time to file record in the Circuit Court of Appeals, entered August 20, 1918.
30. The Transcript of Evidence, filed in pursuance of the Order entered July 26, 1918.
31. The Order Approving the transcript of evidence and making same a part of the record on appeal.
32. This Praecipe for Transcript, together with service thereof.
33. Your Certificate

And complainant further requests that said record be printed under the provisions of the Act of Congress entitled: "An Act to Diminish the Expenses of Proceedings on Appeal and Writ of Error, or of Certiorari" (approved February 13, 1911), and that same be filed in the office of the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit at Saint Louis, Missouri, on or before the 15th day of June, 1919, the time for the filing of said record in the said Circuit Court of Appeals having been enlarged by this court until the day last mentioned, by order entered the 20th day of August, 1918.

D. H. LINEBAUGH,
Special Assistant to the Attorney General;

W. P. McGINNIS,
United States Attorney;

ALVIN F. MOLONY,
Special Assistant to the United States Attorney;
Solicitors for Complainant.

Service of the foregoing praecipe for transcript is hereby acknowledged this 31 day of August, 1918.

C. B. STUART,

E. C. HANFORD,

A. C. CRUCE,

Solicitors for Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Gem Oil Company, a corporation, Charles Page and C. J. Wrightsman.

Service of the foregoing praecipe for transcript is hereby acknowledged this 28th day of August, 1918.

JOSEPH M. HILL,

MALCOLM E. ROSSER,

Solicitors for Nancy Atkins, Micco T. Harjo, guardian of Nancy Atkins, an incompetent, Robert L. Rutherford, and Arthur L. Ferguson, administrator of the estate of James A. Ferguson, deceased.

Service of the foregoing praecipe for transcript is hereby acknowledged this 29th day of August, 1918.

JAMES B. DIGGS,
RUSH GREENSLADE,
WILLIAM C. LIEDTKE,
Solicitors for Gypsy Oil Company.

Service of the foregoing praecipe for transcript is hereby acknowledged this 29 day of August, 1918.

J. TRUMAN NIXON,
NIXON & NIXON,
Solicitors for J. Truman Nixon and Thomas Atkins.

Service of the foregoing praecipe for transcript is hereby acknowledged this 29 day of August, 1918.

JOHN B. MESERVE,
Solicitor for H. U. Bartlett.

Service of the foregoing praecipe for transcript is hereby acknowledeged this 29 day of August, 1918.

BLAKENEY & MAXEY,
Solicitors for Henry Carter.
per F. V. WESTHAFER.

Endorsed: Filed Sep. 2, 1918, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the July 26th, A. D. 1918, the defendants Nancy Atkins by her guardian H. A. Ridgeway, Arthur L. Ferguson, Administrator of the Estate of J. A. Ferguson, deceased, and Robert L. Rutherford filed Petition for Allowance of Appeal, together with their Assignment of Errors, which Appeal was allowed by the Court. Said Petition for Allowance of Appeal, Assignment and Order Allowing Appeal are in words and figures as follows:

In the United States Court for the Eastern District of Oklahoma. The United States of America, Complainant, v. Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an *incompetent, Charles Harrison, Thomas Harris, Kehookah Harris, Harey Harrison, a minor, A. J. Burchett as guardian of Harvey Harrison, a minor, Minnie Hall nee Atkins, Martin Rowe, Harry Harrison, Minnie E. Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler and R. A. Josey, Defendants.—No. ....*

Petition for Appeal.

The above named defendants, Nancy Atkins, appearing herein by her guardian, H. A. Ridgway, Arthur L. Ferguson, Administrator of the above named James A. Ferguson, and Robert L. Rutherford feeling themselves aggrieved by the decree made and entered in this cause on the 29th day of May, 1918, do hereby appeal from said decree to the Circuit Court of Appeals for the Eighth Circuit for the reasons specified in the Assignment of Errors, which is filed herewith, and they pray that their appeal be allowed and that citation issue as provided by law, and that a transcript of the record, proceedings and papers upon which said decree was based, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Eighth Circuit; and they further pray for a proper order concerning the security to be required of them to perfect their appeal be made.

JOSEPH M. HILL,
N. B. MAXEY,
MALCOLM E. ROSSER,
Solicitors for Nancy Atkins, Arthur L. Ferguson and J. B. White.

The foregoing petition is granted, and the appeal allowed, upon giving bond for costs in the sum of Two Hundred & fifty Dollars, conditioned as required by law.

RALPH E. CAMPBELL, *Judge.*

Endorsed: Filed Jul. 26, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Assignment of Errors.

Comes Nancy Atkins, appearing by her guardian, H. A. Ridgway, Arthur L. Ferguson, Administrator of the above named James A. Ferguson, and Robert L. Rutherford, defendants and cross-complainants and assign the following errors, to-wit:

I.

The Court erred in finding that Minnie Atkins had an illegitimate male child born to her in the early part of June 1895 at the home of a colored woman known as Granny Letcher, in the City of Leavenworth, Kansas, and that she named this child Thomas Atkins.

II.

The Court erred in the finding that prior to the compilation of the authenticated roll of 1895 of the Creek tribe Minnie Atkins had conveyed information to certain of her relatives in the Indian Territory of the fact of the birth of Thomas Atkins, which information was eventually imparted to the tribal authorities, compiling the roll and that Thomas Atkins appearing at No. 213 on Euchee Town Roll of 1895 was placed upon said tribal roll by the tribal authorities compiling the roll as the child of Minnie Atkins, pursuant to said information.

III.

The Court erred in finding that the Thomas Atkins appearing on 1895 authenticated tribal roll and later on Dawes Commission Roll was in fact the illegitimate child of Minnie Atkins born in Leavenworth, Kansas, in June, 1895.

IV.

The Court erred in finding that the Thomas Atkins enrolled on Dawes Commission Roll as No. 7913 was the son of Minnie Atkins.

V.

The Court erred in not finding that the illegitimate son of Minnie Atkins born at Granny Letcher's at Leavenworth, Kansas, in June 1895, assuming the existance of said Thomas Atkins, was not the Thomas Atkins enrolled as No. 213 on Euchee Town Roll of the Creek Tribe in 1895.

VI.

The Court erred in not finding that the illegitimate son of Minnie Atkins born at Granny Letcher's in Leavenworth, Kansas, in June 1895, assuming the existence of said Thomas Atkins, was not the Thomas Atkins enrolled by the Dawes Commission on May 23, 1901, as No. 7913.

VII.

The Court erred in holding that there was an identity of the son of Minnie Atkins and the Thomas Atkins enrolled May 23, 1901, by the Dawes Commission as No. 7913.

VIII.

The Court erred in not finding that Nancy Atkins had an illegitimate child born to her at Wagoner, I. T., in 1890 named Thomas Atkins.

IX.

The Court erred in not finding that the Thomas Atkins on Euchee Town Roll of the Creek Tribe of 1895 as No. 213 was the son of Nancy Atkins.

X.

The Court erred in not finding that Thomas Atkins enrolled on May 23, 1901, by Dawes Commission as No. 7913 was the son of Nancy Atkins.

XI.

The Court erred in not finding that Thomas Atkins died leaving Nancy Atkins as his sole heir.

XII.

The Court erred in not finding Nancy Atkins and the defendants claiming under her as lessees entitled to the land in controversy according to their several interests.

XIII.

The Court erred in finding Minnie Atkins and the defendants claiming under her entitled to the land in controversy.

XIV.

The Court erred in ruling on the offered testimony of J. E. Newberry that common reputation in Wagoner that a little boy in that town was her son, known as Tommy Atkins, was not admissible, which said ruling was as follows:

"The Court: Well, I am impressed with these authorities that the Federal rule would exclude this general reputation of persons not members of the family. I shall sustain the objection and give you an exception as to the general reputation in the community among persons other than the members of the family.

Mr. Hill: We will offer that to prove by this witness that it was generally reputed in that neighborhood that this boy known as Tommy Atkins was the son of Nancy Atkins.

The Court: The record may show your offer and the ruling of the court and your exception."

XV.

The Court erred in ruling as follows:

"Now, here is a case where the evidence has gone far enough to show that it is contended by the Nancy Atkins interest that Nancy had a child, probably about twenty seven years ago, up at Wagoner, which is fifteen or sixteen miles from Muskogee where this case is now being tried. It is contended as against the contention of the Government, that the child which she had died, this child lived to be four or five or six years old; that it was around with her in Wagoner for several years as a little baby and as a growing child. The evidence has gone far enough to indicate pretty clearly that probably it will not be a contention that Nancy had more than the one child, and the question will revolve around that birth there, and as to whether that child was born dead and buried in its infancy, or whether it lived a number of years. If it died, as contended by the Nancy Atkins interest, it died a little more than twenty years ago. If there was any neighborhood reputation in that little community from Wagoner up there in regard to the birth and kinship of that child to Nancy, or its death, that reputation arose from matters of fact which certain people in the community knew. The facts which gave rise to that reputation must, in the nature of things, be very generally within reach of the parties now. Nancy Atkins, the mother, or reputed mother, of this child is a defendant and is in Court and may be called as a witness to testify as to its birth, the length of its lifetime, and the date of its death. And reviewing the whole matter, even taking the advanced position taken by Mr. Wigmore, I am of the opinion that the evidence, so far as it relates to the general reputation in the community up there, outside of the family, in regard to these facts, is not admissible."

XVI.

The Court erred in refusing to admit the offered testimoney of James E. Long, as follows:

"What was the general reputation among the people of the town as to who was the mother of this child?

The Court: I suppose the objection is interposed to that?

Mr. Pinson: Yes, sir.

The Court: The objection will be sustained and exceptions noted.

Mr. Maxey: Now, we expect to prove by this witness that this child was generally reputed in the neighborhood to be the son of Nancy Atkins, among all of the people that knew him at the time or resided there.

The Court: The record may show the proffer and the objection sustained, to which you except."

XVII.

The Court erred in refusing to admit the offered testimony of Nolan Williams, as follows:

"Q. What was the reputation in the neighborhood there among the people as to whose child this was? Now, don't answer that yet.

The Court: Your objections, I suppose, is interposed as to this?

Mr. German: Yes, sir.

The Court: The record may show the objection; the objection sustained, and counsel may, if they desire, make proffer and your exception will be noted.

Mr. Maxey: We expect to prove by this witness that it was the general reputation in the neighborhood there among the people who lived at Wagoner at that time that this child—that he has described was the child of Nancy Atkins. Exception noted."

XVIII.

The Court erred, in refusing to admit the offered testimony of Jasper N. Skirmpsher, as follows:

"Well, I will ask you was there talk around the town among the people as to who this boy's mother was?

Mr. German: We object on the ground that it is hearsay.

The Court: Sustained.

A. Only——

Q. Never mind.

Mr. Maxey: Now, I offer to prove by this witness it was a common rumor and general reputation of the town that—among the people of the town that this child was a child of Nancy Atkins—this boy that he has described as coming to his store."

XIX.

The Court erred, in refusing to admit the offered testimony of Thomas Brewer, as follows:

"Q. Now, whose child was that generally understood to be among the people of the town?

Mr. German: We object to that as hearsay.

The Court: Objection sustained.

Mr. Maxey: Now we offer to prove by this witness that it was the general reputation among the people of the town of Wagoner at that time, that this boy that he has described was the son of Nancy Atkins."

XX.

The Court erred, in ruling on the offered testimony of W. A. McElroy, as follows:

"Q. Do you know what the general reputation, or repute in the town there amongst the people was as to whose child it was?

Mr. German: We object to that.

The Court: You may answer that yes or no. You are asked whether you know what the general reputation was there as to whether it was Nancy's child. Now, general reputation. You may answer yes or no.

A. Yes.

Q. That is made up by what people say about it.

The Court: All right, put the question.

Q. What was that general reputation?

Mr. German: We object to that as hearsay.

The Court: Sustained.

Mr. Maxey: Now, we offer to show by him that it was the general reputation in the town there among the people who lived there at that time, that this child he has described was Nancy Atkins' child."

XXI.

The Court erred in refusing to admit the testimony of Walter Posey, Frank Ingles, D. W. Best, R. F. Davis, J. K. McLaren and J. W. Ruble to this effect: The defendant, Nancy Atkins, offered to prove by each of said witnesses that they lived in the town of Wagoner, Ind. Ter., during various years from 1890 to 1900 and that they were personally acquainted with Nancy Atkins, and that they were personally acquainted with a certain boy in said town described by each, called Tommy Atkins, and that they knew the general reputation in the town of Wagoner as to who was the mother of said Tommy Atkins; and that it was the general reputation in that community and generally understood in that community that said boy, Tommy Atkins, was the son of Nancy Atkins."

JOSEPH M. HILL,
N. B. MAXEY,
MALCOLM E. ROSSER,
Attorneys for the Nancy Atkins Interests.

Endorsed: Filed Jul. 26, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Appeal Bond.

Know All Men by These Presents:

That we, Arthur L. Ferguson, administrator of the above named James A. Ferguson, Robert L. Rutherford, Nancy Atkins and H. A. Ridgway, guardian of the said Nancy Atkins; as principals, and Zeb B. Jackson, as surety, acknowledge ourselves to be jointly indebted to the United States of America. Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kehookah Harris, Harvey Harrison, a minor, A. J. Burchett as guardian of Harvey Harrison a minor, Minnie Hall nee Atkins, Martin Rowe, Harry Harrison, Minnie E. Folk nee Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A.

Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrad, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler and R. A. Josey, in the sum of Two Hundred and Fifty ($250.00) Dollars; Conditioned That,

Whereas on the 29th day of May, 1918, in the District Court of the United States for the Eastern District of Oklahoma in a suit depending in that Court wherein the United States of America was complainant, and Minnie Atkins, Henry Carter, Charles N. Ball, Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an incompetent, Charles Harrison, Thomas Harris, Kehookah Harris, Harvey Harrison, a minor, A. J. Burchett as guardian of Harvey Harrison, a minor, Minnie Hall nee Atkins, Martin Rowe, Harry Harrison, Minnie R. Folk nee Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler and R. A. Josey, were defendants, numbered .... on the Equity Docket, a decree was rendered against the said James A. Ferguson, now deceased, Robert L. Rutherford, Nancy Atkins and H. A. Ridgway as guardian of the said Nancy Atkins; and the said James A. Ferguson, Robert L. Rutherford, Nancy Atkins and H. A. Ridgway as guardian of said Nancy Atkins having obtained an appeal to the United States Circuit Court of Appeals for the Eighth Circuit, and filed a copy thereof in the office of the Clerk of the Court, to reverse said decree and a citation directed to D. H. Linebaugh, United States District Attorney, solicitor for Complainant, and to the said Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kehookah Harris, Harvey Harrison, a minor, A. J. Burchett as guardian of Harvey Harrison, a minor, Minnie Hall nee Atkins, Martin Rowe, Harry Harrison, Minnie E. Folk nee Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton. Ellis H. Hammett, Rufus B. Cobb, George C. Conrad, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler and R. A. Josey, citing and adminishing them to be and appear at a session of the United States Circuit Court of Appeals for the Eighth Circuit to be holden in the City of St. Louis, in the State of Missouri, sixty (60) days after the date of the said citation.

Now if the said Arthur L. Ferguson, as Administrator of the estate of James A. Ferguson, deceased, Robert L. Rutherford, Nancy Atkins and H. A. Ridgway as guardian of Nancy Atkins, an incompetent, shall prosecute their appeal to effect and answer all costs if they fail to make their plea good, then the above obligation to be void; otherwise to hemain in full force and effect.

Arthur L. Ferguson, Adm. Estate of James A. Ferguson, deceased, Robert L. Rutherford, Nancy Atkins, H. A. Ridgway, Guardian Nancy Atkins,
Principals.

By JOSEPH M. HILL and
MALCOLM E. ROSSER,
Their Attorneys.

Zeb P. Jackson, *Sureties.*

Approved this 23d day of August, A. D. 1918.
RALPH E. CAMPBELL.

Endorsed: Filed Aug. 23, 1918, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Citation.

United States of America, to United States of America, Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a minor, A. J. Burchett, as guardian of Harvey Harrison, a minor, Minnie Hall, nee Atkins, Martin Rowe, Harry Harrison, Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, Greeting:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the day this citation bears date, pursuant to an appeal filed in the Clerk's Office of the United States District Court for the Eastern District of Oklahoma, wherein Nancy Atkins, H. A. Ridgway, guardian of said Nancy Atkins, an incompetent, Robert L. Rutherford, and A. L. Ferguson, administrator of the estate of James A. Ferguson, deceased, are appellants and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants, as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable RALPH E. CAMPBELL, Judge of the United States District Court for the Eastern District of Oklahoma this 5th day of Aug, A. D. 1918.

RALPH E. CAMPBELL,
Judge of the United States District Court
for the Eastern District of Oklahoma.

We hereby accept service of the within citation, this .... day of August, 1918.

STUART & CRUCE,
Solicitors for Minnie Folk, nee Atkins,
Harry B. Folk, Edward C. Hanford,
Gem Oil Company and Charles Page.

We hereby accept service of the within citation, this 7 day of August, 1918.

BLAKENEY & MAXEY,
Solicitors for Henry Carter.

We hereby accept service of the within citation, this 5th day of August, 1918.

W. P. MCGINNIS,
U. S. Atty., E. Dist. Okla.
ALVIN F. MOLONY,
Spec. Asst. U. S. Atty.
Solicitors for Complainant.

Praecipe for Transcript.

To the Clerk of the above named Court:

In addition to the portion of the transcript designated in the Praecipe for Transcript filed by the Complainant, The United States of America, in the case of United States of America v. Minnie Atkins, et al., No. 2131 Equity, the Defendants and Cross Appellants, Nancy Atkins by her Guardian, H. A. Ridgeway, Arthur L. Ferguson, Administrator of the estate of James A. Ferguson, deceased, and Robert L. Rutherford, request that you will please incorporate into the transcript of the record of the appeal taken, the following portions of the record, to-wit:

1. The petition for appeal filed on the 26th day of July, 1918, by the defendants and cross appellants, Nancy Atkins by her guardian, H. A. Ridgeway, Arthur L. Ferguson, Administrator of the estate of J. A. Ferguson, deceased, and Robert L. Rutherford.
2. The Assignment of Errors filed by the said defendants and cross appellants on the same day.
3. Order allowing the appeal of said defendants and cross appellants entered July 26th, 1918.
4. Bond for costs of appeal filed by said defendants and cross appellants; and
5. The Citation sued out by said defendants and cross appellants, together with the waiver of service thereof.

And said defendants and cross appellants further request that said portions of the record follow in the printing of said transcript the 27th portion designated by the Complainant in its praecipe, to-wit: the citation issued at the request of the complainant.

JOSEPH M. HILL,

MALCOLM E. ROSSER,

Attorneys for Defendants and Cross Appellants, Nancy Atkins by her Guardian, H. A. Ridgeway, Arthur L. Ferguson, Administrator of the Estate of J. A. Ferguson, dec'd, and Robert L. Rutherford.

Endorsed: Filed Sep. 3, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Order Enlarging Time Within Which to File Record in the United States Circuit Court of Appeals for the Eighth Circuit.

For satisfactory reasons appearing to the Court, the time for filing the record in this cause in the United States Circuit Court of Appeals for the Eighth Circuit, at Saint Louis, Missouri, pursuant to the appeal sued out, is extended until the 15th day of June, 1919.

Done in open Court this the 20th day of August, 1918.

RALPH E. CAMPBELL, *Judge.*

Clerk's Certificate.

United States of America, Eastern District of Oklahoma—ss.

I, R. P. Harrison, Clerk of the United States District Court for the Eastern District of Oklahoma, do hereby certify that the above and foregoing is a full, true and correct transcript of so much of the record in the case of *United States of America* v. *Minnie Atkins, et al.*, No. 2131 Equity, as was ordered by praecipe of counsel herein to be prepared and authenticated, as the same appears from the records in my office.

I further certify that the citations attached hereto and returned herewith are the original citations issued in this cause.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office in the City of Muskogee, dated this 15th day of April, A. D. 1919.

R. P. HARRISON, *Clerk*,
(Seal) By H. E. BOUDINOT, *Deputy.*

4986 Transcript of record.

In the United States Circuit Court of Appeals for the Eighth Circuit.

NANCY ATKINS ET AL., APPELLANTS,
v.
UNITED STATES OF AMERICA ET AL., APPELLEES.
No. 5425.

Appeal from the United States District Court, Eastern District of Oklahoma.

Additional testimony and proceedings brought up under stipulation of counsel.

4987 Transcript of record.

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA ET AL., APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEES.
Equity No. 2131.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES OF AMERICA ET AL., APPELLEES.
Equity No. 2131.

Stipulation.

It is hereby agreed and stipulated by and between D. Hayden Linebaugh, Special Assistant to the United States Attorney General; W. P. McGinnis, United States district attorney; and Alvin F. Maloney, assistant United States district attorney, representing the United States of America in the above-entitled action; Charles B. Stuart and E. C. Hanford, representing the estate of Minnie Atkins, deceased; Charles Page and E. C. Hanford; Joseph M. Hill, N. B. Maxey, and Malcolm E. Rosser, representing Nancy Atkins; Arthur L. Ferguson, and persons interested in the claim of Nancy Atkins; and Messrs. Blakeney and Maxey, representing Henry Carter or Thomas Atkins, that the testimony taken at the trial of this action, on the ———— day of June, 1917, to the effect that John Davis was in the penitentiary at Detroit, Michigan, during the year 1895, may be printed and inserted in the record and treated as a part of the record in this action on appeal with the same effect as if it had been printed at the time this appeal was first taken.

Dated this 21st day of August, A. D. 1919.

PAUL PINSON,
Special Asst. U. S. Attorney,
Attorneys for United States of America.
4988 C. B. STUART,
Attorneys for Minnie Atkins, Deceased,
Charles Page, and E. C. Hanford.
JOSEPH M. HILL,
N. B. MAXEY,
MALCOLM E. ROSSER,
Attorneys for Nancy Atkins, Arthur L. Ferguson et al.

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE EASTERN DISTRICT OF OKLAHOMA.

UNITED STATES OF AMERICA, COMPLAINANT,
v.
MINNIE ATKINS ET AL., DEFENDANTS.
Equity No. 2131.

Stipulation.

It is hereby agreed and stipulated by and between W. P. McGinnis, U. S. district attorney; Paul Pinson, assistant district attorney; and R. C. Allen, Creek attorney, representing the United States and the Creek Nation in the above-entitled and numbered action, and Messrs. Stuart, Cruce & Cruce, and Wm. O. Beall, representing Charles Page, and E. C. Hanford, representing Minnie Folk nee Atkins, and Messrs. Hill, Fitzhugh & Brizzolara, N. B. Maxey and Malcolm E. Rosser, representing Nancy Atkins, and Blakeney & Maxey, representing Thomas Atkins, known as Henry Carter, that a certificate of Bernhardt Jacob, superintendent of the Detroit House of Correction of Detroit, Michiga', may be received in evidence upon the question of whether the John Davis, alleged by the Government to have caused the name of Thomas Atkins to be placed upon the rolls of the Creek Nation, was confined in the Detroit House of Correction, otherwise known as the Detroit Penitentiary, from some time during the year 1891 until some time during the year 1896, with the same effect as if the statement of the said 4989 Bernhardt Jacob as to the same facts had been taken under oath verifying and proving the records of the said penitentiary or house of correction as to the imprisonment of the said John Davis. Said certificate is hereto attached marked "Exhibit A" and made a part hereof.

It is further agreed that a letter of the said Bernhardt Jacob, superintendent of said house of correction, dated July 10, 1917, addressed to Messrs. Hill, Fitzhugh, and Brizzolara, of Ft. Smith, Arkansas, stating that the same John Davis did not leave said penitentiary or house of correction from the time he was received until the date of his discharge, may be received in evidence at said hearing with the same effect as if the said Bernhardt Jacob had testified to the same facts under oath verifying the record of said penitentiary or house of correction with reference to the confinement of the said John Davis. Said letter is hereto attached and marked "Exhibit B."

It is further agreed between the said attorneys that the certificate of J. H. Parker, U. S. marshal for the Western District of Arkansas, made on the 6th day of July, 1917, as to the contents of the register of the U. S. jail for the year 1891 at page 73 of said register, with reference to John Davis, may be received in evidence at said hearing with the same effect as if the deposition of the said J. H. Parker had been taken with reference to said register verifying and proving the contents of the said register. Said certificate is hereto attached, marked "Exhibit C," and made a part hereof.

Dated this ———— day of September, A. D. 1917.

PAUL PINSON,
Special Assistant U. S. Atty.,
Representing U. S. and Creek Nation.

C. B. STUART,
Attorneys for Defendant, Charles Page.

4990 C. B. STUART,
Attorney for Defendant, Minnie Folk.

MALCOLM E. ROSSER and N. B. MAXEY and
JOSEPH M. HILL and HENRY FITZHUGH,
Attorneys for Nancy Atkins.

Exhibit A.

Date received, Dec. 26th, 1891; name, John Davis; age, 46; court, U. S. Arkansas; crime, forgery and pension fraud; color, white; nativity, Indian Territory; occupation, farmer; relations, wife and children; religious belief, none; sentence, $600.00 and five years; expiration of sentence, December 18, 1896; date of discharge, Feb. 4th, 1896; weight when received, 136 lbs.; weight when discharged, 139 lbs.; date of sentence, Dec. 19, 1891.

I, Bernhardt Jacob, superintendent of the Detroit House of Correction, located in the city of Detroit, county of Wayne, State of Michigan, do hereby certify that the above is a true and correct copy of our prison register in the case of John Davis.

BERNHARDT JACOB, *Supt.*

Subscribed and sworn to before me this 29th day of June, A. D. 1917.

JOSEPH TALLMAN,
[SEAL.] *Notary Public, Wayne County, Michigan.*

My commission expires December 11th, 1917.

Exhibit C.

[Copy.]

UNITED STATES OF AMERICA,
Western District of Arkansas:

4991 I, J. H. Parker, do hereby certify that I am the United States marshal for the Western District of Arkansas, and as such I am the custodian and in possession of the records of the United States jail at Fort Smith, Arkansas; and I further certify that the register of United States prisoners confined in the U. S. jail at Fort Smith, Arkansas (that is the register kept in 1891), at page 73, shows the following entries:

Names of prisoner—John Davis.

Description—(*a*) Age 47; (*b*) complexion, cop.; (*c*) color of hair, black; (*d*) color of eyes, black.

Height—5 feet 11 inches.

Date of commitment—Dec. 3, 1891.

Cause of commitment—Perjury.

Authority of commitment—Mittimus.

By whom committed—U. S. court.

Date of release—December 24, 1891.

By what authority released—Sent to house of correction, Detroit, Michigan.

In testimony whereof I have hereunto set my hand as such marshal, this 6th day of July, 1917.

(Signed) J. H. PARKER.

Subscribed and sworn to before me this 6th day of July, 1917.

[SEAL.] WM. S. WELLSHEAR,
Clerk, U. S. Dist. Court, W. D. Ark.

Exhibit B.

[Copy.]

[Detroit House of Correction. Bernhardt Jacob, Sup't.]

DETROIT, MICH., *July 10th, 1917.*

Messrs. HILL, FITZHUGH & BIZZOLARA,
Fort Smith, Ark.

4992 GENTLEMEN: Replying to yours of the 4th inst., would say, John Davis, according to our records, did not leave this institution from the date he was received here until the date of his discharge. He served his full sentence less "good time allowance" and was not released from here on parole.

Trusting this is the information you desire, I am,

Yours, truly,

(Signed) BERNHARDT JACOB,
Superintendent.

I, R. P. Harrison, clerk of the District Court of the United States for the Eastern District of Oklahoma, at Muskogee, certify the foregoing pages hereto annexed, numbered two to six, inclusive, contain and constitute a true and correct copy of the record and proceedings which were omitted from the original printed transcript of the record in the case of United States of America, complainant, versus Minnie Atkins et al., defendants, and which omitted testimony and proceedings is herewith sent up to the United States Circuit Court of Appeals for the Eighth Circuit, in accordance with the stipulation of counsel therein set out, as the same appears on file in my office at Muskogee, in said district.

In testimony whereof I hereunto set my hand and affix the seal of said court at my office at the city of Muskogee, Oklahoma, this 2nd day of December, 1919.

R. P. HARRISON, *Clerk*,
[SEAL.] By W. H. CUNNINGHAM, *Deputy*.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Dec. 4, 1919. E. E. Koch, clerk.

4993 And thereafter the following proceedings were had in said causes in the Circuit Court of Appeals, viz:

Appearance of counsel for appellant in cause No. 5420.

United States Circuit Court of Appeals, Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL.
No. 5420.

The clerk will enter my appearance as counsel for the appellant.

D. H. LINEBAUGH,
Special Asst. to the Attorney General.
W. P. MCGINNIS,
United States Attorney,
PAUL PINSON,
Specl. Asst. U. S. Atty.
ALVIN F. MOLONY,
Specl. Asst. U. S. Atty.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, May 23, 1919.

(Appearance of Mr. Malcolm E. Rosser as counsel for appellees, Nancy Atkins et al., in cause No. 5420.)

The clerk will enter my appearance as counsel for the appellees, Nancy Atkins, H. A. L. Ferguson, Admr. of James A. Ferguson, deceased and J. B. White.

4994 MALCOLM E. ROSSER.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, May 22, 1919.

(Appearance of Messrs. Hill & Fitzhugh as counsel for appellees, Nancy Atkins et al., in cause No. 5420.)

The clerk will enter my appearance as counsel for the appellees, Nancy Atkins et al.

Joseph M. Hill,
Henry L. Fitzhugh.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 11, 1919.

(Appearance of Mr. C. B. Stuart and Mr. M. K. Cruce as counsel for appellees, Minnie Atkins et al., in cause No. 5420.)

The clerk will enter my appearance as counsel for the appellees, Minnie Atkins et al.

C. B. Stuart,
M. K. Cruce.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 12, 1919.

4995 (Appearance of Mr. Lee Bond as counsel for the appellee, Charles Page, in cause No. 5420.)

The clerk will enter my appearance as counsel for the appellee, Charles Page.

Lee Bond.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 15, 1920.

(Appearance of Mr. Malcolm E. Rosser as counsel for the appellants in cause No. 5425.)

United States Circuit Court of Appeals, Eighth Circuit.

Nancy Atkins et al., appellants,
vs. No. 5425.
United States of America et al.

The clerk will enter my appearance as counsel for the appellants.

Malcolm E. Rosser.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jun. 2, 1919.

4996 (Appearance of Messrs. Hill & Fitzhugh as counsel for the appellants in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellants.

JOSEPH M. HILL.
HENRY L. FITZHUGH.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 11, 1919.

(Appearance of Mr. D. H. Linebaugh, Mr. W. P. McGinnis, Mr. Paul Pinson, and Mr. Alvin F. Molony as counsel for appellee, United States of America, in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellee, the United States of America.

D. H. LINEBAUGH,
Special Asst. to the Attorney General.
W. P. MCGINNIS,
United States Attorney.
PAUL PINSON,
Specl. Asst. U. S. Atty.
ALVIN F. MOLONY,
Specl. Asst. U. S. Atty.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jun. 2, 1919.

4997 (Appearance of Mr. C. B. Stuart and Mr. M. K. Cruce as counsel for the appellees, Minnie Atkins et al., in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellees, Minnie Atkins et al.

C. B. STUART.
M. K. CRUCE.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 12, 1919.

(Appearance of Mr. Rush Greenslade as counsel for the appellee, Gypsy Oil Company, in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellee, Gypsy Oil Company.

RUSH GREENSLADE,
Tulsa, Okla.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 13, 1919.

(Appearance of Mr. William C. Liedtke as counsel for appellee, Gypsy Oil Company, in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellee, Gypsy Oil Company.

WILLIAM C. LIEDTKE.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Sep. 8, 1919.

4998 (Appearance of Mr. Lee Bond as counsel for appellee, Charles Page, in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellee, Charles Page.

LEE BOND.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 15, 1920.

Stipulation suggesting death of Minnie Folk, nee Atkins, and waiving revivor, etc., in causes Nos. 5420 and 5425.

UNITED STATES OF AMERICA, ET AL., APPELLANTS,
vs.
MINNIE FOLK ET AL., APPELLEES.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES ET AL., APPELLEES.

It is hereby stipulated, agreed, and admitted between the solicitors for the appellants, the United States of America and Nancy Atkins, on the one hand, and the solicitors of Harry B. Folk, Charles Harrison, and Harvey Harrison, appellees, on the other hand, that the appellee, Minnie Folk, nee Atkins, died intestate at Tulsa, Oklahoma(on the ———— day of ————, 1919, and that she left surviving her, as her only heirs under the laws of the State of 4899 Oklahoma, where the property in controversy is situated, her two sons, Charles Harrison and Harvey Harrison, and her husband, Harry B. Folk, all of whom are parties to this cause, duly and properly served and participating. No administrator has been appointed of her estate.

It is further stipulated and agreed that a *reviver* of said cause, in the name of the heirs, or personal representative, is waived, and that these appeals may proceed in all respects as though a reviver had been had, and that the final judgment of this court shall bind the

Before Hook and Carland, circuit judges, and Van Valkenburgh, district judge.

VAN VALKENBURGH, district judge, delivered the opinion of the court.

This case has been once before this court upon appeal from an order appointing a receiver. Some of the questions here presented were there discussed and ruled. The order appointing the receiver was reversed and set aside upon filing of bond in lieu thereof, and the case was remanded to the court below for further proceedings, not inconsistent with the views expressed in the opinion filed. (Folk et al. v. United States of America et al., 233 Federal, 177.) The main facts are succinctly stated by Judge Sanborn in that opinion.

One Thomas Atkins was listed for enrollment as a member of the Creek tribe of Indians by the Dawes Commission on May 23, 1901; was duly enrolled as such a citizen by that commission; was on March 1, 1902, reported to the Secretary of the Interior to have been regularly listed for enrollment and enrolled by it; to have been one of the Creek citizens "living on the 1st day of April, 1899, or born to citizens so entitled to enrollment up to and including the 1st day of July, 1900, and then living"; to have been found upon the 1895 authenticated Creek tribal roll and to have been enrolled by it as No. 7913 on its roll, and a copy of the part of that roll containing his enrollment and the enrollment of some others was submitted with the report, which the commission closed with this statement:

5004

"The commission, after having thoroughly examined the rolls of the Creek Nation and such evidence as has been submitted, touching the identification of the persons on roll herewith submitted, is of the opinion that all are entitled to enrollment as Creek citizens by blood, and should be so enrolled."

The part of the roll so certified to the Secretary was approved by him; the land in the defendants' possession was allotted to Thomas Atkins; a certificate of allotment thereof to him was issued on June 30, 1902; patents therefor dated April 14, 1903, approved by the Secretary on May 8, 1903, were issued to him and were recorded in the office of the commission on May 16, 1903. It appears, however, that such patents were not actually delivered. Under leases, certain of the defendants were in exclusive possession of the land in controversy, drilling wells and producing oil, when, on February 15, 1915, the United States, on its own behalf, and on behalf of the Creek tribe of Indians, brought this suit to cancel and avoid the enrollment of Thomas Atkins as a Creek citizen, the certificate of allotment and the patents of the land to him, to perpetually enjoin him and all claiming under him from asserting any interest therein, or in the proceeds thereof, and for the appointment of a receiver pendente lite.

On September 17, 1915, an amended bill was filed, and September 12, 1916, a bill of complaint supplemental thereto. The complainant alleges that the Dawes Commission was charged with the duty of

determining who were entitled, under the acts of Congress, to be enrolled as citizens of the Creek Nation, and no one was entitled to be so enrolled who was not living on April 1, 1899; that Thomas Atkins was not living on that day; "that no evidence of any character was produced before, or obtained or had by, said commission with respect to the right of the alleged Thomas Atkins under said act of Congress to be so enrolled"; and that in causing his name to be placed on the roll of Creek citizens by blood the commission acted arbitrarily and summarily and without any knowledge, information, or belief that he was in existence or living or dead on April 1, 1899. Further, that the said enrolled and allotted Thomas
5005 Atkins was, and is, a distinctly mythical person; consequently,
that the Dawes Commission was without jurisdiction to enroll that name or allot lands to him, and the patents in question were and are utterly void; further, that the commission, as a basis for the enrollment of the name of Thomas Atkins, used, as necessarily material evidence upon the question of the citizenship of Thomas Atkins, the 1895 pay roll containing his name; that that pay roll was false and fraudulent in so far as it contained that name; that the defendant Minnie Atkins caused it to contain said name, well knowing that it had no rightful place thereon, and concealed the fact that it represented a mythical person; that the proceedings of the Dawes Commission, resulting in said enrollment, were ex parte and subject to attack in this proceeding in equity. The supplemental bill presented the fact that the patents, though issued, had never been delivered, and prayed that this cause be not set down for trial until the Secretary of the Interior might assume and exercise in the premises a jurisdiction claimed still to exist in him over the subject matter of the controversy.

In order that the issues presented to this court for determination may be more clearly defined, it is necessary to review somewhat the proceedings in the court below after the case had been remanded for trial upon the merits as heretofore stated. The condition of the record is thus succinctly presented by Judge Campbell, and for precision and clearness we quote from his memorandum opinion of December 1, 1917:

"At an early stage in the taking of testimony in this case, after the plaintiff (United States) had produced the greater part of the evidence upon which it relied as to just what transpired before the Dawes Commission in May, 1901, at Okmulgee. when Thomas Atkins was listed for enrollment, and when it proposed to enter upon that branch of the case which involved the offering of proof in support of its contention that Thomas Atkins never had any existence, the objection was made by counsel for the defendants Atkins, Page, and allied interests that such evidence was inadmissible as being immaterial to any proper issue in the case. It was

then urged that the evidence already adduced by the plaintiff, so far from establishing the charge that the Dawes Commission had enrolled Thomas Atkins without having any evidence upon the question as to whether he was living April 1, 1899, on the
5006 contrary established that it had heard testimony upon this
point. It was further urged in support of the objection that the Government's proof also showed that the hearing before the Dawes Commission as to the right of Thomas Atkins to be enrolled was not ex parte, as contended by the Government, but that the commission had acted as a quasi-judicial body in listing for enrollment and enrolling Thomas Atkins as a member of the Creek tribe, had heard evidence upon the things conditioning his right to enrollment, to wit, as to his being a citizen by blood of the tribe, his residence with the tribe, and his having been living on April 1, 1899, and that his enrollment by the commission and the issuance of patents pursuant thereto amounted to a judgment of that tribunal conclusively determining in his favor these several questions of fact as against any future collateral attack and against any direct proceeding to vacate or set aside such enrollment and patents except upon the grounds upon which the final judgment of a judicial or quasi-judicial tribunal may be attacked, that is, for such fraud or such mistake of law or fact as when established renders such judgments voidable. That the fraud charged against Minnie Atkins in relation to the procurement of the placing of the name of Thomas Atkins on the 1895 Creek roll was not the character of fraudulent act for which the judgment of the commission could be attacked, in that, if it was fraud, it involved a matter in issue before the commission and not an extrinsic or collateral matter. It was urged, therefore, that the question of the existence or nonexistence of Thomas Atkins was necessarily involved in the question of his being alive or dead on April 1, 1899, and that question having been conclusively determined by the commission could not be retried in this court. The matter was then orally argued quite fully, and the court, largely on the authority of Iowa Land and Trust Company *v.* United States (217 Federal Reporter, page 11), overruled the objection and permitted the plaintiff to offer proof as to whether Thomas Atkins ever existed, to which issue, as afterward developed, has been addressed the greater part of the testimony making up the colossal record in this case. Just before the close of the taking of the testimony in the case, which consumed more than a month, the opinion of the Supreme Court of the United States in United States *v.* Wildcat et al., commonly known as the "Barney Thlocco" case, was rendered, involving the question of the finality of the action of the Dawes Commission in enrolling Creek citizens and the issuance of patents to them
5007 or in their names. In the light of this decision, counsel renewed their objection above referred to and the court decided to reopen this question of law and permit counsel to brief the same, and

to further consider that question preliminary to the consideration of other features of the case. There was an effort on the part of the Government to secure a rehearing of the Thlocco case by the Supreme Court, but the court is now advised that this has been denied, so that the case stands as authority. Counsel for plaintiff in their brief say:

"'Even if we had proceeded with the trial of the case with the contention that the commission acted arbitrarily, and without evidence as to the right of Thomas Atkins to be enrolled, we would now be foreclosed with respect to that contention by reason of the decision in the Barney Thlocco case; but we were not unmindful of the view which this court took of the issue of fact raised in that case, and, in point of fact, we proceeded to try this case upon the following propositions, presented by our pleadings, namely:

"'First. That the enrolled and allotted Thomas Atkins was, and is, a distinctly mythical person; consequently, that the Dawes Commission was without jurisdiction to enroll that name or allot lands to him, and the patents were, and are, utterly void. This proposition is presented in the amended bill of complaint as the third ground for the relief prayed for, and calls for no impeachment of the judgment of the commission, save only in so far as proof of the utter nonexistence of the enrollee and patentee operates absolutely to impeach and destroy that judgment and the resultant patents. (See paragraph VII of the amended bill of complaint.)

"'Second. That the commission, as a basis for the enrollment of the name of Thomas Atkins, used, as absolutely necessary, hence, necessarily material evidence upon the question of the citizenship of Thomas Atkins, the 1895 pay roll containing his name, and that that pay roll was false and fraudulent in so far as it contained that name; that the defendant, Minnie Atkins, caused it to contain said name, well knowing that it had no rightful place thereon, and concealed the fact that it represented a mythical person; that her concealment of that fact has continued from that day to this, and she is now attempting to reap the benefits growing out of the Dawes
5008 commission enrollment, which resulted from the ex parte proceeding wherein said false tribal roll was used as aforesaid. (See paragraph V of the amended bill of complaint.)'

"In view of this admission and the evidence offered by the Government itself, we start with the established proposition that the Government has failed to discharge the burden which rested upon it to establish by the evidence that the commission acted arbitrarily and without evidence as to the right of Thomas Atkins to be enrolled, which involved, as we have seen, the questions of his Creek blood, his residence in the tribe, and his having lived up to and including April 1, 1899. Therefore, unless the action of the commission may be attacked in this proceeding on the theory that notwithstanding its findings Thomas Atkins was in fact a myth and never existed, and that Minnie Atkins in having him placed upon the 1895 Creek roll as a person then in being, and permitting the commission to consider said roll as evidence of his existence and Creek citizenship, without apprising the commission of its falsity, practiced such fraud upon the commission as renders its judgment voidable in this proceeding; or on the theory alone that Thomas Atkins was in fact a myth, and that therefore, notwithstanding its attempted action, the commission was without jurisdiction to enroll his name or allot land in his name and that hence its action is a nullity, the title to the land still remaining in the Creek Nation and pretended patents being clouds thereon, the objection to the introduction of evidence was well taken and as a matter of law the plaintiff must fail in this case. Its right to make this proof the plaintiff bases upon these three propositions as appears from the brief.

I.

"'The proceedings before the commission were ex parte.

II.

"'The particular charge of fraud in this case, if sustained, entitles the complainant to the relief prayed for.

III.

"'A patent to a fictitious person is, in legal effect, no more than a declaration that the Government thereby conveys the title to no one, and the judgment on which it is based is a nullity for want of jurisdiction in the Dawes Commission to render it.'"

5009 It thus appears that in view of the decision of the Supreme Court in United States v. Wildcat et al., supra, complainant abandoned its contention that the commission acted arbitrarily, and without evidence as to the right of Thomas Atkins to be enrolled, and proceeded to try its case thereafter upon the propositions numbered first and second, as quoted. The court below stated the three propositions upon which the plaintiff based its right to make proof in support of its contention that Thomas Atkins was a myth, and never had any existence in fact. While the court sustained the objection of defendants upon these propositions, it must be remembered, however, that plaintiff had already tendered full proofs upon this issue, to which was addressed the greater part of the testimony making up this record of approximately five thousand pages.

But still further, in their brief in this court, counsel for the Government say:

"We do not now urge that Minnie (Folk nee Atkins) committed any fraud upon the tribe because we are unable to show that she caused the name Thomas to be placed upon the roll, nor do we believe she drew any money for the fictitious being represented by that name. Nor can she be charged with any fraud upon the Dawes Commission except the fraud of omission to inform that body of the nonexistence of Thomas.

"We shall not discuss the fraud allegations and proof, however, nor the character of the proceedings before the Dawes Commission resulting in this enrollment. We believe the question whether fraud was practiced in the enrollment proceedings is immaterial here."

It will thus be seen that counsel for the Government, both in brief and argument, in substance abandon all other contentions and rely upon the single proposition that "a patent to a fictitious person is, in legal effect, no more than a declaration that the Government thereby conveys the title to no one, and the judgment on which it is based is a nullity for want of jurisdiction in the Dawes Commission to render it." And, as incident thereto, that Thomas Atkins was, in fact, a mythical person. We say this because there can no longer be reasonable insistence that the proceedings before the Dawes Commission were ex parte. Those proceedings were adver-
5010 sary in their nature, and the adjudication of the commission of who should be enrolled as citizens and freedmen of the Five Civilized Tribes, what land should be allotted each and in what way, and of every issue of law and fact necessary for it to determine, in order to decide such questions, is conclusive and impervious to collateral attack. Malone v. Alderdice, C. C. A., 212 Fed., 668; Folk v. United States, C. C. A., 233 Fed., 177; United States v. Wildcat et al., 244 U. S., 111.

The allegation of fraud upon the tribe is abandoned, and it is conceded in brief and argument that Minnie Folk can not be charged with any fraud upon the commission "except the fraud of omission to inform that body of the nonexistence of Thomas." Such fraud, even though it existed, falls clearly within the rule announced in United States v. Throckmorton, 98 U. S., 61, and Vance v. Burbank, 101 U. S., 514. In the latter case it was said: "It has also been settled that the fraud in respect to which relief will be granted in this class of cases must be such as has been practiced on the unsuccessful party, and prevented him from exhibiting his case fully to the department, so that it may properly be said there has never been a decision in a real contest about the subject matter of inquiry. False testimony or forged documents even are not enough, if the disputed matter has actually been presented to or considered by the appropriate tribunal."

It devolved upon the commission, in the proceeding, to which the citizen claiming the right to enrollment and allotment on the one side and the Creek Nation on the other side were adverse parties in contemplation of law, to determine whether Thomas Atkins was "living on the first day of April, 1899, or born to citizens so entitled

to enrollment up to and including the first day of July, 1900, and then living." This necessarily involved the question of whether he was a real or mythical person, since, of course, no mythical person could have been "living" on the dates mentioned. When the Dawes Commission determined that he was such a living person and entitled to enrollment, it decided the very crucial question involved in this proceeding—an issue of law and fact which was indispensable and necessary for it to determine in order to decide the matters exclusively confided to it and upon which its judgment is made final. As a result of the process of elimination, disclosed by the
record as hereinabove stated, of some of the original proposi-
5011 tions advanced by the Government, and of the conclusive de-
termination of others adversely to the Government by the authoritative decisions of the Supreme Court of the United States and of this court, practically the only remaining question with which we have to deal is whether the court below erred in sustaining the contention of the defendant Minnie Folk, formerly Minnie Atkins, that the United States should not be permitted to retry the issue of whether her alleged son Thomas Atkins was living on April 1, 1899, on the ground that he was a fictitious or mythical person, and as an incident thereto, whether, under the facts disclosed by this record, that error, if it be one, was substantially prejudicial.

The Government, to sustain its proposition, relies almost entirely upon the decision of the Supreme Court of the United States in Sampeyreac v. United States, 7 Peters, 222. This case was brought under a special act of Congress, passed May 8, 1830 (4 U. S. Stat., 399), for the express purpose of enabling the court in Arkansas, having cognizance of claims under a former act, "to proceed by bills of review, filed, or to be filed, in the said court, on the part of the United States, for the purpose of revising all or any of the decrees of the said court in cases wherein it shall appear to the said court, or be alleged in such bills of review, that the jurisdiction of the same was assumed, in any case, on any forged warrant, concession, grant, order of survey, or other evidence of title." In the absence of this enabling act of 1830, and the authority thereby conferred, it was evidently believed that jurisdiction for the purpose stated was wanting. In such case, the scope of the act must necessarily be confined to the subject matter recited and the grounds for relief stated therein. In the Sampeyreac case forgery was present and was the foundation of the action. Of course, closely interwoven with this was the further conceded fact, and not, as here, the contested fact, that Sampeyreac was a fictitious person, and, consequently, all deeds or other muniments of title purporting to emanate from him must, in the nature of things, have been forgeries. Conceding the express right to review and revise on the ground of forgery, the evidence thereof, including the evidence of the nonexistence of a grantor and litigant, would be clearly admissible. And the act

in question conferred not only the right to review decrees, but the right to relitigate issues involved in such decrees. But, if the general rules governing the jurisdiction of a court of equity,
5012 in the absence of such express legislation, forbid both the review of such decrees and the relitigation of such issues in a collateral proceeding, then, clearly, the evidence offered in support thereof must be denied.

In United States v. Flint, case No. 15,121, 25 Federal Cases, 1107, before Field, circuit justice; Sawyer, circuit judge; and Hoffman, district judge, the Sampeyreac case is thus distinguished from normal procedure under recognized equity rules:

"In the case of Sampeyreac, 7 Peters, 222, which is the only reported case where a reexamination was made, it was done by virtue of a special act of Congress, which authorized the proceeding, not before the ordinary tribunals, but by bill of review in the special tribunal upon which the original jurisdiction over the cause had been conferred. Whether or not by virtue of that jurisdiction it might have entertained a bill of review to set aside its own decree, the Supreme Court does not decide. An act of Congress seems to have been deemed necessary to confer the authority. But it is nowhere intimated that any court of equity powers, but upon which no authority to pass upon the validity of claims of that description had been conferred, could have entertained such a bill, or in any other form have reexamined the questions finally decided by the special tribunal. * * *

"It is not necessary to assert that, where a fraudulent title has been confirmed, the United States is entirely without remedy, nor that the political department of the Government may not, if it sees fit, invest the courts with authority to reexamine the questions which, as the law now stands, remain finally decided in these cases. But, until Congress has so expressed its will and conferred the requisite authority, it may confidently be affirmed that the ordinary tribunals are without jurisdiction."

In the case at bar the existence of the allottee, Thomas Atkins, was a litigated question before the Dawes Commission, a quasi-judicial tribunal established by act of Congress for the explicit purpose of quieting these questions of Indian title, whose decisions, by the express provisions of that act, were made final, conclusive, and impervious to collateral attack either by the Creek Nation, the United
5013 States, or any other party in interest. The judgment of the commission established beyond peradventure that Atkins was not a fictitious person, but was alive April 1, 1899, and was, therefore, legally enrolled. It matters not that the proceedings of the commission were less formal than in the regular law courts of the country, nor that it necessarily must have made mistakes in the discharge of its duties. The principle involved remains unchanged. The rule applicable to the setting aside of decrees for fraud of the nature here

presented has been well established by many pronouncements of the Supreme Court, and of this court. United States v. Throckmorton, 98 U. S., 61; Vance v. Burbank, 101 U. S., 514; United States v. Wildcat et al., 244 U. S., 111; Malone v. Alderdice et al., C. C. A., 212 Fed., 668. It is a rule founded upon reason and substance. It is essential to a seemly end to litigation. It involves the very notion of repose and quietude that is embraced within the purpose of the act of Congress making the decision of the Dawes Commission final, conclusive, and impervious to collateral attack except under the circumstances and conditions prescribed and recognized in the practice and procedure in equity. It follows that the action of the court below in sustaining the objection to the Government's offer of proof in support of its contention that Thomas Atkins was a fictitious person was right, and must be sustained.

But, independently of this conclusion, it would seem that upon the merits the Government can fare no better, and this involves Nancy Atkins, appellant in case No. 5425. This record of approximately five thousand pages presents an "irrepressible conflict," and if any appellate court is ever concluded by the findings of a chancellor upon facts sufficiently substantial to support them, and such is and should be the uniform rule of decision, this case falls peculiarly within that rule. It may be that mistakes have been made. Taking into consideration the environment, subject matter, and personnel of the witnesses and parties involved, it may be conceded that in this class of cases exact justice is difficult of attainment, but I apprehend Congress was fully aware of this situation, as affecting these Indian titles, when it conferred such complete authority upon the Dawes Commission and clothed its decisions with such presumption of verity. As has been stated, the Government produced its evidence fully before the court. The defendants introduced testimony without
5014 let or hindrance. The resident judge, admirably equipped, by training and experience, to discharge the onerous duty which devolved upon him, patiently and conscientiously heard and considered the evidence produced in the course of a hearing which consumed more than a month. He saw most of the witnesses upon the stand and had opportunity to note their demeanor and to weigh their testimony. His findings are amply sustained by the record, and should not be set aside by this court. To attempt a comprehensive review of the evidence contained in this extended record would be impracticable and would serve no useful purpose. It is sufficient that we have reached the same conclusions as did the trial judge upon the issues of fact. It results that the decree should be sustained and affirmed. It is so ordered.

Filed November 13, 1920.

5015 *Decree in causes Nos. 5420 and 5425.*

United States Circuit Court of Appeals, Eighth Circuit.

September term, 1920.—Monday, November 22, 1920.

UNITED STATES OF AMERICA, APPELLANT,

vs.

MINNIE ATKINS; HENRY CARTER; CHARLES M. BALL; Nancy Atkins; Micco T. Harjo, as guardian of Nancy Atkins, an incompetent; Charles Harrison; Thomas Harris; Kahookah Harris; Harvey Harrison, a minor; A. J. Burchett, as guardian of Harvey Harrison, a minor; Minnie Hall, nee Atkins; Martin Rowe; Harry Harrison; Minnie Folk, nee Atkins; Harry B. Folk; Edward C. Hanford; Robert L. Rutherford; James A. Ferguson; Gypsy Oil Company, a corporation; Gem Oil Company, a corporation; Charles Page; H. U. Bartlett; A. A. Hammer; William S. Murphy; Wilbur M. Morris; W. W. Walton; Ellis H. Hammett; Rufus B. Cobb; George C. Conrod; John R. Fields; James M. Brogan; Thomas Gilcrease; Robert Wilson; S. D. Shirk; H. E. Whitehead; T. S. Hurst; F. F. Betzer; R. A. Josey; Thomas Atkins; J. Truman Nixon; and C. J. Wrightsman. No. 5420.

and

NANCY ATKINS; H. A. RIDGWAY, GUARDIAN OF SAID NANCY Atkins, an incompetent; Robert L. Rutherford and A. L. Ferguson, administrator of the estate of James A. Ferguson, deceased, appellants,

vs.

UNITED STATES OF AMERICA; MINNIE ATKINS; HENRY Carter; Charles M. Ball; Charles Harrison; Thomas Harris; Kahookah Harris; Harvey Harrison, a 5016 minor; A. J. Burchett, as guardian of Harvey Harrison, a minor; Minnie Hall, nee Atkins; Martin Rowe; Harry Harrison; Minnie Folk, nee Atkins; Harry B. Folk; Edward C. Hanford; Gypsy Oil Company, a corporation; Gem Oil Company, a corporation; Charles Page; H. U. Bartlett; A. A. Hammer; William S. Murphy; Wilbur M. Morris; W. W. Walton; Ellis H. Hammett; Rufus B. Cobb; George G. Conrod; John R. Fields; James M. Brogan; Thomas Gilcrease; Robert Wilson; S. D. Shirk; H. E. Whitehead; T. S. Hurst; F. F. Betzer; R. A. Josey; Thomas Atkins; J. Truman Nixon; and C. J. Wrightsman. No. 5425.

Appeals from the District Court of the United States for the Eastern District of Oklahoma.

These causes came on to be heard on the transcript of the record from the District Court of the United States for the Eastern District of Oklahoma, and were argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this court that the decree of the said district court in these causes be, and the same is hereby, affirmed without costs to either party in this court.

November 22, 1920.

Motion of appellees in causes Nos. 5420 and 5425 to discharge bond.

Now come the appellees in the above causes and show to the court that on the original hearing of this cause before Judge R. E. Campbell, of the United States Court for the Eastern District of Oklahoma, an application was made for the appointment of a receiver of the property in controversy and Judge Campbell allowed said application and appointed a receiver of said property.

5017 Appellees show to the court that they prosecuted an appeal to this court from the judgment of Judge Campbell appointing a receiver and this court, in an opinion handed down on the 5th day of June, 1916, reversed the judgment of Judge Campbell and held that there was, under the facts alleged and proved in said cause, no warrant or ground for the appointment of a receiver. The appellees were in possession of this real estate involved in this cause and this court held that there was no ground for taking the possession of this property from appellees and putting it in the hands of a receiver and the court discharged the receiver, by its order reversing the judgment of Judge Campbell. It appears from the record, however, that although there was no legal warrant for the appointment of a receiver, the attorneys for the present appellees suggested to this honorable court that it would give a bond to protect the adverse litigants in this cause pending this litigation. This honorable court accepted the bond in the sum of $900,000.00 signed by Page and his sureties, which bond is hereto attached and made an exhibit to this motion.

Appellees say that they were under no obligation to give said bond; that it was a pure voluntary obligation and could not have been required by this court in view of the judgment which it had rendered reversing the judgment of Judge Campbell appointing a receiver.

Your petitioners respectfully show that after this court had reversed the order of Judge Campbell appointing a receiver herein the case went back to the court below to be tried on its merits. A trial was had, which resulted in a judgment for the appellees both upon the law and facts. An appeal was prosecuted to this honorable court seeking to reverse the judgment of the court below. On the 22nd day of November, 1920, this honorable court handed down its opinion, sustaining in all things, both as to the law and the facts, the judgment of the court below.

5018 Appellees respectfully show to the court that for more than four years they have been compelled to pay a premium for said bond in the sum of $9,000.00 a year, amounting to nearl $40,000.00; that this amount of money so paid out by appellees for said bond will be entirely lost to appellees and can never be recovered by them; that the only theory on which said bond could have been accepted by this court was that it was taken in lieu of a receiver, but inasmuch as a receiver could not have been lawfully appointed by the court below there is no consideration for this bond and appellees say that it ought not to be continued further. Appellees do not seek to escape the obligation of this bond, if any, up to this hour, but appellees say that a continuance of this bond is entailing a great hardship on appellees.

Petitioners further say that when they gave the bond aforesaid they were required by the surety company to leave on deposit in the banks of Tulsa a great proportion of the money derived from the sale of oil taken from the property in controversy, and appellees have been unable to use or appropriate said money.

Petitioners further say that appellees were required by said bonding company to put up other collaterals amounting to hundreds of thousands of dollars in order to get said bond.

Petitioners say that they ought not to be required to carry this burden further; that three courts have decided this cause in favor of petitioners—the United States Court for the Eastern District of Oklahoma and the Circuit Court of Appeals for the Eighth Circuit twice.

Petitioners further show that the said Charles Page, principal on said bond, is thoroughly solvent and able to meet any judgment that may be rendered in this cause.

5019 Wherefore petitioners say that inasmuch as there was no legal obligation to enter into this bond and inasmuch as the bond has served its purpose, petitioner ought not to be further required to pay this immense premium, which will be wholly lost to them, to retain possession of their own property which has been decreed to them by the distinct judgments of three Federal courts.

Wherefore petitioner prays that as to the future this bond be discharged and the said Page and his sureties be released therefrom and that this honorable court make an order that said bond be so discharged.

C. B. Stuart,
Solicitor for Petitioners.

United States Circuit Court of Appeals, Eighth Circuit.

Minnie Folk (nee Atkins) et al., Appellants,
vs.
United States of America et al., Appellees.
No. 4464. Indemnity bond.

Know all men by these presents, that we, Charles Page, of Tulsa, Oklahoma, as principal, and United States Fidelity & Guaranty

Company, of Baltimore, Maryland, a corporation, as surety, are held and firmly bound unto the above named appellees, in the full and just sum of nine hundred thousand ($900,000.00) dollars,
5020 to be paid to the said appellees, or whichever of the parties to this suit that shall be finally adjudged to be entitled thereto, for the payment of which sum, well and truly to be made, we bind ourselves, and each of us, our, and each of our executors, administrators, successors, or assigns, jointly and severally firmly by these presents.

Sealed with our seals and dated this 25th day of July, A. D. 1916.

Whereas the above-named Charles Page has heretofore joined in prosecuting an appeal to the United States Circuit Court of Appeals for the Eighth Circuit to reverse an interlocutory order and decree of the United States District Court for the Eastern District of Oklahoma appointing a receiver and granting an injunction, made and entered by said court on the 8th day of March, 1915; and

Whereas, on said appeal, the said United States Circuit Court of Appeals for the Eighth Circuit, on the 5th day of June, 1916, made and entered its written opinion and decision reversing and setting aside said interlocutory order appointing a receiver and granting an injunction, to become, and be, effective upon the filing of this bond in said appellate court, within sixty days from and after the filing of said opinion and decision; and

Whereas the said Charles Page, as lessee of Minnie Folk (nee Atkins), is in the possession of the property in controversy and operating the same for oil and gas; and is now, and since the 8th day of March, 1915, has been receiving the proceeds derived from said operations; and is, and has been, charged with the costs and expenses of said operations: Now therefore,

The conditions of this obligation are such that:

If the said Charles Page shall account for and pay over to those parties to this suit that shall be finally adjudged to be entitled
5021 thereto, the profits that have been and shall be derived by him from the land in controversy between March 8, 1915, the date when the receiver was appointed, and the final determination of this suit, to file with the clerk of the United States District Court for the Eastern District of Oklahoma a verified account of the operation of the property, showing generally the expense, the proceeds, and the profits thereof between March 8th, 1915, and May 1, 1916, on or before August 1, 1916, to file on or before the 25th of each month, commencing June 25, 1915, such an account of the operation thereof during the preceding month, to pay to the parties ultimately adjudged entitled thereto any damages resulting to them from the negligence or mismanagement of the property and to abide by and perform the further orders of this court and of the court below in the premises, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

CHAS. PAGE. [SEAL.]
United States Fidelity & Guaranty Co. [SEAL.]
By H. B. MARTIN,
Attorney in Fact.

The within bond approved as to the above surety the United States Fidelity & Guaranty Company, this 26th day of July, 1916.

RALPH E. CAMPBELL, *Judge.*

The above and foregoing bond is hereby approved this 31st day of July, 1916, and ordered to be filed in the clerk's office of this court.

WALTER H. SANBORN,
Presiding Judge of the United States Circuit Court of Appeals, Eighth Circuit.

(Endorsed:) Filed in clerk's office of the U. S. Circuit Court of Appeals, Aug. 4, 1916.

5022 (Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 13, 1921.

Acceptance of service of notice and motion to discharge bond in causes Nos. 5420 and 5425.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL.
} No. 5420.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES OF AMERICA ET AL.
} No. 5425.

Notice.

To Messrs. Hill & Fitzhugh, attorneys for Nancy. Atkins, & *Malcom* Rosser:

You are hereby notified that the appellees in the above-entitled causes have filed with the United States Circuit Court of Appeals for the Eighth Circuit their motion to discharge the bond entered into by Charles Page on the twenty-fifth day of July, 1916, said bond being in the sum of $900,000.00 and filed in the Circuit Court of Appeals for the Eighth Circuit August 4, 1916, and you are hereby notified that appellees will ask the honorable court of appeals to hear said motion on the 25th day of January, 1921, or as soon thereafter as the same can be heard.

5023

C. B. STUART,
Atty, for Appellees.

I hereby accept service of the foregoing notice and also copy of motion referred to therein, this 15th day of January, A. D. 1921.

MALCOLM E. ROSSER.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 17, 1921.

Acceptance of service of notice and motion to discharge bond in causes Nos. 5420 and 5425.

Notice.

To D. H. Linebaugh, attorney for appellant, the United States of America in the above-entitled causes:

You are hereby notified that the appellees in the above-entitled causes have filed with the United States Circuit Court of Appeals for the Eighth Circuit their motion to discharge the bond entered into by Charles Page on the twenty-fifth day of July, 1916, said bond being in the sum of $900,000.00 and filed in the Circuit Court of Appeals for the Eighth Circuit August 4, 1916, and you are hereby notified that appellees will ask the honorable Court of Appeals to hear said motion on the 25th day of January, 1921, or as soon thereafter as the same can be heard.

C. B. STUART,
Atty. for Appellees.

5024 Service of above notice accepted this 17″ day of Jan'y, 1921.

D. H. LINEBAUGH,
Sp. Asst. Atty. Gen'l.

* * * * * * *

[Copy of motion to discharge bond omitted at this point for the reason that the same heretofore appears in the record.]

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 22, 1921.

Protest in cause No. 5425 against discharge of bond.

NANCY ATKINS ET AL., APPELLANTS,
v.
CHARLES PAGE, MINNIE FOLK ET AL., APPELLEES.
No. 5425.

In the matter of the application of Charles Page for release of bond in the above-entitled case.

Comes Arthur L. Ferguson as executor and trustee of the estate of James A. Ferguson, deceased, and states that he is a party to the above-entitled action, being one of the appellants therein. He further states that the bond given by the defendant, Charles Page, in
this action amounts to only the sum of nine hundred thou-
5025 sand dollars ($900,000). He further says that according to
reports made by Charles Page to the United States District Court at Muskogee in this case the lease had produced in excess of $1,800,000.00 up to December 31, 1918, which is more than two years ago; that the lease at that time was producing in excess of $30,000.00 per month and since said time oil has advanced in price; that said

lease up to the present time has doubtless produced in excess of $2,400,000.00, which has been collected by the appellee, Page, under his bond given in this action.

He further states that he as such executor and trustee is now preparing an appeal from the decision in this honorable court to the United States Supreme Court in the above-entitled action, and that such appeal will be perfected as soon as the proper records can be lodged in the Supreme Court of the United States.

He is further informed and believes that the United States of America, who is a party to the record in this case, also intends to perfect its appeal and that same will be perfected in due course of time. He further says that the appellee, Charles Page, has now in his hands approximately $1,500,000.00 in excess of his bond in this case. He further alleges that the bond given by Page should remain in full force and effect until this case can be disposed of in the United States Supreme Court.

Wherefore he prays that the appellee's application for discharge of the bond be denied.

ARTHUR L. FERGUSON,
As Executor and Trustee.

Subscribed & sworn to before me Jan. 24, 1921.

[SEAL.]

CECIL R. WARNER,
Notary Public.

My commission exps. 3-18-23.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 25, 1921.

5026 *Order granting leave to substitute $50,000.00 bond in lieu of $900,000.00 bond, etc., in causes Nos. 5420 and 5425.*

December term, 1920.—Tuesday, January 25, 1921.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL.
No. 5420.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES OF AMERICA ET AL.
No. 5425.

Appeals from the District Court of the United States for the Eastern District of Oklahoma.

Came on for hearing the motion of Charles Page, Esq., a party to this cause, for an order discharging as to the future his bond in the sum of $900,000.00 on which the United States Fidelity & Guaranty Company is surety, for the reasons stated in the motion, Mr. C. B. Stuart appearing for said Charles Page; Mr. D. H. Linebaugh, special assistant to the Attorney General, appearing in behalf of the United States of America; and Mr. Henry L. Fitzhugh appearing for Nancy Atkins.

Sufficient cause therefor appearing to the court, it is ordered that in lieu of the operation of the bond in the amount of $900,000.00 as to future acts and transactions and duties in respect thereof,
5027 the said Charles Page and said Fidelity & Guaranty Company as surety may substitute a like bond in the sum of $50,000.00, upon the express condition, however, that all obligations which have arisen or may arise under said $900,000.00 bond or any preceding bond of similar purpose shall, as to matters during the periods they were in force, respectively, remain and continue in full force, wholly unaffected and unimpaired by this order or anything done hereunder.

January 25, 1921.

5028 *Petition of United States of America for an order allowing appeal to Supreme Court, U. S.*

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
vs. } No. 5420.
NANCY ATKINS ET AL., APPELLEES.

To the honorable judges of the Circuit Court of Appeals for the Eighth Judicial Circuit:

Now comes the appellant, United States of America, by its undersigned solicitors, and complains that in the record and proceedings and also in the rendition of the decree of the United States Circuit Court of Appeals for the Eighth Circuit, sitting at St. Louis, in the State of Missouri, in the above styled and numbered cause on the 22nd day of November, 1920, affirming the decree of the United States District Court for the Eastern District of Oklahoma in said cause, manifest error has intervened to the great damage of the petitioner; that the jurisdiction of the Circuit Court of Appeals was dependent on the fact that the United States of America was the party appellant in said action suing for and on behalf of the Creek Nation, a dependent tribe of Indians, and that the action was based on Federal questions otherwise cognizable by a Federal court; and that the amount involved herein exceeds the sum of $1,000,000.00 besides costs, and this is not a case in which the jurisdiction of the Circuit Court of Appeals is made final.

5029 Wherefore, petitioner prays for the allowance of an appeal to the end that the cause may be transmitted to the Supreme Court of the United States, and petitioner further prays for a supersedeas of said judgment and such other process as is required to perfect the appeal prayed for, to the end that the error therein may be corrected.

D. H. LINEBAUGH,
PAUL PINSON,
Special Assistants to the Attorney General,
Solicitors for Appellant.

Appeal without supersedeas allowed without bond, the appellant being United States of America.

This 9th day of February, 1921.

WALTER H. SANBORN,
U. S. Circuit Judge, Eighth
Circuit Court of Appeals.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 9, 1921.

Assignment of errors of United States of America on Appeal to Supreme Court, U. S.

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEE.
No. 5420.

5030 Now, on this 9th day of February, 1921, comes the appellant, United States of America, by its undersigned solicitors, and says that the decree entered in the above-entitled cause on the 22nd day of November, 1920, is erroneous and unjust to the appellant by reason of the following errors which the appellant assigns, and upon which it will rely in its appeal from said decree for a reversal of the same.

1. The court erred in affirming the decree of the District Court for the Eastern District of Oklahoma entered on the 29th day of May, 1918, and in decreeing that, contrary to the facts set forth in the amended bill of complaint and established by the record evidence, the defendant Minnie Folk, nee Atkins, and her heirs are the owners and entitled to the possession of the land in controversy, subject only to the right, title, and interest of the defendant, Charles Page and Edward C. Hanford claiming through her.

2. The court erred in holding and deciding and in affirming the action of the district court in holding and deciding that the amended bill of complaint of the appellant herein stated no cause of action.

3. The court erred in holding and deciding that the appellant's amended bill of complaint should be dismissed as being without equity, and in sustaining the action of the trial court in so holding and deciding.

4. The court erred in holding and deciding that the act of the Commission to the Five Civilized Tribes in enrolling the name of 5031 Thomas Atkins and allotting land in said name precludes the appellant from offering evidence that as a matter of fact no such person as Thomas Atkins ever existed and that the name so enrolled represented a mythical or fictitious person.

5. The court erred in holding and deciding and in affirming the action of the trial court in holding and deciding that the judgment

of the Commission to the Five Civilized Tribes could operate to vest title in a fictitious person.

6. The court erred in holding and deciding that patents issued in the name of a fictitious person conveyed the title out of the Creek Nation, and in affirming the action of the trial court in so holding and decreeing.

7. The court erred in not holding and decreeing that the patents and deeds to the land in controversy made in the name of Thomas Atkins were void and conveyed no title in that it was charged by the bill and established by the evidence that the said name represented no person who ever had any existence.

8. The court erred in making any findings of fact as against the appellant after dismissing appellant's bill on motion of the appellees.

9. The court erred in finding as a matter of fact from the evidence considered that Thomas Atkins in fact existed as the son of Minnie Atkins, or that she ever gave birth to a child of that name.

5032 10. The court erred as a matter of fact in concluding and deciding that the name Thomas Atkins as enrolled by the Commission to the Five Civilized Tribes as a member of the Creek Tribe of Indians represented any person who ever existed.

11. The court erred in affirming and sustaining the action of the trial court in refusing to cancel the patents issued in the name of Thomas Atkins by the Commission to the Five Civilized Tribes and conveying to the said Thomas Atkins the southwest quarter of the northeast quarter and lot two of section 5; and the southwest quarter of the northwest quarter and lot four of section 4, township 18 north, range 7 east of the Indian base and meridian.

12. The court erred in finding and deciding that the Commission to the Five Civilized Tribes in enrolling the name of Thomas Atkins and in patenting land in such name conducted a trial of an adversary nature and that the judgment of enrollment and allotment is not subject to attack for fraud intrinsic to the proceedings themselves.

13. The court erred in refusing to consider on behalf of the appellant the evidence offered by the appellant showing that the name Thomas Atkins on the approved roll of Creek Indians opposite No. 7913 represented a fictitious and mythical person and no person that ever existed.

5033. 14. The court erred in that after dismissing the bill of complaint it considered as between the said Minnie Folk, nee Atkins, and her grantees on the one hand, and Nancy Atkins and her grantees on the other, the evidence offered by appellant to establish that Thomas Atkins was a myth.

15. The court erred in not ordering, adjudging, and decreeing that the appellant have the relief prayed for in its bill of complaint as amended.

Wherefore, appellant prays that the said decree be reversed and that this cause be remanded with instructions that a decree be entered in favor of the appellant, or that such further and appropriate action may be taken therein as shall be just and equitable.

D. H. Linebaugh,
Paul Pinson,
Special Assistants to the Attorney General,
Solicitors for Appellant.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 9, 1921.

5034 In the United States Circuit Court of Appeals for the Eighth Circuit.

United States of America, appellant,
vs.
Minnie Atkins et al., appellee.
No. 5420.

Citation:

United States of America to Minnie Atkins; Henry Carter; Charles M. Ball; Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an incompetent; Charles Harrison; Thomas Harris; Kahookah Harris; Harvey Harrison, a minor; A. J. Burchett, as guardian of Harvey Harrison, a minor; Minnie Hall, nee Atkins; Martin Rowe; Harry Harrison; Minnie Folk, nee Atkins; Harry B. Folk; Edward C. Hanford; Robert L. Rutherford; James A. Ferguson; Arthur L. Ferguson, as administrator of the estate of James A. Ferguson, deceased; Gypsy Oil Company, a corporation; Gem Oil Company, a corporation; Charles Page; H. U. Bartlett; A. A. Hammer; William S. Murphy; Wilbur M. Morris; W. W. Walton; Ellis H. Hammett; Rufus B. Cobb; George C. Conrod; John R. Fields; James M. Brogan; Thomas Gilcrease; Robert Wilson; S. D. Shirk; H. E. Whitehead; T. S. Hurst; F. F. Betzer; R. A. Josey; Thomas Atkins; J. Truman Nixon; and C. J. Wrightsman, administrator of the estate of Minnie Folk, nee Atkins, deceased, greeting:

You are hereby notified that in a certain cause in the United States Circuit Court of Appeals for the Eighth Circuit, being No. 5420, wherein the United States of America is appellant and you and each of you are appellees, an appeal has been allowed the appellant therein to the Supreme Court of the United States.

5035 You are therefore hereby cited and admonished to be and appear in said Supreme Court of the United States at Washington, D. C., thirty days after the date of this citation to show cause if any there be why the order and decree appealed from should not be corrected and speedy justice done the parties in that behalf.

Witness the Honorable Walter H. Sanborn, judge of the United States Circuit Court of Appeals for the Eighth Circuit, this 9th day of February, 1921.

WALTER H. SANBORN,
Judge of the Circuit Court of Appeals for the Eighth Circuit.

The undersigned solicitors of record for the appellees, Nancy Atkins; Micco T. Harjo, guardian of Nancy Atkins, an incompetent; Robert L. Rutherford; and Arthur L. Ferguson, administrator of James A. Ferguson, hereby acknowledge service of the foregoing citation this 11th day of February, 1921.

N. B. MAXEY,
MALCOLM E. ROSSER,
HENRY L. FITZHUGH,
JOS. M. HILL,
Solicitors of Record for Said Appellees.

5036 The undersigned attorneys of record of the appellee, Henry Carter, do hereby acknowledge service of a true copy of the foregoing citation this —— day of February, 1921.

—— ——,
Solicitors for Said Appellee.

The undersigned attorneys of record of the appellee, Gypsy Oil Company, do hereby acknowledge service of a true copy of the foregoing citation this —— day of February, 1921.

—— ——,
—— ——,
—— ——,
Solicitors for Said Appellee.

The undersigned attorneys of record of the appellees, J. Truman Nixon and Thomas Atkins, do hereby acknowledge service of a true copy of the foregoing citation this —— day of February, 1921.

—— ——,
Solicitor for J. Truman Nixon and Thomas Atkins.

The appellees, Harry B. Folk; Charles Harrison; Harvey Harrison; Edward C. Hanford; Gem Oil Company, a corporation; Charles Page; C. J. Wrightsman; and H. B. Folk, executor of the estate of Minnie Folk, deceased, hereby acknowledge service of the within and foregoing citation and the delivery to them of a true and correct copy thereof on this 18th day of February, 1921.

C. B. STUART,
Solicitor for Said Appellees.

(Endorsed): In the United States Circuit Court of Appeals, for the Eighth Circuit. United States of America, appellant, *vs.* Minnie Atkins et al., appellee. No. 5420. Citation on appeal to Supreme Court, U. S. Filed Feb. 24, 1921. E. E. Koch clerk.

5037 In the Supreme Court of the United States.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEES.
No. 5420.

Acceptance of service of citation.

Whereas the United States of America obtained order allowing appeal from the judgment of the Circuit Court of Appeals rendered in the above-entitled cause on the 22nd day of November, 1920; and

Whereas citation was issued on February 9, 1921, demanding the appellees to appear in the Supreme Court of the United States within thirty days from said date:

Now, therefore, the undersigned, Gypsy Oil Company, appellee, does hereby acknowledge service of the said citation and enter its appearance in the Supreme Court of the United States in pursuance thereto this 16th day of February, 1921.

GYPSY OIL COMPANY,
By JAMES B. DIGGS,
Its Solicitor.

(Endorsed:) No. 5420. United States of America, appellant, v. Minnie Atkins et al. Acceptance of service of citation by Gypsy Oil Co. Filed Feb. 24, 1921. E. E. Koch, clerk.

5038 In the Supreme Court of the United States.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEE.
No. 5420.

Acceptance of service of citation.

Whereas the United States of America obtained order allowing appeal from the judgment of the Circuit Court of Appeals rendered in the above-entitled cause on the 22nd day of November, 1920; and

Whereas citation was issued on February 9, 1921, demanding the appellees to appear in the Supreme Court of the United States within thirty days from said date:

Now, therefore, the undersigned, J. Truman Nixon and Thomas Atkins, do hereby acknowledge service of the said citation and enter their appearance in the Supreme Court of the United States in pursuance thereto this 16th day of February, 1921.

J. TRUMAN NIXON,
THOMAS ATKINS,
By J. TRUMAN NIXON,
Solicitor.

(Endorsed:) No. 5420. United States of America, appellant, v. Minnie Atkins et al. Acceptance of service of citation by J. Truman Nixon and Thomas Atkins. Filed Feb. 24, 1921. E. E. Koch, clerk.

5039 In the Supreme Court of the United States.

United States of America, appellant,
vs.
Minnie Atkins et al., appellees.
No. 5420.

Acceptance of service of citation.

Whereas the United States of America obtained order allowing appeal from the judgment of the Circuit Court of Appeals rendered in the above-entitled cause on the 22nd day of November, 1920; and

Whereas citation was issued on February 9, 1921, commanding the appellees to appear in the Supreme Court of the United States within thirty days from said date:

Now, therefore, the undersigned, Henry Carter, appellee, does hereby acknowledge service of the said citation and enter his appearance in the Supreme Court of the United States in pursuance thereto this 24th day of February, 1921.

Henry Carter,
By B. B. Beo Reudy,
Solicitor for Said Appellee.

(Endorsed:) No. 5420. United States of America, appellant, *vs.* Minnie Atkins et al. Acceptance of service of citation by Henry Carter. Filed, Feb. 28, 1921. E. E. Koch, clerk.

5040 *Petition of Nancy Atkins et al. for and order allowing appeal to Supreme Court, U. S.*

In the United States Circuit Court of Appeals for the Eighth Circuit.

United States of America, appellant,
v.
Minnie Atkins et al., appellees.
5420.

and

Nancy Atkins, appellant,
v.
United States of America et al., appellees.
5425.

Come Nancy Atkins and H. A. Ridgway, guardian of Nancy Atkins, and Arthur L. Ferguson, administrator of the estate of James A. Ferguson, deceased, and Ardeen Rutherford, administrator of the estate of Robert L. Rutherford, and J. B. White, feeling themselves aggrieved by the order made and entered in this court on the 22nd day of November, 1920, affirming the decree of the United States District Court for the Eastern District of Oklahoma in the above-styled cause, and allege manifest error has intervened to the great damage of these petitioners as is set forth in their assignment of errors filed herewith; and they allege that the jurisdiction of the

district court was dependent on the fact that the United States of America brought this action, suing for and on behalf of the Creek Nation, a dependent tribe of Indians, and that the action was based on Federal questions, otherwise cognizable by the United States District Court and was not based upon a diversity of citizenship, and that the amount involved exceeds the sum of one million
5041 dollars ($1,000,000) besides costs, and that the decision of the Circuit Court of Appeals in affirming said case was not a decree wherein the jurisdiction of the Circuit Court of Appeals is made final by the act of Congress.

Wherefore petitioner prays for the allowance of an appeal to the end that the case may be transferred to the Supreme Court of the United States and that citation issue as provided by law and that a transcript of the record proceedings and papers upon which said decree was based, duly authenticated, may be sent to the Supreme Court of the United States, and they further pray for further order concerning the security to be required of them to perfect their appeal.

Napoleon B. Maxey,
Malcolm E. Rosser,
Joseph M. Hill,
Henry L. Fitzhugh,
Attorneys for Nancy Atkins and Her Lessees.

The foregoing petition is granted and the appeal allowed upon giving bond for costs in the sum of $500, conditioned as required by law.

Walter H. Sanborn,
Judge of the United States Circuit Court of Appeals for the Eighth Circuit.

February 16, 1921.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 16, 1921.

5042 *Assignment of errors of Nancy Atkins et al., on appeal to Supreme Court, U. S.*

In the United States Circuit Court of Appeals for the Eighth Circuit.

United States of America, appellant,
v.
Minnie Atkins et al., appellees. } 5420.

and

Nancy Atkins, appellant,
v.
United States of America et al., appellees. } 5425.

Now, on this 16th day of February, 1921, comes Nancy Atkins and H. A. Ridgway, guardian of Nancy Atkins, an incompetent; and

Arthur L. Ferguson, administrator of the estate of James A. Ferguson, deceased; and Ardeen Rutherford, administrator of the estate of Robert L. Rutherford, deceased; and J. B. White, the said Ferguson, Rutherford, and White claiming as lessees under the said Nancy Atkins by the undersigned, their solicitors, and say that the decree entered in the above-entitled cause on the 22nd day of November, 1920, is erroneous and unjust to these appellants by reason of the following errors, which the said appellants assign and upon which it will rely in their appeal from said decree for a reversal of the same by the Supreme Court of the United States.

I.

The Circuit Court of Appeals erred in not reversing this
5043 finding in the opinion of the district judge, to wit:

"The court finds that Minnie Atkins had an illegitimate male child born to her during the early part of June, 1885, at the home of a colored woman, known as Granny Letcher, in the city of Leavenworth, Kansas, and that she named this child Thomas Atkins," which said finding is against the weight of the evidence and supported only by evidence fabricated to fit the description of Thomas Atkins, as the son of Minnie Atkins, in census card #2707.

II.

The Circuit Court of Appeals erred in not finding that Nancy Atkins had an illegitimate male child born to her at Wagoner, Indian Territory, about September, 1890, and named Thomas Atkins, and in reaching the same conclusion as did the trial judge upon the issue of facts in that the trial judge did not determine this issue, deciding that the same was immaterial, whereas the said issue was material and the fact above stated sustained by the weight of the evidence.

III.

The Circuit Court of Appeals erred in not reversing the finding, in the opinion of the district judge, that Minnie Atkins conveyed information to certain of her relatives in the Indian Territory of the fact of the birth of Thomas Atkins, her son, which information was eventually imparted to the tribal authorities compiling the roll, and that the name of Thomas Atkins appearing at #213 of Euchee Town on the 1895 authenticated tribal roll was placed upon said roll by the tribal authorities compiling the roll as the child of Minnie Atkins pursuant to such information in that said finding concurred in by the Circuit Court of Appeals is wholly without any substantial evidence to support it.

5044

IV.

The Circuit Court of Appeals erred in not finding that the son of Nancy Atkins named Thomas Atkins, born at Wagoner, Indian Territory, about September, 1920, was the Thomas Atkins on the Euchee Town list as #213 of the authenticated Creek tribal roll of 1895, in that all the testimony in the record upon the identity of the Thomas Atkins on said roll is to the effect that it represented the son of Nancy Atkins, who was intended to be enrolled by the trial authorities.

V.

The Circuit Court of Appeals erred in not reversing the finding in the opinion of the district judge and concurring therein in that the Thomas Atkins enrolled by the Dawes Commission was in fact the illegitimate child of Minnie Atkins born in the city of Leavenworth, Kansas, in the early part of June, 1885, and is not the child of Nancy Atkins, in that there is no substantial evidence whatever in the record to support said finding of either the district court or the Circuit Court of Appeals.

VI.

The Circuit Court of Appeals erred in not finding that the Thomas Atkins enrolled by the Dawes Commission on May 23, 1901, as #7913 on the Creek roll and described in census card #2707, was the son of Nancy Atkins, in that all the testimony in the record is to the effect that such person was the son of Nancy Atkins and there is no substantial evidence whatsoever that such person was the son of Minnie Atkins.

VII.

The district court erred and the Circuit Court of Appeals erred in affirming its decree without passing upon the admissibility 5045 of the evidence offered on behalf of these appellants by the following witnesses, to wit: J. E. Newberry, James E. Long, Nolan Williams, Jasper N. Skirmpsher, Thomas Brewer, W. A. McElroy, Walter Posey, Frank Ingles, D. W. Best, R. F. Davis, J. D. McLaren, J. W. Ruble, to this effect: "The defendant, Nancy Atkins, offered to prove by each of said witnesses that they lived in the town of Wagoner, Indian Territory, during various years from 1890 to 1900 and that they were personally acquainted with Nancy Atkins, and that they were personally acquainted with a certain boy in said town described by each, called Tommy Atkins; and that it was the general reputation in the town of Wagoner as to who was the mother of said Tommy Atkins; and that it was the general reputation in that community and generally understood in that community that said boy, Tommy Atkins, was the son of Nancy Atkins."

VIII.

The Circuit Court of Appeals erred in not directing that a decree to be entered that the land in controversy was the property of Nancy Atkins as the sole heir of her son, the allottee, Thomas Atkins, and that she and her lessees were entitled to a decree quieting their title thereto.

IX.

The Circuit Court of Appeals erred in affirming the decree of the district court herein.

X.

The Circuit Court of Appeals erred in not deciding that the judgment of the Creek County District Court affirmed by the Supreme Court of Oklahoma finding that Nancy Atkins was the mother of Thomas Atkins, the allottee, and the owner of the land in controversy, and in not finding that said decree was binding upon the defendants in the cross bill herein.

XI.

5046 The Circuit Court of Appeals erred in not finding and decreeing that the *Gen* Oil Company, a corporation, and Charles Page and all others claiming by and through the said Gem Oil Company, and Charles Page were *tresspassers* in taking possession of the land in controversy.

XII.

The Circuit Court of Appeals erred in not sustaining the cross complaint of Nancy Atkins and her lessees and directing the District Court to so decree.

Napoleon B. Maxey,
Malcolm E. Rosser,
Joseph M. Hill,
Henry L. Fitzhugh,
Attys. for Nancy Atkins and Her Lessees.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 16, 1921.

Bond of Nancy Atkins et al., on Appeal to Supreme Court, U. S.

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
v.
MINNIE ATKINS ET AL., APPELLEES. } 5420.

and

NANCY ATKINS, APPELLANT,
v.
UNITED STATES OF AMERICA ET AL., APPELLEES. } 5425.

5047 Know all men by these presents that we, Arthur L. Ferguson, administrator of the estate of James A. Ferguson, deceased; Ardeen Rutherford, administrator of the estate of Robert L. Rutherford, deceased; J. B. White, Nancy Atkins, and H. A. Ridgway, guardian of Nancy Atkins, as principals, and Arthur L. Ferguson and Wilson Linn Hemingway as sureties, acknowledge ourselves to be jointly indebted to the United States of America, Minnie Folk, née Atkins, Charles Harrison, Harvey Harrison, Harry B. Folk, Edward C. Hanford, Gem Oil Company, a corporation, and Charles Page, and all other appellees in this appeal in the sum of $500.00, conditioned that—

Whereas, on the 22nd day of November, 1920, in the Circuit Court of Appeals of the Eighth Circuit, in a suit therein pending on appeal from the United States District Court for the Eastern District of Oklahoma, numbered and styled as set forth in this caption, a decree was entered affirming the decree of the District Court of the Eastern District of Oklahoma.

Now the said Arthur L. Ferguson, as administrator of the estate of James A. Ferguson, deceased; Ardeen Rutherford, as the administrator of the estate of Robert L. Rutherford; J. B. White, Nancy Atkins, and H. A. Ridgway having obtained an appeal to the Supreme Court of the United States from the said decree of the Circuit Court of Appeals of the Eighth Circuit, and filed a copy *thereon* in the office of the clerk of the court to reverse said decree and a citation directed to the United States of America through D. H. Linebaugh and Paul Pinson, Special Assistants to the Attorney General, and to the said Minnie Folk, née Atkins, Charles Harrison, Harvey Harrison, Harry B. Folk, Edward C. Hanford, Gem Oil Company, a corporation, and Charles Page, citing and admonishing them to be and appear at a session of the said United States Supreme Court to be holden in the city of Washington, ——— days after the date of said citation.

5048 Now if the said Arthur L. Ferguson, as administrator of the estate of James A. Ferguson, deceased; Ardeen Rutherford, as the administrator of the estate of Robert L. Rutherford; J. B. White, Nancy Atkins, and H. A. Ridgway shall prosecute their appeal to effect and answer all costs if they fail to make their appeal good, then the above obligation to be void, otherwise to remain in full force and effect.

Given under our hands this 16th day of February, 1921.

ARTHUR L. FERGUSON,
Administrator James A. Ferguson Estate.
ARTHUR L. FERGUSON,
J. B. WHITE,
ARDEEN RUTHERFORD,
Admr. Estate R. L. Rutherford.
NANCY ATKINS, and
H. A. RIDGWAY, *Guardian.*
By JOS. M. HILL,
Their Solicitor.
WILSON LINN HEMINGWAY.

Approved this 16th day of February, 1921.

WALTER H. SANBORN,
Senior Circuit Judge.

STATE OF MISSOURI,
City of St. Louis, ss:

I, Wilson Linn Hemingway, one of the sureties upon the bond in the case of United States of America vs. Minnie Atkins et al., 5049 and Nancy Atkins et al. vs. United States of America, Nos. 5420 and 5425, do upon oath state that I own property in the State of Missouri subject to execution worth more than one thousand dollars over and above my liabilities and exemptions.

WILSON LINN HEMINGWAY.

Sworn to and subscribed before me this sixteenth day of February A. D. 1921.

[SEAL.]

W. A. BELL,
Notary Public.

My commission expires June 16, 1923.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 16, 1921.

Præcipe of Nancy Atkins et al. for transcript on appeal to Supreme Court, U. S.

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
v.
MINNIE ATKINS ET AL., APPELLEES,
} 5420.

and

NANCY ATKINS, APPELLANT,
v.
UNITED STATES OF AMERICA ET AL., APPELLEES.
} 5425.

5050 *To the clerk of the above-named court:*

You are hereby requested that you make a complete and perfect transcript of all of the record and proceedings in the above-entitled cause as heard in said court upon which the decree was rendered affirming the decree of the United States District Court for the Eastern District of Oklahoma on November 22, 1920, including therein the stipulation correcting and making an additional record in that case filed on the 7th of January, 1920, and all subsequent proceedings, and in addition thereto you are requested to incorporate in the record the following, to wit:

First. The petition for appeal, filed on February 16, 1921, by the appellants Nancy Atkins, H. A. Ridgway, Arthur L. Ferguson, Ardeen Rutherford, and J. B. White.

Second. The assignment of errors filed by said petitioners on February 16, 1921.

Third. The order allowing the appeal of said petitioners on February 16, 1921.

Fourth. Bond for costs, filed by said petitioners on February 16, 1921.

Fifth. The citation sued out by said petitioners, together with waiver, or service thereon.

NAPOLEON B. MAXEY,
MALCOLM E. ROSSER,
JOSEPH M. HILL,
HENRY L. FITZHUGH,
Attys. for Nancy Atkins and Her Lessees.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 16, 1921.

5051 In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA ET AL., APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEES.
No. 5420.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES OF AMERICA ET AL., APPELLEES.
No. 5425.

Whereas in the above-entitled cause, Nancy Atkins et al., through her attorneys, served notice by way of citation in appeal on me, as attorney of record of Charles Page et al. in the above-entitled cause, notifying me that said case had been appealed to the Supreme Court of the United States; and whereas said citation in appeal was sent to me for acceptance of service and the same has been misplaced or lost:

Now, therefore, I hereby accept service of said citation in appeal and agree that this acceptance may be filed.

C. B. STUART,
Attorney for Minnie Atkins, Chas. Page, et al.

(Endorsed:) No. 5420. United States of America et al., appellants, vs. Minnie Atkins et al. No. 5425. Nancy Atkins et al., appellants, vs. United States of America, et al. Acceptance of service of citation on appeal to Supreme Court U. S. by Nancy Atkins et al. Filed Mar. 3, 1921. E. E. Koch, clerk.

5052 In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
v.
MINNIE ATKINS ET AL., APPELLEES, } 5420.

and

NANCY ATKINS, APPELLANT,
v.
UNITED STATES OF AMERICA ET AL., APPELLEES. } 5425.

To the United States of America, through D. H. Linebaugh and Paul Pinson, Special Assistants to the Attorney General; Minnie Folk, nee Atkins, Charles Harrison; Harvey Harrison; Harry B. Folk; Edward C. Hanford; Gem Oil Company, a corporation; and Charles Page and ——, executor of the estate of Minnie Folk, nee Atkins, deceased, greeting:

You are hereby notified that in a certain cause as above styled and numbered, lately pending in the United States Circuit Court of Appeals for the Eighth Circuit, wherein the United States of America was the appellant and Nancy Atkins et al. was on the same record also an appellant, an appeal has been allowed from the decree of said Circuit Court of Appeals for the Eighth Circuit, rendered on November 22, 1920, wherein the decree in the above-styled cause of the United States District Court for the Eastern District of Oklahoma was affirmed.

You are therefore hereby cited and admonished to be and appear in the Supreme Court of the United States in Washington, D. C., 30 days after the date of this citation to show cause, if any there be, why the decree appealed from should not be corrected and speedy justice should not be done the parties in that behalf.

Witness the Honorable Walter H. Sanborn, judge of the United States Circuit Court of Appeals for the Eighth Circuit, this, the 16th day of February, 1921.

(Signed) WALTER H. SANBORN,
Judge of the United States Circuit Court of Appeals of the Eighth Circuit.

Service of the above and foregoing citation accepted on this March 2, 1921, on behalf of appellee, United States of America, and appearance in said cause, No. 5425, entered on behalf of said appellee.

D. H. LINEBAUGH,
Special Assistant to the Attorney General.

(Endorsed:) No. 5420. United States of America, appellant, vs. Minnie Atkins et al. No. 5425. Nancy Atkins et al., appellants, vs. United States of America et al. Copy of citation and acceptance of service by United States of America. Filed, Mar. 4, 1921. E. E. Koch, clerk.

5053 *Clerk's certificate.*

UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT.

I, E. E. Koch, clerk of the United States Circuit Court of Appeals for the Eighth Circuit, do hereby certify that the foregoing transcript of record, and the additional transcript of record pursuant to stipulation of parties, composed of six volumes, Volume I consisting of pages 1 to 818, inclusive; Volume II consisting of pages 819 to 1672, inclusive; Volume III consisting of pages 1673 to 2566, inclusive; Volume IV consisting of pages 2567 to 3449, inclusive; Volume V consisting of pages 3451 to 4290, inclusive, and Volume VI consisting of pages 4291 to 5052, inclusive, contain the transcripts of the record from the District Court of the United States for the Eastern District of Oklahoma, as prepared, printed, and certified by the clerk of said district court to the United States Circuit Court of Appeals in pursuance of the act of Congress approved February 13, 1911, and full, true, and complete copies of the pleadings, record entries, and proceedings, including the opinion had and filed in the United States Circuit Court of Appeals except the full captions, titles, and endorsements omitted in pursuance of the rules of the Supreme Court of the United States in certain causes in said Circuit Court of Appeals, wherein the United States of America was appellant and Minnie Atkins et al. were appellees, No. 5420, and wherein Nancy Atkins et al. were appellants and the United States of America et al. were appellees, No. 5425, as full, true, and complete as the originals of the same remain on file and of record in my office.

I do further certify that the original citation on appeal by the United States of America with acceptances of service is hereto attached and herewith returned.

I do further certify that the original acceptance of service by
counsel for the United States of America, endorsed upon a copy of
the citation on the appeal by Nancy Atkins et al. and also the
5054 original acceptance of service by counsel for Minnie Atkins
et al. on said appeal, are hereto attached and herewith returned,
the original citation on said appeal not having been returned to the
clerk's office.

In testimony whereof I hereunto subscribe my name and affix the seal of the United States Circuit Court of Appeals for the Eighth Circuit, at office in the city of St. Louis, Missouri, this eighth day of March, A. D. 1921.

[SEAL.]

E. E. KOCH,
Clerk of the United States Circuit Court
of Appeals for the Eighth Circuit.

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UNITED STATES *v.* MINNIE ATKINS ET AL.

NANCY ATKINS ET AL. *v.* UNITED STATES, MINNIE FOLK, NEE ATKINS, ET AL.

APPEALS FROM THE CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

Nos. 45, 46. Argued October 11, 12, 1922.—Decided November 20, 1922.

An act of the Commission to the Five Civilized Tribes in enrolling a name as that of a Creek Indian alive on April 1, 1899, amounted, when duly approved by the Secretary of the Interior, to a judgment in an adversary proceeding, establishing the existence of the individual and his right to membership, and is not subject to be attacked by the United States in a suit against those who claim his land allotment, in which the Government alleges that the person enrolled never existed and that the enrollment was procured by fraud on the Commission and resulted from gross mistake of law and fact. P. 224.

268 Fed. 923, affirmed.

Appeals from a decree of the Circuit Court of Appeals affirming a decree of the District Court in a suit brought by the United States upon the grounds of fraud and mistake to cancel an enrollment on the Creek tribal roll and an allotment certificate and patent issued thereunder, and to quiet the title to the land so allotted in the United States and the Creek Nation, as against the defendants and interveners, who claimed under such enrollment and allotment. The District Court dismissed the bill, *quoad* the United States, and adjudicated the title as between the other parties.

Mr. H. L. Underwood, with whom *Mr. Solicitor General Beck* and *Mr. Assistant Attorney General Riter* were on the brief, for the United States.

The finding of the Dawes Commission was subject to impeachment at the suit of the United States for fraud or mistake.

The Government's bill alleged that through the connivance of Minnie Atkins the name of Thomas Atkins was placed upon the 1895 roll of Creek citizens as a member of her family. The materiality of this lay in the fact that the Dawes Commission, in preparing the final citizenship roll from which allotments of Creek tribal lands were made, relied upon and accepted this 1895 roll as evidence showing those who were entitled to enrollment.

Had there been a hearing, with the United States or the Creek Tribe actively contesting the enrollment of the name of Thomas Atkins,—had witnesses been heard on the question of whether he ever existed, the decision of the Commission would have been impervious to attack. *Vance* v. *Burbank,* 101 U. S. 514; *United States* v. *Wildcat,* 244 U. S. 111.

The rule of *Vance* v. *Burbank* has only been applied, in this Court at least, to cases where there has been a contest proceeding where full hearing has been had and testimony introduced or the opportunity to do so given. *De Cambra* v. *Rogers,* 189 U. S. 119; *Estes* v. *Timmons,* 199 U. S. 391; *Love* v. *Flahive,* 205 U. S. 195; *Ross* v. *Stewart,* 227 U. S. 530; *Ross* v. *Day,* 232 U. S. 110.

The District Court, however, seemed to consider the fact that the Creek Council had notice of the proceedings before the Commission, and hence might have made objection to the enrollment of any name, rendered the proceeding an adversary one. Mark, the notice was not as to this specific individual case, but general notice or knowledge that the Commission was making inquiry and determination upon which to predicate enrollments generally.

The Government has fully as much notice of proceedings to acquire public lands as it had of the Dawes Commission proceedings, and yet the former are held to be *ex parte,* and fraud intrinsic therein is held ample basis for relief in equity. *McCaskill Co.* v. *United States,* 216 U. S. 504; *Diamond Coal & Coke Co.* v. *United States,* 233 U. S. 236; *Washington Securities Co.* v. *United States,* 234 U. S. 76. The same is true of naturalization proceedings. *Johannessen* v. *United States,* 225 U. S. 227; *United States* v. *Ness,* 245 U. S. 319.

In *United States* v. *Minor,* 114 U. S. 233, a suit to cancel a patent for fraud, this Court distinguished *Vance* v. *Burbank,* and definitely pointed out the scope and extent of the rule of the latter case. That the rule of the *Vance Case* is limited to cases where there has been a hearing in which the issues sought to be impeached have been tried, is evidenced by a later statement in *Hilton* v. *Guyot,* 159 U. S. 113, 207. See *Chicago, Rock Island & Pacific Ry. Co.* v. *Callicotte,* 267 Fed. 799; certiorari denied, 255 U. S. 570; *Marshall* v. *Holmes,* 141 U. S. 589; *Wells Fargo & Co.* v. *Taylor,* 254 U. S. 175. The decision in *United States* v. *Wildcat* is not to the contrary, for it is plainly limited to cases other than those involving fraud or mistake.

Independently of the question of fraud, we contend that if no such person as Thomas Atkins ever existed, the enrollment of that name as a citizen of the Creek

Nation and the allotment and patenting of a tract of land in his name was a nullity and conveyed no title, and that no rights or interest thereunder could vest in any person. Cf. *Iowa Land & Trust Co.* v. *United States,* 217 Fed. 11; *Moffat* v. *United States,* 112 U. S. 24; *Thomas* v. *Wyatt,* 25 Mo. 24.

The Government asserts that all the parties defendant are strangers to the title to this land. Surely it is entitled to be heard on that issue.

The principle applicable to this case is that of *Scott* v. *McNeal,* 154 U. S. 34.

Equity will grant relief against a judgment, the enforcement of which would be unconscionable, or which was rendered through mistake or accident, the party seeking relief not knowing of the existence of a defense or being prevented from availing himself of it by accident or mistake. *Pickford* v. *Talbott,* 225 U. S. 651.

The evidence establishes, and the courts below should have found, that Thomas Atkins was a myth; hence the patent issued in his name conveyed no title. *Vitelli & Son* v. *United States,* 250 U. S. 355.

Mr. Joseph M. Hill, with whom *Mr. Napoleon B. Maxey, Mr. Malcolm E. Rosser* and *Mr. Henry L. Fitzhugh* were on the briefs, for Nancy Atkins et al.

Mr. C. B. Stuart, with whom *Mr. E. C. Hanford, Mr. M. K. Cruce* and *Mr. Lee Bond* were on the briefs, for Minnie Atkins et al.

MR. JUSTICE MCREYNOLDS delivered the opinion of the Court.

Under authority of acts of Congress the [Dawes] Commission to the Five Civilized Tribes enrolled Thomas Atkins as a Creek Indian alive on April 1, 1899; the Secretary of the Interior approved; an allotment was selected for him; a patent issued and was recorded as required by law. Minnie Atkins undertook, as his sole heir, to convey the land to certain named defendants. Alleging that Thomas Atkins never existed and that his enrollment came about through fraud and gross mistake of law and fact, the United States brought this proceeding against many defendants to annul the allotment certificate and patent and to quiet title in the Tribe.

Minnie Atkins maintains that the enrolled Thomas was her son; that he was born prior to April 1, 1899, and died thereafter, leaving her as sole heir. Nancy Atkins claims to be the mother and sole heir. She filed a cross bill asking that the title to the land be confirmed to her and those claiming through her. Henry Carter asserts that he is the individual enrolled as Thomas Atkins.

The trial court ruled that the enrollment by the Commission amounted to an adjudication that Thomas Atkins was a living person on April 1, 1899, entitled to membership; that this finding was not subject to collateral attack under a mere allegation of his nonexistence; and that it could not be annulled for fraud unless the fraud alleged and proved was such as to have prevented a full hearing within the doctrine approved by *United States* v. *Throckmorton,* 98 U. S. 61; *Vance* v. *Burbank,* 101 U. S. 514; *Hilton* v. *Guyot,* 159 U. S. 113. The relief asked by the United States was accordingly denied. Having considered the voluminous testimony, it found Minnie Atkins to be the mother of Thomas and owner of the land subject to the rights of those claiming under her. The Circuit Court of Appeals affirmed a final decree embodying these conclusions. 233 Fed. 177; 268 Fed. 923.

In *United States* v. *Wildcat,* 244 U. S. 111, 118, 119, it was insisted that the Indian died prior to April 1, 1899, and that his enrollment as of that date was beyond the jurisdiction of the Dawes Commission and void within the doctrine of *Scott* v. *McNeal,* 154 U. S. 34. Much consideration was given to the statutes creating and defining the powers of the Commission and the effect of an enrollment. This Court said:

"There was thus constituted a *quasi*-judicial tribunal whose judgments within the limits of its jurisdiction were only subject to attack for fraud or such mistake of law or fact as would justify the holding that its judgments were voidable. Congress by this legislation evidenced an intention to put an end to controversy by providing a tribunal before which those interested could be heard and the rolls authoritatively made up of those who were entitled to participate in the partition of the tribal lands. It was to the interest of all concerned that the beneficiaries of this division should be ascertained. To this end the Commission was established and endowed with authority to hear and determine the matter. . . .

"When the Commission proceeded in good faith to determine the matter and to act upon information before it, not arbitrarily, but according to its best judgment, we think it was the intention of the act that the matter, upon the approval of the Secretary, should be finally concluded and the rights of the parties forever settled, subject to such attacks as could successfully be made upon judgments of this character for fraud or mistake.

"We cannot agree that the case is within the principles decided in *Scott* v. *McNeal,* 154 U. S. 34, and kindred cases, in which it has been held that in the absence of a subject-matter of jurisdiction an adjudication that there was such is not conclusive, and that a judgment based upon action without its proper subject being in existence is void. . . . We think the decision of such tribunal, when not impeached for fraud or mistake, conclusive of the question of membership in the tribe, when followed, as was the case here, by the action of the Interior Department confirming the allotment and ordering the patents conveying the lands, which were in fact issued."

It must be accepted now as finally settled that the enrollment of a member of an Indian tribe by the Dawes

Commission, when duly approved, amounts to a judgment in an adversary proceeding determining the existence of the individual and his right to membership subject, of course, to impeachment under the well established rules where such judgments are involved.

The questions of fact relating to the conflicting claims advanced by Minnie Atkins, Nancy Atkins and Henry Carter have been determined in favor of Minnie by both courts below upon survey of all the evidence; and we find nothing which would justify us in overruling their well considered action.

The decree of the court below is affirmed.